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PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, SECOND SESSION

SENATE—*Monday, April 15, 1996*

The Senate met at 10 a.m., and was called to order by the Honorable THAD COCHRAN, a Senator from the State of Mississippi.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we return to the work of the Senate this morning with our hearts still at half-mast. We share a profound grief over the tragic and untimely death of Secretary of Commerce Ron Brown. Our grief is mingled with the acute pain of loss for our Nation, the President, the President's Cabinet, and the Democratic Party. We ask You to continue to comfort and strengthen the Secretary's family with the assurance of eternal life. Our hearts also are heavy with the memory of the deaths of members of staff and the leading business leaders who were with the Secretary on his crucial mission of rehabilitation.

So, Lord, as we resume our responsibilities today, give us a renewed sense of the shortness of time and the length of eternity. Help us to live this day to the fullest as if it were our last day. May we never take for granted the gift of life or the privilege of serving You by giving our best to the tasks and challenges we will face today. Grant us Your grace to endure, Your wisdom to make creative decisions, and Your power to offset the pressures of the demanding life we are called to live. God, bless America. In the Lord's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 15, 1996.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THAD COCHRAN, a Senator from the State of Mississippi, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. COCHRAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader.

Mr. LOTT. Thank you Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, for the information of all Senators, the Senate will conduct a period for morning business until 2 p.m. with Senators permitted to speak for up to 5 minutes each except for the following:

Senator HATCH will be allowed 20 minutes;

Senator DASCHLE, or his designee, for up to 90 minutes; and

Senator COVERDELL for up to 90 minutes.

At 2 p.m. the Senate will begin consideration of S. 1664, the illegal immigration bill.

No rollcall votes will occur during today's session. However, Members are expected to debate and offer amendments to the measure today. If any votes are ordered on these amendments, they will occur during Tuesday's session at a time to be determined by the two leaders.

Also, as a reminder, there will be a cloture vote at 2:15 p.m. tomorrow on the motion to invoke cloture on the motion to proceed to the Whitewater resolution.

IN TRIBUTE TO SECRETARY OF COMMERCE RONALD H. BROWN AND OTHER AMERICANS

Mr. LOTT. Mr. President, today, the Senate returns to session for the first time since the tragic accident on April 3 that took the lives of Secretary of Commerce Ron Brown and 32 other Americans.

The majority leader, with agreement of the Democratic leader, has requested that the first action of the Senate be the reading of a resolution honoring Secretary Brown and those lost in the accident.

At this time, Mr. President, I send a resolution to the desk and ask that it be read for the information of the Senate.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

S. RES. 241

In tribute to Secretary of Commerce Ronald H. Brown and other Americans who lost their lives on April 3, 1996, while in service to their country on a mission to Bosnia.

Whereas, Ronald H. Brown served the United States of America with patriotism and skill as a soldier, a civil rights leader, and an attorney;

Whereas, Ronald H. Brown served since January 22, 1993, as the United States Secretary of Commerce;

Whereas, Ronald H. Brown devoted his life to opening doors, building bridges, and helping those in need;

Whereas, Ronald H. Brown lost his life in a tragic airplane accident on April 3, 1996, while in service to his country on a mission in Bosnia; and

Whereas, thirty-two other Americans from government and industry who served the Nation with great courage, achievement, and dedication also lost their lives in the accident; now, therefore, be it

Resolved, That the Senate of the United States pays tribute to the remarkable life and career of Ronald H. Brown, and it extends condolences to his family.

SEC. 2. The Senate also pays tribute to the contributions of all those who perished, and extends condolences to the families of: Staff Sergeant Gerald Aldrich, Duane Christian, Barry Conrad, Paul Cushman III, Adam Darling, Captain Ashley James Davis, Gail Dobert, Robert Donovan, Claudio Elia, Staff Sergeant Robert Farrington, Jr., David Ford, Carol Hamilton, Kathryn Hoffman, Lee Jackson, Steven Kaminski, Katheryn Kellogg, Technical Sergeant Shelley Kelly, James Lewek, Frank Maier, Charles Meissner, William Morton, Walter Murphy, Lawrence Payne, Nathaniel Nash, Leonard Pieroni, Captain Timothy Schafer, John Scoville, I. Donald Terner, P. Stuart Tholan, Technical Sergeant Cheryl Ann Turnage, Naomi Warbasse, and Robert Whittaker.

SEC. 3. The Secretary of the Senate shall transmit a copy of the resolution to each of the families.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, it is the intention of the majority leader to bring the resolution up for final passage sometime after tomorrow's policy luncheons. That will allow those Members who desire to come to the floor and pay tribute to Secretary Brown and other public servants and industry leaders who lost their lives.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Under a previous order, the Senator from Utah [Mr. HATCH] is recognized to speak for up to 40 minutes.

Mr. KENNEDY. Mr. President, will the Senator yield for a consent request?

Mr. HATCH. I am delighted to.

Mr. KENNEDY. Mr. President, I requested through our leadership to be also included on the list. I ask unanimous consent to be recognized after Senator HATCH for 20 minutes.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. I thank the Senator. I thank the Chair.

Mr. HATCH. Mr. President, I ask unanimous consent that I be given an additional 2 minutes so that I can personally pay my respects to Ron Brown and his family.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I will not say much here today except that I knew Ron Brown very well. I thought he was one of the finest people in this town. I knew him when he was a leader on the Judiciary Committee under Senator KENNEDY, and we were friends ever since.

Many times I have lamented that we did not have as competent and tremendous a leader in our party as then Chairman Brown was. We had good people. We can be proud of them. But Chairman Brown did one of the best jobs I have ever seen done in a national election.

I also have traveled around the world and have seen some of the work that he has done with regard to the Commerce Department's work and opportunities, and he did a terrific job. He was well recognized all over the world as somebody who advanced America's business.

I personally want to send a message to his family and to those who loved Ron Brown that I did, too, and I had cared for him. Had I not been in the Balkans during that time—we left the day after the accident—with the minority leader and Senator REID, I would have been at his funeral to pay my respects to him and his family. Of course, I am very grieved and hurt by this tragic accident.

I also want to extend my sympathy to all of the families of those who died in that tragic accident. Having traveled over there, I can see how that could occur. I can see how difficult that must have been for all of those families who lost loved ones as a result of that tragic crash.

I could not speak more highly of a person than I am presently speaking of Ron Brown.

I knew some of the others on the plane. I actually met with some of the people who were friends of the crew who flew the plane. We had a crew that flew us into Sarajevo and into Tuzla who basically had worked day in and day out with all of the members of that crew.

I know that I speak for everybody in the Senate and across this country in extending our sympathy to all those folks who lost their lives. I hope Ron's wife, Alma, will be comforted, and I hope that the family will be comforted as well. He has my respect, and I am very happy to have had this time to pay my respects this morning.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Massachusetts is recognized to speak for up to 20 minutes.

Mr. KENNEDY. Mr. President, I would like to read into the RECORD a tribute to Ron Brown which I gave last Tuesday evening at the Metropolitan Baptist Church here in Washington. There were a number of speakers who reflected on Secretary Brown's very considerable life, from early beginnings to really an outstanding distinguished career, and spoke with great tenderness and sensitivity and thoughtfulness, not only about Ron but also about his family.

I would like to take just a few moments of the Senate's time today to read those remarks into the RECORD:

Alma, Tracey, Michael and Tami, Gloria Brown, friends and fellow mourners:

I speak this evening in tribute to Ron Brown, because I knew him well and loved him dearly. But I join as well in tribute to the thirty-four others we have lost, who have now given the last full measure of devotion. Our hearts are breaking now. Our minds can hardly conceive the loss, or compose the words to express the depth of what we feel.

The poet could have been thinking of Ron Brown when he wrote of another who died too young, in words used about my brothers too: "What made us dream that he could comb gray hair?"

Ron and I were supposed to have lunch this Friday. It had been too long. We wanted to catch up. The Senate would be in recess, and Ron would be back from Bosnia.

He said he wanted to show me the large fish tank in his office. When he and Alma were at our home one evening, I had shown them the modest tank we have. He winked at me and told Vicki and our two children: "Come on over to my office—and bring Curran and Caroline too. I'll show you a real fish tank. I'll even tell Ted where you can get one." That was Ron—always the best in everything he did, and wanting it for everyone else too.

We also had a few items of business to discuss. Ron was Chairman of the Senior Advisory Committee of the Institute of Politics at the Kennedy School of Government at Harvard. For him, it was a long and lasting labor of love. As he had been inspired in his youth, so he always found time for the next generation. While he was busy electing a President in 1992, he was never too busy for those whose election would come in 2012. He was there, year in and year out, for every meeting at the Institute of Politics. He would stay overnight in President Kennedy's room at Winthrop House and eat and talk with the undergraduates. He inspired students as he inspired CEOs. He was equally at home in the classroom and the boardroom, in Harlem and at Harvard.

So at lunch on Friday, we were to discuss the meeting in Cambridge that was coming up later this month. The committee had a couple of vacancies to fill. And now there is an unfillable new vacancy.

Ron was first in so many things—his career was so brilliant and conspicuous—that he was almost certainly bound to be a target for some as surely as he was a role model for others. He was prepared to pay that price to advance his country and his beliefs. And something now demands to be said. This, my friends, was a man of great honor who proved anew my brother's ideal that public service is a great and honorable profession.

I first came to know Ron almost half a lifetime ago during his years at the Urban League. He was in the vanguard of the new generation of civil rights leaders.

He already had then what he would later bring to the highest places of power—a rare quality of double vision in public life, which enabled him to see the issues clearly and see the politics just as clearly too. He knew how to steer by the stars, not just by the fading signals of each passing ship.

He honored me by becoming part of my campaign for President in 1980. He came on board as deputy campaign manager for civil rights, and soon became deputy for everything else as well. He was Will Rogers in reverse. I never met a person who didn't like Ron Brown.

In 1980, I lost the nomination. But in Ron, I gained another brother.

He was irrepressible and undefeatable. For him, "no you can't" always became "yes you can." You can integrate that college fraternity. You can win the California primary. You can rebuild the Democratic Party and elect a President in a year when almost no one else thought it could happen. Then you can reinvent government and invent a new commercial diplomacy for a new post-Cold War world. You can make the Commerce Department work—and if you'll pardon a partisan note today, don't let anyone on Capitol Hill tell you you can't.

Ron believed in government and all of you and in public service. He detested cynicism and the shameful politics of running for office by trashing the institutions you seek to lead. He helped to write history, and not a single word he wrote was petty or mean.

I have been through other moments like this, and I know how tightly we grasp the memories in order to keep the man. We recall what was only yesterday, and smile through our tears.

I still see Ron, coming to play tennis on early mornings before work. He'd arrive with three rackets, dressed to the nines, looking like he was ready to play at Wimbledon. He always won, and that's why I always made sure he was my partner in doubles.

He had a style and a soaring spirit. He had a host of friends who were honored to serve with him—many of us assembled here today—those who were with him on his last journey—and one other I must mention who was with him on that remarkable journey to victory at the DNC—his sidekick, Paul Tully. Ron, of course, never had his tie out of place, while Paul never had his shirt tucked in. What a marvelous combination they were for their party and their country. Ron saw and called on the best in Paul, and in all of us.

The great physicist Lord Rutherford was once asked how he always happened to be riding the crest of the wave, and he replied, "Well, I made the wave, didn't I?" That's how I felt about Ron Brown. He was one of those few who make the waves that carry us to a better distant shore.

For his nation, Ron was more than an ambassador of commerce. His missions were pilgrimages of peace, of economic hope and democracy's ideals.

For his party and his President, he was close to the indispensable man.

For his friends, he was a Cape Cod day and a cloudless sky.

For his family, he was everything—as they were for him. Sometimes, I'd call during the day to see if he and Alma could drop by that evening. He'd call back and ask for a rain check. Michael and Tami were going out, and Ron and Alma were babysitting for their twins. How he loved those two young boys, Morgan and Ryan. His whole face would light up when he talked about them.

And how proud he was and how much he loved his children, Michael and Tracey. Everyone who knew Ron knew how special they were to him, how much pride he took in their accomplishments, how close he was to them.

And Alma, dear Alma, how he loved you. I remember vividly one time when Vicki and I were talking to Ron and we saw Alma across the room. I mentioned how beautiful she looked, how extraordinary she was. Ron's face lit up with that sparkling trademark smile, and he said, "She's pretty spectacular, isn't she?" That said it all, and the word "spectacular" was made for Ron Brown too.

Now Ron's journey of grace has come to an incomprehensible end. But for this generation and generations to come, he is spectacular proof that America can be the land of opportunity it was meant to be.

We love you and we miss you Ron—and we always will.

Mr. MACK. Mr. President, I offer my heartfelt condolences and prayers to the family of Commerce Secretary Ron Brown and to all of the other families who have lost a loved one in this terrible tragedy.

It is never easy to lose someone close to you. Yet I believe those that Commerce Secretary Brown left behind—his wife Alma, his daughter Tracey, and his son Michael—can be comforted and given strength by the knowledge that Ron Brown died doing what he loved: Representing the President as Commerce Secretary and serving America by promoting American economic interests abroad.

Secretary Brown will be remembered for his commitment to our democracy, his charisma, and the enthusiasm with which he embraced new ideas and challenges. I will keep Alma, Tracey, Michael, and all others who are mourning this great loss, in my thoughts and prayers during their time of grief.

I would also like to offer my condolences at this time to the family of Barry L. Conrad who was accompanying Secretary Brown on his trip to the Balkans. Mr. Conrad was the founder of the Barrington Group, a dynamic hotel company in Miami, and had previously headed Burger King's U.S. franchise operation.

In addition to being a successful businessman, Mr. Conrad was a very prominent and well-respected member of the south Florida community. This is a great loss not only for the family and friends of Mr. Conrad but for the entire State of Florida.

I am praying for the Conrad family, and all others who are mourning as a result of this tragedy.

CIVIL RIGHTS POLICY AND THE NATION'S FUTURE

Mr. HATCH. Mr. President, our country stands at a crossroads in the path it travels in relations among the different races and ethnic groups that make up the American people. Down one path is the way of mutual understanding and goodwill; the way of equal opportunity for individuals; the way of seriously and persistently addressing our various social problems as America's problems. It is the way, ultimately, of greater unity among our people. Down the other path is the way of mutual suspicion, fear, ill will, and indifference; the way of group rights and group preferences. On this path we march toward greater division. And, on this path, the signpost is marked: equal results for groups, not equal rights for individuals.

This is a time when our national leadership needs to lead us down the proper path. I am concerned, however, that the President views this subject too much as a political issue. It has been an issue which he has sought to manage in order to avoid an intraparty challenge or independent candidacy from his left, rather than simply base policy solely on the merits. Thus, he has firmly and resolutely defended, in principle, the current racial, ethnic, and gender preference regime in this country. And, in practice, he has preserved the vast bulk of the actual preferential programs, of which there are dozens at the Federal level and many more at other levels of government, that make up this regime. At the same time, he apparently believes he can nibble at the edges of this problem of preferences, to look like he is doing something meaningful about it.

We must start with a genuine dialog on race, ethnicity, and how public policy can be changed for the better.

In my opinion, the discussion of this issue must begin with the understanding of this country's history of discrimination against some people because of their membership in a particular racial, ethnic, or gender group.

Indeed, one aspect of this history, the continued subjugation of people enslaved because of the color of their skin, is not merely an unspeakable evil that mocked our principles and ideals; in fact, slavery, together with the continuing discrimination following its eradication, still has consequences today.

I think many members of the white majority in this country have difficulty appreciating just how significantly different and less hospitable an experience black people, and members of other nonwhite minorities, have had in our country. This does not mean, of course, that Irish, Italian, Eastern European, and other peoples in the white majority did not suffer discrimination in America, or that religious minorities in America, such as Catholics, Jews, and Mormons, have not been victimized because of their religion. Some of this discrimination, regrettably, still occurs. But the color line in this country, was, and is, one of the harshest lines that has ever confronted our people.

It was not so long ago that State Governors stood in schoolhouse doors to bar black students from entering. Black and Hispanic youngsters were discriminated against at all levels of education in many parts of the country. It was not so long ago that U.S. marshals and Federal troops had to protect public school children and college students in exercising their constitutional rights. People were murdered because of their black, brown, and yellow skin—a crime still committed in our country in recent years. And people lost their lives in trying to remove the color line in our law.

It was not so long ago that Americans of black and brown skin could return from service in our Armed Forces, be able to afford an apartment or house, yet be lawfully turned away because they were regarded as the wrong color for the neighborhood. Many of the basic necessities of life—jobs, housing, public accommodations, the right to vote—were legally denied or curtailed because of race, color, and ethnicity.

We will never go back to those days. But we must never forget them. And it is necessary for white Americans to have understanding in their hearts, empathy in their actions and attitudes, and a willingness to address social problems in this country—not just the problems they and their neighbors face, but problems all of our people face.

We need, in my view, a mutual understanding among the races that the legacy of past and present-day discrimination, and its social effects, must be addressed, and that our actions and remedies addressing these problems must be fair and must avoid penalizing innocent persons. We can do this.

This mutual understanding might be summed up this way: The legacy of distant discrimination, committed beyond the statute of limitations of our civil rights laws, must be treated as a socioeconomic problem, and not as a problem calling for preferences against innocent persons today. Further, present-day violations of our civil rights laws, of course, must be vigorously pursued; but, again, persons not victimized by present-day violations should not be preferred over innocent persons in any remedy.

One way to illustrate this point is this: While title VII, which prohibits discrimination in employment, can ensure that the best qualified person not be denied a job because of race, ethnicity, or gender, title VII does nothing to help anyone become the best qualified person for a job.

We need a mutual understanding that our pride in our racial, ethnic, and religious backgrounds in America is exactly that, pride in an important part of ourselves, and hostility to no other person on its account.

We need a mutual understanding that we live in a free and good society, with all of its flaws, where opportunity and the ability to dream big dreams remain open to us, where progress has been made in making the great possibilities of America available to all, and where we are not yet finished.

Indeed, I say to my fellow Americans, we are not ultimately defined by our race, ethnicity, or color, but by our common humanity and our common citizenship. American values, American principles, American ideals must be our guide. Our Declaration of Independence says it well: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights * * * ." We had to learn that this included women and men other than white men, but we have learned it. We must make it work in every generation. We are in life's journey together. We are inextricably bound together by our God-given humanity, common citizenship, and common heritage as Americans.

Over 200 years ago, a very wise member of our founding generation, Benjamin Franklin, referred to his fellow ragtag rebels in 13 discordant, often quarreling colonies fighting the world's greatest superpower and said: "if we do not hang together, we will all hang separately."

Today, I say, if we Americans do not progress together as a people, we will surely decline in our own separate, squabbling groups.

Today, Americans face many challenges: world economic competition; instability in parts of the world, hostility in others; international and domestic terrorism; crime in our streets; improving our educational systems. We must face these challenges together.

Some things must come from within the individual, and from within our families, our neighborhoods and communities. These are clearly the places where our work must begin and where our progress must occur. But we must help each other and work together.

While we cannot, and should not, compel people to associate with one another socially, if all we have done is replace a government imposed color line with a voluntary color line imposed by our indifference, fear, mistrust, or superior attitudes, we will all be the losers. And, if all we have done is replace one set of discriminatory practices with another, in the name of nondiscrimination no less, we will never reach our full potential as a united people.

I think it is useful to pose this fundamental question: What is it our fellow citizens whose skin color is other than white really want?

I claim no special expertise. I speak for myself only as a citizen and public servant, to offer this observation: Americans who are part of a racial or ethnic minority group want decent and secure jobs; good schooling for their children; safety in their streets and neighborhoods; decent housing; a chance to go as far as their abilities and drive take them; a chance to earn some of the finer things in life.

Am I not describing the very same things the white majority in this country wants? As different as our experiences may be, and as different as our skin color may be, are we Americans really so very much different from one another? My answer is no.

If I am right, two things follow. First, sound general public policies that help all of our citizens are needed. These include policies to strengthen and nurture families. These policies include an emphasis on traditional values such as honesty, hard work, individual responsibility, compassion, and respect for others. I believe that religious institutions must play a vital role in helping foster these values in our young people and that government should encourage such a role, not place needless obstacles in the way. Sound general policies include tough anticrime and antidrug strategies. They include welfare reform aimed at fostering greater independence and self-sufficiency. They include sound policies for generating economic growth and job creation, including job training; improving our schools; and policies favoring housing construction and low interest rates. Reducing trade barriers, reducing taxes, lightening the regulatory burden, creating and sustaining a growing economy—all of this is the foundation of our progress as a people. To borrow what has become a familiar phrase—a rising tide lifts all boats.

But second, Americans must understand, that for the descendants of slaves and for others whose history in this country includes a color barrier, there are special problems in achieving their piece of the American dream. These problems require acknowledgment and response. A mix of focused private and public action, guided by fair play for all, is called for.

It is to this second point I now wish to turn.

Racial, ethnic, and gender discrimination, of course, regrettably, continues down to the present day.

Fortunately, this Nation finally adopted an array of civil rights laws aimed at eradicating discrimination based on race, ethnicity, color, disability, and gender. Our civil rights laws should be vigorously and sensibly enforced.

But, Mr. President, there is danger and risk as we address problems stemming from past and present discrimination. You don't put out a forest fire by pouring gasoline on it, and you do not cure discrimination—past or present—with more discrimination.

Every individual is made in God's image and should be treated in the workplace, the business world, schools, public accommodations and the like without regard to race, ethnicity, or gender. If we cannot stand as a nation for that simple, powerful, yet historically elusive principle today, when will we ever stand for it? And what do we stand for, as a nation, if we do not stand for equal opportunity for every individual?

I stand for the primacy of the individual. Our rights as Americans do not turn on the color of our skin, our ethnic background, or our religious faith. Just as we should never forget that America has often departed from her founding principles and ideals of equal opportunity for individuals, we should never forget that those are the principles and ideals we should ever be striving to fulfill. And in our necessary effort to right old wrongs, let us not create new wrongs.

A person denied a job, a promotion, a contract, a training program, or admission to school because of race, ethnicity, or gender should be made whole. In the case of employment discrimination, for example, back pay and the next available job with retroactive seniority should be made available to the victim of discrimination. The discrimination should be enjoined.

But, no innocent third party should be forced to lose or delay a job, a promotion, a training opportunity, or be laid off in favor of a person not victimized by discrimination because that person is the same color as someone who was, in fact, discriminated against. That is the difference between a policy of individual rights versus group rights.

President Clinton, in defending policies of group rights that are one significant part of the modern day affirmative action structure says, mend it, don't end it. I say, with respect to the preferences that are a significant part of affirmative action, two civil wrongs do not make a civil right.

Affirmative action that utilizes or encourages preferences on the basis of race, ethnicity, or gender in actual selection decisions—hiring, promotion, layoff, contract awards, school admissions, scholarship awards, government benefits—whether labeled goal, quota, or otherwise, is wrong and should be ended. These preferential devices are merely another form of discrimination. I stress that preferences come in many forms—not just quotas and not just in numerical formulations.

It is acceptable, in contrast, for an employer to engage in affirmative action that calls for reviewing personnel practices to ensure they are free of discrimination. It is acceptable for employers to make an effort to recruit applicants from among those who traditionally do not apply for the job—or in other contexts, for a contract, or school admission—after which the selection is made without regard to race, ethnicity, or gender. In appropriate circumstances, other affirmative steps, targeted to disadvantaged persons, but open to all on a nondiscriminatory basis, are acceptable. Thus, a job training program aimed at the chronically unemployed, or the urban unemployed, is fine, so long as no one is ever turned away because of race, ethnicity, or gender. If such a job training program is established in New York City or Washington, DC, for example, no doubt many racial and ethnic minorities should be able to take advantage of it. But nonminorities also live in these cities and if they otherwise qualify for the program, they should not be denied entry because of race or be subject to express or implied numerical limitations. Former New York City Mayor Ed Koch testified on October 23, 1995, before the Subcommittee on the Constitution, that he was unhappy at one point with the low numbers of minorities passing police exams in New York City. He put a training course in Harlem—open to all. That is affirmative action in the right sense.

Instead of government setting aside a percentage of contracts on the basis of race, ethnicity, or gender, why not establish and foster a mentor program whereby established, experienced contractors provide advice, guidance, and contacts to new or small businesses, regardless of the race, ethnicity, or gender of their owners? This will benefit minority- and women-owned businesses without denying anyone such help. State and local governments, instead of trampling on equal opportunity by setting racial numerical requirements or goals, could sponsor seminars about the contract bidding process, methods of obtaining bonding, and so on—open to all, but located where they can benefit minority- and women-owned businesses. Rather than discriminate, why not enhance people's abilities to compete? This is what the Federal Government should be encouraging State and local governments to do.

The September/October 1995 issue of The American Enterprise mentions an Austin, TX nonprofit organization called the National Council of Contractors Association [NCCA]. It was formed with a small grant from the city of Austin. It is 2 years old, and its help is available to all small businesses, though most of the businesses it helps are minority or women owned. NCCA provides firms with expert advice on how to win contracts, donates accounting services, and helps them win bonding. In a year and a half, NCCA helped 83 firms win 171 contracts. We should encourage such programs, open to all, but located where they can benefit minority and women owned businesses.

I think we ought to take some calculated risks to help small businesses. I am willing to support a small pilot program at the Small Business Administration, where the Government insures the bonding of new, small companies owned by persons of any race or gender—with less net worth, fewer capital reserves, and less experience than current programs require. I am willing to see whether such an approach, especially if coupled with technical assistance, can make a difference in getting new small businesses off the ground and able then to compete in the marketplace. If it turns out that reducing current requirements in providing this help does not work, and these businesses do not successfully perform, we should then drop the program. If it does make a difference, we can expand it in an orderly way. But we have to try approaches that get us away from race and gender lines.

Government can look for more opportunity to contract out some of its services—creating more opportunity for businesses, at less cost.

Instead of racially exclusive scholarship programs operated by colleges, colleges could make aid available based on need, without racial preference. Instead of preferences in college admissions based on race, we need to strengthen elementary and secondary education so children are better able to perform pursuant to the same standards. Of course, taking into consideration an applicant's overcoming poverty or other barriers to success, as one part of the evaluation of an applicant, is acceptable in college admissions so long as those criteria are applied equally to all races, and are not thinly veiled proxies for race. But we need to start earlier than that. Then New York City Schools Chancellor Cortines proposed a math and science institute for 350 seventh and eighth graders to help prepare them for the difficult examinations for admission to three academically selective high schools. Students of all races and all parts of the city are eligible under that proposal, but the emphasis would be on those parts of the city that send the fewest kids to those high schools. Mostly black and Hispanic kids would benefit from the extra preparation. And the standards for admission for the three high schools would not be altered. As I understand it, there is to be no racial or ethnic preferences for admission to the preparatory program or to the three high schools—but an effort to improve people's abilities in this urban school district.

We need to evaluate the concept of public and private school choice, through vouchers or similar programs. Businesses need to lend a hand to our public schools. It is in everyone's interest. Businesses need workers who can perform, or they lose out in this global economy.

I received in the mail a report of the Lindahl Foundation, founded in 1991 and privately endowed by the chairman of State Industries, Inc. of Tennessee, the largest manufacturer of water heaters in this country. John R. Lindahl established the foundation to ensure that any child of his employees has the financial aid to get an education after high school. He expanded it to other students in the county. It is based on need, aimed at academically worthy kids who may not be scholastic superstars, but who could do the work in college or vocational school, if only they could afford it. Nearly 350 young people have received awards of $1,000 to $4,000 as a result of this patriot's effort. The brochure has pictures and words of thanks from grateful young men and women, black and white, including one young woman who was able to fulfill her dream of attending Brigham Young University.

Our public schools need to improve. The August 20, 1994, New York Times carried a statement from Albert Shanker, president of the American Federation of Teachers. He tells the story of the principal of an inner-city elementary school in Baltimore. The principal eventually prevailed upon the Baltimore school system to use a private school's model for teaching. The model is conservative in both educational philosophy and curriculum, with a strong emphasis on reading and writing, and specific week by week, year by year benchmarks of what the children should learn. The performance of the kids at this school is way up—a school which is 94 percent minority and where 82 percent of the kids are eligible for free or reduced price lunches.

Prof. Susan Estrich has written about the efforts of the new California Superintendent of Education. I'll summarize the gist of the column by citing its title: "A Novel School Plan: Back to Basics."

Some of us believe at least part of the answer also lies in reducing government barriers. This should include a meaningful entry level training minimum wage for teenagers, enterprise zones, repeal of the Davis-Bacon Act, and encouragement of private sector initiatives for everything from job training and mentoring young people from disadvantaged backgrounds, to ways of strengthening the family.

Local and State governments need to remove barriers to entry into different occupations.

I do not claim to have all the answers. I expect others have different ways of looking at these issues, and different solutions. But I do believe we need to talk about this in a civil and serious way.

And I believe that a stubborn defense of preferences sidetracks us from finding better, fairer solutions. I will have more to say about this in later remarks.

But, let us engage in this dialog. Let us examine the ramifications of our choice of the road to take. And let us not sweep these issues under the rug in our national debate. Let us deal openly with these issues and help lead our country down the road to a more united people.

(The remarks of Mr. KENNEDY pertaining to the introduction of S. 1668 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I yield myself 20 minutes from the time allotted to the minority leader.

The PRESIDING OFFICER. The Senator is recognized for 20 minutes.

THE MINIMUM WAGE

Mr. DORGAN. Mr. President, we will be dealing with some interesting and very important issues here in the U.S. Senate this week. This follows a break during which, in the intervening couple of weeks, most of us spent time in our States. I was in North Dakota, and I met a wonderful man in North Dakota who was our State's oldest citizen, 110 years old. His name is Nels Burger. He is a wonderful Norwegian man who grew up and lived on a farm in North Dakota. He has a vivid recollection and memory of farming in North Dakota all those many years.

I was thinking, as I was preparing to come to the floor today, of the things that have changed during the lifetime of Nels Burger. It you think of what has changed in 110 years in this country, it is really quite remarkable. Nels was born in 1885. There was once a story about an old fellow being interviewed by a radio interviewer, and the interviewer said to him—he was 85, 90 years old—"You must have seen a lot of changes in your life." The old fellow said, "Yep, and I was against every one of them." Well, there are people like that. They are against every change as it is proposed. Yet, a series of changes have made life better in this country.

We are going to talk this week about the minimum wage. Some say, well, we ought not have the minimum wage at all. Others say we ought to have a minimum wage. For those that are working at the minimum wage, they ought to at least be able to keep pace with inflation.

We will have all kinds of economists weigh in on this subject. We have economists on one side and economists on the other side. It makes you yearn for the old days when Roman priests in ancient Rome were called augurs, performing something called augury, which was the body of knowledge we now know as economics. Augury. They would read the entrails of sacrificed cattle, or read the flights of birds, and from that portend what the future may or may not hold. Actually, the science of economics or the field of economics is probably not much more accurate than augury, but we will have plenty of economists weigh in on both sides of this issue.

It seems to me that the issue of the minimum wage ought to be simple for this Chamber. It ought to ask two questions: One, should there be a minimum wage? Some will answer no, but I think the prevailing mood in the Congress would be yes. We have had a minimum wage in our country for a long time. It has benefited those at the lower end of the economic ladder. Should we have a minimum wage? If the answer is yes, then the question is, What should it be? We now have a minimum wage that is about $4.25 cents an hour. Eleven States have a higher minimum wage than the Federal Government has. There are a few States that have a lower minimum wage. Most of the States have a State minimum wage that is exactly the same as the Federal minimum wage.

If one thinks there ought to be a minimum wage in our country, then the question is, What should it be? Or, should it ever be changed? Should we decide that the minimum wage shall remain where it is, while others on the economic ladder in this country move up? During the past year, there was a story in the newspaper that said CEO's at major corporations got a 23-percent raise in 1995. The average salary has increased to $991,000, but that was only a quarter of their earnings. The average stock option was $1.5 million. The average bonus was $1.2 million. So, they received a salary of $991,000, a stock option of $1.5 million, and a bonus of $1.2 million. That is a 23-percent jump in compensation in 1 year. These are the folks at the top of the economic ladder.

Now, the question is, What about the people at the bottom of the economic ladder? It is interesting, when we discuss topics here in the Chamber, that there is a room off the Chamber called the reception room, where visitors come and where people who are interested in legislation will congregate. I can recall when we passed the telecommunications legislation, it was full. It was a traffic jam in the reception area in the hallway outside the Chamber of people who were interested in this legislation and of companies that had an interest in this legislation. When we passed the defense authorization bill, the hallways were jammed with people who had an interest in that legislation. Even when Senator BUMPERS and I brought to the floor a proposal to eliminate the National Endowment for Democracy, we had a "Who's Who" in corporate America, a "Who's Who" in the Republican Party, a "Who's Who" in the Democratic Party, a "Who's Who" in the chamber of commerce, and the AFL–CIO all sitting out there trying to kill our amendment because they all got money from the National Endowment for Democracy. So, there was a traffic jam outside this Chamber. All kinds of people who had an interest in the legislation were hanging around.

It is interesting, when we talk about the minimum wage, there is no one outside this Chamber. No one is waiting, no one is lobbying—except against it—no one is out there saying, "We have some people who get up in the morning and make breakfast for a couple of kids, and then work for 8 or 10 hours at $4.25 an hour, and come home and try to figure out how far that stretches, how much milk can you buy with that." Will it pay for the medicine, the milk, and the diapers? They do not have time to come out here and lobby. They do not have the capability. They do not have the money.

So, there is not a traffic jam out in the hallways when we talk about minimum wage because no one is speaking for the people who do not seem to have much of a voice in this system of ours. At least, not many are speaking for them. We have people in this Chamber who would not know the price of diapers or milk or bread who tell us $4.25 is just fine. Never mind the fact that inflation means that $4.25 purchases less than it did 6 years ago. It does not matter to us, they say. Never mind the fact that the top of the economic ladder gets a 23-percent pay raise. Let us freeze the bottom of the ladder, they say. Well, it may not matter to some people in here, but it matters to millions of people around the country who are trying very hard to go to work and to care for their families.

The vast majority of the people working for minimum wage are adults. Sixty percent of them are adult women. Forty percent of the people on minimum wage are providing one-half of their families' income, and there are more than 1 million working for the minimum wage who are providing the sole support for themselves and their children.

I know some who will say minimum wage is for kids. That is not true. We ought to at least debate the facts. There are kids working for the minimum wage. I understand that. I accept that. But there are plenty of people who have nothing who are out there trying every day in every way to make a living on $4.25 an hour, and after 6 years their wages have been decreased because $4.25 an hour buys less. The question is, Who will speak for them? Who will stand up for their interests? This is our job.

Our responsibility is not to decide that the market system does not work. The market system does work. This is a wonderful country with a market system that has produced the richest capitalistic society that very few people could ever have imagined. I pay great tribute to the men and women who risk their resources, who work long hours in the day and night to start a business and try to make a go of it. I understand that as well. We have also understood that part of this system requires some rules and that we are the referee in this system.

Someone stood up at a luncheon meeting I attended the other day and said, "How do you justify speaking on behalf of the minimum wage?" I said, "Do you not support a minimum wage?" He say, "No." I said, "Do you think there is not a minimum at all?" He said, "That is exactly the case." He said, "I don't think you ought to interfere with the market system in any way. There should be no minimum wage in America." Then I asked, "Should you be able to hire 12-year-olds and work them 12 hours a day? Should you be permitted to do that?" The Government has said with child labor laws that there are certain things that are not appropriate. We used to have 6-, 8- 10-year-olds working in textile mills in this country. We said, "That is not appropriate." So we passed child labor laws. Even then we had people that said it is not appropriate for us to interfere with the market system, that children ought to be able to work, that people ought to be able to employ 10- or 12-year-olds in the mill. But we thought through that issue a little bit as a country and we decided no. The better part of judgment was to decide that there are certain rules within this market system which represent basic fairness. And among those rules was the minimum wage.

I am not here to suggest that there is anyone in here that does not care about people at the bottom of the economic ladder. I do not want to be judgmental about that. I do hope, however, that all of us in the Senate—and in the House—will understand a little bit about what it is like to be on the bottom of the economic leader.

I encourage everyone in the Senate to some morning before we vote on the minimum wage again to get up and go downtown to a homeless shelter and talk to a young woman whose husband left her, who has two or three children, who has no skills, who has no money, and who has no place to live. Talk to her about her experience working at minimum wage. When she works she loses AFDC. When she works she is told she cannot save any money to prepare for her first month's rent and 1-month security deposit. There is not any way she can save money to try to get an apartment to shelter her and her kids. After you have talked to her for a bit, think, "If it were me, how would I get out of this circumstance?" I will bet you that you would have, as I did, a difficult time understanding how you pull yourself up and out of that kind of circumstance.

I ask everybody in this the Senate as they think about the minimum wage to think about the people who are struggling to try to make a living every single day and who find now that their $4.25 an hour buys a whole lot less than it did 6 years ago. We are now near in terms of purchasing power a 40-year low in the minimum wage. And we ought to pay as much attention to the needs of those at the bottom of the economic ladder as we seem to day after day to pay for those at the top of the economic ladder. My hope is that we will—Republicans and Democrats—understand that there are people who have no voice out there, or who feel they have no voice, and that we should raise our voices on their behalf. There are people out there who work hard but still feel they have no hope. We ought to offer hope to those people. That is what we ought to be about.

The easiest thing in the world is to be negative. The easiest thing in the world is to oppose and reject. The hardest thing in the world is to be a builder and to try to understand what is right and what improves life in this country. I hope we can decide in a bipartisan way to do that in the coming day or two, or week, when we discuss once again the minimum wage.

THE ISSUE OF TAXES

Mr. DORGAN. Mr. President, on the issue of taxes, today is tax day, April 15. And there will be a lot of discussion—I think even later this morning—on the floor about taxes. I do not think anyone in this country particularly likes to pay taxes. I understand that. I personally take great pride in paying taxes to help create wonderful schools that will educate our children. All of us ought to beam a little about that. We created opportunities in our country—building roads, building schools, doing a lot of things that have made life better in our country. So I understand that. But I understand that on tax day most people would prefer to pay a lesser amount of taxes, and most people do not very much like the Tax Code that we have. It is too complicated. It is sometimes unfair. And there is not any reason that we ought to have a Sears Roebuck-style catalog in order to try to have to read through and understand the rules of our Tax Code. We ought to be able to do this simpler than that. I hope working together that we will find a way to do it.

But I want to focus on a couple of things in the Tax Code that kind of relates to what I was talking about on the minimum wage. There is always a way for the bigger interests to fill the hallways out here with really smart people who conceive of ways themselves to avoid paying taxes, or of ways for someone else to pay a little less in taxes. I will give you some examples of that. We have a provision in our Tax Code that I have talked about half a dozen times that says to companies close your plants in America, move it and your jobs overseas, get rid of your American workers, hire foreign workers, get a foreign plant and foreign work, produce the same product, and then ship it back to our country and we will make you a deal. If you do that, we will give you a tax cut. Most people would think that cannot be the case. Anyone who proposed that would have about a 2-second political life. No. That is true. It is in the Tax Code. I have tried to get it out of the Tax Code. I lost last year by a 52 to 47 vote on the Senate floor. We are going to vote on that again this week. I am going to offer an amendment to the immigration bill that proposes that we shut down the insidious tax loophole that encourages somebody to shut their American plant, move their U.S. jobs overseas and then produce the same product and ship it back into our country. We will have another vote this week on that.

We also have had this debate about the budget balancing proposal that was vetoed by the President. And it is interesting. When you take a look at some of these details that are put into these large pieces of legislation, which by the way alters in favor of the line-item veto which I supported—I am delighted the President will now have that—but in that big budget bill there a number of little provisions. Let me cite one of them.

One was a provision which called to repeal section 956(A) of the Tax Code. There are not two people awake in America who understand what that is except the companies who are going to benefit from it. That was a little provision stuck in the bill that was supposed to balance the Federal budget that went to the President and he vetoed it, a little provision that says, by the way let us spend $244 million making it more attractive on top of the already perverse incentive we have in the Tax Code to move your jobs overseas—repeal of section 956(A). I have asked on four or five occasions, is there someone in the Chamber of the Senate—of course, there is no one here now because we are not having votes today—when everyone gets here who would stand up and raise their hand and say, "Yes, I support that. That is my provision. I sure like that notion. Let us provide more benefits to people who move their jobs overseas?" Do you know something? I could not find one Senator who would stand up and support it. It is like the blimps in the defense bill. We wrote in $60 million to buy blimps in the defense bill.

So I said, "Will anyone in the Chamber tell me who thought we should spend money in the defense bill to buy blimps?" I could not find a one. It is funny how difficult it is to find people in the Senate when you discover a provision in law or a provision that is proposed in the Balanced Budget Act that would actually reward, above the current incentive, companies for moving their jobs overseas.

Most of us understand what has happened to American jobs. There have been some jobs created in the service sector, but we have lost about 3 million good-paying manufacturing jobs in this country since 1979—3 million manufacturing jobs. When you talk about manufacturing, then you are not talking about minimum wage. Manufacturing represents the seed bed of good jobs with good income in this country, and that is why I have talked again and again in the Chamber about measuring America's economic progress not by what we consume but by what we produce, because what we produce is what matters. That is what economic health is about. Do we retain a strong manufacturing sector in this country? Do we retain strong jobs that pay well in this country?

At the same time we are all talking about wanting to do that, we have in the Tax Code—and I bring it to the attention of the Senate on tax day—a provision that says we would like to reward you if you leave America. Take your jobs and go, take your plant and run, and we will give you a reward. In fact, all the rest of the American taxpayers will pay for it; $2.2 billion is the reward for companies that move their jobs overseas—$2.2 billion.

That does not come from me. That comes from the Joint Tax Committee. That is their estimate of how much revenue is lost in this country because we provide an incentive for those who would close their American plants and move their American jobs overseas, produce the same product they used to produce here and then ship it all back to United States. And what has happened? The only thing that has happened is that we no longer have the jobs in America. Somebody overseas has those jobs, and someone who controls those jobs makes more money and pays no taxes.

In my judgment, that is no way on tax day to celebrate. What we ought to do on tax day is talk about things we all talk about—complexity, yes. Let us simplify the Tax Code. Let us make it more fair even as we make it more simple. But at the same time let us decide that that Tax Code ought to be neutral on the subject of moving jobs. The Tax Code ought not be tilted in favor of taking your jobs and leaving the United States of America.

Those are the kinds of issues that I think we as a Senate will have to confront in the rest of 1996. I know it is an election year, and I know some predict that not much can be done because we have all the tensions, and so on. The businesses of this country will not wait for an election. We will be hard pressed to explain to someone who is struggling out there at the minimum wage that, well, we cannot really deal with this now because there is an election coming. That is just something we cannot deal with. There is too much controversy, and we just are not able to do it. That is going to be lost on a lot of people who are trying very hard to make a living day after day.

There is not in this Senate one side of the aisle that cares a lot about people and the other side that does not. That is not the case I am trying to make. But there has been a confluence of public policies in the last year and a half that represent a more extreme view of where we ought to head—the notion that somehow the only thing that makes the American engine work is if you pour in some petroleum from the top. It is classically the old trickle-down approach; if you help everybody at the top, somehow everybody at the bottom gets damp or somebody at the bottom benefits.

Hubert Humphrey, who was our neighbor over in Minnesota, a wonderful man, said, "I have a different view of this. My view is the 'percolate up' theory in our country. You give everyone in this country a little opportunity to be able to do well and things percolate up and make this American engine run." He said "This trickle down, that is the approach where if you give the horse some hay, at some point maybe the sparrows will have something to eat."

We ought to understand in this country that the American economic engine works best when all of the American people are working. The incentive in the minimum wage is to try to be fair to those at the bottom of the economic ladder. And it is not fair to say after 6 years, 6 years of freezing you, because you lose purchasing power year after year, that we are going to continue to do that. That is not fair. And it is not fair to those on the minimum wage that our Tax Code on tax day contains a provision that says, "By the way, the job you aspire to"—you are on minimum wage, but you aspire to a better job, a manufacturing job perhaps—"is gone, because in our Tax Code we paid somebody to take it out of America." That is not fair either.

There are provisions, it seems to me, that we can and ought to agree on as Democrats and as Republicans that represent a fair economic approach which would benefit this country, all people of this country, even those who do not have the capability of sending an army of special interest folks to surround this Chamber as we debate their favorite issue.

Mr. President, we will have a great deal of discussion on these issues this week, I am certain, and my hope is that we will, on the first question I asked today, answer with reasonable unanimity: Should there be a minimum wage? I hope most Members of this Chamber will answer yes.

And if they answer yes, then let us spend the rest of the time asking the question: If there should be a minimum wage, then what is a fair level for that minimum wage? Is it fair having it frozen for 6 years? When the top of the economic ladder gets a 23 percent pay increase to an average $3 million a year, is it fair then to say to the bottom, at the lowest rung of the economic ladder, "By the way, we will freeze your pay for 6 years?" I do not think that is the answer most people would come to if you think about it reasonably and you think about it in the context of what would be best for the millions of people in this country at the bottom who are struggling very hard to make ends meet.

I yield the floor.

Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. RES. 241

Mr. COVERDELL. Mr. President, I ask unanimous consent that Senate Resolution 241 be temporarily set aside until Tuesday, April 16, at a time to be determined by the majority leader after consultation with the Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, under the previous order, I am recognized during morning business for a period of 90 minutes. I ask unanimous consent that during this period I be permitted to yield portions of my time to other Members without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX DAY

Mr. COVERDELL. Mr. President, if he were still alive, President Roosevelt would say April 15 is "a day that will live in infamy." We have all come to know this very special day as one of great dread in our country, as we come to grips with the enormous burden every American family, every Georgia family, every citizen comes face to face with—the direct burden of Government and the enormous consumption of the wages of labor that are consumed by the U.S. Government and government in general.

Depending on what you count, today Americans work from January 1 until about June 31 for the Government before they are able to keep the first dime for themselves, their families, their educations, their dreams. I think Thomas Jefferson must surely have many times rolled in his grave because he could never, ever have anticipated that there would come a time that nearly half the resources of those who labor for it are removed from those families and those individuals and sent to some government to redetermine what ought to be done with the wages of the person who earned it.

To just quickly summarize—and I am going to yield to my good colleague from Tennessee—but in my own State, I have asked that a picture be made of the average Georgia family. This is the perfect day to reveal what that picture looks like—April 15. That average family earns about $40,000 a year. Both spouses work and they have two children. Remember, now, they earn around $40,000 a year. They spend $4,183 in Federal income tax liability of the $40,000. They spend $3,118 in FICA taxes. They spend another $844 in other direct and indirect Federal taxes. They forfeit $5,061 in local taxes, State and local. This family's share of the new regulatory apparatus we have been building for the last some 30-odd years—this is an unbelievable figure—is $6,615. This family's share of added interest costs because of our $5 trillion national debt is $2,957. That comes to $22,778, 51 or 52 percent of all wages. Every average family in Georgia is working half time for somebody else—the Government.

America depends on these families to raise the country. We ask them to house the country, to educate the country, to feed it and clothe it, transport it, and see to its health. But we only leave them half of all their earnings to do this great work that we have depended upon for so long. The end result is middle America, the average hard-working family, has been marginalized, has been literally pushed to the wall because of the consumption, the insatiable consumption of Government.

I would have to say this is also the result of certain elitists in our country that have concluded that this average family in Georgia is unable to make decisions for itself and that decisions about its future, its health, its welfare are best made by some Washington wonk in the belly of one of these buildings in the Capital City, and it is better that their wages come here so that some bright person can determine how best this family ought to be preparing for its future and its needs.

I reject that theory outright and I believe America does too. I did not believe I would ever be standing on the floor of the U.S. Senate, talking about average families in my State forfeiting nearly half their earned wages to support this burgeoning, growing, unfettered consumption by Federal and other governments.

With that opening statement on this infamous day of April 15, 1996, I yield to the good Senator from Tennessee up to 10 minutes.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, in recent years the words "tax and spend," have been used together so often that, today, rarely do you hear one word, "tax," without hearing the other word, "spend." The phrase has become so common, so acceptable, so recognizable it approaches the use of words such as "hand in glove" or "horse and buggy." It is just when you think of taxes, you think of spending.

Like cliches that become popular because they deliver the truth with clarity and simplicity, "tax and spend" boils the point down to its essence. There is only one reason for raising taxes and that is spending more.

We just heard my distinguished colleague from Georgia boil down this tax burden to the effect on an individual family. That tells the whole story. But I cannot help but to share with you this morning a conversation at breakfast, as I sat around the table with my wife and three boys, Jonathan, 10; Bryan, 8; and Harrison, 12.

Jonathan said, "You are coming back from recess, dad. What are the issues? What are you going to be talking about?"

I said, "Today is a big day for the American people. It is tax day."

And Jonathan said, as any young child does quite innocently, "What is tax day? What does that mean?"

I said, "Jonathan, it has an impact on every, every family in this great country."

He said, "What sort of impact?"

I said, "Today, people will be writing checks, where a huge portion of what they earn goes to Washington, DC, to the Federal Government."

He said, "What do you mean?" He said, "Don't you pay sales taxes?"

I said, "Yes."

And he said, "How much?"

And I said, "About 38 percent, on average, around this country, of income, of money that you take in, goes to government at the State, local, and Federal level, 38 percent; 38 cents on the dollar," I said.

He looked up again with those innocent eyes and said, "Well, why does anyone work if you have to give 38 cents away?"

Clearly, it is much more complicated than that, but through those innocent eyes of a child, it does bring us to that real question of, why do we tax so much and spend money so extravagantly?

Mr. President, unlike the current occupant of the Oval Office, President Calvin Coolidge was a man of few words. However, the thoughts he expressed when he chose to speak were quite precise; it hit the nail on the head.

On the subject of Government spending, he once, very accurately, observed, "Nothing is easier than spending public money—it does not appear to belong to anyone."

Apparently not.

Federal spending has risen steadily and continuously over the last 40 years, and to pay for it, so has the burden on the American taxpayer.

Thirty-eight percent of a family's income is paid in Federal, State, and local taxes and, as we just heard, in Georgia it is even higher than that. But, on average, 38 percent. And the problem is getting worse. It was only 28 percent in 1955. Today, a taxpayer has to work more than 3 hours out of an 8-hour day just to get enough funds to pay the tax man.

And if paying taxes were not bad enough, to add insult to injury, the Government makes it as hard as possible for everyone to comply. There are now 555 million words in the Tax Code with 4,000 changes made just in the last 10 years. There are 480 different tax forms provided by the IRS, and there are another 280 forms just to tell us how to fill out those 480 forms.

Every year, in fact, the IRS sends out 8 billion pages of forms and instructions to 100 million taxpayers. This feat alone requires the pulp of 293,760 trees just to accomplish.

This year, individuals will spend 1.7 billion hours filling out their taxes. Businesses will spend another 3.4 billion hours to fill out their taxes, and complying with tax laws will cost all of us about $200 billion above and beyond the taxes themselves.

But for some people, enough is never enough. In the first major action that President Clinton took, you guessed it, he raised our taxes, and when Republicans cut taxes as part of the Balanced Budget Act last December, the President vetoed the bill. Why? You guessed it, because he wanted to spend another trillion dollars on Government, not the people's, priorities.

Tax and spend—one cannot live without the other.

And what are those priorities of the American people? Today, all across

America, the problems of crime, drug trafficking, and illegal immigration are out of control. Yet, while we have 24,000 FBI agents or 6,700 DEA agents or 5,900 Border Patrol personnel, we have 111,000 people working for the IRS. The Government cannot stop illegal drugs or illegal immigration, but it sure knows how to collect your money, even if it cannot manage its own.

This month, the GAO audited the IRS. What it found was truly astounding. The General Accounting Office found that the IRS could not account for $10 billion it says it collected. The IRS could not fully explain $2 billion in expenses, and it could not use the sophisticated new computer equipment that cost taxpayers more than $3 billion. So it is still using the old recordkeeping and billing system designed in the 1950's.

Perhaps that is why when Money magazine hired 50 tax experts to prepare the return of a hypothetical typical American family it got 50 different results. They found the Tax Code to be so vague, so confusing, so contradictory that, as Money's editor put it, "The typical taxpayer has no way of knowing how much they actually owe."

Mr. President, it is time that Americans pay less taxes, not more. It is time Congress simplified the maze of regulations, penalties, deductions and credits that make compliance so difficult. And it is time we made it harder for the IRS to make hard-working Americans pay for its mistakes. That is why I have cosponsored the Taxpayer Bill of Rights 2.

Among its more than 30 provisions, the Taxpayer Bill of Rights will waive interest charges when the IRS, not the taxpayer, is at fault. It will allow taxpayers to sue the IRS for up to $1 million for reckless or negligent collection actions. It will prohibit the IRS from issuing retroactive regulations.

Yes, the era of big Government is over. So is the era of tax-and-spend. For, as Calvin Coolidge also so accurately observed, "The appropriation of public money is always perfectly lovely until someone is asked to pay for it."

He continues: "I favor the policy of economy, not to save money, but to save people. The men and women of this country," he continues, "who toil are the ones who bear the cost of Government. Every dollar we carelessly waste means that their life will be so much more the meager. Every dollar that we prudently save means that their life will be so much more the abundant."

Mr. President, when Ronald Reagan was President of the United States, the portrait of Calvin Coolidge hung in a place of honor in the Cabinet room as one of the Presidents Mr. Reagan admired the most. Mr. Clinton has borrowed much from Ronald Reagan. Perhaps he would do well to borrow President Reagan's appreciation of Calvin Coolidge as well.

Mr. President, I thank the Chair and yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, a moment ago, as we began this discussion, I outlined the impact of Government and regulations and the costs on an average family in my State. As I said, it comes to almost 50 percent.

I think it might be interesting, and I am going to yield in just a moment to my good colleague from Idaho, but I would like to make a point about what has been the impact on this average family of this administration.

On the Federal income tax liability, I said that we are currently paying $4,183, but if we had not put in place the policies of this current administration, that is, the largest tax increase in American history in August—that hot August—of 1993, then that tax burden would be considerably less. It would be $3,656.

FICA would be $2,754 instead of $3,118. The regulatory costs, Mr. President, are considerably different, as well. They would be paying $5,892 instead of $6,615.

The bottom line is that without the policies of this administration of taxing and growth and regulation, the total tax burden would have been $20,112 instead of $22,778 or, bottom line, this administration has added almost $3,000 of new costs to this average family.

If you are making gross about $40,000 and you have a new $3,000 bill to send to the Government, it is a wake-up call. That is 15 percent of lost disposable income as a direct result of the policies of this administration. It is incredible.

As I recall, during the debate we were only going to affect the wealthy. I do not believe any family making $40,000 a year considers themselves in the league of wealth, but their contribution—we remember that—the contribution that they would be asked to make is almost another $3,000 for every average working family in my State.

Mr. President, I yield up to 10 minutes to my good colleague from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, thank you very much.

Let me thank my colleague from Georgia for yielding me time, but especially for taking out this special order on this very important day in the lives of every working man and woman in the United States, the day when your Federal taxes are due.

I say that because it is also an important day for us to pause and recognize what paying your taxes means and the kind of impact that it has on us as a society. Obviously, my colleague from Georgia has spoken about how it impacts his State. And let me also congratulate him on his constitutional amendment to prohibit retroactive taxation. I am a cosponsor of that. I appreciate him leading in those areas something that our Founding Fathers were very, very clear on, while this Government seems to have been a bit confused on it.

Also, today, the House, our neighboring body, will take up the two-thirds majority to raise taxes as a requirement of our Constitution. Some would argue that is putting economics in the Constitution that should not be there. I disagree with that. I think it is the appropriate thing to do because, clearly, within the Constitution we have required two-thirds votes on other procedures that are required.

Obviously, they are proposing an amendment today. That amendment requires a two-thirds vote. Somehow nobody suggests that that is the wrong thing to do or that is the wrong test that ought to be made. So I hope the House is successful today both in their debate and in their vote to require a supermajority to raise taxes. I think it is high time that we in this body and in the Congress of the United States become as sensitive to taxation as the taxpayers of this country that we suggest that we represent on a regular basis.

My guess is that if you vote for increased taxes in this body, you are not representing taxpayers very well because the taxpayers of our country have consistently said for a long while that they are being overtaxed. A recent poll in the Readers Digest suggests that the average citizen believes that taxes ought to be no higher than about 25 percent of their income, and they would even say in this poll that if somebody was paying 40 percent, even though they might be making more money, they were probably being taxed too much. Even the poorer of our society would suggest that those that are being taxed at a higher level ought to be taxed at a lower level because, for some reason, higher taxation was just blatantly unfair. I have to agree that that is the case.

Today, as mentioned, is April 15. Americans will work until May 7 of this year just to pay their taxes. And, as we all know, that day just keeps increasing. I am talking about January 1 to May 7 of every year now for the average taxpaying working American to meet their tax requirement. If you went to work at 8 o'clock this morning, the first 2 hours and 47 minutes of your 8-hour working day were worked just to pay your Federal tax requirement.

Obviously, you live in another taxing district besides the Federal tax realm. You live in a State tax realm. Probably you would work another 35 minutes to an hour just to pay your State taxes.

So it all adds up, and the average working person out there is going to spend the first 3-plus hours of their working day not putting one dime in their own pocket, not putting one dime to the purchase of a loaf of bread for the toast for the family breakfast, not putting one dime in the savings account that they are building to send their child to college, not putting one dime against the purchase of a new car or a new house, because for the first 3 hours, on the average, they will be putting all of those dimes either in the Treasury of the U.S. Government or the treasury of State government.

That is why most every American agrees that they are overtaxed. That does not mean that Americans are antitax. I cited the poll a few moments ago where I think all Americans recognize the importance of some government, the importance of the basic services of government, and the need to pay for it, and the need to have budgets balanced. But what they cannot understand is why the average two-wage-earner family, a family of four, pays 38 percent of all of their income to pay taxes for all levels of government. It is simply too high, and we know it. And Americans know it more, I think, than we do.

This last week during the Easter recess I had a rare privilege of taking my parents, who were here visiting, my wife and I to Williamsburg. I have been a student of Jefferson and Washington and Madison, as I hope many Senators have been on this floor. We visited the colonial capital of the colony of Williamsburg, better known as the House of Burgesses. Again, it was a remembering of why this country went through a revolution, why our Founding Fathers finally said, enough is enough, why they put their lives and their property on the line, simply saying they could not tolerate an oppressive Government, primarily because of the level of taxes that that Government was levying against a society of people who did not have a vote, who had, as we now know, taxation without representation.

Of course, as mentioned in several of the books I have read about Thomas Jefferson, following the great revolution and a new country and an America under a Constitution in which we had representation, he was visiting in Europe and a British parliamentarian said, "Well, you went to war because you had taxation with no representation. Now what do you think? You have got taxation with representation."

I think we all recognize by that statement and 208 years of history that central Government, if not controlled, can become oppressive, and the greatest tool of oppression on the rights and freedoms of an individual, of family, a working person, is the ability of Government to tax.

Since this country instituted the income tax and since we instituted automatic withdrawal from our wages of the Government's share of those taxes, we all know that that 38 percent that gets taken out of the average family of four's salary, while it seems to go very easily and we forget about it being in or having been there, we fail to recognize the tremendous purchasing power that that would have or the additional freedoms that that could afford the individual family that is now taken away from them and, therefore, the freedom to choose, the freedom to be financially independent, the ability to make for themselves and their children a better life. All of that is part of why Americans become increasingly frustrated when they see a government that progressively adds taxes to their ability to earn money.

In 1992, as we all know, President Clinton talked about a middle-class tax cut. He was the champion during that Presidential year of wanting tax cuts for middle-income Americans. Somehow this President forgot or lost his way. We know what happened just a year later, in 1993, when he pushed through the largest tax increase in the history of this country.

Oh, I know argumentatively he played class-war politics by suggesting it would only go on the backs of the rich, but, as my colleague from Georgia has so clearly pointed out, it did not go on the backs of the rich; it went on the backs of everybody. It went on the backs of middle-income wage earners in his State of Georgia, in my State of Idaho. It hit all levels. And when it hits all levels, it hurts all levels of our economy and the ability of families today to make their own way.

So we now have taxation with representation. But at the same time, what I think we, those who are the agents of representation, have failed to recognize is the real impact that taxes have on the ability of the wage earner to function for himself, herself, or for their family, or even the incentive in a society.

You know, I talked about that first 2 hours and 47 minutes of work to pay the Government. If you decide you will not work that 2 hours, 47 minutes because that money goes to the Government, think again. It does not work that way. What I am suggesting by that is that it has become, by increased rates of taxation, a blight on the ability of our economy to produce and the right of the individual to produce.

Why can we not get above about 1.5-percent growth in our economy? Remember, growth is a factor of job creation, greater opportunity, upward mobility for wage earners starting at lower levels to move to higher levels, to provide for themselves and their families to have a better home, a better car, to seek a better education, to put a better coat on their back. If you deny growth in the economy, you deny those kinds of opportunities that have been historically true in our society.

Taxation is a factor that puts that kind of blight against economic growth, dampers it down and, of course, as we all know in a society today, in an economy where we do not compete just with our neighbor down the street, we compete with our neighbor in China, our neighbor in Japan, if we and our level of taxation is not similar, certainly our ability to produce is less.

I have talked about income tax and its impact on the family. If I could for just a moment move to something else that I think is grossly unfair, but it fits into all of this element of taxation. That is the issue of estate taxes. Somehow we have developed an attitude in our country, Mr. President, that if you collect wealth during your productive years, you work hard, maybe you do not work the 8-hour day, maybe you work the 12-hour day, maybe you work a 14-hour day and you accumulate wealth, you own a home free and clear, you have money in a bank, you have a savings account, you have stocks and bonds, you are not allowed to move those through to your children when you die, or not all of them.

Again, the Government steps in and says, "No, we will take that away from you." That is an estate tax that I have for so many years believed to be so wrong. I have watched farmers and ranchers in my State work for a lifetime to pay off a mortgage, to own something, only to sell it and find out that they have to give a high percentage of it back to the Government. Why? The Government did not earn it. It is not the Government's right to have it. Somehow that is something that our country has slipped into and something that April 15 of every year reminds me is just fundamentally wrong.

I hope today is a day of reckoning, a day of better understanding. It appears I am out of time. Could I have an additional 2 minutes yielded to me?

Mr. COVERDELL. The Senator is yielded 2 additional minutes.

Mr. CRAIG. I hope today is a day of reckoning. Again, a time when we all awaken to the fact of what our Government does to us—not for us. There are many things that Government can do for us, but this is an instance where I believe Government takes too much of our money and spends it unwisely.

That is why, along with the amendment that the House will be voting on today to require a two-thirds supermajority to raise taxes, why the amendment by my colleague from Georgia dealing with retroactivity in taxation, why the $500 tax credit that we have offered in our balanced budget bill that we sent down to the President, that he vetoed, is so important. Why trying to deal with a capital gains tax, trying to deal with an estate tax, reducing those rates, creating less impact on hard-working, saving, earning

Americans is what this day ought to be about.

I thank my colleague, the Senator from Georgia, for leading Members in this important debate on this important day. I hope other colleagues would join with us and come to the floor, talking about how all of this impacts their States and their citizens' lives. It truly does. When you watch that kind of money, whether it is 38 or 40 percent that you earn being taken away from you for purposes that in many instances you find unnecessary, it is a question that that has to be on a monthly, daily basis, brought before this Congress.

I thank my colleague from Georgia for bringing this matter to our attention.

Mr. COVERDELL. Will the Senator yield?

Mr. CRAIG. I am happy to yield to the Senator.

Mr. COVERDELL. Mr. President, in my opening comments I was talking about an average Georgia family, and I alluded to the fact that virtually half their income has been absorbed by one government or another. You and the Senator from Tennessee have used the figure 40 percent. I thought we might clarify that a bit.

Would the Senator agree that a family's interest payments that are a direct result of our national debt should also be added into what is being taken from them?

Mr. CRAIG. Absolutely. I think it is clearly the appropriate day to debate what is the total impact of our current Government's need based on net, based on taxation on the lives of the average citizen. When you do that, I think that is absolutely right. It gets well past the 40 percent mark in many instances. You have to factor in, as I think you have, and when I talk abut 38 percent I am not factoring in State government in many instances, but you are doing so, I think, and that is a very important part.

Mr. COVERDELL. Would the Senator also agree, the impact that families share of the regulatory costs, those have to be paid by that family, are also a factor that have to be weighed in as to what the total impact is on our working family?

Mr. CRAIG. No question about it. That is something that you and I have struggled on for a good many years. We busily write an awful lot of laws around here with no sense of the kind of cost that it will have on the average citizen through regulatory compliance or making sure their businesses operate within the framework of those regulations. Those are real costs, and they get passed on to the consuming taxpayer, and ultimately that is a form of taxation.

Mr. COVERDELL. I have enjoyed the Senator's remarks immensely, but I conclude by saying that in our colloquy, that the effect of all of this is that you have essentially removed half the earning wages of our working families, no matter where they are.

I am reminded here, because it has been brought up several times, of a statement that the President made in a campaign commercial on January 16, 1992, Mr. President. It said, "I'm Bill Clinton, and I think you deserve a change. That's why I have offered a plan to get the economy moving again, starting with a middle-class tax cut." However, 1 month into his Presidency, that promise was dramatically altered. The message in the State of the Union speech that was made by the President on February 17, 1993, said, "To middle-class Americans who have paid a great deal over the last 12 years and from whom I ask a contribution tonight."

Mr. President, that contribution turned into a $250 billion tax increase which resulted in every working family paying a lot more money to Washington and having a lot less in their checking account to take care of their own needs.

The PRESIDING OFFICER (Mr. CRAIG). The Senator from Wyoming.

Mr. COVERDELL. I yield 10 minutes to my colleague from Wyoming.

Mr. THOMAS. I thank my friend from Georgia for organizing an effort to talk about something that we especially are aware of on tax day, on April 15, but certainly should be talked about every day. Unfortunately, I think not many of us often recognize the fact that nearly 40 percent of our revenue, of our income to our families, is taken in taxes.

It has been talked about here today, that we work more than 3 hours a day out of our 8-hour day simply to pay taxes.

Although I am quite sure that will not become the tax system, some believe—and perhaps there is merit in it—if we had this sales tax, we would be more aware of the level of payment that we make, where now much of it is withheld. We talk about our wages after taxes, and so it sort of disappears and fades off. So I think it is appropriate that we talk about it today.

It seems to me that there are at least two important areas that need to be talked about. One, of course, is money—dollars. What does it mean to us and our family income? We probably ought to ask the question, of course, who should spend it? We work to support our families. Who should spend that money that we earn? Obviously, we would expect to be taxed if we want public activities to continue. Then we ask ourselves, how much is enough? How much should go? Is 40 percent too much? It seems to me that perhaps it is.

Then, of course, there is a direct relationship between taxes and the amount of Government we have. It seems to me that is a principle we ought to talk about. Many of us believe—and I am one of those—we ought to have a limited Government at the Federal level, that we ought to, as it describes in the Constitution, do those things that are described in the Constitution and leave to the States and to the people those other activities. Taxes have a great deal to do with that.

There is a relationship between the size of Government and spending. Of course, if we are responsible at all and we want to do this spending, then we should pay for it. That is where taxes come in. Unfortunately, we have not done that very well. We have wanted to do the spending, but we put it on the credit card for our kids. We need to change that, and we are in the process, hopefully, of doing it. The real measurement is not what Government can do for people but the kind of environment that can be set that allows people to do for themselves. So when we talk about taxes, we are also talking about the size of Government that we envision.

I think we should talk about where we are now. As Paul Harvey says, "What is the rest of the story?" We are beginning to hear a lot about how "the deficit is down, the economy is up, and we are saving taxes," and so on. The fact is that Washington has never spent more on the Federal bureaucracy than we are and have under this administration. The fact is that we are spending less on defense, and that may be right or wrong. But it means we are spending more, then, in the nondefense areas, these programs that simply continue to grow. America's tax burden, State, Federal, and local combined, has never been higher than it is under this administration. It has never been higher as a percentage of GDP. Americans will pay more than one-half trillion dollars more in taxes as a result of the President's tax increase of last year.

So despite what we hear and what we heard in the State of the Union Address on January 23, part of which said, "We know big Government does not have all the answers"—I am quoting the President—"We know there is not a program for every problem, and we know we have to work to give Americans a smaller, less bureaucratic Government in Washington, and we have to give the American people one that lives within its means." He said, "The era of big Government is over." Yet, we have the largest expenditure for Government that we have ever had under this administration.

So, Mr. President, this is tax day. It has already been noted that the typical family spends more than 38 percent of its income on taxes—more than it spends for food, clothing, and shelter combined. It has been mentioned that more than 3 hours of our 8-hour day is spent to produce taxes. It is also mentioned, I think importantly, that there are more than 100,000 employees at

IRS, which is more than at the FBI, DEA, and Immigration Service combined. There is something wrong with that, when you take a look at the billions of dollars that are spent simply to prepare the forms that we have to use.

It is also interesting, in terms of spending, that for every dollar in new taxes, the Government spends $1.59. The rest of it goes on the credit card. So what we have had, of course, is what we might call "the Clinton crunch." The President has promised a tax cut and delivered a tax increase, which is very difficult on small business, and it holds down the creation of new jobs. It is difficult for senior citizens on fixed incomes. There was a tax increase for everyone, among them a gas tax, which hits my State of Wyoming very hard. The new budget contains $60 billion in new taxes.

So we have not moved toward the end of big Government. On the other hand, I think that in this session of Congress the majority party has made a real effort to do that. We passed tax cuts last year, a $500 per child tax credit, marriage penalty, capital gains tax, expanded IRA's, adopted tax credits, student loan interest deduction—all, of course, which was vetoed.

Today the tax limitation amendment will be considered in the House. I happen to think it is a good idea. It is like saying we do not need to amend the Constitution. It is the same thing I heard when we were talking about a balanced budget amendment. Everybody stood up, and before they began to talk, they said, "I want to balance the budget, but we do not need an amendment to do that." Maybe we ought to remind them that it has been 25 years since we balanced the budget. And 43 States have that amendment. In my State, the legislature cannot spend more than it takes in. I think, similarly, we need that same kind of amendment on spending. There is no reason why, if spending is important, you cannot generate more support than 50 percent to do that.

So, Mr. President, I think it is an issue we ought to talk about every day, and it is appropriate on tax day. Keep in mind, it is not only dollars. It is also how much Government do you want? I think that is a question that each of us, as citizens, ought to ask ourselves. Unfortunately, we do not have the kind of cost-benefit measurement in the Federal Government that we do at home. If the school district thinks they need a new school building or a sign, they say, "Here is what it costs and here is what you have to pay," and you make a decision as to whether it is worth it. That is not what happens on the Federal level. We send in an amount of money, and we do not even know what it is really being spent for. We do not make any real decisions in terms of those programs that are funded.

I am persuaded that we can have a much leaner Government and still provide for the things that most of us believe are necessary for the Government to perform. Remember, the measure of good Government is not what the Government can do for the people, but the kind of environment it sets so that we can do for ourselves. That is what the tax system, tax amendments, and being concerned about taxes is all about.

I thank my friend from Georgia for organizing the time to talk about this important issue. I look forward to our doing something about it as a followup.

I yield the floor.

Mr. COVERDELL. Mr. President, I thank my colleague from Wyoming. He made an interesting observation. Not only did he talk about the effect of the tax increase of this administration, but he began to talk about the advantages that would have accrued to working families if the Balanced Budget Act that was sent to the President—which he vetoed—had passed.

A moment ago, I was talking about this average Georgia family paying almost $3,000 more because of the policies of this administration. The Senator from Wyoming reminded me that if the Balanced Budget Act had been signed by the President, the immediate effect to this average family would have been to return to their checking account $3,000 a year, or thereabouts. Here is a family making $40,000, and they would have $3,000 in additional income in their checking account—not on April 15 being shipped to Washington. Think what they could do with that. That is the equivalent of a 10- to 20-percent pay raise, Mr. President. It is not insignificant.

Mr. President, I yield to the Senator from Iowa up to 10 minutes.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I thank the Senator from Georgia for his leadership on this very important day, April 15, the day taxes are due for American citizens. I appreciate the opportunity to discuss the issue of the high-tax policies of the President Clinton administration. The high-tax policies of this administration are policies toward the highest taxes in the history of the country. More money is coming in from taxes now than ever before in history, and of course, that money comes from the people.

The tax bill which we find so burdensome is President Clinton's tax bill of 1993, which passed this body. But even all the Democrats would not vote for it, and there was a tie-breaking vote by Vice President GORE. The President's 1993 tax bill, OBRA 1993, was very controversial. President Clinton raised everyone's taxes by a record amount—again, the biggest tax increase in the history of our country.

It also happens that the President had misgivings about his tax increase legislation. He was speaking in October of last year to the attendees at a Clinton fundraiser in Texas when he said that he thought that he raised taxes too much in 1993. I agree with the President.

I want to remind everybody, as the Senator from Georgia does, of the various ways in which the President went about raising taxes at the highest level that they have ever been raised in one tax bill.

He increased the tax on Social Security benefits. Some Americans have to report 85 percent of their Social Security income so it can be taxed again after they have already paid tax on it once.

In addition, he added a new and higher income tax rate which also set the situation in order, which we call the marriage tax penalty, exacerbating it so that people are going to pay a lower tax living together than being married. He also added new and higher estate and gift tax rates.

He decreased the business meals deduction for the truck driver and for the small business people of America. He hit farmers, truck drivers, and everyone who drives a car or truck with a 4.3-cent-per-gallon increase in the gasoline tax.

In Iowa—I do not know about the rest of the country—this Clinton gas tax costs every two-driver family an average of an extra $53.32 per year.

For small business people, the President hosted a White House conference on small business. He waxed eloquently on the need for expensing deductions, for creating IRA's, for pension simplification, and for estate tax reductions, to name a few. But when Congress passed legislation on those very same issues, President Clinton vetoed not one, not two, but every one of those ideas that he spoke eloquently about at his conference.

For education, he talked about a new tax deduction. But when Congress sent the President my new student loan interest deduction last fall, President Clinton vetoed it, again contrary to what he said he wanted to do. He even hurt families trying to relocate to new jobs by decreasing their deductible moving expenses.

These, Mr. President, are just a few among many of the new, unpopular, and economically hurtful Clinton tax increases.

The troublesome irony is that the President has many people still paying their extra 1993 Clinton income tax increases. People are still paying their 1993 income taxes because the President accomplished something that no other President had done before him. The President managed to raise taxes even before he was sworn into office because the tax rate increase of 1993 was made retroactive at his request.

So those with the mind of softening the blow on people who would have to pay a retroactive tax increase insisted the President at least allow taxpayers to pay the retroactive portions of their 1993 taxes in three separate installments. The first installment was due in 1994. The second was due in 1995. And people just paid their third and final installment of their fiscal 1993 Clinton tax increase today, Monday, April 15, 1996.

So, in October 1995, when the President testified in Texas at his fundraiser that he had raised people's taxes too much, perhaps he meant that he would feel their pain again on April 15, 1996. This is because today the President has given many taxpayers the unique opportunity to be taxed on income of three different years.

Today many taxpayers will pay the last installment of their fiscal 1993 taxes, the balance due on their now higher regular 1995 taxes, and their first quarter estimated taxes for 1996.

Indeed, the only taxable year of the Clinton Presidency that President Clinton is not taxing this very day is 1994. Fortunately, Mr. President, no one is perfect. Even though President Clinton has done his best to raise taxes in a Democratic Congress, and to keep them just as high in a Republican Congress. He did this by vetoing efforts of the new Republican Congress to reduce taxes, particularly the tax deduction that gives a family of four with two children an additional $1,000 more in their pocket to spend.

I believe that we should credit public servants for their good deeds and hold them responsible for their harmful ones.

Apparently, President Clinton must love to raise taxes almost as he loves to deficit spend.

Do not forget Mr. President, that he sent Vice President GORE to this very Chamber to cast that tie-breaking vote on the 1993 tax increase because even all the members of his own party would not go along with it. The voters remember it mostly because they are still paying for it, and will continue to pay for it every day.

In addition, we passed last year a taxpayers bill of rights so that the taxpayer will not have to be intimidated by the IRS during audit, and the President even vetoed the taxpayers bill of rights.

So, Mr. President, annually, this day April 15 brings to mind the complexities and the enormities of the Tax Code.

April 15, 1996 of this year further serves to remind us of the dangerous precedent that President Clinton set with his 1993 tax increase, the biggest tax increase in the history of the country, and the only one retroactive to a period of time before the President was sworn into office.

With his retroactive tax increase, President Clinton is the first President in the history of the Nation to have raised taxes before, during, and after his term of office. Of course, if we are not careful in the future, this may prove to be one of the most memorable and dangerous of the Clinton legacies.

In addition to increasing taxes at the highest level in the history of the country with that tax bill of 1993, the President set in motion an economic situation in which money that would be invested for job creation has created less jobs than during the period when the country was recovering from the recession of 1991 to 1992 by some 3 million jobs.

So, somewhere out there, even though we do have a high level of jobs being created, there are 3 million more people who could be employed if the tax increase of 1993 had not stymied the economy to the point that the people who create jobs were afraid to do it to the tune of 3 million jobs.

I yield the floor.

Mr. COVERDELL. Mr. President, I appreciate the kind remarks of the Senator from Iowa.

As a former native son of Iowa, I always enjoy listening to him address this Chamber.

A moment ago, I was talking about the effect of the President's tax increase on the average citizen in our State, but just for the general record I think it worthwhile acknowledging what some of the impacts of that tax were. That tax increase created a 4.3-cent per gallon gas tax increase levied on all Americans. Once again, when we heard the debate to impose the tax increase, which was only passed by one vote, the Vice President casting the deciding vote here in the Chamber late in August 1993, it was just supposed to affect the wealthy. But a 4.3-cent-gallon tax affects every farmer, trucker, every family, every carpool, every business—everyone. Under the provisions of that tax increase, senior citizens making as little as $34,000 a year—I guess that is another rich person—found their taxes hiked as a result of a 70-percent increase in the taxable portion of their Social Security benefits. We all can hear people on the other side of the aisle talking about their concern for protecting Social Security benefits. One of the first things the administration did was to tax them.

Small businesses were clobbered by the Clinton tax hike. More than 80 percent of small businesses file their returns as individuals. As a result, small businesses were forced to pay the higher individual rates of up to 44.5 percent. I repeat, Mr. President, 44.5 percent. That is much higher than the 35-percent rate for big businesses. If you had to point to one sector of our society that was the most ravaged by that huge $250 billion tax increase, it would be small business. And this is the reason why. Because of paying taxes as individuals, they really got their marginal rate pushed up.

As a result of Clinton's tax increase, the local hardware store in our State must pay a higher tax rate than a corporation like General Motors. Now, think about it. Most corporations in America, 60 percent of them, have four employees or less, and they were the fixed target of this tax increase. It was just like a Mack truck coming down the highway, bowling over them and left the situation where these smaller corporations are paying higher tax rates than, of all things, corporations like General Motors.

The National Federation of Independent Businesses, the Nation's largest small business organization, called Clinton's tax increase "about as antismall business as you could ever see." That was published in the White House bulletin on June 18, 1993.

I have focused a lot of my attention on the effect of taxes on the average family. I would like to visit that just a bit more, if I might.

I have often referred to the quintessential average family in the 1950's. I refer to the television family that we saw so often, "Ozzie and Harriet." They were the picture of what we all thought the American family ought to be. At that time, Ozzie was sending to the Federal Government 2 cents—2 cents, Mr. President—out of every dollar he earned. If Ozzie were here today, he would be sending 24 to 25 cents out of every dollar to Washington.

It is hard to envision or believe. When I was growing up, I was told that the single largest investment any American would ever make would be the purchase of a home. That is not true anymore. The largest single investment that any American or American family will make today is in the Federal Government, not the home.

In fact, the Federal Government's consumption from the wages of this average working family equates to housing, food, and clothing combined. Who would have ever thought that working families in this country would be faced with this sweeping hand of the Federal Government coming through families and removing over a quarter of their income, removing more resources from the family than it took to build their home or buy their home or rent or to feed the family or to clothe it combined; that the Federal Government alone would come in and sweep more out of that family's checking account than all those fundamental functions we count on that family to do for America.

I became very curious about this about a year ago because in the 1950's the typical family had one parent working and one parent at home with the family, doing the business of raising the family. As you know, today that has been turned upside down.

I mentioned a little earlier this average family in Georgia. It requires both parents to work. I got curious about that, and I wondered at what pace families started to have both spouses out in the workplace. If they had one in the workplace and one at home in 1950, just how quickly did it get to the point we are now where the majority of them have both parents in the workplace.

So we tracked it on a chart from 1950 to 1990, the percentage of families for which both spouses were working. It is really interesting. If you take that line of the number of families where both spouses now work, as it grew over the last 40 years, and you take another chart and you map out the increases from the 2 cents to 25 cents that they are paying in taxes, those two lines are within 6 percentage points of each other all the way.

What does that mean? It means that as the Government took more and more and more out of that working family, the Government was making the decision that for the family to keep fulfilling their needs in housing, education, et cetera, they had to send the second spouse out. And each year as that tax increase grew, many more families had to make that tough decision.

It is incredible. There is no institution that has had a more profound effect on the behavior of the working family in America than the Government. It is not even Hollywood. We all talk about Hollywood and the violence in films, and I am sure that has had an effect, but it does not compare to the effect of the Federal Government taking more and more and more away from the family, leaving it with no option but to produce another worker, often even more.

I said that those lines track each other; the number of working families that had to put both spouses in the workplace followed identically the increase in the tax burden. There is another way to look at it. How much had the tax burden increased over that period of time? It comes out about $10,000 to $12,000 per family. It is interesting that the average income of the second spouse is within $1,000 of the increased tax burden. In other words, we made the second spouse work so that they could pay the added tax burden. That is what they are doing in the workplace.

Obviously, there have been other changes. There have been people who have made a choice about their careers. That is fine. But when you survey the second spouses in the workplace and ask them their choices about it, 85 percent would make a choice different than it is now. A third of them would not work at all. A third of them would work part time. And a third of them would direct their work at charitable activity instead of the necessity to be out in the workplace, just to pay Uncle Sam another tax bill so we can redistribute these resources from Washington. Back to the point I made a little earlier, Mr. President, we have a school of thought here that it is better for the wages to come to Washington because Washington can determine more effectively where those priorities for that family ought to be.

That reminds me of a story that Senator GRAMM, the senior Senator from Texas, often tells. He was in a debate in Texas with somebody from the Education Department and they were going back and forth about the priorities of education. Senator GRAMM finally, in frustration, turned to the person and said, "Hey, look, I love my children more than you." Whereupon the representative from the Education Department said, "No, you don't." And then Senator GRAMM said, "Well, OK, you tell me their names."

It is not a question of spending, it is a question of who is going to do it. Is the family more equipped to make these choices about education, housing, where to live, how to expend those resources? Or should we continue this idea of moving it up here so somebody who does not even know that family can be determining where those resources go?

Mr. President, I am prepared to yield up to 10 minutes for the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Georgia for yielding me this time. I thank him for making arrangements to have this time to talk today about the tax burden on the American people. It is appropriate that we talk about this issue today, April 15.

When the poet T.S. Eliot wrote, "April is the cruelest month," he had in mind something other than the income tax deadline of April 15, I am sure. But for most Americans, the middle of this month, despite all its beauty, is a time of resentment and disaffection. Over this past weekend, over the past weeks, maybe over the past couple of months, maybe even today, there are people all over America who are scrambling to try to figure out their "simplified" tax forms.

That is always good for a laugh when I am home in Mississippi, speaking about how we developed simplified income tax return forms. They get more complicated every year. The average person is just not able to do it by himself or herself. It is a hodgepodge of 3 million words in the law and in regulations and requirements with regard to our Tax Code. It is a mess. It is unfair. It is cumbersome. It is unmanageable. And something must be done about the tax burden on the American people.

It might be argued that the tax burden on the American people is not all that great compared with some of the other countries around the world. But this is not other countries around the world. This is America. As a matter of fact, there are some countries that have a higher tax burden than us, others less. But I understand the average American pays about 37 to 40 percent of his or her income for taxes.

Some of them obviously go much higher than that. It gets in the range of 50 percent or more when you figure all the taxes: Federal income tax, the FICA tax, the State tax, the local property tax—all the taxes that are heaped on the American people—even the cruelest of all, I think, the estate tax. That is one where we tax people's death. I wonder how we ever came to that, where we put American people in the situation where they worked all their lives to build a small business, perhaps they are third generation farmers, and when they die and they want to pass on their estate to their children, many times they wind up having to sell it because they cannot pay the taxes on this farm that has been in their family for many, many years. Or, because they cannot pay the taxes on the small business that they worked hard for, labored for, and built up, then they wind up having to sell it because of the tax burden.

So, this is a cruel time. I understand, now, the average American also has to work until May 7 to pay the taxes that he or she owes. Way back in the beginning of this country it was only until January 31 that you had to work to pay the taxes for the year. Then it was February, March, right on through April. Now, average Americans work over 4 months just to pay the tax burden that they are faced with today. Something must be done about this. There must be a way to have a fairer Tax Code. Changes should be made to make it more fair and changes should be made to provide, I think, overall basic reform.

It is not that most of the American people do not want to pay any taxes. People understand they get a tremendous benefit from Federal Government, from State government. There are certain guarantees that we want. We do want the shores to be defended. We do have an obligation to support a strong national defense. We do need infrastructure. We do need the Interstate Highway System. There are some things the Federal Government can do to help with education. So there are some positive things that the Government can run, where it can be helpful, and we want that to continue.

But I remember the days not so many years ago that most taxpayers signed their IRS returns with a kind of pride, a self-satisfaction that, by golly, you are getting a good deal, you are doing your part, you are pulling your weight. Sure we always griped about taxes and joked about them, but we knew that, while there was a price to be paid, there was some benefit that we all basically supported coming from that.

I believe that has changed in many respects now, and not for the better.

With a steady expansion of Government, both at the State and Federal level, the percentage of family income going for taxes has grown tremendously. For most households today, taxes are the largest single outlay in their budgets. I hate to think how many families now have two earners these days, both mom and dad, in order to compensate for the lost income siphoned off by official Washington. That is why the Republican Contract With America last year promised tax relief for families. That is why majorities in both the House and the Senate translated the contract's promises into carefully crafted legislation.

We all know what happened to it. Tax relief for families with children was vetoed by President Clinton, along with many other revenue provisions that would have curbed Washington's appetite for the public's earnings. Today, April 15, is an appropriate time to remember that outcome and to consider why it occurred. It happened because there are still too many elected officials who believe they know best how to spend the people's money. They believe that big Government can take care of families better than they can take care of themselves and of their children. And it takes cash, hundreds and hundreds of billions of dollars to do that, if you are going to let Washington look after all these problems.

That attitude is fading fast over most of the Nation. I found it is fading, certainly, in my home State while I was home during the Easter recess break. But it persisted in many high places here in this city. Only in official Washington is it called a tax expenditure when you allow people to keep their own money. That was a bit of ingenious wordsmithing, some few years ago. I think it really started in the 1970's, when we started calling it a tax expenditure. Only inside the beltway is a tax cut considered a loss. Only within the shrunken ranks of Federal dogmatists is broad-based tax relief called a tax cut for the rich.

It is almost as if the opponents of tax reduction disbelieve in the American dream of hard-earned success. It is as if they think people who strive and contribute are bad, while those who depend on Government should be encouraged to stay that way. More than any other factor, I believe that attitude, that set of ideological blinders, accounts for last year's opposition to the tax provisions of our Contract With America.

Let me just mention, again, the major provisions in that tax package that we considered last year, but the President vetoed. We eliminated the marriage penalty. How many years have we been talking about how it is unfair, when a young couple—or couple, not even necessarily young—gets married, if they both work, when they get married they pay more taxes even though their income does not go up? There is nobody who can defend the marriage penalty.

How about the spousal IRA? Why is it that the only group in America that cannot have an IRA is a spouse working in the home? Should we allow that? Should we encourage the spouse in the home to be able to save a little bit for his or her retirement days? Absolutely we should do that.

Another thing that we included in that tax package was relief for our seniors who still want to work. We would raise the limits on the earnings that you can have and still get Social Security. Why should people just between 65 and 70 lose part of their income if they make over $11,500 a year? Thank goodness we have now passed separate legislation to do that, but that is another example of what was included in our package.

Certainly, we should provide families the $500 tax credit if they have children. Some people argued, "Oh, what difference would it make to a family with one or two children?" Let me tell you, in my State, for a couple making $30,000 a year with two children, a $1,000 tax credit would make a significant difference, and then they could decide what their children needed most instead of the Federal Government.

Finally, and not least, it did provide a capital gains tax rate cut. If you are going to reduce the deficits, you can only do it by three ways fundamentally: by controlling spending, by raising taxes or, hopefully, by doing some things with Government and regulatory relief and by changing the Tax Code to provide growth in the economy. The capital gains tax rate cut would do that.

In my State of Mississippi, if we cut the capital gains tax rate on timber and on timberlands, there would be an explosion of activity in the turning over in the timber area. It is probably the biggest industry we have in our State. Yet, people are hesitant to sell that timber, to sell that land because so much of it is taken in capital gains. It is just, basically, not fair.

So those are the things we had in our tax package last year. It would have provided some relief to families with children and to individuals when they are newly married and to a spouse working in the home. Tell me that is helping one group over the other. That helps everybody.

Our tax package was not a giveaway to the rich. It was a give-back to hardworking people, and there is a big difference. If President Clinton had signed, instead of vetoed, the Republican tax package last December, 88 percent of its tax relief would have gone to families with incomes under $100,000 and 72 percent would have gone to families with incomes under $75,000. That is certainly not rich. That is families in which both husband and wife are maybe schoolteachers. It is a family whose sole breadwinner is perhaps an auto worker in Detroit or a shipyard worker in Pascagoula, MS. It is the self-employed, heads of households. It is the men and women starting up small businesses. It is the parents who could well use that $500 tax credit for their children, which was all vetoed by the President. After all, in the private sector, this $500 can go a long way toward clothing, food, and education of our children.

The hopes of those middle-income taxpayers were splattered by ink with that veto last year. But they should not give up hope. There is still an opportunity for this Congress this year to make some needed changes in our Tax Code that will help middle-income Americans and others, also.

But now to the heart of the matter. Just what is the price that has been paid?

Mr. President, I ask the distinguished Senator from Georgia if he will yield me just another minute to finish up.

Mr. COVERDELL. I will be glad to yield another minute to the Senator from Mississippi.

Mr. LOTT. Mr. President, why could the President and his allies not accept tax relief for the American people? The answer is profamily, progrowth tax reform puts a crimp in Government spending. If you allow the people to keep more of their money, it is a little less the Government would have had to gobble up and to spend. It makes it harder for practitioners of business as usual around this institution to provide favors to their constituents. It slows down the Government spending machine.

That is why most Americans have paid more in Federal taxes than they should have paid. Big government in Washington needed their money to stay big and to grow bigger. I really believe that by giving some tax relief to the people, in many instances—in fact in most instances—you can actually wind up getting more revenue coming into the Government because the people are given more incentives to work hard, keep their own money, pay taxes, and everybody benefits from that.

As of midnight tonight, tax year 1995 will be history. It is maybe too late to lessen the burden on that year, on the past, but we can, indeed, do something about the future in the hope that on this same day next year, taxpayers will be able to celebrate the tax give back that they so justly deserve.

Mr. President, I yield the floor.

Mr. COVERDELL. Mr. President, I appreciate the remarks of the Senator from Mississippi, as always. I am going to yield our time until 1 o'clock to the Senator from Arizona, with this logistical comment: If the senior Senator from Georgia has not arrived at 1, I will ask unanimous consent to extend our time another 10 minutes so that the Senator from Arizona will have sufficient time to complete his remarks. I think we can achieve that. I will not know until 1 o'clock.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Arizona.

Mr. KYL. Mr. President, I begin by thanking the Senator from Georgia for conducting this particular discussion on tax policy on this day, a day which we might paraphrase will live in infamy at least in the lives of many Americans. By midnight tonight, millions of Americans will have completed their tax returns and may agree with T.S. Eliot who characterized April as the cruelest month of all. I am not sure this is what he had in mind, but perhaps it applies.

According to estimates by the Internal Revenue Service, individuals will have spent about 1.7 billion hours on tax-related paperwork. Businesses will have spent another 3.4 billion hours to comply with their Tax Code preparations this year. The Tax Foundation estimates that the cost of compliance will approach $200 billion.

If that is not evidence that our Tax Code is one of the most inefficient and wasteful ever created, I do not know what is. Money and effort that could have been put to productive use solving problems in our communities, putting Americans to work, putting food on the table, or investing in the Nation's future are instead devoted to wasteful paperwork.

It is no wonder that the American people are frustrated and angry, as I found in the townhall meetings and other visits with constituents in the last 2 weeks in Arizona. They are demanding real change in the way their Government taxes and spends.

There are, of course, a number of proposals that have been generated for comprehensive tax reform. Senator RICHARD SHELBY and House Majority Leader DICK ARMEY have proposed a flat tax. Versions of the flat tax have also been suggested by Steve Forbes and Senator PHIL GRAMM. Former HUD Secretary Jack Kemp has issued a report at the request of Speaker GINGRICH and Majority Leader DOLE which recommends a single rate simpler tax system. The chairman of the House Ways and Means Committee has recommended that the income tax be pulled out by its roots and replaced with a national sales tax. Senator LUGAR has proposed a sales tax as well.

The Senate Judiciary Committee just concluded a hearing on a proposal to change whether we move to some version of a flat tax or sales tax or some other alternative. Indeed, it is a change that should be made whether comprehensive tax reform occurs or not. I am talking about a change that requires a two-thirds vote in both the House and Senate in order to approve tax increases. The House of Representatives is scheduled to vote on its proposal later on this evening.

The tax limitation amendment it is called. The tax limitation amendment, which I proposed in the U.S. Senate, with the support of 20 other Senators, would require a two-thirds vote of approval in both the House and the Senate in order to increase the tax base or to increase any tax rate.

The two-thirds supermajority that many of us believe should be added to the U.S. Constitution was recommended by the National Commission on Economic Growth and Tax Reform, as I said, appointed by Senate Majority Leader DOLE and Speaker GINGRICH and chaired by former HUD Secretary Jack Kemp who testified at this Judiciary Committee hearing this morning, along with former Governor of Delaware Pete du Pont and a host of other experts on tax policy.

This Commission that Secretary Kemp chaired advocated the supermajority requirement in its report on how to achieve a simpler single tax rate to replace the existing maze of tax rates, deductions, exemptions, and credits that make up the Tax Code as we know it today.

In fact, in the words of the Commission, and I am quoting:

> The roller-coaster ride of tax policy in the past two decades has fed citizens' cynicism about the possibility of real, long-term reform, while fueling frustration with Washington. The initial optimism inspired by the low tax rates of the 1986 Tax Reform Act soured into disillusionment and anger when taxes subsequently were hiked two times in less than 7 years. The commission believes that a two-thirds super-majority vote of Congress will earn Americans' confidence in the longevity, predictability, and stability of any new tax system.

That is the end of the quotation from the Kemp Commission report.

In the 10 years since the last attempted comprehensive tax reform, the Congress and the President have made some 4,000 amendments to the Tax Code—4,000 amendments. In the future, without the protection of the tax limitation amendment, taxpayers will be particularly vulnerable to tax rate increases, particularly if the tax reform eliminates many of the deductions and exemptions and credits in which they sometimes find refuge today.

In short, Mr. President, the tax limitation amendment will make it more difficult for Congress to raise taxes, and it will also help restore confidence, stability, and predictability to the Tax Code.

Mr. President, I have more of the statement which I would like to present. I wonder if, in view of the hour, it would be appropriate for the Senator from Georgia to ask for an extension of time.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. I ask unanimous consent that our side be granted an additional 10 minutes.

The PRESIDING OFFICER. Is there objection? Hearing none, without objection, it is so ordered.

Mr. COVERDELL. Mr. President, I yield an additional 5 minutes to the Senator from Arizona.

Mr. KYL. I thank the Senator from Georgia.

Ideally, Mr. President, the tax limitation amendment would be put into place after comprehensive tax reform is accomplished. This is because tax reform necessarily aims to broaden the tax base, eliminating the maze of deductions and exemptions and credits that make up the Tax Code today, and then apply one low tax rate to whatever amount of income is left. So a two-thirds majority vote requirement would make comprehensive tax reform more difficult.

I would note parenthetically that the Tax Reform Act of 1986 would have met the two-thirds test because it passed both the House and the Senate with more than a two-thirds majority. So advocacy of tax reform is not necessarily a reason to oppose the tax limitation amendment at this time. But in any event, it is important that this debate begin now, Mr. President, because of course, constitutional amendments such as this are going to take a long time to get adopted.

It probably will not be approved this year in the House or the Senate. It would require a two-thirds vote in both the House and Senate, and then three-fourths of the States to approve it. So the last thing I am worried about is that we will accomplish this constitutional amendment before we accomplish fundamental tax reform. I think we need to begin the debate now on the constitutional amendment, and by the time we get finished with fundamental tax reform, perhaps the constitutional amendment can then be put in place to make it difficult thereafter to change the Tax Code.

I think it is also important to make three other quick points. First, the tax limitation amendment cuts no taxes. It only raises the bar on passing future tax increases. Many people, including myself, already believe that taxes are far too high. This amendment in effect says, "Enough is enough." It makes Congress find a way to meet its obligations without taking more from the pockets of the American people.

Understand that the average family today pays more in taxes than it does on food, clothing, and shelter combined. I would refer you to the chart, Mr. President, entitled "Family Budget 1995" in which you can see the amount spent on savings; recreation; transportation; medical needs; then food, shelter, and clothing; and then, finally, Federal, State, and local taxes. We pay more in Federal, State, and local taxes than we do on food, shelter, and clothing all combined. Clearly, this tax burden on the average family is too high.

Let me also note that it has obviously been fairly easy for Congress to raise taxes. Here is the Federal tax burden per capita just in the last 15 years, the years 1980 through 1995. You can see that in 1980 it was about $2,286 per capita. Today it is over $5,000 per capita. Clearly, it is not hard to raise the tax burden on taxpayers. We need to make it harder.

If you want to look at the macrochart, the chart that shows the Federal Government revenues from taxes since 1950, look at this chart. It clearly shows that tax increases have skyrocketed. It is not hard to raise taxes. It is too easy to raise taxes. That is why we need a two-thirds supermajority to raise taxes. What the tax limit amendment says is that it ought to be harder to raise taxes, that we are already taking too much from working American families and therefore we ought to take less.

I also note that our Constitution already provides several—10 specifically—supermajority requirements. My guess is that that is because the Framers wanted a consensus to be developed to make really important changes. That is why it takes a two-thirds vote to override a President's veto, for example. My guess is the Framers would say today this is out of control. It is important enough that a broader consensus than a mere simple majority should be required in order for us to raise taxes.

Mr. President, there is no small irony in the fact that it will take a two-thirds vote for us to cut taxes since the President has vetoed our tax cut proposal and yet the largest tax increase in the history of the country in 1993 was passed not even with a majority, technically, because the Senate vote was tied 50 to 50, and it took the vote of the Vice President to break that tie.

It ought to be as hard to raise taxes as it is to cut them. The amendment will make it harder to raise taxes. That is the point. I know that is the objection of the opponents, but that is the whole point here. I think we would all agree that a lower tax rate would be more beneficial, not only for the American family, but for our economy. As a matter of fact, lower tax rates, research shows, results in more taxable income, more taxable transactions, and eventually more tax revenues to the Treasury. So we actually are benefited by reductions in tax rates, not increases in tax rates.

The tax cuts of the early 1980's are a case in point. They spawned the longest peacetime economic expansion in our nation's history. Revenues to the Treasury increased as a result—from $599.3 billion in fiscal year 1981 to $990.7 billion in fiscal year 1989, up about 65 percent.

High tax rates, on the other hand, discourage work, production, savings, and investment, so there is ultimately less economic activity to tax. That is precisely what Martin Feldstein, the former chairman of the President's Council of Economic Advisers, found when he looked at the effect of President Clinton's 1993 tax increase. He found that taxpayers responded to the sharply higher marginal tax rates imposed by the Clinton tax bill by reducing their taxable incomes by nearly $25 billion. They did that by saving less, investing less, and creating fewer jobs. The economy eventually paid the price in terms of slower growth. So increases in tax rates do not usually translate into more tax revenue.

It is interesting to note that revenues as a percentage of gross domestic product [GDP] have actually fluctuated around a relatively narrow band—18 to 20 percent of GDP—for the last 40 years. Revenues amounted to about 19 percent of GDP when the top marginal income tax rate was in the 90 percent range in the 1950's. They amounted to just under 19 percent when the top marginal rate was in the 28 percent range in the 1980's. Why the consistency? Because tax rate changes have a greater effect on how well or how poorly the economy performs than on the amount of revenue that flows to the Treasury relative to GDP.

In other words, how Congress taxes is more important than how much it can tax. The key is whether tax policy fosters economic growth and opportunity, measured in terms of GDP, or results in a smaller and weaker economy. Nineteen percent of a larger GDP represents more revenue to the Treasury and is, therefore, preferable to 19 percent of a smaller GDP.

Requiring a supermajority vote for tax increases is not a new idea. It is an idea that has already been tested in a dozen States across the country. In 1992, an overwhelming majority of voters in my home State of Arizona—72 percent—approved an amendment to the State's constitution requiring a two-thirds majority vote for tax increases.

There is a reason that the idea has been so popular in Arizona and other States. Tax limits work. According to a 1994 study by the Cato Institute, a family of four in States with tax and expenditure limits faced a State tax burden that was $650 lower, on average, 5 years after implementation than it would have been if State tax growth had not been slowed.

The tax limitation amendment will force Congress to be smarter about how it raises revenue. It will force Congress to look to economic growth to raise revenue, instead of simply increasing tax rates. It will protect taxpayers from additional tax increases.

We are going to have to confront this issue of raising taxes sooner or later because the burden on the American family is simply too high. It seems to me this is a good time to do it. Starting this debate on tax day, April 15, is a propitious time when people's attentions are focused on the issue. I hope that the House of Representatives later today approves the tax limitation amendment pending there. I hope that Leader DOLE will be able to schedule this amendment sometime soon on the Senate floor for a vote here.

I appreciate the chairman of the Judiciary Committee making time available for our hearing this morning. It was an informative hearing which certainly sustained the case that the time for a tax limitation amendment is upon us and an amendment that would make it hard to raise taxes by requiring a two-thirds vote in both the House and the Senate.

Mr. President, again, I commend the Senator from Georgia for making this time available. I hope that we can get on with this prospect of making Americans' lives a little bit easier by taking less of their hard-earned income.

Mr. COVERDELL. I thank the Senator from Arizona. Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Georgia has 5 minutes.

Mr. COVERDELL. Thank you, Mr. President.

I want to commend the Senator from Arizona for his legislative efforts to make it only possible to pass new burdens on the American people with a two-thirds vote. I think there should be an extra burden on any legislative chamber before it has the right to pass on even greater burdens.

We have spent the entire morning here talking about the size of the burden which is just—I am convinced, if any of our Founders were here today, Jefferson in particular, they would be absolutely stunned at the scope of the amount of wages that a laborer must forfeit to the Government. He said we needed a frugal Government which did those things that absolutely had to be done, but other than that, the fruits of labor should be left to those who earn it, and allow them to choose their own pursuit of happiness.

We have talked a lot this morning about the scope of the tax increase this administration put on the American people. The effect and burden it added, in our case, is almost $3,000 for the average family annually that they are having to forfeit from their wages, preventing them from doing the things they ought to do.

But I want to close with one piece that is particularly egregious about that tax increase. That tax increase which was passed in August 1993 changed the Tax Code backward even beyond the administration taking office. For the first time in history, it changed the Tax Code all the way back into a former administration, the Bush administration, January 1993.

Mr. President, the Russian Constitution does not allow you to tax retroactively. It is wrong. It is morally incorrect. Families and businesses and communities have to know what the rules of the road are. They have to be able to plan their lives, plan their families, plan their tax burdens in advance. They cannot get to the end of the year and have a Congress of the United States and President come forward and say, "Whoops. We're changing all that to take effect back a year earlier. So all your planning was for naught. We don't care."

Mr. President, that is wrong. When I leave this Chamber, I will be going to a hearing on a constitutional amendment which I and others are sponsoring that, like the Russians', would prohibit Americans from being subjected to retroactive taxation.

Whenever I speak to any American group—it does not matter where they are, my State or any other—and you talk about retroactive taxation, there is a unanimity that that is wrong. Our Government has all too frequently in current years gotten into the business of changing the rules midstream. It has had a very deleterious effect on the planning of our families, planning for our businesses, particularly small businesses.

This retroactive tax that was dumped on the American people by the President's last tax increase, I believe, is horribly wrong, and has had a terribly negative impact. We ought to do everything we know to do to assure that it never happens again—not in the United States of America.

I yield back any remaining time.

WORKER TRAINING AND THE BOSTON HARBOR CLEANUP

Mr. KENNEDY. Mr. President, Ben Franklin once said that "an investment in knowledge always pays the best interest." The same can be said about an impressive initiative on worker training undertaken in recent years by the Massachusetts Water Resources Authority as part of the current environmental cleanup of Boston Harbor.

In replacing outdated and obsolete water treatment plants with new state-of-the-art facilities, MWRA invested in retraining its existing work force in the skills needed to operate the new facility, rather than lay off hundreds of employees and recruit new workers with the needed skills. The strategy worked, and has led to lower costs for the new plant, lower costs for ratepayers, and a newly skilled work force with high employee morale.

I commend MWRA for this practical demonstration of the effectiveness of job retraining and the wisdom of tapping the untapped potential of its experienced work force.

Too often, such retraining initiatives are the exception, not the norm. We live in an era when workers are too easily under-valued and under-appreciated by employers. The MWRA example can be a lesson to the Nation that a wise course is available. I ask for unanimous consent that an article by Douglas B. MacDonald, executive director of MWRA, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Mar. 19, 1996]

EVERYDAY HEROES OF DEER ISLAND

(By Douglas B. MacDonald)

The first phase of the new Deer Island sewage treatment plant has been up and running for a year. The "filthiest harbor in America" is quickly succumbing to visible signs of environmental recovery; seals and porpoises in the water, swimmers at the beaches, fishermen on the shore. Those are striking testimony that the new infrastructure of pumps, valves and tanks really can retrieve our environment from the careless ravages of a neglected sewer system. Within the new plant there is another less publicized but equally inspirational, success story; the workers themselves.

When the MWRA began design and initial construction of the new Deer Island treatment facilities in the late 1980s, it wrestled with the question of how more than 200 workers at the old Deer Island and Nut Island plants would fit into the new plant. Those workers, experienced only in operating treatment facilities with antiquated technology, might have been considered as obsolete as the old plants themselves.

Happily, neither MWRA management nor its workers ever accepted that fatalistic view. The workers were challenged, and they challenged themselves, to staff the 21st century facility arising in their midst.

The old plants were decades past their prime, underfunded and neglected. Workers had to almost hand-process raw sewage. They kept the old plants functioning with little more than their own dedication.

But from their years of working with outmoded and failing equipment, the workers had become pros at troubleshooting the nuances and complexities of the MWRA's sewer system, which takes in over 400 million gallons of wastewater each day from 43 communities. They managed to operate the old plant with countless jury-rigs, even bringing in their own tools to keep the plants functioning. Collectively, the old plant workers has over 4,000 years of experience. Their knowledge was an enormous potential asset.

Still, decisions about staffing the new plant were difficult. Managers and collective bargaining units wrestled with how to mesh the workers' pride and old-plant experience with yet-to-be-attained technological skills and computer literacy. Discussions were candid and sometimes heated.

Slowly, however, trust took root. MWRA management agreed that existing workers would be the core of the new work force. Workers who upgraded their abilities were promised jobs in the new plant. The notion that a new generation of technology must make redundant a generation of workers was rejected outright.

Armed with this guarantee, each worker developed a training plan, and MWRA invested several million dollars in courses, workshops and support for outside schooling. Programs covered everything from basic reading and math skills to advanced computer training.

Giving workers a sense of ownership in the new plant was another important step, and began with plant familiarization tours of each new building at the earliest points of construction. As the new plant was being designed, plant staff provided engineering firms with "will it work?" critiques, relying on their own knowledge of the idiosyncrasies of the old system.

Today the human side of the new Deer Island treatment plant is a remarkable story, and underscores the resilience of the American worker. For example, a 20-year veteran worker staffs a three-screen computer console, clicking the mouse like a kid playing a video game. Three years ago this man feared that computer illiteracy would land him outside the plant gate. But he and his computer-trained coworkers know from experience exactly what the computer tells them is going on with a valve 500 yards away.

This new productivity benefits MWRA and its rate-payers. Three years ago, cost projections foresaw 500 workers as the necessary staffing level for the Deer Island plant. Today, MWRA plans to run that plant with about 400 workers.

For all the money spent on the new tanks, valves and pumps, the best time and money expended to date on the Boston Harbor Project has been invested in the workers who are running our facilities. For the public we serve and for the people we employ, it was the smart thing to do and it was the right thing to do.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, April 12, 1996, the Federal debt stood at $5,145,722,307,691.76.

On a per capita basis, every man, woman, and child in America owes $19,444.53 as his or her share of that debt.

RON BROWN: A TRIBUTE TO PUBLIC SERVICE

Mr. HOLLINGS. Mr. President, now that the initial shock of the horrific jet crash in Croatia has passed, we are forced to accept the fact that my friend Commerce Secretary Ron Brown and 34 other talented professionals have perished. Today, almost 2 weeks later, it's still hard to describe the echoing sense of loss and deep sinking sorrow that still remains in all of us—man, woman, black, white, Republican, Democrat.

There has been much written and said about Ron Brown over the last few days, and that is fitting, because there is so much to say. He was many things: key strategist, mesmerizing speaker, wily politician, savvy businessman, superb lawyer. Most of all, he was an exemplary public servant for this country. On his last day, he was on the road in a faraway place aggressively promoting U.S. business interests abroad. And, in this case, he was trying to bring peace and economic recovery to the war-weary Bosnian people. He took very seriously his responsibility to preserve the American dream for the next generation of Americans, so that they will have economic opportunity rather than a declining standard of living. To him, championing the economic interests of the United States was tantamount to championing the people of the United States, and so, in a very literal way, he died serving his country.

Ron Brown was the most effective Secretary of Commerce I have known in my years in the Senate. It is fair to say that he was the most energetic and outstanding individual to ever serve in that post. Throughout his distinguished career in private industry, politics and the executive branch, Ron Brown served as a role model for all Americans. With the fall of the Berlin Wall, international business has become the new realm for competition. Ron Brown understood that and worked tirelessly to promote U.S. exports and business overseas. It was quite typical for Secretary Brown and me to meet after he had returned from a long trip abroad. Lack of sleep and shifting time zones never set him back. Jet lag wasn't in his vocabulary. It just was not in Ron's nature to take time to rest up.

Ron Brown was an especially strong role model for African-Americans. He never forgot his roots, and he took special pride in his efforts to make Commerce Department programs more inclusive and to provide equal opportunity in the work force. He took pride in his efforts to revitalize the Minority Business Development Agency and the Economic Development Administration. Most of all, he set an example for those who would follow in his footsteps with his determination, his intelligence and his optimism.

Secretary Brown came into the Commerce Department with a tremendous task: to shake one of the Government's largest and most diverse departments out of its dormancy, and turn it into forceful, focused, and effective agency. At his confirmation, he expressed the following among his priorities for the Department of Commerce: "Expanding exports, promoting new technologies, supporting business development—these all require integrated action, crossing old lines between business, labor and government." Ron Brown was an expert in crossing old lines, whether racial or bureaucratic, whether he was rejuvenating the Democratic Party or reinvigorating the Department of Commerce. He could see potential where others couldn't, and he had that unbeatable combination of vision and determination that was contagious. He inspired those around him.

In addition to his political acumen and leadership abilities, Ron Brown was extremely likable. I remember walking down the corridors in the Hoover Building seeing signs on employees' office doors that read "Ron Brown Fan Club." Even those misguided few in Congress who spent the last year trying to abolish the Commerce Department found their efforts thwarted by the simple fact that so many businessmen and Members of Congress not only believed in the importance of Commerce—but also that everyone simply liked Ron Brown.

This is a tragedy that hits home for me, Peatsy, and my staff. Ron Brown was a good friend. Our heartfelt sympathies go out to Alma, his children, and all the families of the passengers and crew of the aircraft.

Mr. President, let's all remember Ron Brown for his firebrand style of engaged public service. We'll all miss him. I wish we had more like him.

TRIBUTE TO DR. THOMAS F. WEAVER

Mr. PELL. Mr. President, I rise to pay tribute to Dr. Thomas F. Weaver, a man who devoted his life to ideas and to education. Tom died earlier this month at home in Rhode Island and his sudden passing came as a shock to all who knew him.

Although he was in his midsixties, Tom was an active athlete and an inspired educator. As chairman of the department of environmental and natural resource economics at the University of Rhode Island [URI], his aggressive intellect, his warm spirit, and his enthusiasm all reflected the energy of a much younger man.

Tom worked closely with my staff for more than a decade in planning the $24 million construction of buildings that will comprise URI's Coastal Institute on Narragansett Bay. Indeed, the building to be erected on the university's main campus will include a policy simulation laboratory that would have been his pride and joy.

Although the Coastal Institute will be the result of work by many talented and committed individuals, Tom stood out as the workhorse who followed every development. He helped nudge the process along to assure that USDA matching construction funds were secured. My staff and I were only too glad to help.

The University of Rhode Island is now perfectly positioned, as both a land grant and a sea grant college, to develop the Coastal Institute. It is my hope, and a hope I know Tom shared, that these closely related natural resources disciplines will meet and grow at the Coastal Institute.

The University of Rhode Island's Coastal Institute went though the most rigorous USDA feasibility review, including a peer review. Its funding has been approved step by step in a painfully rigorous appropriations process that began in the 1980's.

Tom was there every step of the way, providing information, drafting testimony, and helping me to pave the way for approval.

As I advised Congress, using information that Tom polished with my staff, the primary mission of the Coastal Institute will be to carry out research and analyze policies to better enable society to manage its coastal resources wisely.

In Tom's words:

> The strength of the Coastal Institute will be multidisciplinary teams addressing complex problems in a holistic manner. The Institute will take advantage of the information superhighway and long distance interactive communication.

The Rhode Island-funded half of the Coastal Institute facilities are nearing completion of URI's Narragansett Bay campus. The federally funded half are in the bid preparation stages for buildings there and on URI's Kingston campus.

I am deeply saddened that Tom did not live to see the completion of the Coastal Institute. It will be an institution that is unique in the world and will include, housed in the building on the Kingston campus, a policy simulation laboratory that also will be unique.

The private sector has been involved almost from the start, thanks to Tom, in the concept and design of the policy simulation laboratory. When the lab is up and running, the private sector is expected to be an active participant in its programs.

The policy simulation laboratory will represent, more than anything else at the Coastal Institute, the vision of Tom Weaver. He conceived it, helped design it, and looked forward to running it as a unique resource for educators, businessmen, and government officials.

The Coastal Institute represents an extraordinary mix of scientists and researchers from disparate academic disciplines. As I mentioned, it combines two of the greatest strengths of the university—which has an international reputation for both land grant and sea grant programs.

Anyone who knows of academic politics at the university level can imagine how difficult it must have been to forge that alliance. With help from countless friends and diplomatic guidance from colleagues, Tom's determination was one of the forces that made it happen.

I have focused on Tom's work on the Coastal Institute, simply because I shared his enthusiasm for the academic adventure, the scientific possibilities, and the very real benefits that it will provide. But he was a far more complex man.

My staff and I noticed that Tom, who always kept his eye on the goal, could be stunned by a well-deserved compliment. He was so busy driving toward his objective and encouraging others, that he never seemed to notice the excellence of his own hard work and leadership.

I know he will be missed by all who knew him or were touched by his teaching, but I hope everyone who uses the policy simulation laboratory will remember him. They will be there working side by side with his determined spirit.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The bill clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACCOLADES TO LANE KIRKLAND

Mr. NUNN. Mr. President, I rise today to pay tribute to Joseph Lane Kirkland, who last summer announced he would not seek reelection as president of the AFL–CIO. Lane Kirkland has been a friend since I arrived in Washington in 1972. He and his wife, Irena, are a great partnership, a great team, and my wife Colleen and I have been very honored to be their friends.

Lane Kirkland is the son of the modern South. Born in 1922 in South Carolina, he is the son of a cotton merchant and was raised in the textile town of Camden. As a child in the 1930's, Lane Kirkland had classmates who lived in mill villages and worked as sweepers in the mills after school. Seeing the conditions under which they lived and worked convinced Lane that unions were needed to protect workers. He held that view and still holds that view. He certainly devoted his life to that view.

Like some of his childhood friends, Lane's wife, Irena, endured a painful, indeed, a traumatic and tragic ordeal early in her life. Irena survived the concentration camps of World War II, and when the Communists took over her native Czechoslovakia, she was imprisoned just before she escaped the country. Irena's firsthand experience of oppression and, indeed, terrible, terrible tragedy, deepened Lane Kirkland's already strong concern for the freedom of people all over the world. Irena has been a strong partner in the Kirklands' dedicated quest for freedom of people behind the Iron Curtain and indeed throughout the world.

Upon conclusion of high school, Lane was a student at Newberry College. He later graduated from the United States Merchant Marine Academy in 1942. During World War II, Lane served as a deck officer on a number of merchant marine vessels that transported ammunition for our troops on the front lines. After his service in the merchant marine, Lane enrolled in the Georgetown University School of Foreign Service.

Following his graduation from Georgetown in 1948, Lane began his work as a researcher for the American Federation of Labor and rose through the ranks serving as an assistant to the late George Meany, and was elected as Secretary-Treasurer of the AFL–CIO in 1969. Ten years later, he was elected president of the AFL–CIO, a post he held for the next 16 years.

During Lane's almost three decades in the highest ranks of labor leadership, he played a critical role in unifying what he termed the "House of Labor." Under his leadership, the International Brotherhood of Teamsters, the United States Automobile Workers, the International Longshore and Warehouseman's Union of the West Coast, and the United Mine Workers of America came back into the overall AFL–CIO fold.

Although I certainly did not vote for labor's legislative position as often as Lane would have liked, I always respected his views. He presented those views to Capitol Hill with courage, with conviction, and with honesty and integrity. Lane was tough, erudite and unwavering in his promotion of workers rights. Lane Kirkland never lost sight of the needs of America's workers, but his concern also included workers around the globe, particularly those behind the Iron Curtain. Lane Kirkland has been a stalwart advocate of human rights and he led the American labor movement by providing critical practical help at crucial moments.

In my view, Lane Kirkland has done as much as any living American to hold America to a steadfast course during the long cold war and to encourage freedom throughout Eastern Europe and throughout the world. Lane was the stalwart supporter of a strong national defense. He never wavered in his conviction that a strong America was essential not only to protect America but to promote freedom across the globe.

Mr. President, when I first came to the Senate, the defense budget, the whole idea of a strong national security, was under severe attack. We were coming out of the Vietnam War. We had been disillusioned by our participation in that conflict. The defense budget itself, indeed, America's national security, was under very severe scrutiny and attack. Lane Kirkland stood up many, many times, many times quietly but effectively making sure that his support for strong national security was known by people on Capitol Hill. That made a big, big difference in a period of time where our military forces needed strong voices and courageous voices.

We need only also recall Lane's effort in the early days of the Solidarity movement in Poland. As an editorial in last summer's Detroit News so accurately recounted:

> When the trade union Solidarity bravely emerged in the 1980s to fight the Polish communist regime, Mr. Kirkland and other labor officials smuggled money, printing presses and even electronic equipment to keep the fledgling anti-communist movement alive. . . . When it came time to confront the gravest security threat this country has ever faced, Mr. Kirkland did not flinch. He fought communism and supported fledgling democratic movements that contributed to the demise of many totalitarian regimes. For that effort, he deserves everyone's appreciation.

Mr. President, I certainly endorse that editorial.

Lane Kirkland truly deserves America's appreciation. He has devoted his life to improving the lives of all Americans and to extending our democratic values throughout the world. Lane Kirkland is an able and courageous individual whose leadership at the head of the labor movement will be sorely missed. I am confident that he will continue to make a very strong national security contribution as well as a contribution to the well-being of workers here in America and, indeed, people all over the world. I am confident that he and Irena will continue to serve their country, the workers of America, and the cause of freedom in whatever they undertake. I extend my sincere thanks to both the Kirklands, Lane and Irena, for their devotion to their fellow man, and I wish them the very best in all of their future activities.

THE UNLIMITED SAVINGS ALLOWANCE TAX PROPOSAL

Mr. NUNN. Mr. President, much attention has been paid in recent days to proposals for fundamental tax reform. By fundamental tax reform, I mean the replacement of the current tax on individual and business income with a better alternative.

A significant share of the debate over fundamental tax reform has occurred in Congress. Last year, Senator DOMENICI and I introduced, along with Senators KERREY and BENNETT, S. 722, the unlimited savings allowance tax, or the USA tax. Senator SHELBY and Congressman DICK ARMEY have introduced legislation proposing a flat rate tax. We have all heard considerable debate about that in the Presidential campaign. Senator LUGAR and Congressman ARCHER have argued for a national sales tax. Other proposals, perhaps variations on these ideas, will appear in the coming months.

If we are to have fundamental reform, this sort of congressional debate and activity is absolutely necessary—necessary, but not sufficient. The American people must be involved in this discussion, and the sooner the better. They must decide this matter in the long run because they and their children will live with the results.

None of us can be absolutely certain what our fellow Americans would choose if fully aware of the various tax reform proposals now before the Congress. Not enough debate has occurred for that awareness to take place throughout our country, and certainly there has not been enough publicity giving the details and analyses of these various proposals. It may be that after inspecting alternative ideas, in spite of being frustrated with the existing Tax Code, Americans may decide to stick with the current tax regime regardless of its serious faults. I hope not.

But whatever the decision, one must be made. Public apathy and its close relative, public cynicism, are not appropriate to the challenge of fundamental tax reform, which I, for one, believe is essential for the Nation.

If citizens are to make a reasoned judgment about the merits of various proposals, they must have recourse to a set of constant standards upon which to rely. This is the only commonsense approach that is possible and effective, and it applies to the evaluation of tax reform proposals even more than to other areas.

When the summer Olympics comes to Atlanta this year, athletes from all over the world will be competing against each other and against the record book. It would really not matter if, say, the pole vault event were measured in feet or in meters, provided the standard of measurement is consistently applied, and applied to all. But an athlete would have every right to cry foul or unfair if his pole vaults were measured in meters while the vaults of his rivals were measured in feet. The standard has to be the same. That is how you determine the best.

So it is with tax reform. If the American people are to evaluate the varying proposals that have been presented, they need us to talk with them about our ideas in a way that makes those ideas readily comparable. If proponents of reform and the media covering this debate do not do that, then citizens will be trying to compare apples with oranges, rather than apples with apples. I am afraid that is what has occurred thus far in this debate.

Let me offer several examples about what I mean.

First, for purposes of fair comparison, all tax reform proposals should be designed to raise the same amount of money. That amount should equal what is now raised by the part of the Tax Code that reformers want to replace. In other words, all the proposals should be revenue neutral compared to the current code.

This is an important discipline. Indeed, it is a very critical discipline. Low rates are attractive. Accordingly, some reformers assume heroic cuts in Federal spending and Federal tax requirements when they calculate their proposed tax rates. By doing so, they can present proposals with rock-bottom rates. If one proposal is going to have that advantage, then every one should have that. Why not propose a 10-percent flat rate instead of a 17-percent?

It is easy to see how we would have debate that completely obscures and, I think, brings no clarity to the issue if we do not have the same rules. This strategy is like selling a suit three times too small on the assumption that the customer will lose 30 pounds. Maybe the diet will work, but if it does not, or even if it is not quite as successful as hoped, the suit will not fit and the customer will be unhappy.

All of us believe that our proposals will accelerate economic growth and the standard of living of the American people, or we would not be promoting fundamental change. But if the proponents of one plan are permitted to use dynamic estimates even in their debate and presentations to the public, and the resulting lower tax rates, while other areas use conventional estimates and the result is higher tax rates, then this is not real debate. Rather, it is an exercise in creative arithmetic.

I have long worked for reductions in Federal spending. I hope the current budgetary impasse can be broken. We can and we should put the Nation on a path toward a balanced budget. But this process, as I view it, must be separated from tax reform. It is imprudent to model a tax reform plan based on rosy revenue assumptions that have yet to be put into place.

There is also the matter of what share of the tax should be collected from individuals and what share should be collected from businesses. I believe that all tax reform proposals should be modeled to collect from business and individual revenues in the same proportion as what the current code extracts from both.

There is nothing magical about that proportion. From an apples-to-apples perspective, however, we must guard against the temptation, in modeling tax reform proposals, to shift the tax burden from individuals to businesses, or vice versa, in order to play shell games with the rates. You can make a tax proposal sound very attractive if you lower the individual rates dramatically and increase the rates on business. But that, in my view, unless it is clearly spelled out as to why you are doing it and what the philosophy is and why that is going to improve the lives of the American people, it makes no sense.

Just as all the tax reform proposals should be revenue neutral, so too should they provide enough detail to allow people a fair chance to assess them in their entirety. Architects of fundamental tax reform plans need not draw up a complete set of blueprints with every single detail. The goal is to furnish enough of the foundation and framework to permit citizens to understand how the entire structure would function and to suggest ideas for its improvement.

Often when a proposal seems simple in concept, it does so because its advocates have not explained how it would apply to the many economic transactions that occur every day in our very complicated and complex economy.

Transition issues are a good illustration. Replacing much of the current code with an alternative system will entail more than just a one-time transition cost. Over many years and using after-tax dollars, Americans have amassed trillions of dollars in savings. Businesses have invested trillions of dollars in plant and equipment. That has already been done.

If and when we move to a new tax system, what will happen to that savings and investment? Some tax reformers are silent on that issue. Does their silence mean that senior citizens, our best savers, will find their savings taxed yet again under the new regime? Suppose somebody saved all of their lives and they have $100,000 in liquid assets, and they are in their golden years and plan to retire. If you pass a 20-percent sales tax and do not have a fundamental transition, then you have said to that senior citizen, "You have $100,000 which you saved all your life, and you paid taxes on it. These are after-tax dollars, but now, as you spend that money, we are going to levy a 20-percent tax on everything you spend in the latter years of your life." Does anybody really believe that is fair? Yet, those matters have not yet been discussed by many of the proponents of some of the plans.

Will businesses that invested in productivity-enhancing equipment be penalized for their foresight because they will be unable to amortize fully these investments? Is that the way we want to increase new productivity, by penalizing previous modernization efforts for productivity that have been made without a new code?

When Senator DOMENICI and I drafted our USA tax proposal, we devoted much of our attention to solving the transition problems. I do not claim we have solved every one of them, but we have gone a long, long way. Under the USA tax, pre-transition savings would not be taxed and businesses would be given an opportunity to write off their previous investments.

Proponents of other reform plans have criticized the USA tax's transition rules as overly complicated. That is easy to do if you do not have any in your own proposal, and if you have not thought about the results of not having any. Perhaps so; we welcome any suggestions for improvement. But, to use an old poker expression, you can't beat something with nothing. Proposals for fundamental tax reform that do not address transition are not simple—they are simplistic because they are not complete. They have avoided the hard questions and the hard work which are essential for meaningful tax reform.

Transition is only one of the many details that require elaboration. Farmers must know how tax reform proposals will treat cooperatives. Bankers and insurance companies will ask how financial and service organizations are to be taxed. When you give them an answer and you have not really thought about that, and you say, "Well, we will have to have a transition rule," that means your proposal is going to get more complicated and more complex. That is inevitable. But when you have not thought about these issues, it makes comparisons for the public—and even for the news media people who follow it on a regular basis—almost impossible.

Wage earners will wonder if fundamental tax reform will address the very regressive payroll tax, which is one of our most regressive taxes and is one of the reasons why our American average working person has been hit so hard in the 1980's and even in the 1990's while people get up and talk about the overall rates having come down. Yes, income tax rates have come down. Of course, they came back up again 2 years ago. But they have come down substantially when measured over the last 10 or 12 years—very substantially. But guess what has happened during the same time? The Social Security tax, which has more effect on many of our working people making lower incomes, that tax rate has gone up dramatically, and, therefore, many working people, during the Reagan years where everybody talked about taxes going down, many working people have seen their taxes go up.

Wage earners will not be the only ones who ask about that. There is not a small business person in America who is not vitally interested in the same issue because the payroll taxes for small businesses have also gone up dramatically in the last 10 or 15 years.

Advocates of fundamental tax reform must address these and many more matters openly and early-on. The pass-it-now-and-fix-it-later philosophy of tax legislation will not work. A lack of candor at the beginning of the process invites precisely the public cynicism that now surrounds the current Tax Code.

This issue of candor and thoroughness brings me to the final and most important apples-to-apples issue. Those of us calling for fundamental change must explain why we think the Nation should embark upon such a large project. Only by knowing our motives and why we think change needs to be made can citizens evaluate fairly whether our plans are likely to succeed.

My own sense is that the authors of the various tax reform plans have many goals in common. Those goals have little to do with tax rates and even allowable deductions. I am not saying tax rates and deductions are unimportant. They are of course important. But changing the tax rates or altering the number of deductions does not require fundamental reform.

In 1986, Congress lowered tax rates and eliminated certain deductions without replacing the Tax Code. If it so chooses, Congress could today enact a flat or single rate individual income tax with minimal tinkering with the rest of the tax system. As a matter of fact, while Senator DOMENICI and I have offered a fundamental tax reform plan with a progressive rate structure, we could easily adapt our proposal to a flat rate system if citizens so demanded without changing our essential purpose.

Mr. President, the debate on flat tax loses a great deal in terms of the understanding that is required. You could take the current Tax Code with all of its headaches, with all of its deductions, with all of its complexities, with all of its perceived unfairness, and you could apply a national flat income tax rate to the current code. It is just a matter of arithmetic. You take the amount you need to produce a break-even with the current revenue today, you take the rate that would be required to apply to the taxable income, and you apply it. Instead of having four, five, or six individual income tax rates, you could have one. That could be done in just a few hours. You could have a national flat tax rate with the current code. But you would not have solved the problem that is frustrating the American people in terms of complexity, unfairness, and the problem that bothers so many of us because you would not have changed the basic disincentives to save and invest which are required if we are going to increase productivity and if we are going to increase the average income for our American citizens.

Our essential purpose is to change what we tax. This is true for the flat tax and the national sales tax as well as the USA tax and all the other proposals based on these models.

All of these plans aim to correct the bias in the current code against saving and investment. Marginal changes in the Tax Code cannot eliminate that bias. It is ingrained in our current system. If you want to remove the bias in the tax base, you have to replace large parts of the code.

What do we mean by bias some ask? Here is a simple example. If you take $200 and buy a television set, you are not again taxed for whatever enjoyment or enlightenment you may receive by watching it. If, however, you take that $200 and put it in a college savings account for your children to go to school, all the interest you earn is subject to tax.

The act of consumption—using the $200 to purchase a television set—is taxed once, as income. The act of saving—putting the $200 away for future education expenses—is taxed twice. The original $200 has already been taxed as income. The returns to that $200, in this case, interest, is taxed again. Saving $200 for tomorrow is more expensive than consuming it today.

So we have an inherent bias built into our tax system that tilts us toward consumption and away from savings and, therefore, away from investment, productivity, and a higher growth standard with higher income.

Millions of middle-class Americans own stock or shares in mutual funds that own stock. They rely on this saving for retirement, health care, and other future expenses.

I wonder if most realize how double taxation reduces the return on their investments. Because our tax law regards corporations and their investors as separate entities, it taxes corporate earnings twice: once as corporate income and again as dividends received by individuals. In contrast, because corporations may deduct interest payments if they borrow, holders of corporate bonds are not penalized by double taxation.

The current Tax Code says to citizens: faced with a choice between buying today or saving so that you can buy more tomorrow, then you should buy now. It says to corporations: faced with the choice of building a strong foundation through equity financing or borrowing to the hilt, borrow to the hilt.

This bias against saving is a bias against our future. We see its crippling influences in our economic data. The saving rate in this country is at historically low levels. Because our savings are low, our investment has been correspondingly low. Continued low saving inescapably means continued low investment. Low levels of investment mean low productivity gains. Low productivity gains means stagnant wages and, therefore, little or no growth in our standard of living. We have been on this treadmill for long enough—too long.

All of the major proposals for fundamental tax reform—the national sales tax, the flat tax, and the USA tax of Senator DOMENICI and myself—would rid the Tax Code of its bias against saving. That is their central, core characteristic. While we debate the differences, this core characteristic should not be overlooked. It is this focus upon the tax base that distinguishes fundamental reform from the incremental changes of previous years.

Although many of the details of the national sales tax proposal remain sketchy, its basic mechanism is familiar to most Americans. The sales tax is paid on purchases. Saving remains untaxed until spent. In theory, every dollar of wages or salary is taxed once and only once at the point of consumption.

The flat tax would be administered in much the same way as the current income tax. The key difference is that capital income—that is, money earned as the result of saving and investment—is not taxed at the individual level.

For example, citizens would not be taxed on interest earned on a bank savings account. Nor would they be taxed on income from dividends, interest on corporate paper, or capital gains. Corporate income would still be taxed at the corporate level; by not taxing it again at the individual level there would be no double taxation. While I certainly understand the theory behind this proposal, I would have a hard time ever explaining why the wealthy owner of a yacht living off of investment income would have to pull up to shore to let his captain off to file an income tax return each April 15 while the owner remains on-board watching television and playing cards.

That is a burden I do not want to assume. So the theory has validity, but the application seems to be, and I think would be perceived to be, very unfair.

Senator DOMENICI and I took another tack. Like the flat tax, our USA tax proposal is administratively similar to the current income tax. Some people, of course, do not like that. But our method for relieving the current code's burden on savings and investment departs in considerable and very significant degree from the flat-tax approach.

A major, perhaps insuperable, problem with the flat tax is the failure to treat all income alike. An individual with only wage income would file a tax return while his neighbor, with only capital income, would not.

Now, it is true that the capital income would already have been taxed at the business level. Dividends, for example, would have been taxed at the business level as corporate income, but I am afraid that would be far from obvious to the wage-earning neighbor. Such a lack of clarity would inevitably lead to a lack of public confidence.

When we designed the USA tax, we wanted to make the proposal as understandable and fair as possible so we chose to avoid the complex and confusing distinction between wage and capital income.

The USA tax is indifferent to the source of income. It is concerned with how the income is used. In every taxable year, the amount of money a taxpayer chooses to save would not be taxed. The taxpayer would be taxed only on the amount he or she spent during the year. This removes the double taxation of savings. Note, too, that no dollar ever escapes taxation. Over a lifetime, every dollar would be taxed once and only once in the year it was spent.

The USA tax grants to all America a power that today is reserved only for the wealthy: the ability to lower their tax obligations. Exercising that power does not require an army of tax lawyers to ferret out loopholes in the tax system. Merely by saving, taxpayers can reduce how much of their wages is subject to tax in any given year.

Under the USA tax, everyone will have the tools to take greater economic responsibility for themselves and for their families. At a time when we must moderate the growth of entitlement programs, this sort of change, I believe, is absolutely essential.

I know that many of us in America do not think we can afford to save. My response is that we have no real choice. Savings must become a greater priority in every household budget, just as it must in the Federal budget by lowering the deficit. It is Government's responsibility to help our citizens by providing a tax code that does not penalize them when they try to do what is best for their future and for their children's future.

Mr. President, I believe the U.S.A. tax offers a superior path to fundamental tax reform. Its savings deduction is understandable and equitable. Those who take the time to acquaint themselves with our legislation—which we tried to write in plain English in the hope that Americans will read it—will also see how the U.S.A. tax would simplify both the business and individual tax; encourage American exports by offering a tax rebate on sales or exports from this country; it would include vital deductions for education, charitable giving and retain the home mortgage interest deduction; and it would provide taxpayers and businesses with a credit for the payroll tax they must pay, which is enormously important to our small business community and, most of all, to our average working people.

Ultimately, however, neither Senator DOMENICI nor I see ourselves in some sort of fundamental win-or-lose conflict with advocates of the flat tax or a national sales tax. Fundamental tax reform must be a collaborative process. There are tremendous forces in favor of keeping the Tax Code as it is. They are already well along in their job of scuttling change. We assist these defendants of the status quo when we focus only on our differences and neglect what we have in common.

For all the conferences, column inches, research reports, and speeches devoted to fundamental tax reform over the last year or so, the truth of it is that those of us who want fundamental change stand at the beginning of a very long road. We must begin to travel that road together. We have to speak with the American people regarding what is really at stake in fundamental reform. We must solicit their views rather than stir up their passions. We must challenge our critics to help improve our work, and when we offer proposals for reform, we must employ similar revenue estimates and provide a comparable degree of detail about what we wish to do. We must begin to make apples-to-apples comparisons if people are going to be able to understand the debate and participate in it. Then and only then can the people of America decide, and the people will have to decide in the long run.

As we enter the Presidential election cycle, it is evident that the American people are restive and uncertain about our collective future. They wonder about which direction our country should take.

At another time of great national uncertainty, Abraham Lincoln offered some very practical advice. Quoting him, "If we could first know where we are and whither we are tending, we could then better judge what to do and how to do it."

Those of us who believe that fundamental changes in the Tax Code are one important element, a very important element, in getting the country's house in order should heed Lincoln's advice. Let us work together to encourage a public understanding of where we are economically and how our current Tax Code constrains us and prevents us from fulfilling the American dream of a better life for all of our citizens. If we can do that, we may safely leave it to the public to judge what to do and how to do it.

Mr. President, I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, before I proceed with my remarks, let me just offer my thanks and appreciation to my dear friend and colleague from Georgia for the statement he has made, for the leadership he has given on this issue. He is known best, I suppose, for the extraordinary leadership he has given on matters of national security now for more than two decades in the Senate, but he has been a courageous leader in other areas, including this one of tax reform. It reminds us about why we will miss him next year and why I hope he will continue to push us in the direction of reform from the private sector. I thank my friend for his superb words.

Mr. NUNN. I thank the Senator.

COMMERCE SECRETARY RONALD H. BROWN

Mr. LIEBERMAN. Mr. President, as we return to session today it is spring in Washington. The blossoms are out. It is a beautiful time, and yet I am sure the experience I had in flying back with my family yesterday was similar to what others returning yesterday experienced: It brought home the terrible tragedy that occurred while we were away—the plane that went down in Croatia carrying Secretary of Commerce Ron Brown and so many others. It filled me with a sense of loss again yesterday and today.

I am proud that I had the chance to work with Ron Brown during his all too short tenure at the Commerce Department. I enjoyed working with Ron Brown at various stages of his career—as an attorney, as a leading Democratic activist, as chairman of the Democratic National Committee, and most closely and, I think, most creatively in these last 3 years as Secretary of Commerce. I am honored that I can call him a friend. We are all going to miss him—it's painful to think that my staff and I won't have the sheer fun of working with him again—and the country will miss him even more. I have the greatest respect for him, as have so many others, as a wonderful, warm human being and as a leader who had a clear-eyed vision of how to make our people and our country better.

You never think of a man in the prime of life not being here. In a way, it is death that forces you to appreciate even more the great skills and the service that Ron Brown, displayed for our benefit.

Ron Brown truly loved the job he had at Commerce. He always managed to fit himself well to the tasks he undertook, wherever he was, but this job really did fit him like a glove, from the moment he took it. He understood as soon as he started the job that the mission of the Department of Commerce is to promote economic growth, that it is job creation. He understood from his own experience the wide-open nature of our market system and that the market and its upward mobility was the unique way America had for creating opportunity for its citizens.

Ron Brown never saw the business community as an enemy, he saw it as an ally in expanding opportunity, and he threw himself into this job with a single-mindedness and joyous commitment to moving the system, the economic system, so that it would deliver for all Americans.

Against this background, I want to talk about two efforts he spent his time on at Commerce that I think were critical. I believe that they were truly extraordinary, and set a new performance standard for our Government's relationship with the private sector.

EXPORTS

The first has been written about extensively in the days since his death, and even over the preceding 3 years: The incredible export promotion operation he put together at Commerce. But I do not think that enough has been said about why it was so important.

Until the mid-1970's, the United States economy was on top of the world, dominating it. While our economic rivals, led particularly by Japan, were figuring out that selling advanced manufactured goods for export was the key to economic growth and raising the living standards of people back home, our Government was coasting on our success. We were not paying attention to the emerging economic message.

Other countries built export promotion machines—and they were machines—through the most intimate and comprehensive alliances between business and government, the private sector and the public sector. But our Government paid too little attention to the need to build these alliances. American businesses—and I heard this repeatedly from business executives in Connecticut—would go abroad to compete, and they would see what the business-government alliances of our competitors were doing for export promotion.

I remember being told a story by the executive of one of the companies in Connecticut; his firm was competing against two other companies, one from Asia and one from Europe, for a very large order in a foreign country. He went over there to participate in simultaneous bidding among the three business competitors. This company from Connecticut, a big company, had its executives and lawyers in one room. But in the other two rooms, the executives and representatives of the Asian company and of the European company were teamed up with a representatives of the Asian government and of the European government, respectively. The government representatives were combining with their companies to enhance their firms' offers. It made the contest unequal. The Connecticut company did not get the contract. We lost an opportunity and jobs.

The State Department, I am afraid, continued to treat American business as if it had to be held at arm's length. Too many administrations went along with that distant attitude. Preoccupied with the end of the cold war and retaining the political alliances required for it, the State Department embraced a traditional and outmoded notion of what foreign policy was all about, of what mattered to people here at home. It missed what was happening in both the world economy and the American economy, which has been a grave error. It made export promotion a low priority, while our rivals made it the top priority. The State Department treated U.S. business like pariahs, it was "Upstairs-Downstairs"—trade was beneath our diplomatic priorities.

This hasn't ended. A Business Week editorial this week notes that, "The U.S. foreign policy and security elite believe security should be divorced from economic issues. Some go so far as to suggest that providing security is a perk of global power." It concludes, "We don't. American workers can't be expected to suffer economically to protect [other nations] from one another." Ron Brown shared this view, and he was the new momentum for bringing our economy into foreign relations. The President was his staunch ally on this effort, and helped him force change in this area.

Ron Brown, working with President Clinton, understood that we had to create a central position in our foreign policy for our economic policy. Export promotion had to be at the core of our international outreach. It was not a bad thing, but, in fact, it was a very good thing, if the President visited a foreign country with the Secretary of Commerce and the issues they discussed with the leadership of that foreign country included buying American goods.

I come from a very export-oriented State. In fact, it has the highest level of exports per capita of any State in the country. We know that exports create jobs, high-paying manufacturing jobs, and that each manufacturing job has an economic multiplier effect, creating a chain of goods and services behind it, longer by far than other types of jobs.

The sad fact is that we have been disinvesting in manufacturing since the mid-1970s, even though we need these kinds of jobs more than ever to develop a strong economy and a better standard of living for our people which will continue America as the land of opportunity. Ron Brown, as Secretary of Commerce, understood this from the beginning of his service.

When he began his export promotion effort, within days of arriving at the Commerce Department, the leaders of the American business community that I spoke to—and I particularly heard this from heads of firms in Connecticut—were in disbelief. Someone was finally paying attention to their priorities. Somebody was finally trying to help them pull together an American governmental countermovement to the vast efforts rival countries and their businesses had been mounting for decades, to take jobs and exports away from us. Finally, someone with real power, the Secretary of Commerce, understood the problem. At the same time, in the beginning, many in the business community were skeptical whether Ron Brown could make all this happen.

But he proved them wrong, to their delight. He was great at this. Trained as a lawyer and always a superb advocate, he used those skills on behalf of American businesses throughout the world. He knew how to run campaigns, and he ran this export operation like a campaign, which is exactly what it is. Nobody had ever done this before in the way that Secretary Brown did, and our country has never benefited as much before as we did from his service.

He even set up, in the Commerce Department, something like a campaign war room, where he would get reports on economic opportunities opening up around the world to sell American products and create American jobs—an early warning system. Then the letters and the phone calls would start flying—Ron Brown was a phone wizard, it was a technology invented for him, he was forever reaching out to touch some business leader or a head of State abroad. He followed those calls with visits, such as the one he was on when his life ended. He was so enormously skilled, he was so hard working, he so absolutely and irresistibly likable, he had such a great smiling charm, such sharp intelligence, he was such fun, he had such energy.

The customers loved his performance. They all knew he spoke directly to and for the President of the United States, and that he would relay their messages back to the White House. Even our friends in Japan, who have systematically been denying entry for too many United States products for too long, liked him, as he worked very hard at breaking down their barriers.

U.S. business strongly appreciated his commitment to them, his accomplishments. He was a terrific political operator in the very best sense of this phrase—he was mobilizing the political system to serve the public's needs. The business community understood this and respected it deeply—I've heard this again and again from U.S. companies. Ron Brown was a new kind of life force to them and they had great affection for him.

Ron Brown and his team's export success was only beginning when he left us, because the historic changes he was starting are a long-term project. But this new direction was a very important accomplishment for America. A major job for Secretaries of Commerce from now on will be to promote U.S. goods, not just in the offhanded, random way of the past, but with all the force of Ron Brown's campaigns, or they will be judged failures. From now on, the Federal Government is going to have to get down and get to work with business selling our economy. It's about time, but it took Ron Brown to show us how to do it. Ron Brown has set an entirely new standard for the country by which all that come after him will be judged.

INNOVATION

A second remarkable thing he did as Commerce Secretary was to fight for innovation. This has been almost nowhere mentioned in the press, and it is not well understood by the public or the fourth estate or Congress. But Ron Brown understood that for the American dream of opportunity to be sustained for a new generation, a higher level of economic growth was crucial. In addition to exports, he concentrated on another ingredient of that strategy, innovation. Even before he was sworn in as Commerce Secretary, his friend George Fisher, then president of Motorola and now of Kodak, invited him to speak to a leading group of business thinkers, the Council on Competitiveness. Ron Brown set out in that speech an aggressive agenda of technology development and promotion. He recognized that innovation has been the great American competitive advantage for generations, that it is now under attack as our competitors expand, and that it has to be renewed if we are going to keep expanding our economy. Economists estimate that technology development—coupled with a technologically trained work force—has accounted for 80 percent of the increase in United States productivity and wealth for most of this century.

INNOVATION IS OUR BREAD AND BUTTER.

Brown understood that since the Second World War, the Federal Government has backed most of the long term research and development and applied R&D that has gone on in the U.S., while business focused on shorter term product development. That is an economic reality—the risk and cost of R&D means that the private sector must focus on what it can raise capital for—shorter term products. It's a classic market failure problem, and until recently Congress on a bipartisan basis has supported the need for governmental support of innovation. Brown picked up a series of small technology and technology extension programs that had been quietly started at Commerce in previous administrations, and made them a central focus. With an able team around him, he made the Commerce Department the administration's leader in civilian technology development, and supported a new system of cooperative R&D development with business, requiring business to match Federal funding to ensure sounder Government R&D investments and leveraging Federal research dollars. He also helped expand a new system of manufacturing extension centers around the country, now in over 30 States, to bring advanced manufacturing techniques and technology to smaller and mid-sized manufacturers desperately in need of it to be able to compete with global competitors. In a time of budget cutting, he successfully found the resources to build these programs. He was also head of the administration's Information Infrastructure task force, formulating policies on the new information highway and how to expand our population's access to it.

He was both an innovator and an innovation supporter, and was moving quickly toward making the Commerce Department what it long should have been: A department for trade and technology, where each of these two sides of the department provides synergy for the other. It was becoming an agency which provided governmental leadership in these two areas in support of the private sector, not trying to dominate it, and much stronger because of this.

Ron Brown's clear success, of course, led to the usual Washington political reaction against signs of creativity. Unfortunately, for too much of this past year he had to spend time deftly deflecting attacks on the existence of the Commerce Department. But he had helped make it into an instrument for growth and job creation, and his efforts had strong support among business and work force constituencies. He had begun the process to put the Commerce Department on the map as a unique American engine to support opportunity and growth in America. He had a great dream for his agency, and I respect that dream very much. I, for one, pledge to him that I am not going to sit here in this body and let it get dismantled.

BARRIERS

I have discussed his innovations at Commerce, but I want to raise an additional subject. Much was said in the aftermath of Ron Brown's tragic death about his role as a bridge builder. I say he was also a barrier breaker. I think sometimes about Chuck Yeager and how he felt piloting his X-1 rocket plane when he first broke the sound barrier. Ron Brown was a great barrier-breaker, too, our first African-American to achieve many things. While Chuck Yeager's courage enabled him to break his barrier, the sound barrier remained and had to be broken again by countless other pilots. Ron Brown's barrier-breaking was different. It also required courage, but he had a way of breaking barriers that began to erase them. He would get through a barrier in his wonderful, excited, buoyant way, and he would make everyone who watched him think, there goes another one, and why didn't we do that long ago? When Ron Brown became Commerce Secretary, many were expecting the President to name an experienced business leader, and were disappointed when he named a friend and politician. Ron Brown's outstanding performance as Commerce Secretary, and the depth of support he built in the business community, was unlike anything any Commerce Secretary has been able to do before. We watched and thought, there he goes through another barrier, the biggest he had ever faced.

In so doing, Ron Brown broke an even bigger barrier. America has been blessed with a long line of outstanding African-American leaders. Many of those leaders have been seen as leaders of the African-American community. Ron Brown was intensely loyal to his African-American roots, but, like Colin Powell, he was also a national leader, an American leader who was clearly understood, in his great energetic way, to be battling for the well-being of every American.

In his struggle to save the Commerce Department over the last year, Ron Brown often compared the abolition of the Department to unilateral disarmament in the international economic wars of today. In closing, I note that all around our city of Washington are statues of our great military heros. Now we are engaged in a different kind of global conflict: an economic global conflict. If we ever start building statues for those who have served courageously and with great success in this economic battle for the opportunity and the well-being of our people, we ought to erect a statue to Ron Brown as one of the finest of those leaders.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The PRESIDING OFFICER (Mr. STEVENS). Under the previous order, the clerk will report calendar No. 361, S. 1664.

The assistant legislative clerk read as follows:

> A bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The acting majority leader.

Mr. LOTT. Mr. President, I ask unanimous consent that no amendment relative to the minimum wage be in order to the immigration bill during today's session of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I yield the floor, Mr. President.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I want to thank the chairman of the Judiciary Committee, Senator HATCH, for his superb work in this area. I have not always agreed with my good friend from Utah with regard to immigration issues, legal and illegal. And I say, too, to his fine staff after some early misunderstandings, they have certainly been excellent to work with. I appreciate that. To Senator Strom THURMOND who was chairman when I started this rather unique work, always helpful, always supportive, always there; to my old friend companion and colleague from Massachusetts, Senator KENNEDY, who served as chairman of the committee when I came here in 1979, who then served as the ranking member, then as chairman, then as ranking member, and it certainly is much more fun having him as ranking member than as chairman! I have thoroughly enjoyed the experience and have the greatest regard personally for him. We have worked together on these issues doggedly and persistently for 17 years.

It is a case of, in some ways, new players on an old field of battle. During my 17½ years in the Senate, I have literally spent weeks on the floor of this historic Chamber debating immigration reform legislation. Whether it was legislation to provide legalization for long-term illegals or to prohibit the knowing employment of undocumented workers, legislation I sponsored and which this body debated in the mid-eighties, or whether it was legislation Senator KENNEDY and I sponsored to increase immigration by nearly 40 percent in 1990, it has always been a terribly difficult issue for all the Members of this body. We know that no matter how we vote on immigration issues, we are going to assuredly upset and create anguish among segments of our constituencies.

But immigration policy is a critically important national issue, and Congress must deal with it. It is not for the States to deal with.

Immigration accounts for 40 percent, or more, of our population growth, which pleases some and distresses others.

Immigrants come here and work hard and they work cheap, which pleases some and distresses others.

Immigrants bring cultural diversity, which pleases some and distresses others.

And that is the nature of the immigration policy debate. Powerful, powerful forces tear at the country.

There are some members of our society who believe immigration is an unalloyed good. They consider it maybe something like good luck; you simply cannot have too much.

Other segments of the population believe that immigration should be severely restricted, if not eliminated altogether. They see America changing in ways that they particularly—to them—do not wish to see.

I deeply believe that immigration is good, it is good for America, but I firmly believe that this is not an eternally inevitable result. It depends upon those of us in the Congress and in the other branches of Government to make it work. Immigration policy must be designed and administered to promote the national interest or it may not have that effect.

So Congress created the U.S. Commission on Immigration Reform in the 1990 act. The Commission was chaired by that remarkable woman, Barbara Jordan, a powerfully articulate and splendid woman of such great good common sense and civility and intelligence.

That Commission is composed of a truly impressive group of immigration experts. Lawrence Fuchs, who was the executive director of the Select Commission on Immigration when I started in this field, along with Senator KENNEDY, Senator Mathias, Senator DeConcini on that select commission. The other names are people who are deeply respected in the United States: Michael Teitelbaum, Richard Estrada, Robert Charles Hill, Nelson Merced, Harold Ezell, Warren Leiden, and Bruce Morrison, a former Congressman.

That Commission had labored for more than 4 years, holding a very large number of hearings and consultations around the United States of America, and issuing two reports—two reports—one on controlling illegal immigration and one on reforming legal immigration.

I have heard some people in the debate and in the country say, "Where did all of these disturbing ideas come from? Where did this issue come from, this discussion about the preference system and this one about chain migration?" and about a verification system, as if it were all some scheme that was presented by some of the fringe elements of American society. Each and every one of the proposals in each and every one of the bills presented has come from or out of the Select Commission on Immigration and Refugee Policy or the Jordan Commission.

They are not disturbing, they are not sinister; they are real. They come from a group of people that I have just described who I think you could surely say are very mainstream Americans. They are from both sides of the issue.

The Commission labored and found that—and I quote—"a properly regulated system of legal immigration is in the national interest of the United States." The Commission also noted, however, that there are negative impacts. It proposed a reduction—a reduction—in the total level of immigration. That is who is suggesting the reduction.

The Jordan Commission strongly recommended that the family immigration visas go to those who are of the highest priority in order to promote a strong and intact "nuclear family." A "nuclear family"—would that we could have a better description than "nuclear family"—but it is the one we think of as the tight-knit family; the spouse and minor children. Surely we want to be certain that we unite those people, but that we also have measures adopted to ensure that family reunification does not create financial burdens on the taxpayers of this country.

I thoroughly support those findings and recommendations. I have tried to follow them very carefully and very honestly in the legislation that I have sponsored.

Regarding the issue of control of illegal immigration, the Commission reported—and I quote:

> The credibility of immigration policy can be measured by a simple yardstick; people who should get in, do get in—people who should not get in, are kept out—and people who are judged deportable are required to leave.

That seems pretty sensible, pretty darn clear, actually. Pretty Jordan-like, I think.

Mr. President, I am pleased to report that the committee bill will measure up very well by that standard, by that yardstick. S. 1664 will provide additional enforcement personnel and detention facilities. It will authorize a series of pilot projects on systems to verify eligibility to be employed and to receive public assistance. It will also make improvements in both birth certificates and drivers licenses in order to reduce fraud.

The bill will provide additional incentives, additional investigative authority, and heavier penalties for document fraud and alien smuggling. It will streamline exclusion and deportation procedures. It will establish special procedures to expedite the removal of criminal aliens. There are additional enforcement-related provisions. It is a good illegal immigration control bill. I urge my colleagues to support it.

The committee has also reported a legal immigration reform bill which, I regret to say, does not carry out the major recommendations of the Commission on Immigration Reform chaired by Barbara Jordan and does very little to address the problems and weaknesses in our present legal immigration policy. There might have been some great expectations of that at one time.

I am reminded of a story of my good friend Senator HOWELL HEFLIN, who is certainly wont to tell a story or two from time to time, especially the "Notie" Hawkins variety stories and others that I am sure we have all heard from time to time and that we never tire of. At least I do not. So one has to give credit when you have heard and retell a good story, but you only do that once. The second time you just do not say anything. And the third time you claim it for yourself.

So the story is that this attractive elderly couple, both of whose spouses had passed away, were on a long airline flight together, very long. They were sitting there enjoying visiting with each other. They were in their late seventies. They talked about their children and grandchildren and their interests and things that excited and spurred them both on to a full life. And they had dinner, and they visited some more. And after a highly convivial evening and long flight, they landed. The lady reached over and patted the gentleman on the knee and said, "You know, it has been wonderful. You remind me of my third husband." And he said, "How many have you had?" She replied sweetly, "Two." You can think about that one when you get home. But that is called great expectations.

That is what was there with regard to legal immigration reform, at least in accordance with what Barbara Jordan and her commission had reported to us.

Yet what we have here is something that will not solve our problems with regard to legal immigration. These are the most vexing and the most troubling results. These deficiencies are the ones that give rise to proposition 187, ladies and gentlemen. These are the omissions that will see proposition 187's come to life in every single State in the Union unless we "do something" at the Federal level. We are doing very little in the area of legal immigration and badly need changes there.

Then you want to observe the various proposals passed either incrementally or on immigration reform measures which allow States to deny or impose charges for elementary and secondary public education for illegal alien students. These will also be part of a very vexatious debate. Do we continue to give support to the illegal community and deny it to the American citizen community? That will be a good test. If you want to be sure that we provide various things to mothers who are here illegally, then where is the money coming from that offsets that? Who is paying for that? If you want to relieve in a compassionate way a sponsor from having to pay for the person they bring over here and we sometimes say we cannot do that—heavens no, for the fellow cannot afford that.

But, you see, ladies and gentlemen, you have to remember that you cannot bring an immigrant legally to the United States unless the sponsor agrees, and also the immigrant, that they will not become "a public charge." That has been on our books since 1882—1882.

This bill, these bills, tighten that singular requirement in an excellent way. We do say now that the affidavit of support has teeth and, indeed it does. That is a very excellent step. What we find in at least half a dozen or more States of our Union —and yet we just cannot say that is for six States alone to deal with; or that we do not need to do a national bill; no, that would be a true flight from reality. In half a dozen or more States, current high levels of immigration are perceived as causing, rightly or wrongly, some very serious social and governmental problems.

Do they take more out than they put in? Do they leave more in than they take out? Well, it depends on what side you are on. Do they pull their share? Do they really take the jobs Americans do not want, or with millions lesser employed in the United States, and having done a welfare reform bill, will there not be many people looking for work—all questions that will never go away, ever.

We are informed that in the California public school system subjects are taught in 100 different foreign languages. California must construct a new school building every day to keep up with immigrant student enrollment. It is not only illegal immigration, which is about 300,000 entries a year, but also our historically high level of legal immigration, about 1 million a year in the current years, that have given credence and impetus to the widespread view that immigration is out of control—perhaps even more tragically, beyond our control.

I do sincerely believe that if Congress fails to act to address these very real and reasonable concerns of the American people, there is a very strong possibility—and we have all been warned about this by the select commission, and by the Jordan Commission—we will lose our traditionally generous immigration policy. The American people will demand a halt to all immigration. They will not stand still for the Congress-knows-best approach, as some would have us take this route on this burning issue.

For these and other reasons, I will, at an appropriate time, offer an amendment to provide a modest, temporary reduction in legal immigration. It matters not one whit to me what the vote is on that, but we will vote on that issue. It will attempt to reduce immigration to a level approximately 10 percent below current level and hold it at that level for 5 years—a breathing space, if you will. For the first time in more than 50 years, there will be no increase in legal immigration over a 5-year period. At the end of the 5 years, the numbers and the priority system will return to exactly what they are under the present law—no change, back to business as usual.

During this 5-year breathing space, the visas will go first to the closest of family members of citizens of the United States of America. They will go first to citizens. Then they will go to the closest family members of permanent resident aliens, and then to other immigrants. Any that remain will fall down logically to the lowest priority of family immigrants. We can expect many amendments and several days of debate and much disagreement, but despite the emotion, fear, guilt, and racism that is involved in the immigration issue, we have always—historically, at least—had a good, clean, honest, civil debate on immigration in this body. I trust it will be no different this week.

Republicans will disagree among themselves, I can assure you. Democrats will disagree among themselves, I assure you. I will have serious disagreements with my friend TED KENNEDY, and my friend, Senator SPENCER ABRAHAM of Michigan, who is a fine addition to this body and adds greatly to the debate of this issue. This is not and never should be and never has been a partisan issue. Anyone taking it to that level is making a serious mistake. You will find that in the rollcall votes. There is no partisanship involved in immigration reform.

I want to commend the new members of the Judiciary Committee and the subcommittee of both parties, Senators KYL, FEINSTEIN, ABRAHAM, DEWINE, FEINGOLD, and THOMPSON. They bring a special vigor, intelligence, energy, and passion to the game. I like that.

Just a couple of things, and then we will go forward and proceed with our work. I want everyone to be aware of the usual fare that will be presented as the menu is spread before the Senate in this debate. First, the Statue of Liberty—that will always be a rather thorough, impressive, rich debate, but we are not talking about the Statue of Liberty, because the words of Emma Lazarus, do not say on the base, "Send us everybody you have, legally or illegally." That is not what it says. We hear that. I hope the American people can hear that one and remember that we are seeing in this country groups of people who are in enclaves where they never learn or speak any other language. They are in New York, they are in San Francisco, they are in Los Angeles. We read about those things daily. That will not be improved by doing nothing.

Then we will hear—this is always a rich tapestry in itself—that we are all children and grandchildren of immigrants. We will all hear that. I can tell my story and everybody in this Chamber can tell theirs. We are not talking about that. We are not talking about populating a country and settling the West. We are talking about people in the United States who are brooding about illegals in their midst and show it in every poll, and then show it at the polls.

We had a man running for the Presidency of the United States who, perhaps if he were in the race, would pick up 17 to 20 percent of the vote based on a lashing out about immigration or a move toward xenophobia, just as has happened in Germany, with a person receiving 17 to 20 percent of the vote, or in France, with another man with such views garnering 17 percent to 20 percent of the vote. Those things are out there. There is no question about them being out there.

My grandfather came here from Holland. His parents died at the age of 6. He was orphaned. He was a ragamuffin in the streets of Chicago with a tin cup, as far as I can find. Every one of us can tell that kind of story. Then he went to work as a clerk for the railroad, and he went west. Horace Greeley was right, "Go West, young man." He did. He not only ended up working on the railroad, he ended up running and owning a coal mine in a little town named Kooi, WY—named after him. He was, in every sense, an American success. He died a very happy man after giving birth to my mother, and assuring the wonderful heritage I have. We can all tell those stories, and we can go on to the Irish relatives, the German relatives. All of us can tell these stories—the stories of persecution, the stories of horror, the stories of pogroms. Those are real. Those are stories of inspiration of which we can take—I think we shall call "judicial notice."

One other thing we should take judicial notice of, we are the most generous country on Earth. I have heard the phrase, "why, why would we turn inward? What are we doing?" What is American about that? Mr. President, we take more refugees in than all the rest of the world combined. We take in more immigrants than all of the rest of the world combined—combined. All immigrants, refugees, the whole spectrum.

Then we will see on the menu, passionate words about some national ID card, which has never escaped the menu, as far as I have ever known in my 17 years here. Some have played that card with a better look at a poker hand than any I can remember. I remember particularly a Congressman from California who was certainly vigorous in his pursuit of his feelings and the depth of his internalization of that. We have never talked about a national ID card in the entire time I have been working on this issue. I have put it in every single bill, that there would not be a national ID card, under no circumstances. Yet, I still hear it bandied about.

In fact, one group of worthies has even spread a curious little packet about which describes the Smith-Simpson bar code tattoo, which is certainly a grisly looking thing. But that chap must, I think, keep his day job, for he has wasted a lot of energy to try to put that kind of tilt on what we are trying to do.

We all know why employer sanctions did not work in the 1986 bill. Employer sanctions did not work because so many engaged into a cottage industry of making phony documents. We have employer sanctions but we did not want to put the burden on the employer. So we said, whatever document you are shown, the employer, cannot be responsible for the validity of it. So they just took them. I always love to explain my own here because it costs 100 bucks. We picked it up on the streets of Los Angeles. ALAN KOOI SIMPSON, Turlock, CA, a very distinguished person of less than hirsute appearance reflected here on the card. And here is my phony Social Security card. I do not know what other poor soul shares the same number with me—maybe none. But that is why nothing worked. That is why, in this bill, something will work.

I think we will keep those provisions—I hope so—because we are not talking about national tattoos. We are not talking about Nazi Germany. We are not talking about an error-filled national data base. We are not talking about a mess of an administration in some other agency of the Government. We are talking about "doing something" about illegal immigration. And the oddest thing to me is that the people who seem to really want to do something to illegal, undocumented people—other than thumb screws or the rack—as I often hear them speak, have failed to realize that the one thing you can do that does work and is humane is a more secure counterfeit-resistant card, or verification, or something like a telephone verification, where you slide it through some kind of electronic device, some type of computer link; or similar process. All of that can be studied under this bill in the form of pilot programs.

I will try to make an amendment that those pilot programs not simply be authorized, but that six or seven of them be required to be looked at, and then "of course" a vote before they would ever go into effect. We cannot get there without this. You cannot do something with illegal immigration and moan and whine and shriek about it day and night and not do something appropriate with some kind of counterfeit-resistant, tamper-resistant card, and also doing something with imposters who use the card and those who are gaming the system. That, I hope, will become a very clear fact of this debate.

And then I hope we do not hear too much about the "slippery slope," because I have not seen any editorials about the fact that when you go to drop your bags at the airport, somebody asks you for a picture ID. It is not even an agent of anybody, I would guess, except the airline. But I have not seen any editorials that that is the first step, the first slide down the slippery slope toward a national ID. So it is with the American public—at least in airline travel. I do not know what it is on the bus lines, but I have a hunch that not many people here ride the bus lines. Maybe they do, but I wonder if they ask that there. If they do or if they do not, is that the first step? Is that the slippery slope toward a national ID? I think people choose to hear only what they will with regard to that.

Finally, we will hear about placing the burden on the employers. Why the argument, "Are we doing this to the employers of America? How can we do this and make them the watchdogs of America and make them do the work of a failed Federal Government?" Fascinating. Without employers, we would have no ability to administer the Internal Revenue resources, because the employer gathers up the withholding tax. I have not seen any editorials on that as to the burden on employers.

And now it is curious to me that I also saw an editorial the other day that said that what will happen if the bill is passed is that the American employers will find out they will have to ask somebody whether they are authorized to work. I tell you, that editorial writer has to have drilling rock instead of brain, because that one is on the books already. Since the 1986 bill, you have had to present to the employer the fact that you had an I-9, which is a one-page form authorizing you to work in the United States of America. It has been on the books now for 9 years. Did anybody miss that? I think not.

So you are going to find that that is exactly what employers already have been doing. We are trying to say—and I hope we can get this in; we will see—that if we go to a pilot program and the Attorney General finds that it is accurate and it works, and it is reliable, you will then not need to do the I-9. Skip it right there. Throw it out. But employers are the core of anything we can do with regard to immigration. We are trying to lessen the burden on employers.

The occupant of the chair cited to me a case of an employer in Alaska several years ago who asked the person in front of him for additional documents and therefore was charged with discrimination. We have corrected that completely. Not only that, we do not let them ask for 29 different documents. We have it down to six. And we say there has to be an intent to discriminate before you get nailed for it simply by asking someone for an additional document. And remember—I hope you can hear this in the clatter of the debate—that whatever we do in the way of the identifier, or more secure system, or whatever it is, will be used only twice in the course of human life—when you get a job, or when you go on some kind of public assistance, period. Whatever we have will not be carried on the person, will not be used for law enforcement, will not be any part of any other nefarious Big Brother scheme. That gets lost in the process along with so much that gets lost in the process. What we are trying to do is relieve the burden on employers. We think we can do that.

Then we do something with birth certificates. I hope we can retain that. I think we have a good amendment which will offset the cost of that so we do not make that an unfunded mandate, because the birth certificate is the breeder document of the first order. You get the birth certificate and, with that, you go on to get the driver's license, Social Security card. You can check the obituary columns and find out the death and go get the birth certificate. These things must be corrected.

Legal immigration reform is certainly not the most popular cause that I have been involved in in my 17½ years, yet I have often been involved in such causes. What we are trying to do there is simply stop the phenomenon of chain migration. Chain migration is rather simple as you define it. There is a preference system. Remember that if you are a U.S. citizen, you can bring in your spouse and minor children, and they are not any part of a quota system. Yet they are computed in the entire scope of how many come to the United States. And then you can bring in adult, unmarried children. And also adult, married children. And then we have minor children and spouses of permanent resident aliens. Then we have brothers and sisters of U.S. citizens.

What we are saying is let us take in the spouses and minor children first, and not let somebody bring in on a single-person petition 30, 40, 50, 60, or 70 relatives—all from one U.S. citizen. That is called "chain migration."

I commend the Jordan Commission report to those of you who wish to read about that phenomenon, and see whether you would "join in" in doing something about that.

As I say, it is not a partisan issue. None of these tough ones will be partisan issues. I am sure the Democrats will caucus, and the Republicans will caucus, and we will pound each other around, and at the end of it we will realize that it is the Nation's business, and that it is always very difficult.

But one thing I want to make very clear. I note that since I will be exiting the Chamber at the end of this year, some will speak of this as "SIMPSON's swan song." This bird has never looked like a swan—neither me nor the legislation. It is about a corollary of legislative activity that my friend from Massachusetts has learned well through the years. Any time you look obsessed about a piece of legislation, you are history. I can tell you that. Yet we have come further in these two bills than we have in 10 years. There are people on my side in this one who, if I had said those things 10 years ago, or 5, they would have run me out of town on a rail.

So we have some good things there. But I can assure you of this: Win, lose, or draw, up or down, I did not come here simply to have my name attached to immigration legislation. That is about the biggest political loser in the history of man. It never helped me get a single vote in three races for the U.S. Senate. In fact, people said, "What are you doing? What are you up to? Forget it. It does not affect us."

But it does fall upon those of us from the smaller States and districts, from areas such as Senator McCarran of Nevada, and Representative Walters of the 16th District of Pennsylvania, or Senator SIMPSON, and Mazzoli of Kentucky. The KENNEDYs of this body cannot handle this issue; the FEINSTEINs of this body cannot handle this issue; the Wilsons—when he was here—cannot handle this issue because their constituents will not allow them to do it. Yet this is one issue, one burning issue, that will not go away.

So be assured that your angular, western representative will not be chagrined in any sense with whatever this eventually looks like. But we are surely going to have a good debate. We are going to throw it all in there, get it mashed around. And if I come up with a vote of 92 to 8 on the losing side, that is fine with me. But we are going to have a vote, and we are going to have a debate. We are going to talk about things that the American public is talking about. And that is, "What are you going to do about illegal immigration so that our social systems are not overwhelmed?" And answer their question, "You told us the first duty of a sovereign nation was to control its borders, and you did not do it. Why? You told us that you would do things in the national interest, and you did not do it. Why?" And also watch what they do for themselves. People from States that do not have any real tough immigration problems at all are thinking about proposition 187 type laws. And that is disturbing.

So I hope that we pay careful attention, have a good, rich debate, and not think of swans but maybe of turkeys, or of eagles, because there is a little of each of them in all of this. There are some soaring like-eagle parts in this. And there are some things that do not match any kind of other bird activity.

But this is one that will not go away. It seems to me it is best that we address it while we are all here and in a knowledgeable, civil way, and I look forward to the debate. I look forward particularly to working with newer members of the committee, the subcommittee, and with my friend, TED KENNEDY.

I think it was either Henry James or William James who said, "To do a thing be at it." And we are at it. It is an election year. But anyone who wants to use this one for pure partisan political advantage is making a most serious mistake, it is much bigger than that.

I thank the Chair.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that legislative fellows Tom Perez, Bill Fleming, and Liz Schultz be granted floor privileges during the debate on the immigration bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I ask unanimous consent that John Ratigan be granted floor privileges during the pendency of S. 1664.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I would be glad to yield for a moment to the Senator from North Dakota.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 3667

(Purpose: To express the sense of the Senate that a balanced budget constitutional amendment should protect the Social Security system by excluding the receipts and outlays of the Social Security trust funds from the budget)

Mr. DORGAN. Mr. President, first of all, I understand the Senator from Massachusetts wishes to give an opening statement. I appreciate his indulgence. My son is having a birthday party in about 20 minutes. I promised I was going to be there, and I intend to keep that promise.

I wish to offer a sense-of-the-Senate resolution and want to do that. But before I do that, if the Senator from Massachusetts would indulge me for about 3 minutes, let me say that the Senator from Wyoming has done extraordinary work in the Congress over these years. The Senator from Wyoming mentioned SIMPSON and Mazzoli. He is talking about himself, ALAN SIMPSON, and Romano Mazzoli, with whom I worked in the House of Representatives. They have left their mark on immigration and will again with this legislation. Much of what the Senator from Wyoming has done with respect to illegal immigration is going to be very, very important, and I commend him for his work.

We will have, of course, difficult amendments. But we will work through those. And I hope at the end of the day we will pass some legislation that moves in this direction that will be good for this country.

Now that I have said nice things about the Senator from Wyoming, he will probably now be upset with me for offering a sense-of-the-Senate amendment. But let me tell him that I will certainly agree to a time limit that is very short. I expect tomorrow we will have a vote on this.

The only reason I am constrained to offer this on behalf of myself, Senator DASCHLE, Senator REID, Senator HOLLINGS, Senator FORD, Senator CONRAD, and Senator FEINGOLD is because this will be the only opportunity to do so prior to the majority leader bringing up a constitutional amendment to balance the budget.

The majority leader has announced that he intends to take up his motion to reconsider the vote by which the balanced budget amendment was defeated. Some have said he will do it this week; if not this week, perhaps next week. Under the rules, there will be no debate on the balanced budget amendment this time around.

So in order to have the Senate go on record on this issue prior to that, it was required that I offer a sense-of-the-Senate amendment. My amendment is very simple. I will send it to the desk. It simply indicates:

> It is the sense of the Senate that because Section 13301 of the Budget Enforcement Act prohibits the use of the Social Security trust fund surplus to offset the budget deficit, any proposal for a constitutional amendment to balance the budget should contain a provision creating a firewall between the receipts and outlays of the Social Security trust funds and the rest of the federal budget, and that the constitutional amendment should explicitly forbid using the Social Security trust funds to balance the federal budget.

Because of the circumstances, there would have been no intervening opportunity to discuss this. I will offer this amendment, ask that it be sent to the desk, and that it be immediately considered by the Senate.

Before the clerk reads it, let me say that I do not intend to hold up the immigration bill, and I intend to agree to any reasonable short time agreement. Understand that this does not relate to the underlying bill, but also understand that this will be the only opportunity prior to a vote that Senator DOLE has already announced to the Senate and the country that he intends to require of us. It will be the only opportunity prior to that time for us to register on this question.

Mr. President, I ask for the immediate consideration of my amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from North Dakota [Mr. DORGAN], for himself and Mr. DASCHLE, Mr. REID, Mr. HOLLINGS, Mr. FORD, Mr. CONRAD, and Mr. FEINGOLD proposes an amendment numbered 3667.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the appropriate place, add the following new section:
>
> **SEC. . SENSE OF THE SENATE ON A BALANCED BUDGET CONSTITUTIONAL AMENDMENT.**
>
> It is the sense of the Senate that because Section 13301 of the Budget Enforcement Act prohibits the use of the Social Security trust fund surplus to offset the budget deficit, any proposal for a constitutional amendment to balance the budget should contain a provision creating a firewall between the receipts and outlays of the Social Security trust funds and the rest of the federal budget, and that the constitutional amendment should explicitly forbid using the Social Security trust funds to balance the federal budget.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, as we begin to consider reforms in our Nation's immigration laws, our thoughts also are with our Immigration Commissioner, Doris Meissner, and her children, Chris and Andy, as they cope with the loss of a husband and father. Chuck Meissner was serving ably as the Assistant Secretary of Commerce and he was on Secretary Brown's plane when it crashed in Croatia just 10 days ago. I know that the thoughts and prayers of all of us in the Senate go out to the Meissner family during this very difficult time.

At the outset of this debate on immigration reform, I commend the chairman of the Immigration Subcommittee, Senator SIMPSON, for his able leadership on this landmark legislation, as well as for his able leadership over many years on the many difficult issues involved in immigration.

Senator SIMPSON has always approached these issues thoughtfully and fairly and with an open mind. He is steadfast in his commitment to what he believes is best for America. And I know that all Senators of both parties join in expressing admiration and appreciation for his efforts.

As we consider immigration reform today, we must be mindful of the important role of immigration in our history and our traditions. Immigrants bring to this country a strong love of freedom, respect for democracy, commitment to family and community, fresh energy and ideas, and a strong desire to become a contributing part of this Nation.

As President Kennedy wrote in 1958 in his book, "A Nation of Immigrants":

> There is no part of our nation that has not been touched by our immigrant background. Everywhere immigrants have enriched and strengthened the fabric of American life

Those ideals are widely shared and bipartisan. As President Reagan said in his final speech before leaving the White House:

> We lead the world because, unique among nations, we draw our people—our strength—from every country and every corner of the world. . . .
>
> Thanks to each wave of new arrivals to this land of opportunity, we're a nation forever young, forever bursting with energy and new ideas, and always on the cutting edge, always leading the world to the next frontier. This quality is vital to our future as a nation. If we ever closed the door to new Americans, our leadership in the world would soon be lost.

Across the years, both Republicans and Democrats have been true to these ideals.

Three decades ago, I stood on this floor to manage one of my first bills, which became the Immigration Act of 1965. I believed strongly then, as I do now, that one of the greatest sources of our success as a country is that we are a nation of immigrants. And I remain as convinced today as I was then that immigration under our laws is as beneficial and as needed in America today as it was in 1965 or at any other time in our history.

In 1965, it was clearly time for change in our immigration laws. We eliminated the vestiges of the racist and discriminatory national origins quota system that had denied immigration opportunities to so many for so long based on where they came from.

In the years since then, we have acted several times to strengthen and reform the immigration laws to deal with changing times, changing problems, and changing circumstances.

Congress also passed important reforms in 1986 and 1990. In 1986, the Immigration Reform and Control Act of 1986 set us on the course of removing the job magnet for illegal immigration. That landmark law, sponsored by Senator SIMPSON, made it illegal for the first time for employers to hire illegal immigrants. The reforms that we will consider today build upon that historic change in our immigration laws. And it legalized the status of over 2.7 million undocumented immigrants who had set down roots in America.

The Immigration Act of 1990—which Senator SIMPSON and I sponsored together—was the most sweeping reform of our immigration laws in 66 years. It overhauled our laws regarding legal immigration, the bases for excluding and deporting aliens, and naturalization.

THE CURRENT PROBLEM OF ILLEGAL IMMIGRATION

Today, the paramount problem we face is to deal with the continuing crisis of illegal immigration. As Barbara Jordan reminded us, "We are a country of laws. For our immigration policy to make sense, it is necessary to make distinctions between those who obey the law, and those who violate it." And that's what we must do today.

The Immigration Service estimates that the permanent illegal immigrant population in the United States is now about 4 million, and that the number increases by 300,000 each year. That number is a net figure. The INS estimates that over 2 million illegal immigrants cross our borders each year. About half of them enter legally as tourists or students, but then stay on illegally, long after their visas have expired.

About 1.7 million of the 2 million illegals remain only briefly in this country to work or visit friends and relatives. But 300,000 stay on as part of the remnant illegal alien population.

The illegal immigrants are easily exploited. They tolerate low pay and poor working conditions to avoid being reported to the INS. Their presence depresses the pay and working conditions of many other Americans in the work force. They compete head-to-head in the job market with Americans just entering the work force and with working American families struggling to make ends meet.

Part of the answer to this problem is the increased support in this bill for border patrols in order to prevent the entry of illegal aliens.

But jobs are far and away the biggest magnet attracting illegal aliens to the United States, and we cannot turn off that magnet at the border. We must do more to deny jobs to those who are in the country unlawfully. The most realistic way to turn off the magnet is contained in the provisions that Senator SIMPSON and I sponsored which require the President to develop new and better ways of identifying those who are eligible to work in the United States.

After 3 years of pilot tests, the President is required to present a plan to Congress for a new approach that will deny jobs to illegal immigrants, will be easy for employers to use, will not cause increased employment discrimination, and will protect the privacy of American citizens.

Our provisions state clearly that this system will not involve a national ID card. And our provision provides added insurance by requiring that any plan the President develops must be approved by Congress before it can go into effect.

REFUGEES AND ASYLUM

A further goal for immigration reform is to provide safe haven for refugees fleeing persecution. We should not place arbitrary caps on the number of refugees we decide to bring to the United States for resettlement. The Immigration Subcommittee chose instead to let this number to continue to be set annually, under the terms of the Refugee Act of 1980, and in cooperation with other governments. I was pleased to join with Senator GRASSLEY in addressing this issue in the subcommittee.

We should also oppose arbitrary limits on how long those fleeing persecution can wait before applying for asylum after they enter the United States. The Immigration and Naturalization Service has already made dramatic progress in addressing the abuses that have plagued our asylum system in recent years. In the past year alone, the number of asylum applications has dropped by 57 percent.

Mr. President, this chart indicates what progress has been made in the very recent years. Going back to 1994: asylum claims, 120,000; the completed cases, 60,000.

This year, in 1995, INS received 53,000 new asylum claims and completed 126,000 cases. This is as a result of a variety of different, very constructive actions that have been taken by the INS.

The blue line represents those completed cases. The red lines represent the new claims. So, clearly we see the asylum claims decline by 57 percent as productivity doubles in 1995. Clearly we are making important progress in this area. It has been as a result of a great deal of time consuming, exacting, hard work that has been initiated by the INS. Enormous progress has been made.

We will hear this issue debated. It seems to me we are on the right track already with the INS reforms, and the kinds of suggestions that have been included in the current legislation should give many of us pause.

I commend, in particular, Senator DEWINE, who made a strong case that a 30-day asylum application deadline, originally proposed in the legislation, would exclude those who face the gravest persecution. They are the ones who take many months to organize their affairs, contact an attorney, and gain the confidence to approach the INS with their painful and tragic stories. I believe the 1-year deadline adopted by the committee is a reasonable way to accommodate such humanitarian cases.

The bottom line is that the cases where there appears to be the greatest validity of the persecution claims—the ones involving individuals whose lives would be endangered by a forced return to their particular countries—are often the most reluctant to come forward. They are individuals who have been, in the most instances, severely persecuted. They have been brutalized by their own governments. They have an inherent reluctance to come forward and to review their own stories before authority figures. Many of them are so traumatized by the kinds of persecution and torture that they have undergone, they are psychologically unprepared to be able to do it. It takes a great deal of time for them to develop any kind of confidence in any kind of legal or judicial system, after what they have been through, and to muster the courage to come forward.

That conclusion has been reached by a number of those who have been studying this particular problem. The initial proposal of requiring that there be action taken within 30 days of the person's arrival in the United States failed to understand what the real problem is—and fails to understand the remarkable progress that INS has made in this particular area.

I remain concerned that the so-called expedited exclusion procedures in the legislation will cause us to turn away true refugees. Under this procedure, when a refugee arrives at a U.S. airport with false documents and requests asylum, that person can be turned away immediately if the INS officer believes the person does not have a credible claim. There is no hearing, no access to counsel, not even a requirement for an interpreter.

If it were not for the courageous efforts of Raoul Wallenberg in providing false documents to Jews fleeing Nazi Germany during World War II, many thousands of persecuted refugees would have had no means of escape. This provision runs the risk of turning away all those whom the Raoul Wallenbergs of the future seek to assist.

All we have to do is review the recent history in El Salvador and Nicaragua, and be reminded of some of the egregious kinds of circumstances have been revealed here in the last week or 10 days by members of the religious community, to understand what the real conditions were. To think that an individual who might be able to get out of that oppressive atmosphere with some false documents, with a very legitimate fear of persecution, and come to the airports of this country and be turned away summarily and sent right back on the next plane, is something that I think deserves reevaluation during the course of this debate.

PUBLIC ASSISTANCE

In addition, the immigration reforms in this bill will reduce access to public assistance by illegal immigrants. Illegal immigrants should have access to assistance only in limited situations, where the public health or similar overriding public interest clearly requires it. For example, they should have emergency medical care, immunization, treatment for infectious diseases. These benefit all, because they relate to the public health and are in the public interest. Where the public interest is not served, we should not provide the public assistance to illegal immigrants.

A main issue, however, is how to deal with public assistance for illegal immigrant children in public schools. In an extraordinarily unwise and inhumane action, Republicans in the House, at the urging of Speaker GINGRICH, voted to give States the option to expel such children from their schools. We all know why illegal immigrants come here. As I have said, the magnet is jobs. It is ludicrous to argue that anyone would uproot their family, pay exorbitant sums to a smuggler to cross the border and risk their lives in the effort, all so their children can attend public schools in the United States.

A study by the Committee on Illegal Aliens during the Ford administration concluded that "the availability of work and the lack of sanctions for hiring illegal aliens is the single most important incentive for migration." That has been the conclusion of the Ford administration, the Jordan Commission, the Hesburgh Select Commission on Immigration and Refugee Policy—all have found that the magnet is jobs. That is what we ought to focus on. That is where we ought to give our attention.

As I indicated, this finding was confirmed by the Hesburgh Commission in 1981, and again more recently by the Jordan Commission, which found that "employment opportunity is commonly viewed as the principal magnet which draws illegal aliens to the United States."

We are making steady progress in finding new and better ways of denying jobs to illegal immigrants. It is a serious mistake, and hypocritical, for Republicans in Congress to oppose or weaken this bill's requirement on employers, who are at the heart of the problem, and then punish innocent children, who are not the problem, by expelling them from school. So, I urge the Senate to reject the Speaker's attempt to make Uncle Sam the bully in the schoolyard.

That kind of policy is not only cold and cruel, it is also shortsighted and counterproductive. It may cost money for those children to attend school. But, if they do not, society will end up paying for it in other ways. Police will have major new crime problems on their hands from children out of school and on the streets and into gangs. Teachers will have to start checking the papers of all pupils, whether they are citizens or not. Before starting school each year, children across America would be required to bring documents to school to prove they are American citizens or legal immigrants.

All across America, teachers will have to learn to distinguish between the new green card and the old invalid ones. They must know what refugee documents, passports and valid Social Security cards look like.

School administrators and police have already spoken strongly against this proposal. They are the ones who must deal with the crime and other social problems that will inevitably develop.

What we are basically doing is requiring our schoolteachers, in many different school districts, to turn into police officers and truant officers. Teachers are there to teach children. They have enough challenges to face every day without adding this burden to them. Now, to put the burden on every one of these schoolteachers to become truant officers, and effectively policemen, is unacceptable public policy.

The case has been made by the law enforcement officials, who say you are either going to pay one way or the other. You are going to pay for the students who are going to the schools or you are going to pay for it in terms of crime and a host of other social problems if they do not go to school.

You can imagine, too, Mr. President, a mother who comes over to this country with a child who is a toddler. She brings the child here, then has a baby here in the United States who is an American citizen. That American citizen child goes to the school and his older brother or sister, who is an illegal immigrant, does not. That child is out on the street. That is a wonderful situation, which we are going to absolutely face in this kind of proposal.

The parents would not leave America just because their children cannot go to school. The parents have no choice. They came here because they could not find work at home and they will not go away as long as they can get away with working here illegally and I urge the Senate to reject any such cruel and mindless attempt to punish the children for the sins of the parents.

CONSIDERING ILLEGAL AND LEGAL IMMIGRATION SEPARATELY

In general, this bill does not address the issues of legal immigration. The Senate Judiciary Committee voted 12 to 6 to consider those issues separately and the House of Representatives voted 238-to-183 to do the same. I expect we will have a vote on legal immigration matters later in the debate. I plan to oppose such a move. We must not allow our rightful concerns about illegal immigration to create an unwarranted backlash against legal immigrants who enter under our laws, play by the rules, raise their families, pay their taxes, and contribute to our communities. Combining these issues in a single bill creates precisely that unacceptable possibility. Addressing these matters separately does not mean deferring legal immigration reforms indefinitely. Reforms are required in legal immigration. It is my hope that we can address them soon, but separately.

SAFETY NET FOR LEGAL IMMIGRANTS

In fact, this bill does contain certain provisions relating to legal immigration, and I voted against the entire bill in the committee because of these provisions. They go too far in denying a safety net to legal immigrants. These legal immigrants enter under our laws, play by the rules, pay taxes, contribute to our communities and also serve in the armed services. They deserve a safety net when they fall on hard times.

The record is very complete, Mr. President, that those who are the legal immigrants do not have a greater dependency in terms of these supportive programs than Americans, with the exception of the SSI Program for the elderly. But in these other areas, I can give as many studies that demonstrate that legal immigrants make greater contributions—in terms of paying taxes, by participating in the community, by payroll taxes, by sales taxes, by all of the other factors—than they absorb from the system. If we need to, we will have an opportunity to examine the various studies when we come to the particular amendments. But I do believe the legal immigrants deserve a safety net when they fall on hard times, and I support the provisions in this bill to make sponsors more accountable for the immigrants that they sponsor.

Senator SIMPSON is right not to ban legal immigrants from any program. Instead, the bill's deeming provisions count the immigrant sponsor's income as part of the immigrant's own income in determining whether the immigrant meets the eligibility guidelines for public assistance. For the first time, however, the deeming provision would be broadened by the bill to apply to every means-tested program.

Under the current law, deeming applies only to SSI, AFDC, and food stamps. But under this bill deeming would apply to scores of other programs including school lunches, homeless shelters, community clinics, and even one of the most important means of protecting the public health, the Medicaid Program. Under this bill, illegal immigrants get emergency Medicaid, immunization, treatment of communicable diseases, disaster assistance, and certain other types of aid—no questions asked. But legal immigrants who come here under our laws and play by the rules can get this assistance only after they go through the complicated deeming process. That gives illegal aliens a benefit that legal immigrants cannot receive. It is unfair, and I intend to offer an amendment to correct this injustice.

I am also concerned with the denial of Medicaid to legal immigrants unless they overcome the deeming hurdle. As a practical matter, deeming means that virtually no legal immigrant will get Medicaid assistance. Experience has shown that deeming is very effective in denying access to public assistance programs. I am particularly concerned that this will hurt children and expectant mothers.

I also believe legal immigrants who have served in our Armed Forces should also have a Medicaid safety net for their families in hard times.

Legal immigrants can join the Armed Forces. We have over 20,000 legal immigrants in the Armed Forces today. That young person, who might not have been able to get into college, comes back from Bosnia and wants to go to college and then makes an application and goes to that college and gets a Pell grant for 1 year—for 1 year. And then that young person graduates. He might have been a 19- or 20-year-old kid that for 1 year took the Pell grant. And as a result of that single action, for the rest of his life, he is subject to deportation—immediate deportation. This could occur even after he had served honorably in the Armed Forces.

There may be a lot of heat about doing something about illegal immigration, Mr. President, but that is one of the most extraordinary positions for this country to take. We have a Volunteer Army, certainly now, but when we did not have a Volunteer Army, we had the draft. Legal immigrants are subject to the draft. Some had gone to Vietnam. A number of them were actually killed. Now we are saying if, at any time in the future, they have any particular need, in order to get a benefit, they are going to have the deeming process for the purposes of that particular program.

That is going to be true with regard to the Stafford loans as well. These are programs that are repaid. These are not considered to be welfare programs. They are education programs. We will come back to that issue later in the discussion. These are matters that need attention and focus and amendments.

FAMILY IMMIGRATION

Our immigration laws must continue to honor the reunification of families. I agree it is necessary and appropriate to reduce the number of legal immigrants coming to the United States each year. Obviously, the door is only partly open now and can fairly be closed a little more without violating the Nation's basic ideals of our immigrant heritage and history.

But in achieving such reductions, we must keep certain fundamental principles in mind. We must continue to reunite families. We must remain committed especially to the reunification of immediate family members. Spouses and minor children and parents should be together.

I also believe our citizens should have the ability to bring their adult brothers and sisters to America. We should act to reduce the troubling backlogs that have kept husbands, wives and children separated for many years.

The Judiciary Committee adopted an amendment, which Senator ABRAHAM and I proposed, to reduce overall legal immigration, to establish new priorities for family-based immigration. Our proposal would make visas available to more distant family members only if the more immediate family categories do not need them. For example, brothers and sisters would not get visas as long as there are backlogs of spouses and children.

In this way, we address the concern raised by many about chain migration, the ability of a citizen to bring in a brother, who in turn brings in his wife and children. Once his wife is a citizen, she can then bring in her parents and other family members, and there is an endless chain of immigration. We ought to address that issue.

We believe the amendment that was accepted by the Judiciary Committee recognizes the important recommendations by the Jordan Commission that said give focus and attention to the immediate families. We have done that. We have defined that in a way that we think also includes clearing up of the backlog before there can be any consideration of reunification by the brothers and sisters.

The Kennedy-Abraham proposal solves the problem of family categories that create these chains. These are categories that Senator SIMPSON proposed for total elimination. Our proposal says that these categories remain, but they get visas only if the closer family categories do not need them. And our proposal reduces the level of legal immigration below current law.

After the committee's adoption of the Kennedy-Abraham amendment, the Immigration and Naturalization Service released higher projections of the number of family immigrants expected to enter this country over the next few years. Even under these new projections, our amendment reduces the total immigration below current law. However, we will modify our proposal to provide added insurance that it does fall below the current law.

Mr. President, some in this debate will praise the contributions of immigrants with one breath and then propose to slash family immigration in the next breath.

They say, "We want your skills and ingenuity, but leave your brothers and sisters behind. We want your commitment to freedom and democracy, but not your mother. We want you to help us rebuild our inner cities and cure diseases, but we do not want your grandchildren. We want your family values, but not your families." I urge the Senate to reject this hypocrisy and treat immigrant families fairly.

DIVERSITY IMMIGRATION

Mr. President, reforms in legal immigration also must retain the diversity program established in the Immigration Act of 1990. This small but important program provides visas to countries that have low immigration to the United States and are shortchanged by our immigration laws. A number of countries made good use of this program in the past 6 years. These countries otherwise would have little or no immigration to the United States, such as Poland, South Africa, and Ireland. The Judiciary Committee agreed to retain the program, but reduced the number of visas available each year from 55,000 to 27,000.

PROTECTING AMERICAN WORKERS

Increasingly, Mr. President, in recent years we have come to realize that our immigration laws do not adequately protect working families in America. Reforms are urgently needed here. I intend to offer them at the appropriate time. In spite of the net creation of more than 8 million new jobs in the economy over the past 3 years, and in spite of continued low unemployment and inflation, and in spite of steady economic growth—job dislocations and stagnant family income are leaving millions of American working families anxious and unsettled about their future.

Since 1973, real family income has fallen 60 percent for all Americans. More than 9 million workers permanently lost their jobs from 1991 to 1993. Even as new jobs are created, other jobs have been steadily disappearing at the rate of about 3 million a year since 1992.

In the defense sector alone, more than 2 million jobs have been lost since the end of the cold war. About 70 percent of laid-off workers find another job, but only a third end up in equally paying or better jobs. What we are witnessing is a wholesale slide toward the bottom for the American worker. According to Fortune Magazine, the percentage of workers who said their job security was good or very good declined from 75 percent in the early 1980's, to 51 percent in the early 1990's. In a 1994 survey of more than 350,000 American workers, the International Survey Research Corp. found that 44 percent of American workers fear they may be fired or laid off. In 1990, the figure was only 20 percent.

For the first time ever there are more unemployed white-collar workers than blue-collar workers in America. Yet most of the foreign workers who come in today under our immigration laws are for white-collar jobs. With corporate downsizing and outsourcing, a quarter of the American work force is dependent on temporary jobs for a living. Yet under the immigration laws, we admit hundreds of thousands of foreign workers for so-called temporary jobs which are defined in the immigration laws as jobs that can last up to 6 years.

As working families in America try to put food on the table, employers are bringing in hundreds of thousands of foreign workers into good, middle-class jobs. Yet in most cases they are not even required to offer the jobs to Americans first. We understand that they are bringing in the foreign workers from overseas without even the requirement to offer those jobs to Americans first.

As American workers become increasingly concerned about job security and putting their children through college, it is perfectly legal under the immigration laws for employers to lay off qualified American workers and replace them with foreign workers and offer them a lower wage.

A new study released last Friday by the Labor Department's inspector general proves that the current means of protecting American workers under the immigration law simply do not work. Charles Masten, the inspector general, reported to Labor Secretary Reich:

> The programs do not protect U.S. workers' jobs or wages from foreign labor. Moreover, we found [that the] Department of Labor's role under the current program design amounts to little more than a paper shuffle for the program and a rubber stamping of applications. We believe program changes must be made to ensure that U.S. workers' jobs are protected and that their wage levels are not eroded by foreign labor.

The report of the inspector general is astounding. He found that 98.7 percent of workers whom employers are supposedly bringing into the United States are in fact already here. So when employers go through the charade of trying to recruit Americans first, the foreign worker is already here 98 percent of the time. And 74 percent of those foreign workers were already on the employers' payroll at the time the employer was supposedly required to recruit for American workers first. Do we understand that? So 74 percent of the foreign workers were already on the employers' payroll at the time the employer was supposedly required to recruit for American workers first.

Among workers that employers sponsor as immigrants, 10 percent never worked for the sponsoring employer. Once they got their green card, they immediately went to work for someone else. Of those who did actually work for the sponsoring employer, fully one-third left the job within 1 year. In effectively 60 percent of the cases, employers do not even bother to fill the job again once the immigrant leaves. In most cases in which the employer does refill the job, an American is hired 75 percent of the time.

These figures prove that the jobs are offered as a sham to get a particular immigrant a green card once they go through this hocus-pocus. That is a sham. They already have the worker in place. As I will point out later, only 5 Americans out of 28,000 that have applied for these jobs, if they were basically offered them, have ever gotten the job. So they are filled with foreign workers. There is a reasonable chance that they have fired American workers previously.

Then once those workers are working and have gone through this process, they leave. They leave the employment, and then the employer goes out and gets somebody else. It is basically a sham. It places American workers at an enormous disadvantage. The inspector general says that over the period of his audit, the employment service referred 28,000 U.S. workers for interviews for 10,000 jobs that employers wanted to give to immigrants, and only five U.S. workers got the jobs. That is outrageous. These figures apply to the category of "permanent immigrant workers."

But the inspector general also found rampant abuse of American workers in the temporary worker program. There are two programs, Mr. President. There is the permanent program, where we have the authorization of up to 140,000 of what will be called the best and the brightest. I am going to come back to that. A more modest figure was approved here in 1990, but came out of the conference at the 140,000.

Some of those entering—for example, the Nobel laureate types—really are the best and the brightest. They can come into the United States without any requirement by the employer to recruit U.S. workers first. That is defined currently into law. I support that program.

All other permanent employment-based immigrants have go through the labor certification process—a procedure of reaching out to American workers.

That whole process is a sham. That whole process is a sham. That is what the IG report has pointed out—that 97 percent of the workers are already in their jobs and that they have been working there already for some period of time. Out of 28,000 applications, only 5 Americans got the job. And once the foreign workers get their permanent status, they can then leave because they effectively have their work permit, their green card. They can go for some other job. It is a revolving door. It is a sham in terms of protecting American workers.

The second program is for what is called the temporary workers. Up to 65,000 come in each year, though the number varies from year to year. For those individuals to enter—all we need is an employer to say that this individual has either the equivalent of a college education or 2 years of work experience. They do not have to go out or even go through the process to try to get American workers. Once they are in there, they can be in there for 6 years. That is a temporary job. What happens is they come in on a temporary worker visa, they stay for the 6 years allowed, they want to be here permanently, so they ask their employer, "Look, I've been 6 years in my job. Will you go for one of the permanent ones for me?" The employer says, "OK. I know you have worked for us. I will make that application." Once they get it, they get the green card and go out the door.

That is effectively what is happening. It is a sham protection, something which is absolutely wrong and has to be redressed.

Now, Mr. President, I want to just take a moment of the time of the Senate to really get into where we are on these issues of the permanent work force and the temporary work force. This chart shows the permanent work force, the provision that said we need to open up the work force to let these best and the brightest come on into the United States of America. I remember that debate very clearly here. I believe it was the Senator from Pennsylvania, Senator SPECTER, who offered it at that time as part of the Immigration Act of 1990.

The Department of Labor did surveys of which industry employees could help energize the American economy at that time. Those would be individuals who, when placed in a particular industry, could multiply jobs because they were the best minds, and had special training and ability, and could add that special kind of insight, expertise, knowledge, and creativity to expand employment. It was perceived at that time, according to the National Science Foundation, that we were going to have critical shortages of scientists during that period of time. That is why Congress adopted the 140,000 number.

Now, looking at who has been included under the "Best and the Brightest" under this chart. As this chart reveals, very few are actually the best and brightest—the Nobel Laureate-type or some unique type of academician or expert. These are let in without labor screening.

The rest are let in here through the sham process of requiring employers to recruit U.S. workers first.

We took the time to go and see who these are. It is very interesting who they are: 12.9 percent are cooks; 10 percent are engineers on this chart; professors, 7.3 percent; also includes accountants and auditors, auto repair, tailors, jewelers. The area of "computer-related" is 17.8 percent; 31 percent are all less than 1 percent of those coming in here.

Mr. President, we have seen, as most recently the National Science Foundation has pointed out, the figures of 6 or 8 years ago, having shortages in various skills, they now find did not come about. Today, we have 60,000 qualified unemployed American engineers. Yet about 6,000 foreign engineers came in as immigrants. We have 60,000 Americans who are qualified for that position. They are never given the opportunity to really try for that position.

What is wrong with American workers? What is wrong with those? Nonetheless, we have heard the power of many of the business interests who said, "Do not tamper with that particular provision. Do not tamper with it because it will effectively stop our economy."

Mr. President, we ought to look and see that today under the more recent studies that have been done all indicate that with the exception of that very small group of the best and brightest—that amounts to about 20,000, which includes their families—we really do not need the sham recruitment requirement that is in current law. We certainly ought to establish a way to make sure that we will ask and find out if there are Americans ready, willing, and able to do this job before we bring in the foreign workers.

Now, Mr. President, looking at the other provision, where we talk about the temporary workers—the alleged temporary worker provision; 65,000 can come in each year under the immigration law. This chart gives an idea, in the black, which are the temporary workers, of the salaries they make. Look at the salaries they are making. If you take the two columns together, which is about 85 or 90 percent of all of the workers that come on in here as the temporaries, they are making less than $50,000.

Where are all the geniuses? Where are the Albert Einsteins that keep coming in here? Where are all of these people, when close to 90 percent of them are making less than $50,000? It is only the small numbers that come in up at this level that are the ablest and most gifted, the ones that really provide the impetus in terms of the American economy. They ought to be able to come on in to this country and provide their skills.

Mr. President, when we get down to it, we find that the great numbers are basically white-collar kinds of jobs—$50,000—that is a good salary. And they are effectively displacing the Americans from these solid, good, middle-class jobs.

Mr. President, let us look now at who is coming in under the temporary worker program. These are individuals where all the employer has to say is that the individual coming over has completed college or had 2 years of experience, and the employers provide what are called "attestations" that they will pay them a reasonable wage. These are the temporaries. Half of them are physical therapists. Mr. President, 50 percent of them are physical therapists. It was true that we had a shortage of physical therapists at one time. But our labor market is recovering now.

Mr. President, 23 percent are computer-related. The rest fall into a wide variety of different categories.

Mr. President, when we have 50 percent in this program who are physical therapists when so many community colleges and other fine schools and State universities are producing them today, individuals who want and deserve to be able to have a crack at the job, and we are bringing that kind of percentage in here, it does not make sense. It does not make sense, Mr. President. We are effectively denying good, decent jobs to Americans that want to work, can work, have the skills to be able to work, so that others—foreigners—can come in.

What happens, Mr. President, is that those who come in under this program that I just mentioned here, the H-1 Program, are exploited. Why? Because they cannot leave the job that they are on. If they leave, they are illegal. So once they sign up, they are stuck with that employer for the whole 6 years, with no guarantee that they will have to receive any level of wages. Once you bring that person in, you can lower their wage—absolutely lower their wage—and get away with it. You can deny them any benefits at all.

What we will hear from the other side is that there can be an investigation of their conditions on being exploited. The only thing you have to do is get a complaint from someone. Well, who in the world is ever going to complain when they know once they complain they can be thrown out of the country? Under the Republican proposal, the Department of Labor cannot interfere even if they have reason to believe there is exploitation on this, unless they receive a complaint. Anything else has been prohibited under the Republican proposal.

Mr. President, this is a matter, I believe, of importance and consequence to working families. These are important jobs where Americans are available. In each of these categories, except at the very top level of immigration, there are more than enough Americans who are available for those jobs, and who want those jobs. Those are good jobs. Still, we find that they are unable to compete. I think that is wrong.

No piece of legislation ought to go through here that has that kind of depressing effect on wages, because, as I mentioned before, once someone enters under the H-1B program, they can drive the wages right down. They can replace American workers. Once employers get the foreign worker in, they can drive the wages down, which they more often do than not. We have had testimony in our Subcommittee that supports that. We had the testimony of a small businessman down in southern Texas that supplied workers for a number of companies in Texas who came up and asked him to replace his American workers with foreign workers in order to drive his costs down. It is absolutely wrong. We will have a chance on this legislation to work it through.

I see others that want to speak on the measure. Let me move toward a final item. Mr. President, with regard to the employment programs, as I mentioned before, both the IG from the Labor Department and the testimony is really quite complete. This is an area that ought to be addressed because of its impact in terms of American workers and the fact that it really, when we look behind the curtain of these programs, you find out there are good jobs that Americans are qualified for and that they deserve.

There are two, and only two, legitimate bases for employment-based immigration.

First, it can bring the world's best and brightest into our country to create jobs and improve our competitive position. We should welcome legitimate scientists, legitimate business leaders, legitimate artists and performers without hesitation. They enhance our economy, create jobs for U.S. workers, enrich our cultural life, and strengthen our society.

Second, employment-based immigration can meet skills shortages that arise in a growing economy, particularly an economy like ours that relies heavily on scientific and technological innovation for its growth and success. In certain circumstances, an employer's demand for skills cannot be met with sufficient speed or in adequate quantity by U.S. workers. In these circumstances, foreign workers can fill the skills gap, while the domestic labor market and the education and job training system adjust to the rising demand for workers with new or different skills.

Clearly, there are legitimate purposes for employment-based immigration. But we must also recognize that allowing employers to bring in foreign workers has an adverse effect on U.S. workers. Remaining globally competitive should never mean driving down the wages of U.S. workers and increasing their growing sense of insecurity in the workplace.

Instead, in reforming the employment-based immigration programs, we must assure that U.S. workers have a fair opportunity to get and keep good jobs and raise their family incomes. Four changes in the current system are needed to give U.S. workers this assurance of fairness and opportunity.

First, we must protect U.S. workers who already have good jobs from being laid off and replaced with foreign workers. With all the talk of job insecurity, corporate and defense downsizing, and stagnant family income, working families have a right to know that the immigration laws are not being abused to take away their jobs.

Second, we must give U.S. workers who have the skills and are willing, available, and qualified for these jobs a fair opportunity to be recruited for those jobs. Maintaining a strong and growing economy requires that U.S. workers obtain the training they need to merit global competition, and that they have a fair opportunity to use their skills in high-wage, high-skill jobs. We cannot expect working families to improve their economic status if we post "Road Closed" signs on the road to higher standards of living.

Third, when a job can be filled by a U.S. worker with a reasonable amount of training within a reasonable period of time, we must assure that the U.S. worker has a fair opportunity to obtain that training and get that job.

Fourth, and more generally, we must give U.S. workers a better chance at getting high-wage, high-skill jobs, without shutting off the safety valve of access to foreign labor markets that some employers may need to meet demands that U.S. workers cannot supply in sufficient quantity or with sufficient speed.

THE PERMANENT IMMIGRANT WORKER PROGRAM

There are two ways for employers to obtain foreign workers for jobs in the United States. The workers can be admitted permanently and become lawful permanent residents through the permanent immigrant worker program. Or, they can be admitted temporarily through one of several temporary, or nonimmigrant, worker programs.

Under current law, 140,000 foreign workers can be admitted into the United States each year through the Permanent Immigrant Worker program. These workers can run the gamut in skills from the most advanced Nobel Prize scientist to unskilled housekeepers and busboys.

One of the most significant changes we made in our system of legal immigration in 1990—the last time we attempted to reform employment-based immigration—was to increase by nearly threefold the numerical ceiling on employment-based immigrants. The number rose from 54,000 to 140,000 each year, and the changes also favored higher skilled immigrants. We did so because of dire warnings of serious high-skill labor shortages that we were all concerned would harm our economic growth, global competitiveness, and our potential to create high-skill, high-wage jobs for U.S. workers.

But these labor shortages never developed. In fact, actual use of the employment-based immigrant program for skilled workers has never come close to reaching the new ceiling level, and it has declined in the last 2 years. The closest we came to the ceiling was in 1993 when nearly 27,000 visas were used for Chinese students under the now-expired Chinese Student Protection Act. Another 10,000 visas were used for unskilled workers.

Use of the employment-based immigrant program for skilled workers and unskilled workers over the last 5 years has been well below the ceiling. In 1993, we admitted a total of 110,130. In 1994, we admitted 92,604, a 16-percent reduction from the previous year. In 1995, we admitted 73,239, a 21 percent reduction from the previous year. In sum, the numbers are well below the cap, and they have also been declining in each of the past several years.

At a time when we are seeking moderate reductions in legal immigration and reducing the visas available for reunifying families, we should also be reducing the employment-based immigration—especially when the positions are not being used and the trend-line is down. It is not fair that the whole weight of the reductions in the number of legal immigrants should be borne by families and diversity immigrants.

Reducing the ceiling on employment-based immigration is not the same as cutting employment-based immigration. In fact, the reform I intend to propose—adjusting the cap on employment-based immigration from 140,000 to 100,000—would allow actual employment-based immigration to grow by one-third in future years—from 75,000 in 1995 to 100,000. Under current law and the pending bill, the program would nearly double in size.

It is clear that we went too far in 1990 when we increased the ceiling on employment-based immigration to 140,000. The three-fold increase was not needed and has not been approached by actual use. We should pare it back to the more reasonable number of 100,000, as recommended by the Jordan Commission and the Clinton administration. That line still allows reasonable growth in this category, and it also protects our national interest in economic growth, global competitiveness, and domestic job creation.

But immigration is about a great deal more than numbers. It is fundamentally about people. When we consider employment-based immigration, we must have a clear understanding of the kind of people we are admitting to our country and what skills and abilities they are bringing in with them.

Under current law, we divide permanent immigrant workers into two categories: immigrants who are subject to labor certification and immigrants who can be admitted without labor certification.

Labor certification is supposed to serve as a requirement that employers first recruit U.S. workers for a job, before seeking immigrant workers. Some workers are so exceptional that we should admit them regardless of the state of the domestic labor market. But employers should be permitted to obtain other foreign workers only if no U.S. workers with similar skills are willing, available, and qualified for the jobs into which the immigrant workers will be placed.

Those who are not subject to labor certification fit into the best and brightest category. In 1995, the category included 1,200 aliens of extraordinary ability, including recipients of major honors, great commercial success, or leadership positions in their field; more than 1,600 outstanding professors and researchers; almost 4,000 multinational executives and managers; and almost 3,000 special immigrants, who are primarily outstanding clerics.

The best and brightest are the job creators, men and women whose contributions to our country will undoubtedly be dramatic and substantial. We should welcome them without hesitation. Current law permits it, and should remain unchanged.

The workers subject to labor certification, on the other hand, are rarely the best and brightest. They are skilled workers, workers with advanced degrees or baccalaureate degrees. Under current law, up to 10,000 of them can be unskilled workers.

There is no reason for employers in this country to bring in unskilled immigrant workers. There is an abundance, even an overabundance, of unskilled U.S. workers looking for work. The Judiciary Committee supported my amendment almost unanimously to delete the unskilled category from the permanent immigrant worker program. Plainly, unskilled immigrants do not fit into either of the two categories of workers who should be welcomed into our country—the best and brightest and workers needed to fill skills shortages.

Apart from unskilled workers, the immigrants subject to labor certification are professionals with advanced degrees, professionals with baccalaureate degrees, and skilled workers. They may be needed to satisfy skill shortages. But employers may also put these workers in competition with thousands of U.S. workers for jobs that could be filled from the domestic work force.

Employers use these permanent immigrant workers to fill many positions—cooks, computer programmers, engineers of all types, teachers, retail and wholesale managers, accountants and auditors, biologists, auto repair mechanics, university professors, and tailors.

One useful measure of the skill level of these workers is their salaries. Employers tell the Labor Department how much they plan to pay the skilled immigrants they are seeking. Eighty percent of the jobs for foreign workers subject to labor certification pay $50,000 a year or less. Fewer than 3 percent of these jobs pay $80,000 or more.

A small number of employers use this employment-based immigration program to seek out the best and brightest, but it is clearly the exception, not the rule. A large number of working families in Massachusetts and across the United States would be gratified to have an opportunity to earn $50,000 a year working in computer programming. It is vitally important that we make certain that employers use this immigration program only to fill jobs for which qualified U.S. workers are not available.

We must have a labor certification process which actually results in employers successfully recruiting U.S. workers for these skilled jobs. At present, the Department of Labor certifies an employer's application for an immigrant worker based on a complex, labor-intensive, and expensive preadmission screening system. The current system does not and cannot assure that the conditions required for certification are actually achieved when the immigrant worker is employed. The Commission on Immigration Reform estimated that labor certification costs employers $10,000 per immigrant for administrative, paperwork, and legal costs.

To bring in these skilled immigrants, an employer must demonstrate that it was unsuccessful in finding a qualified U.S. worker to do the job, and that the job will pay at least the locally prevailing wage. Any employer who uses this employment-based immigration system will tell you that it takes a long time and an excessive amount of documentation.

The basic problem with this labor certification system is not that it is expensive and time consuming, but that it does not assure that able, available, willing, and qualified U.S. workers get the jobs. In fact, there is very little genuine recruitment.

Consider the case of Tony Rosaci and the members of his local union. Tony is the secretary-treasurer of Iron Workers Local Union No. 455 in New York City. The members of this local union helped build New York. They were the backbone of the effort to rehabilitate the Statue of Liberty. But when well-qualified members of the local union responded to more than 65 help wanted ads placed in New York newspapers by employers seeking permanent immigrant workers, they were rejected each time in favor of foreign workers. There were 65 referrals of qualified U.S. workers, and 65 rejections.

The story of Tony Rosaci's union members is not the exception. The Labor Department inspector general found that in all of the cases where employers complete the labor certification process, their recruitment efforts do not result in a U.S. worker getting the job in 99.98 percent of the cases—99.98 percent. That means a U.S. worker gets hired only 1 in 5,000 times. The system isn't working. It is badly broken.

U.S. workers do not have a fair opportunity to get these jobs because, in the overwhelming majority of cases, there is already a foreign temporary worker in the job who is trying to adjust to permanent status. The image that we all have of foreign workers waiting in their home countries until they are admitted to the United States under the employment-based immigration system is a fallacy.

In 1994, 42 percent of labor certified workers who gained permanent admission came directly from the temporary worker program. Some unknown additional number are either working illegally for their employer, or simply leave the country for a short period of time to expedite their application for permanent admission to the United States.

The Labor Department estimates that as many as 90 percent or more of the foreign workers admitted permanently to the United States have worked for the same employer who is helping the worker adjust to permanent status. Simply put, U.S. workers cannot get these jobs, because foreign temporary workers or illegally employed foreign workers are already in these jobs.

Employers use the labor certification system to make it look as though they are engaging in genuine recruitment. In reality, they intend all along to keep the foreign workers who are already working for them. Employers frequently create position descriptions for which only the incumbent worker can qualify. As a result, referrals of well-qualified U.S. workers in response to advertisements for these jobs—the humiliating experience shared by the members of Tony Rosaci's local union and thousands of other U.S. workers—waste everyone's time and add insult to injury for U.S. workers.

This system is a sham. It must be changed to give U.S. workers the fair opportunity they deserve to get these high-wage, high-skill jobs, and assure the public that the employment-based immigration system serves its stated purpose.

U.S. workers deserve a fair and genuine opportunity to get and keep high-wage, high-skill jobs before they are filled by the foreign temporary workers who will later become permanent immigrant workers. The best opportunity for U.S. workers to get these good jobs is at the front end of employment-based immigration—before foreign temporary workers fill the vacancy.

To achieve this goal, we must reform the temporary worker program—the principal path through which foreign skilled workers are admitted to the United States. We must add a requirement that employers recruit U.S. workers, before the jobs can be filled with foreign temporary workers.

But we must also change the permanent program. Instead of requiring the Department of Labor to conduct meaningless labor certification for every employer, the Department's Employment Service should instead target its enforcement to the employers most likely to present a problem. In this way, employers who play by the rules or who are not in a problem industry would not be subjected to labor certification. Employers who seek to adjust a worker's status from temporary to permanent, and who demonstrate that they engaged in a bona fide but unsuccessful recruitment effort before filling the job with a foreign temporary worker, would not be required to go through labor certification.

These reforms, combined with effective enforcement by the Labor Department, should help give U.S. workers a fairer chance at these jobs, and free employers from participation in a sham labor certification process.

UNDERSTANDING THE TEMPORARY WORKER PROGRAM

In order to fully understand the permanent immigrant program, it is necessary to understand the principal nonimmigrant employment-based program, called the H-1B Program. This program permits U.S. employers to bring into the United States skilled workers with college or higher degrees. The program is capped at 65,000 new visas each year, but employers can keep such workers in the United States for up to 6 years. Thus, there can be almost 400,000 H-1B workers in the United States at one time.

The program was originally conceived as a means to meet employers' temporary needs for unique, highly skilled professionals. But many employers use the program to bring into the United States relatively large numbers of foreign temporary workers with little or no formal training beyond a 4-year college degree. The typical foreign temporary worker is not a one-of-a-kind professor or a Ph.D. engineer as some news stories suggest and the business lobby would have us believe.

For fiscal year 1994, employers' applications for health care therapists—primarily physical therapists and occupational therapists—accounted for one-half—49.9 percent—of all H-1B jobs. Computer-related occupations accounted for almost one-quarter—23.9 percent—of these jobs. As with the permanent program, wage data from H-1B applications indicate that almost two-thirds—65 percent—of H-1B jobs pay $40,000 or less, and almost 3 out of 4—75 percent—jobs pay $50,000 or less.

Under current law, there is no obligation for employers to try to recruit qualified U.S. workers for these jobs. The only thing the employer must do is submit a one-page form. Employers must give the title of the job, the salary they intend to pay, and attest to four facts: First, they will pay the higher of the actual wage paid to similarly employed workers or the prevailing wage; second, they are not the subject of a strike or lockout; third, they have posted the requisite notice for their U.S. workers; and fourth, the working conditions of similarly employed U.S. workers will not be adversely affected.

This form is the only requirement. No other documentation is required of the employer. Current law gives the Labor Department 7 days to review these one-page forms, and prohibits the Department from rejecting the forms unless they are incomplete or have obvious inaccuracies. In simple terms, the H-1B Program is an open door for 65,000 skilled foreign workers to enter the United States each year.

This is one reason why Americans are so cynical about our immigration laws. This system is intended to help U.S. employers remain competitive in the face of technological change and competitive global markets. Instead, the system permits employers to bring in foreign temporary workers regardless of whether qualified U.S. workers are available, or even if U.S. workers are currently holding the jobs into which the foreign temporary workers are going to be placed. We must reform the H-1B Program.

S. 1665 "REFORMS" TAKE US IN THE WRONG DIRECTION

Unfortunately, the reforms currently contained in the legal immigration bill are inadequate if our goal is to assure U.S. workers a fair opportunity to get and keep high-wage, high-skill jobs.

Over my objections and those of many other Democratic Members, the Judiciary Committee stripped out many sensible reforms to the employment-based programs. The Judiciary Committee then made changes for foreign temporary professional workers. The changes were touted by their sponsors as providing layoff protection to American workers, and as giving the Department of Labor latitude in investigating companies that rely on temporary foreign workers.

The current bill does neither of these things. In fact, anyone who looks carefully at the current bill will conclude that it does just the opposite.

S. 1665 embraces the agenda of corporate America at the expense of American workers. The changes in the H-1B Program would have the overall effect of further weakening protections for U.S. workers from unfair competition with foreign workers, even though the protections in the existing program are already demonstrably inadequate. Current law does not require U.S. employers to recruit in the domestic labor market first, nor does it prohibit employers from hiring foreign workers to replace laid off U.S. workers in the same job.

To the contrary, S. 1665 provides no protection from employers who fire U.S. workers and hire foreign workers. In fact, S. 1665 is an endorsement of laying off U.S. workers in favor of foreign workers. We must strengthen current law to stop this from happening—not weaken current law and invite it to happen more.

The failure to protect U.S. workers from layoffs is not the only area in which this bill fails to protect U.S. workers. If S. 1665 becomes law existing worker protections would not apply to the large majority of employers who use the H-1B program;

Employers would be subject to lower wage payment requirements for foreign workers; and,

The Labor Department's enforcement ability to protect U.S. workers and foreign workers would be sharply curtailed.

In sum, the bill goes in exactly the wrong direction by making an already troublesome H-1B program even worse.

Instead, we need genuine reform of the H-1B program to protect U.S. workers and give them a fair opportunity to get and keep high-wage, high-skill jobs.

First, as with the program for permanent immigrants, we should make it illegal to lay off qualified American workers and replace them with temporary foreign workers.

Recent case histories have gained wide public attention because they are shocking to all of us. Syntel, Inc., is a Michigan company with more than 80 percent foreign temporary workers, primarily computer analysts from India. In its business operations, Syntel contracts to provide computer personnel and services to other companies. In New Jersey, Syntel contracted with American International Group, a large insurance company, to provide computer services. Linda Kilcrease worked for AIG.

One day, without notice, AIG fired Linda along with 200 of her co-workers and replaced them with foreign temporary workers from Syntel. Adding insult to injury, Linda and her coworkers were forced to train their replacements during their final weeks on the job.

David Hoff was a database administrator in Arizona with Allied Signal, a defense contractor. David was asked to train two foreign workers to do his job. When he realized the company was about to replace him, he left the job and refused to train his foreign replacements.

Julie Cairns-Rubin worked for Sealand Services, a major shipping and trucking company, writing and maintaining computer software systems for the company's finances. She worked during the day and took night classes for advanced computer skills. Her training, hard work, and dedication were supposed to give her greater job security. Instead, Sealand fired Julie and replaced her with a foreign worker. Now Julie is unemployed.

Julie Cairns-Rubin, David Huff, and Linda Kilcrease should be rewarded for their skills and working hard for their employers. They are supposed to live the American dream. But the H-1B program under current law turns the American dream into the American nightmare, and S. 1665 makes this nightmare even worse.

John Martin owns a high-technology firm in Houston. He has been under pressure from clients to lay off his U.S. workers and bring in cheaper foreign workers at lower wages in order to cut costs. He refused, and has lost contracts to cheaper, H-1B firms as a result. John is an employer trying to play by the rules. But he can't compete with firms bringing in cheaper foreign labor.

Our law permits and encourages this behavior. Public outrage at such widely publicized layoffs are tarnishing our entire immigration system and adding to the growing sense of insecurity felt by U.S. workers. There is no legitimate justification for laying off U.S. workers and replacing them with foreign workers, and our immigration laws should prohibit it.

A second needed reform is to require employers to recruit for U.S. workers first, before being allowed to apply for a temporary foreign worker. Current law does not contain this simple, common sense principle—and it should.

Most employers who use the H-1B program say they are continuously recruiting in the domestic labor market, and would prefer hiring U.S. workers. So this change should not impose any hardship or additional burden on these employers.

This reform is simple and straightforward. Employers applying for a foreign worker under the H-1B program would have to check one additional box on their application form attesting that they have taken and are taking steps to recruit and retain U.S. workers—which employers assure us they are already doing.

The employer would attest that it had recruited in the domestic labor market using industry-wide standard recruitment procedures. Government would not mandate this standard.

If high-technology industries recruit quickly to win business, then that's the industry-wide standard that should be recognized under the immigration laws. This step will not delay firms which need workers quickly. But it will make sure that American workers get first crack at these good jobs.

The employer would also confirm that its recruitment offered the locally prevailing wage or the wage it actually pays similar workers, whichever is higher. Employers hiring foreign workers are already required, under current law, to pay these workers the higher of the actual or locally prevailing wage, so this reform imposes no new wage obligation. The reform would merely establish that the employer recruited U.S. workers by offering the same wages and other compensation that it would be obligated to pay to its foreign workers. That's only fair to U.S. workers.

This reform does not establish any new prevailing wage system. Under current law, employers must ascertain and promise to pay at least the locally prevailing wage. Employers can go to their State employment security agency to get the prevailing wage. Or, under current law, employers can rely on an "independent authoritative source" or another "legitimate source" for prevailing wage data. They are not required to come to the government to get this information under current law, and nothing I intend to propose would change that.

The employer would also attest that its domestic recruitment was unsuccessful. In other words, the employer need only state that it could not find a qualified U.S. worker for the job. Employers already tell us they face the problem of being unable to find available U.S. workers. It is this failure in the domestic labor market that the H-1B Program is supposed to address.

There are certain circumstances in which we would all agree that an employer should not be required to seek a U.S. worker. Existing law exempts from labor certification—and thereby from any recruitment requirement—foreign workers of extraordinary ability, outstanding professors and researchers, certain multinational executives and managers, and renowned clerics. These are truly the best and the brightest. They are Nobel-level scientists, the tenure-track professors, and top researchers. They should be admitted to the United States because they are unique and because there is no dispute that they will improve our society and increase our competitiveness. If we can get them, we should admit them.

If H-1B workers qualify under the permanent worker program as individuals with "extraordinary ability" or an "outstanding professor or researcher," the employer could also hire them and bring them into the United States as H-1B workers, without having to engage in domestic recruitment. This is a reasonable accommodation of the concerns expressed by the business community, without jeopardizing U.S. workers.

In every other case, however, we are short-changing U.S. workers and our own national interests if we don't expect employers to recruit in the U.S. for jobs for which they are seeking foreign workers.

The third and final change I propose to the H-1B Program is to reduce the term of the visa from 6 years to 3 years. This is supposed to be a temporary visa, but most Americans would call it a permanent job. In fact, Americans from 25 to 34 years of age change jobs every 3½ years. Those age 35 to 44 change every 6 years.

Importing needed skills should usually be a short-term response to urgent needs, while adjusting to quickly changing circumstances.

Reducing the terms from 6 years to 3 years will also reduce the maximum number of foreign temporary workers in the country at any one time from about 400,000 to about 200,000. The 3-year period will also assure that these temporary workers are, indeed, temporary.

This change is important not only for U.S. workers who already have the skills for good jobs, but also for those who would like to acquire the necessary skills. The labor market will correct imbalances in the demand and supply of needed skills if it receives the proper signals. Allowing foreign temporary workers to stay in the United States for 6 years sends the wrong signal. The only valid, long-term response to skills shortages is training U.S. workers. A 3-year stay will promote skills training and job opportunities for qualified U.S. workers, and help overcome the wage stagnation affecting so many working families.

GIVING THE LABOR DEPARTMENT THE ENFORCEMENT AUTHORITY IT NEEDS

I have discussed a long list of reforms that are needed in the permanent worker program and the H-1B Temporary Worker Program. These reforms can help assure that employment-based immigration is fair to U.S. workers. It is vital that we enact these reforms. But they will be nothing more than empty words in the United States Code if the Labor Department does not have the enforcement authority to assure widespread compliance.

We must end the current mismatch of enforcement authority. The Department of Labor has the power to respond to complaints, initiate investigations, and conduct audits under the temporary worker program, although S. 1665 would unwisely curb these powers. However, under the permanent program, the authority of the Department ends once the immigrant arrives on our shores. After the worker is here, there is little the Department can do to ensure that employers pay the prevailing wage and meet other terms and conditions of employment.

We must give the Department essentially the same post-admission enforcement powers for permanent foreign workers that it already has for temporary workers. Often, the temporary workers become permanent workers. The Department of Labor ought to have the same power to assure compliance after the workers convert to permanent resident status as before.

Such enforcement powers are important as a safeguard for workers' rights. They also ensure that the recruitment mechanism functions properly. To ensure that these requirements are met, the Labor Department must have the ability to seek out and identify employers that violate the law, assure that U.S. and foreign workers are protected or made whole, and impose penalties that will deter future violations and promote compliance.

Finally, we should also require payment of additional fees to cover the Labor Department's costs of administering the certification requirements and enforcement activities. Taxpayers should not have to foot the bill for the cost of providing employers with foreign workers.

Immigration has served America well for over two centuries. Its current troubles can be cured. If we fail to act responsibly the calls for Buchananism and Fortress America will only grow louder and more irresponsible. To protect our immigrant heritage, we must stop illegal immigration. We must end the abuses of American workers under our current immigration laws, and enact the many other reforms needed to strengthen this vital aspect of our history and our future.

Mr. President, I yield the floor at this particular time.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I have a unanimous-consent request.

I ask unanimous consent that a letter from the Congressional Budget Office addressed to me as chairman of the Subcommittee on Immigration, dated April 15, 1996, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 15, 1996.

Hon. ALAN K. SIMPSON,
Chairman, Subcommittee on Immigration, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As requested by your staff, CBO has reviewed a possible amendment to S. 1664, the Immigration Control and Financial Responsibility Act of 1996, which was reported by the Senate Committee on the Judiciary on April 10, 1996. The amendment would alter the effective date of provisions in section 118 that would require states to make certain changes in how they issue driver's licenses and identification documents. The amendment would thereby allow states to implement those provisions while adhering to their current renewal schedules.

The amendment contains no intergovernmental mandates as defined in Public Law 104-4 and would impose no direct costs on state, local, or tribal governments. In fact, by delaying the effective date of the provisions in section 118, the amendment would substantially reduce the costs of the mandates in the bill. If the amendment were adopted, CBO estimates that the total costs of all intergovernmental mandates in S. 1664 would no longer exceed the $50 million threshold established by Public Law 104-4.

In our April 12, 1996, cost estimate for S. 1664 (which we identified at the time as S. 269), CBO estimated that section 118, as reported, would cost states between $80 million and $200 million in fiscal year 1998 and less than $2 million a year in subsequent years. These costs would result primarily from an influx of individuals seeking early renewals of their driver's licenses or identification cards. By allowing states to implement the new requirements over an extended period of time, the amendment would likely eliminate this influx and significantly reduce costs. If the amendment were adopted, CBO estimates the direct costs to states from the driver's license and identification document provisions would total between $10 million and $20 million and would be incurred over six years. These costs would be for implementing new data collection procedures and identification card formats.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL,
Director.

Mr. SIMPSON. Mr. President, I ask unanimous consent that a document from the Congressional Budget Office setting forth the estimated budgetary effects of the pending legislation be printed at this point in the RECORD, and I further note that the reference in this letter to S. 269, as reported by the Senate Committee on the Judiciary on April 10, 1996, means that these estimates apply to the legislation pending before the Senate as S. 1664.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 12, 1996.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed federal, intergovernmental, and private sector cost estimates for S. 269, the Immigration Control and Financial Responsibility Act of 1996. Because enactment of the bill would affect direct spending and receipts, pay-as-you-go procedures would apply.

The bill would impose both intergovernmental and private sector mandates, as defined in Public Law 104-4. The cost of the mandates would exceed both the $50 million threshold for intergovernmental mandates and the $100 million threshold for private sector mandates specified in that law.

CBO's estimate does not include the potential cost of establishing a program to reimburse state and local governments for the full cost of providing emergency medical care to illegal aliens. As noted in the enclosed estimate, the drafting of this provision leaves many uncertainties about how the program would work and therefore precludes a firm estimate. The potential costs could, however, be significant.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 269.

2. Bill title: Immigration Control and Financial Responsibility Act of 1996.

3. Bill status: As reported by the Senate Committee on the Judiciary on April 10, 1996.

4. Bill purpose: S. 269 would make many changes and additions to Federal laws relating to immigration. Provisions having a potentially significant budgetary impact are highlighted below.

Title I would:

Direct the Attorney General to increase the number of Immigration and Naturalization (INS) border patrol agents by 700 in fiscal year 1996 and by 1,000 in each of the fiscal years 1997 through 2000; in addition, the number of full-time support positions for border patrol agents would be increased by 300 in each of the fiscal years 1996 through 2000;

Authorize appropriations of such sums as may be necessary to increase the number of INS investigator positions by 600 in fiscal year 1996 and by 300 in each of the fiscal years 1997 and 1998, and provide for the necessary support positions;

Direct the Attorney General and the Secretary of the Treasury to increase the number of land border inspectors in fiscal years 1996 and 1997 to assure full staffing during the peak border-crossing hours;

Authorize the Department of Labor (DOL) to increase the number of investigators by 350—plus necessary support staff—in fiscal years 1996 and 1997;

Direct the Attorney General to increase the detention facilities of the INS to at least 9,000 beds by the end of fiscal year 1997;

Authorize a one-time appropriation of $12 million for improvements in barriers along the U.S.-Mexico border;

Authorize the Attorney General to hire for fiscal years 1996 and 1997 such additional Assistant U.S. Attorneys as may be necessary for the prosecution of actions brought under certain provisions of the Immigration and Nationality Act;

Authorize appropriations of such sums as may be necessary to expand the INS fingerprint-based identification system (IDENT) nationwide;

Authorize a one-time appropriation of $10 million for the INS to cover the costs to deport aliens under certain provisions of the Immigration and Nationality Act;

Authorize such sums as may be necessary to the Attorney General to conduct pilot programs related to increasing the efficiency of deportation and exclusion proceedings;

Establish several pilot projects and various studies related to immigration issues, including improving the verification system for aliens seeking employment or public assistance;

Provide for an increase in pay for immigration judges;

Establish new and increased penalties and criminal forfeiture provisions for a number of crimes related to immigration; and

Permit the Attorney General to reemploy up to 100 federal retirees for as long as two years to help reduce a backlog of asylum applications.

Title II would:

Curtail the eligibility of non-legal aliens, including those permanently residing under color of law (PRUCOL), in the narrow instances where they are now eligible for federal benefits;

Extend the period during which a sponsor's income is presumed or deemed to be available to the alien and require deeming in all federal means-tested programs, not just the ones that currently practice it;

Deny the earned income tax credit to individuals not authorized to be employed in the United States; and

Change federal coverage of emergency medical services for illegal aliens.

5. Estimated cost to the Federal Government: Assuming appropriation of the entire amounts authorized, enacting S. 269 would increase discretionary spending over fiscal years 1996 through 2002 by a total of about $3.2 billion. Several provisions of S. 269, mainly those in Title II affecting benefit programs, would result in changes to mandatory spending and federal revenues. CBO estimates that the changes in mandatory spending would reduce outlays by about $7 billion over the 1996-2002 period, and that revenues would increase by about $80 million over the same period. These figures do not include the potential costs of establishing a program to reimburse state and local governments for the full cost of providing emergency medical care to illegal aliens; these costs could amount to as much as $1.5 billion to $3 billion a year.

The estimated budgetary effects of the legislation are summarized in Table 1. Table 2 shows projected outlays for the affected direct spending programs under current law, the changes that would stem from the bill, and the projected outlays for each program if the bill were enacted. The projections reflect CBO's March 1996 baseline.

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF S. 269

[By fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATIONS ACTION							
Authorizations:							
Estimated authorization level	0	709	472	580	596	615	633
Estimated outlays	0	286	467	663	580	600	621

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF S. 269—Continued

[By fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
MANDATORY SPENDING AND RECEIPTS							
Direct spending:							
Estimated budget authority	0	−450	−927	−1,237	−1,427	−1,409	−1,549
Estimated outlays	0	−450	−927	−1,237	−1,427	−1,409	−1,549
Estimated Revenues	0	14	13	12	13	13	13

Note.—Estimates do not include potential costs of establishing a program to reimburse state and local governments for the full cost of providing emergency medical care to illegal aliens. These costs could amount to as much as $1.5 billion to $3 billion a year.

The costs of this bill fall within budget functions 550, 600, 750, and 950.

TABLE 2.—ESTIMATED EFFECTS OF S. 269 ON DIRECT SPENDING PROGRAMS

[By fiscal years, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002
PROJECTED SPENDING UNDER CURRENT LAW								
Supplemental Security Income	24,510	24,017	27,904	30,210	32,576	37,995	34,515	40,348
Food Stamps[1]	25,554	26,220	28,094	29,702	31,092	32,476	33,847	35,283
Family Support Payments[2]	18,086	18,371	18,800	19,302	19,930	20,552	21,240	21,932
Child Nutrition	7,465	8,011	8,483	9,033	9,597	10,165	10,751	11,352
Medicaid	89,070	95,737	104,781	115,438	126,366	138,154	151,512	166,444
Earned Income Tax Credit (outlay portion)	15,244	18,440	20,191	20,894	21,691	22,586	23,412	24,157
Receipts of Employer Contributions	−27,961	−27,025	−27,426	−27,978	−28,258	−29,089	−29,949	−31,025
Total	151,968	163,771	180,827	196,601	212,994	232,839	245,328	268,491
PROPOSED CHANGES								
Supplemental Security Income		0	−100	−340	−500	−570	−500	−560
Food Stamps[1]		0	−10	−30	−40	−45	−45	−70
Family Support Payments[2]		0	−10	−15	−15	−20	−20	−25
Child Nutrition		0	0	0	−5	−20	−20	−25
Medicaid[3]		0	−115	−330	−460	−550	−600	−640
Earned Income Tax Credit (outlay portion)		0	−216	−214	−218	−222	−224	−229
Receipts of Employer Contributions		0	1	2	1	0	0	0
Total		0	−450	−927	−1,237	−1,427	−1,409	−1,549
PROJECTED SPENDING UNDER S. 269								
Supplemental Security Income	24,510	24,017	27,804	29,870	32,076	37,425	34,015	39,788
Food Stamps[1]	25,554	26,220	28,084	29,672	31,052	32,431	33,802	35,213
Family Support Payments[2]	18,086	18,371	18,790	19,287	19,915	20,532	21,220	21,907
Child Nutrition	7,465	8,011	8,483	9,033	9,592	10,145	10,731	11,327
Medicaid[3]	89,070	95,737	104,666	115,108	125,906	137,604	150,912	165,804
Earned Income Tax Credit (outlay portion)	15,244	18,440	19,975	20,680	21,473	22,364	23,188	23,928
Receipts of Employer Contributions	−27,961	−27,025	−27,425	−27,976	−28,257	−29,089	−29,949	−31,025
Total	151,968	163,771	180,377	195,674	211,757	231,412	243,919	266,942
Changes to Revenues		0	14	13	12	13	13	13
Net Deficit effect		0	−464	−940	−1,249	−1,440	−1,442	−1,562

[1] Food Stamps includes Nutrition Assistance for Puerto Rico. Spending under current law includes the provisions of the recently-enacted farm bill.

[2] Family Support Payments includes spending on Aid to Families with Dependent Children (AFDC), AFDC-related child care, administrative costs for child support enforcement, net federal savings from child support collections, and the Job Opportunities and Basic Skills Training program (JOBS).

[3] Estimates do not include potential costs of establishing a program to reimburse state and local governments for the full cost of providing emergency medical care to illegal aliens. These costs could amount to as much as $1.5 billion to $3 billion a year.

Notes.—Assumes enactment date of August 1, 1996. Estimates will change with later effective date. Details may not add to totals because of rounding.

6. Basis of estimate: For purposes of this estimate, CBO assumes that S. 269 will be enacted by August 1, 1996.

SPENDING SUBJECT TO APPROPRIATIONS

The following estimates assume that all specific amounts authorized by the bill would be appropriated for each fiscal year. For programs in the bill for which authorizations are not specified, or for programs whose specific authorizations do not provide sufficient funding, CBO estimated the cost based on information from the agencies involved. Estimated outlays, beginning in 1997, are based on historical rates for these or similar activities. (We assumed that none of the bill's programs would affect outlays in 1996.)

The provisions in this bill that affect discretionary spending would increase costs to the federal government by the amounts shown in Table 3, assuming appropriation of the necessary funds. In many cases, the bill authorizes funding for programs already authorized in the Violent Crime Control and Law Enforcement Act of 1994 (the 1994 crime bill) or already funded by fiscal year 1996 appropriations action. For example, the additional border patrol agents and support personnel in title I already were authorized in the 1994 crime bill through fiscal year 1998. For such provisions, the amounts shown in Table 3 reflect only the cost above funding authorized in current law.

In the most recent continuing resolution enacted for fiscal year 1996, appropriations for the Department of Justice total about $14 billion, of which about $1.7 billion is for the INS.

TABLE 3.—SPENDING SUBJECT TO APPROPRIATIONS ACTION

[By fiscal years, in millions of dollars]

	1997	1998	1999	2000	2001	2002
Estimated authorization levels:						
Additional Border Patrol agents			97	97	100	103
Additional investigators	97	152	159	165	171	178
Additional inspectors	24	32	34	35	37	39
Additional DOL employees	27	29	30	31	33	34
Detention facilities	418	187	187	194	198	204
Barrier improvements	20					
Additional U.S. Attorneys	23	46	48	49	51	52
IDENT expansion	87	22	22	22	22	22
Deportation costs	10					
Pilot programs	2	3	2	2	2	
Pay raise for immigration judges	1	1	1	1	1	1
Total	709	472	580	596	615	633
Estimated Outlays	286	467	663	580	600	621

REVENUES AND DIRECT SPENDING

S. 269 would have a variety of effects on direct spending and receipts. The most significant effects would stem from new restrictions on payment of federal benefits to aliens, in Title II of the bill. That title would curtail the eligibility of non-legal aliens, including those permanently residing under color of law (PRUCOL), in the narrow instances where they are now eligible for federal benefits. It would require that all federal means-tested programs weigh sponsors' income (a practice known as deeming) for a minimum of 5 years after entry when gauging an immigrant's eligibility for benefits, and would require an even longer deeming period—lasting 10 years or more after arrival—for future entrants. It would make sponsors' affidavits of support legally enforceable. These provisions would save money in federal benefit programs. Partly offsetting those savings, the bill proposes one major change that could add to federal costs—a provision that is apparently intended to require the federal government to pay the full cost of emergency Medicaid services for illegal aliens. However, ambiguities in the drafting of that provision prevent CBO from estimating its effect. Although the provisions affecting benefit programs dominate the direct spending implications of S. 269, other provisions scattered throughout Titles I and II would have small effects on collections of fines and penalties and on the receipts of federal retirement funds.

Fines. The imposition of new and enhanced civil and criminal fines in S. 269 could cause governmental receipts to increase, but CBO estimates that any such increase would be less than $500,000 annually. Civil fines would be deposited into the general fund of the Treasury. Criminal fines would be deposited in the Crime Victims Fund and would be spent in the following year. Thus, direct spending from the fund would match the increase in revenues with a one-year lag.

Forfeiture. New forfeiture provisions in S. 269 could lead to more assets seized and forfeited to the United States, but CBO estimates that any such increase would be less than $500,000 annually in value. Proceeds from the sale of any such assets would be deposited as revenues into the Assets Forfeiture Fund of the Department of Justice and spent out of that fund in the same year. Thus, direct spending from the Assets Forfeiture Fund would match any increase in revenues.

Supplemental Security Income. The SSI program pays benefits to low-income people with few assets who are aged 65 or older or disabled. According to tabulations by the Congressional Research Service (CRS), the SSI program for the aged is the major benefit program with the sharpest contrast in participation between noncitizens and citizens. CRS reported that nearly one-quarter of aliens over the age of 65 receive SSI, versus about 4 percent of citizens. The Social Security Administration states that about 700,000 legal aliens collect SSI (although some unknown fraction of those "aliens" are really naturalized citizens, whose change in status is not reflected in program records). About three-quarters of alien SSI recipients are immigrants legally admitted for permanent residence, who must serve out a waiting period during which their sponsor's income is "deemed" to them before they can go on the program. That waiting period was lengthened to 5 years in 1994 but is slated to return to 3 years in October 1996. The other one-quarter of alien recipients of SSI are refugees, asyelees, and PRUCOLs.

S. 269 would prevent the deeming period from returning to 3 years in October 1996. Instead, the deeming period would remain at 5 years (for aliens who entered the country before enactment) and would be lengthened to 10 years or more for aliens who enter after the date of enactment. Specifically, for a future entrant, deeming in all federal means-tested programs would last until the alien had worked for 40 quarters in Social Security-covered employment—a condition that elderly immigrants, in particular, would be unlikely ever to meet. By requiring that all income of the sponsor and spouse be deemed "notwithstanding any other provision of law," S. 269 would also nullify the exemption in current law that waives deeming when the Social Security Administration (SSA) determines that the alien applicant became disabled after he or she entered the United States.

Data from SSA records show very clearly that many aged aliens apply for SSI as soon as their deeming period is over, though such a pattern is much less apparent among younger aliens seeking benefits on the basis of disability. CBO estimates that lengthening the deeming period from 3 years to 5 years (or longer), and striking the exemption from deeming for aliens who became disabled after arrival, would save about $0.1 billion in 1996, and $0.3 billion to $0.4 billion a year in 1997 through 2002. Nearly two-thirds of the savings would come from the aged, and the rest from the disabled.

S. 269 would also eliminate eligibility for SSI benefits of aliens permanently residing under color of law (PRUCOLs). That label covers such disparate groups as parolees, aliens who are granted a stay of deportation, and others with various legal statuses. PRUCOLs currently make up about 5 percent of aliens on the SSI rolls. CBO assumes that some would successfully seek to have their classification changed to another category (such as refugee or asylee) that would protect their SSI benefits. The remainder, though, would be barred from the program, generating savings of about $0.5 billion over 7 years.

Food Stamps. The estimated savings in the Food Stamp program—$0.2 billion over 7 years—are considerably smaller than those in SSI but likewise stem from the deeming provisions of S. 269. The Food Stamp program imposes a 3-year deeming period. Therefore, lengthening the deeming period (to 5 years for aliens already here and longer for future entrants) would save money in food stamps. S. 269 contains a narrow exemption from deeming for aliens judged to be at immediate risk of homelessness or hunger. Because the Food Stamp program already denies benefits to most PRUCOLs, no savings are estimated from that source.

Family Support. The provisions that would generate savings in SSI and food stamps would also lead to small savings in the AFDC program. The AFDC program already deems income from sponsors to aliens for 3 years after the alien's arrival. S. 269 would lengthen that period to at least 5 years (longer for future entrants). The $0.1 billion in total savings over the 1997–2002 period would stem overwhelmingly from the lengthening of the deeming period. Savings from ending the eligibility of PRUCOLs are estimated to be just a few million dollars a year.

Child Nutrition. S. 269 would require that the child nutrition program begin to deem sponsors' income to alien schoolchildren when weighing their eligibility for free or reduced-price lunches. Child nutrition does not employ deeming now. It does, however, take parents' income into account when determining eligibility. CBO therefore assumed that savings in child nutrition would stem mainly from the minority of cases in which a relative other than a parent (say, a grandparent or an aunt) sponsored the child's entry into the United States. CBO assumed that it would take at least two years to craft regulations and implement deeming in school systems nationwide, therefore precluding savings until 1999. Savings of about $20 million a year would result once the deeming provision took full effect.

S. 269 explicitly preserves eligibility for the child nutrition program for illegal alien schoolchildren. CBO assumed, however, that the stepped-up screening that would be required to enforce deeming for legally admitted children would lead some illegal alien children to stop participating in the program, because their parents would fear detection.

Medicaid. S. 269 would erect several barriers to Medicaid eligibility for recent immigrants and future entrants into this country. In most cases, AFDC or SSI eligibility carries Medicaid eligibility along with it. By restricting aliens' access to those two cash programs, S. 269 would thereby generate Medicaid savings. Medicaid now has no deeming requirement at all; that is, program administrators do not consider a sponsor's income when they gauge the alien's eligibility for benefits. Therefore, it is possible for a sponsored alien to qualify for Medicaid even before he or she has satisfied the SSI waiting period. S. 269 would change that by requiring that every means-tested program weigh the income of a sponsor for at least 5 years after entry. Under current law, PRUCOLs are specifically eligible for Medicaid; S. 269 would make them ineligible.

To estimate the savings in Medicaid, CBO first estimated the number of aliens who would be barred from the SSI and AFDC programs by other provisions of S. 269. CBO then added another group—dubbed "noncash beneficiaries" in Medicaid parlance because they participate in neither of the two cash programs. The noncash participants who would be affected by S. 269 essentially fall into two groups. One is the group of elderly (and, less importantly, disabled) aliens with financial sponsors who, under current law, seek Medicaid even before they satisfy the 3-year wait for SSI; the second is poor children and pregnant women who could, under current law, qualify for Medicaid even if they do not get AFDC. CBO multiplied the estimated number of aliens affected times an average Medicaid cost appropriate for their group. That average cost is significantly higher for an aged or disabled person than for a younger mother or child. In selecting an average cost, CBO took into account the fact that relatively few aged or disabled aliens receive expensive long-term care in Medicaid-covered institutions, but that on the other hand, few are eligible for Medicare. The resulting estimate of Medicaid savings was then trimmed by 25 percent to reflect the fact that—if the aliens in question were barred from regular Medicaid—the federal government would likely end up paying more in reimbursements for emergency care and for uncompensated care. The resulting savings in Medicaid would climb from $0.1 billion in 1997 to about $0.6 billion a year in 2000 through 2002, totaling $2.7 billion over the 1996—2002 period.

One of the few benefits for which illegal aliens now qualify is emergency Medicaid, under section 1903(v) of the Social Security Act. Section 212 of S. 269 is apparently intended to make the federal government responsible for the entire cost of emergency medical care for illegal aliens, instead of splitting the cost with states as under the current matching requirements of Medicaid. However, the drafting of the provision leaves several legal and practical issues dangling. S. 269 would not repeal the current provision in section 1903(v). It would apparently establish a separate program to pay for emergency medical care. Although it stipulates that funding must be set in advance in appropriation acts, it also provides that states and localities would therefore have an open-ended right to reimbursement, notwithstanding the ceiling implied in an appropriation act.

S. 269 orders the Secretary of Health and Human Services (HHS), in consultation with the Attorney General, to develop rules for reimbursement. Emergency patients often show up with no insurance and little other identification; therefore, if HHS drafted stringent rules for verification, it is possible that very few providers could collect the reimbursement. On the other hand, if HHS required only minimal identification, providers would have an incentive to classify as many patients as possible in this category because that would maximize their federal reimbursement. S. 269 does not state whether reimbursement would be subject to the usual limits on allowable charges in Medicaid, or whether providers could bill the federal government for their full cost. Nor is it clear whether the program would use the same definition of emergency care as in Medicaid law.

Although the budgetary effects of Section 212 cannot be estimated, some idea of its potential costs can be gained by looking at analogous proposals for the Medicaid program. CBO estimates that modifying Medicaid to reimburse states and localities for the full cost of emergency care for illegal aliens would cost approximately $1.5 billion to $3 billion per year. That estimate assumes that Medicaid would continue to use its current definition of emergency care and its current schedule of charges. It also assumes that states would seek to classify more aliens and more services in this category, in order to collect the greatest reimbursement.

Similarly, section 201 of the bill is meant to qualify certain mothers who are illegal aliens for pre- and post-partum care under the Medicaid program. In general, poor women who are citizens or legal immigrants can now get such care through Medicaid, but illegal aliens cannot. Although the bill would authorize $120 million a year for such care, the new benefit would in fact be open-ended because of the entitlement nature of the Medicaid program. CBO does not have enough information to estimate the provision's cost, which would depend critically on the type of documentation demanded by the Secretary of HHS to prove that the mothers met the requirement of 3 years of continuous residence.

Earned Income Tax Credit. S. 269 would deny eligibility for the Earned Income Tax Credit (EITC) to workers who are not authorized to be employed in the United States. In practice, that provision would work by requiring valid Social Security numbers to be filed for the primary and secondary taxpayers on returns that claim the EITC. A similar provision was contained in President Clinton's 1996 budget proposal and in last fall's reconciliation bill. The Joint Committee on Taxation estimates that the provision would reduce the deficit by approximately $0.2 billion a year.

Other programs. Entitlement or direct spending programs other than those already listed are estimated to incur negligible costs or savings over the 1997–2002 period as a consequence of S. 269. The foster care program does not appear on any list of exemptions in S. 269; but since the program does not employ deeming now, and since it is unclear how deeming could be made to work in that program (for example, whether it would apply to foster care children or parents), CBO estimates no savings. CBO estimates that the bill would not lead to any significant savings in the student loan program. The Title XX social services program, and entitlement program for the states, is funded at a fixed dollar amount set by the Congress; the eligibility or ineligibility of aliens for services would not have any direct effect on those dollar amounts.

S. 269 would have a small effect on the net outlays of Federal retirement programs. Section 196 of the bill would permit certain civilian and military retirees to collect their full pensions in addition to their salary if they are reemployed by the Department of Justice to help tackle a backlog of asylum applications. CBO estimates that about 100 annuitants would be affected, and that net outlays would increase by $1 million to $2 million a year in 1997 through 1999.

CBO judges that S. 269 would not lead to any savings in Social Security, unemployment insurance, or other federal benefits that are based on earning. S. 269 would deny benefits if the alien was not legally authorized to work in the United States. Since 1972, however, the law has ordered the Social Security Administration to issue Social Security numbers (SSNs) only to citizens and to aliens legally authorized to work here. A narrow exception is "nonwork" SSNs, granted for purposes such as enabling aliens to file income taxes. Since all work performed by aliens who received SSNs after 1972 is presumed to be legal, and since verifying the work authorization of people who received SSNs before 1972 is an insuperable task, CBO estimates no savings in these earnings-related benefits.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. Because several sections of this bill would affect receipts and direct spending, pay-as-you-go procedures would apply. These effects are summarized in the following table.

[By fiscal years, in millions of dollars]

	1996	1997	1998
Change in outlays	0	−450	−927
Change in receipts	0	14	13

Note.—Estimates do not include potential costs of establishing a program to reimburse state and local governments for the full cost of providing emergency medical care to illegal aliens. These costs could amount to as much as $1.5 billion to $3 billion a year.

8. Estimated impact on State, local, and tribal governments: See the enclosed intergovernmental mandates statement.

9. Estimated impact on the private sector: See the enclosed private sector mandates statement.

10. Previous CBO estimate: On March 4, 1996, CBO provided an estimate of H.R. 2202, an immigration reform bill reported by the House Committee on the Judiciary. (The bill was subsequently passed by the House, with amendments.) That bill had many provisions in common with S. 269. However, the deeming restrictions proposed in H.R. 2202 applied exclusively to future entrants; aliens who entered before the enactment date would not have been affected. Therefore, S. 269—which would apply deeming to aliens who entered in the last 5 years as well as to future entrants—would result in larger savings in many benefit programs. Also, projected discretionary spending under S. 269 would be less than under H.R. 2202.

In 1995, CBO prepared many estimates of welfare reform proposals that would have curtailed the eligibility of legal aliens for public assistance. Examples include the budget reconciliation bill (H.R. 2491) and the welfare reform bill (H.R. 4), both of which were vetoed.

11. Estimate prepared by: Mark Grabowicz, Wayne Boyington, Sheila Dacey, Dorothy Rosenbaum, Robin Rudowitz, Kathy Ruffing, and Stephanie Weiner.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

CONGRESSIONAL BUDGET OFFICE ESTIMATE OF COSTS OF PRIVATE SECTOR MANDATES

1. Bill number: S. 269.

2. Bill title: Immigration Control and Financial Responsibility Act of 1996.

3. Bill status: As reported, by the Senate Committee on the Judiciary on April 10, 1996.

4. Bill purpose: S. 269 would make changes and additions to federal laws relating to immigration.

5. Private sector mandates contained in the bill: Several provisions of the bill would impose new requirements on the private sector. In general, the private sector mandates in S. 269 lie in three areas: (1) provisions that affect the transportation industry, (2) provisions that affect aliens within the borders of the United States, and (3) provisions that affect individuals who sponsor aliens and execute affidavits of support. The estimated impacts of these mandates do not include any costs imposed on individuals not within the borders of the United States.

6. Estimated direct cost to the private sector: CBO estimates that the direct costs of private sector mandates identified in S. 269 would be less than $100 million annually through 1999, but would rise to over $100 million in 2000 and $300 million in 2001. In 2002 and thereafter, the direct costs would exceed $600 million annually. The large majority of those costs would be imposed on sponsors of aliens who execute affidavits of support, such costs are now borne by the federal government and state and local governments for the provision of benefits under public assistance programs. Assuming enactment of S. 260 this summer, CBO expects that the mandates in the bill would be effective beginning in fiscal year 1997.

Basis of estimate

Title I, subtitle A—Law enforcement

Section 151 would impose new mandates on the transportation industry—in particular, those carriers arriving in the U.S. from overseas. Agents that transport stowaways to the U.S., even unknowingly, would be responsible for detaining them and for the costs associated with their removal. This mandate is not expected to impose large costs on the transportation industry. Over the last two years a total of only about 2000 stowaways have been detained.

Section 154 would require aliens who seek to become permanent residents to show documented proof that they have been immunized against a list of diseases classified as "vaccine-preventable" by the Advisory Committee on Immunization Practices. That requirement would impose costs on aliens who were not immunized previously or were unable to document that they had been immunized. Some of the costs might be paid for by state and local governments through public clinics. The total cost of the mandate to aliens residing in the United States would be expected to be less than $40 million a year.

Section 155 would impose two new requirements on aliens in the U.S. who seek to adjust their status to permanent resident for the purpose of working as nonphysician health care workers. First, those aliens would be required to present a certificate from the Commission on Graduates of Foreign Nursing Schools (or an equivalent body) that verifies that the alien's education, training, license, and experience meet standards comparable to those required for domestically trained health care workers employed in the same occupation. Second, those aliens would be required to attain a certain score on a standardized test of oral and written English language proficiency.

The aggregate direct costs of complying with the new requirements imposed on nonphysician health care workers would depend on several factors: the number of aliens that attempt to adjust their status to permanent resident for the purpose of becoming a nonphysician health care worker; the costs of obtaining proof of certification and of taking an English language test; and the cost of conforming to the higher standard for those not initially qualified who would attempt to do so. At this point CBO does not have quantitative information on these factors but we do not believe that the aggregate direct costs of these mandates would be substantial. Nevertheless, for certain individuals the cost of meeting these requirements would be large.

Title II—Financial responsibility

Title II would impose new requirements on citizens and permanent residents who execute affidavits of support for legal immigrants. At present, immigrants who are expected to become public charges must obtain a financial sponsor who signs an affidavit of support. A portion of the sponsor's income is then "deemed" to the immigrant for use in the means-test for several federal welfare programs. Affidavits of support, however, are not legally binding documents. S. 269 would make affidavits of support legally binding, expand the responsibilities of financial sponsors, and place an enforceable duty on sponsors to reimburse the federal government or states for benefits provided in certain circumstances.

Supporting aliens to prevent them from becoming public charges would impose considerable costs on sponsors, who are included in the private sector under the Unfunded Mandates Reform Act of 1995. CBO estimates that sponsors of immigrants would face over $20 million in additional costs in 1997. Costs would grow quickly, however. Over the period from 1998 to 2001, assuming that affidavits of support would be enforced, the costs to sponsors of immigrants would exceed $100 million annually and would total about $500 million during the first five years that the mandate would be effective.

Other provisions

Several other provisions in S. 269 would impose new mandates on citizens and aliens but would result in little or no monetary cost. For example, Title II contains a new mandate that would require sponsors to notify the federal and state governments of any change of address. CBO estimates that the direct cost of these provisions would be minimal.

Section 116 of Title I would change the acceptable employment-verification documents and authorize the Attorney General to require individuals to provide their Social Security number on employment forms attesting that the individual is not an unauthorized alien. CBO estimates that the direct costs of complying with that requirement would also be minimal.

Section 181 of Title I would add categories of aliens who would not be permitted to adjust from non-immigrant to immigrant status. Any alien not in a lawful immigrant status would not be allowed to become an employment-based immigrant. Also, aliens who were employed while an unauthorized alien, or who had otherwise violated the terms of a nonimmigrant visa, would not be allowed to become an immigrant. Although these provisions would have significant impacts on certain members of the private sector, there would be no direct costs as defined by P.L. 104-4.

7. Previous CBO estimate: On March 13, 1996, CBO prepared a private sector mandate statement on H.R. 2202, the Immigration in the National Interest Act of 1995, which was ordered reported by the House Committee on the Judiciary on October 24, 1995.

8. Estimate prepared by: Daniel Mont and Matt Eyles.

9. Estimate approved by: Joseph R. Antos, Assistant Director for Health and Human Resources.

CONGRESSIONAL BUDGET OFFICE ESTIMATED COST OF INTERGOVERNMENTAL MANDATES

1. Bill Number: S. 269.

2. Bill title: Immigration Control and Financial Responsibility Act of 1996.

3. Bill Status: As reported by the Senate Committee on the Judiciary on April 10, 1996.

4. Bill purpose: S. 269 would make many changes and additions to federal laws relating to immigration. The bill would also require changes to the administration of state and local transportation, public health, and public assistance programs. Demonstration projects for verifying immigration status and for determining benefit eligibility would be conducted in a number of states, pursuant to agreements between those states and the Attorney General. Section 118 would require state and local governments to adhere to certain standards in the production of birth certificates, driver's licenses, and identification documents. Sections 201 and 203 would limit the eligibility of many aliens for public assistance and other benefits. In addition, Title II would authorize state and local governments to implement measures to minimize or recoup costs associated with providing certain benefits to legal and non-legal aliens.

5. Intergovernmental mandates contained in bill:

State and local governments that issue birth certificates would be required to use safety paper that is tamper- and counterfeit-resistant, comply with new regulations established by the Department of Health and Human Services (HHS), and prominently note on a copy of a birth certificate if the person is known to be deceased.

State agencies issuing driver's licenses or identification documents would be required either to print Social Security numbers on these items or collect and verify the number before issuance. They would also be required to comply with new regulations to be established by the Department of Transportation (DOT).

State employment security agencies would be required to verify employment eligibility and complete attestations to that effect prior to referring an individual to prospective employers.

State and local agencies administering public assistance and regulatory programs would be required to:

Deny eligibility in most state and local means-tested benefit programs to non-legal aliens, including those "permanently residing under color of law" (PRUCOL). (PRUCOLS are aliens whose status is usually transitional or involves an indefinite stay of deportation);

Weigh sponsors' income (a practice known as deeming) for 5 years or longer after entry when gauging a legal alien's eligibility for benefits in some large federal means-tested entitlement programs;

Request reimbursement from sponsors via certified mail and in compliance with Social Security Administration regulations if notified that a sponsored alien has received benefits from a means-tested program;

Notify, either individually or publicly, all ineligible aliens who are receiving benefits or assistance that their eligibility is to be terminated; and

Deny non-legal aliens and PRUCOLs the right to receive grants, enter into contracts or loan agreements, or receive or renew professional or commercial licenses.

State and local governments would be prohibited from imposing any restrictions on the exchange of information between governmental entities or officials and the Immigration and Naturalization Service (INS) regarding the immigration status of individuals.

6. Estimated direct cost of mandates on State, local, and tribal governments:

(a) *Is the $50 Million Threshold Exceeded?* Yes.

(b) *Total Direct Costs of Mandates:* CBO estimates that these mandates would impose direct cost on state, local, and tribal governments totaling between $80 million and $200 million in fiscal year 1998. In the four subsequent years, mandate costs would total less than $2 million annually. State, local, and tribal governments could face additional costs associated with the deeming requirements in each of the 5 years following enactment of the bill; however, CBO cannot quantify such costs at this time.

S. 269 also includes a number of provisions that, while not mandates, would result in significant net savings to state, local, and tribal governments. CBO estimates these savings could total several billion dollars over the next five years.

(c) *Estimate of Necessary Budget Authority:* Not applicable.

7. Basis of estimate: Of the mandates listed above, the requirements governing birth certificates and driver's licenses would impose the most significant direct costs. The bill would require issuers of birth certificates to use a certain quality safety paper when providing copies to individuals if those copies are to be acceptable for use at any federal office or state agency that issues driver licenses or identification documents. While many state issuers are adequate quality safety paper, many local clerk and registrar offices do not. The bill also requires states either to collect Social Security numbers from driver's license applicants or to print the number on the driver's license card. While a significant number of states currently use Social Security numbers as the driver's license number, the most populous states neither print the number on the card nor collect if for reference purposes.

For the purposes of preparing this estimate, CBO contacted state and local governments, public interest groups representing these governments, and a number of officials from professional associations. Because of the variation in the way state and local governments issue birth certificates, we contacted clerks and registrars in eleven states in an effort to assess the impact of the birth certificate provisions. To estimate the cost of the driver's license requirements, we contacted over twenty state government transportation officials. Most state and local governments charge fees for issuing driver's licenses and copies of birth certificates. Those governments may choose to use revenues from these fees to pay for the expenses associated with the mandates. Under Public Law 104-4, however, these revenues are considered a means of financing and as such cannot be counted against the mandate costs of S.269.

Mandates with significant costs

Birth Certificates. Based on information from state registrars of vital statistics, CBO estimates that 60 percent of the approximately 18 million certified copies of birth certificates issued each year in the United States are printed on plain bond paper or low quality safety paper. CBO assumed that state and local issuing agencies needing to upgrade the quality of the paper would spend, on average, about $0.10 per certificate. In addition, CBO expects the bill would induce some individuals holding copies of birth certificates that do not conform to the required standards to request new birth certificates when they would not have otherwise done so. CBO estimated that issuing agencies across the country would experience a 20 percent increase in requests for copies of birth certificates for at least five years. On this basis, CBO estimates that the birth certificate provisions in the bill would impose direct printing and personnel costs on state and local governments totaling at least $2 million per year in each of the five years following the effective date of the provision. In addition, some state and local governments would have to replace or modify equipment in order to respond to the new requirements. CBO estimates these one-time costs would not exceed $5 million.

Driver's Licenses. Less than half of the states include Social Security numbers on all driver's licenses or perform some type of verification with the Social Security Administration. In fact, the states with the highest populations tend to be the states that do not have these requirements, and some state laws prohibit the collection of Social Security numbers for identification and driver's license purposes. CBO estimates that of the 185 million driver's licenses and identification cards in circulation, less than 40 percent would be in compliance with the requirements of S. 269. Any driver's license or identification card that does not comply with those requirements would be invalid for any evidentiary purpose.

Given the common use of these documents as legal identifiers, CBO assumed that at least half of those individuals who currently have driver's licenses or identification cards that do not meet the requirements of S. 269 would seek early renewals. CBO assumed that states would face additional printing costs of between $0.75 and $1.20 per document, increased administrative costs resulting from the influx of renewals, and, for some states, one time system conversion costs. We estimate that direct costs, assuming a limited number of additional renewal requests, would total $80 million in the first year. If more people sought early renewals, total costs could easily approach $200 million in the first year.

The driver's license provisions in the bill would be effective immediately upon enactment. Because of the significant processing and administrative changes that states would face under these requirements, CBO has assumed that states would establish procedures for compliance in the year following enactment. Consequently, the additional expenditures resulting from reissuing licenses and identification cards would occur in 1998.

Provision of Public Assistance to Aliens. It is possible that the administrative costs associated with applying deeming requirements to some federal means-tested entitlement programs would be considered mandate costs as defined in Public Law 104-4. In entitlement programs larger than $500 million per year, an increase in the stringency of federal conditions is considered a mandate only if states or localities lack the authority to modify their programs to accommodate the new requirements and still provide required services. In some programs—such as Aid to Families with Dependent Children (AFDC) and Food Stamps—some states may lack such authority and any new requirements would thus constitute a mandate. Given the scope and complexity of the affected programs, however, CBO has not been able to estimate either the likelihood or magnitude of such costs at this time. These costs could be significant, depending on how strictly the deeming requirements are enforced by the federal government. Any additional costs, however, would be offset at least partially by reduced caseloads in some programs.

Mandates with no significant costs

Many of the mandates in S. 269 would not result in measurable budgetary impacts on state, local, or tribal governments. In some cases—eligibility restrictions based on nonlegal status and death notations on birth certificates—the bill's requirements simply restate current law or practice for many of the jurisdictions with large populations and would thus result in little costs or savings. In others—sponsor reimbursement requests and preemption of laws restricting the flow of information to and from the INS—the provisions would result in minor administrative costs for some state and local governments, but even in aggregate, CBO estimates these amounts would be insignificant.

The provision requiring agencies to notify certain aliens that their eligibility for benefits has been terminated would impose direct costs on state and local governments. CBO estimates such costs would be offset by savings from caseload reduction resulting from the notifications. Another provision—state job service verification of employment eligibility—may result in significant administrative costs; however, those costs are funded through federal appropriations.

8. Appropriation or other Federal financial assistance provided in bill to cover mandate costs: None.

9. Other impacts on State, local, and tribal governments: S. 269 contains many additional provisions that, while not mandates or changes to existing mandates, could have significant impacts on the budgets of state and local governments. On balance, CBO expects that the provisions discussed in this section would result in an overall net savings to state and local governments.

Means-tested Federal programs

S. 269 would result in significant savings to state and local governments by reducing the number of legal aliens receiving means-tested benefits through federal programs, including Medicaid, AFDC, and Supplemental Security Income (SSI). These federal programs are administered by state or local governments and have matching requirements for participation. Thus, reductions in caseloads would reduce state and local, as well as federal, outlays in these programs. CBO estimates that the savings to state and local governments would exceed $2 billion over the next five years. These are significant and real savings, but in general, the state and local impacts of these federal programs are not defined as mandates under Public Law 104-4.

S. 269 would reduce caseloads in means-tested federal programs primarily by placing stricter eligibility requirements on both recent and future legal entrants. The bill would lengthen the time sponsored aliens must wait before they can go on AFDC or SSI, and, most notably, apply such a waiting period to the Medicaid program. S. 269 would also deny many means-tested benefits to PRUCOLs. Illegal aliens are currently ineligible for most federal assistance programs and would remain so under the proposed law.

Means-tested State and local programs

It is likely that some aliens displaced from federal assistance programs would turn to assistance programs funded by state and local governments, thereby increasing the costs of these programs. While several provisions in the bill could mitigate these costs—strengthening affidavits of support by sponsors, allowing the recovery of costs from sponsors, and authorizing agencies to deem in state and local means-tested programs—CBO expects that such tools would be used only in limited circumstances in the near future. At some point, state and, particularly, local governments become the providers of last resort, and as such, we anticipate that they would face added financial pressures on their public assistance programs that would at least partially offset the savings they realize from the federal programs. Because these state and local programs are voluntary activities of those governments, increases in the costs of these programs are not mandate costs.

Medicaid

Emergency Medical Services. Section 212 of S. 269 is apparently intended to offer state and local governments full reimbursement for the costs of providing emergency medical services to non-legal aliens and PRUCOLs on the condition that they follow verification procedures to be established by the Secretary of Health and Human Services, after consultation with the Attorney General and state and local officials. Existing law requires that state and local governments provide these services and, under current matching requirements, pay approximately half of the costs. Ambiguities in the drafting of the provision prevent CBO from estimating its effect.

While no reliable totals are available of the amounts currently spent to provide the services, areas with large alien populations claim that this requirement results in a substantial drain on their budgets. For example, California, with almost half the country's illegal alien population, estimates it spends over $350 million each year on these federally mandated services. Although CBO cannot estimate the effects of Section 212 on state and local governments, some idea of its potential effects can be gained by looking at analogous proposals for the Medicaid program. CBO estimates that modifying Medicaid to reimburse states and localities for the full cost of emergency care for illegal aliens would increase federal Medicaid payments to states by $1.5 billion to $3 billion per year.

Pre- and Post—Partum Care. The bill would allow certain mothers who are non-legal aliens to qualify for pre- and post-partum care under the Medicaid program. CBO does not have enough information to estimate the potential budget impacts to state and local governments of this provision. Such impacts would depend critically on the type of documentation demanded by the Secretary of HHS to prove that the mothers met the requirement of 3 years of continuous residence in the United States.

10. Previous CBO estimate: On March 13, 1996, CBO prepared an intergovernmental mandates statement on H.R. 2202, an immigration reform bill reported by the House Committee on the Judiciary. (The bill was subsequently passed by the House, with amendments.) That bill had many provisions in common with S. 269. H.R. 2202 did not, however, include any of the requirements relating to driver's licenses, identification documents, or birth certificates that appear in S. 269. In addition, the deeming restrictions in H.R. 2202 applied exclusively to future entrants; aliens who entered before the enactment date would not have been affected. Therefore, S. 269—which would apply deeming to aliens who entered in the last five years as well as to future entrants—would produce larger net savings in many benefit programs.

11. Estimate prepared by: Leo Lex and Karen McVey.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

Mr. SIMPSON. Mr. President, I yield to the Senator from Ohio.

Mr. DEWINE. Mr. President, let me first state that I want to congratulate my colleague from Wyoming, as well as my colleague from Massachusetts, for not just the work they have done on this bill, but, frankly, for the work they have done over the years on this very tough, very contentious, very difficult, but very important issue of immigration.

I have heard my colleague from Wyoming say on several occasions, as we have debated this bill in committee, that this is not really a bill or an issue that anyone gets a lot out of politically, and certainly not someone from the State of Wyoming. I certainly concur in that and understand that. I want to congratulate him for really doing the tough work of the U.S. Senate—work that began in the 1980's with the previous bill and continues on today. It is work that is many times not rewarded politically, certainly not appreciated many times, and is many times very controversial. I congratulate him for that.

This has been a contentious bill. We have had contentious debate in committee. The Senator from Wyoming and I have agreed on some issues and disagreed on other issues. I imagine that agreement and disagreement is probably going to continue on the floor today, tomorrow, and maybe for the rest of the week. Let me state that I do appreciate very much his tremendous work, as well as the work of Senator KENNEDY and, frankly, the work of all of the members of the subcommittee, some of whom have been involved in this task now for well over a decade.

Mr. President, we are here on the floor today to discuss a fundamental issue, a fundamental issue affecting the future of our country. Unlike most bills that come before Congress, this immigration bill really gets to the question of our national identity. Unlike most bills, this bill really speaks to who we are as a people, who we are as a nation. Quite frankly, also unlike most bills we deal with, the impact of this bill is going to be felt in 2 years, 5 years, 10 years, 20 years, and 30 years, because when you make a determination of who comes into this country and who does not come into this country, the consequences are profound, they are everlasting, and we have seen that, frankly, throughout the long history of our country.

Mr. President, in the darkest days of the cold war, back when Brezhnev was still ruling what was then known as the Soviet Union, Ronald Reagan gave a historic address to the British Parliament. It was in that famous speech in June 1982 that President Reagan predicted, "The march of freedom and democracy will leave Marxism and Leninism on the ash heap of history." Many of us remember how controversial that statement was at the time. Some in this country considered it unnecessarily provocative, and thought that it would inflame our enemies for really no good purpose. Mr. President, it may have been provocative, but it was absolutely, beyond a shadow of a doubt, prophetic. It was true. In that speech, Ronald Reagan was trying to unify the West. He wanted to unify the forces of freedom for what he knew, as others did not, would be the climactic days of the struggle against communism.

In the last resort, what President Reagan appealed to in that speech was really our sense of identity, who we were, who we are. This is what he said:

> Let us ask ourselves: What kind of a people do we think we are? And let us answer: Free people, worthy of freedom and determined not only to remain so, but to help others gain their freedom, as well.

Ronald Reagan expressed, better than any political leader of my lifetime, a sense of what America really is—"the city on a hill, the land, the country of the future." When Ronald Reagan was a boy growing up in Illinois, he could still find Civil War veterans to talk to. In our time, over a century after the death of Abraham Lincoln, Ronald Reagan reminded us that America was still the last best hope of Earth. We must never, never forget this, Mr. President.

To turn our backs on this legacy—this legacy of hope, optimism, openness to the future—would be more than a mistake in policy. It would, I believe, Mr. President, truly be a diminution of who we are as a people. That is what I believe this immigration debate is all about. It is the same question Ronald Reagan asked to the British Parliament: "What kind of people do we think we are?"

Mr. President, America's immigration policy defines who we are. It defines who gets into this country and who does not get in. In the process, it says a lot about our national values. Mr. President, we have been working on this bill in the Senate Judiciary Committee for a number of weeks. I believe we made some progress in revising the bill to reflect what I believe are the basic American values. First, the committee split the portions of the bill dealing with illegal immigration. An amendment was offered by Senator ABRAHAM, myself, Senator KENNEDY, Senator FEINGOLD, and others, to split the bill. The committee did, in fact, split the bill. It divided the bill into those sections dealing with the treatment of persons who are in the United States illegally from those provisions that cover legal immigration. I support this split because I believe that the problem of illegal immigration is substantially different from the issues raised by our legal immigration policy. And, therefore, these two issues, in my opinion, should be treated separately. They are distinct. I intend later on to say more about this important issue.

Mr. President, in considering the illegal immigration bill, I voted for tough penalties for those who violate our immigration laws, and I voted to expedite the deportation of those violators. I am also proud to say that I sponsored an amendment to block the imposition of unreasonable time limits on persons seeking asylum from repressive and often life-threatening foreign regimes. Our amendment sought to restore the status quo.

Today, immigration authorities cannot enter farm property without a search warrant. The bill before the committee would have changed that and would have allowed them to enter property—to enter a farm—without that search warrant. I sponsored an amendment to make sure they did not get that evasive new power.

Further, Mr. President, I cosponsored an amendment with Senators ABRAHAM and FEINGOLD that would have removed from the bill a provision that establishes a national employment verification system and a national standards for birth certificates and driver's licenses. I believe that these provisions are unduly intrusive. And, quite frankly, I believe they are unworkable. I further believe they would cost taxpayers millions and millions and millions of dollars. Again, Mr. President, I intend to say a great deal more about this later on.

Let me turn to the legal immigration bill. On the legal immigration bill, with Senators ABRAHAM and KENNEDY, I cosponsored an amendment to allow legal immigrants to bring their families to join them here in the United States. The bill, as originally written, tried to change the law allowing U.S. citizens to bring their families to America. The bill would have permitted, as written, U.S. citizens to bring in only their spouses, minor children, and in rare cases their parents. Under that provision, as the bill was written before the amendment—I bring this up because I am sure this issue is going to come back again—a U.S. citizen under that provision of the bill as written would have been permitted to bring some children in but not others. I believe that is bad national policy. It undermines the family structure. And, frankly, in the history of civilization there has never been a stronger support structure than the family.

I also supported amendments that would continue to allow universities and businesses to bring in the best and the brightest to enrich our country. I intend to return to that issue as well later.

Mr. President, in all of our deliberations in the Judiciary Committee, I have stressed one key fact about America—the fact that throughout our national history, throughout our history, the effect of immigration on this country has been positive. Immigration has helped form the basis for our prosperity and our national strength. It has made our country and the world a better place.

I tried to approach these difficult issues keeping in mind that a fair, controlled but open immigration policy is in our national interest. I believe we have made the first significant steps in this bill in the committee, in the amendment process, toward that goal.

Mr. President, even though we managed to improve the bill in a number of ways, I still have some problems with the present bill. In the name of protecting our borders, this bill would impose serious burdens on law-abiding American citizens, and it would move America away from its extremely valuable centuries-old tradition of openness to new people and new ideas.

Let me now go through the bill and lay out some of the particular concerns I have about the bill as it is currently before us today.

First, let me start with the very contentious issue of verification—the verification of employment. To begin with, the bill would create a massive time-consuming and error-prone bureaucracy. As originally written, the bill called for a process under which every employer would have to contact the Immigration and Naturalization Service and Social Security Administration to verify the citizenship of every prospective employee. My colleague from Ohio, Congressman STEVE CHABOT, called this 1-800-BIG-BROTHER. I think he is right. We did succeed in taking that provision out of the bill, or at least taking part of it out of the bill. But the long-term plan remains the same. In fact, the bill now contains a provision calling for numerous entitlement programs to do the very same thing.

I have had some experience in dealing with this kind of extremely large computerized database. My experience is from my time as Lieutenant Governor in Ohio when we were dealing with the criminal record system database. I contend that what I have learned from trying to improve, correct, and refine the criminal database is very applicable and very relevant to this whole discussion about our attempt to create a database for employees and employers.

When I was Lieutenant Governor, I was responsible for improving Ohio's criminal database so that the police could have ready access to a suspect's full criminal record history. When I started on this project, I was shocked to discover that in the State of Ohio—these figures are true in most States—only about 5 percent of the files, 5 percent of the computer information you got in a printout when you talked about a suspect, it put a suspect's name in and only about 5 percent of the information was accurate in regard to important facts—5 percent.

In criminal records, we are dealing with a database that we all know is important, that the people know is important, that we take a great deal of care in maintaining, and that is limited to the relatively small number of citizens who are actually criminals. In fact, when we deal with the criminal record system, we know that literally life and death decisions are being made based on the accuracy of that criminal record system, and we have spent hundreds of millions of dollars to bring it up to date, to make it more accurate, and yet we still know that it is highly error prone. We still know the accuracy level is very, very low.

Mr. President, I shudder to think what the inaccuracy rate will be in a database big enough to include every single citizen and noncitizen residing in this country. I shudder to think of what the accuracy or the inaccuracy level will be when we are dealing with a database where life and death decisions are not actually being made but, rather, where employment decisions are being made. The database will be unreliable. It would be time consuming, and it would be expensive.

In fact, the only way to make a database more reliable is frankly to make it more intrusive, and that clearly is what will happen. Once the pilot projects are running and we determine how inaccurate that information is, once the complaints start coming in from prospective employees and from employers who are dialing the 1-800 number, or putting the information in and we find out how inaccurate that is, there will be pressure to change it. And the pressure will be to make it, frankly, more intrusive—more information, more accurate. I believe that it would clearly lay the groundwork for a national system within 3 years.

Let me turn, if I can, Mr. President, to my second concern about this bill. That concerns the national standards for birth certificates and drivers' licenses. Yes, you have heard me correctly. In this Congress where we have talked about returning power to the States, returning authority to the States, this bill calls for national, federally imposed and federally enforced standards for birth certificates and drivers' licenses. Here is what the bill says as written, as it is on the floor today.

> Section 118. Improvements in Identification-Related Documents.
>
> (a) Birth certificates.
>
> 1. Limitation on Acceptance. (A) No Federal agency, including but not limited to the Social Security Administration and the Department of State—

Listen to this:

> and no State agency that issues driver's licenses or identification documents, may accept for any official purpose a copy of a birth certificate, as defined in subparagraph (5), unless it is issued by a State or local government registrar and it conforms to standards described in subparagraph (B).

Continuing the quote:

> (B) The standards described in this subparagraph are those set forth in regulations promulgated by the Secretary of Health and Human Services, after consultation with the Association of Public Health Statistics and Information Systems, and shall include but not be limited to.
>
> (i) certification by the agency issuing the birth certificate, and.
>
> (ii) use of safety paper, the seal of the issuing agency, and other features designed to limit tampering, counterfeiting, and use by impostors.

Mr. President, I am going to talk about this later, but I think it is important to pause for a moment and look at what this section does because it does in fact tell each State in the country, each local jurisdiction what it has to do in regard to issuing birth certificates. It in essence says for the 270 million people in this country the birth certificate you have is valid; you just cannot use it for anything. It is valid, it is OK, but if you want to take a trip and you want to get a passport, you have to go back to wherever you were born and have them issue a new birth certificate that complies with these national standards.

Think about it. Think about what impact this is going to have on the local communities, the cost it is going to have. Think about the inconvenience this is going to bring up for every American who uses a birth certificate to do practically anything—getting a driver's license, for example. And look at the language again. Not just no Federal agency may accept for any official purpose a copy of a birth certificate unless it fits this requirement but then the language goes on further and says no State agency.

So here we have the Federal Government saying to 50 States, no State agency shall be allowed to accept a birth certificate unless it fits the standards as prescribed by a bureaucrat in Washington, DC. Tenth amendment? Unbelievable, absolutely unbelievable. There are clear constitutional law problems in regard to this. Senator THOMPSON, who is on the committee, raised these issues in the committee and it is clear that this section has some very major constitutional law problems.

Here is in essence what this means. The Federal Government will tell every citizen that his or her birth certificate is no longer good enough for any of the major purposes for which it is used—not good enough for traveling, not good enough for getting married, not good enough for going to school, not good enough for getting a driver's license. How about constituent problems? We are all going to have to hire more caseworkers back in our home States when this goes into effect just to answer the phone and listen to people complain about this. How many people every year turn 16 and get their driver's license? How many people every year want to travel overseas, want to get a passport? Try telling them that birth certificate you got stuck in the drawer back home you used 5 years ago for something else, "Yes, it is still OK, you cannot use it, you have to go get a new one." Absolutely unbelievable.

(Mr. CRAIG assumed the chair.)

Mr. DEWINE. This bill would require every local county to redo its entire birth certificate system in a new federally mandated format. The Federal Government will be telling Greene County, OH, everything to do with the certificate right down to what kind of paper to use. And the bill goes even further. Not only does it deal with birth certificates, it also deals with driver's licenses, and here is what the bill says. Let me quote.

> Each State's driver's license and identification document shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation.

It continues.

> Neither the Social Security Administration nor the passport office or any other Federal agency or any State or local government agency may accept for any evidentiary purpose a State driver's license or identification document in a form other than the form described in paragraph (3).

That means every State will have to issue federally mandated driver's licenses. It is my opinion this whole section of the bill, section 118, should be deleted.

Now, I understand what my friend from Wyoming is trying to accomplish here. And it is a laudable goal. I understand what other proponents are trying to accomplish. Most States would have no problem I think with an attempt to improve their driver's license. In fact, in my home State of Ohio we have come up in the last several years with a process that was put in place when I was Lieutenant Governor, with a brand new driver's license system, so when your license comes up for its normal renewal you have what we believe at least is a tamperproof driver's license. I understand, and I think most States want to move in that direction, most States are in fact moving in that direction, but to mandate this from Washington with the tremendous costs, and not just the costs but the unbelievable disruption and inconvenience I think is just a serious mistake. There is some great irony that this Congress, which has very legitimately and correctly been so concerned about turning power back to the States, should in this case be saying not only are we not turning power back to the States, we are taking power; we are taking a basic ministerial function of government, issuing a birth certificate, a basic function of State government and county government, local government, and saying, "We are going to tell you how to do it, and if you don't do it our way, you can't use that document even for State purposes." To me that is just wrong. It is taking us in the wrong direction.

Mr. President, this Congress has revived this great tradition, American tradition of State and local and individual freedom as enshrined in the 10th amendment.

To impose this huge new burden on individuals and on local communities will surely violate that principle. In fact, if we can think back that far, 15, 16 months ago, one of the first bills passed by this Congress was legislation to try to limit unfunded mandates. If this provision is not an unfunded mandate, I do not know what is. It is going to cost the States a lot of money to comply. And it is going to cost taxpayers, both through what it has cost the States, but also through what it is going to cost them in getting new birth certificates, new drivers' licenses.

According to the Congressional Budget Office, these mandates would impose direct costs on States, direct costs on States and local communities of between $80 million to $200 million. Those of us who used to work at State and local government know that $80 to $200 million is an awful lot of money. It is real money.

Finally, leaving decisions regarding what features these documents should contain to Federal bureaucrats—and that is what this bill does, not to Congress but to Federal bureaucrats—I believe is unwise and potentially dangerous. Under the current language of this bill, as we consider it today, the Department of Health and Human Services and the Department of Transportation could develop standards even more intrusive and even more costly than those spelled out in the original legislation, because, really, the way the bill is written today, they have more freedom, more flexibility—the bureaucrats do.

I do not believe the setting of standards like these should be left to the Federal bureaucracy with nothing more than a requirement that they consult with outside groups. The bill does not provide for any congressional review of the standards, nor does it impose any limit on what HHS and DOT can mandate. The provision is ill-conceived and contrary to any reasonable concern for our liberties. I will urge it be deleted.

Let me turn now to another area of concern. That has to do with the issue of asylum. The bill, as written, says something to people who want to apply for asylum in America, and says it, really, for the first time in our history. I want to emphasize this. For the first time in our history, this is what we will be saying to people who apply for asylum: You must now apply for asylum within a set period of time.

That may sound reasonable. First of all, it is contrary to what we have done previously in the long history of this country. And, I think, on closer examination, as we go through this, it will become clear why this seemingly innocent provision will inevitably lead to some very, very great hardships for some of the most abused people in the world. It says that an asylum seeker must apply within 1 year of arriving in this country or else get a special exception from some bureaucrat for "good cause." You get an exception for good cause. What constitutes good cause for an exception is, again, up to the Federal bureaucracy to define.

I think this is a terrible solution. It is a solution for a problem that does not exist. I will talk about this in a moment. But, if we had been on the floor a few years ago, no one could say there was not a problem with the processing of asylums, with the number of applications for asylum, because there was. But, frankly, changes have been made in the system, changes which have corrected the problem. There is not a massive influx of asylum seekers into America and there is already a reasonable judicial process to determine which applicants are worthy of admission. Only about 20 percent of asylum seekers get in, one of five gets in anyway, through this normal, regular process. The system, frankly, is not broken, and trying to fix it could and would, in my opinion, do serious harm to people who are trying to escape oppression, torture, and even death in their native lands.

If you talk, as I have, to people in the asylum community, people who deal with these issues and who deal with these people every day, they will tell you that some of the most heartwrenching cases involve people who are so emotionally scarred by torture that it takes them more than a year to come forward and seek asylum. Under the original bill, aliens seeking asylum would have been required to file for such asylum within 30 days of arriving in the United States. Along with Senators KENNEDY, FEINGOLD, ABRAHAM and others, I worked to defeat this provision during our work in the committee. We were able to do that and to change it and to extend it to 1 year. This 1-year provision still causes problems. Let me talk about that.

First, since the Immigration and Naturalization Service imposed new asylum application regulations in late 1994, the flagrant abuses of the asylum process have been substantially reduced already.

Second, it turns out that it is the people most deserving of asylum status, those under threat of retaliation, those suffering physical or mental disability, especially when abused resulting from torture, who would most be hurt by the imposition of any filing deadline.

The committee did make the change. It made the change to strike the 30-day provision by a vote of 16 to 1. But I believe we do need to go further and we need to restore the bill and the law to the status quo. The committee passed an amendment by the distinguished Senator from Colorado [Mr. BROWN]. Senator BROWN's language is currently in the bill, and I believe, as I said, it is far better than the original 30-day limit. But I do remain convinced the arguments that were so simple and compelling against the 30-day time limit are equally compelling against the provision as it stands now. Let me talk about that.

First, because the asylum system works, and works pretty well—I do not think there is any dispute about that—we simply do not need a time limit for asylum seekers. As I stated, we acknowledged several years ago the asylum system was in fact broken and there were serious problems. Under the old system, people could get a work authorization simply by applying for asylum. That is what they did, and that was the hole.

This opportunity became a magnet, even for those who had absolutely no realistic claim for asylum. But the INS changed this. When the INS changed its rules in late 1994, it stopped automatically awarding work permits for those filing for asylum, and it got rid of a great deal of the problem. The INS then began to require an adjudication of the asylum claim before it awarded work authorizations. It also, at the same time, began resolving asylum claims within 180 days.

The results are significant. According to the INS, in 1994, before the new rules were put in place, 123,000 people claimed asylum. In 1995, after the new rules were established, only 53,000 people even applied for asylum. Instantly you went from 123,000 who applied one year, the next year down to 53,000; that is a 57 percent decline in just 1 year.

Also, the INS reports it is now completing 84 percent of the new cases within 60 days of filing and 98 percent, virtually all new cases, within 180 days of filing. Maybe that is why the administration, the INS, opposed any time limit on filing. The new system works. It is not broken. It does not need to be fixed.

The new system works, and the new deadlines would—and here I quote the INS Commissioner. Here is what she says. The new proposal would "divert resources from adjudicating the merits of asylum applications to adjudication of the timeliness of filing." So what the INS is saying is that we fixed this problem, it is working, do not give us another mandate. Do not shift us over here, so we have to have separate adjudications about the timeliness and then go over and adjudicate the merits. Let us proceed the way we are doing today. It is working.

Point No. 2, why we really should not have this time limit. This, to me, is the most compelling, because the facts are the most worthy cases for asylum would be excluded if we impose a deadline.

Among those excluded would be cases of victims of politically motivated torture and rape, the very people who need more time to apply, the very people who deadlines would hurt the most. These are the people who have suffered a great trauma that prevents them from coming forward. These are the people who fear that coming forward for asylum would threaten their families and friends in their home countries. These are the two types of people, Mr. President, for whom time is important.

Time can cure the personal trauma and culture shock that prevents them from seeking asylum. Time can allow conditions to change back home. A time limit—any time limit—will place these people at risk.

Let us talk now about some real people.

One man, whose name is Gabriel, had a father who was chairman of a social democratic party in Nigeria. His father was arrested many times. His half-brother was executed for opposing the military regime. Gabriel participated in a student demonstration. He was arrested and imprisoned back home for 8 months. He was tortured by guards who carved the initials of the ruling general into his stomach and then sprayed pepper on the wounds. They whipped him, and they forced him to drink his own urine.

Gabriel fled to the United States and, understandably, he was terrified that if he applied for asylum, he would be sent back to Nigeria where he could be murdered. He only applied for asylum after he was arrested by the INS, 5 years after coming to America.

Let me give another example—and the list goes on. Another man was a member of his country's government in exile, elected in a democratic election that was later annulled. When the military took over his country, many of the members of the government were tortured and imprisoned. This particular man fled his country and came to the United States where he sought the United Nations' help in restoring democracy at home. He sought residence in other countries, and he was concerned that application for asylum in this country would be used for propaganda purposes by the military at his home country.

Fifteen months after arriving in the United States, he did seek asylum. Although he was highly educated, although he was proficient in the English language, it took this man over 2 months to file that application. He was finally granted asylum in the United States, but to this day, he has asked that his name, that his home country and the fact that he sought asylum be held in the strictest confidence. He is still fearful.

A third example. Another man was a political dissident against the regime in Zaire. He published an article about the slaughter of students who had demonstrated against the regime, and that was one of the political offenses that ultimately landed this man in jail. In prison, the guards beat him, the guards raped him. When he came to the United States, he was simply unable to talk about his story. His Christian beliefs did not permit him to use the words necessary to describe the terrible tortures he had undergone. It was only after many meetings with legal representatives that he was finally able to tell his story. He finally applied for asylum over a year after entering the United States.

Those are just three examples, Mr. President. There really is practically no end to these examples, practically no end to worthy cases that would be foreclosed should we decide to apply deadlines. I know proponents of a time limit will argue that the bill does contain an escape clause, and it does on paper, the good-cause provision. But I think it is significant to point out that under this good-cause provision, the burden is on the applicant to show good cause. And the question of what constitutes good cause is really another problem with the bill.

In the report language, it says good cause "could include"—note that, Mr. President, not "must" or "should" but "could" include—"circumstances that changed after the applicant entered the United States"—I am quoting now—"or physical or mental disability, or threats of retribution against the applicant's relatives or other extenuating circumstances."

The report, as written, would allow the issuance of Federal regulations that might exclude the very type of applicants that the committee specifically intended to include. I believe that we should reject the time limit outright. We are not really talking about mere legalisms here. I think what is at stake is a fundamental reassertion of a truly basic, bedrock value of America: the opportunity to apply for asylum, the opportunity to use this country as a refuge.

I think it is important to note, as I did a moment ago, that there is not a problem. The INS has already taken care of this problem. What this bill does is create a problem—not for us, but what it will do is create a problem for people who are among the most abused, who have suffered the most and who seek freedom in this country.

I am reminded in this context of another story that President Reagan used to tell. He said, "Some years ago, two friends of mine were talking with a Cuban refugee who had escaped from Castro. In the midst of the tale of horrible experiences, one friend turned to the other and said, 'We don't know how lucky we are.' One Cuban stopped and said, 'How lucky you are? How lucky you are? I have someplace to escape to.'"

At this point, as he told the story, President Reagan looked out at America and drew his conclusion, and this is what he said: "Let's keep it that way."

Mr. President, let us keep it that way. Let us keep the light on over the door of America for some people who very desperately need that light, who need that hope.

Let me turn to another issue, and that is amendments that we may see on the floor concerning family. I want to turn now to some other provisions in the original bill that we managed to alter and change in committee but that may come up on the floor as amendments.

One of the most important of these issues had to do with the meaning of family. The original bill fundamentally changed the definition of a nuclear family. The original bill said to U.S. citizens that they could continue to bring their children to America but only—this is to U.S. citizens now, said to U.S. citizens—they could continue to bring their children to America but only if the children are under 21, and they could only bring their parents to America if the parents are over 65 and the majority of their children live in America.

The original bill even went so far as to say that if a child was a minor but that child was married, that child could not come to this country either. You could not bring that minor child to the country if he or she decided to get married.

Mr. President, in a time when everyone agrees that the fundamental problem in America is a family breakdown—I do not think anyone on the floor disagrees with that—I think it is senseless to change the law to help break up families.

In the committee I kind of related this to my own life and my own experience and pretended for a moment with my family situation, if I was a new citizen in this country, if I had come from another country and was a naturalized citizen. Frankly, Mr. President, in my situation I have trouble saying that my 4-year-old daughter Anna—or Anna who is going to in 2 days become 4 years old—is a central part of my nuclear family, but my 28-year-old son Patrick is not; he is now part of my extended family; my 27-year-old daughter, Jill, she is not part of my nuclear family anymore, she is part of my extended family. That is what the bill had originally said.

Finally, the bill also originally said—I cannot understand this either—that MIKE DEWINE, as an only child I could bring my parents into the country if they are over 65, but my wife Frances DeWine could not bring her parents into the country because she is one of six. She, as one of six, she could not bring her parents into the country—only if a majority of her siblings actually lived in the United States and were citizens in the United States. Again, it does not make any sense. I think we are going to end up revisiting this issue. I think it is going to come back up.

Mr. President, at a time when Congress has acted to rein in public assistance programs, I do not believe we should deprive people the most basic support structure there is, their immediate family. It just does not make sense. Mr. President, we took these family limitation provisions out of the bill in committee. I hope that we will be able to sustain this on the floor and we will not change this.

Let me turn finally to one more issue, that has to do with the linkage of this bill. I believe it was a mistake in the original bill to combine the issues of legal and illegal immigration. For my colleagues watching on TV or on the floor who are not on the committee, we separated this in committee. What you have before you are two separate, distinct bills. I think it should stay that way because the issue of illegal immigration is decidedly distinct from the issue of legal immigration.

I think that the biggest mistake of the original bill was to combine the issues of legal and illegal immigration. Illegal immigrants are lawbreakers. That is the fact. Frankly, Mr. President, no society can exist that allows disrespect for the law.

On the other hand, legal immigrants are people who follow the law. They are an ambitious and gutsy group. They are people who have defined themselves by the fact they have been willing to come here, play by the rules, build a future, and take chances. To lump them in, Mr. President, legal immigrants, with people who violate the law is wrong. We simply should not do it. Historically Congress has treated legal immigration and illegal immigration separately. Father Hesburgh in his 1981 report indicated that Congress should control illegal immigration, while leaving the door open to legal immigration.

Congress has in fact done this over the years and kept the issue separate. In 1986 Congress dealt with illegal immigration. In 1990 Congress dealt with legal immigration. In fact, Mr. President, the very immigration bill that is before us today started its legislative career as a piece of legislation separate from the bill covering legal immigration. It was only late in the subcommittee markup that the bills became joined.

These issues, Mr. President, have been treated separately for many years. They have been treated separately for one simple reason—they present different issues. They are different. To treat them together is to invite repetition of numerous totally false stereotypes. The combining of the bills leads, I think, to the merging of the thought process into a great deal of confusion.

Let me give an example. Say, for example, that aliens are more likely than native-born Americans to be on welfare and food stamps or Medicaid. But the fact is, Mr. President, this generalization is not true about legal immigrants. The statement I just made is wrong in regard to legal immigrants. If you separate out the legal immigrants, you find when you are talking about legal immigrants that they are no more likely than native-born Americans to be applicants of social welfare services. In fact, legal immigrants who become naturalized citizens are less likely—let me repeat—less likely to go on public assistance than native-born Americans. That is what the facts are.

Now, a recent study, Mr. President, points to the same fact. It found that foreign-born individuals were 10 to 20 percent more likely than native-born Americans to need social services. That is an alarming statistic, if you just stop there. But if you go further, and if you exclude refugees from the total, the foreign-born individuals are considerably less likely to do so than native-born citizens. Again, the point I made a moment ago.

Let us turn, Mr. President, to another dangerous stereotype frequently asserted. That is, that one-half of our illegal immigration problem stems from people who first came here legally. Let me repeat it. Let me repeat this. The statement is made that one-half of our illegal immigration problem stems from people who first came here legally. Well, that is true.

That is a true statement. But it is only true as far as it goes. In fact, Mr. President, it is a very misleading statement. What the people who say this are talking about is not legal immigrants who stay here and somehow become illegal; they are talking instead about students and tourists who had the right to visit America legally. They never were legal immigrants in the classic sense. They had the legal right to be here, but they were not legal immigrants. These are students, tourists who come here legally, and then who stay and do not leave when they are supposed to leave. That is a huge problem in this country. But it is not a problem of legal immigrants.

These people who are creating this problem were never legal immigrants. By definition, Mr. President, legal immigrants are people who are allowed to stay. Legal immigrants by definition are here legally. They are not the problem.

Mr. President, this is also an important source of confusion on the question of whether immigration is rising rapidly. Some people claim, for example, that legal immigration is skyrocketing. They base their contention on INS numbers that include as legal immigrants illegal immigrants who are made legal by the 1986 Immigration Reform and Control Act.

Mr. President, if you take the total number of legal immigrants and subtract those that were illegal before the 1986 act, you find that legal immigration has been holding at fairly constant levels. That is what the facts are.

Let me just give an example, Mr. President. In the 1990's, we have had about 2.8 immigrants for every 1,000 Americans. Is that a lot? Well, we could judge for ourselves. The first two decades of the century, to make a comparison, the rates were 10.4 per 1,000 and 5.7 per 1,000.

Mr. President, I do not think knowing what we know now, that it would have been wise to say in 1910 that there were too many immigrants coming into America. It was precisely that generation of immigrants at the turn of the century that coincided with America's transition from the periphery of world events to the status of a global superpower.

Mr. President, let me stop. I have almost concluded, but let me stop at this point to yield to my friend, Senator SIMPSON from Wyoming.

Mr. SIMPSON. Mr. President, I appreciated very much my friend, the Senator from Ohio, yielding. I certainly would yield additional time. But we have a time constraint with the ranking member and would like to, at the direction of the majority leader, present some amendments for disposition tomorrow. So, with that explanation, let me proceed.

AMENDMENT NO. 3669

(Purpose: To prohibit foreign students on F-1 visas from obtaining free public elementary or secondary education)

Mr. SIMPSON. Mr. President, I submit to the desk Simpson amendment No. 1 and ask that it be stated.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

The Senator from Wyoming, [Mr. SIMPSON], proposes amendment numbered 3669.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1) After sec. 213 of the bill, add the following new section:

"SEC. 214. USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

"(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

"(1) in clause (i) by striking 'academic high school, elementary school, or other academic institution or in a language training program' and inserting in lieu thereof 'public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program'; and

"(2) by inserting before the semicolon at the end of clause (ii) the following: ': *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.';

"(b) EXCLUSION OF STUDENT VISA ABUSERS.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is excludable.'; and

"(c) DEPORTATION OF STUDENT VISA ABUSERS.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable.'.".

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

The Dorgan amendment is set aside.

Mr. SIMPSON. Mr. President, let me describe the amendment briefly. It is intended to prevent foreign students coming to the United States to obtain a free taxpayer-financed education at a public elementary or secondary school. This is a growing problem. Children are coming to the United States and staying with friends or relatives or even strangers to whom they pay a fee and attending public schools as residents of the school district.

The amendment prohibits counselor offices issuing visas for attendance at such public schools or the INS approving such cases unless the foreign student can demonstrate they will reimburse the school, public elementary or secondary school, "for the full, unsubsidized per capita cost" of providing such education, or unless the school waives reimbursement.

The amendment also provides for the exclusion and deportation of students who are admitted to attend private elementary or secondary schools but who do not remain enrolled at such private schools for the duration of their elementary or secondary study in the United States. This provision is designed to prevent students from obtaining admission to a private school and then switching to a taxpayer-funded public school soon after arrival in the United States.

It would not prevent those children who are validly in the United States as dependents of persons lawfully residing here from applying for admission to public schools, nor would it prevent public schools from hosting foreign exchange students who would continue to be admitted as exchange visitors on "J" visas.

The amendment is designed, however, to deal with the problem of the "parachute kids" which Senator FEINSTEIN dealt with previously—which has received rather thorough attention—those who come here to receive a U.S. education at taxpayer expense.

Mr. KENNEDY. Mr. President, as the Senator has pointed out, this was in the initially proposed legislation. It is, I think, a justified and wise amendment.

And I understand that the Senator will also be offering shortly a pilot program for ensuring that foreign students here on student visas are actually enrolled and attending our schools. It is obviously an important opportunity for students to be able to come to the universities here in the United States. They should be welcomed. They should have an opportunity to be in compliance with the university rules.

This is really, first, a pilot program and, second, an attempt to find out what happens to these students when they are here and also what happens to them afterward. We do not have that kind of information. There are reports that individuals just get the permission to come here, maybe take one course, and effectively are "gaming" the system to circumvent other provisions of the legislation. That clearly was never the intention.

It seems to me this is a worthwhile program. It is targeted. It is limited. There is an important need to understand exactly what is happening with many of these students. I support the program.

I just wondered if I could ask the Senator a question. In the amendment, it says that students must be making "normal progress" toward a degree in order to keep the visa. Do you agree with letting the universities themselves make a decision about whether the student is in good academic standing or make a reasonable attempt to define that in a reasonable way?

Mr. SIMPSON. In connection with that amendment, that is correct.

Mr. KENNEDY. I thank the Senator. I hope that we will pass this.

Mr. President, I understand the amendment is going to be one of the amendments that will be offered, and now the one we have before the Senate prohibits kids on the student visas from attending public schools—our elementary and secondary schools—at the taxpayers' expense unless it is part of an exchange program. That is a wise amendment.

As I pointed out, if one games—a student is to attend a private school and then circumstances change. They should not undermine the basic reason that they were able to get here, and that was to attend the private school and pay the normal tuition, and to change to a public school at the public's expense. I think that is certainly consistent with fairness to taxpayers in that local community. I think it makes sense. I intend to support that amendment.

Mr. SIMPSON. Mr. President, I ask that amendment be submitted tomorrow. I ask for the yeas and nays and that the vote be held at a time convenient to the majority and minority leaders.

I withhold that request, Mr. President.

Mr. KENNEDY. As I understood, it is the intention in terms of expediting the consideration of the legislation on these three amendments—there may be those who are returning to the Senate who may want to have an observation about it so as to protect their interests—that the Senator was going to ask unanimous consent that the time for the votes on these measures be set by agreement by the majority and minority leaders, that the schedule for the particular votes on all three would be set by the majority and minority leaders at an appropriate time for the leadership. That seemed to be a reasonable request. These are amendments that are related to the legislation and which the committee had some opportunity to review before. It is just an attempt to move this process along that we are trying to devise a path so we could begin to consider the legislation.

We temporarily set aside the Dorgan amendment. That can always be called back at any time. What now is being asked is that these three amendments would appear, one amendment after another, temporarily setting it aside, and it would be the intention of the Senator from Wyoming to ask for the yeas and nays on all three and to have the votes stacked in the order which the majority and minority leaders care to have.

Mr. SIMPSON. Mr. President, to expedite the process, let me withhold further action on amendment No. 1 and submit amendment No. 2 and amendment No. 3, speak on all three of them together, the purpose being that the majority leader had requested our assistance in bringing appropriate amendments before the body tomorrow, stacking those amendments. These are three amendments that are submitted. There may be controversy that is not expressed today. If that is so, set a time limit tomorrow to do that.

The purpose is to submit these three amendments, move them forward with the yeas and nays, let the majority leader and minority leader define in the context and the time limit as to what they wish to do with them tomorrow. That is the purpose.

AMENDMENT NO. 3670

(Purpose: To establish a pilot program to collect information relating to nonimmigrant foreign students)

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 3670.

Mr. SIMPSON. Mr. President, I ask unanimous consent further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . PILOT PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS.

(a) IN GENERAL.—(1) The Attorney General and the Secretary of State shall jointly develop and conduct a pilot program to collect electronically from approved colleges and universities in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under section 101(a)(15)(F), (J), or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (J), or (M)); and

(B) are nationals of the countries designated under subsection (b).

(2) The pilot program shall commence not later than January 1, 1998.

(b) COVERED COUNTRIES.—The Attorney General and the Secretary of State shall jointly designate countries for purposes of subsection (a)(1)(B). The Attorney General and the Secretary shall initially designate not lees than five countries and may designate additional countries at any time while the pilot program is being conducted.

(c) INFORMATION TO BE COLLECTED.

(1) IN GENERAL.—The information for collection under subsection (a) consists of—

(A) the identity and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General; and

(C) the academic standing of the alien, including any disciplinary action taken by the college or university against the alien as a result of the alien's being convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) shall not apply to aliens described in subsection (a) to the extent that the Attorney General and the Secretary of State determine necessary to carry out the pilot program.

(d) PARTICIPATION BY COLLEGES AND UNIVERSITIES.—(1) The information specified in subsection (c) shall be provided by approved colleges and universities as a condition of—

(A) the continued approval of the colleges and universities under section 101(a)(15)(F) or (M) of the Immigration and Nationality Act, or

(B) the issuance of visas to aliens for purposes of studying, or otherwise participating, at such colleges and universities in a program under section 101(a)(15)(J) of such Act.

(2) If an approved college or university fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) FUNDING.—(1) The Attorney General and the Secretary shall use funds collected under section 281(b) of the Immigration and Nationality Act, as added by this subsection, to pay for the costs of carrying out this section.

(2) Section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) is amended—

(A) by inserting "(a)" after "SEC. 281."; and

(B) by adding at the end the following:

"(b)(1) In addition to fees that are prescribed under subsection (a), the Secretary of State shall impose and collect a fee on all visas issued under the provisions of section 101(a)(15)(F), (J), or (M) of the Immigration and Nationality Act. With respect to visas issued under the provisions of section 101(a)(15)(J), this subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(2) The Attorney General shall impose and collect a fee on all changes of nonimmigrant status under section 248 to such classifications. This subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(3) Except as provided in section 205(g)(2) of the Immigration Reform Act of 1996, the amount of the fees imposed and collected under paragraphs (1) and (2) shall be the amount which the Attorney General and the Secretary jointly determine is necessary to recover the costs of conducting the information-collection program described in subsection (a), but may not exceed $100.

"(4) Funds collected under paragraph (1) shall be available to the Attorney General and the Secretary, without regard to appropriation Acts and without fiscal year limitation, to supplement funds otherwise available to the Department of Justice and the department of State, respectively."

(3) The amendments made by paragraphs (1) and (2) shall become effective April 1, 1997.

(f) JOINT REPORT.—Not later than five years after the commencement of the pilot program established under subsection (a), the Attorney General and the Secretary of State shall jointly submit to the Committees on the Judiciary of the United States Senate and House of Representatives on the operations of the pilot program and the feasibility of expanding the program to cover the nationals of all countries.

(g) WORLDWIDE APPLICABILITY OF THE PROGRAM.—(1)(A) Not later than six months after the submission of the report required by subsection (f), the Secretary of State and the Attorney General shall jointly commence expansion of the pilot program to cover the nationals of all countries.

(B) Such expansion shall be completed not later than one year after the date of the submission of the report referred to in subsection (f).

(2) After the program has been expanded, as provided in paragraph (1), the Attorney General and the Secretary of State may, on a periodic basis, jointly revise the amount of the fee imposed and collected under section 281(b) of the Immigration and Nationality Act in order to take into account changes in the cost of carrying out the program.

(h) DEFINITION.—As used in this section, the phrase "approved colleges and universities" means colleges and universities approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

Mr. SIMPSON. Mr. President, this is the amendment, amendment No. 1 and No. 2, that Senator KENNEDY addressed, to enable the INS to keep track of foreign students studying in the country. The amendment provides a source of funding for INS to establish a very basic system for keeping track of foreign students. It is a measure supported by the FBI Director, who expressed concerns at our ability to track such students in a 1994 memorandum regarding possible tariffs. It is not an intrusive provision. I answered a question of Senator KENNEDY to indicate that.

Colleges and universities are already required to provide this sort of information to the INS. The problem in the past has been that the INS has not devoted such resources to this activity to create a body of reliable information. The amendment's aim is to provide the funding so the INS can implement a system to keep track of foreign students studying here, and it seems reasonable such funding should come from the students themselves and not from the taxpayers.

A student who is willing to pay $10,000 or $20,000 in this country, or $80,000 to $100,000 through the entire curriculum, is not likely to be seriously concerned about paying the additional fee of $50 or $100 for the issuance of the student visa in accordance with this amendment.

I ask unanimous consent that the amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3671

(Purpose: To create new ground of exclusion and of deportation for falsely claiming U.S. citizenship)

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 3671.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

After section 115 of the bill, add the following new section:

"SEC. 115A. FALSE CLAIMS OF U.S. CITIZENSHIP.

"(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended by adding at the end the following new subparagraph:

'(D) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is excludable.'; and

"(b) DEPORTATION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is deportable.'.".

Mr. SIMPSON. Mr. President, this amendment would add a new section to the bill. The section would create a new ground of exclusion of deportation for falsely representing oneself as a U.S. citizen.

This amendment is a complement to another that I will be proposing. The other amendment would modify the bill section which applies and provides for pilot project systems to verify work authorization and eligibility to apply for public assistance. One of the requirements of that other amendment is that the Attorney General conduct certain specific pilot projects, including one under which employers would be required to verify the immigration status of aliens, but not persons claiming to be citizens. Such citizens would be required only to attest as being citizens. That was discussed in committee. If you are a U.S. citizen, why should you have to go through these procedures? Well, obviously, I concur with that.

The major weakness in such a system is the potential for false claims of citizenship. That is why I offered the present amendment which will create a new major disincentive for falsely claiming U.S. citizenship. Lawful permanent aliens, or residents who falsely claim citizenship, risk deportation and being permanently barred from entering the United States. Since they are work-authorized, they would have little reason to make a false claim of citizenship.

Illegal aliens, on the other hand, would know that they could not be verified if they admitted to being aliens and the verification process were conducted. Yet, they would also know, if they falsely claim to be citizens and were caught and apprehended, they would be deported and permanently barred. Thus, the risk involved in making the false claims would be high for them indeed. If the present amendment were enacted into law, that would be the case. If the amendment were enacted and the project involving citizen attestation were conducted, a significant number even of illegal aliens may well be deterred from seeking jobs in the United States. That is the basis of the third and final amendment, which I submit this evening.

Mr. KENNEDY. Mr. President, I think this is a good amendment. It is instructive to put it in at this time because I think this might be able to add a dimension in being more effective in terms of protecting Americans in job situations. I think, first, as the Senator pointed out, if the person represents that they are a citizen and they are not and they get the job, they are undermining the ability of the American to have the job.

Second, if they do it in terms of the welfare provisions, they are basically undermining the American taxpayers and doing it for fraudulent reasons. The penalty would be deportation or exclusion, as I understand the amendment. So it seems to me to make a good deal of sense from any point of view. I hope tomorrow we will accept the amendment.

Mr. SIMPSON. Mr. President, I ask unanimous consent that amendments numbered 3669, 3670, and 3671 be temporarily laid aside in the order in which they were offered and that they be made the pending business at the request of the majority leader after notification of the Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. I further ask that it be in order for me to ask for the yeas and nays on the three amendments, with one showing of seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3667

Mr. SIMPSON. Mr. President, I now ask unanimous consent that the Dorgan amendment recur as the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3672 TO AMENDMENT NO. 3667

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 3672 to Amendment No. 3667.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the word "Sec." and insert the following:

(1) social security is supported by taxes deducted from workers' earnings and matching deductions from their employers that are deposited into independent trust funds;

(2) over 42,000,000 Americans, including over 3,000,000 children and 5,000,000 disabled workers and their families, receive social security benefits;

(3) social security is the only pension program for 60 percent of older Americans;

(4) almost 60 percent of older beneficiaries depend on social security for at least half of their income and 25 percent depend on social security for at least 90 percent of their income;

(5) 138,000,000 American workers pay taxes into the social security system;

(6) social security is currently a self-financed program that is not contributing to the Federal budget deficit; in fact, the social security trust funds now have over $400,000,000,000 in reserves and that surplus will increase during fiscal year 1995 alone by an additional $70,000,000,000;

(7) these current reserves will be necessary to pay monthly benefits for current and future beneficiaries when the annual surpluses turn to deficits after 2018;

(8) recognizing that social security is currently a self-financed program, Congress in 1990 established a "firewall" to prevent a raid on the social security trust funds;

(9) raiding the social security trust funds would further undermine confidence in the system among younger workers;

(10) the American people overwhelmingly reject arbitrary cuts in social security benefits; and

(11) social security beneficiaries throughout the nation deserve to be reassured that their benefits will not be subject to cuts and their social security payroll taxes will not be increased as a result of legislation to implement a balanced budget amendment to the United States Constitution.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any legislation required to implement a balanced budget amendment to the United States Constitution shall specifically prevent social security benefits from being reduced or social security taxes from being increased to meet the balanced budget requirement.

Mr. KENNEDY. Mr. President, I was reading that it be made the pending business at the request of the majority leader after notification of the Democratic leader. I am sure that will all be done in good faith. But I understand that notification of the Democratic leader includes that if a Member of our party would like to speak and address those amendments, I assume that would be respected. I make that assumption.

Mr. SIMPSON. Mr. President, I certainly make that assumption. I understand it to be notification and agreement by the Democratic leader.

Mr. KENNEDY. I thank the Chair. As far as the discussion then on that measure, I know there are other Members that want to address the Senate on other matters. I see the Senator from South Carolina, who wanted to speak, as well, on the issue of Senator DORGAN's amendment.

Mr. SIMPSON. If I may, I believe Senator DEWINE had not concluded his remarks when I requested the floor. I appreciate very much his willingness to do that so we could get those amendments before the body. How much more time does Senator DEWINE need?

Mr. DEWINE. I probably have 6, 7, or 8 minutes.

Mr. SIMPSON. I appreciate that. Then we will yield to Senator HOLLINGS for a discussion on the Dorgan amendment and temporarily go off of this measure. I thank the Senator from Ohio very much for his courtesies in enabling us to go forward with an agenda for tomorrow.

Mr. DEWINE. Mr. President, let me conclude my general comments about this bill today. I think America's greatness has been created, generation after generation, by driven self-selected individuals who came here as legal immigrants. We can think of names such as Albert Einstein, from Ohio, someone like George Olah who came here from Budapest in 1957 and taught at Case-Western Reserve, and won the Nobel Prize for chemistry in 1994. The original bills as introduced actually said to people like Einstein and Olah, "Get lost, you can come to the U.S., but only if you jump through a whole bunch of bureaucratic hoops from the State Department and the Labor Department."

A lot of these provisions were, in fact, changed in committee. Mr. President, I think we really do not need to be making it any harder for these talented, energetic people to come and help us build our great country. In fact, Mr. President, we became the richest, most powerful nation in the history of the world by doing exactly the opposite—by encouraging them to come.

No, Mr. President, America's immigration problem is not the high-quality researchers and professors wading the Rio Grande in the dead of night or scrambling over a fence to avoid the Border Patrol.

We should and can crack down on illegal immigration. That is a law enforcement issue. We should not allow that effort to serve as a Trojan horse for other measures—measures that would hurt America's future by rejecting the very finest and most noble traditions of America's past.

To reverse course on immigration, as some might recommend, is to say that America from now on will define itself as a country that is fearful of change, afraid of competition, and convinced that her best days are past. That is not the attitude that made America the greatest country the world has ever seen. An America that thinks itself as weak and threatened is not the America that I see. It is not the America that we Americans believe in. It is not the America that a dirt poor Irishman named Dennis DeWine saw—saw in his dream as he left County Galway 150 years ago to escape the potato famine in Ireland. We do not know a lot about my great-great-grandfather. All we know for sure is that he came over to America from Galway. It is pretty clear, though, that Dennis DeWine came here with guts and with ambition, but probably with very little else. He took a chance on America, and America took a chance on him because America back then thought big thoughts about itself and what great riches lay in the ambition—in the ambition of people who are willing to take risks. That is the kind of America we need to be, not a closed America that views itself as a finished product but an America that is open to new people, new ideas, and open to the future.

Mr. President, I began this speech by talking about how Ronald Reagan expressed better than any other political figure of our era the truest sense of what America stands for. I think it would be appropriate for me to conclude these remarks about America's immigration policy and about America's identity with another great story, one that President Reagan recounted more than once in his Presidency. In fact, he found it so moving that he even included it in his farewell address 9 days before he left the White House. Here is the way Ronald Reagan told the story.

> I have been reflecting on what the past 8 years have meant, and mean, and the image that comes to mind, like a refrain, is a nautical one—a small story about a big ship and a refugee and a sailor. It was back in the early 1980's at the height of the boat people, and a sailor was hard at work on the Carrier *Midway* which was then patrolling the South China Sea. The sailor, like most American servicemen, was young, smart, and fiercely observant. The crew spied on the horizon a leaky little boat, and crammed inside were refugees from Indochina hoping—hoping to get to America. The *Midway* sent a small launch out to bring them to the ship and to safety. And as the refugees made their way through the choppy seas, one of them spied the sailor on deck. He stood up and called out to him. He yelled, "Hello, American sailor. Hello, freedom man"—a small moment with a big meaning, a moment a sailor could not get out of his mind. Neither could I, because that is what it is to be an American.

Mr. President, as we debate this bill, I think we will need to remind ourselves that that still is what it means to be an American. It always was, and let us pray that it always will be. Even at the very beginning of our history, back when we were a very small country, we were always a country with a very big meaning, a country whose future was unlimited, a country that believed in people and believed in their capacity to make the world a better place. What a legacy, what an awesome responsibility, a responsibility for our generation and for every generation.

I, along with some of my other colleagues, will be working to make sure that our immigration reform bill remains true to this legacy and true to the values that made America a beacon for all humanity.

Mr. President, I will conclude these remarks at this point, and again thank my colleague from Wyoming for his courtesy and for his work not only on this bill, but on this issue now for well over a decade.

Mr. SIMPSON. Mr. President, I thank the Senator from Ohio. He has been very involved, very articulate, and I appreciate the participation very much.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me thank the distinguished chairman of our committee, the Senator from Wyoming.

I say a word about immigration in that we opened up a school this morning for some 525 additional Immigration and Naturalization agents—the plan and plot as we work in the appropriations side of this particular problem. And I serve on the what we call the State, Justice, Commerce Subcommittee of Appropriations. For the past 25 years we have been trying to keep up with the problem as we have seen it. We work with the leadership of the Senator from Wyoming, the Senator from Massachusetts, Senator KENNEDY. And this morning, as I say, we opened up that school for some 525 agents at the old Navy yard facility in Charleston that we closed a couple of years ago.

A word should be said about our distinguished Commissioner of Immigration and Naturalization, Doris Meissner. She could not be with us, of course, because of the loss of her husband in that fatal crash going into Dubrovnik last week. Chuck Meissner, the Assistant Secretary of Commerce in charge of International Trade, was on that plane, that tragic loss. I talked to Commissioner Meissner and said that I know we have the scheduled opening of the school, but we ought to call that off. She said, "No, it is really an emergency situation. While I cannot be there, I will be represented by Ms. Sale, Chris Sale, the Deputy Commissioner, and the other authorities, and we are ready to go, and we want to make sure that we have at least these agents trained and ready to go to work by August." Chris Sale was there, and we opened the school in the most adequate fashion.

The American public and the U.S. Senate should understand that this problem is much like trying to drink water out of a fire hydrant. Go down to San Ysidro, CA, down there by San Diego where 46 million automobiles and 9 million pedestrians were stuck and inspected by the Immigration and Naturalization Service last year. We are totally understaffed for the problems of the illegal immigrants coming into the Nation and making their demands upon State and Federal spending.

So it is not a casual commendation that I give to the leadership of the Senator from Wyoming because I worked with him on the Simpson-Mazzoli bill years back. He has been in the trenches working for years trying to bring the National Government ahead and on to the problem, so that it would not increase into this emergency, more or less, at this particular time.

Having said that, Mr. President, let me say a word about an underlying amendment of Senator DORGAN from North Dakota, myself, and others relative to spending Social Security trust funds. I can go into detail which I will to make the record here, but let me bring it right up to the spending habits of the National Government with respect to trust fund amounts. When we passed in 1983 the increase in Social Security taxes, we could not have possibly voted that tax increase save and excepting to maintain the integrity of the Social Security trust fund. In fact, the intent was not only to maintain its integrity but to maintain a surplus. We talked openly, and you refer back to the record, of the Greenspan commission report, that if these increases in taxes were carried out, we would have a surplus that would easily take care of the baby boom generation into the year 2050.

But otherwise has occurred. What we have been doing, in a shameless fashion, is spending the Social Security trust moneys on the deficit. We have been obscuring the size of the deficit by the use of those trust funds. It was $63 billion last year, if I remember correctly. Last year the CBO report was a $481 billion surplus. So if you add the $63 billion I guess it would be in the terms of a $544 billion surplus, over one-half trillion surplus funds in the Social Security trust. But, ah, now we have today's, or last week I should say but it is dated April 15, Time magazine, and I wish to quote because here is what really happens to the so-called trust funds. It is on page 27 of April 15, 1996, Time magazine, entitled "Odyssey of a Mad Genius." I refer to the article on page 27, "Beltway Robbery." This has to do with highway trust funds, not Social Security, but the similarity is so stark in its reality that it must be brought to the attention of my fellow Senators here this afternoon. I quote:

> In a Washington out to cut Federal spending, 12-term Congressman Bud Shuster is an unrepentant pork barrel spender. Now it appears the Chairman of the House Transportation and Infrastructure Committee has converts. More than half his colleagues including a heavy majority of those reform-minded GOP freshmen, are backing a bill that would lift constraints on highway and airport projects. If the trust and budgeting act is passed by the House next week, it would give Shuster's committee great latitude to tap some $33 billion in transportation trust funds. The measure has mobilized a formidable lobbying coalition, uniting organized labor and big and small business, State and local governments, and such an esoteric trade association as the Precast-Prestressed Concrete Institute. Their goal is not only to pass it but also a vetoproof 289 votes. Supporters argue rightly that the money would go where it was intended—building roads and upgrading the airports. But the supposedly untapped funds are actually an accounting figment. Using them would increase the deficit or force greater cuts in other programs. Budget Committee Chairman John Kasich and Appropriations Chairman Bob Livingston are vehemently opposed. Attempts by Newt Gingrich to reconcile them and Shuster have come to naught. Meanwhile, Federal Chairman Alan Greenspan broke with his custom of staying neutral to advise against passage.

Now, is that not a remarkable report? One line in there, and I quote it again:

> But the supposedly untapped funds are actually an accounting figment.

This is exactly what Senator Heinz and I were fighting against when we had enacted section 13301 of the Budget Enforcement Act on November 5, 1990, signed into law by President George Bush, voted by a vote of 98 to 2 in this Senate. We did not want Social Security trust funds to become an "accounting figment." That is what they do when they continue to use funds.

When we try to debate it in the Chamber, it does not matter; we have the money there, but it has to be used by the Government somewhere so we will just borrow the moneys there and everything else of that kind and tell the youth of America do not worry—well, do worry, it is going broke—when it is not going broke and when we got the moneys there and run around about going broke because in their mind it has become an accounting figment.

Now, let me mention a book by James Fowler. It is called "Breaking The News."

This is the problem in Government today. Years back, none other than Thomas Jefferson as between a free Government and a free press, he would choose the latter, and why? Because he said and reasoned that you could have a free Government but would not remain free long unless you had a free press to keep us politicians honest.

What has happened is that the free press no longer keeps the politicians honest. They in turn have joined into the dishonesty. Here it is. I read again. One sentence:

> But the supposedly untapped funds are actually an accounting figment.

Thirty-three billion in the highway trust funds. The article quotes it. It is not an accounting figment. And instead of keeping the trust for highways, who comes out against spending highway moneys for highways? The chairman of the Budget Committee, the chairman of the Appropriations Committee, and of all people, the head of the Federal Reserve because he is part and parcel of the conspiracy for a so-called unified budget.

Now, let's go to unified. Wall Street and Alan Greenspan love unified budgets so long as the Government is not coming in to the bond market with its sharp elbows borrowing. Then they can make more money on stock sales. Bond sales, their interest rates stay down so borrow from yourself.

Well, that is pretty good for the irresponsible business leadership but for the public servant down here in Washington that has to do his job, he is going to meet himself coming around the corner and today we have met ourselves coming around the corner.

But the supposedly untapped funds are actually an accounting figment.

That is the charade and fraud that has been going on. I more or less dedicated myself to paying the bill. Earlier today when we were opening up this school, I said when we handled this Justice Department budget back in 1987, 1988, it was only about $4.2 billion. Now, this year, it is $16.7 billion. It has gone up, up and away, and we do not pay for it.

I cited an editorial in my own hometown newspaper about April 15, here we were, the day to pay taxes, and up, up and away was the national debt to $5 trillion. And they said: You know the reason for this was entitlement funds. They said that it was the military retirement, the Social Security, the Medicare.

Wait a minute, Mr. President. Let us go to these so-called entitlement funds. As I mentioned a moment ago, Social Security is over one-half trillion dollars in the black. Medicare, everybody agrees, is in the black. They are talking about going broke in 7 years, but many adjustments can be made and should be made and will be made. We will keep Medicare solvent. We do not have to cut it to get a tax cut to buy the vote for November. I have opposed that.

Similarly, with the military and civil service retirement fund, it is in the black. It is not these entitlements, it is paying for the immigration border patrol, the immigration inspectors, all the other things; the Justice Department, FBI, for the defense, for all these things for 15 years. We have not been paying for general government. Oh, this cry over entitlements started in the Appropriations Committee when my friend Dick Darman came in there, talking about "entitlements, entitlements, entitlements." And you have that same Concord Coalition, "entitlements, entitlements, entitlements," and my friend Pete Peterson up there in New York, "entitlements, entitlements, entitlements."

Let us talk about general government. I was a member of the Grace Commission against waste, fraud, and abuse. And we have constituted the biggest waste, the biggest fraud, the biggest abuse in the last 15 years by spending $250 billion more each and every year, on an average, without paying for it. That is why the debt has gone to $5 trillion. That is why the interest cost has gone to over $350 billion. We will get a CBO estimate here on Wednesday. Today is Monday. But let me tell you what the estimate was earlier in the year. I will ask unanimous consent later that this be printed in the RECORD. The estimated 1996 interest cost on the national debt, gross interest paid is $350 billion.

Interest has gone up since then, so it is going to be over $1 billion a day. When President Reagan took over, the gross interest cost was exactly $74.8 billion. Get into a little arithmetic. Subtract $75, in round figures, $75 billion from $350 billion and you get $275 billion. Mr. President, 275 billion extra dollars spending for nothing, for nothing.

I remember President Reagan. I will show the talks, if you want me to put it in the RECORD. He was going to balance the budget in 1 year. Then he came to town and said, "Oops, 3 years." Then we had the Gramm-Rudman-Hollings Act, 5 years. Now they have proposed 7 years. If they get past the November election, the next crowd will say 10 years. As long as they can continue the charade, as long as the press fails to keep us honest and fails to engage the public in the truth, it continues the charade, calling it truth in budgeting.

Mr. President, the actual cost of domestic discretionary spending at this minute is $267 billion. But the increase in spending for interest on the debt has been $275 since President Reagan took office. Point: We have doubled domestic discretionary spending without getting a double Government. We could have two Presidents, two Senates, two Houses of Representatives, two Departments of Justice, Agriculture, Commerce, Interior. Domestic discretionary—we could have two for the money we are spending. But we are not getting it.

Talk about increased spending? "I am against increased spending." They are all running around in this Congress saying, "I am against increased spending." Well they have increased spending $1 billion today, on account of this fraud, this charade. Or, like taxes, for April 15 they have sent their minions all around the land, talking about tax day, "Let us have a special bill over in the House." It is all theater. And we will have that, "You have to have a two-thirds vote in order to increase taxes." Increase taxes? You cannot avoid death. You cannot avoid taxes. And you cannot avoid interest costs on the national debt. Interest is like taxes. You have already increased taxes today of $1 billion and you will increase taxes tomorrow, and on Saturday, and on Sunday and on Christmas Day, every day this year—not on increased program spending, but on interest on the debt. The crowd that says they are against increasing taxes is increasing taxes and not wanting to do a thing about this central problem.

I tried and I am going to continue. They are not going to get rid of me. I came here with a AAA credit rating for my State. I increased taxes to get it. I knew as a young Governor I could not go to those industry leaders in New York and ask them to come down and invest in Podunk. I had to have a solvent operation. So we did balance the budget and we put in a little device, which later, in the Federal Government, was called Gramm-Rudman-Hollings. It was cuts across the board.

I went to the distinguished Senator from Texas. I said, "This device that you have that cuts Social Security, it will not get to first base." I said, "Speaker O'Neill and Congressman Claude Pepper will run us off the Capitol steps. We have not got a chance. Forget it. Let us talk sense." I helped write Gramm-Rudman-Hollings sensibly, and we enacted automatic cuts across the board.

Then, when, as they say, the rubber hit the road in 1990, we abolished the cuts across the board. On October 19, at 12:41 a.m., I raised the point of order, and my distinguished colleague from Texas voted to abolish the cuts across the board of Gramm-Rudman-Hollings.

Do you know what they did? They went for spending caps. Well, this place has a ceiling, but the spending caps have not. Spending has gone up, up and away and that is why poor President Bush lost his reelection. There is no kidding around.

I mean, we were up to $400 billion deficits at that particular time. The exact figure, according to the schedule here of the real deficit was $403.6 billion. So they said we will try this little Governor from Arkansas. He has balanced the budget for 10 years. Give him a try.

I voted for a balanced budget under Lyndon Johnson. Under Lyndon Baines Johnson, the interest costs on the national debt in his last year, when we voted that balanced budget, was $16.6 billion. Now it is over $350 billion, over $1 billion a day. That is the biggest waste consciously caused by us.

I have been a party to it. Yes, I tried to enact a freeze. Then I tried Gramm-Rudman-Hollings. Then, even in the Budget Committee I had a value-added tax. It was bipartisan. I had the distinguished Senator from Missouri join me. The distinguished Senator from Minnesota joined. We had eight votes for a value-added tax of 5 percent allocated to ridding us of the deficit and debt so we would not have this increased spending on automatic pilot.

But, somehow, somewhere along the line, we have gotten into a contract of nothing but procedural nonsense. We have gotten into term limits, when the Constitution already says I have to run for every 6 years. Incidentally, I have been elected to the U.S. Senate six times.

We have procedural talk about unfunded mandates, line-item vetoes, anything except enacting a balanced budget. We are not providing; the size of the Federal work force is smaller now than it was 10 years ago. We are spending more and getting less. No wonder the body politic is disillusioned with their Government in Washington. Somehow, both Republican and Democrat, keep on spending more and more while we get less and less. And they all give us this same pollster pap of, "I am against taxes and for the family. I am against crime and for jobs." You know, get the hot button items and try to fool the people. And that is why the distinguished Senator from North Dakota has offered this amendment, which states:

> It is the sense of the Senate that because section 13301 of the Budget Enforcement Act prohibits the use of the Social Security trust fund surplus to offset the budget deficit, any proposal for a constitutional amendment to balance the budget should contain a provision creating a firewall between the receipts and outlays of the Social Security trust funds and the rest of the federal budget, and that the constitutional amendment should explicitly forbid using Social Security trust funds to balance the federal budget.

Mr. President, if acted on that idea, we would have passed the balanced budget amendment to the Constitution by at least 5 votes in March of last year—March of last year.

Again, about 6 weeks ago, I tried to bring it up, and they raised a technicality that it was not relevant. Five Senators wrote a letter to Majority Leader DOLE. We went on record in favor of the balanced budget amendment to the Constitution as long as it did not repeal section 13301. But they want that unified budget. Keep spending the billions and billions and billions from the Social Security trust fund and then come around at the end of the day when my children and the distinguished Presiding Officer's children and grandchildren come for their particular retirement, and they are going to say the untapped funds are actually an accounting figment.

Who in the year 2002 is going to raise a trillion dollars in taxes to make good on the IOU's in the Social Security draw? Nobody, nobody, and they do not have any idea of doing it. But "I'm against taxes," they say. Oh, it is a wonderful luxury to run around and fool the American people, and who allows it? The American free press. Read "Breaking the News" by James Fallows, an authoritative writer. He has been up here. He has watched the operation. I can tell you, time and time again, it has been a very, very difficult fight.

Let me give credit to the late Senator from Pennsylvania, John Heinz. John Heinz and I worked on taking the Social Security trust fund off budget. It was bipartisan. It was called the Heinz-Hollings amendment—we wanted him to lead it at the time because the Republicans were in control—and we called it the Heinz-Hollings-Moynihan amendment.

Our distinguished Senator MOYNIHAN had been the ranking member on the Finance Committee and, admittedly, is still the authority on Social Security in this body.

But on October 18, 1990, Senator John Heinz said:

> Mr. President, in all the great jambalaya of frauds surrounding the budget, surely the most reprehensible is the systematic and total ransacking of the Social Security trust fund in order to mask the true size of the deficit.

Another quote on October 18, 1990 by Senator John Heinz:

> Since 1983, when we may have saved the Social Security goose, we have systematically proceeded to melt down and pawn the golden egg. It does not take a financial wizard to tell us that spending these reserves on today's bills does not bode well for tomorrow's retirees.

I make these quotes to the body this afternoon for the simple reason that it is bipartisan, and I am appealing to the Senators on the other side of the aisle, the Republican colleagues, because I know the chairman of our Budget Committee, the distinguished Senator from New Mexico, does not believe in busting the budget. He got caught off base last November when he held up the good housekeeping award and said, "Here's a balanced budget certified by the Director of the CBO."

Then 2 days later, "CBO said, as you were, "we have a deficit of $105 billion." It was not balanced at all. Let us not go through that charade again. We can pass a balanced budget amendment to the Constitution.

Senator DOLE is put under tremendous pressures with the goofy right that he has to respond to in order to get the nomination. But now that he has it, he should revert to the old DOLE, as he was as chairman of the Finance Committee when he joined in the sentiment of George Bush who called Reaganomics voodoo, and former Republican majority leader, Senator Baker, who said it was a riverboat gamble.

I know Senator DOLE. I have tremendous respect for him, and I know he is solid on paying bills. But he has a crowd that runs rampant saying, "We don't want to pay the bill."

Remember what happened to Fritz Mondale? He was honest enough to come out and say we are going to have to have an increase in taxes in order to pay the bills, but he did not add "in order to pay the bills." He said, "Yes, it looks like we are going to have to increase taxes." He had ahead of time said, "By the way, I'm a Democrat in the image of Hubert Humphrey." When he said he was a Democrat in the image of my friend Senator Humphrey from Minnesota, everybody took it to mean we really were going to start some spending.

I understand the call that has been put out to call the Democrats tax-and-spend, tax-and-spend.

Let me enter something in the RECORD now for President Clinton. In all of these 15 years, the only time the deficit has been decreased is under President Clinton. He came to town and cut spending $500 billion. He came to town and with a $500 billion deficit reduction plan—equally split between spending cuts and taxes. I voted for it in order to try and get on top of these interest costs, this waste.

He came to town and cut $57 billion out of Medicare and had proposed another $124 billion. But there was no $250 billion for a tax cut. So he was acting responsibly until the Post and you folks just pulled him off base, and then he came for a tax cut, too, which nobody can afford.

That is one grand fraud on the American people. We do not have any taxes to cut. We have been cutting the spending. Eliminate the domestic discretionary spending. Eliminate welfare, eliminate foreign aid and the entire domestic discretionary spending and not cut it, and you still have a deficit. That is the serious problem.

The ox is in the ditch, and we have to sober up in this Government of ours and quit talking pollster politics games which the press joins in: who is up and who is down and who is silly enough.

I recommended a value-added tax in the Finance Committee. I want to pay for new immigration inspectors. I want to pay for 5,000 new border patrol. I want to pay for the extra FBI, the crime bill. I want to pay for the commitment in Bosnia. But this crowd comes up here and gets away with the worst I have ever seen.

I hope that we can salve the conscience, if there is one left amongst us, where we adopt the amendment of the distinguished Senator from North Dakota, the sense of the Senate that we not use Social Security trust funds to balance the Federal budget.

That was not the intent when we adopted those taxes, but you can see from the way they are treating highway trust funds—I would like to do it for the highway trust funds. I would like to do it for airport and airway trust funds. Out there in Colorado, we need some new airports, but we have not been spending the money on airports, we have been spending them instead on masking the size of the deficit, sacrificing future investment for present consumption.

I would like to spend these moneys for their intended purpose. I would like to pay the bill so that we will not saddle the next generation with our excesses. Where all they can do in Washington and is to pay for a little bit of defense, a little bit of domestic discretionary, cannot promote technology, cannot promote any competitiveness, cannot have any research and health care, and everything else that Government is supposed to do.

I believe in Government. I do not think Government is the problem. I think this charade is a problem. I think they know it is a problem. But they go along with this silly contract and its procedural nonsense, guaranteed every day to put on a show here. "Here is April 15. Here is tax day. Let's remind them about a tax cut that they could have gotten." So they automatically call it a President Clinton tax cut that you did not get, and all those kinds of things, when they could not give it to save their souls.

They do not have taxes to cut. In fact, their solution is Reaganomics and growth—please do not come back here with that growth. Senator Mathias on the Republican side and I were 2 of 11 votes against Reaganomics and that mantra of growth, growth, growth. The only thing that has grown is the deficit and spending, spending on automatic pilot of $1 billion a day—$1 billion a day. And nobody wants to talk about it. They want to talk about tax cuts. It's like saying, "I want to buy your vote."

Campaign financing. The biggest fraudulent campaign financing occurs on the floor of the U.S. Congress, because we mislead the American people that their Government is being paid for. We act like all we need to do is cut back a little on welfare and on foreign aid eliminate the Commerce Department.

Yes. Since I have the time—I talked the week before last with former Secretary Ron Brown. He and I were trying to work votes, in all candor, over on the Republican side. We were having a difficult time. We did not know whether or not the administration was going to veto the bill, should it pass. I take it now that the distinguished President would not hesitate in vetoing it because the Commerce Department is not a grab bag.

I have been through over a dozen Secretaries of Commerce, and I am laying it on the line. Ron Brown was the one Secretary of Commerce that did the work. Maurice Stans up to Mosbacher, all they did was collect money.

But here was a fellow out hustling business rather than funds for the campaign, actually doing an outstanding job. When I heard of the recent tragedy, I had just with the distinguished Senator from Maine, Senator COHEN. We were in Beijing at the time of the plane crash. They did not ask about the President because he has never been to the largest and perhaps one of the most important countries in the entire world. In fact, the Secretary of State, he has been 34 times to the Mideast but only one visit to Beijing. They did not ask about the Secretary of State.

They asked about Ron Brown. He made a wonderful, favorable impression. I really believe, Mr. President, that we can really bring about more human rights through capitalism and market forces than we can through sanctions.

I have learned the hard way, as we did back in the old days at the beginning of the war and the artillery. There was a saying then that no matter how well the gun was aimed, if the recoil was going to kill the gun crew, you did not fire the gun. The recoil of sanctions has killed the gun crew. It is killing off our business.

Just recently, France picked up a $1.2 billion Airbus contract rather than the United States of America. Well, we all believe that the Government should take a stand. But the way we have taken it is in a general loud-mouth fashion without any result. We should have targeted sanctions, clearly understood in the first instance. Let our businesspeople go and prosper and bring about more capitalism over communism. That is how we really defeated it in Eastern Europe and the Soviet Union, with capitalism itself.

What we are doing is taking the largest, most important nation in the Pacific—I can see that front cover of another magazine, "Friend or Enemy?" We are making them an enemy. There is not any question about it. They like America. They like our technology. They have 100,000 Chinese students. They know we stand for freedom and everything else.

I was on an aircraft carrier in the Gulf of Tonkin in 1966, the *Kitty Hawk*. We could not control 20 million North Vietnamese. I do not know how an aircraft carrier running around the Straits of Taiwan is going to control 1.2 billion Chinese. We need to sober up.

Government—the art of the possible, not responding to these pollster pap things. "Are you against Red China?" or "Are you against communism?" and all those things. You have to live in the real world. You have to get the best results you can. I am absolutely persuaded you are going to do it through capitalism and not through running around confronting on every turn and letting that other crowd pick up the marbles.

If you could do it unilaterally, fine business. But you cannot. So the French go in and the Germans go in or the Japanese, and they pick up our marbles and we are left behind.

If I put myself in control—if I had to control 1.2 billion, the one concern I guess I would have to have would be Taiwan. They are moving toward democracy. They have, after 48 years, a free election for a President for the first time. But having had it, the more they talk about democracy and independence, coming to Cornell and asking for diplomatic recognition. But we need to be honest, Mr. President, about what that means in China. Any strong movement toward democracy right is a sensitive subject because if the Taiwan get democracy, then some crowd down in Guangzhou, will want democracy and everything else. Give me one man one vote today in Beijing and I have chaos.

But the politician here in the National Government does not stop looking, listening, or thinking about it. I do not believe that the rulers in Beijing have any idea of continuing so-called Communistic government.

Some call it Market-Leninism rather than Marxist-Leninism. I do not know what it is, but I do know, having been there in 1976 and 1986 and now in 1996, that they have brought about 180 million into the middle class.

I would daresay, if I were Nick the Greek and had to bet, that I would bet that 10 to 20 years from now you are going to find more hungry fed in China than you are going to find in democratic India. I think that is a mistake in Russia, and that is why the President is going to be there the day after tomorrow.

Why? Because they gave political rights before they gave economic rights.

We in the U.S. Senate ought to stop looking and listening to those pollsters who have never served a day in government. They are wonderful. I have the best. I trust their polls and predictions, and they have been on target, but they still really do not know government. They never have thought about doing things in the long term. They are only thinking bam, bam towards the next election. I could fault us all. We are all looking to November. Nothing will happen in this body this year. Why? On account of November. Each day we are trying to find out who is on top in the 7 o'clock news.

Irrespective of who is on top, I ask unanimous consent to have printed in the RECORD these tables, since President Truman, 1945 to 1996, of the U.S. budget outlays in billions, the trust funds, the real deficit, the gross Federal deficit, and the gross interest.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

President and year	U.S. budget (outlays in billions)	Trust funds	Real deficit	Gross Federal debt (billions)	Gross interest
Truman:					
1945	92.7	5.4		260.1	(1)
1946	55.2	3.9	−10.9	271.0	(1)
1947	34.5	3.4	+13.9	257.1	(1)
1948	29.8	3.0	+5.1	252.0	(1)
1949	38.8	2.4	−0.6	252.6	(1)
1950	42.6	−0.1	−4.3	256.9	(1)
1951	45.5	3.7	+1.6	255.3	(1)
1952	67.7	3.5	−3.8	259.1	(1)
1953	76.1	3.4	−6.9	266.0	(1)
Eisenhower:					
1954	70.9	2.0	−4.8	270.8	(1)
1955	68.4	1.2	−3.6	274.4	(1)

President and year	U.S. budget (outlays in billions)	Trust funds	Real deficit	Gross Federal debt (billions)	Gross interest
1956	70.6	2.6	+1.7	272.7	(1)
1957	76.6	1.8	+0.4	272.3	(1)
1958	82.4	0.2	−7.4	279.7	(1)
1959	92.1	−1.6	−7.8	287.5	(1)
1960	92.2	−0.5	−3.0	290.5	(1)
1961	97.7	0.9	−2.1	292.6	(1)
Kennedy:					
1962	106.8	−0.3	−10.3	302.9	9.1
1963	111.3	1.9	−7.4	310.3	9.9
Johnson:					
1964	118.5	2.7	−5.8	316.1	10.7
1965	118.2	2.5	−6.2	322.3	11.3
1966	134.5	1.5	−6.2	328.5	12.0
1967	157.5	7.1	−11.9	340.4	13.4
1968	178.1	3.1	−28.3	368.7	14.6
1969	183.6	−0.3	+2.9	365.8	16.6
Nixon:					
1970	195.6	12.3	−15.1	380.9	19.3
1971	210.2	4.3	−27.3	408.2	21.0
1972	230.7	4.3	−27.7	435.9	21.8
1973	245.7	15.5	−30.4	466.3	24.2
1974	269.4	11.5	−17.6	483.9	29.3
Ford:					
1975	332.3	4.8	−58.0	541.9	32.7
1976	371.8	13.4	−87.1	629.0	37.1
Carter:					
1977	409.2	23.7	−77.4	706.4	41.9
1978	458.7	11.0	−70.2	776.6	48.7
1979	503.5	12.2	−52.9	829.5	59.9
1980	590.9	5.8	−79.6	909.1	74.8
Reagan:					
1981	678.2	6.7	−85.7	994.8	95.5
1982	745.8	14.5	−142.5	1,137.3	117.2
1983	808.4	26.6	−234.4	1,371.7	128.7
1984	851.8	7.6	−193.0	1,564.7	153.9
1985	946.4	40.6	−252.9	1,817.6	178.9
1986	990.3	81.8	−303.0	2,120.6	190.3
1987	1,003.9	75.7	−225.5	2,346.1	195.3
1988	1,064.1	100.0	−255.2	2,601.3	214.1
Bush:					
1989	1,143.2	114.2	−266.7	2,868.0	240.9
1990	1,252.7	117.2	−338.6	3,206.6	264.7
1991	1,323.8	122.7	−391.9	3,598.5	285.5
1992	1,380.9	113.2	−403.6	4,002.1	292.3
Clinton:					
1993	1,408.2	94.2	−349.3	4,351.4	292.5
1994	1,460.6	89.1	−292.3	4,643.7	296.3
1995	1,514.4	113.5	−277.3	4,921.0	332.4
Est. 1996	1,595.0	105.8	−277.8	5,198.8	350.0

[1] Budget tables: Senator Hollings.

Note: Historical Tables, Budget of the U.S. Government FY 1996; Beginning in 1962 CBO's 1995 Economic and Budget Outlook.

Mr. HOLLINGS. Mr. President, I also ask unanimous consent to have printed in the RECORD Public Law 13301, status of the Social Security trust funds.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Subtitle C—Social Security

SEC. 13301. OFF-BUDGET STATUS OF OASDI TRUST FUNDS.

(a) EXCLUSION OF SOCIAL SECURITY FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.".

SEC. 13302. PROTECTION OF OASDI TRUST FUNDS IN THE HOUSE OF REPRESENTATIVES.

(a) IN GENERAL.—It shall not be in order in the House of Representatives to consider any bill or joint resolution, as reported, or any amendment thereto or conference report thereon, if, upon enactment—

(1)(A) such legislation under consideration would provide for a net increase in OASDI benefits of at least 0.02 percent of the present value of future taxable payroll for the 75-year period utilized in the most recent annual report of the Board of Trustees provided pursuant to section 201(c)(2) of the Social Security Act, and (B) such legislation under consideration does not provide at least a net increase, for such 75-year period, in OASDI taxes of the amount by which the net increase in such benefits exceeds 0.02 percent of the present value of future taxable payroll for such 75-year period.

(2)(A) such legislation under consideration would provide for a net increase in OASDI benefits (for the 5-year estimating period for such legislation under consideration), (B) such net increase, * * *.

Mr. HOLLINGS. Mr. President, I also ask unanimous consent that the Hollings-Heinz amendment Social Security trust funds budget deficit vote of October 18, 1990, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE VOTING RECORD—NO. 283

YEAS (98)

Democrats (55 or 100 percent): Adams, Akaka, Baucus, Bentsen, Biden, Bingaman, Boren, Bradley, Breaux, Bryan, Bumpers, Burdick, Byrd, Conrad, Cranston, Daschle, DeConcini, Dixon, Dodd, Exon, Ford, Fowler, Glenn, Gore, Graham, Harkin, Heflin,

Hollings, Inouye, Johnston, Kennedy, Kerrey, Kerry, Kohl, Lautenberg, Leahy, Levin, Lieberman, Metzenbaum, Mikulski, Mitchell, Moynihan, Nunn, Pell, Pryor, Reid, Riegle, Robb, Rockefeller, Sanford, Sarbanes, Sasser, Shelby, Simon, and Wirth.

Republicans (43 or 96 percent): Bond, Boschwitz, Burns, Chafee, Coats, Cochran, Cohen, D'Amato, Danforth, Dole, Domenici, Durenberger, Garn, Gorton, Gramm, Grassley, Hatch, Hatfield, Heinz, Helms, Humphrey,

Jeffords, Kassebaum, Kasten, Lott, Lugar, Mack, McCain, McClure, McConnell, Murkowski, Nickles, Packwood, Pressler, Roth, Rudman, Simpson, Specter, Stevens, Symms, Thurmond, Warner, and Wilson.

NAYS (2)

Republicans (2 or 4 percent): Armstrong and Wallop.

Mr. HOLLINGS. I will have other things to be printed in the RECORD tomorrow when we debate this. This is not a casual thing. This is not a political thing. I will vote for Senator DOLE's Senate Resolution No. 1, if he will not repeal, just do not repeal the present law.

At least we have it into law. But the media disregards the law. The media quotes a unified budget, but sometimes the media does show some sense—instead of unified, saying the money is all in the Federal Government, they say, and I finally close in the sentence here on April 15, 1996, Time magazine, "But the supposedly untapped funds are actually an accounting figment."

Tell that to the media. From now on, that is what they call it, an accounting figment. We ought to have truth in budgeting. I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Mr. President, I ask unanimous consent to speak as in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERM LIMITS

Mr. ASHCROFT. Mr. President, I rise today to speak about an important project. In the next couple of weeks, the Senate will vote for the very first time in history on a proposed constitutional amendment to limit the terms of individuals in the U.S. Congress. This is, indeed, historic. While people are familiar with term limits, because they have applied to the President since the 1950's, and while 40-some States have term limits as it relates to other public officials, the U.S. Congress has never been term limited.

It is an exciting opportunity to know that the Judiciary Committee of this Senate for the first time in history has sent to the floor of the Senate, with bipartisan support, a proposed amendment to the Constitution of the United States that would provide the States with the chance to add to the Constitution, limits on Members' terms in the U.S. House and Senate.

People might say, why is that important? I think it is important from a number of points of view. I think that the biggest perk of all in Government is the perk of incumbency. The No. 1 campaign reform ought to be to level the playing field every couple of terms for Members of the Senate and every several terms for Members of the House and let new people have an opportunity to bring their fresh approach and their recent experience into Government from the private sector.

Steven Moore of the CATO Institute eloquently phrased the results of his study. He indicated clearly that if we were to have had term limits we already would have passed a balanced budget amendment to the Constitution of the United States. It would have passed the House and Senate in the years 1990, 1992, and in the year 1994. We would have had at a much earlier date the therapeutic value of the line-item veto, major reforms that encounter the resistance of career congressional individuals who have been passed long ago.

It is interesting to note that this study also indicated that there are several things that did pass which would not have passed, had there been term limits. Moore, of the CATO Institute, indicates that the last two pay increases for Congress would not have passed had we had term limits, and the last two tax increases on the people of this great country would not have passed, had we had term limits.

It is time for this body, along with the House of Representatives, to vote to allow the American people, through their States, to embrace term limits for the Congress if they choose to. The U.S. Senate and the U.S. House cannot enact term limits. But we can offer the opportunity to the States through a proposed constitutional amendment. We should do that and do it now. It is a way of inviting the people into the process of Government. For too long the Congress has slammed shut the door of self-government in the face of the American people. It is time to welcome them back.

In conjunction with the vote later this month on term limits, I am pleased to announce an exciting experiment in online democracy. It is the first ever congressional online petition. This is a way for the people of the United States of America to register their views on term limits with the U.S. Senate, and to do so at a place through electronic mail. I refer Members to the chart entitled "Term limits" at "jashcroft.senate.gov." which is the address for term limits on e-mail.

In addition to the e-mail address, you can also register your feelings on term limits by going to any number of home pages which will refer you to the term limits home page here in the Senate. For instance, the CNN home page, the C-SPAN home page, the America online home page, the netscape home page, the politics USA home page will all allow individuals to click to the term limits petition, where individuals can express themselves to the U.S. Congress.

This is an unusual petition made possible by the technology. I quote one of our first signers of the petition, Matthew Lovelace, who says, "Your project puts power in the hands of the people, power that bureaucracy and big Government have taken away." He is one of about thousands upon thousands of individuals that have already signed the term limits petition that is online and available to people all across the United States of America. It is not a petition for registration. It will not cause any specific election to happen. It is a petition of communication to send a message from the American people to the Members of this Congress. It began last Wednesday and it is fully underway now.

The new technology has the potential to help us redefine the way citizens and communities participate in our democracy. Normally, a petition is an event that you sign and say, "So long." You never see it again. You are not part of it in any sense, other than your name. The term limits petition, however, is one electronically that can allow you to see on a regular basis how many people have signed up, where Members of the Senate are in terms of the petition, and get views of public officials and others who have stated their views and written about term limits as a concept. Further, there can be updates through e-mail to individuals who request updates on the term limit petition.

The U.S. News reports that there are close to 300,000 Worldwide Web sites, and to have a term limits Worldwide Web site is just a way of providing the access to American people and people around the world to a concept whose time has come.

I do not think there is any better issue that could demonstrate the new technology than term limits. The new technology is designed to give people greater access and term limits will give people greater access to Government. If interactive technology at its core is about the increased deliberation, so, too, is term limitation.

Term limits also help to ensure accountability, and that new people and new ideas find their way into Government, and that we have competitive elections.

In 1994, 91 percent of all Congressmen who stood for reelection were returned to Washington. Term limits would eliminate the single biggest perk in the electoral system—the perk of incumbency. It is time that we simply say to individuals, yes, you are valuable, yes, you have served well, but there are thousands of people across America with the capacity to serve well and to have an opportunity to bring their creativity to Washington, DC.

Dennis Holland of Connecticut suggested, when he contacted my office this weekend, that the Internet and Worldwide Web are the natural place for the free flow of individuals' ideas. I believe they are. That is why we have opened this link of communication for the American people. I will be a part of this free flow of ideas when I appear on America Online chat tonight from 9 p.m. to 10 p.m. We will continue to update the Senate on this exciting experiment. I encourage other Members of the Senate to sign the petition to express themselves for or against term limits. That will be made available to individuals across America who participate in this new process of communicating about an opportunity for America, an opportunity for communication and for reform.

I was Governor of the State of Missouri for two terms. The constitution of Missouri providently provides and wisely includes a provision that we would limit Governors to two terms. Members of the house and senate in Missouri are limited, as are other members of the State executive. The President is limited in the terms that he can serve. It is a way or an avenue of opening up Government to the people, which we should explore.

The House and Senate of the United States, in a couple of weeks, will have an opportunity to send to the people in their States a proposed amendment to the Constitution of the United States to allow them to embrace term limits as a national concept for the Congress. It is one which I hope they will embrace, and I hope we will give them the opportunity to do so.

I look forward to making further appearances as we approach the time for this body to act on term limits. I look forward to seeing the people of America tonight when we are on the America Online program regarding term limits between 9 and 10 p.m. eastern daylight time.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

Mr. SIMPSON. Mr. President, I appreciate the cooperation of my colleagues as we proceed with the immigration and reform legislation, both illegal and legal immigration reform. We have much to do, but we have presented to our colleagues three amendments for disposition tomorrow, and we will begin to process the amendments from this side of the aisle and the other side of the aisle. I think that will be most appropriate. There is much to do, obviously, in the spirit of cooperation on a very tough bill, which is tough for every single one of us, and some much more than others.

MORNING BUSINESS

Mr. SIMPSON. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

JANE BERGEN'S SILVER ANNIVERSARY

Mr. HOLLINGS. Mr. President, I would like to express my thanks and congratulations to a member of my staff, Ms. Jane Bergen. As we all know, here on Capitol Hill, we have a lot of very bright people who join our staffs and work tirelessly for our constituents. However, it is truly rare to have someone as gifted, dedicated, and loyal as Jane. Yesterday was Jane's 25th anniversary with my office, and I am honored to have had her with me for all this time.

One of the many benefits of being a seasoned Senator is the opportunity to form strong relationships with one's staff. My office is, in many ways, a family, and Jane has done a great deal toward making it that way. In addition to being intelligent and capable, she is one of the most good-natured people I've ever met. Jane gets along with everyone, and I know that every member of my staff would do anything for her.

Over the course of 25 years, Jane has come to know just about all there is to know about the workings of the Senate. She has trained more legislative assistants in my office than I can count, and she has become an invaluable resource in the process. These days, the word "dependable" has become a somewhat banal adjective. Well, I would like to redefine that word and apply it to Jane Bergen. She is uniquely trustworthy, and my staff and I have come to rely on her knowledge, judgement, and goodwill on a daily basis.

As much as Jane participates in the family life of the office, she has just as full and successful life outside of it. She and her husband, Les, are the parents of two great children, Leah and Joel, who are the priority in their lives. Jane and Les are community leaders who have been active in local politics, the PTA and their synagogue.

Although Jane has attended college, married, raised children, and pursued a career here in Washington, she is a native of my hometown, Charleston, the daughter of dear friends, Rita and Dr. Leon Banov. And she still retains the best of the traits of southerners: a strong sense of family and community, a perpetually friendly disposition, and loyalty. On behalf of Peatsy and all the staff through the years, I thank Jane for her many and excellent contributions to our office. I look forward to working with her for years to come.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, on April 2, 1996, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker pro tempore [Mr. EMERSON] has signed the following enrolled bills:

H.R. 956. An act to establish legal standards and procedures for product liability litigation, and for other purposes.

H.R. 1561. An act to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for United States foreign assistance programs for fiscal years 1996 and 1997, and for other purposes.

H.R. 1833. An act to amend title 18, United States Code, to ban partial-birth abortions.

H.R. 2854. An act to modify the operation of certain agricultural programs.

Under the authority of the order of the Senate of January 4, 1995, the enrolled bills were signed subsequently, during the adjournment of the Senate, by the President pro tempore [Mr. THURMOND].

MESSAGES FROM THE HOUSE

At 1 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes.

The message also announced that the House agrees to the following concurrent resolution, without amendment:

S. Con. Res. 49. Concurrent resolution providing for certain corrections to be made in the enrollment of the bill (H.R. 2854) to modify the operation of certain agriculture programs.

The message further announced that pursuant to the provisions of section 168(b) of Public Law 102–138, the Speaker appoints the following Members on the part of the House to the British American Interparliamentary Group: Mr. CLINGER of Pennsylvania, vice chair, Mr. BROWNBACK of Kansas, Ms. MOLINARI of New York, Mr. PETRI of Wisconsin, and Ms. PRYCE of Ohio.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2202. An act to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes.

H.R. 3103. An act to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes.

MEASURE PLACED ON THE CALENDAR

The following measure was read the first and second times by unanimous consent and placed on the calendar:

H.R. 2202. An act to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures by improving the verification system for eligibility for employment, and through other measures, to reform legal immigration system and facilitate legal entries into the United States, and for other purposes.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 3103. An act to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term-care services and coverage, to simplify the administration of health insurance, and for other purposes.

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under the authority of the order of the Senate of March 29, 1996, the following reports of committees were submitted on April 10, 1996:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 1664: An original bill to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes (Rept. No. 104–249).

S. 1665: An original bill to amend the Immigration and Nationality Act to reform the standards and procedures for the lawful admission of immigrants and nonimmigrants into the United States (Rept. No. 104–250).

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1239: A bill to amend title 49, United States Code, with respect to the regulation of interstate transportation by common carriers engaged in civil aviation, and for other purposes (Rept. No. 104–251).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH:

S. 1666. A bill to authorize the Federal district court for the Central Division of Utah to hold court in Provo and St. George; to the Committee on the Judiciary.

By Mr. GREGG:

S. 1667. A bill to change the date on which individual Federal income tax returns must be filed to the nation's Tax Freedom Day, or the day on which the country's citizens no longer work to pay taxes, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY:

S. 1668. A bill to improve the job and income security and retirement security of the American worker, and for other purposes; to the Committee on Finance.

By Mr. LOTT (for himself and Mr. COCHRAN):

S. 1669. A bill to name the Department of Veterans Affairs medical center in Jackson, Mississippi, as the "G.V. (Sonny) Montgomery Department of Veterans Affairs Medical Center"; to the Committee on Veterans Affairs.

By Mr. HARKIN:

S. 1670. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for postsecondary education expenses, to make permanent the exclusion for employer-provided education, and for other purposes; to the Committee on Finance.

S. 1671. A bill to provide for cockpit voice recorders and flight data recorders on noncombat aircraft of the Armed Forces; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for Mr. DOLE (for himself, Mr. DASCHLE, Mr. LOTT, Mr. FORD, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, Mr. WELLSTONE, and Mr. WYDEN)):

S. Res. 241. A resolution in tribute to Secretary of Commerce Ronald H. Brown and other Americans who lost their lives on April 3, 1996, while in service to their country on a mission to Bosnia; submitted and read.

By Mr. WARNER:

S. Res. 242. A resolution to provide for the approval of final regulations that are applicable to the Senate and the employees of the Senate, and that were issued by the Office of Compliance on January 22, 1996, and for other purposes; considered and agreed to.

S. Con. Res. 51. A concurrent resolution to provide for the approval of final regulations that are applicable to employing offices that are not employing offices of the House of Representatives or the Senate, and to covered employees who are not employees of the House of Representatives or the Senate, and that were issued by the Office of Compliance on January 22, 1996, and for other purposes; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S. 1666. A bill to authorize the Federal District Court for the Central Division of Utah to hold court in Provo and St. George; to the Committee on the Judiciary.

THE CENTRAL DIVISION OF UTAH FEDERAL DISTRICT COURT AUTHORIZATION ACT OF 1996

Mr. HATCH. Mr. President, today I introduce a bill that would permit the Federal District Court of the Central Division of Utah to hold court in Provo and St. George. Under the relevant statutory provision, title 28, United States Code, section 125, District Court for the Northern Division of Utah may be held only in Ogden, and District Court for the Central Division of Utah may be held only in Salt Lake City.

The central division of Utah, however, is quite expansive: it encompasses 23 counties and spreads from the Salt Lake region down to Utah's southern border. Due to the division's size, those involved in district court proceedings, whether as litigants, jurors, or lawyers, must travel to Salt Lake City for district court. The district judges and others in Utah have become concerned about inconveniences that have arisen due to the statutory constraints on the places of holding court in Utah.

On January 9, 1996, the district judges for the District of Utah voted to approve an amendment to title 28, United States Code, section 125 that would permit district court for the central division of Utah to be held not only in Salt Lake City, but also in Provo and St. George. The bill I introduce today embodies those changes. The Utah State Bar supports the bill.

This bill will help Utahns by facilitating the administration of justice in Utah, and by permitting easier access to the district courts to citizens and litigants throughout Utah, who have often had to travel to Salt Lake City to have their cases and concerns heard.

Provo itself is a significant city with a population of 86,835. The neighboring city of Orem, UT, adds a population of 67,561 to Provo's immediate region. St. George, while a smaller city, is located in the southwest corner of Utah, and would provide a convenient location for citizens of southern Utah.

The minor modifications embodied in the bill will place Utah in a similar position to many other States in which district court may be held at numerous statutorily designated locations. The vast majority of States enjoy far more than two places in which district court can be held. Just to cite a few examples, 13 cities in Alabama are designated as cities in which district court may sit, 11 cities in Arkansas are so designated, 17 cities in Georgia are named, 12 cities in Iowa are included, and 23 cities in Oklahoma are listed.

Under current law, only Delaware, Hawaii, Maine, New Hampshire, and Rhode Island stand with Utah in having two or fewer locations in which district court may be held. Utah is the largest of those States. Even with the change, a mere four cities in Utah will be designated as places for holding district court.

I note for my colleagues that the bill does not require any additional appropriations or any courthouse construction. It simply permits court to be held in two additional locations.

I ask unanimous consent that the entire text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1666

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HOLDING OF DISTRICT COURT IN PROVO AND ST. GEORGE, UTAH.

Section 125(2) of title 28, United States Code, is amended by inserting ", Provo, and St. George" after "Salt Lake City".

By Mr. KENNEDY:

S. 1668. A bill to improve the job and income security and retirement security of the American worker, and for other purposes; to the Committee on Finance.

THE AMERICAN WORKERS ECONOMIC SECURITY ACT

Mr. KENNEDY. Mr. President, throughout the decades of the cold war, the paramount national concern was national security. Now with the end of the cold war, concern is growing rapidly over another type of security. This type of security has four aspects: job security, financial security, health security, and retirement security. For millions of individuals and families, the proper word in each of these aspects of their lives is "insecurity," not "security." No political party deserves to prevail if it fails to address these concerns and propose a plausible strategy to end them.

The heart of the current crisis of economic insecurity is the growing realization that growth and prosperity no longer benefit all families fairly. The quarter century after World War II was a golden era. Hard work paid off as the economy grew and income rose for all. But no more.

Superficial signs of prosperity abound. The stock market has soared. Inflation is consistently low and unemployment is down. But the prosperity is less than it seems. Americans are working harder and earning less. Their standard of living is stagnant or sinking. They are worried about losing their jobs, losing their health insurance, affording their children's education, caring for their elderly parents, and somehow still saving for their own retirement.

The rich are still getting richer but more and more families are left out and left behind. The rising tide that once lifted all the boats is now lifting only the yachts.

Mr. President, these two charts reflect, I think, in a dramatic way what has effectively been happening in the U.S. economy over the period of the recent years. From 1947 to 1979, virtually 30 years, we found that in each of the groups, the bottom 20 percent, second bottom 20 percent, the middle 20 percent, the top 20 percent, the second top 20 percent, and even the top 5 percent of Americans for almost 30 years—30 years—effectively grew together, the real family income group. All Americans moved along and moved along together during periods of time when we had both recessions and inflation. Cumulatively over this period of time all Americans went along together.

But from 1979 to 1993, in the most recent period of time, taken collectively, we will find out that those again at the bottom level, the next to the bottom level, and even in the middle have been virtually losing ground; that is, the bottom 60 percent, while the top 40 percent have been moving well, and the top 5 percent has seen great growth, and the top 1 percent the largest growth. That reflects almost two-thirds of the American families over this period of time from 1979 to 1993 have been, in most instances, working harder, struggling longer hours, and have been gradually falling behind in terms of the real family income growth during this period, while those at the top end have seen this extraordinary growth.

Mr. President, once now profitable companies are even laying off good workers at unseemly rates for even fatter profits, even higher stock prices, and even more astronomical salaries and benefits for CEO's. And to add insult to injury, the fears on Main Street are met by cheers on Wall Street.

We saw that in recent times when we saw the dramatic increase in the total number of jobs just a short while ago, 600,000 or 700,000 new jobs, and the stock market going down over 100 points. And we saw it conversely when we saw bank mergers that were taking place just several weeks ago, a couple months ago, that saw the announcement of the loss of some 20,000 jobs, and the stocks as a result of the mergers going right up through the roof.

Mr. President, the Republican Contract With America is now largely defunct because it would have made these problems worse. Its massive cuts in Medicare, education, and other priorities would have exacerbated the security of most families, and the lavish tax breaks for the wealthy would have worsened the income gap. Clearly, the Republican strategy is to comfort the comfortable and afflict the afflicted.

The Republican strategy is designed to exploit the income gap—but do nothing to solve it. In fact, half of all the spending cuts in the vetoed Republican budget came from programs benefiting the neediest 20 percent of families. Less than a tenth came from the top 20 percent, while two-thirds of the Republicans' proposed tax breaks would flow to the top 20 percent, while the bottom 20 percent actually faced a tax increase.

So we found even in the last proposal more was being demanded from the working families, less from the wealthiest individuals, and yet those families were going to be the ones who were going to benefit the greatest amount from those proposed cuts and benefits from the Tax Code. Practical steps, not demagoguery, are needed to deal with each of the four economic insecurities facing individuals and families.

In other times, Congresses have enacted restraints on runaway free enterprise to end abuses and bolster the public interest. The most obvious precedents are the antitrust laws, civil rights laws, the child labor laws, minimum wage, Social Security, Medicare, Medicaid, and Federal aid to education.

Today is April 15—tax day. Ordinary Americans across the country are filing their income taxes and wondering about their job security, their stagnant wages, their health care, their retirement, their ability to educate their children, while our Republican colleagues are proposing tax breaks for the wealthiest individuals and corporations in America.

Let us work together to increase economic security for all families. We can find ways to align the interest of individuals and industries and allow them to grow together so that corporations and shareholders can still reap profits, but not at the expense of the wages and standards of living of their employees.

We should provide incentives to make it more profitable for employers to create jobs than eliminate them, share gains with employees rather than channel them solely to the CEO's and shareholders, and provide reasonable job training, health, and retirement benefits. We can pay for all those incentives by closing perverse incentives in the Tax Code that encourage firms to move jobs overseas and treat workers as disposable.

Action on several fronts is already underway. The Kassebaum-Kennedy bill to guarantee health insurance for workers has bipartisan support and will be taken up this week in the Senate. It will deal with two flagrant problems in health insurance today—the excessive use of exclusions, the preexisting conditions, and the loss of insurance coverage when employees lose their job or change their job.

The lesson of the health reform debate of 1994 is that a sharply divided Congress cannot make far-reaching changes in election years. Instead of repeating that mistake, we should enact the reforms that have broad bipartisan support and that are achievable this year, if both sides in the ongoing health reform debate refrain from piling on controversial additional provisions.

Second, it is time to raise the minimum wage, which will soon reach its lowest level in 40 years. April 1 marked the fifth anniversary of the last increase in the minimum wage. Raising it from $4.25 an hour to $5.15 an hour, in two steps this year and next year, as President Clinton has proposed, will increase the wages of 13 million Americans. It will be interesting to see whether Senator DOLE and other Republicans are prepared to join us as the debate goes on.

Third, Congress should reform the immigration laws to end antiworker abuses. Republicans and Democrats speak with one voice in urging the strongest possible crackdown on illegal immigration. But reforms and legal immigration are needed, too, in order to give American workers the protection they need and deserve.

We should make it illegal for U.S. firms to lay off American workers and replace them with cheap imported foreign labor. Before U.S. firms hire foreign workers they should make a good-faith effort to hire qualified American workers. If we refuse to enact reasonable restrictions to protect U.S. jobs, we will fuel the drive for extreme restrictions that will slam the door unfairly against all immigrants.

Other steps are also needed to assist the American workers. Today, I am introducing a bill to create a two-tier tax rate for companies and encourage firms to act more responsibly toward their employees. If a company invests in education and training for its workers, provides adequate health care and retirement benefits, shares its profits with its workers, increases the wages of its work force at or above the Consumer Price Index, and makes child care available for all workers, it will receive a 25-percent reduction in the income tax rate it pays on profits distributed as dividends to shareholders on this portion of its income.

The corporate tax rate will be reduced to 26 percent for corporations now taxed at 35 percent, and corporate reductions will be available to corporations now taxed at other rates. Under this plan, CEO's who resist measures to treat workers fairly will feel the wrath of shareholders, whose dividends will be lower because the corporations fail to act responsibly.

This is a two-tier tax rate for most-favored companies. I will show the difference between company A and a most-favored company, using this chart. What we find out is that if they have the profits, they retain the profits—in this case, they distribute them. They pay the $35. It will amount to $70 in this illustration if it is a most-favored company. If they retained $100, but distributed to shareholders the $100 distribution, this would be a $25 tax reduction on the shares distributed to the shareholders, which would mean there would be $26 on this segment, meaning there would be $61 rather than the $70.

So, the drive for this kind of reduction will be the shareholders that will be involved in this decision. This will rely on their interest, their involvement, their pressure, rather than a governmental institution or a State institution to be able to move this process forward. They will see, with the distribution, that their taxes on that distribution will be reduced.

We reward other countries with tariff benefits if they qualify as most favored nations. We should create a category of most-favored companies and reward them when they treat their employees as assets.

In addition, the bill I am introducing today provides that the Federal Government, with its billions of dollars in Government procurement and contracting, will give preference to these companies that treat their employees well and qualify for the tax benefits—about $85 billion, $85 to $100 billion in various contracts. Those most-favored companies would have the preference when competing with a nonfavorite for a particular contract. That would be true, as well as extended loan provisions that come through the various loaning agencies of the Federal Government. That is a smaller figure, about $20 billion, but it is still very, very important, particularly for smaller companies, and smaller companies would be very much encouraged to participate.

The bill also places new restraints on corporate mergers and acquisitions, which are causing enormous job insecurity for workers and substantial layoffs and serious dislocations for entire communities. This provision strengthens the antitrust laws by requiring a review of the impact of these mergers on workers.

The Federal Trade Commission, the Justice Department, the Labor Department, and the Securities and Exchange Commission will give greater scrutiny to the corporate transactions likely to result in the closing or downsizing of company, facilities, or plants that are part of the lifeblood of local communities.

Now, Mr. President, what we are talking about are the mergers and acquisitions, the amendments to the antitrust law. These two companies want to merge, so they go through a review. Then there is a judgment that is made that they will be able to go through and the merger will take place. As part of the remedy process, the commissions will consider not just competition considered at the present time but also consider the impact on workers and communities. They will consider both of those.

We are not assigning percentages to each of them but we are taking note that we believe that if we have established the antitrust laws to consider competition between the various companies, that we also ought to encourage them to take a look at what the impact is going to be on working families. Not to say that has to override, but just that it has to be considered as they are making the remedies, to go forward with any of the new mergers or with any of the divestitures. That is the place this will go on through. We see the total number of mergers—2,800 last year. They have been escalating dramatically. About 20 percent of those are reviewed carefully by the Federal Trade Commission and DOJ. Only a small amount of them ever get into this kind of a process, but that is an extremely important item and can make a very, very important difference.

Mr. President, in addition, the bill eliminates the tax deductions that encourage mergers and acquisitions and leveraged buyouts that cost American jobs and line the pockets of the financiers of the deals. Another major section protects retirement security by encouraging companies to provide greater pension coverage for employees.

Last Thursday, President Clinton proposed a series of needed reforms in the current laws applicable to workers who now participate in pension plans. These reforms will encourage new pension plans for small businesses, expands IRA eligibility, increases pension portability and prevents pension raiding.

In addition, I am proposing several other reforms to facilitate coverage for employees who do not have access to pension plans through their current employment plan. The bill establishes an individual pension plan mechanism for all individuals without access to employer-based plans. Workers will no longer be dependent upon their employer for retirement planning and savings. The bill will provide portability to all these workers who could never before gain access to a pension plan. They will be able to take these plans with them from job to job. The employer's sole responsibility is the payroll deduction of the employees' savings.

Less than 50 percent of the private work force is now covered by private pension plans. More than 68 million Americans have no pension coverage. Ironically, most of them work in smaller businesses, which are the driving force of the future economy. Yet their retirement needs are neglected. These are the workers who are the backbone of the economy during their working lives. They constitute more than half of the work force. We cannot ignore their retirement needs. Like health care, good pension coverage should be accessible, affordable, and portable.

This chart demonstrates the alternative pension plan which is employer based. Here we have the IRA's. The proposal that I am introducing today, the individual pension plan which is the more acceptable, what this does, it says the employer will permit the contribution by the employee into a pension system, that that pension system is going to have to live up to fiduciary and ERISA standards, which will give greater protections for the individual pension plans and the advantage of portability over the IRA's. Individuals will be able to take, though, their portable pension plans with them.

As we all know, most of the new jobs in the country are produced by the small businesses. Pension plans will serve the retirement needs of millions of existing and future small business workers with no pension options.

Finally, the bill I am introducing expands educational opportunities for workers by offering them the tax benefits for employers and families. This is an issue that is familiar to most Members of this body. What we find out once again, to learn what is the level of income from those that both do not finish high school compared to those that complete various segments of their education. This chart is the average annual earnings by level of education. We see that those that do not finish high school and are employed earn $12,800; those that have professional degrees, earn $74,000. We know the stories of World War II. Every dollar invested was returned eight times to the Federal Treasury. The more incentives that we can provide to increase opportunities for education, the better off our economy and our ability to compete. We have incentives for both the training programs as well as tuition of programs spelled out.

The bill pays for these provisions with revenues generated from the repeal of the incentives in the current tax law that encourage companies to close U.S. plants, uproot jobs in the United States, and transfer them to foreign countries abroad.

We can save $40 billion or more over the next 7 years by repealing tax breaks for profits earned in foreign countries, tax exemptions for companies that transfer title to goods on the high seas to avoid U.S. taxes; price rigging by multinational corporations that minimize U.S. income and maximize income in foreign tax havens; sham corporations that generate huge tax deductions for moving plants and jobs overseas, and loopholes that allow billionaires to thumb their noses at Uncle Sam and renounce their American citizenship and move to a foreign tax haven to evade taxes on the massive wealth they have accumulated in America.

The Members are familiar with this list because many of these have been offered by other Members of the Chamber at different times. We have already voted on the billionaires' tax loophole, which benefits a handful of Americans who have made substantial amounts of money—in some instances, billionaires. By renouncing their citizenship and moving overseas, they effectively escape all of the taxes on that money that was earned in the United States, and they avoid paying any of their tax obligations by just escaping and renouncing American citizenship. This is called the "Benedict Arnold tax loophole." It is an appropriate name for it. The others are matters which raise some $40 billion, and this is not even a complete list.

We are, obviously, open to other recommendations, suggestions, or add-ons for this. But it does indicate that we do have an opportunity to reduce these kinds of incentives that, today, are impacting working families. We will hear that we should not use the Tax Code to achieve social outcomes. The fact of the matter is that these tax provisions, which exist in the Internal Revenue Code today, are all impacting and affecting adversely working families. We are saying, let us stop that. We cover the revenues here and provide the incentives for the American workers.

The "quiet depression" facing American workers is the central economic, social, and political issue of 1996. When the economy is wrong, nothing else is right. Progress and opportunity for all is a fundamental American value. We know the problem. We know its urgency. The only thing that is unacceptable is to do nothing.

By Mr. HARKIN:

S. 1670. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for postsecondary education expenses, to make permanent the exclusion for employer-provided education, and for other purposes; to the Committee on Finance.

THE COMMONSENSE MIDDLE-CLASS TAX RELIEF ACT

• Mr. HARKIN. Mr. President, I introduce the Commonsense Middle-Class Tax Relief Act.

Today, middle-class Americans are working longer hours for smaller paychecks. American families deserve a raise. And that's just what my legislation provides—a raise in incomes, a raise in education and skills, and a raise in living standards.

The Commonsense Middle-Class Tax Relief Act is based on a fundamental premise: a higher education means higher income.

The bill would provide a $10,000 tax deduction for a person or their parents for the costs of tuition and fees at a college or for a vocational education. The full deduction would be available for families with an adjusted gross income of $80,000 and would be reduced as the income exceeded that level, being completely phased out when the taxpayer's income exceeded $100,000 for joint filing taxpayers.

For individuals the full credit would be available for those with adjusted incomes of up to $60,000 phasing out completely at $80,000. For the current year, half of the $10,000 deduction would be available. The full $10,000 deduction would be available starting in 1997 and thereafter. This provision is similar to one proposed by President Clinton.

Under existing law, post-secondary expenses can only be deducted under very narrow circumstances: if it is for the improvement of one's skills in a job a person holds above the skills needed to acquire that position, but to acquire additional skills required by the government or the employer to stay in the position.

My measure also would restore the exclusion of employer-paid payments of post-secondary college and vocational education costs for improvement of an employee's job related skills that were allowed prior to January 1, 1995. It would make the exclusion permanent.

The Commonsense Middle-Class Tax Relief Act will cut taxes on hard-working families trying to get ahead, raise incomes, and prepare Americans for the 21st century. It will mean higher incomes, higher education, and higher quality jobs for hard-working Americans.

Mr. President, education is key to both the raising of incomes of average Americans and to increasing the competitiveness of America in an increasingly global economy. I ask unanimous consent that a recent article in the Washington Post by Lester Thurow on this topic be included in the RECORD.

Mr. President, I urge my colleagues to join me in support of this commonsense proposal. We should be able to agree on a bipartisan basis that this type of important middle-class tax relief is needed and will mean better opportunities and better incomes for millions of Americans.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 7, 1996]

PREPARING STUDENTS FOR THE COMING CENTURY

(By Lester C. Thurow)

Consider an alphabetical list of the 12 largest companies in America at the turn of the 20th century; the American Cotton Oil Company, American Steel, American Sugar Refining Company, Continental Tobacco, Federal Steel, General Electric, National Lead, Pacific Mail, People's Gas, Tennessee Coal and Iron, U.S. Leather and U.S. Rubber. Ten of the 12 were natural resource companies. The economy then was a natural resource economy, and wherever the most highly needed resources were to be found, employment opportunities would follow.

In contrast consider the list made 90 years later by the Japanese Ministry of international Trade and Industry, enumerating what it projected to be the most rapidly growing industries of the 1990s: microelectronics, biotech, the new material-science industries, telecommunications, civilian aircraft manufacturing, machine tools and robots, and computers (hardware and software). All are brainpower industries that could be located anywhere on the face of the earth. Where they will take root and flourish depends upon who organizes the brainpower to capture them. And who organizes the power most efficiently will depend on who educates toward that objective best.

But back to the industries for the moment: Think of the video camera and recorder (invented by Americans), the fax (invented by Americans), and the CD player (invented by the Dutch). When it comes to sales, employment and profits, all have become Japanese products despite the fact that the Japanese did not invent any of them. Product invention, if one is also not the world's low-cost producer, gives a country very little economic advantage. Being the low-cost producer is partly a matter of wages, but to a much greater extent it is a matter of having the skills necessary to put new things together.

Wages don't depend on an individuals's skill and productivity alone. To a great extent they reflect team skills and team productivies. The value of any single person's knowledge depends upon the smartness with which that knowledge is used in the overall economic system—the abilities of buyers and suppliers to absorb that individual's skills.

In an era of brainpower industries, however, the picture is even more complicated: The economy is a dynamic economy always in transition—the companies that do best are those able to move from product to product within technological families so quickly that they can always keep one generation ahead. Keeping one jump ahead in software, for instance, Bill Gates's Microsoft had a net income running at 24 percent of sales in 1995.

If a country wants to stay at the leading edge of technology and continue to generate high wages and profits, it must be a participant in the evolutionary progress of brainpower industries so that it is in a position to take advantage of the technical and economic revolutions that occasionally arise. Knowledge has become the only source of long-run sustainable competitive advantage. Recent studies show that rates of return for industries that invest in knowledge and skill are more than twice those of industries that concentrate on plant and equipment. In the past, First World citizens with Third World skills could earn premium wages simply because they lived in the First World. They had more equipment, better technology and more skilled co-workers than those who lived in the Third World. But that premium is gone Today's transportation and communications technologies have become so sophisticated that high-wage skilled workers in the First World can work together effectively with low-wage unskilled workers in the Third World. America's unskilled now get paid based on their own abilities and not on those of their better-trained co-workers.

Industrial components that require highly skilled manufacturers can be made in the First World and then shipped to the Third World to be assembled with "low skill" components. Research and design skills can be electronically brought in from the First World. Sales results can be quickly communicated to the Third World factory, and retailers know that the speed of delivery won't be significantly affected by where production occurs. Instant communications and rapid transportation allow markets to be served effectively from production points on the other side of the globe.

Multinational companies are central in this process: Where they develop and keep technological leadership will determine where most of the high-level jobs will be located. If these firms decide to locate their top-wage leadership skills in the United States, it will not be because they happen to be American firms but because America offers them the lowest cost of developing these skills. The decisions will be purely economic. If America is not competitive in this regard, the market will move on. The countries that offer companies the lowest costs of developing technological leadership will be the countries that invest the most in research and development, education and infrastructure (telecommunications systems, etc.).

If the person on a loading dock runs a computerized inventory-control system in which he logs delivered materials right into his hand-held computer and the computer instantly prints out a check that is given to the truck driver to be taken back to his firm (eliminating the need for large white-collar accounting offices that process purchases), the person on the loading dock ceases to be someone who just moves boxes. He or she has to have a very different skill set.

Factory operatives and laborers used to be high school graduates or even high school dropouts. Today 16 percent of them have some college education and 5 percent have graduated from college. Among precision production and craft workers, 32 percent have been to or graduated from college. Among new hires those percentages are much higher. In the last two decades, the linkage between math abilities and wages has tripled for men and doubled for women.

The skill sets required in the economy of the future will be radically different from those required in the past. And the people who acquire those skill sets may not be the unskilled workers who currently live in the first world. With the ability to make anything anywhere in the world and sell it anywhere else in the world, business firms can "cherry pick" the skilled or those easy (i.e., cheap) to teach wherever they live. American firms don't have to hire an American high school graduate if that graduate is not world-class. His or her educational defects are not their problem. Investing to give the necessary market skills to a well-educated Chinese high school graduate may well end up being a much more attractive (i.e., less costly) investment than having to retrain an American high school dropout or a poorly trained high school graduate.

Take Korea for example. In a global economy, what economists know as "the theory of factor price equalization" holds that an American worker will have to work for wages commensurate with a Korean's wages unless he works with more natural resources than a Korean (and no American can, since there is now a world market for raw material to which everyone has equal access); unless he has access to more capital than a Korean (and no American can since there is a global capital market where everyone borrows in New York, London and Tokyo); unless he has more skilled co-workers than a Korean (and no American can claim to since multinational companies can send needed knowledge and skills anywhere in the world); and unless he has access to better technology than a Korean (and few Americans have, since reverse engineering—tearing a product apart to learn how it is made—has become an international art form; highly refined in Korea). Adjusted for skills, Korean wages will rise and American wages will fall until they equal each other. At that point, factor price equalization will have occurred.

The implications for the future are simple. If America wants to generate a high standard of living for all of its citizens, skill and knowledge development are central. New brainpower industries have to be invented and captured. Organizing brainpower means not just building a research and development system that will put us on the leading edge of technology, but organizing a top-to-bottom work force that has the brainpower necessary to make us masters of the new production and distribution technologies that will allow us to be the world's low-cost producers.

To do this will require a very different American educational system. And building such a system is the new American challenge.

Progress has to start by ratcheting up the intensity of the American high school. The performance of the average American high school graduate simply lags far behind that found in the rest of the industrial world. Those Americans who complete a college course of study end up catching up (the rest of the industrial world doesn't work very hard in the first couple of years of university education), but three-quarters of the American work force doesn't ever catch up.

The skill gap doesn't end there. Non-college-bound high school graduates elsewhere in the industrial world go on to some form of post-secondary skill training. Germany has its famous apprenticeship system; in France every business firm by law has to spend one percent of its sales revenue on training its work force; and with lifetime employment as a fact of life, Japanese companies invest heavily in the work force's skills since they know that it is impossible to hire skilled workers from the outside. In America, government-funded programs are very limited in nature, and, with high labor-force turnover rates, American companies quite rationally don't want to make skill investments in people who will leave and take their skills elsewhere. The net result is a compounded skill gap for those Americans who do not graduate from college. Closing this gap and giving the country a competitive edge should be America's number one educational priority.•

By Mr. HARKIN:

S. 1671. A bill to provide for cockpit voice recorders and flight data recorders on noncombat aircraft of the Armed Forces; to the Committee on Armed Services.

DEPARTMENT OF DEFENSE NONCOMBAT AIRCRAFT LEGISLATION

• Mr. HARKIN. Mr. President, I am introducing a bill that requires all Department of Defense noncombat aircraft to have both cockpit voice recorders and flight data recorders. I was shocked to learn that the airplane that crashed in Bosnia with tragic loss of 35 lives including Ron Brown, the Secretary of Commerce was not equipped with those important devices.

We need to thoroughly understand why any plane crash occurs. With that knowledge, was can better protect other planes of a similar type. In this case, the Department of Defense plane used was very similar to civilian aircraft. In other cases that may not be true. But, in all cases, we need to fully understand crashes and near crashes to better improve our safety record.

The bill provides that the Department of Defense should establish rules to require that noncombat aircraft contain those devices within 120 days of enactment and that the devices be in place within 1 year. The legislation provides that the requirements for the Department be as similar as possible to those used by the FAA.

On April 9, I wrote to Secretary Perry about this issue and asked how many DOD noncombat planes do not have these devices and what would be the cost of placing those devices into those aircraft. It is possible that there may be some narrow category of noncombat aircraft where these devices would not be appropriate because of the specialized nature of the aircraft or extreme cost. If that is the case, I look forward to learning about the specific situations involved. There may be a need for some exceptions. But, I believe that the Congress should move forward to require that these devices be on DOD aircraft as quickly as possible. I hope that we will act to pass this legislation, perhaps with some modification, very quickly.•

ADDITIONAL COSPONSORS

S. 358

At the request of Mr. HEFLIN, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 358, a bill to amend the Internal Revenue Code of 1986 to provide for an excise tax exemption for certain emergency medical transportation by air ambulance.

S. 605

At the request of Mr. DOLE, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 605, a bill to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the fifth amendment.

S. 743

At the request of Mrs. HUTCHISON, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 743, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit for investment necessary to revitalize communities within the United States, and for other purposes.

S. 773

At the request of Mrs. KASSEBAUM, the names of the Senator from Michigan [Mr. ABRAHAM] and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 773, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes.

S. 912

At the request of Mr. KOHL, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 912, a bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage revenue bond financing, and for other purposes.

S. 969

At the request of Mr. BRADLEY, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 984

At the request of Mr. GRASSLEY, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 984, a bill to protect the fundamental right of a parent to direct the upbringing of a child, and for other purposes.

S. 1027

At the request of Mr. BROWN, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1027, a bill to eliminate the quota and price support programs for peanuts, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1043

At the request of Mr. STEVENS, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1043, a bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes.

S. 1183

At the request of Mr. HATFIELD, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1183, a bill to amend the act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standards for coverage under the act, and for other purposes.

S. 1232

At the request of Mr. D'AMATO, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1232, a bill to amend the Internal Revenue Code of 1986 to exclude length of service awards to volunteers performing fire fighting or prevention services, emergency medical services, or ambulance services from the limitations applicable to certain deferred compensation plans, and for other purposes.

S. 1344

At the request of Mr. HEFLIN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1344, a bill to repeal the requirement relating to specific statutory authorization for increases in judicial salaries, to provide for automatic annual increases for judicial salaries, and for other purposes.

S. 1400

At the request of Mrs. KASSEBAUM, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 1400, a bill to require the Secretary of Labor to issue guidance as to the application of the Employee Retirement Income Security Act of 1974 to insurance company general accounts.

S. 1483

At the request of Mr. KYL, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 1483, a bill to control crime, and for other purposes.

S. 1505

At the request of Mr. LOTT, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 1505, a bill to reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids, and for other purposes.

S. 1551

At the request of Mr. DORGAN, the names of the Senator from Illinois [Mr. SIMON] and the Senator from Minnesota [Mr. WELLSTONE] were added as a cosponsors of S. 1551, a bill to restore the broadcast ownership rules under the Communications Act of 1934 to the status quo ante the enactment of the Telecommunications Act of 1996.

S. 1574

At the request of Mr. BOND, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1574, a bill to provide Federal contracting opportunities for small business concerns located in historically underutilized business zones, and for other purposes.

S. 1578

At the request of Mr. FRIST, the names of the Senator from Montana [Mr. BURNS] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 1578, a bill to amend the Individuals With Disabilities Education Act of authorize appropriations for fiscal years 1997 through 2002, and for other purposes.

S. 1595

At the request of Mr. BRADLEY, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 1595, a bill to repeal the emergency salvage timber sale program, and for other purposes.

S. 1623

At the request of Mr. WARNER, the names of the Senator from Hawaii [Mr. AKAKA] the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from California [Mrs. FEINSTEIN], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 1623, a bill to establish a National Tourism Board and a National Tourism Organization, and for other purposes.

S. 1639

At the request of Mr. DOLE, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1639, a bill to require the Secretary of Defense and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Defense with reimbursement from the medicare program for health care services provided to medicare-eligible beneficiaries under TRICARE.

S. 1646

At the request of Mr. DOMENICI, the names of the Senator from Arizona [Mr. KYL] the Senator from Georgia [Mr. COVERDELL], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 1646, a bill to authorize and facilitate a program to enhance safety, training, research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes.

S. 1650

At the request of Mr. HARKIN, the names of the Senator from California [Mrs. BOXER] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 1650, a bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes.

S. JOINT RESOLUTION 49

At the request of Mr. KYL, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 49, a joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for bills increasing taxes.

SENATE RESOLUTION 152

At the request of Mr. ABRAHAM, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of Senate Resolution 152, a resolution to amend the Standing Rules of the Senate to require a clause in each bill and resolution to specify the constitutional authority of the Congress for enactment, and for other purposes.

SENATE RESOLUTION 226

At the request of Mr. DOMENICI, the names of the Senator from Maine [Mr. COHEN], the Senator from Hawaii [Mr. AKAKA], the Senator from Rhode Island [Mr. PELL], the Senator from New Mexico [Mr. Bingaman], and the Senator from Georgia [Mr. COVERDELL] were added as cosponsors of Senate Resolution 226, a resolution to proclaim the week of October 13 through October 19, 1996, as "National Character Counts Week."

SENATE RESOLUTION 238

At the request of Mr. HELMS, the names of the Senator from Colorado [Mr. BROWN] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Resolution 238, a resolution expressing the sense of the Senate that any budget or tax legislation should include expanded access to individual retirement accounts.

SENATE RESOLUTION 241—IN TRIBUTE TO SECRETARY OF COMMERCE RONALD H. BROWN

By Mr. LOTT (for Mr. DOLE (for himself, Mr. DASCHLE, Mr. LOTT, Mr. FORD, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, Mr. WELLSTONE, and Mr. WYDEN)) submitted the following resolution; which was read:

S. RES. 241

Whereas, Ronald H. Brown served the United States of America with patriotism and skill as a soldier, a civil rights leader, and an attorney;

Whereas, Ronald H. Brown served since January 22, 1993, as the United States Secretary of Commerce;

Whereas, Ronald H. Brown devoted his life to opening doors, building bridges, and helping those in need;

Whereas, Ronald H. Brown lost his life in a tragic airplane accident on April 3, 1996, while in service to his country on a mission in Bosnia; and

Whereas, thirty-two other Americans from government and industry who served the nation with great courage, achievement and dedication also lost their lives in the accident: Now, therefore, be it

Resolved, That the Senate of the United States pays tribute to the remarkable life and career of Ronald H. Brown, and it extends condolences to his family.

SEC. 2. The Senate also pays tribute to the contributions of all those who perished, and extends condolences to the families of: Staff Sergeant Gerald Aldrich, Duane Christian, Barry Conrad, Paul Cushman III, Adam Darling, Captain Ashley James Davis, Gail Dobert, Robert Donovan, Claudio Elia, Staff Sergeant Robert Farrington, Jr., David Ford, Carol Hamilton, Kathryn Hoffman, Lee Jackson, Steven Kaminski, Katheryn Kellogg, Technical Sergeant Shelley Kelly, James Lewek, Frank Maier, Charles Meissner, William Morton, Walter Murphy, Lawrence Payne, Nathaniel Nash, Leonard Pieroni, Captain Timothy Schafer, John Scoville, I. Donald Terner, P. Stuart Tholan, Technical Sergeant Cheryl Ann Turnage, Naomi Warbasse, and Robert Whittaker.

SEC. 3. The Secretary of the Senate shall transmit a copy of the resolution to each of the families.

AMENDMENTS SUBMITTED

THE IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

DORGAN (AND OTHERS) AMENDMENT NO. 3667

Mr. DORGAN (for himself, Mr. DASCHLE, Mr. REID, Mr. HOLLINGS, Mr. FORD, Mr. CONRAD, and Mr. FEINGOLD) proposed an amendment to the bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes; as follows:

At the appropriate place, add the following new section:

SEC. . SENSE OF THE SENATE ON A BALANCED BUDGET CONSTITUTIONAL AMENDMENT.

It is the sense of the Senate that because Section 13301 of the Budget Enforcement Act prohibits the use of the Social Security trust fund surplus to offset the budget deficit, any proposal for a constitutional amendment to balance the budget should contain a provision creating a firewall between the receipts and outlays of the Social Security trust funds and the rest of the federal budget, and that the constitutional amendment should explicitly forbid using the Social Security trust funds to balance the federal budget.

ABRAHAM (AND OTHERS) AMENDMENT NO. 3668

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. FEINGOLD, Mr. DEWINE, Mr. SIMON, Mr. SPECTER, Mr. SANTORUM, Mr. WARNER, Mr. GRAMS, Mr. THURMOND, Mr. LEVIN, and Mr. BOND) submitted an amendment intended to be proposed by them to the bill S. 1664, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . SENSE OF SENATE REGARDING SEPARATE CONSIDERATION OF ISSUES RELATING TO LEGAL IMMIGRATION AND ILLEGAL IMMIGRATION.

(a) FINDINGS.—The Senate makes the following findings:

(1) One of the first responsibilities of any government is to protect its borders.

(2) The Federal Government has failed in this responsibility, both by permitting large numbers of individuals to enter into the United States illegally and by failing to take effective actions against individuals who overstay their visas.

(3) It is urgent that the Congress address the problem of illegal immigration promptly and expeditiously.

(4) The Committee on the Judiciary of the Senate has ordered reported to the Senate a bill, S. 269, intended to address illegal entry into the United States by improving the patrol of United States borders and to address the overstay of visas by keeping track of and punishing individuals who overstay their visas.

(5) Congress has historically considered issues relating to illegal immigration separately from issues relating to legal immigration.

(6) The Committee on the Judiciary, after deliberating carefully about the consideration of legislation between the 104th Congress on legal immigration and illegal immigration, decided that the Senate should consider issues relating to legal immigration separately from issues relating to illegal immigration and ordered reported to the Senate separate bills to address such issues, S. 269 and S. 1394.

(7) The House of Representatives has expressed its agreement with the proposal to

consider issues relating to legal immigration separately from issues relating to illegal immigration by adopting an amendment to the bill on immigration being considered by the House of Representatives, H.R. 2202, which struck all provisions of that bill relating to family immigration.

(b) SENSE OF SENATE.—It is the sense of the Senate that the issues addressed in S. 269, a bill to control illegal immigration into the United States, should be considered by the Senate separately from the issues addressed in S. 1394, a bill to reform legal immigration into the United States.

SIMPSON AMENDMENT NO. 3669

Mr. SIMPSON proposed an amendment to the bill S. 1664, supra; as follows:

(1) After sec. 213 of the bill, add the following new section:

"SEC. 214. USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

"(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

"(1) in clause (i) by striking 'academic high school, elementary school, or other academic institution or in a language training program' and inserting in lieu thereof 'public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program'; and

"(2) by inserting before the semicolon at the end of clause (ii) the following: ': *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.'.

"(b) EXCLUSION OF STUDENT VISA ABUSERS.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is excludable.'.

"(c) DEPORTATION OF STUDENT VISA ABUSERS.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable.'.".

SIMPSON AMENDMENT NO. 3670

Mr. SIMPSON proposed an amendment to the bill S. 1664, supra; as follows:

SEC. . PILOT PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS.

(a) IN GENERAL.—(1) The Attorney General and the Secretary of State shall jointly develop and conduct a pilot program to collect electronically from approved colleges and universities in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under section 101(a)(15) (F), (J), or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F), (J), or (M)); and

(B) are nationals of the countries designated under subsection (b).

(2) The pilot program shall commence not later than January 1, 1998.

(b) COVERED COUNTRIES.—The Attorney General and the Secretary of State shall jointly designate countries for purposes of subsection (a)(1)(B). The Attorney General and the Secretary shall initially designate not less than five countries and may designate additional countries at any time while the pilot program is being conducted.

(c) INFORMATION TO BE COLLECTED.—

(1) IN GENERAL.—The information for collection under subsection (a) consists of—

(A) the identify and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General; and

(C) the academic standing of the alien, including any disciplinary action taken by the college or university against the alien as a result of the alien's being convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) shall not apply to aliens described in subsection (a) to the extent that the Attorney General and the Secretary of State determine necessary to carry out the pilot program.

(d) PARTICIPATION BY COLLEGES AND UNIVERSITIES.—(1) The information specified in subsection (c) shall be provided by approved colleges and universities as a condition of—

(A) the continued approval of the colleges and universities under section 101(a)(15) (F) or (M) of the Immigration and Nationality Act, or

(B) the issuance of visas to aliens for purposes of studying, or otherwise participating, at such colleges and universities in program under section 101(a)(15)(J) of such Act.

(2) If an approved college or university fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) FUNDING.—(1) The Attorney General and the Secretary shall use funds collected under section 281(b) of the Immigration and Nationality Act, as added by this subsection, to pay for the costs of carrying out this section.

(2) Section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) is amended—

(A) by inserting "(a)" after **"SEC. 281."**; and

(B) by adding at the end the following:

"(b)(1) In addition to fees that are prescribed under subsection (a), the Secretary of State shall improve and collect a fee on all visas issued under the provisions of section 101(a)(15) (F), (J), or (M) of the Immigration and Nationality Act. With respect to visas issued under the provisions of section 101(a)(15)(J), this subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(2) The Attorney General shall impose and collect a fee on all changes of nonimmigrant status under section 248 to such classifications. This subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(3) Except as provided in section 205(g)(2) of the Immigration Reform Act of 1996, the amount of the fees imposed and collected under paragraphs (1) and (2) shall be the amount which the Attorney General and the Secretary jointly determine is necessary to recover the costs of conducting the information-collection program described in subsection (a), but may not exceed $100.

"(4) Funds collected under paragraph (1) shall be available to the Attorney General and the Secretary, without regard to appropriation Acts and without fiscal year limitation, to supplement funds otherwise available to the Department of Justice and the Department of State, respectively."

(3) The amendments made by paragraphs (1) and (2) shall become effective April 1, 1997.

(f) JOINT REPORT.—Not later than five year after the commencement of the pilot program established under subsection (a), the Attorney General and the Secretary of State shall jointly submit to the Committees on the Judiciary of the United States Senate and House of Representatives on the operations of the pilot program and the feasibility of expanding the program to cover the nationals of all countries.

(g) WORLDWIDE APPLICABILITY OF THE PROGRAM.—(1)(A) Not later than six months after the submission of the report required by subsection (f), the Secretary of State and the Attorney General shall jointly commence expansion of the pilot program to cover the nationals of all countries.

(B) Such expansion shall be completed not later than one year after the date of the submission of the report referred to in subsection (f).

(2) After the program has been expanded, as provided in paragraph (1), the Attorney General and the Secretary of State may, on a periodic basis, jointly revise the amount of the fee imposed and collected under section 281(b) of the Immigration and Nationality Act in order to take into account changes in the cost of carrying out the program.

(h) DEFINITION.—As used in this section, the phrase "approved colleges and universities" means colleges and universities approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

SIMPSON AMENDMENT NO. 3671

Mr. SIMPSON proposed an amendment to the bill S. 1664, supra; as follows:

After section 115 of the bill, add the following new section:

"SEC. 115A. FALSE CLAIMS OF U.S. CITIZENSHIP.

"(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended by adding at the end the following new subparagraph:

'(D) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is excludable.'; and

"(b) DEPORTATION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is deportable.'.".

SIMPSON AMENDMENT NO. 3672

Mr. SIMPSON proposed an amendment to amendment No. 3667 proposed by Mr. DORGAN to the bill S. 1664, supra; as follows:

Strike all after the word "**sec.**" and insert the following:

(1) social security is supported by taxes deducted from workers' earnings and matching deductions from their employers that are deposited into independent trust funds;

(2) over 42,000,000 Americans, including over 3,000,000 children and 5,000,000 disabled workers and their families, receive social security benefits;

(3) social security is the only pension program for 60 percent of older Americans;

(4) almost 60 percent of older beneficiaries depend on social security for at least half of their income and 25 percent depend on social security for at least 90 percent of their income;

(5) 138,000,000 American workers pay taxes into the social security system;

(6) social security is currently a self-financed program that is not contributing to the Federal budget deficit; in fact, the social security trust funds now have over $400,000,000,000 in reserves and that surplus will increase during fiscal year 1995 alone by an additional $70,000,000,000;

(7) these current reserves will be necessary to pay monthly benefits for current and future beneficiaries when the annual surpluses turn to deficits after 2018;

(8) recognizing that social security is currently a self-financed program, Congress in 1990 established a "firewall" to prevent a raid on the social security trust funds;

(9) raiding the social security trust funds would further undermine confidence in the system among younger workers;

(10) the American people overwhelmingly reject arbitrary cuts in social security benefits; and

(11) social security beneficiaries throughout the nation deserve to be reassured that their benefits will not be subject to cuts and their social security payroll taxes will not be increased as a result of legislation to implement a balanced budget amendment to the United States Constitution.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any legislation required to implement a balanced budget amendment to the United States Constitution shall specifically prevent social security benefits from being reduced or social security taxes from being increased to meet the balanced budget requirement.

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Wednesday, April 17, 1996, at 10 a.m. to receive testimony on Campaign Finance Reform.

For further information concerning the hearing, please contact Bruce Kasold of the committee staff on 224–3448.

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will hold hearings on Wednesday, April 17, Thursday, April 18, and Friday, April 19, 1996 on the President's Budget Request for fiscal year 1997 for Indian programs and related budgetary issues from fiscal year 1996. The hearings will be held at 1:30 p.m. each day in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of an oversight hearing before the Committee on Energy and Natural Resources to receive testimony on the Tongass Land Management Plan.

The hearing will take place on Thursday, April 18, 1996, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC. Testimony will be received from various administration witnesses.

Those wishing to testify or who wish to submit written statements for the Record should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Mark Rey of the committee staff at 202–224–6170.

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing entitled "Keeping Up With the Trend: Issues Affecting Home-Based Business Owners" on Tuesday, April 23, 1996, at 10 a.m., in room 428A of the Russell Senate Office Building.

For further information, please contact Noreen Bracken, 224–5175.

COMMITTEE ON ENERGY AND NATURAL RESOURCES SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, April 25, 1996, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to review S. 902, a bill to amend Public Law 100–479 to authorize the Secretary of the Interior to assist in the construction of a building to be used jointly by the Secretary for park purposes and by the city of Natchez as an intermodel transportation center; S. 951, a bill to commemorate the service of First Ladies Jacqueline Kennedy and Patricia Nixon to improving and maintaining the Executive Residence of the President and to authorize grants to the White House Endowment Fund in their memory to continue their work; S. 1098, a bill to establish the Midway Islands as a National Memorial; H.R. 826, a bill to extend the deadline for the completion of certain land exchanges involving the big Thicket National Preserve in Texas; and H.R. 1163, a bill to authorize the exchange of National Park Service land in the Fire Island National Seashore in the State of New York for land in the Village of Patchogue, Suffolk County, NY.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation, and Recreation, Committee on Energy and Natural Resources, U.S. Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224–5161.

AUTHORITY FOR COMMITTEE TO MEET

SUBCOMMITTEE ON THE CONSTITUTION, FEDERALISM, AND PROPERTY RIGHTS

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution, Federalism, and Property Rights of the Senate Committee on the Judiciary, be authorized to meet during a session of the Senate on Monday, April 15, 1995, at 10 a.m., in Senate Dirksen room 226, on Senate Joint Resolution 49, a proposed constitutional amendment, to require a two-thirds vote on tax increases, and Senate Joint Resolution 8, a proposed constitutional amendment to prohibit retroactive taxation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE ARAB-AMERICAN CULTURAL AND COMMUNITY CENTER IN HOUSTON, TX

• Mr. ABRAHAM. Mr. President, I rise today to express my sincere congratulations to those individuals who are responsible for the creation of the Arab-

American Cultural Center in Houston, TX. The center will be hosting its first annual gala "Unity of Friendship" in Houston on May 4, 1996, and it is worthy of recognition.

Mr. President, I commend those members for their efforts in building this center, which in effect advances and demonstrates the continuing positive contributions of Arab-Americans. This center will primarily serve the cultural, educational, and social needs of the Arab-American community. The center proclaims their vision as "a place where Arab-American culture, art, and language can be preserved and carried on for generations to come. A place where Arab-Americans can gather to celebrate holidays and festive occasions among relatives and friends. A place where children can play, study, and learn about their ancestors impressive history and heritage."

Many in the Arab-American community have given generously of their time and money for the construction of this center. They are to be commended for their very worthwhile efforts and foresight, and I am pleased to recognize these efforts in the U.S. Senate.•

UNIVERSITY OF MICHIGAN HOCKEY TEAM

• Mr. LEVIN. Mr. President, I rise today to honor the University of Michigan hockey team, because Saturday, March 30, 1996, the Wolverines captured the NCAA hockey championship, defeating Colorado College by a score of 3 to 2 in overtime. The game was held at Riverfront Coliseum in Cincinnati in front of a sell out crowd of 13,330, mostly Michigan fans who traveled south to support their team.

Coach Red Berenson has described his formula for success as "hard work . . . patience and perseverance," and that was what the members of the U. of M. hockey team embraced this 1995–96 season as they triumphed in their final victory with a tie-breaking goal by junior Brendan Morrison, 2 minutes and 35 seconds into overtime. This victory for the Wolverine hockey team ended the doubts that this team could return home as NCAA champions. Colorado College coach Don Lucia said, "Look at the teams Michigan has beaten the last three weeks: Lake Superior, Minnesota, Boston University and now us. Those are the best teams in the country. That's why they're national champions."

This journey by the U. of M. hockey team was a remarkable achievement for the players, and for Coach Red Berenson as well. The victory over Colorado marked the 300th victory of his career. A former U. of M. player himself 1960–62, this commemorated a special homecoming for Coach Berenson.

This is the eighth national champsionship in the Wolverines' hockey history, more than any other collegiate program. Thirty-two years after their last title, the Wolverines proved to be the best in the west by returning the trophy to Ann Arbor. A sign on the desk of Red Berenson, reads, "Our Day Will Come," and it certainly has.

I know that my Senate colleagues join me in congratulating the University of Michigan hockey team on winning the NCAA hockey championship. Here is the list of our valiant victors.

UNIVERSITY OF MICHIGAN HOCKEY TEAM AND COACHING STAFF

Players: Mark Sakala, Bubba Berenzweig, Chris Frescoln, Peter Bourke, Harold Schock, Justin Clark, Matt Herr, Brendan Morrison, Kevin Hilton, Greg Crozier, Mike Legg, Bill Muckalt.

Sean Ritchlin, John Madden, Jason Botterill, John Arnold, Dale Rominski, Steven Halko, Bobby Hayes, Chris Fox, Blake Sloan, Warren Luhning, Gregg Malicke, Greg Daddario, and Marty Turco.

STAFF

Red Berenson, Head Coach, Mel Pearson, Assistant Coach, Billy Powers, Assistant Coach, Rick Bancroft, Trainer, Ian Hume, Equipment Manager; and Brian Fishman, Sports Information Director.•

BUDGET SCOREKEEPING REPORT

• Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through March 29, 1996. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the 1996 concurrent resolution on the budget. House Concurrent Resolution 67, show that current level spending is above the budget resolution by $16.0 billion in budget authority and by $16.9 billion in outlays. Current level is $81 million below the revenue floor in 1996 and $5.5 billion above the revenue floor over the 5 years 1996–2000. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $262.6 billion, $17.0 billion above the maximum deficit amount for 1996 of $245.6 billion.

Since my last report, dated March 25, 1996, Congress has cleared and the President has signed the Contract With America Advancement Act. Public Law 104–121, the Agriculture Improvement and Reform Act, Public Law 104–127, and the 12th continuing resolution for 1996, Public Law 104–122. The continuing resolution also included the Federal payment to the District of Columbia and emergency funding for Bosnia and Herzegovina for economic revitalization. These actions changed the current level of budget authority and outlays.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 15, 1996.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1996 shows the effects of Congressional action on the 1996 budget and is current through March 29, 1996. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1996 Concurrent Resolution on the Budget (H. Con. Res. 67). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report dated March 25, 1996, Congress has cleared, and the President has signed the Contract with America Advancement Act (P.L. 104–121), the Agriculture Improvement and Reform Act (P.L. 104–127) and the twelfth continuing resolution for 1996 (P.L. 104–122). The continuing resolution also included the Federal payment to the District of Columbia and emergency funding for Bosnia and Herzegovina for economic revitalization. These actions changed the current level of budget authority and outlays.

Sincerely,

JUNE E. O'NEILL, *Director.*

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1996, 104TH CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS MARCH 29, 1996

[In billions of dollars]

	Budget resolution H. Con. Res. 67	Current level	Current level over/ under resolution
ON-BUDGET			
Budget authority	1,285.5	1,301.5	16.0
Outlays	1,288.1	1,305.0	16.9
Revenues:			
1996	1,042.5	1,042.4	−0.1
1996–2000	5,691.5	5,697.0	5.5
Deficit	245.6	262.6	17.0
Debt subject to limit	5,210.7	5,054.8	−155.9
OFF-BUDGET			
Social Security outlays:			
1996	299.4	299.4	0.0
1996–2000	1,626.5	1,626.5	0.0
Social Security revenues:			
1996	374.7	374.7	0.0
1996–2000	2,061.0	2.061.0	0.0

Note.—Current level numbers are the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1996, AS OF CLOSE OF BUSINESS MARCH 29, 1996

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			1,042,557
Permanents and other spending legislation	830,272	798,924	
Appropriation legislation		242,052	
Offsetting receipts	−200,017	−200,017	
Total previously enacted	630,254	840,958	1,042,557

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1996, AS OF CLOSE OF BUSINESS MARCH 29, 1996—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN FIRST SESSION			
Appropriation Bills:			
1995 Rescissions and Department of Defense Emergency Supplementals Act (P.L. 104–6)	−100	−885	
1995 Rescissions and Emergency Supplementals for Disaster Assistance Act (P.L. 104–19)	22	−3,149	
Agriculture (P.L. 104–37)	62,602	45,620	
Defense (P.L. 104–61)	243,301	163,223	
Energy and Water (P.L. 104–46)	19,336	11,502	
Legislative Branch (P.L. 105–53)	2,125	1,977	
Military Construction (P.L. 104–32)	11,177	3,110	
Transportation (P.L. 104–50)	12,682	11,899	
Treasury, Postal Service (P.L. 104–52)	23,026	20,530	
Offsetting receipts	−7,946	−7,946	
Authorization Bills:			
Self-Employed Health Insurance Act (P.L. 104–7)	−18	−18	−101
Alaska Native Claims Settlement Act (P.L. 104–42)	1	1	
Fishermens' Protective Act Amendments of 1995 (P.L. 104–43)		([1])	
Perishable Agricultural Commodities Act (P.L. 104–48)	1	([1])	1
Alaska Power Administration Sale Act (P.L. 104–58)	−20	−20	
ICC Termination Act (P.L. 104–88)			([1])
Total enacted first session	366,191	245,845	−100
ENACTED IN SECOND SESSION			
Appropriation Bills:			
Seventh Continuing Resolution (P.L. 104–92)[2]	13,165	11,037	
Ninth Continuing Resolution (P.L. 104–99)[2]	792	−825	
District of Columbia (P.L. 104–122)	712	712	
Foreign Operations (P.L. 104–107)	12,104	5,936	
Offsetting receipts	−44	−44	
Authorization Bills:			
Gloucester Marine Fisheries Act (P.L. 104–91)[3]	30,502	19,151	
Smithsonian Institution Commemorative Coin Act (P.L. 104–96)	3	3	
Saddleback Mountain Arizona Settlement Act (P.L. 104–102)		−7	
Telecommunications Act of 1996 (P.L. 104–104)[4]			
Farm Credit System Regulatory Relief Act (P.L. 104–105)	−1	−1	
National Defense Authorization Act of 1996 (P.L. 104–106)	369	367	
Extension of Certain Expiring Authorities of the Department of Veterans Affairs (P.L. 104–110)	−5	−5	
To award Congressional Gold Medal to Ruth and Billy Graham (P.L. 104–111)	([1])	([1])	
An Act Providing for Tax Benefits for Armed Forces in Bosnia, Herzegovina, Croatia and Macedonia (P.L. 104–117)			−38
Contract with America Advancement Act (P.L. 104–121)	−120	−6	
Agricultural Improvement and Reform Act (P.L. 94–127)	−325	−744	
Total enacted second session	57,151	35,575	−38
CONTINUING RESOLUTION AUTHORITY			
Twelfth Continuing Resolution (P.L. 104–122)[5]	116,863	54,882	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	131,056	127,749	
Total current level[6]	1,301,514	1,305,010	1,042,419
Total budget resolution	1,285,500	1,288,100	1,042,500
Amount remaining:			
Under budget resolution			81
Over budget resolution	16,014	16,910	

[1] Less than $500,000.

[2] P.L. 104–92 and P.L. 104–99 provides funding for specific appropriated accounts until September 30, 1996.

[3] This bill, also referred to as the sixth continuing resolution for 1996, provides funding until September 30, 1996 for specific appropriated accounts.

[4] The effects of this Act on budget authority, outlays and revenues begin in fiscal year 1997.

[5] This is an annualized estimate of discretionary funding that expires April 24, 1996, for the following appropriation bills: Commerce-Justice, Interior, Labor-HHS-Education and Veterans-HUD.

[6] In accordance with the Budget Enforcement Act, the total does not include $3,615 million in budget authority and $1,667 million in outlays for funding of emergencies that have been designated as such by the President and the Congress.

Notes.—Detail may not add due to rounding.•

CHINA'S FOUR SLAPS

• Mr. SIMON. Mr. President, I am concerned that we are waffling on the China issue when we should be very clear.

Clarity in this case will lead to a diminished likelihood of military action and a diminished likelihood of a spurt to the arms race in Asia.

The Charles Krauthammer column which appeared in the Washington Post recently, and which I ask to be printed in the RECORD after my remarks, is unfortunately accurate. It eloquently outlines what has been taking place. He also mentions the matter of "quiet diplomacy." Whenever I talk to people in the State Department they assure me that "quiet diplomacy" is being used.

My experience over the years is that "quiet diplomacy" frequently means no diplomacy or it means "anemic diplomacy."

The column follows.

[From the Washington Post]

CHINA'S FOUR SLAPS—AND THE UNITED STATES' CRAVEN RESPONSE

(By Charles Krauthammer)

The semi-communist rulers of China like to assign numbers of things. They particularly like the number 4. There was the Gang of Four. There were the Four Modernizations (agriculture, industry, technology and national defense), and now, I dare say, we have the Four Slaps: four dramatic demonstrations of Chinese contempt for expressed American interests and for the Clinton administration's ability to do anything to defend them.

(1) Proliferation. The Clinton administration makes clear to China that it strongly objects to the export of nuclear and other mass destruction military technology. What does China do? Last month, reports the CIA, China secretly sent 5,000 ring magnets to Pakistan for nuclear bomb-making and sent ready-made poison gas factories to Iran.

(2) Human rights. Clinton comes into office chiding Bush for "coddling dictators." In March 1994, Secretary of State Warren Christopher goes to China wagging his finger about human rights. The Chinese respond by placing more than a dozen dissidents under house arrest while Christopher is there, then declare that human rights in China are none of his business. Christopher slinks away.

(3) Trade. The administration signs agreements with China under which it pledges to halt its massive pirating of American software and other intellectual property. China doesn't just break the agreements, it flouts them. Two years later the piracy thrives.

(4) And now Taiwan. For a quarter-century, the United States has insisted that the unification of Taiwan with China must occur only peacefully. Yet for the last two weeks, China has been conducting the most threatening military demonstration against Taiwan in 40 years: firing M-9 surface-to-surface missiles within miles of the island, holding huge live-fire war games with practice invasions, closing shipping in the Taiwan Strait.

Slap four is the logical outcome of the first three, each of which was met with a supine American response, some sputtering expression of concern backed by nothing. On nuclear proliferation, for example, Clinton suspended granting new loan guarantees for U.S. businesses in China—itself a risible sanction—for all of one month!

"Our policy is one of engagement, not containment," says Winston Lord, assistant secretary of state for East Asian and Pacific affairs. This is neither. This is encouragement.

Two issues are at stake here. The first is the fate of Taiwan and its democracy. Taiwan is important not just because it is our eighth-largest trading partner. With its presidential elections tomorrow, Taiwan becomes the first Chinese state in history to become a full-fledged democracy. It thus constitutes the definitive rebuff to the claim of Asian dictators from Beijing to Singapore that democracy is alien to Confucian societies. Hence Beijing's furious bullying response.

The second issue has nothing to do with Taiwan. It is freedom of the seas. As the world's major naval power, we are, like 19th century Britain, its guarantor—and not from altruism. Living on an island continent, America is a maritime trading nation with allies and interests and commerce across the seas. If the United States has any vital interests at all—forget for the moment Taiwan or even democracy—it is freedom of navigation.

Chinese Premier Li Peng warns Washington not to make a show of force—i.e., send our Navy—through the Taiwan Strait. Secretary of Defense William Perry responds with a boast that while the Chinese "are a great military power, the premier—the strongest—military power in the Western Pacific is the United States."

Fine words. But Perry has been keeping his Navy away from the strait. This is to talk loudly and carry a twig. If we have, in Perry's words, "the best damned Navy in the world," why are its movements being dictated by Li Peng? The Taiwan Strait is not a Chinese lake. It is indisputably international water and a vital shipping lane. Send the fleet through it.

And tell China that its continued flouting of the rules of civil international conduct—everything from commercial piracy to nuclear proliferation, culminating with its intimidation of Taiwan—means the cancellation of most-favored-nation trading status with the United States.

Yes, revoking MFN would hurt the United States somewhat. But U.S.-China trade amounts to a mere two-thirds of one percent of U.S. GDP. It amounts to fully 9 percent of Chinese GDP. Revocation would be a major blow to China.

Yet astonishingly, with live Chinese fire lighting up the Taiwan Strait, Treasury Secretary Robert Rubin said Tuesday that the Clinton administration supports continued MFN for China. He did aver that Congress, angered by recent events, would probably not go along.

This is timorousness compounded. Revoking MFN is the least we should do in response to China's provocations. Pointing to Congress is a classic Clinton cop-out. The issue is not Congress's zeal. It is Beijing's thuggery.

Quiet diplomacy is one thing. But this is craven diplomacy. What does it take to get this administration to act? The actual invasion of Taiwan? You wait for war, you invite war.•

RABBI MORRIS S. FRIEDMAN PLANS JUNE RETIREMENT AFTER 46 YEARS IN THE RABBINATE

• Mr. D'AMATO. Mr. President, I rise to honor Rabbi Morris S. Friedman of Temple Hillel in North Woodmere, NY, on his retirement after so many years of dedicated service.

In October 1984, Rabbi Friedman welcomed then-President Ronald Reagan to his synagogue, Temple Hillel in North Woodmere, where the President spoke to a packed congregation. Afterwards, Rabbi Friedman hosted the President at his home for lunch. Together they sat, with the rabbi's wife and children, as well as Secretary of State James Baker and myself.

The visit by President Reagan to Rabbi Friedman's temple and home was testimony to the influence and cachet of Rabbi Friedman himself, and to the enormous prestige that Temple Hillel amassed over the 33 years of Rabbi Friedman's leadership. It may have been the first time that a sitting President lunched at the home of a rabbi; but it was not the first time that Rabbi Friedman held conversations with world leaders. From his corner of the world in North Woodmere, Rabbi Friedman has influenced many thousands of lives, those on the world stage and those presiding over the births and deaths and joys and sorrows of a congregation that each year tops 1,000 people.

In June of this year, Rabbi Friedman will retire from the pulpit at Temple Hillel.

"One of my favorite books in the Bible," said Rabbi Friedman when he announced his retirement, "is the Book of Ecclesiastes. The third chapter begins with a statement, 'A season is set for everything, a time for every experience under Heaven.'"

His congregation will honor and pay tribute to him, and to his wife, Mrs. Adelaide Friedman, at a dinner on April 21. "My years at Hillel are truly a love affair between me and the congregation. The friendship, affection and devotion showered upon me and Addi by the congregation, made my service to the community a privilege, a joy and an exciting spiritual adventure," said Rabbi Friedman, looking back at a 33-year relationship.

It will be one of a long line of testimonial dinners made in his honor, because Rabbi Friedman's dedication to Jewish causes reached far and wide beyond his own temple. He has been honored by Boy's Town in Jerusalem; by Bet El, a 13-year-old-settlement in Judea Samaria in Israel; by Touro College's School of Health Sciences, among others.

He has received numerous awards and much recognition, such as the Zedakah Award from the UJA Federation of Jewish Philanthropies in New York, and the degree of honorary fellow conferred upon him by Bar Ilan University in Israel. The Jewish Theological Seminary of America conferred upon him an honorary doctor of divinity degree in 1975.

His stature in the Jewish community led him to his former, very prestigious, role as the president of the New York Board of Rabbis, the largest rabbinic organization in the world. He was also chairman of the United Jewish Appeal-Federation Rabbinic Advisory Council. He served for 2 years, as well, as chairman of the Rabbinical Assembly Campaign for the Jewish Theological Seminary of America. For the past 5 years, he has cochaired the Annual Nassau County Dinner for the Shaare-Zedek Hospital in Jerusalem.

Rabbi Friedman has further enriched the spiritual lives of this congregants by guiding them through Israel on dozens of visits over the years. His own personal travels have taken him to Israel and Europe many times over. But he would be the first to say the true richness of his life comes from the joy and love of his family, his wife Adelaide, his daughter, Naomi, his 2 sons, Mark and David, and his 12 grandchildren.

Mrs. Adelaide Friedman has also greatly enriched the lives of those around her. With degrees in English literature, a bachelor's from Long Island University and a master's from Hofstra, Mrs. Friedman taught English literature at the high school level in girls' yeshivas. She herself has been writing all her life, poetry and short stories, as well as articles and book reviews. Mrs. Friedman wrote a regular, monthly column for the Jewish World several years ago and her book reviews have also appeared in Lifestyles magazine and the quarterly publication for the New York Board of Rabbis. She has had articles published on Jewish subjects in several magazines and periodicals, such as the Algemeiner Journal, a Yiddish newspaper.

Mrs. Friedman taught adult education courses at Temple Hillel on Jewish literature and has given lectures on Jewish women in literature at the Hewlett-Woodmere Library. Her creative talents encompass art as well as writing. She loves to work with oils and pastels and the portraits and still-lifes she has painted hang on the wall of her home and her children's homes.

But it is her role as a rebbitzen for 46 years that has presented truly great rewards. "I loved being involved in something bigger than myself," said Mrs. Friedman. "I loved the idea of connecting with Jewish events as they unrolled and being inspired by lectures and great personalities. It was a very exciting period in my life because I wasn't only a wife and a mother and eventually a grandmother, much as I enjoyed those roles—and still enjoy those roles, I was also part of what was transpiring among the Jewish people."

Before Rabbi and Mrs. Friedman came to North Woodmere, he served in Congregation Beth David in Lynbrook for 13 years as their rabbi. He had been ordained by the Jewish Institute of Religion in New York and had received a master of Hebrew literature degree and a BA degree from Long Island University.

Temple Hillel will say goodbye to Rabbi Friedman this June with much reluctance. But the congregation knows he will continue to be nearby to offer his guidance and wisdom for years to come, as the rabbi emeritus of Temple Hillel. It is a guidance that has taken Temple Hillel to great heights. Said Rabbi Friedman, "I feel, without any hesitation, that we have achieved stardom in the galaxy of Conservative Congregations in the New York Area, and even worldwide!"•

DR. NAN S. HUTCHISON BROWARD SENIOR HALL OF FAME ELECTEES

• Mr. GRAHAM. Mr. President, today I would like to recognize and congratulate a group of 12 inspiring citizens from Broward County, FL. These individuals have each given their time, talents, and love to their communities.

On March 8, 1996, the following men and women were selected as the new members of the Dr. Nan S. Hutchison Broward Senior Hall of Fame. Their names have been added to a commemorative plaque housed in the Broward County government building.

Shirley Berman, of Pembroke Pines, has been a selfless volunteer for the Memorial Manor Nursing Home by introducing pet therapy to the facility. Ms. Berman also uses her crafting talent to provide materials for various fundraising events. The woolen hats she makes are distributed to premature infants at local hospitals.

Majorie A. Davis, of Fort Lauderdale, has made a positive impact on her community as a teacher for 44 years in the Broward County School System. In addition to enriching the lives of her students, she has dedicated her time to many local organizations. Among Marjorie's most recent accolades is the Urban League of Broward County, Inc. Kathleen Wright Award which she earned in 1994.

Frank Ford, of Lauderdale Lakes, has shown his willingness to serve his community by forming the Motorola Retirees Alumni after serving with Motorola for 20 years. He has also shown his concern for children by establishing the Kids ID Program, which has photographed over 1,200 children to date.

Rubye Haile Howell of Fort Lauderdale, the second school teacher among the electees, has continued her commitment to children long after her retirement. Rubye is the lay leader for the Harris Chapel United Methodist Church and is deeply involved in various organizations in an effort to create unity among people of all ages.

Ms. Audrey Millsaps, also of Fort Lauderdale, has served for 13 years on the Areawide Council on Aging, including 2 years as president. She selflessly advances children's issues through the Florida Ocean Science Institute, SOS Children's Village, the Children Services Board, and the Children's Consortium, among others. Her many hours of service are appreciated by all.

Dan Pearl has served the people of Sunrise in various capacities and is currently deputy mayor. Over a decade ago, Mr. Pearl implemented a free flu shot program, a service which was not covered by Medicare at the time. He has shown his dedication to seniors and the American Cancer Society, and can occasionally be found bagging groceries at Winn Dixie in order to raise money for the organization.

Joe Rosen's dedication to the city of Sunrise and Broward County is far reaching. Not only has he held numerous positions in volunteer organizations, he has been integral in raising over $45,000 for a host of senior organizations throughout Broward. His concern for the safety of his city's streets is exemplified by his role as commander of Citizens on Patrol-Night Crime Patrol.

Jean Ross, of Margate, a dynamic member of Broward County's senior community, currently serves as president of the Broward County Council of Senior Citizens. This organization serves seniors by providing them with much needed information and assistance. Jean has also assured that the council's blood drives are successful by working closely with Broward County's High Schools on an incentive program.

An exemplary senior advocate and resident of Tamarac, Marc Sultanof serves numerous organizations, particularly in the Kings Point neighborhood. He recently was elected to the Area Agency's Advisory Council, where he serves with distinction, and was appointed as a 1995 delegate to the White House Conference on Aging by Gov. Lawton Chiles.

Katherine Thibault is currently serving a second term as a Pembroke Pines city commissioner. As a result of her efforts in the 1994 Area Agency Seniors for Seniors Dollar Drive, Commissioner Thibault helped raised thousands of dollars for senior programs in Broward County. Ms. Thibault is no stranger to volunteer work. Her contributions to the seniors of Broward County have been appreciated by all.

Amadeo Trinchitella's efforts have also been substantial. Beside serving the seniors of Broward County, Mr. Trinchitella is a Deerfield Beach commissioner, and has been appointed by Governor Chiles to a 4-year term as commissioner for the North Broward Hospital District. His activities with Century Village have helped to enhance that vibrant senior community.

Ms. Eula Williams, of Fort Lauderdale, is involved in Mt. Olive Baptist Church and the Northwest Federated Women's Club. Her activities include tending the sick, visiting nursing homes, and helping the homebound. Her involvement in the Area Agency's Session for Seniors, classes which help Broward's seniors deal with independent living, has enriched the lives of Broward's older residents.

Once again, I would like to congratulate these outstanding seniors who have diligently and selflessly given of themselves in order to make Broward County a fine place for all of its residents. The State of Florida and Broward County are fortunate to have residents like these making a difference and setting an example for all.•

SALUTE TO UNIVERSITY OF TENNESSEE WOMEN'S BASKETBALL

• Mr. FRIST. Mr. President, I rise today to congratulate the University of Tennessee Lady Volunteers basketball team for yet another outstanding NCAA tournament and an impressive victory over the highly competitive University of Georgia Lady Bulldogs in the championship game. After posting a remarkable record of 32–4, the Lady Vols have brought the national championship title home to Knoxville where it belongs.

The Lady Volunteers displayed the teamwork, talent, and sheer determination to soundly defeat the Georgia Lady Bulldogs 83 to 65. This was clearly a championship performance.

Mr. President, I want to commend these young women, their head coach Pat Summitt and assistant coaches Mickie DeMoss, Holly Warlick, and Al Brown for their hard work and dedication this year. They have made the University of Tennessee, the city of Knoxville, and the entire State of Tennessee proud and all of Tennessee celebrates their victory with them.

The seniors who played their last college basketball game on March 31 should look back on a game perfectly executed and a season Tennesseans will never forget. And those team members who will be on the court next season can look forward to defending their title next year and for many years to come.

I would like to extend a special congratulations to Michelle Marciniak for being named most outstanding player in the Final Four, and to Chamique Holdsclaw and Tiffani Johnson, who joined Michelle on the all-tournament team. Everyone involved in this championship team has made the University of Tennessee, the city of Knoxville, and the entire State of Tennessee proud, and we all look forward to many more championship seasons to come.•

GAMBLING'S TOLL IN MINNESOTA

• Mr. SIMON. Mr. President, the Reader's Digest recently condensed an article from the Minneapolis Star Tribune written by Chris Ison and Dennis McGrath that talks about the pull of legalized gambling in the State of Minnesota, which I ask to be printed in the RECORD after my remarks.

For those who are unaware of the problems that we face, please read this article.

It illustrates why we need a national commission to take a look at where we are going in this Nation on legalized gambling. The article follows:

[From the Minneapolis Star Tribune]

GAMBLING'S TOLL IN MINNESOTA

(By Chris Ison and Dennis J. McGrath)

[America is becoming a nation of gamblers. Once confined to Atlantic City, Las Vegas and Reno, gambling is now legal in 48 states—all but Hawaii and Utah—and casinos run full tilt in 24. Almost 100 million Americans bet $400 billion last year and lost $39 billion to the house.

To win legal status, the industry promised some tax-poor states a river of money for public programs. But along with the wealth came an alarming rise in suicides, bankruptcies and crime. Here is the experience of one state, where the first full-service casino was welcomed in 1988].

Hour after hour, the blackjack cards flipped past, and still she played. Friday afternoon blurred into Saturday. Through the ringing of slot machines and chattering of coins dropping into tin trays, Catherine Avina heard her name paged.

"Are you coming home tonight?" It was her 21-year-old son, Joaquin, on the phone. "Probably not," she answered.

Avina didn't go to Mystic Lake Casino in Prior Lake, Minn., as much as she escaped to it. That weekend in May 1994, the depressed 49-year-old mother of three was escaping the worst news yet—she was in danger of being fired after almost 11 years as an assistant state attorney general. On Monday—her fourth straight day at the casino—she dragged herself back to her St. Paul home, broke and more depressed than ever.

Two days later, Joaquin confronted his mother about her gambling, and they argued. The next morning, when she didn't come out of her bedroom, he peeked in. Two empty bottles of anti-depressants and a suicide note were near her body. Later the family found debts of more than $7,000, and

Avina was still making payments for gambling-addiction therapy received a year earlier.

In less than a decade legalized gambling in Minnesota—$4.1 billion is legally wagered in the state each year—has created a new class of addicts, victims and criminals whose activities are devastating families. Even conservative estimates of the social toll suggest that problem gambling costs Minnesotans more than $200 million per year in taxes, lost income, bad debts and crime.

Ten years ago only one Gamblers Anonymous group was meeting in the state; today there are 53 groups. According to research by the Center for Addiction Studies at the University of Minnesota in Duluth, nearly 38,000 Minnesota adults are probably pathological gamblers. A 1994 Star Tribune/WCCO-TV poll found that 128,000 adults in Minnesota—four percent—showed signs associated with problem gambling and gambling addiction.

Many experts agree that the potential for gambling addiction among the young—the most vulnerable group—is worse. Teens are twice as likely as adults to become addicted.

Jeff Copeland, a 21-year-old from suburban Minneapolis, can't go to college because he's accumulated a $20,000 gambling debt. "It ruins your life," he says. "And people don't really understand. I thought about suicide. It's the easiest way to get out of it."

Pawnshop Boom: Thousands of Minnesotans are burying themselves in debt because of gambling, borrowing millions they'll never be able to pay back. Bankruptcy experts estimate that more than 1,000 people a year are filing for bankruptcy protection (average owed: $40,000), at an estimated cost to creditors of more than $2.5 million. "Compared with ten years ago, there are 20 times as many people who have gambling debts," says bankruptcy attorney Jack Prescott of Minneapolis.

One of these is Hennepin County Commissioner Sandra Hilary of Minneapolis. She filed for bankruptcy two days after admitting she was addicted to slot machines. She estimated she'd lost nearly $100,000 gambling. After counseling, Hilary is now trying to reimburse her creditors.

Throughout the state, at least 17 new pawnshops have sprung up near casinos, with gamblers hocking possessions for far less than real value to support their gambling habits. In or near Cass Lake (pop. 923), four miles from Palace Bingo & Casino, there are four pawnshops. That's a pawnshop for every 231 people.

Police near casinos note an increase in bogus reports of thefts. These come from people who lie about the disappearance of a ring, video camera or other expensive item that they actually pawned to pay for their gambling.

Easy Credit: Minnesotans are also burning up welfare payments at casinos. Hundreds of thousands of taxpayer dollars that are meant to provide food, clothes and housing for the poor are being wagered on blackjack and in slot machines, and for residents of two Minnesota counties, the money is being made available from automated teller machines inside almost every casino in the state. During a typical month last year, welfare recipients from Hennepin and Ramsey counties withdrew $39,000 in benefits from casino ATMs.

There are few incentives for casinos to regulate the availability of credit to gamblers. The casinos can't lose: they don't give the credit; they simply make the money.

Credit-card companies—there are now more than 7000—have made strong profits in recent years despite increasing bankruptcy and delinquent payments nationwide. Interest rates are so high—averaging 18 percent—they still make up for losses from bankruptcy. And the issuers pass much of the loss onto consumers through higher rates, fees and penalties, says Ruth Susswein, executive director of Bankcard Holders of America, a nonprofit consumer-education group.

"They're making so much money it's been worth it to them to keep offering credit," Susswein adds. Some casinos also rent space to companies that cash checks and provide credit-card advances for fees.

Police Burden: It seemed to take only minutes for Carol Foley to get hooked on video gambling machines. "Within two or three days," she says, "I was playing every day." To cover her losses, Foley, 43, forged $175,000 in checks at her job at the E. M. Lohmann Co., a church-goods dealer in St. Paul. Last September she was released from a correction center in Roseville, Minn., after serving eight months for forgery. She underwent counseling for her gambling addiction and is on a monthly payment plan with her former employer.

The high crime rate among problem gamblers has been well established. The National Council on Problem Gambling found that 75 percent of gamblers treated at in-patient centers had committed a crime.

Between 1988—when the first of Minnesota's 17 casinos began operating—and 1994, counties with casinos saw the crime rate rise twice as fast as those without casinos. The increase was the greatest for crimes linked to gambling, such as fraud, theft and forgery/counterfeiting.

Casinos are burdening local police. When Grand Casino Mille Lacs opened on the Mille Lacs Indian Reservation in April 1991, county police responded to almost twice as many incidents of crime or people seeking help on the reservation.

Jean Mott, a 38-year-old mother of three, worked nights at a Kmart distribution center to help pay the family bills. But the bills began backing up when Mott headed to Mystic Lake Casino, rather than her Shakopee home, at the end of her shift.

Just before dawn one day in January 1995, having lost another paycheck to the casino, Mott drove to the Brooks' Food Market in Shakopee. Wearing a ski mask and with her hand in her pocket to simulate a gun, she stole $233. Police easily traced the holdup to Mott because a patrol officer had run a registration check after he saw her car parked with its lights on just south of the store that morning. Mott was convicted of simple robbery, and served 30 days in jail and 30 days on electronic home monitoring.

Taxpayer Tab: The list of violent gambling-related crimes is also growing. Redwood Falls police officer Derek Woodford was shot by a gambler from Gary, Ind., who had broken into a local bank after a day of gambling at Jackpot Junction in Morton. Woodford spent 13 days in the hospital recovering from three bullet wounds.

Gambling has long been recognized, as well, as a root cause of embezzlement. In most gambling-related embezzlement cases, authorities say, the court file shows the same thing: no previous criminal record.

"Prior to 1990, we had zero cases of gambling-related embezzlements," says William Urban, president of Loss Prevention Specialists, Inc., a Minneapolis company that helps employers deal with internal thefts. Since then the company has investigated gambling-related losses of "well over $500,000."

Reva Wilkinson, of Cedar, is now in federal prison for embezzling more than $400,000 from the Guthrie Theater to support her gambling habit. Besides the money she stole from her Minneapolis employer, her case cost taxpayers over $100,000 to investigate, prosecute and adjudicate.

In June 1993 Theresa Erdmann was charged with stealing nearly $120,000 from the checking account and weekly offerings at St. Michael's Catholic Church in Madison. She said the money was blown on gambling, and now she's serving a three-year sentence in a state prison.

Hidden Suicides: More and more, some problem gamblers pay the ultimate price. The *Star Tribune* confirmed six gambling-related suicides in Minnesota—five in the past three years. Almost certainly, this is only a fraction of the total.

The victims are people like 19-year-old John Lee, a St. Paul college student who, in a three-month period, won about $30,000 at blackjack. Then he started losing. Down to his last $10,000, he lost it all one night. He returned home, put a shotgun to his head and killed himself. In addition, at least 122 Minnesota gamblers have attempted suicide, according to directors of the six state-funded gambling-treatment centers.

Other deaths that may be related to depression over gambling losses are not listed as suicides at all. "So often, when people talk about suicide, they say, 'I'd just drive off the road. I'd drive into a tree,'" says Sandi Brustuen of the Vanguard Compulsive Gambling Treatment Program in Granite Falls, Minn. "They don't want anyone to know they committed suicide, and they want their families to collect the insurance."

The suicide rate among pathological gamblers nationally is believed to rival that of drug addicts. Ten to 20 percent of pathological gamblers have attempted suicide, and almost 90 percent have contemplated it.

Treatment experts, researchers and gamblers themselves say states can do more to reduce the negative consequences for gamblers. Here are some of the most frequently mentioned ideas:

Underwrite better research: Many research efforts across the country have been criticized for failing to prove that treatment works, for failing to measure the social costs of gambling and for failing to implement a long-range plan to address problem-gambling issues. "We really don't know exactly how much problem gamblers cost society," says Henry Lesieur, editor of the Journal of Gambling Studies and a criminal-justice professor at Illinois State University in Normal.

On the federal level, the issue of gambling addiction only recently started to generate action. Last fall committees in the House and Senate held hearings on bills that would authorize a national commission to study the economic and social effects of legalized gambling.

Emphasize public awareness and education—especially among young people—about the risks of gambling: Some suggest funding more in-school efforts, perhaps in conjunction with math and science classes or anti-drug programs. "Let people know what the odds are. The longer you gamble, the more you're going to lose," says Alan Gilbert, solicitor general of Minnesota.

Train casino employees to spot—and discourage—problem gamblers from betting irresponsibly: Some casinos already do this. But they offer only anecdotal evidence that such efforts are used, and some say they've never barred a person for problem gambling unless the person asked to be barred.

Gambling has significant social and economic impact. It results in ruined lives, families and businesses; in bankruptcies and bad loans; in suicides, embezzlements and other crimes committed to feed or cover up gambling habits—and increases in costs to taxpayers for investigating, prosecuting and punishing those crimes.

Few of these problems have been documented as communities and states across the nation instead focus on gambling as a way to boost their economies and increase tax revenues. But for Minnesota the social costs of gambling are emerging in vivid and tragic detail.•

DAY OF RECKONING

• Mrs. HUTCHISON. Mr. President, today is April 15, the day of reckoning for millions of Americans. After a year on the job, and hours and hours of paperwork, today American moms and dads must file their income tax return, and send a check to Uncle Sam.

The IRS's favorite day of the year is everyone else's least favorite. Working families in America are getting squeezed between ever-rising expenses for necessities and higher taxes.

Last year the Republican Congress tried to do something unusual for taxpayers—we tried to let them keep their own money.

We cut taxes for families with children by providing a $500 tax credit for each child, to help parents raise children and to offset the erosion of the personal exemption from inflation. With this tax cut, 3.5 million families wouldn't have to pay taxes any more. In Texas, it would save 285,000 families over $167 million.

Some big-city liberals don't think $500 is real money—they say "it's only pennies a day." But with the children's tax credit, a parent with two children would be much better off today. Instead of writing a $500 check to the IRS, she could be getting a $500 check back—that's real money for families with kids.

We also encouraged families to save for retirement—with my homemaker IRA proposal, and with expanded individual retirement accounts.

The homemaker IRA would allow women who work at home to get the same opportunity to save for retirement that all other workers do. The current tax code prevents married couples that rely on one income from equitably providing for their retirement security by limiting the homemaker's deductible IRA contribution to $250.

To end this unequal treatment of women and men that work inside the home, and to promote retirement savings, we would have permitted deductible IRA contributions of up to $2,000 by spouses that work inside the home.

What would this mean for homemakers? Under current law, a single-income married couple saving $2,250 each year for 30 years would have $188,000 for retirement. With the bill's $4,000 annual contribution limit, after 30 years they would have $335,000—an increase in savings of almost $150,000.

We also helped families by permitting tax-deferred savings in IRA's for education costs, medical expenses, and first-time home purchases, and allowing penalty free withdrawals during times of unemployment.

We stopped penalizing young couples for getting married. We increased the standard deduction for married couples filing jointly. By 2005, the marriage penalty would have been eliminated for couples that don't itemize their deductions.

We cut capital gains taxes to encourage and reward investment, and to create new businesses and new jobs.

And we cut estate taxes, so that years of hard work and success won't be wiped out in a generation.

Our tax cuts reduce the tax burden on the people who actually pay taxes. More than three-quarters of the cuts in the first year go to the middle class, those making $75,000 a year or less. Who are those people?

They are mothers and fathers, who will get help raising their children with a $500 tax credit.

They are homemakers who will have the opportunity to contribute the maximum amount to an IRA for retirement security for the first time.

They are married couples, who will have the Tax Code's marriage penalty reduced.

They are savers, who are trying to buy a first home, pay for college for their kids, or retirement for themselves.

They are small business owners who have spent their lives building a business, and want to pass it on to their children.

They are investors who have provided the capital to start new businesses and create jobs.

Our tax cut helped all Americans—it would put more money in people's pockets, and would increase jobs. Together with a balanced budget, it would lower interest rates and increase the standard of living for millions of Americans.

So why do I keep saying here is what our proposals would have done? Because President Clinton vetoed it. He vetoed tax relief for all of us paying taxes today to the IRS. Instead of getting a refund, many are writing a check to the Treasury.

After running for President in 1992 on a middle class tax cut, in 1993 President Clinton raised taxes on middle class Americans while claiming he was only hitting the rich. He overlooked his tax increase on seniors, which raised taxes on Social Security benefits from 50 to 85 percent for seniors earning more than $34,000—for marrieds, it's $44,000, and his gas tax on everyone. His taxes took what could have been a robust period of economic growth and made it a weak, lackluster recovery.

I cannot remember any time in America when our economy was growing, but people have had more reason to worry about their jobs. Big government is one of the big reasons. Big government regulation costs jobs, too. A report from the Rochester Institute of Technology estimates the direct cost of complying with Federal regulations to be about $668 billion in 1995. That's about $6,000 for every American family in higher prices, diminished wages, and increased taxes.

Another way to look at it: The cost of regulation is about the same as the entire amount of individual income taxes! So when you're writing your check today, double the check you write to get the real cost of big government.

Last year, when the Republican Congress was preparing our tax cut bill, President Clinton admitted that he and the Democratic Congress had made a mistake in 1993 by raising taxes. Nice talk—but then he vetoed the bill that would have cut taxes for Americans today.

If he hadn't vetoed the bill, instead of turning your money over to Uncle Sam today, you would be keeping your money in your own pocket. With the tax cuts and balanced budget, we would get 1.2 million new jobs, $75 billion in new investment, and lower interest rates, lower mortgage rates, and higher disposal income. Everyone in America would have been better off.

I don't think most Americans object to taxes in principle; we all know some taxes must be paid to provide for a national defense, for health regulations, for police and schools, and for other services. But its how much we pay and what we get in return that bothers us.

President Clinton's new budget will spend $1.572 trillion—with a $146 billion deficit. The problem with the deficit isn't that we aren't paying taxes—its that we're spending too much. The problem has always been spending. If Congress in the 1980's had just limited the growth of domestic spending to the rate of inflation—if Congress had just restrained spending the way that every American household does—we would have ended the last decade with a budget surplus.

What happened? Where is that surplus? It is buried in the huge buildings all over Washington. Instead of limiting spending increases to the rate of inflation, Congress went on an unprecedented spending binge. And when the decade of the 1980's ended, there was no surplus, there was not even a balanced budget—there was more debt to pay interest on.

This administration refuses to abandon the irresponsible policies of past Congresses. This administration has dealt itself out of the fight to save American's future.

The majority in Congress will not change our principles for a few inside-the-beltway bureaucrats and editorial writers who don't want the era of big government to end. We will not offer a Band-Aid to past the next election. We promised to offer real, long-term solutions for the next generation and we did.

The people know they don't get the money's worth from Washington; we waste money foolishly all the time—on small things like the Tea Tasting Board, and on big ones like the Davis-Bacon law, which adds millions of dollars to every government construction project, while leaving entry-level workers unemployed.

We must go through the budget, line by line, agency by agency, and ask, "Is this worth it? Do we need it? Should the Federal Government do it? "Last year we cut outdated or duplicate programs, like the Interstate Commerce Commission, the Office of Technology Assessment, and the Pennsylvania Avenue Development Corporation, and cut our own budget, too.

Finally, we will make fundamental changes to prevent us from the old tax and spend ways. Today, in the other body, they will consider for the first time an amendment to the Constitution that will change the balance of power between taxes and spending. Right now, when Congress cuts spending, it only lasts for a year. We have annual appropriations, so its easy to replace old spending with new spending. But when we increase taxes, they are permanent changes to the Tax Code. Taxes are paid year after year, until we repeal them.

Not only that, it takes only half the body plus one vote to increase taxes. In 1993, President Clinton's tax increases were passed by one vote in the House, and a tie was broken in the Senate by Vice President GORE. Despite the fact that half the Senate opposed the taxes, they were imposed on the public.

I believe that this was wrong. We shouldn't be able to make such a fundamental change in how Americans are governed by their representatives in Congress without the support in Congress that a super majority vote for a tax increase requires. It should be hard to increase taxes. It should be harder to increase taxes—to take the people's money from them—than it is to cut taxes.

Mr. President, what the public is asking for is leadership.

It is not leadership to increase taxes on the elderly and everyone who drives a car, and claim you only hit the rich—which the Democrats did in 1993 without one Republican vote.

It is not leadership to veto tax cuts for American families, and then propose tax cuts again in the next election year.

It is not leadership to propose a budget with a $200 billion deficit, and then veto a balanced budget.

And it is not leadership to propose a budget in the following year that balances only with huge spending cuts after the year 2000, when the President is sure to have moved back to Arkansas.

It is leadership to confront our fiscal problems head on, to show the people what we must do to preserve Medicare, to help families, to create jobs, to reform welfare, and to balance the budget. That is what the Republican Congress did.

America has led the world through the most tumultuous century of all time—from the age of horse power to the age of atomic power. Now that the threat to our liberty from communism is gone, and freedom is spreading throughout the world, it's time to return the government's power to the people. We can start by giving them their money back.•

IMMIGRATION—JUST THE FACTS

• Mr. SIMON. Mr. President, Priscilla Labovitz had an op-ed piece in the New York Times, which I ask to be printed in the RECORD after my remarks. It deserves the attention of all of us interested in the problems of immigration.

It is fascinating reading, in addition to being important for policymaking.

The material follows:

IMMIGRATION—JUST THE FACTS

(By Priscilla Labovitz)

WASHINGTON.—Congress is considering immigration reform. Patrick Buchanan used the issue to rev up his Presidential campaign. And a few polemicists have even called for a moratorium on all immigration. The subject may be hotly debated, but ultimately the facts and figures speak for themselves.

Percentage of the United States population that white Americans think is Hispanic: 14.7.

Percentage that is Hispanic: 9.5

Percentage that white Americans think is Asian: 10.8.

Percentage that is Asian: 3.1.

Percentage that white Americans think is black 23.8.

Percentage that is black: 11.8.

Percentage that white Americans think is white: 49.9.

Percentage that is white: 74.

Number of legal immigrants admitted in 1820 (the first year for which statistics are available): 8,385.

The number of legal immigrants in 1907: 1,285,349.

The number admitted in 1990: 1,536,483.

The number admitted in 1994 (the latest figures available): 804,416.

Percentage of decrease in legal immigration from 1993 to 1994: 9.3.

Countries that sent the most students to America in 1994: Japan (more than 65,000), South Korea (more than 38,000), China plus Taiwan (more than 36,000).

The number of United States residents who emigrate each year: 195,000.

Countries from which legal immigration decreased most since 1993: El Salvador (32 percent), Vietnam (30.6 percent), China (17.7 percent), Philippines (15.3 percent).

Percentage that employment-based legal immigration decreased from 1993 to 1994: 16.

Percentage of decrease in applications for political asylum from 1994 to 1995: 57.

State with the largest number of legal immigrants from Mexico admitted in 1994: California.

State with the largest number of legal immigrants from all foreign countries combined admitted in 1994: California.

Percentage (estimated) of all illegal immigrants who live in California: 42.6.

State where fewest legal immigrants settled in 1994: Wyoming.

Home state of Alan Simpson, the senator who authorized the principal bill to reduce immigration: Wyoming.

Countries from which most illegals in New York City emigrate: Colombia, Dominican Republic, Ecuador, Italy, Poland.

Countries from which the highest number of legal immigrants on welfare in New York City emigrate: Russia, Dominican Republic.

Proportion of United States population that was foreign-born in 1990: 7.9 percent.

Proporition that was foreign-born in 1910: 16 percent.

Continent of origin of immigrant group with highest educational attainment: Africa.

Welfare programs for which illegal aliens are not eligible: Aid to Families With Dependent Children, food stamps, Medicaid, Medicare, Supplemental Security Income.

Presidential candidate who said: "I think God made all people good, but if we had to take a million immigrants in, say Zulus, next year, or Englishmen, and put them in Virginia, what group would be easier to assimilate and would cause less problems for the people of Virginia?" Patrick Buchanan.

Total number of immigrants who settled in Virginia in 1994: 15,342.

Total number of legal immigrants born in United Kingdom who settled in Virginia in 1994: 404.

Total number of Zulus, Unknown.

Sources: Census Bureau statistics, Immigration and Naturalization Service statistics, National Immigration Law Center, New York City Planning Commission, The Washington Post.•

THE TAX LIMITATION AMENDMENT

• Mr. FAIRCLOTH. Mr. President, as American taxpayers are well aware, today is Tax Day, and it is a most appropriate time to express my strong support of Senate Joint Resolution 49, the tax limitation amendment. This resolution proposes to amend the Constitution to require a two-thirds supermajority vote to increase tax rates or to impose new taxes.

It offers the American taxpayers a source of protection from a Federal Government that often sees their checkbooks as an unlimited line of credit. For too long, the Federal Government has lacked the restraint that the Founding Fathers surely envisioned, and it has consistently grabbed an increasing share of the taxpayers' money.

The American people have sent some $14 trillion to Washington since 1980. This is an enormous amount of money.

I think that it is sufficient to run the Federal Government. I believe that most taxpayers think that it is sufficient to run the Federal Government.

However, it is apparently not enough for the big spenders in Washington. There are bills on the calendar to boost taxes ever higher. There are those still eager to grab yet more money from the taxpayers.

This amendment will stop the big spenders.

It is far too easy to raise taxes. The largest tax increase in American history—the Clinton tax bill of 1993—is a case in point. The Democrats controlled both the White House and the Congress, and, yet the Clinton budget passed the other Chamber by a mere six votes. In this Chamber, the Vice President was forced to bring out the motorcade, and he rode to the Capitol to cast a tie-breaker vote. The President, just months after his election, could not even muster a majority of the elected Senators.

The tax limitation amendment, however, would have stopped that tax bill, and, if it is adopted, it will prevent other ill-considered congressional raids on constituents' checkbooks.

Its opponents decry the supermajority requirement as "anti-democratic." However, the Constitution includes 11 supermajority provisions, and these hurdles were engineered to further safeguard important processes. Indeed, the procedures used to govern this Chamber include super-majority requirements, and I see little restraint in their use on the other side of the aisle. These supermajority requirements compel the development of a broad consensus for action. These procedures often serve this Chamber well. However, I find it impossible to believe that the taxpayers do not deserve similar protection.

It is no surprise that the tax limitation amendment is seen as a revolutionary measure in Washington. However, it is a time-tested procedure in 12 States, and one-third of all Americans live in States with supermajority tax requirements.

Maybe this amendment scares people in Washington because it is so effective. Just look at the numbers. Between 1980 and 1993, the taxpayers in States without supermajority tax limitations faced a 2 percent rise in taxes as a share of personal income. However, taxpayers in States with supermajority tax limitations enjoyed a 7 percent drop in taxes as a share of personal income.

President Clinton bragged in the 1992 campaign that he held the line on taxes in Arkansas as governor. Well, he tried to raise taxes, but Arkansas adopted a three-fourths supermajority requirement to raise most taxes in 1934, long before President Clinton was born.

The tax limitation amendment will impose some real and necessary restraint on the Congress. For too long, Washington lawmakers, unwilling to pare the scope of the Federal Government, simply embarked on pirate-style raids on their constituents' checkbooks. Consequently, the Federal tax burden on the average family has grown from 3 percent in 1948 to some 25 percent today.

Chief Justice Marshall long ago wrote that the power to tax involves the power to destroy. The power to tax is indeed an awesome power. The history of the United States includes chapters of revolution and rebellion rooted in issues of taxation.

The tax limitation amendment is a moderate response to the escalating bite of the Federal Government. It merely requires a little additional deliberation in the exercise of the power of taxation. In a democracy, I believe that we owe the people at least that.•

THE DEATH OF ROBERT MARLOWE

• Mr. COVERDELL. Mr. President, it is with regret that I must report the recent passing of a true leader in Georgia agriculture. Long-time Georgia Farm Bureau Director, Robert W. "Bob" Marlowe, died on March 26 in his home in Macon, GA, after a brief illness.

Mr. Marlowe was a true leader at the Farm Bureau and was a solid citizen. A native of Barrow County, GA, Bob graduated from the University of Georgia before teaching in his local school system for a number of years. After leaving teaching, Bob returned to production agriculture, working for the Cotton Producers Association as a poultry adviser and managing co-op stores. Bob worked for the Georgia Farm Bureau in Macon for 23 years and was an active member of his church and community organizations such as the Lions Club. He was also active in agriculture advocacy through his appointment on the Government's Advisory Council for Tri-State Water Issues and through his work with the State's various commodity commissions. I can attest that he was very helpful in my office's efforts in the formulation of the 1996 farm bill.

I know that Bob will be missed greatly by his family and colleagues at Georgia Farm Bureau. Georgia agriculture and this office will surely miss the likes of Bob Marlowe and I salute him for his exemplary service to our State and the Nation.•

MEASURE READ FOR THE FIRST TIME—H.R. 3103

Mr. SIMPSON. Mr. President, I inquire of the Chair if H.R. 3103 has arrived from the House of Representatives.

The PRESIDING OFFICER. The Senator is informed that the bill is at the desk.

Mr. SIMPSON. Therefore, I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term-care services and coverage, to simplify the administration of health insurance, and for other purposes.

Mr. SIMPSON. Mr. President, I now ask for its second reading, and I object.

The PRESIDING OFFICER. Objection is heard. The bill will be read a second time following the next adjournment of the Senate.

PROVIDING FOR THE APPROVAL OF FINAL REGULATIONS THAT ARE APPLICABLE TO THE SENATE AND THE EMPLOYEES OF THE SENATE

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 242 submitted earlier in the day by Senator WARNER.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 242) to provide for the approval of final regulations that are applicable to the Senate and the employees of the Senate, and that were issued by the Office of Compliance on January 22, 1996, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. SIMPSON. I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 242) was considered and agreed to.

(The text of the resolution will be printed in a future edition of the RECORD.)

RELATING TO CERTAIN REGULATIONS REGARDING THE OFFICE OF COMPLIANCE

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 51 submitted earlier by Senator WARNER.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 51) to provide for the approval of final regulations that are applicable to employing offices of the House of Representatives or the Senate, and to covered employees who are not employees of the House of Representatives or the Senate, and that were issued by the Office of Compliance on January 22, 1996, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. SIMPSON. I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 51) was considered and agreed to.

(The text of the concurrent resolution will be printed in a future edition of the RECORD.)

CLOTURE MOTION

Mr. SIMPSON. Mr. President, I now move to proceed to Senate Resolution 227, the Whitewater legislation, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Senate Resolution 227, regarding the Whitewater extension.

Alfonse D'Amato, Dan Coats, P. Gramm, Bob Smith, Mike DeWine, John H. Chafee, Jim Jeffords, Frank H. Murkowski, R.F. Bennett, Spencer Abraham, Conrad Burns, Al Simpson, Bill Roth, Bill Cohen, Slade Gorton, Strom Thurmond.

Mr. SIMPSON. I ask unanimous consent that the vote occur on Wednesday, April 17, at a time to be determined by the two leaders, and that the mandatory quorum under Rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I now withdraw the motion.

The PRESIDING OFFICER. The motion to proceed is withdrawn.

ORDERS FOR TUESDAY, APRIL 16, 1996

Mr. SIMPSON. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:45 a.m. on Tuesday, April 16; further, that immediately following the prayer the Journal of proceedings be deemed approved to date; no resolutions come over under the rule; the call of the calendar be dispensed with; the morning hour be deemed to have expired; and the time for the two leaders be reserved for their use later in the day; and, that there then be a period for morning business until the hour of 10:45 a.m. with Senators to speak for up to 5 minutes each except for the following: Senator GRASSLEY for 15 minutes and Senator HATCH for 45 minutes.

I further ask unanimous consent that immediately following morning business the Senate resume consideration of S. 1664, the illegal immigration bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I now ask unanimous consent that the Senate stand in recess from the hour of 12:30 until 2:15 for the weekly policy conferences to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SIMPSON. Mr. President, for the information of all Senators, following morning business the Senate will resume the immigration bill. There are several pending amendments. However, any votes ordered on those amendments will not occur until after the vote previously scheduled at 2:15.

As a reminder, there will be a cloture vote at 2:15 on Tuesday invoking cloture on the motion to proceed to the Whitewater resolution.

The Senate may also be asked to turn to any other legislative items that can be cleared for action.

ORDER FOR ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. SIMPSON. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order following the remarks of my good colleague, Senator ABRAHAM of Michigan.

The PRESIDING OFFICER. Without objection, it is so ordered.

The distinguished Senator from Michigan is recognized.

Mr. ABRAHAM. Thank you very much, Mr. President. I will attempt to complete my remarks in a short period of time.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

Mr. ABRAHAM. Mr. President, I rise tonight to make an opening statement with regard to the bill, S. 1664, on illegal immigration.

Let me begin by stating my support for this legislation. It is the product of much work in our Judiciary Committee and before that in the Immigration Subcommittee of the Judiciary Committee. And, in my judgment, although there are parts of the bill that I still hope to see us modify during the deliberations this week, it is an extraordinary piece of legislation which moves in the right direction, and it is in no small measure thanks to the Senator from Wyoming that we have this fine piece of legislation before us. His work both in the context of this legislation and over the past 17 years on immigration-related matters has been exceptional. It is a reflection of a Senator who is deeply committed to accomplishing a job that is difficult, and I commend him for it.

Mr. President, those who refuse to play by the rules who come here illegally become, as a result, a burden on our society, and it should not be tolerated. The illegal immigration is a betrayal of our long tradition of welcoming those who play by the rules. If the Federal Government did its job of keeping out, tracking down, and expelling illegal aliens, we would not have an immigration problem that confronts America today.

By definition, illegal immigrants are lawbreakers, and based on statistics, illegal immigrants are coming here at a very high rate. It is estimated at about 300,000 per year. Our bill to address illegal immigration, S. 1664, deals effectively and aggressively with the real problem of illegal immigration—reforms to our border patrols, our visa policies, criminal alien policies and rules concerning immigrant use of welfare.

First, with respect to border patrols, this bill begins in the obvious place, by fighting the problem of illegal immigration at the border. Our illegal immigration reform bill provides for the addition of 4,700 Border Patrol agents over the next 5 years, a 90 percent increase over the current level. It adds 300 new INS investigators for the next 3 years to investigate the smuggling and employment of illegal aliens, an increase of nearly 100 percent over current levels. These increases will help us address the fundamental, the basic problem of illegal immigration by providing the manpower necessary to address the problem of those who come to this country without proper documentation. That is only a start of how this bill attempts to reform the immigration laws as they pertain to illegal immigrants.

Another category of illegal aliens is those who overstay their visas, aliens who come here legally but then overstay. This bill addresses that problem and forcefully.

First, it establishes the first substantial penalties for visa overstays.

Second, it bars visa overstayers for even applying for a new visa for 5 years if they fail to appear for a deportation hearing. It also charges 300 INS investigators to seek out these aliens and to enforce the bill's rules.

It is important to keep in mind that contrary to some charges made over recent weeks, visa overstayers commonly are not individuals who come here on permanent family visas. Rather, the bulk of visa overstayers come to this country as tourists or students, then stay beyond the expiration of their visas.

Thus, it is wise and fitting that we should address those who break the law, those who overstay the visa, with sharp, stiff penalties rather than attempting to address this problem by changing in some ways the penalties for those who are playing by the rules either by reducing the number of immigrants who may come to this country or dealing with those who are in fact not creating the problem.

A third area which this bill addresses and which I have been very active in working on pertains to criminal aliens. By conservative estimates, almost half a million felons are living in this country illegally. These aliens have been convicted of murder, rape, drug trafficking, potentially such crimes as espionage, sabotage, treason and/or a number of other serious crimes and are therefore, under the current laws of our country, deportable.

Unfortunately, in the vast majority of cases, our officials cannot deport these criminals because of a breakdown in the deportation process. Principally, the problem relates to the interminable amount of appeals which deportable aliens who are criminals have at their disposal. As a consequence, many of these noncitizen lawbreakers end up back on our streets to prey on law-abiding American citizens.

In the original bill of the Senator from Wyoming, a number of needed provisions were contained. That bill originally directed the Attorney General to provide regulations permitting special inquiry officers to enter final orders of deportation stipulated to by the alien. It authorized Federal judges to order deportation as a condition of probation. And it made other similar efforts to address the criminal alien problem.

I am glad, however, that the Judiciary Committee saw fit to go even further and to add to and strengthen these provisions by adopting four amendments on which I worked with a number of other Senators on the committee to see adopted. These amendments would create expedited procedures for deporting criminal aliens. The provisions would first prohibit the Attorney General from releasing such criminal aliens from custody; second, end judicial review for orders of deportation entered against these criminal aliens while maintaining the right to administrative review.

In short, once the criminal alien had exhausted all appeals available under the criminal laws, the criminal alien would still have the full deportation administrative provisions to protect him, that is, a deportation hearing and the ability to appeal any order of deportation to the Board of Immigration Appeals, but that would end the process as opposed to triggering a return to the court system. That will be positive because it will mean the actual deportation of more criminal aliens and the freeing up of the court system from many of these frivolous lawsuits.

In addition, the criminal alien deportation procedures require the Attorney General to deport criminal aliens within 30 days of the conclusion of the alien's prison sentence.

What I believe this will lead to is the initiation of the deportation proceedings well in advance of the end of the sentence so that upon release the criminal aliens will be leaving the country.

Finally, our legislation permits State criminal courts to enter conclusive findings of fact during sentencing that an alien has been convicted of a deportable offense. In addition, the State courts, upon making those findings of fact, will be required to report them to the Attorney General so that criminal aliens who are convicted of deportable offenses in State courts would be known by the authorities, that is, the Department of Justice and the Attorney General, in such a fashion as to allow for the deportation proceedings to begin.

These reforms would not affect any of the aliens' due process protections on the underlying criminal offense. Aliens would still be entitled to the lengthy appellate and habeas corpus review, just like U.S. citizens. But abuses of the appeals process would stop there and not continue on through the deportation provisions themselves.

Mr. President, this makes sense. The fact is, if there are, as is currently estimated, a minimum of one-half million noncitizens who are people who have committed serious crimes in this country, to me it makes sense that the laws which allow those people to be deported ought to be enforced so those slots can be taken by law-abiding citizens who want to come to this country and make a positive contribution rather than come to the country and commit serious criminal violations. These provisions collectively will allow us to dramatically increase the number of criminal aliens who are deported. Most recent estimates suggest that current amount is nowhere higher than 4 to 6 percent of the criminal aliens who are deportable in this country. That means that somewhere over 90 percent of the criminal aliens who could be deported are not, primarily because of a lack of a process to make expeditious deportation feasible.

Our bill would change that. It would mean that criminal aliens would be leaving the country and, therefore, there would be more slots in this country for immigrants who want to make a contribution.

Another area which this bill addresses effectively, I think, are restrictions on welfare benefits available to noncitizens. The problem of immigrant welfare use is often overstated. According to the Urban Institute, nonrefugee, working-age immigrants are no more likely to use welfare than are native-born Americans. But I continue to believe we should concentrate on requiring that all immigrants be responsible for themselves, rather than become dependent on Government programs. To encourage responsibility, we first should concentrate on preventing illegal aliens, who undermine our laws by even being here, from receiving welfare benefits. In addition, we should prevent immigrants from collecting welfare payments until they have worked here and contributed taxes to our welfare system or until they become citizens.

Third, we should hold sponsors of legal immigrants financially liable for up to 10 years for welfare payments those they sponsor improperly receive. As you know, the sponsorship agreements that people sign in order to bring someone to this country are very, very infrequently upheld; very infrequently enforced. I think the legislation we have now will provide us with the tools to enforce such sponsorship agreements. It will attribute the sponsor's income to the immigrant sponsor for 5 years should the immigrant seek welfare payments. That will, on the one hand, dramatically reduce those eligible and, in addition, allow us to collect from the person who makes the original commitment of sponsorship.

Collectively, these provisions address, and address effectively, the illegal immigration problems which we currently confront. They do so without punishing law-abiding people and companies. However, there are certain parts of the legislation before us which I think go too far and place the focus, not on those who are breaking the rules, but rather too much on those who are playing by the rules.

First, in this respect, and most important, are the provisions in the legislation that pertain to what I believe will ultimately become a national ID system. The original bill included a national employee verification system. This mandatory system would have required all employers to verify with the Federal Government the work eligibility of every prospective employee. Because this system would be expensive and intrusive, riddled with mistakes and dangerous to our workers' ability to find work, the committee saw fit to strike that permanent system, which would have to have been in place within 8 years.

I brought a provision before the committee to simply strike all of this verification process. It failed on a 9-to-9 vote. What we are left with now is a provision for a pilot program. While it is a smaller program than that originally envisioned in the legislation, I continue to see problems with this provision because, although the bill does not overtly establish a national verification system that is mandatory, it heads us in that direction. And there are no brakes provided in the bill to keep it from that destination.

In this provision, the INS would be permitted to initiate large local or regional demonstration projects anywhere in the Nation. The language of the bill is vague here, but it leaves discretion to bureaucrats to decide whether the system will be mandatory or voluntary for employers. Also unclear is the size of the regional project that might be initiated, or regional projects that might be initiated. For example, such regions could encompass multiple States at one time.

It is also unclear what happens during a demonstration project when U.S. citizens cannot prove that they are eligible to work. It is likewise unclear about whether or not individual Americans will have to consult the Government when they seek to hire someone even to do such things as mow their own lawn. One thing is clear. The bill sets in place the infrastructure necessary for a mandatory national system and establishes the principle that companies should gain Government approval before hiring any employee.

I think this is headed in the wrong direction. People who want to break the rules will find ways to break the rules or get around the rules. That is happening today. But, if we move in the direction of a national employee verification system, whether it is the original mandatory nationwide program the legislation included or a pilot program which starts in place the infrastructure that leads to a national program, I think we are headed in the wrong direction. We will be penalizing those who play by the rules, both employers and employees of employers. Especially for those in small business, it will be a substantial increase in business overhead. For employees, native-born U.S. citizens, it could mean huge hardship if the database of such a system is in any way inaccurate.

Just to put that in perspective, a mere 1 percent error margin in the database could, on an annual basis, affect 600,000 employment decisions in this country. To put that in perspective, that means twice the number of total illegal aliens that come into this country each year. I do not believe that is the way we should proceed, and, therefore, during consideration of this bill, I will be offering an amendment with Senators FEINGOLD and DEWINE to strike provisions for this overly intrusive infringement that is signified by the pilot program.

This amendment, striking the verification provision, is supported by a significant number of groups concerned with the rights of workers and employers from the National Federation of Independent Businesses and the National Retail Association to the U.S. Catholic Conference to the Small Business Survival Committee. I look forward to working with my colleagues on specifics, but the debate we should be having here is, How do we reduce illegal immigration?

I believe the proper place to start is by focusing on those who are lawbreakers, whether they are employees or employers, whether they are those who come over the border without documents or those who overstay their visas or if they are a criminal alien. I think it is important for us to take a very simple philosophical approach to deal with these problems.

For those who are yearning to be free, who are willing to play by the rules and wait their turn, for them we should throw open the door to the land of liberty, which has been available as long as this country has existed. On the other hand, for those who flout our laws, they should find that Lady Liberty has turned her back on them, that she will not rise up to aid those who trample on the law on which liberty is built.

Though Lady Liberty yearns to aid the righteous, those willing to work hard and to build a better life for themselves and their families, she does not allow people to come to this country simply to take advantage of the laws and of the citizens here.

Those who prize both law and liberty, those who would be Americans are those we should protect with any legislation that we should address in this context.

Mr. President, as virtually every Member of the Senate, I have a heritage that began in another part of the world. In my case, it was my grandparents who came here approximately a century ago. They did not come to this country in search of welfare payments. They did not come to this country for any ulterior motives. They came here because they wanted to live in a country that was free. They wanted their children and their grandchildren to know what it was like to be born in a nation that was free, and they made a positive contribution, both in what they did and in bringing up strong families who have made their own contributions.

Last fall, I had the opportunity for the first time to go to Ellis Island in New York where my grandparents made their first visit to these shores. I was struck as I went there and as I looked through the history of Ellis Island of what it meant and what it still means. I believe as we address immigration issues, we should never lose sight of what Ellis Island and the various other points of disembarkation have meant to those who truly wanted to come to this country to enjoy all that America offers—the American dream.

Legal immigration is the American way. It strengthens us economically, culturally, and spiritually, because by letting in those who come here playing by the rules and seeking to build a better life for their families, we welcome true Americans and live up to our own ideals. Indeed, an overwhelming percentage of people in our country have made it clear that they think we should address illegal immigration problems long before we consider changes in the legal immigration laws of this country, and indeed, Mr. President, as I will say at a later point in these debates, it is clear to me that these are very separate issues and, as a threshold matter, we have done the right thing in the Judiciary Committee, as the House did the right thing, in separating legal and illegal immigration.

Cutting legal immigration precipitously could backfire and cause more people to come here illegally. So for those reasons, I strongly support the illegal immigration bill that is before us and believe it should be considered on its own merits as a freestanding piece of legislation. Indeed, that is the position that two-thirds of the members of the Judiciary Committee took when we began this debate a few weeks ago.

I am convinced that we must concentrate on the real problem facing our country from immigration—lawbreakers—and we should not allow any fear of immigrants to distract us from the task of keeping the illegal immigrants out of the country.

Mr. President, after we conclude that and once S. 1664 has been disposed of, then it would be appropriate to consider changes that we might wish to make in the laws pertaining to legal immigration. But it is my sincere hope and certainly will be my effort here on the floor to maintain the separation that we achieved in the Judiciary Committee and that was achieved in the House of Representatives.

I think that we will make a major step forward if we pass S. 1664, hopefully with certain modifications. I think we would make a big mistake if we backtrack and begin to try and confuse and merge issues that I do not believe are appropriately linked together.

I look forward in the days ahead to working hard on the floor, as we did in the Judiciary Committee, to make sure our country moves aggressively and forcefully to address the problems of illegal immigration.

I strongly commend Senator SIMPSON and all the members of the subcommittee who worked hard to bring us to this point.

Mr. President, I yield the floor.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:45 a.m., Tuesday, April 16.

Thereupon, the Senate, at 6:35 p.m., adjourned until Tuesday, April 16, 1996, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate April 15, 1996:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ELIZABETH K. JULIAN, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE ROBERTA ACHTENBERG, RESIGNED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

ROBERT CLARKE BROWN, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY FOR A TERM OF 6 YEARS, VICE JACK EDWARDS, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

DANIEL GUTTMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AN HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 2001, VICE EDWIN G. FOULKE, JR., TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

FARM CREDIT ADMINISTRATION

LOWELL LEE JUNKINS, OF IOWA, TO BE MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION, VICE EDWARD CHARLES WILLIAMSON, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

EXPORT-IMPORT BANK OF THE UNITED STATES

MARTIN A. KAMARCK, OF MASSACHUSETTS, TO BE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 20, 1997, VICE KENNETH D. BRODY, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NATIONAL CREDIT UNION ADMINISTRATION

YOLANDA TOWNSEND WHEAT, OF MISSOURI, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR THE TERM OF 6 YEARS EXPIRING AUGUST 2, 2001, VICE ROBERT H. SWAN, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF STATE

MORRIS N. HUGHES, JR., OF NEBRASKA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BURUNDI.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT OF THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. CARL E. FRANKLIN [redacted] U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL IN THE U.S. AIR FORCE WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. WALTER KROSS, [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICER IS ALSO NOMINATED FOR REGULAR APPOINTMENT IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE:

ARMY COMPETITIVE

To be major

MARK H. LAUBER [redacted]

THE FOLLOWING-NAMED OFFICERS APPOINTMENT IN THE RESERVE OF THE ARMY WITHOUT CONCURRENT ORDER TO ACTIVE DUTY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 12203(A), 12204(A), 3353, AND 3359:

DENTAL CORPS

To be lieutenant colonel

JEFFERY DOOTSON [redacted]
JON E. SCHIFF [redacted]

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE:

ARMY COMPETITIVE

To be lieutenant colonel

DANIEL BOLAS, [redacted]
KENNETH R. LEE [redacted]
CARL D. WILEY [redacted]

MEDICAL CORPS

To be major

PAUL S. DARBY [redacted]

THE FOLLOWING-NAMED INDIVIDUALS FOR A RESERVE OF THE ARMY APPOINTMENT, WITHOUT CONCURRENT ORDER TO ACTIVE DUTY UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 12203(A), 12204(A), 3353, AND 3359:

MEDICAL CORPS

To be lieutenant colonel

RICHARD R. ECKERT [redacted]
ROBERT S. KNAPP [redacted]

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 12203 AND 3385:

ARMY PROMOTION LIST

To be colonel

ERNEST R. ADKINS [redacted]
PETER A. CHIEFARI [redacted]
JAMES A. COZINE [redacted]
PAUL J. CUNNINGHAM [redacted]
RICHARD M. DEVILLE [redacted]
JAMES V. GORDON [redacted]
RICHARD D. HOVERSON [redacted]
MITCHELL R. LECLAIRE [redacted]
BUFORD S. MABRY, JR. [redacted]
LARRY H. MAXWELL [redacted]
FLOYD D. PARRY [redacted]
JOSEPH F. ROONEY, JR. [redacted]
THOMAS M. TRITSCH [redacted]
RICHARD A. VNUK, [redacted]
GREGORY L. WAYT [redacted]
BARRINGER F. WINGARD, JR. [redacted]

ARMY NURSE CORPS

To be colonel

BETTY L. FOEHL [redacted]
CATHERINE A. MOZDEN [redacted]

CHAPLAIN CORPS

To be colonel

KENNETH N. DAFT [redacted]

JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

JAMES K. NADDEO [redacted]

MEDICAL CORPS

To be colonel

YOUNG W. KAHN, [redacted]

MEDICAL SERVICE CORPS

To be colonel

ROBERT P. THOMAS [redacted]

ARMY PROMOTION LIST

To be colonel

WILLIAM P. BABCOCK [redacted]
TERRY L. DAVIS [redacted]
ROBERT R. DEROSIER [redacted]
GREGORY R. DISHER [redacted]
LARRY L. DIXON, [redacted]
WILLIAM F. ELROD [redacted]
ERNEST T. ERICKSON [redacted]
SPENCER L. HAWLEY [redacted]
LAWRENCE M. HAYDEN [redacted]
DOUGLAS A. HILLENSBACK [redacted]
NORMA J. KRUEGER [redacted]
BARRY L. REYNOLDS [redacted]
PHILLIP A. RICHARDSON [redacted]
MILLARD C. RUSHING [redacted]
CHARLES R. SETZER [redacted]
CHERIE D. SMITH [redacted]
JOHN F. SMITH [redacted]
RUSSELL O. VERNON [redacted]
JANICE A. WILLIAMSON [redacted]

CHAPLAIN CORPS

To be lieutenant colonel

GARY L. GROSS, [redacted]

JUDGE ADVOCATE GENERAL'S CORPS

To be lieutenant colonel

MYRON C. LINDQUIST, 504-60-2110

MEDICAL CORPS

To be lieutenant colonel

ANITA K. DAS, [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

JUDY L. FATTOR [redacted]
JAMES C. ROBERTSON, JR. [redacted]

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICERS IDENTIFIED BY AN ASTERISK (*) ARE ALSO NOMINATED FOR REGULAR APPOINTMENT IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE:

MEDICAL CORPS

To be lieutenant colonel

*RAYMOND A. CONSTABILE [redacted]
CHAEIM S. PONTIUS [redacted]
*CRAIG D. SHRIVER, [redacted]

VETERINARY CORPS

To be lieutenant colonel

NEIL W. AHLE [redacted]

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE:

CHAPLAIN

To be lieutenant colonel

GLEN, L. BLOOMSTROM, [redacted]
MICHAEL BRADFIELD [redacted]
DAVID H. BRADFORD [redacted]
FRANK J. BRUNING [redacted]
CHARLES D. CHANDLER [redacted]
JOEL W. COCKLIN, [redacted]
ALAN C. HENDRICKSON [redacted]
FREDERICK L. HUDSON [redacted]
RONALD R. HUGGLER, [redacted]
JAMES W. JONES [redacted]
JO A. KNIGHT, [redacted]
RICHARD A. KUHLBARS [redacted]
DANIEL A. MILLER [redacted]
OTIS I. MITCHELL [redacted]
ALVIN M. MOORE, [redacted]
DONNIE L. MOORE [redacted]
SHERRILL F. MUNN [redacted]
DENNIS A. NIEMEIER [redacted]
STEVEN D. PASCHALL [redacted]
ALOYSIUS RODRIGUEZ [redacted]
STEPHEN D. TURNER [redacted]
JACK J. VANDYKEN [redacted]
JAMES E. WALKER [redacted]
WILLIAM D. WILLETT [redacted]
LARRY J. WOODS [redacted]
HERSHEL D. YANCEY [redacted]
RICHARD R. YOUNG [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION OF THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE. THE OFFICERS MARKED BY AN ASTERISK (*) ARE ALSO NOMINATED FOR REGULAR APPOINTMENT IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE:

MEDICAL SERVICES CORPS

To be major

*WILLIAM E. ACKERMAN, [redacted]
*REED B. ALIDER [redacted]
*MICHAEL L. AMARAL [redacted]
JOSE ANDUJARRIVERA [redacted]
*JOSE L. BAEZ [redacted]
KELLEY M. BARHAM [redacted]
*CATHERINE A. BECK [redacted]
TRAVIS BERNRITTER [redacted]
THOMAS H. BERRY [redacted]
ROBERT A. BOWDEN [redacted]
DOUGLAS A. BRANDSMA [redacted]
*CHARLES BROOKSHIRE [redacted]
*PETER T. BULATAO [redacted]
GORDON R. CAIN, [redacted]
*MICHAEL G. CAMMACK, [redacted]
*JAMES B. CARR, [redacted]
*CHRISTOPHER CASTLE [redacted]
*GRANT J. COBBS, [redacted]
MICHAEL R. COOK, [redacted]
*MARTIN N. COPPOLA [redacted]
JANE A. CRONK [redacted]
*ERIC P. DAWSON, [redacted]
*MICHAEL J. DELLORCO [redacted]
*JOHN A. DEMCHOK, [redacted]
WILLIAM C. DOWDY, [redacted]
*THOMAS DUBE, [redacted]
*CHARLES W. DUNTLEY [redacted]
*REBECCA A. DYER, [redacted]
*CHERYL L. FILBY [redacted]
*ARTHUR B. FISCH [redacted]
*JEFFREY M. FOE [redacted]
GERALD A. FOREST [redacted]
*WILTON R. GALAMISON [redacted]
*DANIEL W. GALL, [redacted]
*STEVEN R. GALLEGOS [redacted]
*KATHY E. GATES [redacted]
JEFFREY L. GAYLORD [redacted]
*BRIAN E. GIBSON [redacted]
ROBERT L. GOODMAN, [redacted]
TERESA K. GRADEK [redacted]
*WILLIAM B. GRIMES [redacted]
*TAMI R. HATCHER [redacted]
*JAMES W. HICKEY [redacted]

CHRISTOPHER J. HILL [redacted]
*WILLIAM K. HOGAN, [redacted]
JOSEPH B. HOUSER [redacted]
CARL G. HOVER [redacted]
*MICHAEL C. HOWITZ [redacted]
*DANIEL H. JIMENEZ [redacted]
*DANIEL J. JONES [redacted]
*JAMES W. JONES [redacted]
MICHAEL L. KIEFER [redacted]
GUY T. KIYOKAWA [redacted]
KEVIN G. LAFRANCE [redacted]
*PAUL K. LAVAN, [redacted]
*EUGENE LILLIEWOOD [redacted]
*CARLA D. LONG [redacted]
*RICHARD G. LOONEY [redacted]
*GARY J. MATCEK [redacted]
*PETER T. MC HUGH [redacted]
*MARY A. MCNAMARA [redacted]
*CHRISTOPHER MEILINGER [redacted]
ROGER J. MILLER [redacted]
*ROBERT D. MITCHELL [redacted]
JAMES B. MONTGOMERY [redacted]
*DALE A. OSTLER [redacted]
*JAMES K. PALMER [redacted]
CHRISTOPHER L. PATE [redacted]
DAVID R. PETRAY [redacted]
RICHARD T. PHILLIPS [redacted]
*LESLIE J. PIERCE [redacted]
*ALAIN J. PIRRONE [redacted]
*JOSEPH C. PISCIOTTA [redacted]
MICHAEL K. PODOJIL [redacted]
JEFFREY R. QUINN [redacted]
TIMOTHY A. RAIMEY [redacted]
*CARLOS M. RAMOS, [redacted]
*BRUCE R. REED [redacted]
*FRANCISCO J. RENTAS [redacted]
*GORDON R. ROBERTS, [redacted]
*MICHAEL J. ROGERS [redacted]
*BARBARA A. ROWE [redacted]
*RICHARD SALGUEIRO [redacted]
*WILLIAM J. SAMES [redacted]
*PATRICK J. SAUER [redacted]
*BRUCE A. SHAHBAZ [redacted]
*DONNA M. SHAHBAZ [redacted]
*JAMES E. SHIELDS [redacted]
*DOUGLAS B. SLOAN [redacted]
*DAVID A. SMITH [redacted]
*STEPHEN M. SMITH [redacted]
*RUSSELL P. SMUTZ [redacted]
*SCOTT A. STOCKWELL [redacted]
*JEFFREY P. STOLROW [redacted]
*RICHARD O. SUTTON [redacted]
*MICHAEL A. SWALKO [redacted]
GREGORY A. SWANSON [redacted]
*ANDREA TALIAFERRO [redacted]
*SCOTT F. TANNER [redacted]
CHERYL L. TAYLOR [redacted]
*WILLIAM C. TERRY [redacted]
*TAMMY L. THOMAS [redacted]
*LOUIE L. TONRY [redacted]
*VILMA VAZQUEZDETORRES [redacted]
*JULIAN C. VELASQUEZ [redacted]
*MARK C. WILHITE [redacted]
*COURT R. WILKINS [redacted]
*STEPHEN WILKINSON [redacted]
*HAILEY F. WINDHAM [redacted]
*SCOTT C. WRIGHT [redacted]

ARMY MEDICAL SPECIALIST CORPS

To be major

*JOHN J. BELL [redacted]
*DAVID R. BRAND [redacted]
*LORRAINE T. BREEN [redacted]
*MARK A. CARSON [redacted]
*WALTER R. CHAPPELL [redacted]
*MICHAEL S. DAVIDSON [redacted]
*PASTINA D. DE [redacted]
GUY A. DESMOND [redacted]
*JOHN E. DONOHUE [redacted]
*WILLIE P. FRENCH [redacted]
*KAREN L. GEISLER [redacted]
*JONATHAN R. GREEN [redacted]
*SANDRA HARRISONWEAVER [redacted]
*VIVIAN T. HUTSON [redacted]
*PEGGY P. JONES [redacted]
*RICHARD C. JONES [redacted]
*MICHAEL J. KRAMER [redacted]
*STEVEN A. MANIERRE [redacted]
*ROBERT L. MATEKEL [redacted]
*REBECCA L. MC COLLAM [redacted]
*JOSEPH M. MOLLOY [redacted]
*JOHN C. ONEILL [redacted]
RHONDA L. PODOJIL [redacted]
*BETTY J. QUITT [redacted]
*JAMES P. SEARFOSS [redacted]
*CHARLES E. SOLESBEE [redacted]
*SHIRLEY J. SVENSON [redacted]
*LAURIE E. SWEET [redacted]
*WINFRIED WASNER [redacted]
*WILLIAM E. WHEELER [redacted]
*MICHAEL C. WOOD [redacted]
*VICTOR T. YU [redacted]

VETERINARY CORPS

To be major

*SUZANNE AINSWORTH [redacted]
*KELVIN C. BUCHANAN [redacted]
*DON A. CULVER [redacted]
*ANNETTE K. FREEMAN [redacted]
*ALEC S. HAIL [redacted]
*STEPHEN R. MAYO [redacted]
ROBERT W. MCHARGUE [redacted]
*STEVEN R. MOG [redacted]
*BRENT C. MORSE [redacted]
LEWIS L. NORLUND [redacted]
*BARRY N. PITTMAN [redacted]
*GAYE R. RUBLE [redacted]
*ROBERT L. SCHMURR [redacted]
*DANA P. SCOTT [redacted]
TIMOTHY STEVENSON [redacted]
ROBERT R. THOMPSON [redacted]
ERIK H. TORRING III [redacted]
*TY VANNIEUWENHOVEN [redacted]
*KIM D. VLACH [redacted]
*JO L. WILBER [redacted]
*LOUDON D. YANTIS, [redacted]

ARMY NURSE CORPS

To be major

TAMMY L. ANDERSON [redacted]
*JENNIFER ARMSTRONG [redacted]
*JANE M. BEHREND [redacted]
*JOHN P. BEILMAN [redacted]
*DIANE M. BEIRING [redacted]
*BONNIE D. BEQUETTE [redacted]
*LORIE A. BROWN, [redacted]
*JOHN E. BUCKWALTER [redacted]
*MARIA M. BURGOS [redacted]
*RICHARD M. CALDWELL [redacted]
*LORRAINE M. CARNEY [redacted]
GERALD R. CATE [redacted]
*THOMAS E. CEREMUGA [redacted]
*TAMMIE W. CHANG [redacted]
*KAREN B. CLEAVER [redacted]
*DENISE M. COAKLEY, [redacted]
*KELLY J. COLLINS [redacted]
*ANNA I. CORULLI [redacted]
*DENISE K. COSTA [redacted]
*MATTHEW H. COWELL [redacted]
*DEBORA R. COX, [redacted]
*LAWRENCE E. CROZIER [redacted]
*CHERYL R. DAVIS, [redacted]
*SYLVIA R. DENNIS [redacted]
*WENDY DESMIDTKOHLHOFF [redacted]
*MAUREEN A. DONOHUE, [redacted]
*KAREN D. DUNLAP [redacted]
*BLAISE H. DWORACZYK [redacted]
*TREY E. EARLY [redacted]
*KIMBERLY A. FEDELE [redacted]
*KATHLEEN M. FORD, [redacted]
*MORSE E. FUDGE [redacted]
*CHRISTINE D. GARNER [redacted]
*YOUNG L. GARRETT [redacted]
*LENA F. GAUDREAU [redacted]
*AGLIPA V. GILLETTE [redacted]
*VINETTE E. GORDON, [redacted]
*PENNY P. GOULART [redacted]
*KAREN T. GRACE [redacted]
*MOREENE A. GRIFFITH [redacted]
*RALPH E. GRINNELL [redacted]
*MARK D. HACHEY, [redacted]
*TONY B. HALSTEAD [redacted]
*ALPHA A. HARRIS [redacted]
*KARALEE R. HATCH [redacted]
*ANGELENE HEMINGWAY, [redacted]
TINA L. HESS [redacted]
*DAN M. HESTER [redacted]
KENNETH R. HIXSON, [redacted]
*JOHN P. HLAVNICKA [redacted]
*EMMONS V. HOLBROOK [redacted]
*BARBARA R. HOLCOMB [redacted]
*SHERI A. HOWELL [redacted]
*JEANNIE S. HURLBERT [redacted]
*ROMONA JOHNSON [redacted]
*LINDA N. JOLLEY [redacted]
*SUSAN E. JORDEN [redacted]
*ROBERT T. KAVALEC [redacted]
*BARBARA M. KELTZ [redacted]
*PAUL A. KENNEDY [redacted]
*MICHAEL G. KESSLER [redacted]
*GREGORY T. KIDWELL [redacted]
*JOHN W. KIRKWOOD, [redacted]
*JEFFREY D. KNOLL [redacted]
*GRETA L. KRAPOHL, [redacted]
*CAPONERA P. KREKLAU [redacted]
*SHAUN L. KUETER [redacted]
*DIANE L. LAGESSE [redacted]
*TERESA A. LAPRADE [redacted]
CATERINA E. LASOME [redacted]
*REBECCA A. LAWHON [redacted]
*GEORGE P. LAWRENCE [redacted]
*JUDITH A. LEE [redacted]
*MARK A. LESZCZYNSKI [redacted]
*VERONICA S. LEWIS [redacted]
*MARLA R. LORING [redacted]
CHARLES W. LUTZ [redacted]
*CATHY M. MARTIN [redacted]
*CHARLES B. MATTA [redacted]
*KATHIE D. MC CROARY, [redacted]
*PATRICIA MC KINNEY, [redacted]
*MICHELLE A. MESSER [redacted]
*MARY R. MILES [redacted]
MINTA A. MILLER [redacted]
*LAVERNE MOOREWASHINGTON [redacted]
*REYNOLD L. MOSIER [redacted]
*DANILO C. MOTAS [redacted]
MICHAEL W. NEFT [redacted]
*VICTOR N. NIEMI [redacted]
*SHARON J. PACCHIANA [redacted]
*SHELLEY V. PALUCH [redacted]
*STOKES M. PAYNE [redacted]
*JAMES H. PERRIN, [redacted]
*BETTY A. PETTWAY [redacted]
*MARY L. PICKRELL, [redacted]
*LEGRAND E. POUND [redacted]
*REBECCA J. PREZA [redacted]
*CECILIA PRICEKIMBLE [redacted]
*MARY E. RILEY [redacted]
*HAROLD F. ROBERTS [redacted]
REBECCA E. ROBERTS [redacted]
*CATHERINE F. RYAN [redacted]
*TRACY L. SABOY [redacted]
*MARILIE K. SAGE [redacted]
*CARMEN S. SANDERS [redacted]
*WANDA L. SCOTT, [redacted]
*AMANDA L. SLIWA, [redacted]
*WENDELL D. SOUTH, [redacted]
*JACQUELINE A. STARK [redacted]
*MACIVER M. TERAN [redacted]
LESLIE TUCHMANN, [redacted]
*JANICE D. TURMAN, [redacted]
*DEBRA J. VINCENT [redacted]
*ANGELIA L. WHERRY [redacted]
*GLORIA WHITEHURST [redacted]
*MELISSA E. YANDEL [redacted]
*MYRNA E. ZAPATA, [redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR APPOINTMENT INTO THE REGULAR MARINE CORPS UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531:

U.S. MARINE CORPS AUGMENTATION LIST

To be major

JOEL H. BERRY III, [redacted]
ROBERT L. BEVERIDGE [redacted]
WILLIAM S. BRADLEY [redacted]
JERRY L. BUBP [redacted]
MATTHEW P. CROTTY [redacted]
MARK A. DAVIS, [redacted]
JAMES D. DECARLI [redacted]
PETER GRELL [redacted]
DANIEL K. HENRY [redacted]
JOHN P. HORVAT, JR. [redacted]
DEAN M. HUBBS, [redacted]
ROBERT J. KILMARTIN [redacted]
JAMES M. KLOTZ [redacted]
JAMES M. MC CUE, [redacted]
JOHN R. MILL [redacted]
SAMUEL R. MYERS [redacted]
NICHOLAS F. NANNA, [redacted]
ROBERT B. NOXON, [redacted]
CATHY M. POWALSKI [redacted]
RONALD L. REESE [redacted]
GREGORY M. RYAN, [redacted]
ELIZABETH A. SWEATT [redacted]
KEVIN J. SYKES [redacted]
JOHN L. WELINSKI [redacted]

To be captain

SETH D. AINSPAC [redacted]
JOHN M. ALLEN [redacted]
MIGUEL A. AMEIGEIRAS [redacted]
DAVID C. ANDERSON, [redacted]
BRIAN P. ANNICHIARICO [redacted]
PAUL E. ANSLOW, [redacted]
DAVID N. AREOLA, [redacted]
GLINDON ASHBROOK, JR. [redacted]
STEVEN H. BAER [redacted]
BRIAN F. BAKER [redacted]
ANTHONY S. BARNES, [redacted]
ROBERT R. BARNETT [redacted]
JAMES G. BARTOLOTTO [redacted]
MICHAEL J. BASILE [redacted]
STEVEN W. BATCHELOR, [redacted]
MICHAEL H. BELDING, [redacted]
STEVEN F. BELSER [redacted]
MICHAEL L. BENNETT [redacted]
WILLIAM C. BENTLEY III [redacted]
RUSSELL L. BERGEMAN [redacted]
RICHARD T. BEW, [redacted]
ROY M. BLIZZARD III [redacted]
KERRY J. BLOCK [redacted]
GERALD M. BLOOMFIELD II [redacted]
KARL J. BOHN, [redacted]
ROBERT V. BOUCHER, [redacted]
CRAIG D. BOURASSA, [redacted]
BRIAN W. BOWLING, [redacted]
PRESTON C. BRENCHLEY [redacted]
TOM BRENEMAN, JR. [redacted]
GREGORY A. BRYANT, [redacted]
ERIC F. BUER, [redacted]
CHARLES G. BURKE, JR. [redacted]
THOMAS M. BURNS, [redacted]
PATRICK C. BYRON, [redacted]
GERALD W. CALDWELL, [redacted]
PETER S. CALOGERO, [redacted]
KEITH D. CANEVARO, [redacted]
JOHN H. CELIGOY [redacted]
DAVID G. CHANDLER, [redacted]
JEFFREY S. CHESTNEY [redacted]
MICHAEL R. CHEW, [redacted]
KEITH M. CHIRICO, [redacted]
BRENT P. CHRISTIE [redacted]
WILLIAM S. COE, [redacted]
JOHN J. COGLIANESE [redacted]
JAMES P. COLE [redacted]
MATTHEW A. COLLINS, [redacted]
MICHAEL R. CONNOLLY, [redacted]
ADAM W. COONS, [redacted]
MICHAEL S. COTTREAU [redacted]

ROBERT C. COURTEMANCHE, [redacted]
ANGEL A. CUELLAR, JR., [redacted]
ANDREW G. CUMMING, [redacted]
KEITH M. CUTLER [redacted]
MICHAEL D. DAHL, [redacted]
TRACY A. DALY, [redacted]
CARLOS A. DELAROCHA, [redacted]
TIMOTHY E. DESALVO [redacted]
TIMOTHY B. DOOLEY [redacted]
DOUGLAS A. DREW [redacted]
CLIFFORD E. DROZDA [redacted]
DALLAS D. DUDLEY II [redacted]
KYLE D. EAST [redacted]
CRAIG P. ECK [redacted]
MARK M. EDINGTON, [redacted]
AARON W. ELSHAUG, [redacted]
TODD J. ENGE, [redacted]
BARRY L. ENSTICE [redacted]
RICHARD P. EPPARD [redacted]
JOSEPH M. EVANS, JR. [redacted]
ADRIENNE F. EVERTSON, [redacted]
TIMOTHY C. FAWCETT [redacted]
MATTHEW D. FERINGA [redacted]
MICHAEL J. FINLEY [redacted]
ROBERT M. FLOWERS, [redacted]
RICHARD E. FOCHT [redacted]
TODD D. FORD [redacted]
DAVID L. FORRESTER [redacted]
GARY R. FULLERTON [redacted]
JOHN C. GALE [redacted]
PATRICK K. GALLAHER, [redacted]
KARL J. GANNON [redacted]
ANDREW N. GAPPY [redacted]
STEVEN G. GERACOULIS [redacted]
BRADFORD J. GERING [redacted]
SEAN D. GIBSON [redacted]
STEVEN R. GIRARD [redacted]
DAVID S. GLASSMAN [redacted]
ROBERT J. GOETZ [redacted]
BRIAN S. GOOD, [redacted]
MICHAEL J. GOUGH [redacted]
MICHAEL W. GRADY [redacted]
CHRISTOPHER M. GREER [redacted]
MARTIN T. GRIFFITH [redacted]
STEPHEN G. GRIFFITH [redacted]
ANDREW S. GROENKE [redacted]
LEE M. GRUBBS [redacted]
ANDREW J. GUNDERSON [redacted]
KURT D. GUSTAFSON [redacted]
J.C. GWILLIAM, JR., [redacted]
STEVE D. HAGERTY [redacted]
CHARLES C. HALE [redacted]
MORRIS D. HALE, [redacted]
BRINLEY M. HALL III [redacted]
DARIUS J. HAMMAC [redacted]
JAMES B. HANLON [redacted]
EDDIE W. HANNA, [redacted]
GORDON M. HANSCOM, JR. [redacted]
ROBERT E. HARGENS [redacted]
MICHAEL J. HARRIS [redacted]
MATTHEW M. HARTMANN, [redacted]
CHARLES P. HARVEY [redacted]
CASON N. HEARD, [redacted]
ROBERT D. HEIN, [redacted]
GREGORY M. HEINES [redacted]
ROBERT H. HENDRICKS [redacted]
JAMES B. HIGGINS, JR. [redacted]
GERALD R. HIGHTOWER [redacted]
JAMES D. HILL [redacted]
JAMES L. HOGAN [redacted]
GRAHAM C. HOPPESS [redacted]
MORTIMER J. HOWARD [redacted]
DUANE M. HUBING, [redacted]
MICHAEL W. HUFF, [redacted]
ERIK J. JANTZEN, [redacted]
MARK A. JEWELL [redacted]
GREGORY W. JOHNSON [redacted]
MARK T. JOHNSON [redacted]
DAVID M. JONES [redacted]
MARK R. JONESE [redacted]
RICHARD E. JORDAN [redacted]
MICHAEL R. KAINE, [redacted]
PAUL E. KAPLAN [redacted]
DARRIN D. KAZLAUSKAS [redacted]
HAROLD S. KEELER [redacted]
GREGORY C. KEESLER [redacted]
JOHN J. KEPPELER [redacted]
DAVID C. KESZEI, [redacted]
ERIC R. KLEIS [redacted]
JAMES B. KOERBER [redacted]
MARK R. KOSKI, [redacted]
JOHN M. KOURY, [redacted]
PAUL D. KOVAC, [redacted]
BARRY L. KRAGEL [redacted]
THOMAS M. KRUGLER [redacted]
DALE R. KRUSE, [redacted]
JOSEPH P. KUGEL [redacted]
ROBERT W. LAATSCH [redacted]
GRANT V. LAM [redacted]
JEFFREY W. LARK [redacted]
DANIEL T. LATHROP [redacted]
GERALD R. LAY [redacted]
EVAN G. LEBLANC [redacted]
MICHAEL H. LEDBETTER [redacted]
BRYAN R. LEMONS [redacted]
KENNETH M. LEWTON, [redacted]
WILLIAM R. LIEBLEIN [redacted]
JAMES K. LINEBARGER [redacted]
STEVEN P. LOGAN [redacted]
JAMES V. LONGI III [redacted]
SCOTT A. LUTTERBECK [redacted]
MICHAEL W. LYNCH [redacted]
MARK D. MACKEY, [redacted]
ARTURO J. MADRIL [redacted]
BRIAN L. MAGNUSON, [redacted]
LOUIS J. MAIDA [redacted]
KENNETH P. MANEY [redacted]
RICARDO MARTINEZ [redacted]
RENE C. MARTINEZ [redacted]
MARK J. MASINI [redacted]
MATTHEW P. MASSIMI [redacted]
MICHAEL C. MC GHEE [redacted]
DANIEL P. MC GOVERN [redacted]
ROY MC GRIFF III [redacted]
ERIK O. MC INNIS [redacted]
JOHN P. MEE [redacted]
MARK J. MENOTTI [redacted]
RICHARD W. MERRITT [redacted]
RANDALL H. MESSER [redacted]
DAVID S. MICHAEL [redacted]
CHARLES C. MILLER [redacted]
DAVID J. MINER [redacted]
DENNY A. MIRELES [redacted]
JOSEPH F. MONROE [redacted]
AMES D. MOORE [redacted]
JAMES H. MOORE [redacted]
MICHAEL A. MOORE [redacted]
DAVID L. MORGAN II [redacted]
CHRISTOPHE W. MORTON [redacted]
ALBERT G. MOSELEY IV [redacted]
KEVIN G. MOSS [redacted]
MICHAEL G. MUEHLE [redacted]
MICHAEL J. MURPHY [redacted]
STEPHEN J. MURPHY [redacted]
LAWRENCE O. NAPIER, [redacted]
RANDY A. NASH [redacted]
RICHARD J. NEFF [redacted]
MICHAEL K. NELSON [redacted]
SAMUEL C. NELSON III [redacted]
JOHN J. NOEL [redacted]
RAYMOND T. NOLIN, [redacted]
KENNETH B. NYHOLM, [redacted]
GEORGE E. OBSER [redacted]
KYLE J. OMALLEY, [redacted]
JOHN R. ONEAL [redacted]
TODD J. ONETO [redacted]
RENE A. ORELLANA [redacted]
RICHARD T. OSTERMEYER [redacted]
CHRISTOPHER J. PARKHURST [redacted]
BRUCE G. PATERSON [redacted]
BRIAN J. PAYNE [redacted]
JOHN M. PECK [redacted]
MARK B. PENNINGTON [redacted]
JOSEPH F. PERITO [redacted]
MICKIEL D. PETE [redacted]
STEPHEN L. PETERS [redacted]
ALEX G. PETERSON [redacted]
MICHAEL R. PFISTER [redacted]
CHRISTOPHER S. PINCKNEY [redacted]
JASON K. POPE [redacted]
DAVE S. PORTILLO [redacted]
ALBERT C. POTRAZ, [redacted]
MICHAEL J. POWELL [redacted]
WILLIS E. PRICE III [redacted]
DEAN L. PUTNAM [redacted]
STEVEN P. QUINTANA [redacted]
WILLIAM A. RANDALL [redacted]
GERALD S. RATLIFF [redacted]
ROBERT L. RAUENHORST [redacted]
ALEX M. RAY [redacted]
JAMES E. RECTOR [redacted]
GERALD R. REID [redacted]
PHILLIP J. REIMAN [redacted]
WILLIAM H. REINHART [redacted]
WILLIAM H. REYNOLDS [redacted]
JON E. RICE [redacted]
JADE N. RICHARD [redacted]
GEORGE W. RIGGS [redacted]
DONALD J. RILEY [redacted]
CHARLES R. RISIO [redacted]
JIMMY R. RIVERA [redacted]
RICHARD J. ROCHELLE [redacted]
GLENN A. ROGERS [redacted]
CURTIS M. ROGERS III [redacted]
KARL W. ROTH [redacted]
HOWARD D. RUSSELL [redacted]
ROLLIN R. RUSSELL II [redacted]
JONATHAN L. SACHAR [redacted]
GLENN J. SADOWSKI, [redacted]
MICHAEL J. SANDERS [redacted]
WESLEY E. SANDERS [redacted]
DAVID L. SANFORD [redacted]
STEPHEN P. SANTIAGO [redacted]
MARK R. SCHAEFER [redacted]
JEFFERY D. SCRAMSTAD [redacted]
ROBERT G. SCUMACI [redacted]
DEREK W. SHAFFER [redacted]
ROBERT C. SHERRILL [redacted]
DENNIS J. SHERWOOD [redacted]
PAUL G. SICHENZIA [redacted]
QUINN R. SIEVERTS [redacted]
KEVIN M. SISBARRO [redacted]
SCOTT R. SIZEMORE [redacted]
WYLIE S. SLATER [redacted]
WILLIAM E. SMITH JR., [redacted]
MARK E. SOJOURNER [redacted]
JEFFREY G. SORTOR [redacted]
KARL H. SPAETH, JR. [redacted]
JOHN C. SPAHR [redacted]
ROBERT J. STEFANOWICZ [redacted]
ROSS L. STEPHENSON, JR. [redacted]
SEAN C. STEWART [redacted]
VICTOR S. STOVER [redacted]
PAUL T. SULLIVAN [redacted]
SCOTT J. TABER [redacted]
THOMAS L. TALOVICH [redacted]
CHRISTOPHER D. TAYLOR, [redacted]
MICHAEL W. TAYLOR, [redacted]
TODD S. TAYLOR [redacted]
RANDALL W. TETEAK, JR. [redacted]
LANCE M. THOMAS, [redacted]
CHRISTOPHER D. THOMPSON [redacted]
DAVID C. THOMPSON, [redacted]
BRUCE J. THOMSEN [redacted]
HUGH V. TILLMAN, [redacted]
KEITH H. TREADWAY, [redacted]
STEPHEN P. TREICHEL [redacted]
WILLIAM J. TRUAX, JR. [redacted]
GREGORY P. UTLEY [redacted]
DAVID J. VAIL [redacted]
DAVID N. VANDIVORT, [redacted]
WILLIAM J. VANZANTEN [redacted]
DANNY J. VERDA [redacted]
LEWIS D. VOGLER [redacted]
JEANNE A. WADZINSKI [redacted]
MICHAEL C. WAGNER, [redacted]
MARSHAL D. WALLACE, [redacted]
PATRICK B. WALTERS, [redacted]
ANDREW J. WAREHAM, [redacted]
VINCENT P. WAWRZYNSKI, [redacted]
MARC A. WEBSTER, [redacted]
DIXON D. WELT [redacted]
STEPHEN A. WENRICH, [redacted]
STEPHEN T. WERNECKE [redacted]
ROBERT A. WILKERSON [redacted]
SCOTT R. WILTERMOOD, [redacted]
DONALD K. WIMP [redacted]
LEE J. WINTERS [redacted]
RICHARD D. WOLF [redacted]
KEVIN J. WOLFE [redacted]
MICHAEL A. WOOD, [redacted]
ROBERT C. WRIGHT, JR. [redacted]
EUGENE J. ZINNI [redacted]

To be first lieutenant

EDUARDO A. ABISELLAN [redacted]
TED A. ADAMS, [redacted]
JOSEPH S. ALEXANDER IV [redacted]
TODD L. AMANN, [redacted]
VINCENT D. APPLEWHITE [redacted]
STEPHEN P. ARMES [redacted]
JOHN B. ATKINSON [redacted]
THOMAS P. BAJUS II [redacted]
PAUL D. BAKER [redacted]
JOHN M. BARNETT, [redacted]
GARY E. BELL [redacted]
WILLIE C. BERRIOS [redacted]
BRENT W. BIEN, [redacted]
CHRISTOPHER S. BISCHOFF [redacted]
CHARLES N. BLACK, [redacted]
TODD V. BOTTOMS, [redacted]
MATTHEW C. BOYKIN, [redacted]
DAVID P. BRADNEY [redacted]
RONALD C. BRANEY, [redacted]
CHRISTOPHER A. BREWSTER, [redacted]
RALPH E. BRUBAKER, JR. [redacted]
DANIEL W. BUCKLEY, [redacted]
HEATHER M. BURGESS, [redacted]
TODD T. BUTLER [redacted]
TED L. CANADAY [redacted]
JAMES C. CARROLL III [redacted]
TIMOTHY T. CARTER, [redacted]
MICHAEL S. CASEY [redacted]
BRIAN S. CHRISTMAS [redacted]
WILLIAM P. CLARK [redacted]
TIMOTHY L. CLARKE, [redacted]
ANDREW R. COFER [redacted]
MATTHEW D. COOPER, [redacted]
EDITH W. CORDERY, [redacted]
MATTHEW C. CULBERTSON, [redacted]
JEFFREY R. CUNDITH [redacted]
MICHAEL J. CURTIN [redacted]
SEAN P. DARDEEN [redacted]
FELIX B. DAVIDSON [redacted]
CHRISTOPHE J. DOUGLAS [redacted]
FRED H. EGERER II [redacted]
JEFFREY C. EVANS [redacted]
IAN M. FACEY, SR. [redacted]
THOMAS M. FAHY, JR. [redacted]
JAMES P. FALLON [redacted]
TIMOTHY L. FANNING, [redacted]
JAMES P. FARRELLY [redacted]
ANDREW J. FLOYD [redacted]
PHILLIP N. FRIETZE [redacted]
JOHN L. FUREY [redacted]
TIMOTHY P. GEORGE, [redacted]
DONALD A. GORDON, [redacted]
ROBERT GOVONI, [redacted]
EDWARD M. GRANDINETTI III, [redacted]
DAVID P. GRANT [redacted]
CHARLES R. GRAY [redacted]
IAN C. GRIGGS, [redacted]
CLARENCE T. GUTHRIE III, [redacted]
NICHOLAS S. HALE [redacted]
JASON S. HANSON [redacted]
CLARENCE T. HARPER III [redacted]
FRANK W. HARRAR [redacted]
JAMES W. HARRIS, JR. [redacted]
MARK A. HASHIMOTO, [redacted]
ROBERT A. HAUGHTON, [redacted]
SPENCER E. HELGESON [redacted]
KATRINA HENSLEY, [redacted]
HENRY G. HESS [redacted]
MICHAEL J. HILLYARD [redacted]
ROBERT P. HINDMARCH [redacted]
STEVEN W. HODGE, JR. [redacted]

JEFFREY P. HOGAN [redacted]
RENEE A. HOLMES [redacted]
DAVID S. HUGHEY [redacted]
JEFFREY L. JAROSZ [redacted]
MARK J. JOHNSON [redacted]
DAVID M. KASE [redacted]
JEFFREY S. KAWADA [redacted]
JOHN KEANE [redacted]
KEVEN J. KELLEHER [redacted]
MICHAEL J. KENNEDY [redacted]
PATRICK M. KIELY, [redacted]
SUN W. KIM, [redacted]
JEFFREY A. KNUDSON [redacted]
JOHN M. KRAUSE [redacted]
JOSEPH G. KRINGLER, JR [redacted]
CLIFFORD J. LANDRETH [redacted]
EDWARD T. LANG [redacted]
WILLIAM F. LAPRATT [redacted]
ALFRED H. LEWIS, JR [redacted]
CURTIS T. LOBERGER [redacted]
BRYAN F. LUCAS [redacted]
BARTLETT D. LUDLOW [redacted]
RICHARD E. LUEHRS II [redacted]
MORRIS C. MAHALEY [redacted]
GEORGE G. MALKASIAN, [redacted]
MATTHEW R. MARCENELLE [redacted]
KEVEN W. MATTHEWS [redacted]
DENNIS P. MATTSON, JR. [redacted]
DANIEL P. MCKENNA [redacted]
ALAN G. MCKINNON [redacted]
JOHN T. MEEK II [redacted]
JAMES J. MIGLETZ [redacted]
BOYD A. MILLER [redacted]
JOHN L. MILLER [redacted]
THOMAS M. MIRANDE [redacted]
KURT E. MOGENSEN [redacted]
BARRY A. MONTGOMERY [redacted]
PAUL T. MORGAN [redacted]
DAVID C. MORRIS [redacted]
MICHAEL F. MOSS [redacted]
ANDREW MUNDY [redacted]
JOHN J. MURPHY III [redacted]
DAVID NATHANSON [redacted]
JOHN M. NEVILLE, JR. [redacted]
ANDREW M. NIEBEL [redacted]
PAUL J. NUGENT [redacted]
MICHAEL H. OPPENHEIM [redacted]
MICHAEL S. OSHAUGHNESSY, [redacted]
BENJAMIN J. PALMER [redacted]
DANIEL L. PARIS, [redacted]
MATTHEW W. PARK [redacted]
WALTER P. PARKER [redacted]
MARK J. PARKITNY [redacted]
TERRY L. PATTERSON, [redacted]
PAUL L. PICKETT [redacted]
RICARDO T. PLAYER [redacted]
ROBERT J. PLEVELL [redacted]
MORRIS W. PRIDDY [redacted]
DALE A. PUFAHL [redacted]
MATTHEW PUGLISI [redacted]
MATTHEW G. RAU [redacted]
TIMOTHY D. RENZ [redacted]
THOMAS J. REPETTI, SR [redacted]
DAVID E. RICHARDSON [redacted]
SEAN M. RIORDAN, [redacted]
KEITH T. RIVINIUS [redacted]
PAUL A. ROSENBLOOM [redacted]
BRIAN L. RUEGER [redacted]
THOMAS B. SAVAGE [redacted]
ROBERT K. SCHWARZ [redacted]
DAVID D. SCOTT [redacted]
WILLIAM D. SHUELL [redacted]
TODD P. SIMMONS [redacted]
JOSEPH D. SINICROPE, JR [redacted]
WALTER S. SKRZYNSKI [redacted]
KENNETH M. SKUTNIK [redacted]
MARK E. SLUSHER [redacted]
GREGORY J. SMITH [redacted]
KARL SMOLARZ [redacted]
DAVID B. SOSA [redacted]
JOHNNY M. SPANN [redacted]
DIANA L. STANESZEWSKI [redacted]
KEVIN J. STEWART [redacted]
ANDREW A. STOKES [redacted]
JIMMY C. SWAFFORD [redacted]
FRANKLIN M. THURSTON, JR. [redacted]
SEAN P. TIERNAN [redacted]
BRIAN F. TIVNAN [redacted]
LEONARD E. TROXEL [redacted]
JOHN E. WALKER, JR [redacted]
EDWARD J. WELSH [redacted]
MARTIN F. WETTERAUER, III [redacted]
RICHARD W. WHITMER [redacted]
JAMES R. WILLSEA [redacted]
BRIAN N. WOLFORD [redacted]
TYLER J. ZAGURSKI [redacted]
JOSEPH J. ZARBA, JR [redacted]
RICHARD D. ZYLA [redacted]

To be second lieutenant

BRIAN W. BALBONI [redacted]
JONATHAN E. BURFORD [redacted]
FRIDRIK FRIDRIKSSON [redacted]
DAVID W. HUDSPETH [redacted]
KEITH A. PARRY [redacted]
EDMUND P. POWER [redacted]
JON M. SCOTT [redacted]
KEITH A. VANASDALAN [redacted]
DANIEL P. WHISNANT [redacted]

THE FOLLOWING-NAMED LIMITED DUTY OFFICERS OF THE REGULAR MARINE CORPS FOR APPOINTMENT AND DESIGNATION AS UNRESTRICTED OFFICERS IN THE REGULAR MARINE CORPS UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531 AND 5589:

U.S. MARINE CORPS UNRESTRICTED LIST

To be lieutenant colonel

ARTHUR G. FRIEND [redacted]

To be major

GARY D. FRALEY [redacted]
STEVEN HICKEY [redacted]
PATRICK E. MILLER [redacted]
JOHN C. WRIGHT, [redacted]

To be captain

WAYNE R. STEELE [redacted]

IN THE NAVY

THE FOLLOWING-NAMED NAVAL ACADEMY GRADUATES TO BE APPOINTED PERMANENT ENSIGNS IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

DAVID L. AAMODT [redacted]
JAMIE W. ACHEE [redacted]
CHRISTOPHER W. ADAMS [redacted]
JAMES P. ADAMS [redacted]
MICHAEL J. ADAMS [redacted]
JOHN E. AGER [redacted]
SCOT C. ALBRECHT [redacted]
CARA M. ALBRIGHT [redacted]
JOHN E. ALEX [redacted]
KEITH A. ALFIERI [redacted]
CLIFFORD J. ALLEN [redacted]
KEVIN S. ALLEN [redacted]
MATTHEW S. ALLEN [redacted]
ROBERT W. ALPIGINI, JR. [redacted]
LUIS ALVA, [redacted]
JOSEPH A. AMARAL, [redacted]
MICHAEL P. AMSTUTZ, JR. [redacted]
JEREMY T. ANDREW [redacted]
WAYNE W. ANDREWS, III [redacted]
BRIAN L. APPLEGATE [redacted]
MICHAEL D. APRICENO [redacted]
RICHARD M. ARCHER [redacted]
KIMBERLY A. ARD [redacted]
PETER A. ARROBIO [redacted]
ROBERT S. ASHBURN [redacted]
AARON R. AUSTIN [redacted]
GEORGE J. AUSTIN [redacted]
ERLINA P. AWA [redacted]
JOHN F. BAEHR [redacted]
JAMES D. BAHR [redacted]
DAVID S. BAIRD [redacted]
STEPHEN G. BAIRD [redacted]
LINDSEY J. BAKER III [redacted]
MICHAEL S. BAKER [redacted]
CRAIG D. BANGOR, [redacted]
CHRISTOPHER M. BANKS [redacted]
SEAN M. BANKS, [redacted]
HEATHER A. BARACKMAN [redacted]
MICHAEL M. BARNA [redacted]
LUKE A. BARRADELL [redacted]
TREVOR J. BAST [redacted]
DOUGLAS W. BATES [redacted]
LORY N. BATTAGLIA [redacted]
ROBERT M. BAUGE [redacted]
MICHELLE M. BAUMBICH [redacted]
JOSEPH W. BAYER [redacted]
CHRISTOPHER F. BEAUBIEN [redacted]
MICHAEL P. BECKER [redacted]
MICHAEL C. BECKETTE [redacted]
THOMAS A. BECKLEY [redacted]
ELIZABETH A. BEEDE [redacted]
BRIAN H. BENNETT [redacted]
PATRICK L. BENNETT [redacted]
RODERICK D. BENSON [redacted]
AARON T. BERGLIN [redacted]
RORY V. BERKE [redacted]
ROBERT A. BERNER [redacted]
JEFFREY R. BESSLER [redacted]
MARCUS C. BICKLEY [redacted]
MICHAEL D. BILLOK [redacted]
ANTHONY J. BILOTTI [redacted]
MICHAEL D. BISBEE [redacted]
LANIE G. BLACK IV [redacted]
YOLANDA E. BLAIR [redacted]
STUART H. BLANCHETTE [redacted]
ALEXANDER P. BOESENBERG [redacted]
SHAWN A. BOHRER, [redacted]
MATTHEW R. BOLAND [redacted]
CHAD A. BOLLMANN [redacted]
JAMES E. BOOMER [redacted]
WESLEY D. BOOSE [redacted]
MICHAEL S. BORCHERDING [redacted]
HOLLEY R. BOREN, [redacted]
RHOAN C. BOUCHER [redacted]
JUANITO F. BOYDON, JR. [redacted]
MICHAEL J. BRADY [redacted]
DANIEL B. BRANCH III [redacted]
NICHOLAS A. BRANDT [redacted]
WILLIAM L. BRECKINRIDGE VII [redacted]
SCOTT M. BREEN [redacted]
DAVID J. BRENIA [redacted]
MICHAEL J. BRONS [redacted]
AMANDA J. BROOKS [redacted]
JAMIE M. BROOKS [redacted]
LESTER A. BROWN, JR. [redacted]
RYAN D. BROWN, [redacted]
CURTIS W. BRUCE, JR. [redacted]
TODD M. BRUEMER [redacted]
CORY S. BRUMMETT [redacted]
EDDIE B. BUCKLES, JR. [redacted]
CHRISTOPHER M. BUGG [redacted]
RICHARD G. BURGESS [redacted]
WILLIAM B. BURKHEAD [redacted]
RANDY J. BURLESON II, [redacted]
RODMAN D. BURLEY III [redacted]
LANCE W. BURTON, [redacted]
WILLIAM C. BUSHMAN, JR. [redacted]
WILLIAM R. BUTLER [redacted]
JOHNNIE L. CALDWELL III [redacted]
SHARIF H. CALFEE [redacted]
MARK J. CALLARI [redacted]
JOHN J. CALVERT, JR. [redacted]
JENNIFER L. CAMPBELL [redacted]
HUNG CAO, [redacted]
DAVID D. CARNAL [redacted]
ISEL CARO, [redacted]
BRADLEY A. CARR [redacted]
MICHAEL B. CARSON [redacted]
JENNIE R. CARUSO [redacted]
MICHELE L. CASEY [redacted]
CHRISTOPHER P. CASTLEMAN [redacted]
RYAN C. CECH, [redacted]
JILL R. CESARI, [redacted]
ANN C. CHAMBERLAIN [redacted]
WILL J. CHAMBERS [redacted]
EDWARD M. CHANDLER, [redacted]
EDWARD C. CHAPMAN [redacted]
MICHAEL A. CHENOWETH [redacted]
ROBERT D. CHIARUTTINI [redacted]
CLARK C. CHILDERS [redacted]
JAMES C. CHITKO, [redacted]
ERIC W. CHRISTIAN II [redacted]
MARC R. CHRISTINO [redacted]
PATRICK B. CLARK [redacted]
CHRISTOPHER P. CLEARY [redacted]
MATTHEW P. CLEMENT [redacted]
DWIGHT L. CLEMONS II [redacted]
CHRISTOPHER G. CLINE [redacted]
BLAKE C. COLEMAN [redacted]
WALTER B. COLEY, JR. [redacted]
MATTHEW T. COLLINS [redacted]
JAMES J. CONATSER [redacted]
THOMAS G. CONROE, [redacted]
SALVADOR C. CONVENTO [redacted]
MATTHEW R. COOK, [redacted]
KWAME O. COOKE, [redacted]
DREW W. COOPER, [redacted]
MICHAEL J. COOPER [redacted]
TODD P. COPELAND [redacted]
SCOTT E. CORBETT [redacted]
MICHAEL CORNELIUS [redacted]
DERIC R. COTTON [redacted]
DALLAS M. COVINGTON, JR., [redacted]
CURTIS A. CRAIG [redacted]
CLARKE F. CRAINE [redacted]
JOSEPH C. CRANDALL [redacted]
PAUL D. CRAWFORD [redacted]
MATTHEW M. CRISTO [redacted]
NICHOLAS C. CROMWELL, JR. [redacted]
EDWARD M. CROSSMAN [redacted]
MARK E. CROWE, [redacted]
MICHAEL A. CRUZ, [redacted]
MICHEAL P. CUMMINS [redacted]
MATTHEW W. CUTTER [redacted]
SEAN P. DALTON, [redacted]
ROBERT V. DANIELS [redacted]
THINH T. DAO, [redacted]
MICHAEL A. DAVIDSON [redacted]
JOSEPH B. DAVIS [redacted]
COLIN P. DAY, [redacted]
MARK R. DEBUSE [redacted]
SAMUEL F. DECASTRO [redacted]
TRACEY L. DELK [redacted]
JENNIFER N. DELLA BARBA [redacted]
JOHN W. DEPREE [redacted]
JEFFREY A. DERMODY [redacted]
ROBERT F. DEWITT, JR [redacted]
THEODORE T. DIAMOND [redacted]
GRAHAME A. DICKS [redacted]
CYNTHIA A. DIETERLY [redacted]
JOHN T. DIETTER [redacted]
AARON W. DIMMOCK, [redacted]
JEFFERY S. DIXON [redacted]
ANDREW F. DOHSE [redacted]
STEPHEN M. DOLGOS [redacted]
JAMES E. DOLING [redacted]
BERNARD V. DOMINGO [redacted]
GREGORY J. DONOFRIO [redacted]
THOMAS A. DONOVAN, [redacted]
TRENTON B. DOUTHETT [redacted]
BRIAN P. DOWNEY [redacted]
MATTHEW J. DRAG [redacted]
BRETT W. DRESDEN [redacted]
PETER C. DRIGGS [redacted]
JOHN P. DUCKETT II [redacted]
MATTHEW J. DUFFY [redacted]
TYLER S. DUNAWAY [redacted]
JAMES M. DUNBAR [redacted]
RYAN K. DUNN, [redacted]
CHARLES R. DWY, JR. [redacted]
DEKE K. EGGER, [redacted]
MARK R. EHMANN, [redacted]
CHARLES W. EHNES [redacted]
DAVID W. EISEN, [redacted]
RYAN K. EISENHARDT [redacted]
JASON B. EISTER [redacted]
TERESA E. ELDERS [redacted]
SHARON P. ELIASSEN [redacted]
JOEL A. ELLINGSON [redacted]
MICHAEL C. ELLIOTT, [redacted]

CHARLES D. ELLIS, JR. [redacted]
SUSANNE R. ELMER [redacted]
JOSEPH A. ERNST [redacted]
KIMBERLY D. ERNST [redacted]
JESSE G. ESPE [redacted]
ERIK C. ESTENSON [redacted]
RUSSELL R. EVANS [redacted]
ROBERT C. FANNON [redacted]
JEFFREY S. FARLIN [redacted]
MATTHEW W. FARR [redacted]
DAVID K. FAUGHT [redacted]
HEIDI R. FEARON [redacted]
JOHN E. FERR [redacted]
RICHARD A. FISCHER [redacted]
BRIAN S. FITZPATRICK [redacted]
JAMES W. FLANAGAN, [redacted]
ROBERT T. FLICKINGER [redacted]
TIMOTHY S. FONTANA [redacted]
JAMES P. FORD [redacted]
MATTHEW W. FOXMAN, [redacted]
GREGORY A. FRANCIOCH [redacted]
BILLY D. FRANKLIN II [redacted]
JOHN D. FRAZIER [redacted]
STEPHANIE L. FRECCIA [redacted]
PAUL J. FRONTERA [redacted]
MARTIN B. FUERST [redacted]
CHAD L. FULGHAM [redacted]
ROBERT L. FUMANTI [redacted]
CHRISTOPHER M. FUQUA, [redacted]
TERRI S. FUSSNER [redacted]
JOSEPH A. GAGLIANO [redacted]
JOHN V. GALDIERI III [redacted]
NUBBIN C. GALENDEZ [redacted]
ROBERT M. GALLAGHER, JR. [redacted]
SEAN W. GALLAGHER [redacted]
KEITH A. GALLOWAY [redacted]
DEBBIE D. GARCIA [redacted]
JEANNIE M. GARCIA [redacted]
RIGOBERTO GARCIA [redacted]
ERIC M. GARDNER [redacted]
JASON D. GARDNER [redacted]
JOHN N. GARIFALOS [redacted]
TROY D. GARWOOD [redacted]
DAVID W. GAST [redacted]
BRIAN K. GENTON [redacted]
RUSSELL M. GERALDI [redacted]
PATRICK M. GESCHKE [redacted]
MARILISA G. GIBELLATO [redacted]
MICHAEL C. GIBSON [redacted]
MYLES P. GILL III [redacted]
TIMOTHY J. GILL [redacted]
MATTHEW G. GILLE [redacted]
DEREK C. GILLESPIE [redacted]
MICHAEL J. GILLIO [redacted]
WILLIAM P. GILROY [redacted]
BRIAN J. GIRACCA [redacted]
LEIGH N. GLASSMAN [redacted]
SCOTT C. GLEASON [redacted]
LESLIE E. GLOSBY [redacted]
MICHAEL A. GLOVA [redacted]
MICHAEL N. GOAD [redacted]
CHRISTOPHER J. GOLINI [redacted]
DANIEL J. GOMEZ [redacted]
ROBERT C. GOMEZ [redacted]
JAMES M. GONZALEZ [redacted]
NICHOLAS D. GOOD [redacted]
GREGG B. GOYETTE [redacted]
THOMAS J. GRADY, JR. [redacted]
CHARLES V. GRANT [redacted]
JEFFREY T. GRANT [redacted]
KENNETH J. GRANT [redacted]
JEREMY GRAY [redacted]
ANTHONY S. GRAYSON [redacted]
TAVIN V. GREEN, [redacted]
WILLARD T. GREEN [redacted]
JENNYMARIE GREENOUGH [redacted]
WILLIAM R. GREINER, [redacted]
WESLEY W. GROFF [redacted]
ELAINE R. GUNN [redacted]
MICHAEL A. GUSSENHOVEN [redacted]
BRIAN R. GUSTAVSON [redacted]
RICHARD V. GUZMAN [redacted]
JOSHUA R. HALL [redacted]
ROBERT R. HALL, JR. [redacted]
MARK A. HAMMOND, [redacted]
CHRISTOPHER S. HANDWERK [redacted]
ARLEN J. HANLE II [redacted]
JARED M. HANNUM [redacted]
PATRICK D. HANSEN [redacted]
MICHAEL J. HANSON [redacted]
JAMES W. HARNEY [redacted]
ANTHONY F. HARRELL [redacted]
FERNANDO J. HARRIS [redacted]
DAVID W. HART [redacted]
JEFFREY D. HART [redacted]
JOHN A. HARTNETT [redacted]
CHAD A. HASKELL [redacted]
KYLE W. HASTINGS, [redacted]
TIFFANY A. HATFIELD [redacted]
SCOTT B. HATTAWAY [redacted]
ERIC C. HAUN [redacted]
PHAEDRA J. HAUSSLER, [redacted]
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NOAH J. HAYWARD [redacted]
ANDREW J. HEALEY, [redacted]
MICHAEL E. HEBERT [redacted]
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FRANZ M. HELCHINGER [redacted]
JUSTIN K. HENDRICKSON [redacted]
JOHN H. HENTZE, JR. [redacted]
EDWARD D. HERNANDEZ, [redacted]
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RUSSELL A. HERRELL [redacted]
RUSSELL R. HERRELL [redacted]
CHIOMA U. HIBBERT [redacted]
TODD D. HICKMAN, [redacted]
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KEITH J. HIMMER [redacted]
ETHAN D. HOAG, JR. [redacted]
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GREGORY W. HODGSON, [redacted]
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CHRISTOPHER A. HOFFMAN [redacted]
ERICA L. HOFFMANN [redacted]
BRIAN R. HOKE [redacted]
BENJAMIN W. HOLCOMBE [redacted]
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ROBERT C. HOLMES IV [redacted]
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THOMAS H. HOOD, JR. [redacted]
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MICHAEL L. HOUGH [redacted]
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JOSHUA C. JAGGER [redacted]
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CHARLES S. JENNINGS [redacted]
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CHRISTOPHER B. JOHNSON [redacted]
NORMAN T. JOHNSON [redacted]
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DAVID E. JORDAN [redacted]
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JAMES R. KENNY [redacted]
ROBERT W. KERFOOT [redacted]
JENNIFER C. KIDD [redacted]
MICHAEL L. KILMURRAY, [redacted]
EDDIE J. KIM [redacted]
PETER S. KIM [redacted]
RICHARD M. KING, [redacted]
DERRICK W. KINGSLEY [redacted]
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ERIKA K. KISIL [redacted]
RICHARD L. KLAUER, JR. [redacted]
DALE D. KLEIN [redacted]
MICHAEL J. KLINKE [redacted]
ODIN J. KLUG [redacted]
KYLE C. KNAPP [redacted]
ERICK B. KNEZEK, [redacted]
HARRY D. KNIGHT, JR. [redacted]
JOSEPH A. KNOOP, [redacted]
MATTHEW S. KOERBER [redacted]
ALEXANDER M. KOHNEN [redacted]
KEVIN L. KOLEGO, [redacted]
LUKE R. KREMER, [redacted]
PAUL C. KRESS III [redacted]
NATHAN C. KRING, [redacted]
NICHOLAS A. KRISTOF [redacted]
JOANNA M. KROLL [redacted]
JOHN W. KURTZ [redacted]
MATTHEW J. LABERT [redacted]
WILLIAM P. LACIVITA [redacted]
ANNA E. LAFFERTY [redacted]
DAVID J. LAKAMP [redacted]
ROBERT W. LANDIS, [redacted]
JESSICA W. LANE [redacted]
KYLE G. LANGBEHN, [redacted]
MICHAEL C. LANGBEHN [redacted]
RICHARD S. LANGTON [redacted]
JESSE A. LANKFORD [redacted]
GREGORY R. LASK, [redacted]
BRETT A. LASSEN [redacted]
GEORGE J. LATOUR III [redacted]
MELISSA J. LAWRENCE [redacted]
JAMES E. LAWSON [redacted]
JEAN M. LEBLANC [redacted]
JAY A. LEDOUX [redacted]
LISA A. LELLI [redacted]
TOBIAS J. LEMERANDE [redacted]
BRYAN S. LICHTENSTEIN [redacted]
ANDREW G. LIGGETT [redacted]
GLENN A. LININGER [redacted]
DAVID LOO, [redacted]
GREGORY S. LOTZE [redacted]
SHELLY M. LOUSTAUNAU [redacted]
MATTHEW D. LOWE [redacted]
GARRETT LUEBKER [redacted]
MARK R. LUKKEN, [redacted]
JOHN M. LYDON [redacted]
DANTE L. MACK, [redacted]
KIMBERLY A. MACKENZIE [redacted]
JACOB J. MADORE [redacted]
ANTOINETTE M. MAGINNIS [redacted]
ANTHONY J. MAGROGAN [redacted]
MICHAEL J. MAJEWSKI [redacted]
WILLIAM J. MARKS [redacted]
JAMES L. MARSH [redacted]
MICHAEL C. MARTIN [redacted]
CHRISTOPHER E. MARTINEZ [redacted]
STEPHEN A. MARTY [redacted]
BRIAN M. MASTERSON [redacted]
JAMES H. MASTERSON [redacted]
DANIEL H. MAULDIN [redacted]
KERRY E. MAY [redacted]
CHARLES W. MAYER III [redacted]
JULIE M. MAYNARD, [redacted]
KAREN M. MAZURE, [redacted]
J.D. MC BRYDE [redacted]
DAVID W. MC CALL, [redacted]
STEVEN W. MC CANN, [redacted]
PATRICK G. MC CASLIN, [redacted]
WILLIAM R. MC COMBS, [redacted]
DANIEL J. MC COY, [redacted]
DERRICK M. MC COY, [redacted]
TIMOTHY S. MC DONALD, [redacted]
CHRISTIAN E. MC DOWELL [redacted]
MICHAEL P. MC DOWELL, [redacted]
KEVIN J. MC HALE, JR. [redacted]
JAMES RANGLEY C. MC IVER [redacted]
DANIEL C. MC KAUGHAN, [redacted]
BRENNAN P. MC KERNAN [redacted]
NED D. MC KINLEY [redacted]
CARLOS A. MEDINA [redacted]
MICHAEL K. MEEKS, [redacted]
MASON M. MEINHOLD, [redacted]
JEFFREY A. MELODY [redacted]
CHRISTOPHER MENDEZ [redacted]
JENNIFER R. MERRILL [redacted]
SAMUEL J. MESSER [redacted]
SAMUEL E. MESSINGER [redacted]
DAVID S. MESSMAN, [redacted]
CONSTANTINOS G. METROPOULOS [redacted]
MICHAEL P. MEYDENBAUER, [redacted]
MARK C. MHLEY [redacted]
JAY A. MIHAL [redacted]
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SETH A. MILLER [redacted]
JENNIFER R. MILLS [redacted]
BRYCE A. MINAMYER [redacted]
KIMBERLY M. MITCHELL [redacted]
JOHN C. MOE, [redacted]
NATHAN W. MOHR, [redacted]
CARLOS A. MONTGOMERY [redacted]
KRISTINE P. MOORE [redacted]
WILLIAM D. MOOREHEAD [redacted]
MICHAEL E. MORERA [redacted]
DANIEL J. MORKEN [redacted]
ALAN W. MORRIS, [redacted]
FREDRIC A. MORRISON [redacted]
MARGUERITE A. MORRISON [redacted]
ANDREW N. MOULIS, [redacted]
ALFRED S. MULLER III [redacted]
JASON Q. MUNOS, [redacted]
MATTHEW S. MURACZEWSKI, [redacted]
JONATHAN R. MURPHY [redacted]
WILLIAM G. MUSSER [redacted]
CHRISTOPHER J. NARDUCCI, JR., [redacted]
TERRENCE M. NAWARA [redacted]
SEAN M. NEALLY [redacted]
MICHAEL S. NEILL [redacted]
CHARLES L. NELSON [redacted]
DANIEL B. NEWBERGER [redacted]
NHAT M. NGUYEN, [redacted]
JULIE A. NICHOLS [redacted]
SPIRO E. NIFAKOS [redacted]
JOHN T. NIMMONS III [redacted]
DAVID B. NOBLE, [redacted]
JAMES I. NORRIS [redacted]
JAMES M. NORRIS [redacted]
RYAN B. NORRIS, [redacted]
BRIAN J. NOWAK, [redacted]
PAUL B. NOWAK, [redacted]
THEODORE J. NUNAMAKER, [redacted]
JASON B. NUNEZ [redacted]
JOSEPH A. ODANIEL, [redacted]
MICHAEL J. ODONNELL, [redacted]
CLIFFORD O. OHL [redacted]
FRANK E. OKATA [redacted]
BRIAN P. OLAVIN [redacted]
RICHARD I. OLSZEWSKI [redacted]
CHARLES ONEAL, JR. [redacted]
DAVID M. ORNE, [redacted]
RAYMOND P. OWENS III [redacted]
JOSEPH A. PACCAPANICCIA [redacted]
MATTHEW L. PARSONS [redacted]
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CHARLES M. PATTERSON III [redacted]
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BRETT M. PEELING [redacted]
WILLIAM C. PENNINGTON, JR. [redacted]
STEVEN J. PERCHALSKI [redacted]
MAURICIO PEREZ [redacted]
ANDREW M. PERSON [redacted]

ROBERT T. PETERSON [redacted]
DAVID J. PETKO [redacted]
GREGORY T. PETROVIC [redacted]
TAM N. PHAM [redacted]
BARTON L. PHILLIPS [redacted]
KEVIN S. PHILLIPS [redacted]
TIMOTHY M. PHILLIPS [redacted]
KEVIN PICKARD, JR. [redacted]
EDWARD D. PIDGEON [redacted]
STANLEY R. PIECHOTA, JR. [redacted]
ADAM S. PIEPKORN [redacted]
WILLIAM E. PILCHER [redacted]
PAULINE F. PIMENTEL [redacted]
STEPHEN J. PLATT [redacted]
DAVIDTAVIS M. POLLARD [redacted]
IRVING B. POLLARD [redacted]
DAVID KEYOSHI T. POSEHN [redacted]
SCOTT D. POWELL [redacted]
JOSHUA S. PRICE [redacted]
BRYAN S. PRICHER [redacted]
WILLIAM C. PRITCHETT [redacted]
JOSHUA W. PRUEHER [redacted]
ANDREW J. QUARM [redacted]
DIANE J. QUATTRONE [redacted]
JILL A. QUINTON [redacted]
KEITH RADONIS [redacted]
STEPHEN A. RAMIREZ [redacted]
MATTHEW H. RANZ [redacted]
RYAN M. RASMUSSEN [redacted]
NIKKI L. RATLIFF [redacted]
CLIFFORD C. RAUSCHENBERG [redacted]
BRIAN P. REARDON [redacted]
MARY E. RENIERE, [redacted]
GEORGE RETAMOZA [redacted]
DANIEL F. RHAMY [redacted]
LAWFORD N. RICAFORT [redacted]
SEAN M. RICH [redacted]
DAVID L. RICHARDSON, JR. [redacted]
JOHN C. RICHARDSON [redacted]
PETER J. RIEBE [redacted]
GREGORY M. ROACH, JR. [redacted]
JAMES F. ROACH IV [redacted]
CHRISTOPHER A. ROBERTO [redacted]
TIMOTHY A. ROBERTS [redacted]
ADAM D. ROBINSON [redacted]
CLAYTON A. ROBINSON [redacted]
ROBERT M. ROBINSON [redacted]
MIKAEL A. ROCKSTAD [redacted]
JUAN C. RODARTE [redacted]
PETER G. RODGERS, [redacted]
EDGAR V. RODRIGUEZ [redacted]
STEPHEN M. ROE [redacted]
JEFFREY D. ROGERS [redacted]
SEAN B. ROUGH [redacted]
JENNIFER K. RUEGG [redacted]
TODD D. RUPP [redacted]
NICHOLAS R. RUSSO [redacted]
JOSEPH C. RUZICKA [redacted]
ANNA M. SAENZ [redacted]
DANIEL A. SALVATIERRA [redacted]
ARTURO G. SANCHEZ [redacted]
STEVEN W. SAUNDERS [redacted]
ARTHUR A. SAVERY [redacted]
GREGORY P. SAWTELL [redacted]
RAYMOND P. SCHLAUCH, JR. [redacted]
JONATHAN L. SCHMITZ [redacted]
PETER M. SCHNAPPAUF III [redacted]
NATHAN A. SCHNEIDER [redacted]
ADAM W. SCHNITZER, [redacted]
KEITH E. SCHOMIG [redacted]
HARRISON C. SCHRAMM [redacted]
LESLIE S. SCHREINER [redacted]
BRIAN T. SCHRUM [redacted]
KATHRYN M. SCHULZ [redacted]
IAN R. SCHUSTER [redacted]
MATTHEW R. SCORNAVACCHI, [redacted]
KRISTOFER J. SCOTT [redacted]
MARK A. SCOTT [redacted]
JEFFREY E. SEIGLER [redacted]
WILLIAM D. SELK [redacted]
MICHAEL L. SHEPARD [redacted]
EDWARD W. SHERBURNE III [redacted]
ARTHUR R. SHERROD, JR. [redacted]
BRIAN W. SHIMKAVEG [redacted]
CALEB M. SIEMON [redacted]
ERIC J. SIFFERLEN [redacted]
JOEL C. SILVERMAN [redacted]
OSCAR W. SIMMONS IV [redacted]
ANTHONY D. SINGLETON [redacted]
MICHAEL M. SITTER [redacted]
MARK D. SKUBIS [redacted]
GARRETT J. SMITH [redacted]
JENNIFER H. SMITH [redacted]
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NATHAN A. SMITH [redacted]
RYAN C. SMITH [redacted]
TIMOTHY M. SMITH [redacted]
KEVIN L. SNODE [redacted]
BRAD W. SNODGRASS, [redacted]
MICHAEL D. SNOWDEN, [redacted]
MICHAEL S. SNYDER [redacted]
PASIT SOMBOONPAKRON [redacted]
VICTOR L. SPEARS III [redacted]
CHRISTINE M. SPEEDLING [redacted]
MADALYN A. SPIVEY [redacted]
RICHARD J. STAFFORD IV [redacted]
KATE M. STANDIFER [redacted]
JASON C. STAPLETON [redacted]
PATRICK J. STARKE [redacted]
MARCUS D. STARKS [redacted]
REBECCA A. STEIN [redacted]
RICHARD J. STEPHENS [redacted]
SCOTT E. STERLING, [redacted]
TREVOR F. STERRY [redacted]
BRADFORD T. STEVENS [redacted]
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BRIAN M. STITES [redacted]
JAMES R. STOBIE [redacted]
ADAM C. STONE [redacted]
BENJAMIN W. STONE [redacted]
RYAN M. STONE [redacted]
LAURA M. STOUT [redacted]
STEPHEN P. ST. PIERRE [redacted]
JAMES H. STRAUSS [redacted]
MICHAEL S. STUCKY [redacted]
ROBERT J. SUH [redacted]
JOHN F. SULLIVAN, [redacted]
LISA M. SULLIVAN [redacted]
NAGEL B. SULLIVAN [redacted]
GREGORY D. SUTTON [redacted]
HEIDI M. SVOBODA [redacted]
DAVID A. SWEIDA [redacted]
BRIAN C. TADDIKEN, [redacted]
STEPHEN A. TANKERSLEY [redacted]
MATTHEW E. TARABOUR [redacted]
RYAN T. TEWELL [redacted]
THOMAS R. THOMA, JR. [redacted]
MICHAEL PATRICK M. THOMAS [redacted]
MATTHEW E. THOMPSON [redacted]
TANYA V. THOMPSON [redacted]
ANDREW J. THOMSON [redacted]
CHAD L. THORSON, [redacted]
JENNIFER MAE F. TICA [redacted]
VINCENT S. TIONQUIAO [redacted]
JOSEPH F. TORIAN, JR. [redacted]
CLINTON D. TRACY [redacted]
KENT W. TRANTER [redacted]
JOSEPH E. TRIBBLE [redacted]
MATTHEW C. TRITLE [redacted]
BRYANT P. TROST [redacted]
TABATHA A. TROTTER [redacted]
JOHN G. TUNISON [redacted]
ALSANDRO H. TURNER, [redacted]
DARIN F. TWETE [redacted]
STEPHEN A. URES [redacted]
RICKY M. URSERY [redacted]
SHANTEL M. UTTO [redacted]
JAMIE L. VALDIVIA [redacted]
JOHN F. VAN JAARSVELD III, [redacted]
STEVEN M. VANDERLINDE [redacted]
MARGARET C. VASAK, [redacted]
RAMON A. VASQUEZ, [redacted]
RAVI S. VEMULAPALLI [redacted]
BAOMINH P. VINH, [redacted]
MICHAEL E. VISTED [redacted]
OWEN R. VOELKER, [redacted]
DENNIS J. VOLPE [redacted]
JONATHAN J. VORRATH [redacted]
JENNIFER T. VRATIL [redacted]
GEOFFREY C. WALKER, JR. [redacted]
LAMAR A. WALKER [redacted]
DAVID M. WALLACE, [redacted]
WILLIAM L. WALTON, JR. [redacted]
ERIC E. WANNAMAKER, [redacted]
SCOTT T. WARD, [redacted]
KEVIN J. WATKINS [redacted]
MICHAEL L. WEATHERFORD [redacted]
JASON D. WEDDLE [redacted]
JONATHAN D. WELLINGTON [redacted]
CHRISTOPHER K. WELLS [redacted]
ERIC L. WENSCHLAG [redacted]
STEVEN P. WERNER [redacted]
CURTIS J. WESTADT [redacted]
TODD M. WESTERMAN, [redacted]
CHADWICK J. WHITE [redacted]
RICHARD W. WHITFIELD [redacted]
RICHARD W. WHITLOCK II, [redacted]
PHILIP A. WHITMORE [redacted]
TRAVIS J. WILCOX [redacted]
WILLIAM A. WILHELM [redacted]
JULIE L. WILHELMI [redacted]
DARREN B. WILKINS [redacted]
JOHNNY C. WILLIAMS, JR. [redacted]
MANOLETO Z. WILLIAMS [redacted]
STEPHEN M. WILLIAMS [redacted]
JOHN R. WILLIAMSON [redacted]
ROBERT L. WILLINGHAM [redacted]
JONATHAN E. WILLIS [redacted]
CHARLES J. WILSON [redacted]
MARIO N. WILSON, [redacted]
HUGH E. WINKEL, [redacted]
RYAN J. WITCOFSKI, [redacted]
MICHAEL R. WOHNHAAS, [redacted]
JASON L. WOOD, [redacted]
CHRISTOPHER L. WRIGHT [redacted]
EUGENE B. WRIGHT [redacted]
MARK D. WRZYSZCZYNSKI [redacted]
CHRISTIAN B. WUNSCH, [redacted]
CHRISTOPHER T. WYNN [redacted]
ANTHONY D. YANERO, [redacted]
JAESEN V. YERGER [redacted]
RODNEY H. YERGER, JR. [redacted]
MICHAEL A. YORK [redacted]
CALE H. YOUNG, [redacted]
CHRISTOPHER M. YOUNG [redacted]
MICHELLE T. ZACHARY, [redacted]
KURT M. ZIEGLER [redacted]
KRISTI M. ZIMMER [redacted]
JACOB R. ZISSU [redacted]
SCHON M. ZWAKMAN, [redacted]

HOUSE OF REPRESENTATIVES—*Monday, April 15, 1996*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. BARTON of Texas].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 15, 1996.

I hereby designate the Honorable JOE BARTON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On March 7, 1996:

H.R. 2196. An act to amend the Stevenson-Wydler Technology Innovation Act of 1980 with respect to inventions made under cooperative research and development agreements, and for other purposes.

On March 12, 1996:

H.R. 927. An act to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes.

H.R. 3021. An act to guarantee the continuing full investment of Social Security and other Federal funds in obligations of the United States.

On March 15, 1996:

H.J. Res. 163. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

On March 20, 1996:

H.R. 2778. An act to provide that members of the Armed Forces performing services for the peacekeeping efforts in Bosnia and Herzegovina, Croatia, and Macedonia shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone, and for other purposes.

On March 22, 1996:

H.J. Res. 165. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

On March 26, 1996:

H.R. 2036. An act to amend the Solid Waste Disposal Act to make certain adjustments in the land disposal program to provide needed flexibility, and for other purposes.

On March 29, 1996:

H.J. Res. 170. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

H.R. 3136. An act to provide for enactment for the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit.

On April 1, 1996:

H.J. Res. 78. Joint resolution to grant the consent of the Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois.

H.R. 1266. An act to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes.

H.R. 1787. An act to amend the Federal Food, Drug, and Cosmetic Act to repeal the saccharin notice requirement.

On April 4, 1996:

H.R. 2854. An act to modify the operation of certain agricultural programs.

On April 9, 1996:

H.J. Res. 168. Joint resolution waiving certain enrollment requirements with respect to two bills of the One Hundred Fourth Congress.

H.R. 2969. An act to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897.

The message further announced that on the following dates the President approved and signed bills and a joint resolution of the Senate of the following titles:

On March 28, 1996:

S. 1494. An act to provide an extension for fiscal year 1996 for certain programs administered by the Secretary of Housing and Urban Development and the Secretary of Agriculture, and for other purposes.

On April 1, 1996:

S.J. Res. 38. Joint resolution granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact.

On April 9, 1996:

S. 4. An act to give the President line-item veto authority with respect to appropriations, new direct spending, and limited tax benefits.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leaders limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Guam [Mr. UNDERWOOD] for 5 minutes.

JAPAN FORCES REDEPLOYMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Guam [Mr. UNDERWOOD] is recognized during morning business for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, today President Clinton arrives in Asia on a trip designed to shore up the United States security relationship with Japan and Korea. Since the conviction of three marines on charges of raping a 12-year-old girl in Okinawa and the ensuing protests on the island, the future status of U.S. forces on Okinawa has been unclear.

Following the rape incident, other issues, such as the return of land used by U.S. forces on Okinawa, have boiled to the surface. Last week, landowners on Okinawa refused to renew land leases on which U.S. forces train. Pressure from Okinawan landowners has forced the Pentagon to reevaluate the future status of U.S. military bases on Okinawa.

A discussion of United States forces in Japan inevitably involves an evaluation of the United States presence in both Guam and the Asian Pacific region and the Pentagon's policy of forward deployment of 100,000 American forces in the region. I am pleased that the administration has stood firm on our security commitments and on maintaining the military forces necessary to support these commitments.

As recent incidents in the Taiwan Straits and North Korea's military provocations in the DMZ demonstrate, the United States must maintain the flexibility to respond quickly to threats in the region. In spite of technological advances which enable rapid deployment of forces from other U.S. bases to the Pacific, there is no substitute for a forward-deployed U.S. presence in the region. For 50 years, the U.S. presence in the Asia Pacific region has maintained the peace and made possible the economic prosperity the region and the United States have enjoyed.

Yesterday, Secretary of Defense William Perry announced that the U.S. military will give back to Okinawa about 20 percent of the island property it uses for training. Secretary Perry qualified this action by saying that "we are in no way backing off from our view that the United States military presence in Japan, in Okinawa, is critical to security in the region." While some of these forces are being transferred to other bases in Japan, the Secretary said the United States is now considering moving some military forces from Japan to other places in the region, including Guam.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Secretary Perry's thinking on this issue proves what Guam has been saying all along: Guam should be considered in the context of its role in Asia and not compared to domestic bases. It appears that Guam is Secretary Perry's fallback position. The Defense Department should make clear its intentions for Guam. This is only fair to Guam, which has been subjected to mixed signals from DOD—on the one hand we are enduring military cuts mandated by BRAC 95 while on the other hand we are told our island is DOD's fallback.

The problematic status of foreign basing should make the Pentagon reevaluate its timetable and pace of base closures on Guam. Guam and its U.S. citizens provides stability, and unlike foreign bases, the military does not have to deal with arduous political issues and international agreements.

The reliance on workers at foreign ship repair facilities undercuts the Pentagon's support on Guam. As a matter of principle, American workers on Guam deserve the benefits of forward deployment. As a matter of policy, the Pentagon would be prudent to guarantee an effective transition for the ship repair facility on Guam which was slated for closure by a recent BRAC decision. A prudent policy would be to keep the Military Sealift Command supply ships forward deployed on Guam while Guam transitions to a privatized SRF.

The successful transition to a privatized SRF-Guam depends on repair work from these supply ships. Keeping the supply ships on Guam for the foreseeable future is good policy for three reasons:

First, the supply ships will help Guam implement its privatization by providing SRF with a base load of work;

Second, this policy will provide support for American workers at an American shipyard;

And third, this policy will give the Navy a reliable ship repair facility that supports their forward presence in Asia unencumbered by changing international dynamics.

The Navy's national security concerns cannot be divorced from Guam's economic recovery. The Navy has long-term requirements on Guam, but it must also recognize the needs of its host. I am hopeful that the Pentagon will learn a lesson from its experience in Okinawa: unlike foreign bases, Guam is reliable.

A HISTORIC OPPORTUNITY TO VOTE ON A TAX LIMITATION CONSTITUTIONAL AMENDMENT

The SPEAKER pro tempore (Mr. HOBSON). Under a previous order of the House, the gentleman from Texas [Mr. BARTON] is recognized for 5 minutes.

Mr. BARTON of Texas. Mr. Speaker, this evening at approximately 9 p.m., this House is going to have a historic opportunity to vote on the tax limitation constitutional amendment to the Constitution of the United States. The wording of the pertinent paragraph of that article is to my left. It states "Any bill, resolution, or other legislative measure changing the internal laws shall require for final adoption in either House the concurrence of two-thirds of the Members present * * *."

Back in 1787, when our Founding Fathers wrote the original Constitution and sent it to the States for ratification, there were 7 requirements in it to require some sort of supermajority. A two-thirds vote was required to ratify treaties, a two-thirds vote was required to expel Members from Congress, a two-thirds vote was required to impeach Federal judges and so on. The Founding Fathers did not require a supermajority vote to raise taxes, but they were aware that the ability to raise taxes should be restrained in some way. So they gave the authority to introduce tax bills to one body, the House of Representatives, because in 1787 the only Federal institution that had to be directly elected by the people was the House of Representatives.

That limitation worked fine for 125 years, and then in 1913, the 16th amendment to the Constitution said an income tax was constitutional. I have a copy of the first 1040 form back in 1913 with me this morning. It shows that the tax was 1 percent on income up to $20,000, net income. Only one-tenth of 1 percent of all American citizens had to file a 1040 back in 1913. Since that time, though, there has been an explosion in Federal taxes.

I have with me a photocopy of my 1040 that I sent to Austin, TX, last week, and the instruction booklet that goes along with it.

The marginal tax rate on American citizens today is not 1 percent, it is 40 percent. That is an increase in marginal taxation on the American people of 4,000 percent, 4,000 percent in less than 90 years.

Enough is enough. It is now time to add an amendment to the Constitution that says there should be a supermajority vote required to raise taxes. Why a supermajority tax limitation amendment? Quite simply, as I have already said, it is necessary. More importantly, it works. There are 10 States that currently have some sort of supermajority requirement in their State constitutions. They are Arizona, Arkansas, California, Colorado, Delaware, Florida, Louisiana, Mississippi, Oklahoma, and South Dakota.

□ 1245

In those 10 States, there are four things that are true in every State: Taxes are lower than in States that do not have supermajority; taxes go up slower than in States that do not have supermajority; consequently, jobs increase faster; and the economic growth in that State goes up faster. So we know that in the 10 States, including the largest State, the State of California, including the State where our President is from, Arkansas, tax limitation works.

Interestingly, no State that has adopted tax limitation has repealed the constitutional amendment or the law that put it in place.

Tax limitation would require in this House and in the Senate, if adopted, that there be a consensus to raise taxes. It would not make raising taxes impossible. We could still raise taxes, but it would take a two-thirds vote, which would mean you would not have the kind of tax bill that we had 2 years ago or 3 years ago that passed the House by two votes, all Republicans voting against it, and some Democrats voting against it, and passed the Senate on a tie breaker vote by Vice President GORE. It would require consensus, which is what supermajorities are all about.

The bottom line on why we need to pass this amendment is not about Washington, DC and it is not about macroeconomics analysis. It is about real people. For example, my district representative, Linda Gillespie, is a divorced mother of two. Her oldest son is married now. He and his wife both work. Linda's daughter is going to college and works part time. Linda works for me, but on the weekends she did have a part-time job at a blue jeans store in Ennis, TX, until it went out of business, trying to make enough money to make ends meet for her family.

Tax limitation is important to Linda Gillespie and Billy Gillespie and Julie Gillespie, because they want to make their own way, and they are finding it more and more difficult to do so because of the tax burden today and the probability, if we do not pass the supermajority requirement for tax increases, of an increase in their tax burden in the future.

Mr. Speaker, I would hope that later this evening, when we have this vote, that all Members of the House will vote for the tax limitation supermajority amendment to the Constitution.

VETO ON LATE TERM ABORTIONS CORRECT

The SPEAKER pro tempore (Mr. HOBSON). Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I take the floor to talk a bit about my least favorite subject, but, nevertheless, to say this is a day I really want to thank President Clinton and thank him very sincerely. Because while we as Americans all say that we are all different, but we are all equal, it is always hard to apply that. The President did apply that standard.

President Clinton listened carefully to women who had their pregnancies go off track late in the pregnancy, go terribly wrong, all sorts of awful things happening to them, and President Clinton, hearing them, had the courage to then veto the so-called partial birth abortion bill.

Now, the political thing to do was let it become law without signing it, do all sorts of things. But that would really be saying women are second class citizens. And why?

I think any woman would be horrified to know that this Congress wants to make a law that says that if your doctor considers what he thinks or she thinks is best for your health, they could become a criminal. We do not do that for any other area. We have never done this before.

There are probably people who could get very upset about organ transplants, about all sorts of things. But once we start entering the consultation room, where a doctor is told to take his best medical knowledge and push it aside because if he applies it he then is going to be subject to imprisonment, to fines, and to a felony, we really are entering a brave new world.

There has been so much distortion about this bill. The obstetric and gynecology groups, the American College of Obstetrics and Gynecology, have stood up and firmly said "This bill should not pass." The American Nurses Association has said the same thing. Yet we have got everbody all focused fetally. We have all these drawings that people have criticized and said doctors did not do those drawings, special interest groups did.

We go through all these grizzly things. Everybody knows that under Roe versus Wade, in the final trimester, abortions can be denied anywhere in this country except for the life and health of the mother. So what we will do if we try to override that veto is say we are changing that. Now the health of the mother does not count anymore. If she has one pregnancy and it goes wrong and the doctor says "This is the only procedure that will save your reproductive organs," too bad, she had her shot, she rolled the dice, she lost. She does not get another chance at parenthood, nor does her family, her husband, get another chance at parenthood.

I think if we could just get some calm and reason coming into this body, everyone would agree with the President that this is not where this body belongs, practicing medicine, entering the medical consultation room, saying that doctors cannot think about their patient, the woman, they cannot apply their medical training, they cannot think about what is best, because if they do we will punish them.

It does not say that they can impose their will; the woman, the family, her religious beliefs, anything allows them to say no. Never is this mandated. But to hear the rhetoric that this is going to allow abortion on demand is absolute baloney. This has nothing to do with abortion on demand. This has to do with what can you do, what tools are available, when everything goes wrong.

If we do this, we are going to be criminalizing a tool, a tool. I guess people feel they can play politics with this, because so very few people have ever needed this tool. Fortunately, by the time most pregnancies get to the third trimester, they are OK and they are going to reach the end. But how tragic it is that we are engaging in this very politically charged debate, and how fortunate as an American woman I feel today that I have a President that is protecting my right to my full medical care by my doctor looking at my health without being criminalized. I thank the President.

A PROPOSED SUPERMAJORITY

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Arizona [Mr. SHADEGG] is recognized during morning business for 5 minutes.

Mr. SHADEGG. Mr. Speaker, today on the floor of this House, we will debate and I sincerely hope pass a constitutional amendment to the U.S. Constitution, a provision which will provide a necessary level of discipline to this body.

Ten States in the United States currently have a supermajority requirement for future tax increases. Why? They have this provision because it has turned out to be necessary in order to restrain the ever-growing demands of Government for additional spending.

What has been the effect and what has been the experience of those States? It is quite simple and it is quite straightforward. In the 10 States which have a supermajority requirement to raise taxes yet one more time, things, which we would expect would have indeed happened, spending has gone up less rapidly in those States with such a provision; taxing has gone up less rapidly than in States without such a provision; but, most importantly, Mr. Speaker, in those States which have done what this Congress has a chance today to do, and that is to require a supermajority for future tax increases, economic growth has increased at a faster pace than in those States without this restraint.

Mr. Speaker, what is the issue? The issue is a simple one. If we make it harder, somewhat harder as this constitutional amendment would do, to exact additional tax dollars from the people of this Nation, then this Congress and the Federal Government will spend the money which it has more judiciously.

Now, is that necessary? Indeed, it is. The record of this U.S. Congress in controlling spending and the record of preceding U.S. Congresses is abysmal. In 1950, the year after I was born, the average American family with children paid $1 out of $50 to the Federal Government in income taxes. They earned $1,500, they sent $2 to the Federal Government in income tax.

By 1993, that had become $1 out of $4, and today it is dangerously close to $1 out of $3. Earn $100, do not send $2 to the Federal Government in taxes, but rather send $33 to the Federal Government in taxes.

We will hear from the other side grave reservations, that we are tampering with the U.S. Constitution, that this violates the premise of majority rule. For those people who make those arguments, let me point out that the U.S. Constitution today requires a supermajority in 10 days.

In places where the Founding Fathers thought that restraint was necessary, and they should also be reminded when they harken to this premise of majority rule, that the fundamental purpose of a Constitution is to restrain the access of legislative majority.

Indeed, a legislative majority enabled this Congress in 1993 to enact the largest tax increase in U.S. history. Even in the U.S. Senate with a majority of the Members of the Senate, that tax increase was dead tied, 50-50, for and against, until Vice President AL GORE broke the tie and increased taxes.

For those who believe we ought to be concerned about minority rights, I would point out the experience in which, in the 1990 Omnibus Tax Reconciliation Act, we destroyed a major U.S. industry by imposing through a majority vote a mere, simple majority vote, an excessive burden on just one industry.

For those who say that tax limitation is a radical idea, let me point out that one-third of all Americans today reside in a State in which there is a constitutional supermajority requirement in their own constitution. The other argument we will hear is that this provision is unworkable. In point of fact, as rewritten by the House, it would allow revenue-neutral tax reform to go forward. What it would not do, however, is allow this Congress to reach into the pockets of Federal taxpayers already overburdened, and take yet one more time from those taxpayers.

The fundamental purpose of a constitutional amendment ought to be to seek to restore to the Constitution the founders' original intent. I would suggest that that is precisely what this amendment does. If we look at the history of this Nation over the past four decades, we will see that the Supreme

Court has read the commerce clause so expansively that the Government is vastly more powerful than it was in the past. This measure, this simple idea of saying to raise taxes yet once again we ought to have a supermajority, will provide needed restraint. I urge its adoption.

A PROPOSED CONSTITUTIONAL AMENDMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Colorado [Mr. SKAGGS] is recognized during morning business for 5 minutes.

Mr. SKAGGS. Mr. Speaker, as past Members who have addressed the House this morning have pointed out, later today we will take up an amendment to this Constitution of the United States. I want to address myself for the moment to the process by which this proposed amendment has been brought to the House.

Passing for the moment the fact that I believe it is a bad idea and bad constitutional law, even worse is how we consider it today under a process that insults the intelligence and responsibility of Members of the House, that contradicts any suggestion that this House is able to operate in a thoughtful and considered manner, and that demands and debases the very process of constitutional amendment itself.

The original proposal brought forward by the gentleman from Texas [Mr. BARTON], House Joint Resolution 159, received a single hearing before the House Committee on the Judiciary on March 6. It was then essentially removed from the committee and scheduled for a vote on the floor today. It was not marked up or approved by the Committee on the Judiciary. That committee, Mr. Speaker, is vested with the responsibility and authority under the rules of the House to give the kind of thoughtful consideration to a constitutional amendment that I believe the people of America think ought to obtain.

House Joint Resolution 159 was then replaced, or will be if the rule before the House later today is enacted, by an entirely new proposal, House Joint Resolution 169.

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This version of this constitutional amendment was first introduced in the House on the evening of Thursday, March 28. It was considered by the Committee on Rules the next day. On the morning of March 29, and reported to the House. And then this House went on recess for 2 weeks, the entire intervening time between consideration in the Committee on Rules and today. So very few Members have had an opportunity even to see the text of this amendment, much less to study and understand its implications.

Again, this proposal has had no hearing at all in the Committee of jurisdiction, no markup, no regular deliberative process whatsoever. Let us stop and think about that for a second. Surely second only perhaps to the responsibility that we have in Congress in considering a declaration of war, second only to that, an amendment to the Constitution, an amendment to the Constitution ought to command the most serious and deliberate sort of legislative review, examination and analysis that we are capable of. It deserves better treatment than a rush job to meet a politically sexy vote deadline that the majority admits is a matter of symbolism. Symbolism in amending the fundamental document of this country.

Mr. Speaker, the Constitution should not be used to make political statements.

There are many, many issues that are raised by this proposal, and I will speak about those later on today. One has to do with the fundamental contradiction of the principle of majority rule on which this country is based. In fact, if this were to become part of the Constitution, 34 Senators, representing less than 10 percent of the people of the country, could hold power over this important area of legislation.

Mr. Speaker, it would lock us in, for all practical purposes, to whatever the current tax structure might be at the time of its ratification. It will get in the way of many, many of the necessary things we are going to have to do to get the budget balanced, especially in areas of entitlement reform. It may unintentionally, or intentionally, who knows, actually get in the way of tax cuts because, for instance, those who are the strongest advocates of a capital gains tax reduction argue that that will actually increase revenues, and under this provision, that would require a two-thirds vote. Why? Because it is not whether the tax rate goes up, but whether revenues go up that controls whether a two-thirds vote is to be required.

So, there are many, many issues here that have not been examined because this proposal has been rushed through in derogation of every single rule of procedural regularity that the House is supposed to adhere to. Of course, it is exactly to examine and understand issues such as those I've mentioned that we refer legislation, especially amendments to the Constitution, to committee. However, that was not done in this case.

Mr. Speaker, because of the extraordinary abuse of process involved in bringing this matter to the floor, I want to put my colleagues on notice that I reserve the right to exercise every procedural right to a vote on every procedural matter that may be involved in consideration of this issue.

☐ 1300

1993 CLINTON TAX INCREASE

The SPEAKER pro tempore (Mr. HOBSON). Under the Speaker's announced policy of May 12, 1995, the gentleman from Texas [Mr. SAM JOHNSON] is recognized during morning business for 5 minutes.

Mr. SAM JOHNSON of Texas. Mr. Speaker, today is April 15, tax day, and this is the day when Americans send their tax dollars to Washington and when the IRS sends its agents out to audit Americans, and you know this day, believe it or not, on this day, Americans have to work 21 more days to pay all their Federal, State and local taxes. So it is not over today.

We have a chance to offer today some security to every American by making it harder for the Government to raise their taxes. Today we are going to vote on a constitutional amendment to require a two-thirds vote to raise taxes. You know, I thank the gentleman from Texas [Mr. BARTON], my good friend, for this hard work on behalf of the American people.

This amendment should have been adopted back in 1993 because that is when the President and his fellow Democrats passed the largest tax increase in the history of this Nation, and it squarely broke the backs of the American people. This amendment would have allowed Americans to keep more of their money for themselves, for their families, for their savings and for their future. That big Clinton tax increase meant that families and workers pay more every time they drive to work, or take their kids to soccer practice, or their family on a vacation. This is because the President increased the Federal gasoline tax by 4.3 cents. I bet most of my colleagues do not even know what their gasoline tax is. In the State of Texas, it amounts to 38½ cents a gallon. That is one-fourth of your total gasoline tax or gasoline bill and most pumps do not tell you that you that. That big Clinton tax increase meant seniors pay more on their social security benefits because that was raised, as well. So for seniors, the President's tax increase continues to mean slower growth, fewer jobs and a less competitive America.

The President used class warfare to justify his need to increase taxes, but in reality, his tax increase hit middle America the hardest, the people he claimed to protect. The President's income tax increase hit small businesses right in their pocketbook. It took more money out of their businesses, out of their pockets and out of their future, money which could have been used to expand or hire new workers. Even Senators KENNEDY and DORGAN, both Democrats, agreed.

Mr. Speaker, this is the major difference now between Republicans and Democrats. Democrats believe Americans should pay more taxes and that the Government deserves more of your money. They believe in raising the minimum wage instead of allowing every American to keep more of what they earn. Democrats believe in big taxes, big Government. They deplore the entrepreneurial spirit, success and self-accomplishment. They believe that if you work harder every day of your life, your own hard work and determination produces results so that you become successful, you should be punished. That is why this administration raised taxes, because they honestly feel that the Government has the right to take what you earn and spend it. They believe they can spend your money better than you can.

Conservatives, on the other hand, believe in a smaller, less intrusive Government, lower taxes and the ability of the American people to succeed. Opportunity, hard work and the Republican ideal is the American dream. We feel that people should be rewarded for success and not punished. We believe that the money you earn is yours to keep. We know this works because Presidents Kennedy and Reagan proved that it does. Their tax cuts, their tax relief allowed people to grow the economy, create jobs and increase the living standard of every American.

Families should not be forced to pay more in taxes than they pay for food, clothing and shelter combined, which is the fact today. To me, that is unacceptable. While I applaud my friend for his amendment, my hope and desire is that we will follow through on another promise and replace the current tax system with one that promotes freedom: That is, F, free, fair and simple; reduces the role of government, R; E-E, by eliminating the IRS, encouraging savings and investment; driving the economy; opportunity for all; and the "m" in "freedom," put more money in the pockets of all Americans.

This is what the country deserves, and this is what we can begin to implement actually next week when I introduce a bill to repeal the 16th amendment to the Constitution, which is the income tax amendment. We must act as soon as possible and rid the Nation of the IRS now.

FIVE PROBLEMS WITH REQUIRING A TWO-THIRDS VOTE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Virginia [Mr. MORAN] is recognized during morning business for 5 minutes.

Mr. MORAN. Mr. Speaker, I have only five problems with the issue that was just discussed by the gentleman from Texas to require a two-thirds vote to raise taxes. Actually, the language that would be made part of the Constitution says to make any change in internal revenue law would require two-thirds of this body voting in favor of it. Let me mention the five problems I have with it.

The first is that it is a classic case of political posturing. The second is that it is bad public policy. The third is that it is fiscally irresponsible. The fourth is that it shows contempt for the wisdom of our Founding Fathers. And the fifth is that it is very badly written. But other than those five problems, it is a fine piece of legislation, I suppose.

Mr. Speaker, I have to say I think that this body would be shamed if we were to yield to the kind of political expediency that has brought it to the floor. Let me explain why it is such a classic case of political grandstanding. At the very beginning of this congressional session, when we began the Contract With America, there was a lot of hoopla over the fact that we, on the first day, passed a requirement that there would be a three-fifths vote requirement to raise income taxes. And those who voted for it took a lot of credit, of course, for doing so. But then when it was to apply to the legislation considered by this body, the majority got the Committee on Rules to waive that rule because they knew that those bills could not get three-fifths of the vote. So they did not let it apply to the so-called Tax Relief Act, to the Medicare Improvement Act, to the balanced budget resolution, or even to the health insurance reform legislation that we just recently passed.

All of those bills included some increases in income tax. So for convenience sake, we simply waived the rules because the majority could not get three-fifths of the vote.

But you cannot waive the Constitution. The fact is that none of the major bills that have gone a long ways toward addressing the Reagan debt that occurred during the 1980's because we kept cutting taxes and not cutting expenditures, we did the politically popular thing and not the politically unpalatable thing and created $3 trillion of debt. Well, almost all of those bills never would have come close to two-thirds vote. That is why I say it is political posturing.

They assume that on the Senate side there will be a sufficient level of responsibility not to pass it. Of course on the Senate side, you have got a very interesting situation. Seventeen States, the least populous who represent only 10 percent of the population, are represented by, of course, 34 Senators. There are two Senators for every State. So those 17 States are represented by 34 Senators, which is just exactly the number you need to block the majority's will. All you need is one-third plus one.

So those 34 Senators have within their power to stop any revenue changes to the tax law if this constitutional amendment were to pass. Ten percent can change the will of the majority of 90 percent. What kind of a situation is that in the world's greatest democracy? In fact, let me get to the issue with regard to recognizing the wisdom of our Founding Fathers.

Article IX of the Articles of Confederation required this kind of supermajority to increase revenue. It did not work. And so when they convened in 1787, the Constitutional Convention, James Madison and others had the courage to stand up and say, this is not what we meant by our democracy. When we have tough votes, they need to be majority votes. The minority should not be able to control or to void the will of the majority. That is what this kind of constitutional amendment would do.

Mr. Speaker, it is also very bad public policy. If you want to make the tax system fairer, if you want to deal with the corporate and individual tax loopholes, if you want to change it into an income tax code that emphasizes savings and investment, you cannot do any of those things under this bill. It is bad public policy. It is hypocritical. It is inconsistent with the Constitution. I would hope my colleagues will vote this legislation down today.

HOUSE REPUBLICANS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Washington [Mr. MCDERMOTT] is recognized during morning business for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, I include for the RECORD an editorial from the Seattle Times from April 12, 1996, the title of which is "A Republican Floor Show Only a Cynic Could Love." It is written by a woman named Terry Tang.

[From the Seattle Times, Apr. 12, 1996]

A REPUBLICAN FLOOR SHOW ONLY A CYNIC COULD LOVE

(By Terry Tang)

If the House Republicans intended people to tune them out as publicity-mad buffoons, they've done a terrific job.

The latest example of their effort is the upcoming vote on a constitutional amendment to require a two-thirds vote of Congress to increase taxes. A floor debate and vote will be staged on Monday, April 15, tax day. Don't be surprised if you've heard nothing about this. Neither have many members of Congress who've been on Easter break for the past two weeks.

The House Judiciary subcommittee held a hearing on an earlier version of the Tax Limitation Amendment last month. That version was so preposterously worded—it would have required a supermajority in Congress to alter the tax laws in any way and would have applied even to raising tariffs on foreign products—that the amendment's sponsors decided it had to be reworked.

So on March 29, the day before the Easter recess, the House Rules Committee cobbled together and approved a totally new amendment more opaque in meaning than the original.

No one expects a serious constitutional debate next Monday. But rest assured, there will be plenty of on-camera time for congressman with sagging poll numbers.

Well before Republican leaders had the amendment language in hand, they had decided that April 15 was the perfect time to call a pep rally. How better to resuscitate the Contract with America than with a floor show featuring a spanking new constitutional amendment as prop?

As part of the coordinated media blitz, the Gingrichities were told to hold anti-tax town meetings in their home districts. The campaign is as contrived as a Burger King-Pocahontas promo. Rep. Randy Tate of the 9th District, for example, dutifully held two town hall meetings this week with special guest star Grover Norquist, president of Americans for Tax Reform, an anti-tax group that has made the constitutional amendment its top priority.

There's no way to separate the fakery from the legislation. But who nowadays seriously expects Congress to place deliberation above crass symbolism?

The tax amendment would even obstruct the tax reforms that Republicans have embraced. The GOP leaders apparently are so cynical—about both the fate of the amendment (the Senate is expected to put on the brakes should the House approve the thing) and meaningful tax reform—that they have no trouble promoting two ideas that are pretty much mutually exclusive.

The amendment language requires a two-thirds vote of Congress on tax measures unless the act does not "increase the internal revenue by more than a de minimus amount." The hurdle would make routine tax legislation nearly impossible.

There is no definition given of "internal revenue." Arguably, the only things not covered by the term are foreign tariffs, all other taxes being internally generated. So increasing user fees based on sound freemarket principles—such as national park entrance fees or grazing fees—would be subject to the limitation, as would closing loopholes and shutting down tax shelters.

But these are minor objections compared to the conundrum that ought to stop supplysiders cold. The amendment would apply to any legislation that increases revenue to the federal government; it does not deal with increases in tax rates per se.

Yet, the first principle of Reaganomics (and the rationale at the core of flat-tax schemes) is that cutting taxes—be it capital-gains taxes or income taxes—unleashes entrepreneurial energies that increase economic growth and therefore increase government's total tax receipts.

One argument to cut capital-gains tax rates is precisely that a cut would increase revenues in the short run as investors rush to liquidate assets to capture their capital gains. In a perverse twist, such a tax cut would be subject to two-thirds approval of Congress also.

The House leadership is well aware that enforcing any supermajority requirement on tax matters is unworkable. On the first day of Congress last year, the House, in a fit of revolutionary fervor, adopted a rule requiring a three-fifth majority on any bill raising federal income-tax rates. The rule has turned out to be only a gimmick.

The Republicans publicly touted their anti-tax scheme as a promise kept—and then silently waived the rule whenever it proved inconvenient.

The House's Contract with America Tax Act inadvertently raised some tax rates while cutting others, and so needed a waiver. The budget reconciliation bill to cut the deficit raised a few rates, thus requiring another waiver.

The House's Medicare bill, by raising premiums on wealthy seniors, needed and got a waiver, as did the new health insurance reform act, which would impose a tax on some withdrawals from medical savings accounts.

The income-tax rule has nothing to do with governing, and everything to do with sloganeering. The proposed constitutional amendment is more of the same.

When the Republicans were the minority, reducing policy debates to bumper stickers came easily. They've yet to switch out of that mode. If they, as the party in power, don't care about the substance of legislation, who will? Somebody tell these people they're being paid to do more than pose for campaign spots and C-SPAN.

I say reading it when I got to my office today and thought somebody has got to talk about this issue.

Some weeks ago my son called me. He is in business school in California and asked me about something that was happening here in Washington, DC, and I proceeded to explain to him what I thought would happen. And he said, after I had finished, "Well, now I know what the cynics think."

□ 1315

Mr. Speaker, I objected to that. I said, "No, I am giving you a realistic view of what is going to happen here in the Congress," and he said, "Dad, don't get excited. There were the idealists in Greece who wanted things a certain way, and then there were the cynics who actually looked at things as they really were and dealt with them." He said, "Cynicism has gotten a bad name because it has come to mean that we do one thing and try and create the impression that something is happening when, in fact, something else is happening, and the people then get cynical about what's happened."

What is going to happen today is the height of political cynicism because of what will be created. In fact, they choose the exact time they are going to start to debate, when folks in California are able to get to their TV's. They are not going to do it here at this time of day when people are at work in California. They are going to wait until later in the day. The vote will be taken at 9 o'clock tonight, 6 o'clock, when everybody is sitting down and eating, in California. This is a timed debate put on simply to make the American people think that we are going to control taxes.

Mr. Speaker, nothing could be further from the truth. As my colleague, the gentleman from Virginia, [Mr. MORAN], simply pointed out, I am a member of the Committee on Ways and Means. When this House came into session under this leadership, they said we are going to put in a rule that requires a 60-percent vote every time we raise taxes. So, through our Committee on Ways and Means things would come, and we would raise our head and say, "Hey, how are you going to get the two-thirds vote for this out on the floor?"

And they said, "Well, we're going to waive the rule."

Three times, perhaps four times, I am not absolutely sure, they have waived that rule when they have brought things out here on the floor.

Now today they are going to come out and say we are going to pass a constitutional amendment that will prevent us from doing exactly what we have done in the last year and 3 months that the Republicans have controlled this House. They have no will to do what they believe. They simply want the people to cynically believe that they want that to happen. But they are never going to do it.

Now, cynicism is destructive in this society for one reason. People watching this debate are going to say to themselves why should I go and vote for that bunch of yahoos, whoever he is. I saw a bumper strip coming in from the airport last night that said, "Reelect nobody." Reelect nobody? Consider what that means. That means everybody on the floor of the House is going to be subject to people walking around thinking, well, if they were there under that kind of cynical baloney, I do not want them, and my view is that the American people are made cynical by this kind of behavior. There are some absolute realities that must be faced in this country if we are going to be serious.

Now, the first thing that this amendment, if it were to go into place, would say, is that all the cuts, anything that is going to happen in this country, is going to mean we have to reduce spending. We can never raise revenue, we cannot because two-thirds—we did not even get two-thirds on this floor when we were saving Social Security. Two-thirds of the Members did not vote to support Social Security. So all the old people who might be thinking about this, just remember, Mr. Speaker, they got to understand that we could not have saved Social Security on the floor of the House of Representatives in 1983 because there were not two-thirds of the Members who would vote for it.

So what we are saying here today is that we are going to cut things, and all the programs that people are now resting on, Social Security, Medicare, Medicaid, aid for student loans, all those things will be subject to a two-thirds vote. No matter what is going on in the world, no matter what the circumstances of our economy, no matter what happens, it will take two-thirds.

Now, as you heard the gentleman from Virginia [Mr. MORAN] say, that means the Senators from 17 States can block whatever is going on and the majority will no longer rule.

RECESS

The SPEAKER pro tempore (Mr. HOBSON). Pursuant to clause 12 of rule I, the House stands in recess until 2 p.m.

Accordingly (at 1 o'clock and 20 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. EWING] at 2 p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Open our ears, O God, to hear the majesty of Your whole creation, a creation of words and music and nature. May not the rush of each day and the multitude of voices that beckon us from one task to another, keep us from hearing Your message of beauty, of renewal, of hope, of healing, and of peace. Free us, O gracious God, from any isolation that keeps our hearts and minds apart from Your grace so we miss the words and sounds that resonate with our humanity and encourage us to be people You would have us be. Bless us this day and every day, we pray. Amen.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. TRAFICANT] come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SKAGGS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SKAGGS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this matter will be postponed until later today.

The point of no quorum is considered withdrawn.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker pro tempore signed the following enrolled bills on Tuesday April 2, 1996: H.R. 956, to establish legal standards and procedures for product liability litigation, and for other purposes; H.R. 1561, to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for United States foreign assistance programs for fiscal years 1996 and 1997, and for other purposes; H.R. 1833, to amend title 18, United States Code, to ban partial-birth abortions; and H.R. 2854, to modify the operation of certain agricultural programs.

APPOINTMENT AS MEMBER OF ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

The SPEAKER pro tempore. Pursuant to the provisions of section 3(a) of Public Law 86–380, and the order of the House of Friday, March 29, 1996, authorizing the Speaker and the minority leader to appoint commissions, boards, and committees authorized by law or by the House, the Speaker on April 2, 1996, did appoint the following Member of the House to the Advisory Commission on Intergovernmental Relations: Mr. PAYNE of New Jersey.

IT IS TIME TO GIVE WORKING AMERICAN FAMILIES A BREAK

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, it is April 15, tax day. Today is the day that millions of Americans, as they struggle to file their tax forms all across this country on time, are reminded just how much they are being fleeced by the Federal Government. Every time taxes go up, the working people of this Nation get hurt.

But we will have an opportunity later this evening to help taxpayers, to put the brakes on the never-ending cycle of taxing and spending by voting for a constitutional amendment to prevent any Federal tax increase that does not have at least two-thirds of Congress supporting it.

Those of us who have cosponsored this amendment have a very simple objective: We want to make it harder for the Federal Government to take hard-earned dollars out of the pockets of working American families. For every 8 hours an American works, more than 3 hours go to pay taxes. If you work 5 days, Monday and Tuesday go to the Government; only Wednesday, Thursday, and Friday go to support your family.

Well, enough is enough. This has to stop, Mr. Speaker. It is time to give the American taxpayers a break. Let us do it today.

HAPPY TAX DAY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Medicare trust fund had its first deficit in history, and the reason given was payroll taxes were less than expected.

Now, how could this be if there have been 8 million new jobs? Could it be that maybe these jobs are very suspect?

Check this out: Screw supervisor, nut former, ball sorter, needle straightener, bucket chucker, slitter, creaser, slaughter operator. Do not laugh. These are all jobs listed by the Department of Labor.

If that is not high-tech enough for you, how about sucker machine operator? How about carcass splitter. Just imagine, if we create more sucker machine operators and carcass splitters, we will balance the budget.

If anybody asks my opinion, I would have to say beam me up. I think these screw supervisors all work for the Internal Revenue Service. Happy Tax Day.

THE TAX LIMITATION AMENDMENT

(Mr. BARTON of Texas asked as was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, later this evening we are going to have a historic vote, the first vote on a supermajority requirement to raise your taxes. The amend is to my left, and you will have an opportunity to read it.

When I was in the fourth grade at Travis Elementary in Bryan, TX, my fourth-grade teacher was Miss Andrews. That is where I learned fractions. I learned in the fall of 1960 that two-thirds is a higher fraction than one-half. If you can understand that concept, then you understand the tax limitation constitutional amendment.

Those of us that support it want to make it more difficult to raise your taxes. If you agree with that, then support the Congressmen who are going to vote for the Barton tax limitation amendment later on this evening on the floor.

SUPPORT THE D.C. ECONOMIC RECOVERY ACT

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Ms. NORTON. Mr. Speaker, this is taxpayers day. I have introduced a bill to make this tax reduction day for D.C. residents. I expect to have leadership support for the D.C. Economic Recovery Act, and I expect support and will seek support from my side of the aisle as well.

There are six reasons why this House should support this bill. One, the District is insolvent with no other revenue stream in sight.

Two, Congress has constitutional responsibility for this city, and no other, as this body constantly reminds me.

Three, this is the only city prevented by Congress from taxing commuters who use city services.

Four, this is the only city that pays for State, county, and municipal functions.

Five, this is the only city with no State to recycle income from wealthier areas.

Six, this is the only city that pays Federal income taxes. We are second per capita in the United States without voting representation in the Congress.

These are six good reasons to support the D.C. Economic Recovery Act.

SUPPORT THE TAX LIMITATION AMENDMENT

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUNDERBURK. Mr. Speaker, today is tax day. As I speak, literally millions of Americans are preparing their tax forms to meet today's deadline.

What many of them will discover is that they get to keep less while the Government gets to keep more. Since Bill Clinton took office, family income has flattened while taxes have gone up.

Today Members of this body will have an opportunity to do something about the over-taxation of the American people. Today we will vote on the Barton amendment to change the Constitution to require a two-thirds supermajority to raise taxes.

Considering the voracious appetite for taxes and spending habits of the Federal Government, I think this is a reasonable amendment. It is based squarely on the philosophy of limited Government espoused by the Founding Fathers. It is not time to put limits on the Federal Government. Support the tax limitation amendment.

GET REAL AND VOTE FOR REAL THINGS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Mrs. SCHROEDER. Mr. Speaker, I find this debate fascinating. Like it is really easy to get a majority to lift taxes here, like people just love to run out and vote to lift taxes. Well, that is absolutely ridiculous. That is the hardest vote ever.

What we really need to do is first have a budget here. I find it amazing that people are saying they are going to insist we have two-thirds to raise taxes. When we did not even get a majority to have a budget? And we are halfway through this fiscal year. Yes, we are on continuing resolution No. 12, halfway through this year.

And can you imagine a more inefficient way to run a government, a business, or anything? Every 2 weeks you have to come back here with your tin cup and rattle it, beg, tap dance, do whatever they ask you, to stay in business. We ought to be talking about doing something that we can do that is real. Until we get a budget for this year, I think it is interesting that we can throw all sorts of gimmicks around and say that is the solution. The solution is to get real and vote for real things.

SAY "NO" TO MASSIVE TAX INCREASES

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Mrs. SEASTRAND. Mr. Speaker, for the last 40 years, Congress has violated some basic economic principles on the way to creating a massive high tax, high regulation, big-spending welfare state. One of those principles violated is that you should live within your means.

Beginning with Arkansas in the 1930's, the States began to put constitutional limits on taxing and spending. This chart compares the growth in State spending in the 10 States that require a supermajority to raise taxes to those that do not.

Clearly, we can see that spending is more restrained in the supermajority States.

This is exactly what we need at the Federal level—a serious commitment to spending restraint and the ability to say "no" to massive increases in Federal spending, Federal programs, and Federal benefits.

Mr. Speaker, it is time to follow the lead of the 10 States that require a supermajority to raise taxes. And it's time for the Government to do what every American family does—live within its means.

TAX DAY 1996

(Mr. SHADEGG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHADEGG. Mr. Speaker, on tax day 1996, today, we have a chance to amend the U.S. Constitution to require a supermajority to raise taxes. The last speaker on the opposite side of the aisle ridiculed the notion that it was difficult to raise taxes. In fact, she said that it is very hard to raise taxes, one of the most difficult of all votes.

Since 1980 this Congress has raised taxes six times. Each of those times it has increased the burden on the average American taxpayer. In my lifetime, that burden has been increased 1,200 percent. I do not know a constituent who believes they are getting 1,200 percent more out of the Federal Government today than they were in 1950.

The premise underlying this constitutional amendment is straightforward. It is one of fiscal responsibility. If you believe this Congress must be more responsible about spending the money it has, then you believe you must vote for this constitutional amendment, because by making it somewhat more difficult to take taxes out of the pockets of the American taxpayer, we will force ourselves to spend the money we have more prudently.

I urge passage of the amendment.

CONGRESS' SINGLE LARGEST MISTAKE

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, in 1909, the Congress made the single largest mistake in the history of this country. It passed the 16th amendment to the Constitution, which allowed Congress to tax income. That single act succeeded in creating a tax system that is economically destructive, impossibly complex, overly intrusive, unprincipled, dishonest, unfair, and inefficient.

This country deserves a change. We need a tax system based on a vision of America that places the individual, not the government, at the center of society.

□ 1415

We deserve a system that will increase economic growth, create jobs, expand opportunities, and allow people to achieve the American dream. We need a system that promotes freedom.

Two things need to be done. One, we need to get this two-thirds vote to increase taxes; second, we must repeal the 16th amendment to the Constitution. Americans do not want, do not need, and do not deserve the IRS.

SPECIAL ORDERS

The SPEAKER pro tempore. (Mr. EWING). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SUPPORT THE TAX LIMITATION AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. COX] is recognized for 5 minutes.

Mr. COX of California. Mr. Speaker, in Bill Clinton's first term, he and the liberals who then controlled the Congress passed and signed into law the largest tax increase in American history. Since that time, we have still had no relief. It is April 15 today, and many people feel this pain.

The President, Bill Clinton, vetoed the middle class tax cut passed by the new Congress, and as a result, even though last year the gross domestic product, the measure of our economy, grew by only 2 percent, individual income taxes collected by the Federal Government grew 8.5 percent. Taxes are growing and growing inexorably, year in and year out. Today, the average American has to spend 3 hours out of an 8-hour day working just to pay taxes.

Ask yourself this question: How much do you spend in total on your home mortgage, on your rent, on your electricity, on your telephone? How much do you spend on your suits and your dresses and your other clothes? How much do you spend on restaurants and groceries?

Over the whole year, add all of those things up, and if you are like the average American, whether you are rich or not, even if you are just a working American, you pay more in taxes than you pay on all of these things, food, clothing and shelter, combined; 35 percent more in taxes.

It has not always been this way. Our taxes have been growing at an amazing rate just within our lifetimes. Many people here are veterans of World War II. If you are not a veteran of World War II, almost certainly your father is. When Pearl Harbor was attacked, only one out of every nine Americans even had to file an income tax return. That is the America our parents knew.

I am 43 years old. When I was a kid growing up in the Midwest, the average American family like mine paid income tax at a rate of 3 percent. Today, April 15, 1996, most of our constituents can only pine for such days as their own rate of tax has grown more than 1,000 percent.

While the tax burden on ordinary Americans has been growing and growing over the last 40 years of liberal control of the Congress, so, too, has runaway deficit spending. All these higher taxes have not balanced the budget. That is for sure. They have only promised that we will have more spending. They have provided an excuse to spend still more.

In fact, according to the Congressional Joint Economic Committee, throughout the postwar period every dollar in higher taxes has provided an excuse for $1.59 in higher spending. In other words, the higher the taxes, the higher the spending.

To rein in higher spending, this House has given two-thirds approval to a constitutional amendment to balance the budget. But if we are going to amend the Constitution to require a balanced budget and the supermajority vote to break that budget, then we must also take care that this, the balanced budget amendment, does not provide a new excuse, a constitutional justification, to raise taxes.

Colleagues, our taxes are too high. Spending is too high. Those who contend otherwise or who say that merely greater institutional will is necessary stand athwart 40 years of liberal Congressional history.

For once in 40 years, liberals do not control this body. For once, we have the chance to add a balanced budget amendment to the Constitution. And for once we have a chance to add a tax limitation amendment to the Constitution at the same time.

For once, let us do the right thing. Let us do the right thing for our country, for our children, and for our grandchildren, and vote "aye" on the tax limitation amendment later this evening.

CONSTITUTIONAL AMENDMENT ON TAX INCREASES NEEDED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. SHADEGG] is recognized for 5 minutes.

Mr. SHADEGG. Mr. Speaker, today on this floor we will debate the issue of tax limitation. Many editorial pages across the country have criticized this concept. They say it is tampering with the Constitution. They suggest that it is dealing improperly with the sacred concept of majority rule. Indeed, they say and suggest it is a dangerous proposition.

I suggest to the contrary. Indeed, I think history proves to the contrary.

There are 10 States in this country which now have tax limitation amendments. My State, Arizona, is one of those States.

In Arizona, we added to our Constitution in 1992 a supermajority requirement very much like the one we will debate on this floor. It allows revenue neutral tax reform, but it says that when the Government seeks to raise taxes, to increase the Government tax bite out of the pockets of average citizens yet one more time, there ought to be not the narrowest of agreement on that idea, but a broad consensus. We ought not to foist down the throats of American taxpayers yet one more increase in taxes without first having developed a broad base of support for the belief that that increase in taxes is necessary.

Now, why? Where are we today? What has the history been? Well, the history is that Government is a growth industry, that throughout my lifetime this Government has grown and grown inexorably, taking an ever larger bite time and again out of the pockets of the American taxpayers.

Six times since 1980 alone we have raised taxes in this country. In that time period, we have enacted some 4,000 tax changes. But those six specific tax increases have been passed by this Congress. And on what basis?

Well, the most striking of them was the most recent, the 1993 tax increase, the single largest tax increase in this Nation's history. By what margin did it pass? By the barest of possible margins. Had simply one vote in this body switched, it would not have passed. We would have not exacted that largest tax increase in U.S. history from the taxpayers of this Nation, by the switch of one vote in the U.S. House of Representatives.

But the contrast is even starker when we look at our body across the way, the U.S. Senate. There this measure was in a dead heat, a 50–50 tie. Not even a simple majority of U.S.Senators agreed on that massive tax increase. So the Vice President stepped in and he broke the tie, and we enacted that massive tax increase.

Now, for those who say we ought not to do this, we ought not to go from a simple majority to raise taxes, 50 percent plus one, to two-thirds, because somehow it offends notions of majority rule or of constitutional sanctity, let me point out that at 10 different places in our current U.S. Constitution, a supermajority is required. But let me also point out that 3 of those 10 were not in the original requirement. Three times since the birth of this Nation, three times since the adoption of our Constitution, we have added provisions requiring a supermajority for approval.

Why? Because there can indeed be a tyranny by the majority of the minority. Indeed, if you reflect on the premise, if you think about the reason for the Constitution itself, it is to guarantee certain rights, but, most importantly, to guarantee to the minority rights that they not be run roughshod over by the majority.

Let me cite just one example of such an instance in the tax arena. In 1990 this Congress passed the so-called luxury tax on expensive boats and automobiles and airplanes. The idea was we will punish the rich; we will make them pay a larger share of the tax burden of this country.

Indeed, it passed by the barest of majorities without a supermajority. But what did it do? Did it punish the rich? It did not. It punished the poor. It punished working Americans. Go anywhere in this Nation where we were leading the world in the manufacture of yachts, and you will discover skilled workers, skilled carpenters, skilled fiberglass layers, skilled people in the marine industry, who lost their jobs, whose jobs were wiped out because of the tyranny of the majority, which said we ought to enact a tax on those items.

Mr. Speaker, I urge the passage of this amendment. It is not radical, but, rather, it goes a significant way towards restoring the balance that the Founding Fathers envisioned in our U.S. Constitution.

DETERMINING TAXES A RESPONSIBILITY FOR POLITICIANS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, welcome to Pander Theater. First of all, I want to say to people that the next hour is going to be a very thoughtful presentation that I hope every American citizen listens to. The gentleman from Colorado [Mr. SKAGGS] and the gentleman from Virginia [Mr. MORAN] are two of the most thoughtful Members here. Please, I hope you listen to it.

Look, I am leaving at the end of this term, so I can speak a lot more freely. What you are going to hear today is going to be absolutely incredible.

Let me just give you the rule of politics that everybody ought to understand. Whether you vote for more B-2 bombers or more Head Start, whether you vote for more agricultural subsidies or more environmental cleanup, whether you vote for more prisons or more student loans, whether you vote for more highways or more education funds, more, more, more, and all of those you know who you make happy. You know the groups you make happy when you tell them you did this, and that is how you get reelected.

Whenever you vote for more taxes, you make everybody mad; everybody mad. So if you like what Juan and Evita Peron did to Argentina, you are going to love what happens if we get this through today. We are taking the Argentine model, which is give something to everyone, let us vote for all of you to have presents, and it will take a two-thirds vote to ever get enough people to vote for to pay for it.

What this is about is get your credit card back out, the Congress is ready to go back into Reaganomics II. If we do not learn from history, we are condemned to repeat it.

You remember the Reagan program of 1980. They said we are going to increase defense, cut taxes, and balance the budget. We did two out of three. We increased defense, we cut taxes, and the budget went right through the ceiling. The deficit went right up.

Now, we on this side of the aisle have taken some very hard hits. Without one vote from that side of the aisle we bellied up to the bar and started paying some of this off. We have cut the deficit in half. I wish it were down to zero. I would do more. We have cut it in half. How did we do that? We had to have a little increase in the gasoline tax. I am sure all of you felt that. None of us liked that, a few cents in the gasoline tax.

But we got the deficit paid down by half, because we realized we had a huge party in the eighties. Everybody had a great time. And we left our children to be the poorer-scoopers behind the horses after the parade down the street.

□ 1430

That was not fair. So today, because it is tax day, we are going to have like a Hallmark card legislation day. This is tax day, so we are all going to vote on a very tough issue. Yes, sir, we are going to come down here and say it takes a two-thirds vote to raise taxes. Of course, it only takes 50 plus 1 to do spending.

So the game I have seen around here since I have been a Member of Congress is people vote for all the spending programs and then they vote against the taxes, and you are guaranteed to have asbestos underwear that will get you through every election from here on because you made everybody happy and you voted for the spending that each of these groups wanted. They are the only ones that track it, so you made all of the individual groups happy, and then you made all of the citizens happy because you vote against all the spending. The only people who are not happy are the people who are going to inherent the debt. Yes, blessed are the young for they shall inherit the national debt.

We are saying that because we are so prone to run down here and vote for taxes any time we get a chance, this body just cannot wait to vote for more taxes, that what we have to do today on tax day is lift the ceiling to two-thirds to be able to do it. Ladies and gentlemen, if you believe that this body wants to have a tax will every week, that we cannot wait to vote for it every week, that we are so politically stupid we honestly think that you cannot find out when we vote for tax increases and we are going to love voting for more and more and that we have to put this constitutional restraint upon ourselves, I do not know where you have been. That is absolutely not true. Not one of these votes is popular.

To add those few little cents to the gasoline tax to start bringing this debt down, it took arm twisting on this side like mad. We did not have one extra vote of what we needed, and it took the Vice President of the United States to get it through the other body. Now, that is how tough it is. But if you want a culture where we spend, spend, spend and then we put it on a credit card, if we want to go back to seeing the debt go back up before we got it all the way down, you are in great shape. That is why I pointed out when this body cannot even get 51 percent to agree to a budget for this year, they have a lot of nerve bringing this up, and I really hope we get some sense in this debate.

I thank the two gentlemen who will be leading this.

THOMAS DOLUISIO AND BILINGUAL EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. ROTH] is recognized for 5 minutes.

Mr. ROTH. Mr. Speaker, I appreciate being allowed to take this 5-minute opportunity that we have at this time during the day.

I want to tell you about a brave and dedicated school administrator, Thomas Doluisio, who is a State school superintendent in Bethlehem, PA. In his district, he has shown some real leadership in Bethlehem, and he has enjoyed a dramatic improvement in academic success and progress. It is very important, I think, that we not only talk about the negative things that happen in our country and many times in the school system, and also the positive.

Here is an example of a person who has taken tremendous individual initiative and brought up the test scores. What did Doluisio do? He led the fight against the bilingual education bureaucracy and made it possible for his district's Spanish-speaking students to be immersed in English speaking classrooms. Here is what happened. He noticed that the typical student in his district spent 7 years in bilingual education classes before being moved or the student was moved to a regular class being taught in English. Children in kindergarten spent entire days without hearing a word of English and yet administrators were somehow perplexed when these students later scored very poorly in English tests.

Doluisio knew that the system was broken and he knew how to fix it. Barely a year after the school district switched to immersion from bilingual education, improvements have already started to show. Margarita Rivas, a Bethlehem parent, is praising the school superintendent because she said, now our children can speak English and they are able to compete in America so they too can rise and advance on the ladder of opportunity in America.

Mr. Doluisio did what any good administrator does. He recognized a problem and he started to fix it. But he also had the courage to take on an entrenched bureaucracy, and he won. For that, he was officially condemned in the 1994 convention for the National Association for Bilingual Education. He did, however, win the respect and admiration of Bethlehem parents, whose children are now better able to be prepared and to complete for jobs and pursue their share of the American dream. You know, I suspect that Thomas Doluisio will take that approbation and that approval and that endorsement over any endorsement from the National Association for Bilingual Education any day of the week.

The families of Bethlehem, PA, throughout the area are lucky to have a school superintendent that will fight the system in order to ensure that their children can learn the language of opportunity in America. It is time Congress takes up this fight by ending almost three decades of failed bilingual education programs and bring our educational focus back on teaching English again.

Whether it is Newsweek, whether it is a daily paper, no matter who has investigated this issue over the last 30 years, has said that changes have to be made. I am delighted now that we have a commitment that we are going to be addressing this issue in the near future here in Congress.

Let us help the brave men and dedicated men and women, like Thomas Doluisio, by passing H.R. 739, the Declaration of Official Language Act.

I thank the Speaker and the Members for yielding me this time.

PROPOSED CONSTITUTIONAL AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. SKAGGS] is recognized for 60 minutes.

Mr. SKAGGS. Mr. Speaker, let me just say, I have discussed with the gentleman from Texas [Mr. BARTON], who I believe is scheduled to have the hour special order following this one, and I think the country will be well served by a real give-and-take kind of debate on this very important issue of amending the Constitution to require a two-thirds vote by both the House and the Senate.

So I expect we are going to be yielding back and forth a lot for some questions and answers on both my time and the time of the gentleman from Texas later on. I hope it will be a useful, enlightening and serious discussion about this proposal which is way past due, because we have not had a serious, enlightened and careful discussion of this before it gets to the floor later today. In fact, the procedures that the majority has followed in scheduling this matter for the floor on April 15 really makes a mockery of the regular order that ought to be followed in bringing something of this substance and moment to the House for a vote.

Mr. Speaker, I spoke about that a little bit earlier. I am not going to belabor it again now. I do want to remind my colleagues that I, because of the abuse of process that the majority has followed in bringing this up without any vote in committee, any markup in committee, any time for Members to really examine it, I really think all possible procedural rights ought to be exercised, at least at this point in the process. But let me just talk for a moment, then I want to invite the gentleman from Virginia [Mr. MORAN], to engage on this with me, as well, talk for a moment about what, for me anyway, is one of the most central matters raised by this proposal. That is our reliance or not on the fundamental principle of majority rule in this Republic of ours.

I do want to commend the sponsors of this proposal for one thing. They recognized that if we are going to require supermajority votes to deal with any particular kind of legislation, in this case taxes, then you have got to put it in the Constitution. I think, in effect, they concede that the attempt made by the House a year ago January to do this by a mere change in House rules is constitutionally improper.

But I oppose this amendment, as I say, primarily because it violates what James Madison, the principal architect of the Constitution, and of its defense during the debate on ratification, what he called the fundamental principle of free government, and that is the principle of majority rule.

The Constitution makes very few exceptions to that principle, and none of them has to do with the core ongoing responsibility of governance, which includes, among other things, of course, how we raise the revenues necessary to fund the responsibilities that the Federal Government has. I believe we should be very, very wary of extending any of the existing supermajority exceptions to other areas, especially if it would complicate the essential responsibilities and competency of the Government.

Mr. Speaker, I think we need to be particularly aware of the fact that it is a logical corollary of any time we require a supermajority to do anything that we are giving effective control on that issue to the minority. You cannot have it any other way. Under this proposed amendment, that majority could be comprised of as few as 34 Members of the U.S. Senate, representing less than 10 percent of the American people. They would have effective power to control the Government's revenue and tax policy.

Now, that is bad enough as a matter of basic democratic theory and philosophy, but I think, putting that to one side, if we really look at what is likely to happen were this proposal to get into the Constitution, we will be amazed at the absurdly impractical consequences that will flow from it, some intended, perhaps, I suspect many of them unintended.

Let me just take a look at some of those that seem to me to be most significant. First of all, if this were in the Constitution, it would for all practical purposes lock into law whatever the then-current tax structure of the country might be at the time of the amendment's ratification, because I would suggest to you that it will be extremely difficult to meet the two-third vote requirement necessary to make any significant overhaul of the tax system. There may be some tinkering around the edges that could command two-thirds.

So if you like the tax system the way it is now, or if you have supreme confidence that some future Congress is going to get it just right before this amendment might be ratified by the States, then sure, embrace this. I simply do not have that level of confidence, certainly in the way the tax laws now are, or in the supreme wisdom of some future Congress that may adopt some reform or overhaul of the Tax Code to have gotten it just right later. But we should be aware that we are really buying into whatever the then-state of affairs happens to be at the time of ratification.

I think another consequence of this proposal would be to greatly complicate our efforts to balance the budget, which ought to be the central goal that we unite behind right now, particularly complicate the efforts to balance the budget as it relates to changes that will reduce the growth in entitlement programs. We all know that is where the money really is, if we are ever going to get this deficit problem under control.

Another reason that I think we ought to think long and hard and then reject this proposal is that as with the current rule of the House requiring, except when it is waived, which is always, requiring a three-fifths vote whenever there is a tax increase, this constitutional proposal is vague and will almost certainly generate confusion and litigation and, I believe, basically put the validity of most future tax legislation on hold for whatever period of time it takes for the courts to go through and parse out the language of this proposed amendment, deciding what is meant by some "reasonable" act of a future Congress to define what is meant by "de minimis" and any number of other vagaries that are inherent in this proposal.

□ 1445

I have got a number of other points that I may get around to as the debate continues this afternoon, but my colleague from Virginia, Mr. MORAN, has really put in a great deal of time and effort in examining this proposal. I know he has a lot of things on his mind about this, and I would be pleased to yield at this time.

Mr. MORAN. I thank my very good friend from Colorado for yielding to me and for his valiant efforts to resist the political temptation to vote for a constitutional amendment which is really little more than political grandstanding.

Now there are any number of reasons that Members could choose to vote this down. They could vote it down because we already have a rule that requires a three-fifths vote to increase taxes and every time that it has applied to legislation the Committee on Rules has waived that rule.

They could vote it down because it is bad public policy. It says essentially that whatever is in the Tax Code now stays because it is going to be almost impossible to change it. It is going to be impossible to close the corporate loopholes. Even things like capital gains reductions which are expected to increase revenue would be in violation of this legislation which says that—a piece of legislation that increases revenues by more than a de minimis amount requires a two-thirds vote.

They could vote it down because this debate has already occurred. This debate took place during the Constitutional Convention of 1787. Article IX of the Articles of Confederation required a supermajority vote to increase taxes, and it was found that it did not work. So they had to go back. They had to correct it because they realized that on a tough vote it is hard enough to get a majority of Members to do the courageous and right thing, let alone two-thirds of the body.

Mr. SKAGGS. Could I engage the gentleman just on that point because, you know, you stop to think of it, we would not have this Constitution to amend had it not been for the fact that a supermajority provision in the Articles of Confederation, just like the amendment that the proponents are proposing, was found to completely paralyze the then new National government of America. Is that not correct?

Mr. MORAN. It is absolutely correct. You know, I think that this amendment in some ways shows almost a contempt for the wisdom of our Founding Fathers. They tried to do what this does because they knew the political expediency of making it very difficult to increase taxes. But it brought our country into gridlock, and so that is why they had to go back in 1787 to say the only way we are going to move forward and realize our potential as a nation is if the majority rules; in other words, if every Representative has an equal vote. If you say that you require two-thirds, then the majority does not have an equal vote. The people who have a disproportionate vote are those in the minority because it only takes one-third plus one to prevent the will of the majority from becoming law.

Now this is particularly applicable in the Senate. In the Senate, as you know, every State, no matter how many people are in that State, have two Senators. There are 17 States that represent less than 10 percent of the American population. Those 17 States just happen to be represented by 34 Senators, one-third plus one. So that 10 percent has a disproportionate influence upon the course of legislation.

Now imagine, why should 10 percent of the people be represented by people who can thwart the bill of the majority of 90 percent of the population? That is not democracy, that is not equal representation. When you get into issues like a gas tax or any number of things that might affect rural areas more than urban areas, this becomes particularly apt.

Mr. SKAGGS. Let me interrupt the gentleman on this point as well, because I think it really bears looking at some concrete examples. As the gentleman has pointed out, a piece of legislation could pass the House, the body that directly represents people in this country, by an overwhelming majority, unlikely in the case of a tax bill because they are so difficult to pass, but let us say for the sake of example, and then be held hostage by 34 Senators even though 66 Senators might also agree that it is in the national interest. Or in a close case in the House, 146 of our colleagues here could stand in the way of the will expressed by 289 of our colleagues in the House, the one-third plus one that the gentleman points out.

Now is that really the kind of dramatic shift away from the fundamental principle of free government that Madison wrote about so persuasively over 200 years ago that is in the national interest? I fail to see the point.

Mr. MORAN. I think obviously the answer lies in the question. It is not. It is an aberration of what our Founding Fathers intended, and I think this is a terribly important point. You know, if I were a lobbyist for a corporation that was using a loophole to get billions of dollars of tax preferences, and we can name any number of them, I do not think we need to be specific, but we know that there are about $400 billion of tax preferences in our Tax Code where people can make a legitimate argument of uneven treatment. But if I were a corporation or a wealthy individual; for example, if I was one of these very wealthy individuals who decided that I did not want to pay taxes on gains I had made in this country, so I denounced my citizenship and decided I am going to claim my citizenship offshore, some island or whatever, and even though I can still live here 6 months, or 1 day less than 6 months, or whatever the law is, I would know the law, and in fact I do not have to change my standard of living or my annual vacation plans, I just decide I am no longer an U.S. citizen. I denounce my citizenship, I live someplace else and, thus, save billions of dollars in total on gains made in this United States.

We tried to get—and I will just finish this statement—we tried to get legislation through that would have saved $3.6 billion over 10 years just from a handful of wealthy families who denounced their American citizenship. We could not change that, we could not do the people's will to make them pay taxes on gains incurred in this country because all they would have to do is to go after those few folk over in the Senate, if they could not do it in the House, and, simply, they do not have to deal with the majority, with 67 percent. All they have to do is deal with one-third, and focus on them, and thwart the will of the majority.

Mr. SKAGGS. Well, certainly in my frame of reference $3.6 billion is not a, quote, de minimis, unquote, amount, which is the exception made on this proposed constitutional amendment. So, if I understand the gentleman, it would require the concurrence of two-thirds of both the House and the Senate even to get at such an egregious flaunting and flouting of fairness in our Tax Code as this expatriate tax break provision that you so well described.

You know, one of the other ironies in this is, because of the way this proposal is worded in talking about not raising internal revenues by more than a de minimis amount, rather than not raising tax rates or tax base, that we could end up being hung up over even passing a capital gains tax cut because certainly the advocates of a capital gains tax cut argue that it would increase revenues in some of the economic forecasting models that are used. So it seems to me that we are in the absolutely crazy situation in which it could even require two-thirds of the House and the Senate to adopt a cut in rates that the advocates claim would result in an increase in revenues.

Is that the way the gentleman reads this?

Mr. MORAN. It is exactly the way I read it, and it is the way that Mr. DREIER, who is one of the leaders on the Republican majority, reads it as well. In the Committee on Rules, consideration of this legislation said, well, what a minute, the way this is worded is that if you cut capital gains, and it does as we say that it does, we purport that it will substantially increase revenue in the first couple years, and that is probably true. As far as I am concerned, I think it probably does do that. In the outyears it may be a more problematic situation, but in the initial years people are going to sell their stocks and assets more quickly. It will raise revenue, but that means that you are going to have to get two-thirds of this body and two-thirds of the Senate to approve it because it increases revenue certainly by more than a de minimis amount.

Talk about the law of unintended consequences.

Mr. SKAGGS. If I may interrupt the gentleman again, as I mentioned at the outset, the gentleman from Texas, who is the principal sponsor of this proposal, and I agreed we would try to have a free exchange. I see he is on his feet. Perhaps he can enlighten us as to what that wonderful lawyer Latin phrase "de minimis" really means and how some future Congress will be able to make some sense out of this.

Mr. BARTON of Texas. I thank the distinguished gentleman from Colorado for yielding, and I am going to make two points, and then I am going to yield back since it is your time. I wanted to focus on this, the majority argument that you were speaking of, but before I do that I want to directly answer the question on de minimis. It is our intent that de minimis is equal or less, and in an economy that is $6 trillion, if you want to put a figure on it, in the implementation language and in the colloquy that we will have with the chairman of the Ways and Means Committee later this evening, we are going to say de minimis is one-tenth of 1 percent or less. So that is the number, but de minimis is defined as negligible, or minimal, or having little or no value.

Mr. SKAGGS. One-half of 1 percent of GDP or one-tenth of 1 percent of GDP—or of Federal revenues?

Mr. BARTON of Texas. One-tenth of 1 percent of the existing revenue that is being generated by the current tax system.

Mr. SKAGGS. But would the gentleman agree there is nothing to prevent some future Congress from coming up with whatever arbitrary definition of de minimis it might see fit to impose?

Mr. BARTON of Texas. That is certainly true. A future Congress could change the implementation standard.

Mr. SKAGGS. Or is that the case, because it talks about reasonable legislation. Are we going to have the courts deciding whether a Congress has reasonably exercised its judgment about what de minimis means?

Mr. BARTON of Texas. This constitutional amendment, as all constitutional amendments, are subject to court review, which as a strict constitutionist I know that the gentleman from Colorado would support that.

Mr. SKAGGS. But let me yield to the gentleman from Virginia.

Mr. MORAN. If I might suggest to my friend from Texas, the Constitution is not a rough working draft. You know, here we are, for the first time you are telling us what the words "de minimis" mean, which you want to put into the Constitution. Well, what you are saying is, as I calculate it, anything that is less than $1½ billion, $1,500,000,000 could be considered de minimis. Is that——

Mr. BARTON of Texas. That is over an extended period of time based on the existing Tax Code. But obviously the gentleman from Virginia can go to the Webster's Dictionary and—we picked the least offensive word that we could to put in. The intent is to, in a broad sense, keep the tax burden, the Federal tax burden, on the American people in 19 percent or less, which it has been historically.

Mr. SKAGGS. As someone who studied Latin for 4 years, I do not find de minimis offensive, I just find it vague and confusing as something to put into the U.S. Constitution.

Now would it not have been preferable for this to go through the committee process so that we can really examine exactly what these terms mean before we vote on putting them into the Constitution?

□ 1500

Mr. BARTON of Texas. Mr. Speaker, If the gentleman will continue to yield, I think there is some validity to that concern. We did have one hearing at the Committee on the Judiciary subcommittee. I certainly was not opposed to hearings at the full committee. For whatever reason, those hearings were not held.

I will point out, and the gentleman knows as well as I do, as part of the balanced budget debate, we have had debates on the House floor four times in which the tax limitation balanced budget amendment was one of the amendments that was voted upon. As has been pointed out in the opening statements of the two gentlemen in this special order, we did have a short debate on the three-fifths vote for an income tax increase as a rule change at the start of this Congress. It is not as if this subject has never been debated on the floor.

I would also point out, Mr. Speaker, and the gentleman knows this also, this is not physics and rocket science. The American taxpayer very quickly grasps that two-thirds is a higher fraction than one-half.

Mr. SKAGGS. Reclaiming my time, Mr. Speaker, if the gentleman is making the claim that yes, this has great symbolic value as a bit of political rhetoric, I will concede that. But why do we have to do this, making such a rush of what ought to be the normal deliberative process that the House should go through, especially when we are talking about amending the Constitution?

As the gentleman knows, the language that we are supposed to vote on later today has never been the subject of a committee hearing or markup. In fact, it was introduced on the Thursday night before we left town for 2 weeks on Friday a couple of weeks ago. Is that not an extraordinary rush to judgment on something as complex and serious as amending the Constitution? And is not in fact the reason that this did not go to committee that the Committee on the Judiciary was seen as unwilling to mark up and report a proposal like this out?

Mr. BARTON of Texas. Mr. Speaker, if the gentleman will continue to yield, I will concede the gentleman's point that more debate at the committee would have certainly been in order. I am not going to deny that. I will point out, though, that the day after the vote on the tax limitation balanced budget amendment, I believe in February 1995, the Speaker of the House said that we would have a vote on the tax limitation amendment as a stand-alone amendment on April 15 or near April 15, 1996, so the concept has been out there for a year.

We certainly have had numerous hearings on it in some of the think tanks and things of this sort, so it is not as if this is a brand new concept that people have trouble grasping.

Mr. SKAGGS. If I may, Mr. Speaker, is it not correct that this proposal, the one we will vote on in the U.S. House of Representatives later today, perhaps——

Mr. BARTON of Texas. Hopefully today.

Mr. SKAGGS. That this language never existed on paper until the Thursday before this 2-week break and has never been the subject of a hearing in any committee of the Congress, much less being marked up by the committee of jurisdiction, the Committee on the Judiciary? Is that not correct?

Mr. BARTON of Texas. That is not quite correct.

Mr. SKAGGS. What is wrong with that statement?

Mr. BARTON of Texas. It was the subject of a hearing in the Committee on Rules when we went to the Committee on Rules to ask for consideration today.

Mr. SKAGGS. That was the morning after it was first introduced, is that correct?

Mr. BARTON of Texas. That is not the Committee on the Judiciary. But if I could, I would like to talk about your principle of majority rule. I think you said that there were 10 States, or 10 percent of the population had 34 Senators. I am going to just read the presentment clause in the Constitution. It says: Every bill shall have passed the House of Representatives and the Senate before it becomes a law, be presented to the President of the United States. "Shall have passed." It does not say "shall have passed by a majority," or "shall have passed by a supermajority." It just says "shall have passed."

In the original Constitution there were 7 two-thirds supermajority requirements: Conviction in impeachment trials, article II, section 3, clause 6; expulsion of a Member of Congress, article I, section 5, clause 2; override of a Presidential veto, article I, section 7, clause 2, quorum of two-thirds of the

States to elect the President, article II, section 1, clause 3; consent to a treaty, article II, section 2, clause 2; proposing constitutional amendments which is what we are doing today, article V; and State ratification of the original Constitution, article VII.

Since that time, there have been 3 additional two-thirds supermajority vote requirements added to the Constitution, which brings the number to 10. The purpose of a supermajority requirement, in my opinion, and if you read the Federalist papers and some of the writings of James Madison, it was felt that if the issue was large enough that it needs more than a slim majority, that you really need consensus, you need a supermajority or a two-thirds vote.

Certainly in today's era, it is this gentleman's opinion that raising taxes any higher than they already are is one of those occasions that we need to amend the Constitution and require a supermajority.

Mr. SKAGGS. Let me just say, I believe the gentleman's recitation proves my point, because none of the examples that the gentleman cites for requiring supermajorities has anything to do with the presentment clause. None of those examples involves the presentment of legislation to the President for his approval or disapproval or veto. In fact, they all have to do with extraordinary matters in the course of conducting the business of the country. None of them has to do with the core legislative responsibilities of the Congress. And in fact, it is very clear from the fact that the framers, during the course of the Constitutional Convention, considered and rejected several times proposals to attach supermajority requirements to particular legislative matters, that it was not contemplated by them that the presentment clause could be some kind of excuse, covering the advisability of any supermajority requirement for regular legislative business.

So the gentleman's points are accurate as far as they go. They simply are irrelevant to the validity or not of the argument about the importance of majority rule as a central tenet of free government.

Mr. MORAN. Mr. Speaker, if the gentleman will continue to yield, I thank my friend for underscoring that point. In fact, it might strike one as the height of arrogance to think that after our Founding Fathers put together a Constitution that has withstood the test of time and made us the strongest country in the world economically, socially, and militarily and every other way, that after they debated this issue at length and decided several times that a supermajority would not work to come up with the revenue necessary to finance the expenses of our Government, now we want to come up, without committee hearings, and to second-guess, to change their decision. It strikes me, Mr. Speaker, as not particularly wise or, more importantly, consistent with the intent of our Founding Fathers.

Mr. Speaker, we may sometimes be in the posture of taking the less conservative approach. I think right now we are taking a very conservative approach. Do not treat our Constitution as a rough working draft. Recognize the wisdom that went into this Constitution.

My friend, the gentleman from Texas, has said that de minimis, the term de minimis was chosen because it was the least offensive term. I do not think that really ought to be the criteria by which we make legislation.

When we define it now, for the first time that I am aware of, as one-tenth of 1 percent of the Federal gross revenue, which is about $1.5 billion, I need to ask the gentleman, does this apply to that expatriate loophole where a few families can save themselves millions and millions of dollars by simply renouncing their American citizenship? That is a loophole that I would hope many of us would want and eventually will be able to close. Does that preclude us from being able to do that with a majority vote of this House?

Mr. BARTON of Texas. Mr. Speaker, if the gentleman will yield further, first of all we are not here to either praise Caesar or bury Caesar, Caesar being the current Tax Code; we are here to come up with an amendment to make it more difficult to raise taxes.

I guess what I might have said when I said "least offensive," we wanted to use a term that was as close to revenue neutrality as possible, without saying revenue-neutral, because it is physically impossible if you want to change the entire tax system or you want to monitor it or modify it in some way, to speculate down to the penny that the change is not going to increase taxes. So de minimis was as close to revenue-neutral in terms of terminology as we could get.

Mr. MORAN. If I could suggest to the gentleman, $360 million is not exactly getting down to the penny. That is the amount of money that we would recoup if we simply made people pay taxes on gains generated here in the United States, rather than being able to denounce their citizenship and claim another residence to avoid taxes. That is $360 million annually, $3.6 billion over 10 years. But you are saying that if it is less than $1.5 billion, it does not count, it is de minimis. I do not know a lot of American families that consider $1.5 billion de minimis.

We need to know how many of these tax loopholes are going to be precluded from being closed with your legislation.

Mr. BARTON of Texas. If the gentleman will continue to yield, this legislation does not preclude any tax loophole from being closed. This gentleman from Texas is not on the Committee on Ways and Means. I believe each of you two gentlemen is. I may be incorrect in that assumption. So you and the other members of the Committee on Ways and Means can do whatever you want. If you pass a tax law that has the effect of raising the tax burden on the American people more than a de minimis amount, it will take a two-thirds vote. If you want to change taxes, cut taxes, you want to lower revenues, you can do that with a simple majority vote.

Mr. SKAGGS. Mr. Speaker, let me look at another recent example in our collective experience here earlier in this Congress. When we took up the majority's reconciliation bill last fall, I believe as I recall, there was a significant revenue-raising component to that, including changes in the Medicare part B premium.

I happen to think that we are going to need to deal with that aspect of the Medicare Program in order to put it on a sound financial footing eventually. I was not one to criticize that very difficult political choice that the majority brought to us at that time. But the amount of money involved in that Medicare proposal, I think over whatever economic timeframe you want to look at, was significantly more than the expatriate tax loophole involves, some tens of billions of dollars. The reconciliation bill including that provision did not muster anything close to two-thirds vote.

I think therein lies the problem, and the responsibility that we have to examine the consequences of what you are proposing that we do, not merely to discuss this in terms of the abstract notion that we are fed up with high taxes, but is this workable?

If we are going to have a deal with entitlement reform fairly and sensibly, which by most accounts involves asking wealthier Americans to pay more for their health care if they are able to, we are doing to be facing, if this is in the Constitution, a requirement of getting two-thirds. We know how difficult it is to pass something like that, because it is the political third rail of American politics; how difficult it is to get a simple majority. If we have to get a supermajority to deal with the wealthy end of things, and we cannot, what will be the course of least resistance? It is going to be cutting the benefits on the poor, which we can do by a simple majority.

I invite the gentleman's response to that conundrum.

Mr. SHADEGG. Mr. Speaker, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Speaker, the fundamental essence of the gentleman's question is, is this workable. I believe the answer is, indeed, clearly it is workable. I think the language or the points that you make now highlight the difference between that language which is before this body today and the language of the rule, because what we have done is to let go of the original language proposed in the constitutional amendment introduced by the gentleman from Texas [Mr. BARTON] and indeed embraced a different concept.

That language would have said any increase in any tax rate or any increase in the base to which a tax is applied would require a supermajority; thus, the difficulty which you found in the language. Some would argue that, indeed, that is the preferable way to go, because it would mean that not only would we hold down increases but we would stop changing the Tax Code on a daily basis. Indeed, we made some 4,000 changes of one kind or another in the Tax Code in the last decade. But that is not the language that is before us today.

The language of the rule which you just raised, the language which, indeed, was constrained by rule, the legislation you referred to, is not the language that is before us today. The language that is before us today embraces the concept of revenue neutrality, and, indeed, that is the language which we put in the Arizona Constitution in 1992, and which has been placed in many other constitutions.

Mr. SKAGGS. Reclaiming my time, Mr. Speaker, I believe the gentleman from Arizona, who was just addressing the House, supported the majority's reconciliation bill, which included the significant adjustment in Medicare premiums, way more than a de minimis amount. Does the gentleman not agree that that is a difficult political hurdle to get over by a simple majority, much less by a two-thirds majority, and that if we are going to do fair entitlement reform, it is exactly the kind of tough choice that a future House is going to have to make? Yet you are making it next to impossible for us to do exactly what is best advised for fair entitlement reform.

Mr. SHADEGG. If I can make one quick point, and then I would like to allow my colleague, the gentleman from Texas, to be able to respond, first, the fundamental point here is that you could accomplish any of that with a simple majority provided it was tax-neutral. So were you to raise a premium, you could offset that by lowering a tax on some other location. I believe, however, as the gentleman from Texas [Mr. BARTON] will point out, it did not apply to this instance at all.

□ 1515

Mr. BARTON of Texas. On that specific point, as you know, Medicare consists of two different parts, part A and part B. Medicare part A is funded by a tax, and you have to pay it if you are working in this country. I believe it is 1.2 percent, but it is certainly a tax. Medicare part B is not mandatory, it is voluntary. Admittedly 94 or 95 percent of the American senior citizens choose to participate in Part B, but it is voluntary. Those that choose understand if they so choose they have to pay part of the premium.

Under the resolution that is on the floor today, it would not take a two-thirds vote to change the medicare part B premium. It would take a two-thirds vote to raise the part A tax, unless at the same time you lower taxes on that part.

Mr. SKAGGS. Reclaiming my time, I beg to differ with the gentleman. The gentleman's proposed constitutional amendment talks about any increase in the internal revenues—it does not talk about Internal Revenue Code—the internal revenues by more than a de minimis amount, made by any change in the law.

Whether Medicare part B is voluntary or not, you are certainly talking about changes in the law that drive a major, not a de minimis, a major increase in internal revenue.

Mr. BARTON of Texas. I will stand by what I say. I believe that my explanation is correct.

Mr. SKAGGS. Here again, would the gentleman agree, this is the kind of discussion and debate that ought to have occurred in the Committee on the Judiciary, so we could have had appropriate refinements made to clear up what is a fundamental area of vagueness and therefore potential uncertainty and litigations? That is why we should not be voting on this out of the regular order as we are going to.

Mr. BARTON of Texas. I am not opposed to more debate on it.

Mr. SKAGGS. Would the gentleman join me in moving to send this back to the Committee on the Judiciary so it can be the subject of hearings and markup?

Mr. BARTON of Texas. I will certainly join the Member in having hearings. After we pass it this evening with a two-thirds vote, we can continue to have these hearings.

Mr. SKAGGS. So we are going to decide what we have done after we have already passed it. That is a terrific standing of things on their heads.

Mr. BARTON of Texas. Again, the concept is not one that you have to be a physics major to understand. If you would realize that two-thirds is a larger number than one-half, you have grasped the principle that we are trying to establish.

Mr. SKAGGS. Let me yield to the gentleman from Virginia.

Mr. MORAN. If I might suggest to my colleague from Texas, we are not suggesting that our colleagues need to be physics majors but they ought to be responsible legislators, particularly when we are attempting to change the Constitution of the United States. We ought to know the definition of some of the terms.

You just threw out the idea that de minimis means $1.5 billion. Does that mean annually, or does that mean if you raise $1.5 billion over 5 years or 7 years or 10 years? None of these answers are evident.

Also, user fees, we are talking about going to a system where we can have user fees for bridges and for roads and for national parks and the like. Are user fees included here? If you read the language of the legislation we were given, the constitutional amendment, certainly they are because that is internal revenue being generated.

I do not think we ought to be, as I suggested, treating the Constitution as some kind of working draft that we can amend as the notion comes to us, either on the floor of the House or even in committee or in any personal way. What we ought to be doing is enabling all the Members of this body to understand fully the consequences of their actions. We have that responsibility, and that is not the responsibility of a nuclear physicist but it certainly is the responsibility of a Member of the House of Representatives.

Mr. SKAGGS. Let me ask the gentleman from Texas, since he is the authoritative person in interpreting this language, what does the amendment contemplate by the phrase "internal revenues"? Is that as distinguished from external revenue, tariffs and excises?

Mr. BARTON of Texas. Internal revenue is certainly the internal income tax system, the internal revenue system of this Nation, and it is taxes that have to be paid by the American people. To the gentleman from Virginia, when he talked about user fees, you could certainly raise the user fee to the national parks by a majority vote. That is not part of the Internal Revenue Code of this Nation.

We will have the chairman of the Committee on Ways and Means on the House floor sometime this evening, and the chairman and I will engage in a colloquy in which just those kinds of questions are asked and answered.

Mr. SKAGGS. If I can reclaim my time, if the gentleman meant raising income taxes by more than a de minimis amount, why did the gentleman not use that term in the constitutional amendment rather than the term internal revenue, which has a much broader connotation to it than income taxes do?

Mr. BARTON of Texas. Well, there are some other broad-based taxes.

Mr. SKAGGS. Well, then, what would those be?

Mr. BARTON of Texas. The Social Security tax as a payroll tax is one.

Mr. SKAGGS. Why not the Medicare tax?

Mr. BARTON of Texas. The Medicare part A is a payroll tax.

Mr. SKAGGS. Why not the Medicare part B?

Mr. BARTON of Texas. Because that is voluntary. That is not a tax.

Mr. SKAGGS. But that is part of the Internal Revenue Code.

Mr. BARTON of Texas. That is a premium.

Mr. SKAGGS. It is part of the Internal Revenue Code, is it not?

Mr. BARTON of Texas. You can choose not to pay that. That is voluntary.

Mr. SKAGGS. Is it part of the Internal Revenue Code?

Mr. BARTON of Texas. Is the gentleman from Colorado paying that premium right now?

Mr. SKAGGS. The gentleman is not over 65, despite my appearance.

Mr. BARTON of Texas. You are not.

Mr. SKAGGS. Is it not part of the Internal Revenue Code?

Mr. BARTON of Texas. But you are paying the part A tax now.

Mr. SKAGGS. Right.

I submit that this is a very artful redefinition on the fly of these terms in a proposed amendment to the fundamental charter of the country, and we do not know what we mean.

Mr. BARTON of Texas. It is the gentleman's time and he has been very gracious and I think this is helpful. I do not want to abuse his time. But as in any constitutional amendment if we pass it, and in my opinion it is not if we pass it, it is when we pass it, there will be obviously implementation language, implementation law, legislation, as in any constitutional amendment. These types of questions will be extensively debated in the committee, on the floor, in conference with the Senate, in conjunction with the President and the Cabinet officers involved in the particular debate and I am absolutely confident that the democratic process will yield satisfactory answers to these questions.

The basic principle, once again, is making it more difficult to raise revenue, the tax burden of the American taxpayer, and I do not think there is any misunderstanding about that between the two distinguished gentlemen on the Democratic side, or certainly myself and the gentleman from Arizona [Mr. SHADEGG] on the Republican side. That is the principle that we are debating.

Mr. SKAGGS. Reclaiming my time, I submit that there is a fundamental disagreement about what we mean. What the gentleman is saying is that, "Well, we may not know what we mean today when we're amending the Constitution, but we'll figure it out some later time."

I think that is really getting things backward. We need as much as we possibly can, and I think our discussion reveals that we do not yet have as clear an understanding as we possible can of the import of the gentleman's words in this proposed amendment.

Certainly most provisions of the Constitution have been subject to some litigation. We should not, however, go out of our way to leave terminology so vague and confusing as to unnecessarily invite a plethora of litigation and uncertainty in this area which ought to have, as much as we possibly can, some sense of precision and certainty.

Let me yield to my friend from Virginia again.

Mr. MORAN. I would underscore the point that my friend from Colorado has been making. We ought not be flying blind on legislation to amend the Constitution of the United States, not even knowing what the terms mean, not even getting it out of subcommittee or having consideration by the full committee, bringing it to the floor.

A lot of concepts have been around for a long time, but most of them the majority would never consider bringing to the floor without having full consideration by people, both Members and staff, to be able to look at this legislation, to understand what these terms mean, to be able to inform the Members so that they know what they are voting on. That is the first flaw.

This morning I had a little debate on a morning news show with Grover Norquist, head of Americans for Tax Reform, who came up with this idea and has been promoting it, and he made the same point that our colleague from Arizona, Mr. SHADEGG, has made with regard to the number of States, and the gentleman from Texas, Mr. BARTON, I know, has made it, who have these kinds of supermajority requirements.

But let me suggest there are some differences between those State budgets and the constraints they are under and the Federal budget. For one thing, States can borrow money, and most States do. Most States are able to get their capital money through long-term indebtedness. We cannot do that. We are on a pay-as-you-go basis. We have a current cash accounting system.

Another thing that States can do that we cannot do is go to the Federal Government as a funder of last resort. Look what happened in California, and I think Arizona was involved, any number of other States have been involved actually this year in any number of natural disasters. Florida. I will not list the whole number of States, but a great many States were victims of natural disasters this year.

They did not have the money in their budget. With some of them they did not have the money because it would have been too difficult to raise the revenue necessary, so they turned to the U.S. Government to fund the costs of repairing and rebuilding.

We have no one to turn to. In fact, I understand there is an exception: If war has been declared, then you can raise money. But there are any number of other things that could happen to this country that would necessitate us raising substantial revenue for the public good, the common good of this country.

We do not know what is going to happen in the future, and it may be a whole lot of these disasters that might occur at the same time. It may necessitate us raising revenue. But to think that 17 States that represent 10 percent of the population have the ability to thwart our responsibility to fund the needs of this country, those States may very well not experience a natural disaster, so it would be in the interest of those particular Senators and Members of Congress not to vote for that revenue raising.

But certainly if a majority of this body and the Senate thinks that it is necessary and is willing to show the political courage to vote to raise revenue for the common good of this country, then they ought to be able to do so and should not be thwarted, should not have their vote minimized, de minimized, if you would, by this legislation. That is exactly what this constitutional amendment would do.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I have great sympathy for the gentleman from Virginia when he talks about a certain number of States with a small percent of the population thwarting the will of the majority. Texas and Colorado were not in the original 13 Colonies. Virginia was. It was one of the big States, but it lost on that issue. It was called the great compromise. The House was the representative of the people, the Senate representative of the States. I can be sympathetic with you, but we lost that fight 200 years ago.

Mr. SKAGGS. Let me, if I may, pose another question to the gentleman about his language in this proposed amendment, and the gentleman from Virginia was touching on this. It provides that a majority could raise revenue either if there is a declared war, which we of course know happens rarely, or if the country is engaged in military conflict.

Mr. BARTON of Texas. Serious military conflict.

Mr. SKAGGS. Is it correct to interpret the military conflict language as involving a shooting conflict of some kind?

Mr. BARTON of Texas. Yes. It would not apply to the gentleman from Virginia's comments about floods and droughts.

Mr. SKAGGS. So it would not apply to the circumstance that the country endured for the better part of 40 years, namely, the cold war?

Mr. BARTON of Texas. It would not, no, sir. Unless you did it with a two-thirds vote.

Mr. SKAGGS. So if I understand this phrase correctly, if we were facing again that kind of dire threat to the national security but one that, God willing, does not get to the point of a shooting war, but nonetheless demanded the preparation of our military defenses in a way that required raising more money, it would take two-thirds to do that.

Mr. BARTON of Texas. That is correct.

☐ 1530

Mr. SKAGGS. Mr. Speaker, I am sure the gentleman is aware of the fact that on the eve of the prior two World Wars, we could barely muster a majority of this body to start facing up to that challenge to our own national security.

Mr. BARTON of Texas. On the eve of what we now call the First World War is when we got the 16th amendment that made the income tax constitutional. On the eve of the second war, which we now call World War II, we were in the throes of the Great Depression, and not only were we not spending much on military preparedness, we were not spending much on anything.

Mr. SKAGGS. The gentleman is well aware that the then sitting Congresses were sharply divided and we could barely muster a majority vote to start the preparations that were ultimately necessary for this great Nation to fulfill its international responsibilities and to protect itself. That is exactly the kind of corner this language is likely to put this country in in some future difficulty if it were to become part of the Constitution.

Mr. BARTON of Texas. But, of course, the response to that is that living in the future, living in the present, we are the world's greatest military power. No one questions that. We spend a higher percentage of our GNP today on military preparedness than we did before World War I or World War II. We are not in the dismal shape that we were in terms of military defenses.

Mr. SKAGGS. As the gentleman knows, if we put this in the Constitution, it is likely to be there for all time.

Mr. BARTON of Texas. We hope.

Mr. SKAGGS. Maybe the gentleman's crystal ball is clearer than mine in understanding now what lies ahead. If I can inquire of the Chair how much time remains.

The SPEAKER pro tempore (Mr. EWING). Six minutes remain.

Mr. SKAGGS. The gentleman from Virginia.

Mr. MORAN. I might remind the gentleman from Texas that one of the reasons why we are the strongest military power is that we spent money that we did not have, particularly during the 1980's.

But what I think is more important to remind the gentleman is that none of the budget reconciliation measures proposed by President Reagan would have passed during the 1980's. None of them got two-thirds of a vote.

There is only one budget reconciliation measure, which was a minor one, in 1989 that passed with more than two-thirds. But it passed because it was minor. It was an easy vote. These others were not easy votes. It is never an easy vote to balance the budget, to come even closer to balancing the budget than we are doing today.

It certainly was not an easy vote to vote for the budget reconciliation measure in 1993, even though it raised money from the top 1.2 percent of Americans and, in fact, through any number of other measures actually reduced our deficit for 3 years in a row, generated over $500 billion of deficit reduction. That passed, as was suggested. If one Member of Congress had switched their vote, it would not have passed.

Now if you think that any responsible budget balancing measure is going to get through this House with a two-thirds requirement, you do not understand the dynamics of politics in America today. But that does not mean that we should not try to be, to propose votes that will require political courage, to try to continue to work to balance our budget, to reduce the amount of indebtedness, to reduce that interest.

If it was not for the interest on the debt created during the 1980's—because we cut taxes and did not cut expenditures, if it were not for the interest accumulated during that period of time—we would have a surplus in the budget today. We cannot raise taxes. We can cut them very easily. We can do it at the drop of an eyelid, and this is the kind of easy vote, to vote against the possibility of the Congress acting responsibly on budgetary and tax matters. But that is why it is wrong. It would be the irresponsible thing for the Members of this Congress to vote for today.

Mr. SKAGGS. You know, we look at history not just because it is fascinating to know where we have come from, but because it is also often instructive about the present and the future. And I think it is very useful to again go back to the debates in the Constitutional Convention about just this sort of provision, when the Framers seriously deliberated on the question of whether certain legislative subjects should be, should have a requirement of supermajorities to legislate. They understood because of their experience under the Articles of Confederation that this was a prescription for gridlock and paralysis. That is why we had a Constitutional Convention, to get us out of that problem.

One thing I believe we can always be sure of, we cannot predict the future. We do not know on April 15, 1996, what a Congress in April 2096 is going to be facing. And yet we are basically saying we do not trust them to have the tools that they are going to require to be good stewards of this Nation's future, that we are so arrogant this year that we will deprive them of the fundamental tools of governing this country by virtue of passing an amendment such as this.

I think it is extraordinarily ill-advised, even if we understood, which clearly from the debate over the last hour we do not understand, the meaning of the specific words being proposed to be put into the Constitution.

But even if we did, it is clear that this is impractical, ill-advised, and would be an extremely foolish and, as the gentleman has pointed out, really an irresponsible act for this Congress to take.

I yield to the gentleman from Virginia.

Mr. MORAN. The only remaining remark I have to make is that we do not act independently here. We have a responsibility to act in the best interests of our constituents. The worst thing this legislation does is to take away the equal representation of our constituents, the American people. The vast majority of the American people will lose the right, the power to determine the legislation of this land. The vast majority of people, two-thirds of the American population, will not have equal representation if this legislation passed because one-third plus one will have the controlling power over what this body, this body of Representatives of the American people, is able to do with regard to tax policy, with regard to balancing the budget, with regard to funding the necessary means of conducting our activities in whatever sphere we are talking about. It is irresponsible. And it is unfair to the vast majority of the American people to pass this today.

THE CONSTITUTIONAL AMENDMENT TO REQUIRE A TWO-THIRDS MAJORITY VOTE TO RAISE TAXES

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Texas [Mr. BARTON] is recognized for 60 minutes as the designee of the majority leader.

Mr. BARTON of Texas. Before I start my special order, I want to commend the gentleman from Colorado and the gentleman from Virginia for yielding time in this special order and once we give our opening statements we will be happy to reciprocate in the spirit and to the level that you did in your special order.

Mr. Speaker and members of the House, we are engaged in a serious debate. It is serious business to determine you should amend the Constitution of the United States. I would point out our Founding Fathers allowed for such amendment, and it has been amended, I believe, 27, perhaps 28 times, since the original Constitution was ratified in 1787.

If you go back to that time period when our Founding Fathers were debating the same issues that we are debating on the floor of the House this afternoon, you find some interesting facts. First of all, there was no such thing as an income tax anywhere in the world. There were obviously taxes, but those taxes were normally head taxes, property taxes, excise taxes, transaction taxes, duties, fees, tariffs, but there was no income tax because very few people in the world, certainly in the United States, had any income. We were an agrarian economy. Most Americans lived on farms or in small communities and there simply was not a resource there to be taxed. Even then, over 200 years ago, the Founding Fathers were very aware of the sensitivity of the tax burden on the American people. So while they did not require a super majority vote to raise taxes, they did require that the House of Representatives, which was the only body directly elected by the people and the body most responsible to the people, be the body where all tax bills originated.

For 125 years that limitation that all tax bills originate in the House of Representatives worked very well. We did not have an explosion in growth of the Federal Government. In 1913, we had the 16th amendment to the Constitution of the United States that said specifically that an income tax was constitutional. In 1913, 83 years ago, the first tax form, the first 1040, was passed out in 1913. This is a photocopy, a blown-up photocopy of the original 1040 form back in 1913.

Those of you that can read it, you find out some very startling information. First of all, the normal tax, the normal tax that most Americans who even had to pay an income tax paid, was 1 percent on net income up to $20,000. Less than one tenth of 1 percent of the American population had to pay that normal tax of 1 percent.

The richest American, an American who made over $500,000 in 1913, had to pay 6 percent. But most Americans paid no income tax, or paid 1 percent.

By 1949, the year that I was born, the tax burden had grown to 5 percent on the American taxpayer, and today the average tax burden is 40 percent. The marginal tax rate on the average taxpayer in America today is 40 percent. If you want to calculate percent increase from 1913, and 1 percent to 1996 and 39.8 percent or 40 percent, it is 4,000-percent increase 4,000 percent. That is too much.

The debate today is about making it more difficult to raise taxes on the American people in the future. It is not about whether we had the appropriate number of hearings in the Committee on the Judiciary. It is not about the exact definition of de minimis in Webster's Dictionary, it is all about the basic principle of making it more difficult to raise taxes than it is under the current simple majority tax increase vote requirement.

It is a very simple concept. Two-thirds as a fraction is a higher number than one-half as a fraction. In fact, it is a higher number by 16 and two-thirds percent, one-sixth, 16.67. Translated into votes in the House, you would go from 218 votes needed to 290 votes. In the Senate you would go from 50 votes or 51 votes needed to 67 votes needed. So that is what we are debating this evening.

There are some States that have tax limitations on their books today. There are 10 States. These States range from the largest State in the Union, the State of California, to the State where President Clinton was Governor, the State of Arkansas. And you can see the other 8 States.

There are four things that are true in every State in the Union that has tax limitation. The first thing that is true is that taxes go up more slowly. In States that have some sort of supermajority requirement for increasing taxes, taxes do not not go up. They do go up. In fact, they have been going up, 102 percent between 1980 and 1992. In the States that do not have a supermajority requirement, taxes have gone up 121 percent. That difference of 19 percent, if you calculated it on the Federal tax rate, you would have lower taxes in the Federal Government this year of around, I believe $160 billion.

□ 1545

So the first thing in all 10 States is that taxes go up more slowly than they do in States that do not have tax limitations.

The second thing we find out is that, since taxes are not going up as fast in tax limitation States, spending is not going up as fast. Again, between 1980 and 1992, in the supermajority tax increase States, their spending went up about 132 percent. But in States that do not have a supermajority requirement to raise taxes, their spending went up 141 percent. So that is a 9-percent savings in spending.

Mr. Speaker, if we calculate 9 percent of $1.6 trillion we are spending here at the Federal Government this year, that is about $145 billion savings in spending.

Now, since taxes are not going up as rapidly and spending is not going up as rapidly in those States, some good things begin to happen. The first thing that happens is that employment does grow more rapidly. In States that have a supermajority requirement, the average number of people working went up about 26 percent. In States that do not have a supermajority requirement, employment grew, but only 21 percent. So you have a 5-percent differential there.

Last but not least, since there are more people working in States with a supermajority requirement for a tax increase, the economy in those States grew more rapidly, 43 percent versus 35 percent in the nonsupermajority States.

So those four things are true in every State. Taxes do not go up as rapidly, therefore spending does not go up as rapidly, therefore you create more jobs, and you create more wealth in the State. So the way I say this is a simplified fashion, taxes go up lower, taxes are lower, therefore spending goes up slower in States that have the supermajority requirement. And therefore the taxpayers are not left high and dry like they are in States without the supermajority requirement.

Mr. Speaker, I am a lower, slower guy. I am not a higher, dryer guy.

The last thing I would say on these 10 States, not one State that has passed supermajority has repealed it. In some of these States, the supermajority requirement for a tax increase has been on the books for decades.

With that, I would be happy to yield to my friend from Arizona for such time as he may wish to consume.

Mr. SHADEGG. Mr. Speaker, I thank the gentleman from Texas and join him in calling for the passage of this amendment.

Let me talk about why. On the list of States which my colleague put up which have enacted a supermajority requirement, you will find the first State is my home State, the State of Arizona. We enacted that requirement in 1992. It compels the State legislature there to assemble a two-thirds majority before yet once again raising taxes.

Now, why? The reason for that is that we had had a spiralling increase in taxes in our State year after year after year, and the consequences were devastating.

Mr. Speaker, I think the gentleman did a great job of showing exactly how that comes about. I want to focus on just one of those charts.

This chart alone says it all. For my colleagues in the Congress, I urge them to study this one chart. It says a very simple premise: Where taxes are high, where they are raised time and again, over and over, there is a consequence to be paid for that. In Arizona it was that we had gone from a high growth State with low taxes and a booming economy to years of tax increases, and we had become a low growth State. We had injured our economy. So we put an issue on the ballot, an initiative drive which I helped head, which the people had a chance to vote on. By a margin of 72 percent of those voting, we enacted a supermajority tax limitation.

Those words are kind of confusing, supermajority tax limitation. What it says is simply this: Where today in this Congress we can raise taxes with a simple majority, 50 percent plus one, we would change that standard and make it not impossible but slightly more difficult to raise taxes yet one more time.

Mr. Speaker, we are not cutting taxes, we are just saying that the bar over which we should have to climb to raise taxes yet again ought to be slightly higher.

In my lifetime we have raised taxes in this Nation, income taxes in this Nation, on the average American family by 1,200 percent. The consequence is we are doing to the national economy what the non-supermajority States have done to themselves. That is, if you look at States where it is slightly higher and slightly harder to raise taxes, the supermajority States, you will see economic growth is significantly higher than in those States where there is no supermajority and where, accordingly, it is slightly easier to raise taxes.

The premise which this amendment raises is a straightforward issue of fiscal responsibility. Should Congress be more responsible about spending the hard-earned dollars earned by the citizens of this great country? If you believe it should, then you must vote for this amendment, because by making it slightly harder to raise taxes in America, we will force this Congress to have discipline.

Indeed, Mr. Speaker, the record of this Congress and of past Congresses on controlling spending is abysmal. We have failed time and again to control spending. Thus, we need a supermajority requirement, a discipline on our ability to raise taxes, because that will force us to spend the money we have more wisely.

As the gentleman indicated, there are 10 states that now require this. It is not a radical reform. I would like to point out that some of those who have considered it view it as indeed a rather prudent reform.

George Will recently writing said, "The proper reverent reason for amending the Constitution is to revive those of the framers' objectives that have been attenuated by political developments since the framers left Philadelphia."

What indeed has happened in America is that we have lost many of the first principles established in our U.S. Constitution. The U.S. Supreme Court has as of today so expansively read the commerce clause that this Congress has vastly more power than it did a decade or two or three decades ago. Indeed, it has the power to reach into the pockets of Americans time and time again, to spend that money on almost anything it will.

Six times since 1980 we have raised taxes. On one of those occasions, we had the two-thirds majority. On all of the others, we did not. Yet we raised taxes over and over again.

The 1993 tax increase, the largest in American history, would not have passed this body if one vote had switched. It would not have passed the Senate had the vice president not broken a tie.

Let me conclude by pointing out the words of two scholars who have looked at this issue. John McGuinness of the Yeshiva University's Cardoza Law School and Michael Rappaport of the University of San Diego Law School have said about this amendment that the amendment should be seen as an attempt to revive the original values of our Constitution, rather than as a radical innovation.

The opponents of this amendment will argue that it offends the notion of majority rule; that whenever the majority wants to do something, they ought to be able to do that. Regrettably, they ignore that the first premise of a constitution is to protect the rights of a minority.

Indeed, in this instance, it is critically important that in the area of taxation, we protect the rights of the minority. That is why a constitutional amendment is the proper device. It is indeed not a radical innovation, but rather an idea that will restore the Founders' intent.

I would invite the other gentleman to join us here.

Mr. BARTON of Texas. I want to compliment the gentleman from Arizona on his leadership. He is one of the named sponsors, and is doing an outstanding job.

I would like to yield to the gentleman from Arkansas [Mr. HUTCHINSON] at this point in time.

Mr. HUTCHINSON. I thank the gentleman for yielding time and compliment Mr. BARTON from Texas for his leadership on the balanced budget amendment and on this constitutional amendment we will be debating and voting on today.

As Americans hasten to file their Federal income tax returns by midnight tonight, many families will again remember how much of their family budget is paid to the Federal Government every year. Today they will be reminded and we will be reminded that the average American family pays $1 out of every $4 it earns to the Federal Government. We will be reminded that the average American family spends more on taxes than on food, on clothing, and on shelter combined.

Sadly, we will also be reminded that the average American family can expect to work at least until May 6 before being able to dedicate any of the earnings to anything other than Federal, State, and local taxes. The average worker today spends the first 3 hours when he gets to work each morning just paying his debt to the Federal Government, State government, and local government before he can ever begin to labor for himself or for his family.

With approximately 38 percent of the average family's budget being used to meet their total tax burden, it is high time that the U.S. Congress take action to make further tax increases more difficult.

Our country has run chronic budget deficits for 25 years. We have pretended that we were going to do deficit reduction by raising taxes in the omnibus budget laws described as deficit reduction acts, and yet spending continues more and more.

A perfect example for the necessity of such an amendment can be found in the middle class tax cut that was the centerpiece of President Clinton's 1992 campaign for President. Despite his record in Arkansas of having raised taxes and fees 128 times during his tenure as Governor of my home State of Arkansas, the American people still trusted him to make good on his promise. Just 1 month into his Presidency, however, the President betrayed that trust and traded his promise of a middle class tax cut for the largest tax increase in history. This record tax increase was pushed through Congress in 1993 and was approved by a 51-to-50 vote in the Senate and a 218-to-216 vote in the House. A single vote switch in either body would have killed the legislation. A supermajority requirement easily would have saved our economy from yet another oppressive tax increase.

It is clear that increasing taxes is not the answer to our deficit problems, that increasing taxes is not the way we are going to deal with the growth of the national debt. Every time in the last 40 years this Congress has raised taxes $2, we have increased spending $3. Raising taxes is not the answer. We simply must make it more difficult for this Congress and future Congresses to raise taxes.

If that was not enough, our President vetoed the middle class tax cut that this Congress passed and gave to him this past December 6. That is why there will be no tax cut this April for hard working families.

In one stroke of the pen, the President denied tax cut benefits to 28 million families and 59 million children in our $500 per child tax credit. We will not see capital gains tax relief, we will not see the job creation that would have accompanied it, the relief from the marriage penalty, the estate tax, and on and on. We would have done that and much, much more. But, instead, the temptation is going to be there in the future for Congress to start raising taxes again. That is the temptation, to try to solve deficits by raising taxes, and is simply will not work.

It is time to make Washington start working for families, instead of making families work for Washington. That is why I rise in strong support of this supermajority rule as a necessary component strategy, to shrink the size and power of the Federal Government and limit the power of Congress to tax the American people.

Mr. BARTON of Texas. Before I recognize another gentleman, I would like to ask the gentleman a question: My understanding is you do represent the great State of Arkansas.

Mr. HUTCHINSON. That is correct.

Mr. BARTON of Texas. It is my understanding that Arkansas has had a tax limitation on amendment on the books for several decades. It requires a three-fourths vote; not a two-thirds, but even a higher standard of three-fourths. Could you comment on how that has worked in Arkansas?

Mr. HUTCHINSON. We have a supermajority requirement, a three-fourths requirement, to raise the income tax in Arkansas. The evidence is very clear that the legislature has been more reluctant to raise the income tax levels for hard-working Arkansans.

Now, we have a lower threshold for raising the sales tax, which many believe is a more regressive tax. The fact is they have fallen back many times on that regressive sales tax, which hurts poor people more than affluent individuals. I believe the supermajority across the board, whether it was a two-thirds or three-fourths, would make a lot more sense. But Arkansas today has one of the lower tax levels and one of the lower tax burdens in the United States. That is why people are moving to Arkansas. That is why our economy is good in Arkansas.

□ 1600

In my particular district, we have got unemployment down around 3 percent, virtually full employment in my district, companies moving in, people doing well, because the tax burden, heavy as it is on the Federal level, has not been that onerous on the State level, partly because of that super majority provision.

Mr. BARTON of Texas. Is there any move in Arkansas to repeal the three-fourths requirement?

Mr. HUTCHINSON. None whatsoever. I think the American people would rise up in arms, the people of Arkansas would rise up in arms if that were to occur. Quite to the contrary, as is happening in the antitax movement across this country, there are initiatives efforts, there is lots of talk about actually putting on the ballot a requirement to put all tax increases to a vote of the people. I do not necessarily support that. What I am saying is there is certainly no sentiment at all to repeal our supermajority tax issue.

Mr. BARTON of Texas. The tax limitation works, the supermajority vote for tax increases works in Arkansas.

Mr. HUTCHINSON. It worked in Arkansas. It worked when President Clinton, then governor of Arkansas. I certainly believe it will work for our country.

Mr. BARTON of Texas. I thank the gentleman from Arkansas.

I would like to yield to the gentleman from Kentucky [Mr. LEWIS].

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today in support of the two-thirds tax limitation amendment to the Constitution. Mr. Speaker, a typical family of four pays nearly 40 percent of its income in Federal, State and local taxes. When you consider sales and a variety of other taxes that a family is often paying nearly half of their hard-earned money in taxes. Is there any wonder why so many folks are struggling to make ends meet? We have learned over the past four decades that too many politicians would rather raise taxes than reduce spending or even the growth of spending. Incidentally, that is not just true in Washington.

An article published in Kentucky papers across the State this weekend showed my home State of Kentucky, that the taxes there are a burden on the lower income people more heavily than any State in the Nation. That is according to the Center on Budget and Policy Priorities. We can make a statement on this tax day in the House of Representatives.

We can tell the folks back home that they matter more than big Government, that Congress can make the occasional tough spending decisions without asking hard working men and women to contribute more.

Mr. Speaker, 3 months ago, President Clinton ripped out a page from the Republican playbook by saying the era of big Government is over. We can help him keep his word today by passing House Joint Resolution 159. It is a good start toward ensuring the era of big Government will truly be over.

Over the past three decades, there have been 16 major votes to increase taxes. Just half of those would have become law if there has been a two-thirds requirement. We may not be able to stop President Clinton from vetoing our tax cuts for working families, but we can help make sure that a one-vote margin in the House or the Senate does not allow another massive tax increase like the 1993 Clinton tax hike.

Mr. Speaker, let us tell the American people that enough taxes are enough.

Mr. BARTON of Texas. I thank the gentleman from Kentucky.

I yield to the gentleman, Mr. HALL of Texas, one of the named sponsors, the distinguished gentleman from Rockwall, the fourth district of Texas.

Mr. HALL of Texas. Mr. Speaker, today, of course, is tax day for millions of Americans. It is also tax day for Congress. I think what we do in the next few hours will send a message to all the hard-working Americans all across the country. It will either give Americans some hope for the future, some hope for tax relief, or it will give them nothing but the status quo.

In the next few hours, we will have an opportunity to vote in support of House Joint Resolution 159, the tax limitation amendment to the Constitution. This amendment would require a two-thirds, a supermajority vote in the House and Senate for any bill that would raise Federal taxes. If a two-thirds requirement had been in place over the past 15 years, major tax increases in the years 1982, 1984, 1987, 1990, and 1993 would have failed. It does not mean we would not have had a tax bill, but it would have been a more sensible tax bill. It would have been sent back and reworked and we would have had more cuts in spending and less taxes on the backs of the American people.

This is a much higher standard than a simple majority vote and a standard that would be far more representative of the wishes of the American people.

Most of us here in Congress, like most Americans, support efforts to balance the Federal budget, and last year Members of the House went on record to pass a balanced budget amendment to the Constitution. Now today we have another opportunity to show where we stand on an issue that will affect everyone in this country.

Most of us, like most Americans, most of us Members of Congress believe that taxes are either too high or they are high enough, and today we have an opportunity to vote on a bill that would offer some protection to the American taxpayer by making it more difficult to raise Federal taxes. Hopefully the balanced budget amendment will pass the Senate this year and go all the way to the statehouse and to the States for ratification. Following ratification of the amendment, Congress would be obligated to produce balanced budgets.

Now if the vote falls short, which some people predict that it might do and we have to know that anything can happen on the floor of this house, if we do not have enough contact from the people of America to those who stand on this floor and represent them here as their Member of Congress, it is possible that we will not pass this day, this time this bill. But I think we will accept the lessons of history and consider this another step in the right direction. If I know the gentleman from Texas, Mr. BARTON, and the gentleman from Texas, Mr. PETE GEREN, and the gentleman from Arizona, Mr. SHADEGG, as well as I know them, they will be back again and again. It took 13 years for the balanced budget amendment and the line item veto, but it is here and this will follow.

Mr. Speaker, I believe that we can pass it this day. I think if history is any indication and if we listen to the people, that is exactly what we ought to do. So on this historic day, Mr. Speaker, I am pleased to be an original cosponsor of the tax limitation amendment, along with Mr. BARTON, Mr. SHADEGG, and Mr. PETE GEREN. They have worked tirelessly. I do not know of anyone who has worked harder than those men and their staffs throughout this legislation. The grassroots response have been enormous.

On this historic tax day, I think Americans are watching to see where

Congress stands on this important issue. I think we need to show the American people that we stand with them. I urge my colleagues to join me in support of House Joint Resolution 1759, the tax limitation amendment.

Mr. Speaker, I thank the gentleman.

Mr. BARTON of Texas. I thank the distinguished gentleman from Texas. Before I yield to the gentleman from Texas, Mr. PETE GEREN, I yield to the chairman of the Committee on Economic and Educational Opportunities, the distinguished gentleman from Pennsylvania, Mr. GOODLING.

Mr. GOODLING. Mr. Speaker, I can sum up the most important reason to pass this legislation in one illustration. Thirty-eight percent of what the average American family earns they pay in taxes. Anybody have any idea how much they spend on food, clothing and shelter combined? Twenty-eight percent, which is 10 percent less than they have to spend on taxes.

I was having a meeting this morning and the one gentleman said, I had to pay my taxes today. He has two little children. He said, very, very difficult. I said, yes, because the President vetoed a package that would have given you the kind of relief you would have needed. It would have given you $500 for each child. It would have given you a $500 credit for home care. It would have given you a $1,000 credit toward long-term insurance. It would have given you an IRA for the parent that stays at home.

These are the kinds of things we should be doing to try to help American families stay together, not take their money and bring it to Washington, DC, to waste. So I would call on all of my colleagues, support this legislation. We get a balanced budget and we make sure that we stop spending more than we take in and we will give hope to the future. We will give hope to the children and the grandchildren that are out there now wondering whether there will be a tomorrow like we were fortunate enough to have.

I thank the gentleman for yielding me this time.

Mr. BARTON of Texas. I thank the gentleman, Mr. GOODLING, for those remarks. Would the chair indicate how much time is remaining in our special order?

The SPEAKER pro tempore. The gentleman has 28 minutes remaining.

Mr. BARTON of Texas. I yield to another of our original sponsors, Mr. PETE GEREN of the 12th District of Texas, who unfortunately will be leaving us at the end of this Congress to return home to Fort Worth.

Mr. PETE GEREN of Texas. I want to thank the gentleman, Mr. BARTON, and commend him, the leadership on this issue, the leadership that he has brought to bear.

From the first day he stepped on the floor of the Congress, he has been pushing this, and his dogged determination has brought us to where we are today. I must say it has been with some reluctance that I have come to the conclusion that it is necessary that we pass this resolution that would amend the Constitution to require a supermajority vote of two-thirds in order to increase tax revenues. However, I believe that if we ever are to control the growth of Government, limit its insatiable ambitions, then this limitation is necessary.

The growth of Government, and with it the increase in taxes and increase in the deficit, have become a constant in this country. Regardless of who is in the White House, regardless of what party controls Congress, Government has remained and will continue to remain a growth industry. In terms of 1983 dollars, from 1969 to much of 1996, the size of Government measured in terms of its spending, it has nearly doubled. These are in constant dollars. The Government has grown from $593 billion in 1969 to $1.1 trillion in 1996.

I commend President Clinton for his statement that the era of big Government is over. I wish that were true. In spite of those words, the size of Government continues to grow and according to all projections, to all projections, it will grow as far as the eye can see and younger generations will bear the brunt and cost of our mushrooming growth in taxes paid and in freedom lost.

According to the General Accounting Office, a child born in 1992, to fund Government on its current growth path, a child born in 1992 will pay 82 percent of his or her future earnings in taxes. Eighty-two percent of his or her future earnings in taxes. The Government itself has become the most powerful political force in America, not the people that pay the bills but the people that live off of those who pay the bills.

When faced with cuts in spending, Government programs are able to rally their individual constituencies to bring overwhelming pressure to bear on the legislative process. The tax limitation amendment is needed to offset this pressure. I do not think our Founders ever imagined that we would have a Federal Government that would be telling us where to place curb cuts in the step of Cleburne or a Federal Government that is spending over 20 percent of the gross national product.

They could not have imagined that when they drafted our Constitution, and I am confident if they had, this limitation amendment would have been put in the original Constitution. This is not a new initiative. It is a tested initiative. It has been tested in the laboratories of our individual States, as our Founders intended.

Currently 10 States have supermajority requirements to raise taxes. They include Arkansas, Arizona, California, Colorado, Delaware, Florida, Louisiana, Mississippi, Oklahoma, and South Dakota, geographically spread across the entire Nation. In States with no tax limitation, taxes have climbed 120 percent per capita from 1980 to 1992, while they increased only 102 percent in States with supermajority requirements. Even with the supermajority requirement, the government has found a way to grow. Supermajority States have enjoyed a 43-percent growth rate from 1980 to 1992, while other States without this limitation have grown by only 35 percent. Employment growth averaged 26 percent in supermajority States but only 21 percent in States without the supermajority requirement. Using data from 50 States, Dr. Richard Vedder, in a study for the Joint Economic Committee, has concluded and I quote:

> The economic performance of States is negatively relative to the overall amount of taxation: Higher taxes mean lower growth, lower taxes mean higher growth.

This amendment is not artful. It is not pretty. It is not the sort of provision that will ever thrill constitutional scholars. It is a blunt instrument, and it is unfortunate that it is necessary, but it is necessary. As legislators, we have either been unwilling or unable to put restraints on the growth of government.

In the so-called antitax era that we have all lived through in the last 15 years, we have still seen Government grow. The 1980's were famously antigovernment, antitax, yet taxes grew 20 percent during that decade, the size of Government growing in excess of that. There is a bias in our system toward growing Government. It is a bias that grows stronger every day as Government grows more and more and more intrusive in our lives. This amendment is necessary to counteract this bias and force the Government back into a role that respects that the genius and miracle of our experiment in democracy lies not in Washington, DC, but with the people.

Mr. Speaker, I thank the gentleman, Mr. BARTON, for yielding me this time, and I commend you for your leadership on this effort.

Mr. BARTON of Texas. Well, if the gentleman would remain at the podium, I have got a few questions that I would like to ask.

My first question is, I believe that you are a member of the Democratic Party, is that not correct?

Mr. PETE GEREN of Texas. Certainly am.

Mr. BARTON of Texas. I know that some Members of this body have said that this is some sort of a Republican policy gimmick. But you are not a Republican, obviously. I think you are very proud to be a Democrat.

Mr. PETE GEREN of Texas. No, and I expect that we will have a considerable number of Democrats join us in voting for this. I think the experience that we have seen in the 10 States that have tried this belies the accusation that this is some partisan gimmick by either party. Arkansas, a State that has been controlled by Democrats. Legislature, the Governor's office, I guess since Reconstruction, they have this provision.

□ 1615

California, very strong Democratic legislature, they have had Republican and Democratic Governors; they have this limitation under Willy Brown, one of the leading Democrats in the entire country. This provision came out of the legislature in which he presided as the speaker.

So anybody that tries to dismiss this as a partisan gimmick I think is ignoring the fact that 10 States, some of the States in heavily Democratic—with heavily Democratic majorities in every area of government—have this problem. So for those to try to dismiss it with that sort of criticism I think are ignoring the reality of experience with this provision.

Mr. BARTON of Texas. I am sure that you have seen this study, but you might not have had a chance to really study it in detail, but March 19 through March 21 there was a national poll conducted by Americans for Tax Reform. They polled 1,205 registered voters throughout the country about the tax limitation amendment, and I know that you will find this very gratifying to know that of those poll respondents that identified, self-identified, themselves as Democrats, 64 percent said they supported the two-thirds tax limitation amendment; 80 percent of people that identified themselves as Independents and 80 percent that identified themselves as Republican. So the support is slightly higher for Republicans and Independents, but for Democrats around the country 64 percent of the respondents in this 1,200-person poll that said they were Democrats said they supported the amendment.

And I know as a Democrat you will also be delighted to know that when they asked the poll respondents to identify themselves by socioeconomic status, low, middle class, or high income, of those that identified themselves as low-income wage earners, 80 percent supported two-thirds vote for tax limitation; middle income, self-identified, 77 percent supported tax limitation; and high income, 64 percent. And finally, certainly last but not least, when asked the one political question in this survey, and again these are 1,200 people, March 19 through 21, national poll, plus or minus 2.8 percent variance—when asked would you be more likely or less likely to vote for your Member of Congress if you knew that they voted for the two-thirds tax limitation amendment, by party identification 76—no, 68 percent of self-identified Democrats, said that they would be more likely to vote for their Member of Congress if they knew that he or she had voted for the two-thirds tax limitation constitutional amendment.

Does the gentleman from Texas have any comments on those poll numbers?

Mr. PETE GEREN of Texas. Well, I think that this reflects accurately where Americans are, regardless of party affiliation, and also explains why in many States with a strong, strong Democratic tradition and control of their State governments, have enacted a provision of this sort.

This is a bipartisan initiative. We are not going to have as many people on my side of the aisle supporting it as I would like to see, but I think that poll shows that this is an initiative that enjoys bipartisan support or nonpartisan support, including strong support in the Independent base, and I would expect that—I mean, you look at the States that have it, Florida all the way to California, Louisiana, Arkansas; these are States that have very different economies, they have different political traditions, but joined in a recognition and understanding of the need to check this bias in favor of growing government.

Mr. BARTON of Texas. Well, I think it is interesting that when you really look at the facts and you look at the data that is out there, every State that has it, it works. We pointed out, you pointed out, the gentleman from Texas [Mr. HALL] pointed out, that taxes are lower, they grow slower, and that the economy, therefore, grows faster and more jobs are created. We point out that regardless of what your party affiliation is, it is supported anywhere from 80 to 64 percent. Regardless of your socioeconomic status, low, middle, or high, it is supported.

More States are adding this tax limitation provision to their State constitutions every year. Voters of Nevada have already passed it once. Their constitution requires two separate votes. they are going to vote on it again this fall. We think they will ratify it and they will be the eleventh State to put it in the constitution.

There are some dozen, dozen and a half, States that have got initiatives underway, so we are simply doing what is already being done and continuing to be done in the States, and I think that with your support and the support of the gentleman from Texas [Mr. HALL] we have an excellent chance to get enough Democrat support to pass it by two-thirds on the floor this evening.

Mr. PETE GEREN of Texas. Let me just highlight one point that you made, the economic growth.

If anyone were seeking to find an explanation why 68 percent of Democrats across the country support this, it is one simple word. It is jobs, economic growth. You look through the history of Democratic platforms, and you will see the word "jobs" repeated over and over and over for the last 100 years, and the States that have tried this have been proven job creators.

This is an initiative that will create jobs, as it has in California, as it has in Arkansas. This is an opportunity to extend that job creation across the 50 States of this country.

Mr. BARTON of Texas. Be happy to yield to the gentleman from Texas [Mr. HALL] and then——

Mr. HALL of Texas. I think also, Mr. Speaker, that it might be pointed out: I think that same poll that was conducted indicated not just people that are out of work or that are looking for work, Democrats or Republicans, support this. I think that same poll showed that among Federal employees who already have a job, that 68 percent of those supported the supermajority, and I think it also should be pointed out that union members, who historically have voted Democratic, have indicated that 71 percent of the union members polled supported the supermajority.

So while we up here on the floor of Congress try to shoot an arrow that hits the taxpayer and misses the voter, let me tell you we are hitting both of them and this is a chance for the voters and the taxpayers to have a shield, and I think the gentleman from Fort Worth probably agrees with that.

Mr. PETE GEREN of Texas. Absolutely.

Mr. BARTON of Texas. I thank both my two good friends for supporting this.

I would like to continue some of the comments that I made earlier. This is about making it more difficult to raise taxes, but not making it impossible. When my good friend from Arizona gets back, we are going to go through a colloquy on some of the tax increases that have passed the House in the last 10 to 15 years.

One very good thing about our amendment: It would take bipartisan support to pass any additional tax increases because it is very unlikely that either political party is going to have 67 percent of the House and the Senate at the same time in the modern era, and as has been pointed out numerous times during the debate this afternoon, the last major tax increase that we had 2½ years ago passed by two votes in the House, with no Republican voting for it, and by a tie breaker vote the Vice President, Mr. GORE, voting for it in the Senate. That is not bipartisanship, that is one political party with a very slim majority forcing a massive tax increase, in this case the largest tax increase in American history, down the throats of the American people.

I would now like to engage in a colloquy with the gentleman from Arizona about some of the more recent major tax increases that have been before the House and the Senate.

Mr. SHADEGG. I would just like to commend the gentleman from Texas, actually all three gentleman from Texas, Mr. BARTON, Mr. PETE GEREN, and Mr. HALL, who have shown great leadership here. I think I heard Mr. HALL recite that whether we passed it today or not, if in the unlikely chance we do not pass this measure today, he had great confidence that we would be here carrying this fight forward in the future, and, for the reasons that Mr. PETE GEREN pointed out, I indeed, so long as I am a Member of this body, until we are successful in this effort, will be here to fight for it precisely for the reason he pointed out, and it is the reason shown on the chart just to your side, and that is job creation.

This measure will aid the American economy. It is wonderful that we have 10 States to look to which have had experience with a supermajority for tax increases; that is, with making it slightly harder to raise our taxes again. And that experience teaches us; it teaches us that the economy and those States where they have made it a little harder to raise taxes, as we propose to do here today for the Nation, have grown at a significantly faster pace, over 40 percent versus under 30 percent.

Now, in the discussion beforehand, and the gentleman might recall that our colleague from Virginia, Mr. MORAN exercised some great concern about whether or not it would be possible to ever muster the two-thirds majority that this measure would require for a tax increase. Well, the history shows that while it may indeed be and should be somewhat more difficult, our goal is not here today to make it impossible to raise taxes, and I would just like to point out that on at least four recent occasions more than a two-thirds majority has been mustered for a tax increase, both here in the House and also in the Senate.

The Tax Adjustment Act of 1966 got 74 percent of the Members of the House in its support and 94 percent of the Members of the Senate. The Interest Equalization Tax Extension Act of 1967 got 73 percent of the Members of the House to support it and a similar number in the Senate. In 1989 the Senate passed by a vote of 93 percent of the Members and the House passed by a vote of 58 percent of the members the Omnibus Budget Reconciliation Act of 1989. But the most compelling example of where a supermajority was accorded is what is now the infamous or famous Tax Reform Act of 1986. That probably is one of the best known tax revisions in this Nation's history, and that measure in its final version passed this Congress in 1986 by a vote of 292 to 136 in the House and by a vote of 74 to 23 in the Senate.

So for those who say that a two-thirds barrier is too high, is too extreme, I would call these examples to their attention, and I would simply like to reiterate. The gentleman was asked before, the average American family today spends more on taxes, according to the figures we have been provided, than on food, clothing and shelter combined. When we have reached the point in this Nation where we spend more on taxes as an individual family than on food, clothing and shelter combined, indeed I believe it is time for reform, and the reform we bring here is not a radical one. It is a logical one, not a rightful cut in taxes, but simply a provision that says the next time we try to raise taxes again we ought to have to do it with a two-thirds rather than a 50 percent majority.

Mr. BARTON of Texas. My understanding is the gentleman speaking is from the great State of Arizona and that you have a two-thirds or three-fourths requirement for all tax increases in your State and that has been in effect since 1992.

Is that correct?

Mr. SHADEGG. We do indeed have a two-thirds majority for all tax increases.

Mr. BARTON of Texas. And how has this worked in Arizona the 3 years it has been on the books?

Mr. SHADEGG. Well, as having been the chairman of the initiative drive who put it on the ballot and then pushed it over with the vote of 72 percent of the legislature supporting it, it has worked extremely well. Where we had seen a spate of 9 successive tax increases in a row, we have not seen a general tax increase since that measure was enacted.

I would point out that the measure enacted in Arizona is much like the one we are proposing here; that is, it allows revenue neutral tax reform, so that if we want to change the code in some respect we can, so long as it is not a tax increase. And whenever in Arizona a tax increase is required, that is when the supermajority, two-thirds, is triggered, just as the language we are proposing here today would do.

Mr. BARTON of Texas. I think that is a very basic point that we need to emphasize as often as possible. Under the language that is going to be voted on this evening, we could change from a national income tax, graduated system that we have today, to the flat tax or the national sales tax, as some people propose, with a majority vote so long as the revenue impact was de minimis, was neutral or less.

□ 1630

Mr. SHADEGG. Mr. Speaker, our goal is to allow and to continue to go forward with revenue-neutral tax reform. Should we shift from the income tax to a sales tax to a VAT tax, whatever we deem is necessary, provided it is revenue-neutral, it can be accomplished with a simple majority. That provides the flexibility that our colleagues on the opposite side of the aisle are so deeply concerned about.

Mr. BARTON of Texas. Mr. Speaker, I think one of the other concerns under the current tax code, most Republicans and far-thinking Democrats support a rate reduction in the capital gains tax. What is the gentleman's understanding of what we could do with capital gains, if our amendment were to become part of the Constitution?

Mr. SHADEGG. Mr. Speaker, as the scoring by CBO is currently performed, we could easily enact a capital gains tax cut, and would not require a supermajority to do that. Some of us, though, would argue that CBO ought to embrace the concept of dynamic scoring, which might change that analysis.

But as the measure would currently be scored, a change in our capital gains tax rates to lower those tax rates could be accomplished by a simple majority vote, which means that a lot of arguments we have heard already today and a lot of arguments we will hear tonight about how the rule adopted here on the House has had to be waived simply does not have any application to this debate, because the language of the amendment differs from the language of the rule which we adopted on the first day of this Congress.

Mr. BARTON of Texas. Mr. Speaker, I see the distinguished chairman of the Committee on Rules, the gentleman from the great State of New York [Mr. SOLOMON], on the floor. Would he like to engage in the debate?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from New York.

Mr. SOLOMON. I would. Mr. Speaker, I thank both of the gentlemen. I happen to come from the State—that State is New York—which always is either the first or second highest-taxed State in the Nation. Let me tell you, we have seen hundreds of thousands of manufacturing jobs leave our State almost for that reason alone; that, plus the fact that we are the most overregulated State.

Let me just tell you, we go back to 1993 when this Congress enacted the largest tax increase in the history of this entire Government body, the largest tax increase. Yet, we did not cut the deficit by the amount of the tax increase. That meant by increasing taxes, you actually are giving an incentive to this Congress to increase spending. That is why we should never, never increase taxes in order to bring down the deficit, because it just does not work.

This in itself is going to do more to straighten out the fiscal mess of this Congress and this Government than anything else we could do, because it is going to be a disincentive to this body to spend money. That is what we need to get at this sea of red ink that is literally killing my children, my grandchildren, and yours, and the others around this country.

I commend both of you. Let us get this thing on the floor and let us pass it, and the American people are going to thank us from the bottom of their hearts.

Mr. SHADEGG. Mr. Speaker, if the gentleman will continue to yield, the gentleman raised the question of whether or not tax increases have solved the deficit problem.

I am sure the gentleman is aware that the history is, as he points out, the opposite. Each time we have increased taxes by a dollar, studies show we have further increased spending by not $1, not an equal amount, but by $1.59. So we have driven ourselves with each new tax increase to solve our deficit problem, not taken ourselves out of debt, but put ourselves further into debt.

Mr. SOLOMON. The gentleman is so right. Again, I want to thank both of you for the job that you have done to get this on the floor. Sometime around 9 o'clock tonight is going to come the critical vote. I would urge all of you, to the people back in your districts, to get those phones ringing and let us get these Members of Congress to come over here and vote for this vital piece of legislation.

Mr. BARTON of Texas. Mr. Speaker, that phone number is 202–225–3121, for those who wish to call the House switchboard.

Mr. HALL of Texas. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Texas.

Mr. HALL of Texas. Mr. Speaker, I would say to the gentleman from Texas [Mr. BARTON], the leader and the original sponsor of this amendment, that we need to reduce this down to its easiest terms to understand. It is not tough. It is really simple. It is just, simply, do you want half the Members on this floor to be able to raise your taxes, or do you want it to require two-thirds. We have de minimis and all these other one-way roads and explanations and diversions and questionings, and we will have speeches about it later in the day, but it narrows right down to whether or not we want half the people to be able to put taxes on us to where they can have more spending, or we want it to require two-thirds.

The gentleman from New York [Mr. SOLOMON] and I were here when they passed the so-called Tax Reform Act of 1986. It was an act that he simply wanted, the President, President Reagan wanted an act. He wanted a Tax Reform Act. The Committee on Ways and Means chairman wanted a Tax Reform Act. They got together on a Tax Reform Act. We passed it. I think of the two, only one of them really understood it. I am sorry to say that was not President Reagan.

We got the sorriest act that has ever been passed on the floor of this Congress, that set this country back so far. That would not have happened if your amendment, I would say if the gentleman from Arizona [Mr. SHADEGG] had been here, and the gentleman from Texas [Mr. BARTON], if his amendment had been passed, that would not have taken place. It took place right at the break of day when people were trying to go home. This protects people against those of us who are trying to go home; stay here and work, and require a two-thirds majority. I thank the gentleman for his tenacity and the tenacity he will set forth in the future if we fail today.

Mr. BARTON of Texas. Mr. Speaker, I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for his leadership. I simply want to conclude my remarks as a part of this special order by saying we in the Congress have a tremendous opportunity today to deliver to the American people on a promise we made a year ago. On this day when we exact their tax return from them, when we reach into their pockets one more time, we have a chance to tell them that we are going to impose the discipline of a supermajority requirement in the U.S. Constitution. I urge my colleagues not to miss this opportunity to support this amendment.

Mr. BARTON of Texas. Mr. Speaker, I want to conclude very quickly by stating that this is about helping us to get to a balanced budget. The last balanced budget of the U.S. Government was in 1969. My son was born in 1970. He is now about to enter graduate school. He has never lived in a year that we have balanced the Federal budget.

There are two ways to balance the budget. You can cut spending or raise taxes. We think, those of us who support this amendment, we should do it by emphasizing spending cuts, not tax increases. Federal revenues have grown every year since 1964. The 10 years that I have been in the Congress, they have grown an average of $59 billion a year, $59 billion a year. The problem is that spending has grown more rapidly than revenues.

The tax limitation amendment is simply a mechanism to make it more difficult to raise taxes and, therefore, easier to focus on spending reduction or spending limitation, which is what we should do in order to balance the budget. This House and this Senate sent to the President of the United States a 7-year comprehensive budget that would have balanced in 7 years with no tax increases. The President vetoed the Balanced Budget bill we sent him. If we get a supermajority requirement into our Constitution, future Congresses will be able to work with future Presidents and focus on spending limitation, not on tax increases, as a way to balance the budget.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 159, CONSTITUTIONAL AMENDMENT RELATING TO TAXES

Mr. McINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 395 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 395

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the joint resolution (H.J. Res. 159) proposing an amendment to the Constitution of the United States to require two-thirds majorities for bills increasing taxes. An amendment in the nature of a substitute consisting of the text of House Joint Resolution 169 shall be considered as adopted. The previous question shall be considered as ordered on the joint resolution, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) three hours of debate on the joint resolution, as amended, which shall be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; (2) one motion to amend, if offered by the minority leader or his designee, which shall be considered as read and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. EWING). The gentleman from Colorado [Mr. MCINNIS] is recognized for 1 hour.

Mr. McINNIS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During the consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 395 is a very simple resolution. The proposed rule is a modified closed rule providing for 3 hours of general debate divided equally between the chairman and ranking minority member of the Committee on the Judiciary. Upon adoption of this rule an amendment in the nature of a substitute consisting of House Joint Resolution 169 shall be considered as adopted. Additionally, the rule provides for an amendment by the minority leader, or his designee, which would be separately debatable for 1 hour. Finally, Mr. Speaker, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, we should not view a proposed amendment to the Constitution of the United States lightly. However, the participants at the constitutional convention were acutely aware of the need to allow for the amendments to the Constitution. During the Constitutional Convention, Colonel Mason urged the necessity of an amendment process claiming that "the plan now formed will certainly be defective, as the Confederation has been found to be. Amendments therefore will be necessary, and it will be better to provide for them, in an easy, regular and Constitutional way than to trust chance and violence."

Likewise, Thomas Jefferson stated "I am not an advocate for frequent changes in laws and constitutions. But laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change. With the change of circumstances, institutions must advance also to keep pace with the times."

The Framers with their infinite wisdom included Article V within the Constitution of the United States. Article V has not been overused. During the course of our history, in addition to the 27 amendments that have been ratified by the required three-fourths of the States, six other amendments have been submitted to the States but not ratified by them. At times the ratification process moves slowly. For example, the 27th amendment to the Constitution was proposed on September 25, 1789, and it was declared ratified on May 18, 1992, nearly 203 years later. Ultimately, this House, the Senate, and the various State legislatures will have thoroughly debated the merits of the supermajority requirement prior to ratification, or rejection, of this proposal.

Mr. Speaker, in my opinion, requiring a supermajority for tax increases is a good idea. My State of Colorado requires a three-fourths supermajority for tax increases by the legislature, and the State of Colorado is doing fine. One-third of all Americans live in States that have tax limitations in their constitutions, and they have curbed the growth of both taxes and debt.

Today, the average American, who works an 8-hour day, will spend the first 2 hours and 46 minutes paying his tax liability. This year, the average American family will pay more in taxes than housing, transportation, recreation, and clothing combined. I do not believe that we should continue to increase the average person's tax burden unless there is broad bipartisan consensus as to the increase being necessary. Any tax measure that could garner the required two-thirds vote would obliviously enjoy wide support from all political parties, and among the people generally. I urge my colleagues to support this rule and the underlying legislation.

Mr. Speaker, I include for the RECORD documents detailing a comparison of the amendment process between the 103d Congress and the 104th Congress.

The information referred to is as follows:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of April 12, 1996]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	60	59
Modified Closed[3]	49	47	26	25
Closed[4]	9	9	16	16
Total	104	100	102	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of April 12, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of April 12, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	A: voice vote (11/14/95).
H. Res. 261 (11/9/95)	C	H.J. Res. 115	Cont. Resolution	A: 223–182 (11/10/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	O	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 229–176 (11/15/95).
H. Res. 273 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	A: 239–181 (11/17/95).
H. Res. 284 (11/29/95)	O	H.R. 1788	Amtrak Reform	A: voice vote (11/30/95).
H. Res. 287 (11/30/95)	O	H.R. 1350	Maritime Security Act	A: voice vote (12/6/95).
H. Res. 293 (12/7/95)	C	H.R. 2621	Protect Federal Trust Funds	PQ: 223–183 A: 228–184 (12/14/95).
H. Res. 303 (12/13/95)	O	H.R. 1745	Utah Public Lands	
H. Res. 309 (12/18/95)	C	H.Con. Res. 122	Budget Res. W/President	PQ: 230–188 A: 229–189 (12/19/95).
H. Res. 313 (12/19/95)	O	H.R. 558	Texas Low-Level Radioactive	A: voice vote (12/20/95).
H. Res. 323 (12/21/95)	C	H.R. 2677	Natl. Parks & Wildlife Refuge	Tabled (2/28/96).
H. Res. 366 (2/27/96)	MC	H.R. 2854	Farm Bill	PQ: 228–182 A: 244–168 (2/28/96).
H. Res. 368 (2/28/96)	O	H.R. 994	Small Business Growth	
H. Res. 371 (3/6/96)	C	H.R. 3021	Debt Limit Increase	A: voice vote (3/7/96).
H. Res. 372 (3/6/96)	MC	H.R. 3019	Cont. Approps. FY 1996	PQ: voice vote A: 235–175 (3/7/96).
H. Res. 380 (3/12/96)	MC	H.R. 2703	Effective Death Penalty	A: 251–157 (3/13/96).
H. Res. 384 (3/14/96)	MC	H.R. 2202	Immigration	PQ: 233–152 A: voice vote (3/21/96).
H. Res. 386 (3/20/96)	C	H.J. Res. 165	Further Cont. Approps	PQ: 234–187 A: 237–183 (3/21/96).
H. Res. 388 (3/20/96)	C	H.R. 125	Gun Crime Enforcement	A: 244–166 (3/22/96).
H. Res. 391 (3/27/96)	C	H.R. 3136	Contract w/America Advancement	PQ: 232–180 A: 232–177, (3/28/96).
H. Res. 392 (3/27/96)	MC	H.R. 3103	Health Coverage Affordability	PQ: 229–186 A: Voice Vote (3/29/96)
H. Res. 395 (3/29/96)	MC	H.J. Res. 159	Tax Limitation Const. Amdmt.	
H. Res. 396 (3/29/96)	O	H.R. 842	Truth in Budgeting Act	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. McINNIS. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my Republican colleagues ought to be ashamed of this rule and this constitutional amendment.

The Constitution of the United States is one of the most carefully crafted and well-respected documents ever created. It's the foundation for the greatest Government on Earth. It is the protection of our freedoms. And it's no place for political theater. But that's what's happening today, Mr. Speaker.

Today my Republican colleagues are staging a legislative fiasco, or, as the New York Times put it, "Staging a vote on an irresponsible measure"—and just in time for tax day. And they know it will go nowhere. Because this ridiculous amendment needs 290 votes to pass the House and luckily that won't happen. So, today's bill is showboating pure and simple and the American people deserve more from their Congress.

They deserve a constitutional amendment that at least has been reported out of a congressional committee, and this bill, House Joint Resolution 169, has never been the subject of a full committee hearing nor has it been reported out.

Mr. Speaker, amending the Constitution is serious business and we should at least know what we are doing.

Mr. Speaker, this issue, the issue of getting a supermajority to raise taxes, has come up three times this Congress. In the beginning of the Congress my Republican colleagues changed the rules to require a three-fifth vote for tax increases. But, every single time that rule came up, my Republican colleagues voted against it.

They ignored it on the so-called Medicare Preservation Act, they ignored it on the Budget Reconciliation Act, and they ignored it on health insurance reform.

If my Republican colleagues think this supermajority idea is so wonderful, why didn't they do it the first three times they had the chance?

Mr. Speaker, they had three times to show they were serious and three times they showed they weren't. They didn't impose on themselves this supermajority that they now want to impose on the Constitution of the United States.

And I would say to my colleagues that it is a lot easier and a lot less dangerous to change the House rules than to change the Constitution of the United States of America.

This amendment, Mr. Speaker, like a lot of other legislation we've seen this Congress, will help the very rich at the expense of lower income working American families.

This amendment to our Constitution will lock in corporate welfare and tax breaks for the very rich at the expense of middle and lower income families.

This amendment will not prevent tax increases on working families. In fact, my Republican colleagues have given themselves a big loophole. They can still increase taxes on working families as long as they also decrease taxes on the very rich.

That means the Republican budget is a-OK. That means that this amendment allows the budget that will give the richest 1 percent of Americans a $15,000 tax break while it raises the taxes on families earning $27,000 a year.

And finally, this rule, Mr. Speaker, is one more restrictive rule in a year of 100 percent restrictive rules.

I urge my colleagues to defeat this rule.

□ 1645

Mr. Speaker, I reserve the balance of my time.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I should just very briefly point out to the gentleman from Massachusetts that according to the study put out by the National Taxpayers Union, more than 25 percent of the revenue the IRS got in 1992 came from 1 percent of the taxpayers. One percent of the taxpayers, the very wealthiest in the country, pay 25 percent of the burden. So this certainly clarifies the confusion on that side of the aisle about what this rule does.

With that, Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules, a gentleman who is well versed. Certainly it is appropriate for him to address some of the issues that have been brought up by the ranking minority member.

Mr. SOLOMON. I certainly thank my colleague from the Rules Committee, a very valuable member of that committee from Colorado.

Mr. Speaker, my good friend from Massachusetts says we ought to know what we are doing before we vote on this bill. Let me tell my good friend from Massachusetts and everybody else within listening ear here, we know exactly what we are doing. We are making it difficult for this Congress to raise taxes on the American people. That is exactly what we are doing.

Let me call attention right at the outset of this debate, and the 3 hours that we will go after this, I want you to watch the people who stand up and oppose this constitutional amendment. I have here a list, a brand new list from the National Taxpayers Union, and I guarantee you that everybody on that side of the aisle that stands up to oppose this will appear as the biggest spenders in the entire Congress.

So keep that in mind: The people that oppose this constitutional amendment are the big spenders that want to continue to stick it to the American people. And those of us that want to make it difficult to raise taxes are those that have the lowest record for voting for big spending programs in this Congress. Now that we have set the parameter, I want all of you to pay attention and keep track as they stand one by one on each side of the aisle.

Now, having said all that, I am rising to support this legislation, Mr. Speaker.

Attempting to amend the Constitution of the United States is a serious and a very historic undertaking. We would not suggest that this approach is any way easy at all, but as future Congresses are forced to deal with budget realities, the bottom line is that there are limited options to reach a balanced budget.

One is to cut spending, and that is the way we ought to be doing it. The other is to raise revenue, either by raising taxes, which we should never do, or improving economic growth. That is the only way that you get new revenues coming into the Federal budget.

A proposed constitutional amendment before the House today is designed to discourage future Congresses from imposing large tax increases unless there is a two-thirds consensus that this is necessary. That is very simple.

Mr. Speaker, the opponents of this constitutional amendment may try to portray it as some sort of unworkable scheme, but we should keep in mind that 10 States that I know of, and maybe there are more, with one-third of the Nation's population already have some sort of supermajority voting requirement regarding taxation, and those States seem to be managing nicely. They do not have any problem. It just takes an overwhelming need to raise taxes before they will vote for it.

Other opponents may argue that in a democracy all votes should be by a simple majority. That sounds nice, but our own U.S. Constitution already provides for two-thirds votes on a number of issues. For example, this proposed amendment to the Constitution, like all constitutional amendments originating in the Congress, will require a two-thirds vote in each House. So that is already a part of the Constitution, and that is what we are proposing to extend here today.

The Constitution also requires a two-thirds vote by each House of Congress to pass any bill over the President's veto. There is another two-thirds requirement. And the Constitution also requires that there be a two-thirds vote to expel a Member. So everywhere in our rules and in the Constitution we have the two-thirds proviso.

Mr. Speaker, the opponents also may argue that the two-thirds vote requirement is only provided in cases of special significance, and that is true. We all admit that. But as Chief Justice John Marshall stated in the case of McCulloch versus Maryland in 1819, listen to this now, "The power to tax involves the power to destroy."

Let me tell you something: We have all but destroyed the American family in this country. When people with incomes of $30,000 and $40,000 and $50,000 or less or more have to work 3 out of every 8 hours of their day just to pay the taxes for the Federal, State, and local governments, let me tell you, that is the power to destroy. That is what we are trying to prevent from happening in the future.

Mr. Speaker, the increasing of the overall tax burden on the American population is a situation of special significance. It is at least as significant as the ratification of a treaty, for example, and the Constitution already requires a two-third vote in the Senate to approve any treaty at all.

Writing in support of this specific constitutional amendment is someone that I admire and respect very much. Columnist George Will wrote last week that "the properly reverent reason for amending the Constitution," and listen to this, "is to revive those of the Framers' objectives that have been attenuated by political developments since the Framers left Philadelphia" way back when. George Will concluded that this proposed constitutional amendment meets that test.

He cites two supporters of the supermajority requirement, John McGinnis of the prestigious Yeshiva University's Cardozo Law School and Michael Rappaport of the University of San Diego Law School, as saying the amendment should be seen as an attempt to revive the original values of the Constitution rather than as a radical innovation.

Mr. Speaker, that is true. The Framers of our Constitution designed a system to "temper simple majoritarianism" with Federalism and the separation of powers, and to protect "that which taxation can threaten—the right to enjoyment of property that results from enterprise."

We do not want to take money away from people, and that is exactly what we have been doing. And yet those values have been undermined by the Supreme Court's expansive interpretation of the commerce clause and by the rules and regulations of the administrative state that have substantially compromised property rights, which is what we all cherish so much, property rights, our own property.

George Will quotes the two legal scholars to the effect that if the supermajority requirement for raising taxes "forces Congress to finance spending with larger deficits that are even more unpopular than higher taxes," what does that mean? "This will induce Congress to spend less than it otherwise would."

Let me repeat that, because that is really what this debate is all about. "This will induce Congress to spend less than it otherwise would." That is what it is all about. George Will echoes these sentiments by saying that "by making tax increases most difficult, a supermajority requirement would force the political class to look to economic growth to raise revenues," and that is where we should be looking.

George Will concludes, and I quote, "Some such amendment could represent reverent restoration of the values embodied in what the Framers did at Philadelphia."

Mr. Speaker, I have to go back to my hero, Ronald Reagan, because in 1981 we rammed through the Reagan revolution. We made such a great beginning.

But in 1982 there were some deficits that were appearing, and the liberals that controlled this Congress back in 1982 went to Ronald Reagan and to me and others and they said, "Mr. Reagan, if you will give us $1 in tax increase, we will guarantee you $2 in spending cuts." Ronald Reagan, being a new kid on the block, bought that. He bought that deal.

And do you know what? He actually signed a tax increase over my objection, but what do you think happened? We did not get a nickel's worth of spending cuts at all. As a matter of fact, we spent $1.29 more than we got in tax revenues coming in. That is what this debate is all about.

If we are ever going to stop this sea of red ink, we are going to make it as difficult as we possibly can in raising taxes on the American people, and that is why I hope everyone comes over here and votes for this rule and then votes for this very important constitutional amendment. Because if we do, and we give the two-thirds vote, that means that the people themselves through their representatives in the State legislatures across this country are going to have a chance to then speak and be heard about ratifying this proposal. Let us give the American people that choice by passing this today.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. I thank the gentleman for yielding. But if he is so intent in passing the supermajority, why did his party three times this year waive the supermajority that they put in themselves in changing the rules? Could the gentleman please answer that question?

Mr. SOLOMON. As the gentleman knows, he has some people on his side of the aisle that would liked to have raised a point of order and the point of order would not have stood but it would have taken up several hours of this body's time. That is the only reason. It did not raise taxes and the gentleman knows it.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I hope I have better luck getting a straight answer.

When the gentleman said that it was the liberals who controlled Congress in 1982 that forced Ronald Reagan to have a tax increase, does he include in that the man who was then chairman of the Republican-controlled Senate Finance Committee, ROBERT DOLE?

The tax bill he is talking about in 1982 was passed by a Democratic House and a Republican Senate with ROBERT DOLE as chairman of the Finance Committee.

Was ROBERT DOLE who passed that tax bill one of those liberals the gentleman is complaining about?

Mr. SOLOMON. No. ROBERT DOLE was asked by Ronald Reagan to go along with that bill because Ronald Reagan thought he could trust the liberals. He found out he could not, and BOB DOLE regrets it to this day.

Mr. MOAKLEY. Mr. Speaker, I yield 10 minutes to the gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. I thank my good friend from Massachusetts for yielding time to me.

Mr. Speaker, I rise in strong opposition to the rule and to the proposed constitutional amendment it makes in order, which would require two-thirds majorities for passage of bills increasing revenues.

□ 1700

Mr. Speaker, many of us believe that the tax limitation constitutional amendment is a foolish idea, but even Members who support it ought to be very troubled by the manner in which the House of Representatives is being asked to consider it today.

Amendments to the U.S. Constitution are the most serious and important measures Congress ever considers, because they propose to change the document that is the very foundation of our Government. Yet this proposed constitutional amendment has not gone through even the minimal preliminary step of being reported by the committee of jurisdiction—the Judiciary Committee—before being brought to the House floor. And, because the amendment has not been reported, there is no committee report available discussing the reasons for the legislation.

In fact, only one hearing was held on this subject in the Judiciary Committee—in one of its subcommittees—and that was on a measure that was significantly different from the one that we are to consider today. This new proposal was introduced on March 28, just 1 day before the House recessed for 2 weeks; and its only airing was in the Rules Committee the following day, as Members were preparing to leave Washington for their home districts.

Even worse, this amendment will be debated at a time when Members are just returning from their districts after the 2-week recess, and have not yet had a chance to focus on this proposal, and to consider the merits of the arguments on both sides.

Why is so important a measure as this being debated under such circumstances? For one simple reason: because its proponents believe they will get some public-relations benefit by holding this vote on April 15, the day many Americans identify with paying taxes.

The Republican leaders are so intent on holding this vote on April 15, to get publicity as part of today's tax-related news stories, that they are willing to violate the normal legislative process to do so.

And, the Republican leadership is holding this debate today knowing full well that they will not come close to obtaining the two-thirds vote necessary to pass this measure.

This is a cynical strategy that demeans the U.S. Congress by using the floor of the House of Representatives as a stage for a public-relations stunt, and the debases the U.S. Constitution by using a proposed amendment to it as a stage prop. That is a disgraceful misuse of the legislative process.

It is also more different than anything could be from the careful, thoughtful debate of 1787–1788 of the authors of the Constitution. If more members had read any of their debates, we would never dishonor them by attempting to overthrow what they had one in such an arrogant and thoughtless manner.

If we care at all about the Constitution we all swore to uphold, we would never consider bringing such an important proposal to the floor in the slipshod and disgraceful way that has been followed here. I cannot conceive of anyone being so disrespectful of the men who devoted themselves to creating the great document that has bound us all together so successfully now for more than 200 years than the very manner in which this matter has been thus far considered—and is being presented to the entire House for its final consideration here today.

Beyond the circumstances under which this amendment is being considered, the proposal itself is extremely unwise, which perhaps explains why the committee of jurisdiction refused to act on it.

The primary reason we ought to reject this amendment is that it violates the principle of majority rule, which is at the heart of our democratic form of government. By requiring two-thirds of each House to agree on bills that increase revenues, it would hand control over tax policy—one of Congress's most important responsibilities—to a one-third minority in each House.

Currently, the Constitution requires two-thirds majorities for only five kinds of measures: Presidential impeachment, expulsion of House or Senate Members, ratification of treaties, overriding a veto, and amending the

Constitution. This amendment would for the first time require two-thirds majority for passage of ordinary, regular legislation.

Since the committee did not take the time to look carefully at the issue which is being presented to us today, perhaps it might be useful and of some benefit to Members if we were to consider that those who wrote our Constitution, and fought to have it adopted, thought about this very matter.

Mr. Speaker, let me read just very briefly, if I may, from two of the issues of the Federalist, the first being No. 22, written by Mr. Hamilton, published in December of 1787, in part, to give a minority a negative upon the majority, which is always the case where more than a majority is requisite to a decision is in its tendency to subject the sense of the greater number to that of the lesser. This is one of those refinements which, in practice, has in effect the reverse of what is expected from it in theory, the necessity of unanimity in public bodies or of something approaching towards it has been founded upon a supposition that it would contribute to security but its real operation is to embarrass the administration, to destroy the energy of the government and to substitute the pleasure, caprice, or artifices of an insignificant, turbulent or corrupt junto to the regular deliberations and decisions of a respectable majority. In those emergencies of the Nation in which the goodness or badness or weakness or strength of the government is of greatest importance, there is commonly a necessity for action. The public business must in some way or other go forward.

If a pertinacious minority can control the opinion of a majority respecting the best mode of conducting it, the majority in order that something may be done, must then conform to the views of the minority. Thus the sense of the smaller number will overrule that of the greater and give a tone to the national proceedings different from that of the majority. Hence tedious delays, continual negotiations and intrigue, contemptible compromises of the public good.

Secondly, from Federalist paper No. 58, published in February 1788, attributed to both Mr. Hamilton and to Mr. Madison, but which scholars now seem to believe was most likely written by Mr. Madison, here too, Mr. Speaker, I read just a small part. I quote: If has been said that more than a majority ought to have been required for a quorum; in particular cases, if not in all, more than a majority of a quorum for a decision. That some advantages might have resulted from such a precaution cannot be denied. It might have been an additional shield to some particular interests and another obstacle generally to hasty and partial measures, but these considerations are outweighed by the inconveniences in the opposite scale in all cases where justice or the general good might require new laws to be passed or active measures to be pursued, the fundamental principle of free government would be reversed. It would no longer be the majority that would rule. The power would be transferred to the minority, where the defensive privilege limited in particular cases, an interested minority might take advantage of it to screen themselves from equitable sacrifices to the public wheal or in particular emergencies to extort unreasonable indulgences.

Mr. Speaker, two additional comments, if I may, which I believe are relevant:

No. 1, it is useful to recall that the reluctance of the Framers of the Constitution to including supermajority provisions in the Constitution was largely due to the ineffectiveness of the Articles of Confederation which they were drafted to replace. The articles required a supermajority for both taxing and spending, and the fact that it was so difficult to pay off debts from the Revolutionary War and to pay for the regular national expenditures thereafter was the main reason for the downfall of the Articles of Confederation. For that reason, the Philadelphia Convention chose to reject proposals to impose supermajorities in legislative fields of even special sensitivity and concern, reserving them for the five specific and special areas we have heretofore mentioned.

No. 2, the Founding Fathers were willing to accept the fact that Congresses in the future might use poor judgment at times and pass harmful laws by a majority vote—but they believed so deeply in the principle of majority rule, that they placed that principle above whatever personal concerns they had that the majority at times would act in a manner contrary to their own feelings.

And, finally, in Federalist No. 30, Hamilton argued that taxation is a necessity "in one shape or another," and that any effort to weaken the power to tax is to minimize what he referred to as "the most important of the authorities" of government.

For these reasons and many others which I will submit in the form of extended remarks, Mr. Speaker, I strongly oppose this proposal. I urge Members to vote down the rule. That is not the way to bring a constitutional amendment before this body.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say to the gentleman from California, put this in real simple terms. We are talking about taxes, taxes, and taxes. You know, taxes do not need rain. Taxes do not need fertilizer to grow. All they need are politicians.

What we are trying to do with this two-thirds, which I live in a State which exercises that, what we are trying to do is put a speed bump in front of politicians that want to continue to increase taxes in this country. It is not going to stop the opportunity from funding the Federal Government. Obviously, that is important. It is going to make you slow down before you hit that speed bump. If you go over it at the proper speed, you are going to get through it. If you do not go over it at the proper speed, it means you are raising taxes too much.

I think April 15 is a very appropriate time for people to be considering, gosh, how much further are we going to let the Federal Government go, how much deeper into our pockets are we going to let them get. This proposal we have today was called by the gentleman from California a stage prop, sinful, slipshod.

You know, what we are attempting to do, one thing, we are attempting to give this to the States, every State in the Union, that is what this Constitution says, they are entitled to debate it. One debate took 203 years. We want every State, we want thousands of elected officials to debate this with the constituents they represent. That is all we are trying to do today. This does not automatically put a two-thirds limitation on the United States of America. It says to the States of the United States of America, here, States, we want you to debate this, here States, here is the opportunity under this Constitution, under Jefferson and so on, to debate it.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BARTON], who is well versed in this area.

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in strong support of the rule to bring up the tax limitation amendment this evening for floor consideration.

I would like to point out, under the rule the minority party has an opportunity to offer a substitute if they so wish. So, if they have a problem with specific language in the amendment, they will be given an opportunity to offer their own language. It is my understanding they are not going to do so.

The distinguished member, the ranking member of the Committee on Rules, Mr. MOAKLEY, said in his remarks earlier that this is irresponsible. I would take exception to that and say, Mr. Speaker, that this is the most responsible thing we could do on tax day, 1996.

For over 125 years of this Nation's history, we had tax limitation in the Constitution. It was not a supermajority vote requirement, it was a requirement that all tax bills had to originate in the House of Representatives, that are the people's body most closely related to the people and elected for 2-year terms. Unfortunately, in 1913 we passed the 16th amendment to the Constitution that said an income tax was constitutional.

The marginal tax rate in that first income tax bill in 1913 was 1 percent. Today it is 39.8 percent. That is an increase of 4,000 percent in the marginal tax rate on the American people. In 1913, less than 1/10th of 1 percent of the American people had to pay ever 1 percent. Today, literally every American working has to pay some sort of income tax, and as we speak on the floor, 10 minutes after 5, April 15, 1996, it is 10 after 4 in Texas, 10 after 3 in Colorado, 10 after 2 in California, there are millions of American taxpayers, one-third of all American taxpayers do not file their tax return until the last 2 weeks. There are millions of Americans as we speak scrambling to fill out their taxes, to file an extension, to understand the Tax Code, and every one of those, I think, with almost no exception, is saying my taxes are too high. Sixty percent of working families in this country, both spouses have to work. Of those that are single-parent families, over half of them have to have two jobs. Is it not time to say enough is enough? A 4,000 percent increase on working Americans in their marginal tax rate should be enough for even the biggest-spending liberal in this body.

Let us vote for the two-thirds tax limitation later this evening, send it to the Senate, send it to the States, where three-fourths of them are necessary to ratify it, and begin to focus where we should have focused on all along, and that is on spending limitation, not on tax increases.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. RANGEL].

☐ 1715

Mr. RANGEL. Mr. Speaker, not too long ago, when there was a different majority, we used to have a little pamphlet called How to pass a law. I know the freshmen had a chance to read it before they took it off. But it used to go something like this: A Member introduces a bill. It is forwarded to a committee. The committee assigns the bill to a subcommittee. They have hearings on the bill and people who are for it and against it, they listen to the testimony. Then the committee members amend it, they change it. But when they pass it, they take it up to the full committee.

The full committee, they too sometimes have hearings, and they have people to listen to it, to see whether it makes sense. Then they amend it and they report it to the floor. And that is the way it used to be, before the new rules come in.

Nothing goes to the committees anymore. You can sit on the subcommittee, the full committee, and all you have to do is be in the back room with the Speaker and let someone have a great idea and pass it to my dear friend, the gentleman from New York, Mr. SOLOMON, and Mr. SOLOMON brings it to the floor.

I do not mind that. When you lose, you are entitled to be subjected to this type of legislative oppression. I never complain. But do not mess with my Constitution. Do not do that to the American people. Do not send it to a public relations firm on the day that we are supposed to pay taxes, and to believe that this document that allowed our country to survive for 200 years can now be distorted just because you are down in the polls and you are trying to make a couple of points.

No, no, no, no. The Committee on the Judiciary has jurisdiction over this, and the chairman of the Committee on the Judiciary should be entitled to have hearings with scholars, with judges, and with those people who hold this document precious.

Mr. Speaker, oh, it is a good gimmick. I would use it if I could. But the thing is that I would not use it on the floor, not to be a hoaxer to the American people to believe that this is going to become law and we are going to change the Constitution.

We can take a lot of tomfoolery, we can take a lot of jokes, a lot of hoax, a lot of hypocrisy, but somewhere in your hearts you know that, when you want to amend that precious and sacred document called the U.S. Constitution, that at least the committee of jurisdiction should hear it, should have hearings, and report back to the House.

Mr. Speaker, I know it is an election year. I know it has been done before. We like to have flat taxes. We like to have fair taxes; we like to make certain that everyone pays an equal amount. But when the time comes, since you have the votes to put in a bill, to have hearings on the bill and to vote if you want the flat tax, vote for it. You have the votes to pass anything you want in taxes. But I warn you, do not mess with our Constitution. Do not do that to this Congress or to the American people.

Mr. MOAKLEY. Mr. Speaker, I yield 6 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I am honored to follow the gentleman from New York, because he laid out what we are talking about: A political trick being played with the Constitution as a prop, and that ought to be beyond the pale.

Mr. Speaker, what we have here is the most outrageous abuse of the procedures I have seen in 16 years. Here is what happened.

This constitutional amendment was presented in a hearing to the Judiciary subcommittee on which I sit. At the hearing, the chairman of the full Committee on the Judiciary, the gentleman from Illinois [Mr. HYDE], was unable to conceal his lack of belief in this amendment. He was quite critical of it.

As the hearing proceeded, this was the original amendment which is still the one they plan to vote on in the Senate, it became clear under the amendment they originally presented, to go to a flat tax in the income tax, or to go to a sales tax, or to give the President the power to impose a countervailing tariff on a Nation discriminating against our project, all of those would have required two-thirds. There was some disagreement among the sponsors, but they agreed to that.

So what happened then? Well, it was clear from listening to several of the Republicans on the subcommittee that they did not have the votes to get it out of subcommittee. So there was no markup on this in subcommittee, there was no markup in committee. Instead, a private conference was held with the chairman of the Committee on Ways and Means, who to his credit thought the original amendment was really stupid. And it was.

Mr. Speaker, the hearing showed it to be stupid. It did all kinds of things, and I mean stupid in that it did all kinds of things the original sponsors did not mean it to do. So it has been totally changed.

We now have an amendment before us which is wholly different than the one that was originally introduced. This amendment has had no hearings, because we had one hearing which showed a great flaw in the original amendment. They were so embarrassed and the chairman of the Committee on Ways and Means said they cannot do this, so they came up with a whole new one. They did not learn from their mistakes. They learned if you are going to have a stupid amendment, do not have a hearing on it. Because this one did not have a hearing.

They could not defend the original one in the hearing, so they bring this one forward, and it had no hearing, no markup, nothing. It came out of the private set of conversations.

I talked to one of the sponsors of the bill today after it had been rewritten. He said I have not seen it yet.

The chairman of the Committee on Rules quoted George Will. George Will wrote in his column supporting this amendment that the language of this version is problematic. George Will asks us to vote for a constitutional amendment that is problematic.

Now, George Will, with whom I disagree, does not want to put problematic language into the Constitution. Obviously he thinks this is a good political gimmick and that is why he talks about it. Why else would he say pass something that is problematic?

Here is one of the things problematic about it. It would require, according to the majority's own views, two-thirds to cut the capital gains tax. I heard a little colloquy before in which one of the sponsors of the amendment said, well, not necessarily. The Congressional Budget Office does not score it that way.

Mr. Speaker, that was not an answer. Let me put this within the rules. That was not an answer consonant with the reality of the facts of the situation. The facts of the situation are that this amendment does not give CBO that authority. CBO is irrelevant. This amendment says by a method to be determined, we will require two-thirds if that method says that has got a reasonable chance of raising revenues more than de minimis.

Never have we seen such imprecise language in the Constitution. I have more respect for my friends than to think they are serious about putting this kind of sloppiness into the Constitution. But it does show what a political game this is.

But what they say is that, if it raises the revenues, well now, they believe every single sponsor of this believes that cutting the capital gains tax raises revenues. If you put up a board that reflected their views, that board would rule that it needed a two-thirds vote to reduce the capital gains tax.

Now, I guess their view is this: They will be in control, a group that believes that reducing the capital gains tax will raise revenue will be in control, they will propose such a thing, and then they will set up a board which will rule contrary to their rule that it will cut the revenues. Obviously it will not happen.

The reference to CBO was not a legitimate intellectual response, because CBO has no role under this amendment and the people who will be in control at the time that a tax bill is proposed will be the ones to deal with it.

The fundamental problem we have is this: The right wing group that has taken over the Congress, because they are a majority of the minority, or a minority of the majority, but a very intense one, they have control; the ideological right wing group that has taken over has recognized that their viewpoint is not supported by the majority.

The majority does not like their attacks on Medicare, their attacks on Medicaid, their attacks on the environment. It does not like those. The majority did not even like their tax cut. If you poll them, they said we are serious about balancing the budget, unlike some who want to use it as a game.

What they are trying to do is change the rules, if they are successful, so the temporary majority they got in 1994 would continue to govern long after it has been repudiated at the polls. What this says is if the majority of the American people decide 10 years from now they would like to spend more money on the higher education, the environment, defense, or anything, tough. Because we, having gotten control now, will change the rulings.

But even on those terms, they had a hard time coming up with an amendment. And this amendment, which has never had a hearing and never had a committee vote, which is problematic in its language, according to George Will, which would require you to get a two-thirds vote to cut the capital gains tax, is a disgrace.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while it is interesting to hear the gentleman from Massachusetts refer to the right wing, I would remind the gentleman from Massachusetts that this concept is supported by 68 percent of the Federal employees, that this concept is supported by 71 percent of the union workers.

Now, the gentleman from Massachusetts makes a very eloquent speech about how this is not getting a fair hearing. If the gentleman from Massachusetts wants to get this proposal a fair and a complete hearing, he will vote for this. You know why? Because if he votes for it and we get the necessary votes, we can send it to the 50 States.

If you want a fair hearing, if the gentleman from Massachusetts really wants a complete hearing, he will get it out here to every State in the Union, in which, during the process of ratification, thousands and thousands of elected officials will have the opportunity to listen to their constituents, who frankly think their taxes are awful high.

Mr. Speaker, I yield 3 minutes to the gentleman from Arizona [Mr. SHADEGG].

Mr. SHADEGG. Mr. Speaker, I thank my colleague from Colorado for yielding me time.

Mr. Speaker, I rise in strong support of this constitutional amendment. It is an amendment whose time has come. It has well embodied the principle that enough is enough. Six times since 1980 this Congress has raised taxes on the American people. In 1993, the largest of those tax increases passed with the barest of majorities.

There is a simple premise behind this constitutional amendment, a premise embraced by 73 percent of all Americans, a premise adopted by the 10 States that already have a constitutional amendment requiring a supermajority, indeed, the 10 States whose population represents one-third of all Americans, and that is the premise that the U.S. Congress needs to be more responsible about spending the tax dollars it takes from American taxpayers.

If you believe in that premise, then you should not oppose this amendment, but support it. Because by making it somewhat more difficult to raise taxes yet again, we will force on this Congress a level of fiscal discipline which has been missing. Indeed, if you look at this Congress and the past Congresses, our record of fiscal discipline, of spending cuts, is abysmal.

The gentleman earlier on the other side referred to George Will and implied that Mr. Will had criticized the language of this amendment. But he omitted the conclusion of Mr. Will. And the conclusion of Mr. Will at several of the different points in his article was that this was indeed a good amendment. He said:

> The properly reverent reason for amending the Constitution is to revive those of the framers' objectives that have been attenuated by political developments since the framers left Philadelphia.

Mr. Will continues:

> Such am amendment will be voted on by the House on Monday April 15, tax day. Such an amendment could represent a restoration of the values embodied in what the framers did in Philadelphia.

This is indeed not an extreme amendment. I would cite the words of a professor from Cardozo Law School and the University of San Diego Law School who said:

> The amendment should be seen as an attempt to revive the original values of the Constitution, rather than as a radical innovation.

In a Nation where the average American family spends more on taxes than on food, clothing and shelter combined, this is not a radical amendment of the extreme right. It is an amendment supported by labor, it is an amendment supported by rank and file Democrats, it is an amendment whose time has come, and I urge its passage.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, the concept is popular, but the problem Members cannot seem to get through their heads there is we do not deal just in concepts. We have to deal in reality. We are amending the Constitution of the United States. We are creating litigation, we are creating rights, we are dealing with the basic law.

I did not imply that George Will was critical. I quoted George Will. He said the language was problematic. That is in response to the gentleman from Colorado, who says, and of all the silly arguments, I think this is the silliest we get today, oh, vote on the constitutional amendment; and you should vote yes, even if you disagree with it, because you leave it to the people.

Of course, when we vote on the Equal Rights Amendment, that argument disappears. When we vote on a lot of others, that argument disappears. No, you are supposed to vote on it, whether you agree with it or not.

Here is the problem: It will not get a fair hearing in the States because they cannot change it. The point I am making is on its own terms, it is stupid. It does not do what the gentleman wanted it to do. If we had a markup and a hearing we might be able to do that. The States cannot change it.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, my question is, If you do not agree with the language but you agree with the concept, is there going to be alternative language offered by the Democrat minority?

Mr. FRANK of Massachusetts. Mr. Speaker, reclaiming my time, I would say no, because we have not had the time to do that. We have not had a markup. You know, these rules that we have of hearings, and we have had no hearings on this language, of markups, these are not games. There is a reality to them. People that care about something come together and talk and bounce it off.

I am not going to play the kind of game you play. No, there was not in the 2 weeks, all of which was recessed, during which we could see the new language, which replaced your original wholly inadequate language, your original language was repudiated on your side, so they had to come up with whole new language, it has similar kinds of problems, and you have studiously avoided subjecting any of this language to any of the legislative procedures that would test it.

So, no, we are not going to be able to in this short period of time under this gun play that kind of game with the Constitution.

□ 1730

Mr. McINNIS. Mr. Speaker, I ask for a report on the balance of time remaining.

The SPEAKER pro tempore (Mr. EWING). The gentleman from Colorado [Mr. McINNIS] has 6½ minutes remaining, and the gentleman from Massachusetts [Mr. MOAKLEY] has 5 minutes remaining.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman for yielding me time, and I am reluctant to get into this high-powered debate. But I do sit on the Committee on the Judiciary, and I sit on the Subcommittee on the Constitution of the Committee on the Judiciary, and I will tell my colleagues that this bill has not come to either one of those committees for hearings or consideration. It was simply brought to the floor so that we could deal with it on April 15, tax day, so that it could be the backdrop for a political debate on an issue that really needs substantive deliberate consideration.

Mr. Speaker, Members may think that we are playing games when we talk about representation and majority rule, but that is what the entire concept of our country is based on. Each one of us, as Members of this body, is sent here to represent a different constituency, to bring our input to bear from that constituency on every problem that comes to America. When we talk about doing away with the concept of majority rule, what we are doing is undermining the basic fabric and principle of the Constitution and the democracy that we are sent here to represent. So this whole notion that we can take one-third or one-fourth of our Members and tie up the whole process and make them a majority is counter democratic.

Mr. Speaker, I have been arguing with my colleagues all this term that this whole concept of undermining the Constitution is not a conservative concept. Conservative government is based on the Constitution, and not withstanding that, these revolutionaries who call themselves conservatives have four times, during the course of this Congress, come to us and said let us do away with the Constitution that we believe in so dearly, that we are sent here to preserve.

Mr. Speaker, I think we ought to vote down this rule and vote down the bill and send it back for a proper consideration and deliberation.

Mr. McINNIS. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman from Colorado [Mr. McINNIS] for yielding me the time.

Nowadays when you speak up for something the American people want, they call you a revolutionary. I do not think that is a pejorative. I think that is a praiseworthy word now. We need to, I think, focus on the issue. The real issue today is April 15 and it is tax day.

The Federal Government's bite has grown larger and more painful over the years. Today, the average American has to work from January 1 to May 6 just to earn money to pay his or her taxes. That is not fair. Today the average American family has to pay nearly 40 cents out of every dollar it earns for taxes. That is up in the Federal Government by some month more than it was just 10 years ago. What is interesting to me, I read in the paper over the weekend that our Committee on Ways and Means, some 40 people only 6 fill out their own taxes, some 15 percent. That means our tax system is too complicated. If the people who write the taxes here, legislation here in Congress, if this legislation is too complicated for the people in the Congress, can you imagine what it must be for the American people?

Mr. Speaker, this is a vote whose time has come and today is the appropriate day, and I appreciate the Committee on Rules bringing this legislation up so we can vote on it for the American people.

Mr. McINNIS. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from Colorado for yielding me the time.

Mr. Speaker, I rise in strong support of this rule and in strong support of this proposed constitutional amendment, because there is nothing extreme about allowing the American people to hang on to more of their hard-earned money, and there is nothing nonsensical about requiring a supermajority to raise taxes. Indeed, history has proven all too eloquently in recent years that this institution has raised taxes time and again to the point that over the past few years, for every dollar raised in new taxes, Congress spends $1.59.

Mr. Speaker, this is a great idea whose time has come. Just as Arizona and several other States of the Union have put provisions such as this in their respective State constitutions, I rise in full support of doing the same thing in our Federal Constitution. As we have seen the cost of government grow 13,500 percent since enactment of the 16th amendment, we stand on the rights of taxpayers. We stand on the rights of the American people. We stand for this rule. And we stand for this amendment.

Mr. MOAKLEY. Mr. Speaker, every single rule the House has adopted this session has been a restrictive rule; you heard that correctly, the Republican House has so far adopted 100 percent restrictive rules in this session. And if it is adopted, the rule before us will leave that 100 percent purely restrictive rules record intact.

This is the 66th restrictive rule reported out of the Rules Committee this Congress.

In addition 73 percent of the legislation considered this session has not been reported from committee—11 out of 15 measures brought up this session have been unreported.

Mr. Speaker, I include the following extraneous material for the RECORD.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes; PQ	2R; 4D.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 101	To transfer a parcel of land to the Taos Pueblo Indians of New Mexico.	H. Res. 51	Open	N/A.
H.R. 400	To provide for the exchange of lands within Gates of the Arctic National Park Preserve.	H. Res. 52	Open	N/A.
H.R. 440	To provide for the conveyance of lands to certain individuals in Butte County, California.	H. Res. 53	Open	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference; PQ	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision; PQ.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered; PQ.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R.
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language; PQ.	3D; 1R.
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins; PQ.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget; PQ.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments; PQ.	5R; 4D; 2 Bipartisan.
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ); PQ.	N/A.
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr; PQ.	N/A.
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment; PQ.	N/A.
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min. each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments; PQ.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority; PQ.	N/A.
H.R. 1977	Interior Appropriations	H. Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority; PQ.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority; PQ.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments pre-printed before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority; PQ.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 0f rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority; PQ. ***RULE AMENDED***.	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; Makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title.	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min.); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	1D.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliely amendment (30 min.) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bi-partisan.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; Provides that the first order of business will be the managers amendments (10 min.), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title; PQ.	N/A.
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate. makes in order the committee substitute as original text	N/A.
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional Record.	N/A.
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A.
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A.
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A.
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min.) If adopted, it is considered as base text; Pre-printing gets priority; PQ.	N/A.
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D.
H.R. 743	The Teamwork for Employees and managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A.
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A.
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A.
H.J. Res. 108	Making Continuing Appropriations for FY 1996	H. Res. 230	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A.
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a senate hook-up after adoption.	1D.
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes); PQ.	1D.
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A.
H.R. 2491 H. Con. Res. 109	7 Year Balanced Budget Reconciliation Social Security Earnings Test Reform.	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pints of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes); PQ.	1D.
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A.
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min.); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min.); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A.
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 257	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	N/A.
H.R. 2586	Temporary Increase in the Statutory Debt Limit	H. Res. 258	Restrictive; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee; self-executes 4 amendments in the rule; Solomon, Medicare Coverage of Certain Anti-Cancer Drug Treatments, Habeas Corpus Reform, Chrysler (MI); makes in order the Walker amend (40 min.) on regulatory reform.	5R.
H.R. 2539	ICC Termination	H. Res. 259	Open; waives section 302(f) and section 308(a)	

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 261	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H.R. 2586	Temporary Increase in the Statutory Limit on the Public Debt	H. Res. 262	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H. Res. 250	House Gift Rule Reform	H. Res. 268	Closed; provides for consideration of the bill in the House; 30 min. of debate; makes in order the Burton amendment and the Gingrich en bloc amendment (30 min. each); waives all points of order against the amendments; Gingrich is only in order if Burton fails or is not offered.	2R.
H.R. 2564	Lobbying Disclosure Act of 1995	H. Res. 269	Open; waives cl. 2(l)(6) of rule XI against the bill's consideration; waives all points of order against the Istook and McIntosh amendments.	N/A.
H.R. 2606	Prohibition on Funds for Bosnia Deployment	H. Res. 273	Restrictive; waives all points of order against the bill's consideration; provides one motion to amend if offered by the Minority Leader or designee (1 hr non-amendable); motion to recommit which may have instructions only if offered by Minority Leader or his designee; if Minority Leader motion is not offered debate time will be extended by 1 hr.	N/A.
H.R. 1788	Amtrak Reform and Privatization Act of 1995	H. Res. 289	Open; waives all points of order against the bill's consideration; makes in order the Transportation substitute modified by the amend in the report; Bill read by title; waives all points of order against the substitute; makes in order a managers amend as the first order of business, if adopted it is considered base text (10 min.); waives all points of order against the amendment; Pre-printing gets priority.	N/A.
H.R. 1350	Maritime Security Act of 1995	H. Res. 287	Open; makes in order the committee substitute as original text; makes in order a managers amendment which if adopted is considered as original text (20 min.) unamendable; pre-printing gets priority.	N/A.
H.R. 2621	To Protect Federal Trust Funds	H. Res. 293	Closed; provides for the adoption of the Ways & Means amendment printed in the report. 1 hr. of general debate; PQ.	N/A.
H.R. 1745	Utah Public Lands Management Act of 1995	H. Res. 303	Open; waives cl 2(l)(6) of rule XI and sections 302(f) and 311(a) of the Budget Act against the bill's consideration. Makes in order the Resources substitute as base text and waives cl 7 of rule XVI and sections 302(f) and 308(a) of the Budget Act; makes in order a managers' amend as the first order of business, if adopted it is considered base text (10 min).	N/A.
H.Res. 304	Providing for Debate and Consideration of Three Measures Relating to U.S. Troop Deployments in Bosnia.	N/A	Closed; makes in order three resolutions; H.R. 2770 (Dorman), H.Res. 302 (Buyer), and H.Res. 306 (Gephardt); 1 hour of debate on each.	1D; 2R.
H.Res. 309	Revised Budget Resolution	H. Res. 309	Closed; provides 2 hours of general debate in the House; PQ	N/A.
H.R. 558	Texas Low-Level Radioactive Waste Disposal Compact Consent Act	H. Res. 313	Open; pre-printing gets priority	N/A.
H.R. 2677	The National Parks and National Wildlife Refuge Systems Freedom Act of 1995.	H. Res. 323	Closed; consideration in the House; self-executes Young amendment	N/A.
PROCEDURE IN THE 104TH CONGRESS 2D SESSION				
H.R. 1643	To authorize the extension of nondiscriminatory treatment (MFN) to the products of Bulgaria.	H. Res. 334	Closed; provides to take the bill from the Speaker's table with the Senate amendment, and consider in the House the motion printed in the Rules Committee report; 1 hr. of general debate; previous question is considered as ordered. ** NR; PQ.	N/A.
H.J. Res. 134 H. Con. Res. 131	Making continuing appropriations/establishing procedures making the transmission of the continuing resolution H.J. Res. 134.	H. Res. 336	Closed; provides to take from the Speaker's table H.J. Res. 134 with the Senate amendment and concur with the Senate amendment with an amendment (H. Con. Res. 131) which is self-executed in the rule. The rule provides further that the bill shall not be sent back to the Senate until the Senate agrees to the provisions of H. Con. Res. 131. ** NR; PQ.	N/A.
H. R. 1358	Conveyance of National Marine Fisheries Service Laboratory at Gloucester, Massachusetts.	H. Res. 338	Closed; provides to take the bill from the Speakers table with the Senate amendment, and consider in the house the motion printed in the Rules Committee report; 1 hr. of general debate; previous quesetion is considered as ordered. ** NR; PQ.	N/A.
H.R. 2924	Social Security Guarantee Act	H. Res. 355	Closed; ** NR; PQ	N/A.
H.R. 2854	The Agricultural Market Transition Program	H. Res. 366	Restrictive; waives all points of order against the bill; 2 hrs of general debate; makes in order a committee substitute as original text and waives all points of order against the substitute; makes in order only the 16 amends printed in the report and waives all points of order against the amendments; circumvents unfunded mandates law; Chairman has en bloc authority for amends in report (20 min.) on each en bloc; PQ.	5D; 9R; 2 Bipartisan.
H.R. 994	Regulatory Sunset & Review Act of 1995	H. Res. 368	Open rule; makes in order the Hyde substitute printed in the Record as original text; waives cl 7 of rule XVI against the substitute; Pre-printing gets priority; vacates the House action on S. 219 and provides to take the bill from the Speakers table and consider the Senate bill; allows Chrmn. Clinger a motion to strike all after the enacting clause of the Senate bill and insert the text of H.R. 994 as passed by the House (1 hr) debate; waives germaneness against the motion; provides if the motion is adopted that it is in order for the House to insist on its amendments and request a conference.	N/A.
H.R. 3021	To Guarantee the Continuing Full Investment of Social security and Other Federal Funds in Obligations of the United States.	H. Res. 371	Closed rule; gives one motion to recommit, which if it contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	N/A.
H.R. 3019	A Further Downpayment Toward a Balanced Budget	H. Res. 372	Restrictive; self-executes CBO language regarding contingency funds in section 2 of the rule; makes in order only the amendments printed in the report; Lowey (20 min), Istook (20 min), Crapo (20 min), Obey (1 hr); waives all points of order against the amendments; give one motion to recommit, which if contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	2D/2R.
H.R. 2703	The Effective Death Penalty and Public Safety Act of 1996	H. Res. 380	Restrictive; makes in order only the amendments printed in the report; waives all points of orer against the amendments; gives Judiciary Chairman en bloc authority (20 min.) on enblocs; provides a Senate hook-up with S. 735. ** NR.	6D; 7R; 4 Bipartisan.
H.R. 2202	The Immigration and National Interest Act of 1995	H. Res. 384	Restrictive; waives all points of order against the bill and amendments in the report except for those arising under sec. 425(a) of the Budget Act (unfunded mandates); 2 hrs. of general debate on the bill; makes in order the committee substitute as base text; makes in order only the amends in the report; gives the Judiciary Chairman en bloc authority (20 min.) of debate on the en blocs; self-executes the Smith (TX) amendment re: employee verification program; PQ.	12D; 19R; 1 Bipartisan.
H.J. Res. 165	Making further continuing appropriations for FY 1996	H. Res. 386	Closed; provides for the consideration of the CR in the House and gives one motion to recommit which may contain instructions only if offered by the Minority Leader; the rule also waives cl 4(b) of rule XI against the following: an omnibus appropriations bill, another CR, a bill extending the debt limit. ** NR.	N/A.
H.R. 125	The Gun Crime Enforcement and Second Amendment Restoration Act of 1996.	H. Res. 388	Closed; self-executes an amendment; provides one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee. ** NR.	N/A.
H.R. 3136	The Contract With America Advancement Act of 1996	H. Res. 391	Closed; provides for the consideration of the bill in the House; self-executes an amendment in the Rules report; waives all points of order, except sec. 425(a)(unfunded mandates) of the CBA, against the bill's consideration; orders the PQ except 1 hr. of general debate between the Chairman and Ranking Member of Ways and Means; one Archer amendment (10 min.); one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee; Provides a Senate hookup if the Senate passes S. 4 by March 30, 1996. **NR.	N/A.
H.R. 3103	The Health Coverage Availability and Affordability Act of 1996	H. Res. 392	Restrictive: 2 hrs. of general debate (45 min. split by Ways and Means) (45 split by Commerce) (30 split by Economic and Educational Opportunities); self-executes H.R. 3160 as modified by the amendment in the Rules report as original text; waives all points of order, except sec. 425(a) (unfunded mandates) of the CBA; makes in order a Democratic substitute (1 hr.) waives all points of order, except sec. 425(a) (unfunded mandates) of the CBA, against the amendment; one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee; waives cl 5(c) of Rule XXI (requiring 3/5 vote on any tax increase) on votes on the bill, amendments or conference reports.	N/A.
H.J. Res. 159	Tax Limitation Constitutional Amendment	H. Res. 395	Restrictive; provides for consideration of the bill in the House; 3 hrs of general debate; Makes in order H.J. Res. 169 as original text; allows for an amendment to be offered by the Minority Leader or his designee (1 hr) ** NR.	1D.

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* Contract Bills, 67% restrictive; 33% open. ** All legislation 1st Session, 53% restrictive; 47% open. *** All legislation 2d Session, 95% restrictive; 5% open. **** All legislation 104th Congress, 66% restrictive; 34% open. ***** NR indicates that the legislation being considered by the House for amendment has circumvented standard procedure and was never reported from any House committee. ****** PQ Indicates that previous question was ordered on the resolution. ******* Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103d Congress. N/A means not available.

Mr. MOAKLEY. Mr. Speaker, I yield the balance of my time to the gentleman from Colorado [Mr. SKAGGS].

The SPEAKER pro tempore. The gentleman from Colorado [Mr. SKAGGS] is recognized for 3 minutes.

Mr. SKAGGS. Mr. Speaker, I thank the gentleman for yielding me the time.

Earlier in this debate, I asked the distinguished chairman of the Committee on Rules if he might yield, and he indicated that I should await my time, which has now come. The gentleman knows the rules, because he followed the rules in bringing the flag desecration amendment to this House. That was, as I recall, properly considered in the Committee on the Judiciary, was the subject of hearings and markup, then was brought to the Committee on Rules.

The gentleman from New York, earlier in this hour, observed that this is important and serious business, amending the Constitution of the United States. And I would simply ask the distinguished Chairman of the Rules Committee, would it not have been proper and better procedure for this proposal to have at least had a hearing in the Committee on the Judiciary, so that the implications of these words, which have otherwise received no hearing other than your Rules Committee hearing on March 29, so that we could have had a careful examination of this proposal, as we did of the gentleman's proposal to amend the Constitution to protect the flag? Would that not have been better procedure?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I just say to the gentleman that it could have been, the same as in three previous Congresses we have considered balanced budget amendments that never went through the proper process, either. The gentleman makes a point.

Mr. SKAGGS. Mr. Speaker, reclaiming my time, I know the gentleman knows better, because he has shown that he knows better than to follow or to be a party to an abuse of the Rules of the House in considering an amendment to the fundamental charter of this country, as we are experiencing here this evening.

This is a sad, sad occasion, to have completely run roughshod over the basic guarantees of serious, deliberate action on something as fundamental as our Constitution. It is a shameful demonstration of the priority being given to political theater, to symbolism over our responsibilities as legislators for this country to look carefully before we act on an amendment to the Constitution. Because the process that has brought us to this point has been such an insult to the intelligence and responsibility of the Members, I regretfully will need to make sure that we have every opportunity to vote on every conceivable procedural point for the rest of this evening.

Mr. McINNIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I rise in strong support of this rule and the purpose for it.

Mr. Speaker, as the American people endure yet another April 15, it is appropriate to note the direct relationship between higher taxes and higher government spending. While incomes have stagnated for many Americans over the last 20 years, the actual take-home pay for Government rose 58 percent and Government spending increased even faster. In fact, the Federal Government spent 80 percent more in inflation adjusted terms in 1995 than in 1973.

The rationale for the last two major tax hikes was deficit reduction. The deal was this—give us more of your money and, trust us, we will get serious about cutting spending. However, while the American taxpayer kept his end of the bargain, prior to this Congress the Federal Government maintained its reckless spending habits. Spending did not slow down, it accelerated. Adjusting for inflation, nondefense discretionary spending was 23 percent higher in 1995 than 1990. The American people are not selfish and they certainly do not mind paying their fair share, but they are not stupid either—they recognize when their Government has sold them a bill of goods.

Mr. Speaker, we have all heard the same disheartening facts. Every year, the average American works until May 5 just to pay his or her taxes. Put another way, this means that 3 hours out of every work day are dedicated solely to sustain Government spending.

This Congress has worked to reduce this oppressive tax burden. We have sent President Clinton a variety of tax relief measures, from middle-class tax relief to increasing the Social Security earnings limit, making it clear that we intend to keep our word with the American taxpayer. We have also begun examining long-term alternatives to our current tax system, that would increase fairness and simplicity. I commend Representatives BARTON and SHADEGG for their hard work to provide long-term protection for American taxpayers through the bill before us today.

Mr. McINNIS. Mr. Speaker, I yield 30 seconds to the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from Colorado for yielding me the time.

Listening to my colleague across the aisle from Colorado talk about this process being an insult, I would just simply remind all of us that article V of the Constitution simply says in its opening clause: "The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution."

It does not provide for any other folderol where there are urgent questions of action to be taken. It is incumbent upon this Congress to take those actions, so it is not insult. It is proper to move forward in this fashion to amend the Constitution of the United States.

Mr. McINNIS. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Colorado [Mr. McInnis] is recognized for 4 minutes.

Mr. McINNIS. Mr. Speaker, I find it awfully interesting that one would be able to stand up and talk about the word shameful and so on. This is 2 years after this country experienced the largest tax increase in the history of this country. And by the way, some may argue, well, that tax increase really was to try and get the wealthy people of this country and it did not impact the average working Joe or the working Jane out there. It sure as heck did.

Anybody that buys a gallon of gasoline pays four cents more per gallon because this Congress passed a tax increase on them. Some time take a look, and this is a good day to do it, on April 15, take a look at what you have to pay in taxes. Not just what you send in to the Federal Government. Not just what you send in to the State government, but stop and buy a gallon of gasoline. And after that, if you get really depressed, stop by the liquor store and buy a fifth of whiskey, and see what you pay on a fifth of whiskey in taxes. Then go to the store and see what you pay in sales tax to buy a lawn mower to mow your grass.

Taxes, taxes, taxes. Around here, that is the fuel that feeds this fire in the U.S. Congress. And it seems that the U.S. Congress wants to get the biggest bonfire it can ever have. Well, you know what it has led to? It has led to this. It has led to a concept where we have got to put a speed bump in the way of these people that love to raise your taxes, and raise you taxes, and raise your taxes.

Right now, just in this proposal of this concept, 73 percent of the American people are saying do it. An interesting number here, 68 percent of the Federal employees say do it. Seventy-one percent of the union members say do it. In the Democrats, 64 percent of the Democrats as polled say do it. It is time that we bring a conscience to this country.

Now, some people say, well, you are not giving an opportunity for debate. That is exactly what this concept does. That is why it so carefully follows the Constitution of the United States. What it does is it allows this to go to every State, all 50 States, all of the elected State legislators in those States, which, by the time this debate was thoroughly finished, by the time it got ratified or did not get ratified, you would have thousands and thousands of locally, not in Washington, but locally elected officials who were engaged in this debate of whether or not we should require a supermajority to go out to the working people of this country and raise their taxes.

Mr. Speaker, I think that this rule is fundamentally fair, and I think that this concept is fundamentally necessary for the positive growth and the future of this country.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SKAGGS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 232, nays 168, not voting 31, as follows:

[Roll No. 111]

YEAS—232

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greene
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (KY)
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skaggs
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stump
Talent
Tate
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—168

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Boucher
Brewster
Browder
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Eshoo
Evans
Farr
Fazio
Filner
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thurman
Torres
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Woolsey
Wynn
Yates

NOT VOTING—31

Borski
Brown (CA)
Brown (FL)
Calvert
Chapman
Cremeans
de la Garza
Engel
Fattah
Fields (LA)
Fields (TX)
Ford
Frost
Gallegly
Hunter
Jackson-Lee (TX)
Kasich
Lewis (CA)
Lightfoot
Lipinski
Ney
Ortiz
Oxley
Pelosi
Stockman
Tauzin
Thornton
Towns
Williams
Wilson
Wise

□ 1803

Mr. WYNN changed his vote from "yea" to "nay."

Mr. GORDON and Mr. CHAMBLISS changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. SKAGGS

Mr. SKAGGS. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore (Mr. EWING). The Clerk will report the motion.

The Clerk read as follows:

> Mr. SKAGGS moves to reconsider the vote whereby the House ordered the previous question on House Resolution 395.

MOTION TO TABLE OFFERED BY MR. McINNIS

Mr. McINNIS. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

> Mr. McINNIS moves to lay the motion to reconsider on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. McINNIS] to lay on the table the motion to reconsider offered by the gentleman from Colorado [Mr. SKAGGS].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SKAGGS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 15-minute vote, followed by a 5-minute vote on the adoption of the rule.

The vote was taken by electronic device, and there were—yeas 232, nays 169, not voting 30, as follows:

[Roll No. 112]

YEAS—232

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell

Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greene
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (KY)
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stump
Talent
Tate
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—169

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Boucher
Brewster
Browder
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Eshoo
Evans
Farr
Fazio
Filner
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thurman
Torres
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Woolsey
Wynn
Yates

NOT VOTING—30

Borski
Brown (CA)
Brown (FL)
Calvert
Chapman
Cremeans
de la Garza
Engel
Fattah
Fields (LA)
Fields (TX)
Ford
Frost
Hunter
Jackson-Lee (TX)
Kasich
Lewis (CA)
Lightfoot
Lipinski
Ney
Ortiz
Oxley
Pelosi
Stockman
Tauzin
Thornton
Towns
Williams
Wilson
Wise

□ 1820

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. EWING). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SKAGGS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 234, noes, 162, not voting 35, as follows:

[Roll No. 113]

AYES—234

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greene
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (KY)
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—162

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Boucher
Brewster
Browder
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Costello
Coyne
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fazio
Filner
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Slaughter
Spratt
Stark
Stenholm
Stokes
Stupak
Tanner

Taylor (MS)
Tejeda
Thompson
Thurman
Torres
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Woolsey
Wynn
Yates

NOT VOTING—35

Borski
Brown (CA)
Brown (FL)
Calvert
Chapman
Conyers
Cremeans
de la Garza
Fattah
Fields (LA)
Fields (TX)
Ford
Frost
Hunter
Jackson-Lee (TX)
Kasich
Lewis (CA)
Lightfoot
Lipinski
McKinney
Ney
Ortiz
Oxley
Pelosi
Rose
Scarborough
Studds
Tauzin
Thornton
Tiahrt
Towns
Waxman
Williams
Wilson
Wise

☐ 1829

The Clerk announced the following pairs:

On this vote:

Mr. Calvert for, with Ms. Jackson-Lee of Texas against.

Mr. Lightfoot for, with Mr. Towns against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. SKAGGS

Mr. SKAGGS. Mr. Speaker, I offer a motion to reconsider.

The SPEAKER pro tempore (Mr. EWING). The Clerk will report the motion.

The Clerk read as follows:

Mr. SKAGGS moves to reconsider the vote whereby the House adopted House Resolution 395.

MOTION TO TABLE OFFERED BY MR. MC INNIS

Mr. McINNIS. Mr. Speaker, I move that the motion to reconsider be laid on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. McINNIS] to lay on the table the motion to reconsider offered by the gentleman from Colorado [Mr. SKAGGS].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SKAGGS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken be electronic device, and there were—ayes 233, noes 164, not voting 34, as follows:

[Roll No. 114]

AYES—233

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greene
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (KY)
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Tate
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—164

Abercrombie
Ackerman
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bevill
Bishop
Bonior
Boucher
Brewster
Browder
Brown (CA)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fazio
Filner
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thurman
Torres
Torricelli
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Woolsey
Wynn
Yates

NOT VOTING—34

Baesler
Bateman
Berman
Borski
Brown (FL)
Calvert
Chapman
Clinger
de la Garza
English
Fattah
Fields (LA)
Ford
Frost
Hunter
Jackson-Lee (TX)
Lewis (CA)
Lightfoot
Lipinski
McKinney
Ortiz
Oxley
Pelosi
Rose
Scarborough
Schiff
Talent
Tauzin
Thornton
Towns
Waxman
Williams
Wilson
Wise

☐ 1847

Mr. GIBBONS changed his vote from "aye" to "no."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

Mr. CANADY of Florida. Mr. Speaker, pursuant to the provisions of House Resolution 395, I call up the joint resolution (H.J. Res. 159) proposing an amendment to the Constitution of the United States to require two-thirds majorities for bills increasing taxes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

Mr. SKAGGS. Mr. Speaker, I raise the question of consideration of House Joint Resolution 159.

The SPEAKER pro tempore (Mr. EWING). The question is: Will the House now consider House Joint Resolution 159, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SKAGGS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 157, not voting 33, as follows:

[Roll No. 115]

AYES—241

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bono
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler

Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greene
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (KY)
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Pallone
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—157

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Boucher
Brewster
Brown (CA)
Brown (OH)
Bryant (TX)
Cardin
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Danner
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fazio
Filner
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thurman
Torres
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Woolsey
Wynn
Yates

NOT VOTING—33

Bonilla
Borski
Brown (FL)
Calvert
Chapman
Clay
Clinger
de la Garza
DeFazio
Fattah
Fields (LA)
Ford
Frost
Hunter
Jackson-Lee (TX)
LaFalce
Lewis (CA)
Lightfoot
Lipinski
Martinez
McKinney
Ortiz
Oxley
Pelosi
Rose
Scarborough
Tauzin
Thornton
Towns
Waxman
Williams
Wilson
Wise

□ 1906

So the House agreed to consider House Joint Resolution 159.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. SKAGGS

Mr. SKAGGS. Mr. Speaker, I offer a motion to reconsider the previous vote.

The SPEAKER pro tempore (Mr. EWING). The Clerk will report the motion.

The Clerk read as follows:

> Mr. SKAGGS moves to reconsider the vote whereby the House agreed to consider House Joint Resolution 159.

MOTION TO TABLE OFFERED BY MR. CANADY OF FLORIDA

Mr. CANADY of Florida. Mr. Speaker, I move to lay the motion to reconsider the vote on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CANADY] to lay on the table the motion to reconsider the vote offered by the gentleman from Colorado [Mr. SKAGGS].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SKAGGS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 236, noes 157, not voting 38, as follows:

[Roll No. 116]

AYES—236

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greene
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (KY)
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Pallone
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stump
Talent
Tate
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—157

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Boucher
Browder
Brown (CA)
Brown (OH)
Bryant (TX)
Cardin
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Danner
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fazio
Filner
Flake
Foglietta

Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thurman
Torres
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Woolsey
Wynn
Yates

NOT VOTING—38

Becerra
Bonilla
Borski
Brown (FL)
Calvert
Chapman
Clay
Clinger
de la Garza
DeFazio
Fattah
Fawell
Fields (LA)
Ford
Frost
Hayes
Hunter
Jackson-Lee (TX)
LaFalce
Laughlin
Lewis (CA)
Lightfoot
Lipinski
Martinez
Ortiz
Oxley
Pelosi
Rose
Schumer
Stockman
Tauzin
Thornton
Towns
Waters
Waxman
Williams
Wilson
Wise

□ 1923

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, during rollcall votes Nos. 111, 112, 113, 114, 115, and 116, I was unavoidably detained, out of town at a meeting with my constituents.

Had I been present, I would have voted "no" on 111, "no" on 112, "no" on rollcall 113, "no" on 114, "no" on 115, and "no" on 116.

Mr. LIGHTFOOT. Mr. Speaker, because I was unavoidably detained, I missed the procedural rollcall votes Nos. 111, 112, 113, 114, 115, and 116. Had I been present, I would have voted "yea" on each of these votes.

The SPEAKER pro tempore (Mr. RIGGS). Pursuant to House Resolution 395, an amendment in the nature of a substitute consisting of the text of House Joint Resolution 169 is adopted.

The text of House Joint Resolution 159 is as follows:

H.J. RES. 159

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. Any bill to levy a new tax or increase the rate or base of any tax may pass only by a two-thirds majority of the whole number of each House of Congress.

"SECTION 2. The Congress may waive section 1 when a declaration of war is in effect. The Congress may also waive section 1 when the United States is engaged in military conflict which causes an imminent and serious threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law. Any provision of law which would, standing alone, be subject to section 1 but for this section and which becomes law pursuant to such a waiver shall be effective for not longer than 2 years.

"SECTION 3. All votes taken by the House of Representatives or the Senate under this article shall be determined by yeas and nays and the names of persons voting for and against shall be entered on the Journal of each House respectively.".

The text of House Joint Resolution 159, as amended, is as follows:

H.J. RES. 169

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. Any bill, resolution, or other legislative measure changing the internal revenue laws shall require for final adoption in either House the concurrence of two-thirds the members present, unless that bill, resolution, or measure is determined at the time of adoption, in a reasonable manner prescribed by law, not to increase the internal revenue by more than a de minimis amount.

"SECTION 2. The Congress may waive section 1 when a declaration of war is in effect. The Congress may also waive section 1 when the United States is engaged in military conflict which causes an imminent and serious threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law. Any provision of law which would, standing alone, be subject to section 1 but for this section and which becomes law pursuant to such a waiver shall be effective for not longer than 2 years.

"SECTION 3. All votes taken by the House of Representatives or the Senate under this article shall be determined by yeas and nays and the names of persons voting for and against shall be entered on the Journal of each House respectively.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. CANADY] and the gentleman from Michigan [Mr. CONYERS] each will control 1½ hours of general debate time.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Joint Resolution 159.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CANADY of Florida. Mr. Speaker, I yield 45 minutes to the gentleman from Texas [Mr. ARCHER], and I ask unanimous consent that he may be permitted to yield blocks of time to other Members.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CONYERS. Mr. Speaker, I ask unanimous consent to yield 45 minutes to the distinguished past chairman of the Committee on Ways and Means, the gentleman from Florida [Mr. GIBBONS], and I ask that he be recognized to yield blocks of time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, the millions of Americans rushing to meet the midnight deadline to file their Federal income tax return are asking themselves—why is it that every year more and more of my family's income goes to pay Federal taxes, leaving me with less and less to meet my needs and the needs of my children? As they write that painful final check to the IRS or review the bottom line of their tax liability, they are asking themselves—is there any relief in sight? Will Congress ever be weaned from imposing higher and higher taxes? Will Washington ever get its spending habits under control? To the American people I say, today's vote should give you a glimmer of hope.

Today, we are again considering a mechanism that will bring relief to the American taxpayers. We will be debating and voting on a constitutional amendment to require a two-thirds vote of each House of Congress for any bill that increases revenue by more than a de minimis amount.

Members voted on a similar provision that was part of House Joint Resolution 1, the balanced budget constitutional amendment of the Contract With America in January 1995. In the 1st session of the 104th Congress, the Subcommittee on the Constitution held hearings and the Full Judiciary Committee favorably reported the balanced budget constitutional amendment which included a supermajority requirement for raising tax revenue.

On January 26, 1995, the House voted 253 to 173 in favor of the balanced budget constitutional amendment that had been reported by the Committee on the Judiciary. That version of the amendment, which was sponsored by Congressman BARTON, would have required a three-fifths majority of the entire House and Senate to increase tax revenue and would have allowed a simple majority to waive the requirement in times of war, or in the face of a serious military threat. The balanced budget amendment ultimately adopted by the House did not, however, include the Barton supermajority tax limitation provision.

When the House passed a balanced budget amendment without the Barton supermajority requirement, Speaker GINGRICH promised to schedule another vote on the supermajority tax limitation amendment in the 104th Congress. Today's vote fulfills that promise.

On March 6, 1996, the Subcommittee on the Constitution held an additional hearing on the Barton tax limitation constitutional amendment. House Joint Resolution 159 was criticized as being too broad. For example, as originally drafted House Joint Resolution 159 would have required a two-thirds majority of each House to close a tax loophole or make revenue neutral changes to the Tax Code. Under the Barton substitute amendment made in order under the Rule, such actions would not require a supermajority vote as long as the legislation as a whole was revenue-neutral or resulted in only a de minimis increase in revenue.

The amendment before us this evening requires a two-thirds vote of each House for any bill that is not revenue neutral. Congress may waive this requirement when a declaration of war is in effect, or by adopting a joint resolution upon finding that the United States in engaged in military conflict which causes an imminent and serious threat to national security. The amendment requires that all votes be taken by rollcall.

This substitute amendment is in keeping with the supermajority requirement that was approved by the Committee on the Judiciary and the House in January 1995 as part of the Contract With America.

In addition, the House Rules as adopted at the beginning of this Congress require a three-fifths majority vote to pass a Federal income tax rate increase. However, the House Rule cannot bind future Congresses and can be waived by the Rules Committee as had been done at least once this past year—yet another reason why we need the permanence and certainty of a constitutional amendment.

Members should be aware that the language of the constitutional amendment we are voting on today differs significantly from the House Rule. The constitutional amendment, unlike the House Rule, does not apply to bills that cut taxes or that are roughly revenue neutral. It will make it harder for Congress to raise taxes, yet allows flexibility to make revenue neutral changes to the tax laws.

The National Commission on Economic Growth and Tax Reform, headed by former Congressman Jack Kemp, recently recommended requiring a two-thirds supermajority vote to raise the tax rate. The Kemp Commission recommended substantial changes to the Tax Code and argued that such changes should be held in place by requiring a supermajority vote to raise taxes. The Commission report stated "a two-thirds supermajority vote of Congress will earn Americans' confidence in the longevity, predictability, and stability of any new tax system."

The Framers of our Constitution understood the need for requiring supermajority votes for certain fundamental decisions. The Constitution currently includes ten supermajority requirements for decisions of importance including the requirement of a two-thirds vote to send a constitutional amendment to the States for ratification. I submit that under our current system it is too easy for us to add to the already onerous tax burden Congress has placed upon the American people. The adoption of a supermajority provision can only help us give careful consideration to proposals to raise taxes, and will require us to reach broad consensus in order to do so.

I urge my colleagues to support this important measure and I reserve the balance of my time.

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Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as one distinguished Republican told me as we were coming over here, "And to think we gave up a whole day of vacation for this debate." I think he put his finger right on the issue here. Everybody in this Chamber and everybody within the sound of my voice knows that what we are doing tonight is show business; not very good show business, but show business.

The gentleman from Texas [Mr. BARTON] sent us a Dear Colleague letter numbering some 20 pages. As I read it and studied it, it reminded me of a quotation that a distinguished Supreme Court Justice made about 100 years ago: Taxes are what we pay for civilization. Taxes are what we pay for civilization.

How well have Americans done? The Organization for Economic Cooperation and Development, which keeps statistics on all of the industrialized countries on Earth, tells us that there are 24 industrialized countries on Earth. Of those 24 industrialized countries on Earth, the United States has the lowest tax rate of any of those 24 countries. This is not ancient history, this is today's history, compiled by the OECD. They are not an American organization. The United States is a member of the OECD, but the headquarters of it is in Europe. It rates all of the industrialized nations.

Of all of the industrialized nations, the United States of America, this Federal Government, has the lowest tax rate of any of them. Do any of you in this Chamber dispute what I have just said? I would ask the gentleman from Texas [Mr. BARTON], does he dispute what I have just said?

In fact, in the 20-some page letter of the gentleman from Texas [Mr. BARTON], he included in his Appendix E on page 20 a list of all of the industrialized nations that had tax limitations in their procedures. I do not think the gentleman from Texas even read this himself or he never would have sent it to us. Of all the nations in this chart that have tax limitations, guess what? Every single one of them has a higher tax rate than the United States of America.

Mr. Speaker, I would ask the gentleman from Texas, did he know that when he sent this to us?

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I would tell the gentleman from Florida [Mr. GIBBONS], I did read that memo.

Mr. GIBBONS. It did not sink in then, though, did it?

Mr. BARTON of Texas. Mr. Speaker, I will be happy to debate it if the gentleman wishes to.

Mr. GIBBONS. I just wondered if the gentleman had read it. He is arguing for a tax limitation by constitutional amendment. He sent us a chart listing all the other countries on Earth that have tax limitations. Every one of them has a higher tax rate than the United States of America.

Mr. Speaker, taxes are the dues of civilization. It is what we pay for civilization. The tax rate in America, being the lowest of the 24 industrialized countries, has remained remarkably stable for about the last 50 years. The tax rate for the 1950's comes out at 17.62 percent. That was the tax rate for the 1950's. The tax rate for the 1960's comes out at 18.31 percent. We have to remember that we were fighting the Vietnam war at that time. The tax rate for the 1970's comes out at 18.47 percent. The tax rate for the 1980's comes out at 18.97 percent. For the first 5 years of 1990, the tax rate has dropped to 18.75 percent.

Mr. Speaker, the ridiculous thing about this amendment is its unintended consequences that will occur. If this amendment ever became law, we would first of all have to declare war on some unsuspecting country, so that for 2 years we could handle the ordinary and necessary business of this country, which from time to time requires us to make certain adjustments in the Tax Code. After 2 years we would have to find some other unsuspecting country and declare war on it, or maybe we can declare war on somebody in outer space. As long as we declare war, we can waive all of this.

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, the gentleman just stated some interesting statistics of 17 percent and 18 percent tax rates. I suspect the gentleman was referring to the percentage of gross domestic product.

Mr. GIBBONS. That is correct. That is the only way you can measure tax rates.

Mr. STARK. That is the only effective way to measure it?

Mr. GIBBONS. That is the only way you can measure tax rates.

Mr. STARK. I thank the gentleman for clarifying that.

Mr. GIBBONS. I thank the gentleman for bringing up that question and letting me clarify it.

Mr. Speaker, there are so many other reasons why this is just a ridiculous piece of show business here today, but Mr. Speaker, at this time I will go back and yield time to other Members so they can participate in the debate.

Mr. Speaker, I include for the RECORD the following document:

CENTRAL-GOVERNMENT TAXES AS PERCENTS OF GDP, 1992: AN INTERNATIONAL COMPARISON

Country	Rank	Percent GDP
Netherlands	1	45.2
Luxembourg	2	43.1
Belgium	3	42.5
Italy	4	41.0
Greece	5	39.7
France	6	39.3
Finland	7	37.3
Norway	8	37.0
Ireland	9	35.2
Austria	10	34.1
New Zealand	11	33.7
Denmark	12	33.6
United Kingdom	13	33.5
Sweden	14	32.9
Spain	15	31.4
Portugal	16	31.2
Germany	17	28.1
Iceland	18	26.6
Japan	19	22.0
Australia	20	21.8
Turkey	21	21.2
Canada	22	20.8
Switzerland	23	20.2
United States	24	19.9

Note: Of the 24 countries for which the OECD keeps statistics, the United States ranks lowest in terms of tax burden.

Source: Committee on Ways and Means Democratic Staff based on information from the Organization for Economic Cooperation and Development [OECD]. Prepared April 15, 1996.

Total U.S. Federal revenue as percents of GDP, 1950–95

Fiscal year	*Total receipts*
1950	14.8
1951	16.5
1952	19.4
1953	19.1
1954	18.9
1955	17.0
1956	17.9
1957	18.3
1958	17.8
1959	16.5
Average, 1950's	17.62
1960	18.3
1961	18.3
1962	18.0
1963	18.2
1964	18.0
1965	17.4
1966	17.8
1967	18.8
1968	18.1
1969	20.2
Average, 1960's	18.31
1970	19.6
1971	17.8
1972	18.1
1975	18.5
1976	17.7
1977	18.5
1978	18.5
1979	19.1
Average, 1970's	18.47
1980	19.6
1981	20.2
1982	19.8
1983	18.1
1984	18.0
1985	18.5
1986	18.2
1987	19.2
1988	18.9
1989	19.2
Average, 1980's	18.97
1990	18.8
1991	18.6
1992	18.4
1993	18.4
1994	19.0
1995	19.3
Average, 1990–95	18.75

Note: Federal Revenue has hovered at 18–19 percent of GDP for all of our Post-WWII history.

Source: Committee on Ways and Means Democratic Staff based on information from the Organization for Economic Cooperation and Development (OECD). Prepared April 15, 1996.

DISTRIBUTION OF THE CURRENT FEDERAL TAX BURDEN

[Projected 1996 income levels]

Income range	Number of families (in millions)	Average income (in dollars)	Effective tax rate (in percent)
Less than $10,000	14.6	$6,009	6.7
$10,000–$20,000	18.5	14,794	10.4
$20,000–$30,000	16.6	24,941	16.5
$30,000–$40,000	13.5	34,841	19.4
$40,000–$50,000	10.8	44,808	21.7
$50,000–$75,000	17.7	61,278	23.6
$75,000–$100,000	8.6	85,637	25.4
$100,000–$200,000	7.0	129,788	26.7
$200,000 or more	1.9	486,031	31.9
All	110.8	48,165	23.8

Source: Committee on Ways and Means Democratic Staff based on June 1995 information from the Congressional Budget Office.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. ARCHER], the distinguished chairman of the Committee on Ways and Means.

Mr. ARCHER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, let me quickly say that the percentage of GDP is not the only way to determine the tax burden on Americans. GDP and its percentage relative to taxes means very little to the worker. What is important to the worker is how much comes out of his or her paycheck, not what percentage of GDP.

We can talk in those glossary terms inside the beltway, but the American people who are out there producing understand that what they have left in their paycheck is not as much as it should be. That is why I rise in strong support of this constitutional amendment that will serve as a barrier to those who seek to raise taxes and increase the Federal Government's role in our lives, because that is what this debate is all about. That is what the balanced budget debate is all about: How big will the Federal Government be, and how much will it take out of our hard-earned pay?

Taxes in this country are too high, irrespective of what they are in other places around the world. That is because too often Congress has found it easier to raise taxes than to say no to new spending. A constitutional limitation on tax increases will rectify that unfortunate bias. It is time to tilt tax and spending decisions in favor of working Americans who pay the taxes. This proposed constitutional amendment does exactly that.

I have made no secret of my desire to tear our current income tax out by its roots and replace it with a consumption tax on the purchase of goods and services; so simple, because it will remove the IRS completely and totally from every American's individual lives. Accordingly, the amendment's sponsor and I have worked hard to come up with language that would require a supermajority vote for tax increases without making it harder to replace the current income tax system. This revised language accomplishes these twin objectives.

Mr. Speaker, I would like to have a brief colloquy with the sponsor, the gentleman from Texas [Mr. BARTON], about how the amendment will work in practice.

Mr. Speaker, as I read the proposed constitutional amendment, the two-thirds requirement would not apply to tax legislation that is a net tax cut or that is revenue-neutral overall.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I would tell the gentleman, that is correct.

Mr. ARCHER. Accordingly, the supermajority requirement would not have applied to the Balanced Budget Act of 1995 or the Contract With America Tax Relief Act of 1995, since those bills provided a net tax cut, is that correct?

Mr. BARTON of Texas. That is correct, Mr. Speaker.

Mr. ARCHER. It would also not apply to legislation that replaces one tax system with another, as long as that replacement is revenue-neutral; for example, if we were successful in tearing the income tax out by its roots and replacing it with a broad-based consumption tax, that legislation would be subject to a simple majority vote, is that correct?

Mr. BARTON of Texas. If the replacement tax raised the same amount or less revenue than the current tax, then the answer is yes.

Mr. ARCHER. Also, the supermajority requirement does not apply to tax legislation that raises a de minimis amount of revenue. Am I correct in assuming that a bill that increases Federal tax revenue by less than one-tenth of 1 percent would be considered de minimis?

Mr. BARTON of Texas. That is correct.

Mr. ARCHER. Therefore, H.R. 831, which increased and extended the health insurance deduction for the self-employed, H.R. 2778, which provided tax relief to our troops in Bosnia, and H.R. 3103, the Health Coverage Availability and Affordability Act of 1996, would not have required a two-thirds vote. Is that correct?

Mr. BARTON of Texas. Mr. Speaker, the gentleman is correct. Those bills would have met the de minimis exception.

Mr. ARCHER. I thank the gentleman for the clarification. I would also like to point out that the amendment allows Congress to establish procedures that would provide certainty at the time of passage as to whether the two-thirds requirement applies.

I want to address one spurious criticism. Some opponents of House Joint Resolution 159 have argued that it poses problems similar to those alleged with the current House rule that requires a supermajority vote for Federal income tax rate increases.

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Anyone who makes that argument clearly has not read the amendment.

The amendment and the House rule are fundamentally different. Indeed the wording of the constitutional amendment reflects the lessons that we have learned from our experiences in dealing with the House rule. The House has not passed any bill containing a Federal income tax rate increase.

Mr. GIBBONS. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, everyone knows that this is April 15, the time that we are supposed to pay taxes. But some of my colleagues think it is April 1, that is, April Fool's Day, because the whole idea of passing a constitutional amendment has been aborted.

Normally a bill would go to the committees that have jurisdiction so that we could really find out the impact of this bill on the American people and especially the American taxpayer. But my dear friend from Texas, Mr. BARTON, did not ask for the House Judiciary Committee that is headed by Chairman HYDE who everyone knows is an expert on the Constitution, he just went to his friend James Perry of the Americans for Tax Reform. I see that 17 pages was sent in support of the Barton amendment. There is nothing here from the Committee on the Judiciary because they never had hearings.

My distinguished chairman, at least chairman for the rest of this year, BILL ARCHER, was here, and this really talks about how this thing is supposed to work, and there is an asterisk next to Mr. Perry's name, but no place here does it say who he is. But it is not important. I would rather have seen something from the Committee on Ways and Means that would just answer certain questions.

Under this amendment if we wanted to protect the Social Security system or to protect the Medicare system and if we had to increase the premium, we would need a two-thirds vote in order to do that. On the other hand if we wanted to raise taxes for education or health care or Social Security or anything, we would need a two-thirds vote for that. But suppose we wanted to close the loopholes, because I refer to this as a lobbyist amendment, not a constitutional amendment. Suppose those people were supporting corporate welfare or wanted to strike it out, close the loopholes. That would mean an increase in taxes. And we would need a two-thirds vote or lock in the lobbyists who are protecting the corporations.

On the other hand, it seems to me that when the majority party decided it was going to increase the taxes of the earned-income tax, the benefits that we give to the lowest, the poorest working people we have in the United States, they just waived a provision that they have in the rules.

Someplace they would say this to the taxpayers as they said, and let me read this section here from this paper that the gentleman from Florida [Mr. GIBBONS] has given to me. This is not a committee report, this is not a Ways and Means report. This is not a Judiciary report. This is a report from Americans for Tax Reform and this is how they open this debate.

That millions of Americans while they are standing out there in front of the post offices paying their taxes, for the first time would see these Republicans on the floor on TV, drive-time radio talk shows will offer live coverage as the votes and hearings proceed. What hearings? As the vote proceeds, and for the first time this resolution will give guaranteed live media coverage.

And so, my friends, enjoy your gimmick, enjoy your public relations, but let us not treat the Constitution that way, and you should have more respect for the American taxpayers than to do this gimmick on this particular day.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. HOKE], a member of the Committee on the Judiciary.

Mr. HOKE. I thank the chairman for yielding the time.

Mr. Speaker, in 1950, the average income family in America had 2 percent of its income paid to the Government in taxes. In 1996, that number has gone up to about 25 percent. We have had, you could say, a 12 times, a 1,200 percent increase in the percentage of taxes that the average American family is paying to the Government. We have seen that increase in taxation that falls directly on the backs of working men and women fuel the explosion in growth in government in the past 45 years. That is what has fueled it.

What I would ask the gentlemen and gentlewomen on the other side of the aisle is do you think that would have been possible if this tax limitation amendment had been in place? I would suggest to you that it would not have been possible and that today what we are fighting and what is a fundamental problem that faces our society and our economy is that families cannot make it on one income, and the reason that they cannot make it on one income is not because it is not enough money to actually raise children with one person staying at home, and it makes no difference to me whether it is the mother or the dad staying at home, but they cannot make it because too much money is being kept out of the paychecks and given to the Government. That is the fundamental problem. When you go from 2 percent in 1950 to 25 percent in 1996, and we are not talking about the rich people, upper-class people, we are talking about the average income family in America. That is the fundamental problem. That is the fundamental problem that tears at the social fabric. That is the fundamental reason that we have been able to fuel this tremendous growth in government, this explosion in the size of government.

The other thing that I wanted to address, and I would draw to your attention, particularly the gentleman from Florida, the senior Member who is retiring this year, this is an article that just appeared in this week's, or I guess last week's Time magazine. It says "Europe's Job Crunch."

You draw attention to the fact that other economies, other countries have got higher tax rates. I want to just read a little bit about what they say because what we do know is that in other countries, there is tremendous stagnation. They say:

> Call it Eurosclerosis, the combination of a staggering tax burden and a blanket of regulations that smother new businesses and entrepreneurship. The symptoms. Europe's unemployment rate of 11 percent is twice as

high as the United States and its job creation chart is a flat line. Over the past 3 years the U.S. has created 8.4 million new jobs. Europe none. Significantly many of those new American jobs pay higher than average wages and as many as 60 percent are managerial or professional.

Spain has got a 20-percent unemployment rate; Italy 12; we have got 11 percent in Germany; and France has got 12 percent. This is exactly what you get when you have higher and higher and higher taxes. It is not what created the American success story. It is not what holds the potential of the American dream. We ought to pass this. It will really slow down the growth of government.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, there are at least five very good reasons to vote "no" on this ill-advised constitutional amendment.

The first is that it is a classic example of pure political posturing. At the very beginning of this session of Congress we passed legislation, a rule that said that we would require three-fifths votes to raise taxes, and every single time that rule was to apply, the majority had the rule waived. So we cannot even abide by the rule that exists now, and we want to make it into a constitutional amendment so that we cannot even waive the rule.

Imagine what would have happened with all of the tax legislation that passed for the last 20 years if we had had this rule. There was only one minor piece of legislation that would have passed.

Second, it is fiscally irresponsible. It makes it almost impossible to raise revenue to reduce the deficit, whether it is to cut capital gains taxes, which would increase revenue in the initial years, or particularly to close corporate and individual tax loopholes. We cannot do that under this legislation.

Third, it really shows contempt for the wisdom of the Founding Fathers. They debated this many times and they decided that the Articles of Confederation, article 9, which required a supermajority to increase revenue, was not working, that the minority was thwarting the will of the majority. And so in 1787 at the Constitutional Convention they decided, they voted that they had to have a pure political majority for this democracy to work.

The Constitution is not some rough working draft. It is a body of law that has served this Nation better than any Constitution has served any nation in the history of mankind. For 200 years it has made us the most democratic, the strongest nation on Earth, and now we want to mess around with it, with this kind of constitutional graffiti.

Fourth, it shows a contempt for the legislative process. This language was not even considered by the subcommittee or the full Committee on the Judiciary. We bring it out here and we look at it here on the floor. By the seat of the pants we are coming up with definitions that we want to put into the Constitution.

For example, what does "de minimis" mean? We say, well, how about 0.1 percent of the Federal budget? What kind of constitutional definition is that? We do not even know how many years we should measure whether the revenue is de minimis or not, or whether user fees would apply.

There are all kinds of issues that have not even been adequately considered. The fact is that this is just pure political grandstanding. We are making politically expedient points at the cost of the integrity of this body. This is a bad amendment. we all ought to vote "no" on it.

Mr. BARTON of Texas. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey [Mr. SAXTON], the distinguished chairman of the Joint Economic Committee.

Mr. SAXTON. Mr. Speaker, I am very pleased to rise today in support of the tax limitation amendment requiring a supermajority to raise taxes, and I commend the gentleman from Texas [Mr. BARTON] for his hard work and determination in bringing this amendment to the floor tonight.

I am also proud to say that in 1991, along with my colleague from Texas, I was one of the first Members to bring this supermajority voting requirement to the American people's attention. Tonight we bring it to the attention of the American people once again, this time in anticipation of passing the measure.

For many years we have known that a fundamental change in the way Congress does business is needed, and this is an example of the kind of change that we sincerely believe is needed. Currently it is much easier to raise taxes on the hard-working American people than it is to cut spending, and so we have seen year in and year out as the budget went up, and 1990 is a good example, we increased taxes. In 1993 once again the majority increased taxes, and still we have a deficit.

Let me just say what I think the real issue is here. It is demonstrated by this chart on my left. Today there are 10 States that have supermajority requirements for raising taxes. They happen to be Arizona, Arkansas, California, Colorado, Delaware, Florida, Louisiana, Mississippi, Oklahoma, and South Dakota. Four of those States have a two-thirds supermajority requirement, 3 have a three-fifths, and 3 have a three-fourths requirement.

This chart demonstrates quite clearly that in the States on average that have a supermajority requirement, that growth is much lower in government than in States that have no supermajority requirement, that is, growth in spending.

So, of course, that makes us believe that the same pattern would hold true within the Federal Government. If we went on the street today and asked almost any American, the great majority would say that government is too big, it is too burdensome, it is growing too fast, it is too overwhelming on the American people, and taxes are too high.

So this provision creates a situation in which both parties will realize a major objective that we promise the American people every year, lower taxes.

How does this work? It is very simple. We are trying to restore some balance to the way we operate here in the Congress, the pressures for spending. Just take, for example, a State that wants to build a highway or a series of highways.

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There is a very focused effort by a number of special interest groups to get those highways built. There are people who want to get quicker from point A to point B, and that is very important for them for their morning and afternoon commute to and from work. They are focused on those projects. There are labor unions who want jobs; they are focused on those jobs. There are contractors and business people who will make a profit, and they are focused on those projects.

So an intense lobbying effort takes place because of that focus. Now, nobody wants higher taxes. But how deeply do the American people have an opportunity to lobby for lower taxes? Only on the surface, only at election time. They do not have lobbyists in this town, like the special interest groups. And so it seems to me that by requiring a larger vote known as a supermajority, we put some balance back in the system to achieve what these 10 smart-minded States have been able to accomplish. That is slower growth in their governments, and slower growth is what both parties have promised the American people in this House.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, leave that chart there just a minute. Do not move that chart. That chart is as phony as a $3 bill.

He has got California and Florida in that supermajority States. Florida requires a supermajority for increase in corporate income tax. But you can increase the Florida sales tax, which collects 90 percent of the revenue. California you listed as a supermajority State, and California only applies to property taxes. But you can increase the income tax and the sales tax and everything else. I do not know how many other phony things you have got in that, but that chart is no good.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, I thank the distinguished gentleman for yielding me this time.

Mr. Speaker, this amendment proposal is really nothing more than political sham, phony or not, and we all know it.

These proceedings, which will amount to 5 or 6 hours, are a pathetic political circumstance, staged by the radical Republican leadership of the House, to hopefully be broadcast at prime time on today's tax day.

At this moment in our history, a brief moment, the House happens to be under the control of a misguided vanguard who are ideologically opposed to any tax increases whatsoever. That does not mean we should pervert our Constitution, which has served us so well and supports the longest lasting system of democratic government in modern history.

That is right. This is just another cheap publicity stunt. Remember the Contract With America? That bunch of stupid ideas that sounded so good? Now the Republicans are using that constitutional amendment as a prop and a shallow scheme to convince the public that new majority is working in the best interests of average Americans.

The same radical zealots who said they would save Medicare when they actually wanted to destroy it and handed out tax breaks to the rich are trying to trick us again. Just as Americans file their tax forms, we have the promise of a constitutional amendment to require a two-thirds vote. But the absurdity of this proposal goes much deeper. Any major government initiative requires funding.

Think of it, if this law had been in effect, you would not now have Social Security or you would not now have Medicare. And somebody earlier mentioned family values. Well, that would be fine, except there would be no highway system for the families to go anywhere and you would not be able to vaccinate your children, because we pay for those childhood vaccines with a tax.

All of that would not be here today if this amendment were to pass, and that is not how it is supposed to be done. Amending the Constitution is a serious matter, and this resolution has been rushed through without any discussion or deliberation at the committee level, without any public debate, simply so it could be here tonight on tax day. This is no way to run a country, and my colleagues on the other side of the aisle who support this proposal should be ashamed.

Mr. CANADY of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Tennessee [Mr. WAMP].

Mr. WAMP. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I must say, as a freshman Member of this body, it disappoints me to see the kind of name-calling, shallow partisan rhetoric that seems to always seep its way into this debate, particularly by senior Members that have brought distinction to this institution for a long period of time. And now it seems like the same angry, hostile words are used over and over again as if the American people do not know better.

I am not much for partisan rhetoric and shallow words, and I do not come down here on a regular basis to say that Republicans are always right, Democrats are always wrong. I come down here tonight because I do think this is a fundamental issue in 1996. It is the litmus test of this whole process today, and that is the size and scope of the government and the difference in the two parties and their positions and their record on this issue. The barometer of the issue of the size and scope of the Federal Government is taxes. The government is going to grow as the Congress taxes the American people. The government is going to shrink which the American people would like as we reduce taxes on the American people.

Our party, the party of Lincoln, clearly today stands for less government and lower taxes. The Democratic Party, as you have seen tonight, is still Congress coming down here in defense of big government, in defense of higher taxes, even stating that maybe we should or inferring that we should have higher taxes like other countries in other parts of the world where I personally do not want to live. I want to live here, and we want our country to have lower taxes.

Let us look for a moment where we have been: $2,286 per person was paid in 1980, just a few short years ago. I remember that year very well—1980, per person to the Federal Government, $2,286. Last year, that figure was $4,996, almost $5,000. We have gone from $2,286 per person to almost $5,000, well over doubled in those few short years the amount the average American is paying to the Federal Government.

I tell you, the reference was made to our Framers of our Constitution and our Founding Fathers. Obviously they cannot report to us tonight, but here is what I think they are doing tonight, they are rolling over in their graves, screaming we told you so, we warned you time and time again about the government. You know, think about this, a balanced society would have government, business, religion, and family, all four at the same level in a healthy balance.

Do we not realize that the government is way above the line? The family is now way below the line, our religious institutions are way below the line, business is now way below the line, because the government has sucked off the responsibilities of those other four institutions. In order to bring it down, we have got to reduce the tax burden and balance out our society.

We had the gentleman from Ohio [Mr. HOKE] report that in 1950 we paid 2 percent of our dollars in revenues to the Federal Government; now that figure is 25 percent. I have a 9-year-old son and a 7-year-old daughter. My question is, at this pace, what are they going to be paying or will they have anything at all left from the dollars that they make? Because I suspect that they will not unless we draw a line in the sand tonight.

Ladies and gentlemen, people of America, this is about drawing a line in the sand and saying we are not, as a responsible Congress, going to raise your taxes anymore. We are going to have to learn to do with less. We need to limit Congress' ability to raise taxes. It happened in 1993. I think that one vote was the defining vote of the election of 1994 if there was one vote you could turn to. This is something we need to do.

I come from east Tennessee. I consider east Tennessee the center of the universe. The hills and valleys of east Tennessee, the people are honest and straightforward. They believe very passionately that the government is too big, that taxes are too high. They want me to do something about it. And I am.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I rise in strong opposition to this constitutional amendment. The amendment is not what it appears. This amendment is more than mischievous it will bring the definition of the word "gridlock" to new highs.

This constitutional amendment could add to the deficit. Normally when revenue raisers and spending provisions are matched to assure that legislation is paid for they do not match exactly but rather yield slight differences that are used to reduce the deficit. This amendment would seem to preclude that, meaning that the authors of bills will adjust their spending upward so as to avoid a super majority requirement. This simply makes no sense.

This constitutional amendment is being considered without hearings and without ever being considered by the Judiciary Committee. Constitutional amendments are serious matters and they deserve the most careful consideration. The handling of this amendment on this particular day is more suitable to a publicity stunt than to a change to the Constitution.

This amendment would require a super majority to close down egregious tax shelter or corporate welfare if the proceeds went to deficit but not if the proceeds went to fund tax cuts or other corporate welfare. Again, this simply does not make sense: We should not have a constitutional bias against deficit reduction.

Ordinary reauthorizations of popular programs would require super majorities under the amendment.

The only tax bill enacted last year would have violated the proposed amendment. The Congress last year enacted legislation to extend the health insurance deduction for the self insured and paid for it by closing down a tax loophole after press reports about its abuse by one corporation. Under the terms of the amendment, however, a super majority would have been required—since shutting down a loophole would meet the definition of a tax increase.

Finally, the majority has already waived a similar House rule three times. They waived it for consideration of their big tax cut bill because it would have increased taxes on working American families by $36.45 billion to help pay for tax cuts for better off families. They waived it for consideration of the Medicare bill because the premium increase could be construed as an income tax rate increase. And they waived it on the recently passed health insurance reform bill.

If the majority can not live under its own rule, they clearly can not be serious about a constitutional amendment. I believe our Constitution and the American taxpayer deserves better treatment.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. STOCKMAN].

Mr. STOCKMAN. Mr. Speaker, I am really shocked. In fact, as you are in Texas right now, 7:15, filling out your taxes, you heard on the House floor tonight that it is radical to allow you to keep your money. Listen to what I am saying. They say it is radical for you to keep your money.

Now, I do not know about you, but I find that a radical thought and a little bit shocking that you are so stupid that we need to take your money and bring it up here in Washington and make your State of Texas weaker and make us stronger.

I believe in you. They obviously, on the other side, do not. They want to take more of your money. The gentleman from Ohio, very articulate gentleman, said that the unemployment rate in Europe is 12 percent, and so since they are doing what they are doing and the gentleman suggests we should follow them, then the logic says maybe we should make our unemployment rate 12 percent. Let me finish.

POINT OF ORDER

Mr. RANGEL. Mr. Speaker, I have a point of order.

Mr. STOCKMAN. Mr. Speaker, I think it is radical for them to deny you your money as you are going to file your income tax.

The SPEAKER pro tempore (Mr. RIGGS). The gentleman from Texas will suspend so the gentleman from New York can be heard on his point of order.

Mr. RANGEL. Mr. Speaker, the gentleman in the well has made it abundantly clear that he is addressing his constituents in Texas somewhere and his eyes are directed at the camera so that it is difficult for me really to know whether he is talking to me or making a political address to his constituents. I thought that violated the rules of the House.

Mr. STOCKMAN. Mr. Speaker, I will address that through the Chair.

The SPEAKER pro tempore. The point or order offered by the gentleman from New York is well taken. The Chair will remind all Members to address their remarks only to the Chair.

Mr. STOCKMAN. Mr. Speaker, I have to tell you your money tonight is going to be spent by Washington, and, Mr. Speaker, I have to tell you that I am going to stand here in the well and say we are going to defend every American's right to keep their money regardless of the demagoguery and to me a very offensive rhetoric on the other side. We believe in the American people, and we think the money does not belong here in Washington but indeed it belongs in your pockets across America, and remember, 12 o'clock, when you are filing that check, they want more of it.

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POINT OF ORDER

Mr. RANGEL. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore (Mr. RIGGS). The gentleman will state his point of order.

Mr. RANGEL. Mr. Speaker, cleverly the gentleman has wound up his speech once again addressing his taxpayers back home.

Mr. Speaker, I withdraw my point of order.

Mr. GIBBONS. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, I ask my friends and colleagues to recognize something that has occurred tonight in this debate, and that is a betrayal of an inclination to suggest that there is no connection between taxes and spending. It is said that if taxes are curtailed, spending will be curtailed. In my nearly 30 years in Congress, I have not found that to be the case.

In 1976 I began the movement for a balanced budget amendment to the Constitution. By the way, mine was called the Payment Book Amendment. After the balance was achieved, then 5 percent of the national debt, which then was $750 billion, had to be retired each year by a surplus equal to the 5 percent.

I do not mean to pick out any particular President, but as a good example, almost never has the Congress appropriated as much money as a President requests. President Reagan's budgets increased spending in his first 4 years in office by $1 trillion and cut taxes in 1981 by $750 billion, restoring some of that the following year by a reguessive tax increase.

One night when "I pondered weak and weary" and could not sleep, I turned on a TV interview program, on which a prominent Member of the Congress was advocating a $40 billion increase in spending on a new space program. The interviewer was thoughtful enough to ask, "Would you offer an increase in taxes by $40 billion to pay for the increased spending?"

The Member of Congress replied, "Mr. Rose, this country spends $40 billion a year on dog food."

Mr. Rose did not ask the logical follow-up question, which, of course, was, "which dog are you going to ask to give up his food?" The mere fact that people spend a certain amount on dog food does not mean you can increase spending in the Government without increasing taxes to pay for it.

If you really want to curtail spending constitutionally, forbid the Government from borrowing. The easiest thing in the world is to whip out the U.S. Government credit card, and that is exactly what has been done in a bipartisan manner as long as I have served in the Congress.

As for complaints about making car payments or paying the electric bill or any of the other things that are necessities in life, and I do not say that all the increased spending in the eighties was a necessity—I cast my district's vote against much of it—but I do say the necessity is to get cracking and pay for it and stop paying interest on it.

People have not only recently complained about paying taxes. I do not like to pay taxes. I do not like to pay any of my bills, and I do not like it if someone else runs up bills that I have to pay. Will Rogers said, "It is a great country, but you can't live it in for nothing."

Some of the greater patrioteers I would say in this country swear their allegiance and undying love, "patrioticer" than thou. They do not serve in the military, they do not go out and sweep the streets. There is one way they can show their love for the country, and the only way is not to complain about the taxes. But do they ever.

And it is human nature to avoid distastful duty. It is poor state craft indeed to have an arrangement where it is easier to run up the bills than to pay them. A constitution is supposed to restsorum the more foolish aspects of human nature, not view force and encourage them.

Finally, if I have time, I want to disabuse people of a couple of myths. One myth is that the 1993 tax act was the largest increase in history. That is not true. Neither was the 1982 act—the Reagan tax increase—the largest in history.

In World War II, there were all sorts of increases that dwarfed both of them.

Between the two, however, the Reagan tax increase in 1982 was $340 billion in 1993 dollars, the only fair comparison, adjusted for inflation, and the Clinton tax increase was $249 billion. And the myth has gone on for decades that John F. Kennedy was elected President because they stole it in Chicago and Illinois went for Kennedy. The fact is that at 3:33 on the morning following the election, Michigan went over to Kennedy and elected him. Illinois was surplusage. These are two myuths which have been asserted so certainly and so often, that most people have come to believe them. "Truth crushed to earth * * *"

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Speaker, I rise today in strong support of this joint resolution. Today the people in my home State of Iowa are filing their tax returns. The average Iowan is sending more of their hard-earned money to Washington than they spent on food, shelter, and clothing combined.

For the last 40 years, liberals in Congress have been incapable of restraining the urge to spend and spend and spend. I am glad that my colleague just recently mentioned a credit card, because it is as easy for a Member of this Congress to pull out their congressional credit card, their congressional voting card, slip it into the slot and push a yes button, and you have just spend billions of dollars.

Iowans are frustrated, because instead of working for their families, they have been working to support the spending habits of past liberal Congresses. A minister's wife told me just the other day, "I went back to work part-time. The extra income that we made for our family bumped us up into the next tax bracket. I basically went back to work to pay our family's taxes."

One of the things we can do to put a halt to this madness, this raising of taxes time and time again, is to pass this resolution.

The problem is not that Americans do not pay enough taxes; the problem is that Congress spends too much. By making it harder to raise taxes, we can accomplish two goals: First, more money stays where it should, in the families; second, it mades reducing spending even more necessary.

If liberals in Congress have a tougher time raising taxes, maybe they will be forced to quit spending more money that we have. They have spent too much for too long, and the American people are tired of paying for it. I urge my colleagues to vote "yes" on this joint resolution.

Mr. GIBBONS. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, this amendment is the essence of nonsense. Just look at it—read it.

But we are not here because this is a well-written, well-reasoned amendment. this amendment isn't even a good idea. We are here because it is April 15, tax day—it is time to score political points—the Constitution be dammed.

Two fundamental truths underlie our Government—majority rule, and the Constitution. This amendment is contrary to both. It is ill-conceived, ill-constructed, and ill-advised.

Our Constitution is a sacred document. It is the foundation of the greatest democracy on Earth. Since the adoption of the Bill of Rights over 200 years ago, the people have seen fit to amend it only 17 times. That is because the Constitution is not merely law—it is the foundation of our Nation. It is liberty. It is the separation of powers—checks and balances. It is the essence of democracy.

I revere the Constitution. We must not amend it lightly. Welfare reform—Government spending—tax policy—these are the province of laws. We must not clutter our Constitution with such matters. We must not cheapen the foundation of this great Nation.

It appears that many of my colleagues disagree.

In the past 16 months, the Republican leadership has brought four constitutional amendments to the floor of the House. This is nothing less than an assault on our Constitution—on our democracy. Republicans would restrict the right of voters to choose their Member of Congress. They would limit free speech. They would deny majority rule—deny democracy.

If this amendment had been part of our original Constitution, there would be no Social Security. There would be no Medicare. You see, Republicans voted against Social Security and Medicare. They did not want these programs. They do not want these programs today. Republicans want Medicare to wither on the vine. You have even heard the Senate majority leader brag about his "no" vote.

Democrats—the majority of Congress—the majority of America—supported Social Security. They supported Medicare and they won. Republicans lost—they could not stop the will of the people. With this amendment, they could. No majority rule. No one man—one person—one vote. So much for fundamental truths. So much for our Constitution.

Mr. Speaker, I am saddened that I, as a Member of this House, have been reduced to voting on such a terrible and unwise amendment. I am embarrassed. There have been no hearings. This amendment was born in darkness and conceived in a den of inequity. It is a vague, overly broad, political stunt. It is silly.

Our Constitution is not silly. Democracy is not silly. This amendment is not worthy of the U.S. Constitution, of majority rule, or of this body. Do not demean, do not cheapen—the Constitution of the greatest nation on Earth.

This amendment does not belong here—it certainly does not belong in the Constitution. Get this amendment out of here. Get if off of the floor, out of this House. It is a waste of paper. It is trash. It belongs in the garbage—the waste heap of political stunts.

I urge my colleagues to oppose this amendment.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I must address the remarks of the distinguished gentleman from Georgia [Mr. LEWIS].

Mr. Speaker, the den of iniquity that the gentleman referred to where this specific language was actually drafted was a Committee on Ways and Means hearing room right across the hall. There have certainly been some shady deals discussed in that room over the past, but this is not one of them.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, I thank the gentleman for his leadership on this issue and for bringing it forward.

Mr. Speaker, the tax limitation balanced budget amendment will ensure that, like American families, the Government spends only within its means. The tax limitation balanced budget amendment will prevent the Congress from balancing governmental books on the backs of working Americans. The tax limitation balanced budget amendment is necessary because Congress has repeatedly failed to control its spending.

When Gramm-Rudman would have forced budget cuts in 1987, Congress revised the act to put off a balanced budget. Congress' inability to cut the deficit and pay down the debt demonstrates the need for this legislation. A balanced budget amendment is the best approach to eliminate the deficit while protecting the fruits of the American worker's labor.

Had this measure been in effect, Mr. Speaker, during 1993, the largest tax increase in history would have needed 290 votes, rather than 218. Instead of passing by only one vote with the support of only one party, a clear bipartisan consensus would have been required.

If you believe that Americans are undertaxed and passing tax increases ought to be as easy as possible and the quick-fix solution to our fiscal problems, do not vote for this measure. On the other hand, if you do not want to hold your constituents' hard-earned tax dollars hostage, you will vote for this reform.

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Mr. GIBBONS. Mr. Speaker, I yield myself 30 seconds to ask the gentleman from Texas [Mr. BARTON], I heard him take that cheap shot at the Committee on Ways and Means. The gentleman is not inferring that we had anything on the Committee on Ways and Means to do with this joke of yours, is he?

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I am not referring to anything.

Mr. GIBBONS. The gentleman is not saying the Committee on Ways and Means took any action on this.

Mr. BARTON of Texas. Mr. Speaker, the gentleman from Georgia [Mr. LEWIS] used the term of "den of iniquity" and the room is the Committee on Ways and Means where we drafted this language. That was the only point I was trying to make. I did not refer to that as the den of iniquity.

Mr. GIBBONS. Well, it was a cheap shot.

Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Speaker, I rise in opposition to this ill-conceived amendment. And while I can certainly agree with those Members who are attempting to find ways to cut spending and to reduce the size and the scope of the Federal Government, I strongly oppose their use of this mechanism to accomplish that goal.

Mr. Speaker, while my colleagues on the other side of the aisle would like to convince us that the debate on this amendment is about whether or not we believe it should be easier or harder to raise taxes, in reality, the real issue at stake here is very different. This amendment does not make it harder to raise taxes so long as the tax money raised is immediately spent on something through the Tax Code. That is the part of this bill that its sponsors are not making clear.

Under the language of the resolution, Congress can raise taxes on anyone by a majority vote: The rich, the poor, the middle class, corporations, large ones, small ones, foreign or domestic, anyone, so long as we immediately spend the money we raise on someone else through the Tax Code. The only ones we cannot spend this money on are our children and grandchildren, because tax bills which raise money for deficit reduction are the only bills that will be subject to this supermajority vote. This means that we cannot close corporate loopholes, even those considered inadvertent or egregious, and dedicate the money to deficit reduction unless we can get a supermajority of the Congress to agree. However, it will only take a simple majority of the Members to close those same loopholes and spend the money, creating new loopholes for a different group which just might happen to be more popular in some future political climate.

Since my election to Congress, I have spent many hours working on various proposals to balance the Federal budget. I have done this because I believe that budget deficits hurt our economy and represent a legacy of fiscal irresponsibility that we then pass on to future generations. But despite my efforts and the efforts of many other Members on both sides of the aisle, those who have worked to produce a balanced budget that is fair and responsible and acceptable to the majority of Congress and the American people, this goal has not been achieved, and I cannot in good conscience support an amendment to the Constitution which will make the task of balancing our budget even more difficult in the future.

I urge my colleagues to vote against this amendment.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in opposition to this constitution amendment.

The greatest sin against our children is the sin of the deficit, spending more than we are willing to raise in tax revenue. It will impose a paralyzing burden on our children, crippling government in their adulthood, robbing it of the resources necessary to provide even essential services. The deficit is the greatest threat we face. It destroys the lifeblood of economic growth, robbing our neighbors of their jobs and our kids of a strong, vital economy.

We must cut the rate of growth in spending. We must reform entitlements to address real, not imagined, need. But if we fail, we must pay for the services we are enjoying. High taxes have finally elected a Republican majority that is finally discipling spending, providing important public services in a more efficient, cost-effective way. That is the real answer. That is the right answer in a democracy, disciplined spending, balancing the budget.

I am proud as a Republican that we have had the courage to offer and to pass a balanced budget to cut spending, to wipe out the annual deficit over 7 years, but I leave each generation free to establish that balance between taxing and spending that they believe is in their interest. Democracy is about taking responsibility. Responsibility to identify and serve society's needs, to appropriate and to tax, that is democracy, and I am for it. I oppose this amendment.

Mr. GIBBONS. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Speaker, today is a day that is dreaded by most Americans for one reason or another. Today, April 15, is commonly known as Tax Day. Anxiety is high and many Americans are scrambling to meet the deadline. People across America are concerned if they have to pay or if they did their taxes right. Today, the House is participating in a publicity stunt to try to ease the anxiety and fear about our current tax system.

Tonight, we are debating an amendment to the Constitution. Any time we amend the Constitution it should be done in a serious manner. Amending the Constitution should not be taken lightly.

As a former history teacher, I value the Constitution and I have tried to pass this on to my students. Currently, the Constitution requires a two-thirds majority vote in the House in only three instances—overriding the President's veto, submission of a constitutional amendment to the States, and expelling a Member from the House. These instances differ substantially from the issue before us today.

The issue of requiring a two-thirds majority is not a new issue. This issue plagued our Founding Fathers. This proposed amendment would gravely weaken the principle of majority rule that has been at the heart of our system for more than 200 years. The Constitutional Convention rejected requiring a super-majority approval for basic functions such as raising taxes. James Madison associated majority rule with "free government." He believed a person whose vote is diluted by super-majority rules is not an equal citizen and his freedom is not fully enjoyed. The arguments of James Madison still hold true today. With the adoption of this amendment, power would be transferred to the minority. A minority would be able to prevent passage of important legislation. Our Founding Fathers recognized the difficulty of operating under a two-thirds majority. The Articles of Confederation required the vote of nine of the thirteen States to raise revenue. We should learn from the wisdom of our Founding Fathers.

The proposed Constitutional Amendment would change how the House currently functions. This amendment would require any bill closing loopholes for deficit reduction to require a two-thirds majority. However, the amendment would permit tax increases on one group of taxpayers to pay for a tax break for another group of preferences.

This proposed amendment would require a two-thirds majority to reinstate funding of the Superfund program. A supermajority would be required to reinstate the trust fund for the airport and safety and improvement program.

Deficit reduction should be our primary focus and this proposed amendment would make it harder to enact deficit reduction. The coalition budget which was a responsible balanced budget would require a two-thirds majority by closing unnecessary tax preferences.

We should take a hard look at the action we about to take today. Last week the Washington Post ran an editorial entitled "False Promises." This editorial hit the nail on the head. It reminds us that damage done to the Constitution cannot be undone. We simply cannot waive the Constitution.

We are all in election mode and we should realize that we are elected to make hard decisions. A majority of major legislation passes with less than a two-thirds margin. Our job would be easier here if two-thirds of us could always agree this is not supposed to be an easy job. We have to make tough decisions which often result in close votes.

Between 1982 and 1993, five bills that raised significant revenue were enacted. President Reagan signed three and the other two were signed by President Bush and President Clinton. All five of these bills did not receive a two-thirds vote on the House Floor.

I cannot predict the future, but based on past precedents, I believe it will be extremely difficult for any President to have a budget pass Congress if this amendment is enacted. So many of us hear the complaints from our constituents about gridlock. This amendment could add to the gridlock. We would not be able to pass the budget deals of the past without a supermajority. We should all know from this year's budget battle how difficult this could be.

We will hear today that this amendment is important because it will help reduce our taxes. If we really want to help the American taxpayer can do better than this legislation today. Our energy should be focused on deficit reduction. This amendment would make deficit reduction more difficult.

We all want to make our tax system more fair and simpler. This amendment will not help reach that goal. We have not studied the effects of this amendment closely enough. The wording of this amendment is not clear and could result in years of litigation. The resolution is not specific enough to address questions such as the length of the budget window or what constitutes a tax or a fee.

I urge you not to support this proposed amendment. We do not know enough about its effects. Tomorrow, we have on the schedule the Taxpayer Bill of Rights and this an example of legislation that will really help the individual taxpayer. Just because it is Tax Day, we would not support a constitutional amendment that sounds good at first. In reality, this amendment will create numerous problems and will change the concept of majority rule. With this amendment, we are turning back the clock of history and not moving forward.

I offer a suggestion tonight, Mr. Speaker, that we reject this foolhardy proposal.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Speaker, I rise in strong support of this constitutional amendment requiring a supermajority to increase our Federal taxes.

The average American family of four already spends 38.2 percent of their income to government in taxes. We need to pass this amendment so that we can have two-thirds of this body's vote to help cement a pattern we have advanced in this Congress, that pattern being that when we face a problem of deficit spending, we address it by reducing spending and not taxing our citizens of these United States, taxing them out of a job or making a decent living.

I have heard liberal opponents of this measure describe it as fiscally irresponsible, and I want to throw out a few statistics to counter those claims. For instance, the States that have a supermajority for tax increases have incurred 13 percent less debt than those States with a simple majority. Second, a supermajority does not exclude government from raising taxes in the event of fiscal hardships. It just ensures that the legislators, those elected officials, will scrutinize their options and provide added projections to the average taxpayer.

I heard earlier this evening the gentleman from Florida, the ranking Member, making comments about California, and I want to say that I served in the State assembly in California, and I want everyone to know that you need a supermajority, two-thirds, to raise taxes. In fact, as a member, I opposed a measure about 5 years ago that increased taxes on the citizens of California. However, my point is that still we were able, that body was able to increase taxes even with a supermajority.

Last, Mr. Speaker, statistics show that the States that live under the supermajority tax increase requirement have smaller tax and spending increases, grow faster, create more jobs and accumulate less debt. I urge Members to back this supermajority for tax increases.

Mr. Speaker, I heard a lot of comments about cheap shots and publicity stunts, but I will tell you, my 26-year-old who is just entering the job market, my daughter who is 24, are anxious, like your children and grandchildren, are anxious for us to do this tonight.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman from Florida for yielding me the time.

This is a sad day in the House of Representatives. Amending the Constitution of the United States is a very serious matter. I have voted to amend the Constitution of the United States on a number of occasions. I believe we ought to have a requirement that we will be constrained by our revenues in our expenditures. I believe that deficits eat at our economy and place at risk the next generation. But tonight, in my opinion, is the theater of the irresponsible. I do not see senior Members who have given thoughtful consideration to this speaking very much on this floor on behalf of this amendment. I do not see the distinguished chairman of the Committee on the Judiciary on the floor as a proponent of this amendment. I did see a distinguished senior member of the Committee on Ways and Means, the gentlewoman from Connecticut [Mrs. JOHNSON], say that she believed in democracy, she believed in our Constitution, and unlike many documents, it gave to the people the right to choose.

Perhaps the people sometimes make mistakes, as each of us do, but it gave them that right. It did so for the most part by majority vote. This House, under this leadership, does not trust the people, no matter what it may see, and let me give the examples. We adopted a rule. It said that we could not raise taxes except by a three-fifths vote. We have waived that rule, of course, on a number of occasions when it suited the fancy of the leadership of this House.

□ 2045

Seventy-three percent of the bills that have come to this floor have come without a hearing in the substantive committees, out of the Committee on Rules. That shuts the American public out of the decisionmaking process.

One hundred sixty-five legislative riders have been added to appropriations bills without a single hearing on any of those riders.

Term limits. Term limits is a classic "we don't trust the people." We do not trust them to elect the right people. Every 2 years they have that opportunity to choose in a democracy, to send us back or to retire us. But there are some in this body who believe that, no, we do not trust the people to make that decision.

We started this Congress by disenfranchising in the Committee of the Whole the representatives of American citizens from Puerto Rico, from Guam, American Samoa, the District of Columbia. Perhaps we did not trust those people as well.

We passed an amendment through this House, which I opposed, sponsored by the gentleman from Maryland [Mr. EHRLICH] and the gentleman from Oklahoma [Mr. ISTOOK], which said, "That if you get Federal money to propose a program, if you get money, you cannot spend your own money to advocate issues before the Congress or other political bodies."

Why does this leadership not trust the people?

The line-item veto was essential, I have been told, over the years, and my friend from Texas, Mr. STENHOLMand I agreed that there was a necessity for a process. But it kept even the relationship between the Executive and the Legislature. The line-item veto was essential, but not until January, not in this budget process, my colleagues. The line-item veto would go into effect next year.

My colleagues, Warren Rudman was mentioned. Warren Rudman is a distinguished Republican, a Senator from New Hampshire, not known as a profligate fiscal State. Warren Rudman opposes this amendment. Why does he oppose this amendment? Because he believes, as the gentlewoman from Connecticut [Mrs. JOHNSON] believes, that it will undermine, not enhance, the ability of this Nation to democratically and fairly balance the budget, which is our objective and our responsibility.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I thank the gentleman for yielding this time to me.

I rise in support of this constitution amendment which we are talking about, and it has been stated here several times that amending the Constitution is a serious matter. Well, raising people's taxes is also a serious matter, and taxes are high in the United States of America, particularly if we look at the range of about $30,000 to $60,000, and we consider Social Security taxes, Medicare taxes, personal income taxes and all the local taxes which, after all, are part of the taxation that people face. The important thing here is it is the taxpayers' money we are talking about, and for that reason I believe that we should have a higher standard before we appropriate the taxpayers' money by passing tax legislation in the Congress of the United States.

The history of this Congress is to spend too much, and then in later years to tax to try to make up for that. We had the same problems in my State of Delaware. Back in 1980 we had 19.8 percent personal income taxes, we had businesses leaving the State, we were not balancing our budget, and we came along and we said we have got to do something about it, and we passed a balanced budget amendment, and we passed a supermajority to increase our taxes, and we passed a line-item veto, and since that time we have balanced our budget 19 times, we have cut taxes 6 times, we lowered poverty more than any other State in the United States of America. We have one of the lowest unemployment rates in the entire United States of America. It has worked, and it has worked well.

A tax limitation amendment is not a magic solution to our fiscal problems, but like the balanced budget amendment and the line-item veto, it will make a real contribution to putting the Federal Government on a permanent path to fiscal responsibility. Without a constitutional mandate, we may have some short-term success in limiting the growth of government, but we will never change the fundamental problems that lead to continued growth in Federal programs and spending. The only way to change business as usual in Washington is to make it more difficult for this Government to raise taxes and continue deficit spending. We owe it to the people of this country to send this amendment to them for ratification.

The easy decision is to vote no. The tough decision and the right one is to vote yes.

Mr. Speaker, I urge its passage.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr LEVIN. Mr. Speaker, it is said that the Republican majority has returned and showed they have not learned a thing during this break. The public has legitimate concerns about taxes, but I think the message from the public, these last months, has been do not play games with these concerns.

I wish the Republican majority has gone back, as I did, and read the transcript of proceedings in 1982 over that tax bill. Here is what was said by the Senate manager:

> The bill would increase revenues of about $99 billion over 3 years. Confronted with the need to raise revenues, our committee sought to emphasize eliminating or cutting back on justified preferences in the Tax Code.

And then he went on to say:

> Some of my colleagues, some of my Republican colleagues, some of the pure supply-siders, though there are not as many as there were, would say why are you raising revenues,

and this is what he continues to say on page 6907:

> As I said earlier, I do not know what choice we had. The bill can help eliminate much taxpayer resentment over the perceived unfairness of our tax system by cutting back on tax shelters that benefit the wealthy, who can afford sophisticated tax planning.

Then a month later in the conference that same gentleman from the Senate said this:

> I would say that those who talk about tax increases where you have not paid taxes at all, but now you have to start paying taxes because of tax compliance. That is not a tax increase. It seems to me, when you properly consider that, then I suggest we have a pretty good bill. Call it a tax bill, call it a tax increase, call it tax reform, call it anything you want, but vote for it. Vote for it because it is good policy.

That was ROBERT DOLE in 1982. What is he going to do now with this proposal? That bill in 1982, the conference report carried only 226 to 207 in the House. It would have been defeated under this legislation. Is ROBERT DOLE going to give in to the irresponsibles in the House majority?

This proposal will defend tax loopholes. What our colleagues' bill should be called is the Tax Loophole Preservation Act of 1996. I urge its defeat. It is going to die in the Senate. It is clearly playing game with legislative concerns of the American people. They have had enough of that from our colleagues. Too much.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 30 seconds.

The gentleman from Maryland [Mr. HOYER] talked about the lack of senior Members speaking on behalf of this amendment. So far today we have had the chairman of the Committee on Economic and Educational Opportunities, the gentleman from Pennsylvania, Mr. GOODLING, speak in favor; the chairman of the Committee on Rules, the gentleman from New York, Mr. SOLOMON, speak in favor; the chairman of the Committee on Ways and Means, the gentleman from Texas, Mr. ARCHER, speak in favor; the chairman of the Joint Economic Committee, Mr. SAXTON, speak in favor. We expect to have the chairman of the Republican Policy Committee speak in favor later this evening.

Mr. Speaker, I yield 2½ minutes to the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Speaker, I thank my friend from Texas for yielding me this time.

There are two documents to which we should pay great attention this evening, Mr. Speaker. One, of course, the document which is the foundation of our constitutional republic, the Constitution of the United States, and I have listened with great interest, the spontaneous historical revisionism which has gone on during the course of this debate, for it is worth noting and worth asking: If a personal income tax were so desirable, if a personal income tax were so laudable, why did not our Founders spell that out by levying a personal income tax in the main body of this document, the Constitution of the United States?

Now history shows us that it was a constitutional amendment that gave us a personal income tax, the 16th amendment, ratified in 1913, which leads me, Mr. Speaker, to the second document here, and unfortunately, Mr. Speaker, it is a document with which Americans come into more contact on an annual basis, unfortunately, than I dare say the Constitution of the United States. Form 1040. This is the first.

Mr. Speaker, the Center for Small Business Survival conducted a study, which I think is incredibly illuminating, for it went back to the initial tax tables and the tax code levied or instituted in 1913 and projected that into real dollars in 1990, and the statistics and the findings are nothing short of amazing. If we applied the tax tables of 1913 to the American people today, in real dollars today, a single filer would be exempt on his first $46,000 of income.

Simply noted, it is this. I can show my colleagues the tables, and I will do it during a special order. But the fact is even adjusting for inflation, since the institution of this income tax, the spending of Government has increased by 13,500 percent, and if we are so quick to riase taxes, our Founders did give us a mechanism to correct that. It is a constitutional amendment, and the only game being played is the increased transference of wealth from the American people to the shores of the Potomac.

Mr. Speaker, I stand in support of this amendment, and the American people know it is the right thing to do.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, if my colleagues think the current tax system is fair and equitable, then they will love this amendment. If they like the loopholes and tax giveaways in our Tax Code, they should embrace this constitutional amendment.

Why? Because it will let the special interests and foreign corporations who are now getting a free ride under our loophole-ridden Tax Code stop any reforms from moving through Congress.

Seventy-three percent of the foreign corporations doing business in the United States pay absolutely no Federal corporate income tax. This is a scandal, and the authors of this legislation want to keep it that way. They say that a minority of either the House or Senate should be able to stop tax reform that places a fair tax on foreign corporations doing business in the United States.

Every year foreign corporations mine millions dollars of gold on Federal lands. They pay no royalties to the U.S. Treasury. This bill allows a minority of Members of the House or Senate to stymie any legislation placing a reasonable royalty on mining operations on Federal lands.

The oil and gas industry seems to be doing just fine. Prices are rising at the gas pumps. Profits are up, stocks are increasing in value. Do they really need a $1.5 billion a year Federal tax subsidy? Do we need a constitutional amendment that protects their subsidies? They majority thinks so.

This amendment has been cynically sold as tax relief for average Americans. Nothing could be further from the truth. This legislation makes certain that Members of Congress, whose campaigns are fueled by contributions from the oil industry and a host of other special interests, can protect their tax breaks, subsidies, and loopholes those special interests receive.

□ 2100

Make no mistake about it, every dollar that the U.S. Tax Code dishes out in corporate tax loopholes comes straight out of the pockets of working people in this country. This cynical legislation ought to be called the Special Interest Tax Loophole and Corporate Welfare Protection Act. It is a desperate attempt to defend the status quo and make sure that working Americans pay while foreign corporations and special interests play.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CAMP].

Mr. CAMP. Mr. Speaker, I rise in support of the tax limitation amendment. Americans today work almost 3 hours out of every 8-hour day just to pay their taxes. That is unacceptable. Our taxes are heavy burdens. They are hurting families and causing us to lose jobs. It has been far too easy to raise taxes, far too easy.

Just recently, in 1993, we saw the tax burden increase by almost $250 billion by just a single vote. It should not be that easy to place additional financial burdens on the backs of America's working families. The tax limitation amendment would require a two-thirds majority vote to increase taxes. That means any future tax hike would be supported by a large majority in Congress, not just a single vote.

I know, while I have not been in Congress as long as some of those on the other side who have come to the well in opposition to this amendment, I have been here long enough to know that we need change. My friends on the other side had it their way for 40 years. We can point fingers wherever we want, but let us look at the facts. This country is $5 trillion in debt. A child born last year owes $187,000 just in interest on the debt. How can we expect any American to realize the American dream under those circumstances?

Will this solve all of our problems? Probably not. But it is another tool to reduce the size and scope of the Federal Government, a Federal Government that has grown too large. Let us make the decision. Let American working families keep more of what they earn. Vote for the tax limitation amendment.

Mr. BARTON of Texas. Mr. Speaker, I am happy to yield 2 minutes to the distinguished gentleman from Arizona [Mr. SALMON].

Mr. SALMON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I did listen when I was back home in the district over the last couple of weeks. I listened to people who said they were tired of the liberals with their fingerprints on their wallets and their footprints on their backs, and that they are sick and tired of paying $1 out of every $4 of their income in taxes. They are sick and tired of having to have both spouses in a family work, one of those spouses just to pay the tax bill for the family.

I do not know if any of the Members have read the recent article in Readers Digest where it talked about the poll they did among Americans, an equally divided poll among Republicans, Democrats, and Independents, some that called themselves conservatives, many that called themselves liberals.

One thing they all agreed on across all classes of our society here in these United States was that they felt no family should be paying more than 25 percent of their income in their total tax burden. But what is the average family of four's tax burden? It is at 39 percent, when you include the 24 percent of their income that goes to the Federal Government, with little to show for it.

In fact, in 1950, middle-class couples with two children sent $1 out of every $50 to Washington. Today they send $1 out of $4. What more do they have to show for it? Of the last 16 major votes to increase taxes, only half of them would have passed by the two-thirds vote. In the 1980's alone, we would have saved the taxpayer $666 billion, had this measure been in effect.

If this is some cruel joke being perpetrated upon the American public, then I fail to see the humor in it. The cruel joke is Americans are working more and they are taking home less. More is coming here to spend, spend on whatever. But they do not have anything to show for it.

I remember I heard a respondent that listened to President Clinton talking about the 4 million jobs he took credit for. His comment was, "That's great. I have three of them." The fact is, maybe Americans are making more, but they are taking home less. It is time we stand up for them. This cruel joke has been perpetrated on the American taxpayer for long enough. Let us stand up for them and get rid of this smokescreen of doublespeak for "Let's stick it to the taxpayer one more time."

Mr. GIBBONS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Speaker, I rise in opposition to this Republican publicity stunt, masquerading as public policy. We are having a hard enough time as it is, trying to scale back some of the special interest tax breaks in our tax code with just a simple majority vote. If adopted, however, this constitutional amendment would make it virtually impossible to reduce corporate welfare. What will this mean for middle-class families? It will mean that Social Security, Medicare, education, and the environment will all be on the chopping block, while corporate tax subsidies are forever locked in place because of a two-thirds vote requirement in the Constitution.

Mr. Speaker, this amendment is designed to allow tax increases on middle-class families just as long as those increases are offset by tax cuts for the wealthy. Is that not convenient?

Mr. Speaker, I urge my colleagues to defeat this tax day publicity stunt.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I heard the excuse that, well, we have not had hearings. I do not think you have to have a hearing, to go in your district, to have people feel that they are taxed too high. You can go into any district across this country and people will say that they are taxed too high. But the Democrats will give you every excuse in the world why we should limit Democrats from increasing taxes. Why? Because everything that we have been fighting for on these budget debates is about the ability of the Federal Government to spend money, to spend money to their constituents so they can get reelected, so they got the power to start with, whether it is Medicare, Medicaid, education, the environment, welfare. It is about the flow of dollars that are going out of the Federal Government.

It is like they are talking about free money. Mr. Speaker, it is not free money. They have to take it from their constituents in the first place, send it to Washington, DC, feed a big bureaucracy, and get very little of the money back to the areas which they are trying to help: for example, welfare, where you only get about 30 cents on a buck back; education, 760 programs in education, where you only fund about 6 percent of the total education revenue; 760 programs, where you only get 23 cents on every dollar back into the classroom, because of the spending.

Mr. Speaker, they say, "Well, we all want a balanced budget." I submit that that is not true, Mr. Speaker. The President submitted four budgets that increased the deficit $200 billion a year. When he was finally forced and cornered into producing a balanced budget scored by CBO in 7 years, what did he do? He put off 90 percent of the discretionary cuts until years 6 to 7, when he would not even be here, if he is elected to a second term, and then increase taxes during that time and increase spending. Mr. Speaker, a balanced budget amendment takes the power away from the Democrats. That is what they are fighting.

Mr. GIBBONS. Mr. Speaker, I yield the remainder of my time to the gentleman from New York, [Mr. ENGEL].

The SPEAKER pro tempore. (Mr. RIGGS). The gentleman from New York [Mr. ENGEL] is recognized for 1½ minutes.

Mr. ENGEL. Mr. Speaker, I think we ought to look at this proposed amendment and call it for what is. It is a Republican election year publicity stunt. They want to require a simple majority to go to war, but want to require a two-thirds majority to correct a tax loophole to end corporate welfare. That makes no sense to me whatsoever.

Mr. Speaker, at the beginning of this Congress the Republican majority passed a much-heralded House rule requiring a three-fifths vote to raise taxes, and every time we have raised taxes in this Chamber with Republican votes and Republican majorities, they have waived that rule, that house rule, three times. So who is kidding who? The House rule was supposed to prevent taxes being raised without a three-fifths majority. Each time the Republicans found it convenient to raise taxes, they just waived it.

So with the same publicity at the beginning of this Congress that they put in to look good, this is the same kind of election year publicity stunt that they are putting in right now: a simple majority to go to war, a two-thirds majority to correct a tax loophole to end corporate welfare.

One can only conclude from this that they like the corporate welfare, they like the special interests, they like catering to the special interests, and it is the middle class once again under the Republican plans that get kicked in the teeth. Americans should understand what this is all about. This is to protect corporate welfare. It is a cynical election-year publicity stunt. It hurts the middle class and ought to be defeated.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from South Carolina [Mr. GRAHAM.]

Mr. GRAHAM. Mr. Speaker, if there is something wrong with our corporate code, and there may be, and if foreign corporations are getting away with tax murder, we need to change it. But I would suggest that the party that has been in control for 40 years has some blame to accept that that is true.

Let us stop blaming each other and try to fix the problem. What is the problem? It may make the gentleman feel better that this is an election year, but I ran on the same concept in the election year 1994. This is not a new thought to Congress. I believe very deeply that there should be a wall between your pocketbook and the U.S. Congress' ability to take money out of it.

One thing we have learned is that if you leave Congress to its own devices, you lose. What would the Founding Fathers say about this debate? They would want to know, how is the country doing? If you tell them they are in 5 trillion dollars' worth of debt, they would say, "What is $1 trillion?" We have created new money amounts.

I do believe it is time to change the way we do business in Washington, and this is a start. I do not trust the Republican Party enough to leave it unhindered. I want to change America for the sake of the people who earn the money and have to pay the taxes.

Let us have the line-item veto and give it to a Republican and Democratic President to regulate the way we spend. Let us have a balanced budget amendment that regulates both parties' conduct, so we cannot leave here with a deficit. Let us have term limits so Congressmen will come here with a different view of how to serve the public. Let us change America and be serious about it before it is too late.

Some say it is too late. I do not believe that. The two-thirds supermajority vote requirement to raise taxes is long overdue. It is needed, because we in America, in Congress, have been irresponsible. Do not trust party rhetoric, do not trust political rhetoric. Change the rules of how Congress taxes you, how it spends money. If we do not do that, nothing in America is going to change.

This is a great debate to be having, and there is going to be a vote pretty soon, and you will find out who is with you and who is against you. If you believe this is corporate welfare, a way of protecting it, then you can punish me if you thing that is true. If you believe this is a good rule to limit congressional spending long overdue, you can punish the people who voted the other way. This is a great debate to be having. It is one of many we have had. I am proud to be part of it.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this constitutional amendment on taxes is a cynical, back door attempt by NEWT GINGRICH and his followers to appear to favor cutting taxes for average Americans while actually preserving tax breaks for their special interest and big business supporters.

Were it to become law—which all of us know it will not—average Americans will continue to pay a high price for tax loopholes and special interest giveaways.

Despite their rhetoric, Republicans under NEWT GINGRICH have been working against family interests since they took over the Congress.

If they were serious about helping America's families, GINGRICH and his followers would not have voted to raise taxes on the working poor by cutting the earned income tax credit. They would not have voted to cut funds for education.

If Republicans were serious about helping American families they would stop blocking a vote to increase the minimum wage, and they would not allow companies to raid the pensions of hardworking Americans.

But they are not serious about helping American families get ahead. They are cynical, and I think it is safe to say that one thing we don't need more of in this country is cynicism.

Today's vote is a transparent gimmick intended to shield Republicans from their lengthy antifamily record.

We all understand how it works. The Republicans say this vote will make it harder to raise your taxes, and if you vote against them, they will say you voted to raise taxes. Pretty neat. But wrong on all accounts.

In fact, if you vote for this amendment, you will make it harder to balance the budget. You will make it harder to resolve the crisis in Medicare and Social Security. You will make it harder, if not impossible, to make responsible budget choices for the future.

By making it nearly impossible to vote to end a tax loophole—because the Republicans will say it is a tax increase—this amendment will preserve the fundamentally unfair tax structure we have today.

Consider this: In 1952 corporate income taxes were 32 percent of Federal revenues. By 1992, corporate income taxes had fallen to just 9 percent of Federal revenues because of tax loopholes and favorable, but unjustified treatment.

This amendment will protect those special interest tax breaks, such as the tax shelter for money hidden in foreign subsidiaries, or the ability of businesses to deduct today capital depreciation that occurs in the far off future.

It is tax loopholes like these and many others that allowed at least 130 large companies in the 1980's to avoid paying any Federal taxes at all even though they had large profits.

The Democratic majority in the 1980's enacted the alternative minimum tax to require these large profitable corporations to pay Federal taxes.

Well guess what? Not only does the Republican majority want to preserve tax loopholes, they want to repeal the alternative minimum tax too. They want to help profitable corporations pay no taxes.

Think about that as you file your own tax returns.

So this amendment is really about locking in an unfair tax system—not making the tax system more fair. It is about preserving what is wrong with America and making the middle class and low-income Americans pay the price. It is about selling the Constitution for a short-term and short-sighted political gain.

Well, Mr. Speaker, guess what?

The constitution is not for sale. And I have enough faith in the intelligence of the American voters that they will see that you are trying to sell a piece of the Constitution that you swore to uphold to buy a little air time for the November election.

My colleagues, clear your eyes. Summon your courage. Cast the right vote tonight against this amendment and know that in doing so you are standing up for what's right. Isn't that what the American people sent us here to do?

Vote no tonight on the latest and most cynical ploy by the most cynical man in American politics today.

□ 2115

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. I thank the gentleman for yielding me the time.

Mr. Speaker, in 1988 we had a presidential candidate who pledged no new taxes and then in 1990 taxes were raised. Then in 1992 we had another candidate who campaigned on a middle-class tax cut and in 1993 he raised taxes. It should be no surprise to the minority Members in this room that now there are a new group of people in this Congress who want to actually require a three-fifths majority to raise taxes.

I am told that if this law were in place, the majority tax increases over the past 15 years of 1982, 1984, 1987, as well as 1990 and 1993, would not have gone through. I think it is good to have a firewall of protection between the people's wallet and the Government of the United States. I support this amendment. I encourage all of my colleagues to support the amendment. We need this protection for the working people in the United States.

Mr. CONYERS. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I do want to repeat, because the outrageous tactics being used here need to be underlined

This is an amendment to the Constitution of the United States, the text of which has never had a public hearing, has in fact been in existence for barely 2 weeks, during almost all of which time we were out of session. It is being rushed through late tonight just for the symbolic version of it being on April 15. It really shows a fundamental disrespect to democracy.

There has been zero pubic hearing on the text of this amendment. We had a hearing on the text of the earlier amendment they introduced, and it was so shabby that they had to withdraw it. They come up with a new one and they learned they better not expose it to the light of day. But this amendment shows a disrespect for democracy in another way.

The question here is not the substantive one of whether or not taxes should be increased. Sometimes taxes are increased unnecessarily. When Ronald Reagan and the then Senate Finance chairman ROBERT DOLE and the Democrats in the House collaborated in 1982 for a tax increase, I voted "no."

In 1982, with a Republican Senate and Ronald Reagan as President, we did a tax increase. I thought it was a mistake. A year later when Ronald Reagan and ROBERT DOLE and Tip O'Neill came together to raise taxes again for Social Security, I thought that was a mistake a I voted "no." I thought they made a mistake.

The Reagan-Dole-O'Neill tax increase of 1982 and the Reagan-Dole-O'Neill tax increase of 1983, I voted against both of them. But I did not think that I had the right to have them defeated when I could not get a majority on my side. We are not talking substance here. We are talking about majority rule.

As of now, there does not appear to be much public sentiment for significant tax increases, nor does there appear to be a lot of sentiment for tax decreases. At this point the general public's sentiment appears to be, let us do deficit reduction. But 8 years from now, 12 years from now, should the majority of the American voters have a right to decide then by majority rule that we need to increase taxes some? Yes, I think they should.

As a matter of fact, one of the problems you will have with this poorly drafted amendment, this keep it in the dark and let's not have a public hearing amendment, is that you may make it harder for people to lower taxes in the future, because in a rational world under the right circumstances, we might decide to reduce taxes. But under this amendment, if we were to reduce taxes 1 year and then 4, 5, 7 years later decide that we erred or that for unforeseen reasons things did not work out as we thought and we needed more revenue to defend the United States, to protect the environment, to protect Social Security, we should need two-thirds to do it.

In 1981 Ronald Reagan and Senator DOLE and Tip O'Neill collaborated, that time they fought. There was a tax cut in 1981. Apparenly it was the Republican view, the Reagan-Dole view in 1981 was that they cut taxes by too much. So they raised taxes back in 1982 to offset some of that they had done in 1981. They said they overshot in 1981.

You would make it impossible for them to to do this. Make it impossible for people to correct errors, and you make it less likely they will act in the first place.

I talked about Social Security. We have a problem with Social Security. One possible solution might be right now, Social Security taxes stop at $62,000 of income, making it by far the most regressive tax we have. Medicare used to stop, and we raised the amount of income that is subject to the Medicare tax.

I think a reasonable thing to do might be to say from $60,000 to $90,000 you have got to pay half a percent to Social Security, and from $90,000 to $200,000 you pay 1 percent, and above $200,000 you pay 1.5 percent. That would be one way to help protect Social Security.

But you would make that impossible, or at least require a two-thirds, which makes it very difficult. So any possibility that we might want to raise taxes on people who make $60,000 or more to help protect the Social Security system, that is what you are aiming at.

Are there bad tax increases that would be hurt by this? Yes, the Reagan-Dole-O'Neill tax increases of 1982 and 1983 that I voted against would not have become law. But I do not want to change the rules. I want to have to go by majority rule.

What this amendment says is, "No, no, we don't like this majority rule stuff." That might have been all right for a while ago. Maybe that is OK for France or Sweden or Belgium, but this is America. We do not have majority rule anymore.

Those of us currently in power will change the rules and we will take our substantive preference, and right now what they are saying is, "We don't like government, we think government is too big, so we want to change the rules so that a majority in the future that disagrees with our position and thinks we need more aid to education and more environmental protection but doesn't want to cut the military, that they won't be able to do that without getting two-thirds."

By the way, what we are having here now is a fundamental distortion of the democratic process to try and freeze in the views of a temporary majority.

Mr. BARTON of Texas. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, whenever you follow the good Representative from Massachusetts, you want to spend your time replying to some of his preposterous arguments.

I submit on this House floor that disrespect to democracy has been greatest with the $5 trillion debt, and what we need to do is bring that debt down. We have had so many taxes on this House floor with 40 years of Democrat rule that we have not had the opportunity to control this budget, and now we do with this great House joint resolution.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. STEARNS. I will not yield.

Let me just say that going back 220 years, our Founding Fathers had the foresight to mandate a two-thirds majority vote on certain priority issues. This is something not brand new we are bringing to the Congress here in April 1996. Alexander Hamilton and James Madison and John Jay would be turning over in their graves if they saw that we had a $5 trillion debt in this country.

James Madison, a vocal supporter of majority rule, argued that the greatest threat to liberty in a republic came from unrestrained majority rule, and that is why they proposed two-thirds majority for conviction in impeachment trials, expulsion of a Member of Congress, override a Presidential veto, quorum of two-thirds of the States to elect a President, consent to a treaty, proposing constitutional amendments. There were seven of these that were already in the Constitution when they wrote the document, and since then three more.

I submit that to prevent any further debt, we must pass this resolution.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK] because the gentleman's name was mentioned but he was not yielded to.

Mr. FRANK of Massachusetts. Mr. Speaker, typical of the hit-and-run tactics of the gentleman, to make abusive remarks and then refuse to yield so I could respond.

Mr. STEARNS. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. No, no longer than he would to me.

Mr. STEARNS. Will the gentleman yield?

Mr. FRANK of Massachusetts. No, I follow the gentleman's example, and I ask the Chair to please restrain the gentleman. The gentleman gets up, makes insulting remarks, refuses to yield and then tries to interrupt me when I am speaking. I am simply responding as he did under his rule.

I would say this. First he talked about Democratic tax increases. The disrespect for facts is glaring.

Mr. STEARNS. Will the gentleman yield?

Mr. FRANK of Massachusetts. Regular order, Mr. Speaker. Please instruct the gentleman who refused to yield that he may not interrupt.

The SPEAKER pro tempore (Mr. RIGGS). The gentleman from Massachusetts will withhold so that the Chair can admonish the gentleman from Florida that the House will proceed in regular order, and that the gentleman from Massachusetts controls the time and may proceed as he sees fit.

Mr. FRANK of Massachusetts. I thank the Chair.

I would have been prepared to engage in a colloquy. The gentleman made insulting remarks, refused to yield. Now what he is trying to do is to prevent me from responding by deliberately flouting the rules of the House. It is not worth further discussion.

What is worth further discussion is his blatant misrepresentation of the facts of the situation when he talked about Democratic tax increases. The tax increase of 1982 was a Reagan-Dole-O'Neill tax increase. So was the one of 1983. In fact, these tax increases came asked for, not just signed but asked for by Ronald Reagan.

The notion that you are justified in making it harder to raise revenue because you want to reduce the debt is bizarre. As a matter of fact, when we were trying to save the Social Security system, we raised revenues in part for Social Security. I suppose you could have reduced expenditures to Social Security. I was not in favor of doing that. Maybe the gentleman is. But that is how you deal with it in this situation.

Finally, the silliest thing I have heard today is to say that because the Founding Fathers required two-thirds in a couple of extraordinary circumstances, that must have meant that they wanted two-thirds in this one. Yes, it shows that they were perfectly capable of understanding when we required two-thirds, what extraordinary circumstances required two-thirds and when the general principle of majority rule ought to apply.

They felt that for raising the revenues of the United States, majority rule ought to apply. That does not mean we cannot change it. We have a right to amend the Constitution. But to invoke the Founding Fathers so that you can say that they were mistaken seems very, very unfortunate. They decided we did not need two-thirds. The current Republican majority does not trust democracy, and therefore they want to make the amendment.

Mr. CANADY of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, April 15 is a very important date in my family because my mother was a tax consultant. My family has been involved in income tax for 45 years and my wife now runs a business.

While I keep hearing this discussion about the constitutional issue, let me remind you, the Founding Fathers not just once but twice specifically in the Constitution said the income tax should not be allowed. Twice in article 1.

The first thing they did is they said you make sure you have fair apportionment of representation in the House of Representatives and a fair apportionment of taxes.

So when someone brings up the founding Fathers, let us go back to the Founding Fathers' constitutional document and the 16th amendment was the only amendment that specifically reversed the direction of the Founding Fathers. It should have included a supermajority at the time the 16th was passed.

Mr. Speaker, my family has listened to working-class people talk about being taxed too much and every time I hear people on the other side of the aisle say, "We're only raising the taxes on the rich," go ask the middle-class people in my community in Imperial Beach and in San Diego and whenever you are going to lower the taxes, "Oh, it's only going to be lowered on the rich."

Let us be frank and open about it. That is what it is all about. You want more money to increase spending so you get more power in Washington and less freedom as individuals. I am telling you as somebody who has worked in the communities as a working class, you taxes are not on the rich, they are bearing down on the middle class, and they are sick and tired of it. They want the original Founding Fathers' intention that taxes should be fair and equitable and this amendment will help to do that.

□ 2130

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. SCOTT], a member of the committee.

Mr. SCOTT. Mr. Speaker, I rise to oppose this late-night attack on the Constitution. We all know that this initiative will not become law. It is nothing more than a public relations ploy which panders to voters on April 15. Perhaps some will think that the American people on April 15 will forget that the big fat tax cut for the wealthy that was part of the Republican budget was funded by cutting Medicare, education, and environmental protection programs.

Mr. Speaker, much has been said tonight about fiscal responsibility. Mr. Speaker, this amendment does nothing to reduce spending. In fact, it continues to allow spending money by majority vote whereas paying the bills will require a two-thirds vote. It does not take a rocket scientist to figure out what will happen to the deficit if this amendment is adopted. Earlier this evening, we heard a list of taxes which would not have been adopted if this amendment had been in effect, but all of the prior spending would have still been adopted.

Shamefully, Mr. Speaker, this amendment will also have the effect of requiring a two-thirds vote to eliminate special interest tax breaks and cutting corporate welfare.

Mr. Speaker, we need to get serious about facing our budget problems. This amendment will do nothing to curb spending. It will make it more difficult to pay the bills we run up, and at the same time it will shamefully protect corporate welfare and current special interest loopholes.

We should defeat this resolution.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, the tax man cometh tonight, and if there was ever a more abominable tax system than the American income tax system, we have yet to see it on the face of the planet. It came to use by a two-thirds vote. It did not come to this Chamber, to this body, to the American public except through a constitutional amendment that required a two-thirds vote.

The first attempt to pass an income tax was declared unconstitutional because our Constitution prohibited an income tax system in our country as it was first written. So what is wrong with requiring that changes should come only with a two-thirds vote? We are not saying taxes cannot be raised in America. We are simply saying they should not be easily raised, no more easily than the American public was first inflicted with this system with a two-thirds vote when the 16th amendment was proposed and later adopted.

I wish we were debating the repeal of the income tax system tonight. We have such a bill before this body, House bill 3039, a bill to establish an alternative tax system for America. This system taxes Americans twice on the same money, once when you earn it and again when you spend it, when you pay all the business taxes, when you consume American products. It taxes only American products, not products made from overseas and imported here. It is a lousy system. It costs small businesses $4 to conform to the Code for every dollar they send in tonight, and we are paying all of that cost. We are told $300 billion worth of manhours is spent in complying with this Tax Code. We ought to get rid of it.

But at least we ought not raise taxes more easily than this country was inflicted with income taxes, and that was with a two-thirds vote of the Congress and a confirmation by the legislatures of the 16th amendment.

I remind you, the income tax was declared unconstitutional once. It was repealed in prior history in this country by Congress. Americans hate it. They have a right to hate it. It is a lousy system, and we ought to at least make it more difficult to raise taxes under that system in America.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. WATT], a distinguished member of the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Speaker, I left this body earlier and I went and watched these proceedings on television for a while to try to get a flavor of what was going on here. And as I listened, I heard my colleagues on the Republican side come to the floor and say that this is about taxes, taxes, taxes.

I think they are missing the point. We can debate taxes when we talk about whether to raise taxes or lower taxes. This is about whether to amend the Constitution of the United States. This is about fundamental fairness. Lord knows, I have been in on the losing end of a lot of votes since I have come to this House, both when we were in the majority and during this term when we are now in the minority. But on every single one of those votes, almost without exception, it has been by majority rule, because that is the basis on which our constitutional democracy is founded. It is one person, one vote.

Every single Member of this House gets sent to this body by the same number of people. That is why we redistrict the country every 10 years after every census, to guarantee that each individual citizen in this country, in this body, the people's body, has one individual who represents their interests and that individual's vote is equivalent to the vote of every other individual in this body.

So, this is not about taxes, taxes, taxes, my friends. This is about the fundamental rights and belief in democracy. This is about majority rule. And you all seem to have missed that point.

You say that you believe in conservative values. But four times during this session of Congress you have come in to attack the Constitution. I am beginning to believe that you do not believe in the Constitution at all.

We should defeat this insane amendment to the Constitution and to the fundamental rights that we all should believe in and support.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Speaker, the only point anyone has missed in this whole debate is the fact that the American people are frustrated and fed up. The last 30 years their taxes have been raised and raised and raised every time. This amendment today would reassure taxpayers that they are entitled to the money that they work so hard to earn and the taxes will only be raised when absolutely necessary.

I am convinced that you can never satisfy the appetite of certain Members of this body to tax and to spend the earned incomes of our working families. While we may not be able to cure their appetite, this supermajority amendment would put a hurdle in the system that Washington's big spenders would have to jump before they could get into our wallets.

President Clinton recently declared that the era of big government is over. And he is right. By passing this amendment, we will put a needed restraint on the politicians who want to keep raising taxes to pay for more big government programs.

I urge my colleagues to support passage of this important amendment to the Constitution of the United States and to restore some economic sanity back to the people who sent us here.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. WALSH].

Mr. WALSH. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise today in opposition to H.J. Res. 159, the proposed amendment to the Constitution to require two-thirds majorities for bills increasing taxes. Those who support this concept are well-intended and probably, like many of us, frustrated at not being able to cut taxes for hard-working American families across the country.

The Constitution is alive and well today after 220 years. It granted Congresses the power to levy taxes. To change this very special document in this manner is inappropriate. The framers of the Constitution had wisdom far beyond their years. They felt the strength of the Nation, with few exceptions, was based upon majority, not supermajority, rule. Let us stick to that concept. The surest way for this Nation to ensure itself against higher taxes is to retain and indeed expand the Republican majority.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding this time to me.

First of all, I want to say to some of the previous speakers, here is a copy of the Constitution that talks, in article 5, about the amendment procedure. Clearly, it would not be in there unless our forefathers anticipated the need to amend it.

I also recommend to you something else you probably have not read, the bill itself, which talks about how you can close a corporate loophole. I am going to put both of these here if you want to take the time to read them tonight before you vote on these and find out how absurd some of the arguments are.

Here is why I support this thing. Forty-five percent of the income, the household income of the middle class family, goes to taxes now. Two-income families all over America, you know what that means, it means the second employee, one spouse is working for the Government. You can say, no, no, no, not my husband, not my wife. He is a real estate agent, she sells clothes, he is a barber. That is not true. They are working for the Government. They might be getting their paycheck through the private sector. That money goes straight to the Government. These people are government employees.

The middle class has had enough of this. I was here in 1993 when the big Clinton tax increase came through here, and that 15 minutes, which is the traditional voting stance, the 15 minutes came and the majority was not there. So, what happened? The Democratic Speaker, the Democrat Majority Leader, the Democrat Whip went around the House, and this place looked like a beehive, all the buzzing around, because you want a road, you want a bridge, you want a highway, you want a new committee assignment.

The clock kept going, 20 minutes, 25 minutes, 30 minutes, squeezing out that last vote, giving away that last bridge, that last committee assignment or whatever it took to get it just over the hump. And, of course, the votes where there, and the tax increase went by two votes. And what happened as a result of it? The government got bigger, bigger. Yes, the deficits went down, the government got bigger. What would have happened without it? the deficit would have gone down. The government would have got smaller. That upsets a lot of people who like agencies, commissions, bureaucracies, red tape, micromanagement out of Washington. But for John and Sue, middle class, they want less taxes, not more government.

Support this. It is good legislation.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FILNER].

Mr. FILNER. Mr. Speaker, I rise today in opposition to House Joint Resolution 159, the supermajority bill, because I am convinced it is really a super loophole bill.

This bill will require a two-thirds vote—a "supermajority"—for any legislation that increases revenue. While this may sound like a good idea it is, in fact, a terrible idea for our country. Closing existing tax loopholes will also raise revenue, therefore this legislation will require supermajority votes to close tax loopholes. Closing tax loopholes should not require a supermajority—it is not fair, it is not right, and it is not constitutional.

I introduced H.R. 1497, the Insurance Tax Fairness and Small Insurance Company Economic Growth Act, to close a tax loophole in the life insurance industry. By closing a huge loophole in Section 809 of the tax code, my legislation will level the playing field in the life insurance industry, provide tax relief for small life insurance companies and raise nearly $2 billion annually for the U.S. Treasury.

However, if this supermajority amendment is approved, a minority of this House could prevent closing this or any other tax loophole. Protected by the supermajority requirement, loopholes will continue to ensure tax unfairness and inequality—the "super loophole" is born.

Legislation like mine, which targets nearly $2 billion in unpaid taxes, demonstrates the financial irresponsibility of supermajority constitutional amendment. My bill is about fairness and equality; this amendment is about neither.

By requiring a supermajority vote on loophole closings and other tax corrections, this bill will tie our legislative hands and prevent us from taking the necessary actions to make our tax system fairer. Legislation such as H.R. 1497, should be addressed individually by Congress and not be made inconsequential by this proposed constitutional amendment.

For more than 200 years, the U.S. Constitution has guaranteed certain rights, privileges and protections. It has never guaranteed nor protected the right to a tax loophole—and now is not the time to start doing so. Oppose the supermajority, defeat this bill and prevent super loopholes.

□ 2145

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Speaker, this whole debate sort of revolves around what Thomas Jefferson once said, and that is that it is time we chain the government and free the people. That is what this debate is about, because we have operated in a policy of absolute unrestrained Federal Government. The more money we give the Federal Government, the more power this Federal Government has.

We have gotten to the point where nearly 50 percent of our ability to see, our time, energy and intelligence, which we invest in our workplace, we see almost 50 percent of that taken by the Federal Government.

So it is time we put the restraints on the Federal Government. John Marshall, our Supreme Court Justice back in 1819, said the power to tax involves the power to destroy. The power to destroy may defeat and render useless the power to create. These are propositions not to be denied.

In 1996, that is what we are facing, and that is what we are dealing with now in the Federal Government.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. SKAGGS], a Member who has been on the floor a lot tonight.

Mr. SKAGGS. Mr. Speaker, I thank the gentleman very much for the time.

Mr. Speaker, I guess I am just an old-fashioned conservative. I believe in majority rule. I think it is dangerous when we give over power over a substantial responsibility of this Government to 34 Senators representing as few as 10 percent of the people.

I am also pretty conservative about the way this House ought to operate. I think for some reason it is important that on a constitutional amendment perhaps we have some serious deliberation and examination, even in the Committee on the Judiciary. It is ironic, I think, that the chairman of that committee is not here controlling debate on this matter.

Mr. Speaker, we are the stewards of an incredible legacy in this Constitution. It is astounding to me to see what we are about this evening.

I suggest to my colleagues that we envision perhaps standing over here in the well James Madison, and back there John Jay, and over here, Alexander Hamilton, looking down on us and the way we are tending their grand legacy of constitutional government.

I think that they would be ashamed of our performance here tonight, absolutely ashamed.

Mr. Speaker, I oppose this proposed amendment to the Constitution to require the vote of two-thirds of both Houses of Congress to approve certain changes to Federal revenue laws.

This proposed amendment is a bad idea and bad constitutional law. Even worse, we consider it today in this body under a process that insults Members' intelligence and responsibility, that contradicts any suggestion that this House is a thoughtful body, and that demeans and debases the very amendment process itself.

Mr. Speaker, let me say a word about the process that has brought this measure to the House today. The original proposal put forward by Representative BARTON, House Joint Resolution 159, received one hearing in the House Committee on the Judiciary on March 6, 1996. It then was removed from that committee and scheduled for a vote on the floor.

It was not marked up or approved by the Judiciary Committee. House Joint Resolution 159 was then replaced by a second proposal, House Joint Resolution 169, which is being considered here today. This version of the amendment was introduced on March 28, 1996, considered by the Rules Committee on March 29, 1996, and reported to the House. We then went into recess for 2 weeks. So, very few Members have even seen the text of this amendment, much less studied it. This proposal has had no hearing at all in the committee of jurisdiction.

Second only, perhaps, to an act of Congress declaring war, an amendment to the Constitution ought to command the most serious and deliberate sort of legislative review, examination, and analysis we are capable of. It deserves better treatment than a rush job to meet a politically sexy vote deadline that the majority admits is a matter of symbolism. The Constitution shouldn't be used to make political statements.

I would, however, like to commend the sponsors of this bill on one point. They recognize that a change in the U.S. constitution is necessary in order to require a supermajority to pass legislation on this subject. In effect, they concede that the attempt by the House in January, 1995 to simply pass a rule requiring a supermajority is not the proper procedure.

I oppose this proposed constitutional amendment on a number of grounds. It violates what Madison called the fundamental principle of free government, the principle of majority rule. The Constitution makes very few exceptions to that principle, none having to do with the core, on-going responsibilities of Government. We should be extremely wary of any further exceptions, especially if it would complicate the essential responsibilities and competency of the government.

We have to be mindful that the logical corollary of supermajority rule is minority control. And under this proposed amendment, 34 Senators representing less than 10 percent of the American people would have the power to control the Government's revenue and tax policy.

I also oppose this proposed amendment because of its almost absurdly impractical consequences—intended and unintended.

One such consequence would be for all practical purposes to lock into law whatever was the then current tax structure at the time of this amendment's ratification. If you like the tax system the way it is now, or if you have supreme confidence that some future Congress will have gotten it fixed just right before ratification, you ought to love this proposal.

Another related consequence of this proposal would be to complicate efforts to balance the budget, particularly as they entail reducing the growth of entitlement programs.

Finally, I'm opposed to this proposed amendment because, like the current House three-fifths rule, it is vague and will generate confusion and litigation.

I know the authors of this proposal feel strongly about taxes. But simply having strong feelings about an issue is not sufficient reason to cede power over all future changes to an important area of national law to a small minority. In addition to the tax issue, Members of Congress will typically have very strong feelings on a number of issues—civil rights or trade or the deployment of U.S. troops abroad. In none of these areas does it serve the long-term national interest to undermine the principle of majority rule. In short, my opposition to this proposal is primarily grounded in the fundamental principle that is at stake, the principle of majority rule—the fundamental principle of free government.

Wiser lawmakers than we have considered the question of whether to require a supermajority for passage of certain kinds of legislation. At the Constitutional Convention, the Framers of the Constitution specifically considered—and rejected—proposals to require a supermajority to pass legislation concerning particular subjects such as navigation and commerce. They rejected various legislative supermajority proposals largely because of their experience under the Articles of Confederation and the paralysis caused by the Articles' requirement of a supermajority to raise and spend money. In other words, we have a Constitution because it was impossible for the country to function under a constitutional law such as is being proposed here.

The Framers' judgment on this matter, including whether to retain the Articles' supermajority to raise revenues, should give us all cause to reflect on the wisdom of the proposals before the House today.

In those cases in which the Framers did impose supermajority requirements, none deals with topics of regular legislative business central to the on-going operation and management of the Federal Government, such as taxes and revenues.

In those cases in which the Framers did impose supermajority requirements, only two require action by both bodies, namely, the override of a Presidential veto and the referral of a proposed amendment to the States. Both are extraordinary matters.

In sum, this proposal would go far beyond any existing constitutional precedent. It would effectively paralyze the ability of future Congresses to deal with one of the most nuanced of all legislative issues—revenues and taxes, allowing a small minority to control national policy.

The Presidential primary election season brought forward a number of innovative ideas regarding the Federal tax system. Were it now in the Constitution, this new amendment would likely serve to thwart these ideas or other reforms. This amendment would certainly apply to flax tax proposals which proponents claim would increase economic growth and, therefore, federal revenues. This proposed amendment would likely require a two-thirds vote on legislation implementing the consumption tax or Value-Added Tax [VAT] proposed by some, which again proponents believe would increase economic activity and Federal revenues. There's been a lot of talk on both sides of the aisle about getting rid of corporate welfare. Many want to end corporate welfare by closing tax loopholes—and that, of course, would likely bring in additional tax revenue from affected corporations and so would require a two-thirds vote under this proposal. And what about a capital gains tax cut? Its advocates usually argue the effect will be to raise revenue. Does that mean the two-thirds requirement would kick in?

But let's say we tried one of these ideas out before the amendment took effect. Is anyone certain enough that one of them is the correct solution to the tax reform problem that you wish to make repeal or revision next to impossible?

And if this proposed amendment were part of the Constitution, it would probably make it more difficult to reduce taxes. If at some point in the future, Congress judges the budget and economy healthy enough to reduce taxes, how likely is it that a responsible Congress would go ahead and do so knowing that it would be almost impossible to raise rates again in the event circumstance required it?

If now in the Constitution, this proposed amendment would certainly make the current efforts to balance the budget a lot more difficult. Whether adjusting the Consumer Price Index [CPI], or reducing business and tax subsidies, or taxing the income of expatriates, or limiting the use of section 936 tax credits for business activities in Puerto Rico, or narrowing the EITC, or means testing Medicare Part B premiums, or limiting the amount of profits companies can shift to overseas subsidiaries—all would have to be passed by two-thirds.

It is important to realize that the proposal being considered here today is not really a tax amendment at all. The word 'tax' does not appear in the text, nor does 'income tax,' 'tax rate,' or 'new tax.' It is a "revenue" amendment. The only legislation requiring a two-thirds vote under this proposal is that which has the effect of increasing "internal revenues."

There is no technical definition of "internal revenues" except perhaps as distinguished from revenues from "external" sources, such as import duties. All other sources of Federal revenue are presumably included under this proposed amendment. So any legislation to increase any Federal fee or charge or fine would be subject to a two-thirds vote if it results in more than a "de minimis" increase in revenues. So would any proposal to sell Federal assets—another frequent component of budget balancing and privatization plans. And according to the proposed amendment, de minimis is to be defined by Congress at some later time. Or quite conceivable, at each time a revenue bill is considered, inviting an exercise in manipulative definition whenever the prospect of winning two-thirds approval was dim.

On the other hand, it's arguable that this proposal would not necessarily require approval of two-thirds for a tax increase. Some tax increases can actually reduce or, at least, not increase revenues. For example, the luxury tax on certain boats an cars that was repealed in 1993 is said to have actually reduced sales so dramatically that associated revenues actually declined. Some even argue that most tax increases on business activity actually reduce Federal revenues by depressing economic growth. What economic theory, interpreted by which expert, will therefore determine the application and effect of this amendment if it were adopted?

So, once you consider how this amendment might be interpreted, many absurd consequences come to mind.

In the context of deficit reduction, we should also consider the fairness and equity implications of this amendment. Most Federal benefits to lower and middle income Americans come from programs that depend on direct expenditures. The benefits of upper income Americans and corporations often come through various kinds of tax breaks. Since this amendment would require a simple majority to cut programs benefiting lower- and middle-income Americans, but a supermajority to reduce tax benefits to wealthy Americans and corporations, it would unfairly bias deficit reduction and create a path of least resistance that would disproportionately hurt middle and lower income citizens.

Of course, it is to examine and understand exactly these sorts of things that we usually refer legislation, especially amendments to the Constitution, to committee. There, these and other questions can be asked and answered and necessary refinements and revisions to a proposal can be crafted. Sadly, no, shamefully none of this regular order has been followed in the House. We should not be surprised at the logical incoherence of the proposal which we are considering today.

In evaluating this proposed amendment, it's also helpful to examine some recent experience in the House. In the 104th Congress, the House pretended to operate under a new rule requiring a three-fifths vote to pass any increase in a Federal income tax rate. Obviously, the amendment before the House today would go much further.

The short history accumulated on the application of he New House rule is instructive about the problems that would likely rise under this proposed constitutional amendment. In the 14 months that the three-fifths rule has been in effect, it has been waived during consideration of the majority party's budget reconciliation bill H.R. 2491, the Contract With American tax bill H.R. 1215, the majority's Medicare bill H.R. 2425, and, recently, the House version of the Kennedy/Kassebaum health care bill H.R. 3103. These waivers have been accompanied by dispute and confusion as to the meaning of the rule.

The amendment we are considering is far more problematic because the Constitution can't be waived for convenience sake when questions arise. And you can be certain that similar questions about the meaning of this amendment will arise in great number. The net effect would probably be for almost any future tax bill that passed by less than two-thirds under some claimed exemption from this amendment to be subject to protracted litigation, creating an outcome we ought to avoid in tax law—uncertainty and confusion.

Much of the criticism I have offered about the amendment being voted on today in the House—House Joint Resolution 169—can also be made of the original version—Senate Joint Resolution 49—which addresses any new tax or increase in a tax rate or base, as opposed to an increase in internal revenues. While the original version directly addresses the issue of taxes, instead of the vague concept of internal revenue, it would also obstruct many proposed approaches to tax reform and interfere with efforts to balance the budget. It would require a two-thirds vote on flat tax proposals which would increase the tax base as they reduce the tax rate, on legislation implementing the new consumption tax or value added tax [VAT] proposed by some Members of Congress, and on closing tax loopholes that also necessarily increase the tax base. Instructively, if the original version of the proposed amendment were already a part of the Constitution, the new majority in this Congress could not have passed its budget bill, which effectively increased taxes on Americans eligible for the earned income tax credit.

One thing we can be sure of. We don't know the future. Why would we wish to deprive our successors in Congress of the tools and ability to deal with the problems they will face? To our successors we are in effect saying, "We don't care what the particular circumstances may be in 10 or 50 years; we don't trust you, and you're stuck with our expectations of your incompetence." What arrogance.

I urge the Members from both sides of the aisle to take a close look at this proposed constitutional amendment in the light of the wisdom and experience of the framers, its stifling and absurd effects, and the history of the House of Representatives' three-fifths rule. Treat it for what it is, a political statement—and one better made on the floor of the House than put into the U.S. Constitution.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. FORBES].

Mr. FORBES. Mr. Speaker, I thank the gentleman for yielding me time.

Let us talk about being ashamed, $5 trillion worth of shame. And who pays? The auto mechanic and the nurse who works at Brookhaven Memorial Hospital who are sitting at their kitchen table as we sit here. They are sitting at their kitchen table trying to figure out how they are going to feed the spending monster in Washington.

Mr. Speaker, who should be ashamed? We should be ashamed. For 40 years this body has taken upon itself to spend and spend and spend. Most recently in 1982, 1984, 1987, 1990, and 1993, this body has said, "We are going to just get more money from the average working people," average working people, who are out at home trying to make hard-earned dollars as we sit here in Washington trying to take those hard-earned dollars and redistribute them to our own political constituencies.

Who pays? They are paying. The American people are paying, and they are tired of it. They are tired of a Congress that just willy-nilly over 40 years has raised the burden on average working families. If we care about those families, we will support this super majority so that we can put the brakes on spending, so that we can put the brakes on raising taxes on people who are home right now racing to the deadline of the annual day of reckoning, April 15.

If we care about average working people back home, we will support the brakes that we need to put on the raising of taxes on average working people in America.

Mr. CONYERS. Mr. Speaker, I yield myself 30 seconds to remind my Republican colleague whose voice was raised pretty loudly about the $5 trillion debt that it was initiated under the administration of Republican Presidents, sir. It was under the Democratic administrations that we have been able to make a dent in this debt. So the gentleman's fulminations are appropriate for April 15, but factually they are seriously inaccurate.

Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in strong opposition to this amendment to slice another part out of the precious heritage of our Constitution. This is in fact the fourth attempt by this Republican leadership in the 104th Congress to rip apart the Constitution of the United States, a document that has only been amended 17 times, excluding the Bill of Rights in our 207 year history as a nation.

Now they are trying to rid it of majority rule, enshrined in the Constitution since the beginning of this Republic. We are being asked to undermine the delicate checks and balances between the executive and legislative branches on the important issue of revenues. Other equally weighty issues, such as borrowing or coining money or even declaring war, itself could eventually become subject to the same supermajority threshold.

Reread article I, sections 5 and 7. It specifically defines how decisions are to be made between this legislative branch and the executive branch. It does provide for a two-thirds override in the event of a veto by the President, but majority rule is enshrined in this Chamber.

In 1779 the emerging republic that was to call itself the United States of America threw off the shackles of monarchy and gave voice to the people by vesting all their legislative powers in those they elected here, and they did it by majority rule, bound by the Constitution that has kept us free.

Frankly, this amendment is a cheap shot against a sacred document during a week that most Americans would like to forget: tax filing time. But this Member is one that is unwilling to unravel the Constitution and its environment of majority rule for the sake of a few well-timed press releases at tax time. For shame.

Mr. BARTON of Texas. Mr. Speaker, I yield 3 minutes to the honorable gentleman from Texas [Mr. HALL], one of our chief sponsors of this legislation.

Mr. HALL of Texas. Mr. Speaker, this is not a difficult issue at all. It is rather simple actually. It just gets down to this, as to whether or not in order to raise people's taxes, we want a simple majority to do it, or do we want to make it a little bit tougher and require two-thirds?

I think most Americans filing their tax returns today firmly believe that they are paying too much in taxes at all levels of government. These hard-working Americans are tired of a tax and spend Federal Government. They want some financial accountability.

Let me issue a challenge to every Member of this body: When you go home, look into the face of the first 15 of your constituents you see, and ask them a simple question: Would you like me to make it a little tougher for those folks up there to raise your taxes or not.

I challenge you to do that. I assure you that you will get 15 out of 15 that will tell you, Yes, I would. We are paying too much taxes. We want more return for your tax dollars. We don't want higher taxes.

Mr. Speaker, that is why I rise today as a cosponsor, along with the gentleman from Texas, Mr. BARTON, the gentleman from Texas, Mr. PETE GEREN, and the gentleman from Arizona, Mr. SHADEGG, in support of this.

A year ago we announced the sponsorship of this legislation, and the leadership made good on its promise to allow us a vote on this bill on tax day. Today we have an opportunity I think to show the American taxpayer where we stand on this issue. For the first time in many year this Congress has focused on efforts to achieve a balanced budget and decrease taxes at the same time. These are goals that many of us have worked on forever since we have been elected to Congress.

Last year the House passed an historic balanced budget amendment to the constitution, and now we are asking our colleagues' support of the tax limitation amendment, which will further ensure fiscal responsibility and accountability in Federal Government. This amendment will help make sure that future Congresses continue to focus on slowing the government and slowing the spending at the Federal Government, rather than increasing taxes as the means to balance the budget.

If history teaches us anything, Congress will always be tempted to raise taxes, especially if a balanced budget becomes a constitutional mandate. While raising taxes may eventually be necessary, this important issue should not be resolved by a simple majority vote. The tax limitation amendment would not make it impossible to raise taxes, it would simply make it more difficult. Each of those 15 constituents that you talk to and ask whether or not they want it to be more difficult for us to raise their taxes, they are going to tell you yes, make it as difficult as you possibly can.

A two-thirds vote, 290 votes in the House and 67 in the Senate, is a lot higher standard, one that would afford more protection for the American taxpayer. I think certainly, as has been noted, the two-thirds requirement can be waived in the event of a declared war or military conflict that threatens national security.

Mr. Speaker, fairness in taxation is an issue upon which this Nation was founded. The tax limitation amendment would help restore this fairness. We can go to the polls if we want to. Seventy-three percent of registered voters support a two-thirds supermajority; 72 percent believe there is no need to raise taxes. Sixty-four percent of the Democrats said support the supermajority. Sixty-eight percent of the Federal employees and 71 percent of union workers said support this amendment.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I thank the gentleman for yielding me 1 minute.

Mr. Speaker, I rise in defense of what they are trying to do. I would say to the gentleman from Florida [Mr. CANADY], I would feel a lot better if in speaking to the Senate the gentleman would try to amend this to also call for a two-thirds vote to raise the debt limit for this country.

You see, there is something equally as evil as tax and spend, in fact something even more evil, and it is called borrow and spend. Tax and spend, you at least ask this generation to pay for something. Borrow and spend, we ask the next generation to pay for something.

Just 2 weeks ago this body by a fairly large margin voted to raise the debt limit by $600 billion.

□ 2200

And for those of you who are not following this, we now spend 30 times more money on interest on the national debt than we do on foreign aid, more money on interest on the national debt than Medicade and Medicare combined, more money on the interest on the national debt than we do on defending this Nation.

I will vote for the bill of the gentleman from Florida [Mr. CANADY] but I sure as heck hope he would use this learning experience to turn right around and call for a constitutional amendment that calls for a two-thirds vote to raise the debt limit. And then turn right around and let us pressure the other body to pass the constitutional amendment to require the balanced budget that this House passed about a year ago today.

Mr. BARTON of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. DELAY], distinguished whip, who is operating at reduced power because of an accident rollerblading in Sugar Land.

The SPEAKER pro tempore (Mr. RIGGS). The Chair did recognize the distinguished majority whip's foot attire, but was not going to bring attention to that.

The gentleman from Texas [Mr. DELAY] is recognized for 3 minutes.

Mr. DELAY. Mr. Speaker, I appreciate the sympathy expressed about my foot attire.

I just want to commend my Texas colleagues, Mr. BARTON and Mr. ARCHER, on their fine work in developing this balanced budget initiative alternative. I can give you one simple reason this tax limitation balanced budget amendment is necessary: Bill Clinton. Bill Clinton wants to raise taxes to pay for more spending. He did it in the first half of his term in office when he signed the largest tax increase in history. If Republicans did not control the Congress in the second half, I believe he would have raised taxes then, too. Even today, Bill Clinton is trying to raise taxes to pay for more spending.

Mr. Speaker, the American people contribute more to government spending than they do to family spending. In fact, the government now takes more money from families, 52 percent, than families are allowed to spend on their own. The government takes 52 cents out of every hard-earned dollar that the American family makes today. Mr. Speaker, I just think this is outrageous.

According to the latest polls, 66 percent of the American people believe they are being taxed too much, while 1 percent believe they are being taxed too little. It is time to bring our tax rates in the line with what the American people want, not what Washington politicians want.

The current budget impasse is being fought over the principle of Washington spending. The President wants Washington bureaucrats to spend more of the American people's money. We believe that the American people would rather spend their own money for themselves. This battle of principle is what this tax limitation balanced budget amendment is all about and that is why I support it.

Mr. Speaker, it is time to get responsible about Washington spending. So I urge my colleagues to vote for this legislation and send it to the Senate.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes and 30 seconds time to the gentleman from Missouri [Mr. VOLKMER], a Member who was once the speaker of the statehouse in Missouri.

Mr. VOLKMER. Mr. Speaker, I do not know if I will take the full 3 minutes because it is hard to find very much to say about this radical piece of legislation from the radical right that is bound and determined to shift the tax burden of the American public, to shift it from a progressive tax to a regressive tax. And why do I know the cat is out of the bag? I listened to the gentleman from Texas [Mr. ARCHER] earlier in this debate. He said that under this proposed constitutional amendment with a majority vote, he could pass a consumption tax, which would be a national sales tax. That is the consumption tax, the most regressive tax that we can find, and he can do it on majority vote. At the same time, he can lower the high tax rate from 39, 36, eliminate them altogether, make the highest tax rate around 25 percent, so that a millionaire will only pay 25 percent. Then he would pay the national sales tax of 20 percent maybe of what he buys only, and that is all.

Then the poor person out here that is making $20,000 a year, got a wife and two kids, is going to pay that same 20 percent sales tax that the millionaire pays, the same rate that the millionaire pays for necessities. The cat is out of the bag, folks. That is what this is all about: Who pays? Who pays? Who suffers the burden?

The Republican radical right under NEWT GINGRICH wants to shift that burden. They proved it with their tax cut proposal last year. It is again here right in this constitutional amendment, to shift the burden from a progressive tax that basically says the more you earn, the more you get from unearned income, either way, the more you pay. I believe in that. I have always believed in that. I have been thankful for it.

I would like to pay $1 million in taxes next year. I would love to pay $1 million in taxes next year, because that means that I got to make at least 2 million, and I get to keep the other 1 million. Now that is not too bad.

I got everybody in my district almost, 99 percent, going to take that any day. They would love to pay more and make more. And I heard the gentleman over here, the minority whip, talk about this 52 percent. He ought to come to my district.

There are not very many people in my district paying that amount of taxes to the Federal Government. I do not know of any in his district that are paying that kind of money to the Federal Government. They are not, because that is not the top tax rate.

But the story is, we need to kill this monster. That is what it is. It is in disguise, a snake in disguise, to shift the tax burden from the wealthy to the middle-income to the poor. Vote it down.

Mr. CANADY of Florida. Mr. Speaker, I yield 4 minutes to the gentleman from Texas, Mr. PETE GEREN.

Mr. PETE GEREN of Texas. I thank my friend for yielding me the time.

Mr. Speaker, I have listened to this debate tonight. One thing I have heard over and over is that this process has been hasty, that we have had few hearings rather than several.

Mr. Speaker, I contend that this system has worked as it should, as the founders intended. Our States have been a laboratory to test this initiative. With all due respect to the committee process, a real-world test that has been underway for several years involving 70 million Americans in 10 States gives a better understanding of the impact of this initiative than all the hearings that could ever be held.

What has the test shown? It has proven that this initiative works as advertised, more jobs, more economic growth, less government and lower taxes. Critics say that the supporters of this measure do not trust the American people because of the supermajority. Surveys of the American people show that an overwhelming majority of Americans support this initiative, over 75 percent do, and nearly 68 percent of Democrats support it. It is an initiative that is spreading from State to State with broad and bipartisan support. It has received overwhelming support at the ballot box.

But if the critics are right, the ratification process will prove the undoing of this initiative, for this is just the first step. The Senate would be next. Then it would go to the people, requiring three-quarters of the States to say yes before it became part of the Constitution. I say that those who vote no do not trust the American people with this matter. Those who vote yes trust the American people to make this decision.

Mr. Speaker, critics contend that this initiative empowers the minority at the expense of the majority. My colleagues, the current system has empowered a minority at the expense, literally and figuratively, of the majority. The Federal Government, representing 20 percent of our GNP, has become the most powerful political force in America. The full force of the government is used in the political process to block efforts to cut or reduce the growth of government. That majority has become the tail that wags the dog in this great experiment in democracy.

In the real world of politics today, it is easier to raise taxes than reform Medicare, even though we must do it. Politically it is easier to raise taxes than reform Social Security. Politically it is easier to raise taxes than reform the VA health care system, and on and on and on. Rather than do what we know we must do, we raise taxes because it is easier. Perhaps if the bar were raised, if it were a little harder to raise taxes, we might tackle Medicare, we might tackle the other issues that are considered political untouchable in this political climate.

As far as the intent of the founders, the founders would never recognize what has become of our government. Telling cities and States how to run local government, telling school boards how to run their schools, and involving itself in the most minute details of American daily life. It is a government that controls so much of American life that it has become the biggest force in American politics. It has learned to manipulate the system so that it feeds itself and grows in good times and in bad times. It grows in the antigovernment Reagan years, just as it does in the pro-government years. During the so-called antitax, antigovernment decade of the 1980's, the size of our government grew by over 25 percent. It did not shrink even then. No matter who controls the Congress, who controls the White House, government grows. The record is clear.

This amendment, if passed tonight, approved by the Senate, and only after being passed by three-fourths of the states, that would slow that growth, will make the growth of government more judicious. It will give the force of government, the political juggernaut that it has become, a higher hurdle to clear before it indulges its ambitions, is a higher hurdle to clear before it takes resources from the people.

Over the 200 years of this experiment in democracy, those institutions that get their funds from the political process have figured out the political process. Those who pay the bills are no match for those whose livelihood depends on growing government. This initiative will put the political process back where it was when our Constitution was ratified. It will level the playing field for those who pay the bills.

This initiative is not elegant. It will never thrill the academics. It is a blunt instrument to check the brute political power of a government with an insatiable appetite to grow, to control more of American life. It is a blunt instrument whose time has come.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, this is the fourth amendment to the Constitution that the Republican leadership has forced the House to vote on in the past 16 months. This radical assault on our Nation's most sacred document is an outrage, and I rise in defense of our Nation's Constitution and against this resolution.

This resolution before us is the product of a poll and a focus group. It is election-year political theater at its worst. Our Constitution is the greatest political document ever written, yet Speaker GINGRICH is convinced he can do better. Does the Speaker really think he can improve upon the work of Madison and Hamilton?

Congress ought to be approaching the Constitution with reverence and humility. Instead, the Republican leadership is treating the Constitution as a rough draft. This amendment flies in the face of the principle of majority rule that has guided this Nation since its founding. It would vest unprecedented power in the hands of a small minority and prevent the majority from enacting the will of the American people. If the principle of majority rule was good enough for James Madison, it should be good enough for NEWT GINGRICH and the Congress.

Mr. Speaker, I urge a "no" vote on this resolution.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Oklahoma [Mr. COBURN] in whose State there is a supermajority tax limitation amendment for that State.

Mr. COBURN. Mr. Speaker, it is interesting coming from Oklahoma, being a new Member of this body, the arrogance of this body. What we hear tonight is arguments based on class envy. What we hear tonight is arguments that the people in the States are not adequate to make decisions about their own well-being. The very idea that our Framers of our Constitution had in mind was that we should send to the States to be decided amendments to the Constitution. By us precluding that, based on what we think, not with prudence, but based on what we think that they should not have the opportunity to decide that, that in the face that the vast majority of people in this country when asked, do you think we should change this system, do you think that we should make it more difficult to raise taxes, would agree.

□ 2215

So once again Washington collectively, Washington in its arrogance, in its ego, has decided that we know better. Well, that is just not the truth. It is arrogant, it is careerism, it is elitism at its worst, and it is impossible for this country to survive with that kind of thinking continuing.

The other thing that I hear tonight is that this bill would not allow tax reform. That is not true. It does allow tax reform.

Finally, this is what this new Congress is all about, trying to put us back in a redirection, trying to reform this institution, trying to give it the self-discipline that it needs because it has obviously not had it over the past 30 years.

Mr. Speaker, I support this bill. The people of Oklahoma support this bill. This is something that we should and must do for the next generation.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Speaker, I do not come to this well with a speech that I have written because I had no intention tonight to give a speech. I came to this House to hear the debate on amending one of the most cherished documents that this world and this Nation have ever seen.

And I want my colleagues to look around in this room at 10:15 in the evening. There are very few Members here; there are more staff people on the floor of this House than there are Members of the House. And the reason I ask Members to look around is that this is the only hearing that this amendment to the most cherished document in our country will receive in this House. It is not arrogance to want a full consideration and careful review of our Constitution.

I suggest it is reverence, reverence for our document that we all proclaim to love and reverence for our country and the seriousness of the issues which we debate this evening.

To my colleagues who genuinely believe that we should have such an amendment, or a similar one, I suggest let us have the courage to debate it in the light of day before the American people and not late at night as a political gimmick simply because this happens to be tax day.

To my colleague and friend, the gentleman from Texas [Mr. BARTON], who genuinely believes in tax limitation, let me suggest it says something wrong about this process when even he, who has fought harder for this issue than anyone I know, had to admit in a national publication just a few days ago that even he did not understand the content of this amendment to our Nation's Constitution.

I plead with my colleagues to pay respect not to our Constitution, just with their rhetoric, but to pay respect to it with our process. I think our Founding Fathers would be sad, whether they supported tax limitation or not. I think our Founding Fathers would be sad that we would have had no single hearing on such an important issue, that we would debate amending the Constitution at 10:20 at night with very few Members on this floor and more staff members than Members here.

Regardless of my colleagues' position on the issue, I suggest this is a sad day for our country and a total lack of reverence for our Constitution.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. COOLEY].

Mr. COOLEY. Mr. Speaker, I rise in favor of this resolution. I rise to remind this body of an important fact that seems to have gotten lost in the debate, that if this resolution passes tonight we will not have amended the Constitution. Remember that it takes three-fourths of the States and the people of the States in order to amend the Constitution. When we vote for this measure, we are voting to let the people decide that they would like two-thirds of congressional votes in order to raise the taxes. We are voting to let the people decide.

Those who vote against this measure would like to keep the money and the power here in Washington. Do not we trust the American people? I think we should. Let us let the American people decide whether or not they would like to make it harder for us to raise taxes.

Mr. BARTON of Texas. Mr. Speaker, I only have two more speakers, myself and the other chief sponsor. So I would like to reserve the balance of my time.

The SPEAKER pro tempore (Mr. RIGGS). The Chair would advise that the gentleman from Florida [Mr. CANADY] has 8 minutes remaining, the gentleman from Michigan [Mr. CONYERS] has 16½ minutes remaining, and the gentleman from Texas [Mr. BARTON] has 12 minutes remaining.

Mr. CONYERS. Mr. Speaker, I will step into the breach and yield 2 minutes to the distinguished gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I am going to read a list of names. What is wrong with this list?

Madison.

Adams.

Franklin.

Jefferson.

WISE.

GINGRICH.

Mr. Speaker, if you said that the last two should not be confused tonight with the first four, you are absolutely correct. No one is going to confuse what is happening tonight with Thomas Jefferson or John Adams or Benjamin Franklin.

Careful consideration was what the Constitution was about. What everyone should understand, there has not been one hearing on this, not one committee action. The previous speaker said what is wrong with sending it to the States. When we send it to the States, we send it as is, and, yes, it is fair to let the States vote on it, but have us perfect it first before we send it there.

I have to ask another question. If two-thirds is good for raising taxes for protecting Rupert Murdoch, for instance, then what is wrong with two-thirds for some other sacred areas? What about Social Security cuts when beneficiaries pay more out of pocket? Should not that have been two-thirds? What about Medicaid cuts?

I think if we are going to ask the middle class in this country to potentially pay $36,000 a year for nursing home costs that Medicaid has been paying for their loved ones, that might be worth two-thirds. That is certainly an increase. Somebody adding $3 or $4,000 on a student loan, and you proposed that earlier, Mr. Speaker, and the Republican Party, and yet that would not require two-thirds vote. You were happy with a 1—with 50 percent.

Sending our sons and daughters to war; I find it interesting, Mr. Speaker, that to raise taxes on the wealthiest would require a two-thirds vote, to raise an army to fight a war would only require a simple majority. It seems to me that some priorities are wrong here.

Mr. Speaker, I have faith in the American people, and I do not think it is arrogance. I have faith because I know that American people can say I know how my representatives voted, and I can evaluate that person whether or not they should have voted for that tax increase.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, the American people want a balanced budget. The American people want to control spending. They want a line-item veto. The Republicans have tried to give that to them. And the American people want less taxes. They are going to pay until May 7 everything that they earned this year in taxes. Almost half of the year everything Americans earn are going to go just to pay taxes. They are fed up. Look at every single poll.

I am talking to my liberal colleagues in this Chamber. They are being taxed to death, and they do not want their taxes raised any further.

Now how do we guarantee that? We guarantee that by making it very difficult to raise their taxes, and the best way to do that is to have a supermajority.

The Barton bill is a very good step in the right direction. A two-thirds majority to raise taxes makes sense. If it is really necessary to raise taxes, our colleagues will get the two-thirds majority, but if it is not necessary, they will not.

Now we need a balanced budget, we need a line-item veto. We have given the President that. And we need to control taxes. Their party has been in control for 40 years, and for 40 years the policy has been tax, spend, tax, spend, tax, spend, and it has put this country in a terrible downward spiral. Every time we raise taxes; there has been 3 major taxes in the last 12 years; every time taxes have been raised, we spend more and more and more, and we are now into almost a 6 trillion dollars national debt.

When our forefathers came up with the income tax for the first time back in what, the early 1900's, it was 1 mill on a dollar, 1 tenth of 1 cent on a dollar, and said it was not going to go higher than probably half a cent on the dollar, and now one is working almost 6 months a year just to pay their taxes. it has to come to an end. The Barton bill is a good bill and should pass.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Colorado [Mr. SCHAEFER].

Mr. SCHAEFER. Mr. Speaker, I thank the gentleman for yielding this time to me, and just to respond one moment to the gentleman from Missouri who was talking about possibly the consumption tax in this country, and we have built into it a two-thirds vote in which to certainly raise that from a 15 percent to a 16 percent level, and more importantly for his farmers in Missouri or any farmer throughout the country, the estate tax is being abolished, which means that that individual who builds this family business or family farm over a period of time and turns around and wants to give it to his children or grandchildren, this is not going to happen any longer, and he can do it or she can do it at no interference with the Federal Government.

The second thing is I wanted to mention that there is built in a personal exemption refund for the working poor all the way up to the poverty line in this particular piece of legislation. So in essence the working poor in this country would pay nothing as far as taxes go on whatever they earn.

So I want to make this a very solid point, that the consumption tax is not being debated now. The two-thirds vote certainly is, and I certainly strongly support it.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, I do not know where to start here. There was a budget that was offered here that supposedly was supposed to get a lot of support, was going to cut Medicare $270 billion, was going to do $240 billion worth of tax cuts. Right now we are not talking about raising taxes on anybody. But it seems to me, if we are going to do something of this magnitude, we would have some hearings on it, especially something as important as amending the Constitution of the United States.

And let us make one thing perfectly clear. We have been sitting here for almost 3 hours, and what we have come down to is the gentleman from Texas has talked about something that is a very frivolous thing in a campaign year, a campaign year, and the gentleman from Indiana said what we have done, we have given the President the line-item veto, but they saw fit to pass everything else in that bill except give the President the line-item veto the authority for this year. We are going to wait until after the election.

□ 2230

Everything is predicated on the November election. The consultants have already been together and said,

> Hey, look, what we are going to do on this amendment tonight: The folks that vote against it, we are going to brand them as big spenders and liberals and don't want to get the balanced budget, and we will have a campaign issue in November.

It is just that simple. They do not particularly care about restrictions on raising taxes.

Nobody wants to vote to raise taxes. I pay taxes. I am a taxpayer. But this is purely and simply about the November elections, about 30-second spots, what we are going to do in November, how we can make the inroads on folks that vote against this irresponsible constitutional amendment. No hearings. Not even the chairman of the committee is here talking about passing this amendment. It is totally irresponsible, and that is basically what it is. Let us look at it for what it is; it is a campaign tool for November, pure and simple. Had it not been there, we would have been gone a long, long while ago.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, in the landmark case of McCulloch versus Maryland, America's first giant judicial situation, John Marshall wrote that the power to tax is the power to destroy. To be sure, in that instance Justice Marshall was seeking to prevent my home State of Maryland from taxing a Federal bank, but the principle remains. The fact is that taxation, taken to the extreme, can render meaningless the right to property, freedom of contract, or virtually any other freedom.

This amendment simply clarifies that Congress' use of that potentially destructive power—the power of taxation—should be subject to a higher approval standard than that of Congress' other powers as defined under article I, section 8 of the constitution. This amendment would make it subject to the same super-majority requirements used for constitutional amendment, veto override, or treaty ratification.

It is true that the Founders did not intend for taxation to be subject to the same requirements. But it is also true that their standards were adopted prior to the ratification (indeed the proposal) of the 16th amendment. Prior to the 16th amendment, the power of taxation meant tariffs and excise taxes. But the 16th amendment created the income tax which refocused taxation on the livelihoods of individuals. When the rights of individuals to earn a living face potential threats from Government power, there should be a higher legislative standard for government to use that power. The amendment before us creates such a standard.

Mr. Speaker, today many people feel the strain attendant to tax rates which have risen continually over decades. On this day more than any other, our constituents are aware of the potentially destructive power of Federal taxation. I am supporting this amendment to provide my constituents a reasonable level of protection against that. I urge my colleagues to do the same.

Mr. BARTON of Texas. Mr. Speaker, I yield 6 minutes to the gentleman from Arizona [Mr. SHADEGG] who is one of the original sponsors of this legislation and who helped pass similar legislation in the Arizona legislature, which is now in the Arizona constitution.

Mr. SHADEGG. Mr. Speaker, it has been a privilege to be a part of this debate today, but it has been at times a very sad debate. At times we have heard from the other side that this is simply politics. That is dead wrong. This amendment raises a straightforward issue regarding fiscal responsibility. Should this Congress and this Federal Government be more responsible about spending the money it has?

If you believe it should, then indeed you should vote for this amendment, because simply by making it harder on this Tax Day, 1996, for the government to reach into the pockets of average American citizens and take more money out, we will force discipline on this Congress and we will cause this Congress to be more cautious, more prudent and more judicious in spending the money that we do take from those citizens.

All day long, Mr. Speaker, I have heard the other side talk about this as an attack on the sacred principle of majority rule. Well, bunk. This is not an attack on the sacred rule, the sacred principle of majority rule. Indeed, the very reason for placing it in the Constitution is because Constitutions are designed to protect minorities, to protect minorities against the tyranny of the majority, and indeed in this Nation where now the average American spends more on taxes than on food, shelter, and clothing combined, since the adoption of the 16th Amendment, we have a tyranny of the majority on the issue of taxes over the minority.

Mr. Speaker, the second issue I have heard makes me question whether anyone has bothered to read the amendment. Indeed, all day long I have heard my colleagues on the opposite side decry that they could not do any tax reform, they could not close corporate tax loopholes they could not provide additional funding for Medicare or child care, or for anything that they believed was a worthy cause.

That is dead wrong. I urge them to read the language which was left here because, as written, this measure provides for "revenue-neutral tax reform"; that is, any measure which raised taxes on some but lowered taxes on others could be passed with a simple majority. Indeed, the other point they have made all day is that this is an outrageous debate which is radical, which is politics, which is a public relations ploy, theater and grandstanding.

Let me tell them, they are again wrong, because in 10 States in this Union, an amendment just like this one has already passed. Are they saying that it is radical of those States? If they are, they are telling one-third of all Americans that they live in a State which has adopted a radical grandstanding political theater of an amendment. That is right; one-third of all Americans live in a State which has adopted a tax limitation amendment just like the one before us tonight.

It is not radical, it is indeed a reasonable reform, a reform that two law professors have said would attempt to retrieve the original values of the Constitution, rather than a radical innovation. Let us look at what has happened. In those States which have adopted supermajority, taxes have climbed more slowly than in other States. You would expect that. Spending has climbed more slowly than in States which do not have a supermajority requirement. Those you could predict.

Let us look at the economic effect. We hear a lot of talk about the economy and jobs. In those States which have a supermajority, which have done what we have proposed to do here tonight, the economy has grown at 43 percent since 1980 to 1992. In those States which have refused to do what we do tonight, the economy has only grown at 35 percent. What does that mean? It means that the growth in the economy creates jobs, and indeed the study reveals the same: higher levels of job creation in those States which have a supermajority requirement.

The other side often talks about the importance of creation of jobs. This measure tonight would do more to enable us to create jobs in this Nation than anything else we could do in the 104th Congress. That is why the last fact is rather evident and why the other side hurts, because once examined by those facts, once made real to them, what happens?

A survey result revealed that 64 percent of Democrats support a tax limitation because it creates jobs; that 68 percent of Federal employees support tax limitation. Why? Because they are sick of wasteful spending at the Federal level; that 71 percent of union members who pick up that tab also support tax limitation, and that 73 percent of all Americans support tax limitation. This is indeed an idea whose time has come.

We have a tyranny of the majority in taxes in this Nation. I urge my colleagues to support this reasonable reform to restore the Founding Fathers' intent, and the intent that we should not have a tyranny of the majority over the taxpayers in this Nation.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. SHADEGG. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I thank the gentleman very much for yielding to me.

Mr. Speaker, is the gentleman aware that in his charts where he indicates the supermajority of States, he includes California and Florida?

Mr. SHADEGG. Mr. Speaker, I believe those are 3 of the 10 States which have supermajority requirements, as does my State of Arizona, enacted in 1992, pursuant to an initiative drive with the support of 72 percent of the electorate.

Mr. CONYERS. Mr. Speaker, then does the gentleman know that in those two States, that the requirement of supermajority does not apply to sales tax, which is the principal means of raising revenue in those two States?

Mr. SHADEGG. It applies to some taxes in various States. They are not uniform across the Nation.

Mr. CONYERS. Is the gentleman aware of that?

Mr. SHADEGG. Certainly I am aware of that. But what we have seen is that in all 10 States, the economy has grown more and jobs have expanded more.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the distinguished chairman of the Committee on Appropriations, the gentleman from Louisiana [Mr. LIVINGSTON], made some comments that need to be rebutted.

During the 40 years that you claim Democrats were running wild, we had Presidents Nixon, Bush, Eisenhower, Ford, and Reagan. We had Republican majorities in the Senate. In many years, in some of those years, we had Republicans with working control of this House, so I think trying to blame this on one particular party, the debt that we find ourselves in, is unfair and inaccurate.

Further, Mr. Speaker, under this President we have reduced the deficit from $290 billion, the highest in history, to $140 billion, which is more than a half, a 50 percent reduction.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CHRYSLER].

Mr. CHRYSLER. Mr. Speaker, we hear a lot in this debate today about the election year ploy and the campaign ploy of this two-thirds majority. There are some short memories in this body, because it was just last year that we voted on this very issue in this same body. If we want to talk about election year ploys, we would want to talk about the minimum wage. Why did the Democrats not vote for it in 1993 when they controlled all three bodies? They controlled all three bodies and they raised their taxes, but why not minimum wage? Not until the AFL–CIO came to town and the union bosses demanded of the President that he bring this up and make it an issue in this election did they even talk about the minimum wage this year.

Mr. Speaker, I want to support the two-thirds majority of the gentleman from Texas [Mr. BARTON] for any further tax increases in this country.

Mr. CONYERS. Mr. Speaker, I yield myself 45 seconds.

Mr. Speaker, I would ask my distinguished colleague, the gentleman from Michigan [Mr. CHRYSLER], would he not have felt better if a constitutional amendment would have had some hearings in some committee before we brought it to the floor to attempt to send it out to the States?

Mr. CHRYSLER. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Michigan.

Mr. CHRYSLER. Mr. Speaker, we voted last year, I would say to my colleague, the gentleman from Michigan, just last year we voted on the Barton amendment that had a two-thirds provision in it in the balanced budget amendment. Then we did, in fact, vote to have this body have a two-thirds vote to raise taxes last year.

Mr. CONYERS. Mr. Speaker, I would ask the gentleman to check a little bit more carefully. I do not know how long he has seen the resolution that is on the floor. It was only put together rather recently, in remote corners of the Congress. It is different from the one that was debated at the time the he suggested.

PARLIAMENTARY INQUIRY

Mr. BARTON of Texas. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore (Mr. RIGGS). The gentleman will state it.

Mr. BARTON of Texas. Mr. Speaker, there is some confusion or at least concern on our side. I am the sponsor of the amendment, and I was under the understanding that I have the right to close. I would like a ruling on that.

The SPEAKER pro tempore. The manager of the joint resolution has the right to close debate.

Mr. BARTON of Texas. Mr. Speaker, can the manager of the bill yield to me to close on his time?

The SPEAKER pro tempore. The manager of the joint resolution gentleman from Florida [Mr. CANADY], can yield for the purposes of closing debate to any Member.

Mr. BARTON of Texas. Mr. Speaker, I yield the 6 minutes that I control back to the gentleman from Florida [Mr. CANADY] to use as he may wish to; I yield the 6 minutes that I still control.

The SPEAKER pro tempore. The Chair is advised that that would be an appropriate offer, and that the gentleman from Florida [Mr. CANADY] will now control 8 minutes of time.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas, Ms. SHEILA JACKSON-LEE a distinguished member of the Committee on the Judiciary.

□ 2245

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am somewhat like my colleague from Texas who previously spoke as I came to listen to this dabate, recognizing that Congressman BARTON has a sincere commitment to this issue. But I take umbrage with the gentleman from Arizona and his articulation of who is in control.

I think our Founding Fathers in the Constitutional Convention of 1787 were trying to do one thing, and that is to remove the colonies from tyranny. We come today on April 15, 1996, to return them to that same tyranny, and that is to allow a minority to rule.

The constitutional amendment would allow tax increases on one group of taxpayers to fund tax breaks for another group. The Republican leadership has already waived the existing House rule requiring a three-fifths vote to raise taxes on three separate occasions, demonstrating already the unworkability of such a proposal.

I am opposed to this amendment because we find ourselves again coming to the floor of the House to allow a minority to dominate the majority. This is tyranny, simply and purely.

The framers of the Constitution rejected the principal of requiring a supermajority for basic Government functions such as raising taxes. James Madison, one of the drafters of the Constitution, stated that requiring more than majority of a quorum for decision will result in minority rule and the fundamental principle of free government would be reversed.

I am not sure what my Republican colleagues are trying to do but the Houston Chronicle saw it for what it was, political trickery. Of course we want to bring down the deficit, but do we want to bring down the hammer on top of those who can least afford it. Do we want to continue to see an increasing deficit when this Congress is not able to meet the responsibilities of this government?

This amendment is poorly drafted, Mr. Speaker, and I would simply say this is wrongheaded and wrong-directed. This is tyranny. This is not in keeping with the Constitution or that of our Founding Fathers. I ask that we vote this down.

Mr. Speaker, I rise in opposition to the resolution, House Joint Resolution 159, to amend the Constitution to require that any legislation raising taxes be subject to a two-thirds majority vote in the House and the Senate. If this amendment is added to the Constitution, Congress will not have the flexibility that is necessary to meet the important fiscal priorities of our Nation.

This proposal lists only two circumstances under which Congress could waive the two-thirds requirement. Those instances are when Congress adopts a declaration of war, or Congress adopts a resolution stating that the United States is engaged in a military conflict causing a threat to national security.

Even the House leadership understands the practical problems with this proposal because the House adopted a House rule in January 1995, similar to the constitutional amendment. The House rule requires a three-fifths majority to pass any bill containing an increase in income tax rates. On three occasions, the House leadership waived this requirement when considering bills containing such increases such as the Budget Reconciliation bill, the Medicare Preservation Act, and the Health Coverage Availability and Affordability Act.

I also oppose this resolution because it will give a minority of the House and Senate control over tax legislation. Our democratic system of government is based on majority rule. We must not undermine this central concept by allowing one-third of the membership of either the House or the Senate to exercise this power.

This amendment is poorly drafted. For example, the amendment states that legislation containing only a de minimis increase in revenue will not be subject to the two-thirds requirement. The problem, however, is that the term "de minimis" is not defined. Thus, Federal courts would ultimately decide the meaning of this term.

This resolution is not the most effective means of securing a balanced budget, which the majority of Members of the House proclaim is their legislative priority. In some instances, sound fiscal policy may require a combination of spending reductions and tax increases. In many cases, Congress considers legislation that contains such combination. Moreover, if Congress has considerable difficulty raising taxes, it may have to resort to more deficit spending in order to meet the critical needs of the Federal Government.

Finally, this resolution really avoids the key concerns of most taxpayers. They want simpler tax forms and they want their tax dollars spent wisely by eliminating waste, fraud, and abuse. I urge my colleagues to vote against this resolution. Let us get serious about improving the tax system and moving forward on balancing the budget. This proposed constitutional amendment will not help achieve these important goals.

Mr. CANADY of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. GILLMOR].

Mr. GILLMOR. I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in opposition to the joint resolution.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BAKER].

Mr. BAKER of California. Mr. Speaker, these new constitutionalists are certainly fabricating. The Founding Fathers did not allow a tax on income, so why would they need a limitation? They just made it illegal when we had to amend the Constitution. Yet speaker after speaker say the Founding Fathers did not envision a two-thirds vote. They did not allow you to steal from income at all.

And then, oh, but California. Rob the rich. Tax the rich. Soak the rich. We love the rich. Baloney. California allows a two-thirds vote only for all taxes; sales tax, income tax, all taxes. I served in the legislature for 12 years. Do not fabricate, you new constitutionalists. We are not after one group, we are not after another group. All taxpayers should be protected. The rich, the poor, others.

In the 1950's we taxed at a 23-percent level. We are now taxing at 40 percent. Do you think we are undertaxed? Ask the people. Ask the people tonight on the 15th, do you need protection or is Washington out of control? Yes, we are out of control. No, you have done nothing about the deficit. The new majority will protect you if you will keep us, the new majority.

Mr. CONYERS. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise in opposition to House Joint Resolution 159, and I want to spend a little time examining closely what exactly we are voting on and what we are not.

On the floor earlier today a blanket statement was made that if you are opposed to this amendment, there is only one reasonable explanation: it is because you are a big spender. I find it interesting, then, that the National Taxpayer's Union vote tally scores me based on my actual votes on appropriation and reconciliation bills as a Member who is a spending cutter.

I also find it significant that the Concord Coalition, one of the most thoughtful, respected, and credible watchdogs of deficit spending, is opposed to this amendment. They wrote, "Enactment of this constitutional amendment would be detrimental to the budget process. In considering how to balance the Federal budget and keep it balanced over the long term, all options for reducing spending or raising revenues must be on the table. No area of the budget, on either the spending or the revenue side, should receive preferential treatment such as requiring supermajorities."

The Center on Budget and Policy Priorities writes, "The Coalition budget represented the most serious of all deficit reduction plans developed in the last year. It contained more deficit reduction over the next 7 years than any other plan. Under the proposed constitutional amendment, the coalition budget would be unconstitutional unless it received a two-thirds vote."

The coalition budget would have balanced the budget in 7 years, with considerably less debt than the reconciliation bill passed by the majority, primarily through spending cuts. In fact over 90 percent of the deficit reduction came from $731 billion in spending cuts. However, it contained a limited number of commonsense changes that would have resulted in increased revenues, hence unconstitutional unless two-thirds of the House supported it.

Does that really make common sense? I believe amending the Constitution is serious business and deserves serious debate. I suspect it is precisely because Committee on the Judiciary chairman HENRY HYDE has the same respect for and concern about amending the Constitution that his committee was never given its proper and vitally important chance to consider the resolution before us on the floor tonight.

The Constitution serves to protect fundamental rights of the minority in circumstances where majority rule does not adequately protect those rights. I believe that the balanced budget amendment is an appropriate addition to the Constitution because it protects the rights of future generations who are not represented in the current political system. By contrast, individuals who are affected by tax increases are represented in the political system and are protected by our system of majority rule. Our children and grandchildren are not.

It is too easy to borrow money. Debt going from $1 trillion to $5 trillion in the last 13 years is evidence that the theory behind the amendment proposed before us tonight has not worked and will not work.

Tax limitation promises have a superficial appeal which completely ignores the realities of the deficit. It is time for us to start eating our vegetables and resisting the dessert, regardless of whether it is Republican tax cut dessert or Democratic extra spending dessert being peddled.

This debate is not about the level of taxes that CHARLIE STENHOLM, JOE BARTON, PETE GEREN, or any other Member of the 104th Congress thinks is appropriate under the current circumstances for the next year or even the next 7 years. This debate tonight is about whether those of us here tonight should place in the Constitution an inflexible rule that will apply for all future generations.

I wonder if this amendment has been fully thought out. I think the debate today proves it has not. There are so many serious unanswered questions about this amendment.

For example, the resolution before us amends the Constitution to require a two-thirds majority vote to increase internal revenue by more than a de minimis amount. Nowhere either in the bill or in any part of the Constitution are there any clues as to what policies would be covered by the phrase "internal revenue" or what "de minimis" might mean.

Later this week the House will vote on a bill to take the transportation trust funds off-budget. However, the airport ticket tax which is supposed to fund the aviation trust fund has expired. Under this amendment, a two-thirds vote would be required to extend this tax. On the one hand, a majority of this body may say that these trust funds deserve special protection, while on the other hand we are voting tonight to prevent Congress from funding the trust fund at all unless two-thirds of this body shall concur.

This bill should be sent back to committee for the further and thoughtful review that any constitutional amendment, before it ever gets to the floor of the House, should have had. Vote "no" on this amendment. It is a very politically popular amendment but it is a poorly thought out resolution.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Speaker, tonight we are having a debate about whether we should amend the Constitution to make it more difficult to raise taxes. If you look back over the last 15 years, over the last 30 years, take that amount of time, it has become clear that whenever Congress got into a bind, they just raised taxes. The fact is many of us believe that it ought to be more difficult to raise taxes and many of us believe that if we are going to balance the budget, we ought to do it by reducing spending and controlling spending and not by increasing taxes. A number of States already have tax limitation language in their Constitutions, Arizona, Arkansas, California, Colorado, Delaware, Florida, Louisiana, Mississippi, Oklahoma, and South Dakota. They all have requirements to balance their State budgets. And so you can see that these States have a tax limitation amendment in their Constitution. They also have a requirement to balance their budgets, and they are doing just fine, and this Congress can do the same thing. The fact is it has been too easy to raise taxes in this Congress. What we are trying to do is to tell the American people, "We're on your side, we're going to make it tougher."

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

The SPEAKER pro tempore. The Chair would remind the gentleman from Michigan that he has 3¾ minutes remaining.

Mr. CONYERS. Mr. Speaker, this is not a good day to have brought this measure to the floor. I would have liked to have recommended that you brought it on April 1 instead of April 15, and that is because this is a grand and elaborate but clear scheme that attempts to fool the American people. It is also, as it has been pointed out, a sham, to protect the wealthy of this country from being taxed fairly. It is a proposal that the House has once earlier defeated as a constitutional amendment and which the majority, the new majority, has on 4 different occasions violated the very principle that they now attempt to enshrine as a constitutional amendment on April 15.

It is a demeaning insult to a Constitution that deals with fundamental rights and liberties, and it is a scam that will fail, and many of its proponents are fully aware of that.

At its heart, the measure before us tonight is designed to ensure that the very wealthiest of individuals and corporations never have to pay their fair share of taxes. And how is that?

Well, consider the tax loopholes for the super-rich that this bill would all but ensure would never be closed. First, it would take a two-thirds majority to make billionaires who make their fortunes in this country, pay their fair share of taxes instead of moving out of the Nation and renouncing their citizenship to avoid such payment.

Second, it would take a two-thirds majority to end tax incentives for companies that open plants overseas.

Third, it would take a two thirds majority to stop the financial markets from permitting the wealthy to defer capital gains.

Finally, it would take a two-thirds majority vote to stop the wealthy from hiding their income from the Internal Revenue Service by using foreign trusts for safe havens.

All of these measures will raise revenues and require a supermajority vote. At the same time, this fraud that we are considering today would allow tax increases with a simple majority vote on lower and middle income Americans in the form of a flat tax or value added tax. Sock it to the middle class is what the logo of this Congress ought to be.

MORE UNFAIR CUTS TO BALANCE BUDGET WILL RESULT

So while the coporations and wealthy Americans lavish in their continued tax subsidies, the middle and lower income Americans will disproportionately suffer deep cuts in their benefits as we attempt to reduce the budget deficit that we all agree must be reduced. The amendment could as a result lead to a raiding of the Social Security and Medicare trust funds in order to balance the budget.

A NEW CONCEPT: MINORITY RULE

This amendment makes a mockery of this body and a fundamental principle of democracy—the principle of majority rules. By proposing this supermajority requirement Republicans are attempting to shift tax writing powers to a minority of Members.

A supermajority vote requirement to increase taxes has already been rejected this Congress during the balanced budget debate. One of the Republican statesmen that I expect to vote against this measure today, our Judiciary Committee Chairman HENRY HYDE said during previous consideration of this concept that "I'm troubled by the concept of divesting a Member of full import of his or her vote."

Well I am more than troubled, I think it is an outrage that Republicans would put forth a constitutional amendment that would so diminish the impact of a Members' vote in a such fundamental area of responsibility.

REPUBLICAN HYPOCRISY

With today's constitutional amendment we need to officially declare the Republican majority "Brain Dead." Barely 1 year into the Republican's new found majority states we are considering a bill—offered by the majority—to limit their own ability to operate by majority rule.

The Republicans have already passed a House Rule that requires a three-fifths vote for tax increases. But despite self-righteous pledges to oppose tax increases, the majority has on four separate occasions waived or ignored this requirement:

First, on April 5, 1995, during the consideration of H.R. 1212, the Contract With America Tax Relief Act, there was parliamentary ruling that the new House rule did not apply—even though the bill increased the maximum rate of tax on sales of certain small business stock.

Second, on October 19, 1995, the House rule was waived for the consideration of H.R. 2425, the Medicare preservation bill which would have imposed additional taxes on withdrawals from Medicareplus medical savings accounts and premium increases on high-income Medicare beneficiaries.

Third, on October 26, 1995, the House rule was waived for the consideration of the fiscal year 1996 budget reconciliation bill and its conference report.

Finally, on March 28, 1996—the very day that the Republicans released the text of the resolution—they waived the House rule for the consideration of H.R. 3103, the health coverage conference report.

To introduce this amendment after waiving the House rule four times, is the absolute height of hypocrisy.

This amendment will transfer significant tax authority to the courts. The wording of the amendment is so ambiguous that many future tax bills would be subject to challenge in court. For example, what does an increase in internal revenue mean? Will the amendment apply to a reduction in tax rates that results in a temporary increase in tax revenues? What about the requirement that Congress can by a simple majority change the ground rules for determining the validity of tax increases?

And so this is a cruel and a patent hoax that I hope will be refused at this late hour of the night on a measure written somewhere other than in the Committee on the Judiciary and which does not deserve to be supported on this night of April 15.

□ 2300

I urge a "no" vote on the measure now pending.

Mr. Speaker, I yield back the balance of my time.

Mr. CANADY of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, I rise in support of this constitutional amendment.

Mr. CANADY of Florida. Mr. Speaker, I yield 6 minutes, the balance of my time, to the gentleman from Texas [Mr. BARTON], the sponsor of this amendment.

Mr. BARTON of Texas. Mr. Speaker, as the much maligned author of this amendment, I feel somewhat put upon. Some of the more polite things the amendment has been called tonight are irresponsible, stupid and insane. It has not been called unnecessary. There have been concerns expressed about the procedure by which it has been brought to the floor. I think some of those concerns are valid. But there has not been anything substantively said against the policy we are attempting to adopt.

We have heard some concerns about the language. Yet the rule offered the Democrats an alternative. If they support the policy but do not agree with the specific language, they could have brought a substitute amendment based on the same policy to the floor, and they chose not to do so.

There has been much said about the history and the Founding Fathers and how in 1787 there was no requirement for supermajority vote for a tax increase in the Constitution. That is true. The original Constitution prevented an income tax of any kind. The 16th Amendment in 1913 made income taxes constitutional. So, for over 125 years the tax limitation provision that we had in the Constitution was that all tax bills should originate in the House of Representatives, which was the body closest to the people and the only Federal body always elected by the people.

But beginning in 1913, with the 16th amendment, we began to have income taxes in this Nation. The first income tax was 1 percent on income up to $20,000. In 1913, one-tenth of 1 percent of the American people had to file a Federal income tax, one-tenth of 1 percent.

Since 1913, the average marginal tax rate on the American taxpayer has grown to 39.8 percent of 40 percent, which is a 4,000 percent increase, 4,000 percent increase in the marginal tax rate on the American taxpayer since 1913 and the passage of the first income tax.

Enough is enough. It is time this evening to pass the two-thirds tax limitation constitutional amendment and send it to the other body for ratification so it can go to the States. We do not have a revenue problem in the U.S. Federal Government. Federal revenues in the time that I have been in this body since 1985 have grown an average of $55 billion a year, $55 billion a year revenue growth.

But, unfortunately, spending has grown $59 billion a year, $59 billion a year. We do not have a revenue problem. We have a spending restraint problem.

Fortunately, we have a laboratory called the State governments. There are States that have tax limitations in their constitutions or in their laws, and in those States that have it, there are four things that are true in every State: Their taxes are lower; their taxes go up slower; their jobs increase faster; and economic growth in those States goes up faster.

Interestingly, no State that has tax limitations repealed it. In fact, States are adding to it. There are 18 States that are considering adding some form of tax limitation to their constitutions right now, the most current one being Nevada, where it is going to be voted on by the voters this November.

Tax limitation for supermajority vote requirements does work. The polls support that. Seventy-three percent of the American people support it. Eighty percent of Republicans support it. Eighty percent of independents support it. Interestingly enough, 64 percent of the Democrats, self-identified support it, low-income support it, with 80 percent. Middle-income people, 77 percent margins. High income people, 64 percent margins.

Those are polls. Let us talk about real people in Innis, Texas, where I live, real people like Jan and Troy Rogers, who own the hardware store. They support it. Real people like Bill and Helen Templen, who own the drugstore, they support it. Single-parent families, like Linda Gillespie, who works for me and has a son and daughter-in-law, married, both working, and a daughter working her way through college, they support it. They support it because they know that the average American family today spends more time working for the government to pay the government the tax revenue than they do for their own family, any other thing in their family budget.

We simply, Mr. Speaker and Members of this body, must pass the tax limitation language this evening, send it to the other body for ratification, send it to the States so that three-fourths of the States may have an opportunity to ratify this.

On tax day, April 15, 1996, it is time to say enough is enough and pass this. If we do not pass it, we are like the movie villain Freddie in "Friday the 13th." We will be back next year on April 15, 1997, until we do pass it. It is not if we are going to pass it, it is when we are going to pass it.

This is not something that takes a long learning curve. In my town meetings when I talk about this, after the first 10 to 15 seconds the people are for it. I have yet to have one person in my town meetings or my public meetings in the last year who say they oppose it, making it more difficult to raise their taxes.

So let us, please, Mr. Speaker, vote for the two-thirds supermajority vote to require a tax increase on the American people.

Mr. FRANKS of Connecticut. Mr. Speaker as a cosponsor of House Joint Resolution 159, I rise in strong support for the passage of this resolution which proposes a constitutional amendment to require a two-thirds supermajority for passage of legislation that raises taxes.

Mr. Speaker, I am of the opinion that the situation of the taxpayer is one of desperation. For years, the American taxpayer has been like a person stranded in the middle of the desert, crawling, straining, praying for the first sight of that precious, random oasis which would provide him with the water to quench his thirst and give him relief.

However, the aching taxpayer suffering in the desert sun has become rightfully cynical. He knows that because of the deception of the heat, he may not be able to believe his eyes. You see, Mr. Speaker, over the past few years, the taxpayer has had to deal with a series of tax-related mirages. For example, he had to deal with a mirage in 1988 that said to him "Read my lips, no new taxes." But that mirage raised taxes on the American people in an ill-advised budget deal in 1990. After that, the taxpayer had to handle the mirage that comes to him in 1992 and promised him middle-class tax relief but then, in early 1993, that mirage went ahead and gave him the largest tax increase in American history. Later, the mirage of 1992 returned in late 1994 to promise that taxpayer a "middle class bill of rights. Predictably, nothing ever came of that.

Thus, Mr. Speaker, for these long years, the hot, blistering sun of big Government has parched the America taxpayer. The taxpayer of 1996 is presently fiscally dehydrated and it will be up to the members of the 104th Congress to come to the rescue—to provide the American taxpayer with the refreshment of fiscal discipline and the parasol of tax limitation.

I think House Joint Resolution 159 is a commonsense solution. This resolution proposes an amendment to the Constitution to require a two thirds majority vote for the House or Senate to pass any legislation which would result in an increase in personal, business, or other Federal taxes—taxes which have a significant effect on our national security.

Mr. Speaker, this type of legislation is nothing new. It is not some prototype piece of legislation which has not even been tested at the small town level. According to the April 15, 1996, edition of the Wall Street Journal, one-third of all Americans live in the 12 States that have tax limitation provisions in their constitutions. The Journal also pointed out that during the years 1980–92, the States that had the supermajority provisions in their constitutions raised their taxes by 102 percent while the States without such a law raised taxes by 121 percent.

Also, I am sure, much to the chagrin of some of my colleagues on the other side of the aisle who have supported huge tax increases in the past, this type of proposal has the support of our employers, the American people. According to the Wall Street Journal, a Polling Co. poll found that 73 percent of the American populace support the idea of a supermajority when dealing with raising taxes. The same poll cited in the Journal also found the supermajority idea is supported by 64 percent of Democrats, 68 percent of Federal employees, and 71 percent of union members. This is not a concept that is only supported by rich and their fat-cat friends. Rather, this thoughtful proposal is supported by a broad spectrum of America. With this knowledge, I know that this proposal can be supported in my district—from the corporate manager in Danbury to the housewife in Shelton, from the teacher in Newtown to the boilermaker in Waterbury, and so on.

Let me be clear—I can respect the arguments of those colleagues of mine who express reservation about passing the constitutional amendment. The Constitution is the most sacred document of our land and it should not be used for momentary whims and passing fancy. But it is my belief, and the belief of a great supermajority of Americans—not just a mere majority, that is amendment is needed to bring an end to confiscatory Government that has gone on for way too long. We need to let the American people take home more of the money they work for and utilize it in the way they see fit.

Accordingly, I fully support this amendment and encourage my colleagues to do likewise. I yield back the balance of my time.

Mr. LIGHTFOOT. Mr. Speaker, I am proud to serve as an original cosponsor of the tax limitation amendment, which would make it impossible to raise the taxes of America's working families without a two-thirds vote of Congress.

It is inconceivable that it requires a two-thirds vote to override President Clinton's veto of our plan to provide tax relief to American families. But in 1993, it only took a single vote majority to enact the largest tax increase in American history.

Prior to Republican control of the House and Senate, history had shown Congress to be reckless and irresponsible with the taxpayers' dollars. This legislation will protect American taxpayers from the tax-and-spend liberals in Congress, who are all too eager to raise taxes and expand the Federal Government.

The 104th Congress has made great strides in rolling back the tide of Government expansion and escalating debt, yet, we need to take every precaution against backsliding. Requiring a two-thirds vote of Congress to raise taxes will ensure a continued commitment to fiscal responsibility.

Mr. GILMAN. Mr. Speaker, though I am weary at attempts to amend our Constitution and the concepts authored by our forefathers, I am concerned that our Nation continues to drown in wasteful Government spending and increased taxes, laying a heavy financial burden upon the backs of our children and grandchildren. Our Nation is great because of the principles espoused by our Founding Fathers and authored in the Constitution. This includes the belief that if you are able and willing to work hard you can adequately provide for your family.

However, Congress continues to ignore this principle and instead chooses to place economic roadblocks in front of working Americans. It is time to reel in the Federal Government's long arm. The Federal Government has been reaching into the pockets of Americans for far too long.

Accordingly, I rise in support of this constitutional amendment to provide a supermajority to raise taxes.

The debate should not be about supermajority rule versus majority rule, but instead about how best to provide jobs, investment, and economic growth for all working Americans.

Accordingly, I urge my colleagues to support this initiative and all measures aimed at providing working families with the ability to succeed in our Nation's economy.

Mr. KIM. Mr. Speaker, I rise in support of House Joint Resolution 159.

After a long, hard winter, it seems that spring has finally arrived. Across the Nation, many cities enjoyed their first warm, sunny weekend in months. In Washington, the cherry blossoms have bloomed, adding beautiful spring colors to the wonderful weather.

Regrettably, millions of Americans didn't get to enjoy this beautiful spring weekend. Instead, many of us were stuck inside doing our taxes.

A wasted spring weekend is a relatively minor annoyance, however, when compared to Americans' overwhelming frustration with the tax system in general. I'll bet that most Americans would endure the hassle of filing taxes with a lot less complaint—if only they felt that the taxes they paid were fair and that their money was spent wisely.

Unfortunately, neither of the above is true. The fact is, Americans pay too much in taxes, and the taxes they pay are all too often wasted.

The statistics are amazing: The average American citizen works well into May for our Government. Think about it: Every dollar that a person earns, from January 1 until several weeks after April 15, will go to pay Federal, State, and local taxes. And that does not include gas taxes, property taxes, and sales taxes.

And where does all of this money go? A great deal of it goes to support worthy Federal programs, such as Medicare, national parks, student loans, transportation, and defense. But too much of it is wasted—to support a bloated Federal bureaucracy, pork barrel projects, fraudulently received welfare benefits, and inefficient or outdated Federal programs.

Is it any wonder, then, that Americans are fed up with paying taxes? Should we be surprised that the American people resent having to pay high taxes, only to see their hard-earned money thrown down a rathole? I don't think so.

With the new majority in Congress, these frustrations are finally being addressed. In fact, one of the primary goals of the new Republican Congress is to reform how this Nation taxes and spends. We have passed a balanced budget bill that would reduce Federal spending by hundreds of billions of dollars over 7 years. We have passed legislation that would reform or consolidate hundreds of wasteful Federal programs. And, we have passed a bill that would have given middle-class individuals and families a substantial tax cut.

The constitutional amendment we are considering today is part of these continuing efforts. The amendment is simple: It would require a two-thirds vote in both the House and Senate to pass a tax increase. Instead of a simple majority vote, it would take 290 votes in the House and 67 votes in the Senate to raise taxes on the American people.

In doing so, this amendment would make it much more difficult to raise taxes—and would finally stack the odds in favor of the American taxpayer. If this amendment is passed, we will never again be faced with a repeat of the 1993 tax debate, in which the largest tax increase in American history was rammed through both Houses by one vote on a party-line basis. Congress would still have the option of raising taxes—but only if a broad, bipartisan coalition agreed that a tax increase was necessary.

In all probability, however, supporters of a tax increase will never convince two-thirds of both houses that such a tax hike is necessary. History bears this point out: During the past 30 years, Congress has passed 16 major tax increases. If this amendment were in effect, 8 of those tax increases would not have been passed. In the 1980's alone, this amendment would have saved American taxpayers nearly $700 billion in increased taxes.

In short, this amendment will force Congress to stop looking to the American taxpayer every time we want to spend more than we take in. Instead, the tax limitation amendment will force Congress to do what we have historically been unwilling to do: Cut spending.

Finally, the most appealing aspect of this amendment is that it will be permanent. By incorporating this bias against higher taxes into the Constitution, we ensure that future Congresses are not tempted to reach into the wallets of the American people. We also ensure that the efforts of this Congress to cut spending and lower taxes are not in vain.

In sum, I strongly support House Joint Resolution 159 because if provides critically needed protection for American taxpayers. It will stack the deck against tax increases and for spending cuts. And, while it won't prevent taxpayers from having to spend another spring weekend doing their taxes, it will at least ensure that they don't have to pay more taxes than are truly necessary.

For these reasons, I urge my colleagues to support this important legislation.

Mr. BEREUTER. Mr. Speaker, this member rises in opposition to House Joint Resolution 159, the so-called tax limitation amendment. Certainly it would be more politically expedient to simply go along and vote in support of a Constitutional amendment requiring two-thirds approval by Congress for any tax increases. However, this Member can not in good conscience cast such a vote.

As this member stated when speaking in favor of a balanced budget amendment to the U.S Constitution, there is a great burden of proof to deviate from the basic principle of our democracy—the principle of majority rule. Unfortunately, this Member does not believe the proponents of this amendment have met this burden.

There should be no question of this Member's continued and enthusiastic support for a balanced budget and a constitutional amendment requiring such. Tax increases should not routinely be employed to achieve a balanced budget. That is why this member supported the inclusion of a supermajority requirement in the Rules of the 104th House which were adopted at the beginning of this Congress. However, to go beyond that and amend the Constitution is, in this Members opinion, an unreasonable and dangerous action.

Mr. PORTER. Mr. Speaker, I rise in opposition to this resolution. Amending the Constitution to require a two-thirds vote to raise taxes may make for good election year politics, but adding a policy-specific supermajority requirement to our Constitution runs contrary to the fabric of the text and is an unwise change that should be rejected.

I speak today, Mr. Speaker, as a very strong opponent of taxes. I believe that our fiscal problems do not result from excessive spending and I do not favor tax increases. During my service in Congress, I have voted against the tax increases that were adopted in 1983, 1990, and most recently, I opposed President Clinton's tax increase in 1993. My record in opposition to increased spending is equally strong and unwavering.

But I think it is instructive to reflect upon the teachings of the Founding Fathers when considering a proposition of this magnitude. Our forefathers founded this nation over 200 years ago in tax revolt. King George III's imposition of huge and unfair levies without the consent of the American colonists led to their rallying cry of "no taxation without representation." The British Crown's impositions, including heavy taxation, were among the principal causes of the American revolution.

Within a decade, in 1787, the leaders of that revolution were writing a new constitution to govern the relationship among the new National Government, the States, and the people. Heavy upon their minds was the power of the central government to tax. Yet, having the opportunity to require supermajorities for the imposition of any tax, they did not write such a provision into the new Constitution.

Indeed, supermajority provisions are found only rarely in our Constitution. In the instances where they are found, there is a particular rationale reflecting the concern of the Framers with the need to maintain checks and balances between the branches of the government and between the two Houses of the Congress. In no case do we find a policy-specific supermajority requirement such as the one that is proposed today.

Supermajority requirements are found in the Constitution in the context of expelling a member of the House or Senate or impeaching the President. Such requirements make obvious sense in that they protect Representatives or Senators espousing a minority viewpoint or a President who is disfavored by a majority of the legislative branch from being purged from office simply because of his or her views.

A supermajority requirement is also found with respect to the ratification of treaties by the Senate. Again, there is a process-based rationale for this requirement. Because the House plays no role in the treaty ratification process, and because treaties are afforded the status of supreme law, the Framers sought to avoid a situation whereby a President in concert with a simple majority of the Senate could utilize the treaty process to make law while circumventing the popularly elected House. The supermajority requirements was imposed as a check on this power.

There is also a supermajority requirement for the promulgation of an amendment to the Constitution. And, again, this is a process based requirement designed to protect the Constitution itself from constant revision.

Perhaps most well known is the supermajority requirement for the override of a Presidential veto. This requirement also relates to the concerns of the Framers about the balance of powers. During debate on the Constitution, it was proposed by some delegates that the President have an absolute veto over legislation that he disliked, with no provision for an override. Other delegates felt that the Chief Executive should play no role in the enactment of legislation and therefore should have no ability to veto legislation. The two-thirds override provision that found its way into the final version of our Constitution was essentially a compromise between these two views—the President was given the authority to negate legislation adopted by the Congress in order to protect against the potential for rash action by the legislative branch, but if a supermajority of legislators—after reflecting on the President's veto—nonetheless felt that the measure was in the national interest, they could reverse the effect of that veto.

Moreover, Mr. Speaker, the proponents of the resolution that we debate today have overlooked an even more fundamental reason why policy-specific legislative supermajority requirements were eschewed by the Framers. The bicameral composition of the legislative branch itself—with House members serving relatively short terms and apportioned by population and Senate members serving relatively long terms and apportioned by State—was designed to retard the adoption of unpopular or unfair legislation and, in particular, tax legislation The record of the debates of the Framers makes clear that a chief reason why the House was intentionally structured to keep its Members close to the wishes of their constituencies was to deter them from recklessly taxing those people. Equally clear is that the Senate was intended as a more insular and—it was assumed—contemplative body that would protect the small States from tax and other legislation that might be adopted by the House that might disproportionately impact such small States. In short, the bicameral legislature that we have today was fashioned—after considerable debate—to act as a check on both excess and unfair taxation. A supermajority provision respecting taxes was not considered necessary because it was considered redundant of the essential structure of the legislative branch.

Mr. Speaker, earlier this year, we changed the House rules to require a supermajority to raise taxes. I supported that change in the rules because I feel very strongly that, at this time, we should bind ourselves to resolve the present deficit crisis with a focus on the elimination of wasteful and unnecessary Federal spending and the elimination of programs that have outlived their usefulness or are more appropriately the function of the States or local governments. But the resolution before us today proposes to change the text of our Constitution and, in so doing, to bind future generations with respect to the resolution of a problem that we cannot anticipate. To do so is, in my judgment imprudent. And it is also unnecessary.

Mr. Speaker, I believe that the Founders had it right the first time—each of us must stand for election every 2 years and each of us must answer for our votes in this body. Those who vote for increased taxation must answer to their constituencies for such action and, it seems clear to me, that the voters continue to express a visceral dislike of taxes and a strong willingness to turn out of office those who lose touch with this sentiment. Senators also cannot escape the consequences of voting to raise taxes. Indeed, the move to a popularly elected Senate has, if anything, strengthened the responsiveness of the legislative branch to the anti-tax ethos that is found at the core of our Nation's founding and reflected in its central organizational document.

Mr. Speaker, those who propose to amend our Constitution bear a heavy burden to convince the Members of this body and the American people of the propriety of their action. This resolution does not meet that burden.

Mr. COYNE. Mr. Speaker, I rise today in opposition to this proposed amendment to the Constitution. I believe that such an amendment would be unwise.

I am primarily concerned that this amendment will spell the end of majority rule in this country. We will find it much harder to address the many financial problems that we know this country will face in coming years. Under this amendment, one-third of the Senate could block legislation. Conceivably, one-third of the Senate could represent States containing only 10 percent of the country's population. In short, 10 percent of the country's voters could thwart the will of the other 90 percent! That's not democracy.

What would be the effect of such a change in the Constitution? Well, let us just look at some of the close votes of the past. If this amendment had been part of the Constitution in years past, for example, we wouldn't have had the votes needed to pass the legislation that create Social Security or Medicare. If we adopt this amendment, we would find it much harder to close corporate tax loopholes—we can't even muster a majority of votes to eliminate them. I am also concerned that the proposed amendment, if ratified, would produce a Federal Tax Code that is more regressive than the one under which we live today. We could, for example, pass a flat tax or a VAT tax under this amendment, but we could not pass legislation that would reform the current income tax to make it more progressive and reduce the tax burden on working families.

Mr. KLECZKA. Even the Republicans don't really want to live by such rules. We have had a House rule for the last year that requires a three-fifths vote to increase income tax rates. The Republican-controlled House has already waived that rule four times. What are they saying by offering this constitutional amendment—stop us before we tax again? Or are they just offering this amendment as a political gesture that they know will never be ratified as part of the Constitution?

Moreover, this amendment would shift a great deal of control over Federal taxes from Congress to the courts. Under this amendment, anyone would have standing to bring a suit in court. Do we doubt that the courts would be inundated with cases challenging congressional tax legislation? I doubt that this is what the Founding Fathers had in mind.

If this amendment is ratified, it will be much more difficult to balance the budget in future years. In order to reduce the deficit under this amendment, Congress would have to make devastating changes in the programs that serve the needs of the American people—programs like Social Security, Medicare, and Medicaid. I do not think the American people want such an outcome.

We all know that in coming years, Congress will have to both cut spending and raise taxes in order to keep the deficit from exploding. Entitlements will have to contribute their share. But this amendment would result in paralysis and massive deficits that would cripple the country, impose unnecessary suffering on senior citizens and the poor, and choke off economic growth.

I find it especially disturbing that the House is considering this amendment without adequate hearings and consideration at the committee level first. Amending the Constitution is a major decision. Such a step deserves careful consideration. And yet we have had—what?—one hearing at the subcommittee level on this proposal. It hasn't even been considered by the full Judiciary Committee.

I urge my colleagues to reject this hasty and ill-advised amendment.

Mr. Speaker, I rise in opposition to House Joint Resolution 159. This constitutional change is unnecessary and misguided, and I urge my colleagues to oppose it.

This initiative strikes at the very heart of our constitutional democracy, eroding the principle of majority rule. The Constitution requires a supermajority only in extraordinary circumstances, such as a veto override or impeachment of a president. This resolution would give a small minority of this House the power to block critical bills—even responsible legislation designed to balance the federal budget—if you contain a tax increase. If Congress can declare war by a simple majority vote, surely we can pass a tax bill by the same margin.

I also foresee difficulties defining a tax increase. Earlier this year, the Republican House majority passed a bill reducing the earned income tax credit, a tax credit for our nation's working poor. That measure effectively increased low-income Americans' taxes by reducing their credit. However, the GOP did not consider that bill a tax increase. It is likely we will see similar controversies. If Congress eliminates an unjustified tax deduction, thereby resulting in a tax bracket change for an individual or a corporation, does that constitute a tax increase? Would it require a supermajority to right this hypothetical wrong? The answer is uncertain as this legislation is currently written.

The resolution's provision waiving the two-thirds requirement for "de minimis" tax increases is also troublesome. By failing to define a "de minimis" increase, the resolution abdicates responsibility for developing this guideline and turns it over to the federal courts. The courts will undoubtedly spend many years and thousands of taxpayer dollars delineating precisely what is meant by this term.

There are other technical difficulties with the measure. It does not define the time period over which a tax increase must be estimated in order to trigger the two-thirds requirement. Similarly, this amendment does not address situations where bills projected to decrease tax revenues actually increase taxes. Closing loopholes in the tax code could also be almost impossible if these efforts were subject to a two-thirds vote on the House.

Mr. Speaker, I would also note that the Republican-controlled House has not even been able to live under its own rule that income tax increases must be passed by a three-fifths vote. This rule has been waived three times in this Congress, allowing income tax bills to pass by a simple majority. If the GOP violates the spirit of its own rules, what will prohibit it from circumventing a Constitutional amendment in a similar way?

House Joint Resolution 159 is the fourth attempt by this Republican Congress to amend the Constitution—the most ever since the post-civil war period. I urge my colleagues to vote against this resolution.

Mr. GILLMOR. Mr. Speaker, I rise in reluctant opposition to the tax limitation amendment offered by the gentlemen from Texas. I commend them for their hard work on this effort, but in the end, I believe this proposal is bad public policy.

Let me make it clear that I am opposed to a tax increase on the American people. I think the overall tax burden of the average American family is too large, and tax relief or tax reduction is appropriate. I believe this amendment is well intentioned, but as we all know, the "road to Hell is paved with good intentions."

Regrettably, this vote and the way it came about is an example of ideology prevailing over common sense. I do not believe that higher taxes are a panacea to our budget problems. I would support a lower tax burden. As Ohio Senate President, I was responsible for pushing through the largest income tax cut bill in Ohio history. This was accomplished even though we had to contend with a Democrat-controlled House and Democrat Governor who opposed that tax relief bill. Americans, of all backgrounds, deserve to have more money in their pockets to spend the best way they know. Government should not be in the business of making decisions that working families can make for themselves. The average family now pays more in taxes than for food, clothing, and shelter.

Let me briefly set out four reasons this proposal should not be approved tonight. First, changes to our fundamental charter, the U.S. Constitution, should not be undertaken lightly. The justification for this proposed change has simply not been adequately made. When the Constitution was first written, Congress was given the authority to raise revenues by a simple majority vote. This amendment places new hurdles on our jurisdiction, putting philosophy over reality.

Second, I want to remind the members that at the beginning of the 104th Congress, the House rules stipulated that new revenue provisions needed to be approved by three-fifths majority. This rule, though, has been waived repeatedly. Very simply, it did not work as intended, so it was waived. However, the Constitution cannot be waived.

Third, the practical effect of this type of provision if it had been in effect in the past would have prevented some of the most significant progress we have achieved as a nation. Specifically, I am referring to the National Highway System, our magnificent interstates that we all voted to renew earlier this Congress. These roads have given us the greatest transportation system in the world, and added hundreds of billions of dollars to our economy. If this Tax Limitation Amendment had been part of our Constitution when the Highway Act was originally voted on by the Congress, this system would not exist today. Congress first passed a gas tax to pay for this highway system, one of the greatest public works projects in our history, with more than two-thirds of House members voting for it. Yet, reauthorizing the tax would have never happened because in 1959 it would have failed by a vote of 243 to 163, less than two-thirds.

Fourth, the procedures used here simply fail to meet the minimum standards we should adhere to in voting on a constitutional amendment. There have been no meaningful hearings on this proposal. In fact, the current version was just recently drafted, behind closed doors, with no opportunity for the public, or even most Members, to examine it.

Mr. Speaker, I urge my colleagues to stand up for sound, reasonable, and practical public policy and oppose this amendment.

Mr. LANTOS. Mr. Speaker, this Congress—now under new management, as my distinguished colleagues on the other side of the aisle have repeatedly emphasized—has been long on rhetoric and extremely short on accomplishments. In the first session, we had the largest number of recorded votes in recent memory—and the fewest number of bills passed in recent memory. I hasten to add, Mr. Speaker, that the limited accomplishments of this Congress' new management had little to do with Presidential vetoes. It has a great deal to do with poor quality legislation and extremist legislation that has not found support even among the Republican majority in the other body. It has a great deal to do with partisan posturing while ignoring the importance of bipartisan cooperation and good government.

Today, Mr. Speaker, we are once again engaged in another exercise of symbolism rather than substance as we consider House Joint Resolution 159/169, to require a two-thirds vote in both houses of Congress in order to increase tax revenues. No one likes to pay taxes, and no one likes to pick up the tab after lunch. But just as there is no free lunch, taxes are the price we pay in order to participate in the benefits of civilized society.

Today is April 15—tax day, the deadline by which all of us must file our Federal income taxes. In order to take advantage of media interest in taxes, our colleagues on the other side of the aisle are bringing to the floor a bill which does little to deal with the burden of taxation, a bill which does little to deal with the issue of fairness in taxation. Once again we are seeing this House posture rather than perform. We are taking time today to consider an ill-conceived and ill-drafted resolution that will go nowhere, a resolution that this House should not even take the time to consider, a resolution that is so flawed that it should not be adopted.

Furthermore, Mr. Speaker, the majority on the other side of the aisle has already had a super majority requirement, which was adopted last year as a rule of the House. The House Rules require a three-fifth vote for any tax increase. But have they followed their own super-majority rule in the House? Since the adoption of the House Rule 16 months ago, the House majority has waived the rule three times for specific legislation. The hypocrisy is appalling, Mr. Speaker.

House Joint Resolution 159/169, which we are considering, has a number of serious flaws. First, it is a violation of the fundamental principle of majority rule that is a the heart of our democracy. Adopting this amendment would make democratic decision making more difficult. Requiring super majorities, in all but the most weighty and most fundamental issues, simply makes it even more difficult to govern. The paralysis we have seen in this House and between the House and the Senate over the past year would be considerably compounded by adding this new requirement.

Second, this amendment would erect serious new barriers to deficit reduction. If we are to deal with our Nation's deficit we must have both spending cuts and revenue increases in the years ahead. The requirement of a two-thirds vote for any legislation that raises revenues would make it difficult, if not impossible, to adopt legislation that balances program cuts and increased payments for government services. Under this amendment, even an increase in the fee charged visitors to our national parks would apparently require a two-thirds vote of the House and the Senate. A cut in the capital gains tax rate, according to official projections would result in an increase in tax revenues for the first few years, this it appears that a reduction in the capital gains tax rate would therefore require a two-thirds vote. The awkwardness of this requirement is obvious.

Third, as with so much of the legislation that we have considered in this house over the past sixteen months, this provision will be of much greater benefit to the wealthiest and most powerful Americans at the expense of the rest of our people. As the Center on Budget and Policy Priorities, which has expressed its strong opposition to this resolution, stated: "A two-thirds majority would be required to curb special interest tax benefits, which disproportionately benefit those at high income levels. By contrast, a simple majority vote would be required to cut federal programs, which primarily benefit the middle class and the poor."

The Concord Coalition—the respected bipartisan organization established four years ago by former Senators Paul Tsongas of Massachusetts and Warren Rudman of New Hampshire "to eliminate federal budget deficits and build a sound economy for future generations"—has expressed its opposition to this constitutional amendment. The Concord Coalition, which has taken fiscal responsibility very seriously, opposes this resolution and has announced that it will include this vote as a key vote for its 1996 congressional scorecard.

Mr. Speaker, there are a number of serious and thoughtful analyses that have been made in connection with the legislation that we are considering today. The Washington Post published an excellent editorial on April 12 entitled "Showboating on Tax Day" which raises very serious and thoughtful objections to the bill we are considering House Joint Resolution 159/169. As the Post argues: "Issues like this ought not be raised to the constitutional level. If evaded, the amendment would breed contempt for the Constitution. If adhered to, it would weaken the government whose resolve it purports to strengthen." Mr. Chairman, I ask that the text of this Washington Post editorial be included in the RECORD at the conclusion of my statement.

Mr. Speaker, this House has been too long on symbolism and too short on legislation that is meaningful to the American people. I urge my colleagues to oppose this symbolic resolution before us today. Let us move on to the serious and important business of the people.

SHOWBOATING ON TAX DAY

The House is scheduled to vote next week on a constitutional amendment requiring two-thirds votes of both houses to pass tax increases. It's a bad idea whose effect would likely be not so much to limit tax increases as to raise their political price by giving minorities the power to hold the majority hostage. The Republicans are staging the vote to demonstrate on tax day their devotion to lower taxes and smaller government. They should find a better way to do that than to turn the Constitution into a political toy.

The amendment is being advanced in the name of fiscal responsibility, but the effect would be to make a responsible fiscal policy harder to achieve. The budget is structurally out of balance now. It can only become more so as the baby boomers begin to retire; the day is not that far off. Aid to the elderly, mainly in the form of Social Security and Medicare, already makes up close to half the budget for other than interest and defense.

Left to itself, the share will increase; to protect the rest of government and keep the deficit from rising, there will be pressure to cut the net cost of these programs. If all the cost cutting takes the form of benefit reductions, the standard of living of the elderly, so painfully raised in recent years, will be adversely affected. For the sake of social equity as well as fiscal responsibility, there will need to be tax increases as well as benefit cuts. In the face of a problem as fundamental as this, why, except for misplaced ideology, make the decent solution harder to achieve?

The amendment tries to use a change in procedure to achieve a particular policy result. All kinds of questions of interpretation instantly arise. The Republicans want to cut the capital gains tax. As part of the argument in favor, they say that at least at first it will add to revenues rather than reduce them, because it will generate more sales of assets. If you have cut that supposedly adds to revenues, does that mean you need a two-thirds vote in both houses, or will simple majorities suffice? Over what time periods do you measure? Who does the measuring, and what if they turn out to be wrong?

Issues like this ought not be raised to the constitutional level. If evaded, the amendment would breed contempt for the Constitution. If adhered to, it would weaken the government whose resolve it purports to strengthen. If it's hard to assemble majorities for responsible budgets, how much harder to assemble two-thirds. This is a showy proposal meant to make its supporters look good on tax day. What it does instead is make them look like another bunch of pols in search of another gimmick. The House should vote this amendment down.

Mr. BUNNING of Kentucky. Mr. Speaker, this is the day that comes each year when the American people are reminded of the cost of their government. And this government ain't cheap.

The Federal budget has grown to more than one-and-a-half trillion dollars and that is a cost paid directly by working Americans. It has become too easy to sit here in our Nation's Capital and spend other people's money.

Other people's money—money that they earned through work and effort—should be spent with care and only for what we absolutely must have.

But, unfortunately, Jefferson, was right when he said that no one spends someone else's money as carefully as he spends his own.

If the amendment before us today is approved, it will make it more difficult for the government to spend other people's money in such a callous way. In a word, it will make us more accountable.

Those who like to call the ones who earn the money greedy because they want to keep more of it for their families should think again.

In my books, the greedy ones are those who sit here in Washington demanding that the workers hand over more and more of what they earn.

Mr. Speaker, our fiscal problem has not been a lack of revenues but too much spending of other people's money. The time has come for us to make it more difficult to take and spend money earned by the American worker.

Higher taxes and more spending are not signs of virtue. In fact, they are signs of a government grown too fat. To paraphrase President Reagan, you cannot measure compassion by the size of the Federal budget.

I think that it is time for some compassion for the folks who have been paying the bills around here.

The American taxpayer deserves a system that makes it at least as easy to cut spending as it is to raise taxes and this amendment will do that. It levels the field so that the easy answer is no longer to stick it to the taxpayer one more time.

If taxes grow more slowly and spending must be cut so that the government lives with its means, that is a virtue. It may help to curb the vice of spending more and more of other people's money.

I urge my colleagues to support the American Taxpayer and support the ⅔ majority rue for tax increases.

Mrs. SMITH of Washington. Mr. Speaker, I join my colleagues today in supporting this supermajority tax increase amendment. A year ago, my freshmen colleagues and I led a fight in the first round of an effort to bring taxation under control. Since coming to Congress a little over a year ago, I have seen first hand how difficult it is to cut Federal spending. One of the best disincentives we can use is to make raising taxes that much more difficult. The American people are no longer willing to give the benefit of the doubt to Congress. Our tax and spend addiction has taken over efforts for credible discussions about deficit reduction. As a grandmother of six young children, I only have to think of their future tax rates to realize what will happen if we do not get Federal spending under control. We have no moral right to depend on tax increases in the future to fund the Federal spending today.

Requiring a two-thirds supermajority for a tax increase is part of sound economic growth. States with supermajority requirements saw their economies grow 43 percent between 1980 and 1992. States without such requirements lagged behind at 35 percent. Taxes also grow more slowly in States with a supermajority requirement. In the State of Washington, we have such a supermajority and it has done much to increase the level of accountability between the taxpayers and their elected officials. It allows hard working Americans to invest their dollars in the economy whether it be through a home purchase, a college education, or simply providing a better life for their families.

I ask my colleagues today to join with me in supporting this two-thirds supermajority tax legislation. We can do no less for our children and grandchildren.

Ms. DUNN of Washington. Mr. Speaker, I rise today in strong support of House Joint Resolution 159 and urge my colleagues to approve this common sense and responsible measure.

The truth is, Mr. Speaker, that it is simply too easy to raise taxes.

Currently, it is easier to increase taxes than it is to cut them. In 1993, President Clinton and the Democratic-controlled Congress enacted the largest tax increase in the history of our great Nation by a 50-percent-plus-one vote. And that is exactly how it happened. They passed the largest increase in the history of the United States by a one-vote margin.

Democrats placed this burden squarely on the backs of the American people. Those tax increases took real money out of the pockets of real American families.

In 1995, Republicans worked to reverse the largest tax increase in the history of our Nation. Last fall, we passed and sent to the President a measure that would have included tax reductions to offset the economic burden placed on every American by the 1993 tax increases.

Unfortunately, the President vetoed that relief and in order to override the veto and pass tax cuts the Congress needed to achieve a two-thirds majority. It is simply too easy in this country to take more money out of the pockets of the citizens. Simple majority for a tax increase—and two-thirds majority for tax cut. This must stop. This Republican Congress will no longer allow elected officials to take the easy way out.

During the past 30 years there have been 16 major votes to increase taxes. Of those 16, only 8 would have passed if the two-thirds majority requirement had been in place. Since 1980, the taxpayers would have saved $666 billion had the tax limitation amendment been in effect.

Around the country States have also been forced to reform their spending, and budgeting priorities because of deficit-spending. The most successful method used by States has been some type of tax limitation. One-third of all Americans live in a State with tax limitation in their constitutions. Mr. Speaker, the Federal Government has learned a number of lessons from the States, and this is no exception. States that have enacted a tax limitation have experienced expanded economies, reduced spending and a better way of life for its citizens.

Mr. Speaker, I would hope that my colleagues on the other side of the aisle will at the very least listen to their constituents. The American people support tax limitation. Seventy percent of the American public support amending the Constitution to require a two-thirds vote to raise taxes.

The power of the Federal Government to tax is an enormous responsibility. If used unwisely this power will lead to a lower standard of living for all Americans. With enactment of this amendment, no longer will tax increases become the preferred method of dealing with our Nation's finances. Ultimately, this measure will foster good government by forcing us to reevaluate commitments and prioritize spending. I urge my colleagues to support House Joint Resolution 159.

Mr. MCDERMOTT, Mr. Speaker, in the words of Seattle Time's columnist Terry Tang, today's debate is best summed up as "A Republican Floor Show Only a Cynic Could Love."

The proposed constitutional amendment is so gravely flawed it should not be debated on the floor of the House of Representatives. Instead of working to finish passages of this year's budget, or work on serious legislation, the Republican leadership has decided to waste valuable legislative time debating a bill they know will never pass.

Today's vote is nothing more than a cynical publicity stunt to pander for political votes. Today's vote to amend the Constitution to require a two-thirds vote to raise taxes is a perfect example of Republican legislation which has nothing to do with governing and everything to do with bumper-sticker politics.

While these sound-bite tactics play well in campaign ads, they fail the test of serious legislation. When will the Republican Party learn that there is more to legislating than trying to add a campaign slogan to the Constitution?

When the Republicans took control of the House in January 1995, one of the first things they did was pass a House rule requiring a three-fifth's vote to pass any legislation that included an increase in income tax rates. The Republicans touted the passage of this rule as a sign of their commitment to not raise taxes on Americans and balance the budget through spending cuts alone.

Have the Republicans lived up to their lofty promise not to raise taxes on Americans? The answer is an emphatic "No." On four separate occasions, the Republican leadership brought bills to the House floor for a vote which included increases in income tax rates on working Americans.

How do we know for sure that at least four Republican bills included tax increases?

Simply because they already have voted to waive their new rule four times in order to ensure passage of their legislation by a simply majority vote, and not the three-fifth's majority vote that their own House rule required.

Let me make this clear—the Republicans have ignored their own rule, they have voted on and passed four separate pieces of legislation which increased income tax rates on the American people, in direct contradiction to their widely publicized promise not to raise taxes.

The Republicans have clearly not been able to live according to the terms of the House rule they adopted for themselves at the start of this Congress.

The Republicans now want all of their minions to march down to the House floor today and ram an amendment through the House without ever taking the time to study what such an amendment might actually mean to the American people.

If the American people, and my colleagues across the aisle were to take the time to actually think about this bill, people would clearly see that such an amendment would have significant consequences on our country's future.

Passage of this amendment to the Constitution is nothing more than giving Speaker GINGRICH another tool to undermine the working men and women of America.

This amendment is structured to protect corporate welfare in the Tax Code, reduce spending on education and the environment, weaken Medicare and Medicaid and threaten the future of Social Security.

The latest budget proposals put forth by the President and the Republican leadership include provisions which would close corporate tax loopholes in the Tax Code to help reduce the deficit. Yet, the Republican leadership, with this amendment, is signaling to corporate American that they are in the clear from here on out because this amendment would make it almost impossible to close any tax loopholes for deficit reduction.

Why? Because the requirement for a two-thirds majority would not only apply to measures to raise taxes, but also to measures to cut unproductive tax expenditures that grant subsidies to select industries.

The amendment was drafted this way, despite the fact that a recent CBO study found that over half the corporate subsidies the Federal Government provides are through the Tax Code. Closing tax loopholes is often hard enough by a majority vote requirement—to constitutionally require a two-thirds vote of Congress to do so would be impossible.

The Republican party evidently would rather balance the budget on the backs of working men and women than require corporate America to contribute its fair share to deficit reduction.

It shouldn't be surprising to anyone to learn that this amendment is biased against average families and the poor.

Most Government programs that benefit working Americans, like Social Security, school loans, unemployment insurance and food stamps, to name a few, come from the spending side of the budget.

In contrast, wealthy individuals and corporations tend to receive benefits through the Tax Code. Because this amendment makes raising revenue for deficit reduction through the Tax Code very difficult, the wealthy and powerful are more easily able to preserve their Federal Government benefits.

Most distressing is that this amendment makes clear that the Republicans have no commitment to preserving Medicare or Social Security for future generations.

This amendment would prevent Congress from asking beneficiaries of these programs who have high incomes to pay for more of the Government benefits they receive.

The Medicare bill which the Republicans passed, would have increased the Medicare part B premiums for beneficiaries. Under today's amendment, it would not be allowed without a two-thirds vote.

Whether raising premiums is necessary or not, Congress needs the flexibility to be able to take actions such as increasing premiums or means testing Social Security benefits if a majority of Representatives think it is necessary for the continued financial integrity of these programs.

Amending the Constitution should not be taken lightly. It is disconcerting to know that bills we will be voting on later this evening on the suspension calendar will have undergone substantially more scrutiny than this proposed amendment.

Today's amendment has never had a hearing before either the Constitution Subcommittee or the full Judiciary Committee. This legislation has not been marked up nor has a report on this bill been filed.

Trying to amend the Constitution of the United States with a Republican Party campaign slogan is irrefutable evidence of how little respect the Republicans have for our Constitution.

For any Member to vote for legislation which has undergone so little scrutiny, let alone a constitutional amendment which will affect the lives of every American would be a serious mistake.

For this House to vote on such a flawed amendment is a disgrace to the institution and an insult to the Nation.

Mr. MARTINI. Mr. Speaker, I rise today in support of the American taxpayer and in support of this historic amendment being considered by the House of Representatives.

House Joint Resolution 159, the tax limitation amendment, will require a two-thirds supermajority vote of the Congress to raise Federal taxes.

Mr. Speaker, this amendment is necessary because the average family of four pays about 38.2 percent of their income in Federal, State, and local taxes. More than 3 hours of every 8-hour workday are dedicated to the tax man.

To put it another way, the average American works from New Year's Day to May 6 just to pay off his or her tax burden.

We believe that Americans are taxed too much, not too little. We also believe that individuals and families can better decide how to spend their money than Uncle Sam.

Unfortunately, most Americans are scared, they are feeling squeezed by falling wages and mixed signals on status of the economy.

People are anxious about their economic future and job security. In New Jersey, we see corporations like AT&T laying off thousands of employees and the Thomas' English Muffins plant closing their doors in Totowa.

Unfortunately, millions of working families gather around the kitchen table each week and wonder why it is they can't seem to make ends meet. They work longer hours, they take second jobs, but they feel like they are running in place.

In his State of the Union speech, President Clinton stated "our economy is the healthiest it has been in three decades." The President proudly pointed to statistics from the Department of the Treasury as well a robust year on Wall Street.

However, someone forgot to tell the President to check with middle-class America because he has failed to recognize the importance of what we refer to as the "Clinton Crunch."

Secretary of Labor, Robert Reich, likes to point out that real wages for the median worker have fallen 4.6 percent since 1979. What he doesn't tell the American people is that half the wage decline has occurred under the Clinton administration.

In fact, the only period of sustained wage growth in the last 17 years came during the Reagan administration. You may recall former President Reagan advocated a policy of smaller government, lower taxes, and less intrusion into the lives of Americans. Sound familiar?

Mr. Speaker, we don't blame workers for falling wages, we simply believe that they are not being given the necessary tools to compete in the high-technology economy of the 1990's.

Productivity is stagnant because the rate of investment in new equipment in only half of what it was a decade ago.

Investment has been curtailed because our savings rate is low.

American families are not saving as much because Federal taxes are at an all time high.

We must provide working families with tax relief, that is what today's amendment is all about. If Congress wants to raise taxes it is going to require a two-thirds vote of this legislative body.

One-third of the States currently have their own form of the tax limitation amendment and not surprisingly those States had lower taxes, more economic growth, and more job creation than States without a tax limitation law.

Mr. Speaker, the facts are clear, tax relief benefits working families and working Americans. In fact, 74 percent of the proposed $500-per-child family tax credit will go to families making less than $75,000 a year.

Put another way, the $500-per-child tax credit means families earning less than $25,000 will no longer pay Federal taxes, those earning $30,000 will have 48 percent of their Federal tax liability wiped out.

With regards to capital gains tax relief, an IRS analysis of 1993 tax returns found that 77 percent of the tax returns reporting capital gains were filed by taxpayers with adjusted gross incomes of less than $75,000; 60 percent had adjusted gross incomes of less than $50,000.

Lower taxes benefit all Americans, not just the wealthy.

Last year Congress passed a plan to relieve some of the burden on the middle class. We passed a $500-per-child income tax credit for middle-income families, we passed capital gains tax reform, and we passed IRA self-loan legislation.

This Congress wants you to earn more and keep more of what you earn. Had our balanced budget been signed into law, instead of being vetoed by President Clinton, families could look forward to doing more with the money they earn.

Today, as Americans go to the post office to mail their tax returns, we will vote on a constitutional amendment to require a two-thirds supermajority to raise taxes.

If the two-thirds rule had been in existence in 1993, we would have stopped President Clinton's tax hike, and American families would now be paying less for gasoline, small businesses would be creating more jobs, and our retired parents and neighbors would be paying less in taxes.

A tougher standard to raise taxes will ensure that taxes are raised only when there is a broad consensus and when it is absolutely necessary.

This safeguard will help keep spending in check because Congress won't be able to take the easy way out and raise Federal taxes.

Mr. Speaker, House Joint Resolution 159 is another example of how the new majority in Congress is fulfilling its promises and making a difference to the American taxpayer.

Mr. WATTS of Oklahoma. Mr. Speaker, Americans understand the necessity of paying bills, balancing checkbooks, and living within their means. It is unfortunate that Americans must struggle to make ends meet, but their Government does not understand that concept.

The current Tax Code, with its high marginal rates and thousands of pages of rules, regulations, and redtape, poses a formidable barrier to economic growth. Tax reform must move toward making the Tax Code more user friendly and create incentives for savings and investment.

America's voters sent Washington a message in November 1994—just as Americans balance their budgets, so should the Government. This Congress has made fiscal responsibility the hallmark of our legislative agenda. We passed the Balanced Budget Act of 1995, which included a tax reform package, but unfortunately, the President vetoed it.

Today, millions of Americans will pay the Federal Government their share of the tax cut that the Republican Congress promised, then passed, and that the President promised, then vetoed. The Congress passed this tax cut because we believe the people who earn the money should keep more of what they earn, so they can do more for themselves, their children, their churches, and their communities.

For too long, Congress denied its responsibility by using tax increases to cover up its own lack of political will to make tough budgetary decisions. Because Federal benefits tend to be targeted at specific groups, special interest groups consistently come together to effectively lobby for more spending. Taxes, on the other hand, are spread among many millions of working Americans who don't hire Washington lobbyists.

Limiting the ability of Congress to raise taxes will force Congress to set real budget priorities. To safeguard our children and grandchildren from a return to the profligate ways of the past, of tax and spend, and spend and tax, we must enact a tax limitation amendment that ensures congressional accountability for the taxpayers' money.

My home State of Oklahoma has had a tax limitation on its books since 1922. It also has a balanced budget law. In Oklahoma any new tax must be submitted to a vote of the people of the State unless the tax receives a three-fourths supermajority of both the State house and the State senate. I wonder how many new taxes or tax increases would pass if they required a two-thirds supermajority or were submitted to a vote of the American people?

Mr. WELLER. Mr. Speaker, I come back to Washington today after an important district work period. I say important because with tax day approaching, and now finally here, I heard time and time again from constituents who are overtaxed. As a result, they find it very difficult to save for retirement, for a down payment on a home, and for a college education for their children

The American people aren't dumb. They know all to well that the largest obstacle to their personal prosperity is an out-of-touch Government that spends without restraint and looks to the taxpayers to bail it out after the fact.

Some in this Chamber may have forgotten that President Clinton's 1993 tax hike was passed out of this body by a single vote. I am here to tell you that the people of the 11th district haven't forgotten that vote that enacted the greatest tax increase in the history of our Nation, no, the history of civilization. My constituents, who have been squeezed by this additional tax, know all to well what $1,100 in additional taxes has meant for them. This was the single largest contributing factor to the doubling of the American tax burden from $2,300 in 1980 to $4,800 in 1995. According to the Census Bureau, household incomes were actually lower in 1994 than they were when Bill Clinton took office in 1992 and there is no evidence to suggest that they have risen since then because economic growth has been so slow.

That is why I am proud to come to the well today as a cosponsor of this historic legislation to bring some accountability to the Halls of Congress. The American people support making it more difficult for Congress to raise taxes. They ought to * * * Currently, one third of all Americans live in a State with a tax limitation in the Constitution. These citizens know first hand what a tax limitation amendment can do.

In States with a tax limitation taxes grow at a slower rate. This slower rate means that citizens in those States have a fighting chance to get ahead and to save. Economies and employment also grow at faster rates in States that have tax limitations.

Mr. Speaker, every year tax freedom day gets later and later. Currently, Americans need to work until May to pay off their yearly tax burden. Today, we have an opportunity to end this insanity. I urge my colleagues to bring accountability to Congress and freedom to the American taxpayer by passing this important tax limitation amendment to the Constitution.

Mr. EWING. Mr. Speaker, taxes in America are too high on working men and women and their families. Today the average American family pays 38 percent of their income in taxes to local, State, and the Federal Government. That means a family with an income of $25,000 a year only takes home $15,500 to spend on their families.

These high taxes not only take money away from families, they also hurt our Nation's economy and slow its growth which means fewer jobs for Americans. The Joint Economic Committee released a study that shows of the States that have raised income taxes these States lost nearly 200,000 jobs and unemployment rose by 2.3 percent. Conversely, in States that cut income taxes nearly one million new jobs were created and unemployment rose by only .3 percent.

Over the past 30 years there have been 16 major votes to increase Federal taxes on Americans. Had a super-majority requirement been in place only 8 would have become law. In the 1980's alone, had the tax limitation amendment been in place taxpayers would have saved $666 billion. The past 30 years shows that the Federal Government can not control its addiction to taxation.

The 104th Congress is conscious of the high tax burden on Americans, just as past

Congresses have not been afraid to raise taxes. I therefore support this constitutional amendment because raising taxes is too harmful to our economy, employment, and takes money away from American families. This amendment should be considered as a comparison to the balanced budget amendment and both amendments should be sent to the States for ratification.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for general debate has expired.

Is there a Member intending to offer the amendment made in order under the rule? If not, pursuant to House Resolution 395, the previous question is ordered.

The question is on engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. STENHOLM

Mr. STENHOLM. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the joint resolution?

Mr. STENHOLM. I certainly am, in its current form.

The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. STENHOLM moves to recommit House Joint Resolution 159 to the Committee on the Judiciary with instructions that the Committee conduct hearings and a necessary study on the joint resolution.

The SPEAKER pro tempore. The gentleman from Texas [Mr. STENHOLM] is recognized for 5 minutes in support of his motion.

Mr. STENHOLM. Mr. Speaker, the debate tonight has been a good debate. Members on both sides have made very good and relevant points. However, I believe it has now been clearly demonstrated that much more work remains before this amendment should be sent to the other body. If I have learned anything over the many years that we spent in bipartisan work on the passage of the balanced budget constitutional amendment, it is a tremendous respect for every significant single word that goes into the Constitution of the United States.

The constitutional amendment bipartisanly worked on over the years underwent a great deal of scrutiny both in the public arena and in committee hearings. The amendment evolved and improved because of that scrutiny. We have seen an alarming abuse of the committee review process during this entire Congress, but never so blatantly as with this constitutional amendment.

For people who revere the history of this Nation, the aborted democratic procedures of the past year and a half make a mockery of the title deliberative body. To bring a constitutional amendment to the floor of the House without having it undergo the scrutiny of the Committee on the Judiciary I think in itself is ample reason that this House tonight should refer this amendment back to the committee so that it may be what it should have done before tonight, and that is conduct hearings on this amendment, on these words, on this what has been spoken tonight, and a necessary study of the joint resolution, and then bring it forward again for consideration of this House if the majority so wills.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Does the gentleman from Florida wish to be recognized in opposition to the motion to recommit?

Mr. CANADY of Florida. I do wish to be recognized in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Florida is recognized for 5 minutes.

Mr. CANADY of Florida. Mr. Speaker, let me just point out it is erroneous to claim the House Committee on the Judiciary has not considered this issue. The Committee on the Judiciary has considered the issue. Hearings have been held on this issue.

Let me review some of the history that has occurred during this Congress. In the first session of this Congress the Committee on the Judiciary Subcommittee on the Constitution held hearings on House Joint Resolution 1, the Balanced Budget Constitutional Amendment. Those hearings were conducted on January 9 and January 10. House Joint Resolution 1, as reported by the Committee on the Judiciary on January 11, 1995, included a three-fifths majority voting requirement to increase tax revenues. During floor consideration of House Joint Resolution 1, on January 25 and 26, 1995, the full House voted on the Barton balanced budget proposal, which would have required a three-fifths majority of the entire House and Senate to increase tax revenue and would have allowed a simple majority to waive the requirement in time of war or in the face of serious military threat. Although the Barton proposal received 253 votes, an amendment without the supermajority tax limitation provision was ultimately adopted by the House by a vote of 300 to 132.

I would like to continue with my explanation. On March 6 of this year, the Subcommittee on the Constitution again held hearings on a supermajority tax limitation provision. It is true that the hearing was held on a proposal that did not have language identical to this language. But that hearing considered a broad range of issues related to a supermajority requirement in connection with taxes.

Now, the issue before the House tonight is this: Are the American people undertaxed or not? The opponents of this bill believe that the American people are undertaxed and the debate began with an assertion comparing our tax rate in this country and the tax burden in this country to the tax burden in other countries around the world. The clear implication was that the opponents of this bill believe that the American people are undertaxed. I do not think that the American people agree with that, and as Americans all over the country are racing to the post office to deposit their tax returns in the U.S. Mail, I think most of them are saying that they are not undertaxed. Indeed, I believe that they are overtaxed. All the polls show that. That is consistent. It crosses party lines.

So, the issue here that is before the House tonight is whether we are going to take steps to restrain the taxing authority of this Government. I understand that a principled case can be made against that. But that is the issue before us.

Now, if you believe that the American people are undertaxed, I would suggest that you vote against the motion to recommit and that you vote against this proposed amendment. But if you believe that the tax burden on the American people should be restrained, then I would suggest that you vote against the motion to recommit and in favor of this proposed amendment to the Constitution.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The question is on the motion to recommit offered by the gentleman from Texas [Mr. STENHOLM].

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CANADY of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 243, nays 177, not voting 12, as follows:

[Roll No. 117]

YEAS—243

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono

Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greene
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Pallone
Parker
Paxon
Petri
Pombo
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Walker
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—177

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bishop
Boehlert
Bonior
Borski
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Campbell
Cardin
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gillmor
Gonzalez
Gunderson
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hostettler
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Leach
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Porter
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schumer
Scott
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Thomas
Thompson
Thurman
Torres
Torricelli
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn

NOT VOTING—12

Becerra
Chapman
Fields (LA)
Flake
Ford
McDade
Rose
Schroeder
Thornton
Towns
Wilson
Yates

□ 2331

So, two-thirds not having voted in favor thereof, the joint resolution was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FLAKE. Mr. Speaker, last night I missed rollcall No. 117. Had I been present, I would have voted "nay" on it.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 51. Concurrent resolution to provide for the approval of final regulations that are applicable to employing offices that are not employing offices of the House of Representatives or the Senate, and to covered employees who are not employees of the House of Representatives or the Senate, and that were issued by the Office of Compliance on January 22, 1996, and for other purposes.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1972

Mr. PETERSON of Minnesota. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1972.

The SPEAKER pro tempore (Mr. RIGGS). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal.

Pursuant to clause 1. rule I, the Journal stands approved.

AMERICAN OVERSEAS INTERESTS ACT—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–197)

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 1561, the "Foreign Relations Authorization Act, Fiscal Years 1996 and 1997."

This legislation contains many unacceptable provisions that would undercut U.S. leadership abroad and damage our ability to assure the future security and prosperity of the American people. It would unacceptably restrict the President's ability to address the complex international challenges and opportunities of the post-Cold War era. It would also restrict Presidential authority needed to conduct foreign affairs and to control state secrets, thereby raising serious constitutional concerns.

First, the bill contains foreign policy provisions, particularly those involving East Asia, that are of serious concern. It would amend the Taiwan Relations Act (TRA) to state that the TRA supersedes the provisions of the 1982 Joint Communique between the United States and China. The 1982 Communique has been one of the cornerstones of our bipartisan policy toward China for over 13 years. The ongoing management of our relations with China is one of the central challenges of United States foreign policy, but this bill would complicate, not facilitate that task. The bill would also sharply restrict the use of funds to further normalize relations with Vietnam, hampering the President's ability to pursue our national interests there and potentially jeopardizing further progress on POW/MIA issues. If read literally, this restriction would also raise constitutional concerns.

Second, the bill would seriously impede the President's authority to organize and administer foreign affairs agencies to best serve the Nation's interests and the Administration's foreign policy priorities. I am a strong supporter of appropriate reform and, building on bipartisan support, my Administration has already implemented significant steps to reinvent our international operations in a way that has allowed us to reduce funding significantly, eliminate positions, and close embassies, consulates, and other posts overseas. But this bill proceeds in an improvident fashion, mandating the abolition of at least one of three important foreign affairs agencies, even though each agency has a distinct and important mission that warrants a separate existence. Moreover, the inflexible, detailed mandates and artificial deadlines included in this section of the bill should not be imposed on any President.

Third, the appropriations authorizations included in the bill, for fiscal years 1996 and 1997, fall unacceptably below the levels necessary to conduct the Nation's foreign policy and to protect U.S. interests abroad. These inadequate levels would adversely affect the operation of overseas posts of the foreign affairs agencies and weaken critical U.S. efforts to promote arms control and nonproliferation, reform international organizations and peacekeeping, streamline public diplomacy, and implement sustainable development activities. These levels would cause undue reductions in force of highly skilled personnel at several foreign affairs agencies at a time when they face increasingly complex challenges.

Fourth, this bill contains a series of objectionable provisions that limit U.S. participation in international organizations, particularly the United Nations (U.N.). For example, a provision on intelligence sharing with the U.N. would unconstitutionally infringe on the President's power to conduct diplomatic relations and limit Presidential control over the use of state secrets. Other provisions contain problematic notification, withholding, and certification requirements.

These limits on participation in international organizations, particularly when combined with the low appropriation authorization levels, would undermine current U.S. diplomatic efforts—which enjoy bipartisan support—to reform the U.N. budget. The provisions included in the bill are also at odds with ongoing discussions between the Administration and the Congress aimed at achieving consensus on these issues.

Fifth, the bill fails to remedy the severe limitations placed on U.S. population assistance programs by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107). That law imposes unacceptable spending restrictions pending authorization for U.S. bilateral and multilateral population assistance programs. But H.R. 1561 does not authorize these programs. Consequently, these restrictions will remain in place and will have a significant, adverse impact on women and families in the developing world. It is estimated that nearly 7 million couples in developing countries will have no access to safe, voluntary family planning services. The result will be millions of unwanted pregnancies and an increase in the number of abortions.

Finally, the bill contains a number of other objectionable provisions. Some of the most problematic would: (1) abruptly terminate the Agency for International Development's housing guaranty (HG) program, as well as abrogate existing HG agreements, except for South Africa, and prohibit foreign assistance to any country that fails to make timely payments or reimbursements on HG loans; (2) hinder negotiations aimed at resolving the plight of Vietnamese boat people; (3) unduly restrict the ability of the United States to participate in the United Nations Human Rights Committee; and (4) extend provisions of the Nuclear Proliferation Prevention Act that I have objected to in the past. I am also concerned that the bill, by restricting the time period during which economic assistance funds can be expended for longer-term development projects, would diminish the effectiveness of U.S. assistance programs.

In returning H.R. 1561, I recognize that the bill contains a number of important authorities for the Department of State and the United States Information Agency. In its current form, however, the bill is inconsistent with the decades-long tradition of bipartisanship in U.S. foreign policy. It unduly interferes with the constitutional prerogatives of the President and would seriously impair the conduct of U.S. foreign affairs.

For all these reasons, I am compelled to return H.R. 1561 without my approval.

WILLIAM J. CLINTON.

THE WHITE HOUSE, April 12, 1996.

□ 2345

The SPEAKER pro tempore (Mr. RIGGS). The objections of the President will be spread at large upon the Journal, and the message and the bill will be printed as a House document.

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that further consideration of the veto message on the bill, H.R. 1561, be postponed until Tuesday, April 23, 1996.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CONFERENCE REPORT ON S. 735, TERRORISM PERVENTION ACT

Mr. HYDE submitted the following conference report and statement on the Senate bill (S. 735) to prevent and punish acts of terrorism, and for other purposes:

CONFERENCE REPORT (H. REPT. 104–518)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 735), to prevent and punish acts of terrorism, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antiterrorism and Effective Death Penalty Act of 1996".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—HABEAS CORPUS REFORM

Sec. 101. Filing deadlines.
Sec. 102. Appeal.
Sec. 103. Amendment of Federal Rules of Appellate Procedure.
Sec. 104. Section 2254 amendments.
Sec. 105. Section 2255 amendments.
Sec. 106. Limits on second or successive applications.
Sec. 107. Death penalty litigation procedures.
Sec. 108. Technical amendment.

TITLE II—JUSTICE FOR VICTIMS

Subtitle A—Mandatory Victim Restitution

Sec. 201. Short title.
Sec. 202. Order of restitution.
Sec. 203. Conditions of probation.
Sec. 204. Mandatory restitution.
Sec. 205. Order of restitution to victims of other crimes.
Sec. 206. Procedure for issuance of restitution order.
Sec. 207. Procedure for enforcement of fine or restitution order.
Sec. 208. Instruction to Sentencing Commission.
Sec. 209. Justice Department regulations.
Sec. 210. Special assessments on convicted persons.
Sec. 211. Effective date.

Subtitle B—Jurisdiction for Lawsuits Against Terrorist States

Sec. 221. Jurisdiction for lawsuits against terrorist states.

Subtitle C—Assistance to Victims of Terrorism

Sec. 231. Short title.
Sec. 232. Victims of Terrorism Act.
Sec. 233. Compensation of victims of terrorism.
Sec. 234. Crime victims fund.
Sec. 235. Closed circuit televised court proceedings for victims of crime.
Sec. 236. Technical correction.

TITLE III—INTERNATIONAL TERRORISM PROHIBITIONS

Subtitle A—Prohibition on International Terrorist Fundraising

Sec. 301. Findings and purpose.
Sec. 302. Designation of foreign terrorist organizations.
Sec. 303. Prohibition on terrorist fundraising.

Subtitle B—Prohibition on Assistance to Terrorist States

Sec. 321. Financial transactions with terrorists.
Sec. 322. Foreign air travel safety.
Sec. 323. Modification of material support provision.

Sec. 324. Findings.
Sec. 325. Prohibition on assistance to countries that aid terrorist states.
Sec. 326. Prohibition on assistance to countries that provide military equipment to terrorist states.
Sec. 327. Opposition to assistance by international financial institutions to terrorist states.
Sec. 328. Antiterrorism assistance.
Sec. 329. Definition of assistance.
Sec. 330. Prohibition on assistance under Arms Export Control Act for countries not cooperating fully with United States antiterrorism efforts.

TITLE IV—TERRORIST AND CRIMINAL ALIEN REMOVAL AND EXCLUSION

Subtitle A—Removal of Alien Terrorists

Sec. 401. Alien terrorist removal.

Subtitle B—Exclusion of Members and Representatives of Terrorist Organizations

Sec. 411. Exclusion of alien terrorists.
Sec. 412. Waiver authority concerning notice of denial of application for visas.
Sec. 413. Denial of other relief for alien terrorists.
Sec. 414. Exclusion of aliens who have not been inspected and admitted.

Subtitle C—Modification to Asylum Procedures

Sec. 421. Denial of asylum to alien terrorists.
Sec. 422. Inspection and exclusion by immigration officers.
Sec. 423. Judicial review.

Subtitle D—Criminal Alien Procedural Improvements

Sec. 431. Restricting the defense to exclusion based on 7 years permanent residence for certain criminal aliens.
Sec. 432. Access to certain confidential immigration and naturalization files through court order.
Sec. 433. Criminal alien identification system.
Sec. 434. Establishing certain alien smuggling-related crimes as RICO-predicate offenses.
Sec. 435. Authority for alien smuggling investigations.
Sec. 436. Expansion of criteria for deportation for crimes of moral turpitude.
Sec. 437. Miscellaneous provisions.
Sec. 438. Interior repatriation program.
Sec. 439. Deportation of nonviolent offenders prior to completion of sentence of imprisonment.
Sec. 440. Authorizing State and local law enforcement officials to arrest and detain certain illegal aliens.
Sec. 441. Criminal alien removal.
Sec. 442. Limitation on collateral attacks on underlying deportation order.
Sec. 443. Deportation procedures for certain criminal aliens who are not permanent residents.
Sec. 444. Extradition of aliens.

TITLE V—NUCLEAR, BIOLOGICAL, AND CHEMICAL WEAPONS RESTRICTIONS

Subtitle A—Nuclear Materials

Sec. 501. Findings and purpose.
Sec. 502. Expansion of scope and jurisdictional bases of nuclear materials prohibitions.
Sec. 503. Report to Congress on thefts of explosive materials from armories.

Subtitle B—Biological Weapons Restrictions

Sec. 511. Enhanced penalties and control of biological agents.

Subtitle C—Chemical Weapons Restrictions

Sec. 521. Chemical weapons of mass destruction; study of facility for training and evaluation of personnel who respond to use of chemical or biological weapons in urban and suburban areas.

TITLE VI—IMPLEMENTATION OF PLASTIC EXPLOSIVES CONVENTION

Sec. 601. Findings and purposes.
Sec. 602. Definitions.
Sec. 603. Requirement of detection agents for plastic explosives.
Sec. 604. Criminal sanctions.
Sec. 605. Exceptions.
Sec. 606. Seizure and forfeiture of plastic explosives.
Sec. 607. Effective date.

TITLE VII—CRIMINAL LAW MODIFICATIONS TO COUNTER TERRORISM

Subtitle A—Crimes and Penalties

Sec. 701. Increased penalty for conspiracies involving explosives.
Sec. 702. Acts of terrorism transcending national boundaries.
Sec. 703. Expansion of provision relating to destruction or injury of property within special maritime and territorial jurisdiction.
Sec. 704. Conspiracy to harm people and property overseas.
Sec. 705. Increased penalties for certain terrorism crimes.
Sec. 706. Mandatory penalty for transferring an explosive material knowing that it will be used to commit a crime of violence.
Sec. 707. Possession of stolen explosives prohibited.
Sec. 708. Enhanced penalties for use of explosives or arson crimes.
Sec. 709. Determination of constitutionality of restricting the dissemination of bomb-making instructional materials.

Subtitle B—Criminal Procedures

Sec. 721. Clarification and extension of criminal jurisdiction over certain terrorism offenses overseas.
Sec. 722. Clarification of maritime violence jurisdiction.
Sec. 723. Increased and alternate conspiracy penalties for terrorism offenses.
Sec. 724. Clarification of Federal jurisdiction over bomb threats.
Sec. 725. Expansion and modification of weapons of mass destruction statute.
Sec. 726. Addition of terrorism offenses to the money laundering statute.
Sec. 727. Protection of Federal employees; protection of current or former officials, officers, or employees of the United States.
Sec. 728. Death penalty aggravating factor.
Sec. 729. Detention hearing.
Sec. 730. Directions to Sentencing Commission.
Sec. 731. Exclusion of certain types of information from definitions.
Sec. 732. Marking, rendering inert, and licensing of explosive materials.

TITLE VIII—ASSISTANCE TO LAW ENFORCEMENT

Subtitle A—Resources and Security

Sec. 801. Overseas law enforcement training activities.
Sec. 802. Sense of Congress.
Sec. 803. Protection of Federal Government buildings in the District of Columbia.
Sec. 804. Requirement to preserve record evidence.
Sec. 805. Deterrent against terrorist activity damaging a Federal interest computer.
Sec. 806. Commission on the Advancement of Federal Law Enforcement.
Sec. 807. Combatting international counterfeiting of United States currency.
Sec. 808. Compilation of statistics relating to intimidation of Government employees.
Sec. 809. Assessing and reducing the threat to law enforcement officers from the criminal use of firearms and ammunition.
Sec. 810. Study and report on electronic surveillance.

Subtitle B—Funding Authorizations for Law Enforcement

Sec. 811. Federal Bureau of Investigation.
Sec. 812. United States Customs Service.
Sec. 813. Immigration and Naturalization Service.
Sec. 814. Drug Enforcement Administration.
Sec. 815. Department of Justice.
Sec. 816. Department of the Treasury.
Sec. 817. United States Park Police.
Sec. 818. The Judiciary.
Sec. 819. Local firefighter and emergency services training.
Sec. 820. Assistance to foreign countries to procure explosive detection devices and other counterterrorism technology.
Sec. 821. Research and development to support counterterrorism technologies.
Sec. 822. Grants to State and local law enforcement for training and equipment.
Sec. 823. Funding source.

TITLE IX—MISCELLANEOUS

Sec. 901. Expansion of territorial sea.
Sec. 902. Proof of citizenship.
Sec. 903. Representation fees in criminal cases.
Sec. 904. Severability.

TITLE I—HABEAS CORPUS REFORM

SEC. 101. FILING DEADLINES.

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

"(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

"(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

"(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

"(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

"(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.".

SEC. 102. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§2253. Appeal

"(a) In a habeas corpus proceeding or a proceeding under section 2255 before a district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit in which the proceeding is held.

"(b) There shall be no right of appeal from a final order in a proceeding to test the validity of a warrant to remove to another district or place for commitment or trial a person charged with a criminal offense against the United States, or to test the validity of such person's detention pending removal proceedings.

"(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from—

"(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or

"(B) the final order in a proceeding under section 2255.

"(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

"(3) The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).".

SEC. 103. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

"Rule 22. Habeas corpus and section 2255 proceedings

"(a) APPLICATION FOR THE ORIGINAL WRIT.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application shall be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge shall not be permitted. The applicant may, pursuant to section 2253 of title 28, United States Code, appeal to the appropriate court of appeals from the order of the district court denying the writ.

"(b) CERTIFICATE OF APPEALABILITY.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, an appeal by the applicant for the writ may not proceed unless a district or a circuit judge issues a certificate of appealability pursuant to section 2253(c) of title 28, United States Code. If an appeal is taken by the applicant, the district judge who rendered the judgment shall either issue a certificate of appealability or state the reasons why such a certificate should not issue. The certificate or the statement shall be forwarded to the court of appeals with the notice of appeal and the file of the proceedings in the district court. If the district judge has denied the certificate, the applicant for the writ may then request issuance of the certificate by a circuit judge. If such a request is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or its representative, a certificate of appealability is not required.".

SEC. 104. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that—

"(A) the applicant has exhausted the remedies available in the courts of the State; or

"(B)(i) there is an absence of available State corrective process; or

"(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

"(2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

"(3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.";

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following new subsection:

"(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

"(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

"(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.";

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

"(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that—

"(A) the claim relies on—

"(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

"(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

"(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense."; and

(5) by adding at the end the following new subsections:

"(h) Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

"(i) The ineffectiveness or incompetence of counsel during Federal or State collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.".

SEC. 105. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second and fifth undesignated paragraphs; and

(2) by adding at the end the following new undesignated paragraphs:

"A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

"(1) the date on which the judgment of conviction becomes final;

"(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

"(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

"(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

"Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

"A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain—

"(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

"(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.".

SEC. 106. LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.

(a) CONFORMING AMENDMENT TO SECTION 2244(a).—Section 2244(a) of title 28, United States Code, is amended by striking "and the petition" and all that follows through "by such inquiry." and inserting ", except as provided in section 2255.".

(b) LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.—Section 2244(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed.

"(2) A claim presented in a second or successive habeas corpus application under section 2254 that was not presented in a prior application shall be dismissed unless—

"(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

"(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

"(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

"(3)(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

"(B) A motion in the court of appeals for an order authorizing the district court to consider a second or successive application shall be determined by a three-judge panel of the court of appeals.

"(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection.

"(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

"(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and

shall not be the subject of a petition for rehearing or for a writ of certiorari.

"(4) A district court shall dismiss any claim presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section.".

SEC. 107. DEATH PENALTY LITIGATION PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2263. Filing of habeas corpus application; time requirements; tolling rules.
"2264. Scope of Federal review; district court adjudications.
"2265. Application to State unitary review procedure.
"2266. Limitation periods for determining applications and motions.

"§2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by statute, rule of its court of last resort, or by another agency authorized by State law, a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsels to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal post-conviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order under section 2261(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application shall recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus application under section 2254 within the time required in section 2263;

"(2) before a court of competent jurisdiction, in the presence of counsel, unless the prisoner has competently and knowingly waived such counsel, and after having been advised of the consequences, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254; or

"(3) a State prisoner files a habeas corpus petition under section 2254 within the time required by section 2263 and fails to make a substantial showing of the denial of a Federal right or is denied relief in the district court or at any subsequent stage of review.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution in the case, unless the court of appeals approves the filing of a second or successive application under section 2244(b).

"§2263. Filing of habeas corpus application; time requirements; tolling rules

"(a) Any application under this chapter for habeas corpus relief under section 2254 must be filed in the appropriate district court not later than 180 days after final State court affirmance of the conviction and sentence on direct review or the expiration of the time for seeking such review.

"(b) The time requirements established by subsection (a) shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) from the date on which the first petition for post-conviction review or other collateral relief is filed until the final State court disposition of such petition; and

"(3) during an additional period not to exceed 30 days, if—

"(A) a motion for an extension of time is filed in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus application under section 2254; and

"(B) a showing of good cause is made for the failure to file the habeas corpus application within the time period established by this section.

"§2264. Scope of Federal review; district court adjudications

"(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall only consider a claim or claims that have been raised and decided on the merits in the State courts, unless the failure to raise the claim properly is—

"(1) the result of State action in violation of the Constitution or laws of the United States;

"(2) the result of the Supreme Court's recognition of a new Federal right that is made retroactively applicable; or

"(3) based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State or Federal post-conviction review.

"(b) Following review subject to subsections (a), (d), and (e) of section 2254, the court shall rule on the claims properly before it.

"§2265. Application to State unitary review procedure

"(a) For purposes of this section, a 'unitary review' procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) To qualify under this section, a unitary review procedure must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2261(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) Sections 2262, 2263, 2264, and 2266 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in such sections shall be understood as referring to unitary review under the State procedure. The reference in section 2262(a) to 'an order under section 2261(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the 180-day limitation period under section 2263 shall be deferred until a transcript is made available to the prisoner or counsel of the prisoner.

"§2266. Limitation periods for determining applications and motions

"(a) The adjudication of any application under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters.

"(b)(1)(A) A district court shall render a final determination and enter a final judgment on any application for a writ of habeas corpus brought under this chapter in a capital case not later than 180 days after the date on which the application is filed.

"(B) A district court shall afford the parties at least 120 days in which to complete all actions, including the preparation of all pleadings and briefs, and if necessary, a hearing, prior to the submission of the case for decision.

"(C)(i) A district court may delay for not more than one additional 30-day period beyond the period specified in subparagraph (A), the rendering of a determination of an application for a writ of habeas corpus if the court issues a written order making a finding, and stating the reasons for the finding, that the ends of justice that would be served by allowing the delay outweigh the best interests of the public and the applicant in a speedy disposition of the application.

"(ii) The factors, among others, that a court shall consider in determining whether a delay in the disposition of an application is warranted are as follows:

"(I) Whether the failure to allow the delay would be likely to result in a miscarriage of justice.

"(II) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate briefing within the time limitations established by subparagraph (A).

"(III) Whether the failure to allow a delay in a case that, taken as a whole, is not so unusual or so complex as described in subclause (II), but would otherwise deny the applicant reasonable time to obtain counsel, would unreasonably deny the applicant or the government continuity of counsel, or would deny counsel for the applicant or the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

"(iii) No delay in disposition shall be permissible because of general congestion of the court's calendar.

"(iv) The court shall transmit a copy of any order issued under clause (i) to the Director of the Administrative Office of the United States Courts for inclusion in the report under paragraph (5).

"(2) The time limitations under paragraph (1) shall apply to—

"(A) an initial application for a writ of habeas corpus;

"(B) any second or successive application for a writ of habeas corpus; and

"(C) any redetermination of an application for a writ of habeas corpus following a remand by the court of appeals or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

"(3)(A) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

"(B) No amendment to an application for a writ of habeas corpus under this chapter shall be permitted after the filing of the answer to the application, except on the grounds specified in section 2244(b).

"(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

"(B) The State may enforce a time limitation under this section by petitioning for a writ of mandamus to the court of appeals. The court of appeals shall act on the petition for a writ of mandamus not later than 30 days after the filing of the petition.

"(5)(A) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the district courts with the time limitations under this section.

"(B) The report described in subparagraph (A) shall include copies of the orders submitted by the district courts under paragraph (1)(B)(iv).

"(c)(1)(A) A court of appeals shall hear and render a final determination of any appeal of an order granting or denying, in whole or in part, an application brought under this chapter in a capital case not later than 120 days after the date on which the reply brief is filed, or if no reply brief is filed, not later than 120 days after the date on which the answering brief is filed.

"(B)(i) A court of appeals shall decide whether to grant a petition for rehearing or other request for rehearing en banc not later than 30 days after the date on which the petition for rehearing is filed unless a responsive pleading is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the responsive pleading is filed.

"(ii) If a petition for rehearing or rehearing en banc is granted, the court of appeals shall hear and render a final determination of the appeal not later than 120 days after the date on which the order granting rehearing or rehearing en banc is entered.

"(2) The time limitations under paragraph (1) shall apply to—

"(A) an initial application for a writ of habeas corpus;

"(B) any second or successive application for a writ of habeas corpus; and

"(C) any redetermination of an application for a writ of habeas corpus or related appeal following a remand by the court of appeals en banc or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

"(3) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

"(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

"(B) The State may enforce a time limitation under this section by applying for a writ of mandamus to the Supreme Court.

"(5) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the courts of appeals with the time limitations under this section.".

(b) TECHNICAL AMENDMENT.—The part analysis for part IV of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

"154. Special habeas corpus procedures in capital cases 2261.".

(c) EFFECTIVE DATE.—Chapter 154 of title 28, United States Code (as added by subsection (a)) shall apply to cases pending on or after the date of enactment of this Act.

SEC. 108. TECHNICAL AMENDMENT.

Section 408(q) of the Controlled Substances Act (21 U.S.C. 848(q)) is amended by amending paragraph (9) to read as follows:

"(9) Upon a finding that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or the sentence, the court may authorize the defendant's attorneys to obtain such services on behalf of the defendant and, if so authorized, shall order the payment of fees and expenses therefor under paragraph (10). No ex parte proceeding, communication, or request may be considered pursuant to this section unless a proper showing is made concerning the need for confidentiality. Any such proceeding, communication, or request shall be transcribed and made a part of the record available for appellate review.".

TITLE II—JUSTICE FOR VICTIMS

Subtitle A—Mandatory Victim Restitution

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Mandatory Victims Restitution Act of 1996".

SEC. 202. ORDER OF RESTITUTION.

Section 3556 of title 18, United States Code, is amended—

(1) by striking "may" and inserting "shall"; and

(2) by striking "sections 3663 and 3664." and inserting "section 3663A, and may order restitution in accordance with section 3663. The procedures under section 3664 shall apply to all orders of restitution under this section.".

SEC. 203. CONDITIONS OF PROBATION.

Section 3563 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (3), by striking "and" at the end;

(B) in the first paragraph (4) (relating to conditions of probation for a domestic crime of violence), by striking the period and inserting a semicolon;

(C) by redesignating the second paragraph (4) (relating to conditions of probation concerning drug use and testing) as paragraph (5);

(D) in paragraph (5), as redesignated, by striking the period at the end and inserting a semicolon; and

(E) by inserting after paragraph (5), as redesignated, the following new paragraphs:

"(6) that the defendant—

"(A) make restitution in accordance with sections 2248, 2259, 2264, 2327, 3663, 3663A, and 3664; and

"(B) pay the assessment imposed in accordance with section 3013; and

"(7) that the defendant will notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines, or special assessments."; and

(2) in subsection (b)—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3) through (22) as paragraphs (2) through (21), respectively; and

(C) by amending paragraph (2), as redesignated, to read as follows:

"(2) make restitution to a victim of the offense under section 3556 (but not subject to the limitation of section 3663(a) or 3663A(c)(1)(A));".

SEC. 204. MANDATORY RESTITUTION.

(a) IN GENERAL.—Chapter 232 of title 18, United States Code, is amended by inserting immediately after section 3663 the following new section:

"§3663A. Mandatory restitution to victims of certain crimes

"(a)(1) Notwithstanding any other provision of law, when sentencing a defendant convicted of an offense described in subsection (c), the court shall order, in addition to, or in the case of a misdemeanor, in addition to or in lieu of, any other penalty authorized by law, that the defendant make restitution to the victim of the offense or, if the victim is deceased, to the victim's estate.

"(2) For the purposes of this section, the term 'victim' means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.

"(3) The court shall also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.

"(b) The order of restitution shall require that such defendant—

"(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—

"(A) return the property to the owner of the property or someone designated by the owner; or

"(B) if return of the property under subparagraph (A) is impossible, impracticable, or inadequate, pay an amount equal to—

"(i) the greater of—

"(I) the value of the property on the date of the damage, loss, or destruction; or

"(II) the value of the property on the date of sentencing, less

"(ii) the value (as of the date the property is returned) of any part of the property that is returned;

"(2) in the case of an offense resulting in bodily injury to a victim—

"(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

"(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

"(C) reimburse the victim for income lost by such victim as a result of such offense;

"(3) in the case of an offense resulting in bodily injury that results in the death of the victim, pay an amount equal to the cost of necessary funeral and related services; and

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.

"(c)(1) This section shall apply in all sentencing proceedings for convictions of, or plea agreements relating to charges for, any offense—

"(A) that is—

"(i) a crime of violence, as defined in section 16;

"(ii) an offense against property under this title, including any offense committed by fraud or deceit; or

"(iii) an offense described in section 1365 (relating to tampering with consumer products); and

"(B) in which an identifiable victim or victims has suffered a physical injury or pecuniary loss.

"(2) In the case of a plea agreement that does not result in a conviction for an offense described in paragraph (1), this section shall apply only if the plea specifically states that an offense listed under such paragraph gave rise to the plea agreement.

"(3) This section shall not apply in the case of an offense described in paragraph (1)(A)(ii) if the court finds, from facts on the record, that—

"(A) the number of identifiable victims is so large as to make restitution impracticable; or

"(B) determining complex issues of fact related to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process.

"(d) An order of restitution under this section shall be issued and enforced in accordance with section 3664.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 232 of title 18, United States Code, is amended by inserting immediately after the matter relating to section 3663 the following:

"3663A. Mandatory restitution to victims of certain crimes.".

SEC. 205. ORDER OF RESTITUTION TO VICTIMS OF OTHER CRIMES.

(a) IN GENERAL.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking "(a)(1) The court" and inserting "(a)(1)(A) The court";

(B) by inserting ", section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863) (but in no case shall a participant in an offense under such sections be considered a victim of such offense under this section)," before "or section 46312,";

(C) by inserting "other than an offense described in section 3663A(c)," after "title 49,";

(D) by inserting before the period at the end the following: ", or if the victim is deceased, to the victim's estate";

(E) by adding at the end the following new subparagraph:

"(B)(i) The court, in determining whether to order restitution under this section, shall consider—

"(I) the amount of the loss sustained by each victim as a result of the offense; and

"(II) the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate.

"(ii) To the extent that the court determines that the complication and prolongation of the sentencing process resulting from the fashioning of an order of restitution under this section outweighs the need to provide restitution to any victims, the court may decline to make such an order."; and

(F) by amending paragraph (2) to read as follows:

"(2) For the purposes of this section, the term 'victim' means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.";

(2) by striking subsections (c) through (i); and

(3) by adding at the end the following new subsections:

"(c)(1) Notwithstanding any other provision of law (but subject to the provisions of subsections (a)(1)(B) (i)(II) and (ii), when sentencing a defendant convicted of an offense described in section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863), in which there is no identifiable victim, the court may order that the defendant make restitution in accordance with this subsection.

"(2)(A) An order of restitution under this subsection shall be based on the amount of public harm caused by the offense, as determined by the court in accordance with guidelines promulgated by the United States Sentencing Commission.

"(B) In no case shall the amount of restitution ordered under this subsection exceed the amount of the fine ordered for the offense charged in the case.

"(3) Restitution under this subsection shall be distributed as follows:

"(A) 65 percent of the total amount of restitution shall be paid to the State entity designated to administer crime victim assistance in the State in which the crime occurred.

"(B) 35 percent of the total amount of restitution shall be paid to the State entity designated to receive Federal substance abuse block grant funds.

"(4) The court shall not make an award under this subsection if it appears likely that such award would interfere with a forfeiture under chapter 46 of this title or under the Controlled Substances Act (21 U.S.C. 801 et seq.).

"(5) Notwithstanding section 3612(c) or any other provision of law, a penalty assessment under section 3013 or a fine under subchapter C of chapter 227 shall take precedence over an order of restitution under this subsection.

"(6) Requests for community restitution under this subsection may be considered in all plea agreements negotiated by the United States.

"(7)(A) The United States Sentencing Commission shall promulgate guidelines to assist courts in determining the amount of restitution that may be ordered under this subsection.

"(B) No restitution shall be ordered under this subsection until such time as the Sentencing Commission promulgates guidelines pursuant to this paragraph.

"(d) An order of restitution made pursuant to this section shall be issued and enforced in accordance with section 3664.".

(b) SEXUAL ABUSE.—Section 2248 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or 3663A" after "3663";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).";

(B) by amending paragraph (2) to read as follows:

"(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.";

(C) in paragraph (4), by striking subparagraphs (C) and (D); and

(D) by striking paragraphs (5) through (10);

(3) by striking subsections (c) through (e); and

(4) by redesignating subsection (f) as subsection (c).

(c) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—Section 2259 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or 3663A" after "3663";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).";

(B) by amending paragraph (2) to read as follows:

"(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.";

(C) in paragraph (4), by striking subparagraphs (C) and (D); and

(D) by striking paragraphs (5) through (10);

(3) by striking subsections (c) through (e); and

(4) by redesignating subsection (f) as subsection (e).

(d) DOMESTIC VIOLENCE.—Section 2264 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or 3663A" after "3663";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).";

(B) by amending paragraph (2) to read as follows:

"(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.";

(C) in paragraph (4), by striking subparagraphs (C) and (D); and

(D) by striking paragraphs (5) through (10);

(3) by striking subsections (c) through (g); and

(4) by adding at the end the following new subsection (c):

"(c) VICTIM DEFINED.—For purposes of this section, the term 'victim' means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.".

(e) TELEMARKETING FRAUD.—Section 2327 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or 3663A" after "3663";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).";

(B) by amending paragraph (2) to read as follows:

"(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.";

(C) in paragraph (4), by striking subparagraphs (C) and (D); and

(D) by striking paragraphs (5) through (10);

(3) by striking subsections (c) through (e); and

(4) by redesignating subsection (f) as subsection (c).

SEC. 206. PROCEDURE FOR ISSUANCE OF RESTITUTION ORDER.

(a) IN GENERAL.—Section 3664 of title 18, United States Code, is amended to read as follows:

"§3664. Procedure for issuance and enforcement of order of restitution

"(a) For orders of restitution under this title, the court shall order the probation officer to obtain and include in its presentence report, or in a separate report, as the court may direct, information sufficient for the court to exercise its discretion in fashioning a restitution order. The report shall include, to the extent practicable, a complete accounting of the losses to each victim, any restitution owed pursuant to a plea agreement, and information relating to the economic circumstances of each defendant. If the number or identity of victims cannot be reasonably ascertained, or other circumstances exist that make this requirement clearly impracticable, the probation officer shall so inform the court.

"(b) The court shall disclose to both the defendant and the attorney for the Government all portions of the presentence or other report pertaining to the matters described in subsection (a) of this section.

"(c) The provisions of this chapter, chapter 227, and Rule 32(c) of the Federal Rules of Criminal Procedure shall be the only rules applicable to proceedings under this section.

"(d)(1) Upon the request of the probation officer, but not later than 60 days prior to the date initially set for sentencing, the attorney for the Government, after consulting, to the extent practicable, with all identified victims, shall promptly provide the probation officer with a listing of the amounts subject to restitution.

"(2) The probation officer shall, prior to submitting the presentence report under subsection (a), to the extent practicable—

"(A) provide notice to all identified victims of—

"(i) the offense or offenses of which the defendant was convicted;

"(ii) the amounts subject to restitution submitted to the probation officer;

"(iii) the opportunity of the victim to submit information to the probation officer concerning the amount of the victim's losses;

"(iv) the scheduled date, time, and place of the sentencing hearing;

"(v) the availability of a lien in favor of the victim pursuant to subsection (m)(1)(B); and

"(vi) the opportunity of the victim to file with the probation officer a separate affidavit relating to the amount of the victim's losses subject to restitution; and

"(B) provide the victim with an affidavit form to submit pursuant to subparagraph (A)(vi).

"(3) Each defendant shall prepare and file with the probation officer an affidavit fully describing the financial resources of the defendant, including a complete listing of all assets owned or controlled by the defendant as of the date on which the defendant was arrested, the financial needs and earning ability of the defendant and the defendant's dependents, and such other information that the court requires relating to such other factors as the court deems appropriate.

"(4) After reviewing the report of the probation officer, the court may require additional documentation or hear testimony. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

"(5) If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing, the attorney for the Government or the probation officer shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(6) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate judge or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

"(e) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant's dependents, shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

"(f)(1)(A) In each order of restitution, the court shall order restitution to each victim in the full amount of each victim's losses as determined by the court and without consideration of the economic circumstances of the defendant.

"(B) In no case shall the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source be considered in determining the amount of restitution.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall, pursuant to section 3572, specify in the restitution order the manner in which, and the schedule according to which, the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the defendant, including whether any of these assets are jointly controlled;

"(B) projected earnings and other income of the defendant; and

"(C) any financial obligations of the defendant; including obligations to dependents.

"(3)(A) A restitution order may direct the defendant to make a single, lump-sum payment, partial payments at specified intervals, in-kind payments, or a combination of payments at specified intervals and in-kind payments.

"(B) A restitution order may direct the defendant to make nominal periodic payments if the court finds from facts on the record that the economic circumstances of the defendant do not allow the payment of any amount of a restitution order, and do not allow for the payment of the full amount of a restitution order in the foreseeable future under any reasonable schedule of payments.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) if the victim agrees, services rendered to the victim or a person or organization other than the victim.

"(g)(1) No victim shall be required to participate in any phase of a restitution order.

"(2) A victim may at any time assign the victim's interest in restitution payments to the Crime Victims Fund in the Treasury without in any way impairing the obligation of the defendant to make such payments.

"(h) If the court finds that more than 1 defendant has contributed to the loss of a victim, the court may make each defendant liable for payment of the full amount of restitution or may apportion liability among the defendants to reflect the level of contribution to the victim's loss and economic circumstances of each defendant.

"(i) If the court finds that more than 1 victim has sustained a loss requiring restitution by a defendant, the court may provide for a different payment schedule for each victim based on the type and amount of each victim's loss and accounting for the economic circumstances of each victim. In any case in which the United States is a victim, the court shall ensure that all other victims receive full restitution before the United States receives any restitution.

"(j)(1) If a victim has received compensation from insurance or any other source with respect to a loss, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) Any amount paid to a victim under an order of restitution shall be reduced by any amount later recovered as compensatory damages for the same loss by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(k) A restitution order shall provide that the defendant shall notify the court and the Attorney General of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution. The court may also accept notification of a material change in the defendant's economic circumstances from the United States or from the victim. The Attorney General shall certify to the court that the victim or victims owed restitution by the defendant have been notified of the change in circumstances. Upon receipt of the notification, the court may, on its own motion, or the motion of any party, including the victim, adjust the payment schedule, or require immediate payment in full, as the interests of justice require.

"(l) A conviction of a defendant for an offense involving the act giving rise to an order of restitution shall estop the defendant from denying the essential allegations of that offense in any subsequent Federal civil proceeding or State civil proceeding, to the extent consistent with State law, brought by the victim.

"(m)(1)(A)(i) An order of restitution may be enforced by the United States in the manner provided for in subchapter C of chapter 227 and subchapter B of chapter 229 of this title; or

"(ii) by all other available and reasonable means.

"(B) At the request of a victim named in a restitution order, the clerk of the court shall issue an abstract of judgment certifying that a judgment has been entered in favor of such victim in the amount specified in the restitution order. Upon registering, recording, docketing, or indexing such abstract in accordance with the rules and requirements relating to judgments of the court of the State where the district court is located, the abstract of judgment shall be a lien on the property of the defendant located in such State in the same manner and to the same extent and under the same conditions as a judgment of a court of general jurisdiction in that State.

"(2) An order of in-kind restitution in the form of services shall be enforced by the probation officer.

"(n) If a person obligated to provide restitution, or pay a fine, receives substantial resources from any source, including inheritance, settlement, or other judgment, during a period of incarceration, such person shall be required to apply the value of such resources to any restitution or fine still owed.

"(o) A sentence that imposes an order of restitution is a final judgment notwithstanding the fact that—

"(1) such a sentence can subsequently be—

"(A) corrected under Rule 35 of the Federal Rules of Criminal Procedure and section 3742 of chapter 235 of this title;

"(B) appealed and modified under section 3742;

"(C) amended under section 3664(d)(3); or

"(D) adjusted under section 3664(k), 3572, or 3613A; or

"(2) the defendant may be resentenced under section 3565 or 3614.

"(p) Nothing in this section or sections 2248, 2259, 2264, 2327, 3663, and 3663A and arising out of the application of such sections, shall be construed to create a cause of action not otherwise authorized in favor of any person against the United States or any officer or employee of the United States.".

(b) Technical Amendment.—The item relating to section 3664 in the analysis for chapter 232 of title 18, United States Code, is amended to read as follows:

"3664. Procedure for issuance and enforcement of order of restitution.".

SEC. 207. PROCEDURE FOR ENFORCEMENT OF FINE OR RESTITUTION ORDER.

(a) Amendment of Federal Rules of Criminal Procedure.—Rule 32(b) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (1), by adding at the end the following: "Notwithstanding the preceding sentence, a presentence investigation and report, or other report containing information sufficient for the court to enter an order of restitution, as the court may direct, shall be required in any case in which restitution is required to be ordered."; and

(2) in paragraph (4)—

(A) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(B) by inserting after subparagraph (E), the following new subparagraph:

"(F) in appropriate cases, information sufficient for the court to enter an order of restitution;".

(b) Fines.—Section 3572 of title 18, United States Code, is amended—

(1) in subsection (b) by inserting "other than the United States," after "offense,";

(2) in subsection (d)—

(A) in the first sentence, by striking "A person sentenced to pay a fine or other monetary penalty" and inserting "(1) A person sentenced to pay a fine or other monetary penalty, including restitution,";

(B) by striking the third sentence; and

(C) by adding at the end the following:

"(2) If the judgment, or, in the case of a restitution order, the order, permits other than immediate payment, the length of time over which scheduled payments will be made shall be set by the court, but shall be the shortest time in which full payment can reasonably be made.

"(3) A judgment for a fine which permits payments in installments shall include a requirement that the defendant will notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay the fine. Upon receipt of such notice the court may, on its own motion or the motion of any party, adjust the payment schedule, or require immediate payment in full, as the interests of justice require.";

(3) in subsection (f), by inserting "restitution" after "special assessment,";

(4) in subsection (h), by inserting "or payment of restitution" after "A fine"; and

(5) in subsection (i)—

(A) in the first sentence, by inserting "or payment of restitution" after "A fine"; and

(B) by amending the second sentence to read as follows: "Notwithstanding any installment schedule, when a fine or payment of restitution is in default, the entire amount of the fine or restitution is due within 30 days after notification of the default, subject to the provisions of section 3613A.".

(c) Postsentence Administration.—

(1) Payment of a fine or restitution.—Section 3611 of title 18, United States Code, is amended—

(A) by amending the heading to read as follows:

"§3611. Payment of a fine or restitution";

and

(B) by striking "or assessment shall pay the fine or assessment" and inserting ", assessment, or restitution, shall pay the fine, assessment, or restitution".

(2) Collection.—Section 3612 of title 18, United States Code, is amended—

(A) by amending the heading to read as follows:

"§3612. Collection of unpaid fine or restitution";

(B) in subsection (b)(1)—

(i) in the matter preceding subparagraph (A), by inserting "or restitution order" after "fine";

(ii) in subparagraph (C), by inserting "or restitution order" after "fine";

(iii) in subparagraph (E), by striking "and";

(iv) in subparagraph (F)—

(I) by inserting "or restitution order" after "fine"; and

(II) by striking the period at the end and inserting "; and"; and

(v) by adding at the end the following new subparagraph:

"(G) in the case of a restitution order, information sufficient to identify each victim to whom restitution is owed. It shall be the responsibility of each victim to notify the Attorney General, or the appropriate entity of the court, by means of a form to be provided by the Attorney General or the court, of any change in the victim's mailing address while restitution is still owed the victim. The confidentiality of any information relating to a victim shall be maintained.";

(C) in subsection (c)—

(i) in the first sentence, by inserting "or restitution" after "fine"; and

(ii) by adding at the end the following: "Any money received from a defendant shall be disbursed so that each of the following obligations is paid in full in the following sequence:

"(1) A penalty assessment under section 3013 of title 18, United States Code.

"(2) Restitution of all victims.

"(3) All other fines, penalties, costs, and other payments required under the sentence.";

(D) in subsection (d)—

(i) by inserting "or restitution" after "fine"; and

(ii) by striking "is delinquent, to inform him that the fine is delinquent" and inserting "or restitution is delinquent, to inform the person of the delinquency";

(E) in subsection (e)—

(i) by inserting "or restitution" after "fine"; and

(ii) by striking "him that the fine is in default" and inserting "the person that the fine or restitution is in default";

(F) in subsection (f)—

(i) in the heading, by inserting "and restitution" after "on fines"; and

(ii) in paragraph (1), by inserting "or restitution" after "any fine";

(G) in subsection (g), by inserting "or restitution" after "fine" each place it appears; and

(H) in subsection (i), by inserting "and restitution" after "fines".

(3) Civil remedies.—Section 3613 of title 18, United States Code, is amended to read as follows:

"§3613. Civil remedies for satisfaction of an unpaid fine

"(a) Enforcement.—The United States may enforce a judgment imposing a fine in accordance with the practices and procedures for the enforcement of a civil judgment under Federal law or State law. Notwithstanding any other Federal law (including section 207 of the Social Security Act), a judgment imposing a fine may be enforced against all property or rights to property of the person fined, except that—

"(1) property exempt from levy for taxes pursuant to section 6334(a) (1), (2), (3), (4), (5), (6), (7), (8), (10), and (12) of the Internal Revenue Code of 1986 shall be exempt from enforcement of the judgment under Federal law;

"(2) section 3014 of chapter 176 of title 28 shall not apply to enforcement under Federal law; and

"(3) the provisions of section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673) shall apply to enforcement of the judgment under Federal law or State law.

"(b) Termination of Liability.—The liability to pay a fine shall terminate the later of 20

years from the entry of judgment or 20 years after the release from imprisonment of the person fined, or upon the death of the individual fined.

"(c) LIEN.—A fine imposed pursuant to the provisions of subchapter C of chapter 227 of this title, or an order of restitution made pursuant to sections 2248, 2259, 2264, 2327, 3663, 3663A, or 3664 of this title, is a lien in favor of the United States on all property and rights to property of the person fined as if the liability of the person fined were a liability for a tax assessed under the Internal Revenue Code of 1986. The lien arises on the entry of judgment and continues for 20 years or until the liability is satisfied, remitted, set aside, or is terminated under subsection (b).

"(d) EFFECT OF FILING NOTICE OF LIEN.—Upon filing of a notice of lien in the manner in which a notice of tax lien would be filed under section 6323(f) (1) and (2) of the Internal Revenue Code of 1986, the lien shall be valid against any purchaser, holder of a security interest, mechanic's lienor or judgment lien creditor, except with respect to properties or transactions specified in subsection (b), (c), or (d) of section 6323 of the Internal Revenue Code of 1986 for which a notice of tax lien properly filed on the same date would not be valid. The notice of lien shall be considered a notice of lien for taxes payable to the United States for the purpose of any State or local law providing for the filing of a notice of a tax lien. A notice of lien that is registered, recorded, docketed, or indexed in accordance with the rules and requirements relating to judgments of the courts of the State where the notice of lien is registered, recorded, docketed, or indexed shall be considered for all purposes as the filing prescribed by this section. The provisions of section 3201(e) of chapter 176 of title 28 shall apply to liens filed as prescribed by this section.

"(e) DISCHARGE OF DEBT INAPPLICABLE.—No discharge of debts in a proceeding pursuant to any chapter of title 11, United States Code, shall discharge liability to pay a fine pursuant to this section, and a lien filed as prescribed by this section shall not be voided in a bankruptcy proceeding.

"(f) APPLICABILITY TO ORDER OF RESTITUTION.—In accordance with section 3664(m)(1)(A) of this title, all provisions of this section are available to the United States for the enforcement of an order of restitution.".

(4) DEFAULT.—Chapter 229 of title 18, United States Code, is amended by inserting after section 3613 the following new section:

"§3613A. Effect of default

"(a)(1) Upon a finding that the defendant is in default on a payment of a fine or restitution, the court may, pursuant to section 3565, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, resentence a defendant pursuant to section 3614, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, enter or adjust a payment schedule, or take any other action necessary to obtain compliance with the order of a fine or restitution.

"(2) In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the fine or restitution order, and any other circumstances that may have a bearing on the defendant's ability or failure to comply with the order of a fine or restitution.

"(b)(1) Any hearing held pursuant to this section may be conducted by a magistrate judge, subject to de novo review by the court.

"(2) To the extent practicable, in a hearing held pursuant to this section involving a defendant who is confined in any jail, prison, or other correctional facility, proceedings in which the prisoner's participation is required or permitted shall be conducted by telephone, video conference, or other communications technology without removing the prisoner from the facility in which the prisoner is confined.".

(5) RESENTENCING.—Section 3614 of title 18, United States Code, is amended—

(A) in the heading, by inserting "or restitution" after "fine";

(B) in subsection (a), by inserting "or restitution" after "fine"; and

(C) by adding at the end the following new subsection:

"(c) EFFECT OF INDIGENCY.—In no event shall a defendant be incarcerated under this section solely on the basis of inability to make payments because the defendant is indigent.".

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter B of chapter 229 of title 18, United States Code, is amended to read as follows:

"Sec.
"3611. Payment of a fine or restitution.
"3612. Collection of an unpaid fine or restitution.
"3613. Civil remedies for satisfaction of an unpaid fine.
"3613A. Effect of default.
"3614. Resentencing upon failure to pay a fine or restitution.
"3615. Criminal default.".

SEC. 208. INSTRUCTION TO SENTENCING COMMISSION.

Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to reflect this subtitle and the amendments made by this subtitle.

SEC. 209. JUSTICE DEPARTMENT REGULATIONS.

Not later than 90 days after the date of enactment of this subtitle, the Attorney General shall promulgate guidelines, or amend existing guidelines, to carry out this subtitle and the amendments made by this subtitle and to ensure that—

(1) in all plea agreements negotiated by the United States, consideration is given to requesting that the defendant provide full restitution to all victims of all charges contained in the indictment or information, without regard to the counts to which the defendant actually pleaded; and

(2) orders of restitution made pursuant to the amendments made by this subtitle are enforced to the fullest extent of the law.

SEC. 210. SPECIAL ASSESSMENTS ON CONVICTED PERSONS.

Section 3013(a)(2) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking "$50" and inserting "not less than $100"; and

(2) in subparagraph (B), by striking "$200" and inserting "not less than $400".

SEC. 211. EFFECTIVE DATE.

The amendments made by this subtitle shall, to the extent constitutionally permissible, be effective for sentencing proceedings in cases in which the defendant is convicted on or after the date of enactment of this Act.

Subtitle B—Jurisdiction for Lawsuits Against Terrorist States

SEC. 221. JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES.

(a) EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY FOR CERTAIN CASES.—Section 1605 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(7) not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that the court shall decline to hear a claim under this paragraph—

"(A) if the foreign state was not designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) at the time the act occurred, unless later so designated as a result of such act; and

"(B) even if the foreign state is or was so designated, if—

"(i) the act occurred in the foreign state against which the claim has been brought and the claimant has not afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with accepted international rules of arbitration; or

"(ii) the claimant or victim was not a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act) when the act upon which the claim is based occurred."; and

(2) by adding at the end the following:

"(e) For purposes of paragraph (7) of subsection (a)—

"(1) the terms 'torture' and 'extrajudicial killing' have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991;

"(2) the term 'hostage taking' has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages; and

"(3) the term 'aircraft sabotage' has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

"(f) No action shall be maintained under subsection (a)(7) unless the action is commenced not later than 10 years after the date on which the cause of action arose. All principles of equitable tolling, including the period during which the foreign state was immune from suit, shall apply in calculating this limitation period.

"(g) LIMITATION ON DISCOVERY.—If an action is filed that would otherwise be barred by section 1604, but for subsection (a)(7), the court, upon request of the Attorney General shall stay any request, demand, or order for discovery that the Attorney General certifies will interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action, until such time as the Attorney General advises the court that such request, demand, or order will not longer so interfere.".

(b) EXCEPTION TO IMMUNITY FROM ATTACHMENT.—

(1) FOREIGN STATE.—Section 1610(a) of title 28, United States Code, is amended—

(A) by striking the period at the end of paragraph (6) and inserting ", or"; and

(B) by adding at the end the following new paragraph:

"(7) the judgment relates to a claim for which the foreign state is not immune under section 1605(a)(7), regardless of whether the property is or was involved with the act upon which the claim is based.".

(2) AGENCY OR INSTRUMENTALITY.—Section 1610(b)(2) of title 28, United States Code, is amended—

(A) by striking "or (5)" and inserting "(5), or (7)"; and

(B) by striking "used for the activity" and inserting "involved in the act".

(c) APPLICABILITY.—The amendments made by this subtitle shall apply to any cause of action arising before, on, or after the date of the enactment of this Act.

Subtitle C—Assistance to Victims of Terrorism

SEC. 231. SHORT TITLE.

This subtitle may be cited as the "Justice for Victims of Terrorism Act of 1996".

SEC. 232. VICTIMS OF TERRORISM ACT.

(a) AUTHORITY TO PROVIDE ASSISTANCE AND COMPENSATION TO VICTIMS OF TERRORISM.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404A the following new section:

"SEC. 1404B. COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM OR MASS VIOLENCE.

"(a) VICTIMS OF ACTS OF TERRORISM OUTSIDE THE UNITED STATES.—The Director may make supplemental grants as provided in section 1404(a) to States to provide compensation and assistance to the residents of such States who, while outside of the territorial boundaries of the United States, are victims of a terrorist act or mass violence and are not persons eligible for compensation under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

"(b) VICTIMS OF TERRORISM WITHIN THE UNITED STATES.—The Director may make supplemental grants as provided in section 1404(d)(4)(B) to States for eligible crime victim compensation and assistance programs to provide emergency relief, including crisis response efforts, assistance, training, and technical assistance, for the benefit of victims of terrorist acts or mass violence occurring within the United States and may provide funding to United States Attorney's Offices for use in coordination with State victim compensation and assistance efforts in providing emergency relief.".

(b) FUNDING OF COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM, MASS VIOLENCE, AND CRIME.—Section 1402(d)(4) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(4)) is amended to read as follows:

"(4)(A) If the sums available in the Fund are sufficient to fully provide grants to the States pursuant to section 1403(a)(1), the Director may retain any portion of the Fund that was deposited during a fiscal year that was in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as an emergency reserve. Such reserve shall not exceed $50,000,000.

"(B) The emergency reserve referred to in subparagraph (A) may be used for supplemental grants under section 1404B and to supplement the funds available to provide grants to States for compensation and assistance in accordance with sections 1403 and 1404 in years in which supplemental grants are needed.".

(c) CRIME VICTIMS FUND AMENDMENTS.—

(1) UNOBLIGATED FUNDS.—Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended—

(A) in subsection (c), by striking "subsection" and inserting "chapter"; and

(B) by amending subsection (e) to read as follows:

"(e) AMOUNTS AWARDED AND UNSPENT.—Any amount awarded as part of a grant under this chapter that remains unspent at the end of a fiscal year in which the grant is made may be expended for the purpose for which the grant is made at any time during the 2 succeeding fiscal years, at the end of which period, any remaining unobligated sums in excess of $500,000 shall be returned to the Treasury. Any remaining unobligated sums in an amount less than $500,000 shall be returned to the Fund.".

(2) BASE AMOUNT.—Section 1404(a)(5) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(5)) is amended to read as follows:

"(5) As used in this subsection, the term 'base amount' means—

"(A) except as provided in subparagraph (B), $500,000; and

"(B) for the territories of the Northern Mariana Islands, Guam, American Samoa, and the Republic of Palau, $200,000, with the Republic of Palau's share governed by the Compact of Free Association between the United States and the Republic of Palau.".

SEC. 233. COMPENSATION OF VICTIMS OF TERRORISM.

(a) REQUIRING COMPENSATION FOR TERRORIST CRIMES.—Section 1403(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(d)(3)) is amended—

(1) by inserting "crimes involving terrorism," before "driving while intoxicated"; and

(2) by inserting a comma after "driving while intoxicated".

(b) FOREIGN TERRORISM.—Section 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)(6)(B)) is amended by inserting "are outside of the United States (if the compensable crime is terrorism, as defined in section 2331 of title 18, United States Code), or" before "are States not having".

(c) DESIGNATION OF CARTNEY MCRAVEN CHILD DEVELOPMENT CENTER.—

(1) DESIGNATION.—

(A) IN GENERAL.—The Federal building at 1314 LeMay Boulevard, Ellsworth Air Force Base, South Dakota, shall be known as the "Cartney McRaven Child Development Center".

(B) REPLACEMENT BUILDING.—If, after the date of enactment of this Act, a new Federal building is built at the location described in subparagraph (A) to replace the building described in the paragraph, the new Federal building shall be known as the "Cartney McRaven Child Development Center".

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to a Federal building referred to in paragraph (1) shall be deemed to be a reference to the "Cartney McRaven Child Development Center".

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 1 year after the date of enactment of this Act.

SEC. 234. CRIME VICTIMS FUND.

(a) PROHIBITION OF PAYMENTS TO DELINQUENT CRIMINAL DEBTORS BY STATE CRIME VICTIM COMPENSATION PROGRAMS.—

(1) IN GENERAL.—Section 1403(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)) is amended—

(A) by striking "and" at the end of paragraph (7);

(B) by redesignating paragraph (8) as paragraph (9); and

(C) by inserting after paragraph (7) the following new paragraph:

"(8) such program does not provide compensation to any person who has been convicted of an offense under Federal law with respect to any time period during which the person is delinquent in paying a fine, other monetary penalty, or restitution imposed for the offense; and".

(2) APPLICATION OF AMENDMENT.—Section 1403(b)(8) of the Victims of Crime Act of 1984, as added by paragraph (1) of this section, shall not be applied to deny victims compensation to any person until the date on which the Attorney General, in consultation with the Director of the Administrative Office of the United States Courts, issues a written determination that a cost-effective, readily available criminal debt payment tracking system operated by the agency responsible for the collection of criminal debt has established cost-effective, readily available communications links with entities that administer Federal victim compensation programs that are sufficient to ensure that victim compensation is not denied to any person except as authorized by law.

(b) EXCLUSION FROM INCOME FOR PURPOSES OF MEANS TESTS.—Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by inserting after subsection (b) the following new subsection:

"(c) EXCLUSION FROM INCOME FOR PURPOSES OF MEANS TESTS.—Notwithstanding any other law, for the purpose of any maximum allowed income eligibility requirement in any Federal, State, or local government program using Federal funds that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) that becomes necessary to an applicant for such assistance in full or in part because of the commission of a crime against the applicant, as determined by the Director, any amount of crime victim compensation that the applicant receives through a crime victim compensation program under this section shall not be included in the income of the applicant until the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime.".

SEC. 235. CLOSED CIRCUIT TELEVISED COURT PROCEEDINGS FOR VICTIMS OF CRIME.

(a) IN GENERAL.—Notwithstanding any provision of the Federal Rules of Criminal Procedure to the contrary, in order to permit victims of crime to watch criminal trial proceedings in cases where the venue of the trial is changed—

(1) out of the State in which the case was initially brought; and

(2) more than 350 miles from the location in which those proceedings originally would have taken place;

the trial court shall order closed circuit televising of the proceedings to that location, for viewing by such persons the court determines have a compelling interest in doing so and are otherwise unable to do so by reason of the inconvenience and expense caused by the change of venue.

(b) LIMITED ACCESS.—

(1) GENERALLY.—No other person, other than official court and security personnel, or other persons specifically designated by the court, shall be permitted to view the closed circuit televising of the proceedings.

(2) EXCEPTION.—The court shall not designate a person under paragraph (1) if the presiding judge at the trial determines that testimony by that person would be materially affected if that person heard other testimony at the trial.

(c) RESTRICTIONS.—

(1) The signal transmitted pursuant to subsection (a) shall be under the control of the court at all times and shall only be transmitted subject to the terms and conditions imposed by the court.

(2) No public broadcast or dissemination shall be made of the signal transmitted pursuant to subsection (a). In the event any tapes are produced in carrying out subsection (a), such tapes shall be the property of the court and kept under seal.

(3) Any violations of this subsection, or any rule or order made pursuant to this section, shall be punishable as contempt of court as described in section 402 of title 18, United States Code.

(d) DONATIONS.—The Administrative Office of the United States Courts may accept donations to enable the courts to carry out subsection (a).

(e) CONSTRUCTION.—

(1) Nothing in this section shall be construed—

(i) to create in favor of any person a cause of action against the United States or any officer or employees thereof, or

(ii) to provide any person with a defense in any action in which application of this section is made.

(f) DEFINITION.—As used in this section, the term "State" means any State, the District of Columbia, or any possession or territory of the United States.

(g) RULES.—The Judicial Conference of the United States, pursuant to its rule making authority under section 331 of title 28, United States Code, may promulgate and issue rules, or amend existing rules, to effectuate the policy addressed by this section. Upon the implementation of such rules, this section shall cease to be effective.

(h) EFFECTIVE DATE.—This section shall only apply to cases filed after January 1, 1995.

SEC. 236. TECHNICAL CORRECTION.

Section 1402(d)(3)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(3)(B)) is amended by striking "1404A" and inserting "1404(a)".

TITLE III—INTERNATIONAL TERRORISM PROHIBITIONS

Subtitle A—Prohibition on International Terrorist Fundraising

SEC. 301. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) international terrorism is a serious and deadly problem that threatens the vital interests of the United States;

(2) the Constitution confers upon Congress the power to punish crimes against the law of nations and to carry out the treaty obligations of the United States, and therefore Congress may by law impose penalties relating to the provision of material support to foreign organizations engaged in terrorist activity;

(3) the power of the United States over immigration and naturalization permits the exclusion from the United States of persons belonging to international terrorist organizations;

(4) international terrorism affects the interstate and foreign commerce of the United States by harming international trade and market stability, and limiting international travel by United States citizens as well as foreign visitors to the United States;

(5) international cooperation is required for an effective response to terrorism, as demonstrated by the numerous multilateral conventions in force providing universal prosecutive jurisdiction over persons involved in a variety of terrorist acts, including hostage taking, murder of an internationally protected person, and aircraft piracy and sabotage;

(6) some foreign terrorist organizations, acting through affiliated groups or individuals, raise significant funds within the United States, or use the United States as a conduit for the receipt of funds raised in other nations; and

(7) foreign organizations that engage in terrorist activity are so tainted by their criminal conduct that any contribution to such an organization facilitates that conduct.

(b) PURPOSE.—The purpose of this subtitle is to provide the Federal Government the fullest possible basis, consistent with the Constitution, to prevent persons within the United States, or subject to the jurisdiction of the United States, from providing material support or resources to foreign organizations that engage in terrorist activities.

SEC. 302. DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by adding at the end the following:

"SEC. 219. DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.

"(a) DESIGNATION.—

"(1) IN GENERAL.—The Secretary is authorized to designate an organization as a terrorist organization in accordance with this subsection if the Secretary finds that—

"(A) the organization is a foreign organization;

"(B) the organization engages in terrorist activity (as defined in section 212(a)(3)(B)); and

"(C) the terrorist activity of the organization threatens the security of United States nationals or the national security of the United States.

"(2) PROCEDURE.—

"(A) NOTICE.—Seven days before making a designation under this subsection, the Secretary shall, by classified communication—

"(i) notify the Speaker and Minority Leader of the House of Representatives, the President pro tempore, Majority Leader, and Minority Leader of the Senate, and the members of the relevant committees, in writing, of the intent to designate an organization under this subsection, together with the findings made under paragraph (1) with respect to that organization, and the factual basis therefor; and

"(ii) seven days after such notification, publish the designation in the Federal Register.

"(B) EFFECT OF DESIGNATION.—

"(i) For purposes of section 2339B of title 18, United States Code, a designation under this subsection shall take effect upon publication under subparagraph (A).

"(ii) Any designation under this subsection shall cease to have effect upon an Act of Congress disapproving such designation.

"(C) FREEZING OF ASSETS.—Upon notification under paragraph (2), the Secretary of the Treasury may require United States financial institutions possessing or controlling any assets of any organization included in the notification to block all financial transactions involving those assets until further directive from either the Secretary of the Treasury, Act of Congress, or order of court.

"(3) RECORD.—

"(A) IN GENERAL.—In making a designation under this subsection, the Secretary shall create an administrative record.

"(B) CLASSIFIED INFORMATION.—The Secretary may consider classified information in making a designation under this subsection. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).

"(4) PERIOD OF DESIGNATION.—

"(A) IN GENERAL.—Subject to paragraphs (5) and (6), a designation under this subsection shall be effective for all purposes for a period of 2 years beginning on the effective date of the designation under paragraph (2)(B).

"(B) REDESIGNATION.—The Secretary may redesignate a foreign organization as a terrorist organization for an additional 2-year period at the end of the 2-year period referred to in subparagraph (A) (but not sooner than 60 days prior to the termination of such period) upon a finding that the relevant circumstances described in paragraph (1) still exist. The procedural requirements of paragraphs (2) and (3) shall apply to a redesignation under this subparagraph.

"(5) REVOCATION BY ACT OF CONGRESS.—The Congress, by an Act of Congress, may block or revoke a designation made under paragraph (1).

"(6) REVOCATION BASED ON CHANGE IN CIRCUMSTANCES.—

"(A) IN GENERAL.—The Secretary may revoke a designation made under paragraph (1) if the Secretary finds that—

"(i) the circumstances that were the basis for the designation have changed in such a manner as to warrant revocation of the designation; or

"(ii) the national security of the United States warrants a revocation of the designation.

"(B) PROCEDURE.—The procedural requirements of paragraphs (2) through (4) shall apply to a revocation under this paragraph.

"(7) EFFECT OF REVOCATION.—The revocation of a designation under paragraph (5) or (6) shall not affect any action or proceeding based on conduct committed prior to the effective date of such revocation.

"(8) USE OF DESIGNATION IN TRIAL OR HEARING.—If a designation under this subsection has become effective under paragraph (1)(B), a defendant in a criminal action shall not be permitted to raise any question concerning the validity of the issuance of such designation as a defense or an objection at any trial or hearing.

"(b) JUDICIAL REVIEW OF DESIGNATION.—

"(1) IN GENERAL.—Not later than 30 days after publication of the designation in the Federal Register, an organization designated as a foreign terrorist organization may seek judicial review of the designation in the United States Court of Appeals for the District of Columbia Circuit.

"(2) BASIS OF REVIEW.—Review under this subsection shall be based solely upon the administrative record, except that the Government may submit, for ex parte and in camera review, classified information used in making the designation.

"(3) SCOPE OF REVIEW.—The Court shall hold unlawful and set aside a designation the court finds to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity; or

"(C) in excess of statutory jurisdiction, authority, or limitation, or short of statutory right.

"(4) JUDICIAL REVIEW INVOKED.—The pendency of an action for judicial review of a designation shall not affect the application of this section, unless the court issues a final order setting aside the designation.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'classified information' has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

"(2) the term 'national security' means the national defense, foreign relations, or economic interests of the United States;

"(3) the term 'relevant committees' means the Committees on the Judiciary, Intelligence, and Foreign Relations of the Senate and the Committees on the Judiciary, Intelligence, and International Relations of the House of Representatives; and

"(4) the term 'Secretary' means the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General.".

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act, relating to terrorism, is amended by inserting after the item relating to section 218 the following new item:

"Sec. 219. Designation of foreign terrorist organizations.".

SEC. 303. PROHIBITION ON TERRORIST FUNDRAISING.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following new section:

"§2339B. Providing material support or resources to designated foreign terrorist organizations

"(a) PROHIBITED ACTIVITIES.—

"(1) UNLAWFUL CONDUCT.—Whoever, within the United States or subject to the jurisdiction of the United States, knowingly provides material support or resources to a foreign terrorist organization, or attempts or conspires to do so, shall be fined under this title or imprisoned not more than 10 years, or both.

"(2) FINANCIAL INSTITUTIONS.—Except as authorized by the Secretary, any financial institution that becomes aware that it has possession of, or control over, any funds in which a foreign terrorist organization, or its agent, has an interest, shall—

"(A) retain possession of, or maintain control over, such funds; and

"(B) report to the Secretary the existence of such funds in accordance with regulations issued by the Secretary.

"(b) CIVIL PENALTY.—Any financial institution that knowingly fails to comply with subsection (a)(2) shall be subject to a civil penalty in an amount that is the greater of—

"(A) $50,000 per violation; or

"(B) twice the amount of which the financial institution was required under subsection (a)(2) to retain possession or control.

"(c) INJUNCTION.—Whenever it appears to the Secretary or the Attorney General that any person is engaged in, or is about to engage in, any act that constitutes, or would constitute, a violation of this section, the Attorney General may initiate civil action in a district court of the United States to enjoin such violation.

"(d) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

"(e) INVESTIGATIONS.—

"(1) IN GENERAL.—The Attorney General shall conduct any investigation of a possible violation of this section, or of any license, order, or regulation issued pursuant to this section.

"(2) COORDINATION WITH THE DEPARTMENT OF THE TREASURY.—The Attorney General shall work in coordination with the Secretary in investigations relating to—

"(A) the compliance or noncompliance by a financial institution with the requirements of subsection (a)(2); and

"(B) civil penalty proceedings authorized under subsection (b).

"(3) REFERRAL.—Any evidence of a criminal violation of this section arising in the course of an investigation by the Secretary or any other Federal agency shall be referred immediately to the Attorney General for further investigation. The Attorney General shall timely notify the Secretary of any action taken on referrals from the Secretary, and may refer investigations to the Secretary for remedial licensing or civil penalty action.

"(f) CLASSIFIED INFORMATION IN CIVIL PROCEEDINGS BROUGHT BY THE UNITED STATES.—

"(1) DISCOVERY OF CLASSIFIED INFORMATION BY DEFENDANTS.—

"(A) REQUEST BY UNITED STATES.—In any civil proceeding under this section, upon request made ex parte and in writing by the United States, a court, upon a sufficient showing, may authorize the United States to—

"(i) redact specified items of classified information from documents to be introduced into evidence or made available to the defendant through discovery under the Federal Rules of Civil Procedure;

"(ii) substitute a summary of the information for such classified documents; or

"(iii) substitute a statement admitting relevant facts that the classified information would tend to prove.

"(B) ORDER GRANTING REQUEST.—If the court enters an order granting a request under this paragraph, the entire text of the documents to which the request relates shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal.

"(C) DENIAL OF REQUEST.—If the court enters an order denying a request of the United States under this paragraph, the United States may take an immediate, interlocutory appeal in accordance with paragraph (5). For purposes of such an appeal, the entire text of the documents to which the request relates, together with any transcripts of arguments made ex parte to the court in connection therewith, shall be maintained under seal and delivered to the appellate court.

"(2) INTRODUCTION OF CLASSIFIED INFORMATION; PRECAUTIONS BY COURT.—

"(A) EXHIBITS.—To prevent unnecessary or inadvertent disclosure of classified information in a civil proceeding brought by the United States under this section, the United States may petition the court ex parte to admit, in lieu of classified writings, recordings, or photographs, one or more of the following:

"(i) Copies of items from which classified information has been redacted.

"(ii) Stipulations admitting relevant facts that specific classified information would tend to prove.

"(iii) A declassified summary of the specific classified information.

"(B) DETERMINATION BY COURT.—The court shall grant a request under this paragraph if the court finds that the redacted item, stipulation, or summary is sufficient to allow the defendant to prepare a defense.

"(3) TAKING OF TRIAL TESTIMONY.—

"(A) OBJECTION.—During the examination of a witness in any civil proceeding brought by the United States under this subsection, the United States may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible.

"(B) ACTION BY COURT.—In determining whether a response is admissible, the court shall take precautions to guard against the compromise of any classified information, including—

"(i) permitting the United States to provide the court, ex parte, with a proffer of the witness's response to the question or line of inquiry; and

"(ii) requiring the defendant to provide the court with a proffer of the nature of the information that the defendant seeks to elicit.

"(C) OBLIGATION OF DEFENDANT.—In any civil proceeding under this section, it shall be the defendant's obligation to establish the relevance and materiality of any classified information sought to be introduced.

"(4) APPEAL.—If the court enters an order denying a request of the United States under this subsection, the United States may take an immediate interlocutory appeal in accordance with paragraph (5).

"(5) INTERLOCUTORY APPEAL.—

"(A) SUBJECT OF APPEAL.—An interlocutory appeal by the United States shall lie to a court of appeals from a decision or order of a district court—

"(i) authorizing the disclosure of classified information;

"(ii) imposing sanctions for nondisclosure of classified information; or

"(iii) refusing a protective order sought by the United States to prevent the disclosure of classified information.

"(B) EXPEDITED CONSIDERATION.—

"(i) IN GENERAL.—An appeal taken pursuant to this paragraph, either before or during trial, shall be expedited by the court of appeals.

"(ii) APPEALS PRIOR TO TRIAL.—If an appeal is of an order made prior to trial, an appeal shall be taken not later than 10 days after the decision or order appealed from, and the trial shall not commence until the appeal is resolved.

"(iii) APPEALS DURING TRIAL.—If an appeal is taken during trial, the trial court shall adjourn the trial until the appeal is resolved, and the court of appeals—

"(I) shall hear argument on such appeal not later than 4 days after the adjournment of the trial;

"(II) may dispense with written briefs other than the supporting materials previously submitted to the trial court;

"(III) shall render its decision not later than 4 days after argument on appeal; and

"(IV) may dispense with the issuance of a written opinion in rendering its decision.

"(C) EFFECT OF RULING.—An interlocutory appeal and decision shall not affect the right of the defendant, in a subsequent appeal from a final judgment, to claim as error reversal by the trial court on remand of a ruling appealed from during trial.

"(6) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and State secrets privilege.

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'classified information' has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

"(2) the term 'financial institution' has the same meaning as in section 5312(a)(2) of title 31, United States Code;

"(3) the term 'funds' includes coin or currency of the United States or any other country, traveler's checks, personal checks, bank checks, money orders, stocks, bonds, debentures, drafts, letters of credit, any other negotiable instrument, and any electronic representation of any of the foregoing;

"(4) the term 'material support or resources' has the same meaning as in section 2339A;

"(5) the term 'representative' includes an officer, official, or spokesperson of an organization and any person who directs, counsels, commands, or induces an organization or its members to engage in terrorist activity;

"(6) the term 'Secretary' means the Secretary of the Treasury; and

"(7) the term 'terrorist organization' means an organization designated as a terrorist organization under section 219 of the Immigration and Nationality Act.".

(b) CLERICAL AMENDMENT TO TABLE OF SECTIONS.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end the following new item:

"2339B. Providing material support or resources to designated foreign terrorist organizations.".

(c) TECHNICAL AMENDMENT.—

(1) NEW ITEM.—Chapter 113B of title 18, United States Code, relating to torture, is redesignated as chapter 113C.

(2) TABLE OF CHAPTERS.—The table of chapters for part I of title 18, United States Code, is amended by striking "113B. Torture" and inserting "113C. Torture".

Subtitle B—Prohibition on Assistance to Terrorist States

SEC. 321. FINANCIAL TRANSACTIONS WITH TERRORISTS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after the section 2332c added by section 521 of this Act the following new section:

"§2332d. Financial transactions

"(a) OFFENSE.—Except as provided in regulations issued by the Secretary of State, in consultation with the Secretary of the Treasury, whoever, being a United States person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act (50 U.S.C. App. 2405) as a country supporting international terrorism,

engages in a financial transaction with that country, shall be fined under this title, imprisoned for not more than 10 years, or both.

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'financial transaction' has the same meaning as in section 1956(c)(4); and

"(2) the term 'United States person' means any—

"(A) United States citizen or national;

"(B) permanent resident alien;

"(C) juridical person organized under the laws of the United States; or

"(D) any person in the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after the item added by section 521 of this Act the following new item:

"2332d. Financial transactions.".

SEC. 322. FOREIGN AIR TRAVEL SAFETY.

Section 44906 of title 49, United States Code, is amended to read as follows:

"§44906. Foreign air carrier security programs

"The Administrator of the Federal Aviation Administration shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that a foreign air carrier must adopt and use a security program approved by the Administrator. The Administrator shall not approve a security program of a foreign air carrier under section 129.25, or any successor regulation, unless the security program requires the foreign air carrier in its operations to and from airports in the United States to adhere to the identical security measures that the Administrator requires air carriers serving the same airports to adhere to. The foregoing requirement shall not be interpreted to limit the ability of the Administrator to impose additional security measures on a foreign air carrier or an air carrier when the Administrator determines that a specific threat warrants such additional measures. The Administrator shall prescribe regulations to carry out this section.".

SEC. 323. MODIFICATION OF MATERIAL SUPPORT PROVISION.

Section 2339A of title 18, United States Code, is amended to read as follows:

"§2339A. Providing material support to terrorists

"(a) OFFENSE.—Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 37, 81, 175, 351, 831, 842 (m) or (n), 844 (f) or (i), 956, 1114, 1116, 1203, 1361, 1362, 1363, 1366, 1751, 2155, 2156, 2280, 2281, 2332, 2332a, 2332b, or 2340A of this title or section 46502 of title 49, or in preparation for, or in carrying out, the concealment from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.

"(b) DEFINITION.—In this section, the term 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.".

SEC. 324. FINDINGS.

The Congress finds that—

(1) international terrorism is among the most serious transnational threats faced by the United States and its allies, far eclipsing the dangers posed by population growth or pollution;

(2) the President should continue to make efforts to counter international terrorism a national security priority;

(3) because the United Nations has been an inadequate forum for the discussion of cooperative, multilateral responses to the threat of international terrorism, the President should undertake immediate efforts to develop effective multilateral responses to international terrorism as a complement to national counter terrorist efforts;

(4) the President should use all necessary means, including covert action and military force, to disrupt, dismantle, and destroy international infrastructure used by international terrorists, including overseas terrorist training facilities and safe havens;

(5) the Congress deplores decisions to ease, evade, or end international sanctions on state sponsors of terrorism, including the recent decision by the United Nations Sanctions Committee to allow airline flights to and from Libya despite Libya's noncompliance with United Nations resolutions; and

(6) the President should continue to undertake efforts to increase the international isolation of state sponsors of international terrorism, including efforts to strengthen international sanctions, and should oppose any future initiatives to ease sanctions on Libya or other state sponsors of terrorism.

SEC. 325. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT AID TERRORIST STATES.

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620F the following new section:

"SEC. 620G. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT AID TERRORIST STATES.

"(a) WITHHOLDING OF ASSISTANCE.—The President may withhold assistance under this Act to the government of any country that provides assistance to the government of any other country for which the Secretary of State has made a determination under section 620A.

"(b) WAIVER.—Assistance prohibited by this section may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

"(1) a statement of the determination;

"(2) a detailed explanation of the assistance to be provided;

"(3) the estimated dollar amount of the assistance; and

"(4) an explanation of how the assistance furthers United States national interests.".

SEC. 326. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620G the following new section:

"SEC. 620H. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.

"(a) PROHIBITION.—

"(1) IN GENERAL.—The President may withhold assistance under this Act shall be provided to the government of any country that provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for the purposes of 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), or 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

"(2) APPLICABILITY.—The prohibition under this section with respect to a foreign government shall terminate 1 year after that government ceases to provide lethal military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after the date of enactment of this Act.

"(b) WAIVER.—Notwithstanding any other provision of law, assistance may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

"(1) a statement of the determination;

"(2) a detailed explanation of the assistance to be provided;

"(3) the estimated dollar amount of the assistance; and

"(4) an explanation of how the assistance furthers United States national interests.".

SEC. 327. OPPOSITION TO ASSISTANCE BY INTERNATIONAL FINANCIAL INSTITUTIONS TO TERRORIST STATES.

The International Financial Institutions Act (22 U.S.C. 262c et seq.) is amended by inserting after section 1620 the following new section:

"SEC. 1621. OPPOSITION TO ASSISTANCE BY INTERNATIONAL FINANCIAL INSTITUTIONS TO TERRORIST STATES.

"(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to oppose any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

"(b) DEFINITION.—For purposes of this section, the term 'international financial institution' includes—

"(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund;

"(2) wherever applicable, the Inter-American Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund; and

"(3) any similar institution established after the date of enactment of this section.".

SEC. 328. ANTITERRORISM ASSISTANCE.

(a) FOREIGN ASSISTANCE ACT.—Section 573 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa-2) is amended—

(1) in subsection (c), by striking "development and implementation of the antiterrorism assistance program under this chapter, including";

(2) by amending subsection (d) to read as follows:

"(d)(1) Arms and ammunition may be provided under this chapter only if they are directly related to antiterrorism assistance.

"(2) The value (in terms of original acquisition cost) of all equipment and commodities provided under this chapter in any fiscal year shall not exceed 30 percent of the funds made available to carry out this chapter for that fiscal year."; and

(3) by striking subsection (f).

(b) ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVES DETECTION DEVICES AND OTHER COUNTERTERRORISM TECHNOLOGY.—(1) Subject to section 575(b), up to $3,000,000 in any fiscal year may be made available—

(A) to procure explosives detection devices and other counterterrorism technology; and

(B) for joint counterterrorism research and development projects on such technology conducted with NATO and major non-NATO allies under the auspices of the Technical Support Working Group of the Department of State.

(2) As used in this subsection, the term "major non-NATO allies" means those countries designated as major non-NATO allies for purposes of section 2350a(i)(3) of title 10, United States Code.

(c) ASSISTANCE TO FOREIGN COUNTRIES.—Notwithstanding any other provision of law (except section 620A of the Foreign Assistance Act of 1961) up to $1,000,000 in assistance may be provided to a foreign country for counterterrorism efforts in any fiscal year if—

(1) such assistance is provided for the purpose of protecting the property of the United States Government or the life and property of any United States citizen, or furthering the apprehension of any individual involved in any act of terrorism against such property or persons; and

(2) the appropriate committees of Congress are notified not later than 15 days prior to the provision of such assistance.

SEC. 329. DEFINITION OF ASSISTANCE.

For purposes of this title—

(1) the term "assistance" means assistance to or for the benefit of a government of any country that is provided by grant, concessional sale, guaranty, insurance, or by any other means on terms more favorable than generally available in the applicable market, whether in the form of a loan, lease, credit, debt relief, or otherwise, including subsidies for exports to such country and favorable tariff treatment of articles that are the growth, product, or manufacture of such country; and

(2) the term "assistance" does not include assistance of the type authorized under chapter 9 of part 1 of the Foreign Assistance Act of 1961 (relating to international disaster assistance).

SEC. 330. PROHIBITION ON ASSISTANCE UNDER ARMS EXPORT CONTROL ACT FOR COUNTRIES NOT COOPERATING FULLY WITH UNITED STATES ANTITERRORISM EFFORTS.

Chapter 3 of the Arms Export Control Act (22 U.S.C. 2771 et seq.) is amended by adding at the end the following:

"SEC. 40A. TRANSACTIONS WITH COUNTRIES NOT FULLY COOPERATING WITH UNITED STATES ANTITERRORISM EFFORTS.—

"(a) PROHIBITED TRANSACTIONS.—No defense article or defense service may be sold or licensed for export under this Act in a fiscal year to a foreign country that the President determines and certifies to Congress, by May 15 of the calendar year in which that fiscal year begins, is not cooperating fully with United States antiterrorism efforts.

"(b) WAIVER.—The President may waive the prohibition set forth in subsection (a) with respect to a specific transaction if the President determines that the transaction is essential to the national security interests of the United States.".

TITLE IV—TERRORIST AND CRIMINAL ALIEN REMOVAL AND EXCLUSION

Subtitle A—Removal of Alien Terrorists

SEC. 401. ALIEN TERRORIST REMOVAL.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by adding at the end the following new title:

"TITLE V—ALIEN TERRORIST REMOVAL PROCEDURES

"SEC. 501. DEFINITIONS.

"As used in this title—

"(1) the term 'alien terrorist' means any alien described in section 241(a)(4)(B);

"(2) the term 'classified information' has the same meaning as in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

"(3) the term 'national security' has the same meaning as in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App.);

"(4) the term 'removal court' means the court described in section 502;

"(5) the term 'removal hearing' means the hearing described in section 504; and

"(6) the term 'removal proceeding' means a proceeding under this title.

"SEC. 502. ESTABLISHMENT OF REMOVAL COURT.

"(a) DESIGNATION OF JUDGES.—The Chief Justice of the United States shall publicly designate 5 district court judges from 5 of the United States judicial circuits who shall constitute a court that shall have jurisdiction to conduct all removal proceedings. The Chief Justice may, in the Chief Justice's discretion, designate the same judges under this section as are designated pursuant to section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)).

"(b) TERMS.—Each judge designated under subsection (a) shall serve for a term of 5 years and shall be eligible for redesignation, except that of the members first designated—

"(1) 1 member shall serve for a term of 1 year;

"(2) 1 member shall serve for a term of 2 years;

"(3) 1 member shall serve for a term of 3 years; and

"(4) 1 member shall serve for a term of 4 years.

"(c) CHIEF JUDGE.—

"(1) DESIGNATION.—The Chief Justice shall publicly designate one of the judges of the removal court to be the chief judge of the removal court.

"(2) RESPONSIBILITIES.—The chief judge shall—

"(A) promulgate rules to facilitate the functioning of the removal court; and

"(B) assign the consideration of cases to the various judges on the removal court.

"(d) EXPEDITIOUS AND CONFIDENTIAL NATURE OF PROCEEDINGS.—The provisions of section 103(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(c)) shall apply to removal proceedings in the same manner as they apply to proceedings under that Act.

"SEC. 503. REMOVAL COURT PROCEDURE.

"(a) APPLICATION.—

"(1) IN GENERAL.—In any case in which the Attorney General has classified information that an alien is an alien terrorist, the Attorney General may seek removal of the alien under this title by filing an application with the removal court that contains—

"(A) the identity of the attorney in the Department of Justice making the application;

"(B) a certification by the Attorney General or the Deputy Attorney General that the application satisfies the criteria and requirements of this section;

"(C) the identity of the alien for whom authorization for the removal proceeding is sought; and

"(D) a statement of the facts and circumstances relied on by the Department of Justice to establish probable cause that—

"(i) the alien is an alien terrorist;

"(ii) the alien is physically present in the United States; and

"(iii) with respect to such alien, removal under title II would pose a risk to the national security of the United States.

"(2) FILING.—An application under this section shall be submitted ex parte and in camera, and shall be filed under seal with the removal court.

"(b) RIGHT TO DISMISS.—The Attorney General may dismiss a removal action under this title at any stage of the proceeding.

"(c) CONSIDERATION OF APPLICATION.—

"(1) BASIS FOR DECISION.—In determining whether to grant an application under this section, a single judge of the removal court may consider, ex parte and in camera, in addition to the information contained in the application—

"(A) other information, including classified information, presented under oath or affirmation; and

"(B) testimony received in any hearing on the application, of which a verbatim record shall be kept.

"(2) APPROVAL OF ORDER.—The judge shall issue an order granting the application, if the judge finds that there is probable cause to believe that—

"(A) the alien who is the subject of the application has been correctly identified and is an alien terrorist present in the United States; and

"(B) removal under title II would pose a risk to the national security of the United States.

"(3) DENIAL OF ORDER.—If the judge denies the order requested in the application, the judge shall prepare a written statement of the reasons for the denial, taking all necessary precautions not to disclose any classified information contained in the Government's application.

"(d) EXCLUSIVE PROVISIONS.—If an order is issued under this section granting an application, the rights of the alien regarding removal and expulsion shall be governed solely by this title, and except as they are specifically referenced in this title, no other provisions of this Act shall be applicable.

"SEC. 504. REMOVAL HEARING.

"(a) IN GENERAL.—

"(1) EXPEDITIOUS HEARING.—In any case in which an application for an order is approved under section 503(c)(2), a removal hearing shall be conducted under this section as expeditiously as practicable for the purpose of determining whether the alien to whom the order pertains should be removed from the United States on the grounds that the alien is an alien terrorist.

"(2) PUBLIC HEARING.—The removal hearing shall be open to the public.

"(b) NOTICE.—An alien who is the subject of a removal hearing under this title shall be given reasonable notice of—

"(1) the nature of the charges against the alien, including a general account of the basis for the charges; and

"(2) the time and place at which the hearing will be held.

"(c) RIGHTS IN HEARING.—

"(1) RIGHT OF COUNSEL.—The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent the alien. Such counsel shall be appointed by the judge pursuant to the plan for furnishing representation for any person financially unable to obtain adequate representation for the district in which the hearing is conducted, as provided for in section 3006A of title 18, United States Code. All provisions of that section shall apply and, for purposes of determining the maximum amount of compensation, the matter shall be treated as if a felony was charged.

"(2) INTRODUCTION OF EVIDENCE.—Subject to the limitations in subsection (e), the alien shall have a reasonable opportunity to introduce evidence on the alien's own behalf.

"(3) EXAMINATION OF WITNESSES.—Subject to the limitations in subsection (e), the alien shall have a reasonable opportunity to examine the evidence against the alien and to cross-examine any witness.

"(4) RECORD.—A verbatim record of the proceedings and of all testimony and evidence offered or produced at such a hearing shall be kept.

"(5) REMOVAL DECISION BASED ON EVIDENCE AT HEARING.—The decision of the judge regarding removal shall be based only on that evidence introduced at the removal hearing.

"(d) SUBPOENAS.—

"(1) REQUEST.—At any time prior to the conclusion of the removal hearing, either the alien or the Department of Justice may request the judge to issue a subpoena for the presence of a named witness (which subpoena may also command the person to whom it is directed to

produce books, papers, documents, or other objects designated therein) upon a satisfactory showing that the presence of the witness is necessary for the determination of any material matter. Such a request may be made ex parte except that the judge shall inform the Department of Justice of any request for a subpoena by the alien for a witness or material if compliance with such a subpoena would reveal classified evidence or the source of that evidence. The Department of Justice shall be given a reasonable opportunity to oppose the issuance of such a subpoena.

"(2) PAYMENT FOR ATTENDANCE.—If an application for a subpoena by the alien also makes a showing that the alien is financially unable to pay for the attendance of a witness so requested, the court may order the costs incurred by the process and the fees of the witness so subpoenaed to be paid from funds appropriated for the enforcement of title II.

"(3) NATIONWIDE SERVICE.—A subpoena under this subsection may be served anywhere in the United States.

"(4) WITNESS FEES.—A witness subpoenaed under this subsection shall receive the same fees and expenses as a witness subpoenaed in connection with a civil proceeding in a court of the United States.

"(5) NO ACCESS TO CLASSIFIED INFORMATION.—Nothing in this subsection is intended to allow an alien to have access to classified information.

"(e) DISCOVERY.—

"(1) IN GENERAL.—For purposes of this title—

"(A) discovery of information derived pursuant to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), or otherwise collected for national security purposes, shall not be authorized if disclosure would present a risk to the national security of the United States;

"(B) an alien subject to removal under this title shall not be entitled to suppress evidence that the alien alleges was unlawfully obtained; and

"(C) section 3504 of title 18, United States Code, and section 1806(c) of title 50, United States Code, shall not apply if the Attorney General determines that public disclosure would pose a risk to the national security of the United States because it would disclose classified information or otherwise threaten the integrity of a pending investigation.

"(2) PROTECTIVE ORDERS.—Nothing in this title shall prevent the United States from seeking protective orders and from asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and state secrets privileges.

"(3) TREATMENT OF CLASSIFIED INFORMATION.—

"(A) USE.—The judge shall examine, ex parte and in camera, any evidence for which the Attorney General determines that public disclosure would pose a risk to the national security of the United States or to the security of any individual because it would disclose classified information.

"(B) SUBMISSION.—With respect to such information, the Government shall submit to the removal court an unclassified summary of the specific evidence that does not pose that risk.

"(C) APPROVAL.—Not later than 15 days after submission, the judge shall approve the summary if the judge finds that it is sufficient to enable the alien to prepare a defense. The Government shall deliver to the alien a copy of the unclassified summary approved under this subparagraph.

"(D) DISAPPROVAL.—

"(i) IN GENERAL.—If an unclassified summary is not approved by the removal court under subparagraph (C), the Government shall be afforded 15 days to correct the deficiencies identified by the court and submit a revised unclassified summary.

"(ii) REVISED SUMMARY.—If the revised unclassified summary is not approved by the court within 15 days of its submission pursuant to subparagraph (C), the removal hearing shall be terminated.

"(f) ARGUMENTS.—Following the receipt of evidence, the Government and the alien shall be given fair opportunity to present argument as to whether the evidence is sufficient to justify the removal of the alien. The Government shall open the argument. The alien shall be permitted to reply. The Government shall then be permitted to reply in rebuttal.

"(g) BURDEN OF PROOF.—In the hearing, it is the Government's burden to prove, by the preponderance of the evidence, that the alien is subject to removal because the alien is an alien terrorist.

"(h) RULES OF EVIDENCE.—The Federal Rules of Evidence shall not apply in a removal hearing.

"(i) DETERMINATION OF DEPORTATION.—If the judge, after considering the evidence on the record as a whole, finds that the Government has met its burden, the judge shall order the alien removed and detained pending removal from the United States. If the alien was released pending the removal hearing, the judge shall order the Attorney General to take the alien into custody.

"(j) WRITTEN ORDER.—At the time of issuing a decision as to whether the alien shall be removed, the judge shall prepare a written order containing a statement of facts found and conclusions of law.

"(k) NO RIGHT TO ANCILLARY RELIEF.—At no time shall the judge consider or provide for relief from removal based on—

"(1) asylum under section 208;

"(2) withholding of deportation under section 243(h);

"(3) suspension of deportation under subsection (a) or (e) of section 244;

"(4) adjustment of status under section 245; or

"(5) registry under section 249.

"SEC. 505. APPEALS.

"(a) APPEAL OF DENIAL OF APPLICATION FOR REMOVAL PROCEEDINGS.—

"(1) IN GENERAL.—The Attorney General may seek a review of the denial of an order sought in an application filed pursuant to section 503. The appeal shall be filed in the United States Court of Appeals for the District of Columbia Circuit by notice of appeal filed not later than 20 days after the date of such denial.

"(2) RECORD ON APPEAL.—The entire record of the proceeding shall be transmitted to the Court of Appeals under seal, and the Court of Appeals shall hear the matter ex parte.

"(3) STANDARD OF REVIEW.—The Court of Appeals shall—

"(A) review questions of law de novo; and

"(B) set aside a finding of fact only if such finding was clearly erroneous.

"(b) APPEAL OF DETERMINATION REGARDING SUMMARY OF CLASSIFIED INFORMATION.—

"(1) IN GENERAL.—The United States may take an interlocutory appeal to the United States Court of Appeals for the District of Columbia Circuit of—

"(A) any determination by the judge pursuant to section 504(e)(3); or

"(B) the refusal of the court to make the findings permitted by section 504(e)(3).

"(2) RECORD.—In any interlocutory appeal taken pursuant to this subsection, the entire record, including any proposed order of the judge, any classified information and the summary of evidence, shall be transmitted to the Court of Appeals. The classified information shall be transmitted under seal. A verbatim record of such appeal shall be kept under seal in the event of any other judicial review.

"(c) APPEAL OF DECISION IN HEARING.—

"(1) IN GENERAL.—The decision of the judge after a removal hearing may be appealed by either the alien or the Attorney General to the United States Court of Appeals for the District of Columbia Circuit by notice of appeal filed not later than 20 days after the date on which the order is issued. The order shall not be enforced during the pendency of an appeal under this subsection.

"(2) TRANSMITTAL OF RECORD.—In an appeal or review to the Court of Appeals pursuant to this subsection—

"(A) the entire record shall be transmitted to the Court of Appeals; and

"(B) information received in camera and ex parte, and any portion of the order that would reveal the substance or source of such information, shall be transmitted under seal.

"(3) EXPEDITED APPELLATE PROCEEDING.—In an appeal or review to the Court of Appeals under this subsection—

"(A) the appeal or review shall be heard as expeditiously as practicable and the court may dispense with full briefing and hear the matter solely on the record of the judge of the removal court and on such briefs or motions as the court may require to be filed by the parties;

"(B) the Court of Appeals shall issue an opinion not later than 60 days after the date of the issuance of the final order of the district court;

"(C) the court shall review all questions of law de novo; and

"(D) a finding of fact shall be accorded deference by the reviewing court and shall not be set aside unless such finding was clearly erroneous.

"(d) CERTIORARI.—Following a decision by the Court of Appeals pursuant to subsection (c), the alien or the Attorney General may petition the Supreme Court for a writ of certiorari. In any such case, any information transmitted to the Court of Appeals under seal shall, if such information is also submitted to the Supreme Court, be transmitted under seal. Any order of removal shall not be stayed pending disposition of a writ of certiorari, except as provided by the Court of Appeals or a Justice of the Supreme Court.

"(e) APPEAL OF DETENTION ORDER.—

"(1) IN GENERAL.—Sections 3145 through 3148 of title 18, United States Code, pertaining to review and appeal of a release or detention order, penalties for failure to appear, penalties for an offense committed while on release, and sanctions for violation of a release condition shall apply to an alien to whom section 507(b)(1) applies. In applying the previous sentence—

"(A) for purposes of section 3145 of such title an appeal shall be taken to the United States Court of Appeals for the District of Columbia Circuit; and

"(B) for purposes of section 3146 of such title the alien shall be considered released in connection with a charge of an offense punishable by life imprisonment.

"(2) NO REVIEW OF CONTINUED DETENTION.—The determinations and actions of the Attorney General pursuant to section 507(b)(2)(C) shall not be subject to judicial review, including application for a writ of habeas corpus, except for a claim by the alien that continued detention violates the alien's rights under the Constitution. Jurisdiction over any such challenge shall lie exclusively in the United States Court of Appeals for the District of Columbia Circuit.

"SEC. 506. CUSTODY AND RELEASE PENDING REMOVAL HEARING.

"(a) UPON FILING APPLICATION.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Attorney General may—

"(A) take into custody any alien with respect to whom an application under section 503 has been filed; and

"(B) retain such an alien in custody in accordance with the procedures authorized by this title.

"(2) SPECIAL RULES FOR PERMANENT RESIDENT ALIENS.—

"(A) RELEASE HEARING.—An alien lawfully admitted for permanent residence shall be entitled to a release hearing before the judge assigned to hear the removal hearing. Such an alien shall be detained pending the removal hearing, unless the alien demonstrates to the court that the alien—

"(i) is a person lawfully admitted for permanent residence in the United States;

"(ii) if released upon such terms and conditions as the court may prescribe (including the posting of any monetary amount), is not likely to flee; and

"(iii) will not endanger national security, or the safety of any person or the community, if released.

"(B) INFORMATION CONSIDERED.—The judge may consider classified information submitted in camera and ex parte in making a determination whether to release an alien pending the removal hearing.

"(3) RELEASE IF ORDER DENIED AND NO REVIEW SOUGHT.—

"(A) IN GENERAL.—Subject to subparagraph (B), if a judge of the removal court denies the order sought in an application filed pursuant to section 503, and the Attorney General does not seek review of such denial, the alien shall be released from custody.

"(B) APPLICATION OF REGULAR PROCEDURES.—Subparagraph (A) shall not prevent the arrest and detention of the alien pursuant to title II.

"(b) CONDITIONAL RELEASE IF ORDER DENIED AND REVIEW SOUGHT.—

"(1) IN GENERAL.—If a judge of the removal court denies the order sought in an application filed pursuant to section 503 and the Attorney General seeks review of such denial, the judge shall release the alien from custody subject to the least restrictive condition, or combination of conditions, of release described in section 3142(b) and clauses (i) through (xiv) of section 3142(c)(1)(B) of title 18, United States Code, that—

"(A) will reasonably assure the appearance of the alien at any future proceeding pursuant to this title; and

"(B) will not endanger the safety of any other person or the community.

"(2) NO RELEASE FOR CERTAIN ALIENS.—If the judge finds no such condition or combination of conditions, as described in paragraph (1), the alien shall remain in custody until the completion of any appeal authorized by this title.

"SEC. 507. CUSTODY AND RELEASE AFTER REMOVAL HEARING.

"(a) RELEASE.—

"(1) IN GENERAL.—Subject to paragraph (2), if the judge decides that an alien should not be removed, the alien shall be released from custody.

"(2) CUSTODY PENDING APPEAL.—If the Attorney General takes an appeal from such decision, the alien shall remain in custody, subject to the provisions of section 3142 of title 18, United States Code.

"(b) CUSTODY AND REMOVAL.—

"(1) CUSTODY.—If the judge decides that an alien shall be removed, the alien shall be detained pending the outcome of any appeal. After the conclusion of any judicial review thereof which affirms the removal order, the Attorney General shall retain the alien in custody and remove the alien to a country specified under paragraph (2).

"(2) REMOVAL.—

"(A) IN GENERAL.—The removal of an alien shall be to any country which the alien shall designate if such designation does not, in the judgment of the Attorney General, in consultation with the Secretary of State, impair the obligation of the United States under any treaty (including a treaty pertaining to extradition) or otherwise adversely affect the foreign policy of the United States.

"(B) ALTERNATE COUNTRIES.—If the alien refuses to designate a country to which the alien wishes to be removed or if the Attorney General, in consultation with the Secretary of State, determines that removal of the alien to the country so designated would impair a treaty obligation or adversely affect United States foreign policy, the Attorney General shall cause the alien to be removed to any country willing to receive such alien.

"(C) CONTINUED DETENTION.—If no country is willing to receive such an alien, the Attorney General may, notwithstanding any other provision of law, retain the alien in custody. The Attorney General, in coordination with the Secretary of State, shall make periodic efforts to reach agreement with other countries to accept such an alien and at least every 6 months shall provide to the attorney representing the alien at the removal hearing a written report on the Attorney General's efforts. Any alien in custody pursuant to this subparagraph shall be released from custody solely at the discretion of the Attorney General and subject to such conditions as the Attorney General shall deem appropriate.

"(D) FINGERPRINTING.—Before an alien is removed from the United States pursuant to this subsection, or pursuant to an order of exclusion because such alien is excludable under section 212(a)(3)(B), the alien shall be photographed and fingerprinted, and shall be advised of the provisions of section 276(b).

"(c) CONTINUED DETENTION PENDING TRIAL.—

"(1) DELAY IN REMOVAL.—The Attorney General may hold in abeyance the removal of an alien who has been ordered removed, pursuant to this title, to allow the trial of such alien on any Federal or State criminal charge and the service of any sentence of confinement resulting from such a trial.

"(2) MAINTENANCE OF CUSTODY.—Pending the commencement of any service of a sentence of confinement by an alien described in paragraph (1), such an alien shall remain in the custody of the Attorney General, unless the Attorney General determines that temporary release of the alien to the custody of State authorities for confinement in a State facility is appropriate and would not endanger national security or public safety.

"(3) SUBSEQUENT REMOVAL.—Following the completion of a sentence of confinement by an alien described in paragraph (1), or following the completion of State criminal proceedings which do not result in a sentence of confinement of an alien released to the custody of State authorities pursuant to paragraph (2), such an alien shall be returned to the custody of the Attorney General who shall proceed to the removal of the alien under this title.

"(d) APPLICATION OF CERTAIN PROVISIONS RELATING TO ESCAPE OF PRISONERS.—For purposes of sections 751 and 752 of title 18, United States Code, an alien in the custody of the Attorney General pursuant to this title shall be subject to the penalties provided by those sections in relation to a person committed to the custody of the Attorney General by virtue of an arrest on a charge of a felony.

"(e) RIGHTS OF ALIENS IN CUSTODY.—

"(1) FAMILY AND ATTORNEY VISITS.—An alien in the custody of the Attorney General pursuant to this title shall be given reasonable opportunity, as determined by the Attorney General, to communicate with and receive visits from members of the alien's family, and to contact, retain, and communicate with an attorney.

"(2) DIPLOMATIC CONTACT.—An alien in the custody of the Attorney General pursuant to this title shall have the right to contact an appropriate diplomatic or consular official of the alien's country of citizenship or nationality or of any country providing representation services therefore. The Attorney General shall notify the appropriate embassy, mission, or consular office of the alien's detention.".

(b) JURISDICTION OVER EXCLUSION ORDERS FOR ALIEN TERRORISTS.—Section 106(b) of the Immigration and Nationality Act (8 U.S.C. 1105a(b)) is amended by adding at the end the following sentence: "Jurisdiction to review an order entered pursuant to the provisions of section 235(c) concerning an alien excludable under section 212(a)(3)(B) shall rest exclusively in the United States Court of Appeals for the District of Columbia Circuit.".

(c) CRIMINAL PENALTY FOR REENTRY OF ALIEN TERRORISTS.—Section 276(b) of such Act (8 U.S.C. 1326(b)) is amended—

(1) by striking "or" at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting "; or", and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) who has been excluded from the United States pursuant to section 235(c) because the alien was excludable under section 212(a)(3)(B) or who has been removed from the United States pursuant to the provisions of title V, and who thereafter, without the permission of the Attorney General, enters the United States, or attempts to do so, shall be fined under title 18, United States Code, and imprisoned for a period of 10 years, which sentence shall not run concurrently with any other sentence.".

(d) TABLE OF CONTENTS.—The Immigration and Nationality Act is amended by adding at the end of the table of contents the following:

"TITLE V—ALIEN TERRORIST REMOVAL PROCEDURES

"Sec. 501. Definitions.
"Sec. 502. Establishment of removal court.
"Sec. 503. Removal court procedure.
"Sec. 504. Removal hearing.
"Sec. 505. Appeals.
"Sec. 506. Custody and release pending removal hearing.
"Sec. 507. Custody and release after removal hearing.".

(e) ELIMINATION OF CUSTODY REVIEW BY HABEAS CORPUS.—Section 106(a) of the Immigration and Nationality Act (8 U.S.C. 1105a(a)) is amended—

(1) in paragraph (8), by adding "and" at the end;

(2) in paragraph (9), by striking "; and" at the end and inserting a period; and

(3) by striking paragraph (10).

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to all aliens without regard to the date of entry or attempted entry into the United States.

Subtitle B—Exclusion of Members and Representatives of Terrorist Organizations

SEC. 411. EXCLUSION OF ALIEN TERRORISTS.

Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (i)—

(A) in subclause (I), by striking "or" at the end;

(B) in subclause (II), by inserting "is engaged in or" after "believe,"; and

(C) by inserting after subclause (II) the following:

"(III) is a representative (as defined in clause (iv)) of a foreign terrorist organization, as designated by the Secretary under section 219, or

"(IV) is a member of a foreign terrorist organization, as designated by the Secretary under section 219,"; and

(2) by adding at the end the following:

"(iv) REPRESENTATIVE DEFINED.—As used in this paragraph, the term 'representative' includes an officer, official, or spokesman of an organization, and any person who directs, counsels, commands, or induces an organization or its members to engage in terrorist activity.".

SEC. 412. WAIVER AUTHORITY CONCERNING NOTICE OF DENIAL OF APPLICATION FOR VISAS.

Section 212(b) of the Immigration and Nationality Act (8 U.S.C. 1182(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting each new subparagraph 2 ems to the right;

(2) by striking "If" and inserting "(1) Subject to paragraphs (2) and (3), if"; and

(3) by adding at the end the following new paragraphs:

"(2) The Secretary of State may waive the requirements of paragraph (1) with respect to a particular alien or any class or classes of excludable aliens.

"(3) Paragraph (1) does not apply to any alien excludable under paragraph (2) or (3) of subsection (a).".

SEC. 413. DENIAL OF OTHER RELIEF FOR ALIEN TERRORISTS.

(a) WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended by adding at the end the following new sentence: "For purposes of subparagraph (D), an alien who is described in section 241(a)(4)(B) shall be considered to be an alien for whom there are reasonable grounds for regarding as a danger to the security of the United States.".

(b) SUSPENSION OF DEPORTATION.—Section 244(a) of such Act (8 U.S.C. 1254(a)) is amended by striking "section 241(a)(4)(D)" and inserting "subparagraph (B) or (D) of section 241(a)(4)".

(c) VOLUNTARY DEPARTURE.—Section 244(e)(2) of such Act (8 U.S.C. 1254(e)(2)) is amended by inserting "under section 241(a)(4)(B) or" after "who is deportable".

(d) ADJUSTMENT OF STATUS.—Section 245(c) of such Act (8 U.S.C. 1255(c)) is amended—

(1) by striking "or" before "(5)", and

(2) by inserting before the period at the end the following: ", or (6) an alien who is deportable under section 241(a)(4)(B)".

(e) REGISTRY.—Section 249(d) of such Act (8 U.S.C. 1259(d)) is amended by inserting "and is not deportable under section 241(a)(4)(B)" after "ineligible to citizenship".

(f) WAIVER.—Section 243(h) of such Act (8 U.S.C. 1253(h)) is amended by adding at the end the following:

"(3) Notwithstanding any other provision of law, paragraph (1) shall apply to any alien if the Attorney General determines, in the discretion of the Attorney General, that—

"(A) such alien's life or freedom would be threatened, in the country to which such alien would be deported or returned, on account of race, religion, nationality, membership in a particular social group, or political opinion; and

"(B) the application of paragraph (1) to such alien is necessary to ensure compliance with the 1967 United Nations Protocol Relating to the Status of Refugees.".

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date if final action has not been taken on them before such date.

SEC. 414. EXCLUSION OF ALIENS WHO HAVE NOT BEEN INSPECTED AND ADMITTED.

(a) IN GENERAL.—Section 241 of the Immigration and Nationality Act (8 U.S.C. 1251) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this title, an alien found in the United States who has not been admitted to the United States after inspection in accordance with section 235 is deemed for purposes of this Act to be seeking entry and admission to the United States and shall be subject to examination and exclusion by the Attorney General under chapter 4. In the case of such an alien the Attorney General shall provide by regulation an opportunity for the alien to establish that the alien was so admitted.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than 90 days after the date of the enactment of this Act.

Subtitle C—Modification to Asylum Procedures

SEC. 421. DENIAL OF ASYLUM TO ALIEN TERRORISTS.

(a) IN GENERAL.—Section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)) is amended by adding at the end the following: "The Attorney General may not grant an alien asylum if the Attorney General determines that the alien is excludable under subclause (I), (II), or (III) of section 212(a)(3)(B)(i) or deportable under section 241(a)(4)(B), unless the Attorney General determines, in the discretion of the Attorney General, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply to asylum determinations made on or after such date.

SEC. 422. INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.

(a) IN GENERAL.—Subsection (b) of section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended to read as follows:

"(b)(1)(A) If the examining immigration officer determines that an alien seeking entry—

"(i) is excludable under section 212(a)(6)(C) or 212(a)(7), and

"(ii) does not indicate either an intention to apply for asylum under section 208 or a fear of persecution,

the officer shall order the alien excluded from the United States without further hearing or review.

"(B) The examining immigration officer shall refer for an interview by an asylum officer under subparagraph (C) any alien who is excludable under section 212(a)(6)(C) or 212(a)(7) and has indicated an intention to apply for asylum under section 208 or a fear of persecution.

"(C)(i) An asylum officer shall promptly conduct interviews of aliens referred under subparagraph (B).

"(ii) If the officer determines at the time of the interview that an alien has a credible fear of persecution (as defined in clause (v)), the alien shall be detained for an asylum hearing before an asylum officer under section 208.

"(iii)(I) Subject to subclause (II), if the officer determines that the alien does not have a credible fear of persecution, the officer shall order the alien excluded from the United States without further hearing or review.

"(II) The Attorney General shall promulgate regulations to provide for the immediate review by a supervisory asylum office at the port of entry of a determination under subclause (I).

"(iv) The Attorney General shall provide information concerning the asylum interview described in this subparagraph to aliens who may be eligible. An alien who is eligible for such interview may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, according to regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not delay the process.

"(v) For purposes of this subparagraph, the term 'credible fear of persecution' means (I) that it is more probable than not that the statements made by the alien in support of the alien's claim are true, and (II) that there is a significant possibility, in light of such statements and of such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208.

"(D) As used in this paragraph, the term 'asylum officer' means an immigration officer who—

"(i) has had professional training in country conditions, asylum law, and interview techniques; and

"(ii) is supervised by an officer who meets the condition in clause (i).

"(E)(i) An exclusion order entered in accordance with subparagraph (A) is not subject to administrative appeal, except that the Attorney General shall provide by regulation for prompt review of such an order against an alien who claims under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, after having been warned of the penalties for falsely making such claim under such conditions, to have been lawfully admitted for permanent residence.

"(ii) In any action brought against an alien under section 275(a) or section 276, the court shall not have jurisdiction to hear any claim attacking the validity of an order of exclusion entered under subparagraph (A).

"(2)(A) Except as provided in subparagraph (B), if the examining immigration officer determines that an alien seeking entry is not clearly and beyond a doubt entitled to enter, the alien shall be detained for a hearing before a special inquiry officer.

"(B) The provisions of subparagraph (A) shall not apply—

"(i) to an alien crewman,

"(ii) to an alien described in paragraph (1)(A) or (1)(C)(iii)(I), or

"(iii) if the conditions described in section 273(d) exist.

"(3) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien whose privilege to enter is so challenged, before a special inquiry officer for a hearing on exclusion of the alien.".

(b) CONFORMING AMENDMENT.—Section 237(a) of such Act (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1), by striking "Deportation" and inserting "Subject to section 235(b)(1), deportation", and

(2) in the first sentence of paragraph (2), by striking "If" and inserting "Subject to section 235(b)(1), if".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

SEC. 423. JUDICIAL REVIEW.

(a) PRECLUSION OF JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) by amending the section heading to read as follows:

"JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND EXCLUSION, AND SPECIAL EXCLUSION"; and

(2) by adding at the end the following new subsection:

"(e)(1) Notwithstanding any other provision of law, and except as provided in this subsection, no court shall have jurisdiction to review any individual determination, or to entertain any other cause or claim, arising from or relating to the implementation or operation of section 235(b)(1). Regardless of the nature of the action or claim, or the party or parties bringing the action, no court shall have jurisdiction or authority to enter declaratory, injunctive, or

other equitable relief not specifically authorized in this subsection nor to certify a class under Rule 23 of the Federal Rules of Civil Procedure.

"(2) Judicial review of any cause, claim, or individual determination covered under paragraph (1) shall only be available in habeas corpus proceedings, and shall be limited to determinations of—

"(A) whether the petitioner is an alien, if the petitioner makes a showing that the petitioner's claim of United States nationality is not frivolous;

"(B) whether the petitioner was ordered specially excluded under section 235(b)(1)(A); and

"(C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence and is entitled to such review as is provided by the Attorney General pursuant to section 235(b)(1)(E)(i).

"(3) In any case where the court determines that an alien was not ordered specially excluded, or was not properly subject to special exclusion under the regulations adopted by the Attorney General, the court may order no relief beyond requiring that the alien receive a hearing in accordance with section 236, or a determination in accordance with section 235(c) or 273(d).

"(4) In determining whether an alien has been ordered specially excluded, the court's inquiry shall be limited to whether such an order was in fact issued and whether it relates to the petitioner.".

(b) Preclusion of Collateral Attacks.—Section 235 of such Act (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

"(d) In any action brought for the assessment of penalties for improper entry or re-entry of an alien under section 275 or section 276, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion, special exclusion, or deportation entered under this section or sections 236 and 242.".

(c) Clerical Amendment.—The item relating to section 106 in the table of contents of such Act is amended to read as follows:

"Sec. 106. Judicial review of orders of deportation and exclusion, and special exclusion.".

Subtitle D—Criminal Alien Procedural Improvements

SEC. 431. RESTRICTING THE DEFENSE TO EXCLUSION BASED ON 7 YEARS PERMANENT RESIDENCE FOR CERTAIN CRIMINAL ALIENS.

The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking "has served for such felony or felonies" and all that follows through the period and inserting "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final.".

SEC. 432. ACCESS TO CERTAIN CONFIDENTIAL IMMIGRATION AND NATURALIZATION FILES THROUGH COURT ORDER.

(a) Confidentiality of Information.—Section 245A(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)) is amended—

(1) by inserting "(i)" after "except the Attorney General"; and

(2) by inserting after "Title 13" the following: "and (ii) may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used—

"(I) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; or

"(II) for criminal law enforcement purposes against the alien whose application is to be disclosed.".

(b) Applications for Adjustment of Status.—Section 210(b) of the Immigration and Nationality Act (8 U.S.C. 1160(b)) is amended—

(1) in paragraph (5), by inserting ", except as allowed by a court order issued pursuant to paragraph (6) of this subsection" after "consent of the alien"; and

(2) in paragraph (6), by inserting the following sentence before "Anyone who uses": "Notwithstanding the preceding sentence, the Attorney General may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant an order authorizing, disclosure of information contained in the application of the alien to be used for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated, or for criminal law enforcement purposes against the alien whose application is to be disclosed or to discover information leading to the location or identity of the alien.".

SEC. 433. CRIMINAL ALIEN IDENTIFICATION SYSTEM.

Section 130002(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended to read as follows:

"(a) Operation and Purpose.—The Commissioner of Immigration and Naturalization shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien identification system. The criminal alien identification system shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.".

SEC. 434. ESTABLISHING CERTAIN ALIEN SMUGGLING-RELATED CRIMES AS RICO-PREDICATE OFFENSES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by inserting "section 1028 (relating to fraud and related activity in connection with identification documents) if the act indictable under section 1028 was committed for the purpose of financial gain," before "section 1029";

(2) by inserting "section 1542 (relating to false statement in application and use of passport) if the act indictable under section 1542 was committed for the purpose of financial gain, section 1543 (relating to forgery or false use of passport) if the act indictable under section 1543 was committed for the purpose of financial gain, section 1544 (relating to misuse of passport) if the act indictable under section 1544 was committed for the purpose of financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) if the act indictable under section 1546 was committed for the purpose of financial gain, sections 1581–1588 (relating to peonage and slavery)," after "section 1513 (relating to retaliating against a witness, victim, or an informant),";

(3) by striking "or" before "(E)"; and

(4) by inserting before the period at the end the following: ", or (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain".

SEC. 435. AUTHORITY FOR ALIEN SMUGGLING INVESTIGATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (n),

(2) by redesignating paragraph (o) as paragraph (p), and

(3) by inserting after paragraph (n) the following new paragraph:

"(o) a felony violation of section 1028 (relating to production of false identification documents), section 1542 (relating to false statements in passport applications), section 1546 (relating to fraud and misuse of visas, permits, and other documents) of this title or a violation of section 274, 277, or 278 of the Immigration and Nationality Act (relating to the smuggling of aliens); or".

SEC. 436. EXPANSION OF CRITERIA FOR DEPORTATION FOR CRIMES OF MORAL TURPITUDE.

(a) In General.—Section 241(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(II)) is amended to read as follows:

"(II) is convicted of a crime for which a sentence of one year or longer may be imposed,".

(b) Effective Date.—The amendment made by subsection (a) shall apply to aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

SEC. 437. MISCELLANEOUS PROVISIONS.

(a) Use of Electronic and Telephonic Media in Deportation Hearings.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien".

(b) Codification.—

(1) Section 242(i) of such Act (8 U.S.C. 1252(i)) is amended by adding at the end the following: "Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.".

(2) Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416) is amended by striking "and nothing in" and all that follows through "1252(i))".

(3) The amendments made by this subsection shall take effect as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416).

SEC. 438. INTERIOR REPATRIATION PROGRAM.

Not later than 180 days after the date of enactment of this Act, the Attorney General and the Commissioner of Immigration and Naturalization shall develop and implement a program in which aliens who previously have illegally entered the United States not less than 3 times and are deported or returned to a country contiguous to the United States will be returned to locations not less than 500 kilometers from that country's border with the United States.

SEC. 439. DEPORTATION OF NONVIOLENT OFFENDERS PRIOR TO COMPLETION OF SENTENCE OF IMPRISONMENT.

(a) In General.—Section 242(h) of the Immigration and Nationality Act (8 U.S.C. 1252(h)) is amended to read as follows:

"(h)(1) Except as provided in paragraph (2), an alien sentenced to imprisonment may not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole, supervised release, probation, or possibility of rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.

"(2) The Attorney General is authorized to deport an alien in accordance with applicable procedures under this Act prior to the completion of a sentence of imprisonment—

"(A) in the case of an alien in the custody of the Attorney General, if the Attorney General

determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), and (ii) such deportation of the alien is appropriate and in the best interest of the United States; or

"(B) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), (ii) such deportation is appropriate and in the best interest of the State, and (iii) submits a written request to the Attorney General that such alien be so deported.

"(3) Any alien deported pursuant to this subsection shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly the expanded penalties for aliens deported under paragraph (2).".

(b) REENTRY OF ALIEN DEPORTED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding at the end the following new subsection:

"(c) Any alien deported pursuant to section 242(h)(2) who enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release. Such alien shall be subject to such other penalties relating to the reentry of deported aliens as may be available under this section or any other provision of law.".

SEC. 440. AUTHORIZING STATE AND LOCAL LAW ENFORCEMENT OFFICIALS TO ARREST AND DETAIN CERTAIN ILLEGAL ALIENS.

(a) IN GENERAL.—Notwithstanding any other provision of law, to the extent permitted by relevant State and local law, State and local law enforcement officials are authorized to arrest and detain an individual who—

(1) is an alien illegally present in the United States; and

(2) has previously been convicted of a felony in the United States and deported or left the United States after such conviction,

but only after the State or local law enforcement officials obtain appropriate confirmation from the Immigration and Naturalization Service of the status of such individual and only for such period of time as may be required for the Service to take the individual into Federal custody for purposes of deporting or removing the alien from the United States.

(b) COOPERATION.—The Attorney General shall cooperate with the States to assure that information in the control of the Attorney General, including information in the National Crime Information Center, that would assist State and local law enforcement officials in carrying out duties under subsection (a) is made available to such officials.

SEC. 441. CRIMINAL ALIEN REMOVAL.

(a) JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a(a)(10)) is amended to read as follows:

"(10) Any final order of deportation against an alien who is deportable by reason of having committed a criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i), shall not be subject to review by any court.".

(b) FINAL ORDER OF DEPORTATION DEFINED.—Section 101(a) of such Act (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

"(47)(A) The term 'order of deportation' means the order of the special inquiry officer, or other such administrative officer to whom the Attorney General has delegated the responsibility for determining whether an alien is deportable, concluding that the alien is deportable or ordering deportation.

"(B) The order described under subparagraph (A) shall become final upon the earlier of—

"(i) a determination by the Board of Immigration Appeals affirming such order; or

"(ii) the expiration of the period in which the alien is permitted to seek review of such order by the Board of Immigration Appeals.".

(c) ARREST AND CUSTODY.—Section 242(a)(2) of such Act is amended—

(1) in subparagraph (A)—

(A) by striking "(2)(A) The Attorney" and inserting "(2) The Attorney";

(B) by striking "an aggravated felony upon" and all that follows through "of the same offense)" and inserting "any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i), upon release of the alien from incarceration, shall deport the alien as expeditiously as possible"; and

(C) by striking "but subject to subparagraph (B)"; and

(2) by striking subparagraph (B).

(d) CLASSES OF EXCLUDABLE ALIENS.—Section 212(c) of such Act (8 U.S.C. 1182(c)) is amended—

(1) by striking "The first sentence of this" and inserting "This"; and

(2) by striking "has been convicted of one or more aggravated felonies" and all that follows through the end and inserting "is deportable by reason of having committed any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i).".

(e) AGGRAVATED FELONY DEFINED.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), as amended by section 222 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), is amended—

(1) in subparagraph (J), by inserting ", or an offense described in section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses)," after "corrupt organizations)";

(2) in subparagraph (K)—

(A) by striking "or" at the end of clause (i),

(B) by redesignating clause (ii) as clause (iii), and

(C) by inserting after clause (i) the following new clause:

"(ii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution) for commercial advantage; or";

(3) by amending subparagraph (N) to read as follows:

"(N) an offense described in paragraph (1)(A) or (2) of section 274(a) (relating to alien smuggling) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;";

(4) by amending subparagraph (O) to read as follows:

"(O) an offense (i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 18 months;"

(5) in subparagraph (P), by striking "15 years" and inserting "5 years", and by striking "and" at the end;

(6) by redesignating subparagraphs (O), (P), and (Q) as subparagraphs (P), (Q), and (U), respectively;

(7) by inserting after subparagraph (N) the following new subparagraph:

"(O) an offense described in section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph;"; and

(8) by inserting after subparagraph (Q), as so redesignated, the following new subparagraphs:

"(R) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which a sentence of 5 years' imprisonment or more may be imposed;

"(S) an offense relating to obstruction of justice, perjury or subornation of perjury, or bribery of a witness, for which a sentence of 5 years' imprisonment or more may be imposed;

"(T) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to convictions entered on or after the date of the enactment of this Act, except that the amendment made by subsection (a)(3) shall take effect as if included in the enactment of section 222 of the Immigration and Nationality Technical Corrections Act of 1994.

(f) DEPORTATION OF CRIMINAL ALIENS.—Section 242A(a) of such Act (8 U.S.C. 1252a) is amended—

(1) in paragraph (1)—

(A) by striking "aggravated felonies (as defined in section 101(a)(43) of this title)" and inserting "any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i)."; and

(B) by striking ", where warranted,";

(2) in paragraph (2), by striking "aggravated felony" and all that follows through "before any scheduled hearings." and inserting "any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i).".

(g) DEADLINES FOR DEPORTING ALIEN.—Section 242(c) of such Act (8 U.S.C. 1252(c)) is amended—

(1) by striking "(c) When a final order" and inserting "(c)(1) Subject to paragraph (2), when a final order"; and

(2) by inserting at the end the following new paragraph:

"(2) When a final order of deportation under administrative process is made against any alien who is deportable by reason of having committed a criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D) or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i), the Attorney General shall have 30 days from the date of the order within which to effect the alien's departure from the United States. The Attorney General shall have sole and unreviewable discretion to waive the foregoing provision for aliens who are cooperating with law enforcement authorities or for purposes of national security.".

SEC. 442. LIMITATION ON COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.

(a) IN GENERAL.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding at the end the following new subsection:

"(d) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

"(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

"(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

"(3) the entry of the order was fundamentally unfair.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to criminal proceedings initiated after the date of enactment of this Act.

SEC. 443. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ADMINISTRATIVE HEARINGS.—Section 242A(b) of the Immigration and Nationality Act (8 U.S.C. 1252a(b)), as added by section 130004(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended—

(1) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (A) and inserting "or", and

(B) by amending subparagraph (B) to read as follows:

"(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.";

(2) in paragraph (3), by striking "30 calendar days" and inserting "14 calendar days";

(3) in paragraph (4)(B), by striking "proccedings" and inserting "proceedings";

(4) in paragraph (4)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively; and

(B) by adding after subparagraph (C) the following new subparagraphs:

"(D) such proceedings are conducted in, or translated for the alien into, a language the alien understands;

"(E) a determination is made for the record at such proceedings that the individual who appears to respond in such a proceeding is an alien subject to such an expedited proceeding under this section and is, in fact, the alien named in the notice for such proceeding;".

(5) by adding at the end the following new paragraph:

"(5) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in the Attorney General's discretion.".

(b) LIMIT ON JUDICIAL REVIEW.—Subsection (d) of section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a), as added by section 130004(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended to read as follows:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(c) PRESUMPTION OF DEPORTABILITY.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by inserting after subsection (b) the following new subsection:

"(c) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

SEC. 444. EXTRADITION OF ALIENS.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "The provisions of this chapter"; and

(2) by adding at the end the following new subsections:

"(b) The provisions of this chapter shall be construed to permit, in the exercise of comity, the surrender of persons, other than citizens, nationals, or permanent residents of the United States, who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies, in writing, that—

"(1) evidence has been presented by the foreign government that indicates that had the offenses been committed in the United States, they would constitute crimes of violence as defined under section 16 of this title; and

"(2) the offenses charged are not of a political nature.

"(c) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after "United States and any foreign government," the following: "or in cases arising under section 3181(b),";

(2) in the first sentence by inserting after "treaty or convention," the following: "or provided for under section 3181(b),"; and

(3) in the third sentence by inserting after "treaty or convention," the following: "or under section 3181(b),".

TITLE V—NUCLEAR, BIOLOGICAL, AND CHEMICAL WEAPONS RESTRICTIONS

Subtitle A—Nuclear Materials

SEC. 501. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) nuclear materials, including byproduct materials, can be used to create radioactive dispersal devices that are capable of causing serious bodily injury as well as substantial damage to property and to the environment;

(2) the potential use of nuclear materials, including byproduct materials, enhances the threat posed by terrorist activities and thereby has a greater effect on the security interests of the United States;

(3) due to the widespread hazards presented by the threat of nuclear contamination, as well as nuclear bombs, the United States has a strong interest in ensuring that persons who are engaged in the illegal acquisition and use of nuclear materials, including byproduct materials, are prosecuted for their offenses;

(4) the threat that nuclear materials will be obtained and used by terrorist and other criminal organizations has increased substantially since the enactment in 1982 of the legislation that implemented the Convention on the Physical Protection of Nuclear Material, codified at section 831 of title 18, United States Code;

(5) the successful efforts to obtain agreements from other countries to dismantle nuclear weapons have resulted in increased packaging and transportation of nuclear materials, thereby decreasing the security of such materials by increasing the opportunity for unlawful diversion and theft;

(6) the trafficking in the relatively more common, commercially available, and usable nuclear and byproduct materials creates the potential for significant loss of life and environmental damage;

(7) report trafficking incidents in the early 1990's suggest that the individuals involved in trafficking in these materials from Eurasia and Eastern Europe frequently conducted their black market sales of these materials within the Federal Republic of Germany, the Baltic States, the former Soviet Union, Central Europe, and to a lesser extent in the Middle European countries;

(8) the international community has become increasingly concerned over the illegal possession of nuclear and nuclear byproduct materials;

(9) the potentially disastrous ramifications of increased access to nuclear and nuclear byproduct materials pose such a significant threat that the United States must use all lawful methods available to combat the illegal use of such materials;

(10) the United States has an interest in encouraging United States corporations to do business in the countries that comprised the former Soviet Union, and in other developing democracies;

(11) protection of such United States corporations from threats created by the unlawful use of nuclear materials is important to the success of the effort to encourage business ventures in these countries, and to further the foreign relations and commerce of the United States;

(12) the nature of nuclear contamination is such that it may affect the health, environment, and property of United States nationals even if the acts that constitute the illegal activity occur outside the territory of the United States, and are primarily directed toward foreign nationals; and

(13) there is presently no Federal criminal statute that provides adequate protection to United States interests from nonweapons grade, yet hazardous radioactive material, and from the illegal diversion of nuclear materials that are held for other than peaceful purposes.

(b) PURPOSE.—The purpose of this title is to provide Federal law enforcement agencies with the necessary means and the maximum authority permissible under the Constitution to combat the threat of nuclear contamination and proliferation that may result from the illegal possession and use of radioactive materials.

SEC. 502. EXPANSION OF SCOPE AND JURISDICTIONAL BASES OF NUCLEAR MATERIALS PROHIBITIONS.

Section 831 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "nuclear material" each place it appears and inserting "nuclear material or nuclear byproduct material";

(B) in paragraph (1)—

(i) in subparagraph (A), by inserting "or to the environment" after "property"; and

(ii) so that subparagraph (B) reads as follows:

"(B) circumstances exist, or have been represented to the defendant to exist, that are likely to cause the death or serious bodily injury to any person, or substantial damage to property or to the environment;"; and

(C) in paragraph (6), by inserting "or to the environment" after "property";

(2) in subsection (c)—

(A) so that paragraph (2) reads as follows:

"(2) an offender or a victim is—

"(A) a national of the United States; or

"(B) a United States corporation or other legal entity;";

(B) in paragraph (3)—

(i) by striking "at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and"; and

(ii) by striking "or" at the end of the paragraph;

(C) in paragraph (4)—

(i) by striking "nuclear material for peaceful purposes" and inserting "nuclear material or nuclear byproduct material"; and

(ii) by striking the period at the end of the paragraph and inserting "; or"; and

(D) by adding at the end the following new paragraph:

"(5) either—

"(A) the governmental entity under subsection (a)(5) is the United States; or

"(B) the threat under subsection (a)(6) is directed at the United States."; and

(3) in subsection (f)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "with an isotopic concentration not in excess of 80 percent plutonium 238"; and

(ii) in subparagraph (C), by striking "uranium" and inserting "enriched uranium, defined as uranium";

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(C) by inserting after paragraph (1) the following new paragraph:

"(2) the term 'nuclear byproduct material' means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;";

(D) in paragraph (4), as redesignated, by striking "and" at the end;

(E) in paragraph (5), as redesignated, by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following new paragraphs:

"(6) the term 'national of the United States' has the same meaning as in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(7) the term 'United States corporation or other legal entity' means any corporation or other entity organized under the laws of the United States or any State, Commonwealth, territory, possession, or district of the United States.".

SEC. 503. REPORT TO CONGRESS ON THEFTS OF EXPLOSIVE MATERIALS FROM ARMORIES.

(a) Study.—The Attorney General and the Secretary of Defense shall jointly conduct a study of the number and extent of thefts from military arsenals (including National Guard armories) of firearms, explosives, and other materials that are potentially useful to terrorists.

(b) Report to the Congress.—Not later than 6 months after the date of enactment of this Act, the Attorney General and the Secretary of Defense shall jointly prepare and transmit to the Congress a report on the findings of the study conducted under subsection (a).

Subtitle B—Biological Weapons Restrictions

SEC. 511. ENHANCED PENALTIES AND CONTROL OF BIOLOGICAL AGENTS.

(a) Findings.—The Congress finds that—

(1) certain biological agents have the potential to pose a severe threat to public health and safety;

(2) such biological agents can be used as weapons by individuals or organizations for the purpose of domestic or international terrorism or for other criminal purposes;

(3) the transfer and possession of potentially hazardous biological agents should be regulated to protect public health and safety; and

(4) efforts to protect the public from exposure to such agents should ensure that individuals and groups with legitimate objectives continue to have access to such agents for clinical and research purposes.

(b) Criminal Enforcement.—Chapter 10 of title 18, United States Code, is amended—

(1) in section 175(a), by inserting "or attempts, threatens, or conspires to do the same," after "to do so,";

(2) in section 177(a)(2), by inserting "threat," after "attempt,"; and

(3) in section 178—

(A) in paragraph (1), by striking "or infectious substance" and inserting "infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product";

(B) in paragraph (2)—

(i) by inserting "the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule" after "means";

(ii) by striking "production—" and inserting "production, including—";

(iii) in subparagraph (A), by inserting "or biological product that may be engineered as a result of biotechnology" after "substance"; and

(v) in subparagraph (B), by inserting "or biological product" after "isomer"; and

(C) in paragraph (4), by inserting ", or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology," after "organism".

(c) Terrorism.—Section 2332a(a) of title 18, United States Code, is amended—

(1) by inserting ", threatens," after "attempts"; and

(2) by inserting ", including any biological agent, toxin, or vector (as those terms are defined in section 178)" after "destruction".

(d) Regulatory Control of Biological Agents.—

(1) List of biological agents.—

(A) In general.—The Secretary shall, through regulations promulgated under subsection (f), establish and maintain a list of each biological agent that has the potential to pose a severe threat to public health and safety.

(B) Criteria.—In determining whether to include an agent on the list under subparagraph (A), the Secretary shall—

(i) consider—

(I) the effect on human health of exposure to the agent;

(II) the degree of contagiousness of the agent and the methods by which the agent is transferred to humans;

(III) the availability and effectiveness of immunizations to prevent and treatments for any illness resulting from infection by the agent; and

(IV) any other criteria that the Secretary considers appropriate; and

(ii) consult with scientific experts representing appropriate professional groups.

(e) Regulation of Transfers of Listed Biological Agents.—The Secretary shall, through regulations promulgated under subsection (f), provide for—

(1) the establishment and enforcement of safety procedures for the transfer of biological agents listed pursuant subsection (d)(1), including measures to ensure—

(A) proper training and appropriate skills to handle such agents; and

(B) proper laboratory facilities to contain and dispose of such agents;

(2) safeguards to prevent access to such agents for use in domestic or international terrorism or for any other criminal purpose;

(3) the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of a biological agent in violation of the safety procedures established under paragraph (1) or the safeguards established under paragraph (2); and

(4) appropriate availability of biological agents for research, education, and other legitimate purposes.

(f) Regulations.—The Secretary shall carry out this section by issuing—

(1) proposed rules not later than 60 days after the date of enactment of this Act; and

(2) final rules not later than 120 days after the date of enactment of this Act.

(g) Definitions.—For purposes of this section—

(1) the term "biological agent" has the same meaning as in section 178 of title 18, United States Code; and

(2) the term "Secretary" means the Secretary of Health and Human Services.

Subtitle C—Chemical Weapons Restrictions

SEC. 521. CHEMICAL WEAPONS OF MASS DESTRUCTION; STUDY OF FACILITY FOR TRAINING AND EVALUATION OF PERSONNEL WHO RESPOND TO USE OF CHEMICAL OR BIOLOGICAL WEAPONS IN URBAN AND SUBURBAN AREAS.

(a) Chemical Weapons of Mass Destruction.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after section 2332b as added by section 702 of this Act the following new section:

"§2332c. Use of chemical weapons

"(a) Prohibited Acts.—

"(1) Offense.—A person shall be punished under paragraph (2) if that person, without lawful authority, uses, or attempts or conspires to use, a chemical weapon against—

"(A) a national of the United States while such national is outside of the United States;

"(B) any person within the United States; or

"(C) any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States.

"(2) Penalties.—A person who violates paragraph (1)—

"(A) shall be imprisoned for any term of years or for life; or

"(B) if death results from that violation, shall be punished by death or imprisoned for any term of years or for life.

"(b) Definitions.—As used in this section—

"(1) the term 'national of the United States' has the same meaning as in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) the term 'chemical weapon' means any weapon that is designed or intended to cause widespread death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals or precursors of toxic or poisonous chemicals.

(b) Study of Facility for Training and Evaluation of Personnel Who Respond To Use of Chemical or Biological Weapons in Urban and Suburban Areas.—

(1) Findings.—The Congress finds that—

(A) the threat of the use of chemical and biological weapons by Third World countries and by terrorist organizations has increased in recent years and is now a problem of worldwide significance;

(B) the military and law enforcement agencies in the United States that are responsible for responding to the use of such weapons require additional testing, training, and evaluation facilities to ensure that the personnel of such agencies discharge their responsibilities effectively; and

(C) a facility that recreates urban and suburban locations would provide an especially effective environment in which to test, train, and evaluate such personnel for that purpose.

(2) Study of facility.—

(A) In general.—The President shall establish an interagency task force to determine the feasibility and advisability of establishing a facility that recreates both an urban environment and a suburban environment in such a way as to permit the effective testing, training, and evaluation in such environments of government personnel who are responsible for responding to *the use of chemical and biological weapons in the United States.*

(B) DESCRIPTION OF FACILITY.—The facility considered under subparagraph (A) shall include—

(i) facilities common to urban environments (including a multistory building and an underground rail transit system) and to suburban environments;

(ii) the capacity to produce controllable releases of chemical and biological agents from a variety of urban and suburban structures, including laboratories, small buildings, and dwellings;

(iii) the capacity to produce controllable releases of chemical and biological agents into sewage, water, and air management systems common to urban areas and suburban areas;

(iv) chemical and biocontaminant facilities at the P3 and P4 levels;

(v) the capacity to test and evaluate the effectiveness of a variety of protective clothing and facilities and survival techniques in urban areas and suburban areas; and

(vi) the capacity to test and evaluate the effectiveness of variable sensor arrays (including video, audio, meteorological, chemical, and biosensor arrays) in urban areas and suburban areas.

(C) SENSE OF CONGRESS.—It is the sense of Congress that the facility considered under subparagraph (A) shall, if established—

(i) be under the jurisdiction of the Secretary of Defense; and

(ii) be located at a principal facility of the Department of Defense for the testing and evaluation of the use of chemical and biological weapons during any period of armed conflict.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after the item added by section 702 of this Act that relates to section 2332b the following new item:

"2332c. Use of chemical weapons.".

TITLE VI—IMPLEMENTATION OF PLASTIC EXPLOSIVES CONVENTION

SEC. 601. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) plastic explosives were used by terrorists in the bombings of Pan American Airlines flight number 103 in December 1988 and UTA flight number 722 in September 1989;

(2) plastic explosives can be used with little likelihood of detection for acts of unlawful interference with civil aviation, maritime navigation, and other modes of transportation;

(3) the criminal use of plastic explosives places innocent lives in jeopardy, endangers national security, affects domestic tranquility, and gravely affects interstate and foreign commerce;

(4) the marking of plastic explosives for the purpose of detection would contribute significantly to the prevention and punishment of such unlawful acts; and

(5) for the purpose of deterring and detecting such unlawful acts, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991, requires each contracting State to adopt appropriate measures to ensure that plastic explosives are duly marked and controlled.

(b) PURPOSE.—The purpose of this title is to fully implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

SEC. 602. DEFINITIONS.

Section 841 of title 18, United States Code, is amended by adding at the end the following new subsections:

"(o) 'Convention on the Marking of Plastic Explosives' means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

"(p) 'Detection agent' means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

"(1) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$*, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;*

"(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB), $C_6H_{12}(NO_2)_2$*, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;*

"(3) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$*, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;*

"(4) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$*, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and*

"(5) any other substance in the concentration specified by the Secretary, after consultation with the Secretary of State and the Secretary of Defense, that has been added to the table in part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

"(q) 'Plastic explosive' means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form has a vapor pressure less than 10^{-4} *Pa at a temperature of 25°C., is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.".*

SEC. 603. REQUIREMENT OF DETECTION AGENTS FOR PLASTIC EXPLOSIVES.

Section 842 of title 18, United States Code, is amended by adding at the end the following new subsections:

"(l) It shall be unlawful for any person to manufacture any plastic explosive that does not contain a detection agent.

"(m)(1) It shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive that does not contain a detection agent.

"(2) This subsection does not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by or on behalf of any agency of the United States performing military or police functions (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

"(n)(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive that does not contain a detection agent.

"(2) This subsection does not apply to—

"(A) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by any person during the period beginning on that date and ending 3 years after that date of enactment; or

"(B) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

"(o) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the date of enactment of this subsection, to fail to report to the Secretary within 120 days after such date of enactment the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Secretary may prescribe by regulation.".

SEC. 604. CRIMINAL SANCTIONS.

Section 844(a) of title 18, United States Code, is amended to read as follows:

"(a) Any person who violates any of subsections (a) through (i) or (l) through (o) of section 842 shall be fined under this title, imprisoned for not more than 10 years, or both.".

SEC. 605. EXCEPTIONS.

Section 845 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "(l), (m), (n), or (o) of section 842 and subsections" after "subsections"; and

(B) in paragraph (1), by inserting before the semicolon ", and which pertain to safety"; and

(2) by adding at the end the following new subsection:

"(c) It is an affirmative defense against any proceeding involving subsections (l) through (o) of section 842 if the proponent proves by a preponderance of the evidence that the plastic explosive—

"(1) consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

"(A) research, development, or testing of new or modified explosive materials;

"(B) training in explosives detection or development or testing of explosives detection equipment; or

"(C) forensic science purposes; or

"(2) was plastic explosive that, within 3 years after the date of enactment of the Antiterrorism and Effective Death Penalty Act of 1996, will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located.

"(3) For purposes of this subsection, the term 'military device' includes, but is not restricted to, shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes.".

SEC. 606. SEIZURE AND FORFEITURE OF PLASTIC EXPLOSIVES.

Section 596(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1595a(c)(1)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by striking the period and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) is a plastic explosive, as defined in section 841(q) of title 18, United States Code, which does not contain a detection agent, as defined in section 841(p) of such title.".

SEC. 607. EFFECTIVE DATE.

Except as otherwise provided in this title, this title and the amendments made by this title shall take effect 1 year after the date of enactment of this Act.

TITLE VII—CRIMINAL LAW MODIFICATIONS TO COUNTER TERRORISM

Subtitle A—Crimes and Penalties

SEC. 701. INCREASED PENALTY FOR CONSPIRACIES INVOLVING EXPLOSIVES.

Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 702. ACTS OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.

(a) OFFENSE.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after section 2332a the following new section:

"§2332b. Acts of terrorism transcending national boundaries

"(a) PROHIBITED ACTS.—

"(1) OFFENSES.—Whoever, involving conduct transcending national boundaries and in a circumstance described in subsection (b)—

"(A) kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any person within the United States; or

"(B) creates a substantial risk of serious bodily injury to any other person by destroying or damaging any structure, conveyance, or other real or personal property within the United States or by attempting or conspiring to destroy or damage any structure, conveyance, or other real or personal property within the United States, in violation of the laws of any State, or the United States, shall be punished as prescribed in subsection (c).

"(2) TREATMENT OF THREATS, ATTEMPTS AND CONSPIRACIES.—Whoever threatens to commit an offense under paragraph (1), or attempts or conspires to do so, shall be punished under subsection (c).

"(b) JURISDICTIONAL BASES.—

"(1) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are—

"(A) any of the offenders uses the mail or any facility of interstate or foreign commerce in furtherance of the offense;

"(B) the offense obstructs, delays, or affects interstate or foreign commerce, or would have so obstructed, delayed, or affected interstate or foreign commerce if the offense had been consummated;

"(C) the victim, or intended victim, is the United States Government, a member of the uniformed services, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or of any department or agency, of the United States;

"(D) the structure, conveyance, or other real or personal property is, in whole or in part, owned, possessed, or leased to the United States, or any department or agency of the United States;

"(E) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

"(F) the offense is committed within the special maritime and territorial jurisdiction of the United States.

"(2) CO-CONSPIRATORS AND ACCESSORIES AFTER THE FACT.—Jurisdiction shall exist over all principals and co-conspirators of an offense under this section, and accessories after the fact to any offense under this section, if at least one of the circumstances described in subparagraphs (A) through (F) of paragraph (1) is applicable to at least one offender.

"(c) PENALTIES.—

"(1) PENALTIES.—Whoever violates this section shall be punished—

"(A) for a killing, or if death results to any person from any other conduct prohibited by this section, by death, or by imprisonment for any term of years or for life;

"(B) for kidnapping, by imprisonment for any term of years or for life;

"(C) for maiming, by imprisonment for not more than 35 years;

"(D) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years;

"(E) for destroying or damaging any structure, conveyance, or other real or personal property, by imprisonment for not more than 25 years;

"(F) for attempting or conspiring to commit an offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and

"(G) for threatening to commit an offense under this section, by imprisonment for not more than 10 years.

"(2) CONSECUTIVE SENTENCE.—Notwithstanding any other provision of law, the court shall not place on probation any person convicted of a violation of this section; nor shall the term of imprisonment imposed under this section run concurrently with any other term of imprisonment.

"(d) PROOF REQUIREMENTS.—The following shall apply to prosecutions under this section:

"(1) KNOWLEDGE.—The prosecution is not required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

"(2) STATE LAW.—In a prosecution under this section that is based upon the adoption of State law, only the elements of the offense under State law, and not any provisions pertaining to criminal procedure or evidence, are adopted.

"(e) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction—

"(1) over any offense under subsection (a), including any threat, attempt, or conspiracy to commit such offense; and

"(2) over conduct which, under section 3, renders any person an accessory after the fact to an offense under subsection (a).

"(f) INVESTIGATIVE AUTHORITY.—In addition to any other investigative authority with respect to violations of this title, the Attorney General shall have primary investigative responsibility for all Federal crimes of terrorism, and the Secretary of the Treasury shall assist the Attorney General at the request of the Attorney General. Nothing in this section shall be construed to interfere with the authority of the United States Secret Service under section 3056.

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'conduct transcending national boundaries' means conduct occurring outside of the United States in addition to the conduct occurring in the United States;

"(2) the term 'facility of interstate or foreign commerce' has the meaning given that term in section 1958(b)(2);

"(3) the term 'serious bodily injury' has the meaning given that term in section 1365(g)(3);

"(4) the term 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States, determined in accordance with international law; and

"(5) the term 'Federal crime of terrorism' means an offense that—

"(A) is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct; and

"(B) is a violation of—

"(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 (relating to biological weapons), 351 (relating to congressional, cabinet, and Supreme Court assassination, kidnapping, and assault), 831 (relating to nuclear materials), 842 (m) or (n) (relating to plastic explosives), 844(e) (relating to certain bombings), 844 (f) or (i) (relating to arson and bombing of certain property), 956 (relating to conspiracy to injure property of a foreign government), 1114 (relating to protection of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to injury of Government property or contracts), 1362 (relating to destruction of communication lines, stations, or systems), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366 (relating to destruction of an energy facility), 1751 (relating to Presidential and Presidential staff assassination, kidnapping, and assault), 2152 (relating to injury of fortifications, harbor defenses, or defensive sea areas), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and other violence against United States nationals occurring outside of the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture);

"(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284); or

"(iii) section 46502 (relating to aircraft piracy) or section 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after the item relating to section 2332a the following new item:

"2332b. Acts of terrorism transcending national boundaries.".

(c) STATUTE OF LIMITATIONS AMENDMENT.—Section 3286 of title 18, United States Code, is amended—

(1) by striking "any offense" and inserting "any non-capital offense";

(2) by striking "36" and inserting "37";

(3) by striking "2331" and inserting "2332";

(4) by striking "2339" and inserting "2332a"; and

(5) by inserting "2332b (acts of terrorism transcending national boundaries)," after "(use of weapons of mass destruction),".

(d) PRESUMPTIVE DETENTION.—Section 3142(e) of title 18, United States Code, is amended by inserting ", 956(a), or 2332b" after "section 924(c)".

SEC. 703. EXPANSION OF PROVISION RELATING TO DESTRUCTION OR INJURY OF PROPERTY WITHIN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

Section 1363 of title 18, United States Code, is amended by striking "any building," and all that follows through "shipping" and inserting "any structure, conveyance, or other real or personal property".

SEC. 704. CONSPIRACY TO HARM PEOPLE AND PROPERTY OVERSEAS.

(a) IN GENERAL.—Section 956 of chapter 45 of title 18, United States Code, is amended to read as follows:

"§956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country

"(a)(1) Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person or persons are located, to commit at any place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming if committed in the special maritime and territorial jurisdiction of the United States shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be punished as provided in subsection (a)(2).

"(2) The punishment for an offense under subsection (a)(1) of this section is—

"(A) imprisonment for any term of years or for life if the offense is conspiracy to murder or kidnap; and

"(B) imprisonment for not more than 35 years if the offense is conspiracy to maim.

"(b) Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of where such other person or persons are located, to damage or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, airport, airfield, or other public utility, public conveyance, or public structure, or any religious, educational, or cultural property so situated, shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be imprisoned not more than 25 years.".

(b) CLERICAL AMENDMENT.—The item relating to section 956 in the table of sections at the beginning of chapter 45 of title 18, United States Code, is amended to read as follows:

"956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country.".

SEC. 705. INCREASED PENALTIES FOR CERTAIN TERRORISM CRIMES.

(a) IN GENERAL.—Title 18, United States Code, is amended—

(1) in section 114, by striking "maim or disfigure" and inserting "torture (as defined in section 2340), maim, or disfigure";

(2) in section 755, by striking "two years" and inserting "5 years";

(3) in section 756, by striking "one year" and inserting "five years";

(4) in section 878(a), by striking "by killing, kidnapping, or assaulting a foreign official, official guest, or internationally protected person";

(5) in section 1113, by striking "three years" and inserting "seven years"; and

(6) in section 2332(c), by striking "five" and inserting "ten".

(b) PENALTY FOR CARRYING WEAPONS OR EXPLOSIVES ON AN AIRCRAFT.—Section 46505 of title 49, United States Code, is amended—

(1) in subsection (b), by striking "one year" and inserting "10 years"; and

(2) in subsection (c), by striking "5" and inserting "15".

SEC. 706. MANDATORY PENALTY FOR TRANSFERRING AN EXPLOSIVE MATERIAL KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(o) Whoever knowingly transfers any explosive materials, knowing or having reasonable cause to believe that such explosive materials will be used to commit a crime of violence (as defined in section 924(c)(3)) or drug trafficking crime (as defined in section 924(c)(2)) shall be subject to the same penalties as may be imposed under subsection (h) for a first conviction for the use or carrying of an explosive material.".

SEC. 707. POSSESSION OF STOLEN EXPLOSIVES PROHIBITED.

Section 842(h) of title 18, United States Code, is amended to read as follows:

"(h) It shall be unlawful for any person to receive, possess, transport, ship, conceal, store, barter, sell, dispose of, or pledge or accept as security for a loan, any stolen explosive materials which are moving as, which are part of, which constitute, or which have been shipped or transported in, interstate or foreign commerce, either before or after such materials were stolen, knowing or having reasonable cause to believe that the explosive materials were stolen.".

SEC. 708. ENHANCED PENALTIES FOR USE OF EXPLOSIVES OR ARSON CRIMES.

(a) IN GENERAL.—Section 844 of title 18, United States Code, is amended—

(1) in subsection (e), by striking "five" and inserting "10";

(2) by amending subsection (f) to read as follows:

"(f)(1) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other personal or real property in whole or in part owned or possessed by, or leased to, the United States, or any department or agency thereof, shall be imprisoned for not less than 5 years and not more than 20 years, fined under this title, or both.

"(2) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct, directly or proximately causes personal injury or creates a substantial risk of injury to any person, including any public safety officer performing duties, shall be imprisoned for not less than 7 years and not more than 40 years, fined under this title, or both.

"(3) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct directly or proximately causes the death of any person, including any public safety officer performing duties, shall be subject to the death penalty, or imprisoned for not less than 20 years or for life, fined under this title, or both.";

(3) in subsection (h)—

(A) in the first sentence, by striking "5 years but not more than 15 years" and inserting "10 years"; and

(B) in the second sentence, by striking "10 years but not more than 25 years" and inserting "20 years"; and

(4) in subsection (i)—

(A) by striking "not more than 20 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed," and inserting "not less than 5 years and not more than 20 years, fined under this title"; and

(B) by striking "not more than 40 years, fined the greater of a fine under this title or the cost of repairing or replacing any property that is damaged or destroyed," and inserting "not less than 7 years and not more than 40 years, fined under this title".

(b) CONFORMING AMENDMENT.—Section 81 of title 18, United States Code, is amended by striking "fined under this title or imprisoned not more than five years, or both" and inserting "imprisoned for not more than 25 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both".

(c) STATUTE OF LIMITATION FOR ARSON OFFENSES.—

(1) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following new section:

"§3295. Arson offenses

"No person shall be prosecuted, tried, or punished for any non-capital offense under section 81 or subsection (f), (h), or (i) of section 844 unless the indictment is found or the information is instituted not later than 10 years after the date on which the offense was committed.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

"3295. Arson offenses.".

(3) CONFORMING AMENDMENT.—Section 844(i) of title 18, United States Code, is amended by striking the last sentence.

SEC. 709. DETERMINATION OF CONSTITUTIONALITY OF RESTRICTING THE DISSEMINATION OF BOMB-MAKING INSTRUCTIONAL MATERIALS.

(a) STUDY.—The Attorney General, in consultation with such other officials and individuals as the Attorney General considers appropriate, shall conduct a study concerning—

(1) the extent to which there is available to the public material in any medium (including print, electronic, or film) that provides instruction on how to make bombs, destructive devices, or weapons of mass destruction;

(2) the extent to which information gained from such material has been used in incidents of domestic or international terrorism;

(3) the likelihood that such information may be used in future incidents of terrorism;

(4) the application of Federal laws in effect on the date of enactment of this Act to such material;

(5) the need and utility, if any, for additional laws relating to such material; and

(6) an assessment of the extent to which the first amendment protects such material and its private and commercial distribution.

(b) REPORT.—

(1) REQUIREMENT.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section.

(2) AVAILABILITY.—The Attorney General shall make the report submitted under this subsection available to the public.

Subtitle B—Criminal Procedures

SEC. 721. CLARIFICATION AND EXTENSION OF CRIMINAL JURISDICTION OVER CERTAIN TERRORISM OFFENSES OVERSEAS.

(a) AIRCRAFT PIRACY.—Section 46502(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking "and later found in the United States";

(2) so that paragraph (2) reads as follows:

"(2) There is jurisdiction over the offense in paragraph (1) if—

"(A) a national of the United States was aboard the aircraft;

"(B) an offender is a national of the United States; or

"(C) an offender is afterwards found in the United States."; and

(3) by inserting after paragraph (2) the following:

"(3) For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.—Section 32(b) of title 18, United States Code, is amended—

(1) by striking ", if the offender is later found in the United States,"; and

(2) by inserting at the end the following: "There is jurisdiction over an offense under this subsection if a national of the United States was

on board, or would have been on board, the aircraft; an offender is a national of the United States; or an offender is afterwards found in the United States. For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act.".

(c) MURDER OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 1116 of title 18, United States Code, is amended—

(1) in subsection (b), by adding at the end the following:

"(7) 'National of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''; and

(2) in subsection (c), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(d) PROTECTION OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 112 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "'national of the United States'," before "and"; and

(2) in subsection (e), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(e) THREATS AND EXTORTION AGAINST FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 878 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "'national of the United States'," before "and"; and

(2) in subsection (d), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(f) KIDNAPPING OF INTERNATIONALLY PROTECTED PERSONS.—Section 1201(e) of title 18, United States Code, is amended—

(1) by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States."; and

(2) by adding at the end the following: "For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(g) VIOLENCE AT INTERNATIONAL AIRPORTS.—Section 37(b)(2) of title 18, United States Code, is amended—

(1) by inserting "(A)" before "the offender is later found in the United States"; and

(2) by inserting "; or (B) an offender or a victim is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)))" after "the offender is later found in the United States".

(h) BIOLOGICAL WEAPONS.—Section 178 of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding the following at the end:

"(5) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

SEC. 722. CLARIFICATION OF MARITIME VIOLENCE JURISDICTION.

Section 2280(b)(1)(A) of title 18, United States Code, is amended—

(1) in clause (ii), by striking "and the activity is not prohibited as a crime by the State in which the activity takes place"; and

(2) in clause (iii), by striking "the activity takes place on a ship flying the flag of a foreign country or outside the United States,".

SEC. 723. INCREASED AND ALTERNATE CONSPIRACY PENALTIES FOR TERRORISM OFFENSES.

(a) TITLE 18 OFFENSES.—

(1) Sections 32(a)(7), 32(b)(4), 37(a), 115(a)(1)(A), 115(a)(2), 1203(a), 2280(a)(1)(H), and 2281(a)(1)(F) of title 18, United States Code, are each amended by inserting "or conspires" after "attempts".

(2) Section 115(b)(2) of title 18, United States Code, is amended by striking "or attempted kidnapping" both places it appears and inserting ", attempted kidnapping, or conspiracy to kidnap".

(3)(A) Section 115(b)(3) of title 18, United States Code, is amended by striking "or attempted murder" and inserting ", attempted murder, or conspiracy to murder".

(B) Section 115(b)(3) of title 18, United States Code, is amended by striking "and 1113" and inserting ", 1113, and 1117".

(b) AIRCRAFT PIRACY.—

(1) Section 46502(a)(2) of title 49, United States Code, is amended by inserting "or conspiring" after "attempting".

(2) Section 46502(b)(1) of title 49, United States Code, is amended by inserting "or conspiring to commit" after "committing".

SEC. 724. CLARIFICATION OF FEDERAL JURISDICTION OVER BOMB THREATS.

Section 844(e) of title 18, United States Code, is amended by striking "commerce," and inserting "interstate or foreign commerce, or in or affecting interstate or foreign commerce,".

SEC. 725. EXPANSION AND MODIFICATION OF WEAPONS OF MASS DESTRUCTION STATUTE.

Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in the subsection heading, by inserting "AGAINST A NATIONAL OF THE UNITED STATES OR WITHIN THE UNITED STATES" after "OFFENSE";

(B) by striking "uses, or attempts" and inserting ", without lawful authority, uses, threatens, or attempts"; and

(C) in paragraph (2), by inserting ", and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce" before the semicolon at the end;

(2) in subsection (b), by striking subparagraph (B) and inserting the following:

"(B) any weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;";

(3) by redesignating subsection (b) as subsection (c); and

(4) by inserting after subsection (a) the following new subsection:

"(b) OFFENSE BY NATIONAL OF THE UNITED STATES OUTSIDE OF THE UNITED STATES.—Any national of the United States who, without lawful authority, uses, or threatens, attempts, or conspires to use, a weapon of mass destruction outside of the United States shall be imprisoned for any term of years or for life, and if death results, shall be punished by death, or by imprisonment for any term of years or for life.".

SEC. 726. ADDITION OF TERRORISM OFFENSES TO THE MONEY LAUNDERING STATUTE.

Section 1956(c)(7) of title 18, United States Code, is amended—

(1) in subparagraph (B), by amending clause (ii) to read as follows:

"(ii) murder, kidnapping, robbery, extortion, or destruction of property by means of explosive or fire;"; and

(2) in subparagraph (D)—

(A) by inserting after "an offense under" the following: "section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member),";

(B) by inserting after "section 215 (relating to commissions or gifts for procuring loans)," the following: "section 351 (relating to congressional or Cabinet officer assassination),";

(C) by inserting after "section 798 (relating to espionage)," the following: "section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce),";

(D) by inserting after "section 875 (relating to interstate communications)," the following: "section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),";

(E) by inserting after "section 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution)," the following: "section 1111 (relating to murder), section 1114 (relating to murder of United States law enforcement officials), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons),";

(F) by inserting after "section 1203 (relating to hostage taking)," the following: "section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),";

(G) by inserting after "section 1708 (relating to theft from the mail)," the following: "section 1751 (relating to Presidential assassination),";

(H) by inserting after "2114 (relating to bank and postal robbery and theft)," the following: "section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),";

(I) by striking "or section 2320" and inserting "section 2320"; and

(J) by striking "of this title" and inserting the following: ", section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), or section 2339A (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code,".

SEC. 727. PROTECTION OF FEDERAL EMPLOYEES; PROTECTION OF CURRENT OR FORMER OFFICIALS, OFFICERS, OR EMPLOYEES OF THE UNITED STATES.

(a) HOMICIDE.—Section 1114 of title 18, United States Code, is amended to read as follows:

"§1114. Protection of officers and employees of the United States

"Whoever kills or attempts to kill any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance, shall be punished—

"(1) in the case of murder, as provided under section 1111;

"(2) in the case of manslaughter, as provided under section 1112; or

"(3) in the case of attempted murder or manslaughter, as provided in section 1113.".

(b) THREATS AGAINST FORMER OFFICERS AND EMPLOYEES.—

(1) IN GENERAL.—Section 115(a)(2) of title 18, United States Code, is amended by inserting ", or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in paragraph (1), or" after "assaults, kidnaps, or murders, or attempts to kidnap or murder".

(2) LIMITATION.—Section 115 of title 18, United States Code, is amended by adding at the end the following:

"(d) This section shall not interfere with the investigative authority of the United States Secret Service, as provided under section 3056, 871, and 879 of this title.".

(c) AMENDMENT TO CLARIFY THE MEANING OF THE TERM DEADLY OR DANGEROUS WEAPON IN THE PROHIBITION ON ASSAULT ON FEDERAL OFFICERS OR EMPLOYEES.—Section 111(b) of title 18, United States Code, is amended by inserting "(including a weapon intended to cause death or danger but that fails to do so by reason of a defective component)" after "deadly or dangerous weapon".

SEC. 728. DEATH PENALTY AGGRAVATING FACTOR.

Section 3592(c) of title 18, United States Code, is amended by inserting after paragraph (15) the following new paragraph:

"(16) MULTIPLE KILLINGS OR ATTEMPTED KILLINGS.—The defendant intentionally killed or attempted to kill more than one person in a single criminal episode.".

SEC. 729. DETENTION HEARING.

Section 3142(f) of title 18, United States Code, is amended by inserting "(not including any intermediate Saturday, Sunday, or legal holiday)" after "five days" and after "three days".

SEC. 730. DIRECTIONS TO SENTENCING COMMISSION.

The United States Sentencing Commission shall forthwith, in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired, amend the sentencing guidelines so that the chapter 3 adjustment relating to international terrorism only applies to Federal crimes of terrorism, as defined in section 2332b(g) of title 18, United States Code.

SEC. 731. EXCLUSION OF CERTAIN TYPES OF INFORMATION FROM DEFINITIONS.

Section 2510 of title 18, United States Code, is amended—

(1) in paragraph (12)—

(A) by striking "or" at the end of subparagraph (B);

(B) by adding "or" at the end of subparagraph (C); and

(C) by adding at the end the following new subparagraph:

"(D) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds;"; and

(2) in paragraph (16)—

(A) by adding "or" at the end of subparagraph (D);

(B) by striking "or" at the end of subparagraph (E); and

(C) by striking subparagraph (F).

SEC. 732. MARKING, RENDERING INERT, AND LICENSING OF EXPLOSIVE MATERIALS.

(a) STUDY.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Secretary of the Treasury (referred to in this section as the "Secretary") shall conduct a study of—

(A) the tagging of explosive materials for purposes of detection and identification;

(B) the feasibility and practicability of rendering common chemicals used to manufacture explosive materials inert;

(C) the feasibility and practicability of imposing controls on certain precursor chemicals used to manufacture explosive materials; and

(D) State licensing requirements for the purchase and use of commercial high explosives, including—

(i) detonators;

(ii) detonating cords;

(iii) dynamite;

(iv) water gel;

(v) emulsion;

(vi) blasting agents; and

(vii) boosters.

(2) EXCLUSION.—No study conducted under this subsection or regulation proposed under subsection (a) shall include black or smokeless powder among the explosive materials considered.

(b) CONSULTATION.—

(1) IN GENERAL.—In conducting the study under subsection (a), the Secretary shall consult with—

(A) Federal, State, and local officials with expertise in the area of chemicals used to manufacture explosive materials; and

(B) such other individuals as the Secretary determines are necessary.

(2) FERTILIZER RESEARCH CENTERS.—In conducting any portion of the study under subsection (a) relating to the regulation and use of fertilizer as a pre-explosive material, the Secretary of the Treasury shall consult with and receive input from non-profit fertilizer research centers.

(c) REPORT.—Not later than 30 days after the completion of the study conducted under subsection (a), the Secretary shall submit a report to the Congress, which shall be made public, that contains—

(1) the results of the study;

(2) any recommendations for legislation; and

(3) any opinions and findings of the fertilizer research centers.

(d) HEARINGS.—Congress shall have not less than 90 days after the submission of the report under subsection (c) to—

(1) review the results of the study; and

(2) hold hearings and receive testimony regarding the recommendations of the Secretary.

(e) REGULATIONS.—

(1) IN GENERAL.—Not later than 6 months after the submission of the report required by subsection (c), the Secretary may submit to Congress and publish in the Federal Register draft regulations for the addition of tracer elements to explosive materials manufactured in or imported into the United States, of such character and in such quantity as the Secretary may authorize or require, if the results of the study conducted under subsection (a) indicate that the tracer elements—

(A) will not pose a risk to human life or safety;

(B) will substantially assist law enforcement officers in their investigative efforts;

(C) will not substantially impair the quality of the explosive materials for their intended lawful use;

(D) will not have a substantially adverse effect on the environment; and

(E) the costs associated with the addition of the tracers will not outweigh benefits of their inclusion.

(2) EFFECTIVE DATE.—The regulations under paragraph (1) shall take effect 270 days after the Secretary submits proposed regulations to Congress pursuant to paragraph (1), except to the extent that the effective date is revised or the regulation is otherwise modified or disapproved by an Act of Congress.

TITLE VIII—ASSISTANCE TO LAW ENFORCEMENT

Subtitle A—Resources and Security

SEC. 801. OVERSEAS LAW ENFORCEMENT TRAINING ACTIVITIES.

The Attorney General and the Secretary of the Treasury are authorized to support law enforcement training activities in foreign countries, subject to the concurrence of the Secretary of State, for the purpose of improving the effectiveness of the United States in investigating and prosecuting transnational offenses.

SEC. 802. SENSE OF CONGRESS.

It is the sense of the Congress that, whenever practicable, each recipient of any sum authorized to be appropriated by this Act, should use the money to purchase American-made products.

SEC. 803. PROTECTION OF FEDERAL GOVERNMENT BUILDINGS IN THE DISTRICT OF COLUMBIA.

The Attorney General and the Secretary of the Treasury may prohibit—

(1) any vehicles from parking or standing on any street or roadway adjacent to any building in the District of Columbia used by law enforcement authorities subject to their jurisdiction, that is in whole or in part owned, possessed, or leased to the Federal Government; and

(2) any person or entity from conducting business on any property immediately adjacent to any building described in paragraph (1).

SEC. 804. REQUIREMENT TO PRESERVE RECORD EVIDENCE.

Section 2703 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) REQUIREMENT TO PRESERVE EVIDENCE.—

"(1) IN GENERAL.—A provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records, and other evidence in its possession pending the issuance of a court order or other process.

"(2) PERIOD OF RETENTION.—Records referred to in paragraph (1) shall be retained for a period of 90 days, which shall be extended for an additional 90-day period upon a renewed request by the governmental entity.".

SEC. 805. DETERRENT AGAINST TERRORIST ACTIVITY DAMAGING A FEDERAL INTEREST COMPUTER.

(a) REVIEW.—Not later than 60 calendar days after the date of enactment of this Act, the United States Sentencing Commission shall review the deterrent effect of existing guideline levels as they apply to paragraphs (4) and (5) of section 1030(a) of title 18, United States Code.

(b) REPORT.—The United States Sentencing Commission shall prepare and transmit a report to the Congress on the findings under the study conducted under subsection (a).

(c) AMENDMENT OF GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the sentencing guidelines to ensure any individual convicted of a violation of paragraph (4) or (5) of section 1030(a) of title 18, United States Code, is imprisoned for not less than 6 months.

SEC. 806. COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT.

(a) ESTABLISHMENT.—There is established a commission to be known as the "Commission on the Advancement of Federal Law Enforcement" (hereinafter in this section referred to as the "Commission").

(b) DUTIES.—The Commission shall review, ascertain, evaluate, report, and recommend action to the Congress on the following matters:

(1) The Federal law enforcement priorities for the 21st century, including Federal law enforcement capability to investigate and deter adequately the threat of terrorism facing the United States.

(2) In general, the manner in which significant Federal criminal law enforcement operations are conceived, planned, coordinated, and executed.

(3) The standards and procedures used by Federal law enforcement to carry out significant Federal criminal law enforcement operations, and their uniformity and compatibility on an interagency basis, including standards related to the use of deadly force.

(4) The investigation and handling of specific Federal criminal law enforcement cases by the United States Government and the Federal law enforcement agencies therewith, selected at the Commission's discretion.

(5) The necessity for the present number of Federal law enforcement agencies and units.

(6) The location and efficacy of the office or entity directly responsible, aside from the President of the United States, for the coordination on an interagency basis of the operations, programs, and activities of all of the Federal law enforcement agencies.

(7) The degree of assistance, training, education, and other human resource management assets devoted to increasing professionalism for Federal law enforcement officers.

(8) The independent accountability mechanisms that exist, if any, and their efficacy to investigate, address, and to correct Federal law enforcement abuses.

(9) The degree of coordination among law enforcement agencies in the area of international crime and the extent to which deployment of resources overseas diminishes domestic law enforcement.

(10) The extent to which Federal law enforcement agencies coordinate with State and local law enforcement agencies on Federal criminal enforcement operations and programs that directly affect a State or local law enforcement agency's geographical jurisdiction.

(11) Such other related matters as the Commission deems appropriate.

(c) MEMBERSHIP AND ADMINISTRATIVE PROVISIONS.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 5 members appointed as follows:

(A) 1 member appointed by the President pro tempore of the Senate.

(B) 1 member appointed by the minority leader of the Senate.

(C) 1 member appointed by the Speaker of the House of Representatives.

(D) 1 member appointed by the minority leader of the House of Representatives.

(E) 1 member (who shall chair the Commission) appointed by the Chief Justice of the Supreme Court.

(2) DISQUALIFICATION.—A person who is an officer or employee of the United States shall not be appointed a member of the Commission.

(3) TERMS.—Each member shall be appointed for the life of the Commission.

(4) QUORUM.—3 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(5) MEETINGS.—The Commission shall meet at the call of the Chair of the Commission.

(6) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day, including travel time, during which the member is engaged in the performance of the duties of the Commission.

(d) STAFFING AND SUPPORT FUNCTIONS.—

(1) DIRECTOR.—The Commission shall have a director who shall be appointed by the Chair of the Commission.

(2) STAFF.—Subject to rules prescribed by the Commission, the Director may appoint additional personnel as the Commission considers appropriate.

(3) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(e) POWERS.—

(1) HEARINGS AND SESSIONS.—The Commission may, for the purposes of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it. The Commission may establish rules for its proceedings.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chair of the Commission, the head of that department or agency shall furnish that information to the Commission, unless doing so would threaten the national security, the health or safety of any individual, or the integrity of an ongoing investigation.

(4) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this title.

(f) REPORT.—The Commission shall transmit a report to the Congress and the public not later than 2 years after a quorum of the Commission has been appointed. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with the Commission's recommendations for such actions as the Commission considers appropriate.

(g) TERMINATION.—The Commission shall terminate 30 days after submitting the report required by this section.

SEC. 807. COMBATTING INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.

(a) IN GENERAL.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary"), in consultation with the advanced counterfeit deterrence steering committee, shall—

(1) study the use and holding of United States currency in foreign countries; and

(2) develop useful estimates of the amount of counterfeit United States currency that circulates outside the United States each year.

(b) EVALUATION AUDIT PLAN.—

(1) IN GENERAL.—The Secretary shall develop an effective international evaluation audit plan that is designed to enable the Secretary to carry out the duties described in subsection (a) on a regular and thorough basis.

(2) SUBMISSION OF DETAILED WRITTEN SUMMARY.—The Secretary shall submit a detailed written summary of the evaluation audit plan developed pursuant to paragraph (1) to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act.

(3) 1ST EVALUATION AUDIT UNDER PLAN.—The Secretary shall begin the first evaluation audit pursuant to the evaluation audit plan no later than the end of the 1-year period beginning on the date of the enactment of this Act.

(4) SUBSEQUENT EVALUATION AUDITS.—At least 1 evaluation audit shall be performed pursuant to the evaluation audit plan during each 3-year period beginning after the date of the commencement of the evaluation audit referred to in paragraph (3).

(c) REPORTS.—

(1) IN GENERAL.—The Secretary shall submit a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of each evaluation audit conducted pursuant to subsection (b) within 90 days after the completion of the evaluation audit.

(2) CONTENTS.—In addition to such other information as the Secretary may determine to be appropriate, each report submitted to the Congress pursuant to paragraph (1) shall include the following information:

(A) A detailed description of the evaluation audit process and the methods used to develop estimates of the amount of counterfeit United States currency in circulation outside the United States.

(B) The method used to determine the currency sample examined in connection with the evaluation audit and a statistical analysis of the sample examined.

(C) A list of the regions of the world, types of financial institutions, and other entities included.

(D) An estimate of the total amount of United States currency found in each region of the world.

(E) The total amount of counterfeit United States currency and the total quantity of each counterfeit denomination found in each region of the world.

(3) CLASSIFICATION OF INFORMATION.—

(A) IN GENERAL.—To the greatest extent possible, each report submitted to the Congress under this subsection shall be submitted in an unclassified form.

(B) CLASSIFIED AND UNCLASSIFIED FORMS.—If, in the interest of submitting a complete report under this subsection, the Secretary determines that it is necessary to include classified information in the report, the report shall be submitted in a classified and an unclassified form.

(d) SUNSET PROVISION.—This section shall cease to be effective as of the end of the 10-year period beginning on the date of the enactment of this Act.

(e) RULE OF CONSTRUCTION.—No provision of this section shall be construed as authorizing any entity to conduct investigations of counterfeit United States currency.

(f) FINDINGS.—The Congress hereby finds the following:

(1) United States currency is being counterfeited outside the United States.

(2) The 103d Congress enacted, with the approval of the President on September 13, 1994, section 470 of title 18, United States Code, making such activity a crime under the laws of the United States.

(3) The expeditious posting of agents of the United States Secret Service to overseas posts, which is necessary for the effective enforcement

of section 470 and related criminal provisions, has been delayed.

(4) While section 470 of title 18, United States Code, provides for a maximum term of imprisonment of 20 years as opposed to a maximum term of 15 years for domestic counterfeiting, the United States Sentencing Commission has failed to provide, in its sentencing guidelines, for an appropriate enhancement of punishment for defendants convicted of counterfeiting United States currency outside the United States.

(g) TIMELY CONSIDERATION OF REQUESTS FOR CONCURRENCE IN CREATION OF OVERSEAS POSTS.—

(1) IN GENERAL.—The Secretary of State shall—

(A) consider in a timely manner the request by the Secretary of the Treasury for the placement of such number of agents of the United States Secret Service as the Secretary of the Treasury considers appropriate in posts in overseas embassies; and

(B) reach an agreement with the Secretary of the Treasury on such posts as soon as possible and, in any event, not later than December 31, 1996.

(2) COOPERATION OF TREASURY REQUIRED.—The Secretary of the Treasury shall promptly provide any information requested by the Secretary of State in connection with such requests.

(3) REPORTS REQUIRED.—The Secretary of the Treasury and the Secretary of State shall each submit, by February 1, 1997, a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate explaining the reasons for the rejection, if any, of any proposed post and the reasons for the failure, if any, to fill any approved post by such date.

(h) ENHANCED PENALTIES FOR INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.—Pursuant to the authority of the United States Sentencing Commission under section 994 of title 28, United States Code, the Commission shall amend the sentencing guidelines prescribed by the Commission to provide an appropriate enhancement of the punishment for a defendant convicted under section 470 of title 18 of such Code.

SEC. 808. COMPILATION OF STATISTICS RELATING TO INTIMIDATION OF GOVERNMENT EMPLOYEES.

(a) FINDINGS.—The Congress finds that—

(1) threats of violence and acts of violence against Federal, State, and local government employees and their families are increasing as the result of attempts to stop public servants from performing their lawful duties;

(2) these acts are a danger to the constitutional form of government of the United States; and

(3) more information is needed relating to the extent and nature of the danger to these employees and their families so that actions can be taken to protect public servants at all levels of government in the performance of their duties.

(b) STATISTICS.—The Attorney General shall collect data, for the calendar year 1990 and each succeeding calendar year thereafter, relating to crimes and incidents of threats of violence and acts of violence against Federal, State, and local government employees and their families in the performance of their lawful duties. Such data shall include—

(1) in the case of crimes against such employees and their families, the nature of the crime; and

(2) in the case of incidents of threats of violence and acts of violence, including verbal and implicit threats against such employees and their families, the deterrent effect on the performance of their jobs.

(c) GUIDELINES.—The Attorney General shall establish guidelines for the collection of the data under subsection (b), including a definition of the sufficiency of evidence of noncriminal incidents required to be reported.

(d) USE OF DATA.—

(1) ANNUAL PUBLISHING.—The Attorney General shall publish an annual summary of the data collected under this section.

(2) USE OF DATA.—Except with respect to the summary published under paragraph (1), data collected under this section shall be used only for research and statistical purposes.

(e) EXEMPTION.—The Attorney General, the Secretary of State, and the United States Secret Service is not required to participate in any statistical reporting activity under this section with respect to any direct or indirect threat made against any individual for whom that official or Service is authorized to provide protection.

SEC. 809. ASSESSING AND REDUCING THE THREAT TO LAW ENFORCEMENT OFFICERS FROM THE CRIMINAL USE OF FIREARMS AND AMMUNITION.

(a) The Secretary of the Treasury, in conjunction with the Attorney General, shall conduct a study and make recommendations concerning—

(1) the extent and nature of the deaths and serious injuries, in the line of duty during the last decade, for law enforcement officers, including—

(A) those officers who were feloniously killed or seriously injured and those that died or were seriously injured as a result of accidents or other non-felonious causes;

(B) those officers feloniously killed or seriously injured with firearms, those killed or seriously injured with, separately, handguns firing handgun caliber ammunition, handguns firing rifle caliber ammunition, rifles firing rifle caliber ammunition, rifles firing handgun caliber ammunition and shotguns;

(C) those officers feloniously killed or seriously injured with firearms, and killings or serious injuries committed with firearms taken by officers' assailants from officers, and those committed with other officers' firearms; and

(D) those killed or seriously injured because shots attributable to projectiles defined as "armor piercing ammunition" under section 921(a)(17)(B) (i) and (ii) of title 18, United States Code, pierced the protective material of bullet resistant vests and bullet resistant headgear;

(2) whether current passive defensive strategies, such as body armor, are adequate to counter the criminal use of firearms against law officers; and

(3) the calibers of ammunition that are—

(A) sold in the greatest quantities;

(B) their common uses, according to consultations with industry, sporting organizations and law enforcement;

(C) the calibers commonly used for civilian defensive or sporting uses that would be affected by any prohibition on non-law enforcement sales of such ammunition, if such ammunition is capable of penetrating minimum level bullet resistant vests; and

(D) recommendations for increase in body armor capabilities to further protect law enforcement from threat.

(b) In conducting the study, the Secretary shall consult with other Federal, State and local officials, non-governmental organizations, including all national police organizations, national sporting organizations and national industry associations with expertise in this area and such other individuals as shall be deemed necessary. Such study shall be presented to Congress twelve months after the enactment of this Act and made available to the public, including any data tapes or data used to form such recommendations.

(c) There are authorized to be appropriated for the study and recommendations such sums as may be necessary.

SEC. 810. STUDY AND REPORT ON ELECTRONIC SURVEILLANCE.

(a) STUDY.—The Attorney General and the Director of the Federal Bureau of Investigation shall study all applicable laws and guidelines relating to electronic surveillance and the use of pen registers and other trap and trace devices.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report to the Congress that includes—

(1) the findings of the study conducted pursuant to subsection (a);

(2) recommendations for the use of electronic devices in conducting surveillance of terrorist or other criminal organizations, and for any modifications in the law necessary to enable the Federal Government to fulfill its law enforcement responsibilities within appropriate constitutional parameters;

(3) a summary of instances in which Federal law enforcement authorities may have abused electronic surveillance powers and recommendations, if needed, for constitutional safeguards relating to the use of such powers; and

(4) a summary of efforts to use current wiretap authority, including detailed examples of situations in which expanded authority would have enabled law enforcement authorities to fulfill their responsibilities.

Subtitle B—Funding Authorizations for Law Enforcement

SEC. 811. FEDERAL BUREAU OF INVESTIGATION.

(a) IN GENERAL.—With funds made available pursuant to subsection (c)—

(1) the Attorney General shall—

(A) provide support and enhance the technical support center and tactical operations of the Federal Bureau of Investigation;

(B) create a Federal Bureau of Investigation counterterrorism and counterintelligence fund for costs associated with the investigation of cases involving cases of terrorism;

(C) expand and improve the instructional, operational support, and construction of the Federal Bureau of Investigation Academy;

(D) construct a Federal Bureau of Investigation laboratory, provide laboratory examination support, and provide for a command center;

(E) make grants to States to carry out the activities described in subsection (b); and

(F) increase personnel to support counterterrorism activities; and

(2) the Director of the Federal Bureau of Investigation may expand the combined DNA Identification System (CODIS) to include Federal crimes and crimes committed in the District of Columbia.

(b) STATE GRANTS.—

(1) AUTHORIZATION.—The Attorney General, in consultation with the Director of the Federal Bureau of Investigation, may make grants to each State eligible under paragraph (2) to be used by the chief executive officer of the State, in conjunction with units of local government, other States, or any combination thereof, to carry out all or part of a program to establish, develop, update, or upgrade—

(A) computerized identification systems that are compatible and integrated with the databases of the National Crime Information Center of the Federal Bureau of Investigation;

(B) the capability to analyze deoxyribonucleic acid (DNA) in a forensic laboratory in ways that are compatible and integrated with the combined DNA Identification System (CODIS) of the Federal Bureau of Investigation; and

(C) automated fingerprint identification systems that are compatible and integrated with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation.

(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection, a State shall require that each person convicted of a felony of

a sexual nature shall provide to appropriate State law enforcement officials, as designated by the chief executive officer of the State, a sample of blood, saliva, or other specimen necessary to conduct a DNA analysis consistent with the standards established for DNA testing by the Director of the Federal Bureau of Investigation.

(3) INTERSTATE COMPACTS.—A State may enter into a compact or compacts with another State or States to carry out this subsection.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for the activities of the Federal Bureau of Investigation, to help meet the increased demands for activities to combat terrorism—

(A) $114,000,000 for fiscal year 1997;
(B) $166,000,000 for fiscal year 1998;
(C) $96,000,000 for fiscal year 1999; and
(D) $92,000,000 for fiscal year 2000.

(2) AVAILABILITY OF FUNDS.—Funds made available pursuant to paragraph (1), in any fiscal year, shall remain available until expended.

(3) ALLOCATION.—

(A) IN GENERAL.—Of the total amount appropriated to carry out subsection (b) in a fiscal year—

(i) the greater of 0.25 percent of such amount or $500,000 shall be allocated to each eligible State; and

(ii) of the total funds remaining after the allocation under clause (i), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this subparagraph as the population of such State bears to the population of all States.

(B) DEFINITION.—For purposes of this paragraph, the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, except that for purposes of the allocation under this subparagraph, American Samoa and the Commonwealth of the Northern Mariana Islands shall be considered as one State and that for these purposes, 67 percent of the amounts allocated shall be allocated to American Samoa, and 33 percent to the Commonwealth of the Northern Mariana Islands.

SEC. 812. UNITED STATES CUSTOMS SERVICE.

(a) IN GENERAL.—There are authorized to be appropriated for the activities of the United States Customs Service, to help meet the increased needs of the United States Customs Service—

(1) $8,000,000 for fiscal year 1997;
(2) $8,000,000 for fiscal year 1998;
(3) $8,000,000 for fiscal year 1999; and
(4) $7,000,000 for fiscal year 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to subsection (a), in any fiscal year, shall remain available until expended.

SEC. 813. IMMIGRATION AND NATURALIZATION SERVICE.

(a) IN GENERAL.—There are authorized to be appropriated for the activities of the Immigration and Naturalization Service, to help meet the increased needs of the Immigration and Naturalization Service, including the detention and removal of alien terrorists, $5,000,000 for each of the fiscal years 1997, 1998, 1999, and 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to subsection (a), in any fiscal year, shall remain available until expended.

SEC. 814. DRUG ENFORCEMENT ADMINISTRATION.

(a) ACTIVITIES OF DRUG ENFORCEMENT ADMINISTRATION.—The Attorney General shall use funds made available pursuant to subsection (b) to—

(1) fund antiviolence crime initiatives;

(2) fund initiatives to address major violators of Federal antidrug statutes; and

(3) enhance or replace infrastructure of the Drug Enforcement Administration.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Drug Enforcement Administration, to help meet the increased needs of the Drug Enforcement Administration—

(1) $35,000,000 for fiscal year 1997;
(2) $40,000,000 for fiscal year 1998;
(3) $45,000,000 for fiscal year 1999; and
(4) $52,000,000 for fiscal year 2000.

(c) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 815. DEPARTMENT OF JUSTICE.

(a) IN GENERAL.—The Attorney General shall use funds made available pursuant to subsection (b) to—

(1) hire additional Assistant United States Attorneys and attorneys within the Criminal Division of the Department of Justice; and

(2) provide for increased security at courthouses and other facilities in which Federal workers are employed.

(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $10,000,000 for fiscal year 1997;
(2) $10,000,000 for fiscal year 1998;
(3) $10,000,000 for fiscal year 1999; and
(4) $11,000,000 for fiscal year 2000.

(c) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

(d) EXEMPTION AUTHORITY.—Notwithstanding any other provision of law, section 102(b) of the Department of Justice and Related Agencies Appropriations Act, 1993 (Public Law 102–395), shall remain in effect until specifically repealed, subject to any limitation on appropriations contained in any Department of Justice Appropriation Authorization Act.

(e) GENERAL REWARD AUTHORITY OF THE ATTORNEY GENERAL.—

(1) IN GENERAL.—Chapter 203 of title 18, United States Code, is amended by adding immediately after section 3059A the following section:

"§3059B. General reward authority

"(a) Notwithstanding any other provision of law, the Attorney General may pay rewards and receive from any department or agency funds for the payment of rewards under this section to any individual who assists the Department of Justice in performing its functions.

"(b) Not later than 30 days after authorizing a reward under this section that exceeds $100,000, the Attorney General shall give notice to the respective chairmen of the Committees on Appropriations and the Committees on the Judiciary of the Senate and the House of Representatives.

"(c) A determination made by the Attorney General to authorize an award under this section and the amount of any reward authorized shall be final and conclusive, and not subject to judicial review.".

SEC. 816. DEPARTMENT OF THE TREASURY.

(a) IN GENERAL.—There are authorized to be appropriated for Department of Treasury law enforcement agencies engaged in counterterrorism efforts to augment those efforts—

(1) $10,000,000 for fiscal year 1997;
(2) $10,000,000 for fiscal year 1998;
(3) $10,000,000 for fiscal year 1999; and
(4) $10,000,000 for fiscal year 2000.

(b) UNITED STATES SECRET SERVICE.—There are authorized to be appropriated for the activities of the United States Secret Service, to augment White House security and expand Presidential protection activities—

(1) $11,000,000 for fiscal year 1997;
(2) $11,000,000 for fiscal year 1998;
(3) $13,000,000 for fiscal year 1999; and
(4) $15,000,000 for fiscal year 2000.

SEC. 817. UNITED STATES PARK POLICE.

(a) IN GENERAL.—There are authorized to be appropriated for the activities of the United States Park Police, to help meet the increased needs of the United States Park Police, $500,000 for each of the fiscal years 1997, 1998, 1999, and 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 818. THE JUDICIARY.

(a) IN GENERAL.—There are authorized to be appropriated to the Federal judiciary, to help meet the increased demands for judicial branch activities, including supervised release, and pretrial and probation services, resulting from the enactment of this Act—

(1) $10,000,000 for fiscal year 1997;
(2) $10,000,000 for fiscal year 1998;
(3) $10,000,000 for fiscal year 1999; and
(4) $11,000,000 for fiscal year 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 819. LOCAL FIREFIGHTER AND EMERGENCY SERVICES TRAINING.

(a) GRANT AUTHORIZATION.—The Attorney General, in consultation with the Director of the Federal Emergency Management Agency, may make grants to provide specialized training and equipment to enhance the capability of metropolitan fire and emergency service departments to respond to terrorist attacks.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1997, $5,000,000 to carry out this section.

SEC. 820. ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVE DETECTION DEVICES AND OTHER COUNTERTERRORISM TECHNOLOGY.

There are authorized to be appropriated to the National Institute of Justice Office of Science and Technology not more than $10,000,000 for each of the fiscal years 1997 and 1998 to provide assistance to foreign countries facing an imminent danger of terrorist attack that threatens the national interest of the United States, or puts United States nationals at risk, in—

(1) obtaining explosive detection devices and other counterterrorism technology;

(2) conducting research and development projects on such technology; and

(3) testing and evaluating counterterrorism technologies in those countries.

SEC. 821. RESEARCH AND DEVELOPMENT TO SUPPORT COUNTERTERRORISM TECHNOLOGIES.

There are authorized to be appropriated to the National Institute of Justice Office of Science and Technology not more than $10,000,000 for fiscal year 1997, to—

(1) develop technologies that can be used to combat terrorism, including technologies in the areas of—

(A) detection of weapons, explosives, chemicals, and persons;
(B) tracking;
(C) surveillance;
(D) vulnerability assessment; and
(E) information technologies;

(2) develop standards to ensure the adequacy of products produced and compatibility with relevant national systems; and

(3) identify and assess requirements for technologies to assist State and local law enforcement in the national program to combat terrorism.

SEC. 822. GRANTS TO STATE AND LOCAL LAW ENFORCEMENT FOR TRAINING AND EQUIPMENT.

(a) AMENDMENT OF BYRNE GRANT PROGRAM.—Section 501(b) of the Omnibus Crime Control

and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) is amended—

(1) by striking "and" at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(26) to develop and implement antiterrorism training programs and to procure equipment for use by local law enforcement authorities.".

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $25,000,000 for each of fiscal years 1997 through 2000 for grants under section 501 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) to be used for the development and implementation of antiterrorism training programs and to procure equipment for use by local law enforcement authorities.

SEC. 823. FUNDING SOURCE.

Appropriations for activities authorized in this subtitle may be made from the Violent Crime Reduction Trust Fund.

TITLE IX—MISCELLANEOUS

SEC. 901. EXPANSION OF TERRITORIAL SEA.

(a) TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.—The Congress declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, for purposes of Federal criminal jurisdiction is part of the United States, subject to its sovereignty, and is within the special maritime and territorial jurisdiction of the United States for the purposes of title 18, United States Code.

(b) ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.—Section 13 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting after "title," the following: "or on, above, or below any portion of the territorial sea of the United States not within the jurisdiction of any State, Commonwealth, territory, possession, or district"; and

(2) by adding at the end the following new subsection:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Commonwealth, territory, possession, or district, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed, for purposes of subsection (a), to lie within the area of the State, Commonwealth, territory, possession, or district that it would lie within if the boundaries of such State, Commonwealth, territory, possession, or district were extended seaward to the outer limit of the territorial sea of the United States.".

SEC. 902. PROOF OF CITIZENSHIP.

Notwithstanding any other provision of law, a Federal, State, or local government agency may not use a voter registration card (or other related document) that evidences registration for an election for Federal office, as evidence to prove United States citizenship.

SEC. 903. REPRESENTATION FEES IN CRIMINAL CASES.

(a) IN GENERAL.—Section 3006A of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) by redesignating paragraphs (4), (5) and (6) as paragraphs (5), (6), and (7), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) DISCLOSURE OF FEES.—The amounts paid under this subsection, for representation in any case, shall be made available to the public."; and

(2) in subsection (e) by adding at the end of the following:

"(4) DISCLOSURE OF FEES.—The amounts paid under this subsection for services in any case shall be made available to the public.".

(b) FEES AND EXPENSES AND CAPITAL CASES.—Section 408(q)(10) of the Controlled Substances Act (21 U.S.C. 848(q)(10)) is amended to read as follows:

"(10)(A) Compensation shall be paid to attorneys appointed under this subsection at a rate of not more than $125, per hour for in-court and out-of-court time. Not less than 3 years after the date of the enactment of the Antiterrorism and Effective Death Penalty Act of 1996, the Judicial Conference is authorized to raise the maximum for hourly payment specified in the paragraph up to the aggregate of the overall average percentages of the adjustments in the rates of pay for the General Schedule made pursuant to section 5305 of title 5 on or after such date. After the rates are raised under the preceding sentence, such hourly range may be raised at intervals of not less than one year, up to the aggregate of the overall average percentages of such adjustments made since the last raise under this paragraph.

"(B) Fees and expenses paid for investigative, expert, and other reasonably necessary services authorized under paragraph (9) shall not exceed $7,500 in any case, unless payment in excess of that limit is certified by the court, or by the United States magistrate judge, if the services were rendered in connection with the case disposed of entirely before such magistrate judge, as necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the chief judge of the circuit. The chief judge of the circuit may delegate such approval authority to an active circuit judge.

"(C) The amounts paid under this paragraph for services in any case shall be disclosed to the public, after the disposition of the petition.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to—

(1) cases commenced on or after the date of the enactment of this Act; and

(2) to appellate proceedings, in which an appeal is perfected, on or after the date of the enactment of this Act.

SEC. 904. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the bill, insert the following: "An Act to deter terrorism, provide justice for victims, provide for an effective death penalty, and for other purposes.".

And the House agree to the same.

HENRY HYDE,
BILL MCCOLLUM,
STEVEN SCHIFF,
STEVE BUYER,
BOB BARR,
CHARLES SCHUMER,
Managers on the part of the House.

ORRIN G. HATCH,
STROM THURMOND,
ALAN K. SIMPSON,
Managers on the part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the Senate and the House at the conference on the disagreeing votes of the two Houses on the bill (S. 735), to prevent and punish terrorism, submit the following joint statement to the Senate and the House in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

TITLE I—HABEAS CORPUS REFORM

Sections 101–108—Sections 601–608 of the Senate bill and sections 901–908 of the House amendment are identical, and therefore were not modified by the conference committee.

This title incorporates reforms to curb the abuse of the statutory writ of habeas corpus, and to address the acute problems of unnecessary delay and abuse in capital cases. It sets a one year limitation on an application for a habeas writ and revises the procedures for consideration of a writ in federal court. It provides for the exhaustion of state remedies and requires deference to the determinations of state courts that are neither "contrary to," nor an "unreasonable application of," clearly established federal law.

The revision in capital habeas practice also sets a time limit within which the district court must act on a writ, and provides the government with the right to seek a writ of mandamus if the district court refuses to act within the allotted time period. Successive petitions must be approved by a panel of the court of appeals and are limited to those petitions that contain newly discovered evidence that would seriously undermine the jury's verdict or that involve new constitutional rights that have been retroactively applied by the Supreme Court.

In capital cases, procedures are established for the appointment of counsel, conduct of evidentiary hearings, and the application of the procedures to state unitary review systems. Courts are directed to give habeas petitions in capital cases priority status and to decide those petitions within specified time periods. These procedures apply both to state and federal capital cases.

TITLE II—JUSTICE FOR VICTIMS

Subtitle A—Mandatory Victim Restitution

Sections 201–211—Senate recedes to section 806 of the House amendment, with modification. The modification includes the Senate amendments to the bill H.R. 665, passed by the Senate on December 22, 1995, together with perfecting amendments. The managers intend that the Report of the Senate Committee on the Judiciary to accompany H.R. 665 (S.Rept. 104–179) should serve as the legislative history for this subtitle.

Subtitle B—Jurisdiction for Lawsuits Against Terrorist States

Section 221—House section 803 recedes to Senate section 206, with modifications. This subtitle provides that nations designated as state sponsors of terrorism under section 6(j) of the Export Administration Act of 1979 will be amenable to suit in U.S. courts for terrorist acts. It permits U.S. federal courts to hear claims seeking money damages for personal injury or death against such nations and arising from terrorist acts they commit, or direct to be committed, against American citizens or nationals outside of the foreign state's territory, and for such acts within the state's territory if the state involved has refused to arbitrate the claim.

Subtitle C—Assistance to Victims of Terrorism

This subtitle incorporates several provisions of the Senate bill and the House amendment addressing the needs of victims of terrorism.

Section 232—Victims of Terrorism Act. House recedes to Senate Title X, with modifications to reflect the Senate's later action on a similar provision in its December 22, 1995 amendment H.R. 665. This provision authorizes supplemental grants through the States to compensate and assist victims of terrorism and mass violence.

Section 233—Compensation of victims of terrorism. Senate recedes to House section 802, with a modification to include Senate section 902.

Section 234—Crime Victims Fund.

This provision consists of section 201 of the Senate amendment to H.R. 665, passed by the Senate December 22, 1995. The section prohibits the payment of federally-funded victim assistance to any individual who is delinquent in paying a fine, restitution, or other monetary penalty imposed pursuant to a conviction for a crime in federal court. To ensure that a burden is not imposed on state victim assistance programs, as well as to ensure that no person is wrongfully denied assistance, this prohibition would not take effect until such time as a criminal debt tracking system is in place. The managers do not intend that this provision in any way affect the development of the tracking system referenced by this section.

Section 235—Closed circuit televised court proceedings for victims of crime. Senate recedes to section 808 of the House amendment, with a modification. This section requires, in certain cases when the venue of a criminal trial is moved, that the court provide closed circuit television coverage of the trial to the original venue for the benefit of victims. The Senate modification is intended to ensure that the court retains control over the signal, provides contempt penalties for violating a court order related to restrictions on the signal, removes the prohibition on the use of appropriated funds, and sunsets the provision upon implementation by the federal courts of any rules they may promulgate to effectuate the policy addressed by this section. The managers do not intend that this provision in any way effect either the general policy of Rule 53 of the Federal Rules of Criminal Procedure (prohibiting photography and broadcasting in federal criminal court proceedings), or the authority of the federal courts to regulate and prescribe rules for conduct in federal courts.

Section 236—This section makes a technical correction to the Victims of Crime Act.

TITLE III—INTERNATIONAL TERRORISM PROHIBITIONS

Subtitle A—Prohibition on International Terrorist Fundraising

Sections 301-303—House recedes to Senate sections 401, with modifications. This subtitle adds to federal law prohibitions on providing material support to, or soliciting or raising funds for, foreign organizations designated by the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, to be terrorist organizations. Importantly, the proposed designations of organizations would be subject to congressional approval. Upon notification to Congress of the intent to designate a foreign group as a terrorist organization, the Treasury Secretary will be authorized to order the freezing of such group's American-held financial assets. The designation, when final, would be subject to judicial review, based solely on the administrative record created, including any national security information used to make the designation. The designation would expire after two years, but could be extended for additional two year periods.

Subtitle B—Prohibitions on Assistance to Terrorist States

Section 321—Senate recedes to House amendment title XV. This section provides criminal penalties for engaging in financial transactions with terrorist states by United States citizens, nationals, residents, and corporations.

Section 322—House recedes to Senate section 903. This section, including a perfecting amendment to the Senate provision, instructs the Administrator of the FAA to require identical security measures for foreign flagged carriers serving airports in the United States as are required of U.S. carriers.

In 1990, after the tragic bombing of Pan Am Flight 103, Congress revamped the aviation security laws. It was the intent of Congress to ensure that all Americans would be guaranteed adequate protection from terrorist attacks on international flights arriving in or departing from the United States, regardless of the nationality of the air carrier providing the service.

The 1990 law required the FAA to ensure that foreign carriers operated under security programs providing a similar level of safety to that of programs required of U.S. carriers. Unfortunately, since the 1990 enactment, ambiguity has developed over Congressional intent regarding the meaning of the term "similar".

This section is intended to resolve that ambiguity. It is the intent of the managers that the FAA establish a base floor level of necessary security measures for international flights which all foreign and domestic carriers will be required to employ. It is not the intent that any measures currently required of domestic carriers be dispensed with. Nor is it the intent of the managers to in any way restrict the ability of the FAA to impose additional measures on any airline at any time that a particular threat warrants additional measures.

Additionally, the managers acknowledge that the House Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science and Transportation have jurisdiction over aviation security issues.

Section 323—Senate recedes to House amendment section 103. This provision amends section 2339A of title 18, United States Code, (as added by section 120005 of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322)) by adding sections 956 and 2332b of title 18 to the list of predicate offenses for which an individual can be prosecuted for providing material support. It is important to note that the material support being provided, which triggers this section, need not be to a designated terrorist organization. The support must be given in furtherance of the specifically listed criminal offenses, however.

This section also deletes subsection (c) of section 2339A of title 18, United States Code. The subsection being repealed provided an unworkable restriction on the investigation of crimes under section 2339A.

This section also redefines the term "material support or resources" to mean "currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials." "Medicine" should be understood to be limited to the medicine itself, and does not include the vast array of medical supplies. "Religious materials" should not be read to include anything that could be used to cause physical injury to any person. It is meant to be limited to those religious articles typically used during customary and time-honored rituals or teachings of a particular faith, denomination, or sect.

Section 324—House recedes to Senate section 201. This section states Congressional findings and urges the President to establish a White House office to coordinate U.S. counterterrorism efforts and to organize an international conference to develop multinational responses to the threat of international terrorism.

Section 325—House recedes to Senate section 202. This section prohibits U.S. aid to countries that provide aid to terrorist nations, but permits the President to waive the prohibition, after notifying Congress, if he determines that such waiver is in the national interest.

Section 326—House recedes to Senate section 203. This section prohibits U.S. aid to countries that provide military equipment to terrorist nations. It, too, permits the President to waive the prohibition, after notifying Congress, if he determines that such waiver is in the national interest.

Section 327—House recedes to Senate section 204. This section requires U.S. opposition to international financial institutions' assistance to countries that support terrorism.

Section 328—House amendment section 702 recedes to Senate section 205. This section eases restrictions for U.S. antiterrorism assistance to foreign nations.

Section 329—House recedes to Senate section 208. This section defines, for purposes of this title, "assistance" as any grant, concessional sale, guaranty, *inter alia*, to the government of any foreign country, whether in the form of loan, lease, credit, or debt relief.

Section 330—House recedes to Senate section 907. This section prohibits the export of defense articles to countries decertified by the President no later than May 15 of the calendar year preceding the fiscal year for which the prohibition applies, that the countries are not cooperating with U.S. antiterrorism efforts; provides a presidential waiver for specific transactions.

TITLE IV—TERRORIST AND CRIMINAL ALIEN REMOVAL AND EXCLUSION

Subtitle A—Removal of Alien Terrorists

Section 401—House recedes to Senate section 301, with modifications. This section creates special procedures to ensure that aliens within the United States whom the government believes to be engaging in terrorist activity can be removed from the United States without disclosing national security secrets. The provision establishes a removal court comprised of sitting district court judges appointed by the Chief Justice of the Supreme Court. This court would have the authority to hear deportation cases involving alien terrorists and would ensure, through the use of a limited *ex parte* procedure, that the United States can expeditiously deport alien terrorists without disclosing national security secrets to the alien or to their criminal partners. The alien's due process rights are protected by requiring that an unclassified summary of the evidence be provided to the alien, sufficient to enable the alien to prepare a defense, and that the judge can only order the deportation based upon the evidence introduced at the hearing, taken as a whole. The removal of alien terrorists from the United States, and the prevention of alien terrorists from entering the U.S. in the first place, present among the most intractable problems of immigration enforcement. The stakes in such cases are compelling: protecting the very lives and safety of U.S. residents, and preserving the national security. Yet, alien terrorists, while deportable under section 241(a)(4)(D) of the INA, are able to exploit many of the substantive and procedural provisions available to all deportable aliens in order to delay their removal from the U.S. In addition, alien terrorists, including representatives and members of terrorist organizations, often are able to enter the U.S. under a legitimate guise, despite the fact that their entry is inimical to the national interests of the U.S. In several noteworthy cases, the Department of Justice has consumed years of time and hundreds of thousands (if not millions) of dollars seeking to secure the removal of such aliens from the U.S.

Starting in the first Administration of President Reagan, the Department of Justice has sought reform of immigration law and procedures to better enable this country to protect itself against the threat of alien terrorists. The chief target of these reforms are the statutory and administrative protections given to such aliens, many of which are not required by the due process clause of the Fifth or Fourteenth Amendment or any other provision of law, that enable alien terrorists to delay their removal from the U.S.

The need for special procedures to adjudicate deportation charges against alien terrorists is manifest. Terrorist organizations have developed sophisticated international networks that allow their members great freedom of movement and opportunity to strike, including within the United States. They are attracting a more qualified cadre of adherents with increasing technical skills. Several terrorist groups have established footholds within immigrant communities in the U.S.

The nature of these groups tend to shield the participants from effective counterterrorism efforts—including the most basic measure of removing them from our soil. The U.S. relies heavily upon close and continued cooperation of friendly nations who provide information on the identity of such terrorists. Such information will only be forthcoming if it sources continue to be protected. Thus, it is essential to the national security of the U.S. that procedures be established to permit the use of classified information in appropriate cases to establish the deportability of an alien terrorist.

Such procedures also must be crafted to meet constitutional requirements. The government's efforts to safeguard lives and property and to protect the national security may be contested on the grounds that they conflict with the procedural rights of aliens. The interests of the government must therefore be balanced against the legitimate rights of those privileged to be present within the United States.[1]

Subtitle B—Exclusion of Members and Representatives of Terrorist -Organizations

Section 411—House recedes to Senate section 210, with modification. This section permits, as a new basis for alien exclusion, the denial of entry into the United States to any person who is a representative or member of a designated foreign terrorist organization.

Section 412—House amendment section 632 recedes to Senate section 209 with modifications. This section grants the Secretary of State discretion to waive, in the case of nonimmigrant visa applications by excludable aliens, the requirement to inform each alien of the denial of the application and the grounds for such denial. This section also provides that no explanation of the denial need be given to aliens excluded on the basis of their terrorist or other criminal activity.

Section 413—Senate recedes to House amendment section 612. This section amends section 208 to provide that an alien may not be granted asylum if the alien is excludable under the provisions of section 212(a), or deportable under the provisions of section 241(a) relating to alien terrorists.

Section 414—Senate recedes to House amendment section 623. This section amends section 241 of the INA by adding a new subsection (d). Subsection (d) provides that an alien present in the United States, who has not been admitted after inspection in accordance with section 235 of the INA, is deemed to be seeking entry and admission and shall be subject to examination and exclusion in accordance with Chapter 4 of Title II of the INA. Such an alien must be provided the opportunity to establish that he or she has been lawfully admitted to the U.S. This section by operation of law, returns "to the border" any alien who has entered the United States unlawfully, regardless of the duration of his or her presence in the United States.

Subtitle C—Modifications to Asylum Procedures

Section 421—Senate recedes to House amendment section 611. This section bars the granting of asylum to an alien excludable as a terrorist unless the Attorney General determines that the individual seeking asylum will not be a danger to the security of the United States.

Section 422—Senate recedes to House amendment section 621. This section amends section 235(b), regarding the inspection and exclusion of aliens arriving at a port of entry. New section 235(b)(1) provides that if an examining immigration officer determines that an alien is inadmissible under section 212(a)(6)(C) (fraud or misrepresentation) or 212(a)(7) (lack of valid documents), the officer may order the alien removed without further hearing or review.

An alien who states a fear of persecution, or wishes to apply for asylum, will be referred for interview by an asylum officer. If the officer finds that the alien has a credible fear of persecution, the alien shall be detained for further consideration of the application for asylum. If the alien does not meet this standard, and the officer's decision is upheld by a supervisory asylum officer, the alien will be ordered removed. An alien may consult with a person of his or her choosing before the interview, at no expense to the Government and without delaying the interview. A "credible fear of persecution" means that it is more likely than not that the alien is telling the truth and the alien has a reasonable possibility of establishing eligibility for asylum. The Attorney General is required to write and promulgate regulations for these procedures consistent with the intent of this provision.

There is no administrative review of a removal order entered into under this paragraph, but an alien claiming under penalty of perjury to be lawfully admitted for permanent residence shall be entitled to administrative review of such an order. An alien ordered removed under this paragraph may not make a collateral attack against the order in a prosecution under section 275(a) (illegal entry) or 276 (illegal reentry).

New section 235(b)(2) provides that an alien who is not clearly and beyond a doubt entitled to enter (other than an alien subject to removal under paragraph (b)(1), or an alien crewman or stowaway) shall be detained for a hearing before a special inquiry officer (immigration judge).

Section 423—Senate recedes to House amendment section 622. Subsection (a) of this section amends section 106 of the INA to add a new subsection (e). Subsection (e) precludes judicial review, subject to the provisions of paragraph (e)(2), of a decision to exclude an alien from entry under the expedited exclusion provisions of new section 235(b)(1). Paragraph (e)(2) allows for habeas corpus review limited to the issues of whether the petitioner is an alien (provided the alien makes a non-frivolous claim of U.S. nationality), whether the alien was ordered specially excluded pursuant to section 235(b)(1)(A), and whether the petitioner is a lawful permanent resident alien entitled to judicial review according to section 235(b)(1)(e)(i).

A reviewing court may not order any relief other than to require that the alien receive an exclusion hearing pursuant to section 236, or a determination in accordance with section 235(c) (special procedures for aliens excludable on national security grounds) or section 273(d) (procedures for stowaways).

Subsection (b) of this section amends section 235 of the INA by adding a new subsection (d), which precludes collateral attack in an action for assessment of penalties for improper entry or re-entry under section 275 or 276 of the validity of an order of exclusion, special exclusion, or deportation made under section 235, 236, or 242 of the INA.

Subtitle D—Criminal Alien Procedural Improvements

Section 431—Senate recedes to House amendment section 664. This section shortens the period under which a permanent resident alien can be considered excludable under certain circumstances.

Section 432—House amendment section 631 recedes to Senate section 304. This section permits the Immigration and Naturalization Service to release certain confidential information on individual aliens for law enforcement purposes.

Section 433—Senate recedes to House amendment section 666. This section expands and clarifies the purpose of the Criminal Alien Tracking Center established by section 130002 of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322).

Section 434—Senate recedes to House amendment section 667. This section adds several alien smuggling related crimes to the list of offenses that are RICO predicates.

Section 435—Senate recedes to House amendment section 668. This section adds wiretap authority for the investigation of various immigration offenses.

Section 436—Senate recedes to House amendment section 669. This section clarifies that for purposes of deportability, crimes of moral turpitude are crimes punishable by imprisonment for a year or more.

Section 437—Senate recedes to House amendment section 670. This section permits deportation proceedings to be conducted telephonically.

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[1] Fiallo v. Levi, 406 F. Supp. 162 (S.D.N.Y.), *aff'd*, 430 U.S. 787 (1975); Jean V. Nelson, 472 U.S. 846, *aff'g*, 727 F.2d 957 (11th Cir. 1984); Kleindienst v. Mandel, 408 U.S. 753 (1972) (supporting the proposition that alien's presence in U.S. is privilege extended by Congress and not fundamental right.) *See also Alvarez* v. *INS*, 539 F. 2d 1220 (9th Cir.), *cert. denied*, 430 U.S. 918 (1976) (applying rational basis test to equal protection claim for impermissible classification of aliens).

Section 438—Senate recedes to House amendment section 675. This section directs the development of a program to repatriate to the interior of a bordering country any alien who has entered the US illegally 3 or more times.

Section 439—Senate recedes to House amendment section 676. This section permits nonviolent alien offenders to be deported prior to the completion of sentences. It does not apply to offenses involving alien smuggling. The section requires the remainder of the sentence to be served if the alien reenters the United States illegally.

Section 440—Senate recedes to House amendment section 677. This section allows state and local law enforcement officials to arrest and detain illegal aliens who have previously been deported for criminal behavior until they can be taken into federal custody by the INS.

Section 441—House amendment section 601 recedes to Senate section 303(e). This section enhances the ability of the United States to deport criminal aliens.

Section 442—Senate recedes to House amendment section 665. This section limits the ability of an deportable alien to collaterally challenge an deportation order in a pending criminal case.

Section 443—Senate recedes to House amendment section 663. This section streamlines the procedures for deportation of deportable non-permanent resident aliens.

Section 444—House recedes to Senate section 302. This section permits the Attorney General to extradite persons who are not U.S. citizens, nationals, or permanent residents to countries with which the United States does not have an extradition treaty.

TITLE V—NUCLEAR, BIOLOGICAL, AND CHEMICAL WEAPONS RESTRICTIONS

Subtitle A—Nuclear Materials

Sections 501–502—House amendment title IV recedes to Senate title VIII. These sections provide federal law enforcement officials the tools necessary to combat the threat of nuclear contamination and proliferation that may result from illegal possession of, and trafficking in, nuclear materials, including nuclear by-products and non-weapons-grade materials.

Section 503—Senate recedes to House amendment section 306 with modifications. This section requires the Attorney General, together with the Secretary of Defense, to undertake a study of the number of thefts of firearms, explosives, and other terrorist type materials from military arsenals and report findings to Congress within 6 months from the date of enactment.

Subtitle B—Biological Weapons Restrictions

Section 511—Senate recedes to House amendment title XI with modifications. This subtitle addresses the threat of the misuse or diversion to illegal use of potentially deadly human pathogenic substances. It adds attempt, threat, and conspiracy to the prohibition on acquiring, possessing, or using biological weapons, and expands the definition of biological weapons to include certain human pathogens. This section also authorizes the Secretary of Health and Human Services to regulate the transfer of certain biological agents harmful to humans. The managers intend that in promulgating regulations and listing regulated biological agents pursuant to this provision, the Secretary ensures the continued viability of the use of such agents for legitimate purposes.

Subtitle C—Chemical Weapons Restrictions

Section 521—House recedes to Senate section 908 with modification. This subtitle criminalizes the use of chemical weapons within the United States, or against Americans outside of the United States. Additionally, this section provides for a study of the need for a training center to enhance law enforcement response capabilities to chemical and biological emergencies. Senate section 908 also provided additional authority for military assistance to law enforcement in chemical and biological emergencies. In light of the enactment of section 378 of the National Defense Authorization Act for Fiscal Year 1996 (P.L. 104-106), the managers have omitted this provision.

TITLE VI—IMPLEMENTATION OF PLASTIC EXPLOSIVES CONVENTION

Sections 601–606—House amendment sections 501–505 recede to Senate sections 701–705 and 707. This title fulfills the obligations of the United States to implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, entered into at Montreal in 1991 in the wake of the bombing of Pan Am flight 103. This title requires that detectant agents be placed in all plastic explosives manufactured in, imported into, or exported from the United States, and provides criminal penalties for violations.

TITLE VII—CRIMINAL LAW MODIFICATIONS TO COUNTER TERRORISM

Subtitle A—Crimes and Penalties

Section 701—House amendment section 202 recedes to Senate section 101. This section amends the explosives chapter of Title 18 to provide that a conspiracy to commit a crime under that chapter is punishable by the same maximum penalty as that applicable to the substantive offense that formed the object of the conspiracy.

Section 702—Senate section 102 recedes to House amendment section 104 with modifications. This section creates a new federal criminal prohibition on acts of terrorism transcending national boundaries. It will be a violation of this provision to kill, kidnap, maim, or seriously injure any person in the United States, or to create substantial risk of injury to any person by damaging or destroying property in the United States. Their will be federal jurisdiction over the offense if the offender uses facilities of interstate commerce, the offense interferes with interstate commerce, the victim is the United States or any employee of the United States, or the offense takes place in U.S. territorial jurisdiction, and at least part of the conduct occurred outside of the United States.

Section 703—House section 104 recedes to Senate section 102(f). This section expands the categories of property in federal jurisdiction the destruction or damage of which is criminally punishable by the United States .

Section 704—Senate section 103 recedes to House section 105. This section amends Section 956 of title 18, United States Code, which currently only prohibits conspiracies within the United States to injure property overseas.

This amendment will criminalize conspiracies to harm people and property outside the United States, so long as at least one was present, and one act in furtherance of the conspiracy occurred, within the jurisdiction of the United States.

The penalties for offenses under section 956 will range from life imprisonment for conspiracies to murder or kidnap; 35 years for conspiracy to maim; and 25 years for conspiring to damage property.

Section 705—House recedes to Senate section 104. This section increases penalties for a series of federal crimes, including amending the law against maiming and disfiguring to include torture and punishing an attempt to violate this section by up to $10,000 in fines and/or 10 years imprisonment, and adding protection to armed services personnel.

Section 706—Senate section 105 recedes to House amendment section 205. This section above and creates a criminal prohibition on the transfer of explosive materials, "knowing or having reasonable cause to believe"they will be used to commit a crime of violence or drug trafficking offense. Crimes committed under this section will be subject to the same penalties as are provided for a first conviction of section 844(h) of title 18, United States Code, which is a mandatory minimum 5 year term of imprisonment.

Section 707—Senate section 106 recedes to House amendment section 111. This section amends current section 842(h) of title 18, United States Code, to include the possession of and pledging, or acceptance as security for a loan, any stolen explosive materials that have moved in, or constitute any part of interstate or foreign commerce. Currently, the law only prohibits the transport, shipment, concealment, storage, bartering, sale, and disposal of such stolen explosive material.

Section 708—House amendment section 201 recedes to Senate section 107 with modifications. This section increases penalty for arson or explosives crimes against property, with mandatory minimums for these offenses. This section also extends the statute of limitations for arson offenses from seven to ten years.

Section 709—Senate section 901 recedes to House amendment section 804. This section requires the Attorney General to undertake a 180 day study of publicly available literature and material instructing how to make bombs, destructive devices, or weapons of mass destruction. The study is to include a review of print, electronic, and film media, in this regard. This provision requires the Attorney General to determine the extent to which the availability of this material has been used in terrorism incidents, and the likelihood of its use for such activity in the future.

This section also mandates that the Attorney General review existing federal laws having application to this material and the need or utility of any additional statutory coverage. Furthermore, the Attorney General must render a legal analysis of the protection provided this material by the First Amendment.

The Attorney General is required to submit a report of findings to Congress and make that report available to the public.

Subtitle B—Criminal Procedures

Section 721—Senate section 621 recedes to House amendment section 106. This section clarifies United States jurisdiction for specific terrorism crimes occurring overseas. The Aircraft Piracy statute is amended to provide extraterritorial federal jurisdiction for aircraft piracy if a U.S. national was on the plane; if the perpetrator is a U.S. national; or, if the offender is found in the U.S. after committing the crime. The United States has a legitimate interest in punishing anyone who injures a U.S. national, and also retains an interest in punishing its own citizens for crimes committed against foreign nations, or foreign nationals.

This section also clarifies U.S. extraterritorial jurisdiction over the offenses of aircraft destruction, murder of, and assaults or threats against of foreign officials or internationally protected persons, biological weapons offenses, and violence at international airports if the offense occurred outside the U.S., so long as the victim is an "internationally protected person," (as defined by Section 1116(b)(4) of title 18); if the victim is a representative, officer, employee, or agent of the United States; if the offender is a U.S. national; or, if the offender is later found in the U.S.

Section 722—Senate recedes to House amendment section 110. This section provides clarifying language to section 2280(b)(1)(A) of title 18, United States Code, which establishes federal jurisdiction over violent activities occurring on the high seas.

Section 723—Senate section 627 recedes to House amendment section 203. This section will make it a crime to conspire to commit any offense under the specifically listed sections of title 18, United States Code found in this provision. Adding the conspiracy language to these criminal statutes will enable the government to prosecute and punish those offenses appropriately. Without a conspiracy element in the statutory language, the government must rely on title 18, United States Code, section 371, to prosecute conspiracies generally. Section 371 only carries a five year statutory maximum penalty, even if the underlying offense requires a much higher penalty. This section corrects this anomaly. This section provides clarifying language to Section 2280(b)(1)(A) of title 18, United States Code, which establishes federal jurisdiction over violent activities occurring on the high seas.

Section 724—Senate section 628 recedes to House amendment section 109 with modification. This section amends section 844(e) of title 18, United States Code. Currently, Section 844(e) prohibits threats of violence against persons or property, whether true or false, if the threat is made through the mail or any other instrument of commerce. This new section replaces "commerce" with the words "interstate or foreign commerce." It also expands the statute's reach to any threat that is "in or affects interstate or foreign commerce."

Section 725—Senate section 623 recedes to House amendment section 107 with modifications. This section criminalizes a threat to use a weapon of mass destruction, extends the prohibition to the use of such weapons by U.S. nationals overseas, and clarifies that any chemical weapon is included in the definition of weapon of mass destruction or destructive device.

Section 726—House amendment section 108 recedes to Senate section 625. This section adds certain terrorism offenses to the money laundering statute.

Section 727—Senate section 626 recedes to House amendment section 101 with modifications. Subsection (a) of this section amends Section 1114 of title 18, United States Code, to allow federal prosecution for the murder or attempted murder of all officers and employees of the United States government while that person was engaged in or because of that person's official duties. It also covers the murder or attempted murder of any other person assisting the United States officer, or employee, in the performance of his or her duties, or on account of the assistance provided. The penalties for this offense are the same as those provided under sections 1111, 1112, and 1113 of title 18, United States Code.

Subsection (b) amends section 115(a)(2) of title 18, United States Code, by including within that statute's reach threats "to assault, kidnap, or murder, any person who formerly served" as a federal law enforcement officer or agent in retaliation for the exercise of his official duties. The statute currently provides this protection to currently employed federal law enforcement officers, and the family members of former law enforcement personnel. Curiously, former federal law enforcement officers are left out of the statute's coverage. This subsection of the bill corrects that omission.

This section also clarifies the use of a deadly or dangerous weapon in an assault on a federal employee or officer includes the use of a weapon that fails to cause death or danger due to a defective component.

Section 728—Senate recedes to House amendment title XIV. This section adds multiple killings or attempted killings to the list of aggravating factors for the imposition of the death penalty in federal criminal cases.

Section 729—Senate recedes to House amendment section 310. This section clarifies that the time period in which a detention hearing must be held does not include weekends and legal holidays.

Section 730—Senate recedes to House amendment sections 206 and 207. This section gives the U.S. Sentencing Commission amendment authority to expand the scope of its Chapter 3 enhancement for "international terrorism offenses" under the U.S. Sentencing Guidelines, to apply only to federal crimes of terrorism as defined in section 2332b(g). In amendments to the Sentencing Guidelines that became effective November 1, 1996, a new provision that substantially increases jail time for offenses committed in connection with a crime of international terrorism. This section of the bill will make that new provision applicable only to those specifically listed federal crimes of terrorism, upon conviction of those crimes with the necessary motivational element to be established at the sentencing phase of the prosecution, without having to wait until November 1996 for the change to become law.

Section 731—Senate recedes to House amendment section 302. Subsection (a)(3) of this section excludes from the definition of "electronic communication" under the wiretap statute "information stored in a communications system used for the electronic storage and transfer of funds." This will allow law enforcement to obtain such bank records through the usual grand jury subpoena, or other court order procedure, without requiring a wiretap order for these purposes.

Subsection (b) eliminates "electronic communication" from the definition of "radio communications that are readily accessible to the general public." This inclusion of "electronic communication" negated the need to exempt from the wiretap coverage radio transmissions, i.e., scanners, CBs, and Ham radio signals. It is not intended to preclude the need for a title III wiretap order for telephone conversations occurring over cordless telephones, which operate through radio signals not readily available to the general public. "Electronic communications" are already specifically and separately covered by the wiretap statutes.

Section 732—House amendment sections 301 and 801 recede to Senate sections 708 and 905, with modifications. This section directs the Treasury Secretary to provide to the Congress a study of the feasibility of tagging explosives and precursor chemicals, for the purpose of tracing the explosives back to the manufacturer after an explosion. The study would also evaluate the feasibility of imposing controls on the sale and distribution of certain of those chemicals. Black or smokeless powder is excluded from the study. The section requires input from non-profit fertilizer research centers in the Treasury Secretary's conduct of the study. The section also requires the Treasury Secretary to conduct a study of the licensing requirements applicable in the various states for the purchase and use of commercial high explosives. The phrase "commercial high explosives" is defined, by way of illustration, to include "detonators, detonating cards, dynamite, water gel, emulsion, blasting agents, and boosters." This section also requires the Treasury Secretary to report the results of the study to Congress, together, if deemed necessary, with recommendations for regulation. The Secretary is authorized to promulgate regulations requiring the inclusion of tracing taggants in explosive materials if the taggants will not endanger human life or safety, will substantially assist law enforcement, and are cost-effective. The regulations promulgated pursuant to this authority shall go into effect if Congress does not act within 270 days of the publication of the regulations in the Federal Register.

TITLE VIII—ASSISTANCE TO LAW ENFORCEMENT

Subtitle A—Resources and Security

Section 801—Senate recedes to House amendment section 807, with modification. This provision provides clear statutory authority for the Departments of Justice and Treasury, in consultation with the Department of State, to use appropriated funds for the purposes of law enforcement training activities overseas.

Section 802—Senate recedes to House amendment section 704. This section expresses the sense of the Congress that any purchases made with funds authorized under this Act should be American-made.

Section 803—Senate section 513 recedes to House amendment section 303, with modification. This section authorizes the Attorney General and the Treasury Secretary to ban parking or vending adjacent to any building in the District of Columbia used by law enforcement authorities subject to their jurisdiction. The managers intend and expect that in carrying out this section, the Attorney General and the Secretary will consult and coordinate with the Government of the District of Columbia.

Section 804—House amendment section 303 recedes to Senate section 513. This section requires the providers of wire or electronic communications services to take necessary steps to preserve evidence relevant in certain investigations.

Section 805—House recedes to Senate section 528. This section requires the United States Sentencing Commission to report on the deterrent effect of current penalties for violations of laws prohibiting unauthorized access to, or damage to, a federal interest computer. Also requires the Commission to ensure that persons sentenced under these laws are incarcerated for at least six months.

Section 806—Senate recedes to House amendment title XII, with modification. This section establishes a commission, appointed jointly by the leadership of the Congress and the Chief Justice of the United States Supreme Court, to evaluate the coordination, effectiveness, and oversight of federal law enforcement. The Commission is required to report to Congress.

Section 807—Senate recedes to House amendment title X. This section requires an audit of counterfeit U.S. currency in international markets, and provides for consideration by the Secretary of State of requests by the Department of the Treasury for the posting of agents of the United States Secret Service at U.S. embassies.

Section 808—Senate recedes to House amendment section 805. This section establishes findings by Congress that acts of violence against all levels of government employees are on the increase, that such acts create a danger to our constitutional form of government, and that additional information is needed to fully understand the true nature and source of the dangers faced by public servants.

This section then directs the Attorney General to acquire and compile data for each calendar year, beginning in 1990, reflecting crimes and incidents of threats of violence against federal, state, and local government employees on account of the performance of their public duties. The Attorney General is required to publish an annual summary of the collected data.

Section 809—Senate recedes to House amendment section 112. This section requires the National Institute of Justice ("NIJ") to conduct a study that may result in a standard protocol for identifying handgun bullets that are capable of penetrating body armor commonly worn by police when shot from a handgun. The NIJ must establish standard criteria for the type of body armor against which the bullets were tested. The NIJ must report its findings to Congress with recommendations regarding its findings.

The current practice is to outlaw bullets by brand-name without regard to their specific component qualities. To continue this practice could result in hunting-type bullets being outlawed indiscriminately, without regard to the nature and purpose of the ammunition, and without regard to the proximity of the target, or the type of weapon used to shoot the bullet.

It is important to establish standard criteria for determining which bullets, when shot from a handgun, have the ability to penetrate body armor.

Section 810—House recedes to Senate section 511, with modifications. This section requires a study of current laws and guidelines governing the use of electronic surveillance devices and PEN registers, and the effect of evolving technology on criminal activity.

Subtitle B—Funding Authorizations for Law Enforcement

This subtitle provides $1.0 billion in authorization for appropriations to enhance law enforcement ability to deter, investigate, and prosecute terrorism.

Of this $1.0 billion authorization, $468 million is authorized for the Federal Bureau of Investigation, $172 million is authorized for the Drug Enforcement Administration, and $100 million is authorized for State and Local law enforcement. The remaining $260 million is divided among other enforcement and emergency response organizations.

The conference report authorization levels represent a $940 million increase from the House amendment's authorization. This increases authorized appropriations for Federal law enforcement, the Federal Judiciary and State and local law enforcement.

However, the conference authorization levels also represent a $1.116 billion decrease from the Senate bill authorizations. The reductions come from removing Fiscal Year 1996 authorizations and reducing the remaining authorizations by half. These reductions were applied equally among all affected Senate authorizations, with minor exceptions.

The managers are committed to achieving a balanced budget, and intend that all authorizations be considered as part of the levels within the Balanced Budget Act of 1995, if enacted, or any subsequent balanced budget act.

Section 811—House recedes to Senate section 521 with modifications. Total authorization is $468 million. Funds may be used for, among other purposes, to create a Federal Bureau of Investigation counterterrorism and counterintelligence fund; expand and improve the instructional, operational support, and construction of the Federal Bureau of Investigation academy; and construct an FBI laboratory, provide laboratory examination support.

Section 812—House recedes to Senate sections 522 and section 912 with modifications. Total authorization is $31 million. Funds may be used to help the Customs Service meet the increased demands occasioned by the enactment of this Act.

Section 813—Senate recedes to House Section 601 with modifications. Total authorization is $20 million. Funds may be used to help Immigration and Naturalization Service meet the increased demands occasioned by the enactment of this Act, including the purpose of detaining and removing alien terrorists.

Section 814—House recedes to Senate section 524 with modifications. Total authorization is $172 million. Funds may be used by the Drug Enforcement Administration to fund antiviolence crime initiatives; fund major violators of Federal antidrug statute initiatives; and enhance or replace the infrastructure of the Drug Enforcement Administration.

Section 815—House recedes to Senate sections 503 and 525, with modifications. Total authorization is $41 million. Funds may be used by the Department of Justice to hire additional Assistant United States Attorneys, and provide for increased security at facilities housing Federal workers.

This section also increases the maximum reward authority available to the Attorney General for information relating to international terrorists.

Section 816—House recedes to Senate section 526 with modifications. Total authorization is $90 million. Funds may be used by the Department of the Treasury to augment counterterrorism efforts, augment White House security, and expand Presidential protection activities.

Section 817—House recedes to Senate section 910 with modifications. Total authorization is $2 million. Funds may be used to help the U.S. Park Police meet the increased demands occasioned by the enactment of this Act.

Section 818—House recedes to Senate Section 911 with modifications. Total authorization is $41 million. Funds to be used for the activities of the Federal Judiciary, including increased workload of the Federal courts occasioned by the enactment of this Act.

Section 819—Senate recedes to House Section 701 with modifications. Total authorization is $5 million. Funds to be used to provide grants for specialized training or equipment to enhance the capability of local fire and emergency service departments to respond to terrorist attacks and acts of mass violence.

Section 820—Senate recedes to House Section 702 with modifications. Total authorization is $20 million. Funds may be used to provide assistance to foreign countries facing an imminent danger of terrorist attack that threatens the national interest of the United States or puts United States nationals at risk.

Section 821—Senate recedes to House Section 703 with modifications. Total authorization is $10 million. Funds may be used to develop technologies to combat terrorism.

Section 822—Byrne grant program is modified include a program to develop and implement antiterrorism training programs and to procure equipment for use by local law enforcement authorities. Total authorization is $100 million.

Section 823—House recedes to Senate Section 527 with modification. This section provides that funding for this subtitle is authorized to be made from the Violent Crime Reduction Trust Fund, established by Title XXXI of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322).

TITLE IX—MISCELLANEOUS

Section 901—House recedes to Senate Section 622. This section codifies the extension of United States territorial sea, as defined by a 1988 Presidential Proclamation. This area would then be included within the special maritime and territorial jurisdiction of the U.S. for purposes of the criminal law. This section also adopts non-conflicting state law in the territorial sea.

Section 902—House recedes to Senate section 904. This section provides that voter registration cards (or similar documents) will not qualify as proof of U.S. citizenship.

Section 903—Senate recedes to House amendment title XIII. This section provides limitations on fees for representation of defendants in criminal cases.

Section 904—House recedes to Senate section 913. This section provides severability for the provisions of the Act.

HENRY HYDE,
BILL MCCOLLUM,
STEVEN SCHIFF,
STEVE BUYER,
BOB BARR,
CHARLES SCHUMER,
Managers on the Part of the House.
ORRIN G. HATCH,
STROM THURMOND,
ALAN K. SIMPSON,
Managers on the Part of the Senate.

PARTIAL-BIRTH ABORTION BAN ACT—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104-198)

The Speaker pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without any approval H.R. 1833, which would prohibit doctors from performing a certain kind of abortion. I do so because the bill does not allow women to protect themselves from serious threats to their health. By refusing to permit women, in reliance on their doctors' best medical judgment, to use their procedure when their lives are threatened or when their health is put in serious jeopardy, the Congress has fashioned a bill that is consistent neither with the Constitution nor with sound public policy.

I have always believed that the decision to have an abortion generally should be between a woman, her doctor, her conscience, and her God. I support the decision in *Roe* v. *Wade* protecting a woman's right to choose, and I believe that the abortions protected by that decision should be safe and rare. Consistent with that decision, I have long opposed late-term abortions except where necessary to protect the life or health of the mother. In fact, as Governor of Arkansas, I signed into law a bill that barred third trimester abortions, with an appropriate exception for life or health.

The procedure described in H.R. 1833 has troubled me deeply, as it has many people. I cannot support use of that procedure on an elective basis, where the abortion is being performed for non-health related reasons and there are equally safe medical procedures available.

There are, however, rare and tragic situations that can occur in a woman's pregnancy in which, in a doctor's medical judgment, the use of this procedure may be necessary to save a woman's life or to protect her against serious injury to her health. In these situations, in which a woman and her family must make an awful choice, the Constitution requires, as it should, that the ability to choose this procedure be protected.

In the past several months, I have heard from women who desperately wanted to have their babies, who were devastated to learn that their babies had fatal conditions and would not live, who wanted anything other than an abortion, but who were advised by their doctors that this procedure was their best chance to avert the risk of death or grave harm which, in some cases, would have included an inability to ever bear children again. For these women, this was not about choice—not about deciding against having a child. These babies were certain to perish before, during or shortly after birth, and the only question was how much grave damage was going to be done to the woman.

I cannot sign H.R. 1833, as passed, because it fails to protect women in such dire circumstances—because by treating doctors who perform the procedure in these tragic cases as criminals, the bill poses a danger of serious harm to women. This bill, in curtailing the ability of women and their doctors to choose the procedure for sound medical reasons, violates the constitutional command that any law regulating abortion protect both the life and the health of the woman. The bill's overbroad criminal prohibition risks that women will suffer serious injury.

That is why I implored Congress to add an exemption for the small number of compelling cases where selection of the procedure, in the medical judgment of the attending physician, was necessary to preserve the life of the woman or avert serious adverse consequences to her health. The life exception in the current bill only covers cases where the doctor believes that the woman will die. It fails to cover cases where, absent the procedure, serious physical harm, often including losing the ability to have more children, is very likely to occur. I told Congress that I would sign H.R. 1833 if it were amended to add an exception for serious health consequences. A bill amended in this way would strike a proper balance, remedying the constitutional and human defect of H.R. 1833. If such a bill were presented to me, I would sign it now.

I understand the desire to eliminate the use of a procedure that appears inhumane. But to eliminate it without taking into consideration the rare and tragic circumstances in which its use may be necessary would be even more inhumane.

The Congress chose not to adopt the sensible and constitutionally appropriate proposal I made, instead leaving women unprotected against serious health risks. As a result of this Congressional indifference to women's health, I cannot, in good conscience and consistent with my responsibility to uphold the law, sign this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 10, 1996*.

The SPEAKER pro tempore. The objections of the President will be spread at large upon the Journal, and the message and the bill will be printed as a House document.

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that the message of the President and the bill be referred to the Committee on the Judiciary.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

APPROVING REGULATIONS TO IMPLEMENT THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995 WITH RESPECT TO EMPLOYEES OF THE HOUSE OF REPRESENTATIVES

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 400) approving regulations to implement the Congressional Accountability Act of 1995 with respect to employing offices and covered employees of the House of Representatives.

The Clerk read as follows:

H. RES. 400

Resolved,

SECTION 1. APPROVAL OF REGULATIONS.

(a) IN GENERAL.—The regulations listed in subsection (b) are hereby approved, insofar as such regulations apply to employing offices and covered employees of the House of Representatives.

(b) REGULATIONS APPROVED.—The regulations referred to in subsection (a) are the following regulations issued by the Office of Compliance on January 22, 1996, as published in the Congressional Record on January 22, 1996 (Volume 142, daily edition), each beginning on the page indicated:

(1) Regulation on rights and protections under the Family and Medical Leave Act of 1993, page S200.

(2) Regulation on rights and protections under the Fair Labor Standards Act of 1938, page S238.

(3) Regulation on use of lie detector tests by the Capitol Police, page S261.

(4) Regulation on rights and protections under the Employee Polygraph Protection Act of 1988, page S263.

(5) Regulation on rights and protections under the Worker Adjustment and Retraining Notification Act, page S271.

The SPEAKER pro tempore. The gentleman from California [Mr. THOMAS] and the gentleman from California [Mr. FAZIO] each will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GOODLING], the chairman of the Committee on Economic and Educational Opportunities.

Mr. GOODLING. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the resolution before us with regard to congressional coverage.

While largely ministerial, they represent one more important step in bringing ourselves under the workplace laws we have long imposed, often too cavalierly in my view, on other employers.

Let me just say that I still occasionally express some wonderment that this day is finally here. The Congressional Accountability Act regulations represent the culmination of a several-year process in the Opportunities Committee in which the now-majority party repeatedly attempted to extend the laws of the workplace to our own employees, with proper enforcement mechanisms including access to the courts with jury trials.

Enactment of the Congressional Accountability Act, like the unfunded mandate legislation which was also enacted this Congress, has created a long-needed institutional brake—a yellow flag—on the passage of laws this institution too easily imposed in the past on all other workplaces while exempting itself. As importantly, the law finally extended the same workplace protections other workers have to our own employees. While these laws are not perfect there is no reason why our workers should be under different standards. And now that we are forced to comply with these laws, we will learn from experience and better identify with problems of compliance endured by our constituents. In fact, I can guarantee it. Proposals for future workplace requirements and reform of existing laws will gather a lot closer attention by every member of the Opportunities Committee and the House. And it's about time.

True, the protections of some laws had been applied in the past to the House, but the protections were hollow because employees never had the same right to court enforcement that their counterparts in the private sector and the executive branch enjoyed. And there were no signs there would ever be such enforcement! Indeed, as recently as 1991 when I had CRS do an analysis of the issue, we were still arguing over whether court enforcement posed constitutional concerns. Fortunately, that analysis, which found there were not significant concerns, growing public awareness over the double standard enjoyed by Congress, and, most importantly, the outcome of the last election, brought us here today. Yes, the issue is now bipartisan, and I am glad it is, but it is clear that real—truly effective—congressional coverage was the result of the last election. We've come a long way in a year's time.

Indeed, the only shadow cast over today is that it took so long in coming. As I have noted in the past, the irony of Congress in exempting itself from the laws it imposed on others is so obvious that one wonders how it so long escaped criticism. But I am gratified that those of us who long fought for strong congressional coverage enforcement now have amply company.

The first House resolution before us, House Resolution 400, simply provides for approval of the regulations issued by the Office of Compliance, including those under the Fair Labor Standards Act and the Family and Medical Leave Act, as applicable to House employees.

After we proceed with this resolution, we will take up House Resolution 401 which provides for educational assistance by the Office of Compliance by employees who are not involved in deciding cases, and only to the same extent as such assistance is provided by the Department of Labor to the employers it regulates. The resolution also provides for a settlement procedure to ensure that taxpayer funds are protected from abuse.

Last, we will take up Senate Concurrent Resolution 51, already passed by the Senate, applying the regulations issued by the Office of Compliance to certain of the so-called instrumentalities of the House and Senate. These are offices administered by both the House and the Senate—such as the Congressional Budget Office, the Architect of the Capitol, and the Capitol Police—and, therefore, have to be covered through a concurrent resolution.

Mr. Speaker, I support these resolutions.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Congressional Accountability Act—Public Law 104-1—became effective on January 23, 1996. This law created the Office of Compliance, an independent office within the legislative branch, which is responsible for educating Congressional offices on how to comply with the laws made applicable to the Congress, as well as for providing a procedure for resolution of employee grievances, and for adopting regulations to implement these laws. These regulations must be approved by the House.

The Board of Directors of the Office of Compliance adopted regulations which were published in the CONGRESSIONAL RECORD on January 22, 1996. In anticipation of these regulations, on December 19, 1995, the House agreed to House Resolution 31 and House Concurrent Resolution 123, which provided for provisional approval of these regulations until the Committees of jurisdiction could review them and make a final recommendation to the House.

On March 12, 1996, the Committee on House Oversight considered these regulations, and voted to recommend their approval to the House. The regulations were also considered by the Committee on Educational and Economic Opportunities, which has jurisdiction over most of the laws made applicable to Congress by the act. The two House Resolutions which will be considered by the House today are the product of consultation by the two committees.

An issue addressed by the Committee on House Oversight at its March 12, 1996 meeting was supporting of time off plans. Our research indicates that these plans are available to House employers in the same way they are available to employers in the private sector. Mr. Speaker, I ask unanimous consent to insert at this point in the RECORD a memo on this issue written by the American Law Division of the Congressional Research Service.

In addition House Resolution 400 provides for approval of the regulations adopted by the Office of Compliance which are applicable to House employing offices and covered employees, as contemplated by section 304(c)(4) of the act.

Mr. Speaker, I submit for the RECORD a memorandum from the American Law Division of the Congressional Research Service.

AMERICAN LAW DIVISION,
CONGRESSIONAL RESEARCH SERVICE,
Washington, DC,

Subject: Time-off Plans Under Fair Labor Standards Act (FLSA).

Author: Vince Treacy, Legislative Attorney.

The Fair Labor Standards Act (FLSA) requires that employees be paid one-and-one-half times their regular rate of pay for each hour worked in excess of 40 hours in a workweek. 29 U.S.C. §207(a). Overtime compensation earned in a particular workweek must be paid on the regular pay day for the period in which such workweek ends. 29 C.F.R. §778.106. The Congressional Accountability Act (CAA) made the overtime provisions of the FLSA applicable to all employing offices in the Legislative Branch. Public Law No. 104-1, §203(a)(3).

Under a time-off plan, the employer may comply with the FLSA and continue to pay a fixed wage or salary each pay period, even though the employee works overtime in some other week or weeks within the pay period. The employer lays off the employee a sufficient number of hours during some other week or weeks of the pay period, so that the desired wage or salary for the pay period covers the total amount of compensation, including overtime compensation, for each workweek taken separately. The essential principle of the time-off plan is the control of earnings by control of the number of hours an employee is permitted to work.

A time-off plan cannot be applied "to a salaried employee who is paid a fixed salary to cover all hours he may work in any particular workweek or pay-period." U.S. Dep't of Labor, Employment Standards Administration, The Time Off Plan. In other words, a time-off practice cannot be applied to a nonexempt salaried employee who is paid a fixed salary to cover all hours, however few or many, that he may have worked in a particular workweek. For example, if an employee was hired to work for a salary of $400 per week to cover all hours worked up to 40 in a week, then the employee would earn the same $400 whether he worked 40, 30, 20, or no hours in a week. This employee could not be compensated with time off within another week in the pay period, since the employer would have paid him for that time in any event. Since the employee was already entitled to his salary for the short workweek, the use of the hours under 40 as an offset against overtime liability owed for a separate workweek would result in a denial of the extra overtime compensation the employee was entitled to under the FLSA.

The Department of Labor expressly disapproved time-off plans for workers with a guaranteed salary in Opinion Letter of May 27, 1964. The employer wanted to guarantee certain employees 40 hours of work or pay each week. Employees would receive a minimum week's pay in any week even though they may have worked fewer hours in the week. The proposed plan "is not a bona fide time-off plan in that the employee is guaranteed a definite number of hours of work or the equivalent in pay each workweek. The required control of earnings through control of the number of hours an employee is permitted to work in a pay period is lacking."

A similar problem would arise if an employee were expressly hired to work 35 hours per week for a fixed salary of $350. That employee could not be compensated with hours-off under 40 in a week, since those hours are unpaid under the employment agreement. The time off for such an employee must be subtracted from the 35 hours in the regular workweek. An employee who worked 50 hours in one week could then be compensated by receiving the full $350 salary for 20 hours of work in the second week. In the second week, $200 would represent compensation for the 20 hours actually worked, while $150 would be cash compensation for the 10 hours of overtime in the first week.

A time-off plan allows an employer to control earnings by controlling the number of hours worked. If the employee works more than 40 hours in a workweek, the employee can be required to take one-and-one-half hours off for each overtime hour within the same pay period. This produces virtually the same total earnings as if the employee had work only 40 hours in each workweek in the pay period.

Salaries status does not preclude the use of time-off plans for nonexempt employees. Time-off plans are barred only when the employee is guaranteed the salary regardless of the number of hours actually worked. Salaried nonexempt employees are customarily required to work a fixed number of hours for their pay. Absences must be charged to leave banks for vacation, sickness, or personal use. The actual salary is reduced ("docked") only when leave is denied or exhausted. These salaried employees may be given time off with pay in lieu of cash overtime, since the pay for the compensatory time off represents pay they would not otherwise have received.

In the state and local public sector, compensatory time off may be carried over to other pay periods, and can be accumulated into banks of up to 240 hours, or 480 for public safety employees. In the private sector, however, the overtime hours cannot be accumulated and the time off cannot be given in another pay period. This policy is based in part on the possibility that the employer may go out of business, or file for liquidation under the Bankruptcy Code, and thereby eliminate employee overtime compensation entirely.

The Congressional Accountability Act expressly adopted the private sector policy, and prohibited the accumulation of compensatory time. "Except as provided in regulations under subsection (c)(3), covered employees may not receive compensatory time in lieu of overtime compensation." Public Law No. 104-1, §203(a)(3).

Time-off plans were approved by the Court in Dunlop v. State of New Jersey: :"The restriction that time off for overtime be granted within the same pay period as earned mirrors the stricture placed upon monetary payments for overtime." 522 F.2d 504, 510 (3d Cir. 1975), affirming 364 F.Supp. 156 (D.N.J. 1973), vacated on other grounds, 427 U.S. 909 (1976). Time-off plans have been approved by the Wage-Hour Administrator in Opinion Letters. DOL Opinion Letter No. 913 (Dec. 27, 1968), quoted with approval, 522 F.2d at 509-510, 364 F.Supp. at 158.

The use of time-off plans was first suggested to the House in 1990 by Betty Southard Murphy, an attorney who was a former Wage and House Administrator at the Department of Labor.

Overtime compensation need not be paid as money wages. Under proper and rigid circumstances, employees may receive their overtime compensation as compensatory time off. Such plans are only permitted as an alternative to overtime payments if the time off is taken during the same pay period in which the overtime is earned. Presentation by Betty Southard Murphy Before the Administrative Assistants Association, U.S. House of Representatives, Washington, DC, Oct. 18, 1990 (emphasis in original).

The time-off plan must meet three requirements. (1) The employees must be either hourly or salaried; employees paid by piecework, commission, or amount of production are excluded. (2) The wage agreement must provide a fixed number working hours per week; employees who work fluctuating hours for a fixed salary do not qualify. (3) The pay period must be either bi-weekly, semimonthly; or monthly; the plan cannot be applied to employees whose pay period is weekly.

Furthermore, time-off plans require careful records, because the employer may not at any time owe the employees overtime compensation. Payroll records should clearly indicate that the premium rate of one-and-one-half of the regular rate of pay is paid for all overtime hours worked. The employer must maintain an individual account for each employee, with credit for the appropriate amount of time. "Overall, time-off plans are rarely used because they are difficult to administer—the employer must anticipate workload requirements in all weeks of the established pay period." Betty Murphy, Guide to Wage and Hour Regulation at 46 (BNA, 1987).

Under the Portal-to-Portal Act of 1947, an employer must act "in good faith in conformity with and in reliance on any written administrative regulation, order, ruling, approval, or interpretation" of the Administrator of the Wage and Hour Division of the Department of Labor. 29 U.S.C. §259. The Office of Compliance has ruled that the Portal-to-Portal Act applies under the Congressional Accountability Act. 122 Cong. Rec. S222 (daily ed., Jan. 22, 1996).

The Office of Compliance has stated that "[t]ime-off plans are authorized under section 7(a) of the FLSA. See, e.g., Wage and Hour Administrator Opinion Letter, issued 1950; Wage and Hour Opinion Letter dated December 27, 1968. Thus, employing offices are authorized to use such plans under section 203 of the CAA." It would therefore appear that employing offices may rely on the written opinions of the Wage and Hour Administrator of DOL in adopting time-off plans.

In the House of Representatives, several provisions should be noted. Title 2 of the U.S. Code provides that "[n]o person shall be paid from any clerk hire allowance if such person does not perform services for which he receives such compensation in the offices of such Member or Resident Commissioner in Washington, District of Columbia, or in the State or the district in which such Member or Resident Commissioner represents." 2 U.S.C. §92-1.

The Rules of the House of Representatives provides that a Member or officer of the House "shall retain no one under his payroll authority who does not perform official duties commensurate with the compensation received in the offices of the employing authority." Rule XLIII, clause 8 (1995). The Members' Congressional Handbook provides that "Members may not [emphasis in original] retain a Clerk Hire employee on their payroll who does not perform official duties commensurate with their compensation," and that "Clerk Hire employees must perform the duties for which they are compensated within the Washington, D.C., or district congressional office(s) of the Member." See section II.A, clauses 2, 3, at page 5. Moreover, Title 31 of the U.S. Code provides that "[a]ppropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law." 31 U.S.C. §1301(a).

An employing office in the House of Representatives may adopt a time-off plan. It is advisable that the plan be in writing. The plan should note that its provisions revoke and supersede all prior customs, practices and usages concerning time and pay. The plan should stipulate that all covered employees, whether salaried or hourly, are employed for a fixed workweek, such as 40 hours per week. The plan should also require that all hours be strictly accounted for, either as hours worked or as hours charged to paid leave, such as annual, sick, personal, holiday, emergency, or administrative leave.

Mr. Speaker, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my friend from California, Chairman THOMAS, has accurately described the purpose of the resolution. It simply approves the regulations issued by the Office of Compliance.

Reforming employment practices in the House took bi-partisan effort. Members from both sides of the aisle were steadfast in the reform efforts, and we were able to work through all the obstacles and pass the law.

I want to single out for praise the efforts to Chairman THOMAS, Representative SHAYS, Representative HOYER, and many other Members of this Congress, as well as Representative Swett in 103d Congress. They deserve recognition for their dedication to this reform.

House Members of both parties overwhelmingly supported this bill, and individual Members should take credit for their part in it. Remember, the underlying purpose of this law—imposing the same sandards on the House as on the private sector—enjoyed the same strong bi-partisan support in this Congress that it enjoyed in the last Congress.

I think we can be proud, individually and as an institution, that we have arrived at this point. Furthermore, as I have surveyed my colleagues, I find them universally supportive of the new law, and the workplace fairness which it brings to the House. There is a genuine desire to comply with the law, and Members seem eager for information to help them comply.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. THOMAS] that the House suspend the rules and agree to the resolution, House Resolution 400.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

DIRECTING THE OFFICE OF COMPLIANCE TO PROVIDE EDUCATIONAL ASSISTANCE TO EMPLOYING OFFICES OF THE HOUSE IN SAME MANNER AS SUCH ASSISTANCE IS PROVIDED TO THE PRIVATE SECTOR THROUGH THE DEPARTMENT OF LABOR

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 401) directing the Office of Compliance to provide educational assistance to employing offices of the House of Representatives regarding compliance with the Congressional Accountability Act of 1995 and requiring employing offices of the House of Representatives to obtain the prior approval of the chairman and the ranking minority party member of the Committee on House Oversight of the House of Representatives of the amount of any settlement payments made under such Act.

The Clerk read as follows:

H. RES. 401

Resolved,

SECTION 1. INTERPRETATION AND ADVICE BY OFFICE OF COMPLIANCE.

In carrying out its duties under section 301(h) of the Congressional Accountability Act of 1995, the Office of Compliance shall, through interpretive bulletins, advisory opinions, and other methods, provide educational assistance to employing offices of the House of Representatives in the same manner as, and to no lesser extent than, such assistance is provided to other employers through the Department of Labor with respect to laws made applicable to such offices under that Act, except that any employees of the Office of Compliance who provide such assistance may not participate in deciding complaints filed under section 405 of the Act or in deciding petitions for review filed under section 406 of the Act.

SEC. 2. APPROVAL OF AMOUNT OF SETTLEMENT PAYMENTS.

No employing office of the House of Representatives may enter into any settlement of a compliant under the Congressional Accountability Act of 1995 which includes the payment of funds unless the office has obtained the prior approval of the chairman and the ranking minority party member of the Committee on House Oversight of the House of Representatives, acting jointly, regarding the amount of funds to be paid.

The SPEAKER pro tempore. The gentleman from California [Mr. THOMAS] and the gentleman from California [Mr. FAZIO] each will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

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Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Section 301(h) of the Congressional Accountability Act—Public Law 104-1—requires the Office of Compliance to carry out a program of education for employing authorities of the legislative branch with regard to the laws made applicable to Congress by the act. The purpose of this section was to ensure that employing offices have the information necessary to comply with the act.

On March 12, 1996, the Committee on House Oversight agreed to direct the Office of Compliance to provide educational assistance through interpretive bulletins, advisory opinions, and other methods with respect to the regulations adopted by the Office of Compliance. It is important to note that this assistance is currently provided to employers in the private sector by the Department of Labor.

The Office of Compliance has publicly claimed that they cannot issue advisory opinions. The authority to issue advisory opinions, in the committee's opinion, is a necessary function related to the authority to issue regulations. It seems a little disingenuous to adopt regulations. It seems a little disingenuous to adopt regulations and then claim an inability to explain or interpret those regulations. Therefore, H.R. 401 expresses the will of the House that the Office of Compliance provide educational assistance through various methods. Advisory opinions are only one of the many ways such assistance may be provided.

Mr. Speaker, I include for the RECORD a copy of an analysis on this issue from the American Law Division of the Congressional Research Service.

The document referred to is as follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, April 15, 1996.

To: Committee on House Oversight; attention: Dan Crowley.

From: American Law Division.

Subject: Examination of Authority of Office of Compliance to Issue Advisory Opinions.

This memorandum is submitted in response to the committee's request, as discussed with Dan Crowley of the committee staff, concerning the subject noted above. Specifically, the committee has asked that we examine the position taken by the Office of Compliance that it cannot, consistent with the scheme of the Congressional Accountability Act of 1995[1] (CAA or the act), issue advisory opinions.

On March 12, 1996, the Committee on House Oversight (committee) considered, but did not report, two resolutions to approve regulations adopted by the Board of Directors (Board) of the Office of Compliance (Office) to implement the act.[2] The first section of each resolution states that specified regulations of the Board "are hereby approved. . . ." Section 2 of each resolution provides:

"In carrying out its duties under section 301(h) of the Congressional Accountability Act of 1995, the Office of Compliance shall, through interpretive bulletins, advisory opinions, and other methods, provide educational assistance to employing offices of the House of Representatives in the same manner as, and to no lesser extent than, such assistance is provided to other employers through the Department of Labor with respect to laws made applicable to the House of Representatives under that Act."

We have been advised by the committee staff that similar language may be included in a resolution to be considered by the House on April 15, 1996, to approve of the Board's regulations.[3]

The Board maintains that, given its functions and powers under the CAA, it cannot issue advisory opinions.[4] Two premises provide the foundation for the Board's view. First, the Board argues that, as an administrative entity with adjudicatory functions under the CAA, it "may not issue binding legal interpretations concerning disputed matters in non-public proceedings and without the benefit of an adversary proceeding that is governed by rules of law and subject to judicial review. . . . [T]o issue such binding interpretations and advisory opinions . . . would . . . compromise the independence and impartiality of the Office. . . ."[5] And second, the Board considers the issuance of interpretations and advisory opinions to be incident to an agency's investigative and prosecutorial powers—a means by which an agency informs those subject to its jurisdiction of its prosecutorial policies and its stance with regard to conduct deemed to be violative of the pertinent laws and regulations. Since the Office does not generally exercise investigative and prosecutorial authority under the CAA, the Board believes that it would be inappropriate for it to issue advisory opinions.

From our review of the CAA, the committee's resolutions, the Board's argument, and sources on administrative law, it appears for several reasons that the Office need not be precluded from issuing advisory opinions of the type seemingly contemplated by the resolutions.

(2) The resolutions call for educational assistance. The resolutions call upon the Office, in fulfilling its duties under CAA, §301(h), to "provide educational assistance to employing offices of the House of Representatives" by means of "interpretive bulletins, advisory opinions, and other methods. . . ."[6] The resolutions are arguably intended to secure education for employers, and advisory opinions are only one of the means contemplated by which this education would be furnished. Although the Office deems it to be inappropriate to issue advisory opinions, it could fulfill the central purpose of this provision of the resolution by affording other types of educational assistance to employing offices. The Office acknowledges that it "has issued hundreds of pages of educational and informational materials, sponsored numerous educational programs, and established an information hot-line."[7] Additional assistance to employers of the type already provided by the Office, although perhaps more particularized, could satisfy the goal of the resolutions. Furthermore, it seems that the Office could issue advisory opinions, as contemplated by the resolutions, without raising the concerns advanced by the Office in regard to the impact on the "independence and impartiality of the office."[8] The Office is troubled by the prospect of issuing "*binding* legal interpretations . . . in non-public proceedings" on"*individual fact-specific cases* that may then later come before . . . [the Office] for adjudication."[9] However, it is arguable that an advisory opinion could be rendered by the Office, consistent with the purpose of the resolutions, without speaking to the facts of an individual case but addressing instead a fact pattern potentially of interest to a number of employing offices. Additionally, the educational assistance sought by the resolutions could be afforded without providing a binding legal interpretation, but merely further guidance along the lines already made available by the Office in other ways.[10]

(2) Advisory opinions may be issued pursuant to rulemaking power. Although our research has revealed a dearth of literature on the issuance of advisory opinions by administrative bodies, one study of advice giving by federal agencies observes that "the most striking characteristic of the advice-giving procedures of the agencies studied is that, except on the question of jurisdiction, agencies view advice-giving assistance to the public as part of their rulemaking, rather than their adjudicatory processes."[11] From this statement, it seems that an agency with adjudicatory powers may provide advice[12] and it would further appear that such advice might encompass advisory opinions.[13] Thus, it might be argued that the adjudicatory powers vested by the CAA in the Office of Compliance need not bar the Office from issuing advisory opinions. Furthermore, the advice giving function has been considered by at least some agencies to be a part of their rulemaking duties, and the Office does have rulemaking responsibilities under the act.[14] Thus, the Office arguably could issue advisory opinions under its rulemaking powers, without regard to the fact that it lacks prosecutorial authority.

CONCLUSION

It would appear that the scheme of the CAA need not preclude the Office from issuing advisory opinions, as contemplated by the resolutions described above, pursuant to its education function or pursuant to its rulemaking power, notwithstanding the fact that it generally does not exercise investigative or prosecutorial powers. Furthermore, the Office's adjudicatory powers would not seem to bar it from issuing advisory opinions.

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[1] Footnotes at end.

JAY R. SHAMPANSKY,
Legislative Attorney,
American law Division.

FOOTNOTES

[1] Pub. L. No. 104-1, 109 Stat. 3.

[2] Our analysis is based on discussion drafts of the resolutions, dated March 7, 1996, which were provided to us by the committee staff. One resolution is a simple House resolution which approves of regulations applicable to the House, and the other is a concurrent resolution which approves of regulations applicable to employees covered by the CAA who are not employees of either the House or the Senate.

[3] Similar language appears in §1 of a revised discussion draft of the resolution provided to us by committee staff. However, the revised draft further specifies that "any employees of the Office of Compliance who provide such [educational] assistance may not participate in, deciding complaints filed under section 405 of the Act or in deciding petitions for review filed under section 405 of the Act. . . ."

[4] Letter from Glen Nager, Chair of the Board, to the Honorable William M. Thomas, Chairman of the Committee on House Oversight (Mar. 15, 1996) (hereafter, "Board's letter"), at pp. 2-4 (A copy of the letter was provided to us by committee staff.) Similar views are set forth in a March 28, 1996, letter from Ricky Silberman, Executive Director, Office of Compliance, to the editor of Roll Call. Our analysis focuses on the reasoning set forth in the Board's letter with regard to the propriety of the issuance of advisory opinions by an administrative body in light of its adjudicatory, prosecutorial, and investigative powers. Our analysis is confined to the question of the Board's authority to issue advisory opinions. We do not address any other issues that might be raised by the resolutions or by the Board's critique of the resolutions in its letter. The Board suggests, without explanation, that "the additional provisions of the resolution [including the provision concerning advisory opinions] are not legally binding. . . ." Board's letter, at p. 4. In the absence of elaboration by the Board, we do not explore here the issue of whether the additional provisions of the resolution would be binding. Our analysis is restricted to the question of whether the Board has authority under the CAA, as originally enacted, to issue advisory opinions.

[5] Board's letter *supra* note 4, at p. 2.

[6] Section 301(h) mandates that the Office "carry out a program of education for Members of Congress and other employing authorities . . . respecting the laws made applicable to them . . . ."

[7] Board's letter, supra note 4, at p. 3.

[8] Id., at p. 2.

[9] Id. (emphasis added).

[10] The resolutions call upon the Office to provide educational assistance in the same manner as such assistance is provided to other employers through the Department of Labor. The Board contends that, lacking investigative and prosecutorial powers, it cannot meet this standard. Board letter, supra note 4, at pp. 2-3. But such investigative and prosecutorial powers may not be required to issue advisory opinions. See notes 11 14 and accompanying text, infra.

[11] Powell, "Sinners, Supplicants, and Samaritans: Agency Advice Giving in Relation to Section 554(e) of the Administrative Procedure Act," 63 N.C.L. Rev. 339, 348-49 (1985). The article was based on a study of the following fourteen federal agencies: Consumer Product Safety Commission, Environmental Protection Agency, Federal Aviation Administration, Federal Communications Commission, Federal Election Commission, Federal Energy Regulatory Commission, Federal Maritime Commission, Federal Trade Commission, Food and Drug Administration Interstate Commerce Commission, National Labor Relations Board, Nuclear Regulatory Commission, Occupational Safety and Health Administration, and Securities and Exchange Commission. Id. at 348 n.36.

[12] See id. at 355 (adjudication occurs where advice giving by agency has already failed).

[13] "Advice giving" is considered to be a type of rulemaking, and definitions of rulemaking generally do not attempt to distinguish among "interpretive rules and various kinds of announcements, interpretations, opinions, releases, rulings, practices, usages, and policies." Id. at 350 n.38, citing 1 K, Davis, Administrative Law Treatise, §5.01 at p. 289 (1958).

[14] CAA §§303, 304.

Mr. Speaker, H.R. 401 also establishes the process by which a settlement may be entered into by any employing office of the House, as contemplated in Section 414 of the act. Specifically, this resolution safeguards taxpayer funds by requiring the prior approval of the chairman and the agreement of the ranking minority member of the Committee on House Oversight, acting jointly, regarding the amount of funds to be paid.

This procedure is similar to the current procedure for approval of settlement payments sanctioned by the Office of Fair Employment Practices under House rule 51. All cash settlements will be approved on a strictly bipartisan basis.

In practice, it will be incumbent upon the employing office or defense counsel to ensure that the chairman and ranking minority member approve the amount of funds to be paid prior to entering into any settlement involving a cash payment. It is important to note that this resolution does not affect the authority of the executive director of the Office of Compliance to approve settlement. Instead, it imposes a restriction on the ability of House employing offices to enter into settlement agreements involving cash payments. Settlements involving only other forms of relief, including reinstatement, promotion, and prospective salary adjustments, are beyond the scope of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as with the earlier resolution, my friend, the gentleman from California, the chairman, has accurately described the purpose of this resolution. It simply expresses the House's desire to be treated the same as the private sector with respect to information available to Members to comply with the Act.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RIGGS). The question is on the motion offered by the gentleman from California [Mr. THOMAS] that the House suspend the rules and agree to the resolution, House Resolution 401.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

APPROVING FINAL REGULATIONS APPLICABLE TO JOINT ENTITIES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 51) to provide for the approval of final regulations that are applicable to employing offices that are not employing offices of the House of Representatives or the Senate, and to covered employees who are not employees of the House of Representatives or the Senate, and that were issued by the Office of Compliance on January 22, 1996, and for other purposes.

The Clerk read as follows:

S. CON. RES. 51

Resolved by the Senate (the House of Representatives concurring), That the following regulations issued by the Office of Compliance on January 22, 1996, and applicable to employing offices that are not employing offices of the House of Representatives or the Senate, and to covered employees who are not employees of the House of Representatives or the Senate, are hereby approved as follows:

PART 825—FAMILY AND MEDICAL LEAVE

825.1 Purpose and scope
825.2 [Reserved]

Subpart A—What is the Family and Medical Leave Act, and to Whom Does it Apply under the Congressional Accountability Act?

825.100 What is the Family and Medical Leave Act?
825.101 What is the purpose of the FMLA?
825.102 When are the FMLA and the CAA effective for covered employees and employing offices?
825.103 How does the FMLA, as made applicable by the CAA, affect leave in progress on, or taken before, the effective date of the CAA?
825.104 What employing offices are covered by the FMLA, as made applicable by the CAA?
825.105 [Reserved]
825.106 How is "joint employment" treated under the FMLA as made applicable by the CAA?
825.107—825.109 [Reserved]
825.110 Which employees are "eligible" to take FMLA leave under these regulations?
825.111 [Reserved]
825.112 Under what kinds of circumstances are employing offices required to grant family or medical leave?
825.113 What do "spouse," "parent," and "son or daughter" mean for purposes of an employee qualifying to take FMLA leave?
825.114 What is a "serious health condition" entitling an employee to FMLA leave?
825.115 What does it mean that "the employee is unable to perform the functions of the position of the employee"?
825.116 What does it mean that an employee is "needed to care for" a family member?
825.117 For an employee seeking intermittent FMLA leave or leave on a reduced leave schedule, what is meant by "the medical necessity for" such leave?
825.118 What is a "health care provider"?

Subpart B—What Leave Is an Employee Entitled To Take Under The Family and Medical Leave Act, as Made Applicable by the Congressional Accountability Act?

825.200 How much leave may an employee take?

825.201 If leave is taken for the birth of a child, or for placement of a child for adoption or foster care, when must the leave be concluded?

825.202 How much leave may a husband and wife take if they are employed by the same employing office?

825.203 Does FMLA leave have to be taken all at once, or can it be taken in parts?

825.204 May an employing office transfer an employee to an "alternative position" in order to accommodate intermittent leave or a reduced leave schedule?

825.205 How does one determine the amount of leave used where an employee takes leave intermittently or on a reduced leave schedule?

825.206 May an employing office deduct hourly amounts from an employee's salary, when providing unpaid leave under FMLA, as made applicable by the CAA, without affecting the employee's qualification for exemption as an executive, administrative, or professional employee, or when utilizing the fluctuating workweek method for payment of overtime, under the Fair Labor Standards Act?

825.207 Is FMLA leave paid or unpaid?

825.208 Under what circumstances may an employing office designate leave, paid or unpaid, as FMLA leave and, as a result, enable leave to be counted against the employee's total FMLA leave entitlement?

825.209 Is an employee entitled to benefits while using FMLA leave?

825.210 How may employees on FMLA leave pay their share of group health benefit premiums?

825.211 What special health benefits maintenance rules apply to multi-employer health plans?

825.212 What are the consequences of an employee's failure to make timely health plan premium payments?

825.213 May an employing office recover costs it incurred for maintaining "group health plan" or other non-health benefits coverage during FMLA leave?

825.214 What are an employee's rights on returning to work from FMLA leave?

825.215 What is an equivalent position?

825.216 Are there any limitations on an employing office's obligation to reinstate an employee?

825.217 What is a "key employee"?

825.218 What does "substantial and grievous economic injury" mean?

825.219 What are the rights of a key employee?

825.220 How are employees protected who request leave or otherwise assert FMLA rights?

Subpart C—How Do Employees Learn of Their Rights and Obligations under the FMLA, as Made Applicable by the CAA, and What Can an Employing Office Require of an Employee?

825.300 [Reserved]

825.301 What notices to employees are required of employing offices under the FMLA as made applicable by the CAA?

825.302 What notice does an employee have to give an employing office when the need for FMLA leave is foreseeable?

825.303 What are the requirements for an employee to furnish notice to an employing office where the need for FMLA leave is not foreseeable?

825.304 What recourse do employing offices have if employees fail to provide the required notice?

825.305 When must an employee provide medical certification to support FMLA leave?

825.306 How much information may be required in medical certifications of a serious health condition?

825.307 What may an employing office do if it questions the adequacy of a medical certification?

825.308 Under what circumstances may an employing office request subsequent recertifications of medical conditions?

825.309 What notice may an employing office require regarding an employee's intent to return to work?

825.310 Under what circumstances may an employing office require that an employee submit a medical certification that the employee is able (or unable) to return to work (i.e., a "fitness-for-duty" report)?

825.311 What happens if an employee fails to satisfy the medical certification and/or recertification requirements?

825.312 Under what circumstances may an employing office refuse to provide FMLA leave or reinstatement to eligible employees?

Subpart D—What Enforcement Mechanisms Does the CAA Provide?

825.400 What can employees do who believe that their rights under the FMLA as made applicable by the CAA have been violated?

825.401—825.404 [Reserved]

Subpart E—[Reserved]

Subpart F—What Special Rules Apply to Employees of Schools?

825.600 To whom do the special rules apply?

825.601 What limitations apply to the taking of intermittent leave or leave on a reduced leave schedule?

825.602 What limitations apply to the taking of leave near the end of an academic term?

825.603 Is all leave taken during "periods of a particular duration" counted against the FMLA leave entitlement?

825.604 What special rules apply to restoration to "an equivalent position?"

Subpart G—How Do Other Laws, Employing Office Practices, and Collective Bargaining Agreements Affect Employee Rights Under the FMLA as Made Applicable by the CAA?

825.700 What if an employing office provides more generous benefits than required by FMLA as Made Applicable by the CAA?

825.701 [Reserved]

825.702 How does FMLA affect anti-discrimination laws as applied by section 201 of the CAA?

Subpart H—Definitions

825.800 Definitions

Appendix A to Part 825—[Reserved]

Appendix B to Part 825—Certification of Physician or Practitioner

Appendix C to Part 825—[Reserved]

Appendix D to Part 825—Prototype Notice: Employing Office Response to Employee Request for Family and Medical Leave

Appendix E to Part 825—[Reserved]

§825.1 Purpose and scope

(a) Section 202 of the Congressional Accountability Act (CAA) (2 U.S.C. 1312) applies the rights and protections of sections 101 through 105 of the Family and Medical Leave Act of 1993 (FMLA) (29 U.S.C. 2611-2615) to covered employees. (The term "covered employee" is defined in section 101(3) of the CAA (2 U.S.C. 1301(3)). See §825.800 of these regulations for that definition.) The purpose of this part is to set forth the regulations to carry out the provisions of section 202 of the CAA.

(b) These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 202(d) and 304 of the CAA, which direct the Board to promulgate regulations implementing section 202 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 202 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." The regulations issued by the Board herein are on all matters for which section 202 of the CAA requires regulations to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of the promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 202 of the CAA].

(c) In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§825.2 [Reserved]

Subpart A—What is the Family and Medical Leave Act, and to Whom Does it Apply under the Congressional Accountability Act?

§825.100 What is the Family and Medical Leave Act?

(a) The Family and Medical Leave Act of 1993 (FMLA), as made applicable by the Congressional Accountability Act (CAA), allows "eligible" employees of an employing office to take job-protected, unpaid leave, or to substitute appropriate paid leave if the employee has earned or accrued it, for up to a total of 12 workweeks in any 12 months because of the birth of a child and to care for the newborn child, because of the placement of a child with the employee for adoption or foster care, because the employee is needed to care for a family member (child, spouse, or parent) with a serious health condition, or because the employee's own serious health condition makes the employee unable to perform the functions of his or her job (*see* §825.306(b)(4)). In certain cases, this leave may be taken on an intermittent basis rather than all at once, or the employee may work a part-time schedule.

(b) An employee on FMLA leave is also entitled to have health benefits maintained while on leave as if the employee had continued to work instead of taking the leave. If an employee was paying all or part of the premium payments prior to leave, the employee would continue to pay his or her share during the leave period. The employing office, or a disbursing or other financial office of the House of Representatives or the Senate may recover its share only if the employee does not return to work for a reason other than the serious health condition of the employee or the employee's immediate family member, or another reason beyond the employee's control.

(c) An employee generally has a right to return to the same position or an equivalent position with equivalent pay, benefits and working conditions at the conclusion of the leave. The taking of FMLA leave cannot result in the loss of any benefit that accrued prior to the start of the leave.

(d) The employing office has a right to 30 days advance notice from the employee where practicable. In addition, the employing office may require an employee to submit certification from a health care provider to substantiate that the leave is due to the serious health condition of the employee or the employee's immediate family member. Failure to comply with these requirements may result in a delay in the start of FMLA leave. Pursuant to a uniformly applied policy, the employing office may also require that an employee present a certification of fitness to return to work when the absence was caused by the employee's serious health condition (*see* §825.311(c)). The employing office may delay restoring the employee to employment without such certificate relating to the health condition which caused the employee's absence.

§825.101 What is the purpose of the FMLA?

(a) FMLA is intended to allow employees to balance their work and family life by taking reasonable unpaid leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition. The FMLA is intended to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity. It was intended that the FMLA accomplish these purposes in a manner that accommodates the legitimate interests of employers, and in a manner consistent with the Equal Protection Clause of the Fourteenth Amendment in minimizing the potential for employment discrimination on the basis of sex, while promoting equal employment opportunity for men and women.

(b) The enactment of FMLA was predicated on two fundamental concerns "the needs of the American workforce, and the development of high-performance organizations. Increasingly, America's children and elderly are dependent upon family members who must spend long hours at work. When a family emergency arises, requiring workers to attend to seriously-ill children or parents, or to newly-born or adopted infants, or even to their own serious illness, workers need reassurance that they will not be asked to choose between continuing their employment, and meeting their personal and family obligations or tending to vital needs at home.

(c) The FMLA is both intended and expected to benefit employers as well as their employees. A direct correlation exists between stability in the family and productivity in the workplace. FMLA will encourage the development of high-performance organizations. When workers can count on durable links to their workplace they are able to make their own full commitments to their jobs. The record of hearings on family and medical leave indicate the powerful productive advantages of stable workplace relationships, and the comparatively small costs of guaranteeing that those relationships will not be dissolved while workers attend to pressing family health obligations or their own serious illness.

§825.102 When are the FMLA and the CAA effective for covered employees and employing offices?

(a) The rights and protection of sections 101 through 105 of the FMLA have applied to certain Senate employees and certain employing offices of the Senate since August 5, 1993 (*see* section 501 of FMLA).

(b) The rights and protection of sections 101 through 105 of the FMLA have applied to any employee in an employment position and any employment authority of the House of Representatives since August 5, 1993 (*see* section 502 of FMLA).

(c) The rights and protections of sections 101 through 105 of the FMLA have applied to certain employing offices and covered employees other than those referred to in paragraphs (a) and (b) of this section for certain periods since August 5, 1993 (*see, e.g.,* Title V of the FMLA, sections 501 and 502).

(d) The provisions of section 202 of the CAA that apply rights and protections of the FMLA to covered employees are effective on January 23, 1996.

(e) The period prior to the effective date of the application of FMLA rights and protections under the CAA must be considered in determining employee eligibility.

§825.103 How does the FMLA, as made applicable by the CAA, affect leave in progress on, or taken before, the effective date of the CAA?

(a) An eligible employee's right to take FMLA leave began on the date that the rights and protections of the FMLA first went into effect for the employing office and employee (*see* §825.102(a)). Any leave taken prior to the date on which the rights and protections of the FMLA first became effective for the employing office from which the leave was taken may not be counted for purposes of the FMLA as made applicable by the CAA. If leave qualifying as FMLA leave was underway prior to the effective date of the FMLA for the employing office from which the leave was taken and continued after the FMLA's effective date for that office, only that portion of leave taken on or after the FMLA's effective date may be counted against the employee's leave entitlement under the FMLA, as made applicable by the CAA.

(b) If an employing office-approved leave is underway when the application of the FMLA by the CAA takes effect, no further notice would be required of the employee unless the employee requests an extension of the leave. For leave which commenced on the effective date or shortly thereafter, such notice must have been given which was practicable, considering the foreseeability of the need for leave and the effective date.

(c) Starting on January 23, 1996, an employee is entitled to FMLA leave under these regulations if the reason for the leave is qualifying under the FMLA, as made applicable by the CAA, even if the event occasioning the need for leave (*e.g.,* the birth of a child) occurred before such date (so long as any other requirements are satisfied).

§825.104 What employing offices are covered by the FMLA, as made applicable by the CAA?

(a) The FMLA, as made applicable by the CAA, covers all employing offices. As used in the CAA, the term "employing office" means—

(1) the personal office of a Member of the House of Representatives or of a Senator;

(2) a committee of the House of Representatives or the Senate or a joint committee;

(3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(4) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

(b) [Reserved]

(c) Separate entities will be deemed to be parts of a single employer for purposes of the FMLA, as made applicable by the CAA, if they meet the "integrated employer" test. A determination of whether or not separate entities are an integrated employer is not determined by the application of any single criterion, but rather the entire relationship is to be reviewed in its totality. Factors considered in determining whether two or more entities are an integrated employer include:

(i) Common management;

(ii) Interrelation between operations;

(iii) Centralized control of labor relations; and

(iv) Degree of common financial control.

§825.105 [Reserved]

§825.106 How is "joint employment" treated under the FMLA as made applicable by the CAA?

(a) Where two or more employing offices exercise some control over the work or working conditions of the employee, the employing offices may be joint employers under FMLA, as made applicable by the CAA. Where the employee performs work which simultaneously benefits two or more employing offices, or works for two or more employing offices at different times during the workweek, a joint employment relationship generally will be considered to exist in situations such as:

(1) Where there is an arrangement between employing offices to share an employee's services or to interchange employees;

(2) Where one employing office acts directly or indirectly in the interest of the other employing office in relation to the employee; or

(3) Where the employing offices are not completely disassociated with respect to the employee's employment and may be deemed to share control of the employee, directly or indirectly, because one employing office controls, is controlled by, or is under common control with the other employing office.

(b) A determination of whether or not a joint employment relationship exists is not determined by the application of any single criterion, but rather the entire relationship is to be viewed in its totality. For example, joint employment will ordinarily be found to exist when: (1) an employee, who is employed by an employing office other than the personal office of a Member of the House of Representatives or of a Senator, is under the actual direction and control of the Member of the House of Representatives or Senator; or

(2) two or more employing offices employ an individual to work on common issues or other matters for both or all of them.

(c) When employing offices employ a covered employee jointly, they may designate one of themselves to be the primary employing office, and the other or others to be the secondary employing office(s). Such a designation shall be made by written notice to the covered employee.

(d) If an employing office is designated a primary employing office pursuant to paragraph (c) of this section, only that employing office is responsible for giving required notices to the covered employee, providing FMLA leave, and maintenance of health benefits. Job restoration is the primary responsibility of the primary employing office, and the secondary employing office(s) may, subject to the limitations in §825.216, be responsible for accepting the employee returning from FMLA leave.

(e) If employing offices employ an employee jointly, but fail to designate a primary employing office pursuant to paragraph (c) of this section, then all of these employing offices shall be jointly and severally liable for giving required notices to the employee, for providing FMLA leave, for assuring that health benefits are maintained, and for job restoration. The employee may give notice of need for FMLA leave, as described in §§ 825.302 and 825.303, to whichever of these employing offices the employee chooses. If the employee makes a written request for restoration to one of these employing offices, that employing office shall be primarily responsible for job restoration, and the other employing office(s) may, subject to the limitations in §825.216, be responsible for accepting the employee returning from FMLA leave.

§825.107 [Reserved]

§825.108 [Reserved]

§825.109 [Reserved]

§825.110 Which employees are "eligible" to take FMLA leave under these regulations?

(a) An "eligible employee" under these regulations means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

(b) The 12 months an employee must have been employed by any employing office need not be consecutive months. If an employee worked for two or more employing offices sequentially, the time worked will be aggregated to determine whether it equals 12 months. If an employee is maintained on the payroll for any part of a week, including any periods of paid or unpaid leave (sick, vacation) during which other benefits or compensation are provided by the employer (e.g., workers' compensation, group health plan benefits, etc.), the week counts as a week of employment. For purposes of determining whether intermittent/occasional/casual employment qualifies as "at least 12 months," 52 weeks is deemed to be equal to 12 months.

(c) If an employee was employed by two or more employing offices, either sequentially or concurrently, the hours of service will be aggregated to determine whether the minimum of 1,250 hours has been reached. Whether an employee has worked the minimum 1,250 hours of service is determined according to the principles established under the Fair Labor Standards Act (FLSA) , as applied by section 203 of the CAA (2 U.S.C. 1313), for determining compensable hours of work. The determining factor is the number of hours an employee has worked for one or more employing offices. The determination is not limited by methods of record-keeping, or by compensation agreements that do not accurately reflect all of the hours an employee has worked for or been in service to the employing office. Any accurate accounting of actual hours worked may be used. For this purpose, full-time teachers (see §825.800 for definition) of an elementary or secondary school system, or institution of higher education, or other educational establishment or institution are deemed to meet the 1,250 hour test. An employing office must be able to clearly demonstrate that such an employee did not work 1,250 hours during the previous 12 months in order to claim that the employee is not "eligible" for FMLA leave.

(d) The determinations of whether an employee has worked for any employing office for at least 1,250 hours in the previous 12 months and has been employed by any employing office for a total of at least 12 months must be made as of the date leave commences. The "previous 12 months" means the 12 months immediately preceding the commencement of the leave. If an employee notifies the employing office of need for FMLA leave before the employee meets these eligibility criteria, the employing office must either confirm the employee's eligibility based upon a projection that the employee will be eligible on the date leave would commence or must advise the employee when the eligibility requirement is met. If the employing office confirms eligibility at the time the notice for leave is received, the employing office may not subsequently challenge the employee's eligibility. In the latter case, if the employing office does not advise the employee whether the employee is eligible as soon as practicable (i.e., two business days absent extenuating circumstances) after the date employee eligibility is determined, the employee will have satisfied the notice requirements and the notice of leave is considered current and outstanding until the employing office does advise. If the employing office fails to advise the employee whether the employee is eligible prior to the date the requested leave is to commence, the employee will be deemed eligible. The employing office may not, then, deny the leave. Where the employee does not give notice of the need for leave more than two business days prior to commencing leave, the employee will be deemed to be eligible if the employing office fails to advise the employee that the employee is not eligible within two business days of receiving the employee's notice.

(e) The period prior to the effective date of the application of FMLA rights and protections under the CAA must be considered in determining employee's eligibility.

(f) [Reserved]

§825.111 [Reserved]

§825.112 Under what kinds of circumstances are employing offices required to grant family or medical leave?

(a) Employing offices are required to grant leave to eligible employees:

(1) For birth of a son or daughter, and to care for the newborn child;

(2) For placement with the employee of a son or daughter for adoption or foster care;

(3) To care for the employee's spouse, son, daughter, or parent with a serious health condition; and

(4) Because of a serious health condition that makes the employee unable to perform the functions of the employee's job.

(b) The right to take leave under FMLA as made applicable by the CAA applies equally to male and female employees. A father, as well as a mother, can take family leave for the birth, placement for adoption or foster care of a child.

(c) Circumstances may require that FMLA leave begin before the actual date of birth of a child. An expectant mother may take FMLA leave pursuant to paragraph (a)(4) of this section before the birth of the child for prenatal care or if her condition makes her unable to work.

(d) Employing offices are required to grant FMLA leave pursuant to paragraph (a)(2) of this section before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed. For example, the employee may be required to attend counseling sessions, appear in court, consult with his or her attorney or the doctor(s) representing the birth parent, or submit to a physical examination. The source of an adopted child (*e.g.*, whether from a licensed placement agency or otherwise) is not a factor in determining eligibility for leave for this purpose.

(e) Foster care is 24-hour care for children in substitution for, and away from, their parents or guardian. Such placement is made by or with the agreement of the State as a result of a voluntary agreement between the parent or guardian that the child be removed from the home, or pursuant to a judicial determination of the necessity for foster care, and involves agreement between the State and foster family that the foster family will take care of the child. Although foster care may be with relatives of the child, State action is involved in the removal of the child from parental custody.

(f) In situations where the employer/employee relationship has been interrupted, such as an employee who has been on layoff, the employee must be recalled or otherwise be re-employed before being eligible for FMLA leave. Under such circumstances, an eligible employee is immediately entitled to further FMLA leave for a qualifying reason.

(g) FMLA leave is available for treatment for substance abuse provided the conditions of §825.114 are met. However, treatment for substance abuse does not prevent an employing office from taking employment action against an employee. The employing office may not take action against the employee because the employee has exercised his or her right to take FMLA leave for treatment. However, if the employing office has an established policy, applied in a non-discriminatory manner that has been communicated to all employees, that provides under certain circumstances an employee may be terminated for substance abuse, pursuant to that policy the employee may be terminated whether or not the employee is presently taking FMLA leave. An employee may also take FMLA leave to care for an immediate family member who is receiving treatment for substance abuse. The employing office may not take action against an employee who is providing care for an immediate family member receiving treatment for substance abuse.

§825.113 What do "spouse," "parent," and "son or daughter" mean for purposes of an employee qualifying to take FMLA leave?

(a) Spouse means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized.

(b) Parent means a biological parent or an individual who stands or stood *in loco parentis* to an employee when the employee was a son or daughter as defined in (c) below. This term does not include parents "in law".

(c) Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability."

(1) "Incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in three or more of the "activities of daily living" (ADLs) or "instrumental activities of daily living" (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene,

bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

(2) "Physical or mental disability" means a physical or mental impairment that substantially limits one or more of the major life activities of an individual. See the Americans with Disabilities Act (ADA), as made applicable by section 201(a)(3) of the CAA (2 U.S.C. 1311(a)(3)).

(3) Persons who are "*in loco parentis*" include those with day-to-day responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

(d) For purposes of confirmation of family relationship, the employing office may require the employee giving notice of the need for leave to provide reasonable documentation or statement of family relationship. This documentation may take the form of a simple statement from the employee, or a child's birth certificate, a court document, *etc.* The employing office is entitled to examine documentation such as a birth certificate, *etc.*, but the employee is entitled to the return of the official document submitted for this purpose.

§825.114 What is a "serious health condition" entitling an employee to FMLA leave?

(a) For purposes of FMLA, "serious health condition" entitling an employee to FMLA leave means an illness, injury, impairment, or physical or mental condition that involves:

(1) *Inpatient care* (*i.e.*, an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of *incapacity* (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom), or any subsequent treatment in connection with such inpatient care; or

(2) *Continuing treatment* by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(i) A period of *incapacity* (*i.e.*, inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(A) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (*e.g.*, physical therapist) under orders of, or on referral by, a health care provider; or

(B) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(ii) Any period of incapacity due to pregnancy, or for prenatal care.

(iii) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(A) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(B) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(C) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

(iv) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(v) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

(b) Treatment for purposes of paragraph (a) of this section includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under paragraph (a)(2)(i)(B), a regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

(c) Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(d) Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.

(e) Absences attributable to incapacity under paragraphs (a)(2)(ii) or (iii) qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

§825.115 What does it mean that "the employee is unable to perform the functions of the position of the employee"?

An employee is "unable to perform the functions of the position" where the health care provider finds that the employee is unable to work at all or is unable to perform any one of the essential functions of the employee's position within the meaning of the Americans with Disabilities Act (ADA), as made applicable by section 201(a)(3) of the CAA (2 U.S.C. 1311(a)(3)). An employee who must be absent from work to receive medical treatment for a serious health condition is considered to be unable to perform the essential functions of the position during the absence for treatment. An employing office has the option, in requiring certification from a health care provider, to provide a statement of the essential functions of the employee's position for the health care provider to review. For purposes of FMLA, the essential functions of the employee's position are to be determined with reference to the position the employee held at the time notice is given or leave commenced, whichever is earlier.

§825.116 What does it mean that an employee is "needed to care for" a family member?

(a) The medical certification provision that an employee is "needed to care for" a family member encompasses both physical and psychological care. It includes situations where, for example, because of a serious health condition, the family member is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport himself or herself to the doctor, etc. The term also includes providing psychological comfort and reassurance which would be beneficial to a child, spouse or parent with a serious health condition who is receiving inpatient or home care.

(b) The term also includes situations where the employee may be needed to fill in for others who are caring for the family member, or to make arrangements for changes in care, such as transfer to a nursing home.

(c) An employee's intermittent leave or a reduced leave schedule necessary to care for a family member includes not only a situation where the family member's condition itself is intermittent, but also where the employee is only needed intermittently "such as where other care is normally available, or care responsibilities are shared with another member of the family or a third party.

§825.117 For an employee seeking intermittent FMLA leave or leave on a reduced leave schedule, what is meant by "the medical necessity for" such leave?

For intermittent leave or leave on a reduced leave schedule, there must be a medical need for leave (as distinguished from voluntary treatments and procedures) and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. The treatment regimen and other information described in the certification of a serious health condition (see §825.306) meets the requirement for certification of the medical necessity of intermittent leave or leave on a reduced leave schedule. Employees needing intermittent FMLA leave or leave on a reduced leave schedule must attempt to schedule their leave so as not to disrupt the employing office's operations. In addition, an employing office may assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced leave schedule.

§825.118 What is a "health care provider"?

(a)(1) The term "health care provider" means:

(i) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or

(ii) Any other person determined by the Office of Compliance to be capable of providing health care services.

(2) In making a determination referred to in subparagraph (1)(ii), and absent good cause shown to do otherwise, the Office of Compliance will follow any determination made by the Secretary of Labor (under section 101(6)(B) of the FMLA, 29 U.S.C. 2611(6)(B)) that a person is capable of providing health care services, provided the Secretary's determination was not made at the request of a person who was then a covered employee.

(b) Others "capable of providing health care services" include only:

(1) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law;

(2) Nurse practitioners, nurse-midwives and clinical social workers who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law;

(3) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts. Where an employee or family member is receiving treatment from a Christian Science practitioner, an employee may not object to any requirement from an employing office that the employee or family member submit to examination (though not treatment) to obtain a second or third certification from a health care provider other than a Christian Science practitioner except as otherwise provided under applicable State or local law or collective bargaining agreement.

(4) Any health care provider from whom an employing office or the employing office's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and

(5) A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law.

(c) The phrase "authorized to practice in the State" as used in this section means that the provider must be authorized to diagnose and treat physical or mental health conditions without supervision by a doctor or other health care provider.

Subpart B—What Leave Is an Employee Entitled To Take Under the Family and Medical Leave Act, as Made Applicable by the Congressional Accountability Act?

§825.200 How much leave may an employee take?

(a) An eligible employee's FMLA leave entitlement is limited to a total of 12 workweeks of leave during any 12-month period for any one, or more, of the following reasons:

(1) The birth of the employee's son or daughter, and to care for the newborn child;

(2) The placement with the employee of a son or daughter for adoption or foster care, and to care for the newly placed child;

(3) To care for the employee's spouse, son, daughter, or parent with a serious health condition; and,

(4) Because of a serious health condition that makes the employee unable to perform one or more of the essential functions of his or her job.

(b) An employing office is permitted to choose any one of the following methods for determining the "12-month period" in which the 12 weeks of leave entitlement occurs:

(1) The calendar year;

(2) Any fixed 12-month "leave year," such as a fiscal year or a year starting on an employee's "anniversary" date;

(3) The 12-month period measured forward from the date any employee's first FMLA leave begins; or

(4) A "rolling" 12-month period measured backward from the date an employee uses any FMLA leave (except that such measure may not extend back before the date on which the application of FMLA rights and protections first becomes effective for the employing office; see §825.102).

(c) Under methods in paragraphs (b)(1) and (b)(2) of this section an employee would be entitled to up to 12 weeks of FMLA leave at any time in the fixed 12-month period selected. An employee could, therefore, take 12 weeks of leave at the end of the year and 12 weeks at the beginning of the following year. Under the method in paragraph (b)(3) of this section, an employee would be entitled to 12 weeks of leave during the year beginning on the first date FMLA leave is taken; the next 12-month period would begin the first time FMLA leave is taken after completion of any previous 12-month period. Under the method in paragraph (b)(4) of this section, the "rolling" 12-month period, each time an employee takes FMLA leave the remaining leave entitlement would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months. For example, if an employee has taken eight weeks of leave during the past 12 months, an additional four weeks of leave could be taken. If an employee used four weeks beginning February 1, 1997, four weeks beginning June 1, 1997, and four weeks beginning December 1, 1997, the employee would not be entitled to any additional leave until February 1, 1998. However, beginning on February 1, 1998, the employee would be entitled to four weeks of leave, on June 1 the employee would be entitled to an additional four weeks, etc.

(d)(1) Employing offices will be allowed to choose any one of the alternatives in paragraph (b) of this section provided the alternative chosen is applied consistently and uniformly to all employees. An employing office wishing to change to another alternative is required to give at least 60 days notice to all employees, and the transition must take place in such a way that the employees retain the full benefit of 12 weeks of leave under whichever method affords the greatest benefit to the employee. Under no circumstances may a new method be implemented in order to avoid the CAA's FMLA leave requirements.

(2) [Reserved]

(e) If an employing office fails to select one of the options in paragraph (b) of this section for measuring the 12-month period, the option that provides the most beneficial outcome for the employee will be used. The employing office may subsequently select an option only by providing the 60-day notice to all employees of the option the employing office intends to implement. During the running of the 60-day period any other employee who needs FMLA leave may use the option providing the most beneficial outcome to that employee. At the conclusion of the 60-day period the employing office may implement the selected option.

(f) For purposes of determining the amount of leave used by an employee, the fact that a holiday may occur within the week taken as FMLA leave has no effect; the week is counted as a week of FMLA leave. However, if for some reason the employing office's activity has temporarily ceased and employees generally are not expected to report for work for one or more weeks (e.g., a school closing two weeks for the Christmas/New Year holiday or the summer vacation or an employing office closing the office for repairs), the days the employing office's activities have ceased do not count against the employee's FMLA leave entitlement. Methods for determining an employee's 12-week leave entitlement are also described in §825.205.

(g)(1) If employing offices jointly employ an employee, and if they designate a primary employer pursuant to §825.106(c), the primary employer may choose any one of the alternatives in paragraph (b) of this section for measuring the 12-month period, provided that the alternative chosen is applied consistently and uniformly to all employees of the primary employer including the jointly employed employee.

(2) If employing offices fail to designated a primary employer pursuant to §825.106(c), an employee jointly employed by the employing offices may, by so notifying one of the employing offices, select that employing office to be the primary employer of the employee for purposes of the application of paragraphs (d) and (e) of this section.

§825.201 If leave is taken for the birth of a child, or for placement of a child for adoption or foster care, when must the leave be concluded?

An employee's entitlement to leave for a birth or placement for adoption or foster care expires at the end of the 12-month period beginning on the date of the birth or placement, unless the employing office permits leave to be taken for a longer period. Any such FMLA leave must be concluded within this one-year period.

§825.202 How much leave may a husband and wife take if they are employed by the same employing office?

(a) A husband and wife who are eligible for FMLA leave and are employed by the same employing office may be limited to a combined total of 12 weeks of leave during any 12-month period if the leave is taken:

(1) for birth of the employee's son or daughter or to care for the child after birth;

(2) for placement of a son or daughter with the employee for adoption or foster care, or to care for the child after placement; or

(3) to care for the employee's parent with a serious health condition.

(b) This limitation on the total weeks of leave applies to leave taken for the reasons

(c) Where the husband and wife both use a portion of the total 12-week FMLA leave entitlement for one of the purposes in paragraph (a) of this section, the husband and wife would each be entitled to the difference between the amount he or she has taken individually and 12 weeks for FMLA leave for a purpose other than those contained in paragraph (a) of this section. For example, if each spouse took 6 weeks of leave to care for a healthy, newborn child, each could use an additional 6 weeks due to his or her own serious health condition or to care for a child with a serious health condition.

§825.203 Does FMLA leave have to be taken all at once, or can it be taken in parts?

(a) FMLA leave may be taken "intermittently or on a reduced leave schedule" under certain circumstances. Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason. A reduced leave schedule is a leave schedule that reduces an employee's usual number of working hours per work week, or hours per workday. A reduced leave schedule is a change in the employee's schedule for a period of time, normally from full-time to part-time.

(b) When leave is taken after the birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the employing office agrees. Such a schedule reduction might occur, for example, where an employee, with the employing office's agreement, works part-time after the birth of a child, or takes leave in several segments. The employing office's agreement is not required, however, for leave during which the mother has a serious health condition in connection with the birth of her child or if the newborn child has a serious health condition.

(c) Leave may be taken intermittently or on a reduced leave schedule when medically necessary for planned and/or unanticipated medical treatment of a related serious health condition by or under the supervision of a health care provider, or for recovery from treatment or recovery from a serious health condition. It may also be taken to provide care or psychological comfort to an immediate family member with a serious health condition.

(1) Intermittent leave may be taken for a serious health condition which requires treatment by a health care provider periodically, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy. A pregnant employee may take leave intermittently for prenatal examinations or for her own condition, such as for periods of severe morning sickness. An example of an employee taking leave on a reduced leave schedule is an employee who is recovering from a serious health condition and is not strong enough to work a full-time schedule.

(2) Intermittent or reduced schedule leave may be taken for absences where the employee or family member is incapacitated or unable to perform the essential functions of the position because of a chronic serious health condition even if he or she does not receive treatment by a health care provider.

(d) There is no limit on the size of an increment of leave when an employee takes intermittent leave or leave on a reduced leave schedule. However, an employing office may limit leave increments to the shortest period of time that the employing office's payroll system uses to account for absences or use of leave, provided it is one hour or less. For example, an employee might take two hours off for a medical appointment, or might work a reduced day of four hours over a period of several weeks while recuperating from an illness. An employee may not be required to take more FMLA leave than necessary to address the circumstance that precipitated the need for the leave, except as provided in §§825.601 and 825.602.

§825.204 May an employing office transfer an employee to an "alternative position" in order to accommodate intermittent leave or a reduced leave schedule?

(a) If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment for the employee or a family member, including during a period of recovery from a serious health condition, or if the employing office agrees to permit intermittent or reduced schedule leave for the birth of a child or for placement of a child for adoption or foster care, the employing office may require the employee to transfer temporarily, during the period the intermittent or reduced leave schedule is required, to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position. See §825.601 for special rules applicable to instructional employees of schools.

(b) Transfer to an alternative position may require compliance with any applicable collective bargaining agreement and any applicable law (such as the Americans with Disabilities Act, as made applicable by the CAA). Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent or reduced leave.

(c) The alternative position must have equivalent pay and benefits. An alternative position for these purposes does not have to have equivalent duties. The employing office may increase the pay and benefits of an existing alternative position, so as to make them equivalent to the pay and benefits of the employee's regular job. The employing office may also transfer the employee to a part-time job with the same hourly rate of pay and benefits, provided the employee is not required to take more leave than is medically necessary. For example, an employee desiring to take leave in increments of four hours per day could be transferred to a half-time job, or could remain in the employee's same job on a part-time schedule, paying the same hourly rate as the employee's previous job and enjoying the same benefits. The employing office may not eliminate benefits which otherwise would not be provided to part-time employees; however, an employing office may proportionately reduce benefits such as vacation leave where an employing office's normal practice is to base such benefits on the number of hours worked.

(d) An employing office may not transfer the employee to an alternative position in order to discourage the employee from taking leave or otherwise work a hardship on the employee. For example, a white collar employee may not be assigned to perform laborer's work; an employee working the day shift may not be reassigned to the graveyard shift; an employee working in the headquarters facility may not be reassigned to a branch a significant distance away from the employee's normal job location. Any such attempt on the part of the employing office to make such a transfer will be held to be contrary to the prohibited-acts provisions of the FMLA, as made applicable by the CAA.

(e) When an employee who is taking leave intermittently or on a reduced leave schedule and has been transferred to an alternative position no longer needs to continue on leave and is able to return to full-time work, the employee must be placed in the same or equivalent job as the job he/she left when the leave commenced. An employee may not be required to take more leave than necessary to address the circumstance that precipitated the need for leave.

§825.205 How does one determine the amount of leave used where an employee takes leave intermittently or on a reduced leave schedule?

(a) If an employee takes leave on an intermittent or reduced leave schedule, only the amount of leave actually taken may be counted toward the 12 weeks of leave to which an employee is entitled. For example, if an employee who normally works five days a week takes off one day, the employee would use 1/5 of a week of FMLA leave. Similarly, if a full-time employee who normally works 8-hour days works 4-hour days under a reduced leave schedule, the employee would use ½ week of FMLA leave each week.

(b) Where an employee normally works a part-time schedule or variable hours, the amount of leave to which an employee is entitled is determined on a pro rata or proportional basis by comparing the new schedule with the employee's normal schedule. For example, if an employee who normally works 30 hours per week works only 20 hours a week under a reduced leave schedule, the employee's ten hours of leave would constitute one-third of a week of FMLA leave for each week the employee works the reduced leave schedule.

(c) If an employing office has made a permanent or long-term change in the employee's schedule (for reasons other than FMLA, and prior to the notice of need for FMLA leave), the hours worked under the new schedule are to be used for making this calculation.

(d) If an employee's schedule varies from week to week, a weekly average of the hours worked over the 12 weeks prior to the beginning of the leave period would be used for calculating the employee's normal workweek.

§825.206 May an employing office deduct hourly amounts from an employee's salary, when providing unpaid leave under FMLA, as made applicable by the CAA, without affecting the employee's qualification for exemption as an executive, administrative, or professional employee, or when utilizing the fluctuating workweek method for payment of overtime, under the Fair Labor Standards Act?

(a) Leave taken under FMLA, as made applicable by the CAA, may be unpaid. If an employee is otherwise exempt from minimum wage and overtime requirements of the Fair Labor Standards Act (FLSA), as made applicable by the CAA, as a salaried executive, administrative, or professional employee (under regulations issued by the Board, at part 541), providing unpaid FMLA-qualifying leave to such an employee will not cause the employee to lose the FLSA exemption. This means that under regulations currently in effect, where an employee meets the specified duties test, is paid on a salary basis, and is paid a salary of at least the amount specified in the regulations, the employing office may make deductions from the employee's salary for any hours taken as intermittent or reduced FMLA leave within

(b) For an employee paid in accordance with a fluctuating workweek method of payment for overtime, where permitted by section 203 of the CAA (2 U.S.C. 1313), the employing office, *during the period* in which intermittent or reduced schedule FMLA leave is scheduled to be taken, may compensate an employee on an hourly basis and pay only for the hours the employee works, including time and one-half the employee's regular rate for overtime hours. The change to payment on an hourly basis would include the entire period during which the employee is taking intermittent leave, including weeks in which no leave is taken. The hourly rate shall be determined by dividing the employee's weekly salary by the employee's normal or average schedule of hours worked during weeks in which FMLA leave is not being taken. If an employing office chooses to follow this exception from the fluctuating workweek method of payment, the employing office must do so uniformly, with respect to all employees paid on a fluctuating workweek basis for whom FMLA leave is taken on an intermittent or reduced leave schedule basis. If an employing office does not elect to convert the employee's compensation to hourly pay, no deduction may be taken for FMLA leave absences. Once the need for intermittent or reduced scheduled leave is over, the employee may be restored to payment on a fluctuating work week basis.

(c) This special exception to the "salary basis" requirements of the FLSA exemption or fluctuating workweek payment requirements applies only to employees of employing offices who are eligible for FMLA leave, and to leave which qualifies as (one of the four types of) FMLA leave. Hourly or other deductions which are not in accordance with the Board's regulations at part 541 or with a permissible fluctuating workweek method of payment for overtime may not be taken, for example, where the employee has not worked long enough to be eligible for FMLA leave without potentially affecting the employee's eligibility for exemption. Nor may deductions which are not permitted by the Board's regulations at part 541 or by a permissible fluctuating workweek method of payment for overtime be taken from such an employee's salary for any leave which does not qualify as FMLA leave, for example, deductions from an employee's pay for leave required under an employing office's policy or practice for a reason which does not qualify as FMLA leave, *e.g.*, leave to care for a grandparent or for a medical condition which does not qualify as a serious health condition; or for leave which is more generous than provided by FMLA as made applicable by the CAA, such as leave in excess of 12 weeks in a year. The employing office may comply with the employing office's own policy/practice under these circumstances and maintain the employee's eligibility for exemption or for the fluctuating workweek method of pay by not taking hourly deductions from the employee's pay, in accordance with FLSA requirements, or may take such deductions, treating the employee as an "hourly" employee and pay overtime premium pay for hours worked over 40 in a workweek.

§ 825.207 Is FMLA leave paid or unpaid?

(a) Generally, FMLA leave is unpaid. However, under the circumstances described in this section, FMLA, as made applicable by the CAA, permits an eligible employee to choose to substitute paid leave for FMLA leave. If an employee does not choose to substitute accrued paid leave, the employing office may require the employee to substitute accrued paid leave for FMLA leave.

(b) Where an employee has earned or accrued paid vacation, personal or family leave, that paid leave may be substituted for all or part of any (otherwise) unpaid FMLA leave relating to birth, placement of a child for adoption or foster care, or care for a spouse, child or parent who has a serious health condition. The term "family leave" as used in FMLA refers to paid leave provided by the employing office covering the particular circumstances for which the employee seeks leave for either the birth of a child and to care for such child, placement of a child for adoption or foster care, or care for a spouse, child or parent with a serious health condition. For example, if the employing office's leave plan allows use of family leave to care for a child but not for a parent, the employing office is not required to allow accrued family leave to be substituted for FMLA leave used to care for a parent.

(c) Substitution of paid accrued vacation, personal, or medical/sick leave may be made for any (otherwise) unpaid FMLA leave needed to care for a family member or the employee's own serious health condition. Substitution of paid sick/medical leave may be elected to the extent the circumstances meet the employing office's usual requirements for the use of sick/medical leave. An employing office is not required to allow substitution of paid sick or medical leave for unpaid FMLA leave "in any situation" where the employing office's uniform policy would not normally allow such paid leave. An employee, therefore, has a right to substitute paid medical/sick leave to care for a seriously ill family member only if the employing office's leave plan allows paid leave to be used for that purpose. Similarly, an employee does not have a right to substitute paid medical/sick leave for a serious health condition which is not covered by the employing office's leave plan.

(d)(1) Disability leave for the birth of a child would be considered FMLA leave for a serious health condition and counted in the 12 weeks of leave permitted under FMLA as made applicable by the CAA. Because the leave pursuant to a temporary disability benefit plan is not unpaid, the provision for substitution of paid leave is inapplicable. However, the employing office may designate the leave as FMLA leave and count the leave as running concurrently for purposes of both the benefit plan and the FMLA leave entitlement. If the requirements to qualify for payments pursuant to the employing office's temporary disability plan are more stringent than those of FMLA as made applicable by the CAA, the employee must meet the more stringent requirements of the plan, or may choose not to meet the requirements of the plan and instead receive no payments from the plan and use unpaid FMLA leave or substitute available accrued paid leave.

(2) The FMLA as made applicable by the CAA provides that a serious health condition may result from injury to the employee "on or off" the job. If the employing office designates the leave as FMLA leave in accordance with §825.208, the employee's FMLA 12-week leave entitlement may run concurrently with a workers' compensation absence when the injury is one that meets the criteria for a serious health condition. As the workers' compensation absence is not unpaid leave, the provision for substitution of the employee's accrued paid leave is not applicable. However, if the health care provider treating the employee for the workers' compensation injury certifies the employee is able to return to a "light duty job" but is unable to return to the same or equivalent job, the employee may decline the employing office's offer of a "light duty job". As a result the employee may lose workers' compensation payments, but is entitled to remain on unpaid FMLA leave until the 12-week entitlement is exhausted. As of the date workers' compensation benefits cease, the substitution provision becomes applicable and either the employee may elect or the employing office may require the use of accrued paid leave. See also §§825.210(f), 825.216(d), 825.220(d), 825.307(a)(1) and 825.702 (d) (1) and (2) regarding the relationship between workers' compensation absences and FMLA leave.

(e) Paid vacation or personal leave, including leave earned or accrued under plans allowing "paid time off," may be substituted, at either the employee's or the employing office's option, for any qualified FMLA leave. No limitations may be placed by the employing office on substitution of paid vacation or personal leave for these purposes.

(f) If neither the employee nor the employing office elects to substitute paid leave for unpaid FMLA leave under the above conditions and circumstances, the employee will remain entitled to all the paid leave which is earned or accrued under the terms of the employing office's plan.

(g) If an employee uses paid leave under circumstances which do not qualify as FMLA leave, the leave will not count against the 12 weeks of FMLA leave to which the employee is entitled. For example, paid sick leave used for a medical condition which is not a serious health condition does not count against the 12 weeks of FMLA leave entitlement.

(h) When an employee or employing office elects to substitute paid leave (of any type) for unpaid FMLA leave under circumstances permitted by these regulations, and the employing office's procedural requirements for taking that kind of leave are less stringent than the requirements of FMLA as made applicable by the CAA (e.g., notice or certification requirements), only the less stringent requirements may be imposed. An employee who complies with an employing office's less stringent leave plan requirements in such cases may not have leave for an FMLA purpose delayed or denied on the grounds that the employee has not complied with stricter requirements of FMLA as made applicable by the CAA. However, where accrued paid vacation or personal leave is substituted for unpaid FMLA leave for a serious health condition, an employee may be required to comply with any less stringent medical certification requirements of the employing office's sick leave program. See §§825.302(g), 825.305(e) and 825.306(c).

(i) Compensatory time off, if any is authorized under applicable law, is not a form of accrued paid leave that an employing office may require the employee to substitute for unpaid FMLA leave. The employee may request to use his/her balance of compensatory time for an FMLA reason. If the employing office permits the accrual of compensatory time to be used in compliance with applicable Board regulations, the absence which is paid from the employee's accrued compensatory time "account" may not be counted against the employee's FMLA leave entitlement.

§ 825.208 Under what circumstances may an employing office designate leave, paid or unpaid, as FMLA leave and, as a result, enable leave to be counted against the employee's total FMLA leave entitlement?

(a) In all circumstances, it is the employing office's responsibility to designate leave, paid or unpaid, as FMLA-qualifying, and to give notice of the designation to the employee as provided in this section. In the *e.g.*, if the employee is incapacitated, the employee's spouse, adult child, parent, doctor, etc., may provide notice to the employing office of the need to take FMLA leave). In any circumstance where the employing office does not have sufficient information about the reason for an employee's use of paid leave, the employing office should inquire further of the employee or the spokesperson to ascertain whether the paid leave is potentially FMLA-qualifying.

(1) An employee giving notice of the need for unpaid FMLA leave must explain the reasons for the needed leave so as to allow the employing office to determine that the leave qualifies under the FMLA, as made applicable by the CAA. If the employee fails to explain the reasons, leave may be denied. In many cases, in explaining the reasons for a request to use paid leave, especially when the need for the leave was unexpected or unforeseen, an employee will provide sufficient information for the employing office to designate the paid leave as FMLA leave. An employee using accrued paid leave, especially vacation or personal leave, may in some cases not spontaneously explain the reasons or their plans for using their accrued leave.

(2) As noted in §825.302(c), an employee giving notice of the need for unpaid FMLA leave does not need to expressly assert rights under the FMLA as made applicable by the CAA or even mention the FMLA to meet his or her obligation to provide notice, though the employee would need to state a qualifying reason for the needed leave. An employee requesting or notifying the employing office of an intent to use accrued paid leave, even if for a purpose covered by FMLA, would not need to assert such right either. However, if an employee requesting to use paid leave for an FMLA-qualifying purpose does not explain the reason for the leave—consistent with the employing office's established policy or practice—and the employing office denies the employee's request, the employee will need to provide sufficient information to establish an FMLA-qualifying reason for the needed leave so that the employing office is aware of the employee's entitlement (i.e., that the leave may not be denied) and, then, may designate that the paid leave be appropriately counted against (substituted for) the employee's 12-week entitlement. Similarly, an employee using accrued paid vacation leave who seeks an extension of unpaid leave for an FMLA-qualifying purpose will need to state the reason. If this is due to an event which occurred during the period of paid leave, the employing office may count the leave used after the FMLA-qualifying event against the employee's 12-week entitlement.

(b)(1) Once the employing office has acquired knowledge that the leave is being taken for an FMLA required reason, the employing office must promptly (within two business days absent extenuating circumstances) notify the employee that the paid leave is designated and will be counted as FMLA leave. If there is a dispute between an employing office and an employee as to whether paid leave qualifies as FMLA leave, it should be resolved through discussions between the employee and the employing office. Such discussions and the decision must be documented.

(2) The employing office's notice to the employee that the leave has been designated as FMLA leave may be orally or in writing. If the notice is oral, it shall be confirmed in writing, no later than the following payday (unless the payday is less than one week after the oral notice, in which case the notice must be no later than the subsequent payday). The written notice may be in any form, including a notation on the employee's pay stub.

(c) If the employing office requires paid leave to be substituted for unpaid leave, or that paid leave taken under an existing leave plan be counted as FMLA leave, this decision must be made by the employing office within two business days of the time the employee gives notice of the need for leave, or, where the employing office does not initially have sufficient information to make a determination, when the employing office determines that the leave qualifies as FMLA leave if this happens later. The employing office's designation must be made before the leave starts, unless the employing office does not have sufficient information as to the employee's reason for taking the leave until after the leave commenced. If the employing office has the requisite knowledge to make a determination that the paid leave is for an FMLA reason at the time the employee either gives notice of the need for leave or commences leave and fails to designate the leave as FMLA leave (and so notify the employee in accordance with paragraph (b)), the employing office may not designate leave as FMLA leave retroactively, and may designate only prospectively as of the date of notification to the employee of the designation. In such circumstances, the employee is subject to the full protections of the FMLA, as made applicable by the CAA, but none of the absence preceding the notice to the employee of the designation may be counted against the employee's 12-week FMLA leave entitlement.

(d) If the employing office learns that leave is for an FMLA purpose after leave has begun, such as when an employee gives notice of the need for an extension of the paid leave with unpaid FMLA leave, the entire or some portion of the paid leave period may be retroactively counted as FMLA leave, to the extent that the leave period qualified as FMLA leave. For example, an employee is granted two weeks paid vacation leave for a skiing trip. In mid-week of the second week, the employee contacts the employing office for an extension of leave as unpaid leave and advises that at the beginning of the second week of paid vacation leave the employee suffered a severe accident requiring hospitalization. The employing office may notify the employee that both the extension and the second week of paid vacation leave (from the date of the injury) is designated as FMLA leave. On the other hand, when the employee takes sick leave that turns into a serious health condition (*e.g.*, bronchitis that turns into bronchial pneumonia) and the employee gives notice of the need for an extension of leave, the entire period of the serious health condition may be counted as FMLA leave.

(e) Employing offices may not designate leave as FMLA leave after the employee has returned to work with two exceptions:

(1) If the employee was absent for an FMLA reason and the employing office did not learn the reason for the absence until the employee's return (e.g., where the employee was absent for only a brief period), the employing office may, upon the employee's return to work, promptly (within two business days of the employee's return to work) designate the leave retroactively with appropriate notice to the employee. If leave is taken for an FMLA reason but the employing office was not aware of the reason, and the employee desires that the leave be counted as FMLA leave, the employee must notify the employing office within two business days of returning to work of the reason for the leave. In the absence of such timely notification by the employee, the employee may not subsequently assert FMLA protections for the absence.

(2) If the employing office knows the reason for the leave but has not been able to confirm that the leave qualifies under FMLA, or where the employing office has requested medical certification which has not yet been received or the parties are in the process of obtaining a second or third medical opinion, the employing office should make a preliminary designation, and so notify the employee, at the time leave begins, or as soon as the reason for the leave becomes known. Upon receipt of the requisite information from the employee or of the medical certification which confirms the leave is for an FMLA reason, the preliminary designation becomes final. If the medical certifications fail to confirm that the reason for the absence was an FMLA reason, the employing office must withdraw the designation (with written notice to the employee).

(f) If, before beginning employment with an employing office, an employee had been employed by another employing office, the subsequent employing office may count against the employee's FMLA leave entitlement FMLA leave taken from the prior employing office, except that, if the FMLA leave began after the effective of these regulations (or if the FMLA leave was subject to other applicable requirement under which the employing office was to have designated the leave as FMLA leave), the prior employing office must have properly designated the leave as FMLA under these regulations or other applicable requirement.

§825.209 Is an employee entitled to benefits while using FMLA leave?

(a) During any FMLA leave, the employing office must maintain the employee's coverage under the Federal Employees Health Benefits Program or any group health plan (as defined in the Internal Revenue Code of 1986 at 26 U.S.C. 5000(b)(1)) on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period. All employing offices are subject to the requirements of the FMLA, as made applicable by the CAA, to maintain health coverage. The definition of "group health plan" is set forth in §825.800. For purposes of FMLA, the term "group health plan" shall not include an insurance program providing health coverage under which employees purchase individual policies from insurers provided that:

(1) no contributions are made by the employing office;

(2) participation in the program is completely voluntary for employees;

(3) the sole functions of the employing office with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer;

(4) the employing office receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deduction; and,

(5) the premium charged with respect to such coverage does not increase in the event the employment relationship terminates.

(b) The same group health plan benefits provided to an employee prior to taking FMLA leave must be maintained during the FMLA leave. For example, if family member coverage is provided to an employee, family member coverage must be maintained during the FMLA leave. Similarly, benefit coverage

(c) If an employing office provides a new health plan or benefits or changes health benefits or plans while an employee is on FMLA leave, the employee is entitled to the new or changed plan/benefits to the same extent as if the employee were not on leave. For example, if an employing office changes a group health plan so that dental care becomes covered under the plan, an employee on FMLA leave must be given the same opportunity as other employees to receive (or obtain) the dental care coverage. Any other plan changes (*e.g.*, in coverage, premiums, deductibles, etc.) which apply to all employees of the workforce would also apply to an employee on FMLA leave.

(d) Notice of any opportunity to change plans or benefits must also be given to an employee on FMLA leave. If the group health plan permits an employee to change from single to family coverage upon the birth of a child or otherwise add new family members, such a change in benefits must be made available while an employee is on FMLA leave. If the employee requests the changed coverage it must be provided by the employing office.

(e) An employee may choose not to retain group health plan coverage during FMLA leave. However, when an employee returns from leave, the employee is entitled to be reinstated on the same terms as prior to taking the leave, including family or dependent coverages, without any qualifying period, physical examination, exclusion of pre-existing conditions, etc. See §825.212(c).

(f) Except as required by the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) or 5 U.S.C. 8905a, whichever is applicable, and for "key" employees (as discussed below), an employing office's obligation to maintain health benefits during leave (and to restore the employee to the same or equivalent employment) under FMLA ceases if and when the employment relationship would have terminated if the employee had not taken FMLA leave (*e.g.*, if the employee's position is eliminated as part of a nondiscriminatory reduction in force and the employee would not have been transferred to another position); an employee informs the employing office of his or her intent not to return from leave (including before starting the leave if the employing office is so informed before the leave starts); or the employee fails to return from leave or continues on leave after exhausting his or her FMLA leave entitlement in the 12-month period.

(g) If a "key employee" (see §825.218) does not return from leave when notified by the employing office that substantial or grievous economic injury will result from his or her reinstatement, the employee's entitlement to group health plan benefits continues unless and until the employee advises the employing office that the employee does not desire restoration to employment at the end of the leave period, or FMLA leave entitlement is exhausted, or reinstatement is actually denied.

(h) An employee's entitlement to benefits other than group health benefits during a period of FMLA leave (*e.g.*, holiday pay) is to be determined by the employing office's established policy for providing such benefits when the employee is on other forms of leave (paid or unpaid, as appropriate).

§825.210 How may employees on FMLA leave pay their share of group health benefit premiums?

(a) Group health plan benefits must be maintained on the same basis as coverage would have been provided if the employee had been continuously employed during the FMLA leave period. Therefore, any share of group health plan premiums which had been paid by the employee prior to FMLA leave must continue to be paid by the employee during the FMLA leave period. If premiums are raised or lowered, the employee would be required to pay the new premium rates. Maintenance of health insurance policies which are not a part of the employing office's group health plan, as described in §825.209(a), are the sole responsibility of the employee. The employee and the insurer should make necessary arrangements for payment of premiums during periods of unpaid FMLA leave.

(b) If the FMLA leave is substituted paid leave, the employee's share of premiums must be paid by the method normally used during any paid leave, presumably as a payroll deduction.

(c) If FMLA leave is unpaid, the employing office has a number of options for obtaining payment from the employee. The employing office may require that payment be made to the employing office or to the insurance carrier, but no additional charge may be added to the employee's premium payment for administrative expenses. The employing office may require employees to pay their share of premium payments in any of the following ways:

(1) Payment would be due at the same time as it would be made if by payroll deduction;

(2) Payment would be due on the same schedule as payments are made under COBRA or 5 U.S.C. 8905a, whichever is applicable;

(3) Payment would be prepaid pursuant to a cafeteria plan at the employee's option;

(4) The employing office's existing rules for payment by employees on "leave without pay" would be followed, provided that such rules do not require prepayment (*i.e.*, prior to the commencement of the leave) of the premiums that will become due during a period of unpaid FMLA leave or payment of higher premiums than if the employee had continued to work instead of taking leave; or,

(5) Another system voluntarily agreed to between the employing office and the employee, which may include prepayment of premiums (*e.g.*, through increased payroll deductions when the need for the FMLA leave is foreseeable).

(d) The employing office must provide the employee with advance written notice of the terms and conditions under which these payments must be made. (*See* §825.301.)

(e) An employing office may not require more of an employee using FMLA leave than the employing office requires of other employees on "leave without pay."

(f) An employee who is receiving payments as a result of a workers' compensation injury must make arrangements with the employing office for payment of group health plan benefits when simultaneously taking unpaid FMLA leave. *See* paragraph (c) of this section and §825.207(d)(2).

§825.211 What special health benefits maintenance rules apply to multi-employer health plans?

(a) A multi-employer health plan is a plan to which more than one employer is required to contribute, and which is maintained pursuant to one or more collective bargaining agreements between employee organization(s) and the employers.

(b) An employing office under a multi-employer plan must continue to make contributions on behalf of an employee using FMLA leave as though the employee had been continuously employed, unless the plan contains an explicit FMLA provision for maintaining coverage such as through pooled contributions by all employers party to the plan.

(c) During the duration of an employee's FMLA leave, coverage by the group health plan, and benefits provided pursuant to the plan, must be maintained at the level of coverage and benefits which were applicable to the employee at the time FMLA leave commenced.

(d) An employee using FMLA leave cannot be required to use "banked" hours or pay a greater premium than the employee would have been required to pay if the employee had been continuously employed.

(e) As provided in §825.209(f), group health plan coverage must be maintained for an employee on FMLA leave until:

(1) the employee's FMLA leave entitlement is exhausted;

(2) the employing office can show that the employee would have been laid off and the employment relationship terminated; or,

(3) the employee provides unequivocal notice of intent not to return to work.

§825.212 What are the consequences of an employee's failure to make timely health plan premium payments?

(a)(1) In the absence of an established employing office policy providing a longer grace period, an employing office's obligations to maintain health insurance coverage cease under FMLA if an employee's premium payment is more than 30 days late. In order to drop the coverage for an employee whose premium payment is late, the employing office must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date. If the employing office has established policies regarding other forms of unpaid leave that provide for the employing office to cease coverage retroactively to the date the unpaid premium payment was due, the employing office may drop the employee from coverage retroactively in accordance with that policy, provided the 15-day notice was given. In the absence of such a policy, coverage for the employee may be terminated at the end of the 30-day grace period, where the required 15-day notice has been provided.

(2) An employing office has no obligation regarding the maintenance of a health insurance policy which is not a "group health plan." See §825.209(a).

(3) All other obligations of an employing office under FMLA would continue; for example, the employing office continues to have an obligation to reinstate an employee upon return from leave.

(b) The employing office may recover the employee's share of any premium payments missed by the employee for any FMLA leave period during which the employing office maintains health coverage by paying the employee's share after the premium payment is missed.

(c) If coverage lapses because an employee has not made required premium payments, upon the employee's return from FMLA leave the employing office must still restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not been taken and the premium payment(s) had not been missed, including family or dependent coverage. See §825.215(d)(1)-(5). In such case, an employee may not be required to meet any qualification requirements imposed by the plan, including any new preexisting condition waiting period, to wait for an open season, or to

§825.213 May an employing office recover costs it incurred for maintaining "group health plan" or other non-health benefits coverage during FMLA leave?

(a) In addition to the circumstances discussed in §825.212(b), the share of health plan premiums paid by or on behalf of the employing office during a period of unpaid FMLA leave may be recovered from an employee if the employee fails to return to work after the employee's FMLA leave entitlement has been exhausted or expires, unless the reason the employee does not return is due to:

(1) The continuation, recurrence, or onset of a serious health condition of the employee or the employee's family member which would otherwise entitle the employee to leave under FMLA; or

(2) Other circumstances beyond the employee's control. Examples of "other circumstances beyond the employee's control" are necessarily broad. They include such situations as where a parent chooses to stay home with a newborn child who has a serious health condition; an employee's spouse is unexpectedly transferred to a job location more than 75 miles from the employee's worksite; a relative or individual other than an immediate family member has a serious health condition and the employee is needed to provide care; the employee is laid off while on leave; or, the employee is a "key employee" who decides not to return to work upon being notified of the employing office's intention to deny restoration because of substantial and grievous economic injury to the employing office's operations and is not reinstated by the employing office. Other circumstances beyond the employee's control would not include a situation where an employee desires to remain with a parent in a distant city even though the parent no longer requires the employee's care, or a parent chooses not to return to work to stay home with a well, newborn child.

(3) When an employee fails to return to work because of the continuation, recurrence, or onset of a serious health condition, thereby precluding the employing office from recovering its (share of) health benefit premium payments made on the employee's behalf during a period of unpaid FMLA leave, the employing office may require medical certification of the employee's or the family member's serious health condition. Such certification is not required unless requested by the employing office. The employee is required to provide medical certification in a timely manner which, for purposes of this section, is within 30 days from the date of the employing office's request. For purposes of medical certification, the employee may use the optional form developed for this purpose (see §825.306(a) and Appendix B of this part). If the employing office requests medical certification and the employee does not provide such certification in a timely manner (within 30 days), or the reason for not returning to work does not meet the test of other circumstances beyond the employee's control, the employing office may recover 100% of the health benefit premiums it paid during the period of unpaid FMLA leave.

(b) Under some circumstances an employing office may elect to maintain other benefits, *e.g.*, life insurance, disability insurance, *etc.*, by paying the employee's (share of) premiums during periods of unpaid FMLA leave. For example, to ensure the employing office can meet its responsibilities to provide equivalent benefits to the employee upon return from unpaid FMLA leave, it may be necessary that premiums be paid continuously to avoid a lapse of coverage. If the employing office elects to maintain such benefits during the leave, at the conclusion of leave, the employing office is entitled to recover only the costs incurred for paying the employee's share of any premiums whether or not the employee returns to work.

(c) An employee who returns to work for at least 30 calendar days is considered to have "returned" to work. An employee who transfers directly from taking FMLA leave to retirement, or who retires during the first 30 days after the employee returns to work, is deemed to have returned to work.

(d) When an employee elects or an employing office requires paid leave to be substituted for FMLA leave, the employing office may not recover its (share of) health insurance or other non-health benefit premiums for any period of FMLA leave covered by paid leave. Because paid leave provided under a plan covering temporary disabilities (including workers' compensation) is not unpaid, recovery of health insurance premiums does not apply to such paid leave.

(e) The amount that self-insured employing offices may recover is limited to only the employing office's share of allowable "premiums" as would be calculated under COBRA, excluding the 2 percent fee for administrative costs.

(f) When an employee fails to return to work, any health and non-health benefit premiums which this section of the regulations permits an employing office to recover are a debt owed by the non-returning employee to the employing office. The existence of this debt caused by the employee's failure to return to work does not alter the employing office's responsibilities for health benefit coverage and, under a self-insurance plan, payment of claims incurred during the period of FMLA leave. To the extent recovery is allowed, the employing office may recover the costs through deduction from any sums due to the employee (*e.g.*, unpaid wages, vacation pay, *etc.*), provided such deductions do not otherwise violate applicable wage payment or other laws. Alternatively, the employing office may initiate legal action against the employee to recover such costs.

§825.214 What are an employee's rights on returning to work from FMLA leave?

(a) On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee has been replaced or his or her position has been restructured to accommodate the employee's absence. *See* also §825.106(e) for the obligations of employing offices that are joint employing offices.

(b) If the employee is unable to perform an essential function of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. However, the employing office's obligations may be governed by the Americans with Disabilities Act (ADA), as made applicable by the CAA. *See* §825.702.

§825.215 What is an equivalent position?

(a) An equivalent position is one that is virtually identical to the employee's former position in terms of pay, benefits and working conditions, including privileges, perquisites and status. It must involve the same or substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, responsibility, and authority.

(b) If an employee is no longer qualified for the position because of the employee's inability to attend a necessary course, renew a license, fly a minimum number of hours, *etc.*, as a result of the leave, the employee shall be given a reasonable opportunity to fulfill those conditions upon return to work.

(c) *Equivalent Pay.* (1) An employee is entitled to any unconditional pay increases which may have occurred during the FMLA leave period, such as cost of living increases. Pay increases conditioned upon seniority, length of service, or work performed would not have to be granted unless it is the employing office's policy or practice to do so with respect to other employees on "leave without pay." In such case, any pay increase would be granted based on the employee's seniority, length of service, work performed, *etc.*, excluding the period of unpaid FMLA leave. An employee is entitled to be restored to a position with the same or equivalent pay premiums, such as a shift differential. If an employee departed from a position averaging ten hours of overtime (and corresponding overtime pay) each week, an employee is ordinarily entitled to such a position on return from FMLA leave.

(2) Many employing offices pay bonuses in different forms to employees for job-related performance such as for perfect attendance, safety (absence of injuries or accidents on the job) and exceeding production goals. Bonuses for perfect attendance and safety do not require performance by the employee but rather contemplate the absence of occurrences. To the extent an employee who takes FMLA leave had met all the requirements for either or both of these bonuses before FMLA leave began, the employee is entitled to continue this entitlement upon return from FMLA leave, that is, the employee may not be disqualified for the bonus(es) for the taking of FMLA leave. *See* §825.220 (b) and (c). A monthly production bonus, on the other hand, does require performance by the employee. If the employee is on FMLA leave during any part of the period for which the bonus is computed, the employee is entitled to the same consideration for the bonus as other employees on paid or unpaid leave (as appropriate). *See* paragraph (d)(2) of this section.

(d) *Equivalent Benefits.* "Benefits" include all benefits provided or made available to employees by an employing office, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employing office through an employee benefit plan.

(1) At the end of an employee's FMLA leave, benefits must be resumed in the same manner and at the same levels as provided when the leave began, and subject to any changes in benefit levels that may have taken place during the period of FMLA leave affecting the entire workforce, unless otherwise elected by the employee. Upon return from FMLA leave, an employee cannot be required to requalify for any benefits the employee enjoyed before FMLA leave began (including family or dependent coverages). For example, if an employee was covered by a life insurance policy before taking leave but is not covered or coverage lapses during the period of unpaid FMLA leave, the employee

cannot be required to meet any qualifications, such as taking a physical examination, in order to requalify for life insurance upon return from leave. Accordingly, some employing offices may find it necessary to modify life insurance and other benefits programs in order to restore employees to equivalent benefits upon return from FMLA leave, make arrangements for continued payment of costs to maintain such benefits during unpaid FMLA leave, or pay these costs subject to recovery from the employee on return from leave. *See* §825.213(b).

(2) An employee may, but is not entitled to, accrue any additional benefits or seniority during unpaid FMLA leave. Benefits accrued at the time leave began, however, (*e.g.*, paid vacation, sick or personal leave to the extent not substituted for FMLA leave) must be available to an employee upon return from leave.

(3) If, while on unpaid FMLA leave, an employee desires to continue life insurance, disability insurance, or other types of benefits for which he or she typically pays, the employing office is required to follow established policies or practices for continuing such benefits for other instances of leave without pay. If the employing office has no established policy, the employee and the employing office are encouraged to agree upon arrangements before FMLA leave begins.

(4) With respect to pension and other retirement plans, any period of unpaid FMLA leave shall not be treated as or counted toward a break in service for purposes of vesting and eligibility to participate. Also, if the plan requires an employee to be employed on a specific date in order to be credited with a year of service for vesting, contributions or participation purposes, an employee on unpaid FMLA leave on that date shall be deemed to have been employed on that date. However, unpaid FMLA leave periods need not be treated as credited service for purposes of benefit accrual, vesting and eligibility to participate.

(5) Employees on unpaid FMLA leave are to be treated as if they continued to work for purposes of changes to benefit plans. They are entitled to changes in benefits plans, except those which may be dependent upon seniority or accrual during the leave period, immediately upon return from leave or to the same extent they would have qualified if no leave had been taken. For example if the benefit plan is predicated on a pre-established number of hours worked each year and the employee does not have sufficient hours as a result of taking unpaid FMLA leave, the benefit is lost. (In this regard, §825.209 addresses health benefits.)

(e) *Equivalent Terms and Conditions of Employment.* An equivalent position must have substantially similar duties, conditions, responsibilities, privileges and status as the employee's original position.

(1) The employee must be reinstated to the same or a geographically proximate worksite (*i.e.*, one that does not involve a significant increase in commuting time or distance) from where the employee had previously been employed. If the employee's original worksite has been closed, the employee is entitled to the same rights as if the employee had not been on leave when the worksite closed. For example, if an employing office transfers all employees from a closed worksite to a new worksite in a different city, the employee on leave is also entitled to transfer under the same conditions as if he or she had continued to be employed.

(2) The employee is ordinarily entitled to return to the same shift or the same or an equivalent work schedule.

(3) The employee must have the same or an equivalent opportunity for bonuses and other similar discretionary and non-discretionary payments.

(4) FMLA does not prohibit an employing office from accommodating an employee's request to be restored to a different shift, schedule, or position which better suits the employee's personal needs on return from leave, or to offer a promotion to a better position. However, an employee cannot be induced by the employing office to accept a different position against the employee's wishes.

(f) The requirement that an employee be restored to the same or equivalent job with the same or equivalent pay, benefits, and terms and conditions of employment does not extend to *de minimis* or intangible, unmeasurable aspects of the job. However, restoration to a job slated for lay-off, when the employee's original position is not, would not meet the requirements of an equivalent position.

§825.216 Are there any limitations on an employing office's obligation to reinstate an employee?

(a) An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. An employing office must be able to show that an employee would not otherwise have been employed at the time reinstatement is requested in order to deny restoration to employment. For example:

(1) If an employee is laid off during the course of taking FMLA leave and employment is terminated, the employing office's responsibility to continue FMLA leave, maintain group health plan benefits and restore the employee ceases at the time the employee is laid off, provided the employing office has no continuing obligations under a collective bargaining agreement or otherwise. An employing office would have the burden of proving that an employee would have been laid off during the FMLA leave period and, therefore, would not be entitled to restoration.

(2) If a shift has been eliminated, or overtime has been decreased, an employee would not be entitled to return to work that shift or the original overtime hours upon restoration. However, if a position on, for example, a night shift has been filled by another employee, the employee is entitled to return to the same shift on which employed before taking FMLA leave.

(b) If an employee was hired for a specific term or only to perform work on a discrete project, the employing office has no obligation to restore the employee if the employment term or project is over and the employing office would not otherwise have continued to employ the employee.

(c) In addition to the circumstances explained above, an employing office may deny job restoration to salaried eligible employees ("key employees," as defined in paragraph (c) of §825.217) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the employing office; or may delay restoration to an employee who fails to provide a fitness for duty certificate to return to work under the conditions described in §825.310.

(d) If the employee has been on a workers' compensation absence during which FMLA leave has been taken concurrently, and after 12 weeks of FMLA leave the employee is unable to return to work, the employee no longer has the protections of FMLA and must look to the workers' compensation statute or ADA, as made applicable by the CAA, for any relief or protections.

§825.217 What is a "key employee"?

(a) A "key employee" is a salaried FMLA-eligible employee who is among the highest paid 10 percent of all the employees employed by the employing office within 75 miles of the employee's worksite.

(b) The term "salaried" means paid on a salary basis, within the meaning of the Board's regulations at part 541, implementing section 203 of the CAA (2 U.S.C. 1313) (regarding employees who may qualify as exempt from the minimum wage and overtime requirements of the FLSA, as made applicable by the CAA, as executive, administrative, and professional employees).

(c) A "key employee" must be "among the highest paid 10 percent" of all the employees "both salaried and non-salaried, eligible and ineligible "who are employed by the employing office within 75 miles of the worksite.

(1) In determining which employees are among the highest paid 10 percent, year-to-date earnings are divided by weeks worked by the employee (including weeks in which paid leave was taken). Earnings include wages, premium pay, incentive pay, and non-discretionary and discretionary bonuses. Earnings do not include incentives whose value is determined at some future date, *e.g.*, benefits or perquisites.

(2) The determination of whether a salaried employee is among the highest paid 10 percent shall be made at the time the employee gives notice of the need for leave. No more than 10 percent of the employing office's employees within 75 miles of the worksite may be "key employees."

§825.218 What does "substantial and grievous economic injury" mean?

(a) In order to deny restoration to a key employee, an employing office must determine that the restoration of the employee to employment will cause "substantial and grievous economic injury" to the operations of the employing office, not whether the absence of the employee will cause such substantial and grievous injury.

(b) An employing office may take into account its ability to replace on a temporary basis (or temporarily do without) the employee on FMLA leave. If permanent replacement is unavoidable, the cost of then reinstating the employee can be considered in evaluating whether substantial and grievous economic injury will occur from restoration; in other words, the effect on the operations of the employing office of reinstating the employee in an equivalent position.

(c) A precise test cannot be set for the level of hardship or injury to the employing office which must be sustained. If the reinstatement of a "key employee" threatens the economic viability of the employing office, that would constitute "substantial and grievous economic injury." A lesser injury which causes substantial, long-term economic injury would also be sufficient. Minor inconveniences and costs that the employing office would experience in the normal course would certainly not constitute "substantial and grievous economic injury."

(d) FMLA's "substantial and grievous economic injury" standard is different from and more stringent than the "undue hardship" test under the ADA (see, also §825.702).

§825.219 What are the rights of a key employee?

(a) An employing office which believes that reinstatement may be denied to a key employee, must give written notice to the employee at the time the employee gives notice of the need for FMLA leave (or when FMLA leave commences, if earlier) that he or she qualifies as a key employee. At the same time, the employing office must also fully inform the employee of the potential consequences with respect to reinstatement and maintenance of health benefits if the employing office should determine that substantial and grievous economic injury to the employing office's operations will result if the employee is reinstated from FMLA leave. If such notice cannot be given immediately because of the need to determine whether the employee is a key employee, it shall be given as soon as practicable after being notified of a need for leave (or the commencement of leave, if earlier). It is expected that in most circumstances there will be no desire that an employee be denied restoration after FMLA leave and, therefore, there would be no need to provide such notice. However, an employing office who fails to provide such timely notice will lose its right to deny restoration even if substantial and grievous economic injury will result from reinstatement.

(b) As soon as an employing office makes a good faith determination, based on the facts available, that substantial and grievous economic injury to its operations will result if a key employee who has given notice of the need for FMLA leave or is using FMLA leave is reinstated, the employing office shall notify the employee in writing of its determination, that it cannot deny FMLA leave, and that it intends to deny restoration to employment on completion of the FMLA leave. It is anticipated that an employing office will ordinarily be able to give such notice prior to the employee starting leave. The employing office must serve this notice either in person or by certified mail. This notice must explain the basis for the employing office's finding that substantial and grievous economic injury will result, and, if leave has commenced, must provide the employee a reasonable time in which to return to work, taking into account the circumstances, such as the length of the leave and the urgency of the need for the employee to return.

(c) If an employee on leave does not return to work in response to the employing office's notification of intent to deny restoration, the employee continues to be entitled to maintenance of health benefits and the employing office may not recover its cost of health benefit premiums. A key employee's rights under FMLA continue unless and until either the employee gives notice that he or she no longer wishes to return to work, or the employing office actually denies reinstatement at the conclusion of the leave period.

(d) After notice to an employee has been given that substantial and grievous economic injury will result if the employee is reinstated to employment, an employee is still entitled to request reinstatement at the end of the leave period even if the employee did not return to work in response to the employing office's notice. The employing office must then again determine whether there will be substantial and grievous economic injury from reinstatement, based on the facts at that time. If it is determined that substantial and grievous economic injury will result, the employing office shall notify the employee in writing (in person or by certified mail) of the denial of restoration.

§825.220 How are employees protected who request leave or otherwise assert FMLA rights?

(a) The FMLA, as made applicable by the CAA, prohibits interference with an employee's rights under the law, and with legal proceedings or inquiries relating to an employee's rights. More specifically, the law contains the following employee protections:

(1) An employing office is prohibited from interfering with, restraining, or denying the exercise of (or attempts to exercise) any rights provided by the FMLA as made applicable by the CAA.

(2) An employing office is prohibited from discharging or in any other way discriminating against any covered employee (whether or not an eligible employee) for opposing or complaining about any unlawful practice under the FMLA as made applicable by the CAA.

(3) All employing offices are prohibited from discharging or in any other way discriminating against any covered employee (whether or not an eligible employee) because that covered employee has—

(i) Filed any charge, or has instituted (or caused to be instituted) any proceeding under or related to the FMLA, as made applicable by the CAA;

(ii) Given, or is about to give, any information in connection with an inquiry or proceeding relating to a right under the FMLA, as made applicable by the CAA;

(iii) Testified, or is about to testify, in any inquiry or proceeding relating to a right under the FMLA, as made applicable by the CAA.

(b) Any violations of the FMLA, as made applicable by the CAA, or of these regulations constitute interfering with, restraining, or denying the exercise of rights provided by the FMLA as made applicable by the CAA. "Interfering with" the exercise of an employee's rights would include, for example, not only refusing to authorize FMLA leave, but discouraging an employee from using such leave. It would also include manipulation by covered an employing office to avoid responsibilities under FMLA, for example:

(1) [Reserved];

(2) changing the essential functions of the job in order to preclude the taking of leave;

(3) reducing hours available to work in order to avoid employee eligibility.

(c) An employing office is prohibited from discriminating against employees or prospective employees who have used FMLA leave. For example, if an employee on leave without pay would otherwise be entitled to full benefits (other than health benefits), the same benefits would be required to be provided to an employee on unpaid FMLA leave. By the same token, employing offices cannot use the taking of FMLA leave as a negative factor in employment actions, such as hiring, promotions or disciplinary actions; nor can FMLA leave be counted under "no fault" attendance policies.

(d) Employees cannot waive, nor may employing offices induce employees to waive, their rights under FMLA. For example, employees (or their collective bargaining representatives) cannot "trade off" the right to take FMLA leave against some other benefit offered by the employing office. This does not prevent an employee's voluntary and uncoerced acceptance (not as a condition of employment) of a "light duty" assignment while recovering from a serious health condition (see §825.702(d)). In such a circumstance the employee's right to restoration to the same or an equivalent position is available until 12 weeks have passed within the 12-month period, including all FMLA leave taken and the period of "light duty."

(e) Covered employees, and not merely eligible employees, are protected from retaliation for opposing (e.g., file a complaint about) any practice which is unlawful under the FMLA, as made applicable by the CAA. They are similarly protected if they oppose any practice which they reasonably believe to be a violation of the FMLA, as made applicable by the CAA or regulations.

Subpart C—How do Employees Learn of Their Rights and Obligations under the FMLA, as Made Applicable by the CAA, and What Can an Employing Office Require of an Employee?

§825.300 [Reserved]

§825.301 What notices to employees are required of employing offices under the FMLA as made applicable by the CAA?

(a)(1) If an employing office has any eligible employees and has any written guidance to employees concerning employee benefits or leave rights, such as in an employee handbook, information concerning both entitlements and employee obligations under the FMLA, as made applicable by the CAA, must be included in the handbook or other document. For example, if an employing office provides an employee handbook to all employees that describes the employing office's policies regarding leave, wages, attendance, and similar matters, the handbook must incorporate information on FMLA rights and responsibilities and the employing office's policies regarding the FMLA, as made applicable by the CAA. Informational publications describing the provisions of the FMLA as made applicable by the CAA are available from the Office of Compliance and may be incorporated in such employing office handbooks or written policies.

(2) If such an employing office does not have written policies, manuals, or handbooks describing employee benefits and leave provisions, the employing office shall provide written guidance to an employee concerning all the employee's rights and obligations under the FMLA as made applicable by the CAA. This notice shall be provided to employees each time notice is given pursuant to paragraph (b), and in accordance with the provisions of that paragraph. Employing offices may duplicate and provide the employee a copy of the FMLA Fact Sheet available from the Office of Compliance to provide such guidance.

(b)(1) The employing office shall also provide the employee with written notice detailing the specific expectations and obligations of the employee and explaining any consequences of a failure to meet these obligations. The written notice must be provided to the employee in a language in which the employee is literate. Such specific notice must include, as appropriate:

(i) that the leave will be counted against the employee's annual FMLA leave entitlement (see §825.208);

(ii) any requirements for the employee to furnish medical certification of a serious health condition and the consequences of failing to do so (see §825.305);

(iii) the employee's right to substitute paid leave and whether the employing office will require the substitution of paid leave, and the conditions related to any substitution;

(iv) any requirement for the employee to make any premium payments to maintain health benefits and the arrangements for making such payments (see §825.210), and the possible consequences of failure to make such payments on a timely basis (i.e., the circumstances under which coverage may lapse);

(v) any requirement for the employee to present a fitness-for-duty certificate to be restored to employment (see §825.310);

(vi) the employee's status as a "key employee" and the potential consequence that restoration may be denied following FMLA leave, explaining the conditions required for such denial (see § 825.218);

(vii) the employee's right to restoration to the same or an equivalent job upon return from leave (see §§ 825.214 and 825.604); and,

(viii) the employee's potential liability for payment of health insurance premiums paid by the employing office during the employee's unpaid FMLA leave if the employee fails to return to work after taking FMLA leave (see § 825.213).

(2) The specific notice may include other information—*e.g.*, whether the employing office will require periodic reports of the employee's status and intent to return to work, but is not required to do so. A prototype notice is contained in Appendix D of this part, or may be obtained from the Office of Compliance, which employing offices may adapt for their use to meet these specific notice requirements.

(c) Except as provided in this subparagraph, the written notice required by paragraph (b) (and by subparagraph (a)(2) where applicable) must be provided to the employee no less often than the first time in each six-month period that an employee gives notice of the need for FMLA leave (if FMLA leave is taken during the six-month period). The notice shall be given within a reasonable time after notice of the need for leave is given by the employee—within one or two business days if feasible. If leave has already begun, the notice should be mailed to the employee's address of record.

(1) If the specific information provided by the notice changes with respect to a subsequent period of FMLA leave during the six-month period, the employing office shall, within one or two business days of receipt of the employee's notice of need for leave, provide written notice referencing the prior notice and setting forth any of the information in subparagraph (b) which has changed. For example, if the initial leave period were paid leave and the subsequent leave period would be unpaid leave, the employing office may need to give notice of the arrangements for making premium payments.

(2)(i) Except as provided in subparagraph (ii), if the employing office is requiring medical certification or a "fitness-for-duty" report, written notice of the requirement shall be given with respect to each employee notice of a need for leave.

(ii) Subsequent written notification shall *not* be required if the initial notice in the six-month period *and* the employing office handbook or other written documents (if any) describing the employing office's leave policies, clearly provided that certification or a "fitness-for-duty" report would be required (*e.g.*, by stating that certification would be required in all cases, by stating that certification would be required in all cases in which leave of more than a specified number of days is taken, or by stating that a "fitness-for-duty" report would be required in all cases for back injuries for employees in a certain occupation). Where subsequent written notice is not required, at least oral notice shall be provided. (*See* § 825.305(a).)

(d) Employing offices are also expected to responsively answer questions from employees concerning their rights and responsibilities under the FMLA as made applicable under the CAA.

(e) Employing offices furnishing FMLA-required notices to sensory impaired individuals must also comply with all applicable requirements under law.

(f) If an employing office fails to provide notice in accordance with the provisions of this section, the employing office may not take action against an employee for failure to comply with any provision required to be set forth in the notice.

§ 825.302 What notice does an employee have to give an employing office when the need for FMLA leave is foreseeable?

(a) An employee must provide the employing office at least 30 days advance notice before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member. If 30 days notice is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. For example, an employee's health condition may require leave to commence earlier than anticipated before the birth of a child. Similarly, little opportunity for notice may be given before placement for adoption. Whether the leave is to be continuous or is to be taken intermittently or on a reduced schedule basis, notice need only be given one time, but the employee shall advise the employing office as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown.

(b) "As soon as practicable" means as soon as both possible and practical, taking into account all of the facts and circumstances in the individual case. For foreseeable leave where it is not possible to give as much as 30 days notice, "as soon as practicable" ordinarily would mean at least verbal notification to the employing office within one or two business days of when the need for leave becomes known to the employee.

(c) An employee shall provide at least verbal notice sufficient to make the employing office aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave. The employee need not expressly assert rights under the FMLA as made applicable by the CAA, or even mention the FMLA, but may only state that leave is needed for an expected birth or adoption, for example. The employing office should inquire further of the employee if it is necessary to have more information about whether FMLA leave is being sought by the employee, and obtain the necessary details of the leave to be taken. In the case of medical conditions, the employing office may find it necessary to inquire further to determine if the leave is because of a serious health condition and may request medical certification to support the need for such leave (see § 825.305).

(d) An employing office may also require an employee to comply with the employing office's usual and customary notice and procedural requirements for requesting leave. For example, an employing office may require that written notice set forth the reasons for the requested leave, the anticipated duration of the leave, and the anticipated start of the leave. However, failure to follow such internal employing office procedures will not permit an employing office to disallow or delay an employee's taking FMLA leave if the employee gives timely verbal or other notice.

(e) When planning medical treatment, the employee must consult with the employing office and make a reasonable effort to schedule the leave so as not to disrupt unduly the employing office's operations, subject to the approval of the health care provider. Employees are ordinarily expected to consult with their employing offices prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both the employing office and the employee. If an employee who provides notice of the need to take FMLA leave on an intermittent basis for planned medical treatment neglects to consult with the employing office to make a reasonable attempt to arrange the schedule of treatments so as not to unduly disrupt the employing office's operations, the employing office may initiate discussions with the employee and require the employee to attempt to make such arrangements, subject to the approval of the health care provider.

(f) In the case of intermittent leave or leave on a reduced leave schedule which is medically necessary, an employee shall advise the employing office, upon request, of the reasons why the intermittent/reduced leave schedule is necessary and of the schedule for treatment, if applicable. The employee and employing office shall attempt to work out a schedule which meets the employee's needs without unduly disrupting the employing office's operations, subject to the approval of the health care provider.

(g) An employing office may waive employees' FMLA notice requirements. In addition, an employing office may not require compliance with stricter FMLA notice requirements where the provisions of a collective bargaining agreement or applicable leave plan allow less advance notice to the employing office. For example, if an employee (or employing office) elects to substitute paid vacation leave for unpaid FMLA leave (see § 825.207), and the employing office's paid vacation leave plan imposes no prior notification requirements for taking such vacation leave, no advance notice may be required for the FMLA leave taken in these circumstances. On the other hand, FMLA notice requirements would apply to a period of unpaid FMLA leave, unless the employing office imposes lesser notice requirements on employees taking leave without pay.

§ 825.303 What are the requirements for an employee to furnish notice to an employing office where the need for FMLA leave is not foreseeable?

(a) When the approximate timing of the need for leave is not foreseeable, an employee should give notice to the employing office of the need for FMLA leave as soon as practicable under the facts and circumstances of the particular case. It is expected that an employee will give notice to the employing office within no more than one or two working days of learning of the need for leave, except in extraordinary circumstances where such notice is not feasible. In the case of a medical emergency requiring leave because of an employee's own serious health condition or to care for a family member with a serious health condition, written advance notice pursuant to an employing office's internal rules and procedures may not be required when FMLA leave is involved.

(b) The employee should provide notice to the employing office either in person or by telephone, telegraph, facsimile ("fax") machine or other electronic means. Notice may be given by the employee's spokesperson (e.g., spouse, adult family member or other responsible party) if the employee is unable to do so personally. The employee need not expressly assert rights under the FMLA, as made applicable by the CAA, or even mention the FMLA, but may only state that leave is needed. The employing office will be expected to obtain any additional required information through informal means. The employee or spokesperson will be expected to provide more information when it can readily be accomplished as a practical matter, taking into consideration the exigencies of the situation.

§825.304 What recourse do employing offices have if employees fail to provide the required notice?

(a) An employing office may waive employees' FMLA notice obligations or the employing office's own internal rules on leave notice requirements.

(b) If an employee fails to give 30 days notice for foreseeable leave with no reasonable excuse for the delay, the employing office may delay the taking of FMLA leave until at least 30 days after the date the employee provides notice to the employing office of the need for FMLA leave.

(c) In all cases, in order for the onset of an employee's FMLA leave to be delayed due to lack of required notice, it must be clear that the employee had actual notice of the FMLA notice requirements. This condition would be satisfied by the employing office's proper posting, at the worksite where the employee is employed, of the information regarding the FMLA provided (pursuant to section 301(h)(2) of the CAA, 2 U.S.C. 1381(h)(2)) by the Office of Compliance to the employing office in a manner suitable for posting. Furthermore, the need for leave and the approximate date leave would be taken must have been clearly foreseeable to the employee 30 days in advance of the leave. For example, knowledge that an employee would receive a telephone call about the availability of a child for adoption at some unknown point in the future would not be sufficient.

§825.305 When must an employee provide medical certification to support FMLA leave?

(a) An employing office may require that an employee's leave to care for the employee's seriously ill spouse, son, daughter, or parent, or due to the employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of the employee's position, be supported by a certification issued by the health care provider of the employee or the employee's ill family member. An employing office must give notice of a requirement for medical certification each time a certification is required; such notice must be written notice whenever required by §825.301. An employing office's oral request to an employee to furnish any subsequent medical certification is sufficient.

(b) When the leave is foreseeable and at least 30 days notice has been provided, the employee should provide the medical certification before the leave begins. When this is not possible, the employee must provide the requested certification to the employing office within the time frame requested by the employing office (which must allow at least 15 calendar days after the employing office's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

(c) In most cases, the employing office should request that an employee furnish certification from a health care provider at the time the employee gives notice of the need for leave or within two business days thereafter, or, in the case of unforeseen leave, within two business days after the leave commences. The employing office may request certification at some later date if the employing office later has reason to question the appropriateness of the leave or its duration.

(d) At the time the employing office requests certification, the employing office must also advise an employee of the anticipated consequences of an employee's failure to provide adequate certification. The employing office shall advise an employee whenever the employing office finds a certification incomplete, and provide the employee a reasonable opportunity to cure any such deficiency.

(e) If the employing office's sick or medical leave plan imposes medical certification requirements that are less stringent than the certification requirements of these regulations, and the employee or employing office elects to substitute paid sick, vacation, personal or family leave for unpaid FMLA leave where authorized (see §825.207), only the employing office's less stringent sick leave certification requirements may be imposed.

§825.306 How much information may be required in medical certifications of a serious health condition?

(a) The Office of Compliance has made available an optional form ("Certification of Physician or Practitioner") for employees' (or their family members') use in obtaining medical certification, including second and third opinions, from health care providers that meets FMLA's certification requirements. (See Appendix B to these regulations.) This optional form reflects certification requirements so as to permit the health care provider to furnish appropriate medical information within his or her knowledge.

(b) The Certification of Physician or Practitioner form is modeled closely on Form WH–380, as revised, which was developed by the Department of Labor (see 29 C.F.R. Part 825, Appendix B). The employing office may use the Office of Compliance's form, or Form WH–380, as revised, or another form containing the same basic information; however, no additional information may be required. In all instances the information on the form must relate only to the serious health condition for which the current need for leave exists. The form identifies the health care provider and type of medical practice (including pertinent specialization, if any), makes maximum use of checklist entries for ease in completing the form, and contains required entries for:

(1) A certification as to which part of the definition of "serious health condition" (see §825.114), if any, applies to the patient's condition, and the medical facts which support the certification, including a brief statement as to how the medical facts meet the criteria of the definition.

(2)(i) The approximate date the serious health condition commenced, and its probable duration, including the probable duration of the patient's present incapacity (defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) if different.

(ii) Whether it will be necessary for the employee to take leave intermittently or to work on a reduced leave schedule basis (i.e., part-time) as a result of the serious health condition (see §825.117 and §825.203), and if so, the probable duration of such schedule.

(iii) If the condition is pregnancy or a chronic condition within the meaning of §825.114(a)(2)(iii), whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity.

(3)(i)(A) If additional treatments will be required for the condition, an estimate of the probable number of such treatments.

(B) If the patient's incapacity will be intermittent, or will require a reduced leave schedule, an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any.

(ii) If any of the treatments referred to in subparagraph (i) will be provided by another provider of health services (e.g., physical therapist), the nature of the treatments.

(iii) If a regimen of continuing treatment by the patient is required under the supervision of the health care provider, a general description of the regimen (see §825.114(b)).

(4) If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), whether the employee:

(i) is unable to perform work of any kind;

(ii) is unable to perform any one or more of the essential functions of the employee's position, including a statement of the essential functions the employee is unable to perform (see §825.115), based on either information provided on a statement from the employing office of the essential functions of the position or, if not provided, discussion with the employee about the employee's job functions; or

(iii) must be absent from work for treatment.

(5)(i) If leave is required to care for a family member of the employee with a serious health condition, whether the patient requires assistance for basic medical or personal needs or safety, or for transportation; or if not, whether the employee's presence to provide psychological comfort would be beneficial to the patient or assist in the patient's recovery. The employee is required to indicate on the form the care he or she will provide and an estimate of the time period.

(ii) If the employee's family member will need care only intermittently or on a reduced leave schedule basis (*i.e.*, part-time), the probable duration of the need.

(c) If the employing office's sick or medical leave plan requires less information to be furnished in medical certifications than the certification requirements of these regulations, and the employee or employing office elects to substitute paid sick, vacation, personal or family leave for unpaid FMLA leave where authorized (*see* §825.207), only the employing office's lesser sick leave certification requirements may be imposed.

§825.307 What may an employing office do if it questions the adequacy of a medical certification?

(a) If an employee submits a complete certification signed by the health care provider, the employing office may not request additional information from the employee's health care provider. However, a health care provider representing the employing office may contact the employee's health care provider, with the employee's permission, for purposes of *clarification* and authenticity of the medical certification.

(1) If an employee is on FMLA leave running concurrently with a workers' compensation absence, and the provisions of the workers' compensation statute permit the employing office or the employing office's representative to have direct contact with the employee's workers' compensation health care provider, the employing office may follow the workers' compensation provisions.

(2) An employing office that has reason to doubt the validity of a medical certification may require the employee to obtain a second opinion at the employing office's expense.

Pending receipt of the second (or third) medical opinion, the employee is provisionally entitled to the benefits of the FMLA as made applicable by the CAA, including maintenance of group health benefits. If the certifications do not ultimately establish the employee's entitlement to FMLA leave, the leave shall not be designated as FMLA leave and may be treated as paid or unpaid leave under the employing office's established leave policies. The employing office is permitted to designate the health care provider to furnish the second opinion, but the selected health care provider may not be employed on a regular basis by the employing office. See also paragraphs (e) and (f) of this section.

(b) The employing office may not regularly contract with or otherwise regularly utilize the services of the health care provider furnishing the second opinion unless the employing office is located in an area where access to health care is extremely limited (e.g., a rural area where no more than one or two doctors practice in the relevant specialty in the vicinity).

(c) If the opinions of the employee's and the employing office's designated health care providers differ, the employing office may require the employee to obtain certification from a third health care provider, again at the employing office's expense. This third opinion shall be final and binding. The third health care provider must be designated or approved jointly by the employing office and the employee. The employing office and the employee must each act in good faith to attempt to reach agreement on whom to select for the third opinion provider. If the employing office does not attempt in good faith to reach agreement, the employing office will be bound by the first certification. If the employee does not attempt in good faith to reach agreement, the employee will be bound by the second certification. For example, an employee who refuses to agree to see a doctor in the specialty in question may be failing to act in good faith. On the other hand, an employing office that refuses to agree to any doctor on a list of specialists in the appropriate field provided by the employee and whom the employee has not previously consulted may be failing to act in good faith.

(d) The employing office is required to provide the employee with a copy of the second and third medical opinions, where applicable, upon request by the employee. Requested copies are to be provided within two business days unless extenuating circumstances prevent such action.

(e) If the employing office requires the employee to obtain either a second or third opinion the employing office must reimburse an employee or family member for any reasonable "out of pocket" travel expenses incurred to obtain the second and third medical opinions. The employing office may not require the employee or family member to travel outside normal commuting distance for purposes of obtaining the second or third medical opinions except in very unusual circumstances.

(f) In circumstances when the employee or a family member is visiting in another country, or a family member resides in a another country, and a serious health condition develops, the employing office shall accept a medical certification as well as second and third opinions from a health care provider who practices in that country.

§ 825.308 Under what circumstances may an employing office request subsequent recertifications of medical conditions?

(a) For pregnancy, chronic, or permanent/long-term conditions under continuing supervision of a health care provider (as defined in § 825.114(a) (2)(ii), (iii) or (iv)), an employing office may request recertification no more often than every 30 days and only in connection with an absence by the employee, unless:

(1) Circumstances described by the previous certification have changed significantly (e.g., the duration or frequency of absences, the severity of the condition, complications); or

(2) The employing office receives information that casts doubt upon the employee's stated reason for the absence.

(b)(1) If the minimum duration of the period of incapacity specified on a certification furnished by the health care provider is more than 30 days, the employing office may not request recertification until that minimum duration has passed unless one of the conditions set forth in paragraph (c)(1), (2) or (3) of this section is met.

(2) For FMLA leave taken intermittently or on a reduced leave schedule basis, the employing office may not request recertification in less than the minimum period specified on the certification as necessary for such leave (including treatment) unless one of the conditions set forth in paragraph (c)(1), (2) or (3) of this section is met.

(c) For circumstances not covered by paragraphs (a) or (b) of this section, an employing office may request recertification at any reasonable interval, but not more often than every 30 days, unless:

(1) The employee requests an extension of leave;

(2) Circumstances described by the previous certification have changed significantly (e.g., the duration of the illness, the nature of the illness, complications); or

(3) The employing office receives information that casts doubt upon the continuing validity of the certification.

(d) The employee must provide the requested recertification to the employing office within the time frame requested by the employing office (which must allow at least 15 calendar days after the employing office's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

(e) Any recertification requested by the employing office shall be at the employee's expense unless the employing office provides otherwise. No second or third opinion on recertification may be required.

§ 825.309 What notice may an employing office require regarding an employee's intent to return to work?

(a) An employing office may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work. The employing office's policy regarding such reports may not be discriminatory and must take into account all of the relevant facts and circumstances related to the individual employee's leave situation.

(b) If an employee gives unequivocal notice of intent not to return to work, the employing office's obligations under FMLA, as made applicable by the CAA, to maintain health benefits (subject to requirements of COBRA or 5 U.S.C. 8905a, whichever is applicable) and to restore the employee cease. However, these obligations continue if an employee indicates he or she may be unable to return to work but expresses a continuing desire to do so.

(c) It may be necessary for an employee to take more leave than originally anticipated. Conversely, an employee may discover after beginning leave that the circumstances have changed and the amount of leave originally anticipated is no longer necessary. An employee may not be required to take more FMLA leave than necessary to resolve the circumstance that precipitated the need for leave. In both of these situations, the employing office may require that the employee provide the employing office reasonable notice (i.e., within two business days) of the changed circumstances where foreseeable. The employing office may also obtain information on such changed circumstances through requested status reports.

§ 825.310 Under what circumstances may an employing office require that an employee submit a medical certification that the employee is able (or unable) to return to work (i.e., a "fitness-for-duty" report)?

(a) As a condition of restoring an employee whose FMLA leave was occasioned by the employee's own serious health condition that made the employee unable to perform the employee's job, an employing office may have a uniformly-applied policy or practice that requires all similarly-situated employees (i.e., same occupation, same serious health condition) who take leave for such conditions to obtain and present certification from the employee's health care provider that the employee is able to resume work.

(b) If the terms of a collective bargaining agreement govern an employee's return to work, those provisions shall be applied. Similarly, requirements under the Americans with Disabilities Act (ADA), as made applicable by the CAA, that any return-to-work physical be job-related and consistent with business necessity apply. For example, an attorney could not be required to submit to a medical examination or inquiry just because her leg had been amputated. The essential functions of an attorney's job do not require use of both legs; therefore such an inquiry would not be job related. An employing office may require a warehouse laborer, whose back impairment affects the ability to lift, to be examined by an orthopedist, but may not require this employee to submit to an HIV test where the test is not related to either the essential functions of his/her job or to his/her impairment.

(c) An employing office may seek fitness-for-duty certification only with regard to the particular health condition that caused the employee's need for FMLA leave. The certification itself need only be a simple statement of an employee's ability to return to work. A health care provider employed by the employing office may contact the employee's health care provider with the employee's permission, for purposes of clarification of the employee's fitness to return to work. No additional information may be acquired, and clarification may be requested only for the serious health condition for which FMLA leave was taken. The employing office may not delay the employee's return to work while contact with the health care provider is being made.

(d) The cost of the certification shall be borne by the employee and the employee is not entitled to be paid for the time or travel costs spent in acquiring the certification.

(e) The notice that employing offices are required to give to each employee giving notice of the need for FMLA leave regarding their FMLA rights and obligations as made applicable by the CAA (see § 825.301) shall advise the employee if the employing office will require fitness-for-duty certification to return to work. If the employing office has a handbook explaining employment policies and benefits, the handbook should explain the employing office's general policy regarding any requirement for fitness-for-duty certification to return to work. Specific notice shall also be given to any employee from whom fitness-for-duty certification will be required either at the time notice of the need for leave is given or immediately after leave commences and the employing office is advised of the medical circumstances requiring the leave, unless the employee's condition changes from one that did not previously require certification pursuant to the employing office's practice or policy. No second or third fitness-for-duty certification may be required.

(f) An employing office may delay restoration to employment until an employee submits a required fitness-for-duty certification unless the employing office has failed to provide the notices required in paragraph (e) of this section.

(g) An employing office is not entitled to certification of fitness to return to duty when the employee takes intermittent leave as described in § 825.203.

(h) When an employee is unable to return to work after FMLA leave because of the continuation, recurrence, or onset of the employee's or family member's serious health condition, thereby preventing the employing office from recovering its share of health benefit premium payments made on the employee's behalf during a period of unpaid FMLA leave, the employing office may require medical certification of the employee's or the family member's serious health condition. (*See* § 825.213(a)(3).) The cost of the certification shall be borne by the employee and the employee is not entitled to be paid for the time or travel costs spent in acquiring the certification.

§ 825.311 What happens if an employee fails to satisfy the medical certification and/or recertification requirements?

(a) In the case of foreseeable leave, an employing office may delay the taking of FMLA leave to an employee who fails to provide timely certification after being requested by the employing office to furnish such certification (i.e., within 15 calendar days, if practicable), until the required certification is provided.

(b) When the need for leave is not foreseeable, or in the case of recertification, an employee must provide certification (or recertification) within the time frame requested by the employing office (which must allow at least 15 days after the employing office's request) or as soon as reasonably possible under the particular facts and circumstances. In the case of a medical emergency, it may not be practicable for an employee to provide the required certification within 15 calendar days. If an employee fails to provide a medical certification within a reasonable time under the pertinent circumstances, the employing office may delay the employee's continuation of FMLA leave. If the employee never produces the certification, the leave is not FMLA leave.

(c) When requested by the employing office pursuant to a uniformly applied policy for similarly-situated employees, the employee must provide medical certification at the time the employee seeks reinstatement at the end of FMLA leave taken for the employee's serious health condition, that the employee is fit for duty and able to return to work (see § 825.310(a)) if the employing office has provided the required notice (see § 825.301(c); the employing office may delay restoration until the certification is provided. In this situation, unless the employee provides either a fitness-for-duty certification or a new medical certification for a serious health condition at the time FMLA leave is concluded, the employee may be terminated. See also § 825.213(a)(3).

§ 825.312 Under what circumstances may an employing office refuse to provide FMLA leave or reinstatement to eligible employees?

(a) If an employee fails to give timely advance notice when the need for FMLA leave is foreseeable, the employing office may delay the taking of FMLA leave until 30 days after the date the employee provides notice to the employing office of the need for FMLA leave. (*See* § 825.302.)

(b) If an employee fails to provide in a timely manner a requested medical certification to substantiate the need for FMLA leave due to a serious health condition, an employing office may delay continuation of FMLA leave until an employee submits the certificate. (*See* §§ 825.305 and 825.311.) If the employee never produces the certification, the leave is not FMLA leave.

(c) If an employee fails to provide a requested fitness-for-duty certification to return to work, an employing office may delay restoration until the employee submits the certificate. (*See* §§ 825.310 and 825.311.)

(d) An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. Thus, an employee's rights to continued leave, maintenance of health benefits, and restoration cease under FMLA, as made applicable by the CAA, if and when the employment relationship terminates (*e.g.*, layoff), unless that relationship continues, for example, by the employee remaining on *paid* FMLA leave. If the employee is recalled or otherwise re-employed, an eligible employee is immediately entitled to further FMLA leave for an FMLA-qualifying reason. An employing office must be able to show, when an employee requests restoration, that the employee would not otherwise have been employed if leave had not been taken in order to deny restoration to employment. (See § 825.216.)

(e) An employing office may require an employee on FMLA leave to report periodically on the employee's status and intention to return to work. (See § 825.309.) If an employee unequivocally advises the employing office either before or during the taking of leave that the employee does not intend to return to work, and the employment relationship is terminated, the employee's entitlement to continued leave, maintenance of health benefits, and restoration ceases unless the employment relationship continues, for example, by the employee remaining on *paid* leave. An employee may not be required to take more leave than necessary to address the circumstances for which leave was taken. If the employee is able to return to work earlier than anticipated, the employee shall provide the employing office two business days notice where feasible; the employing office is required to restore the employee once such notice is given, or where such prior notice was not feasible.

(f) An employing office may deny restoration to employment, but not the taking of FMLA leave and the maintenance of health benefits, to an eligible employee only under the terms of the "key employee" exemption. Denial of reinstatement must be necessary to prevent "substantial and grievous economic injury" to the employing office's operations. The employing office must notify the employee of the employee's status as a "key employee" and of the employing office's intent to deny reinstatement on that basis when the employing office makes these determinations. If leave has started, the employee must be given a reasonable opportunity to return to work after being so notified. (See § 825.219.)

(g) An employee who fraudulently obtains FMLA leave from an employing office is not protected by job restoration or maintenance of health benefits provisions of the FMLA as made applicable by the CAA.

(h) If the employing office has a uniformly-applied policy governing outside or supplemental employment, such a policy may continue to apply to an employee while on FMLA leave. An employing office which does not have such a policy may not deny benefits to which an employee is entitled under FMLA as made applicable by the CAA on this basis unless the FMLA leave was fraudulently obtained as in paragraph (g) of this section.

Subpart D—What Enforcement Mechanisms Does the CAA Provide?

§ 825.400 What can employees do who believe that their rights under the FMLA as made applicable by the CAA have been violated?

(a) To commence a proceeding, a covered employee alleging a violation of the rights and protections of the FMLA made applicable by the CAA must request counseling by the Office of Compliance not later than 180 days after the date of the alleged violation. If a covered employee misses this deadline, the covered employee will be unable to obtain a remedy under the CAA.

(b) The following procedures are available under title IV of the CAA for covered employees who believe that their rights under FMLA as made applicable by the CAA have been violated:

(1) counseling;

(2) mediation; and

(3) election of either—

(A) a formal complaint, filed with the Office of Compliance, and a hearing before a hearing officer, subject to review by the Board of Directors of the Office of Compliance, and judicial review in the United States Court of Appeals for the Federal Circuit; or

(B) a civil action in a district court of the United States.

(c) Regulations of the Office of Compliance describing and governing these procedures are found at [proposed rules can be found at 141 Cong. Rec. S17012 (November 14, 1995)].

§ 825.401 [Reserved]

§825.402 [Reserved]

§ 825.403 [Reserved]

§ 825.404 [Reserved]

Subpart E—[Reserved]

Subpart F—What Special Rules Apply to Employees of Schools?

§ 825.600 To whom do the special rules apply?

(a) Certain special rules apply to employees of "local educational agencies," including public school boards and elementary schools under their jurisdiction, and private elementary and secondary schools. The special rules do not apply to other kinds of educational institutions, such as colleges and universities, trade schools, and preschools.

(b) Educational institutions are covered by FMLA as made applicable by the CAA (and these special rules). The usual requirements for employees to be "eligible" apply.

(c) The special rules affect the taking of intermittent leave or leave on a reduced leave schedule, or leave near the end of an academic term (semester), by instructional employees. "Instructional employees" are those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. It does not include, and the special rules do not apply to, teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

(d) Special rules which apply to restoration to an equivalent position apply to all employees of local educational agencies.

§825.601 What limitations apply to the taking of intermittent leave or leave on a reduced leave schedule?

(a) Leave taken for a period that ends with the school year and begins the next semester is leave taken consecutively rather than intermittently. The period during the summer vacation when the employee would not have been required to report for duty is not counted against the employee's FMLA leave entitlement. An instructional employee who is on FMLA leave at the end of the school year must be provided with any benefits over the summer vacation that employees would normally receive if they had been working at the end of the school year.

(1) If an eligible instructional employee needs intermittent leave or leave on a reduced leave schedule to care for a family member, or for the employee's own serious health condition, which is foreseeable based on planned medical treatment, and the employee would be on leave for more than 20 percent of the total number of working days over the period the leave would extend, the employing office may require the employee to choose either to:

(i) Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or

(ii) Transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.

(2) These rules apply only to a leave involving more than 20 percent of the working days during the period over which the leave extends. For example, if an instructional employee who normally works five days each week needs to take two days of FMLA leave per week over a period of several weeks, the special rules would apply. Employees taking leave which constitutes 20 percent or less of the working days during the leave period would not be subject to transfer to an alternative position. "Periods of a particular duration" means a block, or blocks, of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed, and may include one uninterrupted period of leave.

(b) If an instructional employee does not give required notice of foreseeable FMLA leave (see §825.302) to be taken intermittently or on a reduced leave schedule, the employing office may require the employee to take leave of a particular duration, or to transfer temporarily to an alternative position. Alternatively, the employing office may require the employee to delay the taking of leave until the notice provision is met. *See* §825.207(h).

§825.602 What limitations apply to the taking of leave near the end of an academic term?

(a) There are also different rules for instructional employees who begin leave more than five weeks before the end of a term, less than five weeks before the end of a term, and less than three weeks before the end of a term. Regular rules apply except in circumstances when:

(1) An instructional employee begins leave more than five weeks before the end of a term. The employing office may require the employee to continue taking leave until the end of the term if—

(i) The leave will last at least three weeks, and

(ii) The employee would return to work during the three-week period before the end of the term.

(2) The employee begins leave for a purpose other than the employee's own serious health condition *during* the five-week period before the end of a term. The employing office may require the employee to continue taking leave until the end of the term if —

(i) The leave will last more than two weeks, and

(ii) The employee would return to work during the two-week period before the end of the term.

(3) The employee begins leave for a purpose other than the employee's own serious health condition during the three-week period before the end of a term, and the leave will last more than five working days. The employing office may require the employee to continue taking leave until the end of the term.

(b) For purposes of these provisions, "academic term" means the school semester, which typically ends near the end of the calendar year and the end of spring each school year. In no case may a school have more than two academic terms or semesters each year for purposes of FMLA as made applicable by the CAA. An example of leave falling within these provisions would be where an employee plans two weeks of leave to care for a family member which will begin three weeks before the end of the term. In that situation, the employing office could require the employee to stay out on leave until the end of the term.

§825.603 Is all leave taken during "periods of a particular duration" counted against the FMLA leave entitlement?

(a) If an employee chooses to take leave for "periods of a particular duration" in the case of intermittent or reduced schedule leave, the entire period of leave taken will count as FMLA leave.

(b) In the case of an employee who is required to take leave until the end of an academic term, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. The employing office has the option not to require the employee to stay on leave until the end of the school term. Therefore, any additional leave required by the employing office to the end of the school term is not counted as FMLA leave; however, the employing office shall be required to maintain the employee's group health insurance and restore the employee to the same or equivalent job including other benefits at the conclusion of the leave.

§825.604 What special rules apply to restoration to "an equivalent position?"

The determination of how an employee is to be restored to "an equivalent position" upon return from FMLA leave will be made on the basis of "established school board policies and practices, private school policies and practices, and collective bargaining agreements." The "established policies" and collective bargaining agreements used as a basis for restoration must be in writing, must be made known to the employee prior to the taking of FMLA leave, and must clearly explain the employee's restoration rights upon return from leave. Any established policy which is used as the basis for restoration of an employee to "an equivalent position" must provide substantially the same protections as provided in the FMLA, as made applicable by the CAA, for reinstated employees. See §825.215. In other words, the policy or collective bargaining agreement must provide for restoration to an "equivalent position" with equivalent employment benefits, pay, and other terms and conditions of employment. For example, an employee may not be restored to a position requiring additional licensure or certification.

Subpart G—How Do Other Laws, Employing Office Practices, and Collective Bargaining Agreements Affect Employee Rights Under the FMLA as Made Applicable by the CAA?

§825.700 What if an employing office provides more generous benefits than required by FMLA as made applicable by the CAA?

(a) An employing office must observe any employment benefit program or plan that provides greater family or medical leave rights to employees than the rights established by the FMLA. Conversely, the rights established by the FMLA, as made applicable by the CAA, may not be diminished by any employment benefit program or plan. For example, a provision of a collective bargaining agreement (CBA) which provides for reinstatement to a position that is not equivalent because of seniority (e.g., provides lesser pay) is superseded by FMLA. If an employing office provides greater unpaid family leave rights than are afforded by FMLA, the employing office is not required to extend additional rights afforded by FMLA, such as maintenance of health benefits (other than through COBRA or 5 U.S.C. 8905a, whichever is applicable), to the additional leave period not covered by FMLA. If an employee takes paid or unpaid leave and the employing office does not designate the leave as FMLA leave, the leave taken does not count against an employee's FMLA entitlement.

(b) Nothing in the FMLA, as made applicable by the CAA, prevents an employing office from amending existing leave and employee benefit programs, provided they comply with FMLA as made applicable by the CAA. However, nothing in the FMLA, as made applicable by the CAA, is intended to discourage employing offices from adopting or retaining more generous leave policies.

(c) [Reserved]

§825.701 [Reserved]

§825.702 How does FMLA affect anti-discrimination laws as applied by section 201 of the CAA?

(a) Nothing in FMLA modifies or affects any applicable law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability (e.g., Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act), as made applicable by the CAA. FMLA's legislative history explains that FMLA is "not intended to modify or affect the Rehabilitation Act of 1973, as amended, the regulations concerning employment which have been promulgated pursuant to that statute, or the Americans with Disabilities Act of 1990, or the regulations issued under that act. Thus, the leave provisions of the [FMLA] are wholly distinct from the reasonable accommodation obligations of employers covered under the [ADA] * * * or the Federal government itself. The purpose of the FMLA is to make leave available to eligible employees and employing offices within its coverage, and not to limit already existing rights and protection." S. Rep. No. 3, 103d Cong., 1st Sess. 38 (1993). An employing office must therefore provide leave under whichever statutory provision provides the greater rights to employees.

(b) If an employee is a qualified individual with a disability within the meaning of the Americans with Disabilities Act (ADA), the employing office must make reasonable accommodations, etc., barring undue hardship, in accordance with the ADA. At the same time, the employing office must afford an employee his or her FMLA rights. ADA's "disability" and FMLA's "serious health condition" are different concepts, and must be analyzed separately. FMLA entitles eligible employees to 12 weeks of leave in any 12-month period, whereas the ADA allows an indeterminate amount of leave, barring undue hardship, as a reasonable accommodation. FMLA requires employing offices to maintain employees' group health plan coverage during FMLA leave on the same conditions as coverage would have been provided if the employee had been continuously employed during the leave period, whereas ADA does not require maintenance of health insurance unless other employees receive health insurance during leave under the same circumstances.

(c)(1) A reasonable accommodation under the ADA might be accomplished by providing an individual with a disability with a part-time job with no health benefits, assuming the employing office did not ordinarily provide health insurance for part-time employees. However, FMLA would permit an employee to work a reduced leave schedule until the equivalent of 12 workweeks of leave were used, with group health benefits maintained during this period. FMLA permits an employing office to temporarily transfer an employee who is taking leave intermittently or on a reduced leave schedule to an alternative position, whereas the ADA allows an accommodation of reassignment to an equivalent, vacant position only if the employee cannot perform the essential functions of the employee's present position and an accommodation is not possible in the employee's present position, or an accommodation in the employee's present position would cause an undue hardship. The examples in the following paragraphs of this section demonstrate how the two laws would interact with respect to a qualified individual with a disability.

(2) A qualified individual with a disability who is also an "eligible employee" entitled to FMLA leave requests 10 weeks of medical leave as a reasonable accommodation, which the employing office grants because it is not an undue hardship. The employing office advises the employee that the 10 weeks of leave is also being designated as FMLA leave and will count towards the employee's FMLA leave entitlement. This designation does not prevent the parties from also treating the leave as a reasonable accommodation and reinstating the employee into the *same* job, as required by the ADA, rather than an equivalent position under FMLA, if that is the greater right available to the employee. At the same time, the employee would be entitled under FMLA to have the employing office maintain group health plan coverage during the leave, as that requirement provides the greater right to the employee.

(3) If the same employee needed to work part-time (a reduced leave schedule) after returning to his or her same job, the employee would still be entitled under FMLA to have group health plan coverage maintained for the remainder of the two-week equivalent of FMLA leave entitlement, notwithstanding an employing office policy that part-time employees do not receive health insurance. This employee would be entitled under the ADA to reasonable accommodations to enable the employee to perform the essential functions of the part-time position. In addition, because the employee is working a part-time schedule as a reasonable accommodation, the employee would be shielded from FMLA's provision for temporary assignment to a different alternative position. Once the employee has exhausted his or her remaining FMLA leave entitlement while working the reduced (part-time) schedule, if the employee is a qualified individual with a disability, and if the employee is unable to return to the same full-time position at that time, the employee might continue to work part-time as a reasonable accommodation, barring undue hardship; the employee would then be entitled to only those employment benefits ordinarily provided by the employing office to part-time employees.

(4) At the end of the FMLA leave entitlement, an employing office is required under FMLA to reinstate the employee in the same or an equivalent position, with equivalent pay and benefits, to that which the employee held when leave commenced. The employing office's FMLA obligations would be satisfied if the employing office offered the employee an equivalent full-time position. If the employee were unable to perform the essential functions of that equivalent position even with reasonable accommodation, because of a disability, the ADA may require the employing office to make a reasonable accommodation at that time by allowing the employee to work part-time or by reassigning the employee to a vacant position, barring undue hardship.

(d)(1) If FMLA entitles an employee to leave, an employing office may not, in lieu of FMLA leave entitlement, *require* an employee to take a job with a reasonable accommodation. However, ADA may require that an employing office offer an employee the opportunity to take such a position. An employing office may not change the essential functions of the job in order to deny FMLA leave. See § 825.220(b).

(2) An employee may be on a workers' compensation absence due to an on-the-job injury or illness which also qualifies as a serious health condition under FMLA. The workers' compensation absence and FMLA leave may run concurrently (subject to proper notice and designation by the employing office). At some point the health care provider providing medical care pursuant to the workers' compensation injury may certify the employee is able to return to work in a "light duty" position. If the employing office offers such a position, the employee is permitted but not required to accept the position (*see* § 825.220(d)). As a result, the employee may no longer qualify for payments from the workers' compensation benefit plan, but the employee is entitled to continue on unpaid FMLA leave either until the employee is able to return to the same or equivalent job the employee left or until the 12-week FMLA leave entitlement is exhausted. See § 825.207(d)(2). If the employee returning from the workers' compensation injury is a qualified individual with a disability, he or she will have rights under the ADA.

(e) If an employing office requires certifications of an employee's fitness for duty to return to work, as permitted by FMLA under a uniform policy, it must comply with the ADA requirement that a fitness for duty physical be job-related and consistent with business necessity.

(f) Under Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act, and as made applicable by the CAA, an employing office should provide the same benefits for women who are pregnant as the employing office provides to other employees with short-term disabilities. Because Title VII does not require employees to be employed for a certain period of time to be protected, an employee employed for less than 12 months by any employing office (and, therefore, not an "eligible" employee under FMLA, as made applicable by the CAA) may *not* be denied maternity leave if the employing office normally provides short-term disability benefits to employees with the same tenure who are experiencing other short-term disabilities.

(g) For further information on Federal anti-discrimination laws applied by section 201 of the CAA (2 U.S.C. 1311), including Title VII, the Rehabilitation Act, and the ADA, individuals are encouraged to contact the Office of Compliance.

Subpart H—Definitions

§ 825.800 Definitions.

For purposes of this part:

ADA means the Americans With Disabilities Act (42 U.S.C. 12101 *et seq.*).

CAA means the Congressional Accountability Act of 1995 (Pub. Law 104-1, 109 Stat. 3, 2 U.S.C. 1301 et seq.).

COBRA means the continuation coverage requirements of Title X of the Consolidated Omnibus Budget Reconciliation Act of 1986 (Pub. Law 99-272, title X, section 10002; 100 Stat. 227; as amended; 29 U.S.C. 1161-1168).

Continuing treatment means: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(1) A period of *incapacity* (*i.e.*, inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(i) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (*e.g.*, physical therapist) under orders of, or on referral by, a health care provider; or

(ii) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(2) Any period of incapacity due to pregnancy, or for prenatal care.

(3) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(i) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(ii) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(iii) May cause episodic rather than a continuing period of incapacity (*e.g.*, asthma, diabetes, epilepsy, *etc.*).

(4) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(5) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, *etc.*), severe arthritis (physical therapy), kidney disease (dialysis).

Covered employee—The term "covered employee", as defined in the CAA, means any employee of—(1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; (8) the Office of Compliance; or (9) the Office of Technology Assessment.

Eligible employee—The term "eligible employee", as defined in the CAA, means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

Employ means to suffer or permit to work.

Employee means an employee as defined in the CAA and includes an applicant for employment and a former employee.

Employee employed in an instructional capacity. See Teacher.

Employee of the Capitol Police—The term "employee of the Capitol Police" includes any member or officer of the Capitol Police.

Employee of the House of Representatives—The term "employee of the House of Representatives" includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (9) under "covered employee" above.

Employee of the Office of the Architect of the Capitol—The term "employee of the Office of the Architect of the Capitol" includes any employee of the Office of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants.

Employee of the Senate—The term "employee of the Senate" includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (9) under "covered employee" above.

Employing Office—The term "employing office", as defined in the CAA, means:

(1) the personal office of a Member of the House of Representatives or of a Senator;

(2) a committee of the House of Representatives or the Senate or a joint committee;

(3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(4) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

Employment benefits means all benefits provided or made available to employees by an employing office, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employing office or through an employee benefit plan. The term does not include non-employment related obligations paid by employees through voluntary deductions such as supplemental insurance coverage. (See §825.209(a)).

FLSA means the Fair Labor Standards Act (29 U.S.C. 201 et seq.).

FMLA means the Family and Medical Leave Act of 1993, Public Law 103-3 (February 5, 1993), 107 Stat. 6 (29 U.S.C. 2601 et seq.).

Group health plan means the Federal Employees Health Benefits Program and any other plan of, or contributed to by, an employing office (including a self-insured plan) to provide health care (directly or otherwise) to the employing office's employees, former employees, or the families of such employees or former employees. For purposes of FMLA, as made applicable by the CAA, the term "group health plan" shall not include an insurance program providing health coverage under which employees purchase individual policies from insurers provided that:

(1) no contributions are made by the employing office;

(2) participation in the program is completely voluntary for employees;

(3) the sole functions of the employing office with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer;

(4) the employing office receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deduction; and,

(5) the premium charged with respect to such coverage does not increase in the event the employment relationship terminates.

Health care provider means:

(1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; or

(2) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law; and

(3) Nurse practitioners, nurse-midwives and clinical social workers who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law; and

(4) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.

(5) Any health care provider from whom an employing office or a group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

(6) A health care provider as defined above who practices in a country other than the United States, who is licensed to practice in accordance with the laws and regulations of that country.

"Incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in several of the "activities of daily living" (ADLs) or "instrumental activities of daily living" (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

Instructional employee: See *Teacher*.

Intermittent leave means leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy.

Mental disability: See *Physical or mental disability*.

Office of Compliance means the independent office established in the legislative branch under section 301 of the CAA (2 U.S.C. 1381).

Parent means the biological parent of an employee or an individual who stands or stood in loco parentis to an employee when the employee was a child.

Physical or mental disability means a physical or mental impairment that substantially limits one or more of the major life activities of an individual. See the Americans with Disabilities Act (ADA), as made applicable by section 201(a)(3) of the CAA (2 U.S.C. 1311(a)(3)).

Reduced leave schedule means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

Secretary means the Secretary of Labor or authorized representative.

Serious health condition entitling an employee to FMLA leave means:

(1) an illness, injury, impairment, or physical or mental condition that involves:

(i) *Inpatient care* (*i.e.*, an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of *incapacity* (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom), or any subsequent treatment in connection with such inpatient care; or

(ii) *Continuing treatment* by a health care provider. A serious health condition involving continuing treatment by a health care provider includes:

(A) A period of *incapacity* (*i.e.*, inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(*1*) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (*e.g.*, physical therapist) under orders of, or on referral by, a health care provider; or

(*2*) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(B) Any period of incapacity due to pregnancy, or for prenatal care.

(C) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(*1*) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(*2*) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(*3*) May cause episodic rather than a continuing period of incapacity (*e.g.*, asthma, diabetes, epilepsy, etc.).

(D) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(E) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

(2) Treatment for purposes of paragraph (1) of this definition includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under paragraph (1)(ii)(A)(*2*) of this definition, a regimen of continuing treatment includes, for example, a course of prescription medication (*e.g.*, an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (*e.g.*, oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

(3) Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(4) Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.

(5) Absences attributable to incapacity under paragraphs (1)(ii)(B) or (C) of this definition qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability.

Spouse means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized.

State means any State of the United States or the District of Columbia or any Territory or possession of the United States.

Teacher (or *employee employed in an instructional capacity*, or *instructional employee)* means an employee employed principally in an instructional capacity by an educational agency or school whose principal function is to teach and instruct students in a class, a small group, or an individual setting, and includes athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. The term does not include teacher assistants or aides who do not have as their principal function actual teaching or instructing, nor auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers, or other primarily noninstructional employees.

Appendix A to Part 825—[Reserved]

Appendix B to Part 825—Certification of Physician or Practitioner

Certification of Health Care Provider

(Family and Medical Leave Act of 1993 as Made Applicable by the Congressional Accountability Act of 1995)

1. Employee's Name:

2. Patient's Name (if different from employee):

3. The attached sheet describes what is meant by a "serious health condition" under the Family and Medical Leave Act as made applicable by the Congressional Accountability Act. Does the patient's condition[1] qualify under any of the categories described? If so, please check the applicable category.

(1) ______ (2) ______ (3) ______ (4) ______ (5) ______ (6) ______, or None of the above ______

4. Describe the medical facts which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:

5.a. State the approximate date the condition commenced, and the probable duration of the condition (and also the probable duration of the patient's present incapacity[2] if different):

b. Will it be necessary for the employee to take work only intermittently or to work on a less than full schedule as a result of the condition (including for treatment described in Item 6 below)? ______

If yes, give probable duration:

c. If the condition is a chronic condition (condition #4) or pregnancy, state whether the patient is presently incapacitated[2] and the likely duration and frequency of episodes of incapacity[2]:

6.a. If additional treatments will be required for the condition, provide an estimate of the probable number of such treatments:

If the patient will be absent from work or other daily activities because of treatment on an intermittent or part-time basis, also provide an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any:

b. If any of these treatments will be provided by another provider of health services (e.g., physical therapist), please state the nature of the treatments:

c. If a regimen of continuing treatment by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment):

7.a. If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), is the employee unable to perform work of any kind? ______

b. If able to perform some work, is the employee unable to perform any one or more of the essential functions of the employee's job (the employee or the employer should supply you with information about the essential job functions)? ______ If yes, please list the essential functions the employee is unable to perform: ______

c. If neither a. nor b. applies, is it necessary for the employee to be absent from work for treatment? ______

8.a. If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation? ______

b. If no, would the employee's presence to provide psychological comfort be beneficial to the patient or assist in the patient's recovery? ______

c. If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need:

(Signature of Health Care Provider)

(Type of Practice)

(Address)

(Telephone number)

To be completed by the employee needing family leave to care for a family member:

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule:

(Employee signature)

(Date)

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[1] Footnotes at the end of appendix B.

A "Serious Health Condition" means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. *Hospital Care.*—Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity[1] or subsequent treatment in connection with or consequent to such inpatient care.

2. *Absence Plus Treatment.*—(a) A period of incapacity[2] of more than three consecutive calendar days (including any subsequent treatment or period of incapacity[2] relating to the same condition), that also involves:

(1) Treatment[3] two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or

(2) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment[4] under the supervision of the health care provider.

3. *Pregnancy.*—Any period of incapacity due to pregnancy, or for prenatal care.

4. *Chronic Conditions Requiring Treatments.*—A chronic condition which:

(1) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(3) May cause episodic rather than a continuing period of incapacity[2] (e.g., asthma, diabetes, epilepsy, etc.)

5. *Permanent/Long-term Conditions Requiring Supervision.*—A period of incapacity[2] which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

6. *Multiple Treatments (Non-Chronic Conditions).*—Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity[2] of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

FOOTNOTES

[1] Here and elsewhere on this form, the information sought relates only to the condition for which the employee is taking FMLA leave.

[2] "Incapacity," for purposes of FMLA as make applicable by the CAA, is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery therefrom.

[3] Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

[4] A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

Appendix C to Part 825—[Reserved]

Appendix D to Part 825—Prototype Notice: Employing Office Response to Employee Request for Family and Medical Leave

Employing office response to employee request for family or medical leave

(Optional use form—see § 825.301(b)(1) of the regulations of the Office of Compliance)

(Family and Medical Leave Act of 1993, as made applicable by the Congressional Accountability Act of 1995)

(Date)

To:____________________

(Employee's name)

From:____________________

(Name of appropriate employing office representative)

Subject: Request for Family/Medical Leave

On________, *(date)* you notified us of your need to take family/medical leave due to: (date)

the birth of your child, or the placement of a child with you for adoption or foster care; or

a serious health condition that makes you unable to perform the essential functions of your job; or

a serious health condition affecting your "spouse, "child, "parent, for which you are needed to provide care.

You notified us that you need this leave beginning on _______*(date)* and that you expect leave to continue until on or about_______ *(date).*

Except as explained below, you have a right under the FMLA, as made applicable by the CAA, for up to 12 weeks of unpaid leave in a 12-month period for the reasons listed above. Also, your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work, and you must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from leave. If you do not return to work following FMLA leave for a reason other than: (1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; or (2) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.

This is to inform you that: *(check appropriate boxes; explain where indicated)*

1. You are ☐ eligible ☐ not eligible for leave under the FMLA as made applicable by the CAA.

2. The requested leave ☐ will ☐ will not be counted against your annual FMLA leave entitlement.

3. You ☐ will ☐ will not be required to furnish medical certification of a serious health condition. If required, you must furnish certification by_______ *(insert date)* (must be at least 15 days after you are notified of this requirement) or we may delay the commencement of your leave until the certification is submitted.

4. You may elect to substitute accrued paid leave for unpaid FMLA leave. We ☐ will ☐ will not require that you substitute accrued paid leave for unpaid FMLA leave. If paid leave will be used the following conditions will apply: *(Explain)*

5(a). If you normally pay a portion of the premiums for your health insurance, these payments will continue during the period of FMLA leave. Arrangements for payment have been discussed with you and it is agreed that you will make premium payments as follows: *(Set forth dates, e.g., the 10th of each month, or pay periods, etc. that specifically cover the agreement with the employee.)*

(b). You have a minimum 30-day *(or, indicate longer period, if applicable)* grace period in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled, *provided* we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work. We ☐ will ☐ will not pay your share of health insurance premiums while you are on leave.

(c). We ☐ will ☐ will not do the same with other benefits (e.g., life insurance, disability insurance, etc.) while you are on FMLA leave. If we do pay your premiums for other benefits, when you return from leave you ☐ will ☐ will not be expected to reimburse us for the payments made on your behalf.

6. You ☐ will ☐ will not be required to present a fitness-for-duty certificate prior to being restored to employment. If such certification is required but not received, your return to work may be delayed until the certification is provided.

7(a). You ☐ are ☐ are not a "key employee" as described in § 825.218 of the Office of Compliance's FMLA regulations. If you are a "key employee," restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us.

(b). We ☐ have ☐ have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us. *(Explain (a) and/or (b) below. See § 825.219 of the Office of Compliance's FMLA regulations.)*

8. While on leave, you ☐ will ☐ will not be required to furnish us with periodic reports every _______ *(indicate interval of periodic reports, as appropriate for the particular leave situation)* of your status and intent to return to work *(see § 825.309 of the Office of Compliance's FMLA regulations)*. If the circumstances of your leave change and you are able to return to work earlier than the date indicated on the reverse side of this form, you ☐ will ☐ will not be required to notify us at least two work days prior to the date you intend to report for work.

9. You ☐ will ☐ will not be required to furnish recertification relating to a serious health condition. *(Explain below, if necessary, including the interval between certifications as prescribed in § 825.308 of the Office of Compliance's FMLA regulations.)*

Subtitle C—Regulations relating to the employing offices other than those of the Senate and the House of Representatives—C series

Chapter III—Regulations Relating to the Rights and Protections Under the Fair Labor Standards Act of 1938

Part C501—General provisions

Sec.
C501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C501.101 Purpose and scope.
C501.102 Definitions.
C501.103 Coverage.
C501.104 Administrative authority.
C501.105 Effect of Interpretations of the Labor Department.
C501.106 Application of the Portal-to-Portal Act of 1947.

C501.107 [Reserved]

§C501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the parts of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding parts of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor regulations	*OC regulations*
Part 531 Wage payments under the Fair Labor Standards Act of 1938	Part C531
Part 541 Defining and delimiting the terms "bona fide executive," "administrative," and "professional" employees	Part C541
Part 547 Requirements of a "Bona fide thrift or savings plan"	Part C547
Part 553 Application of the FLSA to employees of public agencies	Part C553
Part 570 Child labor	Part C570

Subpart A—Matters of general applicability

§C501.101 Purpose and scope

(a) Section 203 of the Congressional Accountability Act (CAA) provides that the rights and protections of subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (FLSA) (29 U.S.C. §§206(a)(1) & (d), 207, 212(c)) shall apply to covered employees of the legislative branch of the Federal government. Section 301 of the CAA creates the Office of Compliance as an independent office in the legislative branch for enforcing the rights and protections of the FLSA, as applied by the CAA.

(b) The FLSA as applied by the CAA provides for minimum standards for both wages and overtime entitlements, and delineates administrative procedures by which covered worktime must be compensated. Included also in the FLSA are provisions related to child labor, equal pay, and portal-to-portal activities. In addition, the FLSA exempts specified employees or groups of employees from the application of certain of its provisions.

(c) This chapter contains the substantive regulations with respect to the FLSA that the Board of Directors of the Office of Compliance has adopted pursuant to Sections 203(c) and 304 of the CAA, which requires that the Board promulgate regulations that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of §203 of the CAA] except insofar as the Board may determine, for good cause shown . . . That a modification of such regulations would be more effective for the implementation of the rights and protections under this section."

(d) These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 203(c) and 304 of the CAA, which directs the Board to promulgate regulations implementing section 203 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection a [of section 203 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." The regulations issued by the Board herein are on all matters for which section 203 of the CAA requires a regulations to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of the promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 203 of the CAA]."

(e) In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§C501.102 Definitions

For purposes of this chapter:

(a) *CAA* means the Congressional Accountability Act of 1995 (P.L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

(b) *FLSA* or *Act* means the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §201 et seq.), as applied by section 203 of the CAA to covered employees and employing offices.

(c) *Covered employee* means any employee, including an applicant for employment and a former employee, of the (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment, but shall not include an intern.

(d)(1) *Employee of the Office of the Architect of the Capitol* includes any employee of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants;

(2) *Employee of the Capitol Police* includes any member or officer of the Capitol Police.

(e) *Employing office* and *employer* mean (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment.

(f) *Board* means the Board of Directors of the Office of Compliance.

(g) *Office* means the Office of Compliance.

(h) *Intern* is an individual who (a) is performing services in an employing office as part of a demonstrated educational plan, and (b) is appointed on a temporary basis for a period not to exceed 12 months; *provided* that if an intern is appointed for a period shorter than 12 months, the intern may be reappointed for additional periods as long as the total length of the internship does not exceed 12 months; *provided further* that the defintion of *intern* does not include volunteers, fellows or pages.

§C501.103 Coverage

The coverage of Section 203 of the CAA extends to any covered employee of an employing office without regard to whether the covered employee is engaged in commerce or the production of goods for interstate commerce and without regard to size, number of employees, amount of business transacted, or other measure.

§C501.104 Administrative authority

(a) The Office of Compliance is authorized to administer the provisions of Section 203 of the Act with respect to any covered employee or covered employer.

(b) The Board is authorized to promulgate substantive regulations in accordance with the provisions of Sections 203(c) and 304 of the CAA.

§C501.105 Effect of interpretations of the Department of Labor

(a) In administering the FLSA, the Wage and Hour Division of the Department of Labor has issued not only substantive regulations but also interpretative bulletins. Substantive regulations represent an exercise of statutorily-delegated lawmaking authority from the legislative branch to an administrative agency. Generally, they are proposed in accordance with the notice-and-comment procedures of the Administrative Procedure Act (APA), 5 U.S.C. §553. Once promulgated, such regulations are considered to have the force and effect of law, unless set aside upon judicial review as arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. See *Batterton v. Francis*, 432 U.S. 416, 425 n.9 (1977). See also 29 C.F.R. §790.17(b) (1994). Unlike substantive regulations, interpretative statements, including bulletins and other releases of the Wage and Hour Division, are not issued pursuant to the provisions of the APA and may not have the force and effect of law. Rather, they may only constitute official interpretations of the Department of Labor with respect to the meaning and application of the minimum wage, maximum hour, and overtime pay requirements of the FLSA. See 29 C.F.R. §790.17(c) (citing Final Report of the Attorney General's Committee on Administrative Procedure, Senate Document No.8, 77th Cong., 1st Sess., at p. 27 (1941)). The purpose of such statements is to make available in one place the interpretations of the FLSA which will guide the Secretary of Labor and the Wage and Hour Administrator in the performance of their duties unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon reexamination of an interpretation, that it is incorrect. The Supreme Court has observed: "[T]he rulings, interpretations and opinions of the Administrator under this Act, while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance. The weight of such a judgment in a particular case will depend upon the thoroughness evident in the consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control." *Skidmore v. Swift*, 323 U.S. 134, 140 (1944).

(b) Section 203(c) of the CAA provides that the substantive regulations implementing Section 203 of the CAA shall be "the same as substantive regulations promulgated by the Secretary of Labor" except where the Board finds, for good cause shown, that a modification would more effectively implement the rights and protections established by the FLSA. Thus, the CAA by its terms does not mandate that the Board adopt the interpretative statements of the Department of Labor or its Wage and Hour Division. The Board is thus not adopting such statements as part of its substantive regulations.

§C501.106 Application of the Portal-to-Portal Act of 1947

(a) Consistent with Section 225 of the CAA, the Portal to Portal Act (PPA), 29 U.S.C.

§§216 and 251 *et seq.*, is applicable in defining and delimiting the rights and protections of the FLSA that are prescribed by the CAA. Section 10 of the PPA, 29 U.S.C. §259, provides in pertinent part: "[N]o employer shall be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, . . . if he pleads and proves that the act or omission complained of was in good faith in conformity with and reliance on any written administrative regulation, order, ruling, approval or interpretation of [the Administrator of the Wage and Hour Division of the Department of Labor] . . . or any administrative practice or enforcement policy of such agency with respect to the class of employers to which he belonged. Such a defense, if established shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect."

(b) In defending any action or proceeding based on any act or omission arising out of section 203 of the CAA, an employing office may satisfy the standards set forth in subsection (a) by pleading and proving good faith reliance upon any written administrative regulation, order, ruling, approval or interpretation, of the Administrator of the Wage and Hour Division of the Department of Labor: *Provided*, that such regulation, order, ruling approval or interpretation had not been superseded at the time of reliance by any regulation, order, decision, or ruling of the Board or the courts.

§C501.107 [Reserved]

Part C531—Wage Payments Under the Fair Labor Standards Act of 1938

Subpart A—Preliminary Matters

Sec.

C531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

C531.1 Definitions.

C531.2 Purpose and scope.

Subpart B—Determinations of "reasonable cost" and "fair value"; effects of collective bargaining agreements

C531.3 General determinations of "reasonable cost".

C531.6 Effects of collective bargaining agreements.

A—Preliminary matters

§C531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor regulations	*OC regulations*
531.1 Definitions	C531.1
531.2 Purpose and scope	C531.2
531.3 General determinations of "reasonable cost"	C531.3
Effects of collective bargaining agreements	C531.6

§C531.1 Definitions

(a) *Administrator* means the Administrator of the Wage and Hour Division or his authorized representative. The Secretary of Labor has delegated to the Administrator the functions vested in him under section 3(m) of the Act.

(b) *Act* means the Fair Labor Standards Act of 1938, as amended.

§C531.2 Purpose and scope

(a) Section 3(m) of the Act defines the term 'wage' to include the 'reasonable cost', as determined by the Secretary of Labor, to an employer of furnishing any employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by the employer to his employees. In addition, section 3(m) gives the Secretary authority to determine the 'fair value' of such facilities on the basis of average cost to the employer or to groups of employers similarly situated, on average value to groups of employees, or other appropriate measures of 'fair value.' Whenever so determined and when applicable and pertinent, the 'fair value' of the facilities involved shall be includable as part of 'wages' instead of the actual measure of the costs of those facilities. The section provides, however, that the cost of board, lodging, or other facilities shall not be included as part of 'wages' if excluded therefrom by a bona fide collective bargaining agreement. Section 3(m) also provides a method for determining the wage of a tipped employee.

(b) This part 531 contains any determinations made as to the 'reasonable cost' and 'fair value' of board, lodging, or other facilities having general application.

Subpart B—Determinations of "reasonable cost" and "fair value"; effects of collective bargaining agreements

§C531.3 General determinations of 'reasonable cost'

(a) The term *reasonable cost* as used in section 3(m) of the Act is hereby determined to be not more than the actual cost to the employer of the board, lodging, or other facilities customarily furnished by him to his employees.

(b) Reasonable cost does not include a profit to the employer or to any affiliated person.

(c) The reasonable cost to the employer of furnishing the employee with board, lodging, or other facilities (including housing) is the cost of operation and maintenance including adequate depreciation plus a reasonable allowance (not more than 5½ percent) for interest on the depreciated amount of capital invested by the employer: *Provided*, That if the total so computed is more than the fair rental value (or the fair price of the commodities or facilities offered for sale), the fair rental value (or the fair price of the commodities or facilities offered for sale) shall be the reasonable cost. The cost of operation and maintenance, the rate of depreciation, and the depreciated amount of capital invested by the employer shall be those arrived at under good accounting practices. As used in this paragraph, the term *good accounting practices* does not include accounting practices which have been rejected by the Internal Revenue Service for tax purposes, and the term *depreciation* includes obsolescence.

(d)(1) The cost of furnishing 'facilities' found by the Administrator to be primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not therefore be included in computing wages.

(2) The following is a list of facilities found by the Administrator to be primarily for the benefit of convenience of the employer. The list is intended to be illustrative rather than exclusive: (i) Tools of the trade and other materials and services incidental to carrying on the employer's business; (ii) the cost of any construction by and for the employer; (iii) the cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.

§C531.6 Effects of collective bargaining agreements

(a) The cost of board, lodging, or other facilities shall not be included as part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the particular employee.

(b) A collective bargaining agreement shall be deemed to be "bona fide" when pursuant to the provisions of section 7(b)(1) or 7(b)(2) of the FLSA it is made with the certified representative of the employees under the provisions of the CAA.

Part C541—Defing and Delimiting the Terms "Bona Fide Executive," "Administrative," or "Professional" Capacity (Including Any Employee Employed in the Capacity of Academic Administrative Personnel or Teacher in Secondary School)

Subpart A—General regulations

Sec.

C541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

C541.01 Application of the exemptions of section 13(a)(1) of the FLSA.

C541.1 Executive.

C541.2 Administrative.

C541.3 Professional.

C541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.

C541.5d Special provisions applicable to employees of public agencies.

Subpart A—General regulations

§C541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	*OC Regulations*
541.1 Executive	C541.1
541.2 Administrative	C541.2
541.3 Professional	C541.3
541.5b Equal pay provisions of section 6(d) of the FLSA apply to executive, administrative, and professional employees.	C541.5b
541.5d Special provisions applicable to employees of public agencies	C541.5d

§C541.01 Application of the exemptions of section 13 (a)(1) of the FLSA

(a) Section 13(a)(1) of the FLSA, which provides certain exemptions for employees employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in a secondary school), applies to covered employees by virtue of Section 225(f)(1) of the CAA.

(b) The substantive regulations set forth in this part are promulgated under the authority of sections 203(c)and 304 of the CAA, which require that such regulations be the same as the substantive regulations promulgated by the Secretary of Labor except where the Board determines for good cause shown that modifications would be more effective for the implementation of the rights and protections under § 203.

§ C541.1 Executive

The term *employee employed in a bona fide executive* * * * capacity in section 13(a) (1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the management of an employing office in which he is employed or of a customarily recognized department of subdivision thereof; and

(b) Who customarily and regularly directs the work of two or more other employees therein; and

(c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(d) Who customarily and regularly exercises discretionary powers; and

(e) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours of work in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (d) of this section: *Provided,* That this paragraph shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment; and

(f) Who is compensated for his services on a salary basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities: *Provided,* That an employee who is compensated on a salary basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the management of the employing office in which the employee is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of the work of two or more other employees therein, shall be deemed to meet all the requirements of this section

§ C541.2 Administrative

The term *employee employed in a bona fide* * * * *administrative* * * * *capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of either:

(1) The performance of office or nonmanual work directly related to management policies or general operations of his employer or his employer's customers, or

(2) The performance of functions in the administration of a school system, or educational establishment or institution, or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein; and

(b) Who customarily and regularly exercises discretion and independent judgment; and

(c)(1) Who regularly and directly assists the head of an employing office, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined in the regulations of this subpart), or

(2) Who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge, or

(3) Who executes under only general supervision special assignments and tasks; and

(d) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours worked in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (c) of this section; and

(e)(1) Who is compensated for his services on a salary or fee basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities, or

(2) Who, in the case of academic administrative personnel, is compensated for services as required by paragraph (e)(1) of this section, or on a salary basis which is at least equal to the entrance salary for teachers of in the school system, educational establishment or institution by which employed: *Provided,* That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance of work described in paragraph (a) of this section, which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all the requirements of this section.

§ C541.3 Professional

The term *employee employed in a bona fide* * * * *professional capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the performance of:

(1) Work requiring knowledge of an advance type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or

(2) Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee, or

(3) Teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in school system, educational establishment or institution by which employed, or

(4) Work that requires theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming, and software engineering, and who is employed and engaged in these activities as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer software field; and

(b) Whose work requires the consistent exercise of discretion and judgment in its performance; and

(c) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

(d) Who does not devote more than 20 percent of his hours worked in the workweek to activities which are not an essential part of and necessarily incident to the work described in paragraphs (a) through (c) of this section; and

(e) Who is compensated for services on a salary or fee basis at a rate of not less than $170 per week, exclusive of board, lodging or other facilities: *Provided,* That this paragraph shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof, nor in the case of an employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of medicine or any of its branches, nor in the case of an employee employed and engaged as a teacher as provided in paragraph (a)(3) of this section: *Provided further,* That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance either of work described in paragraph (a) (1), (3), or (4) of this section, which includes work requiring the consistent exercise of discretion and judgment, or of work requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section: *Provided further,* That the salary or fee requirements of this paragraph shall not apply to an employee engaged in computer-related work within the scope of paragraph (a)(4) of this section and who is compensated on an hourly basis at a rate in excess of 6 1/2 times the minimum wage provided by section 6 of the FLSA as applied by the CAA.

§ C541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees

The FLSA, as amended and as applied by the CAA, includes within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools) under section 13(a)(1) of the FLSA. Thus, for example, where an exempt administrative employee and another employee of the employing office are performing substantially "equal work," the sex discrimination prohibitions of section 6(d) are applicable with respect to any wage differential between those two employees.

§ C541.5d Special provisions applicable to employees of public agencies

(a) An employee of a public agency who otherwise meets the requirement of being paid on a salary basis shall not be disqualified from exemption under Sec. C541.1, C541.2, or C541.3 on the basis that such employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because—(1) permission for its use has not been sought or has been sought and denied; (2) accrued leave has been exhausted; or (3) the employee chooses to use leave without pay.

(b) Deductions from the pay of an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid 'on a salary basis' except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

Part C547—Requirements of a "Bona Fide Thrift or Savings Plan

Sec.
C547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance
C547.0 Scope and effect of part.
C547.1 Essential requirements of qualifications.
C547.2 Disqualifying provisions.

§ C547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor regulations	*OC regulations*
547.0 Scope and effect of part	C547.0
547.1 Essential requirements of qualifications	C547.1
547.2 Disqualifying provisions	C547.2

§ C547.0 Scope and effect of part

(a) The regulations in this part set forth the requirements of a "bona fide thrift or savings plan" under section 7(e)(3)(b) of the Fair Labor Standards Act of 1938, as amended (FLSA), as applied by the CAA. In determining the total remuneration for employment which section 7(e) of the FLSA requires to be included in the regular rate at which an employee is employed, it is not necessary to include any sums paid to or on behalf of such employee, in recognition of services performed by him during a given period, which are paid pursuant to a bona fide thrift or savings plan meeting the requirements set forth herein. In the formulation of these regulations due regard has been given to the factors and standards set forth in section 7(e)(3)(b) of the Act.

(b) Where a thrift or savings plan is combined in a single program (whether in one or more documents) with a plan or trust for providing old age, retirement, life, accident or health insurance or similar benefits for employees, contributions made by the employer pursuant to such thrift or savings plan may be excluded from the regular rate if the plan meets the requirements of the regulation in this part and the contributions made for the other purposes may be excluded from the regular rate if they meet the tests set forth in regulations.

§ C547.1 Essential requirements for qualifications

(a) A "bona fide thrift or savings plan" for the purpose of section 7(e)(3)(b) of the FLSA as applied by the CAA is required to meet all the standards set forth in paragraphs (b) through (f) of this section and must not contain the disqualifying provisions set forth in § 547.2.

(b) The thrift or savings plan constitutes a definite program or arrangement in writing, adopted by the employer or by contract as a result of collective bargaining and communicated or made available to the employees, which is established and maintained, in good faith, for the purpose of encouraging voluntary thrift or savings by employees by providing an incentive to employees to accumulate regularly and retain cash savings for a reasonable period of time or to save through the regular purchase of public or private securities.

(c) The plan specifically shall set forth the category or categories of employees participating and the basis of their eligibility. Eligibility may not be based on such factors as hours of work, production, or efficiency of the employees: *Provided, however,* That hours of work may be used to determine eligibility of part-time or casual employees.

(d) The amount any employee may save under the plan shall be specified in the plan or determined in accordance with a definite formula specified in the plan, which formula may be based on one or more factors such as the straight-time earnings or total earnings, base rate of pay, or length of service of the employee.

(e) The employer's total contribution in any year may not exceed 15 percent of the participating employees' total earnings during that year. In addition, the employer's total contribution in any year may not exceed the total amount saved or invested by the participating employees during that year.

(f) The employer's contributions shall be apportioned among the individual employees in accordance with a definite formula or method of calculation specified in the plan, which formula or method of calculation is based on the amount saved or the length of time the individual employee retains his savings or investment in the plan: *Provided,* That no employee's share determined in accordance with the plan may be diminished because of any other remuneration received by him.

§ C547.2 Disqualifying provisions

(a) No employee's participation in the plan shall be on other than a voluntary basis.

(b) No employee's wages or salary shall be dependent upon or influenced by the existence of such thrift or savings plan or the employer's contributions thereto.

(c) The amounts any employee may save under the plan, or the amounts paid by the employer under the plan may not be based upon the employee's hours of work, production or efficiency.

Part C553—Overtime Compensation: Partial Exemption for Employees Engaged in Law Enforcement and Fire Protection; Overtime and Compensatory Time-Off for Employees Whose Work Schedule Directly Depends Upon the Schedule of the House

Introduction

Sec.
C553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C553.1 Definitions.
C553.2 Purpose and scope.

Subpart C—Partial exemption for employees engaged in law enforcement and fire protection

C553.201 Statutory provisions: section 7(k).
C553.202 Limitations.
C553.211 Law enforcement activities.
C553.212 Twenty percent limitation on nonexempt work.
C553.213 Public agency employees engaged in both fire protection and law enforcement activities.
C553.214 Trainees.
C553.215 Ambulance and rescue service employees.
C553.216 Other exemptions.
C553.220 "Tour of duty" defined.
C553.221 Compensable hours of work.
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C553.224 "Work period" defined.
C553.225 Early relief.
C553.226 Training time.
C553.227 Outside employment.
C553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k).
C553.231 Compensatory time off.
C553.232 Overtime pay requirements.
C553.233 "Regular rate" defined.

Subpart D—Compensatory time-off for overtime earned by employees whose work schedule directly depends upon the schedule of the House

C553.301 Definition of "directly depends."
C553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the House.
C553.303 Using compensatory time off.
C553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service.

Introduction

§ C553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor regulations	*OC regulations*
553.1 Definitions	C553.1
553.2 Purpose and scope	C553.2
553.201 Statutory provisions: section 7(k)	C553.201
553.202 Limitations	C553.202
553.211 Law enforcement activities	C553.211
553.212 Twenty percent limitation on nonexempt work	C553.212
553.213 Public agency employees engaged in both fire protection and law enforcement activities	C553.213
553.214 Trainees	C553.214
553.215 Ambulance and rescue service employees	C553.215
553.216 Other exemptions	C553.216
553.220 "Tour of duty" defined	C553.220
553.221 Compensable hours of work	C553.221
553.222 Sleep time	C553.222
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553.224 "Work period" defined	C553.224
553.225 Early relief	C553.225
553.226 Training time	C553.226
553.227 Outside employment	C553.227
553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k)	C553.230
553.231 Compensatory time off	C553.231
553.232 Overtime pay requirements	C553.232
553.233 "Regular rate" defined	C553.233

Introduction

§ C553.1 Definitions

(a) Act or FLSA means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201-219), as applied by the CAA.

(b) 1985 Amendments means the Fair Labor Standards Amendments of 1985 (Pub. L. 99-150).

(c) Public agency means an employing office as the term is defined in § 501.102 of this chapter, including the Capitol Police.

(d) Section 7(k) means the provisions of §7(k) of the FLSA as applied to covered employees and employing offices by §203 of the CAA.

§C553.2 Purpose and scope

The purpose of part C553 is to adopt with appropriate modifications the regulations of the Secretary of Labor to carry out those provisions of the FLSA relating to public agency employees as they are applied to covered employees and employing offices of the CAA. In particular, these regulations apply section 7(k) as it relates to fire protection and law enforcement employees of public agencies.

Subpart C—Partial exemption for employees engaged in law enforcement and fire protection

§C553.201 Statutory provisions: section 7(k).

Section 7(k) of the Act provides a partial overtime pay exemption for fire protection and law enforcement personnel (including security personnel in correctional institutions) who are employed by public agencies on a work period basis. This section of the Act formerly permitted public agencies to pay overtime compensation to such employees in work periods of 28 consecutive days only after 216 hours of work. As further set forth in §C553.230 of this part, the 216-hour standard has been replaced, pursuant to the study mandated by the statute, by 212 hours for fire protection employees and 171 hours for law enforcement employees. In the case of such employees who have a work period of at least 7 but less than 28 consecutive days, overtime compensation is required when the ratio of the number of hours worked to the number of days in the work period exceeds the ratio of 212 (or 171) hours to 28 days.

§C553.202 Limitations

The application of §7(k), by its terms, is limited to public agencies, and does not apply to any private organization engaged in furnishing fire protection or law enforcement services. This is so even if the services are provided under contract with a public agency.

Exemption requirements

§C553.211 Law enforcement activities

(a) As used in §7(k) of the Act, the term 'any employee . . . in law enforcement activities' refers to any employee (1) who is a uniformed or plainclothed member of a body of officers and subordinates who are empowered by law to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury, and to prevent and detect crimes, (2) who has the power to arrest, and (3) who is presently undergoing or has undergone or will undergo on-the-job training and/or a course of instruction and study which typically includes physical training, self-defense, firearm proficiency, criminal and civil law principles, investigative and law enforcement techniques, community relations, medical aid and ethics.

(b) Employees who meet these tests are considered to be engaged in law enforcement activities regardless of their rank, or of their status as 'trainee,' 'probationary,' or 'permanent,' and regardless of their assignment to duties incidental to the performance of their law enforcement activities such as equipment maintenance, and lecturing, or to support activities of the type described in paragraph (g) of this section, whether or not such assignment is for training or familiarization purposes, or for reasons of illness, injury or infirmity. The term would also include rescue and ambulance service personnel if such personnel form an integral part of the public agency's law enforcement activities. See Sec. C553.215.

(c) Typically, employees engaged in law enforcement activities include police who are regularly employed and paid as such. Other agency employees with duties not specifically mentioned may, depending upon the particular facts and pertinent statutory provisions in that jurisdiction, meet the three tests described above. If so, they will also qualify as law enforcement officers. Such employees might include, for example, any law enforcement employee within the legislative branch concerned with keeping public peace and order and protecting life and property.

(d) Employees who do not meet each of the three tests described above are not engaged in (law enforcement activities' as that term is used in sections 7(k). Employees who normally would not meet each of these tests include:

(1) Building inspectors (other than those defined in Sec. C553.213(a)),

(2) Health inspectors,

(3) Sanitarians,

(4) civilian traffic employees who direct vehicular and pedestrian traffic at specified intersections or other control points,

(5) Civilian parking checkers who patrol assigned areas for the purpose of discovering parking violations and issuing appropriate warnings or appearance notices,

(6) Wage and hour compliance officers,

(7) Equal employment opportunity compliance officers, and

(8) Building guards whose primary duty is to protect the lives and property of persons within the limited area of the building.

(e) The term 'any employee in law enforcement activities' also includes, by express reference, 'security personnel in correctional institutions.' Typically, such facilities may include precinct house lockups. Employees of correctional institutions who qualify as security personnel for purposes of the section 7(k) exemption are those who have responsibility for controlling and maintaining custody of inmates and of safeguarding them from other inmates or for supervising such functions, regardless of whether their duties are performed inside the correctional institution or outside the institution. These employees are considered to be engaged in law enforcement activities regardless of their rank or of their status as 'trainee,' 'probationary,' or 'permanent,' and regardless of their assignment to duties incidental to the performance of their law enforcement activities, or to support activities of the type described in paragraph (f) of this section, whether or not such assignment is for training or familiarization purposes or for reasons of illness, injury or infirmity.

(f) Not included in the term 'employee in law enforcement activities' are the so-called 'civilian' employees of law enforcement agencies or correctional institutions who engage in such support activities as those performed by dispatcher, radio operators, apparatus and equipment maintenance and repair workers, janitors, clerks and stenographers. Nor does the term include employees in correctional institutions who engage in building repair and maintenance, culinary services, teaching, or in psychological, medical and paramedical services. This is so even though such employees may, when assigned to correctional institutions, come into regular contact with the inmates in the performance of their duties.

§C553.212 Twenty percent limitation on nonexempt work

(a) Employees engaged in fire protection or law enforcement activities as described in Sec. C553.210 and C553.211, may also engage in some nonexempt work which is not performed as an incident to or in conjunction with their fire protection or law enforcement activities. For example, firefighters who work for forest conservation agencies may, during slack times, plant trees and perform other conservation activities unrelated to their firefighting duties. The performance of such nonexempt work will not defeat the §7(k) exemption unless it exceeds 20 percent of the total hours worked by that employee during the workweek or applicable work period. A person who spends more than 20 percent of his/her working time in nonexempt activities is not considered to be an employee engaged in fire protection or law enforcement activities for purposes of this part.

(b) Public agency fire protection and law enforcement personnel may, at their own option, undertake employment for the same employer on an occasional or sporadic and part-time basis in a different capacity from their regular employment. The performance of such work does not affect the application of the §7(k) exemption with respect to the regular employment. In addition, the hours of work in the different capacity need not be counted as hours worked for overtime purposes on the regular job, nor are such hours counted in determining the 20 percent tolerance for nonexempt work discussed in paragraph (a) of this section.

§C553.213 Public agency employees engaged in both fire protection and law enforcement activities

(a) Some public agencies have employees (often called 'public safety officers') who engage in both fire protection and law enforcement activities, depending on the agency needs at the time. This dual assignment would not defeat the section 7(k) exemption, provided that each of the activities performed meets the appropriate tests set forth in Sec. C553.210 and C553.211. This is so regardless of how the employee's time is divided between the two activities. However, all time spent in nonexempt activities by public safety officers within the work period, whether performed in connection with fire protection or law enforcement functions, or with neither, must be combined for purposes of the 20 percent limitation on nonexempt work discussed in Sec.C553.212.

(b) As specified in Sec.C553.230, the maximum hours standards under section 7(k) are different for employees engaged in fire protection and for employees engaged in law enforcement. For those employees who perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§C553.214 Trainees

The attendance at a bona fide fire or police academy or other training facility, when required by the employing agency, constitutes engagement in activities under section 7(k) only when the employee meets all the applicable tests described in Sec. C553.210 or Sec. C553.211 (except for the power of arrest for law enforcement personnel), as the case may be. If the applicable tests are met, then basic training or advanced training is considered incidental to, and part of, the employee's fire protection or law enforcement activities.

§C553.215 Ambulance and rescue service employees

Ambulance and rescue service employees of a public agency other than a fire protection or law enforcement agency may be treated as employees engaged in fire protection or law enforcement activities of the type contemplated by §7(k) if their services are substantially related to firefighting or law enforcement activities in that (1) the ambulance and rescue service employees have received training in the rescue of fire, crime, and accident victims or firefighters or law enforcement personnel injured in the performance of their respective duties, and (2) the ambulance and rescue service employees are regularly dispatched to fires, crime scenes, riots, natural disasters and accidents. As provided in Sec. C553.213(b), where employees perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§C553.216 Other exemptions

Although the 1974 Amendments to the FLSA as applied by the CAA provide special exemptions for employees of public agencies engaged in fire protection and law enforcement activities, such workers may also be subject to other exemptions in the Act, and public agencies may claim such other applicable exemptions in lieu of §7(k). For example, section 13(a)(1) as applied by the CAA provides a complete minimum wage and overtime pay exemption for any employee employed in a bona fide executive, administrative, or professional capacity, as those terms are defined and delimited in Part C541. The section 13(a)(1) exemption can be claimed for any fire protection or law enforcement employee who meets all of the tests specified in part C541 relating to duties, responsibilities, and salary. Thus, high ranking police officials who are engaged in law enforcement activities, may also, depending on the facts, qualify for the section 13(a)(1) exemption as "executive" employees. Similarly, certain criminal investigative agents may qualify as "administrative" employees under section 13(a)(1).

Tour of duty and compensable hours of work rules

§C553.220 "Tour of duty" defined

(a) The term "tour of duty" is a unique concept applicable only to employees for whom the section 7(k) exemption is claimed. This term, as used in section 7(k), means the period of time during which an employee is considered to be on duty for purposes of determining compensable hours. It may be a scheduled or unscheduled period. Such periods include "shifts" assigned to employees often days in advance of the performance of the work. Scheduled periods also include time spent in work outside the"shift" which the public agency employer assigns. For example, a police officer may be assigned to crowd control during a parade or other special event outside of his or her shift.

(b) Unscheduled periods include time spent in court by police officers, time spent handling emergency situations, and time spent working after a shift to complete an assignment. Such time must be included in the compensable tour of duty even though the specific work performed may not have been assigned in advance.

(c) The tour of duty does not include time spent working for a separate and independent employer in certain types of special details as provided in Sec. C553.227.

§C553.221 Compensable hours of work

(a) The rules under the FLSA as applied by the CAA on compensable hours of work are applicable to employees for whom the section 7(k) exemption is claimed. Special rules for sleep time (Sec. C553.222) apply to both law enforcement and firefighting employees for whom the section 7(k) exemption is claimed. Also, special rules for meal time apply in the case of firefighters (Sec. C553.223).

(b) Compensable hours of work generally include all of the time during which an employee is on duty on the employer's premises or at a prescribed workplace, as well as all other time during which the employee is suffered or permitted to work for the employer. Such time includes all pre-shift and post-shift activities which are an integral part of the employee's principal activity or which are closely related to the performance of the principal activity, such as attending roll call, writing up and completing tickets or reports, and washing and re-racking fire hoses.

(c) Time spent away from the employer's premises under conditions that are so circumscribed that they restrict the employee from effectively using the time for personal pursuits also constitutes compensable hours of work. For example, where a police station must be evacuated because of an electrical failure and the employees are expected to remain in the vicinity and return to work after the emergency has passed, the entire time spent away from the premises is compensable. The employees in this example cannot use the time for their personal pursuits.

(d) An employee who is not required to remain on the employer's premises but is merely required to leave word at home or with company officials where he or she may be reached is not working while on call. Time spent at home on call may or may not be compensable depending on whether the restrictions placed on the employee preclude using the time for personal pursuits. Where, for example, a firefighter has returned home after the shift, with the understanding that he or she is expected to return to work in the event of an emergency in the night, such time spent at home is normally not compensable. On the other hand, where the conditions placed on the employee's activities are so restrictive that the employee cannot use the time effectively for personal pursuits, such time spent on call is compensable.

(e) Normal home to work travel is not compensable, even where the employee is expected to report to work at a location away from the location of the employer's premises.

(f) A police officer, who has completed his or her tour of duty and who is given a patrol car to drive home and use on personal business, is not working during the travel time even where the radio must be left on so that the officer can respond to emergency calls. Of course, the time spent in responding to such calls is compensable.

§C553.222 Sleep time

(a) Where a public agency elects to pay overtime compensation to firefighters and/or law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude sleep time from hours worked if all the conditions for the exclusion of such time are met.

(b) Where the employer has elected to use the section 7(k) exemption, sleep time cannot be excluded from the compensable hours of work where

(1) The employee is on a tour of duty of less than 24 hours, and

(2) Where the employee is on a tour of duty of exactly 24 hours.

(c) Sleep time can be excluded from compensable hours of work, however, in the case of police officers or firefighters who are on a tour of duty of more than 24 hours, but only if there is an expressed or implied agreement between the employer and the employees to exclude such time. In the absence of such an agreement, the sleep time is compensable. In no event shall the time excluded as sleep time exceed 8 hours in a 24-hour period. If the sleep time is interrupted by a call to duty, the interruption must be counted as hours worked. If the sleep period is interrupted to such an extent that the employee cannot get a reasonable night's sleep (which, for enforcement purposes means at least 5 hours), the entire time must be counted as hours of work.

§C553.223 Meal time

(a) If a public agency elects to pay overtime compensation to firefighters and law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude meal time from hours worked if all the statutory tests for the exclusion of such time are met.

(b) If a public agency elects to use the section 7(k) exemption, the public agency may, in the case of law enforcement personnel, exclude meal time from hours worked on tours of duty of 24 hours or less, provided that the employee is completely relieved from duty during the meal period, and all the other statutory tests for the exclusion of such time are met. On the other hand, where law enforcement personnel are required to remain on call in barracks or similar quarters, or are engaged in extended surveillance activities (e.g., stakeouts'), they are not considered to be completely relieved from duty, and any such meal periods would be compensable.

(c) With respect to firefighters employed under section 7(k), who are confined to a duty station, the legislative history of the Act indicates Congressional intent to mandate a departure from the usual FLSA 'hours of work' rules and adoption of an overtime standard keyed to the unique concept of 'tour of duty' under which firefighters are employed. Where the public agency elects to use the section 7(k) exemption for firefighters, meal time cannot be excluded from the compensable hours of work where (1) the firefighter is on a tour of duty of less than 24 hours, and (2) where the firefighter is on a tour of duty of exactly 24 hours.

(d) In the case of police officers or firefighters who are on a tour of duty of more than 24 hours, meal time may be excluded from compensable hours of work provided that the statutory tests for exclusion of such hours are met.

§C553.224 "Work period" defined

(a) As used in section 7(k), the term 'work period' refers to any established and regularly recurring period of work which, under the terms of the Act and legislative history, cannot be less than 7 consecutive days nor more than 28 consecutive days. Except for this limitation, the work period can be of any length, and it need not coincide with the duty cycle or pay period or with a particular day of the week or hour of the day. Once the beginning and ending time of an employee's work period is established, however, it remains fixed regardless of how many hours are worked within the period. The beginning and ending of the work period may be changed, provided that the change is intended to be permanent and is not designed to evade the overtime compensation requirements of the Act.

(b) An employer may have one work period applicable to all employees, or different work periods for different employees or groups of employees.

§ C553.225 Early relief

It is a common practice among employees engaged in fire protection activities to relieve employees on the previous shift prior to the scheduled starting time. Such early relief time may occur pursuant to employee agreement, either expressed or implied. This practice will not have the effect of increasing the number of compensable hours of work for employees employed under section 7(k) where it is voluntary on the part of the employees and does not result, over a period of time, in their failure to receive proper compensation for all hours actually worked. On the other hand, if the practice is required by the employer, the time involved must be added to the employee's tour of duty and treated as compensable hours of work.

§ C553.226 Training time

(a) The general rules for determining the compensability of training time under the FLSA apply to employees engaged in law enforcement or fire protection activities.

(b) While time spent in attending training required by an employer is normally considered compensable hours of work, following are situations where time spent by employees in required training is considered to be noncompensable:

(1) Attendance outside of regular working hours at specialized or follow-up training, which is required by law for certification of public and private sector employees within a particular governmental jurisdiction (e.g., certification of public and private emergency rescue workers), does not constitute compensable hours of work for public employees within that jurisdiction and subordinate jurisdictions.

(2) Attendance outside of regular working hours at specialized or follow-up training, which is required for certification of employees of a governmental jurisdiction by law of a higher level of government, does not constitute compensable hours of work.

(3) Time spent in the training described in paragraphs (b) (1) or (2) of this section is not compensable, even if all or part of the costs of the training is borne by the employer.

(c) Police officers or firefighters, who are in attendance at a police or fire academy or other training facility, are not considered to be on duty during those times when they are not in class or at a training session, if they are free to use such time for personal pursuits. Such free time is not compensable.

§ C553.227 Outside employment

(a) Section 7(p)(1) makes special provision for fire protection and law enforcement employees of public agencies who, at their own option, perform special duty work in fire protection, law enforcement or related activities for a separate and independent employer (public or private) during their off-duty hours. The hours of work for the separate and independent employer are not combined with the hours worked for the primary public agency employer for purposes of overtime compensation.

(b) Section 7(p)(1) applies to such outside employment provided (1) the special detail work is performed solely at the employee's option, and (2) the two employers are in fact separate and independent.

(c) Whether two employers are, in fact, separate and independent can only be determined on a case-by-case basis.

(d) The primary employer may facilitate the employment or affect the conditions of employment of such employees. For example, a police department may maintain a roster of officers who wish to perform such work. The department may also select the officers for special details from a list of those wishing to participate, negotiate their pay, and retain a fee for administrative expenses. The department may require that the separate and independent employer pay the fee for such services directly to the department, and establish procedures for the officers to receive their pay for the special details through the agency's payroll system. Finally, the department may require that the officers observe their normal standards of conduct during such details and take disciplinary action against those who fail to do so.

(e) Section 7(p)(1) applies to special details even where a State law or local ordinance requires that such work be performed and that only law enforcement or fire protection employees of a public agency in the same jurisdiction perform the work. For example, a city ordinance may require the presence of city police officers at a convention center during concerts or sports events. If the officers perform such work at their own option, the hours of work need not be combined with the hours of work for their primary employer in computing overtime compensation.

(f) The principles in paragraphs (d) and (e) of this section with respect to special details of public agency fire protection and law enforcement employees under section 7(p)(1) are exceptions to the usual rules on joint employment set forth in part 791 of this title.

(g) Where an employee is directed by the public agency to perform work for a second employer, section 7(p)(1) does not apply. Thus, assignments of police officers outside of their normal work hours to perform crowd control at a parade, where the assignments are not solely at the option of the officers, would not qualify as special details subject to this exception. This would be true even if the parade organizers reimburse the public agency for providing such services.

(h) Section 7(p)(1) does not prevent a public agency from prohibiting or restricting outside employment by its employees.

Overtime compensation rules

§ C553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k)

(a) For those employees engaged in fire protection activities who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 212 as the number of days in the work period bears to 28.

(b) For those employees engaged in law enforcement activities (including security personnel in correctional institutions) who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 171 as the number of days in the work period bears to 28.

(c) The ratio of 212 hours to 28 days for employees engaged in fire protection activities is 7.57 hours per day (rounded) and the ratio of 171 hours to 28 days for employees engaged in law enforcement activities is 6.11 hours per day (rounded). Accordingly, overtime compensation (in premium pay or compensatory time) is required for all hours worked in excess of the following maximum hours standards (rounded to the nearest whole hour):

MAXIMUM HOURS STANDARDS

Work period (days)	Fire protection	Law enforcement
28	212	171
27	204	165
26	197	159
25	189	153
24	182	147
23	174	141
22	167	134
21	159	128
20	151	122
19	144	116
18	136	110
17	129	104
16	121	98
15	114	92
14	106	86
13	98	79
12	91	73
11	83	67
10	76	61
9	68	55
8	61	49
7	53	43

§ C553.231 Compensatory time off

(a) Law enforcement and fire protection employees who are subject to the section 7(k) exemption may receive compensatory time off in lieu of overtime pay for hours worked in excess of the maximum for their work period as set forth in Sec. C553.230.

(b) Section 7(k) permits public agencies to balance the hours of work over an entire work period for law enforcement and fire protection employees. For example, if a firefighter's work period is 28 consecutive days, and he or she works 80 hours in each of the first two weeks, but only 52 hours in the third week, and does not work in the fourth week, no overtime compensation (in cash wages or compensatory time) would be required since the total hours worked do not exceed 212 for the work period. If the same firefighter had a work period of only 14 days, overtime compensation or compensatory time off would be due for 54 hours (160 minus 106 hours) in the first 14 day work period.

§ C553.232 Overtime pay requirements

If a public agency pays employees subject to section 7(k) for overtime hours worked in cash wages rather than compensatory time off, such wages must be paid at one and one-half times the employees' regular rates of pay.

§ C553.233 'Regular rate' defined

The statutory rules for computing an employee's 'regular rate', for purposes of the Act's overtime pay requirements are applicable to employees or whom the section 7(k) exemption is claimed when overtime compensation is provided in cash wages.

Subpart D—Compensatory time-off for overtime earned by employees whose work schedule directly depends upon the schedule of the House and the Senate

§ C553.301 Definition of "directly depends"

For the purposes of this Part, a covered employee's work schedule "directly depends" on the schedule of the House of Representatives and the Senate only if the eligible employee performs work that directly supports the conduct of legislative or other business in the chamber and works hours that regularly change in response to the schedule of the House and the Senate.

§ C553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the House and Senate

No employing office shall be deemed to have violated section 203(a)(1) of the CAA, which applies the protections of section 7(a) of the Fair Labor Standards Act ("FLSA") to covered employees and employing office, by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under section 7(a) of the FLSA where the employee's work schedule directly depends on the schedule of the House of Representatives or the Senate within the meaning of § C553.301, and: (a) the employee is compensated at the rate of time-and-a-half in pay for all hours in excess of 40 and up to 60 hours in a workweek, and (b) the employee is compensated at the rate of time-and-a-half in either pay or in time off for all hours in excess of 60 hours in a workweek.

§ C553.303 Using compensatory time off

An employee who has accrued compensatory time off under § C553.302 upon his or her request, shall be permitted by the employing office to use such time within a reasonable period after making the request, unless the employing office makes a bona fide determination that the needs of the operations of the office do not allow the taking of compensatory time off at the time of the request. An employee may renew the request at a subsequent time. An employing office may also, upon reasonable notice, require an employee to use accrued compensatory time-off.

§ C553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service

An employee who has accrued compensatory time authorized by this regulation shall, upon termination of employment, be paid for the unused compensatory time at the rate earned by the employee at the time the employee receives such payment.

Part C570—Child Labor Regulations

Subpart A—General

Sec.

C570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

C570.1 Definitions.

C570.2 Minimum age standards.

Subpart C—Employment of minors between 14 and 16 years of age (child labor reg. 3)

C570.31 Determination.

C570.32 Effect of this subpart.

C570.33 Occupations.

C570.35 Periods and conditions of employment.

Subpart E—Occupations particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being

C570.50 General.

C570.51 Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components (Order 1).

C570.52 Occupations of motor-vehicle driver and outside helper (Order 2).

C570.55 Occupations involved in the operation of power-driven woodworking machines (Order 5).

C570.58 Occupations involved in the operation of power-driven hoisting apparatus (Order 7).

C570.59 Occupations involved in the operations of power-driven metal forming, punching, and shearing machines (Order 8).

C570.62 Occupations involved in the operation of bakery machines (Order 11).

C570.63 Occupations involved in the operation of paper-products machines (Order 12).

C570.65 Occupations involved in the operations of circular saws, band saws, and guillotine shears (Order 14).

C570.66 Occupations involved in wrecking and demolition operations (Order 15).

C570.67 Occupations in roofing operations (Order 16).

C570.68 Occupations in excavation operations (Order 17).

Subpart A—General

§ C570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance Regulations under Section 202 of the CAA:

Secretary of Labor regulations	*OC regulations*
570.1 Definitions	C570.1
570.2 Minimum age standards	C570.2
570.31 Determinations	C570.31
570.32 Effect of this subpart	C570.32
570.33 Occupations	C570.33
570.35 Periods and conditions of employment	C570.35
570.50 General	C570.50
570.51 Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components (Order 1)	C570.51
570.52 Occupations of motor-vehicle driver and outside helper (Order 2)	C570.52
570.55 Occupations involved in the operation of power-driven woodworking machines (Order 5)	C570.55
570.58 Occupations involved in the operation of power-driven hoisting apparatus (Order 7)	C570.58
570.59 Occupations involved in the operations of power-driven metal forming, punching, and shearing machines (Order 8)	C570.59
570.62 Occupations involved in the operation of bakery machines (Order 11)	C570.62
570.63 Occupations involved in the operation of paper-products machines (Order 12)	C570.63
570.65 Occupations involved in the operations of circular saws, band saws, and guillotine shears (Order 14)	C570.65
570.66 Occupations involved in wrecking and demolition operations (Order 15)	C570.66
570.67 Occupations in roofing operations (Order 16)	C570.67
570.68 Occupations in excavation operations (Order 17)	C570.68

§ C570.1 Definitions

As used in this part:

(a) *Act* means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201–219).

(b) *Oppressive child labor* means employment of a minor in an occupation for which he does not meet the minimum age standards of the Act, as set forth in Sec. 570.2 of this subpart.

(c) *Oppressive child labor age* means an age below the minimum age established under the Act for the occupation in which a minor is employed or in which his employment is contemplated.

(d) [Reserved]

(e) [Reserved]

(f) *Secretary or Secretary of Labor* means the Secretary of Labor, United States Department of Labor, or his authorized representative.

(g) *Wage and Hour Division* means the Wage and Hour Division, Employment Standards Administration, United States Department of Labor.

(h) *Administrator* means the Administrator of the Wage and Hour Division or his authorized representative.

§ C570.2 Minimum age standards

(a) All occupations except in agriculture. (1) The Act, in section 3(l), sets a general 16-year minimum age which applies to all employment subject to its child labor provisions in any occupation other than in agriculture, with the following exceptions:

(i) The Act authorizes the Secretary of Labor to provide by regulation or by order that the employment of employees between the ages of 14 and 16 years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor, if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being (see subpart C of this part); and

(ii) The Act sets an 18-year minimum age with respect to employment in any occupation found and declared by the Secretary of Labor to be particularly hazardous for the employment of minors of such age or detrimental to their health or well-being.

(2) The Act exempts from its minimum age requirements the employment by a parent of his own child, or by a person standing in place of a parent of a child in his custody, except in occupations to which the 18-year age minimum applies and in manufacturing and mining occupations.

Subpart B [reserved]

Subpart C—Employment of minors between 14 and 16 years of age (child labor reg. 3)

§ C570.31 Determination

The employment of minors between 14 and 16 years of age in the occupations, for the periods, and under the conditions hereafter specified does not interfere with their schooling or with their health and well-being and shall not be deemed to be oppressive child labor.

§ C570.32 Effect of this subpart

In all occupations covered by this subpart the employment (including suffering or permitting to work) by an employer of minor employees between 14 and 16 years of age for the periods and under the conditions specified in § 570.35 shall not be deemed to be oppressive child labor within the meaning of the Fair Labor Standards Act of 1938.

§ C570.33 Occupations

This subpart shall apply to all occupations other than the following:

(a) Manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed;

(b) Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines;

(c) The operation of motor vehicles or service as helpers on such vehicles;

(d) Public messenger service;

(e) Occupations which the Secretary of Labor may, pursuant to section 3(1) of the Fair Labor Standards Act and Reorganization Plan No. 2, issued pursuant to the Reorganization Act of 1945, find and declare to be hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being;

(f) Occupations in connection with:

(1) Transportation of persons or property by rail, highway, air, water, pipeline, or other means;

(2) Warehousing and storage;

(3) Communications and public utilities;

(4) Construction (including demolition and repair); except such office (including ticket office) work, or sales work, in connection with paragraphs (f)(1), (2), (3), and (4) of this section, as does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations.

§ C570.35 Periods and conditions of employment

(a) Except as provided in paragraph (b) of this section, employment in any of the occupations to which this subpart is applicable shall be confined to the following periods:

(1) Outside school hours;

(2) Not more than 40 hours in any 1 week when school is not in session;

(3) Not more than 18 hours in any 1 week when school is in session;

(4) Not more than 8 hours in any 1 day when school is not in session;

(5) Not more than 3 hours in any 1 day when school is in session;

(6) Between 7 a.m. and 7 p.m. in any 1 day, except during the summer (June 1 through Labor Day) when the evening hour will be 9 p.m.

SUBPART D [RESERVED]

Subpart E—Occupations particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being

§ C570.50 General

(a) Higher standards. Nothing in this subpart shall authorize non-compliance with any Federal law or regulation establishing a higher standard. If more than one standard within this subpart applies to a single activity the higher standard shall be applicable.

(b) Apprentices. Some sections in this subpart contain an exemption for the employment of apprentices. Such an exemption shall apply only when: (1) The apprentice is employed in a craft recognized as an apprenticeable trade; (2) the work of the apprentice in the occupations declared particularly hazardous is incidental to his training; (3) such work is intermittent and for short periods of time and is under the direct and close supervision of a journeyman as a necessary part of such apprentice training; and (4) the apprentice is registered by the Executive Director of the Office of Compliance as employed in accordance with the standards established by the Bureau of Apprenticeship and Training of the United States Department of Labor.

(c) Student-learners. Some sections in this subpart contain an exemption for the employment of student-learners. Such an exemption shall apply when:

(1) The student-learner is enrolled in a course of study and training in a cooperative vocational training program under a recognized State or local educational authority or in a course of study in a substantially similar program conducted by a private school and;

(2) Such student-learner is employed under a written agreement which provides:

(i) That the work of the student-learner in the occupations declared particularly hazardous shall be incidental to his training;

(ii) That such work shall be intermittent and for short periods of time, and under the direct and close supervision of a qualified and experienced person;

(iii) That safety instructions shall be given by the school and correlated by the employer with on-the-job training; and

(iv) That a schedule of organized and progressive work processes to be performed on the job shall have been prepared. Each such written agreement shall contain the name of student-learner, and shall be signed by the employer and the school coordinator or principal. Copies of each agreement shall be kept on file by both the school and the employer. This exemption for the employment of student-learners may be revoked in any individual situation where it is found that reasonable precautions have not been observed for the safety of minors employed thereunder. A high school graduate may be employed in an occupation in which he has completed training as provided in this paragraph as a student-learner, even though he is not yet 18 years of age.

§ C570.51 Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components (Order 1)

(a) Finding and declaration of fact. The following occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components are particularly hazardous for minors between 16 and 18 years of age or detrimental to their health or well-being:

(1) All occupations in or about any plant or establishment (other than retail establishments or plants or establishments of the type described in paragraph (a)(2) of this section) manufacturing or storing explosives or articles containing explosive components except where the occupation is performed in a 'nonexplosives area' as defined in paragraph (b)(3) of this section.

(2) The following occupations in or about any plant or establishment manufacturing or storing small-arms ammunition not exceeding .60 caliber in size, shotgun shells, or blasting caps when manufactured or stored in conjunction with the manufacture of small-arms ammunition:

(i) All occupations involved in the manufacturing, mixing, transporting, or handling of explosive compounds in the manufacture of small-arms ammunition and all other occupations requiring the performance of any duties in the explosives area in which explosive compounds are manufactured or mixed.

(ii) All occupations involved in the manufacturing, transporting, or handling of primers and all other occupations requiring the performance of any duties in the same building in which primers are manufactured.

(iii) All occupations involved in the priming of cartridges and all other occupations requiring the performance of any duties in the same workroom in which rim-fire cartridges are primed.

(iv) All occupations involved in the plate loading of cartridges and in the operation of automatic loading machines.

(v) All occupations involved in the loading, inspecting, packing, shipping and storage of blasting caps.

(b) Definitions. For the purpose of this section:

(1) The term *plant or establishment manufacturing or storing explosives or articles containing explosive component* means the land with all the buildings and other structures thereon used in connection with the manufacturing or processing or storing of explosives or articles containing explosive components.

(2) The terms *explosives* and *articles containing explosive components* mean and include ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder, and all goods classified and defined as explosives by the Interstate Commerce Commission in regulations for the transportation of explosives and other dangerous substances by common carriers (49 CFR parts 71 to 78) issued pursuant to the Act of June 25, 1948 (62 Stat.739; 18 U.S.C. 835).

(3) An area meeting all of the criteria in paragraphs (b)(3) (i) through (iv) of this section shall be deemed a "nonexplosives area":

(i) None of the work performed in the area involves the handling or use of explosives;

(ii) The area is separated from the explosives area by a distance not less than that prescribed in the American Table of Distances for the protection of inhabited buildings;

(iii) The area is separated from the explosives area by a fence or is otherwise located so that it constitutes a definite designated area; and

(iv) Satisfactory controls have been established to prevent employees under 18 years of age within the area from entering any area in or about the plant which does not meet criteria of paragraphs (b)(3) (i) through (iii) of this section.

§ C570.52 Occupations of motor-vehicle driver and outside helper (Order 2)

(a) Findings and declaration of fact. Except as provided in paragraph (b) of this section, the occupations of motor-vehicle driver and outside helper on any public road, highway, in or about any mine (including open pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation of the type identified in § C570.68(a) are particularly hazardous for the employment of minors between 16 and 18 years of age.

(b) Exemption—Incidental and occasional driving. The findings and declaration in paragraph (a) of this section shall not apply to the operation of automobiles or trucks not exceeding 6,000 pounds gross vehicle weight if such driving is restricted to daylight hours; *provided*, such operation is only occasional and incidental to the minor's employment; that the minor holds a State license valid for the type of driving involved in the job performed and has completed a State approved driver education course; and *provided further*, that the vehicle is equipped with a seat belt or similar restraining device for the driver and for each helper, and the employer has instructed each minor that such belts or other devices must be used. This paragraph shall not be applicable to any occupation of motor-vehicle driver which involves the towing of vehicles.

(c) Definitions. For the purpose of this section:

(1) The term *motor vehicle* shall mean any automobile, truck, truck-tractor, trailer, semitrailer, motorcycle, or similar vehicle propelled or drawn by mechanical power and designed for use as a means of transportation but shall not include any vehicle operated exclusively on rails.

(2) The term *driver* shall mean any individual who, in the course of employment, drives a motor vehicle at any time.

(3) The term *outside helper* shall mean any individual, other than a driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivering goods.

(4) The term *gross vehicle weight* includes the truck chassis with lubricants, water and a full tank or tanks of fuel, plus the weight of the cab or driver's compartment, body and special chassis and body equipment, and payload.

§ C570.55 Occupations involved in the operation of power-driven woodworking machines (Order 5)

(a) Finding and declaration of fact. The following occupations involved in the operation of power-driven wood-working machines are particularly hazardous for minors between 16 and 18 years of age:

(1) The occupation of operating power-driven woodworking machines, including supervising or controlling the operation of such machines, feeding material into such machines, and helping the operator to feed material into such machines but not including the placing of material on a moving chain or in a hopper or slide for automatic feeding.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning power-driven woodworking machines.

(3) The occupations of off-bearing from circular saws and from guillotine-action veneer clippers.

(b) Definitions. As used in this section:

(1) The term *power-driven woodworking machines* shall mean all fixed or portable machines or tools driven by power and used or designed for cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening, or otherwise assembling, pressing, or printing wood or veneer.

(2) The term *off-bearing* shall mean the removal of material or refuse directly from a saw table or from the point of operation. Operations not considered as off-bearing within the intent of this section include: (i) The removal of material or refuse from a circular saw or guillotine-action veneer clipper where the material or refuse has been conveyed away from the saw table or point of operation by a gravity chute or by some mechanical means such as a moving belt or expulsion roller, and (ii) the following operations when they do not involve the removal of material or refuse directly from a saw table or from the point of operation: The carrying, moving, or transporting of materials from one machine to another or from one part of a plant to another; the piling, stacking, or arranging of materials for feeding into a machine by another person; and the sorting, tying, bundling, or loading of materials.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in Sec. 570.50 (b) and (c).

§ C570.58 Occupations involved in the operation of power-driven hoisting apparatus (Order 7)

(a) Finding and declaration of fact. The following occupations involved in the operation of power-driven hoisting apparatus are particularly hazardous for minors between 16 and 18 years of age:

(1) Work of operating an elevator, crane, derrick, hoist, or high-lift truck, except operating an unattended automatic operation passenger elevator or an electric or air-operated hoist not exceeding one ton capacity.

(2) Work which involves riding on a manlift or on a freight elevator, except a freight elevator operated by an assigned operator.

(3) Work of assisting in the operation of a crane, derrick, or hoist performed by crane hookers, crane chasers, hookers-on, riggers, rigger helpers, and like occupations.

(b) Definitions. As used in this section:

(1) The term *elevator* shall mean any power-driven hoisting or lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. The term shall include both passenger and freight elevators (including portable elevators or tiering machines), but shall not include dumbwaiters.

(2) The term *crane* shall mean a power-driven machine for lifting and lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. The term shall include all types of cranes, such as cantilever gantry, crawler, gantry, hammerhead, ingot-pouring, jib, locomotive, motor-truck, overhead traveling, pillar jib, pintle, portal, semi-gantry, semi-portal, storage bridge, tower, walking jib, and wall cranes.

(3) The term *derrick* shall mean a power-driven apparatus consisting of a mast or equivalent members held at the top by guys or braces, with or without a boom, for use with an hoisting mechanism or operating ropes. The term shall include all types of derricks, such as A-frame, breast, Chicago boom, gin-pole, guy and stiff-leg derrick.

(4) The term *hoist* shall mean a power-driven apparatus for raising or lowering a load by the application of a pulling force that does not include a car or platform running in guides. The term shall include all types of hoists, such as base mounted electric, clevis suspension, hook suspension, monorail, overhead electric, simple drum and trolley suspension hoists.

(5) The term *high-lift* truck shall mean a power-driven industrial type of truck used for lateral transportation that is equipped with a power-operated lifting device usually in the form of a fork or platform capable of tiering loaded pallets or skids one above the other. Instead of a (fork or platform, the lifting device may consist of a ram, scoop, shovel, crane, revolving) fork, or other attachments for handling specific loads. The term shall mean and include highlift trucks known under such names as fork lifts, fork trucks, fork-lift trucks, tiering trucks, or stacking trucks, but shall not mean low-lift trucks or low-lift platform trucks that are designed for the transportation of but not the tiering of material.

(6) The term *manlift* shall mean a device intended for the conveyance of persons which consists of platforms or brackets mounted on, or attached to, an endless belt, cable, chain or similar method of suspension; such belt, cable or chain operating in a substantially vertical direction and being supported by and driven through pulleys, sheaves or sprockets at the top and bottom.

(c) Exception. (1) This section shall not prohibit the operation of an automatic elevator and an automatic signal operation elevator provided that the exposed portion of the car interior (exclusive of vents and other necessary small openings), the car door, and the hoistway doors are constructed of solid surfaces without any opening through which a part of the body may extend; all hoistway openings at floor level have doors which are interlocked with the car door so as to prevent the car from starting until all such doors are closed and locked; the elevator (other than hydraulic elevators) is equipped with a device which will stop and hold the car in case of overspeed or if the cable slackens or breaks; and the elevator is equipped with upper and lower travel limit devices which will normally bring the car to rest at either terminal and a final limit switch which will prevent the movement in either direction and will open in case of excessive over travel by the car.

(2) For the purpose of this exception the term *automatic elevator* shall mean a passenger elevator, a freight elevator, or a combination passenger-freight elevator, the operation of which is controlled by pushbuttons in such a manner that the starting, going to the landing selected, leveling and holding, and the opening and closing of the car and hoistway doors are entirely automatic.

(3) For the purpose of this exception, the term *automatic signal operation elevator* shall mean an elevator which is started in response to the operation of a switch (such as a lever or pushbutton) in the car which when operated by the operator actuates a starting device that automatically closes the car and hoistway doors-from this point on, the movement of the car to the landing selected, leveling and holding when it gets there, and the opening of the car and hoistway doors are entirely automatic.

§ C570.59 Occupations involved in the operations of power-driven metal forming, punching, and shearing machines (Order 8)

(a) Finding and declaration of fact. The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operator of or helper on the following power-driven metal forming, punching, and shearing machines:

(i) All rolling machines, such as beading, straightening, corrugating, flanging, or bending rolls; and hot or cold rolling mills.

(ii) All pressing or punching machines, such as punch presses except those provided with full automatic feed and ejection and with a fixed barrier guard to prevent the hands or fingers of the operator from entering the area between the dies; power presses; and plate punches.

(iii) All bending machines, such as apron brakes and press brakes.

(iv) All hammering machines, such as drop hammers and power hammers.

(v) All shearing machines, such as guillotine or squaring shears; alligator shears; and rotary shears.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning these machines including those with automatic feed and ejection.

(b) Definitions. (1) The term *operator* shall mean a person who operates a machine covered by this section by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.

(2) The term *helper* shall mean a person who assists in the operation of a machine covered by this section by helping place materials into or remove them from the machine.

(3) The term *forming, punching, and shearing machines* shall mean power-driven metal-working machines, other than machine tools, which change the shape of or cut metal by means of tools, such as dies, rolls, or knives which are mounted on rams, plungers, or other moving parts. Types of forming, punching, and shearing machines enumerated in this section are the machines to which the designation is by custom applied.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in Sec. 570.50 (b) and (c).

§C570.62 Occupations involved in the operation of bakery machines (Order 11)

(a) Finding and declaration of fact. The following occupations involved in the operation of power-driven bakery machines are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operating, assisting to operate, or setting up, adjusting, repairing, oiling, or cleaning any horizontal or vertical dough mixer; batter mixer; bread dividing, rounding, or molding machine; dough brake; dough sheeter; combination bread slicing and wrapping machine; or cake cutting band saw.

(2) The occupation of setting up or adjusting a cookie or cracker machine.

§C570.63 Occupations involved in the operation of paper-products machines (Order 12)

(a) Findings and declaration of fact. The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operation or assisting to operate any of the following power-driven paper products machines:

(i) Arm-type wire stitcher or stapler, circular or band saw, corner cutter or mitering machine, corrugating and single-or-double-facing machine, envelope die-cutting press, guillotine paper cutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, scrap-paper baler, or vertical slotter.

(ii) Platen die-cutting press, platen printing press, or punch press which involves hand feeding of the machine.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning these machines including those which do not involve hand feeding.

(b) Definitions. (1) The term *operating or assisting to operate* shall mean all work which involves starting or stopping a machine covered by this section, placing or removing materials into or from the machine, or any other work directly involved in operating the machine. The term does not include the stacking of materials by an employee in an area nearby or adjacent to the machine where such employee does not place the materials into the machine.

(2) The term *paper products* machine shall mean all power-driven machines used in:

(i) The remanufacture or conversion of paper or pulp into a finished product, including the preparation of such materials for recycling; or

(ii) The preparation of such materials for disposal. The term applies to such machines whether they are used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or nonmanufacturing establishment.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in § 570.50 (b) and (c).

§C570.65 Occupations involved in the operations of circular saws, band saws, and guillotine shears (Order 14)

(a) Findings and declaration of fact. The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operator of or helper on the following power-driven fixed or portable machines except machines equipped with full automatic feed and ejection:

(i) Circular saws.

(ii) Band saws.

(iii) Guillotine shears.

(2) The occupations of setting-up, adjusting, repairing, oiling, or cleaning circular saws, band saws, and guillotine shears.

(b) Definitions. (1) The term *operator* shall mean a person who operates a machine covered by this section by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.

(2) The term *helper* shall mean a person who assists in the operation of a machine covered by this section by helping place materials into or remove them from the machine.

(3) The term *machines equipped with full automatic feed and ejection* shall mean machines covered by this Order which are equipped with devices for full automatic feeding and ejection and with a fixed barrier guard to prevent completely the operator or helper from placing any part of his body in the point-of-operation area.

(4) The term *circular saw* shall mean a machine equipped with a thin steel disc having a continuous series of notches or teeth on the periphery, mounted on shafting, and used for sawing materials.

(5) The term *band saw* shall mean a machine equipped with an endless steel band having a continuous series of notches or teeth, running over wheels or pulleys, and used for sawing materials.

(6) The term *guillotine shear* shall mean a machine equipped with a movable blade operated vertically and used to shear materials. The term shall not include other types of shearing machines, using a different form of shearing action, such as alligator shears or circular shears.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in §570.50 (b) and (c).

§C570.66 Occupations involved in wrecking and demolition operations (Order 15)

(a) Finding and declaration of fact. All occupations in wrecking and demolition operations are particularly hazardous for the employment of minors between 16 and 18 years of age and detrimental to their health and well-being.

(b) Definition. The term *wrecking and demolition operations* shall mean all work, including clean-up and salvage work, performed at the site of the total or partial razing demolishing or dismantling of a building, bridge, steeple, tower, chimney, other structure.

§C570.67 Occupations in roofing operations (Order 16)

(a) Finding and declaration of fact. All occupations in roofing operations are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health.

(b) Definition of roofing operations. The term *roofing operations* shall mean all work performed in connection with the application of weatherproofing materials and substances (such as tar or pitch, asphalt prepared paper, tile, slate, metal, translucent materials, and shingles of asbestos, asphalt or wood) to roofs of buildings or other structures. The term shall also include all work performed in connection with: (1) The installation of roofs, including related metal work such as flashing and (2) alterations, additions, maintenance, and repair, including painting and coating, of existing roofs. The term shall not include gutter and downspout work; the construction of the sheathing or base of roofs; or the installation of television antennas, air conditioners, exhaust and ventilating equipment, or similar appliances attached to roofs.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in § 570.50 (b) and (c).

§C570.68 Occupations in excavation operations (Order 17)

(a) Finding and declaration of fact. The following occupations in excavation operations are particularly hazardous for the employment of persons between 16 and 18 years of age: (1) Excavating, working in, or backfilling (refilling) trenches, except (i) manually excavating or manually backfilling trenches that do not exceed four feet in depth at any point, or (ii) working in trenches that do not exceed four feet in depth at any point.

(2) Excavating for buildings or other structures or working in such excavations, except: (i) Manually excavating to a depth not exceeding four feet below any ground surface adjoining the excavation, or (ii) working in an excavation not exceeding such depth, or (iii) working in an excavation where the side walls are shored or sloped to the angle of repose.

(3) Working within tunnels prior to the completion of all driving and shoring operations.

(4) Working within shafts prior to the completion of all sinking and shoring operations.

(b) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in Sec.C570.50 (b) and (c).

Exclusion for employees of the Capitol Police

None of the limitations on the use of lie detector tests by employing offices set forth in Section 204 of the CAA apply to the Capitol Police. This exclusion from the limitations of Section 204 of the CAA applies only with respect to Capitol Police employees. Except as otherwise provided by law or these regulations, this exclusion does not extend to contractors or nongovernmental agents of the Capitol Police; nor does it extend to the Capitol Police with respect to employees of a private employer or an otherwise covered employing office with which the Capitol Police has a contractual or other business relationship.

Scope of regulations

These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 204(a)(3) and 304 of the CAA, which authorize the Board to issue regulations governing the use of lie detector tests by the Capitol Police. The regulations issued by the Board herein are on all matters for which section 204(a)(3) of the CAA requires a regulation to be issued.

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

NOTICE OF ADOPTION OF REGULATION AND SUBMISSION FOR APPROVAL AND ISSUANCE OF INTERIM REGULATIONS

Summary: The Board of Directors, Office of Compliance, after considering comments to its Notice of Proposed Rulemaking published November 28, 1995 in the Congressional Record, has adopted, and is submitting for approval by the Congress, final regulations implementing Sections 204(a) and (b) of the Congressional Accountability Act of 1995 ("CAA"). The Board is also adopting and issuing such regulations as interim regulations for the House of Representatives, the Senate and the employing offices of the instrumentalities effective on January 23, 1996 or on the dates upon which appropriate resolutions of approval are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate, respectively, whichever is earlier.

For Further Information Contact: Executive Director, Office of Compliance, Room LA 200, Library of Congress, Washington, D.C. 20540-1999. Telephone: (202) 724-9250.

Background and Summary

Supplementary Information: The Congressional Accountability Act of 1995 ("CAA"), P.L. 104-1, 109 Stat. 3, was enacted on January 23, 1995. 2 U.S.C. §§1301-1438. In general, the CAA applies the rights and protections of eleven federal labor and employment statutes to covered employees and employing offices within the legislative branch. Section 204(a) of the CAA provides that no employing office may require any covered employee (including a covered employee who does not work in that employing office) to take a lie detector test where such test would be prohibited if required by an employer under paragraphs (1), (2) or (3) of section 3 of the Employee Polygraph Protection Act of 1988, 29 U.S.C. §2002(1), (2) or (3) ("EPPA"). 2 U.S.C. §1314(a). Section 204(a) of the EPPA also applies the waiver provisions of section 6(d) of the EPPA (29 U.S.C. §2005(d)) to covered employees. *Id.* Section 225(f) of the CAA provides that, "[e]xcept where inconsistent with definitions and exemptions provided in this Act, the definitions and exemptions [of the EPPA] shall apply under this Act." 2 U.S.C. §1361(f)(1).

Section 204(c) of the CAA requires the Board of Directors of the Office of Compliance issue regulations implementing the section. 2 U.S.C. §1314(c). Section 204(c) further states that such regulations "shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." *Id.*

To obtain input from interested persons on the content of these regulations, the Board published for comment a Notice of Proposed Rulemaking in the Congressional Record 141 Cong. Rec. S17656 (daily ed., Nov. 28, 1995) ("NPR"), inviting comments from interested parties regarding the proposed regulations. The Board received three comments on the proposed regulations from interested parties. Two of the comments, without elaboration, supported the regulations as proposed. Only one commenter took issue with certain sections of the proposed regulations and the Board's resolution of certain issues raised in the NPR. In addition, the Office has sought consultations with the Secretary of Labor regarding the proposed regulations, pursuant to section 304(g) of the CAA.

After full consideration of the comments received in response to the proposed rule, the Board has adopted and is submitting these final regulations for approval by the Congress. Moreover, pursuant to sections 411 and 304, the Board is also adopting and issuing such regulations as interim regulations for the House, the Senate and the employing offices of the instrumentalities effective on January 23, 1996 or on the dates upon which appropriate resolutions of approval are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate, respectively, whichever is earlier.

I. Summary of Comments and Board's Final Rules

A. Exemption for national defense and security

One commenter suggested that proposed section 1.11, implementing the national defense and security exemption, be modified. The commenter suggested that, as proposed, the regulatory exemption for national defense and security could be construed to permit claims by employees that an employing office violated section 204 of the CAA by conveying information that ultimately led to a lie detector test, even though the subsequent law enforcement investigation was outside of that employing office's control. Moreover, the commenter argued that proposed section 1.11(d), which states that the Executive Branch must administer the tests "in accordance with applicable Department of Defense directives and regulations," should be deleted since administration of such tests by the Executive Branch is outside of the control of employing offices. Finally, this commenter argued that proposed section 1.11 should refer to all of the exemptions under section 7(b) of the EPPA, not just to subsection (b)(2) of section 7 of the EPPA.

Contrary to the commenter's concern, section 1.11(d) cannot reasonably be construed to permit claims by employees that the employing office has violated section 204 of the CAA merely by conveying information to law enforcement authorities. Section 1.11 of the regulation states that lie detector tests performed by the Federal Government in the performance of any intelligence or counterintelligence function are not within any of the prohibitions of section 204 of the CAA. Thus, if the conditions of section 1.11 are met, no employing office should be held liable under section 204 of the CAA for indirectly causing the Executive Branch to perform such tests by conveying a report to Federal Government intelligence or counterintelligence officers. Moreover, section 1.4(b) of the regulations makes it clear that employing offices will ordinarily not be liable under section 204 of the CAA for making reports to law enforcement authorities or for cooperating in law enforcement investigations.

Nor is the Board inclined to modify the requirement in section 1.11(d) that any tests administered under the national security exemption be in accordance with applicable Department of Defense directives and regulations. That requirement is taken verbatim from the identical Executive Branch regulations that are applicable to private sector employers who also have no control over the requirements of the Department of Defense directives and regulations. The Board has not been presented with any reason that would constitute good cause to deviate from these provisions.

Finally, the Board was not provided with sufficient information to determine whether the portions of the Secretary's regulation implementing section 7(b) of the EPPA that were not included in proposed section 1.11 are applicable to the legislative branch. However, out of an abundance of caution, the Board's final regulation shall include, with appropriate modifications, the entirety of the implementing regulation, as suggested by the commenter.

B. Exemption for employees of the Capitol Police

The commenter also stated that section 1.4(e) of the regulations, which provides that the Capitol Police may administer lie detector tests to non-Capitol Police employees only during the course of an "ongoing investigation" by the Capitol Police, is not authorized by the CAA. The Board disagrees.

Section 204(a)(3) gives the Board authority to adopt limitations on the nature and scope of lie detector use by the Capitol Police. This is such a provision.

Contrary to the commenter's suggestion, this regulation strikes an appropriate balance between giving the Capitol Police authority to use lie detector tests for legitimate law enforcement purposes and protecting against overbroad and unreasonable use of lie detector tests by the Capitol Police with respect to covered employees not employed by it. Specifically, section 1.4(e) of the regulation makes it clear that the regulation excluding the Capitol Police from section 204 of the CAA with respect to its own employees is not a total exemption of the Capitol Police from the prohibitions on the employment-related use of lie detector tests. It prohibits employing offices other than the Capitol Police from avoiding the prohibitions of section 204 of the CAA by administering lie detector tests on their covered employees indirectly through the Capitol Police under circumstances where such tests would not be warranted by legitimate law enforcement investigative considerations.

Application of Rights and Protections of the Employee Polygraph Protection Act of 1988

Subpart A—General

Section

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1.26 Qualifications of and requirements for examiners.

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1.30 Records to be preserved for 3 years.
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1.40 [Reserved]

Appendix A—Notice to Examinee

Authority: Pub. L. 104-1, 109 Stat. 3, 2 U.S.C. 1314(c)

Subpart A—General

Sec. 1.1 Purpose and scope.

Enacted into law on January 23, 1995, the Congressional Accountability Act ("CAA") directly applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 204(a) of the CAA, 2 U.S.C. §1314(a) provides that no employing office may require any covered employee (including a covered employee who does not work in that employing office) to take a lie detector test where such test would be prohibited if required by an employer under paragraphs (1), (2) or (3) of section 3 of the Employee Polygraph Protection Act of 1988 (EPPA), 29 U.S.C. §2002(1), (2) or (3). The purpose of this part is to set forth the regulations to carry out the provisions of Section 204 of the CAA.

Subpart A contains the provisions generally applicable to covered employers, including the requirements relating to the prohibitions on lie detector use. Subpart B sets forth rules regarding the statutory exemptions from application of section 204 of the CAA. Subpart C sets forth the restrictions on polygraph usage under such exemptions. Subpart D sets forth the rules on recordkeeping and the disclosure of polygraph test information.

Sec. 1.2 Definitions.

For purposes of this part:

(a) *Act* or *CAA* means the Congressional Accountability Act of 1995 (P.L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301-1438).

(b) *EPPA* means the Employee Polygraph Protection Act of 1988 (Pub. L. 100-347, 102 Stat. 646, 29 U.S.C. §§2001-2009) as applied to covered employees and employing offices by Section 204 of the CAA.

(c) The term *covered employee* means any employee of (1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Congressional Budget Office; (5) the Office of the Architect of the Capitol; (6) the Office of the Attending Physician; (7) the Office of Compliance; or (8) the Office of Technology Assessment.

(d) The term *employee* includes an applicant for employment and a former employee.

(e) The term *employee of the Office of the Architect of the Capitol* includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.

(f) The term *employee of the Capitol Police* includes any member or officer of the Capitol Police.

(g) The term *employee of the House of Representatives* includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(h) The term *employee of the Senate* includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(i) The term *employing office* means (1) the personal office of a Member of the House of Representatives or of a Senator; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or (4) the Capitol Guide Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment. The term *employing office* includes any person acting directly or indirectly in the interest of an employing office in relation to an employee or prospective employee. A polygraph examiner either employed for or whose services are retained for the sole purpose of administering polygraph tests ordinarily would not be deemed an employing office with respect to the examinees. Any reference to "employer" in these regulations includes employing offices.

(j)(1) The term *lie detector* means a polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device (whether mechanical or electrical) that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual. Voice stress analyzers, or psychological stress evaluators, include any systems that utilize voice stress analysis, whether or not an opinion on honesty or dishonesty is specifically rendered.

(2) The term *lie detector* does not include medical tests used to determine the presence or absence of controlled substances or alcohol in bodily fluids. Also not included in the definition of *lie detector* are written or oral tests commonly referred to as "honesty" or "paper and pencil" tests, machine-scored or otherwise; and graphology tests commonly referred to as handwriting tests.

(k) The term *polygraph* means an instrument that—

(1) Records continuously, visually, permanently, and simultaneously changes in cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards; and

(2) Is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

(l) *Board* means the Board of Directors of the Office of Compliance.

(m) *Office* means the Office of Compliance.

Sec. 1.3 Coverage

The coverage of Section 204 of the Act extends to any "covered employee" or "covered employing office" without regard to the number of employees or the employing office's effect on interstate commerce.

Sec. 1.4 Prohibitions on lie detector use

(a) Section 204 of the CAA provides that, subject to the exemptions of the EPPA incorporated into the CAA under section 225(f) of the CAA, as set forth in Sec. 1.10 through 1.12 of this Part, employing offices are prohibited from:

(1) Requiring, requesting, suggesting or causing, directly or indirectly, any covered employee or prospective employee to take or submit to a lie detector test;

(2) Using, accepting, or inquiring about the results of a lie detector test of any covered employee or prospective employee; and

(3) Discharging, disciplining, discriminating against, denying employment or promotion, or threatening any covered employee or prospective employee to take such action for refusal or failure to take or submit to such test, or on the basis of the results of a test.

The above prohibitions apply irrespective of whether the covered employee referred to in paragraphs (1), (2) or (3), above, works in that employing office.

(b) An employing office that reports a theft or other incident involving economic loss to police or other law enforcement authorities is not engaged in conduct subject to the prohibitions under paragraph (a) of this section if, during the normal course of a subsequent investigation, such authorities deem it necessary to administer a polygraph test to a covered employee(s) suspected of involvement in the reported incident. Employing offices that cooperate with police authorities during the course of their investigations into criminal misconduct are likewise not deemed engaged in prohibitive conduct provided that such cooperation is passive in nature. For example, it is not uncommon for police authorities to request employees suspected of theft or criminal activity to submit to a polygraph test during the employee's tour of duty since, as a general rule, suspect employees are often difficult to locate away from their place of employment. Allowing a test on the employing office's premises, releasing a covered employee during working hours to take a test at police headquarters, and other similar types of cooperation at the request of the police authorities would not be construed as "requiring, requesting, suggesting, or causing, directly or indirectly, any covered employee * * * to take or submit to a lie detector test." Cooperation of this type must be distinguished from actual participation in the testing of employees suspected of wrongdoing, either through the administration of a test by the employing office at the request or direction of police authorities, or through reimbursement by the employing office of tests administered by police authorities to employees. In some communities, it may be a practice of police authorities to request testing by employing offices of employees before a police investigation is initiated on a reported incident. In other communities, police examiners are available to covered employing offices, on a cost reimbursement basis, to conduct tests on employees suspected by an employing office of wrongdoing. All such conduct on the part of employing offices is deemed within the prohibitions of section 204 of the CAA.

(c) The receipt by an employing office of information from a polygraph test administered by police authorities pursuant to an investigation is prohibited by section 3(2) of the EPPA. (See paragraph (a)(2) of this section.)

(d) The simulated use of a polygraph instrument so as to lead an individual to believe that an actual test is being or may be performed (e.g., to elicit confessions or admissions of guilt) constitutes conduct prohibited by paragraph (a) of this section. Such use includes the connection of a covered employee or prospective employee to the instrument without any intention of a diagnostic purpose, the placement of the instrument in a room used for interrogation unconnected to the covered employee or prospective employee, or the mere suggestion that the instrument may be used during the course of the interview.

(e) The Capitol Police may not require a covered employee not employed by the Capitol Police to take a lie detector test (on its own initiative or at the request of another employing office) except where the Capitol Police administers such lie detector test as part of an "ongoing investigation" by the Capitol Police. For the purpose of this subsection, the definition of "ongoing investigation" contained section 1.12(b) shall apply.

Sec. 1.5 Effect on other laws or agreements

(a) Section 204 of the CAA does not preempt any otherwise applicable provision of federal law or any rule or regulation of the

House or Senate or any negotiated collective bargaining agreement that prohibits lie detector tests or is more restrictive with respect to the use of lie detector tests.

(b)(1) This provision applies to all aspects of the use of lie detector tests, including procedural safeguards, the use of test results, the rights and remedies provided examinees, and the rights, remedies, and responsibilities of examiners and employing offices.

(2) For example, a collective bargaining agreement that provides greater protection to an examinee would apply in addition to the protection provided in section 204 of the CAA.

Sec. 1.6 Notice of protection

Pursuant to section 301(h) of the CAA, the Office shall prepare, in a manner suitable for posting, a notice explaining the provisions of section 204 of the CAA. Copies of such notice may be obtained from the Office of Compliance.

Sec. 1.7 Authority of the Board

Pursuant to sections 204 and 304 of the CAA, the Board is authorized to issue regulations to implement the rights and protections of the EPPA. Section 204(c) directs the Board to promulgate regulations implementing section 204 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) [of section 204 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." The regulations issued by the Board herein are on all matters for which section 204 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) [of section 204 of the CAA]."

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

Sec. 1.8 Employment relationship

Subject to the exemptions incorporated into the CAA by section 225(f), section 204 applies the prohibitions on the use of lie detectors by employing offices with respect to covered employees irrespective of whether a covered employee works in that employing office. Sections 101 (3), (4) and 204 of the CAA also apply EPPA prohibitions against discrimination to applicants for employment and former employees of a covered employing office. For example, an employee may quit rather than take a lie detector test. The employing office cannot discriminate or threaten to discriminate in any manner against that person (such as by providing bad references in the future) because of that person's refusal to be tested. Similarly, an employing office cannot discriminate or threaten to discriminate in any manner against that person because that person files a complaint, institutes a proceeding, testifies in a proceeding, or exercises any right under section 204 of the CAA. (*See* section 207 of the CAA.)

Subpart B—Exemptions

Sec. 1.10 Exclusion for employees of the Capitol Police [Reserved]

Sec. 1.11 Exemption for national defense and security

(a) The exemptions allowing for the administration of lie detector tests in the following paragraphs (b) through (e) of this section apply only to the Federal Government; they do not allow covered employing offices to administer such tests. For the purposes of this section, the term "Federal Government" means any agency or entity within the Federal Government authorized to administer polygraph examinations which is otherwise exempt from coverage under section 7(a) of the EPPA, 29 U.S.C. §2006(a).

(b) Section 7(b)(1) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any counterintelligence function, to any expert, consultant or employee of any contractor under contract with the Department of Defense; or with the Department of Energy, in connection with the atomic energy defense activities of such Department.

(c) Section 7(b)(2)(A) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any intelligence or counterintelligence function of the National Security Agency, the Defense Intelligence Agency, or the Central Intelligence Agency, to any individual employed by, assigned to, or detailed to any such agency; or any expert or consultant under contract to any such agency; or any employee of a contractor to such agency; or any individual applying for a position in any such agency; or any individual assigned to a space where sensitive cryptologic information is produced, processed, or stored for any such agency.

(d) Section 7(b)(2)(B) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any intelligence or counterintelligence function, to any covered employee whose duties involve access to information that has been classified at the level of top secret or designated as being within a special access program under section 4.2 (a) of Executive Order 12356 (or a successor Executive Order).

(c) *Counterintelligence* for purposes of the above paragraphs means information gathered and activities conducted to protect against espionage and other clandestine intelligence activities, sabotage, terrorist activities, or assassinations conducted for or on behalf of foreign governments, or foreign or domestic organizations or persons.

(d) Lie detector tests of persons described in the above paragraphs will be administered in accordance with applicable Department of Defense directives and regulations, or other regulations and directives governing the use of such tests by the United States Government, as applicable.

Sec. 1.12 Exemption for Employing Offices Conducting Investigations of Economic Loss or Injury

(a) Section 7(d) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides a limited exemption from the general prohibition on lie detector use for employers conducting ongoing investigations of economic loss or injury to the employer's business. An employing office may request an employee, subject to the conditions set forth in sections 8 and 10 of the EPPA and Secs. 1.20, 1.22, 1.23, 1.24, 1.25, 1.26 and 1.35 of this part, to submit to a polygraph test, but no other type of lie detector test, only if—

(1) The test is administered in connection with an ongoing investigation involving economic loss or injury to the employing office's operations, such as theft, embezzlement, misappropriation or an act of unlawful industrial espionage or sabotage;

(2) The employee had access to the property that is the subject of the investigation;

(3) The employing office has a reasonable suspicion that the employee was involved in the incident or activity under investigation;

(4) The employing office provides the examinee with a statement, in a language understood by the examinee, prior to the test which fully explains with particularity the specific incident or activity being investigated and the basis for testing particular employees and which contains, at a minimum:

(i) An identification with particularity of the specific economic loss or injury to the operations of the employing office;

(ii) A description of the employee's access to the property that is the subject of the investigation;

(iii) A description in detail of the basis of the employing office's reasonable suspicion that the employee was involved in the incident or activity under investigation; and

(iv) Signature of a person (other than a polygraph examiner) authorized to legally bind the employing office; and

(5) The employing office retains a copy of the statement and proof of service described in paragraph (a)(4) of this section for at least 3 years.

(b) For the exemption to apply, the condition of an "ongoing investigation" must be met. As used in section 7(d) of the EPPA, the ongoing investigation must be of a specific incident or activity. Thus, for example, an employing office may not request that an employee or employees submit to a polygraph test in an effort to determine whether or not any thefts have occurred. Such random testing by an employing office is precluded by the EPPA. Further, because the exemption is limited to a specific incident or activity, an employing office is precluded

(c)(1)(i) The terms *economic loss or injury to the employing office's operations* include both direct and indirect economic loss or injury.

(ii) Direct loss or injury includes losses or injuries resulting from theft, embezzlement, misappropriation, espionage or sabotage. These examples, cited in the EPPA, are intended to be illustrative and not exhaustive. Another specific incident which would constitute direct economic loss or injury is the misappropriation of confidential or trade secret information.

(iii) Indirect loss or injury includes the use of an employing office's operations to commit a crime, such as check-kiting or money laundering. In such cases, the ongoing investigation must be limited to criminal activity that has already occurred, and to use of the employing office's operations (and not simply the use of the premises) for such activity. For example, the use of an employing office's vehicles, warehouses, computers or equipment to smuggle or facilitate the importing of illegal substances constitutes an indirect loss or injury to the employing office's business operations. Conversely, the mere fact that an illegal act occurs on the employing office's premises (such as a drug transaction that takes place in the employing office's parking lot or rest room) does not constitute an indirect economic loss or injury to the employing office.

(iv) Indirect loss or injury also includes theft or injury to property of another for which the employing office exercises fiduciary, managerial or security responsibility, or where the office has custody of the property (but not property of other offices to which the employees have access by virtue of the employment relationship). For example, if a maintenance employee of the manager of an apartment building steals jewelry from a tenant's apartment, the theft results in an indirect economic loss or injury to the employer because of the manager's management responsibility with respect to the tenant's apartment. A messenger on a delivery of confidential business reports for a client firm who steals the reports causes an indirect economic loss or injury to the messenger service because the messenger service is custodian of the client firm's reports, and therefore is responsible for their security. Similarly, the theft of property protected by a security service employer is considered an economic loss or injury to that employer.

(v) A theft or injury to a client firm does not constitute an indirect loss or injury to an employing office unless that employing office has custody of, or management, or security responsibility for, the property of the client that was lost or stolen or injured. For example, a cleaning contractor has no responsibility for the money at a client bank. If money is stolen from the bank by one of the cleaning contractor's employees, the cleaning contractor does not suffer an indirect loss or injury.

(vi) Indirect loss or injury does not include loss or injury which is merely threatened or potential, e.g., a threatened or potential loss of an advantageous business relationship.

(2) Economic losses or injuries which are the result of unintentional or lawful conduct would not serve as a basis for the administration of a polygraph test. Thus, apparently unintentional losses or injuries stemming from truck, car, workplace, or other similar type accidents or routine inventory or cash register shortages would not meet the economic loss or injury requirement. Any economic loss incident to lawful union or employee activity also would not satisfy this requirement.

(3) It is the operations of the employing office which must suffer the economic loss or injury. Thus, a theft committed by one employee against another employee of the same employing office would not satisfy the requirement.

(d) While nothing in the EPPA as applied by the CAA prohibits the use of medical tests to determine the presence of controlled substances or alcohol in bodily fluids, the section 7(d) exemption of the EPPA does not permit the use of a polygraph test to learn whether an employee has used drugs or alcohol, even where such possible use may have contributed to an economic loss to the employing office (e.g., an accident involving an employing office's vehicle).

(e) Section 7(d)(2) of the EPPA provides that, as a condition for the use of the exemption, the employee must have had access to the property that is the subject of the investigation.

(1) The word *access*, as used in section 7(d)(2), refers to the opportunity which an employee had to cause, or to aid or abet in causing, the specific economic loss or injury under investigation. The term "access", thus, includes more than direct or physical contact during the course of employment. For example, as a general matter, all employees working in or with authority to enter a property storage area have "access" to unsecured property in the area. All employees with the combination to a safe have "access" to the property in a locked safe. Employees also have "access" who have the ability to divert possession or otherwise affect the disposition of the property that is the subject of investigation. For example, a bookkeeper in a jewelry store with access to inventory records may aid or abet a clerk who steals an expensive watch by removing the watch from the employing office's inventory records. In such a situation, it is clear that the bookkeeper effectively has "access" to the property that is the subject of the investigation.

(2) As used in section 7(d)(2), *property* refers to specifically identifiable property, but also includes such things of value as security codes and computer data, and proprietary, financial or technical information, such as trade secrets, which by its availability to competitors or others would cause economic harm to the employing office.

(f)(1) As used in section 7(d)(3), the term *reasonable suspicion* refers to an observable, articulable basis in fact which indicates that a particular employee was involved in, or responsible for, an economic loss. Access in the sense of possible or potential opportunity, standing alone, does not constitute a basis for "reasonable suspicion." Information from a co-worker, or an employee's behavior, demeanor, or conduct may be factors in the basis for reasonable suspicion. Likewise, inconsistencies between facts, claims, or statements that surface during an investigation can serve as a sufficient basis for reasonable suspicion. While access or opportunity, standing alone, does not constitute a basis for reasonable suspicion, the totality of circumstances surrounding the access or opportunity (such as its unauthorized or unusual nature or the fact that access was limited to a single individual) may constitute a factor in determining whether there is a reasonable suspicion.

(2) For example, in an investigation of a theft of an expensive piece of jewelry, an employee authorized to open the establishment's safe no earlier than 9 a.m., in order to place the jewelry in a window display case, is observed opening the safe at 7:30 a.m. In such a situation, the opening of the safe by the employee one and one-half hours prior to the specified time may serve as the basis for reasonable suspicion. On the other hand, in the example given, if the employee is asked to bring the piece of jewelry to his or her office at 7:30 a.m., and the employee then opened the safe and reported the jewelry missing, such access, standing alone, would not constitute a basis for reasonable suspicion that the employee was involved in the incident unless access to the safe was limited solely to the employee. If no one other than the employee possessed the combination to the safe, and all other possible explanations for the loss are ruled out, such as a break-in, a basis for reasonable suspicion may be formulated based on sole access by one employee.

(3) The employing office has the burden of establishing that the specific individual or individuals to be tested are "reasonably suspected" of involvement in the specific economic loss or injury for the requirement in section 7(d)(3) of the EPPA to be met.

(g)(1) As discussed in paragraph (a)(4) of this section, section 7(d)(4) of the EPPA sets forth what information, at a minimum, must be provided to an employee if the employing office wishes to claim the exemption.

(2) The statement required under paragraph (a)(4) of this section must be received by the employee at least 48 hours, excluding weekend days and holidays, prior to the time of the examination. The statement must set forth the time and date of receipt by the employee and be verified by the employee's signature. This will provide the employee with adequate pre-test notice of the specific incident or activity being investigated and afford the employee sufficient time prior to the test to obtain and consult with legal counsel or an employee representative.

(3) The statement to be provided to the employee must set forth with particularity the specific incident or activity being investigated and the basis for testing particular employees. Section 7(d)(4)(A) of the EPPA requires specificity beyond the mere assertion of general statements regarding economic loss, employee access, and reasonable suspicion. For example, an employing office's assertion that an expensive watch was stolen, and that the employee had access to the watch and is therefore a suspect, would not meet the "with particularity" criterion. If the basis for an employing office's requesting an employee (or employees) to take a polygraph test is not articulated with particularity, and reduced to writing, then the standard is not met. The identity of a co-worker or other individual providing information used to establish reasonable suspicion need not be revealed in the statement.

(4) It is further required that the statement provided to the examinee be signed by the employing office, or an employee or other representative of the employing office

(h) Polygraph tests administered pursuant to this exemption are subject to the limitations set forth in sections 8 and 10 of the EPPA, as discussed in Secs. 1.20, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part. As provided in these sections, the exemption will apply only if certain requirements are met. Failure to satisfy any of the specified requirements nullifies the statutory authority for polygraph test administration and may subject the employing office to remedial actions, as provided for in section 6(c) of the EPPA.

Sec. 1.13 Exemption of Employing Offices Authorized to Manufacture, Distribute, or Dispense Controlled Substances

(a) Section 7(f) of the EPPA, incorporated into the CAA by section 225(f) of the CAA, provides an exemption from the EPPA's general prohibition regarding the use of polygraph tests for employers authorized to manufacture, distribute, or dispense a controlled substance listed in schedule I, II, III, or IV of section 202 of the Controlled Substances Act (21 U.S.C. §812). This exemption permits the administration of polygraph tests, subject to the conditions set forth in sections 8 and 10 of the EPPA and Sec. 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part, to:

(1) A prospective employee who would have direct access to the manufacture, storage, distribution, or sale of any such controlled substance; or

(2) A current employee if the following conditions are met:

(i) The test is administered in connection with an ongoing investigation of criminal or other misconduct involving, or potentially involving, loss or injury to the manufacture, distribution, or dispensing of any such controlled substance by such employing office; and

(ii) The employee had access to the person or property that is the subject of the investigation.

(b)(1) The terms *manufacture, distribute, distribution, dispense, storage, and sale,* for the purposes of this exemption, are construed within the meaning of the Controlled Substances Act (21 U.S.C. §812 et seq.), as administered by the Drug Enforcement Administration (DEA), U.S. Department of Justice.

(2) The exemption in section 7(f) of the EPPA applies only to employing offices that are authorized by DEA to manufacture, distribute, or dispense a controlled substance. Section 202 of the Controlled Substances Act (21 U.S.C. §812) requires every person who manufactures, distributes, or dispenses any controlled substance to register with the Attorney General (i.e., with DEA). Common or contract carriers and warehouses whose possession of the controlled substance is in the usual course of their business or employment are not required to register. Truck drivers and warehouse employees of the persons or entities registered with DEA and authorized to manufacture, distribute, or dispense controlled substances, are within the scope of the exemption where they have direct access or access to the controlled substances, as discussed below.

(c) In order for a polygraph examination to be performed, section 7(f) of the Act requires that a prospective employee have "direct access" to the controlled substance(s) manufactured, dispensed, or distributed by the employing office. Where a current employee is to be tested as a part of an ongoing investigation, section 7(f) requires that the employee have "access" to the person or property that is the subject of the investigation.

(1) A prospective employee would have "direct access" if the position being applied for has responsibilities which include contact with or which affect the disposition of a controlled substance, including participation in the process of obtaining, dispensing, or otherwise distributing a controlled substance. This includes contact or direct involvement in the manufacture, storage, testing, distribution, sale or dispensing of a controlled substance and may include, for example, packaging, repackaging, ordering, licensing, shipping, receiving, taking inventory, providing security, prescribing, and handling of a controlled substance. A prospective employee would have "direct access" if the described job duties would give such person access to the products in question, whether such employee would be in physical proximity to controlled substances or engaged in activity which would permit the employee to divert such substances to his or her possession.

(2) A current employee would have "access" within the meaning of section 7(f) if the employee had access to the specific person or property which is the subject of the on-going investigation, as discussed in Sec. 1.12(e) of this part. Thus, to test a current employee, the employee need not have had "direct" access to the controlled substance, but may have had only infrequent, random, or opportunistic access. Such access would be sufficient to test the employee if the employee could have caused, or could have aided or abetted in causing, the loss of the specific property which is the subject of the investigation. For example, a maintenance worker in a drug warehouse, whose job duties include the cleaning of areas where the controlled substances which are the subject of the investigation were present, but whose job duties do not include the handling of controlled substances, would be deemed to have "access", but normally not "direct access", to the controlled substances. On the other hand, a drug warehouse truck loader, whose job duties include the handling of outgoing shipment orders which contain controlled substances, would have "direct access" to such controlled substances. A pharmacy department in a supermarket is another common situation which is useful in illustrating the distinction between "direct access" and "access." Store personnel receiving pharmaceutical orders, i.e., the pharmacist, pharmacy intern, and other such employees working in the pharmacy department, would ordinarily have "direct access" to controlled substances. Other store personnel whose job duties and responsibilities do not include the handling of controlled substances but who had occasion to enter the pharmacy department where the controlled substances which are the subject of the investigation were stored, such as maintenance personnel or pharmacy cashiers, would have "access." Certain other store personnel whose job duties do not permit or require entrance into the pharmacy department for any reason, such as produce or meat clerks, checkout cashiers, or baggers, would not ordinarily have "access." However, any current employee, regardless of described job duties, may be polygraphed if the employing office's investigation of criminal or other misconduct discloses that such employee in fact took action to obtain "access" to the person or property that is the subject of the investigation—e.g., by actually entering the drug storage area in violation of company rules. In the case of "direct access", the prospective employee's access to controlled substances would be as a part of the manufacturing, dispensing or distribution process, while a current employee's "access" to the controlled substances which are the subject of the investigation need only be opportunistic.

(d) The term *prospective employee*, for the purposes of this section, includes a current employee who presently holds a position which does not entail direct access to controlled substances, and therefore is outside the scope of the exemption's provisions for preemployment polygraph testing, provided the employee has applied for and is being considered for transfer or promotion to another position which entails such direct access. For example, an office secretary may apply for promotion to a position in the vault or cage areas of a drug warehouse, where controlled substances are kept. In such a situation, the current employee would be deemed a "prospective employee" for the purposes of this exemption, and thus could be subject to preemployment polygraph screening, prior to such a change in position. However, any adverse action which is based in part on a polygraph test against a current employee who is considered a "prospective employee" for purposes of this section may be taken only with respect to the prospective position and may not affect the employee's employment in the current position.

(e) Section 7(f) of the EPPA, as applied by the CAA, makes no specific reference to a requirement that employing offices provide current employees with a written statement prior to polygraph testing. Thus, employing offices to whom this exemption is available are not required to furnish a written statement such as that specified in section 7(d) of the EPPA and Sec. 1.12(a)(4) of this part.

(f) For the section 7(f) exemption to apply, the polygraph testing of current employees must be administered in connection with an ongoing investigation of criminal or other misconduct involving, or potentially involving, loss or injury to the manufacture, distribution, or dispensing of any such controlled substance by such employing office.

(1) Current employees may only be administered polygraph tests in connection with an ongoing investigation of criminal or other misconduct, relating to a specific incident or activity, or potential incident or activity. Thus, an employing office is precluded from using the exemption in connection with continuing investigations or on a random basis to determine if thefts are occurring. However, unlike the exemption in section 7(d) of the EPPA for employing offices conducting ongoing investigations of economic loss or injury, the section 7(f) exemption includes ongoing investigations of misconduct involving potential drug losses. Nor does the latter exemption include the requirement for "reasonable suspicion" contained in the section 7(d) exemption. Thus, a drug store operator is permitted to polygraph all current employees who have access to a controlled substance stolen from the inventory, or where there is evidence that such a theft is planned. Polygraph testing based on an inventory shortage of the drug during a particular accounting period would not be permitted unless there is extrinsic evidence of misconduct.

(2) In addition, the test must be administered in connection with loss or injury, or potential loss or injury, to the manufacture, distribution, or dispensing of a controlled substance.

(i) Retail drugstores and wholesale drug warehouses typically carry inventory of so-called health and beauty aids, cosmetics, over-the-counter drugs, and a variety of other similar products, in addition to their product lines of controlled drugs. The non-controlled products usually constitute

(ii) Polygraph testing, with respect to an ongoing investigation concerning products other than controlled substances might be initiated under section 7(d) of the EPPA and Sec. 1.12 of this part. However, the exemption in section 7(f) of the EPPA and this section is limited solely to losses or injury associated with controlled substances.

(g) Polygraph tests administered pursuant to this exemption are subject to the limitations set forth in sections 8 and 10 of the EPPA, as discussed in Secs. 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part. As provided in these sections, the exemption will apply only if certain requirements are met. Failure to satisfy any of the specified requirements nullifies the statutory authority for polygraph test administration and may subject the employing office to the remedies authorized in section 204 of the CAA. The administration of such tests is also subject to collective bargaining agreements, which may either prohibit lie detector tests, or contain more restrictive provisions with respect to polygraph testing.

Subpart C—Restrictions on polygraph usage under exemptions

Sec. 1.20 Adverse employment action under on-going investigation exemption.

(a) Section 8(a)(1) of the EPPA provides that the limited exemption in section 7(d) of the EPPA and Sec. 1.12 of this part for ongoing investigations shall not apply if an employing office discharges, disciplines, denies employment or promotion or otherwise discriminates in any manner against a current employee based upon the analysis of a polygraph test chart or the refusal to take a polygraph test, without additional supporting evidence.

(b) "Additional supporting evidence", for purposes of section 8(a) of the EPPA, includes, but is not limited to, the following:

(1)(i) Evidence indicating that the employee had access to the missing or damaged property that is the subject of an ongoing investigation; and

(ii) Evidence leading to the employing office's reasonable suspicion that the employee was involved in the incident or activity under investigation; or

(2) Admissions or statements made by an employee before, during or following a polygraph examination.

(c) Analysis of a polygraph test chart or refusal to take a polygraph test may not serve as a basis for adverse employment action, even with additional supporting evidence, unless the employing office observes all the requirements of sections 7(d) and 8(b) of the EPPA, as applied by the CAA and described in Secs. 1.12, 1.22, 1.23, 1.24 and 1.25 of this part.

Sec. 1.21 Adverse employment action under controlled substance exemption.

(a) Section 8(a)(2) of the EPPA provides that the controlled substance exemption in section 7(f) of the EPPA and section 1.13 of this part shall not apply if an employing office discharges, disciplines, denies employment or promotion, or otherwise discriminates in any manner against a current employee or prospective employee based solely on the analysis of a polygraph test chart or the refusal to take a polygraph test.

(b) Analysis of a polygraph test chart or refusal to take a polygraph test may serve as one basis for adverse employment actions of the type described in paragraph (a) of this section, provided that the adverse action was also based on another bona fide reason, with supporting evidence therefor. For example, traditional factors such as prior employment experience, education, job performance, etc. may be used as a basis for employment decisions. Employment decisions based on admissions or statements made by an employee or prospective employee before, during or following a polygraph examination may, likewise, serve as a basis for such decisions.

(c) Analysis of a polygraph test chart or the refusal to take a polygraph test may not serve as a basis for adverse employment action, even with another legitimate basis for such action, unless the employing office observes all the requirements of section 7(f) of the EPPA, as appropriate, and section 8(b) of the EPPA, as described in sections 1.13, 1.22, 1.23, 1.24 and 1.25 of this part.

Sec. 1.22 Rights of examinee—general.

(a) Pursuant to section 8(b) of the EPPA, the limited exemption in section 7(d) of the EPPA for ongoing investigations (described in Secs. 1.12 and 1.13 of this part) shall not apply unless all of the requirements set forth in this section and Secs. 1.23 through 1.25 of this part are met.

(b) During all phases of the polygraph testing the person being examined has the following rights:

(1) The examinee may terminate the test at any time.

(2) The examinee may not be asked any questions in a degrading or unnecessarily intrusive manner.

(3) The examinee may not be asked any questions dealing with:

(i) Religious beliefs or affiliations;

(ii) Beliefs or opinions regarding racial matters;

(iii) Political beliefs or affiliations;

(iv) Sexual preferences or behavior; or

(v) Beliefs, affiliations, opinions, or lawful activities concerning unions or labor organizations.

(4) The examinee may not be subjected to a test when there is sufficient written evidence by a physician that the examinee is suffering from any medical or psychological condition or undergoing any treatment that might cause abnormal responses during the actual testing phase. "Sufficient written evidence" shall constitute, at a minimum, a statement by a physician specifically describing the examinee's medical or psychological condition or treatment and the basis for the physician's opinion that the condition or treatment might result in such abnormal responses.

(5) An employee or prospective employee who exercises the right to terminate the test, or who for medical reasons with sufficient supporting evidence is not administered the test, shall be subject to adverse employment action only on the same basis as one who refuses to take a polygraph test, as described in Secs. 1.20 and 1.21 of this part.

(c) Any polygraph examination shall consist of one or more pretest phases, actual testing phases, and post-test phases, which must be conducted in accordance with the rights of examinees described in Secs. 1.23 through 1.25 of this part.

Sec. 1.23 Rights of examinee—pretest phase.

(a) The pretest phase consists of the questioning and other preparation of the prospective examinee before the actual use of the polygraph instrument. During the initial pretest phase, the examinee must be:

(1) Provided with written notice, in a language understood by the examinee, as to when and where the examination will take place and that the examinee has the right to consult with counsel or an employee representative before each phase of the test. Such notice shall be received by the examinee at least forty-eight hours, excluding weekend days and holidays, before the time of the examination, except that a prospective employee may, at the employee's option, give written consent to administration of a test anytime within 48 hours but no earlier than 24 hours after receipt of the written notice. The written notice or proof of service must set forth the time and date of receipt by the employee or prospective employee and be verified by his or her signature. The purpose of this requirement is to provide a sufficient opportunity prior to the examination for the examinee to consult with counsel or an employee representative. Provision shall also be made for a convenient place on the premises where the examination will take place at which the examinee may consult privately with an attorney or an employee representative before each phase of the test. The attorney or representative may be excluded from the room where the examination is administered during the actual testing phase.

(2) Informed orally and in writing of the nature and characteristics of the polygraph instrument and examination, including an explanation of the physical operation of the polygraph instrument and the procedure used during the examination.

(3) Provided with a written notice prior to the testing phase, in a language understood by the examinee, which shall be read to and signed by the examinee. Use of Appendix A to this part, if properly completed, will constitute compliance with the contents of the notice requirement of this paragraph. If a format other than in Appendix A is used, it must contain at least the following information:

(i) Whether or not the polygraph examination area contains a two-way mirror, a camera, or other device through which the examinee may be observed;

(ii) Whether or not any other device, such as those used in conversation or recording will be used during the examination;

(iii) That both the examinee and the employing office have the right, with the other's knowledge, to make a recording of the entire examination;

(iv) That the examinee has the right to terminate the test at any time;

(v) That the examinee has the right, and will be given the opportunity, to review all questions to be asked during the test;

(vi) That the examinee may not be asked questions in a manner which degrades, or needlessly intrudes;

(vii) That the examinee may not be asked any questions concerning religious beliefs or opinions; beliefs regarding racial matters; political beliefs or affiliations; matters relating to sexual behavior; beliefs, affiliations, opinions, or lawful activities regarding unions or labor organizations;

(viii) That the test may not be conducted if there is sufficient written evidence by a physician that the examinee is suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the examination;

(ix) That the test is not and cannot be required as a condition of employment;

(x) That the employing office may not discharge, dismiss, discipline, deny employment or promotion, or otherwise discriminate against the examinee based on the analysis of a polygraph test, or based on the examinee's refusal to take such a test, without additional evidence which would support such action;

(xi)(A) In connection with an ongoing investigation, that the additional evidence required for the employing office to take adverse action against the examinee, including

(B) That any statement made by the examinee before or during the test may serve as additional supporting evidence for an adverse employment action, as described in paragraph (a)(3)(x) of this section, and that any admission of criminal conduct by the examinee may be transmitted to an appropriate government law enforcement agency;

(xii) That information acquired from a polygraph test may be disclosed by the examiner or by the employing office only:

(A) To the examinee or any other person specifically designated in writing by the examinee to receive such information;

(B) To the employing office that requested the test;

(C) To a court, governmental agency, arbitrator, or mediator pursuant to a court order;

(D) By the employing office, to an appropriate governmental agency without a court order where, and only insofar as, the information disclosed is an admission of criminal conduct;

(xiii) That if any of the examinee's rights or protections under the law are violated, the examinee has the right to take action against the employing office under sections 401-404 of the CAA. Employing offices that violate this law are liable to the affected examinee, who may recover such legal or equitable relief as may be appropriate, including, but not limited to, employment, reinstatement, and promotion, payment of lost wages and benefits, and reasonable costs, including attorney's fees;

(xiv) That the examinee has the right to obtain and consult with legal counsel or other representative before each phase of the test, although the legal counsel or representative may be excluded from the room where the test is administered during the actual testing phase.

(xv) That the employee's rights under the CAA may not be waived, either voluntarily or involuntarily, by contract or otherwise, except as part of a written settlement to a pending action or complaint under the CAA, agreed to and signed by the parties.

(b) During the initial or any subsequent pretest phases, the examinee must be given the opportunity, prior to the actual testing phase, to review all questions in writing that the examiner will ask during each testing phase. Such questions may be presented at any point in time prior to the testing phase.

Sec. 1.24 Rights of examinee—actual testing phase

(a) The actual testing phase refers to that time during which the examiner administers the examination by using a polygraph instrument with respect to the examinee and then analyzes the charts derived from the test. Throughout the actual testing phase, the examiner shall not ask any question that was not presented in writing for review prior to the testing phase. An examiner may, however, recess the testing phase and return to the pre-test phase to review additional relevant questions with the examinee. In the case of an ongoing investigation, the examiner shall ensure that all relevant questions (as distinguished from technical baseline questions) pertain to the investigation.

(b) No testing period subject to the provisions of the Act shall be less than ninety minutes in length. Such "test period" begins at the time that the examiner begins informing the examinee of the nature and characteristics of the examination and the instruments involved, as prescribed in section 8(b)(2)(B) of the EPPA and Sec. 1.23(a)(2) of this part, and ends when the examiner completes the review of the test results with the examinee as provided in Sec. 1.25 of this part. The ninety-minute minimum duration shall not apply if the examinee voluntarily acts to terminate the test before the completion thereof, in which event the examiner may not render an opinion regarding the employee's truthfulness.

Sec. 1.25 Rights of examinee—post-test phase

(a) The post-test phase refers to any questioning or other communication with the examinee following the use of the polygraph instrument, including review of the results of the test with the examinee. Before any adverse employment action, the employing office must:

(1) Further interview the examinee on the basis of the test results; and

(2) Give to the examinee a written copy of any opinions or conclusions rendered in response to the test, as well as the questions asked during the test, with the corresponding charted responses. The term "corresponding charted responses" refers to copies of the entire examination charts recording the employee's physiological responses, and not just the examiner's written report which describes the examinee's responses to the questions as "charted" by the instrument.

Sec. 1.26 Qualifications of and requirements for examiners

(a) Section 8 (b) and (c) of the EPPA provides that the limited exemption in section 7(d) of the EPPA for ongoing investigations shall not apply unless the person conducting the polygraph examination meets specified qualifications and requirements.

(b) An examiner must meet the following qualifications:

(1) Have a valid current license, if required by the State in which the test is to be conducted; and

(2) Carry a minimum bond of $50,000 provided by a surety incorporated under the laws of the United States or of any State, which may under those laws guarantee the fidelity of persons holding positions of trust, or carry an equivalent amount of professional liability coverage.

(c) An examiner must also, with respect to examinees identified by the employing office pursuant to Sec. 1.30(c) of this part:

(1) Observe all rights of examinees, as set out in Secs. 1.22, 1.23, 1.24, and 1.25 of this part;

(2) Administer no more than five polygraph examinations in any one calendar day on which a test or tests subject to the provisions of EPPA are administered, not counting those instances where an examinee voluntarily terminates an examination prior to the actual testing phase;

(3) Administer no polygraph examination subject to the provisions of the EPPA which is less than ninety minutes in duration, as described in Sec. 1.24(b) of this part; and

(4) Render any opinion or conclusion regarding truthfulness or deception in writing. Such opinion or conclusion must be based solely on the polygraph test results. The written report shall not contain any information other than admissions, information, case facts, and interpretation of the charts relevant to the stated purpose of the polygraph test and shall not include any recommendation concerning the employment of the examinee.

(5) Maintain all opinions, reports, charts, written questions, lists, and other records relating to the test, including, statements signed by examinees advising them of rights under the CAA (as described in section 1.23(a)(3) of this part) and any electronic recordings of examinations, for at least three years from the date of the administration of the test. (See section 1.30 of this part for recordkeeping requirements.)

Subpart D—Recordkeeping and disclosure requirements

Sec. 1.30 Records to be preserved for 3 years

(a) The following records shall be kept for a minimum period of three years from the date the polygraph examination is conducted (or from the date the examination is requested if no examination is conducted):

(1) Each employing office that requests an employee to submit to a polygraph examination in connection with an ongoing investigation involving economic loss or injury shall retain a copy of the statement that sets forth the specific incident or activity under investigation and the basis for testing that particular covered employee, as required by section 7(d)(4) of the EPPA and described in 1.12(a)(4) of this part.

(2) Each examiner retained to administer examinations pursuant to any of the exemptions under section 7(d), (e) or (f) of the EPPA (described in sections 1.12 and 1.13 of this part) shall maintain all opinions, reports, charts, written questions, lists, and other records relating to polygraph tests of such persons.

Sec. 1.35 Disclosure of test information

This section prohibits the unauthorized disclosure of any information obtained during a polygraph test by any person, other than the examinee, directly or indirectly, except as follows:

(a) A polygraph examiner or an employing office (other than an employing office exempt under section 7 (a), or (b) of the EPPA (described in Secs. 1.10 and 1.11 of this part)) may disclose information acquired from a polygraph test only to:

(1) The examinee or an individual specifically designated in writing by the examinee to receive such information;

(2) The employing office that requested the polygraph test pursuant to the provisions of the EPPA (including management personnel of the employing office where the disclosure is relevant to the carrying out of their job responsibilities);

(3) Any court, governmental agency, arbitrator, or mediator pursuant to an order from a court of competent jurisdiction requiring the production of such information;

(b) An employing office may disclose information from the polygraph test at any time to an appropriate governmental agency without the need of a court order where, and only insofar as, the information disclosed is an admission of criminal conduct.

(c) A polygraph examiner may disclose test charts, without identifying information (but not other examination materials and records), to another examiner(s) for examination and analysis, provided that such disclosure is for the sole purpose of consultation and review of the initial examiner's opinion concerning the indications of truthfulness or deception. Such action would not constitute disclosure under this part provided that the other examiner has no direct or indirect interest in the matter.

Subpart E—Duration of Interim Regulations

Sec. 1.40 [Reserved]

Appendix A to Part 801—Notice to Examinee

Section 204 of the Congressional Accountability Act, which applies the rights and protections of section 8(b) of the Employee Polygraph Protection Act to covered employees and employing offices, and the regulations of the Board of Directors of the Office of Compliance (Sections 1.22, 1.23, 1.24, and 1.25), require that you be given the following information before taking a polygraph examination:

1. (a) The polygraph examination area [does] [does not] contain a two-way mirror, a camera, or other device through which you may be observed.

(b) Another device, such as those used in conversation or recording, [will] [will not] be used during the examination.

(c) Both you and the employing office have the right, with the other's knowledge, to record electronically the entire examination.

2. (a) You have the right to terminate the test at any time.

(b) You have the right, and will be given the opportunity, to review all questions to be asked during the test.

(c) You may not be asked questions in a manner which degrades, or needlessly intrudes.

(d) You may not be asked any questions concerning: Religious beliefs or opinions; beliefs regarding racial matters; political beliefs or affiliations; matters relating to sexual preference or behavior; beliefs, affiliations, opinions, or lawful activities regarding unions or labor organizations.

(e) The test may not be conducted if there is sufficient written evidence by a physician that you are suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the examination.

(f) You have the right to consult with legal counsel or other representative before each phase of the test, although the legal counsel or other representative may be excluded from the room where the test is administered during the actual testing phase.

3. (a) The test is not and cannot be required as a condition of employment.

(b) The employing office may not discharge, dismiss, discipline, deny employment or promotion, or otherwise discriminate against you based on the analysis of a polygraph test, or based on your refusal to take such a test without additional evidence which would support such action.

(c)(1) In connection with an ongoing investigation, the additional evidence required for an employing office to take adverse action against you, including termination, may be (A) evidence that you had access to the property that is the subject of the investigation, together with (B) the evidence supporting the employing office's reasonable suspicion that you were involved in the incident or activity under investigation.

(2) Any statement made by you before or during the test may serve as additional supporting evidence for an adverse employment action, as described in 3(b) above, and any admission of criminal conduct by you may be transmitted to an appropriate government law enforcement agency.

4. (a) Information acquired from a polygraph test may be disclosed by the examiner or by the employing office only:

(1) To you or any other person specifically designated in writing by you to receive such information;

(2) To the employing office that requested the test;

(3) To a court, governmental agency, arbitrator, or mediator that obtains a court order.

(b) Information acquired from a polygraph test may be disclosed by the employing office to an appropriate governmental agency without a court order where, and only insofar as, the information disclosed is an admission of criminal conduct.

5. If any of your rights or protections under the law are violated, you have the right to take action against the employing office by filing a request for counseling with the Office of Compliance under section 402 of the Congressional Accountability Act. Employing offices that violate this law are liable to the affected examinee, who may recover such legal or equitable relief as may be appropriate, including, but not limited to, employment, reinstatement, and promotion, payment of lost wages and benefits, and reasonable costs, including attorney's fees.

6. Your rights under the CAA may not be waived, either voluntarily or involuntarily, by contract or otherwise, except as part of a written settlement to a pending action or complaint under the CAA, and agreed to and signed by the parties.

I acknowledge that I have received a copy of the above notice, and that it has been read to me.

(Date)

(Signature)

Application of Rights and Protections of the Worker Adjustment Retraining and Notification Act of 1988 (Implementing Section 204 of the CAA)

Sec.
639.1 Purpose and scope.
639.2 What does WARN require?
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639.4 Who must give notice?
639.5 When must notice be given?
639.6 Who must receive notice?
639.7 What must the notice contain?
639.8 How is the notice served?
639.9 When may notice be given less than 60 days in advance?
639.10 When may notice be extended?
639.11 [Reserved]

§639.1 Purpose and scope

(a) *Purpose of WARN as applied by the CAA.* Section 205 of the Congressional Accountability Act, P.L. 104-1 ("CAA"), provides protection to covered employees and their families by requiring employing offices to provide notification 60 calendar days in advance of office closings and mass layoffs within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act of 1988, 29 U.S.C. §2102. Advance notice provides workers and their families some transition time to adjust to the prospective loss of employment, to seek and obtain alternative jobs and, if necessary, to enter skill training or retraining that will allow these workers to successfully compete in the job market. As used in these regulations. WARN shall refer to the provisions of WARN applied to covered employing offices by section 305 of the CAA

(b) *Scope of these regulations.* These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 205(c) and 304 of the CAA, which directs the Board to promulgate regulations implementing section 205 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 205 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." The regulations issued by the Board herein are on all matters for which section 205 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 205 of the CAA]."

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these sections and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

These regulations establish basic definitions and rules for giving notice, implementing the provisions of WARN. The objective of these regulations is to establish clear principles and broad guidelines which can be applied in specific circumstances. However, it is recognized that rulemaking cannot address the multitude of employing office-specific situations in which advance notice will be given.

(c) *Notice in ambiguous situations.* It is civically desirable and it would appear to be good business practice for an employing office to provide advance notice, where reasonably possible, to its workers or unions when terminating a significant number of employees. The Office encourages employing offices to give notice in such circumstances.

(d) *WARN not to supersede other laws and contracts.* The provisions of WARN do not supersede any otherwise applicable laws or collective bargaining agreements that provide for additional notice or additional rights and remedies. If such law or agreement provides for a longer notice period, WARN notice shall run concurrently with that additional notice period. Collective bargaining agreements may be used to clarify or amplify the terms and conditions of WARN, but may not reduce WARN rights.

§639.2 What does WARN require?

WARN requires employing offices that are planning an office closing or a mass layoff to give affected employees at least 60 days' notice of such an employment action. While the 60-day period is the minimum for advance notice, this provision is not intended to discourage employing offices from voluntarily providing longer periods of advance notice. Not all office closings and layoffs are subject to WARN, and certain employment thresholds must be reached before WARN applies. WARN sets out specific exemptions, and provides for a reduction in the notification period in particular circumstances. Remedies authorized under section 205 of the CAA may be assessed against employing offices that violate WARN requirements.

§639.3 Definitions

(a) *Employing office.* (1) The term "employing office" means any of the entities listed in section 101(9) of the CAA, 2 U.S.C. §1301(9) that employs—

(i) 100 or more employees, excluding part-time employees; or

(ii) employs 100 or more employees, including part-time employees, who in the aggregate work at least 4,000 hours per week, exclusive of overtime.

Workers on temporary layoff or on leave who have a reasonable expectation of recall are counted as employees. An employee has a "reasonable expectation of recall" when he/she understands, through notification or through common practice, that his/her employment with the employing office has been temporarily interrupted and that he/she will be recalled to the same or to a similar job.

(2) Workers, other than part-time workers, who are exempt from notice under section 4 of WARN, are nonetheless counted as employees for purposes of determining coverage as an employing office.

(3) An employing office may have one or more sites of employment under common control.

(b) *Office closing.* The term "office closing" means the permanent or temporary shutdown of a "single site of employment", or one or more "facilities or operating units" within a single site of employment, if the shutdown results in an "employment loss" during *any 30-day period* at the single site of employment for *50 or more* employees, excluding any part-time employees. An employment action that results in the effective cessation of the work performed by a unit, even if a few employees remain, is a shutdown. A "temporary shutdown" triggers the notice requirement only if there are a sufficient number of terminations, layoffs exceeding 6 months, or reductions in hours of work as specified under the definition of "employment loss."

(c) *Mass layoff.* (1) The term "mass layoff" means a reduction in force which first, is not the result of an office closing, and second, results in an employment loss at the single site of employment during *any 30-day period* for:

(i) *At least 33 percent* of the active employees, excluding part-time employees, and

(ii) *At least 50 employees,* excluding part-time employees.

Where 500 or more employees (excluding part-time employees) are affected, the 33% requirement does not apply, and notice is required if the other criteria are met. Office closings involve employment loss which results from the shutdown of one or more distinct units within a single site or the entire site. A mass layoff involves employment loss, regardless of whether one or more units are shut down at the site.

(2) Workers, other than part-time workers, who are exempt from notice under section 4 of WARN are nonetheless counted as employees for purposes of determining coverage as an office closing or mass layoff. For example, if an employing office closes a temporary project on which 10 permanent and 40 temporary workers are employed, a covered office closing has occurred although only 10 workers are entitled to notice.

(d) *Representative.* The term "representative" means an exclusive representative of employees within the meaning of 5 U.S.C. §§7101 *et seq.*, as applied to covered employees and employing offices by section 220 of the CAA, 2 U.S.C. §1351.

(e) *Affected employees.* The term "affected employees" means employees who may reasonably be expected to experience an employment loss as a consequence of a proposed office closing or mass layoff by their employing office. This includes individually identifiable employees who will likely lose their jobs because of bumping rights or other factors, to the extent that such individual workers reasonably can be identified at the time notice is required to be given. The term affected employees includes managerial and supervisory employees. Consultant or contract employees who have a separate employment relationship with another employing office or employer and are paid by that other employing office or employer, or who are self-employed, are not "affected employees" of the operations to which they are assigned. In addition, for purposes of determining whether coverage thresholds are met, either incumbent workers in jobs being eliminated or, if known 60 days in advance, the actual employees who suffer an employment loss may be counted.

(f) *Employment loss.* (1) The term employment loss means (i) an employment termination, other than a discharge for cause, voluntary departure, or retirement, (ii) a layoff exceeding 6 months, or (iii) a reduction in hours of work of individual employees of more than 50% during each month of any 6-month period.

(2) Where a termination or a layoff (see paragraphs (f)(1) (i) and (ii) of this section) is involved, an employment loss does not occur when an employee is reassigned or transferred to employing office-sponsored programs, such as retraining or job search activities, as long as the reassignment does not constitute a constructive discharge or other involuntary termination.

(3) An employee is not considered to have experienced an employment loss if the closing or layoff is the result of the relocation or consolidation of part or all of the employing office's operations and, prior to the closing or layoff—

(i) The employing office offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment, or

(ii) The employing office offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

(4) A "relocation or consolidation" of part or all of an employing office's operations, for purposes of paragraph §639.3(f)(3), means that some definable operations are transferred to a different site of employment and that transfer results in an office closing or mass layoff.

(g) *Part-time employee.* The term "part-time" employee means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required, including workers who work full-time. This term may include workers who would traditionally be understood as "seasonal" employees. The period to be used for calculating whether a worker has worked "an average of fewer than 20 hours per week" is the shorter of the actual time the worker has been employed or the most recent 90 days.

(h) *Single site of employment.* (1) A single site of employment can refer to either a single location or a group of contiguous locations. Separate facilities across the street from one another may be considered a single site of employment.

(2) There may be several single sites of employment within a single building, such as an office building, if separate employing offices conduct activities within such a building. For example, an office building housing 50 different employing offices will contain 50 single sites of employment. The offices of each employing office will be its single site of employment.

(3) Separate buildings or areas which are not directly connected or in immediate proximity may be considered a single site of employment if they are in reasonable geographic proximity, used for the same purpose, and share the same staff and equipment.

(4) Non-contiguous sites in the same geographic area which do not share the same staff or operational purpose should not be considered a single site.

(5) Contiguous buildings operated by the same employing office which have separate management and have separate workforces are considered separate single sites of employment.

(6) For workers whose primary duties require travel from point to point, who are outstationed, or whose primary duties involve work outside any of the employing office's regular employment sites (e.g., railroad workers, bus drivers, salespersons), the single site of employment to which they are assigned as their home base, from which their work is assigned, or to which they report will be the single site in which they are covered for WARN purposes.

(7) Foreign sites of employment are not covered under WARN. U.S. workers at such sites are counted to determine whether an employing office is covered as an employing office under §639.3(a).

(8) The term "single site of employment" may also apply to truly unusual organizational situations where the above criteria do not reasonably apply. The application of this definition with the intent to evade the purpose of WARN to provide notice is not acceptable.

(i) *Facility or operating unit.* The term "facility" refers to a building or buildings. The term "operating unit" refers to an organizationally or operationally distinct product, operation, or specific work function within or across facilities at the single site.

§639.4 Who must give notice?

Section 205(a)(1) of the CAA states that "[n]o employing office shall be closed or a mass layoff ordered within the meaning of section 3 of [WARN] until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff. . ." Therefore, an employing office that is anticipating carrying out an office closing or mass layoff is required to give notice to affected employees or their representative(s). (See definitions in §639.3 of this part.).

(a) It is the responsibility of the employing office to decide the most appropriate person within the employing office's organization to prepare and deliver the notice to affected employees or their representative(s). In most instances, this may be the local site office manager, the local personnel director or a labor relations officer.

(b) An employing office that has previously announced and carried out a short-term layoff (6 months or less) which is being extended beyond 6 months due to circumstances not reasonably foreseeable at the time of the initial layoff is required to give notice when it becomes reasonably foreseeable that the extension is required. A layoff extending beyond 6 months from the date the layoff commenced for any other reason shall be treated as an employment loss from the date of its commencement.

(c) In the case of the privatization or sale of part or all of an employing office's operations, the employing office is responsible for providing notice of any office closing or mass layoff which takes place up to and including the effective date (time) of the privatization or sale, and the contractor or buyer is responsible for providing any required notice of any office closing or mass layoff that takes place thereafter.

(1) If the employing office is made aware of any definite plans on the part of the buyer or contractor to carry out an office closing or mass layoff within 60 days of purchase, the employing office may give notice to affected employees as an agent of the buyer or contractor, if so empowered. If the employing office does not give notice, the buyer or contractor is, nevertheless, responsible to give notice. If the employing office gives notice as the agent of the buyer or contractor, the responsibility for notice still remains with the buyer or contractor.

(2) It may be prudent for the buyer or contractor and employing office to determine the impacts of the privatization or sale on workers, and to arrange between them for advance notice to be given to affected employees or their representative(s), if a mass layoff or office closing is planned.

§639.5 When must notice be given?

(a) *General rule.* (1) With certain exceptions discussed in paragraphs (b) and (c) of this section and in §639.9 of this part, notice must be given at least 60 calendar days prior to any planned office closing or mass layoff, as defined in these regulations. When all employees are not terminated on the same date, the date of the first individual termination within the statutory 30-day or 90-day period triggers the 60-day notice requirement. A worker's last day of employment is considered the date of that worker's layoff. The first and each subsequent group of terminees are entitled to a full 60 days' notice. In order for an employing office to decide whether issuing notice is required, the employing office should—

(i) Look ahead 30 days and behind 30 days to determine whether employment actions both taken and planned will, in the aggregate for any 30-day period, reach the minimum numbers for an office closing or a mass layoff and thus trigger the notice requirement; and

(ii) Look ahead 90 days and behind 90 days to determine whether employment actions both taken and planned each of which separately is not of sufficient size to trigger WARN coverage will, in the aggregate for any 90-day period, reach the minimum numbers for an office closing or a mass layoff and thus trigger the notice requirement. An employing office is not, however, required under section 3(d) to give notice if the employing office demonstrates that the separate employment losses are the result of separate and distinct actions and causes, and are not an attempt to evade the requirements of WARN.

(2) The point in time at which the number of employees is to be measured for the purpose of determining coverage is the date the first notice is required to be given. If this "snapshot" of the number of employees employed on that date is clearly unrepresentative of the ordinary or average employment level, then a more representative number can be used to determine coverage. Examples of unrepresentative employment levels include cases when the level is near the peak or trough of an employment cycle or when large upward or downward shifts in the number of employees occur around the time notice is to be given. A more representative number may be an average number of employees over a recent period of time or the number of employees on an alternative date which is more representative of normal employment levels. Alternative methods cannot be used to evade the purpose of WARN, and should only be used in unusual circumstances.

(b) *Transfers.* (1) Notice is not required in certain cases involving transfers, as described under the definition of "employment loss" at §639.3(f) of this part.

(2) An offer of reassignment to a different site of employment should not be deemed to be a "transfer" if the new job constitutes a constructive discharge.

(3) The meaning of the term "reasonable commuting distance" will vary with local conditions. In determining what is a "reasonable commuting distance," consideration should be given to the following factors: geographic accessibility of the place of work, the quality of the roads, customarily available transportation, and the usual travel time.

(4) In cases where the transfer is beyond reasonable commuting distance, the employing office may become liable for failure to give notice if an offer to transfer is not accepted within 30 days of the offer or of the closing or layoff (whichever is later). Depending upon when the offer of transfer was made by the employing office, the normal 60-day notice period may have expired and the office closing or mass layoff may have occurred. An employing office is, therefore, well advised to provide 60-day advance notice as part of the transfer offer.

(c) *Temporary employment.* (1) No notice is required if the closing is of a temporary facility, or if the closing or layoff is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking.

(2) Employees must clearly understand at the time of hire that their employment is temporary. When such understandings exist will be determined by reference to employment contracts, collective bargaining agreements, or employment practices of other employing offices or a locality, but the burden of proof will lie with the employing office to show that the temporary nature of the project or facility was clearly communicated should questions arise regarding the temporary employment understandings.

§639.6 Who must receive notice?

Section 3(a) of WARN provides for notice to each representative of the affected employees as of the time notice is required to be given or, if there is no such representative at that time, to each affected employee.

(a) *Representative(s) of affected employees.* Written notice is to be served upon the chief elected officer of the exclusive representative(s) or bargaining agent(s) of affected employees at the time of the notice. If this person is not the same as the officer of the local union(s) representing affected employees, it is recommended that a copy also be given to the local union official(s).

(b) *Affected employees.* Notice is required to be given to employees who may reasonably be expected to experience an employment loss. This includes employees who will likely lose their jobs because of bumping rights or other factors, to the extent that such workers can be identified at the time notice is required to be given. If, at the time notice is required to be given, the employing office cannot identify the employee who may reasonably be expected to experience an employment loss due to the elimination of a particular position, the employing office must provide notice to the incumbent in that position. While part-time employees are not counted in determining whether office closing or mass layoff thresholds are reached, such workers are due notice.

§639.7 What must the notice contain?

(a) *Notice must be specific.* (1) All notice must be specific.

(2) Where voluntary notice has been given more than 60 days in advance, but does not contain all of the required elements set out in this section, the employing office must ensure that all of the information required by this section is provided in writing to the parties listed in §639.6 at least 60 days in advance of a covered employment action.

(3) Notice may be given conditional upon the occurrence or nonoccurrence of an event only when the event is definite and the consequences of its occurrence or nonoccurrence will necessarily, in the normal course of operations, lead to a covered office closing or mass layoff less than 60 days after the event. The notice must contain each of the elements set out in this section.

(4) The information provided in the notice shall be based on the best information available to the employing office at the time the notice is served. It is not the intent of the regulations that errors in the information provided in a notice that occur because events subsequently change or that are minor, inadvertent errors are to be the basis for finding a violation of WARN.

(b) As used in this section, the term "date" refers to a specific date or to a 14-day period during which a separation or separations are expected to occur. If separations are planned according to a schedule, the schedule should indicate the specific dates on which or the beginning date of each 14-day period during which any separations are expected to occur. Where a 14-day period is used, notice must be given at least 60 days in advance of the first day of the period.

(c) Notice to each representative of affected employees is to contain:

(1) The name and address of the employment site where the office closing or mass layoff will occur, and the name and telephone number of an employing office official to contact for further information;

(2) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire office is to be closed, a statement to that effect;

(3) The expected date of the first separation and the anticipated schedule for making separations;

(4) The job titles of positions to be affected and the names of the workers currently holding affected jobs.

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

(d) Notice to each affected employee who does not have a representative is to be written in language understandable to the employees and is to contain:

(1) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire office is to be closed, a statement to that effect;

(2) The expected date when the office closing or mass layoff will commence and the expected date when the individual employee will be separated;

(3) An indication whether or not bumping rights exist;

(4) The name and telephone number of an employing office official to contact for further information.

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

§639.8 How is the notice served?

Any reasonable method of delivery to the parties listed under §639.6 of this part which is designed to ensure receipt of notice of at least 60 days before separation is acceptable (e.g., first class mail, personal delivery with optional signed receipt). In the case of notification directly to affected employees, insertion of notice into pay envelopes is another viable option. A ticketed notice, i.e., preprinted notice regularly included in each employee's pay check or pay envelope, does not meet the requirements of WARN.

§639.9 When may notice be given less than 60 days in advance?

Section 3(b) of WARN, as applied by section 205 of the CAA, sets forth two conditions under which the notification period may be reduced to less than 60 days. The employing office bears the burden of proof that conditions for the exceptions have been met. If one of the exceptions is applicable, the employing office must give as much notice as is practicable to the union and non-represented employees and this may, in some circumstances, be notice after the fact. The employing office must, at the time notice actually is given, provide a brief statement of the reason for reducing the notice period, in addition to the other elements set out in §639.7.

(a) The "unforeseeable business circumstances" exception under section 3(b)(2)(A) of WARN, as applied under the CAA, applies to office closings and mass layoffs caused by circumstances that were not reasonably foreseeable at the time that 60-day notice would have been required.

(1) An important indicator of a circumstance that is not reasonably foreseeable is that the circumstance is caused by some sudden, dramatic, and unexpected action or condition outside the employing office's control.

(2) The test for determining when circumstances are not reasonably foreseeable

focuses on an employing office's business judgment. The employing office must exercise such reasonable business judgment as would a similarly situated employing office in predicting the demands of its operations. The employing office is not required, however, to accurately predict general economic conditions that also may affect its operations.

(b) The "natural disaster" exception in section 3(b)(2)(B) of WARN applies to office closings and mass layoffs due to any form of a natural disaster.

(1) Floods, earthquakes, droughts, storms, tidal waves or tsunamis and similar effects of nature are natural disasters under this provision.

(2) To qualify for this exception, an employing office must be able to demonstrate that its office closing or mass layoff is a direct result of a natural disaster.

(3) While a disaster may preclude full or any advance notice, such notice as is practicable, containing as much of the information required in §639.7 as is available in the circumstances of the disaster still must be given, whether in advance or after the fact of an employment loss caused by a natural disaster.

(4) Where an office closing or mass layoff occurs as an indirect result of a natural disaster, the exception does not apply but the "unforeseeable business circumstance" exception described in paragraph (a) of this section may be applicable.

§639.10 When may notice be extended?

Additional notice is required when the date or schedule of dates of a planned office closing or mass layoff is extended beyond the date or the ending date of any 14-day period announced in the original notice as follows:

(a) If the postponement is for less than 60 days, the additional notice should be given as soon as possible to the parties identified in §639.6 and should include reference to the earlier notice, the date (or 14-day period) to which the planned action is postponed, and the reasons for the postponement. The notice should be given in a manner which will provide the information to all affected employees.

(b) If the postponement is for 60 days or more, the additional notice should be treated as new notice subject to the provisions of §§639.5, 639.6 and 639.7 of this part. Rolling notice, in the sense of routine periodic notice, given whether or not an office closing or mass layoff is impending, and with the intent to evade the purpose of the Act rather than give specific notice as required by WARN, is not acceptable.

§639.11 [Reserved]

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. THOMAS] and the gentleman from California [Mr. FAZIO] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, what this resolution does is it accomplishes the same purpose as House Resolution 401, but it is extended to those joint entities under regulations adopted by the Office of Compliance, and those joint entities are the Capitol Guide Board, the Capitol Police Board, the Capitol Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance itself.

Mr. Speaker, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as with the earlier resolution adopting the regulations applicable to the House, my friend, the gentleman from California [Mr. THOMAS], has accurately described the Senate concurrent resolution. Again, it simply approves the regulations issued by the Office of Compliance for those items that are jointly responsible to both houses of the Congress.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman of the committee does want to thank the ranking member. It is difficult enough in making sure that the application of laws that have been applied to the private sector apply equally and fairly to this House, and I have to say that we have had an excellent bipartisan working relationship in making sure that this has been done in a professional manner so that the laws that apply to others apply to us fairly.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. THOMAS] that the House suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 51).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. JACKSON-LEE (at the request of Mr. GEPHARDT) on today, Monday, April 15, 1996, on account of business in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COX of California) to revise and extend their remarks and include extraneous material:)

Mr. HUTCHINSON, for 5 minutes, today.

Mr. COX of California, for 5 minutes, today.

Mr. SHADEGG, for 5 minutes, today.

(The following Members (at the request of Mr. FAZIO of California) to revise and extend their remarks and include extraneous material:)

Mr. WISE, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. KAPTUR, for 5 minutes, today.

(The following Member (at the request of Mr. HAYWORTH) to revise and extend his remarks and include extraneous material:)

Mr. RIGGS, for 5 minutes, on April 16.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Member (at the request of Mr. COX of California) and to include extraneous matter:)

Mr. LEWIS of California.

(The following Members (at the request of Mr. FAZIO of California) and to include extraneous matter:)

Mr. BONIOR.
Mr. STOKES.
Ms. NORTON.
Mrs. MEEK of Florida.
Mr. SERRANO in three instances.
Mr. MANTON.
Mrs. MALONEY.
Mr. TOWNS.
Mr. PALLONE.
Mr. LANTOS in three instances.
Mr. JACOBS.
Mr. FARR of California in two instances.
Mr. FILNER.
Mr. RAHALL.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. HAYES.
Mr. BARTON of Texas.
Mr. COX of California.
Mrs. CHENOWETH.
Mr. COMBEST.
Mr. WATTS of Oklahoma in two instances.
Mr. BAKER of California.
Mr. SPENCE.
Mr. BUNNING of Kentucky.
Mr. KING.
Mr. HOUGHTON.
Mr. GILMAN.
Mr. LIGHTFOOT in two instances.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following days present to the President, for his approval, bills of the House of the following titles:

On March 27, 1996:

H.R. 1833. An act to amend title 18, United States Code, to ban partial-birth abortions.

On April 1, 1996:

H.R. 956. An act to establish legal standards and procedures for product liability litigation, and for other purposes.

H.R. 1561. An act to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of

State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for United States foreign assistance programs for fiscal years 1996 and 1997, and for other purposes.

H.R. 2854. An act to modify the operation of certain agricultural programs.

ADJOURNMENT

Mr. HAYWORTH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 7 minutes a.m.), under its previous order, the House adjourned until today, Tuesday, April 16, 1996, at 9:30 a.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2335. A communication from the President of the United States, transmitting his requests for fiscal year 1996 supplemental appropriations totaling $250 million to intensify our Nation's drug law enforcement, treatment, and prevention efforts, and to designate the amount made available as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, pursuant to 31 U.S.C. 1107 (H. Doc. No. 104–193); to the Committee on Appropriations and ordered to be printed.

2336. A communication from the President of the United States, transmitting his request to make available appropriations totaling $13,025,000 in budgetary authority for the Department of Health and Human Services, in addition a request to redirect appropriations totaling $3,700,000 in budget authority to the Department of Health and Human Services, and to designate the amounts made available as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, pursuant to 31 U.S.C. 1107 (H. Doc. No. 104–194); to the Committee on Appropriations and ordered to be printed.

2337. A communication from the President of the United States transmitting a report of 10 proposed rescissions of budgetary resources, totaling $400.4 million affecting the Department of Defense, pursuant to 2 U.S.C. 683(a)(1) (H. Doc. No. 104–195); to the Committee on Appropriations and ordered to be printed.

2338. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of April 1, 1996, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 104–192); to the Committee on Appropriations and ordered to be printed.

2339. A letter from the Chief of Legislative Affairs, Department of the Navy, transmitting notification that the Department of the Navy intends to transfer by sale the ship U.S.S. *Recovery* to the Taipei Economic and Cultural Representative Office, pursuant to 10 U.S.C. 7307(b)(2); to the Committee on National Security.

2340. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on the transfer of property to the Republic of Panama under the Panama Canal Treaty of 1977 and related agreements, pursuant to 22 U.S.C. 3784(b); to the Committee on National Security.

2341. A letter from the Comptroller General of the United States, transmitting a report entitled, "Financial Audit: Panama Canal Commission's 1995 and 1994 Financial Statements" (GAO/AIMD–96–61) March 1996, pursuant to 31 U.S.C. 9106(a); to the Committee on National Security.

2342. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation entitled the "National Defense Authorization Act for Fiscal Year 1997," pursuant to 31 U.S.C. 1110; to the Committee on National Security.

2343. A letter from the Chairman, Federal Financial Institutions Examination Council, transmitting the Council's 1995 annual report to the Congress, pursuant to 12 U.S.C. 3305; to the Committee on Banking and Financial Services.

2344. A letter from the Chairman, National Credit Union Administration, transmitting the 1995 annual report of the National Credit Union Administration, pursuant to 12 U.S.C. 1256; to the Committee on Banking and Financial Services.

2345. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year—if any—and the budget year provided by House Joint Resolution 170, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–578); to the Committee on the Budget.

2346. A letter from the National Foundation on the Arts and the Humanities, transmitting the Federal Council on the Arts and the Humanities' 20th annual report on the Arts and Artifacts Indemnity Program for fiscal year 1995, pursuant to 20 U.S.C. 959(c); to the Committee on Economic and Educational Opportunities.

2347. A letter from the Secretary of Transportation, transmitting the Department's 20th annual report to Congress entitled "Automotive Fuel Economy Program," pursuant to 49 U.S.C. 32916; to the Committee on Commerce.

2348. A letter from the Chairman, Federal Trade Commission, transmitting the Commission's 80th annual report covering its accomplishments during the fiscal year ended September 30, 1994, pursuant to 15 U.S.C. 46(f); to the Committee on Commerce.

2349. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the semiannual report for the combined periods October 1, 1994 to September 30, 1995 listing voluntary contributions made by the U.S. Government to International Organizations, pursuant to 22 U.S.C. 2226(b)(1); to the Committee on International Relations.

2350. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on chemical and biological weapons proliferation control efforts for the period of February 1, 1995 to January 31, 1996, pursuant to Public Law 102–182, section 308(a) (105 Stat. 1257); to the Committee on International Relations.

2351. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

2352. A communication from the President of the United States, transmitting a report on the evaluation from Liberia of private United States citizens and certain third-country nationals who have taken refuge in the United States Embassy compound wishing to leave. (H. Doc. No. 104–196); to the Committee on International Relations and ordered to be printed.

2353. A letter from the Chair, Foreign Claims Settlement Commission, Department of Justice, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1995, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2354. A letter from the Executive Director, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting the Authority's report on procedures for hiring experts and consultants, pursuant to Public Law 104–8, section 101(e)(1) (109 Stat. 101); to the Committee on Government Reform and Oversight.

2355. A letter from the Executive Director, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting the Authority's report entitled "Report on Final Allocations of the District of Columbia's Fiscal Year 1996 Budget," pursuant to Public Law 104–8, section 202(d) (109 Stat. 113); to the Committee on Government Reform and Oversight.

2356. A letter from the Executive Director, Interstate Commission on the Potomac River Basin, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2357. A letter from the Chairman, National Endowment for the Arts, transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2358. A letter from the Director, Office of Government Ethics, transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2359. A letter from the Special Counsel, Office of Special Counsel, transmitting the annual report of the Office of the Special Counsel [OSC] for fiscal year [FY] 1995, pursuant to Public Law 101–12, section 3(a)(11) (103 Stat. 29); to the Committee on Government Reform and Oversight.

2360. A letter from the President and CEO, Overseas Private Investment Corporation, transmitting the Corporation's fifth annual management report, pursuant to Public Law 101–576, section 306(a) (104 Stat. 2854); to the Committee on Government Reform and Oversight.

2361. A letter from the Chairman, Railroad Retirement Board, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calender year 1995, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2362. A letter from the Chairman, Federal Election Commission, transmitting 50 recommendations for legislative action, pursuant to 2 U.S.C. 438(a)(9); to the Committee on House Oversight.

2363. A letter from the Clerk, U.S. House of Representatives, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period October 1, 1995, through December 31, 1995, as compiled by the Chief Administrative Officer, pursuant to 2 U.S.C. 104a (H. Doc. No. 104-191); to the Committee on House Oversight and ordered to be printed.

2364. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

2365. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

2366. A letter from the Attorney General of the United States, transmitting the 1995 annual report of the Federal Prison Industries, Inc. [FPI], pursuant to 18 U.S.C. 4127; to the Committee on the Judiciary.

2367. A letter from the Director, Federal Judicial Center, transmitting the Federal Judicial Center's annual report for 1995, pursuant to 28 U.S.C. 623(b); to the Committee on the Judiciary.

2368. A letter from the Secretary of Transportation, transmitting the Department's report entitled "Remote Alcohol Testing Program for Masters and Pilots," pursuant to Public Law. 101-380, section 4111(c) (104 Stat. 516); to the Committee on Transportation and Infrastructure.

2369. A letter from the Secretary of Transportation, transmitting the Department's report entitled "Tanker Navigation Equipment, Systems, and Procedures Report," pursuant to Public Law 101-380, section 4111(c) (104 Stat. 516); to the Committee on Transportation and Infrastructure.

2370. A letter from the Chairman, Federal Maritime Commission, transmitting the 34th annual report of the Federal Maritime Commission for fiscal year 1995, pursuant to 46 U.S.C. 1118; to the Committee on Transportation and Infrastructure.

2371. A letter from the Acting Administrator, General Services Administration, transmitting an informational copy of the fiscal year 1997 Capital Investment and Leasing Program of the General Services Administration's Public Buildings Service, pursuant to 40 U.S.C. 606(a); to the Committee on Transportation and Infrastructure.

2372. A letter from the Secretary of Veterans Affairs, transmitting a report covering the disposition of cases granted relief from administrative error, overpayment, and forfeiture by the Administrator in 1995, pursuant to 38 U.S.C. 503; to the Committee on Veterans' Affairs.

2373. A letter from the Chairman, U.S. International Trade Commission, transmitting a draft of proposed legislation to provide authorization of appropriations for the U.S. International Trade Commission for fiscal year 1997, pursuant to 31 U.S.C. 1110; to the Committee on Ways and Means.

2374. A letter from the Director, Office of Government Ethics, transmitting the Office's fourth biennial report to the Congress, pursuant to Public Law 95-452, section 408 (102 Stat. 3032); jointly, to the Committees on the Judiciary and Government Reform and Oversight.

2375. A letter from the Administrator, Federal Aviation Administration, transmitting the Administration's report of progress on developing and certifying the traffic alert and collision avoidance system [TCAS] for the period October through December 1995, pursuant to Public Law 100-223, section 203(b) (101 Stat. 1518); jointly, to the Committees on Transportation and Infrastructure and Science.

2376. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation entitled the "Department of Transportation Regulatory Reform Act of 1996"; jointly, to the Committees on Transportation and Infrastructure and Commerce.

2377. A letter from the Secretary of Commerce, transmitting the annual report of the National Technical Information Service [NTIS] for fiscal year 1994, pursuant to Public Law 100-519, section 212(f)(3) (102 Stat. 2596); jointly, to the Committee on Science and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1527. A bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands and to withdraw lands within ski area permit boundaries from the operation of the mining and mineral leasing laws; with amendments (Rept. 104-516 Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2160. A bill to authorize appropriations to carry out the Interjurisdictional Fisheries Act of 1986 and the Anadromous Fish Conservation Act; with an amendment (Rept. 104-517). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee of Conference. Conference report on S. 735. An act to prevent and punish acts of terrorism, and for other purposes (Rept. 104-518). Ordered to be printed.

SUBSEQUENT ACTION ON BILLS INITIALLY REFERRED UNDER TIME LIMITATIONS

Under clause 5 of rule X, the following actions were taken by the Speaker.

H.R. 1527. The Committee on Agriculture discharged from further consideration. Referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 1527. Referral to the Committee on Agriculture extended for a period ending not later than April 15, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SPENCE (for himself and Mr. DELLUMS) (both by request):

H.R. 3230. A bill to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1997, and for other purposes; to the Committee on National Security.

By Mr. HEFLEY (for himself and Mr. ORTIZ) (both by request):

H.R. 3231. A bill to authorize certain construction at military installations for fiscal year 1997, and for other purposes; to the Committee on National Security.

By Mr. EHRLICH:

H.R. 3232. A bill to amend title XIX of the Social Security Act to repeal the preadmission screening and resident review [PASARR] requirement for nursing facilities under the Medicaid Program; to the Committee on Commerce.

H.R. 3233. A bill to amend titles XVIII and XIX of the Social Security Act to repeal denial of approval of nurse aide training programs based on reasons not associated with quality or operation; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BALLENGER (for himself, Mrs. MEYERS of Kansas, Mr. BARRETT of Nebraska, Mr. HOEKSTRA, Mr. NORWOOD, Mr. STENHOLM, Mr. GRAHAM, Mr. HAYES, Mr. HUTCHINSON, Mr. HALL of Texas, and Mr. BREWSTER):

H.R. 3234. A bill to amend the Occupational Safety and Health Act of 1970; to the Committee on Economic and Educational Opportunities.

By Mr. CANADY (for himself and Mr. HYDE):

H.R. 3235. A bill to amend the Ethics in Government Act of 1978, to extend the authorization of appropriations for the Office of Government Ethics for 3 years, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COMBEST (for himself and Mr. THORNBERRY):

H.R. 3236. A bill to amend the Consolidated Farm and Rural Development Act to provide a grace period for the prohibition on Consolidated Farm Service Agency [CFSA] lending to delinquent borrowers; to the Committee on Agriculture.

By Mr. COMBEST:

H.R. 3237. A bill to provide for improved management and operation of intelligence activities of the Government by providing for a more corporate approach to intelligence, to reorganize the agencies of the Government engaged in intelligence activities so as to provide an improved Intelligence Community for the 21st century, and for other purposes; to the Committee on Intelligence (Permanent Select), and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DEUTSCH (for himself, Ms. ROS-LEHTINEN, Mr. DIAZ-BALART, Mr. JOHNSTON of Florida, Mrs. MEEK of Florida, Mr. HASTINGS of Florida, Mr. GIBBONS, Mr. FOLEY, Ms. WOOLSEY, Mr. BRYANT of Texas, Mr. WARD, Mr. GORDON, and Mr. MANTON):

H.R. 3238. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to establish a national resource center and clearinghouse to carry out, through the

Jimmy Ryce Law Enforcement Training Center for the Recovery of Missing Children, training of State and local law enforcement personnel to more effectively respond to cases involving missing or exploited children, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. DICKEY (for himself. Mr. SHAYS, Mr. INGLIS of South Carolina, Mr. BONILLA, Mr. STUMP, Mr. TAYLOR of North Carolina, Mr. HEFLEY, Mr. BAKER of California, Mr. THORNTON, Mr. PACKARD, Mr. GREEN of Texas, and Mr. KING):

H.R. 3239. A bill to reform the independent counsel statute, and for other purposes; to the Committee on the Judiciary.

By Mr. DORNAN (for himself and Mr. WOLF):

H.R. 3240. A bill to amend the Internal Revenue Code of 1986 to clarify the prohibition against lobbying; to the Committee on Ways and Means.

By Mr. FOGLIETTA (for himself, Mr. BARRETT of Wisconsin, Mr. DELLUMS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. GREEN of Texas, Mr. CLYBURN, Mr. HINCHEY, Ms. NORTON, Mr. HASTINGS of Florida, Miss COLLINS of Michigan, and Ms. MCKINNEY):

H.R. 3241. A bill to amend the Internal Revenue Code to allow the designation of additional empowerment zones and provide additional incentives for empowerment zones and enterprise communities, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Banking and Financial Services, Government Reform and Oversight, Transportation and Infrastructure, Economic and Educational Opportunities, International Relations, Commerce, the Judiciary, National Security, and Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HUTCHINSON (for himself and Mr. SCOTT):

H.R. 3242. A bill to provide for the reporting of deaths of persons in custody; to the Committee on the Judiciary.

By Mr. JACOBS:

H.R. 3243. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to reduce certain funds if eligible States do not enact certain laws; to the Committee on the Judiciary.

By Ms. NORTON:

H.R. 3244. A bill to amend the Internal Revenue Code of 1986 to provide for individuals who are residents of the District of Columbia a maximum rate of tax of 15 percent on income from sources within the District of Columbia; to the Committee on Ways and Means.

By Mr. POMEROY:

H.R. 3245. A bill to amend the Internal Revenue Code of 1986 to provide a deduction for higher education expenses; to the Committee on Ways and Means.

By Mr. SCHUMER (for himself, Mr. KENNEDY of Massachusetts, and Mrs. MALONEY):

H.R. 3246. A bill to amend the Electronic Fund Transfer Act to protect the consumer with regard to fees imposed in connection with an electronic fund transfer initiated by a consumer, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. THOMPSON (for himself, Mr. CLYBURN, Mr. HILLIARD, and Ms. EDDIE BERNICE JOHNSON of Texas):

H.R. 3247. A bill to redesignate the Herbert Clark Hoover Department of Commerce Building located at 14th Street and Constitution Avenue, NW, in Washington, DC, as the "Ronald H. Brown Commerce Building"; to the Committee on Transportation and Infrastructure.

By Mr. HOUGHTON (for himself, Mr. WATT of North Carolina, Mr. CHABOT, Mr. ACKERMAN, Mr. PAYNE of New Jersey, Mr. HASTINGS of Florida, Mr. ENGEL, and Mr. FRAZER):

H. Con. Res. 160. Concurrent resolution congratulating the people of the Republic of Sierra Leone on the success of their recent democratic multiparty elections; to the Committee on International Relations.

By Mr. STOCKMAN:

H. Con. Res. 161. Concurrent resolution authorizing the use of the Capitol Grounds for the Washington for Jesus 1996 prayer rally; to the Committee on Transportation and Infrastructure.

By Mr. THOMAS:

H. Res. 400. Resolution approving regulations to implement the Congressional Accountability Act of 1995 with respect to employing offices and covered employees of the House of Representatives; to the Committee on House Oversight.

H. Res. 401. Resolution directing the Office of Compliance to provide educational assistance to employing offices of the House of Representatives regarding compliance with the Congressional Accountability Act of 1995 and requiring employing offices of the House of Representatives to obtain the prior approval of the chairman and the ranking minority party member of the Committee on House Oversight of the House of Representatives of the amount of any settlement payments made under such Act; to the Committee on House Oversight.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

214. By the SPEAKER: Memorial of the House of Representatives of the State of Idaho, relative to the training range at Mountain Home Air Force Base, ID; to the Committee on National Security.

215. Also, memorial of the Senate of the State of Idaho, relative to opposition to any legislation seeking to authorize the United Nations to levy taxes on the people and corporations of the United States directly or indirectly for U.N. purposes; to the Committee on International Relations.

216. Also, memorial of the House of Representatives of the State of Idaho, relative to the reintroduction of grizzly bears to Idaho; to the Committee on Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 26: Mr. SALMON.

H.R. 28: Mr. SALMON.

H.R. 123: Mr. BROWNBACK.

H.R. 209: Mr. SALMON.

H.R. 218: Mr. HEFNER.

H.R. 246: Mr. BATEMAN.

H.R. 248: Ms. NORTON, Ms. ESHOO, and Mr. GUTIERREZ.

H.R. 351: Mr. ROHRABACHER, Mr. NEY, Mr. BONO, Mr. WELDON of Florida, Mr. DOOLITTLE, Mr. HORN, Mr. HUTCHINSON, Mr. CALLAHAN, Mr. BAKER of California, and Mr. KING.

H.R. 392: Mr. NEY.

H.R. 452: Ms. NORTON.

H.R. 580: Mr. SCOTT, Mr. BROWN of California, and Mr. ROMERO-BARCELÓ.

H.R. 773: Mr. PAYNE of New Jersey, Mr. CUNNINGHAM, Mrs. MORELLA, and Mr. CHABOT.

H.R. 777: Mr. FALEOMAVAEGA, Ms. JACKSON-LEE, Mr. SAXTON, and Mr. CRAMER.

H.R. 778: Mr. FALEOMAVAEGA, Ms. JACKSON-LEE, Mr. SAXTON, and Mr. CRAMER.

H.R. 779: Ms. MOLINARI.

H.R. 780: Ms. MOLINARI.

H.R. 784: Mrs. CHENOWETH and Mrs. SEASTRAND.

H.R. 791: Mr. BATEMAN.

H.R. 820: Mrs. MEYERS of Kansas.

H.R. 833: Mr. BECERRA.

H.R. 835: Ms. MCKINNEY, Mrs. CLAYTON, Mr. CONYERS, Mrs. MALONEY, Mr. FRAZER, Mr. OWENS, and Mr. CLYBURN.

H.R. 858: Mr. PAYNE of New Jersey, Mr. BARCIA of Michigan, Mr. KENNEDY of Rhode Island, Mr. DOYLE, Mr. KLINK, Mr. BONIOR, Mr. ENGLISH of Pennsylvania, Mr. HINCHEY, Mr. SHUSTER, Mr. SKELTON, Mr. GONZALEZ, Mr. FROST, Mr. PETERSON of Minnesota, Mr. HEFLEY, Mr. KLECZKA, Mr. LATOURETTE, Mr. BRYANT of Texas, Mr. THORTON, Mr. WISE, Ms. BROWN of Florida, and Mrs. LOWEY.

H.R. 885: Mr. FORBES.

H.R. 911: Mrs. SMITH of Washington, Mr. WATTS of Oklahoma, Mr. CUNNINGHAM, Ms. NORTON, Ms. PELOSI, and Mr. HASTINGS of Florida.

H.R. 941: Mr. SAWYER.

H.R. 958: Mr. WOLF, Mr. OWENS, Mr. STUPAK, Mr. TORRICELLI, Mr. GENE GREEN of Texas, Mr. FILNER, Mr. FAZIO of California, Mr. KILDEE, Mr. GUTIERREZ, and Mr. CLYBURN.

H.R. 1005: Mr. SALMON.

H.R. 1023: Mr. DIXON, Mr. KNOLLENBERG, Mr. SKELTON, Mr. CARDIN, Mr. NUSSLE, Ms. DUNN of Washington, Ms. ESHOO, Mr. PETE GEREN of Texas, and Mr. NORWOOD.

H.R. 1033: Mr. DAVIS.

H.R. 1073: Mr. WARD, Mr. SMITH of Texas, Mr. TORKILDSEN, and Mrs. THURMAN.

H.R. 1074: Mr. WARD, Mr. SMITH of Texas, Mr. TORKILDSEN, and Mrs. THURMAN.

H.R. 1131: Mr. SALMON.

H.R. 1210: Mr. CRAMER and Mr. TRAFICANT.

H.R. 1227: Mr. WALSH, Mr. WELDON of Florida, and Mr. CRAMER.

H.R. 1355: Ms. KAPTUR.

H.R. 1386: Mr. HALL of Texas, Mr. PETERSON of Minnesota, Mr. DAVIS, Mr. EHRLICH, and Mrs. FOWLER.

H.R. 1402: Mr. MORAN.

H.R. 1483: Mr. WALSH.

H.R. 1484: Mr. WATT of North Carolina, Mr. KLINK, Mr. WYNN, Mr. GREEN of Texas, and Mrs. LOWEY.

H.R. 1496: Mr. FRANK of Massachusetts.

H.R. 1501: Mr. BATEMAN and Mr. ZIMMER.

H.R. 1507: Mr. ENGEL, Mr. WAXMAN, Mr. JOHNSTON of Florida, Mr. WILLIAMS, Mr. JACKSON, Mrs. MORELLA, Mr. SANDERS, Mr. WARD, and Ms. LOFGREN.

H.R. 1527: Mr. SKAGGS and Mr. ZELIFF.

H.R. 1547: Mr. NADLER.

H.R. 1619: Mr. TEJEDA, Mr. SMITH of Texas, Mr. QUINN, and Mr. DELLUMS.

H.R. 1711: Mr. FUNDERBURK, Mr. DUNCAN, and Mr. MCINTOSH.

H.R. 1776: Mr. SISISKY, Mr. FLANAGAN, Mr. HOBSON, Mr. KASICH, Mr. MATSUI, Mrs. MYRICK, Mr. SHAYS, Mr. HOYER, Miss COLLINS of Michigan, Mr. ABERCROMBIE, Mrs. LINCOLN, Mr. MOAKLEY Mr. GILLMOR, Mrs. MORELLA, Mrs. MALONEY, Ms. PRYCE, Mr.

Gejdenson, Mr. Waxman, and Mr. Baker of California.

H.R. 1810: Mr. Salmon.

H.R. 1893: Mr. Filner.

H.R. 1981: Mr. Salmon.

H.R. 2024: Mr. White.

H.R. 2137: Mr. McIntosh.

H.R. 2167: Mr. Ney, Mr. Brown of California, Mr. Emerson, and Mr. Manton.

H.R. 2214: Mr. Stark, Mr. Brown of California, Mr. English of Pennsylvania, Mr. Emerson, and Mr. Rahall.

H.R. 2240: Mr. Martinez.

H.R. 2244: Mr. Martini.

H.R. 2270: Mr. Emerson and Mr. Pombo.

H.R. 2450: Mr. Barcia of Michigan, Mr. Faleomavaega, Mr. Green of Texas, Mr. Hoke, Mr. Solomon, Mr. Clay, Mr. Deal of Georgia, Mr. Hastings of Florida, and Mr. Gonzalez.

H.R. 2566: Mr. Markey, Mr. Greenwood, and Mr. Durbin.

H.R. 2579: Mr. Graham, Mr. Rush, Mr. Collins of Georgia, Mr. Talent, Mr. Davis, Mr. Hamilton, Mr. Laughlin, Mr. Zimmer, and Mr. Torkildsen.

H.R. 2585: Mr. Olver.

H.R. 2618: Mr. Sanders and Mr. Brown of California.

H.R. 2651: Mr. Peterson of Minnesota and Mr. Yates.

H.R. 2655: Mr. Martini.

H.R. 2683: Ms. Woolsey, Mr. Gilman, Mr. Hutchinson, Mr. Young of Florida, Mr. Barton of Texas, Mrs. Fowler, and Mr. Talent.

H.R. 2701: Mr. Montgomery, Mr. Gejdenson, Mr. Schiff, Mr. Fattah, and Mr. Diaz-Balart.

H.R. 2745: Mr. Leach.

H.R. 2757: Mr. Forbes, Mr. Cramer, and Mr. Roberts.

H.R. 2779: Mr. Lewis of Kentucky, Mr. Payne of Virginia, Mr. Paxon, and Mr. Hobson.

H.R. 2796: Mr. Bentsen.

H.R. 2820: Mr. Hutchinson, Mr. Dickey, Mr. Emerson, Mr. Hayes, Mr. Baker of Louisiana, Mr. Ney, Mr. Upton, Mr. Tiahrt, and Mr. Duncan.

H.R. 2875: Mr. Baker of Louisiana, Mr. Calvert, and Mr. Romero-Barceló.

H.R. 2911: Mr. LaHood.

H.R. 2912: Ms. Furse.

H.R. 2959: Mr. Scott, Mr. Fawell, Mr. Ford, and Mr. Frost.

H.R. 2994: Mr. Oberstar, Mr. Frank of Massachusetts, Mr. Clement, Mr. Fazio of California, Mr. Evans, Mr. Bereuter, Mr. Hinchey, and Mr. Wynn.

H.R. 3002: Mr. McIntosh and Mrs. Meyers of Kansas.

H.R. 3050: Mr. Evans, Mr. Bonior, and Mr. Bereuter.

H.R. 3059: Mr. Hilliard and Mr. Stark.

H.R. 3065: Mr. Deutsch and Mr. Crapo.

H.R. 3067: Ms. Rivers, Mr. Foglietta, Ms. Pryce, and Mr. Miller of California.

H.R. 3085: Mr. Camp.

H.R. 3086: Mr. Weldon of Florida and Mr. Hilleary.

H.R. 3102: Mr. Klink, Mr. Barrett of Wisconsin, Mr. Lipinski, and Mrs. Schroeder.

H.R. 3104: Mr. Calvert, Mr. Barrett of Nebraska, Ms. Norton, and Mr. Pomeroy.

H.R. 3118: Mr. Frost, Mr. Moakley, Mr. Solomon, Mr. Mascara, Mr. Hall of Texas, and Mr. Tejeda.

H.R. 3119: Mr. Moakley, Ms. Roybal-Allard, Mr. Mascara, Mr. Dornan, Mr. Tejeda, Mr. Hall of Texas, and Mr. Volkmer.

H.R. 3123: Mr. Smith of New Jersey, Mr. Solomon, and Mr. Calvert.

H.R. 3139: Mr. Lazio of New York, Mr. Ackerman, Mr. Flake, Mr. Manton, Mr. Serrano, Mrs. Kelly, Mr. Gilman, Mr. Solomon, Mr. Boehlert, Mr. McHugh, and Mr. Walsh.

H.R. 3141: Ms. Lofgren.

H.R. 3142: Mr. Norwood, Mr. Watts of Oklahoma, Mr. Kim, Mr. Ortiz, Mr. Riggs, Mr. Rahall, Mr. Green of Texas, Mr. Bilbray, Mr. Hutchinson, Mr. Bereuter, Mr. Peterson of Florida, Mr. Hefner, Mr. Ehrlich, Mr. Hobson, Mr. Martinez, Mr. Whitfield, Mr. Emerson, Mr. Ward, Mr. Evans, Mr. Kingston, Mr. Sisisky, Mr. Baker of California, Mr. Wolf, Mr. McHugh, Ms. Brown of Florida, Mrs. Fowler, Mr. Cooley, Mr. Olver, Mr. Hastings of Florida, Mr. Stump, Mr. Skeen, Mr. Brown of California, Mr. Torkildsen, Mr. Romero-Barceló, and Mr. Nethercutt.

H.R. 3153: Mr. Hilliard, Mr. Mica, Mr. Bunning of Kentucky, Mr. Baker of Louisiana, Mr. Crapo, Mr. Holden, Mr. Tanner, Mr. Bereuter, Mr. Burr, Mr. Duncan, Mr. Hoke, Mr. Chapman, and Mrs. Chenoweth.

H.R. 3165: Mr. Riggs, Mr. Stupak, and Mr. Romero-Barceló.

H.R. 3195: Mr. Green of Texas, Mr. Coburn, Mr. Frost, Mr. Hefley, Mr. Lucas, and Mr. Hutchinson.

H.R. 3226: Ms. Molinari.

H.J. Res. 114: Mr. Reed.

H.J. Res. 159: Mrs. Vucanovich, Mr. Bass, Mrs. Meyers of Kansas, and Ms. Ros-Lehtinen.

H. Con. Res. 47: Mr. Stupak, Mr. Neumann, Mr. Hoyer, Mr. Hall of Ohio, Mr. Gonzalez, and Mr. Fattah.

H. Con. Res. 50: Mr. Watt of North Carolina.

H. Con. Res. 128: Mrs. Meek of Florida, Ms. Velázquez, Ms. Pelosi, Mrs. Maloney, and Ms. Norton.

H. Con. Res. 145: Mr. Lipinski.

H. Con. Res. 151: Mr. Mascara and Mr. Cramer.

H. Res. 30: Mr. Fox, Mr. Collins of Georgia, Mrs. Schroeder, Mr. Smith of Texas, Mr. Lantos, and Mr. DeLay.

H. Res. 49: Mr. DeFazio and Ms. Slaughter.

H. Res. 348: Mr. English of Pennsylvania, Mr. Flanagan, Mr. Burr, Mr. Manzullo, Mr. Moorhead, Mr. McKeon, and Mr. Hunter.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[Omitted from the Record of September 19, 1995]

H. Con. Res. 12: Mr. Livingston.

[Omitted from the Record, March 29, 1996]

H.J. Res. 159: Mr. Goss.

[Submitted April 15, 1996]

H.R. 1972: Mr. Peterson of Minnesota.

PETITIONS, ETC.

Under clause 1 of rule XXII.

70. The SPEAKER presented a petition of the Dutchess County Legislature, NY, relative to flow control; which was referred to the Committee on Commerce.

EXTENSIONS OF REMARKS

COMMEMORATING YOM HASHOAH

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mrs. MALONEY. Mr. Speaker, tomorrow, we will all gather in the majestic setting of the Capitol rotunda to carry out our solemn annual obligation to commemorate Yom HaShoah—Holocaust Remembrance Day.

The length of time to pass since the Holocaust is now more than half a century, and it is even more incumbent upon us to ensure that the lessons and legacies of this dark period in history are never forgotten. As the Holocaust survivors themselves grow older and pass away, we must ensure that the phrase "zachor"—remember—does not become a mere slogan. Preventing such a catastrophe from ever occurring again is only possible if we continue to pass on the memories of the Nazi era to our children.

Mr. Speaker, yesterday I was privileged to attend the Annual Holocaust Commemoration in New York City. This ceremony, which took place at the beautiful Temple Emanu-El in my district, included a stirring speech by Benjamin Meed, the president of the Warsaw Ghetto Resistance Organization. As he does each year, my friend Ben Meed delivered a moving tribute to those who perished and those who survived. I commend Ben's remarks to my colleagues.

AN ADDRESS BY BENJAMIN MEED, PRESIDENT, WARSAW GHETTO RESISTANCE ORGANIZATION, 53D ANNUAL COMMEMORATION OF THE WARSAW GHETTO UPRISING

We are together again—the entire Jewish people, men, women, and children, to commemorate the murder of the Jewish people by the Germans and their collaborators. They made no distinctions among Jewish people at the gates of hell. Together we were all pushed to the gas chambers. For one reason only—we were born as Jews.

This commemoration, which I have the honor to chair for the 35th year, is deeply emotional for me as it is for many of you. For many years, the survivors alone remembered. We kept reliving our nightmares in the hope that the world would pay attention to our past, and now, the world has heard our story.

People have started to understand that what happened was real. When we testified collectively, the world began to take our tragic experience seriously—and to heed our warning.

Or perhaps it is because all humanity is frightened that the tragic, unique lesson that we Jews experienced, can happen again—this time on a cosmic scale—to all people. And it is all because survivors kept faith with the final command imparted to us by the Kedoshiml Zachor—Gedenk—Remember.

We accepted that obligation and took it with us to our adopted homes throughout the world. In Israel or Argentina—in Sweden or France—throughout the United States and Canada—survivors remember. How can we forget? How can we allow others to forget? How betrayed and isolated we were by the high and the mighty—and the ordinary people. The so called ordinary people were not so ordinary. Many highly educated were nevertheless motivated to murder us.

Immediately after the Holocaust they said they did not know. How could they not have known? On the cattle cars to Auschwitz and Treblinka—throughout Poland, Czechoslovakia, and Hungary on the way to death—we criss-crossed all of Europe—day after day after day—screaming for help in Yiddish and Polish, Greek and German, Dutch and Flemish, Russian, and French. But the world would not listen as we were herded together from the four corners of Nazi Europe to be murdered—only because we were Jews.

We Jews now speak other languages. And on Yam Hashoah we gather from every part of the world—to remember together. And Jews are united—not by death—but by memory and by a love of Israel. To us survivors, the State of Israel is not only a political entity. It is a homeland—a realized dream—a bright beacon of light in a world desperate for hope.

And yet we are still afraid—but it is a different fear. Those who were fortunate enough not to have experienced the Holocaust do not and cannot understand how we survivors feel when we see how our tragic past is remembered by others. We are deeply hurt when we see the way the Holocaust is portrayed as only dead bodies—piles and piles of corpses and mass graves. We survivors shudder, for in a way we fear that Hitler succeeded because the world is not aware of the vibrant Jewish life that was before the Holocaust—or of the cultural heritage of 1,000 years of Jewish history in Europe. It does not hear the songs of the shtetl, the theme of Warsaw, the Yeshivot of Vilna, the Hasidim of Belz, or the poets of Lodz and Krakow.

All it recognizes is death. Yet we remember the life that was destroyed—the world that is no longer. The world of Yiddishkeit and Menchlichkeit.

We are still asking the questions—how did it happen? Who failed? What failed? But these questions should not distract our attention from the real murderers—the Germans and their collaborators—or from the profound failure of world leaders and church leaders. Their silence has yet to be judged by history.

And we think not only of the past but also of the future. To you—our children assembled here, we would like to entrust our memories—as part of our last will and testament. You are the last generation to be blessed with the memories of the survivors—the living witnesses to the kingdom of night. This is your heritage, which we are transmitting to you. You must know your roots. You must remember that your very birth was testimony of the triumph of hope over despair—of dreams over pain. You are our response to those who tried to destroy us.

We also want to protect the truth from innocent and well-meaning people who speak only of the good—of the rays of hope and goodness—the righteous Gentiles whose memories we cherish with gratitude. But where was the reality? For every righteous person, there were thousands who collaborated or who shared the enemy's desire to murder the Jews or who, at best, stood idly by and did nothing.

Let us remember the Holocaust as it was. It was painful. It was bitter. It was ugly. It was inhuman. But it was real. Let us not permit it to be diluted or vulgarized. Let us not diminish its meaning by treating every event in human history—every instance of human suffering or discrimination as a Holocaust.

We survivors know that time is growing short, we are getting older and we need each other more than ever before, and we need you—our children and our fellow Jews to continue our legacy.

RECOGNITION OF DR. JOHN "BOB" MAZERO

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. MURTHA. Mr. Speaker, it is a rare thing these days to find someone like Dr. Bob Mazero. He reminds us of the kind of doctor our parents used to call at his home and ask to come over on a Saturday night if one of the kids had a fever. In a small community like Latrobe, PA, being on call is not something that you schedule. It is getting called away from your family's Fourth of July picnic because a boy on the other side of town got too close to a bottle rocket, or pulled away from Thanksgiving dinner because one of your patients had a bad fall and you're the only one she trusts to examine her. For over 30 years, Dr. Mazero has been that type of doctor, one that everyone in town has seen at some time or other in their lives, and he always remembers their names, and usually remembers to ask how their father is doing or how their daughter is getting along in college. He's one of the most depended on, faithful, trusted members of the community. In times of crisis, he often is the one a whole family looks to for reassurance, and he has to provide that the best way he can. He is a true community leader, and we could use many more like him.

Dr. Mazero did not have to return to his little hometown to practice medicine. He could have stayed in Washington, or Cleveland, or Pittsburgh, where he studied, or gone to some other big city with opportunities for a bright young doctor.

But he came back to the town where he grew up and devoted his life, not only to making sure Latrobe had one of the best community hospitals in the country, but to advance the role of a community hospital in creating an educational environment for other physicians as well. He was not content to be just one of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the doctors who made his rounds and went home. He cared about teaching other young doctors, and about connecting the community to its medical centers and to its source of health care. That is why, as director of Latrobe Area Hospital, he has worked to create partnerships between the hospital and several regional colleges, medical schools, as well as other area medical centers. For his outstanding achievements in these areas, he has earned numerous civic and academic honors throughout his career.

As we debate health care reforms in Washington, we have to always remember that the medical personnel are at the heart of any system, and that no matter what we do to health care, it's only going to be as good as those individuals providing it. It is because of these professionals that America has the best health care system in the world. And against that measure, it is why we are all so glad to join in recognizing Bob Mazero as Latrobe's Italian American of the Year.

YOM HASHOAH: REMEMBER, HONOR, REFLECT

HON. STEVE C. LaTOURETTE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. LATOURETTE. Mr. Speaker, this evening at Fairmount Temple in Beachwood, OH, a Yom HaShoah V'Hagvura Commemoration is being held. Had the House of Representatives not been in session this day, I would have joined my friends and constituents at this special community event. I deeply regret not being able to attend the Yom HaShoah Commemoration, and wish to commend those who worked so hard to make the evening a success.

The purpose of this community commemoration is to remember the Holocaust and the Warsaw Ghetto Uprising. This evening's special commemorative event is part of the larger Holocaust Day of Remembrance—an internationally recognized day set aside annually to remember the victims of the Holocaust, including the 6 million Jews murdered by the Nazis and their evil collaborators.

As the member of Congress representing Ohio's 19th District, it has been a profound honor for me to serve on the council of the U.S. Holocaust Memorial Museum in Washington, DC. This council was created by a unanimous act of Congress in 1980 and was charged with the task of creating the U.S. Holocaust Memorial Museum. Our mission is to encourage remembrance of the Holocaust—to remember its victims—and to assure that never again in history will we allow bigotry and hatred to run unchecked.

There are some who will assert that the Holocaust was about Jews and therefore any remembrance of the Holocaust will have meaning only to Jews. Those people could not be more wrong. When we remember the Holocaust we remember a historical truth too great for most to fathom, but one that can never be forgotten. If we know anything about history, it is that it tends to repeat itself. The Holocaust, however, must never be repeated. While it is painful to dwell on such a heinous slice of history, it is a pain that should never be far from the hearts and minds of all Americans, for America responded to the horror of the Holocaust in a way that was tragically and regretfully inadequate.

The systematic extermination of European Jews began in June 1941 when the German Army invaded the Soviet Union, yet it would be some time until reports of atrocities would filter back to the United States, and even longer until they were taken seriously. Most Americans, meanwhile, remained unaware of the horror inflicted on European Jews, as reports of atrocities were not widely publicized by the media. American and British Jewish organizations, however, took the reports with the seriousness they deserved, and only at their insistence did the American and British governments decide to act to rescue those European Jews who had fallen victim to the Nazis.

As you commemorate the Warsaw Ghetto Uprising this evening, it is important to remember that at the same time the uprising began—April 1943—the Bermuda Conference opened. This emergency conference was intended to outline a solid plan for rescuing Jews from Nazi atrocities, yet little was accomplished, as both British and American delegates fretted over what to do with those Jews who would be rescued. The United States would not budge on its immigration quotas, and Britain would not even consider the possibility of admitting rescued Jews into Palestine.

The two governments exhibited cowardice and indifference while those staging the revolt displayed unparalleled backbone and heroism. The inaction at the Bermuda Conference, unfortunately, would lead to additional torture and extermination of Jews. This followed, of course, our country's unwise refusal to relax immigration quotas following the Evian Conference in 1938. It hardly seems possible today given our country's leadership in helping others, but of the 33 countries represented at Evian, only the tiny Dominican Republic agreed to accept a significant number of Jewish refugees. The American response to Hitler's Germany is a legacy of shame we can never forget.

Meanwhile, at the same time America and Britain could not agree on what to do about rescuing Jews from Nazi atrocities, Jews in the Warsaw Ghetto residents were carrying out an orchestrated revolt, refusing to report to deportation areas and staging an armed uprising. The Jews fought valiantly against their Nazi tormentors, even as German forces began destroying the ghetto, setting buildings on fire to force out those in hiding. Finally, on May 16, 1943—nearly a month after the heroic uprising began—the Nazis in one last act of horrific bravado destroyed the Great Synagogue to symbolize victory. With the ghetto reduced to rubble, those Jews who survived the monthlong violent Warsaw Ghetto uprising were deported to forced-labor or extermination camps, where Nazi horror, tyranny and hatred continued to reign.

On this day, it is my fervent hope that all Americans will pause and embrace the spirit of the Day of Remembrance, and the tireless efforts of those who seek to make this day resonate with significance—from my friends at Fairmount Temple to all the Jewish, community and civic organizations across the country, to the dedicated staff and council of the U.S. Holocaust Museum. May all Americans make a lasting commitment never to forget the Holocaust, or the moral, spiritual, and ethical questions it raises for those of us blessed to live in a democracy.

THE INTELLIGENCE COMMUNITY ACT

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. COMBEST. Mr. Speaker, I have introduced today the Intelligence Community Act. This bill represents an important stage in our committee's major project, IC21: The Intelligence Community in the 21st Century.

The Intelligence Community Act makes comprehensive changes in how we manage intelligence. I would like to outline for my colleagues the principles that have led to this legislation.

First and foremost, the United States continues to need a strong, highly capable and increasingly flexible intelligence community. Our national security concerns are more varied and in many ways more complex than they were during the cold war.

The United States needs an intelligence community that is more corporate, i.e., one that works better together as a more coherent enterprise aiming toward a single goal the delivery of time intelligence to policy makers at various levels.

A key issue is opportunity, not reform. In the aftermath of our cold war victory we are more secure than we have been since 1940. This is a good time to update and modernize intelligence.

IC21 is not a budget or staffing exercise. It is an effort to ascertain the type of intelligence community we will need as we enter the next century. Issues of cost and size should be debated during the regular legislative budget deliberations.

Finally, the focus must be on where the intelligence community needs to be in the next 10 to 15 years, not a snapshot of where we are today.

With these principles—flexibility, "corporateness," opportunity, future vision—in mind, the Intelligence Community Act proposes several changes. Among them are:

A more clearly defined central role for the Director of Central Intelligence [DCI] as head of the intelligence community, including expanded authority over resources and personnel. The DCI would also continue to be directly responsible for the CIA, clandestine services and the community management staff.

Re-establishing the Committee on Foreign Intelligence within the National Security Council, to provide regular guidance and feed back to the DCI.

Creating a second Deputy DCI. One Deputy DCI would run CIA, the other would run the community management staff, thus giving the DCI greater back-up and support for this two major responsibilities—the CIA and the intelligence community.

The Director of the Defense Intelligence Agency [DIA] would be designated as the Director of Military Intelligence, the senior uniformed military intelligence officer.

CIA would be confirmed as the premier all-source analytical agency. DIA continues to be the focal point for managing Defense all-source analysis.

The Clandestine Service, comprising current CIA and Defense clandestine human collectors, would be combined into a single entity and separated from CIA.

A new Technical Collection Agency [TCA] would manage the technical collection activities of signals, imagery and measurement, and signatures intelligence.

A new Technology Development Office [TDO] would manage intelligence community research and development.

The current National Intelligence Council would become the National Intelligence Evaluation Council, with the key responsibility of making sure that intelligence means and ends are correlated, and that every effort is made to provide the best intelligence to policy makers.

IC21 also comprises a number of non-legislative proposals that will be found in the unclassified staff studies, which would be available later this week.

I want to thank the staff members of the Permanent Select Committee on Intelligence who have devoted much of the last year to this effort. The bill I have introduced today is a testament to their hard work and to their vision.

I urge my colleagues to look over this bill carefully, and the staff studies as well. The staff of the intelligence committee is always available for questions and consultation.

This is a daunting agenda and an important one. Informal discussions among the staff of interested congressional committees in the House and Senate and with the executive indicate agreement on many of the principles I have outlined. I optimistically look forward to working with my colleagues over the next few months to pass a bill that will give us the intelligence community we will need as we enter the 21st century.

PERSONAL EXPLANATION

HON. HELEN CHENOWETH

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mrs. CHENOWETH. Mr. Speaker, on Tuesday, March 12 and Wednesday, March 13 last week, I was unable to be here due to an illness in the family and missed rollcall votes 56–61.

Had I been here, I would have voted: "No" on rollcall vote 56, "Yea" on rollcall vote 57, "Yea" on rollcall vote 58, "No" on rollcall vote 59, "No" on rollcall vote 60, and "Yea" on rollcall vote 61.

HONORING RETIRING NORTH MIAMI POLICE DEPUTY CHIEF LAURENCE R. JURIGA

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mrs. MEEK of Florida. Mr. Speaker, after more than 31 years of service with the North Miami Police Department, Laurence R. Juriga retired on April 10, 1996. He began his career in 1964 as a patrol officer and is retiring as deputy chief of police.

Chief Juriga distinguished himself over three decades as an officer of the utmost integrity and professionalism. His rise from patrol officer to deputy chief attests to his abilities. He possesses a wealth of practical and administrative knowledge for which his peers turn to him when seeking input on wide-ranging topics. The entire North Miami police force views him with esteem and respect.

Beyond his normal job duties, Chief Juriga established himself as a vibrant member of the North Miami community through unparalled participation in community activities. He has been instrumental in organizations including the Police Officers Assistance Trust, the North Miami Foundation for Senior Citizens, and the Dade County Association of Chiefs of Police. He has been active in the Special Olympics and the Easter Seal program.

Chief Juriga also initiated the North Miami Police Department's Angel Network, a system through which more than 2,800 gifts were collected and distributed to needy children this past Christmas. These behind the scenes efforts are exactly what set Chief Juriga apart from the norm.

As he moves forward with his wife, Nancy, into the next phase of his life, I wish him continued happiness.

NATIONAL MEDICAL LABORATORY WEEK

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. BONIOR. Mr. Speaker, there are more than a quarter million certified laboratory personnel, including pathologist, medical technologists, clinical laboratory scientists, and specialists, practicing preventive medicine in more than 12,000 medical laboratories in the United States.

These highly trained and dedicated professionals make invaluable contributions to the quality of health care in the United States. They save countless lives by providing reliable test results required for prevention, detection, diagnosis, and the treatment of illness and disease. By carefully performing high quality tests and providing reliable information, these vital health care workers help physicians make diagnosis, early, when cures are most likely to succeed. Test results may also help rule out certain conditions thereby avoiding unnecessary treatment, saving money, and most importantly, ensuring the proper treatment.

We all must take responsibility for our health, but ultimately, our well-being depends on the cooperation and coordination that exists between the many individuals devoted to maintaining health. Doctors, nurses, dietitians, teachers, parents, and the staff at our Nation's medical laboratories all play important roles.

The dedicated professionals who work in these laboratories save lives every day. They play a crucial role in the delivery of health care services in America and I am proud to join with the Michigan Society for Clinical Laboratory Science in recognizing this week, April 14–20, 1996, as National Medical Laboratory Week.

TRIBUTE TO CAPTAIN ROBERT B. SHIELDS, U.S. NAVY

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. SPENCE. Mr. Speaker, I rise today to ask my colleagues to join me in paying tribute to a dedicated U.S. Navy officer, gentleman and a friend as he prepares to take command of the U.S.S. *Vicksburg,* CG–69.

Most of you will remember Capt. Robert B. Shields for his tour as a deputy legislative assistant to the Chairman of the Joint Chiefs of Staff. Captain Shields served in this challenging position with honor and distinction until last year, when he returned to the fleet to prepare to take command on one of our finest ships–and *Aegis* Class cruiser.

He has been connected with the Congress in one position or another for over 5 years of his distinguished 23-year Navy career. Captain Shields' accomplishments are an integral part of the continuing saga of the U.S. Navy in its third century of service to the Nation as it fully realizes the talent and potential of men who ply the sea in the service of our great Nation. I would like to take a moment to highlight Bob's career milestones.

A native of Providence, RI, Captain Shields is a graduate of the U.S. Naval Academy, Annapolis, MD, class of 1972. Captain Shields also earned a master's degree in engineering acoustics from the Naval Post Graduate School. His military career began in 1972 with his first assignment to U.S.S. *Alwin* where he was first lieutenant and anti-submarine warfare officer. His second shipboard tour came when he commissioned U.S.S. *Nicholson* and served as her weapons officer. He then served his third shipboard tour as weapons officer in U.S.S. *Richmond K. Turner.*

Capitalizing on his demonstrated leadership skills, the Navy sent Captain Shields to attend the Royal Navy Staff College in Greenwich, England. this was followed by service as executive office in U.S.S. *Sterett,* then homeported in the Republic of the Philippines. Detaching from his executive officer tour, Captain Shields was assigned to the office of the director, research, development and acquisition and then completed a year as a Federal executive fellow at the American Enterprise Institute. His first exposure to congress came when he was assigned as the congressional Liaison office for surface ship programs in the Navy's Office of Legislative Affairs. Upon conclusion of that assignment, Captain Shields took command of U.S.S. *O'Bannon*. With that successful tour behind him, Captain Shields was hand picked to be a legislative assistant to the Chairman and Vice-Chairman, Joint Chiefs of Staff.

Captain Shields has been awarded the Defense Distinguished Service Medal, the Meritorious Service Medal, four Navy Commendation Medals, and the Joint Meritorious Unit Commendation. He is married to the former Jennifer Reith of London, England, and has two wonderful children, Sarah and Robert.

Bob was one of the principal liaison officers to Congress for both General Powell and General Shalikashvili during momentous times in our Nation's history—the end of the cold war, Operations Provide Promise, Provide Hope, Provide Comfort, Southern Watch, Deny Flight, and Restore Democracy, among countless other military operations and exercises. During the restoration of democracy in Haiti, he accompanied Members of this House on a fact-finding delegation to that troubled country. He has served as the Chairman of the Joint Chiefs of Staff's principal liaison with the House National Security Committee and the House Appropriations Committee. I and many others of this body have often depended on him to be on top of the national security issues of the day, complete with timely, sound, and accurate information and advice.

Mr. Speaker, it is a great honor and personal privilege for me to pay tribute to Capt. Robert B. Shields before the Congress in honor of his taking command of U.S.S. *Vicksburg* on May 3, 1996. It is clear, through a record of accomplishment, Bob is someone dedicated to the peace and freedom this Nation enjoys today. We wish him every success as he assumes his new command and for what I know will be a bright future. May he always have fair winds and following seas.

INTRODUCTION OF SMALL BUSINESS OSHA RELIEF ACT

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. BALLENGER. Mr. Speaker, today I and several of my colleagues are introducing the Small Business OSHA Relief Act of 1996.

Mr. Speaker, nearly 1 year ago, President Bill Clinton traveled to a small sheet metal plant in northwest Washington, DC, and declared that it was time to create a "new OSHA."

I certainly agree with the President on the need to change OSHA. OSHA, said President Clinton, needs to change so that its emphasis is on "prevention, not punishment," and so that the agency uses "common sense and market incentives to save lives."

Throughout the past year, no doubt largely in response to initiatives here in Congress to reform OSHA, the Clinton administration struggled to convince us and the American public that OSHA was being reinvented. Assistant Secretary Joe Dear, for example, said in congressional testimony last year: "If there is one single message you take away from this hearing today, I hope it is this: that OSHA is changing the way it does business." The marks of the new OSHA, according to the Assistant Secretary, would be the elimination of inspection and penalty quotas; a less confrontation approach to enforcement, including reductions in penalties for employers who promptly correct violations; and commonsense regulations.

Whatever the genesis for this recognition of the need to change OSHA by the Clinton administration, I, and I know many of my colleagues as well, have applauded it. The direction of these changes is the same as we have pushed for in H.R. 1834, the Safety and Health Improvement and Regulatory Reform Act. Obviously what the Clinton administration has proposed does not go as far as H.R. 1834, and in my view does not go far enough. But they at least move OSHA in the same direction.

President Clinton announced that he would veto H.R. 1834 even before that bill was marked up in subcommittee. It was clear from the circumstances of that veto message that it had much to do with Presidential election politics and little to do with the legislation itself, but the promise of a veto effectively stopped realistic prospects for enacting comprehensive OSHA reform this year.

Nonetheless, I believe it is important to solidify the progress that has been made in changing OSHA in the direction that Republicans and many of my Democratic colleagues have called for for years, and which President Clinton called for 1 year ago. For that reason, I am introducing the Small Business OSHA Relief Act of 1996.

The Small Business OSHA Relief Act of 1996 is comprised of five provisions, each of which comes directly from policy pronouncements by the Clinton administration.

The first provision comes from statements made by Labor Secretary Reich in support of measuring and balancing the costs and benefits of OSHA standards, consistent with the administration's goal for OSHA of more "commonsense regulations."

The second provision adopts President Clinton's directive of April 21, 1995, granting a waiver of penalties for small businesses which correct violations within a reasonable period of time. As President Clinton said in announcing that directive, "We will stop playing 'gotcha' with decent, honest business people who want to be good citizens. Compliance, not punishment, should be our objective."

The third provision adopts and follows an OSHA compliance directive issued in November 1995 regarding citations for paperwork violations. In recent years, a majority of the most commonly cited OSHA standards are paperwork requirements. OSHA's compliance directive recognizes that these paperwork violations have often been technical and nitpicking, and don't address real health or safety problems. Including this change in the statute will give employers and employees assurance that this common sense change will be more permanent than is the case with a compliance directive.

The fourth provision codifies OSHA's State consultation grants program. The consultation grants program was created by OSHA to assist small businesses in improving safety and health in their workplaces. Historically, these grants, which are given to State agencies or colleges in each State to provide consultation services, have been underfunded, requiring employers who seek assistance to wait up to 2 years for assistance. The Clinton administration has endorsed the codification of the consultation grants program.

The fifth and last provision of the bill would codify another mark of the new OSHA—elimination of the use of inspections, citations, and penalties as performance measures for inspectors and their supervisors.

The Small Business OSHA Relief Act codifies the positive changes to OSHA on which the Clinton administration and we agree, so that we can build on those and continue to work constructively to create a truly new OSHA.

I welcome my colleagues' support and cosponsorship of the Small Business OSHA Relief Act of 1996.

TAX DAY

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. PACKARD. Mr. Speaker, today millions of Americans will scramble to file their taxes. My Republican colleagues and I are fighting hard to ensure that all Americans keep more of their hard earned money.

Taxpayers deserve relief now. That is why my colleagues in both the House and the Senate passed the Contract With America's tax relief plan. Americans need tax reform, but that will not happen overnight. While we consider tax reform in Congress, there are a number of things we have done to lift the burden from America's families and encourage economic growth. We passed a $500 child tax credit for families. We provided capital gains tax relief. We expanded IRA's, just to name a few. Unfortunately, President Clinton vetoed the Republican plan. With the stroke of a pen he vetoed pro-family, projob tax relief.

In spite of the President's veto, we must continue to do what is right for America. The protaxpayer agenda we begin to consider today is a tremendous step in the right direction. The tax limitation amendment, by requiring a two-thirds vote to raise taxes, will reign in escalating taxes. It will finally put an end to the roller coaster ride of the IRA's tax code and return fiscal responsibility to Washington. Almost every State that has implemented tax and spending limitations has witnessed below average growth is State spending and higher than average economic growth.

As Daniel Webster Said, "An unlimited power to tax involves, necessarily, the power to destroy." Mr. Speaker, my Republican colleagues and I are committed to protecting America's families from tax-and-spend Washington. Americans not only need tax protection they need tax relief.

A TRIBUTE TO ALLEN "BUD" SPENCER

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. WELLER. Mr. Speaker, today, I'd like to honor Allen "Bud" Spencer for his 27 years of dedicated service as director of Twin Oaks Savings Bank. While we wish him well in his retirement, his commitment and hard work will be greatly missed.

Mr. Spencer's long career started in World War II where he served as a tank commander and platoon leader in the 745th Tank Battalion of the First Infantry Division or "The Big Red One."

His length of service can be noted in the number of battles he fought in: Normandy Beachhead, St. Lo Breakthrough, Falaise Pocket, Battle of Mons, Seigfried Line, Battle of Aachen, Hurtgen Forest, Battle of the Bulge, Roer and Rhine, Remagen Bridgehead, Ruhr Pocket, and Harz Mountains.

For his bravery and patriotism, Mr. Spencer received the Silver Star, two Bronze Stars, the Purple Heart, and a battlefield commission. Thank you for your service to our Nation.

Mr. Spencer also gave to his community. After the war he owned and operated Spencer's Insurance and subsequently was elected director of Marseilles Building & Loan in 1969 where under his guidance the business prospered and flourished. In 1976, he was elected president and chairman of the board and under his leadership a new bank building was constructed and consumer loans, ATM cards, and checking accounts were added.

Mr. Spencer, thank you for your dedication and devotion to not only your country, but your community, neighbors, friends, and family. You will be missed.

A TRIBUTE TO ROLLAND E. ALEXANDER II

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of CSM Rolland E. Alexander II. Alexander will be recognized at a celebration in his honor on April 20 as he retires after nearly 40 years in the California Army National Guard.

CSM Alexander is a third generation Californian and was born in San Francisco. A graduate of Rio Hondo College, he is also a second generation national guardsmen following his father's service in World War I. CSM Alexander enlisted in 1957 as a member of Battery C, 215th Field Artillery, 40th Armored Division, now designated as Battery C, 2d Battalion, 144th Field Artillery, 40th Infantry Division (Mechanized). In his civilian capacity Alexander works as a technical consultant in marketing services for the Southern California Edison Co.

While assigned to the battery, CSM Alexander has served in a number of positions including cannoneer, gunner, section sergeant, and chief of firing battery. Over the years, he has served in a variety of capacities and has served as CSM of Detachment 3, State Area Command, Los Alamitos Armed forces Reserve Center, Los Alamitos, CA, since December 1993.

CSM Alexander has been recognized for his service and is the recipient of numerous commendations including the Meritorious Service Medal, Army Commendation Medal, Army Achievement Medal, California Commendation Medal, California Medal of Merit, Good Conduct Medal, California State Service Medal, the Order of St. Barbara, and others.

CSM Alexander is currently the president of the Sergeants Major Association of California, life member of the California Enlished Associaton of the National Guard of the United States, the National Guard Association of California, National Rifle Association, California Rifle and Pistol Associaton, and many other civic oriented associations.

Mr. Speaker, I ask that you join me, our colleagues, CMS Alexander's family, and many friends in honoring him for his years of dedicted service. After serving our State and country well for nearly 40 years, it is only appropriate that the House recognize CSM Alexander today as he begins his well deserved retirement.

RECOGNITION OF WILLIAM H. BOWERS

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. MURTHA. Mr. Speaker, I would like to say a few words of congratulations and thanks to a distinguished member of the community in my district. A lifetime member of American Legion Post 57, and the most recent Western Vice Commander, William H. Bowers has made numerous outstanding achievements that have greatly benefitted his fellow veterans and citizens in his home county of Indiana, PA.

He has held numerous offices in addition to the American Legion Western Vice Commander. While serving as post commander, Saltsburg, he received the National Americanism Award. He has been honored as Post Commander of the Year in Pennsylvania, as well as Indiana County Veteran of the Year; in addition he has served as Commander of the Indiana County United Veterans, Indiana County Commander, District 27 Commander, District 27 Adjutant, and Vice Chairman of the Citizens Flag Allegiance. He has also been recognized by the ROTC for his many accomplishments.

In addition to being a lifetime member of the American Legion, Commander Bowers is also a member of the VFW Post 7901, Amvets Post 277, and VVA Chapter 286.

Among his many civic contributions are establishing bylaws for the Indiana County United Veterans Advisory Council and serving as chairman of the Indiana County Veterans Memorial Committee. He organized and still serves as the CEO of Boy Scout Troop No. 157 in Saltsburg and manages the Young Township senior legion baseball team. He has also been a guest speaker at the Indiana University of Pennsylvania's sociology department representing VVA Chapter 286.

1991 was a very painful year for us in and near the 12th district of Pennsylvania, when 25 local gulf war soldiers were killed in action. Commander Bowers gave a memorable tribute to those young men and women by organizing a veterans honor guard of over 300 veterans with colors for their funerals. Commander Bowers was also instrumental in having a gulf war honor roll erected on the Indiana County Courthouse lawn, listing all Indiana County veterans serving in the Gulf.

William H. Bowers served in the Army with the Military Assistance Group overseas.

I salute Commander Bowers for his lifelong dedication to his fellow soldiers and his community.

HONORING SHERIFF CHARLES A. FUSELIER, SHERIFF OF THE YEAR

HON. JAMES A. HAYES

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. HAYES. Mr. Speaker, when I heard that my friend of over 25 years was being honored by the National Sheriff's Association as "Sheriff of the Year," I was gratified to know that the national law enforcement community was finally acknowledging what the citizens of St. Martin Parish and all of Acadiana have known for a long time—that Charles August Fuselier is one of the most effective, top flight sheriffs in the country.

In his statement, Sheriff Fuselier said he was "shocked" to learn of his selection by the National Sheriff's Association. He should not have been. Charles Fuselier's dedication to public service and the protection of the public in his rural South Louisiana Parish is unparalleled. Like his father before him, Sheriff Fuselier demonstrates every day total commitment to making St. Martin Parish a safer place to live, work, and raise a family.

Through his leadership and his work on the Triad Program, St. Martin Parish became a testing ground and model for all of America in preventing crimes against our senior citizens. The Triad forms a coalition between local sheriffs, police chiefs, and senior citizens' groups to reduce the victimization and unwarranted fear of crime which disproportionately plagues senior citizens. By bringing the Triad concept to life, Sheriff Fuselier has opened up the lines of communication with seniors in the community and has made the seniors feel more comfortable and trusting that their interests will be protected.

Sheriff Fuselier once told me that he received more than a 10-fold return on his investments using volunteers, who work in his office 2 to 3 days a week, so that crimes have been quickly resolved because of greater senior participation. While in the Congress I may have worked to ensure Federal involvement in Triad, but Triad is growing across the country because of the efforts and devotion of Sheriff Fuselier. The Triad information network has the potential to be the cornerstone of future crime fighting activities within the seniors community.

I commend the National Sheriff's Association for bestowing my friend with this honor and congratulate Sheriff Fuselier for the great achievement of being named "Sheriff of the Year."

HONORING MEL DEARDORFF

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. BAKER of California. Mr. Speaker, America's firefighters serve on the frontlines of public safety. Risking their lives and health to save people at risk, their courage and resourcefulness are the watchwords of their profession.

No one better typifies the finest traditions of firefighting than Mel Deardorff. Mel retired recently after 35 years of service in the San Ramon Valley region, for the last 8 years serving as fire chief of the San Ramon Valley Fire Protection District.

Mel helped reduce the Insurance Services Office rating in the San Ramon region; was influential in establishing expanded firefighting services; facilitated a new paramedic program; added engine company, fire prevention, and clerical staff; and made many other contributions to fire safety in the East Bay region of San Francisco. He was a member of many professional organizations, including the International Association of Fire Chiefs and California Fire Chiefs.

Mel Deardorff was a public servant whose leadership, commitment, and dedication helped enable residents of the San Ramon and Danville, CA communities to go to sleep knowing that they were in good hands. As a resident of Danville for 25 years. I am thankful for all Chief Deardorff has done for my hometown and the San Ramon Valley region. He deserves sincere thanks from people throughout Contra Costa County, and I am pleased to have this opportunity to recognize him in the CONGRESSIONAL RECORD.

TRIBUTE TO DR. RICARDO ALEGRIA

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. SERRANO. Mr. Speaker, it is with great honor that I rise today to pay tribute to a very distinguished countryman, Dr. Ricardo Alegria, for his outstanding contributions to the investigation, preservation, and recognition of the culture and history of Puerto Rico.

Dr. Alegria, is one of the pioneers who established the studies on archaeology, anthropology, and culture of Puerto Rico and the Caribbean. Yesterday, which was also his birthday, the Smithsonian Institution awarded him the Smithsonian Bicentennial Medal for his great legacy to Puerto Rican culture and history.

Dr. Alegria is well known as a humble man, always accessible to the people, and a profound thinker in all his areas of inquiry. He is internationally recognized as the most distinguished Latin American in the field of preservation of historic cities and in the studies of the anthropology and archaeology of Puerto Rico and the Caribbean.

His interest in the study of mankind and how humans identify themselves with their surroundings started at a very early age; as a child he opened a small museum at his home with pieces and little stones that he had collected from the ground at his family farm.

He studied at the University of Puerto Rico, and obtained a master in archaeology from the University of Chicago and a Ph.D. in archaeology from Harvard. After his return to the island, young Dr. Alegria went to Loiza and Luquillo where he performed excavations that uncovered evidence of our earliest inhabitants, the arcaicos, and of the later Indians, the igneris.

In 1955, Dr. Alegria became the director of the Institute of Puerto Rican Culture. Under his leadership, the institute enhanced the recognition of, strengthened, and promoted Puerto Rican culture as a heritage with Indian, African, and Spaniard influences, as well as its own folklore traditions. For his willingness to engage in the enormous task of investigating and compilating historical data on Puerto Rico and for the resurgence of the popular arts we owe him a great debt of gratitude.

Some of his published works include the History of Our Indians ("Historia de Nuestros Indios"), Folkloric Tales of Puerto Rico ("Cuentos Folklóricos de Puerto Rico"), Anthology: the Theme of Coffee in Puerto Rican Literature ("Antología: El Tema Del Café en la Literatura Puertoriqueña") and the magazine published by the Institute of Puerto Rican Culture, ("Revista del Instituto de Cultura Puertorriqueña").

One of his most important accomplishments, for which he received the Picasso Gold Medal of the United Nations Educational, Scientific, and Cultural Organization, is the restoration and preservation of Puerto Rican historical monuments. A very special award, the Picasso Medal has only been awarded to Dr. Alegria and to the historical village of Paris. Among the historical monuments that were restored under Dr. Alegria's supervision were the Indian Ceremonial Center, the Church of Porta Coeli, and the capital of Puerto Rico, Old San Juan, which is now a jewel among the historic sites of the Americas.

Dr. Alegria is internationally renown as an eminence in the restoration of historic cities, as well as for his patronage of the arts. From directing the Center of Advanced Studies in Puerto Rico and the Caribbean, and founding the Center of Archaeological and Ethnological Investigations of the University of Puerto Rico, to the reorganization of a great number of museums in Puerto Rico, Dr. Alegria has left a legacy of devotion and dedication to the instruction and preservation of the Puerto Rican culture.

Among other honors, Dr. Alegria received the Medal of Isabel La Católica, awarded by the Spanish Government and the Medal of the Fifth Centenary of the Discovery of America and Puerto Rico, bestowed by the Puerto Rican Government.

The Puerto Rican people and the Puerto Rican community, here in the United States and all over the world are in debt to Dr. Alegria for his outstanding contributions to the study, celebration, and promotion of our culture and history. In my congressional district of the South Bronx, and in all of New York City, as well as, throughout the Americas, we are all beneficiaries of his cultural heritage.

Mr. Speaker, I ask my colleagues to join me in recognizing the great contributions of Dr. Alegria, hero of the Puerto Rican culture.

TRIBUTE TO RICHARD A. BROWN

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. MANTON. Mr. Speaker, I rise today to pay tribute to Mr. Richard A. Brown honored April 18 as the Judiciary of Queens County by the Queens Borough Lodge of Elks.

Mr. Speaker, Mr. Brown is an distinguished judge who has long served the community of Queens in many different capacities. He is a member of the American Bar Association, the New York State Bar Association, the Association of the Bar of the City of New York and the Queens County Bar Association.

District Attorney Richard A. Brown of Queens County was born in Brooklyn, NY on November 13, 1932. He received his Bachelor of Arts degree from Hobart College in 1953, was graduated from New York University School of Law in June 1956 and was admitted to the Bar by the Appellate Division, Second Department in October 1956. Judge Brown is married and resides in Forest Hills, NY with his wife and three lovely children, Karen, Todd, and Lynn.

Mr. Speaker, Mr. Brown has served the State of New York in numerous ways since becoming a member of the Judiciary in 1973. He spent 9 years serving in various important legal positions on behalf of the leadership of the New York State Senate and Assembly and at the 1967 New York State Constitutional Convention and 4 years as New York City's legislative Representative in Albany where he managed the city's Albany office and supervised its legislative program.

After serving as a Judge of the Criminal Court for less than 2 years, Judge Brown was appointed the Supervising Judge of the Brooklyn Criminal Court. In 1976, he was designated as an Acting Justice of the Supreme Court of the State of New York and was given the added responsibility for supervising the operations of the Criminal Court in Richmond County.

Mr. Speaker, in 1977, Judge Brown was elected a Justice of the Supreme Court in Queens County. He then served as the Governor's chief legal advisor for 3 years before returning to the Supreme Court as an Associate Justice of the Appellate Division, Second Department where he was twice redesignated as a member of the Appellate Division by Governor Mario M. Cuomo.

On June 1, 1991, Judge Brown accepted Governor Cuomo's appointment as the District Attorney of Queens County and was reelected without opposition to another full term in 1995. Under Judge Brown's leadership, the Queens District Attorney's Office has attained an extraordinary reputation as one of the finest prosecutor's offices in the State. Throughout his career, Judge Brown has served the judicial community and the people of New York with unwavering dedication.

Mr. Speaker, I am proud to recognize the achievements of Richard A. Brown, and I know my colleagues join me in congratulating him as he is honored by the Queens Borough Lodge of Elks.

INTRODUCTION OF THE DISTRICT OF COLUMBIA ECONOMIC RECOVERY ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Ms. NORTON. Mr. Speaker, today I am introducing the District of Columbia Economic Recovery Act [DCERA], a bill to provide a Federal tax reduction to the residents of the District of Columbia. The bill comes at a time when the city's financial viability is in peril. The Constitution obligates the Congress to maintain the Capital of the United States. The DCERA will allow Congress to do so without direct aid, by encouraging middle income residents to remain and to move to the District.

Last February, the Washington Post reported that the District has already lost more residents in the 1990's than in the entire decade of the 1980's. The District's tax base is declining so rapidly that it is doubtful that it will gain the ability to support itself, notwithstanding even the most dramatic reduction in the size of its government. In 1993, for example, only 9,838 D.C. residents or 3.4 percent of the tax filers were solidly middle income in the $75,000 to $100,000 range, while 65 percent had incomes of $30,000 or less. Ominously, 11.5 percent of D.C. tax filers had an income between $50,000 and $100,000, compared with almost 20 percent nationally.

The bill seeks to accomplish the goal of replenishing middle income residents and families through a Federal tax discount. The tax is progressive because it has large initial exemptions ($15,000 for single filers, $25,000 for single heads of household, and $30,000 for married joint filers); the mortgage interest deduction and the charitable giving deductions are retained; and a uniform tax rate of 15 percent is applied in a progressive fashion up the income scale. Only bona fide District residents can qualify for this special rate and only on their D.C. sourced income. The bill defines a bona fide resident as one who has maintained his or her place of abode in the District, been physically present in such a place of abode for at least 183 days of the taxable year, and has paid District of Columbia income taxes. Naturally, District residents who work in the metropolitan region will also benefit from the tax deduction. The metropolitan region is defined by the Federal Government's "Consolidated Metropolitan Statistical Area."

The bill exempts capital gains, so long as they are District investments by bona fide District residents. This provision is meant to stimulate investment in D.C. businesses and other economic development. In come from Social Security and from the qualified pension plans of bona fide D.C. residents are considered D.C. sourced and thus eligible for the tax reduction. Investment income on activity within the District will also qualify for the special tax rate. In short, income from outside the District or the region will not get the benefit of the DCERA. The provisions of the bill restricting the tax reduction to D.C. residents on their D.C. sourced income are designed to prevent speculators and wealthy people from taking advantage of the bill or turning the District into a tax haven. A freeze on property taxes is an additional safeguard that I am seeking from the city council.

Some Members will question why the District should receive a Federal tax reduction that is not available to other jurisdictions. This unique bill is being considered only because of the unique responsibility of the Congress for the Capital of the United States and because a grave financial crisis threatens the District's viability as a city. The District has no State to help support it, and therefore lacks any additional sources for a long-term revenue stream or other necessary ongoing relief. The District is the only city without a State to recycle revenue from wealthier areas; the only city that pays for State, county, and municipal functions; and the only city prevented by Congress from taxing commuters who use city services. As a result, the District is a financial orphan without a State to bear State costs, such as Medicaid and prisons, and without access to the other aid that States regularly give to their troubled big cities. Because none of the usual remedies is available to the District, a tax cutting approach to stem the hemorrhage of taxpayers holds virtually the only promise.

As this House is well aware, the District is in a state of fiscal insolvency and cannot borrow from Wall Street, but only from the U.S. Treasury. A Control Board was appointed nearly a year ago and is working to downsize the Government (10,000 jobs by 1999—5,600 jobs already eliminated), control spending, and return the District to financial solvency. When New York, Philadelphia, and Cleveland became insolvent, State aid and State takeover of city functions were critical to the recovery of those cities. That possibility does not exist presently for the District, the only city in the United States without a State. As a result, there is little prospect that the city can become self-supporting without extraordinary measures.

In the absence of state aid, this Federal tax reduction is the only remedy that has the potential in this Congress to allow the District to recover from its insolvency. I believe that this approach could also serve as a model for States which want to encourage taxpayers to remain in large cities, by reducing State income taxes for city residents; but, of course, only Congress can provide such a remedy for the District. The value of a tax reduction is in the encouragement it gives to residents to remain in a city with many problems, paying high city taxes, maintaining the schools and other services, and otherwise halting decline because of increased taxpayer presence.

The District is the only jurisdiction that flies the American flag where residents pay Federal income taxes, but do not have full representation in the House and have no representation in the Senate. The four territories pay no Federal income tax at all, while the District is second per capita in the payment of Federal income taxes. This bill will not give the District full equity in this regard—D.C. residents would continue to pay Federal taxes without full congressional representation and full self-government. The District seeks only sufficient tax relief to help sustain itself through income from its own residents—as most jurisdictions do—in the absence of other viable alternatives.

I believe that the District of Columbia Economic Recovery Act fits the tax cutting mood of the country and of both parties and the administration. I ask the Members of this House to join me in our efforts to save the District of Columbia through this bill.

THE COMMUNITY MOBILIZATION CONFERENCE AND TRAINING ON GANGS, VIOLENCE, AND DRUGS

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. FILNER. Mr. Speaker and colleagues, I rise today to recognize the Annual Community Mobilization Conference and Training on Gangs, Violence, and Drugs which was convened in my hometown of San Diego, CA on April 4 and 5.

This is the seventh annual conference that has been convened by Nu-Way Youth and Social Services, a local community-based organization. The conference is a national, collaborative event that brings parents, educators, law enforcement officers, probation officers, prosecutors, health and social service providers, together with civic, political, and spiritual leaders to discuss the latest technologies and strategies for combatting juvenile crime in our communities.

Mr. Speaker, this conference is not the result of a Federal program or government funding. In fact, this conference receives no government funding at all.

This conference is a true collaborative project. And by its very nature, it reinforces the notion that "it takes a village to raise a child"—and it challenges all of our citizens to accept the responsibility and join in our struggle to keep our youth free from the influence of gangs and drugs.

Mr. Speaker, I am proud that Nu-Way, a valuable resource in the fight against gangs, drug abuse, and violence, is based in my congressional district, and I applaud the efforts of Nu-Way and the Community Mobilization Conference for their important role in our fight against juvenile crime.

TRIBUTE TO ADAM DARLING

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. FARR of California. Mr. Speaker, for any parent, the death of a child is surely life's greatest tragedy. I can personally remember the profound grief and gloom that swept over my own father and family when my youngest sister Nancy was tragically killed following a horseback riding accident in Colombia, where I served in the Peace Corps more than 30 years ago. Even now, not a day goes by that my family does not sorely miss Nancy and regret the fact that she did not live longer, though we all know she led a magnificent life while she was with us.

The same sentiment, I am sure, will be true for the family of Santa Cruz resident Adam Darling, who left this world last week with Commerce Secretary Ron Brown and 32 other brave Americans in an ill-fated flight over Bosnia. Adam died doing precisely what he wanted: Serving his country, while working to make the world a better place. The eternal optimist, Adam had once offered to ride his bike cross-country from his home in Santa Cruz to Washington, DC for then Governor Bill Clinton because he felt he could make a difference in the 1992 presidential race. After the election, he ended up in Washington working in the Commerce Department. When I arrived to be sworn in as a Member of Congress, Adam was there to meet me. He brought his father, the Reverend Darrell Darling from Santa Cruz with him to all of our Washington activities. According to Darrell, "Adam Darling was a leader among his peers, his friends, his family and in his work. His leadership grew from a keen and uncluttered mind, a character free of shame, given or received, and a thoroughly generous spirit. He was very realistic about both public policy and public service, and the limitations and temptations of both. Adam's realism never became cynical. When you decide to make a difference where there is risk, you can't calculate the cost or be guaranteed delivery from pain or loss. Bosnia is a land of grief and turmoil and none of us is immune."

At the Commerce Department, Adam served as staff in the press office for several months before becoming a personal assistant to the Deputy Secretary of Commerce for 2 years. Adam was also instrumental in bringing state-of-the art science to Central Coast and the country. Just 1 year ago, he helped organize the first-ever link between classrooms across America and marine biologists working in the Monterey Bay. Ron Brown had recently asked Adam to handle press relations and advance planning for the economic development mission in Bosnia. According to his family, "Adam saw it as an opportunity to make a significant contribution to a peace effort where it is severely needed."

Rather than working hard to gain personal attention, Adam worked hard for the sheer pleasure of doing a job well and the satisfaction of knowing he had helped make someone else's life a little more livable. He was one of the many invisible government hands working in Bosnia to ensure the survival of a nation. Amazing acts of heroism, dedication, and humanitarianism exemplify the work done by those invisible hands. Without people like those who served, continue to serve and will serve their country by helping others, the world would be hard pressed to survive tragedies such as the Bosnia conflict.

Adam too saw life as an opportunity to serve the world. Telling his family at the age of five that he would be President of the United States some day, a young boy made his commitment to bettering his country at any cost. During the few years he was afforded, Adam worked with the dedication and commitment of a President, and accomplished more for the good of humankind during his lifetime than many even attempt in 100 years.

The loss of Adam Darling and the 34 others in Bosnia will be sorely felt by all and will remain in our hearts as a memorial to all who pay the highest cost possible in order to help the world by serving their country.

TRIBUTE TO P. STUART THOLAN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. LANTOS. Mr. Speaker, Mr. P. Stuart Tholan was one of the 32 Americans accompanying Secretary Ron Brown on his mission to contribute to the rebuilding of Bosnia. He was aboard the military transport plane which crashed, killing all abroad. My most sincere condolences go out to his wife, Marilyn, his children, Scott and Carolyn, and all his family, as well as to all those whose lives Stuart Tholan touched.

Mr. Tholan had been invited on the humanitarian mission by Commerce Secretary Ron Brown because of his distinguished record of overcoming seemingly insurmountable obstacles and succeeding again and again. The reconstruction and revival of Bosnia's devastated economy would have been Mr. Tholan's most significant challenge. I have the utmost confidence, as did Secretary Brown, that he would have succeeded at this ultimate challenge.

Mr. Tholan's outstanding work for the Bechtel group of companies, based in San Francisco, CA, earned him a reputation as a demanding project director who tackled the most daunting tasks with eternal optimism and a can-do attitude. While his focus on the successful completion of a project could not be swayed, he never lost sight of the importance of the people on the project. Mr. Tholan would always take the time to help a co-worker when they had personal or family difficulties or to devote his spare time to coaching Little League and girl's softball.

The mission that Stuart Tholan was participating in was perfectly suited to his strengths. Throughout his career, he had shown an ability to bring together people and motivate them to accomplish the most difficult tasks. The strengths of his personality and character shone through the overwhelming nature of jobs he took on. His leadership propelled an international work force of 16,000 to put out the Kuwaiti oil fires in a fraction of the time experts thought possible.

These are the reasons why Secretary Brown chose Stuart Tholan as the perfect candidate to help rebuild the devastated economy of Bosnia. Mr. Speaker, Stuart Tholan and the others who perished on that plane deserve our gratitude for their commitment and dedication to bring peace and stability to Bosnia and for their service to our Nation.

TRIBUTE TO GEORGE NADER, EDITOR, MIDDLE EAST INSIGHT MAGAZINE

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. RAHALL. Mr. Speaker, over the years volumes have been written about the Middle East and its turbulent politics, economic potential, and strategic importance to the United States. One publication stands out because of its comprehensive, insightful and balanced approach to issues in the region.

I am referring to Middle East Insight magazine which has just celebrated its 15th anniversary as one of the leading journals of Middle East affairs. Throughout this turbulent period, Middle East Insight has covered the complex issues affecting the region in a thoughtful, creative way to bring greater knowledge and understanding to all parties. By striving to rise above the ideological passions that often divide the region, Middle East Insight has earned the respect of its readers in Washington, DC and throughout the region.

The driving force behind the magazine is its editor, George Nader. Nader is the founder and president of International Insight, an organization that promotes better understanding between the Middle East and the United States. He is a recognized expert on the region and is often invited by major news organizations to comment as events unfold.

Because of his reputation for fairness and his remarkable access to key political and business leaders throughout the region, Nader has produced a magazine of distinction and high quality. Leaders such as Egyptian President Hosni Mubarak, PLO Leader Yassir Arafat, the late Israeli Prime Minister Yitzhak Rabin, Morocco's King Hassan II, and Presidents Bush and Clinton have all been featured in Middle East Insight.

It is a tribute to George Nader and his vision to publish a magazine that is respected for its contribution to public policy debate. Both he and Middle East Insight deserve special recognition on their 15th anniversary.

45TH ANNIVERSARY OF THE AUTOMOTIVE SERVICE ASSOCIATION

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. BARTON of Texas. Mr. Speaker, I rise to pay tribute to the Automotive Service Association [ASA] on the occasion of its 45th anniversary. ASA is the oldest and largest trade association of its kind representing all segments of the independent automotive repair industry, including transmission, mechanical, and collision repair facilities. The association now includes more than 12,000 businesses. The association now includes more than 12,000 businesses, 28 State groups and 220 chapters located throughout the world.

Over the past 45 years, ASA has merged with a variety of automotive repair associations to enable the industry to speak with a singular and unified voice. These groups include the Independent Garagemen's Association of Texas [IGA], the Independent Garage Owners of America [IGO], the Auto Body Association of America [ABAA], the Automotive Service Councils [ASC] and, the Independent Automotive Service Association [IASA].

In addition to providing a host of member benefits, ASA annually sponsors the world's largest collision repair event, the International Autobody Congress and Exposition [NACE], the Congress of Automotive Repair and Service [CARS], the Northern Autobody Congress and Exposition and the ASA Annual Convention. In fact, NACE has been selected from a wide range of applicants to participate in the U.S. Department of Commerce's International Buyer Program. This recognition serves as acknowledgement of the quality of the event and the export potential of the industry it serves.

ASA members recognize their obligation to professionalism. Members subscribe to a code of ethics, which governs the methods by which they conduct their business practices. Among other things, an ASA member is sworn to perform high quality repair service at a fair and just price; use only proven merchandise of high quality distributed by reputable firms; employ the best skilled technicians; recommend corrective and maintenance services, explaining to the customer which of these are required to correct existing problems and which are for preventive maintenance.

ASA also endeavors to assist its members to improve the quality of repairs through management and technician training programs. The Automotive Service Association Management Institute [ASAMI] provides continuing management education in the areas of leadership, business, finance, personnel, operations, and personal enrichment.

The ASA anniversary will be recognized throughout the year at ASA-sponsored events and ASA's official publication AutoInc. will feature a special anniversary issue. I am pleased to honor the association today on this special occasion.

TRIBUTE TO I. DONALD TERNER

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. LANTOS. Mr. Speaker, Mr. I. Donald Terner was one of the 32 Americans accompanying Secretary Ron Brown on his mission to contribute to the rebuilding of Bosnia. He was aboard the military transport plane which crashed, killing all aboard. My most sincere condolences go out to his wife, Deirdre English, his children, and to all those whose lives Donald Terner improved with his many good works.

Donald Terner was a man of truly extraordinary energy and commitment, and we are extremely fortunate that he chose to devote his talents to improving the lives of low-income families throughout California. As founder and president of Bridge Housing Corp., Donald Terner created a low-income housing enterprise which constructed nearly 6,000 homes in the 13 years the organization has been in business. Both the continuing success of the solid organization Donald Terner built and the thousands of families who will have a roof over their heads for years to come will serve as a lasting testament to the life of Donald Terner.

Commerce Secretary Ron Brown was so impressed with the remarkable achievements of Donald Terner that he invited Mr. Terner to accompany him on a humanitarian mission to restore the housing resources destroyed by years of all-out war in Bosnia. Donald Terner was not deterred by the overwhelming difficulty of rebuilding this devastated region. Secretary Brown recognized in Donald Terner the same qualities that those who have worked with him have appreciated for decades. His humanitarian spirit combined with his unrelenting commitment to success in the face of adversity has allowed him to succeed in California and it would have propelled him to success in Bosnia.

Donald Terner was known as a relentless promoter of low-income housing in California and throughout the world. Building affordable housing entails not only raising the necessary funds, but also the often more difficult task of convincing homeowners to allow the housing to be built in their neighborhoods. It was impossible, however, to say "no" to Donald Terner. He was able to convince lenders and neighbors to support to projects because he believed that what he was doing would help people, and that made his persuasive powers all but irresistible.

Mr. Speaker, I invite my colleagues to join me in to Donald Terner for his commitment to making the world more livable for low-income people. His efforts in behalf of the community should serve as a model for all Americans. While we cannot all devote the time and energy that Donald Terner did, we can invoke his memory when our communities ask something of us.

CONGRATULATING THE REPUBLIC OF SIERRA LEONE ON THEIR FIRST MULTIPARTY, DEMOCRATIC ELECTIONS IN NEARLY 30 YEARS

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. HOUGHTON. Mr. Speaker, I've come to the floor today with some of my colleagues to introduce a concurrent resolution congratulating the people of the Republic of Sierra Leone who just held their first democratic, multiparty elections in nearly 30 years.

On February 26, 1996, the West African nation of Sierra Leone held their first round of elections amid much uncertainty. There had just been a military coup less than a month before the election and a civil war that had displaced almost half the population raged in the countryside.

Sponsored by the African-American Institute [AAI], a delegation visited Sierra Leone as part of a U.N. team of international observers. In that delegation were several congressional staffers who deal with African issues in the Congress, including Joyce Brayboy Dalton with Representative MEL WATT, Tim Trenkle, Senator NANCY KASSEBAUM, Michael Pelletier, legislative fellow in the office of Senator JIM JEFFORDS, and my legislative assistant Bob Van Wicklin.

Despite some inadequacies, the group deemed the election to be free and fair. AAI issued the following statement after the election:

STATEMENT OF THE INTERNATIONAL OBSERVER DELEGATION OF THE AFRICAN-AMERICAN INSTITUTE

FREETOWN, February 29, 1996.—The African-American Institute (AAI), has spent the last three weeks preparing for and conducting an observation of the presidential and parliamentary elections of Sierra Leone. The AAI delegation feels that the elections of February 26–27, 1996 were transparent, open, and substantially fair. Despite certain irregularities and disruptions due to breaches of security, the delegation is convinced these elections reflect the freely expressed choices of the people of Sierra Leone.

Working in affiliation with the United Nations Joint International Observer Group and funded by the United States Agency for International Development, the 17-member AAI delegation was deployed throughout Freetown and its environs, Lungi, Bo, Kenema, Makeni and Kono. The AAI team observed two crucial phases of the elections which were held on February 26–27, 1996.

During the first phase, the delegation met throughout the country with government officials, the staff of the Interim National Electoral Commission, leaders of political parties and major civic organizations, representatives of the media, government officials, and other sections of civil, society including organized labor. The delegation also carefully studied the electoral laws, examined the relevance of several training materials, scrutinized the voter registration process and samples of voter registers, observed training of electoral staff and domestic monitors, and attended civic education programs in many parts of the country.

During the second phase, the delegation observed the electoral campaigning, the voting which began on February 26 and was extended through February 27, and the counting process on February 27–28, 1996. In the areas of their deployment, AAI observers visited over 250 polling places nationwide.

AAI found that the elections were held under a cloud of uncertainly and substantial logistical difficulty caused by a lack of adequate infrastructure, minimal election experience and training, and the displacement of sectors of the population due to hostile military actions on or just prior to the date of the elections. This situation often led to the late opening and numerical overtaxing of many polling stations and, in some areas, disruption of the vote and count. Still, in the majority of the areas observed by AAI delegates, the vote went forward in a procedurally correct manner, with materials provided and correctly utilized. Polling station officials, political party representatives and domestic observers, in most cases, were adequately prepared and conducted their duties in an exemplary manner. In the, areas of the country observed by AAI delegates, the difficulties cited above were overcome by the fierce determination of an overwhelming majority of the population to hold the elections on schedule, even in the face of serious attempts to obstruct and disrupt the process.

Despite these administrative inadequacies and certain instances of violence and intimidation in Freetown, as well as deadly conflicts between citizens and those seeking to disrupt the election in Bo and Kenema, the electoral process was largely peaceful and free of threats and confrontations. Voting took place in are orderly fashion in most poling stations. There was little evidence of fraud or irregularity.

The AAI delegation wishes to salute the people of Sierra Leone for their strong commitment to democratic practices and their determination to hold elections on schedule. This unflinching commitment to democratic values and procedures, as well as the courage that the citizens demonstrated in the face of great danger, augurs well for the future of democracy in this country.

The AAI delegation also wishes to congratulate the Chairman of the Interim National Electoral Commission, Dr. James Jonah, and his colleagues for their impartiality and inspiring and tenacious leadership under difficult conditions.

Finally, the AAI delegation thanks the people of Sierra Leone for their hospitality and warm welcome.

On March 29, 1996, Ahmad Tejan Kabbah of the Sierra Leone People's Party was sworn in as the President of the Republic of Sierra Leone. This peaceful transition of power from a military regime to a freely elected civilian government is a tremendous step onto the road to democracy, and I think will have a very positive effect on some of Sierra Leone's authoritarian neighbors.

In fact, just last week, when United States citizens located in the neighboring country of Liberia were threatened by the ongoing violence in that country, the Government of Sierra Leone allowed the United States to use their airport to help with the evacuation of Americans and other internationals from the Liberian capital city of Monrovia. For this, we are very grateful, and thank the new Government of Sierra Leone for their cooperation and assistance.

Also deserving special recognition are all of the United States citizens living in Sierra Leone, especially the people who work at the United States Embassy in Freetown led by Ambassador John Hirsch, a very dynamic individual who has given so much of himself to help the people of Sierra Leone.

It seems that we hear so much bad news from Africa—it's good to be able to emphasize the good news when it comes along.

With that in mind, I hope that all of my colleagues in the House and Senate will join us in congratulating the people of the Republic of Sierra Leone by helping to pass this resolution.

RIVER RIDGE (FL) HIGH SCHOOL'S MOCK STATE LEGISLATURE

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. KING. Mr. Speaker, I rise today to commend the achievements of Kevin Miller, a student at River Ridge High School in Florida. As can be seen from the enclosed story from the Tampa Tribune, Mr. Miller recently participated as speaker of a mock State legislature.

Mr. Speaker, it is obvious that Kevin Miller has an outstanding career ahead of him in politics and government. Indeed, the time may soon come when we will become the speaker of this body.

I should note that Mr. Miller's uncle, Thomas R. Curtin, was a classmate of mine at Notre Dame Law School. Clearly Kevin has far more talent than his uncle and perhaps even a bit more talent than I have.

It is certainly reassuring to know that there are outstanding young men such as Kevin Miller who will be making such great contributions to our country's future.

STUDENTS FIND LEGISLATOR SEAT NO EASY CHAIR

(By Tiffany Anderson)

NEW PORT RICHEY.—For at least a few hours, seniors became senators.

The 12th-grade class at River Ridge High School got a chance to play politics by participating Friday in the school's mock state legislative session.

To earn class credit in American government, more than 328 students served as state representatives and senators and sat on committees.

The bills they wrote won't ever make it outside the school's auditorium. But that didn't keep most seniors from taking the event any less seriously.

"People told me that I would run everything," said Kevin Miller, 18-year-old speaker of the "House." "In a way, that's true. I just didn't realize how much power Newt Gingrich has. If he doesn't like someone he can make it really hard for people."

State Rep. Mike Fasano spoke to the seniors on the first day of the two-day event. Later, students spent hours heatedly debating dozens of issues from abortion education to education reform.

By Friday, the make-believe legislators had learned that life in the Capitol isn't easy and that getting a law passed is even harder.

More than 275 bills were discussed in committee. Only 40 were heard on the House and Senate floor.

Students proposed such legislation as:

The Dumb Teachers Act, requiring instructors to be recertified every year.

Mandating that school administrators keep toilet paper and soap in the bathroom or be subject to fines plus tar and feathering.

Increasing the speed limit on state highways to 85 miles per hour.

Ultimately, only five bills became "law," making it more difficult to use lottery money to supplement school funding; allowing a vehicle's tinted windows to be as dark as the driver wanted; permitting students to work as many hours a week as they wanted as long as they maintained a "C" average; requiring boating licenses for those 14 and older; and making it easier to get an "A" at River Ridge, but abolishing extra points for attendance.

The mock legislative session has been staged for the past four years, said teacher Tom Fleming.

"It's better if they live the legislative process," he said.

Students agreed.

"Even though they're not real laws, you still learn a lot," said Gena Deluigi, 18. "It's just good to see how a bill gets passed. Now, I can look at a bill and even though it may already exist, I can see why this or that wasn't included in it . . . because it could have come up in our session, too."

HAPPY 50TH WEDDING ANNIVERSARY TO MR. AND MRS. WILLIAM QUESENBERRY

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. COX of California. Mr. Speaker, today I rise in celebration of the 50th wedding anniversary of Mr. and Mrs. William Quesenberry of Coral Gables, FL.

Bill, a graduate of Shenandoah Junior High and Miami Senior High, first met Mary Belle Gardner when she was a wintertime resident of Miami Beach. Bill courted Mary Belle throughout high school and his days at the University of the South at Sewanee, TN. On April 13, 1946, Bill and Mary Belle were married on a beautiful, sunny day in Nashville, TN.

After college, Bill flew in World War II as a naval aviator. Upon returning from the war, Bill followed his father's footsteps into the wholesale grocery business. As a wholesale grocer, Bill provided consumers with a wide variety of products and competitive retail prices.

Bill and Mary Belle share a joy of traveling that has led them across the globe. Their sense of adventure has taken them to the frozen land of Antarctica, a far cry from their home in sunny Coral Gables, and even beneath the surface of the sea itself—Bill and Mary Belle are accomplished scuba drivers and snorkelers.

Mr. Speaker, on behalf of their children and grandchildren as well as their many friends, I wish Bill and Mary Belle a happy golden wedding anniversary in the hopes of many more to come.

CONGRATULATIONS TO RED BANK CATHOLIC

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. PALLONE. Mr. Speaker, I rise today to congratulate the Red Bank Catholic Women's Basketball Team for winning the New Jersey State High School Basketball Championship.

Back in the Sixth Congressional District, these young women have provided their fans and myself with much excitement and sense of pride. From reaching the finals of the Shore Conference Tournament to winning the State Championship at the Meadowlands, Red Bank Catholic has demonstrated its commitment to excellence.

Throughout the year, Red Bank Catholic has stressed the importance of team unity as a major component of victory. This approach to the season, in addition to its dedication and hard work, provided the team with the necessary drive to become the best high school basketball team in the State of New Jersey.

In addition to the athletic abilities possessed by this team, the players of Red Bank Catholic must be saluted for their academic excellence. On and off the court, these student athletes have maintained athletic prowess and academic integrity in light of intense pressure.

Once again I would like to salute these young women for capturing the high school basketball championship and wish them the best of luck in their future endeavors.

TRIBUTE TO HELEN MINETA

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. FARR of California. Mr. Speaker, I rise today to acknowledge a woman who exemplifies the very best of the American spirit. Helen Mineta, a teacher of politics and government for more than 30 years, a friend, and an active member of the community, died March 18th in San Jose, CA. She was 77. The daughter of immigrant Japanese parents, Ms. Mineta persevered throughout her life against racism, overcoming numerous barriers. She bettered the lives of those with whom she came in contact in countless ways, as a teacher and as an advocate for Japanese-American rights.

Helen Mineta graduated from San Jose State College in 1938 with dreams of becoming a teacher, but was told by her professors that no one would hire a Japanese person. Undaunted, she worked in the speech and drama department at San Jose State while studying commerce. She remained at San Jose State until the onset of World War II and the attack on Pearl Harbor caused Americans to lash out at Japanese-Americans. As a result of both racism and fear, Ms. Mineta and many other Japanese-Americans were placed in internment camps.

Helen Mineta and her family were interned first at the Santa Anita Racetrack and then the Heart Mountain camp in Wyoming. Despite these hardships, Ms. Mineta managed to get out of the internment camp by obtaining a position as an executive secretary in a Chicago chemical corporation. Although forced to leave her family behind, she did not forget them. Ms. Mineta helped to educate her brother, Norman, who was without a school in the internment camp, by sending him books and questions to answer concerning them. Her hard work and tutelage reaped great benefits, for Norman was later to become our friend, the former congressman from San Jose.

In the years after the war Ms. Mineta worked for her brother-in-law at the Japanese American Citizens League in Washington, D.C., fighting to help others deal with the same racism that had assailed her. She went on to receive another bachelor's degree from the University of California at Berkeley, and finally realized her goal of teaching at San Jose High School in 1958. But again tragedy struck as Ms. Mineta was about to receive a much dreamed about position at the United Nations. Her mother died in 1956 and she returned home to help her father.

Helen Mineta remained actively involved in the community throughout her life, giving lectures on the racism she confronted and overcame during World War II and throughout her life. She was also instrumental in the fight to build the San Jose Center for the Performing Arts, bringing a valuable resource to the community. Her accomplishments were acknowledged by the University of California Alumni Club.

In the end, though, many remember Helen Mineta as a dear friend who had a zest for life. She remained active and cheerful throughout her life despite the obstacles. She will be sorely missed. Ms. Mineta is survived by two sisters, Etsu M. Masaoka of Chevy Chase, MD and Aya Endo of Medford, NJ; two brothers, Albert Mineta of San Jose, and Norman Mineta of Alexandria, VA, and three nieces and four nephews. To them we send our deepest condolences.

TRIBUTE TO THE LATE MARINE COL. ROBERT OVERMYER

HON. SHERROD BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 15, 1996

Mr. BROWN of Ohio. Mr. Speaker, I rise today to speak of a tragic loss that the people of the 13th District of Ohio, and the entire Nation, recently suffered.

Marine Col. Robert Overmyer, born in Lorain, OH, died last month while bravely working as a test pilot. The prototype plane he was flying lost control and crashed before he could eject. His sacrifice, made while insuring the safety of others, will not be forgotten.

Colonel Overmyer was a true American hero and served his country with great pride for almost 40 years, both as a Marine and a celebrated astronaut. He worked on the Air Force Manned Orbiting Laboratory Program, served as a NASA astronaut on the Apollo 17 mission, and more recently commanded the 1985 Space Shuttle *Challenger* mission.

Colonel Overmyer grew up Westlake, OH, near Cleveland Hopkins Airport. His love of flying was born while watching planes take off and land at that airport. He never forgot his roots in Ohio, and always found the time to give back to his childhood community. He returned several times to speak to students and adults about the role of the military and future of the American space program.

Colonel Overmyer will be remembered not only by his family and friends, but by all Americans for his dedicated service to our country. I thank you, Colonel Overmyer, for giving the most while you were with us. You will be missed.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, April 16, 1996, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 17

9:30 a.m.

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Bureau of Indian Affairs/National Indian Gaming Commission.
SD-138

Armed Services
Readiness Subcommittee
To hold hearings on the privatization of Department of Defense depot maintenance and other commercial activities.
SR-222

Banking, Housing, and Urban Affairs
Business meeting, to consider a proposed resolution to authorize the Committee to conduct an investigation of Madison Guaranty Savings and Loan Association and related matters, amend the Committee's rules to facilitate the investigation and related public hearings, and to authorize the issuance of subpoenas.
SD-538

Energy and Natural Resources
Parks, Historic Preservation and Recreation Subcommittee
To hold hearings on S. 128, to establish the Thomas Cole National Historic Site in the State of New York, S. 695, to provide for the establishment of the Tallgrass Prairie National Preserve in Kansas, and S. 1476, to establish the Boston Harbor Islands National Recreation Area.
SD-366

Labor and Human Resources
Business meeting, to mark up S. 969, to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, S. 295, to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and S. 1643, to authorize appropriations for fiscal years 1997 through 2001 for the Older Americans Act of 1965, and to consider pending nominations.
SD-430

10:00 a.m.

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Air Force programs.
SD-192

Rules and Administration
To resume hearings on proposals to amend the Federal Election Campaign Act of 1971 to provide for a voluntary

system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, and to reform the financing of Federal elections and Senate campaigns.

SR–301

1:30 p.m.

Indian Affairs

To hold hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.

SR–485

2:00 p.m.

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of the Treasury, focusing on the Financial Crimes Enforcement Network, the Federal Law Enforcement Training Center, the Bureau of Alcohol, Tobacco and Firearms, the U.S. Customs Service, and the U.S. Secret Service.

SD–138

Judiciary

Administrative Oversight and the Courts Subcommittee

Business meeting, to mark up S. 984, to protect the fundamental right of a parent to direct the upbringing of a child.

SD–226

Select on Intelligence

To hold closed hearings on intelligence matters.

SH–219

APRIL 18

9:30 a.m.

Commerce, Science, and Transportation

To resume hearings to examine Spectrum's use and management.

SR–253

Energy and Natural Resources

To hold oversight hearings on the Tongass land management plan.

SD–366

Governmental Affairs

Business meeting, to consider pending calendar business.

SD–342

Small Business

To hold hearings on small business and employee involvement, focusing on the TEAM Act proposal (S.295).

SR–428A

10:00 a.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Agriculture, focusing on natural resources and the environment.

SD–138

Budget

To hold hearings to review the Congressional Budget Office's economic and budget outlook for fiscal years 1997 through 2006.

SD–608

Foreign Relations

International Economic Policy, Export and Trade Promotion Subcommittee

To resume hearings to examine the impact of balance the Federal budget on the United States trade deficit.

SD–419

Judiciary

Business meeting, to consider pending calendar business.

SD–226

1:30 p.m.

Indian Affairs

To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.

SR–485

2:00 p.m.

Foreign Relations

To hold hearings on the nominations of Kenneth C. Brill, of California, to be Ambassador to the Republic of Cyprus, Christopher Robert Hill, of Rhode Island, to be Ambassdor to The Former Yugoslav Republic of Macedonia, Richard L. Morningstar, of Massachusetts, for the rank of Ambassador during his tenure of service as Special Advisor to the President and to the Secretary of State on Assistance to the New Independent States (NIS) of the Former Soviet Union and Coordinator of NIS Assistance, and Day Olin Mount, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counseler, to be Ambassador to the Republic of Iceland.

SD–419

5:00 p.m.

Armed Services

Business meeting, to mark up S. 1635, to establish a United States policy for the deployment of a national missile defense system.

SR–222

APRIL 19

1:30 p.m.

Indian Affairs

To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.

SR–485

APRIL 23

9:00 a.m.

Indian Affairs

Business meeting, to consider pending calendar business.

SR–485

9:30 a.m.

Commerce, Science, and Transportation

Consumer Affairs, Foreign Commerce, and Tourism Subcommittee

To hold hearings on proposed legislation authorizing funds for the Consumer Product Safety Commission.

SR–253

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To hold hearings on S. 1401, to amend the Surface Mining Control and Reclamation Act of 1977 to minimize duplication in regulatory programs and to give States exclusive responsibility under approved States program for permitting and enforcement of the provisions of that Act with respect to surface coal mining and reclamation operations.

SD–366

Environment and Public Works

To hold hearings on S. 1285, to reauthorize and amend the Comprehensive Environmental Recovery, Compensation, and Liability Act of 1980 (Superfund), as modified by S. Amdt. 3563, in the nature of a substitute.

SD–406

Special on Aging

To hold hearings to examine issues relating to Alzheimer's Disease.

SD–106

10:00 a.m.

Judiciary

To hold hearings on a proposed constitutional amendment to establish a bill of rights for crime victims.

SD–226

Small Business

To hold hearings to examine issues affecting home-based business owners.

SR–428A

APRIL 24

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine distance learning, and on S. 1278, to establish an education satellite loan guarantee program for communications among education, Federal, State, and local institutions and agencies and instructional and educational resource providers.

SR–253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD–366

Environment and Public Works

To continue hearings on S. 1285, to reauthorize and amend the Comprehensive Environmental Recovery, Compensation, and Liability Act of 1980 (Superfund), as modified by S. Amdt. 3563, in the nature of a substitute.

SD–406

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Army programs.

SD–192

2:00 p.m.

Judiciary

Administrative Oversight and the Courts Subcommittee

To hold hearings to examine the need for additional bankruptcy judgeships and the role of the U.S. trustee system.

SD–226

Veterans' Affairs

To hold hearings on the President's proposed budget for fiscal year 1997 for veterans programs.

SR–418

APRIL 25

9:00 a.m.

Indian Affairs

To hold joint hearings with the House Committee on Resources on S. 1264, to provide for certain benefits of the Missouri River Basin Pick-Sloan Project to the Crow Creek Sioux Tribe.

SR–485

9:30 a.m.

Energy and Natural Resources

Parks, Historic Preservation and Recreation Subcommittee

To hold hearings on S. 902, to authorize the Secretary of the Interior to assist in the construction of a building to be used jointly by the Secretary for park purposes and by the city of Natchez as an intermodal transportation center,

S. 951, to commemorate the service of First Ladies Jacqueline Kennedy and Patricia Nixon to improving and maintaining the Executive Residence of the President and to authorize grants to the White House Endowment Fund in their memory to continue their work, S. 1098, to establish the Midway Islands as a National Memorial, H.R. 826, to extend the deadline for the completion of certain land exchanges involving the Big Thicket National Preserve in Texas, and H.R. 1163, to authorize the exchange of National Park Service land in the Fire Island National Seashore in the State of New York for land in the Village of Patchogue, Suffolk County, New York.

SD-366

MAY 1

9:30 a.m.

Rules and Administration

To resume hearings on issues with regard to the Government Printing Office.

SR-301

2:30 p.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings to examine airport revenue diversion.

SR-253

MAY 8

10:00 a.m.

Veterans' Affairs

To hold hearings to examine the reform of health care priorities.

SR-418

SEPTEMBER 17

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Legion.

334 Cannon Building

POSTPONEMENTS

APRIL 25

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on proposed legislation authorizing funds for the Federal Trade Commission.

SR-253

SENATE—*Tuesday, April 16, 1996*

The Senate met at 9:45 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by Bishop Kenneth Ulmer, of the Faithful Central Missionary Baptist Church in Los Angeles, CA.

We are pleased to have you with us.

PRAYER

The guest Chaplain, Dr. Kenneth C. Ulmer, offered the following prayer:

O God our help in ages past; our strength, our hope, our joy for years to come. Father, we give You thanks and praise for the consistency of Your faithfulness. Morning by morning You have showered us with new mercies and new expressions of Your grace, and for that we say thank You. As Jehovah Shalom You have given us Your peace in a world of confusion. As Jehovah Jireh You have provided us with the riches of Your grace and mercy. As Jehovah Rohi, You have been the great shepherd of this Nation. Lord, give us the ability to acknowledge the possibility of our own error, patience that we might listen to opposing opinions, and wisdom to learn from one another. Give us honesty that we might speak the truth in love and strength that we might not falter in the quest for truth and justice. Keep us humbled by the limitations of our own perspectives and encouraged by the magnitude of divine vision. When the tensions of our democracy would tend to divide us, keep us constantly aware of Your omnipotent ability to make us one as we celebrate the diversity within our unity. May we sense the sacredness of our call to leadership. O God, may integrity and uprightness preserve this Nation. As we faithfully serve its people may we so faithfully serve You. In the name of our Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the Senator from Mississippi, Senator LOTT, is recognized.

Mr. LOTT. I thank the President pro tempore. It is a pleasure to see the President pro tempore.

GREETING BISHOP KENNETH C. ULMER

Mr. LOTT. Mr. President, I am proud to extend the greetings of the Senate today to Bishop Kenneth Ulmer from Los Angeles, who delivered the morning prayer. Our Chaplain, Dr. Ogilvie, tells me he is one of the truly great emerging spiritual leaders of our Nation. Since his arrival 12 years ago at the Faithful Central Missionary Baptist Church, where Bishop Ulmer occupies the pulpit, the congregation has grown from one of 325 to one of over 3,500. Bishop Ulmer is recognized as one of California's most respected voices in promoting positive relationships between people of all races and backgrounds.

He is a member of the California attorney general's policy council on violence prevention and a member of the board of directors of the Rebuild Los Angeles Committee. I know all Senators join me in thanking Bishop Ulmer for joining us this morning.

SCHEDULE

Mr. LOTT. Mr. President, for the information of all Senators, this morning the Senate will conduct a period for morning business until 10:45 a.m., with Senator GRASSLEY to speak for up to 15 minutes and Senator HATCH for up to 45 minutes.

Following morning business, the Senate will resume consideration of the illegal immigration bill and the pending amendments. The yeas and nays are ordered on several of these amendments; however, those votes will not occur prior to the scheduled vote at 2:15.

As a reminder, at 2:15 p.m. today, there will be a cloture vote on the motion to proceed to the Whitewater resolution. The Senate will recess from the hours of 12:30 p.m., to 2:15 p.m. for the weekly policy conferences to meet. The Senate can expect rollcall votes to occur throughout the session today in order to make progress on the pending illegal immigration bill.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. INHOFE). Under the previous order, there will now be a period for morning business.

The Senator from Iowa is recognized for 15 minutes.

Mr. GRASSLEY. Mr. President, before I speak, I ask unanimous consent to yield to Senator THURMOND for the purpose of introducing bills without it cutting into my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. I thank the able Senator very much.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 1672 and S. 1673 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRASSLEY. Mr. President, I thank the Chair.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 1674 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

COMMANDER STUMPF

Mr. GRASSLEY. Mr. President, I want to speak on a subject that I have spoken before. This is the issue of the promotion of Navy Comdr. Robert Stumpf and his promotion to the rank of captain. This promotion has been denied by the Armed Services Committee. It was denied because of his suspected involvement in inappropriate behavior at the Tailhook convention.

I support the committee's decision to deny the promotion. I have spoken on this matter several times. Since my last speech, I have had a letter from Commander Stumpf's attorney. The attorney's name is Mr. Charles W. Gittins. Mr. Gittins thinks that the facts are the issue here. Of course, I disagree. In my mind, the facts are not at issue.

What do the facts mean? It is the answer to the question that gets Commander Stumpf in hot water.

Mr. President, I ask unanimous consent to have printed in the RECORD Mr. Gittins' letter to me.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WILLIAMS & CONNOLLY,
Washington, DC, April 4, 1996.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: I am writing on behalf of my client, Commander Robert E. Stumpf, USN, who was the subject of your March 16, 1996 floor speech in the Senate. I applaud you for asking the five questions relevant to whether Commander Stumpf should be promoted because it is apparent that your colleagues have lost sight of those important attributes in the political infighting over Bob Stumpf's promotion.

Had you researched the answers to the five questions that you "asked", and put the answers as well as the questions in the Congressional Record, I am sure that you would have embarrassed your colleagues with the truth. Moreover, I am sure that if you had researched the answers before you went to the floor to give the speech, your speech would have been one of unequivocal support for Commander Stumpf's promotion.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Your first question, like the rest, can be answered by reference to the official records of the Court of Inquiry as well as by reference to Commander Stumpf's Official Military Personnel File. Commander Stumpf's record is clearly among the finest in the Navy. Two Navy Captain selection boards now have selected Commander Stumpf for promotion to Captain. In order to do so, the Boards were required to find that Commander Stumpf was among those "best qualified" from among those officers who the board found were "fully qualified." Further, Commander Stumpf's performance in combat, illuminated by the many citations for bravery and heroism awarded him by the United States, abundantly proves that the promotion boards were correct in their judgment of Commander Stumpf's performance.

Your second question, concerning leadership and discipline, are equally well answered by the Navy's official records. All you needed to do was read them. Commander Stumpf was described by senior officers who testified at his Court of Inquiry as "among the finest leaders that they have had the opportunity to work with." In this regard, you may wish to read the testimony of Vice Admiral Kihune and Rear Admiral McGowan, two officers with personal and daily observation of Commander Stumpf in positions of responsibility. You may also wish to read the statement of Captain Dennis Gillespie, USN, Commander Stumpf's commander in combat during Desert Storm. Commander Stumpf's leadership was nowhere more vigorously tested than in combat, where he personally led 9 carrier air wing airstrikes without losing a single aircraft. Discipline? How much discipline does it take to fly a combat aircraft at 500 miles an hour into the face of anti-aircraft fire and surface to air missiles while still managing to put bombs on target. I submit that there is no greater demonstration of discipline.

Does Commander Stumpf set a good example? If not, why was Commander Stumpf chosen to lead the Blue Angels in the first place? The singular purpose of the Blue Angels is to provide a good example of the Navy for public consumption. Perhaps you saw Commander Stumpf perform at the airshow in Iowa. If so, you could not help but be impressed with the example Commander Stumpf sets. The fact that he was returned to command of the Blue Angels by the Navy even after he was subjected to an embarrassing Navy Court of Inquiry speaks volumes about the type example Commander Stumpf sets. Moreover, his press conference following the Court's decision made clear Commander Stumpf's agenda—at that press conference Commander Stumpf said he would thereafter take no more questions about Tailhook. His job was to "make the Navy look good. And that what [he] intend[ed] to do"

Your question four is self-evident by Commander Stumpf's performance in combat. How many leaders who flew 22 combat missions can say that they brought back every plane that they started the mission with? Moreover, the junior officers who testified for the government, pursuant to grants of testimonial and transactional immunity, each stated unequivocally that Commander Stumpf was an outstanding role model, one who was universally recognized as superior throughout the Navy and the strike-fighter community, and one they would gladly follow into combat. There simply is no higher praise for a military officer. There has never been any evidence adduced, in the Committee, in the Court of Inquiry, or in subsequent reviews conducted by the Navy or the Committee, that Commander Stumpf is anything but an outstanding role model.

Finally, Commander Stumpf has over and over throughout his career proven his integrity. Commander Stumpf has been forthcoming about Tailhook and his involvement therein. The Secretary of the Navy personally questioned Commander Stumpf closely on these issues and determined that Commander Stumpf was not culpable for any misconduct, either by him or his subordinates, at Tailhook. Secretary Dalton confirmed that Commander Stumpf was "appropriately selected for promotion and that he should be promoted." Until you raised the question of Commander Stumpf's integrity, there has never been any insinuation that Commander Stumpf was other than forthright and honest in all of his dealings throughout his Navy career. If you have specifics in mind, please feel free to communicate them to me. I will be glad to have Commander Stumpf respond.

If your five questions are the measuring stick that the Senate intends to follow on all future officer nominations, I applaud your standard. If you intend to apply that standard to Commander Stumpf, it would do you and your colleagues well to actually read the records before you draw conclusions about Commander Stumpf, or any other officer who presents to the Committee or the Senate similarly situated.

What has diminished the credibility of the Committee and the Senate with the public in Commander Stumpf's case is ignorance of, or intentional lack of familiarity with, the unalterable fact that Commander Stumpf did not conduct himself in any way inappropriately at the 1991 Tailhook Symposium. That is a fact that cannot be ignored, even on the floor of the United States Senate.

Sincerely,

CHARLES W. GITTINS.

Mr. GRASSLEY. I am opposed to what Commander Stumpf and his attorney are doing for three reasons. First, they want us to believe that this is a legal issue. Commander Stumpf seems to have the mistaken notion that a promotion to captain in the Navy is an inalienable right.

He sees the committee erecting a barrier between himself and that right. So he has hired a fancy lawyer to reclaim that right under the law.

Well, sadly, I am afraid that Commander Stumpf may be in for a big disappointment. As Senator NUNN put it, "It is well known that nomination proceedings are not criminal trials. They are not formal evidentiary proceedings."

A promotion is not guaranteed under the law. In fact, as we all know, it must be earned, and not only earned, but confirmed by the Senate.

This, Mr. President, brings me to my second point. Each Senator must make a subjective judgment about a candidate's character. We have to examine the entire record, and then we have to pick and choose.

Sadly, Commander Stumpf and his lawyer somehow believe that the Senate should not sit in judgment of a nominee's character. Two Navy captain selection boards and Secretary of the Navy Dalton decided that Commander Stumpf should be promoted. End of the story for them. The Senate should somehow butt out.

Again, Senators NUNN and COATS have laid this misguided idea to rest. They put it this way: "The Senate has a constitutional responsibility to give advice and consent on military promotions."

That is our constitutional duty. We look at the evidence, and we make judgment calls. We know it is not an exact science. It is an imperfect system, but most of the time it seems to work.

This brings me to the third source of my concern. Those who are pushing the Stumpf promotion want us to think he is a victim of political correctness. Mr. President, that is pure, 100 percent, grade-A, Navy baloney. I happen to believe that Commander Stumpf's problems run much deeper than that. They go right to the core of his character. His behavior at the 1991 Tailhook convention raises questions about his ability to lead.

Mr. President, I am not holding Commander Stumpf to some arbitrary standard dreamed up by this Senator. I am holding him to the military's own standards.

The military standards are laid out in a document entitled "Military Leadership, Field Manual 22–100." Those principles are described on pages 5 through 8 of the document. This is an exact quote from the document:

> No aspect of leadership is more powerful than setting a good example.

So, Mr. President, I feel obliged to ask this very simple question: Did Commander Stumpf set a good example at Tailhook? A former Naval officer, writing in the Washington Times recently, answered that question. I want to quote directly from the April 1, 1996, article:

> Officers throughout the Navy—particularly Naval aviators like Commander Stumpf—were well aware that the Tailhook convention had become an increasingly grotesque event before it finally suffered public scrutiny in 1991.
>
> That Commander Stumpf finds himself having been caught in the fallout is a result of the poor judgment he showed in participating when many of his contemporaries had stopped doing it years before.

That says it all, Mr. President.

Commander Stumpf's behavior also raises questions about his willingness to accept responsibility. The military leadership manual states that a leader must do two things: First, seek responsibility and, second, take responsibility for his or her actions. By seeking and accepting responsibility, a leader can build trust within his or her military unit.

Clearly, Commander Stumpf is eagerly and aggressively seeking greater responsibility. He has an aggressive lobbying campaign going to get himself promoted. He is doing a good job of that lobbying.

Unfortunately, he is not very good at accepting criticism for his past mistakes. It seems like he is trying to evade responsibility.

Commander Stumpf claims he did not witness the really obscene behavior at his squadron's Tailhook party. It happened after he left, and if he did not see it, he is not responsible, so he claims. Commander Stumpf's ship ran aground when he was not on the bridge. That is what he wants us to believe. He wants us to believe that his junior officers are to blame. In effect, he is saying that.

Commander Stumpf's reasoning is flawed, and it is inconsistent with naval tradition and leadership and the responsibility that is placed on leaders in the military manual. The ship's captain is always responsible if the ship runs aground.

When something like this happens, the manual says a leader should never try to evade responsibility by blaming others. When a commander tries to shift the blame to others, the manual says that undermines trust and respect within any military organization. Evading responsibility is not the sign of a topnotch military commander.

When Commander Stumpf first got in hot water, he should have acknowledged his mistake and taken corrective action.

Mr. President, Commander Stumpf needs to face the music and take responsibility for his actions.

I ask unanimous consent to have that part of the manual printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The Principles of Leadership

The 11 principles of Army leadership are excellent guidelines and provide the cornerstone for action. They are universal and represent fundamental truths that have stood the test of time. Developed in a 1948 leadership study, the principles were first included in leadership doctrine in 1951. Use these principles to assess yourself and develop an action plan to improve your ability to lead. Examples throughout this manual give you ideas of how to apply these principles. Here is an explanation of each of the leadership principles.

KNOW YOURSELF AND SEEK SELF-IMPROVEMENT

To know yourself, you have to understand who you are and to know what your preferences, strengths, and weaknesses are. Knowing yourself allows you to take advantage of your strengths and work to overcome your weaknesses. Seeking self-improvement means continually developing your strengths and working on overcoming your weaknesses. This will increase your competence and the confidence your soldiers have in your ability to train and lead.

BE TECHNICALLY AND TACTICALLY PROFICIENT

You are expected to be technically and tactically proficient at your job. This means that you can accomplish all tasks to standard that are required to accomplish the wartime mission. In addition, you are responsible for training your soldiers to do their jobs and for understudying your leader in the event you must assume those duties. You develop technical and tactical proficiency through a combination of the tactics, techniques, and procedures you learn while attending formal schools (institutional training), in your day-to-day jobs (operational assignments), and from professional reading and personal study (self-development).

SEEK RESPONSIBILITY AND TAKE RESPONSIBILITY FOR YOUR ACTIONS

Leading always involves responsibility. You want subordinates who can handle responsibility and help you perform your mission. Similarly, your leaders want you to take the initiative within their stated intent. When you see a problem or something that needs to be fixed, do not wait for your leader to tell you to act. The example you set, whether positive or negative, helps develop your subordinates. Our warfighting doctrine requires bold leaders at all levels who exercise initiative, are resourceful, and take advantage of opportunities on the battlefield that will lead to victory. When you make mistakes, accept just criticism and take corrective action. You must avoid evading responsibility by placing the blame on someone else. Your objective should be to build trust between you and your leaders as well as between you and those you lead by seeking and accepting responsibility.

MAKE SOUND AND TIMELY DECISIONS

You must be able to rapidly assess situations and make sound decisions. If you delay or try to avoid making a decision, you may cause unnecessary casualties and fail to accomplish the mission. Indecisive leaders create hesitancy, loss of confidence, and confusion. You must be able to anticipate and reason under the most trying conditions and quickly decide what actions to take. Here are some guidelines to help you lead effectively:

Gather essential information before making your decisions.

Announce decisions in time for your soldiers to react. Good decisions made at the right time are better than the best decisions made too late.

Consider the short- and long-term effects of your decisions.

SET THE EXAMPLE

Your soldiers want and need you to be a role model. This is a heavy responsibility, but you have no choice. No aspect of leadership is more powerful. If you expect courage, competence, candor, commitment, and integrity from your soldiers, you must demonstrate them. Your soldiers will imitate your behavior. You must set high, but attainable, standards, be willing to do what you require of your soldiers, and share dangers and hardships with your soldiers. Your personal example affects your soldiers more than any amount of instruction or form of discipline. You are their role model.

KNOW YOUR SOLDIERS AND LOOK OUT FOR THEIR WELL-BEING

You must know and care for your soldiers. It is not enough to know their names and hometowns. You need to understand what makes them "tick" and learn what is important to them in life. You need to commit time and effort to listen to and learn about your soldiers. When you show genuine concern for your troops, they trust and respect you as a leader. Telling your subordinates you care about them has no meaning unless they see you demonstrating care. They assume that if you fail to care for them in training, you will put little value on their lives in combat. Although slow to build, trust and respect can be destroyed quickly.

If your soldiers trust you, they will willingly work to help you accomplish missions. They will never want to let you down. You must care for them by training them for the rigors of combat, taking care of their physical and safety needs when possible, and disciplining and rewarding fairly. The bonding that comes from caring for your soldiers will sustain them and the unit during the stress and chaos of combat.

KEEP YOUR SUBORDINATES INFORMED

American soldiers do best when they know why they are doing something. Individual soldiers have changed the outcome of battle using initiative in the absence of orders. Keeping your subordinates informed helps them make decisions and execute plans within your intent, encourages initiative, improves teamwork, and enhances morale. Your subordinates look for logic in your orders and question things that do not make sense. They expect you to keep them informed and, when possible, explain reasons for your orders.

DEVELOP A SENSE OF RESPONSIBILITY IN YOUR SUBORDINATES

Your subordinates will feel a sense of pride and responsibility when they successfully accomplish a new task you have given them. Delegation indicates you trust your subordinates and will make them want even more responsibility. As a leader, you are a teacher and responsible for developing your subordinates. Give them challenges and opportunities you feel they can handle. Give them more responsibility when they show you they are ready. Their initiative will amaze you.

ENSURE THE TASK IS UNDERSTOOD, SUPERVISED, AND ACCOMPLISHED

Your soldiers must understand what you expect from them. They need to know what you want done, what the standard is, and when you want it done. They need to know if you want a task accomplished in a specific way. Supervising lets you know if your soldiers understand your orders; it shows your interest in them and in mission accomplishment. Oversupervision causes resentment and undersupervision causes frustration.

When soldiers are learning new tasks, tell them what you want done and show how you want it done. Let them try. Watch their performance. accept performance that meets your standards; reward performance that exceeds your standards; correct performance that does not meet your standards. Determine the cause of the poor performance and take appropriate action.[1] When you hold subordinates accountable to you for their performance, they realize they are responsible for accomplishing missions as individuals and as teams.

BUILD THE TEAM

Warfighting is a team activity. You must develop a team spirit among your soldiers that motivates them to go willingly and confidently into combat in a quick transition from peace to war. Your soldiers need confidence in your abilities to lead them and in their abilities to perform as members of the team. You must train and cross train your soldiers until they are confident in the team's technical and tactical abilities. Your unit becomes a team only when your soldiers trust and respect you and each other as trained professionals and see the importance of their contributions to the unit.

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[1] Kenneth H. Blanchard and Keith L. Kettler, "A Suitable Approach to Leader Development."

EMPLOY YOUR UNIT IN ACCORDANCE WITH ITS CAPABILITIES

Your unit has capabilities and limitations. You are responsible to recognize both of these factors. Your soldiers will gain satisfaction from performing tasks that are reasonable and challenging but will be frustrated if tasks are too easy, unrealistic, or unattainable. Although the available resources may constrain the program you would like to implement, you must continually ensure your soldiers' training is demanding. Apply the battle focus process to narrow the training program and reduce the number of vital tasks essential to mission accomplishment. Talk to your leader; decide which tasks are essential to accomplish your warfighting mission and ensure your unit achieves Army standards on those selected. Battle focus is a recognition that a unit cannot attain proficiency to standard on every task, whether due to time or other resource constraints. Do your best in other areas to include using innovative training techniques and relooking the conditions under which the training is being conducted, but do not lower standards simply because your unit appears unable to meet them. Your challenge as a leader is to attain, sustain, and enforce high standards of combat readiness through tough, realistic multiechelon combined arms training designed to develop and challenge each soldier and unit.

SUMMARY

The factors and principles of leadership will help you accomplish missions and care for soldiers. They are the foundation for leadership action.

The factors of leadership are always present and affect what you should do and when you should do it. Soldiers should not all be led in the same way. You must correctly assess soldiers' competence, commitment, and motivation so that you can take the right leadership actions. As a leader, you must know who you are, what you know, and what you can do so that you can discipline yourself and lead soldiers effectively. Every leadership situation is unique. What worked in one situation may not work in another. You must be able to look at every situation and determine what action to take. You influence by what you say, write, and, most importantly, do. What and how you communicate will either strengthen or weaken the relationship between you and your subordinates.

The principles of leadership were developed by leaders many years ago to train and develop their subordinates. The principles have stood the test of time and the foremost test—the battlefield. Use the principles to assess how you measure up in each area and then develop a plan to improve your ability to lead soldiers.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

MEASURE PLACED ON THE CALENDAR—H.R. 3103

Mr. HATCH. Mr. President, I understand there is a bill due for its second reading.

The PRESIDING OFFICER. The Senator is correct.

The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes.

Mr. HATCH. Mr. President, I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

SOCIAL POLICY AND CIVIL RIGHTS

Mr. HATCH. Mr. President, I wish to continue the discussion about social policy and civil rights I began a short time ago.

Mr. President, I support the vigorous and sensible enforcement of our civil rights laws and make whole relief for the victims of discrimination. I support affirmative action involving outreach and recruitment. I support training and assistance open to all who are seeking to enhance their ability to compete, without regard to race, ethnicity, or gender. I oppose preferences in the award of benefits or impositions of penalties based in whole or in part on race, ethnicity, or gender.

Opposition to preferences should not be a device used, however inadvertently, to ignore the particular problems resulting from the legacy of prior and ongoing discrimination. Nor should opposition to preferences be used to weaken the kind of affirmative outreach and recruitment I mentioned earlier.

Conversely, I reject the cynical use of the affirmative action label as a means of throwing a protective shield over preferences, as President Clinton and his administration have repeatedly done.

This administration has pursued a pervasive policy of preference. The President's actions speak louder than his words. The Clinton administration has repeatedly cast its lot not on the side of equal opportunity for all Americans, but on the side of racial, gender, and ethnic preferences and equal results for groups.

Indeed, I find both President Clinton's July 19, 1995, speech on this issue and his administration's review of this issue an artful dodge of the real issues and a vigorous assault on the principle of equal opportunity for all Americans.

In his frequently gauzy July 19 speech, President Clinton never came to grips with the details of affirmative action preferences. He also repeats some false dichotomies long used by other tenacious defenders of preferences. He ignores the variety of ways preferences operate, and are defended, even under his own administration.

Moreover, he defines affirmative action with a combination of breadth and vagueness, allowing him to dodge the tough issues. He does not understand that preferences are not only wrong, they are terribly divisive.

Columnist Robert J. Samuelson has written:

> The essence of Clinton-speak is that the president is often saying the opposite of what he is doing. On affirmative action, he deplores those "who play politics with the issue * * * and divide the country." Yet, that describes Clinton exactly. His eager embrace of affirmative action guarantees that it will foment racial and gender rancor.

That was from the Washington Post of August 9, 1995.

He treats the web of local, State and Federal bureaucratic, legislative, and judicial rules and policies requiring the cause of preferences as if they were minor aberrations or barely in existence. They have, in fact, grown over the years, including under his policies.

For example, he claims that sometimes employers abuse the concept—as if local, State, and Federal governments have not been breathing down many employers' necks—playing the numbers game, pressuring and requiring consideration of race, ethnicity, and gender in their employment practices. Indeed, his administration has recently issued guidance concerning Federal employment which provides a shocking, broad-based series of rationales for preferences.

Moreover, the President, in my view, gives too much credit to affirmative action for progress in this country. The enactment and enforcement of antidiscrimination laws, a decrease in prejudice, and economic forces, in my view, have clearly played very important roles in such progress. Even his own task force admits, at least: "It is very difficult * * * to separate the contribution of affirmative action from the contribution of antidiscrimination enforcement, decreasing prejudice, rising incomes and other forces."

The four directives he has issued to his agencies are largely misleading or irrelevant, especially in light of his administration's overall actions. The President says, "No quotas in theory or practice * * *" but he supports a so-called flexible goal.

It is preferences we must oppose, however, not the label for one of the forms of preference. And the Clinton administration has strongly fostered preferences in various ways, as I will explain shortly, sometimes making use of numbers and sometimes not. Indeed, his administration has fostered outright quotas.

With respect to numerical objectives, whether they are labeled goals and timetables or quotas, the harm that occurs is the exercise of preference based on race, ethnicity, gender, or otherwise. It is such preference that is wrong, rather than the precise label we place on the mechanism of preference.

I think it is helpful to conceptualize the numbers approach as functioning along a continuum. At one end, the equal opportunity end, there is the requirement not to discriminate on the basis of irrelevant characteristics, the requirements to review selection processes to ensure that there is no bias and to recruit widely—and no numerical objective. At the other end is a requirement that does one of two things. First, it either establishes separate lists of those at least minimally qualified, based on race or gender, with alternate selection from these lists until a certain percentage is met, regardless of the relative rankings that would exist on a single list. Or, the requirement simply defines equal opportunity as essentially the proportional representation of various groups, and mandates or permits race or gender conscious selection procedures in order to meet that objective.

In between these two ends are various levels of coercive authority and sanctions that require or strongly encourage the use of preference. Thus, somewhere between these two opposites might be what is euphemistically described as a "flexible goal and timetable." In fact, this differs little, as a practical matter, from what is otherwise known as a quota, except in the lack of explicitly separate lists. It might be that an employer is pressured to reach a certain percentage of designated groups in his work force over a period of time without the explicit creation of separate lists. Sanctions remain available, lurking not far in the background. If an employer or school believes that the failure to meet a goal will result in increased oversight, paperwork, and required explanations; the threat of contract debarment, loss of Federal aid, or a lawsuit by individuals, advocacy groups or the Government hanging overhead; or a contempt motion pursuant to a court order which is already in place, then the employer or school is going to try to meet that number, regardless of who is best qualified. If an employer or school does not believe that the Government intends for the number to be reached, they would have to ask, why did the Government put the number out there? If equal opportunity alone is all that is required, the Government can require that such opportunity be afforded without setting any numerical requirement. I also note that, when race, ethnicity, or gender is used as only one factor in a decision to hire, and that one factor tips the decision in favor of one person and against another, that is discrimination, that is a preference.

Thus, while some numerical objectives may be somewhat less coercive than others, they are no less objectionable. At best, we are speaking of matters of degree, not of kind. The Clinton Administration makes full use of the range of preferences.

President Clinton next says, "no illegal discrimination of any kind including reverse discrimination." Mr. President, this is clearly a verbal slight of hand. The President never defined reverse discrimination. As the President and his legal advisors well know, the courts and executive bureaucracies, regrettably, have deemed a variety of reverse discrimination—preferences—as legal. His own task force, for example, speaks approvingly of the Supreme Court's 1979 Weber decision. That decision permits reverse discrimination in an employer's training program under title VII. The Weber decision is a crucial part of the reverse discrimination edifice in this country. So the President favors reverse discrimination under the name of affirmative action, at least so long as a court anywhere, or a bureaucrat, says its acceptable or might possibly say its acceptable. The congressional testimony, courtroom legal arguments, and policy guidance of his Justice Department amply confirm this.

Indeed, his own administration has vigorously sought to expand the rationales for permitting reverse discrimination. Let us not forget: the Clinton administration was on the losing side in the Supreme Court's 1995 Adarand case. The Clinton administration argued for a double standard based on race and ethnicity in the Federal Government's award of contracts and in Federal Government policy generally. President Clinton managed to omit that fact from his July 19, 1995, speech. President Clinton defended his administration's outrageous defense of racial preferences in layoffs in the Piscataway case.

Next comes the President's clumsiest and most transparent cynicism: "no preference for people who are not qualified for any job or other opportunity." This is a longstanding dodge by the ardent defenders of preference and reverse discrimination. Of course, the problem with preferential policies is that they favor the lesser qualified over the better qualified.

Finally, the President says, as soon as "the [particular affirmative action] program has succeeded it must be retired." We have heard that for at least 25 years. What does the President mean by an affirmative action program succeeding? He does not say, directly. But a careful review of his speech, his task force's rationale for affirmative action, including preferences, and his Justice Department guidance, makes it clear—he does not mean equal opportunity for individuals. The repeated reference, as justification for affirmative action, to various statistical disparities makes clear that affirmative action succeeds in this administration when equality of result—proportionality—has been reached. Indeed, his Justice Department's February 29, 1996 guidance to Federal agencies justifying preferences and reverse discrimination in Federal employment authorizes those agencies to maintain proportionality almost continually.

Despite misleading disclaimers, that memorandum is a wide-ranging defense not only of reverse discrimination well beyond current Supreme Court precedent. It is a thinly veiled defense of quota hiring.

I should also point out that President Clinton takes the Adarand decision as if it is the final guidance on preferences. It is not. His own task force knows better: "The Court's decision concerned what is constitutionally permissible, which is a necessary but not sufficient consideration in judging whether a measure is a wise public policy." There is the question of what is right. In my view, if a business has been discriminated against by a government entity, it should have a remedy. But to prefer another business because it is owned by a member of the same group, over an innocent business owner who belongs to a different group, is wrong.

If one believes that rights inhere in individuals, not in groups, one has to oppose this latter type of program, a contract preference based on race, ethnicity, or gender. The Clinton administration celebrates it. Just listen to the Clinton task force's rationalization: race-conscious contract procurement programs "cause only a minor diminution of opportunity for non-minority firms. In that respect, current programs are balanced and equitable in the large." So much for individual rights. So much for equal opportunity for every individual. No reasonable person would accept such a rationale if the victims were minority firms, and properly so.

The Clinton administration should tell Tom Stewart of Spokane, WA, who testified before the Senate Judiciary Constitution Subcommittee, that contract preferences generally cause only minor loss of opportunity. His guardrail firm has lost $10 to $15 million over 15 years because of preferences—reverse discrimination to anyone else but this President and other defenders of preference and reverse discrimination. Mr. Stewart has numerous letters from prime contractors saying he was the low bidder but could not be retained because of set-aside requirements—the preferences, if you will.

Or tell it to Lance McKinney, the president of Atherton Construction Co. of Salt Lake City, UT, who was not even permitted to bid on certain contracts because of his race. These requirements are far more pervasive in local, State, and Federal governments than the President admits. Even one contract lost because of race is one too many, but the Clinton administration breezily understates the scope of the problem.

The President condescendingly tries to bundle off concern about preferences and reverse discrimination to economic uncertainty in the white middle class. The President thinks the real problems with racial, ethnic, and gender set-asides are those of fronts and fraud.

President Clinton just does not get it. He is out of touch with mainstream America. The real problem with racial, ethnic, and gender preferences, including in contract awards, is that they are fundamentally unfair. Preferences and reverse discrimination should be ended, not tinkered with.

The principle of equal opportunity demands that we avoid new forms of discrimination. We must not create new victims of discrimination in the name of affirmative action—something the President's own administration has, in the large, fostered and defended.

Ted Van Dyk, a former assistant to Vice President Hubert Humphrey, has written:

> The civil-rights fighters of the 1950s and early 1960s can only be shocked that the more recent Democrats, including the president, have taken that struggle for opportunity and transformed it into an attempt at guaranteed outcomes. Hence the official and unofficial, gender and ethnic quotas imposed in staffing the administration.

Mr. Van Dyk has also noted—and keep in mind he was former assistant to Vice President Hubert Humphrey, who helped to write the act of 1964.

Mr. Van Dyk has also noted,

> Affirmative action was intended as nothing more than a late footnote to central civil rights and social legislation of the early and mid-1960s meant to remove from American life discrimination against—or for—any person or group. The objective of a generation of civil-rights fighters of all races and colors had been to give every American an equal chance at the starting line—but not a guaranteed outcome at the finish line.
>
> My old boss Hubert Humphrey, principal sponsor of the 1964 Civil Rights Act, made clear during congressional debate that quotas, racial preferences, set-asides and other discriminatory measures were totally at odds with the justice sought through the act. Title VII of the act, in fact, explicitly bans preferences by race, gender, ethnicity and religion.
>
> No one could have predicted then that affirmative action would be transformed into a quasi-entitlement or that well-meaning next-generation leaders, including President Clinton and Hillary Rodham Clinton, would insist on rigid racial, gender and ethnic quotas in filling federal appointments.

These quotes are from the Washington Post, March 9, 1995 edition.

The Washington Post of September 1, 1995, reports:

> A divided Montgomery County School Board has refused to overturn a school system decision denying two Asian kindergartners admission into a French immersion program because the transfer would upset the ethnic balance at their neighborhood elementary school.

Only after a public uproar was this particular denial overturned. How does the President feel about this general policy? Will his administration enforce equal opportunity in the Montgomery County schools?

The Washington Post of October 30, 1995, reported:

> Principal Inez Sadler's Valley View Elementary School in Prince George's County, Maryland faced a shortage of 50 students for its Talented and Gifted program, but she could not choose from any of the 67 students on a waiting list. The reason: all 67 students on the list are African American, while all 50 available slots are reserved for children of other races.

This is pursuant to a court-ordered desegregation remedy originating in a 23-year-old lawsuit.

In San Francisco, as part of a 12-year-old consent decree, Chinese-American youngsters are being discriminated against in favor of whites, blacks, Hispanics, Koreans, or Japanese for entry to Lowell High School—and there is discrimination in the treatment among these groups as well. This is in the Los Angeles Times, July 13, 1995 edition.

Only in the past few weeks has there been the possibility of some change in those policies.

A 12-year-old girl was denied admission to Boston Latin School recently because she ran afoul of racial preferences.

Does the President believe these practices are right? Should his administration have been doing something about it?

Some of these examples point out something else President Clinton is oblivious to: Preferences hurt all of those outside the preferred groups in any given instance, not just white males. That is the dodge that they hide behind all the time. We are finding they are hurting everybody.

Once we draw a line based on race, ethnicity, or gender, we create new victims of discrimination.

When Miami Dade Community College, for example, offers five faculty fellowships for males of African descent, white males are not the only victims. Females of African descent are discriminated against, as are Asians and Hispanics. But this program is fully consistent with the administration's actual policies.

If President Clinton is truly concerned about equal opportunity, he should straighten out the policies of his own administration.

He could start with the Department of Justice, which of course, as chairman of the Judiciary Committee, I have the responsibility of overviewing. That is one reason why I am taking time to make this statement today.

In 1994, the Clinton administration switched sides in a reverse discrimination case in Piscataway, NJ.

In the Piscataway case, the Piscataway Board of Education decided to reduce the size of its Business Education Department. The choice was between laying off a white female or a black female with equivalent seniority.

Normally, the tiebreaker between two equally senior employees facing a layoff is undertaken in a race-neutral manner, by drawing lots. But Piscataway had an affirmative action plan, which required that the tie be broken on the basis of race in favor of the black teacher. In 1989, the white teacher was discharged.

The Bush Justice Department brought a lawsuit in January 1992 challenging this racially discriminatory layoff under title VII of the 1964 Civil Rights Act. In June 1993, the Clinton administration, then in power, filed two briefs advancing its then position that the race-based layoff was illegal.

Then, stunningly, after the district court ruled in favor of the United States and the white teacher who had intervened in the case in her own behalf, and granted her relief, the Clinton administration flip-flopped and abandoned its earlier position. It, in effect, switched sides and argued against the white teacher in favor of a policy of racial discrimination. It argued to deprive the victim of discrimination of the very relief it had engineered.

The district court's straightforward legal analysis and finding in favor of the discriminatorily discharged teacher was challenged by the Clinton administration's strained legal arguments in its ideological drive to go beyond Supreme Court precedent to further its policies of reverse discrimination.

The advocates of racial preference argue that such preferences can be justified as an effort to enhance racial diversity in a work force.

I have many problems with the administration's position in this case. Let me mention one. I am deeply disturbed by the sweeping rationale DOJ advanced in support of the preference in this case. In its amicus brief—or friend of the court brief—the Department of Justice relied on Justice Steven's concurring opinion in Johnson, which defended preferences by public and private employers in very broad terms, including increasing the diversity of a work force for its own sake.

If the open-ended view taken in DOJ's brief prevails, what is left of the actual language of title VII? Title VII's language bans discrimination in employment because of race. Narrow exceptions to title VII's plain language in Weber and Johnson, unfortunate as they are, do not extend as far as the facts in Piscataway. The Clinton administration's rationale in Piscataway, it seems to me, turns the statute upside down. It is an open invitation to widespread discrimination.

President Clinton should have repudiated the Justice Department's extreme position in this case. Instead, he endorsed it. Now, he tries to claim he opposes reverse discrimination? In Piscataway, he advocates it. The court of appeals in that case has recently rejected the administration's effort to participate further in the case. I hope it upholds the lower court, notwithstanding the Clinton administration's change of heart.

Moreover, the Justice Department largely echoed its Piscataway brief in the wide-ranging rationales it will accept for preferential hiring in the Federal Government. The Justice Department's claim that whenever an employer can produce statistics, anecdotes, or expert testimony, it can justify racial, ethnic, and gender preferences in order to meet its operational needs is a giant leap down the wrong road for this country. The President should repudiate this memorandum and start over again. He has had to countermand the Justice Department in a pornography case and a religious liberty case, so I am not suggesting anything new for this President.

Let me be clear: I favor racial diversity and integration. The question is, how does an employer achieve it? I believe the proper way of doing so is recruiting widely, including among those who traditionally do not apply for a job, and then hiring on a nondiscriminatory basis, letting the numbers then fall where they may. We should not seek to achieve diversity by trumping the principle of equal opportunity for individuals.

The Clinton administration, in contrast, believes diversity can and should be reached by discrimination and preferences, even in cases involving layoffs, as in the Piscataway case. Indeed, as I mentioned earlier, its brief in this case, after changing sides, together with its recent guidance to Federal agencies, embraces multiple, sweeping rationales for reverse discrimination with little limit, at least in the context of hiring, promotion, and remarkably, layoff.

This is a recipe for the division, polarization, and balkanization of our people. It does not bring us together. The drafters of the 1964 Civil Rights Act, such as Hubert Humphrey, have shown us a better way. Instead, President Clinton is taking us far away from the principle of equal opportunity for individuals.

No matter how much the purveyors of preference try to candycoat or obfuscate their policies with euphemisms, they cannot mask the outright discrimination they are supporting. They cannot fool the American people.

Let me mention just some of the other manifestations of the Clinton administration's policy of preference. An August 10, 1994, memorandum to Assistant Secretaries of Defense for Force Management; Health Affairs; and Reserve Affairs and to the Deputy Under Secretaries of Defense for Requirements and Resources and for Readiness addressed the subject of improving representation. It is from the Under Secretary of Defense for Personnel and Readiness, Edwin Dorn.

The memorandum expresses concern about the job representation of, for example, minorities and women. That is a fair concern, and the issue becomes, how do you address that concern. The memorandum seems to call for recruitment of minorities and women as applicants for jobs, which I believe is entirely appropriate. But listen to how this concern is further addressed in the memorandum. Listen to how subtle pressure is placed on subordinates to put a premium, a preference, on irrelevant characteristics at the point of hiring or promotion.

The memorandum reads in part:

> Secretary Perry is holding me responsible for improving representation within the Office of Under Secretary of Defense for Personnel and Readiness. For this reason, I need to be consulted whenever you are confronting the possibility that any excepted position, or any career position at GS–15 level and higher, is likely to be filled by a candidate who will not enhance your organization's—and thus Personnel and Readiness's—diversity. By working together, we may be able to make faster progress. We know that there is a problem; it may be apparent even at our own staff meetings . . .

Notice that whenever there is a mere possibility that a person in one of the nonpreferred groups is even likely to be hired or promoted for any of the covered positions, race and gender must then come into play. The Defense Department may try to explain that any way it wishes. But the euphemistic phrase making faster progress, as a practical matter, means: if you are about to hire or promote a male or a nonminority, presumably on the basis of merit, do not do it until you check with your superiors and we may well prefer someone else on the basis of race or gender to improve our numbers. Indeed, in the next paragraph, the memorandum states, "I believe that the informal process outlined above will produce results. If not, we will need to employ a more formal approach involving goals, timetables and controls on hiring decisions."

The problem to the Clinton administration is not discrimination. The problem to the Clinton administration is the absence of a particular proportion of each group. By singling out hiring and promotion of white males for special scrutiny, this office in DOD discriminates against them. While this approach is already a formal one—see me before you hire a white male—the threat of even more draconian measures makes it even more likely that his subordinates will make sure they are on board in their hiring to begin with.

Antidiscrimination laws already apply to the Defense Department to ensure equal opportunity. The Department is also certainly capable of recruiting widely for job applicants. But the Clinton administration is going well beyond this with its pervasive policy of preference.

If President Clinton is really serious about equal opportunity, he will repudiate that memorandum.

Let us take another example of the Clinton administration's drive toward equal results. The November 15, 1994, FAA Weekly Employee Newsletter states, "More than half of the GS–15 management positions recently filled through the Air Traffic National Selection System were minorities and females. 'This is in line with Air Traffic's commitment to fill one out of every two vacancies with a diversity selection,' said acting Associate Administrator for Air Traffic, Bill Jeffers." Rather than achieve equal opportunity by recruiting widely and hiring fairly, without regard to irrelevant characteristics, the Clinton administration prides itself on a process, driven not by equal opportunity, but by equal results.

When asked at a congressional hearing on June 27, 1995, whether the administration opposes quotas, the President's Attorney General said yes. Yet, when asked about the propriety of this FAA policy, the Attorney General refused to answer three times, hiding behind the President's ongoing, long-running Adarand review. There was no excuse for failing to repudiate the FAA's policy if this administration was serious about equal opportunity, rather than treating it as a political problem to be managed with euphemisms and dodges.

President Clinton's omnibus health care bill in the last Congress provides yet another example of how this administration really views preferences and has sought to foster preferences and reverse discrimination. The Clinton health care proposal would have given a national council power to set limits on the number of medical students in various specialties and would have allocated funding among various medical training programs. The bill said that among the factors the national council must consider in allocating specialty slots is,

> . . . the extent to which the population of training participants in the program includes training participants who are members of racial or ethnic minority groups, [and] with respect to a racial or ethnic group represented among the training participants, the extent to which the group is underrepresented in the field of medicine generally and in various medical specialties.

It was not enough, then, that the medical school comply with title VI which bans racial and ethnic discrimination in programs receiving Federal aid. It was not enough to recruit widely for applicants. The Clinton administration wanted to tell medical schools that the more members of a particular group they enroll, the more likely it is that they will get a financial allocation. How many members of the groups? The bill did not say, a new twist on preferences and their encouragement. Mr. President, if you were a rational medical school administrator competing for scarce Federal dollars, and this bill had become law, how would you react? Would you simply recruit widely and then select medical students on the basis of merit and talent, without regard to race or ethnicity? Or would you make sure that race and ethnicity play a role in the selection of students, as well? This is a financial incentive for preference.

The revised Clinton health bill, S. 2357, introduced in August 1994, actually added women to racial and ethnic groups in this preference provision. Of course, Federal law since 1972 already bans discrimination against women in federally assisted education programs. Instead of relying on our nondiscrimination laws which were written to protect these people and relying on recruitment of the right kind, the Clinton administration actually made this provision more preferential than it was less than a year before.

If President Clinton is so concerned about fairness and doing the right thing, I respectfully suggest that, as a first step, he ought to stop doing the wrong thing.

There are a number of other examples. Let me mention the Podberesky versus Kirwan case.

In addition to need-based financial aid, the University of Maryland at College Park [UMCP] offers two merit-based scholarships. No. 1, the Banneker scholarship, is for black students only. Podberesky, a Hispanic student, applied for a Banneker scholarship. Although he met the minimum requirements, he was turned down because he is not black. He is Hispanic.

The Department of Justice defended the program as a remedy for the present effects of past discrimination in Maryland's public higher education system. The district court ruled for the university, but the fourth circuit reversed and granted Podberesky summary judgment. The fourth circuit said that the university did not have sufficient evidence of present effects of its prior discrimination to justify a preference in its scholarship program, and, in any event, its effort is not narrowly tailored to serve its purported remedial purpose.

Instead of justifying this reverse discrimination, the Clinton administration should be fostering race-neutral financial aid policies.

When the California regents ended reverse discrimination in their policies in the California State university system, how did the Clinton administration respond? The President's Chief of Staff, Leon Panetta called it a terrible mistake. The Clinton administration sought to bully California and perhaps intimidate others. It initially threatened a possible cutoff of Federal aid and Federal contracts. Mr. Panetta, referring to the California universities' Federal aid, said, "Obviously the Justice Department and the other agencies are going to review the relationship." The President's chief civil rights enforcer, Assistant Attorney General Deval Patrick, called this policy of equal opportunity a shame. He called it unwise. In a statement that only George Orwell could have loved, the Clinton administration's chief civil rights enforcer condemned the California Regent's action as an abandonment of "the ideals that have been with us since our founding as a nation."

This is another example of how the President does not get it: The California Regent's new policy is a step that reflects our Nation's ideals. If the President was truly concerned about fairness, equal opportunity, and against reverse discrimination, he would have supported Gov. Pete Wilson and the California Regents. Nothing better sets out the starkly different visions of this administration and those of us who believe in equal opportunity for all Americans than the Clinton administration's attempted bullying of California on this matter. Nothing better belies this administration's claim to be reformist—though the administration may tinker here and there, it is essentially a defender of the status quo.

This administration is fostering preferences in mortgage lending and property insurance through groundbreaking misuse of fair housing and fair credit laws. The then acting director of the Office of Thrift Supervision has even questioned some of these tactics.

The President, in undertaking his review of affirmative action, reminds me of the French Police Chief in the movie "Casablanca" who pretended not to know gambling was taking place in the nightclub he frequented. President Clinton would apparently be shocked, shocked to learn that reverse discrimination is openly, knowingly, and tenaciously fostered and defended by his administration in practice. Even now, I believe the Clinton administration is working hard to devise ways of perpetuating as much preference as possible, giving up just enough to make it seem as if they are doing something about it. Even then, as I will explain in a moment, the administration is attempting to mislead the American people.

President Clinton is out of touch with mainstream America on the issue of equal opportunity.

Mr. President, it is not enough to nibble at the edges of a problem.

The administration has announced its suspension of one of the preference programs operated by the Federal Government. This is a contract set-aside program operated at the Defense Department, the so-called rule of two program. I approve of this small, first step, but it is so much window-dressing thus far in the administration's review. Indeed, after making a large public relations splash about the suspension of this program, the Department of Defense made a much quieter announcement in the Federal Register on December 14, 1995. It proposed a new preference for awarding certain contracts by adding 10 percent to the total price of all offers other than those from small minority businesses.

And, shortly thereafter, the Clinton administration filed a brief in the Dynalantic Corp. versus Department of Defense case, which tenaciously defended racial contract preferences generally and under the section 8(a) program.

The President may suspend a few more programs that represent the worst abuses. But, Mr. President, one cannot split the difference on the principle of equal opportunity.

There are numerous preferential programs and policies operated by the Federal Government, a number of which the President can abolish. For example, he could eliminate the use of numerical racial, ethnic, and gender employment goals for Federal contractors. Executive Order 11246 requires Federal contractors to undertake affirmative action to ensure nondiscrimination. It does not require numerical goals. Numerical goals are a bureaucratic creation which the President could end with a stroke of a pen.

The section 8(a) contract set-aside program at the Small Business Administration is another example. Section 8(a) is intended to assist small businesses owned by socially and economically disadvantaged persons. The statute defines a socially disadvantaged person as someone who has been discriminated against because of racial, ethnic, or cultural bias. But the SBA regulations require that members of some racial or ethnic groups be presumed to be socially disadvantaged. All others seeking entry into the 8(a) program must prove they are socially disadvantaged. The President should order the deletion of this preference. All American small businessowners should have an equal chance to compete for 8(a) contracts.

Moreover, aside from these three areas, there are many other Federal policies and programs that contain preferences. What does the President intend to do about them?

What is the President's action really about? The answer seems to lie in the candid remark of an administration official, cited in the May 31, 1995, New York Times. In that story, the New York Times reported that "an administration official said there might be some political benefit if black business executives criticized the Administration's eventual proposals. 'We want black businessmen to scream enough to let angry white males understand we've done something for them,' said the anonymous official."

Indeed, President Clinton went to California over the Labor Day weekend and claimed credit for Congress' repeal of an FCC racial preference in the selling of broadcast properties earlier this year. His administration, of course, resisted repeal of that preference, and then wanted it modified, not repealed. His own spokesman had to acknowledge as much. And, as I mentioned earlier, in December, his administration recently proposed a brand new preference at the Department of Defense and continues to defend other preferences.

Let me conclude with the words of Prof. William Van Alstyne, in a 1979 law review article:

> . . . one gets beyond racism by getting beyond it now: by a complete, resolute, and credible commitment never to tolerate in one's own life—or in the life or practices of one's government—the differential treatment of other human beings by race. Indeed, that is the great lesson for government itself to teach: in all we do in life, whatever we do in life, to treat any person less well than another or to favor any more than another for being black or white or brown or red, is wrong. Let that be our fundamental law and we shall have a Constitution universally worth expounding.

This is "Rites of Passage: Race, the Supreme Court, and the Constitution:" in the Chicago Law Review. I have to say I fully agree with that.

Mr. President, this is an important set of issues. We cannot ignore them. We are going to divide this country more than ever if we keep doing this system of preferences that has been going on in this administration and, alas, unfortunately, in some prior administrations as well. I hope that we can do a lot about this. I hope that we will make headway against these preferences and these inappropriate treatments of fellow American citizens as we move on into the future.

I hope the administration will pay attention to some of the things that I have brought up here today.

THE UNTIMELY DEATH OF SECRETARY OF COMMERCE RON BROWN

Mrs. FEINSTEIN. Mr. President, I would like to comment briefly on the tragic death of Secretary of Commerce Ron Brown, which occurred last week in Croatia.

I have known Ron Brown and his family for 12 years. Ron was a friend of mine, and a friend of the State of California. One of his first duties as Commerce Secretary was to find ways to resuscitate California's economy, and he helped to do just that. Ron Brown made the Department of Commerce a positive force for helping the largest State in the Union recover from the devastating recession of the early 1990's.

Ron had a vision of a prosperous America, where the cliche that "a rising tide lifts all boats" could actually come true. He focused his Department and this administration on looking for opportunities to help the American economy make the transition from the era of heavy industry to an era of high technology, scientific innovation, and the advancement of the current revolution in communications.

Ron helped formulate this vision, made sure that his Department gave grants and other forms of assistance to firms pursuing it, and at the time of his death was advocating that vision to other parts of the world.

But even more important than his career was the man himself. Always upbeat, with ceaseless energy, Ron could persuade the most vehement skeptic of the value of his vision and efforts for our country. He served in a variety of roles, and in each he excelled. His days as an effective leader with the National Urban League demonstrates this, where he became deputy executive director, general counsel and vice president of the Urban League's Washington, DC office.

Ron Brown's boundless energy and commitment to excellence did not stop at the National Urban League. It continued to help him break racial boundaries and become the first African-American to head a major political party, helping to elect the country's first Democratic President in 12 years; the first African-American to become a partner in his powerful Washington, DC law firm; and the first African-American to take the helm at the U.S. Department of Commerce.

I know of no chairman of the Democratic National Committee who was better regarded, whose fundraising calls were more frequently returned, or whose hardships and public statements were more well regarded—Ron Brown was tops.

In my view, Ron Brown's stewardship as Secretary of Commerce was unparalleled. He truly cared about his work and those the Department serves, and the record reflects accurately billions of dollars in trade and new business that will, in the future, benefit this country's businesses and industrial base.

I find the circumstances of his untimely death to be particularly poignant. Here he was, leading a group of business people and his staff, on a mission of peace to the war torn land of the former Yugoslavia.

He did not wait for peace to be restored. He went when risks of hostile action were still present. He did not wait for pleasant weather before springing into action. And, he did not just work on economic issues. He also spent time with our troops over there, to let them know we support their efforts.

Mr. President, we have lost a great American in Ron Brown. Whether it was politics, or crafting legislation for the Senate, or civil rights, or military service, or being a husband and a father, Ron Brown was a great patriot, and a great human being. I shall always treasure the relationship he and I had, and I shall miss him terribly.

To Alma Brown and Tracy, who have traveled with me in the campaign, I send my heart and prayers. With all his family, I share an unrelenting emptiness and sadness. I will miss the phone calls, the smile, the exploits from progress, and, most of all, his abiding and consummate belief in all of us.

LUCIUS WADE EDWARDS, JULY 18, 1979–APRIL 4, 1996

Mr. HELMS. Mr. President, on March 14 of this year, one of the most impressive young men I have ever met came to my office, accompanied by his justifiably proud mother. Lucius Wade Edwards, 16, had just come from the White House. He had visited with First Lady Hillary Rodham Clinton who praised him for having been 1 of the 10 finalists in a contest sponsored by the National Endowment for the Humanities and the Voice of America.

His father, John R. Edwards; his mother, Elizabeth Anania Edwards, and his younger sister, Kate, accompanied him to the White House living quarters for his visit with Mrs. Clinton.

Wade was being honored for his having written a poignant essay entitled, *What It Means To Be An American*. Wade described going with his father to vote.

It was, as I said at the outset, Mr. President, March 14, 1996, when Wade and his dear mother stopped by my office. Three weeks later, on April 4, Wade died in an automobile accident that involved no carelessness, no recklessness, no failure to wear his seatbelt. It was just one of those tragic things that happen, and it snuffed out the life of this remarkable young man.

Mr. President, in a moment I shall ask unanimous consent that two important insertions into the RECORD be in order. The first will be the text of the award-winning essay written by Wade. It is entitled "Fancy Clothes and Overalls."

The second is an account, published in the Raleigh News and Observer on April 4, 1996, relating to the tragic death of Wade Edwards.

I now ask unanimous consent, Mr. President, that the two aforementioned documents be printed in the RECORD at the conclusion of my remarks and in the order specified by me.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FANCY CLOTHES AND OVERALLS

(By Wade Edwards)

A little boy and his father walk into a firehouse. He smiles at people standing outside. Some hand pamphlets to his father. They stand in line. Finally, they go together into a small booth, pull the curtain closed, and vote. His father holds the boy up and shows him which levers to move.

"We're ready, Wade. Pull the big lever now."

With both hands, the boy pulls the lever. There it is: the sound of voting. The curtain opens. The boy smiles at an old woman leaving another booth and at a mother and daughter getting into line. He is not certain exactly what they have done. He only knows that he and his father have done something important. They have voted.

This scene takes place all over the country.

"Pull the lever, Yolanda."

"Drop the ballot in the box for me, Pedro."

Wades, Yolandas, Pedros, Nikitas, and Chuis all over the United States are learning the same lesson: the satisfaction, pride, importance, and habit of voting. I have always gone with my parents to vote. Sometimes lines are long. There are faces of old people and young people, voices of native North Carolinians in southern drawls and voices of naturalized citizens with their foreign accents. There are people in fancy clothes and others dressed in overalls. Each has exactly the same one vote. Each has exactly the same say in the election. There is no place in America where equality means as much as in the voting booth.

My father took me that day to the firehouse. Soon I will be voting. It is a responsibility and a right. It is also an exciting national experience. Voters have different backgrounds, dreams, and experiences, but that is the whole point of voting. Different voices are heard.

As I get close to the time I can register and vote, it is exciting. I become one of the voices. I know I will vote in every election. I know that someday I will bring my son with me and introduce him to one of the great American experiences: voting.

Wade Edwards, 16, is a junior at Broughton High School, the oldest high school in Raleigh, North Carolina. He has played on Broughton's soccer team, participated in student government and has been an editor on the yearbook staff. He is also a member of the Key Club, the Junior Classical League, and the Latin Honor Society. This year Wade was selected to attend the National Youth Leadership Forum on Law and the Constitution. After school, he works as a messenger for a law firm. One of the accomplishments of which Wade is not proud was achieved outside of high school—last summer he successfully climbed Mount Kilimanjaro, the highest peak in Africa, with his father and two friends.

LUCIUS WADE EDWARDS

RALEIGH.—Lucius Wade Edwards was born in Nashville, Tennessee, on July 18, 1979, the first child of John R. Edwards and Elizabeth Anania Edwards. He moved at two years old with his family to Raleigh. He moved into the house he calls home the day after his loving sister, Kate, was born. He chose the green room and quickly filled it with the imagination of a boy. In elementary school at Aldert Root, he made lasting friendships and, when his sister joined him, he was the perfect big brother, walking her home each day hand and hand. Wade played basketball at the Salvation Army, the YMCA, and the Jaycee Center. He played soccer for years with CASL, eventually on the Broncos coached by his father, and later on the Renegades. Wade attended middle school at Ligon for two years, where his poetry was published and he won a countrywide computing award, and at Daniels for one year. He really began to become a young adult when he started attending Broughton High School in 1993. He made the Junior Varsity Soccer team in his freshman and sophomore years. He joined various organizations, such as Junior Classical League, Key Club, and the yearbook staff, where he was organizations editor this year.

In the summer between Wade's sophomore and junior years in high school, Wade attended and completed the eighteen day Rocky Mountain Outward Bound program. Immediately after that, Wade and his father flew to Africa, where they met with close friends and together successfully climbed Mount Kilimanjaro. It was the accomplishment of which he felt most proud.

In his junior year, Wade was invited to attend and did attend the four day National Youth Leadership Conference on Law and the Constitution in Washington, D.C. A short story he wrote based on his Outward Bound experiences was chosen for publication in Broughton's literary journal and won second place in the Raleigh Fine Arts Society competition for all Wake County eleventh graders. He wrote an essay on the topic What It Means To Be an American for the National Conversation Essay contest. He wrote about voting with his father. His essay was selected as one of the ten finalists nationwide. As a result, in March he was invited by the National Endowment for the Humanities and Voice of America to receive an award in Washington, D.C. During that visit, he had a personal audience with the First Lady, Hillary Rodham Clinton in the private quarters of the White House. With his father, mother, and sister watching, he received his award in the Indian Treaty Room. He recorded his essay for international broadcast over Voice of America.

Wade had a greater impact than his many achievements. He made many friends with his wide smile and easy way. He had a genuine sweetness and compassion that made his friends cherish him. He was always affectionate and loving with his family, which, in this time, gives great comfort. And in return he was well-loved in his home, in his school, and in his community.

In addition to his parents, Wade is survived by his sister, Kate, maternal grandparents, Vincent and Elizabeth Anania of Melbourne, Fla., paternal grandparents, Wallace and Catherine Edwards of Robbins, N.C.

Funeral service will be at 11 a.m. Monday at Edenton Street United Methodist Church.

The family will receive friends at Brown-Wynne Funeral Home, St. Mary's Street from 7–9 p.m. Sunday. Burial will follow in Oakwood Cemetery.

In lieu of flowers, the family asks that donations be made to a Memorial Fund at Broughton High School, St. Mary's Street, Raleigh, in Wade's name to be used to create a memorial befitting Wade's special gifts and contributions.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

Mr. HATCH. Would the Senator withhold that?

Mr. SIMPSON. I withhold.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

Mr. HATCH. Mr. President, since we have just turned to the illegal immigration reform bill, I ask the indulgence of the two managers for a few minutes. I want to pay tribute to my friend and colleague, the senior Senator from Wyoming. For some 17 years—really, 17 years plus—Senator SIMPSON has taken on the difficult and often thankless task in dealing with the immigration issue, an issue which stirs the emotions, and one which people become very passionate about. He has always taken on this task with spirit, diligence and intelligence. His views were always thoughtful.

From time to time, I have disagreed with my friend from Wyoming on some immigration issues, but the record should be crystal clear that my friend from Wyoming is a man of great good will, a good will he brings to this issue. He often takes unfair criticism. Indeed, to borrow one of many pithy phrases I will soon miss from my friend, my friend has had several metric tons of garbage dumped on him over this issue—although garbage is not the exact word he uses. The abuse is very much undeserved.

I express my warmth, affection, and respect for my friend from Wyoming as we continue this important debate, and respect for his staff, also, which has worked so hard on these issues. I want him to know that I, as chairman of the Judiciary Committee, particularly appreciate his help and his work in the markup of this very important bill. I just want him to know how much we respect him and others who are working on this bill, as well.

Mr. SIMPSON. Mr. President, I do thank my friend and colleague from Utah. It is a great pleasure always to work with Senator ORRIN HATCH. We have done that, now, for 17½ years together. There is not a person I enjoy more—his spirit, energy, and background as a pugilist, which has certainly helped him. Would that I had studied pugilism as he had in my youth, because he gives as good as he gets. He is a wonderful friend, and I thank him.

As we proceed to these next 2 days, this issue is such a marvelous issue, filled simply with emotion, fear, guilt, and racism, and it is a political loser. It has never pushed me up a peg in political life, but somebody has to do this particular work, and the Senator has given me the ability and the leeway to go forward with it as your subcommittee chairman. I am deeply appreciative of it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The bill clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, let me begin by applauding the leadership of Senators SIMPSON and HATCH and the rest of the Judiciary Committee in passing out of the committee this very important immigration bill to stem the tide of illegal immigration in our country, both among those who come here illegally and those who come here legally but who do not leave our country when their visas expire. It has been said before that, according to the INS, these visa overstayers represent about 50 percent of the illegal population.

The bill we are debating this week also includes provisions to crack down on criminal aliens and alien smugglers and to ensure that neither illegal nor legal immigrants come to the United States to take jobs from taxpayers or to depend upon our Nation's welfare benefits.

There will be an effort on the floor to pass a sense-of-the-Senate resolution declaring that any attempt to reform laws related to legal immigration should be considered separately from illegal immigration reform. I oppose this effort and will speak against it when it is offered.

I plan to offer an amendment with Senator SIMPSON that will provide a temporary 10-percent reduction in overall legal immigration. This is a very modest reduction, but it will at least provide a sharp contrast to the increase in immigration that will result under the bill as it was amended in the committee.

It is important to make clear that immigration will not be reduced under the committee bill. Immigration will increase at a slightly lesser rate than under current law, but it will increase.

Having said that, Mr. President, I move to the bill we are debating today and one of great importance to the Nation, and specifically to my home State of Arizona. Immigration and Naturalization Service figures show that illegal immigrants are entering Arizona at a faster rate than they are entering any other State. Over the past year, Arizona has surpassed even Texas in illegal immigrant apprehensions. California is the only State with higher apprehension levels, and although apprehensions have decreased somewhat in what had been the hot spot for illegal entry in Nogales, AZ, apprehensions for March 1995 to March 1996 have increased over 300 percent in the Nation's newest hot spot for illegal entry, Douglas, AZ.

Mr. President, I was in Douglas, AZ, just about a week ago, in fact, a week ago yesterday, and visited with community leaders and with Immigration and Naturalization Service employees. The situation in Douglas is extraordinary, to say the least, with thousands of illegal entrants into the country every month. As a matter of fact, in the first 2 months of this year already, more people had been apprehended than in all of last year. What has happened is that as the INS has put more agents in Texas and in the San Diego area of California, the illegal immigration naturally shifted to Arizona, first the port of Nogales, where last year that was the hottest spot in Arizona. Now, with more agents having been put in Nogales the people are moving from there, east, to Douglas and crossing the border in that very small community. As a result, it is very, very important that there be additional support provided for the Immigration and Naturalization Service in the Douglas area, including the addition of more agents.

I note that at the moment, there are some 60 temporary agents, but under labor union contracts they can only be assigned away from their permanent station for, I think, a period of 30 days. In any event, 60 people translates into 15 people on the ground at any given time. There needs to be an additional allocation of agents to the Douglas area. According to the Immigration and Naturalization Service, illegal immigrants comprise about 10 percent of the work force in Arizona.

In addition, according to Governor Fife Symington, Arizona incurs costs of $30 million every year to incarcerate criminal aliens. The State also spends $55 million annually in Arizona taxpayer money to provide free education to persons who are in this country illegally. Clearly, illegal immigration imposes great costs on our citizens.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRASSLEY). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I will continue on with my comments.

Arizona is not the only State dramatically affected by illegal immigration. The INS estimates that there are 4 million illegal immigrants in the United States and that this number is growing by 300,000 to 400,000 each year.

While the United States has always been, and should continue to be, a land of opportunity for U.S. citizens and for those who come here illegally, we simply cannot afford as a nation to continue to incur the unrestrained costs of illegal immigration—in jobs, in welfare, in education, in health care, in crime on our streets, and on our penal system. To illustrate the effect, consider that over one-quarter of all Federal prisoners are foreign-born, up from 4 percent as recently as 1980. Again, over 25 percent of all Federal prisoners are foreign-born. It was only 4 percent just 15 years ago.

As we all know, yesterday was tax day. It is not fair, given our $5 trillion debt and annual $200 million in deficit spending, to ask law-abiding taxpayers to pay for those who choose to violate our laws to come to this country illegally, or even to pay for legal immigrants who, once here, quickly come to depend on our Nation for welfare and other public benefits.

S. 1664 will go a long way toward eliminating those incentives. Under the bill, illegal immigrants are banned from almost all public benefits programs outright and legal immigrants will have to work 40 quarters before becoming eligible for most benefits. I was pleased that the committee passed a number of amendments I offered to deal with this general issue: these include requiring the Education Department to report to Congress on the effectiveness of a new system designed to ensure that ineligible aliens do not receive higher education benefits, and requiring the Federal Government to reimburse States for the costs of providing emergency medical services and ambulance services also passed. The latter was offered on behalf of Senator MCCAIN. I also plan to offer an amendment during this debate to ensure that, as the House did, illegal aliens do not receive assisted government housing benefits.

So that aliens do not come to this country illegally and take jobs away from law-abiding taxpayers, the bill directs the Attorney General to conduct regional and local pilot employer verification projects to ensure that employees are eligible to work in the United States. Employers are already required to fill out the I–9 form to verify the eligibility of employees. However, the I–9 system is open to fraud and abuse—participants in the new system will be, for the most part, exempt from the I–9 requirement. An improved verification system will protect employers from unintentionally hiring illegal aliens and also protect potential job applicants from discrimination. The bill specifically prohibits the establishment of any national ID card. Employee verification can only be used after an employee is offered a job, and would require a subsequent vote in Congress before a national system could be established. I was pleased that the committee passed my amendments to limit liability and cost to employers who participate in any system.

Importantly, this bill will assist our Government in its primary responsibility; protecting U.S. borders and enforcing U.S. laws. After all, we are a nation of laws. We cannot turn a blind eye to those who break our immigration laws. We simply cannot afford to anymore. We must gain greater control over our Nation's borders, prevent illegal entry and smuggling, and detain and swiftly deport criminal aliens. S. 1664 will help achieve these objectives. Increasing the number of Border Patrol agents, and improving technology and equipment at the border has been one of my priorities, so I was particularly pleased that the committee adopted my amendments to train 1,000 new Border Patrol agents through the year 2000 and to require, as recommended by Sandia Labs in 1993, the construction of a triple-tier deterrence fence along the San Diego border; and to increase the number of INS detention spaces to 9,000 by the year 1997. This increase in detention space will raise by 66 percent detention space available to the INS to detain criminal aliens awaiting deportation and other aliens who are at risk of not showing up for deportation or other proceedings. The bill also requires the Attorney General to report to Congress on how many excludable or deportable aliens within the last 3 years have been released onto our Nation's streets because of a lack of detention facilities.

In addition, the bill allows the Attorney General to acquire U.S. Government surplus equipment to improve detection, interdiction, and reduction of illegal immigration, including drug trafficking, and allows volunteers to assist in processing at ports of entry and in criminal alien removal. These provisions will go a long way toward effective control and operation of our Nation's borders.

In addition to more effectively controlling our border, further modification of our laws is needed to create disincentives for individuals to enter the United States illegally. I plan to offer two additional amendments to deal with this issue. The first would amend section 245(i) of the Immigration and Nationality Act, so that illegal aliens who become eligible for an immigrant visa can no longer attain the visa by paying a fee that lifts the requirement to depart the United States. Section 245(i) encourages people who are awaiting an immigrant visa to jump illegally ahead of others, simply by paying a fee. Senator HUTCHISON and I also plan to offer an amendment that, with a number of exceptions, would exclude for 10 years those who have entered without inspection from obtaining a visa.

S. 1664 also makes clear that you cannot skirt the law by entering the country legally and then overstaying a visa. Another amendment I offered that the subcommittee adopted requires individuals who have overstayed their visas to return home to obtain another visa, period. And, the last successful amendment regarding overstayers, offered by Senator ABRAHAM and cosponsored by me, requires visa overstayers to return home for 3 years before applying for another visa. While this last amendment goes far, I plan to offer an amendment with Senator HUTCHISON that would, with a number of exceptions, exclude for 10 years those individuals who have overstayed their visas for more than a year.

For those individuals who come to this country and commit crimes—and there are 450,000 criminal in jails and at large in this country—there are provisions in the bill to keep them off our streets and deport more quickly. I am pleased that a bill I introduced last year, to encourage the President to renegotiate prison transfer treaties so that aliens convicted of crimes can no longer choose whether or not they serve out their sentences here or in their home country, was added to the bill. Also passed was my amendment to advise the President to renegotiate these treaties so that if a transferred prisoner returns to the United States prior to the completion of a sentence, the U.S. sentence is not discharged. The committee also passed a number of amendments I cosponsored, offered by Senator ABRAHAM, that strengthen the detainment and deportation of criminal aliens in other ways.

There are a number of other provisions in this bill that are important, including provisions to streamline the system by which asylum seekers apply to stay in the United States. While refugees are still offered important protections, abuse of the system will be largely curtailed by a new system allowing specially trained asylum officers at ports of entry to determine if refuge seekers have a credible fear of persecution. If they do, then they go through the process of establishing a well-founded fear of persecution in order to stay in the United States.

By allowing these especially trained officers to make decisions at ports of entry, it will be more difficult for individuals to simply fill out an asylum application, be released into the streets, and possibly never show up for asylum proceedings.

The bill we are debating this week includes provisions that Senator SIMPSON and his staff have worked hard to develop and protect. Many of them are a response to the Jordan Commission recommendations. It includes bipartisan provisions on which Senators from both sides of the aisle have diligently worked.

As we begin to consider this important bill, we have to remember that, unless we protect our borders and insist that our immigration laws are taken seriously, we undermine the law, and that undermines the United States as a land of opportunity for all—both foreign and native born. My grandparents immigrated to the United States from Holland. I think they would be concerned about how our immigration system works today.

The American dream must be kept alive for citizens and for those who came here legally. A government not in control of its own borders is not serving the public well.

I urge my colleagues to pass a bill that will address these important problems. Again, I very sincerely thank the chairman of the Immigration Subcommittee of the Judiciary Committee for his long years of work in this area and for his willingness to work with everybody on the committee to craft the best bill possible so that he can begin to deal with these serious problems.

Mr. SIMPSON. Mr. President, I thank my colleague from Arizona. I only want to say that it has been a great joy to work with him on the Committee on Immigration. He is a remarkable contributing member, brings a vigor and intelligence and skill to the committee, to the subcommittee, and to the full committee. There could not be a finer new Member of the body participating in the measure, and it will be a great personal satisfaction for me that he will continue on with this issue. I certainly hope, also, that it might be in the capacity as chairman of the Subcommittee on Immigration.

I know that Senator KENNEDY will work with whoever my successor will be, and I think we will find certainly a great deal of pleasure in working with Senator KYL. I thank him very much for all that he has done.

I yield to Senator BRYAN of Nevada since the business of the floor is the immigration bill and since I hold the floor.

Mr. DORGAN. Mr. President, regular order.

Mr. SIMPSON. I hold the floor. I believe that is the case.

Mr. DORGAN. Mr. President, parliamentary inquiry.

Mr. SIMPSON. You recognized me. I intended to yield to Senator BRYAN.

Mr. DORGAN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER (Mr. KYL). The Senator will state the parliamentary inquiry.

Mr. DORGAN. The Senator from Wyoming yielded to the Senator from Nevada for a question. Does the Senator from Wyoming control time on the floor of the Senate at this point?

Mr. SIMPSON. I have the floor, Mr. President.

The PRESIDING OFFICER. The Senator from North Dakota should be advised that Senator SIMPSON may yield to the Senator from Nevada with consent.

Is there any objection?

Mr. DORGAN. I object.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. Objection is heard.

The Senator from North Dakota.

Mr. DORGAN addressed the Chair.

Mr. SIMPSON. Mr. President, what is the status of the situation on the floor at the present time? Objection is sustained and not——

The PRESIDING OFFICER. At the present time, I will advise the Senator from Wyoming that, absent unanimous consent to do otherwise, the Senate, under the previous order, will resume consideration of S. 1664.

Mr. SIMPSON. Yes. But after the objection, then there is no yielding of any measure to the Senator from North Dakota. He does not then take the floor.

The PRESIDING OFFICER. That is correct.

Mr. DORGAN. Mr. President, parliamentary inquiry.

Mr. SIMPSON. This Senator, I am advised and wanted to be absolutely certain, does control the floor, and I can yield to the Senator from Nevada, and at the end of that time I intend to yield to the Senator from Wisconsin, Senator FEINGOLD, and to Senator GRASSLEY, because we are doing an immigration bill. We are not doing Social Security. We are not doing balanced budgets this morning.

Mr. DORGAN. Mr. President, parliamentary inquiry.

Mr. SIMPSON. Those are subjects that the Senator from North Dakota would like to address.

The PRESIDING OFFICER. The Senator is correct.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1664, which the clerk will report.

Mr. DORGAN. Parliamentary inquiry.

The bill clerk read as follows:

A bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dorgan amendment No. 3667, to express the sense of the Senate that a balanced budget constitutional amendment should protect the Social Security system by excluding the receipts and outlays of the Social Security trust funds from the budget.

Simpson amendment No. 3669, to prohibit foreign students on F-1 visas from obtaining free public elementary or secondary education.

Simpson amendment No. 3670, to establish a pilot program to collect information relating to nonimmigrant foreign students.

Simpson amendment No. 3671, to create new ground of exclusion and of deportation for falsely claiming U.S. citizenship.

Simpson amendment No. 3672 (to amendment No. 3667), in the nature of a substitute.

Several Senators addressed the Chair.

Mr. DORGAN. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from North Dakota will state his inquiry, and then it is the Chair's intention to recognize the Senator from——

Mr. DORGAN. Mr. President, the parliamentary inquiry is this. When I offered an objection to the unanimous-consent request, the unanimous-consent request was then not agreed to. At that moment I said, "Mr. President," and the Chair recognized the Senator from North Dakota.

I do not quite understand that the right of recognition on the floor of the Senate has changed because I read the rule book about the right of recognition. After I was recognized, the Senator from Wyoming then asked a series of questions of the Chair, from whom he got a sympathetic answer, which does not comport with the rules of Senate.

I would like to understand the circumstances which existed when the Chair recognized me after I objected.

The PRESIDING OFFICER. The Senator knows that the stating of a parliamentary inquiry does not gain the floor. The Senator from Wyoming has the floor. The floor was placed under the regular order, which the Senator from North Dakota had called for. Under the previous order, the Senate resumed consideration of S. 1664, which is the pending business. The Chair asked the clerk to report. The Senator from Wyoming has the floor.

Mr. DORGAN. Parliamentary inquiry. This Senator begs to differ with the President. The circumstances of the Senate were this: The Senator from Wyoming propounded a unanimous-consent request. The Chair asked if there was an objection. The Senator from North Dakota objected. At that point, the Senator from North Dakota addressed the President, "Mr. President." The President of the Senate recognized the Senator from North Dakota. At that point I was recognized and had the floor of the Senate.

I do not understand the ruling or the interpretation of the Chair that leads to a different result. I would very much like to try to understand that.

The PRESIDING OFFICER. The Senator from North Dakota is correct to this extent: The pending business is S. 1664. The chairman of the Immigration Subcommittee, Senator SIMPSON, has the right to be recognized under that pending business. The Chair has recognized the Senator.

Mr. DORGAN. Parliamentary inquiry.

Mr. SIMPSON. Mr. President, may I just ask my friend from North Dakota? I think the Chair could easily have determined that in recognizing the Senator from North Dakota, it was for the point of parliamentary inquiry. That was all that the Senator from North Dakota was seeking. If he was recognized, which he was, then certainly it was on the point of a parliamentary inquiry. I think that is perhaps the confusion.

Mr. DORGAN. Mr. President, parliamentary inquiry: The right of——

The PRESIDING OFFICER. The Chair, the President, will state again to the Senator from North Dakota that no one has the right to the floor when the President is asking the clerk to read the bill, which is the regular order. At that point in time, the Senator from Wyoming has the right to be recognized, and the Chair has recognized him.

So the Senator from Wyoming is recognized.

Mr. DORGAN. Mr. President, parliamentary inquiry. Did the Senator from Wyoming seek the floor when I made the objection to the unanimous-consent request?

The PRESIDING OFFICER. No.

Mr. DORGAN. Mr. President, after the unanimous-consent request was made and I objected, for what purpose did the Presiding Officer recognize the Senator from North Dakota? The transcript will show that the President recognized the Senator from North Dakota at that point.

The PRESIDING OFFICER. The Presiding Officer recognized the Senator from North Dakota for the purpose of inquiring what the nature of the parliamentary inquiry was and recognized the Senator from Wyoming and the manager of the bill, which is the pending business. It automatically became the pending business.

Mr. DORGAN. Further parliamentary inquiry. I think a mistake has been made here. I think I could easily understand what the mistake is if we had the transcript read back.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I hope that all of us understand what the situation is—I do anyway—and that is that the Senator from North Dakota feels very strongly about an issue which he proposed yesterday that had to do with a balanced budget amendment and Social Security and offsets and that type of thing, a rather consistent theme by the Senator from North Dakota that he talked about. There is also a proposal—I am not leadership. I am not representing leadership. What we are trying to do is go forward with an immigration bill. There will be many extraneous amendments on this bill, I feel quite certain. All I am trying to do is to get to the hour of 2:15, after which time the Senator from North Dakota may do anything that he desires to do with regard to the issue.

At this time I yield the floor for purposes of an opening statement by Senator BRYAN of Nevada.

Mr. DORGAN. I object, Mr. President.

Mr. BRYAN. I thank the Chair.

Mr. DORGAN. Mr. President, I object.

Mr. SIMPSON. There is not anything to object to.

The PRESIDING OFFICER. Did the Senator from Wyoming propound a——

Mr. SIMPSON. No; I did not propose a unanimous-consent request. I simply yielded the floor to the Senator from Nevada.

Several Senators addressed the Chair.

Mr. DORGAN. Parliamentary inquiry. That is not the way the Senate operates.

Mr. KENNEDY. The rules of the Senate require one can only yield for purposes of a question. That has been the rule for 200 years.

The PRESIDING OFFICER. The Senator from Massachusetts is correct.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The distinguished majority leader.

RECESS

Mr. DOLE. Mr. President, I move we stand in recess until 2:15.

The PRESIDING OFFICER. Is there objection to standing in recess until 2:15?

Without objection, it is so ordered.

The motion was agreed to, and, at 11:21 a.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. COATS].

WHITEWATER DEVELOPMENT CORP. AND RELATED MATTERS—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 p.m. having arrived, under rule XXII, the clerk will report the motion to invoke cloture on the motion to proceed to Senate Resolution 227.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. Res. 227, regarding the Whitewater extension.

Alfonse D'Amato, Dan Coats, Phil Gramm, Bob Smith, Mike DeWine, Bill Roth, Bill Cohen, Jim Jeffords, R.F. Bennett, John Warner, Larry Pressler, Spencer Abraham, Conrad Burns, Al Simpson, John H. Chafee, Frank H. Murkowski.

CALL OF THE ROLL

The PRESIDING OFFICER. The mandatory quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of Senate Resolution 227, the Whitewater resolution, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

I further announce that the Senator from Alaska [Mr. MURKOWSKI] is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Alaska [Mr. MURKOWSKI] would vote "yea."

Mr. FORD. I announce that the Senator from North Dakota [Mr. CONRAD] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 51, nays 46, as follows:

[Rollcall Vote No. 61 Leg.]

YEAS—51

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

NOT VOTING—3

Conrad
Mack
Murkowski

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 46. Three-fifths of the Senators not having voted in the affirmative, the motion is rejected.

The majority leader is recognized.

UNANIMOUS-CONSENT REQUEST—S. 1664

Mr. DOLE. Mr. President, what I am going to propound when Senator DASCHLE arrives is consent that consideration of the immigration bill be limited to relevant amendments only. Either we will finish this bill or we will move to something else. It is my hope we can complete action on the immigration bill by tomorrow evening and then go to the Kassebaum-Kennedy health care bill.

In the interim, we need to take care of the conference report on terrorism. The original bill passed the Senate last May. We are prepared, if we cannot do business on the immigration bill, to move to the conference report on terrorism. We would like to finish that so that the House might complete action on it by Thursday.

I now ask unanimous consent that during the consideration of the pending immigration bill, the bill be limited to relevant amendments only.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, reserving the right to object, I wonder how many times Senator DOLE has been in the opposite position, when Senator MITCHELL and my distinguished predecessor, Senator BYRD, made similar requests on the Senate floor.

We all know the circumstances on the Senate floor. We all know that there are many occasions when Senators have no other opportunity to raise an issue except in the form of amendments to pending legislation. Our Republican colleagues have done it time and time again, both in this Congress as well as in previous Congresses.

Given that, I propose a modification to the unanimous-consent request that I think is reasonable. We would be prepared to offer just two nonrelevant amendments, the minimum wage amendment as well as the Dorgan amendment relating to the balanced budget proposal, and would even be prepared to allow the Republicans a similar number of nonrelevant amendments, with time constraints and no second-degree amendments, in an effort to accommodate the schedule.

That is not, it seems to me, too much to ask. We could accommodate that within the next hour or two. We could even agree to a limited number of amendments on the bill itself that are relevant. I make that modification and ask the distinguished majority leader whether he would be inclined to support it. If so, I think we could find a way in which to schedule this legislation and reach final passage.

Mr. DOLE. Maybe regulatory reform. We have over a majority. We have 58 votes; we need 60. My colleagues on the other side will not let us bring that to a vote. That costs the average family about $6,000 per year because of excessive regulations. We think it is a reasonable nonpartisan bipartisan approach to regulatory reform. Maybe that is an amendment we could look at.

What I will tell the Democratic leader, I am happy to consider that, but I assume if he objects to this request, we will go on to the terrorism conference report, after a statement by the distinguished Senator from Wyoming, Senator SIMPSON. Maybe while we are resolving that bill, we could see if we can resolve this one.

I said we passed this bill last May. It was June 7 that the terrorism bill passed by a vote of 91 to 8. We have pretty much the same bill. I hope we would not spend a great deal of time on the conference report. Then we can go back to the immigration bill if we can work out an agreement. If not——

Mr. DASCHLE. If I can respond to the distinguished majority leader, I hope we could use whatever time we have available to us to see if we can find some mutually agreeable schedule here. Our desire is to come to final passage on an illegal immigration bill.

We want to see that happen as badly as anybody else here in the Senate. We also recognize, however, that circumstances in the past have precluded us from offering amendments relating to minimum wage. We will not have, if we bring up the constitutional amendment to balance the budget under the reconsideration rules here in the Senate, an opportunity to offer amendments. So we really have no vehicle with which to offer alternatives.

But I understand and certainly respect the majority leader's position, and I want to work with him to see if we cannot accommodate his desire and ours to complete work on the illegal immigration bill, as well as to have opportunities to vote on issues that we hold to be very important.

I object under the circumstances now presented.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. As I understand it, the Senator had a modification to mine?

Mr. DASCHLE. Yes, I proposed a modification.

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

TERRORISM PREVENTION ACT—CONFERENCE REPORT

Mr. DOLE. Mr. President, I hope that the Chair may lay before the Senate the conference report to accompany the terrorism bill, and I will ask that the conference report be considered as having been read, and then we can make whatever statements we want.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object. If, as soon as that is laid down, the Presiding Officer could recognize the Senator from Massachusetts and the Senator from Wyoming, I would have no objections, with that understanding.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 735), to prevent and punish acts of terrorism, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of Apr. 15, 1996.)

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

Mr. SIMPSON. Mr. President, I just reflect that Senator KENNEDY and I are ready to go forward with this measure. It is an issue that is very topical and must be addressed—the issue of illegal immigration, the issue of legal immigration. Both bills are here. One is at the desk and one is being processed.

I want to assure all that immigration reform is not a partisan issue. It never has been and it never will be. It cannot be. I just hope that before we go on with these maneuvers, we recognize that I do not think anyone, especially in an election year, would want to be known as the person that took this bill down and left it down. It is an issue that, as I say, is not going to resolve itself. It is a Federal issue, not a State issue. We either resolve it, or we will have proposition 187's in every State of the Union. From me, I have buried my dead many times before with regard to both legal and illegal immigration, and life will go on if you bury it one more time.

Thank you.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I join with the Senator from Wyoming in believing that it is premature to draw this bill down. This issue is of enormous importance in terms of dealing with the borders of this country and the flow of illegal immigration. It is enormously important in terms of enhancing the various criminal statutes that would deal with struggling, and it is enormously important to make sure we are going to protect American jobs by refusing illegals the opportunities for employment. And as the Jordan Commission and the Hesburgh Commission pointed out, jobs are the issues which attract the illegals. This particular measure deals with those particular proposals.

We had 6 days of markup on this in committee. As the Senator from Wyoming pointed out, there was significant participation by Republicans and Democrats. It was devoid of partisanship in the consideration of various amendments. Last evening, the Senator from Wyoming offered three important amendments, which we were about to accept—one to make it a deportable offense to falsely claim to be a citizen while applying for jobs or welfare benefits. That is important. That can make a difference in terms of protecting the American taxpayer and the American worker. There is an amendment to keep track of the foreign students, to make sure they stay in school and not work illegally. We do not have the information of what is happening to many of the students, whether or not they circumvent the current laws and melt on into the population and use what is a legitimate cause to come here, to subvert the efforts to try and deal with illegal immigration. The third proposal is where you have students that come here to go to a private university and end up, at the public taxpayers' expense, allegedly going to public education at the burden of the taxpayers. These are significant and important amendments. We debated and discussed those last evening. We are prepared to act on them.

So there are probably eight or nine extremely important and controversial items that I was prepared to work out a time agreement on and urge colleagues to do so. And there were the other two items, which as Senator DORGAN and I will speak to briefly, about the minimum wage.

I would have been glad to urge the minority leader to agree to an hour or half hour, if that was going to be the cost of getting a vote on the issue of the minimum wage. We have been unable to get consideration of that measure now for over a year. And we have seen 56 Members of the Senate—bipartisan—who have indicated they want to address that issue. We are still denied an opportunity to consider a bill on its own merits with a relatively short period of time, since this is an issue that is understood by the Members.

Every day that goes on where we deny the opportunity for an increase in the minimum wage makes it clearer and clearer that there are those in this body, the U.S. Senate, that refuse to recognize that the work is important of the men and women in this country that work 40 hours a week, 52 weeks a year and are entitled to a livable wage. That issue is not going to go away. We are going to keep revisiting that, as the minority leader pointed out, over the objections and opposition and stress to those opposed to that, until we are at least able to deal with it in a way in which that particular issue is dealt with with a sense of dignity because of the importance that has to many of our fellow citizens.

So I am disappointed that we are not able to move ahead. We are prepared to move along. I think many of those amendments that have been published here could be disposed of with broad bipartisan support. Probably, a dozen need our full attention. We were quite prepared—I know the leader on our side had instructed us to make every effort to move the program forward. That was the sense of the Democratic members of the Judiciary Committee. So, Mr. President, I am distressed by that. Also, as a matter of information on the terrorism bill, they did strike provisions that were in the previous law that permits the Internet to publish information about how to make bombs, and then a measure that was worked out by Senator FEINSTEIN, and also Senator BIDEN, that ensured that we were going to deal with that particular item. It was a matter that I brought to the floor. Someone had sent it to me over the Internet itself, and it provided in detail about how to make bombs. Senator FEINSTEIN and Senator BIDEN provided leadership to deal with that on the Internet. And now, as I understand, for some reason that I cannot possibly understand, in this terrorism conference report that particular provision has been eliminated.

I heard the leader say that this is pretty much the same measure that came through the Senate. I have just listened with great interest. I wish our ranking member of our Judiciary Committee, Senator BIDEN, was on the floor to respond to that. I know we will have a debate on some of those measures. But that, along with other provisions dealing with the explosives and tagging explosives and also the reduction of the provisions, which were accepted in the Senate in terms of wiretapping, which the FBI indicated would be such a powerful force in terms of dealing with the terrorist organizations and potential terrorist bombs, have all been dropped in that conference report. For what reason I do not know. But I heard the leader say that this measure was pretty much what was passed in the Senate. Certainly, if those measures have been addressed and deleted or compromised, I think that we ought to—as I am sure we will—hear Senator BIDEN and others address it.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, the Senator from Massachusetts is correct. Senator HATCH is prepared, and he will start on the conference report. We are not going to debate the immigration bill. It is being held hostage now because of the demands on the other side. If we do not want to do anything about illegal immigration, I guess the Democrats can make that happen. Most Americans, by 80 percent, think we should deal with this issue. But now we are going to be held hostage by Social Security amendments and minimum wage amendments. They have five or six others. Then they have the gall to stand up and say, "We want to move ahead on illegal immigration." We know what is happening.

If we can work out a time agreement on relevant amendments, we will pursue illegal immigration or the immigration bill. It passed the committee, as I understand, by a vote of 13 to 4. But if we are going to have extraneous amendments and nonrelevant amendments to help protect some of those who voted wrong on the balanced budget amendment, we could be having this every day—and every day and every day. I just hope the six on the other side who voted for a balanced budget amendment 2 years ago would now, when we have the vote sometime this month or probably next month, vote for the balanced budget amendment—we are just a couple of votes short—and send it to the States for ratification. If three-fourths of the States ratify it, it becomes part of the Constitution.

But we are now prepared to proceed on the antiterrorism conference report. Obviously, not every provision the Senate passed survived the conference. But as I think, as the Senator from Utah outlined to us in our policy luncheon, nearly every important feature in the Senate bill survived the conference, and we believe that it is a good bill that should be passed as quickly as possible so the House might act.

If we can work out some agreement on immigration, we will go back to immigration. If not, we may go to something else. It does not have to proceed here one day at a time. I know some would like to frustrate any efforts on this side of the aisle. But we do have the majority, and we will try to do our best to move legislation that the American people have an interest in. Illegal immigration—wherever you go illegal immigration is a big, big issue. If we are going to be frustrated by efforts on the other side to hold the bill hostage, that is up to them. They can make it happen. Then they can explain that to the voters in November.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I thought we had completed the discussion on immigration. But since it appears that is not the case, let me respond again.

We did not pull the bill. We could be on that bill right now. We could be taking up amendments right now. We have already agreed to short timeframes within which to debate the minimum wage amendment and the Social Security amendment. We can resolve them by 5 o'clock this afternoon and come to completion on the bill itself sometime tonight. We are prepared to do that.

So do not let anybody be misled. We are not holding this bill hostage. We did not pull it down. We did not ask that there be no opportunity to vote. Welcome to the U.S. Senate. Welcome to the U.S. Senate.

If our Republican colleagues are prepared right now, this afternoon, to say that throughout the rest of the 104th Congress they will never offer an irrelevant amendment to any bill because doing so would somehow indicate that they do not want a bill to pass or they are going to hold the bill hostage, we might be prepared to talk about that. But everyone knows that is not what this is all about. There are some here who do not want to deal with the issues that we are attempting to address in these amendments.

So I do not think there ought to be any misunderstanding or obfuscation of the question. The question is, Do we support passage of an illegal immigration bill? The answer is not only yes, but emphatically yes. Do we support timeframes within which every amendment could be considered? The answer is yes.

So I hope we can reach an agreement. I hope now we can move on to the counterterrorism bill and address that in a timely manner. I am prepared to sit down this afternoon, tonight, or tomorrow to find a way to resolve the procedural issues regarding how we take up the immigration bill itself.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Utah.

TERRORISM PREVENTION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. HATCH. Mr. President, I think it is time to vote on the antiterrorism bill.

I have to say that I do not think anybody denies the minority a right to bring up irrelevant amendments. But it is happening on everything. It has happened now for 2—actually better than 2—solid years. When you get something as important as the immigration bill—and I have to say, as chairman of the Judiciary Committee, we worked our guts out to get that bill here because it is such an important bill. It is a bill that every border State in this country and every State in this country is concerned about. Senator SIMPSON has just plain worked for years to get this up. I do not agree with Senator SIMPSON on every aspect of that bill, but I sure admire him. I admire the effort he has put in. I just think it is a tragedy that we cannot move and get the thing done. It is something that every Democrat and every Republican wants to do.

Also, as a former member of and former chairman of the Labor Committee, we have had these minimum wage fights year after year, time after time, and, frankly, to bring it up on immigration, it is a matter of great concern to me that they would do that.

These are a couple of bills—the immigration bill and the antiterrorism bill—that literally ought to be bipartisan every step of the way. We can have our differences, but we ought to be working to resolve these bills.

Sometimes I think this body does not seem to care about what is important for the people out there. I have to admit that there are very sincere people on the minimum wage. On the other hand, there are other opportunities to bring that up, I suppose. These two bills really should not have a bunch of irrelevant amendments.

Today, the Senate begins consideration of the conference report on S. 735, the Antiterrorism Effective Death Penalty Act of 1996. This is a particularly relevant time to begin this debate because we are fast approaching the 1-year anniversary of the heinous crime that claimed the lives of so many men, women, and children in Oklahoma City, OK. Indeed, this Friday, the 19th, marks the 1-year anniversary of that tragedy. I hope we can in an orderly, decent way get this bill done today so that we can send it to the House and they can do it, so that we can at least do what the Senate ought to do in commemoration of the lives of those who died last year—and those who died in the Lockerbie airline crash, those who have been terrorized all over this world, but especially those who have been and will yet be terrorized in this country.

Although many of the physical wounds endured by the survivors of that blast in Oklahoma City have healed, the wounds to their hearts continue to bleed. We met with a number of them yesterday. Those folks really want this bill.

During this past year, as I have spent time with my own family—Elaine and I have 6 children; all 6 of them are married now, and we have 15 grandchildren—my thoughts have often turned to the survivors of the Oklahoma City tragedy and to the families of those who lost their loved ones on that terrible day a year ago this Friday. I cannot imagine what it would be like to have my family taken from me by the acts of evil men and perhaps women.

I have to say my heart went out to these survivors yesterday who came back here at their own expense to stand with us at that press conference and announce that we finally have arrived at a bill after this full year of effort.

Yesterday, I had the opportunity to meet with some of the families who lost loved ones on that fateful day. The one thing that the survivors of that tragedy and the victims of that tragedy requested was that we try to provide justice to the memories of those who lost their lives in that terrorism blast.

I want to quote the family members of the victim of the bomb who spoke to the Nation yesterday about the need for this bill. Dianne Leonard lost her husband Don, an agent of the U.S. Secret Service. Despite her pain, she came here yesterday, along with other victims of terrorism, and made one of the most eloquent statements I have ever heard on the issue. She said:

> In an effort to be caring and honorable human beings, we have granted perpetrators of violent crime much more than their constitutional rights. Our caring and honorable intentions have been misdirected. Instead, we as a society have been cold and heartless, because we have forgotten the innocent victims of crime. We have forgotten the sheer terror of the victims immediately prior to their death. We have forgotten that anyone who could murder an innocent human being has relinquished his rights for compassion.

That is what Dianne said. Mr. President, that is what this is all about. It is not about whether this bill is weaker. We all know that it is not. It is about whether we will stand with the victims of terrorism and violent crime or not.

I am not sure we can ever provide justice to those families in this life. I hope, however, that we can, perhaps, bring some peace to the survivors of that tragedy in that we can enact this antiterrorism legislation in their memory. For once, just once, I hope we can put aside the partisan wrangling that often occurs here and simply do what is right—just once, on a bill like this. It is my firm belief that passing this conference report represents the right thing to do.

The legislation that Representative HYDE and I have negotiated represents a landmark bipartisan effort to prevent and punish acts of domestic and international terrorism. Indeed, the Republican Governor of Oklahoma and the Democratic attorney general of Oklahoma both support this legislation—strongly support it.

I would like to note the efforts of Representative CHUCK SCHUMER, CHARLES SCHUMER, of New York, in working with us to craft this legislation. Representative SCHUMER, who signed the conference report as a Democrat, made significant contributions to the final product. We tried to accommodate our colleagues on the other side to the extent that we could—in fact, on both sides of this issue, as we negotiated this measure. Our majority leader, Senator DOLE, was instrumental in moving negotiations on this bill forward. With Senator DOLE's leadership, we were able to put back into the bill many of the provisions that the House had removed. Without Senator DOLE's able leadership, I do not think we would have been able to have a bill that is as tough on terrorism as this one is.

Let me just give a few of the major areas we were able to agree on and get back into this bill that made it much closer to the Senate bill.

The terrorist alien removal provision: We restored the terrorist alien removal provision which allows courts to expeditiously deport alien terrorists. The court can consider classified evidence without disclosing that evidence to the alien.

We put back in designation of terrorist organizations. This has greatly pleased a number of civil liberties organizations, and I have to say the Anti-Defamation League. We worked with the House on language to allow the President to designate foreign terrorist organizations. This provision was not in the House-passed bill. A weaker version than this one was in the Senate bill. This tougher version eliminates an entire level of judicial review and allows the Government to freeze the assets of foreign terrorists before the designation becomes public.

On the issue of fundraising, we make it a crime to donate or accept funds for foreign terrorist organizations. The House had removed this provision. The Senate bill contained that provision. It is a big, big provision.

We have summary exclusion of alien terrorists. The Senate prevailed in including a provision which creates a new legal basis for automatic alien exclusion from the United States when the person is a representative or member of any designated foreign terrorist organization.

On biological weapons, we also succeeded in getting the House to toughen up regulations dealing with the transportation and sale of human biological agents which could be used as weapons of mass destruction.

The criminal alien removal procedures—the Senate bill made it much easier for an alien who had been convicted of an aggravated felony to be deported. The House bill was definitely weaker on that point. We prevailed. We put the Senate language back in.

These are big concessions by our colleagues over in the House, some of whom have problems, some of whom are worried that Government is too intrusive in all of our lives—and I think rightfully so, in many ways. But we got these things in.

On authorizations, the House bill had virtually no funding for Federal law enforcement on this antiterrorism area. The Senate bill had a little over $2 billion over 5 years. We agreed on $1 billion in funding for Federal and State law enforcement over 4 years. We have already spent almost a half billion dollars this year—maybe a little more than that. So, in essence, we got the Senate funding into this bill.

On taggants, we have put taggants on plastic explosives, which are the primary explosives used by terrorist organizations and by terrorists. There will be taggants on there so we can determine the source. With regard to other explosives—because even the OTA, even ATF, admit that there may be some danger involved in putting taggants in other explosives—they are not sure of being efficacious for law enforcement, or even cost effective to do so, and to mandate that—we provided for a study for a year. Then we provided for a means whereby the regulators can come up with their regulations—if that study shows that it is environmentally sound, economically sound, law enforcement efficacious, and that it is not dangerous—then the regulators can come up with regulations on taggants, and then the Congress will have to make a determination whether they accept those regulations or not. Those are just a few of the things that we put back into this bill.

We were able to craft legislation that adds important tools to the Government's rights in the Government fight against terrorism, but we do so in a temperate manner that is protective of civil liberties.

Most important, this conference bill contains the habeas corpus reform proposal contained in the Senate terrorism bill. The House adopted it word for word. The present habeas corpus allows those who are convicted of brutal, heinous crimes to delay the imposition of just punishment for years. The habeas reform proposal contained in this legislation will end the ability of those heinous criminals, those violent criminals—those murderers, if you will, those justly convicted—to delay the imposition of their sentence.

Habeas corpus reform is the only substantive provision in this bill that will directly affect the Oklahoma bombing situation. If those being tried for the bombing are convicted, our habeas corpus reform language will prevent them from delaying the imposition of their penalties on frivolous grounds. And we have all seen that year after year in every jurisdiction in this country.

In Utah, we had one case that went 18 years, the "hi-fi murderer," where he and his buddy went in there, where they tortured these people, rammed pencils through their eardrums, poured Drano down their throats, and murdered them in cold blood. No question of guilt, no question of any prejudice against them, they were convicted and justly sentenced to death.

Mr. President, 18 years later, 28 appeals all the way up through the State courts to the State supreme court, all the way up to the Federal courts to the Federal Supreme Court—28 appeals, millions of dollars spent before that just sentence could be carried out. And that is going on in a myriad of cases all over this country. Rather than exploit it, the devastation of the Oklahoma City bombing, I believe that by including this provision in the antiterrorism legislation, we are protecting the families of the victims.

Comprehensive habeas corpus reform is the only legislation Congress can pass as a part of this terrorism bill that will have a direct effect on the Oklahoma City bombing case. It is the one thing Congress can pass now to ensure that President Clinton's promise of swift justice is kept.

President Clinton recognized this fact during his April 23, 1995, appearance on the television program "60 Minutes," when, in response to a question about whether those responsible would actually be executed without the adoption of habeas corpus reform, he said, "I do believe the habeas corpus provisions of the Federal law which permit these appeals sometimes to be delayed 7, 8, 9 years, should be changed. I have advocated that. I hope the Congress will pass a reform of the habeas corpus provisions because it should not take 8 or 9 years and three trips to the Supreme Court to finalize whether a person, in fact, is properly convicted or not."

That is the President of the United States. Last Sunday, he called me. I was grateful for that call. It was late at night, and he called me at home before he left for Alaska. He wanted to have me bring him up to speed on what we were doing in the conference, what we were doing in the negotiations on this bill. And he said to me, "I wish we could shorten the time. If I had my way, I would shorten the time, shorter than what you have in this bill."

I said, "That will be great, but I don't think we can do that at this point. This bill is fair." I pretty well acknowledged that. He noted he would not veto this bill based on the habeas corpus provisions.

I explained some of the other changes we made, and he seemed pleased, because he knew we made great strides in trying to get a better bill that will really do the job, and this bill will. It does not solve every problem, but it sure goes a long way toward solving problems in the past and, above all and even more important perhaps, in the future.

The claim that habeas corpus reform is tangential or unrelated to fighting terrorism is ludicrous. We can be confident that those responsible for the bombing in Oklahoma will be brought to justice. The American people do not want to witness the spectacle of these terrorists abusing our judicial system and delaying the imposition of a just sentence by filing appeal after meritless appeal. A system which permits such a result does not provide justice for the victims of terrorism and simply has to be changed, and this bill will do it—one of the most important changes in criminal law in this century, and we are going to do it.

Although most capital cases are State cases—and the State of Oklahoma can still prosecute this case—the habeas reform proposal in this bill would apply to Federal death penalty cases as well. It would greatly affect the Government's prosecution of the Oklahoma bombing case.

No. 1, it would place a 1-year limit for the filing of a habeas petition on all death row inmates, State and Federal inmates.

No. 2, it would limit condemned killers convicted in State and Federal court to one habeas corpus petition. In contrast, under current law there is currently no limit to the number of petitions he or she may file and no time constraints. We have a case where a person waited 9 years to file a habeas petition on the eve of the carrying out of that person's sentence, clearly abusing the system.

No. 3, it requires the Federal courts, once a petition is filed, to complete judicial action within a specified time period. Therefore, if the Federal Government prosecutes this case and the death penalty is sought and imposed, the execution of sentence could take as little as 1 year if our proposal passes. This is in stark contrast to, in the Utah case, an 18-year case of delay we are so used to under the current system, and there are cases that are longer than the 18-year case.

President Clinton said justice, in the wake of the Oklahoma tragedy, would be "swift, certain and severe." We must help President Clinton keep this promise to the families of those who were murdered in Oklahoma City by passing comprehensive habeas corpus reform now.

Unfortunately, while habeas corpus reform is the single most important issue in this bill and will directly affect the Oklahoma City bombing, there are some who would urge the President to veto the bill on the basis of this reform proposal. I sincerely hope that this does not happen, and the President told me it would not happen on that proposal. We should not put our concern for convicted killers above our desire to see that justice is done and carried out.

The Senate and House also worked together to restore many important provisions to the conference bill. For example, we restored the terrorist alien removal provision that allows courts to expeditiously deport alien terrorists. The Department of Justice requested this provision, and we worked with our House colleagues to ensure that this provision would be an effective means of removing alien terrorists from our shores, while at the same time protecting due-process concerns.

Second, we adopted tough new procedures that would permit the Secretary of State to designate certain foreign organizations that commit acts of violence as terrorist groups.

The designation procedure adopted in the conference report is much stronger than that contained in the original Senate bill. We have also criminalized fundraising efforts on behalf of designated foreign terrorist groups and provided for the exclusion of representatives or members of terrorist groups. I think that the recent bombings in the Middle East and in England are a tremendous problem, and they bring out the necessity of preventing fundraising in this country on behalf of organizations bent on killing innocent persons for political gain.

This bill also includes provisions making it a crime to knowingly provide material support to the terrorist functions of foreign groups designated by a Presidential finding to be engaged in terrorist activities.

We also succeeded in adopting tough new measures to regulate the transport and sale of human biological pathogens that could be used as weapons of mass destruction. This legislation increases the penalties for acts of foreign and domestic terrorism, including the use of weapons of mass destruction, attacks on officials and employees of the United States and conspiracy to commit terrorist acts. That has not been in the law up till now, and we are going to put it there, and it is going to be a tremendous prosecutorial tool against terrorist activity.

It gives the President enhanced tools to use as foreign policy powers to combat terrorism overseas, and it gives those of our citizens harmed by terrorist acts of outlaw states the right to sue their attackers in our courts.

Our bill also provides measured enhancements to the authority of Federal law enforcement to investigate terrorist threats and acts.

In addition to giving law enforcement legal tools they need to do the job, our bill also authorizes increased resources for law enforcement to carry out its mission. The bill provides $1 billion over 4 years for an enhanced antiterrorism effort at the Federal and State levels. The bill also implements the convention on the marketing of plastic explosives. It requires that the makers of plastic explosives make their explosives detectable.

I note that many of the provisions in this bill enjoy broad bipartisan support, and, in several cases, it passed the Senate on previous occasions. Indeed, we have worked closely with the administration during the development of this legislation, and many of the provisions in this bill have the administration's strong support.

The people of the United States and around the world must know that terrorism is an issue that transcends politics and political parties. Our resolve in this matter has to be clear. Our response to the terrorist threats and to acts of terrorism will be certain, swift, and unified. I think we have to redouble our efforts to combat terrorism and to protect our citizens.

A worthy first step would be the enactment of these sound provisions to provide law enforcement with the tools to fight terrorism. I, therefore, urge my colleagues to support this conference report.

Let me just also say there are some matters that we were not able to work out with the House that the distinguished Senator from Delaware and I would have preferred to have in this bill. We would have put in—and we did have it in the Senate bill—multipoint wiretaps. It would be a more modern way of going at this matter. Of course, we have people who move from post to post, and it should not be the obligation of our law enforcement people to have to go and get a warrant for every telephone that they move to.

I would prefer to have had that in here. We had it in the Senate bill. We were unable to get it in. I will tell you why. Because, frankly, there are people in the House who basically believe that the Government is too intrusive and that there needs to be a study done on the abuse of wiretapping and done on the needs of law enforcement for wiretapping before we make that step. I have to say, I do not particularly agree that it should not be in this bill.

On the other hand, the study will do well. And I have committed myself, as chairman of the Judiciary Committee, and as a leader on that committee, to get that study done and to make sure that ultimately we resolve these problems in a way satisfactory to our law enforcement people.

There are some other matters that may not be in this bill. We have not been able to put everything in here that the distinguished Senator from Delaware and I would put in this bill. But it is a terrific bill. We have a lot more in this bill than in the original bill filed by the President before the Oklahoma City bombing, and I might add in the original bill filed by the Senate through Senator BIDEN after the Oklahoma City bombing.

By the way, there were no multipoint wiretap provisions in either of those President's bills. And so, you know, it is easy to see that some may try to make political hay out of that. But what the legislative process is is the art of the possible. There are other things we would like to have in this bill. They are not there. But we have both parties together, both bodies together. I think we have a bill that basically will make a real dent in the matter of terrorism.

Let me just say this. One of our problems with regard to the multipoint wiretaps was that when the bill came up they called them roving wiretaps. Just that semantic term caused angst in the hearts of a lot of people around our society. I might add that the roving wiretap provisions were, I think, in the second bill filed by Senator BIDEN on behalf of the President. And if we called them multipoint wiretaps at that point, we might have been able to keep them in. I would prefer that they be in. But I do not think that the fact that they are not in should stop us from passing that which can pass now, that which is needed to fight terrorism, that which we have done and that which we can have done, and can do at this time.

Let me just say in closing, that this is one of the most important bills in our country's history. It is not perfect, but it goes a long way toward preventing terrorist activities in the future. It goes a long way toward attacking these criminals the way they need to be attacked. It is a tough on crime bill. Could it be improved? Sure.

I want to also say that without the leadership of our majority leader, Senator DOLE, this bill would not be here today. He stood with us every step of the way. He worked with recalcitrant Members in both the Senate and the House in both parties. He has handled the matter well. And, frankly, I think he deserves an awful lot of the credit when this bill passes, if not the lion's share of the credit.

So I would just plainly like to make these points and just say this in conclusion, that I really want to pass this bill this week, hopefully tonight, if not tomorrow, and then get it through the House, so that we can say to the people in Oklahoma City on Friday that we, as a Congress, in a bipartisan way, both Democrats and Republicans, with nobody really trying to take the credit for it, have done what is right for them. Frankly, when we pass this bill we will have done what is right for them.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, let me begin by acknowledging that my friend from Utah supported a vast majority of the amendments that I am going to offer—not amendments—I am going to offer motions to recommit this bill with instructions to go back to the Senate language.

Let me acknowledge that I think both the Republican leader and the chairman of the Judiciary Committee, Senator HATCH, and the chairman of the Judiciary Committee on the House side, Mr. HYDE, are all in a difficult position. I acknowledge that.

Let me acknowledge that Senator DOLE deserves responsibility for this bill. I think he does. I think he deserves the responsibility for also what is not going to be in this bill because we are backing off after votes, which I am about to go through, of 91 to 6 and 99 to 0 and unanimous consent agreed. All the things I am going to offer here were passed overwhelmingly by the Senate. And we caved.

We caved so quickly on the House side it was like watching water go over a waterfall. I do think the leader bears responsibility for that as well, for not exercising his authority there because—I want to say at the outset here—I found this was the first time in any conference I have ever attended, even when the Democrats controlled the Senate, which they did off and on for the period I have been here, where everyone at a conference, but two, acknowledges that everything I am offering is correct and right but we are not going to do it because a minority of House Members do not like it.

I will not, because I am afraid I will misspeak—and I do not have the transcript—I will not use the description the minority members used of the Republican leadership in the conference on the House side because I may misspeak and create a little dilemma. But I will try to dig that up for the RECORD. But this is the first time I am aware where a major piece of legislation, where the Senate on the critical points have agreed overwhelmingly—

overwhelmingly; I mean, 90 to 1 kind of overwhelmingly—and we have caved to the House, where the leader of the House in the conference said, "You're right, Senate. But I just cannot pass it if I take it back."

I think there is a thing called accountability. I think we should pass what we think is right, and let them vote against it. So if they vote against it, let them pay the consequences. And if they vote against it, and do not have the votes, then we can come back and try to get what we can get. But this is not even where we have challenged what was described to me as a minority of the Republican caucus on the House side.

They did not like it. Too bad. This is democracy. Too bad. There are a lot of things I do not like. I lose. I lose. But they did not like it. My goodness, 72 or 41 or 57 freshmen Republicans in the House do not like it. Great. So, yeah, I think that the leadership deserves credit and responsibility for not only what we are doing but what we are not going to do, apparently.

Second, the conference report—the majority leader stood up and said—and I have great respect for the majority leader, I truly do. I think over 23 years I have demonstrated it. He is a bright, competent leader. But he stood up and he said the conference report is essentially what we passed. It is not even close to what we passed in the Senate. It is not even close, which I will outline here in a minute why it is not even close to what we passed in the Senate.

The third point I would make is my friend from Utah and I have had sharp disagreements over habeas corpus for the last 15 years. They still exist. He is right in one important respect. This is a great habeas corpus bill. That is what this is. This is a habeas corpus bill with a little terrorism thrown in. I am not going to make any motions or move to strike the habeas corpus provisions. If we put back things in these provisions, I am willing to swallow the habeas corpus provisions, if we have a tough terrorism bill underneath it.

A year ago this week the American people experienced the unthinkable. Terrorists planted a bomb in a Federal building in Oklahoma City and hundreds of innocent citizens were killed or wounded. Families were faced with tragedy and chaos. And the Nation was catatonic.

In response to this horrendous crime that was committed, as well as the earlier terrorist bombs of the World Trade Center and Pan Am 103, the Senate passed a tough piece of legislation, in a timely fashion, to the credit of the majority leader and the minority leader. The House sat on it for the better part of a year. They would not even let their membership vote on it because apparently a minority over there thought that there was too much intrusiveness on the part of the Federal Government.

Does it not seem kind of coincidental to all who may be listening that after a year we are finally urgently bringing this bill up on the week of the anniversary of the bombing? Where was it a month ago, 3 months ago, 5 months ago, 7 months ago?

Now, the bill that we passed addressed both international and domestic threats of terrorism, and it carefully balanced the need for new law enforcement authority against the civil liberties that are so important to all of us. The bill also built upon work that had been done a year before in the Senate crime bill—now the crime bill, the Biden crime bill. It was the Biden-Hatch crime bill. I do not know whether he still wants to take credit for it. It was the Biden-Hatch crime bill. It is now the crime law of the United States of America.

Guess what? There would be no death penalty for the two people about to be prosecuted were it not for the crime bill, were it not for the crime bill we passed, and the President led the way. There would be no death penalty because it is a Federal case, Federal law. There was no Federal death penalty for this.

My friend is talking that unless we change this habeas corpus provision, the Oklahoma bomber will go free. If those who voted against the crime bill had prevailed, there would be no death penalty even available to be brought against those accused of the bombing in Oklahoma City under Federal law. They would have to try it in State court without the resources of the Federal Government to deal with it. We kind of rewrite history around here. As my friend from Wyoming often says, everyone is entitled to their opinion, but they are not entitled to their own facts.

Let me also point out something else. On building on the crime bill the Senate passed, the terrorism bill that focused narrowly on a terrorist threat, unfortunately, the House then delayed. It finally passed a bill that pretty much took terrorism out of this bill. Now we face a conference report that is only partially approved. I strongly support the Senate-passed version of the terrorism bill, despite the fact that I did not like what we did and how we did reform habeas corpus. We have never had a disagreement that we have to reform habeas corpus. The question is, Do you eliminate it essentially, or do you reform it? This bill essentially eliminates it at a State level. Quite frankly, reform is needed to stop abuse of the writ of habeas corpus.

My friend, and he is a very able lawyer, trial lawyer, stood here and talked about how this is the most important thing to deal with terrorists—habeas corpus. Let me remind everybody who may be listening: In order to file a writ of habeas corpus, one has to be behind bars already. Got that? You already have to be in jail, convicted of a crime. When you file a writ of habeas corpus, you write it and you slide it between the bars and you send it via a court officer to the judge. You are in jail.

Now, how does that prevent terrorism? It needs to be reformed. The abuses must be eliminated. It has nothing to do with stopping terrorism. I think that is what we are about. Is this not about trying to stop terrorism?

Now, second, this is a very complicated subject that the Senator from Utah knows very well because he is a capable lawyer, and the Presiding Officer knows well because he is such a capable prosecutor. I mean that sincerely. Not a lot of lawyers understand habeas corpus. They know it is a great writ. If you sit down and ask them to explain in detail the difference between Federal and State habeas, they get lost. It is complicated and easily lends itself to exaggeration.

Putting this in focus now, every single case that I am aware of—and I may be mistaken—that my friend and his two competent staff people come up with are State court cases—every single one that I have ever heard. There may be one that I have not heard. Every one that Senator THURMOND comes up with, which are legitimate to come up with, every one I have mentioned, they are State cases.

Let me explain what I mean by that. It means that somebody was indicted and/or on information arrested, taken to a State court, tried under State law, convicted under State law, made appeals under State law, instituted their attempts under State habeas corpus to say, "No, I was wrongly convicted. My constitutional rights were violated when they convicted me. Do not set me free, but give me a new trial." That is what habeas does. It does not find you not guilty. It requires you get a new trial if it is granted and, "Send me back to State court to be tried again."

Now, what happens? All the delays, 99 percent of the delays—let me be conservative—90 percent of the delays, take the best case to my friends, are delays when you are in State courts, State courts, State courts. Now, what are we talking about in the terrorism bill? What is this bill we are passing? Is this a State bill? No; it is a Federal bill.

If someone violates any provisions of this bill that we are about to pass, what happens to them? Do they go to State court and get tried in State court, and are they subject to the delays that occur in State courts? No; they go to a Federal prison. They get tried in a Federal court. They have Federal judges. They have Federal prosecutors. They have Federal people. No State judge gets to say a thing. No State prosecutor gets to appear in any position other than if they happen to be a witness.

Now, where is the delay? Where is the Federal habeas corpus problem? My friends do not cite any. Even if they do, we have a provision in here that I support. We set a strict limitation in Federal court, in Federal habeas corpus, with a Federal prisoner, tried under a Federal law, convicted in a Federal court, sent to a Federal prison, that they have *x* number of months in which to appeal their case, to make their habeas appeal. They get one bite out of the apple. That is fair. But it does not even deal with anything anybody argues is a problem. It just guarantees if there is any problem, it will be corrected, and if there is not, it will not occur.

Now, say somebody is convicted under this law. They are convicted under this new law we are passing. Where are they going to go? They are going to go to Federal court. Now, how does changing all the State habeas corpus cases have anything to do with terrorism? I would like to know that one. That is a fascinating notion, what we call in the law a non sequitur. It does not follow. It sounds reasonable. All the people sitting in the gallery when Senator HATCH, a worthy and knowledgeable advocate, stands up and says, "This is very important. Habeas corpus is the most important tool we have to fight terrorism," you all go, "I know Habeas, and I know Corpus, and they are real tough people. They are out there bombing people." Or, "Boy, I know that makes sense. I know about all the delays. He is right."

It has nothing to do with State courts because, by the way, I say to the Presiding Officer, who knows this well, if it is in a State court, it is not a Federal crime. If it is in a State court, the Federal Government is not prosecuting. If it is in a State court, it is not international terrorism. If it is in a State court, it is not a terrorist under this bill.

Now, what is the obverse? If it is in a Federal court, there is no evidence of delay on habeas corpus to begin with. But even if there is, we do correct it in this bill. But even if it is a problem, and even if we correct it, the only way you get the person who is filing the habeas corpus petition is if they are already in jail convicted. Now, tell me—I ask, if I could, folks watching this, how many of you feel if we could say in a blanket way, "We guarantee you that anybody already behind bars—already behind bars—will be executed in a timely fashion if convicted of a capital offense," that will solve our terrorism problem? Do you all feel better now about terrorism? Do you all feel more secure about whether anybody will go in the New York subway with saran gas?

You all feel better that someone is not going to come up with—another wacko—one of these bombs they make out in some field in southern Delaware or northern Delaware or Montana or Alabama, and blow up a building and kill children—do you feel better? This is crazy.

This is crazy. It may be needed just like health insurance may be needed, just like better highways may be needed. But what does it have to do with terrorism? Let me give you the one possible nexus. Here is how it goes. The only intellectually, in my opinion, legitimate argument that connects it to terrorism goes like this; it says that if we convict a terrorist and send a terrorist to jail, and if a terrorist is not able to abuse the system—which nobody is arguing that the Federal habeas system is being abused anyway, and they know they cannot abuse it and they are likely to go to death in 6 months or 6 years, then they might not have committed the terrorist act in the first place. That is the only intellectually credible argument to be made as to how this could deter terrorism. Granted. So let us put that provision in the bill. But let us not go forward and say, with all due respect, this is going to change terrorism. I just asked a rhetorical question. Go back home and ask your constituents if they know that the appeal time has been cut from an average of 6 years to 6 months for people already convicted, and do they think we have licked terrorism. They will tell you that we imposed justice, they will tell you that we eliminated abuse, they will tell you that we saved money—all of which is true. But I defy you to campaign on the notion that you stopped terrorism by changing habeas corpus. Remember, folks, you already have to be in jail, convicted of a crime, in order to be able to file one of these petitions that you then abuse.

Now, the Senate-passed version of this bill really did do some things beyond habeas. It had all this habeas stuff in it, which, by the way, is a phenomenal overreach, but that is a different issue. I am not going to fight that again. I will register here just that the changes in Federal habeas make sense. The changes essentially say you cannot review State court decisions in a Federal court as to whether or not the State court accurately interpreted the Federal Constitution. That is a bad idea. That is saying that you cannot review, as a practical matter, State court judges' decisions on the U.S. Constitution in a Federal court.

I will not go into the history of why we did this in the first place back in the late teens of this century. But that is another issue. This is not an antiterrorism bill because it limits State habeas corpus. Unfortunately, what we have before us today is a conference report from which some of the most critical antiterrorism provisions are missing. My efforts to restore these tough provisions during the conference were unsuccessful. Despite the fact that the Republican chairmen on both sides, to their credit, acknowledged that they were good provisions, acknowledged that they were important provisions, acknowledged that they would work with me to pass these provisions in another form at a later date, and acknowledged that law enforcement needed some of these provisions very badly—notwithstanding that, notwithstanding that the majority of the members of the conference agreed with me, we voted them down.

I say to my friend from California, who has not been here as long, I found it to be a fascinating experience that never happened to me before. I am used to getting beat flatout. I get beat a lot. I am used to that. I am used to winning once in a while, too. But I have never been beaten where everybody agrees with me and then they say, "We cannot agree with you, JOE, because those guys and women over in the House, the minority within our party, do not like it." That is like me saying the four remaining liberals in the U.S. Senate—if there are that many—do not like something. Therefore, even though you are right and I agree with you, I am not going to go along with it.

I am not being facetious. I respect their position because they want a bill badly. Apparently, the majority leader believes he needs a bill badly. Apparently, the President is concerned about having a bill. I am concerned about having a good bill. I am concerned about having the kind of bill we should have, the kind we passed. It was passed 91 to 6. That is the bill I am concerned about having. I was told the Republicans would oppose including these needed provisions in the bill because a group of Republicans in the House could not support the bill if they were included. In other words, a faction of Republicans—I might add that some liberal Democrats are agreeing with the ACLU. That is a fascinating combination. You know that phrase "politics makes strange bedfellows." I want to tell you something. George Bush, or somebody, made famous the ACLU card, who carries that. When you have the people who carry ACLU cards and those who carry NRA cards sleeping in the same bed, it is fascinating. I would love to be in one of those meetings with the gunowners of NRA and the ACLU. Everybody is smiling. They are trying not to because they know how preposterous it is. It is fascinating. I am not being critical of either of the groups. It is human nature. They have objections for totally different reasons, as I understand it. They are a minority, no matter how you add them up. Yet, the majority in both parties is going to kowtow to them.

I, quite frankly, do not understand this antipathy to fighting terrorists and holding them accountable. I do not understand how a small group of House Members has been able to seize control of the democratic process and block provisions that the vast majority of us support. I think it is wrong, and I think we in the Senate should insist on a terrorism bill that contains the tough provisions we passed more than 9 months ago.

Today I will offer a number of motions to recommit this back to conference so the missing provisions can be put back. We must send the President a strong terrorism bill that addresses the very real threat posed by those who know only the language of terrorism and violence. But they are here at home and they are also abroad. They are both places, and we have to acknowledge that. Almost a year ago, after the tragedy in Oklahoma City, Speaker GINGRICH issued a call to action. Let me quote him:

> This is the kind of exact moment when Americans ought to be Americans. We ought to pull together. We ought to send a unified response to terrorists at home and terrorists overseas that we are not going to tolerate this.

The Speaker was absolutely right. We should pull together and send a message to terrorists. Let me ask you all a question, rhetorically. You are a terrorist planning a bombing. You are planning to put a chemical agent in the water supply in Minneapolis-St. Paul; you are planning to use a chemical weapon in Athens, GA, or in Atlanta at the Olympics; you are a terrorist planning to blow up the pyramid tower, the Transamerican Tower in San Francisco, to make my point. Now, what are you going to be most concerned about? Remember, we said, using the Speaker's words, this is to send a message to the terrorists. You are a terrorist planning this bombing, OK, or planning an act. Are you going to be more concerned that the Senate has just given the FBI the authority to wiretap not just the phone that you use in your house, but the phone that you have in your car, the one you have in your pocket that you keep throwing away and getting a new one so you cannot be detected, and the phone at the corner that you use to communicate your activities; are you more concerned that they may allow the Government to tap all those phones you are using? Or are you going to be more concerned that they change State habeas corpus? What do you think? What is going to send you a message? Are you going to be concerned if you are a terrorist planning an activity that if, in fact, you walk into Macy's Department Store and you plan a terrorist act like the IRA, and instead of using the bomb you use shotguns, you call the President of the United States, or you call the Governor of the State of California and say, "Unless you do the following, we are going to walk into one of the largest malls in Los Angeles and indiscriminately kill people." And you walk in with a shotgun—12 of you, 10 of you, 3 of you—and you blow away, indiscriminately, 10, 20, 30, 50, 100 Californians. Under this bill, you cannot be prosecuted in Federal court. Guess why? Because there is no Federal predicate. It is not a Federal crime to use a shotgun in the State. What is going to send you more of a message? That, or the fact that State habeas corpus has been changed? What are you going to do?

You are a terrorist. You decide you are going to use chemical weapons or biological agents. You are a terrorist. Now you learn that the Senate and the House just passed a bill that does not allow the Department of Defense, does not allow the military—the only ones with expertise in chemical warfare and biological warfare—does not allow them to participate in the investigation of your act. We affirmatively took that out of the bill.

What message are we sending terrorists? Are you going to be more worried about a provision that allows the military to investigate chemical and biological warfare against American citizens, or are you going to be more worried about the State habeas corpus? That is what we did. That is what we did. We took it out of the Senate bill. This is not chopped liver, folks. This is serious stuff.

Are you going to be more worried as a terrorist about to commit a crime, or having already committed one, that the Attorney General of the United States has the same authority that she now has with the Mafia; that, if she is convinced that an imminent act of danger is going to take place by a particular individual, she can order a wiretap that will last for 48 hours, and within those 48 hours she has to go to a Federal judge, convince that Federal judge she has probable cause to put that in place in the first place, and, if she did not, it gets thrown out?

You can do it for John Gotti now. You can do it for organized crime now. But guess what? Our friends in the House decided you should not be able to do it for terrorists. What is the logic of that? Tell me.

I do not ever remember being as upset about what has happened to a piece of legislation. Tell me the message we send to terrorists. What is the message you want to send them? "Do not stop here. Wrong place." What is the message you want to send them?

We have tools. If you are engaged in terrorist activities affecting Americans in the United States of America, to get you before you act, what are those tools? My friend was a prosecutor. Ask any prosecutor in here, "What are the tools?" Wiretaps, wiretaps, informants, information before the act occurs. But what do we do in this bill? We send a message to terrorists: "Do not worry; no multipoint wiretaps for you."

My friend from Utah says, correctly, that initially the President referred to the roving wiretaps. He says what the chairman of the House conference said, that that upsets people. They misunderstood. They thought they could indiscriminately put wiretaps. We know that is what they could do. The chairman of the Judiciary Committee knows it does not give the Federal Government that power, but because, apparently, whoever it was—talk show host, letter writers, or somebody—convinced them of that, they say we cannot pass it because the public misunderstands—misunderstands.

How many people in the public do you think understand accelerated depreciation for equipment in factories? What do you think? Does anybody stand here on the floor and say, "You know, because it is difficult for the public to understand that concept, we are not going to pass tax provisions that relate to accelerated depreciation?"

How many people understand on this floor, or off this floor, how the International Monetary Fund works? Do we sit here and say, "You know, because if we took an exam, the American public would not know what it meant, therefore, even though we know it is good, even though we know it is in the national interest, we should not do it."

That is just what we said; because people misunderstand what a roving wiretap is, we cannot have one.

You are a terrorist. You are sitting there. You are the Unabomber—allegedly, assuming he got caught. You are sitting in your old cabin watching portable TV, battery driven, and you see the Senate goes out and says, "You know, do not worry. We are not going to wiretap." First of all, "I do not have a phone. It does not matter. But when I go use a pay phone, they cannot get me now." Are you going to know? "My God, they have this change in habeas corpus now. I am going to really worry about whether I commit this crime."

I mean, come on. Come on. Ask any police officer if you have a case on terrorism. Would you rather have a change in State habeas corpus or the ability to have emergency wiretaps? Would you rather have a change in habeas corpus, or would you rather have multipoint wiretaps court approved? What do you think they are going to say? What do you think they are going to say? If you ask them, "Would you rather have the health care system of America reformed or have that provision," they may say the health care system of America needs reform, but it has not anything to do with terrorists. They may want habeas corpus, but it does not deal with terrorism. It does not mean we should not include it. It sure means we should not advertise this legislation as legislation that fights crime.

The destruction of Pan Am 103 reminds us that Americans are vulnerable wherever they are. The 1993 terrorist bomb at the World Trade Center in New York and the bomb blast at the

Federal building in Oklahoma City were terrorist acts by anybody's definition. In response to the World Trade Center, Oklahoma City, et cetera, the President sent to the Congress the second bill focused primarily on international terrorism. Then, when the Oklahoma City blast occurred, he sent a bill that also addressed the domestic terrorist threat.

Here in the Senate, the majority leader, Senator DOLE, and Senator HATCH introduced a bill based in large measure on that proposal with some additions. They brought it to the floor within 2 months of Oklahoma City tragedy. The numbers in the President's proposals that were not initially included in the Dole-Hatch bill were added on the floor by overwhelming bipartisan support, and in the end the bill passed 91 to 8. Every one of the Senate conferees supported the bill. Think for a moment who we are talking about: ORRIN HATCH, STROM THURMOND, ALAN SIMPSON, JOE BIDEN and TED KENNEDY. It is not often you get this group all together on a major controversial piece of legislation. And, when you do, you can be sure that there is something we have seen precious little of around Washington: compromise and bipartisanship.

The product of this compromise and bipartisanship was a bill that struck a key balance, a balance about protecting Americans from terrorists on the one hand while at the same time preserving the individual liberties that are the very hallmark of our American way of life—and the very thing that terrorists wish to take away.

I am struck by an irony here. I am a guy who has been criticized about being too adamant about civil liberties. I am a person who has often on this floor been castigated by my Republican friends as being too concerned about civil liberties and am now being opposed by those who say these provisions that I feel strongly about pay too little heed to the civil liberties and give too many powers to law enforcement.

Ever since I came to the Senate 23 years ago, I have made it my top priority, my nonnegotiable priority, to fight for civil liberties. I take a back seat to nobody when it comes to standing against the unwarranted expansion of Government power and standing up for the privacy rights and liberties of all Americans. Yet, I am here in support of a tough, comprehensive, well-balanced counterterrorism bill that all of you supported as well. With all due respect to my friends in the House, the conference report does not strike that balance and it does not do the job that must be done to protect Americans from the threat of terrorism.

I believe Chairman HYDE was right when, during the House debate on the bill, he opposed the amendment offered by Congressman BARR of Georgia, stating, "Passage of the amendment would leave the bill a frail representation of what started out as a robust answer to the terrorist menace."

Let me say that again. On the floor of the House of Representatives the conservative chairman of the House Judiciary Committee, HENRY HYDE, when Mr. BARR introduced those amendments relating primarily, in this case, to the wiretap, said to his fellow Members of the House, if the Barr amendment passes, it will "leave the bill a frail representation of what started out as a robust answer to the terrorist menace." He was right then. He is right now. What we have before us is a useful but frail representation of what started out to be a robust message sent to terrorists across the world, which was, "Not here in the United States. We are empowering law enforcement, with the due respect and regard to American civil liberties, to have additional tools to fight terrorism." That, unfortunately, is not what has happened.

Today, I and others will offer motions to recommit the bill to conference with the intent of saving this terrorism bill. I believe my friend when he says to me that, if this bill passes without being strengthened to something like it was before, that he will work with me to create another separate bill to add all these provisions that I want in the bill—or that we want in the bill. I believe him.

But we know the process. This is going to be an extremely political year. The idea of anything passing here, with Senator DOLE as the leader running for President, that is going to upset the folks over on the House side in the minority of his party, I think is less than real. It is understandable. It would be the same if there was a Democratic leader running for President. It is not likely to happen. I doubt whether anyone here will stand on the floor and tell you there is even a 1 in 10 chance of passing any of the things I am going to raise or my friend from California is going to raise as independent pieces of legislation. This is our chance.

So, at a minimum we are talking about a year or two delay. And how many terrorist acts might we have prevented if we had given the law enforcement officials the tools that we are taking away from them here? How many? Pray God none. Pray God someone will be able to be here, assuming I am here in 2 years, to stand on the floor and say: "BIDEN said in mid-April of 1996 that if we do not put these provisions in the bill, we would have lost the ability to stop some terrorist acts. I would like to say to Senator BIDEN, there have been no terrorist acts in 2 years, so he was wrong."

I will gladly, overwhelmingly, with joy in my heart, say, "You were right, Senator. I was wrong. We did not have any terrorist acts in 2 years." But, can anybody deny that denying the Federal Government the ability to wiretap like they can for the Mafia, denying the Federal Government the ability, with probable cause signed by a Federal judge, to wiretap people suspected of terrorist activities—that is not going to enhance the chance we stop it?

Today we will have a rollcall on a number of these votes. Today, I and others will offer motions to recommit the conference report. We must restore what the President, Senator DOLE, Senator HATCH, Chairman HYDE, Representative MCCOLLUM and many others on both sides of the aisle in both Houses thought were important at one point, which is to take a clear and unequivocal stand against terrorists, whether they are overseas or in our own homeland.

As the President has said, we must be guided by three bottom-line goals. First, we must protect Americans without curtailing Americans' rights. Second, we must give law enforcement officials the tools they need to protect Americans from terrorist attacks. And third, we must make sure that terrorists are not given safe haven, support, and comfort here in our country.

I end by complimenting my friend from Utah for fighting hard to get these and other provisions back in the bill. He got some of them back in the bill in a conference, in his meetings with House Members. But in my view, he did not get the single most important provision in the bill. That is why, as a Congress, we must give the FBI authority to use wiretaps in criminal investigations; where we wrote special stringent protections into the statute in order to protect legitimate private interests. Each and every one of these protections range from strict probable cause showing to approval by a Federal judge to a requirement that officers minimize intrusive wiretaps, and time limits on any authorization will remain in the law. Wiretap proposals I will seek to include in the conference report are limited and modest, but they are urgently needed so we can identify and stop terrorists before—before—before—before—before they strike.

In the Senate, Senators NUNN and THURMOND hammered out a very limited and commonsense provision to involve the military if we should ever, God forbid, face an emergency involving biological and chemical weapons of mass destruction. Remember, we are talking about only technical and logistical support from the military, not law enforcement. We are talking about an emergency involving biological and chemical weapons of mass destruction; something the military is especially trained and equipped to deal with. The military, I might also add, has this limited authority when it comes to nuclear weapons now. Senator NUNN has now perfected that language, and we should include his provision in this bill.

The conference report also fails to include a number of other provisions in the Senate bill which I believe the conference report should contain, including the following: We should add terrorism crimes to the list of RICO predicates, that is those laws which are designed to deal with organized crime, and make the penalties harsher. We should make it a crime to teach someone how to make a bomb when they intend it to be used. That is what the Senator from California will speak to again. We should extend the statute of limitations for certain firearms offenses, as we do for other offenses.

All the provisions I have just mentioned were contained in the Senate bill which, as I said earlier, passed with the votes of 91 Senators and all the votes of us representing the Senate in the conference. What is more, at the same time that the conference bill goes easy on terrorists, it gets tough on law enforcement officials. For example, the House had stripped from the original bill a provision that would have helped protect police officers from cop killer bullets.

Let me explain that just for a minute. In 1986, and again in 1994, the Congress outlawed a few bullets capable of penetrating body armor worn by our Nation's police officers for their protection. The key problem with this approach is that it is possible, indeed altogether probable, that a new bullet can be manufactured and brought to the market before Congress can pass legislation to stop it. For that reason, many had sought a performance test. In other words, let us all agree on a test that will determine what kinds of bullets can penetrate the body armor typically used by police officers. Then bullets that fail the test, so-called cop killer bullets, would be banned before they can see the light of day or kill a cop.

The bill reported out of the House Judiciary Committee by Chairman HYDE contained the first modest step for this commonsense approach. It contained a study, just a study to determine if there is a fair test to determine whether or not a cop killer bullet is just that or is not that.

But even this modest step forward was changed in the conference report. The conference bill includes a provision added on the House floor to study how police officers are killed, with mandatory participation by national sporting organizations. What do they know about cops being killed?

The study is a setup.

We already know that armor-piercing bullets have never actually killed a cop, but that result is because we have been able to ban armor-piercing bullets before they are marketed. So the so-called study in the conference report is a first step, it seems to me, in an effort to stop any action that may keep cop-killer bullets off the street. I found this astounding.

It seems to me the conference report, while stripping out a number of provisions to crack down on terrorists, would make our law enforcement officers, who every day put their lives on the line, fair game for criminals in ways they are not now.

The conference report orders a commission to study not the terrorists but Federal, State, and local law enforcement officials who work to protect Americans from terrorism. Again, I find this astounding. I hope the police officers of America are listening to this. This bill calls for a study of American police officers. Did you hear what I said? A study of American police officers, not a study of terrorist groups, a study of American police officers.

I want to repeat, it is my intention to send the President a tough comprehensive bill. Since the conference report does not meet this standard, I will offer a series of motions to recommit the bill so that we get it right.

I hope all of my colleagues will support just what they supported before. I am not asking anybody to change their mind. I am satisfied if the six people who voted against it before vote against it again, but I hope that we have a principled vote here where people vote the way they did before on these issues and not be cowed by a minority in either party, in either House at any time. I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Utah.

PRIVILEGE OF THE FLOOR

Mr. HATCH. Mr. President, I ask unanimous consent to permit Nick Altree, Sammy Linebaugh, and Christina Rios privilege of the floor during the pendency of the terrorist bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I have enjoyed my colleague's remarks. Senator BIDEN made some good points; some are not good, in my view. The most important issue in this debate happens to be habeas corpus reform. The one thing—the only thing—the one thing and the only thing that the Oklahoma victims have asked for, the only thing they mentioned and they asked for was habeas corpus reform. The survivors of that tragedy know that habeas is the most important issue for them. Habeas is particularly relevant here because the district attorney for Oklahoma City has promised—he has promised—that the perpetrators of the bombing will be tried for murder in State court. Thus, habeas corpus reform applies, because this bill applies to both Federal and State proceedings.

Moreover, there is evidence that delay exists in the Federal courts, contrary to what my dear friend and colleague has said, and this habeas proposal places limits on Federal petitions for habeas corpus as well.

The game is going to be over. The victims understand it. Thank God the rest of us are not victims of that bombing, but they understand it. They know darn well this is the only provision that really will make a difference in their lives. So habeas clearly applies to this situation.

The point is that justice delayed is justice denied. It is impossible to stop a terrorist attack that is motivated by political fanaticism, and that appears to be what we have here and it appears to be what occurs in almost every terrorist attack. But it is possible to ensure that the perpetrators are punished. Justice delayed is justice denied.

I also point out to my friend and colleague that the bill does contain tough antiterrorism provisions, contrary to what he indicated that this is the only provision this bill is all about and it is the whole bill. It is not at all.

No. 1, we have the designation of foreign organizations as terrorist groups provision. It is a very, very important change in criminal law. It is a tough thing.

The bill includes provisions making it a crime to knowingly provide material support to terrorist functions of foreign groups. This provision is aimed at cutting off the dollars and, thus, the lifeblood of foreign terrorist organizations that are wreaking havoc and destroying lives all over the world.

The United States provides a lot of that money. People do not realize that here. They do not even realize we have up to 1,500—and I am just using very modest figures, these are figures from 10 years ago—at least 1,500 known terrorist groups and people in this country that we are watching and monitoring. Most people in this country do not realize how important this is, but the victims of the Oklahoma City bombing, the World Trade Center, the Lockerbie bombing, they all know what is involved here, and that is what they asked for yesterday, and the reason they did is because they know it is going to make a difference.

I worked hard to ensure that this provision will not violate the Constitution, that is the provision on habeas corpus reform. We have worked hard to make sure it does not violate the Constitution or place inappropriate restrictions on cherished first amendment freedoms.

Nothing in the habeas provisions of this bill prohibits the free exercise of religion or speech or impinges on freedom of association. We are talking now about material support to terrorist functions of foreign groups.

Moreover, nothing in the Constitution provides the right to engage in violence against fellow citizens or foreign nations. Aiding and financing foreign terrorist bombings is not constitutionally protected activity.

Additionally, I have to believe that honest donors to any organization want to know if their contributions are being used for such scurrilous terrorism purposes. We are going to be able to tell them after this bill. This is an important provision. It is a major provision that we would want to pass whether we have habeas corpus in here or not, although the habeas provision is extremely important.

Inextricably linked to this provision on being able to deter alien financing of foreign terrorist organizations is the related issue of the designation of certain foreign organizations as terrorist organizations to which the fundraising ban would also apply.

I sympathize with the concerns that have been raised on this issue. However, I believe that there can be no effective ban on terrorist fundraising unless the Government is given limited power to designate which foreign groups are, indeed, engaged in terrorist activity. The United States has a responsibility to its own citizens and to the world community to help cut off funds flowing to terrorists. I am convinced we have crafted a narrow but effective designation provision which meets these obligations while safeguarding the freedom to associate, which none of us would willingly give up.

So that provision of financing of foreign terrorist organizations is very important.

No. 2, we provide a provision in here for the exclusion of members of terrorist organizations. We will not even let them come into this country. Right now they can and they do. We are going to get tough on that, and this legislation provides that type of law.

It is important stuff. This is not just habeas corpus, although that is important in and of itself. It is the only thing that the victims yesterday called for. They said it is the one thing they want more than anything else. But these other provisions are important, too.

No. 3, we have a prohibition, like I say, on terrorist fundraising activities in this society.

No. 4, we prohibit financial transactions with terrorists, and we provide the language that will help to do that.

No. 5, we adopt regulations on human pathogens to prevent terrorists from using deadly human pathogens to harm our citizens. By enhancing penalties for and restrictions on the use of biological agents, the Antiterrorism and Effective Death Penalty Act of 1996 would decrease the opportunities for terrorists to perpetrate their crimes with biological weapons.

It may surprise even the American people to know that very dangerous, even deadly, organisms that cause diseases and death in human beings are available for purchase, not only by legitimate users, but also by those who may use them with criminal intent.

We have had instances where a phonied-up letterhead, looking like a research institution, has applied for human pathogen problems and biological agents that could cause death to humans. Because these agents cause such devastating diseases as bubonic plague and anthrax, it is crucial that the Federal Government more closely regulate, monitor their movement over both interstate and foreign channels of trade. While I strongly favor a reduction in the Government's overall regulatory posture, there is a clear and present danger with respect to the threat of biological terrorism.

To give you just one example, the Washington Post recently reported that in May 1995 an Ohio man, using letterhead that appeared to be a legitimate laboratory, faxed an order for three vials of the bubonic plague agent from the American Type Culture Collection, the ATCC, in Maryland. After a series of events, the FBI later discovered that this individual already possessed deadly microorganisms in addition to a cache of rifles, grenades, and white separatist literature. Although the man was prosecuted under mail and wire fraud statutes, these charges might not otherwise have been available had he not sent the bogus letterhead.

For example, gaps exist in the current regulations that allow anyone to possess deadly human pathogens. Thus, in turn, it makes prosecution of people who attempt to acquire them, even for illegitimate purposes, very difficult indeed. Under current law then, law enforcement authorities must wait until human pathogens are actually used as weapons before criminal prosecution may be pursued.

In response, this bill strengthens law enforcement's hand by prohibiting conspiracy, threat, or attempts to use biological weapons, in addition to their acquisition and their possession. The fact that human pathogens are available to several legitimate groups poses unique regulatory problems which our bill has, I think, successfully overcome.

In addition to the lack of interagency coordination in this area, the relevant regulations have not kept up with advancing science. So it is important, and, accordingly, the legislation here authorizes the Secretary of Health and Human Services to regulate the transfer of harmful biological agents. However, when promulgating regulations and the listing of biological agents subject to these regulations, the Secretary is to ensure the continued viability of the use of such agents for legitimate purposes.

So we are attacking these problems before they result in tremendous tragedies. This bill will do that. My colleagues and I believe that the American people deserve better than the current regulations and criminal statutes we have in this area which have left us vulnerable to the potential use of human pathogens as terrorist weapons.

Since we have not kept pace with science and technology and recognize that we live in a more dangerous world than we once did, this legislation takes strong action and makes a strong response right now. That is another reason why it is important.

No. 6, we restrict the transfer of nuclear materials and chemical biological weapons. The Antiterrorism and Effective Death Penalty Act of 1996, this bill, gives Federal law enforcement officials the tools necessary to combat the threats of nuclear contamination and proliferation that may result from the illegal possession of and trafficking in nuclear materials. It is in the vital national security interests of the United States that we take every conceivable step within our power to restrict the flow of nuclear materials around the world.

With this simple truth in mind, this legislation recognizes that the threat that nuclear materials will be obtained and used by terrorists and other criminal organizations has increased since the enactment, some 14 years ago, of the Convention on the Physical Protection of Nuclear Material. Accordingly, this bill proposes to give Federal law enforcement officials the maximum authority permissible under the Constitution to address this increased threat.

One of the ways the legislation provides new tools to law enforcement is through the expansion of the scope and jurisdictional basis of nuclear materials prohibitions. This is accomplished in part by recognizing that nuclear byproduct materials, in addition to nonderivative nuclear materials, poses a major threat, not only to our military and commercial assets, but also to the environment.

This broader definitional scope is essential if law enforcement is going to have the kind of prosecutorial reach necessary to keep up with the technological developments in the field. Ironically, the increased threat of terrorist nuclear activity is to some extent a result of our, the United States, success in obtaining agreements from other countries to dismantle nuclear weapons.

While we all applaud these efforts, they have resulted in increased packaging and transportation of nuclear materials, which has created a more difficult security environment because it has provided greater opportunities for unlawful diversion and theft. Although we have traditionally thought of nuclear terrorism in terms of the detonation of nuclear bombs against civilian or military targets in the United States, we are also acutely aware of the threat of environmental contamination as a result of nuclear material getting into the wrong hands.

The nature of nuclear communication is such that it may affect the health, environment, and property of U.S. nationals both here and abroad even if the illegal conduct is directed at foreign nationals. This is why increasing the scope of prohibitive materials is so important. Because there is currently no Federal criminal statute that provides adequate protection to U.S. interests from nonweapons grade, yet hazardous, radioactive material, this is all in this bill. This is important stuff.

This is not just a habeas bill. But even if that were all it was, it is worth passing because that is the one thing that the victims of these criminal activities and terrorist activities have called for. Frankly, it was the only thing they called for yesterday, although I am sure that they recognize these other matters and are very happy to have them.

No. 7, we require tagging devices in plastic explosives. This bill will tag them. It does tag the devices in plastic explosives. Now, there is, in my opinion, a reason to tag other things as well, but I have to say there are reasons not to at this point.

Let me make this point. The Antiterrorism and Effective Death Penalty Act of 1996, this bill, fulfills the obligation of the United States to implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, entered into in Montreal in 1991 in the tragic wake of the bombing of Pan Am flight 103. It required that detection devices be placed in all devices imported to or exported from the United States and provides criminal penalties for violations.

It should be noted that criminal provisions with respect to the incorporation of detection agents in plastic explosives do not apply retroactively to any Federal agency performing military or police functions or to the National Guard of any State, only if such incorporation occurs within 15 years of enactment of the Montreal Convention.

Furthermore, governmental transfer or possession of such nonconforming devices will not be considered a criminal act nor will transfer or possession by private citizens of nonconforming devices manufactured prior to this legislation if this occurs within a 3-year grace period of its enactment.

These provisions in this bill affecting the manufacture, distribution, and use of plastic explosives are absolutely critical given the likelihood that without them plastic explosives will continue to be used with even less certainty of detection for acts of unlawful interference with civil aviation, maritime navigation, and other modes of transportation.

The purpose of this bill really is very simple. By marking or requiring the marking of plastic explosives, not only will we effectively deter future terrorist acts, but we will also substantially improve our chances of bringing to justice those who place innocent lives in jeopardy, endanger our national security, and disrupt international commerce by the use of these stealthy, deadly devices.

The distinguished Senator from Delaware raises a good point when he desires, and we in the Senate enacted—it was a Hatch provision again. These are provisions I worked on. These are provisions I wanted in the bill. There is no question about that. We put mandatory taggants on all explosives, in a certain sense.

The fact is that the explosive used in Oklahoma City was the result of a fertilizer. But the fact, also, is that before we put taggants on those, we have been cautioned by the mining industry, which has to use explosives throughout its processes, by the stone industry, which has to use explosives, by other industries that are prone to use explosives, that they are afraid that mandatory taggants could be very dangerous to their workers and to their efforts.

Frankly, in order to solve that problem and in order to solve some of the worries and concerns of those over in the House, we then did what is the next best thing—frankly, probably is the best thing under the circumstances—since we have had these matters brought to our attention by ATF, the Bureau of Alcohol, Tobacco, and Firearms, which handles the explosives matters and has been studying it for years, by OTA, which as of a few years ago said these may be dangerous. We do not have the answers as of yet, so we provide for a study to determine just how dangerous it is, and whether we can put taggants in, that will be safe and will protect the workers in these industries. It is a serious concern. It is one that we can resolve. We resolve it by giving a year for that study and allowing the regulatory agencies to enact regulations and allowing time for Congress to review them and finally resolve them. It is a reasonable approach.

Yes, it is not as far as I want it to go, that we did go in the Senate bill, but it is a reasonable compromise. That is what we have had to do here.

This is not just a habeas bill. This is a lot of things we have had to compromise with the House to get it done.

Let me go to No. 8. We enhance penalties for many terrorism crimes. We do not enhance them for every crime that the distinguished Senator from Delaware wants us to. I do not disagree with him. Look, we have gone through in the last few years, Waco, Ruby Ridge, the Good Ol' Boys Roundup, we have gone through other types of law enforcement matters. There are people who are terrified of the IRS, people who are afraid of their own Government. If you look at the polls, the vast majority of them are afraid of their own Government today because of some of these things.

We have looked into these and there have been some mistakes. Because of these fears and the perceptions that arise from these fears, we have had to go gently on some of the areas where, yes, the distinguished Senator from Delaware and I probably would agree. We worked together a lot in these areas. I have tremendous respect for his abilities in this area. I do not agree with him that this is just habeas corpus and it does not have much else. Give me a break. This bill has a lot besides habeas. Even if it was only a habeas bill, that is the most important criminal law change in the century. It is important. Anybody who understands it and who wants to get tough on crime, who wants sentences carried out without delay, without unreasonable delay, wants this bill. That is the vast majority of people.

Let me say there is probably not one thing in this bill—I cannot think of one thing in the bill that my colleague from Delaware really opposes other than habeas corpus. And he is willing to accept that. Because he disagrees with habeas corpus reforms, he and others, it looks to me like they are willing to delay this bill. I hope they do not. I hope we can move ahead with his motions here today and get this matter done.

I suggest that we pass this report and return to many of the issues that Senator BIDEN outlines in subsequent legislation. I will work closely with him and with others to be able to do that, to make sure we know what we are doing when we do it. In fact, I promise Senator BIDEN once this bill is signed, I will work with him to draft legislation looking at enhancing wiretap authority, or any of the other issues he has raised. We try to solve these problems with study and with other approaches in this bill so we can bring both sides of the Hill together.

Yes, I agree with him on a number of things. I wish we could put them in this bill. In the perfect world that he and I believe in, we would do that. On the other hand, this is an imperfect world, and there are a significant number of people—both Democrats Republicans, by the way, over in the House—who literally do not agree with us. I think we have to put these things in perspective.

Now, rather than exploiting the devastation of Oklahoma City, I believe that we are protecting the families of the victims from additional unwarranted victimization. Comprehensive habeas corpus reform is the only legislation Congress can pass as part of the terrorism bill that will have a direct effect on the Oklahoma City bombing, or the Lockerbie bombing or the World Trade Center bombing. It is the one thing that Congress can pass to ensure that President Clinton's promise of swift justice is kept.

Like I say, President Clinton recognized this fact during his April 23, 1995, "60 Minutes" appearance when, in response to a question about whether those responsible would actually be executed without the adoption of habeas reform, he said, "It may not happen, but the Congress has the opportunity this year to reform the habeas corpus proceedings and I hope they will do so."

The claim that habeas corpus reform is tangential or unrelated to fighting terrorism is just plain ludicrous. Indeed, habeas corpus reform has far more to do with combating terrorism than many of the proposals contained in the administration's own antiterrorism package, such as the proposals to enhance FBI access to telephone billing records and to loosen standards for the use of roving wiretaps in felony cases. I would like to do those but habeas has more meaning than they do.

Most capital cases are State cases. The State of Oklahoma could still prosecute this case, and the district attorney says it will. Our habeas reform proposal would apply to Federal death penalty cases, as well. It would directly affect the Government's prosecution of the Oklahoma bombing case. Indeed, several people were killed just outside the Oklahoma Federal building, the terrorists who destroyed the Federal building could thus be tried in State court for the murder of those citizens. The district attorney for Oklahoma City, as I said, is planning those prosecutions.

The provisions of this bill demonstrate the relationship of habeas reform to the terrorist bombing. No. 1, it would replace a 1-year limit for the filing of a habeas petition on all death row inmates, State and Federal inmates; No. 2, it would limit condemned killers convicted in Federal and State court to one habeas petition, to where under current law there is currently no limit to the number of petitions he or she may file; No. 3, it requires the Federal courts, once a petition is filed, to complete the judicial action within the specified time period. Clearly, by passing these provisions, we ensure that those responsible for killing scores of United States citizens will be given the swift penalty that we as a society exact upon them.

Let me just say this: My friend and colleague from Delaware said without the crime bill there would be no Federal death penalties. I commend him for that. I worked hard with him to get that. I think it was a good thing. The fact is that every State, almost every State does have a Federal death penalties.

Senator BIDEN makes the case that these are State cases for the most part. That is true, involving habeas corpus. Where is the Federal habeas corpus problem, he says? I have to say one of the biggest problems, loony judges in the Federal courts who basically will grant a habeas corpus petition for any reason at all. Because they do not have the teeth in the law to stop it, it goes on all the time. We have judges who do not like the Federal death penalties. They do not like the State death penalty, so they do anything to grant a habeas corpus petition. That game will be over once this bill passes. This bill requires deference to court action unless there is some very good reason not to defer, and I have to say that is a major, major, change in criminal law. It is important.

My colleague says, how does changing habeas corpus have anything to do with terrorism? I think he outlined it pretty good and indicated it has nothing to do with State courts. Of course it does. If it is in a State court he said it has nothing to do with Federal crime. Well, what happens under current law is these people try to get into the Federal courts where they figure they have more liberal judges who are going to find any excuse they can to overturn a death penalty, and my friend indicated, "Well, it does not get them out of jail." Sometimes it does.

If a habeas corpus petition is granted and a Federal death penalty is overturned, it is 18 years down the pike, all witnesses are dead or gone, and you cannot put a case on in the courts, that creates tremendously complicated problems. This is not as simple as some would make it out to be. You can get into that on both sides of that issue, I suppose, ad infinitum.

I have to say that justice delayed, as I said before, is justice denied. There are crazy people out there that no amount of wiretapping, no amount of any kind of predisposition toward law enforcement is going to stop them. These people are crazy. These people have no sense about them. They have no sense about them. They are not disciplined. We have to have some way of resolving these problems.

I have to say, I do not disagree with my distinguished colleague and friend. There are things, yes, I wish were in this bill. Again, this is the art of compromise. This is the art of the doable. This is the art of having to bring both bodies together. I think the Senate can do a better job on this bill than the House. I have to say, having said that, I think the House has come a long way towards the Senate bill, and we got them to go as far as we can, and the areas we cannot, we have studies or other approaches to help solve the problems.

Let me name some provisions in this bill that were not in the original bill filed by Senator BIDEN on behalf of the administration:

Pen registers and trap and trace devices on foreign counterintelligence and counterterrorism investigations. That was in the second bill. It is not in this bill.

Disclosure of information in consumer reports to FBI for foreign counterintelligence purposes. That was in the second bill filed for the President.

Let me just go down the list here. Civil monetary penalty surcharges. It was in the first bill. Nobody has it in this bill.

Increased penalties for certain crimes. We have a number in the Senate bill we passed, and they are in this conference report. They were not in the two bills filed for the President.

Enhanced penalties for explosives or arson crimes. They are in this conference report but not in the two bills filed for the President, to my knowledge.

Study and report on electronic surveillance. That was not in either of the President's bills, but they are in this bill. It was in the Senate bill.

Expansion of territorial sea. It was in the Senate bill and it is in this bill.

The prohibition on distribution of information relating to explosive materials for a criminal purpose. It was not in the President's bill; it was in the Senate bill, and it is in this bill.

Foreign air traffic safety and travel safety was in the Senate bill, and it is in this bill.

Proof of citizenship. That was in the House bill, and it is in this bill. It is a strong provision. We did not have it in our Senate bill.

Cooperation of fertilizer research centers. That was in the Senate bill, and it is in this bill, but not in the President's bills.

Special assessments on convicted persons. Not in the President's two bills, but it was in the Senate bill, and it is in this bill.

Prohibition on assistance under Export Control Act for countries not cooperating fully with the United States. That was not in the President's two bills. It was in the Senate bill, and it is in this bill.

Authorization of additional appropriations for the U.S. Park Police. Not in either of the President's bills. It was in the Senate bill and is in this bill.

Authorization of additional appropriations for the Customs Service. In the Senate bill and this bill, but not the President's bills.

Study and recommendation for assessing and reducing the threat to law enforcement officers from the criminal use of various matters. That was in the House bill, and we adopted it in the conference report.

Mandatory penalty for transferring explosive material knowing it will be used to commit a crime of violence. That was not in the President's bills, but it was in the Senate bill and it is in this bill.

Directions to the sentencing commission. We have that from the House, which we put in the conference report.

There are a number of other provisions we have put from the House bill into the conference report that range from exclusion of certain types of information, from wiretap-related definitions, detention hearings, protection of Federal Government buildings in the District of Columbia, study of thefts from armories, report to the Congress, et cetera, et cetera.

There are a lot of provisions that literally were not in the President's bills that are in this bill and were in the Senate bill and we were able to talk the House into putting in here.

So it is not just a habeas bill. If that is all this is, it is worth everything we can put into it. It will be one of the most impressive and important changes in criminal law in this century. Frankly, the other provisions will go a long way toward stopping and penalizing terrorist activity in America.

I have gone on and on. I know the Senator from California wants to speak, as do others. You can go on with this because there are so many other matters I would like to talk to. I heard the distinguished Senator from Delaware, for instance, saying the NRA and ACLU agree on a number of things here, or are opposed to a number of aspects of this bill for different reasons. Frankly, the reasons are pretty much the same. They are concerned about an oppressive Government, and they are concerned about Government activity that goes far beyond where it should go. They are concerned about civil liberties and, whether they are right or wrong, they both are concerned about those matters. They may look at things a little bit differently, but their concerns are pretty much the same.

For those who want to make this out as an NRA bill, that is just fallacious. Let me make some points. They were not happy with the Terrorist Alien Removal Act we put back into this bill. NRA did not want the designation of foreign organizations as terrorist groups. They were afraid some of their people might be designated. Exclusion of alien terrorists. They did not want that. These are major provisions that we put in here, and we did it in conference. We did it with House Members who are good people trying to do the best for the country. Funding for the ATF. They hate the ATF [Alcohol, Tobacco and Firearms] the agency of Government regulatory authority for the Secretary to impose taggants at all. The fact is, we have the authority to do that in this bill. I think these are all matters that need to be brought up.

There is one other thing I will bring to the attention of everybody. I believe that some of the major organizations in this country are certainly going to support this. I was really pleased to see the help that we have had and the positive work that we got from the Anti-Defamation League. They deserve a lot of credit. They have been very, very concerned about this. There are some who will not like this bill just because we do not have their particular ideas.

Well, I have made a commitment here to see that we resolve those programs in the future. We cannot do it in this context. It does not mean they will not be resolved. We have four State attorneys general of the various States who support this bill explicitly. The National District Attorneys Association supports this bill with everything they have. The Anti-Defamation League supports this bill. As far as I know, APAG supports this bill. They know the Jewish people have been targets of these terrorist activities, and they know it is not going to stop, and they know this bill will make a difference, and it could solve some of these problems. We have all of the survivors of the Oklahoma City bombing, and we have the Oklahoma Attorney General, who appeared at the press conference yesterday and made some of the most eloquent, hard-hitting, and strong remarks with regard to the support of this bill. We have the National Association of Attorneys General supporting this bill. Citizens For Law and Order support this. And you can go on and on.

There are those, I am sure, who may oppose this bill for one reason or another. But we have put together a very bipartisan, acceptable bill that will really make a difference against terrorism in this country and really will help this country to breathe a little bit easier—and, frankly, many other countries throughout the world, too, because of the provisions we have here.

This is not just a habeas corpus bill. But I will say it one more time. If that were all that it was, it is worth supporting. It would be a tremendous change, a really tremendous change in criminal law that I think would make a difference in the lives of many victims throughout the country, and I think it would stop some of the ridiculous approaches to law that have gone on far too long in a country where, really, the great writ was a great writ to allow people to get to a trial. The writ of habeas corpus we are talking about is a statutory writ. That statute needs to be modified by this bill so that we can stop the foolish game of frivolous appeals just because people do not like the death penalty.

I can understand if people do not like the death penalty. But they can make legitimate arguments against it. If they can convince a majority of the American people that the death penalty is a bad thing, I could live with that. But they cannot. The American people sense that it is a deterrent. They sense that it is something that has to be done, and they also sense that if the death penalty is imposed, it ought to be carried out, and it should not be made a charade as we have through these frivolous habeas corpus appeals through the years.

I yield the floor.

Mr. BIDEN. Mr. President, I am delighted to listen to the Senator. I know what is going to happen. I am going to respond to him, and we are going to hear somebody talking about delay. I have talked a lot less time than the Senator from Utah, who was worried about delaying passage of the bill. I think he should talk. I have been in this game before, and I know what is going to happen. I am going to respond to him an equal amount of time, and somebody is going to say I am delaying. I would like a record to be kept as to how long we have spoken. I have no intention of delaying this.

I am going to respond as briefly as I can and then yield the floor and, at a later date, introduce my amendments. Let me point out that you are looking at somebody who not only does not oppose the death penalty, I wrote the bill that added 57 new penalties.

So I am not opposed to the death penalty. I am not only not opposed to it, I authored the Federal death penalty legislation. And the bill that I authored is the reason why those people in Oklahoma are going to be able to get the death penalty in a Federal court, if in fact there is a conviction. That is No. 1.

Second, I disagree with the habeas corpus provisions that are in here. But I am not going to oppose the bill based on that. I am not going to offer amendments to change that.

So, as we say in the law, the red herring keeps being thrown up here by those who are opposed to the death penalty, and it is really about habeas. And it is not about that.

Third, those liberal Federal judges my friend is talking about, 57 out of the 100 of them are Republican liberal judges; 57 out of every 100 of them were appointed by President Bush and President Reagan; 57 out of every 100.

So, to the extent that they are liberal and not the majority of the court, it is a Federal court appointed by two Republican Presidents.

Just to clear some of the clutter away here, I also point out to you that there are some very tough provisions in this bill. I am not saying there are not. There are very tough provisions. My initial response was that the biggest weapon in here to fight terrorism was habeas corpus. That is an after-the-fact weapon, not a before-the-fact weapon. I am not as terribly optimistic as my friend from Utah. I believe we can stop terrorism. I believe we can stop terrorists. If the only thing I was to do here as a U.S. Senator was to clean up in the aftermath of terrorist acts and make the prosecution more available, then I would think I was doing half my job. That is not question. I do not question for a moment that the victims of the Oklahoma bombing and their families very much want the habeas corpus provision. I do not question that. They are victims.

There are two things we are trying to do in this bill—deal with the victims of terrorism and prevent new victims. My point is habeas does nothing about preventing new victims. That should be our major thrust in my view.

Also, I point out that my friend from Utah says that the district attorney is going to seek the death penalty. Well, if in fact the Federal trial takes place, which is going on—if, in fact, there is a conviction and they get the death penalty—I hope to God he will not intervene and delay the death penalty by then going into State court to get a death penalty if we already get the death penalty in Federal court. That is another red herring. The idea that the State attorney general, the district attorney in Oklahoma, is saying he needs a change in State habeas corpus in order to put to death people who in fact committed the Oklahoma bombing, they will already be dead. They will already be dead, if they are convicted, because they will be convicted under a Federal law, and they will be hung or injected with a lethal injection under Federal law. They will be dead. I surely hope he will not delay their death by deciding to have a whole new trial in State court. Again, it sounds reasonable when he says it to you. But when you parse through it, it makes no sense.

Why would you try someone, and then delay the imposition of the death penalty after they have already been convicted and are about to be put to death?

The other thing I would say is that there are some taggant provisions in here. I compliment my friend on the taggants. Everyone should know what taggants are. They are little tiny particles that they put in the manufacture of weapons, of bombs, of material that goes into bombs. So when the bomb goes off, the easiest way to think of it as a lay person, if somebody has a little Geiger counter, metal detector, they go around and pick up these taggants. They blink. They make sounds. So they can identify. Then they can look and see the taggant, and they can put it under a microscope and find out that this taggant, this material used in this bomb, was made in Dover, DE, or Sacramento, CA, at such and such a place, such and such a batch, and such and such a time. Then they can trace who purchased that batch of material, and they trace it back. And they find the guy who put the bomb together. That is what a taggant is. That is what it means.

We had a very strong provision. The House had a weak provision. But to the credit of my friend from Utah, last night he put in the process that guarantees there will be taggants because everyone should know this: That, although there will be a study, the study once completed automatically goes into effect. So anyone who objects to it will have to get a majority vote in the House and the Senate to defeat it. That is a very positive thing he did; very positive thing. And I compliment him for it.

Although it will delay by 28 months what we wanted to do, it will make it likely that that automatically will be the law, and it will require affirmative action to knock out the use of taggants.

The other point that I want to make is that many of the things that the Senator said—all of the things he said—are accurate about the additional provisions in the law. But if I can make an analogy, it is kind of like giving a police officer a revolver that has six chambers in it and giving him one bullet. You are giving the revolver. That is good. You give him one bullet. That helps protect. But we should give him the other five bullets.

My friend cited as one of the sterling objectives and achievements of this legislation as one example that would create a new crime, a new Federal crime—terrorism—that says that providing material support for terrorists is now a Federal crime. That is good. That is the gun and one bullet. But guess what we do? We say that you cannot use a wiretap under Federal law to go after people who have provided material support for terrorist groups. We do not include that in the list of crimes for which you can get a wiretap under Federal law. The Senate did. The House did not. So we do not include that. So we give them a gun. We give them the bullet. But we do not give them the full chamber. It is positive; agreed. But why in the Lord's name would you allow people to get a wiretap for bank embezzlement and not a wiretap for materially supporting a terrorist organization? Why would you do that? I do not understand that.

Lastly, I would point out that—there is much more to say but I am not going to take as much time as my colleague because my friend from California has been standing here for all of this time—the Senator went into great detail about human pathogens and chemical and nuclear and biological warfare. He is right. We added those crimes. We added enhanced penalties. But guess what we did? We said, if it is a chemical or biological weapon, you cannot do what you can do for nuclear weapons. You cannot bring in the only people who know about them; the military—the only people trained with the equipment to dismantle them, the only people who know how to identify them. You cannot bring them in for chemical, or for biological weapons. But you can for nuclear. Again, an example of a half-step that is very positive. It is in the right direction. But then you make it not useless but incredibly difficult to enforce, or to deal with because you cannot call in the experts.

It is like that movie you all saw, that one with Dustin Hoffman, and the danger that breaks out in the town, "Outbreak." Let us assume a terrorist under this law uses a biological weapon. You are not going to have Dustin Hoffman flying in with the people in helicopters who are military who can deal with this. They are not going to be allowed to deal with it because we prevent them from dealing with it. We do not allow them to. The local cops are going to have to take care of it. You are not allowed to bring them in. Hollywood is going to have to revamp their scripts.

I mean, see again, a positive step but a half tentative step. And, when you are going to close the deal because a few people disagree with it, we back off. We back off.

I have much more to say. I will withhold the rest of my comments but conclude by saying there are two pieces here. There is dealing with the apprehension of, the conviction of, and the imposition of a penalty on those who commit terrorist acts. That is very important. We do some of that in here. But there is an equally important aspect of preventing and apprehending before they commit the heinous act, those engaged in terrorist activities. We do not do a very good job of that in here.

I yield the floor, and I beg my colleague to yield and not take the floor because I will have to respond to him—and he is talking a lot more than I am—and let my friend from California proceed.

Several Senators addressed the Chair.

Mr. HATCH. Mr. President, I will only take a moment, with regard to posse comitatus. In true emergency situations the President has full authority to resolve those and use the military if he wants to. The reason the President would want us to put posse comitatus language in there is because it takes him off the hook. The fact is, the President has that authority.

Mr. BIDEN. I will respond to that later, Mr. President.

The PRESIDING OFFICER. The Senator from California.

THE ILLEGAL IMMIGRATION BILL

Mrs. FEINSTEIN. Mr. President, both the Senator from Utah and the Senator from Delaware are certainly hard acts to follow.

I want to comment on this bill, but before I do so I want to make a public appeal to the majority leader to please, please, please bring back on the floor the illegal immigration bill. This bill, I believe, has widespread bipartisan support. But more fundamentally, I cannot tell you how important this bill is to the safety and well-being of the people of California.

Right now on the border you have miles without a Border Patrol agent. Right now, for both Senator BOXER and I, Border Patrol people come in and tell us how they have rocks thrown at them, how they are concerned for their own safety.

A few weeks ago you had a major freeway accident with 19 people killed, illegal immigrants in a van. More recently you had an incident, publicized all over the United States, of an unfortunate law enforcement action which involved unrestrained force against illegal immigrants who pummeled on a freeway, hitting other automobiles, trying to get away from a sheriff's officer in pursuit.

This is the State that passed Proposition 187, which was a call for help from the Federal Government to enforce the law and change the law and stop illegal immigration.

Mr. President, there is so much that this bill—worked on so hard by Senator SIMPSON, worked on I think on both sides of the aisle in the subcommittee and in the full committee—does. Let me just say it adds 700 Border Patrol agents in the current fiscal year; 1,000 more in the next 4 years. It takes the total number of agents up to 7,000 by 1999. That is double the force that was in place 3 years ago. Every border State wants that.

It establishes a 2-year pilot project for interior repatriation. When somebody comes across the border, they are not just returned to the other side of the border, but they are returned deep into the interior to stop them from coming right back again.

It adds 300 full-time INS investigators for the next 3 fiscal years to enforce laws against alien smuggling, and it adds alien smuggling and document fraud, a big problem, as predicate acts in RICO statutes, something that Federal prosecutors have asked for.

It increases the maximum penalty for involuntary servitude, to discourage cases like the one we saw very recently where scores of illegal workers from Thailand were smuggled in and forced to work in subhuman conditions, against their will, in a sweatshop in southern California.

Mr. President, this bill is critical. It is an important thing for border States and particularly for the State of California. If Proposition 187 was not the bellwether that said, "Federal Government, do your job," I do not know what else will be.

So I earnestly and sincerely, please, I beg the majority leader to bring this bill back on the floor, let us debate it, let us resolve it, let us pass it, let us get it signed, and let it get into law in the State of California.

TERRORISM PREVENTION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report

Mrs. FEINSTEIN. Mr. President, I thank the distinguished chairman of the Judiciary Committee for his work on this bill and the distinguished ranking member for his work on this bill.

I am particularly disappointed that the House succeeded in gutting the commonsense prohibition on distributing instructions for bomb making for criminal purposes. I will talk about that in a minute. But the good news is that the conference report also restored good provisions to this bill. I am especially gratified that the conference committee restored my amendment which gives the Secretary of Treasury the authority to require taggants for tracing explosives.

The Senator from Delaware, the distinguished ranking member, just explained what taggants are: simple little coded plastic chips that are mixed with batches of commercially available explosives. They allow law enforcement to trace a bomb that has exploded, just like one would trace a car by knowing the license plate number. That is exactly what taggants are.

It was studied 16 years ago. Everybody said go ahead with it. They have been available. And it has now happened.

Incidentally, it took the Unabomber 18 years to, quite possibly, get caught. Three people have been killed, 23 people have been wounded, in bombs that really plagued nine States. This time could have been cut in half, perhaps, if we had tagging of explosives.

Unfortunately, the bill completely exempts black powder from either tagging or study requirements. I must say, how can a bill even refute the ability to study tagging of black powder? The amendment I submitted on taggants essentially provided for its addition, taggants' addition, where explosives would be bought in larger amounts. But, where small amounts of black powder were purchased to use in antique guns and for small arms, the taggant would not be included.

The NRA opposes this. What the National Rifle Association is clearly saying is they do not want any taggants in black powder explosives period, or even a study of it. Can you imagine the power of an organization that is able to successfully say we will not even study the impact of tagging black powder, which is also used as the triggering device on major explosive bombs that are used by terrorists? I have a very hard time with that.

I heard the distinguished chairman of the Judiciary Committee just say the NRA opposed excluding alien terrorists from this country. The NRA opposed excluding alien terrorists from this country—unbelievable. I think I just heard him say the NRA opposed a prohibition on fundraising in this country by terrorist groups.

Let me tell you something, if anybody believes that Hamas is in this country raising money to use it for charitable purposes, I will sell you a bridge tomorrow. I will sell you a bridge tomorrow. That is just unbelievable to me.

Nevertheless, I thank the chairman of the Judiciary Committee for standing Utah tall in the conference committee on the issue of taggants. I would like to thank Senator BIDEN and Senator KENNEDY for their help as well. I think this is a very important step forward and I do not mean to diminish it in any way.

I also must say that I view the habeas corpus reform also as an important step forward. Abuse of the writ of habeas corpus, most egregiously by death row inmates who file petition after petition after petition on groundless charges will come to an end with the passage and the signature of this bill. I believe it is long overdue.

For anyone who believes that habeas is not abused, let me just quickly—because it has been thrown out before, and I know others want to speak—speak about the Robert Alton Harris case. It, I think, is a classic case on what happened with Federal habeas corpus, and State habeas corpus.

Mr. Harris was convicted in 1978 for killing two 17-year-old boys in a merciless way, eating their hamburgers, and then going out and robbing a bank.

His conviction became final in October of 1981. Yet, he was able to delay enforcement of the California death penalty capital sentence until April 21, 1992—for 14 years.

Over that time, he filed no fewer than 6 Federal habeas petitions and 10 State petitions. Five execution dates—five execution dates—were set during the pendency of his case. In all, Harris and his attorneys engineered almost 14 years of delay and piecemeal litigation by misuse of habeas corpus, and, I might say, it was 14 years of unresolved grief for the parents of the children.

I think cases like that one point out the need for habeas corpus reform, and, frankly, I want to commend the Judiciary Committee, and in particular the chairman, for seeing that that is included.

Senator HATCH also just mentioned the pathogens incident. In the Judiciary Committee, we had some full hearings, that were rather chilling to many of us, on how easy it is to obtain human pathogens.

I cannot help but note that the Chair is a distinguished physician and surgeon who knows this area well. But what we found out, essentially, is that one person—namely, Larry Wayne Harris—managed to order and to receive samples of bubonic plague through the mail less than a year ago.

Incredibly, although he was caught, he could be charged with only wire and mail fraud, because there were no laws on the books prohibiting the possession of bubonic plague pathogens. In fact, he made up a letterhead and sent it in to a lab, asked to purchase the plague bacteria, and it was sent to him, no questions asked. So this bill clearly takes care of that problem.

It adds that any attempt, threat, or conspiracy to acquire dangerous biological agents for use as a weapon are crimes punishable by fines or imprisonment, up to life imprisonment.

It also asks the Secretary of HHS to establish and maintain a list of biological agents which pose a severe threat to the public safety, and it directs the Secretary to establish enforcement and safety procedures for the transfer of human pathogens.

As a matter of fact, a number of us wrote a letter to the President and urged that emergency action be taken quickly because of the potential ability of people to acquire these bacteria prior to the enactment of this statute.

I want to also express my thanks that fundraising by terrorist organizations will be prohibited in the United States of America. I think it is extraordinarily important that this take place.

I am also very pleased that there is a section, known as 330, of the conference report—which, as a matter of fact, I offered—which prohibits the United States from selling weapons and defense services to countries that the President determines are not fully cooperating with U.S. antiterrorism efforts.

This is a commonsense provision, and I am amazed that there has been nothing in law that meets it. But there certainly is no reason the United States should continue to provide weaponry to any country that refuses to do all it can to combat terrorism.

My big disappointment—and I think because the Presiding Officer is relatively new to this body, he would be interested to know—is that on the Internet today, there is a volume called The Terrorist Handbook. The Terrorist Handbook describes how you can make bombs, whether those bombs are in baby food jars, in electric light bulbs or in telephones. To my knowledge, there is no legal use for a bomb in a baby food jar, for a bomb in a light bulb, or for a bomb in a telephone. You know that once you teach somebody how to do that, their only use of the knowledge is to slaughter and to kill.

So I have a very hard time understanding why simple language, which says if you knowingly publish material with the intent of enabling someone to commit a crime, shall not be permitted.

Let me quote the February 2, 1996, New York Times Metro section. Headline: "3 Boys Used Internet to Plot School Bombing, Police Say."

Three 13-year-old boys from the Syracuse area have been charged for plotting to set off a home-made bomb in their junior high school after getting plans for the device on the Internet. The boys, all eighth graders at Pine Grove Junior High School in the suburb of Minoa, were arrested Wednesday by the police. "There is no doubt that the boys were serious," the captain said, adding that they've recently set off a test bomb in a field behind an elementary school and that it started a small fire.

This cartoon is exactly what is happening all across the United States with young people. The cartoon is a youngster, sort of a Dennis-the-Menace type sitting at his computer, wrapping dynamite and attaching a detonation and clock device to it, while his mother is on the telephone saying "History * * * astronomy * * * science * * * Bobby is learning so much on the Internet."

I have another article. The Los Angeles Times, just this past Saturday, April 13: "Four Teens Admit to Bombs in Mission Viejo School Yard."

The boys, all 15- and 16-year-olds, told investigators they learned how to build the small high-pressure explosives from friends who got it off the Internet. According to the chief, who is then quoted, "It's something they're getting off the Internet. Any time you mix volatile chemicals and have a little bit of knowledge, you put yourself and others in jeopardy."

A third article, Orange County Register, "2 Home-Made Bombs Dismantled in Orange" County.

Authorities theorize that teens are learning how to make the 2-liter bottle devices on the Internet. Ladies and gentlemen, how far do we wish to push the envelope of the first amendment?

Let me tell you what is also in this "Terrorist Handbook." People say, "Well, we have a first amendment right." There is a part on breaking into a lab. This "Terrorist Handbook," which we downloaded yesterday on the Internet, let me quote from it. The first section deals with getting chemicals legally. This section deals with procuring them.

> The best place to steal chemicals is a college. Many state schools have all of their chemicals out on the shelves in the labs, and more in their chemical stockrooms. Evening is the best time to enter a lab building, as there are the least number of people in the building and most of the labs will still be unlocked. One simply takes a bookbag, wears a dress shirt and jeans, and tries to resemble a college freshman. If anyone asks what such a person is doing, the thief can simply say he's looking for the polymer chemistry lab or some other chemistry-related department other than the one they are in.

Then it goes on and it tells them how to pick the lock to break into the chem lab. It tells them what kind of chemicals to steal from the chem lab, and then to go out and how to make the bomb—baby food bomb, telephone bomb, light bulb bomb.

We know people are following this. Yet this conference committee deleted—deleted—a simple amendment which said, if you knowingly publish this kind of data with the view that someone will commit a crime, that is illegal—that is illegal. The conference committee voted it down, I would take it, at the behest of the National Rifle Association. Why? I cannot figure out why. I cannot to this day figure out why.

Let me give you one other quote that was on the Internet. It tells you where to go.

> Go to the Sports Authority or Hermans sports shop and buy shotgun shells. At the Sports Authority that I go to you can actually buy shotgun shells without a parent or adult. They don't keep it behind the little glass counter or anything like that. It is $2.96 for 25 shells.

Then the computer bulletin board posting provides instructions on how to assemble and detonate the bomb. It concludes with:

> If the explosion doesn't get 'em, then the glass will. If the glass doesn't get 'em, then the nails will.

This is what, by rejecting my simple amendment, the conference is saying is permissible on the Internet.

Let me give you one last thing so that it is, hopefully, indelibly etched in everybody's mind what we are doing. Following Oklahoma City, this was on the Internet.

"Are you interested in receiving information detailing the components and materials needed to construct a bomb identical to the one used in Oklahoma?" The information specifically details the construction, deployment, and detonation of high powered explosives. It also includes complete details of the bomb used in Oklahoma City and how it was used and how it could have been better.

How far are we pushing the envelope of the first amendment? What I have tried to show is that not only is this kind of thing with knowledge, with intent, on the Internet, but that youngsters are using it. They have used it within the last 2 weeks in New York, in California, and they have used it to do bodily harm to others.

So this is my big disappointment in this bill, because I believe we have as much to fear from domestic terrorism, as I think the Unabomber has pointed out, as we do from foreign terrorism. It begins right here at home. It begins with a system that lets everybody do anything they want, including telling you how to steal, break in and steal the chemicals, make the bombs, go out and deliver them.

I believe it is the job of this Congress to try to do something about it. With that in mind, I will support the amendment to recommit this to committee. I realize that that is a useless gesture, but just to make the point.

I will vote for this legislation and I will at the earliest time possible reintroduce my amendment on another bill to take another crack at saying the time has come for the United States of America to say, indeed, everything does not go. There are some restrictions and some things that we are going to do to stop criminality in this country. I thank the Chair and I yield the floor.

Mr. THURMOND. Mr. President, I served as a conferee representing the Senate, and I am pleased that the House and Senate conferees have resolved the differences between our respective bills to combat terrorism. We must send a clear message to those who engage in this heinous conduct that the American people will not tolerate cowardly acts of terrorism, in any fashion—whether their source is international or domestic.

It is important that the Congress work closely with Federal law enforcement to provide the necessary tools and authority to prevent terrorism. Yet, I am mindful that an appropriate balance between individual rights guaranteed in the Constitution and the needs of law enforcement must be achieved as we meet our responsibility. The American people appropriately look to their government to maintain a peaceable society but do not want law enforcement to stray into the private lives of law-abiding citizens. The balance is to provide reasonable authority to law enforcement to investigate and prevent terrorism while respecting the rights of the American people to form groups, gather and engage in dialog even when that dialog involves harsh antigovernment rhetoric.

Mr. President, it is my belief that this conference report will enhance law enforcement capabilities to combat terrorism while respecting our cherished rights under the Constitution. This legislation includes provisions to increase penalties for conspiracies involving explosives and the unauthorized use of explosives, enhance our ability to remove and exclude alien terrorists from U.S. territory, provide private rights of action against foreign countries who commit terrorist acts, prohibit assistance to countries that aid terrorist states financially or with military equipment, and enhance prohibitions on the use of weapons of mass destruction. Also, there are a number of other measures designed to combat terrorism which were included and detailed earlier by the able chairman of the Judiciary Committee, Senator HATCH.

Clearly, one of the most important sections included in the conference report is language designed to curb the abuse of habeas corpus appeals. In fact, we heard from families of the Oklahoma bombing victims who demand that habeas reform be included to make this a truly successful bill.

Mr. President, for years, as both chairman and ranking member of the Senate Judiciary Committee, I have worked for reform of habeas corpus appeals. The habeas appellate process has become little more than a stalling tactic used by death row inmates to avoid punishment for their crimes.

Unfortunately, the present system of habeas corpus review has become a game of endless litigation where the question is no longer whether the defendant is innocent or guilty of murder, but whether a prisoner can persuade a Federal court to find some kind of technical error to unduly delay justice. As it stands, the habeas process provides the death row inmate with almost inexhaustible opportunities to avoid justice. This is simply wrong.

In my home State of South Carolina, there are over 60 prisoners on death row. One has been on death row for 18 years. Two others were sentenced to death in 1980 for a murder they committed in 1977. These two men, half brothers, went into a service station in Red Bank, SC, and murdered Ralph Studemeyer as his son helplessly watched. One man stabbed Mr. Studemeyer and the other shot him. It was a brutal murder and although convicted and sentenced to death these two murderers have been on death row for 15 years and continue to sit awaiting execution.

The habeas reform provisions in this legislation will significantly reduce the delays in carrying out executions without unduly limiting the right of access to the Federal courts. This language will effectively reduce the filing of repetitive habeas corpus petitions which delays justice and undermines the deterrent value of the death penalty. Under our proposal, if adopted, death sentences will be carried out in most cases within 2 years of final State court action. This is in stark contrast to death sentences carried out in 1993 which, on average, were carried out over 9 years after the most recent sentencing date.

Mr. President, the current habeas system has robbed the State criminal justice system of any sense of finality and prolongs the pain and agony faced by the families of murder victims. Our habeas reform proposal is badly needed to restore public confidence and ensure accountability to America's criminal justice system.

We have a significant opportunity here to fight terrorism and provide certainty of punishment in our criminal justice system. The preamble to the U.S. Constitution clearly spells out the highest ideals of our system of government—one of which is to "insure domestic tranquility." The American people have a right to be safe in their homes and communities.

I am confident that this antiterrorism legislation will provide valuable assistance to our Nation's law enforcement in their dedicated efforts to uphold law and order.

I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, first, I would like to thank Senator DOLE for setting aside the immigration bill, the illegal immigration bill, temporarily so we can pass this terrorism conference report.

I might mention to my colleagues this is a conference report and is not really amendable. It does not mean we do not have parliamentary procedures and it does not mean people cannot delay or procrastinate or mean we cannot say we can send it back to the conference with specific amendments. They have the right to do so. But I am going to urge my colleagues not to do so. If we do so, we are not going to finish this bill. I would like to finish this bill this week.

I would really like to compliment my colleagues, Senator HATCH, and also Senator BIDEN, as well as our colleague in the House, Chairman HYDE, for their work in the last couple of weeks in melding the two bills together.

This is a compromise bill. I do not make any bones about it. It is probably not perfect. But it is a good bill, and it needs to pass, and it needs to pass this week. If we recommit this bill, we are not going to get it done this week. So I urge my colleagues, it might be tempting and it may be politically appealing, for whatever reason, to recommit this bill and to score some points or run against the NRA or whatever, but I urge them to set that aside.

Let us pass this bill. This is a positive bill. It is a good bill. It is a bill that has very, very strong support and a lot of emotional connections in my State. I think everybody is well aware of the fact that this Friday is the first anniversary of the Oklahoma City bombing that took 168 innocent lives of men, women, and children. The families of those victims have urged us to pass this bill. They have admitted maybe this bill is not perfect, but they think it is a good bill. I have met with several of the victims and families of the victims. They said, please pass this bill.

The No. 1 provision that they want in this bill is the so-called habeas corpus reform. They want an end to these endless appeals of people who have been convicted of atrocious crimes and murders. An end to abusing the judicial system, abusing taxpayers, filing frivolous appeals, endless, endless appeals.

In Oklahoma actually several were wearing buttons that had a 17 with a line through it. They were referring to Roger Dale Stafford. In 1978, he murdered nine individuals in my State. First he murdered the Lorenz family—he was a sergeant. Sergeant Lorenz saw a stopped car with the hood up. So he pulled over and stopped to help Stafford. Lorenz was with his wife and his child. Roger Dale Stafford murdered him, murdered his wife, and went back into the car and murdered their son; and then shortly after that murdered six people. Most of them were kids in a Sirloin Stockade restaurant. He herded them into a freezer or refrigerator and murdered them in cold blood.

That was in 1978. His execution did not happen until last year, 1995. He was on death row for 17 years. The families of the victims of the Oklahoma City bombing have said we need habeas corpus reform. This is a Federal crime. They will be tried under Federal statute. The death penalty does apply. If convicted, they would like to have the sentence carried out swiftly, not 20 years from now. They feel very, very strongly about it.

I want to thank my colleagues for working over the last couple of weeks when the Senate was in recess. We do not usually do that. It does not happen very often around here. Usually we have a break or recess for whatever reason and staffs and Senators take off and not a lot of work is done. But this time was different.

I also again want to thank Senator DOLE and also Speaker GINGRICH because I personally appealed to both and said I would really like to get this bill up and passed through both Houses of Congress by this anniversary date. I would like to go back to Oklahoma on Friday and tell the families that, yes, we have passed this antiterrorism bill.

It has a lot of provisions, a lot of good provisions. I realize in the legislative process we make some compromises. It has been pointed out maybe there are a couple of provisions that should not be in or have been left out. My colleague from Delaware mentioned expanded wiretaps. A lot of people in my State have real second thoughts about that. I do not know. I supported it when it passed the Senate. It may be a good provision. Maybe I was wrong. I am not sure.

I am not an expert in that area, but I know that habeas corpus reform, or death penalty reform, needs to pass. That is the foremost thing on the minds of the victims of the Oklahoma tragedy. If we send this back to committee, we will not be able to pass this bill this week. I will be more than disappointed if that happens.

We have a couple of other provisions that are very important to the people of Oklahoma. We put in a provision, and I want to thank my colleagues, both Senator HATCH and Senator BIDEN for supporting this provision, that will allow and actually provide for closed circuit TV viewing of the trial proceedings in the Oklahoma bombing case. Unfortunately, the trial was moved to Denver. In Denver they have a courtroom, I believe, that holds 130 people. The judge said we will have an annex for audio, so in total, maybe 260 people including press would have the opportunity to attend or hear the trial. Frankly, that is not enough. That is not near enough. Not to mention the fact that the individuals and families would have to travel over 500 miles, and be away from the rest of their family. It would be an enormous inconvenience. We have raised some money to assist them. I am sure some families would like to personally attend the trial and we will try and help them financially, as well.

I thank the Attorney General for helping in that manner. She wrote me a letter saying they were contributing the travel fund. I asked the Attorney General's assistance so that those who could not travel to Denver could view the trial through closed circuit TV coverage. We think that a decision to permit this by the court is discretionary and it should happen. Unfortunately, she has declined to help us with the closed circuit TV provision. This bill says that the court must provide closed circuit coverage of the trial for victims and their families. It will be closely monitored. The court will have complete control over the coverage. This is not for public viewing but for the families, so they can view the trial without leaving their home, without leaving the rest of their families, maybe without having to take several months off from their jobs or their workplaces. This is going to be a very traumatic time for them and it would be much better for them as individuals to be able to view this at home and still be able to be with their family members and friends instead of dislocating them for several months, sending them to Denver, and only a very small percentage of them being able to even be present in court, and be more than frustrated by being so close yet so far away because they would not have access to the proceedings in the trial.

I am appreciative of this one provision, and again I thank my colleague from Utah and my colleague from Delaware for inserting this provision. There is a comparable provision in the House bill. This is most important to the families of the victims of the Oklahoma City bombing.

Finally, I want to comment on one other provision. This bill provides for mandatory restitution for victims of Federal violent crimes, property crimes, and product tampering crimes. This is a measure that we have spoken about on the floor of the Senate countless times. This is a measure that has passed the Senate three or four times. This is a measure that has bipartisan support. Senator BIDEN, Senator HATCH, myself, and others have worked to put this in. We have passed it in various crime control packages in the past. Unfortunately, when we have had a conference it has not remained in the conference package. This is a most important provision where we do give respect, treatment and assistance for the victims of crime—mandatory restitution for victims. We should pay more attention to victims instead of to the criminals, as we have done in the past. I am most appreciative. This is a very important provision.

I think our colleagues have put together a good bill. It may not be perfect. I have heard my colleague from Utah say, well, as far as some of the other provisions, maybe the provision that was alluded to by our colleague from California dealing with Internet and directions for explosives, that may be a good provision. I may well support it. It does not have to be in this package. I hope that if there are other good provisions not included in this bill, we can garner overwhelming support in the Senate, we can take them up separately and pass them this year. I would like to think that we have a window of opportunity of a couple of months where we can pass substantive legislation without playing politics. I hope we do not play politics with this bill.

I keep hearing statements about the NRA and others, there are a lot of people that are concerned about expanding wiretap authority and they do not have anything to do with the NRA. Maybe that is a good provision. I am not debating that. Maybe it should be debated, but debate it separately. If we put some of those provisions in, there will be problems in the House and we will not pass this bill this week. To me that would be a real shame. That would be something that we should not do. This is an important bill. This is a good bill, a bill that should pass, that should pass tonight. I would hope that my colleagues would join together, resist the temptation to send this back to conference, knowing it would delay it. Hopefully, they would join us in saying, "Let's pass this bill," and if we want to consider separate measures dealing with taggants or anything else that was originally in the House bill or originally in the Senate bill, or maybe originally in the President's bill, we can consider that independently.

This is a conference report. Most of our colleagues are aware of the fact we do not usually amend conference reports, and if we do, we could put unnecessary delay on this legislation which would be a serious mistake. On behalf of the victims of the tragedy that happened on April 19, 1995, in Oklahoma City, on behalf of the families and the countless number of people who were impacted directly, I urge my colleagues, let Members pass this bill, pass this bill tonight, no later than tomorrow, get it through the House, as well, so we can let them know that we have listened to them, we have heard them, and we have passed a good antiterrorism bill with real habeas corpus reform, with real death penalty reform, with a provision allowing them to have closed circuit TV viewing of the trial. I think they will be most appreciative. I know they will be most appreciative.

I yield the floor.

Mr. INHOFE. Mr. President, I have listened to the debate not just today but the debate on this for the past year. I remember so well the incident, when my fellow Senator from Oklahoma, Senator NICKLES, and I were in Oklahoma City right after it happened for the days following that, talking to families and the ones who actually had their own loved ones that were still in the building, not knowing whether they were alive or dead.

It is very difficult to get the full emotional impact watching TV of some remote place like Oklahoma from outside. When you are there, you feel differently about it. This is why Senator NICKLES and I have such strong feelings about this bill.

There is some opposition in this bill even in the State of Oklahoma by many people who felt that perhaps the wiretapping provisions went a little bit too far, the invasion of civil rights and privacy, perhaps was a little too strong. Many of my conservative friends did not want me to support it.

I was very pleased when the conference came out with its report. I believe the bill we have today is better than the House bill was. It is better than the Senate bill that we sent to them. I feel much stronger about it now and much more supportive than I did before. I think Senator NICKLES has covered most of the things that people in Oklahoma are concerned with. I can just tell you it is not a laughing matter that these people do want an opportunity. These are not wealthy people. They feel they should participate, at least be able to view the trial taking place. That is something that is in this bill. It will allow them to do it. Many of them could not sustain the hardship of making a trip to Denver.

There are a lot of things in here that I think are better than they were when we sent it over. The one area I want to concentrate on and just emphasize again is the habeas reform. My concern, and in fact, I can tell you, if that had been taken out I probably would have opposed the bill. Two months after the tragedy, the bombing tragedy in Oklahoma City, we had the families of the victims up here, in Washington, DC. I personally took them to many Senators' offices. They expressed to them that of all the provisions that would come out in an antiterrorism bill, the one that was the most significant to them was the habeas reform.

It happened to coincide with something that Senator NICKLES and I are very familiar with, a murder that had taken place 20 years ago, by a man named Roger Dale Stafford. Roger Dale Stafford murdered nine Oklahomans in cold blood. He sat on death row for 20 years. We just finally carried out that execution. These families are looking and saying, "Here is a guy that sat on death row. He gained over 100 pounds, so the food was not too bad. He was in an air-conditioned cell and watched color TV." They are thinking about what happened to their own members of their family. I look at it behind that. If you get someone with a terrorist mentality, and particularly, someone, perhaps, from the Middle East who has a different value on life than we do, if he is looking at the down side and saying, should I do this act, should I perform this act, and the worst thing that can happen to me is that I will sit in an air-conditioned cell and watch color TV for 15 years, punishment ceases to be a deterrent to crime.

So I think that is a very significant provision that has to be saved. I think any chance on sending this back might jeopardize the chances of having that type of reform. Again, that was the one thing that was in this bill that the families of the victims in Oklahoma said we really have to have; that is the one thing that has to be in there that is going to give us any relief at all. Once the person is apprehended and the trials and sentence are over, and if it is an execution, they want to go ahead and go through with it and not have the perpetrator of the crime that murdered their families sitting on death row for most of their lifetimes.

So I think this is a very good bill. I will just repeat an emotional appeal from the victims and families of the victims in Oklahoma. Let us get this passed and let us get it passed before April 19, on Friday. It is very, very important for us, and I hope we move along on this. We have been considering this for quite a period of time. We started right after the bombing. So we have had adequate time to be deliberative—as deliberative as this body is famous for being. I think it is time to go ahead and pass it.

I yield the floor.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I rise in strong support of the antiterrorism conference report.

First, it is with great sadness that we approach the first anniversary of the bombing in Oklahoma City. It was truly a tragic event carried out by premeditated and dreadful murderers. I just hope that the people that carried out that act get the justice they so deserve.

Mr. President, one of the most important reforms made by this bill are those reforms to our death penalty procedures. For too long, murderers have been on death row, filing appeal after appeal, in the hopes of finding some small legal loophole—anything they can find that will nullify their sentence.

The people of this country are sick and tired of murderers being put on death row and then sitting there, as Senator INHOFE said, watching television, getting fat, and at an enormous cost to the American taxpayers.

Mr. President, since the death penalty was reestablished in 1977, over 400,000 people have been murdered. But only 200 have been executed. This is hardly a message that our justice system is swift or sure to those that break the law.

In my home State of North Carolina, we have over 100 people on death row, with an estimated cost of close to $50,000 a year to keep them there—per person. Yet, in the last 16 years, only 5 people have had the death sentence carried out in North Carolina, with 100 waiting. There have been delays, delays, and more delays, simply using one loophole behind another. Simply, the executions have not been carried out, at an enormous cost to the State of North Carolina for attorneys to fight these endless appeals.

In the United States, as a whole, there are over 2,700 people on death row. Over half have been there longer than 6 years. Further, of those on death row, over half were on probation or parole when they were arrested for murder. What does this say about the justice system?

Is it any wonder that crime has increased 41 percent in the last 20 years? Is it any wonder that violent crime has increased by 100 percent in the last 20 years? Our judicial system has been made a mockery by those who set out to break the law.

For those that carried out the Oklahoma City bombing, they probably never thought they would get caught. Fortunately, and luckily, with good police work, they were caught. But they probably believe that they can beat the system. I hope not, but I am sure they believe it. They probably think they can make a mockery of the justice system, as so many others have. Certainly, we will be hiring the most expensive lawyers out there to help them to beat the system.

In this country, we need to reestablish a respect for the law. Criminals need to know that if they commit murder, they will receive the death penalty. And, more importantly, they need to know that it will be carried out, and they will not be held on death row with endless delays.

With this bill, we finally have broken the logjam on the issue. We keep passing bill after bill that increases penalties and provides new capital offenses; yet, we do nothing to reform our justice system to see that the punishment is carried out.

Finally, we have done something to end the frivolous appeals filed by death row inmates.

Mr. President, I support this conference report. I thank Senator HATCH, and others, who have pushed death penalty reform to the forefront in this bill.

I yield the floor.

Mr. BIDEN. Mr. President, I hope both of my friends from Oklahoma and my friend from North Carolina—speaking to my friends from Oklahoma—understand that we do not want the delay in this bill. This bill got delayed in the House of Representatives for close to 6 months. I did not hear people coming to the floor with me and saying, "Where is the bill, where is the bill, where is the bill, where is the bill?" Now we are told to make this bill workable, and we should not attempt to do better.

I cannot believe the Senator from North Carolina would support a provision allowing, for example, someone to be taught how to make another fertilizer bomb to blow up another Federal building—maybe this one in North Carolina—and maybe learn how over the Internet. He would not want that to happen. Yet, he is probably going to vote against adding that provision back into the bill. He will probably vote, "No, I will not send it back to the conference and have them include that provision."

We had a provision saying you cannot teach people how to make fertilizer bombs, plastic bombs, and baby food bombs on the Internet, when you know the intent is for that person to use it. Yet, they are all going to stand here and vote against me on that. I find that fascinating.

I hope the folks in every one of our districts remember this. They are going to vote against me when I say we want to prevent future Oklahomas. We want to take care of those victims of Oklahoma and make sure retribution is had. That is why the crime bill I authored set the death penalty for it. And there would not even be a death penalty had President Clinton's crime bill not passed. Those people in Oklahoma would not be able to get the death penalty.

Some of my colleagues voted against the crime bill, and now they are hailing the death penalty. The only reason why those people are being tried and, if convicted, will get death, is because of the crime bill they voted against. I find this kind of fascinating logic going on here.

The third thing I point out, and that was tried in Federal court—and then I will yield to my friend from Georgia, who has a very important amendment or very important motion to make—I also point out that we should be worried about future victims. Future victims.

The comment was made—and a legitimate comment—by one of my colleagues a moment ago, when he said, "On behalf of the victims of the bombing in Oklahoma, please pass this bill." On behalf of the tens of millions of Americans who may be the next victims, on behalf of them, please give the police the authority they need to enhance their ability to prevent future Oklahomas by allowing them to wiretap these suspected terrorists under probable cause, just like we do the Mafia. What is good enough for the Mafia ought to be good enough for a bunch of whacko terrorists.

So not only mourn those who died, which I do, but pray for those who are living that they continue to be able to live. I mean, how in the Lord's name can we, after Oklahoma, stand here on the floor and vote against the motion I predict they will vote against which says you cannot teach someone how to make a fertilizer bomb on the Internet when you know it is going to be used? They are going to vote against that. What about future Oklahomas?

I see my friend from Georgia is ready to proceed. So I will yield the floor for the purpose of his making his motion after I make a concluding statement.

In each of these amendments that I offered yesterday, Chairman HYDE in the transcript of yesterday's proceedings said—this is what this is all about—and I quote. He said:

> Mr. Chairman, [Chairman HYDE speaking] may I say something? Mr. Chairman, let us cut to the chase. I agree with the Senator [i.e. Senator BIDEN] and have always agreed with the Senator on this issue, the wiretap issue. The facts of life are that we lose about 35 votes in the House if we pass the wiretap provision.

That is what this is about—35 folks in the House who do not like it. That is why we are going to vote against our interest probably in the next couple of hours.

I yield the floor.

Mr. HATCH. Mr. President, if I could take a second.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Utah.

Mr. HATCH. I agree with the 35, but all of those oppose the bill anyway. But it is a lot more than 35 people who will vote. I just wanted to make that statement.

I thank the Senator from Georgia.

Mr. NUNN. Mr. President, I urge my colleagues to support Senator BIDEN's motion which he will, I understand, make in a few minutes—I do not think it has yet been made—to recommit the conference report because it fails to address a very significant gap in the law which we corrected when we passed the Senate bill regarding the use of chemical and biological weapons of mass destruction in criminal terrorist activities.

The Armed Forces have special capabilities, and they are the only people that have special capabilities to counter nuclear, biological, and chemical weapons. They are trained and equipped to detect, suppress, and contain these dangerous materials in hostile situations. The police authorities of our country and the fire departments of our country do not have the capability to deal with chemical and biological attacks or the threat of those attacks. They do not have the equipment. They do not have the protective gear.

We have had four hearings in the last 6 weeks in the Permanent Subcommittee on Investigations, of which I am the ranking member and Senator ROTH is the chairman. Let us be very clear. With the testimony from law enforcement officials, from fire officials, from city officials, State officials, and from our own people in the Federal Government, that, if there were a chemical or biological attack in this country, we would have as the first victims those who came to the rescue. It would be those personnel coming to the rescue of those innocent victims who are caught in that situation that would also become victims themselves because they are not equipped to detect. They are not equipped to really deal with and they certainly are not equipped to withstand the lethal capability of chemical and biological weapons. Over a period of time they may be able to.

One of the things I am going to be talking about in the weeks ahead is a package of legislation which I hope Senator LUGAR and I will be sponsoring. One of the things we are going to need to do is to give, I think, our military both the capability with funding and also the authority and responsibility to help begin training our police and law enforcement officials around the country. It is going to take a long time.

We are in a different era now, Mr. President. One of the things that many people do not recognize after the attack in Tokyo where the avowed goal of the group that had really prepared very extensive capabilities for chemical warfare on their own people is that if they had the kind of delivery system that a few weeks later they might have had, instead of 15 or 20 people being killed and several hundred being injured, there literally would have been tens of thousands of deaths right there in Tokyo. We are in that era now.

A lot of people do not also understand that in the World Trade Center bombing there was really very strong evidence that a chemical component was in the explosive material. There was an attempted effort at chemical attack there also, but the chemical element was consumed by the huge fire and explosion. So we have had that attempt also in this country.

My point is that it is a very dangerous omission in not giving the kind of clear authority in this conference report that we had in the Senate bill.

At the present time the statutory authority to use the Armed Forces in situations involving the criminal use of weapons of mass destruction extends only to nuclear material. Section 831 of title 18, United States Code, permits the Armed Forces to assist in dealing with crimes involving nuclear materials when the Attorney General and the Secretary of Defense jointly determine that there is an emergency situation requiring military assistance. There is no similar authority to use a special expertise in the Armed Forces in circumstances involving the use of chemical and biological weapons of mass destruction.

In the wake of the devastating bombing of the Federal building in Oklahoma City and also the World Trade Center, with the tragic loss of life in Oklahoma and the disruption of governmental facilities, I think it is appropriate and absolutely necessary to reexamine Federal counterterrorism capabilities, including the role of the Armed Forces.

For more than 100 years, military participation in civilian law enforcement activities has been governed by the Posse Comitatus Act. The act precludes military participation in the execution of laws except as expressly authorized by Congress. That landmark legislation was the result of congressional concern about increasing use of the military for law enforcement purposes in post-Civil War era, particularly terms of enforcing the reconstruction laws in the South and suppressing labor activities in the North.

There are about a dozen express statutory exceptions to the Posse Comitatus Act, which permit military participation in arrests, searches, and seizures. Some of the exceptions, such as the permissible use of the Armed Forces to protect the discoverer of Guano Islands, reflect historical anachronisms. Others, such as the authority to suppress domestic disorders when civilian officials cannot do so, have continuing relevance—as shown most recently in the 1992 Los Angeles riots.

It is important to remember that the act does not bar all military assistance to civilian law enforcement officials, even in the absence of a statutory exception. The act has long been interpreted as not restricting use of the Armed Forces to prevent loss of life or wanton destruction of property in the event of sudden and unexpected circumstances. In addition, the act has been interpreted to apply only to direct participation in civilian law enforcement activities—that is, arrest, search, and seizure. Indirect activities, such as the loan of equipment, have been viewed as not within the prohibition against using the Armed Forces to execute the law.

Over the years, the administrative and judicial interpretation of the act, however, created a number of gray areas, including issues involving the provision of expert advice during investigations and the use of military equipment and facilities during ongoing law enforcement operations.

During the late 1970's and early 1980's, I became concerned that the lack of clarity was inhibiting useful indirect assistance, particularly in counterdrug operations. I initiated legislation, which was enacted in 1981 as chapter 18 of title 10, United States Code, to clarify the rules governing military support to civilian law enforcement agencies.

Chapter 18, as enacted and subsequently amended, generally retains the prohibitions on arrest, search, and seizure, but clarifies various forms of assistance involving loan and operation of equipment, provision of advice, and aerial surveillance. Chapter 18 does not authorize military confrontations with civilians in terms of arrests, searches, and seizures. Chapter 18 also ensures that DOD receives reimbursement for military assistance that does not serve provide a training benefit that is substantially equivalent to that which would otherwise be provided by military training or operations.

The administration requested legislation that would permit direct military participation in specific law enforcement activities relating to chemical and biological weapons of mass destruction similar to the exception that already exists under current law that permits the direct military participation in the enforcement of the laws concerning the improper use of nuclear materials.

Mr. President, the nuclear kind of incident is entirely possible. We have to be prepared for it. We are much better prepared to deal with nuclear than we are with chemical or biological. We have the capability in the Department of Energy with a team that has been training and working on this for years, and they are much better prepared. We do not have a similar capability for chemical or biological.

So by the omission of this specific authority in this bill, we are taking the most likely avenue of attack for terrorism in this country with mass-destruction weapons—and that is chemical or biological—and we are not putting that in the same category as nuclear, which is possible, and we must be prepared for it. But a nuclear attack is not as likely to happen as a chemical or biological attack.

Last June, the Senate included such legislation in the counterterrorism bill with safeguards to ensure that it would only be used in cases of emergency and under certain specific, carefully drawn limitations. In my judgment, the question of whether we should create a further exception for chemical and biological weapons should be addressed in light of the two enduring themes reflected in the history and practice and experience of the Posse Comitatus Act and related statutes:

First, the strong and traditional reluctance of the American people to permit any military intrusion into civilian affairs.

Second, the concept of any exception the Posse Comitatus Act should be narrowly drawn to meet the specific needs that cannot be addressed by civilian law enforcement authority. The record is abundantly clear that we are talking about exactly that. These are cases where local law enforcement and State law enforcement simply could not handle the job.

These issues were examined at a hearing before the Judiciary Committee on May 10, led by the chairman of the committee, Senator HATCH, and the ranking minority member, Senator BIDEN. At the hearing, five major themes emerged:

First, we should be very cautious about establishing exceptions to the Posse Comitatus Act, which reflects enduring principles concerning historic separation between civilian and military functions in our democratic society.

Second, exceptions to the Posse Comitatus Act should not be created for the purpose of using the Armed Forces to routinely supplement civilian law enforcement capabilities with respect to ongoing, continuous law enforcement problems.

Third, exceptions may be appropriate when law enforcement officials do not possess the special capabilities of the Armed Forces in specific circumstances, such as the capability to counter chemical and biological weapons of mass destruction in a hostile situation.

Fourth, any statute which authorizes military assistance should be narrowly drawn to address with specific criteria to ensure that the authority will be used only when senior officials, such as the Secretary of Defense and the Attorney General, determine that there is an emergency situation which can be effectively addressed only with the assistance of military forces.

Fifth, any assistance which authorizes military assistance should not place artificial constraints on the actions military officials may take that might compromise their safety or the success of the operation.

The Senate provision was drafted to reflect the traditional purposes of the Posse Comitatus Act and the limited nature of the exceptions to that act. The motion to recommit that we will be voting on in a few minutes would require the conferees to reinstate that provision with a minor technical clarification that has come to our attention since the Senate bill was passed.

Under the motion to recommit, the Attorney General would be authorized to request the assistance of the Department of Defense to enforce the prohibitions concerning biological and chemical weapons of mass destruction in an emergency situation.

The Secretary of Defense could provide assistance upon a joint determination by the Secretary of Defense and the Attorney General that there is an emergency situation, and a further determination by the Secretary of Defense that the provisions of such assistance would not adversely affect military preparedness. Military assistance could be provided under the motion to recommit only if the Attorney General and the Secretary of Defense jointly determined that each of the following five conditions is present. This is very narrowly drawn.

First, the situation involves a biological or chemical weapon of mass destruction.

Second, the situation poses a serious threat to the interests of the United States.

Third, that civilian law enforcement expertise is not readily available to counter the threat posed by the biological or chemical weapon of mass destruction involved.

Fourth, that the Department of Defense special capabilities and expertise are needed to counter the threat posed by the biological or chemical weapon of mass destruction involved.

Fifth, that the enforcement of the law would be seriously impaired if Department of Defense assistance were not provided.

I have a very hard time understanding why the House of Representatives would not accept this provision. Maybe there is a reason, but I certainly have not heard that reason. Nothing that I have heard indicates why our military could not be used, when we have a biological or chemical weapon of mass destruction involved in the situation, a serious threat is posed to the interests of the United States, civilian law enforcement expertise is not available to counter the threat, Department of Defense capabilities are needed to counter the threat, and law enforcement would be seriously impaired if DOD assistance is not provided.

I think the American people would expect us to be involved in that with the military, to protect the lives of American citizens.

The types of assistance that could be provided during an emergency situation would involve operation of equipment to monitor, to detect, to contain, to disable or dispose of a biological or chemical weapon of mass destruction or elements of such a weapon. The authority would include the authority to search for and seize the weapons or elements of the weapons.

We may get into a situation where it is not entirely clear whether there is a chemical or biological weapon but someone has threatened that that kind of weapon is contained in a basement somewhere in a city.

If the President of the United States does not have this statutory authority, he is going to be very reluctant to put the military into downtown New York to look for chemical or biological weapons. It would be extremely dangerous for law enforcement to undertake that task, but the President will be on the very conservative side and very reluctant to take that step unless he has absolute belief that there is such a weapon and a disaster is impending.

Unfortunately we are not going to have that kind of clarity, in my view, in the future. So it is important for Congress to speak to this issue.

If the Biden amendment is agreed to and it goes back to conference, and this becomes law, the Attorney General and the Secretary of Defense would issue joint regulations defining the type of assistance that could be provided. The regulations would also describe the actions that the Department of Defense personnel may take in circumstances incidental to the provision of assistance under this section, including the collection of evidence. This would not include the power of arrest or search or seizure, except for the immediate protection of life or as otherwise authorized by this provision or other applicable law.

This provision is set forth in the motion to recommit. If it is agreed to, and I hope it is, it would make it clear that nothing in this provision would be construed to limit the existing authority of the executive branch to use the Armed Forces in addressing the dangers posed by chemical and biological weapons and materials.

The motion to recommit would address two important concerns. First, as a general principle, the types of assistance provided by the Department of Defense should consist primarily in operating equipment designed to deal with the chemical and biological agents involved, and that the primary responsibility for arrest would remain with the civilian officials. As a law enforcement situation unfolds, however, military personnel must be able to deal with circumstances in which they may confront hostile opposition. In such circumstances their safety and the safety of others and the law enforcement mission cannot be compromised by putting our military in that dangerous situation and then precluding them from exercising the power of arrest or the use of force.

Mr. President, some people wanted to pass a statute saying the military could do everything but they could never make an arrest. I think they ought to defer to civilians in almost all circumstances. But we do not want to have our military team out there in chemical gear, looking for chemical weapons, some of which may already be escaping, no policemen being able to go in because they do not have the equipment, no fire authority able to go in, run right into the people perpetrating the act and not be able to do anything about it. So we have to give them that kind of limited authority in unusual, and hopefully circumstances which, God forbid—I hope they will never occur. But I must say the likelihood of something like this occurring in the next 5 to 10 years in America is, in my view, very high.

The motion to recommit would require the Department of Defense to be reimbursed for assistance provided under this section in accordance with section 377 of title 10, the general statute governing reimbursement of the Department of Defense for law enforcement assistance. This means that if DOD does not get a training or operational benefit substantially equivalent to DOD training, then DOD must be reimbursed.

Under the motion to recommit, the functions of the Attorney General and the Secretary of Defense may be exercised, respectively, by the Deputy Attorney General and the Deputy Secretary of Defense, each of whom serves as the alter ego to the head of the Department concerned. These functions could be delegated to another official only if that official has been designated to exercise the general powers of the head of the agency. This would include, for example, an Under Secretary of Defense who has been designated to act for the Secretary in the absence of the Secretary and the Deputy.

The limitations set forth in the motion to recommit would address the appropriate allocation of resources and functions within the Federal Government; and are not designed to provide the basis for excluding evidence or challenging an indictment.

The motion to recommit, which reflects the Senate-passed provision, is prudent and narrowly drafted. It was strongly supported in the Senate by the chairman of the Armed Services Committee, Senator THURMOND. It was unanimously adopted by the Senate. The administration, both the Department of Defense and Department of Justice, have testified that current law is inadequate and they need authority to deal with chemical and biological terrorism similar to the authority they now have for nuclear terrorism. It is irresponsible to leave our law enforcement officials and military personnel without clear authority to deal with these dangers.

I know the argument is made that we already have the insurrection statute on the books, which possibly could cover this situation. I would like to just share with my colleagues, before I close, a reading of that statute so they will understand why we need to have clarification.

Under the insurrection statute, sections 331–335, title 10 United States Code, the President can use the military in the following situations.

> To suppress an "insurrection" at the request of a State.
>
> To suppress "unlawful obstructions, combinations, or assemblages, or rebellion [that] make it impractical to enforce the laws of

the United States in any State or Territory by the ordinary course of judicial proceedings."

To suppress "any insurrection, domestic violence, unlawful combination, or conspiracy" if it "so hinders the execution of laws" that a State or the Federal Government cannot enforce the laws.

Before using these authorities, the President must issue a proclamation that, "order[s] the insurgents to disperse and retire peacefully to their abodes within a limited time."

Can you imagine somebody coming into the President saying, "Mr. President, we expect an attack. We cannot prove this but we expect a chemical attack in New York City or Chicago in the next 12 to 24 hours. We desperately need our military teams to go to a potentially hostile situation with protective gear to detect and determine if that kind of material is present within certain areas of New York."

And the President says, "How do I do that?"

They say, "Mr. President, what you first have to do is issue a proclamation, saying that the insurgents should disperse and retire peacefully to their abodes within a limited time."

Mr. President, can you imagine a President saying to his staff, "You mean you want me to issue that? We have a terrorist group in New York City running around and you want me to issue a proclamation for the whole world to see and for the American people to laugh at, saying that the insurgents must disperse and retire peacefully to their abodes within a limited time? I will be laughed out of the White House if I do that."

Any President would be extremely reluctant to use that kind of authority. Besides that, this is not an insurrection. It is not an unlawful combination or conspiracy designed to hinder execution of the laws. To fit chemical or biological terrorism under the insurrection statute would require an extremely awkward and very stretched application. I think the President would only use that if he was absolutely convinced that being scoffed at and made fun of all over the world by issuing such a "disperse and retire peacefully" order would be outweighed by almost the certainty that that kind of calamity was about to happen.

These statutes are designed to deal with civil disorders, not terrorism. When the terrorists are on the subway with chemical or biological agents of mass destruction, must we await the President's issuing of a proclamation and ordering the terrorists to "retire peacefully to their abodes?"

The reason we have the statute that allows military assistance in the event of nuclear offenses is to provide for prompt and effective employment of military personnel to address the emergency, without the need to interpret the law or determine whether there is some inherent authority to assist. Chemical and biological weapons are more likely to be used, and they present the same problems of mass catastrophe as do nuclear weapons, and we should not delay clarification of the authority of the military personnel to provide specific assistance in emergency situations.

I do not understand why people oppose this. I cannot understand why the House opposes it. I think it is irresponsible not to proceed as the Senator from Delaware is urging us to proceed with his motion.

I know there is one other argument that says, because of a Supreme Court decision, there is inherent authority for the President to act with the military or with whatever he has to use to protect against the immediate threat to life. I would not deny that in certain situations the President might use this authority. Certainly in desperate situations he might. This is not statutory authority. It requires him to exercise constitutional, inherent authority. This is a very difficult situation and the military personnel involved, if the President is wrong in his assessment of inherent and immediate threat to life, would be at risk. They would be at risk of lawsuits and liability. They would be at risk of all sorts of problems if the President is wrong because they would not be acting under color of law.

So this immediate-threat-to-life inherent authority, though possibly available in desperate situations, is simply not the way to proceed. It would be a classic lawyers' debate. What we are doing now, if we leave the law as it is, as this bill before us will do unless it is amended, unless it is sent back to conference and amended, we are basically saying we are going to have one big furious debate among lawyers as to what authority would be used in what could be a matter of urgency, extreme urgency where every minute and every hour counted for the military to get into the business where we have a true emergency and American life is threatened.

So the present law is inadequate. The constitutional inherent authority of the President is inadequate in this situation, and the insurrection law would be, I think, resisted fiercely by any President where you would have to basically make an almost preposterous-type plea for the people who are perpetrating this act of terrorism to disperse and retire peacefully to their abodes within a limited time.

I would like to hear someone explain why this is not part of this conference report. I know that the Senate supported it. My colleague, Senator HATCH, I am sure, urged its adoption in the House of Representatives. I do not understand why this has been taken out of this bill.

Mr. President, I urge the adoption of the Biden amendment.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I know the distinguished Senator from Washington would like to make some remarks, but let me just make a few comments about the remarks of my distinguished friend from Georgia.

I do not entirely disagree with Senator NUNN, the distinguished Senator from Georgia. At the outset, I want to call my colleagues' attention to the fact that the Congress has already acted in this area this year. Section 378 of the National Defense Authorization Act of fiscal year 1996, which is already law, specifically provides the military can provide training facilities, sensors, protective clothing and antidotes to Federal, State, and local law enforcement in chemical and biological emergencies.

From this country's earliest days, the American people have sought to limit military involvement in civilian affairs. In the wake of the terrible tragedy in Oklahoma, with the heightened sensitivity to the threat of terrorism this country faces, some feel like giving the military a more prominent role in combating terrorism both here and abroad. This is not a policy we should rush into.

I must add, I support the provision, which is known as the Nunn-Thurmond provision, in the Senate bill. Americans have always been suspicious of using the military in domestic law enforcement, and rightly so. Civilian control of the military and separation of the military from domestic law enforcement feature prominently in the early history of this country, from the Declaration of Independence to the Constitution and Bill of Rights. Indeed, the Declaration of Independence listed among our grievances against the King of England that he had "kept among us, in times of peace, Standing Armies without the Consent of our legislature," and had "affected to render the Military independent of and superior to the Civil Power."

It was abuse of military authority in domestic affairs, especially in the South after the Civil War, that motivated Congress to impose the first so-called posse comitatus statute. The term "posse comitatus" means power of the country and has as its origin the power of the sheriff through common law to call upon people to help him execute the law.

The statute, in 18 U.S.C. 1385, prevents the Federal Government from using the Army or Air Force to execute the law, except where Congress expressly creates an exception. Domestic law enforcement thus remains as is, in the hands of local communities.

Currently, as I understand it, Congress has created only limited exceptions to the Posse Comitatus Act. The President can call out the military if terrorists threaten the use of nuclear weapons or if the rights of any group of people are denied and the State in which they reside is unable or unwilling to secure their lawful rights.

The military is also authorized to share intelligence information with Federal law enforcement in attempts to combat drug trafficking. These are limited exceptions to the act, however, and do not generally empower the military to be actively involved in the enforcement of domestic laws. We have done well with a separation between military authority and domestic law enforcement. Although this proposal seems sensible and appears simply to expand upon the military's preexisting authority, to become involved if the use of nuclear weapons or biological or chemical weapons is threatened, it may, in fact, be unnecessary.

The premise underlying this amendment is that there does not exist among civilian law enforcement the expertise to deal effectively with chemical or biological agents. However, I believe that such expertise is available outside of the military. Particularly in the area of chemical agents, civil authorities and even the private sector have considerable experience in containing these substances.

Moreover, the military can already assist civil authorities in all aspects of responding to the type of crisis contemplated by this amendment but one: The actual use of military personnel to disable or contain the device. The military can lend equipment, it can provide instructions and technical advice on how to disable or contain a chemical or biological agent, and it can train civil authorities, if necessary.

The one thing that this amendment adds to the military's ability to assist civil law enforcement is the permission to put military personnel on the scene and inject them directly into civilian law enforcement. This is, in my view, the one thing we should not do.

This amendment would raise troubling implications going to the heart of the Posse Comitatus Act. It recognizes, as it must, that whenever law enforcement personnel are engaged in an evolving criminal event, there are unpredictable and exigent circumstances. The personnel on the scene must be able to take the necessary steps, including making arrests, conducting searches and seizures and sometimes using force to protect lives and property. Yet, the posse comitatus statute was enacted precisely to ensure that the military would not engage in such civilian law enforcement functions.

Let me just say this. I agreed to the language that the distinguished Senator would like to put back in this bill in the Senate bill. I would not be unhappy if that language was in this bill. Unfortunately, the reason it is not is because we have people in the other body who basically are concerned about some of these issues that I have just raised. Rightly or wrongly, they are concerned, and we were unable in our deliberations, as much as we got this bill put together, as much as we have made it a very strong bill, we were unable to get that provision in.

Let us just be brutally frank about this. If there is a motion to recommit on this issue, or any other issue, and that motion is approved by the Senate, then the antiterrorism bill is dead. If we do not, there will be a chance to put it through.

Frankly, we have a very good bill here. It may not have every detail in it that I would like to have. It does not have every detail in it that the chairman of the House Judiciary Committee would like to have or our distinguished colleagues Senators BIDEN or NUNN would like to have. I might add, it does not have all the provisions in it that Congressmen BARR and MCCOLLUM and BUYER and SCHIFF and others would like to have.

Nobody is totally going to get everything they want in this bill. But what it does have is a lot of good law enforcement provisions that will make a real difference, in fact, right now against terrorism in our country and internationally. We simply cannot shoot the bill down because we cannot get a provision in at this particular time that we particularly want.

We all understand this process. We all understand that we cannot always get everything in these bills that we want to. But I will make a commitment to my friend and colleague from Georgia, as I have on other matters. I do not disagree with him in the sense that this is something that perhaps we should do. I will make a commitment to do everything in my power to make sure we look at it in every way, and if we do not do it here—and I suggest we should not do it here on this bill under these circumstances—then I will try later in a bill that we can formulate that will resolve some of these conflicts that both the distinguished Senator from Delaware and I and the distinguished Senator from Georgia and I would like to see in this bill—and others, I might add.

So there is no desire to keep anybody's provision out of the bill. There is no desire to not solve this problem. The problem is we cannot do it on this bill and pass an antiterrorism bill this year. I think one reason the President called me last Sunday, I am sure, is because he has been asking us to get him a terrorism bill. This is it. This is the week to do it. I think we have done a really extraordinary job of bringing this bill back from what it was when the House passed its bill.

I give credit to the House Members. There have been a lot of wonderful people over there who have worked hard on this. I have mentioned some of them in my remarks here today. But certainly the distinguished chairman over there, CHUCK SCHUMER, and others, and BOB BARR and others, have worked very hard on this bill.

None of us have everything we want in this bill. And none of us want to see it go down to defeat because of any one provision that we can solve later as we continue to study and look at this matter.

Also, one of the problems we have had in trying to bring together people on this very important piece of legislation is that there have been some perceptions over in the House as a result of some of the mistakes that law enforcement has made that perhaps we might be going too far if we follow completely the Senate bill as it came out of the Senate Chamber.

I think those perceptions are wrong, but the fact is they are there. I think we have to work on them and educate and make sure that we, by doing future bills, will resolve these problems, solve them in the minds of not only Members of the House of Representatives who have complaints against some of this information, but also in the minds of others who would like their own provisions in the bill.

I have to say there are some—and I do not include the distinguished Senator from Georgia among them—but there are some who are just plain and simply trying to stop this bill. They hate the habeas corpus provisions of this bill. I know the distinguished Senator from Georgia does not, that he is with me on those issues, but they do. And they will use any strategy to try to stop this bill because they do not want to have death penalty reform. This bill is going to bring that to all of us. It is worth it.

If that is all we had in this bill, it is the one provision that every victim who appeared here yesterday and in the past has said they want more than anything else. There is a very good reason to pass this bill for that reason alone. But there are so many other good provisions in the bill that we ought to pass it. We ought to pass it, even though one or more provisions that we think might make the bill better cannot be put into it at this time.

We have really worked our guts out to come out with a bill that I think can be supported in a bipartisan manner. We have really worked hard on that. I do not care who gets the credit for this bill. I can say we have worked very, very hard to have a bill that all of us can be proud of. And I think we do have one. Does it have everything in it? No. But it has so much in it that we really have to go ahead and get it done.

If this motion or any subsequent motions to recommit are passed, this bill will be dead. I think that would be one of the most tragic things that this body could do this week, just a few days before the anniversary date of the Oklahoma City bombing.

Yesterday, we had people from Pan Am 103 here as well. We had others. Frankly, they all asked us to get this bill through. I am doing everything I can to get it through. So I hope people will vote against this motion even though I myself have a great deal of respect for the Senator from Georgia, a great deal of empathy for his position, and I would, even if I did not understand it, I would want to support him as I often have done through the years here on the floor of the U.S. Senate.

I think basically that says it. I hope people will vote against any motion to recommit because it would be tragic for this bill to go down. I cannot imagine the majority voting it that way. I hope they will not in this particular instance.

I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I will just make a few brief remarks.

I have tremendous respect for my friend from Utah. He knows that. He and I have been on the same side of the habeas corpus issue for a long time. Now the Governor of Florida, then Senator from Florida, Lawton Chiles, and I came to the floor for 2 or 3 weeks in a row every day back in the 1970's, I believe—time slips by—about the importance of reform in habeas corpus. So I certainly share his view on that.

As much as I think that needs reforming, I do not think that habeas corpus statutes are the problem now. It has been somewhat modified by the courts themselves. I do not think that is as urgent as what we are talking about here, because with the hearings we have had and with the tremendous amount of effort that I have made and Senator LUGAR and others have made in this whole problem of the proliferation of chemical and biological weapons, I do not know whether anything is going to happen next week, next month, or next year.

I do know that we could have some calamity happen without any notice in this area. I hate to see our Nation so ill-prepared to deal with a threat that is much more likely to happen than some of the threats that we are prepared to deal with.

Mr. President, something has happened to our Republican friends in the House of Representatives. I am not sure what deal was struck over there, but I recall very well being on the floor of the Senate—and my friend from Utah probably recalls this, too—when the House of Representatives passed an amendment—this was a good many years ago during the Reagan administration—that basically gave an order, waived the posse comitatus statute, gave the order, I believe by Congressman HUNTER from California, to shut the borders down with our military, basically shut them down, I believe, within 45 days saying the military would be deployed all over the borders of the United States to basically close the borders, not let any drugs come through.

We computed that we would have to bring all our military forces back from Europe, from Korea, from Japan, everywhere else to put them side by side virtually on the border to comply with that. It passed the House, and it was a Republican-sponsored amendment. Of course, after some light was shone over here on the floor of the Senate, we rejected that amendment. It did not happen.

I also have a long history in this posse comitatus area because I thought certain carefully crafted exceptions to the statute needed to be made in the law enforcement and drug area, but carefully constructed so we did not get our military involved in search and seizure and arrest on a routine basis. I found myself debating the then-Senator from California, now Governor of California, where he proposed an amendment that would have had the military be able to make any kind of arrest and search and seizure for drug transactions in the domestic United States.

That was another very, very broad waiver of the posse comitatus statute that I would have opposed. This would have made, on a routine basis, a military response for law enforcement. I opposed that. That was going too far.

Here we have my colleagues on the House side, and for some reason now they have switched all the way over and they are worried about even using the military in a situation where we have a desperate situation with chemical and biological weapons where nobody else can handle it. I do not understand it. I do not understand what has transpired. But something strange has taken place here.

I do think we have to approach this whole posse comitatus area with great care. We do not want our military engaged in law enforcement except as an absolute last resort when there is no other alternative and when the result of failure to be involved would be catastrophic.

I also would ask my friend from Utah—and I know he has tried to sustain the Senate position on this; I know him well enough to know that he has done that, and you cannot do it on every item in conference—but I do not understand how people who supported the exception on the nuclear side to the posse comitatus statute that was made at the Reagan administration's request have a different view now. During the Reagan administration, they said they needed this exception. We had the same Constitution then, the same Supreme Court decisions, the same insurrection statute, but they wanted an exemption in the nuclear area so they could clearly have statutory authority. We supported that. That was not a partisan issue at all. Democrats and Republicans supported it. President Reagan signed it into law.

Now we have the same kind of situation, almost identical, in the chemical and biological area. We have a different President in the White House, who is a Democrat, and we have a whole switch in positions where people say, "Oh, we don't need this. We don't need it. We can't give them this authority," and so forth. I do not understand it. I understand partisan positions, but I do not understand completely switching philosophical positions on something of this nature.

I make one other point. The Senator from Utah mentioned the provision we passed recently in the defense authorization bill that allowed the equipment of the military to be used and to be loaned to law enforcement and other domestic officials in situations that are chemical-biological. That is a very useful addition to the present authority. What you have to have there is personnel who are trained to use that equipment. You cannot jump into chemical protective gear and know how to operate it in an emergency situation, if the Defense Department brings it in and hands it to local police. You have to be trained in that.

The military spends hundreds of hours training people in that regard. It will take years and years and years to train our domestic law enforcement and fire officials all over this country in the use of that kind of equipment. Unless they are already trained, that statute will not be available for practical use in an emergency situation. They may try to use it, but it will not do the job because it does not authorize military personnel to operate the equipment.

We simply have a multiple number of cities around this country that could be struck, and we cannot freeze out and prevent our military from being involved in an emergency dire situation as a last resort. We have to have people who are trained and know how to use the equipment, not only protective gear but protective equipment. It cannot be done at the last minute when there is an immediate threat of attack.

Mr. President, I would not be speaking in favor of this motion to recommit on an important bill like this if I did not think that the failure to act in this regard could have a very serious consequence. None of us can predict at what time interval something like this will occur. I hope never.

I must say, the probability of having some kind of chemical or biological attack in the United States in the next several years is, in my view, a rather high probability. We will have to do a lot more than we have done so far to get ready for it. I hope that somehow the House of Representatives will recognize that.

I know the Senator from Utah is absolutely sincere in his willingness to revisit this issue and try to put it on another bill. If this motion does not pass, I will work with him in that regard. I hope that those in the House will reexamine their position. I hope they get some of their staff to go through the records. We have had a considerable number of hearings on this explicit point.

We have had all sorts of expert testimony from the fire chiefs around the country, from law enforcement officials, from Justice Department officials, the FBI, the military. We have had detailed hearings on the attack in Tokyo, what occurred there. Not only are we not prepared law enforcement-wise in this regard, we do not have the emergency medical training required in most of our American cities to deal with the aftermath of this kind of event if it did occur. We would simply be overwhelmed, and people would ask all of us, "Where were you when this threat was being discussed, when you were, basically, responsible for doing something about it? Why did somebody not try to prevent it from happening, or at least prepare us to deal with the terrible medical, tragic consequence of this kind of attack?"

Again, I urge the Biden amendment be adopted.

Mr. GORTON. Mr. President, in monitoring the beginning of this debate, a set of lyrics from a source that I usually do not use came to mind as a bit of advice for the distinguished Senator from Delaware. These lyrics come from the Rolling Stones: "You can't always get what you want. But if you try real hard you just might find, you just mind find, you get what you need."

Now, Mr. President, the conferees have tried real hard. They have tried real hard and I think indisputably, they have produced a bill that we very, very much need.

Most of this afternoon, however, has been spent pointing out the bill's shortcomings, elements that the Senator from Delaware or the Senator from Georgia or, for that matter, the Senator from Utah wish were in the bill but are not. Certainly, this bill is not everything that the Senator from Delaware wishes, but it does contain a lot of what he thinks is constructive. Even he admits, and I think I am quoting correctly, it is a "useful, if frail" antiterrorism bill.

Senator HATCH, the distinguished Senator from Utah, has already outlined the positive steps in connection with a campaign against terrorism which are included in the conference report that is before the Senate now. I will not take up the time of the Senate simply by repeating them now. What we are faced with in the course of the current debate, however, is the question of whether or not we should reject what the conference committee has done, send it back, and ask that the committee effectively start all over again.

This conference committee has labored long enough. I do not believe that the Senator from Utah has left anything on the table. I do not think that he walked away having omitted anything from this bill that his very best efforts and the help of other Senate Members in both parties could possibly have gotten included for us to make better an already fine proposition.

What we have here is a meaningful antiterrorism bill, one that will make the law better than it is at the present time, one that will help the President and our Federal law enforcement officers by adding to the tools to deal with a new, highly regrettable situation with which our society is faced.

But there is something else in this bill, Mr. President. That something else is highly controversial, something that I believe the President of the United States would just as soon not have in it, something that I think a number of other Members wish were not a part of this bill. Something, however, that I think is particularly important. That is the reform of our entire habeas corpus procedures in connection with the conviction for serious crimes.

Doing something about a flawed habeas corpus system has been discussed in this Senate since I began serving here over a decade ago. We finally have an opportunity this evening in connection with this bill to do something positive about it.

I believe that the Senator from Delaware has complained that habeas corpus reform is not relevant to an antiterrorism bill. Just as an aside, Mr. President, I find it a charming argument coming from the side of the aisle which insists on our voting on Social Security amendments and minimum wage amendments as a part of the debate over immigration. I am tempted to say that we might have stronger rules of relevance in connection with all of our debates. Be that as it may, I am convinced that habeas corpus is relevant to a bill with respect to terrorism.

Mr. President, to deal effectively with any criminal challenge, we must have effective, clear, and cogent criminal statutes. We must have strong and skilled law enforcement officers to enforce those statutes and to arrest people who violate them. It is also absolutely vital, Mr. President, that when we do so, that when our system of justice has moved from apprehension through trial and conviction, that the people of the United States have a degree of confidence in the finality of those convictions after appropriate appeals, and that the punishments prescribed in those statutes will actually be carried out. That is an area, a field in which we have been a significant failure, Mr. President, because of the almost unlimited nature of our habeas corpus provisions.

We talk of doing something about terrorism and the fear it instills because the people of the United States lack trust and confidence in their criminal justice system and feel unsafe on their streets, at least in part because they see delay after delay, appeal after appeal, a total lack of finality, thousands of dollars after thousands of dollars going into the endless delays in the execution of sentences, particularly related to capital punishment.

Now, reforming habeas corpus is vitally important in that connection, Mr. President, and not just with respect to antiterrorism legislation, but with respect to all of the other serious crimes principally contained in our State and Federal criminal codes.

Let us move from the abstract to the concrete for just a few moments. I would like to remind my colleagues of the subject on which I have spoken a number of times in the course of the last Congress—one particular case in the State of Washington, which illustrates the frustration that our people feel with a system of endless appeals.

Charles Campbell was tried and sent to jail for the rape of a particular woman in a county just north of Seattle, WA. When he was on work release he went back to the home of this woman and murdered her, together with her 8-year-old daughter and a neighbor who just happened to be in the way. In 1982, he was charged with capital murder for those offenses and convicted. By 1984, that conviction had gone through the entire State court system, and the conviction and sentence had been affirmed by the Supreme Court for the State of Washington. From 1984 to 1994, Mr. President—10 additional years—57 separate actions were taken in the Federal courts of the United States—a first direct appeal to the Supreme Court of the United States, which was turned down, followed by innumerable petitions for habeas corpus and appeals from various orders in those habeas corpus petitions.

Remember, Mr. President, that even after a capital case has gone through all of its State court appeals and has been appealed to the Supreme Court of the United States, which has either affirmed it or failed to act, a single Federal district court judge can interrupt the process. That single judge can make a determination that all of the previous judges were wrong and send the case back to the State courts. More frequent than that, of course, is that the single Federal court judge, and then a circuit court of appeals, and perhaps then, again, the Supreme Court of the United States, finds nothing in error in these processes and affirms the State court decisions, at which point the process often starts over again with the filing of another petition for habeas corpus.

That, Mr. President, more than any other single factor, I think, has caused the people of the United States to lose an important degree of faith in their criminal justice system.

A reform of that system, not to deny a right of appeal, but in effect—except under extraordinary circumstances—to give only a single bite at the apple through the Federal court system, is the subject of the habeas corpus provisions that have been shepherded through both Houses of Congress by the distinguished Senator from Utah.

It is my opinion, Mr. President, that these provisions complement, and are as important, or more important, than the strictly antiterrorism elements of this legislation. It is my opinion that the more strictly antiterrorism provisions of this legislation are themselves important. I find myself in agreement with all of those here, and I think that includes every Member of the Senate who has spoken on this subject, that we ought to do better, that we ought to have more antiterrorism legislation. I think it very unlikely that that is going to happen in the course of this Congress.

As I have said before, I think the Senator from Utah got everything out of this conference committee that he could get, and the effect of a motion to recommit would simply be that we would either have no legislation on this subject, or this identical legislation, which is important, would be delayed.

Delays have already been too long, Mr. President. I sincerely hope that the Members of the Senate will reject a motion to recommit and will promptly pass this legislation. The House is certain to do the same. We will, when the President has signed it, move forward on two distinct but related fields—significant progress with respect to antiterrorism, and significant progress with respect to reforming our habeas corpus system. For that, the Senator from Utah, and all who have worked on this legislation, deserve our grateful thanks and the thanks of the American people.

Mr. BIDEN. Mr. President, I am sure my friend from Washington is aware that these are Federal offenses we are creating here. They have nothing to do with State habeas corpus. He is aware of that, is he not?

Mr. GORTON. Yes. I think the Senator from Washington said when the Senator from Delaware was off the floor that he regards it as rather touching that the Senator from Delaware wants to make sure everything we do is relevant to Federal antiterrorism legislation, when I believe he has been supporting the proposition on the other side of the aisle that immigration legislation should carry Social Security amendments with it and a number of other subjects of that sort.

This legislation is, of course, dealing with Federal statutes and with Federal courts. Habeas corpus legislation, of course, deals primarily with State laws and State convictions, but with the interference by the Federal courts in those procedures.

If the Senator would further yield a moment, I ask unanimous consent that a chronology of the Campbell case be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

April 14, 1982: Campbell beats and murders Renae Wickland, in her Clearview, WA home, then beats and murders Wickland's 8-year-old daughter, along with a neighbor who stopped by the home.

November 26, 1982: Campbell is convicted of aggravated first degree murder in Snohomish County Superior Court.

December 17, 1982: Campbell is sentenced to death in Snohomish County Superior Court.

November 6, 1984: Washington State Supreme Court affirms Campbell's conviction and sentence.

April 29, 1985: The United States Supreme Court denies Campbell's request to hear an appeal of his conviction.

July 22, 1985: Campbell files an appeal in federal district court.

February 16, 1986: Federal district court denies Campbell's appeal after an evidentiary hearing.

February 18, 1986: Campbell appeals to the Ninth Circuit Court of Appeals.

October 6, 1987: The Ninth Circuit Court affirms the district court's decision denying Campbell's appeal.

June 8, 1988: The State of Washington moves to remove the stay on Campbell's execution.

July 10, 1988: Ninth Circuit Court of Appeals denies the State's request.

August 19, 1988: Campbell appeals his case again to the United States Supreme Court.

November 7, 1988: The U.S. Supreme Court refuses to hear Campbell's appeal.

November 8, 1988: State of Washington files motion to move forward with execution of Campbell.

December 6, 1988: State Supreme Court agrees with State's motion, denying the stay of execution.

January 25, 1989: Ninth Circuit Court of Appeals agrees with State Supreme Court, dissolving the stay of execution.

February 15, 1989: Snohomish County Superior Court issues a death warrant for Campbell's execution for March 30, 1989.

March 7, 1989: Campbell files appeal with State Supreme Court and a motion to stay the execution. In both documents he raises several unsupported challenges to hanging as a method of execution.

March 23, 1989: The State Supreme Court unanimously rejects all of Campbell's challenges against hanging and denies his motion to stay the execution. The court concludes that none of his issues warrant further consideration.

March 24, 1989: Federal District Court Judge John Coughenour, anticipating another appeal by Campbell in federal court, summons attorneys for both sides into his chambers to discuss the matter. Upon learning from Campbell's attorneys that they intended to file an appeal the following Monday, March 27, the judge calls for an evidentiary hearing that day and in no way limits the issues that Campbell and his attorneys will be allowed to raise. The judge also orders Campbell and his former trial attorney to be present regarding Campbell's claim of ineffective counsel.

March 27, 1989: Campbell files another appeal and, at the evidentiary hearing, raises three issues regarding hanging: (1) hanging will deprive him of constitutional right against cruel and unusual punishment; (2) the state has no one qualified to perform the hanging; and (3) having to choose between execution by lethal injection or hanging violates his protection against cruel and unusual punishment and his First Amendment freedom of religion. Campbell and his attorneys offer no evidence to substantiate these issues and he again claims he was represented by ineffective counsel. Later that day, Judge Coughenour rejects Campbell's charges against hanging, and denies his motion to stay the execution.

March 28, 1989: Campbell appeals Judge Coughenour's denial to the Ninth Circuit Court of Appeals. The Ninth Circuit stays Campbell's execution, pending the appeal.

June 27, 1989: Attorneys for the State and for Campbell present oral argument to the Ninth Circuit Court.

February 21, 1991: The Ninth Circuit orders the withdrawal of Campbell's latest appeal, pending responses by the attorneys on the question of whether Campbell has exhausted all legal avenues in State court.

March 4, 1991: The State responds to the 2/21/91 order, demonstrating that Campbell has exhausted all other State remedies.

June 3, 1991: Campbell's attorneys inform the State Supreme Court that they intend to file another appeal. This will be his third separate appeal.

August 7, 1991: The Ninth Circuit grants Campbell's request to discharge his attorney, and delays its ruling on other issues, pending review of Campbell's new appeal, which has not yet been filed.

September 13, 1991: Campbell files his third appeal.

October 25, 1991: Bypassing the Ninth Circuit, the State asks the U.S. Supreme Court to compel the Ninth Circuit to resolve Campbell's earlier appeal (not the third appeal filed on 9/13/91).

January 13, 1992: The U.S. Supreme Court denies the State's request to compel the Ninth Circuit to rule on Campbell's appeal, but indicates the State may make additional requests "if unnecessary delays or unwarranted stays" occur in the Ninth Circuit's handling of the Campbell case.

March 9, 1992: The U.S. District Court dismisses Campbell's third appeal filed on 9/13/91.

April 1, 1992: The Ninth Circuit Court affirms the district court's denial of Campbell's earlier appeal (not the appeal denied by the district court on 3/9/92).

April 22, 1992: The State asks the Ninth Circuit to allow Campbell's execution to move forward and to conduct an expedited review of Campbell's third appeal (the appeal filed on 9/13/91).

May 5, 1992: The Ninth Circuit denies both requests by the State.

May 14, 1992: The State asks the Ninth Circuit to reconsider both of its May 5 rulings.

May 15, 1992: Campbell's attorney and Campbell himself ask the Ninth Circuit Court for a rehearing.

June 4, 1992: Campbell's attorney files legal brief in Campbell's third appeal.

December 24, 1992: The Ninth Circuit affirm's the district court's denial of Campbell's third appeal.

January 20, 1993: The Ninth Circuit hears oral arguments on Campbell's second appeal.

January 26, 1993: The Ninth Circuit grants a request by Campbell's attorney for a rehearing of Campbell's third appeal, the denial of which the court affirmed on 12/24/92.

January 29, 1993: The Ninth Circuit, in its reconsideration of Campbell's second appeal, orders attorneys for Campbell and the State to submit written arguments on whether hanging is cruel and unusual punishment, and whether an evidentiary hearing should be held in federal district court on the issue of hanging.

April 28, 1993: The Ninth Circuit orders Campbell's case back to federal district court for an evidentiary hearing on whether hanging is cruel and unusual punishment.

May 4, 1993: The State asks the Ninth Circuit to reconsider its April 28 order.

May 7, 1993: The Ninth Circuit denies the State's request.

May 10, 1993: The State appeals to the U.S. Supreme Court, asking it to set aside the evidentiary hearing in federal district court and to require the Ninth Circuit court to rule on whether hanging violates the Constitution.

May 14, 1993: Supreme Court Justice Sandra Day O'Connor issues a four-page chamber opinion indicating a single high court justice does not have the authority to overrule an order by the Ninth Circuit. She cites the "glacial progress" of the Campbell case and dismisses the State's appeal "without prejudice," leaving open the door for the State to press its case before the full Supreme Court.

May 17, 1993: The State appeals the Ninth Circuit order to the full Supreme Court.

May 24–26, 1993: Judge Coughenour conducts an evidentiary hearing on whether hanging is cruel and unusual punishment.

June 1, 1993: The U.S. Supreme Court denies without comment the State's request to vacate the Ninth Circuit's order to conduct the evidentiary hearing.

June 1, 1993: Judge Coughenour issues his findings and conclusions, ruling that Washington's judicial hanging protocol fully comports with the Constitution and does not constitute cruel and unusual punishment.

February 8, 1994: The Ninth Circuit rules 6–5 that hanging does not constitute cruel and unusual punishment and that being forced to choose death by lethal injection, or face death by hanging does not violate Campbell's constitutional rights. The ruling states that the stay of execution will be lifted and the mandate ordering the execution will be issued 21 judicial days following the order.

February 15, 1994: Attorney General Christine O. Gregoire files a motion with the Ninth Circuit to lift the stay of execution. Attorneys for Campbell also file motions to continue the stay of execution and to request reconsideration of the Ninth Circuit's February 8 ruling by the full Circuit Court.

March 21, 1994: After waiting more than one month for the Ninth Circuit to act on her motion, Attorney General Gregoire asks the U.S. Supreme Court to remove the stay of execution. Also on this date, the U.S. Supreme Court rejects Campbell's appeal for a hearing on his third habeas petition.

March 25, 1994: Justice Sandra Day O'Connor refuses to lift the stay of execution.

March 28, 1994: This date marks the fifth anniversary of the stay of execution imposed by the Ninth Circuit Court of Appeals.

April 14, 1994: This date marks the 12th anniversary of the three murders committed by Campbell.

April 14, 1994: Ninth Circuit Court of Appeals lifts stay of execution.

April 15, 1994: State sets May 27, 1994 execution date.

May 3, 1994: Campbell asks U.S. Supreme Court to stay execution and rule on claim that hanging is unconstitutional method of execution.

May 27, 1994: Campbell is executed.

Mr. BIDEN. Mr. President, once again, my friend misses the point. I am not objecting to the State portion being put in here. That is not relevant. It has nothing to do with terrorism. It is not going to effect the bill. My colleague talks about this having an impact on terrorism. I believe we should reform State habeas corpus. We should, and it is appropriate to do it in this bill, as long as my friend from Washington does not have any illusions that he can go back and tell the people of Washington that by effecting State habeas corpus he has done something about terrorism. That is the point. It is relevant, just not relevant to stopping terrorism.

The second point I will make—and then I will make my motion—is that people have been asking me about time. I am willing to enter into a time agreement. There are a maximum of a possible 14 motions. I doubt whether they will all be used. I am prepared to agree to one-half hour, equally divided, and to a time certain to vote tomorrow, or tonight, or whenever anybody wants to vote on it. So I want everybody to know that. I understand we may be trying to work that out now.

Mr. HATCH. If the Senator will yield, that would be fine with me—one-half hour equally divided. I am prepared to go and get it done. This is that important. The President has asked for it. He said he wants it as quickly as we can do it. We have all week, but we might as well find out whether we can do it at all. I believe we can, and with cooperation we can get this done. I am happy to cooperate and do it that way—just go bing, bing, bing, from here on out.

Mr. BIDEN. I have no objection to keep going now. That is a call of the leadership. That is up to them. In the meantime, while we are figuring out how long we are going to go——

Mr. HATCH. If the Senator will yield, we need to see what all the motions are. We need to know what those are. We would appreciate that.

Mr. BIDEN. I would be happy to do that.

MOTION TO RECOMMIT

Mr. BIDEN. I offer a motion on behalf of Senator NUNN and myself to recommit the conference report with instructions to add a provision to give the military authority in the cases of emergency involving chemical and biological weapons of mass destruction.

Mr. President, once I formally make that motion, I would suggest to my colleagues that we will regret mightily if there is a chemical attack and this does not pass.

I now formally offer that motion to recommit.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will read the motion.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for Mr. NUNN, for himself and Mr. BIDEN, moves to recommit the conference report with instructions to add provisions.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion is as follows:

Motion to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following:

SEC. . AUTHORITY TO REQUEST MILITARY ASSISTANCE WITH RESPECT TO OFFENSES INVOLVING BIOLOGICAL AND CHEMICAL WEAPONS.

(a) BIOLOGICAL WEAPONS OF MASS DESTRUCTION.—Section 175 of title 18, United States Code, is amended by adding at the end the following:

"(c)(1) MILITARY ASSISTANCE.—The Attorney General may request that the Secretary of Defense provide assistance in support of Department of Justice activities relating to the enforcement of this section in an emergency situation involving biological weapons of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if—

"(A) the Secretary of Defense and the Attorney General determine that an emergency situation involving biological weapons of mass destruction exists; and

"(B) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

"(2) As used in this section, 'emergency situation involving biological weapons of mass destruction' means a circumstance involving a biological weapon of mass destruction—

"(A) that poses a serious threat to the interests of the United States; and

"(B) in which—

"(i) civilian expertise is not readily available to provide the required assistance to counter the threat posed by the biological weapon of mass destruction involved;

"(ii) Department of Defense special capabilities and expertise are needed to counter the threat posed by the biological weapon of mass destruction involved; and

"(iii) enforcement of the law would be seriously impaired if the Department of Defense assistance were not provided.

"(3) The assistance referred to in paragraph (1) includes the operation of equipment (including equipment made available under section 372 of title 10) to monitor, contain, disable, or dispose of a biological weapon of mass destruction or elements of the weapon.

"(4) The Attorney General and the Secretary of Defense shall jointly issue regulations concerning the types of assistance that may be provided under this subsection. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this subsection. Such regulations shall not authorize arrest or any direct participation in conducting searches and seizures that seek evidence related to violations of this section, except for the immediate protection of human life, unless participation in such activity is otherwise authorized under paragraph (3) or other applicable law.

"(5) The Secretary of Defense shall require reimbursement as a condition for providing assistance under this subsection in accordance with section 377 of title 10.

"(6)(A) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this subsection. The Attorney General may delegate the Attorney General's authority under this subsection only to the Associate Attorney General or an Assistant Attorney General and only if the Associate Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

"(B) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this subsection. The Secretary of Defense may delegate the Secretary's authority under this subsection only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.

"(7) Nothing in this section shall be construed to limit the authority of the executive branch in the use of military personnel or equipment for civilian law enforcement purposes beyond that provided by law before the date of enactment of [this Act].".

(b) CHEMICAL WEAPONS OF MASS DESTRUCTION.—The Chapter 113B of Title 18, United States Code, that relates to terrorism, is amended by inserting after section 2332a the following:

"§2332b. Use of chemical weapons

"(a) OFFENSE.—A person who without lawful authority uses, or attempts or conspires to use, a chemical weapon—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States.

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) DEFINITIONS.—For purposes of this section—

"(1) the term 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) the term 'chemical weapon' means any weapon that is designed to cause widespread death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors.

"(c)(1) MILITARY ASSISTANCE.—The Attorney General may request that the Secretary of Defense provide assistance in support of Department of Justice activities relating to the enforcement of this section in an emergency situation involving chemical weapons of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if—

"(A) the Secretary of Defense and the Attorney General determine that an emergency situation involving chemicals weapons of mass destruction exists; and

"(B) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

"(2) As used in this section, 'emergency situation involving chemical weapons of mass destruction' means a circumstance involving a chemical weapon of mass destruction—

"(A) that poses a serious threat to the interests of the United States; and

"(B) in which—

"(i) civilian expertise is not readily available to provide the required assistance to counter the threat posed by the chemical weapon of mass destruction involved;

"(ii) Department of Defense special capabilities and expertise are needed to counter the threat posed by the biological weapon of mass destruction involved; and

"(iii) enforcement of the law would be seriously impaired if the Department of Defense assistance were not provided.

"(3) The assistance referred to in paragraph (1) includes the operation of equipment (including equipment made available under section 372 of title 10) to monitor, contain, disable, or dispose of a chemical weapon of mass destruction or elements of the weapon.

"(4) The Attorney General and the Secretary of Defense shall jointly issue regulations concerning the types of assistance that may be provided under this subsection. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this subsection. Such regulations shall not authorize arrest or any direct participation in conducting searches and seizures that seek evidence related to violations of this section, except for the immediate protection of human life, unless participation in such activity is otherwise authorized under paragraph (3) or other applicable law.

"(5) The Secretary of Defense shall require reimbursement as a condition for providing assistance under this subsection in accordance with section 377 of title 10.

"(6)(A) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this subsection. The Attorney General may delegate the Attorney General's authority under this subsection only to the Associate Attorney General or an Assistant Attorney General and only if the Associate Attorney General or Assistant Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

"(B) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this subsection. The Secretary of Defense may delegate the Secretary's authority under this subsection only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.

"(7) Nothing in this section shall be construed to limit the authority of the executive branch in the use of military personnel or equipment for civilian law enforcement purposes beyond that provided by law before the date of enactment of [the Act].".

(c)(1) CIVILIAN EXPERTISE.—The President shall take reasonable measures to reduce civilian law enforcement officials' reliance on Department of Defense resources to counter the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States, including—

(A) increasing civilian law enforcement expertise to counter such threat;

(B) improving coordination between civilian law enforcement officials and other civilian sources of expertise, both within and outside the Federal Government, to counter such threat.

(2) REPORT REQUIREMENT.—The President shall submit to the Congress—

(A) ninety days after the date of enactment of this Act, a report describing the respective policy functions and operational roles of Federal agencies in countering the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States;

(B) one year after the date of enactment of this Act, a report describing the actions planned to be taken and the attendant cost pertaining to paragraph (1); and

(C) three years after the date of enactment of this Act, a report updating the information provided in the reports submitted pursuant to subparagraphs (A) and (B), including measures taken pursuant to paragraph (1).

(d) CLERICAL AMENDMENT.—The chapter analysis for chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332a the following:

"2332b. Use of chemical weapons.".

(e) USE OF WEAPONS OF MASS DESTRUCTION.—Section 2332a(a) of title 18, United States Code, is amended by inserting "without lawful authority" after "A person who".

Mr. GRASSLEY. Mr. President, I rise in strong support of the antiterrorism bill. In my view, this bill strikes a reasonable balance between the needs of the law enforcement and national security communities and the constitutional rights of the American people. I applaud the efforts of Senator HATCH and other conferees in crafting this important and much-needed piece of legislation.

Perhaps one of the more important provisions of this bill relates to restitution to victims of crime in Federal courts. I am proud to say that key provisions of S. 1404, the Victim Restitution Enhancement Act of 1995, which I introduced on November 8, 1995, with Senator KYL, have been incorporated into the conference report. This bill, I believe, provides victims of crime with a valuable and important way of vindicating their rights and obtaining restitution. S. 1404 provides that court orders requiring restitution will act as a lien which the victims themselves can enforce. I think this lets victims help themselves and ensures that crime victims will receive the restitution they are entitled to.

To understand why giving victims of Federal crimes the ability to seek restitution from their victimizers is a positive development, you need to understand the nature of most of the Federal crimes which give rise to restitution liability. Federal crimes, by and large, are not crimes of violence like State crimes are. Once you exclude Federal drug prosecutions—which do not give rise to restitution liability as that term is generally understood—

many Federal prosecutions are for fraud and other so-called white collar crimes. With fraud and white collar crimes, the victims may have substantial resources. These persons may wish to obtain restitution themselves, rather than relying on overworked prosecutors to do that job. That's what the lien does, its gives victims a powerful tool use to get restitution.

With respect to terrorism, and the Oklahoma City bombing, this means that the families of the bombing victims can seek restitution. So if the bombers come into money from any source, the victims' families can receive restitution. This is very positive development.

How does the current bill, like S. 1404, do this? Section 206(m) of the conference report establishes a lien in favor of crime victims, very similar to the lien procedure contained in S. 1404. I believe that this section will prove to be of enormous value.

Also, the conference report, section 206(n), drew on provisions in S. 1404, which provided that should prisoners who have been ordered to pay restitution file a prisoner lawsuit and receive a windfall, that windfall will go to the victims and not to the prisoner. This should take some of the lure out of prisoner lawsuits. Importantly, the conference report we are debating today also provides that windfalls received by prisoners from all sources, including lawsuits, will go to pay victims.

This conference report, in section 206(d)(3), like S. 1404, requires criminals to list all their assets under oath. This way, if criminals who owe victims try to hide their assets, they can be prosecuted for perjury. This too should help make sure that victims receive more of what they are entitled to.

While the restitution provisions of this bill are an important step in the right direction, I would also like to point out that unlike S. 1404, the conference report does not establish a hard-and-fast time limit within which restitution liability must be paid off. I think that this is a serious shortcoming. Without a bright-line for the payment of restitution, well-financed criminal defense lawyers will use legal technicalities to delay payment as long as possible. The reason that no definite time limit was included is that some Members of the minority opposed a definite time limit. So, in this respect, I believe that S. 1404 is superior to the current bill.

The conference report also makes serious and much-needed reforms of habeas corpus prisoner appeals. As even a casual observer of the criminal justice system knows, criminals have abused habeas corpus to delay just punishment.

I believe that this conference report strikes exactly the right balance on habeas corpus reform. It provides enough in the way of habeas appeals to ensure that unjustly convicted people will have a fair and full opportunity to bring forth new evidence or contest their incarceration in numerous ways. But the conference report sets meaningful limits, which should go a long way toward eliminating many of the flagrant abuses that make a mockery of justice.

If we do not pass this bill, with this habeas corpus reform package, we can pretend that we are for the death penalty. But, in reality, the death penalty will be virtually meaningless and toothless. The families of the bombing victims in Oklahoma City know this, and they support this bill.

Let us not get ourselves in the position of making mere symbolic gestures, which do not really help the American people and which do not really restore faith in the justice system. I agree with President Clinton: Punishment should be swift and sure. Just punishment must be meted out in an appropriate amount of time.

I strongly support these reforms, and again applaud the conferees for bringing this bill to the floor. Mr. President, I yield the floor.

Ms. SNOWE. Mr. President, I rise in strong support of the conference report on S. 735, the Comprehensive Terrorism Prevention Act. I would like to congratulate Chairman HATCH, Senator BIDEN, and the other Senate conferees on both sides of the aisle for their diligent work in conference with the other body. This bill left the Senate June 7, 1995, having passed by an overwhelming bipartisan vote of 91 to 8. Then the bill went over to the House, where it languished for 9 months. When it finally came up in the House for a vote on March 13, the most important anti-terrorism provisions were stripped from the bill.

When this occurred, many of us who strongly supported the Senate bill were dismayed and wondered whether it would even be possible for a conference committee to fashion a final bill that would garner the strong bipartisan support that the original Senate bill enjoyed. To emphasize the importance of this bipartisan support, I joined with Senator LIEBERMAN on March 29, in sending a letter to all five Senate conferees urging that they work to defend in conference key Senate provisions dealing with international terrorism. These included authority to exclude from the United States members of terrorist groups and authority to prohibit terrorist fundraising within the United States, both of which were indeed retained in this final conference report.

Mr. President, I am pleased to support this conference report, and I heartily congratulate our conferees for preserving these provisions. In fact, they went even further, and have given us a strong, positive antiterrorism bill that deserves our wholehearted support.

This legislation contains a broad range of needed changes in the law that will enhance our country's ability to combat terrorism, both at home and from abroad. The managers of this bill have described its provisions in some detail, so I will not repeat their comments. Briefly, however, this bill would increase penalties: For conspiracies involving explosives, for terrorist conspiracies, for terrorist crimes, for transferring explosives, for using explosives, and for other crimes related to terrorist acts.

The bill also includes provisions to combat international terrorism, to remove from the United States aliens found to be engaging in or supporting terrorist acts, to control fundraising by foreign terrorist organizations, and procedural changes to strengthen our counterterrorism laws.

This legislation will enhance the ability of our law enforcement agencies to bring terrorists to justice, in a manner mindful of our cherished civil liberties. This bill will enact practical measures to impede the efforts of those violent rejectionists who have launched an unprecedented campaign of terror intended to crush the prospects for peace for the Israeli and Palestinian people. Most important is the provision in this bill that will cut off the ability of terrorist groups such as Hamas to raise huge sums in the United States for supposedly "humanitarian" purposes, where in reality a large part of those funds go toward conducting terrorist activities. These accomplishments are real, and this legislation deserves our support.

Mr. President, I would like to concentrate the remainder of my comments on two provisions of mine that were retained in this conference report. These two provisions are the Terrorist Exclusion Act and the Law Enforcement and Intelligence Sources Protection Act, both of which I introduced separately last year.

Traditionally, Americans have thought of terrorism as primarily a European, Middle Eastern, or Latin American problem. While Americans abroad and U.S. diplomatic facilities have been targets in the past, Americans have often considered the United States itself largely immune to acts of terrorism. Two events have changed this sense of safety. The first was the internationally-sponsored terrorist attack of February 26, 1993 against the New York World Trade Center, and the second was the domestic terrorist attack just a year ago on April 19 in Oklahoma City.

I first introduced the Terrorist Exclusion Act in the House three years ago, and last year I reintroduced the legislation in the Senate with Senator BROWN as my original cosponsor. The Terrorist Exclusion Act will close a dangerous loophole in our visa laws which was created by the Immigration

Reform Act of 1990. With its rewrite of the McCarran-Walters Act, Congress eliminated then-existing authority to deny a U.S. visa to a known member of a violent terrorist organization.

The new standards required knowledge that the individual had been personally involved in a past terrorist act or was coming to the United States to conduct such an act. This provision will restore the previous standard allowing denial of a U.S. visa for membership in a terrorist group.

I discovered this dangerous weakness in our visa laws in early 1993 during my investigation of the State Department failures that allowed the radical Egyptian cleric, Sheikh Omar Abdel Rahman, to travel to, and reside in, the United States since 1990. I undertook this investigation in my role as ranking Republican of the House International Operations Subcommittee, which has jurisdiction over terrorism issues, a role I have continued in the Senate as Chair of the International Operations Subcommittee of the Foreign Relations Committee.

Sheikh Rahman is the spiritual leader of Egypt's terrorist organization, The Islamic Group. His followers were convicted for the 1993 bombing of the World Trade Center in New York. The Sheikh himself received a life sentence for his own role in approving a planned second wave of terrorist acts in the New York City area.

The case of Sheikh Abdel Rahman is significant because he was clearly excludable from the United States under the pre-1990 law, but the legal authority to exclude him ended with enactment of the Immigration Reform Act that year. He was admitted to this country through an amazing series of bureaucratic blunders.

Then in 1990, as the U.S. government was building its deportation case against him, the law changed. As a result, the State Department was forced to try to deport him on the grounds that he once bounced a check in Egypt and had more than one wife, rather than the fact that he was the known spiritual leader of a violent terrorist organization.

A high-ranking State Department official informed my staff during my investigation that if Sheikh Abdel Rahman had tried to enter after the 1990 law went into affect, they would have had no legal authority to exclude him from the United States because they had no proof that he had ever personally committed a terrorist act, despite the fact that his followers were known to have been involved in the assassination of Anwar Sadat.

It is urgent that we pass this provision. Every day in this country American lives are put at risk out of deference to some imagined first amendment rights of foreign terrorists. This is an extreme misinterpretation of our cherished Bill of Rights, which the founders of our nation intended to protect the liberties of all Americans.

In my reading of the U.S. Constitution, I see much about the protection of the safety and welfare of Americans, but nothing about protecting the rights of foreign terrorists to travel freely to the United States whenever they choose.

The second of my bills contained in S. 735 is the Law Enforcement and Intelligence Sources Protection Act. This legislation would significantly increase the ability of law enforcement and intelligence agencies to share information with the State Department for the purpose of denying visas to known terrorists, drug traffickers, and others involved in international criminal activities.

This provision would permit a U.S. visa to be denied for law enforcement purposes without a detailed written explanation, which current law requires. These denials could be made citing U.S. law generically, without further clarification or amplification. Individuals who are denied visas due to the suspicion that they are intending to immigrate to the U.S. would still have to be informed that this is the basis, and they would then be allowed to compile additional information that may change that determination.

Under a provision of the Immigration and Nationality Act, a precise written justification, citing the specific provision of law, is required for every alien denied a U.S. visa. This requirement was inserted into the INA out of the belief that every non-American denied a U.S.-visa for any reason had the right to know the precise grounds under which the visa was denied, even if it was for terrorist activity, narcotics trafficking, or other illegal acts. This has impeded the willing- ness of law enforcement and intelligence agencies to share with the State Department the names of excludable aliens.

These agencies are logically concerned about revealing sources or compromising an investigation by submitting the names of people known to be terrorists or criminals—but who do not know that they are under investigation by U.S. officials—if that information is then revealed to a visa applicant, as current law requires. This is information the United States should be able to protect until a case is completed and, hopefully, law enforcement action is taken. But for the protection of the American people we should also make this information available to the Department of State to keep these individuals out of our country.

Mr. President, I again congratulate Chairman HATCH, and all of the other Senate conferees on this bill for their achievements in negotiations with the House. Obviously, there were some Senate provisions that had strong bipartisan support in this body that I regret could not be sustained in conference. But I urge my colleagues to concentrate on the very substantial and important achievements of this conference report, and I urge broad bipartisan support for its adoption.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. CHAFEE. I wonder if the Senator might yield for a question before the quorum call.

The PRESIDING OFFICER. Will the Senator withhold his quorum call?

Mr. HATCH. Yes. I am happy to.

Mr. CHAFEE. I am a little confused why we do not vote on this motion right now. Everybody is familiar with the issue.

Mr. HATCH. I think we are but the majority leader asked me to put the quorum call.

Mr. CHAFEE. Could I safely say that, if things go right, we are going to vote in a very few minutes?

Mr. HATCH. I hope so. I think so.

The PRESIDING OFFICER. Is there further debate on the motion?

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah.

Mr. HATCH. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the motion to recommit, by the Senator from Delaware.

Mr. HATCH. Mr. President, I move to table the motion and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. HATCH. Mr. President, I ask unanimous consent that during the consideration of the conference report to accompany the terrorist bill, the time on the conference report be limited to 20 minutes equally divided in the usual form, and all motions to recommit be limited to the following time restraints; that they be relevant in subject matter of the conference report or Senate- or House-passed bills and that they not be subject to amendments: 30 minutes equally divided in the usual form on each motion.

I further ask unanimous consent that following the disposition of all motions to recommit, if defeated or tabled, the Senate proceed to vote on adoption of the conference report, all without any intervening action or debate.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? Without objection, it is so ordered.

The question is on agreeing to the motion to lay on the table the Biden motion to recommit.

The yeas and nays have been ordered. The clerk will call the roll.

Mr. LOTT. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from Florida [Mr. MACK] are necessarily absent.

I further announce that the Senator from Alaska [Mr. MURKOWSKI], is absent due to death in the family.

I further announce that, if present and voting, the Senator from Alaska, [Mr. MURKOWSKI] would vote "yea."

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is necessarily absent.

The result was announced—yeas 50, nays 46, as follows:

The result was announced—yeas 50, nays 46, as follows:

[Rollcall Vote No. 62 Leg.]

YEAS—50

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Feingold
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Specter
Wellstone
Wyden

NOT VOTING—4

Hatfield
Mack
Murkowski
Murray

So the motion to lay on the table the motion to recommit was agreed to.

Mr. HATCH. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask that there now be a period for the transaction of routine morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is ordered.

NORDY HOFFMAN: A TRIBUTE

Mr. HOLLINGS. Mr. President, I would like to pay my respects to a dear friend, F. Nordhoff Hoffman, who died on Friday, April 5, 1996. Nordy Hoffman was a truly good man. He was a big man with a big faith—faith in his church, faith in his beloved alma mater Notre Dame, faith in his wonderful family and, perhaps most importantly, faith in his fellow men and women.

In the early 1970's, I had the honor of serving as chairman of the Democratic Senatorial Campaign Committee while Nordy was the executive director. He was excellent in that capacity, as he was in all of the endeavors he undertook.

As Senate Sergeant-at-Arms, Nordy showed his talents to their fullest. He drew upon his experience with the steelworkers union, his military background, and his political acumen to provide a rare style of leadership. Not only was he an excellent organizer with an aptitude for strategy, he related well to his coworkers and especially to his employees.

Following his Senate service, Nordy founded and maintained a political consulting firm, F. Nordy Hoffman and Associates.

Nordy was a man who demonstrated his commitment to organizations and issues that he cared about. He was an involved member of the Notre Dame University community in several capacities. In his undergraduate years, he was an All-American guard with the championship football team, coached by Knute Rockne—Nordy was later inducted into the College Football Hall of Fame in 1978.

Nordy's deep love of Notre Dame continued through the years. He served as president of the alumni association and as a member of the board. Several years ago, the F. Nordy Hoffman Scholarship was established. The funds are used to aid young men and women who suffer financial reversals during their time at Notre Dame.

Nordy also was an active member of the board of directors of the Stone Ridge School in Bethesda, the board of regents of the Center for Congressional and Governmental Relations at Catholic University, and the board of directors of the credit union here in the U.S. Senate. In addition, he gave unstinting support to numerous local charities.

Nordy spent his life in service to his fellow Americans. Those of us who were privileged to have known and worked with him saw this day after day. He truly made a difference and there can be no higher tribute.

Peatsy and I and the staff join in heartfelt condolences to Nordy's wife Joanne and his entire family.

TRIBUTE TO RONALD BROWN

Mr. FEINGOLD. Mr. President, I rise today to pay tribute to Ron Brown.

Ron Brown had a remarkable career, marked by his exceptional ability to unify people from diverse backgrounds. As chairman of the Democratic National Committee, he used this talent to bring the party's factions together. Democrats and Republicans alike spoke with admiration of his aptitude as a party leader. Ron Brown's work to bridge differences helped revitalize the Democratic party and played an essential role in building the support that led to President Clinton's election.

As Commerce Secretary, Ron Brown also unified individuals from different walks of life to work for American business. His aggressive efforts traveling the world promoting American goods won him uncommon praise from business leaders. It was his enthusiastic devotion to this mission of championing trade and economic development that took him to Bosnia earlier this month not only to try to build American business, but also to aid in the reconstruction of Bosnia. He made the ultimate sacrifice for these goals, giving his life in service to his country.

Ron Brown's career also leaves us with an example of racial leadership, having been the first African-American to chair the Democratic Party and the first African-American Secretary of Commerce. His guidance was apparent in the way he closed divisions within the Democratic Party and in the way he brought together diverse individuals at the Commerce Department. Ron Brown provided a real-life role model for aspiring young Americans as someone who rose to the highest levels of government and who was admired and respected by those who knew him and knew of his contributions to the well-being of his Nation.

The loss of Ron Brown is tragic to America. His leadership will be sorely missed. My deepest condolences go to the Brown family and the families of all the other Americans who lost their lives in this terrible tragedy.

TRIBUTE TO WAYNE A. STEEN, SR.

Mr. BIDEN. Mr. President, today, I would like to offer a tribute to one of the outstanding citizens of my State, one of those citizens who truly represents the best not only of Delaware but of America—the best of our heritage and our hope, the best of our national spirit of community.

It will surprise no one to learn that the citizen I'm describing is a volunteer firefighter.

Wayne A. Steen, Sr., joined the Mill Creek Fire Co. on October 2, 1967, as a member of its youth division, Explorer Post 921. In the course of his 4 years of membership, Wayne served as both president and chief of the post.

On September 22, 1971, just a few days pass his 18th birthday, Wayne Steen became a full member of the Mill Creek Fire Co. For 20-plus years after, he served the company in virtually every office and on virtually every committee, putting in more than a thousand hours and responding to about 600 fire and ambulance runs—those are not career totals; that's 1,000 hours and 600 runs per year—and earning three citations for heroism and leadership.

In addition, Wayne Steen has served as a director of both the New Castle County and the Delaware State Fire Chiefs Associations, and he was long an active member of the Delaware Valley regional association and the International Society of Fire Service Instructors.

Wayne Steen's fire service career represents literally the best of the best—exceptional leadership in a group of exceptional leaders, exceptional citizenship and commitment in a group defined by active concern for neighbors and community, and by selfless dedication to protect and promote the public safety.

Because of Wayne's extraordinary community leadership and service, June 12, 1995, marked a great public as well as personal tragedy.

At this point, this tribute becomes a little difficult for me. First, Wayne Steen is someone I've known and worked with for many years, someone I'm proud to call a friend. And second, Wayne fell victim to a medical condition that I was lucky to survive without any long-term disability. Wayne was not as lucky, and it is hard to reconcile my good fortune with the challenge he and his family continue to face every day.

On that date last June, Wayne was in command of a group of firefighters at the scene of a fatal traffic accident. While on duty, he fell victim to the sudden strike of a brain aneurysm, which left him in a coma. When I went to see Wayne in the hospital, there seemed to be little doubt that his condition would do anything but worsen. He was 41 years old.

With medical care, the support of his family and friends, and, I have absolutely no doubt, by some force of his own will that no mere physical condition could defeat, Wayne's condition was stabilized, and he was able to leave that hospital room where I saw him last summer. But still the struggle had just begun, and it will be a lifelong battle for Wayne and for the family and friends who fight by his side.

It is tempting to describe Wayne Steen as a fallen hero, but I do not think it would be right to do so.

Certainly, he is a hero, and had earned the right to be thought of as such long before last June. His fire service career was, in fact, as good a living definition of citizen-heroism as we are likely to find, and we should—and must—honor such service always.

But Wayne Steen is not fallen, because he has stood too tall, and he has elevated us all too much. Wayne Steen devoted much of his spirit—as well as his time and his talents—to serving a great and essential ideal, and if some part of his spirit has left this life, I have no doubt that it has risen to a higher one. Wayne is not fallen because he serves us still, as long as his example of citizenship continues to call to the best in all of us.

We honor leaders like Wayne Steen best not with our words but when we continue their work, when we learn that they have given so much because their purpose is so important to us all.

And we honor them best when we recognize and fulfill our obligation to those who put themselves at risk to protect our families, our homes, and our communities—our obligation to support them in their service and, when tragedy strikes, in their need. We must be there for people like Wayne, who have always been there for us.

Wayne's family—especially his wife, Terry, and their children, Phillip, Wayne, and Heather—have been there for him in the way we would all hope to support a loved one through such a traumatic ordeal. Their courage, dedication, and strength continue an inspiring family tradition.

The members of the Mill Creek Fire Co., as well as the broader fire service community, have also kept their faith with Wayne and with the Steen family, another great tradition—members of the fire service always keep the faith.

There is no escaping that what happened to Wayne Steen is a tragedy, the kind that cannot be explained, and I do not want to minimize in any way the depth of the loss or the difficulty of the struggle. Our tears are more than justified.

Yet still, through our sadness and in asking Americans to offer prayers and good wishes in support of Wayne and his family, I would also ask that we not forget the immeasurable triumphs of Wayne Steen's life and spirit. Let us not forget the lessons he has taught us by his citizenship, let us not forget the purpose to which he sacrificed so much.

Let us not forget the bond and obligation we share as fellow citizens—let's take care of each other more often, let's work together better. Let's remember how lucky we are.

That's what Wayne Steen would want, and we owe it to him.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, a lot of folks don't have the slightest idea about the enormity of the Federal debt. Occasionally, I ask friends, how many millions of dollars are there in a trillion? They think about it, voice some estimates, most of them wrong.

One thing they do know is that it was the U.S. Congress that ran up the enormous Federal debt that is now over $5 trillion.

To be exact, as of the close of business Monday, April 15, the total Federal debt—down to the penny—stood at $5,140,011,407,773.15. That's $5 trillion, 140 billion plus. Another sad statistic is that on a per capita basis, every man, woman and child in America owes $19,422.38.

So Mr. President, how many million are there in a trillion? There are a million-million in a trillion, which means that the Federal Government owes more than $5 million-million.

Sort of boggles the mind, doesn't it?

THE TYRANT OF TRIPOLI

Mr. MOYNIHAN. Mr. President, on December 21, 1995, I rose on the Senate floor to note the seventh anniversary of the bombing of Pan Am flight 103 over Lockerbie, Scotland—an outrageous act of international terrorism which claimed the lives of 270 innocent people. Seven long years have passed, but still the victims' families have no solace that the alleged masterminds of this evil act will ever be brought to justice because the Libyan Government refuses to extradite them.

Yesterday, in an interview with Gayle Young of the Cable News Network, Libyan dictator Muhammar Qadafi attempted to justify his position: "We are ready [for] these suspects * * * to go there for a trial. But the Governments of America and the British, [sic] they don't want to solve this problem * * *. They have no proof [so] they avoid the trial." Three assertions. Three untruths. Three additions to the endless stream of lies and falsehoods issuing from the tyrant of Tripoli.

A state which harbors outlaws must, of necessity, remain an outlaw state. The United States and the community of civilized nations must keep steadfast to our commitment to the rule of law and our demand for justice for the victims of Pan Am 103 and their families.

I thank the Chair and I yield the floor.

NDSU WOMEN TRIUMPH FOR FOURTH STRAIGHT YEAR

Mr. DORGAN. Mr. President, I want to pay special tribute today to the 1996 National Collegiate Athletic Association's Division II women's national basketball champions, the North Dakota State University Bison.

The Bison women's accomplishments are truly remarkable for any level of play. This year's title marks their fourth straight national basketball championship and their fifth title in the last 6 years.

Many thought they could not improve upon last year's season, when the Bison finished their season undefeated. While they didn't quite reach that goal, they had 2 losses this year, they did break their own record from last year for most points scored in the championship game. This year, they scored 104 points against Shippensburg, PA, in the title game. They also extended their homecourt winning streak to 43 games.

Their outstanding team accomplishments throughout the year were aided by some notable individual accomplishments. I want to especially congratulate the team's two seniors, Lori Roufs and Jenni Rademacher, for their achievements throughout their careers at NDSU. Not too many college athletes close out their collegiate careers with not one, not two, not three, but four national championship rings. That they added the fourth is due in no small part to their leadership this year.

Lori and Jenni each scored 1,000 points during their years at NDSU. And they earned the additional honor of being named to the 1996 Elite 8 All-Tournament team.

I also cannot overlook the individual accomplishments of junior Kasey Morlock, who was named Most Outstanding Player of the tournament for the second year in a row.

But a basketball team needs hard work and contributions from all of its players if it is to reach its league's pinnacle. The Bison certainly got that from juniors Rhonda Birch and Andrea Kelly, sophomores Rachael Otto and Amy Ornell, and freshmen Tanya Fischer, Molly Reif, Brenna Stefonowicz, Theresa Lang, Heidi Smith, and Heather Seim.

Finally, I want to honor the coaches who have turned the Bison into the dominant force in division II women's basketball. It's no coincidence that Head Coach Amy Ruley has won her fifth national championship, and I know her players have the highest respect for her as a coach and as a person. Coach Ruley is assisted on the bench by Kelli Layman, Jill DeVries, and Lynette Mund.

As with last year, all but the two seniors will be returning for next year's season, so the Bison and all of us in North Dakota can look forward to another excellent season. But for now, it is more than enough to bask in the glow of winning yet another national championship. Congratulations to a wonderful team.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:20 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following resolution, without amendment:

S. Con. Res. 51. Concurrent resolution to provide for the approval of final regulations that are applicable to employing offices that are not employing offices of the House of Representatives or the Senate, and to covered employees who are not employees of the House of Representatives or the Senate, and that were issued by the Office of Compliance on January 22, 1996, and for other purposes.

The message also announced that pursuant to the provisions of Public Law 86-380, the Speaker appoints the following Member on the part of the House to the Advisory Commission on Intergovernmental Relations: Mr. PAYNE of New Jersey.

At 4:52 p.m. a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the resolution (H. Res. 402) returning to the Senate the bill (S. 1463) to amend the Trade Act of 1974 to clarify the definitions of domestic industry and like articles in certain investigations involving perishable agricultural products, and for other purposes, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned with a message communicating this resolution.

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

H.R. 3103. An act to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2205. A communication from the Chairman and the Finance Committee Chairman, transmitting jointly, the revised budget request and supplemental appropriation request for fiscal year 1996; to the Committee on Appropriations.

EC-2206. A communication from the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, the Selected Acquisition Reports for the period October 1 through December 31, 1995; to the Committee on Armed Services.

EC-2207. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report under the Chemical and Biological Weapons Control and Warfare Elimination Act for the period February 1, 1995 through January 31, 1996; to the Committee on Foreign Relations.

EC-2208. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report on finance charges under the Truth in Lending Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-2209. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC-2210. A communication from the Chairman of the Federal Financial Institutions Examination Council, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC-2211. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC-2212. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC-2213. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC-2214. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC-2215. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2216. A communication from the Commissioner of Reclamation, Department of the Interior, transmitting, a report of an overrun of projected cost for Ochoco Dam, Crooked River Project, Oregon; to the Committee on Energy and Natural Resources.

EC–2217. A communication from the Chairman of the International Trade Commission, transmitting, a draft of proposed legislation to provide authorization of appropriations for the United States International Trade Commission for fiscal year 1997; to the Committee on Finance.

EC–2218. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, the annual report for calendar year 1996; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

H.R. 1743. A bill to amend the Water Resources Research Act of 1984 to extend the authorizations of appropriations through fiscal year 2000, and for other purposes (Rept. No. 104–252).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

H.R. 2243. A bill to amend the Trinity River Basin Fish and Wildlife Management Act of 1984, to extend for three years the availability of moneys for the restoration of fish and wildlife in the Trinity River, and for other purposes (Rept. No. 104–253).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND (for himself and Mr. NUNN) (by request):

S. 1672. A bill to make various changes to laws affecting the management and operations of the Department of Defense, and for other purposes; to the Committee on Armed Services.

S. 1673. A bill to authorize appropriations for Fiscal Year 1997 for military activities of the Department of Defense, to prescribe military personnel strengths for Fiscal Year 1997, to authorize certain construction at military installations for Fiscal Year 1997, and for other purposes; to the Committee on Armed Services.

By Mr. GRASSLEY (for himself, Mr. PRESSLER, and Mr. BAUCUS):

S. 1674. A bill to amend the Internal Revenue Code of 1986 to expand the applicability of the first-time farmer exception; to the Committee on Finance.

By Mr. GRAMM (for himself, Mr. BIDEN, Mrs. HUTCHISON, and Mr. FAIRCLOTH):

S. 1675. A bill to provide for the nationwide tracking of convicted sexual predators, and for other purposes; to the Committee on the Judiciary.

By Mr. FAIRCLOTH (for himself and Mr. HELMS):

S. 1676. A bill to permit the current refunding of certain tax-exempt bonds; to the Committee on Finance.

By Mrs. BOXER:

S. 1677. A bill to amend the Immigration and Nationality Act to establish the United States Citizenship Promotion Agency within the Immigration and Naturalization Service, and for other purposes; to the Committee on the Judiciary.

By Mr. GRAMS (for himself, Mr. FAIRCLOTH, Mr. ABRAHAM, and Mr. STEVENS):

S. 1678. A bill to abolish the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROBB:

S. Res. 243. A resolution to designate the week of May 5, 1996, as "National Correctional Officers and Employees Week"; to the Committee on the Judiciary.

By Mr. FORD (for himself and Mr. MCCONNELL):

S. Res. 244. A resolution to commend and congratulate the University of Kentucky on its men's basketball team winning its sixth National Collegiate Athletic Association championship; considered and agreed to.

By Mr. LOTT (for Mr. DOLE):

S. Res. 245. A resolution making majority party appointments to the Labor and Human Resources Committee; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself and Mr. NUNN) (by request):

S. 1672. A bill to make various changes to laws affecting the management and operations of the Department of Defense, and for other purposes; to the Committee on Armed Services.

DEPARTMENT OF DEFENSE LEGISLATION

Mr. THURMOND. Mr. President, by request, for myself and the senior Senator from Georgia [Mr. NUNN], I introduce, for appropriate reference, a bill to make various changes to laws affecting the management and operations of the Department of Defense, and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and a section-by-section analysis explaining its purpose be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GENERAL COUNSEL OF
THE DEPARTMENT OF DEFENSE,
Washington, DC, April 15, 1996.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: The Department of Defense proposes the enclosed legislation, "To make various changes to laws affecting the management and operations of the Department of Defense, and for other purposes." This proposal is part of the Department of Defense legislative program for the 104th Congress.

The proposal would make changes in authorities relating to use of Warsaw Initiative funds for the Regional Airspace Initiative and the Partnership for Peace information management system, limitations of grades of officers on active duty in the military, the use of certain Reservists in Presidential call-ups, the use of appropriated funds to influence certain Federal contracting and financial transactions, and refinements to third party collection and CHAMPUS double coverage programs. It would address the tax treatment of transfers of Department of Defense owned utility systems. It also would authorize an increase in the penalties for certain traffic offenses on Federal property. It would streamline and simplify child support and alimony garnishment processing. The bill has a provision that would authorize an aviation and vessel war risk insurance program and an extension authority for the Weapons of Mass Destruction Act of 1992.

The Department also requests that the Congress continue to consider for enactment the proposed legislation transmitted last year in the Administration's acquisition reform proposals that would repeal the requirement for recoupment by the Government of certain charges for products sold through the Foreign Military Sales program.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the submission of this proposal to the Congress.

Sincerely,

JUDITH A. MILLER.

Enclosures.

SECTIONAL ANALYSIS

Section 1. The Department of Defense lacks the legal authority to use DoD funds to provide foreign assistance to any foreign country unless such assistance is expressly authorized by law. Therefore, funds appropriated to the Department of Defense for PfP can only be used for activities which DoD can legally perform under existing law, such as to support Partner participation in exercises under the authority of 10 U.S.C. 2010. Since the RAI and PIMS do not fall within the narrow confines of exercise support, the additional authority along the lines of the section above is necessary to support the Regional Airspace Initiative and the PfP Informanagement System.

It is Department of Defense policy to assure mission support utility service at the lowest life-cycle cost. This could include the privatization of existing defense utility systems. In many instances, the Department of Defense is required to make an up-front cash contribution to the utility company for upgraded environmental compliance or additional capacity to effect the transfer of property title.

Section 2. This section would modify section 523 of title 10 to raise the grade ceilings of active duty Army, Air Force and Marine Corps majors, lieutenant colonels, and colonels, and active duty Navy lieutenant commanders, commanders, and captains relative to the total number of commissioned officers on active duty. The revision is driven largely by changes in officer requirements that have occurred since the tables were implemented in 1980. Principal among these are field grade requirements generated by the Goldwater-Nichols and Defense Acquisition Workforce Improvement Acts. Further, other DOPMA constraints on promotion timing and career opportunity have, when coupled with the force reductions since FY 1987, limited the Services' abilities to comply with overall statutory requirements for officer career management.

Section 3. This proposal will provide greater flexibility, cost effectiveness, and efficiency in promoting the acceptance of new technologies necessary to meet Department of Defense (DoD) environmental requirements. The proposal will reduce the frequency and variety of locations required to demonstrate environmental technologies in order to obtain regulatory approval. Early involvement of regulatory agencies in a substantive manner will improve efficiency and avoid repetitive data collection efforts.

Section 4. Because Haiti no longer has a military, it is not eligible under current law to purchase defense articles and defense services from the Department of Defense under the Foreign Military Sales (FMS) program. The proposed legislation is designed to make Haiti eligible for such assistance. FMS sales will facilitate U.S. assistance in developing and equipping civilian-led law enforcement and maritime institutions. Currently, Haiti is developing a maritime law enforcement entity for refugee and contraband control and would be hindered by a lack of spare parts and equipment. FMS cash sales represent the most efficient manner for the Government of Haiti to acquire the equipment needed to support these missions and would complement IMET training the U.S. Government intends to provide Haiti in maritime skills. It would extend the United States' ability to exert a positive influence over the Haitian National Police and Coast Guard.

Section 5. This section would authorize the Secretary of Defense to participate in the Foundation Geneva Centre for Security Policy, established in 1986, whose purpose is to actively promote the building and keeping of peace, security and stability in Europe and in the world. To this end, the Centre (1) conducts international training courses in security policy, (2) carries out research in security policy and stability and (3) organizes conferences and seminars concerning security issues. Unlike the Marshall Center, an institution chartered by the Secretary of Defense and operated under the direction of the Commander-in-Chief European Command, the Foundation Geneva Centre for Security Policy was established by the Federal Military Department of Switzerland. Consequently, the role of the United States will be participatory, limited to attendance by DoD personnel at conferences and seminars and the making available of an instructor as well as liaison personnel to help organize the various activities of the Centre.

Section 6. This proposal would repeal section 1352 of title 31, United States Code, entitled "Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions" in its entirety. This section was originally established to prevent the use of appropriated funds for lobbying and requires extensive reporting and certifications by contractors and grantees of covered lobbying activities of the Executive Branch and Congress.

The provisions contained in section 1352 have been rendered duplicative by the Lobbying Disclosure Act of 1995 (Public Law 104–65). This new Act requires reporting of lobbying activities directly to Congress and additionally requires the registration of lobbyists. The primary reporting requirements of section 1352 were rescinded by section 10 of the Lobbying Disclosure Act of 1995. The sole reporting requirement which remains is of no practical use. In addition, the restriction against the use of appropriated funds in section 1352 is unnecessary insofar as sections 911 and 1534 of the National Defense Authorization Act for FY 1986 will remain in effect if section 1352 is repealed.

Retention of Section 1352 places an unreasonable dual burden on contractors and grantees and is contrary to the goals of acquisition reform and simplification. Section 1352 no longer serves a useful purpose for contracting and grants officers and represents extra unnecessary costs of compliance for both government and industry.

Section 7. This provision would adopt several refinements to the Third Party Collection Program under which military medical facilities collect from third party payers for health care services provided to beneficiaries who are also covered by the third party payers' plans, and to the related CHAMPUS Double Coverage Program, under which CHAMPUS is secondary payer to other health plans that also cover CHAMPUS beneficiaries.

For the Third Party Collection Program, the section would make three changes. First it would clarify that the rule under which receipts are credited to the appropriation supporting the facility also applies in connection with services provided through the facility, in addition to services provided "by" the facility. This conforms the receipts provision to the overall scope of the Third Party Collection authority. Second, it would clarify that workers' compensation programs and plans are included as third party payers under the program. These plans should not enjoy a windfall in cases in which their beneficiaries, for whom they have collected premiums, happen to receive care in military facilities. Third, it would codify a provision in the DoD Third Party Collection Program regulation (32 CFR 220.12(i)) that, similar to other no-fault automobile coverage, the program includes personal injury protection or medical payments benefits in cases involving personal injuries resulting from operation of a motor vehicle.

For the CHAMPUS Double Coverage Program, the section would integrate the scope of third party payer coverage between the Third Party Collection Program and the CHAMPUS Double Coverage Program. This will assure consistency in third party payer responsibilities relating to the Military Health Services System, regardless of whether their insured or covered beneficiaries receive care in military treatment facilities or under CHAMPUS.

These refinements are consistent with the long-standing Congressional policy of containing health care spending by assuring that third party payers, who generally have collected full premiums for coverage of insured persons who are also DoD beneficiaries, do not shift their costs on to the Federal taxpayers.

Section 8. Under section 118(b) of the Internal Revenue Code, these transfers are a contribution-in-aid of construction (CIAC), and subject to a tax based on their fair market values. By rulings of the Public Utility Commissions in the various States, this tax must be paid by the utility customer, in this case the Department of Defense, which created the tax liability and which cannot be built into the general rate base for all utility customers.

To effect the transfer of Department of Defense owned utility systems, a utility company is obligated to impose a charge on the Department of Defense equal to the CIAC tax which must be paid from Defense Appropriations for Base Operations and Maintenance. In summary, the consideration of Department of Defense cash or real property transfers as a CIAC to a utility and subject to federal tax merely results in a "pass-through" from Department of Defense appropriations through the utility company to the United States Treasury with no-net-revenue-gain to the Federal Government.

The proposed exemption will conserve scarce Department of Defense Base Operation and Maintenance funds, eliminate a no-net-revenue-gain to the Federal Treasury, and reduce the administrative burden of enforcing this section of the Federal Tax Code.

The proposal would permit the Department of Defense to implement its privatization policy of divesting itself from ownership and operation of utility systems without distorting the economic analyses by unnecessary "added costs" to the government. The Department of Defense would get out of the utility business in its entirety when it is proven to be cost effective to do so, and concentrate its shrinking resources on its training and war fighting mission. The proposal further would prevent the government from taxing itself when transferring Department of Defense property or paying a connection fee to a utility entity by a Department of Defense installation. It would relieve local utility companies of the burden of having to account for a CIAC and re-bill the Department of Defense for taxes on CIAC. Finally, it would eliminate the need to the Department of Defense to program and budget for the payment of this tax which results in no-net revenue-gain to the Federal Treasury.

Section 9. This provision would amend the Act of June 1, 1948 (40 U.S.C. 318c) which authorizes the Federal prosecution of a person who violates a regulation to control Federal property promulgated by the Administrator of the General Services Administration. Section 4 of the Act provides for a fine of not more than $50 or imprisonment for not more than 30 days, or both. The penalties have not been revised since enactment. This section would amend such section 4 to make the penalties in title 18, United States Code, applicable to violations of regulations promulgated pursuant to the Act. For example, section 3571 of title 18 would establish the applicable fines.

Section 10. This section amends section 659(b) of title 42, United States Code, to delete the requirement for service by certified mail, to require additional information to identify the individual whose pay is subject to legal process.

The current language of section 659(b) requires the use of certified or registered mail or personal service. Personal service, as a practical matter, is rarely used. Requiring that service be made by certified or registered mail increases the likelihood the process will be rejected because many agencies often forget to send the orders by certified mail. This results in increased cost to the government, extensive rework, and further delays the implementation of a support order. The amending language expands the existing language to include facsimile or electronic transmission, mail, and personal service.

The amendment also amends section 659(b) by adding the word "obligor" after the word "individual" in the sentence to clarify the intent of the statutory language and further designate the person the process must identify, and requires the obligor's Social Security Number, whenever available, as an identifier in order to assist the Government in correctly identifying the proper person. Because of limitations in records that are accessed to process these orders, the name, address, date of birth, and place of birth are generally insufficient to identify an individual. Addresses can change virtually overnight. A Social Security Number is the one identifier that is unique and permanent. Requiring use of the Social Security Number will enhance the ability of an agency to make a correct identification of the person responsible for support payments and expedite the processing of the order.

Section 11. Section 334 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 requires that draft final remedial investigations and feasibility studies (RI/FS) be completed within 24 months (for BRAC 88 installations) or 36 months (for BRAC 91 installations) for installations on the NPL unless the Secretary of Defense grants a deadline extension The Secretary may grant such extension only after consulting with the Environmental Protection Agency (EPA) and notifying Congress.

The provision does not help speed cleanups or base closure or encourage greater involvement by EPA and is of no value to the Department. The provision directs project management resources for the periodic notification and formal consultation requirements. The formal consultation is unnecessary because Federal Facility Agreements (FFAs) between DoD and EPA contain cleanup schedules negotiated and agreed to by both parties based on base closure and cleanup goals and priorities.

The provision requires burdensome information gathering, coordination, and reporting that is of no value to the Department. Elimination of the provision would result in reduced red tape thereby expediting the cleanup and transfer of closing bases.

Budget Impact: The amendment does not impact environmental restoration budgeting requirements.

Section 12. (1) *Fort Riley:* The U.S. Environmental Protection Agency (EPA) Region VII, assessed a $65,000 penalty against Fort Riley pursuant to the March 4, 1991, Federal Facilities Agreement which governs cleanup activities at the installation. The penalty was due to the failure to submit the draft final Remedial Investigation (RI) report for the pesticide storage facility. The draft final RI was due on June 3, 1993, and was not submitted until July 19, 1993. On January 26, 1994, Ft. Riley and EPA Region VII agreed to a settlement wherein the Army would pay $34,000 as a cash penalty and $31,000 was mitigated through completion by April 9, 1994 of the following three on-site response actions (removals):

(1) excavation of pesticide and metal contaminated soils at Pesticide Storage Facility,

(2) excavation of lead contaminated soils from Colyer Manor Housing site, and

(3) placement of rock revetment along the Kansas River bank at the Southwest Funston Landfill site.

The $31,000 cleanup project at the pesticide storage facility has been completed. However, enabling legislation is required to pay the $34,000 cash penalty.

The Army has included the $34,000 as part of the FY 1997 budget request. Because it is already included in the budget request, no adverse budget impact is anticipated by use of the $34,000 to pay this penalty.

(2) *Massachusetts Military Reservation:* The Military Reservation violated the CERCLA-mandated Interagency Agreement (42 U.S.C. 9620) with EPA Region I and the Commonwealth of Massachusetts by failing to submit cleanup studies to EPA and Massachusetts according to an agreed-upon time schedule.

(3) *F.E. Warren Air Force Base:* The Air Base violated the CERCLA-mandated Interagency Agreement (42 U.S.C. 9620) with EPA Region VIII and the State of Wyoming by failing to adequately test potentially contaminated soil at a cleanup site, and by failing to properly containerize such soil.

(4) *Naval Education and Training Center Newport, Rhode Island:* The EPA Region I assessed a $260,000 penalty for non-compliance with the March, 1992 Federal Facility Agreement (FFA) for Naval Education and Training Center, Newport, Rhode Island. The penalty was for failure to submit complete draft Remedial Investigation (RI) reports for McAllister Point Landfill and Old Fire Fighting Training Area. The reports, as submitted to EPA, were incomplete, because they did not contain ecological risk assessments. The draft RI report for McAllister Point Landfill was submitted February 14, 1994 and the draft RI report for Old Fire Fighting Training Area was submitted March 31, 1994. These dates were in accordance with the FFA schedules. A draft report containing ecological risk assessments for both sites was submitted May 30, 1994. On June 26, 1995, the Navy, EPA Region I and the State of Rhode Island agreed to a settlement wherein the Navy would pay $30,000 as a cash penalty and also accomplish the following actions:

(1) arrange for a partnering session among the parties and contribute $10,000 to such an endeavor (completed August, 1995).

(2) removal of sandblast grit at the Derecktor Shipyard site at NETC; cost of the removal to be not less than $90,000 (completed September, 1995).

The Navy has included the $30,000 as part of the FY 1997 budget request. Because it is already included in the budget request, no adverse budget impact is anticipated by use of the $30,000 to pay this penalty, but enabling legislation is required.

(5) *Lake City Army Ammunition Plant:* The Army violated a CERCLA-mandated Interagency Agreement with EPA Region VII and the State of Missouri for failing to submit Area 18 and Northeast Corner Operable Unit Remedial Investigation Reports to EPA and Missouri according to an agreed-upon time schedule.

Section 13. The purpose of this legislation is to provide a means for rapid payment of claims and the rapid reimbursement of the insurance funds to protect commercial carriers assisting the Executive Branch from catastrophic losses associated with the destruction or damage to aircraft or ships while supporting the national interests of the United States. Allowing the Department of Defense to transfer any and all available funds will allow the United States, in these two vital reinsurance programs, to match standard commercial insurance practice for the timely payment required by financial arrangements common in the transportation industry today. Reporting and the requirements for supplemental appropriations, if any, ensures Congressional oversight at all stages.

Subsections (a) and (b) of the proposed legislation set forth the short title and the findings and purposes, respectively.

Subsection (c) of the proposed legislation amends section 44305 of title 49, United States Code, by adding a new subsection (c).

Subsection (c)(1) allows transfer of any funds available to the Department of Defense, regardless of the purpose of those funds. Although other authorities may exist to transfer funds, limitations as to amounts and priorities make these authorities insufficient to rapidly respond to the obligations of the Department of Defense under the current law, especially if contingencies or war-time conditions exist. Proposed language would not distinguish between types of insurance or risk, so long as the Federal Aviation Administration had issued a policy covering the risk. The language would not limit the authority to a specific fiscal year, but would be ongoing without need for reenactment periodically by Congress. Such Congressional oversight is already in place through the reauthorization of the Aviation Insurance Program, next scheduled to take place in 1997.

Subsection (c)(2) provides specific time limits within which the Secretary of Defense must pay claims and reimburse the Federal Aviation Administration. Notification to Congress and the 30 day delay before transfer required in other statutes is waived. The most important issue for the air carriers is the replace of the hull so that they may continue operations, including supporting the requesting agency, without idling crews or having to lay off personnel due to the lack of airframes. A longer time frame is provided for other claims, such as liability to third parties, as normal claims procedures can adequately protect their interest.

Subsection (c)(3) requires reports to Congress within 30 days of loss for amounts in excess of one million dollars, with periodic updates to ensure Congress is aware of amounts being transferred and paid out under the chapter 443 program. As supplemental appropriations may be necessary, Congress will have sufficient information on which to base a decision regarding the supplemental appropriations.

Subsection (d) of the proposed legislation amends section 1205 of the Merchant Marine Act, 1936, (46 App. U.S.C. §1285) by adding a new subsection (c).

Subsection (c)(1) authorizes the Secretary of Defense to transfer funds available to the Department to pay claims by contractors, for the damage or loss of vessels and death or injury to personnel, insured pursuant to Title XII of the Merchant Marine Act, 1936, or loss or damage associated therewith. Proposed language would not distinguish between types of insurance or risk, so long as the Maritime Administration had issued a policy covering the risk. The language would not limit the authority to a specific fiscal year, but would be ongoing without need for reenactment periodically by Congress. Such Congressional oversight is already in place through the reauthorization of the Vessel War Risk Insurance Program, next scheduled to take place before the 30 June 1995 expiration (46 App. U.S.C. §1294).

Subsection (c)(2) provides specific time limits within which the Secretary of Defense must reimburse the Secretary of Transportation.

Subsection (c)(3) requires reports to Congress on a periodic basis for claims paid in amounts in excess of one million dollars to ensure Congress is aware of amounts being transferred and paid out under the Title XII program. As supplemental appropriations may be necessary, Congress will have sufficient information on which to base a decision regarding the supplemental appropriations.

The addition of subsection (c) to section 44305 of title 49, United States Code, and subsection (c) to section 1205 of the Merchant Marine Act, 1936, (46 App. U.S.C. §1285) would allow the Department of defense to rapidly pay claims resulting from damages or injuries caused by risks covered by the respective programs as a consequence of providing transportation to the United States when commercial insurance companies refuse to cover such risks on reasonable terms and conditions. The requirement to reimburse the Federal Aviation Administration or the Maritime Administration already exists; however, the only method for payment currently available may involve requesting supplemental appropriations from Congress. Such a process historically has taken six months or longer. Many air carriers have indicated their financial obligations may not allow them to continue to support the United States if rapid payment for losses cannot be made. Commercial aircraft insurance policies and practice require payment in less than 30 days when cause is not in issue, usually within 72 hours.

If enacted, this legislation would not result in an increase in the budgetary requirements of the Department of Defense.

Section 14. This proposal would modify section 12304 of title 10, United States Code, to provide authority to include up to 30,000 members of the Individual Ready Reserve as part of the 200,000 Reserve component members ordered to active duty involuntarily. This would be done only when the President determines that it is necessary to augment the active forces for any operational mission. This change would ensure the timely availability of certain trained members of the Individual Ready Reserve [IRR] to fill requirements for selected skills in early mobilizing or deploying active and reserve units. This would preclude the need for cross-leveling of personnel from later deploying units to fill shortages in early deploying units. Currently, members of the IRR cannot be ordered to active duty involuntarily until a national emergency has been declared.

Every military unit has vacancies caused by individual schooling requirements, hospitalizations, and transitioning personnel. Additional vacancies occur upon deployment due to personal hardships, medical reasons, and differences between peacetime and wartime manning. In the past, upon deployment, those vacancies have been filled by taking trained personnel from later deploying units or individual volunteers from the IRR. This approach of fixing early deploying units at the expense of units scheduled for later deployment can create a risk with regard to readiness of the later deploying units, should their deployment be required. As the force becomes smaller, every unit in the Reserve components becomes increasingly important. Borrowing personnel from later deploying units is no longer an acceptable option.

The Army has documented the need for early access to members with specific skills, in specific grades, in the IRR to accommodate full-strength deployment of first-to-fight units. Since members of the IRR are in the Ready Reserve but not the Selected Reserve, currently they are not subject to involuntary call-up under the provisions of the section 12304 being amended (Presidential Selected Reserve Call-up) and are therefore not available for filling early deploying unit shortfalls.

This legislative proposal would provide the authority to use a limited number of IRR members who possess specific specialties and grades, and who meet certain criteria, to fill early deploying unit shortfalls, thus lessening the potential impact on the readiness and cohesion of units scheduled for later deployment.

Section 15. This provision would extend, through the end of Fiscal Year 1998, the Weapons of Mass Destruction Act of 1992, which is slated to expire at the end of Fiscal Year 1996. The provision would revise funding restrictions in a manner consistent with the original legislation. Such authority especially is important given ongoing concerns over Iraq's continued possession of weapons of mass destruction and missile delivery systems. The Department of Defense, including its Executive Agent for matters regarding the United Nations Special Commission on Iraq (POTPOR.SECUNSCOM), the On-Site Inspection Agency, requires the authority to continue much of its current activities in support of UNSCOM.

By Mr. THURMOND (for himself and Mr. NUNN) (by request):

S. 1673. A bill to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1997, to authorize certain construction at military installations for fiscal year 1997, and for other purposes; to the Committee on Armed Services.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

Mr. THURMOND. Mr. President, by request, for myself and the senior Senator from Georgia [Mr. NUNN], I introduce, for appropriate reference, "A bill to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, to prescribe military personnel strength for fiscal year 1997, to authorize certain construction at military installations for fiscal year 1997, and for other purposes." I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and a section-by-section analysis explaining its purpose by printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GENERAL COUNSEL OF
THE DEPARTMENT OF DEFENSE,
Washington, DC, April 5, 1996.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: The Department of Defense proposes the enclosed draft of legislation, "To authorize appropriations for Fiscal Year 1997 for military activities of the Department of Defense, to prescribe military personnel strengths for Fiscal Year 1997, and for other purposes."

This legislative proposal is part of the Department of Defense legislative program for the 104th Congress and is needed to carry out the President's budget plans for Fiscal Year 1997. The Office of Management and Budget advises that there is no objection to the presentation of this proposal to the Congress and that its enactment would be in accord with the program of the President.

This bill provides management authority for the Department of Defense in Fiscal Year 1997 and makes several changes to the authorities under which we operate. These changes are designed to permit a more efficient operation of the Department of Defense.

Enactment of this legislation is of great importance to the Department of Defense and the Department urges its speedy and favorable consideration.

Sincerely,

JUDITH A. MILLER.

Enclosures.

SECTIONAL ANALYSIS

PROCUREMENT—OTHER MATTERS

Section 110 clarifies that the prohibition in the National Defense Authorization Act for Fiscal Years 1990 and 1991 does not apply to funds authorized and appropriated in the Department of Defense Appropriations Act, 1996 and the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 186). The prohibition was against obligating funds for procuring additional F-15 aircraft. This proposal is similar to previous exceptions at section 137 of the National Defense Authorization Act for Fiscal Year 1992 (Public Law 102–190; 105 Stat. 1312) which permitted the obligation of funds to replace and support F-15 aircraft that had been sold to Saudi Arabia. Without this clarification the Department of Air Force will be unable to obligate appropriated funds for this program. The proposal also would obviate the prohibition for Fiscal Year 1997 departmental authorizations and appropriations. The President's Budget includes assumptions that the waiver will apply in Fiscal Years 1996 and 1997.

Section 111 updates the cost basis for the definition of the term "major system" to fiscal year 1990 constant dollars from fiscal year 1980 constant dollars. It also allows the Secretary of Defense to further adjust these costs after notification of the Congressional defense committees. This language parallels the language in the definition of "major defense acquisition program" found in section 2430 of title 10.

The purpose of section 112 is to streamline and simplify the notification process for defense contract workers who are displaced because of termination or substantial reduction in defense contract funding. The current law creates an elaborate process of such a complex and cumbersome nature that it actually prevents prompt notification. The revision places notifications directly at the contract administration level. Additionally, a redundant Federal Register reporting requirement is eliminated.

The proposal would continue the intent of the original legislation—to make displaced defense contract workers eligible for employment services under the Job Training Partnership Act (JTPA).

It would require DOD notifications to contractors upon actual contract terminations or substantial reductions in funding. The original law, on the other hand, had notification triggered by the budget process at the program level when the President's budget was first submitted to Congress. It included provision for withdrawals of notification if Congress provided funding for a program proposed to be eliminated or reduced by the President's budget. The original law also included a provision for notifications based on funding cuts, still at the program level, in the Defense Appropriations Act. This proposal eliminates the necessity of withdrawals of notices by focusing the process on actual contract impacts (instead of "pending" terminations or substantial reductions, and relates to obligated funds on a contract by contract basis. Additionally, notifications/withdrawals in the original legislation, at the program level, did not identify which specific contracts under a particular major defense program would be reduced or eliminated.

The proposal also eliminates reporting in the Federal Register of notifications and withdrawals as redundant to the public availability of both budget submissions and enacted defense appropriations legislation.

The proposal retains the following provisions of the original law:

Notification to contractors by DoD within 60 days after enactment of a Defense Appropriations Act; contractor's obligations to inform adversely affected employees, its subcontractors, State Employment Services' dislocated workers units, and the chief elected local government official within two weeks after the contractor receives notification.

Continued requirement to give notice to the Department of Labor.

Notification of contract termination or substantial reduction to enable displaced defense contractor employees to be eligible for JTPA employment benefits.

Continued notifications to affected subcontractors at identified tiers.

Loss of eligibility for JTPA benefits if funding is restored to a contract after notification.

Continued connection to major defense system.

Section 113 would incorporate improvements in the acquisition reporting process of major defense acquisition programs. These improvements reflect recommendations from the Defense Authorization and Appropriation Committees, Congressional Budget Office, and Department of Defense staffs. Briefly, this proposal includes revisions to the section of the law that is related to Selected Acquisition Reporting (SAR).

This provision would replace "program acquisition unit cost" with "procurement unit cost" as a more meaningful measure of recurring unit cost. Program acquisition unit cost includes Research, Development, Test, and Evaluation (RAT&E), a nonrecurring portion of acquisition costs. Management oversight of *unit* cost should focus on procurement unit cost, the recurring portion of acquisition costs.

The provision also would delete the currently reported completion status for a program, that is, percent program completed and percent program cost appropriated. These calculations of program status can be misleading, particularly in the early development stage of a program. The Department plans to substitute percent program delivered and percent program expended as more accurate measures of program status. These measures also represent the statutory criteria for SAR termination.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Section 202. Section 2366, title 10, United States Code, requires realistic survivability testing on a covered system before the system may proceed beyond low-rate initial production. The law authorizes the Secretary of Defense to waive realistic survivability testing before the system enters into engineering and manufacturing development if a certification is made to Congress that testing would be unreasonably expensive and impractical, and requires a report assessing realistic survivability testing. The V-22 program entered full-scale engineering development (the previous term for engineering and manufacturing development) prior to enactment of the legislation.

This section allows the Secretary of Defense to exercise the waiver authority of section 2366(c), notwithstanding the fact that the V-22 program has already entered engineering and manufacturing development. Such a waiver requires the Secretary of Defense to certify to Congress that live-fire testing of the V-22 would be unreasonably expensive and impractical. The section also provides alternative survivability test requirements for the conduct of any alternative live-fire test program.

Section 203 would amend section 2366(c) of title 10, United States Code, to authorize the Secretary of Defense to exercise the waiver authority in such section, with respect to the application of survivability tests of that section to the F-22 aircraft, notwithstanding that such a program has entered full-scale engineering development.

Section 254 of the National Defense Authorization Act for Fiscal Year 1995 directed the Secretary of Defense to request the National Research Council to study the desirability of waiving the live fire tests that are required by law for the F-22. The Committee on the Study of Live Fire Survivability Testing of the F-22 Aircraft was formed by the National Research Council (NRC) to conduct the study.

The NRC committee began its work in December 1994. Several data gathering meetings were held to expose the committee to the full spectrum of views involving live fire testing of fighter aircraft. A final report entitled "Live Fire Testing of the F-22" was published in 1995. The principal recommendation of this report is stated below:

"Principal Recommendation. Permit a waiver of the full-up, full-scale live fire tests required by law for the F-22. The committee believes that such tests are impractical and offer low benefits for the costs."

The NRC report contains four pages of recommendations. The F-22 System Program Office (SPO) is preparing a detailed response to each of the NRC recommendations. The F-22 SPO will coordinate these additional RDT&E activities with the responsible Air Force and OSD offices.

Given the above NRC recommendation, the Department of Defense is submitting legislation to authorize a retroactive waiver of the survivability and lethality testing procedures that apply to the F-22 Program.

This law change avoids the purchase ($181M in FY90$, $250M in TY$) of an additional F-22 aircraft for full-up, full-scale destructive live fire testing.

Section 204 would clarify and, to the extent necessary, override the provisions of section 1701 of the National Defense Authorization Act for Fiscal Year 1994, or other laws, which indicate that the basic and applied research and advanced technology development activities of the Defense Advanced Research Projects Agency are to be subordinated to other research organizations or entities within the Department. This would restore the agency to its traditional function within the Department.

TITLE III—OPERATION AND MAINTENANCE

Section 310 would expand the remedies available to contractor employees who are wrongfully terminated because they reported wrongdoing.

This legislation would also amend the law to provide that the investigative costs may be assessed against a contractor when the allegation of reprisal is substantiated.

Any additional costs required by this proposal will be absorbed in departmental operation and maintenance accounts.

Section 311 would repeal section 12408 of title 10, United States Code, which requires that each member of the National Guard receive a physical examination when called into, and again when mustered out of, Federal service as militia. For short periods of such service, this requires two complete physical examinations during a period of days or weeks. In view of other statutory and regulatory requirements for periodic medical examinations and physical condition certifications for members of the National Guard, this additional examination requirement is unnecessary, administratively burdensome, and expensive, and could impede the rapid and efficient mobilization of the National Guard for civil emergencies.

There is no corresponding statutory requirement for physical examinations when members of the National Guard or other reserve components are ordered to active duty as reserves.

Section 312 would amend section 4105 of title 5, United States Code, by adding a new sentence to authorize the utilization by military personnel of arrangements and agreements developed for training civilian employees. Current authorities do not provide a streamlined procedure for the acquisition of commercial courses for military personnel, whereby the Government Employees Training Act of 1954 authorized procuring such courses without regard to acquisition practices contained in part 5 of title 41 and the prohibition against paying in advance of receipt of services now contained in section 3324 of title 31. Allowing military personnel to utilize these procedures will streamline acquisition of these courses, enabling utilization of commercial credit cards and electronic funds transfer, where appropriate, to parallel practices in commercial industry.

If enacted, this proposal will not increase the budgetary requirements of the Department of Defense. By amending this section, monetary savings may be realized by decreasing their intensive procurement methods and authorizing training personnel to procure such training for military personnel in addition to civilian personnel training rather than have contracting personnel involved in the acquisition of what were basically commercial services.

Section 313 provides authority to Department of Defense (DoD) to retain proceeds from the sale of Clean Air Act emission reduction credits, allowances, offsets, or compatible economic incentives.

Federal fiscal law and regulations generally require proceeds from the sale of government property to be deposited in the treasury. These regulations preclude an agency from keeping the funds generated by reducing air emissions and selling the credits as does private industry. This inhibits the investment of those funds to purchase needed air credits in other areas, and eliminates any incentive for installations to spend the money required to generate the credits in order to sell them.

The Clean Air Act (CAA) mandates that states establish state implementation plans (SIPs) to attain and maintain the national ambient air quality standards (NAAQs), which are health based standards established for certain criteria air pollutants, e.g., ozone, particulate matter, carbon monoxide. To further this mandate, the 1990 Clean Air Act Amendments provided language encouraging the states to include "economic incentive" programs in their SIPs. Such programs encourage industry to reduce air pollution by offering monetary incentives for the reduction of emissions of criteria air pollutants. CAA §110(a)(2)(A) provides that SIPs "shall include enforceable emission limitations and other control measures, means or techniques (including economic incentives such as fees, marketable permits, and auctions of emission rights) . . . as may be necessary or appropriate to meet the applicable requirements of this chapter." See also CAA §176(c)(6) (similar language specifically directed toward SIPs for nonattainment areas for NAAQs).

A number of state and local air quality districts have already established various types of emission trading systems (see Brownstein, "Report on Select Emissions Trading Programs," prepared for the Virginia Department of Environmental Quality by the Mid-Atlantic Regional Air Management Association (1995), examining 11 state trading and banking programs). However, the military services presently lack clear authority to sell Clean Air Act economic incentives and, if such incentives were sold, would have to remit the proceeds to the U.S. Treasury. Assuming sale authority is granted, this authority needs to be coupled with the right to retain the proceeds at the installation level in order to create a local economic incentive to reduce air pollution above and beyond legal requirements and thereby create a marketable commodity. Retention and use of proceeds at the installation level is a key component of the proposed bill. Because this new authority would be similar in concept to existing authority for the sale of recyclable materials and retention of proceeds from the sale for use by the local military installation, the proposed bill is patterned on that authority.

In 1982, Congress passed Public Law 97-214, 10 U.S.C. §2577, Disposal of Recyclable Materials, to provide greater economic incentives for military departments to develop aggressive recycling programs at the installation level to reduce the volume of materials going into the waste stream. The statute gave the Secretary of Defense authority to prescribe regulations for the sale of recyclable materials held by a military department or defense agency. All sales of recyclable materials by the Secretary of Defense or a Secretary of a military department must be in accordance with the procedures of section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) for the sale of surplus property. The important feature of the statute which provides a significant local economic incentive is that net proceeds from the installation's sale of recyclable materials remain at the installation, available for use in local programs (i.e., pollution abatement, energy conservation, and the moral and welfare account) rather than having to be forwarded to the U.S. Treasury, the standard requirement. When a "profit" can be realized and applied in support of local operations, the installation commander has a definite incentive to develop and implement a successful program.

Proceeds from the sale of recyclable materials in the DoD program had increased from $1.5 million in FY 1983 to $37 million in FY 1992. The success of the DoD recycling incentive program clearly demonstrates that there can be significant benefits to the environment, such as reduction of waste streams going to landfills, that also make sense economically when direct economic incentives are created to reduce pollution.

Budget Impact: This provision will not result in increased cost to the military. Military installations will develop tradable credits only when economically beneficial for future use at the same or other installations, or for selling on the private market. Only installations located in areas where an emissions credit program has been implemented can utilize this provision. Currently only a few states have developed such programs, with several states in the process of the necessary rulemaking. With the number of installations able to participate being unknown; no cumulative cost-benefit analysis can be presented.

However, an example demonstrating the potential cost/savings benefits of the proposed legislation is the RECLAIM air emission trading program in the South Coast Air Quality Management District (SCAQMD), California. The RECLAIM program is an allowance type market program for NO_x (Nitrogen oxides) and SO_x (sulfur oxides) sources. RECLAIM Trading Credits (RTCs) are issued annually, upon payment of a fee, to a facility at the start of its compliance cycle (one year). The number of RTCs issued to a facility decline each year. If a facility has RTCs that it does not require for its own use, it may sell those RTCs to other RECLAIM facilities. Several military installations are required to participate in the NO_X RECLAIM program including March Air Force Base, Long Beach Naval Shipyard, and Naval Auxiliary Landing Field San Clemente Island. These military facilities will also be included in the RECLAIM program for VOCs once it is approved.

RECLAIM was effective January 1, 1994. By December 1994, at the conclusion of the first year of the program, March AFB held 69,246 pounds of surplus NO_X RTCs which, if the proposed legislation was in effect, it could have sold/traded to other RECLAIM facilities. March AFB could have potentially recouped half its investment having paid $00.10 per pound or $7,051 for the unused credits. In 1995, March paid $12,415.00 for 110,458 NO_X RTCs; it expects to use 90,000. However, since March is closing, once the active duty forces have left on April 1, 1996, March will have a significant decrease in NO_X emissions meaning it will then have a significant number of RTCs to trade/sell.

A report on RECLAIM trading provides interesting market data (see Margolis, "In the RECLAIM Trading Pit—Progress, Problems, and Prospects," Dames & Moore Air Trade Services, Air & Waste Management Association, 88th Annual Meeting (1995)). At least 30 trades have occurred involving about 5.5 million pounds of NO_X. The largest trade to date was between Union Carbide Corporation (RTC seller) and Anchor Glass Container Corporation (RTC buyer) involved a stream of 1994 through 2010 NO_X RTCs equaling about 1,700 tons. The price was $1.2 million for the entire stream, or about $700 per ton of RTCs (in 1994 dollars). The first RECLAIM auction, held in July, 1994, drew 17 sellers and 6 buyers; 48,700 pounds of 1995 NO_X RTCs sold for $334 per ton and 2,500 pounds of 1996 NO_X RTCs sold for $574 per ton. The 1995 RTCs that March projects to have this year, by interpolation, could then be sold for $3,340.00, not a large sum, but, as noted above the sales price will increase in succeeding years as all facility allocations decline. The sale reduces compliance costs and proceeds offset fees incurred by the military facility. Recent trading in the RECLAIM program showed that the cost for RTCs useable in the years 2010/11 had risen to $1706/ton.

We anticipate that many other areas of the country will be implementing "RECLAIM" type programs that require military installations to purchase credits or allowances based on estimated allocations rather than actual emissions. In time, the new CAA Title V Operating Permit Programs will include trading components and Title V is based on "potential to emit" rather than actual emissions. It is therefore necessary to give the military services the required authority and flexibility to fully participate in these new emission trading programs.

Section 314 would revise subsection 2216(i)(1) of title 10, United States Code, to reestablish compatible capital asset thresholds for Operation and Maintenance (O&M) funded activities and DBOF funded activities. Historically DBOF business areas have used the same capital asset threshold as used by O&M funded activities to ensure application of consistent accounting policies throughout the Department and to simplify training and management requirements. The raising of the O&M capital asset threshold to $100,000 reflects the impact of inflation on the cost of equipment and software and the recognition that $50,000 is no longer a reasonable threshold for the additional management requirements associated with capital purchases.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Section 402 would amend section 115(d) of title 10, United States Code, by adding a new subsection (8), which would exclude a limited number of Reserve component members, who are serving on active duty for special work for more than 180 days, from counting against the end strength for each of the armed forces (other than the Coast Guard) authorized for active duty personnel who are to be paid from funds appropriated for active duty personnel. This proposed amendment would increase accessibility to Reserve component members and provide for greater continuity in the use of Reservists to support CINC and other active force OPTEMPO requirements. The number of Reserve component members serving on active duty for more than 180 days, excluded under this provision, could not exceed two-tenths of one percent of the authorized active duty end strength for each military service.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Matters Relating to Reserve Components

Section 501 would amend section 14514, chapter 1407, of title 10 of the United States Code to authorize the Service Secretaries to separate administratively members in an inactive status for years of service or after selective removal without convening a discharge board.

Enactment of this technical change closes a loophole that allows retention of non-participating members in the Standby Reserve with no benefit to the government. The majority of these members are retirement eligible and have not applied for transfer to the Retired Reserve. Assignment of these Reserve members to the Retired Reserve benefits the government as they are available for use much earlier in a contingency due to a higher DOD mobilization priority selection. Congressional authority is required to recall the Standby Reserve. World War II was the last time Congress recalled the Standby Reserve. Presidential authority is required to recall Retired Reserve members. The last time the President recalled the Retired Reserve was during DESERT SHIELD/STORM.

Another benefit is reduced administrative cost to the government due to selective removal of members from the inactive status. Presently, in order to separate these members an Administrative Discharge Board must be convened by the responsible agency and this board must be comprised of personnel who are senior in grade to the member being considered for discharge. Convening a board involves travel expenses, per diem, pay and allowances, commissary and base exchange privileges and the administrative costs of the board. Approval of this change allows the Service Secretaries to be more efficient and cost effective in managing their inactive reserves.

Any additional administrative costs in the enactment of this proposal will be accomplished within available operational and maintenance funds.

Section 502 would amend section 12205 of title 10, United States Code, relating to the ability of members of the Naval Reserve to be promoted. The amendment would authorize naval service members who are selected for service as commissioned officers under the Seaman to Admiral program to be promoted above the grade of lieutenant (junior grade) even though they might not have completed baccalaureate degree requirements at the time they are considered by the lieutenant (0-3) selection board. Section 12205 restricts the promotion of officers of the Naval Reserve who do not have baccalaureate degrees to no higher than the grade of lieutenant (junior grade), with exceptions for limited duty officers and members commissioned under the Naval Aviation Cadet (NAVCAD) program. This section would simply add an exception for members commissioned under the Seaman to Admiral program.

The Seaman to Admiral program was designed to provide commissions to outstanding enlisted members of the Navy even if they do not have a college degree. This program provides an excellent opportunity for up to 50 truly outstanding Navy enlisted personnel per year. After selection to the program and commissioning as ensigns in the Naval Reserve, the Seaman to Admiral selectees attend from 16 weeks to 2 years of warfare training. These officers then serve in their wartime communities in initial operational tours of duty. Later, they are afforded the opportunity to earn college degrees at Government expense. Attendance at college would commence when they have approximately 3-4 years of commissioned service, coinciding with the promotion flow point to lieutenant. Under current law, the Seaman to Admiral program selectees will not be eligible for promotion above 0-2 at that flow point, as most will not have earned college degrees. At their "second look" for promotion to lieutenant, approximately the 5-year mark, current law would require officers who have not yet completed degrees to be passed over a second time. Under current law, members passed over twice must be separated from the service.

This section is needed to remove the unintended consequence of forcing failure of selection for promotion, without regard to performance. This amendment will allow Seaman to Admiral program selectees to become commissioned officers with full career opportunity according to merit, including promotions at the normal flow points.

In the first 2 years of this program, 58% of the selectees in an intensely competitive selection process had already completed a portion of their college education prior to selection. This bill is intended to ensure these outstanding junior officers retain the ability to complete for promotion based on their performance.

The proposed legislation would result in no additional Department of Defense costs or budget requirements.

Section 503 would direct the Secretary of Defense to conduct a regionalized test of unlimited commissary privileges for members of the reserve component of the Armed Forces who are currently eligible for limited use of the commissary. Currently, eligible members of the Ready Reserve and Retired Reserve as authorized 12 days of commissary shopping in a calendar year. The test would provide a means of evaluating the extent to which an expansion of commissary privileges for currently authorized Reservists might impact on commissary operations.

Section 504 would amend section 12868 of title 10, United States Code, as added by the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2998), to provide discretionary authority to the Secretaries of the Military Departments and the Secretary of Transportation to except certain members of the reserve component, who serve on active duty (other than for training) from the limitations on separation contained in that section. Under section 12868, a member of a reserve component who is serving on active duty (other than for training), and is within two years of becoming eligible for retired pay or retainer pay under a purely military retirement system may not be involuntarily released from active duty without the approval of the Secretary concerned. The amendment would provide that reservists who volunteer to serve on active duty (other than for training) for a period of 180 consecutive days or less could be excepted from the general prohibition on involuntary release even though they complete 18 or more years of service. This exception would apply only if the member is informed of and consents to such exception prior to entry on active duty. This exception would not apply to reservists involuntarily ordered to active duty. There are no costs associated with the provision.

Section 505 would change the number of years that the Department of Defense could recognize a baccalaureate degree awarded by a qualifying educational institution from three years to eight years. The typical promotion opportunity to the rank of Captain in the Army Reserve, Army National Guard, Air Force Reserve, Air National Guard, and Marine Corps Reserve, and Lieutenant in the Naval Reserve occurs at approximately three and one half years of service. Officers typically remain eligible for promotion through approximately seven and one half years of service before mandatory separation processing occurs for failure to select for promotion. The current three year statutory limitation for recognizing a baccalaureate degree from a qualifying educational institution effectively precludes an officer who holds such a degree from meeting the educational requirements for promotion, even at the first promotion opportunity, unless the officer earned the degree sometime after receiving a commission. By changing the period that the Department can recognize a degree from a qualifying educational institution to eight years, we provide these officers every opportunity to be appointed or federally recognized in the grade of O-3 based on their overall performance and qualifications for promotion, to include necessary post-secondary educational requirements.

This proposal has no budgetary effects to the Department of Defense.

Section 506 would amend subsection 418(c) of title 37, United States Code, to correct an erroneous reference. Section 1038(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106) amended section 418 of title 37, U.S.C. to prohibit paying a uniform allowance or furnishing uniforms under section 1593 of title 10, U.S.C., or section 5901 of title 5, U.S.C., to enlisted members of the National Guard employed as technicians under section 709 of title 32, U.S.C. for periods of employment "for which a uniform allowance is paid under section 415 or 416" of title 37. The intent of this legislation is to prevent technicians from receiving uniform benefits from two different sources. However, because sections 415 and 416 of title 37, U.S.C. only apply to uniform allowances for officers, this reference is incorrect. The legislation should have referred to section 418 of title 37 (itself) because this is the authority for providing uniform benefits to enlisted members. The amendment correct the erroneous reference.

Section 507 would amend section 12310 of title 10, United States Code to provide that certain reserve personnel serving in composite organizations which support both the active and reserve components, reserve personnel on duty for peacetime standby air defense and ballistic missile defense operations within the territory of the United States, and reserve personnel on duty in reserve component organizations which have been assigned the responsibility for the conduct of activities of the service Secretaries in support of any part of a military department, may be counted against the end strengths for reserve personnel on active duty or full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing or training the reserve components.

Subsection (c)(1) would supplement 10 U.S.C. 2571, which permits any department or organization of the Department of Defense to perform work and services for any other department and organization without reimbursement, by treating as AGRs reserve personnel who perform any function of a secretary of a Department which has been assigned by that secretary to a reserve component organization for execution, with the consent of the Chief of the National Guard Bureau or the chief of such reserve component. A reserve component organization, for purposes of this section, would be an organization under the control of the Chief of the National Guard Bureau or any of the chiefs of the reserve components.

Subsection (c)(2) would provide that peacetime standby air defense and ballistic missile defense of the territory of the United States would be included within the scope of functions for which reserve personnel would be accountable against reserve component end strengths. Thus Air National Guard personnel of the First Air Force would be accounted for as Active Guard and Reserve personnel while instructing and training for and performing standby air defense activities and Army National Guard personnel would be similarly treated when conducting standby ballistic missile defense activities for the Ballistic Missile Defense Organization. Section * * * of title 10 would permit these AGRs to conduct air defense and missile defense after a mobilization.

Subsection (d) would provide that Reserve personnel be authorized to supervise and command active component personnel in a composite organization which conducts activities in support of both active and reserve components.

Subtitle B—Officer Education Programs

Section 510 would modify title 10 to set the maximum age for ROTC scholarships at age 27, vice age 25 (10 U.S.C., §2107); would concurrently modify the age standard for Service academies (10 U.S.C., §§4346, 6958, 9346) to ensure that academy entrants also would be appointed as commissioned officers by age 27. Specifically, this would add two years for ROTC scholarship students and a single year for the academies. The change is driven by a need reported by all Services—to relax the ROTC age standard as a means of expanding the recruiting pool, while accommodating promising students who otherwise would be ineligible. The Service academy change flows from a recognition that the controlling criterion (a youthful and vigorous officer corps) should bear equally on both sources of commission.

This provision would apply to classes entering the service academies of 1997 and thereafter.

Section 511 would modify current law (10 U.S.C. 2107) to permit initial award of ROTC scholarships to those who already have received a baccalaureate degree, provided the recipient executes contractual commitments, including enrollment in the ROTC advance course. Today, Services cannot recruit a 22 year-old electrical engineer with bachelors degree, who (never before an ROTC participant) could earn a masters degree in two years while completing the ROTC advanced course, qualifying for commission. This exclusion also penalizes top performers who graduate from high school or enter ROTC with advanced college credit, since the scholarship is terminated when they complete the undergraduate degree, yet they must remain in college to complete ROTC commissioning requirements. No additional costs would be incurred, since this simply would permit more-efficient channeling of existing scholarships.

Subtitle C—Other Matters

Section 515 would expand the definition of the term "active status" in section 101(d) (4) of title 10, United States Code, to include both officers and enlisted members of the reserve components, who are not in the Inactive National Guard, on an inactive status list, or in the Retired Reserve. This change is consistent with Section 10141(b) of title 10 which addresses the status of reserve component members and which states that *all Reserve members* who are not in an inactive status or a retired status are in an "active status."

Section 516 would amend sections 574(e) and 575(b) of title 10 to reduce the minimum time in grade necessary for promotion to two years rather than three, and to authorize the below-zone selection for promotion to the grade of chief warrant officer, W–3.

Reduction of the minimum time in grade required for promotion would result in actual promotion after three years in grade. It is not now possible for below zone consideration, even to chief warrant officer, W–4. This legislation would also authorize chief warrant officer, W–3, below-zone selection opportunity. This change will permit recognition of the small number of chief warrant officers, W–3, deserving of promotion ahead of their peers. The average chief warrant officer, W–2, has almost eighteen years enlisted service when commissioned in that grade.

Prior to 1 February 1992 when the Warrant Officer Management Act became effective, temporary warrant officer promotions were made under such regulations as the service secretary prescribed, as authorized by section 602 of title 10. Under this section, repealed by the Warrant Officer Management Act, warrant officers were temporarily promoted well ahead of the criteria for permanent regular warrant officer promotions under section 559 of title 10, also repealed, and it was also possible for a limited number of outstanding individuals to be selected early from among below-zone candidates for the grade of chief warrant officer, W–3.

Under section 574(e) of title 10, a chief warrant officer is not eligible to be considered for promotion to the next higher grade until he or she has completed three years of service in current grade.

Additionally, section 575(b)(1) of title 10 limits below-zone selection opportunity to those being considered for promotion to chief warrant officer, W–4, and chief warrant officer, W–5.

This legislation is intended to improve the management of the Services' chief warrant officer communities by reducing the minimum time in grade required for chief warrant officers to be considered for promotion to the next higher grade from three years to two years, thereby allowing the opportunity for early selection, and to authorize below-zone selection opportunity for promotion to the grade of chief warrant officer, W–3, similar to that currently authorized for promotion to the grades of chief warrant officer, W–4, and chief warrant officer, W–5.

With due-course promotions occurring after four years time in grade, as they now occur in the Department of the Navy, the requirement for chief warrant officers to have three years in grade to be considered for promotion has the effect of not permitting any early selections. Reducing the minimum time in grade for promotion consideration to two years would allow for a small number of individuals to be selected from among below-zone candidates, and to be promoted one year early after actually serving three years in grade. Additionally, authorizing early selection to chief warrant officer, W–3, would permit recognition as appropriate of the experience and competence of these individuals. For example, the average Navy chief warrant officer, W–2, has almost 18 years enlisted service when commissioned in that grade.

Chief warrant officers provide the services with commissioned officers who possess invaluable technical expertise, leadership and managerial skills developed during enlisted service and through formal education. This legislation is needed to identify and reward the small number of exceptionally talented chief warrant officers whose demonstrated performance and strong leadership are deserving of special recognition by being selected for promotion ahead of their peers, thereby enhancing morale and maintaining the vitality of the entire community.

These changes would increase the size of the group under consideration for promotion but would not authorize any additional numbers of total promotions from that larger group. As a result, this proposal would not result in any increased cost to the Department of the Navy, other services, or the Department of Defense.

Section 517. The FY–96 National Defense Authorization Act (Public Law 104–106; 110 Stat. 186) amended title 10, United States Code, by adding Chapter 76—Missing Persons. While the Department supported the Senate version of the act, the compromise version adopted into law contains several provisions which will have a negative impact on efforts to account for missing personnel, the well being of their families, and the people who are charged with the accounting effort. The proposed repeals and amendments are intended to ensure that the process of determining the fate and accounting for America's missing are not inadvertently hindered, and that the families get the answers, rights and benefits they deserve without placing additional financial and emotional burdens on them.

(a) REPEAL.—

(1) Section 1508 (Judicial Review).—The section provides the primary next of kin or previously designated person(s) the right to appeal a finding of death on the basis of a subjective opinion that proper weight was not accorded to available information.

This provision will create an undue delay in the final resolution of a missing person's status and subsequently benefits to the beneficiaries. This right to challenge the finding becomes even more disruptive when the beneficiaries are not a party to the appeal. In addition, the court is not being asked to judge whether a person's rights have been violated, but rather to render a subjective opinion on the strength and validity of information related to the case, a role military experts and peers of the missing person have already performed.

(2) Section 1509 (Preenactment, Special Interest Cases).—The section requires the establishment of boards of inquiry for Cold War (dating back to Sept. 2, 45), Korean and Vietnam War unaccounted for cases if new information, from any source, becomes available that may result in a change of status.

This provision will at best consume a significant amount of time and money, and at worse produce a lose-lose situation—given the age of these cases and the possible inability to locate all relevant evidence or witnesses. The Secretary concerned already has the ability under chapter 10, title 37 U.S.C. to review cases if evidence arises that indicates that a service member previously declared dead may be alive. To date, the findings of the Senate Select Committee on POW/MIA Affairs and the current work being conducted by the Defense POW/MIA Office, USCINCPAC's Joint Task Force-Full Accounting, U.S.-Russia Joint Commission, and the central Identification Laboratory, Hawaii, to account for American service personnel have been unable to uncover any credible evidence that there are unaccounted for service members still alive from the Cold War, Korean War, or the Vietnam War.

(b) TRANSMISSION THROUGH THEATER COMPONENT COMMANDER.—Requires the theater component commander to review all missing person's recommendations from the unit commanders, in the field, and then certify that all necessary actions are being taken and all appropriate assets are being used to resolve the status of the missing person. In addition the provision provides the missing person's unit commander only 48 hours to complete an initial investigation and forward a missing recommendation to the theater component commander.

The review and certification requirements by the combatant commander work under the assumption that all future conflicts will be small in scope and casualties limited in number. In a major conflict, with heavy losses, the volume of certification requirements will severely tax the Component Commanders, and their staffs, and divert their attention at a time when they are charged with the grave responsibility of directing the CINC's military efforts in the theater and leading soldiers, sailors, and airmen in battle. The unit commander, grade 0-5 or above, who conducts the investigation under section 1502 is more than capable of conducting a full search and rescue effort, and a thorough investigation of the loss. A minimum of 10 days is required, rather than 48 hours, to conduct a thorough and complete investigation and provide a fully informed recommendation.

(c) COUNSEL FOR MISSING PERSON.—Requires the Secretary to assign a missing person's counsel to represent each missing or unaccounted for person. Counsel is tasked with reviewing each piece of new evidence that may affect the missing person's status to determine if it is significant enough to recommend that the Secretary appoint a review board. In addition, the counsel is directed to review all information, attend board deliberations, and provide a written report as a companion to the review boards report.

This provision presupposes that the U.S. government does not hold the interest of the missing person as the compelling factor in determining their status. It also creates an adverserial environment that, as shown by experience in other similar types of investigations, may ultimately have a negative impact on the investigative process. The requirement for a lawyer to attend deliberations and then comment on the findings may have a chilling effect on the board's deliberations—nowhere else in our system are lawyers representing an affected party allowed to sit in on the deliberations of a deliberative panel. This effect is exaggerated for multiple loss cases where the provision requires one counsel for "each" mission person; i.e., if 20 servicemen are lost in a plane crash, 20 lawyers must be assigned to the case. Finally, the requirement to have a lawyer review every new piece of information, creates an administrative and financial burden on the Department by requiring the Office of Missing Persons to maintain a full time cadre of lawyers to conduct such reviews alongside the intelligence analysts who already have this responsibility. There have already been 17,000+ live sighting or dogtag reports from the Vietnam War alone.

(d) THREE YEAR REVIEWS.—Requires that the Secretary appoint a review board every three years, for 10 years, for persons in a missing status who are last known alive or last suspected of being alive.

This requirement will only cause undue pain and financial hardship on families by requiring a status review when no new information on which to base a change in status exists. It works under the assumption that the Department will not pursue a case unless a formal board is established every three years to look into the case. Section 1505 already requires the Secretary concerned to convene a board if new information becomes available that may result in a change of status. Section 1506 requires all new information to be placed in the missing person's record, or notice thereof, and that the information or knowledge of its existence be forwarded to the family. In addition, the Government creates a double standard in that the three year review is only applied to a select number of cases. The Department feels every case/family deserves equal treatment.

(e) WRONGFUL WITHHOLDING.—The provision makes it a criminal act for a person to knowingly and willfully withhold from a missing person's file any information relating to the disappearance or whereabouts and status of the missing person. It provides for a fine under title 18 or imprisonment of not more than 1 year, or both.

The investigative and legal burden that this criminal provision will create for the analysts and other members of the Office of Missing Persons will have a debilitating effect on the pace of POW/MIA work and the quality of personnel the office is able to recruit. The Defense POW/MIA Office is often accused by a select group of families and activists with withholding documents and information from the case files of unaccounted for service members. Justice has reviewed several such allegations in the past and has found them baseless, however attaching criminal liability to such charges will create a working environment where DPMO staff ends up spending scarce time and resources aggressively defending their conduct rather than working to resolve the fate of the missing.

(f) RECOMMENDATION ON STATUS OF DEATH.—Requires that a review board recommending a status of death provide information on the date and place of death, and if remains are recovered, a description of the location where it was recovered and certification of identification by a forensic scientist, if visual identification was not possible.

Under section 1501(e), the provisions of the chapter 76 cease to apply when a person is accounted for, as defined in section 1513(3)(B), recovery and identification of the person's remains by a forensic scientist of identification, if visual identification was not possible.

(g) DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.—The law applies equal coverage to Department of Defense civilian and contractor employees who accompany forces in the field, and members of the Armed Forces. The FY-96 Defense Authorization Act calls on the Secretary of State to conduct a one year study on how best to apply similar coverage to all government civilian and contractor employees who accompany forces in the field.

Until the Secretary of State reports to Congress the results of his study on how best to cover government civilians and contractor employees, the Government risks inadvertently harming the people it is trying to protect by failing to address in chapter 76 the impact this measure may have on:

(1) provisions of title 5 U.S.C. and other civil service guidelines;

(2) the fact that such individuals may not fall under UCMJ authority;

(3) pay and promotion issues; and,

(4) other nuances that need to be examined in the Secretary's study.

While the Department agrees that there is a need for legislation covering Department of Defense civilian and contractor employees, at this point it would be better to wait until the study is complete and then address all U.S. Government and contractor employees who accompany the armed forces in hostile environments under a separate piece of legislation.

Section 518 amends section 5721 of title 10 to make permanent the authority for temporary promotions of certain Navy lieutenants.

The Navy has a shortage of available qualified officers to fill key engineering billets. To counter this shortage, some exceptional lieutenants are assigned to lieutenant commander engineering related assignments. These are extremely difficult and challenging assignments that include Engineer Officer on nuclear powered submarines, Engineer Officer on Nuclear powered cruisers, Engineer Officer on Ticonderoga class cruisers, Engineer Officer on CLF ships, Members of the fleet Commander-in-Chief's Nuclear Propulsion Examining Board or Propulsion Examining Board.

SPOT promotion authority provides a flexible *law cost solution* to precisely target the shortfall of skilled engineering officers. It is limited by the Secretary of the Navy's policy to only key engineering billets for which a shortage of available *qualified officers exists*. SPOT promotions occur within statutory lieutenant commander ceilings with a 1:1 reduction of regular promotions to lieutenant commander. Officers are promoted only while serving in a qualifying billet. The program accounts for over 120 SPOT promotions a year.

An absolute shortage of permanent lieutenant commanders exists within those line communities that fill Lieutenant Commander SPOT billets. The table below summarizes the specific shortages of permanent Lieutenant Commanders by community.

Designator	Inventory	Total billets	Community specific shortfall
1,110	1,317	1,406	89
1,120	635	819	184
6,400	62	67	5
6,130	55	73	18
6,230	25	24	−1
Total	2,094	2,389	295

The shortfall becomes significantly more pronounced if the inventory is limited to those permanent Lieutenant Commanders with the skills required for SPOT promotion billets.

Designator	Inventory	Total billets	Community specific shortfall
1,110	1,095	1,406	311
1,120	436	819	383
6,400	62	67	5
6,130	55	73	18
6,230	25	24	−1
Total	1,673	2,389	716

The qualified lieutenant commander inventory includes those officers who are Engineering Officer of the Watch qualified (for conventional assignments) or have current nuclear engineer qualifications (for nuclear assignments).

The number of community specific billets actually understates the billet fill requirements in the case of unrestricted line officers who must also fill a fair share of 1000/1050 billets.

The continued use of SPOT promotions remain necessary due to the critical shortage of officers qualified to fill engineer officer, engineering departmental principal assistants, engineering material officer and engineering staff billets directly supporting fleet engineering readiness. Originally enacted in 1965, SPOT promotion has proven its value as a strong incentive and retention tool for our top officers. It remains a very effective management tool to ensure our ability to fill extremely demanding billets with the best officers.

Section 519 would modify title 10, United States Code, (§513) to permit extension in the Delayed Entry Program (DEP), for meritorious cases as determined by the Secretary concerned, beyond the 365-day time limit currently established by the statute. Notably, applicants who enter the DEP in June or July are within a few weeks of that ceiling when they graduate from high school; consequently, a delay would force discharge and re-accomplishment of enlistment, with associated challenge and expense. In the past, natural and manmade disasters have forced delays in shipping schedules, and this change simply would permit, on a selective basis, the avoidance of discharge/enlistment paperwork drills.

Section 520. Currently, section 505(d) of title 10, United States Code, authorizes the Secretaries of the military departments to accept reenlistments in regular components for a period of at least two but not more than six years. Accordingly, even senior enlisted members of the armed forces who have made military service a career must periodically reenlist. This proposal would eliminate the administrative efforts and associated costs that occur as a consequence of the requirement to reenlist continually senior enlisted members.

Under the proposal, the Secretaries of the military departments could accept indefinite reenlistments from enlisted members who have at least ten years of service on active duty and who are serving in the pay grade of E-6 or above. The vast majority of enlisted members with these characteristics will make military service a career. Thus, in enlisted member who serves 30 years would avoid the necessity of continually reenlisting over a 20 year period. The paperwork for reenlistment and its processing is not burdensome but it is not insignificant. Savings should result. The proposal would also increase the prestige of the noncommissioned officer corps.

Section 521. As a result of the demise of communism and a reduction in the size of military forces in many nations, including the U.S., it is important that allied and other friendly countries work together to standardize doctrine, procedures and tactics and share responsibility in the development and production of military systems to promote standardization and interoperability at reduced costs. The exchange of military and civilian personnel between defense establishments is one of the efficient and cost effective means that can be used to promote these objectives. Under the proposed exchanges, costs would be borne by the government of the exchange personnel except for activities that are directed by the host party or where orientation or familiarization training is made necessary by the unique qualifications of the assignment. The proposal further stipulates that the benefit to each government must be substantially equal which ensures that each government benefits from the exchanges.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Section 601 would waive the adjustment required by section 1009 of title 37, United States Code and increase the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters by three percent. This is what the President submitted in his budget for Fiscal Year 1997.

Section 602 amends subsection 403(a) of title 37, United States Code, by adding a provision that would eliminate the entitlement to Basic Allowance for Quarters (BAQ) for members of the Ready Reserve who occupy government quarters during short periods of active duty, fifteen days or less, and who are not accompanied by their dependents. This legislative proposal is a National Performance Review initiative. It would eliminate the requirement to provide BAQ to Reserve component members performing annual active duty for training when government berthing/housing is provided. Reserve component members performing active duty when government quarters are not provided or when members are accompanied by their dependents would not be subject to this limitation. The five year cost saving associated with this proposal is estimated at $913 million and is distributed as follows:

[In millions of dollars]

Fiscal year:	
1997	178
1998	180
1999	184
2000	187
2001	184
Total	913

Section 603 would amend section 403(c)(2) of title 37, United States Code. This provision prohibits the payment of the basic allowance for quarters to all members below the pay grade of E-6 without dependents, while assigned to sea duty. Amending this section will remove the prohibition against single E-5 members and authorize them to receive either quarters ashore (adequate or inadequate) or the payment of the basic allowance for quarters.

In the words of Master Chief of the Navy, John Hagan, amending section 403(c)(2) is "well past time for E-5 Sailors to get (this) benefit" calling this shortcoming "the most compelling inequity in our entire compensation system."

This section also would amend 37 U.S.C. $403(c)(2) to remove the monetary penalty for joint military couples, below the pay grade of E-6, serving simultaneous shipboard duty. Currently, those military couples who serve onboard ships at the same time lose all of the entitlement to BAQ/VHA. Law would be amended to state that a couple's combined BAQ/VHA entitlement be equal to BAQ (with-dependents rate) or VHA (with-dependents rate) calculated for the senior member's pay grade only.

Section 604 would strike out paragraph (2) of section 203(c) of title 37. Section 203(c)(1) stipulates the specific rate of cadet and midshipmen pay as determined by the Congress. Paragraph (2) is inconsistent with the adjustment called for in the section. Making an adjustment under the seldom used section 1009 would result in a level of pay different than the exact rate specified by the Congress in section 203(c)(1). The inconsistent provision accordingly is recommended for deletion.

Subtitle B—Extension of Bonus and Special Pays

Section 605 would extend the authority to employ accession and retention incentives, ensuring that adequate manning is provided for hard-to-retain skills, including occupations that are arduous or that feature extremely high training costs (e.g. aviators, health care professionals, and incumbents of billets requiring nuclear qualification). Experience shows that retention in those skills would be unacceptably low without these incentives, which in turn would generate the substantially greater costs associated with recruiting and developing a replacement. The Department and the Congress have long recognized the cost-effectiveness of these incentives in supporting effective manning in these occupations.

Section 606 would extend the authority to employ recruiting and retention incentives to support effective manning in the Reserve Components, ensuring that adequate manning is provided for hard-to-retain skills. These bonuses also stimulate the flow of manning to undersubscribed Reserve units. Experience shows that retention in those skills, or in those units, would be unacceptably low without these incentives. The Department and the Congress have long recognized the cost-effectiveness of these incentives in supporting effective manning in such occupations and units.

Section 607 would extend the authority to employ accession and retention incentives to support manning for nurse billets that have been chronically undersubscribed. Experience shows that retention in the nursing field would be unacceptably low without these incentives, and the Department and Congress have long recognized the cost-effectiveness of these incentives in supporting effective manning levels within the nursing field.

Subtitle C—Travel and Transportation Allowances

Section 610 would amend title 37, United States Code, to authorize round-trip travel allowances for transporting motor vehicles at government expense. The bill amends section 406 (b)(1)(B)(i)(I) and 406 (b)(2)(B)(i)(II) of title 37, United States Code, to authorize round-trip travel allowances when a member transports a motor vehicle to and from the port, in conjunction with a permanent change of station move between OCONUS and CONUS locations. The provision also provides that the amendment made by section I shall take effect on July 1, 1997.

Section 611 would allow the Department of Defense to reimburse non-Federal civilians, who serve as school board members, for approved training and eliminate the disparate treatment of school board members serving pursuant to section 2164(d) of title 10, United States Code. Currently, only school board members are employees of the Armed Services of Federal Government are authorized reimbursement for approved training under both the Federal Training Act, title 5, United States Code, section 4109, and the Joint Federal Travel Regulations, Volume 2, Paragraph C 4502. Since non-Federal civilian board members cannot be reimbursed for training, they are not sent to training.

Section 612 modifies section 2634 of title 10, United States Code, by authorizing the Government-funded storage, in lieu of transportation, of a service member's motor vehicle when that service member is ordered to make a permanent change of station to a location which precludes entry of or requires extensive modification to the motor vehicle. Subsection (b) of the provision would modify section 406 of title 37, United States Code, to authorize the storage of a motor vehicle as provided for in section 1 of this bill. Subsection (c) would provide that the amendments would take effect on July 1, 1997.

Section 613 would repeal section 1589 of title 10, which prohibits the Department of Defense from paying a lodging expense to a civilian employee who does not use adequate available Government lodgings while on temporary duty. Although the purpose of section 1589 is to reduce the Department of Defense travel costs, the law can increase travel costs because it considers only lodging costs, not overall travel costs. Deleting the provision would enable Department of Defense travelers, supervisors and commanders to make more efficient lodgings decisions, with potential cost savings for the trip as a whole.

The title 10 provision (added in 1985 to codify similar provisions in the Department of Defense Appropriations Acts from 1977) prohibits payment of a lodging expense to civilian employees who don't use adequate available Government quarters. The Fiscal Year 1978 Committee Report on Department of Defense Appropriations (H. Rep. No. 95–451) notes that if employees on temporary duty at military installations for school, training and other work assignments were directed to use available Government quarters, "many thousands of dollars could be saved."

When a temporary duty trip involves business on and off-base, the cost-effective business decision, considering factors such as rental car costs, must be made on a case-by-case basis. The current law allows no flexibility for the cost-conscious resource manager. To be reimbursed for lodging, the traveler must stay on-base whether it is efficient or not. Further, in temporary travel when team integrity is essential, the mission may preclude employees staying in available government lodgings. To maintain team integrity under current law when quarters are adequate for only the less senior members of the team, quarters must be determined "not available" for each member of the team, imposing an unnecessary administrative cost.

The Department is committed to improving the efficiency of the temporary duty travel system to enhance mission accomplishment, reduce costs, and improve customer service. The proposal would be a significant step in this direction.

Enactment of the legislative proposal will not cause an increase in the budgetary requirements of the Department.

Subtitle D—Retired Pay, Survivor Benefits, and Related Matters

Section 615 would repeal the delay of the military retired pay Cost of Living Adjustment (COLA) that currently is scheduled for

Fiscal Year 1998 and that prohibits payment of such increase for months before September 1998. This section also would repeal the conditional provision that provides that the Fiscal Year 1997 COLA will not be payable any later than the COLA for retired Federal civilian employees. Accordingly, under this section, the Fiscal Year 1998 military retired pay COLA will be payable for all months in which it is effective.

Section 616 amends section 1065(a) of title 10, United States Code, to give members of the Retired Reserve who would be eligible for retired pay but for the fact that they are under 60 years of age (gray area reservists) the same priority for use of morale, welfare, and recreation (MWR) facilities of the military services as members who retired after active-duty careers.

Currently, section 1065(a), enacted in 1990, gives the retired reservists the same priority as active-duty members. They, therefore, have preference over members who retired after serving on active duty for 20 years or more. This section amends the current section 1065(a) by revising the last sentence to correct this inequity.

Enactment of this section will not result in an increase in the budgetary requirements of the Department of Defense.

Section 617 amends subsection (d) of section 501 of title 37, United States Code, to authorize survivors of members of the uniformed services to receive a payment upon death of a member for all leave accrued. It would take effect on October 1, 1996.

Subtitle E—Other Matters

Section 620(a) amends section 1201 of title 10, United States Code; subsection 620(b) amends section 1202 of title 10; and subsection 620(c) amends section 1203 of title 10. The purpose of this amendment is to extend disability coverage for persons granted excess leave under section 502 of title 37, United States Code. Subsection (d) provides that this amendment will take effect on the date of its enactment.

The purpose of section 620 is to provide members of the United States Marine Corps who are participating in an educational program leading to designation as a judge advocate while in an excess leave status under section 502(b) of title 37 the disability benefits under sections 1201, 1202, and 1203 of title 10 that accrue to servicemembers who are entitled to basic pay. Servicemembers on active duty for 30 days or more are entitled to disability benefits under those sections of law only if disabled while entitled to basic pay. Except as provided in section 502(b) of title 37, an individual who is granted excess leave by the Secretary of the military department concerned under section 502(b) of that title is not entitled to basic pay as long as the member is in that status. If such an individual were to incur any disability while on excess leave, he or she would not be entitled to any of the benefits provided under the provisions of sections 2101, 1202, and 1203 of title 10.

Currently, the only members of the Department of Defense that would be affected by the proposed legislation are those enrolled in the Marine Corps Excess Leave (Law) Program. The U.S. Marine Corps has used this program as an accession source for judge advocates since 1967. Selected regular officers having between two and eight years of commissioned service are authorized by the Secretary of the Navy to be placed on excess leave under section 502(b) of title 37 for the purpose of obtaining a law degree from an accredited law school and designation as a Marine Corps judge advocate. While on excess leave, the officer receives no pay and allowances and must bear all costs associated with subsistence, housing, and tuition. However, the member may use the G.I. Bill and Veterans Educational Assistance Program (VEAP) to defray tuition costs. The U.S. Marine Corps now has twenty-three officers participating in the program and expects to assign an average of six to eight officers during each of the next five years. Officers incur a three-year active duty obligation upon designation as a Marine Corps judge advocate. Retention of these officers on active duty beyond that time is over ninety percent. Officers who fail to complete a law degree and are disenrolled from the program must serve a year on active duty for each year or portion of a year spend in excess leave. However, no one who was selected to participate in this program during the past nine years has been disenrolled.

Officers participating in the Excess Leave Program are still on active duty and maintain their precedence on the active-duty list. They must maintain the high standards expected of commissioned officers. Although no officer has ever been permanently or temporarily disabled while participating in the program, the possibility always exists that such an event may occur. Any officer who might become disabled while participating in this program should be protected in the same manner as members entitled to basic pay are protected as mentioned above.

Although the Excess Leave Program is the only program that now exists in the Department of Defense under the authority of section 502(b) of title 37, this provision of law permits the Secretaries of the military departments to grant excess leave to individuals who might participate in other educational programs. Accordingly, the proposed legislation would provide members of the armed forces enrolled in such programs the same disability benefits that it would provide members enrolled in the Excess Leave Program.

The category of individuals for whom the legislation is intended is clearly distinguishable from those individuals who are not entitled to disability benefits under sections 1201, 1202, and 1203 of title 10 because they are not entitled to basic pay for such reasons as court-martial sentence or placement on excess leave to await administrative discharge in lieu of trial by court-martial. Since an individual who would be protected by the legislation probably will serve a full career on active duty in the armed forces, enactment of the legislation would be in the best interests of both the individual and the Government.

Since the proposed legislation is intended to provide protection to individuals who might become disabled in the future, cost and budget data cannot be determined.

Section 621 would simplify, standardize, and facilitate the processing of orders under the Uniformed Services Former Spouses' Protection Act (10 U.S.C. §1408) and to ensure equitable treatment to all members and former spouses who are subject to the provisions of this law.

The section amends subsection 1408(b)(1)(A) of title 10, United States Code, to allow for service of court orders by facsimile or electronic transmission, ordinary mail, or by personal service. The current law requires personal service by certified or registered mail, return receipt requested. Deleting this requirement and providing for facsimile or electronic transmission will expedite processing of applications by reducing the number of applications that must be returned to the sender for the sole reason that it was not personally served or mailed by certified or registered mail, return receipt requested.

Subsection 1408(e) of title 10 is amended to clarify the jurisdictional requirements relative to court orders issued by states other than the state issuing the original court order and modifying or clarifying the original court orders on which payments under the Act were based. The amendment provides that the court must have jurisdiction over both the member and the former spouse under the same guidelines applicable to members under subsection (c)(4) of section 1408.

Subsection 1408(h)(10)(A) of title 10 is amended to provide an alternative method of determining retirement eligibility in cases where dependents are victims of abuse by members who lose their right to retired pay. The purpose of the amendment is to allow a former spouse, who may not qualify under the current provisions due to the member not yet being retirement eligible on the date the convening authority approves the sentence, to have the option of having the member's retirement eligibility determined at the later point of the member's discharge.

Section 622 would change section 1151, chapter 10 of title 10, United States Code. The changes would revise the legislation to make it more compatible with lessons learned from program implementation and operation. It would eliminate the restriction on providing a stipend to "early retirees". Full retirees are authorized to receive the stipend, but because the decision to offer early retirement came after Troops to Teachers legislation, they were inadvertently omitted as being eligible. It also aligns the obligation to teach for two years vice five years with the revised formula for reimbursement which goes from five years to two years. Finally, this proposal reduces the incentive grant from five years with a maximum of $50K to two years and a maximum of $25K.

Section 623. Section 37 USC 411b(a)(1) provides for travel and transportation expenses for members and their dependents who have been ordered to consecutive overseas tours for the purpose of taking consecutive overseas tour (COT) leave. These expenses are reimbursed for an amount not to exceed what it would cost the government to send the member to his/her home of record. This is an important quality of life benefit. It allows members the opportunity to visit relatives and loved ones near their home of record in the continental us before commencing an additional three year tour. This program has a very positive impact on members. It enhances retention, improves morale, and reduces the stress of long separations for members who are serving on the front lines in defense of their country. Few members could afford to make such a trip on their own. This program also saves money because it reduces the number of overseas moves that the Government has to fund.

Section 37 USC 411b(a)(2) allows a member to defer this travel for up to one year. The one year limitation is beneficial under normal circumstances because it ensures that commanders cannot indefinitely postpone COT leave. However, this limitation becomes a problem for members participating in critical operational missions such as contingencies and humanitarian missions because commanders have the authority to deny leave for operational necessity. Currently, Service members participating in Operation Joint Endeavor will lose their COT leave due to the one year limitation on eligibility. This provision will cure this problem.

Also, with the increased number of contingencies and humanitarian missions that the Department has been conducting since the end of the "Cold War" and is expected to conduct in the future, this legislation will have a much broader and beneficial impact. Deferring the one year limitation while members participate in major operational missions will enhance morale, reduce overseas moving costs, and provide commanders with the flexibility they need to conduct major operational missions.

Enactment of the legislative proposal will not cause an increase in the budgetary requirements of the Department.

Section 624 would authorize the Secretary of Defense, in certain situations, to pay civilian personnel of the Department of Defense stationed outside the United States allowances and benefits comparable to those paid to members of the Foreign Service or other government agencies which routinely place personnel in foreign location assignments.

This section remedies an on-going problem experienced by DoD civilian personnel and their families when on overseas assignment. The issues addressed include: travel for medical care when no suitable facility exists to provide medical care at the duty location, travel of an attendant for the employee or family member who is too ill or too young to travel alone, rest and recuperation travel for employees and their families stationed at locations designated by the Secretary of State for such travel, round trip travel in emergency situations involving personal hardship. These benefits are detailed at title 22 U.S.C. §4081.

This provision also authorizes the Secretary to designate DoD employees stationed overseas as eligible for participation in the State Department health care program described at title 22 U.S.C. §4084.

The enactment of this Bill will affect the current administrative guidance contained in the State Department Foreign Affairs Manual (3 FAM 680 and 681.1). No judicial, executive or Administrative provisions would be overturned or affected by this change. Minor modifications may have to be made to the State Department Foreign Affairs Manual as stated above.

TITLE VII—HEALTH CARE PROVISIONS

Section 701 would revise the amendment made by section 731 of the National Defense Authorization Act for Fiscal Year 1996 to section 1079(h) of title 10, United States Code. The proposed revision is needed to permit health care providers who are not participating in the TRICARE network to be paid higher amounts than now permitted by section 1079(h) in the limited circumstances in which they might provide care to TRICARE Prime enrollees. This revision would have the important effect of protecting TRICARE Prime enrollees from "balance billing" by such providers. As is standard for Health Maintenance Organizations (HMOs), enrollees receive most care from network providers, but in limited circumstances receive covered services from nonparticipating providers (for example, emergency care). The proposed revision provides authority that would also apply in another limited circumstance: when enrollees are referred to a non-network provider in cases in which no network provider is available (for example, for specialties in limited supply in certain areas).

Section 702 would establish new alternatives in cases of members of the Health Professions Scholarship and Financial Assistance Program who do not or cannot complete their active duty service obligations. Under current law (10 U.S.C. 2123(e)), the only available alternative is "assignment to a health professional shortage area designated by the Secretary of Health and Human Services." This alternative has never been used because neither DoD nor the Department of Health and Human Services has an effective mechanism to administer such an alternative obligation. Under the proposed section, there would be four options for alternative obligations for the member: (1) a reserve component assignment of a duration twice as long as the remaining active duty obligation; (2) service as a health professional civil service employee in a facility of the uniformed services; (3) transfer of the active duty service obligation to an equal obligation under the National Health Services Corps (similar to the probable intent of the current authority); or (4) repayment of a percentage of the total cost incurred by DoD under the program equal to the percentage of the member's total active duty service obligation being relieved, plus interest. Subsection (b) of the proposed provision would amend current law (10 U.S.C. 2114) to establish extended service in the Selected Reserve or as a civil service employee as alternatives to active duty service for graduates of the Uniformed Services University of the Health Sciences who do not or cannot complete their active duty service obligations.

Subsection (c) of the proposed section 703 would provide that the provision take effect with respect to individuals who first become members of the program or students of the University on or after October 1, 1996. Subsection (d) would provide for a transition under which, member already receiving (as of October 1, 1996) a scholarship or financial assistance or individuals who already are students of the University, or for those already serving an active duty obligation under the program or as a graduate of the University, the applicable alternative obligations would be available, but only with the agreement of the member.

Section 703 would facilitate a continuation of the long-standing practice of assignment of a number of Public Health Service (PHS) officers to duty in the Department of Defense (DoD). Such officers have served with distinction in DoD, including with the Office of the Assistant Secretary of Defense (Health Affairs) and the Joint Staff. However, tightening PHS officer end-strength limitations now jeopardize these arrangements. The provision would permit the exclusion from PHS end-strength limitation of the PHS officers assigned to DoD. This provision is modeled after 42 U.S.C. section 207(e), which excepts up to three flag officers assigned to DoD from the PHS flag officer limitation.

Section 704 would repeal section 1093 of title 10, United States Code, which prohibits using funds available to the Department of Defense to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. This section also would repeal the provision enacted by section 738 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106, February 10, 1996) that generally prohibits prepaid abortions in overseas facilities.

Section 705 would replace section 1074a of title 10, United States Code, in order clarify the medical and dental care members of the Reserve are entitled to while in a duty status or traveling directly to and from their duty location. The amendment defines the entitlement to medical and dental care for Reserve component members in a specific military duty status and the authority to continue such care until the member is returned to full military duty, or if unable to return to military duty, the member is processed for disability separation in accordance with chapter 61 of title 10 U.S.C. It further clarifies that Reserve component members on active duty, active duty for training, annual training, full-time National Guard Duty or traveling directly to or from such duty may request continuation on Active duty while hospitalized and that all members receiving care are eligible to apply to receive pay and allowances in accordance with subsection 204 (g) and (h) of title 37 U.S.C.

Section 706 would amend sections 1074a, 1204 and 1481 of title 10, United States Code, and sections 204 and 206 of title 37, United States Code by providing reservists performing inactive duty training the same death and disability benefits as active duty members. Although previous authorization bills have corrected some of the inequities, there are still instances when a reservist is not covered for certain disability or death benefits if the occurrence happens after sign-out between successive training periods. This proposal would extend death and disability benefits to all reservists from the time they depart to perform authorized inactive duty training until the reservist returns from that duty. Reservists who return home between successive inactive duty training days would be covered portal to portal only.

TITLE VIII—ACQUISITION AND RELATED MATTERS

Section 801. Repeal of chapter 142 of title 10, United States Code, would end the requirement that the Department of Defense, through the Defense Logistics Agency, administer the Procurement Technical Assistance Cooperative Agreement Program. Currently, Procurement Technical Assistance centers are providing services to many of the same clients served by the Small Business Administration's Small Business Development Centers. This has occurred because Small Business Development Centers were offering procurement assistance to clients before the Defense Logistics Agency began the Procurement Technical Assistance Cooperative Agreement Program in 1985 and there is no restriction on awarding Procurement Technical Assistance Cooperative Agreement Program funding to Small Business Development Centers. Since 1985, the Procurement Technical Assistance Cooperative Agreement Program has evolved from a Department of Defense-only program to one that encourages Procurement Technical Assistance centers to assist businesses desiring knowledge on the methods for selling to any federal, state or local government agency, which is clearly a Small Business Development Center function. As a result, the Defense Logistics Agency has incurred staffing costs to award and administer cooperative agreements for a service that is already, or could easily be, provided and managed by the existing Small Business Development Center organization of more than 900 offices operating in all 50 states.

A key goal of the Federal Acquisition Streamlining Act of 1994 and other acquisition reform initiatives is to resolve the differences between Department of Defense acquisition procedures and other federal agency procedures and commercial procedures. At this time, the descriptions of Procurement Technical Assistance Cooperative Agreement Program functions are essentially the same as procurement-related

Small Business Development Center functions. If the Small Business Administration is funded by Congress, the programs may be merged and acquisition streamlining may be achieved without a loss of services to businesses in need of assistance or advice on marketing of their services. Additionally, cost savings would be realized due to the decreased administrative and oversight costs.

The Department of Defense Inspector General is scheduled to issue a report which will recommend that program responsibility for the Procurement Technical Assistance Cooperative Agreement Program be moved from the Department of Defense to the Small Business Administration. This report will also recommend that Congress not fund the Defense Logistics Agency for administration of the Procurement Technical Assistance Cooperative Agreement program, but instead, add sufficient funding to the Small Business Administration's budget to ensure that continuation of procurement assistance at Small Business Development Centers in all 50 states and the District of Columbia, especially in counties with high rates of unemployment.

We have conferred with the Director of Small and Disadvantaged Business Utilization, who strongly supports this initiative. He has discussed the issues with and received favorable reaction from appropriate officials within the Small Business Administration.

Section 802 clarifies the authority for requestioning and lease of General Services Administration motor vehicles for use in the training and administration of the National Guard. The United States property and Fiscal Officer for each state or other jurisdiction would be identified as the requisitioning authority for leasing vehicles to be furnished to the state National Guard. Such use of GSA vehicles has been made for many years. This provision would provide a clear statutory basis for this practice.

Section 803 would conform the period established for mentors to provide developmental assistance under the program to the revised period established for new admissions into the program.

Section 824 of the FY 1996 Defense Authorization Act provided a one year extension to the period for eligible businesses under the Mentor-Protégé Program to enter into new agreements. This was the second extension to the entry period, a prior one year extension having been provided in the FY 1994 Defense Authorization Act. The current ending date for entry into the program is 30 September 1996.

While the period for entry into the program has been extended, no similar revision has been made to the date established for ending the period during which mentors may incur costs furnishing developmental assistance under the program, currently also 30 September 1996. For the objectives of entry period extensions to be met, a conforming two year revision to the period authorized for mentors to incur costs is also required. This revision is needed to allow for the establishment and execution of meaningful agreements between the potential mentors and proteges. Likewise, without this revision, the extension of the period for entry into the program is of little value to potential mentor-protégé agreements, if the period of time the mentor can incur costs is also not extended.

The Department has budgeted and allocated $30 million to spend on costs incurred through September 30, 1996, but the full amount of these costs will not be incurred until September 30, 1998. The costs incurred by this initiative will not exceed the amount already allocated.

Section 804 would extend the authority to enter into prototype projects under section 845 until September 30, 1999. It would expand use of the authority to the Military Departments and other defense components designated by the Secretary of Defense. It would authorize the Secretary of Defense to determine procedures for determining whether to conduct a follow-on production program to a prototype project and prescribe the acquisition procedures applicable to such follow-on acquisition. It would clarify that use of this authority is for the conduct of acquisition experiments and vest maximum flexibility in the component exercising the authority. These changes do not authorize any new programs but impact the procedures under which approved prototype projects and follow-on acquisition programs may be executed. While the flexibility provided by these programs may result in budget savings they cannot be determined at this time.

Section 805 would repeal the Congressional reporting requirements applicable to agreements entered into under the authority of section 2371, title 10, United States Code. Section 2371 is reorganized by removing authority concerning cooperative research and development agreements entered into by federally funded research and development centers and reenacting such authority in a separate section. Business and technical information submitted to the Department on a confidential basis in order to obtain or perform a cooperative agreement or other transaction will be exempted from public disclosure for five years. Deletion of the reporting requirement will result in a small but undetermined budgetary savings.

Section 806 would correct a technical flaw in the law that prevents payment of valid contractor invoices properly chargeable to line-item appropriations canceled by the Account Closing Law when the Corresponding line-item is discontinued in subsequent current appropriations acts. For example, the Department currently lacks the legal authority to pay such invoices incurred for the FFG ship program because of the line-item nature of the Shipbuilding and Conversion, Navy (SCN) account and the absence of a current FFG line item. Existing law at 31 U.S.C. 1553 (b)(1) states;

". . . after the closing of an account under section 1552(a) of 1555 of this title, obligations and adjustments to obligations that would have been properly chargeable to that account, both as to purpose and in amount, before closing and that are not otherwise chargeable to any current appropriation account of the agency may be charged to *any current appropriation account of the agency available for the same purpose.*" (Emphasis added)

For line-item appropriation accounts like SCN, this means that payments from a canceled account may only be charged to the corresponding ship line-item account currently available for new obligations. If a current shipbuilding program no longer exists, there is no longer a source of funds "available for the same purpose."

Section 807 restates the policy of 10 U.S.C. 2462 to rely on the private sector for supplies and services necessary to accomplish the functions of the Department of Defense. The provision authorizes the Secretary of Defense, notwithstanding any provision of title 10, United States Code, or any statute authorizing appropriations for or making appropriations for, the Department of Defense, to acquire by contract from the private sector or any non-federal government entities, commercial or industrial type supplies and services to accomplish the authorized functions of the Department. The Secretary shall use the procurement procedures of chapter 137 of title 10, United States Code, in carrying out this authority, but in the procurement of such supplies and services the Secretary may limit the place of performance to the location where such supplies or services are being provided by federal government personnel. This proposal would overcome existing statutory encumbrances on privatization. It also would facilitate privatization in place, thereby reducing the impact on affected federal government employees.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—General Matters

Section 901 is a technical amendment to reflect the proper title of the United States Element, North American Aerospace Defense Command. It is consistent with the 1991 amendment to section 166a(f) of title 10, United States Code. Subsection (a) of the amended provision states the name of the command as the North American Air Defense Command in each of its three paragraphs. It is noted once in each paragraph. If enacted, the proposal will not increase the budgetary requirements of the Department of Defense.

Section 902 would amend section 172(a) of title 10, United States Code, to permit qualified civilian employees of the Federal government to serve as board members on the ammunition storage board which is currently named the Department of Defense Explosives Safety Board. Section 172(a) currently limits the board membership to "officers" who, in accordance with the definition set forth in section 101(b)(1), must be commissioned or warrant officers and not civilian employees. This limitation restricts the Secretaries of the military departments from selecting the most qualified person available to represent their departments. In the area of explosive safety, expertise and corporate continuity invariably reside in Department of Defense civilian personnel. To ensure the Secretaries of the military departments have the flexibility to be represented by the most qualified professional available, the option to select civilian board members is imperative.

Section 903 would remove the Secretary of the Army from membership on the Foreign Trade Zone Board. The Department of the Army has been involved in the Foreign Trade Zone Board since passage of the Foreign Trade Zone Act in 1934. At that time, most import-export trade was through waterborne commerce, and, because of the Corps of Engineers navigation role in harbor development, the Secretary of the Army was made a member of the Board.

Although there may have been good rationale for Army involvement in 1934, the nature of the zone activities has since changed. More frequently, foreign trade zones (FTZ) are being established away from deep water ports in favor of land border crossings and airports. In addition, current FTZ issues usually involve trade policy, customs collection, competition among domestic industries, and the impact of proposed zones on existing businesses, rather than matters of interest to the Corps of Engineers, such as engineering, construction, and environmental impacts.

While this proposal would minimize involvement of the Department of the Army and the Corps in routine FTZ activities, the

Corps would still be available to lend its expertise in engineering, construction, and environmental related issues on a case-by-case basis.

Subtitle B—Financial Management

Section 910 would modify the authorization and appropriation of the Environmental Restoration, Defense Account. As proposed, the legislation would change the existing authorization of one central transfer account by providing additional transfer accounts for each of the Military Departments. The legislation would also provide for the direct appropriation of Environmental Restoration funds into these newly established transfer accounts.

The proposed legislation is required to implement the Department's decision to devolve the Environmental Restoration Program to the Military Departments. Devolving the account to the Military Departments will involve them more directly in validating the cleanup efforts and balancing the cleanup program with other military requirements in the budget preparation.

Section 911 would amend chapter 31 of title 10, United States Code, to authorize the expenditure of appropriated funds to provide small meals and snacks at recruiting functions for members of the Delayed Entry Program, others who are the subject of recruiting efforts for the reserve components, influential persons in communities who assist the military departments in their recruiting efforts, military and civilian personnel whose attendance at such functions is mandatory, and other persons whose presence at such functions will contribute to recruiting efforts. The primary persons who will attend recruiting functions where small meals and snacks will be provided are persons in the Delayed Entry Program and reserve component recruiting programs. The authority will be used sparingly and the cost is neglegible. These recruiting functions result in more motivated recruits, decreased attrition in the programs while recruits finish school, and referral sources for future recruits.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

Section 1002. Section 2608 of title 10, United States Code, (the Defense Cooperation Account) currently authorizes the acceptance of contribution of money and real or personal property for any defense purpose. The amendment would allow the United States to accept housing or other services on the same basis that real or personal property now can be accepted.

Section 1003 would amend section 101(b) of the Sikes Act (16 U.S.C. 670a) to authorize the transfer of fees collected on a military installation for hunting and fishing permits. Under the Act, the Secretary of Defense is authorized to carry out a program involving wildlife, fish, game conservation and rehabilitation for each military reservation in accordance with a cooperative plan mutually agreed upon by the Secretary of Defense, the Secretary of Interior, and the appropriate state agency. The plan may authorize commanding officers of reservations to act as agents of the state concerning and collect fees for state hunting and fishing permits. The fees would be retained locally and used only for conservation and rehabilitation programs agreed to under the plan. Subsection (b)(4)(B) of the Sikes Act provides that the fees collected may not be expended except for the installation on which the fees were collected. Many military installations are now being closed and the Act does not address the disposition of fees that have been collected for these installations. This section would authorize the transfer of those fees to another open installation for the conservation and rehabilitation purposes expressed in the Act. The section would impact on Treasury receipts. The funds are modest but valuable on individual military installations.

Section 1004 would amend section 3342 of title 31, United States Code, to allow DoD disbursing officials to cash checks for U.S. Federal credit unions operating at DoD invitation in foreign countries where contractor-operated military banking facilities are not available.

Italy and Spain historically have not permitted U.S. military banking facilities to operate within their borders. Although certain U.S.-chartered Federal credit unions have been allowed to operate branches in those countries at the invitation of the DoD, often they have obtained operating cash through DoD disbursing officials. That practice must be discontinued because it has been determined to be beyond the scope of the disbursing official's authority under title 31 of the United States Code.

U.S.-chartered Federal Credit union branches in Italy and Spain currently provide the most comprehensive and accessible U.S.-style retail financial services for military installations in those countries. Without these credit unions, military and civilian personnel assigned in Italy and Spain might be denied U.S.-style retain financial services. Accordingly, this is a significant and urgent quality-of-life issue. Although title 31 currently authorizes disbursing officials to cash checks and provide exchange services for Government personnel, those services do not approach the range of services the credit unions can provide. Furthermore, Service resources already are stretched to such an extent that generally it is not feasible to devote disbursing officials to the enormous task of cashing checks for individuals. It is more efficient simply to sell cash to the credit unions and allow them to provide retail financial services.

This amendment is of equal import to each of the services in order to maintain accessible banking services on all installations overseas.

Section 1005. Subsection (a) of this section amends section 204(b)(4) of the Defense Authorization Amendments and Base Closure and Realignment Act (title II of Public Law 100–526, as amended; 10 U.S.C. 2687 note) by replacing the reserve account established in the United States Treasury with the Commissary Surcharge Fund or a Department of Defense nonappropriated fund account designated by the Secretary of Defense, as applicable. It also eliminates the requirement for an advance appropriation before funds placed in this account are expended.

Subsection (b) of this section makes conforming amendments to section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510, as amended; 10 U.S.C. 2687 note).

Subsection (c) of this section makes conforming amendments to section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510, as amended; 10 U.S.C. 2678 note).

Subsection (d) of this section defines the term "proceeds" to be consistent with the amount currently available for expenditure for the Base Closure and Realignment account without further appropriations action.

Subtitle B—Civilian Personnel

Section 1010 would amend section 1595(c) of Title 10, United States Code, to add a new paragraph (4) to include the English Language Center of the Defense Language Institute. This would have the effect of correcting an earlier omission (the English Language Center should have been added with the Foreign Language Center) and allowing the Secretary of Defense to employ civilians and prescribe faculty compensation. The English Language Center currently is severely restricted in classifying job positions and providing appropriate faculty compensation. This is having an adverse impact upon our ability to recruit, develop and retain English-as-a-second-language instructors in fulfillment of the DoD security assistance mission, to include the key English language training component of the Partnership for Peace program. By revising the authority of section 1595, the English Language Center will be allowed, as the Foreign Language Center, National Defense University, and George Marshall Center currently are allowed, to establish a personnel system that truly meets their need to establish job series that correspond with their mission and to compensate faculty accordingly.

There are no cost implications with this amendment.

Section 1011 would amend section 1595, title 10, United States Code, to authorize the Asia-Pacific Center for Security Studies to employ and compensate its civilian faculty, including the Director and Deputy Director.

The proposal would authorize the Secretary of the Defense to appoint, administer and compensate the civilian faculty of the Asia-Pacific Center for Security Studies. The National Defense University (10 U.S.C. 1595), United States Naval Academy (10 U.S.C. 6952), the United States Military Academy (10 U.S.C. 4331), the United States Air Force Academy (10 U.S.C. 9331), the Naval Postgraduate School (10 U.S.C. 7044), the Naval War College (10 U.S.C. 7478), the Army War College (10 U.S.C. 4021), the Air University (10 U.S.C. 9021) and the George C. Marshall European Center for Security Studies (10 U.S.C. 1595) have such authority for their civilian faculty.

The Asia-Pacific Center for Security Studies is a new institution chartered by the Secretary of Defense to be under the authority, direction and control of the Commander in Chief, U.S. Pacific Command. The center's mission is to facilitate broader understanding of the U.S. military, diplomatic, and economic roles in the Pacific and its military and economic relations with its allies and adversaries in the region. The center will offer advanced study and training in civil-military relations, democratic institution and nation building, and related courses to members of the U.S. military and military members of other Pacific nations. The mission of this critically important and innovative center will require first-rate faculty and scholars with international reputations.

Under current legislation and authority available to the Commander in Chief, U.S. Pacific Command, civilian faculty for the Asia-Pacific Center for Security Studies must be appointed, administered and compensated under title 5, United States Code. This means the faculty must be classified under the General Schedule (GS) and recruitment and compensation must be limited to GS grade, occupational series, and pay rates. However, the GS grading system does not meet the needs of the traditional academic ranking system wherein faculty members earn and hold rank based on educational accomplishment, experience, stature and other related academic and professional endeavors. The GS grading system also does not allow the center to hire non-U.S. citizen academics from international institutions. Legislation is required for the Commander in Chief, U.S. Pacific Command to utilize title 10 excepted service authority to appoint, administer and compensate the center's civilian faculty.

Section 1595, title 10, United States Code provides for employment and compensation of civilian faculty at certain Department of Defense schools. There is no provision for civilian faculty of the Asia-Pacific Center for Security Studies.

The proposed legislation provides excepted service authority for appointing, administering and compensating the civilian faculty of the Asia-Pacific Center for Security Studies.

Enactment of this legislation will not increase the budgetary requirements of the Department of Defense.

Section 1012. Currently, article 143(c) of the Uniform Code of Military Justice (10 U.S.C. 943(c)) authorizes the United States Court of Appeals of the Armed Forces to make excepted service appointments to attorney positions in the same manner as appointments are made to other executive branch positions of a confidential or policy-determining character. This proposal would extend the authority to cover appointments to non-attorney positions established in a judge's chambers which presently are made under the Schedule C, excepted service authority of 5 C.F.R. 213.3301 for positions of a confidential or policy-determining character. This would consolidate the court's appointing authorities and eliminate the administrative efforts currently required to obtain U.S. Office of Personnel Management approval for any new or changed position in a judge's chambers. As a note, Schedule C authority is automatically revoked upon vacancy, thereby requiring approval of both the position establishment and appointment.

Under this proposal, the United States Court of Appeals for the Armed Forces could make appointments to attorney positions established in the court and to non-attorney positions established in a judge's chambers. The non-attorney positions established in a judge's chambers would include such positions as personal and confidential assistant, secretary, paralegal, and law student intern which provide direct, confidential support to a judge These positions are relatively small in number (i.e., typically would not include other non-attorney positions outside a judge's chambers for which employment in the competitive service remains appropriate. The proposal is cost neutral since the administrative paperwork in terms of the number of positions envisioned is not significant; however, a more timely and streamlined process will result.

Section 1013. Section 1032 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 429) requires the Secretary of Defense to convert 10,000 military positions within the Department of Defense to civilian positions. A military position is one noted as being authorized to be filled by a member of the Armed Forces on active duty.

The Secretary of Defense is cognizant of his management requirements and of the costs of military personnel *vis a vis* civilian personnel. Because of the unique activities and operations of the Department of Defense, many positions require the skills, experience, and knowledge of members of the Armed Forces. The Department has an optimum balance of military and civilian manpower in its current structure, and any nonprogrammatic numerical adjustment will only serve to upset that balance.

Subtitle Miscellaneous Reporting Requirements

Section 1020 would amend Section 10541(b)(5)(A) of Title 10, United States Code, to delete the requirement to break out the full war-time requirement of each item of equipment over successive 30-day periods following mobilization. The requirement to show the full war-time requirement and inventories of each item of equipment will remain in law. Under current war planning methodology to respond to multiple major regional contingencies, a fixed approach employing 30-day increments is no longer applicable. In the post-Cold War environment, the requirement for flexible design and employment of responses renders rigid 30-day increment planning out of date.

Section 1021. The purpose of the proposed legislation is to amend the statutory requirement for an Annual Report on Strategic Defense Initiative (SDI) programs to reflect the current Ballistic Missile Defense (BMD) mission.

The Annual Report to Congress provides congressional committees with an assessment of the progress of the Ballistic Missile Defense Organization (BMDO) in fielding a ballistic missile defense and a road map that BMDO intends to follow for the future. The statutory provision, which prescribes an Annual Report, requires the BMDO to report on actions that are no longer pertinent to the direction of the BMD program and the current world situation. This proposed legislation would amend those requirements to reflect the current mission of BMDO.

Sections 224(b)(3) and 224(b)(4) require that the Annual Report to Congress detail objectives for the planned deployment phases and the relationships of the programs and projects to the deployment phases. The deployment phases were germane when the SDI was developing a system to be fielded in phases, with each phase (after phase 1), designed to offset expected Soviet countermeasure and add to U.S. ballistic missile defensive capabilities. The current focus of the BMDO program is to field improve theater missile defense systems and maintain a technology readiness program for contingency fielding of a national missile defense. The concept of phased additions to offset Soviet countermeasures and provide large incremental improvements to U.S. ballistic missile defense capabilities no longer exists.

Section 224(b)(7) requires an assessment of the possible Soviet countermeasures to the SDI programs. With the demise of the Soviet Union and the shift in focus of the BMD program to fielding theater missile defense systems, this requirement is no longer applicable.

Section 224(b)(9) and 224(b)(10) require details on the applicability of SDI technologies to other military missions. The missions addressed have largely become the primary focus of BMDO and reporting how SDI technologies could be applied to other military missions is no longer relevant. These two subparagraphs should be repealed, as they are redundant with reporting the status of today's BMD.

Enactment of the proposed legislation will not result in any increase in budgetary requirements. Our analysis of the costs incurred and the benefits derived is that this legislation is budget neutral.

Section 1022 would repeal the requirement at 10 U.S.C. 2706(c) for the Department to submit an annual report to Congress on its reimbursement of environmental response action costs for the top 100 defense contractors, as well as on the amount and status of any pending requests for such reimbursement by those same firms.

The Department recommends repeal of this statutory reporting requirement because the data collected are not necessary, or even helpful, for properly determining the allowableness of environmental response action costs on Government contracts. Moreover, the Department does not routinely collect data on any other categories of contractor overhead costs. As a minimum, if repeal is not feasible, the law should be amended to limit data collection to the top 20 defense contractors, which would still capture most environmental response action cost reimbursements by DoD.

This reporting requirement is very burdensome on both DoD and contractors, diverting limited resources for data collection efforts that do not benefit the procurement process. Not only are there 100 different firms involved, but for most of these contractors, data must be collected for multiple locations in order to get an accurate company-wide total. Contractor personnel at these numerous locations must collect the required data (which is not normally categorized in this fashion in contractor accounting systems); the cognizant DoD administrative contracting officers must request, review, assemble, and forward these data through their respective chains of command; the Defense Contract Audit Agency must validate the data submitted; and the Secretary of Defense's staff must consolidate this large amount of data into the summary report provided to Congress. We estimate that more than 20,000 hours of contractor and DoD effort were required to prepare the Department's February 6, 1995 report.

In addition, the summary data provided to Congress in the February 6, 1995 report did not show large amounts of contractor environmental response action costs being reimbursed on DoD contracts. For overhead rate proposals settled in FY93, the DoD share of such costs was approximately $6 million for that year's top 100 defense contractors; while for FY94 settlements, the comparable figure was approximately $23.6 million—with $17.9 million of that being attributable to the settlement of a single long-standing, multi year dispute at one contractor location.

Section 1023 would repeal the requirement at 10 U.S.C. 2391 note (Section 4101 of Public Law 101–510) that the heads of appropriate Federal agencies promptly notify the appropriate official or other person or party that may be substantially and seriously affected as a result of defense downsizing.

This provision requires that notices be sent to a long list of officials, persons or other parties if: (1) the annual budget of the President submitted to Congress, or long-term guidance documents, or (2) public announcements of base or facility closures or realignments, or (3) cancellation or curtailment of a major contract will have a serious and substantial affect. Determining every community, business and union that may be significantly adversely affected by any of these actions is almost impossible to accomplish. The information does not exist to determine every city, county, state, company and union that may be significantly adversely affected by any action taken under one of the three categories listed in the law. In addition, recipients may be unnecessarily confused by potentially incorrect notices because the budget of the Department that is passed by the Congress is very different from the budget that the President submits. Also, the Department can not predict the actions that every company or community may take in response to Congressional funding decisions. One budget action may have offsetting affects of another budget action and only the community or the company will be able to determine a best course of action. The decision not to fund military construction in one community versus another may have an adverse employment affect. Attempting to make these determinations means that some notices may be sent incorrectly for events that never happen and some places and groups will be left out—both events causing considerable unnecessary stress and disruption to the cities, towns, companies, families and individuals that receive them. The intent to provide places and people with advance notice and information about Defense-prompted employment declines can not be accomplished fairly and equitably by this requirement and therefore, should be repealed.

This section would also repeal the notification requirement (section 4201 of Public Law 101-510) that the Secretary of Defense provide the Secretary of Labor information on any proposed installation closure or substantial reduction, any proposed cancellation of or reduction in any contract for the production of goods or services for the Department of Defense if the proposed cancellation, closure, or reduction will have a substantial impact on employment. The current requirement is that large prime or subcontractors notify the Department of Defense whenever a downsizing action of the Department will have a substantial and serious adverse employment impact. This is a burden to the Department and its contractors.

Since the requirement to implement this provision has been in place in the Federal Acquisition Regulations in 1992, there have been only four notifications made by contractors. The requirements of the law are confusing, overlapping, and narrowly defined. Many worker reductions are not in response to Department of Defense actions but rather are as a result of the overall downsizing of the defense industry. Many contractors have multiple contracts with the Department of Defense. Although some contracts may be canceled, others may be increasing thereby offsetting the adverse affects of a particular cancellation. Only the company can make the decisions about necessary work force requirements. Such decisions often are not tied to a specific action such as a particular cancellation. The statutory requirement is not resulting in the advance notice requirements being made regarding layoffs.

Subtitle D—Matters Relating to Other Nations

Section 1025 would change section 401 of title 10, United States Code, to authorize the Department of Defense to:

To use funds appropriated for Overseas Humanitarian, Disaster, and Civic Aid to cover the costs of travel, transportation and subsistence expenses of personnel participating in such activities and to procure equipment, supplies and services in support of or in connection with such activities.

To transfer to foreign countries or other organizations equipment, supplies, and services for carrying out or supporting such activities.

Such changes would allow the Department of Defense to continue to carry out its humanitarian demining program, one of the unified commanders' most visible and cost-effective peacetime activities. The program is particularly important given the worldwide attention that has been focused on landmines and the need to remedy their effect on civilian populations in affected countries.

Subtitle E—Other Matters

Section 1030. The Department strongly supports the policy objectives of Chapter 148, National Defense Technology and Industrial Base, Defense Reinvestment, and Defense Conversion. As noted in Industrial Capabilities for Defense, forwarded to Congress on September 29, 1994, the Department has initiated a coordinated effort to identify and analyze industrial concerns, and ensure technology and industrial issues are effectively integrated into its key budget, acquisition, and logistics processes. However, the Department believes that the objectives of Chapter 148 would best be met by performing the analyses and establishing only the organizations necessary to support the Department's key budget, acquisition, and logistics processes. Therefore, the Department is proposing the following changes.

Subsection (a) amends section 2502 of title 10 by revising the responsibilities of the National Defense Technology and Industrial Base Council (NDTIBC) to conform to our proposed amendments to section 2505 below.

Subsection (b) amends section 2503 of title 10 by deleting various references to the National Defense Technology and Industrial Base Council and section 2506 periodic plans; (2) deleting subsections (a)(2), (a)(3) and (a)(4) dealing with administration of the National Defense Program for Analysis of the Technology and Industrial Base and coordination requirements; and (3) deleting subsection (b) dealing with supervision of the program.

Subsection (c) amends section 2505 of title 10, establishing specific requirements for Department of Defense technology and industrial capability assessments. In particular, it requires the Secretary of Defense to prepare selected assessments through fiscal year 1998 to attain national security requirements, and describes the scope of the required assessments. This subsection also requires that such assessments be fully integrated into the Department's resource planning guidance.

Subsection (d) amends section 2506 of title 10 to substitute revised language which requires the Secretary of Defense to issue guidance to achieve national security requirements. It also requires Departmental senior-level oversight to ensure technological and industrial issues are integrated into key budget decisions. Finally, it requires a Department report to Congress on its implementation of industrial base policy.

Subsection (e) adds a new section 2508 to title 10 which requires an annual report to Congress, for 2 years commencing March 1997 to enable Congress to monitor technology and industrial issues. The report would include descriptions of the Department's policy guidance, the methods and analysis used to address technological and industrial concerns, and assessments used to develop the Department of Defense's annual budget; it would also identify any programs designed to sustain essential technology.

Subsection (f) amends section 2514 of title 10 to remove the requirement for the Secretary of Defense to coordinate the program to encourage diversification of defense laboratories with the National Defense Technology and Industrial Base Council.

Subsection (g) amends section 2516 of title 10 to place the responsibility with the Secretary of Defense for establishing the Military-Civilian Integration and Technology Advisory Board.

Subsection (h) amends section 2521 of title 10 by removing subsection (b) which refers to the relationship of the National Defense Manufacturing Technology Program to the National Defense Technology and Industrial Base Plan.

Subsection (i) makes conforming repeals of sections 4218, 4219, and 4220 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2315).

Subsection (j) makes clerical amendments.

Section 1031 would amend Title II, Section 204(b) of the Defense Authorization Amendments and Base Closure and Realignment Act of 1988 (Title II of Public Law 100-526, U.S.C. 2687 note), as amended by Title XXIX of the National Defense Authorization Act for Fiscal Year 1994, Public Law 103-160 by restoring inadvertently eliminated provisions of then-subparagraph (3), which in considerably more extended language provided the Defense Department the basic authority for inter Service and similar transfers of real and personal property. The 1994 deletion from the 1988 Act was an inadvertent technical legislative drafting error.

Section 1032. A primate research complex has existed at Holloman Air Force Base for several decades. It originated as an Air Force laboratory supporting the named space program which is what generated the requirement for chimpanzees. It was later operated under contract. The complex consists of a number of buildings and facilities located generally on two separate but relatively close sites on the base. The main structure and the center of the complex is the recently completed facility constructed with $10,000,000.00 in federal grant money provided through the General Services Administration. Virtually all the chimpanzees are housed in the new facility. Because the facility is only a few years old, and because there is no other available facility to house the Air Force owned chimpanzees, it is impractical to remove the laboratory from the base at this time.

The Air Force has not had a requirement for its chimpanzees for at least two decades but has had no significant expenses in maintaining them because they were maintained by the operating contractor at no cost to the Air Force. The contractor used them for scientific and medical research and as part of the National Institutes of Health breeding program for chimpanzees. The breeding program is responsible for the growth in the Air Force owned population over the years.

The current lease provides that any chimpanzees born to Air Force owned animals will become the property of the lessee, not the Air Force. Consequently the Air Force population will not grow; however, the long life of chimpanzees will guarantee the colony will survive for decades to come. The legislation will remove a substantial liability to the Government. The chimpanzees, because of their general age and past use in research, have no significant value as a colony. Estimates the Air Force has received indicate that the only alternative to continuing their current use is to retire them presumably at Government expense. The cost of such retirement has been estimated from tens of millions of dollars up to $100,000,000.00. Nevertheless, if a qualified and capable offeror is willing to assume the care and maintenance of the chimpanzees and the facilities, at no cost to the Air Force, there is no reason to refuse such an entity the option to compete for the facilities and chimpanzees.

Subsection (a) of this section authorizes the Secretary of the Air Force, on a competitive basis and without regard to the requirements of the Federal Property and Administrative Services Act of 1949, to dispose of, at not cost, all interests the Government has in the primate research complex and Air Force owned chimpanzees located at or managed from Holloman Air Force Base. The underlying real property is excluded from transfer.

The laboratory was largely built with Government grant funds. The current lessee and operator of the laboratory is the Coulston, Foundation, a not-for-profit entity. The laboratory's location within the Base makes it impractical to create a privately owned enclave inside the Base boundaries by excessing the underlying real property.

Subsection (b) conditions the conveyance by requiring the recipient to utilize the chimpanzees for scientific research, medical research, or retirement of the chimpanzees and provide adequate care for the chimpanzees. The Air Force owned chimpanzees were originally obtained and later bred for scientific and medical research and the new facility was funded for continuation of these purposes.

Subsection (c) provides standard language for a survey to establish the legal description of the property conveyed.

Subsection (d) provides the standard language that the Secretary may require such additional terms as necessary to protect the interests of the United States.

Section 1033 would amend section 172 of the National Defense Authorization Act for Fiscal Year 1993. Section 172 requires the Secretary of the Army to establish a Chemical Demilitarization Citizens Advisory Commission for each State in which there is a low-volume chemical weapons storage site and for any State with a chemical storage site other than a low-volume site, if the establishment of such a commission is requested by the Governor of the State. The Secretary must provide a representative to meet with the commissions to receive citizen and State concerns regarding the Army's program to dispose of lethal chemical agents and munitions.

Currently, section 172 requires the representatives to be from the Office of the Assistant Secretary of the Army (Installations, Logistics and Environment). However, that office no longer has the responsibility for this program. That amendment will allow the Secretary of the Army to designate the representative to meet with the commissions from the office with current responsibility for the program, the Office of the Assistant Secretary of the Army (Research, Development and Acquisition).

Section 1034 would amend section 172 of the National Defense Authorization Act for Fiscal Year 1993. Section 172 requires the Secretary of the Army to establish a Chemical Demilitarization Citizens Advisory Commission for each State in which there is a low-volume chemical weapons storage site and for any State with a chemical weapons storage site other than a low-volume site, if the establishment of such a commission is requested by the Governor of the State. The Secretary must provide a representative to meet with the commissions to receive citizen and State concerns regarding the Army's program to dispose of lethal chemical agents and munitions.

Currently, section 172 requires the representative to be from the Office of the Assistant Secretary of the Army (Installations, Logistics and Environment). However, that office no longer has the responsibility for this program. This amendment will allow the Secretary of the Army to designate the representative to meet with the commissions from the office with current responsibility for the program, the Office of the Assistant Secretary of the Army (Research, Development and Acquisition).

Section 1035 would amend section 1044a of title 10, United States Code, to authorize all judge advocates of the Armed Forces, adjutants, assistant adjutants, and personnel adjutants, and all other members of the Armed Forces designated by regulations of the Armed Forces, to include members of the Coast Guard, to have the same notary public authority without regard to whether they are on active duty or performing inactive duty for training. All law specialists of the Coast Guard are lawyers. Under the current law, National Guard judge advocates and other otherwise authorized personnel do not have the general powers of a notary public while serving on annual training or on Active Guard and Reserve duty in a full-time National Guard duty status, nor do National Guard and Reserve judge advocates, adjutants, and others have such powers when not in a formal duty status. This amendment would authorize such powers regardless of duty status.

Reserve and National Guard judge advocates and Coast Guard law specialists are asked to perform notarial acts, both on and off duty, and to assist members of the Guard and reserves in preparing for mobilization and deployment. These judge advocates and law specialists are often in a position to prepare and execute Powers of Attorney and Wills at their private offices or at the command where the soldier is located, which may be distant from a military facility. Under the present statute they may not do so unless on active duty or performing inactive-duty for training.

Under the present law, civilians question the notary authority and request verification of duty status in order to assure compliance with section 1044a before accepting the Power of Attorney or other notarized document. The service member often has no way of reasonably discovering the whereabouts of the judge advocate or law specialist and cannot provide such information, resulting in rejection of the document. This proposal will bring uniformity and flexibility among the services in this area and be less confusing to the civilian community. It will eliminate litigation, especially in cases involving wills.

Subsection (b) would ratify notarial acts performed prior to the date of enactment of this section by persons authorized notarial powers under this amendment, provided such acts have not been challenged or negated in a formal proceeding prior to the date of enactment.

Section 1036 would shift the office of primary responsibility for all systems of transportation during time of war from the Secretaries of the Army and the Air Force to the Secretary of Defense. Such a change is in keeping with the integration of transportation systems in the commercial sector to intermodal methods of shipment. DoD, for efficiency purposes, has established a single manager for transportation, the United States Transportation Command. Activation of the Civil Reserve Fleet in time of war is from the President to the Secretary of Defense to the Commander, United States Transportation Command. The need for the Army or the Air Force independently to assume control of transportation systems for its members, munitions, and equipment, especially to the exclusion of the other services can no longer be justified.

If enacted, this proposal will not increase the budgetary requirements of the Department of Defense. By amending this section, monetary savings may be realized by authorizing more centralized control of the DoD transportation system.

Section 1037 would clarify that the period of limitations for the filing of claims before the various Boards of the Military Departments for the corrections of service records (10 U.S.C. 1552(b) of three years, that can be waived by the board "in the interest of justice") is not tolled by section 205 of the Soldiers' and Sailors' Civil Relief Act of 1940. Section 205 of such Act was amended by the Soldiers' and Sailors' Civil Relief Act Amendments of 1942 (section 5 of such Act (56 Stat. 770); 50 U.S.C. App. 525). It prescribes that military service is not to be computed in any period limited by law for the bringing of any action or proceeding before a court, board, etc. The recent judicial decision of *Detweiler v. Pena*, 38 F. 3d 591 (D.C. Cir. 1994) applied the tolling provision to the limitation of section 1552(b).

This provision would overturn that court decision and direct the military correction boards to consider the travails of military service in their findings "in the interest of justice" in waiving the limitation period. This result is necessary considering that the boards are examining military records. It underscores the need for a prompt resolution of requests for corrections, especially to avoid multiple successive corrections in the examination of records 20 to 30 years after a complained of error.

Section 1038 would update the statutory reference to the name upon which the Navy's central historical activity has operated for more than two decades. The original term was used in 1949 when the trust fund initially was started. Subsequently, the fund has evolved to include, among other things, the Navy Museum and Navy Art Gallery. This is a technical change conforming the statutory reference to the common title.

Section 1039. The George C. Marshall Center was established in 1993 to respond to the new security challenges which emerged at the end of the Cold War: e.g., promoting stability in Europe by helping the nations of Central Europe and the former Soviet Union to develop democratic institutions. The Center's formal mission is to foster the development of defense institutions and security structures compatible with democratic processes and civilian control. As its directive mandates, it does this by (1) providing appropriate defense education; (2) conducting research on security issues relevant to the task; (3) holding conferences and seminars on appropriate issues; (4) providing Foreign Area Officer (FAO) and language training; and (5) supporting NATO activities which are directed toward the same end.

To execute its mission, the Marshall Center conducted programs through three operational components: the College of Strategic Studies and Defense Economics (CSSDE); the Research and Conference Center (RCC); and the Institute for Eurasian Studies (IES). The CSSDE teaches a 19 week in-depth course in English, Russian, and German to future national security leaders in mid-level civilian and military positions from the nations of CE/FSU twice a year. The RCC holds conferences and seminars and sponsors research on issues of importance to current leaders at the ministerial and parliamentarian level from the North Atlantic Community, the nations of the NATO and PfP signatories. The IES trains US and NATO personnel (FAO and language students) who will work in and with these nations in the future. Each element synergistically reinforces the Center's overall objective of reinforcing and accelerating the democratization processes of the security establishments in the CE/FSU nations.

The work of the Marshall Center continues to receive international recognition. The innovative and ground breaking curriculum that teaches about many forms of democracy and looks at the principles that govern defense organization and management, in both western and the emerging democracies in the Central European and Former Soviet Union nations, is being used as a model for other schools. The Marshall Center, in promoting democratic principles and serving as a forum for promoting democratic principles and serving as a forum for European and Eurasian security and stability issues, clearly provides a service that benefits not only NATO countries but also neutral European nations. Both NATO and neutral nations, recognizing the importance and effectiveness of the Marshall Center, have expressed an interest in contributing to the program. From the Marshall Center academic perspective, the more view points that can be offered, the richer and better the program.

In 1994, the Marshall Center was given special permission by Congress to accept contributions from the German government under a formal; "Memorandum of Agreement". This arrangement is a tremendous success story. The German contribution of both funding and manpower enhances the conferences and research program and hence the prestige and effectiveness of the Marshall Center. Enabling the Marshall Center to accept contributions from other nations would only serve to further enhance the breadth and quality of the Marshall Center program as it works to strengthen U.S. interests and spread democratic values in the Central and Eastern European and Former Soviet Union nations.

As addressed above, the Marshall Center is an educational institution. In accordance with U.S. strategic interests, it is dedicated to stabilizing and thereby strengthening Post-Cold War Europe. Specifically, the Marshall Center provides education to defense and foreign ministries' officials to develop their knowledge of how national security organizations and systems operate under democratic principles. The Marshal Center program recognizes that even peaceful, democratic governments require effective national defenses; that regional stability will be enhanced when legitimate defense and that a network of compatible democratic security structure will enhance the continent's prospects for harmony and stability.

The Marshall Center additionally seeks to create an enduring and ever expanding network of national security officials who understand defense planning in democratic societies with market economies and to provide those officials with ever greater opportunities to share their perspectives on current and future security issues. The Marshall Center, with its international faculty and students from over 26 nations, and it active conference program serves as an important forum for discussion of European and Eurasian security and stability issues.

Unfortunately, the very nations that can be viewed as perhaps the most in need of what the Marshall Center offers, in both education and as a forum for defense cooperation contacts, are excluded from participation. Inviting national security officials from nations such as Bosnia, Yugoslavia, and Azerbaijan to Marshall Center programs would expose them to the very ideas and changes the U.S. is seeking to influence and promote.

If the U.S. strategic goals of promoting stability through defense cooperation are to be achieved, all the newly emerging governments of the Central and Eastern and States of the Former Soviet Union (CE/FSU) nations must be allowed, even encouraged, to attend and participate in the Marshall Center program. Participation of all CE/FSU nations in the Marshall Center program can only enhance the U.S. objective of increasing the continent's prospects for harmony and stability.

The Secretary of Defense has requested that a Board of Visitors be established to advise him on Marshall Center programs. Distinguished citizens from both the United States and other nations are being asked to participate without compensation other than remuneration for their travel expense to serve on the Board twice a year. Having to make financial disclosures or foreign registration will discourage their participation and make it extremely difficult in recruiting volunteers with exceptional diplomatic experience.

Section 1040 would direct the transfer and exchange of lands between the Departments of Army and Interior, which will allow those departments to more efficiently manage their property and also will provide for the orderly development of additional lands for the benefit of Arlington National Cemetery, which currently is slated for closure to initial interments by 2025.

Subsection (a) of this provision directs the Secretary of the Interior to transfer to the Secretary of the Army lands that are currently under the jurisdiction of the National Park Service (NPS) to the Army for the use of Arlington National Cemetery. On February 22, 1995, the Army and the Department of the Interior entered into an Interagency Agreement for the purpose of ultimately effecting a transfer of these lands. These lands are part of what is known as "Section 29," an area that became part of the National Park System in 1975 when the Army reported the property as excess and transferred it to the NPS pursuant to the Federal Property and Administrative Services Act, subject to a 1964 Order by the Secretary of the Army that it be set aside in perpetuity to preserve an appropriate setting for the Custis-Lee Mansion (subsequently renamed the Arlington House, The Robert E. Lee Memorial) and be maintained in a parklike manner.

Section 29 includes approximately 24.44 acres that are divided into two zones, the approximately 12.5-acre Robert E. Lee Memorial Preservation Zone and the approximately 12-acre Arlington National Cemetery Interment Zone. Because it is unnecessary for the Interment Zone, and possibly portions of the Preservation Zone as well, to be maintained in a parklike manner for the NPS to provide a proper setting for Arlington House, or for the proper administration and maintenance of it and its adjacent buildings as a national memorial, this property may be transferred to the Army for use as part of Arlington National Cemetery.

Under the Interagency Agreement signed on February 22, 1995, the NPS agreed to allow the Army to use the lands in the the Preservation Zone that are suitable for transfer and all lands in the Interment Zone until the transfer is effected, for the purpose of studying and surveying the property and planning for its use as a cemetery.

Subsection (a) directs the Secretary of the Interior to transfer these lands directly to the Secretary of the Army in accordance with the Interagency Agreement.

Subsection (b) of this provision directs the exchange of specific parcels of land located in and adjacent to Arlington National Cemetery between the Departments of Army and Interior. This transfer is designed to meet the respective agencies' needs and will provide for the optimum use of these Federal lands.

Section 1041. The existing language of section 2643, title 10, United States Code, subverts the Department of Defense consolidated contracting for overseas transportation and may result in higher overall costs, with less flexibility and control.

Section 1042. The Sikes Act (P.L. 99-561) permits the use of cooperative agreements to "provide for the maintenance and improvement of natural resources" on DoD installations. Similar language is not available to support DoD's cultural resources program.

Cooperative agreements are an essential instrument used to enter into partnerships with other Federal, State, and local governments, and with nongovernmental organizations to share personnel and fiscal resources for the mutual benefit of all participating parties. Partnership opportunities have been lost or deferred because the Military Departments do not feel they can enter into such agreements for cultural resources management, except for Legacy Resource Management Program-funded projects. Furthermore, the Legacy program was established as a short-term enhancement initiative. A broader, more permanent fix is required to ensure stability and inclusiveness of such efforts for DoD's cultural resources management program.

New partnership oppportunities would be available with this legislative change. Resource stewardship on DoD lands would be enhanced. This proposal has no fiscal or budgetary impact to the Department of Defense.

Section 1043 would authorize the President to award the Medal of Honor to seven named African American soldiers who served in the United States Army during World War II. It would authorize the award notwithstanding the time restrictions in section 3744 of title 10, United States Code. Those restrictions require that the award be made within three years of the act justifying the award and that a statement setting forth the distinguished service and recommending official recognition of the service be made within two years after the distinguished service. The Army recently conducted a study of the awarding of the Medal of Honor to African American soldiers during World War II. The waiver of the time limitations for the presentation of the Medal of Honor to the named former soldiers is a result of that study.

Section 1044 would amend section 2543 of title 10, United States Code, to make permanent the temporary authority the Secretary of Defense had during fiscal years 1992 and 1993 to provide assistance to the Presidential Inaugural Committee and to the joint committee of the Senate and House appointed to make the necessary arrangements for the Inauguration of the President-elect and the Vice President-elect. Section 307 of the National Defense Authorization Act for 1992 and 1993 authorized the Secetary of Defense to lend materials and supplies, and to provide materials, supplies, and services of personnel, during that period to the Inaugural Committee and joint committee.

Section 1045 cites a continuing need for military use of the affected lands and sets forth certain definitions.

Subsection (b) withdraws certain federal lands in Imperial County generally known as the East Mesa and West Mesa ranges from all forms of appropriation under the public land laws, subject to existing rights and certain conditions. The lands would be reserved for use by the Navy in accordance with the current memorandum of understanding between the Bureau of Land Management and the Department of the Navy, and for other defense-related purposes consistent with the memorandum.

The provision requires the publication and filing of maps and descriptions of the affected lands, gives those maps and descriptions the same effect as if they were included in the Act, and provides for public inspection.

It would require management of the withdrawn lands by the Secretary of the Interior pursuant to the Federal Land Policy and Management Act and other applicable law, with the concurrence of the Secretary of the Navy. The lands could be managed to permit wildlife protection and management, fire suppression, geothermal leasing by the Department of the Navy and power production and continued grazing. Nonmilitary use could not interfere with military use consistent with the Act. The Secretary of the Interior could issue a lease, easement, right of way, or otherwise authorize nonmilitary use of the lands, with the concurrence of the Secretary of the Navy and under the terms of the cooperative agreement. The Secretary of the Navy would close the withdrawn lands to the public if required by military operations, national security of public safety. Withdrawn lands would be used for purposes other than those specified in the memorandum of understanding, however, the Secretary of the Navy would be required to notify the Secretary of the Interior. Withdrawn lands and minerals within them would be managed in accordance with the existing cooperative agreement, which would be revised as soon as practicable after the enactment of this legislation to implement the provision of the section.

By Mr. GRASSLEY (for himself, Mr. PRESSLER, and Mr. BAUCUS):

S. 1674. A bill to amend the Internal Revenue Code of 1986 to expand the applicability of the first-time farmer exception; to the Committee on Finance.

THE AGGIE BOND IMPROVEMENT ACT

Mr. GRASSLEY. Mr. President, as you might expect, as I so often do on the floor of the Senate, I rise to speak about agriculture because it is a very important industry in my State. The legislation that I am introducing today, with Senators PRESSLER and BAUCUS, is bipartisan in sponsorship and changes the treatment of what are referred to as the aggie bond provisions of our tax statutes. We call this the Aggie Bond Improvement Act.

This legislation is important because of the changing scene of agriculture, the inability of young farmers to get started in farming, and particularly because today the average age of farmers. In my State of Iowa, and I think in most agricultural States, farmers average in their upper fifties. In 5 to 6 years we will have 25 percent of the farmers retiring. Hence, the necessity for improving programs to encourage young people to go into farming is clear. We introduce this bill today for with this purpose in mind.

This legislation will recondition and strengthen the popular first-time farmer programs administered by various State authorities. These authorities issue tax-exempt bonds to finance first-time farmers' loans. This combined agriculture and tax legislation enjoys the company of a companion bill in the House to be introduced by my colleagues from Iowa, Congressman LIGHTFOOT and Congressman GANSKE and the remainder of the Iowa House delegation. Joining me in our efforts in the Senate, as I have already said, are Senators PRESSLER of South Dakota and Senator BAUCUS of Montana. These two Senators are very interested in the problems of agriculture. The problems in their States are similar to those in mine.

We encourage all of our colleagues in the Senate to join us as sponsors in this Aggie Bond Improvement Act. Many beginning farmers and ranchers utilize low-interest loans authorized by aggie bonds to get started in farming and ranching. With the help of State authorities, these usually younger farmers must secure a participating private lender. This is a Government-private sector partnership. This private lender assumes all of the loan risk.

A Federal law limits the use of aggie bonds for first-time farmer purchases and restricts them to a maximum of $250,000 per family, per lifetime. I know that sounds like a lot of money to people that do not understand agriculture, but with that sort of loan you create one job. We are not talking about a massive farming operation with a massive amount of hired help. It takes that much capital to create one job in agriculture because of the nature of the investment.

State laws usually impose additional restrictions in addition to those that we do in the Federal Government. They might do this from the standpoint of net worth, material participation, and residence requirements—all very legitimate requirements. Therefore, there is no risk of any misappropriation of any underlying tax benefit.

These State programs present American taxpayers with a new generation of farmers to ensure that our grocery stores continue to stock the greatest food bargains in the world. However, to fully succeed, the States need the improvements offered by this legislation.

First, cosponsors to this bill will help family members purchase the family farm by changing the current rule prohibiting aggie bond financing for family member transactions.

Senators from agriculture States know that the high startup costs for farming and the unique expertise required of farmers, cooperate to ensure that only the children and family members of present farmers can themselves become farmers. Therefore, disallowing aggie bond financing for family member transactions has operated as an unintended obstacle to the success of aggie bond programs.

Second, cosponsors to this bill will help more first-time farmers become lifetime farmers by allowing more young people to qualify for aggie bond financing. Present law disqualifies beginning farmers who have previously owned and farmed any parcel of land that is 15 percent or more of the median-size of a farm in the same county. Depending on the size of other farms in the county, many young farmers cannot utilize beginning farmer loans because of this restriction. Therefore, this legislation would qualify a beginning farmer who had previously owned and operated any farm that is no more than 30 percent of the average size of a farm in the same county. In Iowa, this means where present law disqualifies an average beginning farmer for having farmed only 35 acres, with this legislation, average beginning farmers can farm up to 100 acres and still qualify for aggie bond financing.

Having been a farmer all of my adult life, I can attest that no farmer can make a living to support even himself on 100 acres, not to mention supporting a family. These persons truly are just starting out in the farming trade and desperately need the first-time farmer's loans financed by these aggie bonds.

Mr. President, farm State Senators know the average age of farmers is increasing. Presently, our farmers in Iowa average in their late fifties. This aging trend is common in every State in this country. Last year, the Iowa Agriculture Development Authority—the authority that issues these aggie bonds in my State along with comparable agencies in about 20-some other States—issued 177 of these loans in my State, and nearly 80 percent of the applicants were under 35 years of age.

Truly, there is an aging generation of farmers still on the land who would like to retire and there is a younger generation of farmers who want to begin. This legislation to improve the State aggie bonds programs simply makes the necessary transactions possible. Seeing these possibilities, the National Counsel of State Agriculture Finance Programs, and a farming organization called Communicating for Agriculture, strongly endorse this legislation. It is also important to note that the Federal Government shoulders absolutely no financial risk in aggie bonds, and their cost, after these improvements, will be minimal.

I urge my colleagues to join me and the other cosponsors of this bill in supporting America's beginning farmers.

Mr. President, I ask unanimous consent to have printed in the RECORD the legislation.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1674

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPANSION OF FIRST-TIME FARMER EXCEPTION.

(a) ACQUISITION FROM RELATED PERSON ALLOWED.—Section 147(c)(2) of the Internal Revenue Code of 1986 (relating to exception for first-time farmers) is amended by adding at the end of the following new subparagraph:

"(G) ACQUISITION FROM RELATED PERSON.—For purposes of this paragraph and section 144(a), the acquisition by a first-time farmer of land or personal property from a related person (within the meaning of section 144(a)(3)) shall not be treated as an acquisition from a related person."

(b) SUBSTANTIAL FARMLAND DEFINITION MODIFIED.—Clause (i) of section 147(c)(2)(E) of the Internal Revenue Code of 1986 (defining substantial farmland) is amended by striking "15 percent of the median" and inserting "30 percent of the average".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

By Mr. FAIRCLOTH (for himself and Mr. HELMS):

S. 1676. A bill to permit the current refunding of certain tax-exempt bonds; to the Committee on Finance.

THE EASTERN BAND OF CHEROKEE INDIANS ACT OF 1996

Mr. FAIRCLOTH. Mr. President, I rise today to introduce legislation for the Eastern Band of Cherokee Indians in my home State of North Carolina.

In 1982, the Congress passed legislation that would allow Indian tribes to issue tax exempt bonds just like other units of governments, such as States, counties, and cities. The 1982 act acknowledged that Indian tribes are in fact legitimate units of government with wide ranging responsibilities.

Using the act, the Cherokee Indians in my State issued $31 million in tax-exempt bonds to purchase the Carolina Mirror Co. The tribal leadership viewed the purchase of Carolina Mirror Co. as a means to promote jobs and economic development for their tribe and its members.

In 1986, however, the Congress passed new legislation that narrowed the interpretation of the original act so that tax exempt bonds could only be used to finance "essential governmental functions."

Mr. President, the Cherokee Tribe in my State would like to take advantage of lower interest rates and refinance the bonds. Under a "green eye shade" view of the law, the IRS has ruled that a refinancing would be a reissue, and the tribe could not issue tax exempt bonds again. By reissuing bonds at a lower rate, the company could save nearly $1 million a year—or nearly half of its annual profit.

In my view, this is as great a savings that can be attained for this company, but for this narrow interpretation of the law.

The legislation that I am introducing today is a technical bill that would allow Indian tribes to refinance tax-exempt bonds issued on or before October 13, 1987. This bill has safeguards to ensure that the temporary tax-exempt status of the bonds are not taken advantage of. Most importantly, this bill would be revenue neutral.

It is my hope that the Senate could consider this legislation.

By Mrs. BOXER:

S. 1677. A bill to amend the Immigration and Nationality Act to establish the United States Citizenship Promotion Agency within the Immigration and Naturalization Service, and for other purposes; to the Committee on the Judiciary.

THE CITIZENSHIP PROMOTION ACT OF 1996

• Mrs. BOXER. Mr. President, what do Saul Bellow, Itzhak Perlman, Elie Wiesel, Elizabeth Taylor, Mikhail Baryishnikov, Alistair Cooke, I. M. Pei, Hakeem Olajuwan, Patrick Ewing, and General John Shalikashvili have in common? They're all naturalized Americans, people who came to our country as immigrants and made major contributions to American life after receiving the precious gift of American citizenship.

Naturalization—the process by which a legal immigrant is granted the full rights and responsibilities of citizenship—represents the final step in a journey toward the American dream, a journey played by the rules.

As a firm believer in the American dream, and as a U.S. Senator whose mother became a naturalized citizen, I am pleased to introduce the Citizenship Promotion Act of 1996 which will put the "N" back in INS. This much-needed legislation will reform our current system of naturalization so that it can better serve those who want to follow the rules and become full participants in American society.

California has much at stake in improving the current delivery of naturalization services due to the high number of immigrants in the State who wish to naturalize. The latest surge in naturalization applications submitted is nowhere more evident than here. In fiscal year 1995, an estimated 1 million people applied for naturalization in the United States; over 380,000 of them live in the State of California. This is a 500-percent increase over the totals for fiscal year 1991.

Although Doris Meissner, the Commissioner of INS, is actively addressing the naturalization backlog, the wait for a naturalization application to be processed is still a year or longer in cities such as San Francisco and San Jose. Efforts by INS to cut waiting periods in heavily impacted cities continue to be delayed by lack of funding and outdated agency structures. We owe it to those who patiently follow the rules to do better. That is why my legislation is needed.

The first component of the legislation will create a citizenship promotion agency within INS. Headed by a new associate commissioner for citizenship, the citizenship promotion agency [CPA] will be responsible for carrying out all of the naturalization activities of the INS.

Currently, the INS lumps responsibility for naturalization with their other responsibilities. A separate agency for naturalization within INS will not only elevate the importance of the function but it will clear up the backlog of applications. The naturalization fees will be used to fund the naturalization process only, as they should be.

My legislation further provides for funds in the naturalization examinations fee account to be used for English language instruction. Today, there is an overwhelming need for more English language classes catering to immigrants trying to naturalize. The current availability of such classes is inadequate to meet the growing need for this type of instruction. In Los Angeles, for example, more than 20,000 people are now on waiting lists for English classes.

My legislation recognizes that learning English is not only an important component of naturalization, but also the key to opening all of America's opportunities to our new citizens.

The CPA will be encouraged to enter into cooperative agreements with other Government entities as well as private and nonprofit organizations to help carry out its naturalization outreach responsibilities. This will help maximize the capabilities of organizations that perform valuable naturalization outreach services at the local level.

My legislation also creates a citizenship advisory board to work with the Citizenship Promotion Agency. This board will give INS the benefit of advice and assistance from people with diverse experiences and perspectives on the naturalization process through the issuance of two reports a year.

Many of our most acclaimed Americans have been naturalized citizens. This is particularly true in San Francisco and the bay area. For instance, Lofti Mansouri, director of the San Francisco Opera is a naturalized citizen. Helgi Tommason, the director and choreographer for the San Francisco Ballet, is in the process of becoming one. Leo McCarthy is a naturalized citizen.

The last four Nobel Prize winners at UC Berkeley as well as UC Berkeley Chancellor Chang Lin-Tien and UC Santa Barbara Chancellor Henry T. Yang are all great thinkers and naturalized Americans. Our Nation has bestowed the gift of citizenship on them; they have repaid our culture and society with the priceless gifts of their knowledge and creativity.

These individuals are not only the leading lights in the bay area; they have received accolades the world over for their talents and contributions.

From the people we have invited today, you will hear the stories of what they have been through and what naturalization means to them. And while all of our naturalized citizens are not famous, many of them embody the best of America's traditions and values.

Take the example of Joyce Cheng, a naturalized citizen who came from Hong Kong in 1965 to settle in California's central valley. Ms. Cheng worked at her family's restaurant and two other jobs in order to pay for her education at the University of California at Berkeley. After receiving her degree in sociology, she worked in community service agencies and counseled other newcomers in employment and adjustment to American life.

Later Ms. Cheng joined the financial industry and was credited with building her bank's net worth tenfold in less than 2 years. In 1988 she founded her own successful mortgage loan and financial planning company in Oakland which generates millions of dollars in revenues each year

Ever since she naturalized in 1970, Ms. Cheng has participated in every election and helped encourage her community to be active participants in the democratic process. She serves on over 20 civic and professional boards and organizations.

Or take Eliana Osorio, who immigrated to the United States from Chile in 1963. She overcome the cultural barriers most newcomers face, such as unfamiliarity with English, and raised four very successful American children. Patricia is a graduate of UC Berkeley and will be attending the University of Chicago in the fall to pursue a masters degree in public policy. Mrs. Osorio's son is a photographer for the Chicago Tribune and a graduate of San Francisco State University.

Much like Mrs. Osorio, Felisa Lam came to the United States many years ago to begin a new life. She came to study accounting and remained in America as a legal resident. She founded a printing shop in 1979, after attending a start-up business conference. After 17 years, her San Francisco business, Trans Bay Printing, has grown dramatically. Her clients range from major corporations to local community groups. Her efforts have not only allowed her to claim a piece of the American dream, they have enabled her two children to claim a piece of their own by attending Yale University.

These are only a few short examples of the kind of new citizens who enrich our communities throughout the country. They not only demonstrate the strong work ethic and family values inherent in most of our foreign-born citizens, but also a firm commitment to their civic responsibilities as American citizens.

I am a strong supporter of efforts to regain control of illegal immigration. It must be done at the border and in the workplace. But that effort should not overshadow other responsibilities of the Immigration and Naturalization Service.

My bill will make needed improvements to the often-neglected function of naturalization, acting as an important balance to proposed immigration reform and remaining true to the promise of the American dream.

Many of us have directly witnessed the contributions of naturalized citizens in our communities and our families. I was fortunate to see in my own home, with my own mother, how much a naturalized American treasured her U.S. citizenship.

After my mother passed away in 1991, I found a very special pouch that she had left for me. In it were this wedding band and a one-page document wrapped in cellophane. It was her naturalization certificate. America was her land, her home. Her papers were all in order—but that one paper in that separate pouch with her wedding band was the one she wanted me to have, and I have saved it to share with her great-grandchildren.•

By Mr. GRAMS (for himself, Mr. FAIRCLOTH, Mr. ABRAHAM, and Mr. STEVENS):

S. 1678. A bill to abolish the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

THE DEPARTMENT OF ENERGY ABOLISHMENT ACT OF 1996

• Mr. GRAMS. Mr. President, I am pleased to be introducing the Department of Energy Abolishment Act of 1996. I do this on behalf of the ratepayers and taxpayers in my home State of Minnesota and across America who have handed over their hard-earned dollars for years in exchange for a bloated bureaucracy. It is for their sake that we embark on this journey to bring real accountability to the Federal Government—the first step is the elimination of the Energy Department.

In 1977, the U.S. Department of Energy, or DOE, was created to address the energy crisis which had paralyzed our Nation throughout that decade. It was assumed then that the creation of a Cabinet-level Energy Department would serve as a preemptive strike against future energy emergencies. But I'm sure that no one who served in Congress at that time envisioned the problems that DOE would create, rather than solve.

I do not doubt that the DOE was established with good intentions, but like many of the relics of the seventies, it has outlived its usefulness and public support. And like many of the outdated and wasteful taxpayer-funded programs of that era, the DOE should come to an end.

In my opinion, there are three main reasons for eliminating the DOE.

First, the DOE serves no real mission.

The DOE was created in response to the energy crisis and to protect us from similar emergencies in the future, a noble cause. Yet, the problems for which the DOE was established to address never materialized. Oil supplies eventually rose while prices dropped. The need for a national energy department became less apparent. Even so, the DOE continued to grow, with its bureaucrats working overtime to justify the Department's existence by branching out into areas only marginally related to national energy policy.

Their effort is readily apparent when you realize that 85 percent of the DOE's budget is spent on activities with no direct relation to energy resources. The bulk of those dollars go toward the cleanup of radioactive waste from nuclear weapons facilities and for overseeing storage of our Nation's nuclear waste—programs better suited respectively for the Defense Department and the Army Corps of Engineers.

I share the sentiments expressed by former Defense Secretary Caspar Weinberger who says: "The Department of Defense, today, with the appropriate leadership and management, is the best place for responsibility for the nuclear weapons stockpile in all its aspects, to be vested, including clean-up activities. Maintaining a separate chain-of-command, and all associated overhead in DOE is a costly and cumbersome arrangement that we can no longer afford."

The DOE is also responsible for national energy research—such as the development of alternative energy; promoting energy conservation; and ensuring affordable power and access to it by consumers. But after nearly 20 years and hundreds of billions of tax dollars, the DOE has little to show for it, except a few porkbarrel programs and a lot of excuses.

Second, the DOE has failed to carry out the duties it has been handed.

Perhaps the best example of this failure is the DOE's refusal to address the responsibility to accept and store our Nation's nuclear waste. There are 34 States, including my home State of Minnesota, with nuclear facilities in danger of running out of storage space for their spent nuclear fuel. In spite of this impending crisis and the DOE's legally mandated deadline of accepting nuclear waste by 1998, it has taken no real action in addressing the problem.

Worse yet, through a surcharge on their monthly energy bills, electric utility customers have already contributed $11 billion to a nuclear waste trust fund established to create a permanent storage facility, nearly half of which the DOE has already spent. But as we approach 15 years of inaction on the part of the DOE, the waste still sits, posing a potential environmental risk to the people of Minnesota and across the country.

Finally, the DOE is an affront to the taxpayers who are forced to watch nearly $16 billion of their hard-earned dollars go each year to feed this bureaucratic monstrosity.

It currently takes 20,000 Federal bureaucrats and another 150,000 contract workers to carry out the DOE's agenda. Even in the absence of another energy crisis like that which led to its creation, the DOE's budget has grown by 235 percent since 1977—a particularly alarming figure given our current national debt of over $5 trillion.

In his State of the Union Address, President Clinton declared that "the era of big government is over." And I agree. What better way to carry out this pledge than to start dismantling an agency with no mission, no purpose and no legitimate future? That is exactly what the Department of Energy Abolishment Act does.

As this chart shows, our legislation would dismantle the DOE, while transferring the legitimate functions of government to other agencies and departments. In doing so, it will eliminate DOE's upper-level bureaucracy, saving taxpayers an estimated $19 to $23 billion over 5 years and $5 to $7 billion annually thereafter—a refreshing change for the millions of Americans who filed their tax returns yesterday.

At the same time, it will peel away another level of Federal bureaucracy which has grown at the expense, not benefit, of the taxpayers, while addressing the future energy needs of this Nation.

Most importantly, it will send a clear signal to the American people that Congress heard their message in the elections of 1994 and is prepared to protect the taxpayers by giving them a smaller, more effective Government.

First, the Department of Energy Abolishment Act accomplish these goals by immediately eliminating the Cabinet-level status of the DOE and creating a 3-year resolution agency to oversee the transfer, privatization and elimination of the various DOE programs and functions. Then, the legislation sets about dismantling the DOE structure.

Under title I of the bill, the Federal Energy Regulatory Commission [FERC] is transformed into an independent agency. This is similar to the FERC status prior to the creation of the DOE.

The pending cases before the Energy Regulatory Administration [ERA] are transferred to the Department of Justice with a 1-year resolution deadline. Furthermore, the DOJ is instructed to utilize alternative dispute resolution whenever possible.

The activities of the Energy Information Administration [EIA] are transferred to the Department of Interior [DOI], which will have the discretion of maintaining or privatizing EIA activities.

The basic science and energy programs within the DOE structure are handled in two ways. Those activities not being conducted by the DOE laboratory facilities are transferred immediately to the DOI. Once at the DOI, the Secretary of Interior has the discretion of determining which functions or programs constitute basic research and can recommend transfer to the National Science Foundation [NSF] for further study and recommendation by an independent science commission which is also established to look at the DOE labs.

For those activities which are more commercial in nature, the Secretary has 1 year to recommend to the Congress a plan for permanent disposition of these functions. These activities can then be assumed by the private sector, focusing Government dollars toward fundamental research initiatives.

Under title II of the bill, the three defense labs—Sandia, Lawrence Livermore, and Los Alamos—are all transferred to the Department of Defense under the civilian management and control of a new defense nuclear programs agency. The remaining non-defense laboratories are transferred to the NSF for review by a non-defense energy laboratory commission. The Commission can recommend restructuring, privatization or concur with the bills closure language.

Furthermore, if the commission identifies additional labs or functions which are national security related, the commission can recommend a transfer of functions to one of the defense labs or a transfer of those facilities to the DOD.

Once the commission has submitted its recommendations, Congress has fast-track authority to consider the report and enact the recommendations. Failure by Congress to act will result in closure of facilities within 18 months of the reports issuance.

Under title III of the bill, the Power Marketing Administrations [PMA's]—Bonneville, Southeastern, Southwestern, and Western—are transferred to the U.S. Army Corps of Engineers. The General Accounting Office is then instructed to conduct an inventory of the PMA assets and liabilities. The GAO is then instructed to perform a study of the options available which protect the interests of the current customers and taxpayers and submit it to the Congress.

The Strategic Petroleum Reserve [SPR] and the Naval Petroleum Reserve are addressed under title IV of the bill. The SPR is transferred to the DOD where a GAO study is ordered to determine alternatives to maintaining the reserves. Once complete, the Secretary of DOD has the discretion to determine the amount to maintain or sell. The Naval Petroleum Reserve, however, is ordered to be sold within 3 years under the direction of the resolution administrator. If the sale is not completed within this timeframe, the Secretary of Interior is instructed to administer the balance of the sale.

The largest portion of the DOE's budget, defense-related provisions, are addressed under titles V & VI of the legislation. All national security and environmental management programs are transferred to a newly created, civilian-controlled Defense Nuclear Programs Agency [DNPA]. This includes stewardship of the weapons production facilities and the stockpile.

The environmental restoration activities at the defense nuclear facilities are also transferred to the new DNPA to coordinate ongoing DOD cleanup activities. DOE's current cleanup programs have wasted billions of dollars with little progress in their efforts at sites such as Hanford. This transfer is aimed at refocusing taxpayer dollars to cleanup, rather than duplicative bureaucracies.

Title VII of the legislation transfers the civilian waste program to the Army Corps of Engineers. Site characterization activities continue at the Yucca Mountain site, and Area 25 of the Nevada Test Site is named as the interim storage site. This temporary site is consistent with legislation currently pending before the U.S. Senate. Also, the GAO is instructed to conduct a study of options for program privatization initiatives. These changes to the civilian waste program represent the best way to ensure the Federal Government meets its obligation to begin accepting waste by 1998.

The merits and importance of this legislation have been recognized not only by Secretary Weinberger, but also by two men who know the DOE inside and out—former Energy Secretaries Donald Hodel and John Herrington. I am delighted that our legislation has their support, as well as the support of the Cato Institute, the Competitive Enterprise Institute, and Citizens Against Government Waste.

I would like to close by quoting Nobel Prize-winning economist Milton Friedman who in 1977 likened a national energy agency to a Trojan Horse, saying "[I]t enthrones a bureaucracy that would have a self-interest in expanding in size and power and would have the means to do so."

Over the years, we have witnessed Dr. Friedman's prediction come true—and all at the cost of hundreds of billions of wasted taxpayers' dollars. As a result, the DOE has managed to see its 19th anniversary this year. It should not be around for its 20th. It is time to put this Trojan Horse out to pasture. •

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. STEVENS, the names of the Senator from South Dakota [Mr. PRESSLER], the Senator from Mississippi [Mr. LOTT], the Senator from Hawaii [Mr. INOUYE], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 39, a bill to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

S. 258

At the request of Mr. PRYOR, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 258, a bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayer rights.

S. 304

At the request of Mr. SANTORUM, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 494

At the request of Mr. KYL, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 494, a bill to balance the Federal budget by fiscal year 2002 through the establishment of Federal spending limits.

S. 568

At the request of Mr. COATS, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 568, a bill to provide a tax credit for families, to provide certain tax incentives to encourage investment and increase savings, and to place limitations on the growth of spending.

S. 607

At the request of Mr. WARNER, the names of the Senator from New York [Mr. D'AMATO], and the Senator from Oregon [Mr. WYDEN] were added as cosponsors of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 684

At the request of Mr. HATFIELD, the names of the Senator from Maine [Ms. SNOWE], the Senator from Iowa [Mr. HARKIN], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 814

At the request of Mr. MCCAIN, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of S. 814, a bill to provide for the reorganization of the Bureau of Indian Affairs, and for other purposes.

S. 874

At the request of Mr. GRAMS, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 874, a bill to provide for the minting and circulation of $1 coins, and for other purposes.

S. 948

At the request of Mr. DORGAN, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 948, a bill to encourage organ donation through the inclusion of an organ donation card with individual income refund payments, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the names of the Senator from Iowa [Mr. HARKIN], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Louisiana [Mr. BREAUX], the Senator from New York [Mr. D'AMATO], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1189

At the request of Mr. DEWINE, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1189, a bill to provide procedures for claims for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immuno-deficiency virus due to contaminated blood products.

S. 1289

At the request of Mr. KYL, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 1289, a bill to amend title XVIII of the Social Security Act to clarify the use of private contracts, and for other purposes.

S. 1506

At the request of Mr. ABRAHAM, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1506, a bill to provide for a reduction in regulatory costs by maintaining Federal average fuel economy standards applicable to automobiles in effect at current levels until changed by law, and for other purposes.

S. 1512

At the request of Mr. LUGAR, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 1512, a bill to amend title 23, United States Code, to improve safety at public railway-highway crossings, and for other purposes.

S. 1610

At the request of Mr. BOND, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1612

At the request of Mr. HELMS, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

S. 1623

At the request of Mr. WARNER, the names of the Senator from Maryland [Mr. SARBANES] and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of S. 1623, a bill to establish a National Tourism Board and a National Tourism Organization, and for other purposes.

S. 1624

At the request of Mr. HATCH, the names of the Senator from Virginia [Mr. ROBB] and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of S. 1624, a bill to reauthorize the Hate Crime Statistics Act, and for other purposes.

S. 1646

At the request of Mr. DOMENICI, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1646, a bill to authorize and facilitate a program to enhance safety, training, research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes.

S. 1653

At the request of Mr. CONRAD, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 1653, a bill to prohibit imports into the United States of grain and grain products from Canada, and for other purposes.

SENATE CONCURRENT RESOLUTION 41

At the request of Mr. INOUYE, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from New Mexico [Mr. DOMENICI], the Senator from Hawaii [Mr. AKAKA], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Concurrent Resolution 41, a concurrent resolution expressing the sense of the Congress that The George Washington University is important to the Nation and urging that the importance of the University be recognized and celebrated through regular ceremonies.

SENATE RESOLUTION 226

At the request of Mr. DOMENICI, the names of the Senator from Missouri [Mr. BOND], the Senator from Iowa [Mr. GRASSLEY], the Senator from Nevada [Mr. REID], and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of Senate Resolution 226, a resolution to proclaim the week of October 13 through October 19, 1996, as "National Character Counts Week."

SENATE RESOLUTION 243—TO DESIGNATE NATIONAL CORRECTIONAL OFFICERS AND EMPLOYEES WEEK

Mr. ROBB submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 243

Whereas the operation of correctional facilities represents a crucial component of our criminal justice system;

Whereas correctional personnel play a vital role in protecting the rights of the public to be safeguarded from criminal activity;

Whereas correctional personnel are responsible for the safety and dignity of human beings charged to their care; and

Whereas correctional personnel work under demanding circumstances and face danger in their daily work lives: Now, therefore, be it

Resolved, That the Senate designates the week of May 5, 1996 as "National Correctional Officers and Employees Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Mr. ROBB. Mr. President, I submit a Senate resolution to designate the week of May 5, 1996 as "National Correctional Officers and Employees Week."

Mr. President, this resolution is a small gesture to recognize the vital role that correctional personnel play in our communities.

Correctional officers and employees put their lives on the line every day to protect the public from dangerous criminals. These brave men and women also protect incarcerated individuals from the violence of their circumstance, and they help prisoners work toward returning to lawful society.

I urge my colleagues to join with me to recognize the indispensable contributions of our Nation's correctional officers and employees.

SENATE RESOLUTION 244—RELATIVE TO THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION CHAMPIONSHIP

Mr. FORD (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 244

Whereas the University of Kentucky Wildcats men's basketball team defeated Syracuse University's team on April 1, 1996, in East Rutherford, New Jersey, to win its sixth National Collegiate Athletic Association (NCAA) championship;

Whereas the senior members of this team, during their four-year varsity careers, were also NCAA semi-finalists and three-time champions of the Southeastern Conference.

Whereas Coach Rick Pitino, his staff, and his players displayed outstanding dedication, teamwork, unselfishness, and sportsmanship throughout the course of the season in achieving collegiate basketball's highest honor, earning for themselves the nickname "The Untouchables"; and

Whereas Coach Pitino and the Wildcats have brought pride and honor to the Commonwealth of Kentucky, which is rightly known as the basketball capital of the world: Now, therefore, be it

Resolved, That the Senate commends and congratulates the University of Kentucky on its outstanding accomplishment.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the president of the University of Kentucky.

SENATE RESOLUTION 245—MAKING MAJORITY PARTY APPOINTMENTS TO THE LABOR AND HUMAN RESOURCES COMMITTEE

Mr. LOTT (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 245

Resolved, That notwithstanding any provision in Rule 25 or 26, the following be the majority party membership on the Committee on Labor and Human Resources for the 104th Congress, or until their successors are appointed:

Labor and Human Resources: Mrs. Kassebaum (Chairman), Mr. Jeffords, Mr. Coats, Mr. Gregg, Mr. Frist, Mr. DeWine, Mr. Ashcroft, Mr. Gorton, and Mr. Faircloth.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will conduct a business meeting on Tuesday, April 23, 1996, to mark up the committee's letter to the Senate Committee on the Budget containing the committee's budget views and estimates on the President's budget request for fiscal year 1997 for Indian programs. The business meeting-markup will be held at 9 a.m. in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will conduct a hearing during the session of the Senate on Thursday, April 25, 1996 on S. 1264, a bill to provide certain benefits of the Missouri River Basin Pick-Sloan Project to the Crow Creek Sioux Tribe and for other purposes. The hearing will be held at 9 a.m. in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Tuesday, April 16, 1996, in open session, to receive testimony on the Department of Energy's atomic energy defense activities and the fiscal year 1997 budget request and Future Years Defense Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Tuesday, April 16, 1996 session of the Senate for the purpose of conducting a hearing on the Reauthorization of the National Transportation Safety Board and the Pipeline Safety Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, April 16, 1996, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of the hearing is to consider S. 1646, a bill to authorize and facilitate a program to enhance safety, training; research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 16, 1996, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FEDERAL-TRIBAL NEGOTIATED RULEMAKING

• Mr. McCAIN. Mr. President, I rise to inform my colleagues that later today I will ask their unanimous consent to hold at the desk and pass H.R. 3034, a measure that was passed by the House by consent. H.R. 3034 is identical to S. 1608, a measure I and Senator INOUYE introduced on March 12, 1996. S. 1608 was referred to the Committee on Indian Affairs, which I chair.

My full statement explaining the bill appeared at page 4402 of the March 12 CONGRESSIONAL RECORD. While I regret that it is necessary, I support the 60-day extension of authority to the Secretary of the Interior and the Secretary of Health and Human Services to promulgate regulations implementing the Indian Self-Determination Contract Reform Act of 1994 under negotiated rulemaking procedures.

In the 1994 act, the Congress required the administration to involve the Indian tribes, under negotiated rulemaking procedures, in the development of these regulations within an 18-month period that expires on April 25, 1996. The pending bill would extend that period to June 25, 1996.

Many of the Indian tribes who have been involved in the negotiated rulemaking process have sought the extension in order to provide them adequate time to respond to the public comment received from the draft regulations published on January 24, 1996. The administration has joined them in requesting a 2-month extension to the 18-month period provided by the statute to promulgate regulations. Their request is worthy of support and I urge my colleagues to consent to its passage.•

CONGRATULATIONS CORNHUSKERS BASKETBALL

• Mr. KERREY. Mr. President, I come to the floor today to congratulate the University of Nebraska Cornhuskers Men's Basketball Team on their thrilling championship victory over St. Joseph's of Pennsylvania, 60 to 56, in the National Invitational Tournament, the Nation's oldest postseason tournament, at Madison Square Garden on March 28. With their victory, the men's basketball team joins an impressive list of championship seasons this school year for UNL that already includes national champions in football and women's volleyball.

Coach Danny Nee and his players overcame considerable adversity this season, having entered the NIT with 10 losses in their last 11 games. But they defeated Colorado State, Washington State, Fresno State, and Tulane in route to the NIT final, and finished what could have been a disappointing season on a very successful note.

Mr. President, this is UNL's first ever basketball championship and although some may consider the NIT a second-tier tournament, only two teams in men's NCAA Division One basketball can end their season on a winning note. And I am proud to say, one of them this year is my Alma Mater—the University of Nebraska at Lincoln.

Congratulations to Coach Nee, senior guard and NIT MVP Erick Strickland, and the entire Cornhusker men's basketball team on a successful season and a terrific victory. Nebraska is, indeed, proud.•

CRUMBS FOR THE MAJORITY

• Mr. SIMON. Mr. President, I felt like starting these observations by saying three cheers for Mort Zuckerman.

Recently, Mortimer B. Zuckerman, editor-in-chief of U.S. News & World Report, had a superb column called "Crumbs for the Majority", which I ask to be printed in the CONGRESSIONAL RECORD after my remarks.

He talks about our income disparity, our growing problems with poverty, and the need to do something about it.

He advocates a grant program similar to the old GI bill after World War II.

It is interesting that if you were to add an inflation factor to the average grant made under the GI bill after World War II, it today would average $9,400 a year. The most anyone can receive today in a grant from the Federal Government is $2,400, and you have to meet strict standards of poverty to receive that.

Even for a modest program like the Direct Loan Program, we have to struggle to see it survive.

If you were to combine the kind of suggestion that Mort Zuckerman has with a WPA type of program that would say to people: You can stay on welfare 5 weeks, but after that you have to work 4 days a week at minimum wage, as in the old WPA, and the fifth day you should be out trying to find a job in the private sector, we would put to work hundreds of thousands—probably millions—of Americans who are now left out of our process and who can be made productive. The demand for unskilled labor is going down and to talk about welfare reform without talking about creating jobs for people of limited skills is public relations and nothing more.

Such a WPA program should tie in with the education recommendation of Mort Zuckerman. People who come into the program should be screened, and if they can't read and write, we should get them into the program. We have 23 million Americans who cannot fill out an employment form and who cannot read the newspaper. That is a huge drag on our productive capacity.

Those who come into the WPA type of program who have a remarkable skill should be given an opportunity to enhance that skill, whether through an apprentice program or a technical school or community college.

Mort Zuckerman ends his column by saying "but it is hope that will sustain and enrich us." He is correct.

The great division in our society is not between black and white or Hispanic and Anglo or many of the other divisions that people talk about. It is between those who have hope and those who have given up. We need programs that give people the spark of hope.

We have shown very little creativity in dealing with the problems of poverty in our Nation. We have been pandering to those who make the big campaign contributions and who are politically articulate.

It is about time we pay attention to those who make no campaign contributions and who are getting more and more disillusioned with our Government.

The editorial follows:

[From U.S. News & World Report, Feb. 26, 1996]

CRUMBS FOR THE MAJORITY

(By Mortimer B. Zuckerman)

The stock market is up over a trillion dollars in the past 14 months. The United States is five years into an economic recovery. But the opinion polls reveal the public to be in a foul mood and pessimistic about the future. What is going on?

The cake has gotten bigger, but it is not being shared equitably. The technological and educated aristocracy, and the owners of financial assets, are sharing the cream with a highly skilled and well-educated minority, a little more than a third of the work force, who have full-time, full-benefits jobs. But there are only crumbs for the majority of the population who lack a college education or specialized skills. Incomes have been falling or stagnating as this group has remained mired for more than 20 years in what has been called "the silent depression." As social analyst Daniel Yankelovich points out, we are in the midst of the erosion of one of the greatest achievements of the post-World War II era, in which not only people with a college degree could make a good living but also people without one. This gave us a middle class and a prosperous country with a sense of fairness and hope.

That optimism and faith in America have been eroded. Too many Americans cannot afford health insurance; too many can barely save; too many cannot afford to send their children to college; and as 1995's Christmas sales indicate, too many cannot afford gift buying. Both spouses have to work, and the one-earner, middle-class family is becoming extinct. Parents are now spending about 40 percent less time with their children than they did 30 years ago. To support the children who need ever more costly education for ever longer periods of time, parents have to be willing to make larger and larger sacrifices. What's more, too many men are bailing out of these obligations.

This erosion of family life has led to a widespread sense of moral confusion and a breakdown in the shared norms that hold our society together. No value has suffered more than individual responsibility. A nation whose creed is individualism courts disaster if it then proceeds to weaken the moral responsibility of the individual by a philosophy of entitlement. The social conservatism that has re-emerged in response has found its political expression in a bipartisan readiness to cut social services and other programs, which is understandable. Americans ask, If we are spending so much, why aren't we seeing better results? Many Americans see themselves as subsidizing well-organized special-interest groups that are excessively influential in shaping the decisions of our rulers once they are in office.

The voters are rebelling not just against big government—everyone's villain these days—but against bad government. The government has proved inadequate in grappling with the problems of corporate downsizing and declining incomes that now affect tens of millions of workers. We have civil servants who are not civil, public schools that do not teach the public, a criminal justice system that neither reduces crime nor produces justice and economic insecurity even in a rapidly growing economy.

Merely cutting this and that is hardly a sufficient response. There are areas where only government can lead. Higher education and continual learning are a place to start.

Higher education is an investment in the greatest strength a country has, its people. We need a modern version of the GI Bill, which provided mass higher education for more than 20 million veterans and dependents. Any student able to meet minimum standards upon graduation from high school should qualify for a scholarship for higher education for the information age, providing family income does not exceed a maximum amount of, say, $125,000. This would be a constructive way to shrink the gap between the haves and the have-nots—much better than doing it only by taxation.

Such a program would cost billions of dollars. But government must find a way to reorder its priorities, to shift money from less valuable programs. Without positive policies to arrest our national decay, the deep anxiety that now seizes much of our society may well turn to fear, or even panic. It is fear that has provided the political basis for the success of Pat Buchanan. But it is hope that will sustain and enrich us.•

INCREASING THE FEDERAL DEBT LIMIT

•Mr. GRAMS. Mr. President, I wanted to express my concern over the increase in the public debt limit which occurred under a unanimous-consent agreement on the Thursday before the Easter recess. Having earlier expressed in a letter to the Republican leadership my intention to oppose an increase in the debt limit if it was not directly connected to a balanced budget. I believe this unanimous-consent agreement hangs over this Congress like a black cloud, marking a dark day for the American taxpayers.

The Congress had done the hard work of putting together a balanced budget that would have put this Nation on the glidepath to eliminating the deficit. Furthermore, it represented our best hope for tackling our $5 trillion debt.

Yet the President carelessly vetoed the bill and its key reforms which would have restored solvency to our Medicare System and ended welfare as we know it. All the while, he has sat at the other end of Pennsylvania Avenue, clamoring for more spending.

Mr. President, I believe yesterday's vote was a white flag of surrender, and a retreat on our pledge to protect the American taxpayers. Nothing in this bill ensures any progress will be made with this Administration in attempting to reach a balanced budget agreement.

Instead, we promised this President we would increase the credit limit on the Nation's charge card by $600 billion—an amount the Congressional Budget Office estimates will be exceeded by next summer. And what did the taxpayers receive in return? The promise of bigger government, a bigger debt, and more of the status quo.

I will acknowledge that the bill did contain two riders which I have supported. The Small Business Regulatory Enforcement Fairness Act is similar to a measure I had supported earlier this month. And as a cosponsor of the Senior Citizens' Right to Work Act, I had advocated passage of this bill earlier this year. But I do not believe seniors or small business should be held hostage to an increase in the debt limit. Unfortunately, they were used to mask the fact that yesterday's vote dragged us deeper into financial chaos.

While the Federal Government's impending financial crisis may have been averted by this debt limit increase, the President must understand that our action does not absolve him of his responsibility in derailing the first real balanced budget produced by a Congress in over 25 years. Given that track record, we cannot allow another increase to occur without the enactment of a balanced budget plan. The Nation's credit card is ready to snap under the heavy load we have already heaped upon it—the American taxpayers are no longer willing to shoulder that burden.•

CANADA, BACKED BY MEXICO, PROTESTS TO UNITED STATES ON CUBA SANCTIONS

• Mr. SIMON. Mr. President, I cast 1 of the 22 votes against the Cuban sanction bill that passed the Senate and has been signed by the President.

I read the story in the New York Times, by Richard Stevenson, titled "Canada, Backed by Mexico Protests to United States on Cuba Sanctions," which I ask to be printed in the CONGRESSIONAL RECORD after my remarks.

Canada is right, Mexico is right, and the Senate, House, and the President are wrong on this one.

We are capitulating to emotion, and we will have done not one thing to discourage Castro.

Our policy to remove Castro has failed for decades, in fact it has had the opposite affect. We simply are compounding the problem.

We are like an accident victim who has suffered a gash, and we think we can stop the bleeding by cutting ourselves some more.

The column follows:

[From the New York Times, Mar. 14, 1996]

CANADA, BACKED BY MEXICO, PROTESTS TO UNITED STATES ON CUBA SANCTIONS

(By Richard W. Stevenson)

WASHINGTON, March 13.—In a sign of the growing tensions between the United States and its trading partners over stepped-up American sanctions against Cuba, Canada said today that it had lodged a trade protest with the Clinton Administration, and Mexico immediately asked to join Canadian-American discussions on the issue.

Responding to a new American law that seeks to tighten the economic vise on Cuba by putting pressure on other countries not to do business with Fidel Castro's Government, Canada said it asked for consultations with the United States under the terms of the North American Free Trade Agreement.

Canada has extensive trade with Cuba, and has vigorously protested what it sees as unfair efforts by the United States to penalize Canadian companies and business executives who operate there.

Canadian officials said the law, sponsored by Senator Jesse Helms of North Carolina and Representative Dan Burton of Indiana, both Republicans, and signed on Tuesday by President Clinton, could violate the free trade agreement in several ways.

In Ottawa, Canada's Trade Minister, Arthur Eggleton, said his government would "seek clarification of U.S. intentions" in introducing the bill.

"Canada finds objectionable the Helms-Burton bill, which could interfere with companies engaged in legitimate business and which attempts to extend U.S. law to other jurisdictions," Mr. Eggleton said.

Mexican officials, expressing similar misgivings, said they supported the Canadian action, and wanted to take part in the consultations to get a clearer idea how the United States would carry out the legislation's most contentious measures.

A request for consultations is the first step in resolving trade disputes under Nafta, and could lead to a formal ruling on whether the American legislation violates the pact.

The legislation was passed by Congress and signed by President Clinton after the drowning of two small civilian aircraft by Cuban fighters last month. Among other things, it allows American citizens to sue foreigners and foreign companies that "act to manage, lease, possess, use or hold an interest in" property confiscated by the Cuban Government from people who are now American citizens.

It also permits the United States to bar entry to foreign corporate officers and controlling shareholders who take part in using such property and foreign executives whose companies do business in Cuba.

The United States Trade Representative, Mickey Kantor, said the American position "is entirely consistent" with both the rules of Nafta and the world trade talks.

In an interview, Mr. Kantor said that under the trade agreement the United States reserved the right to protect its security interests and to bar from entry people who have committed crimes of moral turpitude under United States laws.

"The combination of those two, or either standing alone depending on the situation, would support our position," Mr. Kantor said.

Federico Salas, the minister for political affairs at the Mexican Embassy in Washington, said "The Canadians have taken the initiative and we have requested to participate in these consultations." The European Union said last week that the law would "represent the extraterritorial application of U.S. jurisdiction and would restrict E.U. trade in goods and services with Cuba."

Russia also objected to provisions in the law linking American foreign aid to Russia to Moscow's cutting its military and economic ties to Mr. Castro.•

INTERNATIONAL BRIBERY

Mr. FEINGOLD. Mr. President, export promotion is a critical component of both domestic economic growth in this country and of our foreign policy. One of the barriers to more trade for U.S. companies has been a virtual subsidy by the governments of many of our trade competitors for offering bribes to win foreign contracts. Of course, U.S. business is prohibited from engaging in bribery by the Foreign Corrupt Practices Act. While there have been calls to repeal the FCPA, for almost 2 years, I have been working to promote universal acceptance of the principles of the FCPA. I introduced legislation and a sense of the Senate resolution last year to move forward in that direction. A version of the proposals were included in the Senate State authorization bill, but not included in the conference agreement.

For a problem that no one seems to want to talk about publicly, there has been some important movement to help eradicate this practice in Europe. Two years ago the Organization for Economic Cooperation and Development a group of 26 major industrialized countries, passed a resolution to "deter, prevent, and combat bribery." Now it has expanded on that by recommending that members terminate the tax-deductibility of bribes, such as allowed in Germany and elsewhere.

This is a significant step toward leveling the playing field for U.S. exports. It is also important that major newspapers, such as the New York Times and the Washington Post, have carried opinion pieces in the past couple of days on this issue. I ask that the articles be printed in the RECORD and commend them to my colleagues for their review. Bribery and corruption are serious impediments to our exports, and promote bad business practice. We should be supportive of efforts, such as the recent initiatives by the OECD to help protect American business.

The articles follow:

[From the Washington Post, Apr. 16, 1996]

AN END TO CORRUPTION

(By Robert S. Leiken)

If a German bribes a German, he gets thrown in jail; if he bribes a foreign official he gets a tax deduction. Only American businessmen can be prosecuted at home for bribing foreigners.

But the day when U.S. business was a solitary straight arrow seems to be ending. This is not because the Foreign Corrupt Practices Act (FCPA) has become a dead letter. IBM-Argentina, now under federal investigation, can testify to that. What may be opening a new chapter in commercial diplomacy is a revolution in public opinion, the repudiation of bribery and kickbacks by societies that once tolerated them.

Last week the Organization for Economic Cooperation and Development (OECD), the league of wealthy industrial nations, recommended that is members stop allowing tax write-offs for bribes. Sources close to those protracted negotiations said that the public reaction to recent bribery scandals helped overcome resistance to the measure led by France, Germany and Japan.

The end of the Cold War, the spread of democracy, the rise of civil societies have sparked disclosure of corruption East and West. This is the case not only in the former Soviet bloc but also among Western allies where military regimes or ruling-party dominance has given way to competitive politics.

An intriguing community of interests is forming between U.S. corporations and democracy. For the solution to translational bribery lies not in a futile attempt to repeal the Foreign Corrupt Practices Act but in universalizing it and supporting reforms in emerging countries.

Corruption is being challenged by opposition parties, and unmuzzled press, religious groups and other nongovernment organizations, as well as prosecutors, magistrates and other civil servants. Anti-corruption movements have emerged in countries as diverse as Argentina, Cambodia, Italy, Hungary, Pakistan, Saudi Arabia, El Salvador, South Korea, Switzerland, Taiwan, Tanzania, Thailand, New Zealand and Zimbabwe. Citizens who have silently endured corruption for generations now take to the streets to protest corrupt practices, to elect anticorruption candidates and to impeach corrupt presidents, vice presidents, premiers, cabinet ministers and party leaders.

Many countries have appointed national commissions to recommend reforms and have established government agencies to prosecute abuses. Small countries are beginning to make known their anticorruption sentiments. Recently, for example, Malaysia and Singapore each declared several foreign firms caught bribing officials ineligible for bidding on future contracts.

The stakes are enormous for U.S. companies and workers. As emerging nations drop trade barriers and privatize state monopolies, more than $200 billion of export and investment contracts will be open to international bidding. Our trade rivals understand that these contracts will determine who builds tomorrow's economies. The U.S. Department of Commerce has calculated that from April 1994 to May 1995 nearly 100 foreign contracts worth $45 billion were lost to foreign competitors through graft. The most egregious bribers, according to U.S. government and business officials, include companies from Japan, France, Germany, Spain, Britain, Taiwan and South Korea.

These bribes cost Americans jobs, and since less competitive firms must bribe to win contracts, they cost emerging countries efficiency—which is what they need most. Studies show corrupt procurement practices deter foreign investment while as much as doubling the price that emerging countries pay for goods and services.

As globalization offers corporations more options, corruption has come to be a factor in choosing where to invest. Meanwhile, emerging nations wishing to shed bad reputations have begun to court firms with "squeaky clean" images. In some emerging markets, U.S. firms now advertise their liability to the FCPA as surety of their integrity. Several governments have engaged the "credibility services" of reputable Western firms in such tasks as procurement, accounting and auditing.

Bribery and corruption are no longer unmentionables in international diplomacy. A Convention Against Corruption will soon criminalize "transnational bribery" throughout the Western Hemisphere. The treaty provides for extradition of corrupt officials and urges transparency in hiring and procurement as well as laws against the "illicit enrichment" of government officials. When the United States goes to international forums to demand a level playing field it can take Canada and the developing nations of the hemisphere with it. Along with its success at the OECD, Washington is also making headway in getting the new World Trade Organization to universalize transparent procurement practices. Top administration officials want the United States to press for a recommendation at the next G-7 meeting to criminalize transnational bribery—in other words, to universalize the Foreign Corrupt Practices Act.

The way impatience with corruption is crossing frontiers recalls the human rights campaigns of past decades. Transparency International, modeled on the human rights organization Amnesty International, was formed in Germany in 1993.

Yesterday the guilty's first line of defense was that human rights was "an internal matter." But dissidents welcomed and were emboldened by international attention. Human rights subsequently became a universal watchword. Today opponents of corruption insist that "sunlight is the best disinfectant." During this crucial stage when democracy and must institutionalize or perish, "transparency" may emerge as a banner.

For the first time in 60 years, there is no international danger of tyranny. Our national interest is more immediately menaced today by such "unconventional" dangers as international crime cartels, the smuggling of weapons of mass destruction, drug trafficking, the spread of pestilent viruses—all of which entail corrupt government officials. Corruption has been provided the pretext for tyrants to topple fledgling democracies. Already, pervasive corruption has paved the way for reaction in and around Russia. Today's decisive battles for democracy and development may be fought on the terrain of corrupt practices.

[From the New York Times, Apr. 16, 1996]

A DEFEAT FOR BUSINESS BRIBERY ABROAD

The United States has successfully pressured its allies to stop subsidizing corruption. Western European governments routinely allow companies that pay bribes to win business contracts from foreign officials to deduct those kickbacks from their taxable income. Last week the Organization for Economic Cooperation and Development, a group of 26 major industrialized countries, agreed to end tax-deductible bribes. That does not go nearly as far as America, which outlaws foreign bribery altogether, would like, but it is a big first step.

Industrial countries outlaw bribes within their borders, but only the United States bars companies from paying bribes to foreign officials. That noble stance puts American business at a disadvantage when competing for a foreign contract against businesses that operate under no such constraints. The United States has labeled the payment of bribes a trade barrier and is fighting to get its trade partners to end the practice completely. The Administration says it has identified about 100 cases between April 1994 and May 1995 in which American companies lost business to those that paid bribes to foreign officials in order to win contracts in the construction, telecommunications and other lucrative industries.

So far, the United States has acted unilaterally—losing business but having a limited impact on corruption. By bringing the other major industrialized countries along, the anti-corruption campaign will pack more wallop and remove American companies as a special target of retaliation. The best way to fight corruption is to present a united front. That way the pressure on offending governments to clean up their act is maximized and the businesses of no one country are victimized. The Administration's lobbying may not end foreign bribes. But its multilateral approach is smart.●

IS IT NOT ENOUGH TO BE A RACIST

● Mr. SIMON. Mr. President, on Martin Luther King's birthday, the Washington Post had an op-ed piece by a long time friend of many of us, Hyman Bookbinder.

It was so good, I set it aside and I have now just re-read it.

For those of you who have read it before, it is worth reading again. For those who have not read it, they should.

I say this as one who participated in the civil rights struggle three and four decades ago. I visited the South as well as participated in programs in the North.

One of the things that has troubled me is the willingness of some to create a division between the black community and the Jewish community. When I was involved in the civil rights struggle, those in the white community who were most active in behalf of the rights of African-Americans were not Lutherans—which I am—nor Catholic—which my wife is—nor Baptist nor Presbyterian nor Episcopalians. They were people of the Jewish faith.

With the name of SIMON, people assume that I am Jewish and particularly when I get on some call-in radio program when there is a predominately African-American audience, I will occasionally get some of the haters on the phone. I have to add that happens occasionally in white communities.

I am pleased to say that compared to 50 years ago, anti-Semitism is not as great a problem today as it was then.

But we have to learn to become one Nation under God, indivisible and reach out to one another regardless of our personal background.

I ask that Hyman Bookbinder's article be printed into the CONGRESSIONAL RECORD.

The article follows:

IT IS NOT ENOUGH NOT TO BE RACIST

(By Hyman Bookbinder)

I'll never forget that moment 12 years ago. I recall it with special poignancy every Martin Luther King Day.

I was sitting in a reserved Senate gallery, and proud to find myself right behind Coretta Scott King, widow of the slain civil rights leader. The senators had just given overwhelming approval to the King holiday bill, which had already secured House approval. President Reagan, after long hesitation, had stated that he would now sign such legislation. So the Senate vote meant that the long campaign had finally succeeded.

At that moment, the senators all rose, turned to face Mrs. King, waved at her and applauded for some time. Mrs. King acknowledged the applause and then turned to her children sitting by her side and embraced each in turn. She then turned around and hugged me. We were not personal friends, but she knew I had done whatever I could on behalf of the American Jewish Committee to mobilize support for the legislation. As she hugged me, she spoke words I have cherished all these years:

"This is your holiday too."

I do not know whether Coretta King, at that moment, meant "your" to mean white American or Jewish American. But whichever, or both, her words were most gratifying because they reflected precisely what I had been urging for years—hoping, and I still do, that my fellow Jews and all Americans could feel that way.

On the several occasions that I had testified on behalf of the holiday, I had expressed the hope that the holiday would not only recognize the extraordinary attributes of an extraordinary black American, but would also provide the occasion for celebrating the unique cultures of our many religious, ethnic and racial groups even as we seek to enhance the common culture that binds us all as Americans.

Dr. King never failed to define his quest for racial justice as part of the goal of universal justice for all people. In his historic "Dream" speech, his ringing peroration called for speeding up "that day when all of God's children, black men, and white men, Jews and gentiles, Protestants and Catholics, will be able to join hands and sing in the words of the Negro spiritual, 'Free at last, free at last, thank God Almighty, we are free at last.' "

In Martin Luther King Jr., American Jews always had a friend and an ally who understood Jewish agony even as we tried to understand the agony of his people. Only months before he died, he wrote. "It is not only that antisemitism is immoral—though that alone is enough. It is used to divide Negro and Jews—who, have effectively collaborated in the struggle for justice."

That collaboration can and most endure despite some difficult policy differences that have developed over how best to overcome the discrimination and disadvantage and inequality that persist. Dr. King would undoubtedly share his widow's satisfaction in knowing that every King holiday since 1985 has prompted more and more interracial and interreligious commemorations during which his life and work are remembered and commitments renewed to help realize his dream.

In the nation's capital, two events have always been particularly moving. At one, the Embassy of Israel fills its auditorium with several hundred invited guests from the political community, the Jewish community and the black community. Each year, one African American and one Jewish American are cited for their special contributions to civil rights. The other event, a collaboration with the city's principal black churches, fills the sanctuary of Washington Hebrew congregation at a Friday evening Sabbath service. The church choirs enrich the moving ceremony.

At this year's events, the year just ended provides grounds for much despair but also for some hope. The bigots and racists, the antisemites and hate groups are still doing their dirty work. Two much-reported events in 1995 painfully reminded us of the racial divide that persists. When Susan Smith said that "a black man" had kidnapped her children, she counted on anti-black stereotyping to add credibility to her story; when the lie was revealed, black Americans were furious. And, of course, the opposite reactions to the O.J. Simpson verdict among blacks and whites told us more than we wanted to believe. How many more Mark Fuhrmans were there?

But if there are racists in America, it does not mean that we are a racist nation or that most Americans are racists. If this were so, could a Colin Powell be odds-on favorite public personality in the country? Would the Congress of a racist country enact a legal holiday for a black civil rights champion?

But it is not enough not to be racist. It is incumbent upon all of us to isolate and repudiate those who are. It is essential that we insist upon full compliance with the laws enacted to counteract discrimination and inequality. And it is our responsibility to see that our schools and workplaces and churches do their part in closing the gap between "majority" and "minority" Americans.

All this, and much more, we must do, but not in a patronizing, paternalistic spirit. We owe it to ourselves to help create a society that, as Dr. King admonished us, judges its people by the content of their character, not by the color of their skin. We would all be the winners.

To Coretta King's gracious, generous comment that today is "your holiday too," every American should respond, "Yes, racial disadvantage is our problem too."•

THE 50TH ANNIVERSARY OF THE NUREMBERG WAR CRIMES TRIBUNAL

Mr. DODD. Mr. President, about a month ago, the survivors of the Nuremberg Tribunal met here in Washington for their 50th reunion. The Nuremberg War Crimes Tribunal holds a special significance for me because of the role my father, Senator Thomas Dodd, played as an executive trial counsel at the tribunal.

Those who participated in the Nuremberg tribunal deserve a special place in our Nation's history. At the end of World War II, when the heinous atrocities of the Holocaust were revealed to the world, the inevitable impulse to lash out in retaliation against those responsible would have been understandable.

But, in Nuremberg the hand of vengeance was steadied by the belief in the rule of law. Thus, our triumphs on the battlefield led to the ultimate triumph of our ideals in the Palais of Justice in Nuremberg. This is the legacy of Nuremberg and all those who participated in the tribunal. I ask to have printed in the RECORD a list of all those who were attended the recent reunion as well as my remarks at the 50th reunion celebration.

The material follows:

REMARKS OF SENATOR CHRISTOPHER J. DODD, THIRD NUREMBERG REUNION, MARCH 22, 1996

Let me first say what a great pleasure it is to be here this afternoon and surrounded by so many people who played such an important role in my father's life.

My father often said that his participation in the Nuremberg trials was the seminal event of his public life. The fifteen months he spent in Germany, prosecuting Nazi war criminals, defined the type of lawmaker he would become and dictated the issues that he so passionately fought for throughout his career in the Senate.

My father came away from Nuremberg with a greater understanding and fervor for the need to uphold freedom and human rights and to speak out against intolerance, tyranny and violence wherever it may rear its head.

It's why he campaigned so vigorously to establish genocide and crimes against humanity as violations of international law. It's why, he was such a fervent advocate for the civil rights movement in this country.

And it's why he fought so hard as a United States Senator to eradicate the scourge of gun violence and drug use from our nation's streets.

While I take great pride in the role my father played at Nuremberg, my appreciation for your efforts at Nuremberg is just as great. When the gas chambers, death camps and wanton destruction that Nazism had wrought on Europe was revealed, you were burdened with a grave responsibility. To not only punish the guilty but to reassure the world that future generations would never forget the horrors and atrocities of the Nazis.

It was no easy task, particularly when the weight of the living was compounded by the ghosts of history that stood behind you.

At Nuremberg, your voice spoke for the millions of innocents who drew their final breaths at Auschwitz, Treblinka, and Dachau. At Nuremberg, your vigor and energy guaranteed that the millions, who suffered so egregiously—from London to Leningrad—would see justice prevail. And at Nuremberg you affirmed that those who committed the worst atrocities the world has ever witnessed would ultimately be held accountable for their crimes.

Reading through my father's letters the frustration and challenges that all of you must have felt at one time or another comes through clearly. But, what is even more apparent are the deep character, humanity and integrity of all those who toiled so emphatically in the name of justice and the rule of law.

I think my father sums it up best in one of his letters: "Sometimes a man knows his duty, his responsibility so clearly, so surely he cannot hesitate—he does not refuse it. Even great pain and other sacrifices seem unimportant in such a situation. The pain is no less for this knowledge—but the pain has a purpose at least."

But as these words remain relevant and enduring today, so too are the legal doctrines and precedents that Nuremberg established.

Nuremberg enshrined into international law the principles that war crimes, crimes against humanity and genocide would not be tolerated. It declared that respect for human rights was an international responsibility to be maintained and venerated by all nations of the Earth. And, it held that evil would not be faceless. Those responsible for crimes against humanity would be exposed to the world.

I think the words of the chief prosecutor in Nuremberg, Supreme Court Justice Robert Jackson, are eloquent reminders of the goals of Nuremberg: The wrongs which we seek to condemn and punish have been so calculated, so malignant and so devastating, that civilization cannot tolerate their being ignored because it cannot survive their being repeated.

However, while my father left Nuremberg with invaluable lessons that compelled him to fight for freedom and human dignity around the world, the international community largely ignored the lessons of Nuremberg.

My father, like many of you in this room, left Nuremberg envisioning a world in which the rule of law would deter future tyrants, and where international tribunals would mete out fair, yet swift punishment to those who would commit crimes against humanity. Sadly, that vision for the future remains unfulfilled.

If we had taken the lessons of Nuremberg to heart, the ghastly killing fields of Cambodia might have been averted. If the international community had forcefully enshrined the legal precedents of Nuremberg, the perpetrators of atrocious violence in the past half-century, from Idi Amin and Pol Pot to Saddam Hussein and Chairman Mao would have been forced to explain their behavior under the harsh spotlight of international jurisprudence.

Regrettably in 1996, the legacy of intolerance and hatred that was prosecuted at Nuremberg lives on in the smoldering suburbs of Sarajevo and in the mass graves of Kigali.

But, commemorating your accomplishments of the past gives us reason to redouble our efforts for the future. Now, just as at the end of World War II, we stand on the cusp of a new international era. We have the opportunity to make good on the lessons of Nuremberg and enshrine into international law the notion that those who violate the norms of basic human rights will not escape from the long arm of the law.

Today we can see those efforts take flight, as the international community is working to bring suspected war criminals to trial in Bosnia and Rwanda. These tribunals seek to punish those responsible for genocide, war crimes and crimes against humanity while at the same time begin the process of reconciliation for countries torn apart by violence.

Without justice in Bosnia and Rwanda the cycle of violence may only continue. Effective and fair tribunals will silence the calls for retribution and remove the heavy burden of collective guilt from entire communities.

Let us remember that not all Serbs or Hutus are murderers. Most seek only to enjoy the "quiet miracle of life." They strive for simple normalcy. They want only to raise their children in peace, and make an honest living among neighbors in which they have only trust, and not fear.

These tribunals will punish those Serbs and those Hutus who are guilty. But, at the same time it will allow the vast majority of people, who have committed no crime, to work with their neighbors in beginning the national healing process.

Yet, these tribunals serve another effective role: Demonstrate to future criminals that ultimately they will be held accountable.

Some scoff at the notion that international tribunals can prevent future genocides. But, the Hutu murderers in Rwanda took inspiration from the failure of the international community to act after similar ethnic massacres in Burundi. Much in the same way that Hitler took inspiration from the world's failure to react to the Armenian genocide in 1915.

In 1993, 50,000 ethnic Hutu and Tutsi were savagely murdered while the international community did nothing to stop the violence. In addition, they failed to establish any system whereby the perpetrators would be brought to justice. The result was an emboldened Hutu majority, who had little fear of punishment from the international community.

There is no better way to make this lesson clear to all the world's would-be tyrants and murderers than through the establishment of an permanent international tribunal to prosecute those responsible for war crimes, crimes against humanity or genocide.

At the dedication ceremony for the Thomas Dodd Research Center at the University of Connecticut, President Clinton called for the creation of a permanent international tribunal. I commend him for his foresight. And I call on all of us, who understand so well the importance of international tribunals, to work with the President and other world leaders to permanently enshrine the legacy of Nuremberg into international law.

A permanent international tribunal would send a clear signal to those intent on committing terrible atrocities that they will be held culpable for their behavior.

Will an international tribunal stop all future atrocities? Regrettably, no. There will be more Yugoslavias, more Rwandas, and more Burundis.

But, a permanent international tribunal will create a lasting framework for the prosecution of war criminals. It will prevent justice from being contingent on ad hoc measures such as those we've seen in Bosnia. And it will quicken and normalize the implementation of humanitarian laws.

As I don t have to remind you, establishing an international tribunal and prosecuting war criminals can be a messy, patchwork operation.

In Nuremberg, there were few legal precedents by which to model the trial. In particular, new doctrines and concepts in international law had to be created. "War crimes, may be familiar to us today," but in 1945 they were not defined in any international or even national legal sense.

The same can be said of crimes against humanity, which was a concept that remained untested in international law. In Nuremberg, you not only had to prosecute Nazi war criminals, but you had to establish the international laws under which they would be tried.

As Justice Jackson noted in his opening statement at Nuremberg: "Never before in legal history has an effort been made to bring within the scope of a single litigation the developments of a decade, covering a whole Continent, and involving a score of nations, countless individuals, and innumerable events."

But, the creation of a permanent tribunal would revamp the currently ad hoc nature of international tribunals. It would streamline the process of prosecuting those who commit crimes against humanity. But most important, it would serve as an enduring tribute to your tireless labors at Nuremberg on behalf of the international rule of law.

In many ways the question of international jurisprudence and the rule of law, while maybe mundane to some is the embodiment of the spirit of Nuremberg.

After the surrender of Germany and once the ghastly atrocities of the Holocaust had been revealed to the world the impulse to lash out in vengeance at those responsible for these crimes would have been understandable. Some leaders echoed these thoughts. Winston Churchill, in fact, called for the execution of Nazi leaders, without trial.

But, the United States and its Allies ended this war the same way they had fought it, by embodying, as Abraham Lincoln once said, "the better angels of our nature."

The struggle of World War II is as close as any civilization will find to a pure struggle between good and evil. And not only did the forces of good triumph on the battlefield, but they triumphed in the courtroom at Nuremberg as well.

When millions of innocent Jews stood on the railroad sidings at Auschwitz, Treblinka and Dachau to be chosen for the gas chambers they were unjustly stripped of their rights and their liberties.

They weren't granted the right of due process. They weren't given the right to defend themselves or speak on their own behalf. In the concentration camps, the only form of justice was down the barrel of a gun.

But at Nuremberg, the Allies recognized that the only antidote to savagery and inhumanity is justice. That s why defendants were given the right to defend themselves, that's why they were given the right to choose their own legal representation and that's why three of them were acquitted of all charges.

Whatever the legacy of Nuremberg on international law, my father and every person in this room can look back to Nuremberg and remember that when the deafening calls for vengeance were heard you silenced them with the sounds of justice.

Once again, I hark back to the words of Justice Jackson in describing these actions: "That four great nations, flushed with victory and stung with injury stay the hand of vengeance and voluntarily submit their captive enemies to the judgment of the law is one of the most significant tributes that Power has ever paid to Reason."

Looking through my father's letters, I came across a wonderful anecdote from his time in Nuremberg. After only a few weeks in the country he had the opportunity to go to a baseball game at the same Nuremberg stadium where "Hitler corrupted and misled the youth of Germany."

But on that day the voices of evil that had once found shelter in Nuremberg were replaced by 40,000 Americans doing the "most American of things"; watching a baseball game and calling the umpires names and the players "bums."

In many ways, something as wholesome and American as baseball is a wonderful metaphor for the triumph of American optimism, American ideals and American democracy over the forces of intolerance and depravity, represented by Nazism.

In Nuremberg, America's commitment to democracy and the ideals enshrined in our Constitution remained intact even in the face of unspeakable horror. In many ways this is the ultimate legacy of Nuremberg; that our triumph in arms led to the triumph of our ideals.

When historians look back at the events that unfolded in the Palais of Justice in Nuremberg 50 years ago, it is that proud legacy they will remember. And today it is our responsibility to make sure that heritage lives on for the next generation.

For the past 50 years, through wonderful books such as Telford Taylor's "The Anatomy of the Nuremberg Trials" and now the research facilities at the Dodd Center in Connecticut, you've kept the events of a half-century ago burning bright in the world's eyes. Tirelessly, you've worked to illuminate the lessons of those bygone days to a world that so quickly forgets the lessons of history.

Our duty today is to build on that proud tradition with the creation of a permanent international tribunal to prosecute war crimes. I can think of now better way to give your labors at Nuremberg a truly lasting, enduring, and tangible imprint on human history and all of mankind.

PARTICIPANTS IN THE NUREMBERG TRIAL AND THIRD NUREMBERG REUNION

Joan McCarter Adrian, John M. Anspacher, Esq., Beatrice Johnson Arntson, Marvin F. Atlas, Carrie Burge Baker, Ruth Holden Bateman, Henry Birnbaum, Esq., Dr. John Boll, Madelaine Bush, Helen Treidell Carey, Edith Simon Coliver, James S. Conway, Esq., Donald H. Cooper, Esq., Raymond D'Addario, Esq., Mr. & Mrs. Vernon W. Dale, Christiane Deroche, Mary Turley Lemon Devine, Nicholas R. Doman, Esq., Mr. & Mrs. Arthur Donovan, Esq., Allan Dreyfuss, Esq., Mr. & Mrs. Demetrius Dvoichenko-Markov, Mary Crane Elliott, Hedy Wachenheimer Epstein, Margo Salgo Fendrich, Theodore F. Fenstermacher, Esq., Mr. & Mrs. Benjamin Ferencz, Dr. Paul G. Fried.

Miroslav Galuska, Anne Royce Garcia, William H. Glenny, Judge Cecilia Goetz, Greta Kanova Goldberg, Elisabeth Stewart Hardy, Professor Whitney R. Harris, Richard Heller, Esq., Mary Madelaine Trumper Husic, William E. Jackson, Esq., Peter & Annette Jacobsen, Arnold Joseph, Esq., Arthur A. Kimball, Henry T. King, Jr., Esq., Florence B. Kramer, Richard H. Lansdale, Esq., Prof. John K. Lattimer, MD, ScD, Jennie Lazowski, Jane Lester, Margot Lipton, Andy Logan Lyon, Herbert Markow, Esq., Maxine Martin.

Ralph S. Mavrogordato, Esq., Alice Blum Mavrogordato, Mary May, Alma Soller McLay, Pat Gray Pigott Mowry, Lady Marjorie Culverwell Murray, Gwen Heron Niebergall, Jeanette Stengel Noble, Betty Richardson Nute, Arthur L. Peterson, Esq., Mlle. Marta Pantleon, Joan Wakefield Ragland, Siegfried Ramler, Esq., William Raugust, Esq., Dorothy Owens Reilly, Jack W. Robbins, Esq., Walter J. Rockler, Esq., Robert Rosenthal, Esq., Phillis Heller Rosenthal, Howard H. Russell, Jr., Esq., Gunther Sadel, Esq., Mildred Clark Sargent, Walter T. Schonfeld, Julian R. Schwab, Victor Singer, Esq.

Vivien R. Spitz, Drexel A. Sprecher, Esq., Prof. Alfred G. Steer, Ruth M. Stolte, Joseph M. Stone, Esq., Annabel Grover Stover, Prof. Telford Taylor, Claire Bubley Tepper, Fred Treidell, Esq., Jean Tuck Tull, Lt. Col.(ret.) Peter Uiberall, Dr. Herbert Ungar, Patricia Jordan Vander Elst, Inge Weinberger, Lorraine White, Rose Korb Williams, M. Jan Witlox, David J. Smith, John M. Woolsey, Esq., Hon. & Mrs. Wiliam Zeck, Werner Von Rosenstiel, and Lawrence L. Rhee.●

ANGELS WITH HAMMERS

●Mr. HATFIELD. Mr. President, my home State of Oregon has been hit hard in recent months. With the damage wrought by this winter's violent windstorms and recordbreaking floods, many Oregonians were left to wonder if God was somehow angry with us. The helping hand that a Mennonite group has provided to a small Oregon town reminds us how faith can be a powerful healer for a community.

A recent feature in The Oregonian newspaper, titled "Angels With Hammers" by Bryan Denson, related the assistance the Christian Aid Ministries Disaster Response Service has brought to the tiny town of Vernonia, OR. Vernonia suffered $9 million worth of damage last February, when the cresting rivers flowed into the community's schools, homes, and businesses. Emergency services pulled out of town when the immediate crisis of the flood passed, and Vernonia's 2,250 residents faced the daunting task of rebuilding their community.

They found help from a most unexpected source. The first of a wave of Mennonites arrived, led by Paul Weaver and Dan Hostetler. These volunteers were soon joined by some New Order Amish and Apostolic Christians. they offered to repair the dining hall of a local outdoor school in return for shelter. Then they volunteered their free labor and construction expertise for a number of the community's rebuilding needs. For the last 6 weeks, the Mennonites have worked side by side with the people of Vernonia, rebuilding homes destroyed by the flooding.

By late May, the group expects to have renovated at least 30 Vernonia homes. Then they will quietly move on to another community in need of the same assistance. The Ohio-based Cristian Aid Ministries Disaster Response Service was formed in 1992 in the wake of Florida's Hurricane Andrew. They have helped rebuild hundreds of homes in disaster-stricken communities all over the Nation.

I am always heartened by stories about the generosity of strangers, and the help these good samaritans have brought to one Oregon town is exceptional. I want to take this opportunity to publicly thank these Mennonite brethren and the volunteers working with them for the healing aid they have brought to Vernonia. Through their quiet and unexpected efforts, they have relieved a community in great need and inspired many with their faith. The mayor of Vernonia, Tony Hyde, summed up this act of selflessness perfectly when he said, "It's pretty special—Christianity at its best."

As an aside, I would also like to commend the reporter that produced the account of this effort in Vernonia, Bryan Denson, and The Oregonian for publishing this piece. Oftentimes reading the morning paper causes one to want to crawl back in bed. The inspirational tone of this article would make any reader anxious to greet a new day and to lend a hand to their neighbor.●

THE JANE ADDAMS INTERNATIONAL WOMEN'S LEADERSHIP AWARD FOR 1996

● Mr. SIMON. On May 8, 1996, in Chicago, the Jane Addams International Women's Leadership Award for 1996 will be presented. For the first time, this award will be given jointly to two women.

The International Women's Leadership Award is named for Jane Addams, the first American woman to receive the Nobel Prize for Peace. It honors women whose strong leadership makes a practical difference across national boundaries and cultural divisions.

This year's winners are Dr. Hanan Ashrawi and Rita E. Hauser. These women act daily in the spirit of Jane Addams, breaking down the national and cultural barriers that can work against peace. Their efforts have been a major factor in the progress toward peace in the Middle East. In a time of ever increasing partisanship, the cooperative spirit and work of these two women is inspiring.

Dr. Hanan Ashrawi, a Palestinian professor, is currently Commissioner

General of the Palestinian Independent Commission for Citizens Rights. She was recently elected to the Palestinian Parliament. As spokesperson for the Palestinian delegation to the Middle East talks until 1993, she was instrumental in forging the peace. Dr. Ashrawi received her B.A. and M.A. from American University of Beruit and her PhD. from the University of Virginia.

Rita E. Hauser is an American attorney, currently president of the Hauser Foundation. She is chair of the board at the International Peace Academy and chair of the Advisory Board of the Greater Middle East Studies Center at RAND. From 1986 to 1992, she was a member of the advisory panel on international law at the U.S. Department of State. From 1983–91, she served as the U.S. Chair for the International Center for Peace in the Middle East.

I know my colleagues join me in honoring these two women who are well deserving of receiving the Jane Addams International Women's Leadership Award for 1996.●

COMMENDING THE UNIVERSITY OF KENTUCKY'S MEN'S BASKETBALL TEAM ON ITS SIXTH NATIONAL CHAMPIONSHIP

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 244, a resolution to commend and congratulate the University of Kentucky on its men's basketball team winning its sixth National Collegiate Athletic Association championship, submitted earlier today by Senators FORD and MCCONNELL.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. FORD. Mr. President, there is a scene in the movie "Butch Cassidy and the Sundance Kid" where the heroes, successful and unchallenged for years, suddenly find themselves chased by an unshakeable posse.

Each time the posse reappears, the pressure builds on the heroes and they feel a little less invincible, their pursuers' skills a little more impressive. "Who are those guys?" they keep asking.

Over the 3 weeks leading up to the weekend of the National Collegiate Athletic Association Championships' final four, fans found themselves watching upset after upset, crossing off one favored pick after another, scratching their heads and saying, "Who are those guys?"

Those upsets are testament to the incredible talent we saw on display during the NCAA championships this year. And the incredible pressure. That's why after going through nickname after nickname for his team, the University of Kentucky's Coach Rick Pitino finally settled on the "untouchables," because they never let any of that pressure touch them.

Game after game during the tournament, those players came out professional, poised, and untouched by the pressure that had the most devoted of Wildcat fans cautious in their predictions for Monday night's final outcome.

But as Sports Illustrated pointed out, not even the magnificently courageous Syracuse team they would suit up against on April 1, 1996, would be able to shake the Cat's unapologetic defense.

In the end, even the upset magic that was in the tournament's air from the first jump ball, was simply no match for their depth and their talent.

The fans were right to ask "Who are those guys?" But, the Wildcats have a coach that knew how to take raw talent, combine it with an unmatched professionalism, sportsmanship, and some downright dangerous weapons—from Derrick Anderson's three-pointers to Walter McCarthy's thunderous dunks to Ron Mercer's slashing drives to Anthony Epps' ball handling—to turn back the challengers, one by one.

And of course there was Tony Delk. He had 7 three-pointers and 10 rebounds in the final game against Syracuse's scrappy Orangemen. But, as he bent down to help up a fallen Syracuse player, he came to epitomize not just the outstanding playing that marked this tournament, but the outstanding sportsmanship as well.

But, this was one player's victory.

Those five starters weren't the whole team by any means. With no player averaging much over 20 minutes per game the whole season, the Wildcats succeeded because of their ability to rely on one another's strengths, no matter what a player's position in the lineup.

That's because this was a team in every sense of the word, with a depth and wealth of talent that was the envy of the entire NCAA. Rick Pitino said more than once that his players checked their egos at the door. And because of that, when they went back out that door, they went as winners.

They rib us a bit about taking our basketball too seriously in Kentucky. And apocryphal stories about fans being buried in their Wildcat sweat suits or calling on Coach Pitino to help settle their marital spats, sometimes make it seem so.

But, when you see a team of such gifted athletes work together in a way that seems almost effortless—and combine it with a professionalism on and off the court that makes them true role models to their peers and their young admirers—then Kentucky's devotion to her basketball doesn't seem misplaced one bit.

The University of Kentucky's year was marked by one amazing statistic after another. They not only had a 34 and 2 record—the best record since the 1953–54 Cats went 25 and 0, but at one point had strung together 27 consecutive wins, the longest in the country. And they finished a very, very tough SEC regular season undefeated, the first time that's been done in four decades. The Wildcat's average margin of victory in the NCAA tournament was 21.5 points per game—the fourth best margin of victory in the history of the game.

And, while the players' incredible talent and the unmatched coaching skills of Rick Pitino are enough to assure that no one will be asking "who are those guys?" about the Kentucky Wildcats anytime soon, I believe it is only right that the U.S. Senate should be on record saluting their accomplishments.

And so I urge my colleagues in joining me in the adoption of a resolution commending the University of Kentucky basketball team.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, and motion to reconsider be laid upon the table, that the preamble be agreed to, and that any statements relating thereto be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 244) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 244

Whereas the University of Kentucky Wildcats men's basketball team defeated Syracuse University's team on April 1, 1996, in East Rutherford, New Jersey, to win its sixth National Collegiate Athletic Association (NCAA) championship;

Whereas the senior members of this team, during their four-year varsity careers, were also NCAA semi-finalists and three-time champions of the Southeastern Conference;

Whereas Coach Rick Pitino, his staff, and his players displayed outstanding dedication, teamwork unselfishness, and sportsmanship throughout the course of the season in achieving collegiate basketball's highest honor, earning for themselves the nickname "The Untouchables"; and

Whereas Coach Pitino and the Wildcats have brought pride and honor to the Commonwealth of Kentucky, which is rightly known as the basketball capital of the world: Now, therefore, be it

Resolved, That the Senate commends and congratulates the University of Kentucky on its outstanding accomplishment.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the president of the University of Kentucky.

MEASURES INDEFINITELY POSTPONED—CALENDAR NOS. 124, 164, AND 247

ORDER REGARDING S. 1124, S. 1125, AND S. 1126 VITIATED

Mr. LOTT. Mr. President, I ask unanimous consent that the following calendar numbers be indefinitely postponed: 124, 164, and 247. I further ask that the unanimous consent order of September 6, 1995, regarding S. 1124, S. 1125, and S. 1126 be vitiated.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

REGARDING MAJORITY PARTY MEMBERSHIP OF THE LABOR AND HUMAN RESOURCES COMMITTEE

Mr. LOTT. Mr. President, I send to the desk a resolution regarding majority party membership of the Labor and Human Resources Committee and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 245) making majority party appointments to the Labor and Human Resources Committee.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ABRAHAM. Mr. President, I rise in support of adoption of Senate Resolution 245 which will have the effect of removing me from membership on the Labor and Human Resources Committee. Although I would have liked to retain my assignment on the Labor Committee, I support this action in deference to rule XXV of the Standing Rules of the Senate. Rule XXV limits the number of committees on which each Member may serve during a Congress. In combination with rule XXV, and the seniority considerations within the Senate Republican conference, which dictate the basis by which Members obtain waivers to serve on more than two "A" committees, I am not eligible at this time to continue to serve on the Labor Committee during the remainder of the 104th Congress.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 245) was agreed to, as follows:

S. RES. 245

Resolved, That notwithstanding any provision in Rule 25 or 26, the following be the majority party membership on the Committee on Labor and Human Resources for the 104th Congress, or until their successors are appointed:

Labor and Human Resources: Mrs. KASSEBAUM (Chairman), Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ASHCROFT, Mr. GORTON, and Mr. FAIRCLOTH.

THE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 354, H.R. 255; calendar No. 355, H.R. 860; calendar No. 356, H.R. 1804; calendar No. 357, H.R. 2415; and calendar No. 358, H.R. 2556, en bloc, the bills be deemed read the third time, and passed, the motions to reconsider be laid upon the table, all occurring en bloc, and that any statements relating to the bills be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE JAMES LAWRENCE KING FEDERAL JUSTICE BUILDING DESIGNATION ACT

The bill (H.R. 255) to designate the Federal Justice Building in Miami, Florida, as the "James Lawrence King Federal Justice Building," was considered, ordered to a third reading, read the third time, and passed, as follows:

H.R. 255

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Justice Building located at 99 Northeast Fourth Street in Miami, Florida, shall be known and designated as the "James Lawrence King Federal Justice Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "James Lawrence King Federal Justice Building".

THOMAS D. LAMBROS FEDERAL BUILDING AND UNITED STATES COURTHOUSE DESIGNATION ACT

The bill (H.R. 869) to designate the Federal building and U.S. Courthouse located at 125 Market Street in Youngstown, Ohio, as the "Thomas D. Lambros Federal Building and U.S. Courthouse," was considered, ordered to a third reading, read the third time, and passed, as follows:

H.R. 869

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 125 Market Street in Youngstown, Ohio, shall be known and designated as the "Thomas D. Lambros Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the "Thomas D. Lambros Federal Building and United States Courthouse".

JUDGE ISAAC C. PARKER FEDERAL BUILDING ACT

The bill (H.R. 1804) to designate the United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, as the "Judge Isaac C. Parker Federal Building," was considered, ordered to a third reading, read the third time, and passed, as follows:

H.R. 1804

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, shall be known and designated as the "Judge Isaac C. Parker Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office-Courthouse referred to in section 1 shall be deemed to be a reference to the "Judge Isaac C. Parker Federal Building".

THE TIMOTHY C. McCAGHREN CUSTOMS ADMINISTRATIVE BUILDING

The bill (H.R. 2415) to designate the United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Zaragosa Road in El Paso, Texas, as the "Timothy C. McCaghren Customs Administrative Building," was considered, ordered to a third reading, read the third time, and passed, as follows:

H.R. 2415

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Zaragosa Road in El Paso, Texas, shall be known and designated as the "Timothy C. McCaghren Customs Administrative Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Timothy C. McCaghren Customs Administrative Building".

VINCENT E. McKELVEY FEDERAL BUILDING DESIGNATION ACT

The bill (H.R. 2556) to redesignate the Federal building located at 345 Middlefield Road in Menlo Park, California, and known as the Earth Sciences and Library Building, as the "Vincent E. McKelvey Federal Building," was considered, ordered to a third reading, read third time, and passed, as follows:

H.R. 2556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 345 Middlefield Road, in Menlo Park, California, and known as the Earth Sciences and Library Building, shall be known and designated as the "Vincent E. McKelvey Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Vincent E. McKelvey Federal Building".

CLOTURE MOTION

Mr. LOTT. Mr. President, I now move to proceed to Senate Resolution 227, the Whitewater legislation, and send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the the motion to proceed to Senate Resolution 227, regarding the Whitewater extension.

Alfonse D'Amato, Dan Coats, Phil Gramm, Bob Smith, Mike DeWine, John H. Chafee, Jim Jeffords, Frank H. Murkowski, Robert F. Bennett, Spence Abraham, Conrad Burns, Alan K. Simpson, William V. Roth, Bill Cohen, Lauch Faircloth, Slade Gorton.

Mr. LOTT. Mr. President, I ask unanimous consent that the vote occur on Thursday, April 18 at a time to be determined by the two leaders and the mandatory quorum under Rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I now withdraw the motion.

ORDERS FOR WEDNESDAY, APRIL 17, 1996

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:15 am, on Wednesday, April 17; further, that immediately following the prayer, the Journal of the proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business until the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the following exceptions: Senator LEAHY for 10 minutes, Senator GRAMM for 20 minutes, and Senator GRAMS for 10 minutes; further, that the Senate then immediately resume consideration of the conference report to accompany S. 735, the terrorism bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. Mr. President, I further ask unanimous consent that immediately following the vote on adoption of the terrorism conference report, there be 60 minutes of debate, equally divided in the usual form, to be followed by a vote on cloture on the motion to proceed to the Whitewater committee resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, the Senate will resume the terrorism conference report tomorrow. Under a previous consent agreement, there will be a limited amount of debate in relations to motions to recommit the conference report. Members can anticipate rollcall votes throughout the day on or in relation to the conference report prior to a vote on adoption.

Following final disposition of the terrorism conference report, there will be 1 hour of debate to be followed by a vote on cloture on the motion to proceed to the Whitewater resolution.

It is also still possible that the Senate would resume consideration of the immigration bill, if an agreement can be reached with respect to that measure.

The Senate may be asked to turn to any other legislative items that could be cleared for action.

ORDER FOR ADJOURNMENT

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order following the remarks of the distinguished Democratic leader, Senator DASCHLE.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO COMMERCE SECRETARY RON BROWN

Mr. DASCHLE. Mr. President, as I understand it, the resolution which honors the memory of Ron Brown is still pending, and I want to make a couple of remarks in regard to that resolution and Secretary Brown before we close tonight.

Mr. President, it is with sadness—and tremendous gratitude for the work their lives exemplified—that I add my voice to those honoring Commerce Secretary Ron Brown and the extraordinary men and women who died with him on that plane.

I am sure each of us will long remember just where we were and what we were doing when we heard that Secretary Brown's plane was missing over Croatia, and then, moments later, when we learned the plane had crashed.

In my case, I was at home—packing to leave for Bosnia, Croatia and Serbia myself.

So many thoughts raced through my mind. . . .

I thought of the meeting I was supposed to have had the following evening in Zagreb with Secretary Brown.

I thought of how, just a few weeks earlier, Secretary Brown had helped an electronics company in Rapid City work out the final details of a contract with a group in South Africa, and of all the people in my state who will be able to work because he went the extra mile for us.

But mostly I thought, what a loss. What a terrible loss our Nation had just suffered.

Ron Brown and the 32 brave Americans who accompanied him on that noble mission to Bosnia represented what is best about our Nation:

A "can do" sense of optimism and determination.

A generosity of spirit.

And an unshakable belief in democracy.

The men and women on that plane did not go to Bosnia simply to bring contracts to America—as important as that is.

They went to bring hope and prosperity to Bosnia so that the fragile peace there might take root and grow, and democracy might replace tyranny.

Hours after Secretary Brown's plane crashed into that mountain, I was on another plane with Senators HATCH and REID. We spent 9 days in Bosnia, Croatia and Serbia and four neighboring states, assessing progress in the implementation of the Dayton peace plan.

Every world leader with whom I met stressed the importance of both promoting economic growth and building democratic institutions to achieving a sustainable peace in the Balkans. Those were the very goals to which Ron Brown's trip to Bosnia was dedicated.

In an article I read, a woman who had worked with Secretary Brown said it wasn't just that he saw a glass half-full when others saw it half-empty. His optimism was bigger than that. Where others saw a half-empty glass, she said, he saw a glass overflowing with possibilities.

It would take that kind of vision to see the path to a lasting peace in Bosnia.

Ron Brown was able to see that path. And, he was able to make others see it.

He was a good salesman. What he sold was America—not just American goods and services, but American ideals.

The reason he could sell America with such confidence is that he believed in America, and in the goal of making America—and the world—better.

Ron Brown spent his life transcending boundaries.

Boundaries of race.

Boundaries of party.

Boundaries drawn on maps.

And in transcending those boundaries, he made them less formidable for all of us. That is part of the great legacy he has left us.

I have been reminded these last few days of a scene in the Shakespearean play, Julius Caesar. It is the scene at Caesar's burial. Caesar has just been falsely maligned by Brutus as a traitor.

Then Mark Antony rises to recall the Caesar he knew.

He was, Mark Antony said, a man who loved his country so much he gave his life for it.

Then he stunned the crowd by reading them Caesar's will. He had left all of his possessions to the people of Rome.

Even more precious, he had left his fellow citizens a legacy of greatness and the ability, to quote Shakespeare, "to walk abroad and recreate yourselves."

Ron Brown and the men and women on that plane died trying to recreate the American spirit of democracy and opportunity in a land torn apart by war.

It is right that we offer these tributes to them. But, in the end, the best tribute we can pay them is to keep alive their determination to recreate what is best about America wherever people long for freedom and justice and opportunity.

Let us today rededicate ourselves to that noble cause.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I wish to commend the distinguished Democrat leader for his remarks. I would like to ask unanimous consent that I might add just a few comments of my own.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO COMMERCE SECRETARY RON BROWN

Mr. WARNER. Mr. President, I, too, like the distinguished minority leader, remember where I was when this tragic message came. I first thought to myself that not too many months prior thereto I was with our distinguished colleague on a similar mission in that region. Senator BOB KERREY and I were over there, and we actually landed at the same airport. This was my fifth trip. I was the very first Senator to make a trip to Sarajevo some more than 3½ years ago. The thought came to my mind where the Secretary had given his life, together with the aircrews'—aircrews that all of us have traveled with. I traveled with those crews and their predecessors for 20-plus years formerly as Secretary of the Navy and now in the U.S. Senate. They are a very dedicated and well trained group of officers and enlisted men. The finest the Air Force has, really, are dedicated to those missions. Those aircraft are somewhat old, but they are well kept. They are not palatial.

Of course, with the Secretary were a very distinguished group of Americans from the private sector, and journalists also, who were going to examine that war-torn region, to help provide for those less fortunate than ourselves, who have suffered the tragedies of that conflict, a conflict of which to this day, although I have studied it, I cannot understand the root causes.

But, nevertheless, I had known the Secretary. While we are of opposite political persuasions, I always remember him as a man of great humor. I never saw him without a twinkle in his eye. Always he put forward his hand. There were several stressful periods in his life and I always stretched out my hand, because those of us in public office know from time to time there are periods that put us to the test. But he met the tests and he served his Nation.

I join the distinguished minority leader and my colleagues in paying our tribute to him as a fine American, to the aircrews, to all passengers who were on that plane. We give our heartfelt compassion to the families that must survive this tragedy and go on to lead constructive and meaningful lives.

Mr. President, I thank the Chair and distinguished minority leader.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

The PRESIDING OFFICER. The Senate, under the previous order, will stand adjourned until 9:15 a.m., Wednesday, April 17, 1996.

Thereupon, the Senate, at 7:55 p.m., adjourned until Wednesday, April 17, 1996, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate April 16, 1996:

GENERAL SERVICES ADMINISTRATION

DAVID J. BARRAM, OF CALIFORNIA, TO BE ADMINISTRATOR OF GENERAL SERVICES, VICE ROGER W. JOHNSON, RESIGNED.

NUCLEAR REGULATORY COMMISSION

HUBERT T. BELL, JR., OF ALABAMA, TO BE INSPECTOR GENERAL, NUCLEAR REGULATORY COMMISSION, VICE DAVID C. WILLIAMS.

DEPARTMENT OF STATE

JOHN CHRISTIAN KORNBLUM, OF MICHIGAN, TO BE AN ASSISTANT SECRETARY OF STATE, VICE RICHARD HOLBROOKE, RESIGNED.

BARBARA MILLS LARKIN, OF IOWA, TO BE AN ASSISTANT SECRETARY OF STATE, VICE WENDY RUTH SHERMAN, RESIGNED.

HOUSE OF REPRESENTATIVES—*Tuesday, April 16, 1996*

The House met at 9:30 a.m. and was called to order by the Speaker pro tempore [Mr. DICKEY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

> WASHINGTON, DC,
> *April 16, 1996.*
>
> I hereby designate the Honorable JAY DICKEY to act as Speaker pro tempore on this day.
>
> NEWT GINGRICH,
> *Speaker of the House of Representatives.*

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Texas, Mr. SAM JOHNSON, for 5 minutes.

TIME TO CREATE A TAX SYSTEM THAT PROMOTES FREEDOM

Mr. SAM JOHNSON of Texas. Mr. Speaker, I found a statement by Richard E. Byrd, who was speaker of the Virginia House of Delegates from 1908 to 1914, which was the time when the income tax began. He predicted and I quote:

> A hand from Washington will be stretched out and placed upon every man's business; the eye of the Federal inspector will be in every man's counting house * * * the law will of necessity have inquisitorial features, * * * it will provide penalties, it will create complicated machinery. Under it men will be haled into courts distant from their homes. Heavy fines imposed by distant and unfamiliar tribunals will constantly menace the taxpayer. An army of Federal inspectors, spies, and detectives will descend upon the State.

Unfortunately, I believe the gentleman's prediction was right.

We in Congress have created a system that has grown from 11,000 to 7 million words, from 14 pages to over 9,000, and now has 480 different tax forms that require an additional 280 forms to describe the first 480. I don't believe this system is either simple or fair.

I will ask anyone to tell me that it is simple and fair when they can explain why 50 different tax experts, given the same return for a family of 4, come back with 50 different answers.

And why does it take over 115,000 IRS agents to enforce this Tax Code. Does anyone realize that there are more IRS agents than are employed by the Environmental Protection Agency, the Occupational Safety and Health Administration, the Food and Drug Administration, and the Drug Enforcement Agency combined.

I have to agree with Fred Goldberg, the IRS Commissioner under George Bush who said:

> The IRS has become a symbol of the most intrusive, oppressive, and nondemocratic institution in a Democratic society.
>
> Not to mention overly complex, economically destructive, unprincipled, inefficient, and discriminatory.
>
> Discriminatory because, as stated by Justin Morrill, a Member of this body back in 1866, in this country we neither create nor tolerate any distinction of rank, race, or color, and should not tolerate anything else than entire equality in our taxes.

Even the Founding Fathers were opposed to any politics based on income differences, because they feared it would lead to class warfare. They believed that comity and tolerance among the States and classes were the preconditions for a unified country.

I believe that the current system has divided the Nation because it says, that if you work hard and make a good living you should be punished. To all those who say the current system is fair I would like to point out a recent Readers Digest poll which found that Americans believe that no one should pay more than 25 percent in taxes and that is Federal, State, and local combined. And this feeling was universal across race, economic, and gender lines.

I believe it is time to create a tax system that promotes freedom. Freedom to me means a system that is fair and simple, encourages savings and investment, is efficient, drives the economy, provides opportunity for all and puts more money in your pocket.

That is why we will introduce a resolution to repeal the 16th amendment to the Constitution. The American public will see how destructive our tax system really is. I believe as Abraham Lincoln did that "with public sentiment, nothing can fail; without it nothing can succeed." That is why I call on Congress and the American people to help us pull up the income tax system by its roots and replace it with a system that gives everybody the chance to succeed in attaining the American dream.

ISSUES CONGRESS SHOULD ADDRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning business for 5 minutes.

Mr. PALLONE. Mr. Speaker, I think many of us know that for the last few weeks we have been in our districts. The House has not been in session until yesterday evening. Of course, it is an opportunity to talk to your constituents on a daily basis and get their input.

What I found overwhelmingly was a feeling on the part of my constituents in my district in New Jersey that this House of Representatives and this Congress under the leadership of Speaker GINGRICH and the Republicans is not getting the job done.

My constituents expressed concerns about health care, whether or not they were going to have affordable health insurance or any health insurance at all; they expressed a great deal of concern about the environment, because we are now getting close to the summer season. My district is very dependent on shore tourism. For the last few years we have seen significant, at least in the last 10 years, we have seen significant improvement in our water quality, and they do not want to see the clock turned back on environmental protection.

They are also concerned about education. Today in my district in New Jersey we vote on the school board elections and the budgets. Property taxes are going up in many municipalities, and there is concern about a lack of State and Federal aid to help and provide property tax relief.

They are also concerned about jobs. They are concerned about whether or not pension, health care benefits, are going to be available, and whether they are going to have a job at all.

I ask the Members of this House, I ask the Speaker, what is it that this Congress under the Republican leadership, under Speaker GINGRICH and the rest of the Republican leadership, have done about any of these issues? And the answer is pretty much nothing.

We are back now for a 6-week session. I understand that the House Republican leadership under Speaker GINGRICH is going to propose some bills that are essentially, in my opinion, nothing

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

but smoke and mirrors, an effort to sort of suggest that they are going to address education, environment, and health care issues, but that they really will not be addressing those issues in a significant way.

Let me just talk a little bit, if I can, about what is missing from this Republican leadership or Gingrich agenda. First of all, the education element. We are continuing to operate now as we have since the beginning of this fiscal year on what we call continuing resolutions. In other words, we have not passed a budget, we have not passed appropriation bills, to keep the Government going, and I know we have had actually at least two Government shutdowns because of the inability, if you will, of the House Republican leadership to pass legislation to keep the Government operating.

But a big part of these continuing resolutions or stopgap spending appropriation measures that have been passed here have actually implemented major cuts in education funding, for title I and other programs that are important to our school districts.

What that means is that when those school districts do not get the education funding to hire teachers or to pay for teachers' salaries or whatever, they either have to lay teachers off, as many have now or give notice of layoffs, or increase their local property taxes to make up the difference.

That is what is happening in the State of New Jersey. Many of our constituents are going to be going to the polls today voting on school board budgets that are higher because they cannot expect the Federal aid that they normally would have. What that means is that property taxes go up for many of them and property taxes are already too high. There has been a lot of talk about taxation by the Republican leadership around here, but they have not mentioned the fact they are actually increasing property taxes because of the cutbacks in education funding.

On the issue of the environment, as you know, next Tuesday, or next Monday I should say, will be Earth Day. We will be celebrating, I believe, the 26th Earth Day. Over the last 25 years, on a bipartisan basis, there were major accomplishments to protect and improve the protection of the environment. Water and air quality have improved. But if you look at the record of this Republican Congress and the Gingrich agenda over the last year, they have tried significantly to turn back the clock on environmental protection. They introduced and passed in this House what I call a dirty water bill, which eliminates a lot of the protections to improve water quality, particularly with regard to enforcement. The spending bills, the same stopgap spending bills that have major negative impacts on education have also had negative impacts on environmental protection, to the point where the EPA cannot do inspections, cannot do cleanup of hazardous waste sites pursuant to the Superfund Program. Grants that would go to municipalities and counties to upgrade sewage treatment, to make sure our water continues to be clean, have been cut back significantly.

What I have always said is it is very nice to have environmental laws on the books, and we do have some good ones, but what is the point if you do not have the money to enforce those laws?

So I would just conclude, Mr. Speaker, and say that this House and this Republican leadership needs to address the real issues that face the American people, and not operate in this smoke and mirrors agenda.

TRIBUTE TO GAIL DOBERT, DEPUTY DIRECTOR, OFFICE OF BUSINESS LIAISON, AND LONGTIME AIDE TO SECRETARY RON BROWN

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. FORBES] is recognized during morning business for 5 minutes.

Mr. FORBES. Mr. Speaker, I thank you for this opportunity. I take the floor today to pay tribute to a young woman, a young woman by the name of Gail Dobert. Gail Dobert was lost by us on April 3 in the tragic airplane crash in Croatia that took the life of Secretary Ron Brown and 33 others. This morning I take the floor to talk about Gail and the promise that Gail represented.

Mr. Speaker, literally tens of thousands of young people come to Washington, DC, every year, with the hope of promise for the excitement and the opportunity to be part of this Government. Whether it is the government of Ronald Reagan or George Bush or Jimmy Carter or Bill Clinton, they come to this town because they are caught up in the excitement of a living and vibrant democracy and wanting very much to be a part of that democracy.

I rise today to pay tribute to Gail. Gail Dobert was a Department of Commerce official. Her family of Moriches, Long Island, a very wonderful family, who described themselves as Kennedy Democrats and said that they are thrilled by Gail's participation in the political process. Along with many of my neighbors on Long Island, I was deeply saddened when we learned of the loss of Gail and Secretary Brown and so many others on that tragic day.

But today we are here to celebrate the life of Gail and what she meant. So many individuals search their whole lives through to try to make a lasting contribution to the world, to their communities, to their Nation. I think it is fair to say that Gail Dobert, in her very short 34 years, made a tremendous contribution, not only to the political process, but enhancing our own democracy and to working for the concerns that brought her to Washington.

Gail was born in Oneonta, NY, on April 12, 1961, the same day that headlines were made when the Russians had somebody orbiting the Earth. She grew up in St. Johns Street in Sayville, Long Island, and, ironically, she died on St. Johns Hill in Croatia. As a Long Islander, she loved the ocean, the warm breezes and the beaches that she came to love after her experiences every summer on Fire Island with her family. Rehoboth Beach, of course, became her favorite getaway beach from the rigors of Washington.

In 1979 she graduated from Connetquot High School in Long Island and left to attend Bucknell University. She was the beloved daughter, as I said, of Ken and Maureen Dobert, two individuals who describe themselves as Kennedy Democrats. She is the devoted sister of Ray and Darla, granddaughter of Helen, and I might add that this family's tragedy has only been enhanced because Gail lost both her grandmother and her grandfather, Maureen's parents, earlier in the year.

She is the adored niece of Regina and James and Elizabeth and cousin to Michael, Jennifer, Christopher, and Janice.

Prior to coming to Washington, Gail worked for Philip Morris and the New York Daily News to help those two organizations with their summer jobs program that aided economically disadvantaged young people to find employment opportunities during the summer in New York City. Her first job out of Bucknell was as assistant director of public relations here in Washington for the Sheration Hotel chain. She did press, marketing, and events planning. But she could not fight that desire to come up here on Capitol Hill, and finally she landed a job as a senior legislative assistant to Pennsylvania Congressman Gus Yatron, a Democrat of Pennsylvania.

Following President Clinton's election in 1992, the road led Gail to four intense months as deputy director of operations for the inauguration. This appointment came as a result of her diligent and enthusiastic work under Ron Brown during his leadership as head of the Democratic National Committee. She served as budget manager for the Victory '92 Campaign, convention coordinator for all operational events, and corporate fundraiser at the DNC from 1990 to 1992.

After a 5-month recreational hiatus at various beaches in the Caribbean, Gail was persuaded to join Secretary Brown and did so in the Office of Business Liaison at the U.S. Department of Commerce as a confidential aide, deputy director, and, at the time of her unfortunate death, as acting director.

Under Secretary Brown's leadership and working closely with him, Gail helped to develop U.S. business interests abroad, and in fact she was able to organize and coordinate Presidential business development missions to Russia, South America, China, Ireland, India, Turkey, the Middle East, Africa, Bosnia and Croatia. These trade missions promoted export-related activities for specific business ventures by American companies. They developed over $44 billion in American opportunities abroad for businesses.

Mr. Speaker, I ask that the memory of Gail Dobert be recognized by this House and by the Nation at large.

DISTRICT OF COLUMBIA ECONOMIC RECOVERY ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized during morning business for 5 minutes.

Ms. NORTON. Mr. Speaker, as this body is aware, it has imposed a Control Board on the District of Columbia, which has become insolvent. The only reason there are not more cities in this category, of course, is because most cities have States. Nevertheless, New York, Philadelphia, and Cleveland, long before the District became insolvent, themselves became insolvent and had control boards.

Control boards, of course, are necessary, because insolvent cities cannot borrow. One of the first things such cities need to do is to downsize their governments. That is exactly what is happening in the District of Columbia as I speak.

The fact is, however, that every other city that has become insolvent had a dual strategy or they never would have become solvent. The State provided either some direct aid, as in the case of Philadelphia, or a takeover of functions and aid, as in the case of New York City.

The District is a unique entity, and I have proposed a unique bill, the only alternative I can see, that provides any realistic way to counter the serious problems of the capital of the United States.

The unique fact about this city, of course, to face first and foremost, is that it has no State to help it in any way. The Congress, which, of course, has an obligation to help it with a payment in lieu of taxes, because we cannot build on the best land in the District, has not raised the District's Federal payment in 5 years.

Now, costs have gone up enormously in 5 years, so that means that the Federal payment is taking a loss every year that it is not raised. Congress, if anything, made it worse this year by shutting down the Government for a week and by delaying the full Federal payment for 6 months, just digging the hole deeper.

The Congress says the District cannot impose a commuter tax, even though 2 million people come in here using our facilities and walk out everyday without leaving a thin dime to support the city.

If you look at no State to help us, no Federal payment increase in 5 years, no commuter tax, you end up with no way out. It is the obligation of this body, that has constitutional responsibility for the capital of the United States and for every responsible person in this city, to think through how the recovery in fact is going to take place.

Step one is in place. The District is going to reduce its work force by 10,000 people in the next 4 years. That is a 25-percent reduction in its own city government work force. I challenge any Member to show me any government that has had that kind of reduction in so short a period of time. Indeed, the District is halfway there, because of the 10,000 positions that will go, it already has eliminated more than 5,000 of them. And yet this year, before half of the fiscal year was over, the District was down $100 million. You do not get out of insolvency that way.

So yesterday on Tax Day, I introduced the District of Columbia Economic Recovery Act. It adopts the approach that Members on both sides of the aisle want the Congress to adopt, tax cuts for the District of Columbia, rather than direct aid; tax cuts in order to encourage middle income residents who live here now to remain, and others to come.

In other words, the city would be able to support itself the old-fashioned way, because there would be enough middle-income taxpayers to pay for what needs to be paid for. There would be a flat 15 percent rate that would have a progressive effect on the income scale, giving substantial Federal tax reductions to D.C. taxpayers.

By the way, there is much to learn from my bill, I think, for the States. If you want to keep folks in New York, Newark, Chicago, and Los Angeles, perhaps the States should try reducing State income tax on taxpayers that remain in those cities, rather than allowing those cities to become what everybody knows they are becoming as I speak, and that is basket cases.

You cannot afford to have the proud capital of your country become a basket case. You are going to pay one way or another. Let us pay for it by letting D.C. residents keep their own money. There also would be capital gains exemption for D.C. residents who invest in the District of Columbia.

Yes, this is a unique remedy for a uniquely handicapped city. Read this morning's Washington Times editorial, "A Serious Plan for What Ails the District."

TRAVEL AND TOURISM IN AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Wisconsin [Mr. ROTH] is recognized during morning business for 5 minutes.

Mr. ROTH. Mr. Speaker, I congratulate the Speaker for the good job he is doing in the Chair.

The SPEAKER pro tempore. Thank you sir. You are not doing so badly yourself.

Mr. ROTH. Mr. Speaker, I am excited this morning. We now have 219 cosponsors to the Travel and Tourism Partnership Act. That means that we have more than a majority of the Members in the U.S. House of Representatives that have signed onto this legislation, and it is only appropriate that it happened on April 15—tax day. That is the day the American people focus on how much it costs to run their Government.

The American people know that travel and tourism is the second largest industry in America, and it is going to be the largest industry in America in only 4 years. What this means is that one out of every nine Americans who works, works in the travel and tourism industry.

Travel and tourism has only one problem: The people in the industry do not know how powerful they are politically. So the people that work in travel and tourism, that work in our hotels, motels, and our restaurants, small businesses up and down Main Street, America, they work hard and they pay their taxes. They do not do a lot of screaming. So whenever a tax bill comes to pay for more and more taxes, the American Congress puts it on the hard-working people that work in travel and tourism. Because they are so busy working, they do not have time to demonstrate.

The American people ought to know that every household in America, because of the travel and tourism industry, pays $652 less in taxes. That is right. if you live and own a home anywhere in America, yesterday, on tax day, you paid $652 less in taxes because of this industry, because so many people are employed in this industry. The travel and tourism industry pays a total of $54 billion a year in taxes, and that benefits all Americans.

What has this Congress done? This Congress has closed down the U.S. Travel and Tourism Administration. Travel and tourism is the second largest industry in America and we have stopped advertising. What does every small business person in America know? You have to do some advertising. But Congress said "We are going to save a few dollars," being very myopic, "and we are going to close down the U.S. Travel and Tourism Administration."

What I have done is introduce this legislation, and it does not cost 1 dollar in taxes. With this legislation will have the Government and private industry, travel and tourism, working together to let the world know what we have got to offer right here in America.

Every day we can see the benefits of travel and tourism. We had one of our Members here this morning talking about the environment and Earth Day. The money we spend on Earth Day, what will it do? It's just 1 day, where people work on a project, and speak to the TV news in the evening; but the next day it is all forgotten.

Not with travel and tourism. People in travel and tourism are environmentalists every day of the year. Why? It's their business. We want to have clean water. We want to have clean air. We want to make sure we have recreational areas for people to enjoy and to have a healthy environment: All of this means tourism.

I think the U.S. Congress, Mr. Speaker, is waking up to that message, and that is why we have 219 cosponsors on this bill. Very few bills ever get that kind of support.

But the flip side is we have 216 Members of Congress in the House who are not yet signed on. Do they not care about one out of every nine working people in America? I want the travel and tourism industry to contact these Members too. To let them know this is going to be an election issue, and that travel and tourism means jobs.

There are three industries that jobs for the American people will come from the rest of this decade and into the 21st century. What are they? Telecommunications, information technology, and travel and tourism. These are the three great job-producers in America's future.

So when we talk about travel and tourism, we are talking about an industry that is going to produce the jobs that our people need if we are going to have a strong economy.

The U.S. Congress is not going to produce jobs. Travel and tourism produce jobs for one out of every nine working Americans. In only 4 years, 661 million people will be traveling worldwide. Why is that important? Because that number of people will spend more than $585 billion in the process. That is a lot of money to be added to the American economy.

Mr. Speaker, our Travel and Tourism Caucus is the largest caucus in Congress—304 Members. I ask all Members to join this caucus, because travel and tourism is the wave of the future.

THE 104TH CONGRESS AND THE ENVIRONMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from California [Ms. PELOSI] is recognized during morning business for 5 minutes.

Ms. PELOSI. Mr. Speaker, I am pleased to be a cosponsor of the travel and tourism legislation of our colleague from Wisconsin, Mr. ROTH, and wish him much success with it. However, I do take issue with one comment that he made, and that is what he said about Earth Day, that it is a day we go have our press events, make some fuss about Earth Day, and then it is forgotten for the rest of the year.

Maybe that is the approach that some of our colleagues on the Republican side of the aisle, and I am not including Mr. ROTH in that, because I know that is not his attitude, but some of our more extreme Members on the Republican side of the aisle take to Earth Day, but that is not the appropriate approach.

As our colleague mentioned Earth Day, we are preparing for Earth Day, the 26th anniversary of the first Earth Day, which will occur next Monday. I think it is important to make some observations about what has happened in this 104th Congress when it comes to the environment.

The 104th Congress came to Washington with an aggressive anti-environment agenda promoted largely by industry and special interest groups who are determined to turn back 25 years of progress to protect public health, safety and the environment.

The budget cuts proposed by the Gingrich majority in Congress for the Department of Interior and the Environmental Protection Agency are aimed at the heart of our Nation's environmental protection. The two departments with the greatest environmental authority have become the prime targets in the current attack on the environment.

The proposed cut in funding for the EPA is 21 percent below last year's level, and this would seriously affect EPA's enforcement of clean air, clean water, and safe drinking water laws. The Interior appropriations bill included provisions to open Alaska's Tongass National Forest to increased logging and to continue the moratorium on the listing of new endangered species.

The funding for protection of our Nation's wetlands, endangered species, forests and the public lands, must not be sacrificed in favor of short-term profits for miners, grazers, and developers. Programs to protect our Nation's water and air should not be held hostage to budget antics that have left these primary environmental agencies limping through the 1996 fiscal year with only a fraction of the funding needed to function.

Mr. Speaker, I want to call to the attention of our colleagues once again some of the impacts of the extreme Republican cuts on the EPA. Weakened enforcement of environmental laws, including a 40-percent reduction in health and safety inspections of industrial facilities; delayed new standards to protect drinking water, including tap water standards; delayed new and ongoing cleanups at toxic waste sites; rolled-back community right-to-know information about toxic chemicals; created barriers to developing new controls to protect rivers and streams from industrial water pollutants. The Republican approaches have delayed approving pesticides with lower health risks as a safer alternative for farmers, delayed new standards for toxic industrial air pollutants, delayed review of air pollution standards to ensure adequate health protection, delayed studies on how toxic chemicals may impair reproductive development, and studies on how pollution affects high risk populations.

I want to make two observations. The list goes on and on. I am just naming a few that affect EPA. There are others that affect the Department of the Interior and the Department of Justice's enforcement. I make two observations about that list.

One is, Mr. Speaker, as you know, as a colleague on the Subcommittee on Health and Human Services of the Committee on Appropriations, scientists have come before our subcommittee and said that you cannot separate personal health from the health of our environment. Pollution prevention is disease prevention. That makes these cuts foolish cuts, because they are not cutting the budget, they are reducing an investment in public health as well as environmental health.

I want to also call to the attention of our colleagues the release of a report by the California State Senate on environmental protection. The report says, "Contrary to popular belief, environmental regulations are not a major cause of job losses and declining economic performance." The Senate report concludes that environmental laws are not a major cause for the relocation of businesses to other States or countries. According to the report, more jobs are lost from leveraged buyouts and mergers than from controlling pollution.

The American people have the answer: They want a safe and healthy environment. We should follow their lead and we should live up to their expectations that the Federal Government will ensure their health and safety at all levels.

Mr. Speaker, on that note, I would like to close by saying when we observe Earth Day this year, we should use it to make observations about how far we have come and what is at risk, and we should every day of every year work to protect the environment and health of the American people.

THE NEW LEGISLATIVE AGENDA

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Connecticut [Ms. DELAURO] is recognized during morning business for 5 minutes.

Ms. DeLAURO. Mr. Speaker, today Congress returns from a 2-week break, and the Republican majority leader has announced what he calls a new legislative agenda for this Congress. But in fact it is the same old Republican agenda, dressed up with some new rhetoric. Their agenda still fails the fundamental test, which is helping working middle-class families cope with the challenges that they face in their everyday lives.

When I was home during the recent break, I met with constituents in my district who feel that this Congress is simply not doing the job that working families need.

Consider just two issues, health care and pensions. The House passed a health insurance reform bill that should have addressed, I repeat, should have addressed, the problems faced by the millions of Americans who cannot get health insurance because they suffer from a preexisting condition.

I have a preexisting condition. I am a survivor of ovarian cancer. There are not too many businesses that want to include me in their insurance policy because of my prior illness. It would raise the cost of premiums for everyone. So I understand this problem of preexisting condition.

Millions of Americans cannot get health insurance because they suffer from a preexisting condition, or they fear losing their coverage if they lose or they change their jobs. When Congress took up this bill, we had a real opportunity, a real opportunity, to help families in this country by modestly reforming the health insurance industry and meeting the needs of working families.

I was in Wallingford, CT, not too long ago, where I met with a group of construction workers. One of the gentlemen there said to me that he was very, very much concerned about the downsizing of businesses all over the country. He has a child with a terminal illness. He said, "I stay up nights worrying that if I lose my job, I lose my health care. What do I do about my child's illness and her health care?"

We had an opportunity, and, unfortunately and sadly, the bill that passed the House is a bad bill. It let the American people down, and it will make the health care problem worse.

We had a bipartisan bill sponsored in the Senate by Senator KENNEDY and Senator KASSEBAUM, and in this body, in the House, by Congresswoman MARGE ROUKEMA of New Jersey, a bipartisan bill that took the first steps toward addressing these two very serious problems. Instead of passing that legislation as it is and as the authors thought it best, what happened was that under the banner of reform, the House passed the bill which includes extraneous provisions that raise costs, hurt consumers, and will increase the number of uninsured in this country.

For example, they added medical savings accounts, which are expensive, destructive and bad health care policy. Instead of helping working middle-class families, our Republican colleagues continue to cater to the special interests. The medical savings accounts are a creature of the Golden Rule Insurance Co., headed up by J. Patrick Rooney, who, not by my description, but by the description of a variety of others, including the Wall Street Journal, has indicated that he is the third largest contributor to Republican campaigns.

Medical savings accounts have been added to this bill, causing an enormous problem. Medical savings accounts will take the healthy out of the traditional insurance pool, provide them with a tax break, and leave the insurance pool with only those who are frail and sick, thereby driving up premiums for everyone else. With the rise in those costs of premiums, people will no longer be able to afford them, thereby increasing the number of uninsured.

The American Council of Actuaries, not a liberal group by any stretch of the imagination, indicated that there would be a 61 percent shifting of costs with the medical savings account to those who are now currently insured in a traditional insurance policy, a 61-percent shift in cost.

Working Americans know very, very well, very well, about cost shifting in health care. When people are not insured, that does not go begging, it does not fall into a black hole. Everybody else who is insured picks up the cost. We had an opportunity, and we missed it.

Watch carefully and listen carefully. Do not buy this new rhetoric. Understand what is going on here.

RECESS

The SPEAKER pro tempore. There being no further requests for morning business, pursuant to clause 12, rule I, the House will stand in recess until 11 a.m.

Accordingly (at 10 o'clock and 10 minutes a.m.), the House stood in recess until 11 a.m.)

□ 1100

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 11 a.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As the rain nourishes the Earth, so may Your grace, O God, nourish us in the depths of our souls, our minds, and our hearts. We strive to learn and master new tasks. We absorb the facts and figures of today's world and we have all the resources of the intellect of the generations. Yet on this day we pray that we will heed the needs of our souls, strengthen our inner being in faith, preserve the hope and renewal of our hearts and by so doing walk in love and trust with You, our God, for ever and ever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. DIXON. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DIXON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 335, nays 67, answered "present" 1, not voting 28, as follows:

[Roll No. 118]

YEAS—335

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Bonilla
Bonior
Bono
Boucher
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Evans
Ewing
Fawell
Fields (TX)
Flake
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gilchrest
Gillmor

Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefner
Herger
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Lantos
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney
Manzullo
Martinez
Mascara
Matsui
McCarthy
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Nadler
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stokes
Studds
Stump
Stupak
Talent
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Torres
Torricelli
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Young (FL)
Zeliff

NAYS—67

Abercrombie
Ackerman
Baldacci
Borski
Brown (CA)
Brown (FL)
Clayton
Clyburn
Collins (IL)
DeFazio
Durbin
Engel
Ensign
Everett
Fazio
Filner
Foglietta
Frank (MA)
Gephardt
Geren
Gutierrez
Gutknecht
Hall (OH)
Hastings (FL)
Hefley
Heineman
Hilleary
Hilliard
Jacobs
Klink
LaFalce
Latham
Levin
Lewis (GA)
Longley
Manton
Martini
McDermott
Menendez
Neal
Oberstar
Olver
Pallone
Pastor
Pelosi
Pickett
Pombo
Pomeroy
Rush
Sabo
Schroeder
Sisisky
Skaggs
Stark
Stockman
Tanner
Taylor (MS)
Thompson
Torkildsen
Velazquez
Visclosky
Volkmer
Watt (NC)
Weller
Wynn
Yates
Zimmer

ANSWERED "PRESENT"—1

Harman

NOT VOTING—28

Becerra
Boehner
Buyer
Chapman
Clay
Dornan
Farr
Fattah
Fields (LA)
Ford
Gibbons
Greenwood
Largent
LaTourette
Markey
McDade
Meek
Myrick
Owens
Richardson
Riggs
Rose
Thornton
Tiahrt
Towns
Vento
Wilson
Young (AK)

□ 1127

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from North Carolina [Mr. BALLENGER] come forward and lead the House in the Pledge of Allegiance.

Mr. BALLENGER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, April 16, 1996.

Hon. NEWT GINGRICH,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the certificate of election received from the Honorable Bill Jones, Secretary of State, State of California, certifying that, according to the semi-official returns of the Special Election held on the 26th day of March, 1996, the Honorable Juanita M. McDonald was elected to the Office of Member of the Congress from the Thirty-seventh Congressional District of California.

With warm regards,
ROBIN H. CARLE.

SWEARING IN OF THE HONORABLE JUANITA MILLENDER-McDONALD, OF CALIFORNIA, AS A MEMBER OF THE HOUSE OF REPRESENTATIVES

The SPEAKER. Will the Member-elect from California, the Honorable JUANITA MILLENDER-McDONALD, present herself in the well along with the California delegation and raise her hand?

Ms. MILLENDER-McDONALD appeared at the bar of the House, and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations, you are a Member of the House.

A WELCOME TO THE HONORABLE JUANITA MILLENDER-McDONALD AS A MEMBER OF THE HOUSE

(Mr. BROWN of California asked and was given permission to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker, it is my great honor and privilege this morning, on behalf of the California delegation, to introduce the newest Member of Congress from the State of California. I hope that she will be the first in a series of new Members that will be elected from California.

But before I yield briefly to the minority leader, I would like to note that Gus Hawkins is present to participate in this great activity, and before we begin to praise JUANITA, may I just say about Gus Hawkins, my dear friend for the last 40 to 50 years, that he is the dean of all elected officials in the State of California, having served for 56 years continuously, half in this body and half in the State legislature, of course.

Again, more appropriately, he is the first African-American to be elected from southern California, and this is the latest African-American to be elected from southern California. And I think it is appropriate to note in such a brief period how much history has changed in California.

Mr. Speaker, I yield to the minority leader for any introductory remarks he may wish to make.

Mr. GEPHARDT. Mr. Speaker, thanking Mr. Dean, Members of the House, I rise this morning on behalf of all of my Democratic colleagues and all of my colleagues to welcome the newest Member of the House of Representatives, JUANITA MILLENDER-McDONALD of California.

Many of our colleagues have begun their careers in local and State, city, town government and built their understanding of their districts and their communities from the bottom up, from the grass roots. But in the gentlewoman from California [Ms. MILLENDER-McDONALD], we have gained a colleague who has already used her talents as a State lawmaker to become a national leader.

A former school teacher, Ms. MILLENDER-McDONALD has been an innovator on education policy, pushing for creative reforms in California's inner-city schools, such as better English instruction, tougher standards and model school-to-work programs. That may be why she was appointed to the National Commission on Teaching in America's Future and the Education Committee of the States, where she serves as a powerful voice for California.

She has also worked to start workshops all across the country to encourage broad education reform.

But education is just one of the issues on which she has made her mark. From her seat in one of California's most diverse assembly districts, she fought for transportation improvements that are creating hundreds of new jobs, for child care, for grandparents raising their grandchildren, for the growth of high-tech business in California, for basic rights for the homeless, and for reform of California's workmen's compensation laws.

When she became chair of California assembly's insurance committee, she was the first woman and the first minority to do so.

When she became chair of the revenue and taxation committee, she was also the first woman to do that. She has blazed a trail of innovation and accomplishment on every issue that she has faced.

My colleagues, not only have we gained a tireless and effective new champion for the 37th District of California, a woman with almost unlimited interests and abilities, we have also gained a sage and experienced legislator, and in keeping with her first career I believe she can teach us a great deal.

Join me now, my colleagues, in welcoming our newest colleague, the gentlewoman from California [Ms. MILLENDER-MCDONALD].

Mr. BROWN of California. I am of course going to yield to the gentlewoman from California [Ms. MILLENDER-MCDONALD] to make a brief response immediately, but are there any other Members from California who would like to say a word? If not, then I would now at this time again present the gentlewoman to talk and invite her under my 1-minute to respond briefly to the welcome that she has just received.

Ms. MILLENDER-McDONALD. Mr. Speaker, Members, I am honored to represent the outstanding constituents of the 37th Congressional District, a district that mirrors America because it is one of the most diverse districts in the State of California. The constituents of the 37th Congressional District are hard-working and share the same concerns with Americans about crime, jobs, security, taxes, health care, and the future.

My constituents include my family, who have traveled afar to come here today for this very historic event, and I would like to have them acknowledged in the gallery.

My campaign theme was to Choose Hope, and it drew inspiration from my grandchildren, Ayanna Demaris Thomas, and Myles Chandler McDonald. My promise to the constituents was that I would take Choose Hope to Washington because, for me, Hope represents the American agenda that speaks to opportunity to fulfill dreams, quality education, job preparation and training, but expands global work opportunities, job creation through business incentives and transportation projects while maintaining health security for seniors and protection for our children.

I am also going to foster gender equity in health research projects. So I have come today to work with you as a team so that we can all forge an American agenda for all of the people of the United States as well as California in a bipartisan effort. I do welcome your support and thank you so much.

ANNOUNCEMENT BY THE SPEAKER

Mr. SPEAKER. The Chair will take 1-minute speeches.

NO EXCUSE FOR 40-PERCENT TAX RATE ON MIDDLE-INCOME FAMILIES

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, yesterday millions and millions of Americans paid their taxes all across this country. Unfortunately, most of them found that the Government was taking more and more of their hard-earned dollars, and they were keeping less and less to support their families.

The tax burden on the average American family is outrageous. The total tax bill for an average family is almost 40 percent. Most Americans will spend more on taxes than they do on food, shelter, clothing, health care combined. Think of that; it is unbelievable.

Yesterday, during debate, one of the participants on the other side noted that taxes are what we pay for civilization. Now, I am mystified as to where that bit of wisdom was gleaned. There is no excuse for a 40-percent tax rate on middle-income families. That is not civilization; that is something close to tyranny.

The American people have every right to be upset about high taxes, and we have an obligation to try and change tax and spend Washington. It is time we give tax relief to the American people, and we ought to do it right now.

CFS IS A DEVASTATING INFECTIOUS DISEASE

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, a recently published book, Osler's Web, by Hillary Johnson, charges with impressive evidence that the Federal Center for Disease Control has ignored substantial clinical and epidemiological evidence that chronic fatigue syndrome is a devastating infectious disease caused by a specific virus rather than a psychosomatic illness as the CDC has claimed. Miss Johnson asserts that there is impressive evidence the chronic fatigue syndrome is, in fact, an immunological disease with many of the same characteristics as AIDS, that HHV-6, a virus may be a precipitating factor or a cofactor in CFS and in other immunological diseases, including AIDS, and that distinguished scientists who have come to the same or similar conclusion have been systematically ostracized and denied funding for the research by a snall clique at the Center for Disease Control.

I have already contacted Health and Human Services Secretary Donna Shalala requesting that she investigate these disturbing allegations, and I now urge my colleagues to join me in directing the GAO to look into this matter as well.

TAX DAY IN AMERICA

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, the most dreaded day of the year arrived yesterday. It was tax day in America. The Republicans tried to make yesterday a little better by passing a constitutional amendment to require a two-thirds vote to raise taxes.

Unfortunately, the tax and spenders in Congress prevented us from doing that. The liberals praise themselves for having the courage to raise taxes. That's not courage, that's taking the easy way out. That's why we had a record tax increase in 1993. It shouldn't be that easy.

A recent survey showed that 1 percent of Americans believe taxes are too low. By preventing us from passing this tax limitation amendment, the tax lovers in this Congress have defied the will of 99 percent of America.

We could have made yesterday a little better. Instead, the liberals are trying to ensure that every day is tax day in America.

TRIBUTE TO REX CHAO

(Ms. MOLINARI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MOLINARI. Mr. Speaker, last week, a senseless tragedy took from us a great and giving friend. Rex Chao, a student at Johns Hopkins University and an intern in my office, was murdered in very cold blood. It is difficult to not think of Rex in the most alive of terms. He loved being here in the U.S.

Capitol, immersed in Government. He was excited by the Republican revolution and he was driven by his love and confidence in our Nation.

My office and I struggled with the most fitting tribute we could give our friend and decided that it should be a 1-minute speech. Rex would want to be in the middle of partisan debate and elevated discussions concerning the issues we face as Americans. Rex will now be recorded forever in congressional history.

Our debates, our philosophies are important to our democracy. But it is the idealism of young people like Rex that will always guarantee its future. We are grateful he came our way.

HOW ABOUT A FEW JOBS IN AMERICA?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Department of Labor continues to amaze me with these new job listings. Check this out: Box bender ball warper, fish smoker, top screw nut roaster, impregnator, worm picker blank maker, hooker laster. Does that mean there is a hooker quicker job? If that is not enough to file your chapter 7, how about a slime plant operator helper? How about a wax ball knockout worker?

Unbelievable, Mr. Speaker, when American workers become box bending, ball warping, nut roasting top screws, it is evident everybody is getting their fish smoked. How about a few jobs in America? Eight million jobs. What do they pay, Mr. Speaker? Five dollars an hour? I yield back the balance of these jobs.

GEORGE STEPHANOPOULOS HAS IT BACKWARD: FOR PRESIDENT CLINTON, ACTIONS ARE WORDS, AS EVIDENCED BY HIS VETOES

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, in the current issue of Time magazine, we have a very interesting quote from George Stephanopoulos, one of Bill Clinton's top aides. He says, "For this President, words are actions."

Well, let's examine the record. Here are some interesting words from one of Bill Clinton's campaign commercials: "I've offered a plan to get the economy moving again, starting with a middle-class tax cut." Or, how about these words: "I would present a 5-year plan to balance the budget." And let's not forget these words, again, from the President: "I have a plan * * * to end welfare as we know it."

Mr. Speaker, considering the fact that Bill Clinton has vetoed all of these promises, I'm left wondering, What is George Stephanopoulos talking about?

The record is clear. There is no similarity between what Bill Clinton says and what he does.

Obviously, Mr. Stephanopoulos got it backward: For this President actions are words, because his vetoes speak volumes about protecting Washington's values.

EARTH DAY

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCKINNEY. Mr. Speaker, Earth Day will soon be upon us, and under instructions from the Republican National Committee, members from the other side of the aisle will be planting trees in an effort to clean up their well-deserved antienvironmental image. The American people know, however, that the only thing green about the Republican Party is the color of the campaign dollars they receive from big-name polluters.

It is no coincidence, Mr. Speaker, that the Republican majority is still trying to pass legislation to allow oil and gas drilling in the Arctic National Wildlife Refuge in Alaska. GOP coffers have been pumped full of money from the oil and gas industries.

You see, the process is simple: Pump greenbacks into Republican coffers, then pump oil and gas out of fragile ecosystems.

So this coming Earth Day when you see your Republican Member of Congress planting a tree, just think of how scenic the Arctic National Wildlife Refuge will be with oil wells dotting the landscape.

WE MUST PROTECT WORKING CLASS AMERICANS FROM ROBBERY BY THE FEDERAL GOVERNMENT EVERY APRIL 15

(Mr. SCARBOROUGH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCARBOROUGH. Mr. Speaker, I like trees. I think it is a good idea that we plant more trees. But let us talk about something serious and get beyond partisan bickering. Let us talk about what happened yesterday with the tax vote.

We continue to hear that we are providing tax cuts for the rich, but I have to tell the Members, when I hold my town hall meetings, and I have held 75 over the past year, it is not people making six figures asking for tax cuts, it is working class Americans making $30,000 or less who see every 2 weeks when they are working at Wendy's and they are working at Wal-Mart and they are carrying two or three jobs, that the Federal Government is taking more and more and more of their money.

We have to do something to protect those working class Americans who continue to get robbed by the Federal Government every April 15 and every 2 weeks. That is why I was proud to vote the way I did, and that is why I was disappointed to hear the rhetoric about all these people who are so darned interested in union workers and the working class Americans who will not do what they want them to do, and that is to give them back more of their money so they can invest in their future, their children's education, and put a little bit of money to the side.

CALLING FOR RESTORATION OF SUMMER JOBS PROGRAMS FOR 615,000 DESERVING STUDENTS

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I could not help but hear my good friend, the gentleman from Florida, talk about jobs. I just wonder how many of the Republicans are supporting the increase in minimum wage that so many Americans need.

Now there are approximately 53 days left until schools in Houston and across the Nation recess for summer vacation. There will be a crisis of out-of-work young people if this Congress does not restore the Job Training Partnership Act funds for summer youth employment.

The extremist forces in the House have smeared the memory of Dr. Martin Luther King in the month of his death, as he fought for the opportunities for underprivileged young people to find summer work, by eliminating these funds altogether. Eliminated were $867 million in nationwide funding, $9.1 million from my hometown in Houston, TX, alone; in all, leaving some 615,000 underprivileged young people across America without summer jobs that they depend on to support their families and return to school. Fortunately, the Senate has restored most of the funding for this vital program. However, the uncertainty that this program faces due to temporary spending measure after temporary spending measure leaves us in jeopardy.

Mr. Speaker, I simply ask, in 53 days, let us stand for the young people of America. Let us restore the jobs, the 6,000 jobs in Houston, and the $9.1 million.

MINIMUM WAGE INCREASE IS NOT A PANACEA

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, somehow liberals in this House and the big labor union bosses here in Washington, DC, are convinced that raising the minimum wage will somehow solve the world's problems. The belief in the effectiveness of the minimum wage is a triumph of fantasy over reality, of symbolism over substance.

The proponents of an increased minimum wage argue that Americans need a raise. Well, if Members recall, Mr. Speaker, Republicans tried to give working Americans a raise by giving them a tax cut, and the President said no and vetoed it. Now liberals are falling, and, I might say, those big labor union bosses are falling all over themselves trying to portray themselves as defenders of the poor, the economically downtrodden. But it is all an act, and Americans know it. Even President Clinton's top economic adviser, Joseph Stieglitz, wrote in an economic textbook that, "A higher minimum wage does not seem a particularly useful way to help the poor."

If liberals and those labor bosses were really convinced about the poor and concerned about them, they would support tax relief, that $500 per child tax credit. They would lower interest rates by supporting a balanced budget, and also they would seek economic growth.

LEGISLATION WHICH PROTECTS OUR PLANET SHOULD BE A CONGRESSIONAL PRIORITY

(Mr. WARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WARD. Mr. Speaker, let me say first for the record that the buying power of the minimum wage is the lowest it has been in 40 years. To deny an increase in the minimum wage is reprehensible.

Mr. Speaker, today I have risen to speak as we approach Earth Day, a day that Americans across the country come together to focus on the environment. I would like to call attention to the atrocious environmental record that the Republican majority has created. At a time when the EPA estimates that nearly 40 percent of the Nation's waters are unfit for fishing and swimming, we would think that clean water would be a priority.

However, Mr. Speaker, the so-called Clean Water Act that the Republican majority passed last year, written mostly by corporate polluters, would create waivers and exemptions from previously established basic standards for our rivers, lakes, streams, and oceans.

In short, protecting our environment means protecting our future. We have been entrusted to provide a future of clean air, lush forests, and clean water for our children and our children's children. Legislation which protects our planet should be a priority, not the Republican majority's laws that have encouraged its destruction.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1202

Mr. SHAW. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1202.

The SPEAKER pro tempore (Mr. CAMP). Is there objection to the request of the gentleman from Florida?

There was no objection.

LET US FOCUS NATIONAL EFFORTS ON WINNING THE WAR AGAINST DRUGS

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, the gentleman from Illinois, DENNY HASTERT, the gentleman from Florida, JOHN MICA, the gentleman from Indiana, MARK SOUDER, and I just returned from a counternarcotics trip to Mexico, Panama, Colombia, Bolivia, and Peru. We met with various leaders in the antidrug effort, including Peru's President Fujimori and Colombia's National Police Chief Serrano. We also met the brave Americans from several of our Government agencies in those countries, with armed patrols who went into the jungles of Bolivia and Peru where the bulk of the world's coca leaf is grown and processed in primitive drug labs.

We watched as Bolivian antidrug units destroyed a pit where cocaine was made to ship to Colombia and Mexico, and then be shipped into our country. The deadly cocaine and heroin destroying our communities starts in the jungle and ends up in the streets of New Hampshire.

We have people risking and even losing their lives on the front line. We need to get a commitment from our people and our national leaders to refocus our efforts on winning this war. Drugs and crime together are our Nation's No. 1 national security threat. We need to get everybody, from the President and Congress to teachers, parents, and media, talking about this threat to our Nation. We also need a plan that puts a priority on educating our people about the risk of narcotics, that includes treatment for those who are already addicted, as well as sufficient funds for law enforcement interdiction and eradication. We can win the war on drugs if we can put a man on the moon. We need to get moving now.

BEWARE REPUBLICAN EARTH DAY ASSAULT

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, Saturday is Earth Day, a day to celebrate our environment—our Earth—our home. We must protect it; we have no other place to go.

We have a responsibility to make our world a little greener and a little cleaner—to make it safer for our children and unborn generations.

The Republican leadership does not agree.

Republicans passed the dirty water bill. Their Superfund reform lets corporate polluters off the hook. Who benefits? Polluters. Who suffers? Each and every one of us. There is more pollution in the air we breathe, the water we drink, the food we eat.

The American people know what you are doing. They have seen the Republican assault on our environment—and they are worried. Be careful with your publicity stunts this Earth Day—the American people will not be fooled.

AMERICA'S ENVIRONMENTAL PROBLEMS CAN BE SOLVED ONLY AT THE STATE AND COMMUNITY LEVEL

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, let me assure my good friend, the gentleman from Georgia, that after the hue and cry and the celebrations this Earth Day, many committed conservatives will stand there to clean up the mess left by so many so-called environmentalists.

It is interesting to hear the lines provided today, Mr. Speaker, from our friends on the liberal side, their carefully crafted scripts engaging in playground taunts. Let me state unequivocally and for the record that the new majority is in favor of clean air and clean water, and yes, restoring balance to our laws, recognizing that Phoenix is not the same as Philadelphia, or that Flagstaff is not the same as Fargo, ND, and relying on people on the front lines to solve their problems in the 50 States where there are departments of environmental quality, and in the communities, understanding that there are differences.

The key to solving the problem, Mr. Speaker, resides with the American people, not with the Washington bureaucrats, and no amount of name-calling can change that fact.

□ 1200

REPUBLICAN THREATS TO THE ENVIRONMENT

(Mr. JACKSON of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JACKSON of Illinois. Mr. Speaker, the founder of the annual April 22 Earth Day, former Senator Gaylord Nelson, said the record of the 104th Congress shows this to be the worst environmental Congress ever. The majority leadership in this body has attempted to roll back years of environmental progress to provide favors for its special interest friends.

Because of budget cuts by the majority in this Congress, the Environmental protection Agency has missed thousands of inspections and enforcement actions. This same majority has shifted costs from polluters to taxpayers, while cleanups have been slowed at 400 toxic waste sites and stopped at 60 Superfund sites. Because funds to implement six administrative rules have been cut, hundreds of millions of pounds of pollution entered our water supply that could have been prevented.

While never aggressively pursued, adequately funded or fully enforced, our environmental laws were working. Yet, there is much to be done. It is time for the majority in the 104th Congress to clean up its environmental act.

PAYING MORE AND GETTING LESS

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, we have heard the other side bash the Republicans about environmental policy. Unfortunately they do not want to deal with the facts.

We heard them mention 40 percent of the streams still polluted in the country, or whatever percentage. That is under current law. Let us look at Superfund, one of their great examples that they want to protect as we do now. Over 2,000 sites have been identified for hazardous waste. How many have been cleaned up? Just a handful, less than 70, at a cost of billions of dollars.

Where does 85 percent of the money go? For attorneys fees and for studies. That is what we are talking about here. We are talking about paying more and getting less.

Of the sites that were cleaned up, a GAO report last year said the sites were chosen on the basis of political pressure, those few sites that did not address public health, safety or welfare. So they want to pay more and get less. They want to protect the 6,000 bureaucrats in Washington, DC, and EPA just down the street from here, who have not cleaned up a hazardous waste site and would not recognize one if it hit them in the face.

THE EXTREME REPUBLICAN MEAN-SPIRITED AGENDA

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, it has been 16 months since the Republicans have taken over Congress, and what have we gotten for it? We have gotten an extreme agenda that hurts the middle class.

The previous Speaker showed why the environment is so important and how the Republican majority is doing nothing to help the environment. We have Medicare cuts and Medicaid cuts that hurt our senior citizens. We have the largest education cuts in American history. Let me say that again, the largest education cuts in American history. As we approach Earth Day, we find cuts in the environment, cuts in environmental enforcement, allowing the polluters to continue to pollute.

They use the code word "balance." That means let us let industry continue to pollute. They hurt the middle class. They want to keep corporate welfare. This is what the agenda was all about yesterday.

They talk about tax relief. We have rules in this House that we passed, much-heralded rules saying that there needs to be a supermajority in order to raise taxes, and the Republicans have waived those rules three times.

Let us stop the nonsense. Let us stop hurting the middle class with the extreme Republican mean-spirited agenda.

CALL FOR A MINIMUM WAGE BILL

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, yesterday this House spent several hours on legislation everybody knew that was not going to go anywhere, was not going to pass and even if it did, it would not have any effect on anybody in this country for years to come because it would have to be ratified by the States.

But we Democrats are asking the leadership of the Republicans, Speaker GINGRICH and the radical Republicans, to bring forward legislation that will help millions of people in this country now, and that is an increase in the minimum wage. The minimum wage today is the buying power of what it was 40 years ago. Many people out in my district work for the minimum wage. They need an increase in the minimum wage.

I ask the Speaker and his radical Republicans, let us bring forth a minimum wage bill that will be helpful to the people of this country. Let us not continue to work on legislation that will have no effect and will not help anybody. Let us do a minimum wage bill.

ENVIRONMENTAL STEWARDSHIP

(Mr. COX of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX of California. Mr. Speaker, Earth Day is coming, and if we are serious about protecting the planet, we are going to have to work together as Democrats and Republicans, as Americans and as citizens of this planet Earth to achieve the results that we all say that we are in favor of.

It is not going to work to say Republicans or Democrats, this and that. We have 60 Superfund sites where work has stopped. We have some 2,000 Superfund sites, 1,300 of which we have not even gotten to. If we are serious about this, we will stop spending billions of dollars, $5 billion out of the last $15 billion, on nothing but litigation and bureaucracy.

Superfund reform is bipartisan. Republicans favor it, Democrats favor it, and we need to pass it if we are serious about cleaning up toxic waste sites. If we are serious about protecting our rain forests and our savannas, then perhaps you will wish to sponsor the Rain Forest and Savanna Protection Act that I will soon be introducing, that will condition World Bank, IMF, bilateral, and multilateral foreign aid to countries that ought to be responsible for protecting our rain forests and savannas on sound environmental stewardship.

RNC GOOFS ON TAX AND SPEND WORK SHEET

(Mr. ABERCROMBIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABERCROMBIE. Mr. Speaker, yesterday, as we know, the tax and spend work sheet went out all over the country. One was sent to my district from the National Republican Congressional Committee.

It says here, "Neil Abercrombie's Tax and Spend Work Sheet." The only problem is that they forgot to white out Representative KAREN THURMAN's name at the bottom. They were using a generic one-size-fits-all work sheet for everybody in the country, and they are so stupid that they put somebody else's name on my work sheet. They do not know the difference between Hawaii and Florida.

So when they ask me about taxing and spending, I say, "I don't know, ask the Republican National Committee. They're the ones that put out Representative KAREN THURMAN's work sheet for my work sheet."

They say they want to represent the values of the people of the First District of Hawaii. Well, I am in good shape to do that. I do not live in Florida. Why do you not go down to Florida and check with Representative KAREN

THURMAN the next time you want to do that?

They told me this campaign was going to be nasty but they did not say it was going to be foolish as well.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 789

Mr. DURBIN. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 789.

The SPEAKER pro tempore (Mr. CAMP). Is there objection to the request of the gentleman from Illinois?

There was no objection.

ENVIRONMENTAL RECORD OF 104TH CONGRESS

(Mr. DURBIN asked and was given permission to address the House for 1 minute.)

Mr. DURBIN. Mr. Speaker, with Earth Day coming up, it is time to reflect on the environmental record of the 104th Congress. Do you recall, during the heyday of the Gingrich revolution, when in one appropriation bill the Gingrich Republicans put in a 28-page amendment which eliminated 14 environmental protection laws they considered unnecessary?

Let me give some examples. The law which says the Federal Government will monitor the presence of arsenic in drinking water, the Republicans say that is unnecessary.

Another law which said that one industry, a special interest group, the cement kiln industry, would have a waiver of air pollution standards, the Republicans said, that is a good idea. Well, that amendment passed with the Gingrich Republicans' support, and after 3 separate efforts, 35 moderate Republicans finally took all the heat they could at home and decided to join the Democrats and repeal it.

Since then, the gentleman from Georgia [Mr. GINGRICH] has tried to get an awful lot greener. Every time he has come to the floor, he has talked about saving the environment, but the American people know better. You have to put money in the Environmental Protection Agency to protect the purity of the water we drink and the safety of the air that we breathe.

ENVIRONMENTAL PROTECTION

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, I just wanted to comment on some of the comments that were being made on the other side of the aisle by Republicans about Earth Day and progress on the environment.

It is certainly true that a lot more needs to be done on environmental protection, whether it is cleaner air or cleaning up more of the hazardous wastesites under the Superfund Program. But to suggest that the answer to that or the way to do that is to cut back on the number of people who work for the EPA, or to cut back on the investigators and those who go out and enforce the existing environmental laws, or to weaken those laws so that they do not provide as much environmental protection, well, that makes no sense at all.

If you are concerned about the environment, you do not turn the clock back 25 years on a bipartisan basis in this House and the Senate and in the Presidency to try and improve environmental quality and to increase enforcement. That is what Speaker GINGRICH and the Republican leadership are trying to do here in this House. They are trying to turn back the clock.

They are saying we do not need the people to do the investigation, we do not need the enforcers. We are going to let industry do its own thing. The bottom line is that you are not going to improve the quality of this Nation's environment unless you do more to protect the environment, have stronger laws, and have better enforcement. That is what we need.

That is not what is happening here. Unfortunately, we are leading up to Earth Day this year with this Republican leadership working in the opposite direction.

NEW REPUBLICAN AGENDA IS SAME OLD GAME PLAN

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, recently the gentleman from Texas [Mr. ARMEY], the Republican leader, unveiled what he calls a, quote, new agenda for this Congress. But in fact what we really have in this new agenda is the same old Republican game plan of hurting working families and the health and safety of working families while bailing out the special interests.

At a minimum, the hardworking families of this country should be able to count on the Congress to protect the public health, but this Congress has been a polluter's dream come true. During the 104th Congress, Republicans invited polluters to rewrite the Clean Water Act. They also proposed letting big companies off the hook for cleaning up hazardous waste that they dumped.

The House Republican leadership has insisted on deep cuts in environmental protection, halting cleanups in many areas. They have also encouraged their folks to let people know that they are environmentally conscious, and then they say, "go plant a tree, go hug a tree, go to a zoo, that will make people think you are environmentally conscious."

Do not be fooled by the phony agenda the Republicans have unveiled. It is a sad attempt to mask the truth. After almost a year and a half of failure, the Gingrich Congress continues to pursue an agenda that puts the needs and the health of Americans at risk.

REPUBLICAN TURNAROUND ON ENVIRONMENT COMES TOO LATE

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, after a year of the most comprehensive and concentrated attack on the basic environmental laws of this country, the Speaker of this House and the majority leader of the Republican Party believe that they can turn around a record and con the American people into believing that all of a sudden the Republican caucus in the House is in favor of environmental protection. It simply will not wash.

After a year of voting against clean air and clean water, voting against Superfund liability, voting against the Endangered Species Act, voting to eviscerate wilderness areas of this country, you will not turn around America's image of the Republican caucus in this House by recycling batteries or reauthorizing the Coastal Zone Management Act. It takes more than that to protect the environment, and it takes more than that to turn around the image the American public have of the Republicans and the environment.

They have tired to destroy the laws, and now they are trying to hide the record because they are reading the polls and the election results in November.

COMMUNICATION FROM THE HONORABLE STEVEN SCHIFF, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable STEVEN SCHIFF, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 4, 1996.

Hon. NEWT GINGRICH,
Speaker of the House, The Capitol, Washington, DC.

DEAR MR. SPEAKER: this is to formally notify you, pursuant to Rule L (50) of the Rules of the House of Representatives, that four members of my Albuquerque District Office have been served with subpoenas issued by the Second Judicial District Court (Bernalillo County, New Mexico) in the case of New Mexico v. Martin.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,
STEVEN SCHIFF.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

□ 1215

TAXPAYER BILL OF RIGHTS 2

Mrs. JOHNSON of Connecticut. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2337) to amend the Internal Revenue Code of 1986 to provide for increased taxpayer protections, as amended.

The Clerk read as follows:

H.R. 2337

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Taxpayer Bill of Rights 2".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—TAXPAYER ADVOCATE

Sec. 101. Establishment of position of Taxpayer Advocate within Internal Revenue Service.
Sec. 102. Expansion of authority to issue Taxpayer Assistance Orders.

TITLE II—MODIFICATIONS TO INSTALLMENT AGREEMENT PROVISIONS

Sec. 201. Notification of reasons for termination of installment agreements.
Sec. 202. Administrative review of termination of installment agreement.

TITLE III—ABATEMENT OF INTEREST AND PENALTIES

Sec. 301. Expansion of authority to abate interest.
Sec. 302. Review of IRS failure to abate interest.
Sec. 303. Extension of interest-free period for payment of tax after notice and demand.
Sec. 304. Abatement of penalty for failure to make required deposits of payroll taxes in certain cases.

TITLE IV—JOINT RETURNS

Sec. 401. Studies of joint return-related issues.
Sec. 402. Joint return may be made after separate returns without full payment of tax.
Sec. 403. Disclosure of collection activities.

TITLE V—COLLECTION ACTIVITIES

Sec. 501. Modifications to lien and levy provisions.
Sec. 502. Modifications to certain levy exemption amounts.
Sec. 503. Offers-in-compromise.

TITLE VI—INFORMATION RETURNS

Sec. 601. Civil damages for fraudulent filing of information returns.
Sec. 602. Requirement to conduct reasonable investigations of information returns.

TITLE VII—AWARDING OF COSTS AND CERTAIN FEES

Sec. 701. United States must establish that its position in proceeding was substantially justified.
Sec. 702. Increased limit on attorney fees.
Sec. 703. Failure to agree to extension not taken into account.
Sec. 704. Award of litigation costs permitted in declaratory judgment proceedings.

TITLE VIII—MODIFICATION TO RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS

Sec. 801. Increase in limit on recovery of civil damages for unauthorized collection actions.
Sec. 802. Court discretion to reduce award for litigation costs for failure to exhaust administrative remedies.

TITLE IX—MODIFICATIONS TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX

Sec. 901. Preliminary notice requirement.
Sec. 902. Disclosure of certain information where more than 1 person liable for penalty for failure to collect and pay over tax.
Sec. 903. Right of contribution where more than 1 person liable for penalty for failure to collect and pay over tax.
Sec. 904. Volunteer board members of tax-exempt organizations exempt from penalty for failure to collect and pay over tax.

TITLE X—MODIFICATIONS OF RULES RELATING TO SUMMONSES

Sec. 1001. Enrolled agents included as third-party recordkeepers.
Sec. 1002. Safeguards relating to designated summonses.
Sec. 1003. Annual report to Congress concerning designated summonses.

TITLE XI—RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS

Sec. 1101. Relief from retroactive application of Treasury Department regulations.

TITLE XII—MISCELLANEOUS PROVISIONS

Sec. 1201. Phone number of person providing payee statements required to be shown on such statement.
Sec. 1202. Required notice of certain payments.
Sec. 1203. Unauthorized enticement of information disclosure.
Sec. 1204. Annual reminders to taxpayers with outstanding delinquent accounts.
Sec. 1205. 5-year extension of authority for undercover operations.
Sec. 1206. Disclosure of Form 8300 information on cash transactions.
Sec. 1207. Disclosure of returns and return information to designee of taxpayer.
Sec. 1208. Study of netting of interest on overpayments and liabilities.
Sec. 1209. Expenses of detection of underpayments and fraud, etc.
Sec. 1210. Use of private delivery services for timely-mailing-as-timely-filing rule.
Sec. 1211. Reports on misconduct of IRS employees.

TITLE XIII—REVENUE OFFSETS

Subtitle A—Application of Failure-to-Pay Penalty to Substitute Returns

Sec. 1301. Application of failure-to-pay penalty to substitute returns.

Subtitle B—Excise Taxes on Amounts of Private Excess Benefits

Sec. 1311. Excise taxes for failure by certain charitable organizations to meet certain qualification requirements.
Sec. 1312. Reporting of certain excise taxes and other information.
Sec. 1313. Exempt organizations required to provide copy of return.
Sec. 1314. Increase in penalties on exempt organizations for failure to file complete and timely annual returns.

TITLE I—TAXPAYER ADVOCATE

SEC. 101. ESTABLISHMENT OF POSITION OF TAXPAYER ADVOCATE WITHIN INTERNAL REVENUE SERVICE.

(a) GENERAL RULE.—Section 7802 (relating to Commissioner of Internal Revenue; Assistant Commissioner (Employee Plans and Exempt Organizations)) is amended by adding at the end the following new subsection:

"(d) OFFICE OF TAXPAYER ADVOCATE.—

"(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayer Advocate'. Such office shall be under the supervision and direction of an official to be known as the 'Taxpayer Advocate' who shall be appointed by and report directly to the Commissioner of Internal Revenue. The Taxpayer Advocate shall be entitled to compensation at the same rate as the highest level official reporting directly to the Deputy Commissioner of the Internal Revenue Service.

"(2) FUNCTIONS OF OFFICE.—

"(A) IN GENERAL.—It shall be the function of the Office of Taxpayer Advocate to—

"(i) assist taxpayers in resolving problems with the Internal Revenue Service,

"(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

"(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii), and

"(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

"(B) ANNUAL REPORTS.—

"(i) OBJECTIVES.—Not later than June 30 of each calendar year after 1995, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

"(ii) ACTIVITIES.—Not later than December 31 of each calendar year after 1995, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

"(I) identify the initiatives the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

"(II) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811,

"(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems,

"(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action,

"(V) contain an inventory of the items described in subclauses (I), (II), and (III) for

which action remains to be completed and the period during which each item has remained on such inventory,

"(VI) contain an inventory of the items described in subclauses (II) and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction,

"(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b),

"(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers,

"(IX) describe the extent to which regional problem resolution officers participate in the selection and evaluation of local problem resolution officers, and

"(X) include such other information as the Taxpayer Advocate may deem advisable.

"(iii) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subparagraph shall be provided directly to the Committees referred to in clauses (i) and (ii) without any prior review or comment from the Commissioner, the Secretary of the Treasury, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.

"(3) RESPONSIBILITIES OF COMMISSIONER.—The Commissioner of Internal Revenue shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the Taxpayer Advocate within 3 months after submission to the Commissioner."

(b) CONFORMING AMENDMENTS.—

(1) Section 7811 (relating to Taxpayer Assistance Orders) is amended—

(A) by striking "the Office of Ombudsman" in subsection (a) and inserting "the Office of the Taxpayer Advocate", and

(B) by striking "Ombudsman" each place it appears (including in the headings of subsections (e) and (f)) and inserting "Taxpayer Advocate".

(2) The heading for section 7802 is amended to read as follows:

"SEC. 7802. COMMISSIONER OF INTERNAL REVENUE; ASSISTANT COMMISSIONERS; TAXPAYER ADVOCATE."

(3) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 and inserting the following new item:

"Sec. 7802. Commissioner of Internal Revenue; Assistant Commissioners; Taxpayer Advocate."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 102. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.

(a) TERMS OF ORDERS.—Subsection (b) of section 7811 (relating to terms of Taxpayer Assistance Orders) is amended—

(1) by inserting "within a specified time period" after "the Secretary", and

(2) by inserting "take any action as permitted by law," after "cease any action,".

(b) LIMITATION ON AUTHORITY TO MODIFY OR RESCIND.—Section 7811(c) (relating to authority to modify or rescind) is amended to read as follows:

"(c) AUTHORITY TO MODIFY OR RESCIND.—Any Taxpayer Assistance Order issued by the Taxpayer Advocate under this section may be modified or rescinded—

"(1) only by the Taxpayer Advocate, the Commissioner of Internal Revenue, or the Deputy Commissioner of Internal Revenue, and

"(2) only if a written explanation of the reasons for the modification or rescission is provided to the Taxpayer Advocate."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

TITLE II—MODIFICATIONS TO INSTALLMENT AGREEMENT PROVISIONS

SEC. 201. NOTIFICATION OF REASONS FOR TERMINATION OF INSTALLMENT AGREEMENTS.

(a) TERMINATIONS.—Subsection (b) of section 6159 (relating to extent to which agreements remain in effect) is amended by adding at the end the following new paragraph:

"(5) NOTICE REQUIREMENTS.—The Secretary may not take any action under paragraph (2), (3), or (4) unless—

"(A) a notice of such action is provided to the taxpayer not later than the day 30 days before the date of such action, and

"(B) such notice includes an explanation why the Secretary intends to take such action.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy."

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 6159(b) is amended to read as follows:

"(3) SUBSEQUENT CHANGE IN FINANCIAL CONDITIONS.—If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date 6 months after the date of the enactment of this Act.

SEC. 202. ADMINISTRATIVE REVIEW OF TERMINATION OF INSTALLMENT AGREEMENT.

(a) GENERAL RULE.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by adding at the end the following new subsection:

"(c) ADMINISTRATIVE REVIEW.—The Secretary shall establish procedures for an independent administrative review of terminations of installment agreements under this section for taxpayers who request such a review."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1997.

TITLE III—ABATEMENT OF INTEREST AND PENALTIES

SEC. 301. EXPANSION OF AUTHORITY TO ABATE INTEREST.

(a) GENERAL RULE.—Paragraph (1) of section 6404(e) (relating to abatement of interest in certain cases) is amended—

(1) by inserting "unreasonable" before "error" each place it appears in subparagraphs (A) and (B), and

(2) by striking "in performing a ministerial act" each place it appears and inserting "in performing a ministerial or managerial act".

(b) CLERICAL AMENDMENT.—The subsection heading for subsection (e) of section 6404 is amended—

(1) by striking "ASSESSMENTS" and inserting "ABATEMENT", and

(2) by inserting "UNREASONABLE" before "ERRORS".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act.

SEC. 302. REVIEW OF IRS FAILURE TO ABATE INTEREST.

(a) IN GENERAL.—Section 6404 is amended by adding at the end the following new subsection:

"(g) REVIEW OF DENIAL OF REQUEST FOR ABATEMENT OF INTEREST.—

"(1) IN GENERAL.—The Tax Court shall have jurisdiction over any action brought by a taxpayer who meets the requirements referred to in section 7430(c)(4)(A)(iii) to determine whether the Secretary's failure to abate interest under this section was an abuse of discretion, and may order an abatement, if such action is brought within 180 days after the date of the mailing of the Secretary's final determination not to abate such interest.

"(2) SPECIAL RULES.—

"(A) DATE OF MAILING.—Rules similar to the rules of section 6213 shall apply for purposes of determining the date of the mailing referred to in paragraph (1).

"(B) RELIEF.—Rules similar to the rules of section 6512(b) shall apply for purposes of this subsection.

"(C) REVIEW.—An order of the Tax Court under this subsection shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests for abatement after the date of the enactment of this Act.

SEC. 303. EXTENSION OF INTEREST-FREE PERIOD FOR PAYMENT OF TAX AFTER NOTICE AND DEMAND.

(a) GENERAL RULE.—Paragraph (3) of section 6601(e) (relating to payments made within 10 days after notice and demand) is amended to read as follows:

"(3) PAYMENTS MADE WITHIN SPECIFIED PERIOD AFTER NOTICE AND DEMAND.—If notice and demand is made for payment of any amount and if such amount is paid within 21 calendar days (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000) after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6601(e)(2) is amended by striking "10 days from the date of notice and demand therefor" and inserting "21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000)".

(2) Paragraph (3) of section 6651(a) is amended by striking "10 days of the date of the notice and demand therefor" and inserting "21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of any notice and demand given after December 31, 1996.

SEC. 304. ABATEMENT OF PENALTY FOR FAILURE TO MAKE REQUIRED DEPOSITS OF PAYROLL TAXES IN CERTAIN CASES.

(a) IN GENERAL.—Section 6656 (relating to failure to make deposit of taxes) is amended by adding at the end the following new subsections:

"(c) EXCEPTION FOR FIRST-TIME DEPOSITORS OF EMPLOYMENT TAXES.—The Secretary may waive the penalty imposed by subsection (a) on a person's inadvertent failure to deposit any employment tax if—

"(1) such person meets the requirements referred to in section 7430(c)(4)(A)(iii),

"(2) such failure occurs during the 1st quarter that such person was required to deposit any employment tax, and

"(3) the return of such tax was filed on or before the due date.

For purposes of this subsection, the term 'employment taxes' means the taxes imposed by subtitle C.

"(d) AUTHORITY TO ABATE PENALTY WHERE DEPOSIT SENT TO SECRETARY.—The Secretary

may abate the penalty imposed by subsection (a) with respect to the first time a depositor is required to make a deposit if the amount required to be deposited is inadvertently sent to the Secretary instead of to the appropriate government depository."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to deposits required to be made after the date of the enactment of this Act.

TITLE IV—JOINT RETURNS

SEC. 401. STUDIES OF JOINT RETURN-RELATED ISSUES.

The Secretary of the Treasury or his delegate and the Comptroller General of the United States shall each conduct separate studies of—

(1) the effects of changing the liability for tax on a joint return from being joint and several to being proportionate to the tax attributable to each spouse,

(2) the effects of providing that, if a divorce decree allocates liability for tax on a joint return filed before the divorce, the Secretary may collect such liability only in accordance with the decree,

(3) whether those provisions of the Internal Revenue Code of 1986 intended to provide relief to innocent spouses provide meaningful relief in all cases where such relief is appropriate, and

(4) the effect of providing that community income (as defined in section 66(d) of such Code) which, in accordance with the rules contained in section 879(a) of such Code, would be treated as the income of one spouse is exempt from a levy for failure to pay any tax imposed by subtitle A by the other spouse for a taxable year ending before their marriage.

The reports of such studies shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate within 6 months after the date of the enactment of this Act.

SEC. 402. JOINT RETURN MAY BE MADE AFTER SEPARATE RETURNS WITHOUT FULL PAYMENT OF TAX.

(a) GENERAL RULE.—Paragraph (2) of section 6013(b) (relating to limitations on filing of joint return after filing separate returns) is amended by striking subparagraph (A) and redesignating the following subparagraphs accordingly.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 403. DISCLOSURE OF COLLECTION ACTIVITIES.

(a) IN GENERAL.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest) is amended by adding at the end the following new paragraph:

"(8) DISCLOSURE OF COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN.—If any deficiency of tax with respect to a joint return is assessed and the individuals filing such return are no longer married or no longer reside in the same household, upon request in writing by either of such individuals, the Secretary shall disclose in writing to the individual making the request whether the Secretary has attempted to collect such deficiency from such other individual, the general nature of such collection activities, and the amount collected. The preceding sentence shall not apply to any deficiency which may not be collected by reason of section 6502."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

TITLE V—COLLECTION ACTIVITIES

SEC. 501. MODIFICATIONS TO LIEN AND LEVY PROVISIONS.

(a) WITHDRAWAL OF CERTAIN NOTICES.—Section 6323 (relating to validity and priority against certain persons) is amended by adding at the end the following new subsection:

"(j) WITHDRAWAL OF NOTICE IN CERTAIN CIRCUMSTANCES.—

"(1) IN GENERAL.—The Secretary may withdraw a notice of a lien filed under this section and this chapter shall be applied as if the withdrawn notice had not been filed, if the Secretary determines that—

"(A) the filing of such notice was premature or otherwise not in accordance with administrative procedures of the Secretary,

"(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the lien was imposed by means of installment payments, unless such agreement provides otherwise,

"(C) the withdrawal of such notice will facilitate the collection of the tax liability, or

"(D) with the consent of the taxpayer or the Taxpayer Advocate, the withdrawal of such notice would be in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and the United States.

Any such withdrawal shall be made by filing notice at the same office as the withdrawn notice. A copy of such notice of withdrawal shall be provided to the taxpayer.

"(2) NOTICE TO CREDIT AGENCIES, ETC.—Upon written request by the taxpayer with respect to whom a notice of a lien was withdrawn under paragraph (1), the Secretary shall promptly make reasonable efforts to notify credit reporting agencies, and any financial institution or creditor whose name and address is specified in such request, of the withdrawal of such notice. Any such request shall be in such form as the Secretary may prescribe."

(b) RETURN OF LEVIED PROPERTY IN CERTAIN CASES.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

"(d) RETURN OF PROPERTY IN CERTAIN CASES.—If—

"(1) any property has been levied upon, and

"(2) the Secretary determines that—

"(A) the levy on such property was premature or otherwise not in accordance with administrative procedures of the Secretary,

"(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the levy was imposed by means of installment payments, unless such agreement provides otherwise,

"(C) the return of such property will facilitate the collection of the tax liability, or

"(D) with the consent of the taxpayer or the Taxpayer Advocate, the return of such property would be in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and the United States,

the provisions of subsection (b) shall apply in the same manner as if such property had been wrongly levied upon, except that no interest shall be allowed under subsection (c)."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 502. MODIFICATIONS TO CERTAIN LEVY EXEMPTION AMOUNTS.

(a) FUEL, ETC.—Paragraph (2) of section 6334(a) (relating to fuel, provisions, furniture, and personal effects exempt from levy) is amended—

(1) by striking "If the taxpayer is the head of a family, so" and inserting "So",

(2) by striking "his household" and inserting "the taxpayer's household", and

(3) by striking "$1,650 ($1,550 in the case of levies issued during 1989)" and inserting "$2,500".

(b) BOOKS, ETC.—Paragraph (3) of section 6334(a) (relating to books and tools of a trade, business, or profession) is amended by striking "$1,100 ($1,050 in the case of levies issued during 1989)" and inserting "$1,250".

(c) INFLATION ADJUSTMENT.—Section 6334 (relating to property exempt from levy) is amended by adding at the end the following new subsection:

"(f) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year beginning after 1997, each dollar amount referred to in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to levies issued after December 31, 1996.

SEC. 503. OFFERS-IN-COMPROMISE.

(a) REVIEW REQUIREMENTS.—Subsection (b) of section 7122 (relating to records) is amended by striking "$500." and inserting "$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

TITLE VI—INFORMATION RETURNS

SEC. 601. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

(a) GENERAL RULE.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7434 as section 7435 and by inserting after section 7433 the following new section:

"SEC. 7434. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

"(a) IN GENERAL.—If any person willfully files a fraudulent information return with respect to payments purported to be made to any other person, such other person may bring a civil action for damages against the person so filing such return.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the greater of $5,000 or the sum of—

"(1) any actual damages sustained by the plaintiff as a proximate result of the filing of the fraudulent information return (including any costs attributable to resolving deficiencies asserted as a result of such filing),

"(2) the costs of the action, and

"(3) in the court's discretion, reasonable attorneys fees.

"(c) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce the liability created under this section may be brought without regard to the amount in controversy and may be brought only within the later of—

"(1) 6 years after the date of the filing of the fraudulent information return, or

"(2) 1 year after the date such fraudulent information return would have been discovered by exercise of reasonable care.

"(d) COPY OF COMPLAINT FILED WITH IRS—Any person bringing an action under subsection (a) shall provide a copy of the complaint to the Internal Revenue Service upon the filing of such complaint with the court.

"(e) FINDING OF COURT TO INCLUDE CORRECT AMOUNT OF PAYMENT.—The decision of the court awarding damages in an action brought under subsection (a) shall include a finding of the correct amount which should have been reported in the information return.

"(f) INFORMATION RETURN.—For purposes of this section, the term 'information return' means any statement described in section 6724(d)(1)(A)."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by striking the item relating to section 7434 and inserting the following:

"Sec. 7434. Civil damages for fraudulent filing of information returns.

"Sec. 7435. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fraudulent information returns filed after the date of the enactment of this Act.

SEC. 602. REQUIREMENT TO CONDUCT REASONABLE INVESTIGATIONS OF INFORMATION RETURNS.

(a) GENERAL RULE.—Section 6201 (relating to assessment authority) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) REQUIRED REASONABLE VERIFICATION OF INFORMATION RETURNS.—In any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return filed with the Secretary under subpart B or C of part III of subchapter A of chapter 61 by a third party and the taxpayer has fully cooperated with the Secretary (including providing, within a reasonable period of time, access to and inspection of all witnesses, information, and documents within the control of the taxpayer as reasonably requested by the Secretary), the Secretary shall have the burden of producing reasonable and probative information concerning such deficiency in addition to such information return."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

TITLE VII—AWARDING OF COSTS AND CERTAIN FEES

SEC. 701. UNITED STATES MUST ESTABLISH THAT ITS POSITION IN PROCEEDING WAS SUBSTANTIALLY JUSTIFIED.

(a) GENERAL RULE.—Subparagraph (A) of section 7430(c)(4) (defining prevailing party) is amended by striking clause (i) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(b) BURDEN OF PROOF ON UNITED STATES.—Paragraph (4) of section 7430(c) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) EXCEPTION IF UNITED STATES ESTABLISHES THAT ITS POSITION WAS SUBSTANTIALLY JUSTIFIED.—

"(i) GENERAL RULE.—A party shall not be treated as the prevailing party in a proceeding to which subsection (a) applies if the United States establishes that the position of the United States in the proceeding was substantially justified.

"(ii) PRESUMPTION OF NO JUSTIFICATION IF INTERNAL REVENUE SERVICE DID NOT FOLLOW CERTAIN PUBLISHED GUIDANCE.—For purposes of clause (i), the position of the United States shall be presumed not to be substantially justified if the Internal Revenue Service did not follow its applicable published guidance in the administrative proceeding. Such presumption may be rebutted.

"(iii) APPLICABLE PUBLISHED GUIDANCE.—For purposes of clause (ii), the term 'applicable published guidance' means—

"(I) regulations, revenue rulings, revenue procedures, information releases, notices, and announcements, and

"(II) any of the following which are issued to the taxpayer: private letter rulings, technical advice memoranda, and determination letters."

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 7430(c)(2) is amended by striking "paragraph (4)(B)" and inserting "paragraph (4)(C)".

(2) Subparagraph (C) of section 7430(c)(4), as redesignated by subsection (b), is amended by striking "subparagraph (A)" and inserting "this paragraph".

(3) Sections 6404(g) and 6656(c)(1), as amended by this Act, are each amended by striking "section 7430(c)(4)(A)(iii)" and inserting "section 7430(c)(4)(A)(ii)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

SEC. 702. INCREASED LIMIT ON ATTORNEY FEES.

(a) IN GENERAL.—Paragraph (1) of section 7430(c) (defining reasonable litigation costs) is amended—

(1) by striking "$75" in clause (iii) of subparagraph (B) and inserting "$110",

(2) by striking "an increase in the cost of living or" in clause (iii) of subparagraph (B), and

(3) by adding after clause (iii) the following: "In the case of any calendar year beginning after 1996, the dollar amount referred to in clause (iii) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

SEC. 703. FAILURE TO AGREE TO EXTENSION NOT TAKEN INTO ACCOUNT.

(a) IN GENERAL.—Paragraph (1) of section 7430(b) (relating to requirement that administrative remedies be exhausted) is amended by adding at the end the following new sentence: "Any failure to agree to an extension of the time for the assessment of any tax shall not be taken into account for purposes of determining whether the prevailing party meets the requirements of the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

SEC. 704. AWARD OF LITIGATION COSTS PERMITTED IN DECLARATORY JUDGMENT PROCEEDINGS.

(a) IN GENERAL.—Subsection (b) of section 7430 is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

TITLE VIII—MODIFICATION TO RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS

SEC. 801. INCREASE IN LIMIT ON RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS.

(a) GENERAL RULE.—Subsection (b) of section 7433 (relating to damages) is amended by striking "$100,000" and inserting "$1,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 802. COURT DISCRETION TO REDUCE AWARD FOR LITIGATION COSTS FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES.

(a) GENERAL RULE.—Paragraph (1) of section 7433(d) (relating to civil damages for certain unauthorized collection actions) is amended to read as follows:

"(1) AWARD FOR DAMAGES MAY BE REDUCED IF ADMINISTRATIVE REMEDIES NOT EXHAUSTED.—The amount of damages awarded under subsection (b) may be reduced if the court determines that the plaintiff has not exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

TITLE IX—MODIFICATIONS TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX

SEC. 901. PRELIMINARY NOTICE REQUIREMENT.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) PRELIMINARY NOTICE REQUIREMENT.—

"(1) IN GENERAL.—No penalty shall be imposed under subsection (a) unless the Secretary notifies the taxpayer in writing by mail to an address as determined under section 6212(b) that the taxpayer shall be subject to an assessment of such penalty.

"(2) TIMING OF NOTICE.—The mailing of the notice described in paragraph (1) shall precede any notice and demand of any penalty under subsection (a) by at least 60 days.

"(3) STATUTE OF LIMITATIONS.—If a notice described in paragraph (1) with respect to any penalty is mailed before the expiration of the period provided by section 6501 for the assessment of such penalty (determined without regard to this paragraph), the period provided by such section for the assessment of such penalty shall not expire before the later of—

"(A) the date 90 days after the date on which such notice was mailed, or

"(B) if there is a timely protest of the proposed assessment, the date 30 days after the Secretary makes a final administrative determination with respect to such protest.

"(4) EXCEPTION FOR JEOPARDY.—This subsection shall not apply if the Secretary finds that the collection of the penalty is in jeopardy."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to proposed assessments made after June 30, 1996.

SEC. 902. DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON LIABLE FOR PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX.

(a) IN GENERAL.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest), as amended by section 403, is amended by adding at the end the following new paragraph:

"(9) DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY UNDER SECTION 6672.—If the Secretary determines that a person is liable for a penalty under section 6672(a) with respect to any failure, upon request in writing of such person, the Secretary shall disclose in writing to such person—

"(A) the name of any other person whom the Secretary has determined to be liable for such penalty with respect to such failure, and

"(B) whether the Secretary has attempted to collect such penalty from such other person, the general nature of such collection activities, and the amount collected."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 903. RIGHT OF CONTRIBUTION WHERE MORE THAN 1 PERSON LIABLE FOR PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by adding at the end the following new subsection:

"(d) RIGHT OF CONTRIBUTION WHERE MORE THAN 1 PERSON LIABLE FOR PENALTY.—If more than 1 person is liable for the penalty under subsection (a) with respect to any tax, each person who paid such penalty shall be entitled to recover from other persons who are liable for such penalty an amount equal to the excess of the amount paid by such person over such person's proportionate share of the penalty. Any claim for such a recovery may be made only in a proceeding which is separate from, and is not joined or consolidated with—

"(1) an action for collection of such penalty brought by the United States, or

"(2) a proceeding in which the United States files a counterclaim or third-party complaint for the collection of such penalty."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 904. VOLUNTEER BOARD MEMBERS OF TAX-EXEMPT ORGANIZATIONS EXEMPT FROM PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX.

(a) IN GENERAL.—Section 6672 is amended by adding at the end the following new subsection:

"(e) EXCEPTION FOR VOLUNTARY BOARD MEMBERS OF TAX-EXEMPT ORGANIZATIONS.—No penalty shall be imposed by subsection (a) on any unpaid, volunteer member of any board of trustees or directors of an organization exempt from tax under subtitle A if such member—

"(1) is solely serving in an honorary capacity,

"(2) does not participate in the day-to-day or financial operations of the organization, and

"(3) does not have actual knowledge of the failure on which such penalty is imposed.

The preceding sentence shall not apply if it results in no person being liable for the penalty imposed by subsection (a)."

(b) PUBLIC INFORMATION REQUIREMENTS.—

(1) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate (hereafter in this subsection referred to as the "Secretary") shall take such actions as may be appropriate to ensure that employees are aware of their responsibilities under the Federal tax depository system, the circumstances under which employees may be liable for the penalty imposed by section 6672 of the Internal Revenue Code of 1986, and the responsibility to promptly report to the Internal Revenue Service any failure referred to in subsection (a) of such section 6672. Such actions shall include—

(A) printing of a warning on deposit coupon booklets and the appropriate tax returns that certain employees may be liable for the penalty imposed by such section 6672, and

(B) the development of a special information packet.

(2) DEVELOPMENT OF EXPLANATORY MATERIALS.—The Secretary shall develop materials explaining the circumstances under which board members of tax-exempt organizations (including voluntary and honorary members) may be subject to penalty under section 6672 of such Code. Such materials shall be made available to tax-exempt organizations.

(3) IRS INSTRUCTIONS.—The Secretary shall clarify the instructions to Internal Revenue Service employees on the application of the penalty under section 6672 of such Code with regard to voluntary members of boards of trustees or directors of tax-exempt organizations.

TITLE X—MODIFICATIONS OF RULES RELATING TO SUMMONSES

SEC. 1001. ENROLLED AGENTS INCLUDED AS THIRD-PARTY RECORDKEEPERS.

(a) IN GENERAL.—Paragraph (3) of section 7609(a) (relating to third-party recordkeeper defined) is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting "; and", and by adding at the end the following the subparagraph:

"(I) any enrolled agent."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to summonses issued after the date of the enactment of this Act.

SEC. 1002. SAFEGUARDS RELATING TO DESIGNATED SUMMONSES.

(a) STANDARD OF REVIEW.—Subparagraph (A) of section 6503(k)(2) (defining designated summons) is amended by redesignating clauses (i) and (ii) as clauses (ii) and (iii), respectively, and by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) the issuance of such summons is preceded by a review of such issuance by the regional counsel of the Office of Chief Counsel for the region in which the examination of the corporation is being conducted,".

(b) LIMITATION ON PERSONS TO WHOM DESIGNATED SUMMONS MAY BE ISSUED.—Paragraph (1) of section 6503(k) is amended by striking "with respect to any return of tax by a corporation" and inserting "to a corporation (or to any other person to whom the corporation has transferred records) with respect to any return of tax by such corporation for a taxable year (or other period) for which such corporation is being examined under the coordinated examination program (or any successor program) of the Internal Revenue Service".

(c) CLERICAL AMENDMENT.—Section 6503 is amended by redesignating subsections (k) and (l) (as amended by this section) as subsections (j) and (k), respectively.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to summonses issued after the date of the enactment of this Act.

SEC. 1003. ANNUAL REPORT TO CONGRESS CONCERNING DESIGNATED SUMMONSES.

Not later than December 31 of each calendar year after 1995, the Secretary of the Treasury or his delegate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the number of designated summonses (as defined in section 6503(j) of the Internal Revenue Code of 1986) which were issued during the preceding 12 months.

TITLE XI—RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS

SEC. 1101. RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS.

(a) IN GENERAL.—Subsection (b) of section 7805 (relating to rules and regulations) is amended to read as follows:

"(b) RETROACTIVITY OF REGULATIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, no temporary, proposed, or final regulation relating to the internal revenue laws shall apply to any taxable period ending before the earliest of the following dates:

"(A) The date on which such regulation is filed with the Federal Register.

"(B) In the case of any final regulation, the date on which any proposed or temporary regulation to which such final regulation relates was filed with the Federal Register.

"(C) The date on which any notice substantially describing the expected contents of any temporary, proposed, or final regulation is issued to the public.

"(2) EXCEPTION FOR PROMPTLY ISSUED REGULATIONS.—Paragraph (1) shall not apply to regulations filed or issued within 18 months of the date of the enactment of the statutory provision to which the regulation relates.

"(3) PREVENTION OF ABUSE.—The Secretary may provide that any regulation may take effect or apply retroactively to prevent abuse.

"(4) CORRECTION OF PROCEDURAL DEFECTS.—The Secretary may provide that any regulation may apply retroactively to correct a procedural defect in the issuance of any prior regulation.

"(5) INTERNAL REGULATIONS.—The limitation of paragraph (1) shall not apply to any regulation relating to internal Treasury Department policies, practices, or procedures.

"(6) CONGRESSIONAL AUTHORIZATION.—The limitation of paragraph (1) may be superseded by a legislative grant from Congress authorizing the Secretary to prescribe the effective date with respect to any regulation.

"(7) ELECTION TO APPLY RETROACTIVELY.—The Secretary may provide for any taxpayer to elect to apply any regulation before the dates specified in paragraph (1).

"(8) APPLICATION TO RULINGS.—The Secretary may prescribe the extent, if any, to which any ruling (including any judicial decision or any administrative determination other than by regulation) relating to the internal revenue laws shall be applied without retroactive effect."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to regulations which relate to statutory provisions enacted on or after the date of the enactment of this Act.

TITLE XII—MISCELLANEOUS PROVISIONS

SEC. 1201. PHONE NUMBER OF PERSON PROVIDING PAYEE STATEMENTS REQUIRED TO BE SHOWN ON SUCH STATEMENT.

(a) GENERAL RULE.—The following provisions are each amended by striking "name and address" and inserting "name, address, and phone number of the information contact":

(1) Section 6041(d)(1).

(2) Section 6041A(e)(1).

(3) Section 6042(c)(1).

(4) Section 6044(e)(1).

(5) Section 6045(b)(1).

(6) Section 6049(c)(1)(A).

(7) Section 6050B(b)(1).

(8) Section 6050H(d)(1).

(9) Section 6050I(e)(1).

(10) Section 6050J(e).

(11) Section 6050K(b)(1).

(12) Section 6050N(b)(1).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to statements required to be furnished after December 31, 1996 (determined without regard to any extension).

SEC. 1202. REQUIRED NOTICE OF CERTAIN PAYMENTS.

If any payment is received by the Secretary of the Treasury or his delegate from any taxpayer and the Secretary cannot associate such payment with such taxpayer, the Secretary shall make reasonable efforts to notify the taxpayer of such inability within 60 days after the receipt of such payment.

SEC. 1203. UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

(a) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties), as amended by section 601(a), is amended by redesignating section 7435 as section 7436 and by inserting after section 7434 the following new section:

"SEC. 7435. CIVIL DAMAGES FOR UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

"(a) IN GENERAL.—If any officer or employee of the United States intentionally compromises the determination or collection of any tax due from an attorney, certified public accountant, or

enrolled agent representing a taxpayer in exchange for information conveyed by the taxpayer to the attorney, certified public accountant, or enrolled agent for purposes of obtaining advice concerning the taxpayer's tax liability, such taxpayer may bring a civil action for damages against the United States in a district court of the United States. Such civil action shall be the exclusive remedy for recovering damages resulting from such actions.

"(b) Damages.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the lesser of $500,000 or the sum of—

"(1) actual, direct economic damages sustained by the plaintiff as a proximate result of the information disclosure, and

"(2) the costs of the action.

Damages shall not include the taxpayer's liability for any civil or criminal penalties, or other losses attributable to incarceration or the imposition of other criminal sanctions.

"(c) Payment Authority.—Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

"(d) Period for Bringing Action.—Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought without regard to the amount in controversy and may be brought only within 2 years after the date the actions creating such liability would have been discovered by exercise of reasonable care.

"(e) Mandatory Stay.—Upon a certification by the Commissioner or the Commissioner's delegate that there is an ongoing investigation or prosecution of the taxpayer, the district court before which an action under this section is pending shall stay all proceedings with respect to such action pending the conclusion of the investigation or prosecution.

"(f) Crime-Fraud Exception.—Subsection (a) shall not apply to information conveyed to an attorney, certified public accountant, or enrolled agent for the purpose of perpetrating a fraud or crime."

(b) Clerical Amendment.—The table of sections for subchapter B of chapter 76, as amended by section 601(b), is amended by striking the item relating to section 7435 and by adding at the end the following new items:

"Sec. 7435. Civil damages for unauthorized enticement of information disclosure.

"Sec. 7436. Cross references."

(c) Effective Date.—The amendments made by this section shall apply to actions after the date of the enactment of this Act.

SEC. 1204. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

(a) In General.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7524. ANNUAL NOTICE OF TAX DELINQUENCY.

"Not less often than annually, the Secretary shall send a written notice to each taxpayer who has a tax delinquent account of the amount of the tax delinquency as of the date of the notice."

(b) Clerical Amendment.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7524. Annual notice of tax delinquency."

(c) Effective Date.—The amendments made by this section shall apply to calendar years after 1996.

SEC. 1205. 5-YEAR EXTENSION OF AUTHORITY FOR UNDERCOVER OPERATIONS.

(a) In General.—Paragraph (3) of section 7601(c) of the Anti-Drug Abuse Act of 1988 is amended by striking all that follows "this Act" and inserting a period.

(b) Restoration of Authority for 5 Years.—Subsection (c) of section 7608 is amended by adding at the end the following new paragraph:

"(6) Application of Section.—The provisions of this subsection—

"(A) shall apply after November 17, 1988, and before January 1, 1990, and

"(B) shall apply after the date of the enactment of this paragraph and before January 1, 2001.

All amounts expended pursuant to this subsection during the period described in subparagraph (B) shall be recovered to the extent possible, and deposited in the Treasury of the United States as miscellaneous receipts, before January 1, 2001."

(c) Enhanced Oversight.—

(1) Additional Information Required in Reports to Congress.—Subparagraph (B) of section 7608(c)(4) is amended—

(A) by striking "preceding the period" in clause (ii),

(B) by striking "and" at the end of clause (ii), and

(C) by striking clause (iii) and inserting the following:

"(iii) the number, by programs, of undercover investigative operations closed in the 1-year period for which such report is submitted, and

"(iv) the following information with respect to each undercover investigative operation pending as of the end of the 1-year period for which such report is submitted or closed during such 1-year period—

"(I) the date the operation began and the date of the certification referred to in the last sentence of paragraph (1),

"(II) the total expenditures under the operation and the amount and use of the proceeds from the operation,

"(III) a detailed description of the operation including the potential violation being investigated and whether the operation is being conducted under grand jury auspices, and

"(IV) the results of the operation including the results of criminal proceedings."

(2) Audits Required Without Regard to Amounts Involved.—Subparagraph (C) of section 7608(c)(5) is amended to read as follows:

"(C) Undercover Investigative Operation.—The term 'undercover investigative operation' means any undercover investigative operation of the Service; except that, for purposes of subparagraphs (A) and (C) of paragraph (4), such term only includes an operation which is exempt from section 3302 or 9102 of title 31, United States Code."

(3) Effective Date.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

SEC. 1206. DISCLOSURE OF FORM 8300 INFORMATION ON CASH TRANSACTIONS.

(a) In General.—Subsection (l) of section 6103 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

"(15) Disclosure of Returns Filed Under Section 6050I.—The Secretary may, upon written request, disclose to officers and employees of—

"(A) any Federal agency,

"(B) any agency of a State or local government, or

"(C) any agency of the government of a foreign country,

information contained on returns filed under section 6050I. Any such disclosure shall be made on the same basis, and subject to the same conditions, as apply to disclosures of information on reports filed under section 5313 of title 31, United States Code; except that no disclosure under this paragraph shall be made for purposes of the administration of any tax law."

(b) Conforming Amendments.—

(1) Subsection (i) of section 6103 is amended by striking paragraph (8).

(2) Subparagraph (A) of section 6103(p)(3) is amended—

(A) by striking "(7)(A)(ii), or (8)" and inserting "or (7)(A)(ii)", and

(B) by striking "or (14)" and inserting "(14), or (15)".

(3) The material preceding subparagraph (A) of section 6103(p)(4) is amended—

(A) by striking "(5), or (8)" and inserting "or (5)",

(B) by striking "(i)(3)(B)(i), or (8)" and inserting "(i)(3)(B)(i),", and

(C) by striking "or (12)" and inserting "(12), or (15)".

(4) Clause (ii) of section 6103(p)(4)(F) is amended—

(A) by striking "(5), or (8)" and inserting "or (5)", and

(B) by striking "or (14)" and inserting "(14), or (15)".

(5) Paragraph (2) of section 7213(a) is amended by striking "or (12)" and inserting "(12), or (15)".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1207. DISCLOSURE OF RETURNS AND RETURN INFORMATION TO DESIGNEE OF TAXPAYER.

Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended by striking "written request for or consent to such disclosure" and inserting "request for or consent to such disclosure".

SEC. 1208. STUDY OF NETTING OF INTEREST ON OVERPAYMENTS AND LIABILITIES.

(a) In General.—The Secretary of the Treasury or his delegate shall—

(1) conduct a study of the manner in which the Internal Revenue Service has implemented the netting of interest on overpayments and underpayments and of the policy and administrative implications of global netting, and

(2) before submitting the report of such study, hold a public hearing to receive comments on the matters included in such study.

(b) Report.—The report of such study shall be submitted not later than 6 months after the date of the enactment of this Act to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 1209. EXPENSES OF DETECTION OF UNDERPAYMENTS AND FRAUD, ETC.

(a) In General.—Section 7623 (relating to expenses of deduction and punishment of frauds) is amended to read as follows:

"SEC. 7623. EXPENSES OF DETECTION OF UNDERPAYMENTS AND FRAUD, ETC.

"The Secretary, under regulations prescribed by the Secretary, is authorized to pay such sums as he deems necessary for—

"(1) detecting underpayments of tax, and

"(2) detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same,

in cases where such expenses are not otherwise provided for by law. Any amount payable under the preceding sentence shall be paid from the proceeds of amounts (other than interest) collected by reason of the information provided, and any amount so collected shall be available for such payments.".

(b) Clerical Amendment.—The table of sections for subchapter B of chapter 78 is amended by striking the item relating to section 7623 and inserting the following new item:

"Sec. 7623. Expenses of detection of underpayments and fraud, etc.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date which is 6 months after the date of the enactment of this Act.

(d) REPORT.—The Secretary of the Treasury or his delegate shall submit an annual report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the payments under section 7623 of the Internal Revenue Code of 1986 during the year and on the amounts collected for which such payments were made.

SEC. 1210. USE OF PRIVATE DELIVERY SERVICES FOR TIMELY-MAILING-AS-TIMELY-FILING RULE.

Section 7502 (relating to timely mailing treated as timely filing and paying) is amended by adding at the end the following new subsection:

"(f) TREATMENT OF PRIVATE DELIVERY SERVICES.—

"(1) IN GENERAL.—Any reference in this section to the United States mail shall be treated as including a reference to any designated delivery service, and any reference in this section to a postmark by the United States Postal Service shall be treated as including a reference to any date recorded or marked as described in paragraph (2)(C) by any designated delivery service.

"(2) DESIGNATED DELIVERY SERVICE.—For purposes of this subsection, the term 'designated delivery service' means any delivery service provided by a trade or business if such service is designated by the Secretary for purposes of this section. The Secretary may designate a delivery service under the preceding sentence only if the Secretary determines that such service—

"(A) is available to the general public,

"(B) is at least as timely and reliable on a regular basis as the United States mail,

"(C) records electronically to its data base, kept in the regular course of its business, or marks on the cover in which any item referred to in this section is to be delivered, the date on which such item was given to such trade or business for delivery, and

"(D) meets such other criteria as the Secretary may prescribe.

"(3) EQUIVALENTS OF REGISTERED AND CERTIFIED MAIL.—The Secretary may provide a rule similar to the rule of paragraph (1) with respect to any service provided by a designated delivery service which is substantially equivalent to United States registered or certified mail."

SEC. 1211. REPORTS ON MISCONDUCT OF IRS EMPLOYEES.

On or before June 1 of each calendar year after 1996, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on—

(1) all categories of instances involving the misconduct of employees of the Internal Revenue Service during the preceding calendar year, and

(2) the disposition during the preceding calendar year of any such instances (without regard to the year of the misconduct).

TITLE XIII—REVENUE OFFSETS

Subtitle A—Application of Failure-to-Pay Penalty to Substitute Returns

SEC. 1301. APPLICATION OF FAILURE-TO-PAY PENALTY TO SUBSTITUTE RETURNS.

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF RETURNS PREPARED BY SECRETARY UNDER SECTION 6020(b).—In the case of any return made by the Secretary under section 6020(b)—

"(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but

"(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any return the due date for which (determined without regard to extensions) is after the date of the enactment of this Act.

Subtitle B—Excise Taxes on Amounts of Private Excess Benefits

SEC. 1311. EXCISE TAXES FOR FAILURE BY CERTAIN CHARITABLE ORGANIZATIONS TO MEET CERTAIN QUALIFICATION REQUIREMENTS.

(a) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations) is amended by redesignating subchapter D as subchapter E and by inserting after subchapter C the following new subchapter:

"Subchapter D—Failure by Certain Charitable Organizations To Meet Certain Qualification Requirements

"Sec. 4958. Taxes on excess benefit transactions.

"SEC. 4958. TAXES ON EXCESS BENEFIT TRANSACTIONS.

"(a) INITIAL TAXES.—

"(1) ON THE DISQUALIFIED PERSON.—There is hereby imposed on each excess benefit transaction a tax equal to 25 percent of the excess benefit. The tax imposed by this paragraph shall be paid by any disqualified person referred to in subsection (f)(1) with respect to such transaction.

"(2) ON THE MANAGEMENT.—In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any organization manager in the excess benefit transaction, knowing that it is such a transaction, a tax equal to 10 percent of the excess benefit, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any organization manager who participated in the excess benefit transaction.

"(b) ADDITIONAL TAX ON THE DISQUALIFIED PERSON.—In any case in which an initial tax is imposed by subsection (a)(1) on an excess benefit transaction and the excess benefit involved in such transaction is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the excess benefit involved. The tax imposed by this subsection shall be paid by any disqualified person referred to in subsection (f)(1) with respect to such transaction.

"(c) EXCESS BENEFIT TRANSACTION; EXCESS BENEFIT.—For purposes of this section—

"(1) EXCESS BENEFIT TRANSACTION.—

"(A) IN GENERAL.—The term 'excess benefit transaction' means any transaction in which an economic benefit is provided by an applicable tax-exempt organization directly or indirectly to or for the use of any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit. For purposes of the preceding sentence, an economic benefit shall not be treated as consideration for the performance of services unless such organization clearly indicated its intent to so treat such benefit.

"(B) EXCESS BENEFIT.—The term 'excess benefit' means the excess referred to in subparagraph (A).

"(2) AUTHORITY TO INCLUDE CERTAIN OTHER PRIVATE INUREMENT.—To the extent provided in regulations prescribed by the Secretary, the term 'excess benefit transaction' includes any transaction in which the amount of any economic benefit provided to or for the use of a disqualified person is determined in whole or in part by the revenues of 1 or more activities of the organization but only if such transaction results in inurement not permitted under paragraph (3) or (4) of section 501(c), as the case may be. In the case of any such transaction, the excess benefit shall be the amount of the inurement not so permitted.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) JOINT AND SEVERAL LIABILITY.—If more than 1 person is liable for any tax imposed by subsection (a) or subsection (b), all such persons shall be jointly and severally liable for such tax.

"(2) LIMIT FOR MANAGEMENT.—With respect to any 1 excess benefit transaction, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000.

"(e) APPLICABLE TAX-EXEMPT ORGANIZATION.—For purposes of this subchapter, the term 'applicable tax-exempt organization' means—

"(1) any organization which (without regard to any excess benefit) would be described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a), and

"(2) any organization which was described in paragraph (1) at any time during the 5-year period ending on the date of the transaction.

Such term shall not include a private foundation (as defined in section 509(a)).

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) DISQUALIFIED PERSON.—The term 'disqualified person' means, with respect to any transaction—

"(A) any person who was, at any time during the 5-year period ending on the date of such transaction, in a position to exercise substantial influence over the affairs of the organization,

"(B) a member of the family of an individual described in subparagraph (A), and

"(C) a 35-percent controlled entity.

"(2) ORGANIZATION MANAGER.—The term 'organization manager' means, with respect to any applicable tax-exempt organization, any officer, director, or trustee of such organization (or any individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization).

"(3) 35-PERCENT CONTROLLED ENTITY.—

"(A) IN GENERAL.—The term '35-percent controlled entity' means—

"(i) a corporation in which persons described in subparagraph (A) or (B) of paragraph (1) own more than 35 percent of the total combined voting power,

"(ii) a partnership in which such persons own more than 35 percent of the profits interest, and

"(iii) a trust or estate in which such persons own more than 35 percent of the beneficial interest.

"(B) CONSTRUCTIVE OWNERSHIP RULES.—Rules similar to the rules of paragraphs (3) and (4) of section 4946(a) shall apply for purposes of this paragraph.

"(4) FAMILY MEMBERS.—The members of an individual's family shall be determined under section 4946(d); except that such members also shall include the brothers and sisters (whether by the whole or half blood) of the individual and their spouses.

"(5) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess benefit transaction, the period beginning with the date on which the transaction occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1), or

"(B) the date on which the tax imposed by subsection (a)(1) is assessed.

"(6) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any excess benefit transaction, undoing the excess benefit to the extent possible, and taking any additional measures necessary to place the organization in a financial position not worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards."

(b) Application of Private Inurement Rule to Tax-Exempt Organizations Described in Section 501(c)(4).—

(1) In general.—Paragraph (4) of section 501(c) is amended by inserting "(A)" after "(4)" and by adding at the end the following:

"(B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual."

(2) Special rule for certain cooperatives.—In the case of an organization operating on a cooperative basis which, before the date of the enactment of this Act, was determined by the Secretary of the Treasury or his delegate, to be described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, the allocation or return of net margins or capital to the members of such organization in accordance with its incorporating statute and bylaws shall not be treated for purposes of such Code as the inurement of the net earnings of such organization to the benefit of any private shareholder or individual. The preceding sentence shall apply only if such statute and bylaws are substantially as such statute and bylaws were in existence on the date of the enactment of this Act.

(c) Technical and Conforming Amendments.—

(1) Subsection (e) of section 4955 is amended—

(A) by striking "Section 4945" in the heading and inserting "Sections 4945 and 4958", and

(B) by inserting before the period "or an excess benefit for purposes of section 4958".

(2) Subsections (a), (b), and (c) of section 4963 are each amended by inserting "4958," after "4955,".

(3) Subsection (e) of section 6213 is amended by inserting "4958 (relating to private excess benefit)," before "4971".

(4) Paragraphs (2) and (3) of section 7422(g) are each amended by inserting "4958," after "4955,".

(5) Subsection (b) of section 7454 is amended by inserting "or whether an organization manager (as defined in section 4958(f)(2)) has 'knowingly' participated in an excess benefit transaction (as defined in section 4958(c))," after "section 4912(b),".

(6) The table of subchapters for chapter 42 is amended by striking the last item and inserting the following:

"Subchapter D. Failure by certain charitable organizations to meet certain qualification requirements.

"Subchapter E. Abatement of first and second tier taxes in certain cases."

(d) Effective Dates.—

(1) In general.—The amendments made by this section (other than subsection (b)) shall apply to excess benefit transactions occurring on or after September 14, 1995.

(2) Binding contracts.—The amendments referred to in paragraph (1) shall not apply to any benefit arising from a transaction pursuant to any written contract which was binding on September 13, 1995, and at all times thereafter before such transaction occurred.

(3) Application of private inurement rule to tax-exempt organizations described in section 501(c)(4).—

(A) In general.—The amendment made by subsection (b) shall apply to inurement occurring on or after September 14, 1995.

(B) Binding contracts.—The amendment made by subsection (b) shall not apply to any inurement occurring before January 1, 1997, pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such inurement occurred.

SEC. 1312. REPORTING OF CERTAIN EXCISE TAXES AND OTHER INFORMATION.

(a) Reporting by Organizations Described in Section 501(c)(3).—Subsection (b) of section 6033 (relating to certain organizations described in section 501(c)(3)) is amended by striking "and" at the end of paragraph (9), by redesignating paragraph (10) as paragraph (14), and by inserting after paragraph (9) the following new paragraphs:

"(10) the respective amounts (if any) of the taxes paid by the organization during the taxable year under the following provisions:

"(A) section 4911 (relating to tax on excess expenditures to influence legislation),

"(B) section 4912 (relating to tax on disqualifying lobbying expenditures of certain organizations), and

"(C) section 4955 (relating to taxes on political expenditures of section 501(c)(3) organizations),

"(11) the respective amounts (if any) of the taxes paid by the organization, or any disqualified person with respect to such organization, during the taxable year under section 4958 (relating to taxes on private excess benefit from certain charitable organizations),

"(12) such information as the Secretary may require with respect to any excess benefit transaction (as defined in section 4958),

"(13) such information with respect to disqualified persons as the Secretary may prescribe, and".

(b) Organizations Described in Section 501(c)(4).—Section 6033 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Certain Organizations Described in Section 501(c)(4).—Every organization described in section 501(c)(4) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a) the information referred to in paragraphs (11), (12) and (13) of subsection (b) with respect to such organization."

(c) Effective Date.—The amendments made by this section shall apply to returns for taxable years beginning after the date of the enactment of this Act.

SEC. 1313. EXEMPT ORGANIZATIONS REQUIRED TO PROVIDE COPY OF RETURN.

(a) Requirement To Provide Copy.—

(1) Subparagraph (A) of section 6104(e)(1) (relating to public inspection of annual returns) is amended to read as follows:

"(A) In general.—During the 3-year period beginning on the filing date—

"(i) a copy of the annual return filed under section 6033 (relating to returns by exempt organizations) by any organization to which this paragraph applies shall be made available by such organization for inspection during regular business hours by any individual at the principal office of such organization and, if such organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office, and

"(ii) upon request of an individual made at such principal office or such a regional or district office, a copy of such annual return shall be provided to such individual without charge other than a reasonable fee for any reproduction and mailing costs.

The request described in clause (ii) must be made in person or in writing. If the request under clause (ii) is made in person, such copy shall be provided immediately and, if made in writing, shall be provided within 30 days."

(2) Clause (ii) of section 6104(e)(2)(A) is amended by inserting before the period at the end the following: "(and, upon request of an individual made at such principal office or such a regional or district office, a copy of the material requested to be available for inspection under this subparagraph shall be provided (in accordance with the last sentence of paragraph (1)(A)) to such individual without charge other than reasonable fee for any reproduction and mailing costs)".

(3) Subsection (e) of section 6104 is amended by adding at the end the following new paragraph:

"(3) Limitation.—Paragraph (1)(A)(ii) (and the corresponding provision of paragraph (2)) shall not apply to any request if, in accordance with regulations promulgated by the Secretary, the organization has made the requested documents widely available, or, the Secretary determines, upon application by an organization, that such request is part of a harassment campaign and that compliance with such request is not in the public interest."

(b) Increase in Penalty for Willful Failure To Allow Public Inspection of Certain Returns, Etc.—Section 6685 is amended by striking "$1,000" and inserting "$5,000".

(c) Effective Date.—The amendments made by this section shall apply to requests made on or after the 60th day after the Secretary of the Treasury first issues the regulations referred to section 6104(e)(3) of the Internal Revenue Code of 1986 (as added by subsection (a)(3)).

SEC. 1314. INCREASE IN PENALTIES ON EXEMPT ORGANIZATIONS FOR FAILURE TO FILE COMPLETE AND TIMELY ANNUAL RETURNS.

(a) In General.—Subparagraph (A) of section 6652(c)(1) (relating to annual returns under section 6033) is amended by striking "$10" and inserting "$20" and by striking "$5,000" and inserting "$10,000".

(b) Larger Penalty on Organizations Having Gross Receipts in Excess of $1,000,000.—Subparagraph (A) of section 6652(c)(1) is amended by adding at the end the following new sentence: "In the case of an organization having gross receipts exceeding $1,000,000 for any year, with respect to the return required under section 6033 for such year, the first sentence of this subparagraph shall be applied by substituting '$100' for '$20' and, in lieu of applying the second sentence of this subparagraph, the maximum penalty under this subparagraph shall not exceed $50,000."

(c) Effective Date.—The amendments made by this section shall apply to returns for taxable years ending on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Connecticut [Mrs. JOHNSON] and the gentleman from California [Mr. MATSUI] will each be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Connecticut [Mrs. JOHNSON].

GENERAL LEAVE

Mrs. JOHNSON of Connecticut. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous remarks on H.R. 2337.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House already has acted favorably on the contents of H.R. 2337 when it passed the 7-year Balanced Budget Act on October 26, 1995. The Taxpayer Bill of Rights II was part of the Committee on Ways and Means title of H.R. 2491.

The freestanding bill which the Committee on Ways and Means approved on March 21, 1996, is substantially the same as the provisions which passed the House last October as part of the 7-year Balanced Budget Act, with only minor technical changes and adjustments to some of the bill's effective dates. Upon the President's veto of that bill, Mr. Speaker, Commissioner Richardson implemented a number of our recommendations by administrative action, and for that I thank her.

I commend her as well and appreciate her concern with our point of view by enclosing my remarks in which I expressed great concern for the IRS's use of economic reality audits with the distribution of her guidance to her staff in the use of these extensive audits for the purpose of assuring that people do pay their fair share.

I have enjoyed working with Commissioner Richardson and her staff, and my colleague the gentleman from California [Mr. MATSUI] and I believe that the bill we bring before you today will move us forward in assuring taxpayers' rights in dealing with the IRS, but also will do so in a way that is harmonious with our underlying law and the responsibilities of the IRS.

Yesterday was April 15, the deadline for American citizens to file their income tax returns for 1995. Most citizens filed their tax returns, will receive their refunds, and never hear from the IRS again. They are the lucky ones.

The Taxpayer Bill of Rights aims to expand the protections for the unlucky taxpayers who become involved in a tax dispute with the IRS. These taxpayers often feel as if they are engaged in a David versus Goliath contest.

H.R. 2337 gives taxpayers some important procedural tools in defending themselves in controversies with the Goliath of the IRS. While procedural tax rules may not seem glamorous, they can be extremely important in deciding the outcome of a tax dispute.

For example, TV viewers who followed the O.J. Simpson trial last year learned that procedural rules can have a major impact on the outcome of a legal controversy. In a similar way, the procedural tax rule changes and the Taxpayer Bill of Rights II will have a significant effect on the outcome of tax disputes with the IRS.

For example, the committee learned of cases where the IRS began auditing a taxpayer's return, and then the IRS employee conducting the audit was transferred to a new division and the return sat for another year or two before the audit was completed. Under current law, the IRS has no authority to abate the interest which ran up during this period. H.R. 2337 addresses this problem by giving the IRS expanded authority to abate interest charges that occur as a result of unreasonable delays caused by the IRS's own process.

The bill will also make it easier for taxpayers who win their cases against the IRS in Tax Court to collect attorneys' fees. Under current law, not only does a taxpayer have to prevail on the merits against the IRS to collect attorneys fees, he must also prove that the IRS was not justified in pressing the case against him. H.R. 2337 would switch the burden to the IRS of proving that its position was substantially justified. This is consistent with the judicial principle that the party in control of the facts should bear the burden of proof.

Another provision would help taxpayers who enter into installment payment agreements with the IRS. Under current law the IRS does not have to give notice to the taxpayer before it revokes an installment payment plan. This can result in a hardship when the IRS revokes an installment agreement based on faulty information. H.R. 2337 would require the IRS to give 30 days advance notice before it revokes an installment agreement in order to give the affected taxpayer an opportunity to challenge this action.

Further, in the extreme cases where the IRS damages the taxpayer because its employees act recklessly in collecting taxes, the bill would raise the ceiling for damage claims by taxpayers against the IRS to $1 million. The current ceiling is $100,000.

Finally, for the first time, the experience of the IRS ombudsman as to the most common problems experienced by taxpayers will be relayed directly to the Committee on Ways and Means, without passing through the many layers of administrative filters of the IRS and then the Department of the Treasury.

This will enable us here in Congress to respond in a far more timely fashion to the problems, indeed the snares, taxpayers get caught in as they deal with the IRS. That will allow us to deal with the legitimate problems, while assuring that the IRS can collect the legitimately owed taxes.

Mr. Speaker, the Nation's taxpayers probably will never enjoy paying taxes, but they should not feel powerless in their dealings with the IRS. The Taxpayer Bill of Rights II will establish many new procedural protections for taxpayers. Like the David in Biblical history, the average taxpayer may be smaller than the rival IRS, but we are giving him some significant weapons with which to defend himself.

I support the passage of H.R. 2337, urge my colleagues to do likewise, and I thank the gentleman from California [Mr. MATSUI], and his able staff, for their work with us on this matter over the last many months.

Mr. Speaker, I reserve the balance of my time.

Mr. MATSUI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also rise in strong support of H.R. 2337. This legislation has been adopted numerous times by the Committee on Ways and Means on a bipartisan basis, and certainly on the floor of the House it has been adopted as well, and the enactment is certainly long overdue. This legislation is supported by the administration and will result in a much needed protection for taxpayers in their dealings with the Internal Revenue Service.

Mr. Speaker, I would like to first of all take this opportunity to commend the gentlewoman from Connecticut, Chairwoman NANCY JOHNSON, who has done a tremendous job on making sure that we have a bipartisan approach to this piece of legislation. All through the drafting and the putting together of this legislation, we have worked very cooperatively, and she and her staff have kept us informed, and I just want to take this opportunity to personally thank her for her efforts.

Certainly it goes also to the majority's fine staff, Donna Steele, and the members of our staff, Beth Vance, as well; all have played a significant role in making sure this legislation is in the form that it is today.

I want to also thank Secretary Rubin, and particularly Les Samuels, the assistant to Mr. Rubin, who has been very helpful with his input in the drafting of this legislation. Of course, the Internal Revenue Commissioner, Margaret Richardson, who has made, as Chairwoman JOHNSON stated in her opening statement, numerous reforms in this particular area.

This legislation, Mr. Speaker, is the second comprehensive taxpayers' bill of rights that have been adopted by the Congress and signed, hopefully signed, by the President. this bill will establish, as the gentlewoman from Connecticut [Mrs. JOHNSON] has said, a taxpayer advocate which will replace the ombudsman.

The advocate will have four main responsibilities. One to assist the taxpayer in resolving problems with the Internal Revenue Service; two, to identify problem areas within the Internal Revenue Service; three, a proposed change in the practice of the Internal Revenue Service to solve these problems; and, four, identify legislative solutions to these problems as well.

The second area in this bill in terms of making major changes, it will switch the burden of proof in cases in which attorneys' fees will be awarded. Currently taxpayers must show that the position of the IRS was not substantially justified in order to recover his or her attorney fees. Under the bill, a taxpayer who wins a suit can recover his or her fees unless the Internal Revenue Service can show that it was substantially justified in pursuing the action against the taxpayer in the first instance.

Three, the bill includes a number of provisions in which the IRS has greater flexibility in waiving certain penalties and will require that the Internal Revenue Service notify taxpayers before taking actions that would adversely affect them.

Fourth, the bill does address a problem that has been in the news over the last few years, and this deals with divorced spouses. There have been several cases where divorced spouses have signed returns not knowing what is in these returns, and before collection will occur now the Internal Revenue Service must give advance notice to the former spouse before any collection efforts will be taken.

In addition, the Service will do a study that will be due back in 6 months on how to deal with the issue of joint and several liability, undoubtedly which will affect many people in the middle of a divorce or are divorced when the filing occurs.

Again, I would like to thank the gentlewoman from Connecticut [Mrs. JOHNSON] and members of the majority staff for all their help in this effort. I know that this is only the second step. We intend I believe to have a taxpayers' bill of rights III during the next Congress, and I look forward to working with the members of this committee and certainly the Members of the House and the administration.

Mr. Speaker, I reserve the balance of my time.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. ARCHER], the chairman of the Committee on Ways and Means, and I thank him for his participation.

Mr. ARCHER. Mr. Speaker, I thank the gentlewoman for yielding me time, and also commend her on the outstanding work she has done on this bill.

Mr. Speaker, I rise in strong support of the Taxpayer Bill of Rights II, which will establish many new protections for the Nation's taxpayers in their dealings with the IRS. The campaign to safeguard taxpayer rights has a long history. The original Taxpayer Bill of Rights was enacted in 1988. While this legislation was a good first step, the continuing course of constituent complaints against the IRS has convinced us of the need to enact additional taxpayer protections.

Under this bill, taxpayers who are involved in a dispute with the IRS will be armed with additional rights and protections. In the David against Goliath fight between the taxpayer and the IRS, this bill is the slingshot the taxpayer can now use to win his or her fight.

I compliment the gentlewoman from Connecticut, [Mrs. JOHNSON], chairwoman of the Subcommittee on Oversight, and the gentleman from California [Mr. MATSUI], the ranking Democrat, for their dedication to championing the cause of the Nation's taxpayers.

Mr. Speaker, the IRS is the agency tasked with the responsibility of enforcing our Nation's tax laws and collecting the taxes that are legally due. It is an important job, because the functioning of the Federal Government depends on the public's willingness to voluntarily pay the taxes they owe. However, it is also a very difficult responsibility because the complicated structure of our current income tax system necessarily interjects the IRS into the private lives of the American people.

There is no question the IRS has grown too powerful and too intrusive. However, this has come in direct response to the growing complexity of our current tax system. The ultimate solution to this problem is to tear the income tax out by its roots and eliminate the need for an agency which must delve into our private lives in order to enforce the tax system. But until Congress fundamentally reforms the tax laws, the next best approach is to make the current tax system operate in a way which treats taxpayers more fairly.

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Mr. MATSUI. Mr. Speaker, I reserve the balance of my time.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, too often the taxpayer is at the mercy of the IRS, and the whole purpose of this bill is to try to set that right, at least a little bit.

Included in this Taxpayer Bill of Rights II is the Fast and Efficient Tax Filing Act, and I want to thank the Members that worked on Ways and Means, in particular my colleague the gentlewoman from Connecticut, NANCY JOHNSON, and my colleague from California for including this in the legislation, so thank you, Mr. MATSUI, as well.

The Fast and Efficient Tax Filing Act is going to make at least one area of the Internal Revenue Code a little more user friendly. Many of you may have at one time in your lives stood in line for an IRS Postal Service postmark to mail your tax return on April 15.

Turns out that in order to use this rule, the Postal Service must be the form of delivery. If on the morning of April 15 you send it Federal Express, UPS, or some overnight delivery, and it gets there the next day, that is not good enough. If you put it in the mailbox and it gets postmarked, or if you stand in line and get that receipt from the Postal Service, even though the IRS does not get it for a week, then you can use the rule.

Both taxpayers and the IRS are being cheated under the current system. As a result of the Fast and Efficient Tax Filing Act, no more midnight waits at the post office; send it Fed Ex, call 1-800 pickup or DHL, or any of the competitors that we have that operate in America to deliver things efficiently throughout the rest of our economy. Next year you will be able to do that as a result of the passage of this bill.

So I want to congratulate once again my colleagues, the gentleman from California [Mr. MATSUI] and the gentlewoman from Connecticut [Mrs. JOHNSON], for including this in a wonderful bill. The IRS is going to get returns faster. Our constituents will not stand in line. At least this one area of our onerous Tax Code will have a modicum of common sense.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume to thank the gentleman from California for his good work. He did contribute to this bill very substantially, and I thank him for his comments today.

Mr. Speaker, I would now like to recognize the gentleman from Ohio [Mr. TRAFICANT], and in so doing I want to recognize his tireless efforts to promote the rights of taxpayers in their dealings with the IRS. He has long been one of this body's most steadfast champions for the Nation's taxpayers, and he deserves much of the credit for provision in this bill relating to burden-of-proof issues, including the provision relating to the award of attorneys fees and costs, which shifts the burden to the IRS to prove that it was justified in bringing its case against the taxpayer.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I appreciate that from the distinguished chairwoman, and I think the gentlewoman from Connecticut, Mrs. JOHNSON was tired of having me run her down on the floor, and the gentleman from Texas, BILL ARCHER. I want to thank Speaker GINGRICH, the gentleman from Texas, DICK ARMEY, the gentlewoman from Connecticut, NANCY JOHNSON, the gentleman from Texas, BILL ARCHER, the gentleman from Florida, SAM GIBBONS, and the gentleman from California, BOB MATSUI.

Yes, I have been aggressive on some of these issues, and the gentlewoman from Connecticut has accommodated me under a powerful strain of opposition at times from the Internal Revenue Service.

Two provisions I worked hard for, as cited by the gentlewoman from Connecticut [Mrs. JOHNSON]. No. 1, after a matter has been adjudicated, a taxpayer can in fact go after those attorney fees and costs and, in fact the burden of proof after adjudication is thus switched to the IRS to justify and maintain their position for going after the taxpayer in the first place.

That is a good first step, my colleagues. I have no complaints with that, and I commend you and thank you for doing something I could not get a Congress to do over the last four terms.

The second one says that right now there is a cap of $100,000 when an IRS agent violates the rights of a taxpayer. In my provision in here it increases that cap to $1 million, and I think $1 million will get their attention.

This is a great first step, but I want to just make a few points today, and I want to ask the Committee on Ways and Means to consider what I say very seriously. More than 97 percent of the American people support the change in the burden of proof in a civil tax case. No one has helped me more than the gentlewoman from Connecticut [Mrs. JOHNSON] and the gentleman from Texas [Mr. ARCHER]. As a Democrat, I want to commend the Republican leadership for giving me an opportunity on this.

Right now, under current existing law, in a civil tax case a taxpayer goes into court with the burden of proof. They have to prove they are innocent. There is no other provision in law. I do not know how this evolution has come about, where all of a sudden we have a law that places an American guilty in the eyes of the court and under the statutory law and they must prove themselves innocent.

Some of the arguments we are getting from the IRS are that deadbeats might get over. I do not believe that. I think the IRS is now saying that this would be a big revenue loser. I would say to all leaders, if we scored the Bill of Rights and let the IRS score the Bill of Rights, would we enjoy the freedoms of the Bill of Rights? Money is not an argument here.

I think when the IRS says, "Look, Mr. TRAFICANT, don't confuse us with the Constitution," I cannot buy the argument.

I am asking the Committee on Ways and Means to look at offsets. My new bill, H.R. 2450, handles this matter differently. It breaks it down to administrative and judicial.

When a taxpayer gets notice of an administrative audit, in that administrative procedure they have the burden of proof. They must substantiate those representations they make on their tax forms. But in good faith, having made those representations and the IRS then choosing to take the matter to court, the Traficant bill says at that point the burden of proof shifts to the IRS and the IRS shall be able to justify their case, prove evidence, submit evidence, and prove that matter.

Let me say this. That is something that we here in Congress should do. I would even be willing to have a provision in that bill that says that in the administrative procedure where the burden of proof is on the taxpayer, they must comply, if they are not compliant and deemed to have not complied in the eyes of the court, that the court can maintain the burden of proof on the taxpayer.

It would force the administrative process to be up front. We could expedite these cases. I do not think we would have as big a revenue problem as we have, and I would urge the committee to look at the scoring of it, but not only look at the scoring but to look at the offsets for funds to right this wrong.

But for me to stand up here today and to say because this total burden of proof is not enacted makes this bill weaker would not be fair. The gentlewoman from Connecticut [Mrs. JOHNSON] has done a fine job. I thank her for putting up with me.

The gentleman from California [Mr. MATSUI] and the gentleman from Texas [Mr. ARCHER] are going to have to put up more with me, and their staff, because I will not be satisfied until we right the wrong. A taxpayer in America pays the freight on this train coming down the track and, by God, they should at least be considered like everyone else in a court of law, innocent until proven guilty.

I am asking for their help, and I appreciate the time the gentlewoman has given me.

Mr. MATSUI. Mr. Speaker, I yield myself such time as I may consume.

First, I want to commend the gentleman from Ohio [Mr. TRAFICANT]. As the gentlewoman from Connecticut [Mrs. JOHNSON] has said, he really has been very helpful providing information to us, both in terms of the burden of proof issue and, second, in terms of lifting the $100,000 cap to $1 million in terms of the damage issue. We want to thank him very, very much for that.

We both look forward to working with the gentleman in the future on the third tax bill of rights legislation when we bring it before the House. Again, we thank him.

Second, I would like to just thank the gentleman from California [Mr. COX] for his very helpful information and piece of legislation, as well, in terms of the alternative uses besides the Postal Service in terms of filing returns.

I might also add the name of this legislation is the Pickle-Johnson legislation, and that is not two Texans, that is not President Johnson, but that is the gentlewoman from Connecticut, NANCY JOHNSON, and of course Jake Pickle, who was really one of the leaders for the last 10 years working on the tax bill of rights. This is the Pickle-Johnson legislation.

Mr. Speaker, I reserve the balance of my time.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I would like to comment that my colleague, the gentleman from California [Mr. MATSUI], and I and our staff have worked very hard, not only together and with Members and with constituents who have testified, but also with the IRS. These provisions are going to front-load those defenses that taxpayers need so that we should not be getting into the kinds of problems that the gentleman from Ohio [Mr. TRAFICANT] describes.

By assuring taxpayers better information, more open communication and better procedures, we believe their rights will be defended long before they get into the level of controversy that has concerned the gentleman, and rightly so.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas, Mr. SAM JOHNSON.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I too would like to commend the gentlewoman from Connecticut, NANCY JOHNSON, and the gentleman from California, Mr. MATSUI, for doing a good job and for getting this bill back to the floor, this bill of rights back to the floor for a second time.

As you know, the President vetoed it back in December, along with a bunch of other stuff. But this bill is important because the powers of the IRS to investigate and examine taxpayers are greater than any other Government agency. They are intrusive. They are into our lives, and it seems that the constitutional rights of taxpayers are always trampled upon but nothing is ever done.

This bill makes important commonsense changes to current law that will strengthen the rights of American taxpayers. It establishes a taxpayer advocate to prevent the IRS from treating taxpayers like second class citizens. It increases the amount people may sue the IRS from $100,000 to $1 million. And for the first time, it allows the Federal courts to determined IRS failure and abuse of discretion.

While this bill makes important progress to rein in the IRS and its 115,000 IRS agents, I believe America is demanding that the entire system should be replaced, and I think we must insist that any new system must empower individuals and not the Government; provide opportunities, not dead ends, and, most importantly, it must offer the hard-working people of this country the freedom to achieve the American dream.

I commend the gentlewoman again for bringing this bill to the floor again, and I hope we can get it through in good shape this time.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentlewoman for yielding this time to me, and I stand up in vigorous support of a commonsense change in the law as it affects the taxpayers' rights in balancing it out with the rights and duties of the Internal Revenue Service.

The Internal Revenue Service is a needed agency which looks over the collection of taxes in this country. There is no question about it. But there are some things that need to be balanced out which this legislation does.

To give just a few examples of what is in this bill that needs to be done: One of the provisions in here would allow the IRS to release property on which there are liens when it is to the advantage of the Government to do so. Right now they cannot do that.

You have situations where businesses are closed down, where if the IRS would simply allow them to continue to exist for a short period of time, the Federal Government could make up some of the dollars that it is losing. And, of course, also, there is a question of jobs being lost. This is just plain common sense.

When we have a situation where a spouse is charged with liability because of signing a joint return and the secrecy law comes into play, it is only common sense, if we are going to go after using the female spouse, that we would be able to share certain information, which now the IRS is prohibited from doing.

These are just a couple of examples of just pure common sense that we are putting into the law.

I compliment my fellow Members of the Committee on Ways and Means. It was a good meeting, and I think it shows that we have great bipartisan support, and I am sure that each Member of the Congress, every Member of the Congress is going to be proud to vote for and support this legislation.

Mr. MATSUI. Mr. Speaker, I yield myself such time as I may consume to say that I do not believe we have any further speakers.

I might just add, in closing on my side, that we hope that the Members support this bill. I urge support of this legislation. The President supports this legislation and will sign this bill and, again, I look forward to continuing working with the gentlewoman from Connecticut.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CAMP). The gentlewoman from Connecticut has three-fourth of a minute remaining.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield the balance of my time to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Speaker, I rise today in support of the Taxpayer Bill of Rights. I think it is a step we need to take.

There are a couple of things I wish had been in it that are not there. One of them, the item that the gentleman from Ohio [Mr. TRAFICANT] has worked so hard on, and some of the rest of us, and that is to change the burden of proof. The other is that the IRS should pay back at the same interest rate that we have to pay if they overcharge us.

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But Congress, I think, has finally realized what taxpayers have known for years, that the IRS has too much power over the lives of ordinary citizens. This bill contains some much-needed reforms which make so much sense. I have to shake my head and wonder that these protections do not already exist.

This bill creates the position of taxpayer advocate. It expands the authority of the IRS to abate interest and penalties, extend the length of time which the taxpayer may fulfill his obligation to the IRS without accrual of excessive penalties and interest. It allows the taxpayer, when they are right, to collect the money in fees and costs from the IRS. I hope we can pass this bill.

Mr. NEAL of Massachusetts. Mr. Speaker, yesterday the House was involved in a publicity stunt because of it being tax day. Today, we are debating tax legislation that will truly help the American people. Before us today is the Taxpayer Bill of Rights. The purpose of this legislation is to help those taxpayers who find themselves in dispute with the Internal Revenue Service [IRS].

This legislation will reduce the anxiety that surrounds April 15 each year. Taxpayers will have some extra assistance when they are faced with the IRS. This legislation is based on an extensive bipartisan effort of the Ways and Means Committee to assist the taxpayer. Mr. Pickle, the former chairman of the Subcommittee on Oversight, worked long and hard on this issue. The legislation before us today is substantially the same as legislation developed by Mr. Pickle. Also, Senator PRYOR has spent many years working on this legislation.

One of the key provisions of this legislation is the creation of an independent taxpayer advocate. The taxpayer advocate will work to improve taxpayer services and IRS responsiveness. The taxpayer advocate will report to the tax writing committees of Congress on the progress in this area. Another key provision requires the IRS to report to the tax writing committees on the misconduct of IRS employees. This report will give Congress the chance to study the misconduct of IRS employees and the punishment for misconduct.

Taxpayers will receive assistance for taxpayers who experienced difficulty with the IRS. This legislation would allow taxpayers who have been the victim of reckless collection actions by the IRS to sue the Government for $1 million up from the current cap of $100,000.

The bottom line is this legislation will make it easier for taxpayers to work with the IRS. Currently, the United States has an 86-percent rate of compliance for Federal taxes. Hopefully, this legislation will help improve compliance which is already the envy of other countries. This legislation will improve the working relationship between taxpayers and the IRS.

I am pleased this legislation is before us today. This legislation is a concrete way to help make April 15 a less stressful day for all Americans.

Mr. PORTMAN. Mr. Speaker, first of all, I would like to thank Chairman JOHNSON for her excellent leadership in crafting this bill. She and her Oversight Subcommittee staff have worked tirelessly on behalf of the American taxpayer.

Mr. Speaker, yesterday's deadline to file income tax returns reminds us of how much power the Internal Revenue Service has over the honest taxpayers of this country. We must ensure that the IRS isn't heavy-handed in enforcing regulations and that the taxpayer has adequate protections.

One of my constituents learned the hard way about how the IRS sometimes does business. While she was married, she and her self-employed husband filed a joint tax return. But after her divorce was finalized, the IRS determined that she was responsible for paying off almost all of the $30,000 in taxes her ex-husband owed the Federal Government.

The IRS rejected her plea for relief under the innocent spouse provision in the Tax Code because she had signed the joint tax returns. Her ex-husband is now off the hook, having settled with the IRS for about $5,000. Meanwhile, this divorcee currently owes the IRS $20,000, a burden that could affect her for the rest of her life. She says she feels like she's being punished for being a good citizen and for working hard. It certainly looks that way to me, too.

We owe it to the hardworking citizens of our country to prevent the IRS from unfairly pushing them around. Most people come away from a confrontation with the IRS feeling bruised and battered. This legislation at least will give them a fighting chance—it includes more than 30 items that give the taxpayers rights and powers in dealing with the IRS. Some of these provisions will help ensure that divorced filers are not victimized.

I urge my colleagues in the House to vote in favor of passage of this Taxpayer Bill of Rights—it will guard against unreasonable IRS positions and protect the rights of taxpayers.

Mr. PACKARD. Mr. Speaker, few things are scarier than getting into a dispute with the IRS. They truly believe that they are above the law and all too often taxpayers have no recourse.

During April, working Americans struggle to fill out complicated U.S. tax forms, enduring great anxiety and paying out large sums of money to accountants, just to guarantee that they are giving Uncle Sam the appropriate and expected amount. And when there is a dispute or audit, taxpayers—right or wrong—always end up paying the price. Ironically the IRS' own annual reports admit a high rate of errors and the IRS telephone information service gives out wrong answers as much as one-third of the time.

My Republican colleagues and I are committed to changing that. The taxpayer bill of rights that we consider today makes it harder for the IRS to demand America's hard-working families pay for the IRS' own mistakes. The more than 30 protections in this bill will waive interest charges when the IRS is at fault for tax underpayment. It extends time for taxpayers to pay delinquent taxes without being subject to interest and penalties. It allows taxpayers to sue the IRS for reckless collection actions and there are dozens of other taxpayer protections included in this measure.

Mr. Speaker, our tax system has veered out of control. My Republican colleagues and I know America needs tax reform and the debate will begin in earnest this week. Because, it will not happen overnight, we must provide tax relief now to America's families. The taxpayer bill of rights does that and more. It proves to our taxpayers that the Republican-led Congress is committed to returning fiscal responsibility to Washington.

Mrs. MINK of Hawaii. Mr. Speaker, I rise in support of H.R. 2337, the Taxpayer Bill of Rights Act, which represents significant advancement toward fair treatment of taxpayers under the Internal Revenue Code by the Internal Revenue Service.

I am particularly in favor of a section that embodies the intent of a bill that I introduced last year, H.R. 331, which would require the Federal Government to consider as having arrived on time any sealed bid for the procurement of goods or services, if the bid was sent by an overnight message delivery service at least 2 business days before the date specified for receipt of bids.

Current procurement law states that late bids cannot be considered for awards unless they were one, sent by registered or certified mail no later than 5 days before the bids receipt deadline, two, proven to have been delivered late due to mishandling by the receiving Government agency, or three, sent by U.S. Postal Service Express Mail Next Day Service no later than 2 business days prior to bid receipt deadline. This provision excludes from this portion of the procurement process the use of private delivery services, such as United Postal Service and Federal Express, despite the fact that these companies have proven trustworthy and reliable in overnight package delivery, not only meeting but in many cases exceeding the abilities of the U.S. Postal Service.

Similarly, Internal Revenue Code §7502 was recently interpreted by the Ninth Circuit U.S. Court of Appeals (*V.L. Correia*, 58 F.3d 468 (1995)) that only the date of actual delivery to the IRS or Tax Court by private delivery service is applicable, rather than the date of mailing as in cases of delivery by the U.S. Postal Service. Section 1210 of the bill before us would allow the Secretary of the Treasury to expand this timely mailing as timely-filing section to the use of private delivery companies that meet specified criteria. A significant number of American taxpayers every year attempt to submit their income tax returns to the IRS through a private delivery service, only to find this inadequate to demonstrate timely filing of their returns.

I urge my colleagues full support of this provision, as well as my bill, H.R. 331.

Mr. KLECZKA. Mr. Speaker, 8 years ago, the first "Taxpayer Bill of Rights" passed which created a more level playing field between citizens and the IRS with safeguards to protect taxpayers. The legislation gave taxpayers the right to sue the IRS for actions taken by its agents, provided financially troubled taxpayers the right to seek an installment tax payment plan, and enabled taxpayers who prevail over the IRS in court to seek reimbursement for part of their attorney fees in some circumstances.

Although this 1988 legislation was a step in the right direction, more can be done to help taxpayers. The "Taxpayer Bill of Rights II," which I strongly supported in the Ways and Means Committee, contains over two dozen provisions to give taxpayers further protection. This bill will expand the power of the IRS Taxpayer Ombudsman to issue protective orders to help taxpayers, mandate that the IRS take reasonable steps to corroborate third-party information disputed by a taxpayer, and give the IRS the authority to waive the interest on late tax payments in cases where there is a valid reason for such payment. Additionally, the bill would increase to $1 million the civil damages for which a taxpayer could sue the IRS in cases of unauthorized collections.

The vast majority of citizens are responsible taxpayers who deserve the additional rights and safeguards that the Taxpayer Bill of Rights II will provide. I hope that Congress will quickly pass, and the President sign this meaningful bill. I urge a "yea" vote.

Ms. DUNN of Washington. Mr. Speaker, I rise in strong support of H.R. 2337, the Taxpayer Bill of Rights II and urge its adoption.

All too often "tax fairness" usually refers almost solely to whether Government is seizing the right amount of money from different economic classes—not how the tax collectors are treating the individual citizen.

Under U.S. law, Americans are innocent until proven guilty. Yet, when an individual taxpayer deals with the IRS, the taxpayer is guilty until he or she proves their innocence.

Over the past few months, I have heard from literally hundreds of constituents who have described to me numerous problems they see with our system of taxation. A common theme has been the intrusive nature of the Internal Revenue Service [IRS] and the enormous compliance burdens imposed on individuals.

This measure gives taxpayers a helping hand if they find themselves at odds with the IRS. The American taxpayer will be empowered with more than 30 protections in dealing with the IRS.

In addition to these protections, I will continue to work for the inclusion of an additional provision in the final version of this legislation that I have been working on within the Ways and Means Committee.

Specifically, the bipartisan provision, which I am sponsoring along with my colleague, Mr. MATSUI, would permit "equitable tolling" application in tax refund cases.

My interest in this area was precipitated by a highly publicized court case in which a 93-year-old senile man, Stanley McGill, overpaid his taxes in 1984. After Mr. McGill's death in 1988, Marian Brockamp found her late father's canceled check to the IRS in a pile of receipts. In fact, Mr. McGill owed the IRS $700—not $7,000. Mrs. Brockamp asked the IRS for a refund.

Although the agency acknowledged the mistake, it refused to return the money, claiming the 3-year statue of limitations on refund claims had expired.

But Brockamp's attorney argued that the time set aside for suing the Government should be extended under the legal doctrine known as equitable tolling—which is invoked in cases where a taxpayer is disabled.

A Federal judge in Los Angeles rejected that argument in 1993, but the 9th U.S. Circuit Court of Appeals overruled the lower court in June 1995, calling the IRS refusal unconscionable.

The Justice Department has appealed the decision to the Supreme Court.

This is just one example of an outrageous injustice that my commonsense change of law is intended to end.

H.R. 2337, the Taxpayer Bill of Rights II, will help the average American, who might have made an honest mistake in underestimating his taxes due by providing him a little more time to prove it was an honest mistake.

The new majority in this Congress is working on commonsense ways to give taxpayers a break. In fact, the Taxpayers Bill of Rights II itself is simply a long overdue exercise in common sense. Will Rogers once said, "Common sense ain't that common." Well, like everything else, common sense is making a comeback.

Mr. ALLARD. Mr. Speaker, Congress has passed a new Taxpayers' Bill of Rights to help level the playing field between our citizens and the IRS.

The Tax Code is long and complicated, and taxpayers make legitimate mistakes on their returns. When folks make honest mistakes, they shouldn't be exposed to what often boils down to bullying and harassment by the IRS.

The Taxpayers' Bill of Rights reforms numerous tax collecting operations of the IRS to protect taxpayers. Foremost is the creation of a taxpayer advocate, who must assist taxpayers in resolving and preventing problems with the IRS. The advocate also can require the IRS to meet deadlines in performing tasks for taxpayers.

Other important provisions include changes in terminating tax payment plans, waiving interest and penalties, and awarding costs and fees in legal disputes.

Many people view the IRS as a massive bureaucracy that acts without proper authority. This important bill makes a number of changes to protect people who have legitimate grievances with the IRS, while ensuring that taxes are collected fairly.

This bill was adopted just 1 day after the House unfortunately failed to approve a tax amendment to the U.S. Constitution. The amendment would have required a full two-thirds of the House or Senate vote to approve any legislation that would increase personal, business, or other Federal taxes.

Although I am disappointed the amendment failed, I am pleased by the broad support it did receive.

Congress has proven time and again that it cannot control its urge to raise taxes. The amendment would have created more accountability and would have forced Congress to work in a more bipartisan manner on tax issues.

Passage of the second Taxpayers' Bill of Rights helps take away some of the sting from the failure of the tax amendment.

The SPEAKER pro tempore (Mr. CAMP). The question is on the motion offered by the gentlewoman from Connecticut [Mrs. JOHNSON] that the House suspend the rules and pass the bill, H.R. 2337, as amended.

The question was taken.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

EXTENSION OF FREE TRADE BENEFITS TO WEST BANK AND GAZA STRIP

Mr. SHAW. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3074) to amend the United States-Israel Free Trade Area Implementation Act of 1985 to provide the President with additional proclamation authority with respect to articles of the West Bank or Gaza Strip or a qualifying industrial zone.

The Clerk read as follows:

H.R. 3074

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL PROCLAMATION AUTHORITY.

The United States-Israel Free Trade Area Implementation Act of 1985 (19 U.S.C. 2112 note) is amended by adding at the end the following new section:

"SEC. 9. ADDITIONAL PROCLAMATION AUTHORITY.

"(a) ELIMINATION OR MODIFICATIONS OF DUTIES.—The President is authorized to proclaim elimination or modification of any existing duty as the President determines is necessary to exempt any article from duty if—

"(1) that article is wholly the growth, product, or manufacture of the West Bank, the Gaza Strip, or a qualifying industrial zone or is a new or different article of commerce that has been grown, produced, or manufactured in the West Bank, the Gaza Strip, or a qualifying industrial zone;

"(2) that article is imported directly from the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone; and

"(3) the sum of—

"(A) the cost or value of the materials produced in the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone, plus

"(B) the direct costs of processing operations performed in the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone, is not less than 35 percent of the appraised value of the product at the time it is entered into the United States.

For purposes of determining the 35 percent content requirement contained in paragraph (3), the cost or value of materials which are used in the production of an article in the West Bank, the Gaza Strip, or a qualifying industrial zone, and are the products of the United States, may be counted in an amount up to 15 percent of the appraised value of the article.

"(b) APPLICABILITY OF CERTAIN PROVISIONS OF THE AGREEMENT.—

"(1) NONQUALIFYING OPERATIONS.—No article shall be considered a new or different article of commerce under this section, and no material shall be included for purposes of determining the 35 percent requirement of subsection (a)(3), by virtue of having merely undergone—

"(A) simple combining or packaging operations, or

"(B) mere dilution with water or with another substance that does not materially alter the characteristics of the article or material.

"(2) REQUIREMENTS FOR NEW OR DIFFERENT ARTICLE OF COMMERCE.—For purposes of subsection (a)(1), an article is a 'new or different article of commerce' if it is substantially transformed into an article having a new name, character, or use.

"(3) COST OR VALUE OF MATERIALS.—(A) For purposes of this section, the cost or value of materials produced in the West Bank, the Gaza Strip, or a qualifying industrial zone includes—

"(i) the manufacturer's actual cost for the materials;

"(ii) when not included in the manufacturer's actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant;

"(iii) the actual cost of waste or spoilage, less the value of recoverable scrap; and

"(iv) taxes or duties imposed on the materials by the West Bank, the Gaza Strip, or a qualifying industrial zone, if such taxes or duties are not remitted on exportation.

"(B) If a material is provided to the manufacturer without charge, or at less than fair market value, its cost or value shall be determined by computing the sum of—

"(i) all expenses incurred in the growth, production, or manufacture of the material, including general expenses;

"(ii) an amount for profit; and

"(iii) freight, insurance, packing, and all other costs incurred in transporting the material to the manufacturer's plant.

If the information necessary to compute the cost or value of a material is not available, the Customs Service may ascertain or estimate the value thereof using all reasonable methods.

"(4) DIRECT COSTS OF PROCESSING OPERATIONS.—(A) For purposes of this section, the 'direct costs of processing operations performed in the West Bank, Gaza Strip, or a qualifying industrial zone' with respect to an article are those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly, of that article. Such costs include, but are not limited to, the following to the extent that they are includible in the appraised value of articles imported into the United States:

"(i) All actual labor costs involved in the growth, production, manufacture, or assembly of the article, including fringe benefits, on-the-job training, and costs of engineering, supervisory, quality control, and similar personnel.

"(ii) Dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the article.

"(iii) Research, development, design, engineering, and blueprint costs insofar as they are allocable to the article.

"(iv) Costs of inspecting and testing the article.

"(B) Those items that are not included as direct costs of processing operations with respect to an article are those which are not directly attributable to the article or are not costs of manufacturing the article. Such items include, but are not limited to—

"(i) profit; and

"(ii) general expenses of doing business which are either not allocable to the article or are not related to the growth, production, manufacture, or assembly of the article, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

"(5) IMPORTED DIRECTLY.—For purposes of this section—

"(A) articles are 'imported directly' if—

"(i) the articles are shipped directly from the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel into the United States without passing through the territory of any intermediate country; or

"(ii) if shipment is through the territory of an intermediate country, the articles in the shipment do not enter into the commerce of any intermediate country and the invoices, bills of lading, and other shipping documents specify the United States as the final destination; or

"(B) if articles are shipped through an intermediate country and the invoices and other documents do not specify the United States as the final destination, then the articles in the shipment, upon arrival in the United States, are imported directly only if they—

"(i) remain under the control of the customs authority in an intermediate country;

"(ii) do not enter into the commerce of an intermediate country except for the purpose of a sale other than at retail, but only if the articles are imported as a result of the original commercial transactions between the importer and the producer or the producer's sales agent; and

"(iii) have not been subjected to operations other than loading, unloading, or other activities necessary to preserve the article in good condition.

"(6) DOCUMENTATION REQUIRED.—An article is eligible for the duty exemption under this section only if—

"(A) the importer certifies that the article meets the conditions for the duty exemption; and

"(B) when requested by the Customs Service, the importer, manufacturer, or exporter submits a declaration setting forth all pertinent information with respect to the article, including the following:

"(i) A description of the article, quantity, numbers, and marks of packages, invoice numbers, and bills of lading.

"(ii) A description of the operations performed in the production of the article in the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel and identification of the direct costs of processing operations.

"(iii) A description of any materials used in production of the article which are wholly the growth, product, or manufacture of the West Bank, the Gaza Strip, a qualifying industrial zone, Israel or United States, and a statement as to the cost or value of such materials.

"(iv) A description of the operations performed on, and a statement as to the origin and cost or value of, any foreign materials used in the article which are claimed to have been sufficiently processed in the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel so as to be materials produced in the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel.

"(v) A description of the origin and cost or value of any foreign materials used in the article which have not been substantially transformed in the West Bank, the Gaza Strip, or a qualifying industrial zone.

"(c) SHIPMENT OF ARTICLES OF ISRAEL THROUGH WEST BANK OR GAZA STRIP.—The President is authorized to proclaim that articles of Israel may be treated as though they were articles directly shipped from Israel for the purposes of the Agreement even if shipped to the United States from the West Bank, the Gaza Strip, or a qualifying industrial zone, if the articles otherwise meet the requirements of the Agreement.

"(d) TREATMENT OF COST OR VALUE OF MATERIALS.—The President is authorized to proclaim that the cost or value of materials produced in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the cost or value of materials produced in Israel under section 1(c)(i) of Annex 3 of the Agreement, and the direct costs of processing operations performed in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the direct costs of processing operations performed in Israel under section 1(c)(ii) of Annex 3 of the Agreement.

"(e) QUALIFYING INDUSTRIAL ZONE DEFINED.—For purposes of this section, a 'qualifying industrial zone' means any area that—

"(1) encompasses portions of the territory of Israel and Jordan or Israel and Egypt;

"(2) has been designated by local authorities as an enclave where merchandise may enter without payment of duty or excise taxes; and

"(3) has been specified by the President as a qualifying industrial zone.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. SHAW] and the gentleman from New York [Mr. RANGEL] each will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. SHAW].

GENERAL LEAVE

Mr. SHAW. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include therein extraneous material on the bill, H.R. 3074.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to introduce, along with the gentleman from Illinois [Mr. CRANE], the Gaza Strip-West Bank bill. This is a noncontroversial bill that received great bipartisan support when we marked it up previously in the Ways and Means Committee. It is also supported by the administration. The provisions of this bill will permit the President to eliminate or modify any existing duty on products that are produced in the Gaza Strip-West Bank area.

In light of the recent occurrences in Israel, this bill is most timely and will aid in the peace process. Since February 25, suicide bombers have killed five innocent civilians. The Israelis and Palestinians want peace for their people, security for every citizen and hope that they can peacefully coexist. It is very important for the United States and this Congress to show their collective will that they will do all they can do to further the peace process. The passage of this bill will send a very clear signal to the international community that we support normalized relations between the Israelis and the Palestinians.

The provisions of this bill will strengthen the Israeli and Palestinian relation by providing economic and employment relief to that area and it will help the establishment of a Palestinian State. I urge all of my colleagues to support this most important piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise as an original cosponsor in strong support of H.R. 3074. This legislation would authorize the President to proclaim duty-free treatment for products of the West Bank, the Gaza Strip, and industrial zones that may be created in the region. Similar treatment is granted products of Israel under the United States-Israel free-trade agreement implemented in 1985. In return, the Palestinians have agreed to provide duty-free access to United States products, to prevent illegal transshipments, and to support an end to the Arab boycott of Israel.

This legislation is supported by the Israeli Government. The administration supports extension of duty-free treatment as part of the Mideast peace process to promote investment and economic development in the region.

I am not aware of any opposition to this bill, and urge its passage.

Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank my good friend from New York for yielding time to me.

Mr. Speaker, I support this legislation and will support this legislation, but I really feel that this ought to be used as an explanation to what has been happening in the Middle East. Everyone supports investment and economic development in the West Bank and Gaza Strip. We know ultimately that that is really the only way that peace is going to survive in the Middle East.

However, Chairman Yasser Arafat and the PLO have promised repeatedly to amend the covenants of the PLO charter which call for the destruction of Israel. And in the recently concluded agreement to which they signed, they agreed that 2 months after the Palestinian elections were held that the Palestine National Council would meet and would amend the covenants, would take out the part that calls for Israel's destruction. That date is fast approaching. That date will come on May 7, and, much to my chagrin, I have not yet heard the positive signs that I would like to hear that that May 7 deadline will be kept.

Several weeks ago, Mr. Speaker, I circulated a letter along with my colleague, the gentleman from New Jersey [Mr. SAXTON], which was signed by over 100 Members of the House, bipartisan Members of the House. It was a letter to Yasser Arafat telling him that according to the law of which we provide aid to the Palestinian entity that all aid must cease unless those covenants are amended and that the May 7 deadline is fast approaching.

We implored, we pleaded with Chairman Arafat to give us a commitment that that deadline would be met. Last week, I received a replay from Chairman Arafat and, much to my chagrin, he did not even mention the covenants in his reply to our letter, although our letter specifically was about amending those covenants. He talked about the peace process. he talked about normalization, but he did not address the issue of the covenants.

Now, the gentleman from New Jersey [Mr. SAXTON] and I are sending another letter to him, asking him to please address the issue of the covenants and to please give us assurances that he will keep his word. I must say, Mr. Speaker, that, if May 7 comes and goes and those covenants are not amended, it will be very difficult for me to continue to support continued aid to the Palestinian entity, to the Palestinian authority.

I believe that peace agreements are good, but I believe that both sides must keep their agreement. And as cochair of the peace monitoring accord group along with the gentleman from New Jersey [Mr. SAXTON], we intend to make sure that all parties comply with the agreement that they signed.

We are not telling the parties what to sign. We are not telling the parties what to do. All we are saying is that the parties need to keep their word. They need to adhere to the agreement that they signed. And I think the issue of the covenants are a very, very important issue.

Mr. Speaker, it is very, very difficult to believe that somebody really wants peace if they habitually refuse or ignore calls to amend the covenant calling for the destruction of one side, in this case the destruction of the State of Israel. So I think the time has long past. It has now been several years. And those covenants really, really need to be amended. And again according to United States law, no aid can continue to the Palestinians unless those covenants are changed.

Let me finally say about this that it is not enough, I think, to just pass something and say well, this supersedes. We want those covenants abrogated. We want them eliminated. We do not want some whitewashing of them and somehow trying to fudge the issue or to allow Mr. Arafat to speak out of both sides of their mouth.

Mr. Speaker, I support the peace process fully. I think the suicide bombings have brought a sense of reality to the peace process, but peace must continue and must go on. I think what is going on in Lebanon today and for the past several days also is a sobering realization that there are many, many people that want to destroy the peace process. The Hezbollah are guerrillas, the so-called Party of God, the people who are rejecting it on the Palestinian side.

We need to persevere. But in order to have a real peace, Mr. Speaker, I believe that both sides must keep their agreement. And I say it again and I say it for all to hear, to Mr. Arafat, you must abrogate those covenants calling for Israel's destruction or American aid will cease. Now, I support this because again I think free-trade benefits to the West Bank and Gaza Strip are important. But again, these benefits and all benefits will stop if those covenants are not abrogated.

Mr. SHAW. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. CRANE], chairman of the Subcommittee on Trade of the Committee on Ways and Means.

Mr. CRANE. Mr. Speaker, I am pleased to rise today in support of H.R. 3074, legislation that would provide the President proclamation authority to modify tariffs on products from the West Bank, Gaza Strip, and qualifying industrial zones. I introduced this bill, together with my colleagues Mr. SHAW and Mr. RANGEL, because I believe it will go a long way to improve the tense situation in the Middle East. This bipartisan bill was reported favorably out of the Ways and Means Committee by voice vote without amendment on March 14 and enjoys the full support of the administration.

Specifically, the effect of the provision is to offer to goods from the West Bank, Gaza Strip, and qualifying industrial zones the same tariff treatment as is offered to Israel under the United States-Israel Free-Trade Agreement. In exchange for this preferential tariff treatment, the Palestinian Authority has agreed to accord United States products duty-free access to the West Bank and Gaza Strip, to prevent illegal transshipment of goods not qualifying for duty-free access, and to support all efforts to end the Arab economic boycott of Israel.

I believe that granting duty-free treatment for goods produced in these zones in exchange for the commitment by the Palestinian Authority is important to the Middle East peace process. In addition, it will increase employment and will stimulate the economy of the region. Therefore, I encourage my colleagues to give their full support to this bill.

Mr. RANGEL. Mr. Speaker, I just want to urge the adoption of this legislation. As I said earlier, it is supported by both sides of the aisle and the President.

Mr. Speaker, I yield back the balance of my time.

Mr. ARCHER. Mr. Speaker, I am very pleased today to support H.R. 3074. I congratulate my colleagues, Chairman CRANE and Mr. SHAW, in working hard to bring this important piece of legislation before the House today. This bill enjoys bipartisan support and is noncontroversial.

H.R. 3074 would permit the expansion of preferential tariff treatment in the Middle East, specifically to goods from the West Bank, Gaza Strip, and qualifying industrial zones in the area. This provision would implement an agreement with the Palestinian authority that would benefit United States interests because United States products would also be accorded duty free access to these areas and steps would be taken to end illegal transshipment of goods not qualifying for such treatment. In addition, the Palentinian authority has agreed to support all efforts to end the Arab economic boycott of Israel.

Although the impact of this legislation will not cover a large dollar amount of trade, I believe that it sends an important signal to encourage the Middle East peace process. I have always said that free trade is the most effective public policy tool that we possess to increase peace and prosperity in our society. This legislation is part of that process. I urge my colleagues to vote for H.R. 3074.

Mr. SHAW. Mr. Speaker, I join with my colleague and good friend, the gentleman from New York [Mr. RANGEL], and ask for a "yes" vote on this important piece of legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. SHAW] that the House suspend the rules and pass the bill, H.R. 3074.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—RETURNING TO THE SENATE S. 1463

Mr. SHAW. Mr. Speaker, I rise to a question on the privileges of the House and I offer a resolution (H. Res. 402) returning to the Senate the bill S. 1463.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 402

Resolved, That the bill of the Senate (S. 1463) to amend the Trade Act of 1974 to clarify the definitions of domestic industry and like articles in certain investigations involving perishable agricultural products, and for other purposes, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

The SPEAKER pro tempore. The resolution constitutes a question of the privileges of the House.

Under the rule, the gentleman from Florida [Mr. SHAW] will be recognized for 30 minutes, and the gentleman from New York [Mr. RANGEL] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. SHAW].

□ 1300

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution is necessary to return to the Senate the bill S. 1463, because it contravenes the constitutional requirement that revenue measures shall originate in the House of Representatives. S. 1463 would create a new basis for applying import restrictions, and therefore contravenes this constitutional requirement.

S. 1463 proposes to amend title II of the Trade Act of 1974, which sets forth the authority and procedures for the President to provide temporary import relief to a domestic industry which has been seriously injured by imports. Under the so-called "safeguard" statute, the International Trade Commission conducts an investigation upon request, and, if appropriate, makes a recommendation to the President regarding what action would address the injury to the industry. This action may include a tariff, tariff-rate quota, quantitative restriction, or adjustment measures. The President then must determine what action, if any, is appropriate. The actions authorized to be taken by the President include a duty, tariff-rate quota, quantitative restriction, adjustment measure, or negotiation of trade agreements limiting imports into the United States.

S. 1463 changes this authority and procedure by authorizing the ITC to limit its investigation with respect to a domestic agricultural product produced within a particular growing season. As a result, S. 1463 changes the predicate necessary for achieving access to the desired trade remedy, which takes for form of an import restriction. As a result, the proposed change would allow products which do not currently qualify for import relief to be able to qualify in the future. This would have the effect of creating a new basis and mechanism for applying import restrictions under authority granted to the President, which is not currently available.

Import relief granted under this new authority would have a direct effect on customs revenues. The proposed change in our tariff laws is a "revenue affecting" infringement in the House's prerogatives, which constitutes a revenue measure in the constitutional sense. Therefore, I am asking that the House insist on its constitutional prerogatives.

There are numerous precedents for the action I am requesting. For example, on March 21, 1996, the House returned to the Senate S. 1518, repealing an existing import restriction in the Tea Importation Act of 1897. On July 21, 1994, the House returned to the Senate S. 729, prohibiting the import of specific products which contain more than specified quantities of lead.

On February 25, 1992, the House returned to the Senate S. 884, requiring the President to impose sanctions, including import restrictions, against countries that fail to eliminate large-scale driftnet fishing. On October 31, 1991, the House returned to the Senate S. 320, including provisions imposing, or authorizing the imposition of a ban on imports in connection with export administration. On September 23, 1988, the House returned to the Senate S. 2662, imposing import quotas on textiles and footwear products.

I want to emphasize that this action does not constitute a rejection of the Senate bill on its merits. Adoption of this privileged resolution to return the bill to the Senate should in no way prejudice its consideration in a constitutionally acceptable manner.

In fact, I introduced companion legislation, H.R. 2795, on December 15, 1995, in order to address the identical issues by S. 1463. In addition, at my request, the Ways and Means Subcommittee on Trade will be holding a hearing on H.R. 2795 on April 25.

Accordingly, the proposed action today is purely procedural in nature, and is necessary to preserve the prerogatives of the House to originate revenue matters. It makes it clear to the Senate that the Appropriate procedure for dealing with revenue measures is for the House to act first on a revenue bill, and for the Senate to accept it or amend it as it sees fit.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I thank the gentleman from Florida [Mr. SHAW] for yielding this time to me.

I rise in strong support of what the gentleman from Florida is trying to do primarily because of the casualties. We are suffering unnecessary casualties. There are things we can do to repair that damage, and the gentleman from Florida [Mr. SHAW] has the right answer.

Mr. Speaker, Florida winter fruit and vegetable growers are being drowned in a flood of cheap Mexican produce. While current U.S. laws allow other industries in this position to seek relief under a GATT and NAFTA legal escape clause, this option is not really open to our growers because of the seasonal nature of their industry. In January, the Florida delegation made a bipartisan push to attach language to the continuing resolution to correct this technical, definitional problem in section 202 of the 1974 Trade Act. While these efforts hit a snag in the House, Florida's Senators were able to join forces to pass a stand-alone measure in the Senate.

Today, S. 1463 is being blue-slipped on procedural grounds because it is the prerogative of the House to originate revenue measures. The members of the Florida delegation respect the need to proceed under the regular rules of the House, but believe that this measure must be moved forward. For this reason, we are pleased to see that the House Ways and Means Subcommittee on Trade will be holding hearings on Representative SHAW's section 202 fix next week. From there, we hope to see the measure return quickly to this floor for full consideration. We hope that when this measure emerges from committee for a vote, you will join us in giving fair treatment to American farmers.

Florida growers perform a unique function for this country by competing head-to-head—not with other American producers, but with foreign producers—to provide winter fruits and vegetables for Americans. They deserve our support.

Mr. SHAW. Mr. Speaker, at this time I have no additional speakers. I compliment the Senators and the Senate for the passage of this bill, and hopefully they can expeditiously pass it in the final analysis.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

EXTENSION OF FEDERAL POWER ACT DEADLINE FOR PROJECT IN KENTUCKY

Mr. SCHAEFER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2501) To extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2501

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DEADLINE.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 10228, the Commission shall, at the request of the licensee for the project and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project, under the extension described in subsection (b), for not more than 3 consecutive 2-year periods.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the expiration of the extension of the period required for commencement of construction of the project described in subsection (a) that the Commission issued, prior to the date of enactment of this Act, under section 13 of the Federal Power Act (16 U.S.C. 806).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado [Mr. SCHAEFER] and the gentleman from New Jersey [Mr. PALLONE] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. SCHAEFER].

GENERAL LEAVE

Mr. SCHAEFER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2501, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. SCHAEFER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, these bills extend the deadline for construction of hydroelectric projects in the States of Illinois, Kentucky, North Carolina, Ohio, and Pennsylvania. Under section 13 of the Federal Power Act, project construction must begin within 4 years of the issuance of the license. If the licensee has not begun construction by that time, the Federal Energy Regulatory Commission cannot extend the deadline and must terminate the license.

These types of bills have not been controversial in the past, and the bills we are considering today were reported out of the Commerce Committee by unanimous voice vote. The bills do not alter the license requirements in any way and do not change environmental standards, but merely extend the Federal Power Act deadline for construction.

There is a need to act, since the construction deadlines for some of the projects have already expired. If Congress does not act, the Commission will terminate the licenses, the project sponsors will lose millions of dollars they have invested in the projects, and communities will lose the prospect of significant job creation and added revenues.

The principal reason construction of these projects has not commenced is the lack of a power sales contract. In order to finance a hydroelectric project, a sponsor typically requires a power sales contract to obtain financing necessary to begin construction. However, due to the sweeping changes in the electric industry today, many utilities are reluctant to sign the long-term purchase contracts. These bills give licensees additional time to obtain financing.

I should also note that the bills incorporate the views of the Federal Energy Regulatory Commission. The Energy and Power Subcommittee solicited the views of FERC, and amended the legislation to limit extensions to 10 years, as recommended by the Commission.

I would like to briefly describe the first of the bills, H.R. 2501, a bill to extend the deadline for commencement of construction of a hydroelectric project in Kentucky. This 80-megawatt project would be located at an existing Army Corps of Engineers dam on the Ohio

River in Hancock County, KY. The construction deadline expired on June 20, 1995, and if we do not act the Commission will terminate the license. According to the project sponsor, the lack of a power sales contract has prevented construction. FERC has not expressed opposition to H.R. 2501, since it includes limitations on the extension. The legislation was introduced by our colleague, Representative RON LEWIS of Kentucky.

I urge my colleagues to support H.R. 2501.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Colorado went into the details of why these bills have been brought to the floor today and why it is important that we move on them. In each case they are supported on a bipartisan basis, and I certainly support them because of the limitations set in the Federal Power Act. We basically have a tradition in this House on a bipartisan basis of moving these noncontroversial license extensions, and I am pleased that we are continuing that tradition today by taking up these bills. They were reported out without dissent, and I do support each of them.

Mr. Speaker, I yield back the balance of my time.

Mr. SCHAEFER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. SCHAEFER] that the House suspend the rules and pass the bill, H.R. 2501, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXTENSION OF FEDERAL POWER ACT DEADLINE FOR A PROJECT IN ILLINOIS

Mr. SCHAEFER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2630) to extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois, as amended.

The Clerk read as follows:

H.R. 2630

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF COMMENCEMENT OF CONSTRUCTION DEADLINE FOR HYDROELECTRIC PROJECT IN THE STATE OF ILLINOIS.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project unnumbered 3246, the Commission shall, at the request of the licensee for the project, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend until October 15, 1997, the time period during which the licensee is required to commence construction of the project.

(b) APPLICABILITY.—Subsection (a) shall take effect on the expiration of the extension, issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806), of the period required for commencement of construction of the project described in subsection (a).

(c) REINSTATEMENT OF LICENSE.—The Commission is authorized to reinstate the license for the project referred to in section (a), effective as of the date of its expiration or termination.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado [Mr. SCHAEFER] and the gentleman from New Jersey [Mr. PALLONE] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. SCHAEFER].

GENERAL LEAVE

Mr. SCHAEFER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2630, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. SCHAEFER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2630 as amended directs the Federal Energy Regulatory Commission to extend the deadline for construction of a hydroelectric project in Illinois. This 78-megawatt project would be located at an existing Corps of Engineers dam on the Mississippi River, in St. Charles County, MO, and Madison County, IL. There was a previous legislative extension of the construction period for this project in the 1991 highway bill. There is good reason to act on H.R. 2630 in a timely manner, since the construction deadline expired on October 15, 1995, and FERC has issued a notice of probable termination. This bill was introduced by our colleague, Representative JERRY COSTELLO of Illinois.

I urge my colleagues to support H.R. 2630.

□ 1315

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would indicate support on our side of the aisle for the bill. The gentleman from Illinois [Mr. COSTELLO] was here before and asked, of course, that it be moved.

Mr. COSTELLO. Mr. Speaker, I rise today in support of H.R. 2630, legislation to extend the deadline for beginning construction on a hydroelectric project in southwestern Illinois. The Federal Power Act requires construction of a hydroelectric project to begin within 2 years after the Federal Energy Regulatory Commission [FERC] issues a license. FERC can grant one additional extension, which it has already done. This bill will extend the time period in which construction must begin by 2 years.

This project is important to meet the energy and economic needs of southwestern Illinois. This region of my district has seen tremendous job loss and a shrinking tax base due to reduced job opportunities in manufacturing. Royalties from power sales will provide revenue to the local city for capital improvements and other projects which will positively impact area employment.

The project has been planned in a way that addresses potential environmental concerns. The current proposal utilizes a turbine design, which will reduce the plant's impact on fish and other aquatic life. In fact, the fishways to be constructed upstream and downstream from the plant will actually improve fishing access for anglers.

I urge my colleagues to support this extension of time allowed to construct a hydroelectric power facility in southwestern Illinois.

Mr. PALLONE. Mr. Speaker, I yield back the balance of my time.

Mr. SCHAEFER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CAMP). The question is on the motion offered by the gentleman from Colorado [Mr. SCHAEFER] that the House suspend the rules and pass the bill, H.R. 2630, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXTENSION OF FEDERAL POWER ACT DEADLINE FOR PROJECTS IN PENNSYLVANIA

Mr. SCHAEFER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2695) to extend the deadline under the Federal Power Act applicable to the construction of certain hydroelectric projects in the State of Pennsylvania, as amended.

The Clerk read as follows:

H.R. 2695

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DEADLINE.

(a) EXTENSION.—Notwithstanding the time limitations of section 13 of the Federal Power Act (16 U.S.C. 806), upon the request of the licensee for the project concerned, and after reasonable notice, the Federal Energy Regulatory Commission shall, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, extend the time required for commencement of construction of each of the following projects until September 26, 1999:

(1) FERC Project No. 4474.

(2) FERC Project No. 7041.

(b) EFFECTIVE DATE.—This section shall take effect for the project upon the expiration of the extension (issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806)) of the period required for commencement of construction of the project concerned.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado [Mr. SCHAEFER] and the gentleman from New Jersey [Mr. PALLONE] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. SCHAEFER].

GENERAL LEAVE

Mr. SCHAEFER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2695, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. SCHAEFER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2695, as amended, directs the Federal Energy Regulatory Commission to extend the deadline for commencement of construction of two hydro projects in Pennsylvania. These projects would be constructed at existing Army Corps of Engineer dams on the Allegheny and Ohio Rivers, and would have capacities of 12 and 20 megawatts. There is a need to act on this legislation, since the construction deadline for both projects expired on April 15, 1995. According to the project sponsors, construction has not commenced for lack of a power purchase agreement. H.R. 2695 was introduced by our colleague, Representative RON KLINK of Pennsylvania.

I urge my colleagues to support H.R. 2695.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just wanted to thank the gentleman for moving H.R. 2695, which deals with the two hydroelectric projects in the State of Pennsylvania. This bill is sponsored by the gentleman from Pennsylvania [Mr. KLINK] who is a member of our committee. It passed unanimously, and I would urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. SCHAEFER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. SCHAEFER] that the House suspend the rules and pass the bill, H.R. 2695, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXTENSION OF FEDERAL POWER ACT DEADLINE FOR PROJECTS IN NORTH CAROLINA

Mr. SCHAEFER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2773) to extend the deadline under the Federal Power Act applicable to the construction of 2 hydroelectric projects in North Carolina, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DEADLINE.

(a) PROJECT NUMBERED 10812.—

(1) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 10812, the Commission shall, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project, under the extension described in paragraph (2), for not more than 3 consecutive 2-year periods.

(2) EFFECTIVE DATE.—This subsection shall take effect on the date of the expiration of the extension of the period required for commencement of construction of the project described in paragraph (1) that the Commission issued, prior to the date of enactment of this Act, under section 13 of the Federal Power Act (16 U.S.C. 806).

(b) PROJECT NUMBERED 6879.—

(1) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 6879, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for not more than 3 consecutive 2-year periods.

(2) EFFECTIVE DATE.—This subsection shall take effect on the date of the expiration of the period required for commencement of construction of the project under the license for the project.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado [Mr. SCHAEFER] and the gentleman from New Jersey [Mr. PALLONE] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. SCHAEFER].

GENERAL LEAVE

Mr. SCHAEFER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2773, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. SCHAEFER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2773, as amended, directs the Federal Energy Regulatory Commission to extend the deadline for construction of two projects in North Carolina. The first project is a 4.8-megawatt project to be located at an existing Army Corps of Engineers dam on the Yadkin River in Wilkes County, NC. The second project is an 815-kilowatt project to be located at an existing private dam on the Second Broad River in Rutherford County, NC. There is a need to act on this legislation, since the deadline for commencement of construction of the two projects expired on October 28, 1994, and March 20, 1995. Moreover, the Commission has issued a notice of probable termination for one of the projects. This legislation is not opposed by FERC, since it includes limitations on the extensions. The measure was introduced by our colleague, Representative SUE MYRICK of North Carolina.

I urge my colleagues to support H.R. 2773.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we also support this bill on our side of the aisle, and urge its adoption.

Mrs. MYRICK. Mr. Speaker, I proposed H.R. 2773 as a regulatory relief bill for two of America's many entrepreneurs.

H.R. 2773 extends the construction license for two hydroelectric plants in North Carolina. Extending these deadlines allows these two individuals to participate in the fastest growing sector of our economy, small business. For example, Mr. Daniel Evans of Kings Mountain, N.C., a constituent of mine, has successfully worked to raise the capital on his own—no government handouts—and line up the purchasing of the land for this noteworthy project.

This example of self-initiative shows that the entrepreneurial spirit is alive and well in America. I thank my colleagues in the House for voting for H.R. 2773 and showing their support for the small businessmen and businesswomen of this country.

I also want to thank House Commerce Committee Chairman THOMAS BLILEY, Commerce Energy and Power Subcommittee Chairman DAN SCHAEFER, and Representative RICHARD BURR of North Carolina for all of their assistance in bringing H.R. 2773 to the House floor. Their tireless efforts are greatly appreciated by myself and all of the citizens of North Carolina who will benefit by having this added source of hydroelectric energy for their use.

Mr. PALLONE. Mr. Speaker, I yield back the balance of my time.

Mr. SCHAEFER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. SCHAEFER] that the House suspend the rules and pass the bill, H.R. 2773, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXTENSION OF FEDERAL POWER ACT DEADLINE FOR PROJECT IN OHIO

Mr. SCHAEFER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2816) to reinstate the license for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Ohio, and for other purposes.

H.R. 2816

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REINSTATEMENT OF LICENSE AND EXTENSION DEADLINE.

Notwithstanding the expiration of the license and notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 3218, the Commission shall, at the request of the licensee for the project, reinstate the license effective September 25, 1993, and extend the time period during which the licensee is required to commence the construction of the project so as to terminate on September 24, 1999.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado [Mr. SCHAEFER] and the gentleman from New Jersey [Mr. PALLONE] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. SCHAEFER].

GENERAL LEAVE

Mr. SCHAEFER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2816.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. SCHAEFER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2816 directs the Federal Energy Regulatory Commission to reinstate the license and extend the deadline for construction of a hydroelectric project in Ohio. This 49-megawatt project is located at an existing Army Corps of Engineers dam on the Ohio River, at Tiltonsville, OH. The deadline for commencement of construction expired on April 15, 1993, and the Federal Energy Regulatory Commission accepted surrender of the license. H.R. 2816 would reinstate the license and extend the construction deadline until September 24, 1999. FERC does not oppose the bill since it limits the extension. This legislation was introduced by our colleague, Representative BOB NEY of Ohio.

I urge my colleagues to support H.R. 2186.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we also support the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. SCHAEFER. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. NEY].

Mr. NEY. Mr. Speaker, I want to thank my colleague, the gentleman from Colorado, for yielding time to me.

Mr. Speaker, I wanted to point out the importance of H.R. 2816. Of course, as has been stated, it is a bill to extend the deadline for construction of a hydroelectric project in Ohio. It is in Belmont County. It is located at the Pike Island Locks and Dam in our county in Ohio. It will have a very positive impact on the local economy, Mr. Speaker, in this area. The anticipated cost is estimated between $106 million and $130 million, with a cost of approximately $85 million for civic, electrical, and mechanical construction. The Pike Island project would provide between 84 and 139 construction jobs over a 3-year period with a payroll between $10.8 million and $18.6 million.

This project, Mr. Speaker, was brought to our attention by Yorkville, OH in the district of the gentleman from Ohio [Mr. REGULA]. I want to thank him for being a cosponsor.

I also want to point out that this is also an environmentally friendly project. The development of the Pike Island project can satisfy part of the supply-side electrical generating capacity that the region will need to meet its growth. The project will also generate approximately 49.5 megawatts and provide important reductions in the emissions of sulfur dioxide and other airborne pollutants. More importantly for our area, I want to point out that clean air credits will also be generated, which is important in helping to ensure we can burn our region's high-sulfur coal and we can continue to burn the coal that is important for our jobs.

The Pike Island project will also create and preserve local employment, enhance recreational and sporting opportunities for local residents, and will pay considerable taxes and fees. That is for the entire region of Belmont County in Ohio.

Mr. Speaker, also I want to say in closing, I want to thank the county commissioners in Belmont County, Commissioners Beaning, Coyne, and Pollak, and also Don Myers, our director of development, who worked with us on this project. It is a good bill, and I urge support.

Mr. SCHAEFER. Mr. Speaker, I thank my good friend, the gentleman from Ohio [Mr. NEY], for his remarks, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. SCHAEFER] that the House suspend the rules and pass the bill, H.R. 2816.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EXTENSION OF FEDERAL POWER ACT DEADLINE FOR PROJECT IN KENTUCKY

Mr. SCHAEFER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2869) to extend the deadline for commencement of construction of a hydroelectric project in the State of Kentucky, as amended.

The Clerk read as follows:

H.R. 2869

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF COMMENCEMENT OF CONSTRUCTION DEADLINE FOR HYDROELECTRIC PROJECT IN KENTUCKY.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 6641, the Commission shall at the request of the licensee for the project, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend until June 15, 1998, the time period during which the licensee is required to commence construction of the project.

(b) APPLICABILITY.—Subsection (a) shall take effect on the expiration of the extension, issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806), of the period required for commencement of construction of the project described in subsection (a).

(c) REINSTATEMENT OF LICENSE.—The Commission is authorized to reinstate the license for the project referred to in subsection (a), effective as of the date of its expiration or termination.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado [Mr. SCHAEFER] and the gentleman from New Jersey [Mr. PALLONE] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. SCHAEFER].

GENERAL LEAVE

Mr. SCHAEFER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2869.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. SHAEFER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2869 directs the Federal Energy Regulatory Commission to extend the license for an 80-megawatt hydroelectric project in Kentucky by 2 years. This project is located at an existing Army Corps of Engineers dam on the Ohio River in Livingston County, KY. There was a previous legislative extension of the construction period for this project in the Energy Policy Act of 1992, which extended the period until June 29, 1996. FERC does not oppose H.R. 2869, because it does not extend the construction period beyond 10 years. The bill was introduced by a member of the

Subcommittee on Energy and Power, Representative ED WHITFIELD of Kentucky.

I urge my colleagues to support H.R. 2869.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again, this is a noncontroversial bill, and I would urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. SCHAEFER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. SCHAEFER] that the House suspend the rules and pass the bill, H.R. 2869, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DEPLORING INDIVIDUALS WHO DENY HISTORICAL REALITY OF HOLOCAUST AND COMMENDING WORK OF U.S. HOLOCAUST MEMORIAL MUSEUM

Mr. ENSIGN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 316) deploring individuals who deny the historical reality of the Holocaust and commending the vital, ongoing work of the U.S. Holocaust Memorial Museum.

The Clerk read as follows:

H. RES. 316

Whereas the Holocaust is a basic fact of history, the denial of which is no less absurd than the denial of the occurrence of the Second World War;

Whereas the Holocaust—the systematic, state-sponsored mass murders by Nazi Germany of 6,000,000 Jews, alongside millions of others, in the name of a perverse racial theory—stands as one of the most ferociously heinous state acts the world has ever known; and

Whereas those who promote the denial of the Holocaust do so out of profound ignorance or for the purpose of furthering anti-Semitism and racism: Now, therefore, be it

Resolved, That the House of Representatives—

(1) deplores the persistent, ongoing and malicious efforts by some persons in this country and abroad to deny the historical reality of the Holocaust; and

(2) commends the vital, ongoing work of the United States Holocaust Memorial Museum, which memorializes the victims of the Holocaust and teaches all who are willing to learn profoundly compelling and universally resonant moral lessons.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada [Mr. ENSIGN] and the gentleman from California [Mr. LANTOS], each will be recognized for 20 minutes.

The Chair recognizes the gentleman from Nevada [Mr. ENSIGN].

Mr. ENSIGN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Resolution 316, deploring individuals who deny the historical reality of the Holocaust and commending the ongoing work of the U.S. Holocaust Museum.

I am honored to lead the fight for this important legislation. We must never forget nor allow the fog of passing years to diminish the memories of those who died in the concentration camps. It is the blessed burden of each generation that follows, be they Jew or Gentile, to honor them by remembering and acknowledging their sacrifice.

It has been nearly 60 years since the beginning of the Holocaust, when Nazis killed over 6 million Jews and millions of Poles, gypsies, Jehovah's Witnesses, and others. The Nazi Holocaust demonstrated an aspect of human nature which many people find hard to believe.

Much has happened since the closure of Auschwitz, and today we find the lands where this terrible act occurred, as well as lands which were once behind the Iron Curtain are now free.

We are fortunate that we live in this free and democratic society here in America; a place where people can espouse whatever their views may be, even if they are factually incorrect or hurtful to others. However, freedom of expression cannot be allowed to drown out the truth. Flasehoods must be answered.

It is my hope that this vote will send a strong signal to the families of those who died that the United States stands with you in remembrance. We will not allow others with their doubts and questions to lessen the tragedy of what happened.

Therefore, I commend this legislation to my colleagues, and encourage the good work of the Holocaust Museum which is helping to educate over 2 million people per year so that the atrocities which occurred nearly 60 years ago may never be repeated again.

□ 1330

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we consider this resolution, a few feet from this Chamber in the presence of members of the Supreme Court, our colleagues and a vast number of individuals who are either survivors of the Holocaust or children of survivors, we are commemorating the day that has been set aside for remembering this most heinous of all crimes.

It is a sad commentary on the absurdity of our times that an event as profoundly documented as the Holocaust would need to be reemphasized as a reality. One and a half million innocent children were among the 6 million men, women, and little ones who were consumed in the flames of hatred that represented the Holocaust. Learned and simple, rich and poor, young and old, religious and nonbeliever, they were all consumed by the flames of the Holocaust. As the only Member of Congress who is a survivor of the Holocaust, I am calling on all of my colleagues every year to remember this event, not only for its historic significance but so that similar events, comparable events, events of mass destruction of human beings, such as the ones we have seen lately in both Africa and the former Yugoslavia, should not take place.

As we remember the Holocaust, we also must pay tribute to the greatest pedagogic institution on the face of this planet, the Holocaust Memorial Museum. This museum, in our Nation's Capital, is the most effective instrument of teaching generations yet unborn that we are in fact our brother's and sister's keeper and fanatic hatreds, bigotries, and discrimination have no place in a civilized society.

I suspect this particular year, which is the 50th year of terminating the Nuremberg trials which brought to justice the leaders of this monstrosity, the people who demanded this mass murder, it is appropriate for all of us to pause and to rededicate ourselves to recognizing the beauty of our different approaches to religion and life. That our variety is not a problem but a thing to be celebrated and honored.

I call on all of my colleagues to remember the Holocaust and to pay tribute to the Holocaust Memorial Museum as a primary instrument of teaching about our common humanity.

Mr. Speaker, I reserve the balance of my time.

Mr. ENSIGN. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of legislation the House is considering today. House Resolution 316, which I introduced on behalf of myself and my colleagues on the Holocaust Memorial Council, deplores the persistent, ongoing, and malicious efforts by some persons in this country and abroad to deny the historical reality of the Holocaust. This legislation also commends the vital, ongoing work of the U.S. Holocaust Memorial Museum in speaking the truth against those who would deny that the Holocaust ever took place or who attempt to negate that the Holocaust specifically targeted Jews for extinction.

I wish to especially thank the chairman of the Resources Committee, Mr. YOUNG, and the chairman of the Subcommittee on National Parks, Mr.

HANSEN, for their great support in expediting consideration of House Resolution 316. It is exceedingly timely that today's consideration takes place, since today is also Holocaust Memorial Day, and many of us have attended the remembrance day ceremony that the Museum sponsored at noon in our Capitol rotunda.

One of the major reasons for the Museum's very existence is to counter Holocaust deniers. Those who foster the denial of the Holocaust do so either out of profound ignorance or for the purpose of furthering anti-Semitism, bigotry, and racism. The Holocaust Memorial Museum, through its permanent exhibitions, traveling programs, and educational outreach efforts, both memorialize the victims of the Holocaust, and counters those accusers through its honest and sensitive approach to one of the most ferociously heinous state acts the world has ever known.

Accordingly, Mr. Speaker, I urge all my colleagues to express their support for the work of the Holocaust Memorial Museum by adopting House Resolution 316 and by participating in the Days of Remembrance ceremonies throughout our Nation.

Mr. LANTOS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. SCHUMER], who in his own work here in the Congress has done so much to preserve a society under laws.

Mr. SCHUMER. Mr. Speaker, I want to congratulate both the gentleman from New York [Mr. GILMAN] and the gentleman from California [Mr. LANTOS] for this timely resolution.

I need not add any more words in praise of the Holocaust Museum and the Holocaust Memorial. It is a tribute to America that when you go there, you see people from every corner of America visiting and learning and remembering.

I look at the museum as a great tribute to those who conceived it and put it together but also as a great tribute to this country. I do not think such a museum would have been built in any other country.

But I would like to talk for the remainder of my time on the part of the bill dealing with revisionism.

I represent a large number of Holocaust survivors. When they hear and read these ads denying that the Holocaust existed, when just about every one of them lost members of their immediate family, their parents, their brothers and sisters, their children, and yet they suffer the indignity of people for their own vicious, vitriolic, and usually anti-Semitic purposes to deny that the Holocaust existed, it is an indignity that the people who have gone through such great indignities should not have to suffer. That is why this resolution is so appropriate. It is appropriate because this Congress, with all the divisions we have, can come and unite and say, "You can't change history," and we realize the pain people went through, and we also remember, being the great country that we are, that unless we learn from history, we are going to repeat it.

I would say to my colleagues, the fact that a few people with vicious intent can get such attention and do so much to try and deny the Holocaust is a sad commentary on our times as the gentleman from California mentioned. It deals with an issue which I would call moral relativism. These days no matter how absurd, no matter how outrageous something someone says is, the general view is, "Well, let's debate it." There are some absolutes. There is truth. There is history. And the idea that no matter what anyone says, we should put it on the table as equal to the refutation of what has been said is something that we have to deal with. Obviously there are differing views on so many issues. But there is not a differing view on this one. The Holocaust existed. We know it. I have talked myself to thousands who survived it. They did not all get in a room and make this up. They suffered. Every family.

I was just looking at a picture at my home that I pointed out to my daughters was a picture of a family of six, my grandmother who lived in this country to over 90, her parents, her brother who I knew, and her two sisters. Her parents and her two sisters were killed in the Holocaust, and I pointed this out to my 11-year-old and 7-year-old, and someone who has no knowledge of this comes in and says, "No, it didn't exist." That is awful. That is degrading. And this body by taking a stand and saying that it did exist is doing not just the survivors a service and not just the people who have relatives who died a service, it is doing the world a service. I thank the gentlemen, both of them, for introducing this resolution.

Mr. ENSIGN. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. FOX], a fellow visitor to Yad Vashem, which is the Holocaust Museum in Israel.

Mr. FOX of Pennsylvania. Mr. Speaker, I thank the gentleman from Nevada [Mr. ENSIGN] for yielding me the time. I would like to thank the gentleman from New York [Mr. GILMAN] and the gentleman from California [Mr. LANTOS] for their leadership in introducing this legislation. One of the most solemn obligations we bear as legislators in our great democracy is to study the past and learn from it and to educate our fellow citizens.

As the American theologian Reinhold Niebuhr wrote, "Human capacity for justice makes democracy possible, but our inclination to injustice makes democracy necessary." The revolting evidence of man's capacity for injustice lies close by in the U.S. Holocaust Memorial Museum and also in the memory of some of our distinguished colleagues. The inhumane events of the Holocaust were far beyond description. The collapse of a democracy and the rise of an evil regime must never be forgotten or denied for fear that they will be repeated. The horrors which followed were incomprehensible.

Because of my religious upbringing and roots, the Holocaust Remembrance Day, Yom HaShoah, has a personal significance for me. But far more importantly this day and its memories hold valuable lessons for all of us as Members of the U.S. Congress. We must never forget the bitter consequences of tyranny. These preserved memories are important but they must be strengthened by education and a willingness to act. This willingness of each of us to not be a bystander is the key to protecting our democracy. In the report to the President, the Holocaust Commission members, led by Elie Wiesel, summed up the reasons for and role of an American memorial and museum to the Holocaust:

> In reflecting on the Holocaust we confront not only a collapse in human civilization but also the causes, processes and consequences of that collapse. As we analyze the American record, we can study our triumphs, as well as our failures, so as to defeat radical evil and strengthen our democracy.

☐ 1345

My colleagues, let us be ever vigilant in working for the people, pursuing the will of the majority, while ensuring the rights of the minority. Let us, as Elie Wiesel asks, never be silent when human lives are in danger and human dignity is in jeopardy. Let us follow his charge to stand together, to "defeat radical evil and strengthen our democracy" and ensure that there are no more holocausts in the future.

Those that would deny the Holocaust not only dishonor the memory of the martyrs who lost their lives in this tragedy, but also rejects the ideas and values on which our great country is based.

Thank you all for standing as one against those who would deny the Holocaust and for standing up for all America represents to the people who call our great Nation home and to those across the globe that look to us as a beacon of freedom and hope.

I would also like to thank my freshmen colleagues who joined the gentleman from Rhode Island [Mr. KENNEDY] and myself at the Holocaust Museum this past summer. One of our most weighty responsibilities is to bear witness, to tell and retell the facts of the Holocaust so that its lessons will never be forgotten. It is my sincere hope that all future freshman classes will visit the Holocaust Museum and reflect on its lessons as they apply to our work.

Mr. LANTOS. Mr. Speaker, I am particularly pleased to yield such time as he may consume to the gentleman from Rhode Island [Mr. KENNEDY], my dear friend and colleague whose family has done so much to carry forward the principles of freedom and justice and decency among human beings in this country and across the globe.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I want to commend the chairman for writing this resolution, along with the gentleman from California [Mr. LANTOS], and the only Holocaust survivor in this Congress, for yielding me this time.

Mr. Speaker, as Congressman LANTOS said, who would have thought it necessary to affirm that the Holocaust has happened? Who would have thought it was necessary to affirm what was the worst crime against humanity the world has ever seen? Tragically, it is necessary. As we all know, the historical record of the Holocaust faces challenges on many fronts. These must be fought in every instance. Revisionism and denial threaten more than just the understanding of an unfathomable event. They threaten the future as well, for the energy which animates the Holocaust denier and the revisionist is the same hatred which propelled the Holocaust into being in the first place.

Today, one of the most offensive challenges to the historical record of the Holocaust is set to take place in Croatia, where President Franjo Tudjman has announced plans to rebury the remains of the Croatian fascists, the Yastashi regime, that was in complicity with Hitler and the Nazis. He has announced a plan to rebury these SS officers, if you will, alongside the remains of the victims of the Holocaust in the death camp Yasenovech, which is also in Croatia.

This proposal is a moral affront to those who suffered the Holocaust, and it sends a dangerous message. No, it sends a lie to future generations about what happened at the death camp Yasenovech. It muddles the history.

Here, on what should be sacred ground, perpetrators of the Holocaust and victims of the Holocaust would now be lying side-by-side for an eternity. For those who endured a living hell, this is the ultimate injustice.

President Tudjman and other Holocaust revisionists should not derive false comfort from a deliberate distortion of their past. His proposal, in the words of Dr. Walter Reich, head of the Holocaust Memorial Museum here in Washington, DC, is "nothing more than an attempt to rewrite history with a shovel." This should not be allowed to happen. I know this House will speak out strongly on this issue, as will the Senate when it comes to the floor.

I want to commend my colleagues, when it comes to this resolution, for including this proposal in today's Yom HASHOAH recognition. As well, I want to commend the Holocaust Museum for the support they have offered in this fight and for the invaluable education they provide to thousands who visit the Holocaust Memorial Museum in Washington, DC every day. The mission of this museum has never been more important, and it is something that everyone should visit if they have not visited already.

Mr. ENSIGN. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, it is a great honor to join my colleagues on this day of Yom HaShoah to offer a resolution reaffirming the truth of the Holocaust and commending the work and mission of the U.S. Holocaust Memorial Museum.

I hope my colleagues also will join me in supporting legislation I am introducing today directing the U.S. Holocaust Memorial Council to draft model curricula that schools can use to ensure that the truth and accuracy of the Holocaust is taught to, and remembered by, the generations to come.

A half century ago, more than 8 million people were deliberately, brutally, and systematically murdered in a state-sponsored effort to annihilate their ethnic and religious existence. Of those, fully 6 million were Jewish. Many others from across Europe died risking their lives for simply being compassionate and trying to intervene.

All of their deaths are fact, not fiction. And those who deny that reality not only further the pain and delay the healing but perpetuate a crime on history and humanity.

Their motives for doing this are varied. But we should be as one in our response.

We should condemn those who deny the Holocaust for trying to rob us of the understanding of the evil that humanity is capable of.

That knowledge itself is the most powerful protection we have against such horror occurring again. It is a lesson about what can happen when the soul becomes desensitized and corrupted.

Holocaust survivor and Nobel Laureate Elie Wiesel, the Holocaust Council's first honorary chairman, reminded people last night—and I quote—"Don't allow anyone or anything to deprive you of the great, great miracle which renders a human being sensitive to others."

I commend the U.S. Holocaust Memorial Museum and the council for making sure that we never forget.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from New York [Mr. ENGEL], my friend and distinguished colleague, an indefatigable fighter for human rights and decency.

Mr. ENGEL. Mr. Speaker, I thank my friend from California for yielding me time. Let me say we are all inspired by his story and his efforts.

Mr. Speaker, just a brief while ago many of us attended a Yom HaShoah remembrance, Days of Remembrance, 1996, U.S. Holocaust Memorial Museum, and they passed out this program. On the program it says, "For the dead and the living, we must bear witness."

Certainly nothing is more obscene than those Holocaust revisionists who try to claim that it did not happen or that it did not happen to the magnitude that we know it happened. They include, unfortunately, leaders of countries. Even a candidate for President of this country has from time to time made such ridiculous allegations.

When you go to the Holocaust Memorial Museum on the fourth floor and you first walk in, there is a quote from President Eisenhower, then General Eisenhower, who said he wanted to witness what went on after the camps were liberated. he wanted to be there himself so that if, generations later on, if there would be those people who would deny that such horrendous things ever happened, he would be able to bear witness that he say it with his own two eyes.

Mr. Speaker, the unspeakable atrocities that went on in trying to annihilate the Jews of Europe is something that must never be forgotten, and it is certainly something that must never be repeated. Those of us who have witnessed the events, tragic events, over the past several years in Bosnia, while not of the magnitude of the Holocaust, certainly touched a responsive chord in us to know that we cannot ever again sit idly by and watch ethnic cleansing or Holocaust to rear its ugly head again.

One would think the world would learn, the world would know, the world would not want to repeat what went on. Yet we see again and again genocide rearing its ugly head.

So I think it is very, very fitting, Mr. Speaker, that this body pause to honor the people who perished in the Holocaust, the memory of the people who perished in the Holocaust, and to redouble our efforts to make sure that in the future, holocausts never happen again.

On this day of Yom HaShoah, we bear witness to what happened, and we honor those people who perished in the Holocaust.

Mr. ENSIGN. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. PAXON].

Mr. PAXON. Mr. Speaker, never again. That is the cry of those who must keep the memory of the Holocaust and its victims alive forever. We must keep this memory in mind so that there will never again in history be a repeat of this worst of human tragedies.

Today, April 16, is the Day of Remembrance, a day on which we should reflect as a nation on the monumental tragedy of the Holocaust directed at the Jewish population of Europe by Adolf Hitler and the Nazi regime.

Unfortunately, there are too many individuals, both in our Nation and in the world, who would twist and distort the historical facts, in their sickening attempts to claim that the Holocaust never existed, or to minimize its scope.

By voting in support of this resolution, I hope that Congress will send a message, a clear message, against these purveyors of anti-Semitism and hatred, who seek to erase this tragedy from human memory.

The U.S. Holocaust Memorial Museum in this Nation's Capital serves to educate and inform Americans about the reality of the Holocaust through its many displays, its films, and interviews. But in my opinion, Mr. Speaker, the most moving part of the museum is the testimony of Holocaust survivors and eyewitnesses. These touching accounts are a bridge between the past and the present. They serve as a stark reminder of the depths of inhumanity to which the human race can sink, and they keep the memory of the Holocaust victims and survivors alive in our minds, so we can make certain that tragedies of this proportion never again can occur on the face of the Earth.

In conclusion, I urge my colleagues to vote in support of House Resolution 316, and I end my statement as I began, be repeating the words that should be always remembered, and those words are, "never again."

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is important in discussing this issue that we understand that the Holocaust did not begin with gas chambers. The Holocaust began with words of hate, with words of bigotry, with words of intolerance. And every time in our own time when we are confronted with words of bigotry and hate and intolerance, it is important that we nip those manifestations of inhumanity in the bud, because, if allowed to flourish, they will lead to unspeakable acts of horror, such as the ones we have witnessed in the Holocaust.

Mr. Speaker, I reserve the balance of my time.

Mr. ENSIGN. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. TORKILDSEN].

☐ 1400

Mr. TORKILDSEN. Mr. Speaker, I rise in strong support of House Resolution 316, a resolution deploring individuals who deny the historical reality of the Holocaust and also commending the work of the U.S. Holocaust Memorial Museum. Each year we observe Yom HaShoah to say for the dead and the living, we must bear witness. For the dead and the living, we must bear witness that, in the darkest chapter in human history, 6 million lives were stolen from us forever, as was part of the human spirit.

This year's remembrance sadly is crystallized by recent tragedies and actions of terrorism in Israel, reminding all of us that hatred still lives and breathes in the midst of all attempts to forge peace.

The senseless assassination of Prime Minister Rabin and the terrorist bombings that claimed innocent lives only 6 weeks ago must serve as a source of strength and solidarity for all of us, and renew our commitment to just and lasting peace. The cowardly perpetrators of these acts must not succeed in their aim to divide us and in their attempts to assassinate peace as well as people.

Tragically, there are other present day reminders of the Holocaust. Ethnic cleansing and the slaughter in Rwanda continue to serve as proof that we must never forget.

The beauty of Yom HaShoah is that it is universal. The lessons of the Holocaust are for all of us in the human family to learn, to understand, and to instill in others, for us to earnestly say "never again." We must every day continue to remember. For the dead and the living, we must bear witness.

Shalom.

Mr. LANTOS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ENSIGN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, what we are talking about today, if you go back in history, people did not believe that stories coming out of the death camps, stories that were just almost too unspeakable to even think of and, therefore, people in Europe chose to ignore them.

Mr. Speaker, let us today, as we remember the Holocaust and we celebrate the Holocaust Museum and the work that it is doing, let us never forget those stories that came out of those death camps. Let us never forget the faces of the men and women and children that were tortured and brutally murdered, many in those death camps. Let us not let people rewrite history, because if we allow them to rewrite history, history will indeed repeat itself.

Mr. LATOURETTE. Mr. Speaker, today on the House floor we are considering House Resolution 316—a measure deploring individuals who deny the historical significance of the Holocaust and commending the fine work of the U.S. Holocaust Memorial Museum.

I rise in strong support of this measure, as it is important that we never forget or attempt to diminish the historical significance of one of the most heinous chapters in history—the Holocaust. There are some who seek to revise history, to alter it in such a way as to deny the Holocaust. This is insulting to the memory of the 6 million Jews who died in the Holocaust, and this type of destructive, divisive thinking should not be given credence.

In the 104th Congress I have had the honor of serving on the council of the U.S. Holocaust Memorial Museum. I would like to take this opportunity to praise the fine work of the museum staff, from its director, Walter Reich, to its chairman, Miles Lerman, to Stan Turesky, Director of Congressional Relations.

The museum truly is an American and international treasure and goes far beyond the traditional purpose of a museum, which is to preserve and record history. This museum compels its visitors to consider the moral and spiritual consequences of the Holocaust. It accomplishes this by exposing the visitor to stark and unsettling examples of hatred, heartbreak, and heroism. The stories of perpetrators, victims, bystanders, rescuers and liberators confront the visitor and demand attention. By doing so, the museum forces us to learn important lessons about the Holocaust and our everyday lives.

On this Day of Remembrance of the Holocaust—Yom HaShoah—we as a nation should rededicate ourselves and our commitment to overcoming bigotry, hatred, and intolerance. We should condemn those who want to dismiss the Holocaust, and embrace the efforts of those who rightly believe that we as a nation can learn from the Holocaust experience and ensure that it will never again be repeated.

Mr. MANZULLO. Mr. Speaker, I am honored to have this opportunity to rise in support of House Resolution 316, a bill that deplores individuals in the United States and abroad who deny the historical reality of the Holocaust, and commends the crucial, ongoing work of the U.S. Holocaust Memorial Museum. This important piece of legislation coincides with the 1996 Days of Remembrance which will be held in the Capitol rotunda today.

In 1980, Congress established the U.S. Holocaust Museum to serve as a memorial to the 6 million victims of the Holocaust and as a center for the study, interpretation and presentation of Holocaust history. The museum uses the historical record in its exhibits and outreach programs to counter the outrageous charges by revisionist historians who attempt to deny the occurrence of the Holocaust. The Holocaust Museum leads the charge in fighting against ignorance, racism and anti-Semitism.

Every year, more than 2 million people travel to Washington to visit the Holocaust Museum. An overwhelming majority of these visitors travel more than 100 miles to do so. Tens of thousands of survivors, scholars, students, members of the media and Government officials utilize the museum as a center for scholarship and learning about the Holocaust and genocide.

The U.S. Holocaust Museum is truly a national treasure. I am deeply honored to have this opportunity to highlight its outstanding work.

Mr. MARTINI. Mr. Speaker, I rise today to honor Yom HaShoah and remember the 6 million Jewish people who were killed in the Holocaust. I also rise today to pledge my full support for House Resolution 316, a resolution deploring individuals in the United States and abroad who deny the historical reality of the Holocaust and commending the work of the Holocaust Museum.

Last summer, I was fortunate to have been afforded the opportunity to visit Israel as a member of a congressional delegation researching the tangible effects of the peace process. My visit taught me a tremendous amount. Fortunately, we were given the opportunity to visit many historical landmarks in Israel that are of particular importance to understanding the history of Judaism. This history could not be holistically understood without a visit to Yad Vasheem. This memorial museum to the victims of the Holocaust was both horrifying and beautiful in an enlightening way. Horrifying in its intensity and in its truth and beautiful in its message. The message of remembrance is immortalized. My visit to Yad Vasheem still haunts me.

The Holocaust Memorial Museum in Washington, DC, is an equally monumental achievement made possible by the spirit of hope and remembrance. Similarly, this museum painfully humanizes and chronicles the most cataclysmic event in Jewish history, as well as human history.

The Shoah—Holocaust—was a genocide acted out on the international stage in the face of apathy and often complicity. Six million Jewish people were killed. European Jewry ceased to exist on much of the Continent, and wounds have been left around the world that will never heal.

It is my hope that today the world will remember the suffering of so many innocent people. Further, it is my hope that the perpetrators of evil and the proponents of ethnic purity achieved through genocide will look to the lessons that history has taught us and realize that their goal will not be looked upon with complicity and their efforts will be futile. The history of the Holocaust is not a lie.

The message that we must impart on our children and ourselves is one of tolerance and remembrance. We must teach our children of the past and assure that such a heinous act never occurs on this Earth again. And in the end, let us remember death but focus our vision on life and the growth of Jewish culture.

Mr. FRANKS of Connecticut. I rise in strong support of House Resolution 316, a measure which applauds the work of the U.S. Holocaust Memorial Museum while condemning those people who have the sheer audacity to deny that the Holocaust ever occurred.

Mr. Speaker, the Holocaust Museum serves as a poignant historical reminder of one of the darkest periods of human history—the systematic extermination by Nazi Germany of over six million Jews. This important museum serves as an essential, necessary monument that reminds the world of those people whose lives were savagely ripped away from them in Nazi death camps like Auschwitz while honoring the brave people who fiercely took a stand against the evil Nazi tyrants.

Mr. Speaker, anyone who visits the Holocaust Museum will find it to be an experience both sobering and stirring. I applaud the work of those who are involved with the Holocaust Museum for the job they have done in educating the public and making sure that we will never forget. Truly, anyone who visits our Nation's capital should make pilgrimage to this museum.

Sadly, Mr. Speaker, there are still those who dispute that a Holocaust ever occurred. They maintain, mainly out of hatred and anti-semitism, that there was no genocide and that the notion of the Holocaust is fraudulent. Mr. Speaker, I feel it is our duty as duly-elected officials, as representatives of the American people, to condemn these hateful people for such warped attitudes and make notice that these despicable people, these offensive outcasts of society, remain permanently embedded in the status of pariahs of our communities.

Mr. Speaker, when all is said and done, I pray that we have learned from this sad, sad chapter of human history and that we, the human race, must never forget the necessity of being soldiers on the front lines in the war versus bigotry, hatred, and racism. The Holocaust Museum serves as a concrete record and as a reminder, for us and generations to come, of our obligation in this battle for us and our children. I commend Congressman GILMAN and Congressman LANTOS for their work on this endeavor and I encourage my colleagues to pass this important resolution.

Mr. ENSIGN. Mr. Speaker, I urge the adoption of this resolution, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CAMP). The question is on the motion offered by the gentleman from Nevada [Mr. ENSIGN] that the House suspend the rules and agree to the resolution, House Resolution 316.

The question was taken.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT AMENDMENTS

Mr. ENSIGN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 3034), to amend the Indian Self-Determination and Education Assistance Act to extend for 2 months the authority for promulgating regulations under the act.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the consideration of the gentleman from Nevada?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3034

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORITY TO PROMULGATE REGULATIONS.

Section 107(a)(2)(B) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450k(a)(2)(B)) is amended by striking "18 months" and inserting "20 months".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ENSIGN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Resolution 316.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

AMENDING FOREIGN ASSISTANCE ACT OF 1961 AND ARMS EXPORT CONTROL ACT

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3121) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3121

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Table of contents.

TITLE I—DEFENSE AND SECURITY ASSISTANCE

CHAPTER 1—MILITARY AND RELATED ASSISTANCE

Sec. 101. Terms of loans under the Foreign Military Financing program.
Sec. 102. Additional requirements under the Foreign Military Financing program.
Sec. 103. Drawdown special authorities.
Sec. 104. Transfer of excess defense articles.
Sec. 105. Excess defense articles for certain European countries.

CHAPTER 2—INTERNATIONAL MILITARY EDUCATION AND TRAINING

Sec. 111. Assistance for Indonesia.
Sec. 112. Additional requirements.

CHAPTER 3—ANTITERRORISM ASSISTANCE

Sec. 121. Antiterrorism training assistance.
Sec. 122. Research and development expenses.

CHAPTER 4—NARCOTICS CONTROL ASSISTANCE

Sec. 131. Additional requirements.
Sec. 132. Notification requirement.
Sec. 133. Waiver of restrictions for narcotics-related economic assistance.

CHAPTER 5—OTHER PROVISIONS

Sec. 141. Standardization of congressional review procedures for arms transfers.
Sec. 142. Standardization of third country transfers of defense articles.
Sec. 143. Increased standardization, rationalization, and interoperability of assistance and sales programs.
Sec. 144. Definition of significant military equipment.
Sec. 145. Elimination of annual reporting requirement relating to the Special Defense Acquisition Fund.

Sec. 146. Cost of leased defense articles that have been lost or destroyed.
Sec. 147. Designation of major non-NATO allies.
Sec. 148. Certification thresholds.
Sec. 149. Depleted uranium ammunition.
Sec. 150. End-use monitoring of defense articles and defense services.
Sec. 151. Brokering activities relating to commercial sales of defense articles and services.
Sec. 152. Return and exchanges of defense articles previously transferred pursuant to the arms export control act.
Sec. 153. National security interest determination to waive reimbursement of depreciation for leased defense articles.
Sec. 154. Eligibility of Panama under Arms Export Control Act.

TITLE II—TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES

Sec. 201. Authority to transfer naval vessels.
Sec. 202. Costs of transfers.
Sec. 203. Expiration of authority.
Sec. 204. Repair and refurbishment of vessels in United States shipyards.

TITLE I—DEFENSE AND SECURITY ASSISTANCE

CHAPTER 1—MILITARY AND RELATED ASSISTANCE

SEC. 101. TERMS OF LOANS UNDER THE FOREIGN MILITARY FINANCING PROGRAM.

Section 31(c) of the Arms Export Control Act (22 U.S.C. 2771(c)) is amended to read as follows:

"(c) Loans available under section 23 shall be provided at rates of interest that are not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturities.".

SEC. 102. ADDITIONAL REQUIREMENTS UNDER THE FOREIGN MILITARY FINANCING PROGRAM.

(a) AUDIT OF CERTAIN PRIVATE FIRMS.—Section 23 of the Arms Export Control Act (22 U.S.C. 2763) is amended by adding at the end the following new subsection:

"(f) For each fiscal year, the Secretary of Defense, as requested by the Director of the Defense Security Assistance Agency, shall conduct audits on a nonreimbursable basis of private firms that have entered into contracts with foreign governments under which defense articles, defense services, or design and construction services are to be procured by such firms for such governments from financing under this section.".

(b) NOTIFICATION REQUIREMENT WITH RESPECT TO CASH FLOW FINANCING.—Section 23 of such Act (22 U.S.C. 2763), as amended by this Act, is further amended by adding at the end the following new subsection:

"(g)(1) For each country and international organization that has been approved for cash flow financing under this section, any letter of offer and acceptance or other purchase agreement, or any amendment thereto, for a procurement of defense articles, defense services, or design and construction services in excess of $100,000,000 that is to be financed in whole or in part with funds made available under this Act or the Foreign Assistance Act of 1961 shall be submitted to the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 in accordance with the procedures applicable to reprogramming notifications under that section.

"(2) For purposes of this subsection, the term 'cash flow financing' has the meaning given such term in the second subsection (d) of section 25.".

(c) LIMITATIONS ON USE OF FUNDS FOR DIRECT COMMERCIAL CONTRACTS.—Section 23 of such Act (22 U.S.C. 2763), as amended by this Act, is further amended by adding at the end the following new subsection:

"(h) Of the amounts made available for a fiscal year to carry out this section, not more than $100,000,000 for such fiscal year may be made available for countries other than Israel and Egypt for the purpose of financing the procurement of defense articles, defense services, and design and construction services that are not sold by the United States Government under this Act.".

(d) ANNUAL ESTIMATE AND JUSTIFICATION FOR SALES PROGRAM.—Section 25(a) of such Act (22 U.S.C. 2765(a)) is amended—

(1) by striking the "and" at the end of paragraph (11);

(2) by redesignating paragraph (12) as paragraph (13); and

(3) by inserting after paragraph (11) the following new paragraph:

"(12)(A) a detailed accounting of all articles, services, credits, guarantees, or any other form of assistance furnished by the United States to each country and international organization, including payments to the United Nations, during the preceding fiscal year for the detection and clearance of landmines, including activities relating to the furnishing of education, training, and technical assistance for the detection and clearance of landmines; and

"(B) for each provision of law making funds available or authorizing appropriations for demining activities described in subparagraph (A), an analysis and description of the objectives and activities undertaken during the preceding fiscal year, including the number of personnel involved in performing such activities; and".

SEC. 103. DRAWDOWN SPECIAL AUTHORITIES.

(a) UNFORESEEN EMERGENCY DRAWDOWN.—Section 506(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2318(a)(1)) is amended by striking "$75,000,000" and inserting "$100,000,000".

(b) ADDITIONAL DRAWDOWN.—Section 506 of such Act (22 U.S.C. 2318) is amended—

(1) in subsection (a)(2)(A), by striking "defense articles from the stocks" and all that follows and inserting the following: "articles and services from the inventory and resources of any agency of the United States Government and military education and training from the Department of Defense, the President may direct the drawdown of such articles, services, and military education and training—

"(i) for the purposes and under the authorities of—

"(I) chapter 8 of part I (relating to international narcotics control assistance);

"(II) chapter 9 of part I (relating to international disaster assistance); or

"(III) the Migration and Refugee Assistance Act of 1962; or

"(ii) for the purpose of providing such articles, services, and military education and training to Vietnam, Cambodia, and Laos as the President determines are necessary—

"(I) to support cooperative efforts to locate and repatriate members of the United States Armed Forces and civilians employed directly or indirectly by the United States Government who remain unaccounted for from the Vietnam War; and

"(II) to ensure the safety of United States Government personnel engaged in such cooperative efforts and to support Department of Defense-sponsored humanitarian projects associated with such efforts.";

(2) in subsection (a)(2)(B), by striking "$75,000,000" and all that follows and inserting "$150,000,000 in any fiscal year of such articles, services, and military education and training may be provided pursuant to subparagraph (A) of this paragraph—

"(i) not more than $75,000,000 of which may be provided from the drawdown from the inventory and resources of the Department of Defense;

"(ii) not more than $75,000,000 of which may be provided pursuant to clause (i)(I) of such subparagraph; and

"(iii) not more than $15,000,000 of which may be provided to Vietnam, Cambodia, and Laos pursuant to clause (ii) of such subparagraph."; and

(3) in subsection (b)(1), by adding at the end the following: "In the case of drawdowns authorized by subclauses (I) and (III) of subsection (a)(2)(A)(i), notifications shall be provided to those committees at least 15 days in advance of the drawdowns in accordance with the procedures applicable to reprogramming notifications under section 634A.".

(c) NOTICE TO CONGRESS OF EXERCISE OF SPECIAL AUTHORITIES.—Section 652 of such Act (22 U.S.C. 2411) is amended by striking "prior to the date" and inserting "before".

SEC. 104. TRANSFER OF EXCESS DEFENSE ARTICLES.

(a) IN GENERAL.—Section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) is amended to read as follows:

"SEC. 516. AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.

"(a) AUTHORIZATION.—The President is authorized to transfer excess defense articles under this section to countries for which receipt of such articles was justified pursuant to the annual congressional presentation documents for military assistance programs, or for programs under chapter 8 of part I of this Act, submitted under section 634 of this Act, or for which receipt of such articles was separately justified to the Congress, for the fiscal year in which the transfer is authorized.

"(b) LIMITATIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

"(1) such articles are drawn from existing stocks of the Department of Defense;

"(2) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer;

"(3) the transfer of such articles will not have an adverse impact on the military readiness of the United States;

"(4) with respect to a proposed transfer of such articles on a grant basis, such a transfer is preferable to a transfer on a sales basis, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of a transfer on either a grant or sales basis;

"(5) the President determines that the transfer of such articles will not have an adverse impact on the national technology and industrial base and, particularly, will not reduce the opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are transferred; and

"(6) the transfer of such articles is consistent with the policy framework for the Eastern Mediterranean established under section 620C of this Act.

"(c) TERMS OF TRANSFERS.—

"(1) NO COST TO RECIPIENT COUNTRY.—Excess defense articles may be transferred under this section without cost to the recipient country.

"(2) PRIORITY.—Notwithstanding any other provision of law, the delivery of excess defense articles under this section to member countries of the North Atlantic Treaty Organization (NATO) on the southern and southeastern flank of NATO and to major non-NATO allies on such southern and southeastern flank shall be given priority to the maximum extent feasible over the delivery of such excess defense articles to other countries.

"(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DEPARTMENT OF DEFENSE EXPENSES.—Section 632(d) shall not apply with respect to transfers of excess defense articles (including transportation and related costs) under this section.

"(e) TRANSPORTATION AND RELATED COSTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), funds available to the Department of Defense may not be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of this section.

"(2) EXCEPTION.—The President may provide for the transportation of excess defense articles without charge to a country for the costs of such transportation if—

"(A) it is determined that it is in the national interest of the United States to do so;

"(B) the recipient is a developing country receiving less than $10,000,000 of assistance under chapter 5 of part II of this Act (relating to international military education and training) or section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the Foreign Military Financing program) in the fiscal year in which the transportation is provided;

"(C) the total weight of the transfer does not exceed 25,000 pounds; and

"(D) such transportation is accomplished on a space available basis.

"(f) ADVANCE NOTIFICATION TO CONGRESS FOR TRANSFER OF CERTAIN EXCESS DEFENSE ARTICLES.—

"(1) IN GENERAL.—The President may not transfer excess defense articles that are significant military equipment (as defined in section 47(9) of the Arms Export Control Act) or excess defense articles valued (in terms of original acquisition cost) at $7,000,000 or more, under this section or under the Arms Export Control Act (22 U.S.C. 2751 et seq.) until 15 days after the date on which the President has provided notice of the proposed transfer to the congressional committees specified in section 634A(a) in accordance with procedures applicable to reprogramming notifications under that section.

"(2) CONTENTS.—Such notification shall include—

"(A) a statement outlining the purposes for which the article is being provided to the country, including whether such article has been previously provided to such country;

"(B) an assessment of the impact of the transfer on the military readiness of the United States;

"(C) an assessment of the impact of the transfer on the national technology and industrial base and, particularly, the impact on opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are to be transferred; and

"(D) a statement describing the current value of such article and the value of such article at acquisition.

"(g) AGGREGATE ANNUAL LIMITATION.—

"(1) IN GENERAL.—The aggregate value of excess defense articles transferred to countries under this section in any fiscal year may not exceed $350,000,000.

"(2) EFFECTIVE DATE.—The limitation contained in paragraph (1) shall apply only with respect to fiscal years beginning after fiscal year 1996.

"(h) CONGRESSIONAL PRESENTATION DOCUMENTS.—Documents described in subsection (a) justifying the transfer of excess defense articles shall include an explanation of the general purposes of providing excess defense articles as well as a table which provides an aggregate annual total of transfers of excess defense articles in the preceding year by country in terms of offers and actual deliveries and in terms of acquisition cost and current value. Such table shall indicate whether such excess defense articles were provided on a grant or sale basis.

"(i) EXCESS COAST GUARD PROPERTY.—For purposes of this section, the term 'excess defense articles' shall be deemed to include excess property of the Coast Guard, and the term 'Department of Defense' shall be deemed, with respect to such excess property, to include the Coast Guard.".

(b) CONFORMING AMENDMENTS.—

(1) ARMS EXPORT CONTROL ACT.—Section 21(k) of the Arms Export Control Act (22 U.S.C. 2761(k)) is amended by striking "the President shall" and all that follows and inserting the following: "the President shall determine that the sale of such articles will not have an adverse impact on the national technology and industrial base and, particularly, will not reduce the opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are transferred.".

(2) REPEALS.—The following provisions of law are hereby repealed:

(A) Section 502A of the Foreign Assistance Act of 1961 (22 U.S.C. 2303).

(B) Sections 517 through 520 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k through 2321n).

(C) Section 31(d) of the Arms Export Control Act (22 U.S.C. 2771(d)).

SEC. 105. EXCESS DEFENSE ARTICLES FOR CERTAIN EUROPEAN COUNTRIES.

Notwithstanding section 516(e) of the Foreign Assistance Act of 1961, during each of the fiscal years 1996 and 1997, funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to countries that are eligible to participate in the Partnership for Peace and that are eligible for assistance under the Support for East European Democracy (SEED) Act of 1989.

CHAPTER 2—INTERNATIONAL MILITARY EDUCATION AND TRAINING

SEC. 111. ASSISTANCE FOR INDONESIA.

Funds made available for fiscal years 1996 and 1997 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.) may be obligated for Indonesia only for expanded military and education training that meets the requirements of clauses (i) through (iv) of the second sentence of section 541 of such Act (22 U.S.C. 2347).

SEC. 112. ADDITIONAL REQUIREMENTS.

(a) GENERAL AUTHORITY.—Section 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347) is amended in the second sentence in the matter preceding clause (i) by inserting "and individuals who are not members of the government" after "legislators".

(b) EXCHANGE TRAINING.—Section 544 of such Act (22 U.S.C. 2347c) is amended—

(1) by striking "In carrying out this chapter" and inserting "(a) In carrying out this chapter"; and

(2) by adding at the end the following new subsection:

"(b) The President may provide for the attendance of foreign military and civilian defense personnel at flight training schools and programs (including test pilot schools) in the United States without charge, and without charge to funds available to carry out this chapter (notwithstanding section 632(d) of this Act), if such attendance is pursuant to an agreement providing for the exchange of students on a one-for-one basis each fiscal year between those United States flight training schools and programs (including test pilot schools) and comparable flight training schools and programs of foreign countries.".

(c) ASSISTANCE FOR CERTAIN HIGH-INCOME FOREIGN COUNTRIES.—

(1) AMENDMENT TO THE FOREIGN ASSISTANCE ACT OF 1961.—Chapter 5 of part II of such Act (22 U.S.C. 2347 et seq.) is amended by adding at the end the following new section:

"SEC. 546. PROHIBITION ON GRANT ASSISTANCE FOR CERTAIN HIGH INCOME FOREIGN COUNTRIES.

"(a) IN GENERAL.—None of the funds made available for a fiscal year for assistance under this chapter may be made available for assistance on a grant basis for any of the high-income foreign countries described in subsection (b) for military education and training of military and related civilian personnel of such country.

"(b) HIGH-INCOME FOREIGN COUNTRIES DESCRIBED.—The high-income foreign countries described in this subsection are Austria, Finland, the Republic of Korea, Singapore, and Spain.".

(2) AMENDMENT TO THE ARMS EXPORT CONTROL ACT.—Section 21(a)(1)(C) of the Arms Export Control Act (22 U.S.C. 2761) is amended by inserting "or to any high-income foreign country (as described in that chapter)" after "Foreign Assistance Act of 1961".

CHAPTER 3—ANTITERRORISM ASSISTANCE

SEC. 121. ANTITERRORISM TRAINING ASSISTANCE.

(a) IN GENERAL.—Section 571 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa) is amended by striking "Subject to the provisions of this chapter" and inserting "Notwithstanding any other provision of law that restricts assistance to foreign countries (other than sections 502B and 620A of this Act)".

(b) LIMITATIONS.—Section 573 of such Act (22 U.S.C. 2349aa-2) is amended—

(1) in the heading, by striking "SPECIFIC AUTHORITIES AND";

(2) by striking subsection (a);

(3) by redesignating subsections (b) through (f) as subsections (a) through (e), respectively; and

(4) in subsection (c) (as redesignated)—

(A) by striking paragraphs (1) and (2);

(B) by redesignating paragraphs (3) through (5) as paragraphs (1) through (3), respectively; and

(C) by amending paragraph (2) (as redesignated) to read as follows:

"(2)(A) Except as provided in subparagraph (B), funds made available to carry out this chapter shall not be made available for the procurement of weapons and ammunition.

"(B) Subparagraph (A) shall not apply to small arms and ammunition in categories I and III of the United States Munitions List that are integrally and directly related to antiterrorism training provided under this chapter if, at least 15 days before obligating those funds, the President notifies the appropriate congressional committees specified in section 634A of this Act in accordance with the procedures applicable to reprogramming notifications under such section.

"(C) The value (in terms of original acquisition cost) of all equipment and commodities provided under this chapter in any fiscal year may not exceed 25 percent of the funds made available to carry out this chapter for that fiscal year.".

(c) ANNUAL REPORT.—Section 574 of such Act (22 U.S.C. 2349aa–3) is hereby repealed.

(d) TECHNICAL CORRECTIONS.—Section 575 (22 U.S.C. 2349aa–4) and section 576 (22 U.S.C. 2349aa–5) of such Act are redesignated as sections 574 and 575, respectively.

SEC. 122. RESEARCH AND DEVELOPMENT EXPENSES.

Funds made available for fiscal years 1996 and 1997 to carry out chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.; relating to antiterrorism assistance) may be made available to the Technical Support Working Group of the Department of State for research and development expenses related to contraband detection technologies or for field demonstrations of such technologies (whether such field demonstrations take place in the United States or outside the United States).

CHAPTER 4—NARCOTICS CONTROL ASSISTANCE

SEC. 131. ADDITIONAL REQUIREMENTS.

(a) POLICY AND GENERAL AUTHORITIES.—Section 481(a) of the Foreign Assistance Act (22 U.S.C. 2291(a)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (D) through (F) as subparagraphs (E) through (G), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) International criminal activities, particularly international narcotics trafficking, money laundering, and corruption, endanger political and economic stability and democratic development, and assistance for the prevention and suppression of international criminal activities should be a priority for the United States."; and

(2) in paragraph (4), by adding before the period at the end the following: ", or for other anticrime purposes".

(b) CONTRIBUTIONS AND REIMBURSEMENT.—Section 482(c) of that Act (22 U.S.C. 2291a(c)) is amended—

(1) by striking "CONTRIBUTION BY RECIPIENT COUNTRY.—To" and inserting "CONTRIBUTIONS AND REIMBURSEMENT.—(1) To"; and

(2) by adding at the end the following new paragraphs:

"(2)(A) The President is authorized to accept contributions from foreign governments to carry out the purposes of this chapter. Such contributions shall be deposited as an offsetting collection to the applicable appropriation account and may be used under the same terms and conditions as funds appropriated pursuant to this chapter.

"(B) At the time of submission of the annual congressional presentation documents required by section 634(a), the President shall provide a detailed report on any contributions received in the preceding fiscal year, the amount of such contributions, and the purposes for which such contributions were used.

"(3) The President is authorized to provide assistance under this chapter on a reimbursable basis. Such reimbursements shall be deposited as an offsetting collection to the applicable appropriation and may be used under the same terms and conditions as funds appropriated pursuant to this chapter.".

(c) IMPLEMENTATION OF LAW ENFORCEMENT ASSISTANCE.—Section 482 of such Act (22 U.S.C. 2291a) is amended by adding at the end the following new subsections:

"(f) TREATMENT OF FUNDS.—Funds transferred to and consolidated with funds appropriated pursuant to this chapter may be made available on such terms and conditions as are applicable to funds appropriated pursuant to this chapter. Funds so transferred or consolidated shall be apportioned directly to the bureau within the Department of State responsible for administering this chapter.

"(g) EXCESS PROPERTY.—For purposes of this chapter, the Secretary of State may use the authority of section 608, without regard to the restrictions of such section, to receive nonlethal excess property from any agency of the United States Government for the purpose of providing such property to a foreign government under the same terms and conditions as funds authorized to be appropriated for the purposes of this chapter.".

SEC. 132. NOTIFICATION REQUIREMENT.

(a) IN GENERAL.—The authority of section 1003(d) of the National Narcotics Control Leadership Act of 1988 (21 U.S.C. 1502(d)) may be exercised with respect to funds authorized to be appropriated pursuant to the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) and with respect to the personnel of the Department of State only to the extent that the appropriate congressional committees have been notified 15 days in advance in accordance with the reprogramming procedures applicable under section 634A of that Act (22 U.S.C. 2394).

(b) DEFINITION.—For purposes of this section, the term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

SEC. 133. WAIVER OF RESTRICTIONS FOR NARCOTICS-RELATED ECONOMIC ASSISTANCE.

For each of the fiscal years 1996 and 1997, narcotics-related assistance under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) may be provided notwithstanding any other provision of law that restricts assistance to foreign countries (other than section 490(e) or section 502B of that Act (22 U.S.C. 2291j(e) and 2304)) if, at least 15 days before obligating funds for such assistance, the President notifies the appropriate congressional committees (as defined in section 481(e) of that Act (22 U.S.C. 2291(e))) in accordance with the procedures applicable to reprogramming notifications under section 634A of that Act (22 U.S.C. 2394).

CHAPTER 5—OTHER PROVISIONS

SEC. 141. STANDARDIZATION OF CONGRESSIONAL REVIEW PROCEDURES FOR ARMS TRANSFERS.

(a) THIRD COUNTRY TRANSFERS UNDER FMS SALES.—Section 3(d)(2) of the Arms Export Control Act (22 U.S.C. 2753(d)(2)) is amended—

(1) in subparagraph (A), by striking ", as provided for in sections 36(b)(2) and 36(b)(3) of this Act";

(2) in subparagraph (B), by striking "law" and inserting "joint resolution"; and

(3) by adding at the end the following:

"(C) If the President states in his certification under subparagraph (A) or (B) that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, thus waiving the requirements of that subparagraph, the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate immediate consent to the transfer and a discussion of the national security interests involved.

"(D)(i) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(b) THIRD COUNTRY TRANSFERS UNDER COMMERCIAL SALES.—Section 3(d)(3) of such Act (22 U.S.C. 2753(d)(3)) is amended—

(1) by inserting "(A)" after "(3)";

(2) in the first sentence—

(A) by striking "at least 30 calendar days"; and

(B) by striking "report" and inserting "certification"; and

(3) by striking the last sentence and inserting the following: "Such certification shall be submitted—

"(i) at least 15 calendar days before such consent is given in the case of a transfer to a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, or New Zealand; and

"(ii) at least 30 calendar days before such consent is given in the case of a transfer to any other country,

unless the President states in his certification that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States. If the President states in his certification that such an emergency exists (thus waiving the requirements of clause (i) or (ii), as the case may be, and of subparagraph (B)) the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that consent to the proposed transfer become effective immediately and a discussion of the national security interests involved.

"(B) Consent to a transfer subject to subparagraph (A) shall become effective after the end of the 15-day or 30-day period specified in subparagraph (A)(i) or (ii), as the case may be, only if the Congress does not enact, within that period, a joint resolution prohibiting the proposed transfer.

"(C)(i) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(c) COMMERCIAL SALES.—Section 36(c)(2) of such Act (22 U.S.C. 2776(c)(2)) is amended by amending subparagraphs (A) and (B) to read as follows:

"(A) in the case of a license for an export to the North Atlantic Treaty Organization, any member country of that Organization or Australia, Japan, or New Zealand, shall not be issued until at least 15 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 15-day period, enacts a joint resolution prohibiting the proposed export; and

"(B) in the case of any other license, shall not be issued until at least 30 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 30-day period, enacts a joint resolution prohibiting the proposed export.".

(d) COMMERCIAL MANUFACTURING AGREEMENTS.—Section 36(d) of such Act (22 U.S.C. 2776(d)) is amended—

(1) by inserting "(1)" after "(d)";

(2) by striking "for or in a country not a member of the North Atlantic Treaty Organization"; and

(3) by adding at the end the following:

"(2) A certification under this subsection shall be submitted—

"(A) at least 15 days before approval is given in the case of an agreement for or in a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, or New Zealand; and

"(B) at least 30 days before approval is given in the case of an agreement for or in any other country;

unless the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States.

"(3) If the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States, thus waiving the requirements of paragraph (4), he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate approval of the agreement and a discussion of the national security interests involved.

"(4) Approval for an agreement subject to paragraph (1) may not be given under section 38 if the Congress, within the 15-day or 30-day period specified in paragraph (2)(A) or (B), as the case may be, enacts a joint resolution prohibiting such approval.

"(5)(A) Any joint resolution under paragraph (4) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(B) For the purpose of expediting the consideration and enactment of joint resolutions under paragraph (4), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(e) GOVERNMENT-TO-GOVERNMENT LEASES.—

(1) CONGRESSIONAL REVIEW PERIOD.—Section 62 of such Act (22 U.S.C. 2796a) is amended—

(A) in subsection (a), by striking "Not less than 30 days before" and inserting "Before";

(B) in subsection (b)—

(i) by striking "determines, and immediately reports to the Congress" and inserting "states in his certification"; and

(ii) by adding at the end of the subsection the following: "If the President states in his certification that such an emergency exists, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that the lease be entered into immediately and a discussion of the national security interests involved."; and

(C) by adding at the end of the section the following:

"(c) The certification required by subsection (a) shall be transmitted—

"(1) not less than 15 calendar days before the agreement is entered into or renewed in the case of an agreement with the North Atlantic Treaty Organization, any member country of that Organization or Australia, Japan, or New Zealand; and

"(2) not less than 30 calendar days before the agreement is entered into or renewed in the case of an agreement with any other organization or country.".

(2) CONGRESSIONAL DISAPPROVAL.—Section 63(a) of such Act (22 U.S.C. 2796b(a)) is amended—

(A) by striking "(a)(1)" and inserting "(a)";

(B) by striking out the "30 calendar days after receiving the certification with respect to that proposed agreement pursuant to section 62(a)," and inserting in lieu thereof "the 15-day or 30-day period specified in section 62(c) (1) or (2), as the case may be,"; and

(C) by striking paragraph (2).

(f) EFFECTIVE DATE.—The amendments made by this section apply with respect to certifications required to be submitted on or after the date of the enactment of this Act.

SEC. 142. STANDARDIZATION OF THIRD COUNTRY TRANSFERS OF DEFENSE ARTICLES.

Section 3 of the Arms Export Control Act (22 U.S.C. 2753) is amended by inserting after subsection (a) the following new subsection:

"(b) The consent of the President under paragraph (2) of subsection (a) or under paragraph (1) of section 505(a) of the Foreign Assistance Act of 1961 (as it relates to subparagraph (B) of such paragraph) shall not be required for the transfer by a foreign country or international organization of defense articles sold by the United States under this Act if—

"(1) such articles constitute components incorporated into foreign defense articles;

"(2) the recipient is the government of a member country of the North Atlantic Treaty Organization, the Government of Australia, the Government of Japan, or the Government of New Zealand;

"(3) the recipient is not a country designated under section 620A of the Foreign Assistance Act of 1961;

"(4) the United States-origin components are not—

"(A) significant military equipment (as defined in section 47(9));

"(B) defense articles for which notification to Congress is required under section 36(b); and

"(C) identified by regulation as Missile Technology Control Regime items; and

"(5) the foreign country or international organization provides notification of the transfer of the defense articles to the United States Government not later than 30 days after the date of such transfer.".

SEC. 143. INCREASED STANDARDIZATION, RATIONALIZATION, AND INTEROPERABILITY OF ASSISTANCE AND SALES PROGRAMS.

Paragraph (6) of section 515(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321i(a)(6)) is amended by striking "among members of the North Atlantic Treaty Organization and with the Armed Forces of Japan, Australia, and New Zealand".

SEC. 144. DEFINITION OF SIGNIFICANT MILITARY EQUIPMENT.

Section 47 of the Arms Export Control Act (22 U.S.C. 2794) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(9) 'significant military equipment' means articles—

"(A) for which special export controls are warranted because of the capacity of such articles for substantial military utility or capability; and

"(B) identified on the United States Munitions List.".

SEC. 145. ELIMINATION OF ANNUAL REPORTING REQUIREMENT RELATING TO THE SPECIAL DEFENSE ACQUISITION FUND.

(a) IN GENERAL.—Section 53 of the Arms Export Control Act (22 U.S.C. 2795b) is hereby repealed.

(b) CONFORMING AMENDMENT.—Section 51(a)(4) of such Act (22 U.S.C. 2795(a)(4)) is amended—

(1) by striking "(a)"; and

(2) by striking subparagraph (B).

SEC. 146. COST OF LEASED DEFENSE ARTICLES THAT HAVE BEEN LOST OR DESTROYED.

Section 61(a)(4) of the Arms Export Control Act (22 U.S.C. 2796(a)(4)) is amended by striking "and the replacement cost" and all that follows and inserting the following: "and, if the articles are lost or destroyed while leased—

"(A) in the event the United States intends to replace the articles
lost or destroyed, the replacement cost (less any depreciation in the value) of the articles; or

"(B) in the event the United States does not intend to replace the articles lost or destroyed, an amount not less than the actual value (less any depreciation in the value) specified in the lease agreement.".

SEC. 147. DESIGNATION OF MAJOR NON-NATO ALLIES.

(a) DESIGNATION.—

(1) NOTICE TO CONGRESS.—Chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 517. DESIGNATION OF MAJOR NON-NATO ALLIES.

"(a) NOTICE TO CONGRESS.—The President shall notify the Congress in writing at least 30 days before—

"(1) designating a country as a major non-NATO ally for purposes of this Act and the Arms Export Control Act (22 U.S.C. 2751 et seq.); or

"(2) terminating such a designation.

"(b) INITIAL DESIGNATIONS.—Australia, Egypt, Israel, Japan, the Republic of Korea, and New Zealand shall be deemed to have been so designated by the President as of the effective date of this section, and the President is not required to notify the Congress of such designation of those countries.".

(2) DEFINITION.—Section 644 of such Act (22 U.S.C. 2403) is amended by adding at the end the following:

"(q) 'Major non-NATO ally' means a country which is designated in accordance with section 517 as a major non-NATO ally for purposes of this Act and the Arms Export Control Act (22 U.S.C. 2751 et seq.).".

(3) EXISTING DEFINITIONS.—(A) The last sentence of section 21(g) of the Arms Export Control Act (22 U.S.C. 2761(g)) is repealed.

(B) Section 65(d) of such Act (22 U.S.C. 2796d(d)) is amended—

(i) by striking "or major non-NATO"; and

(ii) by striking out "or a" and all that follows through "Code".

(b) Cooperative Training Agreements.—Section 21(g) of the Arms Export Control Act (22 U.S.C. 2761(g)) is amended in the first sentence by striking "similar agreements" and all that follows through "other countries" and inserting "similar agreements with countries".

SEC. 148. CERTIFICATION THRESHOLDS.

(a) Increase in Dollar Thresholds.—The Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended—

(1) in section 3(d) (22 U.S.C. 2753(d))—

(A) in paragraphs (1) and (3), by striking "$14,000,000" each place it appears and inserting "$25,000,000"; and

(B) in paragraphs (1) and (3), by striking "$50,000,000" each place it appears and inserting "$75,000,000";

(2) in section 36 (22 U.S.C. 2776)—

(A) in subsections (b)(1), (b)(5)(C), and (c)(1), by striking "$14,000,000" each place it appears and inserting "$25,000,000";

(B) in subsections (b)(1), (b)(5)(C), and (c)(1), by striking "$50,000,000" each place it appears and inserting "$75,000,000"; and

(C) in subsections (b)(1) and (b)(5)(C), by striking "$200,000,000" each place it appears and inserting "$300,000,000"; and

(3) in section 63(a) (22 U.S.C. 2796b(a))—

(A) by striking "$14,000,000" and inserting "$25,000,000"; and

(B) by striking "$50,000,000" and inserting "$75,000,000".

(b) Effective Date.—The amendments made by subsection (a) apply with respect to certifications submitted on or after the date of the enactment of this Act.

SEC. 149. DEPLETED URANIUM AMMUNITION.

Chapter 1 of part III of the Foreign Assistance Act of 1961 (22 U.S.C. 2370 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 620G. DEPLETED URANIUM AMMUNITION.

"(a) Prohibition.—Except as provided in subsection (b), none of the funds made available to carry out this Act or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than—

"(1) a country that is a member of the North Atlantic Treaty Organization;

"(2) a country that has been designated as a major non-NATO ally (as defined in section 644(q)); or

"(3) Taiwan.

"(b) Exception.—The prohibition contained in subsection (a) shall not apply with respect to the use of funds to facilitate the sale of antitank shells to a country if the President determines that to do so is in the national security interest of the United States.".

SEC. 150. END-USE MONITORING OF DEFENSE ARTICLES AND DEFENSE SERVICES.

(a) In General.—The Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended by inserting after chapter 3 the following new chapter:

"CHAPTER 3A—END-USE MONITORING OF DEFENSE ARTICLES AND DEFENSE SERVICES

"SEC. 40A. END-USE MONITORING OF DEFENSE ARTICLES AND DEFENSE SERVICES.

"(a) Establishment of Monitoring Program.—

"(1) In general.—In order to improve accountability with respect to defense articles and defense services sold, leased, or exported under this Act or the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the President shall establish a program which provides for the end-use monitoring of such articles and services.

"(2) Requirements of program.—To the extent practicable, such program—

"(A) shall provide for the end-use monitoring of defense articles and defense services in accordance with the standards that apply for identifying high-risk exports for regular end-use verification developed under section 38(g)(7) of this Act (commonly referred to as the 'Blue Lantern' program); and

"(B) shall be designed to provide reasonable assurance that—

"(i) the recipient is complying with the requirements imposed by the United States Government with respect to use, transfers, and security of defense articles and defense services; and

"(ii) such articles and services are being used for the purposes for which they are provided.

"(b) Conduct of Program.—In carrying out the program established under subsection (a), the President shall ensure that the program—

"(1) provides for the end-use verification of defense articles and defense services that incorporate sensitive technology, defense articles and defense services that are particularly vulnerable to diversion or other misuse, or defense articles or defense services whose diversion or other misuse could have significant consequences; and

"(2) prevents the diversion (through reverse engineering or other means) of technology incorporated in defense articles.

"(c) Report to Congress.—Not later than 6 months after the date of the enactment of this section, and annually thereafter as a part of the annual congressional presentation documents submitted under section 634 of the Foreign Assistance Act of 1961, the President shall transmit to the Congress a report describing the actions taken to implement this section, including a detailed accounting of the costs and number of personnel associated with the monitoring program.

"(d) Third Country Transfers.—For purposes of this section, defense articles and defense services sold, leased, or exported under this Act or the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) includes defense articles and defense services that are transferred to a third country or other third party.".

(b) Effective Date.—Section 40A of the Arms Export Control Act, as added by subsection (a), applies with respect to defense articles and defense services provided before or after the date of the enactment of this Act.

SEC. 151. BROKERING ACTIVITIES RELATING TO COMMERCIAL SALES OF DEFENSE ARTICLES AND SERVICES.

(a) In General.—Section 38(b)(1)(A) of the Arms Export Control Act (22 U.S.C. 2778(b)(1)(A)) is amended—

(1) in the first sentence, by striking "As prescribed in regulations" and inserting "(i) As prescribed in regulations"; and

(2) by adding at the end the following new clause:

"(ii)(I) As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in official capacity) who engages in the business of brokering activities with respect to the manufacture, export, import, or transfer of any defense article or defense service designated by the President under subsection (a)(1), or in the business of brokering activities with respect to the manufacture, export, import, or transfer of any foreign defense article or defense service (as defined in subclause (IV)), shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations.

"(II) Such brokering activities shall include the financing, transportation, freight forwarding, or taking of any other action that facilitates the manufacture, export, or import of a defense article or defense service.

"(III) No person may engage in the business of brokering activities described in subclause (I) without a license, issued in accordance with this Act, except that no license shall be required for such activities undertaken by or for an agency of the United States Government—

"(aa) for use by an agency of the United States Government; or

"(bb) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

"(IV) For purposes of this clause, the term 'foreign defense article or defense service' includes any non-United States defense article or defense service of a nature described on the United States Munitions List regardless of whether such article or service is of United States origin or whether such article or service contains United States origin components.".

(b) Effective Date.—Section 38(b)(1)(A)(ii) of the Arms Export Control Act, as added by subsection (a), shall apply with respect to brokering activities engaged in beginning on or after 120 days after the enactment of this Act.

SEC. 152. RETURN AND EXCHANGES OF DEFENSE ARTICLES PREVIOUSLY TRANSFERRED PURSUANT TO THE ARMS EXPORT CONTROL ACT.

(a) Repair of Defense Articles.—Section 21 of the Arms Export Control Act (22 U.S.C. 2761) is amended by adding at the end the following new subsection:

"(l) Repair of Defense Articles.—

"(1) In general.—The President may acquire a repairable defense article from a foreign country or international organization if such defense article—

"(A) previously was transferred to such country or organization under this Act;

"(B) is not an end item; and

"(C) will be exchanged for a defense article of the same type that is in the stocks of the Department of Defense.

"(2) Limitation.—The President may exercise the authority provided in paragraph (1) only to the extent that the Department of Defense—

"(A)(i) has a requirement for the defense article being returned; and

"(ii) has available sufficient funds authorized and appropriated for such purpose; or

"(B)(i) is accepting the return of the defense article for subsequent transfer to another foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act; and

"(ii) has available sufficient funds provided by or on behalf of such other foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act.

"(3) Requirement.—(A) The foreign government or international organization receiving a new or repaired defense article in exchange for a repairable defense article pursuant to paragraph (1) shall, upon the acceptance by the United States Government of the repairable defense article being returned, be charged the total cost associated with the repair and replacement transaction.

"(B) The total cost charged pursuant to subparagraph (A) shall be the same as that charged the United States Armed Forces for a similar repair and replacement transaction, plus an administrative surcharge in accordance with subsection (e)(1)(A) of this section.

"(4) RELATIONSHIP TO CERTAIN OTHER PROVISIONS OF LAW.—The authority of the President to accept the return of a repairable defense article as provided in subsection (a) shall not be subject to chapter 137 of title 10, United States Code, or any other provision of law relating to the conclusion of contracts.".

(b) RETURN OF DEFENSE ARTICLES.—Section 21 of such Act (22 U.S.C. 2761), as amended by this Act, is further amended by adding at the end the following new subsection:

"(m) RETURN OF DEFENSE ARTICLES.—

"(1) IN GENERAL.—The President may accept the return of a defense article from a foreign country or international organization if such defense article—

"(A) previously was transferred to such country or organization under this Act;

"(B) is not significant military equipment (as defined in section 47(9) of this Act); and

"(C) is in fully functioning condition without need of repair or rehabilitation.

"(2) LIMITATION.—The President may exercise the authority provided in paragraph (1) only to the extent that the Department of Defense—

"(A)(i) has a requirement for the defense article being returned; and

"(ii) has available sufficient funds authorized and appropriated for such purpose; or

"(B)(i) is accepting the return of the defense article for subsequent transfer to another foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act; and

"(ii) has available sufficient funds provided by or on behalf of such other foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act.

"(3) CREDIT FOR TRANSACTION.—Upon acquisition and acceptance by the United States Government of a defense article under paragraph (1), the appropriate Foreign Military Sales account of the provider shall be credited to reflect the transaction.

"(4) RELATIONSHIP TO CERTAIN OTHER PROVISIONS OF LAW.—The authority of the President to accept the return of a defense article as provided in paragraph (1) shall not be subject to chapter 137 of title 10, United States Code, or any other provision of law relating to the conclusion of contracts.".

(c) REGULATIONS.—Under the direction of the President, the Secretary of Defense shall promulgate regulations to implement subsections (l) and (m) of section 21 of the Arms Export Control Act, as added by this section.

SEC. 153. NATIONAL SECURITY INTEREST DETERMINATION TO WAIVE REIMBURSEMENT OF DEPRECIATION FOR LEASED DEFENSE ARTICLES.

(a) IN GENERAL.—Section 61(a) of the Arms Export Control Act (22 U.S.C. 2796(a)) is amended—

(1) in the second sentence, by striking ", or to any defense article which has passed three-quarters of its normal service life"; and

(2) by inserting after the second sentence the following new sentence: "The President may waive the requirement of paragraph (4) for reimbursement of depreciation for any defense article which has passed three-quarters of its normal service life if the President determines that to do so is important to the national security interest of the United States.".

(b) EFFECTIVE DATE.—The third sentence of section 61(a) of the Arms Export Control Act, as added by subsection (a)(2), shall apply only with respect to a defense article leased on or after the date of the enactment of this Act.

SEC. 154. ELIGIBILITY OF PANAMA UNDER ARMS EXPORT CONTROL ACT.

The Government of the Republic of Panama shall be eligible to purchase defense articles and defense services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), except as otherwise specifically provided by law.

TITLE II—TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES

SEC. 201. AUTHORITY TO TRANSFER NAVAL VESSELS.

(a) EGYPT.—The Secretary of the Navy is authorized to transfer to the Government of Egypt the "OLIVER HAZARD PERRY CLASS" frigate GALLERY. Such transfer shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

(b) MEXICO.—The Secretary of the Navy is authorized to transfer to the Government of Mexico the "KNOX" class frigates STEIN (FF 1065) and MARVIN SHIELDS (FF 1066). Such transfers shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

(c) NEW ZEALAND.—The Secretary of the Navy is authorized to transfer to the Government of New Zealand the "STALWART" class ocean surveillance ship TENACIOUS. Such transfer shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

(d) PORTUGAL.—The Secretary of the Navy is authorized to transfer to the Government of Portugal the "STALWART" class ocean surveillance ship AUDACIOUS. Such transfer shall be on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j; relating to transfers of excess defense articles).

(e) TAIWAN.—The Secretary of the Navy is authorized to transfer to the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act) the following:

(1) The "KNOX" class frigates AYLWIN (FF 1081), PHARRIS (FF 1094), and VALDEZ (FF 1096). Such transfers shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

(2) The "NEWPORT" class tank landing ship NEWPORT (LST 1179). Such transfer shall be on a lease basis under section 61 of the Arms Export Control Act (22 U.S.C. 2796).

(f) THAILAND.—The Secretary of the Navy is authorized to transfer to the Government of Thailand the "KNOX" class frigate OUELLET (FF 1077). Such transfer shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

SEC. 202. COSTS OF TRANSFERS.

Any expense of the United States in connection with a transfer authorized by this title shall be charged to the recipient.

SEC. 203. EXPIRATION OF AUTHORITY.

The authority granted by section 201 shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 204. REPAIR AND REFURBISHMENT OF VESSELS IN UNITED STATES SHIPYARDS.

The Secretary of the Navy shall require, to the maximum extent possible, as a condition of a transfer of a vessel under this title, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from California [Mr. LANTOS] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring this legislation to the floor of the House at this time.

The purpose of title I of this bill is to amend authorities under the Foreign Assistance Act of 1961, as amended, and the Arms Export Control Act to revise and consolidate defense and security assistance authorities, in particular by updating policy and statutory authorities.

The genesis of this effort began nearly 7 years ago, with H.R. 2655, the International Cooperation Act of 1989. Subsequent legislation by the then Committee on Foreign Affairs, including H.R. 2508, the International Cooperation Act of 1991, and later bills, continued our efforts to amend and update these important authorities.

On June 8, 1995, the House of Representatives passed H.R. 1561, the American Overseas Interest Act of 1995, by a vote of 222 to 192. Title XXXI of division C, the Foreign Aid Reduction Act of 1995, was dedicated to defense and security assistance provisions. On March 12, 1996, the House agreed to the conference report on H.R. 1561 by a vote of 226 to 172. The conference report, though, did not include provisions from division C of the House-passed bill.

This legislation, H.R. 3121, continues the effort by our Committee on International Relations to amend the Foreign Assistance Act and the Arms Export Control Act to make improvements to defense and security assistance provisions under those acts. The provisions included in title I of this bill are nearly identical to title XXXI of H.R. 1561, are the product of bipartisan effort and cooperation, and enjoy the strong support of the Departments of State and Defense.

Central to consideration of this bill is the committee's view that this legislation fulfills its responsibility as an authorizing committee. Specifically, this legislation codifies in permanent law authorizing language which has been too long carried on annual appropriations measures.

The purpose of title II of this bill is to authorize the transfer of naval vessels to certain foreign nations pursuant to the administration's request of January 29, 1996, Title II of this bill authorizes the transfer of 10 naval vessels, 8 sales, 1 by lease and 1 by grant, to the following nations: to Egypt, to Mexico, to New Zealand, to Portugal, to Taiwan, and to Thailand.

According to our Department of Defense, the Chief of Naval Operations has certified that these naval vessels are not essential to the defense of our own Nation.

As detailed above, the United States plans to transfer eight naval vessels by sale, pursuant to section 21 of the Arms Export Control Act. One of the vessels will be transferred as a lease, pursuant to chapter 6 of the Arms Export Control Act, and one of the vessels will be transferred as a grant pursuant to section 519 of the Foreign Assistance Act of 1961, as amended.

The United States will incur no cost for the transfer of the naval vessels under this legislation. The foreign recipients will be responsible for all costs associated with the transfer of the vessels, including maintenance, repairs, training and fleet turnover costs. Any expenses incurred in connection with these transfers will be charged to the foreign recipients.

Through the sale of these naval vessels, this legislation will generate $72 million in revenue for the U.S. Treasury. In addition, through repair and reactivation work, through service contracts, ammunition sales, and savings generated from avoidance of storage and deactivation costs, our Navy estimates that the legislation will generate an additional $525 million in revenue for the U.S. Treasury and for private U.S. firms.

I commend this bill to the House and I ask my colleagues for their support.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I would like to commend the distinguished chairman of our committee for his leadership on this bill and on so many other matters. I rise in strong support of this resolution.

Mr. Speaker, I yield 2 minutes to my good friend and distinguished colleague, the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman from California, and I want to join in congratulating his leadership, along with the gentleman from New York in the previous resolution on the Holocaust.

In general, this is good legislation. As someone who represents a large number of Portuguese-Americans who are proud of the very strong, thriving relationship between our two democratic nations, I am pleased to see through the efforts of my colleagues the needs of the Portuguese Navy have been in part accommodated.

But I am severely disappointed that this legislation continues a pattern of rewarding the Government of Indonesia, which continues to engage in some of the most oppressive and racist activities in the world in their maltreatment of the people of East Timor. Indonesia's record in East Timor is one of the great moral failings in the world, and unfortunately it is a further moral failing that the rest of the world stands back and allows the people of East Timor to be so oppressed.

I understand that this is military and educational training. Theoretically just for civilians, in ways it is supposed to help. But you know when you are in East Timor being oppressed, when you are being killed or imprisoned by this brutal regime, the fact the people doing the killing and the Indonesians are a little better educated in civic values than they otherwise might have been is no consolation. I regret very much that this legislation continues that practice.

Last year I offered an amendment to strike from the foreign operations appropriations bill all aid to Indonesia. The Committee on Rules did not allow it. I want to announce now that I and others intend to insist this time on our right to at least vote on that. It is bad enough that this Congress goes along with rewarding the brutal actions of the Government of Indonesia, but to deny us even a chance to vote for it implicates our own procedures in that unfortunate aspect, although obviously murder is a lot worse than our being able to vote. I am sorry it is not included here, and I pledge we will do everything we can to end the practice of rewarding the Indonesian Government until and unless it stops its brutalization of the people of East Timor.

Mr. GILMAN. Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I am very pleased to yield 2 minutes to the gentleman from Rhode Island [Mr. KENNEDY], my good friend and distinguished colleague.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I would like to concur with my colleague from Massachusetts [Mr. FRANK], in that this bill should not be on the Suspension Calendar as it relates to the inclusion of an enhancement for Indonesia for the same reasons my colleagues just spoke.

Indonesia has proven itself to be someone with no respect and regard for the human rights of the East Timorese in the application of their Government in East Timor. They have systematically used their Government to oppose the East Timorese. They have terrorized, brutalized, they have killed demonstrators in broad daylight in front of international cameras. They will go to no end to show that they are not worthy of the recognition that this enhancement gives them.

The whole idea of the enhancement is to say, "Well, we will work with you."

□ 1415

But understand, we will work to support democratic efforts. But if there are no democratic efforts being undertaken, it is a little presumptuous for us to think that simply by our recognition of East Timor through this enhanced IMET that we are going to replace what is not there. That is the problem with enhanced IMET.

My former colleague, Congressman Ron Machtly, was successful in revoking IMET. It was a good thing that this Congress recognized it. Nothing has changed. Indonesia still oppresses these Timorese, and that is why this is not the time for us to be renewing IMET. That is why, Mr. Chairman, as the gentleman can obviously tell, there are people like myself, the gentlewoman from California [Ms. PELOSI], the gentlewoman from New York [Mrs. LOWEY], and others, the gentleman from Massachusetts [Mr. FRANK], who know this is not an issue where we should be debating it on a Suspension Calendar. We have no problem debating this as a bill on the floor itself, and that is the way it should come before us.

Mr. Speaker, this bill contains provisions, as the gentleman from New York said, which we all support. I would be the first to commend the gentleman from New York [Mr. GILMAN] for the inclusion of the hydrographic vessel that goes to Portugal. But that is the proper role for a suspension bill. The IMET is not. So while I support that endeavor that the gentleman has put into the bill, this I have to object to.

Mr. GILMAN. Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise today in strong opposition to the provision in this bill that authorizes international military education and training [IMET] assistance for Indonesia.

In 1992, we voted to end all IMET assistance for Indonesia because of that country's abysmal human rights record and their continued oppression of the people of East Timor. Despite the lack of improvement in Indonesia's human rights record, and the opposition of myself and many of my colleagues, a modified IMET program was approved for Indonesia in the Foreign Operations Appropriations Act for fiscal year 1996.

When this provision was added to the foreign aid bill last year, we said we would monitor the human rights situation in Indonesia very carefully and act accordingly this year. Well, the State Department's Country Report on Indonesia was released last month, and according to the report, "The government continued to commit serious human rights abuses."

So what do we do a month after this report came out? We attempt to slip reauthorization of IMET for Indonesia into a supposedly noncontroversial bill that is being considered on the Suspension Calendar. This is an unacceptable way to legislate.

Mr. Speaker, in the past we have debated this issue extensively. Last year, I offered an amendment to the foreign aid bill to prohibit this assistance from going to Indonesia. There is significant opposition in Congress to Indonesian IMET. That doesn't sound noncontroversial to me.

A month ago, the State Department said that in Indonesia "reports of extrajudicial killings, disappearances, and torture of those in custody by security forces increased." Not decreased. Not stayed the same. Increased. Should we really be authorizing IMET assistance for this government now when they have not addressed these critical human rights issues? I don't think so.

Indonesia's policy in East Timor is about the oppression of people who oppose Indonesia's right to torture, kill, and repress the people of East Timor. It is about the 200,000 Timorese who have been slaughtered since the Indonesian occupation in 1975—200,000 killed out of a total population of 700,000. It is about genocide.

Mr. Speaker, this is not a noncontroversial issue, and should never have been brought up under suspension.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas [Mr. BROWNBACK], a member of our committee.

Mr. BROWNBACK. Mr. Speaker, let me begin by congratulating Chairman GILMAN for the hard work he and his staff have put into reforming the defense and security assistance provisions incorporated in H.R. 3121.

I think H.R. 3121 represents a common sense approach to advancing our foreign policy goals of promoting global security, ensuring the security of U.S. citizens and U.S. allies around the world, and encouraging democracy. However, the bill achieves these goals while effectively reducing the amount of excess defense articles that will be transferred to our allies on a grant or no-cost lease basis.

We need to use the grant and no-cost lease options sparingly so that these programs recover as much money for the taxpayers as possible. H.R. 3121 will force the Defense Department to drastically reduce the number of no-cost leases and grants that are used to transfer excess defense articles to our allies. The bill creates the national security interest determination that the President will have to invoke in order to provide a no-cost lease for excess defense articles.

Mr. Speaker, H.R. 3121 also requires the Pentagon to evaluate whether excess defense articles should be transferred on a grant basis or on a sale basis, depending upon what the potential proceeds would be from a sale, what the likelihood of selling a defense article would be, and what the foreign policy benefits of a transfer would be. Mr. Speaker, I simply add that in this time of budgetary constraint and austerity, I think this is a very good measure that we move forward with that, we say to the Defense Department and we say to the administration, if you are going to give away these ships, if you are going to give away these airplanes, you better have a darn good reason to do it, because we are broke and we need to be able to recognize and get as much funding as we possibly can and have as much restraint here as possible.

That is in the bill, and I commend Chairman GILMAN for inserting it.

Mr. BEREUTER. Mr. Speaker, will the gentleman yield?

Mr. BROWNBACK. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for focusing on the changes and the reforms that are a part of this bill. The gentleman has been active as well as Chairman GILMAN and the ranking member.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. BROWNBACK. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I just want to commend the gentleman from Kansas for his astute observations, analysis of the bill. He has been a sound critic of the prior procedures that we have utilized in transferring this equipment, and as a result of his efforts, a good reform has come about. I thank the gentleman for his efforts.

Mr. BROWNBACK. I thank the gentleman very much.

Mr. HAMILTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I want to commend Chairman GILMAN for his leadership on this bill. He has proceeded in a very constructive and bipartisan way. The first part of the bill, an amendment of security assistance authorities in the Foreign Assistance Act and the Arms Export Control Act, has indeed been developed on a bipartisan basis under Chairman GILMAN's leadership. He has already spoken in some detail about the bill, and I do not want to repeat his presentation.

Mr. Speaker, I just want to speak to two issues that have come up by our colleagues. One is expanded IMET for Indonesia. The issue of expanded IMET for Indonesia is troubling to some Members of this House. The administration strongly supports the provision in this bill which exactly tracks the Foreign Operations Act for this fiscal year. The bill would not allow IMET assistance for traditional purposes. There would be no lethal training.

This bill allows military education and training in Indonesia only for very specific purposes: To foster greater respect for and understanding of the principle of civilian control of the military, to improve military justice in accordance with internationally recognized human rights, and to improve counternarcotics cooperation. The purpose of this so-called expanded IMET is solely to give the United States a better handle in trying to alter the behavior of the Indonesian Government and the military which, of course, is the strongest, most influential institution in the country.

Second, Members interested in arms control have raised questions about this bill, as well. I believe this bill will help improve Congress' oversight of the arms export control process. The bill gives the Congress an additional 20 days' advance notification of arms export commercial licenses and coproduction agreements. It will give Congress the same window on these transactions as it now has on government-to-government sales.

For the first time, it will give the Congress the ability to offer resolutions of disapproval on third-country transfers and on coproduction agreements. For the first time, the Congress will require the executive branch to establish a comprehensive end-use monitoring system on government-to-government arms transfers. For the first time, Congress will put a genuine meaningful cap, $350 million, on the transfer of excess defense articles in a fiscal year. The existing ceiling, $250 million, has just too many loopholes in it.

Mr. Speaker, it is correct that this bill raises thresholds on arms notifications, for example, from $14 million to $25 million on arms sales. The last time thresholds were raised was 1981. So this change is basically in response to inflation.

According to the Department of Defense, this change in the past year would have resulted only in some four or five fewer notifications to Congress per year out of a few hundred, I might say, each year, and all of them to NATO countries.

The bill eliminates grants of international military education and training for wealthy countries. The bill gives the administration more flexibility in the use of limited assistance funds through increases in drawdown authorities and changes in the authorities on antinarcotics and antiterrorism assistance programs. For example, this bill will enable the President to use assistance funds to work with Israel on research and development efforts to combat terrorism.

Mr. Speaker, I also want to commend the chairman, Mr. GILMAN, and the administration, particularly the Navy, on the second part of the bill on naval ship transfers. The Navy has heard the message about the committee's opposition to large numbers of grant ships transfers. The bill before us returns to the traditional pattern of ship transfers. Eight ships in this package are sales, one is a lease, and one to Portugal is a grant. Portugal, of course, is a NATO ally since the beginning of NATO, has provided the United States access to facilities since the 1940's, and last year renewed that access agreement in the Azores.

This package also includes the sale of three 1970 vintage *Knox*-class frigates to Taiwan and the lease of one transport ship to Taiwan. This is part of our longstanding policy under the Taiwan Relations Act to provide defense articles to Taiwan. I strongly support these ship transfers.

Mr. Speaker, I strongly support the overall bill. I urge the adoption of H.R. 3121.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I want to thank the gentleman from Indiana for his supporting remarks.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Speaker, I thank the gentleman from California [Mr. LANTOS] very much for yielding the time.

Mr. Speaker, today we face an international drug problem. Few of us would deny this fact; fewer would stand by idly as the problem grows worse.

I rise in support of H.R. 3121, Technical Amendments to Foreign Assistance and Arms Export Control Acts. I wish to thank Chairman GILMAN and ranking member HAMILTON of the International Relations Committee for their dedicated effort to bring this bill to the floor. I wish to also thank them for adding, at my request, necessary exceptions for Panama to receive foreign military sales to combat the international drug problem.

Ambassador and former Congressman Bill Hughes recently alerted me of the importance for the Panamanian public forces to receive United States military assistance. This is not an attempt on our part to rebuild the Panamanian military, but merely an avenue through which we can halt illegal drug trafficking. Costa Rica, for example, is permitted such funding. We are discovering that when a country acquires the tools to fend off this addictive disease, the cure is always within reach.

I want to thank my colleagues for their support of this exception and this bill. It is another step toward continuing and escalating our war against drugs.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his concern about the war against drugs and for making certain that this waiver was inserted in the measure. We thank him for his support of the measure.

Mr. Speaker, I reserve the balance of my time.

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Mr. LANTOS. Mr. Speaker, I am delighted to yield 3 minutes to the gentlewoman from San Francisco, CA [Ms. PELOSI] my neighbor, friend, and distinguished colleague.

Ms. PELOSI. Mr. Speaker, I thank the gentleman from California [Mr. LANTOS] for yielding this time to me and for his leadership on issues, international issues as well as others, that come before this House. I have great respect for the chair of the committee, the gentleman from New York [Mr. GILMAN], and our ranking member, the gentleman from Indiana [Mr. HAMILTON].

I rise today to express concern about a couple of the provisions of this legislation, H.R. 3121. I do not believe that the bill before us should be on suspension calendar because it covers a great deal of territory and with a minimal amount of debate and consideration on the floor.

My two concerns, one I share with many of my colleagues, is about the enhanced IMET to Indonesia for 1996–97 and my concern about arms control. I listened very attentively to the remarks of the ranking member, the gentleman from Indiana [Mr. HAMILTON], and appreciate the assurances he has given about the increased ceiling in terms of the weapons, the sale, amount of the weapon sales, and the increased discretion given to Congress to intervene in those sales, and I accept his explanation, and I look forward to getting more information that is contained in the bill.

But I would, for the record, like to express concern about the international military and education training for Indonesia for 1996 and 1997. Our colleagues have said that this legislation tracks the Committee on Foreign Operations legislation. Well, it does for 1996.

Many of us on the committee, and I serve on the Foreign Operations Subcommittee, do not think that Indonesia should be getting any IMET. We recognize that there are those who believe that this enhanced IMET for the purposes of fostering civilian control in the role of an army and a more democratic country, et cetera, I do not know if I have defined Indonesia that way, but nonetheless this IMET, enhanced IMET, could be useful. And in that spirit of cooperation we accepted the compromise proposed graciously by our chairman, the gentleman from Alabama [Mr. CALLAHAN], with the understanding that it was only for 1996 and the program would be carefully monitored. We accepted the compromise but remain convinced nonetheless that Indonesia should not receive IMET funds.

Now we see before us, in the bill before us, extending the IMET for 1997 despite the fact the record shows continuing serious human rights abuses by the armed forces in Indonesia that several of our colleagues referenced specifically in East Timor. We will continue the debate on this important issue as the Committee on Foreign Operations considers fiscal year 1997.

I mentioned my concerns about the arms sales and think there could be dangerous consequences, but, as I say, accept the explanation extended by the gentleman from Indiana [Mr. HAMILTON]. While the notification process may be considered cumbersome by some in the bureaucracy, congressional oversight helps insure that the taxpayer dollars are well spent.

Again, I am concerned the bill was placed on suspension calendar with little information to many Members. Passage of the bill does not reflect wholehearted support for some of the provisions it contains; I guess that is a rule of life around here. But I do want to very strongly convey to our chairman that this does not track the foreign ops bill for 1996–97. The foreign ops bill only gave enhanced IMET for 1996, and I hope that the gentleman would join with us in monitoring how that enhanced IMET funding is spent.

Mr. LANTOS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker I rise because of concerns I have to H.R. 3121, amending the Foreign Assistance Act and the Arms Export Control Act.

This bill moves us in the wrong direction. It unnecessarily costs the taxpayers more money and it moves us toward less accountability of arms transfers.

At a time when we are working so hard to balance the Federal budget, it does not make sense to do as this bill does. For the first time, it would require U.S. taxpayers to pay the costs of shipping the excess defense articles we're giving away to other countries.

In a world where our own soldiers are at risk from the very weapons exported by the United States, we should not be promoting increased exports in the ways that this bill does. This bill eliminates congressionally mandated language to ensure that foreign recipient countries use the equipment as intended. That includes, for example, the requirement that excess defense articles transferred for counternarcotics purposes be used primarily for counternarcotics purposes and not for counterinsurgency.

This bill strips Congress of its ability to gauge the human rights situation and to determine if the assistance is likely to be used in abuses. We must be more creative than that in determining ways for our Nation's workers to have jobs. We cannot come to rely on arms exports to such an extent that we ignore human rights.

This is a controversial bill, Mr. Speaker. I object to the process that was used in bringing it to the floor on the suspension calendar and I object to its content. I urge my colleagues to reject H.R. 3121.

Mr. LANTOS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Georgia [Ms. McKINNEY].

Ms. McKINNEY. Mr. Speaker, as a mother and a woman of conscience, I am concerned about U.S. transfers of arms around the world and the impact that those transfers will have 10–15 years down the road, particularly on my son and the other young people of America.

Mr. Speaker, I rise today to express concern about portions of H.R. 3121 that would reduce congressional oversight on arms sales to foreign countries.

Current law governing congressional oversight of arms sales is already feeble—this bill only makes a bad situation worse. On numerous occasions, our soldiers have been sent into war situations where they have had to face hostile forces armed with American supplied weapons.

I am sure everyone recalls Panama, Iraq, Somalia, and Haiti where our fighting men and women were sniped at and killed by weapons we supplied to those countries before they turned belligerent.

Mr. Speaker, while there are provisions in this bill which I strongly support—such as Narcotics control, refugee assistance, and POW/MIA recovery efforts—I cannot in good conscience allow this bill to breeze through this body without careful deliberation.

Every year, the weapons we sell overseas are used against innocent civilians, refugees, political dissidents, and, yes, American soldiers. As the legislative branch, we have the right and responsibility to oversee the transfer of weapons to foreign governments.

This does not mean we cannot supply our allies with the tools to defend themselves, it simply means that we should provide a sobering second thought when the administration is about approve the transfer of lethal American weapons into the hands of foreign governments.

This bill, Mr. Speaker, would increase the threshold at which Congress must be notified for arms sales, from $200 to $300 million. That means the administration would be able to sell $100 million more in guns overseas before Congress must be notified.

Moreover, the bill authorizes the resumption of international military and education training for the Government of Indonesia. Mr. Speaker, it is well known that Indonesia has an atrocious human rights record, especially with regards to the people of East Timor.

For those of my colleagues who aren't aware, the people of East Timor have been subjected to near-genocide, simply because of their opposition to the multinational mining interests who want to expropriate their minerals.

Mr. Speaker, measures such as these should not be dealt with so lightly under the suspension calendar, and Congress should not be so willing to hand over its limited oversight authority to the administration.

While I want to support the good measures in this bill Mr. Speaker, I am afraid that my conscience will not let me vote for a bill that will reduce congressional oversight with respect to the sale of weapons. Moreover, I cannot support a bill which will authorizes the use of American tax dollars to train the repressive military of Indonesia.

As a mother and as a woman of conscience, I urge my colleagues to oppose this regrettably tainted bill.

Mr. LANTOS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield 6 minutes to the gentleman from Nebraska [Mr. BEREUTER], the distinguished chairman of our Subcommittee on Asia and the Pacific.

Mr. BEREUTER. Mr. Speaker, I thank the chairman for yielding me this time.

I would say to my colleagues, the gentleman from Massachusetts, the gentleman from Rhode Island, the gentlewoman from New York, and the gentlewoman from California, if it is not absolutely clear, we are not authorizing IMET for Indonesia. We are authorizing E-IMET, or extended IMET, and not, as one of the gentleman said, enhanced IMET. And, even "extended IMET" really does not convey what the program is, for it is quite different than the original IMET program. The Extended IMET program is the kind of program exactly designed to be used in a country like Indonesia where we do have some human rights concerns which are in part related to East Timor.

Now, let me say first of all that the enhanced IMET program, or E-IMET, is strongly supported by the administration. If you listen to CINCPAC sources, as people in the State Department, the Defense Department generally and other parts of the administration, it is clear that this administration, the previous administration, are supportive of extending the "Enhanced IMET" program to Indonesia. It moves us closer to a positive defense relationship with Indonesia, and, more importantly, it is specifically geared, as the gentleman from Indiana [Mr. HAMILTON] said, to dealing with a country that has human rights problems that trouble us a great deal. The E-IMET program is to foster greater respect for the principles of civilian control of the military. It is to improve military justice and military codes of conduct in accordance with internationally recognized human rights. It is to contribute to responsible defense resource management. It is to contribute to cooperation between the military and local police in the area of counternarcotics.

This is the full scope of the E-IMET program. It is very different than the IMET program, about which objections have been expressed here today.

Now, let me say that I, despite the fact that I believe that Indonesia is playing a very important role in Southeast Asia, that it is strategically located and is a country that has played the key, positive role in trying to resolve the Spratley Islands dispute in the waters off Southeast Asia, despite that, I would not be able to suggest to my colleagues that we ought to approve the traditional IMET authorization. But there is this to be said for what is happening in Indonesia:

There are substantial signs of greater judicial independence, there is NGO activism in the last 12 months, there is a human rights commission that has been established, primarily because of outside interests, the human rights community, and the United States of America. Human rights practices remain certainly imperfect, but the E-IMET program is specifically designed primarily to push Indonesia and other countries toward better human rights practices.

So I think that, in fact, our colleagues should feel very good about authorizing "Enhanced IMET" program for Indonesia. And by the way, it is identical to the existing law in the foreign operations appropriation bill as well as the authorization bills passed by both the House and the Senate.

I understand a couple of my colleagues—the gentlewoman from Connecticut, the gentleman from Florida—might like to engage in a colloquy here. Is that correct?

Mr. Speaker, I yield to the gentleman from Florida if he wishes to engage in this discussion.

Mr. SHAW. Mr. Speaker, I had not intended to be in the debate on this particular issue until I heard the questions of what I consider to be tremendous exaggerations as to what is going on in East Timor. I had the privilege of visiting East Timor for several days just a few months ago, along with Congressman JOHNSON and the gentleman from Texas, Mr. ARCHER. We saw firsthand the fact that there are not these huge breaches of human rights, and we did not see these breaches of human rights as referred to.

As a matter of fact, one of our Members went and spoke to a Catholic priest, and, by the way, most of Indonesia is Muslim, this is mostly Catholic. As a matter of fact, there is the second largest statue of Jesus in the entire world being constructed—in process of being constructed—in East Timor.

I went to a Catholic priest who actually favored independence, but he verified the fact that the human rights record was certainly improving and that he did not see these tremendous violations of human rights.

Mr. BEREUTER. Mr. Speaker, I yield to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. I think it ought to be also in the record that the government of East Timor is a Timoran, well respected by the people of that island, and Indonesia has a way of sharing the benefits of mining and timber throughout the islands of Indonesia. So development money is coming in, and not only are they beginning to deal with the terrible economic problems of this island, but they are beginning also to deal constructively with the human rights issues.

Mr. BEREUTER. Mr. Speaker, I thank the gentlewoman.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Florida, the gentlewoman from Connecticut, the gentleman from Nebraska for straightening out some of the background on East Timor and the IMET Program.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. MANZULLO], a member of our committee.

Mr. MANZULLO. Mr. Speaker, this is an interesting bill, and I rise in full support of it, H.R. 3132.

The last title, title 2, that appears on page 50, represents an incredible set of events that took place in our Committee on International Relations several months ago. I raised the concern several months ago, along with the gentleman from Kansas [Mr. BROWNBACK] that a request of an admiral would come before the committee on a relatively routine, in his mind, and in the past a routine, procedure of simply asking the House of Representatives to give away ships.

As I sat there and listened to the admiral talking about giving away these ships, it dawned on me—why is the United States in the business of giving away ships when, in fact, we can simply sell these or lease them, and at that point the particular bill was pulled. The people who were working on it decided that perhaps we should do something different, and as a result of that, there was a committee hearing held March 21, 1996, before the Committee on International Relations and this time this particular bill was before our committee, and that is to sell ships or to lease them to Egypt, Mexico, New Zealand, Portugal, Taiwan, and Thailand, and I asked the person from the Department of Defense, the fact that they are now requesting a sale or lease of the ships, is this in direct response to the inquiry that Mr. BROWNBACK and I had over our consternation that our country was giving away excess ships. And the answer by Mr. Caines was, "Very much, sir."

He said, "We have understood what the committee and the Congress have said, and therefore you will see that in that package, which I believe includes a total of 10 ships, there is only one grant, sir. There are eight sales and one lease."

This particular bill brings in revenues to the U.S. Government in excess of one-half billion dollars, and what this amounts to is that the U.S. Navy has now changed its policy so that henceforth any excess ships are not routinely given away, they are now sold or leased to our trading partners overseas.

This is a good bill. It is a revenue generator. It is going to make a lot of money for this country, and it is good, sound foreign policy.

So I would encourage my colleagues wholeheartedly to support the passage of H.R. 3132.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his supporting comments.

Mr. Speaker, I believe that this has been a good, sound debate on the bill. I am pleased that many of our colleagues have had an opportunity to participate. I thank the gentleman from California [Mr. LANTOS] for his supporting remarks.

This bill does make important changes in defense and security assistance authorities, and I am calling on my colleagues to support the measure.

Mr. REED. Mr. Speaker, I recognize the importance of the issues that the House of Representatives is addressing today as it considers H.R. 3121.

However, I must object to certain provisions of H.R. 3121 and the manner in which it has been brought before the House. This measure authorizes enhanced International Military and Education Training [IMET] for Indonesia, which is committing flagrant human rights abuses against the people of East Timor.

More than 20 years ago, Indonesian troops invaded the small country of East Timor, beginning a storm of violent occupation and repression that continues today. I believe that we must stand with the East Timorese against these unconscionable acts, and I am concerned that by providing enhanced IMET to Indonesia, we may send a dangerous message to the leaders of that nation.

In addition, by bringing H.R. 3121 to the floor under suspension of the rules, we will not have a full and open debate on IMET and Indonesia's aggression against the East Timorese. The suspension calendar should be reserved for non-controversial legislation. In my opinion, H.R. 3121 does not meet this test.

I regret that this afternoon, the House is not giving these issues the attention they deserve. In the months to come, I will continue to work to assist the long-suffering people of East Timor, and I urge my colleagues to join me in this effort.

Mr. HALL of Ohio. Mr. Speaker, while I support the majority of the provisions in H.R. 3121, which makes various technical amendments to the Foreign Assistance Act and the Arms Export Control Act, I strongly oppose the section which authorizes the resumption of International Military and Education Training [IMET] funds for Indonesia.

I have been protesting the human rights abuses in East Timor for some time now. Last December marked the 20th anniversary of Indonesian invasion of East Timor. Recently, the situation on the ground there has been getting worse not better. It is sobering to reflect that over the last 20 years at least 100,000 and perhaps more than 200,000 people have been killed out of a population of less than 700,000. While the vast majority of these deaths took place before 1980, harsh repression continues. The world witnessed this first hand when the 1991 Santa Cruz massacre in which the Indonesian military killed over 200 unarmed individuals was recorded by journalists.

Congress banned IMET funding for Indonesia to protest human rights abuses in East Timor. The situation has not improved and the U.S. Congress should not change this policy. It is my hope that we can prevent the funding of IMET for Indonesia in the appropriations process.

☐ 1445

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CAMP). The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and pass the bill, H.R. 3121, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3121, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has concluded on all motions to suspend the rules. Pursuant to the provisions of clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 2337, de novo; and House Resolution 316, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second electronic vote after the first such vote in this series.

TAXPAYER BILL OF RIGHTS II

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2337, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Connecticut [Mrs. JOHNSON] that the House suspend the rules and pass the bill, H.R. 2337, as amended.

The question was taken.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic devise, and there were—yeas 425, nays 0, not voting 7, as follows:

[Roll No. 119]

YEAS—425

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Torkildsen
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—7

Becerra
Gutierrez
Hunter
Richardson
Tiahrt
Torres
Wilson

□ 1507

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CAMP). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair had postponed further proceedings.

DEPLORING INDIVIDUALS WHO DENY HISTORICAL REALITY OF HOLOCAUST AND COMMENDING ONGOING WORK OF UNITED STATES HOLOCAUST MEMORIAL MUSEUM

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, House Resolution 316.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada [Mr. ENSIGN] that the House suspend the rules and agree to the resolution, House Resolution 316, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 12, as follows:

[Roll No. 120]

YEAS—420

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden

Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Rose
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Torkildsen
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—12

Becerra
Brewster
Gutierrez
Horn
Hunter
Myers
Richardson
Ros-Lehtinen
Roth
Tiahrt
Torres
Wilson

☐ 1514

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GUTIERREZ. Mr. Speaker, at the end of the afternoon of Tuesday, April 16, 1996, I was unavoidably absent from this Chamber and therefore missed rollcall vote No. 120—deploring individuals who deny the historical reality of the Holocaust and commending the vital, ongoing work of the U.S. Holocaust Memorial Museum and rollcall vote No. 119—to amend the Internal Revenue Code of 1986 to provide for increased taxpayer protections. I want the RECORD to show that if I had the opportunity to be in this Chamber when these votes were cast, I would have voted "yea" for both rollcall vote No. 120 and rollcall vote No. 119.

PERSONAL EXPLANATION

Mr. TIAHRT. Mr. Speaker, earlier today I was unavoidably detained. Had I been present, I would have voted in the affirmative on rollcall vote No. 119 (H.R. 2337) and rollcall vote No. 120 (H. Res. 316).

PERSONAL EXPLANATION

Ms. ROS-LEHTINEN. Mr. Speaker, I was unavoidably absent for the final vote on Tuesday, April 16. I would have voted "yes" on rollcall vote 120.

PERSONAL EXPLANATION

Mr. HORN. Mr. Speaker, on rollcall No. 120, I regret having been unavoidably detained in a meeting with constituents, which prevented me from voting aye in support of House Resolution 316: Deploring individuals who deny the historical reality of the Holocaust and commending the work of the U.S. Holocaust Memorial Museum.

This is particularly ironic since I have spoken out for over two decades about the foolishness and evil of those who deny the Holocaust and the murder of 6 million Jews in Nazi-controlled Europe during the Second World War.

Had I been present, I would have voted "aye."

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1972

Mr. QUINN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1972.

The SPEAKER pro tempore (Mr. COBLE). Is there objection to the request of the gentleman from New York?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1963

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that my name be removed from H.R. 1963, the Postmark Prompt Payment Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

A TRIBUTE TO SOPHIE REUTHER

(Mr. TORRES asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. TORRES. Mr. Speaker, I rise today to honor and pay tribute to a great American woman, Sophie Reuther, who passed away on February 20 of this year. This past Saturday, approximately 150 people, friends and family, gathered at the Reuther home to celebrate the life and lessons of this remarkable woman. Trade unionists from afar, from California, from Ohio, from Minnesota, from Michigan, from New England, from Canada, gathered to retell stories about Sophie's life, her hopes, her aspirations. She was a full partner with her husband Victor as they struggled for social and economic justice for workers in America and throughout the world. They were the true pioneers in the organization of the United Auto Workers of America.

Mr. Speaker, there are not enough words for me to tell about Sophie Reuther, who I had the privilege to know. I therefore ask my colleagues to read about her legacy in a New York Times obituary.

Mr. Speaker, I include this article for the RECORD, as follows:

[From the New York Times, Feb. 23, 1996]

SOPHIE REUTHER, A SOCIAL AND LABOR ACTIVIST, IS DEAD AT 82

(By Robert McG. Thomas Jr.)

Sophie Reuther, a social activist who captured the head of the United Auto Workers' co-founder, Victor Reuther, and then proved her mettle as a union organizer during the violent labor wars of the 1930's, died on Tuesday at a hospice near her winter home in Ft. Myers, Fla. She was 82 and had been Mr. Reuther's full partner in labor and in life for 59 years.

When they met in December 1935 at the Brookwood Labor College in Katonah, N.Y., where she was a student and he a visiting lecturer, Mr. Reuther was a dashing labor figure who had spent three years traveling around the world with his older brother, Walter, and had helped him found the U.A.W. earlier that year.

"I think she was impressed," her husband said yesterday, acknowledging that the feeling was more than mutual. She may not have had his credentials as a union founder, but as the daughter of Polish refugees who died when she was 15, Sophia Goodlavish, or Sophie Good, as she was known, had already made a mark for herself in labor circles.

A native of Middleboro, Mass., she had her first taste of organizing while working at a shoe factory and had later so distinguished herself in raising money for unionized workers during a shipyard strike that Norman Thomas, the Socialist leader, had recommended her for a scholarship to the labor college.

"She was a very prim young woman with a fund of social idealism," Mr. Reuther said, offering a courtly labor man's declaration of what he acknowledged was love at first sight.

Mr. Reuther, who had been profoundly lonely since his brother's recent marriage, said he was so afraid he would never see her again after her short term ended that he proposed.

She accepted, and six months after their marriage in July 1936, Mrs. Reuther, using the name Good to hide her connections to a high union official, was sent by the U.A.W. to Anderson, Ind., to help bolster support for a strike at a General motors plant.

At one point, Mr. Reuther said, while he was on his way to Anderson, his wife had to jump out a second-story window to escape an armed band of Ku Klux Klansmen who stormed the union headquarters at the urging of management officials.

"She went underground and it took me three days to find her," he said. Before the year was out, he and she along with his brother Roy, were purged during an intra-union fight that lasted until the Reuther faction regained power two years later.

Walter Reuther, who remained in office during the purge, also remained a marked man.

In April 1938 two gun-wielding anti-union thugs forced their way into Sophie Reuther's 25th birthday party at Walter Reuther's Detroit apartment (a delivery of Chinese food had been expected) and began pistol whipping her brother-in-law until a guest scrambled out a second-story window and began shouting for the police.

When the police, widely assumed to be in the pay of the auto makers, began a perfunctory investigation and asked Mrs. Reuther to describe the thugs, she did not miss a beat. "They looked very much like you," she said.

In 1951, after an attempt on Mr. Reuther's life, the family including three children, moved to Paris, where he spent three years as the Congress of Industrial Organization's European director.

They moved to Washington in 1954, when Walter Reuther took over as U.A.W. president and Victor became his special assistant and director of international affairs.

Although Mrs. Reuther held no official union position after 1937, she remained very much a union woman, so much so that when her husband, who she believed had been neglecting his domestic duties, returned from one of his frequent trips he found a list of her demands written large in rug shampoo on the living room carpet.

Known as a woman who recognized no limitation on what she could do, Mrs. Reuther obtained a fine arts degree from George Washington University at the age of 55 in 1968 and was a Robert F. Kennedy delegate to the Democratic National Convention that year.

It was during an official union visit to India that year that Mrs. Reuther left her husband with the enduring image of her humanity. At a mine near Calcutta, he recalled, a miner's widow, an untouchable, approached his wife, bent down and kissed her shoe.

Then, in a breach of caste protocol, "my Sophie reached down and lifted the woman up and embraced her." Mr. Reuther recalled. "The women were shocked. The men were shocked."

"That was my Sophie," he said. "She felt a kinship with the suffering of all people."

In addition to her husband, Mrs. Reuther is survived by a daughter, Carole Hill of Cowden, Ill.; two sons, Eric, of Washington, and John, of Moscow; a brother, Edward Bezuska of Warren, Mich, and six grandchildren.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

GETTING GOVERNMENT OFF THE BACKS OF AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. FOLEY] is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, I certainly appreciate the opportunity, and we are glad to be back in our Nation's Capital, and obviously it is tax week. April 15 has come and gone, and the American public has obviously hopefully filled out all of their appropriate papers. But it gives us cause to look at Government and talk about how we are trying to make a difference here in Washington, trying to get Government to look at itself and reflect on what its true mission is, to look at all levels of spending, to look at all that we do in trying to determine what is the most appropriate role for the Federal Government, what would be best reserved for the States, what would we expect from our leaders.

I am particularly pleased that the National Taxpayers Union released its report on Congress. The National Taxpayers Union released its ratings from the 1995 session of Congress, the first of the 104th. I was proud to note 78 Members of this body scored an A rating. I was particularly delighted in the fact that 33 Members of the freshman class were A rated this year.

In their release, the National Taxpayers Union suggested that Members did not only talk about reduction of spending in their districts, they emphasized it here on the floor of this Chamber. They showed by their deeds and by their actions their commitment to reducing the size and scope of Federal Government.

Yes, we need to make priorities. Yes, we need to seek the direction that this Nation hopes to accomplish. But, by these ratings, we have clearly indicated, at least this Member personally, that we are prepared to make the tough votes, to bring us in balance in our Nation.

We are spending in excess of $200 billion a year that we do not have. We have a $5 trillion national debt. It is costing us $300 billion in interest payments on the debt alone to service that debt. Even in the year 2002 when we fully balance the treasury and we do not have more going out than we have coming in, we will still have in excess at that point of $6 trillion in debt.

Now, when you are spending $300 billion alone this fiscal year on interest payments, no principle reduction, you are clearly spending that $200 billion, and you are spending in excess $100 billion further in reducing the debt. Without that $300 billion you would have a surplus revenue to the treasury of over $100 billion.

So part of the significant concern is reducing the debt, ratcheting it down, much like an individual does on a 30-year mortgage. They start paying down the debt, small incremental principle reductions, in order to bring down that devastating debt burden on our Nation.

If the Members would think of $300 billion of free flow cash that could be used to enhance programs, actually you would have $100 billion, but you take that toward education, pre-K programs, Head Start, things vitally important to getting our Nation's youth up and running so they enter first grade with reading and writing skills, basic skills, in order to become productive.

I talked a little bit about what we tried to do in the crime areas in this Nation. It is time we stop coddling the criminals. I was entirely depressed the other day when I read the story about the gentleman from Texas who had committed sexual offenses against minors, who was being released from prison, and readily acknowledged that he would commit the crimes again. In our society we suggest that he be released and we put a monitoring bracelet on him.

Here is a man that indicates he is going to perpetrate crimes against children, he may kill his next victim, and our Nation releases him. The penal system in Texas releases him because they claim they cannot hold him any longer. The mere utterance of the fact that he threatened bodily injury on another human being I think should have proven beyond a reasonable doubt that he should have been held in custody.

If we are going to get tough on crime, we are having to get tough on sentences like this, where they are releasing perpetrators of serious felonies against children out into our society. We are not going to prove to the young people of America that crime does not pay, if in fact they witness daily people being released by judges, released by prisons, serving half the time allocated by the judge, serving 25 percent of the allocable time.

We tried to mandate we will not provide prison funds for States if they do not require serving 80 percent of sentences. We come up with gimmicks like "three strikes and you're out." What is wrong with the first strike? Why do we need baseball metaphors to feel safe in our homes? Why not put them away the first time.

When kids bring knives and guns to school, do not suspend them from campus. Do not send them home into the communities with guns and knives so they can rob homes while we are working. Put them in a boot camp. No marine wants to go back to basic training. Once they have completed it, they never want to return to basic training.

The same could be held for our young juvenile offenders. If in fact they commit these types of crimes, put them in a boot camp and make them serve a sentence so they will not commit a crime again or will think twice about it.

We can make a difference in America in this Congress. We can get tougher on criminals. We can balance the budget and save the Nation from fiscal collapse. But we must act now in the week of IRS' big gulp. Let us get the taxes reduced and Government off our backs.

TRIBUTE TO THE LATE THOMAS JAMES PETTEWAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. FRANKS] is recognized for 5 minutes.

Mr. FRANKS of Connecticut. Mr. Speaker, Thomas James Petteway was a civic leader who was needed at his time, but he was also a civic leader who was truly ahead of his time. And for all of us who knew and loved him, Tom will be missed by us all the time.

For his sisters and brothers, in-laws, nieces, and nephews and the many cousins, especially those that make up the branch of the Petteway family, now led by my mother Jenary Petteway Franks, we all loved Tom Petteway.

But Tom was easy to love. Family came first with Tom, And he loved his family.

He as a likable person. He was a good, decent individual.

Anything Tom Petteway did, he did it well, And he did a lot. He served his country in the Army during WWII with distinction. He later presided over an area veterans club. He was an active member of the community.

Tom was an active member of the Republican Party. Back when Tom registered to vote most blacks registered with the Republican Party. Unlike many, Tom stayed with the Republican Party over the years.

I remember white old timers in the Republican Party telling me stories about Tom Petteway.

I remember blacks, like Kay Wyrick, telling me about the Black Republican Club in which Tom headed at one time.

Whites and blacks talked of Tom with sincere affection and admiration. But who could not remember his distinctive voice. Tom was a proud, articulate, well-educated man whose mere presence was felt by all whenever he appeared in a room.

Tom served the city of Waterbury in an official capacity as a member of the Welfare Board.

He served as president of the Waterbury Chapter of the NAACP during one of the most contentious civil rights periods.

Without any doubt Tom Petteway distinguished himself as one of Waterbury's leading black civic leaders.

Tom Petteway was a pioneer. Tom Petteway was ahead of his time.

It was easier for my generation of black leaders because of people like Tom Petteway.

That is why people from my generation need to pause and thank people like Tom Petteway for blazing the trail for us.

And, I do that again today.

When I was starting out in Republican politics back in the early eighties, it seemed as though Tom was always at the big events.

He offered me a great deal of encouragement and he also gave me little tips from time to time, like for example: He said you may go to a meeting but what you may not realize is that there may have been a meeting before the real meeting in which you were not invited.

It was not long before I too found that to be true.

When the big Republican events turned out to be events for me, Tom was always there to offer his support. He was not feeling well all the time but he was always there.

As a Congressman I frequently made it my point to stop by the West Haven Veterans Hospital to see my cousin Tom. And, he was well known there too.

Tom Petteway was a leader in this time. Tom Petteway was ahead of his time.

But for those who knew Tom, we are grateful that he lived during our time.

□ 1530

REMEMBERING SECRETARY RON BROWN AND THOSE WHO PERISHED WITH HIM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, I rise today to remember still, as we are all still feeling, those who were on the plane with Secretary Ron Brown. It was a loss that this country feels now and is going to feel for quite a long time.

In West Virginia we feel this deeply, the lose of the Government personnel, the military personnel, the private sector personnel. In addition to Secretary Brown we lost William Morton of Huntington who was buried Saturday in Huntington, who was long time involved in so many things that made this country great: political campaigns and working with Secretary Brown in a number of capacities.

He grew up and graduated, went to Huntington High School and went on to make his mark in so many different areas. I give thanks for his life and that of Ron Brown's. With Secretary Brown he was a man of composure, a man of pragmatism, a man of obvious intelligence, and a compassionate man.

So many stories that each of us has about Secretary Ron Brown. I remember one. He visited Martinsburg, WV, at my request somewhere around 2 years ago. We had a celebration, he was kicking off a compressed natural gas vehicle caravan. We had bands out there, and there were two little children that were making presentations.

I still remember that Secretary Brown was there surrounded, by Members of Congress and the State leadership and the city leadership and the county leadership, and everybody's in a suit looking very official, and these two little girls. One of the little girls was making a presentation in the microphone, and of course she was dressed in her Sunday best, and she was a little awed by all of this and she had trouble with a couple of her words. Secretary Brown nodded very patiently, went over and leaned over and said take your time. Just take your time. She smiled and finished like a champ.

Secretary Brown was, we liked to kid him, he was a property owner in West Virginia owning property in the Canaan Valley. But I think what he will be remembered for, so much he will be remembered because more people are working today in this country because of Ron Brown. There are more opportunities for people today in this country because of Ron Brown. There are more jobs that have been created in this country today because of Ron Brown. There are more trade opportunities here and abroad because of Ron Brown.

The Commerce Department, which has been a traditional backwater for many years, is a thriving vibrant department today because of Ron Brown. In so many areas we see his hand and we are going to miss that guiding hand.

The testimony of Ron Brown, well, there are so many testimonies, but I know one. As well as being a member of the Democratic Party, he is the one who put us back on track. He took a demoralized party and turned it, in just a few short years, to one that won the Presidency for the first time in 12 years. A tribute to Ron Brown is how many of us, how many people who came in contact with him called him friend.

I was at a meeting in Missouri this week, Republicans and Democrats alike, as well as foreign parliamentarians, and Ron Brown's name came up. And all of us stopped and every one of us had a story to tell about Ron Brown. Every one of us wanted to tell that story. Every one of us knew him as friends. Ron Brown was our friend. He was a friend of America's and we miss him. We miss him, very, very much.

THE RICKY RAY HEMOPHILIA RELIEF FUND ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, a majority of the House now agrees that we should provide compassionate assistance to the 8,000 victims of hemophilia-associated aids. The Ricky Ray Hemophilia Relief Fund Act—which establishes a compensation program for the victims of this tragedy—now carries 219 bi-partisan cosponsors. I introduced the Ricky Ray Bill—which is named for a constituent who was 15 when he died of hemophilia-associated Aids in 1992. We started with two dozen sponsors.

But each week for the past year the support for this measure has grown thanks to the awesome grassroots participation of the victims of hemophilia-associated Aids, their families and their friends. These folks have put aside their differences, rallied together and learned to use the legislative process to further their goals. I am extremely proud of their work and pledge to redouble my efforts to make sure this bill gets heard during this Congress.

Hemophilia is an inherited blood-clotting disorder causing serious internal bleeding episodes that, if left untreated, can lead to disfigurement and even death. To help control and prevent such bleeding, hemophiliacs rely on blood-products, which are manufactured and sold by pharmaceutical companies. Because these products are made from the pooled blood of thousands of people, the potential for infection with blood-borne disease among those who use them is very high, something that has been well-known for decades. In fact, since the 1970's, the hemophilia community has grappled with the serious consequences of hepatitis, a debilitating chronic illness. But in the early 1980's, a much more deadly villain struck, as nearly one-half of all people with hemophilia in the United States became infected with the virus that causes aids. Today they are dying at a rate of about one each day.

Mr. Speaker, we have long argued that the Federal Government shares responsibility for this devastating situation, because it failed to respond to the early warning signs that Aids was transmissible by blood and blood products. During the early years of Aids, repeated opportunities to reduce the likelihood of contaminated blood entering the supply of blood products were missed.

This conclusion was supported by a 2-year study, conducted by a distinguished panel at the institute of medicine. In a report entitled "HIV and the blood supply," the IOM panel concluded that the Federal agencies missed opportunities to protect the public health because they consistently chose the least aggressive response to the early warning signs. The report concluded that the system—which was charged with protecting the blood supply, ensuring the safety of manufactured blood products, and informing the public of risks—failed to deal with the relatively well-known problem of hepatitis and was therefore unprepared to confront the crisis of Aids. Mr. Speaker, the premise behind the Ricky Ray bill is that the Government has a unique responsibility for regulating the safety of blood products, based on a Federal blood policy and several major statutes that establish the regulatory framework for blood.

Members should also understand that the legal system classifies blood products in a unique way. Even though they are commercially marketed and sold, blood products enjoy special status under the so-called "blood shield" laws of every State, which protect against product liability lawsuits.

Given these facts, we have concluded that Government has a unique obligation to assist the victims and so the Ricky Ray bill authorizes the creation of a trust fund, administered by the Attorney General, to provide $125,000 in assistance to each victim who meets strict eligibility criteria.

The trust fund would sunset after 5 years, would be capped at $1 billion and would be subject to funding through annual appropriations.

Mr. Speaker, the United States has yet to set up an assistance program, even though more than 20 other nations have done so. Just last month the Government of Japan and five drug companies—including several American firms—agreed to provide the equivalent of $430,000 to each of the estimated 1,800 victims in Japan, with the government paying 44 percent and the companies paying 56 percent.

It is time the United States took its share of responsibility for what happened to 8,000 American hemophiliacs during the 1980's. Please join the majority of bipartisan support of the Ricky Ray Hemophilia Relief Fund Act.

SEEKING AN HONEST DEBATE ON THE ISSUES WITH REGARD TO BILINGUAL EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam [Mr. UNDERWOOD] is recognized for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, today I would like to respond to assertions that English-only proponents are making about bilingual education in their efforts to advance their cause.

Yesterday a Member came to this floor to praise Mr. Thomas Doluisio, for his fight against bilingual education. The Member went on to say that the National Association of Bilingual Education officially condemned Mr. Doluisio at their 1994 convention. This information, taken from a Wall Street Journal editorial by John Miller of the Heritage Foundation and Center for Equal Opportunity, is not accurate. The National Association of Bilingual Education has never condemned any individual officially or otherwise, including Mr. Doluisio. His story may have been discussed among bilingual educators, but this is a far cry from official condemnation by a respected national organization. I am informed that a letter was sent by the National Association of Bilingual Education refuting the Wall Street Journal article.

There have been other statements made by English-only proponents that I take issue with. One of the statements continuously used by English-only advocates is that bilingual education costs the taxpayers $8–$12 billion a year. This figure is inaccurate and is an exaggeration of the costs of educating bilingual children. The $8–$12 billion is the total cost of education for children who are limited English proficient, not just students being taught in bilingual programs. Furthermore, it multiplies the total cost of educating these children not just the marginal cost of bilingual education. If we wanted to save $8–$12 billion, we'd have to kick these 2.3 million kids out of school entirely!

In fact, the Institute for Research in English Acquisition and Development Journal, funded by U.S. English, an English-only advocacy group, has now come forth and stated that the $8–$12 billion figure is misleading. The true cost of bilingual education is the additional funds necessary to shift from a monolingual English program to a bilingual program. The total Federal expenditure for bilingual education is $156 million not $8–$12 billion.

This week the other body will debate the Immigration Control and Financial Responsibility Act. During that debate, an amendment to include an English-only requirement will be offered. It is clear from this maneuver that proponents would rather dodge a floor clear from this maneuver that proponents would rather dodge a floor debate on a separate English-only bill. The administration has recently announced its support of the Senate immigration bill, but if English-only language is included members of Clinton's cabinet are certain to recommend a veto.

I am not pointing these things out in an effort to discredit those who are not being totally honest in their arguments. What we seek is an honest debate on the issues, not a war of anecdotes and imaginative mathematics. Let's stick to the facts and keep fiction out of this debate.

□ 1545

I dare say that I am probably the only Member of this institution who has been a bilingual education professional, and if anyone in the House wants to understand bilingual education at its very basic and grassroots levels, I stand open to be contacted.

D.C. EMANCIPATION COMMEMORATION SPEECH

The SPEAKER pro tempore (Mr. COBLE). Under a previous order of the House, the gentleman from Illinois [Mr. MANZULLO] is recognized for 5 minutes.

Mr. MANZULLO. Mr. Speaker, today commemorates one of the most significant events that has ever taken place in the history of this great country. One hundred thirty-four years ago today Congress emancipated over 3,000 slaves owned by residents of the District of Columbia. This city's slaves were the first to be freed in our country—9 months before President Abraham Lincoln's Emancipation Proclamation took effect on January 1, 1863.

Sometime in the early 1860's, while this Nation was embroiled in a civil war, a conversation took place between Senator Charles Sumner of Massachusetts and President Abraham Lincoln. Sumner asked the President, "Mr. President, do you realize who is the largest slaveholder in the United States?" The President had to think, and the Senator said, "It is you, Mr. President."

At the time there were over 3,000 slaves in the District of Columbia who were stuck in slavery and bondage and could be freed by an act of Congress. That conversation began a monumental epic in the history of this country. Within a short period, the House of Representatives and the Senate passed legislation, and on April 16, 1862 President Lincoln signed the D.C. Emancipation Proclamation.

Mr. Speaker, let me read to you from a history of the Nation's Capital written by M. Bryant in 1960 that explains the significance of the D.C. Emancipation Proclamation. He said:

> The proclamation brought to a close an issue about which the anti-slavery Congress had raged for years. As well as placed on the statute books the preliminary measure of what proved to be national policy that would not merely destroy the chains from the slaves, but raise them to civil and political equality.

That was done with an act of Congress.

The Congress could not really set free the slaves in the District of Columbia though. What Congress did was to recognize what God intended from the beginning: that all men are created equal, and all men are created free. All Congress could do was to recognize that which God had intended.

Abraham Lincoln affixed his signature to that great document. That began the pealing of bells in the District of Columbia. The pealing of the bells said the Nation's Capital shall no longer be a stronghold for slavery.

Here are the words of the document that was the precursor of the Emancipation Proclamation:

> Be it enacted by the Senate and the House of Representatives of the United States of America, in Congress assembled, that all persons held to service or labor within the District of Columbia by reason of African descent are hereby discharged and freed of all claims of service of labor. From and after passage of this Act, neither slavery or voluntary servitude shall hereafter exist in said district.

Those were the words.

Nine months later he did something else quite significant. Spurred on by Congress to set the slaves free in the District of Columbia, President Lincoln, by Executive proclamation, issued the Emancipation Proclamation. Two years ago, I took to the Library of Congress my family and Loretta Carter Hanes—the wonderful lady who, along with her son, Peter, has revived the D.C. Emancipation Commemoration ceremony in this city. There, we read the words of one of the original drafts of the Emancipation Proclamation. It was an extremely moving event. Reading these words, Loretta's knees buckled and she turned to me and said: "I have to sit down because of the majesty of seeing one of the original drafts penned by Abraham Lincoln."

This is one of the few documents Lincoln signed with his full first name, "Abraham". Lincoln did this because he wanted these two documents, the two Emancipation Proclamations, to be among the most remembered and revered of everything that he signed into law as a President. Listen to these words:

> That on the first day of January, in the year of our Lord, 1863, all persons held as slaves within any State or designated part of a State, the people whereof shall then be remanded as the United States, shall be thenceforward and forever free.

REPUBLICANS CARE ABOUT THE ENVIRONMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA. Mr. Speaker and my colleagues, I took to the floor earlier today in response to charges from the other side.

With Earth Day coming up, the other side is bashing Republicans. Republicans are going to hurt the environment. They send an incorrect message to the American people. Let me take, if I may, a few minutes and set the record straight.

First of all, probably most of the Members and the young people who have come here to serve in Congress do not realize, Mr. Speaker, that in fact the Environmental Protection Agency is a Republican idea. It was started and proposed by President Nixon in 1972. But the idea was not to create a huge bureaucracy. The idea was to set some national standards, because Republicans want clean air. Republicans want clean water. Republicans want clean land. We have children. We breathe the air. We drink the water. We want our children to inherent a land that is environmentally protected and clean and secure.

So it is a Republican idea that we are talking about. But the idea was not to pay more and get less. In fact, the Republican idea was to set some national standards of regulation. But let us look at what has happened. Just take a minute and look at this. Since today, we have 18,000 Federal bureaucrats in the Environmental Protection Agency, not to mention thousands of contract employees, and their job is to pump out rules.

You think they might be in my State of Florida, but in fact they are scattered throughout 10 regional offices and 1,000 at a clip there. Then here in Washington, DC, we have 6,000 EPA employees within almost speaking distance of my voice.

Mr. Speaker, we have 6,000 EPA Federal bureaucrats who, again, their responsibility is to pump out more rules and regulations and justify their bureaucracy and their rulemaking ability. So we have seen that bureaucracy grow. In 1972, we did not have 47 of the 50 States that have full-blown environmental protection agencies. Almost every city, every county, every State has full-blown authorities.

Let us look at the programs that they talk about, the gentleman from New Jersey came back and talked about. Do these programs work? Are we making polluters pay? Look at this headline from 1993: "EPA Lets Polluters Off Hook." So polluters are not paying under the current law. So this misinformation is incorrect.

These are the facts. Now, of the sites that we have in Superfund, a program which was well-intended, are we cleaning up the Superfund? Wrong. Look at the number of sites. We have over 2,000 sites, and only a handful have been cleaned up at great expense. So we are not cleaning up the sites, and that is according to GAO reports. They do not want to deal with the facts. Then a GAO report that was released in 1994, it says: "Are we cleaning up the sites that are most hazardous to public health, safety and welfare? And the answer is no."

The report says EPA does not use risk to set priorities. You know what drives the cleanup? Political pressure. That is what this report says. That is what Republicans are trying to change. We say why pay more and get less? Superfund is a disaster. You know who gets the money in this? The lawyers and the people who do studies. About 80 percent of the billions of dollars that are expended on these programs go to the lawyers and the studies.

Mr. Speaker, I sit on the committee that oversees EPA. You know who does the studies? Another report by the General Accounting Office showed that the largest percentage of contractors are former EPA employees. An incestuous relationship. So this is what they want to keep. They want to keep the pollution. They want to let the polluters off the hook. They do not want the sites cleaned up that are hazardous to our children and our future. They want to pay more and get less. They want the attorneys and these fat cats from EPA who have gone into the private sector to keep milking the cow because the taxpayers are paying. This is what the argument is about, and the American people and this Congress must listen.

Republicans care about the environment. Republicans care about the land and the water and the air we breathe. The thing is, we are not getting our money's worth. The thing is, people are out there busting their buns to send money to Washington, and this is where the billions are going and the hazardous waste sites are not being cleaned up and priorities are not being met and promises are not being kept.

THANK YOU TO MY WIFE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, my colleagues and the broad C-SPAN audience of a million people or more, sometimes a million and a half when we are having a hot debate here on public policy, I watch in 1-minute speeches at the beginning of some days hear Members from both sides of the aisle get up and proudly talk about a little league team, a professional basketball team, a professional baseball team, or some worthy American citizen in their district who has passed away who lived a great life and contributed to the overall greatness of our country and to the benefit of their fellow citizens. But today I rise to do that very thing for someone very close to me, my wife. Today is her birthday, but it is also our 41st wedding anniversary. Last year it was the day that I declared for President in the city of my birth, the island of my birth, Manhattan, in New York City.

It was Easter Sunday last year, the 16th, and we went to mass in the beautiful cathedral where I was baptized, the seventh largest church in the world, St. Patrick's Cathedral in New York. On that beautiful Easter Sunday, we went up to the baptismal font where I became a Christian and we retook our wedding vows, and this last year has been one of the most exciting, delightful years of my life, running, fulfilling a boyhood dream for the Presidency of this great United States.

Mr. Speaker, I just want to thank my wife for putting up with an Air Force fighter pilot who ejected twice, saved a couple other aircrafts, landing in dangerous conditions without any power, dead-sticking, almost lost at sea once, traveling around the world in dangerous areas. The plane that killed our Commerce Secretary Ron Brown was the very airplane that Mr. CALLAHAN flew on not 4 weeks before, 3 weeks and 6 days before. Four times I flew with that same wonderful Air Force crew. About seven of the eight on that crew were with SONNY CALLAHAN's crew and BOB STUMP of Arizona and myself. Great, fine young people.

We flew into some dangerous fields, Tuzla, in a snowstorm, Sarajevo in a snowstorm. That could have been me. It could have been six Members of this House instead of 24 CEO's, 35 people overall, including Ron Brown. But it is not easy being married to someone that is living a life of adventure and trying to serve his fellow countrymen, giving up wonderful opportunities in media to make a lot of money and still contribute significantly.

I just want to thank my wife, Sally Hanson Dornan, for putting up with me for 41 years, giving us five beautiful children, all of them charging conservatives of principle.

This year, on the eve of the Iowa debate, I won the Presidential election because I got a 10th grandchild. And I woke up this morning to my granddaughter handing me Molly Dornan, looking at that beautiful, precious face. We have had all 10 grandchildren together for the first time over this Easter week, and I am just overwhelmed that I have so many blessings from God to account for an to never retire, to just find some way to serve my fellow Americans.

We spent Saturday all day at Mount Vernon. What an inspirational point in American history, the birthplace of the Father of our country, first in war, first in peace, and first in the hearts of his countrymen.

□ 1600

That was the first time I would be back to Mount Vernon since my dad took my two brothers and me there in 1941 in the summer, right before we were drawn into World War II, and I remember those 8-year-old boyhood memories of the beautiful vistas of the Potomac, but I did not remember the house, and what a humble way, in spite of the dark clouds of slavery over that plantation and that Washington freed his slaves on the death of his wife, which happened 4 years after his own. He died at age 67; Martha died at age 70.

But you walk through those small bedrooms, wooden floors, looked at the bed where George Washington died, and thought what great dreams he had for this country, this man of character, how far we have fallen in some areas, then the promise that Washington, Adams, Jefferson, Madison, the Father of our Constitution, Abraham Lincoln, fighting Teddy Roosevelt; all these Presidents, so many of them general officers that were shot and wounded in combat.

Washington, when he was with Braddock, was 1 of only 4 officers out of 100 that were not wounded. Thirty-eight of them were killed, and he said only by God's hand was he saved, and he was 23 years old and he wondered why.

Mr. Speaker, that is what I wondered when I bailed out of the jet the second time at 23, wondered why did God keep me around, and hope I am not disappointing anybody. I will continue, Mr. Speaker, to keep fighting for faith, for family, and for freedom, and again I thank my wife on her birthday for 41 wonderful years.

DOD MEDICAL AND DENTAL SUPPORT CONTRACTS

The SPEAKER pro tempore (Mr. COBLE). Under the Speaker's announced policy of May 12, 1995, the gentleman from North Carolina [Mr. JONES] is recognized for 60 minutes as the designee of the majority leader.

Mr. JONES. Mr. Speaker, I rise this afternoon along with my colleague from the State of Georgia, Mr. NORWOOD, to talk about our military health care system, specifically to discuss TriCare and its implementation.

I believe there are a number of important issues this body needs to address. The long-established ways of providing medical care for soldiers, military retirees, and family members are changing. As the bond with Korea's soldiers for lifetime medical care is being redefined, the historic promise of free lifetime medical care is coming face to face with the fiscal realities of the post-cold war.

The most significant change in military health care is the introduction of TriCare, the Defense Department's regional managed care program. It is my understanding that TriCare is intended to provide high-quality, low-cost, successful care to dependent and retiree beneficiaries by partnering with civilian sector health care providers. The change has begun in selected areas of the United States and is scheduled to be fully operational in the continental United States and Hawaii by 1997.

As we closely watch TriCare evolve, it seems that several outcomes appear apparent. Throughout the transition, Congress will examine TriCare closely, and alternatives to TriCare will be considered if problems of access and cost escalate and TriCare is unable to provide a uniform benefit.

Mr. Speaker, at this time I would like to yield to the gentleman from Georgia [Mr. NORWOOD].

Mr. NORWOOD. I thank my friend from North Carolina, and I am honored to share this time with you.

Mr. Speaker, we are grateful for the opportunity to bring to you a very complex subject, and I hope that we can bring this down to a point where the people understand what we are talking about in terms of a national problem and by bringing it to you on a very local level.

Now, I want to say up front I have the highest praise for the Department of Defense medical care system. In my district, the Eisenhower Army Medical Center is an outstanding example of how the Department of Defense provides the highest quality medical care to its military beneficiaries. However, with the military drawdown, this has forced many of our military families and our retirees out of the military hospitals and clinics. Under the new DOD medical management care system, now called TriCare that you referred to earlier, many of these beneficiaries are treated by civilian medical and dental care providers through the use of managed care contractors.

Now, the intent, I believe, of the Department of Defense is to use these contracts to be sure that our military retirees and our active-duty dependents have access to care, and quality of care, but at the same time manage the health care costs; in other words, try to bring that cost down.

Now, if this is done well and properly, I believe these managed care contracts can successfully augment the outstanding care that is now being provided in our military hospitals and dental clinics all over the country; in fact, the world. But if this is done poorly, the effects on the military beneficiaries could be devastating, and I think we are going to see some of that as we go through this today.

These medical and dental contracts are worth billions of dollars to civilian managed health care companies. The financial advantage to these companies in securing a DOD contract is clearly very obvious, and we must insure that the value of the services that they provide is equally as obvious to our military beneficiaries as well as to the American taxpayers, and at this time the General Accounting Office and the Congressional Budget Office are not convinced that the TriCare program can do what it is supposed to do in its current form.

Serious, serious questions have been raised in congressional hearings about questionable procurement procedures, uncertain budgetary projection, unresolved compliance violations by contractors. Last August, just last August, the GAO stated that the members of the DOD source selection evaluation board, and I will quote, "have little or no experience with private sector managed care plans and thus have difficulty distinguishing among offenders who can perform effectively in the private sector and those who are less effective insuring quality care and controlling costs."

Now, that is what the GAO said. At a congressional hearing last month that Congressman JONES and I were both able to attend, the Assistant Secretary of Defense for health affairs was unable to list any substantial improvements in the way medical and dental managed care contracts are procured since that last GAO report. The GAO revealed unresolved concerns about the abilities of DOD to evaluate the effectiveness of TriCare programs and to measure the performance of the TriCare contractors.

Now, this is going to be very important, I say to the gentleman, Congressman JONES, as we get into our story here to show how this is actually happening. An earlier Congressional Budget Office estimate suggested that TriCare will increase DOD's cost of health care delivery, says it will increase the cost of health care delivery despite the statutory requirement that TriCare not raise Government costs.

In addition, CBO projects that DOD will not be able to meet its congressional mandate of offering beneficiaries a more uniform and stable benefit nationwide.

Now, we are going to lead into all that when we talk about one little tiny town in this country.

Despite these findings, an article in the December 27, 1995, Washington Post noted that the Foundation Health Corp., which is a TriCare contractor that manages 5 of the 12 TriCare regions now, pays its chairman and CEO an annual salary of $6.1 million. This is the highest paid or compensated health care executive in the United States.

Within a few days of this, after last month's TriCare hearing, articles appeared in each of the Army, Navy, and Air Force Times which described access problems with the new contractor of the TriCare family member dental plan.

Now, that is about to get into where we are going.

This program provides comprehensive dental benefits to dependents of active-duty personnel and has historically been one of the Defense Department's most popular and successful health care programs.

The problems reported in these articles certainly raise questions about whether DOD's confidence in the process it claims to have made in the area of procurement reforms is truly justified. These reports strongly suggest that the very problems GAO found with TriCare medical procurements may now extend as well to the dental contracts.

Now, we want to try to discuss this afternoon a case where our fears about TriCare are real, happening to real Americans, and I am talking about a TriCare dental contract in Mr. JONES' district where patients, meaning military dependents and retirees as well as the dental providers, are living a pure nightmare.

I would ask my colleagues if he wishes to tell us a little bit about what is happening in Jacksonville, NC.

Mr. JONES. Well, I really appreciate having this opportunity, knowing of your background and your interest in providing for adequate medical, both health and dental, plans for our military and retirees. You and I share this same commitment to our retirees and to those serving on active duty and to their families to make sure that they get the very best medical care, both physical and dental.

I will have to say, back in, I guess, January of this past year, I happened to be down in Jacksonville, which is the home of Camp Lejeune Marine Base, and we are very proud to have Camp Lejeune in eastern North Carolina, particularly in my district.

Well, a group of dentists wanted to talk to me, and I will be very honest with you, I was very unfamiliar with the dental plan because it was something new. I think the Concordia is now the provider of this dental plan, and in the past, and I hope you are in touch with this in just a couple of minutes, Delta had been the provider.

Well, according to these dentists that I met with, they had a tremendous concern about the fact that they were going to have to provide this dental care with a less fee, and they had it well broken down and documented as to the amount of money that it cost them to provide adequate medical care to the military family and the retirees, and the fact that Concordia was asking them to take a very, very significant decrease, and they were showing me with documentation how they could not afford to provide this dental care for the military at Camp Lejeune.

Well, when I came back to Washington, I met with my military person, and we started looking into this matter, and in addition to what I heard when I was in Jacksonville, also these dentists were telling me, and, CHARLIE, they have been doing work with the military for years and years, and they were telling me that they were being threatened that if you do not buy into our contract, we will put our own dentists down here in Jacksonville to provide the dental service.

So this is what really made me very upset because again my concern is for the dentists, but also my concern is for the military and the retirees, and what I was trying to do, and the reason you and I developed this relationship on this issue, is because you and I both share the concern with what the Department of Defense is doing. And I would appreciate if you would share with me and those that might be watching us this afternoon a little background on how DOD decided to go with Concordia, and my concern is that DOD is not, does not, have the proper oversight on the actions of Concordia as they are, in my opinion, intimidating many of the dentists in my district.

Mr. NORWOOD. If the gentleman would yield, Congressman JONES, you have been hearing a lot, I know, from your constituents back home, and I have been hearing a lot from some of your constituents, too, because I practiced dentistry for 25 years, and I think they know and realize that I can understand what the problem is.

Concordia is a managed care company. There are no health care providers there. They are managed care entrepreneurs, and as a Department of

Defense put out bids to see who would manage the dental care for all of the Nation's retirees and so forth, Concordia bid on it. Now Delta dental plans had been running the same type of contract for something like 8 years; my understanding is all, if not most, of the dentists in Jacksonville were signed up with this particular managed care company, and it is a discounted fee, and everybody seemed to be pretty happy in that area with Delta dental plan, and I will have to tell you this thing with Concordia is not just in North Carolina, but it is nationwide. This is a $1.7 billion contract.

Now that interests entrepreneurs. That is a lot of money. Yet Concordia, by most measures, would be considered a very small company, and they were interested in this contract for a couple of reasons: No. 1, if they get it, then that would put them into a position to go nationwide, and in the long run we are talking about lots and lots of money.

□ 1615

Concordia came to the dentists in Jacksonville, NC, I think there were about 40 in a town of about 75,000 people, all of whom or most all of whom are connected with the military, either retired, one way or the other. These 40 dentists were already treating the people from LeJeune and in the area of North Carolina. They came to these guys and said, "We won the bid. We would like for you to come work for us."

They said, "We have been doing this for a long time with Delta Dental. What do you have?" Concordia said, "We want you to sort of do the same thing, but we are going to have to cut your fees by 20 percent, 20 to 25 percent."

The problem with that that Concordia should have known is that most dentists practice with an overhead of about 70 cents. Another way to say that, for every dollar that comes in, the dentist gets to keep 30 cents of that dollar. Then he pays 15 cents of that to the Federal Government. Concordia comes in and says, "We are going to take 25 cents out of that dollar," which means there is no way they could do that. They cannot make a living, they cannot stay in practice. It particularly affects a smaller town like this, because all of their patients are wrapped up and already involved in this.

Concordia put this to the dentists and the dentists, as I understand it, simply said, "Sorry, we can't do this. We can't make a living. We can't offer any kind of quality of care. We cannot do it." So none of them have signed up.

I do not know if Concordia underbid Delta Dental to get the contract so they could grow nationwide. I do not know what they did in terms of their bid. But they have gone to the providers of health care and said, "We can't pay you enough for you to make a living," and the providers of health care in North Carolina said, "Sorry, we can't be involved in that." Then comes the pressure. Your constituents are getting pressure from a big insurance company that is hired by the Department of Defense. That is how then we get involved.

Mr. Speaker, it is not just the Jacksonville dentists. They are not alone in the rejection of this Concordia managed care company. The previous contractor, Delta Dental, had a provider network across the Nation of 113,000 dentists. Only 33,000 of that 113,000 agreed to sign up with Concordia. The Jacksonville dentists shared the opinion of the other 80,000 dentists across the country that will not sign up with Concordia because it is purely unacceptable. You cannot practice that way.

Mr. JONES. Let me ask the gentleman, before he became a Member, since he was a dentist, is it not true that the dentists, and you explained this 30 cents out of a dollar, I believe you said, they work on a very tight margin, so many times these dentists, even though they might have been in business for 10 or 12 years, they still owe for equipment, they still owe moneys on the facility itself.

So the concern that I had when I first heard about this was the fact that Concordia, if you will let me use this word, seemed to come in there in a very roughshod way to say, "You either buy into our plan, or we are going to hurt your business by putting our own people in."

If you do not mind touching on that, I think you might have just a moment ago, but do you not see a problem with a company that has been OK'd, so to speak, or approved by the Department of Defense going into a community that has welcomed and loved the Marine base, it has been there for years and years, and then they come in and say, "If you do not accept our fee structure, which is quite a reduction from what you had previously, if you do not follow our orders, then we are going to go in direct competition with you." Is that any way to build rapport in a town where you have a military facility as important as Camp LeJeune?

And not only the providers or the patients, none are happy with a situation like that, but my understanding is they threatened to come into town, build a new clinic and import people from outside, in effect closing down 40 families, 40 offices in town who had been there doing the right things all these years.

It is also my understanding, and it is a pretty clear understanding, that there is a real effort by Concordia to characterize the local dentists as selfish and uncooperative and unwilling to accept a discounted fee. But they have been doing that for the past 8 years with Delta Dental. The difference is that Delta Dental was paying them enough to make a living and they could still offer a good quality of care.

The problem here, WALTER, as I see it is that the Department of Defense, in fact CHAMPUS, selected this company, Concordia, Inc. This company has come under serious fire from patients and providers since it replaced Delta Dental earlier this year.

We think, and we are looking into this, as you are, too, but we think there are certain deficiencies going on in the Concordia contract which I alluded to when I opened. The Congressional Budget Office alluded to it, too, that we basically do not have oversight of a situation like this.

Concordia has not been able to establish an adequate provider network, meaning they do not have enough dentists working for them. Therefore, the patients, the military dependents and retirees, do not have as many choices. They do not have access to patients, which is one of the very first things the Department of Defense said they wanted to make sure that we had.

Concordia has inadequate claims services, creating, really—that causes a serious financial crisis, not only for your patients, but also for the providers. They have been accused of making changes in the procedure codes during claim processing. Another way of saying that is that they go in, and if a provider puts a particular code down for a particular procedure that is supposed to pay x dollars, Concordia does not mind changing that code so it will pay fewer dollars. In other words, that is another way for them to make up for the fact that perhaps they underbid this contract.

There have been unresponsive and most certainly uninformed service representatives causing delays in treatment and delays in claims processing. It has gotten to the point where there are just hostile relations down there between this managed care company—and again, that is not people who do any type of treatment, they are managed care, they are health care entrepreneurs—and the providers.

Mr. JONES. When the gentleman has approached the Department of Defense, I know the gentleman mentioned in his earlier statement that we did have a hearing in one of our military committees and this subject did come up, but knowing that you have done an extensive amount of work, you and your staff along with my staff, will you tell me what your response has been from the Department of Defense when you say, "What in the heck is going on?"

Mr. NORWOOD. Mr. Speaker, we have been assured that everything is wonderful, that everybody is doing exactly what they need to do, that patients will have all the access to care that they possibly want, and that there are really no problems.

You know, I want to just point out a little small inconsistency in that. DOD says that the Concordia dental network is adequate, meaning there are enough dentists to provide the care that the patients need. Since the size of this network determines access, which you mentioned and I mentioned, which is so important, that beneficiaries have to dental care, how did the DOD determine what constituted an adequate network?

The previous dental provider was Delta Dental. When they were first granted the contract from DOD, CHAMPUS determined that their existing national network, they had 90,000 dentists, and CHAMPUS said, "That is too small." They required Delta Dental to go out and hire more people to work.

Concordia stated that their goal for an adequate network was only 40,000 dentists. To date, they have really been able to only sign up 33,000 from the Delta Dental network plan of 113,000. Yet, Concordia claims, "That is small enough to take care of all the patients." I am saying that somebody needs to oversee Concordia.

Mr. JONES. Mr. Speaker, I want to touch on a couple of areas the gentleman has mentioned, but I want to share with him a letter that we received several months ago from a dentist, and I will not give his name. It says:

> My opinion is that the schedule of allowances known as fees paid by United Concordia is too low to be profitable. My income is solely derived from my fees. I get no subsidy from the government. These United Concordia fees are 20 to 33 percent less than the fees paid by the old administrator, Delta. A reduction of fees of this magnitude reduces my profit by 60 to 82 percent. I cannot afford to see these patients at such a loss.

In addition to the fact that dentists should not be expected to stay in business if they cannot make a profit, no one can in America, the problem that I have is that, again, not only are our dentists, in my opinion, being treated unfairly, but the fact that we do not have the network to service those at the base and their families and the retirees. We have a real serious problem, CHARLIE, and I am delighted that you are so involved in this issue. We have a serious problem, and that is giving adequate care to our men and women in the military.

Mr. NORWOOD. If the gentleman will yield, Mr. Speaker, the gentleman is totally right. When we do not pay enough to let people make a living, then we may be assured access will be affected, and so will quality of care. Those are the three things that the Department of Defense says it is interested in. I hope that they have not gone out and accepted a bid just based on who is cheapest. There is more to it than that.

They say so, too. They say access of care is very important, and they say quality of care is very important, but they want it for less money, and the problem in this particular area is they want it for so much less people cannot make a living, so nobody will join the program. Therefore, there are no providers.

Mr. Speaker, I want to remind the gentleman from North Carolina, we are talking about a $1.7 billion, with a B, billion, contract to provide dental care to military families. With this contract in billions of taxpayers' dollars, Concordia, which is a small, regional, managed care company, is going to transform itself into a major national player in the emerging dental care managed care industry. The potential for rapid corporate growth and huge future profits for Concordia is staggering. The question remains: What will the American taxpayer and our military beneficiaries receive in exchange for a very lucrative contract?

Mr. JONES. Along these lines, Mr. Speaker, I want to read a newspaper article, just a couple of quotes from this article, one being from a dentist in New Bern, NC, which is Craven County, adjacent to Onslow County.

It says: Dr. Jim Congleton has not signed with United Concordia. He said that he wished the company had been more honest and open in developing the dental plan which they are offering to military dependents.

In addition to that, let me share a comment by a dependent. "Military dependents are not happy with this situation. Our costs are going to go way up," said Jeannette Coulsey, a military spouse. "UCCI says if no dentist in the area signs up, or we see a dentist who is not in the plan, United Concordia will pay the dentist 10 to 12 percent less than one of their participating dentists."

So your point about our concern should be for the dentists, and also it certainly should be for those in the military and their families, and again, this is why I really appreciate you joining me this afternoon, because this is a very serious problem in my opinion, and one that, thank goodness for people like you, and I want to say my staff, the fact that we are willing to look into a firm that could receive $1.7 billion, and that is with a B, billion dollars, $1.7 billion, and yet we have so many unhappy, dissatisfied people.

Mr. NORWOOD. If the gentleman will continue to yield further, Mr. Speaker, one of the questions I think we have to ask ourselves is how did Concordia wrestle away this $1.7 billion contract from a managed care plan that had been in business for the last 8 years? Did they bid less? Did they bid so low that they cannot pay the providers enough to sign up, so they can at least make a living? I am not sure. We need to understand these problems.

Concordia assures us that patients are satisfied with their program. That is what they said at the hearings. Health affairs has no formal plan for determining patient satisfaction or assessing contractor compliance. That is very, very important. who is going to oversee this? The only method being used at this point is to perform periodic spot checks using the participating provider list, using trend analysis, or to evaluate complaints by beneficiaries.

I want to remind Members, this is a $1.7 billion contract. I will tell the Members something I do not understand at all.

□ 1630

Prior to having TriCare, the health care of our military, the dental care of our military was left up to the commanders at local military hospitals.

Why does Health Affairs not allow local dental commanders and regional dental service support area commanders to have oversight authority over Concordia? I do not understand that. Once CHAMPUS selects a contractor, Mr. Speaker, the contractor is responsible only to CHAMPUS and DOD Health Affairs.

Currently dental commanders do not have the official oversight authority over Concordia. That is not true in the medical side of the house, where the medical commanders, they are called lead agents, they have oversight authority over TriCare contractors, and they are responsible for ensuring that the contractor is complying with the terms of the contract.

Who is responsible here to be sure that your constituents in Jacksonville, NC, have a good deal?

Mr. JONES. That is why I sincerely appreciate your joining me in this effort to find out what we can do to help correct a very bad situation. I am like you. I do not know why we do not have oversight over situations like this, because we are talking about the taxpayers' money. We are talking about providing good health plans for our military and our retirees, and we all know that we are talking about the taxpayers' money, and you said again, I keep using this, $1.7 billion contract.

Let me share this also with the gentleman from Georgia [Mr. NORWOOD] and also those that might be watching. This is a quote from, again, a news article. I want you to know that I give credit to the news article, because these are not my words but the words of someone else. This has to do with a statement by a gentleman named Jeff Album, spokesman for Delta Dental. I would like to share this with you.

"But Onslow County is not alone. There are other counties across the country around military bases without dentists signed up with UCCI," which again is United Concordia, said Jeff Album, spokesman for Delta Dental.

Then I go further with his quote. "We believe the criteria specified for selection of a winner in the request for proposal did not match the criteria that seems to have been used in the selection of UCCI," Album said. And I further quote: "It appears DOD opted for the least expensive bid rather than best value."

Let me read that again, and I want you to comment, if you will. "We believe the criteria specified for selection of a winner in the request for proposal did not match the criteria that seems to have been used in the selection of UCCI," Album said. "It appears DOD opted for the least expensive bid rather than best value."

Since you have looked into this matter in detail, can you comment on that? Do you think that the bid process was equal to what Delta had been asked to bid on before?

Mr. NORWOOD. No. And, more importantly, maybe I do not believe it has been, but neither has GAO or the Congressional Budget Office. I talked about that when we first started.

In their hearings before us, they had made more than a few comments about the fact that they were not sure we had this together enough yet, and what we are doing is we are making sure now, because we have rushed into this and perhaps did not take the best contract. We have got our military retirees, our active duty dependents that do not have access to care. Their care is going up. I cannot speak to the quality, but one has got to question it when you start reducing the dollars in it.

We have got these, and then we have got other citizens, small business people who have a small office. They are being attacked by this giant insurance company saying,

> You better come to work for me because I put out a $1.7 billion bid and I can't fix teeth. I've got to have dentists to do that. You guys come to work for me, or we're going to spread your name around town as being unselfish or unwilling to cooperate.

That is hard to take for a small business, and that is what a little dental office is. They are being picked on by this giant conglomerate of insurance companies, where they are trying to force them to come to work and not be able to make a living. Then they have done worse than that. We will get into that in just a minute, too.

Mr. JONES. It is our responsibility to oversee the spending of the taxpayer dollar, you and I and other Members of the House. It is our responsibility to be sure whether it is DOD or another agency that they are getting their money's worth. Certainly the taxpayer needs to get his or her money's worth and certainly our military needs to be treated fairly with the best plan possible for the money. What I have gathered from the last 20 or 25 minutes that we have been talking from your comments as well as mine, that we feel that they are not getting their dollar's worth and you just said about the dentists, and this probably appalled me as much as anything. When I had dentists and, I want people to remember, these are taxpayers of America.

Mr. NORWOOD. That is right.

Mr. JONES. These are taxpayers. Yet they have a company that comes down and threatens their livelihood and says, "If you don't join our group, we're going to take your money, because you're a taxpayer, we're going to spend your money and put you out of business."

Mr. NORWOOD. Some of your constituents who are dentists have been writing me and I am going to take just a minute, Mr. JONES. I want to read two paragraphs, but it says so much. This is a 10-page letter that lays out lots of the problems. Just two paragraphs.

He says:

> You may correctly assume that I have much better things to do with my time than to argue with and complain about a government contractor that is not performing as specified. My full attention should be given to my patients and their families, my staff, my practice and my family and friends. The amount of effort I have given to this issue never should have been necessary but I will do whatever it takes to protect my patients and my practice and to make sure everyone gets a fair deal. I do not believe that the United States government is getting what it contracted for, optimum dental health for military families through a fee-for-service dental plan. Indications are that we are entering into an ordeal with Concordia where only Concordia is benefitting.

I will jump off the letter for a minute to remind you that they are going to get their 25 percent of that $1.7 billion. I bet it works for the company.

He goes on to say:

> Because of situations like this, those of us in the trenches work ourselves to the bone and then have to scramble to meet our overhead. Consider the fact that some of my regular monthly expenses are around, say, $50,000 for payroll, without the provider, close to $19,000 for mortgages of office, $5,000 for utilities, $12,000 for dental and office supplies, and because of a massive need of supplies, I have not taken a salary since last September. I have virtually exhausted my savings and may shortly be forced to sell or borrow against assets. Surely this was not the intent of the Department of Defense. I know this is also happening to numerous other colleagues in the Jacksonville area.

Mr. JONES. Mr. Speaker, I think it is worth restating. Would the gentleman from Georgia [Mr. NORWOOD] tell me again how many dentists were in the network when Delta had the plan versus Concordia today?

Mr. NORWOOD. Delta Dental had 113,000 dentists in their network nationwide. Concordia has said, "Well, we can do it with 40,000." That means less access. They have only been able to sign up 33,000. Eighty thousand not willing to sign up and work for nothing.

I want to present to the Speaker some corrections that I think that DOD Health Affairs really has to bring out and deal with, because this is just the beginning. They have not even awarded the contracts all across the country yet. This is just the beginning. So if I could, Mr. JONES, I would like to list a few things for the record because we are going to bring it back to them in other ways as time goes on.

First of all, DOD must establish a full-time oversight board to monitor complaints of the Concordia contract, which are numerous. They must authorize local dental commanders and regional dental service support area commanders. That means the colonels and the majors and the captains and so forth that are working in the different armed services clinics around the world, we need to let them exercise some oversight over this Concordia program. In the same manner, by the way, as the TriCare lead agents and medical facility treatment commanders have over TriCare contractors.

Third, we need to establish a methodology for measuring the effectiveness of the Concordia program to provide access, choice, and quality of care, not just how much cheaper is it. Establish an effective means to receive comprehensive input from beneficiaries on patient satisfaction. In other words, how do the patients feel about this. That is who this is all about and that is who this is for.

We need to issue a, quote, cure notice to Concordia, require correction of contractual deficiencies within a specified time. And after an appropriate transition period, give them some time to get it right, if Concordia does not live up to its contractual agreements, Health Affairs should issue a cancellation by default order and allow another more capable contractor to assume the program.

Those are things we are going to have to deal with if, No. 1, we are going to deal with the patients and your constituents, and, No. 2, the providers of health care.

Mr. JONES. I like those four or five points the gentleman from Georgia [Mr. NORWOOD] made because as you said in your comments a few minutes ago, there is no oversight. Once the bid process is finished and a company gets the contract, then this has become very helter-skelter. We have dentists that have not been treated fairly in my opinion, we have patients who have not been treated fairly in my opinion, and I am delighted to hear these four or five points, because if there is anything I want those that might be watching to fully understand in fact that this new majority, we understand making Government more efficient. Here we have got a dental system that in my opinion is not efficient and is not serving the people it was intended to serve. When you think about our military, these are men and women that were willing to sacrifice their life, and they should not be denied dental care. Yet we have our dentists as we have said, I am being a little repetitious but I want to repeat it again, they are taxpayers, American citizens, and here we have got the Government through this Concordia group working against the taxpayer who is paying for this $1.7 billion plan.

So I am delighted to join you, and I am sure you will have many others as you go forward with these four or five points that you think would help with oversight as it relates to dental care for our military.

Mr. NORWOOD. If the gentleman from North Carolina [Mr. JONES] would yield further, as we are headed toward conclusion, I want to point out another thing that has happened in this contract that drives me crazy. It is one of the reasons why the American people lose faith in their Government. It is one of the things that I think make people dislike a strong Federal Government.

We have talked about this great big insurance company spreading bad information around this small community of 70,000 people about the providers because the providers won't come to work for them for nothing. Then we are talking about this large company that then says to the providers, the dental care providers, "Well, if you don't come to work for us, we're going to close you, we're going to build this big office in town and import people from out of town to take care of it."

But the icing on the cake to me is now Concordia, this big insurance company, has called in the Federal Government, has called in the Federal Trade Commission, and it said, "Come get 'em, they're bad guys, they've actually been talking about what this costs."

Now, it is perfectly legal for Concordia to set the price of the cost of dental care across the Nation. But if two dentists in Jacksonville, NC, sit down to talk about what this does to their practice and how it affects them, we get the Federal Trade Commission lawyers running in at the behest of Concordia.

□ 1645

All they got to do is make an allegation. It does not—you are guilty. If they make an allegation to the Federal Trade Commission, you are guilty until you can prove yourself innocent. What does that do to people? Well, it is like the IRS running in. The first thing you know is no matter who wins, I lose.

There is no way to win that, because you get involved in a lawsuit to defend yourself against the Federal Trade Commission. What does it do? It costs you a ton of money to defend yourself. It costs time. You spend hours and hours and hours answering all the questions that you must answer because the Federal Trade Commission has come rushing in. No matter there is no point to it. If they are called, they are glad to run in. I presume that maybe they do not have anything else to do, but they are going to go down there and they are going to pick on these guys in Jacksonville, NC.

And this is a managed care company using the Federal Government as a big club to make people, small family businesses, come to work for them at absolutely no way to make a living.

I do not know what we should do about this, but I have been involved in this thing once before in my life. Some years ago when I was President of the Georgia Dental Association, the dentists of Pennsylvania told Blue Cross and Blue Shield, no, thanks, we are not coming to work for you because you will not pay us enough. By the way, that is the parent company of Concordia. Now, this happened. I was involved in this. They said we are not coming to work for you because you will not pay us enough to make a living.

So what do the Blues do? They run straight down here to Washington, get the Federal Trade Commission in on it. The Federal Trade Commission, the entire Pennsylvania Dental Association. By the way, all of the North Carolina Dental Association is being sued now by the Federal Trade Commission.

This goes on for months and months and months. We raised money around the country to help this one little dental association defend itself against the Federal Trade Commission. They got all through and found nothing was wrong, and it cost $2 million.

These are not rich people that you can just go throw around $2 million. This is not Ford Motor Co. These are small family businesses, very small businesses, and we cannot continue to allow the Federal Government to be used as a club to beat on your folks in your district.

Mr. JONES. Let me tell you. Mr. NORWOOD, I know we are closing down in another 5 or 6 minutes and will be ready to yield back the balance of our time, but I could not agree more. We have gotten to a point in this country where too many times those people, and you are right about the dentists in eastern North Carolina. Most of the dentists in North Carolina, but particularly eastern North Carolina, these are hard working, family people. they are not muntimillionaires, they are not millionaires; they are just people working hard to provide a very valuable service, trying to take care of the people in their community. Yet, as you said, too many times the Federal Government, whether it bve DOD or another agency that you were just talking about, comes down with a heavy hand or club, as you said, and as long as there are people like you and I and many on both sides of the aisle up here in Congress, we are going to fight for that man, that woman, in our district that we feel has not been treated fairly.

If I can before closing, I would like to read, because this is a letter sent to me by an Air Force captain on April 1, 1996. I am just going to read a couple of sentences to you. It says, "Dear MR. JONES: As a member of the USAF stationed at Seymour Johnson in your Congressional District, I am writing to you about the new military dental plan. I attempted to follow my chain of command and in doing so determined this is a Congressional issue."

"According to Champus," and this is a quote, "'there would be no change in coverage' under the new plan."

I am just skipping around in this letter.

"My payments have almost doubled. Personally, I would rather pay the extra $308 per month" for the service that I had prior to this new company. "I am certain that I am not the only military member. With this problem with Concordia's limits being so low, I can hardly blame dentists for not accepting the new plan."

Let me repeat that again. "I am certain I am not the only military member with this problem. With Concordia's limits being so low, I can hardly blame dentists for not accepting the new plan."

"In all honesty, it gets old having your health packages changed, being told that 'coverage is the same', and discovering that twice as much money is coming out of your pockets."

I want to get that in for the RECORD, Mr. NORWOOD, because again, with all of this 30 or 40 minutes we have had, what we are talking about is American citizens, taxpayers and military. I am going to continue to work with you and your staff to see if we cannot correct this problem. I think it is a problem that has gone too far, to the detriment of taxpayers in my district and some of your friends elsewhere. I am going to work with you and your staff as you work with me and my staff to see if we cannot correct this situation.

Mr. NORWOOD. If the gentleman would yield, I will conclude by saying this, Mr. JONES: I think the people in your district are very fortunate to have you up here. In many cases there is no other advocate for those people. You have military retirees, you have dependents of active duty military people, who are not winning under this program. In fact, they are losing. You are up here defending them. Who else will?

I mean, we do not have any oversight from the DOD. I am glad you are. We have your constituents who provide dental care in your district, my colleagues. You know, who is going to help them? They have got a large manage care company coming after them with all the resources in the world. Now they have the Federal Government coming after them through the Federal Trade Commission. Who is going to be on their side in this?

Well, they are your constituents, but they are my colleagues, and I am not going to ever let this go until we give them some protection down there from that big heavy arm of the Federal Government.

Mr. JONES. CHARLIE NORWOOD, I want to thank you for joining me today. I look forward to joining you on this issue. We are going to right a wrong before it is over. I promise you that.

TRIBUTE TO THE LATE HONORABLE RON BROWN

The SPEAKER pro tempore (Mr. COBLE). Under the Speaker's announced policy of May 12, 1995, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 60 minutes as the designee of the minority leader.

Mrs. CLAYTON. Mr. Speaker, on the hillside over Bosnia, this Nation lost 33 dedicated and committed Americans. Among those lost was the man we pay tribute to today, Secretary of Commerce Ron Brown. We pay tribute to Secretary Brown because, in the finest tradition of America, he gave his life in service to his country, while performing peace in a region torn by war.

This tribute has been organized by those of us who serve on and have participated with the President's Export Council [PEC], a bipartisan effort with the private and public sector working together for export. Secretary Brown was a public sector member of PEC and the driving force behind a notable private-public partnership, whose mission is to expand the United States' exports abroad.

At the very first meeting of PEC of February 13, 1995, President Clinton attended and Secretary Brown welcomed and swore in the appointees. Secretary Brown emphasized that he would regard the PEC members as the Board of Directors for America's national export strategy, first implemented then in September 1993.

So, Mr. Speaker, we think it is only fitting that the PEC Board of Directors leave a tribute to the person who in our mind was the chairman and chief executive officer of America's effort to achieve free and fair trade, to give a chance to U.S. businesses of all sizes to market their goods and services abroad.

I am pleased to be joined by several of my colleagues, both Democrats and Republicans, and we will alternate as there are Members available. We will ask Members to limit their remarks to 2 or 3 minutes.

Ron Brown was born in Washington, DC, and you will hear more about that, on August 1, 1941. He was raised in Harlem by his parents, attended Middlebury College in Vermont, was commissioned an officer in the army and spent time in West Germany and Korea, when certainly the seeds of foreign trade were planted at this time.

He will be especially missed for his work with PEC on behalf of U.S. exports and his effort as the Secretary of Commerce. One of his last appearances in the United States was at the most recent meeting of the PEC. At that meeting, he shared his thoughts and plans on the Bosnia-Croatia trip, as well as the uncommon insight he had gathered about trade around the world.

From this meeting came the proposed statement of principle concerning the Export Administration. Those principles reflected Ron's vision and wisdom, declaring export as a right of every American citizen, not a privilege, his early vision of the Export Administration. As stated, those principles outlined what America's position should be on export restriction, seeking to make sure, as Ron always did, that there is a level playing field throughout the world; that no one nation could assume an unfair competitive advantage in an increasing competitive marketplace. Indeed, Ron's work and the work of PEC makes certain that business of all types, politics aside, would benefit from the renewed trade effort, and they did.

During his tenure, important groundwork was laid, major breakthroughs were experienced, and future prospects for peace and prosperity were cemented. While Ron was deeply committed as a Democrat on the matters of free and fair trade, he was an American first. Party took a second seat to the goals of expanding export.

That reason and other reasons should cause us, both Republican and Democrat, to work together and to honor Ron Brown by committing ourselves to the expansion of America's industries in the benefit of American workers.

Mr. Speaker, I am going to yield time to one who has known Ron Brown for many, many years, and certainly it extends beyond that of trade, in a personal way, the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I thank the gentlewoman from North Carolina for her leadership in organizing this special order and much deserved tribute.

Ron Brown was my constituent and my friend, so that last week I had one of the saddest weeks of my tenure as the Congresswoman from the District of Columbia. I was, of course, at Dover where the bodies of 33 Americans came home, and then on another evening at the Metropolitan Baptist Church to speak in tribute to Ron Brown, and finally at the funeral at the National Cathedral, where there was an outpouring of people from all over the world.

May I first read the names of all seven of my constituents who perished on that flight. Ronald H. Brown, Secretary of Commerce; Adam M. Darling, confidential assistant to the Deputy Secretary of Commerce; Gail E. Dobert, acting director of the Office of Business Liaison; Carol L. Hamilton, whose parents I know very well, press secretary to Secretary Brown; Catherine E. Hoffman, special assistant to Secretary Brown; William Morton, Deputy Assistant Secretary for International Trade; and Lawrence M. Payne, special assistant, Office of Domestic Operations. For all of my seven constituents there is still great grief and feeling in the District of Columbia.

Ron Brown had been a friend for 30 years. When he and I were both young and his wife Alma and I were in a club in New York called Liaison, and Michael and Tracy were born to them, and Johnny and Catherine were born to my husband and me, Michael now has a wife, Tammy, and one of the saddest things to see is Ron with these two babies, these twin sons who were his grandsons. Ron was a wonderful family man. His son, as was said at the funeral, was his best friend.

Ron was a man of extraordinary determination, energy, and ability. Seldom has one American put together so many of the traits necessary for success in public life. As both policy spokesman and politician, Ron Brown excelled, bringing his party back to life again and helping Democrats win; without whom the President said we would not have won the Presidency in 1992.

Yet this was a fund raiser extraordinaire on the one hand, a coalition builder on the other. Any one of those would have been much.

I thank the New Yorker magazine for its comment on Ron in an article called "The Fixer as Statesman." Somehow, this article tries to put together the two parts of this man that so often are seen as not going together.

The statesman, of course, is the commercial diplomat that Ron Brown became, and the fixer is the man who fixed the Commerce Department and the man who fixed the Democratic Party.

□ 1700

The comment by Sean Willents calls Ron silky, shrewd, and supremely self-confident. I do think, Madam Leader, that they capture this man we knew so well. They say he was not a plaster saint. Would he abhor being remembered in that way?

And they call him wordly and capable. They remember that Ron began in the Civil rights movement. So many who have achieved in this country today never would have gotten the chance to showcase their talents were it not for the civil rights movement. Having seen what he could do, because of the opportunity the movement afforded him as the vice president of the Urban League, ultimately Ron then went on to become a top staffer in the Committee on the Judiciary of the Senate and leader of his party, where he was essentially its titular head for between 1988 and 1992, articulating policies, bringing people together, preparing the way.

He took the job at the Commerce Department, which was regarded as nothing so much as a bureaucracy, and reinvented it into the kind of department European and Asian countries have long had, a Department that is aggressive in going out and selling the country and the country's business.

Finally, let me say of Ron Brown what is so important to to many. Ron simply saw and understood himself to have no limits. I am not sure all of us understand what an achievement that is in country where so many still feel bound by race, even if in fact if they would fly they are not bound by race. Ron said let me try to fly, and then he soared. The great tragedy is that had Ron not been killed, there in no limit to where he might have flown.

He simply refused to have an assigned place as a black man. He looked around him, saw other places, and went wherever his talent and energy could go, and they took him very far. I said at the Metropolitan Baptist Church that to many, race is what they believe holds them back. To Ron, race was a contest that you ran and won. With that spirit, so many youngsters caught in ghetto environments today might find the role model for the 1990's.

For my city, the city where Ron was born, the city where he lived when he died, I have asked my constituents not to mourn for Ron. Remember Ron was the happy warrior. I have said to my constituents living in this troubled city, this seriously troubled city because of its financial crisis, to remember Ron as the man who looked to impossible missions and made them possible. It is possible for Ron's birthplace, for the place where Ron lived, to bloom again, as Ron always looked to see what was possible and then went forward. I have said to those I represent: Don't mourn for Ron, try to be like Ron. Ron came, Ron saw, Ron conquered. So can we.

I appreciate the time that has been offered me.

Mrs. CLAYTON. I thank the gentlewoman for her very poignant and personal remarks about Ron.

We have been joined also by one who serves on the PEC, this is the President's Export Council, and what we want to do, indeed, is to remember him in a personal way but also remember him as forging new opportunities for trade, and those of us who had the unique pleasure of serving on that feel that certainly there is a particular loss.

I am going to ask if the gentlewoman from Connecticut, Mrs. NANCY JOHNSON, who is here, if she would make comments. And I understand that on her side—I want to say that this is a bipartisan approach that we were doing, and I am pleased that the gentlewoman from Connecticut wanted to join in this effort, which I think is an appropriate effort.

Our tribute is that Ron served American industries which gave American jobs, and we as Americans first rather than you as a Republican and I as a Democrat, we are Americans trying to foster the interests of that. So I am pleased that she has come to join us.

Mrs. JOHNSON of Connecticut. Thank you. I thank my colleague for yielding to me. The President and the members of the Cabinet are the President and the members of the Cabinet for all Americans, and I am privileged to be here tonight to help you celebrate the life of Ron Brown and honor him as our former Secretary of Commerce and recognize the leadership he provided and the quality of the job he did.

When I was first elected in 1982, I came here from a district that had been devastated by what we called in those days unfair foreign competition. Some of it was just a very strong dollar combined with an American industry that was not efficient and was not strong. I watched Mac Baldrige try to develop the Commerce Department into a fighting partner with American business in a developing international market. I saw him struggling through, trying to help us see the importance of developing a department of trade.

I saw Mac Baldridge and some of his successors build the capability of the Department of Commerce to help American business get into the export market, sell abroad, be present in other markets in the same way foreign producers were present in our market, provide the same challenge in the world market that foreign producers were providing in our market. And that opening of vision that started with Mac Baldridge culminated in some really remarkable successes under the leadership of Secretary Brown. He understood and developed that in a way none of his predecessors had. Each of them made unique and remarkable and very valuable contributions to beginning to look forward to how the American economy could be strong in the decades ahead and serve our children in the same way it served us and our grandparents and our great grandparents.

But Ron Brown understood, in a sense, in a more practical vigorous way than any of the rest of us the need for the American Government to back, to partner, to encourage, to lead, to pressure, to force, to incite, to get American business to understand their own power in the international market, the quality of their product, the possibilities for them, and he got right out there with them. He got right out there with them in China at a time when, frankly, the State Department was having a little trouble with China. But he understood if you learn to produce and you learn to trade, if you force ideas, if you award intellectual property, if you reward personal energy, we as a Nation will be OK. We will be economically strong and we will be peaceful.

I remember him talking about that connection between prosperity, peace and trade, and in his own way he was as dynamic and as vigorous and as committed an individual as the world has ever produced in support of business, trade, and the economic strength and prosperity that flows from a dynamic business community in an international market.

He got out there with big companies and small. He got out there in countries like China. He got out there all over the world. And it is tragic but, in a sense, not surprising that he lost his life taking business into what was a devastated, war-torn area, because that was his idea of giving hope to a people torn, devastated; their goods, their economy, their hearts, their minds destroyed by years and years of war.

He understood that the only real bond; that healing would only truly take place when there were jobs, when there was an economy, when there was competitiveness, when there was strength, and that America could not only offer goods but we could offer hope through example. We could offer leadership through guidance.

Mrs. CLAYTON. Would the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I would be happy to yield.

Mrs. CLAYTON. I wanted to respond to her very, I think, appropriate analogy of his going to both big and large companies. He also, conversely, understood that small and big companies here in America could also experience the value of exports and what that meant to the smaller communities as well as what it meant to the big companies.

As you know, on the export council there are big businesses there, but there are also smaller businesses. Maidenform, for example, is small. It is not a big company, it started small. So it means in my district, its small subsidiary also expands as their products are sold abroad, giving jobs to Americans in their communities.

I think Ron Brown knew what the rest of us have come to understand: that for every $1 million of export we already create here $9 million of industry. And some of us do not understand that. I for one, initially, did not have that same appreciation until I was on the Small Business Export Subcommittee and had an opportunity to work with you and others, as well as under the leadership of Ron Brown, who opened, as you say, the hope, the opportunity. And it was about vision and excitement, but also it was about the possibility if people worked together.

And that is why, I think, if we are going to have this expansion and tribute to Ron Brown, it should be about us keeping that going. The greatest legacy to any of us as we leave is for someone to pick up our work and build on it and see the value of it and continue. I just wanted to thank the gentlewoman for her pushing that thought in my mind.

Mrs. JOHNSON of Connecticut. One of the things that I think is wise to remember from the death of a man like Ron Brown is that he was extraordinarily capable in many ways, and one of them was that he was an extraordinary mentor.

Mrs. CLAYTON. Yes.

Mrs. JOHNSON of Connecticut. I had the privilege to travel recently over the recess, and I ran into some of the young people that had worked with Ron. And it was really interesting to me because you do not see this all the time. Cabinet members are not necessarily either warm and fuzzy or mentors. They are important and they do a great job for America. They serve an important need. But Ron has inspired many young minds, and they are there and they will serve us. And they are both parties. Some of them are lifelong, quote, "bureaucrats."

And so he has passed on and was able to pass on a belief and a faith in America, in us as a free people, and in us as a governing democracy, and felt strongly the need for us to be a part of the international community both as an economic force and as a force for democracy.

I thought it was so interesting to listen to the gentlewoman from the District of Columbia [Ms. NORTON] talk about how he never saw himself as a black man. He saw himself as an American, as a man, as a power, as an individual, and as a proud black citizen. But he never felt anything stood in his way. If he wanted to do it, he had the intellect and resources to do it. And it is that legacy that inspired those he traveled with, that made a difference in the countries he went to. And it is that attitude that he leaves to those whose lives he touched.

I thank my colleague for organizing this recognition of former Secretary Ron Brown tonight. It is well deserved, and I appreciate having had the opportunity to join you.

Mrs. CLAYTON. Thank you for your comments. I appreciate that.

Mr. BEILENSON. Would the gentlewoman yield? Is it convenient for the gentlewoman to yield at this point?

Mrs. CLAYTON. I promise I will get right back to the gentleman from Nebraska [Mr. BEREUTER]. We certainly want to have his comments here. But we have also been joined by the distinguished gentleman from Michigan [Mr. DINGELL] and he wants to make a statement and we would be honored to have his statement.

□ 1715

Mr. DINGELL. Mr. Speaker, I thank the distinguished gentlewoman for yielding to me. I want to commend her for having this special order to celebrate the life and the contributions of a great and patriotic American, our now deceased Commerce Secretary Ron Brown, who in a tragic event about 2 weeks ago lost his life with more than 30 others in a tragic air crash in Bosnia.

In the days that followed it became very clear to our citizens how much Ron Brown had accomplished in a very short time at the helm of the Commerce Department. To those of us who serve in the Federal Government, Ron Brown is a well-known figure, a symbol of what is best in our Nation. When you work hard and strive for excellence, you attain it.

I had the privilege of serving with him in matters of concern when he was at the Commerce Department and when his agency was answerable to the Committee on Commerce of which I was at that time chairman and then more recently ranking member.

He had a distinguished career that included military service, served at the Urban League, served at the Democratic National Committee. He was successful in the practice of law and advising heads of state. And he proved time and time again that skill, adroitness, energy, dedication can be an enormous asset in getting the job done.

I will be inserting into the RECORD a number of quotes of distinguished Americans and American businesses about his contribution to our Government. I also want to make the observation that he was one who understood what the Department of Commerce should do. It was his function, as he saw it, not only to provide extraordinary leadership to that agency but also to see to it that it functioned to the fullest and that it dealt with the promotion of trade, jobs, market openings and expansion of opportunity for Americans through the business of exports, because that is where economic success for this country lies.

He was a great human being, a dear friend, and his wife Alma and he were dear friends of my wife Deborah and I. We shall miss him. We shall pray for the repose of his soul, and we shall understand that he brought excellence to the Department in the great tradition of others who had preceded him, first the distinguished Secretary Malcolm Baldrige, who was a great friend of mine and also a distinguished public servant, as also was Secretary Mosbacher, who was a leader of great quality in that agency.

We shall miss Ron. We can dedicate ourselves to carrying forward the practices and principles in which he believed, that market opening and trade, that opportunity for Americans lies in the success of that Department.

I want to thank the distinguished gentlewoman for yielding to me and for holding this special order.

Mr. Speaker, our Nation suffered a severe blow almost 2 weeks ago when it was learned that Commerce Secretary Ron Brown and more than 30 others lost their lives in a tragic air crash in Bosnia.

In the days that followed, it became very clear to our citizens how much Ron Brown accomplished in a very short time at the helm of the Commerce Department. To those of us who serve in the Federal Government, Ron Brown was a well-known figure, a symbol of what is best about our Nation: when you work hard and strive for excellence, you attain it.

Brown had a distinguished career that included military service. During his tenure at the Urban League, at the Democratic National Committee, practicing law or advising heads of state, Ron proved time and time again to be an invaluable asset to getting the job done.

Over the past year, many working Americans wrote to me about Ron Brown's work at the Commerce Department to promote exports, combat unfair trade practices by our international trade competitors, speed the dissemination of advanced technologies, and conduct research vital to understanding our climate, our weather, and the environment.

Bissell, Inc. in Grand Rapids, MI wrote that his company frequently used the Commerce Department's export programs, and that, "they have proven to increase export sales and thus help the economy of our country."

Viatec, Inc. in Hastings, MI said that, "This invaluable program is an INVESTMENT that produces returns to the American taxpayers with more high-paying jobs, taxpaying citizens, and U.S.A.-purchased materials."

A research group in Ann Arbor said the Advanced Technology Program is, "important in transferring the results of fundamental research into practical products."

Monroe Auto Equipment in Monroe, MI, said that Ron Brown's "aggressive trade promotion policies of our government add value to my company's efforts to compete in worldwide markets."

Perhaps Detroit Mayor Dennis Archer said it best: "The Department of Commerce has been a job-creation machine for the State of Michigan and our cities."

The last time that Secretary Brown appeared before the Commerce Committee, he said the following about his Department: "I am anxious to work very closely with Members of Congress on both sides of the aisle to make sure we do what is best for the country, to make sure we do what is best to assure long term economic growth and creation of high wage, high quality jobs for our people. I think that no department in government does that more effectively than the Department of Commerce."

Mr. Speaker, today Ron Brown is gone. But his life was one which touched many people, both here and abroad, and his work has left a legacy of accomplishment about the strength of a government that serves its people well. We will miss Ron Brown greatly. But his was a life that mattered, and his legacy lives on.

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman from Michigan [Mr. DINGELL] also for getting comments from the business community, because I think that is extremely important, because sometimes we think only of politicians or public servants, but Ron Brown also was essential for the ongoing expansion of business opportunity. For business persons to make that tribute I think is appropriate.

GENERAL LEAVE

Mrs. CLAYTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore (Mr. WHITE). Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

Mrs. CLAYTON. We are joined by the gentleman from Nebraska [Mr. BEREUTER]. He has been very active on the President's Export Council as well. We are pleased for him to make comments.

Mr. BEREUTER. Mr. Speaker, as mentioned already with some examples here, Ron Brown was an extraordinarily multitalented man who brought great intensity and scope to his interests and his activities. You heard about his mentoring activities here and how much he stimulated so many Americans, especially young Americans, to take an active role in Government. But I did want to focus my remarks on the tremendous achievements that Secretary Brown brought during his tenure at the Commerce Department to the expansion of our trade and investment opportunities abroad.

On August 4 of last year, when we held hearings in the committee on International Relations about the future of the Department of Commerce, I said during the course of that debate that I was proud to enthusiastically and sincerely commend our late Secretary for his hard work and promotion of American commercial interests. Secretary Brown correctly realized that if the United States economy is to remain strong and vibrant in the 21st century, the United States Government must maintain and fund a comprehensive national export strategy. And he served as a very competent innovative chairman of the trade promotion coordinating committee. In that capacity he recognized, of course, and made it clear to many Americans that the United States economy is already very dependent on exports. He clearly understood that during this decade exports have to account for a much larger part of our economic growth.

Secretary Brown fought tirelessly for American commercial interests, both within the cabinet and abroad. Since taking office, Secretary Brown hit the ground running and immediately received the wrath of the Europeans for an important United States commercial airplane deal with Saudi Arabia, 15 high-level trade and investment missions. And billions of dollars of U.S. export and investment later, we bid the honorable Ron Brown, the former Secretary of Commerce, a fond farewell and thank him for his unmatched advocacy and dedication to American commercial interests. I think he set an important precedent for the Commerce Department and for our cabinet members generally in his focus on international trade and expanding our export base.

As I said, he was a man of multitalented background, a wonderful man, sincere in his working with Members of Congress on both sides of the aisle. I look back with great fondness at the relationship we had in working for expanding the export base.

I thank the gentlewoman for taking this special order and for allowing me to say a few words about one aspect of Secretary Brown's life.

Mrs. CLAYTON. I do appreciate that. I think the gentleman has experienced a working relationship and particularly in that area about which he spoke. I want to note again for the RECORD that is an effort, the President's Export Council, to have a bipartisan effort. Both Republicans and Democrats should be honoring a great man and that is as it appropriately should be.

I thank the gentleman. I am pleased to yield to my friend, the gentleman from South Carolina [Mr. CLYBURN].

Mr. CLYBURN. Mr. Speaker, I thank the gentlewoman for yielding to me.

Mr. Speaker, I first met Ron Brown in the late 1960s, when all of us were all about trying to find a way to get ourselves and those people that we represented into the mainstream of American activity. I grew to admire and respect him, and there was something about Ron that compelled him to bring along with him all of the young talent that he could muster in order to demonstrate to our great Nation the talent that was there for those who, given the opportunity, could make significant contribution. That to me is the real legacy of Ron Brown.

One of these young talents was the granddaughter of my doctor when I lived in Charleston, Jerry Irving Hoffman, in the late 1960's and early 1970's. And I want to join today with everybody in paying homage to that great spirit that Ron Brown gave to all with whom he came in contact.

Mr. Speaker, on Wednesday before last, as I sat in the home of Mr. Brown sharing with his wife Alma, his son Michael and his daughter Tracey, other family members and friends, hoping against hope that something, some good news would come of this event, as we sat there, watching the television, something occurred that stays with me to this day. And it is what I would like to share with all Americans today. There came to the camera a gentleman, I think he was from northern Virginia, who did not make the trip, a CEO who spoke to the world on the fact that for some reason, though he was scheduled to be on the trip, he did not make the trip. And he asked a very cogent question, and I think all of us ought to ask ourselves today, he said that he must now find out why the good Lord saw fit to keep him here. It is his job now to find out exactly what it is that the good Lord would have him do.

I think that is something that all of us who call ourselves public servants ought to be thinking about today. We are left here; we can speak of Ron Brown's legacy. We can pay homage to all that his life meant. But I think throughout it all we ought to ask ourselves the question now, what it is that the good master would have us do.

I would hope that as we go about trying to fulfill the dreams and aspirations of Ron Brown and others like him that we will keep in mind the hope and the aspirations that he gave to so many and the hope and aspirations that so many are still left looking to us to help fulfill for their futures.

Mrs. CLAYTON. Mr. Speaker, I remember seeing that same executive. He said he was not sure what God had in store for him. So part of our hope is that God has in store for him to help push what Ron Brown started. We are also pleased to have Congressman SHAYS from the Great State of Connecticut join us, and he wants to be a part of this tribute and we are delighted to have him.

Mr. SHAYS. Mr. Speaker, I definitely want to be a part of this tribute and join with my colleagues from both sides of the aisle who are here to express their love and admiration for a truly great American, a truly fine, outstanding Secretary of the Cabinet, the Secretary of Commerce.

I would first want to express my love and admiration for his wife Alma and for his very distinguished son Michael and distinguished daughter Tracey. I was not able to be at the funeral for Mr. Brown because I had two constituents who also died on that plane. And if I could I would like to just express my love and admiration for Claudio Elia, who died on that plane, and for his two magnificent children, Kristin and Marc, who just were real soldiers during their dealing with their grief, and for his magnificent wife Susan, and also for Robert Donovan, who also died, and for his truly outstanding two children, Kara and Kevin, who just seem to deal with this agony and grief in a way that I could not help admire, and for his precious wife Peg, two people from the 4th Congressional District who died on that plane because they wanted to be with Ron Brown on this very important and, in fact, dangerous mission to bring trade and economic growth and some sense of hope to people in Yugoslavia, to give them a sense that maybe their day would be a little brighter.

I have admiration for Ron Brown for leading this. I did not have direct contact with him in my capacity on the

Committee on the Budget or the Committee on Government Reform and Oversight, but he came to my office twice to talk about the importance of the Department or Commerce, and I was just struck by his incredible energy, highly intelligent man, and just an admiration for realizing that I was sitting in the same room with an individual who at the depth, I think, of a party challenge, taking on being the chairman of a great party, the Democrat Party, taking on the role of trying to select a Democrat President, a President, electing a very distinguished Governor and thinking that the immense task that must have been as he was talking with me and the incredible talent it must have taken to bring all the different people he had to bring together to accomplish that task.

I am here to salute him as a very capable Secretary of the Department of Commerce, a very capable individual, someone who I respect as being a joyous warrior, someone who I felt instantly I could tell him very candidly what I thought and that he would respect me as another individual in the same environment he was, a political environment.

I think the real tragedy is that not just one segment of our society, not just the Democrat Party, not just the black community, but all of America has the right to truly grieve that we have lost a young man who in the last 5 to 10 years was a dynamic force in this country, who maybe one day would have been in fact President of this United States, who would have been clearly a force in the next decade or two.

□ 1730

So I thank you for giving me this opportunity to express my admiration for him and for being part of this very important tribute. Again, I would close by expressing my love and affection for the family and say that, while I was not in Washington to listen to the tribute the night before, since I was at a funeral service when his service was taking place, but for hours I watched the tribute and wished that I could have been there in person to actually enjoy it even the more. I thank you for this time.

Mrs. CLAYTON. Indeed it was a celebration of his life that we watched, rather than a tragedy.

Mr. SHAYS. It was a celebration of life, period, and of this great country.

Mrs. CLAYTON. We are also joined by my colleague, the great Congressman from Texas, Mr. DE LA GARZA. He has asked to participate as well.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentlewoman for giving me this time and to join my other colleagues in expressing our sense of loss individually, collectively as a Nation, and even the world, due to the loss of our friend, Ron Brown.

Let me say first that I am mourning his loss because he was my friend. But we as a Nation lost a great American. I cannot add to the adjectives that have been mentioned or will be mentioned about Ron Brown, but I only would like to mention a couple or three of my personal remembrance of him.

One was that he was a man that no task was too small, no challenge was too large. He did what he had to do. He did it in a gracious, eloquent manner also, always without fault, and I would like to remember also that the most minute things and the way that he handled items as a person, all we know as Secretary of Commerce, what he did and how he did it, and throughout the world and here, but before the last Democratic Convention, I called over to the Democratic Committee, and this is when he was chairman of that committee, that I wanted to be sure that some mention was made of agriculture in the speeches and at the convention, and I left it at that.

The next afternoon I had a call from Ron Brown, which I never expected. I was just speaking with the people that were organizing the program, and he says, "Mr. Chairman, would you think that I would leave agriculture out of this convention?"

I say, "No, I wouldn't have thought so, Ron, but I just wanted to be sure to remind whoever it was organizing the program."

He says, "Well, agriculture will be addressed, and you will be a speaker." And so it was. And so it was.

How it got from the person I spoke to and much lower levels to Ron Brown I do not know, but the only explanation is that he was looking at everything that was going on. And so I had the great honor of speaking at the national convention because of the request of Ron Brown.

Again, also when we were working so hard on NAFTA, most of you, not all of you, remember how he worked on the Hill, how he worked throughout the United States. But I wanted to have a joint meeting with our friends from Mexico, and I appealed to him, if he could be of assistance. His answer to me was, "When do you want me?"

So we set a date. We invited his counterpart from Mexico, and they met in McAllen and Hidalgo, TX, and we had a great meeting, and there I saw him working, the people from Mexico and the people from south Texas.

But one of the most interesting things, and it has been mentioned before, he had a way with young people, children. At the meeting that we had, open meeting with several hundred people, it was a young person that walked up to him and visited with him, and he visited back as if that young man or that young woman was the most important person at that event that day. And there we had Secretary of Commerce from Mexico, the Secretary of Commerce from the United States, assistants, needless to say, the local Congressman, but to him at that point was, and I recall this very vividly, that young lady that was asking him questions about the Department of Commerce and, I think in the end, how she could get a job at the Department of Commerce.

He never flinched or missed a beat, and he says come see me, I will be happy to talk to you.

That is the kind of individual we personally will miss.

Certainly the country has lost a tremendous American, the world has lost a tremendous individual, and I think it has been mentioned before, but the legacy of Ron Brown should be what we continue doing that he did not have time to do. And I hope that that would be our dedication.

I extend on behalf of my district and myself my condolences to the family, to all his family, and we share because it was our loss and we will mourn him. But more so, we should dedicate ourselves to that which he tried to do. To him there was no black, no brown, no white, no red. Everyone was a creature of God from his beginning to the very end, and that he died on a mission trying to enhance U.S. commerce, but yet trying to help downtrodden people was probably the major culmination, the major thing, of what Ron Brown was.

There was no small, there was no large, there was no one but the individual before him, and I saw him do that, and we will forever remember him in that manner. I thank the gentlewoman.

Mrs. CLAYTON. I thank the gentleman for those very appropriate and sincere remarks, and I want to insert that he was indeed a friend of agriculture because North Carolina understands that very well, in making opportunities in Russia for turkeys and poultry and other places that we could have in that area.

We are pleased to be joined by a Congressman from Indiana, Congressman JACOBS. He also wants to be a part of this tribute.

Mr. JACOBS. Mr. Speaker, he was no longer a warrior, but he died in a war torn country.

He died not that others might live, but that others, many others, including Bosnians and Americans as well, might live better.

He was and, in the inspirational sense, remains an authentic American hero. "We shall miss his bright eyes and sweet smile."

May God forgive those who were so ready to bear false witness against him.

Mrs. CLAYTON. Thank you very much.

Congresswoman COLLINS from the great State of Illinois has joined us, and she will now make a tribute.

Mrs. COLLINS of Illinois. Mr. Speaker, I rise to pay special tribute to Secretary Ron Brown and to express my sincere condolences to his wife, Alma, and to their family. My heart goes out to them because I understand full well what they have gone through, having gone through something like this myself.

Ron was a great man, and we have heard about his strength, his vision, and his compassion for people. Tributes have come from the broadest possible range of people, including the President of the United States and foreign dignitaries, to the lowest ranking workers of the Commerce Department. I believe that these statements best serve as testimonials. They are the very best testimonials to a man many of us had the honor to know and to admire. But let me add just a few observations.

Secretary Ron Brown might best be remembered as a man who saw opportunity where others saw none. He will be missed as a crucial bridge between the privileged and the underserved in our society. For Ron Brown believed, above all else, that the greatest asset America has is the diversity of its population. Secretary Brown understood that America's prosperity depends on our ability to become more competitive in emerging economic markets around the world.

American exports equal American jobs, and he knew this, and that is why he was on the mission that he was on. He knew that developing countries needed real economic investments and not handouts, economic investment with which to demonstrate that a market economy works; economic development, in turn, can lead to real democracy.

And that is what he was all about. He was about building America, about creating jobs, about making sure that democracy is all over this world because we all know that it is a system that has worked and works well, better than any other in the world.

It seems to me that those of us who knew him well and have known him for so many years understood that. We understood that when he smiled, it was a smile of friendship, when he extended his hand, it was a hand of welcome from those across the shores to those of the shores of the United States of America.

When we saw him in office all throughout his many achievements throughout his short lifespan, we knew that here was a man of great thought, of great compassion, of great wisdom.

I stand here because I know that Ron Brown was my friend, and I know in my heart that this country will miss him, a man of his dedication and a man of his strength.

Mr. Speaker, Secretary Ron Brown might best be remembered as a man who saw opportunity where others saw none. He will be missed as a crucial bridge between the privileged and the underserved in our society. For Ron Brown believed above all else that the greatest asset America has is the diversity of it population.

Secretary Brown understood that American prosperity depends upon our ability to become more competitive in emerging economic markets around the world. American exports equal American jobs. Those emerging markets are located in Africa, Asia, and Latin America. America's racial diversity could be our most important asset in corporate efforts to gain market share in these emerging regions. Ron Brown was harnessing our racial diversity in a way that was good for American business, good for American jobs and good for developing nations.

Secreatry Brown knew that developing countries need real economic investments not handouts. Economic investment will demonstrate that a market economy works. Economic development in turn can lead to real democracy.

While many in the United States are willing to use this approach in Eastern Europe and Asia, there is a conspicuous absence of American investment in Africa. Secretary Brown was especially concerned about the willingness of many in the United States to concede the markets of Africa to its former colonizers in Europe. Unbelievably only 7 percent of exports to Africa come from the United States while 40 percent come from Europe. This makes no sense when the return on investment in Africa is 25 percent, outstripping any other region in the world. Ron Brown was helping American companies change this equation.

Secretary Brown was also a tenacious fighter and advocate. As the ranking minority member of the Committee on Government Reform and Oversight, I worked with Secretary Brown in opposing efforts to dismantle the Commerce Department. When many political pundits on Capitol Hill were predicting the imminent demise of the Commerce Department because it had become a favorite target of the new majority, Ron Brown never wavered in his eloquent defense of the Department and its employees.

Secretary Brown used his considerable skills to clearly and forcefully articulate the folly of eliminating the Commerce Department at a time of economic globalization. When the central governments of countries like France and Japan are promoting their businesses, the United States Government cannot afford to abandon its efforts to identify and win export opportunities abroad.

Under Ron Brown's leadership, our Government developed a national export strategy to help small, minority, women-owned, and large companies, win export sales abroad. His efforts paid off in more than $80 billion of foreign sales for American firms that supported thousands of high-paying jobs for American workers.

While Secretary Brown was always open to exploring new export opportunities abroad, he was also never afraid to stand up for the rights of U.S. business in foreign markets. When foreign steel producers dumped steel in the U.S. at below fair market prices, it was the Commerce Department under Secretary Brown that took the action which led to the imposition of duties on foreign steel.

Secretary Brown was also one of the strongest defenders of the United States movie, computer software, and recording industries rights against intellectual property rights violation in China. Secretary Brown firmly believed America's economic strength greatly depends on our ability to safely and freely market intellectual property in foreign markets.

Secretary Brown's efforts were not focused on foreign markets alone. He played an instrumental role in directing funds so that small town throughout our country could gain access to the information superhighway. He insisted that the new telecommunications law, ensure universal service and open access for all communities in our country, including inner city areas. For Ron Brown, the information superhighway represented future social and economic growth. He was determined that all Americans would benefit from these historic changes.

Finally, for African-Americans Ron Brown served as an important role model. His life demonstrated to many young African-Americans that they can thrive in non-traditional roles. As the first African-American chairman of the Democratic National Committee he was the one person most responsible for the election of President Clinton. As the first African-American Secretary of Commerce in our Nation's history, Ron Brown was by any objective standard the most effective Secretary of Commerce I have ever witnessed in my 23 years in the Congress. Ron Brown was a shining example that African-Americans can lead this Nation and the world into the 21st century.

His life was also a caution to African-Americans that your efforts to move beyond traditional roles may be met with resistance. The rules for you will be different than the rules for anyone else. Therefore, if you are to succeed, you must be willing to out perform others. You will need to work harder, and smarter in order to be successful. But if you stay focused and keep your eyes on the prize, and are given the opportunity, Ron Brown's legacy demonstrates that there is nothing that African-Americans cannot accomplish.

Mrs. CLAYTON. Thank you very much.

We are also joined by the Congresswoman from Maryland.

Mrs. MORELLA. Thank you. I do want to thank Congresswoman CLAYTON for doing this. I think it is very important that we pay tribute to a man who has died too young, who served his country so well, and I know others will join by memorializing Secretary Ron Brown by virtue of submitting statements.

I just want to say that there is a vacuum in the world, there is a vacuum in the country, there is a vacuum in the hearts of country men and country women because of the untimely loss of Ron Brown. He is a man who is dedicated to his country, to his community, to his profession to a "T", to his family especially, and certainly to his friends.

I became acquainted with Ron Brown because as somebody who is involved with the technology subcommittees, as chair of it, under our jurisdiction is the National Institutes of Standards and Technology and the Technology Administration, and obviously all of this is part of the Department of Commerce. I have never found anybody who would work so perseveringly, indefatigably, and with a tremendous sense of humor and with a tremendous ability for what he believed.

As a matter of fact, today we were originally to have had a groundbreaking of a chemistry building on the campus in Gaithersburg of the National Institute of Standards and Technology and a field hearing at the same time because of the passing of Secretary Ron Brown and the high esteem in which he is held by all of those people who are employed not only in all of the facets of commerce and especially the National Institute of Standards and Technology. This has now been postponed for a later date. People were grieving so, that they really felt that they could not go on with another undertaking of that nature. Certainly there will probably be a dedication in a time when it does indeed take place.

I found him to be a man who did have a sense of humor and a sense of commitment, defended his Department very well and could work on both sides of the aisle. There was no real aisle when it came to performing what he truly believed in, and I had the opportunity a week and a half ago to go to India, and I spoke to Americans who were engaged in enterprises in India as well as the Indian nationals who were involved in industry and business.

□ 1745

They mourned, they mourned greatly the passing of Ron Brown. It occurred at that time, because there had had a very successful trade mission just last year which opened all kinds of avenues and markets for America to participate in the great world market.

Mr. Speaker, I simply feel that, as Shakespeare said, the force of his own merit led his way, and indeed it did. He will be missed. He will, however, go on, live on in love, and I hope he will be an inspiration to us. I offer my condolences, obviously, to his beloved wife Alma, and to his two children, Michael and Tracy.

Mrs. CLAYTON. Mr. Speaker, we also join with the gentleman from the Virgin Islands [Mr. FRAZER] who will join in this tribute to Ron Brown.

Mr. FRAZER. Mr. Speaker, I want to thank the distinguished gentlelady from North Carolina for holding this special order for the late Secretary of Commerce Ronald H. Brown.

Secretary Brown served our Nation with distinction, service, and honor. He provided the vision, and the leadership to promote American business abroad. He understood that in order for American business to succeed abroad they needed to have the full support of the U.S. Government. He used his office to open doors and provide opportunities for large and small businesses. This support is characteristic of how Secretary Brown served this Nation and American business with distinction.

Secretary Brown was accessible and available to the people of the Virgin Islands. He sent his Assistant Secretary for Economic Development to assess the rural economic development needs of the Virgin Islands and to map out a strategy. It was Secretary Brown who understood how vital the U.S. tourism business was to the Virgin Islands and was working with us to help promote tourism through the international trade administration.

Secretary Brown elevated the Commerce Department to a new standard of honor—where business and government can work together for the good of the Nation. Today, the Commerce Department is at the international vanguard for American business. This stature is due to Secretary Ronald H. Brown's vision, leadership, and astute business intellect.

Mrs. CLAYTON. Mr. Speaker, we will ask the gentleman from Georgia [Mr. LEWIS] if he will share also. I have been advised that we have 3 minutes remaining, unfortunately, to all those who would participate in our tribute.

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to pay honor and tribute to our late Secretary of Commerce, Ronald H. Brown. No words I can utter on this House floor today can do justice to this great man, patriot, and public servant. I want to personally express my great sense of loss at the passing of this good and decent man and extend my condolences to his family: to his wife Alma, his son Michael, and his daughter Tracy. Their loss, Mr. Speaker, is our loss, our party's loss, and our Nation's loss.

I first met Ron Brown more than 30 years ago while vacationing on Martha's Vineyard. I was immediately struck by his boundless energy, charisma, sophistication, and style. Even back then, one only had to spend a little time with Ron to know that he was a rising star. And so I was never surprised as I followed Ron's career and watched this man grow and develop, first as a young lawyer, then as a leader in the National Urban League in New York and later here in Washington, as the chief counsel for the Senate Judiciary Committee and later as a partner in a prestigious Washington law firm and as the chairman of the Democratic Party.

Ron Brown was born in Washington, DC, and raised in Harlem, NY, and though he worked his way to the heights of the business and political worlds in our Nation, he never forgot where he came from. He never forgot how to speak with people. He never forgot who it was that needed help and hope and opportunity. Ron spent his life and gave his life creating opportunity for those less fortunate, for those who had not yet climbed up the economic ladder.

Ron Brown was a bridge-builder. Through his actions and his words he was working to build what Dr. Martin Luther King, Jr. called the beloved community, a community at peace with itself, where people are not judged by the color of their skin but by the content of their character. Ron believed in creating opportunity for all Americans and he used his position as Secretary of Commerce to promote American business abroad and economic development in communities where it was desperately needed.

Robert Kennedy was fond of quoting George Bernard Shaw: "Some men see things as they are and ask why," Shaw wrote, "I dream of things that never were and ask why not." Ron Brown did dream of things that never were and ask why not. He dedicated his life and gave his life to promote the country that he loved and to better the lives of the people of this country.

Ron Brown will live in the annals of American history, not just as the first African-American Secretary of Commerce, but as perhaps the best, most effective, and most accomplished Secretary of Commerce in the history of our Nation.

Mr. Speaker, I, like so many others will miss Ron Brown. His energy could light up a room. His enthusiasm could inspire people to reach their greatest God-given potential. His vision and foresight returned the Presidency to his party. His counsel and guidance and wisdom will be sorely missed as we tackle the problems that face our Nation. One of what President John F. Kennedy called our best and our brightest has been taken from our midst.

Those of us who knew Ron Brown were more than lucky, we were blessed.

Again, I want to extend my condolences to the Brown family and thank you, Mrs. CLAYTON, for arranging for this special order.

Mrs. CLAYTON. Mr. Speaker, on a hillside over Bosnia, this Nation lost 33 dedicated and committed Americans.

Among those lost was the man we pay tribute to today, Secretary of Commerce Ron Brown.

We pay tribute to Secretary Brown because, in the finest tradition of America, he gave his life, in service to his country, while promoting peace in a region torn by war.

This tribute has been organized by those of us who serve on and who have participated with the President's Export Council [PEC].

Secretary Brown was a public sector member of PEC, and the driving force behind a notable private-public partnership, whose mission is to expand U.S. exports abroad.

At the very first meeting of PEC, on February 13, 1995, President Clinton attended, and Secretary Brown welcomed and swore in the appointees.

Secretary Brown emphasized that he would regard PEC members as the board of directors of America's National Export Strategy, first implemented in September of 1993.

And so, Mr. Speaker, we think it only fitting that the PEC "Board of Directors" lead a tribute to the person who, in our minds, was the chairman and chief executive officer of America's effort to achieve free and fair trade and to give a chance to U.S. businesses of all sizes to market their goods and services abroad.

Ronald Harmon Brown was born in Washington, DC, on August 1, 1941.

He was raised in Harlem by his parents, attended Middlebury College in Vermont, was commissioned an officer in the Army and spent time in West Germany and Korea—surely the seed of foreign trade was planted at this time.

When he left the Army, he joined the National Urban League as a welfare caseworker, evidencing early in his career a dedication to public service. At night, he attended law school.

Shortly after law school came his first foray into politics, when he was elected district leader of the Democratic Party in Mount Vernon. Immediately, he became known as one who could build bridges and close divides.

In 1973, he moved back to Washington, DC and, following a series of public and private-sector positions, on February 10, 1989, he was elected by acclamation as the first African American chair of the Democratic National Committee.

The rest is history, as Ron went on to help elect President Clinton and to be asked to serve as Secretary of Commerce.

In a relatively short period of time, he made giant strides, distinguishing himself, making his mark in many places, leaving his permanent imprint on the sands of time.

Neither race, nor color, nor religion, nor background, or any of those false barriers stood in his way. We could always count on him to fight another fight, to write another chapter, to run another race. Secretary Ron Brown will be sorely missed.

He will be especially missed for his work with PEC in behalf of U.S. exports and his efforts as Secretary of Commerce. One of his last appearances in the United States was at the most recent meeting of PEC. At that meeting, he shared his thoughts and plans on the Bosnia/Croatia trip, as well as uncommon insights he had gathered about trade around the world.

From that meeting came the proposed PEC "Statement of Principles" concerning export administration. Those principles reflected Ron's vision and wisdom—declaring exporting as a right of every American citizen, not a privilege, as early versions of the Export Administration Act had stated.

And, those principles outlined what America's position should be on export restrictions, seeking to make sure, as Ron always did, that there is a level playing field throughout the world and that no one nation could assume an unfair competitive advantage in an increasingly competitive marketplace.

While those proposed principles reflected Ron's views, they were shaped and will be reshaped by all members of PEC, public and private, and certainly included the view of those business and corporation representatives who served.

Indeed, Ron's work and the work of PEC made certain that businesses of all types, politics aside, could benefit from the renewed trade efforts, and they did.

During his tenure, important groundwork was laid, major breakthroughs were experienced, and future prospects for peace and prosperity were cemented. And, while Ron was a deeply committed Democrat, on the matter of free and fair trade, he was first an American. Party took a second seat to the goal of expanding exports.

Ron knew what many of us have now come to know. For every $1 million we make available to finance exports, we generate a $7 million return, and, more importantly, we create new jobs.

In the First Congressional District of North Carolina alone, there are more than 450 companies that manufacture goods of foreign markets—and nearly two-thirds are small- and medium-sized businesses, employing less than 100 people.

All in all, eastern North Carolina ships more than $1.3 billion of goods overseas each year. Indeed, in 1994, 270,000 new jobs were attributed to North Carolina, exports, generating some $13.7 billion in revenue, a 21.7 percent increase. In 1994, North Carolina ranked 10th in the Nation in exports.

More and more, the economic well-being of our region and our State depends on our ability to sell our products to other countries.

Clearly, our ability to generate good jobs in the future is tied to exports and the ability of local companies, small and large, to exploit opportunities in other countries.

As a member of the Subcommittee on Procurement, Exports, and Business Opportunities of the House Small Business Committee and an appointee of PEC, I have learned a great deal about the relationship between exports and better jobs.

I have come to appreciate eastern North Carolina's unique combination of harbors at Wilmington and Morehead City, a strong interstate system, and a state-or-the-art air shipping facility at the proposed Global Transpark in Kingston which makes our area particularly well-suited to be involved in the export boom.

I've been working with community leaders to have the proposed Global Transpark designated a free-trade zone, which would make it a hub for international shipping. If we are successful, the seafood caught off our shores in the morning could be someone's dinner in Japan the next day.

According to the U.S. Department of Commerce, for every $1 billion in exports, 20,000 jobs are created.

U.S. exports of goods and services can reach $1 trillion by the beginning of the next decade and can produce over 6 million new jobs. This could mean, by the year 2000, more than 13 million Americans who will be earning their living as a direct consequences of exports.

But businesses, large and small, usually face three challenges when they begin to look to other lands, gaining access to the capital needed to open new product lines or modify existing ones for overseas consumers, attaining technical training vital to dealing with other governments, and finding the information about regulations, American and foreign, and trade practices in other countries.

Secretary Ron Brown, through the Department of Commerce and the President's Export Council had undertaken, like never before, to remove those barriers to exporting, to overcome the challenges.

Mr. Speaker, the greatest tribute we can give to Ron Brown and those 32 other Americans who perished in Bosnia, is to keep their work going and make their dreams come true. That is a tribute in which Democrats and Republicans, small, medium, and large businesses, and Americans of all stripes can join.

Growth in real incomes and living standards depends heavily on trade.

Secretary of Commerce designate Mickey Kantor recently noted that expanding trade is critical to creating good, high-wage jobs.

The 11 million Americans who owe their jobs to exports are earning 13 to 17 percent more than those in nontrade jobs. Ron Brown had the right idea.

I invite my colleagues to join me in keeping that idea burning and in creating a living legacy for a man who lived his life in sacrifice so that millions of his fellow citizens could live their lives in pride.

Mr. TRAFICANT. Mr. Speaker, today I would like to honor the memory of the late Secretary of Commerce Ronald H. Brown. A true leader. A successful, fearless man who loved the big things: his family, his friends, his country, his work, his African-American heritage. And those are the important things. He was passionate and devoted to each. To his wife, Alma and his children, Michael and Tracey, please known that no man could have lived a more blessed and successful life. God be with you.

Mr. MATSUI. Mr. Speaker, I rise today to honor the late Ron Brown. Secretary Brown's tragic death on April 3 robbed our Nation of a highly distinguished and talented leader. Throughout his career, Ron Brown made the most of every challenge that confronted him. As Secretary of Commerce and in his other work, he dedicated himself to creating opportunities for others.

I first met Ron when he ran Senator EDWARD KENNEDY's 1980 Presidential campaign. But I didn't begin to fully appreciate Ron's talents until 1991, when, as chairman of the Democratic National Committee, he asked me to join him as treasurer of the DNC.

In that capacity, I witnessed first hand Ron's vision and leadership. He had an uncanny ability to bring disparate factions together and a capacity of persuasion that was literally unparalleled. I believe it was Ron's early work on the Presidential campaign of 1992 that enabled then-candidate Bill Clinton to emerge from the Democratic Convention with the momentum and resources that ultimately resulted in his victory.

Another of the many distinguished legacies that Ron Brown leaves is the dramatic results of his tireless advocacy on behalf of American businesses in his 3 years as Secretary of Commerce. Ron worked closely with businesses large and small to identify new opportunities and to promote American products. He recognized the tremendous potential that foreign markets held and knew that American firms must seize this opportunity if our Nation was to thrive as it entered the 21st century.

He worked effectively as a peer with the most powerful business leaders in our Nation, yet Ron Brown never lost his ability to identify with and related to average Americans. He was greatly beloved in his boyhood home of Harlem and left strongly positive impressions among the people he came into contact with while traveling throughout the country.

Ron's leadership, keen intelligence, and passion will be greatly missed by all those who knew him personally and his loss will continue to be felt by many more whom he impacted through his work. I am a better person for having known Ron Brown, and I deeply mourn his passing.

Mr. DIXON. Mr. Speaker, we are all horrified by the untimely death of the Honorable Ronald Harmon Brown, a man of incredible ability who was loved and respected across the globe. In searching for words to appropriately honor him, I recalled the following tribute, which I had the privilege of inserting into the CONGRESSIONAL RECORD on August 4, 1995.

TRIBUTE TO SECRETARY OF COMMERCE RONALD H. BROWN

Mr. Speaker, as we prepare to return to our districts where many of us will be meeting with community and business leaders concerned about economic development opportunities in our neighborhoods, I want to use this occasion to salute the outstanding accomplishments of a gentleman who has worked tirelessly to promote the cause of business and economic opportunity throughout the United States and abroad. The Honorable Ronald H. Brown, our distinguished Commerce Secretary, is to be applauded and commended for the outstanding job that he has done in serving as the administration's enormously adept "Pied Piper" of economic opportunity and empowerment.

Ron Brown is the 30th United States Secretary of Commerce. In nominating him to this auspicious post, President Bill Clinton noted that "American business will know that the Department of Commerce has a strong and independent leader and a forceful advocate." Those of us who have been privileged to know Ron can attest to his outstanding leadership acumen and his tenacity and considerable powers of persuasion. He is a skillful negotiator and an indefatigable advocate on behalf of America's economic interests abroad as he seeks to expand and open markets for American-made products around the globe.

Ron's career has been structured around public service and helping to make America a better place for all of her citizens. A native Washingtonian, he grew up in New York where his parents managed Harlem's famous Hotel Theresa. He attended Middlebury College in Vermont and received his law degree from St. John's University. He is a member of the New York Bar, the District of Columbia Bar, and is admitted to practice before the United States Supreme Court.

A veteran of the United States Army, Ron saw tours of duty in Germany and Korea.

Secretary Brown has had an eclectic career. He spent 12 years with the National Urban League, serving as Deputy Executive Director, and General Counsel and Vice President for the organization's Washington operations. He also served as Chief Counsel for the Senate Judiciary Committee. He is a former partner in the Washington, D.C. law firm of Patton, Boggs, and Blow. And who among us does not remember the brilliant job that he did as the Chairman of the Democratic National Committee and 1993 Inaugural Committee.

As Secretary of Commerce, Ron has traveled extensively, promoting the administration's trade policies and forging sound private/public sector partnerships. Following the Los Angeles, Northridge earthquake in January 1994, Ron was one of the first cabinet officials on the scene, working with local, State, and Federal officials to identify and earmark funding sources for businesses severely damaged and/or destroyed in the quake. He has since returned to the quake damaged areas on several occasions to survey the progress made by programs implemented under this aegis.

Ron maintains a schedule that would tire men half of his age. Yet he is always prepared to go wherever he is needed, and he always does it with aplomb and with a spirit of unyielding optimism that inspires all around him to achieve the same level of commitment.

In addition to his weighty responsibilities as Commerce Secretary, Ron serves on several presidential boards and councils. He is a member of the President's National Economic Council, the Domestic Policy Council, and the Task Force on National Health Care Reform. He serves a Co-Chair of the U.S.-China Joint Commission on Commerce and Trade, the U.S.-Russia Business Development Committee, and the U.S.-Israel Science and Technology Commission.

Secretary Brown is also a member of the Board of Trustees for Middlebury College and is chair of the Senior Advisory Committee of the Institute of Politics at the John F. Kennedy School of Government at Harvard University.

Mr. Speaker, I am proud and honored to have this opportunity to commend my good friend, Secretary Ronald H. Brown, on the fine job that he is doing as our Secretary of Commerce. He has led an exemplary career, and I have no doubt that he will continue to lead and inspire. Please join me in applauding him on an outstanding career, and in extending to him, his wife Alma, and their two children, attorneys Michael and Tracy, continued success in the future.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to note with appreciation the many achievements and inspirational life of Commerce Secretary Ron Brown. With his constant good will and hard work, he was able to build bridges where there once were valleys and hope where there was once despair. Secretary Brown used the power of the Commerce Department to find ways to give opportunity to ordinary Americans, to generate jobs for the American economy, and to build futures for American citizens.

One could look at Ron's life as a series of firsts. That would be a disservice, for in fact, his life was a series of first place and solid accomplishments. Ron Brown always believed that we would succeed. Whether as a student at Middlebury, staff person to Senator KENNEDY, or top campaign aide to the Senator, Ron was a success. As chairman of the Democratic National Committee, Ron was a success. A lawyer, a skillful negotiator, a pragmatic bridge builder, and past highly successful chairman of the Democratic National Committee, Secretary Brown strongly believed in the promise of America and aggressively advanced polices and programs to accelerate the Nation's economic growth and create new jobs and opportunities for all American people.

Under his leadership, the Commerce Department became the powerhouse envisioned by President Clinton. Secretary Brown promoted U.S. exports, U.S. technologies, entrepreneurship, and the economic development of distressed communities throughout the Nation.

He led trade development missions to five continents, touting the competiveness of U.S. goods and services. During his tenure, U.S. exports reached a record high, America regained its title as the world's most productive economy, and exports and technology were key contributors to the millions of new jobs created during the first 3 years of President Clinton's administration.

Mr. Speaker, my prayers go out to his wife Alma, son Michael, and daughter Tracy. Their strength and courage were displayed during Secretary Brown's funeral service and they should be forever proud of their husband and father.

I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I rise this evening to honor the memory of former Secretary of Commerce Ronald H. Brown, an American pioneer, patriot, and hero. Secretary Brown was also a dear friend. I am sure that my sense of loss is shared by many who work, or have worked, on Capitol Hill. In 1979, Secretary Brown became the first African-American to serve as a chief counsel for a standing Senate committee when he took over the Senate Judiciary Committee. As was the case throughout his career, his service on the Hill helped to chart a new course of participation for African-Americans within the corridors of political and public policy decisionmaking.

Being the first, being the only, being a pioneer, was the former Secretary's calling card. He was the first African-American to join a social fraternity during his undergraduate days at Middlebury College. An Army officer, he was the only African-American officer in his unit during his tour of duty in Germany. He was the first African-American partner in the law firm of Patton, Boggs & Blow. He was the first African-American to head a major political party. Finally, he was the first African-American to head the Department of Commerce.

Upon nominating Ron Brown to be the 30th U.S. Secretary of Commerce, then-President-elect Clinton declared, "American business will know that the Department of Commerce has a strong and independent leader and a forceful advocate." The President could not have been more prescient, nor could have made a more brilliant appointment.

Under the leadership of Secretary Brown, the Commerce Department became one of the major success stories of the Clinton administration. He launched a national export strategy predicated on the very basic idea that American exports translate into jobs and opportunities for American business and working people. In the pursuit of this strategy, Secretary Brown conducted trade mission after trade mission abroad. He traveled most often to what he liked to call the big emerging markets of Asia, Latin America, and Africa.

The trip on which Secretary Brown and his 34 colleagues lost their lives was typical of his missions. It was visionary in the most practical sense of the word. It was practical in the most visionary sense of the word. He had the vision to see that beyond the horrors of war wracking Bosnia and Croatia, lay opportunities for American business to be of service, as well as to engage in commerce. He was grounded enough in the realities of that conflict to understand that the road to peace lay in the rebuilding of those shattered communities.

When Secretary Brown's plane crashed into that mountain on the way to Dubrovnik, an American patriot became an American hero. He is no less a hero because he died in an accident. He is no less a hero because some persons serving in this Congress have spent an inordinate amount of time besieging him and undermining the Department he led so brilliantly. He is a hero because he died in the service of this Nation, pursuing its interests at the cutting edge of diplomacy and peacemaking.

I would be remiss if I did not comment on Secretary Brown's meaning to me as an African-American public servant. Secretary Brown could not be mistaken for anything else than what he was, an African-American. He did not deny that fact, nor did he allow that fact to limit his personal or professional horizons. To be sure, Secretary Brown did everything within his power to help African-Americans. Beyond that, he did everything he could to find points of convergence between the interests of America, African-Americans, and Africa. But he never allowed himself to be the black Secretary of Commerce, nor, for that matter, the black head of the Democratic National Committee, or the black anything else. Ron Brown was the Secretary of Commerce, in the service of each and every American, hyphenated and unhyphenated.

It is often said that a picture is worth a thousand words. I agree, a thousand and sometimes more. The picture that I have in mind is that of President William Jefferson Clinton presenting an American flag to Mrs. Alma Brown at Arlington National Cemetery on Wednesday, April 10, 1996. That picture says it all. Secretary Brown's life was a life of service in the public arena in the pursuit of justice and opportunity. It was the life of an American pioneer, patriot, and hero.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I would like to take this opportunity to pause with my fellow colleagues to remember our friend Ron Brown. As many have already said, Ron Brown was an exceptional person with a deep love for his family, friends, and country. Today, I would like to honor his memory by celebrating some of his achievements as Secretary of Commerce.

Our record in international trade will ultimately define the future prosperity of our Nation. The ability of our work force to meet the new challenges of the global economy and compete for high-skill high-wage jobs of tomorrow will be critical. No one understood these principles more than Ron Brown

As Commerce Secretary, Ron Brown expanded our international role by reaching out to countries all over the globe, and by strengthening the foundations of our domestic economy. His work to improve our trade balance, increase overseas opportunities, and create domestic jobs helped to prepare the United States for the next century. In my State of Rhode Island he genuinely made a difference.

Last summer, Secretary Brown visited with me in my office to discuss the many programs at Bryant College that focused on improving our State's economy by investing our resources in international business. We talked about Bryant's existing initiatives like the Rhode Island Export Assistance Center and their innovative International Trade Data Network [ITDN]. The purpose of ITDN was to help create and distribute practical information and data that will enable businesses to effectively and realistically target their export efforts to actual opportunities. For Rhode Island, the programs at Bryant were a way to reduce the effects of defense downsizing and struggling economy.

Secretary Brown saw the impacts that international trade could have on local economies and later visited Rhode Island twice to see Bryant College and various other initiatives first hand. He took the time to investigate our latest ideas and offer the support of this Department. Truly, Ron Brown led by example.

In the end, Ron Brown died as he lived: a dedicated patriot who selfessly give his all for friends and country. As a nation we are forced to continue without him, but his time with us all will be remembered as a time of progress, learning, and achievement.

Ms. SLAUGHTER. Mr. Speaker, today I join with my fellow colleagues to pay tribute to a truly great American, the late Secretary of Commerce, Ron Brown. To many of us, Ron Brown was not only a cabinet member with an impressive record of accomplishment, but he was also a dynamic party leader, a trailblazer in the business world, a ferocious advocate for the business community as well as those in need, a role-model for blacks and whites alike, and a dear friend.

I will remember Ron for his charming and captivating persona, for his astute mind, and for his love of country. Ron Brown was full of energy and enthusiasm in each endeavor that he undertook. As Chair of the Democratic National Committee, Ron utilized his skills in bringing people together and motivating them to work toward a common goal, and that propelled the Democratic party to victory in 1992.

In his capacity as Commerce Secretary, Ron Brown was masterful in seeking out and opening up new markets to U.S. businesses. I know firsthand of his tremendous talent in bringing together the public and private sectors in partnerships. A perfect example of this is in my home district of Rochester in which Ron displayed his immense support of Eastman Kodak Corporation's efforts to halt unfair trade practices that were detrimental to Kodak. Upon Ron Brown's insistence, the International Trade Commission concurred and steps were taken to address the inequities.

Ron was such a wonderful and unique leader because he recognized his role as Commerce Secretary was broader than simply promoting American business and trade in foreign lands. He also used his position to help ensure the peace and stability that would provide the foundation for a stable economic base in tormented nations such as Bosnia and Croatia.

Ron died in the midst of an important mission. And he died doing what he did best: building bridges between people and building bridges between nations.

Mr. Speaker, I would like to join my colleagues in extending my deepest sympathies to Alma Brown, Ron's children, and all of the family and friends of this extraordinary man. His presence will be sadly missed by the entire Nation.

Mr. GEPHARDT. Mr. Speaker, in the few days since Ron Brown's death, it has already become a cliche to speak of his brilliant political career—of his pioneering role as party leader, and his efforts to almost single-handedly redefine the Commerce Department and its influence on the American economy. For those of us who considered Ron a friend, it is reassuring to know that the country remembers him as fondly we do. But when there are so many tangible achievements to celebrate in a man's life, it becomes harder to recognize what is less tangible, but perhaps more important.

To me, there is a reason that Ron Brown broke down so many barriers in so many aspects of his life, and shattered so many preconceptions about politics, race, and America's place in the world. For all his practical and political talents, Ron Brown was an idealist, pure and simple. His goals for himself, his party, and his country were always based on what should be, and not on what others thought could be. That is a rare quality in a politician, and a rare quality in a human being. But it is why people loved and respected Ron Brown, and were so often willing to abandon their own goals and egos to work with him for that higher purpose.

I first began to work closely with Ron when he became chairman of the Democratic National Committee in 1989, around the same time that I became House majority leader. It may be hard to remember just how bad prospects seemed for the Democratic Party at that point, and how few people believed that our party could ever again capture the hearts and minds of the American people. Ron Brown was not only an unfailing optimist—often the only voice of optimism at those early meetings and strategy sessions—but a man who believed so strongly in the bedrock principles of the Democratic Party, he refused to accept any reason why America would not rally around Democratic ideals and candidates.

There is no question in my mind that Ron Brown was the driving force behind Democratic victories in both the 1990 midterm elections and the 1992 Presidential election—and that he worked and sweated for those victories not out of some desire for narrow political gain, but because of his unshakable faith in the Democratic Party as the party of progress for average, working Americans. He never forgot where he had come from, and who he wanted to help.

Much has been said in recent days about Ron Brown's ability to heal divisions, to reconcile warring factions, to focus on what united people as Democrats, or business leaders, or Americans. He truly believed that you could always accomplish more by working together—by bringing others along with you. That may be why he established a unique precedent in working so closely with congressional leaders as party chairman. He really did bring the Democratic Party together—sometimes almost one person at a time. To see the depth of his empathy and understanding—to see how far he would go to understand divergent people and opinions, and then to find the common ground between them—was to see the very essence of leadership.

As Commerce Secretary, Ron Brown dramatically expanded his mandate, reinvigorating the Foreign Commercial Service, and becoming a booster of U.S. exports on a scale that had never before been seen. He poured his energy and passion into his work at Commerce, much the way he had done so at the DNC. I admired the aggressive manner in which he led that department, even in the face of partisan political pressures to play a lower profile.

Our country could use another Ron Brown. For he pushed boundaries and broke down barriers almost instinctively, intuitively, as if he simply refused to acknowledge they were there in the first place. Perhaps, in that sense, we can find some shred of meaning in Ron's terrible death—because no risks and no naysayers could ever have kept him from exploring new terrain, reaching for new challenges, and trying to redefine the world in which we live. That he managed to do all those things in so few years is a powerful legacy indeed.

Mr. REGULA. Mr. Speaker, I would like to join members of the President's Export Council today in paying tribute to Secretary Ron Brown. Ron Brown was a personable individual and a master of the art of politics. He served his country and his party with distinction. I worked with the Secretary during his tenure as Secretary of Commerce and was always impressed with his dedication to economic growth and jobs. We shared the goal of promoting U.S. exports, as Ohio has become a leader in the export of goods to other countries. The objective of his final mission was again to facilitate the movement of U.S. goods into overseas markets, thereby working to keep good jobs here in the U.S. I extend my sympathies to Secretary Brown's family and friends.

Mr. LANTOS. Mr. Speaker, I rise today in both sadness and mourning to extend the condolences of myself and my family to Mrs. Alma Brown, their two children Michael and Tracey, and to the entire Brown family. Your husband, father, and mentor was indeed a unique man who graced the institutions which he diligently served.

He was a man committed to the service of his country and to the fulfillment of a promise he had made to himself and the community that surrounded him in his youth. It was a promise that compelled him to demonstrate time and time again that America's diversity was a strength and not a weakness. It was a promise that elevated him from his beginnings in Harlem to the position of Secretary of Commerce where he served with distinction and ultimately died in that service. And above all, it was a promise that drove Secretary Brown to tirelessly break down the barriers that divided people.

Ron Brown was a lawyer and skillful negotiator who became the first African-American chairman of the Democratic National Committee. Secretary Brown strongly believed in the promise of America and aggressively advanced policies and programs to accelerate the Nation's economic growth. He also became the first African-American to hold the office of U.S. Secretary of Commerce, and through his outstanding inspiration, vision and force of will, left an indelible stamp upon the Department of Commerce.

His list of achievements reads longer than the endless accolades that have adorned his passage from this world into the next.

Secretary Brown worked endlessly to champion the role of civilian technology and technological innovation as the means to ensure American job creation, economic prosperity, and a higher standard of living. Under his tenure, he worked to establish a nationwide network to help small businesses. He led trade development missions to five continents, touting the competitiveness of U.S. goods and services. Under his leadership, U.S. exports reached a record high.

Ron Brown worked vigorously to remove outdated government-imposed obstacles that hindered U.S. exports, and he strongly believed in the competitiveness of American business. His dream was to make America stronger, and he remained steadfast to this commitment. Under Secretary Brown, United States exports to Japan increased by one-third. He advocated for $80 billion in projects and supported hundreds of thousands of U.S. jobs. His vision and leadership included his understanding of the vital link between our economy and the integrity of our environment. He furthermore understood the critical importance of protecting intellectual property worldwide, and to this purpose he negotiated with countries around the world.

There was a purpose to Secretary Brown's commitment that found fruition in his constant struggle to transcend all barriers. It is indeed befitting that this dedication will serve as his legacy; a befitting legacy that will outlive the demise of its creator. His passing will not detract from the quality of his achievement, but will rather inspire us all to achieve more from ourselves.

His premature departure not only leaves a void, it also leaves a tradition that has taught America how to face and overcome adversity. His passing compels all of us to take note of his outstanding determination and pay respects to his commendable achievements. On this day, I ask my colleagues to join me in remembering a man who served his country faithfully in both life and in death.

Mr. DELLUMS. Mr. Speaker, I rise to pay tribute to a dear friend, a visionary, a dream-maker, and trailblazer; the Honorable Ronald H. Brown. Although I am deeply saddened by his sudden passing, I am inspired and encouraged by the legacy Ron has left for all citizens of the United States. Ron Brown was not only a personal friend, but a friend of our country.

Elected the first African American Chairman of the Democratic National Committee, he utilized his experience and successes, in reuniting the Democratic Party and ensuring a victory for President Clinton.

As the first African American Secretary of Commerce, Ron not only pursued the expansion of American trade opportunities, but also sought to extend the American Dream to improve the quality of life for all people throughout the world. His vision for the Department of Commerce included providing economic opportunities for all Americans, opening and expanding markets globally, and generating jobs through his national export strategy which allows U.S. companies—big and small—to maximize their export potential. In addition, he wanted to ensure an enhanced technology base and infrastructure and utilization and growth for the Information Superhighway. In doing so, he transformed America into an export superpower, creating over $80 billion in foreign agreements for U.S. businesses. A champion of civil rights, he fought for diversity within the Department, as well as increased opportunities for minority-owned businesses.

Ron was a trailblazer. The list of accomplishments which inspires not only African Americans, but all working men, women, and minorities is commendable. He, as Dr. Martin Luther King, Jr., was an effective communicator, a passionate civil rights advocate, keen political strategist, skilled negotiator, and compassionate bridge builder. A man of action, Ron Brown not only dreamt, but more importantly, realized his dreams for himself and others.

I will personally miss our heart to heart conversations and political discussions, Ron's enthusiasm for life, and most of all, his infectious smile.

As my friend, the Reverend Jesse Jackson so eloquently described him, "We must remember Ron Brown—freedom fighter, social servant, patriot, dream-maker . . . A monument to his success is opening the door for coming generations." We must always hold a special place in our hearts for Ron Brown. Ron was truly a man for all seasons who we will sorely miss. Thank you, Ron, for all you've done. We love you, brother.

Mr. RAHALL. Mr. Speaker, people from all walks of life, professional, personal, religious—friends, colleagues and strangers alike—found themselves binding together over the past 2 weeks in mourning the loss of Ron Brown, U.S. Secretary of Commerce, who died tragically in a plane crash in Bosnia. As could be expected, Ron was lost to us while on a mission of peace as he sought to repair the fabric of war-torn Bosnia.

Today, in honor of his memory, I would like to add my voice to those of hundreds of thousands—perhaps millions—of others who spoke of Ron Brown the man, the husband, the father, the friend of Democrats, the beloved advisor to President Clinton.

I begin by extending my personal condolences to his wife, Alma and their children, and to the families and friends of all others who gave their lives as well, and to assure them that they are in my thoughts and my prayers; may they be comforted by God's love and the outpouring of grief, love, and the many tributes coming from people throughout the world.

I also convey condolences to the family and friends of William Morton, a native of Huntington, WV, located in the district I represent, who was also aboard the doomed plane over Croatia. To them I extend my deepest sympathies and offer my prayers on their behalf that will always be comforted knowing that William died on a mission of peace, as a patriot of his country, doing the job he was committed to doing and doing well, at the side of his mentor, Secretary Brown.

I pay particular tribute to Ron Brown, Secretary of Commerce, for while he excelled in all aspects of every endeavor or job or position he ever held in public life, it was as Secretary of Commerce that he won my everlasting admiration and esteem.

As the Representative in the House of the people of the third district in West Virginia, one of my major goals is to do all that is possible to increase economic development opportunities and the job creation that follows such incentives, for my people. We live in the heart of Appalachia where unemployment in some areas still remains in double-digits, and where economic development is integral to our effort to create a stronger, stable economic base for all West Virginians.

Ron Brown won my heart by requiring his entire department staff to memorize a one-sentence mission statement that ought to be the mission statement of every person in government, and that sentence was: "Our mission is to ensure economic opportunity for every American."

Ron Brown, having achieved the American dream for himself, spent the rest of his life seeking to make it a reality for those bound over by poverty and despair. His life stands as a testament to the power of educating our people, to a sound work ethic meaning a willingness to work hard, and a dedication of ourselves to work for the common good of all.

In West Virginia, Ron will be remembered more for local economic development projects through the Economic Development Administration [EDA], and the Office of Economic Adjustment perhaps, then for his global view on trade initiatives between the United States and the rest of the world. He was a friend of towns and cities large and small throughout the Nation, and became the catalyst for change in social and economic circles that were long overdue, by reminding American capitalists that their prosperity was inextricably linked to the prosperity of all Americans.

Whether Ron was in an American city, the Middle East, or Bosnia, he believed that participation in economic success would go a long way in healing racial, ethnic, and religious differences.

Secretary Brown ran the Commerce Committee like no other Secretary before him—by actively involving businesses in securing jobs for Americans. He took a page from the investment strategy book of the Japanese Government whose economic growth excelled for many years because of the direct involvement of government in the Japanese business community, issuing a challenge to America's economic thinking.

Ron Brown learned from that, and he acknowledged the power and importance of businesses great and small in the United States, and encouraged greater investment in business and industry, rather than ignoring them as his predecessors had done. Under his stewardship, the American economy rebounded over the past 3 years, largely due to his personal involvement and the involvement of his department staff who had memorized the one-sentence mission statement: "Our mission is to ensure economic opportunity for every American."

Ron Brown was many things to many people, and he was remembered as having great charisma, of being able to walk into a room and energize it, drawing people to his side. He was known for his sense of compassion, his willingness to listen to both sides. He was also known for his sense of humor and, needless to say, for his outstanding political acumen, and his ability to make friends anywhere and everywhere he went, working on behalf of the America he loved.

That is Secretary Brown's legacy to us all, and we must not forget.

TRIBUTE TO SECRETARY OF COMMERCE RON BROWN

The SPEAKER pro tempore (Mr. WHITE). Under a previous order of the House, the gentleman from North Carolina [Mr. WATT] is recognized for 5 minutes.

Mr. WATT of North Carolina. Mr. Speaker, I yield to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, there is much that many of us can say about our good friend and public servant for this Nation, Secretary Ron Brown. I simply want to say to Alma, Michael, and Tracy and the family, we loved and respected him; but to America, he was a leader beyond leaders. He realized that American business meant American jobs.

As a member of the Committee on Science, I saw his dynamic leadership in support of advanced technology, recognizing that was the future of America. So it is my commitment to his family and to his legacy that I will continue to work toward creating jobs, and I leave this tribute to Secretary Ron Brown:

> Isn't it strange that kings and queens and clowns that caper in sawdust rings and common people like you and me are builders for eternity? For unto each of us is given a bag of rules and a shapeless mass and each must give or life is flown as a stumbling block or stepping stone.

It is my belief and the belief of the American people that Ron Brown was a stepping stone for America, American business, American jobs. Long live the legacy of the honorable Secretary of Commerce, Ron Brown.

Mr. Speaker, I consider it a great privilege and honor to participate in this special order in tribute to Ronald H. Brown, former U.S. Secretary of Commerce. He had an outstanding career as a lawyer, National Urban League executive, Democratic Party chairman, Cabinet Secretary and close Presidential adviser. I am proud that the city of Houston paid tribute to Secretary Brown and the others that perished on April 3, on Friday, April 12, 1996, at Antioch M.B. Church.

Ron Brown used his many talents to create a better quality of life for all Americans. This special order's focus on his impact on the expansion of American-owned companies into foreign markets is very appropriate. During his tenure at the Commerce Department, he redefined the Department's mission to provide economic opportunity for every American. Moreover, he believed that peace and prosperity could be strengthened and promoted through international trade.

Over the past 3 years, he helped develop a national export strategy to assist American companies in increasing their exports to foreign nations. Since 1993, American-owned companies entered into commercial deals with foreign businesses in the amount of $80 billion.

Most of this expansion was as a result of his tireless efforts in leading numerous trade missions around the world. He supported the creation of strong ties with new markets in Africa. Asia, Latin America and Eastern Europe. Brown also helped to streamline regulations that unnecessarily hindered the exports of our goods and products.

Brown served on President Clinton's National Economic Council and the Council on Sustainable Development. He was also a member of the council on Foreign Relations. He chaired the Trade Promotion Coordinating Committee, which was comprised of 19 Government agencies, to strengthen the American economy through trade.

Ron Brown was a man of great vision and understood the importance of technology in our growth and development. He was a strong supporter of the Commerce Department's advanced technology program, which helped create thousands of businesses that will lead us into the 21st century.

All of us in public service owe a great debt to Ron Brown. He inspired us to always remain optimistic, to be committed to achieving our objectives and work to ensure that no American is left behind. This is his great legacy. Let us renew our commitment to public service.

Mr. WATT of North Carolina. Mr. Speaker, I yield to the gentlewoman from Florida, Mrs. CARRIE MEEK.

Mrs. MEEK of Florida. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, it is very difficult for me to discuss my feelings, my personal feelings, about Ron Brown. I have known Ron Brown since he was a very young man. I have seen him come up through the ranks. He did it the hard way. He worked for it.

I appreciate the kind of commendation that we are giving Ron Brown today. I want to send my condolences to the family, especially to my baby, Michael, his son, and to say to Alma and to her daughter, Tracy, that God will go with them, as we all know, and that Ron will always be remembered, and that we will keep his legacy going. He will not be a forgotten man. I also want to say to Mrs. Meissner, who lost her husband, to send my condolences to her.

People were magnetized by Ron Brown. He lived in such a way that people would gravitate towards him because they knew he was good. I will tell you one thing, Mr. Speaker, every youngster in this country who is from a poor or disadvantaged community, or even more, all over this country and all over this world, not due to ethnicity, race, or creed, will pattern themselves after Ron Brown, because they see an opportunity in him, in what he did, to make the American dream work. That is going to be his legacy.

He walked through the streets of Liberty City with me, a very poor community, and he reached out to every one of them, yet he got to be a counselor to the President of the United States. He sat on the Cabinet.

When I think of Ron, I think of a poem which we call, and I am going to paraphrase it, The Builder:

> There was an old man at evening tide who was building a bridge on the countryside. A young man came to him and said, "Old man, why do you try to build this bridge? When the tide comes in you will be long gone. You won't be here." And the old man lifted his head and said, "Young man, let me tell you something. The reason I build this bridge at evening tide is there will be a young man such as you who will come after me. Young man, I build this bridge for thee."

That is why Ron did what he did, to build bridges for all of us. I thank the gentleman for sharing his time with me.

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentlewoman for sharing in this special order tribute to Ron Brown. Mr. Speaker, I want to spend a minute or two in this final part of the 5-minute period just saying a couple of things, more from the heart.

First, Mr. Speaker, I want to express my condolences to Alma Brown and to the entire Brown family, and to the families of those others who perished so tragically in this crash. This was a devastating loss for our country and for me personally.

Second, I cannot help but recall the very last time that I saw Ron Brown, which was in the hall in the Rayburn Building. I had been involved in a hearing and was rushing in one direction. Ron had been called before a committee of the House to testify at another hearing. He was coming out of that and was rushing off to another place.

Despite the fact that both of us were in a hurry and headed in different directions, the characteristic that always came through from Ron Brown surfaced. That was the ability, for whatever small period of time he had, to look at you in the eye and make you feel that you were the most important person in life at that moment. We spent a few moments together, and that came through to me. That is the memory that I will always have of Ron Brown.

Mr. Speaker, I would like to express my condolences to Alma and the rest of the Brown family and to the families of those who perished tragically in the plane crash in Croatia.

The outpouring of support that we have seen since Ron's passing is a testament to the life he led and the impact that he had on people. Since his passing there have been two things that have been said about Ron most frequently. They are that Ron Brown had a lot of friends and that he had a tremendous amount of political acumen. I knew both of those things were true.

Almost 2 weeks after Secretary Brown's passing I think it is necessary for us to continue to honor his life and celebrate his legacy. Ron Brown taught us about the importance of providing jobs for our citizens through economic expansion and ensuring equality of opportunity so that all could share in the fruits of economic expansion.

EXPANDING ECONOMIC OPPORTUNITY

Ron Brown knew that the success of the American economy in the 21st century would depend upon expanding economic opportunity for all of our people. In a time where the gap between the rich and the poor is ever-widening, we must see to it that our economy creates jobs which provide living wages. We must also see to it that the good which flows from economic prosperity is shared among all of our people.

EQUALITY OF OPPORTUNITY

Ron Brown knew that our schools and our workplaces should be a reflection of America and should ensure equality of opportunity. He saw to it that his Commerce Department reflected the racial, ethnic and gender differences of the taxpayers on whose behalf his Department worked. Ron worked to provide opportunities for others who might not have been given the chance. Ron Brown knew that there were many more Ron Browns with intelligence, ambition and the will to succeed. Ron Brown gave them an opportunity to shine. They were African-American, white, Latino, Asian-American, they were among those who accompanied him on the mission to Bosnia. We must continue to work to see to it that America fulfills this promise of equality which Ron Brown exemplified.

As we honor our late Secretary of Commerce we must not forget these things which his life has taught us so well and we must work to continue his legacy.

Mr. Speaker, I thank the gentleman from Ohio for providing this opportunity to do this special order before his special order comes forward.

TAXES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. CHABOT] is recognized for 60 minutes.

Mr. CHABOT. Mr. Speaker, the topic of our special order this evening is taxes, and periodically, we will likely be joined by some other principally freshman Members of this House. One of the things that we all share is that we all believe very firmly that taxes are just far too high in this country. The American public is overtaxed, and our Government overspends, and we have to do something about that.

I am 43 years old, and back when I was born, and I was born in the early 1950's, during that period of time the average American family in this country sent about 5 percent, 3 to 5 percent to Washington in the form of taxes.

Here we are 40 years later, and that has gone from 5 percent up to about 25 percent that Americans send to Washington to cover our Federal Government's spending. But that is not the whole picture. It is even worse than that. When you add State taxes, local taxes, city taxes, county taxes, township taxes, school taxes, sales taxes, real estate taxes, all the other taxes that we pay as Americans, the average American family now spends about 40 percent, 40 percent of what it earns in the form of taxes.

□ 1800

Another way to look at that 40 percent figure is that if you work Monday through Friday, you are working Monday and Tuesday for the Government and only Wednesday, Thursday and Friday are you able to support your family on the money that you earned. That is far too high, far too much of a bite out of the taxpayers of this country coming to the Government.

Another way to look at it is if you work an 8-hour day, about 3 of those hours are worked for the Government. That is just ridiculous. I am sure that our Founding Fathers and founding mothers never envisioned anything like the burden of taxation that we now have on the people of this Nation.

Wages have gone up somewhat. If we look since 1989, for example, wages have increased somewhat. However, when we look at the tax burden, the fact that taxes have gone up, we are at best in this country treading water. We are trying to stay even. But we are really losing out on the American dream.

Our parents, I know my parents, envisioned their children doing better than they did. We all want to advance some in life. The problem is right now because taxes at all levels of Government, particularly at the Federal level of Government, have gone up and up and up, the American dream is being destroyed. Because we are overtaxed, we cannot keep enough of our own money to support our families, and that absolutely has to change.

A group called the Tax Foundation, for example, calculates that in this country we right now pay more in taxes than we do for food, clothing, or housing, shelter, medical costs. Think of that. Food, clothing, health care, housing, all those things, we are spending less for that than we are for taxes. That shows again that we are just overtaxed in this country.

At this time I have been joined by several of my colleagues. I will pick up here in a few minutes but I would like to, I believe, start with the gentleman from Kansas [Mr. BROWNBACK] since he was here first, and I will at this point yield to a good friend of mine from Kansas [Mr. BROWNBACK].

Mr. BROWNBACK. I appreciate the work that the gentleman from Ohio [Mr. CHABOT] does in representing Ohio in this great Nation, one of the big power forces we have had in this new freshman class of things we have been able to get done. I do not know how many American people recognize that this freshman class has hit here and people like the gentleman from Ohio [Mr. CHABOT] have gotten things done, sent here to make Washington smaller, more efficient, work better for the American people, and it has happened.

One of the things we have not gotten done yet is changing the taxes and being able to get the tax burden less on the American people. We have passed it and passed it again, and have been vetoed and sent back by the President. As the gentleman aptly put forward, the American people are I think taxed to the max, to the point now that they work nearly 40 percent of their year just to pay taxes at all levels, and it is just too much.

I wanted to make another point, if I could, on the issue of taxes. I have got some words here in front of us that rule our lives, if I could show these to the American people. I think it will be kind of interesting to other Members of Congress.

I have got on this page the Declaration of Independence, where we declared independence from a dictatorial nation that was telling us to live a different way than what we wanted to, and these are some words that rule our lives. Within this page is the Declaration of Independence that talks so much about the freedoms and justice that we treasure so much as the American people.

I also have with me today the Holy Bible, words that help with our life as well. I have got the number of words here, 773,000 words approximately in the Holy Bible. The size of this, Declaration of Independence, 1,300 words.

I have got to show the Members of Congress the 1940 Tax Code. I thought we would go back a little ways and we would see the 1940 Tax Code, and I can still lift this one up. It is 4 volumes, the United States Code Annotated, Internal Revenue Code of the United States, 1940's Tax Code.

I cannot pick up the current Tax Code of the United States. I guess I need to be lifting weights better, then I would be able to. The gentleman from Arizona [Mr. HAYWORTH] might be able to do this, but it is a stack about 2½ feet tall of books. It contains 555 million words that control our lives.

This is no joke at all. Unfortunately, this is the real thing. This is just the Tax Code itself, so we can see how much it has grown and how much it has expanded over a period of from 1940 to what it presently is today.

The IRS actually sends out 8 billion pages a year in forms and instructions, which itself would stretch around the world 28 times, just the words that they send out and the billions of pages.

In 1948 a typical family paid only 3 percent of its income in Federal taxes, 3 percent. Imagine that. Because today they pay 24 percent, 8 times as great as in 1948. Imagine what an increase in salary and wages and income we would be giving the American people if we could cut the Government back even a quarter of the way to where we were in 1948.

According to the Tax Foundation, more than 3 hours of every working day are dedicated to the Tax Code. That is how long Americans work on average to pay their taxes. In total, individuals will spend 1.7 billion hours filling out their taxes, responding to this stack of books here, of rules and laws and words that govern our life.

My point in mentioning all of this, and there is a number of other facts that move forward with this, is that we have far too much tax burden on the American people. Average working American people across this country are working too much for the Government and not enough for themselves and their own families.

We have got to much manipulation out of Washington, trying to micromanage our individual economic and personal decisions, trying to make everybody, I guess, perfect across the country as somebody might have designed from here. The Tax Code was written by a thousand different Members of Congress at different times over the eight decades that we have had an Internal Revenue Code.

I just think it is time we say enough is enough. We have got too much of a tax burden, it is too complex, it is too much manipulation out of Washington, and it is time we cut it down to size. It is time we cut the tax burden, and give the American people a real raise by cutting their tax burden.

It is time we cut back on manipulation out of Washington and say that the Tax Code is not for social engineering, it is not for economic engineering. The Tax Code is for raising revenue for the Federal Government. It should be done with a lot of change that we are going to have to get through, and making these sort of changes so the American people can get the relief that they need to have both in the burden and the quantity of manipulation they are getting out of Washington.

I see we have been joined by some other colleagues.

Mr. CHABOT. Reclaiming my time, I thank the gentleman from Kansas. I particularly think it is very interesting the figure you used about 8 billion forms and instructions that go out to taxpayers all over this country.

I think one of the interesting figures that I had seen recently was to put together those forms, we have to cut down 293,000 trees just to put together these forms that we send out to the American public and I personally think that we ought to leave a lot more of these trees standing and cut down the Tax Code substantially. I yield to the gentleman from Mississippi [Mr. WICKER].

Mr. WICKER. I thank my colleague from Ohio for yielding. I certainly also want to commend my friend from Kansas for the remarks which he just made. I certainly hope that he will leave those books there on the desk. They are a graphic example of the increase in the complexity of our Tax Code over the past number of years. They translate into something very, very practical, and, that is, the fact that too much money is being taken out of household budgets and brought to Washington, DC, and that is just a very graphic example there.

Yesterday was tax day all across the United States of America, which was another reminder to American families and American working men and women of the bite that the Federal Government takes out of household incomes. But there is another date that is also very, very significant, and that is May 7, to be exact, May 7, 1996. That is Tax Freedom Day in the United States of America. That means that the average American has had to work until May 7 just to pay his obligation for all Federal, State, and local taxes. Not until May 8, 1996, will the average American begin working for himself.

This is the latest time during a calendar year that Tax Freedom Day has occurred. What that means is that the tax burden on Americans is heavier than it has ever been in the United States of America. I want to commend our party, the Republican Party, for proposing a solution to that and proposing to change the direction.

Sometimes I go back home and people say, "Well, ROGER, there's too much partisan rhetoric on the floor of the House of Representatives," and certainly I applaud any effort at bipartisanship, and I also applaud the efforts of those who have put forward the civility code. I think we need more of that.

But, Mr. Speaker, there is a reason for the very pitched partisan debate about the tax issue. And that is this. That there are two very, very fundamentally different approaches to taxation represented here in this Capitol building. There is the Democrat approach of 40 years of increased taxation, increased overreaching into the pocketbooks of American workers, and we are here now as a Republican majority for the first time in 40 years to reverse that trend.

The differences at the national level are certainly heightened, I think, by none other than the President of the United States. Candidate Clinton ran in 1992 promising a middle-class tax cut. The American people responded to that plank in then Governor Clinton's platform and he was elected. Once elected, President Clinton not only abandoned his pledge for a middle-class tax cut but he gave us the largest tax increase in history. I note that one of my colleagues yesterday came onto the House floor and disputed that, saying that actually maybe it was the largest tax increase in peacetime history.

Regardless of how you do your figures there, it was a whopping increase of nearly $260 billion, which meant a 4.3

cent per gallon tax on gasoline which affected farmers, truckers, and people certainly living in the rural areas of my district in north Mississippi. The Clinton tax increase involved a 70-percent increase in the amount of Social Security benefits that can be taxed. I certainly am proud to stand as one of the Members of this House of Representatives who voted to reverse that tax and repeal that tax and certainly regret the fact that President Clinton has stymied us and not allowed that repeal of that tax to go through. Also small businesses were hit hard. Don't take my word for it. The National Federation of Independent Business called the Clinton tax plan about as anti-small business as you could ever see.

So I would simply point out to my colleagues, Mr. Speaker, that there are fundamental differences in our approach to this very, very significant issue. The Republicans in the House of Representatives and in the Senate stand for lower taxes, tax cuts which not only benefit families but also which will encourage job creation. And so I thank my colleague from Ohio for putting together this special order and I look forward to participating in it this afternoon.

Mr. CHABOT. Reclaiming my time, I thank the gentleman from Mississippi for sharing his thoughts on taxation. You mentioned the disparity, the discrepancy between the two parties in this House and I do not think it could have been plainer than as recently as yesterday. What we attempted to do in essence was to make it tougher, make it harder for the Government to raise income taxes on the American people. Right now we can do it with a simple majority of Congress, taxes can be raised on the American public and assuming that the President signs the bill.

What the Republicans in this House tried to do was to make it tougher, to go up to two-thirds. We tried to pass a constitutional amendment that would require two-thirds of this House and then two-thirds of the Senate in order to raise taxes on the American public.

Mr. WICKER. If the gentleman would yield on that point, I think the gentleman would agree that four out of the last five tax increases would not have been enacted had that provision been part of the Constitution when they were voted on.

Mr. CHABOT. Reclaiming my time, I think that is absolutely correct. I firmly believe that we should make it tougher for Congress to ever raise taxes again.

□ 1815

Unfortunately, since it is a constitutional amendment, we needed two-thirds of this House to pass it. Some 234 Members of this body voted for it, 177 voted against it. Almost every Republican, there were only 17, I believe, Republicans voted against it. And 200-plus Republicans voted for the constitutional amendment. There were a relatively small number of Democrats who joined us on this.

But there are many people in this House, and even though we did not get it this time, we are going to keep coming back, because we should definitely make it tougher for this Congress ever to raise taxes on the American people again.

At this time, I would like to yield to one of the most articulate and truly one of the leaders of the freshman class, the gentleman from Arizona, Mr. J.D. HAYWORTH.

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from Ohio and the gentleman from Mississippi and the gentleman from South Carolina for joining us here to talk about taxation. I thought especially eloquent was the gentleman who preceded me at this podium, the gentleman from Kansas. And while he is quite eloquent in his verbiage, I thought the stack of books that now comprise the Internal Revenue Code, Mr. Speaker, with those joining us on television this evening and this afternoon back in my home State of Arizona could see with their own eyes that huge stack of books in a system that has grown more and more complicated. I think just as there were volumes upon volumes, that picture spoke volumes.

The gentleman from Ohio, you mentioned yesterday's proceedings, and I thought it was interesting what transpired in this Chamber during the course of the debate. A couple of arguments used and one, quite candidly, that some Members of the new majority bought into, was this notion that somehow the Constitution of the United States should not be amended or amended only sparingly. I just thought it was worth going back to article 5 of the Constitution, this document of limited and enumerated powers, to see precisely what is said. Again, I think the first clause in article 5 lays it out quite simply: The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution.

Now, for the accurate historical picture, of course there is one prohibition dealing with the Government and dealing with a certain year date, 1808, with reference to some amendments to the Constitution, but that had to do with the foundation of this very republic and some time-sensitive matters.

But that is clearly where it is left. You see, our Founders did not say, now we would limit you to a Bill of Rights or to 40 subsequent amendments. They left no numerical prohibition there. Nor did they feel it was their place to articulate a procedure that either of these two Houses in the legislative body would follow.

Indeed, yesterday, Mr. Speaker, it was very interesting to watch Members of the liberal minority stand up to profess great feeling for the Constitution, but in reality, to hold higher alleged rules and customs of this House than the Constitution. To somehow claim, and I know that I am joined here by friends who work on the Judiciary Committee who are in their own right juris doctors. And for the purpose of full disclosure Mr. Speaker, "J.D." in my name does not stand for juris doctor. It stands for JOHN DAVID. I am not a lawyer, nor have I played one on television.

But I think it is worth noting that our Founders simply said whenever two-thirds of both Houses deem it necessary, they gave us the ability to bring these proposals directly to the floor. And if there were ever a proposal that we needed to move on, it was the tax limitation amendment that fell somewhat short last night but is long, long overdue.

Mr. Speaker, I attempted to offer some perspective during the course of last night's debate, and indeed I thank the gentleman from Ohio for allowing me to fulfill a promise, because as I said from that well that we would have to wait for a special order to articulate this. But a couple of points worth noting. Those folks who were so reluctant to amend the Constitution failed to answer the question I proffered last night. And that was, if a direct personal income tax were such a good idea, why did the Founders not put it in the original document? They were strangely silent about that amendment.

But also it is worth noting what transpired in the wake of the 16th amendment. The Center for Small Business Survival put together a survey, put together a study, went back and took a look at the original tax code in 1913, in the wake of the passage of the 16th amendment, and the numbers were absolutely astounding. If we wre to take the tax code of 1913 and apply it in 1990's dollars, a single person filing singly, of course, would be exempt on the first $46,000 of his income. A married couple filing jointly would be exempt on the first $59,000 of their income. And most astonishingly, to take the 1913 tax code and project it into 1990's dollars, 1 percent tax would be levied on the first $298,000 of earnings. Absolutely astonishing.

How then do we account for the change? How do we account for the volumes the gentleman from Kansas brought? Quite simply this. The insatiable desire of this Federal Government to take money from its citizens, to reach into the pockets of hard-working Americans. If you need proof, understand this. Adjusting for inflation, according to the Center for Small Business Survival, even adjusting for inflation, the cost of the Federal Government from 1913 until the present day has increased in excess of 13,500 percent. The marginal tax rate on families has increased some 4,000 percent.

The arguments have been made eloquently here again in this special order. I commend the gentleman from Ohio. But simply this thought should be remembered: When the average American family surrenders more to the Government in taxation than it spends on food, shelter, and clothing combined, something is fundamentally wrong. We were sent to this Congress with a basic premise and a basic promise: To let the hard-working people of the United States of America hand on to more of their hard-earned money and send less of it to Washington.

Mr. Speaker, I salute my colleagues who join me here tonight. I salute them also for voting for this tax limitation amendment.

Mr. CHABOT. Mr. Speaker, I thank the gentleman from Arizona.

Reclaiming my time, I would like to at this time recognize, introduce the gentleman from South Carolina [Mr. SANFORD], a very good friend. I also want to compliment the gentleman from South Carolina on a recent score he received from one of the groups that ranks Members of Congress, and that is the National Taxpayers' Union. And what they do is they go through a very large number of votes and keep track of which Members are really serious about cutting spending and cutting taxes. They put all the votes together, and of the 435 Members of the House, this gentleman was tied for No. 4, I believe, and of the freshman class, you were tied with lead, coincidentally with myself.

But in any event, I want to thank the gentleman and commend you on that particular score, and let us keep cutting taxes and reducing the rate of spending in some areas and cutting spending in other areas.

The gentleman from South Carolina [Mr. SANFORD].

Mr. SANFORD. Mr. Speaker, I thank the gentleman from Ohio for yielding the time.

I consider it good company that I had both this evening and on that particular scoreboard. I do not know if I thank you, though, for putting me behind J.D. It is always horrible following J.D. J.D., you are a walking encyclopedia on this stuff, and I admire the almost ever-growing list of things that you know about on the whole tax matter. I applaud your efforts there.

I would simply say this. I do not want to beat an old horse, and a lot of things have been covered as we have talked about taxes, but I would like to throw in these two cents. That is, we had a town meeting last Saturday, just prior to everybody sending in their tax returns, back home in Charleston, and I tried to think about what is it that you are going to talk about just prior to tax day. I thought about well, May 7 is Tax Freedom Day. I thought about how the average family sends almost 40 percent of what they earned off to the Federal, State, or local government. I thought about how, you know, a hard-working couple works almost until noon to pay for the total cost of Federal, State, and local government. But what occurred to me was why in the world would I be telling them that? Because they know it a whole lot better than I do. In fact, when I have neighborhood office hours, people come up to me saying, MARK, do you realize how much we are paying in taxes?

So I did not want to state the redundant, and so I looked. I do not know if you all have heard, Charles Adams wrote a book entitled "For Good and Evil: The Impact of Taxes on The Course of Civilization." So I got out pen and pad and began to work my way through his book. What he does in his book is he looks through the course of civilization, and with each different civilization breaks out tax rates.

What was interesting about his study is that if you start, let us say, with the Egyptians, go all the way back to the Egyptians. You go back, let us say, 3,000 B.C., to all the way to when they ended, which I guess was around 476 A.D. And if you look at taxes in their civilization, what you would find is that on average, they had an agricultural production tax of about 20 percent. And then during hard times, this is nothing you would see with the IRS today. But during hard times, they had what they call philanthropa, wherein the pharaoh would say, we had a bad year with crops this year, therefore, there would be no taxes this year. It was rumored that is where the word "philanthropy" came from. But roughly around 20 percent.

Then you move to the Greeks. Athens and Sparta had this sort of military sharing arrangement there with the other city/states to fight off the Persians, which they did quite successfully. And what was interesting there was they had an indirect tax, a tax ranging anywhere from 2 percent to around 10 percent, 10 percent if it was a shipping channel covered with pirates, 2 percent if it was not. And then around a 10 percent harvest tax for the city/states. They actually had the first progressive tax, which they called liturgy, where it was a voluntary tax for somebody who lived in that city/state who was doing well, they would come and say, we need this help with *x*. Would you help us? And there was a voluntary tax. But roughly again somewhere on the order of 10 and 15 percent on average.

Then in Rome, you break out the republic versus the empire during the first part. During the republic, there was very little in the way of tax because you had a volunteer economy. What you had there is with their army, every citizen who was a landowner volunteered for the army for 1 year. That spirit of volunteerism, if you want to call it that, was so pervasive that even the magistrates volunteered. So as a consequence, there was not a lot in the way of taxes. They had indirect commercial taxes and custom duties, which ranged from on the order of 2 percent to 5 percent. Unfortunately they had slave auctions back then, which were roughly another 2 to 5 percent. But those were the two big taxes.

Then as you moved into the empire, taxes began to go up because, first, they had tribunal, which was a war tax. There was a 5-year census. Every 5 years they took a census, and then depending on your wealth, if you were poor, roughly about one-tenth of your wealth was taxed. If you were wealthy, roughly about 1 percent of your wealth was taxes. And that tax went off. And if they were successful in their war effort, there was a rebate with the booty that came with war.

They had a couple other taxes, again a 10-percent harvest tax, a 20-percent orchard tax, a 5-percent custom tax. And toward the end of the empire, they actually began to have an inheritance tax of around 5 percent. But again, something just slight of 20 percent on average.

If you looked at the Spanish decline, the Spanish empire and how it declined, what you found was they had two main taxes there. The second tax began to get out of whack, if you will. There was a revolt there with Charles V around 1520 as a result of these taxes because they were not viewed as fair.

□ 1830

They almost had an arrangement wherein the legislature was promised a whole lot of benefits, pensions, et cetera from the king, which worked fine until the taxes got too high and then there was revolt.

The Swiss have long understood the connection between liberty, taxes, and democracy, and for that matter all revenue matters essentially come to vote. An example of that would be, in 1991 a value added tax was proposed in Canada and passed. The same value added tax was proposed in Switzerland and failed, in large measure because they could take that vote straight back to the people.

But what struck me about all this, and you could wander through a whole lot of empires and civilizations, was that you can only squeeze so much blood from a turnip. Those numbers happen to fit, in terms of the study of civilizations and taxes there with his book, fit with OMB numbers, and they fit with Reader's Digest, which is an unlikely pairing in my book.

Because with OMB they went back and looked at numbers from 1950 to present, and what they found was that regardless of which tax rate you were at, roughly the government share was around 19.8 percent, just shy of 20 percent. Whether you were in the 70-percent tax rate or the 20-percent tax rate, as tax rates ratcheted up and down, you could only squeeze so much blood from a turnip.

People responded to that tax. If the tax was up at 70 percent, sure enough, the second earner stopped earning. They stayed home more. If it was down to 20 percent, they went back to work. People responded. So, first, you can only squeeze so much blood from a turnip; and, second, this is where Reader's Digest recently did a poll and went out and asked folks, "What do you think a fair tax rate would be?"

They asked males, they asked females, they asked whites, blacks, and people earning below $35,000. They asked people earning above $35,000, "What would be a fair tax rate?" Resoundingly, in each of those different categories people came back with the answer, around 25 percent.

Any yet, as you know, our overall tax burden is closer to 40 percent, which again says to me two things: First, civilizations must have had something right throughout time, and the fact that they were at or below 20 percent on average says to me that we are probably out of whack. And, second, if Reader's Digest gets it right, maybe they could pass along the lesson to us here in Congress, in that here we are bouncing along in the neighborhood of 40 percent. What do their readers say? Around 25 percent would be fair.

So I just thought that that was interesting to look at that whole time frame and just say where are we in the grand perspective. Because when I say tax freedom or I say, do you realize you are paying *x*, people already know that.

What was interesting was to look at those numbers and to say, boy, 20 percent seems to be a number that has worked throughout time.

I will yield back. I do not want to take too much of your time.

Mr. CHABOT. I thank the gentleman, and reclaiming my time, I think the gentleman from South Carolina makes many, many very good points. I cannot touch on all of them, but I think you cannot squeeze blood out of a turnip or only so much is right on the mark. That has been one of the problems with the government, particularly the Federal Government, is they thought there was just an unlimited ability to squeeze blood out of the American public. The limit for taxes, just unlimited, just keep raising them, and we have gone far beyond a level which is appropriate in this country.

This Congress, particularly on this side of the aisle, we have made some effort. Before yielding to the gentlewoman from California, I want to touch on a couple of things that we have done in this Congress thus far to give the American people a break, to reduce the level of taxation on particularly working people in this country.

For example, right now a married couple in this country is penalized for being married. We wanted to eliminate the marriage penalty, and passed appropriate legislation here in Congress to do that. Unfortunately, down at the White House it was vetoed. This is unfortunate because we should not penalize married people. We should encourage people to be married in this country.

Capital gains relief is another example of tax relief that we tried to pass this year in this house. Capital gains I think is something that is very important, because some people think capital gains is just for rich people. Seventy-three percent of the people who benefit from capital gains relief earn less than $75,000.

Many senior citizens in their pension plans and their IRA's and other things benefit from relief. Most importantly, capital gains relief means that the economy will thrive more. It will mean more jobs for Americans, more entry level jobs for teenager, for example, so we need capital gains relief in this country.

The adoption tax credit is something we passed here. The President, by the way, vetoed the capital gains relief. The adoption credit, we wanted to give a $500 tax credit to people in this country for adopting a child. There are many diverse views in this House about the issue of abortion, a controversial issue. Some are pro-life, some prochoice, but I think we all agree that we want to reduce the number of abortions, and the $500 tax credit or, excuse me, $500 adoption credit would encourage people to adopt children.

We wanted to give seniors in this country relief. Right now a senior citizen, once they earn about $11,000 they start losing their Social Security Benefits. That does not seem fair. Seniors all over this country have paid into Social Security all their lives. Then they retire, want to make a little bit of money, and they start losing their Social Security benefits.

So what we did is, we passed in this House relief which allowed seniors to go from $11,000 to earning up to about $35,000 over a 7-year period. It was a gradual increase in the amount that could be earned before they started to lose their Social Security benefits. Fortunately, that was one of the things that the President did not veto, so that was passed, and I am very pleased about that.

The final thing I wanted to mention that we have done in this Congress thus far is, we wanted to give a $500 tax credit for families who have children. So if you have two children, that would be a thousand dollar tax credit, not a deduction but a credit. When you are raising kids, everybody knows it is an extra burden, and we should give relief to families across this country.

Now, again, 89 percent of the people that would have benefited from this would have been people who made less than $75,000, but the President vetoed it. What we heard was tax cuts for the rich, tax cuts for the rich. These things were not tax cuts for the rich, they were tax cuts for hard-working American citizens, and it is time we give the American public tax relief. I think that is what we are all about.

At this time I would like to yield to a good friend from California, a lady who has made many courageous votes in this House thus far in her career, the gentlewoman from California, ANDREA SEASTRAND.

Mrs. SEASTRAND. Thank you to the gentleman from Ohio. I appreciate your gathering this time for us to talk about taxes, especially this day after April 15.

I am very proud to just find out today that I was given a great score from the National Taxpayer's Union and got an A from them. So I am pleased to be here.

I noticed one of the preceding colleagues mentioned a townhall meeting on taxes, and I know there were a number of us that did that throughout the Nation this past Saturday. I was one. I held a townhall meeting on taxes in a little town called Paso Robles on the central coast of California. It went so well that I hope to do, even though it preceded April 15, I am hoping to do this all through my district, because the information and the give and take from the constituents went so well.

I think the thing that I wanted to get across to them was to tell them that this Congress tried so very much to give them tax relief, that we are starting to talk about tax reform and had some votes on reforming taxes, and that we want to give taxpayers rights.

I know a lot has been said about the hours, the dollars that taxpayers have to spend just to figure out their taxes. We have talked about the hurdles that many of our taxpayers have to endure to get their taxes done, and so I am glad that you are talking about some of the solutions to the problem. I am proud to be part of this 104th Congress that has looked to solutions.

We had the vote yesterday in trying to get a supermajority to pass taxes in this House. It is interesting because I come from a State, the State of California, that does just that. To increase taxes you have to get two-thirds.

Let me tell you, the liberals in that House howl every time we talk about the budget because they are down and they want to take it to a simple majority. They tout how it is better for everybody involved, and some of the same arguments that I heard on this House floor yesterday from the liberals that have been in control of this House for 40 years, and why it was a stupid idea in their estimation to try to even bring this issue up on the floor. They talked about publicity stunts, and I should be shameful because I was talking about increasing the number to a supermajority on this House floor.

Well, I would just say it has worked in my State, and I want to remind everyone that even if you are a supermajority State such as California, they still have the opportunity when we are in facing a dire fiscal situation that, even though I disagreed with that vote about 5 years ago, they raised taxes in the State of California even with a supermajority.

So it was a great vote yesterday. We did not have enough people, the 290 votes, to pass a constitutional amendment requiring two-thirds of this body to increase taxes, but there is another day, another time, and it is just the beginning of continuing to talk about reform in this House.

Now, I am glad that my colleague from Ohio just went through the litany of relief that we tried to give to the taxpayers, those working families throughout America, those working families in Paso Robles in my central coast of California. You talked about the $500 per child tax credit. You talked about the marriage penalty. You talked about your capital gains relief to create jobs for especially the small businesses on the central coast of California. I do not have any of those big corporations in my district.

The tax credit for parents who adopt a child, I know what that is about because my two children are adopted, and know about what it means to give tax deductions to children who have elderly parents at home, and my mom is always worried, concerned about that aspect. And to also give a tax deduction for the first $2,500 interest on a student loan. My children have just graduated from college, but we are always concerned about students, and can they get a tax deduction for their loans.

All of these issues the gentleman from Ohio pointed out just about working families. I am one of those freshmen, about half of our class is under attack by the old guard that have controlled this place for 40 years, particularly those big labor union bosses that sit here in Washington, DC, and then more or less dictate what their members in my part of the country will do.

I have been under siege now for a year, since last April, radio ads, TV ads. You name it, they have done it to me, trying to say that ANDREA SEASTRAND voted for tax relief for the rich. I keep saying, "Where?"

I have just read the litany, you read it prior to, and it is interesting, what we just mentioned, what we are trying to do in this House, and yet the distortions and the misinformation and downright, I guess I could say, lies stated about what we have tried to do in this House to give tax relief to the working families across this Nation.

But you know what I found interesting was that at the townhall meetings, and Saturday was the 50th townhall meeting I have had since I have been elected, the first question is what are you going to do about the Internal Revenue Service. I am telling you, people stand up out of their chairs and they cheer.

What are we going to do? I tell them I am interested in reforming and looking to taking that Tax Code and throwing it out as we know it and looking at something else. Again cheers. So it was no different on Saturday because people actually sit on the edge of their seat and say, "What are we going to do?" What about the flat tax? What about a national sales tax? What about repealing the 16th amendment, the income tax as we know it? What about doing away with the Internal Revenue Service?

So it is exciting to listen to people wanting to start the national discussion, and I hope that through my townhall meetings we can promote a national discussion about not only the tax relief that we have done in this House, but the tax reform that we have begun with our vote yesterday and the discussion that we have started. Should we do away with the Tax Code? Should we repeal the 16th amendment? Should we go to a flat tax or a sales tax?

Now, I think we need to focus on reforming the current income tax, and just to give you a little thought, the national sales tax would abolish that need for the IRS because there would no longer be any income tax.

☐ 1845

Americans would only pay tax on the money they spend so it encourages savings and investment. Imagine bringing home your paycheck and looking at the whole thing and then you decide what you would do with your dollars, what kind of things you would buy. Like the flat tax, it would be easy to comply with, easy to administer. And there are many that have advocated that. I have not myself endorsed either the flat tax or the national sales tax, but I am anxious to continue the discussion with the American taxpayer as to what they think is the best way to go.

The flat tax has just one rate, treats everyone the same. That is what proponents of the flat tax say. All the flat tax plans include a generous family exclusion. There are no special interest loopholes and the form is a simple postcard, enough to fit it all on one little postcard, not the numerous forms that we have to look at today.

The National Commission on Economic Growth and Tax Reform appointed by Speaker GINGRICH and Majority Leader Senator DOLE concluded on six principles that should be included on needed tax reform: First, that we have economic growth through incentives to work, save, and invest; second, that there is fairness for all taxpayers; third, simplicity so that anyone can understand the system; fourth, neutrality so that people and not government can make choices; fifth, visibility, so that people know the cost of government; and sixth, stability so that people can plan for the future.

The bottom line is that our current Tax Code is not a good system. It is time-consuming. It is peppered with loopholes. It discourages savings. It needs help desperately, and the American people are saying that they definitely want a fair, simpler, and more equitable Tax Code and tax system.

So I am glad to be down here and talking with my colleagues that are trying to do something about it. I just appreciate you taking this time etching it out of our busy schedules here in the House so that we can talk about what is so important, more important than anything else but the importance to our particular constituents at home and how it is important that we do something, not only get that tax relief, get that reform, but also give some good old-fashioned taxpayer rights to the taxpayers of America.

Mr. CHABOT. I thank the gentlewoman from California. I just want to compliment the gentlewoman on the may votes that she has taken to give tax relief to the American people. We need to keep fighting this battle.

I now would like to yield to the gentleman from South Carolina [Mr. GRAHAM], a gentleman who has been one of the true leaders in the freshman class this year and in fact in the Congress as a whole.

Mr. GRAHAM. Mr. Speaker, it has been a great debate to listen to. It has kind of brought me down here, kind of got my blood stirring.

One thing that was talked about a lot is the two-thirds supermajority vote requirement to raise taxes. And it has been very well articulated why you need that. One observation I would like to make, if you took 435 people at random, any town in America, any district in the Union, and you asked them to vote on this particular measure, the only group I know of that would have less than a two-thirds agreement is here in Congress. You could take 435 people in any town in my district and ask a simple question, should there be a wall between you and the politician to get in your pocket a little higher than the one that exists, they would have jumped on it a lot more than two-thirds vote. It would have probably been unanimous.

Unfortunately, because it was a constitutional amendment, we needed a two-thirds vote. We were about 30 votes short. The idea is alive and well and the good thing about this Congress, it has been an historic Congress. We have not spent much time talking about what we have accomplished because we have been so busy doing it and ducking rocks being thrown at us for having done it.

The line-item veto by itself is probably the biggest change in the last 200 years. The line-item veto allows the President to look over our shoulder for the first time and look at how we spend money.

This tax debate is a good debate to be having, but it needs to be linked up with the spending debate that is going on. One thing is for sure, Americans are going to complain about the umpire and they are going to complain about taxes. If you go back in time at any time in the history of our Republic, you will find people complaining about how much they have to give to the government, I think that is just our nature. But we always give. We always meet our obligations.

But the question that you must ask now, are people complaining for a good reason. I think they are complaining for a darn good reason. When you take money from the American public you should have a game plan in mind on how to spend it. We collect taxes to provide services at the national level. Are we providing quality service? Are we spending an appropriate amount of money, or are we spending too much? Are we doing too many things at the national level? Should some of those things be done at home? Should some of those things be done by the private sector?

That is a great debate that must be joined with the tax debate. I would suggest to you that the money that we are taking from you is too much. The average person, black, white, rich, poor, conservative, liberal, says 25 percent from State, local, Federal taxes is enough taxation on the American family, and the reality is it is almost 40 percent.

So I would suggest to you that not only does the American public believe we are taking too much, there is a new group in Congress that believes we are taking too much. But we are in the minority, but we are growing. Thanks to the vote in 1994, we have grown a lot. And just hang in there with us and get enough people up here to do something about it. We are here talking about it. We need more votes to make it happen.

But the average American believes very sincerely they are having to pay too much. I agree with them. You agree with them. It is about time to start delivering. But we take their money. And what do we do with it? We provide services.

Medicare is a good program. I come from the South where a lot of people who have worked in the textile industry in years gone by did not have good pension plans or health care plans. That is getting better. Medicare was a safety net program for folks that has grown tremendously. Do you know how much we have increased Medicare spending since 1980? We have increased it 2200 percent. Welfare, a tremendous explosion in welfare spending in the last 30 years; $5 trillion have been spent in the name of compassion. And we have more illegitimate children, more poor and disadvantaged people than we have ever had.

I would suggest that the Federal Government could get by with less, that not only are you right when you are saying we take too much from you, you are right when you believe that Congress does not spend your money wisely. We can come up with a Medicare system that will take care of our seniors, that will not grow at 2200 percent every 15 years.

We can provide compassion. We can provide welfare. We can help those people who are disadvantaged without paying them to have children they cannot afford. We can help people of alcohol problems without sending their check to the bar. We can reconfigure this government. We can take less of your money and do a better job. But you are going to have to help us. We have got to reinvent systems that are long overdue to be reinvented, and we can get by on less money. Do not let anyone tell you otherwise, because it is a complete distortion to say that the Federal Government is a few billion dollars short.

I thank the gentleman very much.

Mr. CHABOT. Mr. Speaker, I thank the gentleman from South Carolina for his thoughts on taxation. He also has been a true leader around here in trying to cut the tax burden on American working people in this country.

In summarizing where we have been tonight, I would just like to make a couple of points here. Something that we passed today that I think was a very good move, something in the right direction, was something called the Taxpayers Bill of Rights. And in essence what that does is, if you call the IRS right now, and the IRS gives you bad information, you are responsible for penalties and interest, even though the IRS gave you bad information. That sounds ridiculous. It is ludicrous, but that has been the law.

We passed, however, today a law which basically said that if the IRS gives you bad information, then you cannot be held responsible for interest and penalties due to bad information from the IRS.

I think that is a step in the right direction. Congressman JIM TRAFICANT, who is a Democrat from Ohio, my State, I think has—I am cosponsor of something I think is a very good piece of legislation. It basically would put the burden of proof on the IRS rather than on the taxpayer.

Right now it is supposed to be you are innocent until proven guilty. But with the IRS, basically you are guilty unless you can prove you are innocent. This takes the burden off the taxpayer and puts it on the IRS where it ought to be. Something else that I found kind of interesting in preparing for this issue this evening was the fact that we have got 6,000 border patrol people in this country, 6,000 people on the border patrol to protect our borders. We have got 24,000 employees of the FBI, and we know all the good things that the FBI does for our Nation. So that is 30,000 employees with border patrol and the FBI. With the IRS, the IRS has 111,000 employees, almost four times the number of employees that we have in those other two departments. It really shows you what our government's priorities have been. I think we need to change those priorities.

Another thing that is interesting, as we mentioned, April 15 was just yesterday, taxpayers all across this Nation were trying to figure out how much they owed to make sure that they paid what they owed; 1.7 billion hours were spent by taxpayers figuring their taxes and the next figure is really shocking, $140 billion was spent by taxpayers for attorneys and accountants to figure out what their taxes were, time basically wasted figuring out taxes, $140 billion. I would argue that that time could be much more productively spent in many other ways.

I had a town meeting, many of the other Members that spoke here this evening mentioned they had town meetings on the weekend. I had a town meeting in my district. I represent the 1st district of Ohio, which is basically most of the city of Cincinnati and some of the western suburban communities. We had about 125 people at the town meeting.

I started out with a question at the beginning: How many people here feel that taxes in this country are relatively low and perhaps we could raise them to balance the budget or do more government programs, whatever? Not one hand went up.

Then I asked, how many people feel that taxes are about right in this country? I expected we might get a few hands. We did not get one hand that said that taxes are anything near what they ought to be. Then I asked, how many people feel that we are overtaxed in this country, we need tax relief? And every single hand in that room went up.

These are just regular citizens from my community, the Cincinnati area, and that is probably true all across this Nation.

We had a couple of groups that were represented there, a group called TEE. We have had some grass roots groups that just formed in the community a few years ago. TEE is one. It is Taxed Enough Already. Brenda Kuhn is the founder of that organization. We have the True Blue Patriots, Pat Cooksey, founder of that organization that was there, and also Tom Brinkman, who is the treasurer of a group called CATS, Citizens Against Taxes and Spending.

So we have actually in my community, in reaction to this high level of taxes, we have actually had regular men and women, average working people form groups to try to petition their government to get off their backs, give them some tax relief. And I think it is time that we did that.

I want to thank all the Members of the House who came here this evening to discuss and participate in this topic which could not be more timely about tax relief. I would like to say finally that I think it is time that we work together, Democrats and Republicans, and, yes, the President of the United States, we should all work together to give tax relief to the American people. It is time we get the job done. Let us get working on it. Let us relieve the American people of the huge tax burden that this government has placed on their backs.

Thank you very much for participating this evening.

TAXES, EXPENDITURES, AND BUDGETS

The SPEAKER pro tempore (Mr. WHITE). Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, today I would like to continue the discussion about taxes, let us talk about taxes and expenditures and budgets. But before we do that, there were some tributes by my colleagues to Ron Brown, and I would like to add my tribute to that number. And I think that the chairman of the Congressional Black Caucus, the gentleman from New Jersey [Mr. PAYNE], is here for that purpose, too.

I yield to the gentleman from Virginia [Mr. PAYNE] for his statement on Ron Brown, and then I will follow with my statement on Ron Brown and then go on with the rest of the discussion.

TRIBUTE TO RON BROWN

Mr. PAYNE of New Jersey. Mr. Speaker, I thank the gentleman for yielding to me at this time.

Let me say to Mr. OWENS from New York that following your time, we are going to have members of the caucus come and make expressions. And so what I will do at this time is to yield back until the gentleman completes his special order. And then I will return back to the podium.

I thank the gentleman from New York for yielding to me at this time.

Mr. OWENS. Mr. Speaker, I would like to add my voice to the numerous voices that have been raised to pay tribute to Ron Brown. Ron Brown, the mentor for all public servants, he could teach us all a great deal.

I will enter my statement in its entirety into the RECORD, but I would like to read the statement and comment on it.

Ron Brown was a renaissance politician. He was a jack-of-all-trades who mastered all the trades in politics. He was a mentor for seasoned professional politicians, and he was qualified to tutor most of us.

Ron used his considerable influence and charm to become an extraordinary fund raiser for the Democratic Party. From the complex job of raising money to the details of election day engineering, Ron performed with great enthusiasm.

Ron Brown was the kind of person who could raise funds, and I admire him most for that. He probably had a problem like everybody else but he plunged into the process of raising funds and did a great job of that.

There are some people who do fundraising very well, but they are not good at strategy. They are not good at tactics. They do not have certain other qualities. But in addition to being able to raise funds, which we all admired him for, Ron Brown had the talents that went across the entire spectrum in terms of skills that are needed in public life.

I first met Ron Brown in Chicago while campaigning for Harold Washington for mayor of Chicago. Former majority whip Bill Gray, Ron, and I were in a car on a tour through the public housing projects on Chicago's south side. We had been assigned that area to campaign. At that time Ron was working with a well-known, prestigious, and powerful law firm in Washington.

□ 1900

However, on that day it was simply Ron, the lawyer, friend, campaigning for a fellow democrat. We went into huge, tall, cold, concrete buildings and walked on floors which seemed to be completely out of this world. The deterioration and the garbage inside the halls were unbelievable, even to a poor boy like me, whose father has never earned more than the minimum wage. I had lived in some of the poorest neighborhoods in Memphis, TN, and I had worked in some of the poorest neighborhoods in New York. but never had I seen such despair. The only glimmer of light I saw in those high-rise urban tunnels that day were the Harold Washington posters that the residents waved at us when they saw our familiar signs.

We had connected at that point with the most depressed among us.

As my eyes met Ron's eyes, he broke into his signature smile. This is what politics has got to be all about, he said, as we plunged into the crowd of outstretched hands and marched through the halls reminding folks that tomorrow was the day to go out and elect the first African-American mayor of Chicago.

Ron Brown was the unifying driving force behind the most successful and conflict-free convention the Democrats have had in nearly two decades. Ron was a star who kept his poise. He kept peace among the many party factions and made the Democratic National Committee an effective force to be reckoned with in politics.

Ron Brown was a masterful strategist who began his tenure as party chairman with several special election victories despite great obstacles. He was a great communicator, and he was a great cheerleader who also understood the nuts and bolts of winning campaigns.

Seldom in America does one man so gracefully transcend the racial chasm as Ron Brown did, and in his journey he deeply touched the heart and soul of a Nation.

As our Secretary of Commerce, he was our corporate ambassador to the world. As the chairman of the splintered, fractured Democratic Party, he was the glue that held it together, and in so doing he delivered the White House and became the most beloved chairman in history.

Ron Brown was undaunted and unfazed by challenges. Being a first was not unusual for him. He was the first African-American in his college fraternity, the first African-American counsel for the Senate Judiciary Committee, and the list goes on and on.

Ron was a trailblazer and an eternal optimist. He saw no mountain that could not be climbed or moved or conquered.

The nation has lost a great leader and statesman. I join Ron's many colleagues and friends, not in mourning his death, but in celebrating his life, his accomplishments, his style and spirit. Ron Brown will be missed, but Ron Brown will never be forgotten.

Ron Brown was an ambassador for corporate America. Ron Brown was about the business of expanding the markets of America across the globe. Ron Brown understood that a prosperous America was an America that would generate the revenues needed to do the things that had to be done in our country for all Americans.

At this point in our year, April 16, it is a day after tax day. April 15 is a dreaded day by most Americans. My colleagues who preceded me in this special order before talked about taxes and the need to lower taxes for American families, and although my colleagues who have spoken before were all Republicans, I want to go on record and have the whole world hear that I agree 100 percent with my Republican colleagues. We need to lower taxes for families and individuals in the United States. We need to lower taxes, and I have talked about that on many occasions here.

The problem is that we are taxing families and individuals too harshly. Families and individuals are paying too much because corporations are paying too little.

In 1943, the corporations were paying almost 40 percent of the total income tax burden in this country, 27 percent by individuals and families, and almost 40 percent by corporations in 1943.

By 1983, the amount of money being paid by corporations under Ronald Reagan's administration fell as low as 4 percent, 4 percent, while individual taxes went up to 48 percent. The share of income taxes paid by families and individuals went as high as 48 percent, while the share for corporations went down as low as 4 percent in 1983.

Today we still have a gross inequity. The share of taxes paid by corporations, income taxes, is only 11.4 percent, while the share paid by individuals and families is four times that amount, 44 percent.

So I agree with my Republican colleagues. I only regret that they spent so much time talking without confronting a few very basic truths.

The basic truth that they refuse to come to grips with is that the corporations who represent the energies in America that are making the greatest amount of money; prosperity has been good to corporations because corporations have known how to take advantage of technological progress. They have taken advantage of all the research and development that has gone forth under the aegis of the taxpayers.

Taxpayers are the ones who have paid for the research and development for computers for radar. Taxpayers are the ones who have led to many who finance transistor research and miniaturization, telecommunications of all kinds. Taxpayers of America have been the driving force behind this. Corporations have known how to organize, take advantage of this and produce products.

So our economy is booming on Wall Street, and corporations are making a great deal of money. And nobody regrets that at all. We applaud that. The corporations should be paying a greater share of the taxes, and, as we move past income tax day, April 15, Americans should think very seriously about the inequities, the imbalance in the share of taxes paid by corporations verusus individuals.

Yes, we need a tax cut.

My colleagues before who were speaking said they spoke to crowds and asked people do you think you are paying enough taxes, and nobody raised their hands and said, yes, I am paying enough. I would agree. I do not—yes, I am paying too much. I mean do you think you pay too much tax? Everybody raise their hand and say, yes, I pay too much. I would agree I am paying too much. Most families and individuals are paying too much, in my opinion.

In order to raise the revenue needed to run this country, we need to have a more equal balance in terms of corporations paying their fair share. We need to have some of the corporate welfare programs taken away. The other side of it is reducing the expenditures.

You know, Federal taxes also, we must understand, spread the wealth in America, and I think my colleagues on the other side who talk at length about taxes did not bother to mention the fact that Federal taxation polices represent some of the greatest generosity in America. Some of the spirit of being my brother's keeper, especially in the case of the east coast, especially even more so in the case of New Yorkers on the east coast; you know, the tradition has been that the wealth first accumulated on the east coast, and Franklin Roosevelt and his tax policies were such that he increased the taxes of people who had the money, most of them residing on the east coast and the Rust Belt States, they call them now, industrialized States. The money was there, and by initiating Federal programs like the Social Security Program and other Federal programs, Rural Electrification Program and a number of other programs that had to be paid for, he can only pay for them with taxes raised on the east coast and in the industrial States where they had the money, and that tradition has continued until today.

New York was one of the States that had to pay out large amounts of money in order to help take care of the needs of the rest of the country, and so it is even until now on many occasions I have stood here and talked about the fact that New York for the last 20 years, as a State, has paid into the Federal Treasury more money than it has received back from the Federal Government in terms of aid.

Federal aid going to New York has always been lower than it has been, than the amount of money that New Yorkers have paid in taxes. New York State in 1994 paid $18.9 billion more into the Federal Treasury than they got back in terms of Federal aid. Before that, in 1993 New York paid $23 billion more in Federal taxes than New York State got back in Federal aid.

Now, many people have asked me, well, you know, what are you talking about, where do you get these outrageous figures, where they come from, and I have quoted before, and I just brought back the booklet today, a study that is done every year. It is called "The Federal Budget and the States," and this study is done every year. It documents everything that I have said in terms of some States are donor States and some States are recipient States. The Federal budgets in the fiscal year 1994 is what I am holding in my hand.

Its introduction is by DANIEL PATRICK MOYNIHAN because Senator DANIEL PATRICK MOYNIHAN of the State of New York has pioneered and highlighted these great inequities for many years.

This study, this report, was done by Monica E. Fryer and Herman B. Leonard, and it is published by the Taubman Center for State and Local Government at the Kennedy School of Government at Harvard University.

So the study is available for anybody who wants to see it. There are many fascinating facts beyond the fact that New York State consistently has paid more in taxes than it has received back. They have looked at aid in terms of salaries of military personnel who live in a given State, they looked at aid in terms of Medicaid and Medicare, dollars that come from the Federal Government; they looked at aid in terms of programs for job training; title I; all the aid lumped together. And they can tell you how much each State received back from the Federal Government versus what the State paid in.

So New York is a big donor State. It has been that way for a long time, and I think Franklin Roosevelt clearly understood that, that Federal taxes spread the wealth, and they have spread it across to places that most of the States in the South. Practically all of the States in the South are recipient States, they get more from the Federal Government than they give back to the Federal Government.

Mississippi receives $6 billion more from the Federal Government than Mississippi pays in taxes to the Federal Government. And some of the gentleman who were speaking before had better beware; if you remove the role of the Federal Government in collecting taxes and you want to leave more of it to the States, the States who will lose the most are States in the South because the States in the South combined receive $65 billion more from the Federal Government than they pay into the Federal Government. And I will repeat that because I do not want the figure to get lost: $65 billion more is received from the Federal Government than the States of the South collectively pay into the Federal Government.

□ 1915

Georgia receives $2 billion more from the Federal Government than Georgia pays into the Federal Government in taxes. The county in the United States which receives the highest amount of money per capita is the county represented by the Speaker of the House. That county receives more money per capita than any other county in the country in terms of Federal aid. So we should beware, and when we talk about taxes let us talk about all the facts. Let us talk about the most significant facts.

Yes, individuals and families are paying too much in taxes. Yes, the corporate world is not paying their fair share. They are paying too little. They are making the money, but they are paying less.

If we want a tax cut, I am all in favor of a tax cut. I stand here as an acknowledged, unashamed, proud liberal, and I agree with my Republican colleagues on the other side who said that families are being taxed too much. We need a tax cut. It may begin with where President Clinton has begun in terms of a tax cut for education, to aid with tuition, a tax cut for families in terms of creating a situation with families with direct benefits, so much per child, $500. There is agreement between Republicans and Democrats on that.

I think as we do it, we should look at the situation. I would understand that a tax cut should not mean that we end up cutting aid to education or cutting Medicaid. A tax cut for individuals and families means we should balance off the situation and make certain that where the money is needed, it goes there.

We cannot responsibility deal with tax cuts unless we deal with the expenditure side, what is happening with respect to the budget. The budget and the waste in the budget must be dealt with also, and I have a great disagreement with my colleagues on the other side about where you ought to begin dealing with the waste. The waste is not in aid to education, the waste is not in Medicaid, although there is waste and corruption in health care programs. The real waste is in other places. I have cited some of that waste before.

I have gotten some questions over the recess, and people said, "How dare you say that the CIA has $2 billion that they did not know they had and $2 billion that are just sitting there while the deficit grows and programs are being cut"? And my answer was, "Yes, they probably have more than $2 billion, because the public figure that has been stated, not confirmed by the CIA but not denied by the CIA, has been $2 billion. They probably have more. It was in the coffers over there, petty cash, slush fund, whatever you want to call it. Folks have challenged that. I have said I am only quoting from the New York Times and the Washington Post.

There were several articles that appeared on the pages of the New York Times and the Washington Post. Many of my friends did not see them. Even some of my colleagues here in Congress, when I asked them to sign a letter to the President asking him to use that $2 billion to restore the funding for title I and for Head Start and for summer youth employment, they questioned me, "Where did you get your figures from?" I told them, off the front pages of the New York Times and the Washington Post.

One article that appeared talked about the President firing two people who had been considered responsible for this. This was in February, on February 27, 1996:

> The top two managers of the National Reconnaissance Office, a secret agency that builds satellites, were dismissed today after losing track of more than $2 billion in classified money.

It goes on to talk about how no audit had been done for a long time, and this agency had accumulated these funds. And $2 billion, you know, if there is $2 billion there, then the question is how many other entities, sacred cows in the government, also are sitting on funds? That popped into my head, how many others.

And then, lo and behold, just a few weeks ago a report came out which said that the Federal Reserve, the Federal Reserve that is responsible for our economy, who are responsible for advising us how to run the economy most effectively and efficiently, the Federal Reserve has $3.7 billion, $3.7 billion in its slush fund.

An audit by the GAO shows that the Federal Reserve has $3.7 billion in what they call the surplus account. A surplus account. Now, if that $3.7 billion was returned to the Treasury, think of how much interest we would not have to be paying on the debt. The interest on $3.7 billion worth of money would be relieved and we would not have to pay that. It could reduce the deficit by $3.7 billion, but it is sitting in the Federal Reserve coffers. It is called a surplus account. The General Accounting Office makes this statement:

> Although the surplus account is intended to absorb possible losses, the Federal Reserve has recorded substantial net profits for 79 consecutive years.

Do Members hear what I am saying? The surplus account is kept, the Federal Reserve says, because they may have losses in their operation. It is a self-sustaining operation. They loan money, they charge interest for that, they charge money for services. They might lose money 1 year, so they say they keep the $3.7 billion around because they might lose money and they need to make that up. It is a rainy day fund for the Federal Reserve.

But they have not lost any money for 79 consecutive years. "Even though the likelihood of the system's incurring losses, exceeding its revenues, appears remote," I am reading from the GAO report, "the total surplus increased 79 percent in the 1988 to 1994 period, rising from $2.1 billion to $3.7 billion."

The Federal Reserve has $3.7 billion lying around, doing nothing, as a rainy day fund. So yes, you are paying too much taxes. You are paying too much taxes, because we do not have corporations that have carried their fair share. You also pay too much taxes because we have waste in government.

When the President says and all of the leadership says, and I agree, that the era of big government is over, we have different meanings. The era of big government ought to be over. I think the government should be downsized, but the commitments of the government maybe should be increased in certain areas. But in the process of downsizing, how do you not see $3.7 billion in the Federal Reserve?

Why is the search for funds only conducted in job training programs? They go looking for programs that do not operate effectively and efficiently. Why do they go looking there? Why do they go looking in the AFDC programs, Aid to Families with Dependent Children? Why do they go looking in the WIC programs? Why do they always go looking in the programs where the poorest people are served? Why do they go looking in the Medicaid program? Why do you not look first at the CIA? Why do you not look at the Federal Reserve?

The head of the Federal Reserve, Mr. Greenspan, was up for reconfirmation. He has already been there for a long time, so he certainly would be derelict if he did not know about the $3.7 billion that the Federal Reserve has lying around. If he did know, then he ought to answer some questions about, "Why is this sitting in your coffers as a rainy day fund when it could reduce the deficit?" But I do not think he was asked those questions because he is an icon of some kind, and he is not a welfare mother. He is not on WIC. We do not treat all people equal in this Government.

It is tax time, Mr. Speaker. It is tax time. We ought to all be concerned with taxes. I hope that the result of our concern with taxes will mean that we will insist on an overhaul and a total reform of our tax system. In the past I have talked about the fact that progressives and liberals have ignored the revenue side too much. We have dealt with expenditures, meeting the needs of people, meeting the needs of the environment, doing what has to be done to make certain that all Americans share in the prosperity of America. All of that is highly desirable, but we have not looked at taxation enough. We have not looked at revenue enough. Revenue is everybody's business.

I propose a Commission on revenue reforms. We ought to take a look at the proposals for flat taxes. We ought to take a look at other proposals that have been offered; a consumption tax, a value-added tax. We ought to take a look at tax possibilities that exist in terms of taxing the sale of the spectrum, taxing the air above us that belongs to all the people. All of these things should be examined.

This past weekend at the Omni Shoreham Hotel, a conference is being held called a Summit on the Politics of Meaning. I spent a few hours of the last 3 days at this summit. I want to congratulate the organizers of that summit, particularly Michael Lerner, who is the editor of Tikkun magazine.

I would like to congratulate him for being the guiding light and the spearhead for this organization of this summit, because it brings together people from a lot of different areas who are concerned about values, and they are concerned about values and how those values and how love, compassion, can be applied to public policies.

They are concerned about public policies without being necessarily concerned about which person implements those policies. They do not want to get into the dirty business, in quotas, they call it a dirty business, of electoral politics, endorsing candidates, et cetera. I do not think politics is dirty. I think electoral politics is very necessary. I think more good people need to get into electoral politics.

But I agree that it is very useful to have groups and individuals who are concerned primarily about issues, and this particular summit on the politics of meaning, which was called by Michael Lerner, the editor of Tikkun, focused on how do you apply a concern for your brother, for your neighbors, in an effective manner in the present situation, when marketplace values dominate, and people talk about family values, but they really do not come to grips with the fact that too many times, the market values dominate our thinking.

How do you apply compassion, how do you apply love, how do you apply concern for your fellow human being if there is a health care industrial complex taking over health care services, and if private health care providers, drug companies and insurance companies, are buying up health maintenance organizations, and health maintenance organizations are set up to make a profit, in addition to providing a service? It has been hard enough for health care providers to just provide a service, but now, in addition to delivering a service, they have to make a profit.

It may be good, it may be an improvement, but we are moving so rapidly in this area that it is clear that a government health care industrial complex is about to take over, and it is not moving in a way which gives anybody else an opportunity to have developed this new emerging health care system for all the people. So how do we apply love and compassion to the problem that is confronting us?

I want to just read part of Michael Lerner's call for people to come and join this summit on the politics of meaning. They brought together people from all walks of life, they brought together people from all religions. It is very interesting to see people of the Jewish religion with people who are in every denomination of the Christian religion: Unitarian Universalists, Baptists, Methodists, Catholics. I heard all kinds of people speak. I heard a lesbian minister speak.

They were all there asserting the fact that human beings have hearts, and human beings, at their very best, are capable of great compassion, and human beings need to return from the values of the marketplace and assert those values of love and compassion in their daily lives and in public policy development. It was quite a summit. It is closing out tonight.

I just want to read a few sections from the call for the summit, in tribute to what Michael Lerner and his colleagues have done. I am quoting Michael Lerner:

> Like many people, I am distressed at the deep ethical and spiritual crisis facing this country. The attempts to dismantle social support for the poor without setting up anything else in its place is only the latest stage of the continued erosion of fundamental human values.
>
> It is not clear that the Democrats have adequately grasped why people have turned to the right. In addition to my normal job as editor of Tikkun Magazine, I am a psychotherapist, and for 10 years I did extensive research leading 12-week groups for middle-income working class people, focused in part on why they were turning to the Right. What I found was this. People turn to the Right because it speaks, although in a distorted way, to the hunger people have for meaning and higher purpose.
>
> The fundamental problem with liberal and progressive forces is that they don't understand this hunger for meaning, and so they come up with programs and policies which are narrowly technocratic and don't speak to the soul.

I am quoting from Michael Lerner, the convener of the summit on the politics of meaning.

I continue to quote:

> Faced with a society whose dominant ethos is selfishness and cynicism, many people conclude that the best way to protect themselves is to narrow their "circles of caring" to themselves and their immediate families and narrowly-defined communities. My research suggested that many people actually wish for a very different kind of society, one based on Biblical values of love, justice, and mutual recognition, the ability to see others, and be seen oneself, as an embodiment of the image of God. Yet everyday in the world of work people are rewarded for precisely the opposite, the ability to see others as objects, the supposed commonsense that "looking out for No. 1" is the only reasonably way to live, and the ethos of selfishness, materialism, and cynicism.

Continuing to quote Michael Lerner:

> Ironically, it is this very ethos, learned in the world of work, which becomes the central source of people's unhappiness in personal life. Surrounded by others who live by that very same ethos, people increasingly come to feel that everyone is only out for themselves, and that they had better do the same. A "rip-off mentality" begins to pervade the social order, and people increasingly come to feel frightened, alone, and cynical about others. No wonder that it becomes hard to hear those who call upon them to "love thy neighbor," when doing so seems so counterintuitive to the "real world."
>
> There is no way to change this without a frontal assault on the ethos of selfishness, materialism, and cynicism in our society, and that is precisely what the politics of meaning advocated by the Foundation for Ethics and Meaning attempts to do. The goal of the politics of meaning is to "switch the bottom line" in American society away from measuring productivity or efficiency primarily in terms of the degree to which institutions maximize wealth or power to a new criteria: the degree to which an institution helps to foster ethically, spiritually, and ecologically sensitive human beings capable of sustaining long-term committed loving relationships.

I continue to quote Michael Lerner:

> This may all sound very visionary and far-off, but in fact it is actually far more practical short-term politics than the various attempts to protect this or that item in the budget at a time when the dominant climate is calling for dramatic budget and tax reductions. It is far more likely that large sections of the American public will respond to an alternative vision to the conservative one that is increasingly dominating both parties than to a nit-picking approach that accepts the dominant assumptions and seeks to minimanage how it is implemented.
>
> It is not that these details are totally unimportant, and the response of many Americans to Clinton's willingness to stand up to the Republicans gives us some indication of the power his presidency might have had had he been willing to fight for something at other points along the way. But the basic problem is that Clinton is not putting forward a different set of principles, and eventually most people get weary of staying tuned to the details of implementation of assumptions that both sides seem to share.
>
> "The first stage" of a strategy to change this "is to convene a gathering of people who may be interested in becoming the core group for a politics of meaning strategy. This is the 'ground floor' meeting. We are calling it the national Summit on Ethics and Meaning at the Omni Shoreham Hotel in Washington, D.C. April 14–16, 1996. This summit will bring together a wide variety of people who wish to challenge the materialism and selfishness in American society, but who have previously not thought of themselves as part of a political movement to do so. The Summit will serve a dual function. On the one hand, it will be an opportunity to explore the ideas of a politics of meaning in some detail," to refine the politics of meaning ideas," and to refine the strategy around them.

I end the quotation from the call put out by Michael Lerner for the Politics of Meaning Summit, and I mentioned that because I found the summit very inspiring. They expected 600 people to show up, to turn out for the summit and they got 1800 instead of 600. There is a hunger for meaning and there is a hunger for values. There is a hunger for ways to express compassion and love in the making of public policies, and I think that the summit on the Politics of Meaning is a great beginning in the movement in this direction.

I say all of this because in the present budget battles, we talk about taxes and I said before when you talk about taxes and the need for taxes, taxes are kind of a necessary evil. If you are going to deal with a fairer taxation system, then we should get on with the business of trying to make certain that corporations pay their fair share, because corporations are entities that are now making large amounts of money and they can afford to pay that share.

In the absence of fairness, in the absence of an approach which reaches out to those who can afford to produce the revenue and get the adequate amounts of revenue, we have a situation where an attempt is being made to make up for what the corporations are not paying, their fair share, by cutting the expenditures for programs that help the people who need the most help. This has produced a crisis in this country. There is a crisis in neighborhoods like the neighborhoods that I represent because people are very much concerned and they are very much appropriately alarmed by the speed at which certain programs that have existed for the last 30 years or 40 years are being taken away. Medicare and Medicaid are merely 30 years old. Medicaid and Medicare are now being threatened. The entitlement for Medicaid is under a great threat because the governors of all the States, both Democratic governors and Republican governors met and they decided that the entitlement for Medicaid should be removed, that the Federal Government should no longer assume the responsibility for providing health care to everybody who is poor enough to meet a means test which says that they are eligible to have the health care that they need when they meet it. The States will not assume that responsibility of providing health care to everybody who needs it when they need it. The States will only spend as much as they have. They want a block grant. They want the Federal Government to give them the money in a block grant and they will decide how to spend the money, they will decide who is eligible for it, and when the money runs out, they have no vehicle. Most States operate on balanced budgets. They must not spend any more than their revenues take in. When they run out of money, then if there are any sick people or any people who need to go into nursing homes because two-thirds of the money that Medicaid spends provides nursing homes for people who cannot afford their own nursing home expenses. Many people who are middle class and they are on Medicare, when they get very ill and they are forced to spend large amounts of money beyond what their insurance provides, they end up being poor by the time they are required to go into a nursing home because their health has degenerated. When they are required to go into nursing homes, they have no more funds, so it is Medicaid that picks up the cost. Two-thirds of the money spent by Medicaid goes to pay for nursing homes for elderly people.

So we have a situation where people are alarmed because that is threatened. Medicaid has been here now for 30 years. Medicaid is the only step we have taken in this country toward universal health care. All of the other industrialized nations except South Africa have some form of universal health care, health care for every citizen who needs it. But we do not have it. Medicaid represented a step in that direction. If they take away the entitlement for Medicaid, which is very much a possibility, right now here in Washington, if they take away that entitlement, we are in serious trouble. We have not only lost a service that is a vital need for the survival of many Americans, we have also taken an ideological step backwards. We will never have universal health care if we allow that retreat to take place. So people are concerned that this crisis has been created and we are acting as if the country is going to go broke if we do not have drastic cuts in public housing money, drastic cuts in education, drastic cuts in Medicaid, Medicare, drastic cuts in job training programs.

That is what the Republican majority has done in the last 15 months. They have generated an atmosphere of crisis. That atmosphere of crisis is being used as an excuse to cut the safety net programs that have been built up since World War II and really started before that with President Roosevelt's New Deal. They are going to take all that away. At the same time they are going to spend large amounts of money on new fighter plane systems, on a new antimissile system and continue to spend large amounts of money on the defense budget. All of this is a crisis that they have created and it is very interesting to note some of the effects of that crisis. Some of the effects is that the people in our communities instead of understanding the need to rise up and fight this kind of artificially created crisis and to fight the people who have created the crisis, they are turning on themselves. In health care we have situations where hospitals in New York City are being proposed to be sold. Some are being proposed for leasing. One hospital that is a State institution primarily, Kings Borough Hospital in my district, has been told they will shut down by August. They are going to shut the hospital down, which is primarily a hospital for the mentally ill. In this process, we find some other hospitals in the area nearby willing to speed up the process of closing their fellow institution by agreeing to take over various parts of their activities, even when it is not feasible.

Brooklyn is a community with 2.5 million people. Brooklyn if it were a city would be the sixth or seventh largest city in the country. But in Brooklyn there is one mental hospital of this kind. So 2.5 million people need that hospital. We do not need to be told we can travel somewhere else. We have the population concentration. We need it. The institution should not help the Republican governor balance his budget on the backs of the mentally ill by taking parts of the functions of this hospital.

So I have asked all the hospitals to take an anticannibalism pledge, don't cannibalize the institution, and I have asked other hospitals in other parts of the city, as we fight to maintain decent health care in the communities that need health care most, let us not cooperate with the mayor, the Republican mayor who wants to sell hospitals and lease hospitals, let us not cooperate by cannibalizing each other. Hospitals should not cannibalize each other. They should take a pledge that New York City, with 8 million people, needs all of its hospitals. If it does not need all of the beds, then we do not have to have all the beds. We can restructure health care in various ways. But we basically need all the hospitals. And we can provide health care for people who are from outside the city. An accumulation of the best experts in the medical fields has taken place in that city and health care should be seen as an industry as well as a service, and that industry can serve areas from outside the city as well as inside the city. So the cannibalism should not take place. I caution every American who is wary and concerned and even panicked by the budget cuts that have been generated by the Republican majority not to participate in cannibalization. I have seen examples of it in the area of education recently.

There are people who want to see special education programs closed down or drastically reduced because they want more money for the regular education program. Well, the regular education programs and the people who advocate them, as we all do, the regular education programs should confront the people who have created the crisis. We do not need cuts in title I. We do not need cuts in the teacher training programs. We do not need those cuts. We need instead the kinds of increases for education that President Clinton has proposed.

Education is ranked very high in the polls by Americans every time polls are taken. So why are we cutting back on the education budget and why are people in the education community willing to engage in cannibalism? Don't try to eat the special education programs. Let us fight for more funds, both for special education programs and for title I programs and for any other programs that are needed. Let us fight the State governments, let us fight the city governments, let us fight the Federal Government to get the fair share of the allocated dollars for education.

The cannibalization of special education is under way now. There is a bill that is being introduced by the Republican majority in the community that I serve on, and they are trying to take advantage of the fact that shortsighted people out there are moving to try to rush into a shutdown of special education programs because they cost more than other education programs do and my answer to them is let us all put our heads together with reason and some hard examination and scrutiny, and let us try to come up with the best possible program we can come up with. Let us make cuts of waste where it exists.

□ 1945

Let us not cannibalize education programs. Let us not destroy good special education programs. Across the country, I hope that the people in the community of people with disabilities understand the kind of hostility that has been generated by this Republican majority here in the House of Representatives toward all programs for people with disabilities. What is happening to the special education programs right now and the legislation is indicative of the kind of hostility that is shown by the Republican majority. We have to meet that hostility with a demand that adequate amounts of money be made available for all education.

Let us celebrate today, the fact that according to reports that have appeared in a number of places, it has not been voted on, on the floor yet, but the cuts in title I are no more. Title I will not be cut in this budget, I am told. This year's budget will be at the same level as last year's budget. Let us celebrate, all of the people out there who have been so anguished by the assault on education programs, know that we have fought the good fight.

We have kept our promise and stopped the extremists from rolling over us and the extremists have decided to retreat. There will be no cut in title I. Title I will be kept at the same level as last year. There will be no cut in Head Start. Let us celebrate. Let us celebrate the fact that we have kept the faith. We have stopped the extremists.

There will be no cut in Head Start in this annual budget. Let us celebrate the fact that the money is now almost assured for the Summer Youth Employment Program. It is less than it should be, but it is about almost at the same level as last year, last summer. Let us celebrate, a few weeks ago, there was zero in the budget and no talk of remedying that problem. So let us celebrate what the great fight has proposed. Let us celebrate the fact that by fighting, by standing up, Democrats have kept their promise of stopping the extremism.

Extremism, the manufactured crisis, the artificial crisis, the unreal crisis created by an extreme majority in this Congress, has not prevailed in the area of education. So let there be no more cannibalization. Let all the people in the education world, the superintendents, the State education commissioners, the principals, let us stop sharpening our knives for the funds that may be available if drastic cuts are made in special education programs. We do not need to do things which we would be ashamed of in a few years. We do not need the atrocities of throwing children out of classes because of the fact that they are disruptive, we have not been able to deal with it. But we mainly want to use that as an excuse to cut down on the number of children in special education programs.

We do not want to abandon the free-education doctrine that has prevailed for so many years. We do not want to abandon the right of parents to follow a due process procedure and to have legal assistance in doing that in going through that process. We do not want to cannibalize special education programs any more than we want to watch health care programs cannibalized also.

On May 19, in New York City, we have declared that it is Hospital Support Sunday, Sunday, May 19. On that Sunday, we are trying to bring out as many people as possible to show that everybody cares about health care. It is not just the unions who have people who work in the hospitals. It is not only the doctors and the professional staff who have a vested interest in the hospitals. But it is everybody. It is the patients, it is the community, the people surrounding the hospital. It is everybody who cares about hospitals in New York City. They want to come out.

Mr. Speaker, we want to have a set of demands established. The No. 1 demand is that every process of change in the hospital system in New York, whether it involves HMO's or hospitals or clinics, all of those things should be frozen and let the people come forward to participate. We want a citizens' committee instead of cannibalization to make up for what is being cut. We want the people to participate in the restructuring and in the fight to get additional funds where they are needed.

New York is often criticized for spending more money on Medicare and Medicaid than other States. But that same New York, as said before, gives to the Federal Government $1.9 billion more than it gets back. In 1994, we gave $1.9 billion more than we got back. In 1993, we gave $23 billion more in taxes to the Federal Government than we got back.

If we were to let New York have its own money, leave the taxes that we pay to the Federal Government in New York, we could have decent health care. We could have lots of other programs. We could have adequate funding for our colleges and our universities, adequate funding for our schools. We can do a lot with $1.9 billion that does not go somewhere else across the Nation.

That generosity once was a proud gesture for New Yorkers. But we have been spat upon so much and criticized so much, there is so much ingratitude throughout the Nation, especially in the recipient States, that we do not want to continue that any longer. We would like to find a way to have revenue justice.

Let the revenues come back. Let us have some kind of formula where States that year after year pay more into the Federal coffers in taxes than they get back would receive some kind of rebate to go back into their own treasury to meet the needs of their own people. We will not have people so distressed and so distraught that they are stampeded into cannibalizing institutions and taking valuable resources from one much-needed institution in order to put it over here to another.

Mr. Speaker, teachers, principals, commissioners, administrators should not indulge in that in education. Doctors, hospital administrators should not indulge in that kind of practice in the area of health care. We do not need to eat each other. Instead we should fight for a fair share of the resources that are available, and we should fight to make more resources available by having the corporations pay their fair share of the taxes.

We started the discussion with taxes. Let us close it out with a discussion of taxes. I have an article here, April 15, 1996, Mr. Robert D. Novak. I do not usually quote Mr. Novak. The article is entitled GOP Deficit Trap. In this article, Mr. Novak says that it appears from reports from the Congressional Budget Office that we will have a balanced budget by the year 2002, without all of these drastic cuts that are being made and proposed by the Republican majority. It appears that the deficit can be erased without one dime from entitlements. Members do not have to take one dime from social security, Medicare and Medicaid alike.

That is what Mr. Robert D. Novak said, who is not a proud liberal on my end of the spectrum. He is on the other end of the spectrum. And Mr. Novak goes on to talk about what he calls a GOP deficit trap. He says the GOP has been, unfortunately, obsessed with ending the deficit and balancing the budget. They made a great mistake. We are going to be able to balance the budget and have funds for everybody on a reasonable basis without having to make the Herculean, drastic kind of cuts being proposed.

So I end by saying yesterday was tax day. Today every American should take it very seriously. Take a harsh look at your Government. Examine how we are being taxed, how unjust the tax system is, how uneven the tax system is, how the corporations are paying only 11 percent while individuals are paying 44 percent, four times as much as the corporations are paying.

That is part of the answer. The other part of the answer is; where is the waste? Where do these expenditures need to be cut? Go look in the coffers of the CIA. They have $2 billion in a slush fund, a petty cash fund. Go look in the coffers of the Federal Reserve.

They have $3.7 billion. Then they are jamming some of these other agencies. We better take a look at a lot of the others, the space agency, the nuclear commission. All of these icons of Government need to be closely examined to see where is our money. The Department of Agriculture, which gives away money, has forgiven $12 billion in debts to farmers, for Farmers Home Loan mortgages.

Mr. Speaker, it is tax time. It is a time we take seriously where the revenues come from and where the expenditures go. Every American ought to get involved. They ought to get involved with compassion and love and concern for their fellow man.

Mr. Speaker, I include Mr. Novak's article of April 15, 1996, for the RECORD:

[From the Washington Post, Apr. 15, 1996]

GOP DEFICIT TRAP

(By Robert D. Novak)

As Republican congressional leaders on March 28 were poised to flee Washington for a two-week Easter break, they failed to notice a "preliminary report" on the government's long-term fiscal outlook prepared by their own Congressional Budget Office (CBO). But President Clinton's eagle-eyed number crunchers quickly perused it and could scarcely contain their delight.

The report estimated the federal budget deficit for the year 2002 down to $107 billion—miraculously, $37 billion lower than the CBO number just three months earlier. Thus, the president and the Republicans are but a short, easy hop away from balancing the budget in seven years as measured by the CBO, as they each have agreed to attempt.

Good news? for Clinton, yes. For the Republicans, no. The hop to budget balance is too short and too easy. By this route, the deficit can be erased without one dime from entitlements—Social Security, Medicare, Medicaid and the like—whose immense growth could eventually ruin the economy. What's more, the deficit would be eliminated without downsizing the present massive structure of the federal government or relieving the onerous tax burden.

The Republicans are in a deficit trap. In their first experience controlling Congress in 40 years, they have gradually lost emphasis on revolutionary change in government by obsessing on the deficit. The president is on the brink of a major victory—achieving a zero deficit without significantly altering the federal leviathan and without providing real tax relief.

This became clear to Clinton's budget experts when they read the CBO's March 28 report forecasting the effects of a freeze at 1996 dollar levels of "discretionary" spending—amounts affected by the congressional appropriations process, as contrasted with entitlements.

The 2002 deficit estimate of $107 billion was reduced from the $144 billion in CBO's December 1995 update. Its reason: "largely" the piecemeal reductions in appropriations painstakingly passed by Congress that were not vetoed by Clinton. Assumed lower interest rates that would result from a balanced budget also were factored in.

The president's aides immediately telephoned their Republican counterparts in Congress, pointing out the new numbers and proposing: Let's get together now and make a seven-year budget deal!

The components of such a deal are not hard to envision: the small reductions in Medicare and Medicaid growth already proposed by Clinton, plus a few more cuts in discretionary spending. The package might also include a modest tax reduction (with some capital gains cuts) drafted by the Joint Tax Committee and tentatively endorsed by administration officials.

But Capitol Hill was empty of Republican policy-makers for the last two weeks, and what the White House was proposing was above the pay grade of GOP staffers still there. Such a budget deal would have far-reaching effects on the presidential election. Deficit reduction, budget-balancing and even tax reduction would be neutralized as issues for Republicans.

Senate Budget Committee Chairman Pete Domenici, campaigning for reelection in New Mexico, has been informed. So has Sheila Burke, chief of staff for Senate Majority Leader Robert J. Dole. House and Senate GOP budget staffers met last week.

But as Congress reconvenes this week, it is safe to say that there is no Republican policy for dealing with these numbers. In fact, only Bob Dole is in a position to make this decision now that he is the party's prospective presidential nominee.

In his long-accustomed role as a self-described "doer" rather than a "talker," the decision would be easy for Dole: Make the deal and accept the congratulatory signing pen from Bill Clinton at the Rose Garden.

It is more difficult now that he must confront Clinton in a broader arena. He must determine whether he will rule out a quick budget agreement and insist that the deficit is not everything and that it is essential to reduce entitlements and taxes for the sake of the economy.

He might even propose a package that adjusts the Consumer Price Index in a way that would cut entitlement payments but also increase tax payments, so that it would have to be accompanied by significant tax reductions. This course might rescue the Republicans from the deficit trap constructed by congressional leaders, including Bob Dole.

THE REPUBLICAN BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina [Mr. GRAHAM] is recognized for 60 minutes.

Mr. GRAHAM. Mr. Speaker, I think probably a good lead-in to this debate is the last comment of the gentleman from New York [Mr. OWENS] that every American should get involved with what is going on in Congress, and I think compassion and understanding are very good guides to have, and I think reality needs to be in there somewhere.

Let us talk about the budget real quickly, then we are going to get into something near and dear to everyone's heart in this country, and that is education. The Federal role in it, what we have tried to do at the national level in this Congress, I think to improve education, and to have an effective delivery system that recognizes the need to educate our children, to balance the budget, and what role money should play in all that, what role the Federal Government should play.

Mr. Speaker, I find it very interesting that we can balance the budget and remove the deficit without affecting entitlements. That is very curious. I need to read the article by Mr. Novak. As I understand the dynamic that we are facing, two-thirds of the Federal budget that we deal with is on auto pilot. Sixteen percent of the Federal budget is interest payments. We paid more in 1997, will pay more in 1977 for interest on the national debt than the entire Defense Department, over $400 billion.

Forty cents of every individual income tax dollar collected in this country goes to pay the interest element of the national debt. Over 50 percent, I believe it is 51 percent of the Federal budget consists of entitlement spending, such as Medicare, Medicaid and welfare. Medicare has gone up 2,200 percent since 1980.

When we look at the Federal deficit and the national debt, the national debt is over $5 trillion, and I ask people at home what a trillion is. It is a number, it is a term that really is beyond imagination. I think a lot of people can relate to a million. They may not have a million, I certainly do not. But they can relate to the concept of a million dollars. If you spent a million dollars a day, Mr. Speaker, it would take you 2700 years to spend 1 trillion. If you collected $1 trillion in taxes from the American public, it is the equivalent of $3,814 from every man, woman and child in America, and we know that every man, woman, and child in America is not paying taxes. So those of us that are are paying a lot.

Let us talk about the Federal budget now that we understand what 1 trillion is. The Republican budget that Mr. OWENS criticized so harshly and the President vetoed appropriated $12 trillion to run the Federal Government over the next 7 years. That is right, the Republicans have spent $12 trillion at the national level over the next 7 years compared to the last 7 years. That is a 26-percent increase in Federal spending, a 64-percent increase in Medicare alone over the next 7 years, from a $4,800 per senior citizen expenditure this year, to the year 2002, it will grow to $7,100. A tremendous amount of money is being spent on welfare and Medicaid, an over 50-percent increase.

Student loans in the education area, we have increased student loan funds by over 50 percent in the next 7 years. What the Republican budget has done is tremendously increase spending over a 7 year period 20 percent, 6 percent across the board, tremendous increases in entitlements, but less than the projected amounts, because the projected amounts are going to be well above 50 percent, well above 63 percent. Those of us who say that we want to balance the budget, I think we need to start being honest with each, and I know my colleague from Florida has been a real champion in this cause. If Members really want to balance the budget, I think it is time to address why we have debt to begin with.

Why did America get into $5 trillion worth of debt? Was it because Ronald Reagan increased military spending during the 1980's where the deficit did grow? Well, the truth is that he did. I was in the Air Force from 1982 to 1988. After the Carter years, the military was a place that needed expenditures. Spare parts were in short supply. We had squadrons of airplanes grounded. The Navy could not sail ships because of lack of funding. So Ronald Reagan decided to increase military spending during the 1980's, and Congress allowed him to do so but they required an increase in social spending.

The truth be known, it is not because Ronald Reagan wanted to increase military spending. It is not because Tip O'Neill and Tom Foley increased social spending at the rate of 3 to 1 during the 1980's. The truth is that the national debt grew to such large proportions as it exists today because during the 1980's, entitlement spending went through the roof. One program, Medicare, increased 2200 percent since 1980.

□ 2000

And all of the other entitlements, Medicare and Medicaid, have grown tremendously. Medicaid is growing at 19 percent a year since 1990. So if you want to blame anybody, I think you can blame both parties, because we have sat back and we have watched entitlement spending go through the roof to the point now it is over 50 percent of the Federal budget.

If nothing changes in this country in the next 17 years, the Federal budget, the Federal revenue collected from the taxpayers at the national level, will be spent in two areas: entitlement spending and interest payments on the national debt. It is already two-thirds of our budget. In 17 years it will consume the entire revenue stream. There will be no money left to fund the Defense Department, Education Department, the Commerce Department, and environmental agencies that exist at the Federal level. And that is not a Republican statement. That comes from Senator KERRY, a Democratic Senator, who has been involved in entitlement study and reform. And the facts are just what they are, facts. Entitlement spending is out of control and it is going to consume the entire revenue stream unless we do something about it.

We have tried to do something about it, and I think in a very responsible manner. What we have done is we have allowed increased spending in Medicare alone 2½ times the inflation per year, a 63 percent increase in a 7-year period, a tremendous amount of increase, but we are going to create options available to senior citizens that are more efficient than this 1965 fee-for-service Medicare model that is full of fraud.

We are going to give people something they very rarely get from the Federal Government, and that is a choice. A choice to pick a program that may deliver more effective medicine, less bureaucratically, and a better deal for the taxpayers. It is time to give people choices that mirror private sector growth in health care.

The private sector programs are growing at 3 to 4 percent, the government programs, like Medicare and Medicaid, are growing at 13 and 19 percent because they are very inefficient, they are full of fraud, and they have the wrong incentives. It is hard to get preventive medicine reimbursed under Medicare. The number one expenditure in Medicare is diabetes, but you cannot get insulin paid for.

So it is a system that is really overdue for an overhaul. And we have allowed private sector programs to be placed on the table and let senior citizens make choices, and we are going to give them four to five different options to Medicare as it exists today. But they have to choose. And if they do not want to make a choice, they stay in Medicare as it exists now. And that is just one example.

In Medicaid, we are going to allow the States to take the increased spending at the Federal level and manage care the money. Right now our Medicaid programs are growing at 19 percent. If you are a Medicaid recipient and you go to the hospital and have a $300 visit for a cold, something private insurance would not allow you to do, Medicaid reimburses people for medical conditions four and five times the expense that the private sector manages those same illnesses.

So it is time now to start allowing States to put into place managed care programs for the Medicaid recipient that are good, that are compassionate, but that have cost controls on them so it does not grow at 19 percent.

If you want to improve education in my State of South Carolina, which I do, and I think everybody who is listening to me in South Carolina would like to see that happen, let us change Medicaid. Because when Medicaid grows at 19 percent at the national level, that is the health care for the disabled and the welfare recipient, when it is growing at that rate for the State of South Carolina, to get any Medicaid money from the Federal Government they have to put money on the table. It is a matching formula.

So when the pot of money at the Federal level grows at 19 percent, then for South Carolina to get its Medicaid money, its share grows at the same rate, so you are robbing our State budget to get Medicaid money from the Federal Government. And if we do not change, if we do not change that dynamic, every State's budget is going to be consumed by getting matching portions of Medicaid.

And as the gentleman from New York, MAJOR OWENS, indicated, the Governors in this country, Republican and Democrat alike, have gotten into a room and said: Enough. You are bankrupting our State. We are having to spend most of our budget to get Medicaid dollars because the pot of money at the Federal level is growing so large, the mandates are so onerous, we have no flexibility. Please, give us a break. We can get by on less money if you will give us flexibility to create programs that mirror the private sector.

And unless we do that, ladies and gentlemen, you will not balance the budget. If we do not address the reason Medicare grows at 22 percent every 15 years, it does not matter if you spend less in 7 years to get the numbers right, you are going to be back in debt. It does not matter if you slow the growth of Medicaid down temporarily, as the President's budget does. If you do not change the reason it grows at 19 percent, you are not going to keep the budget balanced. And it does not matter what you do in welfare reform if you do not address the reason people stay on welfare 10½ years.

So what I am looking for is a budget that addresses the reason we got in debt, a budget that addresses the underlying problem, which is entitlement spending. Let us reform entitlements up here in a fair and compassionate way so that we can deliver you a balanced budget that will stay balanced. Let us create a welfare system so that the average person does not stay on it a decade.

I believe most people want to get off welfare, go into the private sector and live with dignity and not be dependent on the Federal Government, but it is darn hard to do that. If you live together as man and wife under our current system, we look at both incomes and deny benefits. If you get a part-time job we will start taking benefits away from you when you start moving up the economic ladder. We are trying to keep your vote, but we are not allowing you to be free from government control.

I am looking for a welfare system that helps people who need help, that will give you training, give you educational assistance and will allow you to get a job. And the way you create a job is not by me talking about it on the floor of the House, it is by lowering taxes so people have more money to invest and grow their businesses.

Capital gains tax reductions will be good for this country. It will create jobs and bring in additional revenue to the Federal Government. It did in the 1980's when we lowered capital gains tax rates, it will in the 1990's if we can ever get it passed.

But the way you create a job is to change this model that currently exists of where we are overtaxed, we overlitigate, and we overregulate. And the ultimate hope of welfare reform is a system that allows people to help themselves, that pushes them forward, that will not pay them to have children they cannot afford, but will have a job waiting on them. And to do that you need to change this bureaucratic model that we have created for the last 40 years that is strangling American business. I think that is compassionate.

I think that is the way to truly deal with the Nation's problems, because the poor in this country want the same thing as anybody else who is an American: the hope of having it better for themselves and their children than the last generation, a chance to have a private pension plan, a chance to have health care that they own and is now given to them by the government. We all have the same values, we just have a different belief on how to get there.

The special order topic really tonight is about education. And nothing is going to change in this country until we provide an educational system that brings the best out in our kids, and that is a school environment where you can go to school and not worry about being beaten up or having a drug deal occur under your nose.

The national role in education since 1979 has grown dramatically. Test scores have gone down. Education quality is stagnant. We are not moving forward by having more control at the national level. The Department of Education's budget in 1979 was about $16 billion. It is $32 billion now. Six percent of all education dollars spent in this country comes from the Federal level. Ninety-four percent of education funding comes from the State and local level.

When you talk about education reductions at the national level, it has to be put in perspective of the total funding. The bad deal is that 50 percent of the mandates, how to spend the money at the local level, comes from the Federal Government. We give you very few dollars, but we put a lot of requirements on our local educators, our State and local systems, and we are not getting a quality product.

The only model that will work, in my opinion, is to have parents and teachers and the community leaders involved, and the current Federal system does not allow that to happen. It is a wall between quality education and the State and local community. I do believe that we have an overly intrusive Federal role in education that is not bringing out the best in our kids, and that we have programs on the books that are very inefficient, all done in the name of compassion.

Title I, that Mr. OWENS mentioned, is a program that started in the 1960's to help school districts that had a disproportionate number of disadvantaged and poor students, to give them a leg up, a little extra tutorial time. That program has grown now to almost where 80 percent of school districts in this country receive title I money. It has become a candy store.

Title I money is spent on disadvantaged students, and the definition of disadvantaged has grown greatly. And the facts are that 80 percent of the people who provide this extra tutorial time are not certified teachers, they are teachers' aids. It is becoming an employment opportunity for the major cities in this country.

The test scores of the children receiving title I assistance have not moved up any. What we are doing is basically we are taking an average of 10 minutes a day extra time for a title I student, getting no return on our money, giving the money to someone who is not a professional educator, trained as a teacher, taking them out of the class and spending $6 billion a year doing that. That is not a good deal for the taxpayer and we are not moving forward.

The gentleman from Florida is going to tell us a bit about Head Start and how unsuccessful that program has been when measured by objective criteria. It is a good idea. It is a compassionate idea, but eventually you have to look to see if the idea is delivering a quality product. Title I is not a good investment educationally or financially, and Head Start, I believe, falls under that same category when you look at the return for your money.

I would yield now to the gentleman from Florida to tell us a little about title I, then we will talk about student loans.

Mr. MICA. I thank the gentleman from South Carolina for yielding, and also I must take a minute and thank him and his other 72 colleagues of the 73 new freshmen in the House of Representatives. How refreshing it is to have people come from all walks of life. Not just attorneys, but somewhere in the neighborhood of three-quarters of this class, this new class of freshmen, come from business. Three-quarters of them have never run for a political office or served in other political office. And they took time from their lives and their family obligations and business and professional obligations, and leaders like the gentleman from South Carolina, Mr. LINDSEY GRAHAM, have come here and looked at how our Government is operating. They brought a message from the people in this last election that the people were not pleased with paying more and getting less, as I often say.

I have only been here 37 months in Congress, so I consider myself part of that new breed, but I commend the gentleman and his colleagues for what they have brought to the Congress and their recommendations. If you consider what we are doing tonight, Mr. LINDSEY GRAHAM from South Carolina is doing tonight, he is here late at night talking about education. He is a Republican, he is a member of the new majority, and the Republicans and Mr. GRAHAM and every one of my Republican colleagues are very committed to good sound education, improving education in this country. We cannot make any better investment. But ask any American, ask any parent, ask any student, ask any teacher about education in the United States today, and they are going to tell you that education is in crises.

Republicans have always been strong supporters of education. Being business men and women and professionals and people who are highly educated, they know that education is really the key to the success of the problems in this country. They know that if you go into the jails, if you go into the unemployment lines in this Nation, if you go into the homes of welfare recipients, you find that they did not have a good education opportunity. But Americans and Republicans and Democrats and independents and anyone who lives and pays taxes in this Nation must be concerned about paying more for education and getting less.

Now, I always drive the other side of the aisle crazy and the Democrats crazy, because I like to deal with facts, and sometimes they come out here and say things and they do not base them on fact. But let me tell you about where we are in education and the facts about paying more and getting less. The fact is, and these are not my statistics, these are published statistics, the fact is SAT scores dropped from a total average of 937 in 1972 to 902 in 1994. The fact is we are spending more and getting less.

The fact is 17-year-olds scored 11 points worse in science in 1970 than in 1994. The fact is reading of 17-year-olds, 17-year-olds who do not read at a proficient level, their reading scores have fallen since 1992. Spending more, getting less.

The fact is, in math, United States students scored worse in math than all other large countries except Spain. The fact is we are spending more and getting less for education.

The fact is 30 percent of all college freshmen must take remedial education, and in my district in central Florida, and I come from a fairly prosperous and successful central Florida area, some of our community colleges, one of the presidents told me over 50 percent of his students entering community college need remedial education. And then I was stunned to read that at another local community college, 71 percent of the entering freshmen need remedial education.

□ 2015

This is the fact. These are the facts. We are paying more and we are getting less in education. That is what this is about. It is not just how much money we come here and spend, and the people just getting home today and are working and yesterday paid their taxes. And they are sending this incredible amount of their money here to Washington. This is the result of your dollars.

We need to look at how; we came here to look at how effectively we were spending those dollars. I looked at Head Start. Let me again deal with some facts. Let us talk a little bit for a minute about the history of Head Start.

Every Member of this Congress, Mr. Speaker, and every citizen of this country should pay attention to this, because first of all they think Republicans are cutting spending in these areas. The fact is, in education we are proposing increasing expenditures of almost $25 billion over the next 7 years. I tell people that and they say, I thought Republicans were cutting education. The fact is, for possibly illegal aliens, you will not be getting education. That is part of what this debate is about. You do not hear that talked about here. But let us talk about one program that I took some time spending, spending some of my staff work and my personal time in looking at a Head Start program.

Back in the schools that I attended at the University of Florida, I remember serving as the secretary of academic affairs and student government. This is back in the early 1960s. I was committed to trying to make a change and to do some positive things. I remember one of the things we worked on was a project called Project Begin Here, because we knew we had a university, the University of Florida, a great institution, here we had a town, Gainesville, where students did not have opportunities to learn. So we started this Project Begin Here to take the resources of this great university school of education I was a part of and bring it into the community and help give kids an opportunity and an uplift.

We knew that was a key way back then. I supported Head Start Programs back then in the early 1960s. I support Head Start Programs today. The concept is basically good. The problem is look at what has happened.

Look at the time from 1990 to 1995. Head Start funding increased 128 percent. Washington spent over $31.2 billion on the Head Start Program. Those are the types of increases. The House proposed, the House proposed $3.39 billion for 1996, only a minimal reduction from $3.52 billion that was appropriated for 1995. Now, that is not a very big difference. There is a reduction, and let me talk about the purpose for the reduction in a minute. But the funding for this program has grown almost five times as fast as the number of children served. The growth has resulted in a sloppy, I mean disgusting management of the program. This is not what I am saying. This is not a Republican report I am going to detail here. And again, we must look at how we are spending these dollars and what the effect is and what are we getting for the program.

Now, these programs, and again, not Republican reports, and I only want to deal with facts because, as I said, it drives the opposition crazy, this report is the Office of Inspector General, Department of Health and Human Services, evaluating Head Start expansion through the performance indicators. These are 1993. This one is 1993, Head Start expansion grantee experiences.

Let us talk about what we found here. Head Start is 30 years old, and yet there is little evaluation of the program's effectiveness. This is not what I am saying. What there is suggests that academic gains made by kids in the program are in fact temporary. That is what we find. The HHS report found that, one, children may not be fully immunized before leaving the Head Start Program. I mean here we spend hundreds of millions on immunization programs, a government program, and we cannot even get our government program to cooperate with the administration's program to immunize, so number one grade success.

Grantees frequently do not identify families social services needs, another criticism of this, and wait until you hear how we spend the money on trying to identify this.

Grantee's files and records are incomplete, inconsistent and difficult to review. And wait until you hear how I detail what is required as far as administration of this program in one small program in my district.

The HHS report also found that there was no educationally meaningful differences between Head Start children and nonHead Start children by the end of the second year of grade school. Numerous independent studies confirm that the present Head Start Program has only short-term benefits for poor children.

This is not what I have said. This is the report of the inspector general. These are the facts. So this is how they evaluated the program.

So I was contacted by a parent who was a single mother, divorced, I believe, situation with two children and she put her children into the Head Start, had, I think, one or two children in Head Start Program. And she was having a difficult time personally but wanted to give her children every advantage. I commend her for her effort. But then she came to me and said, Mr. MICA, she is a very intelligent woman, a very educated woman. She said, I have had my children in this program and it is a disaster. So I thought, well, I better look at what is going on.

So I went and I looked at the Head Start Program. Let me give you one Head Start Program in one community, and there are some, there are others that are not run in this fashion, but let me tell you what is going on in my area of Florida.

Last year this one program that serves 378 children received over $2 million for the Federal Government, another $550,000 from the State, that is over $2.5 million. The cost per student for a part-time preschool program is $7,325. That is just the local administrative cost, the figures I have, not including this huge bureaucracy they have built in Washington, not including the bureaucracy that they have in Atlanta. I could send the student to the best preschool program, a stellar one in central Florida for this amount of money. And then with the money that bureaucrats are wasting in administration, I would have money left over, plenty of money left over. In addition, I know that the program would be, first of all, longer in duration because this is an abbreviated program. The teachers, there would be at least some certified teachers in the program. And the child would have a much better experience.

This program in central Florida has been found to be deficient by HHS in serving children for the past two years. My attempts to try to change it are totally useless because you have to deal with a bureaucracy in Washington and Atlanta and all kinds of regulations. It is amazing that they can run this.

Listen to the best part. This agency, again the local Head Start Program, one program, 378 students, employs 25 teachers and 25 assistants. Now, that is not bad. But first of all, not one of the teachers that I know of are certified. Not one of the assistants are certified. They have come up with some cockamamie certification program, but basically what you have is a minority employment program.

So then they gather all the minority children together in this program with no certified teachers to basically provide day care services. It is an incredibly expensive price tag. And are these students getting a cultural advantage? Are they getting an educational experience? The answer has to be no.

Now, you have not heard the most outrageous part of this entire story. I asked for the budget for these 378 students. For the 25 teachers, there are nearly 25 administrators. Listen to this: One director gets almost $40,000; an area coordinator gets almost $29,000; another area coordinator, $29,000; an education coordinator, $26,000; a family services coordinator, $26,000; a nutrition coordinator, almost $26,000; mental health disability coordinator, $26,000; another health coordinator, $26,000; personnel training coordinator, $19,000; an educational specialist, $29,000; another educational specialist, $24,000. It goes on and on, $20,000, they go on and on. Then you have family services specialists. It is absolutely mind-boggling.

Then you get to the teachers, the teachers. Here is the teacher, first teacher, $12,000 a year, $14,000 a year. We might even have a teacher in here, there is one for $15,000. I do not have a certified teacher. This is a national disgrace, Mr. Speaker, that my disadvantaged students, 378 of them, that we have this bureaucracy.

Now, it would not be bad if you just had this bureaucracy for this little program, but this incredible amount of money. Let us face it, this is what the debate is all about, Mr. Speaker. I am chairman of the House Civil Service Subcommittee that oversees the Federal employees. So I asked the staff to tell me how many employees there are in the Department of Education. There are 4,876. Now, of all of the departments, I think they probably take the cake, but there are 3,322 just down the street from here, 3,322. I really think the Secretary of Education, Mr. Riley, was taking great pride in how he had reduced the number of people in the Department of Education from some other year. So I ask our staff to also investigate, and they told me that there are thousands upon thousands of contract employees that are not now counted in these figures. But we have 3,322 bureaucrats here pumping out rules and regulations and they pump them out to Tallahassee, my State capital, and other State capitals. They pass then onto Atlanta, and they must pass them on. So we have 25 administrators making twice the amount of money anyone in the classroom made in this program, and we wonder why our students cannot read and why there is this debate. But it is all about spending more and getting less.

□ 2030

Again, these are the facts. Anyone who would like copies of these, any of my colleagues, this is how the programs are run. These are the evaluations. These are not Republican evaluations.

Mr. Speaker, Members can see I get a little bit hot under the collar when they accuse Republicans of cutting education. I have two children. I am concerned about education.

I heard the gentleman from South Carolina talking about Title I. I do not know a lot about it, but I know how important it is to have it as a follow-up program. If you have Head Start and you do not have Title I, we know if the kids cannot read by third grade, as my superintendent so ably says in Seminole County, FL, the school superintendent, he says, they are lost. They cannot read, they cannot write, they cannot do basic math. If we are not spending the money in the classroom on the students, in the programs that need it, for the teachers, we have a problem.

A teacher just came up to me in a Title I Program and stated, "Mr. MICA, I want you to know, they told me I am going to lose my job, but they are hiring another administrator." I almost got sick when I heard that. Here is a teacher in a Title I Program, and Title I programs are important. We need to make sure that for the students who need Title I, that we have a consistent pattern of education; that we just do not do minority grouping with minority employment and give these children a disadvantage. They need an advantage, the very best advantage. Then we need to follow up in first grade and second grade and third grade, so they can read and write, and of course do basic skills.

Mr. Speaker, I want to talk, if I may, just for a minute more. If the gentleman will continue to yield, when I get on these subjects, again, as a former graduate of the University of Florida School of Education, I just get so upset and concerned about the direction of education.

Mr. Speaker, if we take a minute and look at what we are doing to employ students who need skills for real jobs, and I am not talking about $5-an-hour-paying jobs. We know people have difficulty living on minimum wage. But we are talking about jobs that give people an opportunity to be self-sustaining, good-paying jobs. When we start to look at what we are doing with our job training programs, the same accusations, Republicans are cutting money for job training programs.

Again, Mr. Speaker, we must look at what we are doing. The American people must stop, listen, and learn about what is going on with their money. Here is one program for job education. I know this comes under the Department of Labor. Here is an article that says, "Audit faults job training program." This is in Puerto Rico. We also pay for job training there, but the same thing happens in the United States. This report says, "the department spent about $305,000 for each participant placed in a job-related employment whose employment lasted over 90 days.

Mr. Speaker, this caught my eye just recently in the Washington Post, but there was an article within the last month or so in the Orlando Sentinel that absolutely was flabbergasting. It talked about the State of Florida and job training and education programs. Get this. The State of Florida, one State out of the 50 States, spends $1 billion in their job trainings programs, $1 billion. This was a State audit of those programs.

The State audit said basically that the programs were, almost every one of them, a disaster. It said, in fact, that only 20 percent of the students who entered these job training programs ever completed them, 20 percent who entered. Then, of those who completed the job training program, only 37 percent got a job. Then, of the 37 percent, and remember, that is of the 20 percent who have entered who got a job, they got just above a minimum wage job. Then they found that within 6 months the people were out of a job.

One billion dollars that people spent yesterday in paying their taxes, Floridians and other Americans, to send to Washington for education programs that do not make sense, for job training programs that do not make sense. Again, the reports go on and on.

I served on the committee that oversaw some of these programs, the EPA and some of the others in the previous Congress. I would sit at the hearings and just about fall off my chair to hear how taxpayer money was wasted and abused. But this message is not getting out to the Congress, Mr. Speaker, it is not getting out to the American people, that they are paying more and getting less.

I know in their hearts and in their guts, the American people know this is wrong. They know there is something wrong with the system, and they are dedicated. People are interested in education. Everyone I have met, whether it is someone working in a grocery store or someone who is a high professional in my community, is interested in education. Every Republican wants education. But what we do not want is this huge bureaucracy, this huge ineffectiveness that has cast a spell across the entire country.

What we want, too, are some other things that we may not be able to legislate. We may begin to want to look at how we can restore some true caring, some love, some spiritual values, some values, some discipline in these schoolrooms. You talk to the teachers, I have talked to teachers who have been struck twice. Instead of another art course or a music class, as in where some of my children went, they are putting in security guards. There are police people. We do not have new math teachers or cultural teachers, we have more policepeople. We are putting in metal detectors in our schools. There is something wrong. There is something dramatically wrong. If this does not tell a little bit of the picture, I do not know what does.

Mr. Speaker, I know there are other problems: the welfare system that we have created over 40 years. When children go to school and they have never seen a father, they come from a home that is in total disruption, they have no sense of values, then we wonder why we get into these situations. We are dealing with the problems that we have self-generated in 40 years of decline of family values, of discipline in our schools; of the professionism of education, rather than a 9 to 5 job: If I can just make it through one more day and keep these kids under some control, and keep the discipline to where they do not physically abuse me during the day, I have made it through another day in my classroom. It has to stop.

I just came here for a short time. I do not plan to stay forever. But I am dedicated, and if the gentleman from South Carolina [Mr. GRAHAM] is not here next time or the other freshmen are not here, I know the American people will send more people to get this job done, because they are concerned, and we are concerned. We do not care about the next election, we are concerned about the next generation. When we have to take our children out of schools and we are paying taxes and seeing this result, it is sad. It really is sad.

Mr. Speaker, I thank the gentleman for yielding to me. I get wound up in these debates, but these are all things that I take personally. I am a Republican who cares about education and does not like to have people tell me that we are gutting or cutting education. We are trying to improve, we are trying to re-examine education as it has been done and correct these mistakes, and do a better job with taxpayers' very hard-earned money. Again I thank the gentleman for yielding.

Mr. GRAHAM. Mr. Speaker, I thank very much the gentleman from Florida for talking about facts, because sometimes facts get in the way of a good story. Head Start is a good idea, but when you look at the facts you described, you have to wonder if the program is working as efficiently as the taxpayers deserve for it to work.

It is obvious that you care about education, that you have made it your life's work, but you also care about the national debt, the $5 trillion debt, and the role that money plays in education and the debt have to be examined. I would suggest to you that the education problems in this country are not all about money. They go a lot deeper than that. They are about the breakdown of the home, they are about relying on someone else from far away to solve all your problems, just like a lot of problems exist in America today, and we, the people, are responsible.

You can blame Congress, it is a fashionable thing to do, and we do deserve to be blamed for allowing this Nation to get so far in debt. We should be allowed to talk openly about improving the educational climate in America and balancing the budget without having people throw rocks at you, because you heard the gentleman from Florida, Mr. MICA, speak. I hope you are convinced, I know I am, that he is sincere about providing a quality education, but he has a responsibility to manage the taxpayers' money wisely and to provide that quality education.

I would suggest that you are not getting a return on your investment, as he has indicated. Let us talk abut student loans for a minute. You have heard a lot of talk about student loans. I know the gentleman from Florida has, and our Speaker is very knowledgeable about the student loan situation in America.

I am the first person in my family to go to college. I am not a country club anything in that regard. I am the first Republican in my district in 120 years. They hung the other guy, so I think I am doing a little bit better. But things are changing down South. It is a district with an average per capita income is $13,200. It is not a wealthy district. It is a very proud district where people want to pass on their hopes and dreams and make it better for their children.

I received student loans. My parents died when I was a junior and senior in college, and I had a 12-year-old sister who received student loans. They worked very hard to give me an education, and I helped my sister, and the Government helped us by allowing student loans, making student loans available to us. That is going to continue, because most of the people in my district who are qualified students to go to college will go into a banker's office and say, I would like to go to college, and the banker will say, what do you own? The student probably owns very little, and sometimes the parents do not have the assets to make a loan on the up and up, so the Federal Government comes in and guarantees that loan. That will continue, as long as I am in Congress, because that is a very much-needed dynamic in this country.

What will not continue is to lend money blindly, to waste money in the name of compassion, and to take the hard-earned taxpayers' dollars from two-thirds of the children, the kids who graduate high school and go into the work force and never get a student loan. We have some obligation to run the student loan program like a business.

Here are the facts. The Republican budget increased student loan spending from $24 billion to $36 billion over the next 7 years, a 50 percent increase in the amount of money available for student loans. The number of students eligible for a student loan has grown from $6.6 million to $7.1 million over the next year under the Republican plans. We have increased Pell grants to the highest level ever. $2,440 will be available for eligible students to receive a Pell grant, money that you receive that you do not pay back.

My sister, when my parents died, was eligible to get a Pell grant. That program continues and is fully funded. There is more money in the program than in the history of the program. We are looking at the number of people eligible, but trying to ratchet down the income levels, so the money will go to the people who need it the most. You cannot be everything to everybody and balance the budget. That is a bad dynamic to create, even if we were not in debt.

The supplemental education opportunity grants program that helps disadvantaged students is funded at the same level it was last year. The college work-study program is fully funded at $617 million. The Perkins loan program remains at $6 billion, just like the President requested. The Trio program for minorities and disadvantaged students is fully funded at $463 million. That is the Republican budget.

What we did try to do is we tried to look at the student loan program and see if we could improve it and make savings to help balance the budget, because I think we have a moral obligation to look at the way we spend money and to craft programs that help people, but not overly waste money for the two-thirds of the students that never borrow it to go to college to begin with.

We were able to save $10 billion in about 2 days of talking. Unfortunately, most of those savings will never go into effect, but I am going to tell you, in just about 2 minutes, how you can save $10 billion and I believe not hurt a soul, help the taxpayer, and make this student loan program more energetic.

Mr. Speaker, we were going to save $5 billion by doubling the risk that the bank shares in the event of a default. Under the current student loan program, when a bank lends the money the Federal Government guarantees the loan, and if there is a default, the bank gets 98 cents on a dollar. Do you think they spend a whole lot of time chasing that loan down? That is not a good business deal for the American taxpayer.

I want banks to make money. I think banks should be the primary lender of student loans. They should be able to get into the student loan business and make money, but the Federal Government needs to do a better deal than 98 cents on the dollar. Under the Republican reform, we double the risk the banks will accept in the event of a default. They will still be able to make money, but there is less risk for the taxpayer, there is more risk-sharing. That saved $5 billion, and had nothing to do with anybody who is getting a student loan. It had to do with the banks.

Mr. Speaker, we saved $1.2 billion by eliminating a program the President is pushing called direct lending.

☐ 2045

The student loan guarantee program where we underwrite loans of the private sector needs to be improved. It is not a good business deal for the taxpayer. It is inefficient. The risk is not shared in a fair amount. We are going to improve that. We are going to double the risk. We are going to stop subsidizing the guaranteed agencies to the extent that they are subsidized now. We are going to do a better business deal for you, the American taxpayer, and still help students.

The President, who is critical of the guaranteed program, wants to go the opposite direction. What he would like to have happen is the Federal Government become the primary lender, become a bank. Can you imagine the Department of Education becoming the third largest consumer bank in America?

The bureaucrats that the gentleman from Florida [Mr. MICA] has described would have a huge loan portfolio available to them. They would replace the private sector. We would go borrow the money, the Federal Government. We are broke, we do not have money, we would have to borrow money. We would let the Department of Education become the lender and the collection agency. It would be a disaster.

It may be easier to get the money, somewhat more efficient, they say. That is not true. We would have a government bureaucracy at the Department of Education with unlimited growth potential. They would be the third largest consumer bank in America, and a bureaucratic Department of Education gets paid whether they collect the loan or not. It is not their money.

The banks are lending their money. They have a reason to go collect the money. They are in a business. The Department of Education are not bankers, they are not in the banking business, and the President wants to replace private sector capital with public borrowed money, replace bankers who are in the business of collecting money for a living with bureaucrats.

That is the worst idea I have ever heard of in this Congress, and it shows us how much he believes in big government. I will never ever vote, I will never ever allow that to happen, to take a private sector program that should and could be improved and replace it with a dominated Federal program where the default rates are going through the roof.

If we think there is a problem now with defaults, let the Federal Government be the lender and the collection agency. They could care less. They want your vote, not your money back, not the money back. That would be a disaster, and it is not going to happen. It is not going to happen if we control this place.

It will happen if the other party takes over, unfortunately, and there are Members of the other party who think this is a bad idea. Please do not allow the Federal Government to become the third largest bank and replace private capital with government borrowed money. That is a horrible idea.

The Congressional Budget Office has told us if we would get the Federal Government out of the lending business in education, we would save $1.2 billion. That shows us how big a bureaucracy has grown up over a 10 percent share of the market, where direct lending has 10 percent of the student loan business now, there is a $1.2 billion savings if we wiped it out. The President wants to do 100 percent direct lending, but we save $1.2 billion in our budget by wiping it out, $5 billion by doubling the risk of banks.

One thing we did do for students, that under the current program, Mr. MICA, if you graduate from college, we forgive the interest payment of your loan for a 6-month period when you graduate. We have proposed to allow the interest element of your loan to continue to run. You do not have to pay it if you do not have the money, but we are going to let the interest continue to run, not forgive the interest for a 6-month period. That would save $3.5 billion to the American taxpayer. It would mean to the average student a $4 a month increase, but it would save $3.5 billion for this Nation. I could tell you right now if we got to the point where we cannot forgive the interest for a 6-month period and that be devastating to education and a student cannot incur a $4 a month charge, then something is wrong and we are never going to balance the budget. That is not too much to ask. That is an appropriate thing to do to save $3.5 billion for the American taxpayer, and that is part of this package. We save $10 billion and I have just described to you, we increase the interest rates for parents who are not eligible for the guaranteed program to borrow the money at Treasury rates plus a percent, we increase that 0.1 percent, that will result in about half a billion dollars. We save $10 billion for the American taxpayers and the only thing to happen to a student is that they would have to pay $4 a month more because they are going to have to pay their interest for the 6-month period after they get out of college. We are not going to forgive it. To me that was very reasonable and responsible. It helped us balance the budget, and I think it improved the student loan program that needs to be improved.

Those two-thirds of high school students who never go to college, who never go on and receive a student loan, they deserve our time and attention, too. Because they are the ones paying the bill and we can have a quality student loan program. Access to education is a must. I will always vote to ensure that money is available to help needy students and families who cannot go it on their own have money available to go to college. But as long as I am here, we are going to run it more like a business, we are going to ask the private sector to share the risk, we are going to improve the quality of the student loan program, we are going to negotiate a better deal for the taxpayer and we are going to save money in the process, and we are going to ask those students who borrow the money to pay it back. We have reduced the default rate by 50 percent and it has got nothing to do with direct lending. It has got to do with a Congress who has finally gotten tough and tells the school that has a 25 percent default rate, "You're going to get out of the program." There are schools in this program that have 50 and 60 percent default rates. They should not be allowed to participate. We are going to start asking people to pay the money back, we are going to ask schools to get involved and run it more like a business at their level. We are going to renegotiate a relationship between the student loan program and the American taxpayer that will ensure access to education, but we are going to save some money because we are wasting money now and they are not contradictory principles. You can have efficiencies in government and improve the quality of people's lives, and that is the goal of this Congress, in education and every other area. I am proud to have been a part of it. Instead of getting criticized, I think we should be applauded for taking on programs that have not been looked at since 1965.

Mr. MICA. If the gentleman will yield, I think the gentleman makes a very good point and he has detailed this evening, Mr. Speaker, some of the differences in the philosophy between the Republicans and Democrats on this issue. Education is important but it is not just a question of spending more money, it is how we spend that money. This is really the fundamental debate in this entire Congress. It transcends not only education but every other area. I spoke this afternoon on the floor about the EPA and Superfund program. We spend more, we get less. We are spending more in those programs and we are cleaning up fewer and fewer of the sites, and we are not even cleaning up the sites that pose the most risk to human health and safety. We have detailed tonight how just in a few programs, student loans, title I, in Head Start and some of the other programs the disaster that we have come across as new Members of the Congress and found in my 37 or 38 months here and in Mr. GRAHAM's tenure, so each of those areas we have tried to look at how a businessperson, how a parent, how a teacher, how someone interested in education would make changes. Because if you just continue the way we have, you have thrown more money at the problem, you are not really addressing the fundamental changes that need to be made in the programs. Again, whether it is education or environment or other areas, these are the fundamental debates. As a parent, I want a good education. As a parent, I want our children to be able to read their diplomas and to stop the decrease in these scores, and to stop this bureaucratic administration. Again 3,322 Federal Department of Education employees in Washington, DC. Not in the classroom, not out there teaching. But their job is to pass on rules and regulations and that is why we have a big bureaucracy in Atlanta and other regional offices, that is why you have a big bureaucracy in my State capital and in other State capitals. That is why your school boards are required to hire more administration people. That is why Head Start is top heavy with administration. It all starts here. This may be the last opportunity that this Congress has and the American people have a real opportunity to make changes in these programs. And that is the fundamental debate. Do we want to continue to pay more and get less? I think it is time to reverse that trend. I think it is time to improve education, improve the environment, improve the way taxpayer money that again came here yesterday in incredible amounts and is deducted from people's paychecks in incredible amounts. I thank the gentleman for his leadership on this issue.

Mr. GRAHAM. I thank the gentleman from Florida for participating and providing facts that I think show very clearly that the efficiencies in government that we are seeking can be found without looking very deeply. That if you had an opportunity to come up here yourself, the ones listening to me tonight and look at these programs and spend a few minutes analyzing how they are run, you could save $10 billion pretty quickly, also. It is not that hard to do. The hard thing is to convince people that when you are trying to improve the student loan program for the two-thirds of the students who never get in it but pay the taxes for it, that you are not being mean.

When you try to stop Medicare from growing at 2200 percent so you can keep the budget balanced, that you are not being mean, because you can provide quality health care from Medicare to seniors in this country without allowing the program to grow 2200 percent every 15 years. The amount of money and the efficiency do not relate. We are spending more money than we need to. We can deliver a better quality program, a better quality of life and save money in the process. That is not only something we can do, it is something we must do. If you allow us, we will do it.

VOTING RIGHTS ACT OF 1965

The SPEAKER pro tempore (Mr. FOX of Pennsylvania). Under the Speaker's announced policy of May 12, 1995, the gentleman from Louisiana [Mr. FIELDS] is recognized for 60 minutes.

Mr. FIELDS of Louisiana. Mr. Speaker, I rise tonight to talk about the Voting Rights Act of 1965 and all of its amendments thereto.

Yesterday, Mr. Speaker, I had the opportunity to go before a panel and present different legal arguments as relates to redistricting in Louisiana and perhaps redistricting across the country. Tonight, I would like to take a little time to talk about where we are today and how we got to this point. I am very pleased to be joined by my good friend and colleague from the 12th Congressional District of Illinois, Mr. JACKSON.

Tonight, I want to from a historical perspective talk about the Voting Rights Act, why it was passed and where we are today with it and then try to talk a little bit about the cases that are pending in the Supreme Court and give some sense of logic to what State legislatures should be doing and particularly in the State of Louisiana. Because I think many of these redistricting challenges are not based on constitutional law as much as they are based on financial gain, for lawyers and for plaintiffs, and I plan to talk about that later in this discussion.

But at this time, Mr. Speaker, I would like to yield to the gentleman from Illinois as much time as he may consume.

Mr. JACKSON of Illinois. Let me take this opportunity to congratulate the distinguished gentleman from Louisiana [Mr. FIELDS] for the vigilance that he has shown and the people of the Fourth Congressional District of Louisiana as they have fought to uphold the law of the 1965 Voting Rights Act which has in part and in no small measure created the kind of diversity in the Federal Government, the kind of diversity in State government, the kind of diversity in political legislative bodies all across our country. There has never been since Plessy versus Ferguson was decided in 1897 which ran 22 African-Americans out of this distinguished body and ran African-Americans and other minorities out of State legislatures around this country the kind of representation that African-Americans, Latinos, women, and other minorities in this country presently have come to appreciate.

□ 2100

I want to offer certainly a level of congratulations again to the gentleman from Louisiana for those State legislators who are presently in Louisiana filibustering the attempt by that State legislature to undermine the Fourth Congressional District of Louisiana. I want to offer this evening an historical perspective and then hear from the gentleman from Louisiana and then engage the gentleman in a colloquy about the sustenance of the Voting Rights Act of 1968.

In June 1993, the Supreme Court handed down a decision that threatened to return this country to the days of separate but equal. The decision in voting rights mocked the reality of persistent racial inequality in America in the name of a color-blind society. Using the Constitution's guarantee of equality, the Court has given the green light to willful racial exclusion in the political process.

In the past, damaging interpretations of civil rights laws could be minimized by congressional amendments to clarify the law. The Court's ruling in these voting rights cases calls into question our ability to seek redress in this, the body of the people. In Shaw versus Reno, after the creation of majority African-American congressional districts in North Carolina, blacks elected the first African-American to Congress since Reconstruction. Even with two majority African-American districts, white voters who make up 76 percent of that State's population, continued to control more than their share, 83 percent, of North Carolina congressional seats. Yet the Court suggested that one majority black district, because it was irregular in shape, was nothing more than an effort to segregate the races, and I quote, for the purposes of voting.

It said that such a district would, quote unquote, threaten to carry us further from the goal of a political system in which race no longer matters. The Court is, in fact, saying that racial injustice no longer exists. In reality, we live in a political system that is so racially divided that race matters more than any one factor in a voter's choice of candidates in American. Political encumbents whose main goal in redistricting is to insure their own reelection, they know this. And when they draw the district lines, computer technology can tell them the racial composition of every census block. Indeed, many majority white districts are drawn to exclude African-Americans and preserve white constituencies in the last reapportionment, they look as unusual as the black districts singled out by the Supreme Court. In many cases, compact minority districts are hard to draw because African-Americans and Hispanics are concentrated in isolated communities.

The census blocks in these communities were defined long ago by legalized residential segregation. This was the target of Dr. King's last civil rights march in 1966.

Creating majority black districts does not harm white voters. Indeed, there is no State in the country in which whites are underrepresented in State legislatures or in this body, the 104th Congress. Even with enforcement of the Voting Rights Act, African-Americans and other minorities continue to be barred from their fair share of political power nationwide. Given the racial division among voters and the bitter history of African-American electoral exclusion, African-American districts provide the most widely accepted means of allowing black voters full participation, a bear minimum for citizenship in this democracy. Concern with the shape of a district should obviously pale in comparison.

When Shaw versus Reno was decided, too many in the voting rights community initially sought to characterize it as a narrow decision which, while potentially damaging, it was not a fundamental attack on the constitutionality of the Voting Rights Act of 1965. I was very concerned about this opinion because I viewed it as a signal that it would encourage those opposed to the Voting Rights Act to challenge it everywhere. This is exactly what has happened since the Shaw decision.

Mr. Speaker, voting rights and the law protecting these rights were one of the few areas to remain largely intact following the Reagan and Bush onslaught. In voting rights cases, they must first prove intentional discrimination on the part of the State to succeed in a Voting Rights Act case. Congress disagreed with the City of Mobile versus Bolden and they disagreed with the Supreme Court's interpretation and ruling in the Bolden case, and in 1982, they amended the Voting Rights Act to specifically overrule that decision. In fact, Congress strengthened the Voting Rights Act on a bipartisan basis to make it plain that discrimination against minority voters continued to persist and that an important test was not intent, which is often difficult to prove, but instead was the effect on minority voters. In 1986, the Supreme Court upheld the constitutionality of the 1982 amendments in Thornburg versus Gingles, and it was against this background that the State legislatures determined the Constitution required that majority-minority districts be drawn to avoid violating the law.

The Shaw decision resurrected the intent question by turning the Voting Rights Act on its head in order to recognize the right of white plaintiffs, who do not even live in these congressional districts, to challenge districts that were intended in the first place to lead to greater minority representation in this body, in the Louisiana State Legislature and the North Carolina Legislature, in State legislatures around this country. The objective of the Voting Rights Act was to desegregate the institutions of power that heretofore historically had been denied to African-Americans, women, and to other minorities.

Most recently, in the Fifth Circuit decision in Hays versus Louisiana, they sought to apply Shaw to answer a totally different question: Is there a compelling State interest in designating a congressional district using race as one of many criteria so that racial minorities have an equal opportunity of winning? The court in Hays concluded that the Louisiana plan, the seat of the gentleman from Louisiana [Mr. FIELDS] was not narrowly tailored to further a compelling State interest.

Hayes was obviously troubling for a number of reasons. To recognize the standing of white citizens to attack majority-minority districts, the court cited regents of the University of California versus Bakke in 1978, in addition to Shaw and Croson. Thus, the fact of a color-blind Constitution and country was elevated by the case in Louisiana, Hays versus Louisiana, to strike down the Louisiana plan. The Hays court relied on a 1964 decision, Wright versus Rockefeller, a case that was decided before the Voting Rights Act of 1964, to define a racially gerrymandered districting plan as one that, quote unquote, intentionally draws one or more districts along racial lines or otherwise segregates citizens into voting districts based on their race.

The court also cited Bolden in support of this point. The Hays court seems to have ignored the fact that the 1982 amendments by this Congress overturned Bolden. The only citation the court makes of those amendments is to assert that section 2 expressly declares that proportional representation is not required.

On Thursday, June 30, 1994, exactly 1 year to the day after the Shaw versus Reno decision undermined a North Carolina redistricting plan designed to give African-Americans greater representation after Reconstruction, the Court struck again. In two separate opinions, a Florida case, Johnson versus DeGrande, and a Georgia case Holder versus Hall, the Court sought to limit a broad interpretation of section 2 of the Voting Rights Act. Section 2 outlaws all forms of voter discrimination.

Congress intended a broad interpretation so as to be able to address the various and subtle forms of voter denial, but the Court appears increasingly unwilling to use an interpretation that expands the notion of democracy for all Americans. As a New York Times editorial said, the Court was driven by a core of justices who evince no respect for Congress whatsoever. Justice Clarence Thomas and Mr. Antonin Scalia are leading the challenge against the Voting Rights Act.

And so today, there are legislators in Louisiana who are engaged in a filibuster so that the Fourth Congressional District of Louisiana will remain intact.

I brought, today, a map to show the changes that the Fourth Congressional District of Louisiana has gone through in the last year. In the Louisiana case, the Court said racial gerrymandering was unconstitutional. In a State 30-percent black, only two Congresspersons have been elected since Reconstruction. The first Louisiana plan, 65 percent black, 35 percent white. The second Louisiana plan after this plan was thrown out created a new congressional district, 55 percent black, 45 percent white. And now the State legislature in Louisiana is presently filibustering to keep the third plan from becoming a matter of law, thus moving this district 70 percent white to 30 percent black.

So a district that is almost 50 percent black and 50 percent white has been declared unconstitutional, but now we have a district that the court, Reagan-appointed judges and Nixon-appointed judges in Louisiana are now saying that a district 70 percent white but with 30 percent minorities is constitutional.

I would like to yield back the balance of my time to the gentleman from Louisiana.

Mr. FIELDS of Louisiana. Mr. Speaker, I thank the gentleman for yielding, and I thank the gentleman for sharing this special order with me.

I want to also talk a little bit about some of the history, not only in Louisiana but all across this country, as relates to the Voting Rights Act. As the gentleman knows, the Voting Rights Act was actually instituted by this institution simply because of the denial of due process in the voting arena. Individuals of color, as a matter of fact women as well, could not participate in the electoral process simply because they were women and simply because they were Hispanic, simply because they were black or African-Americans and, therefore, this esteemed body thought enough of this country to pass something called a Voting Rights Act.

Did the gentleman know that there were individuals who would try to register to vote, but simply because they were African-Americans, they were not able to vote? And after it was illegal to deny a person the opportunity to vote, State legislatures passed statutes that had prohibitions in terms that made the registration process more complicated. For example, I can recall talking to one of my professors at Southern University that mentioned the fact that in order to register to vote in Louisiana, you had to state the Preamble to the Constitution. That was one thing that eliminated several voters, several potential voters from the voting rolls, not only in Louisiana but all across the country, particularly in the southern part of our country.

Individuals had to state how many bubbles were in a bar of soap. Asinine questions like that were presented to individuals before they were able to gain access to the voting rolls. And then this Congress, this esteemed body, decided that was enough of discrimination, that was enough denial of due process and voting opportunities in this country and they passed the Voting Rights Act.

That is what this whole discussion is about tonight. I want to talk about Louisiana from a historical perspective as related to this Congress. The State of Louisiana, we have sent over 184 individuals to this body. One hundred eighty-four individuals from Louisiana have had the opportunity to serve in this esteemed body. Of the 184, only 3 of those individuals have been African-Americans, in spite of the fact that Louisiana has always had a substantial minority population. I mean even today, Louisiana's minority population is over 31 percent. Sending 184 people to sit in this Congress, the people's House, the House of Representatives, and not having but three of those individuals come from that State of African-American descent. And then to have one of the districts that are presently under attack, presently drawn to give an African-American an opportunity is absolutely, absolutely unconscionable.

In 1812, Louisiana was admitted to the Union. Louisiana was admitted as a State in 1812 to be a part of this great Union. Louisiana went from 1812 to 1875 before it elected its first African-American to Congress. So Louisiana went 63 years. From the time it was admitted to the Union to 1875, 63 years without sending one African-American to Congress. And the first African-American to ever serve in this body was Charles Nash, who was elected in 1875 and served only one term. He served from 1875 to 1877, and the reason why he was not reelected, it wasn't because he did not want to come back to Congress and to serve his constituency in the State of Louisiana and to do a good job and to represent not only the people in his district but people in his State. It was because the State legislature in Louisiana decided to pass laws to prohibit many of his constituencies the opportunity to vote, to register to vote.

They passed laws like literacy tests. They passed a poll tax. They not only disenfranchised blacks, but they disenfranchised whites, as well. Anyone who was poor in the State, as it was in many States across the southern part of our country, could not gain access to the ballot box because they did not own property. So Charles Nash, despite the fact that he wanted to return to Congress, could not return to Congress because many of the people who voted for him could not vote for him any longer. So Louisiana went from 1877 to 1990 without electing one African-American to Congress. That is 113 years. 113 years the State of Louisiana did not have one African-American, despite the fact that Louisiana had over 30 percent African-American population.

□ 2115

Why? Because districts were gerrymandering to exclude minority votes and not include minority voters. And as a result of that, they never had the mere opportunity, not a guarantee but just a mere opportunity, to run in a district where they could run and win.

So Louisiana's African-Americans, went a total of 176 years without having one single voice here in this Congress from that esteemed State. Now, today, the big debate in the State legislature is whether or not we continue to have a Fourth Congressional District.

I am going to at this time yield to the gentleman, because I know he is on a tight time schedule and will be joining me later in the special order for a few minutes to further talk about some of—I see he has a map display, so I will yield to the gentleman.

Mr. JACKSON of Illinois. I want to thank the gentleman for yielding. I do want to apologize, because I am going to step away for a few moments.

I wanted to show you a map of congressional districts around the country, particularly southern congressional districts that are now being challenged as a result of the decisions that are coming out of Louisiana, that are coming out of North Carolina, and that are certainly coming out of Florida.

It is really interesting to note, when we look at the district formerly held by Barbara Jordan, Mickey Leland, and presently held by SHEILA JACKSON-LEE, and the districts held by Representative FIELDS, and by Mrs. MEEK and ALCEE HASTINGS in Florida, when we look at the district of CYNTHIA MCKINNEY, we note that these districts were drawn to desegregate the institution of Congress, to give African-Americans in a State where they have significant populations, like the State of Louisiana, an equal opportunity of winning.

If there is any one thing that can be said about the present attacks on the Voting Rights Act, it is that the Voting Rights Act of 1965 has been effective. It has indeed worked. The reality is between 1863, after the slaves had been freed, between 1863 and 1896, 22 African-Americans were elected to serve in this Congress, and because, quite frankly, in a bipartisan way many Democrats and many Republicans during first Reconstruction sought to conspire to undermine the progress that many African-Americans had made in first Reconstruction. That was the Tilden-Hayes Compromise of 1877.

By 1896 they had stacked the Court, a conservative Court. They gave us Plessy versus Ferguson. And by 1901, even though we had 22 African-Americans in Congress, a gentleman stood right here on this floor and said, "We will be back." By 1901 there were zero blacks in Congress.

It was not until the 1954 Brown versus The Board of Education decision establishing the principle of equal protection under the law was decided by the Supreme Court that the Voting Rights Act then took the impetus from the Supreme Court, along with the Civil Rights Act and a whole host of other legislation that sought to apply the principle of equal protection under the law to every facet of American life.

Therein lies the foundation of the Voting Rights Act of 1965: lines drawn in such a way as to create an equal opportunity for African-Americans, for Latinos, and for others to serve not only in this body but in State legislatures around the country.

Let me just at this point say that even with the enforcement of the Voting Rights Act, African-Americans and other minorities continued to be barred from a fair share of political power nationwide. For example, there are now slightly over 7,500 African-American elected officials, but African-Americans are about 12 to 13 percent of the population and there are nearly 500,000 offices.

Thus, 12 percent of 500,000 is roughly 60,000 political offices that should be rightfully held by African-Americans. Seven thousand five hundred is a mere 1.5 percent of the offices that should be held by African-Americans if elected on a fair basis, if they did not have to go through annexations and gerrymandering and constant political games, if you will, that are played by many State legislatures around this country.

Mr. FIELDS of Louisiana. Would the gentleman yield on that point?

Mr. JACKSON of Illinois. I certainly would.

Mr. FIELDS of Louisiana. The gentleman mentioned diversity, and mentioned how the whole purpose of the Voting Rights Act or one of the purposes of the Voting Rights Act was to integrate the political system, such as the U.S. Congress and State legislatures across the country. The gentleman is absolutely right.

Even today there are 535 Members that serve in the U.S. Congress, as you know, there are 435 that serve in this esteemed body and then 100 across the hall in the other distinguished body. And of the 535 Members, only 40 of them are African-Americans. So for anyone to even opine the thought that a person's rights have been violated simply because there are 40 African-Americans in the U.S. Congress, in a body that consists of 535 people, is absolutely wrong.

Mr. JACKSON of Illinois. If the gentleman would yield for a moment, there is also an assumption that African-Americans are incapable of representing people beyond just African-Americans. My district, for example, is about 65 percent African-American, about 30 percent white, 5 percent Jewish, and others. So I am capable, as a Member of Congress, of representing a diverse district, as you are capable of representing a diverse district. All the shape of these districts do is allow us an equal opportunity of competing.

When Democrats in the State legislatures or Republicans in the State legislatures get finished drawing lines in the State to accomplish their political wills, African-Americans are never even considered, Latinos are never even considered. The Voting Rights Act of 1965 mandates that these State legislatures take into account race as a factor, not the factor in drawing congressional districts.

We have some Members of this Congress whose districts are drawn in such a way to be economically gerrymandered. That is, they only represent large industries and big businesses. You have others whose districts are drawn representing primarily farmland. Well, our districts primarily are inner city and they must take into account the needs of the inner city, which more than likely are represented by African-Americans.

Mr. FIELDS of Louisiana. If the gentleman would yield, because the gentleman is correct about diversity, and continuing on the point about diversity, because many of the individuals, particularly the press, they declare districts, the district that you represent and the district that I represent and the district that many African-Americans in the Congress represent, they declare them as, quote-unquote, black districts, when in fact these are the most diverse districts in the entire country.

These districts are not superminority districts, these districts are very diverse districts. The district I represent and the district you represent is not overwhelmingly—I mean not 70, 80, and 90 percent African-American. They are very diverse. The district I represent is 55 percent black, 45 percent white. So how can one say the creation of these districts segregates voters? As a matter of fact, these districts desegregate voters and integrate voters. It brings voters together.

To say a district that is 98 percent majority is constitutional and is integrated, and a district that is 55 percent minority and 45 percent majority is unconstitutional and segregated, defies all logic. That is one of the reasons why State legislatures ought to leave this decision to the courts.

I think the courts are still tussling with the idea of how to deal with redistricting. Let us go back to Shaw versus Reno. In Shaw versus Reno the Court went to great pains not to say that the creation of a majority-minority district is unconstitutional in and of itself. Sandra Day O'Connor used, I think in the dictum of the opinion, it is an appearance of racial apartheid.

But they never said the creation of the district in North Carolina, the 12th Congressional District which is represented by our colleague, Mr. WATT, was unconstitutional. They simply said that if a district is drawn, if a district looks so bizarre as to suggest that race was the predominant factor in the creation of that district, it does not mean it is unconstitutional, it simply means the State must show a compelling stated reason why they draw it. And, second, that plan must be narrowly tailored.

As soon as Shaw versus Reno was ruled on by the Supreme Court, plaintiffs all across the southern part of the country rushed to their courthouses and filed lawsuits, and started saying that if a district is majority black or majority Hispanic it is unconstitutional. That is not the declaration of the Court.

Then the Court came back in Johnson versus Miller, when they ruled the district in Georgia was unconstitutional. They did not say it was unconstitutional because it was majority black, they said it was unconstitutional because race was the predominant factor as they saw it, and the plan was not narrowly tailored.

Now, one of the problems that we have, one of the legal problems that we have in this whole discussion is if plaintiffs are allowed to file lawsuits in courts because they are of the minority, then that opens up the floodgates of litigation that every citizen in this State will have standing in the courts to file lawsuits, even tonight, if they feel that their district was created based on race. Just the thought.

For example, in the State of Louisiana, the three judges in Louisiana did not even discover an injury, but they gave plaintiffs standing to file a suit, and a suit went all the way to the Supreme Court. Later they found that those plaintiffs did not even have standing. The basic requirement to even get into court. The threshold requirement.

Everybody is rushing to judgment on these cases, and the Supreme Court has yet to really deal with this issue in a definitive way.

You talked about diversity and Members representing all their constituency. I am proud of the fact that I represent the most diverse district in the State of Louisiana. I take great pride in that. My district is almost a 50–50 district.

When I view my constituents, I do not view them as black constituents or white constituents or Hispanic constituents or Jewish constituents. I view them as constituents. When they have a problem, they have a problem and they need the assistance of their Congressman and his congressional office. That burden that the press and other people try to put on Members, not only African-Americans but Hispanic——

Mr. JACKSON of Illinois. Would the gentleman yield for a question?

Mr. FIELDS of Louisiana. I would be glad to yield.

Mr. JACKSON of Illinois. Why is it that your district in Louisiana, why is it you feel your district has been singled out above all other districts in that State?

Mr. FIELDS of Louisiana. I can state several reasons why I feel that the district has been singled out, one being the fact that it is a majority-minority district. In Shaw versus Reno the Court, when it ruled, it gave an invitation to plaintiffs all across or people all across this country, that if you live in a majority-minority district and you do not like the appearance of it, then you have the right to file a lawsuit and you have a right to be heard. So I think plaintiffs, as a result of Shaw versus Reno, filed this lawsuit, and simply because it was a majority-minority district.

Now, these plaintiffs, you have a picture of a map of the Louisiana district, and the gentleman had another map earlier that showed the second phase of the Louisiana district. As you can see, Louisiana is the only State in the Nation that has changed its congressional district twice within 2 years. First they started with the Zorro plan, and a lot of people considered that the Zorro plan because the minority district was shaped by a Z.

I put evidence in the record in the Louisiana State Senate only yesterday to show that the Zorro plan was not created in the 1990's. The Zorro plan, in fact, was created in the 1970's, but it was not a majority-minority district. It was a majority-minority district and it was not called Zorro then, it was called a congressional district, and it was about 80 percent majority. But because it is majority-minority, now it is Zorro. It looks bad.

The Louisiana legislature, and I give great credit to the Louisiana legislature, these men and women, after the Court ruled on Zorro, went back to the drawing board and redrew the lines. They wanted to comply. They went to great pains, they wanted to comply with the three judges in Shreveport, LA, and they drew the Second District, which is just like former and previous districts in Louisiana.

They did not want to deviate from redistricting principles in the State, so they drew from the old eighth Congressional District because the Court said this district is 66 percent minority, it ought to be 55. they made it 55, and the Court still ruled that it was unconstitutional.

Mr. JACKSON of Illinois. Would the gentleman yield?

Mr. FIELDS of Louisiana. Certainly.

Mr. JACKSON of Illinois. For another question. The gentleman had a distinguished career serving in the Louisiana State legislature before becoming a Member of this august and esteemed body. I would like to ask the gentleman if he could articulate some of the considerations as a State legislator that you confronted when you came into the census and the reapportionment period in your State legislature.

It clearly was not just racial considerations. There clearly were other considerations. Could the gentleman lay out some of those?

Mr. FIELDS of Louisiana. Absolutely. And for anyone to even think that a redistricting plan, and I do not care if it is congressional, I do not care if it is legislative or even a city council's plan or a school board plan, to think that politics does not play a role, a significant role in the drawing of these plans, is someone who is off base.

You certainly cannot take the politics out of politics. When these plans were drawn in Louisiana, they were drawn based on incumbency protection, first; second, they were drawn based on the fact that Louisiana moved from eight congressional districts to seven. So, of course, districts were going to increase in size and not decrease in size. That is just a logical thing for them to do.

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They were also drawn based on commonality of interest. What people in north Louisiana have in common with people in south Louisiana, we have always had districts that connected urban and rural communities together. If we do not do that, we will not be able to live up to the deviation of zero deviation or one man-one vote requirement by the Constitution of the United States of America.

We are required by the Constitution to have proportioned districts. Legislatures have to apportion districts based on the number of people in each, and each district must have as close to an equal amount of people in one as it does in the other in order to pass the deviation requirement.

I was talking about Shaw versus Reno, Mr. Speaker. Shaw versus Reno did not rule that districts were unconstitutional if they were majority minority. Plaintiffs all across the country decided to file lawsuits. Going back to the State of Louisiana, because I have tried to deal with the question of how is a voter injured in my district, because I walk into this body and to these halls and to this august building every day and try to do my very best. I go home every week and I try to represent my constituents to the best of my ability. I try to have a staff that is zealous and caring and concerned.

I have held more town hall meetings than any other Member of Congress from my State and perhaps in this whole Congress. So I have tried to go beyond the call of duty not to give any constituent rhyme or reason to say that I have not represented my constituents to the best of my abilities.

When the lawyers started to take depositions, the deposition of these plaintiffs who said, I have been injured because I live in Congressman FIELDS district or the district that he represents, we took the deposition. Let me tell my colleagues about these injuries: How do you feel about Congressman FIELDS? Well, he is a great guy. He works hard. I like him personally. But he is liberal.

That is injury No. 1. Plaintiff No. 2, under oath, what is your injury? Well, he is a Democrat and I am a Republican. So I am injured.

The plaintiff No. 3, what is your injury? This is under oath, in the record, I ran for Congress and I was defeated. So I am injured.

Not one person who filed a lawsuit against the constitutionality or against this district has been able to allege any real significant injury or any injury at all.

Mr. Speaker, I started toying with this whole notion of what is wrong with the district, what is wrong with me as a Representative. I first dealt with the district thing and I said, listen, Louisiana has been creating districts, extended over 200 miles since we have had congressional districts. So you cannot say because the district is over 200 miles you are injured because four other districts in the State extend over 200 miles. So that is not an injury. And you cannot allege that. Well, it is irregularly shaped. Well, Louisiana has always had irregularly shaped districts. For crying out loud, look at the State of Louisiana, it is not a perfect square or a perfect box, it is a boot. So you tell me how in the world you are going to have seven perfect squares or circles in the State of Louisiana when the State itself is shaped like a boot.

I mean most States do not look like squares and boxes. They look like animal cookies. So there is no injury there. Then when we finally got this case to the Supreme Court, I was as excited as anybody else because I, for one, want to put this issue of redistricting behind me once and for all.

Now, right now in the Louisiana, the Fourth Congressional District is in the Supreme Court and the plaintiffs insist to the Governor of their State that he put redistricting in the court, when there are very important issues in the State of Louisiana that must be dealt with, issues like education, issues like deficit reduction, real issues that must be dealt with for the survival and the future of our children in the State of Louisiana.

And I wondered, why would they put redistricting on the calendar when redistricting right now, the lawsuit is in the Supreme Court, which will ultimately make the decision anyway. And then I started to do my research, Mr. Speaker.

I found out that it really was not about injury, that it was not about it and is not about a plaintiff really being hurt. This whole issue is about money. It is about how plaintiffs receive damages, how they receive money.

This is beginning to be a trend. It really bothers me that people would have the audacity to file lawsuits not only in Louisiana but across this country for financial gain. The Hays versus Louisiana case, Hays being the main plaintiff who filed the lawsuit, prevailed in the lower court, went to the Supreme Court, lost. Back to the three judge panel in Shreveport, now is before the Supreme Court again. And I often wondered why Hays is still a plaintiff because Hays has been ruled by the Supreme Court that he does not even have standing. He just does not have justiciability.

Mr. Speaker, then I pulled the records from the court. I found that Hays' attorney, the plaintiff's attorney, decided to withdraw from the case. Mr. Speaker, why did he withdraw from the case? It was because he did not want to deal with this constitutional issue anymore. It was not because he did not want to see the case through to the final appeal. It was because these plaintiffs, according to this affidavit that was filed in the Federal court, wanted money.

I thought these plaintiffs had a problem with the constitutionality of the district and they were injured because their rights were violated. I wanted to share with the Speaker and Members of the House this affidavit that is public record, has been filed in the Western District of Louisiana. This affidavit, I will not go through the entire affidavit, but I would like to talk about two sections of it, sections 2 and 3.

Section 2, the counsel said, these are his words, counsel withdrew from further representation of the plaintiffs in this matter because of the demands made by plaintiffs Ray Hays and Gary Stokley that the fee application in this matter to be submitted under 42 USC 1988 include fictitious paralegal fees, fictitious activities allegedly performed by the plaintiffs Ray Hays and Gary Stokley and that counsel split. For crying out loud, I really thought the plaintiffs thought they were injured. I thought this was a constitutional question, that the counsel split with the plaintiffs Ray Hays and Gary Stokley all attorney fees awarded to counsel in this litigation and the redistricting litigation in Texas.

Mr. Speaker, how in the world can a plaintiff, a nonlawyer, who has alleged to the court and to the United States of America that he is injured because he is in a majority minority district, the most diverse district in his State, and he is injured because it was created based on race? Now say to his lawyer, I want half of the legal fees.

Why it is that the Louisiana legislature would push so hard, some Members, one of the Members, Mr. Speaker, one of the authors of the bill to change the district and moot the old redistricting plan is one of the lawyers in the lawsuit. Want to talk about ethics? Want to talk about injury and what is really going on in Louisiana? I suspect that that is not only taking place in Louisiana but it is probably taking place in other parts of the country.

Let us go to section 3. These are the lawyer's words who withdrew from the Hays case. These unreasonable demands were initially made by the plaintiffs shortly after the court's order on December 28, 1993, setting aside the original congressional district in Louisiana. These demands are confirmed by letters from plaintiffs Ray Hays and Gary Stokley and a written refusal by counsel to agree to such demand.

Plaintiffs who are pushing right now in the Louisiana legislature that this plan be adopted so that they can benefit from anywhere from $4.2 million in legal fees.

The last point of this affidavit I want to point to, Mr. Speaker, is section 7. The motion by the plaintiffs requesting that the court delay the determination owed in professional services. Under that they cite the law firm Kirkland & Ellis. Mr. Speaker, last time I checked, that law firm is the same law firm that is associated with Kenneth Starr, the independent counsel for the Whitewater investigation. Kenneth Starr's law firm, according to this affidavit that I will put in the RECORD, are the lawyers of record for these plaintiffs in Louisiana.

Mr. Speaker, I will be quite honest with my colleagues and then I will yield my time. I do not have a problem with the Supreme Court of the United States of America deciding the constitutionality of the 4th Congressional District or any congressional district in this country because as lawmakers we make the law and, as the court, they interpret the law. And we have to live with the laws we make and we have to live with their interpretation.

Until we change the law, we have to live with the interpretation of the Supreme Court because that is their role. But I am not going to sit and/or stand idly by and let just a few selfish plaintiffs and a few greedy lawyers railroads a plan through the Louisiana Legislature and subject my State to over $4 million in legal fees for personal gain. This is not a decision of the legislature. This is not a decision of a three judge panel. This decision, Mr. Speaker, is a decision of the Supreme Court of the United States of America.

I want to thank the Speaker for allowing us to share in this special order. I want to thank him for his time.

Mr. Speaker, I include for the RECORD the following information:

EXHIBIT "C"

AFFIDAVIT

(By Paul Loy Hurd)

BE IT KNOWN that on the 1st day of May, 1995, before the undersigned witnesses, and Notary Public duly authorized in the Parish of Ouachita, State of Louisiana, personally came and appeared PAUL LOY HURD, a person of full age of majority, domiciled in the Parish of Ouachita, State of Louisiana, Hereinafter referred to as "Counsel", who after being duly sworn did depose and state that:

1. Counsel was originally the lead counsel for the Plaintiffs in this matter from its initial filing until December 1994, when this Honorable Court granted Counsel's motion to withdraw.

2. Counsel withdrew from further representation of the Plaintiffs in this matter because of the demands by Plaintiffs, Ray Hays and Gary Stokley (i) that the fee application in this matter to be submitted under 42 U.S.C. 1988 include fictitious "paralegal" activities allegedly performed by the Plaintiffs, Ray Hays and Gary Stokley, and (ii) that Counsel split with the Plaintiffs, Ray Hays and Gary Stokley, all attorney fees awarded to Counsel in this litigation and the districting litigation in Texas.

3. These unreasonable demands were initially made by the Plaintiffs shortly following the Court's order of December 28, 1993 setting aside the original congressional districts in Louisiana. These demands are confirmed by letters from Plaintiffs, Ray Hays and Gary Stokley, and the written refusal by Counsel to agree to any such demand.

4. The attorneys presently representing the Plaintiffs were fully appraised of the unreasonable demands being made by Plaintiffs, including both the demanded fee splitting and the submittal of unperformed "paralegal" activities.

5. This dispute culminated in the Plaintiffs offering to allow Counsel to argue the appeal in the United States Supreme Court if he would agree to the financial demands of the Plaintiffs. Counsel refused these demands again, and was removed as lead counsel in the fall of 1994.

6. The Plaintiffs are fully aware that Counsel's personal financial condition has been greatly taxed by the failure of the Plaintiffs to reimburse Counsel for out of pocket expenses as previously agreed, and by the continuing delay in the payment of the attorney fees owed in this matter. With this full knowledge, the Plaintiffs, Ray Hays and Gary Stokley, have asserted their intention to take all possible steps to deny to Counsel any compensation in this matter, and to delay as long as possible the receipt by Counsel of any compensation to be received in this matter.

7. The Motion by the Plaintiffs (i) requesting that this Court further delay its determination of the fee owed for the professional services rendered by Counsel, and (ii) requesting that Counsel not be allowed to defend his application before this Court, and (iii) requesting that all fees paid by the Defendants be paid to Kirkland & Ellis to be dispersed at the sole direction of the Plaintiffs, is filed by the Plaintiffs to effectuate the threats previously made against Counsel.

THUS DONE AND PASSED on this the 1st day of May, 1995 before the aforesaid witnesses and Notary Public.

LEGAL FEES QUESTIONED IN REMAP CASE

(By Brad Cooper)

BATON ROUGE—Two Lincoln Parish residents who challenged Louisiana's congressional districts demanded their former attorney ask a judge to award fees for fictitious legal work, court documents allege.

That's the allegation Monroe attorneys Paul Hurd levies against Ray Hays and Gary Stokley of Ruston in an affidavit filed in federal court in Shreveport.

Hurd represented Stokley, Hays and two others until December 1994 in the constitutional challenge to Louisiana's congressional districts.

A three-judge federal panel threw out the districts because they were rigged to ensure election of a minority candidate.

Stokley and Hays denied Hurd's charge, saying they are not trying to make a profit from their lawsuit. Stokley called the charges "upsetting" and destructive to his reputation.

The state could be responsible for paying the legal fees in the case—possibly more than $4 million by some estimates—if the Legislature approves a new set of congressional boundaries that eliminates a second district with a majority of black voters.

A bill that would do that is a step away from final approval. A Senate committee signed off on a new set of congressional districts Monday and sent them to the full Senate to consider.

The affidavit surfaced at the committee meeting.

"It's all about money," said state Sen. Dennis Bagneris, New Orleans. "According to the affidavit, there has been no motivation based on . . . who is fairly represented. It's all about the bucks."

Hurd, who is seeking about $728,000 for his work, states in his affidavit that Hays and Stokley wanted him to apply to the court for fees to cover "fictitious" paralegal expenses.

He also accuses Hays and Stokley of wanting a slice of the legal fees from the case as well as part of the legal fees from his lawsuit agianst Texas' congressional districts, which were thrown out by a lower court becuse they were racially gerrymandered.

Hurd, who declined comment on Monday, withdrew as counsel after the four Lincoln Parish plaintiffs enlisted the help of a high-powered Washington, D.C., law firm.

The plaintiffs said they hired the firm because it was more experienced in dealing with constitutional issues. Hays said Hurd's accusations are retaliation for the plaintiffs' decision to bring another firm to argue the case before the Supreme Court.

"His feelings are hurt and he got mad," Hays said. "He is angry and popped all that stuff out."

Filing a false claim with the federal courts could possibly lead to perjury charges if it is verified under oath. Or the applicant could be forced to serve jail time for criminal contempt of court, court officials said.

The judge also could levy a fine if the application is found to be fraudulent, court officials said.

Hays and Stokley were confounded by the allegations. They said Hurd deserves to be paid for the work he did.

"We didn't ask as plaintiffs for any awards, damages or anything like that. This has not been about money," said Stokley, a sociology professor at Louisiana Tech University.

"Money has never been an issue with me. If it was I wouldn't have been a teacher," Stokley said.

ITEMS IN THE CONTRACT WITH AMERICA

The SPEAKER pro tempore (Mr. COLLINS of Georgia).

Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I want to take this time to speak with my colleagues about the items in the Contract with America and other items that have received legislative approval in this House for which I think there can be bipartisan pride. Many items have come forward to this House and have received almost unanimous Republican support and overwhelming support from the Democratic side of the aisle as well. I think they are worth repeating tonight so that people could put a perspective in this House where we have gone and how far we need to go.

Mr. Speaker, the first item I want to mention would be that we have passed the congressional accountability law. That is a law introduced by Congressman CHRIS SHAYS to make sure that the laws that we in fact have passed that affect everyone else, I am speaking of civil rights laws, the Fair Labor Standards law, OSHA, prior Congresses, bills were passed and Congress, congressional employees were in fact exempt from the benefits of those laws.

Now, under legislation adopted by both Chambers and signed by the President, the congressional employees are protected as well. We have passed the unfunded mandates law, which says that if the Federal Government decides we want to have a local government do something, we have to send the funding back with it.

Just last week the President signed into law a bill passed by both the House and Senate for a line item veto. This will give the President the opportunity to in fact blue line or remove, like 43 Governors can, including our own Governor of Pennsylvania, Governor Ridge, the opportunity to cut out wasteful spending, pork barrel projects. These are reforms in which Members from both sides of the aisle and Members of this House and Senate can take great pride.

We have also had legislation for the first time since 1969, where the balanced budget amendment has passed in this House. We are hopeful it will receive the approval of the President so we can make sure we keep our fiscal house in order, just like all the State governments do and House budgets do at home.

We have also increased the Social Security earnings limit to allow senior citizens to earn, instead of $11,200 a year, up to $30,000 a year without deductions in their Social Security. We also passed several term limits bills that have not received the constitutional majority, but certainly are trying to carry out the will of the people and be able to control the number of terms House Members can serve beyond the initial term.

I think it is also significant to point out that the House has done much to try to curb welfare spending, whether it is legislation I have introduced for the sunset review of Federal agencies, or the other bills, to make sure we downsize and streamline and make sure Government is more balanced, as we have seen with the Grace Commission that has come forward and said, look, many of the agencies we now have are different than they were when we started, some certainly are duplicating what States do, and making sure we have services to get back to the people is the key; removing the fraud and abuse, but getting the real service back to the people.

We can also take pride as Members of this House in making sure we have reformed the way we have operated Congress. We have saved $150 million in the operation of this House just in the first session of the Congress. We have also been able to make sure that we can have, for the first time in the history of the House, a ban on gifts from lobbyists.

We have passed lobbying disclosure. We are about to embark on a successful trail to have campaign reform, so the House has certainly gone forward with many important reforms. I am glad that joining me right now is the gentleman from Georgia [Mr. KINGSTON], who I know has been working very hard on reforms in the House and on legislation to be more accountable.

WHAT HAS THIS CONGRESS ACCOMPLISHED?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 60 minutes.

Mr. KINGSTON. Mr. Speaker, picking up on the topic of the gentleman from Pennsylvania [Mr. FOX], of what have we accomplished and what has this Congress done, I have brought some notes with me to discuss on that tonight. I think maybe if we were to title this, I would say, what is it that we have done? What have we accomplished?

Looking back, I would say to the gentleman from Pennsylvania, at where we were 1 year ago, the House, the new House, energized with the 73 freshmen, idealistic freshmen, had just adjourned for the Easter break. We passed 30 out of 31 parts of the Contract With America. All of this legislation was designed to reduce the size of Government, reduce spending, cut waste, balance the budget, reform welfare, and increase personal freedom.

We were all excited. We were all confident that since the public was with use, that the Republican Senate would grab the issues, take the legislative package and quickly pass them as fast as possible, and then the President, who was lukewarm at best on these proposals, would have to sign at least part of it. Then, of course, we came back, and basically what the other body said to us is, Well, the Contract With America was not a Senate promise, it was a House promise. We will get to it somewhere between Whitewater and Packwood.

Of course, with each week of deliberation, which turned into months and months and months, the public excitement, the public interest, waned, and before we knew it, the President would not even have to veto these Contract With America items, he would never even see the legislation, because the Senate had not moved it forward.

Mr. Speaker, from one standpoint we had that. Then we had the press. The press, of course, has never been fans of conservative causes and small Government. You cannot spend enough to keep the press and their bureaucratic allies happy. In fact, it is interesting, when the press started attacking us on, you need to be more bipartisan, I think the press should be more bipartisan and less partisan than they are.

But as it turns out, the press took that little gap that was created around summertime to really start attacking the new Congress and the Contract With America, and then we had this unpleasant shutdown of the Government period, where we could not get a compromise with the President.

He vetoed Medicare reform even after his own trustee said it was going to go bankrupt. He vetoed welfare reform, even though it was a bipartisan package, and he had indicated earlier that he would sign it. Then he vetoed a balanced budget. So we seem to have lost some of the momentum.

Mr. FOX of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Pennsylvania.

Mr. FOX of Pennsylvania. Mr. Speaker, I think we are on our way. However, after making reforms in the House, on the gift ban, on reducing the size of the committees, reducing the number of committees, three full committees were eliminated, 25 subcommittees, we have reduced franking by one-third, and I think with the enthusiasm of the freshman Congressmen like the gentlewoman from California, ANDREA SEASTRAND, we have seen this revolutionary zeal to restore credibility by the American public in Congress, and in passing pro-jobs, pro-family, pro-reform ideas and antitax ideas.

I would ask the gentlewoman from California if she would reflect on that, whether in her district she feels these positive changes we have introduced and discussed here in Congress have been taking hold.

Mr. KINGSTON. Mr. Speaker, before we yield, if the gentlewoman would not mind giving me a few more minutes, what I said in terms of introduction was only to set the stage to answer the question, What have we done? To answer that question, what I want to be sure to say quickly, and then I will yield the floor to our colleague, the gentlewoman from California, is compare this Congress with the last Congress.

The 103d Congress passed the largest tax increase in the history of the country, and tried to socialize medicine, which would have created 59 new health care agencies and commissions, with over 100,000 new Government employees.

The EEOC, the Equal Employment Opportunity Commission, was taking a swing at the American worker, saying that you cannot have religious symbols in the workplace, so if you wore a Star of David necklace to work or a Jesus Saves tee shirt, they wanted to make sure that practice was outlawed. OSHA was passing regulations that said if you smoked in your own house and you had a domestic employee, then you had to install ventilators. That is where the bureaucracy was under the 103d Congress.

Mr. Speaker, what has the 104th Congress done? It has cut staffs by one-third, reduced our own congressional operating expenses by $67 million. For the first time in history, Congress is under the same workplace laws as the private sector. As the gentleman pointed out, lobbyist registration; the first bill in I think over 50 years on lobbyists; passed a tough gift ban, passed a line-item veto; securities litigation reform; a product liability bill which has passed the both houses and awaits the President's signature.

We have a sweeping farm bill that phases out farm subsidies and gives farmers the much needed flexibility to decide what they want to grow, where they want to grow it. We have passed the Paperwork Reduction Act for small businesses who work with Government, to make it a lot easier on them. We have stopped the practice of mandating that local municipalities have to increase taxes for new laws that we have put on them.

We have passed the telecommunications bill that should create 3.4 million jobs over the next 5-year period of time. Most importantly, however, I would say that the No. 1 thing that the 104th Congress has done compared to the 103d Congress and all previous Congresses is we have stopped the swing, the swing to the left, the swing for big government, the swing for more commissions, more bureaucracies, more red tape, more control, command, and control bureaucratic micromanagement out of Washington, which is stifling local initiative.

So I would say there is certainly a world of difference. As we look back, despite the frustration that I think many of us have had, it is a darned good track record. It reminds me of my experience in the private sector, where as a salesperson I would have what I would consider very tough days, very tough weeks, very tough months, and yet at the end of the year, I found out as I looked at my W-2 form, I had indeed made a little money along the way. So we have had some tough times here, but as we look at it, we have closed the sale on a whole bunch of stuff that is important and has been enacted into law.

Mr. Speaker, having said all that, I yield to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Speaker, I thank my two gentlemen colleagues. It is interesting to serve in the 104th Congress. This Congress, as I tell people, is a Congress that has a new attitude. It is interesting, because when you go home, you hear people talking, and they are excited about what we are doing. I think some are upset that we were not able to do all that we wanted to do, we were slowed down a little, but that new attitude is not whether we are going to balance the budget some day, it is when and how. It is not whether we are going to give tax relief, but when and how. It is not whether we are going to have welfare reform, but when and how.

What we have done in this House has changed that attitude from the tax and spend of 40 years, a philosophy of liberal leftists, to the one we have today, to worry about working families, especially this day after, you know, across America, working families have paid their taxes.

It is interesting to note, I am one of those freshmen that liberals and I call them Washington, DC labor bosses are after. For the past year I have been hit with radio and television ads condemning me for my votes on a balanced budget, tax relief, that I am voting for taxes for the rich.

It is interesting, because I have had some 50 town hall meetings in the district since being elected, and it is interesting, because the folks back home seem to see through that liberal jargon of the days of yore. It is the idea that they are gasping for air. They are trying to do their very best to take hold of this House in the next Congress, and I think people are going to see through that. They understand that we are trying our very best to change the way that this place has been run for some 40 years.

It is a pleasure to work with the gentlemen on this floor, my colleagues, because we all have the same beliefs. We want to serve the working families of this country and get on with the business of making a better America for tomorrow.

Mr. KINGSTON. I think those comments are good, Mr. Speaker. We need to yield to the gentleman from Arizona [Mr. HAYWORTH]. Before we do so, if he does not mind, I would like to ask the gentlewoman from California a few questions about these ads, if she would not mind a little colloquy here.

Mr. Speaker, I would ask the gentlewoman, you have had TV ads run against you by your opponent?

Mrs. SEASTRAND. No, no. I have not seen my opponent. No. It is special interest groups out of Washington, and they are funded by Washington, DC sources of dollars. In fact, it is kind of interesting, because if you were to be sitting in your living room watching television tonight, you might see one of those ads; a very, very well done ad.

But if you were sitting, perhaps, in the district of our colleague from Las Vegas, NV, Mr. JOHN ENSIGN, you would see the very same ad, the same man with a flannel shirt talking about your Congressman. They are very generic ads. They change our names in the ads, and they are playing in about half of the freshman Members' districts. It is a very well-organized campaign against what we are doing in this House of Representatives.

Mr. Speaker, I think that the folks back home and across America should know what we are facing this time around. People do not like what we have done and they want to change and go back to the status quo of 40 years.

Mr. KINGSTON. These are Washington bureaucrats who do not want to give local folks back autonomy, so they are fighting the ANDREA SEASTRANDs and all other Members.

Mrs. SEASTRAND. And all of us.

Mr. KINGSTON. Are you one of the people they have pledged to spend $500,000 against, and that money is not reported by your opponent?

Mrs. SEASTRAND. That is correct.

Mr. KINGSTON. That is important to understand.

Mrs. SEASTRAND. Underlining it.

Mr. KINGSTON. The money that is spent is not coming from your opponent, nor does he or she have to report it. It is a completely separate expenditure.

Mrs. SEASTRAND. Independent.

Mr. KINGSTON. That is outrageous, half a million dollars.

Mrs. SEASTRAND. I would just like to point out that I hold in my hand today eliminations of programs at all levels of Government, page after page, that this Congress has cut off spending for and eliminated programs. When you look at this, that is a lot of bureaucracy.

What is happening is the bureaucrats that have been cut off are very upset with ANDREA SEASTRAND and with the JON FOX's, the J.D. HAYWORTH's, the JACK KINGSTON's of the world, so they are after us. It is interesting, though, to bring this up, because once the folks at home in all of our districts understand, they get upset that they are not going to elect their representatives. Someone else from Washington, DC is kind of horning in on their territory, and going to try and elect someone that does not represent the folks at home.

□ 2200

Mr. KINGSTON. Before yielding to the gentleman from Arizona [Mr. HAYWORTH], I want to make one final point. None of that money was raised in your district. It all came out of Washington, DC from special interest groups.

Mr. HAYWORTH. I thank my friends for yielding, and lest, Mr. Speaker, those viewing on television and in the gallery would misunderstand what we are saying, we do not have any problem with good, honest debate in the American political system. We do not have any problem with honest differences of opinion. But it is more than ironic, indeed I daresay it is hypocritical of those on the left who would repeatedly use the lexicon of special interests and big money and power and extremism applying to members of the new majority and yet as my colleague from California has outlined, actually take money from outside States and congressional districts, take Washington money and pour it into a certain district.

There is one other further distinction. Because, Mr. Speaker, the people of the United States who have come to view this endeavor quite cynically might honestly ask, well, what is the difference? There is a major difference. When union bosses take union dues and without the permission of union members take those compulsory dues and donate them directly to the Democrat National Committee, and indeed even as we have derided the increase in taxes, even as we have pointed out the Arkansas shuffle from a campaigner-in-chief who spoke of balancing the budget in 5 years only to renege on that promise, from a campaigner-in-chief who spoke of tax breaks for the middle class, only to renege on that promise, from a campaigner-in-chief who talked about ending welfare as we know it, only to renege on that promise, veto those measures in all three instances, now again comes another irony of saying one thing and doing another. The Beck decision, a mechanism my good friend from Pennsylvania, well versed in the law, is aware of, effectively said to end that practice of compulsory, nonvoluntary donations. And yet this President and his Justice Department refuse to enforce that decision.

So, Mr. Speaker, I do not blame the American people for their cynicism, but I believe a little background is in order. For the difference is if people can freely give to candidates of their choice, then so be it. But it should be a donation freely made. Not in the realm of compulsory action.

Mr. KINGSTON. Let me ask the gentleman about this Beck decision. Are you telling me that a paper mill worker in my district who is prolife, antigun control, and anti-NAFTA has his money, his dues going to, say, President Clinton's reelection campaign, and he does not have a say-so in it, the union employee does not know his money is being used for those causes, even though they may be things that he does not stand for?

Mr. HAYWORTH. If the gentleman will yield further, that is exactly what I am saying. Or the experience I had on one occasion, flying here and some of the folks on the flight, some of the flight attendants involved in their union made clear their displeasure with the incumbent President and members of the liberal minority and said that they called the local chapter of their union to put in their two cents worth and those members of the union were amazed to hear that a portion of their dues were going, even really without their knowledge, to guardians of the old order, guardians of the special interests, folks who would put bureaucracy above people and folks who would trust Washington, DC more than the American people. Those folks were absolutely flabbergasted. That is exactly what I am saying and to my friend from Georgia, I will say something else. It has been noted that Boss Sweeney of the AFL–CIO has asked for what sounds like the Clinton tax hike, an increase in those dues. Even as they bemoan the so-called stagnation in earning power, these bosses are asking for an increase in those dues, ergo a compulsory donation to the guardians of the old order without one whit of personal conviction from many members of unions. Indeed by some estimates almost half the members of unions are conservatives who vote consistently with the new majority. It is one of the ironies of life here in Washington.

Mrs. SEASTRAND. It is interesting the gentleman mentioned that. I had earlier commented about the ads playing in my district, on the 800 number. This has been going on for a year, but it has been interesting because I field calls in my office, being a Californian, here in Washington, DC, we have a 3-hour edge so the folks back home, it is 7 o'clock, it is now 10 o'clock, so when I am working in the office, people will call, I will answer the phone and it is interesting because they said, "I just saw that ad on television, it's an 800 number, I have to go through shenanigans to get to it." I guess they are hooked up to the union switchboard. They take their name and address I guess for future fund-raising efforts. "But I want you to know I'm outraged to know my dollars are used in this way. I'm a union member, always have been and believe in some of these things, but I also agree with you that we have to get big government under control."

It was interesting to note when I was home these last 2 weeks, there was a very well-organized protest outside my district office in San Luis Obispo. But it was interesting to note that the people that came were the union organizers. They came from San Francisco, there was one from Los Angeles, one from San Jose. And then the executive secretary of the local union who is the hired bureaucrat and another gentleman were all part of this. Everybody else, the union members, the ones they work for, are hard at work trying to make a living for their family. I agree. They say 40 percent of members are good Republicans, pleased with what we are doing and it is firsthand knowledge, that is what I am hearing. In fact one went on television to tell the world that she was very upset to see her dollars being used in such a way for union ads when she was pleased about what we are doing here in the House.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Allow me to compliment and put in perspective what these freshman Members of Congress, and we have two with us tonight, have done. And not only the freshmen but the gentleman from Georgia [Mr. KINGSTON], a Member of the 103d Congress. In the 102d Congress when I came in, we had a Congress that had been controlled for almost 50 years at that time by one party. We had a situation where in the House bank, Members were writing checks freely. They were not paying the money back. They were laundering money and selling drugs from the post office, which is not a U.S. post office. We are not making these things up. There have been numerous convictions and investigations to prove this to be true. That party from this side that had controlled the House for so long could have reformed it. They did not. Seven of us, became known as the Gang of Seven, started unraveling the twine with a request for an investigation. We finally after 8 months forced an investigation because the people of this country demanded it and we started with the investigation into the House bank, which followed in the post office and made the changes.

Even after all of that became known, we could not make the changes in Congress that needed to be made until this 104th Congress and our majority with our freshman class came on board. And now during the last 18 months for the first time in the history of the country, we have had an audit, an audit that has disclosed discrepancies in the past in the House. We have had numerous changes with the Contract With America that was offered. This House has passed most every aspect of that, certainly with the majority in Congress, and has sent it on, most of it has been sent to the President who has vetoed tax reform, tax relief for people in this country. They have vetoed welfare reform and other areas that the freshmen of this group have put through. There answer to the American people has been not to join and do what the American people want, not to pass the reforms the American people have demanded and that this freshman class and this Republican majority Congress has given. It has been to try to go back to the dirty politics side, try to run ads with millions of dollars against freshman Congressmen and try to win back control.

What will they be winning back control to do? To return back to the same situation we had before, where house bank scandals and house post office scandals were common.

I commend their class for the work you have done. Those of us that fought in the 102d Congress and later when the gentleman from Georgia [Mr. KINGSTON] came in the 103d Congress and fought, are being joined by you, and I think the people will make the same decision. In my first race, I won by about 3,000 votes. They immediately gerrymandered my district and put 30,000 votes against me by taking 15,000 from one party out and putting 15,000 new in. And although the President, President Clinton, carried by district, I won in a hard campaign by 55 percent. Last year all the liberal organizations joined, the Democratic women's organization of Emily's List that you are going to find and those contributions do not have to be reported. They can be bundled and slip under the law in a method that allows hundreds of thousands of dollars to go to campaigns unreported. And we won 61 to 39 percent.

What I am saying is the people out there are living and listening to what is happening and the things you are doing and I think they will, with knowledge of what is going on, return you to office in order that reform may continue in this body, that you are carrying out and have been working on. I want to commend you for the work you have done.

Mr. HAYWORTH. I will ask the gentleman from Georgia to yield so I can respond to my friend from North Carolina.

Mr. KINGSTON. Yes.

HAYWORTH. First of all, Mr. Speaker, let me thank the gentleman from North Carolina for his membership and his actions as part of the Gang of Seven, and I point out now there is a gang of 73 and a new majority, and the gentleman from North Carolina is quite right. For in the midst of this talk of reform comes one legitimate question that the gentleman from North Carolina touched on, Mr. Speaker.

If this newfound embracing of reform by the liberals in this House were so genuine, where was it during their long years of domination of this institution, their complicity with the forces of big government and the forces that would always use the same tired equation, the answer of tax-and-spend, tax-and-spend, tax-and-spend. Where was that commitment? And make no mistake. If we retreat, Mr. Speaker, one can imagine a new liberal majority coming to this institutions, having learned its lesson in what through misleading claims and the politics of fear and the complicity of many liberals in the journalistic endeavors might wish to take place here, they would turn on this institution and that notion of reform in a heartbeat. Their notion of reform would be as the actions taken by ancient Rome against the Carthaginians. They would move metaphorically to lace the soil with lime to ensure that the full honest flour of reform would never take root again in this Chamber for the foreseeable future, and to return to an iron grip with rules completely out of proportion, a majority that would border on tyranny. In short, the same type of tyrannical majority we saw in this institution at the tail end of those 40 years of one-party domination.

Mrs. SEASTRAND. If the gentleman would yield, if you watch, you talk about the reform, how there would be no reform, let me tell you, if you look at these ads, negative ads, there is no hope. Everything is negative, negative, negative in the attack I am taking. Bad balanced budget, bad welfare reform, bad tax relief, bad this and that. There is no hope in these ads. And because there is nothing, let us fact it, their ideas are bankrupt after 40 years. There is no hope in their ideas. And so what do they do? All they have left is to just condemn and to attack. And it would be something if they could offer alternatives to the situations at hand today for the problems that need to be solved across this Nation, but it is all the same.

□ 2215

Their answer is usually more, bigger, more dollars here from Washington, DC.

Mr. KINGSTON. Let us talk about some of these basically Republican solutions, but they are anti-Washington bureaucrat solutions, some of the things that I think that we have been trying to work for: more choice in medicare, a balance in environmental policy, more local control in education, more State flexibility in poverty and welfare programs.

Thinking of the Medicare policy, here we have in April last year, a Clinton trustee saying Medicare is going bankrupt and in two years, it will be out of money. Well, they missed that by 11 months. In February for the first time in the history, Medicare ran out of money. So we went in there, said okay, people want traditional Medicare, we understand that. But if our seniors want options, like physician service plans, and if they want to join a managed care plan or take an individual medical savings account, let us give them those options, and by offering the options we can reduce the growth from 11 percent each year in Medicare to 4 percent and head away from the insolvency and the bankruptcy. We can save, protect and preserve Medicare and increase spending per recipient from $4,800 to $7,100 at the same time.

Mr. Speaker, a key component of that, as you two know, is cracking down on fraud and abuse. I have with me a Derma-Gran bandage, which a friend of mine in business has sent to me. He said this bandage actually cost 94 cents to produce. It is sold to health care providers for $6. And Medicare, on this 94-cent $6 purchase, gets $36.44 with it.

Now, your mother is paying for that and your father is paying for that, and it is going at the price of their health care, a diagnosis or something down the road. My friend's math on it, he just pointed out to me, that does not sound like that much of a problem, does it? But the fact is potentially, listen to this. Potentially 20,000 nursing home patients each day use this. That would mean this is costing American taxpayers at that $36 rate $21 million per month or, $262 million in nothing but waste and almost fraud but certainly abuse in Medicare. And this is what we were trying to resolve, and this is what the President vetoed, cracking down on these.

Again, we are just giving seniors choices and protections that we need for the program.

Mr. HAYWORTH. If the gentleman would yield, I think it is important again to articulate something, because it is lost in the politics of hyperbole, in the grand political theater of the propaganda on the Nation's radio and television stations right now. And incidentally, I would challenge my former colleagues in television to do their reality checks that they often reserve for the political campaigns. I would challenge my former colleagues in television news around the country to apply the truth ads to these cynical, manipulative, untrue announcements and maintain the vigilance now that they reserve for the election campaign.

But the gentleman from Georgia brings up an interesting point. I do not know anyone, despite the extreme rhetoric of those outrageous claims made on television and radio, I do not know anyone in the new majority who would for a moment wish that his parents would have inadequate health care, desire for his grandparents inadequate health care, purposely move to starve children and deprive them of the basics of life, nor doom America to drinking dirty water and breathing impure air. The claims are outrageous, and my colleague from Georgia correctly points out the challenge is met.

The challenge is presented by the waste, fraud, and abuse in the current vacuum in a Washington-based, one-size-fits-all system that is devoid of the very compassion it claims to give to people, for it denies the most essential element of our freedom: The opportunity to choose. When my parents turn 65 next year, when that happens, there will be no federally provided shopper to accompany them out of their homes and to decree what department store they will visit, what clothing they will buy, what car they will drive. And yet in the current health care system, in the one-size-fits-all anachronistic plan of the 1960's, which we hope to update, improve, transform and, yes, even save, a vacuum exists. A massive bureaucracy exists that invites the very waste, fraud and abuse that the gentleman spoke of.

Mrs. SEASTRAND. If the gentleman would yield.

Mr. HAYWORTH. I yield to the gentlewoman.

Mrs. SEASTRAND. It is interesting that the gentleman mentions the waste, fraud, and abuse, but I think one of the things, particularly in the ads from the big labor unions, the statements they make is we are cutting Medicare. My mom is on Medicare, and she was concerned about this, that her daughter was going to be doing something that she was in need of. And I just want to tell people that that is the worst thing to say, to scare our senior citizens. And I know some of them actually, people went into with their propaganda into nursing homes to scare our older and elderly that are in nursing homes and convalescent homes across the Nation.

I just want to set the record straight. We actually increased Medicare spending from $4,800 per beneficiary starting now to $7,100 in 7 years. Now, I am just an old fourth-grade school teacher that did a lot of old math without calculators. But if we subtract that, we get a difference, and that difference has a big plus sign in front of it. Very, very hard to get that point across, especially to some of the reporters today. I guess they were brought up on new math.

But we are increasing Medicare spending over the next 7 years by $2,300 per beneficiary, and that is with more and more seniors coming into the system. So you can tell we are spending a lot more. And that is one of the falsehoods in the ads that is hitting and attacking some of the freshmen, myself included, today on television.

Another interesting point was I know in the ads, and we heard it all, we hear it from the other side of the aisle, that we are just taking care of our rich friends with tax relief. Well, you know, I have been through this litany. What am I doing here for the rich? A $500 per child tax credit that would benefit 29 million families; a capital gains tax credit that will create 6.1 million jobs; relief from the marriage penalty that would allow 23 million taxpayers to receive $8 billion in tax relief; an adoption credit that would have allowed parents to claim a $5,000 annual tax credit for up to five years in order to help with their child adoption expenses; or how about an elderly care deduction that would allow 1 million taxpayers a $1,000 deduction for the care of a parent or family member?

Mr. Speaker, now maybe for some of those union bosses that live high on the hog here in Washington, DC, that do not understand what the working families back in each of our districts have to face, this is what I voted for and what we proposed is for working families across this nation, and I do not know about any rich people.

Mr. KINGSTON. The gentlewoman had mentioned also about some of the putting common sense into some of the environmental laws. One of the things that happened in California that we know of, Riverdale, California, the endangered kangaroo rat. Now, you know, my view is I do not want to lose a species. I am committed to the Endangered Species Act. Riverdale, CA had kangaroo rat, and the EPA would not let them cut fire breaks in the residential area because it would endanger the habitat of the kangaroo rat. So what happened? A fire came and it destroyed 30 homes.

But in addition to that, it also destroyed 25,000 acres of kangaroo rat habitat. So we have got lose-lose policy for both the private property owner and the kangaroo rat. We see this kind of impracticality over and over again. In fact, I think it was in Arizona, may have been New Mexico, where the Boy Scout was lost last year in a wilderness area.

They discovered him I think 48 hours later, and the Park Service would not let a helicopter land there because it was a motorized vehicle. And under the Wilderness Act, you cannot have any sort of motorized vehicle in the park area. So here is this kid 14 years old, 12 years old, I am not sure of the age, and he is hungry, he is starving, he has been sleeping on rocks, and the helicopter comes and it won't rescue him. You know, it is just out of balance.

The other thing is, the decision to dig fire breaks in Riverdale, California, or to rescue a 14-year-old in a western State does not need to be made out of Washington by a Washington bureaucrat. I think that the Park Service people and the local county commissioners and the residents can probably figure it out, keep it in Federal guidelines. They can solve their own problem without Washington bureaucrats.

Mrs. SEASTRAND. Well, if the gentleman would yield, I think a lot of the bureaucrats that work here in Washington, DC have never been to our districts. Unless they read National Geographic, they have never come to the middle kingdom of California to see the Monterey Bay Sanctuary or the Channel Island Sanctuary. So what do they do? They do regulations that one size fits all, and it does not fit our particular needs at the local level.

Mr. Speaker, every one of us wants clean water, a better environment. After all, we are going to leave this place and I hope to leave it in a better way for my children and my grandchildren than I found it. But it is interesting, another area that when we are dealing with the environment is to look at the Superfund. And the folks back home say, hey, my tax dollars are going and where are the Superfund sites being cleaned up? And what do we find out? We are spending it on bureaucrats in Washington, DC, who are attorneys and using those dollars to litigate, litigate, litigate. In the meantime, the sites remain dirty. And we want to cut through that so we can take those precious tax dollars, put them into the sites, clean them up and get on with the business of the day at hand.

Mr. HAYWORTH. If the gentlewoman would yield, indeed the current Superfund legislation, in stark contrast to the genuine reforms the new majority would propagate, which we advocate, the current Superfund legislation could well be renamed the special interest and lawyer subsidy act with an incidental tip of the cap to the environment to camouflage its true purpose. I mean that is a long title, but that is in essence what has transpired here. Come to think of it, may not be entirely grammatically correct. I would bow to my friend who taught the fourth grade so capably for many years in that regard.

But regardless of the fractured syntax, it does not take away from the validity of the observation of the gentleman from Georgia.

Mr. Speaker, I can recall on another occasion just prior to our recent recess when we returned home to the districts, where I came to this floor along with the gentleman from Georgia, a gentleman from Maryland, a gentleman from Michigan. No, we do not agree on every jot and tittle of what should transpire with meaningful reform to conservation and environmental legislation, and yet there were some common themes. One just rearticulated by the gentleman from Georgia dealing with the notion of local control and State control now being perhaps the most capable way to address many of these problems.

Indeed, I do not believe anyone would argue of the necessity of the action taken in the early 1970's in the Nixon administration to create an Environmental Protection Agency. The question now becomes, however, with 50 States with their own departments of environmental qualities, in other words, 50 State-run EPA's, in effect, a legitimate question can be asked, should everything be centered in Washington? Indeed, the gentlewoman from California referred to one of the main problems, and let me pause here so no one will misunderstand. I do not discredit the millions of hard-working people who are in the employ of the Federal Government. I realize many of them work hard to do the jobs they are given. But sometimes those jobs are ill defined, or worse, the dynamics or the situation into which these employees are thrust leads to impracticalities, such as the notion of being deskbound instead of in the field looking at problems.

On an occasion which we were discussing Indian housing, and there are more native Americans living on reservations in the Sixth District of Arizona than anywhere else in the continental United States, one of my constituents offered the story. There was a body of water on the reservation land in that district that the people had come to call Twelve Mile Lake.

☐ 2230

Well, there was some contentious debate with an EPA administrator, I believe from San Francisco so the story goes, according to my constituent. And during many telephone conversations, the EPA official in San Francisco behind a desk was adamant, certainly there must be significant wetlands protection for that body of water known as Twelve Mile Lake. The tribal administration, my friend who recounted the story, said, sir, you don't understand, it is not a significant body of water, it is a tiny body of water. It is akin to a mud puddle. Oh, certainly you exaggerate, said the EPA official. There must be these safeguards.

Well, miracle of miracles, the U.S. official, the San Francisco bureaucrat, left that beautiful city by the bay and traveled to the reservation land, and the tribal officials took him to what in essence was a mud puddle. My constituent said, evoking images of Madison Avenue, it made for a Kodak moment to see the expression of stupefaction that crossed the bureaucrat's face. He said something to the effect of, you're right, it is a mud puddle. Why do you call it Twelve Mile Lake? And the tribal official said, well, you see, sir, that's what we've been trying to tell you. The reason this particular small body of water is called Twelve Mile Lake is not because of its dimensions but because, you see, it is 12 miles from the center of town to this particular body of water.

And I think the story speaks volumes, and I daresay a disturbing tendency would be the overzealousness to abandon the context of what is reasonable to have almost the unbelievable advocacy of saying that mud puddle should be equated with a navigable water and should be a wetland that is protected. And that is the next course of action that has been taken on many different fronts. What should always undergird our mission in this Congress is a standard test of the law of Western civilization. What is reasonable? What would a reasonable person do?

Mr. KINGSTON. Our friend Frank Luntz uses this illustration. Do you know that the State of Indiana does not participate in daylight savings time? They do not spring forward and fall backward.

Mr. HAYWORTH. If you would yield for a second, let me also say the great State of Arizona does not subscribe to savings time either.

Mr. KINGSTON. Did you know that Indiana did not? I did not know that of Arizona. Did you know that?

Mrs. SEASTRAND. Yes, I did.

Mr. KINGSTON. You two are exceptionally brilliant. Four hundred thirty-five Members, I can almost promise you that 90 percent of us do not know that. But don't you think that is relevant to the people in Arizona and Indiana, that they do not spring forward and fall backward on their time? And don't you think that would be relevant for a business doing commerce in either of those two States, or a visitor or a government?

And isn't it ironic that I can vote, as can any other Member of Congress on things affecting the people of Arizona and Indiana, and not even know such a fundamental thing about their culture? And yet we do it routinely, just like you talked about with the Twelve Mile Lake.

The bureaucrat in Washington can set the rule, having no idea that the lake is not 12 miles wide, simply that, and not knowing that it is just simply 12 miles from town. But they are experts on everything, and they are from the government and they are here to help and they are going to tell you how to run your town and your State.

Mrs. SEASTRAND. It was interesting, I have just been appointed to the Speaker's Environmental Task Force. I am serving on the steering committee. And during the recess, I naturally organized a task force for my two countries of my district and invited, as a jumping off period, a first meeting, some 28 people from different agencies and local groups that are active within the environment. And when you start thinking about this, this is vast. We can have a lot of great discussions, and I am looking forward to our monthly meetings.

But it was interesting at that first meeting, an attorney who makes his living on litigation said, I hate to say this because I make my living this way, but I deal every day trying to make sense of the regulations from Washington, DC. And because some of these laws were written some 20, 25 years ago, technology is advanced, science knows so much more, and we need to look at science, we need to look at the technology today and reform and change some of these laws. Not throw them out, but let us change what can fit 1996 for a better way, a better environment.

It was interesting, one of the Federal agencies' representatives said, you know, in my job I have a standard, and I have the State official from the agency following me right behind, and we are doing the same work. In other words, repetition. The taxpayer is not getting good use of people sharing resources.

Another gentleman said from one of the other Federal agencies, you know, I would do anything to be able to have a local advisory group to give me input as to what they feel about situations that affect what I am doing here. So it was interesting, in that short 1-hour beginning meeting of a task force, I was able to learn and get from other people that have to deal in this area every day, their feelings of what we have talked about in this new Congress with this new attitude.

We want to give incentives to people, not penalize them so if they find an endangered species on their property, they are worried about it and they do not want to tell anybody. I want them to be able to tell a government official about it, so that they can get an incentive and figure out how they are going to continue having the endangered species on their property and still have property rights to see that they can utilize that land.

So it is interesting. We have a long way to go. It will be an exciting time to be part of the environmental task force so that we can come together and discuss the policy for the 21st century.

Mr. KINGSTON. Now, one of the things I hear, and you mentioned earlier on the Superfund, is that Superfund is 15 years old. We have spent $25 billion on it and yet we have only cleaned up 12 percent of the national priority polluted sites.

Mr. HAYWORTH. Would you yield just a second? I want you to repeat the amount of money spent on this over 12 years, over 15 years.

Mr. KINGSTON. Over 15 years we have spent $25 billion on environmental cleanup and only cleaned up 12 percent of the sites.

Mrs. SEASTRAND. And may I add, if the gentleman would yield, I want to add this statistic. The Justice Department spent over 800,000 man-hours just on Superfund litigation between 1990 and 1992. That is a lot of hours.

Mr. KINGSTON. I understand that translates to about 43 cents on the dollar going to the cost of litigation. Now, it does not matter where you are on the environmental debate, we all should come together and say this is broken and we need to fix it.

Mr. HAYWORTH. And if the gentleman would yield, numerous examples from the great Grand Canyon State of Arizona, one in particular from a couple of years ago, bears out what I talked about in an abbreviated fashion this morning in responding to my good friend from Georgia on this floor, and what we have talked about tonight, and indeed what is one of the basic tenets of this new practical, realistic, common sense majority, and that is one size does not fit all.

Phoenix is not the same as Philadelphia, nor is Flagstaff the same as Fargo, ND. And, indeed, something that transpired 2 years ago in the desert City of Tucson, Arizona, offers a stirring example.

There was a violent windstorm in the desert. Those wind storms blow up great dust devils, great amounts of dust in the air. Visibility is poor. There was a car crash on Interstate 10, one of those long 20-car tangos, if you will. But also, even as that was transpiring on the interstate, moving through Tucson, Arizona, technical data collection, equipment provided by the Federal Government to monitor the Clean Air Act, showed that at the same time Tucson was technically in violation of the provisions of the Clean Air Act.

Now, the particulates in the air on that day did not come from the cars involved in the accident on the interstate, it came from the particulates in the air. When you live in a desert and a windstorm blows up, there will be more particulates in the air; ergo, Tucson is not the same a Tacoma. Different places, different areas of this Nation, different climatic conditions offer different challenges.

And, yes, while there are some technologies that are common, certainly the circumstances of those respective areas should be taken into account, not for Washington standards but for local standards that are realistic, reasonable and move to protect the environment.

Mr. KINGSTON. And with the Federal presence, guidance, and oversight, but not necessarily Washington bureaucratic micromanagement.

Now, I think probably the biggest failure of the Washington bureaucracy to manage a problem is local poverty control. You know, the folks on welfare in Savannah, GA, have to do what the bureaucrats tell them to do in Washington, and it is the same bureaucrats telling your folks in California what to do, and the people in California in Mrs. SEASTRAND's district have to do what the folks in Arizona in your district do, and you have one Washington bureaucracy command controlling poverty. As a result, since 1964 we have spent $5 trillion on poverty. The poverty rate then was 14 percent, and the poverty rate now is 14 percent. It has not worked. We need local control and flexibility.

You know what? I cannot solve Mrs. SEASTRAND's poverty problem, and I cannot solve Mr. HAYWORTH's, and maybe I cannot solve mine. But you know what? I can do a heck of a lot better job on mine than I can on yours. Just give me the tools and I think I can do it.

That is one reason why you want State block grants. Cut out the poverty brokers and put the control in the hands of the local people.

Mrs. SEASTRAND. If the gentleman would yield. I had a firsthand experience in what you are saying. I served in the State assembly in California. And so often the folks back here in Washington, DC, in this House, would vote a particular bill, legislation, change the law, and then it would come down to us and they would hold the hammer over our head. If you do not follow these rules the way we want you to do it, we are going to hold back on transportation funds or welfare funds or whatever.

And we knew that we could do it a better way; that we here in California perhaps did not match what you needed to do for your folks in Savannah, GA, or the people in Arizona. And that was day in, day out that we were constantly told if we did not adhere to the new mandates from the Federal Government they would hold back something from us.

So many times I would vote no to just protest, and then most of the folks, though, would vote yes and we would receive another mandate from the Federal Government that many times did not make sense to us at the State level.

Mr. HAYWORTH. And if the gentlewoman would yield, it is worth noting that one of the genuine reforms and one of the few times in which the gentleman at the other end of Pennsylvania Avenue in the big white house was willing to work with us was on this notion of unfunded mandates, where Washington bureaucrats decreed to local government officials you will do it this way.

The frustration of that system has led the mayor of Winslow, AZ, to coin a new phrase. He calls it the idiocracy. The idiocracy which would mandate an action being taken without taking into account the realistic, common sense, reasonable notions of the good people who live right there in the area and also want to redress the problem but on their own terms, reflecting their own priorities, with no less of a commitment to solving that problem. That is what we must remember.

Mrs. SEASTRAND. If the gentleman would yield. I know our time is coming to a close, but I would just say that all of Americans across this Nation I think have to be reminded that so many of them voted for a change in 1994 and that change has begun, but it is not going to be completed in such a short time. We have to chip away at so much that has been built after 40 years and we have to keep driving for that change.

You know, I am pleased, being from California, that we have seen, in passing legislation off this floor regarding immigration reform, we talked about lowering taxes, and we talked about earlier the line item veto and returning government decisions to state and local levels and to continue our push for a balanced budget. But we have to continue to do that. And I just would say that what we have seen happen here, there are forces that do not like what we have accomplished.

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They are going to try their very best to more or less take some of us out in this next election so that they can take back that old status quo of big bureaucratic Washington-controlled government. I just am going to fight it, as I know you gentlemen will, too.

Mr. HAYWORTH. I would close with an observation by one of my constituents in the Navajo Nation, having spent Sunday in Window Rock, Arizona. A lady told the story of a young homemaker in a Navajo household cutting off a substantial portion of a hand. Kids asked her why. She said, I do not know; mom did it. So she went to great-grandma and she said, why did you cut off a major part of your hand. She said, well, it used to be a smaller pot and so I had to cut that off to make it fit in the pot, an example of a tradition for tradition's sake that defied common sense and needed to be changed, in much the same way we need to make changes here. Not because Washington said so, but because technology and the people living in those areas are willing to make the changes of their own volition. History does not occur in a vacuum and history is on the side of freedom.

Mr. KINGSTON. Mr. Speaker, let me conclude with this. Last week a teacher in Darien, Georgia told me that in an 8-hour day she spends two to three hours filling our paperwork, about 50 percent of it is for the Federal Government. That is 10 to 15 hours a week that is not spent teaching Johnny how to read, write, and do arithmetic. She can teach her children better than the bureaucrats who are making her fill out the paperwork in Washington.

What we are asking with that and all these other examples, let the local people do what they know how to do best and let the Washington bureaucrats stop the micromanagement, return freedom to the people and increase personal responsibility along the way.

I thank Mrs. SEASTRAND of California and Mr. HAYWORTH of Arizona for being with me tonight.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. GEPHARDT, for 5 minutes, today.

(The following Members (at the request of Mr. BLUTE) to revise and extend their remarks and include extraneous material:)

Mr. GOSS, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

Mr. FRANKS of Connecticut, for 5 minutes, today.

Mr. MANZULLO, for 5 minutes, today.

Mr. MICA, for 5 minutes, today.

Mr. DORNAN, for 5 minutes, today.

Mr. DIAZ-BALART, for 5 minutes, on April 17.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. WISE, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. WATT of North Carolina, for 5 minutes, today.

(Mr. FOX of Pennsylvania (at his own request), for 5 minutes, today.)

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) and to include extraneous matter:)

Ms. NORTON.
Ms. PELOSI.
Mr. RICHARDSON, in two instances.
Mr. LEVIN.
Mr. STARK.
Mr. VISCLOSKY.
Mr. MILLER of California.
Mr. ACKERMAN.
Mr. VENTO.
Mr. STOKES.

(The following Members (at the request of Mr. BLUTE) and to include extraneous matter:)

Mr. WATTS of Oklahoma, in two instances.
Mr. CAMP.
Mr. BURTON of Indiana.
Mr. BILIRAKIS.
Mr. EWING.
Mr. TORKILDSEN, in two instances.
Mr. KING.

(The following Members (at the request of Mr. GRAHAM) and to include extraneous matter:)

Mr. MARTINI.
Mrs. ROUKEMA.
Mr. VENTO.
Mr. LATOURETTE.
Mr. BURTON of Indiana.
Mr. KING in two instances.
Mr. SOLOMON.
Mr. TIAHRT.
Mr. KANJORSKI.
Mr. LANTOS.
Mr. SHUSTER.
Mr. MASCARA.
Mrs. MEEK of Florida.
Mr. ORTON.
Mr. POSHARD.
Mr. STOKES.
Mr. WARD.
Mr. OBEY.
Ms. ROS-LEHTINEN.
Mr. SMITH of Michigan.
Mr. HASTERT.
Mr. DEUTSCH.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following dates present to the President, for his approval, bills and joint resolutions of the House of the following title:

On March 20, 1996:

H.J. Res. 78. Joint resolution to grant the consent of the Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois.

On March 28, 1996:

H.J. Res. 168. Joint resolution waiving certain enrollment requirements with respect to two bills of the 104th Congress.

H.R. 2969. An act to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897.

On March 29, 1996:

H.R. 3136. An act to provide for enactment of the Senior Citizen's Right to Work Act of 1996, the Line-Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit.

H.J. Res. 170. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

On April 3, 1996:

H.R. 2854. An act to modify the operation of certain agricultural programs.

On April 5, 1996:

H.R. 1833. An act to amend title 18, United States Code, to ban partial-birth abortions.

H.R. 1561. An act to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for U.S. foreign assistance programs for fiscal years 1996 and 1997, and for other purposes.

ADJOURNMENT

Mr. KINGSTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 47 minutes p.m.) the House adjourned until tomorrow, Wednesday, April 17, 1996, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2378. A letter from the Assistant Secretary of Defense, transmitting the Department's report on automated information systems of DOD, pursuant to Public Law 104-106, section 366(c)(1) (110 Stat. 276); to the Committee on National Security.

2379. A letter from the Deputy Secretary of Defense, transmitting three reports pursuant to the National Defense Authorization Act for fiscal year 1996, the report are as follows: "Improving the Combat Edge Through Outsourcing," in response to section 357; "Policy Regarding Performance of Depot-Level Maintenance and Repair," in response to section 311(c); and "Depot-Level Maintenance and Repair Workload," in response to section 311(i); to the Committee on National Security.

2380. A letter from the Secretary of Defense, transmitting the Department's report to the Congress entitled "Nonlethal Weapons," pursuant to Public Law 104-106, section 219(c) (110 Stat. 223); to the Committee on National Security.

2381. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Indonesia, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

2382. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the 1994 report required by section 918 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, pursuant to 12 U.S.C. 1833; to the Committee on Banking and Financial Services.

2383. A letter from the Chairman, Federal Deposit Insurance Corporation, transmittng the 1995 report required by section 918 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, pursuant to 12 U.S.C. 1833; to the Committee on Banking and Financial Services.

2384. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting the Board's report on finance charges under the Truth in Lending Act, pursuant to section 2(f) of the Truth in Lending Act Amendments of 1995; to the Committee on Banking and Financial Services.

2385. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 2969, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on the Budget.

2386. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 2854, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on the Budget.

2387. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 3136 and H.R. 1266, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on the Budget.

2388. A letter from the Secretary, Nuclear Regulatory Commission, transmitting the Commission's major rule—revision of fee schedules; 100 percent fee recovery, fiscal year 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2389. A letter from the Secretary of Health and Human Services, transmitting the Department's annual report entitled "Public Housing Primary Care Program," pursuant to section 340A of the Public Health Service Act; to the Committee on Commerce.

2390. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 96-20: Suspending Restrictions on United States Relations with the Palestine Liberation Organization, pursuant to Public Law 104-107, section 604(b)(1) (110 Stat. 756); to the Committee on International Relations.

2391. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's report entitled "Assistance Related to International Terrorism Provided by the U.S. Government to Foreign Countries," pursuant to 22 U.S.C. 2349aa-7(b); to the Committee on International Relations.

2392. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-216, "Early Intervention Services Sliding Fee Scale Establishment Temporary Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2393. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-240, "Health Services Planning and Certificate of Need Program Temporary Amendment Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2394. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-242, "Business Improvement Districts Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2395. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-243, "Public Charter Schools Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2396. A letter from the U.S. Commissioner, Delaware River Basin Commission, transmitting the Commission's report in compliance with the Inspector General Act of 1978, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

2397. A letter from the Chairman, Farm Credit Administration, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1995, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2398. A letter from the Chairman, Farm Credit Administration, transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2399. A letter from the Acting Administrator, General Services Administration, transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2400. A letter from the Executive Director, Japan-United States Friendship Commission, transmitting the 1995 annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to Public Law 100-504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

2401. A letter from the U.S. Commissioner, Susquehanna River Basin Commission, transmitting the Commission's report in compliance with the Inspector General Act of 1978, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

2402. A letter from the Administrator, Federal Aviation Administration, transmitting the Administration's list of the foreign aviation authorities to which the Administrator provided services in the preceding fiscal year, pursuant to Public Law 103-305, section 202 (108 Stat. 1582); to the Committee on Transportation and Infrastructure.

2403. A letter from the Secretary of Transportation, transmitting the Department's second annual report on the activities of the Department regarding the guarantee of obligations issued to finance the construction, reconstruction, or reconditioning of eligible export vessels, pursuant to section 1111(b)(4) of the Merchant Marine Act of 1936, as amended; to the Committee on Transportation and Infrastructure.

2404. A letter from the Secretary of Veterans Affairs, transmitting the Department's report on the evaluation of health status of spouses and children of Persian Gulf war veterans, pursuant to 38 U.S.C. 1117 note; to the Committee on Veterans' Affairs.

2405. A letter from the Chief of Staff, Social Security Administration, transmitting the Administration's final rules on statement of earnings and benefit estimates (RIN 0960-AD74), pursuant to 5 U.S.C. 801a); to the Committee on Ways and Means.

2406. A letter from the Secretary of Health and Human Services, transmitting notification that the Department is allotting to States, the District of Columbia, Indian tribes, and territories emergency funds made available under section 2602(e), of the Low—Income Home Energy Assistance Act of 1981, pursuant to 42 U.S.C. 8623(g); jointly, to the Committees on Commerce and Economic and Educational Opportunities.

2407. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 96-19: Determination Pursuant to Section 523 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104-107), pursuant to Public Law 104-107, section 523 (110 Stat. 729); jointly, to the Committees on International Relations and Appropriations.

2408. A letter from the President, U.S. Institute of Peace, transmitting a report of the audit of the Institute's accounts for fiscal year 1995, pursuant to 22 U.S.C. 4607(h); jointly, to the Committees on International Relations and Economic and Educational Opportunities.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GILMAN: Committee on International Relations. H.R. 3121. A bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes (Rept. 104-519 Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mrs. MEYERS: Committee on Small Business. H.R. 2715. A bill to amend chapter 35 of title 44, United States Code, popularly known as the Paperwork Reduction Act, to minimize the burden of Federal paperwork demands upon small businesses, educational and nonprofit institutions, Federal contractors, State and local governments, and other persons through the sponsorship and use of alternative information technologies; with an amendment (Rept. 104-520 Pt. 1). Ordered to be printed.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1965. A bill to reauthorize the Coastal Zone Management Act of 1972, and for other purposes; with an amendment (Rept. 104-521). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committee on Rules discharged from further consideration. H.R. 3121 referred to the Committee of the Whole House on the State of the Union.

BILLS PLACED ON THE CORRECTIONS CALENDAR

Under clause 4 of rule XIII, the Speaker filed with the Clerk a notice requesting that the following bills be placed upon the Corrections Calendar:

H.R. 3049, a bill to amend section 1505 of the Higher Education Act of 1965 to provide for the continuity of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development.

H.R. 3055, a bill to amend section 326 of the Higher Education Act of 1965 to permit continued participation by Historically Black Graduate Professional Schools in the grant program authorized by that section.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 3121. Referral to the Committee on Rules extended for a period ending not later than April 16, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. EVERETT (for himself and Mr. EVANS):

H.R. 3248. A bill to amend title 38, United States Code, to revise and improve certain veterans programs and benefits, to authorize the American Battle Monuments Commission to enter into arrangements for the repair and long-term maintenance of war memorials for which the Commission assumes responsibility, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ABERCROMBIE (for himself and Mr. WICKER):

H.R. 3249. A bill to authorize appropriations for a mining institute to develop domestic technological capabilities for the recovery of minerals from the Nation's seabed, and for other purposes; to the Committee on Resources.

By Mr. BEREUTER (for himself, for Mr. FORD, Ms. LOFGREN, Mr. MCINTOSH, Mr. PICKETT, Mr. DELLUMS, Ms. WOOLSEY, Mr. STARK, Mr. FAZIO of California, Mr. COSTELLO, Mrs. MEYERS of Kansas, Mr. EHLERS, Mr. SCHAEFER, Mr. MOLLOHAN, Mr. LEACH, Mr. GILCHREST, Mr. BOEHLERT, Mr. CASTLE, Mr. CLAY, Mr. VENTO, Mr. SKELTON, Mr. EVANS, Mrs. MORELLA, Mr. RAHALL, Mr. SKAGGS, Ms. MCCARTHY, Mr. HEFLEY, Mr. WELLER, Mrs. VUCANOVICH, Mr. BUNNING of Kentucky, Mr. BAKER of California, Mr. BEILENSON, Ms. NORTON, Mr. HASTINGS of Florida, Mr. HAMILTON, Mr. FROST, Mr. WAXMAN, Mr. BARRETT of Nebraska, Mr. ORTON, Mr. NEY, Mr. LANTOS, Mr. FAWELL, and Mr. MILLER of California):

H.R. 3250. A bill to amend the National Trails System Act to create a new category of long-distance trails to be known as National Discovery Trails, to authorize the American Discovery Trail as the first national trail in that category, and for other purposes; to the Committee on Resources.

By Mr. LIGHTFOOT (for himself, Mr. LEACH, Mr. NUSSLE, Mr. GANSKE, and Mr. LATHAM):

H.R. 3251. A bill to amend the Internal Revenue Code of 1986 to expand the applicability of the first-time farmer exception; to the Committee on Ways and Means.

By Ms. McKINNEY:

H.R. 3252. A bill to amend the Internal Revenue Code of 1986 to discourage American businesses from moving jobs overseas and to encourage the creation of new jobs in the United States, and for other purposes; to the Committee on Ways and Means.

By Mr. PARKER (for himself, Mr. WICKER, Mr. TAYLOR of Mississippi, Mr. THOMPSON, Mr. EDWARDS, Mr. COOLEY, Mr. EVERETT, Mr. DOYLE, Mr. HUTCHINSON, Mr. CLEMENT, Mr. SMITH of New Jersey, Mr. EVANS, Mr. MASCARA, Ms. BROWN of Florida, Mr. FILNER, Mr. KENNEDY of Massachusetts, Mr. TEJEDA, Ms. WATERS, Mr. NEY, Mr. CLYBURN, and Mr. EMERSON):

H.R. 3253. A bill to name the Department of Veterans Affairs medical center in Jackson, MS, as the "G.V. (Sonny) Montgomery Department of Veterans Affairs Medical Center"; to the Committee on Veterans' Affairs.

By Mr. QUILLEN:

H.R. 3254. A bill to suspend until January 1, 1998, the duty on Fybrel [SWP]; to the Committee on Ways and Means.

H.R. 3255. A bill to amend the Harmonized Tariff Schedule of the United States to correct the tariff treatment of certain iron and steel pipe and tube products; to the Committee on Ways and Means.

By Mr. ROBERTS:

H.R. 3256. A bill to establish the Nicodemus National Historic Site in Kansas, and for other purposes; to the Committee on Resources.

By Mr. ZIMMER (for himself and Mr. FRELINGHUYSEN):

H.R. 3257. A bill to develop model curricula appropriate for elementary and secondary students; to the Committee on Economic and Educational Opportunities.

By Mr. MILLER of California:

H. Con. Res. 162. Concurrent resolution recommending the entities which were instrumental in developing the "Friday Night Live" and "Club Live" programs and which have created, are operating, and are working to expand the "Rotary Life Club" program; to the Committee on Economic and Educational Opportunities.

By Mr. ARCHER:

H. Res. 402. Resolution returning to the Senate the bill S. 1463; considered and agreed to.

By Mr. GEPHARDT:

H. Res. 403. Resolution in tribute to Secretary of Commerce Ronald H. Brown and other Americans who lost their lives on April 3, 1996, while in service to their country on a mission to Bosnia; to the Committee on Commerce.

By Mrs. MEEK of Florida:

H. Res. 404. Resolution in tribute to Secretary of Commerce Ronald H. Brown and other Americans who lost their lives on April 3, 1996, while in service to their country on a mission to Bosnia; to the Committee on Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 99: Ms. WOOLSEY.

H.R. 118: Mr. SALMON.

H.R. 188: Mr. SANDERS.

H.R. 248: Mr. UPTON.

H.R. 491: Mr. TAYLOR of Mississippi, Mr. STOCKMAN, Mr. PETERSON of Minnesota, Mr. DEAL of Georgia, Mr. FUNDERBURK, Mr. GREENWOOD, and Mr. HALL of Texas.

H.R. 822: Mr. SALMON.

H.R. 833: Mr. BARRETT of Wisconsin and Mr. GUNDERSON.

H.R. 1110: Mr. SALMON.

H.R. 1462: Mr. PAYNE of New Jersey.

H.R. 1483: Mr. MINGE, Mr. WATTS of Oklahoma, Mr. ANDREWS, and Mr. STEARNS.

H.R. 1757: Mrs. THURMAN.

H.R. 1776: Mr. REGULA, Mr. BARCIA of Michigan, Mr. LANTOS, Ms. LOFGREN, Mr. OBERSTAR, Mr. CLAY, and Mr. SCHUMER.

H.R. 1791: Mr. OLVER.

H.R. 1797: Mrs. MEEK of Florida, Mr. FOGLIETTA, Mr. FOX, Ms. WATERS, Mr. FROST, Ms. NORTON, and Mr. DEUTSCH.

H.R. 1819: Mr. GEPHARDT.

H.R. 1856: Mr. RADANOVICH.

H.R. 2011: Ms. JACKSON-LEE, Mr. BECERRA, and Mr. DINGELL.

H.R. 2270: Mr. HUTCHINSON.

H.R. 2272: Mr. BONIOR and Mr. BROWN of California.

H.R. 2306: Mr. KILDEE and Mr. WISE.

H.R. 2391: Mr. STENHOLM.

H.R. 2508: Mrs. MEYERS of Kansas.

H.R. 2531: Mr. WHITFIELD.

H.R. 2566: Mr. KENNEDY of Massachusetts and Mr. RICHARDSON.

H.R. 2740: Mr. GEKAS.

H.R. 2741: Mrs. FOWLER, Mr. HOBSON, and Mr. ROYCE.

H.R. 2746: Mr. REED, Mr. SMITH of New Jersey, Mr. POMBO, Mr. DELLUMS, Mr. OBERSTAR, Mr. UNDERWOOD, Mr. LANTOS, Mr. ABERCROMBIE, Mr. BROWN of Ohio, Ms. NORTON, Mr. FRANK of Massachusetts, Ms. SLAUGHTER, Mr. CONYERS, Mr. HALL of Ohio, Mr. MANTON, Mr. ROMERO-BARCELO, and Ms. FURSE.

H.R. 2777: Mr. SCOTT.

H.R. 2798: Mr. LUTHER and Mr. POMBO.

H.R. 2834: Mr. ANDREWS.

H.R. 2900: Ms. FURSE, Mr. COX, Mr. PARKER, Mr. WYNN, Mr. GANSKE, Mr. BROWDER, Mr. NEUMANN, and Mr. PALLONE.

H.R. 2925: Mr. FORBES, Mr. CHRYSLER, Mr. WAMP, Mr. CASTLE, Mr. CALLAHAN, Mr. TEJEDA, Mr. MCKEON, Mr. LAZIO of New York, and Mr. MONTGOMERY.

H.R. 2943: Mr. OBEY, Mr. EMERSON, Mr. ROMERO-BARCELO, and Mr. SHAYS.

H.R. 3059: Mr. OLVER, and Mrs. THURMAN.

H.R. 3084: Mr. ACKERMAN, Mr. FROST, Mr. DORNAN, and Mr. TEJEDA.

H.R. 3108: Mr. FROST.

H.R. 3114: Mr. ENGEL, Ms. NORTON, Mr. BARRETT of Nebraska, and Mr. BALLENGER.

H.R. 3161: Mr. HOUGHTON.

H.R. 3170: Mr. TORRICELLI and Mr. MANTON.

H.R. 3180: Mr. CHAPMAN, Mr. FOGLIETTA, Mr. GREEN of Texas, Mrs. MALONEY, and Mr. DEUTSCH.

H.R. 3201: Mr. ROSE, Mr. MYERS of Indiana, and Mr. PETE GEREN of Texas.

H.R. 3217: Mr. PALLONE, Mr. HINCHEY, Mr. VENTO, Mr. CARDIN, and Mr. FARR.

H.R. 3236: Mr. JOHNSON of South Dakota, Mr. PETERSON of Minnesota, Mr. STENHOLM, Mr. HILLIARD, Mrs. CLAYTON, Mr. HOLDEN, Mr. BALDACCI, and Mr. POMEROY.

H. Con. Res. 47: Mr. HAMILTON.

H. Con. Res. 50: Ms. NORTON.

H. Con. Res. 103: Mr. ENGEL, Ms. MOLINARI, Mr. MILLER of California, and Mr. TORRICELLI.

H. Con. Res. 156: Mr. HILLIARD, Mrs. CLAYTON, Mr. FROST, Mr. MCDERMOTT, Mr. FRAZER, Ms. PELOSI, Mrs. MALONEY, Mrs. MEEK of Florida, Mr. OWENS, Mr. Payne of New Jersey, Mr. FOGLIETTA, Mr. FOX, Mr. GREEN of Texas, Ms. WATERS, Mr. ROMERO-BARCELÓ, Mr. FALEOMAVAEGA, Ms. NORTON, AND MR. FILNER.

H. Con. Res. 160: Mr. CAMPBELL and Mr. JOHNSTON of Florida.

H. Res. 282: Mrs. LOWEY, Mr. SMITH of New Jersey, Mr. YATES, and Mr. LEVIN.

H. Res. 316: Mr. LAZIO of New York and Mr. ZIMMER.

H. Res. 381: Mr. LEVIN, Mr. STARK, Mr. BRYANT of Texas, Mr. LIPINSKI, Mr. ROMERO-BARCELÓ, and Mr. MANTON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 789: Mr. DURBIN.

H.R. 1202: Mr. SHAW.

H.R. 1963: Mr. SHAYS.

H.R. 1972: Mr. QUINN.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 842

OFFERED BY: MR. MINGE

AMENDMENT NO. 1: On page 3, line 10 insert "(a) IN GENERAL.—Except as provided in subsection (b)" before "Notwithstanding"

On page 4, after line 14 insert the following:

"(b) PROHIBITION ON FUNDING TRANSPORTATION PROJECTS FROM GENERAL REVENUE.—Subsection (a) shall no longer be effective after the last day of a fiscal year in which any amounts were made available from the general fund of the Treasury of the United States for construction, rehabilitation and maintenance of highways or grants-in-aid for airports or for aviation-related facilities, equipment, research and engineering as determed by the Director of the Office of Management and Budget."

H.R. 842

OFFERED BY: MR. MINGE

AMENDMENT NO. 2: Page 3, line 10, insert "(a) IN GENERAL.—" before "Notwithstanding".

Page 4, after line 14, insert the following:

(b) PROHIBITION ON EARMARKING OF HIGHWAY TRUST FUND AMOUNTS.—Subsection (a) shall no longer apply with respect to the Highway Trust Fund after the last day of any fiscal year in which amounts are made available for obligation from the Highway Trust Fund for any highway construction project or activity that is specifically designated in a Federal law, a report of a committee accompanying a bill enacted into law, or a joint explanatory statement of conferees accompanying a conference report, as determined by the Director of the Office of Management and Budget.

H.R. 842

OFFERED BY: MR. MINGE

AMENDMENT NO. 3: Page 3, line 10, insert "(a) IN GENERAL.—" before "Notwithstanding".

Page 4, after line 14, insert the following:

(b) PROHIBITION ON EARMARKING OF HIGHWAY TRUST FUND AMOUNTS.—Subsection (a) shall no longer apply with respect to the

Highway Trust Fund after the last day of any fiscal year in which amounts are made available for obligation from the Highway Trust Fund for any construction project or activity that is specifically designated in a Federal law, a report of a committee accompanying a bill enacted into law, or a joint explanatory statement of conferees accompanying a conference report, as determined by the Director of the Office of Management and Budget.

H.R. 842

OFFERED BY: MR. OBEY

AMENDMENT NO. 4: Page 3, line 10, strike "Notwithstanding" and insert "(a) IN GENERAL.—Except as provided by subsection (b) and notwithstanding", and page 4, after line 14, insert the following new subsection:

(b) EXCEPTION.—If, for any fiscal year, the disbursements from any fund described in subsection (a) exceed receipts dedicated to that fund, the provisions of subsection (a) shall not apply to that excess of disbursements over receipts.

H.R. 842

OFFERED BY: MR. ROYCE

AMENDMENT NO. 5: Page 3, line 10, insert "(a) IN GENERAL.—" before "Notwithstanding".

Page 4, after line 14, insert the following:

(b) PROHIBITION ON EARMARKING OF HIGHWAY TRUST FUND AMOUNTS.—Subsection (a) shall no longer apply with respect to the Highway Trust Fund after the last day of any fiscal year in which amounts are made available for obligation from the Highway Trust Fund for any highway construction project or activity that is specifically designated in a Federal law, a report of a committee accompanying a bill enacted into law, or a joint explanatory statement of conferees accompanying a conference report, as determined by the Director of the Office of Management and Budget.

H.R. 842

OFFERED BY: MR. SABO

AMENDMENT NO. 6: Page 3, line 10, strike "Notwithstanding" and insert "(a) IN GENERAL.—Except as provided by subsection (b) and notwithstanding", and page 4, after line 14, insert the following new subsection:

(b) EXCEPTION.—(1) If, for any fiscal year, the disbursements from any fund described in subsection (a) would exceed the balance in that fund (as adjusted pursuant to paragraph (2)), the provisions of subsection (a) shall not apply to those excess disbursements.

(2) In applying this subsection, the balances otherwise available in a trust fund shall be reduced by the amount (if any) by which interest to be credited to that fund during a fiscal year would exceed the amount of interest that would be credited if the interest rate paid to the fund did not exceed the average interest rate on 52-week Treasury securities to be sold to the public during the same fiscal year.

H.R. 842

OFFERED BY: MR. SMITH OF MICHIGAN

AMENDMENT NO. 7: Page 3, lines 10 and 11, strike "the receipts and disbursements of" and insert the following:

the amounts that after the date of the enactment of this Act are received by or disbursed from

H.R. 842

OFFERED BY: MR. SMITH OF MICHIGAN

AMENDMENT NO. 8: Page 12, after line 22, insert the following:

SEC. 5. APPROPRIATION OF INTEREST EARNINGS OF HIGHWAY TRUST FUND.

(a) PURPOSE.—It is the purpose of this section to offset the approximately $82,000,000,000 that has been appropriated from the general fund of the Treasury for Federal-aid highway and mass transit construction projects.

(b) APPROPRIATION OF INTEREST EARNINGS.—On September 30, 1996, there is hereby appropriated from the Highway Trust Fund to the general fund of the Treasury an amount equal to the aggregate amounts of interest credited to the Highway Trust Fund before such date.

Page 13, line 1, strike "5" and insert "6".

H.R. 1675

OFFERED BY: MR. YOUNG OF ALASKA

AMENDMENT NO. 1: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "National Wildlife Refuge Improvement Act of 1996".

(b) REFERENCES.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or provision of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

SEC. 2. FINDINGS.

(a) FINDINGS.—The Congress finds the following:

(1) The National Wildlife Refuge System is comprised of over 91,000,000 acres of Federal lands that have been incorporated within 508 individual units located in all 50 States and our territories.

(2) The System was created to conserve fish, wildlife, and other habitats and this conservation mission has been facilitated by providing Americans opportunities to participate in wildlife-dependent recreation, including fishing and hunting, on System lands and to better appreciate the value of and need for fish and wildlife conservation.

(3) The System is comprised of lands purchased not only through the use of tax dollars but also through the sale of Duck Stamps and refuge entrance fees. It is a System paid for by those utilizing it.

(4) On March 25, 1996, the President issued Executive Order 12996 which recognized "wildlife-dependent recreational activities involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation as priority general public uses of the Refuge System".

(5) Executive Order 12996 is a positive step in the right direction and will serve as the foundation for the permanent statutory changes made by this Act.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—Section 5 (16 U.S.C. 668ee)—

(1) is redesignated as section 4; and

(2) as so redesignated is amended to read as follows:

"SEC. 4. DEFINITIONS.

"For purposes of this Act:

"(1) The term 'compatible use' means a use that will not materially interfere with or detract from the fulfillment of the purposes of a refuge or the purposes of the System specified in section 4(a)(3), as determined by sound resource management, and based on reliable scientific information.

"(2) The terms 'conserving', 'conservation', 'manage', 'managing', and 'management', when used with respect to fish and wildlife, mean to use, in accordance with applicable Federal and State laws, methods and procedures associated with modern scientific resource programs including protection, research, census, law enforcement, habitat management, propagation, live trapping and transplantation, and regulated taking.

"(3) The term 'Coordination Area' means a wildlife management area that is acquired by the Federal Government and subsequently made available to a State—

"(A) by cooperative agreement between the United States Fish and Wildlife Service and the State fish and game agency pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. 661-666c); or

"(B) by long-term leases or agreements pursuant to the Bankhead-Jones Farm Tenant Act (50 Stat. 525; 7 U.S.C. 1010 et seq.).

"(4) The term 'Director' means the Director of the United States Fish and Wildlife Service.

"(5) The terms 'fish', 'wildlife', and 'fish and wildlife' mean any wild member of the animal kingdom whether alive or dead, and regardless of whether the member was bred, hatched, or born in captivity, including a part, product, egg, or offspring of the member.

"(6) The term 'hunt' and 'hunting' do not include any taking of the American alligator (Alligator mississippiensis) or its eggs.

"(7) The term 'person' means any individual, partnership, corporation or association.

"(8) The term 'plant' means any member of the plant kingdom in a wild, unconfined state, including any plant community, seed, root, or other part of a plant.

"(9) The terms 'purposes of the refuge' and 'purposes of each refuge' mean the purposes specified in or derived from the law, proclamation, executive order, agreement, public land order, donation document, or administrative memorandum establishing, authorizing, or expanding a refuge, refuge unit, or refuge subunit.

"(10) The term 'refuge' means a designated area of land, water, or an interest in land or water within the System, but does not include navigational servitudes, or Coordination Areas.

"(11) The term 'Secretary' means the Secretary of the Interior.

"(12) The terms 'State' and 'United States' mean the several States of the United States, Puerto Rico, American Samoa, the Virgin Islands, Guam, and the insular possessions of the United States.

"(13) The term 'System' means the National Wildlife Refuge System designated under section 4(a)(1).

"(14) The terms 'take', 'taking', or 'taken' mean to pursue, hunt, shoot, capture, collect, or kill, or to attempt to pursue, hunt, shoot, capture, collect, or kill.".

(b) CONFORMING AMENDMENT.—Section 4 (16 U.S.C. 668dd) is amended by striking "Secretary of the Interior" each place it appears and inserting "Secretary".

SEC. 4. MISSION AND PURPOSES OF THE SYSTEM.

Section 4(a) (16 U.S.C. 668dd(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively;

(2) in clause (i) of paragraph (6) (as so redesignated), by striking "paragraph (2)" and inserting "paragraph (5)"; and

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) The overall mission of the System is to conserve and manage fish, wildlife, and plants and their habitats within the System for the benefit of present and future generations of the people of the United States.

"(3) The purposes of the System are—

"(A) to provide a national network of lands and waters designed to conserve and manage fish, wildlife, and plants and their habitats;

"(B) to conserve, manage, and where appropriate restore fish and wildlife populations, plant communities, and refuge habitats within the System;

"(C) to conserve and manage migratory birds, anadromous or interjurisdictional fish species, and marine mammals within the System;

"(D) to provide opportunities for compatible uses of refuges consisting of fish- and wildlife-dependent recreation, including fishing and hunting, wildlife observation, and environmental education;

"(E) to preserve, restore, and recover fish, wildlife, and plants within the System that are listed or are candidates for threatened species or endangered species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) and the habitats on which these species depend; and

"(F) to fulfill as appropriate international treaty obligations of the United States with respect to fish, wildlife, and plants, and their habitats.".

SEC. 5. ADMINISTRATION OF THE SYSTEM.

(a) ADMINISTRATION, GENERALLY.—Section 4(a) (16 U.S.C. 668dd(a)) (as amended by section 3 of this Act) is further amended by inserting after new paragraph (3) the following new paragraph:

"(4) In administering the System, the Secretary shall—

"(A) ensure that the mission and purposes of the System described in paragraphs (2) and (3), respectively, and the purposes of each refuge are carried out, except that if a conflict exists between the purposes of a refuge and any purpose of the System, the conflict shall be resolved in a manner that first protects the purposes of the refuge, and, to the extent practicable, that also achieves the purposes of the System;

"(B) provide for conservation of fish and wildlife and their habitats within the System;

"(C) ensure effective coordination, interaction, and cooperation with owners of land adjoining refuges and the fish and wildlife agency of the States in which the units of the System are located;

"(D) assist in the maintenance of adequate water quantity and water quality to fulfill the purposes of the System and the purposes of each refuge;

"(E) acquire under State law through purchase, exchange, or donation water rights that are needed for refuge purposes;

"(F) plan, propose, and direct appropriate expansion of the System in the manner that is best designed to accomplish the purposes of the System and the purposes of each refuge and to complement efforts of States and other Federal agencies to conserve fish and wildlife and their habitats;

"(G) recognize compatible uses of refuges consisting of wildlife-dependent recreational activities involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation as priority general public uses of the System through which the American public can develop an appreciation for fish and wildlife;

"(H) provide expanded opportunities for these priority public uses within the System when they are compatible and consistent with sound principles of fish and wildlife management;

"(I) ensure that such priority public uses receive enhanced attention in planning and management within the System;

"(J) provide increased opportunities for families to experience wildlife-dependent recreation, particularly opportunities for parents and their children to safely engage in traditional outdoor activities, such as fishing and hunting;

"(K) ensure that the biological integrity and environmental health of the System is maintained for the benefit of present and future generations of Americans;

"(L) continue, consistent with existing laws and interagency agreements, authorized or permitted uses of units of the System by other Federal agencies, including those necessary to facilitate military preparedness;

"(M) plan and direct the continued growth of the System in a manner that is best designed to accomplish the mission of the System, to contribute to the conservation of the ecosystems of the United States, and to increase support for the System and participation from conservation partners and the public;

"(N) ensure timely and effective cooperation and collaboration with Federal agencies and State fish and wildlife agencies during the course of acquiring and managing refuges;

"(O) ensure appropriate public involvement opportunities will be provided in conjunction with refuge planning and management activities; and

"(P) identify, prior to acquisition, existing wildlife-dependent compatible uses of new refuge lands that shall be permitted to continue on an interim basis pending completion of comprehensive planning.".

(b) POWERS.—Section 4(b) (16 U.S.C. 668dd(b)) is amended—

(1) in the matter preceding paragraph (1) by striking "authorized—" and inserting "authorized to take the following actions:";

(2) in paragraph (1) by striking "to enter" and inserting "Enter";

(3) in paragraph (2)—

(A) by striking "to accept" and inserting "Accept"; and

(B) by striking ", and" and inserting a period;

(4) in paragraph (3) by striking "to acquire" and inserting "Acquire"; and

(5) by adding at the end the following new paragraph:

"(4) Subject to standards established by and the overall management oversight of the Director, and consistent with standards established by this Act, enter into cooperative agreements with State fish and wildlife agencies and other entities for the management of programs on, or parts of, a refuge.".

SEC. 6. COMPATIBILITY STANDARDS AND PROCEDURES.

Section 4(d) (16 U.S.C. 668dd(d)) is amended by adding at the end the following new paragraph:

"(3)(A)(i) Except as provided in clause (ii), on and after the date that is 3 years after the date of the enactment of the National Wildlife Refuge Improvement Act of 1996, the Secretary shall not initiate or permit a new use of a refuge or expand, renew, or extend an existing use of a refuge, unless the Secretary has determined that the use is a compatible use.

"(ii) On lands added to the System after the date of the enactment of the National Wildlife Refuge Improvement Act of 1996, any existing fish or wildlife-dependent use of a refuge, including fishing, hunting, wildlife observation, and environmental education, shall be permitted to continue on an interim basis unless the Secretary determines that the use is not a compatible use.

"(iii) The Secretary shall permit fishing and hunting on a refuge if the Secretary determines that the activities are consistent with the principles of sound fish and wildlife management, are compatible uses, and are consistent with public safety. No other determinations or findings, except the determination of consistency with State laws and regulations provided for in subsection (m), are required to be made for fishing and hunting to occur. The Secretary may make the determination referred to in this paragraph for a refuge concurrently with the development of a conservation plan for the refuge under subsection (e).

"(B) Not later than 24 months after the date of the enactment of the National Wildlife Refuge Improvement Act of 1996, the Secretary shall issue final regulations establishing the process for determining under subparagraph (A) whether a use is a compatible use, that—

"(i) designate the refuge officer responsible for making initial compatibility determinations;

"(ii) require an estimate of the timeframe, location, manner, and purpose of each use;

"(iii) identify the effects of each use on refuge resources and purposes of each refuge;

"(iv) require that compatibility determinations be made in writing and consider the best professional judgment of the refuge officer designated under clause (i);

"(v) provide for the expedited consideration of uses that will likely have no detrimental effect on the fulfillment of the purposes of a refuge or the purposes of the System specified in subsection (a)(3);

"(vi) provide for the elimination or modification of any use as expeditiously as practicable after a determination is made that the use is not a compatible use;

"(vii) require, after an opportunity for public comment, reevaluation of each existing use, other than those uses specified in clause (viii), when conditions under which the use is permitted change significantly or when there is significant new information regarding the effects of the use, but not less frequently than once every 10 years, to ensure that the use remains a compatible use;

"(viii) require after an opportunity for public comment reevaluation of each fish and wildlife-dependent recreational use when conditions under which the use is permitted change significantly or when there is significant new information regarding the effects of the use, but not less frequently than in conjunction with each preparation or revision of a conservation plan under subsection (e) or at least every 15 years;

"(ix) provide an opportunity for public review and comment on each evaluation of a use, unless an opportunity for public review and comment on the evaluation of the use has already been provided during the development or revision of a conservation plan for the refuge under subsection (e) or has otherwise been provided during routine, periodic determinations of compatibility for fish- and wildlife-dependent recreational uses; and

"(x) provide that when managed in accordance with principles of sound fish and wildlife management, fishing, hunting, wildlife observation, and environmental education in a refuge are generally compatible uses.

"(4) The provisions of this Act relating to determinations of the compatibility of a use shall not apply to—

"(A) overflights above a refuge; and

"(B) activities authorized, funded, or conducted by a Federal agency (other than the United States Fish and Wildlife Service) which has primary jurisdiction over the refuge or a portion of the refuge, if the management of those activities is in accordance with a memorandum of understanding between the Secretary or the Director and the head of the Federal agency with primary jurisdiction over the refuge governing the use of the refuge.

"(5) Overflights above a refuge may be governed by any memorandum of understanding entered into by the Secretary that applies to the refuge.".

SEC. 7. REFUGE CONSERVATION PLANNING PROGRAM.

(a) IN GENERAL.—Section 4 (16 U.S.C. 668dd) is amended—

(1) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1)(A) Except with respect to refuge lands in Alaska (which shall be governed by the refuge planning provisions of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.)), the Secretary shall—

"(i) propose a comprehensive conservation plan for each refuge or related complex of refuges (referred to in this subsection as a 'planning unit') in the System;

"(ii) publish a notice of opportunity for public comment in the Federal Register on each proposed conservation plan;

"(iii) issue a final conservation plan for each planning unit consistent with the provisions of this Act and, to the extent practicable, consistent with fish and wildlife conservation plans of the State in which the refuge is located; and

"(iv) not less frequently than 15 years after the date of issuance of a conservation plan under clause (iii) and every 15 years thereafter, revise the conservation plan as may be necessary.

"(B) The Secretary shall prepare a comprehensive conservation plan under this subsection for each refuge within 15 years after the date of enactment of the National Wildlife Refuge Improvement Act of 1996.

"(C) The Secretary shall manage each refuge or planning unit under plans in effect on the date of enactment of the National Wildlife Refuge Improvement Act of 1996, to the extent such plans are consistent with this Act, until such plans are revised or superseded by new comprehensive conservation plans issued under this subsection.

"(D) Uses or activities consistent with this Act may occur on any refuge or planning unit before existing plans are revised or new comprehensive conservation plans are issued under this subsection.

"(E) Upon completion of a comprehensive conservation plan under this subsection for a refuge or planning unit, the Secretary shall manage the refuge or planning unit in a manner consistent with the plan and shall revise the plan at any time if the Secretary determines that conditions that affect the refuge or planning unit have changed significantly.

"(2) In developing each comprehensive conservation plan under this subsection for a planning unit, the Secretary, acting through the Director, shall identify and describe—

"(A) the purposes of each refuge comprising the planning unit and the purposes of the System applicable to those refuges;

"(B) the distribution, migration patterns, and abundance of fish, wildlife, and plant populations and related habitats within the planning unit;

"(C) the archaeological and cultural values of the planning unit;

"(D) such areas within the planning unit that are suitable for use as administrative sites or visitor facilities;

"(E) significant problems that may adversely affect the populations and habitats of fish, wildlife, and plants within the planning unit and the actions necessary to correct or mitigate such problems; and

"(F) the opportunities for fish- and wildlife-dependent recreation, including fishing and hunting, wildlife observation, environmental education, interpretation of the resources and values of the planning unit, and other uses that may contribute to refuge management.

"(3) In preparing each comprehensive conservation plan under this subsection, and any revision to such a plan, the Secretary, acting through the Director, shall, to the maximum extent practicable and consistent with this Act—

"(A) consult with adjoining Federal, State, local, and private landowners and affected State conservation agencies; and

"(B) coordinate the development of the conservation plan or revision of the plan with relevant State conservation plans for fish and wildlife and their habitats.

"(4)(A) In accordance with subparagraph (B), the Secretary shall develop and implement a process to ensure an opportunity for active public involvement in the preparation and revision of comprehensive conservation plans under this subsection. At a minimum, the Secretary shall require that publication of any final plan shall include a summary of the comments made by States, adjacent or potentially affected landowners, local governments, and any other affected parties, together with a statement of the disposition of concerns expressed in those comments.

"(B) Prior to the adoption of each comprehensive conservation plan under this subsection, the Secretary shall issue public notice of the draft proposed plan, make copies of the plan available at the affected field and regional offices of the United States Fish and Wildlife Service, and provide opportunity for public comment.".

SEC. 8. EMERGENCY POWER; PRESIDENTIAL EXEMPTION; STATE AUTHORITY; WATER RIGHTS; COORDINATION.

(a) IN GENERAL.—Section 4 (16 U.S.C. 668dd) is further amended by adding at the end the following new subsections:

"(k) Notwithstanding any other provision of this Act the Secretary may temporarily suspend, allow, or initiate any activity in a refuge in the System in the event of any emergency that constitutes an imminent danger to the health and safety of the public or any fish or wildlife population, including any activity to control or eradicate sea lampreys, zebra mussels, or any other aquatic nuisance species (as that term is defined in section 1003 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4702)).

"(l)(1) The President may exempt from any provision of this Act any activity conducted by the Department of Defense on a refuge within the System if the President finds that—

"(A) the activity is in the paramount interest of the United States for reasons of national security; and

"(B) there is no feasible and prudent alternative location on public lands for the activity.

"(2) After the President authorizes an exemption under paragraph (1), the Secretary of Defense shall undertake, with the concurrence of the Secretary of the Interior, appropriate steps to mitigate the effect of the exempted activity on the refuge.

"(m) Nothing in this Act shall be construed to authorize the Secretary to control or regulate hunting or fishing of fish and resident wildlife on lands or waters not within the System.

"(n) Nothing in this Act shall be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate fish and resident wildlife under State law or regulations in any area within the System. Regulations permitting hunting or fishing of fish and resident wildlife within the System shall be, to the extent practicable, consistent with State fish and wildlife laws, regulations, or management plans.

"(o)(1) Nothing in this Act shall—

"(A) create a reserved water right, express or implied, in the United States for any purpose;

"(B) affect any water right in existence on the date of enactment of the National Wildlife Refuge Improvement Act of 1996; or

"(C) affect any Federal or State law in existence on the date of the enactment of the National Wildlife Refuge Improvement Act of 1996 regarding water quality or water quantity.

"(2) Nothing in this Act shall diminish or affect the ability to join the United States in the adjudication of rights to the use of water pursuant to the McCarran Act (43 U.S.C. 666).

"(p) Coordination with State fish and wildlife agency personnel or with personnel of other affected State agencies pursuant to this Act shall not be subject to the Federal Advisory Committee Act.".

(b) CONFORMING AMENDMENT.—Section 4(c) (16 U.S.C. 668dd(c)) is amended by striking the last sentence.

SEC. 9. STATUTORY CONSTRUCTION.

Nothing in this Act is intended to affect—

(1) the provisions for subsistence uses in Alaska set forth in the Alaska National Interest Lands Conservation Act (Public Law 96-487), including those in titles III and VIII of that Act;

(2) the provisions of section 102 of the Alaska National Interest Lands Conservation Act, the jurisdiction over subsistence uses in Alaska, or any assertion of subsistence uses in the Federal courts; and

(3) the manner in which section 810 of the Alaska National Interest Lands Conservation Act is implemented in refuges in Alaska, and the determination of compatible use as it relates to subsistence uses in these refuges.

SEC. 10. NEW REFUGES.

Notwithstanding any other provision of law, no funds may be expended from the Land and Water Conservation Fund established by Public Law 88-578, for the creation of a new refuge within the National Wildlife Refuge System without specific authorization from Congress pursuant to recommendation from the United States Fish and Wildlife Service, to create that new refuge.

SEC. 11. REORGANIZATIONAL TECHNICAL AMENDMENTS.

(a) REORGANIZATIONAL AMENDMENTS.—The Act of October 15, 1966 (16 U.S.C. 668dd et seq.) is amended—

(1) by adding before section 4 the following new section:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'National Wildlife Refuge System Administration Act of 1966'.";

(2) by striking sections 6, 7, 8, 9, and 10; and

(3) in section 4 (16 U.S.C. 668dd), as in effect immediately before the enactment of this Act—

(A) by redesignating that section as section 2;

(B) by striking "SEC. 4."; and

(C) by inserting before and immediately above the text of the section the following new heading:

"SEC. 4. NATIONAL WILDLIFE REFUGE SYSTEM.".

(b) CONFORMING AMENDMENT.—Section 12(f) of the Act of December 5, 1969 (83 Stat. 283) is repealed.

(c) REFERENCES.—Any reference in any law, regulation, or other document of the United States to section 4 of the National Wildlife Refuge System Administration Act of 1966 is deemed to refer to section 2 of that Act, as redesignated by subsection (a)(4) of this section.

EXTENSIONS OF REMARKS

MEDICARE BENEFICIARY PROTECTION AMENDMENTS—H.R. 1707

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. STARK. Mr. Speaker, last May, I introduced legislation designed to ensure that Medicare beneficiaries have access to quality care and fair treatment by their HMO's and managed care plans. Today, I reiterate the need for Medicare beneficiary protection and urge passage of the needed safeguards that H.R. 1707 provides.

An important issue addressed by this measure is the serious abuse of marketing practices by HMO's. Abuses by sales agents are especially prevalent in geographic areas where people have little experience with managed care. The commission system in which many HMO agents work is an inappropriate financial incentive which leads to pressure sales to vulnerable beneficiaries. For example, when Geraldine Dallek of the Center for Health Care Rights provided testimony last year to the Senate Special Committee on Aging, she reported a story of a woman from Los Angeles who was a victim of these practices. The woman, Mrs. B, who has a fifth grade education, received an unsolicited visit from an HMO marketing agent. When Mrs. B refused to sign up for the plan, the representative persuaded her to sign an enrollment form by telling her that it would only be used to verify his visit.

To remedy abusive HMO marketing practices, H.R. 1707 would prohibit door-to-door marketing and allow beneficiaries to enroll via mail. Also, it would limit the percentage of compensation received through commissions and require plans to recover commissions if the beneficiary disenrolled within 90 days.

Most HMO enrollees give up their supplemental or MediGap coverage when they enroll in an HMO. Many fear that if they disenroll from an HMO, no insurance company will sell them a supplemental policy. This is a very serious issue for those who leave their HMO because they are ill and believe the HMO is not providing them adequate care. Under my bill, beneficiaries will be able to secure a supplemental plan after moving out of an HMO. H.R. 1707 requires Medicare-contracting plans and MediGap plans to participate in an open enrollment process. This provision allows for a beneficiary to enroll, disenroll, or change plans during this period without being subject to medical underwriting or preexisting exclusions.

Also, the difficulty beneficiaries have making comparisons among Medicare coverage options would be dealt with by having the Secretary conduct annual open enrollment periods. During this period, Medicare beneficiaries could enroll in traditional Medicare coverage or any additional HMO-managed care options. Differences in plan benefits and costs would be presented in easy, comparative formats. A criticism of managed care plans has been the lack of readily available, understandable and comparable information of plans. This legislation works to correct this by requiring Medicare-contracting plans to provide descriptive information on plan utilization review requirements, plan standards for contracting with providers, provider credentials, and plan physician payment arrangements. This bill would standardize the basic benefit package for Medicare HMO's. Plans could not impose cost sharing other than nominal copayments for Medicare-covered services. Also, limits on additional benefits must be fully explained and enrollees given reasonable notice that benefits are expiring.

Managed care is a system that provides financial incentives to provide less care. A 1989 GAO report concluded that this system that puts providers at financial risk for expensive medical treatment inherently contains incentives to deny or delay needed care. The problem of inconsistent and delayed utilization review practices of managed care plans would be remedied in several ways by H.R. 1707.

First, financial compensation could not be given to individuals performing the UR based upon the number of denials. Second, negative determinations about medical necessity or appropriateness will be required to be made by clinically qualified personnel. Also, final determination of coverage must be made within 24 hours.

The amendments would also update HMO plans in the area of access to emergency medical services. Specifically, plans could not require preauthorization for true emergency medical care and could not deny a claim for a beneficiary who uses the "911" system to access services. Also, plans must define "emergency medical care" in terms easily understood by the average person. An example of why this is needed is given by the Center for Health Care Rights which reports a case of a San Diego woman who went to her HMO's urgent care center for treatment of an injury. She was told that the center had many people waiting and only one doctor on duty. The beneficiary was instructed to go to the nearest emergency room. The HMO later denied her claim because the emergency room treatment was not authorized.

These requirements will also benefit physicians by mandating reimbursement by the plan to those physicians who provide emergency services in nonplan hospitals in order to fulfill the Federal antidumping law.

An important protection standard in this legislation would benefit those who seek out-of-plan treatment: Providers plans would be prohibited from charging more than Medicare would have paid under fee-for-service rules. Also, plans would be required to make arrangements for beneficiaries to have occasional dialysis service outside the plans area.

Recognizing the special needs of individuals with disabilities and chronic-illness, the amendments guarantee enrollees access to designated centers of excellence. The standard for the designation of a center of excellence will be established by the Secretary. Factors that would be included in the Secretary's designation would include specialized education and training, participation in peer-reviewed research, and treatment of patients from outside the facility's geographic area.

To improve due process for providers in networks, public notices would be required as to when applications by participating providers are to be accepted. Notification of a decision to terminate or not renew a contract would be required not later than 45 days before it is to take effect.

In order to ensure access to enrollees throughout a plan's service area, the Secretary may require plans to contract with certain clinics and other essential community providers in the service area. In general, the service area of a Medicare-contracting plan would be an entire metropolitan statistical area.

To comply with this plan, Federal regulators would be given authority to impose intermediate sanctions. Currently, the Secretary has the authority to bar participation in Medicare. Under this plan, the Secretary could prohibit plans from enrolling beneficiaries until it meets all Federal requirements. A new review process would allow HMO's to submit a corrective action plan for violations. A civil money penalty up to $25,000 for each violation that adversely affects an individual enrolled in the plan would be authorized.

The Medicare beneficiary protection amendments are a powerful step toward safeguarding the health of Medicare beneficiaries. Last year, an inspector general's survey found that 16 percent of enrollees planned to leave their HMO, but felt they could not. Even worse, 66 percent of disabled/ERSD enrollees wanted to leave their HMO's. These statistics and others indicate that HMO's are often failing to properly serve many Medicare beneficiaries. The remedies I propose will move us toward better quality and a fairer managed care system.

CELEBRATING TUFTONIA'S WEEK

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. RICHARDSON. Mr. Speaker, in just a few short weeks, many of us will be attending college graduations watching as countless numbers of our constituents finish their college education, graduate, and become alumni.

As seasoned alumni know, you always maintain a special tie to your college. At my alma mater, Tufts University actively encouraged alumni to celebrate their college days by

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

participating in annual "Tuftonia's Week" celebrations. It is a special time for more than 88,000 alumni of Tufts to turn their thoughts to Tufts and to get together with fellow Tuftonians, to reminisce with old friends.

Tuftonia Week also allows the university to focus attention on its enormously successful alumni program called, "TuftServe." Last year, Tufts alumni contributed more than 19,000 volunteer hours of community service. This work enhance the quality of life in our local communities and enables alumni to maintain a close relationship with their alma mater.

As my colleagues address soon-to-be alumni at college graduation campuses around the country, may I suggest that we take with us a page from Tuftonia's Week and encourage college graduates to remember and honor their college years by offering and volunteering their knowledge and expertise in their communities. Such an endeavor by my colleagues would be a great tribute to the volunteer commitment of many Tufts University alumni as well as an outstanding celebration of Tuftonia's Week.

SAN FRANCISCO CHRONICLE COLUMNIST HERB CAEN RECEIVES PULITZER PRIZE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. LANTOS. Mr. Speaker, Herb Caen, a truly extraordinary talent in the world of journalism, joined an elite group of journalists last week when he was awarded the Pulitzer Prize. He received a special Pulitzer Award that recognizes his unique and enormous contributions to the city that he loves with all his heart. For almost 58 years, Herb Caen has delighted residents of San Francisco and the surrounding communities with stories and thoughts on our unique and wonderful "City by the Bay."

Herb Caen fills his daily 1,000-word column with an incredible range of items, from political platforms to society gossip to humorous encounters with the many interesting individuals within the rich and diverse city of San Francisco. While there is almost always a laugh contained in Herb Caen's column, he did not shy away from expressing controversial opinions on issues concerning the city and the country. I am delighted that the Pulitzer board recognized these extraordinary qualities when they conferred this special prize, only the fifth in the history of the awards.

The only person who can adequately express the importance of this award to the San Francisco community is Herb Caen himself. So, Mr. Speaker, I invite my colleagues to read the column which appeared the day after the award was announced in order to get a good taste of the wit and elegance which earned Herb Caen this well-deserved honor.

HEY, LOOK ME OVER!

(By Herb Caen)

"Pulitzer Prizewinning columnist." Well, it does have a certain ring to it. And it will definitely add a touch of class to the obituary, which has been moldering away in the morgue for years. I'm not trying to be morbid in the Edgar Allan Poe mode. "Morgue" is what old newshounds call their paper's library, and it's somebody's job to keep the obits up to date. "Pulitzer Prizewinning columnist" will also juice up the resume if I ever have to start jobhunting again. Don't laugh. Downsizing is the order of the day. I command a large salary, several dollars a week over scale. I could well be on the short list for the gold-plated watch and farewell handshake, thereby making room on the payroll for the pitcher and running back we so desperately need.

I got the word that I'd won a Pulitzer late yesterday morning when Karyn Hunt of the local Associated Press bureau called and asked for a statment. I thought she was kidding because I happen to know she's a great kidder. How do I know? Because—and here's your item—Karyn once worked for me, manning the phones and checking stories. She got out as soon as she could and has colorful stories to tell about what a mizzerable person I am to work for, but I digress. Actually, I'm not that hard to work for. Ask Carole Vernier, who works for me now. On second thought, don't ask Carole. I do get a little difficult around deadline. I am no longer digressing, I am regressing. Say, can the Pulitzer board!—and thank you thank you thank you whoever your are—where was I? Oh yes, can the board take the prize back once it has been bestowed? This could well be a historic test.

Anyway, when Karyn of the AP called for a comment, I said "A little late for April Fool jokes, isn't it?" She finally convinced me this was for real, whereupon I fell back on the old barnyard joke whose punchline is "What a pullet surprise," laying an egg in the process. "Be serious," she said, sternly, "I'm on deadline." "You're on deadline?" I snapped. "Whaddya think I'm on, a Stairmaster? And you know how I get at deadline time," In truth, my thoughts were so scattered and my surprise, pullet or otherwise, so genuine that I had no statement to make beyond "Duh, I'll get back to you." What I think happened is that I outlasted the Pulitzer board members. They kept waiting for me to pop off, so they wouldn't have to think about that West Coast noodnik any longer, and when I passed 80 they caved in.

About 25 years ago, Art Hoppe and I made a solemn pact, sealed in blood: If either or both of us ever won a Pulitzer, we'd refuse to accept it. That's because we felt that a lot of columnists who didn't deserve the prize were winning it. Besides, the years were rolling along without a nod from Olympus, which would make it easy for him or me to say coldly, "Too late, ladies and gentlemen, too late." Well, when the word came through yesterday, I was in a quandary. A sacred vow sealed with a vile oath is not to be broken lightly. As I was tentatively rehearsing variations on "I don't need no steenkin' prizes," Hoppe poked his head into my office and said "Forget it. I release you." That is one of several reasons I think Art Hoppe deserved a Pulitzer a long time ago.

No, I never expected to win the gonfalon, the gong, the biggie. Year after year I studied the columns of prizewinners and discerned a pattern: To win a Pulitzer, it is necessary to be serious, ready to render learned opinions on matters of importance not only to the nation but to a waiting world. A three-dot columnist in a smallish city on the coast hardly seems worthy of a place in the pantheon. Walter Winchell, my original inspiration, never won anything of note, and he used even more dots than I, to excellent effect. It's true that satirical columns picked up a prize from time to time, as long as they weren't too funny. I will not deny that although I am not often funny, I am definitely silly and that seemed to me the kiss of death.

What I received yesterday, said the AP, was "a special award for what the Pulitzer board described as 'his extraordinary and continuing contribution as a voice and a conscience of his city.'" I can be serious about that. I am as seriously touched—nay, overwhelmed—as I am seriously in love with "my" city. The Pulitzer, coming on the heels of my 80th birthday last week, with its attendant tributes and demonstrations of friendship, has rendered me limp with gratitude, speechless with swirling thoughts impossible to articulate. Mixed up somewhere in the award, I figure, is a streak of sentimental regard for an old party who has been grinding it out, year after year, and, at the same time, a salute to longevity, for which I thank my German mama and my French papa who had the good taste to come to this loveliest of cities so long ago.

This is also, of course, a victory for the mechanical typewriter over the burgeoning forces of cyberspace. I hereby hub my Royal, a brand name that is currently being dragged through the mud. The suspected Unabomber is said to have written his manifesto on a 40-year-old Royal, the same age as mine. As for the part about being "the conscience of the city," this city had one—plus great style—long before I came down the river from Sacramento. The city's overriding sense of fair play always appealed to me and I have been delighted to get the chance to help keep it alive. About being "the voice," I seem to have lost it at the moment, being speechless with surprise. All I can manage to croak is, "For columns like this, they give a Pulitzer?"

IN TRIBUTE OF PROF. JAN KARSKI

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Ms. PELOSI. Mr. Speaker, I rise today with the Holocaust Center of Northern California to honor Prof. Jan Karski, a member of the Polish underground during World War II who risked his life in an effort to stop the Holocaust.

Professor Karski, a devout Roman Catholic, was captured and savagely tortured by the Gestapo while working as a courier in 1940. Willing to sacrifice his life to protect the underground, Professor Karski escaped with the help of the Polish workers, and returned to his work as a courier.

In 1942, Professor Karski was smuggled into the Warsaw ghetto and death camp near Belzec, and then traveled secretly to Washington, DC, where he provided President Roosevelt, other top Government officials, journalists, and religious leaders with a terrifying eyewitness account of the extermination of thousands of helpless and innocent Jews. Professor Karski traveled extensively throughout the United States lecturing about the atrocities he had witnessed. In 1944, he published a best-selling book, "The Story of the Secret State", which exposed the Nazis' genocidal plans.

Twenty-five years later, Professor Karski broke his silence about the terrible secret in

Claude Lanzmann's epic Holocaust film documentary, "Shoah." In recognition of his courage on behalf of the Jewish people, Professor Karski was honored at Yad Vashem as a Righteous Among the Nations in 1982 and the Israeli Government awarded him honorary citizenship in 1994.

I am pleased to join with the Holocaust Center of Northern California and the Jewish religious community to pay tribute to this great man on Yom HaShoah, the Day of Holocaust Remembrance, which begins at sundown on Monday, April 15, 1996.

Professor Karski is a hero not only to his own people but to all of humanity. With his unwavering courage and integrity, Professor Karski is a role model for us all, for he demonstrated how the human spirit can triumph over extreme evil and adversity. Now in his eighties, Professor Karski continues to speak out against racism, anti-Semitism and intolerance so others might learn from the horrible mistakes of the past.

HONORING HONEY MILLER FOR HER MANY YEARS OF COMMUNITY SERVICE

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. ACKERMAN. Mr. Speaker, I rise today to join with my constituents and with the members of the Eastern Queens Democratic Club as they honor Honey Miller at the club's annual dinner at the Douglaston Manor in Queens County, NY.

For many years, Honey Miller has been a model of what the term "community activist" should mean. While serving as deputy director of Queens community boards from 1985 through 1990, Honey used her expertise to help local boards address major, complex issues that impacted on the growth and development of the borough's many communities. While immersed in this ongoing role Honey developed a second field of expertise by becoming a professional volunteer. As a PTA leader, president of the Aviva chapter of B'nai Brith, a companion to children with emotional problems at the Creedmoor Hospital, a chairwoman of the adult-education program at the Marathon Jewish Center, a volunteer at the Queens County District Attorney's office, and a chauffeur for senior citizens at the Samuel Field Y, Honey Miller established a reputation as someone who could undertake any task and get the job done.

Mr. Speaker, the community has not only benefited from Honey's dedication, but also has responded to her good works by presenting her with many and varied honors, including Woman of the Year for the northeast Queens Memorial Day parade, certificates of achievement from B'nai Brith and the Marathon Jewish Center, citation of achievement from the metropolitan region of the United Synagogue of America, the Community Service Award from the Glen Oaks Volunteer Ambulance Corp., and the certificate of merit from the Queens Women's Center.

Fully understanding the workings of American government and responding in the true American spirit of voluntarism and civic participation, Honey has risen to a variety of prominent positions in the area of elected leadership. While currently serving as Democratic district leader for the 24th Assembly District, a position which she has held since 1972, Honey has also chaired the women's division of the New York State Democratic Committee, was treasurer of the Women's Executive Committee of the Queens County Democratic Organization, second vice chairperson of the Queens Democratic Committee, and served as delegate to the last five Democratic National Conventions.

Mr. Speaker, Honey Miller has come to symoblize the truest example of the American participatory spirit. I ask all my colleagues to join with the grateful people of the Fifth Congressional District in extending to Honey Miller the highest accolades of appreciation and recognition.

HONORING SISTER CHARLOTTE

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. PASTOR. Mr. Speaker, today I rise to congratulate Sister Charlotte of Project YES!, who has been chosen as a recipient of the National Service Award. I am especially pleased that her work is being recognized at the national level for two reasons: First, she has been a strong and tireless advocate for children, and second, she has brought resources and attention to an economically deprived area. It is because of her work that the children living in this multiethnic area have access to educational opportunities, and more importantly, hope.

She has provided opportunities for the children in her neighborhood to work with tutors, to socialize, to have enriching educational experiences, to be in sports leagues, to develop spiritually, to better understand their culture, and to bond with adults. She has created a loving, caring, safe environment for many children who have never known such a place. For many of these children, Project YES! is not just a home away from home, it is the only home they know.

Because Project YES! is so special to the children, the only discipline needed is the threat of time out from Project YES! No one misbehaves because no one wants to be excluded even for a few hours.

Sister Charlotte first became involved in Project YES! in 1983 as a member of its board of directors. Her background in guidance counseling and teaching encouraged her interest and her enthusiasm for this alternative way of reaching children. Consequently, in 1987 she left her elementary school administrator position with the Santa Cruz Catholic School and became the executive director of Project YES!

Under her creative and enthusiastic direction, Project YES! has become a vital force in the lives of hundreds of children and of their parents. In addition to the supportive environment and programs for the children, she has created parent-to-parent workshops in both English and Spanish where parents can learn from each other about good parenting skills. Parent-to-parent combines teaching, peer counseling, and sharing to help parents find caring ways to guide their children.

Sister Charlotte is a resource we treasure in the Second District of Arizona. We are proud that her programs for children are being recognized, and I congratulate her on her accomplishments.

TRIBUTE TO JEWISH WAR VETERANS U.S.A., NORTH ESSEX, POST 146

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. MARTINI. Mr. Speaker, I rise today to pay tribute to a very special group of Americans from the Eighth Congressional District of New Jersey.

On March 15, 1896, a group of Jewish veterans gathered for the first time and formed an organization by pledging to maintain their true allegiance to the United States, to stand against the sway of bigotry, and to honor the patriotic service performed by men of Jewish faith. This organization, the Jewish War Veterans U.S.A., has for a century offered a steadfast portrait of loyalty, sacrifice, and self-resolve.

Our loyalties mark the kinds of persons we have chosen to become. Real loyalty endures inconvenience, withstands hardship, and does not flinch under assault. The individuals who make up the Jewish War Veterans U.S.A. consistently allow this genuine loyalty to pervade the whole of their lives.

The members of JWV, Post 146 remind us that the loyal, patriotic citizen expects no great reward for coming to his country's aid. On the contrary, a devoted patriot seeks only that his country flourishes.

When it comes to honoring their country, their faith, and their comrades, the veterans of Post 146 know that good intentions are no guarantee for right actions. Indeed, the members of Post 146 have demonstrated both the wisdom to know the right thing to do, and the will to do it. Certainly, they have lived up to the obligations of loyalty, patriotism, and service.

To be a loyal citizen means to achieve a high standard of caring seriously about the well-being of one's nation. I am proud to honor and praise the Jewish War Veterans U.S.A. for exceeding this standard. Congratulations JWV U.S.A. for 100 years of Jewish pride and American patriotism, and Post 146 on your 60th anniversary.

WELCOME BACK LOU STOKES

HON. STEVE C. LaTOURETTE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. LATOURETTE. Mr. Speaker, yesterday my friend and colleague, LOU STOKES, returned to the House of Representatives. I wanted to take this opportunity to tell him how much his presence and guidance were missed in this institution, and how the Congress is enriched to have him back, and in good health.

Anyone who knows Lou Stokes knows it would take nothing short of major surgery to keep him away from the House of Representatives. As it turns out, it was major heart surgery that kept Lou away, which seems fitting because Lou has one major heart. I am pleased he came through his surgery with flying colors, and know he will resume his work with the same level of intensity and commitment we've all come to expect from him. I thank the fine doctors of the Cleveland Clinic for taking care of our good friend, and sending him back to us as good as new.

As a member of the Ohio delegation and a Representative from northeast Ohio, I have always valued Lou's experience and wisdom, and feel blessed to have a role model like him in the House. In all my dealings with Lou Stokes he has been fair, forthright, and decent, and it is greatly appreciated.

So, on the occasion of his return to the House, I wish him well. The dean of the Ohio delegation was dearly missed, and I for one am very glad that he is back.

LARS ANDERSON

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. RICHARDSON. Mr. Speaker, it is with great respect and admiration that I honor today a business associate, good friend, and fellow New Mexican, Lars Anderson.

Mr. Anderson was recently honored by the New Mexico AIDS Services by receiving the Ron McDaniel Award, named for the late AIDS and human rights activist. This tribute recognizes commitment and compassion for people impacted by HIV in Santa Fe, NM. Today I salute Mr. Anderson for this revered honor.

Mr. Anderson is a highly dedicated and responsible individual, whether in financial management, where I have benefited from his expertise, or in his steadfast endeavors to help others in need. He has been volunteering many hours for over 2 years with the Hand-in Hand Practical Support Program, assisting those who are dying with AIDS. He has given his loyal support to help relieve the pain, both physically and emotionally, to those afflicted with this fatal disease.

I am extremely grateful to be associated with Mr. Anderson. I respectfully invite all of my colleagues in the House of Representatives to join me in giving tribute to this esteemed New Mexican.

CUPA 50TH ANNIVERSARY

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. LEVIN. Mr. Speaker, I rise today to acknowledge an association that has had a significant impact in the advancement of higher education human resource management—the College and University Personnel Association [CUPA], which celebrated its 50th anniversary on April 11, 1996.

The association was started by a visionary named Donald E. Dickason, a former director of nonacademic personnel at the University of Illinois at Champaign in 1946. At that time, Dickason invited representatives from more than 50 post-secondary institutions in the Midwest to a forum to discuss problems unique to higher education personnel administration. He envisioned an Association that would provide timely information and support to help foster leadership among personnel administrator. He envisioned an Association that would provide timely information and support to help foster leadership among personnel administrators and growth among institutions. The 44 individuals who attended the meeting agreed and thus CUPA was born.

I first became aware of CUPA when I sponsored H.R. 127, the Employer Provided Education Assistance Act to reinstate the exclusion from income for employees who receive compensation for education expenses from their employer. As many colleges and universities use this valuable training and re-training tool to help their personnel keep on the cutting edge of new technology and information in various education fields, CUPA has helped to lead the charge in trying to reinstate this important provision to the tax code.

It is in this tradition that CUPA promotes effective management and development of human resources in higher education by providing a forum for the exchange of ideas and providing valuable information and services to its membership on the national, regional, and chapter level.

Among the functions CUPA provides is the distribution of information critical to expanding and enhancing the higher education human resource management profession through publications and other actions. CUPA provides such support and assistance to help its membership understand and comply with various federal laws and regulations such as the Civil Rights Act, the Age Discrimination in Employment Act [ADEA], the Americans with Disabilities Act [ADA], and the Family Medical Leave Act [FMLA] to name just a few. By providing this valuable information in a timely and professional manner, CUPA helps to ensure their members are living up to both the spirit and the intent of these important worker right and protection laws.

CUPA has grown from the original 44 individuals who attended the first meeting in 1946 to 6,100 human resource administrators representing more than 1,800 colleges and universities and other institutions interested in the advancement of the human resource profession nationwide.

I ask my colleagues to join me in recognizing the many accomplishments of CUPA, in congratulating them on 50 years of excellence, and in wishing them well in their next 50 years of service.

HISPANIC COORDINATING COUNCIL AWARDS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. VISCLOSKY. Mr. Speaker, on Saturday, April 13, 1996, numerous outstanding Hispanics from Indiana's First Congressional District were honored for their notable contributions to northwest Indiana. Student Recognition Awards, a President's Award, a Community Outreach Award, a Cesar Chavez award and an Outstanding Family Award were presented by the Hispanic Coordinating Council during a banquet held at the American Legion Post No. 369 in East Chicago, IN.

Sixty Hispanic students representing thirty northwest Indiana and northeast Illinois high schools were recognized for their academic and athletic achievement. The students who received awards for Outstanding Academic Achievement include: Melissa Hogg, Andrean High School; Angelica Quiroz, Calumet High School; April Ybarra, Clark Middle/Senior High School; Leandro Cortez, Jr., East Chicago Central High School; Fidel Lopez, Edison Junior/Senior High School; Laura Rivera, Gavit Middle/High School; Susan Barriga, Griffith Senior High School; Tina Rongel, Hammond High School; Iris Sanchez, Hanover Central High School; Raymond Padron, Hebron Junior/Senior High School; Nicole Yadron, Highland High School; Nina Ramos, Hobart High School; Elvin Roman, Horace Mann High School; Megan Mendoza, Lowell High School; Carmen Bonilla and Robert Martinez, Merrillville High School; Rebekah Perez, Morton High School; Christopher Garcia and Odette Gutierrez, Munster High School; James Espinoza, Portage High School; Patrica Cisneros and Javier Fuentes, River Forest High School; Mabel Lamas and Allison Karas, Thornton Fractional North High School; Leslie Cruz, Thornton Fractional South High School; William Marquez and Alison DeSchamp, Valparaiso High School; and Santiago Rodrigues, Jr., Whiting Middle/High School.

The students who received awards for Outstanding Athletic Achievement include: Mathew Murawski, Andrean High School; Israel Anthony Roman, Bishop Noll Institute; Daniel Mendez, Boone Grove High School; Seleno Gomez, Calumet High School; Manuel Amezcua, Clark Middle/Senior High School; Paul Maldonado and Frank Chabes, East Chicago Central High School; Nick Reyes, Edison Junior/Senior High School; Enrique Luna, Gavit Middle/Senior High School; Stefanie Dominquez, Griffith Senior High School; Diana Cruz, Hammond High School; Jennifer Conley, Hanover Central High School; Rachel Guzman, Highland High School; Kristopher Kingery, Hobart High School; Jose Fogleman, Lowell High School; Mike Villanueva, Merrillville High School; David Mendoza, Morton High School; Alaina Altschu and Derek Serna, Munster High School; Nicholas Munoz and Leroy Vega, Portage High School; Mellissa Piunti, River Forest High School; and Luis Dominguez, Whiting Middle/Senior High School.

Those students who received awards for being an Outstanding Student include: William

Maldonado, East Chicago Central High School; Zack Escobedo, Lake Ridge Middle School; Thomas Bonez, Portage High School; and Jason Lee Pedroza, River Forest High School.

The Council also presented the Outstanding Family Award to Jose and Josephine Valtierra and their 11 children. This distinguished family was carefully selected from many qualified families on the basis of their unity and dedication to one another's successes. The Senoras of Yesteryear received the President's Award. This Senoras of Yesteryear honors women who have recorded and documented achievements of Hispanic families in East Chicago and the Indiana Harbor Region. The Community Organization Award was presented to the Hammond Hispanic Community Committee. Juan Andrade, Jr. earned the Cesar Chavez Award for co-founding the Midwest-Northeast Voter Registration Education Project. Juan was also recently named one of the "100 Most Influential Hispanics in America" by the Hispanic Business Magazine.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in applauding all of the award recipients chosen by the Hispanic Coordinating Council. I feel that all of the participants are most deserving of the honors that were bestowed upon them. Moreover, I would like to commend the Hispanic Coordinating Council, its President, Ben Luna, and all of the Council members for committing themselves to preserving their culture. It is my privilege to commend them on their achievements.

25TH ANNIVERSARY OF GAY AND LESBIAN ACTIVIST ALLIANCE OF WASHINGTON, DC

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Ms. NORTON. Mr. Speaker, Tuesday, April 16, 1996, marks the 25th anniversary of the Gay and Lesbian Activist Alliance [GLAA]. GLAA is the oldest consistently active lesbian and gay political and civil rights organization in the United States. I am proud to represent GLAA in Congress and to count its members among my friends.

Since its founding in 1971, GLAA has remained a nonpartisan organization and a consistent force advocating the civil and political rights of the lesbian and gay people in Washington, DC, and across the Nation. GLAA has played a pivotal role in establishing a ban on discrimination against lesbian and gay public schoolteachers in Washington, DC, the first in the Nation. Its efforts helped lead to the passage of DC's Human Rights Act, the founding of the Civilian Complaint Review Board, the reform of the District's sodomy statute, and the enactment of DC's domestic partnership law.

GLAA's work with elected officials in Washington, DC, has resulted in more effective AIDS prevention programs targeted to the public schools, to the prisons, to the homeless, and to underserved populations in the Nation's Capital. The alliance's tireless advocacy on behalf of persons living with AIDS increased local funding for AIDS services and programs.

I hope my fellow Members will join me in congratulating the Gay and Lesbian Activist Alliance on its 25th anniversary. I wish them every success in their future endeavors.

TRIBUTE TO DR. JAMES J. FADULE, JR.

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. MARTINI. Mr. Speaker, I rise today to pay tribute to a very special individual from the Eighth Congressional District of New Jersey.

Dr. James J. Fadule, Jr. has served as superintendent of the Nutley Public Schools for the past 18 years and has set the standard for pedagogical excellence.

"What should I be when I grow up?" is a question many young people ask when they are in school. Dr. Fadule has changed the premise of the question by encouraging students to ask "What should be my work in the world?" This is not a question about a paycheck, but a question about life.

The work of Dr. Fadule's life has been to push students and teachers to expand their energies for the sake of achieving something special. Work in this intrinsic sense is not what we do for a living but what we do with our living.

Some of life's greatest joys come from the work of one's life. Indeed, those who have neglected the joy of work, of a job well done, have lost something very meaningful. Thank you, Dr. James Fadule for your life's work—I am certain that as you begin your retirement you will continue to encourage, teach, and appreciate others in all that you do.

THE ENVIRONMENT

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Ms. PELOSI. Mr. Speaker, as we approach the 26th anniversary of the first Earth Day next Monday, I would like to make the following observations about the 104th Congress.

The 104th Congress came to Washington with an aggressive, antienvironment agenda promoted largely by industry and special interest groups who were determined to turn back 25 years of progress to protect public health, safety, and the environment.

The budget cuts proposed by the Gingrich Congress for the Department of the Interior and the Environmental Protection Agency are aimed at the heart of our Nation's environmental protection. The two departments with the greatest environmental authority have become the prime targets in the current attack on the environment.

The proposed cut in funding for the EPA is 21 percent below last year's level, which would seriously affect EPA's enforcement of clean air, clean water, and safe drinking water laws. The Interior appropriations bill included provisions to open Alaska's Tongass National Forest to increased logging and continue the moratorium on listing new endangered species.

The funding for protection of our Nation's wetlands, endangered species, forests, and public lands must not be sacrificed in favor of short-term profits for miners, grazers, and developers. Programs to protect our Nation's water and air should not be held hostage to budget antics that have left these primary environmental agencies limping through the 1996 fiscal year with only a fraction of the funding needed to function.

The impacts of Republican cuts to the EPA include:

Weakened enforcement of environmental laws—including a 40-percent reduction in health and safety inspections of industrial facilities;

Delayed new standards to protect drinking water—including tap water standards for pollutants like cryptosporidium, which killed 100 people in Milwaukee in 1993;

Delayed new and ongoing cleanups at toxic waste sites—start of new construction halted at 68 sites; pace of cleanup slowed at 400 sites;

Rolled back community right-to-know information about toxic chemicals;

Created barriers to developing new controls to protect rivers and streams from industrial water pollutants;

Delayed approving pesticides with lower health risks as a safer alternative for farmers;

Delayed new standards for toxic industrial air pollutants;

Delayed review of air pollution standards to ensure adequate health protection; and

Delayed studies on how toxic chemicals may impair reproductive development and studies on how pollution affects high-risk populations.

These are just some of the effects of the cuts to EPA funding. I have not even listed the serious impacts of spending cuts on the Department of the Interior.

I will conclude with two observations. First, scientists say you cannot separate personal health from the health of our environment. Pollution prevention equals disease prevention. These foolish cuts are reducing our Nation's investment in public health. It is false economy to cut back on enforcement of clean air and clean water. How sad that 26 years after the first Earth Day and a generation of fighting pollution, the Republicans are choosing to dismantle environmental programs.

Second, I will call attention to a report on environmental protection by the California State Senate. The press reports, "Contrary to popular belief, environmental regulations are not a major cause of job losses and declining economic performance."

The Senate report concludes that environmental laws are not a major cause for the relocation of business to other States or countries. According to the report, more jobs are lost from leveraged buyouts and mergers than from controlling pollution.

The American people have the answer—they want a safe and healthy environment. We should follow their lead, and we should live up to their expectations that the Federal Government will ensure their health and safety at all levels. We should remember that every day of every year.

H.R. 3173—THE CONSUMER PRODUCTS SAFE TESTING ACT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. LANTOS. Mr. Speaker, I rise today to call to the attention of my colleagues the Consumer Products Safe Testing Act which I recently introduced, along with thirty-two of our colleagues. This long-overdue legislation aims at scaling back outdated and burdensome federal regulations used by the FDA and other Federal agencies regarding toxicity testing of cosmetics, corrosives, and other substances. The bill calls on all Federal regulatory agencies with jurisdiction over toxicity testing to review and evaluate their regulations concerning animal acute toxicity testing. The bill establishes no new mandates regarding animal toxicity testing. For many years, the Federal Government has used animals to test the toxicity of consumer products. This bill seeks to establish, wherever possible, non-animal acute toxicity testing as an acceptable standard for Government regulations without compromising human safety.

Development of new technology has achieved substantial gains in the field of non-animal alternatives for acute toxicity tests. Many cosmetic companies, including Avon, Revlon, Redken, Paul Mitchell, The Body Shop, and Nexxus, already use alternatives to animal testing for screening and developing their products. In addition, many biotechnology firms are developing non-animal tests to determine the safety of various consumer products they produce. These tests include Skintex by InVitro International and Testskin by Organogenisis, Inc., which use human skin equivalent to measure irritancy. InVitro has actually developed a series of non-animal test kits which evaluate and rank irritancy and toxicity of a wide variety of substances.

Despite these advances, the Federal Government still relies on animals for toxicity testing. The result is that many companies at the cutting edge of non-animal technology are forced to market their products overseas. If the United States is to remain a world leader in biotechnology, we must reexamine our Federal regulations to reflect the advances in testing methods already in progress. If we fail to encourage developments in this field and continue using outdated federal regulations, we run the risk of falling behind the rest of the industrialized world and losing our position as a world leader in science. By calling on the Federal Government to reevaluate its regulations on toxicity testing to include non-animal tests wherever possible, the Consumer Products Safe Testing Act will encourage U.S. companies to develop and market non-animal testing products in the United States.

Non-animal alternatives to toxicity tests, in addition to being more humane, produce better data and reduce costs over the long term. Scientists agree that, despite the usefulness of animals for testing purposes, human cells and tissue produce more accurate results. As technology progresses to develop an acceptable battery of tests, non-animal toxicity testing can provide a more cost effective method of testing products. Savings can be realized from reduction in animal care and storage, in addition to time saved.

Time involved in product testing remains a crucial factor. Many product development companies spend large amounts of time and resources in the government regulatory process. Animal testing often takes several years to complete. If acceptable alternatives are developed, this would save the producer, as well as the regulatory agency, time and money during the lengthy and cumbersome approval process. In asking the Federal Government to review its regulations concerning toxicity testing, the bill takes a bite out of federal regulation, while ensuring consumers' safety.

In recognition of the contribution animal tests make to the medical community, the bill specifically exempts all medical research. Only regulations regarding toxicity testing are affected.

I am delighted to sponsor the Consumer Products Safe Testing Act. This legislation will move towards ensuring that the Federal Government treats non-animal acute toxicity testing as an acceptable standard and that outdated and cumbersome regulations are reviewed and reevaluated.

THE "WE THE PEOPLE" PROGRAM

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. BURTON of Indiana. Mr. Speaker, on April 27–29, 1996, more than 1,300 students from 50 States and the District of Columbia will be in Washington, DC, to compete in the national finals of the "We the People . . . the Citizen and the Constitution" Program. I am proud to announce that the class from Lawrence Central High School in Indianapolis, IN, will represent Indiana's Sixth Congressional District. These young scholars have worked diligently to reach the national finals by winning local competitions in their home State.

The distinguished members of the team representing Indiana are: Amber Anderson, Carrie Anderson, Heather Bailey, Alicia Crichton, Nathan Criswell, Finda Fallah, Jeremy Freismuth, Lourie Gilbert, Robert Gordon, Phillip Gray, Amanda Gross, Tim Halligan, Lindsey Hamilton, Brandon Hart, Scott King, Brent Patterson, Mike Petro, Megan Pratt, Jason Roberts, Anthony Roque, C. David Smith, Tony Snider, Tomeka Stansberry, Crystal Sullivan, Sarah Thompson, Gene Wagner, Maurice Williams, and Mike Zabst.

I would also like to recognize their teacher, Drew Horvath, who deserves much of the credit for the success of the team, The district coordinator, Langdon Healy, and the State coordinator, Robert Leming, also contributed a significant amount of time and effort to help the team reach the national finals.

The "We the People . . . the Citizen and the Constitution" Program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day national competition simulates a congressional hearing in which students' oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Administered by the Center for Civic Education, the "We the People . . ." Program, now in its ninth academic year, has reach more than 70,400 teachers, and 22,600,000 students nationwide at the upper elementary, middle, and high school levels. Members of Congress and their staff enhance the program by discussing current constitutional issues with students and teachers.

The "We the People . . ." Program provides an excellent opportunity for students to gain an informed perspective on the significance of the U.S. Constitution and its place in our history and our lives. I wish these students the best of luck in the national finals and look forward to their continued success in the years ahead.

TRIBUTE TO DR. LOREN BENSLEY OF CENTRAL MICHIGAN UNIVERSITY

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize an outstanding teacher, writer, and scholar as he retires from Central Michigan University. On May 2, 1996, Dr. Loren Bensley will celebrate his retirement after 33 years of service to his students, the community, and the health profession.

Dr. Bensley is recognized as a State, national, and international scholar in the field of health education, with 60 publications and more than 100 presentations to his credit. As president of the American School Health Association, he received 32 awards from various professional organizations for his leadership and contributions. Under his leadership, the Eta Chapter of Eta Sigma Gamma, the National Health Science Honorary, won the National Chapter of the Year award 10 times. Such outstanding accomplishments are a testament to his academic brilliance and exceptional leadership capability.

Mr. Speaker, Dr. Loren Bensley's love for and dedication to education is clear. He has consistently gone beyond what was expected or required to achieve excellence not only in teaching, but writing and leadership. His reputation as a kind, inspiring, and hard-working scholar will serve as an example to all who know him for many years to come. I know you will join me in recognizing his achievements and wishing him a satisfying retirement.

"ANSWERING AMERICA'S CALL" HAWAII'S WINNING ESSAY IN VOICE OF DEMOCRACY CONTEST

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mrs. MINK of Hawaii. Mr. Speaker, I submit the winning essay in the Hawaii State Veterans of Foreign Wars Voice of Democracy Competition. The author, Emily Shumway, resides in my district. She attends Kahuku High School and serves as the senior class president. In her script, Ms. Shumway explores the theme "Answering America's Call." Her entry gained national recognition from the Veterans of Foreign Wars, and she was recently awarded the Mr. and Mrs. James H. Black Scholarship.

I join with her parents, Mr. and Mrs. Eric Brandon and Carolyn Merrill Shumway of Laie, HI, to congratulate Emily Shumway for her outstanding performance in the 1996 Voice of Democracy Program. The VFW Post 3927 of Waimanalo, HI, sponsored her in this year's contest. Her essay is as follows:

ANSWERING AMERICA'S CALL

(By Emily Shumway)

A young boy clings to his mother's black dress, his eyes fixed on the bright flag draped over a coffin. The rays from the blazing Arizona sun sparkle and dance on the shining flag, causing it to glitter. The flag lights up the gloomy circle he stands in. His trance is broken by the sound of crying. He looks over at Corporal Far's young widow, her whole body shaking in anguish and sorrow. He moves his attention towards a young marine in a crisp blue uniform. He watches the soldier closely as he removes a shining gold bugle from its case. The bugle boy raises the instrument to his lips and starts to play. The haunting melody of "Taps" fills the little boy's ears and goose bumps rise on his skin. Each moving phrase of the melody is echoed by another bugler standing on a hill about a quarter of a mile away. The music penetrates the silence across the lonely Arizona desert. To the small child, the whole desert resonates. So much so, that even the sagebrush and the tumble weeds seem to stand at attention. He senses that he is witnessing one of the most significant of human events. There is a line of military men standing alongside the casket with burnished rifles at their sides. In unison they raise their guns into the air and fire 3 shots as the final note of "Taps" floats solemnly over the crowd and lingers for a few moments. The feeling in the air is almost tangible. Even the little boy of five recognizes the importance of what he is observing. He is not a spectator, but a participant in the event taking place. His attention returns to the flag in the center. "What does one do to deserve such honor?" he thinks.

If America could speak she would say, "I need men and women who would give their very lives to protect me and preserve the freedom and justice I stand for. Patriotism in this country, so vital for a nation's survival, has been increasingly replaced by cynicism and mistrust of government. I need men and women who embody the same spirit that possessed George Washington, Paul Revere, Abraham Lincoln, Frederick Douglas, Susan B. Anthony, Harriet Tubman, Theodore Roosevelt, Sergeant York, General MacArthur, and even Corporal Far."

America's call is a call to uphold her commitment to peace, freedom, liberty, and justice for all. In an age where discontent and excessive individuality seek to undermine and trivialize patriotic actions, America calls out to each man, woman, and child to remember the sacrifice of thousands, even millions, like Corporal Far. They believe in America's future and they proved it with their very lines. May each one of us of the rising generation know and feel, as did the five year-old Arizona boy, the honor of devoted service to our country. Though we may not die for our country, let us live for it by seeking for ways to uphold and strengthen its righteous institutions while constantly focusing on improvement. Each one of us must thus answer America's call.

IN SUPPORT OF 35TH ANNIVERSARY OF THE PEACE CORPS

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today to offer my congratulations to the Peace Corps on the celebration of its 35th anniversary and to thank all of the many volunteers who have given so much of themselves over the past three and a half decades to ensure the success of the Peace Corps mission abroad.

The Peace Corps currently has over 6,000 American volunteers operating in 94 countries, providing skills and services that range from teaching English in densely populated cities to repairing damaged or outdated water structures in remote villages. The beauty of this program is that it is a cultural exchange. Yes, the host countries are exposed to some of the technological and social advancements our country has to offer through the important services of the Peace Corps volunteers; but after 2 years of service, the volunteers also bring back home with them more than they could ever anticipate: a new language, a new culture, new job skills, and an enlightened world view. This is a win-win program if I've ever seen one.

Knowing that the creation of the Peace Corps was one of President Kennedy's proudest accomplishments during his administration, I am pleased to see that my uncle's vision for the involvement of U.S. citizens in international development has endured. My hat's off to all current and former Peace Corps volunteers, and I sincerely hope that their idealism and service to both our country and our international neighbors continues to be passed on from generation to generation.

SIDE WITH DOCTORS AND SCIENTISTS, NOT THE DOPE PUSHERS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. SOLOMON. Mr. Speaker, the pro-drug crowd is at it again, Mr. Speaker. They never tire of their sneaky attempts at legalizing drugs. Their latest endeavor is in, no surprise here—California—where a fringe group called Californians for Compassionate Use is lobbying the California Legislature to pass two bills which would legalize marijuana use for medicinal purposes. Because marijuana has no medicinal value, it is fairly obvious that this is nothing but a backdoor attempt to legitimize the use of marijuana for all purposes. And that is not just my opinion.

Mr. Speaker, the FDA has repeatedly rejected marijuana for medical use because it adversely impacts concentration and memory, the lungs, motor coordination and the immune system. A recent evaluation of the issue by scientists at NIH concluded, "after carefully examining the existing preclinical and human data, there is no evidence to suggest that smoked marijuana might be superior to currently available therapies for glaucoma, weight loss associated with AIDS, and nausea and vomiting associated with cancer chemotherapy."

Marijuana weakens the human immune system. That is why oncologists reject the idea of prescribing smoked marijuana for cancer chemotherapy. Experts also oppose the use of marijuana to treat glaucoma. As for AIDS patients, it does not facilitate weight gain, further weakens the immune system, and puts them at significant risk for infections and respiratory problems.

For these reasons the American Cancer Society, the American Glaucoma Society and the American Medical Society all oppose using marijuana for medicinal purposes.

Unfortunately, this seriously misguided effort is not limited to some hippies out in California. It has reached the Congress of the United States. Representative BARNEY FRANK has introduced legislation—H.R. 2618—that would federalize the right to use marijuana for medical purposes. This is dangerous legislation—and I can assure you, Mr. Speaker, that I will stop H.R. 2618 dead in its tracks should it receive significant support—something I do not anticipate happening.

I urge my colleagues to focus on what this issue is all about: The organizations lobbying for H.R. 2618 are intentionally exploiting the pain and suffering of others as part of their backdoor attempt to legalize marijuana.

TRIBUTE TO JACK SHAFFER

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. SHUSTER. Mr. Speaker, I rise today to pay tribute to Mr. Jack Shaffer. No words could better describe the character of Jack Shaffer than were expressed in Time magazine on the naming of his new cabinet officers by President Nixon in 1968, "cool competence rather than passion or brilliance."

Many of our Nations' leaders are born in small rural towns. Everett, PA on Feb. 25, 1919, was Jack's birthplace. He grew up much the same as any small town boy would. Appointed to West Point in 1941, where he played football, he was a member of the first class to receive airmen's wings upon graduation. From there he went to transition flight school, thence to England where he flew forty-six combat missions over Europe in a B–26.

Staying in the Air Force, he became a project officer in Ohio directing the engineering development of the B–47 and B–50 programs. He then resigned his commission and joined the Mercury division of the Ford Motor Co., moving to Washington as corporate vice president for customer requirements of TRW Inc.

With the return of the Republican Party to the Presidency in 1968, President Nixon selected him to become Administrator of the Federal Aviation Administration and he was easily confirmed by the Senate.

Having volunteered his time to the Agency before confirmation, he recognized the need for a massive increase in the civil aviation infrastructure. He saw, as his first priority, the need to modernize and update the Nation's air traffic control and airport systems. He also recognized that the surrounding environment needed protection. Although he was at odds with others in the administration, he stuck to his principles and succeed in passing, through a Democratic Congress, the Airport and Airway Development Acts of 1970. The Legislation set aside a trust fund for airport construction which is still a vital element in providing for the ever-increasing use of air transportation, not only in the United States but throughout the world.

In order to protect the flying public, although faced with strong opposition, he also established regulations to limit the number of flights per hour into five of the Nation's air traffic hubs. JFKennedy, Washington National, LaGuardia, O'Hare, and Chicago Midway. Although designed as a temporary fix, the restrictions still remain in place today. Growth continues to outpace capacity.

Another issue with heavy international connotations was the increase in aircraft highjacking. Highjackers flew aircraft to Cuba for refuge and in several instances, passengers or crew were killed. Negotiations with Cuba and other countries denied these criminals a safe haven. Passengers and luggage were screened for weapons. With air marshalls assigned by the FAA, the number of highjackings decreased dramatically by 1972. However, some of the safety arrangements still exist. During his tenure air safety reached a new high. In 1970, only two deaths occurred on U.S. air carriers.

The most difficult task for the Administrator was to instill confidence in the Agencies air traffic controllers. Following a sick-out by controllers on duty, with as many as 50% of a single shift calling in sick, delays and flight cancellations became burdensome to the flying public. Finally, in 1972, it took court action to curtail their union activities. The Air Traffic Controller Career Act, spearheaded by Jack Shaffer, provided early retirement and retraining for its group, some 20,000 employees.

As a result of these many advancements in the aviation system, Jack Shaffer, in 1972 was awarded the Wright Brothers' Trophy for outstanding service in advancing aviation. He was the first FAA Administrator to be so honored.

One of Jack Shaffers' friends is the legendary golfer, Arnold Palmer, also raised in a small Western Pennsylvania town. In many regards, the two are a lot alike, sharing the same qualities; tenacity, desire, passion for what they do and love of the game of golf. Both have reached the pinnacle of their profession, are pilots, and remember their heritage.

After leaving the FAA, Jack continued his career in the private sector acting as a consultant to Beech Aircraft Corp. and advancing the use of Liquid Natural Gas as a preserver of the environment. He is a role model for political appointees who move from the private sector to government when duty calls.

Jack has been married to Joan for over fifty years and they have raised three fine children. He is currently in a nursing home in Frederick, MD, and is sorely missed by those who know him and have benefited by his influence on their lives.

IN SUPPORT OF ROTARIANS AGAINST SUBSTANCE ABUSE FOUNDATION

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. MILLER of California. Mr. Speaker, I am pleased to introduce today a House concurrent resolution to recognize the work of the Rotarians Against Substance Abuse Foundation, the First Presbyterian Church of Concord, CA, and the Alcohol and Drug Abuse Council of Contra Costa County, CA.

These organizations came together in 1983 to promote the idea of engaging teenagers in positive activities and having fun without using alcohol and drugs. Through programs such as Friday Night Live, Club Live, and Rotary Life Club #1, teenagers participate in on-campus peer counseling, community services, Kidfest, and other fun and worthwhile activities. Today, with the success of these programs, this idea is being promoted all across our Nation and throughout the world.

These organizations deserve our commendation for their concern for children's well-being, community service, private initiative, and international promotion. Their work in providing positive activities for teenagers deserves the recognition and support of this House.

I urge my colleagues to support this important bill.

TWIN CITIES COMMUNITY HONORS INFLUENTIAL RESIDENT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. VENTO. Mr. Speaker, I rise today to acknowledge the work of Rev. James w. Battle and to thank him for his outstanding dedication to the St. Paul/Minneapolis communities in Minnesota.

Reverend Battle is the pastor of the Mount Olivet Baptist Church in St. Paul. His activities in the community, however, go far beyond his duties as pastor. Recently, the Luther Seminary recognized him for some of those activities by giving him the Seminary's Race, Church and Change Award. This award was given to Reverend Battle to honor him for his outstanding and tireless efforts to improve cross-cultural relations within the community.

Along with organizations such as the Urban League, Chamber of Commerce, Council on Black Minnesotans, Rainbow Coalition and others, Reverend Battle has taken the lead in the efforts to address many of our community's most daunting problems. He helped organize a meeting of gang leaders from cities across the Nation, brought together to talk about problems associated with gang activity and how they could help forge peace between gangs in their communities. On the local level, he has helped unite several Twin Cities congregations, forming the St. Paul Ecumenical Alliance of Churches. This amazingly effective alliance is helping these 16 congregations coordinate their efforts to address community problems.

During the years he spent giving his time and efforts to our community, Reverend Battle has participated in many efforts to improve the lives of our most precious and vulnerable citizens, our children. They are the future of the Twin Cities, and the nation. By opening doors of opportunity for young Minnesotans in the Twin Cities, Reverend Battle has helped ensure a strong future for our community. The mentoring and guidance he has provided to so many youth will not only increase those children's chances to achieve success, it will also ensure that the next generation of Twin Cities adults feels the same commitment to their community and respect for their neighbors that Reverend Battle holds in such high regard. These lessons are some of the most valuable ones a child will learn in his or her lifetime, and Reverend Battle has served as an exceptional teacher of these lessons.

There is still much work left to be done to address and fill the needs of some Twin Cities residents. However, Reverend Battle's efforts serve as a strong foundation as he and the rest of our community continue this struggle. I join the entire Twin Cities community in thanking him for his hard work on behalf of the community and its residents, and I look to walk through Samaria and face the problems and meet the challenges of the community with a strong leader, Rev. James W. Battle.

Mr. Speaker, I would like to enter the following article into the RECORD. It was printed in the St. Paul Pioneer Press on April 9, 1996. It is a wonderful summary of the good work Reverend Battle has accomplished in the Twin Cities.

[From the St. Paul Pioneer Press, Apr. 9, 1996]

PASTOR HONORED FOR COMMUNITY MINISTRY

(By Pat Burson)

The Rev. James W. Battle Sr. has preached peace to gang members, repentance to sinners and colorblind community service to the clergy.

Battle, known as much for his social activism as his pastorship of Mount Olivet Baptist Church in St. Paul, has opened the church's doors to the community for meetings. In 1993, he helped organize a summit meeting of gang leaders from around the nation to sit down and talk. He helped start an organization to unite local congregations to work collectively to solve problems in their communities.

Luther Seminary will award Battle, pastor of Mount Olivet, its annual Race, Church and Change Award today.

In giving him the award, Luther Seminary honors one of its own: Battle received a master's of divinity degree from the school in 1977. "It really surprised me," Battle said. "It let's me know you can make a difference in this world."

According to Rod Maeker, Luther Seminary's director of cross cultural-education, the award is given to unsung heroes for faithfulness to a ministry of reconciliation.

"The seminary views the Rev. Battle's exemplary ministry as a wonderful role model for seminary students, parish pastors and community leaders who are committed to serving their community," Maeker said. "He's a classic."

Battle has also worked to improve communication and relations between residents, merchants and organizations in the Frogtown neighborhood. And he is co-founder and co-chairman of the St. Paul Ecumenical Alliance of Congregations, an interdenominational, multiracial, grass-roots organization started in 1990 that brings together about 16 local congregations to address housing, education, crime and employment issues within neighborhoods.

Local ministers applaud Battle's insistence that churches get more involved in improving social, economic and living conditions within the communities they serve.

"He's been consistent in saying that churches need to be more responsive to those who have been left out—the underserved—whatever race," said the Rev. James Erlandson, pastor of Lutheran Church of the Redeemer who also is involved with the St. Paul Ecumenical Alliance of Congregations.

"Primarily, churches serve the middle class," Erlandson said, "If we're going to be consistent with Jesus' message and the prophets' message, we need to serve the poor and those who have been left out of the economic process, so we can be a voice for those folks. He's been reminding us of that."

Battle also is known as an advocate for families, children and education. He recently was involved with the Twin Cities African American Parent Involvement Committee, a local group that organized the African American Parent Involvement Day on Feb. 12. The effort was part of a national push to encourage more black parents to take an active role in their children's education.

Phillip Penn, human resources director for the St. Paul Public Schools, said Battle was an enthusiastic member of that organizing committee, attending all the meetings, and even opening his church for gatherings some Saturday mornings. Battle also was key in alerting other ministers about the project and urging them to spread the word to members of their congregations, Penn said.

"He was just extremely supportive in every way."

THE PASSING OF RABBI ARTHUR J. LELYVELD

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. STOKES. Mr. Speaker, I am saddened to announce the passing of Rabbi Arthur J. Lelyveld on April 15, 1996. Rabbi Lelyveld held the post of Senior Rabbi Emeritus of Anshe Chesed congregation (Fairmount Temple), having served as Senior Rabbi for 28 years. With his passing, we mourn the loss of a close friend and a nationally recognized civil rights and religious leader. I rise to share with my colleagues some important information regarding Rabbi Lelyveld and his contributions to the Nation.

Throughout his life, Rabbi Lelyveld was a strong and effective leader in the Jewish community. He was the founder and first president of the Jewish Peace Fellowship. In addition, Rabbi Lelyveld was the past national president of the American Jewish Congress and the American Jewish League for Israel. He served as national director of the B'nai B'rith Hillel Foundations, and executive vice chairman of the American-Israel Cultural Foundation.

During his lifetime, Rabbi Arthur Lelyveld was equally committed to the struggle for civil rights and social justice. At the height of the civil rights movement, Rabbi Lelyveld traveled with other clergy to Mississippi where they served as counselors to the Commission on Race and Religion. Although he was severely beaten, Rabbi Lelyveld was unwavering in his belief that the battle for equality could be won. He was a man of courage who shared a close friendship with Dr. Martin Luther King, Jr., and others involved in the struggle.

The Greater Cleveland community also benefited immensely as a result of Rabbi Lelyveld's strong dedication. He was a gifted orator and a well-known author who was able to draw upon his life experiences as a lesson for others. Rabbi Lelyveld served as the Bernard Rich Hollander lecturer in Jewish thought at John Carroll University, and senior teaching fellow at the Cleveland College of Jewish Studies. He also served as adjunct professor of religion at Case Western Reserve University.

The passing of Rabbi Arthur J. Lelyveld brings to a close a life of service which transcended religious and racial boundaries. He was a brilliant man who devoted his enormous intellect and energies to addressing and working to solve the inequities and ills in our society. He fiercely fought discrimination and racism wherever he encountered it. I came to know Rabbi Lelyveld through our serving on the board of directors together in the Cleveland Chapter, NAACP, and his involvement in the Civil Rights Movement in Cleveland. He was a man of peace but a warrior for righting the wrongs in our society.

In later years, one of my fondest memories was that I had the honor of presenting Rabbi Lelyveld when he served as guest chaplain for the House of Representatives. In his opening prayer delivered in this Chamber in 1993, Rabbi Lelyveld challenged us to conquer the problems facing our Nation, such as homelessness, hunger, and crime. He challenged us to set the standard for other nations to follow. In his prayer, Rabbi Lelyveld shared his vision for this Nation—"a vision of brotherhood, justice and peace."

On April 17, 1996, services for Rabbi Lelyveld will be held at Fairmount Temple in Beachwood, OH. It is my hope that his loving and devoted wife, Teela; his children, Robin, Joseph, David, and Michael; and other members of the family, will take comfort in knowing that others share their sorrow. Rabbi Lelyveld will be remembered for his service to humanity. In tribute to Rabbi Lelyveld, let us work together with renewed vigor to make his vision for our society a reality.

I want to share with my colleagues an article regarding Rabbi Lelyveld which appeared in the Plain Dealer newspaper.

RABBI ARTHUR J. LELYVELD, CIVIL RIGHTS FIGURE, DIES AT 83

(By Zina Vishnevsky)

CLEVELAND—Rabbi Arthur J. Lelyveld, nationally known as a fighter for civil rights and the state of Israel, died yesterday of complications from a brain tumor at Montefiore Home in Beachwood. He was 83.

The Cleveland resident was the spiritual leader of Fairmount Temple in Beachwood, one of the country's three largest Reform congregations.

He gained notoriety for his involvement in the formation of Israel, the civil rights movement and in the struggle against apartheid in South Africa.

He was rabbi of Fairmount Temple from 1958 until retiring in 1986. After becoming senior rabbi emeritus at Fairmount, he served as a lecturer in Jewish thought at John Carroll University, a Jesuit institution.

Rabbi David J. Gelfand, now the leader at Fairmount Temple, said Lelyveld used strict Judaic teachings to bring his civil rights message to synagogues.

"He spoke fearlessly as one of the great advocates of civil rights by making the message of the prophets come alive through his words and deeds," he said. "He emphasized from our own Jewish particularity the eternal importance of universality, the notion that all human beings are interrelated.

"He was fond of saying we were all made in the image of God."

Lelyveld served on the board of the Cleveland chapter of the NAACP in the 1960s and played a major role in the civil rights progress of Cleveland.

"He was the conscience of the community on many critical issues," said Carole Hoover, president of the Greater Cleveland Growth Association. "His strength was in his ability to pull us all together."

He was one of the nation's first rabbis to join the Rev. Dr. Martin Luther King Jr.'s campaign for civil rights. He participated in key marches, including Selma to Mongomery, Ala., and provided financial support to the Southern Christian Leadership Conference.

In 1964, as part of the Cleveland clergy team, Lelyveld served as a counselor for the Council of Federated Organizations under the National Council of Churches Commission on Race and Religion.

He was beaten with tire irons by segregationists while helping to register black voters in Hattiesburg, Miss.

"He was a giant—both as a rabbi and as a civil rights leader. He used his brilliant and keen mind to make people think deeper about social issues," said Rep. Louis Stokes, a Cleveland Democrat, who served on the NAACP board with Lelyveld in the 1960s. Stokes; his brother, former Mayor Carl B. Stokes; and Lelyveld became lifelong friends.

After the beating in Hattiesburg, Lelyveld said that he worried that police would not apprehend the suspects in his assault and would continue to harass civil rights workers.

He issued a statement to his supporters in Mississippi. "There is only one way to stay here and not be corrupted, only one way to stay and be faithful to Israel's convenants: That is to stay and stand up for decency and freedom, with all the risks involved. If you cannot do that—and it is understandable if you can't—then for the sake of your souls, leave Mississippi."

A month later, the men who beat Lelyveld received suspended sentences "on condition of good behavior" and were fined $500 each.

Although he was an anti-Zionist early in his rabbinical career, Lelyveld later said that he had "become convinced of the righteousness of the cause."

He worked for the establishment of Israel as a Jewish state when many American Reform Jews were not always strongly inclined to support Zionism or a modern state of Israel. He met with President Harry S. Truman at the White House in 1946 to encourage U.S. support for a Jewish state, at a time when the State Department seemed hostile to the idea.

In 1970, during the election to his third term as national president of the American Jewish Congress, he spoke out against an attack by Jewish extremists on Arab diplomats in New York in retaliation for a school bus attack in Israel.

"We cannot allow the horrifying acts of Middle East terrorists to push us into committing or condoning irrational attempts to take violent reprisals against Arab representatives in our country," he said.

Born in Manhattan, Lelyveld attended public schools in New York City and graduated from George Washington High School in Manhattan when he was 15 years old.

He attended Columbia College and was the first Jewish editor-in-chief of its newspaper, the Columbia Daily Spectator. He was the student leader of the Glee Club, led a band called the Columbia Ramblers and participated in soccer and wrestling. He graduated Phi Beta Kappa in 1933.

He earned his master's degree in Jewish theology and was ordained a rabbi at Hebrew Union College in Cincinnati. He then taught on a fellowship from Hebrew Union College for two years while his rabbinae was at Congregation B'nai Israel in Hamilton, Ohio.

He became a founder and first president of the Jewish Peace Fellowship, where he worked from 1941 until 1944.

Lelyveld served as executive director of the Zionist Organization of America's Committee on Unity for Palestine from 1946 to 1948. He was national director of the B'nai B'rith Hillel Foundation from 1947 to 1956. From 1956 until he came to Cleveland in 1958, he was executive vice president of the American-Israel Cultural Foundation.

He served as national president of the American Jewish Congress for three consecutive terms from 1966 until 1972 and had served at various times as president of the Synagogue Council of America and the Central Conference of American Rabbis, an association of Reform rabbis in the United States and Canada.

Lelyveld and his wife, Teela, made 28 visits to Israel.

As president of the Synagogue Council of America, Lelyveld served as a representative to the Vatican to improve Catholic-Jewish relations.

Lelyveld taught two religion courses at John Carroll University through the Jewish Chautauqua Society as the Bernard Rich Hollander lecturer, beginning in 1980. In 1989, he filled the Walter and Mary Tuohy Chair of Interreligious Studies at John Carroll.

In 1985, he spent a five-month sabbatical in South Africa as the guest of the United Progressive Jewish Congregation of Johannesburg.

His son, Joseph S., was a long-time New York Times correspondent who covered South Africa during the 1960s and again in the 1980s and is now executive editor of the Times. Lelyveld had once considered a career in journalism himself when he was in college.

In the late 1980s, after he retired from an active role at Fairmount Temple, Lelyveld spent several months in Oxford, England, as a scholar-in-residence at Oxford University. He returned again over the years and was invited back last summer.

He was also an author, One of his books, "The Steadfast Stream: An Introduction to Jewish Social Values," was published in September.

As past president of the Central Conference of American Rabbis, he wrote a book responding to contemporary radical theology entitled "Atheism is Dead," First published in 1968 by World Publishing Co., it was reissued in paperback in 1970 and again in paperback in 1985.

He was mentioned or written about in at least four books in 1993, including "A History of Jews in America," by Howard Schar, and "Truman," a biography by David McCullough.

In 1988, while on leave from John Carroll, Lelyveld served as a chaplain and lecturer on a 100-day Grand Circle Pacific Cruise aboard the Royal Viking Sea.

He was awarded the 1992 Martin Luther King Jr. Award for Social Justice by the African American Archives Auxiliary of the Western Reserve Historical Society.

Lelyveld served as senior rabbi at Temple Emanu El in Honolulu, Hawaii, from September 1994 until June.

He was a member of the Advisory Board of the Pastoral Psychology Institute of Case Western Reserve University's College of Medicine.

Survivors include his wife of 31 years, Teela, and daughter, Robin of Bethesda, Md. He is also survived by three sons from his first marriage to Toby Bookholtz: Joseph S. and David S., both of New York, and Michael S. of Arlington, Mass.; and five grandchildren.

Services will be at 3 p.m. tomorrow at Fairmount Temple, 23737 Fairmount Blvd., Beachwood. Arrangements are by Berkowitz-Kumin-Bookatz Memorial Chapel in Cleveland Heights.

Contributions may be sent to the Arthur J. Lelyveld Memorial Foundation, c/o Fairmount Temple, 23737 Fairmount Blvd., Beachwood 44122; or to the Religion Department of John Carroll University, 20700 N. Park Blvd., University Heights 44118; or to the Montefiore Nursing Home Hospice, David Myers Pkwy., Beachwood 44122.

STUDENT WINS FIRST PLACE IN VFW SCHOLARSHIP CONTEST

HON. FRANK MASCARA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. MASCARA. Mr. Speaker, I am pleased to report to my colleagues that Jonathan Bayat, a senior from Upper St. Clair High School in my district, has won first place in this year's Pennsylvania VFW Voice of Democracy broadcast script writing contest.

An outstanding student who has earned three letters in swimming, Jonathan plans to attend the American University here in Washington, DC, and pursue a career in international service. He also enjoys music and plays the guitar and trombone.

In the eloquent script Jonathan wrote for this contest, appropriately titled "Answering America's Call," he sends a message all of us here in Congress need to hear: We must work together as a community to overcome the problems of homelessness, poverty, and illiteracy. He urges us all to become involved and volunteer our time and talents to help those less fortunate than ourselves.

In an effort to ensure his message is read across the country and to honor Jonathan's accomplishment, Mr. Speaker I ask that his script be included in today's RECORD. Thank you.

ANSWERING AMERICA'S CALL

(By Jonathan Bayat)

"Now we must all hang together, or most assuredly we shall all hang separately." When Benjamin Franklin spoke those words to a small group of farmers, smiths, and artisans assembled some 219 years ago in Philadelphia, they were as true then as they are today. He told that group of men that if they were going to do what they had set out to do, to tell the King of England that they had had enough of his tyranny, then they must all stick together. Through thick and thin, through good times and bad times, they had to work together or they would all be killed. Their ideals, philosophies and culture would all be lost. Their unity made it capable for this great nation to rise from the loosely associated and disorganized thirteen colonies which preceded her.

The ability for Americans to come together regardless of race, color, or creed and work in unity for the most basic of American ideals has always made this nation great. From the thousands of Union troops who fought to preserve the nation during the Civil War to the thousands of men who left their homes in 1942 to fight for a land and a people most of them had never even seen, all of them rose to the occasion and to the call from their homeland, America. But the call extended beyond military service it went out to every man and every woman regardless of age.

When our American troops landed at Normandy they did not land alone, but rather were backed by the support of millions of Americans. Millions of Americans who did everything from designing the landing craft which our troops used in their amphibious assault, to the fastening of bolts on the armor plating of tanks which our soldiers used to break the back of the Nazi war machine. When Alan Sheppard became the first American to enter space he did not accomplish this task alone but rather he rode on a rocket that countless Americans played a role in developing. Every person had a function and it was the compilation of these capacities that made this monumental feat possible.

But what now is America's call? Is it to again go overseas to defend freedom worldwide or has the call, now, in recent years, sounded closer to home? Has the proverbial battle for the "American Way" moved from foreign shores to our own sacred soil?

The battle being fought now is on the streets of inner-city America and in the classrooms of every public school rather than at the 38th parallel or the DMZ. The battle is now fought with books, knowledge, clothing, and shelter. America now faces the enemies of homelessness, poverty, and illiteracy. But these enemies are neither too great nor too powerful for the transcendent American war machine.

Our focus must simply change. We as Americans must go forth into our own nation and wage war on poverty. Not only with monetary support but also with real community involvement: building houses for the poor, working in soup kitchens, teaching evening classes at homeless shelters. We as Americans must fight for those kids who for whatever reason, be it lack of parental supervision, poor public school systems or overall living environment cannot meet the basic reading and writing standards to be employed. These are the battles which face our nation today.

When Thomas Jefferson remarked in an address to congress that, "Free men without Education are not free for long," he spoke the truth. The lack of education and the poverty and degradation that it breeds must be met head-on and destroyed. I envision an America full of volunteers, a virtual nation of volunteers, an army of civilians fighting a battle which we as a country have lost in the past, an army which would put an end to suffering for thousands of men, women and children, and truly make this country the richest, strongest, and proudest the world has ever seen.

It is time for us, the citizens of the United States, to stand up, and through unity and cooperation fight and win the battle against poverty. In the immortal words of Benjamin Franklin, "United we stand, divided we fall."

THOMAS R. BROME ENDOWMENT FUND

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mrs. ROUKEMA. Mr. Speaker, I rise to congratulate Thomas R. Brome on the formation of the Thomas R. Brome Endowment Fund by his friends and colleagues at the Ridgewood, NJ, Public Education Foundation. The fund, with an initial endowment of $25,000, is being formed to honor Tom for his many contributions to the community. The fund will be used exclusively to support programs in education in Tom's name.

Tom's contributions have been enormous. He is a gentleman, scholar, corporate giant, community leader, philanthropist and an extraordinary friend. Even beyond his myriad accomplishments, his exemplary character establishes him as a role model for future leaders in America. He has three passions: his family—wife Mimi and their three children, Clint, Bethan, and Heather; his love of the law, and his commitment to volunteerism.

In both the public and private sector, Tom embodies the highest ethical and moral standards, affirms the dignity of every individual and creates compromise and consensus in environments often rife with discord. As a conciliator, Tom is the embodiment of "win-win" negotiations. His intellect allows him to do that, but it is his personal warmth, genuine willingness to listen and his ability to find a resolution greater than the sum of the parts that really speak to his special abilities.

Tom has led a life filled with distinctions. The 1960 graduate of Ridgewood High School graduated magna cum laude from Harvard University in 1964. At New York University Law School, he was a Root-Tilden Scholar. After graduation, he clerked for Warren Burger at the U.S. Court of Appeals in Washington before the jurist was elevated to the U.S. Supreme Court. Tom joined the firm of Cravath, Swaine & Moore in 1968, was elected partner in 1975 and is presently head of the Corporate Law Department.

Despite a challenging career and a rigorous workload, Tom has always managed to find time to give service to the community of Ridgewood and other causes.

Tom is in his third year as president of the Ridgewood Public Education Foundation, with the mission of broadening our children's education experience and helping our school system deliver a world-class competitive education. He has helped establish a successful partnership with the Paterson Education Foundation and a number of districts have looked to Ridgewood as a prototype.

In November 1994, Tom became president of the New York Legal Aid Society Board of Directors, an agency with which he has served since law school. As president, Tom had the task of negotiating contracts and restructuring Legal Aid's staff following an attorneys' strike and New York City's termination of Legal Aid contracts.

He is also co-chair of Weinfeld Associates, a fund-raising arm of NYU Law School, a former president and trustee of the Ridgewood Board of Education, and a former vestryman and warden at St. Elizabeth's Church in Ridgewood.

Tom and I go way back—back further than either of us would care to admit. He was my student at George Washington Junior High School in Ridgewood. From those days a long time ago, I could see Tom was destined for great things. He was sharp, disciplined, handled himself very well, displayed great character and his classmates turned to him for answers. In short, he was a leader among leaders even then.

It is Tom's propensity for hard work, his facile mind and his wonderful ability to deal with people that have allowed him to balance a truly Herculean schedule. Everything he does, he does with full effort and with grace and sensitivity. Perhaps it is the dignity with which Tom treats every individual that truly inspires people to do their best. Ridgewood is truly blessed to have Tom as a resident and I am truly blessed to be able to call him my friend.

CONGRATULATING MICHAEL KENNY, FLORIDA VOICE OF DEMOCRACY WINNER

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. BILIRAKIS. Mr. Speaker, each year the Veterans of Foreign Wars and its ladies auxiliary conduct the Voice of Democracy Broadcast Scriptwriting Contest. This year, more than 116,000 secondary school students participated in the contest, competing for the 54 national scholarships totaling more than $118,000. The contest theme for this year was "Answering America's Call."

I am proud to announce that one of my constituents, Michael Kenny, won first place in the state and a $1,000 scholarship in the Voice of Democracy Contest. Michael is a senior at Tarpon Springs High School and hopes to pursue a career in theater.

In his speech, Michael reminds us all of what can be accomplished when we answer America's call and undertake individual acts to improve the world around us. I would like to share Michael's speech with you.

ANSWERING AMERICA'S CALL

(By Michael Kenny)

Around the first of December 1995, due to the efforts of people in Helena, Montana banding together to protect and care for certain ailing and threatened birds, the American Bald Eagle was taken off the endangered species list.

Murder, poverty, homelessness, hunger, discrimination*** when we watch the evening news, or read the paper, we seldom see good news like the story about the Bald Eagle. We are often disgusted and shocked at what transpires in the world around us. Many are pointing out our problems without offering any solutions. They see America's flaws and say we are a society destined to failure. America is endangered, but her critics are not listening. They do not hear the soft voice of America as she whispers. America is calling out to us. She asks for our love and respect for her and for her precious needy citizens. She is the voice of the twenty million children living in poverty and the 12 million children hoping for a hot meal so they won't go to bed hungry***again***"help us," America calls, "help them", "help each other."

Let's not waste time criticizing, let's answer. Let's work together and repair what is wrong with this country. She asks us to come together, to stand united in our communities and help those who need food, clothing and shelter. As a letter to the editor in my local newspaper recently put it, "The truth is that no sense of community can survive unless we the people demand political respect and economic support for the values of human dignity." A while back, I was like the many who just complained and put America down. I was angry at the world around me for all of its problems because I felt helpless to make right what was wrong. I am only one person, I thought, what can I do? Recently, desiring to at least do something. I went down to a local soup kitchen to offer some help. I noticed there a young girl in what appeared to have once been a pink dress, but was now only soiled rags. She was cold and clutched tightly an old doll with the stuffing coming out and she was desperately trying to keep warm. My heart sank as she timidly approached the counter. I wanted so much to help her. As I handed her a cup of chicken soup and saw the smile cross that dirt-stained little face as she took her first sip, I knew I had begun to answer her call. She received the nourishment she needed to get through the day. We helped make her life, and others, a little easier, at least for the moment. I realized then that I could make a difference. Finally, I was beginning to hear and answer the call of America.

Our country also calls out for us to be proud. We live in a nation where men and women have traditionally joined in a fight for freedom. So many lives were lost to gain what this country stands for; justice, liberty and community. When you hear the national anthem at a ball game, rise***rise as America calls you to your feet, and when you place your right hand over your heart, be proud of your country. When we answer America's call, we will have come together as a community; white, black, native America, Asian, Hispanic and have erased prejudice and racism. We will have helped our fellow human beings and hopefully, defeated hate and violence. And America will finally hear the praise she so desperately deserves.

So let's listen to our country because all our criticism is drowning out her voice. But she still calls for us to go out and do something. No, You or I alone can't change a whole country, but when people in our community see what we are doing, it will inspire them to do the same, and will create a chain from one community to the next until all of America is answering the call. And then, who knows, maybe this country, like its national symbol, the Bald Eagle, will no longer be endangered.

TRIBUTE TO GIRL SCOUT GOLD AWARD RECIPIENT

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. OBEY. Mr. Speaker, today, I would like to salute an outstanding young woman, Laura Hahn, who has been honored with the Girl Scouts of the U.S.A. Gold Award by the Indian Waters Girl Scout Council in Eau Claire, WI.

She is being honored for earning the highest achievement award in Girl Scouting. The Girl Scout Gold Award symbolizes outstanding accomplishments in the areas of leadership, community service, career planning and personal development.

Girl Scouts of the U.S.A., an organization serving over 2.6 million girls, has awarded more than 20,000 Girl Scout Gold Awards to Senior Girl Scouts since the inception of the program in 1980. To receive the award, a Girl Scout must fulfill five requirements: earn four interest project patches, earn the Career Exploration pin, earn the Senior Girl Scout Leadership Award project, earn the Senior Girl Scout Challenge, and design and implement a Girl Scout Gold Award project. A plan for fulfilling the requirements of the award is created by the Senior Girl Scout and is carried out through close cooperation between the girl and an adult Girl Scout volunteer.

For the Girl Scout Gold Award project, Laura developed a plan to prepare and distribute holiday meals to people who could not leave their homes. Laura worked to secure the funding for the meals and organized volunteers to help prepare and deliver the meals. Through her project, Laura was able to bring together different groups to address the needs of individuals in her community.

The earning of the Girl Scout Gold Award is a major accomplishment for Laura Hahn and I believe she should receive the public recognition due her for this significant service to her community and her country.

TRIBUTE TO NORA W. BRANDT: SPEAKING OUT FOR PEACE

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mrs. MEEK of Florida. Mr. Speaker, I rise today to recognize the accomplishments of Nora W. Brandt, the principal of W.J. Bryan Elementary School in north Miami. Mrs. Brandt will be honored here in Washington tonight at a ceremony recognizing her efforts to teach young people peaceful means of resolving conflict.

Too often in our society, conflicts are resolved through violent rather than through peaceful means. Mrs. Brandt's efforts to teach a new generation about ways to settle disagreements without fighting are very much needed today.

To advance the cause of peace, Mrs. Brandt, in 1992 initiated a schoolwide peace campaign at W.J. Bryan Elementary. In subsequent years the school sponsored the Annual W.J. Bryan Peace Summit which has become a model for other area schools. Earlier this year, more than 2,000 students and parents participated in a multicultural peace march organized by Mrs. Brandt and the students of W.J. Bryan.

Mrs. Brandt has also coordinated the schoolwide training of all teachers in "Creative Conflict Solving for Kids" and established a Peer Mediation Program.

In 1994 Mrs. Brandt was recognized as Peace Administrator of the Year by the Peace Education Foundation. Under her leadership, W.J. Bryan was named the 1995 Exemplary Peace School by Dade County Public Schools Multicultural Task Force.

Mr. Speaker, I join with all of our community in honoring Nora W. Brandt, educator and peacemaker.

DEDICATION OF THE GENE R. ALEXANDER LEARNING RESOURCE CENTER

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. POSHARD. Mr. Speaker, I rise today to honor Mr. Gene R. Alexander of Benton, IL. For over 30 years he was a devoted teacher and principal, and on April 25 he will be honored for his service when the library at Benton Elementary School is renamed the "Gene R. Alexander Learning Resource Center." I would like to thank "Mr. A," he is fondly referred to, for his relentless promotion of education and his efforts on behalf of the children of Franklin County.

As an educator and administrator I understand the commitment and hard work it takes to make a profound impact on the lives of your students. This task is even harder today, for it seems all school employees are asked to make a case for the benefits of education; students crave entertainment and engagement as much as they desire fundamental knowledge. Mr. A. understood that if he gave enough of himself to the children, they would respond. Even in retirement, he still can be found reading to students, cleaning and painting area schools, spreading the word to say no to drugs, even contributing his own money to purchase school resources. Mr. A has been the difference for many kids between enjoying school and appreciating the value of education instead of just getting by. And, as so often is the case with community leaders, Mr. A's civic participation has not been confined to his chosen profession. He has taught Sunday School at the First Christian Church for 37 years and been an active member and past president of the Benton Kiwanis. His life is a testimonial to selflessness, and we the recipients of his kindness have been truly blessed.

Mr. Speaker, all too often we fail to recognize the contributions that the teachers of our children make to their lives. On this very floor, we hear about how our education system is letting down our students and how overall standards have decreased. Thankfully, Gene R. Alexander has made sure this is not the case in Benton and the surrounding area. I would again like to thank Mr. A for his tireless efforts on behalf of the children of the 19th District. It is an honor to represent him in the U.S. Congress.

TRIBUTE TO LEO NELSON

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. HASTERT. Mr. Speaker, I rise today to honor an outstanding civic leader of Illinois' 14th Congressional District, Leo Nelson, on his forthcoming receipt of the Elgin Cosmopolitan Club's Annual Distinguished Service Award.

Leo Nelson has served the community of Elgin with great distinction over the years, serving as a member of city government for over a decade and participating in a number of community activities. The list of accomplishments during his long career are many, and there are several States across this Nation that are better for his service there. Born and raised in Chicago, Illinois, he graduated from the University of Illinois with a Bachelor's degree in political science in 1957. He then served his country for several years in the U.S. Army, retiring and returning to college at Boston University where he received his Master's degree in 1964. He began his professional career as administrative assistant to the city manager of Rock Island, IL in 1964, and followed that position with city management positions in Wyoming, Michigan and Sidney, OH before settling in Elgin, IL, in late 1972.

Mr. Speaker, Mr. Nelson has been a highly valued member of the Elgin community for nearly 25 years, and his list of civic activities is quite lengthy. He is a former director and current chairman of the Elgin Area Chamber of Commerce Board, the president-elect of the United Way of Elgin Board, member of the Elgin Community College Foundation Board and current chairman of the Robotics and High Technology Academy of School District

U–46 in Elgin. His past activities have included time as chairman of the Jayne Shover Easter Seal Center, as chairman of the Greater Elgin Area YMCA Corporate Board, and as a member of the Neighborhood Housing Services Board, the Well Child Conference and the Elgin affiliate of the Literacy Volunteers of America.

Mr. Speaker, I ask you and my colleagues to join me in honoring this dedicated man, for his commitment to the Elgin community and to improving this Nation. I wish him well as they years's recipient of the Elgin Cosmopolitan Club's Annual Distinguished Service Award, an honor that is richly deserved.

RECOGNITION OF CIVIC ACHIEVEMENTS OF ERVIN HIGGS

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. DEUTSCH. Mr. Speaker, for the past 60 years in Monroe County, one man has been at the forefront of fighting for the needs of the Florida Keys. Ervin Higgs has taken a leading role in finding solutions to our communities' problems. In recognition of all of his civic achievements, I would like to take this time to outline all that he has done for south Florida.

The Ervin Higgs story began on April 30, 1936 in Key West, Florida. On that day, Ervin Higgs was born into a family of "conchs" who trace their heritage to Spanish Wells in the Bahamas.

In an attempt to contribute his energy to the community, Ervin sought out public service as a profession. He was first appointed by Governor Askew in 1976 as the tax assessor for Monroe County, FL and has served in that position ever since.

When the local government was mandated to adopt a comprehensive plan in compliance with certain state mandates, Ervin was acutely aware of the higher taxes paid under the school funding formula. Even at the early stages, he foresaw that the funding formula could, and probably in the near future, reach a point where local taxpayers would be required to pay more into the state school fund than would be allowed to be expended by the local school board. In order to ensure that all properties were properly reflected on the tax roll when the country adopted the initial comprehensive plan, he realized that the mapping of the environmental features of properties was inadequate. He hired his own consultant and eventually produced maps that were adopted by the county.

Through the years Ervin has been in office, he has defended the equity of the tax roll and even fought in the courts to ensure that everyone paid their fair share. He has cost-effectively modernized the Property Appraiser's Office, passing cost-savings back to the taxpayers.

As he grew older, Ervin developed into one of those endangered species that is currently being threatened in south Florida as a result of an attempt of almost every level of government to influence and control the future of the Florida Keys. As a "conch", he has always been acutely aware of the need to preserve the existing natural beauty of the Florida Keys while at the same time attempting to keep the local economic base viable. For all of his work, I would like to take this time to honor his achievements.

VETERANS AFFAIRS HOSPITAL VOLUNTEER PROGRAM

HON. MIKE WARD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. WARD. Mr. Speaker, the Department of Veterans Affairs [VA] Hospital Volunteer Program is one of the oldest and largest nationally coordinated programs and is an outgrowth of a movement that began during World War II. During that time, volunteers came, unsolicited, to VA hospitals to visit and entertain war-injured patients. After the war, national organizations and the VA formulated this effort by creating the VA Voluntary Service National Advisory Committee.

This year is the 50th anniversary of VA Voluntary Service. That organization has coordinated the donation of more than 400 million community volunteer hours at VA medical centers since 1945.

At the VA Medical Center [VAMC] in Louisville, 585 volunteers worked a total of 58,225 hours last year. This is equivalent to 26 full-time employees and valued at $706,269.

Last year, Louisville VAMC volunteers gave $150,372 in material donations, such as personal hygiene items, art supplies, books, equipment, and vehicles to the medical center. In addition, our volunteers gave $58,321 in monetary donations last year.

Volunteers are vital to the delivery of health care to our nation's veterans. They assist at the Louisville VAMC by transporting patients to different areas of the hospital, transporting records and files, visiting patients, assisting with recreation programs, and helping with clerical work.

The most valuable contribution given to veteran patients by Louisville VAMC volunteers cannot be measured in any way. It is the gift of themselves—their compassion, caring, understanding, and dedication. Their very presence in the medical center contributes to putting frightened patients at ease and creating a comfortable environment for them.

I salute the Louisville VA Medical Center's volunteers for their tireless service to our Nation's veterans.

A TRIBUTE TO UTAH STATE SENATOR WILFORD "REX" BLACK

HON. BILL ORTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. ORTON. Mr. Speaker, I would like to take a moment today to honor Utah State Senator Wilford "Rex" Black of Salt Lake City, who is retiring from the Utah Senate after representing his west Salt Lake district for 24 years.

Senator Black has earned the high respect and admiration of his colleagues on both sides of the aisle as he has worked in the Utah Senate. An article, published in the Thursday, February 29, 1996, edition of the Salt Lake Tribune written by staff writer Tony Semerad, does a good job describing Senator Black. I would like to include portions of this article in today's CONGRESSIONAL RECORD:

> Wilford "Rex" Black Jr., trusty locomotive driver of Utah Democratic legislators, pulled into the retirement yard Wednesday after a quarter-century of service.
>
> Part statesman, part grump, part warm-hearted grandfather, Black, 76, ended a 24-year Senate career when the gavel fell. As the longest-serving senator in the chamber, he leaves an indelible mark on state government and the politicians who stay behind.
>
> The Senate had been a dry-eyed place in 1996. That is, until Monday, when senators began speaking up at a Black farewell ceremony. One by one, leading Republicans and Democrats folded in tears as they bade farewell to the retired railroad engineer-turned-senator, his firm manner and, above all, his integrity.
>
> "When Rex tells you something, you can take it to the bank," said Sen. John Holmgren, R-Bear River City. "That's just the way it is."
>
> Through six Senate terms, the Rose Park resident has served as majority whip when Democrats dominated Capitol Hill, and held the post of Senate minority leader for a decade. From key committee seats, he has influenced nearly every major piece of legislation since the late 1970s, focusing on public safety, transportation, credit unions and the state's retirement system.
>
> Senate President Lane Beattie, R-West Bountiful, calls Black and his experience one of strongest arguments against the idea of term limits. "I can't imagine a worse mistake than limiting the expertise, knowledge and wisdom of a man like this," said Beattie.
>
> Many find it impossible to imagine working in the Utah Legislature without Black's leather-tough, sometime gruff, sometime humorous presence.
>
> "He is as much of a part of my mental visualization of what goes on in here as anything or anybody in the chamber," said Gov. Mike Leavitt, whose father, Dixie Leavitt, served alongside Black.
>
> But the years catch up with everyone. "It's my time to go," Black said.
>
> While still fit after surviving a bout with cancer six years ago, the gray-haired senator shows an icy bluntness and lack of self-consciousness befitting someone who has spent his golden years making state laws.
>
> He is renowned for reading every bill, even the most mind-dulling, and for being a stickler for correctness in procedure.
>
> He was born in Salt Lake City in 1920 and named for his father, a Hercules shell-house foreman. Seven months after marrying Helen Shirley Frazer in May 1942, Black entered the army, eventually driving supply and prisoner trains across Europe.
>
> Upon his return, Black resumed working for the Denver & Rio Grande Western Railroad, reaching the ranks of union leadership in the Brotherhood of Locomotive Firemen and Enginemen and its successor, the United Transportation Union, until retirement.
>
> He has eight children, 34 grandchildren and four greatgrandchildren, a clan a fellow senator said 'was practically the entire population of Rose Park.' Black also is a devout Mormon.

Eddie Mayne labored in the Bingham open-pit mine 25 years ago, when he and a delegation of other workers approached Black about running for the Senate. Black's wife was decidedly cold to the idea. 'I won't tell you her exact remarks,' he said, 'but it was a definite 'no.'

Mayne, now head of the Utah AFL-CIO and a senator himself, said Black has come to symbolize a Democratic brand of respect and compassion for the elderly, disabled, veterans, workers, and the state's downtrodden.

On their behalf, Black has charged into some of the major political fights of the age.

The only filibuster of his career came under the late Gov. Scott Matheson. Republicans proposed altering state procurement code in a way Democrats felt jeopardized the Intermountain Power Project, an immense coal-fire power plant near Delta, a boon for blue-collar jobs.

Black stalled Senate debate for an hour and 45 minutes, enough time to allow Democrat Matheson to pressure the bill's supporters into backing down.

Finally, they asked me to call it off,' he said with a wry smile.

Mr. Speaker, I add my congratulations and thanks to Senator Black, on behalf of the people of Utah, for his may years of service in the Utah Senate. He will be missed but not forgotten.

MANOJ ILLICKAL WINS FIRST PLACE IN ANNUAL ESSAY CONTEST

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. KING. Mr. Speaker, today I would like to salute a young constituent of mine, Manoj "Manny" Illickal, who is working toward his college degree with the assistance of the Gateway Job Corps. Manny recently took first place honors in the Joint Action in Community Service, Inc. [JACS] National Essay Contest.

I offer for inclusion in the RECORD, Manny's award-winning essay, "How Job Corps Changed My Life." It's an inspiring story of how he learned self-discipline and the value of hard, honest work. After reading this essay, I am certain that you'll agree with me that Manny's future is limited only by how far he wants to take himself. He seems to have the right attitude for success.

HOW JOB CORPS CHANGED MY LIFE

(By Manny Illickal)

While my classmates were cleaning other parts of the workshop, I was spending my Friday afternoon mopping the office of my instructor; that is, I was supposed to be mopping his office. What I was actually doing was trying to figure out how best to get out of Building and Apartment Maintenance, out of Gateway Civilian Conservation Center and (most importantly) out of the U.S. Job Corps. I was a really smart kid when it came to quitting things, probably because I had a lot of practice.

After the student-foreman had told me to mop the office I asked, "Don't you have someone who does that type of work here?" "Yeah, we have you." I was rather discouraged, because the floor didn't seem to be getting any cleaner. Every few minutes, I would spill a few drops of dirty water onto the floor, and I would halfheartedly move the mop around whenever a classmate walked by the window. Mopping the floor as part of my jobs was beneath me. I was a really smart kid.

Why should I have to do this work? I wasn't even building anything. Enough was enough. I was going to get my pay and get out of this place so fast that they would have to change their name to Getaway. I had quit better places than this one, and it got easier every time. I came to Job Corps because I wanted to get a good job. I hadn't come to the Job Corps work. After all, I was a really smart kid who had never had to work too hard when I was in school.

Of course, I didn't really understand why being smart didn't seem to help too much with my grades. Back in school, I knew I was smarter than most of my classmates. Whenever there was a good opportunity to leave campus, I would be one of the first guys gone to enjoy the time. A lot of the other guys would waste their time reading over the chapter assigned for tomorrow. Why do it now, since I could do it tomorrow or the day after tomorrow? I didn't need to waste a lot of valuable time reading textbooks. I could always catchup later. After all, I was really a smart kid.

Those guys who didn't even know how to have a good time went off to college, and there I was wasting a perfectly good Friday mopping my instructor's office. Actually, what I was doing had less to do with mopping and more to do with leaning on the mop, while I contemplated the injustice of it all. That was when my instructor entered the office without knocking first and when I began to think that maybe I wasn't such a smart kid after all.

I would describe what he said, but I doubt that the written word would be able to express the volume properly. Also, I'm not too sure how to spell all of it. Suffice it to say that he got his meaning across pretty well. I figure that I might as well quit right then and there, just as I had at my other jobs. Why give him the satisfaction of firing me? Before I got the chance, he grabbed the mop out of my hand and began mopping the floor, even though he was the boss. In a minute he had finished the entire office, even though it was at least 15 square feet. The floor looked so good that I half expected Mr. Clean to be there looking up at us. I'm pretty sure that it had something to do with his putting more muscle into it than I put, especially since he told me that I had to put some muscle into it.

The floor reflected so well on him that I was really surprised when he purposely threw a lot of dirt on it. "Do you expect me to do your work for you? You came here to learn something." Then instead of telling me that I was fired, he told me in his own inimitable style to clean up the place NOW and that there was no excuse for not doing my best. He added that "all work is a self-portrait of the person who did it." Then he went to check on the rest of the students in the shop to spread more joy.

I was standing in an office that had a filthy floor, then had a beautiful and then had a filthy floor again. What a waste. He didn't need to mess up such a good job. He could have left it looking great and I would have learned . . . very little. There aren't that many moments in your life when you feel as though everything has changed, at least there haven't been that many in my life. I had grown accustomed to starting some work, doing half of it, growing bored, getting in trouble, losing my job and walking away from responsibility. Losing and walking away from a job can get to be a habit. This time I couldn't even walk away from the job. Gateway's in the middle of nowhere, and the Center Standards Officer stops everyone who even tries to go AWOL.

This time I was stuck in a filthy office with a mop. It turns out that I was right. If you put a little muscle into it the mopping goes rather nicely. After I finished, it didn't look as good as it had when my instructor did it, but it did look better than it had before I started.

My instructor had said "all work is a self-portrait of the person who did it." Looking back over my life. I figured that it was time to stop eating crayons. I realized that there really isn't any excuse for not doing my best work. Losing had become a habit with me. I wanted to find out whether winning could get to be a habit as well.

I would like to discuss how I went on to becoming the best Building and Apartment Maintenance student that my instructor has ever had, but I would be lying. Not everything went great the moment I realized that I wanted to paint a pretty picture. What did change was that I didn't quit. Many months later, I successfully completed the Building and Apartment Maintenance program of the Home Builders Institute. For the rest of my life, I'm a completer.

As I was completing my trade, my boss told me how proud he was of me. His boss took the time during a business trip from Washington, D.C. to tell me how proud he was of me. Before Job Corps, I was the type of guy a boss wouldn't find, let alone compliment. Now they're recommending me for a Job Corps college program. I'm going to work hard to be a college "completer" too.

I have been accepted to the university of the State of New York. How has Job Corps changed my life? Before I came to Job Corps, my self-portrait resembled the finger-printing of a slow kindergarten student. After I came to Job Corps it began to bear some likeness to a college man with a bright future. I would give you more of a critique, but I need to start reading NOW to get ready for college. I'm thinking about taking an elective in art history. I would like to learn about the work of Michelangelo, Da Vinci and my personal favorite, Norman Rockwell. I'm hopeful that if I work hard in school, maybe in a few years I'll be a smart man.

PROF. JOHN HALL SAVES SMITHSONIAN ARTIFACTS

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 16, 1996

Mr. SMITH of Michigan. Mr. Speaker, the country owes a debt of gratitude to one of my constituents, Prof. John Hall of Albion College in Albion, MI. His story has been told on the CBS Evening News as well as on the front pages of America's most prominent newspapers.

Professor Hall is an expert in, among other things, World War I fighter planes. He discovered that original pieces from a French World War I aircraft were for sale but which he knew to be the property of the Smithsonian. Inquiries led him to the seller—a Smithsonian curator, who even offered to authenticate the pieces he was selling on Smithsonian letterhead.

Professor Hall contacted the FBI. At their request, he wore a hidden microphone when discussing various aircraft parts that were available for sale with the curator. As a result, the FBI was able to arrest him. Thanks to Professor Hall's detective work, the Smithsonian is now undergoing an inventory to see what else might have been stolen and implementing a bar code system to ensure that such theft becomes much less likely in the future.

SENATE—*Wednesday, April 17, 1996*

The Senate met at 9:15 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, we are dependent on You for everything. We could not breathe a breath, think a thought, move a muscle, work a day, or develop our lives without Your moment-by-moment provision. We place our finger on our pulse; thank You for the gift of life. We breathe in, saying "Bless the Lord, O my soul"; and breathe out saying, "And all that is within me bless His holy name."

We list all that is ours from Your loving provision. We praise You for food, our physical bodies, people in our lives, the opportunities and challenges of today. We want to make this a day for constant and consistent conversation with You in which we repeatedly say thank You, Lord, for the abundant mercies that You give us in a never-ending flow of goodness.

You know that a thankful heart is not just the greatest virtue, but You have made it the parent of all virtues and the source of the transformation of our attitudes. Every virtue devoid of thankfulness is maimed and limps along the spiritual road. With everything that is within us, we thank You. May this be a day for constant thanksgiving for the privilege of life. In Your holy name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, there will be a period for morning business until 10 a.m., with Senator LEAHY to speak for up to 10 minutes, Senator GRAMM for up to 20 minutes, and Senator GRAMS for up to 10 minutes.

Following morning business, the Senate will resume consideration of the terrorism prevention conference report. Under the order, motions to recommit are in order and limited to 30 minutes of debate each. Senators can expect rollcall votes on or in relation to those motions prior to a vote on adoption of the conference report.

Following adoption of the conference report, there will be 60 minutes of debate prior to the vote on cloture on the motion to proceed to the Whitewater resolution. It is still possible we might consider the immigration bill today if we can get an understanding about relevant amendments. It is very important legislation and broadly supported by the American people. We would like to complete action on that and then move to the Kassebaum-Kennedy health care measure yet this week and complete action on that. That may or may not be possible, but we will do our best.

IN TRIBUTE TO SECRETARY OF COMMERCE RONALD H. BROWN AND OTHER AMERICANS

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate resume consideration of Senate Resolution 241.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 241) in tribute to Secretary of Commerce Ronald H. Brown and other Americans who lost their lives on April 3, 1996, while in service to their country on a mission to Bosnia.

The Senate resumed consideration of the resolution.

Mr. DOLE. Mr. President, Chaplain Ogilvie said it best Monday in his prayer marking the Senate's return after a 2-week recess when he said: "Our hearts are still at half-mast."

Like all Senators, I was saddened by the tragic April 3 airplane accident that led to the loss of Secretary of Commerce Ron Brown and 32 other Government and business leaders.

I was not privileged to know Secretary Brown as well as many of my colleagues, but in my dealings with him, I was impressed by his professionalism, his wit, and his ability to get things done.

The outpouring of emotion that followed his death is testimony to the fact that not only was Secretary Brown an outstanding public servant, he was also an outstanding friend who touched many lives through his generosity.

The 32 other Americans lost in the accident were also friends, parents, sons, daughters, brothers, and sisters.

And I know I speak for all the Senate in saying that our thoughts and prayers remain with the Brown family, and with the families and friends of all the victims of this tragedy.

Mr. President, on Monday, at the request of the Democrat leader and myself, Senate Resolution 241, honoring Secretary Brown and the 32 other Americans who died in the accident, was read for the information of the Senate.

I want to thank Senator LOTT for his cooperation.

At this time, Mr. President, I ask unanimous consent that Senate Resolution 241 and the preamble be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 241) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 241

Whereas, Ronald H. Brown served the United States of America with patriotism and skill as a soldier, a civil rights leader, and an attorney;

Whereas, Ronald H. Brown served since January 22, 1993, as the United States Secretary of Commerce;

Whereas, Ronald H. Brown devoted his life to opening doors, building bridges, and helping those in need;

Whereas, Ronald H. Brown lost his life in a tragic airplane accident on April 3, 1996, while in service to his country on a mission in Bosnia; and

Whereas, thirty-two other Americans from Government and industry who served the Nation with great courage, achievement, and dedication also lost their lives in the accident: Now, therefore, be it

Resolved, That the Senate of the United States pays tribute to the remarkable life and career of Ronald H. Brown, and it extends condolences to his family.

SEC. 2. The Senate also pays tribute to the contributions of all those who perished, and extends condolences to the families of: Staff Sergeant Gerald Aldrich, Duane Christian, Barry Conrad, Paul Cushman III, Adam Darling, Captain Ashley James Davis, Gail Dobert, Robert Donovan, Claudio Elia, Staff Sergeant Robert Farrington, Jr., David Ford, Carol Hamilton, Kathryn Hoffman, Lee Jackson, Steven Kaminski, Katheryn Kellogg, Technical Sergeant Shelley Kelly, James Lewek, Frank Maier, Charles Meissner, William Morton, Walter Murphy, Lawrence Payne, Nathaniel Nash, Leonard Pieroni, Captain Timothy Schafer, John Scoville, I. Donald Terner, P. Stuart Tholan, Technical Sergeant Cheryl Ann Turnage, Naomi Warbasse, and Robert Whittaker.

SEC. 3. The Secretary of the Senate shall transmit a copy of this resolution to each of the families.

Mr. DOLE. Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be the period for the transaction of morning business for not to extend beyond

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

EXTREMISM: THE MANTRA OF THE MINORITY

Mr. GRAMS. Mr. President, if there is 1 day that dramatically highlights the growing anxieties of middle-class Americans, it is April 15. During this tax week of 1996, I want to share some thoughts on taxes, Congress, and a certain word that has crept into a place of prominence here on Capitol Hill.

Since the opening days of the 104th Congress, my colleagues on the other side of the aisle have come to the floor repeatedly to talk of "extremism" and "extremists."

These are not words to be tossed around lightly, and yet more than 100 times over the past 16 months, those are the very words they have used to describe the work of this Congress. "Extremist" has become the mantra of the minority, repeated over and over when all the arguments have been exhausted and refuted, and name calling is all that remains.

The Contract With America "is simply the wish list of the extreme faction of one political party," says one.

"The sweeping and extremist approach in this bill poses a grave threat to all Americans, especially children," says another.

And finally, "If moderation does not prevail, this level of extremism will ultimately take our country backward, not forward, and the damage will be felt not by us, but by generations to come."

Of course, the rhetoric has not been confined to this Chamber alone, or to the other body. The Clinton administration, and particularly the President and Vice President, have repeatedly engaged in it as well, as they recite from the pages of this well-worn script. In just seven news conferences and speeches last year, Vice President GORE used some version of the word "extremist" 22 times in describing our efforts to reform the way Government undertakes the people's business.

"Extremist groups."

"Extremist measures."

"Extremist factions."

"The extremist, radical members of their caucus."

"An extremist set of priorities."

"An extremist agenda."

You would think from all the dramatics that something truly horrible is going here. So, Mr. President, what's happening that has my Democrat colleagues running so scared? What is Congress doing that is so radical, so dangerous, so wrong, so extreme?

Here are the shocking highlights:

We accomplished what a quarter century of Congresses couldn't when we balanced the Federal budget. This Congress is not willing to let our children and grandchildren collapse under a load of debt that we have created.

We have taken responsible steps to control spending, reining in the Federal Government and reducing its role as the dominating force in American life.

Working families would keep billions of their own money under the tax plan passed by Congress. We offered families a $500 tax credit for each child, eliminated the marriage penalty that discriminated against married couples, and helped bring and keep families together through adoption and elderly care tax credits.

We are also not willing to sit by and let Medicare dissolve into bankruptcy. Under legislation passed by this Congress, seniors would be assured that Medicare—for some, their only link to health care insurance—would be rescued from its impending insolvency.

Our plan to reform the welfare system encourages recipients to seek a life beyond their monthly welfare checks, while it protects the American taxpayers from the abuses of the past.

Mr. President, have my colleagues across the aisle become so insulated from the public and isolated from reality that they have forgotten what qualifies as extreme out in the real world? Our work on behalf of the Nation's families, taxpayers, senior citizens, children, and job providers could hardly be considered extreme. Far from it—what we have accomplished is exactly what the American people sent us here to carry out.

So how do you think it makes them feel to see their dreams for the Nation dismissed on the Senate floor as the notions of extremists?

If you really want to talk about extremism, there is a good reason why so many American families have April 15 circled on that calendar taped to the refrigerator door. They have experienced extremism in their Government right where it hurts the most—the family wallet—and they are reminded of that fact every year when tax day rolls around.

Under the current administration, Americans are paying more in Federal taxes this year than they have ever paid before.

President Clinton started the trend with his recordbreaking $241 billion tax hike in 1993, which raised taxes on every member of the middle class. Add to that the new taxes imposed by the President in his latest budget, and Americans will be paying a half trillion more in taxes than we did before President Clinton took office. That is an additional $758 every year, for the next 10 years, for every taxpayer in this country.

The American people say that is extreme.

The tax load has become such a burden that Tax Freedom Day—the day we are no longer working just to pay our taxes and can begin keeping that money for ourselves—will not arrive this year until May 7. That is the latest ever. It means working Americans have been on the job from January 1 through today, and have not been allowed to keep even a dime of their own money. That will not happen for another 20 days.

And by the way, families in my home State of Minnesota will have to wait even longer. Because State taxes in Minnesota are higher than the national average, my constituents are forced to hold out an additional 8 days until their Tax Freedom Day arrives.

And the calculations for Tax Freedom Day do not include the additional days we are forced to work to cover the heavy costs of Washington's unnecessary and burdensome regulations as well. If it did, we would not be marking our freedom until the first week of July. That is a cruel joke, considering that is when we are also celebrating Independence Day.

The American people say that is extreme.

When President Clinton was elected in 1992, Federal taxes on a median-income American family—Federal taxes on a median-income American family—totaled $12,770. By last year, that same family was paying a total of $14,813 in taxes—over $2,000 a year more per median family since 1992. And now 26.5 percent of every family's income goes directly to Washington.

That is not exactly what the American people had in mind. In a survey conducted last year, they were asked what percentage of their income should reasonably go to paying taxes. This was for all levels of government, including social security taxes, sales taxes, excise taxes, and property taxes. Across the board, regardless of income group, age, education, gender, race, or political affiliation, the answer was the same: most people said a maximum tax burden of 25 percent would be fair.

No wonder they are feeling squeezed today. Far from the 25 percent tax rate they think is reasonable, the typical American family faced a total tax burden—and that includes Federal, State, and local taxes—of 38.2 percent of all their income in 1995. That is more money going to Washington than families spend for food, clothing, shelter, and transportation combined.

The American people say that is extreme, too.

I know that is what Minnesotans are saying. I held a series of town meetings back home last week, in a part of the State where life can be tough and money doesn't come easy. It is home to hard-working people who sometimes hold down two jobs, and spend as many as 7 days a week on the job, struggling to stay afloat. They ask nothing more of their Government than the opportunity and freedom to make something of their lives. But high taxes continue to block the way.

We talked about taxes at every stop over the recess, and how 40 years of Washington's economic extremism have trapped working families short of their dreams.

They are frustrated. They do not see where their tax dollars are going, or how those dollars are directly improving their lives and their communities. And given that, they do not understand how Congress can keep coming after them for more.

During one of our stops, a college student pulled me aside after my town meeting in Duluth. He said, "It seems like the federal government is reaching deeper and deeper into our pockets, but in my case, I don't have any more to give." He went on to say, I don't qualify for student aid, so I'm working for my tuition and rent. I'm paying all these taxes, but none of it comes back to benefit me. So please—cut my taxes and let me keep my own money."

People do not understand what is happening in Washington. The crowds at my town meetings wanted to know why the President campaigned on a promise to balance the budget and cut their taxes, but then vetoed the balanced budget and tax relief bill passed by this Congress, and, by the way, passed the largest tax increase on its own.

I had to admit that I did not understand either. "Chalk it up to election-year politics," I said.

Would the President come around and sign your bill this year, they wondered?

I had to say, "It doesn't look good." "Not this year. Not this President." And the people just shook their heads.

Listen to the people, Mr. President—they will tell you just what they told me. Cutting taxes for working families is not extreme. Preserving Medicare is not extreme. Giving people opportunities to pull themselves out of poverty is not extreme.

If anything is extreme about our government, it is the past practices of a Congress and President willing to steal from tomorrow's kids to finance another Federal handout or social program or pork project today. That is what the people sent us here to change.

Mr. President, there are despicable people in this world—assassins, bombers, terrorists—who are filled with such rage and contempt that they deserve to be branded as "extremists."

But in America, a man or woman who works themselves to the bone, who struggles to put food on the table and keep a sturdy roof over their family's heads, who just wants to sign their tax return knowing that this government does not take their tax dollars for granted anymore—is not an extremist.

Yet, Mr. President, any time my colleagues dismiss the people's taxpayers' agenda as extreme, they pin that label on every one of those Americans.

During tax week, 1996, my colleagues would do well to acknowledge the debt of gratitude we owe the American taxpayers. After all, their sacrifices have built this massive Federal Government. I leave you with this question—during tax week, 1996, when Washington's burden has become too much and the people are begging for our help, what is this Government willing to sacrifice in return?

Mr. BURNS. Mr. President, might I inquire, are we in morning business?

The PRESIDING OFFICER. The Senate is in morning business.

RETIREMENT OF UNIVERSITY OF MONTANA FOOTBALL COACH DON READ

Mr. BURNS. Mr. President, I rise today to echo what is probably on the mind of everybody who ever attended school at the University of Montana, and every Grizzlies fan in my home State. Coach Don Read, the football coach of the last 10 or 11 years, is retiring. He told us all Monday that he was retiring in order to spend more time with his wife, Lois, and the rest of the family, and to move in a new direction.

We are losing a legend in Missoula. We are saddened by that, even a little bit stunned, because Coach Read is the winningest coach in the history of the University of Montana. When he arrived in Missoula 10 years ago, he recruited heavily, ushering in the "Read Era" of UM, an era that culminated in the university's first-ever Division One-double-A national championship just this past season. It was a thrilling ride for every one of us in Montana, and we cannot help but think of what is ahead for the Griz because of the foundation and the base that Coach Read has laid.

Mr. President, Vince Lombardi, the legendary coach of the Green Bay Packers, said "winning is a habit." No one typified the winning habit more than Coach Read. Since taking over the University of Montana football program in 1986, he has never had a losing season. His overall record there was 85 and 36. That is a winning average of better than 70 percent, the best any coach at UM and the sixth best in the history of the Big Sky Conference.

In his tenure at the University of Montana, Coach Read even managed to pull off 10 straight wins against his cross-state rival and another one of my favorite teams, Montana State University. His overall coaching record including his many years coaching in Oregon is an impressive 154 and 127 and one—he had one tie.

Mr. President, I could go on about all the "firsts" and the "mosts" and the awards of Coach Read and what he has earned in his time at the University of Montana. Most wins by a Griz football team in a single season, five playoff appearances, three-time Big Sky Coach of the Year, selected Division One-double-A Coach of the Year by two national magazines, but all of that pales in comparison to Don Read as a man, and as a man that I know. He is loved and respected by his players and his colleagues and he is a fiercely devoted family man.

You know they say the coach will probably be judged on the wins and losses. But basically, what effect he has had on the young men who have played on his team is just absolutely—you cannot measure that. By his own words, the demands of coaching is a 16-hour-a-day, 7-day-a-week job. It has a way of catching up with you. Coach Read wants to make sure that his players will have a full-time coach that devotes all of his energy toward that team. In that respect, I admire him for putting the needs of a team before his own.

So the University of Montana is really losing one of the great ones. We want to thank him for the season just passed. The national championship is one that is not written about and is not voted on by sportswriters. It is played. Of course when you want it, he beat Marshall here in the State of West Virginia. It was a great thrill for all of us who live in the State of Montana.

Coach Read said he believes his replacement will be the best coach ever. I hope he is right. But I tell you he will be stepping into some awfully big shoes. Just like anybody else, he will have to get his cleats the old-fashioned way. He will have to earn them. That is the way it will be.

Mr. President, we bid farewell to a man who has brought so much respect and so much quality to the University of Montana and the football program, and we say goodbye, but we do not say so long.

I yield the floor.

PROGRESS TOWARD A BAN ON ANTIPERSONNEL LANDMINES

Mr. LEAHY. Mr. President, I want to bring Senators up to date on the progress of the past 2 months since the Leahy amendment for a moratorium on the use of antipersonnel landmines was signed into law.

That amendment received bipartisan support from about two-thirds of the Senate. It was supported by the House-Senate conference committee, and it was signed by the President on February 12. I want to thank all those Senators who voted for it. I would also like to thank those Senators who have come up to me since the vote who did not vote for it and said now they wished they had because of the havoc that the mines have wreaked in Bosnia.

In fact, in Bosnia just since December, 38 NATO soldiers have been injured, 7 have been killed by landmines, including 3 Americans. There are 3 million landmines left in Bosnia. To put that in perspective, there are 3 million landmines in a country about the size of Tennessee. They will kill and maim civilians for decades after our troops leave. Children going to school, farmers working in their fields, and people going to market will be dying long after most of us have left the U.S. Senate.

Over the past several years, I have sponsored legislation against antipersonnel landmines. The purpose of my legislation has been to exert United States leadership so that pressure would build on other countries to follow our example. During a lot of that time this was seen as some kind of a crusade of civilians against the military. It was never the case. It was never intended by me to be the case. In fact, one of the greatest encouragements I had in my efforts to ban landmines was the support I received from combat veterans around this country.

Those who say we need antipersonnel landmines should read the April 3 full-page open letter to President Clinton that appeared in the New York Times. In this full-page letter to the President, 15 of the country's most distinguished retired military officers called for a ban on the production, the sale, the transfer, and the use of antipersonnel landmines. They say such a ban would be both "humane and militarily responsible."

Look at some of the people who signed this. These are not just wild-eyed theorists. They include Gen. Norman Schwarzkopf; former Chairman of the Joint Chiefs of Staff, Gen. David Jones; the former Supreme Allied Commander, Gen. John Galvin; former Commander in Chief of the U.S. Southern Command, Gen. Frederick Woerner; former Commmanding General, U.S. Readiness Command, Gen. Volney Warner. Mr. President, these are generals who know what has happened.

I ask unanimous consent that a copy of the generals' letter be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. There is no doubt that antipersonnel landmines have some use. Any weapon does. But to those who would argue that whatever use they have outweighs the devastation they inflict on whole societies, I would answer that the commanders of our forces in South Korea, Vietnam, NATO, and Desert Storm say otherwise.

They say we can get rid of these landmines. These generals have used antipersonnel landmines and have seen what they do. They say these indiscriminate weapons made their jobs more dangerous, not safer. They remember their troops being blown up by their own minefields.

Today, it is landmines that our troops fear the most in Bosnia. No army is going to challenge our men and women in Bosnia, but there are hidden killers everywhere. A $2 antipersonnel mine will blow the leg off the best-trained, the best-equipped, the best-motivated American soldier.

In the 2 months since February, Canada, the Netherlands, Australia and, yesterday, Germany, have announced they will unilaterally, effective immediately, ban their use of antipersonnel landmines. These countries have gone way out ahead of the United States in showing leadership to ban landmines. Several, like Germany, said they will destroy their stockpile of these weapons. They are taking this action, which far surpasses what the United States has done, to lead the rest of the world.

Mr. President, next Monday, the United States will join over 50 countries in Geneva in the final session of negotiations on a treaty to limit the use of antipersonnel landmines. We already know that any agreement is going to fall far short of what is needed to solve this problem. Countries have insisted on exceptions and loopholes that are just going to assure that landmines will continue to maim and kill innocent civilians for decades to come.

In the weeks of negotiations there have not been more than 2 minutes of discussion on the banning of these weapons—the simplest and easiest thing to do, and what all of these distinguished retired American generals asked us to do. The only way we are going to get rid of antipersonnel landmines is by leadership that energizes the rest of the world.

A year and a half ago in a historic speech at the United Nations, President Clinton declared the goal of ridding the world of antipersonnel landmines.

There is no reason why today, with the world's attention focused on Bosnia, where we are spending tens of millions of dollars just to try to find the mines, we cannot join with our NATO partners, who have gone way out ahead of the United States, and renounce these insidious weapons. Let the United States—the most powerful nation on Earth—instead of being a follower in this, become the leader. A law we voted for in the Senate, now on the books, says we will halt our use of these landmines in 3 years. It should happen immediately, and it should be permanent, as Germany, Canada, and the others have done. Our senior retired combat officers support it. Hundreds of humanitarian organizations support it. They have seen the limbs torn off children at the knee.

If I have anything to do with it—and I intend to—this country is going to end this century having banned these terrible weapons once and for all. I hope the President and his administration will do what the United States Senate has already done—shown leadership in this. I hope that the rest of the Congress will do that, and then I hope that the United States will come back into a leadership role in banning landmines. It is what our NATO allies want, it is what our retired generals want, and it is what our men and women in the Armed Forces want.

Mr. President, I ask unanimous consent that an article in the April 8 edition of Newsweek magazine, by David Hackworth, America's most decorated soldier, entitled, "One Weapon We Don't Need," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Newsweek, Apr. 8, 1996]

ONE WEAPON WE DON'T NEED

(By David H. Hackworth)

Last February, Sgt. 1/C Donald A. Dugan was killed instantly on a snowy patch of ground in Bosnia. An antipersonnel mine exploded while the veteran U.S. Army reconnaissance sergeant was attempting to disarm it. The explosion drove a piece of the steel disarming tool into his forehead. On a dozen different killing fields around the world in the past 50 years. I've seen thousands of soldiers and civilians blasted apart by land mines. In northern Italy, where I served as a 15-year-old soldier boy at the end of World War II, I saw an army captain's legs ripped off by a land mine. In Bosnia last January, I came within minutes of becoming a casualty myself from a land-mine explosion. But I've never seen a battle in which land mines made a difference to the outcome. They are ugly and ineffective weapons, and they ought to be outlawed.

Land mines are indiscriminate killers. They kill not only during the conflict, but decades after the last shot was fired. The technology has improved; a modern mine can be programmed to blow itself up after a few weeks or months, reducing the postwar threat to civilians. But anti-personnel mines are still not "smart." They can't tell a good guy from a bad guy, a soldier from a civilian, an adult from a child. And some fail to blow themselves up. When millions of mines are scattered across a battlefield by air and artillery, even a tiny "dud rate" will leave a substantial number lying in wait for innocent victims.

Of all the instruments of terror used on the battlefield, mines are the most inhumane. The wartime casualties are young men whose lives are either snuffed out or ruined forever by crippling injuries. Even soldiers who escape from a minefield unscathed are haunted by the experience. Many cases of posttraumatic stress disorder, a serious psychological malady, were caused by the preying fear of mines and booby traps. Years later, a walk across an open field bring back the old dread: What's under those leaves? Do I dare put my foot on that freshly turned earth? Walk through a minefield, and you'll never be young again.

During the Korean War, tens of thousands of soldiers on both sides were felled by land mines. Many of them were killed by their own mines, recklessly thrown down in haste, their location unrecorded. In 1952, as a 21-year-old lieutenant, I was ordered to clear a path through an unmapped minefield—one of our own. I argued with my colonel about the advisability of doing such work on frozen, snow-covered ground. Lieutenants seldom win disputes with colonels, so the mine-clearing detail proceeded as ordered until a fine black sergeant named Simmons tripped the wire on a "Bouncing Betty" mine. It popped up from the ground and blew off the top of his head, covering me with his blood and brains. Moments later, another noncom went nuts and stomped out into the minefield, screaming: "I'll find the f—— mines, I'll find the f—— mines!" He was tackled, restrained and led away.

In Vietnam, the U.S. Armed Forces also used land mines irresponsibly, dropping millions of them at random by air. The enemy quickly learned how to disarm these weapons and recycle them for use against us. The infantry battalion I commanded in the Ninth Division took more than 1,800 casualties in a year and a half, most of them caused by recycled U.S. ordnance. Mines cannot secure a flank or defend a position by themselves. For a minefield to be even marginally effective, it must be protected by friendly troops, to knock off the bad guys who want to clear a path or use the mines against you.

Mines never stopped any unit of mine from taking its objective—or the enemy from getting inside my wire. Anyone who has ever been in battle, especially in Korea or Vietnam, has seen enemy sappers crawl through mines and barbed wire and get into their positions. I once faced a Chinese "human wave" attack in Korea. My company was dug in on high ground, with plenty of weapons, ammo and artillery support. Out in front of our position we laid a carpet of mines and flares. The enemy attacked in regimental strength, outnumbering us 9 to 1. They walked through our minefield—and our gunfire—without missing a beat. They cut my company in half and within an hour were two miles to the south, in our rear. The only way out was to move north, so we trudged through our own somewhat depleted minefield to escape, losing two men in the process.

Most serving generals especially the desk jockeys, are in favor of mines. The real warfighters usually want to get rid of them. Whatever defensive punch is lost would be more than offset by the new firearms and missiles that give today's infantry platoon more killing power than a Korea-vintage battalion. "Mines are not mission-essential," says one general, "but they are budget-essential." In 1996, the U.S. Army budgeted $89 million for land-mine warfare. Now the army is fighting to protect every nickel.

Still, some retired generals want to ban mines, and I agree with them. Governments can declare land mines illegal, just as chemical weapons were prohibited. Sure, thugs like Saddam Hussein or Ratko Mladic will continue to use them. But users (along with manufacturers and dealers) can be hunted down and punished by an international court. If that happens just a few times, antipersonnel mines will go the way of mustard gas. I'll drink to that, and so will most veterans of foreign wars.

Mr. LEAHY. Mr. President, let me say one last time that we can ban landmines. We can ban landmines certainly within this century. We can ban them if the most powerful nation on Earth, the United States, takes the leadership role that it must in this. If we do what so many other countries have already done, and if we, instead of following them, step out ahead of them, we can ban these landmines once and for all. If we do, our men and women, when sent into harm's way, will be safer. Our humanitarian workers will be safer, and millions of children and innocent civilians around the world will become safer.

I yield the floor.

EXHIBIT 1

[From the New York Times, Apr. 3, 1996]

AN OPEN LETTER TO PRESIDENT CLINTON

DEAR MR. PRESIDENT: We understand that you have announced a United States goal of the eventual elimination of antipersonnel landmines. We take this to mean that you support a permanent and total international ban on the production, stockpiling, sale and use of this weapon.

We view such a ban as not only humane, but also militarily responsible.

The rationale for opposing antipersonnel landmines is that they are in a category similar to poison gas; they are hard to control and often have unintended harmful consequences (sometimes even for those who employ them). In addition, they are insidious in that their indiscriminate effects persist long after hostilities have ceased, continuing to cause casualties among innocent people, especially farmers and children.

We understand that: there are 100 million landmines deployed in the world. Their presence makes normal life impossible in scores of nations. It will take decades of slow, dangerous and painstaking work to remove these mines. The cost in dollars and human lives will be immense. Seventy people will be killed or maimed today, 500 this week, more than 2,000 this month, and more than 26,000 this year, because of landmines.

Given the wide range of weaponry available to military forces today, antipersonnel landmines are not essential. Thus, banning them would not undermine the military effectiveness or safety of our forces, nor those of other nations.

The proposed ban on antipersonnel landmines does not affect antitank mines, nor does it ban such normally command-detonated weapons as Claymore "mines," leaving unimpaired the use of those undeniably militarily useful weapons.

Nor is the ban on antipersonnel landmines a slippery slope that would open the way to efforts to ban additional categories of weapons, since these mines are unique in their indiscriminate, harmful residual potential.

We agree with and endorse these views, and conclude that you as Commander-in-Chief could responsibly take the lead in efforts to achieve a total and permanent international ban on the production, stockpiling, sale and use of antipersonnel landmines. We strongly urge that you do so.

General David Jones (USAF; ret.), former Chairman, Joint Chiefs of Staff;

General John R. Galvin (US Army, ret.), former Supreme Allied Commander, Europe;

General H. Norman Schwarzkopf (US Army, ret.), Commander, Operation Desert Storm;

General William G.T. Tuttle, Jr. (US Army, ret.), former Commander, US Army Materiel Command;

General Volney F. Warner (US Army, ret.), former Commanding General, US Readiness Command;

General Frederick F. Woerner, Jr. (US Army, ret.), former Commander-in-Chief, US Southern Command;

Lieutenant General James Abrahamson (USAF, ret.), former Director, Strategic Defense Initiative Office;

Lieutenant General Henry E. Emerson (US Army, ret.), former Commander, XVIII Airborne Corps;

Lieutenant General Robert G. Gard, Jr. (US Army, ret.), former President, National Defense University, President, Monterey Institute of International Studies;

Lieutenant General James F. Hollingsworth (US Army, ret.), former I Corps (ROK/US Group);

Lieutenant General Harold G. Moore, Jr. (US Army, ret.), former Commanding General, 7th Infantry Division;

Lieutenant General Dave R. Palmer (US Army, ret.), former Commandant, US Military Academy, West Point;

Lieutenant General DeWitt C. Smith, Jr. (US Army, ret.), former Commandant, US Army War College;

Vice Admiral Jack Shanahan (USN, ret.), former Commander, US Second Fleet;

Brigadier General Douglas Kinnard (US Army, ret.), former Chief of Military History, US Army.

SEXUAL OFFENDER TRACKING AND IDENTIFICATION ACT

Mr. GRAMM. Mr. President, I have introduced The Sexual Offender Tracking and Identification Act of 1996 with Senators Biden, Hutchison, and Faircloth. I would like, this morning, to talk a little bit about this bill, its origins and what it seeks to do.

I begin by asking unanimous consent to have printed in the RECORD a letter of endorsement from the National Center for Missing and Exploited Children.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL CENTER FOR MISSING
& EXPLOITED CHILDREN,
Arlington, VA, April 16, 1996.

To: Senator Phil Gramm.

From: Teresa Klingensmith, Manager, Legislative Affairs.

Date: April 16, 1996.

Re Necessity of Sexual Predators Tracking and Identification Act of 1996.

The benefit of a national sex offender registry network and database, such as the one envisioned in your bill, cannot be overstated. As we see the effects of the mandates contained in the Wetterling Act—presently 47 states have sex offender registry programs—we are made cognizant of the new obstacles to be tackled with regard to sex offender containment. It is time for the next steps contemplated but not attended to in Wetterling.

1. A registry network. Fifty individual state sex offender registries would be sufficient if no sex offender ever moved interstate. Unfortunately, that is certainly not the case. Indeed, these offenders tend to be particularly transient individuals, probably due to the need to conceal the darker side of their lives and seek out new victims. As these offenders move from state to state, they can easily get lost in the paper-shuffling from state to state. A central, federal database and verification system will insure that these individuals do not "fall through the cracks" as they move from state to state.

2. Community notification. Thirty states have enacted community notification laws, and more are being considered in the 1996 state sessions. These laws remain very popular, despite the current judicial debate surrounding them.[1] However, like sex offender

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[1] Even this judicial debate centers on specific aspects of these laws (i.e. retroactive application)

registries, these laws are ineffective in the larger scope if offenders can evade them simply by moving across a state line. Already, I receive letters from offenders in prison requesting information about which states have notification programs and which do not. These offenders are not stupid; we must be as clever as they if we intend to protect our children. No current federal law suggests the passage of a community notification program as strongly as your legislation or provides the background on which to build such a national system. No current community notification program will be truly effective until all 50 states have relatively uniform programs; this bill the next step towards such coverage.

3. Release of information. Child molesters dedicate an enormous amount of energy obtaining legitimate access to children. This includes securing positions (if possible) in day care centers, child youth organizations, schools, community centers, etc. In recognition of this, states have responded by passing background screening laws requiring criminal background checks for those who have access/contact with children. Unfortunately, most of these checks stop at state lines. Without a national database of sex offenders and authorized access to that database, these background checks won't accomplish their true purpose. We strongly support your effort to provide such a database.

Sex offenders do not only victimize the women and children they attack; they victimize society as a whole. As a nation we have a depleted sense of security and trust as a result of these individuals. To combat these offenses and their long-term results requires a plan that addresses all the aspects of their behavior and strives to empower the community to protect itself and its children. NCMEC has long advocated a reasonable, responsible, long-range approach to containing sex offender recidivism. I believe your bill is a positive contribution to such a long-range plan and necessary to its development.

The inclusion on the FBI's Wanted Persons Index for unverifiable offenders is a clever and strong answer to a persistent question. Many offenders may be coerced into updating their registration information by the threat of inclusion on that list. It is a practical, no-nonsense solution.

We support your efforts and commend your interest in child protection.

Mr. GRAMM. Mr. President, let me begin with a tragic story, and then talk about a Texas law, what other States have done in the area of sexual predators, why what they are doing cannot work unless we do our part, and then outline what we are trying to do in this bill.

Three years ago, a 7-year-old girl named Ashley Estell went to a park in Plano, TX, which is an upscale suburb of Dallas, one of the finest communities in America, and certainly we would assume one of the safest. She went to the park that day to watch her brother play soccer. Ashley's brother played in the second of three games to be played that day and while her parents stayed to watch the final game, Ashley went to play on a swing set. Although there were 2,000 people in the park that day, this little girl was, nevertheless, abducted, raped, and brutally murdered.

The FBI stepped in to investigate the case, and asked parents who were there that day to turn in any video cassette recordings they might have taken of games on the playground. The FBI, using the 14 tapes that were turned in, was able to go back and identify a known sexual predator who had been there the day Ashley was abducted. They apprehended him, and after a change of venue to Midland, TX, he was convicted and sentenced to death. His record was a record that we read about every day in the newspaper—he had been previously convicted, had been sentenced to 10 years in prison, had gotten out in just 18 months, and then went to this park and abducted and murdered a little girl.

What shocked Plano, the whole metroplex and, to some degree, the entire country, was not just this tragic crime, but the fact that the FBI, in looking at these 14 tapes, identified not one, but two sexual predators who were there in the park on that day. It turned out that the referee of all three soccer games played that day was a convicted sexual predator, who had fled from North Carolina to Texas to avoid being sent to prison for 10 years.

One of the greatest tragedies was that the soccer league had no way of knowing who this person was and no way of checking his record. Further, there is no national database that can be used to check the records of anybody else who wants to be a scoutmaster for the Girl Scouts or the Boy Scouts, who wants to work for the Boys and Girls Club, or wants to be a Big Brother or Big Sister.

And so, in light of this terrible tragedy, Florence Shapiro, an outstanding young State senator in my State of Texas, wrote a series of bills called Ashley's laws, named after this little girl. These bills sought, among other things, to set up a statewide tracking system for sex offenders, and required a minimum mandatory sentence of life imprisonment without parole for a second sexual offense or for aggravated sexual assault.

Under the tracking system in Texas, before convicted sexual predators can be released from prison, they have to be photographed, fingerprinted, and have a file built on them. Then, when they leave prison, they have to register with law enforcement authorities in the town that they move into. The law enforcement authorities then notify the school system, print a notice in the newspaper, and make the data available to local civic organizations, local groups, and other groups where you have substantial concentrations of children. With this system, which is in place today, if somebody wants to be a scoutmaster in Plano, TX, the scouting council can go to the local police department and say, "This person wants to be a scoutmaster. Can you look on your computer data base and see if there is a reason that we should be concerned about trusting young children to this person?" This system has been set up in Texas, 46 other States have established similar programs, and I believe Texas' is a model system.

The problem is, since each State has its own individual program, when someone commits a sex crime in Texas and moves to Arizona, there is no mechanism to pick them up in Arizona. The same, obviously, is true if somebody commits a sex crime in Chicago, goes to prison, gets out, and then moves to College Station, TX. There simply is no mechanism to pick them up once they cross State lines.

Senator BIDEN, Senator HUTCHISON, Senator FAIRCLOTH, and I have offered a bill to change this by having the FBI set up, working with the States, a national data base on sexual predators. As the Presiding Officer knows, we are in the process of building a massive criminal data base which is expected to be on-line by the year 2000. This system will be the most comprehensive data base on criminals in the history of mankind. I was chairman of the Commerce, Justice, and State Department Appropriations Subcommittee last year when Florence Shapiro, our State senator, was writing her bill, and it struck me, in providing $88 million for this program, that this sexual predator effort is never going to work as long as sexual predators can move across State lines and escape the system. Needless to say, we are already beginning to get evidence which proves this. Even though most of these State laws are already in effect, it is becoming increasingly clear that exactly what you would expect happen has indeed happened; that is, sexual predators, in Texas and elsewhere, who are required to register when they move into a community are trying to escape this increased scrutiny. Although we do not have enough data yet to show this conclusively, I think it is increasingly clear that the interstate migration of convicted sexual predators has exploded as these convicts try to exploit the weakness of the current system.

What we are trying to do in this bill is to have the FBI set up a national data base in conjunction with those States that have registration laws, and set up a data base for the three States that have not yet acted in this area, in order to develop a national system that all States can participate in as partners. Under this system, any time a sexual predator is released from prison, we will have a comprehensive file on them, and wherever they move we will ensure that the local law enforcement authorities are notified. We will leave it up to the State and local officials as to how they want to use this information. Some States, like Texas, have

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rather than on the spirit of the community notification program. The basic theory of notification has withstood all challenges.

very aggressive programs which provide for school notification, public notification, and a program through which volunteer civic organizations can use the data base to determine whether someone should be put in a position of trust with regard to children. We do not get into telling the States how to use the data base, we simply assure that they have access to a nationwide sexual offender registry.

Let me, in conclusion, provide an example of how this system might work once this bill is passed and the data base is operating. Let us say that in Tucson you had the principal of an elementary school call up the police chief and say, "We have a strange guy hanging around our school, and maybe I am overreacting to this, but our janitor thinks he saw this guy looking into a bathroom window." What would happen with this system in place is that the police chief in Tucson could send a police officer out to the school, get a description of this individual, get any evidence there might be—a footprint, for example—and if they had a computer in the patrol car, they could actually put the data into the computer at that moment and ask the data base, "Can you take this description and match it against any registered sexual predator within 25, 50, 100, or 1,000 miles of Tucson, AZ?" The computer could then generate, for example, six people who meet this description, and produce color, digitized photographs of those individuals. These photos could then be immediately shown to the principal, to the kids, to the teachers, and to the janitor, and, hopefully, they could identify this person.

In my State, it is a felony for a person who has previously been convicted as a sexual predator against children to be within a certain distance of the school whether they are still on parole or not, and so in Texas the police could go out and arrest this person and put them back in jail before they could hurt someone.

It is important to note that sexual predators have a recidivism rate that is higher than any other known class of criminal activity. The probability that someone who is convicted of being a sexual predator, especially if it is a crime against a child, committing that crime again is estimated to be 10 times higher than the probability that an armed robber who is apprehended, convicted, and sent to prison will commit the act of armed robbery again. As a result, we have a special obligation to be vigilant in protecting society from sexual predators.

Finally, I see this bill as being a first step toward using the power of the information age to deny criminals the one thing they need to prey on society, and that is a dark corner to hide in. I believe that with the explosion of the information age, if we are willing to commit the resources to hire and train law enforcement officials, to build prisons, and to elect and appoint judges that are serious about protecting society, we have the ability to protect our children from people for whom the preponderance of the evidence shows that they are guilty. I think the power of the information age in denying criminals—in this case, sexual predators—a dark corner to hide in is going to give us the ability to have the safest society we have had in over half a century.

I want to be certain that we take this opportunity to achieve these goals and I hope my colleagues will look at this bill and will join us in this effort. We hope to see this bill become law this spring and do not know of any organized effort against it. The ACLU opposed similar provisions in my State, arguing that we were violating the right to privacy of people who had previously been convicted as being sexual predators. My response to this charge, however, is that you do not have to be on this list. If you are concerned about your privacy, do not molest our children. If you do not commit a sexual crime, then you will not lose your privacy. But if you do commit this kind of terrible crime, part of our response will be to take extraordinary procedures to protect society.

So I recommend this to my colleagues, I thank the Chair, and I yield the floor.

Mr. BIDEN. Yesterday, Senator GRAMM, Senator HUTCHISON, Senator FAIRCLOTH, and I introduced Senate bill 1675—legislation to strengthen and improve the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.

The Jacob Wetterling Act requires States to enact laws to register and track the most violent, the most horrible—and least likely to be rehabilitated—criminals our Nation faces today. I refer to those criminals who attack our children and criminals who are sexually violent predators.

These criminals must be tracked. And local law enforcement must know when these criminals are in their communities. This was the reason I worked to include this important measure in the 1994 crime law. And I will also point out that almost all States have taken great strides to build an effective tracking system.

Now we seek to build upon this progress to meet three specific goals:

First, we must have a nationwide system that will help State and local law enforcement track these offenders as they move from State to State and will help by providing a backup system of tracking.

Second, while most States have established or are about to establish these systems, if any States fail to act, we cannot allow there to be a black hole where sexual predators can hide—and are then lost to all States. A nationwide system will track offenders if States do not maintain registration systems.

Third, we must ensure that the most serious sexual predators are required to remain registered with law enforcement officials for the rest of their lives.

All of these key goals will be met by this legislation. In addition, our bill will offer some improvements which are made possible by the nationwide system this bill will provide. For example, our bill will—

Require all offenders to verify their address on a regular basis by returning verification cards with their fingerprints.

Require that a nationwide warning is issued whenever an offender fails to verify their address or when an offender cannot be located.

Institute tough penalties for offenders who willfully fail to meet their obligations to register with the nationwide system in States where there is no registration and in cases of offenders who move from one State to another.

Notify law enforcement officials not only when an offender moves to their area, but also when an offender moves out of their neighborhood.

To offer just one of the practical problems a national data base will help local law enforcement address—Delaware law enforcement, because Delaware is so close to other States, will certainly need to know if a sexual predator lives just over the line in Pennsylvania. And only a national data base can provide this information.

To offer a real life example of why a nationwide system is needed—in Delaware, a sex offender was released last year. Fortunately, Delaware's offender registration law requires this offender—Freddy Marine—to be tracked by Delaware law enforcement. Since his release, Marine has moved to another State. The nationwide system established by this bill will help make sure that if Freddy Marine moves back to Delaware—our State law enforcement will know, and knowledge is the key to effective enforcement.

Let me also point out that our bill would still allow States the flexibility to decide when a community should be notified of the presence of a sexual offender, as State and local law enforcement is in the best position to decide when and how notification in their area is warranted. Frankly, our bill has erred on the side of registering many more offenders than may be necessary. Therefore, the specific decision to require community notification must be left to the State and local officials.

In summary, the sex offender tracking and identification bill is possible because States such as Delaware and Texas have done the hard work to build statewide registration systems. We now seek to build a system where all movements of sexually violent and child offenders can be tracked and we will go a long way toward the day when none of these predators will fall between the cracks.

Mr. DORGAN. Mr. President, I ask unanimous consent to extend morning business time for 10 minutes so that I might speak in morning business.

The PRESIDING OFFICER (Mr. COVERDELL). Without objection, it is so ordered.

Mr. DORGAN. I say to the Senators who are handling the bill that when they come to the floor I will certainly immediately relinquish the floor.

Let me say to the Senator from Texas before he leaves the floor that I am interested in cosponsoring that piece of legislation. I met with a group of law enforcement officers recently in Dickinson, ND, in fact, last week. We talked about a wide range of subjects, including the triple "i" index, the interstate identification index, the criminal records base, and there are two things that are deficient. One is there are a great many criminal records dealing with the criminal history of someone who is below 18 years of age, someone who has committed a murder, a rape, armed robbery, and so on, that you cannot get at. If you inquire from a law office in Texas and this person had committed the act in South Dakota, North Dakota, or Nebraska, those records are expunged and withheld. So you do not have the complete criminal history.

The other thing that they talked about was this issue of sexual predators. It is fine for States to have the system, but, if they are not together and interlocked in this interstate identification system, somehow it does not respond to the way we want it to respond.

I listened to what the Senator from Texas had to say. I want to cosponsor the legislation and work with him and others. I think this makes a great deal of good sense.

Mr. GRAMM. I thank the Senator. Let me say we are looking at exactly the problem of at what point should a juvenile go on this database. It is clear to me that, in the society in which we live today, by the time many of these hardened criminals, these sexual predators, are adults, they have already committed many crimes and have established a life style which they are unlikely to break. Senator BIDEN and I are working on these kinds of problems, and we will happily put the Senator on as a cosponsor.

We would also be happy to try to incorporate into our bill any suggestions the Senator or his law enforcement officials might have.

We have a blueprint of what we want to do, but we are very open to try to improve it, and I thank the Senator.

Mr. DORGAN. I appreciate the Senator's remarks. I will cosponsor the legislation and be anxious to work with him on the juvenile crime issue.

LEGISLATIVE AGENDAS

Mr. DORGAN. Let me, Mr. President, just take a moment to describe what happened yesterday since the Senate went into recess and I was unable to speak about it.

There are stories in the press today which say that the majority leader pulled the bill on immigration and said that some were trying to hold the immigration bill hostage in the Senate yesterday.

That is not the case at all. It is simply not accurate. It is true that amendments were offered to the immigration bill. My amendment was offered yesterday that deals with a Social Security issue, but I indicated to the person managing the bill I would be willing to accept a 20- or 30-minute time agreement on my amendment. It was not a circumstance where my amendment was going to hold up the bill. There would have been a minimum wage amendment, but Senator KENNEDY indicated he was willing to accept a time agreement of perhaps an hour, perhaps a half-hour, on that minimum wage amendment. So no one could accurately describe that as holding any kind of a bill hostage.

I want to describe the circumstance we were in yesterday and why I had to offer the Social Security amendment. The majority leader has announced in the Senate that he intends to seek reconsideration of the constitutional amendment to balance the budget. He has the right to do that, and when he does it, as I understand the procedure, there will be no debate and no opportunity for an amendment. That is the procedure under which he will seek reconsideration.

As a result of that, those of us who care about an issue that is related to the constitutional amendment to balance the budget, namely the issue of using Social Security trust funds as part of the revenue to balance the budget, wanted to offer a sense-of-the-Senate resolution saying any constitutional amendment to balance the budget that is brought to the Senate floor should create a firewall between the Social Security trust funds and the operating revenues of the Federal Government.

Now, why is that important? Because if you do not do that, we will have nearly $700 billion of Social Security trust funds misused. They were supposed to have been collected to be saved for the baby boom generation when they retire. But instead, they will be used as revenues on the revenue side of the budget to show a lower budget deficit.

Some of us feel that is wrong. I know that yesterday it was charged, well, this is just politics. It is not just politics. It is an enormously important question that this Senate must address. So far it has addressed it in the wrong way.

The minimum wage, which was also scheduled to be offered as an amendment by Senator KENNEDY and some others, is an issue they have worked on for over a year. There was not any intention to hold the bill up but simply to say on behalf of those folks out there working on a minimum wage who have for 6 years not received any kind of an increase at all, they have been frozen for 6 years and have lost a half a dollar of their wage to inflation in terms of purchasing power, we will try to give you a slight increase in the minimum wage.

That is what the fight was about. It was not a fight to try to hold up the bill.

Now, the majority leader came to the floor and, apparently with great frustration, said, well, this Social Security amendment and others have nothing to do with the underlying bill.

The majority leader understands how the Senate works. He has been here for a long, long time. He came to the floor when we had family and medical leave in this Chamber and offered a gays in the military amendment that had nothing to do with the bill. It was because he wanted to offer his amendment dealing with gays in the military. It was completely extraneous. It was nonrelevant. But he did it because he felt it was important to do.

On the immigration bill yesterday, the only opportunity, it seemed to us, to be able to register on this issue of the misuse of the Social Security funds in a constitutional amendment to balance the budget, the only opportunity we would have had before the majority leader would bring up the vote on the constitutional amendment to balance the budget was to offer it before he did it, and so we used the first vehicle that came along.

It is not an attempt to frustrate the immigration bill. Much in the immigration bill I support, as do many of my colleagues. The immigration bill will pass the Senate, in my judgment, if the majority leader brings it back to the floor. But he is not going to be in a circumstance where he comes to the floor of the Senate and says: Here is our agenda, and you vote on our amendments and our agenda when we want to vote; and with respect to the things you care about, we are sorry but they do not count; they are irrelevant.

It is not the way the Senate works. And so we are not trying to hold up any piece of legislation. We very much want the Senate to register itself on a couple of important issues.

With respect to whether these issues are just politics, as a couple of people have suggested, I guess if we get to the point when we are talking about a minimum wage for millions of Americans who have not had an adjustment in the minimum wage for 6 years, if we get to the point where we say, well, that is just politics if we want to talk about the minimum wage, they have changed the definition of politics. If it is just politics when we want to talk about $700 billion of Social Security trust funds being misused to show a lower budget deficit, then they have changed the definition of politics. That is not politics, in my judgment. It is what we ought to be discussing in the Senate.

My hope is that when we finish the antiterrorism bill, which I think will be moved out of the Senate with a yes vote, we will turn to the immigration bill, and we will deal with these amendments.

The fact is these amendments are not going to go away. I heard the majority leader and others say, well, those who offer these amendments simply want to cover their vote against the constitutional amendment.

We had two votes on the constitutional amendments last year. I voted for one, which was the right one, which did not misuse the Social Security trust funds, and I voted against the one that did misuse the Social Security trust funds. You cannot take money from workers' paychecks and say to them we promise this is dedicated for only one purpose; it goes into a trust fund; it is going to be saved for Social Security when we need it when the baby boomers retire, and then say, oh, by the way, we have changed our mind; the $71 billion this year that we collect above what we need for Social Security, we are going to use that to balance the Federal budget.

This is not a trust fund. The fund ought not to have the word "trust" in it if you are going to use it for other purposes, and it is not politics for us to start talking about some honesty in budgeting and protecting the Social Security trust funds for the days when this country is going to need them when the baby boomers retire.

There are plenty of issues we need to deal with in the Senate, and if every time we come to the floor of the Senate and talk about issues of substance, whether it is the Social Security trust funds or a constitutional amendment to balance the budget or for that matter the minimum wage, it is alleged somehow it is totally political, then I guess all of the activities of the Senate will be political this year. But some of us happen to think some of these issues ought to be dealt with, and those who think they will avoid votes in the coming months should understand we will come to the floor again and again and again, and it is not to play games. It is because it is serious business when you are talking about $700 billion in the Social Security trust funds, and it is also serious business when you are talking about folks who have worked on minimum wages for 6 years and have had no adjustment relative to inflation.

So, Mr. President, I understand we have the antiterrorism bill that will be coming to the floor this morning. I hope we make good progress on it. I think there is a consent agreement of some sort with respect to amendments. That bill ought to get out of the Senate soon. I will likely vote for it. Then I hope we can turn to immigration and deal with some of these issues.

I have watched what has happened in the Senate now for some long time, and I do not want people coming to the floor of the Senate and saying, well, we offer all of our amendments, any amendment, any time we want on any bill we want, but if you offer an amendment on minimum wage here, somehow you are playing politics.

That is not the way the Senate works. If one side is able to use legislation to advance the policies they want to advance, then the other side is going to do the same thing, and it ought not be a surprise to anybody. I just do not like to see stories in which we are told that somehow somebody yesterday was holding an immigration bill hostage. Both amendments that were to be offered to the immigration bill would have been subject to, and the authors of both amendments had said that they would agree to, very short time agreements. Nobody was holding anything hostage. People ought to know that.

Mr. President, I yield the floor, and I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION REFORM

Mr. CAMPBELL. Mr. President, I come to the floor today to make a few brief comments on the immigration proposals that we will be debating over the next few days. My first observation is to recognize the distinct set of issues that relate to and will be debated with respect to legal and illegal immigration. I commend the work of the Judiciary Committee for recognizing the merits of considering two separate bills rather than one package, and I strongly endorse the committee's position.

Mr. President, what I hear from many of my constituents on the issue of immigration is the growing costs absorbed by the system, that is Federal, State, county, and local governments, to continue to provide public services and benefits to the immigrant community. And recently, in my home State of Colorado, the increasing number of illegal immigrants, in particular, has been a growing concern.

Further, recent statistics, compiled by the Congressional Research Service and other recent studies, clearly document the enormous financial burden placed on Government entities to provide services to the immigrant community. It is my belief that without significant changes to curb the flow of illegal immigration, and to revisit current benefits bestowed to legal and illegal immigrants, this financial burden will continue to increase dramatically.

For example, a recent study out of Rice University, concluded that immigration costs to the United States exceeded $50 billion in 1994 alone. While the conclusion reached in this study are subject to debate, there is nonetheless a compelling need for significant change.

With over 4 million illegal aliens currently in this country, and over 300,000 arriving annually, the increasing burdens on our society demand our attention.

I would like to point out that in my home State of Colorado, for the 5-month period from November 1995 through March 1996, the Immigration and Naturalization Service [INS], contacted a total of 3,486 illegals. Of those, 2,014 were deported, while 1,472 were let go.

Mr. President, I would like to bring your attention to a newspaper article from the Denver Post dated April 12, 1996, that reads in part, "Last week, a van filled with 29 illegal immigrants was stopped on Interstate 70 in Grand Junction, but a lack of detention funds kept the INS from arresting them or their driver."

These incidents come just days after the INS Operation Mountain Passes ended. As a result of this program, designed to specifically crack down on smugglers, roughly 1,300 illegal immigrants were stopped, arrested, and deported. However, and not so ironic, when the money ran out this program ended.

Again as recently as Monday, in Colorado Springs, CO, a van containing 13 suspected illegal immigrants was stopped by the Colorado State Patrol. Unfortunately, for some unknown reason the INS could not respond. Because the State patrol does not have the authority to arrest illegal immigrants, these individuals were released. This represents the second time in less than a week that suspected illegal immigrants have been released because of inadequate INS response capability.

As a result of changes in the dynamics of illegal immigration migration Colorado has now become a major corridor for illegal immigrants migrating east. Without the assistance of increased law enforcement efforts, such as Operation Mountain Passes, I am concerned that these successful efforts may be curtailed.

While I support efforts to increase law enforcement efforts to curb illegal immigration, both at the border and to other impacted States, I do have concerns with provisions adopted in the House measure that may be considered in this Chamber.

Primarily, I am concerned with the provisions adopted in the House bill that seek to deny public education to illegal immigrant children as a means of reducing the flow of illegal immigrants into this country. Congress should not be so overzealous in its endeavor to reduce the influx of illegal aliens that we adopt stopgap measures that are actually destined to increase the demands on public funding by expanding the number of America's undereducated and unemployed.

Any provision that seeks to deny children access to education will place a massive burden upon our already overburdened community services, schools, and local law enforcement agencies. At a time when local and State leaders are making strenuous efforts to keep kids off the streets and in school, education should be employed as an important tool to help solve America's problems, not used as a weapon against its most helpless victims.

Mr. President, reducing the flow of illegal immigrants must first focus upon measures that will actually restrict and hopefully prevent illegal immigrants from entering this country. I support provisions in S. 1664, the Immigration Control and Financial Responsibility Act of 1996, that provides for more border patrol agents, as well as the addition of 300 full-time Immigration and Naturalization Service investigators for each of the next 3 fiscal years. I believe these provisions will provide a much needed boost to the understaffed and overworked agencies that we entrust to keep illegal aliens out of this country. Our focus, again, should be on the prevention and control of illegal immigration, rather than on retribution for illegally immigrating to this country.

Each of my colleagues brings a certain perspective to the immigration debate. I have listened to much of the debate and realized that the great lot of us are products of immigrant families. Personally, I believe I have unique perspective to add to the debate.

Over 60 years ago, my mother legally immigrated from Portugal. Like many people during that time she wanted the opportunity to make a better life for herself and an opportunity to succeed, but to do so in a law abiding way. While on the other hand, my father comes from people, the Northern Cheyenne people, who can document their ties to this land, to this continent for hundreds of years prior to the first explorers of this continent. If I were to take his advice, and the advice of many native American people, they might suggest that we all pack our bags and go home.

Obviously reality dictates real and pragmatic solutions. However, I might also observe that it seems ironic that if this same debate were to take place 100 years ago many of my colleagues, including myself, might not be here today.

In closing, I look forward to the debate on these immigration proposals and hope that this Chamber can adopt fair and effective immigration reform. Let us remember that, with few exceptions, we are all ancestors of immigrants.

Mr. President, I ask unanimous consent that the text of an article that appeared in the Colorado Springs Gazette Telegraph, on immigration, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SUSPECTED ILLEGAL ALIENS LET GO AFTER INS NO-SHOW

(By Teresa Owen-Cooper)

Thirteen suspected illegal immigrants from Mexico were detained briefly in Colorado Springs on Monday night but released after federal authorities couldn't respond to take them into custody, according to the Colorado State Patrol.

The 12 men and one woman from Oaxaca, Mexico, on their way to Tennessee to pick fruit, were stopped on Interstate 25 near U.S. Highway 24 about 7 p.m. after their van was weaving, said state patrol trooper Chuck Coffrin.

Coffrin found 13 people inside the 1972 Ford panel van, and none were able to produce documentation that they were U.S. citizens, officials said.

State patrol officials called the U.S. Immigration and Naturalization Service, who couldn't respond, Coffrin said, adding that the INS gave no indication why.

Because the state patrol doesn't have authority to arrest illegal immigrants, the 13 people were released, Coffrin said.

It was the second time in less than a week that the state patrol has stopped a van carrying suspected illegal immigrants from Mexico and been forced to release them because the INS didn't take action.

On Thursday, the state patrol stopped a van, carrying 19 people, on I-25 about 15 miles south of Colorado Springs, because their van was weaving, according to the state patrol.

GULF WAR SYMPTOMS

Mr. CAMPBELL. Mr. President, ever since the conclusion of the gulf war, returning veterans have complained about a variety of symptoms including dizziness, nausea, loss of equilibrium, and depression.

All of us have visited veterans in our States. And through a series of hearings, those of us on the Veterans' Affairs Committee have been dismayed by the steadfast denial on the part of the Pentagon and the Department of Defense to acknowledge these brave men and women are suffering the after effects of all airborne or waterborne agent or agents that have caused their sickness.

As late as this week, Mr. President, the Pentagon issued a statement saying that after spending $80 million of taxpayer money, they found no evidence of sickness-inducing agents during the gulf war. Kind of sounds like Vietnam and agent orange all over again.

Well, lo and behold, Mr. President, thanks to an extensive study done by the University of Texas through a grant given by Ross Perot, those complaints from our men and women in uniform appear to be true, and the culprit was a combination of three agents acting in concert with each other. One agent was a common pesticide. Last night the Pentagon, somewhat sheepishly admitted their mistake.

My only questions are these, Mr. President. One, what the heck did they study with the $80 million? And two, if they are that incompetent they must be in an unmendable state of denial in helping our returning veterans.

Hooray for the University of Texas—boo on the Pentagon.

TRIBUTE TO CHINA-BURMA-INDIA VETERANS ASSOCIATION OF NEVADA

Mr. BRYAN. Mr. President, I rise today to honor the China-Burma-India Veterans Association [CBIVA] of Nevada. These veterans played a decisive role in World War II. The China-Burma-India Veterans were responsible for driving the Japanese out of the treacherous Burma jungles and for building a road from Burma through the Himalayas to China, which was originally called the Burma Road. The China-Burma-India Veterans also flew the most famous of the B-29 airplanes, brought the air war to Japan and its occupied territories and ended the war with the historic atom bombing of mainland Japan.

The China-Burma-India Association was established in 1948 in Milwaukee, WI and is now a nonprofit organization of approximately 7,000 veterans. In Las Vegas, a group of the brave and courageous veterans has established a chapter of their own called the Silver State Basha No. 133 with Eugene Henkin as their current commander. The China-Burma-India Veterans Association, Silver State Basha No. 133, keeps their veterans in touch by sending out more than 200 newsletters to China-Burma-India Veterans of Las Vegas and surrounding communities.

The Silver State Basha No. 133 is an example of the many fine men and women in our country who had the courage, sacrifice, and devotion to serve in World War II. On April 21–23, the China-Burma-India Veterans Association World War II will hold its western area reunion in Las Vegas at the Rio Hotel and Casino. I am pleased to recognize this group and would like to wish the China-Burma-India Veterans Association best wishes on a successful reunion.

TRIBUTE TO JOHN O. HEMPERLEY

Mr. HATFIELD. Mr. President, I rise today to pay tribute to John O. Hemperley, the Budget Officer of the Library of Congress, who passed away last Saturday.

Members and staff of the Appropriations Committee rely heavily on the expertise, efficiency, and responsiveness of agency budget officers. Throughout our Federal Government there is a corps of budget professionals who set the example of dedicated public service. John Hemperley embodied the highest standards of his profession. He possessed a knowledge and understanding of the Library's budget that was unsurpassed, and he was unfailingly responsive in sharing that knowledge with our committee and its staff. He was fierce in his defense of the Library's mission and the budget funding that mission, but he never misrepresented the facts, and he always faithfully executed the budget enacted by the Congress.

The Library of Congress is a unique and treasured institution. It is the greatest repository of knowledge in the history of the world, and for 196 years the Congress of the United States has supported and nurtured its development. Today the Library faces the challenge of providing new electronic services to all its constituent groups while maintaining its traditional services to the Congress and the Nation, all in a time of severe fiscal constraint.

John O. Hemperley was a unique and treasured individual. For the past 23 years, he supported and nurtured the Library of Congress in its relationship with the Committee on Appropriations. He will be sorely missed, not only by those who knew and loved him here in the Senate and in the Library, but by all those who may never have known him but who benefit daily from the enormous resources the Library provides. The challenges the Library faces will be more daunting without him.

Mr. President, I know I speak for Senator MACK, the chairman of our Legislative Branch Appropriations Subcommittee, and for all other members of the Appropriations Committee, and our staff, in expressing our great sorrow and extending sincere condolences to John's wife, Bess Hemperley, their children, and grandchildren. And may John rest in peace with God.

CHANGE OF VOTE

Mr. MOYNIHAN. Mr. President, on rollcall vote 50, I voted yea. My intention was to vote nay. I ask unanimous consent that I be permitted to change my vote which in no way would change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, I have mentioned many times that memorable evening in 1972 when the television networks reported that I had won the Senate race in North Carolina.

At first, I was stunned because I had never been confident that I would be the first Republican in history to be elected to the U.S. Senate by the people of North Carolina. When I got over that, I made a commitment to myself that I would never fail to see a young person, or a group of young people, who wanted to see me.

I have kept that commitment and it has proved enormously meaningful to me because I have been inspired by the estimated 60,000 young people with whom I have visited during the 23 years I have been in the Senate.

A large percentage of them have been concerned about the total Federal debt which recently exceeded $5 trillion. Of course, Congress is responsible for creating this monstrous debt which coming generations will have to pay.

Mr. President, the young people and I almost always discuss the fact that under the U.S. Constitution, no President can spend a dime of Federal money that has not first been authorized and appropriated by both the House and Senate of the United States.

That is why I began making these daily reports to the Senate on February 25, 1992. I decided that it was important that a daily record be made of the precise size of the Federal debt which, at the close of business yesterday, Tuesday, April 16, stood at $5,142,250,889,027.95. This amounts to $19,430.38 for every man, woman, and child in America on a per capita basis.

The increase in the national debt since my report yesterday—which identified the total Federal debt as of close of business on Monday, April 15, 1996—shows an increase of more than two billion dollars $2,239,481,250.00, to be exact. That 1-day increase is enough to match the money needed by approximately 332,070 students to pay their college tuitions for 4 years.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TERRORISM PREVENTION ACT—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the conference report accompanying S. 735, which the clerk will report.

The assistant legislative clerk read as follows:

A conference report to accompany S. 735, an act to prevent and punish acts of terrorism and for other purposes.

The Senate resumed the consideration of the conference report.

MOTION TO RECOMMIT

Mr. LEAHY. Mr. President, I move to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on striking the text of section 414 (relating to summary exclusion), section 422 (relating to modification of asylum procedures) and section 423 (relating to preclusion of judicial review) from the conference substitute.

The PRESIDING OFFICER. There are 30 minutes on the motion, to be equally divided.

Who yields time?

Mr. LEAHY. Mr. President, I yield myself 6 minutes.

Mr. President, I will ask for the yeas and nays on this at the appropriate time but, I understand that the distinguished chairman of the committee is on his way to the floor. I would not make such a request until he was on the floor.

I am not taking this action lightly. I understand there is a real concern on motions to recommit, but this is a very, very serious matter.

I understand the symbolism of trying to have this conference report adopted by the House on the 1-year anniversary of the terrible bombing of the Federal building in Oklahoma City and, for that matter, the 3-year anniversary of the tragic end of the siege near Waco. It is one thing to say we want to schedule a resolution or sense of the Congress to coincide with a memorial day but here we are talking about a very significant piece of legislation. While I think that all of us abhor what happened in Oklahoma—certainly, no sane American could take any pleasure in what happened in the tragedy in Oklahoma City—we also have a responsibility as U.S. Senators, no matter which party we belong to, to pass the best law we can. After all, that is what the American people expect.

The vast majority of Americans are opposed to terrorism, terrorism of any sort, and they assume that their elected officials, both Republicans and Democrats, are going to pass good antiterrorism legislation. If it takes a day or two more to get it right, then let us take the day or two more. We are doing this for a nation of 250 million Americans, a very powerful nation, threatened by terrorism.

The Senate passed S. 735 on June 6, 1995, almost a year ago. The House only considered its version last month. The conference committee apparently met a couple of evenings ago, and we were handed the conference report yesterday with instructions to pass it post haste. Having seen almost 10 months elapse since the Senate passed this bill, I hope we take time to at least to read the conference report. And, I dare suggest, there are not five Senators in here who have even read the conference report or have the foggiest notion of what it is they are voting on.

This is what we are talking about. We are talking about a bill being rushed through here about antiterrorism, because we are all against terrorists. But I am willing to bet my farm in Middlesex, VT, you are not going to find 5 to 10 Senators in this body who have read every word of this conference report.

In particular, my motion to recommit concerns profound changes to our asylum process that were not previously considered by the Senate in our deliberations on antiterrorism last year. The provisions I am objecting to have nothing to do with preventing terrorism. That is one reason why they were not in the antiterrorism bill that we considered and passed last summer. These provisions were added in the conference.

They do not have to do with terrorism. I am asking only to strike sections 414, 422, and 423. These are general immigration matters. They should be in the immigration bill. They should not be in this antiterrorism bill.

I tried to amend these provisions during the Judiciary Committee consideration of the immigration bill. I failed on a tie vote. I circulated a "Dear Colleague" earlier this week, making clear my intention to try to change this. These provisions are bad policy. They are going to make bad law, and they are put in here for the first time in a conference report.

I disagree as well with the habeas corpus sections of the conference report, but at least we had the opportunity to debate and amend those provisions. The asylum rewrite was done in the dark of the night and it is being forced on us today. I think that is wrong.

Look no further than the front page of the New York Times on Monday. You see the most recent example of why we must not adopt the summary exclusion provision in the bill. There is an article on the case of Fauziya Kasinga and her flight from Togo to avoid female genital mutilation. She has sought for 2 years to find sanctuary in this country, only to be detained, tear-gassed, beaten, isolated and abused—not in some distant land, but the United States of America. The case has outraged women and men all over this country.

What you may not know is that the conference report that we have before us would summarily exclude Ms. Kasinga from ever having made an asylum claim, a claim that I hope, based on the reported facts, is going to be granted without her enduring more suffering. You see she traveled from Germany coming to America, and traveled on a false British passport in order to escape mutilation in Togo.

Under the legislation before us, she would be out. "Tough. Go back and get mutilated. We do not care. We have a law—that none of us ever saw, none of us ever debated, none of us ever spent time on—that allows for your summary exclusion. You are out."

Fidel Castro's daughter is another recent example of a refugee who came here using a disguise and phony Spanish passport to seek asylum. She came through Spain. Under the provisions of this bill, she might have been turned away at the border after a summary interview by a low-level immigration officer. We all know that there are political reasons why Fidel Castro's daughter should be granted asylum. Under the provisions of the conference report before us, slipped into the bill in the middle of the night, are barriers that could make that impossible.

I yield myself 2 more minutes.

In my "Dear Colleague" letter on my proposed amendment to these sections in the immigration bill and in the additional views I filed with the committee report on the immigration bill I also recall victims of the Holocaust and their use of false identification provided by the brave diplomats Raoul Wallenberg and Chiune Sugihara during World War II. Think of Oskar Schindler, think of "Schindler's List." These are the kind of things that we need to consider before adopting this conference report.

My concern is not to defend alien smuggling or false documentation or terrorists, but to acknowledge that there are some circumstances and oppressive regimes in the world where, if you are going to escape, you may well need to rely on false papers.

It would be ironic if we were to pass these provisions on an antiterrorism bill that would prohibit victims of terror, torture, and oppression around the world from seeking refuge in this, the world's greatest democracy.

I hope that the United States will not abandon its historic role as a refuge for the oppressed and persecuted. Our country is a beacon of hope and freedom, let it not be extinguished. Let us not abandon our leadership role in international human rights. Let us not abandon the world's true refugees, let us not restrict the due process that protects the people who look to us for asylum. Unfortunately, the impact of the provisions in this bill would be to deny refugees any opportunity to claim political asylum and would, instead, summarily exclude them from the United States and send them back to their persecutors without a hearing, without due process protections, without assistance to help them describe their plight and without judicial review of any kind.

Sections 421 and 422 of the conference report prohibit an asylum claim by refugees who enter this country with false identification. I could understand that we might want to consider as potentially relevant factors to an asylum claim that the refugee arrived with false documents and the route that the refugee traveled to get here. But those factors should not be dispositive. The examples to which I have previously alluded indicate that there are times when the use of false documentation is not something that we would want to punish. I fear that the bill goes too far and sends the wrong signal by putting the burden on the refugee, without counsel and in a summary proceeding, to establish that the person is the exception and to create a clear record of "credible fear" and that it was necessary to present the false document to depart from the persecuting country.

The Committee to Preserve Asylum has sent each of us a letter outlining the ways in which similar provisions in the immigration bill would harm human rights and endanger refugees. In their April 8 letter supporting the Leahy amendment they outline cases in which these provisions would have been disastrous.

The U.N. High Commissioner for Refugees sent our chairman a letter dated March 6 objecting to these provisions as inconsistent with the 1967 Protocol Relating to the Status of Refugees and remains critical of the bill.

The asylum process was reorganized and reformed in January 1994. The bill fails to take these changes into account. In fact, in 1995 asylum claims decreased greatly and were being timely processed. Only 20 percent were granted. Thus, the bill's provisions are a bad solution in search of a problem. The INS and Department of Justice report that they have matters in hand.

The Department of Justice counsels that we should allow immigration judges rather than asylum officers to make these determinations. Under the circumstances, I believe that we have moved too far too fast and allowed a few cases from the distant past to create bad law.

The asylum provisions in the bill would place undue burdens on unsophisticated refugees who are truly in need of sanctuary but may not be able to explain their situation to an overworked asylum officer. The bill would establish summary exclusion procedures and invest low-level immigration officers with unprecedented authority to deport refugees without allowing them a fair opportunity to establish a valid claim to asylum. Even before being permitted to apply for asylum, refugees who flee persecution without valid documents, would be met with a series of procedural hurdles virtually impossible to understand or overcome.

This is a radical departure from current procedures that afford an asylum hearing before an immigration judge during which an applicant may be represented by counsel, may cross-examined and present witnesses, and after which review is available by the Board of Immigration Appeals. Such hearings have been vitally important to refugees who may face torture, imprisonment or death as a result of an initial, erroneous decision by an INS official. Indeed, human rights organizations have documented a number of cases of people who were ultimately granted political asylum by immigration judges after the INS denied their release from INS detention for not meeting a "credible fear" standard. Under the summary screening proposed in the bill conference report, these refugees would have been sent back to their persecutors without an opportunity for a hearing.

Under international law, an individual may be denied an opportunity to prove an asylum claim only if the claim is "manifestly unfounded." This bill would establish a summary screening mechanism that utilizes a "credible fear" standard without meaning or precedent in international law. These summary exclusion provisions have been criticized by international human rights organizations and the United Nations High Commissioner for Refugees.

Furthermore, the proposed legislation would deny the Federal courts their historic role in overseeing the implementation of our immigration laws and review of individual administrative decisions. The bill would allow no judicial review whether a person is actually excludable. These proposals thereby portent a fundamental change in the role of our coordinate branches of Government and a dangerous precedent.

Besides being fundamentally unfair to a traumatized and fatigued refugee, who would be allowed no assistance and no interpreter, the proposed summary screening process would impose a burdensome and costly diversion of INS resources. In 1995 for example, only 3,287 asylum seekers arrived without valid documents—hardly the tens of thousands purported to justify these changes. The bill would require that a phalanx of specially trained asylum officers be created and posted at airports, sea ports and other ports of entry across the country to be available to conduct summary screening at the border. There is simply no need to divert these resources in this way when the asylum process has already been brought under control.

There are no exigent circumstances that require this Nation to turn its back on its traditional role as a refuge from oppression and to resort to summary exclusion processes. Neither the Department of Justice nor the INS support these provisions or believe them necessary.

I urge my colleagues to reject this gutting of our asylum laws and support the motion to recommit.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it not be charged to my time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, regarding the motion to recommit the conference report by the distinguished Senator from Vermont, now, look, this bill is a tough bipartisan measure. Stated simply, it is a landmark piece of legislation. My colleagues on the other side of the aisle know it. We have crafted a bill that puts the Nation's interests above partisan politics.

Some of my colleagues however have criticized this bill for not being tough enough on terrorists. In truth, many oppose this bill because it is too tough on vicious, convicted murderers—not my friend from Vermont, but others. My colleagues are aware that this motion to recommit will not improve the bill. Instead, if it passes it will scuttle the antiterrorism bill. In other words, it will kill it.

Accordingly, on behalf of Senator DOLE and myself, I move to table the pending motion and ask for the yeas and nays.

Mr. LEAHY. Mr. President, would the Senator withhold just a moment?

Mr. HATCH. I will be happy to withhold.

Mr. LEAHY. Mr. President, as I understand it, we are under a time agreement. Such a motion would not be in order until—or at least a vote on such a motion would not be in order until all time is either used or yielded back. Am I correct?

Mr. HATCH. I thought maybe the Senator had used his time.

I withdraw my request.

The PRESIDING OFFICER. The motion would not be in order until the time is used or yielded back.

Mr. LEAHY. If the Senator asks unanimous consent to make his motion to get the yeas and nays on it now, to be done at the expiration of time or yielding back——

Mr. HATCH. We can wait until then.

Mr. LEAHY. Mr. President, would the Senator yield further, on my time?

Mr. HATCH. I certainly do.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that a letter from the Committee to Preserve Asylum and various attachments in support of my amendment, signed by the American Friends Service Committee, the American Jewish Committee, Amnesty International, Associated Catholic Charities of New Orleans, Jesuit Social Ministries, Jewish Federation of Metropolitan Chicago, Indian Law Resource Center, and a number of others in support of my amendment be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE TO PRESERVE ASYLUM,
Washington, DC, April 8, 1996.

Hon. PATRICK J. LEAHY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEAHY: We are an ad hoc coalition of religious groups, human rights organizations, concerned physicians, and immigration and civil rights advocates that have come together to oppose the new bars to applying for asylum contained in S. 269.

The right to seek asylum is an internationally recognized human right, incorporated into U.S. law by Congress in the 1980 Refugee Act. It protects individuals fleeing persecution on account of race, religion, nationality, political opinion, or membership in a particular social group. Each year the U.S. grants asylum to about 8,000 people, less than 1% of legal immigrants. The new bars to asylum contained in S. 269, the Immigration Control and Financial Responsibility Act, would seriously undermine human rights protections for these bona fide refugees.

The new bars to asylum, found in sections 133 and 193 of the bill, would give low level immigration officers the authority to exclude and deport without a fair hearing refugees who were forced to flee persecution without valid travel documents. For reasons illustrated in the attached documents, this section would effectively deny asylum to many human rights victims. It will also cost more money. Senator Leahy will offer an amendment on the Senate floor that will preserve procedural protections for people escaping religious and political persecution.

We urge you to vote for the Leahy amendment.

Sincerely yours,

American Civil Liberties Union.

American Friends Service Committee.

American Jewish Committee.

Amigos de los Sobrevivientes.

Amnesty International.

Associated Catholic Charities of New Orleans.

Asylum and Refugee Rights Law Project, Washington Lawyers' Committee for Civil Rights and Urban Affairs.

Ayuda, Inc., Washington, DC.

Center for Immigrants Rights, Inc.

Central American Resource Center—CARECEN of Washington, DC.

Central America Political Asylum Project, American Friends Service Committee, Miami, FL.

Church World Services Immigration and Refugee Program.

Columban Fathers' Justice & Peace Office.

Comité Hispano de Virginia.

Committee for Humanitarian Assistance to Iranian Refugees.

Committee to Protect Journalists.

Council of Jewish Federations.

Dominican Sisters of San Rafael, CA.

El Centro Hispanoamericano.

FIRN, Inc. (Foreign-born Information and Referral Network).

Friends Committee on National Legislation.

Heartland Alliance for Human Needs & Human Rights.

Hebrew Immigrant Aid Society.

Hogar Hispano.

Illinois Coalition for Immigrant and Refugee Protection.

Immigrant and Refugee Services of America.

Immigrant Legal Resource Center.

Indian Law Resource Center.

International Institute of Boston.

International Institute of Los Angeles.

Jesuit Social Ministries.

Jewish Federation of Metropolitan Chicago.

Las Americas Refugee Asylum Project.

Lawyers Committee for Human Rights.

Lutheran Immigration and Refugee Service.

Marjorie Kovler Center for the Treatment of Survivors of Torture.

Mennonite Central Committee.

Minnesota Advocates for Human Rights.

National Asian Pacific American Legal Consortium.

Network: A National Catholic Social Justice Lobby.

North Texas Immigration Coalition.

Northwest Immigrant Rights Project.

Peace Workers.

Physicians for Human Rights.

Political Asylum/Immigration Representation Project, Boston College Law School.

Proyecto Adelante.

Proyecto San Pablo.

Robert F. Kennedy Memorial Center for Human Rights.

Sponsors Organized to Assist Refugees, OR.

Union of Council of Soviet Jews.

U.S. Committee for Refugees.

Vietnamese Association of Illinois.

VIVE, Inc., An Organization for World Refugees.

THE NEW BARS TO ASYLUM WOULD RETURN HUMAN RIGHTS VICTIMS TO FURTHER PERSECUTION

VOTE FOR THE LEAHY AMENDMENT

Sections 133 and 193 of S. 269, the Immigration Control and Financial Responsibility Act, would give low-level immigration officers the authority to deport back to their persecutors refugees who were forced to flee persecution without valid travel documents. The new bars to asylum would punish people whose only means of fleeing repressive governments is by using invalid travel documents.

Many true refugees are forced to flee persecution without valid travel documents either because they do not have time to acquire them or because applying for them would threaten their lives.

Under current law, a person who arrives in the United States without valid travel documents and fears persecution in his or her home country may go before an immigration judge and prove eligibility for asylum. The asylum seeker may be represented at the hearing at no cost to the government.

The new bars to asylum would preclude such a person from even applying for asylum until he or she has proven that he or she has a "credible fear" of persecution and used the invalid travel documents to flee directly from a country where there is a "significant danger" of being returned to persecution. This all may have to be proven immediately after a stressful journey, and without the assistance of counsel or an interpreter, and without the involvement of any judicial or quasi-judicial officer.

The new bars and summary procedures are problematic for several reasons.

A "false papers" rule would harm human rights victims. By definition, asylum seekers frequently fear persecution by the government of their home country—the same government that issues travel documents and checks identity papers and exit permits at the airports and border crossings. It should be recalled that the United States has long honored Raoul Wallenberg, who saved countless lives during the Holocaust by issuing unofficial travel documents so that refugees could flee further persecution.

Meritorious asylum seekers would be returned to persecution. The INS has made serious errors while trying to apply the "credible fear" test. Under current law, asylum seekers who arrive in the U.S. without valid travel documents are detained pending their hearing unless they prove a "credible fear" of persecution in their home country. Human rights organizations have documented many cases in which people were denied parole under this standard, but later were granted asylum at their hearing before an immigration judge. Under the new bars to asylum, they would have been returned to persecution. A summary of some of these case studies is attached.

The Department of Justice opposes the new bars to asylum. Deputy Attorney General Jamie Gorelick wrote in her February 14 letter to Judiciary Committee Chairman Orrin G. Hatch that the Justice Department opposes sections 133/193, noting that "Absent smuggling or an extraordinary migration situation, we can handle asylum applications for excludable aliens under our regular procedures."

The new bars would deny protection to refugees who had to change planes on route to the United States. Before being able to apply for asylum, a refugee who used false documents would have to prove that they were needed to leave her country or to transit through another country. This requirement would prejudice both asylum seekers who flee countries that do not have direct carrier routes to the U.S. and those who must travel over land through countries that do not have asylum laws, that may be friendly with the government they are fleeing, or that are hostile to people of their background or nationality. Refugees from Asian and African countries in particular face this situation.

The new bars to asylum are inconsistent with U.s. obligations under international law and will inevitably lead to errors. The new bars lack the minimal procedural safeguards to prevent the mistaken return of a genuine refugee to certain persecution. The UNHCR "fears that many bona fide refugees will be returned to countries where their lives or freedom will be threatened" if the new bars to asylum become law. (Letter to Sen. Hatch, Chairman Judiciary Cmte, March 6, 1996).

VOTE FOR THE LEAHY AMENDMENT

Bob, a student at the University of Khartoum in Sudan, was an active member of the Democratic Unionist Party, an anti-government organization. After participating in a peaceful student protest, he was arrested by the Sudanese government. He was detained in a 6 by 11 foot cell with 10 other prisoners for 2 months. During his imprisonment, he was repeatedly interrogated and tortured—he was hung by his hands and feet, beaten and electrically shocked. As a result of the torture, his elbows are permanently deformed. He remained active in the democratic movement after his release from prison. Then, as he was walking to a democratic union meeting, he was again arrested and imprisoned. A few months later, while he was still in prison, he suffered a nervous breakdown because of the torture he suffered. He was transferred to a hospital, but remained under arrest. Wearing a nurse's uniform that his mother had smuggled into the hospital, Bob escaped from imprisonment.

Bob's colleagues from the democratic union smuggled him onto a freighter bound for Germany. In Germany, he borrowed another person's ID card to leave the ship. Knowing that the anti-immigration and NeoNazi movement in Germany had heightened and that it would be impossible to receive asylum there, Bob flew from Germany to the United States. He arrived without a passport. When he exited the plane, he immediately told the INS that he wanted to apply for asylum. He was placed in detention. Bob was not released from detention because the INS interviewer determined he did not have a "credible fear" of persecution. He was granted asylum by an immigration judge.

Alan, an Indian national, had been persecuted in Kashmir because of his religion. On several occasions, he and his family members were imprisoned and tortured by the Indian government. In July 1994 when the military police sought to detain him, he evaded arrest. A few months later his family's home was bombed.

Fearing for his life, Alan fled to the United States using a false passport. He told the INS he wanted asylum immediately. He explained to the INS officials that he and his family had been persecuted by the Indian government. The INS officers at the airport did not think he was credible. The officials verbally abused Alan and denied him food and water until he was brought to a detention center the next day. Alan was not released from detention because the INS did not think he had a credible fear of persecution even though he presented the INS with reports about religious persecution in Kashmir. Alan was later granted asylum by an immigration judge.

Sam, a Nigerian national, was an active member of a pro-democracy organization that was determined to ensure democratic elections in Nigeria. Shortly before the elections, the leader of the democracy organization was found murdered, and several members were arrested and subsequently disappeared. The State Secret Service went to Sam's house on election day searching for him. When Sam learned that the secret service was searching for him, he immediately went into hiding, afraid that if they found him, he too would "disappear" as his colleagues had.

Sam fled to the United States right out of hiding. He changed planes in Amsterdam. He traveled with a false U.S. passport. He was afraid that the Nigerian government would arrest him if he tried to leave the country with his own identification papers. When he arrived in the United States, he immediately told the INS that he wanted asylum. He was placed in detention. The INS interviewed him to determine whether he had a credible fear of persecution; the INS concluded that he did not. He was granted asylum by a federal court.

Mr. LEAHY. Mr. President, I also ask unanimous consent that a letter from the U.N. High Commissioner for Refugees in support be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED NATIONS,
HIGH COMMISSIONER FOR REFUGEES,
Washington, DC, March 19, 1996.
Re Special Exclusion Provisions of S. 269.
Hon. PATRICK LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: I wish to express UNHCR's sincere appreciation for your efforts during the 14 March Judiciary Committee mark-up session to remove the special exclusion provisions of S. 269. These provisions, found in Sections 133, 141 and 193 of the bill, would almost certainly result in the U.S. returning bona fide refugees to countries where their lives or freedom would be threatened.

As noted in my 6 March letter to Judiciary Committee Chairman Orrin Hatch, we offer our views regarding S. 269 with the hope that you and the other members of the Judiciary Committee will seek to adhere to the standards and principles set forth in the 1967 Protocol Relating to the Status of Refugees, to which the U.S. acceded in 1968.

In particular, UNHCR is concerned with the following special exclusion provisions:

(1) Lack of due process—Sections 133, 141 and 193 provide few procedural safeguards to ensure that true refugees are not erroneously returned to persecution.

(a) No administrative review—Under Section 141, special exclusion orders are not subject to administrative review (p. IB-4, line 19). Minimum procedural guidelines for refugee status determinations specify that an applicant should be given a reasonable time to appeal for a formal reconsideration of the decision. This principle is set forth in UNHCR Executive Committee Conclusion No. 8 (1977).[1] The "prompt supervisory review" provided for in Section 193 (p. IC-36, line 12) does not meet these minimum procedural guidelines.

(b) Limitation on access to counsel—Under Section 193, asylum-seekers arriving at US ports of entry with false documents or no documents are permitted to consult with a person of their choosing, only if such consultation does "not delay the process" (p. IC-36, line 25). Such a limitation is in violation of the principle that applicants for asylum should be given the necessary facilities for submitting his/her case to the authorities, including the services of a competent interpreter and the opportunity to contact a representative of UNHCR (UNHCR Executive Committee Conclusion No. 8 (1977)).

(2) Limitation on access to asylum—Section 193 provides that individuals presenting false or no documents or who are escorted to the US from a vessel at sea are not permitted to apply for asylum unless they traveled to the US from a country of claimed persecution and that the false document used, if any, was necessary to depart from the country of claimed persecution. UNHCR requests the US to remove this limitation and to adhere to international principles which provide as follows:

(a) "[A]sylum should not be refused solely on the ground that it could be sought from another State. Where, however, it appears that a person, before requesting asylum, already has a connexion or close links with another State, he may if it appears fair and reasonable be called upon first to request asylum from that State" (UNHCR Executive Committee Conclusion No. 15 (1979) (emphasis added)).

(b) When refugees and asylum-seekers move in an irregular manner (without proper documentation) from a country where they have already found protection, they may be returned to that country if, in addition to being protected against refoulement (i.e. protected against return to a country where their lives or freedom would be threatened), they are treated in accordance with "recognized basic human standards" (UNHCR Executive Committee Conclusion No. 58 (1989)). UNHCR is prepared to assist in practical arrangement for the readmission and reception of such persons, consistent with these international standards.

(3) Credible fear standard—Sections 133, 141 and 193 create a new, heightened threshold standard that asylum-seekers must meet before they are permitted to present their claims in a hearing before an immigration judge. Under these sections, asylum-seekers who are brought or escorted to the US from a vessel at sea (Sections 133 and 141), who have entered the US without inspection, but have not resided in the US for two years or more (Section 141), who arrive during an "extraordinary migration situation" (Section 141) or who arrive at a port of entry with false documents or no documents (Section 193) must first establish a "credible fear" of persecution before they are permitted to present their claims in an asylum hearing before an immigration judge. UNHCR urges the adoption of a "manifestly unfounded" or "clearly abusive" standard which would reduce the risk that a bona fide refugee is erroneously returned to a country where s/he has a well-founded fear of persecution. This international standard for expeditious refugee status determinations is set forth in UNHCR Executive Committee Conclusion No. 30 (1983).

We are hopeful that you will support the elimination of a deadline for filing asylum applications. Failure to submit a request within a certain time limit should not lead to an asylum request being excluded from consideration (UNHCR Executive Committee Conclusion No. 15 (1979)). Under this international principle, the US is obliged to protect refugees from return to danger regardless of whether a filing deadline has been met.

Again, I thank you for your efforts to ensure that refugees are protected from return to countries of persecution. Please do not hesitate to contact my Office if UNHCR may be of any further assistance to you, your staff or other members of the Committee.

Sincerely,
ANNE WILLEM BIJLEVELD,
Representative.

Mr. LEAHY. Mr. President, I am not in any way trying to derail this bill. I am just saying that this is something that was tucked into it in the middle of the night. Nobody ever had a chance to debate it. It is in here. And it is going to make it impossible, or nearly impossible, for anyone from Fidel Castro's sister to somebody escaping torture and religious persecution to come to the United States, if traveling through a second country or traveling with a false passport to do it.

That makes no sense. That is not an antiterrorist situation. Look at "Schindler's List." Remember Raoul Wallenberg. Think about those who escaped persecution by using false passports as a way they could get out of the country. They may well have to go through an intermediate country to get to the greatest nation of freedom on Earth. Just because somebody slipped these provisions into the conference report, let us not go along with it. This is something that should be debated.

Our own Department of Justice does not support these provisions of the bill. I think in fact the Justice Department reiterated their opposition to them in an April 16 letter on similar provisions in the immigration bill to the majority leader. Deputy Attorney General Gorelick wrote us, "absent smuggling or an extraordinary migration situation, we can handle asylum applications for excludable aliens under our regular procedures."

I reserve the balance of my time and yield to the Senator from Utah.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I do not really have anything more to say other than this is a very important piece of legislation. It is a key piece of legislation. It is desired by almost everybody who wants to do anything against terrorism. It is effective and strong. Even though we acknowledge we do not have everything everybody wants in this bill, it is a darn good bill that will make a real difference. If this motion or any motion to recommit passes, this bill is dead, it will be killed. So we simply have to defeat any and all motions to recommit. I will move to table the amendment at the appropriate time. I am prepared to yield back the balance of my time on this amendment.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. Mr. President, the Senator from Utah, the distinguished chairman of the committee, keeps referencing that——

The PRESIDING OFFICER. Does the Senator from Vermont yield time to the Senator from Delaware?

Mr. LEAHY. Yes. I understand I have about 4 minutes. I yield 2 minutes to the Senator from Delaware.

Mr. BIDEN. Mr. President, the Senator from Utah keeps saying anything will kill this bill. That is not true. This is not "kill this bill." If we send this back to conference for one or two or 12 amendments it does not kill this bill. Every major bill we had, including the crime bill, we sent back to conference with instructions—at least on three occasions. This will not kill this bill.

Some of this has not been well thought out. Much of what we left out of the bill, I am convinced, on reconsideration by our friends in the House, they would change their view. But I want to make it clear, I do not believe there is any evidence to suggest that sending this back to conference with specific instructions would kill the bill.

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[1] The UNHCR Executive Committee is a group of representatives from 50 countries, including the United States, that provides policy and guidance to UNHCR in the exercise of its refugee protection mandate.

I am prepared, if the chairman and if Senator LEAHY is, to yield back. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. LEAHY. Does the Senator from California care to speak on this?

Mrs. BOXER. No. I am waiting for the next motion.

Mr. LEAHY. Mr. President, I thought Senator KENNEDY wished to speak on this.

I am ready to yield back the balance of my time.

Mr. HATCH. I am prepared to yield back the balance of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. HATCH. Mr. President, I ask unanimous consent that the pending Leahy motion to recommit be temporarily set aside with the vote to occur on or in relation to the Leahy motion after completion of debate on the next motion to recommit.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Senators should be aware there will be two consecutive rollcall votes following completion of all debate on the next motion.

Mr. President, I also ask unanimous consent to move to table the Leahy amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. Mr. President, for the benefit of my colleagues, to review the bidding from yesterday, the distinguished chairman of the committee and I agreed on a unanimous-consent proposal that we have one-half hour on each of up to as many as 14 motions. I doubt there will be that many. But we will move them out seriatim here. I see my distinguished colleague from California, Senator BOXER, is on the floor prepared to go with her motion, to begin to debate her motion. So I would, with the permission of the Senator from Utah, yield to the Senator from California for that purpose.

I will make one important point, Mr. President. At the appropriate time I will make the motion. As I understand the parliamentary situation, debate must be concluded before I make the motion, otherwise the motion is subject to immediately being tabled, which I do not think my friend has any intention of doing. But just to make sure we do it by the numbers—I beg your pardon. I have been informed by staff we got unanimous consent yesterday that that is not necessary, that we can offer the motion. But I will offer the motion at this point.

MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, I offer a motion to recommit the conference report with instructions to add provisions on the National Firearms Act statute of limitations. For the purpose of discussion of that motion, I send that motion to the desk.

The PRESIDING OFFICER. The motion is now pending.

The motion is as follows:

Motion to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following:

SEC. . INCREASED PERIODS OF LIMITATION FOR NATIONAL FIREARMS ACT VIOLATIONS.

Section 6531 of the Internal Revenue Code of 1986 is amended—

(1) by redesignating paragraphs (1) through (8) as subparagraphs (A) through (H), respectively; and

(2) by amending the matter immediately preceding subparagraph (A), as redesignated, to read as follows: "No person shall be prosecuted, tried, or punished for any criminal offense under the internal revenue laws unless the indictment is found or the information instituted not later than 3 years after the commission of the offense, except that the period of limitation shall be—

"(1) 5 years for offenses described in section 5861 (relating to firearms and other devices); and

"(2) 6 years—.".

The PRESIDING OFFICER. There will be 30 minutes equally divided. Who yields time?

Mr. BIDEN. I thank the Chair for its assistance. I yield as much time as the Senator from California may need under my control.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mrs. BOXER. Thank you, Mr. President. I want to thank the Senator from Delaware for taking the leadership on this issue. Every motion that he will make today is a motion that is tough on crime. Every single motion that he will make, if it is carried by this U.S. Senate, will make this a better bill.

The motion that he just sent to the desk means a lot to the Senator from California because I offered it to this U.S. Senate. It was adopted unanimously. I have to say, it is inexplicable to me why this provision would have been stricken. I do know there are certain groups that oppose it, one in particular, the NRA. I cannot for the life of me understand why else this would have been stricken from the Senate bill.

Let me explain the amendment that I offered which is the subject of this motion. What we would do is simply make sure that under the National Firearms Act when there is a crime which deals with making a bomb, making a silencer, making a sawed-off shotgun, that there be a period of time of 5 years rather than 3 years for law enforcement to track down and prosecute the criminal who would commit such a crime.

There is an anomaly in the United States Code right now. These crimes are the only ones that have a 3-year statute of limitations. Let me explain why this is so bad and why we must fix it. If there is a crime where a terrorist makes a bomb and the bomb explodes and it kills people—and we have just, of course, revisited, as our President did, the tragedy in Oklahoma City, and the 1-year anniversary of that dreadful day is coming quickly upon us—if a criminal had a bomb in his home or in his farmhouse or in his truck or hidden away for a period of a year, let us say, while he made that bomb, the statute of limitations starts running from the day the bomb is made. In such a case law enforcement would have only 2 years to track down and put away such a criminal.

I do not understand why those who claim to be tough on crime would drop from this bill a commonsense provision. Striking this provision makes it easier to get away with making a bomb. It is that simple.

Who supports this BOXER amendment? How did I even learn about it? I learned about it from local law enforcement people who asked me to fight this fight. I learned about it from the Justice Department, who asked us to carry this fight. I learned about it from the Treasury Department, which heads the ATF, and they asked me to fight for this. Mr. President, 47 police chiefs told me to fight for this. For them, I offered this amendment to establish a 5-year statute of limitations for making a bomb, a sawed-off shotgun, or a silencer. It is pretty straightforward.

I think the American people understand this, and people can stand up here as long as they want, and I have respect for them. However, I must question them when stand up here and say, "Well, gee, Senator BOXER, if we kept your amendment in here, this whole bill would go down." Show me one U.S. Senator of either party, show me one House Member who would truly stand up and say that a criminal who makes a bomb, who makes a silencer, who makes a sawed-off shotgun should get away with it because of a 3-year statute of limitations. If any disparity is warranted, bomb making ought to be a longer statute, because a bomb could be hidden in somebody's possession for a long time before it was detonated and before it was used.

The police chief of Oklahoma City supports this. Let me repeat that: The police chief of Oklahoma City supports this amendment. They know they need time to put together their case.

What are we doing here? Are we doing the bidding of the NRA, or are we doing the bidding of the American people? Are we trying to protect the people from these vicious crimes, these cowardly crimes? It is horrible enough when someone walks up to someone else and injures them with a weapon. That is a horrible crime and it should be punishable by the worst possible punishment.

It is unbelievable to me that this was stricken by this conference committee. I thought we were going to be tough on crime.

Last night, a simple proposal that would say if a chemical weapon was used, local law enforcement could call on our military to get help was defeated in this Republican Senate—defeated. Now, ask the average law enforcement person in the local community if they are experts on chemical and biological weapons. They will tell you no. Just as in my amendment, if you ask them, do you need more time to go after the cowards that would make a bomb, they would say, "We need more time, Senator. Fight for your amendment." We did, and it passed this Senate, and it was dropped in conference. It comes back to us with this piece missing.

I am stunned that would be the case. There is no argument except the one that the distinguished chairman makes over and over again on each of these motions which is, "You know that your amendment, Senator, will kill this bill." Well, I do not know that. I never got one letter, one note of opposition to this commonsense proposal supported by the police chief of Oklahoma City and all the other law enforcement people who know it takes time to put together these complex cases.

I say if anyone believes this is bad policy, if they disagree with me on substance, if they disagree with the police chief of Oklahoma City and all the other police chiefs, the Justice Department and the administration, why do they not come down here? I say if they agree that it is common sense that altogether these crimes should have a minimum of a 5-year statute of limitations, they should support the Biden motion to recommit.

It defies imagination that we are now here refighting important commonsense proposals included in the Senate version of this bill.

I hope that my Republican friends will support this motion. I think it is absolutely key that we not tie the hands of law enforcement. We are coming to the 1-year anniversary of Oklahoma City. We know the investigation is going on and is continuing. If you asked every American, no matter what political stripe, no matter what part of the country they are from, they would say that it is important to give law enforcement enough time to investigate these complex cases—that is all we are asking for. This does not cost any money. It simply gives law enforcement time, time to make sure that they have completed their investigation and those cowards who would blow up innocent people are put away and dealt with in the harshest possible fashion.

I say that is being tough on crime. I hope that we will have support for this motion to recommit. Mr. President, I yield the floor. I reserve whatever time I might have.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I will not take long because, frankly, it comes down to one thing: that we have worked this bill out. We have worked hard with the House Members. It has been very difficult to do. They have made significant concessions to us, and rightfully so. We applaud them for doing so because we have our problems here, and they have their problems there.

Anybody who has been in this process very long understands that once you reach a conference report like this—especially this one, which has taken a year to get here—any change is going to kill the bill—especially this provision.

Section 108 of the Senate bill, in part, would increase from 3 to 5 years the limitations period for commencing actions for violations of the National Firearms Act. The reason it is opposed by Members of the House, and the reason I oppose this attempt to increase the limitations provision, simply put, is because it is unnecessary. It does absolutely nothing with regard to terrorism. The 3-year Internal Revenue Code statute of limitation period for licensed firearms dealers violating the National Firearms Act is more than an adequate time to commence prosecutions.

There is no sanguine reason to extend the period. This has nothing to do with terrorism. It may be a good idea in another context, but it is apparent that it would cause plenty of problems in this context because there are simply people in the House—and I suspect here—who disagree with the distinguished Senator from California, who is very sincere in putting this amendment forward.

The statute of limitations period should be built upon fairness. These types of statutes of limitation must protect the Government's ability to prosecute claims and violations of the law. Yet, they also have to protect citizenry from stale claims and bureaucratic abuse. In this area there are a significant number of people on both sides of the floor here, and in the House of Representatives in particular, who have seen unfairness by various bureaucratic abusers and do not want to change this.

The traditional 3-year limitations period here accomplishes this fine balance between public needs and private rights. If we look at the underlying National Firearms Act offenses subject to a 3-year limitations period, the violations either prohibit dealers from possessing or transferring illegal firearms, such as banned machine guns or sawed-off shotguns, or possessing or transferring them without the proper firearm identification serial numbers, or through fraudulent applications or records. The 3-year limitations period, historically, has been more than sufficient to prosecute claims under the act, some being substantive but many of an administrative or of a paperwork nature. Some are technical. And we have seen abuses. Extending the limitations period to 5 years does absolutely nothing except perhaps open the system up to abuse and unfairness. Frankly, that is why our colleagues in the House are against this amendment. That is why I am against it here today.

I am prepared to yield, and I reserve the remainder of my time.

Mr. BIDEN. Mr. President, I yield myself 2 minutes of what I understand to be 5 minutes of remaining time.

The idea, of course, here, Mr. President, is that the proposal that is in the bill, the failure to do this in the bill does not make sense. Listen to some of the types of weapons covered. Poison gas, bombs, grenades, rockets having propellant charges of more than 4 ounces, missiles having an explosive or incendiary charge of more than one-quarter ounce, mines—these are not playthings we are talking about. Remember, the statute of limitations runs not from the time the crime becomes public knowledge, but from the time the crime was committed. So if a terrorist builds a bomb secretly, keeps it in his barn for 2½ years, and blows up a building with it, the Federal prosecutors only have 6 months to track the guy down and get an indictment for building that bomb.

Crimes covered by the National Firearms Act are serious. They involve illegal manufacture of rockets, bombs, missiles, and sawed-off shotguns. So I cannot understand why anybody would oppose bringing the statute of limitations for these crimes into line with almost every other Federal crime.

Here are a few examples of crimes with a 5-year statute: Simple assault; stealing a car; impersonating a Federal employee; buying contraband cigarettes; impersonating, without authority, the character Smokey the Bear. If we are going to give the Government 5 years to track down a guy who impersonates Smokey the Bear, why not track down a guy who is involved in producing poison gas in his garage or barn?

I yield the remainder of my time to the Senator from California.

Mrs. BOXER. Mr. President, I say to the Senator from Delaware that, as usual, he has put this in exactly the right manner. There is no reason on God's green Earth why this should not have been kept in this bill. Again, just ask the American people. Sometimes things sound very complicated. When the Senator from Utah got up and discussed the law, he makes it sound too complicated for the average person to understand. When you tell the average person that if you get out there and impersonate Smokey the Bear, law enforcement has 5 years to track you down, prosecute you, and put you away, but if you make a bomb, they have 3 years, it makes no sense whatsoever.

When the Senator from Utah says I am very sincere, I appreciate that. He knows me and he knows that I am, and I know that he is as well. But this is not about my sincerity. This is about a tool that law enforcement has asked the Congress to give them. So in the remainder of my time, I am going to read into the RECORD the local police chiefs who have asked us to give them this tool. It does not cost any money and does not set up a new bureaucracy. It gives them a commodity they want: time. So I am going to read, in the time that remains, the people who said to me, "Senator, this is important. Let us get this statute of limitations extended so we can go after these bad, cowardly criminals and put them away."

The police chiefs of San Jose, CA; San Francisco, CA; Berkeley, CA; Los Angeles Port, CA; Salinas, CA; San Leandro, CA; Indianapolis, IN; the police chief of Oklahoma City, OK; the director of police in Roanoke, VA; the chiefs of police in Bladensburg, MD; Edwardsville, IL; Rock Hill, SC; Old Saybrook, CT; North Little Rock, AR; Puyallup, WA; Yarmouth, ME; Kinnelton, NJ; Bel Ridge, St. Louis, MO; Charleston, SC; Jackson, MS; Salem, MA; Scottsdale, AZ; Cambridge, MA; Haverhill, MA; Millvale, Pittsburgh, PA; Newport News, VA; Dekalb County Police, Decatur, GA; Opelousas, LA; Eugene, OR; Mobile, AL; Portland, OR; East Chicago, IN; Louisville, KY; Alexandria, VA; Renton, WA; Waukegan, IL; Port St. Lucie, FL; Greensboro, NC; Miami, FL; Buffalo, NY; Oxnard, CA; Seattle, WA.

The PRESIDING OFFICER. The time of the Senator from California has expired.

Mrs. BOXER. Thank you. I hope people will listen to the local chiefs and support the motion of the Senator from Delaware.

Mr. HATCH. Mr. President, look, if the Senator's arguments are valid, why do we not make it a 100-year statute of limitations? I mean, we can make it that way. They can prosecute any time they want to prosecute.

The fact of the matter is that we are trying to balance our law enforcement needs. Most of these are paperwork violations that are going to be automatically ascertained within a very short period of time, certainly within 3 years. If we make it 5 years, they will wait 4½ years before prosecuting on a paperwork violation rather than 2½ years, which is sometimes the case now.

There is simply no reason to extend the statute of limitations for this act. Anyone who uses a bomb, as is the illustration by the Senator from California, or illegal weapon, under this act, will be prosecuted under the Criminal Code and receive far larger penalties than are under this act. The majority of these offenses are mere paperwork offenses and have little or nothing to do with terrorism. Essentially, it would permit bureaucrats, like I say, 4½ years to start an investigation instead of 2½ years. That is really sometimes what happens.

Let us get back to where we were; that is, that we have arrived at a compromise here, and we have had to bring the House a long distance to meet the needs of the Senate. They have cooperated and have worked hard. Chairman HYDE and the other members of the conference have all worked very hard on this, and this is where we are. There are those on both sides of the floor over there who do not like this amendment, and, frankly, it would be a deal killer and a bill killer. If we want an antiterrorism bill, we have to vote down this motion to recommit.

I am prepared to yield the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAMS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN addressed the Chair.

Mr. HATCH. Mr. President, I yield 60 seconds of my time to the distinguished Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I would like to make two very brief points.

I do not believe this is a deal killer, No. 1. But No. 2, there are two pieces here. It is illegal to make a bomb. It is illegal to put together poison gas. That is one crime all by itself. The second crime is if you go out and use it. So, if you used a bomb to blow up buildings, a new statute of limitations starts to run.

There is a distinction between what is lacking in this bill across the board, between prevention and apprehension. We not only want to get the bad guys who do the bad things; we want to prevent the bad guys from being able to do the bad things. By allowing the statute of limitations to be like it is for Smokey the Bear impersonation, and everything else in the Federal code—just about—it gives us more time to track down the people who have prepared or are stockpiling this kind of material, whether or not they have used it. That is an important distinction.

I think this is an important amendment. I cannot believe for a moment that this would kill the bill, that you would have 35 people in the House vote against this because we made the statute of limitations for making poison gas the same as for impersonating Smokey the Bear. I find that unfathomable.

I thank my colleague for yielding me an extra minute.

Mr. HATCH. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 6 minutes and 20 seconds.

Mr. HATCH. Mr. President, let me answer the distinguished Senator.

There are people on both sides of the aisle over there who do not like this amendment. We have taken a year to get this done. It was done 1 month after we passed the Senate bill, which, by the way, was an excellent bill. The fact of the matter is, there are people over there who will kill this bill over any amendment at this particular point. Everybody knows that. This is not something new to us.

We have had to fight our guts out to get this conference and get the conference report done. Frankly, there are a wide variety of viewpoints on this bill and on some of the aspects of this bill.

Look, if somebody is making a bomb, it is very likely you could charge that person under conspiracy, or an attempt statute, or under a number of other statutes that have longer statutes of limitations. This is not—I do not want to call it a phony issue, but it certainly is not an issue that should allow a motion to recommit.

Frankly, 3 years is plenty of time to get somebody who makes a bomb. If they do not get it under this statute, they will get it under something else. But if you expand it to 5 years, then all of these paperwork violations—which primarily is what is prosecuted under this statute, and some of them very unjustly so in the past—all of those become dragged out for another 2 years.

Frankly, we want the law enforcement people, if they feel they have a legitimate reason to prosecute, to prosecute it, and do it quickly so the witnesses are available, so that a lot of other things can be done and the people can defend themselves.

So there are a number of legitimate reasons why people do not like this amendment and why people in the House would not want this in the bill. The purpose of this is to give the bureaucrats a new lease on life without really stopping terrorism. That is what we are talking about here.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, what is the current business?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. HATCH. I yield back the remaining part of my time. What is the current business?

VOTE ON LEAHY MOTION TO RECOMMIT

The PRESIDING OFFICER. The question is now on the motion to table the Leahy motion.

Mr. HATCH. We do have the motion to table.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. HATCH. Mr. President, on behalf of Senator DOLE and myself, I also move to table the Biden-Boxer motion, and ask for the yeas and nays as well.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. It is my understanding that these votes will be back to back starting now.

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the motion to lay on the table the motion of the Senator from Vermont. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 61, nays 38, as follows:

[Rollcall Vote No. 63 Leg.]

YEAS—61

Abraham
Ashcroft
Bennett
Bond
Breaux
Brown
Bryan
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Dorgan
Exon
Faircloth
Feinstein
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hollings
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—38

Akaka
Baucus
Biden
Dodd
Feingold
Ford
Glenn
Graham
Harkin
Heflin
Inouye
Kennedy
Kerrey
Bingaman
Boxer
Bradley
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Bumpers
Conrad
Daschle
Nunn
Pell
Pryor
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

NOT VOTING—1

Mack

So the motion to lay on the table the motion to recommit was agreed to.

Mr. HATCH. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, since these are two stacked votes, I ask unanimous consent that there be 1 minute for debate equally divided in the usual form prior to the vote on the motion to table the Biden-Boxer motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

BIDEN MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, let me explain briefly what this is. First, right now there is a statute of limitations that if you go out and impersonate Smokey the Bear, you have 5 years to track them down, if you write a bad check you have 5 years. If you make poison gas, if you make a chemical weapon, if you have a rocket propellant charge of more than 4 ounces, if you produce missiles and hide them in your garage, and they find them, without them being used, they only have a 3-year statute of limitations. So if they did not find them until 1 year after you have made them, you have 2 years. If they did not find them until 2½ years, you have 6 months. We want to make this a 5-year statute of limitations, just like impersonating Smokey the Bear.

This is mindless not to do this when you are talking about making poison gas and chemical weapons and grenade launchers.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. This is a National Firearms Act and 3-year limitation. These are mainly paperwork violations. If someone violates beyond that—and for even paperwork they can get them for conspiracy. They can prosecute them under a whole variety of statutes that have longer statutes of limitation.

This is not a serious issue to us in the Senate, but it is a very serious issue to those in the House. We have worked hard to fashion this compromise. It is a doggone good compromise. Our friends in the House have really worked hard to help us to get it done. Frankly, this motion, as well as others, would kill the bill. So I hope my fellow Senators will vote against this motion.

The PRESIDING OFFICER. All time for debate has expired.

Mr. HATCH. Mr. President, this is a motion to table, is it not?

The PRESIDING OFFICER. That is correct.

Mr. HATCH. I do not have to move to table?

The PRESIDING OFFICER. No.

The question is on agreeing to the motion to table the Biden motion to recommit the conference report on S. 735 to the committee on conference with instructions. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The PRESIDING OFFICER (Mr. GREGG). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 64 Leg.]

YEAS—53

Abraham
Ashcroft
Baucus
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

NOT VOTING—1

Mack

The motion to lay on the table the motion to recommit was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, we are now going to move to a motion that I offer to recommit the conference report with instructions to add a provision on multipoint wiretaps that was in our original Senate bill.

I send it to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

Motion to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following:

SEC. . REVISION TO EXISTING AUTHORITY FOR MULTIPOINT WIRETAPS.

(a) Section 2518(11)(b)(ii) of the title 18 is amended: by deleting "of a purpose, on the part of that person, to thwart interception by changing facilities." and inserting "that the person had the intent to thwart interception or that the person's actions and conduct would have the effect of thwarting interception from a specified facility."

(b) Section 2518(11)(b)(iii) is amended to read: "(iii) the judge finds that such showing has been adequately made."

(c) The amendments made by subsection (a) and (b) of this amendment shall be effective 1 day after the enactment of this Act.

The PRESIDING OFFICER. There will be 30 minutes equally divided.

Mr. BIDEN. I yield myself 2 minutes.

Mr. President, the distinguished Senator, and former Attorney General of the State of Connecticut, is here. We are going to divide this up a little bit. I want to make in my opening statement here a clarification for anyone listening as to what we are doing here, because we are really not changing anything that is not already done in any significant way.

These multipoint wiretaps are made out to be this major new concoction that they have come up with to interfere in the lives of people. I was told in the House conference that some Members of the House thought that it meant that the FBI would be in vans roving down the street literally eavesdropping on people's homes. It is bizarre what people think this means.

Let me explain what has to happen now to get a multipoint wiretap. There are all sorts of provisions built into the law now for the Federal Government: One, the Government must convince a judge that there is probable cause to believe that a specific person is committing a specific crime, as with any other wiretap. Two, the application even to ask a Federal judge for one of these wiretaps is approved at the very top level of the Justice Department, either by the Attorney General herself, or the Deputy Attorney General, or the Assistant Attorney General for the Criminal Division. No U.S. attorney in America can go out and ask a judge for one of these. No U.S. attorney can do that. No assistant U.S. attorney can do it without the approval of the Attorney General, Deputy Attorney General, or the head of the Criminal Division.

The application submitted must identify the person involved and believed to be committing the crime, and whose communications are to be the ones intercepted. A judge then has to find that the target's action—that is, the person who they are targeting. Say, we think our reporter here is in fact committing a crime. What you have to do is get the judge to believe that there is probable cause to believe a crime has been committed, that he is engaging in an activity. And, further, when they decide that you can wiretap not only his home phone, but the mobile phone he has in his pocket, the phone he has in his car, and the pay phone he uses all the time—the judge has to believe that the person is committing the crime—and communications are intercepted, it has to be proved that he is trying to effectively thwart the tap. For example, if my phone is tapped and there is probable cause that I committed a criminal offense, and I walk every day at 2 o'clock down to the pay phone on the corner, or I use a cell phone and then get rid of the new cell phone every day and get a new one, then that effectively thwarts the ability of the Federal Government investigators to tap someone where there is probable cause that they committed a crime. So that judge has to believe all that before he grants such an order.

In addition, any interception cannot begin until the officers have clearly determined that the target in question—that is, the person they believe committed the crime—is using a particular tapped phone. Once the target is off the phone, the interception must end. It does not say, by the way, that any phone that the target uses can be tapped. It says that we have reason to believe that he is using the following phone, one, two, or three. You can tap those phones.

Once the phone is tapped, if you go to your mother-in-law's house to use the phone, and after you get off, your mother-in-law is off the phone, they cannot, under the law, tap your mother-in-law. They must end the surveillance. It must stop. It must stop.

In addition, the moment the target leaves the phone, the tap on that phone has to be disengaged. It cannot be used. Any evidence cannot be used that would come from such a tap, if it stayed on. So this is nothing new. What is new is that, under the present law, this is used for the mob and other outfits. Under the present law, you have to show that the person is intending to thwart the surveillance—intending to. So essentially what you have to get is a mobster or terrorist saying, "I cannot use this phone in my house anymore because I think it is tapped. I am going to be going other places to use other phones. I will get to you later." That is what you basically have to prove now.

What we are saying in this law is—and 77 Senators voted for it last year—if the effect of the target is to thwart the surveillance, that is all you need to prove. The effect is to thwart the surveillance. You do not have to prove that he intended to thwart the surveillance; you have to prove the effect is to thwart surveillance.

So, again, a minor change already exists with multipoint wiretaps, is already in place. I will quote Mr. MCCOLLUM, the Republican leader of the Criminal Subcommittee. When I offered this in conference, he said:

I think the reality is quite simple here—

This is MCCOLLUM speaking to me.

You are 100 percent right.

I am 100 percent right.

It is the single-most important issue we are not putting in this bill. We have got to find some way to do it. But we are not going to get the votes for this bill, and we could not get the votes for this freestanding bill, I don't think, right this minute in the House.

Get the first part: "It is the single-most important issue we are not putting in the bill." Mr. MCCOLLUM is right.

I yield the remainder of my time to the distinguished Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my colleague from Delaware. Mr. MCCOLLUM was right. Senator BIDEN was right in everything he said, except for where he said you could not wiretap my mother-in-law. I would like to talk to him later about that.

Mr. BIDEN. If the Senator will yield for 3 seconds. His mother-in-law may be listening.

Mr. LIEBERMAN. She probably is.

Mr. President, let me say first, both to the Senator from Delaware and the Senator from Utah, how very pleased in general I am that we have come as far as we have on this legislation. Over a year ago, President Clinton challenged us to reach a bipartisan consensus on counterterrorism legislation in the aftermath of the Oklahoma City tragedy. The Senate promptly did so, including the Dole-Hatch substitute bill we passed last spring, including in that bill most of the key provisions of the President's own counterterrorism bill offered earlier in the year by Senator BIDEN and others.

Unfortunately, the Senate's spirit of bipartisanship did not reach the other body and did not, as fully as I think it should, reach the conference itself. The conference has produced a report and a bill that I would term a good bill in the war against terrorism. But it could and should be better. That is why I am supporting Senator BIDEN's motion to recommit, particularly directing the conference committee to insert this so-called multipoint wiretapping that I was privileged to offer along with Senator BIDEN and which, as he has indicated, passed the Senate overwhelmingly. Not only was that amendment dropped in conference, but even what I thought was the entirely uncontroversial provision in the Senate bill that would add specific terrorism offenses to the list of crimes for which wiretaps may be authorized was dropped as well. In other words, if there is a suspected terrorist out there now and law enforcement wants to tap his or her phones, they have to do so on suspicion of a crime being committed but it cannot be a terrorist act. They have to find some other specific crime that was committed.

Mr. President, these omissions puzzle me and trouble me. I am afraid that they represent some strange left-right marriage of fear or skepticism or cynicism about the Government and about law enforcement officials particularly. As Senator BIDEN has said, the power to wiretap—let me say from my own experience and others in law enforcement—is a critically important tool in the hands of law enforcement, and they need that tool not to feather their own nest or build their own empires; they need it to protect us from the criminals, and in this case the terrorists. They are on our side, those who work for the U.S. attorneys, the FBI, the DEA, and the whole range of other law enforcement officials down to the State and local police. They are on our side.

There is somehow a feeling that has grown at the extremes of our political discourse that we have a lot to fear from them. This provision, as Senator BIDEN has said, incorporates the classically American due process rules to make sure that any wiretap that is obtained is approved by a judge and is applied and used in narrowly and clearly circumscribed ways.

Mr. President, for everything I know about terrorism, the ability to penetrate the highly secretive world of terrorists is the single most effective tool law enforcement officials have to prevent terrorism acts from happening and then to bring the terrorists to justice. We can build barriers around Federal buildings. We can increase law enforcement presence and try to fortify obvious targets. But we can never defend all of the targets of terrorists, because they are cowards. They will look for and strike undefended targets without remorse about killing innocent civilians. You simply cannot protect every target. They will strike everywhere. The object of the terrorist is to create terror and panic. So, the best defense we have against them is an offense, to penetrate their operations and to know that they are about to strike before they strike so we can cut them off. If there was ever a category of crime that warranted the full range of wiretap capacities that law enforcement officials have today, it is terrorism. That is what this amendment would do.

Look. In a way, by not including this amendment that the Senate passed overwhelmingly, more essentially, allowing the terrorist to use all of the tools of modern technology, leave the house phone, go to the cell phone, go to the car phone, go to the phone booth, and we are saying to law enforcement, "Oh, no, you cannot. We are going to make it hard for you to follow them. You are going to have to prove that they are moving with an intent to thwart that wiretap."

Senator BIDEN's example is so perfect. Basically we are saying to the law enforcement folks, you have to hear a terrorist say on the phone that, "I got to hang up, John. I'm afraid the FBI is listening to me. I am going to move out to my cell phone." You need that kind of proof of intent to get, under the current law, this multipoint wiretap.

So we are saying to the bad guys, the criminals, the terrorists, you can use all of this modern telecommunications equipment, but we are going to stop law enforcement from trailing them. It is as if we said during the cold war that we had intelligence information that the Soviet Union had developed some very strong new weapon, that the Pentagon had the ability to counteract that weapon with a defense, but we are going to put strictures on them from using that weapon. It does not make sense. It is why I think it is so important to adopt this amendment.

Mr. President, multipoint wiretaps are used very sparingly because of the requirements that Senator BIDEN set out. They have proved, however, according to testimony submitted by Deputy Attorney General Jamie Gorelick to the Judiciary Committee, highly effective tools in prosecuting today's highly mobile criminals and terrorists who may switch phones frequently for any number of reasons. Again, as we have asked before on other measures, why allow ease of obtaining a multipoint wiretap against other criminals, including organized crime criminals, and not allow it against terrorists who threaten us in such a devastating way?

Mr. President, the aim of this motion to recommit is a simple one. We want to be sure that our law enforcement officials receive the tools they need, the tools that will be there for them so that swift and effective action can be taken to prevent the World Trade Center explosion, to prevent Oklahoma City, to prevent any future disaster of that kind. We owe our Federal law enforcement officials that authority, that capacity, those tools. But the truth is we owe it to ourselves. They are out there trying to protect us and our families from being innocent victims of a terrorist. Every counterterrorism expert that I have ever talked to or ever heard, within the Government and without, will emphasize the importance of infiltration and surveillance in countering terrorists and bringing them to justice. Given the devastating effects of these acts, not only the maiming and death of men, women, and children, but these acts are assaults on the institutions of our Government, on the democratic processes which we cherish, and on our fundamental liberty to move safely and confidently throughout our society. They create the kind of fear that undercuts the freedom that we have fought for.

So I do not understand why we would not want to give the law enforcement officials the same authority to obtain wiretaps when pursuing terrorists that they have under current law to pursue other kinds of criminals, and why we do not want to improve their ability to track all criminals, including terrorists, as they move from phone to phone and from place to place with the obvious intent of thwarting surveillance and covering their treacherous, deadly deeds.

Mr. President, finally, I say we need to give the conferees another chance to strengthen this bill. As I said at the outset, it is a good bill, but it can and should be a better bill. I fear that, if we do not include a power like this one, that we are going to come to a day when we are going to look back and regret it—a terrorist act that will occur that could have been stopped if law enforcement had this authority.

I know we want to pass this bill and have the President sign it by the first anniversary of the Oklahoma City tragedy, but the truth is that I would rather see us do this right, do it as strongly and effectively as we can. And if it takes a few more days, so be it. We have waited this long. We can wait a little longer to protect ourselves, our society, the institutions of our Government, and the basic freedom to live and move around in our great country from the horrible acts of terrorists within our midst.

I thank the Chair. I yield the floor.

Mr. HATCH. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Utah has 15 minutes and the Senator from Delaware has 1 minute and 54 seconds.

Mr. HATCH. Mr. President, I do not disagree with my two distinguished colleagues on that side that this might be a useful provision. After all, I wrote it, and we put it in the Senate bill. I drafted the multipoint language in the Senate bill. However, since that time, some have raised, in their eyes, serious questions as to whether this expanded authority to wiretap American citizens and others is necessary.

Because of that, we have worked out this bill through a long series of meetings for over a year, culminating Monday night in a conference where we put everything in this bill we could possibly get into it. We brought it very close to what the original Senate bill was. I think it is a darned good bill. We could not get the other side to agree on this provision. It comes down to whether we want a bill or we do not.

To this end, because of that, then I insisted we at least put in a study, a balanced study to look at the excesses of law enforcement with regard to wiretapping and the needs of law enforcement with regard to wiretapping and the applications of it. The distinguished Senator from Connecticut and I both understand how important it is, and so does, of course, the ranking Democrat on the committee. We will require the Justice Department to review its law enforcement surveillance needs and report back to Congress.

On that basis, I just want to say that I am committed to working with both Senator BIDEN and Senator LIEBERMAN to craft legislation which will provide law enforcement with the electronic surveillance capabilities it needs, wiretap authority it needs. I am going to get this done one way or the other in an appropriate way, but the study is important in the eyes of those on the other side. It is important in my eyes.

I do not want to go into this thing halfcocked, nor do I want to lose this bill because others feel we may be moving into it halfcocked without having looked at it in a balanced way. So I will work with both of my colleagues to craft legislation to provide law enforcement with whatever wiretap authority, expanded wiretap authority it needs beyond what it has today. I give my colleagues my assurance that we will move in this direction with dispatch. I think they both know, when I say that, I mean it. The truth, however, is that this provision would have done nothing—and I repeat nothing—to stop the Oklahoma bombing. This is not antiterrorism legislation that would have been necessary to stop the Oklahoma bombing. While multipoint wiretaps may be useful in crime investigation, we simply do not need to put them in this particular legislation at this time.

Last evening, Israel was bombed in another bombing attack. I personally do not believe we should wait one more day—knowing that is going on over there and knowing that we have at least 1,500 known terrorists and organizations in this Nation, I do not think we should wait one more day, not one more hour in my book, in voting for final passage of this bill. We want to assure that terrorist funding is prohibited and stopped, and this bill goes a long way toward doing that.

Let me mention for the record the letters of support that we have for this bill. They are wide ranging and across the political spectrum: The National Association of Attorneys General, the National Association of Police Officers, the National District Attorneys Association, the Anti-Defamation League, Survivors of the Oklahoma Bombing, Citizens for Law and Order, the International Association of Chiefs of Police, the National Sheriffs Association, the National Troopers Association, the Law Enforcement Alliance of America, 34 individual State attorneys general including the California attorney general, California's District Attorneys Association, the National Government Association with regard to the habeas corpus provision, and various Governors, and so forth. It is okayed by the Governor of Oklahoma, who is a Republican, Frank Keating, and by the Democrat attorney general, with whom I have had a great deal of joy working, Drew Edmonson. I have a lot of respect for him, and he has been willing to work with us to try to get this done.

Frankly, we do not have a letter, but we do have the verbal support of AIPAC, and I might say other attorneys general in this country who have written to us and want to be mentioned. We will put that all in the RECORD.

This is important. This bill is important. I know my colleagues know I am sincere when I say I will find some way of resolving these multipoint wiretap problems. Unfortunately, they were called roving wiretaps when they came up, and just that rhetorical term has caused us some difficulties and has caused some of the people who feel, after Waco, Ruby Ridge, Good Ol' Boys Roundup, et cetera, that even law enforcement sometimes is too intrusive into all of our lives, and at this particular time of the year, at tax time, with the feelings about the IRS, there are some who literally feel this is going too far and it will kill this bill if we put it in.

So I will move ahead. We will have the study, but I will move ahead even while the study is being conducted and do everything I can with my two colleagues here to get this problem resolved. I intend to do it, and we will get it done.

I am going to move to table this. I hope folks will vote for the motion to table so that we can continue to preserve this bill and get it done, quit playing around with it and get it done. I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware has 1 minute 54 seconds remaining.

Mr. BIDEN. Mr. President, if the problem is people misunderstand because this is a roving wiretap, one thing that will get everybody's attention is we amend it, send it back, and it will become real clear. In about 20 minutes of discussion, we can have it back here, and it will not kill the bill—if that is the reason.

No. 2, in the letter from the chiefs, the president of the International Association of Chiefs of Police, they do support the bill but they are very clear. Let me quote. They say:

> This legislation does not deal with the ability of law enforcement to use roving wiretaps or 48-hour wiretaps in the case of terrorism even though this later type of wiretap is already authorized in other special situations.

They list what they do not like about the bill. They do not like the fact that this is not in the bill. They strongly support this wiretap authority. And if we cannot get it done now in this bill, I respectfully suggest to my friend that no matter how much he wishes to fix this, there will be no ability to get it done standing alone.

I yield back whatever seconds I may have remaining.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. The fact is that we have to pass this bill. Frankly, I think we can get this problem solved. It is kind of a world turned upside down. When I got here 20 years ago, it was the conservatives who wanted expanded wiretap authority and the liberals fought it with everything they had. But now all of a sudden we have the liberals fighting for wiretap authority and conservatives concerned about it.

The fact is it is not just the rhetoric. There is some sincere concern on the part of some Members of the House who are crucial to the passage of this bill about putting this in at this time. I believe we can resolve this problem in the future, and I will work hard to do it with my colleagues, but it really cannot be in this bill if we want a terrorism bill at this time.

I yield back the remainder of my time. On behalf of Senator DOLE and myself, I move to table the motion and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to recommit. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 65 Leg.]

YEAS—58

Abraham
Ashcroft
Bennett
Bond
Brown
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Dorgan
Faircloth
Feingold
Frist
Gorton
Gramm
Grams
Grassley
Gregg

Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Roth
Santorum
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NAYS—40

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Bumpers
Byrd
Conrad
Daschle
Dodd
Exon
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Robb
Rockefeller
Sarbanes
Wyden

NOT VOTING—2

Breaux
Mack

So the motion to table the motion to recommit was agreed to.

Mr. MOYNIHAN. I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

MOTION TO RECOMMIT

Mr. MOYNIHAN. Mr. President, I send to the desk a motion and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] moves to recommit the conference report on the bill S. 735.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the motion to recommit is as follows:

Motion to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on deleting the following:

"(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

"(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

"(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding."; from section 104 of the conference report".

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Mr. President, the distinguished ranking member and manager have asked that I yield myself such time as I may require, and I add with the proviso, as much time as he wishes. I will obviously yield to him.

The PRESIDING OFFICER. The Senator has 15 minutes.

Mr. MOYNIHAN. Mr. President, this is a proposal to strike an unprecedented provision—unprecedented until the 104th Congress—to tamper with the constitutional protection of habeas corpus.

The provision reads:

(d) An application for writ of habeas corpus on behalf of a person in custody pursuant to the judgment of State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—"(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or "(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

We are about to enact a statute which would hold that constitutional protections do not exist unless they have been unreasonably violated, an idea that would have confounded the framers. Thus we introduce a virus that will surely spread throughout our system of laws.

Article I, section 9, clause 2 of the Constitution stipulates, "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it."

We are at this moment mightily and properly concerned about the public safety, which is why we have before the Senate the conference report on the counterterrorism bill. But we have not been invaded, Mr. President, and the only rebellion at hand appears to be against the Constitution itself. We are dealing here, sir, with a fundamental provision of law, one of those essential civil liberties which precede and are the basis of political liberties.

The writ of habeas corpus is often referred to as the "Great Writ of Liberty." William Blackstone called it "the most celebrated writ in English law, and the great and efficacious writ in all manner of illegal imprisonment." It is at the very foundation of the legal system designed to safeguard our liberties.

I repeat what I have said previously here on the Senate floor: If I had to choose between living in a country with habeas corpus but without free elections, or a country with free elections but without habeas corpus, I would choose habeas corpus every time. To say again, this is one of the fundamental civil liberties on which every democratic society of the world has built political liberties that have come subsequently.

I make the point that the abuse of habeas corpus—appeals of capital sentences—is hugely overstated. A 1995 study by the Department of Justice's Bureau of Justice Statistics determined that habeas corpus appeals by death row inmates constitute 1 percent of all Federal habeas filings. Total habeas filings make up 4 percent of the caseload of Federal district courts. And most Federal habeas petitions are disposed of in less than 1 year. The serious delays occur in State courts, which take an average of 5 years to dispose of habeas petitions. If there is delay, the delay is with the State courts.

It is troubling that Congress has undertaken to tamper with the Great Writ in a bill designed to respond to the tragic circumstances of the Oklahoma City bombing last year. Habeas corpus has little to do with terrorism. The Oklahoma City bombing was a Federal crime and will be tried in Federal court.

Nothing in our present circumstance requires the suspension of habeas corpus, which is the practical effect of the provision in this bill. To require a Federal court to defer to a State court's judgment unless the State court's decision is unreasonably wrong effectively precludes Federal review. I find this disorienting.

Anthony Lewis has written of the habeas provision in this bill: "It is a new and remarkable concept in law: that mere wrongness in a constitutional decision is not to be noticed." If we agree to this, to what will we be agreeing next? I restate Mr. Lewis' observation, a person of great experience, a long student of the courts, "It is a new and remarkable concept in law: that mere wrongness in a constitutional decision is not to be noticed." Backward reels the mind.

On December 8, four United States attorneys general, two Republicans and two Democrats, all persons with whom I have the honor to be acquainted, Benjamin R. Civiletti, Jr., Edward H. Levi, Nicholas Katzenbach, and Elliot Richardson—I served in administrations with Mr. Levi, Mr. Katzenbach, and Mr. Richardson; I have the deepest regard for them—wrote President Clinton. I ask unanimous consent that the full text be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECEMBER 8, 1995.

HON. WILLIAM J. CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The habeas corpus provisions in the Senate terrorism bill, which the House will soon take up, are unconstitutional. Though intended in large part to expedite the death penalty review process, the litigation and constitutional rulings will in fact delay and frustrate the imposition of the death penalty. We strongly urge you to communicate to the Congress your resolve, and your duty under the Constitution, to prevent the enactment of such unconstitutional legislation and the consequent disruption of so critical a part of our criminal punishment system.

The constitutional infirmities reside in three provisions of the legislation: one requiring federal courts to defer to erroneous state court rulings on federal constitutional matters, one imposing time limits which could operate to completely bar any federal habeas corpus review at all, and one preventing the federal courts from hearing the evidence necessary to decide a federal constitutional question. They violate the Habeas Corpus Suspension Clause, the judicial powers of Article III, and due process. None of these provisions appeared in the bill that you and Senator Biden worked out in the last Congress together with representatives of prosecutors' organizations.

The deference requirement would bar any federal court from granting habeas corpus relief where a state court has misapplied the United States Constitution, unless the constitutional error rose to a level of "unreasonableness." The time-limits provisions set a single period for the filing of both state and federal post-conviction petitions (six months in a capital case and one year in other cases), commencing with the date a state conviction becomes final on direct review. Under these provisions, the entire period could be consumed in the state process, through no fault of the prisoner or counsel, thus creating an absolute bar to the filing of a federal habeas corpus petition. Indeed, the period could be consumed before counsel had even been appointed in the state process, so that the inmate would have no notice of the time limit or the fatal consequences of consuming all of it before filing a state petition.

Both of these provisions, by flatly barring federal habeas corpus review under certain circumstances, violate the Constitution's Suspension Clause, which provides: "The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in the cases of rebellion or invasion the public safety may require it" (Art. I, §9, cl. 1). Any doubt as to whether this guarantee applies to persons held in state as well as federal custody was removed by the passage of the Fourteenth Amendment and by the amendment's framers' frequent mention of habeas corpus as one of the privileges and immunities so protected.

The preclusion of access to habeas corpus also violates Due Process. A measure is subject to proscription under the due process clause if it "offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental," as viewed by "historical practice." *Medina* v. *California*, 112 S.Ct. 2572, 2577 (1992). Independent federal court review of the constitutionality of state criminal judgments has existed since the founding of the Nation, first by writ of error, and since 1867 by writ of habeas corpus. Nothing else is more deeply rooted in America's legal traditions and conscience. There is no case in which "a state court's incorrect legal determination has ever been allowed to stand because it was reasonable," Justice O'Connor found in *Wright* v. *West*, 112 S.Ct. 2482, 2497; "We have always held that federal courts, even on habeas, have an independent obligation to say what the law is." Indeed, Alexander Hamilton argued, in The Federalist No. 84, that the existence of just two protections—habeas corpus and the prohibition against ex post facto laws—obviated the need to add a Bill of Rights to the Constitution.

The deference requirement may also violate the powers granted to the judiciary under Article III. By stripping the federal courts of authority to exercise independent judgment and forcing them to defer to previous judgments made by state courts, this provision runs afoul of the oldest constitutional mission of the federal courts: "the duty . . . to say what the law is." *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137, 177 (1803). Although Congress is free to alter the federal courts' jurisdiction, it cannot order them how to interpret the Constitution, or dictate any outcome on the merits. *United States* v. *Klein*, 80 U.S. (13 Wall.) 128 (1871). Earlier this year, the Supreme Court reiterated that Congress has no power to assign "rubber stamp work" to an Article III court. "Congress may be free to establish a . . . scheme that operates without court participation," the Court said, "but that is a matter quite different from instructing a court automatically to enter a judgment pursuant to a decision the court has not authority to evaluate." *Gutierrez de Martinez* v. *Lamagno*, 115 S.Ct 2227, 2234.

Finally, in prohibiting evidentiary hearings where the constitutional issue raised does not go to guilt or innocence, the legislation again violates Due Process. A violation of constitutional rights cannot be judged in a vacuum. The determination of the facts assumes" and importance fully as great as the validity of the substantive rule of law to be applied." *Wingo* v. *Wedding*, 418 U.S. 461, 474 (1974).

The last time habeas corpus legislation was debated at length in constitutional terms was in 1968. A bill substantially eliminating federal habeas corpus review for state prisoners was defeated because, as Republican Senator Hugh Scott put it at the end of debate, "if Congress tampers with the great writ, its action would have about as much chance of being held constitutional as the celebrated celluloid dog chasing the asbestos cat through hell."

In more recent years, the habeas reform debate has been viewed as a mere adjunct of the debate over the death penalty. But when the Senate took up the terrorism bill this year, Senator Moynihan sought to reconnect with the large framework of constitutional liberties: "If I had to live in a country which had habeas corpus but not free elections," he said, "I would take habeas corpus every time." Senator Chafee noted that his uncle, a Harvard law scholar, has called habeas corpus "the most important human rights provision in the Constitution." With the debate back on constitutional grounds, Senator Biden's amendment to delete the deference requirement nearly passed, with 46 votes.

We respectfully ask that you insist, first and foremost, on the preservation of independent federal review, i.e., on the rejection of any requirement that federal courts defer to state court judgments on federal constitutional questions. We also urge that separate time limits be set for filing federal and state habeas corpus petitions—a modest change which need not interfere with the setting of strict time limits—and that they begin to run only upon the appointment of competent counsel. And we urge that evidentiary hearings be permitted wherever the factual record is deficient on an important constitutional issue.

Congress can either fix the constitutional flaws now, or wait through several years of litigation and confusion before being sent back to the drawing board. Ultimately, it is the public's interest in the prompt and fair disposition of criminal cases which will suffer. The passage of an unconstitutional bill helps no one.

We respectfully urge you, as both President and a former professor of constitutional law, to call upon Congress to remedy these flaws before sending the terrorism bill to your desk. We request an opportunity to meet with you personally to discuss this matter so vital to the future of the Republic and the liberties we all hold dear.

Sincerely,

BENJAMIN R. CIVILETTI, Jr.,
Baltimore, MD.
EDWARD H. LEVI,
Chicago, IL.
NICHOLAS DEB. KATZENBACH,
Princeton, NJ.
ELLIOT L. RICHARDSON,
Washington, DC.

Mr. MOYNIHAN. Mr. President, let me read excerpts from the letter:

> The habeas corpus provisions in the Senate bill . . . are unconstitutional. Though intended in large part to expedite the death penalty review process, the litigation and constitutional rulings will in fact delay and frustrate the imposition of the death penalty . . .
>
> The constitutional infirmities . . . violate the Habeas Corpus Suspension Clause, the judicial powers of Article III and due process . . .
>
> . . . A measure is subject to proscription under the due process clause if it "offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental," as viewed by "historical practice."

That is Medina versus California, a 1992 decision. To continue,

> Independent federal court review of the constitutionality of state criminal judgments has existed since the founding of the Nation, first by writ of error, and since 1867 by writ of habeas corpus.
>
> Nothing else is more deeply rooted in America's legal traditions and conscience. There is no clause in which "a state court's incorrect legal determination has ever been allowed to stand because it was reasonable."

That is Justice O'Connor, in Wright versus West. She goes on, as the attorneys general quote,

> We have always held that federal courts, even on habeas, have an independent obligation to say what the law is.

If I may interpolate, she is repeating the famous injunction of Justice Marshall in Marbury versus Madison.

The attorneys general go on to say:

> Indeed, Alexander Hamilton argued, in The Federalist No. 84, that the existence of just two protections—habeas corpus and the prohibition against ex post facto laws—obviated the need to add a Bill of Rights to the Constitution.

The letter from the attorneys general continues, but that is the gist of it. I might point out that there was, originally, an objection to ratification of the Constitution, with those objecting arguing that there had to be a Bill of Rights added. Madison wisely added one during the first session of the first Congress. But he and Hamilton and Jay, as authors of the Federalist papers, argued that with habeas corpus and the prohibition against ex post facto laws in the Constitution, there would be no need even for a Bill of Rights. We are glad that, in the end, we do have one. But their case was surely strong, and it was so felt by the Framers.

To cite Justice O'Connor again:

> A state court's incorrect legal determination has never been allowed to stand because it was reasonable.

Justice O'Connor went on:

> We have always held that Federal courts, even on habeas, have an independent obligation to say what the law is.

Mr. President, we can fix this now. Or, as the attorneys general state, we can "wait through several years of litigation and confusion before being sent back to the drawing board." I fear that we will not fix it now. The last time this bill was before us, there were only eight Senators who voted against final passage.

We Americans think of ourselves as a new nation. We are not. Of the countries that existed in 1914, there are only eight which have not had their form of government changed by violence since then. Only the United Kingdom goes back to 1787 when the delegates who drafted our Constitution established this Nation, which continues to exist. In those other nations, sir, a compelling struggle took place, from the middle of the 18th century until the middle of the 19th century, and beyond into the 20th, and even to the end of the 20th in some countries, to establish those basic civil liberties which are the foundation of political liberties and, of those, none is so precious as habeas corpus, the "Great Writ."

Here we are trivializing this treasure, putting in jeopardy a tradition of protection of individual rights by Federal courts that goes back to our earliest foundation. And the virus will spread. Why are we in such a rush to amend our Constitution? Eighty-three amendments have been offered in this Congress alone. Why do we tamper with provisions as profound to our traditions and liberty as habeas corpus? The Federal courts do not complain. It may be that if we enact this, there will be some prisoners who are executed sooner than they otherwise would have been. You may take satisfaction in that or not, as you choose, but we will have begun to weaken a tenet of justice at the very base of our liberties. The virus will spread.

This is new. It is profoundly disturbing. It is terribly dangerous. If I may have the presumption to join in the judgment of four attorneys general, Mr. Civiletti, Mr. Levi, Mr. Katzenbach, and Mr. Richardson—and I repeat that I have served in administrations with three of them—this matter is unconstitutional and should be stricken from this measure.

Fourteen years ago, June 6, 1982, to be precise, I gave the commencement address at St. John University Law School in Brooklyn. I spoke of the proliferation of court-curbing bills, at that time, but what I said is, I feel, relevant to today's discussion. I remarked,

> . . . some people—indeed, a great many people—have decided that they do not agree with the Supreme Court and that they are not satisfied to Debate, Legislate, Litigate.
>
> They have embarked upon an altogether new and I believe quite dangerous course of action. A new triumvirate hierarchy has emerged. Convene (meaning the calling of a constitutional convention), Overrule (the passage of legislation designed to overrule a particular Court ruling, when the Court's ruling was based on an interpretation of the Constitution), and Restrict (to restrict the jurisdiction of certain courts to decide particular kinds of cases).
>
> Perhaps the most pernicious of these is the attempt to restrict courts' jurisdictions, for it is . . . profoundly at odds with our nation's customs and political philosophy.
>
> It is a commonplace that our democracy is characterized by majority rule and minority rights. Our Constitution vests majority rule in the Congress and the President while the courts protect the rights of the minority.
>
> While the legislature makes the laws, and the executive enforces them, it is the courts that tell us what the laws say and whether they conform to the Constitution.
>
> This notion of judicial review has been part of our heritage for nearly two hundred years. There is not a more famous case in American jurisprudence than Marbury v. Madison and few more famous dicta than Chief Justice Marshall's that
>
> It is emphatically the province and the duty of the judicial department to say what the law is.
>
> But in order for the court to interpret the law, it must decide cases. If it cannot hear certain cases, then it cannot protect certain rights.

Mr. President, I am going to ask unanimous consent that a number of materials appear in the RECORD following my remarks. I apologize for the length, but if we are going to trifle with the Great Writ of Liberty, the record needs to be complete. The materials are as follows: a May 23, 1995 letter from the Emergency Committee to Save Habeas Corpus to the President and a one-page attachment; a June 1, 1995 letter from the Emergency Committee to me; a March 13, 1996 New York Times editorial entitled, "The Wrong Answer to Terrorism"; an April 8, 1996 Times editorial entitled, "Grave Trouble for the Great Writ"; three Anthony Lewis op-eds which appeared in the Times on July 7, 1995, December 8, 1995, and April 15, 1996 entitled "Mr. Clinton's Betrayal", Is It A Zeal To Kill?", and "Stand Up For Liberty", respectively; and the third paragraph of the March 12, 1996 "Statement of Administration Policy" concerning H.R. 2703—the House version of the counterterrorism bill—which reads, in part: "H.R. 2703 would establish a standard of review for Federal courts on constitutional issues that is excessively narrow and subject to potentially meritorious constitutional challenge."

Mr. President, I ask unanimous consent that these materials be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MOYNIHAN. Mr. President, we need to deal resolutely with terrorism. And we will. But if, in the guise of combating terrorism, we diminish the fundamental civil liberties that Americans have enjoyed for two centuries, then the terrorists will have won. With deep regret, but with a clear conscience, I will vote against the conference report to S. 735 as now presented.

EXHIBIT 1

EMERGENCY COMMITTEE TO
SAVE HABEAS CORPUS,
May 23, 1995.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We understand that the Senate may act, as soon as tomorrow, on the habeas corpus provisions in Senator Dole's terrorism legislation. Among these provisions is a requirement that federal courts must defer to state courts incorrectly applying federal constitutional law, unless it can be said that the state ruling was "unreasonable" incorrect. This is a variation of the proposal by the Reagan and Bush administrations to strip the federal courts of the power to enforce the Constitution when the state court's interpretation of it, though clearly wrong, had been issued after a "full and fair adjudication."

The Emergency Committee was formed in 1991 to fight this extreme proposal. Our membership consists of both supporters and opponents of the death penalty, Republicans and Democrats, united in the belief that the federal habeas corpus process can be dramatically streamlined without jeopardizing its constitutional core. At a time when proposals to curtail civil liberties in the name of national security are being widely viewed with suspicion, we believe it is vital to ensure that habeas corpus—the means by which all civil liberties are enforced—is not substantially diminished.

The habeas corpus reform bill you and Senator Biden proposed in 1993, drafted in close cooperation with the nation's district attorneys and state attorneys general, appropriately recognizes this point. It would codify the long-standing principle of independent federal review of constitutional questions, and specifically reject the "full and fair" deference standard.

Independent federal review of state court judgments has existed since the founding of the Republic, whether through writ of error or writ of habeas corpus. It has a proud history of guarding against injustices born of racial prejudice and intolerance, of saving the innocent from imprisonment or execution, and in the process, ensuring the rights of all law-abiding citizens. We in the Emergency Committee have fought against proposals to strip the federal courts of power to correct unconstitutional state court actions, alongside other distinguished groups such as the NAACP Legal Defense Fund, the Southern Christian Leadership Conference, the American Bar Association, former prosecutors, and the committee chaired by Justice Powell on which all subsequent reform proposals have been based. We have met with Attorney General Reno, testified in Congress, and successfully argued in the Supreme Court against the adoption of a deference standard, in Wright v. West.

We hope you will use the power of your office to ensure that the worthwhile goal of streamlining the review of criminal cases is accomplished without diminishing constitutional liberties. If it would be helpful, we would be pleased to meet with you to discuss this vitally important matter personally.

Sincerely,

BENJAMIN CIVILETTI.
EDWARD H. LEVI.
NICHOLAS DEB.
KATZENBACH.
ELLIOT L. RICHARDSON.

STATEMENTS ON PROPOSALS REQUIRING FEDERAL COURTS IN HABEAS CORPUS CASES TO DEFER TO STATE COURTS ON FEDERAL CONSTITUTIONAL QUESTIONS

"Capital cases should be subject to one fair and complete course of collateral review through the state and federal system. . . . Where the death penalty is involved, fairness means a searching and impartial review of the propriety of the sentence."—Justice Lewis F. Powell, Jr., presenting the 1989 report of the Ad Hoc Committee on Federal Habeas Corpus in Capital Cases, chaired by him and appointed by Chief Justice William Rehnquist

"The federal courts should continue to review *de novo* mixed and pure questions of federal law. Congress should codify this review standard. . . . Senator Dole's bill [containing the "full and fair" deference requirement] would rather straightforwardly eliminate federal habeas jurisdiction over most constitutional claims by state inmates."—150 former state and federal prosecutors, in a December 7, 1993 letter to Judiciary Committee Chairmen Biden and Brooks

"Racial distinctions are evident in every aspect of the process that leads to execution. . . . [W]e fervently and respectfully urge a steadfast review by federal judiciary in state death penalties as absolutely essential to ensure justice."—Rev. Dr. Joseph E. Lowery, President, Southern Christian Leadership Conference, U.S. House Judiciary Committee hearing on capital habeas corpus reform, June 6, 1990

"The State court cannot have the last say when it, though on fair consideration and what procedurally may be deemed fairness, may have misconceived a federal constitutional right."—Justice Felix Frankfurter, for the Court, in *Brown v. Allen*, 344 U.S. 443, 508 (1953)

"[There is no case in which] a state court's incorrect legal determination has ever been allowed to stand because it was reasonable. We have always held that federal courts, even on habeas, have an independent obligation to say what the law is."—Justice Sandra Day O'Connor, concurring in *Wright v. West*, 112 S.Ct. 2482 (1992), citing 29 Supreme Court cases and "many others" to reject the urging of Justices Thomas, Scalia and Rehnquist to adopt a standard of deference to state courts on federal constitutional matters.

EMERGENCY COMMITTEE TO
SAVE HABEAS CORPUS,
June 1, 1995.

Hon. DANIEL PATRICK MOYNIHAN,
Senate Russell Office Building,
Washington, DC.

DEAR SENATOR MOYNIHAN: We understand that the Senate may act next week on the habeas corpus provisions in Senator Dole's terrorism legislation. Among these provisions is a requirement that federal courts must defer to state courts incorrectly applying federal constitutional law, unless it can be said that the state ruling was "unreasonably" incorrect. This is a variation of past proposals to strip the federal courts of the power to enforce the Constitution when the state court's interpretation of it, though clearly wrong, had been issued after a "full and fair" hearing.

The Emergency Committee was formed in 1991 to fight this extreme proposal. Our membership consists of both supporters and opponents of the death penalty, Republicans and Democrats, united in the belief that the federal hebeas corpus process can be dramatically streamlined without jeopardizing its constitutional core. At a time when proposals to curtail civil liberties in the name of national security are being widely viewed with suspicion, we believe it is vital to ensure that habeas corpus—the means by which all civil liberties are enforced—is not substantively diminished.

The hebeas corpus reform bill President Clinton proposed in 1993, drafted in close cooperation with the nation's district attorneys and state attorneys general, appropriately recognizes this point. It would codify the long-standing principle of independent federal review of constitutional questions, and specifically reject the "full and fair" deference standard.

Independent federal review of state court judgments has existed since the founding of the Republic, whether through writ of error or writ of hebeas corpus. It has a proud history of guarding against injustices born of racial prejudice and intolerance, of saving the innocent from imprisonment or execution, and in the process, ensuring the rights of all law-abiding citizens. Independent federal review was endorsed by the committee chaired by Justice Powell on which all subsequent reform proposals have been based, and the Supreme Court itself specifically considered but declined to require deference to the states, in Wright v. West in 1992.

We must emphasize that this issue of deference to state rulings has absolutely no bearing on the swift processing of terrorism offenses in the federal system. For federal inmates, the pending habeas reform legislation proposes dramatic procedural reforms but appropriately avoids any curtailment of the federal courts' power to decide federal constitutional issues. This same framework of reform will produce equally dramatic results in state cases. Cutting back the enforcement of constitutional liberties for people unlawfully held in state custody is neither necessary to habeas reform nor relevant to terrorism.

We are confident that the worthwhile goal of streamlining the review of criminal cases can be accomplished without diminishing constitutional liberties. Please support the continuation of independent federal review of federal constitutional claims through habeas corpus.

Sincerely,

BENJAMIN CIVILETTI.
EDWARD H. LEVI.
NICHOLAS DEB.
KATZENBACH.
ELLIOT L. RICHARDSON.

[From the New York Times, Mar. 13, 1996.]

THE WRONG ANSWER TO TERRORISM

With the first anniversary of the Oklahoma City bombing approaching next month, Congress and the White House are pressing to complete action on new anti-terrorism legislation. In haste to demonstrate their resolve in an election year, President Clinton and lawmakers from both parties are ready to approve steps that would dangerously erode American liberties. Combating terrorism is vitally important, but it should not threaten long-established rights of privacy, free speech and due process.

Last June the Senate rashly passed the Comprehensive Terrorism Protection Act of 1995. The bill contained some reasonable measures, including an increase in F.B.I. staff and revisions in Federal law that would make it easier to trace bombs and impose harsher penalties for dealing in explosives.

But the legislation also authorized intrusive new surveillance powers for law enforcement agencies, crackdown on suspect aliens and an ill-advised blurring of the line between military and police forces. To assure passage, Mr. Clinton unwisely agreed to withdraw his objections to incorporating a change in habeas corpus standards that would limit death row appeals in Federal courts.

A corresponding bill under consideration in the House this week does not include some of the most troubling Senate provisions, including the expanded role for military forces in domestic law enforcement. But House members who take their constitutional vows seriously should eliminate or modify other damaging provisions in the bill.

Among other dubious steps, the House bill would grant the Secretary of State expansive authority to brand foreign groups and their domestic affiliates as terrorists, thereby making it a crime for Americans to support the group's activities, even if they are perfectly legal. Members of designated terrorist groups would be barred from entering the country to speak, reviving a discredited practice that was discarded in 1990 with repeal of the McCarthy-era McCarran-Walter Act.

Under the House legislation, the Attorney General would be given unchecked authority to elevate ordinary state and Federal crimes to acts of terrorism, carrying sentences ranging up to death. The F.B.I., which already has ample authority to pursue terrorists, would get new powers to obtain phone and travel records without having to establish that a suspect seemed to be engaging in criminal activity. Government wiretap authority would be expanded, with reduced judicial oversight.

The proposed change in habeas corpus would undermine the historic role of the Federal courts in correcting unconstitutional state court convictions and sentences. If Congress is determined to make this alteration, it should at least address the question separately and carefully, rather than tagging it onto an antiterrorism bill.

These objectionable measures are not included in a promising alternative bill proposed by three Democratic representatives—John Conyers Jr. of Michigan, Jerrold Nadler of New York and Howard Berman of California.

Americans were shaken and angered by the explosion that shattered the Federal building in Oklahoma City and killed 169 people. Congress is right to give Federal law enforcement agencies more money and manpower. Diminishing American liberties is not the solution to terrorism.

[From the New York Times, Apr. 8, 1996]

GRAVE TROUBLE FOR THE GREAT WRIT

Members of Congress are exploiting public concerns about terrorism to threaten basic civil liberties. Of these, not one is more precious than the writ of habeas corpus—the venerable Great Writ devised by English judges to guard against arbitrary imprisonment and, in modern terms, a vital shield against unfair trials.

Both the House and Senate have voted to weaken the modern version of habeas corpus beyond recognition. Invading the province of the independent Federal judiciary, their proposals would forbid judges from rendering their own findings of fact and law, virtually instructing the judges to decide cases against the petitioning prisoner. President Clinton, who has waffled on the issue, needs to warn Congress that he will not sign this unconstitutional measure just to get a terrorism law.

The writ has long been available in America to tell sheriffs and wardens to "produce the body" of the prisoner and justify the jailing in court. Congress applied the habeas corpus power in 1867 to give Federal district courts the power to review state criminal convictions. Since then, judges have set aside many sentences of prisoners who failed to receive fair trials, including some condemned to die because prosecutors concealed evidence of their innocence.

The antiterrorism bills contain provisions that would accelerate the executions of condemned prisoners, at great risk to their fundamental rights. These provisions have survived Congressional debate even though other provisions that might actually have done something about terrorism—banning bullets that pierce police vests and tagging explosives to enable law enforcement to trace terrorist bombs—were scrapped on the House floor.

The most pernicious legal change would instruct Federal judges that they are bound by state court findings when determining the fairness of a prisoner's criminal trial. Only when those findings are "unreasonable" or flatly contradict clearly announced Supreme Court rulings can the Federal court overturn them. State courts rarely disobey the high court openly. But they still make serious mistakes. Federal judges have often found state court judgments woefully sloppy though masked in neutral language the new proposals would insulate from review.

A Supreme Court case from last year makes the point. By a distressingly thin 5-to-4 margin, the Court set aside the death sentence of a man whose murder conviction rested on the word of an informant whose potential motives for falsely accusing him were known to the police but concealed from the defense. The condemned man's conviction survived many layers of state and Federal judicial review before reaching the Supreme Court. Under the proposal in Congress, the defendant, instead of getting a new trial, would get the chair.

By essentially telling independent Federal judges how to decide cases, the bill unconstitutionally infringes on the jurisdiction of a coordinate branch of government and potentially violates the Constitution's stricture that the writ of habeas corpus shall not be suspended except in time of war or dire emergency. It also includes unrealistic deadlines for filing court petitions and undue restraints on legal resources available to prisoners. Unless a Senate-House conference committee can disentangle habeas corpus from terrorism, Mr. Clinton has a duty to warn that he will veto the entire package.

[From the New York Times, July 7, 1995]

MR. CLINTON'S BETRAYAL

(By Anthony Lewis)

BOSTON.—For Bill Clinton's natural supporters, the most painful realization of his Presidency is that he is a man without a bottom line. He may abandon any seeming belief, any principle. You cannot rely on him.

There is a telling example to hand. As the Senate debated a counterterrorism bill last month, Mr. Clinton changed his position on the power of Federal courts to issue writs of habeas corpus. The Senate then approved a provision that may effectively eliminate that power.

The issue may sound legalistic, but habeas corpus has been the great historic remedy for injustice. By the Great Writ, as it is called, Federal courts have set aside the convictions of state prisoners because they were tortured into confessing or convicted by other unconstitutional means.

In recent years conservatives in Congress have attacked the habeas corpus process because it delays the execution of state prisoners on death row. Some prisoners do file frivolous petitions. But in other cases conservative Federal judges have found grave violations of constitutional rights—ones not found in state courts, often because the defendants had such incompetent lawyers.

After the Oklahoma City bombing, Senate Republicans decided to attach a crippling habeas provision to the counterterrorism bill. On May 23 four former Attorneys General, Democrats and Republicans—Benjamin Civiletti, Nicholas deB. Katzenbach, Edward H. Levi and Elliot L. Richardson—wrote President Clinton urging him to oppose it.

"It is vital," they wrote, "to insure that habeas corpus—the means by which *all* civil liberties are enforced—is not substantively diminished.

. . . It has a proud history of guarding against injustices born of racial prejudice and intolerance, of saving the innocent from imprisonment or execution and in the process insuring the rights of all law-abiding citizens."

Two days later President Clinton wrote the Senate majority leader, Bob Dole, to say that he favored habeas corpus reform so long as it preserved "the historic right to meaningful Federal review." The issue should be addressed later, he said, not in the counterterrorism bill.

Then, on June 5, Mr. Clinton appeared on television on CNN's "Larry King Live." Asked about habeas corpus, he said reform "ought to be done in the context of this terrorism legislation."

It was a complete switch from his position of less than two weeks before. And it had the effect of undermining Senate supporters of habeas corpus.

Two days later the Senate approved the Republican measure. The House has also passed stringent restrictions on habeas corpus, so almost certainly there will be legislation putting a drastic crimp on the historic writ.

The Senate bill says that no Federal court may grant habeas corpus to a state prisoner if state courts had decided his or her claim on the merits—unless the state decision was "contrary to, or involved an unreasonable application of" Federal constitutional law as determined by the Supreme Court.

That language seems to mean that Federal judges must overlook even incorrect state rulings on constitutional claims, so long as they are not "unreasonably" incorrect. It is a new and remarkable concept in law; that mere wrongness in a constitutional decision is not to be noticed.

Experts in the field say the provision may effectively eliminate Federal habeas corpus. It signals Federal judges to stay their hands. And what Federal judge will want to say that his state colleagues have been not just wrong but "unreasonable"?

The President explained to Larry King that attaching the habeas corpus provision to the counterterrorism bill would speed proceedings in the prosecutions brought over the Oklahoma bombing. But those are Federal prosecutions, not covered by this bill.

No, the reason for President Clinton's turnabout is clear enough. He thinks there is political mileage in looking tough on crime. Compared with that, the Great Writ is unimportant.

In 1953 Justice Hugo L. Black wrote: "It is never too late for courts in habeas corpus proceedings . . . to prevent forfeiture of life or liberty in flagrant defiance of the Constitution." Now, thanks to Bill Clinton and the Republicans in Congress, it may be.

[From the New York Times, Dec. 8, 1995]

IS IT A ZEAL TO KILL?

(By Anthony Lewis)

An Illinois man who had been on death row for 11 years, Orlando Cruz, had a new trial last month and was acquitted of murder. The record, including police perjury, was so rank that the Justice Department has begun investigating possible civil rights violations.

In the last 20 years, 54 Americans under sentence of death have been released from prison because of evidence of their innocence. In an important pending case, a U.S. Court of Appeals has scheduled a hearing for Paris Carriger, an Arizona death row inmate who some usually skeptical criminologists believe is probably innocent.

Congress is now preparing to deal with the fact that innocent men and women are occasionally sentenced to death in this country. Congress's answer is: Execute them anyway, guilty or innocent.

That result will follow, inevitably, from legislation that is heading for the floor of the House and has already passed the Senate. It would limit Federal habeas corpus, the legal procedure by which state prisoners can go to Federal courts to argue that they were unconstitutionally convicted or sentenced.

Federal habeas corpus has played a crucial part in saving wrongly convicted men and women from execution. One reason is that state judges, most of them elected, want to look strongly in favor of capital punishment. For example, Alabama judges have rejected 47 jury recommendations for life sentences, imposing death instead, while reducing jury death sentences to life only 5 times.

The habeas corpus restrictions moving through Congress would increase the chance of an innocent person being executed in two main ways.

The first deals with the right to bring in newly discovered evidence of innocence in a fresh habeas corpus petition. There are legal rules against successive petitions, but there is an escape hatch for genuine evidence of innocence.

Today a prisoner is entitled to a habeas corpus hearing, despite the rules against repeated petitions, if his new evidence makes it "more likely than not that no reasonable juror would have convicted him." The pending legislation would change the "more likely" standard to the far more demanding one of "clear and convincing evidence."

Second, the legislation as passed by the Senate raises a new obstacle. Federal courts would be forbidden to grant habeas corpus if a claim had been decided by state courts—unless the state decision was "an arbitrary or unreasonable" interpretation of established Federal constitutional law.

Apparently, a Federal judge could not free a probably innocent state prisoner if he had been convicted as the result of a state court constitutional ruling that was merely wrong. It would have to be "unreasonably" wrong—a remarkable new concept.

Why would members of Congress want to increase the chances of innocent men and women being gassed or electrocuted or given lethal injections? Perhaps I am naive, but I find that difficult to understand.

The country's agitated mood about crime, fed by demagogic politicians, makes Congress—and Presidents—want to look tough on crime. One result is zeal for the death penalty.

But that cannot explain a zeal to cut off newly discovered evidence of a prisoner's likely innocence and execute him, guilty or innocent. Can our political leaders really be so cynical that they put the tactical advantage of looking tough on crime ahead of an innocent human life?

It is a question for, among others, Senator Orrin Hatch and Representative Henry Hyde, chairmen of the Senate and House Judiciary Committees. Whatever their political outlook, I have never thought them indifferent to claims of humanity.

President Clinton must also face the reality of what this legislation would do. Last May he wrote Senator Bob Dole that he favored habeas corpus reform so long as it preserved "the historic right to meaningful Federal review." He opposed adding a habeas corpus provision to counterterrorism legislation—but a few days later he abandoned that position.

In the House the clampdown on habeas corpus is going to be part of a counterterrorism bill coming out of the Judiciary Committee. The bill has many other problems, of fairness and free speech. But the attack on habeas corpus is a question of life and death.

[From the New York Times, Apr. 15, 1996]

STAND UP FOR LIBERTY

(By Anthony Lewis)

WASHINGTON.—In one significant respect, Bill Clinton's Presidency has been a surprising disappointment and a grievous one. That is in his record on civil liberties.

This week Congress is likely to finish work on legislation gutting Federal habeas corpus, the historic power of Federal courts to look into the constitutionality of state criminal proceedings. Innocent men and women, convicted of murder in flawed trials, will be executed if that protection is gone.

And President Clinton made it possible. With a nod and a wink, he allowed the habeas corpus measure to be attached to a counterterrorism bill that he wanted—a bill that has nothing to do with state prosecutions.

House and Senate conferees are likely to finish work on the terrorism bill this week, and both houses to act on it. Last week Attorney General Janet Reno sent a long letter to the conferees. Reading it, one is struck by how insensitive the Clinton Administration is to one after another long-established principle of civil liberties.

The letter demands, for example, that the Government be given power to deport aliens as suspected terrorists without letting them see the evidence against them—arguing for even harsher secrecy provisions than ones the House struck from the bill last month. It says there is no constitutional right to see the evidence in deportation proceedings, though the Supreme Court has held that there is.

Ms. Reno denounces the House for rejecting a Clinton proposal that the Attorney General be allowed to convert an ordinary crime into "terrorism" by certifying that it transcended national boundaries and was intended to coerce a government. Instead, in the House bill, the Government would have to prove those charges to a judge and jury—a burden the Clinton Administration does not want to bear.

The Reno letter objects to "terrorists" being given rights. But that assumes guilt. The whole idea of our constitutional system is that people should have a fair chance to answer charges before they are convicted. Does Janet Reno think we should ignore the Fourth and Fifth and Sixth Amendments because they protect "criminals"? Does Bill Clinton?

Even before the terrorism bill, with its habeas corpus and numerous other repressive provisions, the Administration had shown a cavalier disregard for civil liberties. The Clinton record is bleak, for example, in the area of privacy.

President Clinton supported the F.B.I.'s demands for legislation requiring that new digital telephone technology be shaped to assure easy access for government eavesdroppers. That legislation passed, and then the Administration asked for broader wiretap authority in the counterterrorism bill. (That is one proposal Congress seems unwilling to swallow.)

The President also supported intrusive F.B.I. demands for ways to penetrate methods used by businesses and individuals to assure the privacy of their communications. He called for all encryption methods to have a decoder key to which law-enforcement officials would have access.

Recently Mr. Clinton issued an executive order authorizing physical searches without a court order to get suspected foreign intelligence information. That is an extraordinary assertion of power, without legislation, to override the Constitution's protection of individuals' privacy.

He has also called for a national identity card, which people would have to provide on seeking a job to prove they are not illegal aliens. That idea is opposed by many conservatives and liberals as a step toward an authoritarian state.

Beyond the particular issues, Mr. Clinton has failed as an educator. He has utterly failed to articulate the reasons why Americans should care about civil liberties: the reasons of history and of our deepest values. This country was born, after all, in a struggle for those liberties.

His record is so disappointing because he knows better. Why has he been so insensitive to the claims of liberty?

The answer is politics: politics of a narrow and dubious kind. The President wants to look tough on terrorism and aliens and crime. So he demands action where there is no need or public demand. Without his push, the excesses of the terrorism bill would have no meaningful constituency.

He would do better for himself, as for the country, if he stood up for our liberties. And there is history. Does Bill Clinton really want to be remembered as the President who sold out habeas corpus?

EXCERPT FROM STATEMENT OF ADMINISTRATION POLICY

Finally, H.R. 2703 contains provisions to reform Federal habeas corpus procedures. The Administration has consistently and strongly supported habeas corpus reform in order to assure that criminal offenders receive swift and certain punishment. Indeed, the Administration believes that the bill could be improved to provide additional guarantees that offenders have only "one bite at the apple" and complete the process even more expeditiously. These further limitations should be accompanied by necessary changes in the scope of review afforded to such petitions. H.R. 2703 would establish a standard of review for Federal courts on constitutional issues that is excessively narrow and subject to potentially meritorious constitutional challenges. To achieve the twin goals of finality and fairness. H.R. 2703 should shorten the duration and reduce the number of reviews for each criminal conviction while preserving the full scope of habeas review so that it can continue to serve its historic function as the last protection against wrongful conviction. The Administration hopes to work with the House and the conferees to achieve these ends.

Mr. DOLE. Mr. President, is leader time reserved?

The PRESIDING OFFICER. Yes.

BROADCAST BLACKOUT

Mr. DOLE. Mr. President, TV broadcasters have broken their trust with the American people. For more than 40 years, the American people have generously lent TV station owners our Nation's airwaves for free. Now some broadcasters want more and will stop at nothing to get it. They are bullying Congress and running a multimillion-dollar scare campaign to mislead the public.

The reason is simple: Why pay for something when you can get it for free? But there is one small problem. The airwaves are the Nation's most valuable natural resource and are worth billions and billions of dollars. They do not belong to the broadcasters. They do not belong to the phone companies. They do not belong to the newspapers. Each and every wave belongs to the American people, the American taxpayers. Our airwaves are just as much a national resource as our national parks.

Enter the TV broadcasters. Earlier this year, I blocked their legislative efforts to get spectrum for free. At my request, Congress is now holding open hearings on reforming our spectrum policies.

Apparently, the democratic process is not good enough for most broadcasters. So TV broadcasters are now running ads and so-called public service announcements, claiming that TV will die without this huge corporate welfare program, this billions and billions of dollars they want to take away from the American taxpayers. Of course, they do not call this giveaway welfare; they call it a tax. Imagine calling a giveaway a tax.

Also, I am aware that some broadcasters have asked Members of Congress to drop by their stations. In the midst of these friendly discussions, the broadcasters say, "I thought you might want to see the ad we are considering running in your district."

So much for subtlety.

It seems to me the broadcasters should be happy with the deal they already have. They have been getting free channels for years. In return, they fulfill public interest obligations, such as reporting news and information. Now they want more airwaves for free.

Newspapers also report the news, but Congress has never had to buy them off. It seems to me that giving broadcasters free spectrum is like giving newspapers free paper from our national forests.

Congress has never challenged whether broadcasters should be allowed to keep a channel. Instead, we are simply stating that if broadcasters want more channels, then they are going to pay the taxpayers for them. That does not kill television.

The broadcasters say they cannot afford to buy additional airwaves, which the Congressional Budget Office estimates is worth at least $12 billion. Last time I checked, the American people cannot afford to give it to them free.

We are trying to balance a budget with tax cuts for families with children, reducing spending, and closing loopholes.

Broadcasters say that if they had to pay for the extra airwaves, it would be the end of so-called free, over-the-air television. The facts speak otherwise. According to the Washington Post, over the last 2 years broadcast deals in the private sector amounted to a whooping $31.3 billion. That is with a "b"—billion dollars.

Here is another fact. All TV broadcast licenses in America were originally given away for free, but only 6 percent are still in the hands of the original licensee. The other 94 percent have been bought and sold. My point is that broadcasters have a long history of paying top dollar for existing channels. Somehow they cannot afford any new ones unless the taxpayer picks up the tab.

UNFUNDED MANDATE ON CONSUMERS

Before Congress lets huge moneyed interests get their fingers on this national resource, we must be certain that the American taxpayer is fully protected. The policy broadcasters' want will not only force taxpayers to giveaway valuable airwaves, it will also force consumers to spend hundreds of billions of their own dollars on new equipment which is a point that I think has been overlooked. They have been trying to frighten everybody with television, and to get their way are going to have to have another television or some attachment.

The fact is that federally mandating a transition to digital broadcast will ultimately render all television sets in the country obsolete. You will not be able to use your television set.

Consumers will be forced to buy either new television sets or convertor boxes to receive so-called free, over-the-air broadcasts.

Last year we passed the unfunded mandates law. Perhaps some have forgotten, but that law applies to more than just State and local governments. It applies to the private sector and most importantly to individuals.

The impact of the broadcasters' plan would be dramatic. There are 222 million television sets in this country. At a Senate Budget Committee hearing last month, the broadcasters testified that the average digital television set's estimated cost is $1,500, while the less expensive converter box will cost approximately $500. Replacing every television set in America with a digital one would cost $333 billion. Using the less expensive converter box would cost $111 billion. No doubt about it, consumers will not be happy that Congress made this choice for them. That is precisely what we are going to do here unless we wake up and smell something.

The American people should have a say before Congress makes a decision on spectrum. After all, the airwaves are theirs and so are their TV sets. Neither belongs to the broadcasters.

NETWORK COVERAGE

Finally, TV broadcasters have rightly kept a watchful eye on a bloated Government. Whether it was $600 toilet seats or $7,000 coffee pots, they have always helped us quickly identify waste. But they have been strangely silent on this issue. In contrast, story after story, and editorial after editorial, protested this giveaway in the print media.

In fact, I have a whole bookful here. In fact, this is loaded with editorials and comments about this giveaway. You do not see it on television.

There have been a few exceptions. I want to be fair. CNN, which is a cable network, has reported on this issue, while CBS made an attempt a month ago. So-called public interest obligations seem to have gone out the window when it is not in the broadcasters' self-interest.

If five Senators took a legitimate trip somewhere overseas to investigate something that might be costing the American people money, that is reported on the evening news as a junket costing thousands and thousands of dollars to the American taxpayer because the Senators were over there trying to see if they were spending too much on foreign aid maybe in Bosnia or maybe somewhere else. That would be news. Maybe it is news. Maybe it should be reported. But when it comes to billion dollar giveaways, to them "mum" is the word. You never hear about it on television. Dan Rather will not utter a word. Peter Jennings, Tom Brokow—maybe they do not know about it. But I would say to the American taxpayers and the people with TV sets that somebody had better protect the American public.

I have even had a threatening letter, which I will not put in the file, that if I do not shape up and stop talking about this, this broadcaster is going to get his 700 employees to vote for someone else in November. That is intimidation.

I have no quarrel with the broadcasters. I have always thought they were my friends. But it seems to me that when we are trying to balance the budget and when we are asking everybody to make a sacrifice, then we ought to make certain that we do not give something away worth billions and billions and billions of dollars.

Maybe the broadcasters felt this issue was not newsworthy. But if that is the case, why did the National Association of Broadcasters vote to go on the offensive and launch a multi-million-dollar ad campaign to preserve, as they spin it, free, over-the-air broadcasting?

I have already indicated it is not going to be free. It is going to cost you $500 for a converter box or $1,500 for a new TV set. That is not free.

I did not realize that ad campaigns have replaced the evening news.

CONCLUSION

Mr. President, if the broadcasters have a case to make, Congress is prepared to hear them. We are having fair and open hearings. That is what democracy is all about. It is not about distorting the truth and making thinly veiled threats. The American people know this. And despite what some might think, we are not easily duped.

I hope that fairness will prevail. I do not know what the value should be. But we should find out. Maybe it is $1. Maybe it is $1 million. Maybe it is $50 billion. But I never found anything wrong with having a hearing and asking the people that might be impacted, including the American consumer, to come to testify. I believe many broadcasters understand their responsibility. Maybe there are only a few out there leading this effort to mislead the American public and to walk away with billions of dollars in welfare from the Congress of the United States.

I know this is not a very popular thing to do—to get up and take on TV broadcasters or radio broadcasters because they have a lot of free access to the airwaves. But I believe, if we are serious about the budget and serious about the future, serious about the taxpayers, that it at least ought to be raised.

So I think they are all legitimate. But I think those broadcasters who have not been blinded by greed—and there are a lot of them out there that have not—will help shape the future of television.

Again, I must say that I know it does not get a lot of attention. But there are all kinds of columns here by different people, William Safire and others, page after page, hundreds of pages of stories about this giveaway.

I know the broadcasters are meeting in Las Vegas, and I think it is time to throw the dice and have a hearing. Maybe they can make their case. That is what Congress is all about.

But it seems to me that the President, I think, should have an interest in this. It is not a partisan issue. It is an issue of how we are going to pay the bills, how we are going to balance the budget, and what amount will properly be received in charging for spectrum.

Mr. MOYNIHAN. Mr. President, will the majority leader yield for a question?

Mr. DOLE. I am happy to yield.

Mr. MOYNIHAN. Does the leader have in mind to schedule hearings and to ask the administration officials to testify?

Mr. DOLE. In fact, I think we have had one. Senator PRESSLER, chairman of the Commerce Committee, had 1 day of hearings. There will be another day of hearings, I think, next week to be followed by additional hearings. So there is an effort to have everybody come in and testify and then make a judgment.

I see the Senator from South Dakota is on the floor now. That was part of the agreement on the telecommunications bill—that the bill would go forward, there would be hearings, and Congress would make a judgment for the American people. We are going to have to cough up the money on what we should do.

Mr. MOYNIHAN. I thank the Senator. It is none too soon.

IRANIAN ARMS FOR BOSNIA

Mr. DOLE. Mr. President, since the report surfaced in the Los Angeles Times that President Clinton decided to allow Iran to provide arms to the Bosnians, there has been little, if any, response from the other side of the aisle.

Had there been a Republican in the White House, no doubt, the Democrats would have been all over the President. But, that is not the real issue. I am not here to be all over the President. This is not about the conduct of partisan politics, but the conduct of our foreign policy. This is about American leadership, American credibility, and Congressional oversight. That is why I met today with the chairmen of the Foreign Relations, Intelligence, Armed Services, and Judiciary Committees to discuss this serious foreign policy matter. For nearly 3 years, this administration opposed congressional efforts to lift the unjust and illegal arms embargo on Bosnia and Herzegovina. We were told, and the American people were told, that the United States was bound by the U.N. embargo on the former Yugoslavia. We were told that if America violated this embargo, we would lose support from our allies for other embargoes, such as the one against Iraq. Finally, we were told that lifting the embargo and allowing the Bosnians to have arms while U.N. forces were deployed in Bosnia, would endanger the troops of our allies.

Some people are saying, well, you knew that Iran was providing arms to the Bosnians. I would like to respond to that. While we read and heard reports that Iran was smuggling arms to the Bosnians, we did not know the President and his advisers made a conscious decision to give a green light for Iran to provide arms. Indeed, those of us who advocated lifting the arms embargo—Republicans and Democrats—argued that if America did not provide Bosnia with assistance, Iran would be Bosnia's only option. In my view, the role of the President and administration officials in this matter need to be examined—even if we do not receive cooperation from the White House and the Intelligence Oversight Board—which has been the case to date.

In the meeting I held with the four committee chairmen today, we decided on the approach we would take. The Intelligence Committee will investigate the matter of whether any administration officials were engaged in covert action. The Foreign Relations Committee will review administration policy as stated and as executed, as well as the ramifications of these revelations. Let me tell you why I believe this examination is important.

In short, this duplicitous policy has seriously damaged our credibility with our allies. It has also produced one of the most serious threats to our military forces in Bosnia and, according to the administration, the main obstacle to the arm and train program for the Bosnians—I am talking about the presence of Iranian military forces and intelligence officials in Bosnia.

As I have said many, many times on this floor, along with many of my colleagues on the other side, had we lifted the arms embargo and had we provided the weapons, the Bosnians could have defended themselves and chances are there would not have been any American troops there now, and we would have had a peace agreement sooner and on better terms for the Bosnians. And most likely, as I said, we would not have 20,000 Americans in Bosnia at this moment. And finally, had we lifted the arms embargo on Bosnia, the United States would have done the right thing for the right reason. We would have done it openly, and we would have done it honestly.

That is what this examination and these hearings will be about, because I think we owe it to the American people and we owe it to Members of Congress. As far as I know, no one knew about what was happening. We were told we just could not lift the arms embargo because of all the problems that would create with our allies and our credibility at the same time. Apparently some knew it was happening through the back door.

I yield back the remainder of my leader time.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Did the Senator want to comment on the Moynihan amendment?

Mr. HOLLINGS. I ask unanimous consent that I be given 10 minutes as if in morning business to respond to the majority leader on the issue of broadcast spectrum auctions.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from South Carolina is recognized.

Mr. HOLLINGS. I thank the distinguished leaders of this measure.

TELECOMMUNICATIONS

Mr. HOLLINGS. Mr. President, I must take exception with the statements by the distinguished majority leader. What really occurred 5 years ago is that hearings both in our Committee of Commerce, which I was chairing at the time, and the Federal Communications Commission as to how to bring about high-definition television, going from the analog signal to the high-definition digital television signal—similar to how we went earlier from AM radio to FM radio and we gave away the licenses, and now most of the radio audience predominates in FM.

On this particular score, there are all kinds of problems. First, there is a problem faced by the local broadcasters. To change over from their analog signal to a digital signal is going to be a cost of somewhere between $2 and $10 million. They are not going to put that $2 to $10 million in changing over unless and until there are digital TV sets. The people who are going to purchase the sets are not going to purchase them until the broadcasters bring about digital television.

So working as the public body in the public interest, we reasoned, after these hearings, that there ought to be a transition to change over, to certainly not penalize established free broadcasts in America—it is not a gift, if you please, but, on the contrary, we need to get them to switch from analog to digital and then we'll take the one that they relinquished and auction it. Nobody is getting anything free. It is necessary to bring about that particular switch from the analog to the high-definition television that will truly benefit consumers.

Chairman Sikes, a Republican chairman of the Federal Communications Commission, enunciated this policy. We had 2 years of hearings in our Commerce Committee. We, in a bipartisan fashion, got the movement going with respect to the broadcasters. You have to sort of sell this idea to move them along.

We are trying now to get the criteria for high-definition television agreed upon by all the technical entities that are interested in this particular move.

And the Federal Communications Commission is having hearings to determine the technology that should be used. Once that is done this spring, we hope to move forward and, as best we can, accelerate this improved television viewing for the American public.

And now this thing about balancing the budget, this crowd is running up $1 billion a day in interest costs. You raise spending $1 billion a day while we are talking that you do not want to pay for. I put in a value-added tax bill to pay for it, but nobody else around here wants to pay for it—talking about paying the bills and balancing the budget. But right is right and fair is fair.

The broadcasters have not been going around soliciting or asking for a giveaway of billions of dollars or whatever it is. We have to maintain free over-the-air broadcasting. They used to have almost 100 percent of the broadcast audience. They are down to 60 percent. Cable television and direct broadcast satellites are taking over and everything of that kind. In a very real sense, we are very careful about the regular analog stations that you and I watch every day and every evening.

So the air should be clear. You can have 100 hearings. You can go back on it. You can come up with the sale and make a lot of money, but the American public is not going to be served. Auctioning the second channel would only disadvantage the American consumer. You should not reverse a well-studied and well-thought-out policy by a Republican administration and a Democratic administration, a Republican committee and a Democratic committee. We should stick with the FCC plan—it is the best way to ensure free over-the-air television and the taxpayer will benefit when the original channel is auctioned.

This peripheral attack about I am Horatio at the bridge here and I am standing up and I am protecting the public, and we want to pay the bills and we want to balance the budget, is all hogwash. If you want to pay bills, then I say to the Senator, it is in your Finance Committee. Pull it out of the Finance Committee and let's vote up and down, because you cannot balance the budget without increasing taxes.

I will make my challenge one more time. I make it time and again. I would be delighted to jump off the Capitol dome if you can give me a 7-year balanced budget without increasing taxes. You cannot do it. I gave that to the distinguished chairman of the Budget Committee, and he did not do it. That was over a year ago. And I am still ready to jump.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah has 15 minutes.

Mr. FORD. Mr. President, I ask unanimous consent I might have 2 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator from Kentucky has 2 minutes.

Mr. FORD. I thank the Chair, and I thank my friend from Utah.

GAGGING OF A SENATOR

Mr. FORD. Mr. President, yesterday the Senator from North Dakota was prevented from speaking on the Senate floor. They recessed the Senate in order to prevent him from speaking. I know the majority leader has certain privileges that other Senators do not have—leader's time, recognized first, and all that. But I think the majority leader made a mistake in trying to gag a colleague yesterday.

We are here, expecting to vote every 30 minutes, on an amendment or reconsideration—recommittal on this terrorism bill, and the majority leader comes in, as is his right—I do not say he did not have the right—but we talk about telecommunications and we talk about Bosnia. Yet, the Senator from North Dakota could not talk about Social Security and balancing the budget.

So, I want the Senate to know that some of us observe that. I believe the majority leader made a mistake. I think he realized he made a mistake. And we should not attempt to gag anyone here on the Senate floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

TERRORISM PREVENTION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. HATCH. Mr. President, for my friend from New York, I will just move to table this amendment. But I think, because he approaches things in such a scholarly manner, I should take just a few minutes to explain why we cannot accept his amendment and why I will move to table.

Mr. President, I think that part of the disagreement we have with respect to the appropriate standard of review in habeas petitions involves differing visions as to the proper role of habeas review.

Federal habeas review takes place only after there has been a trial, direct review by a State appellate court, a second review by a State supreme court, and than a petition to the U.S. Supreme Court. Thus we have a trial and at least three levels of appellate review. In a capital case, the petitioner often files a clemency petition, so the State executive branch also has an opportunity to review the case.

But that is not the end. In virtually every State, a postconviction collateral proceeding exists. In other words, the prisoner can file a habeas corpus petition in State court. That petition is routinely subject to appellate review by an intermediate court and the State supreme court. The prisoner may then file a second petition in the U.S. Supreme Court, and may also, of course, seek a second review by the Governor.

So, after conviction, we have at least six levels of review by State courts and two rounds of review—at least in capital cases—by the State executive. Contrary to the impression that may be left by some of my colleagues, Federal habeas review does not take place until well after conviction and numerous rounds of direct and collateral review.

The Supreme Court has clearly held that habeas review is not an essential prerequisite to conviction. Indeed, this very term, the Supreme Court reaffirmed the principle that the Constitution does not even require direct review as a prerequisite for a valid conviction.

Now that we have set the proper context for this debate, let us just look at the proposed standard. Under the standard contained in the bill, Federal courts would be required to defer to the determinations of State courts unless the State court's decision was "contrary to, or involved an unreasonable application of, clearly established federal law, as determined by the Supreme Court . . . ."

This is a wholly appropriate standard. It enables the Federal court to overturn State court decisions that clearly contravene Federal law. Indeed, this standard essentially gives the Federal court the authority to review, de novo, whether the State court decided the claim in contravention of Federal law.

Moreover, the review standard proposed allows the Federal courts to review State court decisions that improperly apply clearly established Federal law. In other words, if the State court unreasonably applied Federal laws, its determination is subject to review by the Federal courts.

What does this mean? It means that if the State court reasonably applied Federal law, its decision must be upheld. Why is this a problematic standard? After all, Federal habeas review exists to correct fundamental defects in the law. After the State court has reasonably applied Federal law, it is hard to say that a fundamental defect exists.

The Supreme Court, in Harlow versus Fitzgerald, has held that if the police officers' conduct was reasonable, no claim for damages under Bivens can be maintained. In Leon versus United States, the Supreme Court held that if the police officers' conduct in conducting a search was reasonable, no fourth amendment violation would obtain and the Court could not order suppression of evidence obtained as a result of the search. The Supreme Court has repeatedly endorsed the principal that no remedy is available where the Government acts reasonably.

Why then, given this preference for reasonableness in the law, should we empower a Federal court to reverse a State court's reasonable application of Federal law to the facts?

Our proposed standard simply ends the improper review of State court decisions. After all, State courts are required to uphold the Constitution and to faithfully apply Federal laws. There is simply no reason that Federal courts should have the ability to virtually retry cases that have been properly adjudicated by our State courts.

I think that once we cut away the camouflage surrounding the arguments against our proposed habeas reform package, we find two things: First, a disagreement with the death penalty as a punishment. That is a legitimate disagreement. I, personally, am in favor of the death penalty, but I would very sparingly use it. But there are others who very sincerely believe that the death penalty is wrong. I can understand that. Many people have moral or ethical concerns about the death penalty, and many more in this country, the vast majority, believe we should have a death penalty for the most heinous murders and crimes in our society. I am appreciative, though, and sensitive to the concerns of others who feel otherwise. Many of my colleagues have heartfelt views on this matter, and I respect the sincerity of those views.

But if the arguments against meaningful habeas reform are in reality arguments against the death penalty, then let us debate the efficacy of the death penalty. Let us decide whether death is the appropriate sanction for people like those who murdered the 168 individuals in Oklahoma City. I am prepared to debate the point. But let us not disguise this argument.

The second argument I think my friends are making is that they fundamentally distrust the decisions of State courts. They believe that State courts are somehow incompetent to try important cases. They believe that State juries are somehow not as good as Federal juries; that State court judges are not as qualified as Federal judges; that State prosecutors and defense attorneys are not as adept as their Federal counterparts. Although I generally disagree with this argument, I can understand it. I can debate it. I can argue about the merits of having State criminal justice systems at all. I can debate the issue of whether something magical happens when a State court judge becomes a Federal judge. But if this is what really concerns the opponents to the habeas reform, then let us debate the point straight up. We should not allow this debate to be derailed.

My good friend, the Senator from New York, referred to the Great Writ, which is part of the Constitution. He need not fear for the Great Writ, if this proposal is enacted, in other words, if our bill is enacted. The Great Writ of Habeas Corpus contained in the Constitution applied to only two circumstances: No. 1, to challenge an illegal imprisonment before trial; and, No. 2, to determine whether the trial court had jurisdiction to hear the case.

The habeas corpus we are reforming is the statutory form of habeas corpus. There are some in this body who oppose such reform. I believe they are motivated in part, in major part, by their desire to stop the death penalty or to oppose the death penalty. I can understand that position, although I disagree with it, and I think the vast majority of Americans disagree with it.

I believe convicted killers should be punished, and the particularly heinous killings ought to be punished with the death penalty. I think the survivors and family, the victims of this type of heinous murder, have a right to see that those who killed their loved ones are justly punished. That is why we have to pass this provision. It is long overdue.

To me, and I think to many others, almost everybody in law enforcement today, the habeas corpus provision that we have in this bill is a good one. The standard is a good one. The deference to State law is good, because it just means that we defer to them if they have properly applied Federal law. We should not give some judge who hates the death penalty a right to disrupt that whole process when there is no legal justification for doing so. Frankly, we have allowed the procedural justifications to exist for far too long and that is what this is all about.

So, having said that, I have letters from all kinds of law enforcement organizations, including some organizations that have fought for civil liberties all of their existence, that support our habeas corpus reform because it is time to have that in law. It is time to get rid of the charade. They support the habeas corpus reform more than any—or the death penalty reform, more than any other provision in this bill, although there are many good provisions in this bill.

Having said all that, I am prepared to yield back the remainder of my time, and, on behalf of Senator DOLE and myself, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER (Mr. ABRAHAM). Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Mr. President, might I ask for 30 seconds to thank my friend and respond?

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I thank him for his thoughtful, careful response. I would like to make the point that my concern is not with the death penalty but with habeas corpus itself. I have had a long experience, as the manager has had, with problems of terrorism. As I said a moment ago, the only time the terrorists ever win is when they begin to make you change your own fundamental political and judicial processes, and that is what I fear this will do. It is of some relief to hear the distinguished manager's statement that the Great Writ will remain substantially intact.

Mr. HATCH. Mr. President, if I can have 30 seconds. The Great Writ will not be affected by this one bit. I appreciate his concerns, and I believe he will find this provision will help us in fighting violent criminals.

So I move to table the motion. I believe we have the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to recommit.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The PRESIDING OFFICER (Mr. INHOFE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 64, nays 35, as follows:

[Rollcall Vote No. 66 Leg.]

YEAS—64

Abraham
Ashcroft
Baucus
Bennett
Bond
Brown
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hollings
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kyl
Lieberman
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Reid
Robb
Rockefeller
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wyden

NAYS—35

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Bumpers
Byrd
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Glenn
Harkin
Heflin
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Sarbanes
Simon
Wellstone

NOT VOTING—1

Mack

So the motion to lay on the table the motion to recommit was agreed to.

Mr. HATCH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, I move to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following language to prohibit the distribution of information relating to explosive materials for a criminal purposes.

I send the motion to the desk.

The motion is as follows:

> Motion to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following:
>
> **SEC. . PROHIBITION ON DISTRIBUTION OF INFORMATION RELATING TO EXPLOSIVE MATERIALS FOR A CRIMINAL PURPOSE.**
>
> (a) Section 842 of title 18, United States Code, is amended by adding at the end the following new subsection:
>
> "(l) It shall be unlawful for any person to teach or demonstrate the making of explosive materials, or to distribute by any means information pertaining to, in whole or in part, the manufacture of explosive materials, if the person intends or knows, that such explosive materials or information will be used for, or in furtherance of, an activity that constitutes a Federal criminal offense or a criminal purpose affecting interstate commerce.".
>
> (b) Section 844 of title 18, United States Code, is amended by designating subsection (a) as subsection (a)(1) and by adding the following new subsection:
>
> "(a)(2) Any person who violates subsection (l) of section 842 of this chapter shall be fined under this title or imprisoned not more than twenty years, or both.".

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield myself such time as I may use within the limit of the time I have.

This provision is very straightforward and simple. It is beyond me why it was taken out of the Senate version of the language that was sent to the House.

I have heard many colleagues stand up on the floor here and rail against pornography on the Internet, and for good reason. Even when we thought we had corrected the language that Senator EXON introduced to comport with the first amendment, I still hear in my State, and I hear of people writing about how so and so is promoting pornography on the Internet because they will not ban pornography on the Internet.

Yet, in the bill, we came along—all of us here—and the genesis of this came from Senator FEINSTEIN, when it was initially offered. The majority leader, Senator HATCH, and I had some concerns with this, and we thought the language to ban teaching people how to make bombs on the Internet or engage in terrorist activities on the Internet might violate the first amendment. Senators DOLE, HATCH, and I worked to tighten the language and came up with language that was tough and true to civil liberties. It was accepted by unanimous consent.

We have all heard about the bone-chilling information making its way over the Internet, about explicit instructions about how to detonate pipe bombs and even, if you can believe it, baby food bombs. Senator FEINSTEIN quoted an Internet posting that detailed how to build and explode one of these things, which concludes that "If the explosion don't get'em, the glass will. If the glass don't get'em, the nails will."

I would like to give you a couple of illustrations of the kinds of things that come across the Internet. This is one I have in my hand which was downloaded. It said, "Baby food bombs by War Master." And this is actually downloaded off the Internet. It says:

> These simple, powerful bombs are not very well known, even though all of the materials can be obtained by anyone (including minors). These things are so—

I will delete a word because it is an obscenity.

> powerful that they can destroy a CAR. The explosion can actually twist and mangle the frame. They are extremely deadly and can very easily kill you and blow the side of a house out if you mess up while building it. Here is how they work.

This is on the Internet now. It says:

> Go to Sports Authority or Herman's Sport Shop and buy shotgun shells. It is by the hunting section. At the Sports Authority that I go to you can actually buy shotgun shells without a parent or an adult. They don't keep it behind the glass counter, or anything like that. It is $2.96 for 25 shells.

And then it says:

> Now for the hard part. You must cut open the plastic housing of the bullet to get to the sweet nectar that is the gun powder. The place where you can cut is CRUCIAL. It means a difference between it blowing up in your face or not.

Then there is a diagram, which is shown as to how to do that on the Internet. Then it says:

> You must not make the cut directly where the gun powder is, or it will explode. You cut it where the pellets are.

And then it goes through this in detail. And then it gets to the end, and it says:

> Did I mention that this is also highly illegal? Unimportant stuff that is cool to know.

And then it rates shotgun shells by two numbers, gauge, pellet size, and goes into great detail. It is like building an erector set. It does it in detail.

So what Senators DOLE and HATCH and I did, we said you should not be able to do this, but we have a first amendment problem, possibly. So we added a provision that says that you have to have the intent, when you are teaching people how to do this, that the person using it is using it for the purpose of doing harm.

So it seems to me that this is pretty straightforward. Granted, I want to stop pornography on the Internet. I think pornography does harm to the minds of the people who observe it, particularly young people. But if that does harm, how much harm is done by teaching a 15-year-old kid, a 12-year-old kid, or a 20-year-old person, with great detail, how to build a baby food bomb, or how to build an automatic particle explosion provision, or how to build light bulb bombs.

It says:

> An automatic reaction to walking into a dark room is to turn on the light. This can be fatal if a light-bulb bomb has been placed in the overhead light socket. A light-bulb bomb is surprisingly easy to make. It also comes with its own initiator and electric ignition system. On some light-bulbs, the light-bulb glass can be removed from the metal base by heating the base of the light bulb in a glass flame, such as that of a blowtorch and a gas stove.

And so on and so forth. It goes on to explain how if you attach a plastic back to the light bulb when you remove the glass part but leave the filament and attach it and tape it there, when someone comes in and turns on the light, it blows up the room. Or, if you want to just play a prank, you could put odorous, smelling materials in the bag. It would blow up the bag. But you can put anything in it, and it blows it up.

We said in the language we passed that it shall be unlawful for any person to teach or demonstrate the making of explosive materials, or to distribute by any means information pertaining to, in whole or in part, the manufacture of explosive materials if the person intends or knows that such explosive material, or information will be used for, or in the furtherance of, activity that constitutes a Federal criminal offense, or a criminal purpose affecting interstate commerce. And the House took it out. The House removed it.

I want to say to all of you who are going to probably vote down my putting this back in, I want to hear you explain to your folks back home when a commercial is run on your television station that Senator Jones or Senator whoever voted against prohibiting on the Internet explicit directions how to make a bomb knowing that the person intends to use it. I want to hear your explanation of that. I want to be there when you explain that one.

Let me read the statute again. It says: It shall be unlawful for a person to teach or demonstrate, et cetera, if the person intends or knows that such explosive material or information will be used for, or in the furtherance of, activity that constitutes a Federal crime. "Knows or intends" is a pretty a high standard falling, in my view, and in the view of constitutional scholars, well within our first amendment privileges. I just think this is crazy.

Let me go on just a few more moments, and then I will stop. The provision is pretty straightforward. If you are one of the guys who has made a name for himself by bringing manifestoes like "The Terrorist Handbook" or "How to Kill With Joy," which literally are on the Internet, and if someone comes to you and says, "Tomorrow morning a group of police officers are going to be meeting at the Fifth Street precinct, and I want to blow them up," and if you say to them, "Here, let me tell you how to make a bomb," arguably at that point the police can get you on a conspiracy charge. That is possible. That is possible. But if you just know what they are about, you see them all out there in a car, you look down and see that they have this plan, and you go ahead and tell them how to make a bomb, it is not a violation of the law to teach them how to make the bomb. Is not that incredible?

Last June, all of us in this body agreed to this. I hope we will agree to it again because let me tell you, if this will kill the bill, as I am sure my colleague from Utah is going to say it will, I want to hear—if this is the only change in the bill—I want to see those House Members stand up and say, "The reason I am not voting for this terrorist legislation is because I want to continue to allow people to teach people how to make bombs," knowing that they are going to be used to commit a crime or kill someone, "And that is why I am voting against this bill," because it now contains a provision that prohibits that, I think maybe this is time to face down some of those people over there. Let them stand up and tell all of our colleagues around the Nation, and tell the parents around the Nation, that that is the reason they are voting against the terrorism bill.

I retain the remainder of my time and yield the floor.

Mr. HATCH. Mr. President, I will only take a couple of minutes, and then I am prepared to yield back the remainder of my time.

The constitution of conspiracy to use an explosive to commit a felony is already provided for in precedent law, 18 U.S.C. 844(h). Thus, anyone who trains a terrorist to make a bomb as part of such a conspiracy would certainly be prosecuted under current law.

I want to make it clear that I do not entirely disagree with Senator BIDEN's position. However, we have been facing down this problem for a year now. Friday is the day where we commemorate this awful tragedy. Frankly, we have gone through every detail in this bill, and we have not been able to get it exactly to Senator BIDEN's desire, or even mine, but this is it. This is the bill. And anything short of this is going to amount to losing the bill.

Like I said, I do not entirely disagree with Senator BIDEN's position. However, there are many who have raised first amendment and intellectual property concerns about this provision. They are legitimate concerns. As the chairman of the Judiciary Committee, which handles all of the patents, copyrights, and trademark issues, I can say they are legitimate. So, consequently, we have included a study in the bill to ensure that we can criminalize efforts to distribute bombmaking materials without impinging upon constitutional freedoms. Besides, there is little doubt that anyone who knowingly transmits information to use explosives to commit a felony is already subject to Federal law; 18 U.S.C. 844(h) does that.

So, frankly, I would like to accommodate the distinguished Senator from Delaware, but we tried to and we have been unable to accommodate him. Frankly, I contend that any return to the conference will kill this bill.

I am prepared to yield. I apologize for not being able to do more. But we think we have brought this bill back to a very, very strong level, and we have had a lot of cooperation with Members of the House in doing so and the leadership on the Judiciary Committee—both Democrats and Republicans.

Yes, it is not a bill that any one of us in here thinks is totally what we want, but I think the vast majority of us will believe that it is a pretty darned good bill that is going to make a real dent in terrorist activities in the future and will, I think, correct some inequities of terrorist activities in the past.

So I am prepared to yield the remainder of my time.

Mr. BIDEN. Mr. President, let me respond about this conspiracy. I acknowledge that, if, in fact, there is an agreement with the bombmaker, the bomb teacher, and the bomb user, and they could prove that, then they can get the bomb teacher as part of this conspiracy. That is not how this happens. The way it happens is someone walks in telling me—and looking like they are something out of a movie—telling me, and I do not know them, that they want to learn how to make a fertilizer bomb. "I want to learn how to make a bomb out of baby food, a baby-food bomb, or a light-bulb bomb"—that is all they tell me, and I do not know them from Adam. I sit down and tell them how to make the bomb. The ability to prove that there was a conspiracy to commit a crime requires that there be an ability to be an agreement between the two of us about the crime that was about to be committed.

I am saying it should be a national crime if you intend, or you know the person is about to do something wrong regardless of whether you know what the crime is, what they are going to do with it. Obviously, if a 14-year-old kid comes to you and says, "By the way, I want to learn how to make a baby-food bomb that has the ability to blow up, has the power, like advertised here, that can bend the frame of a car," you are telling me that you have to be able to prove conspiracy. If the guy says, "I am happy to show you how to make that, just like I can show you how to make a rocket in the field for a science class," there is no distinction. And under this law, there is no conspiracy.

You vote against this, and it means someone can show a kid how to do that and not have to wonder why this kid is asking me how to make a powerful bomb that can bend the frame of a car. You cannot prove conspiracy. But it should be wrong. It should be wrong. And how any of you can vote here and say that is not wrong is beyond me.

I think it is about time we make some of those people hiding over in the House side stand up. Make them stand up.

I want to be there when some punk on the New York subway decides he wants a baby food bomb just for the kicks of it, just to see what it is like, and sets it off. You mean to tell me when we find the guy who taught him how to do it, we should say, "No problem; you didn't do anything wrong. It's OK; no problem." I think we should throw the sucker in jail.

I cannot understand how you all can vote against this. I understand the rationale. The rationale in part is 35 House Members, or 75 House Members or 99 House Members will turn down the whole bill because of this. I do not believe for 1 second that if this single provision were added to the bill, with all the stuff they have on habeas corpus they want, with all the other stuff they say they want, they are going to vote down this bill because now you are going to be able to arrest some wacko teaching our kids how to make bombs when you know they are going to use them. I cannot believe that. I think we are being cowardly in our willingness to confront whoever the cowards are over there who will not allow us to protect ourselves. This is crazy.

I yield the floor. I yield back my time. I am ready to vote.

The PRESIDING OFFICER (Mr. INHOFE). The Senator's time has expired.

Mr. BIDEN. That is a good reason to do it.

Mr. HATCH. Mr. President, I hear the Senator. I do really think, though, we ought to consider winding this up. Personally, I think there comes a time when enough is enough on these motions to recommit because what we are trying to do is to get this bill through. Frankly, we have people in the House on both extremes, both the far left and far right, who disagree on some of these things. I do not think it is unreasonable to request a study so that we look at this matter, consider the first amendment implications and other implications and do it right, although I have some sympathy with what the Senator said.

I am prepared to yield back the remainder of my time, and I move to table.

Mr. BIDEN. Mr. President, I yield myself 20 seconds on the bill.

The PRESIDING OFFICER. The Senator has that right.

Mr. BIDEN. Mr. President, no one asked for a study on pornography. No one asked for that. I did not hear anybody stand up here and say, "Let's have a study on pornography. I wish to stop pornography on the Internet." I did not hear anybody say, "Let's not do it. Let's have a study." When it comes to a bomb, teaching our kids how to make bombs, we want to study it.

Mr. HATCH. Mr. President, like I say, I am sympathetic to what the Senator is trying to do. He knows that. But he also knows that we have gone through this and we have come up with this bill after a year of intensive battling, fighting. And it is not just the conservatives that were there; it is the far left.

We have worked hard on this, and this is the bill we could come up with. Do we want to do something about terrorism or do we want to kill the bill? That is what it comes down to. Frankly, it is not just any one of these things. It could be any one of these things. We have worked it out. It is a good bill, and it will make a difference. It will start fighting terrorism right now. In the end, it seems to me if we can ever get to a final vote on this, we will have something of which virtually everybody who thinks about it will be proud.

So I move to table the motion on behalf of Senator DOLE and myself and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on agreeing to the motion to table the motion to recommit. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 67 Leg.]

YEAS—51

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—48

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Specter
Wellstone
Wyden

NOT VOTING—1

Mack

So the motion to lay on the table the motion to recommit was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

CLOTURE VOTE VITIATED—SENATE RESOLUTION 227

Mr. DOLE. Mr. President, I ask unanimous consent that the cloture vote with respect to the Special Committee to Investigate Whitewater be vitiated.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

WHITEWATER DEVELOPMENT CORP. AND RELATED MATTERS

Mr. DOLE. Mr. President, I send a resolution to the desk, and I ask unanimous consent that the Senate turn to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 246) to authorize the use of additional funds for salaries and expenses of the Special Committee to Investigate Whitewater Development Corporation and related matters, and for other purposes.

The Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, the Senate is about to reauthorize the special committee's operations for a specific, limited period.

It is my understanding, and that of all my colleagues on this side of the aisle, that the special committee will conclude its hearing schedule no later than June 14, 1996, and further, that no other committee of the Senate intends to hold hearings on Whitewater-related matters thereafter. I have also discussed with the majority leader and will commit to him that it is not the intention of Members on this side of the aisle to object to the special committee meeting under the provisions of rule XXVI nor to obstruct the special committee's progress, thereby preventing them from completing their work pursuant to the latest deadlines outlined in this resolution.

It is the further understanding on this side that the report of the special committee, required to be submitted to the Senate pursuant to Senate Resolution 120, will be submitted no later than the close of business on June 17, 1996.

It is also our understanding that the majority leader does not believe any amendments, motions, or resolutions will be offered in the Senate regarding further extensions of the operations of the special committee beyond June 17, 1996.

Mr. President, I ask the distinguished majority leader whether I have correctly stated the situation as he now sees it?

Mr. DOLE. The Senator has correctly stated the understandings on both sides of the aisle as I see it at this time.

Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 246) was agreed to, as follows:

S. RES. 246

SECTION 1. FUNDS FOR SALARIES AND EXPENSES OF SPECIAL COMMITTEE.

There shall be made available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations, for use not later than June 17, 1996, by the Special Committee to Investigate Whitewater Development Corporation and Related Matters (hereafter in this Resolution referred to as the "special committee"), established by Senate Resolution 120, 104th Congress, agreed to May 17, 1995 (as amended by Senate Resolution 153, 104th Congress, agreed to July 17, 1995) to carry out the investigation, study, and hearings authorized by that Senate Resolution—

(1) a sum equal to not more than $450,000.

(A) for payment of salaries and other expenses of the special committee; and

(B) not more than $350,000 of which may be used by the special committee for the procurement of the services of individual consultants or organizations thereof; and

(2) such additional sums as may be necessary for agency contributions related to the compensation of employees of the special committee.

SEC. 2. TERMINATION OF THE SPECIAL COMMITTEE.

(a) HEARINGS.—Not later than June 14, 1996, the special committee shall complete the investigation, study, and hearings authorized by Senate Resolution 120, 104th Congress, agreed to May 17, 1995 (as amended by Senate Resolution 153, 104th Congress, agreed to July 17, 1995).

(b) REPORT.—Not later than June 17, 1996, the special committee shall submit to the Senate the final public reported required by section 9(b) of Senate Resolution 120, 104th Congress, agreed to May 17, 1995 (as amended by Senate Resolution 153, 104th Congress, agreed to July 17, 1995) on the results of the investigation, study, and hearings conducted pursuant to that Resolution.

Mr. DOLE. Mr. President, I understand Senator D'AMATO and Senator SARBANES may want to speak briefly.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, let me just take several moments to thank the distinguished leaders, the majority leader and the minority leader, and a number of my colleagues on the Banking Committee on both sides of the aisle for helping us arrive at an agreement that will permit the business of the Senate to be conducted in an orderly, thoughtful, thorough fashion so that we can complete the work of the Whitewater Committee in a timely manner, recognizing that we are fast approaching—we are already in—the political season, but that season becomes even more and more political as the days and weeks move ahead.

It is my hope that working together, as we have in most of our undertakings on the Banking Committee and on the special Whitewater Committee, we can handle the matters that come before us, even those that may be somewhat contentious, in a bipartisan manner.

Ours was to get the facts. Ours is to report back to the Senate of the United States as best we can. Ours is not to prejudge. Ours is not to preclude. But ours is to be the searcher of facts, again, given the limitations that exist. It does not pay for us to go into what the limitations are. I must say that there are those areas beyond the ability of the Senate and its investigation to control or to deal with as it relates to time, availability of witnesses, et cetera.

So, recognizing those, we may never be able to satisfactorily complete the job of getting all of the facts or determining all of them, recognizing the limitations that we have. But I think if we do the best we possibly can, if we work together in the spirit of people who are willing to understand each other's problems, the limitations that we do have on us, ours will be an important task, it will not be an easy task, but it will be one that we can attempt to fulfill and meet the mandates of the Senate and, indeed, of the Constitution and, more importantly, of our people. We are going to be thorough, comprehensive, but yet fair.

Let me conclude by saying that I hope that we can finish by the 14th of June. That is the time which we have spelled out. I believe that reasonably, if we see that there are matters that are yet to be addressed that are important, that are substantial, that we can come to an accommodation to deal with that. It is my hope, though, that we will be able to deal with this, conclude the public hearings by the 14th of June, and thereafter have our report within the 3 days that we have provided.

I believe this is the best manner in which to proceed, less in the way of contention. I certainly hope—as my colleagues have, my Democratic colleagues have helped and assisted in arriving at this agreement—that they will work with us. We pledge to work with them to get all of those concerns, all of those people that we wish to get evidence from, testimony from, to be as cooperative and to use the good offices of my colleagues on the Democratic side to accomplish this goal.

So I want to commend both leaders. I want to thank Senator SARBANES, Senator DODD, the other members, the Republican members, of the committee for being patient, for being thoughtful, and doing a very difficult process. I believe that the agreement that we have hammered out is in the best interest of the Senate and, more importantly, the people of the United States. I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, let me say that the resolution which has just been passed represents a great deal of effort over a considerable period of time and obviously encompassed accommodations and adjustments on both sides and from many parties. I believe the resolution provides us now with the framework for the completion of the work of the special committee on Whitewater. The resolution requires the submission of the special committee's final public report by the 17th of June, and provides a budget to carry forward this work which we believe is adequate for the task. It provides for the hearings to end by the 14th of June.

I must say, I hope, as the chairman has stated, that we are able to conduct through this period of time fair and thorough and objective hearings.

The chairman is right, an effort has been made to do that in the past, I think with a fair amount of success, although as he observed we have had on occasion perhaps strayed off that path somewhat. I hope we do not, as we move forward now from today into the middle of June.

Many people contributed to making this possible. I want to recognize the contributions of the colleagues on my side, Senators DODD and BRYAN and BOXER and MURRAY and MOSELEY-BRAUN and KERRY and SIMON and, of course, the chairman and his colleagues who have worked on this. And, of course, the two leaders have been involved to some extent in order to bring this matter to this point.

The committee back in January, pursuant to the previous resolution, was required to report to the Senate about whether additional time was needed. At the time, there was a difference of opinion about that. The majority said additional time was needed; the minority felt not. We had a sharp difference about that. The minority leader made a proposition for an extension. The majority, of course, had a resolution before us for an unlimited extension. This, of course, is not an unlimited extension, and I think it is very important to recognize that.

I simply close by saying that I hope in the weeks to come, now as we approach the 17th of June for the submission of the final report, that we will be able to move ahead expeditiously with our work. It is the intention of the minority to seek to work in a constructive way with the majority to carry out these hearings in a responsible manner, not really to explore allegations, not to make allegations, but to carry out the kind of hearings for which the Senate can take some measure of comfort that it has been done according to appropriate standards. Mr. President, I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I want to join my colleague from Maryland in thanking our colleague from New York, the chairman of the committee, and others for putting this together. I want to commend as well my colleague from Maryland, who has done a very fine job in helping to fashion this resolution. I join with him and the chairman of the committee and others in hoping that we will be able now over the next several weeks to conduct a thorough and complete and fair investigation.

I will say, Mr. President, there are many people, of course, on this side of the aisle who, frankly, in fact, may have voted, if there were a recorded vote, may have voted even against that resolution, who felt that we should have wrapped this up and it is over with. So there is no recorded vote on this, and apparently there will be none. So there will be no actual recording, but Members can obviously speak for themselves. I would have voted for this resolution if there was a recorded vote. I want my colleagues to know that.

It would not be any great surprise to my colleague from New York if I say to him, Mr. President, that I would do so with great reluctance because I, frankly, would have liked to wrap this up earlier. So I read this and see this as a determination now to conclude our work by the 14th of June, with a couple extra days to get our report done. That is our goal and our determination. Certainly our colleague from New York has made it clear to us that that is his intent as well. We respect that and take that. The distinguished majority leader has indicated that as well.

So we have a lot of work, I know, to do in the coming weeks. But we are confident we can do it and bring this to a conclusion. It has been a long process, Mr. President. I think, as someone pointed out, it may be the longest set of hearings in the history of the Congress on a particular matter like this. Someone may challenge that, but certainly in modern Senate history, I think, the longest record, the longest set of hearings, at great cost. I am not speaking now exclusively of our work here, but the overall investigation. So the American public, I think, wants us to complete our work on this.

Also, I point out that because this is a special committee but made up primarily of members of the Banking Committee—of course, the chairman is the chairman of the Banking Committee as well—there is a great deal of work we have to do on the Banking Committee before this Congress ends. Our colleague from California has a number of issues that she is interested in. Senator MURRAY, from the State of Washington, has mentioned several issues she is interested in, along with our colleague from Maryland and others.

So our sincere hope is that not only will we get this done, I say to our colleagues—I know many are asking the question: Are you really going to get your work done? I am saying here we are going to have this done on June 14, a report several days afterward, and our Banking Committee is also going to get its work done on other issues that have been raised as well that should be addressed.

With that, Mr. President, I commend my colleague from New York, my colleague from Maryland, our ranking member, for bringing this to a final conclusion. We will have our work done by June 14.

Mrs. BOXER. Mr. President, I am not going to belabor the points that were made except to add my thanks to my ranking member, Senator SARBANES, and my chairman, Senator D'AMATO, for working this out with the able assistance of many people, particularly Senator DODD.

I have always taken the position as long as there are Senators on the floor making it sound like there are issues that are being covered up or not looked at, it was very important for us to continue, because frankly, I think we have had a sufficient amount of time. We have had more days of hearings than the O.J. Simpson trial. The fact is, this has gone on endlessly.

The people in California, and I cannot speak for the people of Connecticut or the people from Maryland or the people from New York, but I can say those who came to see me in this 2-week break, not one said, "Senator, the one thing I want you to do when you go back is hold more hearings on Whitewater." Not one person. No Republican came up and told me that. They never even mentioned it. They did say, "Go back and get the job done. Balance the budget. Pass a budget. Do not cut Medicare. Take care of education. Go after the situation in our exports where we have problems with nations who are not treating us fairly."

I sit on the Banking Committee and we have that jurisdiction. We have not done a thing about the issues that will make life better for the people of this country. It is Whitewater, Whitewater, Whitewater. What do the people think of it? I tell you what they think of it, they think it is a waste of time. They think it is a waste of time. We have a special counsel who has no limit on what he can spend going after the truth on Whitewater. There is no statute of limitations. We had little discussion about that earlier in relation to another bill. This special prosecutor has the world at his fingertips, and yet we have to call up the same felons, the same felons that are spewing forth things against our President, we are going to bring them into the hallowed Halls of the Senate of the United States.

People are smart. The American people get it. This Congress has a bad reputation among the people. They do not think this Congress is doing its job. No wonder. No wonder. So there are a lot of accolades about how great it is that we reached an agreement on this. I say, good, I am glad, because the alternative was having this in the Banking Committee where we would get nothing else done, and waste the time of the Banking Committee.

I have a situation in California where we have a great industry which is the leader in CD's and laser disks. We are losing billions of dollars a year because of China piracy. What are we doing about it in the Banking Committee? Zero—no time. No time. I was encouraged when our chairman said that he agreed with me on this issue, and, yes, he will get that done. Well, that is good. I do not know how we will do it all, but my view has always been as long as there are allegations made on this floor that they have not unturned every stone, that I would vote to continue this, because the last thing I want is for people to think we are not willing to look.

Yes, I would have voted for this, but I have to say I hope we are better in this phase than we have been before, because there were days when we were supposed to have hearings and no one showed up. I am here, and I know there is a lot of comity on the floor today and everybody is thrilled. I am not so thrilled. Yes, I will vote for it, but I think it is a waste of time. It is political. Everyone in the country knows it is political. They are smart. They know the special prosecutor is out there, and they see Members of the Senate act like prosecutors and staff sitting there like that is their job. If they want to be prosecutors, God bless them, be prosecutors. Do not be a U.S. Senator, and do not come to work for U.S. Senators, because we have other things to do.

What we have to do is make life better for the people. It is embarrassing. It is embarrassing to me that I sit on one of the best committees in the U.S. Senate, and this is what we are going to be doing. I am glad we have an end date of June. We can wrap it up and do our work. I just hope we get back to the business of making life better for the people of our great Nation, because they deserve our attention. There is economic insecurity out there. There are things we can do in the Banking Committee to get to those issues. I stand ready to work in a bipartisan way to get to those issues and to move these hearings along.

I also have to say just because I am straight from the shoulder about this, that when we have witnesses up there who are convicted felons, I hope my colleagues on the other side of the aisle will not be surprised if I get a little tough in my questions. I thank the Senator.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I will not delay the Senate. I know that Members would like to get back to the Terrorism Prevention Act.

I would like the record to reflect that I did vote against the establishment of the special committee to investigate Whitewater. I think it was not a proper function for the Senate this election year. I certainly would like the RECORD to reflect had there been a rollcall vote on this resolution extending the jurisdiction of that special committee, I would also vote against this.

I yield the floor.

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me. I will speak only a very few moments. I know we want to get on with the business of the Senate.

I want to first commend my colleague, Senator SARBANES, the ranking member of the committee, and I want to commend the chairman of the committee for ultimately working out an agreement. Maybe this can be a solution by which we might proceed in an orderly way to end the quest to find facts, information, and to educate ourselves on the so-called issue of Whitewater.

Mr. President, if we had brought this issue to a vote, like my friend from New Mexico, I probably would have voted "no". I probably would have voted "no" on this resolution, Mr. President, simply because I think that there are enough forces out there occupying the time and resources of our

Government and our judicial system to amply comply with the intent of this overall investigation.

These hearings have already gone, Mr. President, as my friend from California has stated, longer than the O.J. Simpson trial. Longer, I think, in many instances that the Iran-Contra trial. These were national issues of great importance. This is an issue of some importance, but it is of importance only because it affects what we know as a Whitewater issue. It relates to a matter that took place 12 or 15 years ago in the State of Arkansas. How important is it as it relates to the other issues that we have to defend and debate and concern ourselves with at this time? That is the question.

I do not feel that the Senate, nor this committee, should further utilize the resources of our Government to continue bringing witnesses up here from the State of Arkansas, week after week, day after day, and month after month, simply because it is a politically motivated endeavor. Mr. President, that is what it is. It is a politically motivated endeavor.

Yesterday, the distinguished chairman of the Banking Committee or the Whitewater Committee, if you might call it that, issued a press release in which he basically said if he did not get his way, if he did not have his way and if the Senate did not allow the Whitewater committee to continue—then he would use the Banking Committee to usurp the powers of the Whitewater Committee. He was then going to seek the authority to have the opportunity to investigate and to subpoena all financial records of every financial institution in the State of Arkansas. from January 1978 until January 20, 1993, when Governor Clinton became President Clinton.

Mr. President, had that occurred—and I am glad it did not—and had the Banking Committee singled out one State, I was going to attempt to amend that resolution, if it was in the form of a resolution, and say, wait a minute, let us not just apply this to one State, Arkansas. Do not let this be the first time that a committee of the U.S. Senate has declared war on one of the States in this Union. Let us make it apply to New York, to all the banks and all the banking institutions, to Wall Street, and to the stock exchange. That has not been the prettiest picture for the last 15 to 18 years. Let us investigate them. Let us extend this authority there and see how far that resolution would have gotten.

Well, Mr. President, of course, I am using a little bit of exaggeration. But I want to state that, for 15 years, had the Banking Committee had that authority to subpoena any and all records and any and all documents from all financial institutions in our State, it would have been a matter, I think, of egregious overreach of this body and, certainly, of the U.S. Government.

Mr. President, further, I would like to state that—and I hope the Chair will pay close attention to this, as the distinguished Senator always does—we have recently asked the Federal Bureau of Investigation to do a little workup of the amount of resources that it has committed to the Whitewater issue. I was astounded and shocked when I found out what the five major ongoing investigations by the Federal Bureau of Investigation are right now. One is Oklahoma City, which takes priority. That is where most of the resources have been expended. No. 2, the Unabomber. Well, it has paid off because we may have caught the Unabomber. That is a lot of resources, and that is a proper use of the FBI. The third is another bank scandal. I can supply what State that is in for the RECORD. Evidently, a lot of FBI resources are being allocated to that particular bank scandal. But the fourth in priority of all the investigations where the FBI is allocating its major resources is—you guessed it—Whitewater. It even surpasses the commitment that we have made to the World Trade Center bombing by terrorists some 2 or 3 years ago. Whitewater has surpassed the use of FBI personnel and financial resources, and we have gone above and beyond those funds expended and agents expended to deal with the World Trade Center bombing of 2 or 3 years ago.

That is unbelievably outrageous. In fact, some $11 million to $12 million of FBI resources have been expended just on Whitewater—$11 million to $12 million of FBI personnel, including 41 agents and 81 support personnel of the Federal Bureau of Investigation are looking at Whitewater events that happened 10, 12, 15 years ago.

Mr. President, it is time, as other speakers have said, to really get our priorities right. I am hopeful that this committee will continue, will move expeditiously, will come to a conclusion, write its report, throw that report at the Congress, and then let us let the people decide what we should do about it.

Finally, I want to say that this morning in the New York Times, finally—finally—under an editorial entitled "Replacing Kenneth Starr," who is basically the special counsel—or what I call the "special prosecutor" in the Whitewater matter down in Little Rock. The New York Times has asked for Mr. Starr to be replaced. Why have they asked for Mr. Starr to be replaced, Mr. President? Well, it is very simple. It is because Mr. Starr has conflicts of interest, which are precluding him from presenting a fair image of investigation and of factfinding in the Whitewater matter. Here is the man who is charged with prosecuting and investigating this issue. But here also is the man who has the burden of bearing these conflicts of interest. The New York Times points out this morning in its editorial "Replacing Kenneth Starr," that he is making speeches all over the country, representing controversial clients before the U.S. Supreme Court, representing, perhaps, the national Republican Party, and other groups that have direct conflicts of interest with the fair-mindedness that this hearing and process has to portray.

Mr. President, I ask unanimous consent that this editorial, "Replacing Kenneth Starr," appearing this morning in the New York Times, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 17, 1996]

REPLACING KENNETH STARR

With a Presidential election only six months away, the public needs to have confidence in the fairness, good judgment and unselfish civic purpose of the independent counsel on Whitewater. It is also important that the months of work by a large, expensive staff not be squandered. After listening to Kenneth Starr's narrow, legalistic reasons for his continued representation of wealthy, politically active clients while serving as independent counsel, we have concluded that Mr. Starr is not the person to deliver on those two goals. It is time for him to step aside and let the investigation go forward under a replacement from the senior staff.

Mr. Starr seems defiantly blind to his appearance problems and indifferent to the special obligation he owes to the American people. He and his ethics adviser, Sam Dash, keep pointing out that most of the 16 other people appointed under the independent counsel law have continued to work on private cases. They conveniently ignore the fact that Mr. Starr is one of only two such counsels to be given the task of investigating a sitting President.

"The independent counsel was never expected to become a full-time employee of the Government and leave his or her law firm," Mr. Starr told the Federal Bar Association in a haughty speech last week. That could be because never before has a lawyer assigned to investigate high government officials maintained such a conspicuously fast-paced and politically freighted private practice while assuming a major national responsibility.

The cumulative weight of Mr. Starr's conflicts have become so heavy that Mr. Dash, the top lawyer for the old Senate Watergate committee, who is paid $3,200 a week to advise Mr. Starr, defends only the formal legality of Mr. Starr's lucrative moonlighting. The law allows the court-appointed prosecutor to have an outside law practice, but Mr. Dash told Jane Mayer of The New Yorker that he would prefer that Mr. Starr serve full time. What the independent counsel is doing is proper, Mr. Dash argued later, but reasonable people may believe "there's an odor."

Mr. Dash is right about the odor, but wrong about the propriety. The independent counsel law was enacted so the public could be assured that the President would not sway Justice Department officials who work for him. But if the counsel refuses to divest himself of his own political and financial baggage, he erases the gain in public confidence that his appointment is expected to solidify.

This page has steadily advocated the continuation of the Whitewater investigation in the belief that the public has the right to know the full facts about the Clinton's business dealings and related matters. But at the very outset, we asked Mr. Starr to step aside because his entanglement with conservative judges cast a shadow over his objectivity. When that did not happen, we urged him to take a leave from his law firm and appoint a deputy to oversee areas of the investigation where he had a clear conflict of interest.

But the number of those conflicts—involving big tobacco, conservative foundations, the Resolution Trust Corporation, the International Paper Company—has grown so great that voters are bound to be confused about the integrity of Mr. Starr's decision on whether to prosecute the Clintons and their close associates.

There was a time when Mr. Starr could have ameliorated such doubt with openness and a sensitivity to his obligation to the American people. That time is past. He needs to honor the work of his staff and the investment of the taxpayers by stepping down.

Mr. PRYOR. Mr. President, also, let me state that in this New Yorker magazine, dated April 22, I believe—I do not have my glasses with me—there is a splendid article entitled "How Independent Is the Counsel," once again, talking about the conflicts, talking about the image that this man who is burdened with these conflicts presents as he is attempting to portray that he is fair-minded, objective, and impartial in finding all the facts.

It is time, Mr. President, that, once again, we sort of set this ship straight, if I might say that. It is time that we move forward with a fair determination of the facts and finding of the facts. I hope the committee will proceed expeditiously. But had I had the opportunity to vote, if it were a matter before this body that required a yes or no vote, I would have voted "no."

Mr. HATCH. What is the regular order, Mr. President?

The PRESIDING OFFICER. The conference report on S. 735 is the order of business.

Mr. HATCH. Soon we will proceed on that. But while we are waiting for Senator BIDEN to come, I want to say that I have sat on the Whitewater committee. I have to say I think it has been conducted very fairly. Senator D'AMATO has bent over backward to do it fairly. I know our counsel has done a fair and decent job. In fact, I have never seen two better counsel than the two we have on both the minority and majority sides on the Whitewater matter.

I also have to say that I hope it is resolved in favor of the President and First Lady. But there are a lot of things that are very much up in the air, matters over which we have a great deal of concern. You cannot just sweep them under the rug because it has taken time. There have been obfuscation, delays, and there have been deliberate refusals to give documents, and documents have suddenly appeared. These types of things do not ordinarily happen. It has been filled with all kinds of incidents and occurrences that literally would cause anybody to say, "What is going on here? If there is nothing wrong, why all these problems?" Personally, it is bothering me.

I have to say that I am glad we are getting this on the way to a resolution. I hope we can expedite it and do it in a fair and proper way, and get it over with one way or the other. I intend to do what I can to insist on doing that.

With that, I would like to go to the regular order, and I yield to Senator BIDEN.

TERRORISM PREVENTION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, I offer a motion to recommit the conference report with instructions to add provisions on wiretap authority for terrorism crimes. I send the motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] moves to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following:

SEC. . AUTHORIZATION FOR INTERCEPTIONS OF COMMUNICATIONS IN CERTAIN TERRORISM RELATED OFFENSES.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c)—

(A) by inserting before "or section 1992 (relating to wrecking trains)" the following: "section 2332 (relating to terrorist acts abroad), section 2332a (relating to weapons of mass destruction, section 2332b (relating to acts of terrorism transcending national boundaries), section 2339A (relating to providing material support to terrorists), section 37 (relating to violence at international airports),"; and

(B) by inserting after "section 175 (relating to biological weapons)," the following: "or a felony violation under section 1028 (relating to production of false identification documentation), sections 1541, 1542, 1543, 1544, and 1546 (relating to passport and visa offenses),"; (2) by striking "and" at the end of paragraph (o), as so redesignated by section 512(a)(2);

(3) by redesignating paragraph (p), as so redesignated by section 512(a)(2), as paragraph (s); and

(4) by inserting after paragraph (o), as so redesignated by section 512(a)(2), the following new subparagraphs:

"(p) any violation of section 956 or section 960 of title 18, United States Code (relating to certain actions against foreign nations);

"(q) any violation of section 46502 of title 49, United States Code; and".

The PRESIDING OFFICER. The time is 30 minutes equally divided.

Mr. BIDEN. Mr. President, I yield myself such time as I may consume within my allotted time.

Mr. President, before I begin on this amendment, I want to just tell you, and all of my colleagues who may be listening back in the offices, that while the last vote was going on a colleague of ours, Senator WENDELL FORD, came to the floor and said, "Let me show you something my staff just downloaded from the Internet." While you were all voting on whether or not to prohibit people from being able to teach people how to make bombs knowing or intending they be used to violate the law, let me read what was downloaded. This is roughly at 3:20 p.m. today.

Attention all Unabomber wannabes. You will first have to make a mild version of thermite. Use my recipe but substitute iron filings for rust. Mix the iron with aluminum filings in a ratio of 75 percent aluminum, 25 percent iron. This mixture will burn violently in a closed space (such as an envelope). This brings us to the next ingredient. Go to the post office and buy an insulated (padded) envelope. You know, the type that is double layered. Separate the layers and place the mild thermite in the main section where the letter would go. Then place magnesium powder in the outer layer. There is your bomb!!

Now to light it. This is the tricky part, and hard to explain.

I am still quoting now.

Just keep experimenting until you get something that works. The fuse is just that torch explosive I have told you about in another one of my anarchy files. You might want to wrap it like a long cigarette, then place it at the top of the envelope in the outer layer (on top of the powdered magnesium). When the torch explosive is torn, or even squeezed hard, it will ignite the powdered magnesium (sort of a flash light) and then it will burn the mild thermite. If the thermite did not blow up, it would at least burn your enemy (it does wonders on human flesh).

You all just voted to keep that legal—to keep that legal—because of the fear, apparently, or concern that we would not be able to convince 35 recalcitrant House Members to make that illegal. That is what you did. That is what you did.

I ask unanimous consent that this be printed in the RECORD along with the baby food bomb by Warmaster, also taken off the Internet.

For all of you who are concerned about the pornography on the Internet, as I am, how do you explain banning that, which we should, and not this? Pornography deforms the mind. These bombs burn the flesh.

I ask unanimous consent that these recipes available to our children and the demented people out there in the public, the few that exist, be printed in the RECORD to know what we have just done.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ATTENTION ALL UNABOMBER WANNABES

You will first have to make a mild version of thermite. Use my recipe, but substitute iron fillings for rust. Mix the iron with aluminum fillings in a ratio of 75% aluminum to

25% iron. This mixture will burn violently in a closed space (such as an envelope). This brings us to our next ingredient. Go to the post office and buy an insulated (padded) envelope. You know, the type that is double layered. Separate the layers and place the mild thermite in the main section, where the letter would go. Then place magnesium powder in the outer layer. There is your bomb!! Now to light it . . . this is the tricky part and hard to explain. Just keep experimenting until you get something that works. The fuse is just that touch explosive I have told you about in another one of my anarchy files. You might want to wrap it like a long cigarette and then place it at the top of the envelope in the outer layer (on top of the powdered magnesium). When the touch explosive is torn or even squeezed hard it will ignite the powdered magnesium (sort of a flash light) and then it will burn the mild thermite. If the thermite didn't blow up, it would at least burn your enemy (it does wonders on human flesh!).

BABYFOOD BOMBS

(By Warmaster)

These simple, powerful bombs are not very well known even though all the materials can be easily obtained by anyone (including minors). These things are so powerful that they can DESTROY a car. The explosion can actually twist and mangle the frame. They are extremely deadly and can very easily kill you and blow the side of the house out if you mess up while building it. Here's how they work.

Go to Sports Authority or Hermans sport shop and buy shotgun shells. It is by the hunting section. At the Sports Authority that I go to you can actually buy shotgun shells without a parent or adult. They don't keep it behind the little glass counter or anything like that. It is $2.96 for 25 shells.

Now for the hard part:

You must cut open the plastic housing of the bullet to get to the sweet nectar that is the gunpowder. The place where you cut it is CRUCIAL. It means the difference between it blowing up in your face or not.

You must not make the cut directly where the gunpowder is or it will explode. You must cut it where the pellets are. When you cut through it, empty the pellets out and the white stuff (called buffer) that surrounds the pellets. There is a layer of wadding that separates the gunpowder from the pellets and that must be cut through VERY CAREFULLY! Don't use a drill! Whatever instrument you use (knife, screwdriver, etc.) you must work very slowly and don't make big movements. Friction can set it off. You now have a nice supply of gunpowder.

I have also tried this with Quail Shot. The only difference between buck and quail is that quail has very small pellets and buck has big ones.

It is strange but almost all shotgun shells have a different interior. Some have very powdery powder and some have flakes for powder. Also some have plastic wadding and some have cardboard. Usually the smaller the pellets the less gunpowder and more cardboard wadding. The smaller pellet sizes are the ones with the flakes. Also that white stuff called buffer is only used in heavy buckshot and is not found in Quail and Dove shot or other bullets with small pellets.

[Contents deleted from original.]

I would like to stress once again that this is EXTREMELY dangerous and can very easily kill you. I've done this once and it scared the——out of me and I am never doing it again. These are very destructive. If you are stupid enough to do it, wear two or three pairs of safety glasses and thick clothes to protect you from the glass. The——can still hurt you from 100 feet away. The blast is also deafening. But if you want to spread some choas, this little bomb is the way to go.

Did I mention that this is also highly illegal?

Unimportant stuff that is cool to know:

They rate shotgun shells by two numbers. Gauge and pellet size. With gauge the smaller the number the bigger the bullet (12 gauge is bigger than 14 or 16 gauge). The biggest I know of is 10 gauge, but that is very hard to find. The other number is the pellet size. The bigger the pellet the less can fit in the bullet. The advantage of a big pellet is that it is more powerful but cover an area very scarcely. The smaller pellets have a much lower velocity but there are many more pellets in the shell. Here is how the system goes: 000 buckshot (triple 0) is the very biggest. There are only 10 pellets in it but they are huge. Then comes 00, 0, 1, 2, 3, 4, 5, 6, 7. Number 7 has about 200 pellets in it. It is used for squirrels and small birds. Generally the 000, 00, 0, 1, 2, 3, and 4 have the best powder. Anything higher up has this weird flakey gunpowder that doesn't work so well.

Some Other Things That Smart People Do That Don't Want To Get Killed:

Other things you can do with the powder other than use it in a babyfood jar is to use it in a smaller jar. You will get less bang out of it but it is much safer. Some good jars to use are very small makeup jars and those little TESTORS paint bottles. The paint bottles have thick glass and it might be more dangerous. Another thing you can do with the powder is wrap it up tightly in some paper and stick a fuse in it (it is easier to put the fuse in before you wrap the paper).

Typed by the Warmaster.

The author accepts no responsibility for any misuse of information in this file. This is for information purposes only, and reading enjoyment only, and is meant to show how at any time any lunatic with a mile long police record can legally make a highly powerful bomb with almost no equipment. The author is not advocating the use of explosives in any way.

Mr. BIDEN. Mr. President, what I would like to speak to in an indirect way covers this. We have had several votes on wiretaps, and I know people are asking why am I introducing the other wiretap provision that was taken out of the Senate bill. The reason I am is I refuse to believe that, if you all hear this enough, you will not eventually decide to do the right thing on this.

The provision that I have proposed is not original with me. It was in the Senate bill that we passed. The provision would add a number—the bill we have before us, the conference report—would add a number of terrorism-related offenses to the law. I will go into those in a minute. What I have sent to the desk, if adopted, would instruct the conferees to add the same number of offenses that we are adding to the bill, to the law, to those categories of things for which the Government, with probable cause, can get a wiretap. It was in the Senate bill as introduced by Senators HATCH and DOLE. It was part of the terrorism bill reported out of Representative HYDE's Judiciary Committee. Unfortunately, by the time the bill had made it to the House, the provision was dropped.

I think it is worth talking a moment about how a wiretap statute works, the one that is in place now in the law, for it seems there is a lot of misunderstanding about it these days. I am repeating myself again to eliminate the misunderstanding. As some people tell it, you would think the FBI and BATF and the local and State police are tapping our phones left and right, that they are riding down the streets in vans with electronic devices eavesdropping into our windows and houses—which they have the capacity to do, by the way. But that is just not the way it works.

First and foremost, it is not an FBI agent but a U.S. attorney, or even the Attorney General herself, who has the power to authorize the wiretap. No. Actually, that is not quite true. The ultimate authority to issue a wiretap sits only with a Federal judge. The U.S. attorney has the power to petition the court for a wiretap, but only a judge, a judge who cannot be fired, whose salary cannot be docked by any of us in Washington, who cannot be affected in any way, only a judge may disagree with something that the Attorney General does or does not do. It is that judge who must determine that there is probable cause to believe that a specific crime—not a general crime—a specific crime has been—not is about to—has been committed; that specific people are committing that crime, and that they are doing it at a specific place. The affidavit that the U.S. attorney takes to the court, to the judge, must also satisfy what is called the necessity requirement. The judge must be convinced that other less intrusive investigative procedures have been tried and failed—that is infiltration, that is eavesdropping in a conversation, walking by, any other method—has to be convinced that they have been tried and failed or that they are unlikely to succeed in any reasonable circumstance.

That necessity requirement is meant to ensure that wiretapping is not the normal investigative technique, like physical surveillance or the use of informants. These are very serious protections, Mr. President. I believe that interposing a court between the prosecutor and the wiretap is a citizens' best protection.

But even before we get to the judge who makes his decision, there is a very painstaking, stringent process within the Justice Department for determining when to seek a court authorization for a wiretap.

First, the agent in the field, under the supervision of his or her supervisor, must write an affidavit, a sworn affidavit, that they must sign that sets out all the particular facts relating to probable cause, because even if an order is granted based on the agent, if he is lying, then that information is gone even if the judge issued the wiretap order.

So, on the front end, you have to have a sworn law enforcement officer swear that the information they are writing down as to why they think a crime has been committed is true. They are liable. An assistant U.S. attorney then must take that affidavit from the FBI agent and draft an application and a proposed order for the court to sign. The package then must be sent from the U.S. attorney in Wilmington, DE, or in Manchester, NH, and sent down to Washington. The U.S. attorney cannot just walk into the courtroom of the Federal judge or to any of the judges, and say, "Judge, I want a wiretap." They must send it down to Washington. Once the package is sent to Washington, the Criminal Division of the Justice Department takes a look and scrutinizes the affidavit and discusses any necessary changes or additions or questions they have with the U.S. attorney that is handling the case back in Manchester, Wilmington, or Salt Lake City.

Then a detailed memorandum summarizing the facts and legal issues and addressing the application's compliance with each statutory requirement is sent to the Assistant Attorney General. All these materials are then sent to the Assistant Attorney General or Deputy Attorney General for final review and final authorization, and then it is sent back to Manchester, sent back to Wilmington, sent back to Salt Lake City. The U.S. attorney then petitions the court and then goes in and sees a judge.

This is painstaking. It is time consuming, as well it should be, for we want to make sure that wiretaps are used in only the most serious cases. We want to make sure that they are used only as a last resort when all other less intrusive techniques have failed, and we want to make sure that the Government is not making unwarranted intrusions into our privacy. But we also need to make sure that law enforcement has the tools, if they meet all these hurdles, to catch the bad guy.

Now, this provision that I have offered, that we already voted on, will provide an important tool. Let me just point out there is currently a very long list of crimes for which a wiretap can be authorized. Let me make this point because a lot of nonlawyers or people who do not practice criminal law are not aware of this as well.

You cannot get a wiretap, even if you do all the things I just said, unless you turn to the Criminal Code, and you have all these crimes listed in the Criminal Code. OK. You may find a crime in one section, and then you have to turn to another section, section 251, of the Criminal Code entitled, "Authorization for Interception of Wire, Oral or Electronic Communications." And then you have to find there in subsection (c) the list of offenses for which you can get a wiretap. Not every crime is entitled to have a wiretap attached to it.

So it is a two-step process. First, you have to prove there is a crime being committed that is a violation of the Federal law. Second, you have to go through all these procedures that I outlined to safeguard that it is not willingly used by the Government to intrude on your privacy. And then, in that process, you have to make sure it is a listed crime for which you can seek a wiretap. OK.

Now, some of those crimes for which you can seek a wiretap are murder, kidnaping, robbery, extortion, bribing public officials, witnesses, or bank officials, obstructing justice, criminal investigations or law enforcement, all manner of fraud and embezzlement, destroying cars, wrecking trains. They are all listed, all listed. And this list goes on.

The provision I am suggesting here does only one minor thing: It would add a very serious and potentially deadly terrorism offense to that list, including new offenses that are added in this legislation. The legislation we are voting on, the conference report is this thing, and in here, to the credit of the chairman and I believe to me and others who worked on this, we add new crimes, new Federal crimes, terrorism crimes for which the Federal Government can go after you if you do these bad things. But we miss one important step. We do not take these new laws and add them to the list of those things for which you can get a wiretap. This would do that, would allow wiretaps with all the procedures for the new crimes of terrorism we have in here.

It is ironic. At first I thought it was an oversight, but obviously it is intended that you not be able to use wiretaps to deal with terrorism as we outlined in the bill.

I assume my time has expired.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BIDEN. I thank the Chair.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized for 15 minutes.

Mr. HATCH. We have been doing this for a year. We are trying to pass a bill here that will make a difference against terrorist crimes. I can say categorically that there is virtually always a way to get wiretaps if the prosecution wants it, if the law enforcement people want it. To just add the word terrorism, that would be efficacious, but it still would not stop anybody—if you do not add it, it still would not stop anybody from getting the necessary wiretaps in the case of suspected terrorists.

We can overdue these technicalities to the end of the doggone Congress. The fact is, this bill contains alien terrorist removal provisions that will make a real difference. It contains designation of terrorist organizations that we do not have right now, neither of these provisions, that will make a real difference today. We have Hamas people in this country who want to murder our Jewish citizens, just to mention a few. We have Abu Nidal people in this country who want to murder our Jewish citizens and others, do anything to disrupt our economy. We have other terrorist organizations in this country. We have at least 1,500 known terrorists and organizations in this country. And we are standing here debating whether or not we should put a word into the bill.

Now, I agree I would love to put it in, but in this year-long set of negotiations and work with the other body, they did not want it put in that way. They are concerned that we are expanding wiretapping too far. It is a legitimate concern.

This world is turned upside down. When I got here 20 years ago, the conservatives wanted the wiretapping because they wanted to stop all crimes. The liberals did not want it because they were concerned about civil liberties. I can remember the battles we had in the Judiciary Committee, and they were heated and intense.

Today, it is the opposite. The conservatives, some conservatives, especially those on the far right—and I might add, the far left liberals still do not want wiretapping, but the far right conservatives are concerned because they feel like justice went awry in Waco and Ruby Ridge, the Good Ol' Boys roundup and other matters. Those are legitimate concerns that they bring.

Let me just say this. I would not mind putting this in the bill if I could at this point, but I cannot and still have a bill. We have a bill that has alien terrorist removal provisions. It would help this country all over the world. It would help other countries all over the world. Designation of terrorist organizations, we start to put a stop to terrorist organizations. It would certainly stop the fundraising. We have language that will stop the raising of funds in the United States of America that are sponsoring terrorism all over this world.

These are big provisions. These are things that can make a difference. We can get around these other technicalities, and we can get wiretaps if we need them. But we cannot get these things without this bill.

Summary exclusion of alien terrorists, we have a right to do it because of this bill. These were provisions we had to fight to get back into the bill that we had written in the Senate, provisions that will make a difference, not some technicality that is important and I would like to have in, that the Senator from Delaware would like to have in, and rightly so. I do not have any problem with that. We have not been able to get those technicalities in, but there are ways around those technicalities today without having them in. There are no ways around these provisions, none. We cannot do these things without this bill. Without this bill we could not stop many major terrorist problems in this country that could happen in the future.

We have language in here on biological weaponry, something that is critical. Every one of us is concerned about that, and rightly so. We succeeded in getting the House to tighten up and toughen up those provisions dealing with the transportation and sale of human biological agents. That needs to be done. We should not wait a day longer; we should not wait an hour longer to get that done. We have criminal alien removal procedures. When these criminal aliens get convicted, the minute their sentence is over, they are moved. We get them out of this country so they cannot just waltz out of the jail and go and start doing further terrorist activities.

We have $1 billion in authorization money in this bill, to go to work tomorrow, if we pass this bill and as soon as the President signs it, to go to work to fight against this terrorist activity.

We have language in here that goes a long way toward tagging explosives. I could go on and on. I could talk for 4 or 5 hours on what is in this bill and why it is going to make a difference against terrorism.

I have to say my colleague from Delaware deserves his reputation as a very fine lawyer and somebody who is bringing up very good points here. Most of the language he has brought up, I wrote. Naturally, some of it I would like to have in the bill. But we can get around most of those problems with current criminal law. We cannot get around these problems I am discussing with regard to terrorism.

Let me just say on wiretapping alone, just so people understand how serious this is, in 18 United States Code, section 2518, it says:

> Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, [any, by the way] specially designated by the Attorney General, the Deputy Attorney General, the Associate Attorney General or by the principal prosecuting attorney of any State or subdivision thereof acting pursuant to a statute of that State, who reasonably determines that—
>
> (a) an emergency situation exists that involves—
>
> (i) immediate danger of death or serious physical injury to any person,
>
> (ii) conspiratorial activities threatening the national security interest, or
>
> (iii) conspiratorial activities characteristic of organized crime,
>
> that requires a wire, oral, or electronic communication to be intercepted before an order authorizing such interception can, with due diligence, be obtained. . . .

I would like all this clarifying language in. I would not mind having it. We had it in the Senate bill and we have worked for a year to try to get it back in and almost every major, big provision we have gotten back in. Some of this we have not. But we have ways to get around those problems.

I will repeat it. Talking in real terms, realistically, there is always a way to do it if it has to be done, to get a wiretap. But there is not always a way to remove terrorist aliens. There is not a way right now to designate terrorist organizations as terrorists and to start branding them for what they are all over the world and start using the force of American power and law against them. There is no real way to stop fundraising today for terrorist organizations in this country.

I might say there is no summary exclusion of alien terrorists today. We do not have any aspects against biological weapons.

I was the one who held the hearing just a month or so ago, showing where you could get—anybody if they were clever enough, could get human pathogens that could cause major diseases all over this country.

I might add, we do not have any current criminal alien removal procedures. This bill grants all of that.

We do not have habeas corpus reform, death penalty reform in this country. That alone, the people who have suffered, the victims of the Oklahoma City bombing would be enough to justify this bill. But I am giving you bigtime stuff that will make a difference against terrorism. These other matters, we can get around those in most instances.

I am telling you, I will just say one other thing. I am committing right here on the floor today I will do everything in my power, as chairman of the Judiciary Committee and as one of 100 Senators here, to try to correct some of these matters in the future, after we have these studies that help us to know how to correct them and after we can get rid of some of these perceptions that law enforcement is too intrusive and is not protective of the civil rights and liberties of people in this country.

I believe it is. I believe our law enforcement people are the best in the world. We have occasional mistakes, but I think the FBI is the best in the world. I think our Justice Department is the best in the world. I think ATF does a very good job and they are cleaning up a lot of problems that have existed in the past in the eyes of most people who own guns in this country, and they are doing it, I think, in an expeditious and good way. I am proud of the law enforcement in this country. I want to give them the tools and I want to work hard to make sure we have them. But we have to give them these tools now. We have to start fighting terrorism, instead of really babbling, here, on the floor of the U.S. Senate.

The longer we go the more difficult it is to get this through over in the House. If we change one word of this and go back to conference, I can tell you right now we are in danger of losing the bill. So, sure I can improve any bill. Just make me a dictator and let me write whatever I want to and I guarantee you it will be perfect. At least that is the idea of some people in this body. But we have to live in the real world of bringing 100 Senators, 435 Representatives—535 minds together and, by gosh, we have done a pretty good job.

When the Senator read the Internet bomb description, had his idea—and I might add even I would agree with the idea—been the law, he might have been in violation of his own law. The fact of the matter is, there are still ways of getting around that problem. We can go after bomb makers, under this bill. We can make a difference.

I just wanted to mention a few things that we are really fighting for here, major issues, major issues that can help us against crime, against terrorism, that will help to prevent future terrorist activities. Do we have everything in this bill? I said from the beginning, no, we do not, because we have to bring together at least half of the 535 people serving in both Houses of Congress. But we have a lot of things in this bill I never thought we would get there, through 535 people. This is a bipartisan bill. It is a bill that both Republicans and Democrats have fashioned. Frankly, I am proud of it and I would like to get about passing it.

In that regard, then, on behalf of Senator DOLE and myself, I move to table the Senator's motion and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, may I make a suggestion? There are several colleagues who apparently will have difficulty getting here in the next 5 minutes for this vote. Senator KENNEDY is on the floor, ready to proceed with an amendment. Maybe we could just stack the two? I have been opposing stacking them all day.

Mr. HATCH. Mr. President, I ask unanimous consent we stack the next two votes to occur immediately after the time expires on Senator KENNEDY's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I yield myself 60 seconds on the bill. I have two responses.

My distinguished and able colleague has mixed up apples and oranges here. The section he read from the wiretap statute related to emergency wiretaps that do not require a court order at the front end.

What we are talking about are wiretaps where they want to go in and we want to prove they have probable cause to get the wiretap in the first case.

Second, I agree with everything that he says about the good parts of the bill. They were in the same bill I introduced, most of those things. I am for them. But the problem is, he mentioned there are 1,500 terrorists out there, or whatever the number. Under the bill now we create a new crime relating to providing material support for terrorists, if you send money to Hamas and provide material support or an automobile or a train ticket or whatever it is, and it is not a crime. It is a Federal crime now, but one for which you cannot get a wiretap. That seems to make no sense to me and that is why I have introduced this amendment.

I yield the floor to my friend from Massachusetts.

Mr. HATCH. Mr. President, if my friend from Massachusetts will just allow me to respond for 15 seconds, I will just make the statement again. Realistically, in this real world, if law enforcement wants to get a wiretap, whether emergency or otherwise, it is going to be able to get it. That has been my experience and I think it has been the experience of every prosecutor, I think, in this country.

Mr. BIDEN. I yield myself 15 more seconds on the bill. That is the very thing we do not want to happen. We want prosecutors to operate under the law. We do not want to further ignite the imagination of those folks over in the House. We want them to do it by the numbers, not with imagination.

Mr. HATCH. Mr. President, I would just add, they will do it by the law, but realistically they can do it. I have also said that I will work with the distinguished Senator from Delaware to try to resolve these problems in a formal bill in the future, as we examine this more carefully. I think we can do that job. But it is misleading, to think the American people are not going to be protected, from a wiretap standpoint, when I know the law enforcement officials can use wiretaps and can get them, realistically, in almost every situation.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent that I may speak on the conference report without the time being charged to the remaining 20 minutes of the general debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, it is a year since the tragic bombing of the Federal building in Oklahoma City, and 10 months since the Senate passed a bill to give Federal law enforcement agencies the effective assistance they need to deal with these crimes.

Unfortunately, the conference report before us is a far weaker bill than the measure we passed last year. All that is left now is the hollow shell of a terrorism bill, a mockery of the strong bipartisan legislation passed by the Senate. Most of the meaningful antiterrorism measures passed by the Senate have been stripped out by the House, so that this bill is far less likely to deter terrorist crimes or aid in the apprehension of terrorists.

Using the phony label of antiterrorism, the bill achieves two reprehensible goals: it denies meaningful habeas corpus review to State death row inmates, and it makes it easier to turn away refugees and victims of political persecution from America's shores.

Everyone knows what happened to this bill. It fell victim to the anti-Government assault of the National Rifle Association. After the Senate passed a tough, effective terrorism bill, the NRA stepped in and prevented House action for months. Then the NRA's supporters in the House stripped the bill of key provisions to strengthen Federal law enforcement.

As a result of the NRA's maneuvering, the conference report before us is completely inadequate to meet the needs of law enforcement. The Senate still has a chance to insist on a real terrorism bill, and not a sham bill. We should send this bill back to conference, and insist that the conferees restore the tough Senate provisions.

There are numerous glaring gaps in the conference report:

It does not include the expanded wiretapping authority that the FBI has said is necessary to keep up with current telecommunications technology.

It does not address the dangerous reality that bomb-making information is now freely disseminated on the Internet.

It does not include a Senate-passed provision extending the statute of limitations for serious firearms offenses.

It does not include a necessary exception to the posse comitatus laws so that military experts can provide technical assistance to law enforcement in terrorist attacks involving chemical or biological warfare.

Each of these measures was included in the Senate bill, but has been stripped out of the conference report at the insistence of the NRA.

And while the bill is clearly deficient in these respects, it includes other provisions that are too extreme in limiting the rights and liberties of individuals:

It eviscerates the ancient Writ of Habeas Corpus, denying death row inmates the opportunity to obtain even one meaningful Federal review of the constitutionality of their convictions.

It returns to the discredited cold war guilt-by-association policy of the McCarran-Walter law, excluding individuals from our shores based on mere membership in an organization. Current law already contains authority to exclude members of known terrorist organizations. The far broader sweep of this bill is unnecessary and excessive.

It places excessive restrictions on the ability of refugees to obtain asylum in the United States. This provision was never considered by the full Senate, and it ought to be debated on the immigration bill, not the terrorism legislation.

Mr. President, I point out here what has been happening. Asylum claims decline 57 percent as productivity doubles in 1995. What we have seen is the dramatic reduction in terms of the asylum claims. In 1994, there were 122,000; 60,000 completed.

In 1995, 53,000; 126,000 were completed. The Justice Department has a handle on this issue. It is doing it in a conscientious, fair, and disciplined way, and we ought to retain it and not be caught up with other facts and figures.

Every omnibus bill requires Members of Congress to weigh the good provisions against the bad ones. I voted for the Senate bill even though it included the objectionable limits on habeas corpus. But the balance has changed, now that the Senate bill has been seriously weakened. There is too little to place on the scale against the shameful trashing of the writ of habeas corpus and the Nation's asylum system.

It is unfortunate that the unrelated and controversial subject of habeas corpus was injected into this bill in the first place. Proponents say that habeas corpus is relevant because the suspects in the Oklahoma City bombing are charged with a Federal capital offense. But that fact is no justification for changing the rules with regard to State prisoners.

The habeas corpus proposals do not strike a fair balance. The bill denies death row inmates a full opportunity to raise claims of innocence based on newly discovered evidence. It will therefore increase the likelihood that innocent people will be executed. The proposal to limit inmates to one bite at the apple is sound in principle. But surely the interest in swift executions must yield to new evidence that an innocent person is about to be put to death. As Supreme Court Justice Potter Stewart once wrote, "Swift justice demands more than just swiftness."

Also, the proposal would unwisely require Federal courts to defer to State courts on issues of Federal constitutional law. A Federal court could not grant a writ habeas corpus based on Federal constitutional claims, unless the State court's judgment was "an unreasonable application of Federal law."

It is a serious mistake to require a Federal court to defer to the judgment of a State court on matters of Federal constitutional law. The notion that a Federal court should be prevented from correcting a constitutional error because it was a reasonable error is unacceptable, especially in a capital case. Ever since the days of Chief Justice John Marshall, the Federal courts have served as the great defenders of constitutional protections, and they should remain so.

The asylum provisions in this bill are equally misguided.

The Senate-passed bill did not address this subject, because it is more appropriately dealt with as part of immigration reform. But the conferees adopted House-passed language that drastically limits the ability of refugees to claim asylum if they arrive without proper documents. This provision undermines the fundamental treaty obligations of the United States by subjecting legitimate refugees to persecution and even torture.

It is often impossible for asylum seekers fleeing persecution to obtain a valid passport or travel document before they leave. Even the effort to obtain a travel document from the same government that is the persecutor may result in further danger to the asylum seeker. People may die or may be tortured while waiting for the proper papers. Accepting this reality, the U.N. High Commission on Refugees has recognized that circumstances may compel a refugee to use fraudulent documents to escape persecution.

This fact has long been recognized under international law. The United States has international obligations to protect refugees and asylum seekers who use fraudulent documents to escape persecution abroad. Article 31 of the U.N. Convention Relating to the Status of Refugees imposes an obligation on the United States not to penalize refugees and asylum seekers who are fleeing persecution, and who present fraudulent documents or no documents at all.

Under current practice, when asylum seekers arrive in the United States without valid travel documents or a passport, they are placed in detention. Generally, they are released from detention only if an asylum prescreening officer believes they have a sound case. That is the dramatic change in the way the Justice Department is considering the asylum seekers at the present time and how they were considered a number of months ago. Otherwise, they must pursue their asylum claim while in detention.

The pending bill significantly changes this process. It gives the prescreening officer the authority to deport an asylum seeker who enters with false or no documents. The office can deport the asylum seeker without a full hearing. An immigration judge never sees the case. In addition, the asylum seeker has no access to the assistance of counsel or even an interpreter.

As we consider this unprecedented proposal, we should remind ourselves of Raoul Wallenberg, the hero who saved countless lives during the Holocaust by issuing false travel documents so that Jews could escape Hitler's persecution. If this bill had been law in 1946, those Jews could have been returned to Europe without so much as a hearing.

Finally, the bill is flawed because it excludes foreigners from our shores based on mere membership in a disfavored organization.

In the days of the cold war, distinguished writers, professors, and others were excluded from the United States based on their mere membership in a Communist organization. Finally in 1990, we repealed the notorious McCarran-Walter law and set exclusion criteria based on individual actions, not their words.

This bill is a giant step backward. It explicitly sets excessive exclusion criteria based on membership in an organization, even though it would be grossly unfair to assume that all or even most members of the organization are terrorists.

Current law already gives broad authority to exclude members of terrorist organizations in such cases, and the blunderbuss provision in this bill is unneeded. If applied to American citizens, it would be a violation of the first amendment.

The harm caused by the habeas corpus, asylum, and exclusion provisions of this bill is severe, and the good accomplished by the antiterrorism sections of the bill is minor. I urge the Senate to send this defective bill back to conference with instructions to do the job right—and produce a real antiterrorism bill that gives law enforcement the tools it needs to get the job done.

I thank the chairman and the ranking minority member of the committee for letting me address the Senate on this issue.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have listened to my distinguished colleague and friend, and he would like to restore the Senate bill. We just cannot do that. I was very proud of that Senate bill. I wrote most of it and, frankly, I think our colleagues worked together to come up with a good bill. When it went to the House, the House enacted a bill which really was much less than the Senate bill. We have gone to conference and have brought most all of the Senate bill back.

The distinguished Senator from Massachusetts says that this bill we have today is a hollow shell. Now, come on. Let me just go through some highlights of this bill.

We have most everything back, and the things we do not have back, we can probably, in the real world, solve anyway, under current existing law. I have to say, yes, I would prefer the original Senate bill, but let me give you one illustration.

In the fundraising provisions, I might add that the Antidefamation League, and others of similar mind—and I am of similar mind—believe that our fundraising language is far superior in this bill than it was in the Senate bill. I know it is far superior.

We were able to work that out with our colleagues in the House. That alone is a reason for preferring this bill over the Senate bill, plus the added promise that I have made here that I will try to work out these wiretap and other issues, or at least the wiretap issues, in the Senate Judiciary Committee.

But just look at the highlights of this antiterrorism bill. Capital punishment reform, death penalty reform, something that has been needed for years, decades. It is being abused all over the country. There are better than 3,000 people who have been living on death row for years with the sentences never carried out, the victims going through the pain every time they turn around. This will solve that problem while still protecting their constitutional rights and every right of appeal that they really should have. It is written well.

The international terrorism prohibitions, prohibitions on international terrorist fundraising. As I have said, the Anti-Defamation League, AIPAC, and a whole raft of others that are concerned in this area, like the language in this bill much better than the language in the Senate bill.

This subtitle adds to Federal law prohibitions which provide material support to, or raise funds for, foreign organizations designated by the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, to be terrorist organizations.

We have the Terrorist and Criminal Alien Removal and Exclusion Act in this bill. We remove alien terrorists, and we provide very good language that was very much the same as the Senate language.

We have the exclusion of members or representatives of terrorist organizations, the alien terrorists exclusion, if you will. This permits, as a new legal basis for alien exclusion, the denial of entry into the United States of any person who is a representative or member of a designated terrorist organization.

We have a whole title on nuclear, biological, and chemical weapons restrictions. These are not picayune provisions. This is big-time stuff. This is something this country has needed for years and the whole world needs. We have it in this bill.

We have the expansion of scope and jurisdictional bases of nuclear materials prohibitions and a report to Congress on thefts of explosive materials from armories. We require the Attorney General, together with the Secretary of Defense, to undertake a study of the number of thefts of firearms, explosives, and other terrorist-type materials from military arsenals. We will make them get on these things.

We have biological weapons restrictions, enhanced penalties, and control of biological agents. We have chemical weapons restrictions, chemical weapons, and biological weapons of mass destruction. We provide for a study of the facility for training and the evaluation of personnel who respond to the use of chemical or biological weapons in urban or suburban areas.

We have the implementation of the Plastic Explosives Convention in here. We have the marking of plastic explosives. We have studies on the marking of other explosives and putting taggants on them.

We have made a whole bunch of modifications in criminal law to counterterrorism, increased penalties for conspiracies involving explosives. All this talk about explosives. We provide language in here that will help to solve those problems.

Acts of terrorism transcending national boundaries, we have language on that. We have criminal procedure changes in here that would make a real difference with regard to certain terrorism offenses overseas, the clarification of maritime violence jurisdiction, increased and alternate conspiracy penalties for terrorism offenses, clarification of Federal jurisdiction over bomb threats. The expansion and modification of weapons of mass destruction statute is in here, the addition of terrorism offenses to the money laundering statute.

We have the protection of Federal employees in here mainly because it is needed now in this day and age with some of the vicious people we have to put up with in our society. We have the protection of current and former officials in here, officers, employees of the United States.

We have the death penalty as an aggravating factor. We solve that and add multiple killings to the list of aggravating factors in the imposition of the death penalty. We have detention hearing language in here and directions to the sentencing commission.

I have to say, we have a whole raft of other things that I do not have time to mention. Look, it is time to pass this terrorism bill. It is time to let the people in Oklahoma City know we mean business here.

Is the time expired on both sides? On behalf of the majority leader and I, I move that we table the Kennedy amendment and ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered. The question occurs on agreeing to the motion to table.

Mr. HATCH. Mr. President, do we have motions to table on both of these amendments? And will they be back to back?

The PRESIDING OFFICER. There is only one amendment. The Senator from Massachusetts did not offer an amendment.

Mr. HATCH. He did not. I am happy to then proceed with the vote on the Biden amendment.

The PRESIDING OFFICER. The question occurs on agreeing to the motion to table the motion to recommit. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 68 Leg.]

YEAS—56

Abraham
Ashcroft
Baucus
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Exon
Faircloth
Feingold
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—43

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

NOT VOTING—1

Mack

The motion to lay on the table the motion to recommit was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SMITH. Mr. President, I rise to commend Senator HATCH and the other members of the conference committee for incorporating what originated in this Congress as my bill, S. 270, the Alien Terrorist Removal Act of 1995, into the conference report on S. 735, the Anti-Terrorism and Effective Death Penalty Act of 1996.

I also want to thank Senator SPECTER again for the opportunity to testify before his Judiciary Subcommittee on Terrorism last summer regarding my alien terrorist removal bill.

My bill—now the alien terrorist removal section of the conference report on S. 735—essentially embodies the Smith-Simpson amendment that the Senate passed unanimously as part of the crime bill in the last Congress. Unfortunately, certain House members of the conference committee on the 1994 crime bill insisted on the deletion of the Smith-Simpson amendment from that legislation.

After I introduced S. 270 early in the first session of this Congress, the Clinton administration proposed its own substantially identical version of my bill as part of its omnibus antiterrorism legislation. Then, in the wake of the Oklahoma City bombing, Senators DOLE and HATCH introduced S. 735, which incorporated the substance of my bill, S. 270. S. 735, of course, passed the Senate by a vote of 91 to 8 last June.

Unfortunately, when S. 735 reached the House, the alien terrorist removal provisions of the Senate-passed bill were removed from the legislation. Commendably, however, Senator HATCH steadfastly insisted that the conference committee include an alien terrorist removal section in its conference report on S. 735. Fortunately for our Nation, Senator HATCH succeeded in that effort.

Let me summarize briefly for the benefit of my colleagues what the alien terrorist removal section of S. 735 is all about. The alien terrorist removal provisions of the bill would establish a new, special, judicial procedure under which classified information can be used to establish the deportability of alien terrorists.

The new procedures that are established under section 401 of S. 735 are carefully designed to safeguard vitally important national security interests, while at the same time according appropriate protection to the necessarily limited due process rights of aliens.

Under current law, Mr. President, classified information cannot be used to establish the deportability of terrorist aliens. Thus, when there is insufficient unclassified information available to establish the deportability of a terrorist alien, the Government faces two equally unacceptable choices.

First, the Justice Department could declassify enough of its evidence against the alien in question to establish his deportability. Sometimes, however, that simply cannot be done because the classified information in question is so sensitive that its disclosure would endanger the lives of human sources or compromise highly sensitive methods of intelligence gathering.

The Government's second, and equally untenable, choice would be simply to let the terrorist alien involved remain in the United States.

Sadly, Mr. President, what I have just described is not a hypothetical situation. It happens in real cases. That is why the Department of Justice, under both Republican and Democratic Presidents and Attorneys General, has been asking for the authority granted by my bill—now section 401 of S. 735—since 1988.

Utilizing the existing definitions of terrorism in the Immigration Act of 1990 and of classified information in the Classified Information Procedures Act, section 401 of S. 735 would establish a special alien terrorist removal court comprised of sitting U.S. district judges designated by the Chief Justice of the Supreme Court of the United States. This new alien removal court is modeled on the special court that was created by the Foreign Intelligence Surveillance Act.

Under section 401 of S. 735, the U.S. district judge sitting as the special court would personally review the classified information involved in camera and ex parte.

Where possible, without compromising the classified information involved, the alien in question would be provided with an unclassified summary of the classified information in order to assist him in preparing a defense.

Ultimately, the special court would determine whether, considering the record as a whole, the Justice Department has proven, by a preponderance of the evidence, that the alien is a terrorist who should be removed from the United States.

Finally, Mr. President, any alien who is ordered removed under the provisions of section 401 of S. 735 would have the right to appeal to the U.S. Court of Appeals for the District of Columbia Circuit.

Mr. President, the most serious national security threat that our Nation faces in the post-cold-war world is the scourge of international terrorism. That threat became reality in 1993 with the terrorist attack on the World Trade Center in New York City. Tragically, with the Oklahoma City bombing 1 year ago this week, we learned the bitter lesson that we face the threat of terrorism from domestic extremists as well.

Now, this historic 104th Congress is responding, strongly and effectively, to address the twin terrorist threats that we face. I urge the prompt adoption of the conference report on S. 735 by the Senate and, once again, I commend the conferees for incorporating my alien terrorist removal bill into their landmark legislation.

Mr. LEAHY. Mr. President, I am encouraged that the conference report includes important provisions that I proposed back in June 1995, when the Senate began consideration of antiterrorism legislation. These provisions were adopted by the Senate and then passed as part of the original S.735 and passed a second time last year by the Senate as part of H.R. 665, our version of the mandatory victim restitution legislation. They are now included as sections 231 and 232 of the conference report. It is astonishing that at the time I added these provisions to the bill there were no victims-related measures in any antiterrorism legislation.

When the bomb exploded outside the Murrah Federal Building in Oklahoma City last year, my thoughts and prayers, and I suspect that those of all Americans, turned immediately to the victims of this horrendous act. It is my hope that through this legislation we will proceed to enact a series of improvements in our growing body of law recognizing the rights and needs of victims of crime. We can do more to see that victims of crime, including terrorism, are treated with dignity and assisted.

The conference report incorporates the provisions of the Justice for Victims of Terrorism Act, which will accomplish a number of worthwhile objectives. They include a proposal to increase the availability of assistance to victims of terrorism and mass violence here at home.

We, in this country, have been shielded from much of the terrorism perpetrated abroad. That sense of security has been shaken recently by the bombing in Oklahoma City, the destruction at the World Trade Center in New York, and assaults upon the White House. I, therefore, proposed that we allow additional flexibility in targeting resources to victims of terrorism and mass violence and the trauma and devastation that they cause.

The conference report includes these provisions to make funds available through supplemental grants to the States to assist and compensate our neighbors who are victims of terrorism and mass violence, which incidents might otherwise overwhelm the resources of a State's crime victims compensation program or its victims assistance services. I understand that assistance efforts to aid those who were the victims of the Oklahoma City bombing are now $1 million in debt. These provisions should help.

The substitute will also fill a gap in our law for residents of the United States who are victims of terrorism and mass violence that occur outside the borders of the United States. Those who are not in the military, civil service, or civilians in the service of the United States are not eligible for benefits in accordance with the Omnibus Diplomatic Security and Antiterrorism Act of 1986. One of the continuing tragedies of the downing of Pan Am flight 103 over Lockerbie, Scotland, is that the United States Government had no authority to provide assistance or compensation to the victims of that heinous crime. Likewise, the U.S. victims of the Achille Lauro incident could not be given aid. This was wrong and should be remedied.

In its report to Congress in 1994, the Office for Victims of Crime at the U.S. Department of Justice identified the problem. Both the ABA and the State Department have commented on their concern and their desire that crime victims compensation benefits be provided to U.S. citizens victimized in other countries. This bill takes an important step in that direction. Certainly U.S. victims of terrorism overseas are deserving of our support and assistance.

In addition, I believe that we must allow a greater measure of flexibility to our State and local victims' assistance programs and some greater certainty so that they can know that our commitment to victims programming will not wax and wane with events. Accordingly, the conference report includes an important provision to increase the base amounts for States' victims assistance grants to $500,000 and allows victims assistance grants to be made for a 3-year cycle of programming, rather than the year of award plus one, which is the limit contained in current law. This programming change reflects the recommendation of the Office for Victims of Crime contained in its June 1994 report to Congress.

I am disappointed that some have objected to an important improvement that would have allowed all unspent grant funds to be returned to the crime victims fund from which they came and reallocated to crime victims assistance programs. I believe that we ought to treat the crime victims fund, the violent crime reduction trust fund, and Violence Against Women Act funds with respect and use them for the important purposes for which they were created.

The crime victims fund, we should remember, is not a matter of appropriation and is not funded through tax dollars. Rather, it is funded exclusively through the assessments against those convicted of Federal crimes. The crime victims fund is a mechanism to direct use of those funds to compensate and assist crime victims. That is the express purpose and justification for the assessments.

Accordingly, I believe it is appropriate for those funds to be used for crime victims and, when not expended for purposes of a crime victims program, they ought to be returned to the crime victims fund for reobligation. Instead, because of a technicality in the application of the Budget Act, the conference report includes a change from the language that I proposed and that was approved by the Judiciary Committee and previously by the Senate. My language would have returned all unspent crime victims grant funds to the crime victims fund. The conference report will require that some of the money that came from the crime victims fund go, instead, to the general Treasury if it remains unobligated more than 2 years after the year of grant award. I am pleased that we have been able to obtain some concession in this regard and note that the unobligated funds must exceed $500,000 in order to revert to the general Treasury.

Fortunately, the Office for Victims of Crime has improved its administration of crime victims funds and that of the States over the past 3 years to a great extent. While more than $1 million a year has in past years remained unobligated from grants made through the States across the country, in 1994 that number was reduced below $125,000. The Director of the Office for Victims of Crime, Aileen Adams, should be commended for this improvement. It is my hope that the administration of crime victims fund grants will continue to improve through the Department of Justice and the States and that the Department of Health and Human Services will, likewise, improve its oversight and grant administration and encourage the States to be more vigilant. If so, the change in the language of the bill from that previously adopted by the Senate and by the Judiciary Committee will not result in a significant diversion of crime victims fund money to other uses.

I also regret that the emergency reserve is not structured as I recommended. I would limit the reserve to the highest level of annual deposits placed in the fund in the past 5 fiscal years. This would allow the emergency reserve to fulfill its purpose as a rainy day fund and smooth the distribution of aberrational deposit pattern. Further, I hope that we will soon reconsider the 40-percent cap of Federal contributions to State victim compensation awards and other suggested improvements to the Victims of Crime Act.

Our State and local communities and community-based nonprofits cannot be kept on a string like a yo-yo if they are to plan and implement victims assistance and compensation programs. They need to be able to plan and have a sense of stability if these measures are to achieve their fullest potential.

I know, for instance, that in Vermont Lori Hayes at the Vermont Center for crime victims Services, Judy Rex at the Vermont Network Against Domestic Violence and Sexual Abuse, and many others provide tremendous service under difficult conditions. I was delighted to be able to arrange a meeting between them and the Attorney General of the United States when Attorney General Reno recently visited Vermont. They will be able to put increased annual assistance grants to good use. Such dedicated individuals and organizations will also be aided by increasing their programming cycle by even 1 year. Three years has been a standard that has worked well in other programming settings. Crime victims' programming deserves no less security.

In 1984, when we established the crime victims fund to provide Federal assistance to State and local victims' compensation and assistance efforts, we funded it with fines and penalties from those convicted of Federal crime. The level of required contribution was set low. Twelve years have passed and it is time to raise that level of assessment in order to fund the needs of crime victims. Accordingly, the conference report includes as section 210 a provision that I worked on with Senator MCCAIN and that the Senate previously passed as an amendment to the antiterrorism bill last summer. It doubles the special assessments levied under the Victims of Crime Act against those convicted of Federal felonies in order to assist all victims of crime.

I do not think that $100 to assist crime victims is too much for those individuals convicted of a Federal felony to contribute to help crime victims. I do not think that $400 is too much to insist that corporations convicted of a Federal felony contribute. Accordingly, the conference report would raise these to be the minimum level of assessment against those convicted of crime.

While we have made progress over the last 15 years in recognizing crime victims' rights and providing much-needed assistance, we still have more to do. I am proud to have played a role in passage of the Victims and Witness Protection Act of 1982, the Victims of Crime Act of 1984, the Victims' Rights and Restitution Act of 1990, and the victims provisions included in such measures as the Violent Crime Control and Law Enforcement Act of 1994. I thank my colleagues for their acceptance of the provisions of the Justice for Victims of Terrorism Act.

I thank the outstanding crime victims advocates from Vermont for their help, advice, and support in connection with the Justice for Victims of Terrorism Act and the improvements it includes to the Victims of Crime Act. I also thank them for the work they are doing by developing and implementing programs for crime victims in Vermont.

In addition, I thank the National Organization for Victim Assistance, the National Association of Crime Victim Compensation Boards, and the National Victim Center for their assistance and support in the development of the Justice for Victims of Terrorism Act. Without their help, we could not make the important progress that its provisions contain. I appreciate the cooperation of all those who have worked to incorporate these improvements to the Victims of Crime Act in this measure.

It is important to me that we do all we can to bring stability to the crime victims fund so that the State programs for compensating and assisting victims of crime can plan and provide services for victims that increase and expand across our States in the coming years. I hope that we can continue to cooperate and refine the Victims of Crime Act's provisions.

Mr. FEINGOLD. Mr. President, it has been nearly 1 year since America was shocked and outraged by the bombing in Oklahoma City.

The anguish and the pain caused by this cowardly act left a marked impression on each of us which remains today.

That which had formerly been reserved for distant parts of the globe—acts of savage terrorism—was now being visited upon the citizens of this Nation.

There can be no debate that we must respond to these acts, as we must all acts of crime, with the singular and unyielding purpose of capturing, prosecuting and punishing the responsible individuals.

Unfortunately, in the 12 months that has passed since Oklahoma City, this legislation has been subject to many varied interests—interests placing certain proposals above the underlying goal of responding to terrorism in the measured and focused manner necessary to protect the citizens of this Nation.

Unfortunately, many of the proposals which have been offered throughout this debate to combat terrorism simply went too far and placed the civil liberties of all Americans in peril.

For this simple reason I opposed language included in the Senate bill which would have expanded the scope of wiretap authority and would have injected the military into areas of law enforcement which are better left to local officials.

I am concerned that these provisions move us toward unwarranted expansion of Federal power. Accordingly, I support the removal of these provisions from the final package.

However, just as some of those proposals overstepped the boundaries of civil liberties, the final conference report remains flawed.

Careful review of this legislation reveals that it contains very few substantive provisions which would have prevented or helped prevent the Oklahoma City tragedy.

As I said when the Senate considered this legislation last summer, it is essential that law enforcement be given the resources and support necessary to investigate and prosecute terrorists.

To truly protect citizens of this Nation, terrorists must be stopped before they strike—before they take innocent lives in some misguided effort to prove the validity of their agenda.

That is why I am so troubled when I hear the suggestion that the single most effective antiterrorism provision in this bill is the alleged reform of habeas corpus.

The link between habeas corpus and keeping the people of this Nation free from acts of terrorism is tenuous at best. The argument that these habeas provisions will prevent another Oklahoma City is one which is manufactured solely to justify inclusion of these unrelated provisions in a bill originally meant to address terrorism.

These so-called habeas reforms will do nothing to rid our communities of dangerous persons who may strike against innocent people.

The only time habeas corpus is even remotely related to terrorism is after the terrorist has committed an act of terrorism, has been apprehended, convicted and is sitting in a prison cell.

Once again political expediency has obscured sound policy making. In the words of the New York Times, "Members of Congress are exploiting public concerns about terrorism to threaten basic civil liberties."

Many of my colleagues want very sincerely to address what they perceive to be abuses in the use of habeas corpus. These efforts, however, should not be hidden behind the unsustainable claim that doing so in anyway makes the people of this Nation less likely to be attacked by terrorists.

Further, the provisions in the conference report go well beyond reform and eviscerate the constitutional underpinnings of habeas corpus. Just as many of the law enforcement provisions went too far, so too do the habeas provisions.

By setting unreasonable limitations and standards of review available on appeal of constitutional violations, this bill greatly enhances the potential that this Nation will execute an innocent person for a crime they did not commit.

I do not disagree with my colleagues who argue that justice must be served. The families of the victims and the American people deserve as much. However, the pursuit of justice does not require us, as these habeas provisions do, to depart from over 200 years of constitutional protections.

Justice is not served by the execution of an innocent human being. The families of the victims and the American public will find no comfort from such an occurrence.

Like so many facets of this bill, the habeas provisions of this bill lack any semblance of reasonable balance.

A recent March 20 editorial from the Milwaukee Journal Sentinel entitled "A needless overreaction to terrorism" criticized these provisions and pointed out the fallacy of the alleged link between habeas reform and terrorism or that these provisions will have any deterrent effect.

In the words of the Journal;

> It's difficult to see how limits on appeals by prison inmates would deter terrorism. Most such prisoners have been convicted of ordinary—not political—crimes. Besides, many terrorists are willing to undergo punishment, even death, for the causes they believe in.

The inclusion of habeas reform in this legislation has very little to do with terrorism and a great deal to do with advancing an agenda which has previously languished in the Congress.

Just as I opposed those law enforcement provisions which raised constitutional concerns, so too do I oppose these proposals.

We should be just as wary of proposals which forsake constitutional protection in the name of habeas reform as we are of those which do so in the name of expanding wiretap authority.

Mr. President, it is very likely that this conference report will become law. This is unfortunate. Not simply because bad provisions of this bill will become bad law, but because this bill represents an opportunity squandered.

This legislation started as an effort to address terrorism—to provide some protection for the citizens of this Nation against acts of terrorism. The American people deserve as much. Sadly Mr. President, for all the fanfare which will likely accompany this legislation, it fails to meet that laudable and important goal.

Mr. HEFLIN. Mr. President, I will support passage of the Terrorism Prevention Act Conference Report. Although the conference report is not as strong as the Senate-passed bill, nor is it as strong as I would like, it is much stronger than the House-passed bill and reflects a compromise between the two houses which is an essential element of our Nation's democratic process.

It is fitting that we enact this legislation around the anniversary of the tragic bombing which occurred in Oklahoma City and resulted in such a massive loss of life and injury to innocent people. We must enhance our Nation's efforts to combat domestic and international terrorism, and the conference report is a step in the right direction.

I am pleased that the conferees were able to restore many provisions which the House-passed bill deleted, such as allowing courts to expeditiously deport alien terrorists, allowing the President to designate foreign terrorist organizations so any assets they have in the United States can be more easily frozen by the Government, and making it a crime to donate or accept funds for foreign terrorist organizations. Further, the House-passed bill contained almost no funding for Federal law enforcement, and the conference report has a funding level of $1 billion for Federal and State law enforcement over a 4-year period.

The conference report contains a provision to require taggants be placed on plastic explosives, which are most commonly used by foreign terrorists, thereby making them more detectable, and it calls for a study on placing taggants on other types of explosives.

I would have preferred that the conference report contained the Senate-passed provisions allowing for multipoint wiretaps and other strong provisions, but this did not occur and motions to recommit the bill to conference with instructions to include those provisions have been unsuccessful. This is the democratic process, and I accept the will of the Senate.

That does not, however, leave this legislation a toothless tiger. It contains strong provisions to reform Federal habeas corpus laws—something that is long overdue. Reform of the habeas corpus process will speed up the imposition of sentences of those criminal convicted of especially brutal crimes. Overall, the conference report is a step in the right direction, and I urge its passage so that it can be signed by the President and allow our Nation to enhance its efforts to combat both domestic and international terrorism.

Mr. BRADLEY. Mr. President, I rise in support of the conference report to S. 735, the Antiterrorism and Effective Death Penalty Act of 1996. Almost 1 year ago today, the Oklahoma City bombing brought into sharp focus the reality and horror of domestic terrorism in America. The death toll of the bombing stands at 167, making it the deadliest mass murder in the history of the United States.

While several strong crime fighting provisions that I supported in the Senate version of the bill were deleted by the conference committee, this legislation contains tools that will enable the United States to respond to the international and domestic terrorist threats and prosecute these despicable criminal acts. On balance, Mr. President, this legislation will enhance the ability of law enforcement to combat both foreign and domestic terrorism.

Mr. President, the provisions in this bill are vitally important to our efforts to respond to international and domestic threats of terrorism. I, therefore, support this bill, and I am confident that because of our actions today, America will be more fortified against the evils of terrorism.

Mr. CHAFEE. Mr. President, for the last day and a half, the Senate has been debating the antiterrorism bill conference report. During debate, a number of motions to recommit the legislation to conference were offered.

I voted against all of them—even those with which I agree on the substance. In this situation sending the bill back to conference would not be simply a matter of adding back provisions that we in the Senate like. Sending the bill back to conference would reopen the legislation to countless changes that the House might, in turn, demand that the Senate accept.

Obviously this conference report is not perfect. No bill is. Frankly, there are some provisions I wish were still in there, and others I would gladly see dropped. For example, I would have liked to see in the final bill the Boxer amendment on the statute of limitations for firearms violations. But I recognize that the nature of a conference is compromise. And therefore the package before us is the only one on which we can act.

In conclusion, I might add, I do not believe that the door is finally shut on amendments such as the Boxer amendment. We can hopefully revisit that amendment on another bill.

Mr. BROWN. Mr. President, I rise today in support of the conference report on the Terrorism Prevention Act. This bill takes many important steps in the fight against terrorism. In particular, several key provisions will significantly strengthen U.S. efforts to combat international terrorism. In recent years, attacking terrorism has taken a back seat in U.S. foreign policy. Attacks have been waged against innocent people and allies across the world, and yet terrorists are invited to the White House where their violent rhetoric has been conveniently overlooked.

In January 1994, Gerry Adams, the leader of the Irish-national political organization Sinn Fein, was granted a visa on a Presidential foreign policy waiver to travel to the United States. In doing this, the National Security Council overruled a unanimous recommendation from the Department of State, the Department of Justice, and the intelligence community that the waiver should not be granted due to the fact that neither Adams nor the Irish Republican Army have really renounced violence in theory or in practice. This exception represents the current administration's ability to pay lipservice to stopping terrorism while failing to achieve substantive results.

In the past, Adams had been denied a visa eight times by previous administrations because of his affiliation with the terrorist organization. But since obtaining a visa in January 1994, Adams has received seven additional visas from the Clinton administration, was received by State Department officials, introduced to National Security Advisor Anthony Lake, raised money throughout the United States while touring in March 1995, and celebrated St. Patrick's Day in the White House. All of this transpired even though he has yet to renounce the use of violence to achieve political goals or denounce the plague of terrorist bombings in Great Britain.

We cannot continue to project such an inconsistent and unflattering testament of our commitment to fight terrorism. The legislation we now consider addresses many of the shortcomings in our ability to deal strongly and effectively with terrorism. The provisions in S. 735 will significantly strengthen our authority to combat international terrorism, and three sections in particular are worth noting.

Section 221 of this bill amends the Foreign Sovereign Immunities Act to permit jurisdiction of U.S. courts for lawsuits against terrorist states, as designated by the Secretary of State. Under current law, U.S. citizens are barred from suing foreign governments or state-owned foreign enterprises unless the alleged injury is directly related to the commercial activity of the foreign government. In other words, American citizens can be tortured or murdered in a foreign state by agents of that state, and if that state provides no effective legal remedy, the American victims and their families have no enforceable legal remedy either in the United States or anywhere else in the world. The provision in section 221 will now allow victims of terrorism, hostage taking or torture abroad, or their survivors, to seek restitution against a state sponsor of terrorism when they are unable to gain relief in the courts of the country involved.

This provision provides vital remedies for victims. Just last summer a United States district court barred survivors of Pan Am 103 victims from suing Libya even though the United States Government had found Libya to be directly responsible and two Libyans had been indicted in United States court for the crime.

It is important to note that section 221 provides a responsible avenue for victims to seek just compensation. This is a powerful and significant tool that should be used cautiously. Thus the legislation limits the scope of jurisdiction to only those countries who have been identified as state sponsors of terrorism. Sovereign immunity is designed to protect nations from being dragged into another nation's courts for legitimate sovereign acts. The international community, however, does not recognize the right of any state to commit acts of torture, extrajudicial killing, aircraft sabotage, or hostage taking. Sovereign immunity is an act of trust among nations of good faith. When a terrorist state harbors or supports known terrorists, or injures or kills American citizens, it destroys that trust and should not be allowed to avoid the accusations of those it harms.

Beyond ensuring that American citizens have recourse after brutal terrorist acts, this section represents a vital counterterrorism measure. I am confident that the threat of enforceable judgments and levies against assets from U.S. courts will be a significant inducement for countries to get themselves off of the State Department's terrorist list.

Section 323 also provides an important tool in combating international terrorism. As a result of international pressures against states which provide support to international terrorists, some terrorist groups are seeking other means of financing and support, such as raising funds from sympathizers or establishing front companies. During its investigation of the Bank of Credit and Commerce International [BCCI], the Senate Foreign Relations Committee unearthed a significant trail of funding through BCCI that demonstrated the importance of international financial networks in the support of illegal and terrorist activity abroad. The bank hosted many illegal, unsafe, and unsound banking practices, as well as acting as a front for worldwide arms deals, drug deals, and assistance to various groups linked directly or indirectly to terrorist activity. Section 323 will enable U.S. prosecutors to begin to crack down on the use by terrorist groups of international financial institutions and front companies for their material support.

This provision would create a new offense of providing material support or resources, or concealing the nature, location, source, or ownership of material support or resources, for various terrorist-related offenses. Currently, an individual responsible for building a bomb or taking someone hostage can be prosecuted for their activities, but those providing financial or technical support, or harboring terrorists after the crime, can escape punishment of any kind. Section 323 criminalizes a series of offenses by recognizing all forms of meaningful assistance and material support to terrorists.

It amends current law which was originally offered with the same intent as section 323, but was severely weakened in conference, rendering it virtually ineffective. This language strengthens current law by restoring the original intent of punishing all persons involved, to whatever degree, in terrorist activities.

Finally, section 411 which allows the exclusion of alien terrorists from the United States is an extremely important tool in combating international terrorism. Currently we have a loophole in our immigration law that permits the United States to issue visas to know members of terrorist organizations. How can America expect to condemn other nations who support terrorists without first taking action to limit the organizational efforts of known terrorists in the United States? We must slam the door on foreign members of such terrorist organizations who now freely travel to our country.

The case of Sheikh Rashid Ghanoushi's application for a visa to the United States highlights the far-reaching consequences of our limited exclusionary authority. Ghanoushi is an Islamic extremist whose terrorist organization was responsible for the deaths of many innocent tourists in Tunisia. He was convicted in absentia.

Nonetheless, in 1993, he applied for a visa to travel to the United States to speak to religious and academic audiences. In June 1994, the Government of Tunisia indicated that it would regard a United States decision to admit Ghanoushi as a hostile act. Furthermore, in the past Ghanoushi has urged violence against United States interests and continues to demand Israel's destruction. Yet the United States has still not issued a final decision about whether to grant a visa to him, claiming lack of authority to deny him entry. At present, Ghanoushi's case is under active review by the State Department.

It is well known that many foreign terrorist groups depend on money raised in the United States to fund their activities abroad. Terrorist activity should not be defined by the area in which a bomb explodes.

Our Nation, with its many democratic freedoms, represents fertile ground for terrorist organizations for fundraising, organizational support, and international recognition. Many of these terrorists organizations have already developed networks of support in our country.

The existing loophole in the Immigration Act of 1990 permitting members of terrorist organizations to come to the United States fostered an atmosphere of indecisiveness. It sends the wrong signal to the international community. The provisions in section 411 correct this inconsistency and effectively strengthen our authority to combat terrorism and keep those people who are members of terrorist organizations off of U.S. soil.

In the past decade, Americans have suffered numerous terrorists attacks. Without the authority and support created by S. 735, particularly the three sections I highlighted, we will continue to needlessly hamstring our ability to protect American citizens. Enough is enough. It is time to take bold steps to protect American citizens from the threat posed by terrorism. We know the obstacles currently facing us in the fight against international terrorism. S. 735 provides the tools and the authority necessary to wage an effective defense.

Mr. DODD. Mr. President, this Friday will be the first anniversary of the brutal and cowardly bombing of the Alfred P. Murrah Federal Building in Oklahoma City. One hundred and sixty-nine Americans, including 19 children tragically lost their lives in this terrible act of domestic terrorism.

A year later, that terrorist bombing continues to tear at the Nation's soul. As we continue to mourn the loss of so many innocent lives, our hearts go out to the survivors, the families of the victims and the courageous residents of Oklahoma City who have already begun the difficult healing process.

However, part of the process of healing begins with the pursuit of justice. And for the past year, law enforcement officials have tirelessly labored to see that the full force of the law is brought to bear on the guilty parties. And soon, the trial against the alleged bombers will begin.

But, as we continue the process of providing answers to this terrible tragedy—the deadliest terrorist attack on American soil—we must find new and innovative ways to prevent such acts in the future. That's what this bill is all about.

While no one will argue that this legislation, or for that matter any legislation, will finally and completely end terrorism, we must take the necessary steps to deter terrorists from their deadly actions. We must make it more difficult for them to kill and injure. And we must ensure that they are swiftly brought to justice.

President Clinton deserves praise for moving forcefully in that direction by submitting a comprehensive counter-terrorism proposal to Congress, after the Oklahoma bombing.

Unfortunately, in the year since the President introduced that proposal, Congress has dragged it's feet on this legislation. What's worse, I believe, many of the strongest elements of this bill have been watered down or eliminated by the House of Representatives.

Several provisions that would make it easier for law enforcement agencies to utilize multipoint and emergency wiretaps against suspected terrorists were removed.

The failure to include these wiretap provisions in the final conference report create a situation where it is easier for the FBI to tap the phone of someone they suspect of bribing a bank officer than someone who may be prepared to engage in a terrorist act.

What's more, this conference report prevents the Attorney General from requesting technical and logistical support from the military if our Nation faced an emergency involving biological and chemical weapons.

This provision was deleted even though I think everyone in this body would agree that the military has far more expertise in matters of chemical and biological weapons than our law enforcement agencies.

It's particularly disheartening that while these provisions were overwhelmingly agreed to by the Senate, they were removed from the final conference report because of the intransigence of the other body.

Similarly, while we need to find ways to prevent prisoners from abusing the legal process, by filing meritless appeals, we must ensure that those people who have been unfairly convicted have some legal recourse.

Unfortunately, I believe that the habeus corpus reform measures in this bill are ill-advised. They limit the ability of inmates to raise claims of innocence based on newly discovered evidence and also require Federal courts to defer to State courts on issues of Federal constitutional law raised by these claims.

However, while I feel this legislation could be further strengthened if it were recommitted to the conference, there are enough positive elements in the bill that allow me to vote for it.

This counter-terrorism legislation provides Federal law enforcement officials with the proper means to investigate and prevent terrorism. It establishes new Federal offenses to ensure that terrorists do not elude justice through gaps in the current law.

Similarly, it increases penalties for terrorist actions. And it gives new assistance to victims of terrorist attacks, including provisions that will make it easier to bring lawsuits against nations that sponsor terrorism. Combined, these steps will give law enforcement important new tools to use in the fight against terrorism.

Although it is not perfect, this bill will not only help the Nation prevent terrorist acts but it will also help hold terrorists accountable for their actions.

The bombing in Oklahoma made clear just how vulnerable we all are to these terrible acts of violence. And ultimately, I believe this legislation will make Americans safer from the scourge of international and domestic terrorism.

Mr. WARNER. Mr. President, I rise in support of this conference report which embodies compromise antiterrorism and anticrime legislation. I recognize that many Members would like to see additional provisions added. We have waited too long, however, to allow this opportunity to pass without enacting legislation which will help us avoid additional disasters such as Oklahoma City and the World Trade Center bombings. I thus support this conference report as it stands and will continue to work to pass additional measures which will combat terrorism, whether sponsored by foreign entities or by domestic extremists.

This bill provides $1 billion for enhanced law enforcement efforts, both at the Federal and State levels, to combat terrorism. Plastic explosives will be required to be tagged with materials which can be tracked back to the source in the event of a bombing. Foreign terrorists will be denied the opportunity to raise money inside the United States, and if found here, will be subject to special, but constitutional, deportation proceedings. The bill also includes numerous important and noncontroversial provisions which will remove legal impediments to combat terrorism.

This bill also contains one of the most important anticrime and judicial reform measures passed in years. Finally, the charade of habeas corpus appeals will be reformed: death row inmates will no longer be allowed to drag out their appeals for several decades. I have faith that our State courts respect our constitutional rights, and in the exceptional case where Federal rights have been violated, defendants retain very reasonable access to Federal courts to prove their innocence.

We have come to a crossroads in this debate almost 1 year after the tragedy in Oklahoma. Either we pass this bill and begin reaping the protections it will provide us in the fight against terrorists, or we throw up our hands and give up. I believe we need this bill now and I commend the efforts of Senator HATCH and others to reach a reasonable consensus which can pass both houses and be signed into law by President Clinton.

Mr. PELL. Mr. President, today, as the Senate considers the conference report to S. 735, the Antiterrorism and Effective Death Penalty Act of 1996, I regret that as I did when this bill was presented for passage in the Senate, I again must oppose the final version of the bill. I do so for two basic reasons.

First, the conference did nothing to change those provisions of the bill which drastically curtail the Federal judicial protections afforded those given the death penalty in State courts. This is a departure from a longstanding tradition in English and American jurisprudence and, as an opponent of the death penalty, I feel I cannot in good conscience support it.

Second, the conference removed several of the most effective antiterrorism measures that were included in the Senate version of the bill. These include giving the FBI the ability to employ court-approved multipoint wiretaps, adding terrorism crimes to the list of those for which wiretaps can be approved, including terrorism crimes under RICO statutes, and permitting the use of military expertise to cope with either chemical or biological weapons of mass destruction. Without these provisions, I believe that the bill has been severely compromised and, in the process, the chance to do something truly meaningful about domestic and international terrorism in this bill has been lost.

Accordingly, I believe that the conference report fails to correct the deficiencies of the legislation that left the Senate last summer and furthermore, has eliminated many of its most effective counterterrorism provisions. Thus, I continue to oppose passage of this legislation.

Mr. LEVIN. Mr. President, I will vote for S. 735, I am distressed that a number of the strongest antiterrorism provisions of the Senate bill were dropped in conference with the House. For example, I am disappointed that the conference report would not—Provide the Attorney General the enhanced tools for fighting domestic and international terrorism that were requested by the administration and included in the Senate bill; permit the Attorney General to utilize the expertise of the military in investigations of crimes involving the use of chemical and biological weapons; or prohibit the dissemination of information on making explosive materials with the knowledge that the information will be used for criminal activities.

On balance, however, I conclude that the antiterrorism provisions in the bill, viewed as a whole, are still worth enacting.

The habeas corpus provisions of the bill are also problematical. Under the conference report, an application for a writ of habeas corpus may be granted if the underlying State court decision was "contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States."

I interpret the new standard to give the Federal courts the final say as to what the U.S. Constitution says. I reach this conclusion for two reasons.

First, several Members have raised the concern that the reference in the bill to an unreasonable application of Federal law could create two different classes of constitutional violations—reasonable and unreasonable. I vote for the bill because I have confidence that the Federal courts will not do this. I believe the courts will conclude, as they should, that a constitutional error cannot be reasonable and that if a State court decision is wrong, it must necessarily be unreasonable.

Second, I note that this provision permits a Federal court to grant a petition for habeas corpus if the State court decision was contrary to Federal law. I interpret this language to mean that a Federal court may grant habeas corpus—on a first petition—any time that a State court incorrectly interprets Federal law and that error is material to the case. In other words, if the State court's interpretation of the U.S. Constitution is wrong, this standard authorizes the Federal courts to overturn that interpretation.

The provision in the bill refers to "clearly established Federal law, as determined by the Supreme Court of the United States." I understand this provision to refer to the whole body of Supreme Court jurisprudence on substantive and procedural rights. If the Supreme Court has adopted a clear rule of law and that rule has been consistently interpreted and applied by the courts of appeals, that rule—and its consistent interpretation and application—would prevail in habeas corpus proceedings.

In sum, Mr. President, I believe that this standard can be interpreted in a manner that is consistent with the fundamental duty of the Federal courts to act as the final interpreters of the meaning of the U.S. Constitution, and to protect the constitutional rights of Americans.

UNANIMOUS-CONSENT AGREEMENT

Mr. HATCH. Mr. President, I ask unanimous consent that the only remaining motions to recommit in order to the pending conference report be the following: Two additional Biden motions; further, that the motions be limited to the restrictions previously agreed to, and that following the debate on all motions and the conference report, the Senate proceed to vote on or in relation to the pending motions, to be followed by a vote on the adoption of the conference report, all without any intervening action or debate, with the exception of using 6 minutes, equally divided, for debate prior to the final passage vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, I am offering a motion to recommit the conference report with instructions to add provisions relating to a third type of wiretap that was deleted, referred to as an emergency wiretap.

I send the motion to recommit the conference report to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] moves to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following:

SEC. . REVISION TO EXISTING AUTHORITY FOR EMERGENCY WIRETAPS.

(a) Section 2518(7)(a)(iii) of title 18, United States Code, is amended by inserting "or domestic terrorism or international terrorism (as those terms are defined in 18 U.S.C. 2331)" after "organized crime".

(b) Section 2331 of title 18, United States Code is amended by inserting the following words after subsection (4):

"(5) the term 'domestic terrorism' means any activities that involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State and which appear to be intended to intimidate or coerce a civilian population or to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by assassination or kidnapping.".

(c) This section shall be effective one day after enactment of this Act.

Mr. BIDEN. Mr. President, I do not plan on taking the entire allotted time on this side with this motion.

Let me be real clear about this. This provision was not in the Senate bill. It was offered by Senator LIEBERMAN, and it was strongly supported by many in this body. But it was not in the original Senate bill.

This provision incorporates the President's proposal to expand emergency wiretap authority. Today, emergency wiretap authority is available for organized crime cases. This proposal simply makes it available for terrorism cases. This proposal says that what is fair for the mob is fair for Hamas. What is good for John Gotti is good for any terrorist from abroad. What is good for those involved in organized crime is good for terrorists. If the justification exists for organized crime in and the mob, why does it not exist for crimes of terrorism?

Let me first explain what an emergency wiretap is, because understandably a lot of people—I know many, like the Senator from Utah and the Senator from Pennsylvania, Senator SPECTER, and the Senator from Vermont, Senator LEAHY, all former prosecutors understand these wiretap requirements, but many do not.

An emergency wiretap—I will explain more precisely not only what it is but how it is limited. First of all, in all cases—or in most cases—the Government must go to a judge to get a court order before it can initiate a wiretap. But at the same time, Congress recognized there are emergency situations where time is of the essence and that completing the necessary paperwork and getting the judge's order will simply take longer than the situation allows.

I have gone through today probably a half hour's worth laying out precisely the safeguards built into getting a wiretap for a crime that is listed in the Criminal Code as being able to get a wiretap for, and how long and difficult the process is and should be. But the Congress in the past has recognized that there are situations under current law which allow the Government to initiate a wiretap without a court order. Here are the circumstances: where immediate danger, death, or serious physical injury exists; where conspiratorial activities threaten the national security, or a conspiratorial activity characteristic of organized crime activities exist.

Only the top three Justice Department officials—the Attorney General, the Deputy Attorney General, and the Associate Attorney General—have the authority under the present law to issue or to authorize any emergency wiretap.

If the law stopped there, I would agree with those who object to this amendment. I would agree that it does not go far enough to protect our civil liberties if all it said was one of the three top the Justice Department officials can initiate a wiretap. But the law does not stop there now. It does not allow Federal officials to operate on their own for long. Indeed, it requires that if the Attorney General authorizes an emergency wiretap for any one of those three circumstances I mentioned, they must nonetheless go before a Federal judge within 48 hours and make a case that probable cause exists for this wiretap prior to the authorization of the wiretap, prior to the time the tap started. Prior to that time, they have to prove there is probable cause that the subject was committing a specific crime. The officials also must convince the judge that they could not have completed the necessary application prior to beginning the wiretap.

And, of course, if the judge concludes that either they could have completed the application in the necessary time or that there was no probable cause at the outset, then none of the evidence, no matter how incriminating, that is acquired as a consequence of the emergency tap can be used in court against the target. If the judge does not buy it, enforcement will have blown their case. Not only must the wiretap stop, but none of the evidence obtained by the tap can be used against the target.

This is a powerful check on the Government's power. You can bet that they are not just going to go around willy-nilly exercising—the top three officials of the Justice Department—emergency authority because, if they do, they will lose their evidence if they turn out to be wrong, which means they will lose their case, which means the bad guys go free and all the time investigating up to that point will have been wasted and blown. That is not what law enforcement wants.

I want to repeat. Why, if we give this authority, this very limited and proscribed emergency authority to the Government, to the prosecutors, to the Attorney General of the United States, to deal with organized crime, why does it not make sense to allow them to deal with Hamas or deal with a terrorist organization?

The last time I looked, the Mafia had not blown up a Federal building. The last time I looked, the Mafia had not blown up the World Trade tower. They are real bad guys, and I have spent the bulk of my career as a U.S. Senator on both the Intelligence Committee and the Judiciary Committee passing laws and working to nail the Mafia. But if an emergency wiretap is good enough for John Gotti, why is it not good enough for the Unabomber? If the emergency wiretap is good enough for John Gotti, why is it not good enough for some wacko who blows up or is about to blow up a Federal building in Wilmington, DE, or Washington, DC?

I want to repeat. To give this authority to the Government when it comes to organized crime, why not for terrorists?

Of course, wiretapping is a powerful and intrusive tool. That is why the current wiretap statute contains a number of restrictions to prevent the abuse of emergency wiretaps, none of which would be changed by this amendment.

Let me repeat. Only the top officials at Justice—the top three, those who have the most at stake in an investigation being blown by bad evidence—can authorize such a tap. Even then, they have to go to the court within 48 hours and must adhere to all the strict guidelines for getting a court order in the first instance. If they do not get the court order, none of the evidence is able to be used.

Let me emphasize. This amendment does not in any way weaken what the Government must show to get a wiretap order. Law enforcement still must show that some particular person has or is about to commit some particular crime. And this provision only applies to cases of international domestic terrorism, which is further defined as—let me define what this would apply to and only what it would apply to: activities that involve violent acts, or acts dangerous to human life, and which appear to be intended to intimidate or coerce the civilian population, or to influence the policy of the Government by intimidation or coercion, or to affect the conduct of a Government by assassination or kidnapping.

Why, if in fact they believe that any one of those circumstances exist, should they not, with all the safeguards built in, be able to get an emergency wiretap?

Let me say, although I have no illusions that this will pass, that I hope we will continue to demonstrate by the votes we have heretofore—over 45 and as many as 48 of our 100 colleagues felt strongly about these issues. These are not frivolous undertakings. These are not frivolous motions. All but one of the amendments I have offered, I believe, has gotten over 40 votes. I think they have all gotten over 45 votes, so we are pretty evenly divided on this. I just want to make sure that before final vote on this conference report, that I do everything in my power to make this a much more useful tool in fighting terrorism.

Again, I know my colleague—and I respect him—is going to say if this passes it will kill the bill. I cannot believe that this will kill the bill. If we cannot put 35, or whatever number that is the number quoted by the House, Members of the House in the position where they have to yield on what would be an incredibly strong bill only because they are worried that we now allow terrorists to be treated the same way as John Gotti and the mob, then I think—I doubt whether they will vote that way because I doubt whether many of their constituents will keep them around if they vote that way. And quite frankly, if they vote that way, it is best for all to see. If they vote that way and defeat the conference report, we could come back with an amended report and pass what we have. So this will not kill the bill, but I am sure that is going to be stated.

I reserve the remainder of my time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Utah.

Mr. HATCH. Mr. President, again, in the real world, in the case of the Unabomber or a terrorist where there is a real threat or an immediate concern, you do not need this provision to get an emergency wiretap. All the Senator's motion does is expand the number of crimes that would trigger the wiretap statute. This amendment was offered during the Senate debate. It was defeated. It was not a part of the Senate bill. It was not a part of the House bill. It is not a part of our conference report, and rightly so. I oppose this provision that could expand emergency wiretap authority to permit the Government to begin a wiretap prior to obtaining court approval in a greater range of cases than the law presently allows. I personally find this proposal troubling. I am concerned that this provision, if enacted, would unnecessarily broaden emergency wiretap authority. Under current law, such authority exists when life is in danger, when the national security is threatened, or when an organized crime conspiracy is involved. In the real world, we do not need this amendment to get emergency wiretap authority, and that is a fact.

Let me also say that this authority is constrained by a requirement that surveillance be approved by the Court within 48 hours, but that authority already exists in those areas I have addressed.

Now, this proposal of the distinguished Senator from Delaware would expand those powers to any conspiratorial activity characteristic of domestic or international terrorism. I do not think that expansion is necessary to effectively battle the threat of terrorism. You can get that emergency authority now. In the Unabomber case, no question; when terrorist acts are threatened, no question. I think that the opinion of many, many experts would agree with this analysis.

Now, it is also very important to note that it is not 35 conservatives over in the House that are against this. The vast majority of people against this amendment happen to be liberals who are very concerned with an unwarranted expansion of wiretap authority and surveillance authority. I have to say now there is an increasing number of libertarian conservatives who are becoming more concerned over law enforcement and some of the approaches that have been taken. I personally believe that those concerns are not justified.

On the other hand, they are legitimate concerns, and they arise primarily out of the Waco and Ruby Ridge and Good Ol' Boys Roundup, and other types of law enforcement mistakes that really were made. I have called them mistakes. Some people have felt that they should be characterized a little stronger than that.

Frankly, I am proud of the law enforcement agencies of this country. I know these people. I know what wonderful people they are. I know how much they risk their lives for you and me. But we do not need this authority in order to do emergency wiretaps in these particular areas.

At this point, I should like to yield 5 minutes to the distinguished Senator from California, who has asked me for some time.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I very much thank the distinguished chairman of the Judiciary Committee for this opportunity. I did have an opportunity to speak yesterday, but there is something I omitted to say that I very much felt was part of this discussion.

What happened in Oklahoma City was brought home to us in California last Friday. Early that morning, about 9 o'clock, there was a phone call that came into the Vacaville headquarters of the Labor Department's Mine Safety Administration, and the caller said, using some expletives, "You guys are all dead. Timothy McVeigh lives on."

Later that afternoon, a mine safety inspector by the name of Gene Ainslie, who worked with the Department of Labor, was returning from inspecting a mine in Sierra County and he dropped off his official car. He got into his pickup truck, met his wife, started out on Interstate 80 to return to Sacramento, and the pickup truck exploded. A bomb had been placed on that truck.

Gene and Rita Ainslie are hospitalized today in serious condition—actually, today is their 32d wedding anniversary—Gene, with shrapnel in his legs and severe burns, and his wife with a broken ankle and a dislocated hip, but they survived. I and every Member of this body send them our fondest greetings and let them know that our hearts and thoughts are with them both.

This was not a random act of violence. It was not a deranged individual on a shooting spree. It was a deliberate and, once again, targeted attack on a representative of the U.S. Government, an attack that was aimed at murdering a Federal employee. This is not an isolated incident, and we have all seen them happening. There will be a study that will released very shortly, an annual study of terrorism. And what it will show is that, for the first time, the United States of America is listed among the top 20 nations experiencing the highest level of terrorism and political violence in the world.

I was shocked when I heard this. According to the study, there were 44 incidents reported to the authorities in the United States, an increase of 200 percent since 1988. With this number of incidents, according to this study, we ranked ahead of Lebanon.

I only say this because of the particular pertinence of the legislation before us today. We relate the legislation to the Oklahoma City bombing a year ago, but in fact even last Friday an incident took place in the State of California.

I think we also need to look at what is happening in our society that is fostering so much hatred and disregard for human life, and what can be done to restore the values of justice and respect for the rule of law that really made this the greatest democracy on Earth.

I do not believe this is about restoring faith in our Government. I do not believe right thinking people resort to this kind of violence because they think they pay too much in taxes or because they are angry at Government red tape. I think there really is no justification and no rationale for this kind of behavior.

But what does concern me is that the report I get from California is that there are very dispirited Federal employees, that morale is low, and that some, for example those affected by the bomb last Friday, really do not know that anybody cares about them. And what I want them to know, and I know I am joined by every Member of this Senate, is that, in fact, we do care about them. We do know that Federal employees—every member of the Army and the Navy who went to the Gulf war was a Federal employee, every park official is a Federal employee—these people take the job not for the money, certainly, but because this is the way they want to serve their Nation.

They are entitled to respect, and it is our job to see that they have that respect. So, as we pass this bill, which I hope we will do shortly, as a kind of living memorial to what happened in Oklahoma City, I think we have to do it with a view that these events are taking place in this Nation daily, just as it happened last Friday near Sacramento and Vacaville in the State of California.

I say to Gene Ainslie, 56 years old, celebrating his 32d anniversary today with his wife Rita, and all those who labor as part of the Federal Government, that we Americans do respect them, that we do honor them, and we will do everything in our power to see that this kind of behavior is not inflamed, but rather it is put to an end.

The PRESIDING OFFICER. The Senator from Utah has 5 minutes and 13 seconds.

Mr. HATCH. Is there any other time remaining?

The PRESIDING OFFICER. The Senator from Delaware has 4 minutes and 9 seconds.

Mr. HATCH. I am prepared to yield back the remainder of my time.

Mr. BIDEN. I am prepared to yield back the remainder of my time.

Mr. HATCH. Then we will both yield the remainder of our time.

Can we proceed to the next amendment?

MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, my colleagues will know this is the last motion I have.

I offer a motion to recommit the conference report with instructions to delete the section relating to the study of Federal law enforcement. Senator KOHL of Wisconsin wishes to be added as a cosponsor as does, I believe, although I am not certain, Senator NUNN. I will check that. But Senator KOHL for certain.

I send a motion to recommit the conference report to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Delaware, [Mr. BIDEN], moves to recommit the conference report on the bill S. 735 to the committee of conference with instructions.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion is as follows:

Motion to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on deleting the text of section 806 of the conference report.

Mr. BIDEN. Mr. President, just for the sake of discussion, if there were 10 very important provisions in this bill when we passed it out of the Senate, it has come back to us with 4—I am not being literal—with fewer than we sent over. Fewer than 50 percent of the provisions that I think are important in this bill remain in the bill.

In truth, when the Senator and I got to conference, there were probably only 10 percent of the provisions we thought important in the bill. To the credit of the Senator from Utah, he was able to get back additional provisions in the bill. For that I compliment him.

What I have been fighting about all afternoon here is trying to add back provisions that I think were mindlessly removed and removed tools that we could make available to law enforcement to protect my children and me and all of us in this Chamber and around this country.

This is the one portion of the conference report that I am seeking to delete that has made the bill worse than when it went out of here. Up to now I have been arguing that we sent a bill out of here with a lot of good things that the House stripped out and I wanted to put them back in. Not only did the House take out the bulk of the really good things that were invaluable to fight terrorism, but it added some things which I think are counterproductive. One of them is pandering to this concern of some Americans that the bad guys are the cops, the bad guys are the Government, the bad guys are the FBI or the ATF or the Justice Department.

I do not believe we should go forward with an antiterrorism bill that has a study in it only of police and not terrorists. For that reason, I propose to delete the study of the police in this bill. I think it is more of an affront than it is a substantive problem. If we do not delete this, we will be faced with a conference report that studies cops but not terrorists.

Let us remember who has literally laid down their lives in the defense of our Nation and our way of life. It is the Federal law enforcement officers, not the terrorists. This study will provide nothing but a forum for those who believe the Federal law enforcement is the enemy of the American people and not the protectors. We are unwittingly aiding and abetting that notion by deciding that, in a terrorism bill, we are going to study the cops.

The study says, section 806, Commission on the Advancement of Federal Law Enforcement.

(a) ESTABLISHMENT.—There is established a commission to be known as the "Commission on the Advancement of Federal Law Enforcement" (hereinafter in this section referred to as the "Commission").

(b) DUTIES.—The Commission shall review, ascertain, evaluate, report, and recommend action to the Congress on the following matters:

(1) The Federal law enforcement priorities for the 21st century, including Federal law enforcement capability to investigate and deter adequately the threat of terrorism facing the United States.

(2) In general, the manner in which significant Federal criminal law enforcement operations are conceived, planned, coordinated, and executed.

(3) The standards and procedures used by Federal law enforcement to carry out significant Federal criminal law enforcement . . .

(4) The investigation and handling of specific law enforcement cases . . .

(5) The necessity for the present number of Federal law enforcement agencies and units.

Get that? We are going to study the necessity, the necessity of the present number of law enforcement agents and agencies. What is the implication of that? The implication of that is there are some bad law enforcement agencies out there. I assume this is the right's attempt to go after the Alcohol, Tobacco and Firearms. I do not know. That is who we are studying. We are going to study the cops, not the terrorists.

We have to study the location and efficacy of the office or entire entity responsible, aside from the President, for the coordination of interagency bases of operation, programs and activities of all Federal law enforcement agencies.

It goes on, by the way, for another half a dozen sections.

Think about this. Many of us were local officials before we came here. How many times did a very small segment of our community come to tell us that we had to set up commissions and we had to set up outside organizations, we had to set up police review boards, and so on, because they did not like the cops? Sometimes it was necessary. But remember how good cops responded to this.

I spoke with Director Louis Freeh today. He called me—the Director of the FBI. Of every single thing in the bill, this is the thing that most concerns him because of what it says to the American people about what we in the Congress think about our law enforcement agencies, the very people who probably have captured the Unabomber; the very people who have gotten hold of, apparently, the man or men who blew up the World Trade Center, as well as the Federal building in Oklahoma City; the very people who, just a couple of weeks ago, outside of my State in neighboring Pennsylvania, were shot down dead, protecting people in Philadelphia—FBI agents, the very people who, increasingly, are losing their lives fighting crime and terrorism.

These are the people who we are going to investigate. There is not even a parallel study in here to investigate malicious, to investigate organizations that, in fact, raise questions, to investigate—separate issue—terrorist, per se, organizations. We are going to investigate the cops.

I can remember the years during the Reagan era. We talked about how demoralized the military felt and, to Reagan's great credit, in my view, one of the things I agreed with him on is he built up the morale of the military, after years of being beaten about the head after Vietnam.

These guys need our support, Mr. President. These women need our support. They do not need us yielding to the NRA and others insisting on a study—a study of them in a terrorism bill.

That is the study we are going to make. We are fighting terrorism, and every law Federal law enforcement officer in the Nation, guarantee you, knows that we spend an entire page of this bill—that is not true, half a page of this bill—laying out extensively what we are going to study, the people we are going to appoint to study this and, listen to this:

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 5 members appointed—

By whom?

One member appointed by the President pro tempore in the Senate; one by the minority leader of the Senate; one by the Speaker of the House; one appointed by the minority leader of the House; one member who shall chair the Commission will be appointed by the Chief Justice of the Supreme Court.

(2) DISQUALIFICATION.—A person who is an officer or employee of the United States shall not be appointed a member of the Commission.

How is that? Why cannot someone who is an officer of the U.S. Government—what a field day these wacko Freemen out in Montana are going to have when we pass this. I promise you, they are going to hold this up—some of them, may not be those guys—but other wackos and say, "See, we're right, the U.S. Congress thinks we have to study these people, and they don't even trust them enough to allow any Federal Government employee in any capacity to be on the commission."

I think this is humiliating, absolutely humiliating. Disqualifications: you are disqualified if you are an officer or an employee of the United States of America. That means any military person could not be on the commission; it means the Chairman of the Joint Chiefs of Staff could not be put on the commission.

This is disturbing, and if you doubt what I am saying after this is over or before we vote, pick up the phone, call Louis Freeh, call any of the police officers you know and respect, call the people we count on to protect our lives that we are studying them.

I see my friend from Utah is on his feet, and my friend from Wisconsin who wishes to speak in favor of this motion is here. I will be happy to yield to either one of them. How much time remains under my control, Mr. President?

The PRESIDING OFFICER. Three minutes 50 seconds.

Mr. BIDEN. I yield the remainder of the time to the distinguished Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. I thank my friend from Delaware.

Mr. President, I rise to speak in support of this motion to recommit, and I also want to speak generally about the terrorism measure before us. In sum, we should approve this legislation because it is the best we are likely to get and the best we can do for the victims of the Oklahoma City bombing. But I believe the record should be clear that we should have done better.

For many years, we have watched with growing concern as terrorist violence has escalated and reached closer to our homes. We can no longer ignore the fact that post-cold war violence knows no borders, and respects no distinction between soldiers and innocents.

For that reason, Senators BIDEN and SPECTER and myself introduced legislation to fight international terrorism last February. We broadened our legislation to reach domestic terrorism after Oklahoma City. And building on this, the Senate overwhelmingly supported a strong, bipartisan proposal.

That is not the proposal we are debating, however, today. We are now considering a version of that bill which is far more watered down.

Still, if we cannot enact a strong and decisive antiterrorism bill, this measure will do at least some good. For example, it will still provide law enforcement with new weapons to choke off terrorist fundraising, new powers to deport suspected terrorists, and the ability to "tag" plastic explosives. All of these provisions will help reduce the threat of terrorism, all are constitutional, and in their entirety they make this measure worth saving.

Unfortunately, other parts of the conference report are more problematic. The conferees deleted Senate provisions that would prevent new technology from undermining our wiretap laws. The conferees prohibited the military from using its resources to help fight chemical and biological weapons.

And the conference also added some troubling items. For example, our subcommittee held 14 days of hearings on Ruby Ridge and issued a report that was praised across the political spectrum—by Janet Reno and by militia leaders. So why do we need to have a so-called Commission reopen this matter? Similarly, why does a study of cop-killer bullets suddenly appear in this bill? Is this really necessary? Is it really an important part of our fight against terrorism?

I believe the answer is no.

The best arguments against the motions to recommit seem to be this: Don't let the perfect be the enemy of the expedient. Or we have to accept the bad in this bill to finally enact some of the good.

Well, in a certain sense that is true. But America should clearly understand that this is not what we here in the Senate agreed to. America should know that this legislation has been used to forward a political agenda that does not advance the cause of preventing terrorist acts. America should understand that while this bill does something for the memories of the Oklahoma City victims, it could have done much more.

So I will support this conference report—on balance it is better than no bill at all—and I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, this Commission will explore issues surrounding the future and mission of Federal law enforcement as we enter the 21st century. Among other things, the Commission will assess our efforts to prevent and investigate future acts of domestic and international terrorism. It will consider the pressing issues facing law enforcement as crime rates rise and as criminals become more sophisticated.

I appreciate the fact that the law enforcement community is sensitive to this sort of review, but this Commission is different in focus, and we made it different in focus in the conference from the House-passed version. What was once a Waco-Ruby Ridge Commission with subpoena power is now a Commission to help Congress set Federal law enforcement priorities for the 21st century. It is a Commission which, in my opinion, will help law enforcement. I must say to my friends in the law enforcement community that I only learned of their concerns after the report was filed. If there are specific areas of the Commission's scope which are truly troublesome, I will work with them to try to address their concerns.

It should be noted that the last time a Commission looked at Federal law enforcement was over 60 years ago in 1931. In that year, the Commission on Law Observance and Enforcement, established by President Hoover, better known as the Wickersham Commission, made public its recommendations to Congress.

In a report signed by its chair, former Attorney General Wickersham, the Commission concluded that the growth of interstate crime, an interstate organized crime network, and interstate property and economic criminal activities, mandated the need for an increased Federal role in law enforcement.

At that time, the findings and recommendations of that Commission were truly a major contribution to the fight against crime in this country.

There is more I have to say on this. At the appropriate time, I will move to table both of the Biden motions, because this Commission is thought to be extremely critical by people in the House. We have bona fide it to make it more palatable to those who object to it, and I believe we bona fide it to a degree that it can be acceptable.

On the other hand, we will continue to look at this language after this bill is passed, and I will continue to listen to law enforcement and others who are concerned and see what we can do to resolve their concerns.

I am pleased to yield 10 minutes to the distinguished Senator from Pennsylvania.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished chairman of the Judiciary Committee for yielding this time.

I support this legislation because I think it makes important improvements in our fight against terrorism and also in our fight against violent crime in the United States.

The additional $1 billion will be an enormous help to the FBI and law enforcement officials to fight terrorism. The Subcommittee on Terrorism, which I chair in the Judiciary Committee, held extensive hearings after the Oklahoma City bombing. There is absolutely no doubt about the need for more resources by the FBI. The FBI Terrorism Center will provide a clearinghouse which will be of enormous aid and assistance.

As is frequently the case, the bill is not entirely to my liking or the liking of anyone. There are a couple of provisions which concern me that I want to comment about because they may be cured at a later date.

On the provision relating to expedited deportation, I am concerned about the absence of a right of confrontation. There is a constitutional right to confront your accuser in a criminal case. A deportation proceeding is not a criminal case. It is defined as a civil case, but the consequences are extreme because a person is ousted from the country. There are very important policy considerations to not allowing the right of confrontation because many of the witnesses are confidential informants and the disclosure of their testimony would be very harmful to ongoing law enforcement efforts.

We do have an unclassified summary, included in an amendment offered by Senator SIMON and myself, and I think that is about as far as we can go. But I believe we have to watch how the act works on this expedited deportation proceeding in the absence of a confrontation right.

The restrictions on fundraising are also important. I have some concern about the limited judicial review, but on balance, this legislation against terrorism is very, very important. I am glad to see that we are finally acting on it.

Attached to this terrorism bill, Mr. President, are provisions relating to modifications of habeas corpus which limit the time for appeals on death penalty cases. This has been a long time in coming to this country. It is something that I have worked on personally for more than a decade, based upon the experience I had as the district attorney of Philadelphia. We currently have the death penalty applied and then there are delays of up to 17 years while the cases languish in the Federal courts. Most of the arguments about these provisions are made by people who are opposed to the death penalty. The lengthy appeals process in the Federal court has, in effect, defeated the deterrent effect of the death penalty.

I am personally convinced, Mr. President, that the death penalty is a deterrent. I saw many cases in my 12-year tenure in the Philadelphia district attorney's office, 4 years as an assistant DA trying murder cases and 8 years as district attorney, arguing appellate cases where the death penalty was imposed, and I am convinced that professional burglars do not carry weapons for fear of the death penalty when it is timely. But the only way a deterrent can be effective is if it is certain and reasonably swift. The time limits established in this bill are very, very important. They break new ground.

I first offered these time limits, Mr. President, in 1990. After a long, tough debate we got these time limits established by a 52-to-46 vote. They were incorporated again in 1991, passed by a narrow vote of 58 to 40. In 1993, habeas corpus was left out of the crime bill, and I offered these provisions. They were defeated on a motion to table. Senator HATCH and I later collaborated on the Specter-Hatch bill. It is not too easy to come ahead of Senator HATCH on a bill, but I did. Senate bill 623 established those time limits and they are incorporated into this final bill. They will require that anyone on death row has to file a habeas corpus proceeding within 6 months if counsel is provided, under State law, or within 1 year if counsel is not provided.

Mr. President, I think that we should have included provisions for counsel. They are not in this bill. I think that is a serious mistake. I hope it is a mistake we can correct at a later time.

When you talk about inmates languishing on death row for up to 17 years, you are talking about a problem for the system, you are talking about a problem for law enforcement, you are talking about a problem for the victims' relatives, and you are also talking about a problem for the defendants themselves on death row.

The European Court on Human Rights decided that it was cruel and barbarous treatment, cruel and inhumane treatment, to keep someone on death row for 6 to 8 years. There was an extradition case which came up where somebody was accused of murder in the first degree in Virginia, which had the death penalty, and extradition was sought from Germany. The Court denied extradition on the ground that it would be cruel, barbarous, and unusual treatment to keep someone in jail for lengthy periods of time, for 6 to 8 years. Obviously, 17 years is an extension of the time which was held to be cruel and barbarous treatment.

This bill provides a limitation on time so that the district court must decide the case within 180 days, 120 days for brief and hearing, and 60 days for decision. I have been involved in these cases in the State court. I have been involved in habeas corpus proceedings as a trial counsel in the Federal court. What the judges do is put these cases on the back shelf. There is no reason they cannot give these cases priority treatment. Now they will have to. The Congress of the United States recognizes judicial independence on what judges decide, but in terms of timetable, we have the authority to establish timetables, and we have done so under the Speedy Trial Act of years ago. Even in the jurisdictions which have a tremendous number of death penalty cases, like Texas, California, and Florida, the judge does not have more than one of these cases every year and a half. So they can put these on the expedited trial list.

This bill also provides that there will not be repetitive decisions, because the court of appeals will be the gatekeeper.

Mr. President, I inquire how much time I have remaining of my 10 minutes.

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. SPECTER. That tells me how brief I have to be.

We have had repetitive petitions filed. They have been a major irritant in the Federal court system. The idea of the Court of Appeals as a gatekeeper came to me from a law school classmate, Judge Jon Newman, chief judge of the Court of Appeals for the Second Circuit.

I am concerned, Mr. President, about a couple of provisions. I think the bill is too restrictive in limiting the ability to present a claim of innocence, requiring that it be proved by clear and convincing evidence. I joined Senator LEVIN in seeking to change that standard. But the reality is that the standard of proof is a very variable thing. I think if it is established innocence, it may not make a whole lot of practical difference, but I think clear and convincing evidence is too high a standard from a theoretical point of view.

Similarly, I do not favor the deference which is allowed to the State court decision, requiring that it has to be unreasonable in order for the Federal court to overturn it. But I think in a Federal habeas corpus proceeding, if the court thinks it is unreasonable, it will be able to overturn the decision, notwithstanding a standard that is really not as precise as it ought to be.

I think the exhaustion requirement is misplaced here. We would be better off without it. But the net effect, Mr. President, is that this legislation is very good legislation taken as a whole. It will help out on terrorism with the additional resources. We have a tremendous problem in this country with the potential for terrorism. We have seen it in the World Trade Center bombing. We have seen it in Oklahoma City. In my capacity as the chairman of the Senate Intelligence Committee, I see a lot of problems which we cannot discuss openly, but we can move for the additional resources.

On law enforcement, the death penalty is the law of the land in 37 jurisdictions in this country. It is favored by more than 70 percent of the American people. If States do not want it, they do not have to have it. But the

States that do have it ought to have it enforced. I think the overwhelming weight of authority is that it is a deterrent. These provisions are fair to the defendant. The European Court on Human Rights held it cruel and unusual punishment to impose a delay of more than 6 to 8 years.

So it is fair to the defendant. Certainly it provides closure for the victims' families, and it will reinvigorate law enforcement by taking out the habeas corpus provisions which really made the death penalty a laughingstock. So in total I think it is a good bill.

I commend all of my colleagues who have worked on it in the House. I think we will see passage of something which will be very, very significant for law enforcement in this country.

Mr. President, violent crime has been one of the worst problems faced by the people of our country for several years. Homicide rates, fueled by illegal drugs, spiraled upward in the 1980's. While the rate of violent crime has recently started to decline, there remains far too much violence in our society. And while the violent crime rates are down, the future is grim: the rate of murder and violent crime committed by children under 17 is soaring, and the number of youth in our society is increasing. Therefore, we may expect another surge in violent crime unless we take action.

There are many avenues to take to curb violent crime. We need a balanced approach that includes law enforcement, drug prevention and treatment, crime prevention programs and other means of steering juveniles away from drugs and crime.

Based on my personal experience as an assistant district attorney and as district attorney of Philadelphia, I am convinced that the death penalty is an effective deterrent to violent crime. Criminal justice experts agree that in order for any penalty to be effective as a deterrent, it must be swift and certain. When years pass between the commission of the crime and the carrying out of the sentence, the link between crime and punishment is broken.

The great writ of habeas corpus is the means by which criminal convictions and sentences in State court are reviewed in Federal court to ensure that the trial satisfied the requirements of the U.S. Constitution. It has been an indispensable safeguard of constitutional rights in this country, especially since the 1930's when the Supreme Court began reviewing State-court convictions in cases like the Scottsboro case. Unfortunately, the Federal courts have gone too far in habeas corpus cases. These cases drag on for years, and there is no end to them, as inmates, especially those on death row with nothing to lose, file endless rounds of petitions.

There is no statute of limitations for filing habeas corpus petitions. This leads inmates who have been sentenced to death to wait until they are facing their imminent execution before filing their habeas corpus petition in Federal court. An example of this abuse is the case of Stephen Duffey in Pennsylvania. Duffey murdered his victim in 1984. His conviction was finally upheld by the Pennsylvania courts in 1988. His death warrant was not signed until 1994, 10 years after the murder. It was only when the death warrant was signed by the Governor that Duffey first sought habeas corpus review in Federal court.

The requirement that all claims raised in Federal habeas corpus petitions be presented and fully adjudicated by State courts has also led to excessive delays and unsound rules as to whether Federal courts can even consider a habeas corpus petition.

The case of Michael Peoples, which I have discussed with my colleagues on numerous occasions, shows graphically how the exhaustion rule leads to excessive formalism and delay. People was convicted of a vicious robbery in 1981, and his conviction was upheld by the intermediate Pennsylvania appellate court in 1983. The Pennsylvania Supreme Court denied review by an order that did not make it clear whether it was based on the merits or on the court's procedural discretion not to hear cases that do not present a substantial legal issue. Peoples then filed a habeas corpus petition in 1986. The district court denied the petition for failure to exhaust his State remedies. The Court of Appeals for the third circuit then reversed on the ground that the exhaustion requirement had been satisfied when the Pennsylvania Supreme Court denied review. Peoples then appealed to the U.S. Supreme Court, which granted review—making the case 1 of just 147 it heard that year out of over 4,550 petitions for Supreme Court review—and reversed the third circuit. On remand, the third circuit issued a complicated ruling finding that Peoples' habeas petition contained both exhausted and unexhausted claims and sent the case back to the district court. Years were spent considering just this initial procedural hurdle of exhaustion. I believe we would have been better served had the courts simply reviewed the substance of Peoples' claims.

Another problem causing the excessive delay in carrying out death sentences has been the ability of inmates to file repeated habeas corpus petitions. Once again, I turn to an example I have often discussed with my colleagues, the case of Robert Alton Harris. After being convicted of a double murder in a California court in 1980, Harris filed over the next 14 years 10 petitions for State post-conviction relief and five Federal petitions for habeas corpus. The Supreme Court of the United States considered 11 different applications relating to the Harris case. Many of the petitions Harris filed contained similar or overlapping claims, although none raised doubts about his guilt. Finally, after 14 years, Harris was executed. I regret to say that the Harris case is far from unique in its multiple habeas corpus filings.

Abuse of the writ of habeas corpus has led to the death penalty being not an effective deterrent, but a mockery. Inmates on death row spend an average of over 9 years awaiting execution. And may wait much longer, with some cases dragging on 18 or more years. During these periods of lengthy delay in carrying out death sentences, the families of the victims are left in a sense of suspension, unable to put the tragedy behind them.

Putting an end to these excessive delays will once again restore vitality to the death penalty as an effective deterrent to violent crime, which I know from personal experience it is. I have told my colleagues on numerous occasions over the past several years about the case of Cater, Rivers, and Williams, three young hoodlums who I prosecuted as an assistant district attorney. These three were planning on robbing a Philadelphia pharmacy. When Cater and Rivers saw that Williams was carrying a revolver, they told him they would not participate in the robbery if he took the weapon because they feared the death penalty. Williams put the gun in a drawer, but as the three were leaving, Williams sneaked it back into his pocket. Williams used the gun in the commission of the robbery to kill Jacob Viner, the pharmacist.

All three men convicted and sentenced to death because, under the law, Cater and Rivers were equally responsible for Viner's murder as Williams. Ultimately, Williams was executed, but Cater and Rivers had their sentences commuted to life imprisonment because they were unaware that Williams had carried the gun. As a prosecutor, this case was just one of many I encountered in which burglars and robbers refused to carry firearms because they feared the death penalty.

In order to make the death penalty once again an effective deterrent, I have actively been attempting to streamline habeas corpus procedures since 1990. When the Senate considered anticrime legislation that year, I offered with Senator THURMOND an amendment to reform habeas corpus procedures to speed up and streamline the process. My amendment was adopted by the Senate, 52 to 46, and included in the final bill. Unfortunately, at the insistence of the House conferees, the provision was dropped from the conference report adopted the last day of the 101st Congress.

In the 102d Congress, I introduced legislation, S. 19, that was substantively identical to the 1990 amendment the Senate had passed. When the

Senate considered anticrime legislation in 1991, however, Senators HATCH and THURMOND offered a slightly different habeas corpus reform amendment that was based on my legislation but included language limiting the scope of Federal review of State convictions. After careful consideration, I spoke at length in favor of that amendment and voted for it. This amendment also passed the Senate, 58 to 40, and included in the final bill that passed the Senate. When the bill went to conference, however, the House insisted on its habeas corpus provisions which, rather than reducing delays and streamlining the process, would have allowed for greater delay and more manipulation of the process. The conference report that contained that provision was filibustered in the Senate because of its habeas corpus provisions and never came to a vote.

Once again in the 103d Congress, I introduced legislation similar to my previous efforts. When the 1993 anticrime bill was debated in the Senate, the managers decided that habeas corpus reform was too tough an issue to resolve and remove the bill's habeas provisions. I strenuously objected and brought before the Senate a bill I introduced to streamline the process. While many of my colleagues wanted to see us take action on the bill, it was tabled in order to keep the habeas issue from interfering with efforts, which I also supported, to secure Federal assistance for police hiring and prison construction.

When Republicans took control of the Senate and House this Congress, I had high hopes that we would finally be able to resolve the issues that had previously derailed efforts to reform habeas corpus. Together with Senator HATCH, I introduced legislation, S. 623, to impose a statute of limitations on the filing of habeas corpus petitions, restrict the ability to file successive petitions, impose time limits on Federal court consideration of habeas petitions in capital cases, and encourage States to provide adequate counsel in capital habeas cases.

In the wake of the Oklahoma City bombing, as the Senate developed antiterrorism legislation, I worked to ensure the inclusion in the bill of my habeas corpus reform legislation. As introduced and passed by the Senate, S. 735 includes in full the provisions of S. 623. When the House ultimately considered its antiterrorism bill, it included my habeas corpus reform language as well.

As I mentioned, there are several aspects of the habeas corpus reform provisions that I would prefer were different. Most glaringly is the restrictive standard of review. The bill continue to require deference to State courts' findings of fact. Federal courts will owe no deference to State courts' determinations of Federal law, which is appropriate in our Federal system. However, under the bill deference will be owed to State courts' decisions on the application of Federal law to the facts. Unless it is unreasonable, a State court's decision applying the law to the facts will be upheld. I am not entirely comfortable with this restriction, but upon reflection I believe that the standard in the bill will allow Federal courts sufficient discretion to ensure that convictions in State court have been obtained in conformity with the Constitution.

I also believe that the formulation in the bill is too restrictive in limiting successive petitions when the inmate raises a claim as to innocence. For this reason, I supported Senator LEVIN's amendment when the bill was initially considered by the Senate. That amendment, however, was tabled.

Finally, I am disappointed by the absence of two provisions from the habeas corpus reform sections. Since 1990, I have been convinced that we can improve the process by eliminating the exhaustion requirement. I have tried repeatedly to do so. Both prosecutors and representatives of the defense bar have strenuously objected to these efforts, albeit for different reasons. Despite my certainty that the bill would be improved had we eliminated the exhaustion requirement, I am willing to move forward without its elimination in the interest of getting habeas corpus reform. I am also concerned that the bill does not establish standards for trial counsel in capital cases. In my previous efforts I had sought to ensure that the States provided adequate counsel in capital cases at both trial and in the post-conviction process. Improving trial counsel in capital cases is a critical step to making the trial rather than the habeas proceedings the central event in death-penalty cases. This bill, while seeking to ensure adequate counsel for habeas proceedings, does nothing to strengthen the minimal constitutional standard for ensuring adequate counsel at trial.

Despite the provisions that concern me and the failure of the habeas reform to include two elements important to a fair and comprehensive scheme of habeas reform, I support the habeas corpus reform provisions of this bill. In politics, one learns that the best is the enemy of the good. Since the restoration of the death penalty in 1976, we have seen its effectiveness as a deterrent sapped by delays attributable to defects in the habeas corpus system. The reforms included in this bill, while not perfect, will go a long way to restoring vitality to the death penalty as an effective deterrent to violent crime. I was therefore willing to sponsor these provisions in conjunction with Senator HATCH and am please to see them enacted. They are the culmination of many years of effort, and I am deeply satisfied by their adoption.

We are, of course, dealing with an antiterrorism bill, and there are several provisions of the bill in addition to habeas corpus reform that I want to address briefly. As chairman of the Judiciary Subcommittee on Terrorism, I have long been interested in combating terrorism and have been very active in the area. In 1986, I introduced legislation that made it a Federal crime to commit a terrorist attack against a U.S. citizen anywhere in the world. I have also been active in seeking to limit diplomatic immunity for terrorist acts and for punishing acts of terrorism before an international criminal court. Earlier this Congress, I joined Senator BIDEN and Senator KOHL in introducing S. 390, the fist omnibus counterterrorism bill introduced this Congress, 2 months before the tragic Oklahoma City bombing that gave the issue such currency.

I am pleased that the conference report retained my amendment to the Senate bill to authorize assistance to U.S. allies to support the purchase of counterterrorism technology if U.S. interests are at stake. My original amendment authorized $3 million for this assistance, but in the wake of the recent terrorist bombings in Israel that have put the peace process at risk, the amount authorized in the conference report has been increased to $20 million.

I also want to express my support for the provision to require the Attorney General to study the availability of bombmaking manuals, evaluate whether current laws are adequate to address the problem, and determine whether anything else can be done constitutionally. My Judiciary Subcommittee on Terrorism and Technology held a hearing on this subject in May 1995. We were deeply troubled by what we heard. I am skeptical that the Government can do anything to restrict such information without violating the first amendment. I am pleased that the Attorney General, whose representative testified at our hearing, will study this matter and make appropriate recommendations.

The conference report adds a provision to make it a crime to misuse human pathogens and other biological agents. The terrorist threat from such agents is very real. My Terrorism Subcommittee is conducting a study on this issue and the threat from chemical agents as well. I know that the Governmental Affairs Committee has also held hearings on this subject. Recently, the full Judiciary Committee held a hearing on the threat posed by the wrongful use of human pathogens. After that hearing, I joined several other members of the committee in writing the President to express our concern over the gaps in Federal regulation over the distribution of human pathogens. I am pleased to see the conference report include this provision.

The conference report deleted the Senate-passed provision to authorize the broader use of multipoint wiretaps. I opposed the inclusion of this provision in the Senate bill and am pleased to see that the conferees deleted it. Current law strikes the appropriate balance, and I feared the Senate-passed provision went too far in threatening privacy interests.

I want to note that, while the conference report alters the expedited deportation provisions of the Senate bill, adopted as part of an amendment I offered with Senator SIMON and Senator KENNEDY, it preserves the requirement that if classified information is used to deport an alien suspected of terrorist activity, an unclassified summary adequate to permit the alien to mount a defense must be provided to the alien. This requirement is the absolute minimum that due process will permit. Anything less could not have survived constitutional scrutiny, and I am pleased that this aspect of my amendment was retained.

I am also troubled by the restrictions on domestic fundraising for foreign terrorist organizations. The Senate bill had allowed entities designated as terrorist to seek judicial review. That review would have accorded no deference to the administration's designation and allowed full and searching judicial review. The conference report, while retaining judicial review, establishes a deferential standard for that review. I am far less satisfied with this level of scrutiny. I am also concerned about the first amendment implications of this provision, restricting the ability of U.S. citizens to support favored causes. I acknowledge that the United States is a fertile ground of financial support for foreign terrorist organizations, but am nonetheless concerned about these infringements on U.S. citizens.

Finally, I want to express my strong disappointment over the limited scope of the provision allowing U.S. citizens injured by foreign terrorist attacks to sue foreign nations who supported the attack in which they were injured. In 1993, I introduced the first bill in the Senate to allow U.S. victims of foreign terrorism to sue foreign countries they suspected of supporting the terrorists who injured them. My bill was favorably reported by the Judiciary Committee.

When the Senate considered this bill, it included a provision similar to but narrower than my bill as reported by the Judiciary Committee in 1994, allowing suits against foreign nations for supporting terrorism only if the State Department had previously listed the defendant nation as a sponsor of terrorism. The House bill contained a broader provision allowing suit in the U.S. against any foreign country that did not provide due process in its own courts to remedy the injury to an American citizen.

As the conference on this bill began, I wrote to each of the Senate conferees urging them to accept the House-passed provision. As the conference proceeded, I had thought that an acceptable compromise would be reached. I deeply regret that the conference report rejected any compromise and adhered to the Senate's provision, which allows the State Department to manipulate those foreign nations that are subject to suit in U.S. courts for injuring U.S. citizens. Giving the State Department this role is contrary to the rationale of the Foreign Sovereign Immunities Act and will allow impermissible foreign policy consideration to affect the ability of Americans to seek redress for their injuries caused by foreign governments. I will continue to work on this issue to remove this unfair limitation.

This conference report is not all that could be hoped for. It does, however, represent a significant advance in our Nation's ability to fight terrorism without unduly compromising the rights and liberties of our citizens. As a result, I support the conference report and urge my colleagues to do so as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah has 2 additional minutes.

Mr. HATCH. I yield back my 2 minutes. I understand the time of the minority is also expired.

The PRESIDING OFFICER. That is correct.

Mr. HATCH. On behalf of Senator DOLE and myself, I move to table both of the Biden amendments, with the understanding that these votes are stacked.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Could I also ask unanimous consent that the first vote be 15 minutes in length, but the last two votes be 10 minutes each?

Mr. FORD. Reserving the right to object, Mr. President, I am not sure. Could you give me just a second?

Mr. HATCH. I will withhold that unanimous-consent request.

Mr. DOLE. Were the yeas and nays ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. The first rollcall will be 15 minutes, and the next will be 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. The third will be 10 minutes. The first vote is 15 minutes, the next two votes will be 10 minutes each.

Mr. DOLE. Mr. President, just short of a year ago, this country was rocked by an attack on the Alfred Murrah Federal Building in Oklahoma City, OK. In the wake of that horrible incident, in only a matter of weeks, the Senate responded by passing the Dole-Hatch comprehensive antiterrorism legislation by a vote of 91 to 8 on June 7, 1995. Most of its provisions were drawn from earlier Republican crime packages. Over the past month, we have worked in a bipartisan manner to craft what would surely be the toughest antiterrorism bill ever to become law.

This week, to honor the memory of those who suffered in Oklahoma, the Congress will send to President Clinton this landmark bipartisan antiterrorism bill. It has the support of the Republican Governor of Oklahoma, Frank Keating, and Oklahoma's Democratic attorney general, Drew Edmondson.

Under the leadership of Senator HATCH, we have a measure which would give us the strong, upper hand in the battle to prevent and punish domestic and international terrorism.

On March 27, 1996, I wrote to each of the conferees urging in particular that the three important provisions in the Senate bill be retained. The first facilitates a speedy removal of suspected foreign terrorists from U.S. soil. The second keeps foreign terrorists from raising money for their activities in the United States. The third makes membership in a terrorist organization the basis for exclusion from the United States.

Each of these is a commonsense protection for all Americans. Each of these reforms is long overdue. I am pleased that Senator HATCH and the conferees insisted on keeping these important reforms in the bill.

Most importantly, the bill contains comprehensive, effective habeas corpus reform, which has just been discussed by the distinguished Senator from Pennsylvania, Senator SPECTER, who, as he outlined, has been active in this area for many, many years.

I did visit the San Quentin State Prison in California about 6 or 8 weeks ago. There I met a father whose son had been murdered, a pretty clear-cut case, and it took 15 years—15 years—appeal after appeal after appeal before justice was meted out and the person who committed the murder was executed. There have been more people die of natural causes in that prison than of the death penalty, because of the frivolous appeals, appeal after appeal, costing the State millions and millions of dollars. Obviously, we need to protect the rights of the defendant, particularly in capital cases, but in my view, it is a sad commentary that on death row in San Quentin, where there are about 400-some inmates on death row, more will probably die of natural causes than because of the death penalty.

Maybe that will be changed because of this big, big step forward. I want to commend Senator HATCH, Senator SPECTER, and others who have worked on this a long time. It has been more than a decade of efforts. We are about to curb these endless, frivolous appeals of death sentences by those convicted of murder. Habeas corpus reform is the only substantive provision in this bill that will directly affect the Oklahoma City bombing case. It is the heart and soul of the bill.

I sent a letter Monday to President Clinton. In that letter, I reiterated that we simply cannot continue allowing convicted murderers to appeal their sentences year after year. President Clinton has already vetoed a similar reform of the death penalty appeals process. The White House continued right up to the end, to argue for changes in habeas corpus that would essentially gut this reform. I called on President Clinton to support us in this important effort and sign this bill when it is sent to his desk. America will not tolerate a second veto of habeas corpus reform.

I am very pleased, moreover, that the conference report provides victims of terrorism the ability to sue foreign governments responsible for terrorist acts in U.S. courts for the first time. On December 21, 1988, 270 people were killed in the terrorist bombing of Pan Am flight 103. This brutal act of terrorism killed more Americans than died in Desert Storm.

The Libyan Government was clearly responsible for this brutal crime. Yet, Libya refuses to extradite the Libyan intelligence officials responsible. I do not know anyone who believes there is a realistic chance that Qaddaffi will cooperate to bring killers he ordered to justice in a legitimate court.

For too long, the survivors of the victims have had no recourse to seek compensation from Libya. That's why the Dole-Hatch bill last year contained authority for victims of international terrorism to sue terrorist states in U.S. courts. For 10 months the Clinton administration fought this provision. For 3 years the Clinton administration has had meetings with family members and had tough rhetoric—but there has been no real action to redress the tragedy of Pan AM flight 103.

This week the Congress will enact this important reform. This is not rhetoric, this is action. This is historic and will, at long last, allow American victims of terrorism to use U.S. courts to try to seek compensation for the vicious acts of terrorist states.

I am proud to have worked closely with the families of the Pan AM 103 victims for many years, especially in the 1990 Aviation Security Act. Nothing we do can possibly replace their loss, but we can give them a avenue for partial justice.

Mr. President, yesterday I received a letter from Victoria Cummock, president of the families of Pan-Am 103/Lockerbie. On behalf of those families, she urged support of this bill. She focuses on two provisions: habeas corpus reform; and opening up our courts to allow victims their day in court against governments that sponsor terrorism. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the materials was ordered to be printed in the Record, as follows:

FAMILIES OF PAN-AM 103 LOCKERBIE,
April 15, 1996.

Hon. BOB DOLE,
Senate Majority Leader,
Washington, DC.

DEAR SENATOR DOLE: On behalf of the victims' families of Pan Am 103, I want to express our gratitude for your leadership in the Anti-Terrorism bill (S–735), currently pending in the Congressional Conference Committee. Your support of two key provisions will enable American victims of terrorism obtain justice in U.S. courts.

More Americans have died at the hands of terrorists than in Desert Storm, or in any other American war over the past 20 years. The bombing of Pan Am 103 was the single worst act of terrorism against civilians in this country's history, killing 270 people. For more than seven year, we—the families—have waited for our country's help and support. During that time terrorists blew up the World Trade Center '93, injuring 1,000 and killing eight, and last year bombed the federal building in Oklahoma City, killing 168.

On March 7, dozens of Americans victimized by terrorism gathered in Washington, D.C. They included parents, widows, and children from the families of Pan Am 103; 21 next of kin from the Oklahoma City bombing; a daughter of Leon Klinghoffer killed in the hijacking of the Achille Lauro; Joseph Ciccipio and David Jacobson held hostage in Lebanon; Scott Nelson tortured in Saudi Arabia, families of the victims of the World Trade Center bombing, and Hans Ephraimson-Abt, the 74-year old father of one of the victims of KAL 007 shot down over the Soviet Union.

At great personal and emotional expense, they gathered to support provisions of the anti-terrorism bill that would enable us to achieve justice: limit immunity granted foreign states that sponsor terrorism, and reform Habeas corpus.

Our motives are not political. Our lives and families have been unraveled by terrorism, and justice is our only consolation. Without justice and accountability there is no deterrence. We want to live in peace knowing that other Americans will be spared.

Countries that hide behind their sovereign immunity to avoid U.S. courts will continue to encourage and sponsor terrorist acts. For example, Libya, which is accused of ordering the bombing of Pan Am 103, is also accused of the 1989 bombing of a French UTA plane of Chad. It killed 171.

Allowing convicted murderers to delay their execution for 17–24 years with their seemingly endless appeals is also plainly wrong. It makes a mockery of our judicial system and gives criminals more rights than their victims.

Dead Americans have no voice, their families must speak for them. Four weeks ago the President made a request to Congress to provide aid to the families of four Cuban Americans shot down by Cuba. Has the President forgotten the hundreds of other Americans murdered by terrorists? The promise that he made to us before his election?

This nation cannot continue to allow countries to kidnap, torture, and murder Americans and escape accountability. The United States allow corporations to seek restitution in U.S. civil court. U.S. law permits restitution for sabotaging a plane full of chickens—but not people. This is an outrage. The message sent to countries sponsoring terrorism is that it is safe to target and kill Americans.

I want to be able to tell my three small children that America stands with us and that their father's constitutional right to justice (and that of other victims) will no longer take a back seat to the rights of terrorists. By maintaining the FSAI and Habeas Corpus provisions in the final language of the anti-terrorism bill, Congress will give us the opportunity to help ourselves. The changes we advocate are right for all Americans; this reform is overdue.

Thank you for your commitment in helping American victims of terrorism. Our hopes and prayers will be with all the Congressional Committee members during their final deliberations.

Sincerely,

M. VICTORIA CUMMOCK,
Widow of John B. Cummock;
President.

Mr. DOLE. Mr. President, in a few moments we will pass this bill. The Congress will put the national interest ahead of partisan interests. Those who have delayed passage of this historic bill argue that this is a weak bill. This is wrong. It is unfair to those who have suffered or may suffer in the future from the evil handiwork of terrorists and other criminals.

My colleagues have opposed these efforts. We will pass this bill today. As Diane Leonard, whose husband Don was killed in the Oklahoma City bombing, said yesterday: "It is the right thing to do." Then I hope President Clinton will do the right thing and sign the bill.

I yield the floor.

Mr. HATCH. Mr. President, what is the status of the bill?

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the motion to table the motion to recommit offered by the Senator from Delaware.

Mr. HATCH. Mr. President, I was under the mistaken belief that we would have some extra time, but I would like to give some time before final passage, equally divided. I would like to be able to give 3 minutes to the two distinguished Senators from Oklahoma. That would mean 6 minutes to the minority.

I ask unanimous consent that we have 12 minutes, equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object, as I understand, prior to the final vote?

Mr. HATCH. Prior to the final vote.

Mr. FORD. Six minutes.

Mr. HATCH. Divided between Senator BIDEN and myself, and I make sure the——

Mr. FORD. Six minutes on each side?

Mr. HATCH. Right.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion to table the motion to recommit offered by the Senator from Delaware [Mr. BIDEN] relative to revising existing authority for wiretaps.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 69 Leg.]

YEAS—56

Abraham
Ashcroft
Baucus
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Feingold
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Moseley-Braun
Murkowski
Nickles
Pressler
Reid
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—43

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moynihan
Murray
Nunn
Pell
Pryor
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

NOT VOTING—1

Mack

The motion to lay on the table the motion to recommit was agreed to.

The PRESIDING OFFICER (Mr. SANTORUM). The question occurs on agreeing to the motion to table the motion to recommit with instructions relative to deleting section 806 of the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 70 Leg.]

YEAS—53

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

NOT VOTING—1

Mack

So the motion to lay on the table the motion to recommit was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I understand before the final vote there are 6 minutes allotted to each side.

The PRESIDING OFFICER. The Senator will suspend. Senators to the left of the Chair will please take your conversations to the cloakroom. The Senate will please come to order.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I appreciate the indulgence of my colleagues today in voting on these motions to recommit and the strong support of 40 to 48 Senators we have gotten on each of these votes. I appreciate that.

In the 6 minutes that I have to close, let me just suggest two things. There is a good deal of change that has been made in the habeas corpus provisions of the law, which, in my view—a broken record—will do nothing to prevent terrorism. The habeas provision in this bill deals primarily with State crimes, and the terrorism crimes we are concerned about—Oklahoma City, the World Trade Center bombing, et cetera—are Federal crimes. It will not affect it at all.

But there is a provision in the bill that I would like to say something about. There's a section that says:

> An application for writ of habeas corpus on behalf of a person in custody, pursuant to the judgment of a State court, shall be granted with respect to any claim that was adjudicated on the merits in State court proceedings, unless the adjudication of the claim, one, resulted in a decision that was contrary to or involved in unreasonable application of a clearly established Federal law as determined by the Supreme Court, or resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented.

I would like to make this brief observation.

As things now stand, Federal courts take State court decisions very seriously. They are not writing on a blank page and ignoring State court decisions right and left. In fact, court watchers who pay close attention to the cases tell me that Federal courts grant relief only when it is pretty clear that someone's constitutional rights have been violated. So it seems to me that even under this provision of the law we are now changing, which I think is inadvisable to change, but even under this provision, if Federal courts think that State courts are right on the Constitution, they will uphold it. And if they are wrong, they will not.

So if a State court makes an unconstitutional determination, the Federal courts will, and should, continue to say so. Therefore, I think this is much less onerous—unnecessary but much less onerous—than, in fact, it may appear on its face.

If a Federal court concludes the State court violated the Federal Constitution, that, to me, is by definition—by definition—an unreasonable application of the Federal law, and, therefore, Federal habeas corpus would be able to be granted.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am truly gratified at the action that I believe the Senate is about to take. Passage of this legislation is urgently needed. This bill, passing at this time, will be a memorial to the victims of terrorism. I was so moved the other day, when survivors of terrorism came here to Washington to plead again for enactment of this legislation.

Since the Senate first acted last June, we have been working to reach this point. The result of that effort is a conference report that, in my view, deserves the support of every Member here. This legislation represents a landmark effort to address an issue of grave national importance—the prevention and punishment of acts of terrorism. This bill includes long-needed reforms to Federal habeas corpus procedures and provides vital provisions for victims of terrorism and other Federal crimes. It also adds important tools to the Government's fight against terrorism, and does so in a temperate manner that is protective of civil liberties.

I have insisted from the beginning that this bill address the needs of the victims of terrorist acts, so I am particularly pleased about the provisions we have included for them. Our commitment to the victims of terrorism is evident from the first two titles of the conference report. These provisions are the heart and soul of this bill, and are the only provisions which can provide solace to the victims of past acts of terrorism, such as Oklahoma City and Lockerbie:

Habeas corpus reform: This legislation includes tough, fair, and effective reform of Federal habeas corpus procedures. I have been fighting, along with crime victims across our Nation, for the enactment of this legislation for nearly 20 years. Finally, heinous criminals will no longer be able to thwart justice and avoid just punishment by filing frivolous appeals for years on end. Finally, crime and terrorism victims will know that our justice system means what it says.

Mandatory victim restitution: The mandatory victim restitution section of this bill is the Hatch-Biden measure, and will ensure for the first time that Federal courts must order violent criminals and terrorists to pay restitution to their victims. We all know that a price can never be placed on the terrible costs these crimes inflict. We also know that in far too many cases, repayment will fall far short of the cost we can calculate. However, with this bill, victims will finally have the solace of knowing that the justice system recognizes their loss, and that the perpetrators of evil are held accountable.

Terrorism by foreign countries: This bill takes the important step of ensuring that Americans who are harmed by foreign governments committing or directing terrorists acts can sue those governments in American courts. Lawless nations will no longer be able to hide their terrorist acts behind the rules of international law that they otherwise flaunt.

Oklahoma City trial: Finally, by providing for closed circuit viewing of the Oklahoma City trial by the bombing's victims and survivors, this bill also will ensure that these courageous people can observe justice being done, while still ensuring a fair and just trial for the accused.

The terrorism bill we are about to finalize also is a tough, effective measure. With its enactment, we will be better able to prevent and deter future terrorist acts. Moreover, we will be better equipped to respond to and punish these heinous acts should they occur.

First, for the first time since the tragic bombing of Pan Am flight 103, it will be required that all plastic explosives manufactured, sold, imported into, or exported from the United States include chemicals to make them detectable by airport security. This provision will help protect airline passengers from terrorist attacks and fulfill our obligations under international agreements.

Second, this legislation include important new measures to ensure that access to dangerous human pathogens—like the agent that causes bubonic plague—is properly limited. This will help ensure that the American people are not victimized by terrorists engaging in such tactics, such as the Japanese cult Aum Shinri Kyo that released cyanide gas in a crowded Tokyo subway.

Third, the bill we will send to the President provides law enforcement with the tools necessary to combat the threat of nuclear contamination and proliferation that may result from illegal possession of nuclear materials.

Fourth, this antiterrorism bill will prohibit, in a constitutional manner, fundraising in this country by specific, designated foreign terrorist groups. Once designated, these groups will no longer be permitted to use American-raised funds to spread terror here and abroad.

Fifth, this bill provides the Federal Government with the tools it needs to exclude representatives and members of foreign terrorist groups from the United States, and provides the Government with the ability, within the bounds of due process, to deport alien terrorists without compromising national security.

This bill also: Increases the penalties for crimes committed with explosives, as well as conspiracies to commit such crimes; curtails the use of domestic and foreign use of weapons of mass destruction; addresses the increasingly global nature of terrorism, increasing penalties for terrorist acts that transcend national boundaries; imposes strict penalties for retaliatory assaults or murders of Federal officers or employees; provides emergency response training to State and local law enforcement; and harmonizes security measures to provide Americans flying to and from the United States on foreign airlines with the same level of protection they receive for domestic flights.

In short, this bill reflects the unity of purpose and clarity of resolve with which we must meet the terrorist threat.

I am proud of the bill we have crafted. It is time for us to finish the job, and pass this conference report. In doing so, it is my hope that we recall the Americans who died at the hands of terrorists, not only last month, but over the last 15 years or more. In Beirut, in Lockerbie, in New York, and in Oklahoma City, victims of terrorism have had their lives stolen by evil persons pursuing selfish and twisted agendas. We can honor these victims by completing the task at hand.

Mr. HATCH. Mr. President, I yield 3 minutes to the distinguished junior Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 3 minutes.

Mr. INHOFE. Mr. President, I think anything that is said further tonight on this bill will be redundant, but I think some things are worthy of redundancy. I think it is virtually impossible for anyone in this Chamber who was not in Oklahoma City when the tragedy happened—the bombing of the Murrah Federal Office Building—to really appreciate the significance of the trauma, the disaster, the emotions at the time.

I think it was well said in a magazine called Oklahoma Today, talking about the first wave of the super-hot gas moved at 7,000 miles an hour, fast enough for someone 10 feet away to be hit with a force equal to 37 tons, and in about half a second the gas dissipated only to be replaced by an equally violent vacuum. The resulting pressure waved outward, lifting the building up and causing beams, floor slabs, and connections to weaken and collapse.

When the pressure wave passed, gravity took over. Nine stories of the north side of the building pancaked, creating a crater 30 feet deep. People who had been on the ninth floor ended up in the basement.

I think one of the most memorable experiences I had was the very first night. The firefighters had arrived. They were all volunteers. They were taking turns 1 hour at a time crawling on their bellies through there to pull out parts of bodies. I actually saw on the first floor human hair and one hand that was stuck to a wall. As they pulled the bodies out—some alive, some dead—they did not know at that time whether or not it would come crashing down and kill them. When one group came out after an hour, there was blood all over the individuals. Then you could hear the cadence, almost like you heard in World War II, of the firefighters marching down the streets to take their turn, and this is what we experienced there.

The majority leader a few minutes ago said the habeas provision is the heart and the soul of this bill. It may be that some of you do not agree with that, but I can assure you the families of the 168 victims who died in the Murrah Federal Office Building, they believe that, because they came up here 2 months after the explosion and sat across the table from many of the Senators in here and said, "The one thing we want in legislation is habeas reform. We do not want the same thing to happen as happened when Roger Dale Stafford in Oklahoma murdered nine Oklahomans and sat on death row for 20 years."

So I guess all I can say is, on behalf of the families of the 168 victims, those who lost their lives in the Murrah Federal Office Building, I appeal to you to pass this bill tonight.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, so that the majority gets to go last, I have 2 minutes remaining.

What the Senator from Oklahoma just read was moving and significant. I am going to vote for this bill, but I am dumbfounded why, after reading what he just read and us knowing that, that we all voted in this Chamber to allow someone to teach somebody how to build another fertilizer bomb, even if the person teaching knew or had reason to believe it would be used for a purpose like that.

Hear what I just said? "Intended." If a person teaches someone how to build a fertilizer bomb intending that that be able to be done, a crime to be able to be committed with it, we just voted not to put that prohibition into the law.

And now that you all are here and did not have a chance to listen to this before, I hope you know, after we pass this bill, you will join me tomorrow, or the next day, to pass a law that says you cannot do that, because you inadvertently voted, when I tried to put it back in the law, to let someone now, legally, over the Internet or any other way, teach someone how to build a fertilizer bomb, give them the details and intend that it be used that way, and it is not prohibited.

So I hope tomorrow when I am here, or the next day, listening to what the Senator from Oklahoma accurately stated and believes deeply that we should never let this happen again; we will correct the mistake that we made here today.

Mr. HATCH. Mr. President, I yield the last 3 minutes to the distinguished senior Senator from Oklahoma.

Mr. NICKLES. Mr. President, first I wish to thank the majority leader for setting aside the immigration bill to take up this bill. I informed the majority leader and the Speaker some months ago of my earnest desire to pass this before this Friday.

This Friday is the 1-year anniversary of the worst civil disaster that we have had in U.S. history: 168 innocent men, women, and children were murdered in the Murrah Building bombing.

The majority leader responded to that request, and I appreciate it.

I also want to compliment Senator HATCH and Senator BIDEN and their staffs, and also Chairman HYDE, for their willingness over the last 2 weeks when we were in recess to work out the differences, because the bills between the House and the Senate had a lot to offer, but there are significant differences in the bills.

But there were significant differences. They worked out those differences. They came up with compromises. That was not easy during the break. That is not often done. But they did it so we can meet this deadline. I very much appreciate their cooperation.

Mr. President, this is vitally important legislation. As my colleague from my State, Senator Inhofe, mentioned, this is very important legislation to the families of the victims. There are hundreds of people involved. Yes, there are 168 individuals who lost their lives, but they have hundreds of family members, and actually I think it is in the thousands, the relatives that are directly impacted, that lost a cousin, lost a dad, lost a son, lost a daughter.

We met with those individuals. They want this bill passed. This bill may not be perfect. I know Chairman HATCH said that some of the other provisions that were alluded to today, that he is happy to introduce those and work on those in separate legislation. I compliment him for that. But if we recommitted this bill, we would not have this bill. It would not pass.

So I want to thank my colleagues on this side that voted against the motions to recommit. This is a conference report. If we are going to get it passed, we are not going to be able to recommit it. So I will be happy to work to make future improvements. But this is a good bill. It does have habeas corpus reform. It ends the abusive appeals. That is certainly good for taxpayers and victims.

It does allow closed-circuit TV for families in the Oklahoma City bombing. Right now the trial, regrettably, is going to be in Denver. That is over 500 miles from Oklahoma City. They want to be able to view the trial and not have to move their families to Denver. We requested assistance from Justice, but they did not make it happen. We make it happen in this legislation. That is good news for their families. Several of us will be with several thousand people. That will be good news for Oklahomans.

Finally, I thank my colleagues for their bipartisan support. We put mandatory victim restitution in this legislation, something that the Senate has supported countless times. That is very significant and important and one of the crime reform packages we have had. We passed it in the Senate. Unfortunately, it has not come out of conference with the House. It is in this bill. Again, I want to thank my colleagues, Senator HATCH and Senator BIDEN, because they supported that provision.

Finally, Mr. President, I want to urge my colleagues to vote for this bill. I will be very disappointed if this bill only has 60 or 65 votes. I hope it has 100 votes. This bill may not be perfect, but it is good legislation. Also, I would like to urge the President of the United States to sign it.

Mr. President, I ask unanimous consent that a letter from the Governor of the State of Oklahoma to the President of the United States urging that the President sign this bill be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF OKLAHOMA,
OFFICE OF THE GOVERNOR,
Oklahoma City, OK, April 16, 1996.

Hon. BILL CLINTON,
United States of America, The White House, Pennsylvania Avenue, Washington, DC.

DEAR PRESIDENT CLINTON: Congress will soon pass legislation which will effectively combat terrorism. Having dealt with the tragedy and aftermath of the Oklahoma City bombing, I believe it is imperative that you sign this legislation into law.

In addition to the tough law enforcement provisions aimed at terrorists and their organizations, it includes provisions of particular interest to those of us in Oklahoma.

First and foremost is effective death penalty reform, which will end the delays and frivolous appeals by convicted death row inmates. The importance of this provision has been made clear by the families of the victims of the Oklahoma City bombing, who have worked tirelessly to see this reform become law so that justice may be swift and sure.

Second is a provision allowing for the closed circuit viewing of the trial by families and victims who cannot be accommodated by the courtroom in Denver. The viewing would take place in Oklahoma and would allow these families and victims to fully benefit from our victims' rights laws which stipulate they be entitled to monitor the trial proceedings.

Mr. President, this bill deserves to be signed into law. For the families and victims of the Oklahoma City bombing, it represents a significant step in bringing closure to this terrible tragedy. I urge you to approve this vital change in our nation's laws to combat terrorism. It is the right thing to do.

Very truly yours,
FRANK KEATING.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The result was announced—yeas 91, nays 8, as follows:

[Rollcall Vote No. 71 Leg.]

YEAS—91

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords

Johnston
Kassebaum
Kempthorne
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
McCain
McConnell
Mikulski
Murkowski
Murray
Nickles
Nunn
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone
Wyden

NAYS—8

Byrd
Feingold
Hatfield
Kennedy
Moseley-Braun
Moynihan
Pell
Simon

NOT VOTING—1

Mack

The conference report was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I think this is a big victory for all of America, but most of all for those folks who suffered in Oklahoma City, OK, and other terrorist incidents in the world.

I want to acknowledge the work of some people who were critical to the passage of this bill—in particular, the majority leader. The majority leader, BOB DOLE, is to be commended for his leadership. Once again, Senator DOLE has delivered for the American people. I personally express my gratitude to our distinguished majority leader.

I also want to acknowledge the work of Chairman HENRY HYDE over in the House, and my fellow conferees, Senators THURMOND, SIMPSON, BIDEN, and KENNEDY. Senators NICKLES and INHOFE deserve mention, too, because they never let this institution forget who this bill was for. All of the survivors from the Oklahoma tragedy and the Pan Am disaster were critical to this bill's passage. So they all deserve our thanks.

I want to mention a few of the other people who worked on this bill, as well—in particular, the staffers who worked long hours out of deep commitment to public service. Jeanne Lapatto, Christina Rios, Nick Altree, Mike Ashburn, John Gibbons, and Ed Richards were invaluable. Ashley Disque—a young woman who came to the committee as an L.C. and has not looked back—epitomized initiative. Mike Kennedy, an attorney who is going to go places, in my opinion, worked around the clock. Finally, I want to commend Mike O'Neill, our crime counsel. Mike is going to be leaving here in a few weeks to clerk for Justice Thomas over at the Supreme Court. Our loss is the Supreme Court's gain. Quite simply, Mike O'Neill, more than any other staffer, made this bill happen. Manus Cooney, our committee staff director and senior counsel is also to be commended.

Some of Senator BIDEN's staff should be mentioned as well—Demetra Lambros and Chris Putala are true professionals. Also, I would like to thank Valerie Flappan of the legislative counsel's office.

I also want to compliment the other House conferees and, in particular, Congressmen HYDE, MCCOLLUM, SCHIFF, BUYER, and especially BOB BARR from Georgia, who worked very hard on this bill and has provided an awful lot of input on this bill. Another staffer who should be mentioned here is Pat Murray, HENRY HYDE's able and dedicated counsel who, in working with our staff, helped craft a true terrorism bill. Paul McNulty also deserves credit. There are so many others I would like to commend at this point. But I will end at this point and thank all of these good people for the good work they have done.

I pay respect to my distinguished colleague, the minority leader on the Judiciary Committee. He is a tough, tough opponent. He is a very good advocate. It is one of the privileges in my life to be able to work with him on the Judiciary Committee and to be able to have this type of a relationship, and still to occasionally fight each other on the floor and, hopefully, walk away still friends.

In particular, I want to make all those congratulations.

I yield the floor.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 77–770, appoints the Senator from Louisiana, [Mr. BREAUX], to the Migratory Bird Conservation Commission, vice the Senator from Arkansas, [Mr. PRYOR].

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

MORNING BUSINESS

Mr. SPECTER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HISTORIC 70 WINS FOR THE CHICAGO BULLS

Mr. SIMON. Mr. President, Senators often make statements on the floor to inform the Senate and the Nation about the accomplishments of their constituents, and today I wish to acknowledge some folks back in Illinois who have achieved a historic feat unequaled by their peers. My colleagues may be familiar with this group of Chicagoans. I am speaking of the Chicago Bulls, who last night defeated the Milwaukee Bucks in a hard-fought, 86 to 80 game, to become the first National Basketball Association [NBA] team to win 70 games in a season.

In the nearly 50-year history of the NBA, 70 wins has been a mythical, seemingly unattainable goal. The 1971–72 Los Angeles Lakers came close with 69 wins, but now the Bulls have secured their place in the history books with 70, and with 3 games left in the season, that record could be higher.

Of course this achievement would not have been possible without the return of Michael Jordan, unarguably the game's greatest player ever. But we cannot overlook the efforts of his star teammates, from Scottie Pippen, Toni Kukoc, and Dennis Rodman, to the less publicized but invaluable players like Ron Harper, Luc Longley, Steve Kerr, and Bill Wennington, to name just a few. The talent of individuals however can only take you so far. A true champion needs a great leader, and coach Phil Jackson has fulfilled that role throughout his career, having guided the Bulls to three previous championships.

Should the Bulls go on to win the championship in June—their fourth of the decade—there is little doubt that they would be considered the greatest team in the history of professional basketball. I am proud to represent this group of individuals and congratulate them on their unprecedented accomplishment. I wish them the best of luck as they head into the playoffs.

CHICAGO BULLS WIN 70 GAMES

Ms. MOSELEY-BRAUN. Mr. President, I want to take this opportunity to commemorate a historic moment for the city of Chicago and the State of Illinois. Over the years, the members of this greatest deliberative body have engaged in some of the most compelling debates the world has ever heard: issues of States' rights, war and peace, and individual liberty. But as of last evening, one debate need no longer be considered: which is the greatest NBA team of all time, at least through the regular season. By recording their unprecedented 70th win of the regular season, the 1995–96 Chicago Bulls are one of the best teams of all time, and when they go on to secure an NBA championship, they will be without question, the greatest team in the history of professional basketball.

In the 49-year history of the National Basketball Association, no team has won 70 games in one season until the Chicago Bulls accomplished that remarkable feat—I am sad to say to my dear friend and colleague from Wisconsin, Senator KOHL—by defeating the Milwaukee Bucks last night 86 to 80. By winning their 70th game in 79 tries, the Bulls eclipsed a 24-year-old record set by the Los Angeles Lakers and now stand alone on the other side of what once was considered an impregnable barrier.

This year's Bulls team has elevated itself to an elite level in the history of sports. This team deserves to be ranked on the same level as the 1927 New York Yankees, the 1972 Miami Dolphins, and the 1977 Montreal Canadiens—all teams that embodied perfection in sports. It might also be noted that with this 70th win, Chicago now holds the distinguished honor of having or sharing three of the four major sports records for most wins in a regular season—the 1906 Cubs in baseball, 116 wins, the 1985 Bears in football, 15 wins and now, the Chicago Bulls. I know I speak for Bulls fans across the country in saying that we are energized and excited by the zealous pursuit of victory exhibited by our team this year.

It is no coincidence that the greatest team of all time is being propelled by the greatest player of all time—Michael Jordan. Michael Jordan has a combination of power and panache unmatched in the history of the NBA. He refuses to lose and his competitive nature, floor leadership, and will to win lifts the playing level of all those around him.

Mr. President, we all know that in team sports, true greatness cannot be achieved alone. Michael Jordan is surrounded by outstanding players in their own right—Scottie Pippen, Dennis Rodman, Toni Kukoc, and the rest of the lineup. Coach Phil Jackson has been able to skillfully mesh all the personalities of this team into an extraordinary combination of teamwork and individual achievement. The result is the 70-win accomplishment that has eluded basketball's best players and teams for decades.

On behalf of the city of Chicago and the State of Illinois, I want to offer my State's hearty congratulations to Coach Jackson and the entire Bulls organization for winning 70 games in the 1995–96 regular season, a record that may never be equaled.

CONGRATULATING NATIONAL PEOPLE'S ACTION ON 25 YEARS OF ACCOMPLISHMENT AND THEIR 25TH NATIONAL NEIGHBORHOODS CONFERENCE

Ms. MOSELEY-BRAUN. Mr. President, on Saturday, April 27, National People's Action (NPA), a national network of more than 300 community organizations, churches, and senior citizen groups from 38 States across the country, will open its 25th national neighborhoods conference here in Washington, DC.

I want to call the Senate's attention to this conference, because National People's Action represents America at its best—people from neighborhoods working together to improve their neighborhoods. The hundreds of organizations and the thousands of people from all walks of life who make up National People's Action are committed to their communities. They know that neighborhoods are critically important. They know that neighborhoods with good housing, neighborhoods that are safe, and neighborhoods with access to good jobs are places where families can achieve their own piece of the American dream. And perhaps most importantly, they know that by putting fundamental American values to work—by working hard to make those values an everyday part of life in their neighborhoods—they are making a real difference in their communities and in our country.

National People's Action is known as the first voice of our Nation's neighborhoods. This people's organization has, from its inception, spoken out for investing in neighborhoods, ending redlining by financial institutions, expanding the stock of good, affordable housing, implementing community-based approaches to crime prevention and policing, and expanding economic opportunity and the access to good jobs at good wages that are so essential to healthy communities.

NPA is a grass roots movement with an enviable record of accomplishment. I would like to take just a moment to highlight a few of those many successes. First, NPA played a key role in making the Community Reinvestment Act, the primary Federal tool for expanding access to capital, a reality, and NPA has used that tool to obtain over $25 billion worth of CRA lending agreements. These agreements mean access to mortgage money, home rehabilitation money, and economic development money for hard-working people living in hard-pressed neighborhoods that have all too often been cut off from capital in the past.

NPA created the lease-to-purchase mortgage product, the first of its kind in the United States. This innovative approach allows people who may not have the money to make a downpayment on a home to have a real opportunity to achieve perhaps the single most important element of the American dream—owning their own home.

And NPA, working with Freddie Mac, created an ingenious new type of mortgage for buildings with two-to-four units, thereby helping to revitalize this kind of housing, which is so important to so many cities and neighborhoods, and making it possible for neighborhood residents to become homeowners and landlords. The result of this resourceful approach are more homeowners in neighborhoods, and a better stock of rental housing.

While NPA's successes are varied, however, they all have the same theme. They are all about people, about making it possible for people in the neighborhoods and communities around our Nation to build a better life for themselves. NPA is a quintessentially American organization. It accomplishes a huge amount with very little money. It is nonbureaucratic. And it works right at the neighborhood level. It doesn't tell people what to do. Rather, it brings people together so that, by working together, they can make their neighborhoods better places to live for themselves and for their families.

National People's Action, and its national chairperson Gale Cincotta, deserve the Senate's commendation. As I stated at the beginning of my remarks, this organization embodies the essence of American values. NPA puts the values on which this Nation was founded to work for all of its people. I am therefore glad to have the opportunity to bring NPA's 25th annual neighborhoods conference to the Senate's attention, and I hope every Member of the Senate will attend this important event.

Mr. President, I ask unanimous consent that a complete list of NPA's major proneighborhood accomplishments be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

NPA'S MAJOR ACCOMPLISHMENTS

REINVESTMENT

Spearheaded enactment of the Home Mortgage Disclosure Act (HMDA) and the Community Reinvestment Act (CRA) which protect urban areas and minorities from loan discrimination.

Provided technical assistance to community groups which directly led to over $25 billion in NPA assisted CRA lending agreements.

Developed 10 city pilot affordable housing programs with the secondary market and private mortgage insurers which led to a nationwide low-downpayment program called the Community Homebuyers Program. The development of the CHBP has resulted in industry-wide changes in the standards for conventional lending and millions of home loans to low income families.

Coordinated the Chicago Reinvestment Alliance, which in 1984 developed a $363 million Neighborhood Lending Program. The program has been renewed twice, and to date, over $500 million have been lent and over 14,000 units of affordable housing and businesses have been created or rehabilitated in Chicago.

Coordinated the NPA/Aetna Neighborhood Investment Program, which provided over $100 million in loans for rehabilitation or construction of over 10,000 affordable housing units in 14 urban neighborhoods throughout the country.

Brought the Neighborhood Housing Services (NHS) to Chicago and has continued to support its expansion by developing new loan programs and funding sources.

Successfully advocated for increases in Community Development Block Grant (CDBG) funding and for increases in the targeting of CDBG funds to low and moderate income neighborhoods.

Created the Lease-to-Purchase mortgage product, the first-of-its-kind in the nation. This product allows individuals to enter the home as tenants and after a 2–3 year lease period become the homeowner, having accumulated a 10–15% downpayment to purchase. Lease-to-Purchase has become a standard affordable housing option.

Successfully advocated for performance oriented goals for Government Sponsored

Enterprises (GSEs) requiring 30% of mortgages to be purchased in underserved markets and from low and moderate income families.

Created a unique low downpayment mortgage product for 2-4 unit buildings with Freddie Mac that allows for 75% of rental income to be used to qualify the applicant, thus creating an opportunity for homeownership for low income people.

Developed in conjunction with the Mortgage Guaranty Insurance Corporation (MGIC) the first ever purchase and default counseling training for community based counselors.

FEDERL HOUSING ADMINISTRATION

Through a national advocacy campaign, stopped abusive lending practices that resulted in catastrophic FHA foreclosures in the 1970s.

Secured 518(b) and (d) Payback Programs for buyers of defective FHA homes which provided funds for repair of major systems and structural defects.

Developed Repair and Sell Programs that rehabilitated vacant FHA homes in blighted neighborhoods.

Spearheaded the development of the FHA Assignment Program which provides assistance to those behind in their mortgage in order to prevent foreclosure.

Continued to research FHA lending practices and uncover abuses, such as illegal minimum loan amounts imposed by some FHA lenders.

Negotiated a HUD demonstration program that allows not-for-profit developers to obtain vacant, foreclosed properties at a 30% discount. Over 600 homes have been rehabilitated for low income families. This pilot program has become a permanent HUD program.

Successfully advocated for public disclosure by HUD of FHA lending activity and loan failure rates by mortgage company and census tract. Analysis of data has uncovered high default rates far exceeding HUD's definition of trouble areas.

CRIME AND DRUG PREVENTION

Developed 1976 community anti-crime program with the law Enforcement Assistance Administration which redirected LEAA funds to local community groups for local anti-crime programs.

Changed Illinois policy regarding the distribution of Asset Forfeiture funds to allow $500,000 to be returned to communities for crime prevention programs.

Coordinated along with the Chicago Police Department a Nuisance Abatement Program in four police districts that resulted in closing 1,000 drug houses during the first year of operation.

Provided 387 community groups, 42 police departments, and state and local government agencies with technical assistance to develop community based anti-crime and drug strategies.

Coordinated a national day of Reclaiming Our Neighborhoods in which 38 cities participated February 14, 1994.

Won change in Asset Forfeiture Regulations nationally, allowing communities to receive 15% of seized drug money and real property.

Was awarded $1.2 million cooperative agreement from the Bureau of Justice Assistance, U.S. Department of Justice to coordinate a demonstration program (1992–1995) in 13 cities across the country, Communities in Action to Prevent Drug Abuse.

Was awarded cooperative agreement from the Bureau of Justice Assistance—Department of Justice and the Department of Labor to coordinate Communities in Action to Prevent Drug Abuse II—Reclaiming Our Communities (1995–1997) in 10 cities across the country.

TRAINING

Was awarded a three year national VISTA grant in 1978 which resulted in training of almost 100 community staff in 48 community organizations.

Provided technical assistance and seed funding to 131 community groups since 1980 through the Mott Foundation's Strengthening Citizen Initiatives at the Local Level Program.

Provided training on financial management to community groups in 8 cities through a program developed with Allstate.

Offered week-long training courses since 1974 that have trained over 3,000 participants in community advocacy skills.

Provided on-site consultations that have resulted in development of dozens of new community organizations across the country.

Provided on-site training for at least 40 organizations a year.

Have coordinated national conferences on Housing, CRA, Jobs, Insurance and Drugs providing an area for all the players to come together to discuss their concerns. Each conference attracted over 500 participants.

ENERGY

Provided training and consulting for 147 community groups on natural gas deregulation in the late 1970s and early 1980s.

In the mid 1980s, founded the Affordable Budget Coalition to address the rash of utility shut-offs plaguing Illinois. The ABC became independent in 1987.

Assisted community groups to intervene in utility rate cases before the Illinois Commerce Commission, resulting in almost $2 billion in refunds.

Has been an expert witness in telephone and electric utility cases and performed an analysis of Currency Exchange rates charged to cash government benefit checks for use in rate investigation of the Illinois Department of Financial Institutions.

Currently working with community groups and participating in policy forums on the deregulation of the electrical utility industry in Illinois.

Working with community groups, government agencies and electric and natural gas utility companies to establish a long-term solution to the low income residential energy crisis and the decline of federal energy assistance funding.

Providing training for Community Action Agency's low income board members across the country in cooperation with the Illinois Community Action Agency under a contract from the U.S. Department of Health and Human Services.

INSURANCE

Developed new urban property insurance products and increased urban investments with leading companies, including Allstate and State Farm as a response to NPA advocacy against insurance redlining.

THE HEALTH INSURANCE REFORM ACT OF 1995

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the following items with regard to S. 1028 be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 22, 1995.

Hon. NANCY LANDON KASSEBAUM,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office [CBO] has reviewed S. 1028, the Health Insurance Reform Act of 1995, as ordered reported by the Senate Committee on Labor and Human Resources on August 2, 1995. CBO estimates that enactment of S. 1028 would not significantly affect the federal budget. (Each state's insurance commissioner would ensure that the requirements of this legislation are carried out by health insurance carriers in their state; CBO has not attempted to estimate the amount by which state government spending could be changed.) Pay-as-you-go procedures would apply because the bill could affect direct spending and receipts. the estimated change in direct spending and receipts, however, is not significant.

This bill would create uniform national standards intended to improve the portability of private health insurance policies. for example, these standards would allow workers with employment-based policies to continue their coverage more easily when changing or leaving jobs. Because most private insurance plans require a waiting period before new enrollees become eligible for coverage, especially for preexisting medical conditions, workers with chronic conditions or other health risks may face gaps in their coverage when they change jobs. Alternatively, such workers may be hesitant to change jobs because they fear the temporary loss of coverage, a situation known as "job-lock."

S. 1028 would reduce the effective length of exclusions for preexisting conditions by crediting enrollees for continuous coverage by a previous insurer. Insurance companies would be prohibited from denying certain coverage based on the medical status or experience of individuals or groups and would be required to renew coverage in most cases. Insurers could not deny coverage to individuals who have exhausted their continuing coverage from a previous employer. This bill would allow individuals to change their enrollment status without being subject to penalties for late enrollment if their family or employment status changes during the year. To the extent that states have not already implemented similar rules, these changes would clarify the insurance situation and possibly reduce gaps in coverage for many people.[1]

Because the bill would not regulate the premiums that plans could charge, the net number of people covered by health insurance and the premiums that they pay would continue to be influenced primarily by current market forces. In other words, although insurance would become more portable for some people under this bill, it would not become any more or less available in general.

S. 1028 could affect the federal budget in two primary ways. First, if the bill changed the amount of employer-paid health premiums, total federal tax revenues could change. For example, if the amount employers paid for premiums rose, cash wages would probably fall, thereby reducing income and payroll tax revenues. If individuals paid more for individually-purchased insurance, they could increase their itemized deductions for health expenses. Second, if the bill

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Footnotes at end of letter.

caused people insured by Medicaid or government health programs to purchase private coverage, then federal outlays for those programs could change.

According to the General Accounting Office [GAO], 38 states have enacted legislation to improve the portability and renewability of health plans among small employers.[2] The state laws do not apply to employees of larger firms with self-funded insurance plans, however, and the GAO report finds that state laws generally do not apply to the market for individually-purchased insurance.

Because many insurance reforms have already been implemented by the states, GAO assumes that the new national standards created by S. 1028 would not significantly change the insurance market for most people. Although the national standards created by S. 1028 would improve the portability of health insurance for some additional groups or individuals, GAO assumes that the incremental change in the insurance marketplace would be minor. Any changes to overall insurance coverage or premiums caused by the bill would probably be small, and the direction of the change is uncertain. Most people subject to the new insurance rules would have had coverage under the old rules, so their total health spending would probably not be noticeably different. Therefore federal revenues would be unlikely to change.[3]

CBO estimates that federal outlays for Medicaid would not change because any persons eligible for free coverage from Medicaid under current law would also seek out Medicaid coverage if S. 1028 was enacted. CBO also estimates that the bill would cause no appreciable changes to federal outlays for Medicare, Federal Employees Health Benefits, or other federal programs.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeff Lemieux.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

FOOTNOTES

[1] For additional discussion, see GAO testimony "Health Insurance Regulations, National Portability Standards Would Facilitate Changing Health Plans," July 18, 1995, before the Senate Committee on Labor and Human Resources.

[2] Health Insurance Regulation: Variation in Recent State Small Employer Health Insurance Reforms (GSO/HEHS-95-161FS, June 12, 1995).

[3] CBO cooperates with the Joint Committee on Taxation to produce estimates of revenue changes under proposals that would change the private health insurance market. Following CBO's estimate that S. 1028 would not significantly change spending for private health insurance, the Joint Committee assumes that federal revenues would not change.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 22, 1996.

Hon. NANCY L. KASSEBAUM,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed mandate cost statements for S. 1028, the Health Insurance Reform Act of 1995, as reported by the Senate Committee on Labor and Human Resources on October 12, 1995.

Enactment of S. 1028 would impose both intergovernmental and private sector mandates. The cost of the intergovernmental mandates would not exceed the applicable $50 million threshold, but the costs of the private sector mandates would exceed the applicable $100 million threshold.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director*.

Enclosure.

CONGRESSIONAL BUDGET OFFICE ESTIMATED COST OF INTERGOVERNMENTAL MANDATES

1. Bill number: S. 1028.

2. Bill title: The Health Insurance Reform Act of 1995.

3. Bill status: As reported by the Senate Committee on Labor and Human Resources on October 12, 1995.

4. Bill purpose: S. 1028 would make it easier for people who change jobs to maintain adequate coverage by requiring issuers of group health plans and sponsors of health plans for employees to: Limit exclusions for preexisting conditions to 12 months (18 months for late enrollees) with a one-for-one offset against the exclusion for continuous coverage; not impose eligibility requirements based on health status or other medical information; and offer special enrollment periods when an employee experiences a change in family composition (e.g., the birth of a child) or a family member of an employee loses health coverage under another health plan because of a change in employment status.

In addition, the bill would require health plans sponsored by employers to: extend COBRA coverage an additional 11 months if an employee becomes disabled during the 18 months of the original COBRA coverage or has disabled dependents, and provide immediate coverage to newborns or adopted children under a parent's COBRA policy.

Furthermore, S. 1028 would increase the portability of health insurance from group coverage to individual coverage by requiring issuers of individual health insurance to provide coverage if an individual has had 18 months of continuous coverage. In addition, the bill would assist employers and individuals in establishing voluntary coalitions for purchasing group health insurance and preempt some state laws dealing with purchasing cooperatives. Finally, if the bill is enacted, states would have the option of enforcing the bill's requirements regarding group and individual health insurance. If a state chooses not to enforce the requirements, the federal government would enforce them.

5. Intergovernmental mandates contained in bill: S. 1028 contains several intergovernmental mandates as defined in Public Law 104-4, primarily the new requirements that would be imposed on health plans sponsored by employers. State and local governments who offer their employees health insurance would have to abide by these requirements.

6. Estimated direct costs to State, local, and tribal governments:

(a) *Is the $50 Million a Year Threshold Exceeded?* No.

(b) *Total Direct Costs of Mandates:* S. 1028 would increase the cost of health insurance for covered employees of state and local governments, but this cost would primarily be borne by the employees themselves and not by state or local taxpayers. Although CBO cannot provide a precise estimate, any increase in the cost of health insurance for employees of state and local governments would amount to less than $50 million annually. As a result of higher health care costs, state and local governments would reduce other elements of their employees' compensation packages by a corresponding amount. The amount of total compensation paid by the state and local governments would thus remain unchanged in the long run. Except for an initial transition period, during which state and local governments may not be able to change other elements of their employees' compensation packages, state and local governments would not be required to spend additional funds to comply with these mandates.

(c) *Estimate of Necessary Budget Authority:* None.

7. Basis of estimate: Based on a limited survey of State and local governments, CBO found that the health insurance plans currently offered by State and local governments are generally in compliance with S. 1028. However, some State and local governments would have to make minor adjustments to their plans. Almost all plans already limit to 1 year, or do not include, exclusions for preexisting conditions, but only a few of the plans that have exclusions allow an offset against the exclusion for continuous coverage. In addition, some plans do not offer special enrollment periods when a family member of a participant loses his or her health insurance under another plan because of a change in employment. Finally, the expansion of COBRA coverage would affect all plans.

CBO estimates that the cost of S. 1028 to the private sector for the group health insurance reforms would total about $300 million. A simple calculation, based on the number of employees involved, would indicate that the cost of S. 1028 for employees of State and local governments would be $60 million. CBO believes that the cost would actually be significantly less than this, however, because health plans sponsored by State and local governments are generally more liberal than plans sponsored by private sector employers. State and local governments therefore would be confronted with fewer changes as a result of S. 1028. The cost of the mandates imposed on State and local government would clearly be less than $50 million, a change of about 0.1 percent in the approximately $40 billion that is now spent on health insurance for employees of State and local governments.

Economists generally believe, and CBO's cost estimates have long assumed, that workers as a group bear most of the cost of employers' health insurance premiums. The primary reason for this conclusion is that the supply of labor is relatively insensitive to changes in take-home wages. Because most workers continue to work even if their take-home pay declines, employers have little trouble shifting most of the cost of additional health insurance to workers' wages or other fringe benefits.

8. Appropriation or other Federal financial assistance provided in bill to cover mandate costs: None.

9. Other impacts on State, local and tribal governments: States would have the option of enforcing the requirements of S. 1028 on issuers of health insurance in the group and individual markets. If a State decides not to enforce the new requirements, the Federal Government would do so. Because enforcement would be voluntary, this provision would not impose an intergovernmental mandate as defined in Public Law 104-4. However, the enforcement provisions would have a budgetary impact on State governments. States currently regulate the group and individual markets, and CBO does not expect any State to give up this authority and responsibility. States thus would incur additional costs as they enforce the new requirements. In 1995, according to the National Association of Insurance Commissioners, States spent $650 million regulating all forms of insurance (health and others). CBO expects that S. 1028 would increase these costs only marginally.

10. Previous CBO estimate: None.

11. Estimate prepared by: John Patterson.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

CONGRESSIONAL BUDGET OFFICE ESTIMATE OF COSTS OF PRIVATE SECTOR MANDATES

1. Bill number: S. 1028.

2. Bill title: Health Insurance Reform Act of 1995.

3. Bill status: As reported by the Senate Committee on Labor and Human Resources on October 12, 1995.

4. Bill purpose: The purpose of S. 1028 is to increase access to health care benefits for workers and their families both while the workers are employed and after they leave employment. It would also increase the portability of health insurance when workers change jobs, and make other changes affecting health care benefits.

5. Private sector mandates contained in the bill: S. 1028 contains several private sector mandates as defined in P.L. 104-4 that would affect the private health insurance industry. Three general areas of coverage would be affected: (1) the group and employer-sponsored health insurance market, (2) the extensions of health insurance required under the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, and (3) the market for individual health insurance.

Mandates on group insurers and employee health benefit plans

The bill would require sellers of group health insurance to cover any group purchaser who applies. Group insurers could stop selling coverage only under certain conditions, such as ceasing to offer coverage to any additional group purchasers. Under those circumstances, they could resume offering coverage only after a 6 month cessation and would be required to resume on a first-come-first-served basis. Those availability provisions would apply separately to the "large group" and "small group" markets—that is, an issuer would be allowed to serve only one of those markets. Group insurers would also be required to renew coverage at the option of the group purchaser, except in certain circumstances including nonpayment of premiums, or fraud or misrepresentation on the part of the group purchaser. Network plans would not be required to renew coverage to people living outside the geographic area covered by the plan as long as this action is done on a uniform basis, without regard to the health status of particular individuals.

Several provisions of the bill would apply both to sellers of group insurance and to employee health benefit plans that are "self-insured" by firms. Eligibility, enrollment, and requirements relating to premium contributions could not be based on the employee's health status, claims experience, or medical history.

In addition, the bill would limit the use of pre-existing condition exclusions—clauses that exempt the plan from paying for expenses related to a medical condition that already existed when an enrollee first joined the plan. Under the bill, twelve months would be the maximum allowable duration of a pre-existing condition exclusion (eighteen months for employees who did not join the plan at their first enrollment opportunity). Furthermore, month-for-month credit against that exclusion would have to be given to enrollees for continuous coverage that they had prior to joining a new plan. (Insurers and health benefit plans would be required to keep records to document the previous coverage.) In addition, pregnancy could not be excluded by a pre-existing condition clause, and children who were signed up with a plan within thirty days of birth could not have any existing conditions excluded from coverage. (A similar provision applies for adopted children.)

Affiliation periods, in which new enrollees pay no premium but receive no benefits, could be used if pre-existing condition exclusions were not part of the plan. However, such periods would be limited to sixty days (ninety days for late enrollees).

Finally, the bill would require that health plans offer special enrollment periods for participants or family members for various changes in family or employment status.

Mandates extending COBRA continuation coverage

Under certain circumstances, the bill would compel firms to extend so-called "COBRA" coverage to former employees or their family members for a longer period of time than is currently required. Under current law, firms that offer health insurance as part of their employee benefits package and employ 20 or more people must allow employees (and family members) to continue coverage for 18 months after leaving employment (or for certain other reasons), at a cost that cannot exceed 102 percent of the premium for regular employees. Under certain circumstances, such as if a worker is disabled when he or she first qualifies for COBRA coverage, an additional 11-month extension of coverage also must be made available.

The bill would extend COBRA coverage by specifying an additional condition that would qualify former employees (or their insured family members) for the 11-month extension period after the initial 18-month period. In particular, if a former employee were to become disabled during the first 18 months of extended coverage, then they would qualify for the additional 11-month period. Disability of an insured family member also would be a qualifying condition for continuation of CORBA coverage. Under the current law COBRA provisions, a premium of 150 percent of the premium for regular employees could be charged to former employees in the additional 11-month period.

Mandates affecting the individual insurance market

Under S. 1028, sellers of individual health insurance policies would be required to cover individuals who wanted to enroll in an individual health plan, regardless of their medical history or claims experience, if they had at least 18 months of continuous prior coverage by one or more group health plans or employee health benefit plans. To be eligible for such group-to-individual market "portability," the individual applicant also would have to be ineligible for coverage by another group health plan, employee health benefit plan, or COBRA continuation coverage. The bill would leave the determination of premiums to the applicable state laws or regulations.

Issuers of individual plans also would be required to renew policies at the option of the insured individuals, except for certain circumstances including nonpayment of premiums or fraud.

To the extent that state laws or regulations were a suitable substitute for the provisions of the bill, the federal rules would not apply. Examples of such substitutes could include laws providing for state-sponsored high-risk pools that provide coverage to those who could not otherwise obtain private coverage, open enrollment by one or more health plan issuers to facilitate coverage in the individual market, and guaranteed issue of insurance to all individuals regardless of their health status.

6. Estimated direct cost to the private sector: CBO estimates that the direct cost of the main private sector mandates in S. 1028 would be approximately $350 million in the first year the provisions were effective, rising to about $500 million annually in the fifth year. Those mandate costs represent about one-quarter of one percent of total private sector health insurance expenditures, although their distribution among health insurance plans would be uneven. (Plans that cover public sector employees are not included in this analysis.) These estimates are subject to considerable uncertainty because a number of underlying assumptions rely on limited data or judgments about future changes in health insurance markets.

The specific mandates examined in this estimate are: Limiting the length of time employer-sponsored and group insurance plans could withhold coverage for pre-existing conditions; requiring that periods of continuous prior health plan coverage be credited against pre-existing condition exclusions of a new plan; extending the conditions under which an employer would have to offer 11 additional months of COBRA coverage for disabled people; and requiring issuers of individual health insurance policies to offer coverage to all individuals who meet specific requirements, including 18 months of prior continuous group of employer-sponsored coverage.

Basis of the estimate: The direct costs of those mandates consist of the additional health expenses that would be covered by insurance as a direct result of their implementation. Expenses for pre-existing conditions that would have to be paid by insurers under the bill but would not have been insured under current law, for example, are included in aggregate direct costs. In contrast, insured expenses that would be transferred among different insurers because of the bill are not included in aggregate direct costs.

In making this estimate, CBO did not attempt to value any social benefits that might result from expansions in insurance coverage. That is, the estimate accounts only for the additional insurance costs of the mandates, not the value of additional insurance coverage to beneficiaries. Nor was there an attempt to quantify any indirect costs or benefits. Such indirect effects could include, for example, loss of coverage if an employer ceases to offer group coverage when premiums rise, or increases in worker mobility (or reduced "job lock") with greater portability of benefits. It would be important to weigh all such factors in considering the bill, but only estimates of the direct costs of the mandates in the bill are required by P.L. 104-4, the Unfunded Mandates Reform Act.

Direct costs of mandates on group insurers and employee health benefit plans

Two of the principal mandates in S. 1028 affect group and employee health benefit plans: (1) limiting the maximum length of pre-existing condition exclusions, and (2) requiring that health plans reduce the length of pre-existing condition exclusions for people with prior continuous coverage under other health plans. CBO estimates that the direct cost of those two mandates would total about $300 million in each of the first five years the provisions would be effective. This cost is approximately 0.2 percent of the total premium payments in the group and employer-sponsored market.

Limiting the Maximum Length of an Exclusion. The mandate to limit exclusions for pre-existing conditions to 12 months (18 months for late enrollees) is estimated to have a direct private-sector cost of about $200 million per year. This estimate is based on two components: (1) the number of people who would have more of their medical expenses covered by insurance if exclusions were limited to one year or less, and (2) the average cost to insurers of that newly insured medical care.

CBO used data from the Survey of Employee Benefits in the April 1993 Current Population Survey (CPS) to estimate the number of people with conditions that are not now covered because of a pre-existing condition exclusion of more than one year. The survey asks respondents whether they or a family member have a medical condition that their employment-based plan is not covering because of a pre-existing condition exclusion. It also asks respondents how long they have been with their present firm. For people with medical conditions excluded by a pre-existing condition clause, responses to the second question are used to estimate whether the exclusion period exceeds one year.

A number of adjustments were made to the data. In particular, CBO's estimate of the number of people affected by S. 1028 excluded people who said they were limited by a pre-existing restriction but who also had other health insurance coverage, because the other insurance plan might have covered their pre-existing conditions. Under those circumstances, the limitation imposed on employment-based plans by S. 1028 would not raise their aggregate costs.

The second modification to the CPS data adjusted for changes in the insurance market that have occurred since the survey date of 1993. In particular, since that time, about 40 states have implemented laws affecting the small group insurance market that would limit pre-existing condition exclusions to one year or less and require that previous coverage be credited against those exclusions. Those laws generally apply to groups of 50 or fewer employees and do not include self-funded health benefit plans. Because plans covered by such state laws would not have to change their provisions as a result of S. 1028, CBO lowered its initial estimate of the number of people affected by the bill.

CBO's analysis led to the conclusion that approximately 300,000 people would gain coverage under S. 1028 for some condition that would otherwise be excluded by a long (more than one year) pre-existing condition clause. This estimate represents less than 0.3 percent of people with private employment-based coverage.

The other component of the estimated private-sector cost is the average cost of the coverage that would become available under S. 1028. A recent monograph from the American Academy of Actuaries (referred to as the Academy) indicated a surge in claims costs of 40 to 60 percent when a pre-existing condition exclusion period expired for a sample of people with high expected medical costs.[1] That range is consistent with information from Spencer and Associates indicating that the costs of policies for former employees who have chosen to take extended COBRA coverage are 55 percent higher than those of active employees.[2] Applying those percentages to the average premium cost in the employer-sponsored market yields a potential range of additional costs of $600 to $900 a year per person who would gain coverage under S. 1028.

Crediting Prior Coverage Against Current Exclusions. Another provision in S. 1028 would require insurers under certain circumstances to credit previous continuous health insurance coverage against pre-existing condition periods. That provision is estimated to have a private sector cost of about $100 million per year. The key components of this estimate are: (1) the number of people who would receive some added coverage, and (2) the additional full-year cost of coverage, adjusted to reflect the estimated number of months of that coverage.

CPS data were used to estimate the number of people who would receive some added coverage under this mandate. These are people who would otherwise face some denial of coverage under a pre-existing condition exclusion period of one year or less, and who would qualify for a shortened exclusion period based on prior continuous coverage. CBO estimates that about 100,000 people would receive some added coverage under this provision of the bill. The relatively small size of this estimate is due largely to the difficulty of meeting the restrictive eligibility criteria for the reduction in the exclusion period—particularly the requirement that at most a 30-day gap separate prior periods of insurance coverage from enrollment in the new plan.

The average number of months of coverage these people would gain is constrained by the one-year limit on the exclusion period that would be required under the bill. Based on information from a 1995 study by KPMG Peat Marwick, CBO estimates that people who would qualify would gain coverage for an average of 10 months.[3] CBO's estimate of the additional insured costs per person is based on evidence from the Academy, which suggested that people with pre-existing condition exclusions may not seek treatment during the exclusion period but have rapid increases in expenses when that period expires. That behavior would reduce the effectiveness of exclusion periods in protecting insurers from treatment costs. The shorter the exclusion period, the less effective the pre-existing exclusion is at reducing the insurer's costs. CBO consequently assumed that full-year insured costs of people getting coverage for pre-existing conditions under this provision would rise by less than 40 percent.

Other Considerations. The estimated direct cost of the mandate to limit the length of pre-existing condition exclusions is about $200 million annually, and the cost of the mandate to credit previous coverage against pre-existing condition exclusions is about $100 million. Together, those mandate costs amount to about 0.2 percent of total premium payments in the group and employer-sponsored market.

Those estimates are subject to considerable uncertainty for several reasons. First, they are based on individuals' responses to surveys, which should be treated with caution. In addition, unforeseen changes in health insurance markets could result in the estimates being too low or too high. Larger than expected increases in medical costs would result in higher direct costs than estimated. On the other hand, the growth of managed care plans would lower the direct costs of the bill. The magnitude of this effect would depend on the relative growth of HMOs, which generally do not use preexisting condition exclusions, as compared to PPO and POS plans, many of which do use preexisting condition exclusions.

The distribution of the direct costs of the mandates would be uneven across health plans. Only plans that currently use pre-existing condition exclusions of more than 12 months would face the $200 million direct cost of the first mandate. Data from the Peat Marwick survey indicate that 2.5 percent of employees are in such health plans. Consequently, the costs to health plans that use long pre-existing condition exclusions would be about 4.5 percent of their premium costs. Likewise, only health plans that use pre-existing condition exclusions would face the direct cost of the mandate to credit previous coverage against the pre-existing exclusion. The data indicate that almost half of employees are in such plans—implying that the plans directly affected by this mandate would have direct costs equal to about one-tenth of one percent of their premiums under current law.

Employers could respond in a number of ways to the additional insured costs that would arise under these provisions of the bill. They could reduce other insurance benefits, increase employees' premium contributions, or reduce other components of employee compensation. Employers would be likely to respond in different ways, and these changes could take time. Some employers that currently offer health insurance to their employees might drop that coverage if the costs became too large, although the magnitude of such a reaction would probably be modest. These employer responses, which would offset the costs of the mandates, are indirect effects and do not enter into our estimates of the direct costs to the private sector of the insurance mandates.

Direct costs of mandates extending COBRA continuation coverage for the disabled

CBO estimates that the aggregate direct costs of the COBRA extension for disabled people would be negligible. Although individuals qualifying for the extension would be expected to have covered health expenses about three times greater than their premium payments, very few people would actually participate.

CBO used two approaches to estimate the number of people who would take advantage of the new COBRA extension. The first method used evidence on the number of employees electing COBRA coverage under current law who are disabled. A study by Flynn found that only 0.09 percent of COBRA elections are by disabled people.[4] Even under the assumption that the number of disabled people having COBRA coverage would double as a result of the new extension, fewer than 5,000 people a year would be covered by that extension.

In the second approach, CBO used data from the 1992 Survey of Income and Program Participation (SIPP) to examine the prior insurance status of people who became covered under Medicare disability coverage. That analysis also suggested that the number of people qualifying for the additional COBRA coverage under S. 1028 would be extremely small.

The costs of coverage for disabled people were estimated using information from the 1987 National Medical Expenditure Survey, which indicated that non-elderly disabled people had medical expenditures four to five times greater than non-disabled people. Those higher costs would be partly offset by additional premiums that would be collected from persons using the COBRA extension. COBRA allows insurers to charge those people up to 150 percent of the premium for regular employees. Consequently, assuming the full COBRA premium was assessed, the insured costs of disabled people taking the new extension would be about three times higher than the premiums they would pay.

Footnotes at end of article.

Direct costs of mandates affecting the individual insurance market

S. 1028 would require issuers of individual health insurance policies to offer coverage to all people who have had group or employer-sponsored coverage continuously for at least 18 months immediately prior to enrolling, but who are not eligible for additional COBRA or other group coverage. CBO estimates that this group-to-individual portability provision would impose aggregate direct costs on the private sector of less than $50 million in the first year the law was effective. Those aggregate direct costs would rise to about $200 million annually in the fifth year.

The mandate costs are added insurance costs of people who would gain coverage minus premium payments that the newly covered individuals themselves would make to insurers. Premium payments are subtracted because they would directly offset part of the cost of the mandate imposed on insurers.

A key element of this estimate is the calculation of the number of people who would both qualify for and desire to purchase individual market insurance under the provisions in S. 1028, but who would not be extended insurance coverage under current law. CBO analyzed data from the 1992 SIPP to determine the number of people who: (1) had 18 months of prior continuous group coverage, and (2) would purchase an individual policy if insurers were not permitted to exclude them on the basis of health. We assumed that uninsured survey respondents who indicated that they were too sick to obtain insurance would fulfill the latter condition. The data suggest, however, that only about 25 percent of such people would meet S. 1028's requirement of 18 months of continuous prior group coverage.

Because the SIPP survey used in this analysis ended in late 1993, we made two additional adjustments to our estimate. First, we corrected for changes in the number of uninsured since 1993. Second, we reduced our estimate to account for state legislation that supersedes the S. 1028 provision. Many states undertook reforms of their individual insurance markets prior to the time of the survey, and a few additional states have implemented such laws since then. We assumed that all states with comparable laws would get waivers from the S. 1028 provisions affecting the individual market. Accordingly, the estimate assumes that the mandate would only be effective in states accounting for about 5.4 million of the estimated 13.4 million people currently having individual coverage.[5] (Note that estimates of the number of people insured through the individual market vary considerably. CBO's assumption is consistent with that of the Academy.)

CBO concludes that approximately 40,000 people would become covered by the end of the first year the bill would be effective because of the group-to-individual portability provision. The number of covered people would grow gradually over time as more people who, in the absence of S. 1028, would have been denied coverage because of poor health would meet the 18-month continuous group coverage requirement and choose to purchase individual insurance. In about four years, the number of people covered because of those portability provisions would plateau at around 150,000 people. Those estimates refer only to the number of people who gain insurance coverage as a result of S. 1028. The estimates do not include people who might decide to move into individual insurance coverage under S. 1028 but would have had insurance coverage from elsewhere in the absence of the bill. It would not be appropriate to count such people toward the aggregate direct costs of the bill because their medical expenses would have been insured anyway.

In order to complete the estimate, we calculated the direct mandate costs per person who would obtain individual coverage because of this bill. Those costs equal the difference between the added insurance costs of the people who would gain coverage and the premium payments that those newly covered people would make to insurers. Neither the additional insurance costs, nor the additional premium revenue, can be estimated with a high degree of confidence.

S. 1028 would prohibit the denial of coverage because of health status or claims experience. Consequently, people gaining coverage through the portability provisions of S. 1028 would cost more, on average, than the typical person who currently purchases an individual policy. But, because of the multiple eligibility criteria required by S. 1028, surveys of health expenditures do not provide an adequate basis for a specific estimate of those higher costs.

Likewise, the premiums that insurers might charge newly covered people are highly uncertain because they depend on the unknown responses of state insurance regulators that are likely to vary among the states. At one extreme, state regulators might not allow insurers to charge higher premiums for people qualifying under the S. 1028 portability provisions. The loss on those people would then be relatively large. At the other extreme, state regulators might allow insurers to charge them their full expected costs. In that case, there would be no loss to insurers, and consequently no aggregate costs from that mandate.

Previous studies offer divergent views on these issues. The Academy assumed that people obtaining individual coverage through the portability provisions would have costs two to three times as high as standard risks.[6] They also assumed that the premiums those people would pay would range from 125 to 167 percent of the average individual premium. That is, the Academy assumed that states would limit what insurers could charge to less than the full cost of the benefit.

The Health Insurance Association of America (HIAA) assumed that newly covered people who exhausted their COBRA coverage would have costs between two and three times the average, while the cost of those not eligible for COBRA coverage would be 1.5 to two times the average[7] HIAA made no specific assumptions about the rating rules that states would impose on health plans in the individual market.

Although neither the costs nor the insurance premiums associated with the newly covered individuals are known, it is not unreasonable to assume that state insurance commissioners would take the additional costs, and their potential effects, into account in regulating the individual market. If, for example, the expected costs of the newly insured people were high relative to others in the individual market, insurance regulators might allow insurers to charge such people relatively high premiums. Conversely, if the expected costs of the newly insured people were not much higher than others in the individual market, state regulators might not allow their premiums to deviate much from the market average.

This relationship can be viewed in terms of a target "loss" percentage that regulators might seek. That percentage would be the difference between the cost of coverage and the premium, expressed as a share of the average premium in the individual market. Based on a wide range of possible cost and premium factors, CBO assumed that the insurers' loss percentage associated with the newly covered individuals would be about 70 percent. That is, the difference between premium income and insurance costs for the newly insured people is expected to be about 70 percent of the average premium paid by others in the individual market.

Multiplying the loss percentage by the average individual market premium under current law and by the number of newly covered people yields the estimated aggregate direct costs of the group-to-individual portability provision. Those costs are expected to be less than $50 million in the first effective year of the legislation and to rise to about $200 million annually by the fifth year.

Other Considerations. For those states in which the individual market mandates are expected to apply, premiums are estimated to be around 0.5 percent higher than otherwise by the end of the first year of implementation and to be approximately 2 percent higher than otherwise by the end of the fifth year. Those premium increases represent the excess costs that presumably would be passed on to people who would have acquired individual policies in the absence of this bill. The estimates of premium increases are limited to those costs attributable to people who obtain insurance in the individual market who would have been uninsured in the absence of S. 1028.

If individual insurance premiums rose sufficiently as a consequence of S. 1028, some people with individual coverage would probably drop their insurance. Those most likely to do so would be lower-income people who were not in poor health. CBO used an analysis by Marquis and Long to estimate the number of people who would drop out of the individual insurance market in response to higher premiums.[8] By the fifth year after S. 1028 became effective, about 35,000 people who would have purchased individual policies in the absence of this legislation would not do so. Overall, however, the number of people with insurance in the individual market would probably rise as a result of S. 1028.

CBO's estimate assumes that states that already meet the individual market standards in S. 1028 would be granted waivers of those requirements. Initiatives such as guaranteed issue laws and state-sponsored risk pools to provide insurance for high-risk people may qualify states for waivers. The Academy has suggested, however, that states may not seek those waivers even when they are eligible. States might see the provisions of S. 1028 as a mechanism to transfer some individuals out of partially state-subsidized high-risk insurance pools into the private market, where their additional costs would be picked up entirely by the private sector.

7. Appropriations or other Federal financial assistance: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: James Baumgardner.

10. Estimate approved by: Joseph Antos, Assistant Director for Health and Human Resources.

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[1] See American Academy of Actuaries, "Providing Universal Access in a Voluntary Private-Sector Market," February 1996.

[2] Charles D. Spencer and Associates, Inc., "1995 COBRA Survey: Almost One in Five Elect Coverage, Cost is 155% of Actives' Cost," Spencer's Research Reports (August 25, 1995).

[3] Based on unpublished tabulations from KPMG Peat Marwick, LLP, Survey of Employer-Sponsored Benefits, 1995.

[4] Patrice Flynn, "COBRA Qualifying Events and Elections, 1987–1991," Inquiry, vol. 31, no. 2 (Summer 1994), pp. 215–220.

[5] Calculations based on consultations with the Congressional Research Service/Hay Group concerning state individual insurance market laws.

[6] American Academy of Actuaries, "Comments on the Effect of S. 1028 on Premiums in the Individual Health Insurance Market," February 20, 1996.

[7] Health Insurance Association of America, "The Cost of Ending 'Job Lock' or How Much Would Health Insurance Costs Go Up if 'Portability' of Health Insurance Were Guaranteed: Preliminary Estimates," July 26, 1995.

[8] M. Susan Marquis and Stephen H. Long, "Worker Demand for Health Insurance in the Non-Group Market," Journal of Health Economics, vol. 14, no. 1 (May 1995), pp. 47–63.

SEXUAL OFFENDER TRACKING AND IDENTIFICATION ACT OF 1996

Mrs. HUTCHISON. Mr. President, in response to the number of repeat crimes that are committed by convicted sex offenders, Senator GRAMM and I are offering legislation to require all such individuals to register with the FBI.

Society needs to know where these predators are at all times. Individual States are creating registries of convicted sex offenders and devising other measures to address the problem—my home state of Texas has moved forward aggressively on this front.

Unfortunately, for my State and others, there is a continuing worry despite such progress: individuals convicted of 1,000 cases of child molestation scheduled to be released in Texas this year alone.

Currently, 47 States have registry laws which apply to sex offenders, but these track such felons only within the individual State. There is no national registry. There is no formal network for law enforcement agencies to communicate with each other about know sexual predators. As a result, a convicted rapist or child molester released in Texas can move to, say, Vermont—which has no registry law—and disappear from law enforcement records. This ability to move from one State to the next unmonitored has provided tens of thousands of sex offenders with the opportunity to commit yet more deviant acts.

The legislation Senator GRAMM and I are introducing would close this immense loophole by creating a national computer registry to track convicted sex offenders. Our bill would:

Require all sex offenders to register with the FBI for 10 years following their release from prison, drawing on State registries.

Authorize the FBI to register and track offenders living in States with no registry program.

Require the FBI to ensure that local authorities are notified every time a sex offender moves into or out of their jurisdiction.

Allow private and community organizations access to the sex offender files through their local law enforcement agencies;

Preserve State authority in determining whether (or how) the public at large will be notified of the presence of sex offenders in a community.

Provide penalties for those who fail to register.

This will provide a tracking program nationwide. It is an appropriate function of the Federal Government to keep tabs on such offenders—and help to arm communities with information that might well prevent future, similar, horrifying crimes. We know that 40 percent of convicted sex offenders will repeat their crimes. We must begin acting on that information.

Mr. President, Senator GRAMM and I are not asking that any money be appropriated for this purpose—the FBI can create such a tracking system with existing resources. And this is how Federal agencies should be spending the taxpayers' money: on protecting them and their children, and making their communities safer, less threatening places to live.

One of the ultimate responsibilities of Government is the protection of its citizens—especially its youngest and most vulnerable. This measure does not seek to impose additional punishment on sex offenders—but it is aimed at providing society at large with an element of self-defense that it does not enjoy now.

TAX DAY

Mr. PELL. Mr. President, Tax Day has come and gone, and I would wager that few outside of Washington, DC, marked its passing because they were so absorbed in the last minute preparation and filing of income tax returns. Most paid scant heed to this congressionally created day of moment, which, in my view, panders irresponsibly to popular aversion to taxation.

It is far more responsible, in my view, to emphasize the positive aspects of public finance. Most Federal taxes flow right back to Americans in benefits and services. Federal taxes here includes both Federal income taxes and Federal payroll or Social Security taxes. Payroll taxes are used to pay Social Security and Medicare benefits to our elderly and disabled. Income taxes are used to fund the operations of our Government which include the provision of student loans for education, maintenance of our national parks and museums, low-interest mortgage loans for first-time home buyers, veterans benefits, unemployment compensation, and our military defense, among other things.

I am advised that Federal entitlements—benefits citizens are entitled to collect if they meet certain demographic or income definition—reach 49 percent of U.S. households, including 39 percent of families with children and 98 percent of the elderly.

Moreover, in my view, Americans are not overtaxes in comparison with other nations. The highest statutory marginal individual income tax rate in the United States, 39.6 percent, is relatively low by international standards. France, Germany, Italy, and Japan have tax rates that are substantially higher, reaching 56.8 percent. By another measure, using total tax receipts as a percent of gross domestic product [GDP], the United States has an average tax rate of 31.5 percent. The United Kingdom, Italy, Germany, Canada, and France are all significantly higher, with several having average tax rates in excess of 40 percent of GDP.

Of course, constant restraint and diligence must be exercised to make sure that waste, fraud, and abuse are avoided at all times. But overall, I believe that our Federal Government has had, and continues to have, a positive impact on the lives of most Americans. In the words of Justice Holmes, "taxes are what we pay for civilized society." In the end, we get what we pay for.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES FOR CALENDAR YEAR 1995—MESSAGE FROM THE PRESIDENT—PM 138

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

I am pleased to present to you the 1995 Annual Report of the National Endowment for the Humanities (NEH). For 30 years, this Federal agency has given Americans great opportunities to explore and share with each other our country's vibrant and diverse cultural heritage. Its work supports an impressive array of humanities projects.

These projects have mined every corner of our tradition, unearthing all the distinct and different voices, emotions, and ideas that together make up what is a uniquely American culture. In 1995, they ranged from an award-winning television documentary on President Franklin Delano Roosevelt, the radio production Wade in the Water, to preservation projects that will rescue

750,000 important books from obscurity and archive small community newspapers from every State in the Union. Pandora's Box, a traveling museum exhibit of women and myth in classical Greece, drew thousands of people.

The humanities have long helped Americans bridge differences, learn to appreciate one another, shore up the foundations of our democracy, and build strong and vital institutions across our country. At a time when our society faces new and profound challenges, when so many Americans feel insecure in the face of change, the presence and accessibility of the humanities in all our lives can be a powerful source of our renewal and our unity as we move forward into the 21st century.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 17, 1996*.

REPORT ON ALASKA'S MINERAL RESOURCES FOR CALENDAR YEAR 1995—MESSAGE FROM THE PRESIDENT—PM 139

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources.

To the Congress of the United States:

I transmit herewith the 1995 Annual Report on Alaska's Mineral Resources, as required by section 1011 of the Alaska National Interest Lands Conservation Act (Public Law 96–487; 16 U.S.C. 3151). This report contains pertinent public information relating to minerals in Alaska gathered by the U.S. Geological Survey, the U.S. Bureau of Mines, and other Federal agencies.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 17, 1996*.

MESSAGES FROM THE HOUSE

At 1:58 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2337. An act to amend the Internal Revenue Code of 1986 to provide for increased taxpayer protections.

H.R. 2501. An act to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes.

H.R. 2630. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois.

H.R. 2695. An act to extend the deadline under the Federal Power Act applicable to the construction of certain hydroelectric projects in the State of Pennsylvania.

H.R. 2773. An act to extend the deadline under the Federal Power Act applicable to the construction of 2 hydroelectric projects in North Carolina, and for other purposes.

H.R. 2816. An act to reinstate the license for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Ohio, and for other purposes.

H.R. 2869. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Kentucky.

H.R. 3034. An act to amend the Indian Self-Determination and Education Assistance Act to extend for two months the authority for promulgating regulations under the Act.

H.R. 3074. An act to amend the United States-Israel Free Trade Area Implementation Act of 1985 to provide the President with additional proclamation authority with respect to articles of the West Bank or Gaza Strip or a qualifying industrial zone.

H.R. 3121. An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those Acts, to authorize the transfer of naval vessels to certain foreign countries, and for the purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 3074. An act to amend the United States-Israel Free Trade Area Implementation Act of 1985 to provide the President with additional proclamation authority with respect to articles of the West Bank or Gaza Strip or a qualifying industrial zone; to the Committee on Finance.

H.R. 3121. An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those Acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following measures were read the first and second times by unanimous consent and placed on the calendar:

H.R. 2501. An act to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes.

H.R. 2630. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois.

H.R. 2695. An act to extend the deadline under the Federal Power Act applicable to the construction of certain hydroelectric projects in the State of Pennsylvania.

H.R. 2773. An act to extend the deadline under the Federal Power Act applicable to the construction of 2 hydroelectric projects in North Carolina, and for other purposes.

H.R. 2816. An act to reinstate the license for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Ohio, and for other purposes.

H.R. 2869. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Kentucky.

The following bill was ordered placed on the calendar:

H.R. 2337. An act to amend the Internal Revenue Code of 1986 to provide for increased taxpayer protections.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2219. A communication from the Secretary of Energy transmitting, pursuant to law, the annual report for the Strategic Petroleum Reserve for 1995; to the Committee on Energy and Natural Resources.

EC–2220. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–2221. A communication from the Deputy Chief (Programs and Legislation Division), Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a notice relative to the Range Mobile Target Support function; to the Committee on Armed Services.

EC–2222. A communication from the Deputy Chief (Programs and Legislation Division), Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a notice relative to depot maintenance activities; to the Committee on Armed Services.

EC–2223. A communication from the Secretary of the Navy transmitting, pursuant to law, a report relative to a major defense acquisition program; to the Committee on Armed Services.

EC–2224. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, the notice of an intention to offer a transfer by sale; to the Committee on Armed Services.

EC–2225. A communication from the Assistant Secretary of the Navy (Installations and Environment) transmitting, pursuant to law, the report of a study relative to outsourcing; to the Committee on Armed Services.

EC–2226. A communication from the Secretary of the Army transmitting, pursuant to law, a report relative to the average unit procurement cost for a program; to the Committee on Armed Services.

EC–2227. A communication from the Assistant Secretary of the Army (Installations, Logistics and Environment) transmitting, pursuant to law, a notice relative to Fort Polk, LA; to the Committee on Armed Services.

EC–2228. A communication from the Secretary of Energy transmitting, pursuant to law, the report of DOE activities relating to the Defense Nuclear Facilities Safety Board for calendar year 1995; to the Committee on Armed Services.

EC–2229. A communication from the Deputy Secretary of Defense transmitting, pursuant to law, a report relative to outsourcing; to the Committee on Armed Services.

EC–2230. A communication from the Secretary of Defense, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on Armed Services.

EC–2231. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled "The National Defense Authorization Act for Fiscal Year 1997"; to the Committee on Armed Services.

EC–2232. A communication from the Administrator of the Environmental Protection

Agency, transmitting, pursuant to law, the (entire) National Water Quality Inventory Report for calendar year 1994; to the Committee on Environment and Public Works.

EC-2233. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report relative to the Office of Small and Disadvantaged Business Utilization (OSDBU) and women and minority business enterprises; to the Committee on Environment and Public Works.

EC-2234. A communication from the Secretary of the Nuclear Regulatory Commission, transmitting, pursuant to law, a major rule to establish license and annual fees under the Omnibus Budget Reconciliation Act of 1990; to the Committee on Environment and Public Works.

EC-2235. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the financial statements for fiscal years 1994 and 1995; to the Committee on Armed Services.

EC-2236. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on nonlethal weapons; to the Committee on Armed Services.

EC-2237. A communication from the Assistant General Counsel of the U.S. Information Agency, transmitting, pursuant to law, a report relative to an exchange visitor's program duration; to the Committee on Foreign Relations.

EC-2238. A communication from the President and Chief Executive Officer of the Overseas Private Investment Corporation, transmitting, a draft of proposed legislation entitled "The Overseas Private Investment Corporation Amendments Act of 1996"; to the Committee on Foreign Relations.

EC-2239. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Presidential Determination relative to international financial institutions; to the Committee on Foreign Relations.

EC-2240. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to the United Nations Civilian Police operation in Eastern Slavonia; to the Committee on Foreign Relations.

EC-2241. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of contributions to international organizations for fiscal year 1995; to the Committee on Foreign Relations.

EC-2242. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC-2243. A communication from the Attorney General, transmitting, pursuant to law, the annual report of the Federal Prison Industries for calendar year 1995; to the Committee on the Judiciary.

EC-2244. A communication from the Director of the Federal Judicial Center, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on the Judiciary.

EC-2245. A communication from the Secretary of Veterans' Affairs, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2246. A communication from the Postmaster General, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2247. A communication from the Director of the Judicial Conference of the United States, transmitting, a draft of proposed legislation to provide for the conversion of existing temporary U.S. District Judgeships to permanent status, and for other purposes; to the Committee on the Judiciary.

EC-2248. A communication from the Director of the Office of Governmental Ethics, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2249. A communication from the Executive Director of Government Affairs of the Non Commissioned Officers Association of the U.S.A., transmitting, pursuant to law, the report of financial statements for calendar years 1994 and 1995; to the Committee on the Judiciary.

EC-2250. A communication from the Commissioner of Social Security, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2251. A communication from the Director of Operations, Department of the Interior, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2252. A communication from the Acting Administrator, General Services Administration, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2253. A communication from the Assistant Secretary of Education (Civil Rights), transmitting, pursuant to law, the annual report for fiscal year 1995; to the Committee on Labor and Human Resources.

EC-2254. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the Public Housing Primary Care program; to the Committee on Labor and Human Resources.

EC-2255. A communication from the Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the fiscal year 1995 report relative to the Arts and Artifacts Indemnity Program; to the Committee on Labor and Human Resources.

EC-2256. A communication from the President of the U.S. Institute of Peace, transmitting, pursuant to law, the report of financial statements for fiscal year 1995; to the Committee on Labor and Human Resources.

EC-2257. A communication from the Director of the Executive Office of the President, Office of Management and Budget, transmitting, a draft of proposed legislation entitled "The Electronic Depository Library Act of 1996"; to the Committee on Rules and Administration.

EC-2258. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report of a proposed form; to the Committee on Rules and Administration.

EC-2259. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report of legislative recommendations for calendar year 1996; to the Committee on Rules and Administration.

EC-2260. A communication from the Secretary of Veterans' Affairs, transmitting, pursuant to law, a report relative to an evaluation of health status; to the Committee on Veterans' Affairs.

EC-2261. A communication from the Secretary of Veterans' Affairs, transmitting, pursuant to law, a report relative to equitable relief for calendar year 1995; to the Committee on Veterans' Affairs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources:

C.E. Abramson, of Montana, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2000.

Robert B. Rogers, of Missouri, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of three years. (New Position)

Elmer B. Staats, of the District of Columbia, to be a Member of the Board of Trustees of the Harry S. Truman Scholarship Foundation for a term expiring December 10, 2001. (Reappointment)

David A. Ucko, of Missouri, to be a Member of the National Museum Services Board for a term expiring December 6, 1999.

Alberta Sebolt George, of Massachusetts, to be a Member of the National Museum Services Board for a term expiring December 6, 1998.

Ronnie Feuerstein Heyman, of New York, to be a Member of the National Council on the Arts for a term expiring September 3, 2000.

Terry Evans, of Kansas, to be a Member of the National Council on the Arts for a term expiring September 3, 2000.

Audrey Tayse Haynes, of Kentucky, to be a Member of the National Institute for Literacy Advisory Board for a term expiring October 13, 1998.

Mary Dodd Greene, of Texas, to be a Member of the National Institute for Literacy Advisory Board for a term expiring October 12, 1998.

Mark Edwin Emblidge, of Virginia, to be a Member of the National Institute for Literacy Advisory Board for a term expiring September 22, 1998.

Toni G. Fay, of New Jersey, to be a Member of the National Institute Literacy Advisory Board for a term expiring October 12, 1998.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated.

By Mr. LEVIN:

S. 1679. A bill to clarify the application of Federal preemption of State and local laws, and for other purposes; to the Committee on Governmental Affairs.

By Mr. COVERDELL:

S. 1680. A bill to amend title 18 of the United States Code to permit the judicial deportation of criminal aliens; to the Committee on the Judiciary.

By Mr. SPECTER (for himself and Mrs. FEINSTEIN):

S. 1681. A bill to establish a commission to improve the policies and programs of the Federal Government for combatting the proliferation of weapons of mass destruction, and for other purposes; to the Select Committee on Intelligence.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE:

S. Res. 246. A resolution to authorize the use of additional funds for salaries and expenses of the Special Committee to Investigate Whitewater Development Corporation and Related Matters, and for other purposes; considered and agreed to.

By Mr. SPECTER (for himself and Ms. MIKULSKI):

S. Res. 247. A resolution expressing the sense of the Senate regarding a resolution of the dispute between Greece and Turkey over sovereignty to the islet in the Aegean Sea called Imia by Greece and Kardak by Turkey; to the Committee on Foreign Relations.

By Ms. MIKULSKI (for herself, Mr. AKAKA, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BUMPERS, Mr. BYRD, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. CRAIG, Mr. DODD, Mr. DOLE, Mr. DORGAN, Mrs. FEINSTEIN, Mr. GLENN, Mr. GRAHAM, Mr. HARKIN, Mr. HATFIELD, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mr. KENNEDY, Mr. KERREY, Mr. LEVIN, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SIMON, Mr. SIMPSON, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, and Mr. WELLSTONE):

S. Con. Res. 52. A concurrent resolution to recognize and encourage the convening of a National Silver Haired Congress; to the Committee on Labor and Human Resources.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. LEVIN:

S. 1679. A bill to clarify the application of Federal preemption of State and local laws, and for other purposes; to the Committee on Governmental Affairs.

THE PREEMPTION CLARIFICATION AND INFORMATION ACT OF 1996

• Mr. LEVIN. Mr. President, today I am introducing the Preemption and Clarification Act of 1996. It would require an explicit statement of Federal preemption in Federal legislation in order for such preemption to occur unless there exists a direct conflict between the Federal law and a State or local law which cannot be reconciled. Enactment of this bill would close the back door of implied Federal preemption and put the responsibility for determining whether or not State or local governments should be preempted back in Congress where it belongs.

State and local officials have become increasingly concerned with the number of instances in which State and local laws have been preempted by Federal law—not because Congress has done so explicitly, but because the courts have implied such preemption. Since 1789, Congress has enacted approximately 350 laws specifically preempting State and local authority. Half of these laws have been enacted in the last 20 years. These figures, however, do not touch upon the extensive Federal preemption of State and local authority which has occurred as a result of judicial interpretation of congressional intent, when Congress' intention to preempt has not been explicitly stated in law. When Congress is unclear about its intent to preempt, the courts must then decide whether or not preemption was intended and, if so, to what extent.

Article VI of the Constitution, the supremacy clause, states that Federal laws made pursuant to the Constitution "shall be the supreme law of the land." In its most basic sense, this clause means that a State law is negated or preempted when it is in conflict with a constitutionally enacted Federal law. A significant body of case law has been developed to arrive at standards by which to judge whether or not Congress intended to preempt State or local authority—standards which are subjective and have not resulted in a consistent and predictable doctrine in resolving preemption questions.

If we in Congress want Federal law to prevail, we should be clear about that. If we want the States to have discretion to go beyond Federal requirements, we should be clear about that. If, for example, we set a floor in a Federal statute, but are silent on actions which meet but then go beyond the Federal requirement, State and local governments should be able to act as they deem appropriate. State and local governments should not have to wait to see what they can and cannot do. Our bill would allow tougher State and local laws given congressional silence.

Our legislation also requires the Congressional Research Service, at the end of each Congress, to compile a report on the number of statutory and judicially interpreted preemptions. This will constitute the first time such a complete report has been done, and the information will be valuable to the debate regarding the appropriate use of preemption to reach Federal goals.

I introduced this bill in the 102d Congress with Senator David Durenburger. A form of the bill was included in the unfunded mandates law we passed in the spring of last year. That provision, now law, requires that when a committee of the Senate or House reports a bill, the report accompanying the bill is required to contain an explicit statement of the extent to which the bill is intended to preempt any State, local or tribal law and if so, an explanation of the effect of such preemption. That provision of the unfunded mandates law is an attempt to get congressional committees to address the issue of preemption before legislation is reported to the floor of the House or Senate. In reviewing several bills that are now on the Senate Calendar awaiting Senate action, I was disappointed to find that none of the ones I reviewed met the requirements of this provision. We can and should do better.

This bill, unlike the provision in the unfunded mandates law where silence in the report leaves the issue unresolved, this bill establishes a principle for the courts to follow in determining a preemption case where the bill is silent on the matter. This bill tells the court that if the statement of intent to preempt is not in the legislation then the court is not authorized to read it into the statute—unless there is a direct conflict between Federal and State law. If legislation is silent, there is no preemption.

Earlier this year the Governmental Affairs Committee held a hearing on a bill entitled the "Tenth Amendment Enforcement Act of 1996." It contains a section on judicial construction which is virtually the same as that contained in this bill and the bill I introduced in the 102d Congress. The tenth amendment bill, however, has other provisions that are troublesome. I am introducing my bill today in the hope that we can enact this provision into law, this year, and leave the more troublesome features of the Tenth Amendment Enforcement Act of 1996 for another day.

Mr. President, preemption clarification legislation has been endorsed by the National Conference of State Legislators, the Intergovernmental Affairs Committee of the Council of State Governments, the U.S. Conference of Mayors, and the Appellate Judges Conference of the American Bar Association.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Preemption Clarification and Information Act of 1996".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the United States Constitution created a strong Federal system, reserving to the States all powers not expressly delegated to the Federal Government;

(2) on numerous occasions, the Congress has enacted statutes that explicitly preempt State and local government powers and describe the scope of the preemption;

(3) in addition to statutes that explicitly preempt State and local government powers,

many other statutes that lack an explicit statement by Congress of its intent to preempt and a clear description of the scope of the preemption have been construed by the courts and Federal agencies to preempt State and local government powers; and

(4) without an explicit statement of Congress' intent to preempt State and local government powers and a clear description of the scope of preemption, preemptive statutes—

(A) provide too little guidance and leave too much discretion to Federal agencies which are required to promulgate and enforce regulations pursuant to statutes;

(B) create too great an uncertainty for State and local governments; and

(C) leave the presence or scope of preemption to be litigated and determined by the Federal judiciary, producing results sometimes contrary to or beyond the intent of Congress.

SEC. 3. PURPOSE.

The purposes of this Act are to—

(1) promote and preserve the integrity and effectiveness of the Federal system;

(2) set forth principles governing the interpretation of congressional intent regarding preemption of State and local government powers by Federal laws and regulations; and

(3) establish an information collection system designed to monitor the incidence of Federal statutory and regulatory preemption.

Sec. 4. DEFINITIONS.

As used in this Act, the term—

(1) "local government" means a county, city, town, borough, township, village, school district, special district, or other political subdivision of a State;

(2) "State" means a State of the United States and an agency or instrumentality of a State, but does not include a local government of a State; and

(3) "State and local government powers" means powers reserved under the ninth and tenth amendments of the United States Constitution to States or delegated to local governments by States.

SEC. 5. RULE OF CONSTRUCTION.

No statute, or rule promulgated under such statute, shall preempt, in whole or in part, any State or local government law, ordinance, or regulation, unless the statute explicitly states that such preemption is intended or unless there is a direct conflict between such statute and a State or local law, ordinance, or regulation so the two cannot be reconciled or consistently stand together.

SEC. 6. ANNUAL REPORT ON STATUTORY PREEMPTION.

(a) REPORT.—Within 90 days after each Congress adjourns sine die, the Congressional Research Service shall prepare and make available to the public a report on the extent of Federal statutory preemption of State and local government powers enacted into law during the preceding Congress or adopted through judicial interpretation of Federal statutes.

(b) CONTENTS.—The report shall contain—

(1) a cumulative list of the Federal statutes preempting, in whole or in part, State and local government powers;

(2) a summary of Federal legislation enacted during the previous Congress preempting, in whole or in part, State and local government powers;

(3) an overview of recent court cases addressing Federal preemption issues; and

(4) other information the Director of the Congressional Research Service determines appropriate.

(c) TRANSMITTAL.—Copies of the report shall be sent to the President and the chairman of the appropriate committees in the Senate and House of Representatives.

SEC. 7. EFFECTIVE DATE.

This Act shall take effect on January 1, 1997. The requirements of section 5 shall apply only to statutes enacted or final regulations which become effective on or after January 1, 1997.•

By Mr. SPECTER (for himself and Mrs. FEINSTEIN):

S. 1681. A bill to establish a commission to improve the policies and programs of the Federal Government for combating the proliferation of weapons of mass destruction, and for other purposes; to the Select Committee on Intelligence.

COMBATING PROLIFERATION OF WEAPONS OF MASS DESTRUCTION ACT OF 1996

Mr. SPECTER. Mr. President, it is well known that there is an enormous international threat posed by weapons of mass destruction.

Testimony which was recently heard by the Senate Intelligence Committee, which I chair, disclosed that some 25 nations have weapons of mass destruction including nuclear weapons, biological weapons, and chemical weapons.

In testimony offered by John Deutch in 1994, when he was Deputy Secretary of Defense, he pointed out that "If North Koreans build the Taepo Dong II missile, Alaska and parts of Hawaii would be potentially at risk." I think it is not well known that parts of the United States are potentially at risk from long-range missiles.

We have seen the development of biological weapons by Saddam Hussein which was confirmed last August by his son-in-law following his defection. We see the building of chemical weapons by Qadhafi noted recently by Secretary of Defense Perry with his statement that we could not tolerate the completion of those weapons of mass destruction. We have seen China sell missiles to Pakistan. We have seen the tremendous tension building up on the subcontinent with both Pakistan and India engaging in a missile race.

In the United States, Mr. President, while we have noted the enormous problems on weapons of mass destruction, we have seen a governmental structure which is extraordinarily complicated and really unable to deal in a coordinated method with this tremendous problem.

This chart depicts the problems in the United States of the numerous agencies which have jurisdiction in one way or another over weapons of mass destruction. This chart contains boxes depicting 96 different entities which have authority of one sort or another over this field.

We have some authority vested in the National Security Council. We have some authority vested in the Department of Defense, some authority vested in the Department of State, some in the Department of Justice, some in the Department of Energy, some with the Director of Central Intelligence, others even with the Secretary of Health and Human Services, still further authority in the Secretary of the Treasury and authority in the Secretary of Commerce.

This is on its face an enormously unwieldy Federal bureaucracy, and that is our response to the problem of weapons of mass destruction. And as shown by this chart it is obviously a bureaucracy which cannot function efficiently.

In 1993, when I studied the Clinton health program, I asked an assistant to make a listing of all the agencies, boards and commissions, and my assistant made a chart instead which depicted an enormous bureaucracy, which was influential in helping to defeat that health care program. If a picture is worth 1,000 words, a chart may be worth 1,000 pictures, Mr. President, and I think that this chart shows the urgency of some reorganization of the Federal Government to deal with this enormous problem.

The study of the congressionally mandated Commission on Roles and Missions of the Armed Forces pointed out that "Despite the declared national emergency, there is no evidence that combating proliferation receives continuous high level attention." The study's conclusion is worth noting and emphasizing:

> Mechanisms for effectively integrating the combating proliferation activities of all departments and agencies are lacking. Given the complexity of the tasks involved, the need for marshaling resources from many agencies, and the necessarily protracted nature of these efforts, the failure to assign clear and empowered leadership has impeded the United States effort.

That conclusion is obvious in taking a look at the enormous complicated bureaucracy in the United States assigned to deal with this problem.

In looking at the solution, I have considered a number of alternatives. One option is the creation of "czar," such as the drug czar empowered to coordinate activities against drugs in United States. I have considered the creation of a high-level position on the National Security Council staff. I have considered the option of having a second Deputy Secretary of Defense. I have also considered the option of a new Assistant Secretary of Defense [ASD], like the ASD for special operations and low-intensity conflict created in the late 1980's as a result of legislation introduced by Senator COHEN and Senator NUNN.

I have decided instead that this matter ought to be studied by a high level special commission like the Aspin-Brown Commission, which recently filed a comprehensive report to reorganize the U.S. intelligence community. This is a matter which can be most effectively dealt with by experts on a commission. Rather than the introduction of legislation and the holding of hearings, the commission would have a much broader purview and that is the legislation which I am introducing today.

Mr. President, I ask unanimous consent that my legislation, together with a chart depicting this complicated bureaucracy which now seeks to deal with this problem of great national and international importance, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1681

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Combatting Proliferation of Weapons of Mass Destruction Act of 1996".

TITLE I—ASSESSMENT OF PROGRAMS AND POLICIES FOR COMBATTING PROLIFERATION

SEC. 101. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on Programs and Policies for Combatting the Proliferation of Weapons of Mass Destruction (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall be composed of 12 members of whom—

(1) 6 shall be appointed by the President;

(2) 3 shall be appointed by the Majority Leader of the Senate, in consultation with the Minority Leader of the Senate; and

(3) 3 shall be appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(f) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

(g) MEETINGS.—The Commission shall meet at the call of the Chairman.

SEC. 102. DUTIES OF COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall carry out a thorough study of the organization, policies, and programs of the U.S. Government related to combatting the proliferation of weapons of mass destruction.

(2) SPECIFIC REQUIREMENTS.—In carrying out the study, the Commission shall—

(A) assess the effectiveness of the policies and programs of all departments and agencies of the Federal Government including the intelligence community meeting the national security interests of the United States with respect to the proliferation of such weapons; and

(B) assess the current structure and organization of all Federal agencies and the cooperation between elements of the intelligence community and the intelligence-gathering services of foreign governments in addressing issues relating to the proliferation of such weapons.

(b) RECOMMENDATIONS.—In conducting the study, the Commission shall develop recommendations on means of improving the effectiveness of the organization, policies, programs of the intelligence community, and the programs and policies of the other departments and agencies of the Federal Government, in meeting the national security interests of the United States with respect to the proliferation of weapons of mass destruction.

(c) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress a report containing a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

SEC. 103. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 104. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 105. TERMINATION OF COMMISSION.

The Commission shall terminate 60 days after the date on which the Commission submits its report under section 102(c).

SEC. 106. DEFINITION.

For purposes of this title, the term "intelligence community" shall have the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for the Commission for fiscal year 1996 such sums as may be necessary for the Commission to carry out its duties under this title.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until the termination of the Commission under section 105.

TITLE II—OTHER MATTERS

SEC. 201. REPORTS ON ACQUISITION OF TECHNOLOGY RELATING TO WEAPONS OF MASS DESTRUCTION AND ADVANCED CONVENTIONAL MUNITIONS.

(a) REPORTS.—Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the Director of Central Intelligence shall submit to Congress a report on—

(1) the acquisition by foreign countries during the preceding 6 months of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) and advanced conventional munitions; and

(2) trends in the acquisition of such technology by such countries.

(b) FORM OF REPORTS.—The reports submitted under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

[The chart referred to by Senator SPECTER was not reproducible in the RECORD.]

ADDITIONAL COSPONSORS

S. 358

At the request of Mr. HEFLIN, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 358, a bill to amend the Internal Revenue Code of 1986 to provide for an excise tax exemption for certain emergency medical transportation by air ambulance.

S. 704

At the request of Mr. SIMON, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 968

At the request of Mr. MCCONNELL, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 968, a bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 990

At the request of Mr. WYDEN, his name was added as a cosponsor of S. 990, a bill to expand the availability of qualified organizations for frail elderly community projects (Program of All-inclusive Care for the Elderly (PACE)), to allow such organizations, following a trial period, to become eligible to be providers under applicable titles of the Social Security Act, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the names of the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1150

At the request of Mr. SANTORUM, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 1150, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the Marshall plan and George Catlett Marshall.

S. 1491

At the request of Mr. GRAMS, the names of the Senator from Ohio [Mr. DEWINE], the Senator from Missouri [Mr. BOND], the Senator from New Hampshire [Mr. SMITH], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of S. 1491, a bill to reform antimicrobial pesticide registration, and for other purposes.

S. 1613

At the request of Mr. COCHRAN, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 1613, a bill to amend the National School Lunch Act to provide greater flexibility to schools to meet the Dietary Guidelines for Americans under the school lunch and school breakfast programs, and for other purposes.

S. 1624

At the request of Mr. HATCH, the names of the Senator from Ohio [Mr. GLENN] and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 1624, a bill to reauthorize the Hate Crime Statistics Act, and for other purposes.

S. 1635

At the request of Mr. DOLE, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1635, a bill to establish a United States policy for the deployment of a national missile defense system, and for other purposes.

S. 1641

At the request of Mr. GRAMS, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 1641, a bill to repeal the consent of Congress to the Northeast Interstate Dairy Compact, and for other purposes.

S. 1674

At the request of Mr. GRASSLEY, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1674, a bill to amend the Internal Revenue Code of 1986 to expand the applicability of the first-time farmer exception.

S. 1675

At the request of Mr. GRAMM, the names of the Senator from Arizona [Mr. KYL] and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of S. 1675, a bill to provide for the nationwide tracking of convicted sexual predators, and for other purposes.

SENATE CONCURRENT RESOLUTION 42

At the request of Mrs. KASSEBAUM, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN] and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Concurrent Resolution 42, a concurrent resolution concerning the emancipation of the Iranian Baha'i community.

SENATE CONCURRENT RESOLUTION 50

At the request of Mr. DOLE, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Concurrent Resolution 50, a concurrent resolution concerning human and political rights and in support of a resolution of the crisis in Kosova.

SENATE RESOLUTION 85

At the request of Mr. CHAFEE, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of Senate Resolution 85, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

SENATE CONCURRENT RESOLUTION 52—TO RECOGNIZE AND ENCOURAGE THE CONVENING OF A NATIONAL SILVER-HAIRED CONGRESS

Ms. MIKULSKI (for herself, Mr. AKAKA, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BUMPERS, Mr. BYRD, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. CRAIG, Mr. DODD, Mr. DOLE, Mr. DORGAN, Mrs. FEINSTEIN, Mr. GLENN, Mr. GRAHAM, Mr. HARKIN, Mr. HATFIELD, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mr. KENNEDY, Mr. KERREY, Mr. LEVIN, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SIMON, Mr. SIMPSON, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, and Mr. WELLSTONE) submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 52

Whereas many States have encouraged and facilitated the creation of senior citizen legislative and advocacy bodies;

Whereas in creating such bodies such States have provided to many older Americans the opportunity to express concerns, promote appropriate interests, and advance the common good by influencing the legislation and actions of State government; and

Whereas a National Silver-Haired Congress, with representatives from each State, would provide a national forum for a nonpartisan evaluation of grassroots solutions to concerns shared by an increasing number of older Americans: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the congress hereby recognizes and encourages the convening of an annual National Silver-Haired Congress in the District of Columbia.

• Ms. MIKULSKI. Mr. President, I submit a concurrent resolution to recognize and encourage the convening of a national silver-haired congress. This concurrent resolution passed the Senate and the House of Representatives in 1994. Unfortunately, since each concurrent resolution was not voted on by the other Chamber, neither was technically adopted.

That is why I am resubmitting this legislation—I think it is important, and I want both Houses to formally endorse this plan. As ranking member of the Aging Subcommittee, I am joined by Senators COHEN and PRYOR, chair and ranking member of the Special Subcommittee on Aging, and many more of my colleagues on both sides of the aisle in sponsoring this important piece of legislation.

What is a national silver-haired congress? Well, it is the vision of a truly inspirational group of seniors. Beginning back in 1973, a group of Missouri seniors got together and decided to get involved. They formed a silver-haired legislature. They modeled their legislature after the State's and took up pieces of legislation that affected seniors.

That was 1973. Today, almost half the States have silver-haired legislatures. These mock legislatures take bills through the entire legislative process and present their bills that they pass to their State legislators. These recommendations are taken very seriously. The silver-haired legislatures have helped in the passage of many programs: from consumer protections and crime prevention to health care, housing, and long-term care.

I am submitting today a concurrent resolution to create the first national silver-haired congress. Based on the experience of the silver-haired legislatures in the States, this silver-haired congress would provide a national forum for aging issues—a forum patterned after the U.S. Congress. It will be completely staffed by older Americans, and serve to address the broad range of seniors issues. Like us, this silver-haired congress would be comprised of 100 senators and 435 representatives. But unlike us, all the members will serve without pay.

The population of older Americans is growing at a faster rate than any other age group. As this elderly population grows, it is more important than ever to encourage the input of seniors in our political process. At no cost whatsoever to the American public, a national silver-haired congress will provide a national forum for issues of concern to older Americans. The input and counsel that a forum like this will provide to the U.S. Congress is invaluable.

It is with great enthusiasm and excitement that I submit this concurrent resolution and ask my colleagues to support this wonderful proposal for a national silver-haired congress.●

SENATE RESOLUTION 246—RELATIVE TO THE SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER DEVELOPMENT CORPORATION AND RELATED MATTERS

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. RES. 246

SECTION 1. FUNDS FOR SALARIES AND EXPENSES OF SPECIAL COMMITTEE.

There shall be made available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations, for use not later than June 17, 1996, by the Special Committee to Investigate Whitewater Development Corporation and Related Matters (hereafter in this Resolution referred to as the "special committee"), established by Senate Resolution 120, 104th Congress, agreed to May 17, 1995 (as amended by Senate Resolution 153, 104th Congress, agreed to July 17, 1995) to carry out the investigation, study and hearings authorized by that Senate Resolution—

(1) a sum equal to not more than $450,000.

(A) for payment of salaries and other expenses of the special committee; and

(B) not more than $350,000 of which may be used by the special committee for the procurement of the services of individual consultants or organizations thereof; and

(2) such additional sums as may be necessary for agency contributions related to the compensation of employees of the special committee.

SEC. 2. TERMINATION OF THE SPECIAL COMMITTEE.

(a) HEARINGS.—Not later than June 14, 1996, the special committee shall complete the investigation, study, and hearings authorized by Senate Resolution 120, 104th Congress, agreed to May 17, 1995 (as amended by Senate Resolution 153, 104th Congress, agreed to July 17, 1995).

(b) REPORT.—Not later than June 17, 1996, the special committee shall submit to the Senate the final public report required by section 9(b) of Senate Resolution 120, 104th Congress, agreed to May 17, 1995 (as amended by Senate Resolution 153, 104th Congress, agreed to July 17, 1995) on the results of the investigation, study, and hearings conducted pursuant to that Resolution.

SENATE RESOLUTION 247—RELATIVE TO IMIA ISLET

Mr. SPECTER (for himself and Ms. MIKULSKI) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 247

Whereas Greece and Turkey are engaged in a dispute over sovereignty to an islet in the Aegean Sea called Imia by Greece and Kardak by Turkey:

Whereas the islet is a dependent of the Island of Calimnos, an island in the Dodecanese region of the Aegean Sea:

Whereas in Article 15 of the Treaty of Peace with Turkey, and other Instruments, signed at Lausanne on July 24, 1923, Turkey renounced in favor of Italy all right and title of Turkey over 12 islands in the Dodecanese region that were occupied at the time of the Treaty by Italy, including the Island of Calimnos, and the islets dependent on such islands;

Whereas the Convention Between Italy and Turkey for the Delimitation of the Territorial Waters Between the Coasts of Anatolia and the Island of Castellorizio, signed at Ankara on January 4, 1932, established the rights of Italy and Turkey in coastal islands, waters, and rocks in the Aegean Sea and delimited a maritime frontier between the two countries:

Whereas a Protocol to that Convention established a border between Italy and Turkey which placed the islet under the control of Italy;

Whereas in Article 14 of the 1947 Treaty of Peace with Italy, Italy ceded to Greece the Island of Calimnos and adjacent islets;

Whereas the Eastern Mediterranean region, in which the Aegean Sea is located, is a region of vital strategic importance to the United States;

Whereas both Greece and Turkey are members of the North Atlantic Treaty Organization and allies of the United States;

Whereas it is in the interest of the United States and other nations to have the dispute resolved peacefully; and

Whereas the International Court of Justice in The Hague was established to promote the peaceful resolution of international disputes in conformity with international law: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Government of Greece and the Government of Turkey should—

(1) submit to the International Court of Justice in The Hague the dispute of such governments over sovereignty to the islet in the Aegean Sea called Imia by Greece and Kardak by Turkey; and

(2) agree to be bound by the decision of the Court with respect to the dispute.

Mr. SPECTER. Mr. President, for thousands of years, the Aegean Sea, and the Eastern Mediterranean as a whole, has been a critical geopolitical region. I believe it is in the national interest of the United States to have the countries in this region resolve their disputes peacefully. As former Assistant Secretary of State Richard Holbrook recently noted, "you cannot have the southern flank of NATO in constant tension without having strategic instability, which will ultimately wreck NATO."

Unfortunately, Greece and Turkey—both members of NATO, and both allies of the United States—have been locked in bitter conflict for many hundreds of years. The case of Cyprus is a tragic recent example. I am concerned that in such a climate of hostility, relatively minor disputes could erupt into major conflict. It could be a war which would spread to that area.

The most recent manifestation of tension between Greece and Turkey centers on Imia and other islets in the Aegean. The sovereignty questions are quite complex, and involve treaties and other agreements signed after World War I and World War II, including the Paris Peace Treaty of 1947, the Italo-Turkish Agreement of 1932, and the 1923 Lausanne Peace Treaty. Simply put, each nation claims the islet of Imia, called Kardak by Turkey, as part of its national territory.

However, I believe that this dispute should be resolved in the International Court of Justice [ICJ] at The Hague. The ICJ was established to promote the peaceful resolution of international disputes in conformity with international law. The dispute over the islet of Imia is, in my judgment, an ideal candidate for adjudication by The Hague.

It is for that reason I am submitting this sense of the Senate resolution, which calls upon Greece and Turkey to submit their dispute to the ICJ, and agree to be bound by the decision of the court. The Eastern Mediterranean is a region of critical importance. I believe that it is essential to resolve conflict peacefully, and to work with the countries of the region to resolve key issues in a way that is consistent with the rule of law. This resolution, in my judgment, is a critical first step in ensuring that relatively minor conflicts do not escalate into major ones.

Mr. President, I will read the resolve clause of the resolution:

That it is the sense of the Senate that the Government of Greece and the Government of Turkey should—

(1) submit to the International Court of Justice in The Hague the dispute of such

governments over sovereignty to the islet in the Aegean Sea called Imia by Greece and Kardak by Turkey; and

(2) agree to be bound by the decision of the Court with respect to that dispute.

AMENDMENTS SUBMITTED

THE HEALTH INSURANCE REFORM ACT OF 1996

THOMAS AMENDMENT NO. 3673

(Ordered to lie on the table.)

Mr. THOMAS submitted an amendment intended to be proposed by him to the bill (S. 1028) to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes; as follows:

At the end of the bill, insert the following new section:

SEC. . PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.

(a) IN GENERAL.—Section 1876(a) of the Social Security Act (42 U.S.C. 1395mm(a)) is amended to read as follows:

"(a)(1)(A) The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than August 1 before the calendar year concerned—

"(i) a per capita rate of payment for individuals who are enrolled under this section with an eligible organization which has entered into a risk-sharing contract and who are entitled to benefits under part A and enrolled under part B, and

"(ii) a per capita rate of payment for individuals who are so enrolled with such an organization and who are enrolled under part B only.

For purposes of this section, the term 'risk-sharing contract' means a contract entered into under subsection (g) and the term 'reasonable cost reimbursement contract' means a contract entered into under subsection (h).

"(B) The annual per capita rate of payment for each medicare payment area (as defined in paragraph (5)) shall be equal to the adjusted capitation rate (as defined in paragraph (4)), adjusted by the Secretary for—

"(i) individuals who are enrolled under this section with an eligible organization which has entered into a risk-sharing contract and who are enrolled under part B only; and

"(ii) such risk factors as age, disability status, gender, institutional status, and such other factors as the Secretary determines to be appropriate so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such factors, if such changes will improve the determination of actuarial equivalence.

"(C) In the case of an eligible organization with a risk-sharing contract, the Secretary shall make monthly payments in advance and in accordance with the rate determined under subparagraph (B) and except as provided in subsection (g)(2), to the organization for each individual enrolled with the organization under this section.

"(D) The Secretary shall establish a separate rate of payment to an eligible organization with respect to any individual determined to have end-stage renal disease and enrolled with the organization. Such rate of payment shall be actuarially equivalent to rates paid to other enrollees in the payment area (or such other area as specified by the Secretary).

"(E)(i) The amount of payment under this paragraph may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(ii)(I) Subject to subclause (II), the Secretary may make retroactive adjustments under clause (i) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with an eligible organization (which has a risk-sharing contract under this section) under a health benefit plan operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the plan under this section, except that for purposes of making such retroactive adjustments under this clause, such period may not exceed 90 days.

"(II) No adjustment may be made under subclause (I) with respect to any individual who does not certify that the organization provided the individual with the explanation described in subsection (c)(3)(E) at the time the individual enrolled with the organization.

"(F)(i) At least 45 days before making the announcement under subparagraph (A) for the year, the Secretary shall provide for notice to eligible organizations of proposed changes to be made in the methodology or benefit coverage assumptions from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

"(ii) In each announcement made under subparagraph (A) for a year, the Secretary shall include an explanation of the assumptions (including any benefit coverage assumptions) and changes in methodology used in the announcement in sufficient detail so that eligible organizations can compute per capita rates of payment for individuals located in each county (or equivalent medicare payment area) which is in whole or in part within the service area of such an organization.

"(2) With respect to any eligible organization which has entered into a reasonable cost reimbursement contract, payments shall be made to such plan in accordance with subsection (h)(2) rather than paragraph (1).

"(3) Subject to subsections (c)(2)(B)(ii) and (c)(7), payments under a contract to an eligible organization under paragraph (1) or (2) shall be instead of the amounts which (in the absence of the contract) would be otherwise payable, pursuant to sections 1814(b) and 1833(a), for services furnished by or through the organization to individuals enrolled with the organization under this section.

"(4)(A) For purposes of this section, the 'adjusted capitation rate' for a medicare payment area (as defined in paragraph (5)) is equal to the greatest of the following:

"(i) The sum of—

"(I) the area-specific percentage for the year (as specified under subparagraph (B) for the year) of the area-specific adjusted capitation rate for the year for the medicare payment area, as determined under subparagraph (C), and

"(II) the national percentage (as specified under subparagraph (B) for the year) of the input-price-adjusted national adjusted capitation rate for the year, as determined under subparagraph (D),

multiplied by a budget neutrality adjustment factor determined under subparagraph (E).

"(ii) An amount equal to—

"(I) in the case of 1997, 80 percent of the input-price-adjusted national adjusted capitation rate for the year, as determined under subparagraph (D); and

"(II) in the case of a succeeding year, the amount specified in this clause for the preceding year increased by the national average per capita growth percentage specified under subparagraph (F) for that succeeding year.

"(iii) An amount equal to—

"(I) in the case of 1997, 102 percent of the annual per capita rate of payment for 1996 for the medicare payment area (determined under this subsection, as in effect on the day before the date of enactment of the Health Insurance Reform Act of 1995; and

"(II) in the case of a subsequent year, 102 percent of the adjusted capitation rate under this subsection for the area for the previous year.

"(B) For purposes of subparagraph (A)(i)—

"(i) for 1997, the 'area-specific percentage' is 90 percent and the 'national percentage' is 10 percent,

"(ii) for 1998, the 'area-specific percentage' is 85 percent and the 'national percentage' is 15 percent,

"(iii) for 1999, the 'area-specific percentage' is 80 percent and the 'national percentage' is 20 percent,

"(iv) for 2000, the 'area-specific percentage' is 75 percent and the 'national percentage' is 25 percent, and

"(v) for a year after 2000, the 'area-specific percentage' is 70 percent and the 'national percentage' is 30 percent.

"(C) For purposes of subparagraph (A)(i), the area-specific adjusted capitation rate for a medicare payment area—

"(i) for 1997, is the average of the annual per capita rates of payment for the area for 1994 through 1996, after adjusting the 1994 and 1995 rates of payment to 1996 dollars, increased by the national average per capita growth percentage for 1997 (as defined in subparagraph (F)); or

"(ii) for a subsequent year, is the area-specific adjusted capitation rate for the previous year determined under this subparagraph for the area, increased by the national average per capita growth percentage for such subsequent year.

"(D)(i) For purposes of subparagraph (A)(i) and subparagraph (A)(ii), the input-price-adjusted national adjusted capitation rate for a medicare payment area for a year is equal to the sum, for all the types of medicare services (as classified by the Secretary), of the product (for each such type of service) of—

"(I) the national standardized adjusted capitation rate (determined under clause (ii)) for the year,

"(II) the proportion of such rate for the year which is attributable to such type of services, and

"(III) an index that reflects (for that year and that type of services) the relative input price of such services in the area compared to the national average input price of such services.

In applying subclause (III), the Secretary shall, subject to clause (iii), apply those indices under this title that are used in applying (or updating) national payment rates for specific areas and localities.

"(ii) In clause (i)(I), the 'national standardized adjusted capitation rate' for a year is equal to—

"(I) the sum (for all medicare payment areas) of the product of (aa) the area-specific adjusted capitation rate for that year for the area under subparagraph (C), and (bb) the average number of standardized medicare beneficiaries residing in that area in the year; divided by

"(II) the total average number of standardized medicare beneficiaries residing in all the medicare payment areas for that year.

"(iii) In applying this subparagraph for 1997—

"(I) medicare services shall be divided into 2 types of services: part A services and part B services;

"(II) the proportions described in clause (i)(II) for such types of services shall be—

"(aa) for part A services, the ratio (expressed as a percentage) of the national average annual per capita rate of payment for part A for 1996 to the total average annual per capita rate of payment for parts A and B for 1996, and

"(bb) for part B services, 100 percent minus the ratio described in item (aa);

"(III) for part A services, 70 percent of payments attributable to such services shall be adjusted by the index used under section 1886(d)(3)(E) to adjust payment rates for relative hospital wage levels for hospitals located in the payment area involved; and

"(IV) for part B services—

"(aa) 66 percent of payments attributable to such services shall be adjusted by the index of the geographic area factors under section 1848(e) used to adjust payment rates for physicians' services furnished in the payment area, and

"(bb) of the remaining 34 percent of the amount of such payments, 70 percent shall be adjusted by the index described in subclause (III).

The Secretary may continue to apply the rules described in this clause (or similar rules) for 1998.

"(E) For each year, the Secretary shall compute a budget neutrality adjustment factor so that the aggregate of the payments under this section shall be equal to the aggregate payments that would have been made under this section if the area-specific percentage for the year had been 100 percent and the national percentage had been 0 percent.

"(F) In this section, the 'national average per capita growth percentage' is equal to the percentage growth in medicare fee-for-service per capita expenditures, which the Secretary shall project for each year.

"(5)(A) In this section, except as provided in subparagraph (C), the term 'medicare payment area' means a county, or equivalent area specified by the Secretary.

"(B) In the case of individuals who are determined to have end stage renal disease, the medicare payment area shall be specified by the Secretary.

"(C)(i) Upon written request of the Chief Executive Officer of a State for a contract year (beginning after 1997) made at least 7 months before the beginning of the year, the Secretary shall adjust the system under which medicare payment areas in the State are otherwise determined under subparagraph (A) to a system which—

"(I) has a single statewide medicare payment area,

"(II) is a metropolitan based system described in clause (iii), or

"(III) which consolidates into a single medicare payment area noncontiguous counties (or equivalent areas described in subparagraph (A)) within a State.

Such adjustment shall be effective for payments for months beginning with January of the year following the year in which the request is received.

"(ii) In the case of a State requesting an adjustment under this subparagraph, the Secretary shall adjust the payment rates otherwise established under this section for medicare payment areas in the State in a manner so that the aggregate of the payments under this section in the State shall be equal to the aggregate payments that would have been made under this section for medicare payment areas in the State in the absence of the adjustment under this subparagraph.

"(iii) The metropolitan based system described in this clause is one in which—

"(I) all the portions of each metropolitan statistical area in the State or in the case of a consolidated metropolitan statistical area, all of the portions of each primary metropolitan statistical area within the consolidated area within the State, are treated as a single medicare payment area, and

"(II) all areas in the State that do not fall within a metropolitan statistical area are treated as a single medicare payment area.

"(iv) In clause (iii), the terms 'metropolitan statistical area', 'consolidated metropolitan statistical area', and 'primary metropolitan statistical area' mean any area designated as such by the Secretary of Commerce.

"(6) Subject to subsections (c)(2)(B)(ii) and (c)(7), if an individual is enrolled under this section with an eligible organization having a risk-sharing contract, only the eligible organization shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 1996.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON INDIAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to conduct three (3) consecutive hearings during the session of the Senate on Wednesday, April 17, Thursday, April 18, and Friday, April 19, 1996, on the President's budget request for fiscal year 1997 for Indian programs and related budgetary issues from fiscal year 1996. The hearings will be held at 1:30 p.m. each day in room 485 on the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Wednesday April 17, 1996, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, April 17, 1996, beginning at 10 a.m. until business is completed, to hold a hearing on campaign finance reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, April 17, 1996, at 2 p.m., to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. HATCH. Mr. President, I ask unanimous consent that the Administrative Oversight and the Courts Subcommittee be authorized to meet during the session of the Senate on Wednesday, April 17, 1996, at 2 p.m., to hold an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, April 17, 1996, for purposes of conducting a subcommittee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to consider S. 128, a bill to establish the Thomas Cole National Historical Site in the State of New York; S. 695, a bill to provide for the establishment of the Tallgrass Prairie National Preserve in Kansas; and S. 1476, a bill to establish the Boston Harbor Islands National Recreation Area.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet at 9:30 a.m. on Wednesday, April 17, 1996, in open session, to receive testimony on the privatization of Department of Defense depot maintenance and other commercial activities.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

VETERANS AND SPENDING REDUCTIONS

• Mr. SANTORUM. Mr. President, I wanted to take a few additional minutes today to talk through my recent discussions with veterans' organization from Pennsylvania about legislation recently introduced by Senator SIMPSON.

Senator SIMPSON, at the request of four major veterans organizations, has introduced legislation addressing various inequities in the manner in which we treat the health of our Nation's veterans. Many of those issues addressed in the bill speak to issues I have witnessed, discussed, and worked on during my 5 years in Congress and as a former member of the House Veterans' Affairs Committee. Issues relating to the care and treatment of veterans and efforts to improve the veterans' health delivery system are very familiar and important to me.

Mr. President, I was born and raised on the grounds of a VA hospital facility, and I understand the concerns of veterans in this matter. My mother and father spent their careers working for veterans in Veterans' Administration hospitals. Our veterans fought on many battlefields to preserve the liberty of succeeding generations of Americans.

Today, one of the greatest threats to our children and grandchildren is not as much the imminent outbreak of war and the subsequent call to service, but rather the massive national debt and annual Federal deficits. If nothing is done, the next generation will face a future of diminished opportunity and a declining standard of living.

While service to our country has entitled veterans to very unique benefits that are available to no other single group of Americans, these benefits are by no means the root cause of our huge Federal deficits. I have fought against unnecessary cuts in veterans' programs that would have compromised our Nation's commitment to those who have served in defense of our freedom.

At the same time, however, any new spending on veterans' programs or benefits must be treated with an equal eye toward fiscal responsibility—sufficient spending reductions must occur within the Veterans' Administration itself or in other areas of Federal spending. At this time, the Simpson bill carries with it a revenue effect of $13 billion in new spending. I believe that the sponsor and I would both acknowledge that this bill should not move through the legislative process without a corresponding $13 billion in spending reductions.

These rules and budget realities are the same that I have operated under during my entire service in Congress. Recently, I fought on the Senate floor for sufficient spending reductions of $1.2 billion to cover and offset the costs of Federal disaster assistance, a large portion of which would benefit Pennsylvania communities as we rebuild from a blizzard and flood-ravaged winter. And in continuing to address the needs of our Nation's veterans, I will maintain this same standard.

Until such spending reductions are finalized and presented, Mr. President, I will temporarily withhold my own efforts and development on S. 1543. I understand that the administration is working on a legislative proposal similar to the Simpson bill, and that they are working through the same budget realities in producing a revenue neutral package. I remain committed to supporting our Nation's veterans. I support the direction and concept of the Simpson bill, and I will work with the sponsor to find cuts to pay for the costs of the bill.•

BOSTON'S ENGLISH HIGH SCHOOL

• Mr. KERRY. Mr. President, on Thursday, April 25, 1996, the English High School in Boston, MA, will be celebrating its 175th anniversary. The oldest public high school in the United States, English High School has changed with the times but has always maintained a high standard of education and compassion for its students. With award-winning teachers, students, and graduates, Boston English High is among the finest educational institutions in our Nation.

I would like to take this opportunity to recognize the English High School and join with the Boston Public Schools in celebrating its 175th anniversary.•

MISSED VOTES ON APRIL 16, 1996

• Mr. MURKOWSKI. Mr. President, while the Senate was in session yesterday, I was unable to participate in our proceedings because I was attending the funeral of my late uncle, Harry Murkowski, in Washington State.

My late uncle, Harry was 92 when he passed away late last week. He was the last of my relatives who was of my parents' generation and I felt it was important that I share my mourning with members of my family.

Harry, who was widowed several years ago, lived in Puyallup and Enumclaw, WA, worked his entire life as a fire fighter on the McChord Air Force Base. He is survived by his daughter, Beth Newman.

Mr. President, yesterday I missed two rollcall votes because of my attendance at the funeral. The April 16, CONGRESSIONAL RECORD reflects how I would have voted, had I been here to participate in the Senate debate. As the RECORD reflects, my vote would not have changed the outcome of either vote.•

BAD LAW ON AFFIRMATIVE ACTION

• Mr. SIMON. Mr. President, one of the recent decisions that was a most unfortunate one was the decision by the U.S. Court of Appeals that colleges and universities cannot keep in mind diversity as they put together a student body.

No one was advocating quotas in this case, nor advocating that people who are not qualified should be admitted.

But to deny that diversity is part of the learning experiences of colleges and universities is to deny reality.

I hope the decision will be overturned.

We have enough backsliding in the field of race relations. We do not need to add the handicap of a bad court decision as another barrier.

Recently, Anthony Lewis had a column titled, "Handcuffs on Learning"; and the New York Times had an editorial titled, "Bad Law on Affirmative Action". I ask that both articles be printed in the RECORD and I urge my colleagues to read them.

The articles follow:

[From the New York Times, Mar. 22, 1996]

BAD LAW ON AFFIRMATIVE ACTION

For two decades the governing principle of affirmative action in higher education has been that race and ethnicity may be a factor, but only one factor, in choosing among applicants in pursuit of the legitimate purpose of a diverse student body. That was the judgment of the Supreme Court in the celebrated 1978 case of Allan Bakke, a white applicant who sued for entry to a California state medical school.

Now a panel of the U.S. Court of Appeals for the Fifth Circuit declares that the Bakke decision is no longer good law. In a lawsuit by four rejected white applicants, the court strikes down a program of the University of Texas Law School to bring more blacks and Mexican-Americans into its student body. This tool is impermissible, say the judges, "even for the wholesome purpose of correcting perceived racial imbalance in the student body."

The ruling is hasty, aggressively activist and legally dubious. If the Bakke decision is no longer the law, it is for the Supreme Court to say so. We hope the high court does not, for its basic rule is sound. Rigid racial quotas are out, but no serious educational institution should be forced to disregard the goal of educating a diverse population.

To reach this result, the appeals judges engaged in exotic reasoning. They found that a now-retired Justice, Lewis Powell, who announced the judgment in Bakke, spoke only for himself on the racial diversity question. It is true that he was joined in the judgment by four other justices who relied on different legal grounds, but Justice Powell's announcement has soundly been regarded as the rule of the Bakke case for nearly a generation. Moreover, it has been widely hailed as the work of a respected moderate well grounded in experience as head of the school board in Richmond, Va.

Texas higher education officials have commendably sought diversity, but they cannot fairly be accused of adhering to rigid quotas. The diverse statewide population is 11.6 percent black and 25.6 percent Hispanic; while the 1992 law school entering class was 8 percent black and 10.7 percent Hispanic. Yet the appeals court says the school may not use "ethnic diversity simply to achieve racial heterogeneity, even as part of the consideration of a number of factors."

That is the doctrine of a "color-blind" Constitution, but it speaks to a time not yet here when the historic stain of racial oppression is erased, competition is truly equal and diversity comes more naturally. As another former Justice, Harry Blackmun, observed in the same Bakke case, "In order to get beyond racism, we must first take account of race. . . . And in order to treat some persons equally, we must treat them differently. . . . The ultimate question, as it was at the beginning of this litigation, is: Among the qualified, how does one choose?"

The appeals court judges, eager to be the first to declare the battle for equal right over, have rendered a judgment that should not stand.

[From the New York Times, Mar. 22, 1996]

HANDCUFFS ON LEARNING

(By Anthony Lewis)

SAN DIEGO.—Universities around the world came to understand long ago that the quality of education improved if they had students with varying life experiences. That is why Oxford colleges sought working-class students. It is why Harvard, Yale and Princeton are far better universities today than when they were confined largely to privileged young white men.

In the life of Americans, race is a profound factor. Blacks may be bright or dull, rich or poor, but their experience in life has been different from whites'. And so, long before the phrase "affirmative action" was invented, universities thought it wise to have students of varied racial backgrounds.

The freedom of American universities to consider race along with other factors in choosing students has just been struck a devastating legal blow. It came in the decision of the United States Court of Appeals for the Fifth Circuit in the case of Hopwood v. Texas.

The University of Texas Law School some years ago had what amounted to a segregated admissions process. Minority applicants were considered by a separate committee and on different standards.

Cheryl Hopwood and other rejected white applicants sued, claiming that that system denied them the "equal protection of the laws" guaranteed by the 14th Amendment. The Fifth Circuit, ruling in their favor, could have limited itself to the particular admissions process at issue. But it went much further.

The court said that the Texas law school "may not use race as a factor" in admissions. It did not speak of a dominant or even significant factor but outlawed consideration of race as any factor at all. Moreover, in an extraordinary display of hostility, the court left the way open for the plaintiffs to collect money damages for what it said was "intentional discrimination."

The Equal Protection Clause of the Constitution, which the court found violated, applies only to state action. But private universities may also be affected. Civil rights laws forbid racial discrimination at private universities that receive any kind of Federal aid—and nearly all do.

The ultimate danger is to the freedom of American universities. The Fifth Circuit treated this case as if it were the same as the Supreme Court's recent decisions limiting set-asides for minority contractors and broadcast licensees. But education is different. Its freedom in decisionmaking—an urgent need in our society—has to be weighed against the rightful claims of equal protection.

Reading the Fifth Circuit's opinion, by Judge Jerry E. Smith, one feels a sense of detachment from reality. For instance, it rejects as racist the assumption that an individual "possesses characteristics" because of his race. Right. But the issue is not characteristics. It is experience. And any judge who thinks black Americans have not had a different experience is blind.

Think about women judges or Supreme Court justices. They are not wiser or less wise by virtue of their gender. But they have had a different experience from men, and that is why it is important to have them on the bench.

The reality of university admissions, as opposed to the mechanical abstractions of the Fifth Circuit decision, is on display here in California. Gov. Pete Wilson, playing to white male resentment, pushed through the Board of Regents a rule forbidding the use of race or gender as a factor in admissions to the University of California.

Now it turns out that regents who voted for what they called "merit" admissions had leaned on the University of California at Los Angeles to admit the children of friends. An investigation by The Los Angeles Times shows that U.C.L.A. gave special consideration to children of politicians and the rich.

In other words, we have affirmative action for the privileged. But not for the race that was enslaved for 200 years and abused for another 100 and more.

Universities, in their freedom, can increase understanding across the racial lines in this country. Unless the Supreme Court undoes this assault on their freedom, we are going to be an even more divided society.●

THE RECENT BOMBINGS IN ISRAEL

● Ms. MOSELEY-BRAUN. Mr. President, I would first like to congratulate President Clinton for his leadership at the "Summit of Peacemakers" conference which was recently convened in Egypt. I salute the President and the other world leaders who gathered in Sharm El Sheik for their avowed support of the Middle East peace process and their strong showing of international solidarity against terrorism.

I also want to extend my heartfelt sympathy and condolences to the families of those murdered in the recent terrorist attacks in Israel. May the Almighty comfort them among the mourners of Zion and Jerusalem. As the Nation of Israel mourns the loss of its sons and daughters, I pray that the story of Purim will serve to comfort the entire family of Israel and give it hope, knowing that God will deliver the Jewish people today as in the past.

Mr. President, I condemn in the strongest of terms the barbarous acts of organized and random terrorism against innocent Israeli civilians, including young children. Those responsible for these indiscriminate and cowardly acts of murder and violence must be held accountable for their actions and brought to justice. Their punishment must be swift, decisive and thorough, not only to serve as a deterrent, but as a reminder that the world community will never allow the evils of terrorism to triumph over the forces of peace.

I call upon the peace and freedom loving peoples of Gaza, the West Bank and the Arab world to condemn outright these heinous acts of barbarism allegedly committed on their behalf and in their name. These acts do not further Palestinian interests nor, I believe, do they represent the sentiments of the overwhelming majority of the Palestinian people. I further enjoin them to outlaw, expose, disarm and arrest members of paramilitary organizations within their midst and to deny them sanctuary and safe haven. Their presence and actions are a threat not only to the State of Israel, but also to the Palestinian self-rule national authority in the West Bank and Gaza.

Mr. President, we can no longer afford to look at terrorism and suicide bombings in Israel—and in other parts of the world —as a distant danger. The bombing of the World Trade Center in New York City in February 1993 and the bombing of the Federal building in Oklahoma City last April have shattered our false notions of security. Anti-terrorism units, swat teams, and bomb squads train with the same intensity and seriousness of purpose as sprinters, long distance runners, swimmers, and gymnasts in their preparation for this summer's Olympic games in Atlanta. In truth, every act of terrorism—in Israel or elsewhere—strikes at the essence of all free, democratic and open societies. Our disagreements are dealt with civility and without violence or the threat of violence.

With each terrorist threat against the Government, our citizens lose a measure of their freedom. When an American seeks to exercise even the most basic of rights—renewing a drivers license, boarding an airplane or picking up documents at a government building—he or she is often subject to a thorough search of his or her person and property. Even the street in front of the White House—the people's house—has been closed and street traffic rerouted. Moreover, streets around the House, Senate and Capitol buildings have been blocked-off and barricaded. All of these measures have been done because of our heightened sense of vulnerability to terrorism. The humiliation and inconvenience that these situations present are mitigated only by the American people's acquiescence and realization that such practices are unfortunately necessary in today's world. But it does not have to be this way, and we must not become accustomed to the threat of terrorism. To the extent that we refuse to accept it, to the extent we refuse to be desensitized to violence, we will invigorate the will to fight it.

The most recent bombings in Israel have also had a direct impact on my home State of Illinois. The celebration of the Jewish holiday of purim is traditionally one of the more colorful festivals in the city of Chicago. Children are dressed in costumes, friends exchange gifts and there is laughter and merriment. However, as events of yet another suicide bombing in Israel unfolded, grief, anxiety and depression replaced joy, laughter, and merriment.

The juxtaposition of bombs and purim provides a context for understanding how we can draw inspiration and strength from history. Just as the Jews in Ancient Persia responded to danger with prayer and courageous action, so too must we. Mr. President, I, for one, am tired of lighting candles, attending memorial services and waiting for news of the next terrorist attack. It is time for us to be proactive and not merely reactive. We must declare all-out war against terrorism and terrorist organizations and take the fight to them wherever they exist—at home or abroad. We must make it clear to terrorists, their organizations, and the countries which sponsor and harbor terrorists that their actions will not produce the desired result—the interruption or abandonment of the peace process—and that the United States and other nations will no longer permit their actions to go unpunished.

There must be a recognition, however, that terrorism cannot be defeated through unilateral action alone. World leaders must understand that it is in every country's interest to have this menace eradicated from the face of the Earth. Unless and until serious anti-terrorist actions are implemented internationally, including the denial of safe haven and sanctuary for perpetrators of terrorism, we can expect more, not fewer, incidents like we witnessed in Israel these past 2 weeks.

Mr. President, we, the inhabitants of this planet, are one family. While differences and disputes are unavoidable, I believe all problems, no matter how intractable they may seem, are soluble. Peace and negotiations are not just the answer—they are the only answer.•

GENE R. ALEXANDER

• Mr. SIMON. Mr. President, I want to commend and congratulate Mr. Gene Alexander of Benton, Illinois. On April 25, 1996, the school library at the Benton Elementary School will be dedicated as the Gene R. Alexander Learning Resource Center. Mr. Alexander was a teacher and principal in the Benton School District for 32 years.

Now that he has retired, "Mr. A." spends his free time volunteering for these same children. He does everything from cleaning school desks to teaching children about the American flag. His commitment to these children is inspirational.

We need more leaders like this and having a library dedicated to him is a fitting tribute. I want to commend Mr. Alexander on his hard work and his lifetime of dedication to the children that he serves.•

REFORM OF OUR TAX CODE

• Mr. SANTORUM. Mr. President, I wanted to take a few minutes to talk about the tax burden that American families feel today and the drastic need for fundamental and comprehensive reform of our Tax Code.

During our brief break from legislative business over the past 2 weeks, I had the opportunity to visit with constituents in various communities in my State to discuss the effects of Federal tax policies on families. Quite clearly, the tax burden over the past few decades has greatly increased; the inequities of the Code have been exacerbated; and the incentives for savings have largely diminished. If it was anything that I heard during the course of nine town meetings, it was the demand for a fairer, simpler tax system and an even greater demand by taxpayers to keep more of what they earn.

As a Member of the House of Representatives, I served on the Ways and Means Committee, which has jurisdiction over tax legislation. I recognize that our current system of taxation is burdensome and intrusive, and I think we are all aware how complex our system is, given the large amount of time Americans spend in computing and filing their taxes each year.

On Monday, I had the pleasure of traveling through Pennsylvania with Senator SPECTER, along with our Governor, Tom Ridge, as we hosted the distinguished majority leader, Senator BOB DOLE. The significance of traveling across my State on tax day brings with it a renewed commitment to fight for Federal policies addressing and correcting not only the many inequities in our system, but demanding a fundamental reexamination by this Congress of the Federal Tax Code as a whole.

I strongly believe that Congress must continue to explore comprehensive simplification of our Tax Code. Several of my colleagues have introduced legislation to institute various alternative tax systems as well as proposals to provide varying degrees of tax relief to American families. To reaffirm this commitment to tax fairness, I am pleased today to join Senator DAN COATS as a cosponsor of his legislation to provide not only for middle-class tax relief, but also to encourage increased personal investment and savings while balancing the growth of Federal spending in general.

This Congress, as a direct result of the Republican majority, has come as close as a veto pen to enacting tax fairness for American families—fairness and relief that many would have realized in preparing their tax returns by Monday evening's filing deadline. A year after the political battle over tax relief and a year later on tax day, the same challenges and needs remain in devising a tax structure that provides greater balance, incentives, and benefits to American families and taxpayers. These next few weeks in the Senate are critical and serve as another opportunity to readdress, pass, and finally enact these changes.•

HONORING BRIAN PALMER HAFLER

• Mr. KERRY. Mr. President, I would like to take a few moments to acknowledge a very talented and promising resident of Massachusetts, Brian Palmer Hafler. Brian was chosen as a seventh place winner in the prestigious Westinghouse Science Talent Search, a national competition that recognizes the outstanding math and science achievements of high school students aged 16 to 18. Brian was recognized for his research involving T cells, research that may be instrumental in the future treatment of autoimmune diseases.

After graduation from the Roxbury Latin School, West Roxbury, MA, Brian intends to continue his scientific research as a molecular biology student at Princeton University. In addition to his scholarly accomplishments, Brian has won varsity letters in wrestling and cross country, numerous academic awards, and a service award for his work in tutoring inner-city students.

I applaud Brian on receiving the Westinghouse Science Award, and wish him success in his future endeavors.•

TESTIMONY OF JONATHAN KOZOL

• Mr. SIMON. Mr. President, I had a chance to read the testimony of Jonathan Kozol, an author who prods our conscience, before the House Committee on Economic and Educational Opportunities, which I ask to be printed in the RECORD after my remarks.

It is a summary of where we are, as he points out, on this year that celebrates the 100th anniversary of the unfortunate Plessy v. Ferguson decision.

The need to do a better job, the need to show care, the need to create opportunity for everyone is here. The question is whether we will pay attention to this obvious need or whether we will ignore it, ultimately at our own peril.

The article follows:

COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES—U.S. HOUSE OF REPRESENTATIVES, MARCH 5, 1996

TESTIMONY OF JONATHAN KOZOL

Mr. Chairman: As you know, this year commemorates the 100th anniversary of Plessy versus Ferguson, but few of the poorest children in our nation will find much to celebrate. Public schools throughout the land, with rare exceptions, are still separate and unequal.

In New York City, to take only one example, public schools for poor black and Hispanic children are nearly as segregated as the schools of Mississippi 50 years ago. The city spends less than half as much per-pupil as its richest suburbs—a differential found, of course, all over the United States.

For many years, the only force that helped consistently to militate against these inequalities has been the Federal government. Although Federal money represents only a tiny fraction of the total education budget in our nation, it has been targeted at schools and neighborhoods in greatest need; and, while Federal aid may represent, on average, only 6 percent of local education budgets, it represents as much as 20 percent in our low-income districts.

Now, as the dismantling of Federal aid is being contemplated, as block grants are proposed as substitutes for targeted assistance to the poor, the plight of children in the most impoverished districts will inevitably worsen.

I remind you also of the gross and cumulative deterioration of schoolbuildings in low-income neighborhoods. "Deferred maintenance"—an antiseptic term which means that water buckets must be scattered around classrooms to collect the rain that penetrates a hundred-year-old roof, while hallways stink of urine from the antiquated plumbing in the bathrooms of a school—is well above $100 billion.

Conditions like these do not just soil bodies. They also dirty souls and spirits, and they give our children a clear message. They tell them that, no matter what we say about "high expectations," no matter what exhaustive lists of "goals" and "standards" we keep churning out for the millennium, the deepdown truth is that we do not like them very much, nor value their potential as Americans.

Millions of children are going to class each day in buildings none of you would be prepared to work in for one hour. All the boosterism in the world, all the hype and all the exhortation, all the upbeat speeches by a visiting politician telling kids, "You are somebody," has no palpable effect if every single thing about the school itself—its peeling paint, its rotting walls, its stinking corridors, its crowded, makeshift classrooms in coat closets, on stair-landings, and in squalid corners of the basement—tells our children, "In the eyes of this society, you are not anyone at all."

The notion of "retrofitting" schools like these for the computer age has something of the quality of a Grimms fairy tale. How will a school that can't repair the toilets or afford to pay for toilet-paper find the money to buy IBM or Microsoft? The gulf between the national "goals" and the degrading day-to-day reality of life for children in these schools has something about it that suggests delusionary thinking. There is simply no connection between slogans and realities.

Despite all this, we face the strange phenomenon of being asked repeatedly, by those who spend as much as $20,000 yearly to enroll their children in exclusive private schools, whether money really matters when it comes to education of the poor. "Can you solve these kinds of problems," we are asked, "by throwing money at them?"

I always find this a strange question, but especially when it is asked by those who do precisely this for their own children. Money cannot do everything in life. It can't buy decency. It obviously does not buy honesty or generosity of spirit. But, if the goal is to repair a roof or to install a wiring system or remove lead poison or to pay for a computer, or persuade a first-rate teacher to remain in a tough job, I think money is a fine solution.

A rhetorical devise used by some politicians points to unusual districts such as Washington DC, or East St. Louis, Illinois, that spend a bit more money than some of the nearby districts but do poorly by comparison. This, we are told, is proof that "money does not matter." But, in most cases, there are districts that also plagued by pediatric illness like chronic asthma, by lead-poisoning, by astronomic rates of AIDS, and joblessness, and drug-addiction, and a global feeling of despair. Equality, as Dr. King reminded us, does not mean equal funding for unequal needs. It means resources commensurate with the conditions of existence.

It is true that there has been anarchic inefficiency in certain urban districts; this needs to be addressed. But even where efficiency has been restored, as in Chicago for example, funds are not forthcoming. Still we are told to "cut the fat" from the administration. But in New York, as in Chicago, there is no more fat to cut. We are now cutting at the bone and at the hearts of children.

And so we come at last to 1996 and to the present moment in the U.S. Congress, where the forces of reaction tell us it is time to "get tough" with poor children. How much tougher do we dare to get? How cold, as a society, are we prepared to be?

New York City, as things stand right now, can barely eke out $7,000 yearly for the education of a first grade child in a school I've visited in the South Bronx, but is spending $70,000 yearly on each child it incarcerates—$60,000 on each adult. If Title I is slashed by Congress, it will devastate the children in this school. In the 1980s, these impoverished children lost the dental clinic in their building. A year ago, they lost the afternoon program where they could be safe in school while mothers worked or looked for jobs. This June, their teen-age siblings will lose summer jobs as Congress lets that program die as well. Only 10 percent of these children are admitted into Head Start programs. The one place to which they are sure of being readily admitted is the city's prison island—now the largest penal colony on earth.

Beyond the cutbacks, there is one more shadow looming, and that is the everpresent threat of education vouchers—a modernized version of a hated memory from 40 years ago, when Southern whites fled from the public schools after the Brown decision, seeking often to get public funds to subsidize their so-called "white academies." They didn't succeed in this attempt, but now another generation—more sophisticated and more clever in concealing racial animus—is driving toward the same objective by the instrument of vouchers.

This time, they are smart enough to offer vouchers to black children and poor children too, but the vouchers they propose can never pay for full tuition at a first-rate private school and, in effect, will simply filter off "the least poor of the poor" who can enhance the voucher with sufficient funds to flee into small private sanctuaries that exclude their poorest neighbors. By filtering off these families from the common areas of shared democracy, we will leave behind a pedagogic wasteland in which no good teacher will desire to teach but where the masses of poor children will remain in buildings that are schools only in name. We are getting close to that point even now. Vouchers, combined with further fiscal cuts, will bring that day considerably nearer.

Some of us who stand up to defend the public schools may seem, at first, to be in an untenable position: We give the appearance of not wanting to change while pointing to how bad things are today. This is our fault, I think, because we tend to speak defensively about the status quo, and fail to offer a more sweeping vision for the future. We scramble to save Title I—and so we should. But Title I, essential as it is, is a remedial side-dish on the table of inequity. We should be speaking of the main course, but have largely failed to do so.

Our vision ought to be to build a public system that is so superb, so democratic, and well-run, that no responsible or thoughtful parent would desire to abandon it. To bring this vision to fruition, we would have to raise the banner of efficiency as high as any voucher advocate has done. We cannot defend dysfunction on the grounds that it is somehow one of the inevitable corollaries of democracy. But simply to support "efficiency" or to encourage innovations such as charter schools is not nearly enough. Innovative and efficient inequality is still unworthy of America. We also need to raise a bolder banner, one that cries out for an end to gross inequity, one that uses strong word for the savagery of what we do today: providing college preparation for the fortunate, bottom-level-labor preparation for the lower-middle class, and prison preparation for our outcasts.

None of my respected friends here in the House of Representatives believes that it is fair to rig the game of life the way we do. We wouldn't play Little League like this. We'd be ashamed. Our victories would seem contaminated. Why aren't we saying this in words Americans can hear?

There is too much silence on this issue among Democrats. It leaves the field to those who speak bombastically, with violence of spirit, as they swiftly mount their juggernaut of cutbacks, vouchers, and secession from the public realm. Virulent racism, as we know too well, is often just beneath the surface of discussion too. I heard few voices in the Congress that address this boldly. There is a sense of quiet abdication and surrender.

Despite my feeling of discouragement, I would like to add that I was reassured to see that Secretary Riley spoke out clearly on the voucher issue recently. As always, he was eloquence and fearless. The same eloquence and the same fearlessness are needed now among the Democrats in Congress. Some of those Democrats, whom I have had the privilege to know for many years, will be retiring soon. Before they do, I hope that they will find the opportunity to wage one final battle for those children who cannot fight for themselves. I hope they won't leave Congress quietly, but with an angry sword held high. In that way, even if they lose this battle, they will leave behind a legacy of courage that a future generation can uphold with pride.●

BURTON MOSELEY

● Ms. MOSELEY-BRAUN. Mr. President, at the time the world was mourning the terror in Israel, my family was mourning the loss of my beloved uncle, Burton Moseley.

Uncle Burt was my late father's only sibling. Both before and after my dad passed away, Uncle Burt was a mentor, a friend, and a role model. He was a simple, honest man, an upright man who brought joy to those whose lives he touched.

No one had a harsh word about him, he never spoke ill of another person. He was, for almost all of his adult life, a Chicago police officer. He epitomized the very best in law enforcement, a person who cared about the quality of life in his community, and who saw fighting crime as a way to contribute. He remained active in the Guardians police organization to the end.

He was our hero.●

SPLIT OVER MORALITY

• Mr. SIMON. Mr. President, people are concerned about what is happening to our country and they are not simply concerned about economics. They are concerned about many issues that reflect our culture in ways that are not healthy.

E.J. Dionne, Jr., one of the most thoughtful journalistic observers of our scene, recently had a column in the Washington Post titled, "Split Over Morality," which I ask to be printed in the RECORD after my remarks.

For those of you who saw it originally in the Post, it is worth rereading, and for those who did not, it should be read and clipped and saved.

The column follows:

SPLIT OVER MORALITY

(By E. J. Dionne, Jr.)

It is remarkable how quickly political talk these days turns to the question: What does the religious right want? Variations on the theme include: How much must Bob Dole do to get the votes of Christian conservatives? Can't President Clinton help himself by hanging the religious right around Dole's neck?

All this might be taken as a great victory by Ralph Reed and the Christian Coalition he directs. The obituary of the religious right has been written over and over since the rise of the Moral Majority in 1980. Yet none of this has stopped the Christian conservative movement from expanding its influence.

Reed and his troops have already gotten a lot of credit for help Dole stop Pat Buchanan's surge dead in the South Carolina primary. That is the very definition of political power.

Reed and his followers have every right to do what they are doing. Religious people have the same rights as union members, environmentalists, business groups and feminists. President Clinton himself has spoken at hundreds of black churches. The president is often at his most effective from the pulpit, an exceptionally good venue for his favorite speeches about the links between personal responsibility and social justice, crime and unemployment.

Democrats thus have no grounds for challenging Reed's argument that his people deserve "a place at the table" of national politics. What does need real debate is more important. It has to do with how moral issues should be discussed in politics, and also how they should be defined.

A lot of Americans—including many who want nothing to do with Ralph Reed—have a vague but strong sense that what's going wrong in American life is not just about economics. It also entails an ethical or moral crisis. Evidence for this is adduced from family breakdown, teen pregnancy, high crime rates (especially among teenagers), and trashy movies, television and music.

But unlike many on the Christian Right, these same Americans see strong links between moral and economic issues. Their sense that commitments are not being honored includes family commitments, but it also includes the obligations between employer and employee and the question of whether those "who work hard and play by the rules," as the president likes to put it, are getting just treatment.

Democrats, liberals and other assorted critics of the religious right have no problem in discussing these economic matters. But they have made the reverse mistake of Reed and his friends: The religious right's foes have only rarely (and only relatively recently) been willing to understand that many American families see the moral crisis whole. It's possible, and reasonable, to be worried about both trashy entertainment and the rewards that go to the hard-working. Human beings are both economic and moral creatures. But liberals often cringe when the word "morality" is even mentioned.

Giving the Christian right a near monopoly on moral discussion has narrowed the moral debate. This narrowing needs to be challenged.

To hear leaders of the religious right talk in recent weeks, for example, one of the preeminent moral issues of our time is whether gay marriages should be sanctioned by state or local governments. But surely this is not even the 10th or the 25th most important issue for most Americans. The resolution of this question one way or the other will do virtually nothing about the moral issues such as crime or family breakup that actually do trouble lots of people.

It's easy enough to recognize why tradition-minded Americans are uneasy with this broadening of the definition of "marriage." But turning this question into yet another political litmus test will only push the political debate toward yet another ugly round of gay-bashing. Is that what 1996 should be about?

What needs to be fought is a tendency described movingly by Stephen Carter in his new book, "Integrity." It is a tendency Carter quite fairly discerns all across the political discussion.

"I must confess that the great political movements of our day frighten me with their reckless certainties and their insistence on treating people as means to be manipulated rather than as the ends for which government exists," he writes. "Too many partisans seems to hate their opponents, who are demonized in terms so creative that I weep at the waste of energy, and, as one who struggles to be a Christian, I find the hatred painful." So would we all.•

WEST VIRGINIA WESTINGHOUSE SCIENCE TALENT SEARCH

• Mr. ROCKEFELLER. Mr. President, today, I would like to take a moment to recognize the 40 finalists in the 55th Annual Westinghouse Science Talent Search. These exceptional American youth—hailing from 13 States, including my home State of West Virginia—are being honored as the Nation's brightest high school math and science students.

This program, sponsored by the Westinghouse Foundation, in partnership with Science Services Inc. since 1942, awards America's most prestigious and coveted high school scholarships in math and science. This year's finalists are among 1,869 high school seniors from 735 high schools located throughout the 50 States, the District of Columbia and Puerto Rico, including two West Virginia students, Namoi Sue Bates of Franklin and Bonnie Cedar Welcker of Parkersburg. Their independent science research project entries cover the full spectrum of scientific inquiry, from biology to solid state luminescence.

The honor of being named to this group far exceeds the value of the scholarships and awards bestowed. Over the years, finalists have included five winners of the Nobel Prize as well as those who have achieved brilliant careers in science, medicine, and related fields.

Mr. President, I want to commend each and every one of these outstanding American teenagers who truly embody the American dreams of discovering, curing, inventing, and changing the world.•

PENTAGON REPORT PREDICTS BOSNIA WILL FRAGMENT WITHOUT VAST AID

• Mr. SIMON. Mr. President, when the Bosnian intervention question came before the Senate, I strongly supported President Clinton's request, but added that I thought it was unrealistic to believe that we could go in and in 1 year pull out.

We made that mistake in Somalia and we should not make the same mistake again.

Recently the New York Times had an article by Philip Shenon titled, "Pentagon Report Predicts Bosnia Will Fragment Without Vast Aid," which I ask to be printed in the RECORD after my remarks.

It tells in very realistic terms why it is necessary to retain some troops in the Bosnian area in order to have stability in that area of the world.

If we fail to do that, we invite bloodshed and instability that will inevitably spread to Macedonia, Albania, and other neighboring areas.

The article follows:

[From the New York Times]

PENTAGON REPORT PREDICTS BOSNIA WILL FRAGMENT WITHOUT VAST AID

(By Philip Shenon)

WASHINGTON, March 19—The Pentagon has offered its grimmest assessment of the prospects for peace in Bosnia to date, warning that without an enormous international aid program to rebuild its economy and political institutions, the country will probably fragment after the withdrawal of NATO peacekeeping troops late this year.

The assessment for the Senate Intelligence Committee was prepared by the Pentagon's senior intelligence analyst, Lieut. Gen. Patrick M. Hughes, and it could signal an effort by the Defense Department to distance itself from blame if the civil war resumes shortly after the NATO withdrawal.

General Hughes, the director the Defense Intelligence Agency, offered reassuring words in his report for American troops stationed in Bosnia, suggesting that NATO forces face no organized military threat. If the war resumes, he said, it will not be until after the American peacekeepers and their NATO allies have pulled out.

But the report, dated Feb. 22, offered no similar solace for the people of Bosnia. General Hughes said that the "prospects for the existence of a viable, unitary Bosnia beyond the life" of the NATO deployment are "dim" without a large international program to revive Bosnia's war-shattered economy.

If his assessment is accurate, the peace effort in Bosnia could well be doomed, since the civilian reconstruction effort there is barely under way, its economy and physical infrastructure—roads, water and electricity lines, telephones—still in ruins. The last American soldiers are scheduled to withdraw from Bosnia in December.

General Hughes said that the strategic goals of the warring factions in the region "have not fundamentally changed" since the days of the civil war and that tensions among them would probably grow in the months leading up to the NATO pullout.

If that is true, the Clinton Administration might come under intense pressure from its NATO allies not to withdraw American troops by the end of December—a deadline that the Administration insists it will hold to.

The Pentagon assessment also implicity questions basic elements of the American-brokered Dayton peace agreement, which laid out what critics in Congress called unrealistic deadlines for political and economic reconstruction in Bosnia and for the withdrawal of peace-keeping troops.

"There's only so much our soldiers can accomplish," said another senior Defense Department official, echoing the report's central findings, "The military forces agreed to keep the peace for a year, and that's what we're doing. But this peace will not hold without an effort to rebuild the country. That's not being done yet. And that's not our job."

The job of organizing the economic and political reconstruction of Bosnia has been left to a European delegation led by Carl Bildt, a former Swedish Prime Minister.

But Mr. Bildt has complained repeatedly in recent months that foreign governments have been slow to make available the billions of dollars needed for civilian reconstruction—everything from building bridges to printing election ballots—and that the political component of the peace effort is lagging far behind its military component. In a meeting this month with donor countries, he pleaded that the donors "do more to honor the pledges we have made."

While questioning whether Bosnia was about to dissolve once again into civil war, General Hughes said in his report that "in the short term, we are optimistic" about the situation faced by the 18,400 American soldiers stationed there as part of the peace-keeping force.

"We believe that the former warring factions will continue to generally comply with the military aspects" of the peace accord, the report said. "We do not expect U.S. or allied forces to be confronted by organized military resistance."

The threat faced by the American forces would come instead from land mines "and from various forms of random, sporadic low-level violence," the report said. "This could include high-profile attacks by rogue elements or terrorists." So far only one American soldier has been killed in Bosnia, an Army sergeant who was killed in an explosion on Feb. 3 as he tried to defuse a land mine.

The report suggested that if the civil war resumes, it will flare up only after the NATO forces have pulled out, removing the buffer that has kept the factions at peace for most of the last four months.

"The overall strategic political goals of the former warring factions have not fundamentally changed," General Hughes said. "Without a concerted effort by the international community, including substantial progress in the civil sector to restore economic viability and to provide for conditions in which national (federation) political stability can be achieved, the prospects for the existence of a viable, unitary Bosnia beyond the life of IFOR are dim." The NATO forces in Bosnia are known as the Implementation Force, or IFOR.

General Hughes suggested that all of the fragile alliances created by the peace accord might collapse—with tensions between the Bosnian Muslims and Bosnian Croats threatening their federation, with the Bosnian Croats working toward "de facto integration" with Croatia, and with elections and the resettlement of refugees "delayed or stymied."

He said that the Bosnian Serbs were likely to consolidate their hold on their own territory, seeking "some form of political confederation" with Serbia.

Questions about whether any peace in Bosnia would outlast the presence of NATO troops—and whether American troops would be stuck there as a result—were at the heart of the debate in Congress that preceded votes to authorize the American military deployment. Senator Bob Dole, the front-runner for the Republican Presidential nomination, demanded and won an Administration pledge to play a role in arming and training the Bosnian Government's army.

The assessment by the Defense Intelligence Agency is only slightly more pessimistic than remarks heard elsewhere in the Pentagon. Senior Defense Department officials have long warned that the peace would fail without a huge effort to rebuild Bosnia and to give the people some hope of economic and political stability after years of slaughter.

"Ultimately I think the bigger problem is not the military implementation of the peace agreement," Gen. John Shalikasvili, the Chairman of the Joint Chiefs of Staff, told the House National Security Committee this month. "We need to make sure we understand that it is equally important to the overall effort—and also the safety of the troops—that we get on with the civilian functions that need to be performed."

"And when I say 'we,' I don't mean the military, but the nations that are involved in this effort," he added.

"The elections have to go forward, the refugees have to begin to return, reconstruction has to start, the infrastructure has to be rebuilt so that the people in the country can see an advantage to not fighting."•

MEASURE PLACED ON CALENDAR—H.R. 2337

Mr. SPECTER. Mr. President, I ask unanimous consent that H.R. 2337, which was just received from the House, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, APRIL 18, 1996

Mr. SPECTER. Mr. President, I ask unanimous consent, on behalf of the leader, Senator DOLE, that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m., on Thursday, April 18; further, that immediately following the prayer, the Journal of the proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and the Senate then begin consideration of S. 1028, the Health Insurance Reform Act of 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SPECTER. Mr. President, on behalf of Senator DOLE, for the information of all Senators, the Senate will begin the health insurance reform bill tomorrow morning. Amendments are expected to be offered to that legislation. Therefore, Senators can expect rollcall votes throughout the day, and a late session is anticipated. The Senate may be asked to turn to any other legislative items that can be cleared for action.

ORDER FOR ADJOURNMENT

Mr. SPECTER. Mr. President, if there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order following the conclusion of the remarks that I shall make as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I seek recognition to comment on a number of subjects. The Senate has been in session for the last 2 days continuously on the terrorism bill, and there are a number of subjects that I have sought recognition to speak about at this time.

As we say, the Senate is on "automatic pilot," so when I conclude my remarks, the Senate will be in adjournment.

Mr. President, I ask unanimous consent that the following remarks appear under a caption of "Foreign Travel, April 2 through April 5, 1996."

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN TRAVEL, APRIL 2 THROUGH APRIL 5, 1996

Mr. SPECTER. Mr. President, on April 2, on behalf of the Senate Intelligence Committee, I traveled to Paris and then to The Hague, where I consulted with the prosecution teams of the war crimes tribunal to assess their progress. Then, on April 3, on to Belgrade. Then on to Tuzla on April 4, and back to Paris that evening.

While in Paris, I had the opportunity to observe the operation of the Paris Embassy, under the direction of Ambassador Pamela Harriman. I was very much impressed with what I saw of the operation there. Ambassador Harriman conducts a large Embassy. Really, Paris is the crossroads of the European continent. There are many complex issues that confront the Embassy involving security matters within NATO, involving commercial matters, involving activities that touch upon the Senate Intelligence Committee and the Central Intelligence Agency. I was very much impressed with those operations.

During the course of my discussions with Ambassador Harriman, I discussed with her the cuts in the budget of the State Department in the so-called 150 Account. And from the work I have done on the Appropriations Committee, and in the past having been on the subcommittee with jurisdiction over the Department of State, it is my sense that the cuts that have been imposed are excessive.

I asked Ambassador Harriman to prepare for me a list of specifics, which she has done, entitled "Disinvesting in Diplomacy," pointing out how hard hit large Embassies will be, like the Embassy in Paris, and with the specification of the cuts and the impact of those cuts on her operation. I was especially impressed with one of her offices, from which 17 officers had been cut, under last year's reduction, to 12, and if the anticipated cuts are put into effect for next year, down to 7.

Mr. President, at the conclusion of my remarks, I ask unanimous consent that the specification under the caption "Disinvesting in Diplomacy" be printed in the RECORD.

The PRESIDING OFFICER (Mr. ASHCROFT). Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, while in Paris, and at the Embassy on the evening of April 2, I visited with Secretary of Commerce Ron Brown for whom a reception was held in his honor along with the Secretary of Labor Robert Reich.

As we all know, on the very next day Secretary Brown and his company met their untimely deaths with the crash of their plane making a landing approach into Dubrovnik.

When Secretary Brown and I spoke on the evening of April 2 at about 6:45 he was robust, enthusiastic, and very anxious to carry out his responsibilities as Secretary of Commerce. He had brought with him a group of United States businessmen who could be instrumental in the rebuilding and the revitalization of Bosnia.

It is well accepted that, if the peace in Bosnia is to stay and is to hold, there will have to be a buildup of the infrastructure there, and Secretary Brown was there in connection with those duties. He and I talked about meeting in Zagreb. But that meeting unfortunately did not take place. The next morning I departed for Serbia, was in Belgrade, and had a plan on April 3 to travel to Sarajevo. That plan was canceled because of weather. We did not go to Sarajevo, and the same weather conditions resulted in the fatal crash of Secretary Brown and his company.

I traveled the next day to Tuzla, arrived there early in the morning, was met by General Cherrie, and we immediately talked about Secretary Brown's visit the preceding day. Secretary Brown had arrived at 6:40 a.m. on April 3 and visited the United States military establishment in Tuzla, and departed at 1:58 p.m. And then, as we know, shortly thereafter the fatal crash occurred on the approach to the landing in Dubrovnik.

Secretary Brown was certainly a stalwart advocate of U.S. interests, and his loss will be deeply felt by the U.S. Government. On behalf of my wife Joan, I want to convey our deepest sympathies and condolences to Ron's wife, Alma, and their two children, Michael and Tracey, and the rest of their family.

EXHIBIT 1

DISINVESTING IN DIPLOMACY

Large projected cuts in the 150 account will hamper our ability to attain U.S. economic, security and political objectives worldwide for many years to come.

Among the hardest-hit will be our large embassies in Western Europe. These Embassies protect and promote vital U.S. interests. Western Europe is home to most of our biggest and most powerful trading and investment partners. NATO is our most important military alliance.

Our European allies share our democratic ideals and are willing to join us in coalitions to promote global stability. A few, such as France, have global military, economic, technological and commercial interests which parallel our own. In France, our diplomacy reaches well beyond bilateral relations to include cooperation and burdensharing on a broad range of global issues.

Embassy Paris, like most other major Embassies, is cutting back sharply its operations while trying to economize. The consulate in Lyon was closed in 1992. In 1996, the Bordeaux consulate also had to be closed. The latter had been in operation since George Washington's Presidency.

In 1996, the Embassy was required to close its travel and tourism office. Its ten person staff, which was handling 100,000 requests for information annually from potential foreign visitors to the U.S., was eliminated. The calls will have to be absorbed or redirected with no increase in staff.

In the past two years, Embassy Paris has cut the operating hours of its communication center by 65 percent. A hiring freeze has been in place for four years, and the Embassy's French work force has not received a pay increase in three years. Twenty-five French employee positions have been marked for elimination. The list of other reductions is long.

In view of these reduced resources, Embassy Paris is making a concerted effort to "work smarter" with fewer resources. It has formed "teams" to pool interagency assets more effectively. It has negotiated savings of $3,000,000 over five years in local service contracts. It instituted a new interactive automated telephone service for visa applicants which generates $8,000 to $10,000/month in revenues. A consolidation of warehouses is saving $400,000 per year. A new computerized pass and ID system allowed the Embassy to cut 10 Marine guards.

This kind of innovation has allowed cuts to be distributed and absorbed within the Embassy without drastic cutbacks in services thus far. However, this is now likely to change.

The State Department is calling for another round of deep personnel cuts. For Paris, this would entail a 43 percent drop in core diplomatic personnel in the 1995 to 1998 period. Reductions this large will impact heavily on core diplomatic strengths and the Embassy's effectiveness. Some of the effects will be:

Advocacy for U.S. trade and business interests will be reduced in frequency and effectiveness (recent investment problems handled by the Embassy included U.S. firms in the food processing, pharmaceutical and information industries).

The loss of the Embassy's ability to monitor the Paris Club, the organization which negotiates debt rescheduling affecting billions owed the USG by developing countries.

A 50 percent reduction in contacts with the key French officials we must reach if we are to influence French policy and advocate U.S. positions on questions of vital interest to us.

Closure of the Science office at a time when our cooperative exchanges with France on nuclear, space and health technology matters (to mention only three) should be growing rapidly.

Significant cutbacks and slowdowns in passport and welfare services to U.S. citizens. Passport issuance will take 3 to 5 days instead of one. Prison visits will be cut to one per year. Consuls will no longer attend trials of U.S. citizens. The consulate will be open to the public for only two hours per day.

A 60 percent reduction in State Department reporting from Paris, including the political and economic analysis we need on France's activities in Europe, Africa and the Middle East, and Asia.

These trends are disturbing and merit closer attention. The Administration and Congress must work together to assess carefully how budgetary and personnel cutbacks affect our core diplomatic capabilities in Western Europe and elsewhere. This is especially true at a moment when business and information is globalizing and our national interests dictate that we be even more intensively engaged with our key allies than in the past.

(The remarks of Mr. SPECTER pertaining to the submission of Senate Resolution 247 are printed in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

(The remarks of Mr. SPECTER pertaining to the introduction of S. 1681 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER. I thank the Chair.

I yield the floor, and with that conclude the activities of the Senate today.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until tomorrow morning at 9:30.

Thereupon, the Senate, at 7:23 p.m., adjourned until Thursday, April 18, 1996, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 17, 1996:

DEPARTMENT OF DEFENSE

JOHN W. HECHINGER, SR., OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF 4 YEARS, VICE JOHN P. ROCHE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. DANIEL W. CHRISTMAN xxx-xx-x... U.S. ARMY.

HOUSE OF REPRESENTATIVES—*Wednesday, April 17, 1996*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. GILLMOR].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 17, 1996.

I hereby designate the Honorable PAUL E. GILLMOR to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Reverend Dr. Ronald F. Christian, Office of the Bishop, Evangelical Lutheran Church in America, Washington, DC, offered the following prayer:

The heavens declare Your beauty, O God, and the firmament shows Your handiwork.

We pray, O God, that we may all more quickly recognize and give thanks for the beauty that surrounds us, and we pray that we may more reverently receive Your gifts and offer our gratitude for them daily.

For the hours of this day, we give You thanks. Help us, O God, to use each moment wisely so that neither sloth nor waste will occupy this time which will never be returned to us.

Dispose our days and our deeds in Your peace, O God. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Ohio [Ms. KAPTUR] come forward and lead the House in the Pledge of Allegiance.

Ms. KAPTUR led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 255. An act to designate the Federal Justice Building in Miami, Florida, as the "James Lawrence King Federal Justice Building";

H.R. 869. An act to designate the Federal building and United States courthouse located at 125 Market Street in Youngstown, Ohio, as the "Thomas D. Lambros Federal Building and United States Courthouse";

H.R. 1804. An act to designate the United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, as the "Judge Isaac C. Parker Federal Building";

H.R. 2415. An act to designate the United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Zaragosa Road in El Paso, Texas, as the "Timothy C. McCaghren Customs Administrative Building"; and

H.R. 2556. An act to designate the Federal building located at 345 Middlefield Road in Menlo Park, California, and known as the Earth Sciences and Library Building, as the "Vincent E. McKelvey Federal Building."

ANNOUNCEMENT REGARDING AMENDMENTS TO NATIONAL WILDLIFE REFUGE IMPROVEMENT ACT

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, the Rules Committee will be meeting at the beginning of next week to grant a rule on H.R. 1675, the National Wildlife Refuge Improvement Act.

Resources Committee Chairman YOUNG has requested an open rule. He has further requested that the rule make in order as original text for the purpose of amendment a new amendment in the nature of a substitute.

This amendment in the nature of a substitute by Chairman YOUNG reflects negotiations the Resources Committee has held with both the Department of the Interior and the Department of Defense.

Amendments should be drafted to the text of the amendment in the nature of a substitute offered by Chairman YOUNG, which has been printed in the CONGRESSIONAL RECORD of April 16, 1996, numbered 1. Priority in recognition may be given to those amendments which are preprinted in the CONGRESSIONAL RECORD. However, preprinting of amendments is optional.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

OSHA, AT IT AGAIN

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, I hope Mike Royko's column today is a joke, but unfortunately it is not. OSHA is at it again.

Apparently, a small business in Chicago recently received a set of instructions from OSHA on how to safely handle water. Yes, water, not waste water, not contaminated water, just water. The instructions include water's boiling point, its freezing point, its weight. The laboratory protective equipment recommended included safety glasses and a lab coat, and instructions include keeping the container lid on tightly closed and how to transport the water and a warning to protect it from freezing.

Yes, Mr. Royko points out, however, that OSHA did not document any effects of overexposure to water. Does OSHA not consider drowning a hazard? The bureaucrats at OSHA also failed to identify any conditions to avoid. What about the chance of burning your hand if the water is too hot?

Mr. Speaker, the time to reform OSHA is now.

UNITED STATES-JAPAN AUTO FIGURES

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, with the President in Japan, it is time to take stock of our abysmal trade accounts with that nation.

The administration is doing its best to put a public relations spin to last year's massive $60 billion trade deficit with Japan. Look at the facts: During the first 3 years of the Clinton administration, the United States has suffered over $185 billion in more trade deficits with Japan, a 39-percent increase over the abysmal trade deficit records under the Bush administration. U.S. auto manufacturers still have less than 1 measly percent of Japan's auto market, while Japan commands over one-third, 33 percent of this market. The value of the dollar against the yen has gone down by 40 percent since 1990, making our automotive goods 40 percent cheaper in their market. Yet the

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

United States gained only one-third of 1 percent of Japan's auto market since 1995.

Mr. Speaker, let us save the high fives. We have scaled an ant hill. Now all that is left is the mountain.

WHAT HAPPENED TO THE MIDDLE-CLASS TAX CUT?

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, recalling my career in radio, here is a golden oldie I am sure our liberal friends will absolutely love. It is taken from one of Bill Clinton's 1992 campaign commercials:

> I'm Bill Clinton, and I think you deserve a change. That's why I've offered a plan to get the economy moving again, starting with the middle-class tax cut.

But after the election, Bill Clinton forgot about the middle class. He must have developed some sort of memory problem. For 2 years when he and the liberals had control of both the White House and this Congress, Bill Clinton still refused to honor his promise to cut taxes to the middle class. In fact, the record clearly shows he raised taxes, 250 billion dollars' worth.

Bill Clinton traded in his promise of tax relief for the largest tax increase in American history. And then, in this new Congress, he vetoed tax relief the new majority provided to most every American.

Mr. Speaker, the President had a chance. He blew it. The new majority is committed to letting Americans hang onto more of their hard-earned dollars.

CRUEL AND UNUSUAL PUNISHMENT OR NOT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, a male prisoner wanting to be a lady demanded hormone injections at taxpayer expense, citing the 14th amendment. A lower court said this would-be lady is a tramp, absolutely not.

But the 10th Circuit Court said, hey, let luck be a lady tonight, citing the 8th amendment, said to deny hormones for this prisoner would be cruel and unusual punishment.

Unbelievable. Who are these three judges? Larry, Moe, and Curly? Do they realize that these prisoners get free food, health care, libraries, TV's? What is next? Wonderbras, pantyhose? Beam me up, Mr. Speaker. I say injections are in order, not for the prisoner, but for the three judges. They should get a combination injection of Prozac and common sense.

Think about it. I yield back the balance of these injections.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Our guests in the gallery are reminded that demonstrations of approval or disapproval are not permitted under the rules of the House.

WORKING CHILDREN'S RIGHTS ACT

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, a year ago, a 12-year-old boy by the name of Iqbal Masih was murdered in Pakistan because he had dared to speak out against child slave labor.

Iqbal had been sold by his father for $16 when he was 4 years old. He was chained to a loom. When he made a mistake, he was savagely beaten.

With the help of an American firm, he escaped and spoke out against this practice, which is actually on the rise in Asia and Africa and Latin America, because there is so much profit to be made by exploiting children that poor governments are very easily corrupted.

He tried to make a difference. He was murdered. But it is up to us to follow his lead, to show his courage.

Today in honor of Iqbal and the millions of children who work as forced laborers, I am proud to introduce the Working Children's Rights Act. It will deny U.S. foreign aid to countries that refuse to enforce their own labor laws, it will deny aid to governments that continue to violate the most basic human rights of children, and it will require the State Department to investigate corruption and provide for yearly hearings, so that we will never forget the terrible plight faced by millions of children like Iqbal Masih.

REPEAL 16TH AMENDMENT

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, our current Tax Code has undergone 31 major revisions and 400 minor revisions over the past 40 years. It has grown from 11,000 words to over 7 million words. The IRS now prints about 480 different tax forms for Americans to fill out. But taxpayers shouldn't fear because the IRS will send you an additional 280 forms to explain how to fill out the first 480. Doesn't that sound simple?

All this complex nonsense costs Americans about 5.4 billion hours and $200 billion a year.

Is it any wonder that Americans are frustrated, angry, and just plain fed up with our current tax system. It's time to replace it. Join me in repealing the 16th amendment. We must get rid of the IRS. This country and her citizens deserve no less.

INCREASE THE MINIMUM WAGE

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, if NEWT GINGRICH and the radical right Republicans want to do something for the working poor, then let us have a minimum wage bill. Yesterday some of their Members stood in the well on that side and said, "Well, we have already proposed to take care of the working poor through our tax bill that we passed last year, and the President vetoed it."

Nothing is further from the truth. There is not one penny, not one penny, in that tax bill for the working poor. You take a two-wage earner family with two children, both working at minimum wage. They do not pay any taxes. There is nothing in your tax bill that helps them.

The only way that we can help the working poor get out of poverty, the only way we can help people get off welfare, is to increase the minimum wage.

Why, Mr. Speaker, do you and the radical right Republicans refuse to permit the Democrats to bring a minimum wage bill to this floor? I say to you, let us do it now.

AMERICANS PAYING TOO MUCH IN TAXES

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, the previous speaker apparently forgot the Bill Clinton tax increase, 4.3 cents in the gas tax. Did he forget that? That is on the working poor. How about taxing Social Security benefits of those people who had sense enough to save with $35,000 a year income each year?—$35,000, a couple, and they tax 85 percent of your Social Security benefits that you paid 16 percent of your payroll in each year of your working life. That is what Clinton has done for you.

Mr. Speaker, each day millions of Americans wake up early, get dressed, kiss their families good-bye and go to work. They then spend the next 2 hours 47 minutes working for the Federal Government to pay their taxes. That is more time than they spend working to feed, clothe, and earn money for their family's housing.

Mr. Speaker, this is an outrage. When American families are spending more time working for the Government than they do supporting their own families, something is wrong. Americans deserve to keep more, not less of their own income for their own families, and Congress should be doing everything we can to get this Government off their backs.

AMERICANS SUPPORT RAISING MINIMUM WAGE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, congressional Republicans are using every single trick in the book to block a vote on raising the minimum wage in this country a mere 90 cents, even though the minimum wage is at a 40-year low.

Yesterday Senate Republicans used a procedural maneuver to dodge raising the minimum wage. They march in lockstep with Speaker GINGRICH and his leadership team, who have been blocking every single effort to bring up a vote in this body on raising the minimum wage.

□ 1115

It is only the latest example of how Speaker GINGRICH and his Republican leadership are out of step with the mainstream of this country. They, in fact, wanted to give a $245 billion tax break to the richest Americans in this country, to give the richest corporations in this country a $17 billion windfall, but they do not in fact want to see the minimum wage raised by 90 cents.

The New York Times said today that 84 percent of the U.S. folks are for an increase in the minimum wage. Today 13 House Republicans, to their credit, will break ranks with their leadership to join those of us who said let us increase the minimum wage. Let us do that for the hard-working, responsible Americans in this country. Let us give them an increase in their salaries.

DO SOMETHING FOR AMERICANS BY PASSING HEALTH CARE REFORM AND INCREASING THE MINIMUM WAGE

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, Congress has a golden opportunity to actually do something for the American people. We can pass the necessary health care reform bills this year and also increase the minimum wage, like my colleagues have said.

The Kassebaum-Kennedy health care bill in the Senate will enhance the portability of coverage by ending permanent exclusion for preexisting conditions. However, the inclusion in the House of the medical savings accounts, malpractice reform, and also the taking away of State regulation of multiple employer welfare plans will hurt health care reform.

Key Senators, including Senator KASSEBAUM, have discouraged the inclusion of these medical savings accounts because it has no place in this bill. House Republicans want to federalize insurance regulations for self-insured small business. The States are now regulating these plans, and have served as a laboratory for innovation on improving coverage and combating fraud. Why do we want to bring that to Washington?

The Nation's Governors, State legislators, and insurance commissioners have opposed these provisions, but the majority Republicans have put it in. Let us give the people reasonable health care reform and a minimum wage increase.

LET US CELEBRATE EARTH DAY IN A BIPARTISAN WAY

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, next Monday we will celebrate Earth Day. I wonder if we will celebrate Earth Day in a bipartisan way.

It is true that in recent years, we had witnessed some improvement in environmental standards for clean air and water, due in large part to bipartisan support provided previously by Congress.

Yet, the 104th Congress has witnessed a dramatic change in attitude among many of my Republican colleagues.

Escapes and loopholes have been inserted in many measures on behalf of those who would pollute, weakening the very laws that protect the health of the Nation.

Thus, despite a quarter of a century of effort, investment, and concentration—toxic waste, unclean air, and unsafe drinking water is still a way of life for millions in the United States.

Competing interests between the air we breathe, the water we drink and the land on which we live, versus economic efficiencies and profit for business interests have resulted in legislative action and inaction that has delayed and denied environmental improvement.

Those who have suffered the most are the voiceless and the powerless.

Yet, in spite of it all, there remains hope for the future.

When we celebrate Earth Day on Monday, April 22, I hope all Members will pledge to provide something to celebrate about.

104TH CONGRESS HAS SHIFTED FOCUS ON ENVIRONMENT TO ENFORCEMENT, NOT WEAKENING, OF EXISTING REGULATIONS

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, let us think about and talk about, just for a moment, exactly what the 104th Congress has done with respect to the environment, because there is so much deception that is being propagated about it, it is difficult to separate the truth from the reality or from the fiction.

The reality is that for the first time ever this Congress actually passed a Clean Water Act that provides for relief from and accounting for nonpoint source pollution. We had never done that before.

This Congress increased the funding for the Clean Water Act from $1.2 to $2.4 billion, a tremendous increase.

This Congress did not weaken one single regulation with respect to the standards themselves, but what this Congress did do is, it shifted where the focus of enforcement will be. It shifted it away from Washington, Washington bureaucrats with a one-size-fits-all attitude and approach, and to the States.

There is, in fact, notwithstanding the fact that many would like us to believe otherwise, there is no difference with respect to the goal, but there is a tremendous difference with respect to the way we get there, the process.

AMERICA NEEDS AN INCREASE IN MINIMUM WAGE TO SUSTAIN ITS HIGH QUALITY STANDARD OF LIVING

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Mr. Speaker, we know what distinguishes America from Third World countries, not just its democratic processes but its standard of living, the high quality of life we have in this country. Well, at least that is the way it used to be when people could get good paying jobs in industry. That is not the case now.

USA Today says, "How would you like to raise a family on $8,800 a year?" That is what we get with the current minimum wage. We ought to raise it. I am appalled when I hear my Republican colleagues who make over $100,000 a year say that they will fight a 90-cent increase in the minimum wage with every fiber in their body. It is absolutely shocking.

We need to maintain a high minimum wage so that we can have the high standard of living in this country. The current minimum wage is $1,100 less than the poverty level. People cannot exist on the current minimum wage.

If we increase the minimum wage, 12 million Americans will benefit. And do not let the Republicans tell us they are just teenagers. Thirty-nine percent of those Americans, 39 percent of those 12 million, are breadwinners, heads of households.

Mr. Speaker, the equation is very simple. Decent minimum wages mean less welfare. The people who are getting welfare are there because many of them cannot get a decent wage even though they work.

GIVING STATES AUTHORITY WILL ENHANCE ENVIRONMENTAL QUALITY

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I want to follow on the statement that was made eloquently by my friend from Cleveland about the issue of the environmental commitment of the 104th Congress.

I come from a State which is very sensitive to environmental concerns. In fact, the district which I represent has had the highest number of first stage smog alerts in the Nation. We have very serious groundwater contamination problems.

The fact of the matter is, this Congress is committed to moving in the next several weeks with very important legislation, the Safe Drinking Water Act, which continues to be a top priority. And as my friend said, this concept of one-size-fits-all regulations emanating from right here in Washington has failed.

In fact, we have seen improved environmental quality in spite of, not because of, the bureaucracy that has existed here. Every shred of evidence demonstrates that we will, in fact, be able to enhance environmental quality in this country and in my State of California if we are able to give the States the kind of authority that is desperately needed. That is the commitment that we have.

REJECT GET-GREEN GIMMICKS

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, our colleagues on the other side of the aisle have recently attempted to improve their environmental image to the public at large. They know that the American people want our environment protected, and they have felt intense heat for their relentless attacks on our public health and safety.

But we know better than to believe their get-green gimmicks. This Congress has the worst environmental record in 40 years. We have fought attacks on public health standards, meat inspection regulations, national parks, endangered species, and pesticide protections, to name only a few. And now, while these attacks in Washington continue, we are subjected to their pro-environment rhetoric. We can expect to witness them planting trees, adopting highways, or volunteering to clean up a river or lake in order to polish up their image.

As we prepare to celebrate Earth Day, we cannot stand for this hypocrisy. We must protect and cherish our environment, both in the laws we write—and in the lives we live.

POLLUTERS, NOT TAXPAYERS, SHOULD BEAR COST OF CLEANUP

(Mr. ROMERO-BARCELÓ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROMERO-BARCELÓ. Mr. Speaker, as we approach the celebration of Earth Day it behooves us to take the time to see what we have done to our planet. The Superfund Program helps us accomplish what we must, clean all polluted sites. Superfund is based on the principle that the parties responsible for the pollution should pay for the cleanups.

Unfortunately, some Members want to shift cleanup costs from polluters to taxpayers. Whose interest does it serve to shift this burden off the polluters and onto the backs of the public?

A high percent of the Superfund sites currently listed on the national priorities list involve human exposure to hazardous substances or threats to drinking water. Over 70 million people live within 4 miles of one Superfund site. In my district, more than 168,000 people get their drinking water from aquifers over which a site is located.

H.R. 2500, the Superfund reform bill, rejects the polluter-pays principle and undercuts responsible remedies, allowing polluters to walk away from sites. H.R. 2500 caps the national priorities list at 125 sites, while States have testified that there are 1,700 Federal caliber sites. Under this plan, responsibility for 1,575 sites would be left to the States, whether they have resources to clean them or not.

Although the program has been criticized for the slow rate of cleanups, 349 site cleanups have completed since the program started in 1981. Nearly 60 percent of these cleanup have been completed under the Clinton administration.

Under the last Democratic Congress, a compromise Superfund reform bill received the support of three committees and was supported by the Clinton administration, State governments, and environmental groups. The compromise dealt with reducing litigation, speeding cleanups, and narrowing liability.

As we celebrate Earth Day we should not allow lobbyists to rewrite out environmental laws in ways that benefit polluters and hurt the health of our good citizens. Let me pledge to seek new opportunities so that we can be proud to pass along a safer and healthier planet to our children.

A SERIOUS PLAN FOR WHAT AILS THE DISTRICT

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, the Washington Post front page story this morning is an urgent action alert for this Congress "In Threadbare D.C., Hopes Wear Thin."

This Congress, which claims constitutional responsibility for the Capitol of the United States, bears a heavy responsibility for the decline and fall of the District, at least this year: the shutdown of the Government, the holdup in the appropriation, the cuts before a plan was in place against the recommendation of your own control board.

On April 15, I introduced the D.C. Economic Recovery Act, to give a tax break to D.C. residents, to stop the hemorrhage of taxpayers out of this city. The Washington Times calls it, in a headline in its editorial, "A Serious Plan for What Ails the District."

Save the Capitol of the United States before it is too late. It is, I remind you what you always tell me, your constitutional responsibility.

DO NOT RAISE TAXES ON WORKING AMERICANS

(Mr. TATE asked and was given permission to address the House for 1 minute.)

Mr. TATE. Mr. Speaker, 3 years ago my good friends across the aisle raised taxes on senior citizens, raised taxes on working Americans in the form of higher gas taxes, raised taxes on small business owners. But the new Republican Congress tried to provide tax relief for working Americans in the form of a $5,000 tax credit for working Americans that want to adopt a child, tax relief for small businesses.

Now it is an election year, and my good friends across the aisle say raise the minimum wage. Well, they controlled the Congress and the Presidency for 2 years. If I look at their record and look closely enough, what the folks across the aisle truly want to do is raise taxes on working Americans. That is what they are truly interested in.

REPUBLICANS WOULD ROLL BACK ENVIRONMENTAL PROGRESS

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, I know that we are leading up to Earth Day next Monday. I was involved in the original Earth Day 26 years ago, and I think it is very unfortunate that now in this Congress under Speaker GINGRICH we see the worst environmental record in the history of the Congress.

In effect, what is happening is that the Republican leadership is doing their best to try to roll back 25 years or 26 years of environmental progress that we have seen in this Congress on a bipartisan basis since the first Earth Day.

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The worst part, I think, is with regard to enforcement. One of the things that I have always said is that if you do not have proper enforcement and investigation to make sure that there are teeth in your environmental laws, then you in effect do not have any environmental laws.

This continued process with the Republican leadership where they do not provide enough funding for the EPA and other agencies that are involved in environmental protection so that there are not the enforcers or the environmental cops on the beat, if you will, out there doing the investigations, catching the polluters, indicating or making it possible to impose penalties against those who violate our environmental laws, this constant effort is hurting environmental protection in this country.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule.

Committee on Agriculture, Committee on Banking and Financial Services, Committee on Economic and Educational Opportunities, Committee on International Relations, Committee on the Judiciary, Committee on Resources, Committee on Science, Committee on Small Business, Committee on Transportation and Infrastructure, Committee on Veterans' Affairs, and the Permanent Select Committee on Intelligence.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. GILLMOR). Is there objection to the request of the gentleman from California?

There was no objection.

LAYING ON THE TABLE HOUSE RESOLUTION 368

Mr. QUILLEN. Mr. Speaker, I ask unanimous consent that House Resolution 368, providing for consideration of H.R. 994, the Small Business Growth and Administrative Accountability Act of 1996, be laid on the table.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

TRUTH IN BUDGETING ACT

Mr. QUILLEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 396 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 396

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 842) to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed two hours equally divided among and controlled by the chairmen and ranking minority members of the Committee on Transportation and Infrastructure and the Committee on the Budget. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. QUILLEN] is recognized for 1 hour.

Mr. QUILLEN. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 396 is an open rule providing for the consideration of H.R. 842, the Truth in Budgeting Act. The rule provides 2 hours of general debate divided equally between the chairmen and ranking minority members of the Committee on Transportation and Infrastructure and the Committee on the Budget.

The rule makes in order the Committee on Transportation and Infrastructure amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment and provides that each section be considered as read.

This rule allows for priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD prior to their consideration, and it provides for one motion to recommit, with or without instructions.

Mr. Speaker, when I first came to Congress in 1963, I was privileged to serve on the House Public Works Committee. The name has changed, but the important agenda of the committee and the dedication and hard work put forth by the members of the committee over the ears has not diminished.

I've long supported efforts to take the four transportation trust funds off budget, and I commend chairman BUD SHUSTER and ranking member JIM OBERSTAR for finally giving the House an opportunity to debate and vote on this issue.

We'll hear a great deal of discussion about this bill today, and arguments will be made that these trust funds should not be exempted from budget cuts in attempts to balance the budget. But Congress made a commitment to use the proceeds of transportation user fees solely for transportation purposes. Presently, there is over $30 billion in the four transportation trust funds—money that could be and should be used to improve our highways, airports, harbors, and inland waterways. The public is no longer being fooled by using these funds to mask the true size of the Federal deficit. It's way past time to honor our commitment and release these funds to improve our Nation's transportation infrastructure.

Mr. Speaker, I'm proud to be a cosponsor of this bill and I urge my colleagues to vote for this open rule and to support passage of this important piece of legislation.

Mr. Speaker, I include the following extraneous material for the RECORD:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of April 15, 1996]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	60	59
Modified Closed[3]	49	47	26	25
Closed[4]	9	9	16	16
Total	104	100	102	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of April 15, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	A: voice vote (11/14/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of April 15, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 261 (11/9/95)	C	H.J. Res. 115	Cont. Resolution	A: 223–182 (11/10/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	O	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 229–176 (11/15/95).
H. Res. 273 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	A: 239–181 (11/17/95).
H. Res. 284 (11/29/95)	O	H.R. 1788	Amtrak Reform	A: voice vote (11/30/95).
H. Res. 287 (11/30/95)	O	H.R. 1350	Maritime Security Act	A: voice vote (12/6/95).
H. Res. 293 (12/7/95)	C	H.R. 2621	Protect Federal Trust Funds	PQ: 223–183 A: 228–184 (12/14/95).
H. Res. 303 (12/13/95)	O	H.R. 1745	Utah Public Lands.	
H. Res. 309 (12/18/95)	C	H.Con. Res. 122	Budget Res. W/President	PQ: 230–188 A: 229–189 (12/19/95).
H. Res. 313 (12/19/95)	O	H.R. 558	Texas Low-Level Radioactive	A: voice vote (12/20/95).
H. Res. 323 (12/21/95)	C	H.R. 2677	Natl. Parks & Wildlife Refuge	Tabled (2/28/96).
H. Res. 366 (2/27/96)	MC	H.R. 2854	Farm Bill	PQ: 228–182 A: 244–168 (2/28/96).
H. Res. 368 (2/28/96)	O	H.R. 994	Small Business Growth	
H. Res. 371 (3/6/96)	C	H.R. 3021	Debt Limit Increase	A: voice vote (3/7/96).
H. Res. 372 (3/6/96)	MC	H.R. 3019	Cont. Approps. FY 1996	PQ: voice vote A: 235–175 (3/7/96).
H. Res. 380 (3/12/96)	MC	H.R. 2703	Effective Death Penalty	A: 251–157 (3/13/96).
H. Res. 384 (3/14/96)	MC	H.R. 2202	Immigration	PQ: 233–152 A: voice vote (3/21/96).
H. Res. 386 (3/20/96)	C	H.J. Res. 165	Further Cont. Approps	PQ: 234–187 A: 237–183 (3/21/96).
H. Res. 388 (3/20/96)	C	H.R. 125	Gun Crime Enforcement	A: 244–166 (3/22/96).
H. Res. 391 (3/27/96)	C	H.R. 3136	Contract w/America Advancement	PQ: 232–180 A: 232–177, (3/28/96).
H. Res. 392 (3/27/96)	MC	H.R. 3103	Health Coverage Affordability	PQ: 229–186 A: Voice Vote (3/29/96)
H. Res. 395 (3/29/96)	MC	H.J. Res. 159	Tax Limitation Const. Amdmt.	PQ: 232–168 A: 234–162 (4/15/96)
H. Res. 396 (3/29/96)	O	H.R. 842	Truth in Budgeting Act	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. QUILLEN. Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I thank the gentleman from Tennessee [Mr. QUILLEN] for yielding the customary half hour of debate time, and I yield myself such time as I may consume.

Mr. Speaker, although many of us believe that the so-called Truth in Budgeting Act that would be made in order by this rule is an irresponsible piece of legislation, we have no objections to the rule itself. It is the first open rule the House has considered this year, and we commend the majority for bringing this controversial legislation to the House floor in this manner.

We also commend the majority for providing an extra hour of general debate time—for a total of 2 hours—and allowing the chairmen and ranking minority members of the two committees of jurisdiction to control one-half hour of debate time each. That provision of time is adequate and fair for a measure that has been reported favorably by one committee of jurisdiction, the Transportation and Infrastructure Committee, and adversely by the other, the Budget Committee.

Mr. Speaker, proponents of this legislation make a good case that we need to increase spending for our Nation's transportation infrastructure. Many of our highways, airports, mass transit systems, and ports are in serious need of repair, modernizing, and expansion; and our failure to spend an adequate amount on these projects is costing our Nation dearly in terms of lower productivity. However, moving four transportation trust funds off budget, and out from under the discretionary spending caps, as H.R. 842 would do, is not the appropriate way to solve this problem.

By freeing transportation spending from the budget constraints that are currently imposed on all discretionary spending programs, it is likely that transportation spending will increase by about $20 to $21 billion over the next 5 years. But to compensate for that extra spending, Congress would have to increase the deficit by that amount, or make deeper cuts in other discretionary programs.

We may well decide that we want to spend an extra $20 billion on transportation projects over the next 5 years. But if we do, we should make that decision with full awareness of the consequences of such action for other Federal programs, and for our efforts to reduce Federal deficits.

However, if transportation spending is given the preferential budgetary treatment provided by H.R. 842, we would no longer determine the appropriate amount to spend on transportation projects in the context of our decisions on all other Federal spending; we would no longer be forced to make the necessary tradeoffs that we currently have to make whenever spending is increased for any program.

Furthermore, if special budgetary treatment is given to transportation spending, advocates of other programs that are funded by dedicated revenues will demand the same treatment. And there are nearly 160 other trust funds, and hundreds of similar special accounts, within the Federal budget. This bill could be the first step toward a fracturing of the Federal budget that would make the work of managing the spending of our Federal dollars, and determining the size of the Federal budget, far more complicated and difficult than it already is.

Finally, Mr. Speaker, this bill is based on a faulty premise—that we are raising more revenues dedicated to transportation than we are spending on transportation projects and therefore, those revenues mask the true size of the deficit. In truth, in 12 of the past 15 years, spending from the transportation trust funds has exceeded the amount of revenues received. The surpluses in the trust funds that currently exist result largely from interest that has been credited to the funds on balances that accrued many years ago.

Mr. Speaker, to repeat: We have no objection to the rule, since it is an open rule that will allow for a full debate on H.R. 842. But we strongly urge Members to reject the bill itself.

Mr. Speaker, I reserve the balance of our time.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. GOSS], a very valuable member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank the distinguished chairman emeritus, the gentleman from Tennessee [Mr. QUILLEN] for yielding time to me.

I rise in support of this good open rule. But I must say to my colleagues that I am perplexed that we are bringing this pleasure to the floor. I, of course, do have enormous respect for Chairman SHUSTER and his colleagues on the Committee on Transportation and Infrastructure who believe they are doing the right thing for the transportation infrastructure of our Nation with this bill. But I and others cannot agree with their conclusion because of our commitment to the higher goal of controlling Government spending.

Mr. Speaker, 2 days ago Americans were reminded in an extremely personal way of the extent to which Government feeds upon our families' budgets. Americans are working several hours each day just to fulfill their overall tax burdens now, and yet the Federal Government still cannot make ends meet. Despite concerted efforts to shrink Government spending, we remain nearly $5.5 trillion in debt. That is trillion. Given the fact that we spend over $200 billion every year just in interest to service that debt, it is obviously incumbent upon us to handle with care the process by which we consider and make all our spending decisions, and that is why I cannot support the bill before us today.

Not 2 days after tax filing and not 2 weeks after the President signed into law the historic line-item veto to increase control over our Federal budget, this House is now considering a measure to weaken our hold on spending and make it likely that Government will spend more, not less, in the future. This bill, although very well intentioned and pleasantly titled, has the effect of shielding one type of Federal spending from all budget controls that would currently apply, and I would say that includes the line-item veto we worked so hard to get.

Although the Committee on Transportation and Infrastructure went to great lengths in its committee report to ensure Members that taking the four transportation trust funds off budget would not in and of itself lead to greater spending, the report went on to make the increase for greater transportation spending in the future. We can be fairly confident that moving these funds beyond the reach of budgetary controls will lead to more spending and more obligation by the American taxpayers.

Mr. Speaker, many Members feel, as I do, that our budget process is in need of comprehensive reform, precisely because we do not have effective spending controls and incentives to save rather than spend. In my view, H.R. 842 takes us in the wrong direction and weakens spending controls and boosts the incentive to spend. I have long championed users' fees, enterprise funds and other creative ways to fairly and reasonably raise revenues for necessary Government expenditures, but putting transportation in a special privileged budget category, I believe, is the wrong way to go.

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, I thank the gentleman for yielding to me.

I am sure the gentleman would not intentionally mislead the body.

Mr. GOSS. Mr. Speaker, I would not.

Mr. SHUSTER. Mr. Speaker, the gentleman said that the line-item veto did not apply here. The line-item veto by the President does apply and the President would be able to exercise the line-item veto, which is simply one of the many spending constraints that would be retained if this legislation is passed.

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Mr. GOSS. Mr. Speaker, I am pleased to hear the chairman's assurance on that. Our reading of the bill did not include that assurance. I am pleased to have that assurance that the line-item veto will apply, and I think it will necessarily preclude an amendment that otherwise would have been made. So that is good news.

Mr. BEILENSON. Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. WELLER].

Mr. WELLER. Mr. Speaker, I rise in support of this open rule, and I rise in support today, in strong support, of H.R. 842. This bill is called the Truth in Budgeting Act for a reason. It is commonsense legislation that will take the four transportation trust funds off budget.

Think about it. Every time we go to the gas pump, we are paying into the Highway Trust Fund. Every time we fly on an airline, on a commercial flight, we are paying into the Aviation Trust Fund. These are user fees that are supposed to be used for improvements for our roads, our bridges, our ports, our airports, to widen congested highways, improve safety, and expand airport capacity.

In my own district these are the kind of funds that should be used to widen the Morris Bridge in my hometown from two to four lanes, to construct a south suburban airport to improve aviation capacity in the Chicago area, and they could also be used for quick replacement of the outdated, antiquated, 30-year-old equipment at our air traffic control systems.

Today I have with me a vacuum tube that is used in our computers in our air traffic control system. They need to be replaced. This legislation is a safety issue, as well.

Americans believe that when they are paying their user fees or gas taxes or ticket taxes, that they are going to be used for transportation purposes. Well, unfortunately, for accounting purposes these trust funds have been used to mask the deficit, and because of that my own State in the last 5 years has lost $260 million in trust funds that would have gone to improve transportation.

As we know, when we improve transportation, we create jobs. That is why groups like the NFIB, the Chamber of Commerce, the Farm Bureau, organized labor, the Conference of State Legislatures, the League of Cities and many others are supporting the truth in budgeting bill.

This legislation will create jobs. In fact, economists say that for every $1 billion in transportation spending you create 42,000 good paying jobs. This legislation is good for workers, it is good for good-paying jobs, it is good for working families. It is a tax fairness issue, as well, Mr. Speaker.

I urge a "yes" vote on the rule and a "yes" vote on final passage.

Mr. BEILENSON. Mr. Speaker, I yield myself one-half minute.

Mr. Speaker, this is the first open rule to be considered by the House this session, and we are happy to support it. However, we do want to point out that 72 percent of the legislation considered this session has not even been reported from committee. In fact, 11 of 16 measures brought up this session have been unreported.

Mr. Speaker, I include for the RECORD the following information:

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes; PQ	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 101	To transfer a parcel of land to the Taos Pueblo Indians of New Mexico.	H. Res. 51	Open	N/A.
H.R. 400	To provide for the exchange of lands within Gates of the Arctic National Park Preserve.	H. Res. 52	Open	N/A.
H.R. 440	To provide for the conveyance of lands to certain individuals in Butte County, California.	H. Res. 53	Open	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference; PQ2	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision; PQ.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered; PQ.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language; PQ.	3D; 1R.
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins; PQ.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget; PQ.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments; PQ.	5R; 4D; 2 Bipartisan.
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ); PQ.	N/A.
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr; PQ.	N/A.
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment; PQ.	N/A.
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min. each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments; PQ.	N/A.
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority; PQ.	N/A.
H.R. 1977	Interior Appropriations	H. Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority; PQ.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority; PQ.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments pre-printed before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority; PQ.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 Of rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority; PQ. ***RULE AMENDED***.	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; Makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title..	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min.); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	ID.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliely amendment (30 min.) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bi-partisan.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; Provides that the first order of business will be the managers amendments (10 min.), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title; PQ.	N/A.
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate. makes in order the committee substitute as original text	N/A.
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional record.	N/A.
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A.
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A.
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A.
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min.) If adopted, it is considered as base text; Pre-printing gets priority; PQ.	N/A.
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D
H.R. 743	The Teamwork for Employees and managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A.
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A.
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A.
H.J. Res. 108	Making Continuing Appropriations for FY 1996	H. Res. 230	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A.
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a senate hook-up after adoption.	1D
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes); PQ.	1D
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A.
H.R. 2491 H. Con. Res. 109	7 Year Balanced Budget Reconciliation Social Security Earnings Test Reform.	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pints of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes); PQ.	1D
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A.
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min.); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min.); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 257	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	N/A
H.R. 2586	Temporary Increase in the Statutory Debt Limit	H. Res. 258	Restrictive; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee; self-executes 4 amendments in the rule; Solomon, Medicare Coverage of Certain Anti-Cancer Drug Treatments, Habeas Corpus Reform, Chrysler (MI); makes in order the Walker amend (40 min.) on regulatory reform.	5R
H.R. 2539	ICC Termination	H. Res. 259	Open; waives section 302(f) and section 308(a)	
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 261	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H.R. 2586	Temporary Increase in the Statutory Limit on the Public Debt	H. Res. 262	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H. Res. 250	House Gift Rule Reform	H. Res. 268	Closed; provides for consideration of the bill in the House; 30 min. of debate; makes in order the Burton amendment and the Gingrich en bloc amendment (30 min. each); waives all points of order against the amendments; Gingrich is only in order if Burton fails or is not offered.	2R
H.R. 2564	Lobbying Disclosure Act of 1995	H. Res. 269	Open; waives cl. 2(l)(6) of rule XI against the bill's consideration; waives all points of order against the Istook and McIntosh amendments.	N/A.
H.R. 2606	Prohibition on Funds for Bosnia Deployment	H. Res. 273	Restrictive; waives all points of order against the bill's consideration; provides one motion to amend if offered by the Minority Leader or designee (1 hr non-amendable); motion to recommit which may have instructions only if offered by Minority Leader or his designee; if Minority Leader motion is not offered debate time will be extended by 1 hr.	N/A.
H.R. 1788	Amtrak Reform and Privatization Act of 1995	H. Res. 289	Open; waives all points of order against the bill's consideration; makes in order the Transportation substitute modified by the amend in the report; Bill read by title; waives all points of order against the substitute; makes in order a managers amend as the first order of business, if adopted it is considered base text (10 min.); waives all points of order against the amendment; Pre-printing gets priority.	N/A.
H.R. 1350	Maritime Security Act of 1995	H. Res. 287	Open; makes in order the committee substitute as original text; makes in order a managers amendment which if adopted is considered as original text (20 min.) unamendable; pre-printing gets priority.	N/A.
H.R. 2621	To Protect Federal Trust Funds	H. Res. 293	Closed; provides for the adoption of the Ways & Means amendment printed in the report. 1 hr. of general debate; PQ.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1745	Utah Public Lands Management Act of 1995	H. Res. 303	Open; waives cl 2(l)(6) of rule XI and sections 302(f) and 311(a) of the Budget Act against the bill's consideration. Makes in order the Resources substitute as base text and waives cl 7 of rule XVI and sections 302(f) and 308(a) of the Budget Act; makes in order a managers' amend as the first order of business, if adopted it is considered base text (10 min)..	N/A.
H. Res. 304	Providing for Debate and Consideration of Three Measures Relating to U.S. Troop Deployments in Bosnia.	N/A	Closed; makes in order three resolutions; H.R. 2770 (Dorman), H. Res. 302 (Buyer), and H. Res. 306 (Gephardt); 1 hour of debate on each..	1D; 2R
H. Res. 309	Revised Budget Resolution	H. Res. 309	Closed; provides 2 hours of general debate in the House; PQ	N/A.
H.R. 558	Texas Low-Level Radioactive Waste Disposal Compact Consent Act	H. Res. 313	Open; pre-printing gets priority	N/A.
H.R. 2677	The National Parks and National Wildlife Refuge Systems Freedom Act of 1995.	H. Res. 323	Closed; consideration in the House; self-executes Young amendment	N/A.
PROCEDURE IN THE 104TH CONGRESS 2D SESSION				
H.R. 1643	To authorize the extension of nondiscriminatory treatment (MFN) to the products of Bulgaria.	H. Res. 334	Closed; provides to take the bill from the Speaker's table with the Senate amendment, and consider in the House the motion printed in the Rules Committee report; 1 hr. of general debate; previous question is considered as ordered. ** NR; PQ.	N/A.
H.J. Res. 134 H. Con. Res. 131	Making continuing appropriations/establishing procedures making the transmission of the continuing resolution H.J. Res. 134.	H. Res. 336	Closed; provides to take from the Speaker's table H.J. Res. 134 with the Senate amendment and concur with the Senate amendment with an amendment (H. Con. Res. 131) which is self-executed in the rule. The rule provides further that the bill shall not be sent back to the Senate until the Senate agrees to the provisions of H. Con. Res. 131. ** NR; PQ.	N/A.
H.R. 1358	Conveyance of National Marine Fisheries Service Laboratory at Gloucester, Massachusetts.	H. Res. 338	Closed; provides to take the bill from the Speakers table with the Senate amendment, and consider in the house the motion printed in the Rules Committee report; 1 hr. of general debate; previous quesetion is considered as ordered. ** NR; PQ.	N/A.
H.R. 2924	Social Security Guarantee Act	H. Res. 355	Closed; ** NR; PQ	N/A.
H.R. 2854	The Agricultural Market Transition Program	H. Res. 366	Restrictive; waives all points of order against the bill; 2 hrs of general debate; makes in order a committee substitute as original text and waives all points of order against the substitute; makes in order only the 16 amends printed in the report and waives all points of order against the amendments; circumvents unfunded mandates law; Chairman has en bloc authority for amends in report (20 min.) on each en bloc; PQ.	5D; 9R; 2 Bipartisan.
H.R. 994	Regulatory Sunset & Review Act of 1995	H. Res. 368	Open rule; makes in order the Hyde substitute printed in the Record as original text; waives cl 7 of rule XVI against the substitute; Pre-printing gets priority; vacates the House action on S. 219 and provides to take the bill from the Speakers table and consider the Senate bill; allows Chrmn. Clinger a motion to strike all after the enacting clause of the Senate bill and insert the text of H.R. 994 as passed by the House (1 hr) debate; waives germaneness against the motion; provides if the motion is adopted that it is in order for the House to insist on its amendments and request a conference.	N/A.
H.R. 3021	To Guarantee the Continuing Full Investment of Social security and Other Federal Funds in Obligations of the United States.	H. Res. 371	Closed rule; gives one motion to recommit, which if it contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	N/A.
H.R. 3019	A Further Downpayment Toward a Balanced Budget	H. Res. 372	Restrictive; self-executes CBO language regarding contingency funds in section 2 of the rule; makes in order only the amendments printed in the report; Lowey (20 min), Istook (20 min), Crapo (20 min), Obey (1 hr); waives all points of order against the amendments; give one motion to recommit, which if contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	2D/2R.
H.R. 2703	The Effective Death Penalty and Public Safety Act of 1996	H. Res. 380	Restrictive; makes in order only the amendments printed in the report; waives all points of orer against the amendments; gives Judiciary Chairman en bloc authority (20 min.) on enblocs; provides a Senate hook-up with S. 735. ** NR.	6D; 7R; 4 Bipartisan.
H.R. 2202	The Immigration and National Interest Act of 1995	H. Res. 384	Restrictive; waives all points of order against the bill and amendments in the report except for those arising under sec. 425(a) of the Budget Act (unfunded mandates); 2 hrs. of general debate on the bill; makes in order the committee substitute as base text; makes in order only the amends in the report; gives the Judiciary Chairman en bloc authority (20 min.) of debate on the en blocs; self-executes the Smith (TX) amendment re: employee verification program; PQ.	12D; 19R; 1 Bipartisan.
H.J. Res. 165	Making further continuing appropriations for FY 1996	H. Res. 386	Closed; provides for the consideration of the CR in the House and gives one motion to recommit which may contain instructions only if offered by the Minority Leader; the rule also waives cl 4(b) of rule XI against the following: an omnibus appropriations bill, another CR, a bill extending the debt limit. ** NR.	N/A.
H.R. 125	The Gun Crime Enforcement and Second Amendment Restoration Act of 1996.	H. Res. 388	Closed; self-executes an amendment; provides one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee. ** NR.	N/A
H.R. 3136	The Contract With America Advancement Act of 1996	H. Res. 391	Closed; provides for the consideration of the bill in the House; self-executes an amendment in the Rules report; waives all points of order, except sec. 425(a)(unfunded mandates) of the CBA, against the bill's consideration; orders the PQ except 1 hr. of general debate between the Chairman and Ranking Member of Ways and Means; one Archer amendment (10 min.); one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee; Provides a Senate hookup if the Senate passes S. 4 by March 30, 1996. **NR.	N/A
H.R. 3103	The Health Coverage Availability and Affordability Act of 1996	H. Res. 392	Restrictive: 2 hrs. of general debate (45 min. split by Ways and Means) (45 split by Commerce) (30 split by Economic and Educational Opportunities); self-executes H.R. 3160 as modified by the amendment in the Rules report as original text; waives all points of order, except sec. 425(a) (unfunded mandates) of the CBA; makes in order a Democratic substitute (1 hr.) waives all points of order, except sec. 425(a) (unfunded mandates) of the CBA, against the amendment; one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee; waives cl 5(c) of Rule XXI (requiring 3/5 vote on any tax increase) on votes on the bill, amendments or conference reports.	N/A
H.J. Res. 159	Tax Limitation Constitutional Amendment	H. Res. 395	Restrictive; provides for consideration of the bill in the House; 3 hrs of general debate; Makes in order H.J. Res. 169 as original text; allows for an amendment to be offered by the Minority Leader or his designee (1 hr) ** NR.	1D
H.R. 842	Truth in Budgeting Act	H. Res. 396	Open; 2 hrs. of general debate; Pre-printing gets priority	N/A

* Contract Bills, 67% restrictive; 33% open. ** All legislation 1st Session, 53% restrictive; 47% open. *** All legislation 2d Session, 94% restrictive; 6% open. **** All legislation 104th Congress, 65% restrictive; 35% open. ***** NR indicates that the legislation being considered by the House for amendment has circumvented standard procedure and was never reported from any House committee. ****** PQ Indicates that previous question was ordered on the resolution. ******* Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103d Congress. N/A means not available.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise today in strong support of the rule to bring H.R. 842, the Truth in Budgeting Act, to the House floor. It is time that the full House take action on this issue, and this open rule would allow such a debate to take place.

The Truth in Budgeting Act would simply take four trust funds off budget: the Highway Trust Fund, the Aviation Trust Fund, the Inland Waterways Trust Fund and the Harbor Maintenance Trust Fund. These are dedicated user funds which can only be used for infrastructure investment.

For those concerned that H.R. 842 will somehow allow infrastructure spending to grow unrestrained, I would point out that the legislation establishes automatic spending safeguards. Identical to the safeguard already contained in the Highway Trust Fund, H.R. 842 will ensure that the remaining trust funds are deficit proof and operate on a pay-as-you-go basis.

The Secretaries of Transportation and Treasury Department will have to review the Aviation Trust Fund annually to determine if expected receipts will cover the authorized aviation expenditures. If the trust fund does not cover unfunded aviation authorizations, then those authorizations must be reduced on a pro rata basis until the shortfall is covered.

The Army and Treasury Secretaries will review the Inland Waterways and

Harbor Maintenance Trust Funds in the same manner.

For over 20 years now the spending from these trust funds has been capped in order to make the Federal deficit look smaller. This has allowed Congress and the administration to hold back funds from infrastructure development and instead spend additional money on social programs. While many of these programs have merit, they should not be paid for by holding back money from these trust funds.

My colleagues on the other side of this issue say by taking the trust funds off budget we will increase the deficit, and I would remind them again that by law these trust funds can only be used for transportation purposes, and if the trust funds are being used to pay for social programs or other programs, then we have got to find an alternative way to fund those programs or we must cut them back and restrain the growth in spending.

Mr. Speaker, this is first and foremost a tax honesty issue. As my colleagues know, every time a motorist buys gasoline or a traveler buys an airline ticket, taxes are paid into the highway and aviation trust funds. Congress imposed these taxes with the assurance that the collected funds would be spent for infrastructure improvements and infrastructure improvements only.

Most people in our Nation take our infrastructure for granted. We are very fortunate to have the resources and the planning needed to create a first-class system or a class system. But much remains to be done, and much deterioration is in our infrastructure. The cost of upkeep and maintenance alone runs very high. So it is essential that we take these trust funds off budget.

Currently, the Department of Transportation estimates that the backlog of needs for our Nation's highways and bridges totals $315 billion. Simply maintaining our current transit system is estimated to cost $8 billion annually for the next 20 years, and according to airport groups, airport investment needs are $10 billion a year.

As I said, the issue is truly one of honesty. In the President's first year in office he was interviewed by a reporter in my district in Arkansas, and my district happens to be the largest metropolitan area in the United States without an interstate highway. We are working on it, but that kind of need is so essential across this country, and the President was asked the question, "What can you do, Mr. President, to insure the construction of this highway needed in my district?"

His response was, "The most important thing this administration can do is to take the highway trust funds off budget."

I do not know what his position is on this today, but he was absolutely right when he made that statement. The most important thing we can do for building the infrastructure of this country is to take these funds off budget and be honest with the American people about the needs we face and the need that we have in the deficit. Let us be honest with the American people, lets be fair with them, by taking these trust funds off budget.

Mr. BEILENSON. Mr. Speaker, I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. GILLMOR). Pursuant to House Resolution 396 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 842.

□ 1154

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 842) to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund, with Mr. DREIER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania [Mr. SHUSTER], the gentleman from Minnesota [Mr. OBERSTAR], the gentleman from Ohio [Mr. KASICH], and the gentleman from Minnesota [Mr. SABO] will each control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, our Nation's infrastructure is crumbling. Even our vaunted Interstate System is filled with potholes. Our Air Traffic Control System is blacking out. We still have vacuum tube computers running the Air Traffic Control System. Across America we need to invest in infrastructure. Indeed, travel on our highways is growing at a compound rate of 3 percent a year; trucking, as we move into the next century, will see a 28-percent increase in travel on our highways. We will experience, as we move into the next century, a billion people traveling commercially in aviation a year, and it was only 230 million traveling just 15 years ago.

We need to invest in infrastructure. But that is not the most important reason why we should pass this legislation today. The reason that we should pass this legislation today, the most important reason, is because we need to keep faith with the American people, we need to have honest budgeting, we need to put the trust back in the trust fund, and that is what happened originally.

We hear a lot about the Contract With America this year, and I certainly think it is important, and many do, but the original Contract With America was a contract that Dwight Eisenhower and the Congress made in 1956. They said to the American people, "We're going to charge a gas tax when you drive up to the pump, and we're going to put that gas tax in the trust fund, a highway trust fund, and we're going to spend that user tax to improve your highways," and then later on they said, "We're going to create an aviation trust fund, and when you get on an airplane you're going to pay a 10-percent ticket tax, and we're going to take your 10-percent ticket tax, your user tax, for getting on that airplane, and we're going to put that in an aviation trust fund, and under the law that money won't be able to be spent for anything except to improve our aviation system, our airports, our runways, our terminals, our air traffic control system, so we can have a safe system."

Mr. Chairman, that is the way the highway trust fund and the aviation trust fund and the other trust funds worked until 1969, when Lyndon Johnson had a bright idea, trying to figure out how to mask the size of the deficit. He realized that while it is true under the law, this money cannot be spent in these trust funds for anything other than their highway, aviation purposes. If we do not spend the money, if we let the balances build up, then we can mask the size, we can hide the size, we can distort the size of the true general fund deficit. And so he created the so-called unified budget, and once that was done, over the years both Democratic and Republican Presidents have used this gimmick to distort and hide the size of the true general fund deficit.

What has happened as a result of it? Today there is over $30 billion in balances in the transportation trusts funds, transportation trust funds which, by the way, are different from many other trust funds in Washington in that they are totally user financed.

Mr. Chairman, I would like to remind my colleagues that back in 1964, before the unified budget, the American people were asked, "Do you have confidence that your government generally will try to do the right thing, your Federal Government," and 76 percent of the American people said, "Yes," and today, when asked that same question, "Do you have confidence that your Federal Government generally tries to do the right thing," only 19 percent of the American people say yes.

□ 1200

I submit to you that exhibit A is the way these transportation trust funds have been distorted and manipulated and used, so we have not kept faith with the American people.

Indeed, the Speaker of the House has said many times that we should either spend this money, these user taxes, for the purpose for which they were created, or if we do not have the needs, we should reduce the tax. Indeed, that is exactly right. I do not think there is anybody in this Chamber who would say we do not have the needs. Indeed, the user fees are the fairest form of taxation there is, because the person who benefits is the person who pays.

There are a couple of myths which have been floating around which should be answered. The first is that, well, the revenue that has come into the trust funds, the transportation trust funds over the years, has really equalled or even exceeded the amount that has been spent. That is only half the story, because what our colleagues who make these arguments do not tell us is that they are not counting the interest that has gone in on the balances in these trust funds.

Think about that for a minute. There is a minor little insignificant thing called the law of the land, which says if the Treasury borrows from a trust fund it has to pay interest. So for those who would argue do not count the interest, I would suggest, first of all, it is the law of the land; but secondly, if we do not want to count the interest in the trust funds, then we had better be very, very careful, because nearly 50 percent of the reserves in the Social Security trust fund is based on interest. Are we going to tell the American people we are not going to count the interest, the legal interest that is accruing in the Social Security trust fund? No, the interest under the law must be counted.

Further, Mr. Chairman, we are told that if this legislation passes today, it will remove all controls and we will simply be able to go out and spend whatever we want to spend on all these projects.

Mr. Chairman, simply, factually, that is not true. First, the Committee on Appropriations retains all of the jurisdiction that it now has, and can set the obligational limits, that is, the ceiling, on how much can be spent every year. Further, the line-item veto that the President has does apply, and that can be used.

Thirdly and perhaps most importantly, under the law not a penny can be spent from these transportation trust funds unless the money is there to pay the bill. These transportation trust funds are deficit-proof. Would that our other programs here in Washington were as deficit-proof as these transportation trust funds. If they were, we would not have a deficit.

So there are very substantial restraints and spending controls which exist if this legislation is passed. Yes, if we build America's infrastructure, for every $1 billion spent, 42,000 real jobs are created. Yes, if we spend the money to build America's infrastructure, we increase productivity in America, we save lives, we stimulate economic growth.

The Department of Transportation, in a recent study analyzing economic growth in America over the past quarter of a century, says that fully 25 percent of the economic growth, the increase in productivity in America, is attributable to building infrastructure. So, indeed, for all these reasons we should vigorously support this legislation today, not only because the needs are there, but because it is fair, it is right, it is just, it is the honest way to deal with the American people. I urge my colleagues to support this legislation.

Mr. Chairman, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. SHUSTER. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. SHUSTER. Mr. Chairman, how will the various committees be recognized?

The CHAIRMAN. The Chair was planning to rotate among the committees.

Mr. SHUSTER. We are not doing 1 hour per committee?

The CHAIRMAN. It is the intention of the Chair to rotate among those Members who seek recognition.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER], the distinguished chairman of the Committee on Science, in opposition to the bill.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I first of all want to say that my colleague, the gentleman from Pennsylvania [Mr. SHUSTER], chairman of the committee, is in fact someone who works very, very hard to preserve the Nation's infrastructure, and should be congratulated for the work that he does in terms of trying to make certain that the resources provided to the Nation's infrastructure are in fact adequate, and do in fact reflect the needs of a Nation that is expanding into our future.

My opposition to the bill that he has before us today has nothing to do with the commitment that he has shown over the years to that particular goal. I am concerned, however, about just exactly how this revenue balance moves forward.

The gentleman from Pennsylvania has just described the situation. That is, that the people who propose this bill want to spend not only the revenues that come in for the trust fund, but also want to spend the accumulated interest over a period of years, because they feel as though that interest is money that ought to be kept in place for improving the infrastructure of the country.

All of that is fine, except that it is all fungible. We just had the Director of the CBO before the Committee on the Budget. She explained that over the past several years, the amount of money flowing into the Treasury to pay for highways has been equalled by the amount of money flowing out of the Treasury to pay for highways. So they have remained in relative balance over a period of some years.

What this bill says is, oh, but in addition, we want the money in interest. Understand, the interest payments we are talking about here are not new money for the Government, they are taxpayers' money as well. It is, again, the same taxpayers' money. Therefore, the money, the $19 billion of interest that seeks to be spent under this bill is $19 billion of discretionary money that will have to be taken out of somewhere else in discretionary accounts.

So, if in fact you are going to do this, and you are going to achieve what the committee seeks to achieve with this bill, you are going to have to take it away from other spending. You are going to have to take it away from other things which are vital to the country, such as spending money on the research and development to take us to the economy of the future.

Mr. OBERSTAR. Mr. Chairman, I yield myself 3½ minutes.

Mr. Chairman, the initial purpose of the highway trust fund when it was crafted in 1956 was to finance the national system of interstate and defense highways, the world's largest infrastructure project and one of the marvels of engineering of the world, and was based upon the idea that we needed a dedicated revenue stream to finance projects that would take a long time to design, engineer, acquire right-of-way for the roadway to be built upon, and then to construct that roadway. So the framers of the Interstate Highway System Program conceived a dedicated revenue stream to be financed by a tax upon the users of the system, all those people who drive cars and trucks, and a tax upon fuel was agreed upon.

It was also agreed in that initial legislation that this fund should be held in trust for the purpose for which it was intended, and that it should be deficit-proof, as the chairman of the committee has already expressed.

It has been an enormously successful program. We have spent $120 billion on the Interstate Highway Program. It represents 1 percent of the Nation's highway mileage. It carries 26 percent of the Nation's highway traffic. That represented last year 990 billion miles traveled on just the Interstate Highway System alone.

But over time, the idea of retaining some of the moneys from that trust fund and not spending them became very popular with the executive branch. Every dollar of tax revenue from the highway users tax is invested in U.S. Treasury notes. Those Treasury notes, like the World War II bonds, bear interest. The buyer of those bonds gets the principal plus the interest.

That was the idea that we applied in the highway trust fund, that revenues from the highway user tax on fuel would be invested in Treasury notes, which would bear interest, and which interest would go into the highway trust fund. In contrast to what our previous speaker said, the fact is this is not just free money, this is money owed to the highway fund. It is money owed to the users of the system by all taxpayers, by the Federal Government for the use of those dollars.

So over time, Mr. Chairman, what has happened is that the executive branch has withheld not only interest, but the principal that has been paid in by highway users into the highway trust fund, and conveniently kept it in the unified budget account to make the deficit look less than it really is.

Mr. Chairman, what we want to do is to free all of the transportation trust funds from the artificial and unnecessary constraints of the budget process and allow those funds to be used and invested to reverse the deterioration of our Nation's infrastructure. This is not adding to the deficit, it is a deficit-neutral step that we take here. We urge everybody to support our legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. SABO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is one of the rare times I find myself on the opposite side of an issue with my good friend, the gentleman from Minnesota [Mr. OBERSTAR].

Mr. Chairman, I wish I could tell the House that Santa Claus was here, but Santa Claus is not here. The reality is that if one is trying to achieve a certain deficit target or trying to balance a budget within a specified period of time and one spends more on something, you have to spend less on something else. Those are the simple facts.

I like highways. Appropriate expenditures on highways are an important investment in this country. Appropriate expenditures on airports are an important investment in this country. Appropriate expenditures on transit are an important expenditure and investment in this country. But we have to make those judgments in relationship to the other choices we have to make.

I also happen to think that money spent on research and development is important, that investment in education is important, that investment in our housing supply and housing availability in this country is important. All of those are going to suffer if this proposal passes today, and the assumption is that somehow billions of new dollars appear to be expended. Those others inevitably have to suffer, because those are the choices we have to make every year in Congress. There is no free pot of money there, available, that has no impact on deficits, no impact on other expenditures. If this passes, if there is additional money spent on those programs beyond projection, something else has to come down. It is the simple fact.

What about the inner workings of these plans? Highways; when did this accumulation of surplus occur? In the 1960's, and in the 1970's. The fact is, since 1981 we have spent $18 billion more on highways than the receipts and the tax receipts of that fund; $3 billion more than total receipts, $3 billion more than total receipts, taxes, and interest.

One of the interesting things I discovered, and I have an amendment filed, and I do not know that I will offer it today, but I discovered to my amazement that the rate of interest credited to the highway trust fund is between 1 percent to 3 percent higher than the equivalent yield on a 1-year Treasury bill. Somehow, the drafters of this bill and of this law managed to get very lucrative interest rates credited to their account.

What about some of the other workings of some of these specific funds? The airport trust fund, we think it pays for aviation. The reality is that over the years, one of the fundamental reasons they have a surplus is that we have used the general revenue fund to subsidize the operations of FAA. Every study I have seen would indicate that about 85 percent of operations of the FAA should be tied or should come from the trust fund if they really paid their accurate share. Maybe 15 percent of it could be credited to defense and other governmental use of the airways. In reality, it has been about 50 percent of the operations that are paid for from the trust fund. If it would have paid its actual share, no surplus would exist.

□ 1215

What about in recent years? Since 1981 we have spent more than excise taxes and interest on the highway trust fund. Has that changed in the last couple of years? No. 1994, 1995, we have spent more than interest and current revenues on highways. So this is a fund that has not been mistreated. This involves sort of this wish that somehow this pot of free money exists that somehow can be made available and not impact anyone else. I would hope the House would reject that argument and say that these funds are part of the overall budget strategy involved in the dynamic debate every year of how we set our priorities. There is one way we do that and that is by rejecting this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to my friend and neighbor, the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. I thank the gentleman for yielding me time.

Mr. Chairman, the Truth in Budgeting Act is nothing more than an act of keeping faith with the American people. It allows the transportation trust funds to do what they were originally intended to do.

The fact that we have to debate and vote on this bill is—I think—an admission that Congress has in recent years deceived the American taxpayer. When past Congresses first created these trust funds, several promises were made that were reflected in the original statutes. One was that Federal excise tax receipts would be dedicated to building and maintaining these transportation assets and that these activities would be self-sustaining. Another was that no general fund revenues would be used to support these programs. And a third was that activities funded by the trust funds could not run a deficit.

During the intervening years, these promises have been abrogated. Now trust funds are constrained—they're prevented from spending out at the same rate they take in revenues. And that is simply wrong. We have been practicing a grand scheme of deceit with the users of highways, airports, and inland waterways—meaning virtually everyone.

And believe me, there has been a price paid for this deceit: congestion, pollution, and higher costs for goods and services.

Many in this Congress have made great hay about not burdening future generations with the excesses of current and past spending practices. I maintain that the Truth in Budgeting Act is very much in the same vein. We have the money to build more capacity now, but we're not spending it, even in the face of growing highway and airport congestion. And if you project out over the next 7 years the growing balance in the trust funds should this legislation not be enacted, the backlog of work will grow tremendously. Do not punish future generations even more than we already have—vote to support H.R. 842.

Mr. SHADEGG. Mr. Chairman, I yield 6 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Chairman, I rise in strong opposition to this bill. Before I get into it, I want to pay my respect to the gentleman from Louisiana [Mr. LIVINGSTON], the chairman of the Appropriations Committee who has been so diligent in trying to solve this deficit. Also to the gentleman from Ohio [Mr. KASICH] who has been a warrior and his staff that have made all the difference. The fact is that if BOB DOLE has any sense, he will pick one of the three Johns as his Vice President—Jack Kemp, JOHN McCAIN, or JOHN KASICH. All would be good for our ticket. JOHN has been a warrior, and to even be dealing with this bill now wipes out many of the things that he has been trying to do.

What we are dealing with today is money, power, and pork. Remember those words: Money, power, and pork.

Remember the words from Simon and Garfunkel's song "The Boxer", where it goes on, "I am just a poor boy though my story's seldom told."

He ends by saying, "A man hears what he wants to hear and disregards the rest."

Many in this body are hearing what you want to hear and disregarding the rest. More money has gone out to transportation than was in the trust fund. More money in the last 12 or 15 years has gone out than was in the trust fund. So many people are disregarding what they do not want to hear.

This bill presents and protects sand and gravel and cement. Then it says to those who are elderly with Alzheimer's disease, "We're not going to protect you."

"You may have cancer and you may be worried about cancer research, but we're not going to protect you."

"You may be worried about education, but we're not going to protect you."

"We're going to protect sand and gravel and cement and tar and pitch."

What about the 160 other trust funds? The Endeavor Teacher Trust Fund. "Who cares about the teachers?"

The Radiation Exposure Trust Fund. "We don't care if you've been involved in radiation. Who cares?"

The Civil Service Trust Fund. "Who cares about that?" And on and on and on.

Look what the experts have said. Alan Greenspan, what he said about this and others will go into detail. Paul Volcker, what he said; Herb Stein, what he said; Michael Boskins, what he said; what all of the people have said. "This is not a good idea."

What have some of the groups and newspapers said? The Concord Coalition has said, "Passage of this legislation would severely jeopardize the chances of balancing the Federal budget."

The National Taxpayers Union has said, "Placing these trust funds off-budget is nothing less than a ploy to increase spending." This Congress should not be involved in a ploy to increase spending.

The Citizens Against Government Waste says, "The Truth-in-Budgeting Act sounds great to the public, but it's simply a ruse to increase the $5 trillion debt."

The Americans for Tax Reform is opposed to it, the Committee for a Responsible Federal Budget, the Citizens for a Sound Economy. You name it and they are opposed to it. The New York Times, the Washington Post, the Washington Times, the Wall Street Journal, and you go on and on and they are opposed to this. This is a very bad bill. But for the main reason, for this side, I will not talk to this side but for our side, we have died and fought for a balanced budget. JOHN KASICH, the Speaker, the gentleman from Louisiana, Mr. LIVINGSTON, and others have done everything they can for a balanced budget. If we pass this, we will never have a balanced budget in your life in this Congress. You will never ever see a balanced budget in this Congress. There is no two ways about it. Because you are not going to have the guts to cut Alzheimer's, you are not going to want to go after Social Security, you are not going to want to cut the radiation fund, you are not going to want to go after defense, you are not going to want to go after crime, and therefore we will never ever have a balanced budget in our lifetime in this Congress.

The American people should know that. This vote today will determine whether or not we will ever have a balanced budget.

So in closing, let me talk about three words and maybe throw in one other word. What are we talking about today? We are talking about money. This town knows what money is. Members know what money is. We are talking about money. We are also talking about power. We are talking about power, raw power. And we are talking about something that this body says it does not like but it is sadly addicted to it, and that is pork. And lastly one other thing we are talking about. We are talking about fear. I sense there is fear in the body today. I sense in the hearts of some of the Members that I have talked to, there is fear. They really would rather not be where they are but yet there is a sense of fear.

Let me just close with a quote from Robert Kennedy that has always meant a lot to me. It is from his Capetown speech in 1966 in Capetown, South Africa, when he was speaking to the students, and this is what he said. He talked about fear and men and women in leadership being timid. I will close with this. I quote from Robert Kennedy, Capetown, 1966.

He said:

> Few men are willing to brave the disapproval of their fellows, the censure of their colleagues, the wrath of their society. Moral courage is a rarer commodity than bravery in battle or great intelligence. Yet it is the one essential, vital quality of those who seek to change a world which yields most painfully to change.

I strongly urge the defeat of this so we can validate what the gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. SABO] and the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY] have done.

Mr. Chairman, I rise in opposition to H.R. 842 and efforts to move transportation trust funds off-budget.

This issue has certainly engendered extensive debate and controversy and even a coalition of special interests and lobbying groups formed to promote taking the trust funds off-budget using the slogan that we have to "put trust back into the trust fund."

If only we could have directed the enormous energy, time, and talent focused on this issue to address broader—and frankly, much more important—transportation issues. I believe the coalition efforts are misdirected. Trust is not at issue.

If only we could have harnessed the zeal with which many have approached the trust fund issue and directed it to what I believe are greater issues in setting highway and transportation policy.

If only we could debate the highway funding formulas now in place, which dole out highway funds to States using 1980 census figures. Why are we relying on decade-and-a-half old population figures? If there is unfairness in highway transportation today, the on-off budget trust fund issue isn't it.

If only we could debate the whole issue of the Federal gasoline tax which many would argue should be turned back to the States which can better determine their individual needs, getting Uncle Sam out of the highway program.

If only. But we are where we are and today we will vote on this issue which has been simmering for over a year.

There are a few facts to keep in mind when considering this issue:

First, while balances may remain in transportation trust funds, these funds are already obligated. The cash balances in the trust funds do not represent unspent gas taxes. The highway program is a reimbursable program—lines of credit are provided to State agencies to plan and construct highways. Then, 3 or 4 years later, the States seek reimbursements from the trust fund to pay those bills. That's why the cash balances do not represent a surplus. These balances are like your checking account balance after you have deposited your paycheck but before your home mortgage and car payment checks have cleared the bank. Like your home mortgage and car payment, commitments have already been made against the balances in the trust fund. In fact, commitments have already been made in excess of the current cash balance by over $30 billion. In other words, if we were to stop collecting the gas tax at the end of this year, the trust fund would have a deficit of over $30 billion. How would we deal with this deficit? I don't think we could.

Not only that, highway funding has substantially exceeded trust fund tax receipts. In 12 of the past 15 years, highway trust fund spending exceeded tax revenues. That means that the amount of money the Government spends on transportation has exceeded the amount of money provided for transportation spending from dedicated trust fund taxes.

But the trust fund is not the only source of transportation spending. Not only are transportation trust funds tapped for roads and bridges, the general fund is also being used to pay for transportation programs.

How much money are we spending on transportation? According to the Congressional Research Service, in fiscal year 1995, general treasury funds provided more than $12 billion for transportation programs above and beyond funds provided from transportation trust funds. According to CRS, the general fund figure does not include Maritime Administration, Federal Maritime Commission, U.S. Army Corps of Engineers or Department of Defense spending on transportation programs, all of which also tap into the general fund to pay for transportation projects.

Second, while transportation is vital to the economic well-being of our country, there are other issues vying for priority status. There are many important programs demanding critical funding.

A third and possibly most important point: This issue is about reining in the Federal deficit and balancing the budget. Congress has had a very difficult time making the tough choices necessary to move toward a balanced budget. We still have a long way to go to meet our deficit reduction goals, and many more tough choices to make.

How much more difficult will these choices be if we have to find an additional $30 billion in cuts—$30 billion—that's the additional cuts we will have to make if transportation trust funds are moved off-budget. If transportation spending gets special treatment, we will have to find $30 billion in cuts in discretionary spending in other parts of the budget.

Are you prepared to cut Alzheimer's research funding? Cancer research? Research on other life threatening diseases? Veterans' health care? Head Start? Crime prevention? Education? Job training? Environmental protection and cleanup programs? National defense? These are the kinds of spending programs that would face cuts—potentially significant cuts—if transportation spending is treated as an entitlement subject to preferential budgetary treatment.

Mr. Chairman, I do not believe Congress or the American people want to subject these critical programs to even further cuts. Nor do I believe Congress or the American people are prepared to accept additional taxes which would be necessary to pay for increased transportation spending if offsetting cuts elsewhere in the Federal budget are not made. Are you prepared to vote "yes" for a tax increase?

When we are concerned about providing adequate funding to provide basic health care, education programs, protection for our country's natural resources, when we are working to provide safe streets and neighborhoods, and a sound and secure financial future for ourselves, our children and grandchildren, it is not the time to single out transportation and insulate it from these tough choices. I would also point out that there are some 160 other dedicated trust funds currently part of the unified budget. What if we move all of the trust funds off-budget and establish each and every one of them as an entitlement subject to preferential treatment. What makes these trust funds different from the transportation trust funds?

Sand, gravel, asphalt, and concrete. Are these more important than the Black Lung trust fund? Are the transportation trust funds a higher national priority than the Endeavor Teacher Fellowship trust fund, the Radiation Exposure Compensation trust fund, the Civil Service Retirement trust fund, the Federal Employees Life Insurance trust fund, or the Rail Industry Pension fund?

As important as transportation is, we have to balance transportation needs with all the other programs supported by the working men and women who are taxpayers. This country, all Americans, are in this together and we have to balance all the priorities and all the needs of all the people.

Another point: H.R. 842 will erode the checks and balances between the authorizing committees and the tax and appropriations committees. This bill will provide one committee with extraordinary ability to obligate U.S. taxpayers to long-term spending commitments. As Members know, there is constant pressure from the legislative committees to spend more and more money on their particular programs. This makes sense but there must be built-in controls in the budget process to counteract this natural advocacy.

Despite what the bill's proponents say, H.R. 842 will obviate the need for action by the Appropriations Committee and will eliminate annual controls in the budget process to set priorities. Make no mistake about it. By moving transportation trust funds off-budget, H.R. 842 virtually eliminates the checks and balances that the congressional committee structure now provides for transportation and the other Federal spending programs.

Proponents of H.R. 842 say that not a penny will be spent without the approval of the Appropriations Committee. That sounds good, but in reality, this is false. If H.R. 842 does not change the role of the Appropriations Committee, why are we going through this debate?

There has been a lot of rhetoric on both sides of this issue, so to get an objective view, I wrote to several dozen experts on the Federal budgetary process and transportation spending and asked their opinions on the status of transportation funds. I contacted economists, transportation, Government, and public policy analysts; professors; current and former officials of the General Accounting Office, Congressional Budget Office, and Office of Management and Budget; current and former members of the Federal Reserve Board; and current and former members of the President's Council of Economic Advisors.

The response has been clear and unequivocal: These experts—representing the entire spectrum of social, economic, budgetary, and transportation thinking and representing both Republican and Democratic administrations alike—say keep the transportation trust funds as part of the unified budget. Do not make the changes we are talking about today.

Mr. Chairman, I brought with me copies of these experts' views and ask that they be submitted for the record. Their views—and their unanimity—leave little doubt. Moving transportation trust funds off-budget does not represent sound fiscal policy or budgetary treatment.

I'd like to share a few thoughts from these experts.

Alan Greenspan, Chairman of the Board of Governors of the Federal Reserve System, warns:

> [M]oving some spending categories off-budget would lead to fragmentation of the budgeting process and would detract from the unified budget as an indicator of the Government's fiscal operations and hence of the impact of the U.S. budget on credit markets and the economy. Moreover, it would weaken the ability of the Congress to prioritize and control spending effectively.

Mr. Greenspan concludes that:

> [M]oving programs off-budget raises the risk that resource tradeoffs would become obscured and could engender cynicism in financial markets and the public at large about the commitment and ability of the Government to control Federal spending.

Mr. Greenspan's views are echoed by Paul Volcker, former Chairman of the Board of Governors of the Federal Reserve System, who states:

> [T]he present practice of including the transportation trust funds in the unified budget should be continued. I am reinforced in that conclusion by the fact that nothing in the unified budget prevents the Congress and the administration from reaching a decision to maintain highway spending (or any other spending) at a particular level it deems a priority matter. Trust fund accounting within the unified budget may * * * be helpful in reaching that decision.

Herbert Stein, senior fellow at the American Enterprise Institute for Public Policy Research and previously a member of the Presidential Council of Economic Advisors, also opposes moving trust funds off-budget, noting:

> I would not favor moving the trust funds off the budget. We want to have a comprehensive measure of the Federal Government's fiscal activities.

One thought from Michael Boskin, currently a professor and senior fellow at the Hoover Institution, Stanford University, and previously a member of the Presidential Council of Economic Advisors. He said:

> I believe it is likely that moving one popular spending program primarily financed by earmarked revenues off-budget would lead to a stampede first of other trust funds off-budget and then all other spending programs seeking to be funded with earmarked revenue sources. This would quickly render sensible tax and budget policy impossible.

Mr. Chairman, let me share jsut two more. G. William Miller endorses:

> I do not believe a case has been made for excluding the transportation trust funds. From my experience as Secretary of the Treasury and Chairman of the Board of Governors of the Federal Reserve System, I would strongly recommend that you retain the present treatment of the transportation trust funds so that there is no opportunity for losing accountability or setting precedents for further off-balance sheet structures.

The Congressional Budget Office opposes moving transportation trust funds off-budget, too. According to James L. Blum, deputy director of CBO:

> [T]he Federal budget should be comprehensive. Setting selected programs aside, and looking at only the remainder, can distort budget decisionmaking. Giving the transportation trust funds a favored footing shifts the onus of deficit reduction to other programs that lack this protected status. Sound decisionmaking, in contrast, demands that spending and revenue proposals be evaluated

on their merits and not on their budgetary status.

I think these experts express the critical issues best. A unified budget—which includes transportation trust funds—is essential to maintaining accountability and control over the Federal budget and Government spending. Moreover, a unified budget is necessary to allow Congress to make the difficult decisions on our budget in the fairest possible way. Creating another entitlement that is off the table is not fair. Nor is it the way to get a balanced budget.

The experts agree that H.R. 842 is bad legislation.

The chairman of the Ways and Means Committee, the chairman and ranking member of the House Budget Committee, the chairman and ranking member of the House Appropriations Committee, and others oppose this legislation.

Citizens for a Sound Economy, Concord Coalition, Heritage Foundation, National Taxpayers' Union, Taxpayers for Common Sense, Citizens Against Government Waste, and Committee for a Responsible Federal Budget are among the taxpayer watchdogs groups opposing H.R. 842.

The Wall Street Journal, Washington, Post, New York Times, and the Journal of Commerce oppose H.R. 842.

Mr. Chairman, when such diverse interests agree, it's surely time to take note.

H.R. 842 will make balancing the budget nearly impossible. Every fiscal conservative in the Congress—including those Members who signed onto the bill before knowing its full effect on spending—should look carefully at what CBO, GAO, OMB, taxpayer watchdog groups and a unanimous chorus of economists say about H.R. 842.

H.R. 842 is a bad bill. It files in the face of fiscal responsibility and budgetary restraint. It represents unsound public policy. It represents unfair attempts to bestow a preferential status upon one type of government spending at the expense of every other type of discretionary spending. It will either doom efforts to balance the Federal budget or it will force all other programs not granted sacrosanct status to absorb still more cuts to keep us on track to balance the budget. H.R. 842 would set transportation spending above all other types of domestic spending—above crime prevention, Head Start, veterans' medical care, education, and environmental programs.

This Congress came to Washington to balance the budget, to clear the budget debate of smoke and mirrors. Today's vote on H.R. 842 isn't a fight about trust funds or promises. It isn't a fight between authorizing and appropriating committees. It is a vote over priorities. It is a vote to test our resolve, to see if we as Republicans and Democrats are serious about balancing the budget.

If you are serious about cutting spending, vote "no."

If you are serious about balancing the budget, vote "no."

Enactment of H.R. 842 would break faith with sound economic policy and would cede control over the Federal budget and transportation spending to special interests. H.R. 842 should be defeated.

The choice is clear—vote "no" on H.R. 842.

JOHNS HOPKINS UNIVERSITY,
INSTITUTE FOR POLICY STUDIES,
Baltimore, MD, September 21, 1995.

Hon. FRANK WOLF,
Chairman, Appropriations Subcommittee on Transportation, House of Representatives, Washington, DC.

DEAR CONGRESSMAN WOLF: I am writing in response to your letter of August 23, 1995 to express my opposition to moving transportation trust funds off-budget. Thus, I would not support Congressman Shuster's legislation which would move four transportation trust funds off-budget. I think this would set a dangerous precedent which would have serious long-term implications for the nation's fiscal health as other user fee supported activities rush to be moved off-budget.

I would like to respond directly to the three main points raised in your letter. First, I agree with those opposed to moving the transportation trust funds off-budget that a unified budget is essential to maintaining accountability and control over the federal budget and government's claim on private resources. The unified federal budget has received bipartisan support since 1969. It describes the aggregate economic activity and health of the federal government. Receipts and expenditures are detailed in one comprehensive package, providing decision makers and citizens valuable information on the government's activity and claim on national income. Fragmenting the budget presentation only obfuscates the federal role in the economy and is totally inconsistent with efforts to reinvent government and improve its legitimacy with voters and citizens.

Second, the fact that these trust funds are financed from user fees is totally irrelevant to whether they should be moved off-budget. User fees are not synonymous with earmarked funds. User fees are proxies for prices which are necessary to provide suppliers of a service with information about the demand for specific services. Unfortunately, however, in the case of the transportation trust funds, user fees are generally poor price proxies because they do not accurately reflect the total cost of providing transportation services. In any event, you obtain the rationing affect of prices, irrespective of decisions about how to allocate the revenues generated from those user fees. From an economic efficiency perspective, the two are not linked.

In addition, earmarking of revenues is generally not a desirable budgetary practice because it limits policy makers flexibility to respond to changing circumstances and priorities.

Third, it is not clear how much more spending that nation needs on individual transportation modes. The demand for transportation services is a derived demand which depends on demographic, economic and international trends beyond the control of policy makers in the U.S. Policy makers need to understand those trends and the implications they have for the demand for transportation services in the U.S. The limited resources available for transportation purposes should then be allocated in a manner which addresses the nation's transportation needs as influenced by those trends. This may or may not be consistent with a policy of earmarking specific user fees for expenditures on the individual transportation mode that generated those revenues.

In an era of serious budget constraints at all levels of government, it is critical that policy makers have the flexibility necessary to respond to the changing transportation needs of the country. Thus, Congress may want to investigate new ways of applying transportation trust fund revenues to meet these changing needs. For example, the nation's transit needs have changed considerably since 1956 when the Highway Trust Fund was initiated. Perhaps it is time for the federal government to consider a single transportation trust fund, with resources pooled from various user fees, so that funds could be distributed to meet America's diverse transportation needs in a more efficient manner. This is the approach taken by the Maryland State Department of Transportation and it is consistent with the increased flexibility and selectivity in the Intermodal Surface Transportation and Efficiency Act. Maybe the federal government has more to learn in this area from the experimentation taking place in the states.

It is entirely appropriate in my view to rethink the model of transportation finance developed over the past fifty years. Proper investment in diverse transportation modes will yield greater productivity and long-term economic strength. Restructuring the federal budget process by moving transportation trust funds off-budget, however, is neither necessary, appropriate nor desirable.

Sincerely,

MICHAEL BELL,
Principal Research Scientist.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 26, 1996.

Hon. FRANK R. WOLF,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN: This letter is in response to your request for additional comments as to whether the transportation trust funds should remain part of the unified budget. My views are fully expressed in my previous letter, dated September 28, 1995, and I have nothing to add at this time.

I will simply reaffirm the main point stated in that letter: the federal budget should be comprehensive. Setting selected programs aside—that is, taking them "off-budget"—can distort budget decisionmaking. For example, giving the transportation trust funds a favored footing shifts the onus of deficit reduction to other programs that lack this protected status. In contrast, sound decisionmaking demands that spending and revenue proposals be evaluated on their merits and not on their budgetary status.

I have attached a copy of my earlier letter, which contains a more complete discussion of the possible consequences of designating certain programs as off-budget. I hope this information is helpful to you.

Sincerely,

JAMES L. BLUM,
Deputy Director.

Attachment.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 28, 1995.

Hon. FRANK R. WOLF,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN: This is in response to your letter of September 20, 1995, asking for my views on whether the federal transportation trust funds should remain a part of the unified budget.

In short, I believe that the federal budget should be comprehensive. Setting selected programs aside, and looking at only the remainder, can distort budget decisionmaking. Giving the transportation trust funds a favored footing shifts the onus of deficit reduction to other programs that lack this protected status. Sound decisionmaking, in contrast, demands that spending and revenue proposals be evaluated on their merits and not on their budgetary status.

The extent to which taking the transportation trust funds off-budget would distort budget decisionmaking depends on what budgetary procedures and controls would apply to them under their new status. This is not at all clear. For example, each of the three entities currently designated as off-budget—the Postal Service, Social Security, and Medicare hospital insurance—is treated differently under the rules and procedures of the Congressional Budget Act of 1974 (the Budget Act) and the Balanced Budget and Emergency Deficit Control Act of 1985 (the Balanced Budget Act). The Postal Service is exempt from both of these acts, although federal payments to the Postal Service or payments from the Postal Service to the federal government are subject to both sets of rules. Legislation affecting Social Security benefits or revenues is not subject to the pay-as-you-go procedures of the Balanced Budget Act or to the Budget Act constraints that apply to other programs. There are, however, special rules that govern consideration of such legislation in the House and the Senate. In addition, discretionary Social Security administrative costs are subject to the statutory caps that limit total discretionary spending (and to any sequestration that would be triggered if the caps are exceeded) and to the allocations of discretionary spending that enforce spending decisions set forth in the annual Congressional budget resolution. Despite its official off-budget status, the Medicare hospital insurance trust fund is not afforded any special treatment under either the Budget Act or the Balanced Budget Act (there is a limit on the sequestration percentage that would apply to Medicare, but there are similar limits or exemptions for many on-budget programs).

I assume the proponents of a proposal to move the transportation trust funds off-budget view the funds as self-financing entities that should be subject only to internal financing constraints. Under the existing budgetary rules, the receipts going into the trust funds and the spending from the trust funds are controlled by separate budgetary procedures. All outlays from the trust funds are counted as discretionary spending controlled by the caps set by the Balanced Budget Act and the allocations made pursuant to the annual budget resolution, while changes to governmental receipts are subject to the separate pay-as-you-go mechanism and the revenue floor set by the budget resolution. Under these procedures, legislated increases in trust fund receipts cannot be used to offset increased spending. Giving the transportation trust funds off-budget status might allow such offsets. Furthermore, if trust fund spending were exempt from the caps that apply to other discretionary spending, the Congress could approve additional spending without providing offsets—presumably as long as there were adequate balances in the first funds. This might create a closer long-term match between the income to the trust funds and the spending from the funds, which some would view as a more equitable outcome.

The arguments against giving these programs off-budget status involve a different view of federal trust funds. Under this view, which is held by the Congressional Budget Office, the transportation trust funds are simply an accounting mechanism, and spending on programs financed by trust funds should not be given a special status. Taxpayers' dollars are most effectively used if decisions about spending for transportation and other programs are made on the basis of the relative benefits to be derived, not on the basis of available earmarked revenues. For example, the Congress might decide that more money should be spent on certain transportation activities than is generated by the earmarked revenues—as it already does in the case of Federal Aviation Administration operations. At the same time, decisions about taxes should take into account factors beyond the level of spending on highways or other transportation programs. In 1990 and 1993, for example, the Congress increased fuel tax rates for deficit reduction purposes, placing part of the additional revenues into the general fund of the Treasury. Fuel taxes could also be considered a way of charging users for polluting the air.

I hope this analysis is helpful to you.

Sincerely,

JAMES L. BLUM,
Deputy Director,

STANFORD UNIVERSITY,
Stanford, CA, October 6, 1995.

Hon. FRANK R. WOLF,
Chairman, Transportation Subcommittee, Committee on Appropriations, U.S. House of Representatives, Washington, DC.

DEAR FRANK: This note responds to your request for my suggestions concerning whether the federal transportation trust fund should remain a part of the unified budget. I strongly oppose moving the transportation trust fund off-budget.

Many would argue that transportation trust funds collected from transportation "user fees" should be used only for transportation spending and should be removed from the unified budget to ensure that occurs. I believe it is likely that moving one popular spending program primarily financed by earmarked revenues off-budget would lead to a stampede first of other trust funds off-budget and then all other spending programs seeking to be funded with ear-marked revenue sources. This would quickly render sensible tax and budget policy impossible.

I strongly side with those who, in this instance, support a unified budget as a (however imperfect) vehicle for maintaining accountability and control, as you put it in your cover note. I also believe that it is desirable to have everything the Government does reflected in one place, as the unified budget imperfectly attempts to do. This is the only way one can begin to hope that a sensible discussion of the trade-offs among budget priorities can occur.

I might add that while I am sure it is upsetting that not all of the transportation trust funds are currently being applied to transportation outlays, it is my understanding of the history over the last twenty years that highway account outlays have substantially exceeded trust fund tax receipts.

More generally, CBO estimates that if one were to take all activities which have some trust fund financing and ask the question "what is the net effect on the deficit of the revenues and outlays on those programs," the answer, perhaps surprisingly, is that general fund revenues fund major portions of activities that are partially and/or heavily financed by trust fund revenues. Thus, from another perspective the general treasury is "subsidizing" overall trust fund activity. Whether one should view the glass as half-empty or half-full I leave aside. My point here is only that it would be unwise to open a Pandora's box by moving transportation trust funds off-budget.

While there are many problems with the existing unified budget—by far the most important of which is the lack of serious accrual accounting—I believe that despite the concerns of people paying the user fees (we in California, myself included, drive a lot and thus pay lots of federal gasoline taxes), or those wishing to spend additional resources on transportation, the transportation trust fund should remain part of the unified budget. It would risk a serious accountability and control problem if Congress opens a Pandora's box of trust fund escape from budgetary discipline.

I hope these remarks are useful to you as you debate this and related issues. Best personal wishes.

Cordially,

MICHAEL J. BOSKIN.

RUTGERS,
Camden, NJ, September 5, 1995.

Hon. FRANK R. WOLF,
Chairman, Subcommittee on Transportation, Committee on Appropriations, U.S. House of Representative, Washington, DC.

DEAR CONGRESSMAN WOLF: In response to your letter of August 23, I am happy to send this answer to your question about whether the federal transportation trust funds, particularly the highway trust fund, should be taken "off-budget."

I must say that I agree with both James R. Miller and Alice Rivlen in strongly opposing the removal of the trust funds from the unified federal budget.

As a political scientist specializing in transportation policy, I have been researching and writing about the issue of the trust fund approach to highway and transportation funding for fifteen years. Taking the trust funds off budget represents just the latest in a long line of unjustified claims for special treatment for one particular type of revenue and expenditure. It reflects, not good government or good public finance, but the political strength of special interests, mainly the highway lobby.

The federal highway trust fund (and its state level cousins) has always been a bit of a fraud, designed to convince the public that their modest pennies per gallon highway taxes were paying all the costs of the road system. Overwhelming evidence has accumulated that this is not the case, and that at least forty percent of total highway construction, maintenance, and operations costs are subsidized by the general taxpayers.

The other unjustified contention is that it would be a "breech of contract" to "divert" motor fuel tax revenues to non-highway uses. This claim for special privilege for "highway user fees" has caused no end of mischief. The United States still has a long way to go before it reaches the point of being able to compare and evaluate investments of scarce public moneys across modes and between transportation and other uses that our major trading partners attained decades ago.

In my book, "Miles To Go; European and American Transportation Policies" (MIT Press), I recount how the British finally put paid to the notion that motor taxes deserved special treatment. When Winston Churchill was Chancellor of the Exchequer (Treasury Minister) in 1926–27, he began to take money from the Road Fund that Lloyd George had created in 1909 with a parliamentary promise to spend the proceeds from taxes on cars and petrol on roads. When motorists groups such as the Royal Automobile Club accused Churchill of "raiding" the road Fund like a pirate, he thundered back:

"Whoever said that motorists were to contribute nothing for all time to the general revenue of the country. . .? Entertainments may be taxed; public houses may be taxed; racehorses may be taxed; possession of armorial bearings and manservants may be taxed—and the yield devoted to the general revenue. But motorists are to be privileged for all time to have the whole yield of the tax on motors devoted to roads. Obviously this is all nonsense. Whoever said that, whatever the yield of these taxes, and whatever the poverty of the country, we were to build roads, and nothing but roads, from this yield? We might have to cripple our Trade by increased taxation of income; we might even be unable to pay for the upkeep of our Fleet. But never mind, whatever happens, the whole yield of the taxes on motors must be spent on roads . . . Such contentions are absurd, and constitute at once an outrage upon the sovereignty of Parliament and upon common sense."

It would be nice to see an American politician rise to his "finest hour" with this kind of challenge to entrenched interests.

In recent years the trend has been to move away from the inflexibility and the special treatment of rigid single mode trust funds. Granting off budget status would be a step backward. I strongly urge you to resist this effort, and I would be happy to provide you with further information and arguments if you so desire.

Sincerely yours,

JAMES A. DUNN, Jr.,
Associate Professor.

NATIONAL CENTER FOR
POLICY ANALYSIS,
Dallas, TX, October 6, 1995.

Hon. FRANK R. WOLF,
U.S. House of Representatives,
Washington, DC.

DEAR FRANK: Thanks for your kind letter of September 26th.

I don't know that my advice is technical enough to be included as part of your record, but I would say this:

In eight years as Governor, I fought very hard to keep all funds on budget and avoid setting up the many little pockets of privilege that separate budget items create for various interests. Once you have your own source of funds, you are not nearly as accountable to the Congress, nor is the Congress able to properly supervise the expenditures of the country.

The best way to handle finances is to have all the money come into a single place and then be appropriated out again through Congressional action. The transportation trust fund is one example, but there are legions of others in Washington, as you well know.

I think that keeping funds on budget is the better choice to make.

Sincerely,

PETE DU PONT.

THE UNIVERSITY OF IOWA,
September 6, 1995.

The Honorable FRANK WOLF,
Chairman, Subcommittee on Transportation,
Committee on Appropriations,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In response to your request, I am writing to offer my thoughts on the issue of moving the Highway Trust Fund off budget. As you are very well aware, there are reasonably compelling arguments for and against doing so. I will briefly assess these arguments and provide my conclusions.

In principle, the efficacy of a separate, off-budget Highway Trust Fund is largely based on two points:

In its pure form, the so-called pay-as-you-go concept means that users of the Nation's highway system should defray its entire cost, and they should be assured that their user fees will go to providing the services for which they are paying.

Moving the Highway Trust Fund off budget helps moderate the illusion that the Nation's deficit is less than actually is the case, if the Trust Fund's receipts exceed expenditures in a given year. The GAO report you sent suggests that this "masking" does occur in some years but not that many.

The main reasons for keeping the Highway Trust Fund and other trust funds part of the unified budget are:

It helps enable revenue generated from all sources to be allocated among the activities of government. Trade-offs among competing programs can be treated more explicity as the Nation's priorities are explored.

The overall magnitude of government spending, and hence the draw away from the private sector, can be more readily comprehended by decision makers and citizens alike. This, of course, facilitates debate on the appropriate scale of government activity.

Conceptually, fees paid by users of the Nation's highways can be thought of as just another revenue source. As you probably know, in Great Britain less than half of the highway user fees actually are spent on the highway system. There is not theoretical reason why highway user revenue or any other user revenue must be spent on the activity from which it is drawn. This point is significant because, as Alice Rivlin says, trust fund revenue accounts for about one-third of the total.

Whether or not to move the Highway Trust Fund off budget is in the end a political decision that unfortunately cannot be guided much by economic theory. It seems to me that the key points surrounding this decision are:

Treating the Highway Trust Fund as a separate account would enable a stable level of well-defined resources to be available for reinvestment in the Nation's highway system (and in ground transportation more generally). According to the Congressional Budget Office, the backlog of highway system resurfacing, restoration, rehabilitation, and reconstruction (4R) needs has grown to a level such that an annual reinvestment of over $27 billion would be required to eliminate this backlog. Oftentimes, 4R projects lack the political appeal of new of new construction, but reductions in the highway system performance will pose an increasing threat to the Nation's economy.

If the political will exists, the same or even a greater level of expenditures on transportation infrastructure is possible through a unified budget. As noted earlier and in the GAO document you sent, in recent years more has been spent for this purpose than has been paid by highway users (drawing down the Trust Fund's balance). I do not have a good sense of how likely Congress is to make transportation infrastructure a relatively high priority in its budgeting process during the coming years. Simply stated, a unified budget poses an opportunity and possibly a risk to transportation. Past indications are that this risk is normal, other than the deficit-reduction draw on the motor fuel tax of recent years.

The wisdom of using Highway Trust Fund resources for non-transportation purposes is in part dependent on the desirability of motor fuel and use taxes as revenue-generating mechanisms. Neither is seriously regressive, the administrative costs associated with them are nominal, and the fuel tax is comparatively invisible. To the extent that it is visible, the fuel tax contributes to fuel conservation. If fuel taxes were raised significantly, marginal changes in industrial location and choice of transportation mode could occur.

Using the argument of transportation investment as a means for strengthening the Nation's economic competitiveness is a double-edged sword. If individual projects or at least clusters of projects are selected on the basis of benefits to society exceeding costs, transportation investment can indeed strengthen competitiveness. But if projects are selected as demonstration projects and on other non-scientific bases, then the funds spent on transportation are much less certain to foster long-term growth. In my opinion, the process of determining how available Highway Trust Fund resources should be spent is more important an issue than whether or not to move the Trust Fund off budget.

Thank you for asking me to comment on this important policy issue. If I can be of any further assistance, please feel free to contact me.

Sincerely,

DAVID J. FORKENBROCK,
Professor and Director.

BOARD OF GOVERNORS,
FEDERAL RESERVE SYSTEM,
Washington, DC, October 31, 1995.

The Hon. FRANK WOLF,
Chairman, Subcommittee on Transportation, Committee on Appropriations, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of myself and the other members of the Board, I am pleased to respond to your letter of September 26 requesting comment on proposals to move the transportation trust funds off-budget. As a general matter, it has been the practice of the Board not to take positions on the details of the individual tax and spending issues that are before the Congress. However, the shifting of certain spending categories off-budget raises some broader concerns, with implications for discipline and control over federal outlays. Notably, moving some spending categories off-budget would lead to fragmentation of the budgeting process and would detract from the unified budget as an indicator of the government's fiscal operations and hence of the impact of the U.S. budget on credit markets and the economy. Moreover, it could weaken the ability of the Congress to prioritize and control spending effectively.

As the letters from OMB Director Rivlin and former-OMB Director Miller make clear, responsible budgeting requires a comprehensive framework for setting priorities and assessing competing claims on national resources. The unified budget, as commonly presented to include the social security trust funds, combines all fiscal transactions in one place. It thus helps policymakers and the public understand the trade-offs among government programs, and between public and private spending. Moreover, as the focal point of the budget process, it places individual programs on a more comparable footing as they compete for federal funding and thus helps the President and the Congress to resolve competing demands on the nation's resources. Moving programs off-budget raises the risk that resource trade-offs would become obscured and could engender cynicism in financial markets and the public at large about the commitment and ability of the government to control federal spending.

We hope these comments are helpful in your deliberations.

Sincerely,

ALAN GREENSPAN.

HARVARD UNIVERSITY,
Cambridge, MA, October 2, 1995.
The Hon. FRANK R. WOLF,
Chairman, Subcommittee on Transportation, House of Representatives, Washington, DC.

DEAR CONGRESSMAN WOLF: Thank you for your letter of September 26 on the treatment of transportation trust funds in the budgetary process. I entirely agree with Alice Rivlin and James Miller that these trust funds should be considered as part of the unified budget. In fact, I cannot see the case for having a separate status for these trust funds nor for a policy of keeping them in balance over time.

Perhaps I may add that the heavy emphasis on gasoline taxes for the financing of highways is misplaced in my view. In many cases, especially for major rural roads, tolls are a more appropriate user fee. I also fail to understand why gasoline taxes could not be raised above the level used for highway construction and related expenditures.

Finally, I have long felt that the federal government plays too large a role in transportation. The primary responsibility should be left with the states.

Yours sincerely,

HENDRIK S. HOUTHAKKER.

BIRMINGHAM-SOUTHERN COLLEGE,
Birmingham, AL, October 16, 1995.
Hon. FRANK WOLF,
Chairman, Subcommittee on Transportation, Committee on Appropriations, Washington, DC.

DEAR CHAIRMAN WOLF: In my personal opinion, the proposal to move the transportation trust funds off-budget, as provided for in H.R. 842 would not be in the public interest. Here is why I think so.

Every effort should be made to enable interested and informed citizens to readily see and understand the extent and cost of the federal government's involvement in the affairs of the country. The task is already most difficult, if not impossible. Taking this well known and proper function of interstate transportation and removing it from budget totals makes an overall view even more difficult.

Our present practice of contingent credit enhancement by various federal programs has exposed the government to enormous possible future costs with little control of the risks. The recent debacle of the savings and loan industry and the costs of funding the Resolution Trust Corporation is a too vivid example. No one knows where the next such problem may arise. Nor can the Congress or the public measure the benefits of such programs with their possible costs.

Our repeated practice of regulating the use of private resources so as to meet public or even political goals continues to hide or disguise an enormous indirect tax borne by everyone. Moreover we have no way in which to measure either the costs or the benefits of this form of indirect taxation. But we all know the real costs are there.

When one looks at the extent of present obscure and indirect federal involvement, I think we will be better served to keep all possible programs on-budget and highly visible. The present earmarking of highway funds is not a reason to remove them from the unified budget.

Sincerely,

PHILIP C. JACKSON, Jr.,
Adjunct Professor.

HARVARD UNIVERSITY, JOHN F. KENNEDY SCHOOL OF GOVERNMENT,
Cambridge, MA, September 8, 1995.
Congressman FRANK WOLF,
Cannon Office Building,
Washington, DC.

DEAR CONGRESSMAN WOLF: In response to your letter of August 23, 1995 requesting my thoughts about the debate over the fate of transportation trust funds, I offer the following comments:

The Need for a Unified Budget: I tend to agree with analyses offered by OMB, GAO, and former OMB Director James Miller. Sound budgeting principals require a unified budget particularly in an era when deficit reduction is clearly the primary challenge facing the Congress and the executive branch. In this vein, I am particularly struck by GAO's assessment that efforts to take the trust funds off budget are driven primarily by "fear of future budget constraints not actual past restrictions on spending." As Congress and the executive branch make the difficult decisions required to balance the budget, all sources of spending and revenue should be on the table.

Meeting Investment Needs: Moving transportation trust funds off budget might increase short-term spending on transportation. However, it is not at all clear that such spending would be in the national interest. To begin with, there is little credible evidence that the nation is underinvesting in transportation infrastructure. Rather, most available evidence suggests that by picking up the bulk of the cost of many projects, the current system encourages inefficient decision-making at the state and local level and that redesigning current programs would provide more than enough money to meet current needs. (See, for example, work by both Edward Gramlich, Jack Tatorn, George Peterson, or Clifford Winston).

Encouraging Poor Decisionmaking: If taking transportation trust funds off-budget increases available federal funds, then problems in the current system are likely to worsen. There would, for example, be more demonstration projects. Moreover, moving transportation trust funds off budget could exacerbate tensions between so-called donor and recipient states. While both demonstration projects and funding disparities have some grounding in legitimate questions of public policy and in the logrolling necessary to keep the legislative process moving, difficult fiscal times demand that Congress exercise more, not less, control over such activities.

Recovering All Costs: If, for political reasons, trust funds are moved off-budget, Congress and the executive branch should seriously consider expanding the scope of programs funded by those programs. At minimum this suggests that some transit aid now provided from the general fund ought to be shifted to the Highway Trust Fund's Transit Account. More broadly, many (but not all) economists argue that when all externalities (such as policing, damage from air pollution, and costs created by accidents) are factored in, highway user fees do not cover the full costs created by highway users. This suggests that shifting trust funds off budget might be combined with an expansion of activities funded by those programs.

Seizing the Opportunity: The current budget fights offer policymakers such as yourself a rare opportunity to rethink the fundamental design of all federal programs. Moving the trust funds off budget would merely continue (and likely exacerbate) many well-recognized problems with the current federal-aid system and make it even harder to accomplish Congress' overarching goal of balancing the budget in seven years. It is, therefore, a step that should not be taken lightly and, if it is taken at all, one that should be linked to key structural reforms.

I hope these comments are useful.

Sincerely,

DAVID LUBEROFF,
Assistant Director.

SHERMAN J. MAISEL ASSOCIATES,
San Francisco, CA, October 20, 1995.
Hon. FRANK R. WOLF,
Chairman, Subcommittee on Transportation, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in response to your letter of October 13, 1995, requesting my views on the issue of moving the transportation trust funds off-budget.

I believe that it is important that we retain a unified budget that includes all trust funds. A key concept of the Federal budget is that it measures and reflects the total impact of the Government's receipts and expenditures on the economy.

In the past, the failure to obtain a measure of the Government's total effect on economic activity led to many untoward experiences. This was a key reason for adopting and maintaining the unified budget.

Action now to remove the trust funds and destroy the concept of a unified budget would directly contravene all of the efforts Congress is making through the Reconciliation bill to improve the economic effect of the Government on the economy.

Sincerely,

SHERMAN J. MAISEL,
Former Governor of the Federal Reserve System.

G. WILLIAM MILLER & CO., INC.,
Washington, DC, October 18, 1995.

Re Transportation Trust Fund.

Hon. FRANK R. WOLF,
House of Representatives,
Cannon Building, Washington, DC.

DEAR FRANK: Many thanks for your letter of October 13 inviting me to express my views on the proposal for moving the transportation trust funds out of the unified budget.

The introduction of the unified budget came about after careful bipartisan study and support. Any decision to depart from or modify the system should be approached with great caution, and an exclusion of any trust fund from the unified budget should be done only if there is overwhelming demonstration that this would better serve the nation's budgetary process. I do not believe a case has been made for excluding the transportation trust funds. From my experience as Secretary of the Treasury and Chairman of the Board of Governors of the Federal Reserve System, I would strongly recommend that you retain the present treatment of the transportation trust funds so that there is no opportunity for losing accountability or setting precedents for further off-balance sheet structures.

You have received persuasive analyses from the General Accounting Office and from present and former heads of OMB. I will not go over the ground again, but do concur in the recommendations you received. I will point out, however, that the two points made by GAO-namely, masking and need for capital budgeting—can be solved in ways other than excluding trust funds from the unified budget. It would certainly be possible to present the unified budget on a fund account basis, so there would be transparency for all trust funds. It is also feasible to divide the present cash budget into a system of operating expenses and capital expenditures. These changes do not require removing any of the trust funds from the budget.

Your leadership can be very helpful in maintaining a strong system of budget accountability.

Best wishes.

Sincerely,

BILL.

PALO ALTO, CA,
October 1, 1995.

Hon. FRANK R. WOLF,
Chairman, Subcommittee on Transportation, Committee on Appropriations, House of Representatives.

DEAR MR. CHAIRMAN: In a letter of September 26, you requested my views on whether the transportation trust fund should remain a part of the unified budget. I agree with Jim Miller and Alice Rivlin that it should.

As most economists would agree, the overall budget allocates the amount of resources diverted from private hands to uses determined by the government; it also establishes the deficit, which subtracts from total savings in the United States and thus means either higher interest rates or the importation of more capital. Whether the transportation budget is officially included in the unified budget changes neither spending nor the deficit. In other words, defining the transportation budget as on or off budget is meaningless unless its status results in more government spending of higher tax receipts and thus in the size of government outlays and in the deficit. The proponents of moving the transportation trust fund off budget hope to be able to justify greater spending on transportation as a consequence. Unless offset elsewhere, this would boost both government spending and increase the size of the deficit.

I understand that proponents of moving the trust fund off budget view the gas tax as a users' fee that pays for transportation infrastructure. Although not an unreasonable argument, it ignores the major issues, the size of government and the budget deficit. It is the Congress's responsibility to determine the size of the government, a matter which should not be subject to the vagaries of the gasoline tax. Congress should also set priorities for the spending of taxpayers' funds, no matter what their source.

A surplus in the trust fund can provide a useful counter to some who would like to boost taxes on the transportation industries, ostensibly for environmental purposes. Since environmentalists often contend that the auto is being subsidized, the surplus in the trust fund helps offset that argument. They sometimes contend that motor vehicles have externalities that imply larger costs for society than are included in the normal outlays on highways. To the extent that this is true, running a surplus in the trust fund may in part counterbalance that externality.

Sincerely yours,

THOMAS GALE MOORE.

BROWN UNIVERSITY,
Providence, RI, September 29, 1995.

Hon. Frank R. Wolf,
Chairman, Subcommittee on Transportation, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR CONGRESSMAN WOLF: I am writing in response to your letter of 26 September 1995 inviting my views on whether federal transportation trust funds should be taken off budget.

In analyzing most economic issues relating to the federal budget, economists ignore the distinction between on-budget and off-budget revenues and expenditures. That is, economists work with total revenues and total outlays, often using the definitions in the national income and product accounts. Congressional decisions to remove certain activities from the unified budget will have little or no effect on economists' analysis of fiscal policy issues.

There is much to recommend the practice of financing certain activities that benefit particular individuals and/or firms with taxes and fees on those particular activities. The "user-pays" principle often promotes efficiency and equity; segregated accounts promote matching particular revenues with particular outlays. There is no necessary connection, however, between this principle and the overall accounting for federal outlays and revenues. No matter what the budget concepts, at the end of the day Congress will require an overall accounting to total revenues and total outlays, whether by including everything in "the" budget or by adding together on-budget and off-budget activities.

What the off-budget issue is really about is a policy debate on how to finance a particular activity and how to use revenues raised from a particular source. Taking an activity off-budget reflects a decision to support that activity by the earmarked revenues only, and to raise the earmarked taxes if the outlays on this activity are to rise. Conversely, revenues from the earmarked sources are to be used for the specified activities only, and not for general governmental purposes. An off-budget highway trust fund most definitely should not mean that we will spend on highways without regard to whether the highways are needed or not. What such a fund *should* mean is that revenues above those needed will be returned to the taxpayers through a cut in the gasoline tax.

The on-off budget issue is complicated by the current system of budgetary caps. Congress enacted these caps in an effort to impose more spending discipline on itself, and I believe that the caps have been useful in this regard. If the highway trust fund, or any other activity, is taken off budget to reflect a policy commitment to maintain a segregated accounting of earmarked revenues and particular outlays, then I strongly recommend that the activities nevertheless continue to be subject to the same caps process as before. That is, these activities should continue to be counted as on-budget for purposes of the caps calculations. Any other treatment is an open invitation to remove one item after another from budget discipline; that is sure to be a distracting, confusing, and counterproductive debate at this difficult time of dealing with major (and long overdue) revisions in the federal budget.

Sincerely,

WILLIAM POOLE.

CHESTERTOWN, MD,
September 30, 1995.

Congressman FRANK R. WOLF,
Washington, DC.

DEAR MR. WOLF: Because the result would be to hide the full magnitude of the flows of money into and out of the coffers of the federal government, a result that would seriously handicap the analyst in following what is happening in our economy, I hope that your committee will do all it can to prevent the transportation trust funds from being moved "off-budget." The reasons for keeping these funds "on budget" have been correctly and adequately spelled out in the responses to your committee by James Miller and Alice Rivlin, and I am glad to associate myself with their views.

Respectfully yours,

RAYMOND J. SAULNIER,
Chr., CEA, 1956–61.

THE BROOKINGS INSTITUTION,
GOVERNMENTAL STUDIES PROGRAM,
Washington, DC, August 25, 1995.

Hon. FRANK WOLF,
Chairman, Subcommittee on Transportation, House Committee on Appropriations, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in response to proposals that would remove the transportation trust funds from the federal budget. I share the view that the unified budget should be preserved to ensure effective use of the budget as an instrument of fiscal policy and strong spending control.

There is no right time for giving the transportation funds off-budget status, but now would surely be the wrong time. Doing so would undermine Congress's commitment to balance the budget and control federal spending. It would convey the message that the budget can be balanced on paper by excluding expenditures that are given preferred status. It would also convey the message that some programs can go on a spending spree while others are constrained by tight budget rules.

The greatest damage from taking these funds off budget would likely occur if a balanced budget requirement were placed in the Constitution. The balanced budget amendment approved by the House earlier this year provides that in any fiscal year, the outlays of the United States government shall not exceed the receipts of the United States government. It is important to note that this language would cover the receipts and outlays of the federal government, even those that were excluded from the budget. What this means is that once a balanced budget rule is operative, there will be a strong incentive to go a step further and remove transportation spending from the government by creating new entities such as government-sponsored enterprises or public authorities. If this were to occur, congressional and presidential control of trust funds would be greatly weakened.

The argument for off-budget transportation trust funds is often made in terms of the need to upgrade the nation's infrastructure. I am not convinced that the United States has seriously underinvested in transportation, but I do believe that the appropriate means of addressing this problem would be a capital budget rather than off-budget of off-government status. A capital budget would preserve the unified budget while providing better information on the condition of roads, airports, and other transportation assets.

Please call me if you want to discuss this matter further.

Sincerely,

ALLEN SCHICK,
Visiting Fellow.

AMERICAN ENTERPRISE INSTITUTE
FOR PUBLIC POLICY RESEARCH,
Washington, DC, September 26, 1995.

Hon. FRANK R. WOLF,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN WOLF: I am replying to your letter of September 12, 1995 about the transportation trust fund. I would not favor moving the trust funds off the budget. We want to have a comprehensive measure of the Federal government's fiscal activities. Keeping the transportation trust fund in the budget does not preclude any rules you may want to adopt about requiring that all receipts of the trust fund be spent for transportation, in every single year or over any specified number of years.

Sincerely yours,

HERBERT STEIN.

JAMES D. WOLFENSOHN, INC.,
New York, NY, October 18, 1995.

Hon. FRANK WOLF,
Chairman, Subcommittee on Transportation, Committee on Appropriations, U.S. House of Representatives, Washington, DC.

DEAR FRANK: I am responding to your letter of October 13 asking for my view on the budgetary treatment of Federal transportation trust funds. I am glad to respond briefly to a question that has been reviewed frequently over the years and to which a succession of Administrations and most Congresses have, explicitly or implicitly, taken a consistent position.

At the start, I should point out that while your inquiry is specifically about transportation trust funds, a distinction between those funds and others would be difficult to sustain. That is one important consideration in my conclusion that the current treatment of including the transportation trust funds in the unified budget remains appropriate.

Obviously, conflicting considerations arise in determining appropriate budgetary treatment for trust funds. On the one hand, the decision to establish a trust fund may reflect a considered decision at a point in time to maintain designated spending in an amount related to specific revenues. Arguably, the designated spending may have particular attributes—for "investment" or for "social purposes"—that Congress may wish protected from cyclical or other budgetary exigencies. Moreover, an argument can be made that building up surpluses in the trust accounts, with the surpluses invested in government securities, tends to shield other spending from appropriate budgetary discipline. That is, of course, a consideration with respect to the large social security trust funds.

On the other hand, principles of administration and budgeting demand regular review and control of the full range of Government spending, balancing one priority against another. At the same time, effective fiscal policy forces consideration of the totality of spending in relation to revenues.

These latter considerations strike me as persuasive in reaching my conclusion that the present practice of including the transportation trust funds in the unified budget should be continued. I am reinforced in that conclusion by the fact that nothing in the unified budget prevents the Congress and the Administration from reaching a decision to maintain highway spending (or any other spending) at a particular level it deems a priority matter. Trust fund accounting within the unified budget may in some instances be helpful in reaching that decision.

To repeat I conclude that the Congress should maintain the present unified budget treatment, as both present and former Budget Directors have urged in writing you.

Sincerely,

PAUL A. VOLCKER,
Chairman.

JAMES D. WOLFENSOHN, INC.,
New York, NY, February 1, 1996.

Hon. FRANK R. WOLF,
Congress of the United States, House of Representatives, Washington, DC.

DEAR FRANK: I have reread my letter of October 18 on the transportation trust fund issue and really have no further thoughts. I realize moving some or all of the trust funds (particularly social security) off budget might well lend even further force to the urgency of our budgetary problem. That is a powerful argument right now, but I think longer run considerations of effective budgeting and of consistency over time should prevail.

I appreciate your interest.

Sincerely,

PAUL A. VOLCKER,
Chairman.

UNIVERSITY OF CALIFORNIA,
Los Angeles, CA, September 4, 1995.

Hon. FRANK R. WOLF,
Chairman, Subcommittee on Transportation, Committee on Appropriations, U.S. House of Representatives, Washington, DC.

DEAR MR. WOLF: I am responding to your letter of August 23rd, in which you were kind enough to solicit my views on the question of whether or not the transportation trust fund should be moved "off budget." I have reviewed the materials included with your letter, and had already given a great deal of thought to this important question.

I believe that the highway trust fund should remain part of the unified budget. I support the maintenance of a separate trust fund into which highway user fees are deposited, and from which major highway related expenses of the federal government are paid. Maintenance of the integrity of the trust fund surely does not, however, require that it be taken "off budget." Full accounting of federal income and expenditures can be maintained by showing the trust fund as a separate account within the larger federal budget.

I oppose the use of trust fund revenues to "mask" a general fund deficit. We have enormous transportation needs in the United States, and it would be unfortunate if earmarked transportation funds were held unspent in the trust fund just to create the appearance that the federal deficit is thereby being reduced. This problem can also be addressed by properly accounting for the trust fund as a separate category within the unified budget, however, and does not require that the trust fund be removed from the unified budget.

From the materials which you forwarded to me, it would appear that my position is essentially identical to that taken by the Office of Management and Budget and the General Accounting Office. I encourage you to take a strong position of leadership on this important matter. The highway trust fund should both be kept "on budget" and should be protected from efforts to use it to "mask" the federal deficit.

Sincerely,

MARTIN WACHS,
Director, Institute of Transportation Studies.

CENTER FOR THE STUDY
OF AMERICAN BUSINESS,
St. Louis, MO, October 5, 1995.

Hon. FRANK P. WOLF,
U.S. Congress,
Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter of September 26, 1995, with regard to the transportation trust funds. I believe they should stay in the budget so that the budget review process remains comprehensive and an effective way for Congress to exercise the power of the purse.

This was the position that, as an adviser, I urged the Commission on Budget Concepts to adopt several decades ago in developing the concept of the unified budget. The transportation taxes are revenues of the federal government; the transportation outlays are expenditures of the federal government. This is the basic justification for putting these funds into the federal budget.

The alternative—to keep them separate from the budget—shields these programs from being reviewed in the context of national priorities. That would be bad budgeting.

Best wishes.

Sincerely,

MURRAY WEIDENBAUM,
Chairman.

THE BROOKINGS INSTITUTION,
Washington, DC, August 25, 1995.

Congressman FRANK WOLF,
Congress of the United States, House of Representatives, Washington, DC.

DEAR CONGRESSMAN WOLF: I am responding to your letter of August 23, 1995 soliciting my views on the appropriateness of moving transportation trust funds off-budget. I should first tell you that I am not an expert on the budget process or the federal transportation budget. My field of specialization is transportation economics and my thoughts about your inquiry reflect that perspective.

That said, I think the issue you are concerned with is secondary to the important question to be asked about transportation spending. The important question is whether federal transportation spending is efficient? Based on the available evidence the answer appears to be no! Auto pricing ignores congestion, bus and rail prices are too low (below marginal cost), bus and rail service is inefficient and load factors are too low, bus and rail operations are inefficient, and so on. These problems are not the result of whether trust funds are on-budget. They are the result of poor transportation management at all levels of government. Prices must reflect marginal costs, service must reflect cost-benefit tradeoffs, and inefficiencies must be purged from operations. In this environment, there would be no need for trust funds. Indeed, the issue of whether a transportation system makes money would be irrelevant because its viability would be justified on social welfare considerations.

Current policy, which relies on the gas tax and trust funds, invites political debate instead of thwarting it. In short, my advice is to change your perspective on transportation spending by focussing on how to make it more efficient. The budgetary issue is largely irrelevant to that goal.

Sincerely,

CLIFFORD WINSTON,
Senior Fellow.

Mr. OBERSTAR. Mr. Chairman, I yield myself 30 seconds.

We have heard some interesting theater and dramatics, but the fact is that taking trust funds off-budget will not cause one dime of cuts in other discretionary programs. It only means that in the future, additional cuts in trust fund programs do not count toward spending targets such as discretionary caps or 602(b) allocations. Let us get down to reality and fact and talk reasonably.

Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. I thank the gentleman from Minnesota for yielding me the time.

Mr. Chairman, I rise in strong support of H.R. 842, the Truth-in-Budgeting Act, to take the four transportation trust funds off budget.

This bill is really quite simple. If you support jobs, investment, and keeping faith with the American people, then you support H.R. 842. That's all there is to it.

Every day, Americans who fly or drive contribute through user fees to the transportation trust funds. They do so in order to finance the public infrastructure which they utilize as they travel. If they don't drive, they aren't asked to contribute to road projects. If they don't fly, we don't expect them to finance air traffic control operations or airport improvements. The systems are designed to be user financed—those who use them pay for them.

But unless the trust funds are off-budget, the American people who pay for infrastructure investment aren't getting all they pay for. The balances in the four trust funds continue to grow, while infrastructure needs across this Nation go unmet.

I support infrastructure investment in the United States because it spurs economic growth and creates good jobs. The fact is that transportation represents 17 percent of the American economy. Since 1950, one-fourth of America's improvement in productivity is due to transportation investment.

But for me, the most important issue is jobs. Every $1 billion spent on infrastructure creates 42,000 good high-wage jobs. That's why the Laborers International Union of North America supports this legislation, and why you should too.

Mr. Chairman, as the ranking Democratic member of the Subcommittee on Aviation, I see every day the impact of our underfunded air traffic control system. There are reports almost every week of an outage of some kind at an air traffic control facility in this country. The equipment is old and needs to be replaced.

The FAA predicts that U.S. domestic passenger enplanements will grow from 530 million in 1995 to nearly 800 million in 2005. We are constantly looking to find the funds to meet tomorrow's needs. The best place to start is with the balance sitting in the aviation trust fund.

Mr. Chairman, this afternoon's vote is about keeping faith with the American people. The American people pay their gas tax and ticket tax to finance investment in our critical infrastructure. That's what the trust funds are meant to be used for.

Mr. Chairman, I urge every Member of this body to support H.R. 842 and keep faith with the people who sent us here.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. WAMP].

Mr. WAMP. Mr. Chairman, to kind of cut through the heavy air here today, where we have had some pretty high drama and a great sense of emotion, let me say from the freshmen perspective that 44 out of 74 of the freshman Republicans, I would argue the most ardent budget balancers to come here in a long time, have signed on in support of taking the transportation trust funds off-budget. You can in fact balance the Federal budget and return these user fees to the people who paid them. We see it as a matter of principle, and the principle is to the Federal Government: Don't take the money from users if you don't need it, if you don't need to spend it. Don't take it. Don't store up these trust funds and not put the money back for the use and from the people that you took it. That is the matter of principle. We would like to kind of draw a line in the sand on this issue and this is an important issue and it puts and invests the money back into our economy which we desperately need. These are user fees from roads, airports, harbors. Put them back to use. Support H.R. 842.

□ 1230

Mr. SABO. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. OBEY], the ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Chairman, I would simply note that the gentleman from Ohio, JOHN KASICH, the Republican chairman of the Committee on the Budget, the gentleman from Minnesota, MARTIN SABO, the Democratic ranking member of the Committee on the Budget, the gentleman from Louisiana, BOB LIVINGSTON, the Republican chairman of the Committee on Appropriations, and yours truly, the ranking Democrat on the Committee on Appropriations, are all strongly asking that you vote against this proposition.

Now, there is, I suppose, a high probability that even though all four of us agree, we are wrong, but I would respectfully suggest that if anyone is truly interested in achieving a balanced budget, over any time frame, whether it is 7 years, 5 years, you name it, that there is no way that you can in conscience vote for this bill.

Let me simply explain what I mean. Right now both parties have told the country that we are willing to balance the budget over a 7-year time frame. Yet what we are now being asked to do is to say to one huge segment of the budget—namely, the transportation portion of the budget—"Well, fellows, we are going to set you aside. Not only are you going to have a dedicated revenue source, but in addition to that special status, we are going to give you the ability to spend unlimited amounts of money, irrespective of the squeeze on any other portion of the budget."

The gentleman from Virginia [Mr. WOLF] is exactly right. What you are talking about if this bill passes is the requirement that you cut other portions of the budget over 7 years by an additional $50 billion, or else recognize that the deficit is going to increase by $50 billion. That is the hard-nosed fiscal reality.

Now, I take a back seat to no one, to no one, in my support for highway construction. Since my days in the legislature and through my days here, I have consistently and strongly supported adequate funding for highways. I have supported providing the funding to pay for that highway construction as well, in my own State legislature as well as here. I have fought to see to it that my own State ends its long-term status as a donor State.

In 1992, I led a successful fight in this House to break the defense "firewalls" in order to fully fund ISTEA with offsets from the military budget. I make no apology for that. I think that was the right thing to do for the country.

But I do not support saying that transportation must be considered sacrosanct while that requires further reductions in education, further reductions in mental health and veterans programs, further reductions in environmental protection enforcement, further reductions in job training, and do not kid yourself, that is exactly what this proposition requires.

Now, it is technically true that this bill in and of itself does not do that. But when you plug this bill into the context of existing law and into the context of the promise of both parties to provide a balanced budget over 7 years, then you are fooling somebody or you are smoking something that is not legal if you are telling people that this bill is not going to result in a squeeze on other high priority programs.

What we are really talking about is whether or not we are going to give one committee the ability to write a blank check for programs under their jurisdiction, regardless of the impact on any other committee and regardless of the impact on any other program or any other population group in this country. That is morally wrong, it is fiscally wrong, it is economically wrong, it is procedurally wrong, and you ought not to do it.

I would urge you not to speak out of both sides of your mouth. I would urge you to never again come to this floor and say that you are voting for a balanced budget and say that you are for fiscal responsibility and austerity, if in the next breath you are voting to allow the transportation budget to go off budget and to spend at any rate they want, regardless of the impact on other programs.

It is a question here of what you regard as your top priority. I do not regard that as my top priority. I think we need a balanced approach to spending and this bill does not give it to us.

Mr. KOLBE. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I rise in opposition to the bill.

I rise to join my colleagues in opposing H.R. 842. While I commend the bill's proponents for trying to address the Nation's infrastructure needs, I do not believe that this bill will accomplish that objective.

I have listened to many voices on this issue and the ones who have rung among the clearest have been national leaders such as Warren Rudman who has said that, "Designating transportation trust funds as off-budget would further erode the integrity of the budget as a tool for fiscal accountability."

Former OMB Director Jim Miller says, "Off-budget status would * * * hide a major portion of federal spending from annual budget scrutiny."

Former Federal Reserve Chairman Paul Volcker says, "* * * principles of administration and budgeting demand regular review and control of the full range of Government spending, balancing one priority against another. At the same time, effective fiscal policy forces consideration of the totality of spending in relation to revenues."

Perhaps the voice that rings the clearest for me is that of the Ohio Department of Transportation that has been at the forefront of studying the current system of transportation funding and making recommendations for change. ODOT has concluded that it is not necessary to take the trust funds off budget in order to return more money to the States.

The Ohio plan recognizes that since 1976 expenditures from the trust fund have exceeded revenues and that the balance in the fund resulted from interfund borrowing. The Ohio plan proposes that a major portion of fuel taxes each State pays into the trust fund be turned back to that State, including the fuel taxes now going toward deficit reduction.

I urge my colleagues to take a closer look at the Ohio plan and that we use its concepts as a basis for devising a new system for highway funding—a system reached by consensus between authorizers, appropriators, and the Budget Committee.

Mr. KOLBE. Mr. Chairman, I yield 1½ minutes to the gentleman from Arizona [Mr. SHADEGG].

Mr. SHADEGG. Mr. Chairman, I would like to rise in support of this legislation, but I cannot. I cannot, notwithstanding its surface appeal. We would all agree that trust funds ought to be used for a trust purpose. But that is not the debate that is before us today. The debate that is before us has to begin with where we are, and where we are is that we have not managed these funds in the fashion we told the American people we would. In point of fact, we said we would not use general fund monies for this purpose, and we have, and this is not a debate about misuse of trust funds.

The chart I have put up makes this case fairly clear. Since 1980, total spending for highways from the trust fund we have brought in $214 billion, we have interest of $21 billion, we have spent a total of $235 billion. But we have added in general funds funding $63 billion on top of the trust fund spending of $228 billion, so we have spent a total of $291 billion.

The point is, for those Americans out there paying revenue taxes, gas taxes, other types of taxes, into these funds, please understand, this is not a debate about the misuse of those funds. We have used more than we have promised. But it is a debate about the budget control. If we enact this legislation, it will make it almost impossible to balance the Federal budget. That has to be our first priority. I urge a "no" vote.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentlewoman from Missouri [Ms. DANNER].

Ms. DANNER. Mr. Chairman, when American motorists purchase gasoline or travelers purchase airline tickets and pay the Federal tax, they expect that the revenue collected by the Federal Government will go toward transportation system upgrades.

After all, that was the agreement the Federal Government had with the American people when the gasoline, aviation, and other transportation taxes were implemented.

For example, motorists paid into the highway trust fund with the expectation that they would receive highway improvements.

However, the transportation trust funds were merged into the general budget as part of an effort to hide the true costs of the Vietnam war.

It is precisely this sort of broken contract between the Government and the American citizenry that has led so many people to become understandably cynical about their Government and its leaders.

It is our duty to make certain that the moneys collected through the gasoline and other transportation taxes are used for the intended purposes.

The Truth in Budgeting Act, before Congress today will help us meet that obligation. Simply put, it is a tax fairness bill designed to ensure that transportation taxes go to pay for transportation improvements.

Currently, there is in excess of $30 billion in unspent balances in these trust funds, and under the administration's budget these balances could grow to $77 billion by 2002. That is money that should be used for such projects as repairing roads, building bridges, and improving air transportation systems.

The use of these funds in this way improves not only our transportation system, but would provide literally hundreds of thousands of well-paying jobs—a true win-win situation.

Ladies and gentlemen, this "Truth in Budgeting" bill is about restoring the public trust. My dictionary defines trust as "the confident reliance on the integrity, honesty, veracity of another." The "confidence, or obligation reposed in a person that he will fully apply the property according to such confidence."

I believe it is time—indeed past time—that we put trust back in the trust funds.

I would urge my colleagues to support this legislation.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, this debate is a classic congressional debate. I think there is rhetorical overkill on both sides. The future of Western Civilization does not hang in the balance depending on the outcome of this vote. I do not have any great statement to quote, but let me quote one of my favorite entertainers, Woody Allen, who once said in an address to graduates, "We are at the crossroads. One road leads to hopelessness and despair; the other to total extinction."

Let us pray that we have the wisdom to choose wisely. We are not faced with that predicament. Here is what we are faced with, plain and simple: We impose taxes on the American people, excise taxes, dedicated taxes. We say, for example, to the airline traveler, we are going to tax your airline ticket purchase and we are going to use the funds we raise to improve the airports, to improve aviation safety.

I think that is a pretty good contract. I think we ought to use the money for the intended purpose. And if we do not, we ought to cut the tax out.

But let us not kid the people. Let us be honest with them. Let us use the money for the intended purpose or cut the tax.

As the chairman of the Water Resources and Environment Subcommittee, I have witnessed firsthand the growing abuse of the Harbor Maintenance Trust Fund and the Inland Waterways Trust Fund. The Harbor Maintenance Trust Fund now has a balance in excess of $650 million and the Inland Waterways Trust Fund has over $300 million sitting dormant.

Hundreds of millions of dollars have been collected from shippers to improve the quality of America's ports and we should be using these revenues for their intended purposes. If you care about our Nation's global competitiveness, if you care about improving the environmental quality and safety of America's harbors and rivers you should support the Truth in Budgeting Act.

In many of America's leading ports we have an astounding backlog of dredging and environmental projects that are not being done while we sit on over $1 billion in trust fund revenues. A study of the transportation infrastructure needs on our major rivers has identified over $3 billion in needs by the year 2000. If you represent constituents along the Missouri, Mississippi, Hudson, Ohio, or Tennessee Rivers you should support the Truth in Budgeting Act.

Freeing these trust funds for their intended uses sends a powerful message to the American people—we are setting aside the "smoke and mirrors", and we are serious about using their hard-earned tax dollars to improve the safety of our waterways and the efficiency of our navigation infrastructure.

These trust funds are built on taxes intended to improve the economic and environmental quality of our Nation's rivers and harbors and it is time we use these trust funds for these uses.

Support the Truth in Budgeting Act—the truth will set you free.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN. Mr. Chairman, the issue before us today is one of the perennial budget questions of our time—whether to unravel the unified budget methods that have worked well since the 1960s and consider the Transportation Trust Funds off budget. Like my Appropriations Committee colleagues speaking before me, I believe moving the Transportation Trust Funds off budget would result in an irresponsible budgeting process that would jeopardize many of our most cherished programs, including Medicare, Medicaid, education, and environmental protection programs. So, I am here to urge my colleagues to vote against H.R. 842.

Let me state from the outset that as the ranking minority member of the Appropriations Subcommittee on Transportation, I am a strong supporter of maintaining and enhancing the Transportation Trust Funds. I believe our Nation must continue to invest an appropriate amount into transportation infrastructure projects in order to keep our economy strong and growing and prosperous. The Transportation Trust Funds are the primary vehicles which enable us to fulfill this responsibility, so we must act to keep them in good working order.

However, I am convinced that moving the Trust Funds off budget would cause much more harm than good. While I can easily understand and sympathize with the desire to invest more money into transportation projects, I believe moving the Transportation Trust Funds off budget would greatly confuse the budgeting process; create enormous pressures to either cut non-trust-fund programs further, increase spending on trust-fund programs more, or raise taxes; and that it will set a number dangerous of precedents. Allow me to detail a few of these problems for you.

First, the unified budgeting method is critical for assisting the Congress and the President in deciding how to treat all revenues and expenditures in a coherent manner. It is essential to bring together all Federal income and expenses in a unified way to avoid the problem of considering some programs in a vacuum. It is important to recognize that any Federal activity affects our Nation's economy as a whole. Clearly, the Transportation Trust Funds qualify as affecting our economy significantly. And because of their large economic impact, considering them separately from other accounts which affects economic activity would complicate and distort Federal economic considerations. In my mind it is far better to have all components of our economic strategy in plain view and as part of a unified whole in order to make decisions easier and more coherent, and to provide flexibility to the Congress.

Second, moving the trust funds off budget would needlessly further complicate and confuse the budget process. Considering transportation programs apart from all of the rest of the budget would mean adding another dimension to the process. Congress should not do this. Instead, we should avoid creating additional complications and restrictions on the legislative branch. In this way, we can fulfill our basic duty to at least do no further harm when crafting a budget.

Third, moving the trust funds off budget would lead to demands to move all other trust funds off budget—and perhaps rightly so. We should not fool ourselves into believing that this would not happen; we have plenty of legislative history to know it would. If the Transportation Trust Funds were taken off budget, it would be difficult to justify not doing the same with every other trust fund. We would be asked the following legitimate questions: Why are the transportation trust funds special? Why don't all other trust funds get the same preferential treatment? These questions can't be answered fairly without either placing Congress in the predicament of having to pick winners and losers among trust fund programs, or being forced to move all trust funds off budget with all of the severe headaches that would create for us.

Fourth, if, for reasons of fairness, all trust funds were moved off budget, I predict there would be greatly increased pressure to spend more money. In addition to using currently available surpluses for existing programs, I have no doubt many interests would create new needs for additional spending of trust fund surpluses, whether those needs were really as pressing as might be the case in other functions of our Government. I can also foresee pressure by interest groups to create more trust funds for favorite programs which currently don't have their own separate funding sources in order to insulate them from further budget cuts. In these times of fiscal austerity, it makes no sense to increase spending pressures and make the deficit larger.

Fifth, I am not convinced that moving the Transportation Trust Funds off budget would result in more expenditures for transportation projects. It seems fair and accurate to say that the interest payments from the Treasury to the trust funds have helped to increase the amount of surplus. While it can be argued that the interest payments are only fair returns for borrowing against the trust funds, they have also enabled greater spending from the trust funds than would have been possible without borrowing and then repaying with interest. So, moving the trust funds off budget and foregoing future interest payments may not really enhance transportation expenditures.

Sixth, removing the trust funds from the unified budget would result in decreased funding for transportation projects that receive their funding from general revenues. Not using the surpluses in the Transportation Trust Funds to calculate the amount of overall available funds means that spending levels for other programs have to be cut. In the case of transportation projects, we would be pitting some types of transportation needs against others. If we are truly concerned about building a solid transportation infrastructure, why would we want to play favorites and possibly secure the funding for some types of projects and not others?

We should also keep in mind that the unified budget does not prevent Congress from spending more on transportation projects if it chooses to do so. The Congress has all the authority it needs to authorize and appropriate more funds for transportation projects or other national priorities any time it wants. The only requirements for spending more are to be convinced of a genuine need and then to follow through with the appropriate legislation.

Finally, let me say that the experience of my home State of Texas shows that moving transportation funds off budget doesn't insulate that money from use for other purposes. Even though article 8, section 7(a) of the Texas State constitution clearly and specifically states that all State taxes on motor fuels collected to finance transportation projects must be spent on transportation projects, money from the off budget transportation funds have been used for other programs. For example, transportation fund money has been used to purchase land to build prisons. Now, the transportation department holds the title to this land, so in theory it is still a transportation department asset. But, the actual use of the land to build a prison has little to do with fulfilling transportation needs. Similarly, the supposedly protected State transportation fund has been used to finance the construction and maintenance of parking lots for State mental health agency facilities. In my mind, neither of these examples fulfill transportation needs in the State of Texas.

Perhaps the most significant breach of security for the off budget Texas transportation fund took place during the 1980's. The State's general revenue fund was running low, so an arrangement was made to borrow $280 million from the transportation fund. The payback provision of the agreement included the payment of interest, but because of the State's ability to repay the loan quicker than originally anticipated, no interest was actually paid to the transportation fund for the time its money was used. So much for a secure off-budget transportation fund.

In summary, Mr. Chairman, while I am a strong believer in the need to fund transportation projects to the greatest extent possible, moving the Transportation Trust Funds off-budget would unravel the unified budget process and make it more difficult to make proper decisions on economic matters. It would also needlessly further complicate the budget process, lead to demands to move other trust funds off-budget which would increase spending at the time we are trying to balance the budget, and probably not increase funding of transportation projects overall. And, as I have described to the House, the experience of my home State of Texas strongly suggests that moving trust funds off-budget doesn't really make them more secure. For all of these many reasons I urge the House not to endorse H.R. 842 by voting against this well-intended, but misguided legislation.

□ 1245

Mr. KOLBE. Mr. Chairman, I yield 4 minutes and 30 seconds to the gentleman from Louisiana [Mr. LIVINGSTON], the very distinguished chairman of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Chairman, I thank my friend from Arizona for yielding time to me.

Mr. Chairman, we have to fully appreciate what we are about today. The fact is that we will never eliminate the deficit if we give some programs exalted, protective status in the budget process requiring those less fortunate to shoulder heavier cuts than they currently do and making them compete with one another while those exalted programs simply are beyond reach. But that is what we will do.

We are effectively going to take $30 billion a year out of the nondefense discretionary pot and just put it beyond reach. Some would say, well, it goes into a trust fund; it is off budget. It is not off budget. It goes into that amorphous great big blue section on this chart that I have used before. It is a pie chart of the 1996 Federal budget. It becomes part of the uncontrollable portion of the pie, entitlements, which are in blue, plus interest on the debt.

Two-thirds of the budget is uncontrollable. One-third of the budget is discretionary. Half of that is defense, the other hald is the nondefense cost of running Government. We are going to take $30 billion out of that nondefense discretionary budget and add it into the blue section or out in the atmosphere where we will help all those wonderful contractors who want to build roads. We will make everybody else compete for their hard-earned dollars or the dollars that the American taxpayers throw at them. In doing so there will be less opportunity for other well-meaning programs, be they health programs, education programs, or the like, to be funded.

In fact, before the Committee on the Budget, Federal budget expert Allen Schick testified the general fund would be the residual fund for weak claimants who do not have sufficient clout to get earmarked revenue, their own trust funds, off budget protection, and exemption from budget enforcement rules and other controls. He says, if there is any truth in budgeting, it is that all spending must compete for scarce resources; not that there are protected enclaves and double standards.

But we will make a protected enclave of Federal highway spending. Backdoor spending in entitlements have already reduced the domestic discretionary share of the Federal budget, and those are my words, not Mr. Schick's, reduced the domestic discretionary share of the Federal budget to just 17 percent next year.

Now we are talking about gutting what is left, taking 12 percent of that, some $30 billion in outlays, money that will be spent immediately year after year, and declaring it off budget for the purposes of deficit reduction.

I just hope that every fiscally conservative Member of the body, including those who signed on to the off budget bill before knowing its effect on spending, fully appreciates what is happening and will examine what the CBO and the GAO and others say about the effects. It is devastating.

We are significantly trimming, trimming the nondefense discretionary budget, so much so that for the first time in modern history, instead of going up year after year after year in nondefense expenditures, we are going down year after year. This Congress, since January 1, 1995, has had tremendous effect on reversing the ever-increasing growth of nondefense spending. But this bill comes along and wants to take $30 billion out of what is left in nondefense discretionary and spend it on highways.

And, yes, we have seen those ads, radio, television, newspapers, the pro-special interest lobbyists, and they are all related to dealing with highways and airports and such things. Oh, they have a lot of them. They are all for it because it is money in their pocket. It is free money. But notice who is against it. The Committee on the Budget, the Committee on Ways and Means, the Committee on Appropriations, the Office of Management and Budget, the Citizens for a Sound Economy, the Concord Coalition, the Heritage Foundation, the National Taxpayers Union, the Taxpayers For Common Sense, the Citizens Against Government Waste, the Committee for a Responsible Federal Budget, Alan Greenspan, Federal Reserve Board. Those are the people whose job it is to look at whether or not we are actually meaning what we say when we are trying to cut the Federal budget, cut spending, and stop the pork barrel.

But here we are, despite all the rhetoric, right back at the pork barrel. I urge Members who are serious about what we have been saying for the last couple of years to vote against this measure. It is wrongheaded. It is the wrong thing to do.

Mr. Chairman, despite all the rhetoric, Members should see this bill for what it really is, a plain, old-fashioned power grab instigated by one committee of this body.

Members of the Transportation and Infrastructure Committee, and before them the Public Works Committee, stand united in pushing off budget, and with them stand the highway and airport construction lobbyists and State highway agencies. Against this formidable group always stands the Budget and Appropriations Committees.

We will never eliminate the deficit if we give some programs an exalted, protected status in the budget process, requiring those less fortunate to shoulder heavier cuts year after year.

If we start splitting up the Federal budget into off-budget fiefdoms that are outside the appropriations process, we are setting a terrible precedent. In testimony before the Budget Committee, Federal budget expert Allen Schick said that if trust funds started to go off-budget, "the general fund would be the residual funds for weak claimants who do not have sufficient clout to get earmarked revenue, their own trust funds, off budget protection, and exemption from budget enforcement rules and other controls."

He went on to say "If there is any truth in budgeting, it is that all spending must compete for scarce resources—not that there are protected enclaves and double standards."

Mr. Chairman, backdoor spending and entitlements have already reduced the domestic discretionary share of the Federal budget to just 17 percent next year. Now we're talking about gutting what's left, by taking 12 percent of the remainder and declaring it off budget for the purposes of deficit reduction. I hope every fiscally conservative Members of this body, including those who signed onto the off-budget bill before knowing its effect on spending, will look carefully at what CBO, GAO and others say about its effects.

If this bill becomes law:

Aviation safety would be undermined, according to the Secretary of Transportation;

Other domestic and defense programs would suffer up to $50 billion in additional cuts, according to OMB; and

Other trust funds will surely seek similar protection from future budget reductions, and we won't have a leg to stand on.

If this body were now to pass off budget, it would tell the American people we are willing to hide some expenditures from the budget; that we are willing to suffer further reductions in defense and social programs in order to provide continuous, permanent increases for highways, mass transit systems, and airport construction programs. This is not a fair and balanced budget plan, Mr. Chairman.

We weren't sent here to engage in budget shell games. We were put in control to eliminate our crippling deficit—a goal this very bad bill would make much harder. This bill is wrong because it would increase spending at just the wrong time in our Nation's history; it fundamentally alters the balance of power among committees of this Congress; and it panders to the special interests and lobbyists.

Finally, if you vote "aye," don't talk to me about the need to cut the budget. I strong urge Members to vote "no" on final passage.

Mr. OBEY. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. FILNER].

Mr. FILNER. Mr. Chairman, I rise in strong support of this important legislation to take the transportation trust funds off-budget. Historically, investment in transportation infrastructure has helped countries achieve and maintain world power status. Similarly, it has been our own commitment to infrastructure investment has been responsible for creating the most advanced and efficient economy in the history of the world.

In the past, it was this financial commitment to America's infrastructure that completed the transcontinental railroad, built the Interstate Highway System, and created world class airports and harbors. However, we all know that funding for future projects is increasingly difficult to secure today. And as a result, our ability to maintain, improve and build highways, roads, harbors, railways and airports is severely hampered—and commerce, transportation and recreation are all adversely restricted. We cannot continue this neglect and we must provide an opportunity to guarantee a sound financial future to both maintain and develop America's infrastructure needs.

Pumping gas and paying the Federal gas tax of 18.3 cents per gallon is probably the most common link the average American has with the Federal Government on a daily basis. Most of the money from this tax flows into the highway trust fund and has helped finance such San Diego highways as Interstates 8 and 15.

My own district has several infrastructure projects that are of national significance and need funding. Re-establishment of the San Diego & Arizona Eastern Railroad—the "Jobs Train"—and completion of State Route 905 and Interstate 15 would all facilitate the increase of international trade expected from our Nation's new Federal trade policy. Yet because transportation trust funds are not being spent for their intended use, these nationally important projects must compete for fewer available dollars and are viewed as pork for my congressional district. Transportation funding choices should not be between projects that mitigate congestion and pollution, increase safety or implement trade policy—these are all worthy projects.

We must release the trust fund surpluses from their budget bondage and stop this Federal game of Mask the Deficit. The existence of these surpluses only reinforces the public's belief that they are not getting an honest return for the taxes they pay to Washington.

This issue is not only about tax fairness, it's also about jobs and about economic productivity. Since the 1950's, as much as 25 percent of America's productivity growth can be credited to improvements in our transportation infrastructure. Recent Department of Transportation studies show that every $1 billion invested in highway construction and enhancements yields 42,000 high-wage jobs. Similarly, work to complete SR 905 and I-15 in San Diego and to re-establish the Jobs Train would create thousands of jobs.

The more that infrastructure spending is curtailed, the higher the yearly trust funds surplus grows. The higher that surplus goes, the more it offsets deficit spending in other general fund programs. It's a $31 billion bonanza, and it's a fraud!

For me, the Truth in Budgeting Act is about keeping faith with my constituents in San Diego—people who pay into these funds and expect their tax dollars to be spent on building and maintaining the world's premier transportation system. The people of America—and the people of San Diego—deserve to see their transportation dollars at work building and maintaining highways, railroads, airports, and harbors.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. KIM].

Mr. KIM. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I was a civil engineer prior to becoming a Congressman. I understand how important the transportation system is to our economy. I know that without a strong transportation system we cannot sustain a prosperous economy. That is why our Congress approved a gas tax over 40 years ago. The idea was simple: Collect a gas tax and spend that money to build and maintain our infrastructure.

The system worked fine in the past because all the money went to transportation projects. But now what happens? Highway projects get 12 cents out of 18½ cents of the Federal gas tax; the rest goes to social programs. It has been gutted. The highway trust fund money has been gutted all this time.

We need this infrastructure badly, I will tell the Members. Remember, these are not taxes, these are user fees. These are not taxes. The money should not be spent on social programs, it should be spent on the highway system. that is why our bridges are in bad shape. Twenty-five percent of our bridges are in bad shape and are not safe. No wonder why.

Mr. OBEY. Mr. Chairman, I yield 3½ minutes to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, I rise in my capacity as the ranking Democratic member on the Surface Transportation Subcommittee to give my colleagues 6.8 billion reasons why they should vote for H.R. 842, the Truth in Budgeting Act.

This, 6.8 billion, my colleagues, is the amount of highway and transit money the States have been shortchanged over the life of ISTEA to date.

The following chart shows these losses by State, 1992–96:

HIGHWAY FUNDING LOST BY STATE, 1992–96

States	FY92–96 difference
Alabama	$114,340,767
Alaska	89,763,732
Arizona	88,638,840
Arkansas	71,238,983
California	610,578,554
Colorado	86,443,852
Connecticut	143,579,955
Delaware	30,171,803
District of Columbia	39,333,139
Florida	241,309,719
Georgia	182,211,005
Hawaii	53,676,740
Idaho	48,737,851
Illinois	255,571,470
Indiana	135,427,278
Iowa	87,340,504
Kansas	83,069,151
Kentucky	100,474,056
Louisiana	106,457,783
Maine	36,512,958
Maryland	119,912,708
Massachusetts	387,512,184
Michigan	180,464,385
Minnesota	104,962,453
Mississippi	77,345,390
Missouri	147,406,231
Montana	69,282,108
Nebraska	59,194,272
Nevada	43,941,993
New Hampshire	35,149,613
New Jersey	208,863,217
New Mexico	76,499,357
New York	389,884,664
North Carolina	166,409,550
North Dakota	44,939,034
Ohio	242,935,031
Oklahoma	92,883,484
Oregon	85,194,850
Pennsylvania	312,864,880
Rhode Island	43,667,425
South Carolina	85,828,138
South Dakota	49,538,589
Tennessee	139,565,180
Texas	431,378,542
Utah	54,759,515
Vermont	32,204,791
Virginia	145,108,424
Washington	133,368,435
West Virginia	68,087,322
Wisconsin	123,104,240
Wyoming	47,996,810
Puerto Rico	33,650,675
Territories	2,184,372
Total	6,840,886,002

Source: U.S. Department of Transportation, Federal Highway Administration.

This is the amount of spending out of the highway trust fund, authorized to be obligated for needed highway and transit projects across the Nation, that has not been spent due to arbitrary obligation limitations placed on the trust fund in the annual appropriations bills.

Now, this is not to say that the highway trust fund could not have sustained an additional expenditure of $6.8 billion.

No, indeed.

There is an estimated balance of nearly $21 billion in the highway trust fund—$11 billion in the highway account and $10 billion in the transit account.

And let us be clear: This money is not general revenue. It is comprised of the Federal tax on motor fuels, paid for by highway users, and dedicated for transportation improvements.

Who, here, in this body, can say that the regions which they represent do not need additional transportation improvements, that they could not use some of that $6.8 billion that was duly authorized but instead is lying idle in some government trust fund.

I look to the California delegation: You have been shortchanged by $610.6 million.

To the Florida delegation: $241 million.

Ohio: $242 million.

Virginia: $145 million.

And my own State of West Virginia: $68 million.

The list goes on and on.

So I would say to my colleagues, vote to take the transportation trust funds off-budget.

Let us restore faith with the taxpayers.

Mr. Chairman, throughout this debate we continue to hear allegations that one of the motivations of the Transportation and Infrastructure Committee for promoting the pending legislation is that it would, in some unexplained fashion, remove any constraints on so-called pork barrel projects.

The distinguished chairman of the House Appropriations Subcommittee on Transportation in particular likes to make a big deal out of the fact that he refuses to earmark funds for highway demonstration projects.

He even advised House Members not to even try to present testimony before his subcommittee about specific highway projects.

Oh, how holier than thou.

And the press eats it up, showering him with praise for not engaging in so-called pork barrel projects.

Well, my colleagues, the facts show otherwise.

Let's see. I suppose earmarking $4 million in ITS funds for the Capital Beltway in the current fiscal year appropriations bill does not represent an earmark.

No, of course not!

I suppose that earmarking almost $41 million for 20 ITS projects in that bill is not really earmarking, now is it?

And I suppose that earmarking 100% of the section 3 bus money, to the tune of $333 million, for 81—count 'em—81 specific projects is not really earmarking funds at all.

Or what about the section 3 new starts; $80 million here, $130 million there. This isn't really earmarking, is it?

No, I suppose it's just chump change.

Ah, but these were not highway demonstration projects, were they?

No, apparently only earmarking funds for highway projects is bad.

Well, Mr. Chairman, if it walks like an earmark, if it quacks like an earmark—it is an earmark and subject to the same pork barrel label highway demonstration projects are often alleged to be.

I raise this because when we hear the next holier than thou—self-righteous—pronouncements from the House Appropriations Committee against our efforts to take the highway trust fund off budget, be advised:

They are living in a glass house and should not be throwing any stones at the authorizing committee.

Let me be clear.

I strongly believe in the right of the Congress to earmark funds for specific transportation projects. We used good criteria when considering highway projects during the NHS bill last Congress.

Circumstances change. Nothing remains static.

And the fact of the matter is that sometimes a State needs a little bit more help with a transportation project over and beyond its normal funding apportionment.

But, please, do not give me this bunk that earmarking discretionary program funds for ITS and transit projects is not really earmarking.

Mr. Chairman, with that, I respectfully submit: Who is afraid of the big bad wolf?

Not this gentleman from West Virginia and neither should this House.

I rest my case.

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Mr. KOLBE. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Michigan [Mr. HOEKSTRA].

Mr. HOEKSTRA. Mr. Chairman, I thank the gentleman for yielding me the time.

Let us talk about truth in budgeting. This country is $4.9 trillion in debt, rapidly moving to $5.5 trillion in debt. That is truth in budgeting. This is an effort by one group to grab dollars, to grab turf and to expand its power. What do we need in 1996? We need people to step up, to be part of the solution, not to walk away and be part of the problem. What is reality?

This bill is like rearranging the deck chairs on the Titanic. This bill represents the effort of one group to get into its lifeboat, its own small lifeboat. Some may call the special interest group or this group of special interests selfish. I do not know if it is selfish. I do know it is wrong. A number of groups agree, the National Taxpayers' Union, the Citizens Against Government Waste, the Concord Coalition, the Citizens for a Sound Economy.

We do not need another entitlement. We do need a Congress willing to make tough decisions to protect future generations and to stand up to special interest groups.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I thank all the gentlemen here in charge of the time for the excellent work they have been doing.

Mr. Chairman, like others, I support needed investments in our transportation system. The First District of Connecticut relies on its roads, bridges, and airports to be its economic and commercial links to the rest of the country and the world.

But while we may have nearly endless transportation needs, we don't have an endless supply of tax money. And although transportation must be a top priority, there are tough choices to be made about where our limited funding goes. Taking these trust funds off-budget shelters them from those hard decisions.

In 12 of the last 15 years, we have spent more from the trust funds than taxpayers put in. Taking them off-budget will tilt the playing field even more toward transportation, at the expense of other priorities and at the expense of deficit reduction.

Calling the trust funds off-budget does nothing to change the reality that our budget is out of balance. In fact, this bill would put us $20 billion more in the red over 5 years.

I urge my colleagues to support fiscal responsibility and oppose H.R. 842.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan [Mr. EHLERS].

Mr. EHLERS. Mr. Chairman, I appreciate the opportunity to comment. From my background of 8 years in local government, 11 years in State government dealing with balanced budgets every year, I rise to support this bill and urge its passage. I recognize the original purpose of taking these funds and putting them on the budget was to hide the deficit during the Vietnam war, and for some years it served that purpose.

Mr. Chairman, I also recognize that now we do not perform that practice anymore. We do not try to use these funds to hide the deficit. At the same time, the public is angry. They still perceive this money as being diverted to other purposes. They still perceive this as being used to mask the deficit, and we have to get away from that perception or it is going to hurt our efforts to build a transportation infrastructure in this country.

I urge that we now do what is right, we do what is fair, that we take the trust funds off budget, that we use them for the purpose they are intended for, that we pass this bill and we restore the trust in the trust fund.

Mr. SHAYS. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, first of all, let me begin by saying congratulations to my colleagues. We do not hear too often this kind of policy debate that completely crosses party lines and really is on a policy issue. I think everyone is to be commended for really getting into this policy debate here.

Let me make it clear where I stand on this. I do rise in strong opposition to the so-called Truth in Budgeting Act, H.R. 842. The title of it certainly sounds great, but the fact of the matter is it is a device for increasing the already huge $5 trillion national debt that we have. The title of it is misleading and the result is it is going to be very costly.

It does something that we already do too much, and that is have a shell game, with that chart that we saw here earlier by the chairman of the Committee on Appropriations with over half of all Federal spending off budget. This simply moves another piece of it off budget so it is not amenable to the changes that Congress would make through the appropriation process each year. It is a shell game. We call it taking it off budget, but in plain English, it means the spending is going to be exempt from the rules that apply to other Federal spending. In essence, we are creating yet another new entitlement program that just grows and grows without regard to the already overblown Federal deficit. The result would be that transportation simply does not get the same scrutiny as education, defense, a lot of our national parks do when it comes to prioritizing and controlling Federal spending.

Because of that, I think it is inevitable that this kind of spending rises ever faster. To balance the budget, then all other parts of the budget have to take an even harder hit, that is, the increasingly shrinking part of the discretionary pie of spending, so we have to increase taxes. And I think we all know that is not acceptable.

The fact of the matter is that Washington has spent more from the highway trust fund than it has received in earmarked tax in 12 of the last 15 years. In 1994 alone, the Federal Government collected $18 billion into the trust fund but it spent $22 billion on trust fund programs. The real issue here is whether or not we should be returning these programs to the States anyhow, whether we should set the standards and return them. I urge my colleagues to vote against this legislation.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MASCARA].

Mr. MASCARA. Mr. Chairman, I thank the gentleman for yielding me time.

During the Eisenhower administration, the Federal Government forged a compact with the American public, pledging to its citizens that in exchange for a gasoline tax a transportation trust fund would be established. The money generated by the tax was to be used strictly for transportation and infrastructure development. Forty years later, Americans continue to uphold their end of the bargain. Americans pay 18.4 cents Federal tax on every gallon of gas they purchase and a 10-percent excise tax on all airline tickets. Last year alone, these taxes added up to nearly $30 billion.

I find it simply inexcusable that the Government refuses to release these funds at a time when our Nation's infrastructure is crumbling. It is estimated that more than $300 billion is needed to remedy our unmet transportation and infrastructure needs.

By failing to use these funds for their intended purpose, the Federal Government has broken its promise and violated the principles that are central to the notion of a trust fund—the term "trust fund" in this case is a true oxymoron.

As a former Washington County, PA, commissioner, I witnessed first-hand the vital role a strong and viable transportation system plays in stimulating our Nation's economy. The Monfayette Expressway in my district is a classic example of this premise. Studies around the world have shown a strong correlation between infrastructure development and sustained economic growth.

It is simply unfair for the Federal Government to limit economic development opportunities by hoarding the transportation trust funds to mask the Federal deficit.

Today, Congress has an opportunity to fulfill the agreement that was established between the Federal Government and the American people in the 1950's. I support Chairman SHUSTER and ranking member OBERSTAR's efforts to return these trust funds to their rightful owners—the American people. I urge all Members on both sides of the aisle to vote for the Truth in Budgeting Act, H.R. 842.

Mr. OBERSTAR. Mr. Chairman, I yield such time as he may consume to the gentleman from the Virgin Islands [Mr. FRAZER].

Mr. FRAZER. Mr. Chairman, as a cosponsor of this legislation, H.R. 842, I understand the importance of investing in our infrastructure. On September 15 of last year, the U.s. Virgin Islands was devastated by Hurricane Marilyn.

Today we are still trying to repair the economy.

The CHAIRMAN. The Chair wishes to inform the manager that the time of the gentleman from the Virgin Islands [Mr. FRAZER] will be taken from the time of the gentleman.

Mr. OBERSTAR. Mr. Chairman, the gentleman is recognized for a unanimous-consent request, not for the time.

Mr. SHUSTER. Mr. Chairman, is it true that the gentleman may put his entire speech in the RECORD?

The CHAIRMAN. The gentleman's statement may be entered into the RECORD under the unanimous-consent request.

Mr. FRAZER. Mr. Chairman, am I being made to understand that it is less than 1 minute that I requested, that I merely submit for the RECORD?

The CHAIRMAN. If the gentleman from Minnesota wishes to recognize the gentleman for 1 minute.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from the Virgin Islands [Mr. FRAZER].

Mr. FRAZER. Mr. Chairman, I recognize that the Territory of the Virgin Islands does not have a vote in this institution, but it seems as though the proceedings are becoming so that the Territory of the Virgin Islands does not even need to be represented in this institution.

Mr. Chairman, I want to thank Chairman SHUSTER and ranking member Mr. OBERSTAR for bringing H.R. 842, the Truth in Budgeting Act to the floor.

As a cosponsor to this legislation I understand the importance of investing in our infrastructure. On September 15, 1995, the U.S. Virgin Islands was devastated by Hurricane Marilyn. Today, we are still trying to rebuild our economy. The first step in rebuilding our economy is our infrastructure. The airports, highways, and ports in the Virgin Islands are the keys to our economic prosperity.

The economy of the Virgin Islands is based on tourism. In order for our economy to grow, we must have a strong infrastructure. Our airports and highways must be fully operational and functional so that they can generate the revenue which will create jobs and funding for infrastructure development. Constituents pay to use these services and they are entitled to receive a benefit.

The aviation trust fund allotment for the Virgin Islands in 1994 represented $3 million. A reduction in funding for the Virgin Islands would have a negative impact on our ability to rebuild our economy.

Mr. Chairman, I urge my colleagues to vote "yes" on H.R. 842, so that we can use these funds to rebuild our infrastructure.

Mr. SABO. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise in strong opposition to H.R. 842. I refer to the bill by number rather than name because I feel this legislation promotes anything but truth in budgeting, at least if that budgeting is supposed to be aimed in the direction of balance. In fact, this bill would reduce controls on Federal spending, the exact opposite of what we should be doing as we work toward a balanced budget.

Next week the Budget Committee, on which I am privileged to serve, is scheduled to begin the process of putting together the budget resolution for fiscal year 1997. This process will require many tough choices as priorities are set among worthy programs. All programs will be required to make sacrifices in the effort to achieve a balanced budget by 2002. My guess is that not a single program will receive the full amount of funding that its advocates would like. But essentially all programs will be together in the same boat, competing for priority status as we seek to determine how best to allocate the revenues coming into the U.S. Treasury.

This bill is an effort to circumvent this process for one segment of the budget. The debate today is really about whether the transportation trust funds should be exempted from the priority-setting process that tests every other program. A vote for this bill says that spending on transportation programs automatically should receive a higher priority than every other program of the Federal Government.

We have heard good augments today about the value of investing in our national infrastructure. I agree with much of what was said but I disagree with the venue. This debate should be heard in the midst of augments about the value of every other program, not standing alone without programmatic competition for numerous hours on the House floor.

We're talking about much more than the simple bookkeeping activity of moving the trust funds onto a different side of the ledger. The real impact of the bill is in removing trust funds from the statutory budget enforcement mechanisms and, to a lesser extent, the congressional budget process. Currently, spending from the trust funds is subject to the discretionary spending limits or pay-as-you-go rules. The discretionary caps have been quite successful in controlling discretionary spending and have played a major role in the significant deficit reduction we've witnessed in the past 4 years.

In my opinion, we should be expanding the spending caps to cover all programs, not reducing the number of programs subject to the caps as this bill seeks to do for transportation spending. Spending form the trust funds would have greater protection than any other spending program. Even Social Security spending is subject to pay-as-you-go rules.

During the debate Monday evening regarding the tax limitation constitutional amendment, there was a lot of rhetoric about the need to control Federal spending. I cannot understand how any Member who voted to amend the Constitution on Monday evening, or for that matter any Member who claims to care about deficit reduction, can vote for a bill that will make it much easier for Congress to increase spending without accountability.

The Director of the Congressional Budget Office stated that if trust fund spending was exempted from budgetary controls "transportation spending could increase significantly." The General Accounting Office made a similar point: "Whatever the immediate effect on the deficit, exempting one type of spending from the Budget Enforcement Act makes it likely that such spending will increase over time." Similarly, the reserved Fed Chairman Alan Greenspan said that taking trust funds off-budget "could weaken the ability of the Congress to prioritize and control spending * * * [and] could engender cynicism in financial markets and the public at large about the commitment and ability of government to control Federal spending."

This year, much ado has been made about differences in scoring between the CBO and the OMB, but the two are in agreement about this issue. They both have estimated that this bill would allow transportation spending to increase by $20 billion above an inflated baseline and $40 billion above 1995 levels over the next 5 years. I know that the drafters of this legislation claim that the bill is deficit neutral but they are not the referees who score Federal spending; CBO and OMB are the two entities we count on to do that job. At a time when programs for education, health, senior citizens, youth jobs, scientific research and so many other important programs are being cut or given increases well below inflation, I have a hard time justifying a $40 billion increase straight out of the gate for transportation spending.

Finally, granting special status to the trust funds will undermine the principle of shared discipline which is so critical to building consensus for reaching a balanced budget. Supporters of all other Federal programs, understandably, will be far less willing to accept cutbacks in their own programs if transportation, or any other specially anointed program, is exempt from sharing the burden. The credibility of the process will be severely undermined by the contrast of transportation spending receiving a full inflation increase plus as much as $20 billion beyond inflationary increases while other programs losing in actual dollar terms.

H.R. 842 also will make it more difficult to implement a deficit enforcement mechanism along the lines of the one included in the Coalition budget by exempting trust fund spending from sequestration. One of the weaknesses that led to the failure of Gramm-Rudman was that it exempted a large number of programs from sequestration, thereby reducing the number of people who have a stake in reducing the deficit. Taking the trust funds off budget would mean that the transportation industry would not have a stake in ensuring that a balanced budget plan works, because they would not be affected by its failure.

If you are serious about controlling Government spending, if you believe in the importance of a fair budget process, if there are other Federal programs that you rank at least of equal importance with transportation programs, then vote against this bill.

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Mr. SHUSTER. Mr. Chairman, I yield such time as she may consume to the distinguished gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Chairman, I rise in support of H.R. 842, the Truth in Budgeting Act. This bill will accomplish three goals.

First, it will restore honesty with the American taxpayer. The transportation trust funds are comprised of user fees—taxes paid by transportation users with the express understanding that their collection will be used to finance transportation improvements. To have these funds as part of the budget, masking the deficit, and not spent on transportation needs is simply not fair.

Second, the bill will spur economic growth. Transportation represents 17 percent of the American economy. Transportation improvements benefit us all and the use of these surplus funds will go a long way toward providing a boost for America's economy.

Third, every single State will benefit in increased transportation funds from enactment of this bill. Had the transportation trust funds been off budget since 1991, my State of Florida alone would have received an additional $241 million. As a donor State to begin with, this amount would help offset our significant transportation needs.

I urge my colleagues to support this bill and return fairness to these user fees.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Chairman, I rise in strong support of this bill which is critical to the future of our transportation systems.

According to the U.S. Department of Transportation, nearly 25 percent of our Nation's bridges are structurally deficient or functionally obsolete, and over 30 percent of our interstate pavement is in poor or mediocre condition.

The average fleet age for our transit buses is greater than the useful life of those vehicles.

And yet, because of obligation limitations imposed in annual appropriations bills, the ISTEA highway program has been under funded by $6.8 billion over the past 5 years. Let me be clear, this $6.8 billion was fully budgeted for and could have been supported by the highway trust fund. Each Member can look at this table here on the floor and clearly see the funding his or her State has lost.

This is $6.8 billion of contract authority—accounted for and contained in the budget resolution—which States have not been allowed to use for transportation improvements.

The Surface Transportation Subcommittee is now beginning the process of reauthorizing ISTEA. The future budget authority provided and the size of the program will be a determining factor in the type of transportation program we can enact to lead us into the 21st century.

This is a simple fact of life. We must be able to spend the gas taxes we collect on our future transportation program or we will be severely limited in the flexibility and creativity necessary to address today's transportation needs. For example, like more than a majority of House Members, I represent a donor State and want to revise the current outdated and inequitable formulas.

But, this will be hard to do, if not impossible to do, with a shrinking program—a program funded entirely by user fees that may be cut by as much as 40 percent according to some budget projections. This vote is important to the ISTEA reauthorization.

Don't be scared off by exaggerated claims make by opponents of this bill. There is no general fund subsidy of the highway trust fund.

The vast majority of general fund transportation spending that opponents have cited is from the now-defunct revenue sharing program, the community development block grant program, spending by nontransportation agencies, and other specific programs approved by the Appropriations Committee that are totally separate from and hardly relevant to the highway trust fund, the Federal-aid highway program, and this debate today.

In fact, it's the other way around—limitations on trust fund spending have subsidized other general fund spending.

This bill is not a budget buster and it will not automatically increase the deficit by some $30 billion as some have claimed. Appropriate controls and Congressional authority remain in place. But H.R. 842 will go a long way toward ensuring that, in the future, the user fees and taxes we have imposed on the traveling public and which are paid so dutifully by them day in and day out, will be spent for their intended and lawful purpose. Not to do so is dishonest and unfair to the American public.

Vote "yes" on H.R. 842—it's the right thing to do.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, I thank the gentleman from Minnesota for yielding this time to me.

I rise in opposition to this bill, not because I oppose spending the trust fund obligations for the purpose for which they were incurred. In fact, I would favor legislation that would mandate that the trust funds be expended for that very purpose, that would prohibit expenditures from the general fund, that would require us to raise the user fees if we need to spend more money. I am all in favor of that, but that is not what this bill does.

We have limitations placed upon the budget process for one purpose. The whole Budget Act of 1974 that we are operating under was placed there for one purpose, to put fiscal restraints in place so that we would have to make all of the decisions within the same context of a budget.

The purpose for the line-item veto was to allow the President to say here is certain spending that ought not to be spent. There is one area of spending that is exempt from the line-item veto. It is contract authority from the Committee on Transportation and Infrastructure so that they can designate money that has to be spent that cannot be vetoed by the President under line-item veto.

Now, what this bill attempts to do is remove all of that spending from the Committee on Transportation's authority, to remove it from the budget process so that there are no other fiscal restrictions or restraints that would require us to consider all spending within one specific decisionmaking process.

That is bad fiscal policy, it is bad budget policy; I would urge my colleagues to vote against it, and I will submit into the RECORD a letter from the Citizens Against Government Waste explaining why this is a bad bill.

Mr. SHAYS. Mr. Chairman, I yield 6½ minutes to the gentleman from Ohio [Mr. KASICH], the chairman of the Committee on the Budget.

Mr. KASICH. Mr. Chairman, it is always a little bit frustrating when we come to a vote on a bill like this, that we wonder whether people who are going to be voting on this, or their staff, are paying attention. Well, I guess, without a rollcall or anything like that, we just rely on the fact that those wonderful staff people have their eyes focused on this chart and what the impact is of this legislation.

Now, this highway trust fund was established in, I believe, 1956, and what we have done is we have added up cumulatively all the money that has ever been collected from taxpayers in highway taxes to pay for roads. We added it all up from 1956 to 1996. The total amount of money collected in highway gasoline taxes to pay for highways totals $214 billion. Now, we added to that that interest that we owe from just the highway section, and that adds up to $21 billion, for a grand total, and think of this as some kind of a telethon, a grand total of what we have raised since 1956, of $235 billion from our taxpayers in fuel tax to fix our roads.

Let me stress that number again: $235 billion total collected, plus interest.

Trust fund spending has been $228 billion. In other words, my colleagues, we collected $214 billion in gas tax money to fix the roads. But consistent with everything else we do in this town, and unlike what families do, instead of spending $214 billion on fixing roads, we spent $228 billion, and then when we add to that the money beyond the trust fund money, that is another $63 billion, another $63 billion, for a grand total, a grand total since 1956, of $291 billion. We have collected and had interest that cumulates $235 billion, and we have spent $291 billion on highways.

Now, anyway, and I have got limited time and we got a whole lot of debate going, let me just do this thought. The simple fact is, as my colleagues know, the argument here, the argument in this body, is somehow the people have been cheated, somehow they have paid a lot of money in gas taxes, and they have not got the roads fixed for the money they paid. Well, that is not true. Frankly, what we have done is, we have one more time gone into the piggy bank of our children. We have gone into their piggy bank to have more money spent on roads.

Now, it should be equal. It is not equal. We have overspent on highways from what we were dedicating revenue to fix roads with. It is not complicated.

Now, if my colleagues want to take this thing off budget, let me just give them the bottom-line impact. To everybody in this Chamber:

If you spend any of this accumulated interest, then what you are doing is you got to do one of two things. You are either going to raise the deficit, which means you got to borrow more money and increase the national debt, or you got to cut some other program. It is not a confusing, complicated deal. It is one or the other. Now, under the current situation, if you want to spend more on roads, and I am not opposed to doing that because roads is infrastructure, and if the roads are not determined by pure politics, they can generally help the economy. But I do not think we ought to put roads above anything else.

I mean we can develop a supercomputerized system, as individual instruction for our children using computer technology. Frankly, that is more effective to me than just making roads a priority.

Look, the reason why we are coming to the floor and what contractors think and what a lot of people think is, as my colleagues know, we did not spend all the money we took in, that we got this shoebox full of cash. We got this shoebox full of cash to build all these roads, and the simple fact of the matter is we "ain't" got no shoebox. We do not have any cash in the back drawer. This involves borrowing. It involves our children. That is what it involves.

So I say to my colleagues, if they want to come to the floor and pull this off budget, fine. They can vote that way. They can vote that way, and just understand the consequences: We either are going to have to borrow more money and drive up the deficit or we are going to have to cut other programs which we struggle to avoid doing in this Chamber, create tougher priorities.

So, I mean, I give a lot of credit to the gentleman from Pennsylvania. I have never seen anybody more tenacious on an issue. He believes in this program, and I respect him for it. It is not a personal fight with anybody in this Chamber. It really is a matter of whether we are going to get our fiscal house in order and not put one priority ahead of another in times when we have got to choose or raise the national debt.

So I would urge my colleagues to keep our plan on schedule, and the gentleman from Virginia said this will be the end of balanced budgets. I am not going to be that gloomy here today. But it certainly makes our job more difficult. Do not support this bill, reject it.

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Do not support this bill. Reject it. We can continue to have robust highway spending if we deem that to be a top priority, but keep this total spending within the decision-making that we all make in this Congress. But no one should come here thinking that somehow we have cash.

This is what we spent, 291. This is what we collected, 235. No one should think that we have underspent or taken our highway money and used it for something else. It just simply is not true. Let us be honest with the public on the way in which we add our numbers up.

Mr. SHUSTER. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I would respond to the distinguished gentleman, it is very true, if you go back in history, there was substantial general fund money spent on highways and other transportation projects. CDBG grants were spent, revenue sharing was spent. All of this is true, back in history. It also, interestingly, indicates how important transportation is to local communities. Nevertheless, nobody disputes that.

But Mr. Chairman, facts are stubborn things. Does anybody in this body dispute the cold, hard fact that there is over $30 billion in the transportation trust funds today? Nobody disputes it. It is a fact. That is the balance in the trust fund. We should spend that money in a rational, careful way.

Mr. SABO. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I listened to the argument of our good friend, the gentleman from Pennsylvania. It would strike me that if one followed that logic, one should say that I think there is a surplus today in the Medicare fund, and we should spend it all today and it would not impact the deficit. That would be about the same logic.

Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I just wanted to follow up on what the gentleman from Ohio [Mr. KASICH] was saying, to make this point. In 12 of the past 15 years, the highway trust fund expended more than it collected in dedicated taxes. In 12 of the years since that trust fund's inception in 1956, the highway trust fund expended more than it collected in both dedicated taxes and interest paid into the trust fund from the general fund.

I repeat that. In 12 years since 1956, it expended more than it collected in both taxes and interest. We are not saying do not spend money on highways. I believe in spending money on highways. I am a strong supporter of that. But count it, just like you count everything else in the budget.

The gentleman from Ohio [Mr. KASICH] is exactly correct. We have had a very large excess expenditure above revenues out of this fund, and people ought to recognize that.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. BORSKI].

Mr. BORSKI. Mr. Chairman, I want to thank the distinguished gentleman for yielding time to me, and commend him and our outstanding chairman of the subcommittee for the great work they have done in bringing this bill to the floor today.

Mr. Chairman, today is our opportunity to restore honesty and truth to the Federal budget by voting to take the transportation trust funds off budget.

Chairman SHUSTER and Ranking Member OBERSTAR deserve high praise for their outstanding efforts to bring this bill to the floor.

Mr. Chairman, it makes no sense to me that we would ask the American people to pay taxes for these transportation trust funds and then not use the money.

These are dedicated funds that should be used for their intended purpose—the improvement of our Nation's transportation system.

Sitting on these dedicated funds which cannot be spent for anything else is simply a fraud on the American people.

We have been lying to the American people by telling them to pay their gas taxes and airline ticket taxes for an improved transportation system and then not investing the money in transportation.

In Philadelphia, we are faced with a vital need to rebuild Interstate 95, our key commuter and freight route that is used by 150,000 vehicles a day.

In the last month, I–95 has been closed and then restricted because of a fire that damaged the structure.

We have had massive traffic jams that have lasted the entire day, disrupted the surrounding neighborhoods, and produced chaos throughout the area.

The Pennsylvania Department of Transportation planned to invest $2 billion to make I–95 the highway of the 21st century.

Just this year, the Penndot plan was reduced to a $176 million resurfacing that will not solve our traffic problems and must be redone in 5 years.

By not investing the money in the trust funds, Washington is telling America's drivers who are sitting in traffic jams to get used to it.

It makes no sense to have a $20 billion balance in the highway trust fund—including $312 million for investment in Pennsylvania—when the money should be used for the reconstruction of I–95 and the many other roads throughout Pennsylvania that badly need improvement.

A vote against H.R. 842 is a vote against using this money to reconstruct I–95 and the many roads like it.

It may be a vote to fund other programs but it is a vote against reconstructing I–95.

In Philadelphia, our transit system, Septa, is an absolutely key part of our regional transportation system, carrying more than 1 million passengers each weekday.

Without Septa, we would have more traffic congestion requiring more roads and more parking facilities.

Right now, Septa is in trouble. Septa needs more money for upgrading track, stations, and equipment.

The entire Philadelphia region loses if Septa is allowed to continue on a downward spiral.

An improved, modernized Septa system benefits everybody in the region.

At the same time we have allowed a $9.6 billion cash balance to build up in the transit account—money that our Nation's transit systems desperately need.

A vote against H.R. 842 is a vote against using this money to help Septa and other transit systems. It is a vote against transit.

It may be a vote to support some other program but it is a vote against transit.

Philadelphia international airport has been trying to get funds to build a new commuter runway that will increase capacity by 40 percent.

Annual operating delays at Philadelphia cost airlines more than $70 million in wasted fuel and labor costs.

At the same time, however, we have allowed a balance of $11 billion to grow in the aviation trust fund.

A vote against H.R. 842 is a vote against funding projects such as the Philadelphia commuter runway.

It may be a vote to use the transportation trust funds for some other program but it is a vote against airport projects.

The inland waterways trust fund and harbor maintenance trust fund are also crucial elements of this bill.

The Nation's ports handle more than 1 billion tons of cargo annually, including 95 percent of our international trade.

Many ports are in a crisis today because of the need to expand capacity to meet new trade demands. It is estimated that $600 million will be needed for ports during the next 5 years to keep pace with the growth of commerce.

The outdated and antiquated locks and dams of our inland waterway system hinder shipments and require additional investment.

More than 40 percent of the locks are more than 50 years old and one is 150 years old.

Mr. Chairman, a vote for H.R. 842 is a vote for honesty in budgeting and for investment in economic growth.

We have told the American people to pay their money for transportation. Not spending the money is fraud.

Our long-term transportation needs are important enough to take the trust funds off budget and increase our investment. Each $1 billion of investment in infrastructure creates 42,000 jobs.

We should take the trust funds off budget and use the money the American people have already paid.

Mr. Chairman, 6 years ago, we took the Social Security trust fund off budget. This is the exact same situation.

Let's put trust back in the transportation trust funds and pass H.R. 842.

Mr. SHUSTER. Mr. Chairman, I am pleased to yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, by passing this legislation, we will be moving smartly from fuel tax fudging to truth in budgeting. How many of the Members would dare to stand at their gas pump and to tell each one of your constituents after you shake his or her hand, do you know that part of the tax that you are paying with each gallon of gas is going toward payment of welfare costs, toward foreign aid? Because that is the result of not spending their fuel tax for the dedicated purpose, just the opposite of what the opponents of this legislation are saying.

The opponents are saying that if we go through with this plan as envisioned by this bill, we will be robbing our social programs of moneys. That means they must be paying for them now through the fuel tax that they are paying. Is that not the obvious, logical conclusion? Truth in budgeting means that the American people, to whom we owe full faith and credit, have a right to expect that their fuel tax goes for nothing but highways.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I thank the gentleman for yielding time to me, and I also thank the gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the committee.

Mr. Chairman, I rise in strong support of H.R. 842, the Truth in Budgeting Act and ask unanimous consent to revise and extend my remarks.

Mr. Chairman, I commend the leadership of our committee, Chairman BUD SHUSTER and Ranking Member JIM OBERSTAR, for introducing this legislation to take the transportation trust fund off budget. I want to share with my colleagues why I cosponsored this bill.

President Eisenhower was a visionary when he created the highway trust fund in 1956. He knew that by creating a new trust fund where those who benefit from the transportation program pay for the program, a steady, dependable stream of revenue would ensue. For many years the trust fund worked as promised: motorists paid into the fund and in return they received highway construction and transportation improvements.

But when Congress created a unified budget in 1968, the word trust was removed from the highway trust fund. I looked up the word trust in Webster's Dictionary, and this is what it says: trust is a dependence on something future or reliance on future payment. Webster's also defines trust as: to commit or place in one's care or keeping.

Mr. Chairman, I submit to you that after I read those definitions it became clear to me that the word trust in highway trust fund has no meaning.

Why do I say that? Because over time the Government has collected but withheld and diverted nearly $31 billion in trust fund dollars. This is money that should have been going to our Nation's infrastructure.

Americans have faithfully supported the concept of a highway trust fund by dutifully paying their gasoline tax for 40 years. What have they received in return? 176,000 miles of American highways in mediocre to poor condition. Severe road congestion on 30 percent of our Nation's major roads. A $290 billion backlog of bridge repair work.

Polls show that 72 percent of the American people believe the motor fuel fee is the fairest way to finance highway improvements. They want their money to go toward protecting our investment in our Nation's infrastructure. But this shell game being played with the moneys in the highway trust fund has only delayed this badly needed investment and helped fuel the prevailing cynical attitudes people have toward their elected officials and Government.

Let's stop the charade and pass H.R. 842.

Mr. SHUSTER. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Tennessee [Mr. DUNCAN], the distinguished chairman of the Subcommittee on Aviation.

Mr. SABO. Mr. Chairman, I yield 30 seconds to the gentleman from Tennessee [Mr. DUNCAN].

The CHAIRMAN. The gentleman from Tennessee [Mr. DUNCAN] is recognized for 1½ minutes.

Mr. DUNCAN. Mr. Chairman, I rise in strong support of H.R. 842, introduced by the very capable chairman of the Transportation Committee.

I do not want to repeat many of the comments that have already been made here today. But let me say that this, Mr. Chairman, our Nation needs this legislation.

No one disputes the fact that we need to spend more than we presently are to repair, maintain, upgrade, and improve our Nation's highway and aviation systems.

I have been very fortunate to serve as the chairman of the Aviation Subcommittee for 16 months now, so I will speak to the serious needs in our Nation's aviation and air traffic control system. Air passenger traffic is going to double in the next 10 years, from over 500 million a year now to almost 1 billion 10 years from now.

I am one of the most fiscally conservative Members of this House, so I have been very frugal in what and how we spend the taxes that are sent here from hardworking Americans.

Mr. Chairman, as it has been said earlier, this issue is a question of fairness to the taxpayer.

It is a question of whether or not we should keep our commitment with the people who pay taxes, to this Federal Government, every single day of the year.

Every time a person gets on a plane. He or she pays taxes. Every time a person puts gas in their car, he or she pays taxes.

Many years ago, Congress established a policy, a pact, with the American people. If you pay these taxes, we here in Congress will turn around and spend them on repairing our highways and bridges and we will update our antiquated air traffic control equipment.

Mr. Chairman, the aviation trust fund was established in 1970 to help bring our air traffic control system up to speed. But as we all have seen this has just not been the case.

Last year, air traffic control centers suffered more blank radar scopes, dead radios, downed computers, and failed power systems than in any previous year.

This 30-year-old equipment causes airplanes to be delayed and certainly shakes public confidence in the safety of flying.

There have been air traffic computer failures at FAA centers near Chicago, Dallas, Cleveland, New York, Pittsburgh, Boston, Atlanta, Houston, Oakland, and Miami.

In fact, just a few weeks ago the FAA issued a coast-to-coast grounding for aircraft going to Pittsburgh airport because of an outage.

While these outages have been occurring more and more frequently, the aviation trust fund has taken in billions, at least $5 billion last year alone, not including the $1 billion in interest.

At the end of the last fiscal year, the aviation trust fund has a cash balance of nearly $11 billion.

This enormous balance has not accumulated because of any sound policy reason but rather as an accounting gimmick to help hide the size of the Federal budget deficit.

Mr. Chairman, experts have testified before the Aviation Subcommittee that airport needs over the next 5 years will total $50 billion.

The FAA expects that air travel will increase from over 500 million passengers today, to well over 800 million by the year 2005. This is a 56 percent increase in air travel.

And, the FAA has reported that 23 airports across the Nation exceed 20,000 hours of delay per year.

Unless significant capacity improvements are made, the FAA expects that by the year 2002, 33 airports will experience delays of 20,000 hours or more, costing millions of dollars annually.

In 1995, the aviation trust fund took in $6 billion. The Administration has projected that the aviation trust fund, under current law, will take in $9.2 billion in 2002, a 46 percent increase.

Mr. Chairman, I believe Americans are paying too much already in taxes today.

Moreover, I have never voted for a tax increase since I have had the privilege of serving in this body.

However, in my opinion, if we are not going to spend the taxes we collect for the purpose of which they were intended, then we should return the money to the people.

We must take the transportation trust fund off-budget so that we can spend the aviation taxes to improve the safety of the air traffic control system.

We must pass H.R. 842 today and not wait until a tragic aviation accident embarrasses Congress into taking action.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, I would ask the gentleman, why is it the trust fund only pays 50 percent of FAA operating costs, when all the studies show that 85 percent is related to civilian air travel? Has not, in effect, general revenue substantially subsidized the operation of FAA over the last several years?

Mr. DUNCAN. To some extent, yes. That is correct, I would say to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, the answer to the question is that 75 percent of the overall budget of the FAA is funded out of the trust fund revenues. There is an additional amount that is paid out of general revenues from the DOD budget to account for air traffic control services to the military, and some people, some folks at OMB, account for the operating budget of FAA in a different way in saying that the operating budget, salaries and expenses are 50 percent. But that is an irrelevant argument.

Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, if we listen to the opponents of this particular bill, we would think that Dwight David Eisenhower was the father of pork in America. Ike was not a pork barrel President, and this is not just truth in budgeting, this is a truth in financing, truth in borrowing.

I should have offered an amendment calling for an investigation into congressional borrowing from trust funds. These user fees are taxes. The American people pay taxes to fix their roads. The money going to this account is already going for other services. It is not true. This a good bill.

Let us talk about this. Maybe we should take the Committee on Appropriations and keep them on budget and take the trust funds off. H.R. 842 does not say these matters still do not go through appropriation. They are still subject to appropriation. The trouble with America today is that everybody has their hands on trust funds. They should all have their own boards of directors. No one should be able to touch them. That Social Security trust fund is financing a debt, and we are not getting the truth on the deficit or the national debt.

There is no justification to use highway money for anything else. There is no justification to keep America second rate. This money has an intended purpose. There is a tax; not a user fee, a tax. That tax, Mr. Chairman, is directed towards maintaining our infrastructure, fixing our roads, and the appropriators still have a say.

The trouble is, if we are going to get some truth out of the whole budgeting process, tell us the truth of the national debt, tell us the truth of the deficit. You have been trying to mask it with this trust fund for too long. Open it up, use it for what it was intended. Anything else is hypocrisy and maybe against the law. Damn it, I wish I had offered that investigation amendment. I yield back the balance of these taxes.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MCKEON].

Mr. MCKEON. Mr. Chairman, I rise today in support of H.R. 842, and commend Chairman SHUSTER for the work he has done to bring this bill to the floor.

Mr. Chairman, I rise today in support of H.R. 842, legislation to separate the four transportation trust funds from the unified Federal Budget. Before being elected to Congress, I served on a city council and listened to many residents who were concerned about funding basic infrastructure needs. These same citizens are under the mistaken impression that the money they spend every day on gasoline excise taxes will be used to improve roads, bridges, airports, and waterways across the country.

It is simply wrong to use the revenue dedicated to these trust funds for anything other than their original purpose—and we can act today to correct this matter. There are billions of dollars of unmet infrastructure needs in the United States and the sad thing is that we already have the money to pay for these projects—only it is not being spent. The cost to the taxpayer and our Nation to rebuild these roads will only increase if we continue to delay taking the four transportation trust funds off budget. I urge a "yes" vote.

Mr. SABO. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, let us be straight about some facts. Since 1981, we have spent more than we have collected in receipts and interest in these funds. The way we measure the deficit is expenditures versus revenue. In 1994 and 1995, the expenditures from the highway trust fund have exceeded total revenue. The same is true in the airport trust fund. They are not subsidizing the balance of the budget.

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Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. LAHOOD].

Mr. LAHOOD. Mr. Chairman, I would make the comment to the distinguished chairman of the Budget Committee and others who have been promoting a balanced budget that if we take these off-budget and use them for their purpose, we would actually be saving money, that we would not be spending in excess. That would answer their question. But I rise in strong support of this. I commend the gentleman from Pennsylvania [Mr. SHUSTER], the chairman, and the gentleman from Minnesota [Mr. OBERSTAR] for the leadership that they have exhibited over the last several months and years, I would add. This bill is a product of their tremendous efforts to restore fairness and accountability and we must have accountability in the transportation budgeting. In 1994 in my home State of Illinois, the gas tax amounted to $663 million. It is imperative that these trust funds be used for essential improvements and repairs to our infrastructure.

Mr. Chairman, it is time that our highways and airports receive the funding they deserve and this can only be done by moving the trust funds off-budget. Keeping the trust funds as part of the unified budget has had a severe impact on my home State of Illinois and the other States in the country.

I urge my colleagues to support honesty and fairness in the budgeting process and support this bill.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the gentlewoman from Missouri [Ms. MCCARTHY].

Ms. MCCARTHY. I thank the gentleman from Minnesota for yielding me this time.

Mr. Chairman, I rise in support of H.R. 842, the Truth in Budgeting Act. For more than 40 years Americans have been contributing to transportation trust funds designed to ensure a safe, efficient, and reliable transportation infrastructure.

Since 1969, these trust funds have been included as part of the unified budget for the purpose of masking the extent of our deficit spending. The budget chairman's chart revealed what's been spent—but no mention of the unmet needs of this Nation. In my State of Missouri, we have more than $1.7 billion in unmet highway needs, including 261 lane miles of 4-lane highway needs, and 136 bridges in need of major repair or replacement.

Mr. Chairman, balancing the budget was a priority when I campaigned for Congress, and I have worked hard to reach that goal. But in our quest for a balanced budget, it makes no sense to let our infrastructure fall into disrepair. Each year we will find ourselves in a greater dilemma if we refuse to seriously address our many transportation needs today.

The Truth in Budgeting Act will remove the transportation trust funds from the artificial constraints that prevent needed money from being released. It will allow for greater investment in our Nation's future, and reward the American people's commitment to a strong transportation infrastructure.

I urge my colleagues to support H.R. 842.

Mr. OBERSTAR. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Chairman, I rise in strong support of H.R. 842, the Truth in Budgeting Act. I am a proud cosponsor of this much needed legislation, because I believe it reflects a strong commitment to improving and maintaining our Nation's transportation infrastructure.

Very simply, H.R. 842 will take the four Federal transportation trust funds out of the unified budget. This is the same budgetary treatment given the Social Security and U.S. Postal Service trust funds, and it is the right thing to do. Every day, millions of tax dollars are collected through the sale of motor fuel and airline tickets. These taxes are designed to build and maintain our transportation infrastructure system. Unfortunately, because the trust funds are part of the unified budget, their positive balances have been wrongly used to mask deficit spending.

Mr. Chairman, our continued investment in highways, airports, waterways and ports is of critical importance to the 19th Congressional District of Illinois. Taking the four transportation trust funds off budget is a fair way to ensure that tax dollars collected to improve and maintain our transportation infrasture, are used for that purpose. I urge my colleagues to join with me, and the other 224 cosponsors of H.R. 842, in supporting this important legislation.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Chairman, I support the Truth in Budgeting Act. You may ask why? I would like to give one example.

Federal highway transportation funds were designated to expand the Niblick Bridge in Paso Robles, within my district. The funds were appropriated, yet they could not be used immediately because an environmental impact statement needed to be conducted before the construction of the bridge could commence.

Hundreds of thousands of State and local dollars had been invested in repairing the bridge and conducting the mandated environmental reports to comply with regulations to build the bridge. This took time. In fact, 4 years to be exact. Because all the moneys could not be used immediately, the budgeters wanted to rescind these unprotected dollars to mask the deficit rather than use them for their intended use, which is to repair and strengthen our existing transportation infrastructure within the United States.

Well, I believe that if you collect a tax for a specific purpose, then, by golly, you should use it for that specific purpose. So for that reason, I urge my colleagues to strongly support the Truth in Budgeting Act.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, we have heard, I believe, some really interesting and creative accounting here with the chart from the chairman of the Committee on the Budget and the ranking member. They would have us believe that, over time and currently, that we are spending more than we collect in dedicated taxes to maintain the transportation infrastructure of our country, and they are most interested in balancing the budget and keeping the books straight.

If that were true, then I am confused as to why the Committee on the Budget chairman and the ranking member are not supporting this bill. If it is true that we are now subsidizing these trust funds, I am willing to live with reality. Let us only spend the dedicated taxes that we take in that are levied on the people of the United States, in gas taxes and in ticket taxes and other taxes that support this infrastructure. Let us only spend that.

I am willing to live with that. Are they? No, they are not, because in fact they are taking money out the back door to defray other expenses of the Federal Government. They are borrowing every penny that is accumulated in the trust fund balance, and it has been spent and replaced by IOU's.

It is also interesting to me that in a Congress that is interested in growth and investment, that we do not have a little more discussion from some of those in opposition about what it means to spend money that is invested. If you spend money in a bridge, a highway, in mass transit, that money will provide economic benefits for decades to come. Yet we treat that the same as money spent for a one-time expenditure of something consumable and thrown away by the Federal Government. Does that make any sense? It makes no sense whatsoever.

These funds are raised to be invested to improve the transportation and infrastructure of this country, and no one in this body can tell me or any other Member who is informed that we have met those needs, with bridges falling into the rivers and highways in disrepair and mass transit going unbuilt. We need to get these funds off-budget

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. QUINN].

Mr. QUINN. Mr. Chairman, I rise in strong support of H.R. 842, the Truth in Budgeting Act.

Mr. Chairman, I support this legislation for many reasons because I believe that the infrastructure of our Nation is vital to our economic viability. This is true, and it is backed up by statistics that say that more than 40 percent of highway use is by businesses and small businesses alone.

Mr. Chairman, I have heard from small businesses in my district that are currently paying the largest taxes. They are also the largest job producing segment in my district and in districts all across the country. They make the largest contribution, small businesses do, to these funds, and they want to make sure that these trust funds are restricted and they are not used for other things than they are intended for.

I have heard from a constituent in my district, Melvin Rupp, a small business owner. If those in opposition to this legislation think that the people back home do not know what it is about, then they are sorely mistaken. Mr. Rupp and others in my district have urged me to do what is right, to protect these funds for their intended use, to stop using these funds for masking the deficit and to support a real balanced budget.

I ask strong support for H.R. 842, and thank our chairman and ranking member for the work they have done on it.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the gentleman from Iowa [Mr. LATHAM].

Mr. LATHAM. Mr. Chairman, I thank the gentleman for this opportunity and rise in support of this bill.

The reason is, when you look at a rural district like I have in northwest Iowa and the tremendous infrastructure demands that we have in an agricultural area, our roads are crumbling. In the last 5 years the State of Iowa has been denied about $87 million that could have gone into roads and bridges, to build infrastructure, because we have decided to spend those dollars someplace else.

I am as conservative as anyone on the floor here as far as trying to balance the budget. If I thought that this was part of the problem, I would not be supporting this. But, in fact, our problem as far as the budget is our addiction to spending more money in social programs and consuming for today and not investing in the future.

What this is all about is putting dollars that are paid by users to go into infrastructure, to go into roads, to try and maintain our economy and to create jobs. I support this bill.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Ohio [Mr. LATOURETTE].

Mr. LATOURETTE. Mr. Chairman, I rise today in strong support of H.R. 842, the Truth in Budgeting Act. This is a measure that will affect every American who buys gasoline in his or her car or buys airline tickets. Americans currently pay an 18.4-cent tax on gasoline and a 10-percent tax on airline tickets. This money, approximately $80 million a day, is placed into the transportation trust fund and is supposed to be used to pay for urgently needed infrastructure such as maintenance of our highways. Instead, the Federal Government for years has been hoarding much of this tax money and using it to mask the true size of the deficit. This means the Federal Government is essentially stealing from Americans each time they travel.

What does this all mean to Ohio drivers? The Ohio Department of Transportation estimates that Ohio sends about $1 billion in Federal gas taxes to Washington annually. Unfortunately, the State gets back only about $600 million of that money. Of the remaining millions, $345 million is used to hide the size of the deficit while the rest of the money disappears into what ODOT calls a bureaucratic black hole inside the Beltway.

Mr. Chairman, I urge support and passage of H.R. 842.

Mr. SHUSTER. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman, as manager, is entitled to close debate.

Mr. SHAYS. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey [Mr. FRELINGHUYSEN].

Mr. FRELINGHUYSEN. Mr. Chairman, I rise to oppose this proposal. This issue, Mr. Chairman, ultimately comes down to congressional accountability and integrity. If Congress removes the transportation trust funds from the budget and therefore budget scrutiny, it will set forth a dangerous precedent for the other 160 trust funds under Federal jurisdiction. The progress was made in last year's budget for funding the Pell grants, veterans health care and housing improvements for our military families would be at risk if the transportation trust funds were taken off-budget. If we take this action, where are these cuts going to come from?

Appropriations are not Houdini. If you tie our hands and drop us in a pool, do not expect us to get our heads above water.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from West Virginia [Mr. WISE].

Mr. WISE. I thank the gentleman for yielding me the time.

Mr. Chairman, I often hear the refrain which I agree with that you ought to treat the Federal budget like you do your family budget, your business budget, maybe even your State or county government budget. I happen to believe in that maxim and I believe in another maxim. You ought to get what you pay for. And if you pay a dedicated tax, you ought to get what it is dedicated to. And if you pay 18.4 cents at the gas pump for roads and bridges and maintenance and construction, you ought to get 18.4 cents worth of roads and bridges and construction. So that is one essential reason that this is such a crucial vote today.

There is another reason. I want to deal with those who say, "If you take this off-budget, then it hurts other areas of the discretionary budget." Well, there is one thing that Republicans and Democrats agree on and that is the need for growth. There is one thing that unfortunately neither the Republican nor Democratic budget has in it, and that is adequate growth. The best I have seen is a 2.5-percent increase every year. The worst is 2.3-percent and neither one is a growth budget. This is growth. The only way you grow is to invest in your country, in your stock, in your physical infrastructure—your roads, your bridges, your water systems, your sewer systems, your airports, your locks and dams. that is how you grow. It has also been documented that building infrastructure also improves productivity, another key to growth. So if you want to grow and we want to make sure that there is adequate money in that budget for all the programs that are so important, you have to support growth. That means you have to support investment. That means you have to support this bill because this does guarantee the investment that is so important.

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Mr. SHAYS. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Chairman, 1½ minutes is not very long. Let me tell you my version of why this is not a good bill.

Mr. Chairman, everybody is for using the gas tax receipts that go into the trust fund for the purpose of highway construction. I am for that. Let me make it very clear. Every cent raised in gas taxes has been spent for highway construction since it was first started in 1956.

Let me tell you my version of what the argument is really about. During the Vietnam war, we transferred some of the highway trust fund money for the war effort. That has now accumulated over the years additional interest, which is technically part of the trust fund. That interest now represents a cash balance of $19 billion. This is the issue. The authorizing committee would like to now have the authority to spend that additional $19 billion that has been accumulated in interest.

Let me tell you very briefly why that is not fair. Since 1956, we have spent approximately $41 billion out of the general fund for road and highway construction. We have spent approximately $41 billion out of the general fund for the construction of mass transit. We have authorized those amounts. That is why the cash balance has in fact already been spent. There should be a tradeoff. The $19 billion should not now be spent to shortchange other spending of the Federal Government and really disrupt our opportunity to balance the budget.

Mr. OBERSTAR. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman is recognized for 3 minutes.

Mr. OBERSTAR. Mr. Chairman, we have heard now in the course of this rather lengthy debate from all the bogeymen with their scare arguments about unrestrained spending on transportation projects. The face is that there is restraint. It is written into the highway trust fund language, has been since the beginning in 1956, that this fund is antideficit, that it cannot run a deficit. It has not, and it will not.

But in addition to that, there is additional restraint or further restraint from the Office of Management and Budget, which must review and put its stamp of approval on highway funding requests from the Department of Transportation. There is review by the White House. There is review by the Committee on the Budget. There is review by the Committee on Appropriations. And there will continue to be, under this legislation.

The second argument about interest, you just heard a discourse a moment ago from our good friend from Michigan about interest. Would any of the members of the Committee on Appropriations, would any Member of this body argue that the Federal Government should not pay interest to purchasers of U.S. Treasury securities? Should we not have paid interest on war bonds for World War II or World War I? Should we not pay interest to those domestic and foreign interests that buy U.S. Treasury notes, that in fact underwrite our deficit? Should we welch to those who buy U.S. Treasury notes, not pay interest to them?

No, of course not. Nor should we welch on those highway users and aviation users and waterway users whose tax dollars are used to purchase U.S. Treasury securities and on which interest is owed.

That is what we are talking about here, fairness.

Then, finally, from various Members, that old pork-barrel nostrum, tired old argument, dragged out every time they run out of steam on the merits of the issues. The fact is, this is a fairness issue. People agreed to be taxed to build highways and bridges, to build runways at airports, to deepen our waterways and our ports. It was Abraham Lincoln who first said if you do not have a tax to build a waterway, you will never get the revenue out of that waterway to build this Nation, in 1848 as a Member of this body.

This is a basic fairness issue. You agree to be taxed for a benefit to be derived, and that is what this legislation is all about.

GENERAL IMPORTANCE OF TAKING TRANSPORTATION TRUST FUNDS OFF-BUDGET

Trust fund: Dedicated revenue stream—freeing the Transportation Trust Funds from the artificial and unnecessary constraints of the budget process will allow those desperately needed funds to reverse the deterioration of the Nation's infrastructure; and

Improved infrastructure will create jobs and increase the productivity and efficiency of our industries, thereby enhancing the United States position in this fiercely competitive global economy.

DECLINE IN INFRASTRUCTURE INVESTMENT

Infrastructure investment as a percentage of the gross domestic product [GDP] fell from 1.2 percent in 1980 to 0.8 percent in 1995;

Infrastructure spending as a percentage of Federal spending declined over the past 30 years from a high of 6.3 percent in 1965 to 2.8 percent in 1994;

Infrastructure spending from 1981 to 1992 fell by $12 billion from $43.9 billion in 1980 to $31.9 billion by 1992, in constant dollars;

At the same time, our economic competitors have been devoting substantial resources to their long-term investments: Japan is spending $3 trillion over 10 years to improve its infrastructure; Germany is investing nearly $2 trillion in infrastructure to fully integrate its eastern states into Europe's most powerful economy; and even Taiwan is proposing to spend more than $100 billion over 5 years to improve and expand its infrastructure;

Overall, the U.S. ranks 55th in the world in infrastructure spending, based on 1993 statistics; and

Our lack of investment is affecting our Nation's ability to compete—from 1979 to 1989, the United States productivity growth rate was only 35 percent of the average of other industrialized countries.

REAL LIFE CONSEQUENCES OF DECLINE IN INFRASTRUCTURE INVESTMENT

Our failure to develop our transportation infrastructure has had serious, real-life consequences;

Commuters waste 2 billion hours annually sitting in traffic because of freeway delays—costing our economy $45 billion per year in wasted fuel and lost productivity in our Nation's 50 largest cities alone;

Fifteen locks on the inland waterway system average more than 3 hours of delay per barge ton because of antiquated and outdated locks and dams;

Projected growth will also occur under the budget proposals of the Republican Congress. In fact, that was the case with the budget resolution the Budget Committee brought to the House floor last year;

Taking the Transportation Trust Funds off budget would not add to the deficit; and

In scoring H.R. 842, CBO said, "By itself, taking programs off-budget does not change total spending or revenue estimates for Congressional score keeping purposes."

UNIQUENESS OF TRANSPORTATION TRUST FUNDS

They are wholly self-financed by the user;

They have dedicated revenue sources;

They are self-supporting, operating on a pay-as-you-go basis;

They are deficit-proof, with expenditures limited to receipts

They invest in infrastructure capital programs; and

They finance long-range construction programs, which benefit from certainty in funding.

TAKING THE TRUST FUNDS OFF-BUDGET DOES NOT MEAN WE WOULD LOSE CONTROL OF SPENDING

Taking the Transportation Trust Funds off-budget also does not alter the current authorization and appropriations process;

According to CBO, "The likelihood and amount of potential increase—in transportation investments—are very uncertain because they depend upon the future actions of both the authorizing and appropriations committees;"

Under H.R. 842, the Secretary of Transportation and the Secretary of the Treasury would review Aviation, Inland Waterways and Harbor Maintenance Fund spending annually and reduce proportionately for any trust fund in which projected revenues would exceed authorizations;

That review is similar to the so-called Byrd amendment in the highway program which insures that the Highway Trust Fund can never operate in a deficit;

All Transportation Trust Fund expenditures would be limited to receipts and subject to authorizations legislated by both Houses and signed into law; and

The Appropriations Committee could still continue to include an annual obligation ceiling on transportation programs to control spending further.

Mr. SHAYS. Mr. Chairman, I yield 1½ minutes to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Chairman, I am completely opposed to this amendment because it is such horrible, horrible policy. It misses the fundamental point of how we raise money, of how we tax and why we tax and what the circumstances are for taxation.

The fact is, why do we tax gas? Sure, there is some connection between the tax that is raised and spending on the roads. But we tax gas because we can tax gas, because we are able to tax gas, the same way that we tax tobacco and alcohol and income and tariffs on goods that come into this country. It fundamentally misses the whole point. Once you go into this kind of a policy, you are running down a slippery slope that makes absolutely no sense whatsoever.

This is just terrible, terrible policy. Do we take all of the money that we tax alcohol and tobacco with and put it into the BATF? I do not think so. Do we take all of the money that we use taxing goods that come into this country under tariffs and use it to fund the customs agency? No.

This notion, and maybe what this means is we should not have had a trust fund in the first place. I will grant you that. But the idea that somehow this is separate and that it ought to be absolutely dedicated only to one thing just completely misses the fundamental model of taxation, the fundamental model of why we do this in the first place. When you understand that, then you understand that this whole bogey about interest and we should be paying interest on this phony trust fund that does not exist becomes a nonargument completely.

Mr. SABO. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I expect, like in all of these debates, certain things are overstated on both sides. But the reality is, again, there is simply no Santa Claus, no little secret pool of money, that someone can spend that does not impact deficits.

Deficits on a year-to-year basis are based on revenue coming in and outlays going out. The reality is, I listened to the advocates of this proposal, and it sounds like there is going to be a lot more money to spend on highways, but it is not going to cost anything. I do not know where the money is coming from.

The reality is that since 1981 we have spent more on highways that the total collected from the gas tax, even adding in that very generous interest allocation to the highway trust fund.

The reality is that in current years, 1994, 1995, we are spending more than what we are getting in gas tax, more than what the trust fund is getting in this very generous interest allocation to the trust fund. So the gas tax is not subsidizing anything else.

The question is whether we should take some of this surplus in this fund, which accumulated in the seventies, peaked in 1979, and start spending that now beyond current revenues, beyond interest, at a point in time we are trying to move to get our Federal budget balance of revenues and outlays in order.

The advocates say now we are going to do it. We are going to give this program priority over everything else, and if this goes up, the balance of funds coming down, something else has to be cut deeper. That is just simply the reality, if you want to hit a deficit target or try to get in balance.

If you do not want to hit a deficit target year by year, or if you do not want to be in balance within 6 or 7 years, or 5 or 8, whatever one has in mind, then you can do this. But if you have a deficit target in mind, this is a dollar-for-dollar trade-off with other priorities.

So I think we make a mistake when we set up these little kingdoms, removed from the normal budget process, that say you can go ahead and do what you like; removed from all the other arguments, the give-and-take of the legislative process, in setting our priorities on a year-to-year basis.

It is not going to be the end of the world, but it is just a foolish step to take at this point in time, so I would hope the House would defeat this bill.

Mr. SMITH of Michigan. Mr. Chairman, I yield the balance of my time to the gentleman from Connecticut, Mr. SHAYS, one of the distinguished leaders of the Committee on the Budget.

The CHAIRMAN. The gentleman from Connecticut is recognized for 1¾ minutes.

Mr. SHAYS. Mr. Chairman, there are arguments on both sides. It is not so cut and dry that it is so obvious to all of us. But while some call this the Truth in Budgeting Act, and they are right to call it that, there would be some truth in budgeting, I would call it the Unbalanced Budget Act of 1996, or, frankly, the pork barrel bill of 1996, because what it means is we are going to provide $50 billion more and make it available to people who want to spend on roads and bridges.

There is an opportunity cost. If you spend $50 billion more here, you have to do something to compensate. Are we going to cut defense? No. Are we going to raise taxes? Out of the question. So what it means is there will be, in my judgment, continued deficits to the tune of $50 billion.

Mr. Speaker, the Concord Coalition says, "Passage of this legislation would severely jeopardize the chances of balancing the Federal budget and would be detrimental to the budget process."

The National Taxpayers Union says, "Placing these trust funds off budget is nothing less than a ploy to increase spending."

The Citizens Against Government Waste say, "The Truth in Budgeting Act sounds great to the public, but it is simply a ruse to increase the $5 trillion national debt."

The Americans for Tax Reform say, "American taxpayers want real reform of the budget process and not business as usual. They are depending on you to lead the fight in protecting the American taxpayers from the special interests who are trying to escape the scrutiny of fiscal responsibility."

The Committee for Responsible Federal Budget says, "Proponents of H.R. 842 want to make some spending invisible, pretend that it pays for itself, and thus insulate favored programs from regular review and scrutiny."

Citizens for a Sound Economy say, "Shielding the transportation trusts from fiscal scrutiny and accountability perpetuates pork-barrel spending and works counter to all efforts to reduce the deficit control government standing."

This is happening under our Republican watch? We are going to all this to happen, when we have purported to want to balance the budget by the year 2002.

In my judgment, Mr. Speaker, this is a dead end, and I hope we reject it.

The CHAIRMAN. The gentleman from Pennsylvania is entitled to close debate and is recognized for 7 minutes.

Mr. SHUSTER. Mr. Chairman, many of the speakers today who have expressed their opposition to this legislation have said time-and-time again that if this passes, it would be more difficult to balance the budget.

Let us think about that for a minute. I would suggest that that is a clear, implicit, admission that their intention is to continue to use these transportation trust funds to mask the size of the deficit.

Now, nobody has had the courage really to stand up and say that directly, to say, yes, we want to use these transportation trust funds to mask the size of the general fund deficit, but that is the only logical inference one can draw. That is implicit in their statement. They apparently think it is right. Many think it is wrong. Some 224 Members of this body, a majority, have cosponsored this legislation.

My good friend talked about Republicans. Republicans historically in the past have voted, over 60 percent of Republicans, in favor of taking these transportation trust funds off budget, because they see this not only as a financial issue, but as an issue of honesty in government.

Indeed, many of us believe that it is wrong to tell the American people we are going to take your gas tax or we are going to take your airplane ticket tax, promise you we are going to use it for transportation improvements, and then instead not spend the money and use it to mask the size of the general fund deficit.

My good friend from Ohio said there is no difference between these trust fund taxes, these user taxes, and general taxes. He is certainly entitled to his point of view. However, that is not really what we are debating today.

Over the years this Congress has said the trust funds are different. Why would we call them trust funds if they were not any different? They are different because, in our case here today, these user fees are paid for and a promise is made they will be spent for the purpose intended.

Facts are stubborn things, and we have heard an awful lot of rhetoric and even a little bit of myth here today.

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We have heard, quote, more money has come in to the trust fund than has gone out. That is interesting. Is there or is there not a $30 billion balance in the trust fund? Does anybody dispute it? Right there on the chart are the balances from the Treasury Department. Does anybody here dispute there is a $30 billion balance in the transportation trust funds? Well, I think not, because that is a fact. Facts are stubborn things.

We have heard that if this passes we will have a blank check for spending. We have heard that spending will be uncontrolled. We have heard this is a Santa Claus. Well, I would suggest that Pinnochio is a more accurate comparison, because this Government has played Pinnochio, lying to the American people and saying that if they pay their gas tax that we will spend it in transportation; pay your aviation ticket tax and we will spend it, and then we have not spent it. A $30 billion balance.

Indeed, we have also heard that the line item veto will not apply here. Well, we have said and I have said in the debate very clearly that the line item veto does apply. However, there seems to be some dispute over that, so I will offer an amendment to make it very clear that the line-item veto does apply. So this is unprotected? Unprotected with a line item veto?

But that is not all, Mr. Chairman. Does anybody dispute the fact that if this passes the Committee on Appropriations still has the jurisdiction and the authority to set the obligational ceiling? I have heard nobody disagree with that. I would expect nobody would because it is a fact. Facts are stubbon things, and the fact is if this passes, the Committee on Appropriations will continue to have the authority to set the ceiling on what can be spent each year.

We have even heard this referred to as an entitlement. Well, facts are stubborn things. It is not an entitlement. That is a fact. This is subject to annual control. The annual control of the Committee on Appropriations, the annual control of the President in his line-item veto.

So, indeed, facts are stubborn things, and there are substantial controls, perhaps the most important of which is, under the law you cannot spend a penny out of these trust funds unless the money is there to pay the bills. This program, these transportation programs are deficit proof.

Oh, if we only had other programs like this that would be deficit proof, then, indeed, we would not have the massive deficit that we have.

We have also heard that the interest technically, technically, is being counted here. Well, I guess it is a small technicality. It is called the law of the land, which says if an individual buys a Government bond they get interest on it. And so the Treasury Department, under the law, must pay that interest.

Indeed, the Social Security trust fund, in its reserves, nearly 50 percent of the reserves in the Social Security trust fund is based on interest. Are we going to tell the American people, aha, we are not really going to count the interest in the Social Security trust fund. Of course not. And let us be equally fair here. Obviously, under the law, the interest must be counted.

We have heard about the so-called special interests that support this. Well, I guess there are 260 million special interests called the American people who will benefit from better highways and better airports, but there are some other special interests. The National Federation of Independent Businesses, the Small Business Legislative Council, the American Farm Bureau, the National Grange, the Air Traffic Controllers, who care about safety. And we all better care about safety and spend some more money to make our air traffic control system safe. Women First. On and on the list goes.

But let me share with you some other so-called special interests. The National Association of Counties across America. Is that a special interest? The National Conference of State Legislatures. Is that a special interest? The National League of Cities, where our people live in urban areas. Is that a special interest? No. Many, many, many Americans strongly support this because we need fairness, we need honesty in budgeting and we need to live up to our promises to the American people.

And let me also emphasize in closing that while we have heard the argument what about the other trust funds, the transportation trust funds are the only trust funds that are totally user financed, that are deficit proof, that are not entitlements but annually controlled. These are, indeed, different, and for that reason we should vigorously support this legislation.

Mr. CRAMER. Mr. Chairman, I rise in support of the Truth in Budgeting Act of 1996 and in opposition to Mr. MINGE's amendment ending off-budget status of the trust fund if there is funding for transportation projects from general revenue.

Initially, the creation of the transportation trust funds assured our state and local governments a steady, dependable stream of Federal assistance necessary in undertaking long-term projects. Those who benefited from the transportation programs paid for the program.

Today, inclusion of these trust funds in the unified Federal budget has resulted in enormous surpluses—moneys which are desperately needed for improvements to our Nation's transportation systems.

Specifically, I must oppose Mr. MINGE's amendment. It provides off-budget status would cease if any general funds are spent on the construction, rehabilitation, and maintenance of highways or grants-in-aid for airports or for aviation-related facilities, equipment, and research engineering.

This amendment is too broad as it would cover any highway or aviation general-fund spending. For example, if a law coming from a committee, or a report accompanying a law coming from a committee provides general funds for any highway or aviation program, the off-budget status of the transportation trust funds would end.

On the issue of general funds, let me give a few examples: if there were general funds appropriated through EDA or DOD that could be used for highway purposes, then under the amendment the trust funds would no longer be off-budget. Even if there were general funds appropriated for highway or aviation research and development that too would put the trust fund back on-budget.

Mr. Chairman, anyone who supports H.R. 842 should oppose this amendment.

Mrs. KELLY. Mr. Chairman, I rise in strong support of H.R. 842, legislation which will restore honesty and integrity in the manner in which we utilize the transportation trust funds.

H.R. 842 will remove the four transportation trust funds—the highway trust fund, the airport and airway trust fund, the inland waterways trust fund, and the harbor maintenance trust fund—from the totals of the budget submitted by the President and the congressional budget.

In other words, the bill takes these trust funds off budget and puts a stop to the time-worn practice of using them to mask the size of the deficit.

The legislation should be adopted for a number of reasons, Mr. Chairman. Investment in infrastructure means jobs for American companies and American workers. Improved infrastructure also translates into a more productive economy, and boosts our competitiveness in the world market.

The most important reason to pass H.R. 842, however, is trust. Every time a motorist fills up at the gas pump, they do so with the understanding that the Federal gas taxes they are paying will be invested in new and improved roads, bridges, transit systems, and other needed infrastructure improvements. By failing to use these moneys for their intended purpose we are, in effect, violating that trust.

This failure to live up to the public trust comes at a price, as well. It is estimated that New York has lost nearly $390 million between the years of 1992 and 1996 due to the failure to fully fund the program at authorized levels.

Let's keep our promise to the American people, Mr. Chairman, and use the trust fund moneys for the purpose for which they were intended—developing and improving the Nation's roadways, airways, and waterways.

Mr. DOYLE. Mr. Chairman, as a cosponsor of H.R. 842, the Truth in Budgeting Act, I rise today to urge my colleagues to view this legislation not solely as a transportation issue, but as an issue on tax fairness.

The Truth in Budgeting Act would move our Federal transportation trust funds off budget, separate from the Federal unified budget. Currently, with these funds "on-budget" the surpluses are used to mask a portion of our true budget deficit which prevents these funds from being used in the manner they were intended. During this time of severe budgetary pressure, it is critical for State and local governments to receive general funding support, and should benefit equitable from the transportation taxes-user fees they send to Washington to be used for transportation purposes.

As I have the privilege to represent the 18th Congressional District of Pennsylvania, I can most assuredly tell you that my constituents are concerned about funding for vital transportation projects in the southwestern part of our State. Many of you are probably familiar with the equipment problems the towers at the Pittsburgh International Airport have been experiencing. Along with the FAA Revitalization Act, H.R. 2276, this bill will help to ensure that such incidents of grave public and transportation safety will receive the urgent response they demand.

The Truth in Budgeting Act would also enhance our communitys' abilities to plan important infrastructure investments and complete transportation projects. A community's mobility is a measure of its quality of life and the competitiveness of its economy. The efficient, cost effective movement of people and goods is vital for individuals and for the businesses that contribute and bolster our Nation's economy. The decline of the industrial corridor of southwestern Pennsylvania in the 1980's has been well documented. The loss of employment opportunities effected nearly one-half million people from the Mon Valley. A decade later, there remains a significant amount of work to be done to combat this economic devastation.

The Mon Valley Expressway would for the first time provide this region physical and economic access to Pittsburgh. I am confident that the Mon Valley Expressway will prove to be as much of an infrastructure and economic success as I–279, and the East and West Parkways. We cannot afford to not complete economically rejuvenating projects such as the Mon Valley Expressway.

As an advocate of capital budgeting and economic development, I urge my colleagues to support H.R. 842, the Truth in Budgeting Act.

Mr. EWING. Mr. Chairman, I rise today in support of H.R. 842, the Truth in Budgeting Act. Strong and persuasive arguments have been presented on both sides of the transportation trust funds off budget issue. However, I believe the overriding issue is that the American public should receive $1 worth of value for every dollar of dedicated user taxes for transportation improvements collected by the Federal Government and that such funds should not be used to mask the size of the Federal deficit. This is not a debate about balancing the budget, it is a debate about honesty in government! If all of the specific transportation user taxes are not going to be used for transportation improvements, then the amount of user taxes collected for the trust funds should be reduced.

Let's be clear about the debate today. The Budget and Appropriations Committees object to moving the dedicated transportation trust funds off budget because they will lose the ability to apply the unexpended balances in the trust funds back against other total discretionary spending levels in the budget—thereby keeping spending in other budget functions under the legal spending caps. They argue that removing the trust funds from the unified budget will result in more pork barrel spending, drastic cuts in other discretionary programs, and make it impossible to balance the budget.

The truth is most of the funds paid out of the transportation trust funds are disbursed to States through established formulas. The Appropriations Committee can always choose not to fund pork barrel highway demonstration projects. The president will have line-item veto authority starting in 1997. Appropriators and budgeteers are playing shell games when they apply paper excesses in one government account back against real borrowing for real deficit spending in other areas of the budget. Finally, collecting taxes for a dedicated purpose, and then using the taxes to support other unrelated spending is dishonest and not fiscally responsible, and it is certainly not the right way to balance the budget!

Testimony before the Transportation and Infrastructure Committee, from all segments of the transportation community, leave no doubt that the demands upon our Nation's existing transportation infrastructure are going to increase significantly over the next decade.

Since our Nation's transportation infrastructure is already under funded, it stands to reason that this disparity will only continue to grow under the current arrangement. This situation is particularly damaging to States like Illinois, which pays more in taxes than it receives in benefits. When the total appropriated amount is reduced it is donor States, like Illinois, Michigan, New York, and California that are hurt the most, because they must wait until other States are paid their guaranteed allotments before their greater needs are funded. Placing the transportation trust funds off budget is the best way to correct this funding disparity, and why not? The taxpayers of these donor States are already paying for it!

In closing, I want to urge my colleagues to accept the premise, if Congress is going to mandate dedicated transportation user taxes, then Congress has a responsibility to ensure the public that these taxes are being used for their intended purpose—not to hide other deficit spending. The condition of our Nation's transportation infrastructure is critical to our Nation's economic health, let's protect the transportation trust funds. Vote aye on H.R. 842.

Mr. EVANS. Mr. Chairman. I rise today in support of H.R. 842, the Truth in Budgeting Act which would restore our Nation's transportation trust funds to their original purpose of serving the people. This bill would also restore the trust of the American taxpayer who has contributed billions of dollars in taxes and user fees to maintain this country's transportation infrastructure.

We have certainly abused this trust by allowing our Nation's roads, trains, airways, and waterways to deteriorate. Our transportation infrastructure is in desperate need of the money that will be freed by removing the trust fund off budget. According to a recent Department of Transportation report, approximately 30 percent of the interstate pavement on our highways is in poor condition. In fact, there are about $360 billion in unmet highway and bridge needs in this country.

Because of fiscal constraints, the Centennial Bridge in Rock Island County, IL, has fallen into severe disrepair. However, if these trust fund dollars are released for the purposes intended, the bridge authority will be able to make infrastructural improvements needed to keep this major crossing of the Mississippi River safe and viable for years to come.

I also share the outrage of many of my constituents about last year's drastic cuts in transit funding. Hard-working Americans have paid their fair share to help maintain healthy mass transit systems. Mass transit is the lifeblood of our cities and our suburban and rural communities. It provides a way to work for millions of middle- and low-income Americans. We cannot continue to jeopardize their livelihoods by using these transit dollars for other unintended purposes.

We cannot continue to use the billions of dollars accrued in the transportation trust funds used to mask the true size of the deficit at the expense of deteriorating roads, bridges, and tunnels, and failing bus terminals and airports. The American people have suffered long enough. The time has come to allow these funds to rejuvenate our decaying infrastructure. We need to maintain a safe, efficient, and cost effective transportation infrastructure.

This vote presents us the opportunity to meet critical highway and transit needs with honesty and accountability. I urge my colleagues to restore the faith the American people have given us by supporting this Truth In Budgeting Act.

Mr. EMERSON. Mr. Chairman, I rise in strong support of H.R. 842, the Truth in Budgeting Act, because it does just that: it requires Congress to be truthful with the American people about where their money is going. We have made reducing the Federal deficit a major theme of this Congress, and yet some want to continue to use the transportation trust fund to hide the true size of the deficit. Ladies and gentlemen, that is smoke and mirrors, plain and simple. We must be consistent with our approach to tackling this country's fiscal problems. We cannot simultaneously talk about cutting the deficit and eliminating unneeded programs and yet continue to engage in a policy that does not honestly address the true size and nature of our deficit. This Congress needs to be truthful with the American people.

Mr. Speaker, we have been persistent and determined in our attempts to balance the budget because we know that our current spending patterns are taking away from future generations. The same issue applies here. Money set aside for the transportation trust fund should be used for transportation and infrastructure projects that will benefit our children and grandchildren. This money should not be subject to the political whims of the day because it is, quite literally, an investment in this Nation's future. By taking this fund off-budget we are ensuring that the money necessary to maintain and expand our current national transportation system will be available as this country moves into the 21st century. My home State of Missouri continues to fall behind in its infrastructure needs. It is imperative that as Missouri and other States expand their markets abroad and increase their exports that we maintain our vast network of highways, railways, ports, and airports.

Experts from around the country have told us that investment in our transportation system is a key ingredient to America's competitiveness and economic vitality in the next century. However, the 1995 budget resolution reduces transportation spending by 20 percent by the year 2002, precisely the time when our Nation will be in need of major infrastructure repairs. In fact, the Department of Transportation estimates that this country needs to invest an average of $74 billion annually over the next 20 years on transportation projects—that is double what was spent in 1994! Whether or not everyone agrees with these figures, the facts are obvious enough: the United States needs serious investment in our transportation system in the coming decades, and an off-budget trust fund ensures that we have the money that is necessary.

Mr. Speaker, this trust fund is made up entirely from user fees. It is very obvious that those fees should go to pay for infrastructure repairs and nothing else. That is what a user fee is for—to maintain and expand the services that require the fee. To spend it on anything other than what it is intended for is bad policy and downright dishonest, and I reject the notion that we can just take this money and use it as general revenue.

Mr. Speaker, for the safety of our children and to promote the economic growth of our country, we must ensure that the Nation's infrastructure and transportation system is not allowed to decay and collapse. That is why I urge my colleagues to be truthful with the American people and support the Truth in Budgeting Act.

Mr. COSTELLO. Mr. Chairman, I want to express my strong support for the bill, H.R. 842. As a cosponsor of this important legislation, I believe taking the self-financed trust funds off budget is not only appropriate but necessary.

Currently, the accumulated cash balanced of the highway trust fund, the airport and airways trust fund, the harbor maintenance trust fund and the inland waterways trust fund exceeds $30 billion and will reach as high as $77 billion by the year 2002. When these trust funds were credited, the users who contributed to the funds believed their taxes would go toward necessary improvements and maintenance of the Nation's transportation system. Because of the direct connection between the tax imposed and the benefit derived from improvements in transportation infrastructure, taxpayers strongly support the payment of transportation user fees. This support will not continue to exist if the trust funds continue to be used to make the Federal deficit appear smaller.

Taking the transportation trust funds off budget will restore faith with the taxpayers. But this issue is not only about tax fairness, it's also about jobs and economic productivity. Every dollar spent in highway, transit and aviation construction improves a nationwide system upon which the people and commerce of the United States depend. Our transportation system continues to be our Government's best investment. Since the 1950's, as much as 25 percent of America's productivity growth can be credited to infrastructure improvements. For example, recent Department of Transportation studies show that every $1 billion invested in highway construction and enhancements yields 42,000 good high-wage jobs.

These are among the reasons why I am supporting H.R. 842 and why I will work for passage of this important legislation.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I rise in strong support of H.R. 842, the Truth in Budgeting Act. This legislation is critical to the viability of the Nation's highway program and to ensuring tax fairness.

The transportation trust funds were created with a special obligation between Congress and transportation users—that these user fees would be used to construct, rebuild and maintain our Nation's transportation infrastructure. Currently highway users contribute over $5 billion annually toward deficit reduction. Further reductions in spending from this program will increase trust fund balances and ignore the commitments made to taxpayers.

Mr. Chairman, while budgetary manipulation restrains investment, America's transportation needs continue to grow. The Department of Transportation recently reported that just to maintain current conditions would require an annual investment of $44.8 billion for highways, $5.1 billion for bridges and $7.3 billion for transit systems. Actual 1993 outlays for these purposes were $34.8 billion by all levels of government. Airport needs alone are estimated at $10 billion annually. It is argued that transportation should make a contribution to reducing the deficit. The truth is, that since 1990 transportation users already have contributed more than $30 billion to deficit reduction through diversion of part of the Federal motor fuels tax to the general fund. Both congressional and administration budget plans would result in transportation spending reductions and increases in trust fund balances to offset the deficit.

Mr. Chairman, concerns have been expressed about the impact on the deficit and other programs of taking the transportation trust funds off budget. These concerns are unfounded. Removal of the trust funds from the unified budget itself will not increase the deficit, will not mandate cuts in other programs, will not restrict the Appropriations Committee's ability to set transportation spending levels. In a written cost estimate the Congressional Budget Office has ruled that taking the trust funds off budget would not result in any change to the deficit. Mr. Chairman, by passing this bill, Congress will retain its pivotal role in setting spending and policy priorities in transportation.

Mr. Chairman, it is necessary only to drive to work these days to be reminded that America's transportation infrastructure needs some heavy duty work. The winter's lingering potholes and the traffic jams are only part of the evidence that not enough is being done to improve the Nation's mobility. It is time to make the situation right and surely not allowing more and more deterioration. But making it right means allowing the balances in the trust funds to be spent down in a responsible manner. It means helping to meet the billions of dollars in unmet needs on highways, bridges, transit systems and airports.

Mr. Chairman, without this legislation it is likely that the balances in the trust funds will continue to increase and there will be fewer resources available for the Nation's transportation infrastructure. The transportation trust funds must be removed from the unified budget so that we can keep our commitments to the highway users and to future generations. I urge my colleagues to support H.R. 842 the Truth in Budgeting Act.

I yield back the balance of my time.

Mr. RAMSTAD. Mr. Chairman, I rise today in opposition to H.R. 842, which would take the transportation trust funds off-budget, thereby giving them special status so the rules that apply to almost all other portions of the budget would not apply.

I certainly appreciate the important role the Federal Government plays in maintaining Federal highways and helping States to build and repair State and local roads, highways, bridges and mass transit projects. I also understand the concerns of States whose citizens contribute more in taxes to the trust funds than they receive back in transportation assistance from the Federal Government.

While at one time I supported this proposal, I now believe that taking the trust funds off-budget is not the most responsible or appropriate solution to the transportation funding problem. I also believe it would cause a budgetary nightmare that would make our efforts to balance the Federal budget—already a Herculean task that we have yet to complete—virtually impossible.

Rather than having some States receive less than their fair share back from the highway trust fund, we should reform the structure by which the Federal Government collects taxes and returns money back to the States for transportation projects. If a State were allowed to keep the money, it would be better able to plan and execute highway construction and upkeep.

The main problem with H.R. 842 is the impact it would have on our efforts to balance the Federal budget. Balancing the budget must be our highest priority. The Congressional Budget Office [CBO] has estimated that taking the trust funds off-budget would increase the Federal budget deficit by more than $20 billion over the next 5 years. That means we would need to find an additional $20 billion in order to balance the budget. Where would the $20 billion in cuts come from? Education? Environmental protection? Medical research?

The Federal Government has spent $6 billion more on transportation projects than it has collected in gas taxes since the creation of the highway trust fund in 1957. The $19 billion surplus everyone talks does not exist in any form other than an accounting entry at the Department of the Treasury.

Because of my overriding concern about the impact this legislation would have on our efforts to balance the Federal budget, I must vote against this bill.

Mr. TRAFICANT. Mr. Chairman, I rise in strong support of H.R. 842, the Truth in Budgeting Act, which would take the Federal transportation trust funds off-budget. I want to commend the chairman of the Transportation and Infrastructure Committee, BUD SHUSTER, and the distinguished ranking member of the committee, JIM OBERSTAR, for their perserverence in getting this important legislation to the House floor.

H.R. 842 takes the highway, aviation, inland waterways, and harbor maintenance trust funds off budget. As one of the bill's original cosponsors I urge all of my colleagues to look past the "sky is falling" rhetoric of some of its opponents and support the bill.

The four transportation trust funds have proven to be an effective way to raise the necessary revenue to pay for many of the varied transportation needs of the country. Unfortunately, the vast revenues generated by the trust funds have been used to mask the true size of the Federal deficit.

Some have argued today—and they've bolstered their arguments with testimonials from some of the Nation's leading economic experts, the same experts, by the way, who brought us NAFTA and GATT, that the transportation trust funds should make a contribution to reducing the deficit. The fact is, since 1990 transportation users already have contributed more than $30 billion to deficit reduction through the diversion of part of the Federal motor fuels tax to the general fund.

There is a huge surplus in the trust funds—surpluses that are projected to grow by leaps and bounds in the years ahead. Under the President's most recent budget plan, the highway trust fund alone would make the third largest contribution to deficit reduction—only Medicare and Medicaid would be cut more.

Let's put this in perspective. According to the Alliance for Truth in Transportation Budgeting, from fiscal years 1996 to 2002, the balances in the highway trust fund will almost triple from $21 billion to $60 billion—an increase of $39 billion. The $39 billion increase will be used on spending in the rest of the Government—these are funds that are supposed to be used only for transportation purposes. There is no justification to collect transportation user fees for the purpose of hiding Government spending in other areas.

This is what today's debate is all about. Are we going to continue diverting the bulk of the balances in the transportation trust funds to shield the true size of the Federal budget deficit, or are we going to spend the revenues generated by the trust funds on their intended purpose? If we don't pass this bill, then we should be honest with the American people and do away with the trust funds and simply call the transportation user fees what they really are: taxes.

The current transportation and infrastructure needs of the country are indeed staggering. The U.S. Department of Transportation estimates the backlog of needs for our Nation's highways and bridges totals $315 billion. Airport investment needs are estimated at $10 billion a year, while it will cost an estimated $8 billion a year simply to maintain the Nation's transit systems.

Even if we spent all of the money generated every year by the transportation trust funds we would not be able to meet all of this Nation's transportation needs.

And H.R. 842 would not result in all of the money in the trust funds being spent every year. Under H.R. 842, spending from the trust funds would still have to go through the normal appropriations process. Congress would still have a final say on how much is spent on transportation.

But H.R. 842 will preserve the fiscal integrity of the trust funds by ensuring that the revenue is spent on transportation projects and not used to mask the size of the federal deficit.

Would H.R. 842 result in more Federal spending on transportation projects? Yes it would, and I say bravo. Keep in mind that this spending is not deficit spending—it is spending that will already have been paid for through the transportation user fees. H.R. 842 will ensure, for the first time, that these user fees are exactly that and not simply another tax that goes in the black hole known as the general fund.

One final note. If any of you are concerned that H.R. 842 will put a squeeze on other needed Federal programs, let me remind Members of two key points:

First, transportation spending would still have to be approved by the Appropriations Committee; and

Second, 42,000 jobs are created in America for every $1 billion invested in Federal transportation projects.

The bottom line is, Congress will never balance the Federal budget unless the American economy continues to grow. Unless the Congress takes action now to make the needed investments in our Nation's infrastructure, our economy will wilt on the vine, we will continue to lose jobs, and America will cease to be the economic leader of the world.

Vote "yes" on H.R. 842.

Ms. BROWN of Florida. Mr. Chairman, I want to thank the entire leadership of the Transportation and Infrastructure Committee for being so diligent in bringing the issue of investment in our Nation's infrastructure to the attention of the American people. You should be commended for all of your efforts in getting this bill to the floor for a vote, despite the strong opposition of H.R. 842 by powerful Members of the House.

As a cosponsor of H.R. 842, the Truth in Budgeting Act, I believe that moving the trust funds off budget is vital to ensuring that we will be able to meet the vast infrastructure needs of our Nation's transportation systems, provide adequate funding for the National Highway System, and ensure that ISTEA is fully funded.

The current, documented, unmet transportation infrastructure needs of our Nation are enormous. Those needs are $212 billion to fix 265,000 miles of highways which are below acceptable engineering standards; $78 billion to fix 238,000 bridges which are rated as structurally deficient; and $80 billion in public wastewater treatment facility needs.

I represent Florida's Third Congressional District which includes four interstate highways, two international airports, eight regional or commuter airports, a major seaport, and a river used extensively for intrastate commerce.

Every year, I assist these Florida transportation facilities in getting Federal dollars. But there is never enough money to meet all of their needs. I would like to enter into the RECORD a letter that I just received from the FAA talking about severely limited AIP funds and denying a funding request from the Gainesville Regional Airport. The city of Gainesville's airport is not the only airport affected by the AIP funding situation. Of the Nation's top 100 airports, 23 are incredibly congested, and would use additional funds for expansion purposes.

We would be able to address some of these transportation needs if the transportation trust funds are moved off budget. The four transportation trust funds, highway trust fund, aviation trust fund, inland waterways trust fund, and the harbor maintenance trust fund are unique in that they are wholly user financed, invest in transportation infrastructure, and are deficit proof. Taking highway trust funds off budget frees up $1.1 billion for ISTEA spending.

I urge all of my colleagues to support this good bill which will ensure that taxes paid by the American people for more roads, expanded transit systems, safer bridges, updated equipment for our air traffic control centers, adequate number of Coast Guard stations, and for many other transportation purposes are used for those purposes.

DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION,
Washington, DC, April 5, 1996.

Hon. CORRINE BROWN,
House of Representatives,
Washington, DC.

DEAR CONGRESSWOMAN BROWN: Administrator Hinson has asked me to respond to your letter supporting a request for Airport Improvement Program (AIP) funding to reimburse the city of Gainesville for expenses involved in acquiring property through inverse condemnation.

The city of Gainesville's request for fiscal year (FY) 1996 noise discretionary funds was considered carefully. Because of severely limited AIP funds, including those funds designated for noise compatibility and planning, we rely strongly on our priority-rating system to select projects for funding. This rating system considers the type of work and the activity level of the airport when assigning the priorities. Unfortunately, based on its priority, we do not have sufficient funding to approve a grant for Gainesville's noise project at this time.

I assure you that the Federal Aviation Administration (FAA) will continue to work with the city to provide reimbursement for the land acquisition already completed. Toward that end, we will retain the city's grant application on file for future consideration as funds become available. We are hopeful that reauthorization of the AIP beyond FY 1996 will provide adequate funding and allow us to carry out these intentions.

The FAA continues to support the Gainesville Regional Airport through AIP entitlement funds. A current year project has been approved totaling $1.66 million in Federal funds to continue the expansion and renovation of the terminal building.

If we can be of further assistance, please contact Mr. A. Bradley Mims, Assistant Administrator for Government and Industry Affairs, at 202-267-3277.

Sincerely,

JAMES H. WASHINGTON,
Acting Associate Administrator for Airports.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in opposition to H.R. 842 and urge my colleagues to reject this legislation. While I understand and support the need for significant investments in our Nation's transportation infrastructure, I do not think that Congress should be unfairly protecting transportation spending from the current fiscal realities we face. The plain fact is that, if we pass this bill and take the transportation trust funds off-budget, we will be forced to cut remaining domestic discretionary on-budget programs deeply to make up the difference.

Sure, highways, airports, bridges, and roads are critical to the long-term economic strength of the Nation. But are they more important than say, education, health care, or the environment?

The present unified Federal budgeting system includes all Federal spending, revenues, and borrowing within its totals, exempting only Social Security and the Postal Service from its calculations. This system, although not flawless, provides us with the clearest picture currently available regarding the impact of the Federal budget on the economy, and allows us to objectively prioritize and weigh Federal spending needs.

Even Federal Reserve Chairman Alan Greenspan has been vocal in his opposition to moving the transportation trust funds off-budget. He has said such an action "would lead to fragmentation in the budgeting process" and would "weaken the ability of Congress to prioritize and control spending effectively."

If we take transportation trust funds off-budget, who next in Washington will be seeking similar relief? What interest groups will be flooding the hall of Congress seeking similar preferential treatment for their targeted trust fund dollars? One-third of total on-budget Federal spending is in trust fund programs, 160 programs across the board. Should these other programs also be taken off-budget, we would have total chaos in our Federal budgeting process and a completely disjointed view of the government's financial state.

The Office of Management and Budget has also weighed in on this issue, emphasizing that H.R. 842 would result in not only $20 billion in additional transportation spending over the next 5 years, but also offsetting cuts in other programs above and beyond this amount due to the lowering of discretionary spending caps by law to reflect the off-budget status of the transportation trust funds. This is inequitable and surely no way to tackle the tough budgeting choices we in this esteemed body were sent to Washington to make.

Finally let me say that the argument used by proponents of this bill that the Federal Government is somehow misusing highway tax dollars to hide the true size of the deficit and fool the American public is unfounded. In fact, since it was created 40 years ago, the highway trust fund has given more money back to the States than has been paid into the fund through tax revenues. In addition, since 1980, the Federal Government has actually spent about $14 billion more on highway trust fund initiatives than it has collected in taxes.

Again, Mr. Chairman, we need to make tough choices in Congress regarding our spending and investment policies. H.R. 842 exempts transportation from these tough choices. As the old saying goes, you can't have your cake and eat it too. I urge my colleagues to oppose this legislation.

Mr. TORKILDSEN. Mr. Chairman, I rise in opposition to H.R. 842, a bill to move transportation trust funds off budget. This change would increase the deficit and stymie future efforts to balance the budget.

This bill is the equivalent of telling someone to learn how to swim while they're drowning. Moving the trust funds off budget will make sense when Congress has its fiscal house in order, but it should not be implemented when the Federal Government is drowning in a sea of red ink.

Furthermore, the Congressional Budget Office estimates that exempting the transportation trust funds from spending cuts could increase the deficit by over $20 billion over 5 years.

Our goal of balancing the budget must come before attempts to restructure the budget. I am not opposed to moving trust funds off budget, in principle, but we must balance the budget first.

Mr. Chairman, I urge my colleagues to defeat this bill and ensure that our efforts to balance the budget stay on course.

Mr. HOSTETTLER. Mr. Chairman, today we are having a very controversial debate about where the truth in budgeting transportation funds really lies. I rise today in support of H.R. 842, The Truth in Budgeting Act.

Every time you or I pull into a gas station and fill up our cars or pay a tax on an airline ticket, we are sending money to Washington to build new highways and maintain our current transportation systems. Decades ago, these transportation trust funds were established to collect taxes from transportation users and invest in transportation capital. Today, we find the transportation trust fund balance at $30 billion. The existence of this on-budget trust fund surplus only reinforces the public's belief that they are not getting an honest return for the taxes they pay to Washington. This issue is about tax fairness.

Spending and investment in necessary transportation improvements has been held down to keep the balance of the trust fund artificially high in order to mask the true size of the deficit, this is just not honest. Those who pay into the trust fund should be able to count on those dollars going toward the purpose for which they were intended.

H.R. 842 does not add to the deficit. According to a March 20, 1996 estimate from the Congressional Budget Office, taking programs off budget does not change total spending of the Federal Government and does not affect spending or revenue estimates for congressional scorekeeping purposes.

H.R. 842 does not alter the transportation spending process. Congress will still have to approve every new dollar of trust fund spending.

H.R. 842, however, does assure this: When a taxpayer back home pays gasoline or airline ticket tax to the Federal Government, he knows it is going towards building or improving our national transportation system.

The CHAIRMAN. All time for general debate has expired.

The amendment in the nature of a substitute printed in the bill shall be considered by sections as an original bill for the purpose of amendment, and pursuant to the rule, each section is considered as having been read.

During consideration of the bill for amendment the Chairman of the Committee of the Whole may accord priority in recognition to a Member offering an amendment that has been printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Truth in Budgeting Act".

The CHAIRMAN. Are there any amendments to section 1?

Mr. SHUSTER. Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. SHAYS. Mr. Chairman, reserving the right to object, I request to know why we would be doing it this way. There are only five sections.

Mr. SHUSTER. Mr. Chairman, if the gentleman will yield, for the convenience of the Members.

Mr. SHAYS. Mr. Chairman, I would be willing to consider the gentleman's request in the future, but until we consult, I do object.

The CHAIRMAN. Objection is heard.

Are there amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. BUDGETARY TREATMENT OF HIGHWAY TRUST FUND, AIRPORT AND AIRWAY TRUST FUND, INLAND WATERWAYS TRUST FUND, AND HARBOR MAINTENANCE TRUST FUND.

Notwithstanding any other provision of law, the receipts and disbursements of the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund—

(1) shall not be counted as new budget authority, outlays, receipts, or deficit for surplus for purposes of—

(A) the budget of the United States Government as submitted by the President,

(B) the congressional budget (including allocations of budget authority and outlays provided therein), or

(C) the Balanced Budget and Emergency Deficit Control Act of 1985; and

(2) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

The CHAIRMAN. Are there amendments to section 2?

AMENDMENT OFFERED BY MR. SHUSTER.

Mr. SHUSTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHUSTER: Page 3, line 10, insert "except the Line Item Veto Act of 1996" before the comma.

Mr. SHUSTER. During the debate on the rule, Mr. Chairman, some concern was expressed as to whether the Line-Item Veto Act would apply to trust fund spending if this bill passes. We believe it will, and it certainly is our intent that it apply. However, because this question has been raised, I want to make it crystal clear that this is one more of the protections that exist in this legislation and, indeed, this amendment clarifies it, and I offer it on behalf of myself and the gentleman from Florida [Mr. GOSS], to clarify the fact that the line-item veto does apply. This amendment removes any ambiguity.

Mr. ORTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, before stating opposition to the amendment, I would like to inquire about some further explanation of the amendment, and I may not actually oppose the amendment. I have not had an opportunity to see the wording of the amendment.

My inquiry to the chairman would be if it is the intent of this amendment to apply the line-item veto provisions as signed by the President to all expenditures of the trust fund, which would include contract authority as well?

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. ORTON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, the answer is yes, just as it applies to anything else.

Mr. ORTON. And so, then, contract authority spending by the Committee on Transportation and Infrastructure would be subject to line-item veto?

Mr. SHUSTER. Mr. Chairman, if the gentleman will continue to yield, that is the way it is today and that is the way it would be under our legislation. The answer is yes.

Mr. ORTON. Only above baseline.

Mr. SHUSTER. It applies just the way the bill currently applies.

Mr. ORTON. Well, Mr. Chairman, that is my concern, because as the gentleman will recall, during the debate of the line-item veto bill I rose to propose an amendment to the line-item veto bill, to apply the line-item veto to contract authority as well. The proponent of the amendment rose and vehemently opposed my amendment. My amendment failed.

Mr. SHUSTER. Mr. Chairman, I would say to the gentleman that the conference report includes all discretionary spending, including contract authority and, therefore, this would apply.

Mr. ORTON. Mr. Chairman, I am happy to hear the gentleman's interpretation of that. That, I think, clarifies, and if, in fact, that is an accurate interpretation, that this would apply to all spending from the trust fund, including all contract authority, not just an amount above the baseline.

Mr. SHUSTER. Mr. Chairman, I would say to the gentleman that it applies the same way the existing law applies today. The gentleman's amendment offered some months ago failed in this body.

Mr. ORTON. But, Mr. Chairman, I would ask if it is the gentleman's interpretation that all contract authority would——

Mr. SHUSTER. No, Mr. Chairman, it is my interpretation that this applies just exactly the way the law applies today.

Mr. ORTON. In other words, Mr. Chairman, the gentleman is saying that this does not apply to contract authority spending.

Mr. SHUSTER. Yes, it does apply to contract authority in the same way that is applied under the current law.

Mr. ORTON. Mr. Chairman, there is a question whether the current law does apply to contract authority, which is the issue I am raising, and that is why I wish for the chairman to be on record.

Mr. SHUSTER. Mr. Chairman, I am told by our counsel it does apply to contract authority.

Mr. ORTON. That is the point I wish to make. And if, in fact, as the gentleman has indicated, Mr. Chairman, that the line-item veto would, not only under current law but under his amendment, apply line-item veto to all contract authority, then I would favor the amendment and urge its adoption.

Mr. SHUSTER. No, not at all, Mr. Chairman. I would say to my friend that it applies to contract authority in the same way that the current law applies to contract authority, which, indeed, is above the baseline.

Mr. ORTON. Mr. Chairman, may I ask the gentleman to amend his amendment to expand it so that, in fact, it would apply to all contract authority?

Mr. SHUSTER. No, I would not because we have offered this to have it apply exactly as the current law applies.

Mr. ORTON. Then, in fact, Mr. Chairman, I take back the balance of my time and I would simply make the point that if the gentleman is not willing to expand his amendment to make it absolutely clear that the line-item veto applies to all contract authority spending by the committee, then, in fact, the argument that was raised during the debate on the rule is, in fact, applicable.

Because there is a concern that there may be spending that is not covered by line-item veto; that, in fact, that spending may continue to be simply pork barrel spending; it may continue to be authorized under this legislation, so that a committee of Congress can directly authorize contract expenditures, which neither come within the fiscal restraints of the budget act nor comes within the fiscal restraints of the line-item veto, thereby completely avoiding and evading any type of fiscal restraint on that spending.

So, Mr. Chairman, I would oppose the amendment as it stands; would encourage the gentleman to expand the amendment to make it clear that the line-item veto does, in fact, apply to all contract spending by the committee, authorized by the committee; and if, in fact, he would do that, I would support the amendment and urge my colleagues to vote for it.

The CHAIRMAN. The time of the gentleman from Utah [Mr. ORTON] has expired.

(On request of Mr. SHUSTER, and by unanimous consent, Mr. ORTON was allowed to proceed for 3 additional minutes.)

Mr. SHUSTER. Mr. Chairman, if the gentleman will continue to yield, the gentleman is trying to rewrite the line-item veto law. I am informed what we have done here goes as far as we can go within this legislation. It would not be germane for us to attempt to rewrite the line-item veto law in this legislation. So we are simply offering this to conform with the line-item veto law, which is now the law of the land.

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Mr. ORTON. Mr. Chairman, I am simply suggesting that if needed the committee chairman wished to avoid all criticism of this bill as not pertaining under line-item veto, then in fact he could seek to waive the germaneness requirement under unanimous consent, could in fact ask to have that amended expanded.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. ORTON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. If the gentleman can assure me that by doing so I would remove all criticism from this bill, I would certainly seriously consider doing that, but I do not think that is a reality. I thank the gentleman for yielding.

Mr. ORTON. Reclaiming my time, I think it will remove criticism from the amendment and in fact eliminate one of the objections that many people have had to this particular bill.

Mr. GOSS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I was unable to be on the floor for the full discussion of the line-item veto. The chairman of the committee and I had a bit of a dialog about it this morning during the rule, and we came down to the conclusion that we were not sure whether we were clear on whether or not the legislation before us would or would not be subject to the line-item veto. In the interest of clarity, we wanted to make absolutely certain that this legislation was subject to the line-item veto as passed by the Congress, as signed by the President into law, and that, I believe, is the purpose of the chairman's amendment.

I certainly support what the chairman is trying to accomplish, if it is as I believe, to clarify that this legislation will be subject to the Line Item Veto Act of 1996, which is the way I read the one-line amendment that he has proposed.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield.

Mr. GOSS. I am happy to yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, this amendment will make this legislation subject to the Line Item Veto Act of 1996, the answer is yes.

Mr. GOSS. I thank the gentleman.

Mr. Chairman, reclaiming my time, I think that that was the clarification that we were all seeking with regard to the line item veto, and I think that to go any further than that, to try and somehow now amend the line item veto, would of course not only be inappropriate but nongermane and beyond the scope and so forth.

Mr. SABO. Mr. Chairman, will the gentleman from Florida yield?

Mr. GOSS. I am happy to yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, I am just curious, how could this bill not have the Line Item Veto Act of 1996 apply to it.

Mr. GOSS. Reclaiming my time, my understanding from the Parliamentarian, the need for this amendment follows this reason. The main reason the trust fund bill is now exempt from the Line Item Veto Act is that the President can only exercise the line-item veto if he certifies that cancellation of the item will reduce the deficit. Since the trust fund bill would remove disbursements for purposes of calculating the deficit, the President would be prevented from exercising a veto authority absent compliance with the deficit reduction standard.

I am happy to yield further to the gentleman from Minnesota.

Mr. SABO. Now I understand why the gentleman may need this amendment, because of that language. Do I also understand that the Line Item Veto Act does not apply to contract authority in the same fashion as it applies to other discretionary spending?

Mr. GOSS. Mr. Chairman, I do not want to speak for the Line Item Veto Act. The Line Item Veto Act speaks for itself. As the gentleman knows, we did discretionary authority, new entitlements and targeted tax benefits in line-item veto. So to the extent what we are talking about falls into those areas under the act as written, the answer would be yes.

Mr. SABO. Mr. Chairman, my understanding is the Line Item Veto Act, that its application to contract authority is much more limited than it is to discretionary spending as exists in appropriation bills from year to year. Is that accurate?

Mr. GOSS. Reclaiming my time, I am not sure that it is. Again, I think that I should refer the gentleman to the act the way it is written. I believe it refers to contract authority, and I believe that the proper way to respond to the question is to refer the gentleman to the act. There may be some parliamentary interpretation.

Mr. SABO. I would ask the gentleman from Pennsylvania, is it his understanding that the Line Item Veto Act pertains to contract authority in the same fashion as it does to discretionary appropriated spending or is it a more limited application?

Mr. GOSS. Since the time is mine, I would be very happy to yield to the gentleman if he wishes me to. But I will tell the gentleman that what he is asking is contract authority and direct spending questions are covered already in the act.

Mr. SABO. But I am just curious, to what degree the line-item veto is different for the direct spending of contract authority versus that of appropriated discretionary funds.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I am happy to yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, all I can tell the gentleman is, it is our intention and our belief that in fact what we are doing here is saying that the line-item veto shall apply as it applies in the current line-item veto law. If the gentleman has questions about the nuances of that law, this gentleman is not prepared to answer them.

Mr. GOSS. Reclaiming my time, contract authority is not discretionary. It is direct spending, and direct spending is covered but it is not discretionary. I am sorry, that is the way it is.

I yield further to the gentleman from Minnesota.

Mr. SABO. I thank the gentleman for yielding.

It is my understanding that the application of line-item veto to contract authority is much more limited than it is to any discretionary appropriated funds, and that in fact that it only applies to increases in baseline spending.

Mr. GOSS. My time is finished. I am not sure the gentleman's interpretation is correct. But the gentleman is entitled to his interpretation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. SHUSTER].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 2?

Mr. SHUSTER. Mr. Chairman, I ask unanimous consent that the remainder of the amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The text of the remainder of the amendment in the nature of a substitute is as follows:

SEC. 3. SAFEGUARDS AGAINST DEFICIT SPENDING OUT OF AIRPORT AND AIRWAY TRUST FUND.

(a) IN GENERAL.—Chapter 471 of title 49, United States Code, is amended—

(1) by redesignating section 47131 as section 47132; and

(2) by inserting after section 47130 the following new section:

"§47131. Safeguards against deficit spending

"(a) ESTIMATES OF UNFUNDED AVIATION AUTHORIZATIONS AND NET AVIATION RECEIPTS.—Not later than March 31 of each year, the Secretary, in consultation with the Secretary of the Treasury, shall estimate—

"(1) the amount which would (but for this section) be the unfunded aviation authorizations at the close of the first fiscal year that begins after that March 31 and

"(2) the net aviation receipts at the close of such fiscal year.

"(b) PROCEDURE IF EXCESS UNFUNDED AVIATION AUTHORIZATIONS.—If the Secretary determines for any fiscal year that the amount described in subsection (a)(1) exceeds the amount described in subsection (a)(2), the Secretary shall determine the amount of such excess.

"(c) ADJUSTMENT OF AUTHORIZATIONS IF UNFUNDED AUTHORIZATIONS EXCEED RECEIPTS.—

"(1) DETERMINATION OF PERCENTAGE.—If the Secretary determines that there is an excess referred to in subsection (b) for a fiscal year, the Secretary shall determine the percentage which—

"(A) such excess, is of

"(B) the total of the amounts authorized to be appropriated from the Airport and Airway Trust Fund for the next fiscal year.

"(2) ADJUSTMENT OF AUTHORIZATIONS.—If the Secretary determines a percentage under paragraph (1), each amount authorized to be appropriated from the Airport and Airway Trust Fund for the next fiscal year shall be reduced by such percentage.

"(d) AVAILABILITY OF AMOUNTS PREVIOUSLY WITHHELD.—

"(1) ADJUSTMENT OF AUTHORIZATIONS.—If, after a reduction has been made under subsection (c)(2), the Secretary determines that the amount described in subsection (a)(1) does not exceed the amount described in subsection (a)(2) or that the excess referred to in subsection (b) is less than the amount previously determined, each amount authorized to be appropriated that was reduced under subsection (c)(2) shall be increased, by an equal percentage, to the extent the Secretary determines that it may be so increased without causing the amount described in subsection (a)(1) to exceed the amount described in subsection (a)(2) (but not by more than the amount of the reduction).

"(2) APPORTIONMENT.—The Secretary shall apportion amounts made available for apportionment by paragraph (1).

"(3) PERIOD OF AVAILABILITY.—Any funds apportioned under paragraph (2) shall remain available for the period for which they would be available if such apportionment took effect with the fiscal year in which they are apportioned under paragraph (2).

"(e) REPORTS.—Any estimate under subsection (a) and any determination under subsection (b), (c), or (d) shall be reported by the Secretary to Congress.

"(f) DEFINITIONS.—For purposes of this section, the following definitions apply:

"(1) NET AVIATION RECEIPTS.—The term 'net aviation receipts' means, with respect to any period the excess of—

"(A) the receipts (including interest) of the Airport and Airway Trust Fund during such period, over

"(B) the amounts to be transferred during such period from the Airport and Airway Trust Fund under section 9502(d) of the Internal Revenue Code of 1986 (other than paragraph (1) thereof).

"(2) UNFUNDED AVIATION AUTHORIZATIONS.—The term 'unfunded aviation authorization' means, at any time, the excess (if any) of—

"(A) the total amount authorized to be appropriated from the Airport and Airway Trust Fund which has not been appropriated, over

"(B) the amount available in the Airport and Airway Trust Fund at such time to make such appropriation (after all other unliquidated obligations at such time which are payable from the Airport and Airway Trust Fund have been liquidated).".

(b) CONFORMING AMENDMENT.—The analysis for chapter 471 of title 49, United States Code, is amended by striking

"47131. Annual report."

and inserting the following:

"47131. Safeguards against deficit spending.
"47132. Annual report.".

SEC. 4. SAFEGUARDS AGAINST DEFICIT SPENDING OUT OF THE INLAND WATERWAYS TRUST FUND AND HARBOR MAINTENANCE TRUST FUND.

(A) ESTIMATES OF UNFUNDED INLAND WATERWAYS AUTHORIZATIONS AND NET INLAND WATERWAYS RECEIPTS.—Not later than March 31 of each year, the Secretary of the Army, in consultation with the Secretary of the Treasury, shall estimate—

(1) the amount which would (but for this section) be the unfunded inland waterways authorizations and unfunded harbor maintenance authorizations at the close of the first fiscal year that begins after that March 31; and

(2) the net inland waterways receipts and net harbor maintenance receipts at the close of such fiscal year.

(b) PROCEDURE IF EXCESS UNFUNDED INLAND WATERWAYS AUTHORIZATIONS.—If the Secretary of the Army determines with respect to the Inland Waterways Trust Fund or the Harbor Maintenance Trust Fund for any fiscal year that the amount described in subsection (a)(1) exceeds the amount described in subsection (a)(2), the Secretary shall determine the amount of such excess.

(c) ADJUSTMENT OF AUTHORIZATIONS IF UNFUNDED AUTHORIZATIONS EXCEED RECEIPTS.—

(1) DETERMINATION OF PERCENTAGE.—If the Secretary of the Army determines that there is an excess referred to in subsection (b) for a fiscal year, the Secretary of the Army shall determine the percentage which—

(A) such excess, is of

(B) the total of the amounts authorized to be appropriated from the Inland Waterways Trust Fund or the Harbor Maintenance Trust Fund, as the case may be, for the next fiscal year.

(2) ADJUSTMENT OF AUTHORIZATIONS.—If the Secretary of the Army determines a percentage under paragraph (1), each amount authorized to be appropriated from the Trust Fund for the next fiscal year shall be reduced by such percentage.

(d) AVAILABILITY OF AMOUNTS PREVIOUSLY WITHHELD.—If, after an adjustment has been made under subsection (c)(2), the Secretary of the Army determines with respect to the Inland Waterways Trust Fund or the Harbor Maintenance Trust Fund that the amount described in subsection (a)(1) does not exceed the amount described in subsection (a)(2) or that the excess referred to in subsection (b) with respect to the Trust Fund is less than the amount previously determined, each amount authorized to be appropriated that was reduced under subsection (c)(2) with respect to the Trust Fund shall be increased, by an equal percentage, to the extent the Secretary of the Army determines that it may be so increased without causing the amount described in subsection (a)(1) to exceed with respect to the Trust Fund the amount described in subsection (a)(2) (but not by more than the amount of the reduction).

(e) REPORTS.—Any estimate under subsection (a) and any determination under subsection (b), (c), or (d) shall be reported by the Secretary of the Army to Congress.

(f) DEFINITIONS.—For purposes of this section the following definitions apply:

(1) AIRPORT AND AIRWAY TRUST FUND.—The term "Airport and Airway Trust Fund" means the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1986.

(2) HARBOR MAINTENANCE TRUST FUND.—The term "Harbor Maintenance Trust Fund" means the Harbor Maintenance Trust Fund established by section 9505 of the Internal Revenue Code of 1986.

(3) HIGHWAY TRUST FUND.—The term "Highway Trust Fund" means the Highway Trust Fund established by section 9503 of the Internal Revenue Code of 1986.

(4) INLAND WATERWAYS TRUST FUND.—The term "Inland Waterways Trust Fund" means the Inland Waterways Trust Fund established by section 9506 of the Internal Revenue Code of 1986.

(5) NET HARBOR MAINTENANCE RECEIPTS.—The term "net harbor maintenance receipts" means, with respect to any period, the receipts (including interest) of the Harbor Maintenance Trust Fund during such period.

(6) NET INLAND WATERWAYS RECEIPTS.—The term "net inland waterways receipts" means, with respect to any period, the receipts (including interest) of the Inland Waterways Trust Fund during such period.

(7) UNFUNDED INLAND WATERWAYS AUTHORIZATIONS.—The term "unfunded inland waterways authorizations" means, at any time, the excess (if any) of—

(A) the total amount authorized to be appropriated from the Inland Waterways Trust Fund which has not been appropriated, over

(B) the amount available in the Inland Waterways Trust Fund at such time to make such appropriations.

(8) UNFUNDED HARBOR MAINTENANCE AUTHORIZATIONS.—The term "unfunded harbor maintenance authorizations" means, at any time, the excess (if any) of—

(A) the total amount authorized to be appropriated from the Harbor Maintenance Trust Fund which has not been appropriated, over

(B) the amount available in the Harbor Maintenance Trust Fund at such time to make such appropriations.

SEC. 5. APPLICABILITY.

This Act (including the amendments made by this Act) shall apply to fiscal years beginning after September 30, 1995.

The CHAIRMAN. Are there further amendments to the amendment in the nature of a substitute?

AMENDMENT OFFERED BY MR. OBERSTAR

Mr. OBERSTAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBERSTAR:

Page 3, line 10, strike "Notwithstanding" and insert "(a) IN GENERAL.—Notwithstanding".

Page 4, after line 14, insert the following new subsection:

(b) LIMITATION ON INTEREST PAID TO TRUST FUNDS.—

(1) IN GENERAL.—Paragraph (3) of section 9602(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new sentence: "The amount of interest credited to the Airport and Airway Trust Fund, the Highway Trust Fund, the Harbor Maintenance Trust Fund, or the Inland Waterways Trust Fund for any fiscal year shall not exceed the amount of interest which would be credited to such Fund if such interest were determined at the average interest rate on 52-week Treasury securities sold to the public during such fiscal year."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to fiscal years beginning after the date of the enactment of this Act.

Mr. OBERSTAR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. OBERSTAR. Mr. Chairman, we had during the time of general debate extensive discussion about the role of interest paid on revenues from the highway trust fund that are collected at the pump and then used by the Treasury Department to purchase Treasury notes, as happens with all trust funds in the Federal Government. As I said in my remarks, my closing remarks, would anyone reasonably expect the Federal Government not to honor its obligation to pay interest on Treasury bonds, on our World War I bonds, on World War II bonds, on other securities of the Treasury Department that are purchased by U.S. citizens, by foreign interests, by foreign governments, which buy in great numbers Treasury securities which underwrite the deficit? No, of course not, not expected. So with the trust funds.

Mr. Chairman, those trust funds are used to purchase Treasury securities, and interest is required to be paid. Under current law, the interest earned by the highway trust fund is the average of all interest paid on the public debt. That average runs about 6.6 percent.

The amendment I offer proposes to limit the interest earned on highway trust fund dollars in an amount equal to the rate on a 1-year Federal Treasury note. That number is about 5 percent, just a little above, 5.1 percent.

The effect of the amendment would be to reduce the amount of interest earned by the transportation trust funds, thereby reducing the ever-increasing balance that has accumulated over a period of several years. Now, this is an amendment that I offer for myself, for the Chairman, with whom I have consulted in the preparation of this amendment. This is, again, a demonstration on our part of our good faith to limit in the future the growth of this trust fund and to gradually reduce that amount, not take that surplus all at once off budget, but gradually reduce it over a period of time. To help do that, we propose this limitation on the interest rate because over a period of time, the trust fund is being long-range dollars, have benefited from the longer term interest rate on Treasury securities. So in the spirit of fairness and comity I propose that we make this change.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I am happy to yield to my Chairman, the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I understand that this has indeed been worked out with the gentleman from Wisconsin [Mr. OBEY] and the gentleman from Minnesota [Mr. SABO], Members on our side, and I think it is a fair approach and I support it.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to my colleague, the gentleman from Minnesota.

Mr. SABO. I thank the gentleman from Minnesota for yielding, and he has a good amendment, we should pass it.

Mr. SHAYS. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I am happy to yield to the gentleman from Connecticut.

Mr. SHAYS. Mr. Chairman, I am happy to support the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. OBERSTAR].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SMITH OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Michigan: Page 12, after line 22, insert the following:

SEC. 5. APPROPRIATION OF INTEREST EARNINGS OF HIGHWAY TRUST FUND.

(a) PURPOSE.—It is the purpose of this section to offset the approximately $82,000,000,000 that has been appropriated from the general fund of the Treasury for Federal-aid highway and mass transit construction projects.

(b) APPROPRIATION OF INTEREST EARNINGS.—On September 30, 1996, there is hereby appropriated from the Highway Trust Fund to the general fund of the Treasury an amount equal to the aggregate amounts of interest credited to the Highway Trust Fund before such date.

Page 13, line 1, strike "5" and insert "6".

Mr. SHUSTER. Mr. Chairman, I reserve a point of order against the amendment until we know what the amendment is.

Mr. SMITH of Michigan. Mr. Chairman, this is amendment No. 8 printed on page 7723, amendment on page 12 after line 22.

Mr. SHUSTER. Mr. Chairman, I reserve the right to object until we have an opportunity to examine the amendment to see whether it is germane.

The CHAIRMAN. The gentleman from Pennsylvania reserves a point of order against the amendment.

The gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Chairman, this amendment takes into account the problem of the accumulated interest that is now in the highway trust fund in the amount of $19 billion. Again, the question is, should Congress, in past general fund appropriations for highway purposes, so designate that it was trust fund money rather than the general fund? General fund expenditures since 1956, when we started the highway trust fund, have exceeded $38 billion. The estimate is someplace between $38 billion and $40 billion. This is general fund appropriations for highway purposes that were not designated to come out of the trust fund.

So what we have been doing over the years is spending more and more money out of the general fund, at the same time we were spending every cent that came in from the highway gas tax. So it is reasonable, I am suggesting to my colleagues, to consider that money that has been spent out of the general fund an offset to the $19 billion now owed to the trust fund by the general fund. The accumulated interest on some of the trust fund money diverted in the 1960's is the question in this taking off-budget debate. Some have suggested that that $19 billion is the property of the trust fund and therefore should be spent for roads. I am suggesting that because of the fact that we have now spent approximately $40 billion out of the general fund for roads, an additional $40 billion out of the general funds for mass transit, that it is reasonable to consider those expenditures as an offset to the interest that has been accumulating which represents approximately $19 billion. This amendment negates that $19 billion.

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I understand that my colleague from Pennsylvania is going to pursue his point of order that this amendment is not germane. It is technically not germane, and, therefore, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan to withdraw his amendment?

There was no objection.

The CHAIRMAN. The amendment of the gentleman from Michigan [Mr. SMITH] is withdrawn.

AMENDMENT OFFERED BY MR. SMITH OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Michigan: Page 8, lines 10 and 11, strike "the receipts and disbursements of" and insert the following: "the amounts that after the date of the enactment of this Act are received by or disbursed from".

Mr. SHUSTER. Mr. Chairman, I reserve a point of order against this amendment until we have an opportunity to examine it.

The CHAIRMAN. The gentleman from Pennsylvania reserves a point of order.

The gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SHUSTER. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The gentleman from Pennsylvania withdraws his point of order.

The Chair recognizes the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. This amendment deals with the same issue. A lot of the concern about taking the Highway Trust Fund off budget is that the additional moneys that have now accumulated in interest and indebtedness from the Highway Trust Fund, in the amount of $20 billion, the Airport and Airway Trust Fund, amounting to additional $11 billion would be spent, thereby taking money away from other programs. This would result in one of two scenarios: Either we borrow more money or we reduce expenditures in other areas.

This amendment provides that the only funds coming off budget would be funds being received into those trust funds from this coming September forward. So what it does is it reserves and keeps on budget the so-called cash account or the accumulated interest and other assumed debt that now exists. It is my suggestion that that is reasonable because this body needs to deal with the question of whether or not those funds have already been paid back. It is my suggestion that, because there has been approximately $40 billion coming out of the general fund for highway construction, because of the fact that there has been another $40 billion coming out of the general fund for mass transit, that we have adequately paid back those funds. Therefore, at this time it seems reasonable that we not transfer these funds off budget and we amend this bill accordingly.

The question of taking the highway trust fund off budget or continuing to expend these moneys under current procedures misses the point of what our ultimate goal should be. I would hope that we all agree that our goal is to spend transportation money from the States in the most effective and efficient way and accommodate the transportation needs of each State.

Detouring gas tax funds through the Federal Government to be returned after paying Federal administration costs is not effective or efficient. Allowing politicians in power to get more than their fair share is not effective or efficient. Not only do we use up vast sums in administration and manipulate funding for political purposes but we send the remaining funds back to the States with Federal regulations and mandates such as the Davis-Bacon Act that add billions of dollars of increased costs to highway and mass transit construction. Gabriel Roth who wrote "Roads in a Market Economy" suggests that a State would have to get back 150% of what it sent to Washington in order to break even because of these Federal mandates. That means that there are only 10 States in the Nation that get back enough from Washington to equal what could be accomplished if the gas tax money stayed in the State to begin with.

If we agree that we want the most efficient use of the available funds for transportation, then I suggest that we leave these funds at the State level in the first place. The Federal Government should retain only funding to provide a transition for those States that are currently benefiting and for transportation safety. Each State would then levy the gas tax locally in order to fund its own transportation system. This would end the process of sending State money to Washington to have some of it drained off in administration, some of it redistributed, and then be forced to beg to get the remainder.

This suggestion is not new. The concept of returning responsibilities to the States has been at the forefront of the welfare debate. Senator MACK of Florida has been a leader on this issue on the Senate side. The Heritage Foundation suggested devolution of the highway program to the States in a report last year. The support for this concept is building.

We should not shy away from examining from time to time each of our Federal programs and see if conditions still warrant the program at all, and if they do, should another level of government be responsible. Having served in local and State government before coming to Congress, I can say that the benefit of the doubt should lie with the government closest to the people. We should not be afraid to examine the proper role of the various level of governments in the highway program. I believe that once one looks into the transportation system in detail, the arguments support a smaller Federal role and a greater State and local role.

This body should vote against this bill that would simply move the inefficient way we expend dollars for transportation infrastructure from one committee to another and truly take the highway trust fund off budget by devolving the responsibility and revenue base back to our States and communities.

Mr. SHUSTER. Mr. Chairman, I rise in strong opposition to this amendment.

There are several reasons why this amendment should be defeated. It is a killer amendment which really has the effect of prohibiting any spending of the accumulated balances in any of the trust funds.

Now, if we believe that it is fundamentally wrong to have a $30 billion balance, money paid in there by the users, and are now saying that it can never be spent, that is just fundamentally wrong. There are other ways to deal with this, more appropriate ways, and indeed the Committee on Appropriations which sets the annual ceiling. If our legislation passes today, the Committee on Appropriations will still set the annual ceiling, and that is the place to make that decision. But to say today that none of the $30 billion that has accumulated can ever be spent is just fundamentally wrong. This would artificially cordon off that nearly $30 billion in accumulated balances and hold them hostage.

Mr. SMITH of Michigan. Mr. Chairman, will the gentleman yield.

Mr. SHUSTER. I yield to the gentleman from Michigan.

Mr. SMITH of Michigan. But it is not a question of them not being allowed to be spent. It is a question of them being spent in the same way that it has been spent since the existence of the trust fund in 1956.

Mr. SHUSTER. Mr. Chairman, I do not believe that is what the amendment does. What the amendment does is say you cannot spend it.

Mr. SMITH of Michigan. No, it just does not take them off budget.

Mr. SHUSTER. Mr. Chairman, it does not take them off budget, and the fundamental issue here is that these should be taken off budget. This gets to the heart of the question. Indeed these are user fees paid in there. They should be taken off budget.

But I would be quick to emphasize that limits should be set on what can be spent, and those limits are what should be set by the authorizers and by the appropriators, and in fact for the past year we have been saying we want to sit down with the appropriators and the budgeteers in order to negotiate a compromise on this kind of an issue, but unfortunately they were never willing to sit down and negotiate with us. So now to come at the last minute with a proposal I think, while I would not want to say it lacks good faith, although others have said that, nevertheless I think that this should be defeated and we should set these limits through the normal process of the authorizing and appropriating committees.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

This amendment is like so many others that look benign but have a poison pill attached. Clearly, this amendment undercuts a vitally important purpose of this legislation, which is to enable the Congress to spend down in a phased and fiscally responsible manner the $30 billion in surplus built up in the highway trust funds and the aviation and the other trust funds.

The $30 billion of surplus that we have been debating about all afternoon, the gentleman would say, oh, sorry, we are not going to spend the surplus, we can just spend what comes in on an annual basis. That is what this debate is all about, about withholding funds and building up these accumulated surpluses that then are sued to mask the deficit.

These surpluses should be off budget with the trust fund. The surpluses have accumulated because of failure to spend the user taxes we agreed to be taxed for that we have agreeably paid for the purpose of building highways and bridges and airports and deepening our waterways and improving our navigation channels. As budgetary conditions permit, the surplus should be devoted to their intended purpose.

The surpluses will not be spent down overnight, as we have repeatedly said in the course of this afternoon's debate. The bill does not exempt funds or the surpluses from the authorization or the appropriation process. We will have complete control over whether and when the surpluses are drawn down. In fact, over the past year the gentleman for Pennsylvania [Mr. SHUSTER] has been working diligently with the Committee on Appropriations and Committee on the Budget leadership to try to work out a plan under which the spend down would occur. It can be done; we have done so in the past in the aviation bill of 1990, the AIP reauthorization bill.

We worked out a very fine accommodation of reasonable accommodation with the Committee on Appropriations, the transportation appropriation subcommittee, the Office of Management and Budget, the Department of Transportation, the Committee on Ways and Means, under which agreement over a period of time, the very complex adjustment, we would draw down the surplus built up in the aviation trust fund, those moneys to be invested in airport runways and taxiways and parking aprons that were needed to relieve congestion at the Nation's airports, and it worked. That money was not all drawn down overnight in one big fell swoop; gradually over a period of time. Unfortunately, now the surpluses have begun to build up again.

So take the trust funds off budget, the surplus will be spent down in a reasonable and responsible fashion under accommodations between our committee and the Committee on Appropriations, working with the Committee on the Budget as well. We do not need this amendment. This really is a killer amendment. It ought to be defeated and ought to be unmasked for what it is: an attempt to gut the bill.

Defeat the Smith amendment.

Mr. LAHOOD. Mr. Chairman, I move to strike the last word.

I just want to emphasize what the distinguished ranking member of the Committee on Transportation and Infrastructure said. If my colleagues vote for the Smith amendment, they kill the bill. This is a killer amendment. The gentleman from Michigan [Mr. SMITH] does not like this bill. So in the option that he has been given he has offered his amendment to simply kill the bill.

We know the purpose of the bill is to take trust funds off budget and permit Congress to set whatever levels of spending it deems appropriate. In the Truth in Budgeting Act this amendment would not allow Congress to determine what trust funds support the aviation and highway system needed.

So I want to support what the ranking member said and advise Members to defeat this amendment because it, in fact, will kill the bill.

Mr. SHAYS. Mr. Chairman, I move to strike the requisite number of words, and with that I yield to my colleague, the gentleman from Michigan [Mr. SMITH] to respond to some of the points made.

Mr. SMITH of Michigan. Mr. Chairman, just very briefly, by not having the so-called cash reserve or the accumulated interest transferred and taken off budget means it will be spent exactly how the total trust fund has been spent since it was first started in 1956. So it is not a question of not spending the money, it is a question of that $30 billion coming under the caps and being spent in such a way through the budget process and the appropriation process as it has always been spent.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. SMITH].

The amendment was rejected.

The CHAIRMAN. The Committee will rise informally.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. LAHOOD) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

TRUTH IN BUDGETING ACT

The Committee resumed its sitting.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. MINGE

Mr. MINGE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MINGE: At the end of Section 2 insert the following:

(c) PROHIBITION ON EARMARKING OF HIGHWAY TRUST FUND AMOUNTS.—Subsection (a) shall no longer apply with respect to the Highway Trust Fund after the last day of any fiscal year in which amounts are made available for obligation from the Highway Trust Fund for any highway construction project or activity that is specifically designated in a Federal law, a report of a committee accompanying a bill enacted into law, or a joint explanatory statement of conferees accompanying a conference report, as determined by the Director of the Office of Management and Budget.

Mr. MINGE. Mr. Chairman, I yield to the gentleman from California [Mr. ROYCE].

□ 1500

Mr. ROYCE. Mr. Chairman, I want to point out that this amendment is supported by both supporters and opponents of H.R. 842. Indeed, the authors of the amendment include both proponents and opponents of the bill, as well as those who are as yet undecided. But very simply put, Mr. Chairman, the amendment says that if the highway trust fund is placed off-budget, there will be no earmarks for specific projects. If earmarks occur, the fund comes back on budget.

Why is this amendment important? Because this bill, H.R. 842, this underlying bill, would have the effect of exempting highway trust fund spending from all budgetary controls, including discretionary caps, pay-go rules, and 602(b) allocations. If we are going to give highway funds special protection from budget rules, then it is reasonable to hold highway funding to a high standard of accountability, and that means no earmarking.

Highway users who pay into the trust fund deserve to have those funds expended in the most efficient and fair manner possible. Earmarking disadvantages everyone in every project not on the list, and projects should be judged on their individual merits, not on patronage.

This amendment guards against pork barreling and protects the integrity of the highway trust fund. Supporters and opponents of the bill should all agree on that point. By way of demonstration, I just want to remind the Members that in 1991, in the highway demonstration projects, 30 percent of those funds went to West Virginia. West Virginia is .7 percent of the population. In 1992, 30 percent went to West Virginia. In 1993, we had one-third of all highway demonstration project dollars going to West Virginia; in 1994, $54 million, which amounted to 43 percent of the highway demonstration dollars; and in 1995, the fiscal year past, Members know the story. West Virginia for two projects got 52 percent of the Senate's money, or 21 percent of the Nation's highway money for demonstration projects.

Mr. Chairman, while the people of western Virginia are fine people, in my view this is unfair, unjust, inequitable. Some might call it highway robbery. Mr. Chairman, I would like to urge all of the Members to vote for the amendment. It is supported by Citizens Against Government Waste.

Mr. MINGE. Mr. Chairman, we have heard a great deal of debate both today and during this session about the problems that we have faced in this institution with earmarking, with demonstration projects, and abuses of this part of the process.

I certainly respect what the chairman of this committee has attempted to do in regulating and limiting inappropriate earmarks and demonstration projects. I also wish to pay tribute to the Committee on Appropriations, and the work of the honorable chairman of the Subcommittee on Surface Transportation and the guidance he has provided this Chamber in stopping the demonstration highway earmarking process.

Mr. Chairman, the purpose of this amendment is to confirm that if the highway trust fund indeed goes off-budget, we no longer engage in this practice. Instead, what we are doing is, we are collecting funds, we are remitting the funds to the States on a formula basis, and the States are then allocating these funds for projects as the States establish their priorities.

Mr. Chairman, I recognize that some people have problems with the way the States function, but I think the day has come when we need to say to the States, "We repose in you a certain level of trust and confidence, and if you abuse that confidence we will hold you to a higher standard," not that we will attempt to determine on our own here in Washington how funds ought to be micromanaged around the country.

Mr. Chairman, this amendment is designed to avoid that temptation and to still comply with the goals that are motivating this basic bill, which is to make these funds available for public highway projects throughout this Nation.

Mr. SHUSTER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there are several reasons why this amendment should be defeated. First, Mr. Chairman, the amendment would have the effect of preventing these trust funds from ever coming off budget, because it goes far beyond what it is purported to do. Let me explain. The amendment places the highway trust fund back on budget if any funds are made available for any highway construction project or activity that is specifically designated.

As the gentleman knows, funds for highway construction projects and activities were made available in ISTEA for fiscal 1997. Thus, this amendment would automatically return the trust funds on budget forever when the fiscal 1997 transportation appropriation bill passes. It is not our bill, it is not our bill which would cause this to kick in.

Second, a return to on-budget treatment is not only triggered by funds made available for highway projects, but also by funds being made available for virtually any purpose under the Federal Aid Highway Program. These include such basic programs as interstate maintenance, the National Highway System, emergency relief, ferry boat construction, rail-highway grade crossings, innovative financing/toll pilot programs, Orange County's private toll roads, among many others.

This provision would also return the trust funds on budget due to action made in bills reported in the past by other committees, other than this Committee on Transportation and Infrastructure. If this amendment were adopted, then another committee could prevent these trust funds from ever coming off budget simply by making funds available for any highway construction purpose in any appropriations bill, for example.

Fourth, the amendment singles out highway construction for special treatment among all types of transportation trust fund spending. Every year there are numerous earmarks for transit projects. In fact, there were over 130 transit earmarks in the fiscal 1996 transportation appropriations bill. There were also over 20 earmarks in that same bill which would not be prohibited by this amendment.

Finally, this amendment is completely unnecessary. Every dollar in the highway trust fund spending is subject to the recently enacted line-item veto. Congress will have ample authority to review any highway authorization bills that make highway trust funds available if such bill is passed, and indeed beyond that, the President could use his line-item veto.

Rather than being satisfied with this procedure, Mr. Chairman, this amendment would vest OMB with line-item veto authority. For all of these reasons, I would urge my colleagues to resoundingly defeat this amendment.

Mr. MINGE. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Minnesota.

Mr. MINGE. Mr. Chairman, there were two amendments printed in the RECORD. One of them was broader. I would like to make sure we are talking about the same amendment. There is nothing in this one that deals with transit funds.

Mr. SHUSTER. That is correct. That is exactly the point I am making to the gentleman. There is nothing here that deals with transit funds, which is only one of the many reasons this amendment should be defeated.

Mr. MINGE. But something that would happen with respect to transit funds would not be a highway project, unless it was a specific highway project. Therefore, it would not trigger the reaction that the gentleman is attributing to the amendment.

Mr. SHUSTER. What is good for highways ought to be good for transit.

Mr. MINGE. We would like to deal with transit as well, but as we understand the process within the Department of Transportation, the transit trust fund is handled in quite a different fashion.

Mr. SHUSTER. No, it is not. Mr. Chairman, I would inform the gentleman that the transit account is part of the highway trust fund, and indeed is handled as the highway funds are handled as well.

Mr. MINGE. We understand they have a priority system in the Department of Transportation for the transit trust fund. Is that correct?

Mr. SHUSTER. I am sure this Congress does not want to accede to a particular administration; what procedures they may deem wise to use, we may think they are very unwise, so we are not about to turn over to the bureaucrats downtown some procedure which they say they use for transit.

Mr. MINGE. Would the gentleman agree, then, that we should exclude transit because it is not adequately covered at the Department of Transportation?

Mr. SHUSTER. I agree that for many reasons that I have outlined here, that this amendment should be defeated.

Mr. MINGE. We appreciate it, because we did exclude transit for some of the reasons you have mentioned. That should win the gentleman's support for this.

Mr. SHUSTER. Mr. Chairman, I understand that the gentleman has sent our committee a request for a project which we have here, so I find it a bit amusing that the gentleman would now take this position when indeed we have in our possession a letter from the gentleman asking us to fund a special project for him.

Mr. OBERSTAR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is another one of the killer amendments devised by those who are not in accord with the purpose of taking trust funds off budget. In fact, even some who have originally signed on as sponsor of the bill obviously had second thoughts later on and said they do not want to support this concept, and now they find ways to undermine it, cut it and gut it.

Mr. Chairman, this amendment provides that the trust funds would no longer be off budget if at any time a highway project was specifically mentioned in a bill or a committee report.

What this means in plain English is that the Committee on Appropriations can kill off-budget status for the highway-aviation-waterway trust funds simply by earmarking a project in a bill or a law, in a committee report or in a bill that ultimately becomes law. This hands over to the Committee on Appropriations the total power over the trust funds and their status. What a crazy thing to do.

Mr. Chairman, the gentleman refers to demonstration projects and says he wants to stop pork barreling, and our colleague, the gentleman from California, the gentleman who spoke previously, also talks about pork barrelling. I am not quite sure what they mean by "pork barrel." It usually carries the implication of an individually designated project or fund without merit. That usually is an argument from the perspective of the Speaker. What is meritorious in one district may not be meritorious to a person in another district.

If I may have the attention of the gentleman from California [Mr. ROYCE], is he familiar with the Hacienda Boulevard project? Does the gentleman recall writing to our committee about the merits of the Hacienda Boulevard project? We agreed with the gentleman that it had merit in the 103d Congress, on both sides of the aisle. We thought it was a very meritorious project. We were prepared to support it.

The gentleman is supporting now a provision of law that would gut the ability to help the gentleman achieve a laudatory, necessary, and important purpose that he feels significant for his district, as for my colleague, the gentleman from Minnesota, who also has appealed to our committee in the past on the merits of need in his district.

We are prepared to support those needs, and we have done in the past. Now they come along and say, oh, sorry, we were only kidding. We did not mean it. We are going to give authority to kill the ability of the Committee on Transportation and Infrastructure to help Members respond to transportation needs that are not being met by their State.

In effect, we hand over authority over Federal funds, over tax dollars that we vote for in this body, to States, and let State governments and State highway departments earmark the designate and specify and determine where those dollars are going to go. That is not pork barreling? That is not individual designating? That is fair?

The reason we get bombarded, we Members of this Body get bombarded by our constituents, is that those very State governments are not responding to the needs of highway users in our respective districts. That is why we went through a very elaborate process of joining with State highway departments and the Federal Highway Administration to set up criteria, 17 criteria, by which we would judge whether a project is meritorious or not and ought to be included in a national piece of legislation.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, perhaps what I hear the gentleman saying is that there are those who think that if we designate worthy projects here, that is a terrible thing, but if we shovel the money back to the States, then there are angels in heaven in the State government who makes these dispassionate, objective decisions as to how to spend the money. Politics, that terrible, crass work, politics, never enters into a decision when the States decide how to spend the money that we send to them.

Mr. OBERSTAR. The gentleman is quite right. Actually, the dollars that leave here that go to the State government, and they are sprinkled with holy water and they are absolved of all sin. That is sheer nonsense. If Members believe that, I have some swampland out in Minnesota I would like to sell them.

Mr. Chairman, this is a killer amendment. It is foolish. It ought not to be adopted. We should roundly defeat it.

Mr. NEUMANN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to many things that were just said, and I to a certain degree, find some of them offensive. Let me just explain why. I do support this bill, and I think that the tax dollars that are collected from gasoline taxes should be spent back out on highway projects; but I also support the fact that the people in the State of Wisconsin have a right to receive the tax dollars that they pay into this system back in the State of Wisconsin.

When we permit projects to be earmarked, those projects that are earmarked take away from the overall kitty that is available to be redistributed in a fair manner to the people in the State of Wisconsin. So I support this amendment strongly, and I rise to support this amendment. I support the bill, but I do not want to see earmarks in the bill. The only way that I can see to eliminate the practice of pork barrel spending or earmarking things in the bill is to make sure this amendment actually goes through.

We do not have to look very far. The Almanac of American Politics noted that out of $6.1 billion, with a b, made available for ISTEA projects, one State received over $930 million. One district in that State received $300 million. That is not fair to the State of Wisconsin and it is not fair to the other States around this country.

The purpose of this amendment is to make sure this money gets distributed in a fair, well-thought-out manner around the country and people in States like the State of Wisconsin receive their fair share of the amount of money back.

The part that I disagree with adamantly is that people that are rising that support this bill would somehow have some other meaning. I support this amendment, and I support this amendment because I believe it is in the best interests for the future of this country and the manner in which we distribute these funds.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. NEUMANN. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, the gentleman was not here in the previous Congress or the Congress previous to that, when we went through a very elaborate process in our committee on both sides of the aisle to determine the merits of projects.

Mr. NEUMANN. Mr. Chairman, reclaiming my time, is that the Congress where 30 percent plus of this money was allocated to one State consistently, year after year after year?

□ 1515

That is what this new Congress is all about, is stopping that kind of practice.

Mr. OBERSTAR. That is simply not true.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. NEUMANN. I yield to the gentleman from West Virginia.

Mr. RAHALL. I am advised that in the last ISTEA legislation we did, that Wisconsin was adjusted near the end, and it came out very well. So I am not sure what the gentleman's direct concern is here, but certainly in the future in agreeing with this amendment which he wholeheartedly supports, we will be glad to exempt Wisconsin.

Mr. NEUMANN. We would certainly hope that in the future years we make sure that Wisconsin receives a dollar back for every dollar sent in, and that would solve a vast majority of the problems that we have.

Mr. RAHALL. If the gentleman will continue to yield, if he is talking about highway funding formulas then, I believe that is properly addressed when our committee reauthorizes ISTEA at the proper time.

Mr. NEUMANN. We look forward to that redistribution back to the State of

Wisconsin. I would conclude my comments by reiterating that I do support the overall bill, and in theory I support what is being said here, that the tax dollars that are collected at the gas pump from the gasoline users should be spent to build highways and should be reallocated in this manner.

What I do not think should happen is that that money should be pork barreled into certain districts. When we put it into certain districts, it is not available in the general kitty to be reallocated in the general well-thought-out manner that the formula would indicate.

Mr. RAHALL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, we have been talking about here the Truth in Budgeting Act. I would submit that that label perhaps should apply to amendments as well, and that we ought to say we are for truth in amendments as well, and I would like to advance some criteria in just a moment for what truth in the amendment process should be about.

But let me say to the gentleman from Minnesota, one of the cosponsors of this amendment, very similar to remarks I made earlier in this debate addressed to the chairman of the Appropriations Subcommittee on Transportation, that is, these Members who get up and talk about earmarking projects, talk about pork-barrel projects and proceed to label themselves as pork-busters, knowing the way the press loves to headline and loves to pay such Members attention, I would remind the gentleman, as the gentleman from Pennsylvania [Mr. SHUSTER], our distinguished full committee chairman, has already done, and I am sure he is already aware of letters that he has written our committee requesting projects in the past.

Evidently these projects under the current amendment and under the debate that is being conducted are termed bad and thrown out for political purposes, the money is thrown out for political purposes, but the pending amendment that the gentleman offers should indeed be shown for what it is.

Under the truth in amendments criteria that I would advance, Mr. Chairman, I would say must reveal first the startling transformation that has occurred in the sponsor of this amendment, the gentleman from Minnesota [Mr. MINGE]. There is a highway project in Minnesota which I am sure he is aware. It is a good project. It is called trunk highway 212.

In 1994 the gentleman wrote to me in my then capacity as chairman of the Surface Transportation Subcommittee requesting an earmark of $12 million for this particular project. We were able to help the gentleman, maybe not to the full extent to which he was requesting, but nevertheless in that letter the gentleman from Minnesota noted that the project had already received two other congressional earmarks, both in ISTEA and in the fiscal 1992 appropriation bill.

I think it is strange today that the sponsor of this so-called pork-buster amendment now finds the earmarking of money for highway projects so onerous. But be that as it may, there is a more important reason for opposing this amendment, and that is simply the fact that it makes no sense.

The gentleman notes in his April 16 "Dear Colleague" in support of this amendment that if the trust funds were taken off-budget, highway demonstration projects will be completely exempt from obligation limitations. The truth is that today under the existing process, ISTEA demonstration projects are exempt from the obligation limits set in the appropriation bills. They are exempt from the obligation limits today. So, therefore, the pending amendment makes no sense and I would urge its defeat.

I would say also in response to the gentleman from California, in his earlier rendition of what he termed highway robbery and appropriations of money that have come to West Virginia, my home State, for highway demonstration projects, I am not entirely clear but I believe some of those moneys to which he was referring are out of general revenues, and that is not what we are talking about in this particular legislation today at all. Yes, West Virginia received those projects, yes, we deserved them, but, no, they would not be affected by this particular amendment. They would not be affected by this particular legislation that we are considering because those were revenues that were appropriated out of general funds of the United States, not highway trust funds.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. This is not the place to fight that battle. The place to fight this battle is when we bring ISTEA to the floor for reauthorization. I am sure there will be a bloody battle, in our committee and on the floor, over the whole question not only of special projects but of the formula which is used to apportion the money to the States. That is the place to fight this battle.

Mr. RAHALL. The distinguished chairman is entirely accurate. That is the format in which we should make that battle and also, in addition to that, we should not be trying to blur the distinction here between general revenues and highway trust fund moneys, either. If the gentleman has a problem with the appropriation process, then let us take that battle to the Committee on Appropriations and battle it out during the appropriation process.

Mr. MINGE. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from Minnesota.

Mr. MINGE. I do not believe the gentleman received a letter from me in the 104th Congress requesting any funds for highway projects.

Mr. RAHALL. 103d Congress. If I misspoke, I stand corrected.

Mr. MINGE. And it would be correct to say that in the 104th Congress some of the rules changed, and we no longer had demonstration projects, so that we were not subject to this type of request from our constituents and, as a consequence, the process here in the House changed and we sort of cleaned up our act a little, if you will.

Mr. RAHALL. I know the gentleman is trying to relate his transformation to a possible transformation in the House rules, but we have not had a highway bill this year.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Minnesota [Mr. MINGE].

Mr. Chairman, the title of the pending legislation is the "Truth in Budgeting Act."

I would submit that we should apply that label to amendments as well.

Truth in amendments.

The gentleman from Minnesota has labeled himself a porkbuster. I have two "Dear Colleague" letters signed by the gentleman in which he berates so-called porkbarrel highway demonstration projects.

These types of projects are, in his view, apparently bad and as such, the pending amendment would make taking the transportation trust funds off-budget contingent upon there being no further earmarking of funds for a particular project.

Under the Truth in Amendments criteria I am advancing, I find that I must reveal there has been a startling transformation in the gentleman from Minnesota's views as they relate to earmarking of projects.

There is a highway project in Minnesota, and I am sure it is a good project, called "Trunk Highway 212".

Now, in 1994, the gentleman wrote to me in my then capacity as chairman of the Surface Transportation Subcommittee, requesting that I earmark $12 million for that project.

In that letter, the gentleman noted that the project had already received two other Congressional earmarks: in ISTEA and in the fiscal year 1992 appropriation bill.

Let it suffice to say that I find it passingly strange that today, the sponsor of this so-called porkbuster amendment, now finds the earmarking of funds for highway projects so onerous.

Be that as it may, there is one major reason to vote against this amendment.

It makes little to no sense.

The gentleman notes in his April 16 "Dear Colleague" that if the trust funds are taken off-budget, highway demonstration projects will be completely exempt from obligation limitations.

My colleagues, the truth is that today, under the existing, process, ISTEA demonstration projects are exempt from the obligation limitations set in the appropriation bill.

They are exempt from the obligations limitations today.

So I would urge a "no" vote on the pending amendment.

Mr. INGLIS of South Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have a great opportunity today to effectively continue the work that was just described, of eliminating these highway demonstration projects. As I understand it, highway demonstration projects were first designed to demonstrate new road construction techniques. Now they simply demonstrate the Members' ability to bring home the bacon to the district. That is what a demonstration project is all about.

The gentleman from West Virginia has made some point about others requesting demonstration projects. Let me, I guess, establish my credentials on that point.

In 1993, immediately upon being elected to this Congress, I said I would not support a demonstration project in my own district. It created quite a stir, because this is not what Members of Congress are supposed to do. They are supposed to seek the bacon for their district and bring it home. That is how they get reelected, so the story went.

Well, I opposed demonstration projects. I said I would not go to Congress. I said, "If you're choosing somebody to go on a looting mission for one's friends," as George Will has said, "pick somebody else, not me. And if you want to, throw me out after 2 years."

What happened? People in my district said, "That's right, BOB. No more demonstration projects. It's a lousy way to do government." What else did they say? Look at this, interesting thing. George Bush said no demonstration projects until he got into some trouble with reelection. Then Bill Clinton says no to demonstration projects. What do you make of it? President Bush and President Clinton agreeing, no demonstration projects.

So our honorable chairman of the committee over here has taken that action, and I am very excited about that. We need to do it right here. We need to make sure that in this bill we have a fail-safe, so if the committee starts spending demonstration money, it goes back on-budget. It is a nice accountability feature.

I think it would make a whole lot of sense to do that right now in this bill so that we make sure that we do not lapse into that old behavior of demonstration projects being clearly designed to win Members reelection. That is what this is all about, and that is why we have got to eliminate these demonstration projects.

The point was made earlier, it goes to holy water, the gentleman from Minnesota [Mr. OBERSTAR] said, when it goes to the State. I do not know about the holy water, but I do know this. If it goes to Columbia, SC, as a lump of money, in Columbia, SC, we are a relatively small State, we can figure out how to spend it. In 2½ hours you can get from Columbia to anywhere in South Carolina on the road system we have, and you can determine what the priorities are.

If I am given carte blanche to come here and be the demonstration project king, what happens is I start earmarking for my own district, and what happens to JIM CLYBURN's district or JOHN SPRATT's district or FLOYD SPENCE's district? It gets all irrational. It gets into complete politics way removed from the situation.

Columbia has no holy water but it is a small State. We can figure it out as a family. We want to send it back there freely, fairly and then let the State divide it up. That is the way it was designed.

Mr. NEUMANN. Mr. Chairman, will the gentleman yield?

Mr. INGLIS of South Carolina. I yield to the gentleman from Wisconsin.

Mr. NEUMANN. Listening to the gentleman, the phrase "trust but verify" comes to mind, that we trust the procedure that has been initiated in this Congress will continue and this is very simply a verification that what we have started, to make government cleaner and better for the American people, will continue. "Trust but verify" just keeps coming to my mind as I listen to the gentleman.

Mr. INGLIS of South Carolina. It says something about the SALT treaties and all that.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. INGLIS of South Carolina. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I thank the gentleman for yielding. If ever there were a man of integrity in this body, it is the gentleman from South Carolina, and if ever there were a gentleman who could do heavy lifting for his district, it is this champion weight lifter who is at the microphone over there.

I am glad to hear that the gentleman has such great confidence in his State government to distribute funds equitably and fairly. I say to the gentleman, I cannot get anywhere in my district in 2½ hours. It is too big.

But there is nothing, in all seriousness, in this legislation that refers to earmarking or designating. That is an issue that will be taken up the next time we have an authorization bill. Furthermore, the language of the gentleman from Minnesota would invite earmarking by the Committee on Appropriations for the simple purpose of killing off-budget status of the highway trust fund.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. INGLIS of South Carolina. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. This amendment goes far beyond the issue of special projects. If we want to fight about special projects, ISTEA is the place to do that, not here. But this goes far beyond that. For example, if interstate maintenance, the national highway system, bridge, the ferry boat construction, if any one of these categories were included, it would kick in this amendment. Is that the gentleman's understanding, as well?

Mr. OBERSTAR. Yes.

Mr. INGLIS of South Carolina. If I may reclaim my time, if that were to happen, let us assume the Appropriations Subcommittee on Transportation decided to do such a thing. I would imagine it would be a fairly uncomfortable position and an unenviable position for them to be in, having taken a position against demonstration projects. It would be a rather awkward position.

Mr. WOLF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support this amendment. I do not think it is going to pass. I hope it passes. But what we ought to be doing, and maybe this would be the prelude to next year, is we ought to just take a percentage of the 18.5 cent gasoline tax and turn it back to the States, because I think they know better about where the money ought to be spent than frankly we do in Congress. And when you have a problem in that individual State, then you go defeat that Governor or you change their legislature or you do something.

What the gentleman from Wisconsin was saying was a fact. The great State, my neighbor State of West Virginia, in that 1 year got 47 percent of all the highway demo money out of the Committee on Appropriations. Forty-seven percent.

There are three wonderful, and I like the gentlemen very much, three good Members of Congress and two outstanding Senators. Let me just say that for the record. I have great respect for Senator BYRD. I think he is a good person, a decent person. But the fact remains that that State has three Representatives, got 47 percent of the money and the rest of the country got 53 percent. Texas got nothing. Florida got nothing. California got nothing.

We in the Committee on Appropriations made a decision that was supported on a bipartisan basis, Republicans and Democrats, that we would do away with highway demo projects. Some people thought when I got to be chairman of the committee that we would just do everything for my State, and I said, "That's not why we're here, and we're going to do away with it," because I had watched the way that demonstration projects were determined. It was if you voted a certain way, if you did a certain thing. So I thought it was a good idea, and I thought the Minge amendment and the gentleman from California have a good idea. We should be changing the formula. Right now we are disbursing the money on 1980 census data, when the world has changed in 1996 in California and South Carolina. And the gentleman from South Carolina, your State gets 87 percent. You do worse than any other State.

□ 1530

So this is a good amendment. Hopefully it will not pit the two committees together. Some people said, "You are here because you have a jurisdictional issue." Let me say, if the highway trust fund is taken off budget and it passes the House and the Senate and is signed by the President, I am going to get out of this committee. It will be a joke. It will be a waste. It will be a fraud.

Second, even if this does not pass, I do not want to be chairman of the Subcommittee on Transportation of the Committee on Appropriations for the rest of my life. I sit publicly in hearings. I may ask the gentleman from Louisiana [Mr. LIVINGSTON], "Hey, put me on another committee." Put me on the Committee on Foreign Operations. I can do other things other than transportation. So it is not a jurisdictional thing.

I commend the gentleman from Pennsylvania [Mr. SHUSTER] for the effective work here, and the gentleman from Minnesota [Mr. OBERSTAR] for the effective work here, but this amendment makes sense.

Nobody should abuse this amendment, make it look like a stupid amendment. It is a good amendment, and I think it is a way the Congress ought to go. Let us reduce the gasoline tax; let us let the States run it. Whatever we keep at the Federal level, let us change on a formula based on census and fairness.

Last, let us not hold anyone accountable who may vote the wrong way because they voted their conscience.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, I would just ask the gentleman from Virginia, what was that pledge he made if this became law?

Mr. WOLF. Mr. Chairman, reclaiming my time, I said if this bill becomes law and is signed by the President, I would step down as chairman of the Subcommittee on Appropriations, because I think it would be a fraud to be there.

Mr. RAHALL. I just wanted to hear it repeated.

Mr. WOLF. Is the gentleman looking forward to that date to take my place, my friend? Although West Virginia has lost a little bit under the change with regard to that, the gentleman was not involved in those other things. It came from the other body.

Mr. RAHALL. Mr. Chairman, if the gentleman will yield further, would the gentleman clarify in this particular Member's mind his distinction between highway demonstration projects and earmarking?

Mr. WOLF. Mr. Chairman, a highway demonstration project is the State, and we have found out many times the State does not want the money, but the Congress gives them the money for whatever reasons, and you can fill in the blank what those reasons are. After the money ends, the State stops building it.

We had the GAO look at it, and many of these highway demonstration projects were never completed because the States did not want it. Once they get the money, they use the money, once they run out, they end it.

I would like to give back to the States whereby the Governor of the States can make the decision, and not the handful of people up here based on the fact you like the way the guy voted, or he did not offend you, or whatever the case may be.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. WOLF] has expired.

(By unanimous consent, Mr. WOLF was allowed to proceed for 2 additional minutes.)

Mr. WOLF. Mr. Chairman, I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, as the gentleman is aware, in ISTEA, when I chaired the Subcommittee on Surface Transportation, with the complete cooperation of the gentleman from Wisconsin, Chairman PETRI, and the gentleman from Pennsylvania, Mr. SHUSTER, chairman of the full committee, and the gentleman from Minnesota, Mr. OBERSTAR, or then Chairman Mineta, we developed a set of criteria by which projects had to answer, a long list of questions. One of those questions at the very top was about whether the State supported the project or not. We did not put a project into ISTEA without full 100-percent written testimony from the States that they supported such projects.

As I said earlier, these projects were scrutinized, scrubbed, and there was not a one put in there without State support, not without State support.

Mr. WOLF. Mr. Chairman, reclaiming my time, what happens is though the States say "If I am going to get it, I will take it." Even my own State said we are against these projects, but if everyone else is doing it, can you do it.

So I think it is better that it fits into the overall State's plan. I think the Governor is the best one to determine it and the money ought to go back on a systematic formula.

There are good and decent people on both sides. I am not questioning anybody for the way they do this. I think the amendment makes sense, and I ask strong support for the amendment. I am not going to hold my breath until it passes, but it would be a good thing.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, the gentleman has been a strong supporter of the Woodrow Wilson Bridge rehabilitation. The gentleman understands that under the language of the amendment of the gentleman from Minnesota [Mr. MINGE] that any project or activity that is specifically designated in Federal law, that the Woodrow Wilson Bridge would specifically be stricken?

Mr. WOLF. The difference is, I would tell the gentleman, the Woodrow Wilson Bridge is the only bridge owned by the Federal Government.

Mr. OBERSTAR. It would still be stricken.

Mr. WOLF. It is in a totally different capacity. The Federal Government and Federal Highway Administration has come up to your committee and said that is their responsibility.

Mr. OBERSTAR. It would still be stricken by this language.

Mr. WOLF. It is a different situation, because it is a federally owned bridge.

Mr. OBERSTAR. It is still in the trust fund.

Mr. WOLF. I urge support of the amendment.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair must remind all Members to avoid personal reference to Members of the Senate.

Mr. ROYCE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, yes, we are trying to change the process here so that it is done in the future proportionately on the basis of fuel taxes paid in by the various States and not affected by earmarking. It is because earmarking favors Sates with Members on key committees and communities with the resources to hire Washington advocates at the expense of other States and localities.

State transportation departments, in my view, and State legislatures are in a much closer position of being closer to the people to determine which highway projects are most deserving of funding than Congress. This is my view. Although individual Members may be knowledgeable about projects in their district or State, Congress as a whole is not in a position to make decisions about the merits of individual projects across the country.

Lastly, the process of earmarking funds for demonstration projects encourages the use of transportation funds for high profile politically popular new construction projects at the expense of the less visible but more important repair and maintenance projects.

So I urge and an "aye" vote on the amendment.

Mr. MINGE. Mr. Chairman, will the gentleman yield?

Mr. ROYCE. I yield to the gentleman from Minnesota.

Mr. MINGE. Mr. Chairman, I would like to also point out, complimenting the gentleman on his remarks, that we have remarkably capable committee leadership in the Committee on Transportation and Infrastructure and many other committees in this Congress. I submit that if some States are not responsibly allocating the Federal funds that come through, that our committees have oversight jurisdiction. It provides us with an opportunity to watch what the States are doing, to correct it with legislative response immediately, if that is what is necessary.

But this is a function that we can play very well, oversight. We have a national vision. But it is very difficult for us to provide the local supervision and the local decisionmaking that is so important in allocating funds between communities, even within our respective districts.

I would also point out that I, and I expect almost every other Member, have from time to time requested a project. I and many other Members have had communities in our districts request support for specific projects. As long as the game plan in Congress is to have demonstration projects or earmarks, it is very difficult to represent an area without playing the game.

I am not here to say that the gentleman from West Virginia or the gentleman from Pennsylvania or my colleague from Minnesota has done anything untoward. I am simply saying, let us engage in the oversight function. Let us not engage in the business where we each beseech the other for some local project and try to evaluate what is going on in each others' districts.

This is an extremely difficult task to perform from Washington. I certainly compliment the gentleman from West Virginia or South Carolina on his resolution to avoid that type of temptation. I know that is a stronger temptation than almost anyone else in this body has been able to withstand.

In closing, I would like to urge the Members of this body to support the amendment. We see this as an opportunity to improve the functioning of our institution and to avoid some of the criticism which unfortunately from time to time has brought our institution into disrepute in the Nation's press.

This, I submit, is a way for America, for the Congress, to improve our function, and to improve the way that we handle the important task of allocating Federal funds.

Mr. BACHUS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am here in vigorous opposition to this amendment. I think if you listen to the debate, you focus in on highway demonstration projects. I agree with much of what the gentleman from Wisconsin says and the gentleman from South Carolina. There are too many pork barrel projects. There are too many demonstration projects. But this amendment does not address highway demonstration projects. That is not what this amendment is about.

What this amendment does do is it would gut this legislation. That is why I am opposed to it. This legislation would assure that when people in our States pull up to the gas pump and they pay 18.5 cents a gallon in Federal taxes, which they believe will go to transportation projects, that when that money comes up here, all 18.5 cents goes back. It is not dipped in and taken out and spent on projects that are 1 million years and 1 million miles away from highway projects.

The gentleman from Wisconsin and I agree that this legislation before us is good. This amendment has a good sound to it, and I compliment the gentleman from Wisconsin for bringing it. But when I read it, I realized that it is not what he, I believe, even intended. Because what it would do in fact, I am concerned about these Canadian trailers, where you put three of them together, and a truck can haul trailers longer than a 10-story building. I want to stop that.

But this bill says that if we spend any money to address highway activities, if we try to stop these tractor-trailer trucks longer than a 10-story building, that we cannot do it, because we are obligating money for highway activities, and it goes out the window.

I am concerned about those four teenagers that died in Talladega County, AL, a few months ago at a grade crossing. I would like to address that. Several of us in this body are looking to make grade crossings safer. We would like to commit money to this activity. But it is a highway activity, and with this amendment, it goes out the window.

All someone would have to do that wanted to stop dedicated highway funds from highway projects, all they would have to do is slip something into our bill which was an activity, and it is out the window. So I vigorously oppose this amendment.

Mr. DUNCAN. Mr. Chairman, will the gentleman yield?

Mr. BACHUS. I yield to the gentleman from Tennessee.

Mr. DUNCAN. I just want to comment to the gentleman from Alabama, I certainly agree with the points he is making. I might make a couple of comments in addition.

Any highway project at any time probably has been called pork by somebody. So we almost have a choice of doing no highway construction at all in the country or doing projects that possibly somebody, some small minority someplace, is going to call pork. But we have got to do this construction.

All of this legislation we deal with, whatever subject it involves, it has to get specific in many different ways. But we run the risk if this amendment passes that if we get specific in highway legislation from now on, it would put this money back on budget and it would start being used for all these other things, foreign aid and everything else, instead of being used for highway construction and the purposes for which it was designated, which is what the American people want.

So I rise in opposition and join the gentleman from Alabama in his opposition to this amendment.

Mr. BACHUS. Mr. Chairman, reclaiming my time, in conclusion, I want to warn the Members of this body, if you are concerned about those triple trailers, which in negotiations they are trying to turn loose on our highways, and they will kill our senior citizens, and if you are concerned about these string of trailers, if you want to do something about them, that is a highway activity. Read this amendment.

Mr. CRAMER. Mr. Chairman, will the gentleman yield?

Mr. BACHUS. I yield to the gentleman from Alabama.

Mr. CRAMER. Mr. Chairman, I thank my colleague from Alabama. I accept the gentleman's points. I rise in opposition to this amendment as well, and I accept the points the gentleman has made.

I additionally want to say on behalf of Alabama that we have worked very constructively with this committee, with the chairman of the committee, the ranking member of the committee. We have dotted every i, crossed every t. That first question we answered was, our State in support of a specific project? We from the Alabama delegation worked with a delegation with the committee.

So I think many misunderstand this process and misunderstand what we have to do in order to look after certain projects in the State. I just think this is a bad way to accomplish what the sponsors of this amendment want to accomplish, and I would urge my colleagues to oppose this amendment.

Mr. BACHUS. Mr. Chairman, reclaiming my time, I will simply close by saying read the amendment. It not only says highway construction projects, it says any highway activity, totally tying our hands to address important safety issues.

☐ 1545

The CHAIRMAN. The question is on the amendment of the gentleman from Minnesota (Mr. MINGE).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MINGE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 129, noes 298, not voting 5, as follows:

[Roll No. 121]

AYES—129

Allard
Andrews
Archer
Armey
Ballenger
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bereuter
Bilbray
Boehner
Bonilla
Brownback
Bunn
Bunning
Burr
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Coleman
Cooley
Cox
Crane
Cubin
Cunningham
Deal
DeLay
Dicks
Dixon
Doggett
Everett
Foglietta
Foley
Franks (CT)
Frelinghuysen
Funderburk
Furse
Gallegly
Goss
Graham
Gunderson
Gutknecht
Hall (TX)
Hancock
Harman
Hayworth
Hefley
Herger
Hilleary
Hoekstra
Hoke
Inglis
Johnson, Sam
Johnston
Jones
Kasich
Kennedy (MA)
Klug
Knollenberg
Kolbe
Largent
Leach
Lightfoot
Linder
Livingston
Luther
Maloney
Manzullo
McCrery
McInnis
Meehan
Meyers
Miller (FL)
Minge
Morella
Myrick
Nethercutt
Neumann
Nussle
Obey
Orton
Packard
Pelosi
Peterson (FL)
Porter
Portman
Pryce
Radanovich
Ramstad
Regula
Roemer
Rohrabacher
Roukema
Royce
Salmon
Sanford
Sensenbrenner
Shadegg
Shaw
Shays
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Stark
Stearns
Stenholm
Stockman
Stump
Taylor (NC)
Thornberry
Thurman
Tiahrt
Torkildsen
Walker
Watt (NC)
Waxman
White
Wolf
Yates
Young (FL)
Zimmer

NOES—298

Abercrombie
Ackerman
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Barcia
Barr
Bateman
Beilenson
Bentsen
Berman
Bevill
Bilirakis
Bishop
Bliley
Blute
Boehlert
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TN)
Bryant (TX)
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Chapman
Chrysler
Clay
Clement
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Costello
Coyne
Cramer
Crapo
Cremeans
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dingell
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frisa
Frost
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Green (TX)
Greene (UT)
Greenwood
Gutierrez
Hall (OH)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hefner
Heineman
Hilliard
Hinchey
Hobson
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Istook
Jackson (IL)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
LaFalce
LaHood
Lantos
Latham
LaTourette
Laughlin
Lazio
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lincoln
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Lucas
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McDade
McDermott
McHale
McHugh
McIntosh
McKeon
McKinney
McNulty
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Ney
Norwood
Oberstar
Olver
Ortiz
Owens
Oxley
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Poshard
Quillen
Quinn
Rahall
Rangel
Reed
Richardson
Riggs
Rivers
Roberts
Rogers
Ros-Lehtinen
Rose
Roth
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Serrano
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Spence
Spratt
Stokes
Studds
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Tejeda
Thomas
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Wamp
Ward
Waters
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Williams
Wise
Woolsey
Wynn
Young (AK)
Zeliff

NOT VOTING—5

Fattah
Jackson-Lee (TX)
Nadler
Neal
Wilson

☐ 1606

Messrs. BURTON of Indiana, RUSH, CONDIT, KINGSTON, LAFALCE, CREMEANS, DOOLITTLE, and Ms. McKINNEY changed their vote from "aye" to "no."

Messrs. JONES, BILBRAY, BURR, DIXON, EVERETT, and Ms. PELOSI, Ms. HARMAN, and Mr. HALL of Texas changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to the bill?

Mr. SHUSTER. Mr. Chairman, I move to strike the last word, and I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman,I rise in support of the Truth in Budgeting Act.

Mr. Chairman, I rise in strong support of H.R. 842, the Truth in Budgeting Act and commend its sponsor, the gentleman from Pennsylvania [Mr. SHUSTER] for his bringing this important measure to the floor.

H.R. 842 transfers the highway, aviation, inland waterways and harbor maintenance trust funds off budget and provides that trust fund balances will not be used in calculations by the Congressional Budget Office regarding the Federal budget.

This bill guarantees that transportation taxes such as, that taxes that our constituents pay when they fill up their gas tank or when they buy an airline ticket are used for their stated purpose, to improve and reinforce our country's transportation infrastructure. Currently cash balances in the transportation trust funds total $30 billion. It is wrong that this funding is being used to mask portions of our Nation's budget deficit as opposed to upgrading our country's transportation infrastructure.

H.R. 842 is a positive step toward ensuring that our highways and airports get the help they need. According to the Congressional Budget Office this is an action that is budget neutral.

Accordingly, Mr. Chairman, I urge our colleagues to support this worthy legislation.

AMENDMENT OFFERED BY MR. ROYCE

Mr. ROYCE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ROYCE:

Page 3, line 10, insert "(a) IN GENERAL.—" before "Notwithstanding".

Page 4, after line 14, insert the following:

(b) PROHIBITION ON EARMARKING OF HIGHWAY TRUST FUND AMOUNTS.—Subsection (a) shall no longer apply with respect to the Highway Trust Fund after the last day of any fiscal year in which amounts are made available for obligation from the Highway Trust Fund for any highway construction project or activity that is specifically designated in a Federal law, a report of a committee accompanying a bill enacted into law, or a joint explanatory statement of conferees accompanying a conference report, as determined by the Director of the Office of Management and Budget.

Mr. ROYCE. Mr. Chairman, this amendment is designed to comply with the spirit of the bill by providing for a complete segregation of highway trust funds and general funds. If the Highway Trust Fund is to be dedicated strictly to transportation programs, then the general fund should be dedicated exclusively to nontransportation programs. That is what this amendment does.

This principle should be supported by both supporters and opponents of H.R. 824, and I would just share with my colleagues that taking the transportation trust funds off budget will effectively reduce the amount of discretionary funds available under the discretionary spending limits for nontransportation programs. Allowing transportation projects that should be funded through the trust funds to receive general revenues in addition to trust fund revenues will further exacerbate the squeeze on all other discretionary spending.

It is unfair to both allow transportation programs to be funded off budget outside of the discretionary caps and also receive funds from general revenues.

I urge an aye vote on the amendment.

The CHAIRMAN. The Chair believes that the incorrect amendment has been designated.

The Clerk will report the amendment offered by the gentleman from California [Mr. ROYCE].

The Clerk read as follows:

Amendment offered by Mr. ROYCE:

At the end of section 2, insert the following:

"(c) PROHIBITION ON FUNDING TRANSPORTATION PROGRAMS FROM GENERAL REVENUE.—Subsection (a) shall no longer be effective after the last day of a fiscal year in which any amounts were made available from the general fund of the Treasury of the United States for construction, rehabilitation and maintenance of highways, except for highways under the direct supervision of a department or agency of the federal government, as determined by the Director of the Office of Management and Budget."

☐ 1615

Mr. SHUSTER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is a well-intentioned amendment, but the consequences of it go far, far beyond what is apparent.

Stop and consider, if $1 from the general fund is spent on a highway, then the whole highway trust fund budget is thrown out. Consider, if my colleagues have a flood in their district, if they have an earthquake in their State and FEMA comes in and FEMA spends $1 to repair the highway from the earthquake or the flood, then this amendment kicks in.

If money goes to my colleagues' local community block grant development, we no longer have any control over that money; and my colleagues' local CDBG decides to spend some of that money on a highway, then this amendment kicks in. If money goes to my colleagues' State or their local community development district, and they decide to spend $1 on a highway, then this amendment kicks in.

So this goes far, far beyond, and for that reason I would urge its defeat.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, effectively, this amendment does the same thing as the amendment we just voted on. Effectively it is the same old thing.

Mr. SHUSTER. Sure. It is even worse in the sense that they spend $1, FEMA spends $1 on a flood on an emergency. They spend $1 out there in Oklahoma City near the building that was blown up to fix up the street, and this kicks in. It really does not make much sense.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Again I point out to all the supporters of the Appalachian Regional Commission program and Economic Development Administration program, $1 of those moneys going to a highway project kills off-budget status for the highway trust fund.

Mr. SHUSTER. Right.

Mr. MINGE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the purpose of this amendment is to say that either we have a highway trust fund that is off budget, that is dedicated to and used to fund the highway projects in the various States around this country, or we do it on the budget; and if we are going to mix general fund moneys for highway purposes with trust fund monies for highway purposes, we altogether too easily can engage in a shell game and the accounting is going to be frustrated.

So the purpose of this amendment is very simple. We are not saying that we should not use funds in the trust fund for highway purposes, we are not trying to eliminate the earmarking, the demonstration projects, such as was considered in the previous vote. We are simply saying let us have it one way or the other.

If we have a disaster, and if there are highway repairs to be made, finance the highway repairs out of the trust fund. If the trust fund is not adequate, we can look at the gasoline tax again.

But this is not an attempt to frustrate the bill. We have spoken with the appropriators. The appropriations subcommittee that has jurisdiction over transportation projects has assured us that they are not interested in somehow delving into this matter and trying to force upon this Chamber some small measure which would end up putting the trust fund back on budget.

I submit that the leadership of the committee, the Committee on Transportation and Infrastructure, is extremely capable. They will know when other committees are attempting to usurp their authority. They will identify this, they will report it to the body, and we can deal with it appropriately.

This is a situation where we are simply trying to say that we need to bring integrity to the accounting process and have the funds within the trust fund and off budget or on budget entirely.

Mr. ROYCE. Mr. Chairman, will the gentleman yield?

Mr. MINGE. I yield to the gentleman from California.

Mr. ROYCE. Mr. Chairman, according to the Congressional Research Service, over $38 billion has been spent from the general revenue on highway projects since the highway trust fund was created in 1957. These general funds have effectively masked the true cost of Federal highway spending. If these funds had been charged to the highway trust fund, arguably there would not be a surplus.

So this bill that we are going to vote on creates a firewall that would prevent gas tax revenues dedicated to the trust fund from being used for any programs outside the highway trust fund; very well. Then this amendment would create a corresponding firewall preventing transportation projects from being funded by general revenues.

I ask for my colleagues' "aye" vote.

Mr. KIM. Mr. Chairman, I rise in opposition to this amendment because it prohibits general fund expenditures on transportation.

This is not fair because gas taxes pay billions of dollars into the general fund each year.

GAS TAX

If you are not going to allow general fund expenditures for highway projects, then you should send all of the gas tax money to the trust fund.

But that doesn't happen now:

Take the 18.4-cent Federal gas tax: 6.8 cents for social programs/deficit reduction, 2.5 cents for mass transit, 0.1 cents for leaking underground storage tanks and only 12 cents for highways.

Over 30 percent of the gas tax goes to deficit reduction already.

This money should go to the trust fund.

AVIATION

The aviation trust fund is paid for by a 10-percent ticket tax.

This was created to pay for airport capital improvements.

That means airports, new towers, and runways.

The trust fund was not originally designated to pay for FAA operations.

That was always supposed to come out of the general fund.

But over the years, we've taken money out of the trust fund to pay for part of the FAA's operations.

Right now, the trust fund pays for about 70 percent of FAA operations.

If this amendment passes, then we would have to raise the ticket tax.

Perhaps if the sponsor would be willing to send all the gas taxes to the trust fund then I would support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. ROYCE].

The amendment was rejected.

The CHAIRMAN. Are there further amendments to the bill?

If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BARRETT of Nebraska) having assumed the chair, Mr. DREIER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 842) to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund, pursuant to the House Resolution 396, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SHUSTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 284, noes 143, not voting 5, as follows:

[Roll No. 122]

AYES—284

Abercrombie
Ackerman
Allard
Andrews
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Bryant (TN)
Bunn
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Chambliss
Chapman
Chenoweth
Chrysler
Clay
Clement
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Collins (MI)
Combest
Conyers
Cooley
Costello
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Danner
de la Garza
Deal
DeFazio
Deutsch
Diaz-Balart
Dickey
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Johnson, E. B.
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NOES—143

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Brown (OH)
Brownback
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Velazquez
Vento
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Watt (NC)
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White
Wolf
Yates
Young (FL)
Zimmer

NOT VOTING—5

Jackson-Lee (TX)
McCrery
Nadler
Rangel
Wilson

☐ 1640

Mr. STOKES and Mr. SPENCE changed their vote from "aye" to "no."

Mrs. VUCANOVICH and Ms. DUNN of Washington changed their vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, on Wednesday, April 17, 1996, I was away from the floor because of a family medical emergency. Had I been present I would have voted "no" on rollcall No. 121, on H.R. 842; and on rollcall 122, final passage on H.R. 842, I would have voted "yes."

PERSONAL EXPLANATION

Ms. MILLENDER-McDONALD. Mr. Speaker, I inadvertently voted "no" on H.R. 842 the truth-in-budgeting bill, thinking that I was voting on an amendment. Had I known that I was voting on final passage, I would have voted "yes."

PERSONAL EXPLANATION

Mr. RANGEL. Mr. Speaker, I missed rollcall vote 122 because I was at a meeting in a room that the bells did not ring in. Had I been here, I would have voted in the negative.

GENERAL LEAVE

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members may have 45 legislative days within which to revise and extend their remarks on H.R. 842, the bill just passed.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

EXPRESSING APPRECIATION FOR EFFORTS IN SUPPORT OF H.R. 842

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I want to emphasize the extraordinary bipartisan support on this extraordinary victory here. Without the gentleman from Minnesota [Mr. OBERSTAR] and his colleagues, this simply never could have happened.

Beyond that, however, this has been a battle that we have been dedicated to for so many years, that there are many former chairmen and ranking members of our committee who I know, those who are still alive have to be smiling, and those who are up there looking down have to be smiling as well.

On our side Bill Harsha, Don Clausen, Gene Snyder, John Paul Hammerschmidt, Jim Howard, God bless him, Glen Anderson, Bob Roe, Norm Mineta, they all contributed to this victory today, and I thank them.

□ 1645

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I want to pay tribute, well deserved tribute to the gentleman from Pennsylvania for the leadership he has exhibited on this issue. He has worked tirelessly, brought together a coalition of people of different fiscal views on this issue, geographic views on this issue and brought them together to understand and to pass this very, very important, as the gentleman has stated, long-standing legislation. He has marshaled an extraordinary outpouring of support for a principle that will reestablish the trust of people in Government. The impact reaches far beyond this bill. For that, I salute our chairman.

Mr. SHUSTER. I thank the gentleman.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 735, COMPREHENSIVE TERRORISM PREVENTION ACT OF 1995

Ms. PRYCE, from the Committee on Rules, submitted a privileged report (Rept. No. 104–522) on the resolution (H. Res. 405) waiving points of order against the conference report to accompany the bill (S. 735) to prevent and punish acts of terrorism, and for other purposes, which was referred to the House Calendar and ordered to be printed.

1995 ANNUAL REPORT ON ALASKA'S MINERAL RESOURCES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. BARRETT of Nebraska) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Resources:

To the Congress of the United States:

I transmit herewith the 1995 Annual Report on Alaska's Mineral Resources, as required by section 1011 of the Alaska National Interest Lands Conservation Act (Public Law 96–487; 16 U.S.C. 3151). This report contains pertinent public information relating to minerals in Alaska gathered by the U.S. Geological Survey, the U.S. Bureau of Mines, and other Federal agencies.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 17, 1996.*

1995 ANNUAL REPORT OF NATIONAL ENDOWMENT FOR THE HUMANITIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Economic and Educational Opportunities:

To the Congress of the United States:

I am pleased to present to you the 1995 Annual Report of the National Endowment for the Humanities (NEH). For 30 years, this Federal agency has given Americans great opportunities to explore and share with each other our country's vibrant and diverse cultural heritage. Its work supports an impressive array of humanities projects.

These projects have mined every corner of our tradition, unearthing all the distinct and different voices, emotions, and ideas that together make up what is a uniquely American culture. In 1995, they ranged from an award-winning television documentary on President Franklin Delano Roosevelt, the radio production *Wade in the Water*, to preservation projects that will rescue 750,000 important books from obscurity and archive small community newspapers from every State in the Union. *Pandora's Box*, a traveling museum exhibit of women and myth in classical Greece, drew thousands of people.

The humanities have long helped Americans bridge differences, learn to appreciate one another, shore up the foundations of our democracy, and build strong and vital institutions across our country. At a time when our society faces new and profound challenges, when so many Americans feel insecure in the face of change, the presence and accessibility of the humanities in all our lives can be a powerful source of our renewal and our unity as we move forward into the 21st century.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 17, 1996.*

HOW SERIOUS ARE WE?

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, 8 days ago I stood in the Oval Office as the President signed into law the historic line-item veto. But how serious is the Washington establishment when it comes to enforcing real change?

Today we read the first of what is likely to be many advertisements for Washington insiders pitching a seminar on how to circumvent the line-item veto. For a mere $245, people whose business it is to secure Federal money can learn, among other things:

What can be done to insulate an appropriation, entitlement or tax provision from a line-item veto.

The law hasn't even gone into effect, and already people are seeking ways around it. And, later today, we consider a bill to take an entire category of Federal spending off budget, beyond the reach of the line-item veto.

Mr. Speaker, we crafted a tough and workable line-item veto to control runaway Government spending. How serious are we? I guess Americans will have to watch and see.

Mr. Speaker, I provide for the RECORD the advertisement referred to:

[From the Congress Daily, Apr. 17, 1996]

(Price Waterhouse LLP—Presents)

THE LINE-ITEM VETO: HOW IT WILL AFFECT APPROPRIATIONS, ENTITLEMENTS, AND TAXES

THE EXECUTIVE SEMINAR YOU NEED TO ATTEND!

Bedget and political analysts are calling the line item veto the most significant revision in the legislative process since Gramm-Rudman-Hollings. Many are predicting that it will require substantial changes in the way people in Washington conduct business.

Price Waterhouse LLP's highly respected budget and tax professionals will provide you with what you need to know about the line item veto when you need to know it—NOW! During this solid, no fluff, half-briefing you will learn how the line item veto will work, including answers to these key questions:

Which appropriations or parts of appropriations will be subject to a line item veto?

Who will determine which tax provisions are vulnerable?

What does the law mean when it said that only "new" entitlements will be subject to a line item veto?

How can Congress disallow or override a line item veto?

What can be done to insulate an appropriation, entitlement, or tax provision from a line item veto?

What role will OMB, CBO, and the Joint Committee on Taxation play in the line item veto process?

All of this and much more in just a half day . . . you'll be back in your office in time for lunch. And at only $245 per person (with a substantial discount for more than 4 people from the same organization), this special executive briefing is the easiest and least expensive way for you to learn what you need to know about the new challenges and opportunities the line item veto will create for you and your association or company.

Price Waterhouse LLP's

Line Item-Veto Executive Seminar

Wednesday, May 8, 1996—8:30 a.m. to 11:30 a.m.

Continental Breakfast Starting at 7:30 a.m.

Hyatt Regency Hotel On Capitol Hill, Washington D.C.

To Register, Or For a Copy Of The Full Agenda Call (202) 414–1757

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. LAHOOD). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

RECOGNIZING SUCCESSFUL TEEN PREGNANCY PREVENTION PROGRAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, the current debate on welfare reform is accelerating the need to address the issue of out-of-wedlock teen births.

We want to "end welfare as we know it." But, I am afraid we will replace it with welfare as we do not want to know it.

We do not want to enact legislation that leads to a policy of national child abandonment.

Our current social crisis evolved over several generations. Consequently, we must realize that we cannot break this intergenerational cycle or eliminate the crisis overnight.

To break the cycle of teen pregnancy and poverty, we must implement pregnancy prevention programs that educate and support school age youths—10–21—in high risk situations and their family members through comprehensive social and health services, with an emphasis on pregnancy prevention.

I strongly support abstinence education and feel that it is critically important to fund abstinence programs for preteens as well as teenagers. Within 5 years, a concentrated abstinence program for preteens should bring about a decline in the number of teenagers who are sexually active.

However, we cannot ignore the fact that today so many of our teenagers are already sexually active with or without our permission. It is therefore imperative that we also provide funding for contraceptive prevention programs for them.

This evening, I wish to recognize a program in my district that exemplifies the kind of comprehensive social and health services that high risk teenagers need.

For over 13 years, the Division of Adolescent Health Services of Greene County has developed and implemented programs to help teenagers meet and successfully avoid the pitfalls of juvenile delinquency, child abuse, school drop outs, and teen pregnancy. In the past 2 years the program has expanded its services to include primary health care to improve health status of teenagers and to influence healthier behavior and lifestyles. A certified physician's assistant furnishes on-site treatment of acute illnesses, minor injuries, and developmental screenings as well as age-appropriate health education such as nutrition, diet, and personal hygiene.

In addition, early intervention is provided for sexually active teens and teens with alcohol and substance abuse problems.

Other on-site services include: individual counseling, mental health prevention, first aid and family life classes—along with an array of other health and social services.

Off-site referrals are made for family planning with a tracking system to assure follow-up.

The program was started to provide a foundation of support for young teens as they encounter life's changes.

One of the strongest components in this foundation is the TAP Club—Teens Against Pregnancy. Membership is open to all girls in grades 9–12, with membership dues of $5 per year.

Another key component is the Teen Advisory Board. Adults do not view the world from a teenage perspective, therefore, they may not always know what is best for teens. Realizing this, the Green County Program established a Teen Advisory Board in 1985.

Ms. Helen Hill serves as the director of the Division of Adolescent Health Services of Greene County. From the beginning, she has been a guiding force through both the planning stage, and the implementation stages, and for over 13 years has successfully run the program that is known throughout North Carolina as the original school-based health model. It is also known as a program that truly works.

She not only has improved the quality of life and enhanced the opportunities of the county's teenagers but her efforts have meant a better quality of life for all Greene County's citizens. At the same time she has saved county, State, and Federal Government funds. She has saved the taxpayers money. Ms. Helen deserves our applause.

True welfare reform should end the need for monetary benefits if it eliminates programs and funding. A small percentage of the total funding currently paid to teen parents should be earmarked for contraceptive prevention programs. Every dollar spent on contraceptive prevention will be multiplied many times over in the Federal tax dollars that will be saved by preventing teen pregnancy.

The Division of Adolescent Health Services of Greene County is a shining example of what we can do.

Mr. Speaker, this is truly an outstanding program and I recommend it for all my colleagues.

Mr. ROEMER. Mr. Speaker, each year more than one million teenage girls become pregnant. Four out of 10 will become pregnant before the age of 20 with half of them giving birth and very few marrying the father. These numbers pose a serious problem not only to the young parents and the child, but to the larger community as well.

There are a number of programs working to assist young mothers and their children, including financial assistance and child care. These are important programs and we must continue to improve them. What we must also do is begin to more adequately address the issue of how to keep teenagers from becoming pregnant. As the old saying goes, "An ounce of prevention is worth a pound of cure." While we will never erase teen pregnancy completely, it is essential to create successful prevention programs.

In an environment of shrinking Federal Government involvement, State and local governments must begin to work in conjunction with their communities to provide the programs necessary to assist young teens in making responsible life choices. In response to this trend, the Progressive Policy Institute in cooperation with the Democratic Leadership Council has developed a seven part framework to help communities and local governments better understand the problem and begin to solve it. While this framework does not have all the answers, it provides a basic format on which to build successful programs catering to the needs of a particular locale.

The seven strategies are 1. Build state and local coalitions 2. Launch a sustained campaign to change attitudes. 3. Second chance homes for teen mothers. 4. Hold fathers accountable, and value their contributions to their children. 5. Crack down on sexual predators. 6. Reform foster care and adoption laws. 7. Create opportunities and incentives for young people at risk of becoming parents too soon.

Local communities can play a vital role in the actions and attitudes of young teens. Support from schools, churches, and civic organizations can offer both assistance and alternatives to teens. Each community must decide where to focus its attention; whether through education, offering part-time jobs, more after school activities, or mentoring programs. A number of communities already have resources in place, such as the Boys and Girls Club or 4–H. We need to draw from those resources, learn from them, and make them more effective.

I know that if all levels of government, various organizations, communities, and the public at large pull together, we can begin to address this important issue. Parenthood is an exceptionally important responsibility and we must prevent or delay that responsibility until teens are mature enough to accept it and the wonders that accompany it.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I am proud to join my colleagues in celebrating the efforts of communities across the country in fighting teen pregnancy. At a time when we are constantly bombarded with dismal statistics on teenage births, it is particularly important to recognize those individuals who have stopped talking about teen pregnancy prevention and have committed to action. The Latino Peer Council in my State of

Rhode Island is a shining example of this commitment to action. Together, these young men and women are reaching out to the students who will follow in their footsteps in striving for better, brighter futures.

The Latino Peer Council was initiated in the summer of 1994 as the State was facing the highest teen birthrate in the Northeast. With teenage pregnancies particularly prevalent within the Latino- and African-American communities in Rhode Island, the Latino Council was developed to focus upon the specific needs of Hispanic families. The council is comprised of eight high school students who are trained by community educators to inform and educate their peers, teachers, and parents on teenage pregnancy, sexually transmitted diseases, AIDS, safe sex, birth control, relationships and abstinence.

Using humorous skits and lively discussions, the peer educators have effectively touched their fellow youths in the community. Through their leadership, they set an example not only to Latino teenagers but all young adults from every ethnic and racial background. At the same time, these students are cultivating leadership skills that will carry them throughout school, their careers and their lives. The Peer Educators build their confidence and develop a strong sense of self while engaging in public speaking and community education.

The Latino Peer Council is effective because of its innovative approach to tackling unplanned pregnancy. Shunning antique methods of teaching sexual health and awareness, the council presents teens as competent, responsible, intelligent leaders that share similar experiences with those whom they are educating. Teens are communicating with other teens about the issues and concerns that they face growing up in today's world. In this Congress we have heard a lot about "personal responsibility." I am proud to recognize today a group of teenagers talking, educating and taking responsibility not only for themselves, but for an entire generation.

Efforts like those of the peer educators are essential to building bridges between youngsters and adults that will ensure that the next generation is successful both personally and professionally. Keeping the lines of communication open between teens and adults is crucial to effective pregnancy prevention and family planning. If adults and teens can share, communicate and most importantly, understand one another, half of the battle has been won. I am proud of the Latino Peer Council for rising to the occasion. I urge other communities to start listening to their young people and working with them to put an end to teen pregnancy.

I would also like to salute the teen pregnancy prevention initiatives of Thundermist Health Clinic in Woonsocket, RI. Services like the Health Hut that provides family planning services to pre-teens at Woonsocket Middle School to the Mentoring Program that coaches and guides young mothers not to repeat their mistakes, are strengthening families and the greater community.

I want to thank the gentlewoman from North Carolina for highlighting this important issue and for providing us the opportunity to focus on the strengths of our youngsters—an area that receives too little attention.

Mrs. MORELLA. Mr. Speaker, members on both sides of the aisle and on both sides of the choice issue agree that we must reduce teenage pregnancy. Its costs are enormous; it is costly to the Government, costly to the futures of the young mothers, and costly to our society. It is clear that reducing teenage pregnancy will only be successful when parents, educators, community leaders, the business community and Congress make a serious commitment and become involved.

Costs associated with teenage pregnancy drain limited Federal, State and local resources. Each year, more than one million American teenage girls become pregnant. The teenage pregnancy rate for women under 20 has increased by more than 20 percent since 1970. Teenage mothers are more likely to be uneducated, unskilled and unmarried. Their children are at higher risk for prematurity, low-birth weight and birth defects.

Women who bear children outside of marriage and meet income requirements are eligible for AFDC benefits, food stamps, Medicaid, housing assistance and other benefits, and teenage mothers are particularly likely to need these benefits.

And what about the costs to the teenagers themselves? The opportunities forgone to teens who become pregnant are enormous. Certainly many career paths become nearly impossible for a teenage mother to attain. High school graduation becomes less important that the children's daily needs; teenage mothers have a 60 percent chance of graduating from high school by age 25, compared to 90 percent of those who postpone childbearing. The economic situation of most teenage mothers is such that most find themselves limited to low-income neighborhoods that are less likely to have good schools, safe drug-free streets and positive role models. And we know that teenage mothers are the most likely to the single parents and have an especially difficult time collecting child support.

Teenage pregnancy is costly to society in terms of lost productivity and in terms of the cycle of dependency that is passed on from generation to generation. Teens from poorer families are more likely to initiate sexual intercourse at a younger age and less likely to use contraception.

What should we do? It is clear to me that Congress does not have all of the answers, and cannot provide help where it is needed most: at home and in the community.

One example of effective community involvement is Best Friends, an organization designed to reduce teenage pregnancy. I have met with Elayne Bennett, the founder of the Best Friends, and she shared many encouraging stories with me. In 29 public schools across the country, including schools in Montgomery County, MD, the Best Friends Program has been a wonderful success. Of the 600 Washington girls who have participate for 2 years or more, 1.1 percent, have become pregnant, as opposed to the 25 percent citywide rate for girls 13 to 18. The Best Friends Program is not a quick fix. It works because its mentors make a long-term investment in junior high and high school girls, taking them on outings, teaching them new skills, and going to weekly classes with them. The Best Friends Program builds teenage girls' self-confidence and teaches them that there are other options.

The Federal Government does, however, have an important role to play in the area of education, girls' sports, and community activities. These things all play an important role in reducing teenage pregnancy because they build self-esteem and present young girls with options for the future, making them much more likely to avoid teen pregnancy.

We have spent a significant amount of time this Congress debating welfare reform—deciding how limited resources should be used and how to most effectively move AFDC recipients from welfare to work. Reducing teen pregnancy must be part of the solution, and indeed, it has been a part of the debate—but few constructive solutions have emerged. Some Members advocate a family cap, a provision to deny benefits to welfare recipients who have additional children while on welfare.

Despite the heated debate over illegitimacy that we have heard in the context of welfare reform, answering the question of whether the welfare system increases nonmarital childbearing is very difficult. Some studies have shown that welfare has no effect on nonmarital childbearing while others have shown significant effects. Whether or not Government benefits actually lead to an increase in teen pregnancies, we do know that the teenage pregnancies that occur—for whatever the reason—are very expensive. While curbing teen pregnancy certainly needs to be addressed in the context of welfare reform, these punitive solutions are not the answer. Mr. Speaker, we have not spent enough time developing real solutions to reducing teenage pregnancy—solutions that involve prevention strategies, education and self-esteem building, community partnerships, and family planning.

We must also improve and increase efforts at the Federal level to prevent teenage pregnancy. There are very few Federal programs to reduce teenage pregnancy, and they are not comprehensive. Fully funding the title X Family Planning Program is one of the most direct ways that Congress can help prevent unintended pregnancies; publicly subsidized family planning services prevent an estimated 1.2 million unintended pregnancies annually in the United States. Title X, however, directs its dollars to critical health services for women of all ages, and only 20 percent goes toward adolescents. Although title X was threatened during the fiscal year 1996 appropriations process, a majority of Members recognized how important it is. No title X funds can be used for abortion services; clinics have always been prohibited from using title X funds for abortions. What title X does do is provide quality health care for low-income women—including teenagers—who are at risk of becoming pregnant. The Centers for Disease Control also has small grant to implement 13 community projects to examine ways to reduce teenage pregnancies, but its effects have been limited due to its size. The Adolescent and Family Life Act provides a small grant that goes toward care and parenting for adolescent mothers and adoption assistance, but most of the money goes toward an abstinence-only education. These programs help, but clearly they are not enough.

Adolescent pregnancy prevention is not only about family planning. We must examine the reasons teenage girls become pregnant. What is it about our society that makes teenage girls think that to be loved, they must have a child of their own? Why do so many girls think that no opportunities worth waiting to have children will be available to them? Surely we can do better. Educational opportunities build self-esteem, as do girls' sports and community activities. Improving our education system, building our communities, increasing job opportunities, and giving young girls something to look forward to all will reduce teen pregnancy.

We all share the responsibility for preventing teen pregnancies. Parents, communities, religious organizations, State and local governments all have an important role to play, and many are making important progress toward reducing teen pregnancies.

Each year in Maryland over 8,500 adolescents give birth. I applaud the work done by the Governor's Council on Adolescent Pregnancy to combat this problem. The council promotes the reduction of unplanned adolescent pregnancies through strategies carried out in collaboration with state and local agencies and private and no profit groups. A sustained media campaign, including television, radio, and print media has been an integral part of efforts to raise awareness about adolescent pregnancy. Maryland has also developed programs to help teen parents prevent further early childbearing and programs to help teenage parents learn parenting skills and continue their education. It is important that we don't only focus on prevention, but focus on helping teenage parents improve their lives.

I applaud the efforts of the bipartisan National Campaign To Reduce Teenage Pregnancy, and I hope their recommendations provide new ideas and energy. I look forward to a hearing at the end of the month on teenage pregnancy in the Government Reform and Oversight's Human Resources Subcommittee

This is only the beginning of a dialog between the Congress, our communities, state and local governments and educators about how to reduce teen pregnancy. We know that providing teens with a solid education, teaching them how to avoid pregnancy and giving them hope for the future works. Now we must work together to achieve these goals.

A TRIBUTE TO RUSH LIMBAUGH, SR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. EMERSON] is recognized for 5 minutes.

Mr. EMERSON. Mr. Speaker, I rise today to pay tribute to a distinguished and gentle man from southeast Missouri, a man who embodied what is right and good about this great Nation, Rush Hudson Limbaugh, Sr., a gentle man who earned the affectionate disinction, patriarch of southeast Missouri.

Mr. Limbaugh passed away last week at the honorable age of 104 in his Cape Girardeau home of Sylvan Lane. He had a long and valuable life. His passing will inevitably leave a tremendous void. He was a dear friend and mentor of mine, and of countless others, from all walks of life.

What made Mr. Limbaugh such a special person was his uniquely simple character. Those who had the privilege to come in contact with him certainly were amazed at his breadth of knowledge and command of oratory skills. No question, Rush Hudson Limbaugh Sr. was a living testament to the american dream. But he was without pretense, truly a humble man, a devout Republican and a very committed democrat.

Born in rural Bollinger County, about 90 miles southwest of St. Louis, Mr. Limbaugh was the product of a one-room primary school. As with everything he approached in life, he excelled in his education. In fact, through diligence, organization, and keen focus, he put himself through high school, paying most of his expenses by doing carpenter work and farm labor. Following high school, he went to college at the University of Missouri at Columbia. His work on the university farm and various odd jobs, such as firing furnaces, carpentry, waiting tables, caring for animals, and assisting a Methodist minister all helped to foot the bill for his continuing education.

He always stressed that the more you can learn, the better off you would be. His list of personal accomplishments help to prove that he was indeed a man who lived by his own words and convictions. He prepared himself well, worked hard, and made his family, community, and country proud.

Among his most notable achievements, Mr. Limbaugh left this world last week as the oldest practicing attorney in the United States. That's right, at 104 years of age, Rush Hudson Limbaugh Sr. still went into the office at least twice a week to the Limbaugh, Russell, Payne and Howard law firm that he founded 50 years ago in Cape Girardeau. To help put his 80 years of service in perspective, he started practicing law in 1916 at the age of 24 when Woodrow Wilson was President.

Not only was Mr. Limbaugh a scholar in the law, but also in history, in political theory and Judeo-Christian tradition. He and I shared a pleasure of never-endingly researching Abraham Lincoln. When we would get together, inevitably a discussion about Lincoln would come up, and we both looked forward to swapping new stories or novel tales about our Nation's 16th President.

I would be remiss if I didn't mention Mr. Limbaugh's many contributions to our community and our Nation. He was a servant of the Methodist church, the Boy Scouts, and the Salvation Army among others. In 1958, one of his personal highlights came when the U.S. State Department invited him to lecture in a newly liberated India before lawyers, judges, and university students about constitutional government and the American judicial system. They were so impressed with his commentary and remarks that the All India Law Teachers Association subsequently honored him.

We will all dearly miss Mr. Limbaugh, the patriarch of the Limbaugh family, of Cape Girardeau and of southeast Missouri. Many folks know about his now famous national radio talk show grandson, Rush Limbaugh III. "Pop," as his family would call him, also is responsible for the great legal legacy of Limbaugh lawyers whom include son, a U.S. District Judge, a grandson, Justice of the Missouri Supreme Court, another grandson, a prominent attorney in southeast Missouri and throughout the Midwest, a son and grandchildren who are educators.

Throughout his extraordinary life, he was always true to his roots—hard working, composed, dedicated, and most of all humble. His life and character epitomize that America is the land of opportunity for those who have the heart and the will to make the most of it.

Rush Hudson Limbaugh Sr. was indeed a legend in his time.

[From the Southeast Missourian]

400 ATTEND LIMBAUGH FUNERAL

(By Chuck Miller)

The patriarch of the Limbaugh family was laid to rest Thursday afternoon next to his bride, who died almost 19 years before him.

For the most part, the funeral service for Rush Hudson Limbaugh Sr. was of typical United Methodist fanfare, probably the way the Limbaugh would have wanted it. The most extraordinary aspects of the service were the cross-section of people that paid their last respects and the "van loads" of flowers sent in remembrance of a man whose legal career spanned more years than most people's lives.

Limbaugh, 104, died Monday, April 8, 1996, at his home on Sylvan Lane. He practiced law for more than 80 years.

State officials, judges, community leaders and others—about 400 people in all—gathered at Centenary United Methodist Church for the service. The minister, the Rev. Dr. Neil Stein, delivered the eulogy.

Besides the eulogy, a violinist began the service, a soloist sang a Christian hymn and a trumpeter performed "Amazing Grace." It was a relatively simple service for a man who gained international fame as a lawyer and who lived through the Space Age and witnessed this country fight six wars. But Limbaugh enjoyed living a simple life in Cape Girardeau.

In addition to family members such as a U.S. district judge and nationally known radio and TV talkshow host, Secretary of State Bekki Cook, a former associate in the law firm Limbaugh founded, and State Auditor Margaret Kelly attended the ceremony.

Three justices from the Missouri Supreme Court also attended the service. One of the justices, Stephen N. Limbaugh Jr., was bidding farewell to his grandfather. Chief Justice John Holstein and Justice William Price also paid their respects.

A host of other officials from state representatives and senators to city leaders and lawyers also attended.

"No one can really tell the story of the life of Rush Hudson Limbaugh," Stein said. "He joined this church in 1911, before most of us came into being."

The minister said Limbaugh was a man who made everything—family, clients and God—take center stage in his life. "A grandson told me that Pop—that's what everyone called him—made each of them feel they were the most important one in his life," he said.

"Even though he is gone physically," Stein said, "it makes no sense to stop living up to his standard."

Limbaugh lived a long and quality life, Stein said, because of his ability to adapt to new things. "Most people resist change, but Rush never aged," he said.

The minister quoted a line from a book Limbaugh wrote but never published about his life with his wife, Bee. "On the night of her death, he wrote, 'For the first time in 63 years I was utterly alone except for the memories of the greatest soul I had ever known,'" said Stein.

A long funeral procession to Lorimier Cemetery followed the service.

[From the Southeast Missourian]

RUSH H. LIMBAUGH DIES AT AGE OF 104

(By Jay Eastick)

In 1902, on a small farm along the Little Muddy Creek in Bollinger County, a passion for the law first stirred in a 10-year-old boy.

A Daniel Webster oration the boy memorized had inspired him to become a lawyer. Fourteen years later, he set out on a legal career that spanned eight decades.

On Monday, the lifetime love affair between the man and the law ended.

Rush Hudson Limbaugh, one of Cape Girardeau's favorite sons and the nation's oldest practicing lawyer, died Monday afternoon at his home at 635 Sylvan Lane. He was 104.

Funeral arrangements are pending at Ford and Sons Mt. Auburn Chapel in Cape Girardeau.

Limbaugh's interest in law never waned and even in recent months, he headed into work about twice a week at the Limbaugh, Russell, Payne and Howard law firm that he founded 50 years ago in Cape Girardeau.

His love of the law now is a family legacy.

His son Rush H. Limbaugh Jr., who died in 1990, practiced law with him, along with another son, Stephen N. Limbaugh, who now is a federal judge in St. Louis.

Stephen practiced law with his father for 30 years before President Ronald Reagan appointed him to the federal bench.

"I remember him most of all as a tremendous inspiration as a lawyer and a teacher, not only from a professional point of view, but in our relationship as well," Stephen said Monday.

He always has been most impressed with his father's even temperament. Although he could be a "very fiery advocate" for his clients, the elder Limbaugh was able always to maintain his composure and craft solutions to legal quandaries, Stephen said.

Despite his own stellar legal career, Stephen said he "couldn't possibly ever measure up" to his father's stature.

The Limbaugh legal legacy extends to a third generation.

Four of his grandsons followed in his footsteps and pursued legal careers. John and Dan, sons of Rush's son, Manley, both are lawyers. Stephen's son, Stephen Jr., now is a Missouri Supreme Court judge, and Rush Jr.'s son, David, practices law at the firm his grandfather started.

David said his grandfather wouldn't want his family boasting about him. "But he was an extraordinary man, exemplary in every way, yet very humble," he said.

"He was a devoted Christian, a lawyer's lawyer, a community servant and a gentle and kind man whose family was the very center of his life.

David said the loss of his grandfather was "made easier with the knowledge that he led a rich and fulfilling life and that he is now residing in a happier, more peaceful place."

Rush Limbaugh's oratorical skills were passed down to his most famous progeny, Rush H. Limbaugh III, who hosts the nation's most-listened to radio talk show as well as a syndicated half-hour television show. He also is the author of two best-selling books.

By any measure, Rush Limbaugh's was a full life. His vita runs to several pages and reflects a commitment to excellence and the highest code of legal ethics.

He was known by his peers as a superb lawyer. More than that, he is remembered by those who knew him as an uncommon man, someone who combined public distinction with private character.

And so colleagues, when asked to name Limbaugh's achievements, are as likely to point to his work as a Sunday school teacher or scout leader as they are to his many career distinctions.

A former president of the Missouri Bar, charter member of the Missouri Bar Foundation and member of the American Bar Foundation, among other professional organizations, Limbaugh also was a member of the Cape Girardeau Board of Education, the Salvation Army Advisory Board and was chairman of the Cape Girardeau County Republican Committee.

He had been honored by the American Security Council, the All India Law Teachers Association, and the University of Missouri. He also was named "Mr. Cape Girardeau" by the Golden Eagles Marching Band of Southeast Missouri State University, and was an Honorary Citizen of "Father Flanagan's Boy's Town.

In 1985, then Missouri Gov. John Ashcroft declared May 17 "Rush H. Limbaugh Day" in the state in honor of the Cape Girardeau laywer.

At a dinner that night, President Reagan remarked in a letter that Limbaugh's contributions "read like a virtual who's who of accomplishment." U.S. Supreme Court Justice Lewis Powell called Limbaugh a "great credit of the legal profession."

Ashcroft, now a U.S. Senator from Missouri, said Monday that Limbaugh "set an example" for all who knew him.

"Rush Limbaugh exemplified the character, commitment and vision that has led this great state from the 1900s through the Great Depression, up until today," Ashcroft said. "He understood the promise of America because he embodied it."

One of the highlights of his career came in 1958, when the U.S. State Department invited Limbaugh to lecture in a newly liberated India before lawyers, judges and university students on the subject of constitutional government and the American judicial system.

The product of a one-room primary school in rural Bollinger County, Limbaugh attended Millersville High School before transferring to the Normal School in Cape Girardeau, where he paid most of his expenses doing carpenter work and farm labor.

At Normal School, he was elected to the Benton Literary Society, for which he won numerous oration and debating awards. In 1912, he was awarded the gold medal for participation in the Interstate Normal Oratorical Contest at Emporia, Kan.

He paid his way through college at the University of Missouri at Columbia by working on the university farm and various odd jobs—firing furnaces, carpenter work, waiting tables, caring for animals and assisting a Methodist minister.

At college, his oratory skills won him more awards and helped to hone the skills he later would employ in the courtroom.

He argued more than 60 cases before the Missouri Supreme Court and many prominent civil cases, Limbaugh was a specialist in probate law and helped draft the 1955 Probate Code of Missouri.

Limbaugh also tried cases before the Interstate Commerce Commission, the U.S. Labor Board, the Internal Revenue Appellate Division and trial and appellate agencies of the U.S. Coast Guard.

[From the Southeast Missourian, April 9, 1996]

COLLEAGUES CALL LIMBAUGH A LAWYER'S LAWYER

(By Chuck Miller)

Friends and colleagues of Rush Hudson Limbaugh, 104, said within hours of his death that other people should measure their personal and professional lives by the standard he lived by.

A Cape Girardeau Icon who also achieved international fame as a lawyer touting American jurisprudence abroad, Limbaugh died Monday afternoon.

"It's a sad day for Cape Girardeau," said U.S. Rep. Bill Emerson, "Mr. Limbaugh had a long and valuable life. His passing will inevitably leave a tremendous void. He was a dear friend and mentor of mine."

Emerson said he and Limbaugh shared a hobby of researching Abraham Lincoln. When the two men would meet, they would swap a new story about America's 16th president. "That was one thing we looked forward to," he said.

Emerson said one of his fondest memories always will be the dedication of a new school in Winona. The federal government funded half of the project, he said, and a Winona banker, represented by Limbaugh at age 96, funded the other half of the project.

"So it was Rush Limbaugh and Bill Emerson on the back of a flatbed truck for the dedication," he said. "And he made the most remarkable, beautiful statement: He was quoting off the top of his head about the importance of a public education. He just wove it together so beautifully.

"He was a legend in his time."

Cape Girardeau Mayor Al Spalding III said Limbaugh "made" Cape Girardeau in many ways.

"He put us on the map in a lot of respects," he said. "We hate to see his passing. He paid his dues and helped a lot of young attorneys over the years, which we're all grateful for."

A man devoted to his wife, community and his career was how John Blue, the former managing editor of the Southeast Missourian, described Limbaugh.

"He was president of the Rotary when I joined in 1949," Blue said. "He was one of our better presidents. He also was a top lawyer and a great orator. There was no hemming or hawing with him; it was just forthright speech."

Blue credited Cape Girardeau's growth in the 1920s and 1930s to Limbaugh the community leader. "We experienced phenomenal growth then, and he was responsible for that," he said.

Al Lowes, a Cape Girardeau attorney, landed Limbaugh, a past president of the Missouri Bar as a lawyer's lawyer.

"He was a top-notch, all-around lawyer," he said. "He was extremely hardworking and ethical. He was really the epitome of what a lawyer ought to be."

Lowes said other aspiring lawyers should look to Limbaugh and his career when entering the profession. "You just couldn't have asked for a finer man to have been a lawyer," he said.

Another attorney, former state Sen. Al Spradling Jr., agreed: "He has to be one of the most outstanding lawyers that Cape Girardeau ever had. He had more honors bestowed upon him than any other lawyer in Southeast Missouri. He was honored by the Missouri Bar more than any attorney in Southeast Missouri."

Spradling said before he ever went to law school he was a gopher for the only meeting of the Missouri Bar held in Cape Girardeau.

"He was responsible for the Missouri Bar having a meeting in Cape Girardeau because he was president," he said. "It was the first and the last time the Missouri Bar has had a meeting here."

In addition to achieving the top spot in the Missouri Bar, Limbaugh also was a special envoy to India, touting American jurisprudence to that nation during President Dwight Eisenhower's administration.

But even though his legal career took him around the world, he continued to reside in Cape Girardeau where his law practice began in 1916.

Don Thomasson, another Cape Girardeau attorney, said he met Limbaugh in 1953 while serving as prosecutor in Marble Hill.

"I saw him sitting in Ward's Cafe," he said. "I thought he was God. He was such a gentleman and a great attorney."

Thomasson said he remembered speaking at a celebration a decade ago honoring Limbaugh for 75 years of practicing law.

"A few of us said some good words about Mr. Rush," he said, "and then he spoke. He sounded far more intelligent than any of us."

Morley Swingle, the Cape Girardeau County prosecutor, asked Limbaugh for help while compiling photographs and biographical sketches of every prosecutor who served in Cape Girardeau County, a position created in 1886.

"Rush Limbaugh personally knew every single prosecuting attorney," he said.

Swingle said he didn't have a picture for one of the prosecutors, Robert Whitelaw, who served in the late 1890s. But he did have a picture of a group of unknown county officials taken about the same time as Whitelaw was prosecutor.

"I took the photograph to Mr. Limbaugh," he said. "He got his magnifying glass out, looked at the picture and said, 'No, he's not in this batch.'"

Swingle said Limbaugh was an influence on his life because of his love for the law and the court system.

"He also was the very epitome of what one strives to be as a public speaker," he said.

[From the Southeast Missourian, April 10, 1996]

RUSH LIMBAUGH: A LIFE OF SERVICE TO CITY, COUNTRY

A decade or so ago, a high-ranking resident of Washington, D.C., was visiting relatives in Cape Girardeau. His hosts insisted on taking him to meet Cape's most distinguished citizen, Rush Hudson Limbaugh, Sr. When the visiting chief of staff to a U.S. senator met the elderly gentleman, who graciously received him at home, Limbaugh inquired as to his guest's hometown. "Oh, you won't know it—you can't possibly have heard of it," responded the visitor. "I'm from a little town in upstate New York." Limbaugh pressed his visitor for the name. Told the answer, he descended upon his visitor with encyclopedic thoroughness, delivering a detailed rendition of the strategic importance of that town in the Revolutionary War, how it related to the world-decisive Battle of Saratoga, and what this meant in the war for American independence. Awestruck—having heard facts about his own hometown he didn't know—the visitor departed, shaking his head in amazement. Longtime friends of Limbaugh will understand the visitor's reaction. Among people who have had the privilege of knowing him these many years, astonishment and amazement long ago became commonplace.

"Pop," said a certain nationally syndicated radio talk show host to a rare studio guest four and a half years ago, "Who was president the year you were born?" "Benjamin Harrison," came the reply, without a second's hesitation. When he was a guest on his grandson's national radio show that afternoon in September 1991 on the occasion of his 100th birthday, Limbaugh was rounding out only his first century. He was still going to the office and billing hours as the nation's oldest practicing attorney. That broadcast originated from Kansas City because Limbaugh was there with family to attend the annual meeting of the Missouri Bar Association, of which he and a son were former presidents.

A NATIONAL TREASURE

On that centennial, in a firm voice that belied his years, Limbaugh continued, describing to an astonished national audience a boyhood devotion to his first contemporary political hero: Teddy Roosevelt. On in detail Limbaugh went, describing what a heroic figure TR was, how crucial his decisive action in sending the American naval fleet worldwide, what this meant for an America beginning to emerge from 19th century isolation into the first rank of world powers, and why, therefore he, Limbaugh, followed the magnificent TR out of the Republican Party to join the Bull Moose insurgency in the great campaign of 1912. Through a living, breathing history text was an audience of millions introduced to a national treasure whom we here in Missouri, and especially Cape Girardeau, had long valued so highly.

Glowingly, the accolades pour in—from judges, congressmen, senators, fellow members of the bar, Rotarians, friends far and wide. Family man as brother, husband, father, grandfather, great-grandfather. Author of a legal textbook and of numerous articles. Accomplished orator. Leading Methodist layman and Sunday School teacher. Paul Harris Fellow of Rotary International. Life emeritus trustee of the Missouri Historical Society and its former president. Patriarch of a family of lawyers and Republicans. Limbaugh was a scholar in the law, in history, in political theory and in the Judeo-Christian tradition of ordered liberty. A scholar of the life of Patrick Henry, from memory he could quote William Makepeace Thackeray and Blackstone and so many others.

In 1985, family and friends packed into a local motel banquet room to honor Limbaugh at a surprise dinner celebration sponsored by local Rotarians. Tributes were read from President Ronald Reagan and from Justice Lewis Powell of the U.S. Supreme Court, long a Limbaugh friend. What stands out in the memory, though, is the address of the guest of honor. Few who were present that night will ever forget the throat-catching sense of excitement he evoked when he arose, without notes, for extemporaneous remarks. In a voice choked with emotion, Limbaugh told his audience that they didn't so much honor him as they did members of his family who, after his father's early death, "went without substance so that I could be the first in the family to leave the farm and go to Cape to the Normal School."

THE OPPORTUNITY OF EDUCATION

Limbaugh often spoke of his excitement upon traveling to Cape Girardeau—a day's ride by horse-drawn wagon—and glimpsing the spires of the school's main building. Here was a chance at education. From this hilltop, a great world beckoned. Prepare yourself, work hard, make your family proud, and you could accomplish anything. This, after all, is America, and this school, he told an audience at the university's 1973 centennial, is nothing less than "the fulfillment of a great national purpose."

How richly he added to this school, this community, this state and this nation. Few, then, there are of whom it can be said, as it can of Rush Hudson Limbaugh Sr., "Well done, good and faithful servant. Enter into my kingdom." Somehow, we all know Limbaugh heard those words this week when the Lord called him home.

[From the Southeast Missourian, Apr. 10, 1996]

RUSH LIMBAUGH, SR.

Funeral service for Rush Hudson Limbaugh Sr., 635 Sylvan Lane, will be held at 2 p.m. Thursday at Centenary United Methodist Church. Dr. Neil Stein will officiate, with burial in Lorimier Cemetery.

Friends may call at Ford and Sons Mt. Auburn Chapel from 4–8 p.m. today, and Thursday from 10–11:30 a.m.

Limbaugh, 104, died Monday, April 8, 1996, at his home.

He was born Sept. 27, 1891, near Sedgewickville, son of Joseph H. and Susan Presnell Limbaugh. He and Beulah "Bee" Seabaugh were married Aug. 19, 1914, in Cape Girardeau. She died Sept. 2, 1977.

Limbaugh, the oldest practicing attorney in the United States, had practiced law since 1916. He founded the law firm of Limbaugh, Russell, Payne and Howard 50 years ago. He was a member of Centenary Church.

Survivors include two sons, Manley Limbaugh of Chester, Ill., Stephen Limbaugh of St. Louis; 10 grandchildren, and 19 great-grandchildren.

He was preceded in death by a son, two daughters, four brothers and three sisters.

REACTION TO VETO OF BILL BANNING PARTIAL-BIRTH ABORTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, I was disappointed and appalled when President Clinton vetoed the partial birth abortion bill. The President's veto is in direct opposition to the will of the House and the Senate. Even more important, the President's veto is in direct opposition to the will of the majority of the American people.

No one really is sure how many partial birth abortions are performed or how many abortionists are using the method. However, we do know that the overwhelming majority are performed on perfectly normal and healthy babies.

Clearly this is an issue that crosses party lines. The bill passed the House with 214 Republicans and 72 Democrats voting for the legislation, and in the Senate with 45 Republicans and 9 Democrats. Yet the President has the gall to go against the American people.

In recent polls, national polls of registered voters conducted in December by the Tarrance Group, 71 percent favored the bill that we passed. In another poll, 65 percent of pro-choice Americans supported the ban, the partial birth abortion ban. Specifically, 78 percent of women voters support the ban that the House and the Senate passed.

Mr. Speaker, I would like to read for the RECORD a statement by Ralph Reed regarding the veto of the partial birth abortion ban, and I quote:

> Bill Clinton has taken his veto pen and pointed it like a dagger at the hearts of the innocent unborn. His veto is a brazen betrayal of his solemn promise to make abortion rare. It is an insult to millions of people of faith who consider abortion to be the taking of innocent human life. It will be very hard, if not impossible, for Bill Clinton to look Roman Catholic and Evangelical voters in the eye and ask for their support in November.

I further quote Ralph Reed and the Christian Coalition.

> I am proud to add my voice to those Roman Catholic bishops who are so courageous, and implore President Clinton to sign this legislation. The partial birth abortion is when a child's brains are removed and the baby is systematically executed as it comes down the birth canal. By allowing this procedure to continue unchecked, President Clinton has disappointed and deeply offended one of the largest voting blocks in the electorate. Bill Clinton has done more today than jeopardize the lives of unborn children. He has jeopardized his own reelection chances.

□ 1700

Mr. Speaker, just one more letter I would like to make reference to before closing, because to the American people, this is an important issue to try to protect the life of the healthy unborn. This is from the Catholic Bishops and also from the Catholic Cardinals, and I happen to be Catholic.

"Your veto of this bill is beyond comprehension for those who hold human life sacred."

I further quote and read from the letter from the Catholic Bishops and Cardinals: "Mr. President, you and you alone had the choice of whether or not to allow children almost completely born to be killed brutally in partial birth abortions. Members of both Houses of Congress made their choices. They said no to partial birth abortions. American women voters have made their choices. According to a February 1996 poll by Fairbanks Mullin & Associates, 78 percent of women voters said no to partial birth abortions."

Further stated in the letter from the Bishops and the Cardinals, "We will also urge Catholics and other people of good will, including the 65 percent of self-described pro-choice voters who oppose partial birth abortions, to do all they can to urge the Congress to override this shameful veto."

Mr. Speaker, I thank you for allowing me this time. I think this is one of the most important issues that this Congress has had the privilege to debate. Again, I think it is appalling and discouraging and disappointing that the President of the United States vetoed the bill that was passed by the House and Senate to protect the healthy unborn.

FURTHER TRIBUTE TO THE LATE HONORABLE RON BROWN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. PELOSI] is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, last evening our colleague, the gentlewoman from North Carolina, Representative EVA CLAYTON, called a special order to honor the memory of and celebrate the life of Secretary of Commerce Secretary Ron Brown. There were so many of us who wanted to participate that we have some overflow this evening. I am among those. I want to acknowledge the leadership of the gentlewoman in calling that special order. She asked us to focus not only on our personal, but our professional relationships with Ron Brown in remembering him.

First, I would like to say, Mr. Speaker, that our country suffered a staggering tragedy with the loss of our distinguished Commerce Secretary, Ron Brown. How he would enjoy seeing some of the tributes to him that were written in the past week. The Washington Post says "Best in the Business." Another headline, "Brown, a Pioneer at Home In Black and White America. Ex-Party Chief Had Key Role in Clinton Win." Indeed he did.

Another headline, "Builder of Bridges." How he would like to have seen this headline, "Devoted To Mission Until the End." "Ron Brown's contribution to his people," "Changing the face of America's executive suites, still lily white, is a tribute worthy of Brown."

And the list goes on and on of Ron Brown's contributions. Commerce Secretary Ron Brown showed endearing enthusiasm for whatever task he undertook. How true that is.

I call these to your attention, Mr. Speaker, and to the attention of our colleagues, because I know that Ron Brown would have enjoyed them. I hope that they are a source of comfort to the Brown family.

Our colleague the gentlewoman from the District of Columbia, Ms. ELEANOR HOLMES NORTON, when she made her presentation last evening mentioned some of the other people who, unfortunately, also lost their lives in the tragedy, and I would like to call attention to three others who I am familiar with. The First Lady attended the funeral of Adam Darling, an optimistic and interested person in politics who went on to work at the Commerce Department under Ron Brown's leadership. I note with particular sadness the death of Bill Morton, a dynamic and brilliant young man who devoted his life to advancing minorities in public service. And in our community in San Francisco, we are particularly grief stricken by the death of Don Terner, the BRIDGE Housing Corporation executive, who was a member of the delegation.

Don Terner is a great lost to the San Francisco Bay Area and the affordable housing community nationwide. In his life, he gave dignity and hope to American families by providing shelter. Don Terner died as he had lived, bringing hope to people in need.

Now I would like to return my focus to Secretary Ron Brown. I had the privilege of working with Ron Brown since the early eighties, when we worked together putting together the 1984 Democratic Convention in San Francisco, but also working on the delegate selection process. In the convention in 1992, I served as cochair with Governor Romer of the Platform Committee. I mention those two relationships with Ron because in both of those instances, whether it was participation in the party, in the delegate selection process, or whether it was policy formation in putting together a platform, Ron Brown gave no tolerance to discrimination. Our party would be open and our policy would be open to all people in our society. Indeed, I believe that is a hallmark of the Clinton administration, and Ron Brown's influence was surely felt there.

I hope it is a comfort to all of the families of all of the people in the delegation, I hope it is a comfort to their loved ones that they are mourned by an entire Nation, that they died in a mission of peace, bringing humanitarian and economic assistance to the Balkans, and that their sacrifice will never be forgotten.

I want to particularly commend Alma Brown and extend sympathy to her and to Michael and to Tracy, Ron and Alma's children. Across the world, people saw Alma Brown as dignified in her sadness. I happened to be in Indonesia when we got the news, and even at that distance, the press was one of great admiration and, of course, sympathy for Alma. But she led us through this tragic time, through this sadness, in a way that I know would have made Ron Brown very, very proud. But, of course, he knew that about Alma.

So I would say that as we mourn, the leaders of the delegation, we must also remember the patriotic members of the military on the flight and the members of the Commerce Department staff. The prayers of my family I know will always be with the Brown family, as well as with the families of this mission of peace.

THE NATIONAL CAMPAIGN TO REDUCE TEEN PREGNANCY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Mrs. THURMAN] is recognized for 5 minutes.

Mrs. THURMAN. Mr. Speaker, I would like to thank the gentlewoman from North Carolina for organizing tonight's special orders. I would also like to commend her for her leadership in urging Members to become more actively involved in President Clinton's National Campaign To Reduce Teen Pregnancy.

First, we must face a distressing reality. More and more teens in our Nation are getting pregnant every year. Births to mothers under the age of 18 are on the rise, and we must work together to address this crisis.

The statistics in my home State of Florida are disturbing. Florida ranks 10th in the Nation in births to children aged 10 to 14 and 16th for teens between the ages of 15 to 19. Even more disheartening is the fact that of Florida's 17,641 teen births in 1994, almost 1 in 5 were repeat pregnancies.

Yes—these figures are alarming. However, there is hope. In fact, some promising programs in my district have demonstrated success in preventing teen pregnancy. Tonight, I would like to highlight these successful programs—programs which offer preventive strategies to solve the dilemma of teen pregnancy. Rather than continue the punitive approach Congress has taken with the welfare debate, citizens in my district are taking positive action.

I am very excited that almost every county in my district has established a teen pregnancy task force. Made up of a cross-section of the community—teachers, public health nurses, parents, teens, and representatives from local civic groups and organizations—the task forces work together to increase awareness and education.

Let me tell you about the effective programs in my district. In Alachua County, for example, Planned Parenthood of North Central Florida has teamed up with the Alachua County Public Health Unit to develop an exciting pilot program called Planned Parenthood "in the "Hood."

Although just 4 years old, this wonderful program is an excellent example of the unique partnerships which can be formed when the entire community works together to tackle a program. "In the 'Hood" has begun to conquer the obstacles that teens typically face when attempting to use traditional health care services.

"In the 'Hood's" approach is unique because teens deal with one personal counselor throughout their ordeal, not just a faceless voice at the other end of a telephone line. Through home visits, one-on-one counseling, and follow-up with teens, "In the 'Hood" has become a model of innovative community dedication. Through active involvement and personal contact with teens, the "In the 'Hood" counselor has become both a role model and mentor for teens who have been fortunate enough to participate in this program.

More importantly, the program works. In 1994, of those teens who participated in this program, only 12.5 percent became pregnant for the first time, while 61 percent of those who participated in traditional programs had first-time pregnancies.

One of the most troubling realities associated with adolescent pregnancy is what comes after the birth of the child. Inevitably, many children who have children don't finish school. Therefore, they have limited job prospects, reduced earning capacity, and, in the end, often depend of public welfare to make ends meet.

Before coming to Congress, I taught middle-school math in Dunnellon, FL. I have seen the tragedy of promising young students becoming pregnant and dropping out of school—abandoning their dreams of college and a successful future. I know it makes sense for schools to emphasize pregnancy prevention in their curriculum to prevent this tremendous waste of potential.

Citrus County, in a collaborative effort between its Public Health Unit and School Board, is doing just that. As 1 of 11 pilot sites in Florida to receive what is known as an Education Now and Babies Later grant, [ENABL], Citrus County has been able to participate in Postpone Sexual Involvement, a multifaceted program designed to get to the heart of the teen pregnancy problem.

The Postpone Sexual Involvement Program begins with direct education of 5th and 6th graders, with major emphasis placed on abstinence. Through the program's curriculum, young people are taught both the consequences of early pregnancy and how to deal with peer pressure; it teaches them confidence so that they can say "no" to sexual involvement and have their "no" accepted. This program also involves parents by creating a curriculum that gives parents the tools necessary to discuss candidly the issue of sex and the need to postpone sexual involvement.

In addition to the many successful programs I have already mentioned, this discussion would be incomplete without a reference to a very successful teen parenting program in Pasco County. During my tenure in the Florida Senate, I became actively involved in the Youth and Family Alternatives Teen Parenting Program. This program is designed to provide pregnant adolescents the education and support they need. Through home visits, this program aims at assisting, supporting and educating young mothers during and after their pregnancies.

Mr. Speaker, in all of the successful programs I have been involved with, the key to their success has been getting the whole community involved: students, parents, teachers, churches and Government. This makes sense. Teen pregnancy is a problem for an entire community, not just one woman, or one family. We must continue to work together to solve this terrible problem. I am delighted we have the opportunity tonight to take an important step in this positive direction.

I have lots more I could say, Mr. Speaker. I hopefully will have an opportunity to continue this as time goes on. I have much more that I could offer than just in 5 minutes.

SUPPORT PARTIAL BIRTH ABORTION BAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. FUNDERBURK] is recognized for 5 minutes.

Mr. FUNDERBURK. Mr. Speaker, I want to strongly express my support for the partial birth abortion ban. I consider this procedure a horrible one that people would not support if they saw it.

Mr. Speaker, President Clinton's veto of the partial birth abortion ban, which passed Congress with overwhelming support, shows once again his absolute loyalty to the most extreme abortion advocates. H.R. 1833 passed both Houses with wider margins than almost any bill this session.

Polls have revealed that the vast majority of Americans, more than two-thirds, support restrictions on abortion. Among just women, the numbers are even higher who support restrictions, especially in these late term abortions. These numbers tell a story that every man and woman of conscience understands. People do not want to see life casually ended, and they do not accept abortion as the highest and best offering of our Constitution. They are troubled by a 1.5 million-person death count every year. They are even more troubled by a gruesome procedure covered by this legislation, an abortion in which a child's brains are removed and the baby is systematically executed as it comes down the birth canal.

☐ 1715

This is one of the most horrific medical procedures in the world today. President Clinton has disappointed and deeply offended one of the largest voting blocks in the American electorate. The overwhelming success of pro-life candidates in the last election, both Democrat and Republican, underscores the troubled electorate's concern for run away abortion rights turned into societal wrongs.

Bill Clinton has again aligned himself with the most extremist elements of the abortion lobby, those who see no value in life poised on the edge of birth. The President said he wants abortion to be rare, but he seems to see no life worth saving, not even a fully viable child whose living brain tissue issue is vacuumed out causing painful death.

Partial birth abortions take place on babies from 20 weeks up until 40 weeks. The House Committee on the Judiciary has compiled documentation of the practice of this procedure by physicians of its being used on living human fetuses, of the pain that these children likely incur and of its use for elective purposes. In describing one such partial birth abortion she witnessed, nurse Brenda Shafer stated, the baby's body was moving. His little fingers were clasped together. He was kicking his feet all the while his little head was still stuck inside.

In a Christian Coalition letter to Congress, they stated Americans across the Nation are now aware of this inhumane practice and please cast your vote on the side of protecting these little babies from this painful death. Enactment of a ban on partial birth abortions is a key element of the Christian Coalition's contract with the American family. A partial birth abortion ban act is the right thing to do and I support it.

THE INCREASED NEED FOR CIVILITY IN OUR SOCIETY TODAY SHOULD START IN CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, I want to shift gears for a second. I can be as partisan as anybody can, I think, and probably have been, but it has also become increasingly clear to me that there is a need for a nonpartisan approach to this institution, this institution called Congress.

There is a need for Members, all of us, to be thinking carefully about the messages that we send to the public, because if we say it enough times about ourselves, then after a while people begin to believe us. And the messages that go forth about this institution, Republican and Democrat alike sending them, I might add, I think have caused a lot of people to wonder.

The fact of the matter is that each of the Members who chose to run for this institution chose to run. And I believe deeply that Members who are here believe in what they are doing. It is in that capacity, then, that we need to make sure that we communicate the best of this institution as well as our constantly trying to change it.

I listened to a debate the other day on a contentious issue. It was not necessarily Republican or Democrat, it was just a very, very contentious issue. And I heard from both sides the charges back and forth of, well, this person is in the pocket of so-and-so, or this person who just spoke is speaking up for such-and-such a group. As it rang back and forth I thought how does this debate come across to those who are watching and listening. And the answer is these folks must know what they are talking about and maybe they are all in the pockets of so-and-so.

My feeling is, and I believe the way most people here feel, is that Members of Congress are not in the pockets of anybody and that they are here wrestling with some honest to goodness difficult questions.

I look around this Chamber and what I see in these seats is this is where the Nation comes together. This is the crossroads of the country and this is where the country comes to try to work out its problems. Somebody from California or someone who lives on the seacoast may not know what it is like to live up a mountain hollow in West Virginia. By the same token, I have to learn what it is like to live in many other parts of the country and the problems that are faced there, and sometimes that is a slow process and sometimes it requires a lot of deliberation. So it is a process of trying to come to a consensus and understand one another.

I will say this. This is probably about as divergent a Congress as I have ever had the privilege to serve in terms of political views, ranging from the extreme conservative to the extreme liberal. But I also know that the best hope that this country has is to be able to work this out within the confines of this institution. That is why it exists. It is called Congress. Congress means coming together. Obviously, with the divergent viewpoints we all have, it may take a little longer to come together.

We can have vigorous debate. We have to have that debate. We can have tough aggressive partisanship. But I also ask that we be thinking about respect for this institution. Because if we are truly leaders, and people elect us to be leaders, then that means people are following our example. And if we are in here wrestling around and calling each other names, then I wonder whether or not that becomes the commonplace form or method of operation or mode of communication for those of our contstituents. If it is okay for those folks in Congress, it must be okay for me.

There is a need for civility, an increased need for civility in our society today, and I think one place it needs to begin is here in Congress.

PRESIDENT CLINTON TAKES EXTREME POSITION ON VETO OF PARTIAL BIRTH ABORTION BAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. CHABOT] is recognized for 5 minutes.

Mr. CHABOT. Mr. Speaker, like many of my colleagues, I am unapologetically pro-life. Recently we were joined by a number of our pro-choice colleagues in voting to outlaw partial birth abortions. Those folks also believed the procedure to be violent and gruesome and in no way consistent with their views that some abortions ought to be legal.

President Clinton, on the other hand, who has often said that he personally opposes abortion, says that he believes abortion ought to be legal but rare. In this particular instance I think he has finally shown his true colors. He has reached out to the most radical of the pro-abortion lobby by vetoing the partial birth abortion bill. The veto was a slap in the face to all of those who respect human life.

The President has shown once and for all that he favors abortion on demand, even in the final weeks of pregnancy, and that is a tragically extreme position.

I would remind my colleagues that the partial birth abortion ban was supported by 288 Members of this body, both Republicans and Democrats. Most thoughtful legislators did not consider the bill to be controversial and agreed it was something long overdue, a prohibition on a particularly grotesque and inhumane practice, yet the President did not see it that way.

Let us recap for a moment what it is we are talking about here. A partial birth abortion is performed by using forceps to pull a living baby, feet first, through the birth canal until the baby's body is exposed, leaving the head just within the uterus. The abortionist then forces surgical scissors into the base of the skull, creating an incision through which he then inserts a suction tube to evacuate the brain tissue from the baby. This causes the skull to collapse, allowing the baby to be pulled from the birth canal.

The Partial Birth Abortion Ban Act would outlaw such abortions. The President, who says that abortions should be rare, says that there is no question this is a gruesome procedure. The President says that abortions should be rare, but he vetoed this particular legislation. I think that was outrageous.

Mr. Speaker, I will say one thing for the President, however, he has been consistent. He says one thing and then does another. He promised to end welfare as we know it. He vetoed welfare reform. He promised the middle-class tax cut and then he vetoed the middle-class tax cut that was passed by this Congress. He said that abortion should be rare, but his record shows that he supports abortions on demand at any time for any reason.

I would agree with Robert Casey, the former Democratic Governor of Pennsylvania, who said President Clinton says he wants abortions to be safe, legal, and rare, but he has helped make it safe, legal, and everywhere. Yesterday Cleveland Bishop Anthony Pilla, president of the National Conference of Catholic Bishops, joined by eight American cardinals, sent an extremely thoughtful, strongly worded letter to President Clinton in response to the President's veto, and I would like to quote from that letter at this time.

In the letter the bishop stated as follows: Your veto of this bill is beyond comprehension for those who hold human life sacred. It will ensure the continued use of the most heinous act to kill a tiny infant just seconds from taking his or her first breath outside the womb.

And the letter goes on: At the veto ceremony, you told the American people that you had no choice but to veto the bill. Mr. President, you and you alone have a choice of whether or not to allow children almost completely born to be killed brutally in partial birth abortions. Members of both Houses of Congress made their choice. They said no to partial birth abortions. Your choice was to say yes and to allow this killing more akin to infanticide than abortion to continue.

That is what the Catholic bishops had to say to the President of the United States. It would be an understatement to say that I am disappointed and saddened by President Clinton's unconscionable veto of the partial birth abortion ban. I think my sentiments are shared by many, including a large number of people who consider themselves to be pro-choice, and I cannot stress in strong enough terms my hope that this Congress when it is given the opportunity will vote to override the President's veto.

Mr. Speaker, we cast hundreds of votes in this body every year. This vote will not be forgotten and we hope that we override this terrible veto the President made.

TRIBUTE TO OUR FALLEN FRIEND, RON BROWN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. RANGEL] is recognized for 5 minutes.

Mr. RANGEL. Mr. Speaker, later on this evening, the gentleman from New Jersey, DON PAYNE, and other Members of Congress will continue to pay tribute to my fallen buddy, Ron Brown, but I just want to share some views as I saw Ron and 33 other coffins arrive in Dover, these flag-draped coffins covering the bodies of people that were in the business of selling the United States of America, and then heard the tributes that were paid to all of them, as well as attending at Arlington cemetery.

As the bands were playing and the flags were unfurled and the cannons were blasting, I could only think what a great country we live in and how many things we just take for granted; that here a young American who comes from one of the poorest communities can, in such a short period of time, capture the love and gain the respect of not only the President of the United States but so many Americans from seashore to seashore, and, at the same time, to know that in so many foreign countries, some not as friendly as we wish that they would be, that they lowered their flags at half mast for this great American, Ron Brown.

I think that when we start thinking about loving America, we have to think about what kind of person could love his country so much that he would try to climb mountains that other people would not even attempt, not only to show how great America was and what products we wanted to sell, and not how superior we were, but to actually talk with trade ministers and prime ministers and presidents in terms of the needs of their country. The poverty, the disease, the sickness, the hunger, the unemployment, the joblessness, and to be able to say to that country that America was there as a friend that wanted to help.

This was a part of the world that we never spent that much time in. This was the part of the world that we had to develop markets in. This was the part of the world that we had to increase their ability to have disposable income so that as we had once done in Europe under the Marshall plan, that we could regain the leadership that we have possessed since World War II. And how they loved him, because it was not just selling America, it was the interest he had in them.

I saw at the funeral Ambassadors that had flown in from Mexico, India, South Africa. They spoke, they talked, they loved, they cared. And I said what a wonderful country it is that we have in the United States of America, people that come from every country in the world.

□ 1730

Unlike other countries where you just look at the country and you can feel just the narrow culture interest that they have, there is no country in the world that we cannot reach and show that Americans come from all over. To see what investing in the education of a Ron Brown, or Ron Gonzalez, or Ron Lee, or the women that have been denied the opportunity to show, to be given the opportunity to show that they are Americans, this is a great country, and go abroad and find out that they are making friends for us, as well as creating trade.

Mr. Speaker, I have received notices, as well as telephone calls, from Senator DOLE and from Haley Barbor, who is the chair of the Republican Party, to say to me, as they have said to others, this issue is too big to look at party labels. It is too big to look at the color of American skins. It is American to be able to say that we can make our country a greater place, create more jobs if only we cared enough to train our people for these type of opportunities and to share our talents with so many other countries in the world.

RIGHTFUL ROLE OF GOVERNMENT TO DEFEND THE DEFENSELESS

The SPEAKER pro tempore (Mr. LAHOOD). Under a previous order of the House, the gentleman from New York [Mr. FORBES] is recognized for 5 minutes.

Mr. FORBES. Mr. Speaker, I appreciate the sentiments of my colleague from New York.

Mr. Speaker, I take the well today to talk a little bit about an issue I think that is of great and paramount importance to both sides of the aisle that serve in this august body. For the last 15 months, we have watched as the House of Representatives struggles with public policy questions. What is the rightful role of government? To what extent do we fund these programs? What programs work? What programs do not work?

For 15 months, it has been a very healthy, although at times contentious, debate. It gets at the very heart of what democracy is all about. Taking these issues to the American people, to the floor of the House of Representatives and having a good give and take. We are trying to understand, as we are on the threshold of a new millennium, where to take America. What are our priorities? And I would say, Mr. Speaker, that as we think about those priorities, we think about a government that most of us would like to be benevolent, caring, there for those who cannot help themselves.

We need to think of the question that gets at the heart of the highest, most precious part of the human experience, and I speak with reference to those moments when a young woman and her husband, a young man and wife, learn the terrific news that there is going to be a birth of a child. Their excitement, their love, their exhilaration is unmatched by almost anything else that one could experience in life, and I do not think there is an American, whether they be described as pro-choice or pro-life, that cannot appreciate that very important and most precious moment in the human experience.

It leaves me, Mr. Speaker, mystified, wondering if the rightful role of government is not to step forward, to indeed protect the most defenseless among us, that nurturing, growing life within the womb, that most precious experience in a woman's existence. What is the rightful role of government, I ask, if not to protect that defenseless life? Yet we had an issue, and I speak principally to the issue of the late-term partial birth abortion ban, and the question of government's rightful role to step in at a period when this baby, growing within the womb, is 4½ months along, or on the eve of a birth. Yet this procedure continues and will continue because a bill that was sent to the White House was rejected. Despite the safeguard stipulating that there must be an absolute threat to the life of the mother, the President chose to veto this bill. The same president who as Governor could have been at one point described as pro-life now sides with the radical left on this issue.

Mr. Speaker, I ask again, what is the rightful role of government if not to step forward at these most important moments to defend the defenseless, to step forward for our children? Is there anything so precious in life, in society as the birth of a child, as the potential growth of a new human life? And yet, this partial birth abortion procedure, which some say is a rare occasion, well, I would say one occasion is too many. There are, as I have been told, some very infrequent times when the life of the mother is so threatened that this procedure is performed. But I am also told that the American Medical Association, its college of legislative people and the 12 doctors therein, have said that this is an unnecessary procedure.

Mr. Speaker, as I yield the podium, I would just ask that if the rightful role of government is not to defend the defenseless, to defend precious life, then what is the role of government?

THE TRADE DEFICIT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, over the weekend, here in Washington there was a public relations blitz organized by the administration to tell us and the world how United States trade relations with Japan have improved. National Economic Council Chair Laura Tyson went so far as to state we have had a great record of success with the Japanese in the area of trade with our exports increasing by one-third since 1993, and we have seen the trade deficit come down, she said, for the first time in 5 years, so we have a strong record of success.

Well, you know, people can twist numbers in amazing ways. If the administration had such a strong record of success, why has the United States trade deficit with Japan worsened during the Clinton watch and become even worse than during the Bush years when the United States trade deficit with Japan reached all-time highs? Look at the facts.

During the first 3 years of the Bush administration, the United States trade deficit with Japan reached over $133.5 billion. During the first 3 years of the Clinton administration, our trade deficit with Japan has soared to over $185 billion. That is $50 billion worse, according to my math, and a 39-percent increase. Wishing a problem away certainly will not make it so, and Japan knows it. Our Nation gains nothing by denial.

Facts again: During the Bush years, the 4 years, the total trade deficit with Japan reached over $183 billion, an all-time record. President Clinton has racked up that amount in just his first 3 years. In fact, during the Clinton watch, the trade deficit with Japan has rung in at all time record highs each year, $60 billion in the red in 1993, $65.7 billion in the red in 1994, and $60 billion in the red in 1995. We cannot project what the United States-Japan trade deficit will be this year, but all indicators are that the total for the 4 years of Clinton's time will easily be over $230 billion to the deficit side of the ledger.

Let us take a look at the automotive sector, which still accounts for over half of the deficit with Japan, more exports coming over here, fewer of our imports going into their market.

Remember when President Bush journeyed to Japan late in his Presidency and became ill at the official dinner held during the automotive trade rift? This is not a new problem. I personally have been working on opening Japan's market to United States goods for over a decade. I can tell Members Japan's auto market largely remains closed. They continue to believe we are not really serious.

United States auto manufacturers still have less than 1 measly percent of Japan's auto market, yet Japan holds upwards of one-third of our market. Think about this. With our low interest rates, the value of our dollar against the yen has fallen 40 percent since 1990, which means that our products are 40 percent cheaper in Japan. Yet we gained only one-third of 1 percent additional market penetration in Japan in 1995.

While we were able to sell about 58,000 cars there last year, Japan has sold over 100 times that amount in our country over the last decade. When I ask my local auto people, how are you doing, they smile and they look down.

In a recent survey of United States auto parts suppliers to Japanese customers, two-thirds of our suppliers say they are working hard to crack Japan's market with roughly half of those responding saying they are currently achieving either limited success, sporadic success or no success at all in really opening that market.

Can you imagine, in the second largest marketplace in the world, if we could get trade reciprocity with Japan, the amount of jobs we could create in this country, in shipping, in distribution, in manufacturing, in parts, et cetera? Compare the limited success of United States auto and auto parts manufacturers to crack Japan's market to the administration's exaggerated claims.

Friends, let us stop the denial. You cannot look at these numbers and not know that trade is going one way and not the other. We have scaled an ant hill in our efforts to open Japan's market. Now all that is left is the mountain of red ink to scale.

MORE ON THE PRESIDENT'S VETO OF PARTIAL BIRTH ABORTION BAN BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. GUTKNECHT] is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, a great Democrat who came from my State, perhaps one of the most articulate spokesmen for the Democratic Party over the last 30 or 40 years, Hubert Humphrey, once said that if you love your God, you must love his children.

Mr. Speaker, I rise today to talk about the tragedy of the partial birth abortion issue and what the President has done with his veto. I rise to congratulate the National Conference of Catholic Bishops because I think they have, in very strong words, expressed on behalf not only of Catholics but I think of millions of Americans that have conscience of both political parties the outrage of this grisly procedure and the action of the President by vetoing it, keeping it legal here in the United States.

This is not a Republican issue. It is not a Democrat issue. It certainly is not just a Catholic issue. I think it is an issue about our basic humanity and how we treat the most vulnerable among us.

I would like to read for the RECORD a letter from a gentleman in Texas. For those who may be watching, I would be happy to make available to them a copy of this letter as well as a letter from the National Conference of Catholic Bishops, because they are both extremely powerful letters. I think all Americans should have an opportunity to read them.

□ 1745

I want to read this for the record, Mr. Speaker:

Hon. BILL CLINTON.

DEAR MR. PRESIDENT: On Wednesday evening, when I learned that you had vetoed the partial birth abortion bill, I felt stunned and angry, but mostly I felt betrayed. Betrayal is a strong word. However, President Clinton, this is the anguish that I and many Democrats across the nation feel now.

As a dedicated Democrat, I believed Bill Clinton during the primary campaign in Texas in 1992 and in the general election as our nominee when you vowed to protect the rights of individuals and to forge an era of the new Democrat, an era that would avoid the extremism of either side.

I campaigned for that Bill Clinton and stood proudly in the cold in Washington at your inauguration when you gave your message of hope for those who have no voice. But Wednesday, with your veto, you ignored the rights of the innocent little children and literally sentenced them, thousands probably before this madness is brought to an end, to their deaths.

Unlike the debate over abortion that has been ongoing for decades, this procedure is clearly the brutal taking of a human life. The right-to-choose position of the Democratic Party has largely been driven by the belief that a fetus cannot survive outside the mother's womb. But in this case, medical evidence is clear that these babies could survive, but are destroyed in the most vicious and inhumane way possible. Our society demands that even dogs be destroyed in a more humane fashion.

For what purpose, Mr. President, did you do this? To satisfy a minority of extremists whose votes you would have gotten anyway? And please, consider again your rationalization that you acted to "protect the safety of the mother," when the bill permitted an exception if a doctor deemed the procedure was necessary to save the mother's life. You know full well that the bill would not have received the support of the Council on Legislation of the American Medical Society and 73 Democrats in the house if it did not. Mr. President, with all due respect, there is no valid reason for your action, ethically or politically. And it is certainly inconsistent with your positions that you have taken.

Your presence and comments in Oklahoma last week on the anniversary of the bombing tragedy reflected your deep concern for those who perished, especially the children. Yet, you signed the death certificate on Wednesday for countless equally innocent children. Several weeks ago I saw you visibly shaken when speaking of the mass murder of the children in Scotland. You had a chance, with your vote, to prevent a much greater tragedy. Mr. President, you chose instead to trade those future lives for votes that you perceive are crucial to your reelection.

In the past three years I have seen you time and time again speak out to the thousands, maybe millions, of young Americans who have been lost to the streets in a life of murder, destruction and mayhem, of drugs and disease.

Mr. Speaker, I would like to put the full text of this letter in the RECORD.

The letter referred to is as follows:

EL PASO, TX,
April 12, 1996.

Hon. BILL CLINTON,
President of the United States, Washington, DC.

DEAR PRESIDENT CLINTON: Wednesday evening when I learned that you had vetoed the partial-birth abortion bill, I felt stunned and angry. But mostly, I felt betrayed.

Betrayal is a strong word. However, President Clinton, this is the anguish that I and many Democrats across the nation feel now. As a dedicated Democrat, I believed Bill Clinton during the primary campaign in Texas in 1992, and in the general election as our nominee when you vowed to protect the rights of individuals and to forge an era of the New Democrat. An era that would avoid extremism of either side. I campaigned for that Bill Clinton and stood proudly in the cold in Washington at your inauguration when you gave your message of hope for those who had no voice. But Wednesday, with your veto, you ignored the rights of innocent little children and literally sentenced them (thousands probably before this madness is brought to an end) to their deaths.

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Your presence and comments in Oklahoma last week on the anniversary of the bombing tragedy reflected your deep concern for those who perished, especially the children. Yet, you signed the death certificate on Wednesday for countless, equally innocent children. Several weeks ago I saw you visibly shaken when speaking of the mass murder of children in Scotland. You had a chance, with your vote, to prevent a much greater tragedy. Mr. President, you chose instead to trade those future lives for votes that you perceived are crucial for your re-election.

In the past three years I have seen you time and time again speak out to the thousands, maybe millions of young Americans who have been lost to the streets in a life of murder, destruction and mayhem, of drugs and disease. You have pleaded with them to have respect for human life. But with this veto, you did the opposite. And we, as party officials, have been put in the untenable position of having to live with that decision.

Mr. President, I cannot and will not support this action. Therefore, I cannot in good conscience support your candidacy.

As I contempleted this matter over these past days, I was reminded of the words of the late President Kennedy when he said, "Sometimes party loyalty asks too much." Thus, it is with regret and sorrow that on this date, I have submitted my resignation as a member of the Texas State Democratic Executive Committee and Chair of the Mexican-American Caucus. I have informed our State Chairman, Bill White. While I do not intend to actively support of vote for any Republican or Independent candidate. I will be asking other Democrats to consider withholding their support of your candidacy while continuing to support Democrats for other offices.

Very truly yours,

JOSE R. KENNARD,
State Committeeman, District 29.

PARTIAL-BIRTH ABORTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, I noticed how many of my fellow colleagues here this afternoon had been speaking about the outrageous and repugnant veto of the legislation overwhelmingly passed in both Houses of the U.S. Congress regarding partial-birth execution-style abortion.

During the debate I tried to get pro-life Members on both sides of the aisle in the oldest party of America, the great Democratic Party, and the grand old party over here, I tried to get them all to use this expression execution-style because the attack to the child, and it is a child that is almost always viable, can survive outside the womb even if it is what we called disabled, that the attack is similar to the Cosa Nostra, or organized crime, attack, sometimes with a .22 pistol, to keep down the sound to the base of the skull. This is a common assault, whether it was with sword, ax, or during the Chinese revolution, Stalin's purges, or Hitler's henchmen.

For example, at the trench at Babyar in the Ukraine, or many of the labor camps with sick people, Japanese warlords directed soldiers executing our men and our Filipino allies on the Bataan death march 54 years ago.

This execution to the base of the skull, it was used in the Balkans all this last 4-year period of horrible ethnic cleansing and human rights violations, a bullet or a knife to the base of the skull.

And here in debate in one of these two houses was a woman, no less, an elected woman, talking about defending that this was important to the life of the mother. And somebody got up who served in this House honorably for 8 years, Senator BOB SMITH, and said, wait a minute, if it is for the life of the mother, why is the abortionist holding the baby in the birth canal? Why is he interrupting the birth process? This is conversely to what you are saying, endangering the mother's life. It is truly infanticide.

And I think that to let people know how unprecedented it is, as it says in a front-page story in the Washington Times, and I have not looked at the Post today and the New York Times to see whether they buried it, but it is a front-page story about all eight U.S. Catholic cardinals hitting Clinton on abortion, and I am going to yield to the gentleman from California [Mr. HUNTER] and then read as much as I can of the bishop's letter and submit the rest, ask unanimous consent to submit the rest, for the RECORD, and I will return to the floor, as I am sure the gentleman from Minnesota [Mr. GUTKNECHT] will and the gentleman from California [Mr. HUNTER] will many times on this.

This has got to rip apart Stephanopoulos' so-called Catholic plan to win the election in 202 days.

Mr. HUNTER. I do not want to take much time from my friend.

Mr. DORNAN. You are not taking it from me, but from eight cardinals; go ahead, though.

Mr. HUNTER. In that case, I feel better.

But let me just thank him, thank BOB DORNAN, for all the great work that he has done on behalf of unborn children and the fact that you are carrying this fight, as you have carried it for many, many years on the House floor, and I agree with you that the President has gone too far, that he stepped too far even for people who are able to look the other way on this issue in his party, and I hope that it is going to pull people off of this bandwagon that the President is putting together for his 1996 presidential campaign.

Mr. DORNAN. Well, you know our colleague, Mr. SMITH from New Jersey, has been here. He is a classmate of yours, for 16 years almost, but he has this angelic face. I almost said he looked like an acolyte, and, therefore, he can stand where you are at this mike or down in the well and say tougher things than most of us can say.

He has been calling Clinton for 3½ years the abortion President. Nobody has ever jumped up and taken down his words, and I have refrained from doing that until this moment. But this shows, beyond all shadow of doubt, that Mr. Clinton is not a new Democrat, he is not a moderate Democrat, he is not even a run-of-the-mill liberal like many of our honorable friends on the other side of the aisle who are proud of their liberal philosophy, believe in a larger Federal Government than we do, basically to help the poor, to help children.

We have hurt children more on this House floor in the last 2 years than I ever dreamed it here in the House, and I do not question their good will, but I noticed that most of them who are sincere liberals of principle, classic liberals, are also against this partial birth.

So I will put in the cardinal's letter, Mr. Speaker, and then read it slowly tomorrow from today's RECORD.

NATIONAL CONFERENCE OF CATHOLIC BISHOPS, OFFICE OF THE PRESIDENT,
Washington, DC, April 16, 1996.

President WILLIAM CLINTON,
The White House,
Washington, DC.

DEAR PRESIDENT CLINTON: It is with deep sorrow and dismay that we respond to your April 10 veto of the Partial-Birth Abortion Ban Act.

Your veto of this bill is beyond comprehension for those who hold human life sacred. It will ensure the continued use of the most heinous act to kill a tiny infant just seconds from taking his or her first breath outside the womb.

At the veto ceremony you told the American people that you "had no choice but to veto the bill." Mr. President, you and you alone had the choice of whether or not to allow children, almost completely born, to be killed brutally in partial-birth abortions. Members of both Houses of Congress made their choice. They said No to partial-birth abortions. American women voters have made their choice. According to a February 1996 poll by Fairbank, Maslin, Aaullin & Associates, 78 percent of women voters said No to partial-birth abortions. Your choice was to say Yes and to allow this killing more akin to infanticide than abortion to continue.

During the veto ceremony you said you had asked Congress to change H.R. 1833 to allow partial-birth abortions to be done for "serious adverse health consequences" to the mother. You added that if Congress had included that exception, "everyone in the world will know what we're talking about.

On the contrary, Mr. President, not everyone in the world would know that "health," as the courts define it in the context of abortion, means virtually anything that has to do with a woman's overall "well being." For example, most people have no idea that if a woman has an abortion because she is not married, the law considers that an abortion for a "health" reason.

Similarly, if a woman is "too young" or "too old," if she is emotionally upset by pregnancy, or if pregnancy interferes with schooling or career, the law considers those situations as "health" reasons for abortion. In other words, as you know and we know, an exception for "health" means abortion on demand.

You say there is a difference between a "health" exception and an exception for "serious adverse health consequences." Mr. President, what is the difference—legally—between a woman's being too young and being "seriously" too young? What is the difference—legally—between being emotionally upset and being "seriously" emotionally upset? From your study of this issue, Mr. President, you must know that most partial-birth abortions are done for reasons that are purely elective.

It was instructive that the veto ceremony included no physician able to explain how a woman's physical health is protected by almost fully delivering her living child, and then killing that child in the most inhumane manner imaginable before completing the delivery. As a matter of fact, a partial-birth abortion presents a health risk to the woman. Dr. Warren Hern, who wrote the most widely used textbook on how to perform abortions, has said of partial-birth abortions: "I would dispute any statement that this is the safest procedure to use."

Mr. President, all abortions are lethal for unborn children, and many are unsafe for their mothers. This is even more evident in the late-term, partial-birth abortion, in which children are killed cruelly, their mothers placed at risk, and the society that condones it brutalized in the process.

As Catholic bishops and as citizens of the United States, we strenuously oppose and condemn your veto of H.R. 1833 which will allow partial-birth abortions to continue.

In the coming weeks and months, each of us, as well as our bishops' conference, will do all we can to educate people about partial-birth abortions. We will inform them that partial-birth abortions will continue because you chose to veto H.R. 1833.

We will also urge Catholics and other people of good will—including the 65% of self-described "pro-choice" voters who oppose partial-birth abortions—to do all that they can to urge Congress to override this shameful veto.

Mr. President, your action on this matter takes our nation to a critical turning point in its treatment of helpless human beings inside and outside the womb. It moves our nation one step further toward acceptance of infanticide. Combined with the two recent federal appeals court decisions seeking to legitimize assisted suicide, it sounds the alarm that public officials are moving our society ever more rapidly to embrace a culture of death.

Writing this response to you in unison is, on our part, virtually unprecedented. It will, we hope, underscore our resolve to be unremitting and unambiguous in our defense of human life.

Sincerely yours,

Cardinal Joseph Bernardin, Archbishop of Chicago; Cardinal James Hickey, Archbishop of Washington; Cardinal Bernard Law, Archbishop of Boston; Cardinal Adam Maida, Archbishop of Detroit; Cardinal Anthony Bevilacqua, Archbishop of Philadelphia; Cardinal William Keeler, Archbishop of Baltimore; Cardinal Roger Mahony, Archbishop of Los Angeles; Cardinal John O'Connor, Archbishop of New York; Most Rev. Anthony Pilla, President, National Conference of Catholic Bishops.

MILITARY AIRCRAFT SAFETY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, yesterday I convened a panel of the procurement subcommittee of the Committee on National Security to investigate the series of tragic mishaps with respect to F-14 crashed and Aviate B Harrier Marine Corps fighter aircraft crashes that have occurred since the beginning of the year, and, Mr. Speaker, it is very clear to us and to my friend, Mr. DORNAN, who has quite a bit of time in an Air Force cockpit, and my good friend, Mr. CUNNINGHAM, my seatmate from San Diego, that it is dangerous to be a pilot in the U.S. Air Force, the U.S. Navy, the U.S. Marine Corps; it is more dangerous to be a pilot when you have a government that will not pay the money that has to be paid to make that aircraft as safe as it can possibly be made.

The testimony from the U.S. Marine Corps yesterday was that Harriers are tough aircraft to fly. Almost one-third of the entire Harrier air inventory, aircraft inventory, has crashed since its inception, and we have had three tragic crashes this year of these Harrier Jumpjets. The Marine Corps told us yesterday that we could make that plane 50 percent more safe than it is right now, and we do that by remanufacturing the aircraft and adding safety features. They told us that the Clinton administration has decided not to make 24 of those aircraft as safe as they can be, and when we asked why, we were told because of budgetary constraints.

So, Mr. Speaker, for the first time, we are seeing the Clinton defense budget come apart at the seams. We are seeing a defense budget which is costing us; it has been cut so drastically. by 72 percent in the area of modernization, that we are not able to make these aircraft, these Harrier aircraft, as safe as they can be for Marine pilots.

Well, Mr. Speaker, the Republicans are coming to their rescue. I have talked with the chairman of the full committee, our good friend, FLOYD SPENCE, and he concurs that we will fix all 24 of those aircraft that right now the Clinton administration does not plan to upgrade with safety upgrades so that the pilots will be more secure than they are flying the aircraft right now.

So I want to announce, as the chairman of the procurement subcommittee, that the Republican markup will reflect upgrades, it will cost about $26 million per plane for all 24 of the Harrier aircraft that the Clinton administration has decided, in their infinite wisdom, not to fund.

Additionally, on the F-14, and an F-14 crashed today, the Republicans are going to be adding about $83 million for several items that will make that aircraft safer. We are going to come up with a digital flight control system; we are going to install that. We are also going to come up with a system that indicates when the engine is getting overloaded and will advise people in the cockpit that they have to take action fairly quickly. Those are two safety upgrades that we will be funding in the procurement subcommittee for the F-14.

So, Mr. Speaker, the Republicans are riding to the rescue in national defense, and Mr. Perry, Secretary Perry, has come down to the House Armed Services Committee and told us that everything is fine with defense. These massive cuts that the Clinton administration has been making according to Dr. Perry have not harmed national defense at all.

Well, Mr. Speaker, the Clinton defense budget is coming apart at the seams, and these recent crashes and the lack of initiative on the part of the Clinton administration to make these planes as safe as they can be is only the tip of the iceberg, but the Republicans are going to fix these aircraft. We are going to be making these Harriers as safe as they can possibly be, and we will be funding upgrades to the F-14's to make them as safe as they can be.

I am happy to yield to my friend.

Mr. DORNAN. I flew the Harrier for the fourth time last August 8. Outstanding pilots down at Cherry Point and also at Yuma. It is a unique aircraft. It has stolen the show at every air show for over 2½ decades. But it is a difficult airplane to fly. And I will join in this fight, and I can guarantee you we will prevail.

I did not know an F-14 crashed today. Where did that happen?

Mr. HUNTER. That happened on the East Coast, I think at Oceana.

Mr. DORNAN. Right. Well, we will do the best we can.

Mr. HUNTER. That was an F-14B model crashed today.

Mr. DORNAN. Right. If we were in Israel, there would be no question that their first line of defense would get what they needed to be safe.

□ 1800

ADVANCES BROUGHT ABOUT BY REPUBLICANS

The SPEAKER pro tempore (Mr. METCALF). Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, when I came to Congress 3 years ago, I was really appalled, like many other Americans, to find out that Congress really did not have to live under the laws that they imposed on everyone else.

I remember, when I ordered signs for my district office, I attempted to comply with the Americans with Disabilities Act. Then I came back to Washington and was shocked to find out that in Washington, they did not comply with the ADA Act, and they did not comply with the rest of the rules and regulations.

It was ironic, shortly thereafter, that I had visiting constituents from my district and around the country who were visually impaired. I really was embarrassed to see those folks try to find their way around this place, this maze, without any proper, even common courtesy identification for those with a disability.

I wrote on February 26, 1993, to the Democrat committee chairman who was in charge of the House oversight at that time. Mr. Speaker, I include that letter for the RECORD.

The letter referred to is as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 26, 1993.

Hon. CHARLIE ROSE,
Chairman, Committee on House Administration, The Capitol, Washington, DC.

DEAR REPRESENTATIVE ROSE: My recent experience in ordering signage for my district offices in Central Florida has prompted me to ask why the House of Representatives should not comply with a simple and necessary provision of the Americans with Disability Act with regard to use of braille for blind and visually impaired people.

After laborious efforts to get local district office signs approved by the committee on House Administration, the sign company informed me that ADA regulations also required that the suite numbers be in braille. After inquiring with committee staff as to why this was not addressed in the Congressional Handbook, I was informed that the House was exempt from the regulation. I did, however, request the addition of braille to my signs.

It was ironic in that the same week this happened, representatives for the blind and visually impaired around the country were visiting their Members of Congress and no Member suites in the House Office Buildings are equipped with braille signs.

I would like to request that House rules add braille directional signs located in the interior of local district offices and in the House offices buildings. I urge that consideration be given to this much needed service to our visually impaired citizens.

Sincerely,

JOHN L. MICA,
Member of Congress.

Rather than reading the whole letter that I wrote to the chairman of the Committee on House Oversight, I will summarize it. I told him our experience, that here we are, a Congress telling people to comply with the laws, and I just had these folks with visual infirmities and disabilities in the hallways, trying to find their way around the Capitol. Why could we not at least give them the courtesy of labeling our offices in compliance with ADA? I never got a reply. I brought it up again, and I asked and begged.

The American people made some changes here then. On the first day of the 104th Congress we passed, remember, the Congressional Accountability Act. That said that every Member of Congress and Congress must comply with the laws they impose on everyone else. Most people do not know that that is now the law. Sometimes around here there are great battles and little victories.

I am here tonight to tell you about one little victory. Here is the little victory. Going up around the Capitol Building and in my office, and I am so proud of this little improvement, little victory, are these signs. They are placed in compliance with ADA. If you are visually impaired, you can even find out whose office you are in. This is a small success, but we said when we took control of this Congress we were going to make some changes. We were going to make Congress obey these laws. This is one little victory that I am so proud of.

Not only did we do that, but how thrilled I was today to also find another sign which was going up. Heaven forbid we should have maps that should help those visually impaired to find their way around the maze of the Capitol Building, but we have these, and actually your can put your hands across these, and those visually impaired and who read Braille, they can find their way around this maze.

So Republicans said they would make changes, and they are making changes. I know this is not changing the world as we know it; it is not changing everything, our freshman program, but it is a beginning.

There are some other things that people probably do not know about what we have done with the Congress and the congressional budget. I want to take a minute to thank, first of all, the gentleman from California, BILL THOMAS, who is chairman of the Committee on House Oversight, for his actions and leadership on this issue and other issues.

Mr. Speaker, the Republicans said they would cut the cost of operating this Congress, the legislative branch, and they did. We cut a quarter of a billion, $250 million, out of our budget. That is done.

Republicans said they would cut congressional staff, and we reduced the staff on the Hill somewhere in the neighborhood of 2,000 positions. I chaired the Civil Service Subcommittee, which was three subcommittees before. It had 54 staffers. We operate it with 7. We said we were going to make changes. We did make those changes. Republicans said they would privatize capital operations, and we did.

EARTH DAY

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, my purpose tonight is to talk about Earth Day and the lessons of Earth Day and what it means for us now in 1996. I think many of our constituents know that Earth Day is 26 years old now. It will take place this year on April 22, and the first Earth Day was in April 1970.

The reason we are concerned and the reason that several Democrats are here tonight to talk about Earth Day is because we are very concerned that this Congress, under the Republican leadership of the gentleman from Georgia, NEWT GINGRICH, has essentially tried to roll back the bipartisan effort that has been made in the House of Representatives, in the Senate, by Presidents of both parties over the last 25 years to try to improve our laws and our enforcement with regard to environmental protection.

In the last 14 or 15 months or so that we have been here in this Congress, we have seen day after day, week after week, efforts by Speaker GINGRICH and the Republican leadership to weaken the laws that have been on the books, and to provide less funding for enforcement and investigation against polluters who are violating those laws.

Before I go on, though, I will yield to the gentlewoman from Florida [Mrs. MEEK] who would also like to address this issue. I am very pleased she is here tonight, because I know how important Earth Day is to her, and how important environmental protection is to her.

Mrs. MEEK of Florida. Mr. Speaker, I thank my colleague, the gentleman from New Jersey [Mr. PALLONE].

Mr. Speaker, in recognition of Earth Day, I rise to talk about some of the successes and failures since the first Earth Day in 1970. I have a vivid recollection of Earth Day and what it has done for all populations.

As a result of the increased awareness of environmental problems that was a direct result of Earth Day, the landmark legislation to create the Environmental Protection Agency passed the United States Senate in 1970 without a single dissenting vote, ushering in a new era of America's stewardship of our air, our water, and our land.

Mr. Speaker, we have made great strides over the years in cleaning up our air and our water. My home State of Florida has been a national leader in protecting these precious resources. But there are those who have been left out in the rising tide of environmental quality, which has not lifted all of the boats.

Mr. Speaker, since that original Earth Day, we have learned that racial minorities and low-income people experience high-than-average exposures to selected air pollutants, hazardous waste facilities, and to contaminated fish and agricultural pesticides in the workplace.

In 1992, a National Law Journal Investigation found that penalties against pollution law violators in minority areas were lower than those imposed for a violation in largely nonminority area. They also found the government took longer to address these hazards in the communities. In additional, they found that the racial imbalance occurred whether the community was wealthy poor.

Discrimination against racial or ethnic groups and against the poor in environmental efforts cannot be condoned. The effort to fight this discrimination is known as the environmental justice movement. It is becoming a very strong movement.

Many of my colleagues know, as most of the country knows, that the current Republican leadership has assaulted the environment to serve special interests at the expense of the land, the water, the air, and the health of the people of the United States. Through budget cuts and legislative riders, the Republicans have targeted not only the environment, but also the minority groups and the poor. Not only is their so-called environmental agenda good for polluters, it is bad for the environment, and it is worse for poor people in poor communities.

Mr. Speaker, we need clean air and clean water, just as any other person needs it, as much as the people from other communities. The poor just as much as the rich need dangerous waste sites cleaned up. Poor people do not have air filters, water filters, or vacation homes to escape from these environmental hazards. They do not have lobbyists or money to donate to influential committee members to slant legislation in their favor. But we need to open our ears here in the Congress and listen to these people as we consider environmental laws in Congress.

Polluted sites in poor urban areas often stand for years as health and environmental hazards. I know this because of the district I serve. They are eyesores, they are a breeding ground for crime, and places where development of industry and jobs should be revitalizing the community, but these environmental hazards are there preventing this.

At the same time, new businesses are developing areas far from the cities and the city labor pool, destroying vegetation and wildlife, and duplicating investments in infrastructure that have already been made in these urban and poor areas. This makes no sense, no environmental sense and no common sense, Mr. Speaker.

Dangerous waste sites must be cleaned up. I have introduced, last year, a bill, H.R. 1381, the Comprehensive Economic and Environmental Recovery Act of 1995, that would help achieve this goal. My bill and a lot of others would provide low-interest loans to stimulate voluntary cleanup of contaminated areas in targeted urban areas, and ensure that local people are hired to do the work. My bill also includes provisions for a training program so that local people can learn the skills necessary for environmental remediation.

Mr. Speaker, I am not the only one who has sponsored such legislation, but this Congress needs to pay that more attention. The gentleman from Michigan, Mr. DINGELL, one of our colleagues, in his Superfund Reform Act of 1995 had provisions that would address this environmental justice. Unfortunately, Mr. Speaker, these sections were not included in the Republican bill, thereby setting back the cause of environmental justice.

One provision of the Dingell bill would have required that the EPA study priority-setting, response actions, and public participation at waste sites to determine whether EPA's conduct was fair and equitable to the population, to the race, to the ethnicity and income characteristics of affected communities.

Why are Republicans unwilling to even allow a study of this issue? What are they afraid of finding out? Another provision in the Dingell bill similar to my provision would authorize a demonstration program for recruitment and training of local people in remediation activities and encourage the hiring of disadvantaged persons from the affected community who have been trained in remediation skills.

Again, this provision was not included in the Republican bill. Poor and minority communities do not deserve to be the dumping ground for the country. My home State of Florida has shown leadership in environmental justice by establishing a commission to collect information and address this issue head on. In this Congress, however, we are regressing, as I see it, moving backward, as we are in so many environmental areas. We would be even further behind if it were not for the strong support of the President for environmental justice and for improving the environment

For example, his executive order on environmental justice will address that problem. This year, as we celebrate Earth Day, let us remember that environmental protection decisions should not be based on race, ethnicity, creed, or on wealth. Let us recommit ourselves to an effective and fair environmental policy so that the tide of environmental quality will rise and lift all boats. We do pay attention to that as Earth Day descends upon us. I thank the gentleman very much.

Mr. PALLONE. Mr. Speaker, if the gentlewoman will just let me comment briefly on some of the themes she mentioned, because I think they were very important, first of all it is interesting, coming from the State of New Jersey, which of course is a very densely populated State, New Jerseyans tend to think of Florida as having more open space, more pristine area. It is not always the case, but that is the general impression.

The fact that you are here talking about some of the urban areas and eyesores, I do not even tend to think that is true in the State of Florida, but obviously it is, and it goes to point out to me how universal the concerns are about the environment.

The other thing I wanted to mention is that I think it is so crucial to stress the need to have Federal programs to help with the cost of cleanup. The gentlewoman mentioned specifically, I think she was making reference to the Superfund program or something like that.

One of the biggest criticisms that I had of the Republican leadership is when the Superfund bill came up for reauthorization before our Committee on Commerce, we had Republicans who were making statements to the effect that "We do not really need the Superfund anymore, because that can be dealt with by the States and the localities. They can deal with those hazardous waste sites, they can come up with better ways of funding and providing cleanup of hazardous waste sites on the State or local level."

I know that is simply not true. New Jersey, which has probably done more than any other State to clean up sites that are not on the Superfund list, nonetheless continues to have problems in terms of coming up with the financing, and particularly when we are dealing with urban areas where the property tax base is not there; for them to find the money to do that kind of cleanup is just not going to happen, which is why we need a Superfund program.

I also appreciate the fact that the gentlewoman brought up this whole issue of environmental justice and that movement, because too often I think people associate the environmental movement with rich people or the elite, and you point out very well that that is simply not the case, that people who live in urban areas, poor areas, have just as much, if not maybe more, to be concerned about when it comes to environmental cleanup.

The last theme, if I could mention it, the whole idea with regard to jobs and the environment; your point that when we clean up sites, when we deal with environmental protection, we are creating jobs, that is so true. One of the biggest criticisms I have of the Republican leadership is that they constantly try to juxtapose the environment versus jobs; that somehow they are mutually exclusive, and to the extent we clean up the environment, we displace people. That is simply not true.

□ 1815

The fact of the matter is that environmental protection and the progress we have made over the last 26 years since Earth Day in 1970 has really actually created more jobs and created a better economy and allowed for more job creation. I appreciate the gentlewoman's coming here tonight and expressing her views.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. I thank the gentleman from New Jersey [Mr. PALLONE]. I guess I am here to warn the American people about what I call 1-day environmentalism. Interest in Earth Day really has to be continued and kept in people's minds throughout the year. It is a yearlong problem to keep protecting the environment and we need to do that.

I would be the first, Mr. PALLONE, to say that the environment is not a partisan issue. Americans, regardless of their political persuasion, want and need clean air to breathe and clear water to drink. They are concerned about it.

There are many Republican Members in this body who are strong environmental leaders, but the Republican leadership of the Congress has not been friendly to the environment. I think that that is the point that we need to stress, that it is the way we do things beyond the bills that are introduced. We have to look at what happens behind the closed doors or in the economy, in the budget deliberations.

I think that the Republican leadership learned very quickly that the American people did not want a frontal attack on the environmental laws, because the American people believe that the environment needs to be protected and they also feel confident that we have passed a lot of laws that have protected the environment. So instead the leadership, under the disguise of what they call deficit reduction and balancing the budget, in fact put environmental laws on a starvation diet.

What happened was, rather than having a debate about environmental laws, whether they were important, whether we wanted them, whether we could afford them, what happened instead was that there was a slashing of the funds for the enforcement of environmental laws, and we all know in every community that you cannot enforce laws if you do not have the money there to do that.

For example, I do not know if people around the country know that the Environmental Protection Agency's budget was cut by 21 percent and their law enforcement account was cut by even more, by 25 percent. What does this mean?

It means that the people who we hire to protect the environment have not had the opportunity nor the budget to go out and even inspect the facilities they are supposed to inspect. That means the American people's health is put at risk, and yet they are perhaps not aware that these things are going on because they have not seen the law actually taken down, so I ask that the American people look very carefully at these budget decisions.

I was pleased that the gentleman mentioned this whole issue of jobs and the environment. I have a report here that was put together by a whole group of very well known economists, and it is called "Economic Well-Being and Environmental Protection in the Pacific Northwest."

What these economists show—and they are not Republicans or Democrats, they are economists—what they show is that there is a direct link between a clean environment and a healthy economy, that those two things go completely together. Of course we have seen that particularly in the Northwest.

The Northwest, the population is growing rapidly, and one of the reasons over and over and over again given by people who move into the Northwest is they come there because of our wonderful environment and the fact that we are on the cutting edge of environmental protection laws. So people are moving to that.

I find that some of the Republican leadership have forgotten why we have Earth Day, why we have these laws. I remember when the Cuyahoga River caught fire. Can you imagine a great, powerful river so polluted that it caught fire? It was the stimulus for the Clean Water Act.

In my own State, we have a great river called the Willamette River that flows through the biggest city in Oregon. Just a few years ago that river was unsafe to swim in, our children couldn't use it, there were no salmon in that river.

Thanks to the Clean Water Act, that has been reversed. We now have a clean river, we have salmon in that river. But if we cut the budget as the Republican leadership is suggesting, we will not be able to enforce those wonderful laws that have protected our environment and our people.

So I think that we really have to focus on these cuts. These cuts in the budget are, in my view, extreme and unwise and they are underhanded. If we are going to say that everyone agrees that we must protect the environment, we must be green all the way through. We cannot be green on Earth Day, put on a little green hat, put on a little green tie, a little green suit and say, look, we are pro the environment.

What we really have to do is say we are pro the environment when it comes to making those hard decisions on the budget. We cannot go behind closed doors where the American people are not there and cut these budgets and ravage these environmental laws.

So I challenge the leadership to put their money where their mouth is on Earth Day and start funding these environmental laws again, because then we will indeed be a clean environment and we will give the American people what poll after poll shows they want. They want these laws to be in place.

I am very glad you are doing an Earth Day event, but I do think we need to say it goes further than 1 day. It goes throughout the year, and we need to be honest with the American people.

I thank the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. I appreciate what the gentlewoman from Oregon [Ms. FURSE] said. The gentlewoman again points out some very important themes, I think, that we need to stress for Earth Day.

First of all, there has been tremendous progress. You talk about clean water. My district is totally on the water, either on the Atlantic Ocean or the Raritan Bay or the Raritan River.

In the late 1980's, 1988, 1989, when I was first elected and came down here, we had beach closings. Some of the beaches were closed the entire summer because of the wash-ups that were coming from New York and north Jersey. Now that is totally changed. In the last few years the water has been relatively pristine.

A lot of it has just been because of Federal grants and loans to the local municipalities, to the counties, to upgrade their sewage treatment plants. Money is a very important factor here. I think a lot of people deemphasize money, but when you talk about clean water action money means a lot, because money means you can build the treatment plants, that you can do the enforcement, go out and catch the polluters, you can do the investigations.

When the Republican leadership starts to cut back as they have on these grants, we are getting less loans now for clean water because of cutbacks with these stopgap spending measures. We have less environmental cops on the beat, so to speak, less investigation being done, and the direct result of that is that we are going to see more pollution going into our waterways reversing, hopefully not too much, but reversing the trend of the last 25 years.

The other thing that I wanted to point out that you stressed, I think, as well is that the problem that we face is with the Republican leadership. I think that when Americans went out and voted for a new majority, a new Republican majority in 1994, none of them, or very few of them, thought that they were electing a Republican majority that was going to put into leadership positions people that were going to make an antienvironmental agenda part of their program here in the House of Representatives. That is what we have seen with Speaker GINGRICH, with DICK ARMEY, with some of the other Members who are in the Republican leadership. They have on a daily basis put forward legislation that would weaken environmental laws. It is not so much the individual perhaps Republicans that are doing this but the leadership. But they are the elected leadership and we have to hold them responsible for what is happening down here. It is a fact that this is what they are doing. I want to thank the gentlewoman for joining us here today.

Mr. WISE. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from West Virginia.

Mr. WISE. I thank the gentleman from New Jersey for doing this once again. You have been a tireless fighter in environmental causes. Let me just say I too join as everyone in this Chamber, Republican and Democrat, in appreciating the progress that has been made over the last 25 years and also saying we do not want it rolled back. But what happens is people forget how the progress was made. The progress was made by being willing to fund the environmental programs that are passed, the progress was made by being able to do the enforcement, the progress was made by people standing up and saying here are a set of standards and we are going to vigilantly enforce them. The problem is if you cut back the enforcement 25 percent, what message are you sending out? I too like everyone in this Chamber have my own memories of the Kanawha River in Charleston, WA, in which when I was growing up you were warned not to swim in it, children getting meningitis every summer, and the pollution that was in those rivers. Today because of an effort made across the board, from environmentalists to industry, to government, the result is that the Kanawha is clean again and that for the first time fresh water fish are being pulled out of it, for the first time people are now feeling good about the Kanawha. Same thing with our air. The air used to be atrocious in the Kanawha Valley with the second highest number of solid particulates in the country 25 years ago. That is no longer the case. Everyone delights in that. So no one wants to roll back the clock. The only problem is the way you keep the clock ticking is to make sure that you keep the enforcement going and that you keep the EPA able to do its job. Earth Day fascinates me, hearing everyone say that we are all going to go out and plant a tree or do something and I do not make light of planting trees but trees cannot overcome a lot that is being done to the environment. But Earth Day in some ways has become the Easter service of environmentalism, the one day where everybody shows up, the one day where everybody brings a shovel, wears a bonnet, and comes out and celebrates. But the problem is you have got to be in the church or in the movement every day, every week. And so Earth Day can remind us. Indeed, just like Easter, it is good to have people coming out and renewing those ties. But then the test is whether or not that carriers over to the next day and to the next week.

There is a point that I think ought to be made. Sometimes I hear the talk of burdensome regulation but it should be made that to step back now is actually bad for business. We have a number of companies in the Kanawha Valley and in West Virginia that have spent great sums to comply with the law and indeed many of our companies have greatly reduced emissions voluntarily far beyond what was required. What kind of message do we send out now if you say we are going to step back, that we are not going to fund enforcement so that that person who has always been skating right on the edge, who has not been willing to make the commitment, who has always played a bit fast and loose or who simply has not been willing to upgrade as fast as others have, they suddenly get rewarded? We give them a bonus for having never been as enthusiastic as others in the business community have been?

The thing that has impressed me in talking to our chemical industry at home is they understand the progress that has been made and they are committed to continuing to make it. But it gets a lot harder for them to justify if they see somebody else that may get off the hook now because that EPA inspector can get by now once every 6 years or something along those lines and only under the rarest circumstances. I support a tough enforcement program. That is why I voted against cutting the funding 25 percent.

There is a controversial pulp mill, for instance, that is now being debated, whether or not to construct in my area. Some say that it ought not to be built, others urge that it should. Regardless of how you feel, the best way to determine what the environmental impact will be is with a strong EPA. That is why I voted for the funding that would give the EPA the ability to continue doing its studies that are so necessary.

Environmentalism is good for business and indeed we are seeing more and more businesses learn that and make profits from it as well.

Finally, I just want to say, I do not think anybody want to hurt anybody but if you have got a doubt as to whether or not there needs to be continued rigid enforcement, just look at your tap in your kitchen or the faucet where you children brush their teeth and ask, am I totally confident about what is coming out of that tap and will I be totally confident if these cuts go through? Ask the victims and their families in Milwaukee, where 100 people died just a couple of years ago from cryptosporidium in the water supply. Ask those who have been under a boil water order, which is not uncommon. I wonder why it is regrettably that bottled water seems to be a growth industry in our supermarkets. What that tells me is that the job is not only not finished but it must be even more aggressively pursued.

So we have made progress, everybody agrees on that. But there is a price to progress and there is a need to make sure we keep the progress that we have made as well and to continue to progress. I thank the gentleman for all he has done to keep that in front of the American people.

□ 1830

Mr. PALLONE. I appreciate the gentleman's remarks. If I could just add again a couple of things that you pointed out and bring them back to this issue of what the Republican leadership has been doing in this House, one of the things that we keep hearing from the Speaker and Republican leadership is we do not need the national laws, the environmental protection on the national level, because the States are doing a good job. Twenty-five years after Earth Day we can send those responsibilities, if you will, to enforce the environment, to protect the environment, back to the States.

As the gentleman so well points out, if each individual State has different laws when it comes to Superfund or clean water or whatever it happens to be, that does not solve the problem, because you get forum shopping; in other words, where a company will say "I will not go to West Virginia. I will go to another State, because they have weaker laws." And if each State starts competing, if you will have to have weaker environmental protection to attract industry or whatever, then the common denominator gets lower and lower.

Mr. WISE. I am from West Virginia and the gentleman is from New Jersey. Both are centers for the chemical industry. If you want to start a race for the bottom, pitting us against each other, each State having to set its own standards, as opposed to having a minimum Federal standard that at least sets the minimum benchmark, we all lose in that regard.

Mr. PALLONE. I yield such time to the gentlewoman from California [Ms. PELOSI] who has been an outspoken protector of the environment here in the House.

Ms. PELOSI. I thank the gentleman for yielding, and for his leadership on this important issue, and for calling this special order this evening.

I would like to follow up with the colloquy you were having with the gentleman from West Virginia [Mr. WISE] on the idea that we absolutely do need Federal standards. Not only do we need them, because you would have a race to the bottom as States might wish to attract certain kinds of industries which would not have to comply with State law, but also because pollution knows no State boundary. Without minimum environmental standards set by Federal law and Federal enforcement actions, the health of our communities, the environment and economy would be compromised across the board.

Testimony submitted by the Citizens Panel of the Chesapeake Bay shows that Federal oversight and enforcement helped States work cooperatively to address environmental problems. Before the creation of the EPA, the six States on the Chesapeake Bay watershed allowed the waters to become severely polluted. Without a strong Federal enforcement presence, citizens in States like Virginia, which had cut its environmental budget by 26 percent, would have little recourse against pollution coming from other States.

It is hard for young people to remember or even to know how it was before the EPA and before Earth Day. In the 40 years that the Democrats have been in control of Congress, great progress, as the gentleman has indicated, has been made. Twenty-five years ago my own beautiful San Francisco Bay could be smelled before it could be seen. I hate to tell you that. Major rivers caught on fire from industrial pollution. The Great Lakes resembled stagnant toxic pools rather than centers for recreation and commerce.

Since then, national environmental laws have led to cleaner air, safe drinking water, and better controls of toxic waste and hazards. But the work is far from done, and the Republican assault on environmental budget will hamper such efforts.

Due to recent cuts, the EPA has halted 68 waste cleanups in communities around the Nation. In New Jersey, your State, Mr. PALLONE, 81 Superfund sites need to be cleaned up.

I had an able article from a California paper, "Strapped EPA limits cleanups. With funds cut off, agency slashes staff, narrows work to 10 of the most hazardous sites in California." This means that the head of the EPA in our region has kept a skeletal crew of 35 to 40, down from 900, to oversee the most serious problems and to tend to the other business.

So we are faced with a terrible, terrible choice. This is not about only endangered species; this is about endangering the health of the people of our country, endangering our children. We are talking here about clean air, clean water, safe drinking water.

I once has a volunteer in one of my campaigns, and when we asked her why she was attracted too come into a campaign, she said, "I realize that politics has something to do with clean air and clean water, and I guess I have to be involved in politics, at least as long as I breathe air and drink water." And that is so true.

What has happened since Earth Day 26 years ago, the first Earth Day, is that the people have become engaged. Our Republican colleagues see the resistance to their backward looking policies. Now they are trying to give the appearance of being green on Earth Day.

But while they may try to act green for a day, the record shows that this has been the worst environmental Congress ever. The Republican Congress has attempted to roll back years of environmental progress in order to favor special interests.

Because of Republican cuts, EPA has missed thousands of inspections and enforcement actions, cleanups have been slowed at 400 toxic waste sites, and stopped at 60 Superfund sites. Six rules to clean our waters have been delayed, causing hundreds of millions of pounds in pollution that could have been prevented, and old growth forests are being logged without environmental protection. This is a serious, serious assault on the environment.

I heard our colleague talk about the environment and economics. I wanted to cite a report from California that says that, to the contrary, the environmental regulations do not produce a loss of jobs. The report that we have from the California State Senate shows clearly that rather than losing jobs, it promotes jobs. It promotes an environmental protection industry, it promotes the fishing industry, which depends on a clean environment. This whole methodology that there is a job loss because we are trying to protect clean air and clean water is just that, mythology and not reality. It is an excuse to take actions, but it is not a reason to do so. So there is a great deal at risk.

I want to commend President Clinton for standing firm in this budget fight, standing firm to say, as Vice President GORE reiterated today, that he will veto legislation that has harmful environment riders or harmful anti-environment riders in them. Even with the riders gone, I am glad the President stood tall on the issue, in terms of the cuts to EPA which we have been talking about this evening and which have such damaging impact on the environment.

I would say to the gentleman from New Jersey [Mr. PALLONE] I serve on the Labor, Health and Human Services Subcommittee of the Committee on Appropriations, and on that committee we hear from scientists all the time. What they tell us is that pollution prevention is disease prevention. This is not just an environmental issue, if you could say "just an environmental issue." It is a public health issue. The parents of this country, the families of this country, as the gentleman from West Virginia [Mr. WISE] said, have to have the confidence that when their children go to the faucet and pour a glass of water, that they are not damaging their health.

So we have to have Earth Day, we have to uphold the principles of Earth Day every day of the week and every day of the year. And in this body we have a responsibility to make sure that whatever we vote for here is in furtherance of protecting the environment, and we must reject the extreme proposals of the Republican majority to set us back on the last generation of improvement in the environment.

Once again I want to thank you for your leadership on this, your relentless leadership on protecting the environment, and for giving me this opportunity to participate in this special order this evening.

Mr. PALLONE. Mr. Speaker, I want to thank the gentlewoman for the remarks that she made, and again she has made some points that I think are really crucial in terms of this whole debate relative to Earth Day.

I think that the Republican leadership consistently tries to pretend when we talk about the environment, that we are sort of the tree huggers. Not that there is anything wrong with hugging trees, but they forget the fact we are mainly talking about the public health and that when we talk about clean water, air and cleaning up hazardous waste sites, we are talking about direct health implications for the average person, for children, for mothers, whatever.

Also, I am glad the gentlewoman brought out, she certainly knows as a member of the Committee on Appropriations that we continue to operate under these stopgap funding measures which are still creating tremendous problems for the EPA and their ability to enforce the law to clean up Superfund sites, to do proper investigations. I am a little afraid that because we have not had the shutdowns that the Republicans brought us a few months ago, at that time people were vividly aware of the fact that the EPA was closed down, that Superfund sites were not being cleaned up, that there was not anybody out there going against the polluters or finding the polluters. But even though we do not have the Government shutdown or any agencies shut down now, the amount of money that is available for the EPA and other environment-related agencies is significantly cut back because of these stopgap measures.

I think this one we are under now extends to the 24th, sometime next week or so. We are just hoping if we get another continuing resolution or another appropriations bill it is going to be one that provides adequate funding for the EPA and these other agencies. Again, so far the Republican leadership has not indicated they are going to do that, so these agencies are being crippled in their ability to enforce the law and do the things important to us.

Ms. PELOSI. That is why I am so pleased President Clinton has stood firm on this issue, in addition to education and some other issues, Medicare, Medicaid, VA, that the President has stood firm and said that we cannot proceed unless we have the basic health and well-being of the American people protected in how we go forward.

I would like to elaborate on one point just for half a minute that I mentioned earlier, about a survey released last month in California by the California State Senate, refuting the claim that if you have environmental protection regulations you lose jobs.

This report looked at every major study by Government, universities, and private think tanks since 1973. Not a single reputable study found a negative impact from environmental laws. In fact, environmental regulations have created jobs, particularly in manufacturing, transportation, and utility industries, and as I mentioned, there are other industries like the fishing industry which are totally dependent upon a protected environment. There have been a boom in jobs in environmental technologies and services. The report says California, speaking for my State, California alone will have 200,000 environmental workers by the end of the year.

The environmental debate is really about protecting public health, as the gentleman has said. The jobs versus owls argument is dead.

Again, I thank you for allowing me this time.

Mr. PALLONE. You are absolutely right. In my district it is so vivid, your point, in the sense when we had these beach closings in the late eighties, billions of dollars literally were lost in tourism at the Jersey shore. There were no jobs at all in the summer. So I do not think I could find a better example. If we do not have clean water at the Jersey shore, we do not have an economy.

For the life of me, I do not understand why a lot of the Republicans or those in the leadership do not understand that. But a good environment means good jobs. So thank you again for participating.

I would like to yield now to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. I thank you for yielding and for your leadership concerning environmental protection. I thought that one of the other really important aspects of this GINGRICH attack on the environment, this GINGRICH attempt to essentially have unilateral disarmament of the environmental law protection relates to the whole problem of clean water drinking standards. Where I come from, the city of Austin, TX, Colorado on the Rocks, with the Colorado River running through there, is considered to be a pretty good drink. I have begun to get a series of calls and letters from people throughout central Texas expressing concern that this Congress, and particularly this House, given its atrocious environmental record during the last year, intends to weaken the safe drinking water standards.

Another concern that you may be familiar with, and the irony at a time when so many in this House have talked about more local responsibility, more community responsibility, is that they would come in and limit the community's right to know about dangerous substances in our water supply. I am wondering if the gentleman, in your leadership role with reference to the environment, is familiar with some of the dangers posed to our water supplies by the assault on the environment?

Mr. PALLONE. Let me say, first of all, when you talk about the Safe Drinking Water Act and the efforts to weaken those protections, it is a real problem. We are hearing now that because of the fact that the Republican leadership did some polling, they essentially found out that they were not doing too well with their constituents and possibly leading to next November's election, because they were perceived as antienvironment.

Mr. DOGGETT. That is reality. That demonstrates the ability of the American people to get past these stickers saying "I have been to the zoo" or "I planted a tree" or "I have a green sport coat," and get down to the fact that some people who say they are green at election time have been voting consistently to destroy the environment and to have an assault on environmental law enforcement.

□ 1845

Mr. PALLONE. Before we are finished with this special order tonight, maybe one of the things we could do is to bring up this memo that was sent out by the Republican leadership that essentially gets right to the point the gentleman is making about going out and hugging trees and going to zoos and all that to pretend that a Member is environmental.

Mr. DOGGETT. The gentleman is talking about the House Republican strategy for this year. That is where they got the public relations firm in to help them put a smiley face on their commitment to the environment by doing things like petting their dogs and that sort of thing?

Mr. PALLONE. I will read it directly. It will not take long. It is a pamphlet that was put out, I guess in October 1995, after the 9-month assault on the environment when they did the polling and found out that the public really did not like it, and it is amazing to me where they say, and I am just quoting, your constituents will give you more credit for showing up on a Saturday to help clean up the local park or beach then they will give a press release from someone in Washington talking about environmental issues. And they specifically say that you should go out and plant trees and go door to door and hand out tree samples, and then, last, become active in your local zoo. Go for a visit, participate in fund-raising events, become active on the zoo citizens advisory board.

Now, do not get me wrong, I am all in favor of planting trees. I have done it myself. I go to the zoo all the time. I am a member of the zoo here in Washington and elsewhere. But the point is, this is just being used as a way to cover up a poor environmental record.

Mr. DOGGETT. A gimmick.

Mr. PALLONE. Exactly. Going back to the gentleman's point on the Safe Drinking Water Act, I am hearing that some in the leadership now are so concerned about their poor record on that statute that they have actually reached out to the Democrats and are talking about possibly coming up with some compromise legislation. But I will believe that when I see it.

Mr. DOGGETT. I am encouraged to hear that, though I read just this week in the April 15 issue of Congress Daily an announcement concerning a draft committee recommendation on clean water legislation, and it was an expression of great concern by the environmental working group that the committee draft, and this would be, of course, the Republican majority committee draft, would weaken community right-to-know provisions and allow new industry oriented peer review panels to veto EPA standards. That is that the people that pollute the water would be able to determine what pollution is and is not appropriate for our public law enforcement agencies to protect us against.

I would just point out that this is not, as this very cynical Republican strategy memo that the gentleman referred to, this is not just something coming from Washington. One of the people who wrote me within the last week is Pamela Garcia, who writes that Austin currently has the highest pure water standards in the State of Texas and I would like to see it stay that way. These high standards must be maintained to protect those most at risk from contamination.

I had a third grade teachers write, a woman who has committed her life to working with young people, to write to express concern about what she had heard about this same weakness in the community right-to-know provisions. Holly Long from Austin says that it may just be my imagination, but I thought the Government of our country is a place in the position that they are in to protect the rights of citizens that they represent. We should have the right to clean water and that right should be assured to us by the people that represent us.

I know the gentleman shares that view, that our job here is not to get on the side of whoever has the strongest lobby in Washington, but to stand up for people like Holly Long, who is out there trying to teach young people and bring them into the whole American dream; that we have a responsibility to ensure that she has an advocate here in Washington fighting for the right to be able to see endangered species in someplace other than a zoo, and to not have all those trees clearcut in our old growth forests, and certainly to be able to be sure when they get a drink of water out of the Colorado River in Austin, TX, that it meets the standards that we would expect and that the gentleman would want in New Jersey.

Mr. PALLONE. I agree, and I really appreciate the fact because I do not think anybody else tonight brought up this sort of Republican strategy which we have seen with a lot of the efforts to weaken environmental laws, where provisions that I call sunshine law provisions, let the light in and right-to-know provisions, the ability of citizen groups to bring suit, the ability of the Federal Government to provide grants to citizen action or activists who are going to look into or investigate environmental problems where they live.

These kinds of protections that basically get the public more involved and sort of let in the light so that we know what is going on, those are the very things that in many of these bills that have come up that we have seen the Republican leadership try to weaken those protections.

Mr. DOGGETT. Empowering the local communities to address these issues. And, of course, I am so amazed at those who will come here on the floor of Congress and they will say, well, I am against pollution. I mean I am not in favor of pollution, I am just against the Environmental Protection Agency. Well, that is like saying I am not in favor of crime, I am just not in favor of the police.

It is the Environmental Protection Agency and some of our other protection authorities that are the law enforcement authorities with reference to the environment, just as our police and our highway patrolmen and highway troopers are the law enforcement for some of the other areas that affect our lives.

Just to give you another example, if I might. I am sure you have some of these from New Jersey, but another person who contracted me expressing concern about what this Congress is doing, particularly in the area of water quality, and I think again it really brings it home, it is not a battle between political parties or between Washington and Texas or New Jersey, but the fact that this affects the lives of real people who are struggling out there in America to make ends meet and who do not need the Congress getting in the way of their standard of living.

Susan Truesdale writes me:

> Clean water is important to central Texans like me and my family. I can't imagine finding out 12 days after the fact that the water that my family and I had been drinking, bathing in, watering our pets and yards with, is contaminated with something that could possibly kill us or make us terminally ill. I don't want my kids drinking this stuff and not knowing. Vote to protect the right of Texans to be told immediately if our water is unsafe, for more protective standards not weaker ones.

And remember, she says, that many of our most vulnerable citizens are young people, are old people, people who have certain physical problems, certainly young women who are pregnant, who are most vulnerable to water that is polluted, to drinking water that does not meet clean water standards.

So I think, it is important that you have spent this time this evening bringing to the attention of our colleagues and to the American people how really far-reaching this very extremist agenda to undermine environmental law protection is, because I have found some people who are out there beginning to notice it and beginning to say, do not let this happen; that we have a responsibility to stand up and pose an obstacle to those who want to undermine environmental law enforcement.

Mr. PALLONE. I appreciate the gentleman's remarks, and maybe I could just briefly out sort the cynicism that I have seen around here on the part of the Republican leadership to the whole environmental issue.

I sort of started this evening by saying that when the Republican majority was elected in November 1994, they put forward a Contract With America, so to speak. There really was nothing in there that would stand out to anybody who was voting that would suggest that they were putting forth an antienvironmental agenda.

But when Speaker GINGRICH was elected and when the House organized the Republican majority, very quickly we saw an effort by the Republican leadership to bring to the floor what we call reauthorization bills, where we revisit various environmental laws, like the Clean Water Act, and use those reauthorization bills as vehicles to try to weaken directly environmental legislation, whether it was the Clean Water Act or the Superfund coming out of committee or some of the other bills that we rely on as sort of the whole basis for environmental protection here.

Mr. DOGGETT. This was after they began the weekly meetings with the polluters behind closed doors here in the Capitol?

Mr. PALLONE. Absolutely, and it was well documented that much of the legislation coming out of committee was actually written at those meetings with the polluters or with the special interests, and that they were even directing when they were coming to the floor.

They were not terribly successful in accomplishing that goal of weakening those statutes directly because of course the Democrats in the House battled them, and even when the bills passed the House, they had difficulty getting them through the Senate because the Senate was not as responsive to trying to weaken the environmental laws.

So very quickly, after that first 6 months of trying to go directly at environmental protection standards and statutes, we saw the Republican leadership sort of regroup and look at the budget, if you will, and the appropriations bills as a vehicle to try to turn back the clock since Earth Day 1970. So we saw, as was mentioned by some of our colleagues here tonight, riders, legislative language, if you will, weakening language put into the budget.

We also saw, and most importantly, efforts to cut back on the amount of money that was appropriated for the agencies that protect the environment, like the EPA or the Department of the Interior, and even more so deep cuts in enforcement in those environmental cops on the beat, as you point out. Then, of course, by the end of 1995 we got to the point where we had these Government shutdowns, where those agencies were shut down and were not able to function at all.

I think at that point, and you and I recognize, I think, that at that point, at the end of 1995, Speaker GINGRICH and the Republican leadership started to do this polling which indicated to them that the public did not like what was going on with their antienvironment crusade. That is when we got the memo saying go out and plant the trees and join your local zoo.

Mr. DOGGETT. My concern is that that is all they plan to do; that they want to have good public relations but that they intend to continue, as far as I know they have not stopped their closed-door meetings with the polluters and special interest lobbies that they have here every week; that they will have the smiley face out there but they will still be trying to sneak attack with the environmental riders and the slashing of the law enforcement budgets for those that are there to try to assure that we have the clean drinking water that people in central Texas want and the clean air that I know people across the country want.

Mr. PALLONE. Exactly. That is one of the main points that we are trying to make here tonight and that the gentleman is making very effectively, which is that we cannot be fooled, if you will, by the fact that we are not seeing legislation coming directly to the floor now to strike the Clean Water Act, for example. Because we are still having, with these stopgap funding measures, significant cuts in enforcement, in the ability for environmental agencies to actually operate and to enforce the law.

That is continuing on a regular basis, and all efforts to try to sort of paper that over by suggesting that we are going to be a little better on the environment now is really nothing but smoke and mirrors.

Mr. DOGGETT. Or we could expect the same type of thing that we saw last year when there was a bill out here that was called the Clean Water Act amendments, but most everyone that looked at it referred to it as the dirty water act. Most of the commentators who studied it noted that it was not surprising that it was a dirty water measure that actually weakened, in the name of clean water, the existing law, because it had been written behind closed doors by the various polluters who had a vested interest in this matter.

Mr. PALLONE. Exactly. And the fact of the matter is a lot of the provisions in that dirty water bill are still attached as riders to these appropriations, as well as some of these stopgap spending bills that continue to come up, so they are not going away. They are still there, but now they are sort of hidden a little more.

I think it is incumbent upon us, as Democrats, and whether Democrat or Republican Members of this body who feel that the environment needs to be protected, in celebration, if you will, of Earth Day, that we continue to be vigilant and make the point that this Congress has been terrible, has been the worst Congress on record with regard to environmental protection. We have to bring to the light and to the public the fact of how they are going about this, and how the Republican leadership continues with this antienvironmental agenda.

So I want to thank the gentleman again for being here tonight, and I know we are going to continue to make this point leading up to Earth Day next Monday and beyond.

Mr. DELLUMS. Mr. Speaker, I rise today to focus our attention on the upcoming Earth Day commemoration. Earth Day is a day we should all pause and consider where we are, where we have been, and where we are going. Earth is our home; we have no other. If we exhaust her resources; if we pollute her water, air, and land, there is no other place we can go. Rachel Carson first apprised us of the danger to our environment in "The Silent Spring" in 1962. Consciousness about the overharvest of renewable resources, endangered species, and pollution resulted in efforts on the local, state, national, and international levels to address these issues. Acting in the best interest of all the people and in the long term, Congress passed a number of laws that significantly improved the living environment of all Americans and helped to heal the damage done out of ignorance and greed the previous decades.

The Clean Water Act was passed in 1972. It protects surface and ground water. It provides water quality standards to control industrial and municipal pollution. It also provides federal grants to help states modernize public sewage treatment plants and reduce sewage discharges. As a result of this act, millions of pounds of industrial pollutants have been eliminated from our drinking water and from our rivers and lakes. Although the nation's waters are cleaner than they've been for decades, 40 percent of the Nation's waters are still not clean enough for fishing and swimming. Thus, we still need to maintain a strong Clean Water Act.

However, the Republican majority wants to substantially weaken the Clean Water Act. They want to exempt 70,000 chemicals from the act, allowing industries to pollute the Nation's waters as much as they like without any hindrance. They want to slough off the costs of their industrial production onto the American people. The big industries want the American people to pay for industrial pollution, and we will pay—with environmental losses. Fish will be poisoned, rivers and lakes will die, and we will be unable to swim and fish. The Republican majority wants to reduce funding for cleanup projects, which may reduce taxes in the short-term, but it will raise them later, because if we don't clean up the mess now, our grandchildren will have to do it.

The Safe Drinking Water Act has also been the focus of Republican attacks. The Republican majority killed Safe Drinking Water Legislation in 1994, and has made significant cuts in funding the safe drinking water infrastructure. Currently, a weaker bill—the Safe Drinking Water Act Amendments of 1995—is being considered. Without a strong Safe Drinking Water Act, we will pay with our health, from the potential negative effect of ingesting chemicals over the long term.

The Comprehensive Environmental Response, Compensation, and Liability Act [CERCLA] Superfund was created in 1980. Its purpose is to clean up the most polluted hazardous waste sites. It requires polluters to pay 75 percent of the costs of cleaning up the sites they pollute. The Federal Government pays the balance of the costs. Of the 1,400 sites identified for cleanup, only 349 have been completed. Because of the lack of commitment to cleanup by previous administrations, 60 percent of these sites have been cleaned up during the Clinton administration alone.

The CERCLA Superfund needs to be made more effective and efficient, not less. The Republican majority wants to change CERCLA to provide fewer cleanups. Instead of cleaning up hazardous waste sites, they want to merely contain them. They also want to shift more of the cost form the polluters to the government, making government—the taxpayers—pay 50 percent of the cost instead of 25 percent. The Republican majority has also halted designation of new sites and reduced the amount appropriated for cleanups.

The Republican majority has also been giving away America's natural resources to special interests. In years past, Congress created the National Park system, wildlife refuges, and National Forests. In 1995, the National Park system alone enabled 270 million people to commune with Nature. The National Park system includes National Parks, seashores, preserves, scenic riverways and trails. While these areas are in need of maintenance, the Republican majority has cut its operating funds.

In addition, the Republican majority wants to open up the Arctic National Wildlife Refuge (ANWR) to drilling for oil and natural gas without important environmental safeguards. ANWR is home to a wide variety of animals and plants, which will be negatively affected by drilling. They are also attempting to open up over 20 million acres of America's Redrock Wilderness to development.

The Republican majority wants to open up national forests to logging above the levels that are sustainable over the long term. They want to allow logging in old growth forests, the home of many endangered species of animals, birds, and plants. In the guise of salvage logging of dead and dying trees, they have passed legislation that opens up logging in these ancient forests, without compliance with environmental laws. The Republican majority is even proposing to dissolve the Tongass National Forest (America's largest rainforest), transfer ownership to the State of Alaska, and open it up to logging and other development. Thus, the heritage of all Americans is being sold to oil and timber companies, who don't care about the long-term health of the forests or the animals, birds, and plants that are dependent on them for their survival.

The Republican majority has also been attempting to gut the Endangered Species Act. Masquerading as reform, the bill was drafted by timber, mining, ranching and utility interests who would prefer to do business without regard to the harm it causes to endangered species and their habitat.

The Republican majority has resisted reform of the Mining Law of 1872, which allows mining companies to take minerals from federal lands without paying royalties for them. Companies need only pay $2.50 to $5.00 per acre to carry off all the minerals they can extract. These are nonrenewable resources that are literally being given away to mining companies. The American people has a right to a reasonable return for their common property. But the Republican majority is resisting this needed mining reform.

The Republican majority has done all they can to cripple federal environmental laws. In addition to weakening individual environmental laws, they are attempting to undermine the enforcement of environmental laws by drastically cutting the budget of the Environmental Protection Agency (EPA) and by limiting the authority the EPA has to implement and enforce those laws.

In the guise of "regulatory reform" the Republican majority is attempting to undermine the environmental laws passed during the past 25 years. Calling environmental safeguards "red tape," they are trying to trick the American people into allowing big businesses: to pollute America's water, air, and land; to pay less than full value for America's timber and minerals; and to destroy America's wilderness and wildlife. In true Orwellian fashion, the Republican majority is trying to steal the common heritage of the American people, obfuscating it with anti-government rhetoric.

Earth Day is an excellent time for all of us to take the time to consider what kind of home we want to live in, and what kind of home we want to leave for our grandchildren. Will there be clean water, air, and land? Or will they be polluted, ugly, and toxic? Will we have any forests left? Will there be any wilderness and wild animals left? Clean water, air, and land is the birthright of all Americans. Forests, wilderness, and wild animals are our heritage too. Will our grandchildren curse us because we wasted their inheritance?

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REFORM INITIATIVES

The SPEAKER pro tempore (Mr. METCALF). Under the Speaker's announced policy of May 12, 1995, the gentleman from Pennsylvania [Mr. FOX] is recognized for 60 minutes as the designee of the majority leader.

Mr. FOX of Pennsylvania. Mr. Speaker, I come to speak to my colleagues tonight here in the House to discuss some of the reforms that we have achieved thus far and where we need to go in the next few months to make sure we complete our agenda to create jobs, to have reforms and to make sure the institution that we are serving in and the public we are serving for are being properly represented in every way imaginable inasmuch as in a bipartisan way as possible, in that total effect.

Let me just review, Mr. Speaker, if I may, with you some of the important reforms we have achieved.

First on opening day we cut one-third of committee staff, eliminated 3 committees, 25 subcommittees. At the same time we also passed a rule for this 104th Congress in the House, there would be no tax increase unless with three-fifths of the Members present voting for that tax increase, and I can report to you we have had no tax increases to date.

We also have one-third cut in the franking privileges, the free mailing privileges that Members have, and since that time some other additional reforms I think are worth repeating and worth underscoring for my colleagues.

We have passed a ban on gifts from lobbyists. Up until December 1995, lobbyists could give gifts to Members, whether it be a trip, or a dinner, or anything like that. And we took a stand, I think very strongly, very properly, saying since no Member in this House would want the adverse inference that their vote would be changed by a lobbyist giving a gift, we have now banned those gifts, the first Congress in history.

And we certainly are on the right direction as well, requiring lobby disclosure. We now know because we passed a bill that is signed by the President, bipartisan Congress, House and Senate. Lobby disclosure for the first time has been effectuated here, and because of the task force on the form, which I now serve on, a bill will be forthcoming to bring about campaign reform, as well, which I think would be the final chapter of this Congress' achievement, a ban on gifts, lobby disclosure, and filing campaign reform.

We have already saved through these reform measures, Mr. Speaker, $150 million on just the operation of the House. I think that is a testimonial to the kind of hard work that the Republicans have initiated as a majority party, and we have had bipartisan support in all of those initiatives, and I think that says a lot about the membership reflecting the will of the people back home.

But beyond those reforms in the institution, we have also made great strides, moved forward to our agenda to try to make sure that we have a balanced budget. This House has passed for the first time since 1969 a balanced budget. Now, since we started that balanced budget, which was presented to the President and not yet signed, we have moved $440 billion closer to the President's figures in trying to achieve the kind of an agreement that will not only bring us a balanced budget, but we are still $440 billion on Medicare, Medicaid, environment and education, four areas that in a bipartisan way the Congress is moving to protect.

We just saw a week ago, Mr. Speaker, that a line-item veto was signed into law by the President. This will allow the President for the first time, like 43 Governors, to be able to cut out wasteful pork-barrel projects, ones that House Members in the past or Senators may insert into the budget just to get a reelection effort or just to take care of their districts, but would not have regional or permanent value, that would be a project worthy. Now the President will have that line-item veto, and that is certainly a reform that this Congress can be very proud of.

We have also passed congressional accountability. That law says that anything that we pass will be applied to our staffs as well. In prior Congresses, as you know, Mr. Speaker, the fact is that the Congress itself was exempt from bills in the past, whether it is OSHA, or fair labor standards, or whether it is civil rights law. It is the last paragraph; Congress is exempt from the application of this law. And that was wrong in two ways. First, it was wrong because we did not understand the pain or the suffering put through some individuals and businesses with requirements of Federal law; and, two, it was unfair to the staffs of the Congress in being able to have the protections that laws can afford. And so the President did sign that law into effect, sometimes called the Shays Act, and CHRIS SHAYS, who is from Connecticut, deserves a great deal of credit for having moved that bill forward, and we adopted it here in the House and the Senate, and the President signed the law.

The unfunded mandates reform; I know that you back—Mr. Speaker, and served in Washington State, and you know that the Federal Government for years before you arrived here in Congress would send mandates back to Washington State or to your home community or your school district and said the Federal Government requires this, you got to pay for it. Well, that almost bankrupt some local communities, trying to see to the wishes of the Federal Government, least sensitivity of the funding that goes along with these programs that we implement.

So the unfunded mandates reform has been passed, and no longer can the Federal Congress, the House and the Senate, and together with the President, send back a mandate to home without the money that goes with it. I think the benefit of that is that we can make sure that what we send back is certainly going to be something that is worthy of having the Federal Government be involved with the funding as well as the initiative.

We also passed in this Congress a new crime bill, not just for more police on the street, which is certainly a positive step to take care of all local communities, but we also passed on this $10.2 billion new program more funds for police officers on the streets, more money for police equipment, for crime prevention, maybe for a drug court, and leave to each community, county and municipality, or State the initiatives on their own part to decide where the anticrime, where the prevention programs, should have the money best spent.

In some communities it might be establishment of drug court. In other communities it might be prevention programs. Still in others it might be rehabilitation programs to make sure first-time offenders no longer become full-time or professional criminals.

These kinds of initiatives will go a long way to improve our anticrime programs and to work with the attorneys general in each State and our U.S. Attorney General in trying to bring about more safety in our communities and in our States.

We have also passed initially in this House welfare reform. Now, the President said in 1992, when he ran, he wanted to end welfare as we know it. Now we send a bill over to the White House; it was welfare reform in a bipartisan fashion, passed by the House and Senate, has been vetoed. But we are still hopeful here in the House that there will be a bill upon which we can have the consensus and can get a final passage.

The kinds of things we are trying to get is to make sure there is a safety net for those who are unemployed or unemployable, but those who are able-bodied, what we are trying to do, Mr. Speaker, is make sure they have job counseling, job training, job placement, and day care, if necessary, to make sure that every individual who wants to work, who has the ability to work, will be able to work and have the pride of work.

But also part of the welfare reform legislation was appropriate funding and increased funding for food nutrition programs for schools and the WIC Program, the Women, Infants and Children Program. We think this goes a long way in trying to get the problems addressed because while we have spent 15 percent in the cost of one of those two programs, the WIC and the food nutrition, in the proposal that we have before the House right now is to have those programs block granted to the State, but the way we do it is we told the Governors you can only spend 5 percent on administration; with the other 10 percent that is in the budget, the money must go toward feeding more children more meals under the national standards of the National Science Foundation.

So, with those kinds of safeguards, we think the programs, closer to the people without the fraud, abuse and waste for anything will give us a better job back home, will give us a better chance to feed those children and to serve them well.

Our pro-jobs agenda has been one that I think that we can take a lot of pride. You know, many people said, well, what kind of health care provided for workers, for those employed? Well, H.R. 3103 passed last week in the House provides several things. Most notably, Mr. Speaker, H.R. 3103 is going to make sure that our people who employed, when they move from one job to the other, or if they lose their jobs, that the insurance is portable. And that is very, very important. It also insures that no matter what preexisting condition you have you cannot be denied the coverage. It also provides medical savings accounts.

So these are very positive things for workers that we want to make sure, hopefully the Senate will agree, and the President, as well, will sign.

We also want to try to get 100 percent deductibility on health insurance to encourage employers to provide the health insurance for their workers.

We also are discussing investment tax credits and research and development tax credits for the purpose of making sure we encourage investment, encourage new jobs, retaining jobs, and to make sure that we keep our businesses here in the country and not overseas.

We also are looking for regulatory relief, and our purpose is to try to make sure that we do not duplicate what States are already doing. Mr. Speaker, we cannot really have regulation upon regulation when they have already have made sure that they done in the States, they have to duplicate in the Federal Government.

We have with us tonight our colleague, Congressman TAUZIN, who I hope will join us here and talk about some of these reforms that we have had in the Congress and where we go in the future of this second session of the 104th Congress. I will yield to him to give us his thoughts on where he thinks the continuation of this revolution will go.

Mr. TAUZIN. I thank the gentleman for yielding.

I particularly wanted to join you because I listened to the special order that preceded you, and if you were to listen to that special order, you would assume that much of the regulatory reform efforts that you just referred to that were conducted during the previous year in this Congress were somehow aimed at destroying the environment, creating dirty water and dirty air and somehow making life unsafe and unhealthy for us, when nothing could be further from the truth.

The fact is, as we approach Earth Day and we celebrate a much cleaner environment for America, the fact is that we ought to reflect upon what we fought for earlier this year, that some of which remains yet undone and some of which needs to be accomplished in this session of Congress or the next.

Now, one of that is regulatory reform. Now, again, if you would listen to that special order that just occurred, you would think, for example, that the clean water bill that this

House produced was somehow a partisan special-interest piece of legislation that was not designed to do anything about clean water in America. The truth was that it was supported by a large majority of this House, bipartisan in nature, Democrats joining Republicans, attempting to bring some rationality to the section of laws that deal with clean water regulations in America, particularly trying to define wetlands in a way that we can properly respect the preservation of real wetlands and at the same time respect the rights of property owners and people in America who are affected by those regulations.

Now, the properly rights bill itself was one that was supported by many Democrats in this House, and we sent it down to the Senate. It was a bill that simply set up due process rights for property owners who were affected by some of the regulations dealing with either the Endangered Species Act or the pull for wetlands regulations.

In regulatory reform, you will recall that when this House passed its regulatory reform bill, the Republican majority was joined by many Democrats who agreed with us that it was time to put some risk-benefit cost analysis into the process by which the government makes regulation. Why? Because we simply want to make sure that regulation makes common sense, that you look at the real risk you are going after, analyze it carefully and look for the least-cost method of achieving a reduction of that risk in our society, making sure, in fact, that regulations issued by bureaucrats made common sense.

Was that an attack on the environment? Of course not. We want a safer, cleaner, healthy environment for America, but we simply want the regulators in Washington, who are sometimes out of control, sometimes not living in the real world, to simply take people into account and to make their regulations make common sense.

This House overwhelmingly endorsed that proposal and sent it down to the Senate. We have still not seen that enacted into law. But we stand for those propositions tonight as we did earlier this year. We stand in this week when we celebrate the planet and clean air environment, we stand for a cleaner healthier, safer place for Americans to live, but one in which Federal bureaucrats start treating people with a little less arrogance, when they start making regulations that take risk and cost into account, that they start respecting property rights in America, that they start respecting the very people they are supposed to serve in America rather than ramming regulations down their throat that sometimes do not make sense.

In short, we are looking for more effective environmentalism, more effective regulatory structures that really work. We are looking for as much voluntary agreements and conservation, voluntary agreements, as possible, consultation with local folks, bringing, in fact, environmentalism back home where it belongs instead of here in Washington in some Federal agency.

I remember recently when Bruce Babbitt, Secretary of Interior, visited Louisiana, he went down and talked about the Republican assault on the great outdoors. My comment was, Mr. Babbitt, you don't understand something. Sir, we love the great outdoors as much as you do, perhaps more than you do, in Louisiana. We grew up in the great outdoors. It's the great indoors that we complain about, the indoors where all these Federal bureaucrats who have lost sight of reality and make all these regulations that just don't make sense that Americans can't live with and that in many cases disrespects constitutional rights, civil rights, like the right to own private property in our country.

And so as we fight to balance those things, as we fight to bring some common sense to regulatory reform, respect for property rights, and some regulations dealing with wetlands and clean water and clean drinking water that indeed are based on good risk analysis, cost-benefit analysis; in other words, regulations that achieve their results more accurately for Americans. As we make that fight, we will also celebrate with our colleagues on the other side Earth Day this week.

☐ 1915

We are going to try to see to it in the coming weeks and months, for example, that we make a new Superfund law for America, one that does not waste all the money that is collected in a courtroom with lawyers and others making all the money in the system and nothing getting cleaned up.

The President in his State of the Union address, his first State of the Union address, pointed out to us how awful that was, and called upon us to change that law. We are going to try to do that, JON, to pass a good Superfund law, a good clean drinking water law, and get the Senate, hopefully, to agree with us eventually on good, safe, clean water acts and property rights and regulatory reform.

Mr. FOX of Pennsylvania. Mr. Speaker, I would say this to the gentleman. One of the items he brought up about being commonsensical about the environmental laws, our chairman of the Committee on Science, the gentleman from Pennsylvania, BOB WALKER, said we should have strong environmental laws but they should be science-based, based on what—we know we can improve the environment, but based on those who are expert in the field coming forward and telling us how can we achieve that end. I think that is very important.

Certainly you hit an item on Superfund. We have seen since 1980 when Superfund was first created, most of the funds have been spent unfortunately not on the cleanups, which are in some cases not that great a deal of money, but we have been fighting over who the potentially responsible parties are under the Superfund law. So the money is going into lawsuits instead of the cleanups.

I think with the reform that you are speaking to, that the House is going to be addressing, it is going to finally get some of these cleanups going. Most of the companies that have been involved want to do the cleanup, but they are in court because of one party or the other is disputing what percentage of liability they have.

Mr. TAUZIN. Mr. Speaker, if the gentleman will continue to yield, why they do that, the reason they spend so much time in court battling over liability, is that the current law as it is written has this so-called deep pockets provision in it. So if you contributed 1 percent of whatever is in that site, you could be liable for 100 percent. If you are caught having contributed that 1 percent and you are told that the other parties are not found liable, you are going to have to cough it all up, you are going to try your best to bring them all to court and fight over that liability forever.

The result is the government spends the taxpayers' dollars in that courtroom, the private parties spend interminable amounts of time and money in that courtroom, and in the meantime the citizens out there waiting for the cleanup to occur wait and wait and wait, and the money is wasted and no cleanup occurs. That is what is wrong with this system. It lacks common sense.

If we had a system, for example, that said if you are known to have contributed 20 percent and you are willing to put up your 20 percent cost up front without a legal fight, so we can take that 20 percent and go start cleaning up that site, would that not make better common sense?

Mr. FOX of Pennsylvania. It certainly would.

Mr. TAUZIN. Of course it would. That is what we are trying to do in this reform. In short, we are trying to bring commonsense environmentalism to America. We are not trying at all to back away from our commitment to the environment.

I believe, and I know most Members of this House believe, that we are here as guests on this planet and that we share it with other forms of life, and we all breathe the same air and drink the same water. We all cherish clean water and safe environments for our family. But we ought to have commonsense regulation out of this Federal Government, and very often we do not.

We end up wasting the money, the precious dollars that ought to go to cleaning up places in America and making it a safer, healthier place for our children.

Mr. FOX of Pennsylvania. I think what we need to do is to work with the EPA, work with the advocacy groups, with our colleagues, to make sure this is a bipartisan issue, because there is no one party that is for the environment. Both parties are for the environment and both the Congress and the White House are for the environment. Now it is a question of how do we get up there.

Mr. TAUZIN. Yes, but you would not believe that by listening to some of this debate on the floor. The fact of the matter is there are quite a number of lobby groups in this town on both sides of this equation who have very special interests. There are environmental lobby groups who have very special interests in keeping a fight going, raising more money and fighting some more. There are other groups out here who obviously would like to not see any environmental protection in the land.

Neither one is right. What we have to do is find the balance to make sure that neither one of the lobby groups sneak away with the issue and we never get anything done, but that in fact Americans get a cleaner, healthier, and safer place to live in out of this maze of regulation and legislation.

The bottom line is we ought to be asking the simple question, does this work. If it does not work to bring us a cleaner, healthier place, if it does not work to save a species, if it does not work to really protect wetlands, then let us build a better system. Let us build one that makes common sense and works and delivers for Americans what they are paying for, which is cleanup of hazardous sites, which is protection of endangered species, which is protection of valuable wetlands, and protection of the clean water and the air and the lands upon which we live. If we deliver on that promise, it will be the best bipartisan gift we can give to America, not only on this Earth Day, but on every Earth Day.

But if you listen to some of the debate on this floor, I mean, you would believe that some of us really do not want clean air and clean water and a clean place for our families. Nothing could be further from the truth. The fact is we all want it, we just disagree on how to achieve it. We disagree on how in fact to attain that good environment for our families.

In the end, that is a debate that we ought to have, but we ought to do it with a little less of this partisanship, a little less of this acrimonious sort of name-calling and get-ready-for-the-next-election, which seems to preoccupy this Chamber too much.

If we remember as we approach Earth Day that we have a common goal here to make regulations work for the good not only of our environment but for the citizens who live in it, then I think we will be on solid ground.

Mr. FOX of Pennsylvania. I think we will.

Mr. Speaker, I think the gentleman's approach, which is one that is global, that is pro-environment, pro-people, and one that is going to bring about positive change with common sense, I think that is what the American people want. They do not want to see anymore rhetoric, they want results. I think by following the Tauzin plan, we will achieve that.

I think just as important as achieving the protection of our environment, as the gentleman has outlined, whether it be Superfund or endangered species, clean water, clean air, we also need to have FDA reform. I have been working with you and others on your Committee on Commerce, and I know the gentleman from Texas, GENE GREEN, was the task force chairman that the gentleman from Virginia, TOM BLILEY, has appointed, and I am very excited about the progress we are going to make in that area not only on the drugs and medical devices, but also in the food area, to make sure that we speed up the approval of drugs and medical devices so life-extending drugs and life-saving drugs will be approved more quickly, because we do not want that technology or the work force or the jobs to be going overseas. We can keep it here, whether we reorganize FDA, that they need more people, or they need to be out of their morass of overregulation. We need to save lives. That is what the name of the game is. With FDA reform and environmental protection, we might find people living much longer and much better.

Mr. TAUZIN. Mr. Speaker, in all this process of RDA reform, we have to keep our eyes, again, on the ball. The ball in this case is to make sure that food products Americans enjoy are safe products. That has to be our preeminent goal. Our second preeminent goal ought to be to make sure as we regulate good and drugs in America, that we do have a climate where new inventions and developments can reach consumers as rapidly as possible after they have been appropriately tested, so Americans do not have to run to other countries to get treatments that should be available in America, so that new devices and new drugs and new treatments can be available to citizens here, and so that in fact they can be available at an early date to save a life or prolong a life.

FDA reform is critically needed in that regard. I want to join you in the hope that we can accomplish that before the year is out.

Mr. FOX of Pennsylvania. Mr. Speaker, the average drug now might take 12 years and $350 million to come to market. Some people cannot wait 12 years to get that miracle life-extending drug, and $350 million is a lot of money for a company to invest without ever getting approval.

Mr. TAUZIN. Guess what, too, after they have invested 12 years in that drug and $350 million, where do you think they get that money from? It goes into a much higher costing drug that Americans may need to save their lives or prolong their lives.

If we can simply have a better process that does not take 12 years, that does not cost $350 million, we will also be providing life-saving and life-prolonging drugs and treatments to Americans at more decent prices, which is a critical component of our health care reforms. We hope to accomplish again some of that this year.

Mr. FOX of Pennsylvania. The work that has been done so far by the gentleman from Texas, JOE BARTON, the gentleman from Wisconsin, SCOTT KLUG, and, as well, the work of the gentleman from North Carolina, RICHARD BURR, they have been appointed along with the gentleman from Pennsylvania, JIM GREENWOOD, in your committee to move this initiative forward. I am very much heartened that it has been a bipartisan area of legislation.

I think besides the environmental protections you have discussed and some of the pro-jobs things we have also discussed, getting FDA reform this year is one of the most important areas in which I think that we have accomplishment.

Mr. TAUZIN. Mr. Speaker, I would ask the gentleman, did he mention the success this House had in passing a health care reform bill this year? That came from our committee as well. For the first time, we finally got a bill out of this House that deals with the terrible issue of portability, as Americans move from job to job and lose their insurance.

This bill now says you can take your insurance with you when you move jobs. It also takes care of this terrible problem of preexisting conditions. When you move from one job to the next, you might not have been able to get insurance for the thing you had, that you had coverage for at your old job.

That bill dealt with that preexisting condition problem, and made other good cost-saving reforms in malpractice insurance, in paperwork reform, waste, fraud and abuse. It was the first real targeted effort to begin the process of reforming insurance for medical care in America, and reforming the availability and affordability of those systems for more Americans.

Mr. FOX of Pennsylvania. While still retaining the choice of doctor and hospital for each patient.

Mr. Speaker, I would like to have the gentleman from Minnesota, Mr. GIL

GUTNECHT, join us in this dialog. It is very important. He has been one of the very hardworking reformers in this 104th Congress, trying to make sure we move forward in our agenda to be responsive to the American people, and I thought he might want to join us.

I yield to him for the purpose of giving his reflections on where we have been up until this point and where he might see us going for the remainder of the 104th Congress.

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding to me.

Mr. Speaker, it has been a privilege to be part of this 104th Congress. The gentleman and I, and I think most of us, went home and had town meetings, the gentleman from Louisiana [Mr. TAUZIN], and I suspect you did as well. One of the most frustrating things that I found was how many times what we really have accomplished, what has really happened in this Congress, has been in some respects misrepresented by some of our adversaries and not always accurately reported by the press.

As a matter of fact, one of the things we did in our town meetings, talking about reform and saving the Medicare system, it has been difficult sometimes, because we have to go over the same ground, and I found in my town meetings where we could explain exactly how much we are spending today in Medicare, how much we are proposing to spend in Medicare, and it goes from about $161 billion in fiscal year 1995 to $247 billion in the year 2002.

Once people get those numbers, some of them actually scratch their heads and say, "Well, wait a second, I keep hearing you are cutting Medicare," when in fact we are making big increases in Medicare. As a matter of fact, a few say, "GIL, maybe that is true, you go from $161 billion to $247; yes, that is probably an increase, but if you divide it by the number of seniors, there are going to be more seniors in 7 years than there are today, so what is that number?" That number is $4,800, and it goes to over $7,100 in just 7 years.

Mr. TAUZIN. Even accounting for the increase in seniors.

Mr. GUTKNECHT. Exactly. That takes into account all the new seniors that are coming. One of the things that I found that really began to get people's attention is when I would stop after I had made that presentation, giving the real numbers and our budget numbers, and said if we do this we can save the system. If we continue to do what we have always done, the system goes bankrupt.

Then I would always tell them that I was born in 1951, and that may not be significant, but when I graduated from college, the Speaker at our commencement address was the director of the U.S. Census. He told us something that day that I think is very important. He said that there were more babies born in 1951 than any other year. We are the peak of the baby boomers. There are more people right now 45, and, well, that has probably changed somewhat, but at that time there were more people 22 than any other single age.

Both of my parents are living, and God bless them, I am happy to have my parents both living and we are delighted, and it is a blessing to have them with us. They are both on Social Security, they are both on Medicare. As a baby boomer, I feel that I have a moral responsibility to my parents. But on the other hand, I have three teenagers. I have a moral responsibility to them, too. I think we ought to offer them the same kind of opportunities, the same opportunities of the kind of standard of living which we enjoy today.

So in some respects, I think baby boomers stand on the hinges of history. I think we have a moral responsibility to seniors to make sure they get the kind of care and benefits they are entitled to, but on the other hand, if we allow the system—as my grandmother used to say, if you always do what you have always done, you will always get what you have always gotten. What we have got is a system that is going bankrupt.

Frankly, I think we have a moral responsibility to do what is right, to save the system, not only for current seniors but for future generations of seniors. I am proud to say this Congress has been tackling that issue head on, and by using competitive forces, some of the marketplace changes that are happening out there in health care today, we can save Medicare. The same is true with the environment.

One of my favorite Presidents was John Kennedy. He said that we all inhabit this same small planet, we all breathe the same air, and we all cherish our children's future.

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I might add, parenthetically, we are all environmentalists. Is there anyone who does not want clean air and clean water for their kids? I do not think there is anybody. But the question is, will we continue to impose $50 solutions, Washington-based solutions on those problems out in the States and the districts?

I think if we work together, if we have an honest dialog, we can have a cleaner environment, we can have a balanced budget, we can have a lot of these things we are talking about, because we have got to get the whole notion that all good ideas reside in Washington, we have got to get that out of our system, because it has not worked. The evidence is overwhelming.

In fact, if Washington-based solutions worked, Washington, DC, would be the most efficiently run city in the world, and we all know that is not true, because we live here. We see it every day. There is a lot of common sense in Louisiana, in Pennsylvania, in Minnesota, all over this country. We have got to tap into it.

So I am proud of what we have done in the 104th Congress, I think we are doing the right things, making the reforms that need to happen. I must confess that we have not always communicated very well, but we have got to do a better job of that.

I think once the American people understand what we are trying to do and how we are trying to do it, to decentralize the bureaucracy, put more of the decision-making back in the districts and in the States and in the hands of individuals, all sharing the same goals, I think we are going to change the course of history. I think once the American people understand that, they are going to be far more supportive than sometimes the polls show them.

Mr. TAUZIN. I want to thank the gentleman for joining us and congratulate him on an excellent statement.

My mother is on Medicare. I got a wonderful call from her just today telling me that she is finally out of the hospital, been discharged, doing well. She is a twice cancer survivor on Medicare. Do not think for a second that I am going to not do everything I can to make sure Medicare does not go bankrupt, for her and for everybody's mother and father that we cherish and love as much as I love my own mother.

The bottom line is, we cannot let that system go bankrupt. If we do not face that problem head on, as the gentleman has said, and provide new solutions for it while at the same time increasing the benefits per beneficiary, as our plan did, and preserve for every Medicare recipient the right to go to the doctor of their own choice and to stay in the Medicare system if that is what they choose, if we do not do that kind of a reform, how are we going to save this system?

And if we do not save it, 7 years from now, when it is about to go bankrupt, are we going to let that happen? No. We know what is going to happen around here. There will be a doubling of the payroll taxes to save it, and then the next generation will be threatened with bankruptcy. We will have been imposing an undue burden on the children and grandchildren to save a system that we should have saved and could have saved today, and the gentleman is so right in that regard.

When it comes to the business of finding common sense in America, I agree with him. The best common sense resides in those town hall meetings back home. That is where I really learn the truth about many of the issues we debate here in Washington. That is where folks really tell us how the real world works and where the good ideas are, and more of us I think ought to spend time in those town hall meetings and less time here in Washington.

Mr. FOX of Pennsylvania. They do not feel any qualms about telling us where to go and how to get there. That is good. That is how we learn.

But let me say this about the Medicare situation. We are the individuals in the majority party that said, look, we think seniors are very important. We want to roll back that unfair 1993 tax on Social Security. We passed a bill to that effect. We are the ones who said, look, we want to raise the income eligibility from $11,280 without deductions from Social Security for those under 70 to $30,000 a year. We passed that.

We are the same ones who are saying, look, we love our seniors, want to make sure they live long and well, as long as possible, but what we want to make sure of is we take out the waste, fraud, and abuse in the system, $30 million a year, and make sure we keep those savings for health care only, not to go somewhere else in the budget.

We also want to take the medical education, now part of Medicare, for direct and indirect costs for interns and residents, a very valuable program but it should be a separate line item in the government. We should make sure that those dollars also go to Medicare for seniors.

We want to see paperwork reduction from 12 percent of Medicare costs to 2 percent while still offering Medisave accounts and managed care for Medicare.

Doing all that together, we are talking about a 7.5-percent increase a year for Medicare, double the rate of inflation. And frankly, knowing the bipartisan House we have here now, if we need to make increases in Medicare, we will do it.

But to have people say through demagoguery or rhetoric that any one party does not want to do what is right for seniors is absolutely wrong, because we are looking for increases here to make sure Medicare works but get that fraud, waste, and abuse out of it, because I want to make sure those dollars are being spent for seniors' health care and not for a provider to become rich.

Mr. TAUZIN. The gentleman from Pennsylvania [Mr. FOX] said something worth repeating. At one of the town hall meetings during the break, it happened to occur on the 4-year anniversary of my father's death. I spent that morning with my mother.

We recalled together how one of the things my dad had always asked me to try to do as his Congressman, as his son and friend, was to do something about that awful income earnings limitations that we put on seniors under Social Security. My father was living under Social Security until his death, and the idea that we told him and other seniors, "Don't go try to earn more money to have a good life, because we're going to take your Social Security away if you dare go out and continue to work," was an insult to him.

One of the sterling accomplishments of this Congress has been to raise that earned income limitation now to $30,000, so now seniors can earn up to $30,000 without affecting their Social Security check. I remember telling the audience that night, I said, "Dad, this one's for you."

This one is for all the seniors who have been asking us to do that for so long, and to stop this awful tax on their Social Security benefits that was imposed during the early years of the Clinton administration, and this House did that. It has repealed the tax on the Social Security checks that seniors get around the country. I hope, frankly, we can see that enacted into law in a much bigger income tax reform that all Americans can benefit from before this Congress is over.

Mr. FOX of Pennsylvania. One of the other areas we are working on for seniors that the gentleman from Minnesota [Mr. GUTKNECHT] and the gentleman from Louisiana [Mr. TAUZIN] have been the leadership point for, and I think it is very important and worth repeating, is that we are also trying to make sure we have enough funds for in-home services. While people are living longer and better, we want them to live longer at home and less in a nursing care situation for as long as we can put that off by having additional funds for in-home services.

And also I think what is very important is that we are spending money, and it should be, on women's health care initiatives. That is a very important program that we in a bipartisan fashion are trying to move forward, additional funding of research for osteoporosis, for cardiovascular diseases, for cancer, for uterine, ovarian, and breast cancer, additional research in that area as well as for menopause. We are also talking about, instead of having every other year under Medicare for mammograms, doing them yearly.

Those are the kinds of changes this Congress is moving forward on because we want to make sure our seniors and others are living longer and living better.

Mr. GUTKNECHT. This is part of the frustration, the list that the gentleman just went through. I suspect most Americans, particularly American women, do not know how much this Congress has really done. It is so frustrating because it seems to me—and I do not mean to be critical of the press but maybe I guess I am—these are the kinds of things that need to be reported more, and frankly too many Americans do not know how much this Congress has accomplished.

But, again, I am proud of the 104th Congress. This has been a can-do Congress from the very first day. The gentleman from Pennsylvania [Mr. FOX] remembers as I do that very first day, and the gentleman from Louisiana [Mr. TAUZIN] was on the other side of the aisle that day, but it is great to have him with us now.

But the point is that from the very first day, we were enacting reforms which a lot of people, and I am sure the gentleman from Louisiana [Mr. TAUZIN] included, had been trying to get reformed here in this Congress for many, many years. The very first bill, H.R. 1, the Congressional Accountability Act, the Shays Act, to make Congress abide by the same laws as everybody else.

We actually for the first time in I do not know how many years had an audit of the Congress, and frankly what the auditors found was, this Congress itself has not been very good at managing its own funds and has not been very accountable for its own funds. If we look at item after item, this Congress has really changed the course of history and we have changed the nature of the debate in this body.

Frankly, it is frustrating sometimes to go home and have to re-explain that, because I think in some respects the press has done such a miserable job, in my opinion, of telling how many good things this Congress has done, and so sometimes it is very frustrating for us to have to go back and tell the story. But on the other hand, I guess that is part of our job, as well, to talk about what is happening.

Frankly, let us also admit we have made some mistakes. That is part of being a democracy, that is part of a democratic republic. We are going to make mistakes, but I think on balance I am proud of the record of accomplishment of this Congress.

It has been a Congress that has been dedicated to reform, whether it was welfare reform, Medicare reform, Medicaid reform, or even reforming the way we keep our environment clean and pure. We have been willing to take a look and take some of the tough votes, take some of the criticism, because I think in the long light at the end of the tunnel, at the end of the day, I think the American people will look back and say, hey, they were doing the right things, moving in the right directions, taking power away from Washington, decentralizing, using market forces wherever possible and ultimately trying to get more services, more good, more bang for the buck for the taxpayers who pay the bill.

I am proud of this Congress. I am delighted to have the gentleman from Louisiana [Mr. TAUZIN] with us as a Republican. The gentleman gave a great presentation at noon for the consumption tax, sales tax, whatever we want to call it. I think that is another issue.

We saw on April 15 the American people have had enough with our current tax system. I do not want to take too much of the time, but 6 billion man hours are invested in keeping records and filling out forms for the IRS. Frankly, the time has come for all Americans, we need a national tea party, because this country was founded by tax protesters who said enough is enough.

Six billion man-hours, and put that in perspective. That is how many man-hours that are used to build every car, every truck, and every airplane built in the United States. That is how much time is spent just keeping records and filling out forms for the IRS. We have had example after example. Money Magazine has surveyed, you can go to 50 different tax professionals, you can go to 3 different IRS offices and get different answers from all of them.

The truth of the matter is, we all know that the system we have in terms of collecting revenue for the Federal Government is broken. We have had the courage, the gentleman from Louisiana [Mr. TAUZIN], the gentleman from Michigan [Mr. CHRYSLER], and others have had the courage to take this issue on, go forward and begin to put some programs on the table, some bills on the table, so we can have a national debate, a national dialogue, and really come to a conclusion in terms of what kind of tax policy we ought to have, what is the maximum amount the Federal Government ought to get and what is the simplest way, the most efficient way for the Federal Government to raise the revenue.

I congratulate the gentleman. His presentation at noon was one of the best I had ever heard. I congratulate the gentleman from Colorado [Mr. SCHAEFER] and the gentleman from Michigan [Mr. CHRYSLER], as well, because they have all been working together. In fact, when they started on that proposal it was clearly bipartisan. We hope to encourage more Democrats to join that debate as well.

Mr. TAUZIN. I thank the gentleman. One of the reasons why I think this has been a do-something Congress that has been unrecognized is that much of what we have done and completed went to the White House and got vetoed. We have got to remember that.

We did pass Medicare reform through both houses of this Congress and it got vetoed. We did pass a balanced budget bill for this country and it got vetoed. We passed a Medicaid reform bill and it got vetoed. We passed welfare reform twice and it got vetoed. We passed product liability reform and it is scheduled to get vetoed.

We had a liability reform bill dealing with securities laws. That got vetoed. We mustered a two-thirds majority to override on that one, but most of these bills have been vetoed. We do not have a two-thirds majority to override.

But this Congress has produced and believe me, if we could, this Congress would produce a complete repeal of the IRS and the income tax, as our bill would do, and the whole mess of guilty until proven innocent and double taxation and the awful mess the IRS has created for this country. If we could appeal it this year and substitute an alternative tax system that was fair and made sense for Americans, I would love to see it done this year.

We have at least put an idea on the table. That is part of what this Congress has been all about, putting new ideas, new reform concepts on the table, passing many of them, as the gentlemen from Pennsylvania [Mr. FOX] has pointed out, some of which has become law, many of which we are still fighting over because they have been vetoed. But we are going to keep up that fight until we win those reforms.

Mr. FOX of Pennsylvania. I think the people driving it frankly are the people back home. They are saying they want a simpler, fairer, flatter tax. They also say they want the IRS to be changed. Some want to eliminate it, to be sure. But the Taxpayer Bill of Rights which the gentleman has been active on, with the gentlewoman from Connecticut [Mrs. JOHNSON], is going to provide, I think, part of the first antidote for the problem.

Mr. TAUZIN. That was passed yesterday with a huge bipartisan majority.

Mr. FOX of Pennsylvania. And it provides, if I recall correctly, that the taxpayer will have an advocate at the IRS who will intervene on their behalf. It waives the interest charges and penalties when the IRS is at fault. It extends time for taxpayers to pay delinquent taxes without being subject to interest charges from 10 to 21 days. It expands measures to protect rights of divorced filers. It provides the IRS with authority to return levied property. It increases the maximum award amount from $100,000 to $1 million for reckless collection actions by IRS, and establishes accountability by requiring the IRS to file an annual report to the tax writing committees, of which the gentleman is a part, documenting misconduct by IRS employees.

So I think that it does take for the first time a bold step, saying, sure, there are good employees at IRS, we are not saying that. We are saying we want a system that is fairer. They are doing their job. We are saying we want to make sure that the taxpayers also have rights, they also are heard, and not treated as a number but as people who want to pay their fair share, want to pay it but they want to make sure they have their rights protected. That is what this law does in a very strong way for the first time.

Mr. GUTKNECHT. I think if I could jump in here, I think the Taxpayer Bill of Rights is a giant step in the right direction, but ultimately what we need is a much simpler tax system than we have today.

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The idea that Americans are spending six billion hours, are intimidated by an agency that has 110,000 employees, that idea is an idea whose time has passed. The idea whose time has come is a much simpler tax system, whether it be the consumption tax, whether it be a flat tax, or whatever. I am not certain what the right answer right now is. Representative TAUZIN does a beautiful job. I hope he will have some special orders between now and the end of summer so the American people can begin to understand what we are really talking about, what the problem is, and how your particular solution will address that.

But I think we need that national dialogue, and ultimately what we need is a much simpler tax. Frankly, the taxpayers Bill of Rights does begin to level the playing field. Because heretofore the IRS had a huge advantage and they used the power of intimidation over individuals.

Mr. TAUZIN. Think about it, there is no other place in America, not even our Federal courts, where you go and you are presumed guilty. Even in Federal criminal court you are presumed innocent, and until the State proves you guilty you walk out a free person. With the IRS, you are presumed guilty until you prove yourself innocent. What an awful type of situation Americans find themselves in.

Worse than that, as you know JON, the IRS is a double taxation system. Not only does it tax your income, but every time you buy anything made in America, you are paying the tax of every business that contributed to the manufacture of that product. Economists tell us that could be a hidden tax of between 10 and 14 percent on the price of everything made in America. Unfortunately, we do not charge that tax to products imported. So, guess what? We import more products.

It is a system that tells us do not earn money, do not save money, do not invest because we are going to penalize you, do not try to leave anything for your kids because we got inheritance and gift taxes that will catch you then. Even when you spend money, you better buy foreign products, because if you buy anything made in America, we are going to double tax you.

It is a horrible system, and it is time we think about changing it for the good of every taxpayer; but, more importantly, for every wage earner and every business in America that would like to manufacture things here instead of manufacturing them all over the world.

If we have that debate, honestly and forthrightly and in a bipartisan fashion, to make sure whatever we substitute for this system is indeed a fair system, it is simpler, makes better sense, does not double tax us, does not tax American products only, but taxes fairly all products in our society, so we can encourage manufacturing again, if we have that debate as part of this agenda to do something in this Congress, move these reforms forward, I will feel a lot better than I do already about a Congress that has made some great progress to this date.

Mr. FOX of Pennsylvania. If I can ask you, Mr. TAUZIN, beyond the discussion we had on flat tax, with or without deductions for mortgage, the Armey and Specter versions, as well as the Forbes version, and the consumption tax and national sales tax, what other programs are your committees looking at as far as tax reform?

Mr. TAUZIN. The Committee on Ways and Means is the committee doing it. I do not actually serve on it. BILL ARCHER is the Chair, and we are working closely with BILL. Mr. ARCHER actually supports this consumption tax concept. But he is not making that decision right now.

What he is doing is the right thing. He is going to hold hearings on this proposal for a national sales tax. He is going to hold hearings on the Armey flat tax proposal. He will hold hearings on alternative proposals, such as the value added tax or anything anybody wants to come up with.

By October, the Committee on Ways and Means will report to the American public. Hopefully the candidates for President will join in that debate, and by next Congress, maybe we can have an American tea party, and Americans can express themselves and dump this whole system into the Boston Harbor and rewrite something that makes sense for Americans again.

What we recommend is to pull the IRS and the income tax out by its roots, to get rid of the whole mess, to throw away the inheritance and gift taxes along with it, and substitute a simple national retail sales tax at the end of every purchase, providing a complete rebate to incomes under the poverty level, so that no one is hurt under poverty, and providing the same treatment for home ownership the current code does to encourage families to own their homes and build their families here in America.

It is an awfully interesting concept, but it is only one of many. The Committee on Ways and Means is going to look at them all and hopefully report to the American people by October which one they think makes the best sense, and we will have this debate next Congress.

Mr. FOX of Pennsylvania. I think Congressman GUTKNECHT and Congressman TAUZIN, as much as it is important to reform the tax structure, and, believe me, the American people want that, they also want to make sure we have a more business friendly Congress and business friendly government.

What I am talking about now is people who have tried to deal with the Federal Government to do work. I had a gentleman who has a business in my district that wants to do business with the Federal Government, but he had 187 pages he had to fill out for a $25,000 contract. He had to hire an accountant, an attorney, and an engineer to assist him in that regard.

I do not think we are not a business friendly government if we cannot figure out a way to make sure that we encourage people to be vendors, those who can come forward with their Government, give a quality product, and try to sell it to the Government on a bid process.

I am talking about getting the best product for the lowest price. Well, he may have had the best product, but the Federal Government will never have the chance to buy it, because he did not want to go through 187 pages of paperwork.

So I think that has to be part of our initiative, to make sure this is a government that works leaner and works better.

Mr. TAUZIN. Indeed, to go back to taxes, the Kemp Commission reported that the average small business in America spends $4 complying with the Tax Codes for every $1 they send the Federal Government. Think about that, when our forms and our regulations are so complex that you have got to hire so many accountants and go through so much paperwork to send the Government $1 you have got to spend $4 in your business. And guess who pays all of that? The consumer does in the end. When our systems are so complex that people cannot bid to do Government work because they cannot get through the bureaucracy and the paperwork, when businesses cannot even pay their taxes without spending four times as much as the tax liability, spending it on paperwork and accountants and auditors, then something is wrong in America. We have got an inefficient system.

If it does say to people "Do not come do business with this government," we are locking out people that could be doing business for us, perhaps in a much more efficient way than our current vendors, our current suppliers. That ought to get changed.

Mr. FOX of Pennsylvania. It is just as important as the tax reform.

Mr. GUTKNECHT. I was going to say, whether you are talking about tax reform, health care reform, Medicare reform, welfare reform, reforming the way Congress does business, opening up the process, really what this debate is about is whose country is it, and whose government is it, and who is in charge, and whose money is it? And for too long we have sort of taken, or our predecessors have taken the attitude in Washington that it is Washington's money and Washington's government.

One of my favorite Presidents once observed we are a people with a government, and not the other way around. And really all of these reforms are about opening up the process. The beauty of this Congress is for the first time we are having honest and healthy debates about what kind of a Medicare system we are going to have, what kind of welfare system should we have?

We have agreed that the problem with our welfare system is not that it costs so much money. The problem with our welfare system in America today is that it costs too much in human potential. We have created dependency.

When Representative TAUZIN talks about our tax system, it is a system riddled with perverse incentives. Throughout all of our programs, it is a system of perverse incentives. No good deed goes unpunished. Frankly, it is wrong, and the America people know it is wrong.

If there is a reform party, I think once the American people get a chance to look at these issues, what has really happened in the 104th Congress, how the process has been opened up, how we finally had honest debates about real reform, returning more power back to the people, I think they will agree that there is a reform party in the United States of America, and it is our party, and it is this party that forged those reforms, it is this freshman class, if you will, that has really forced the agenda to make those changes, to change the attitudes in Washington, and begin the process of giving the people the power back. And that is what this Congress is about.

I hope that as we go forward, we will have more opportunities this spring to have this kind of a dialog, this kind of a discussion, because I believe facts are our friends, and once the American people have the facts, whether it is about our budget, about Medicare, about tax reform, all of those other issues, I think it makes it very easy for us to win the debate, for them to win the debate, because facts are our friends and, as John Adams said, "Facts are stubborn things."

Mr. TAUZIN. You know, the freshmen, JON, all of you guys, have taken a lot of heat in the press, being too hardnosed, too rigid, inflexible. The truth is, the freshmen came to this House with a very refreshing concept. It was a concept that the Government ought to be our servant, not our master. And you came with a simple notion that we needed to make Government user friendly again. It needed to be responsive to people and helpful to people, instead of control and mandating and, indeed, inaccessible to people because its formularies and regulations were too difficult for people to understand. It is a very refreshing attitude.

I often comment to folks back home, thank God we have a huge crop of freshmen that have that attitude. I think it is great that we have the infusion of new ideas and new thought. We have seen it in the form of a willingness to tackle issues that sometimes no one wanted to tackle before; to face head on the crush and calamity of Medicare collapsing into bankruptcy and to try to deal with it, to face head on the fact we have got a welfare system that is condemning people to dependency, instead of rescuing them from dependency; to face head on the fact that Medicaid in our country is about to cripple the ability of our States to take care of people who are uninsured and need the assistance of others for their health care; and to face head on complex issues like immigration policy, and issues like, indeed, environmental reform, which are very contentious and very difficult to debate sometimes.

Freshmen, in my view, have added a great deal to this Congress, and I am glad you are here.

Mr. FOX of Pennsylvania. Congressman TAUZIN, we certainly appreciate the fact you are an honorary freshman, you have joined us in that regard, because your enthusiasm to find bipartisan solutions and work to make a positive difference is what I think all the Congress is about.

You would not be here and would not have the privilege of serving if you could not make a positive difference. The thing we have to do is make sure we continue listening back home. Back home are the best ideas on keeping costs down, on keeping government accountable for what they want, and to make sure we in fact have a government that is user friendly. In that regard, for any final comments Congressman GUTKNECHT may have?

Mr. GUTKNECHT. I thank the gentleman from Pennsylvania and Louisiana for the special order. I appreciate the opportunity to participate. I want to thank you for the kind words about the freshmen. I think in many respects, though, the freshmen just represent the common sense values and views of the American people.

This Congress started with a lot of excitement and fanfare, but I will never forget the day after this Congress started, I was out in the hall, outside the House chambers, and a reporter came up to DICK ARMEY, the majority leader of the House Republican Conference, and she said to him, "How does it feel now that the American people have given you all this power?" And he said something very important and very profound. He said, "The American people did not give us power. They gave us responsibility. They loaned us power."

That is part of the attitude I think reflected in this Congress. The American people have given us responsibility. For as long as we have that responsibility, I think particularly speaking on behalf of the freshmen, we are going to do everything we can to give the power back to them, because we know that ultimately here in the United States it is the people who are sovereign. For too long, they felt as if there was a government that had the people, rather than a people with a government.

Frankly, I think we are bringing fresh attitudes, I think we are willing to tackle the tough issues. Have we done everything right. No. Have we made mistake? Yes. We may make mistakes in the future. But we are always guided by the basic notion that it is the people who are sovereign, and we work for them, and ultimately we have a responsibility to this generation, but, more importantly, to the next generation as well.

So I want to thank Representative TAUZIN and Representative FOX. It has been a great special order. We need to do this more often. As I said earlier, facts are our friends.

Mr. TAUZIN. I just want to reecho that thought, that this is the people's House, and in this House the people rule. That is an awfully statesmanlike approach to take, and it is surprising, indeed, that more folks do not realize that in this Chamber.

In the end, when we go back to the town hall meetings back home, we are asked a simple question: Have you advanced an American agenda? Not a Democrat or Republican agenda. Have you advanced the cause of this country? Have you made it a place where there is more liberty, instead of less liberty? Have you made it a place where we can advance our family's future more easy instead of more difficult. Have you made this a place where indeed our children can have a brighter future than we ourselves have?

If we can say yes to all of those questions, then we can go home proud and pleased with the work we have done here. I think we are well on the way. We have accomplished a lot. We have a lot left to do. But I think this "do something" Congress will be heard from much more in the days ahead.

Mr. FOX of Pennsylvania. I want to thank Congressman GUTKNECHT and Congressman TAUZIN for their leadership, not only in presenting the reforms that they have worked for, but in trying to forge a bipartisan agenda, one that is going to make this Congress continue to be pro-jobs, pro-reform, anti-tax, and one that relies more on the individual responsibility and relying on the fact that the Government does not run the country, the people do, and they do lend us that responsibility and that authority to act in their behalf.

So while we want to see term limits, we want to make sure the time we are here is made valuable, because what we have done is made positive changes. That will always be our guiding thought.

I thank you for letting us have this time period, Mr. Speaker, to have this dialogue. We will return again to give a further review in the future. We appreciate the input of our colleagues, from our constituents and the American people.

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TRIBUTE TO A TRUE PATRIOT, RON BROWN

The SPEAKER pro tempore (Mr. METCALF). Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PAYNE] is recognized for 60 minutes.

GENERAL LEAVE

Mr. PAYNE of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on and include therein extraneous material on the subject of the special order today by the gentleman from New Jersey [Mr. PALLONE].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. PAYNE of New Jersey. Mr. Speaker, as chairman of the Congressional Black Caucus, I wanted to take some time this evening to pay tribute to a man so many of us knew as a great friend and a real true patriot. Secretary of Commerce Ron Brown was a person we all knew and loved. So many people across this Nation have been inspired by Ron Brown, it is fitting that we celebrated his remarkable life and legacy.

Even in the midst of our grief over his untimely passing, we recognize that Ron was the kind of person who would want to be remembered for how he lived his life rather than how he died. It has been said that a man's reach should exceed his grasp. Throughout Ron Brown's wonderful life he kept reaching, seizing each challenge with boundless confidence, with enthusiasm, with energy, with vision. Both in the private sector and in the public life he displayed that all-American can-do attitude, refusing even to entertain the thought that any obstacles would be insurmountable.

It was this spirit that won him so many firsts. First black fraternity member at Middlebury College. First black to hold the position of Chief Counsel of the U.S. Senate. First black partner at Patton, Boggs & Blow, and then on to becoming the first black chairman of the Democratic Party before being appointed by President Clinton as the first black Secretary of Commerce.

Yet it was typical of Ron Brown that even as he built racial coalitions, he downplayed the significance of race as he sought to take on new challenges in his life. He said that race was not important as an obstacle. He simply said he can continue to move on up a little higher.

I remember back in 1988, when I was a member of the Newark City Council and seeking election to the house of Representatives, Ron Brown was campaigning at that time to become chairman of the Democratic National Committee. I traveled to Washington with the New Jersey Chamber of Commerce early in February 1988 to their annual legislative visit, when we talked to legislators here and talked about policies for our State. During my stay I introduced our State Democratic chairman, Ray Durkin, to Ron Brown, knowing that Ron was seeking the office of chairman of the Democratic National Committee.

After hearing Ron's ideas and observing his enthusiasm and his approach to problem solving and his enthusiasm and his approach to problem solving and his vision, the State Democratic chairman, Ray Durkin, made a decision right on the spot to support Ron Brown. He said this is the man we need to lead our party.

I was pleased when our New Jersey U.S. Senator, BILL BRADLEY, immediately came on board to join in for the backing of Ron Brown to become the chairman of the Democratic National Committee. In fact, New Jersey was the first State to endorse Secretary Brown when he made his run for the chairmanship of the Democratic National Committee.

Ron Brown did not run a narrow campaign based on race, he reached out to a wide range of Americans, as he always did in his life, ultimately convincing the electorate to return the White House to the Democratic party for the first time in over a decade. As a matter of fact, our State of New jersey went overwhelmingly for President Clinton for the first time in almost three decades. It was because of Ron Brown and his vision, his imagination, his creativity, his gumption, his stick-to-itiveness. He embodied the power of positive thinking, always looking ahead, assuredness, and optimistic.

Secretary Brown became involved in politics in 1971, when he was a district leader in Mount Vernon, NY, in the Democrat party there. He made a name for himself in the Urban League with his innovative ideas and creative approaches. He loved both public service and politics. Before working for Senator KENNEDY on the Committee on the Judiciary, he served as director of the California for Kennedy committee and later organized for Jesse Jackson's run for President.

Another point that needs to be made, in this era when it is popular in some quarters to bash those who work for the Federal Government, that Ron Brown and those who perished with him out there, risking their lives under very dangerous conditions on a mission to improve the lives of people in Bosnia and to promote American products, American business opportunities in order to create American jobs.

Secretary Brown and his staff worked tirelessly over the years bringing in billions and billions of dollars of contracts to Americans. Let us hope that out of respect for the victims and their families this unfair debasing of Federal employees for cheap political mileage will cease.

Let me take a moment to pay tribute to the victims of the tragedy who were connected to my home State of New Jersey who were on that ill-fated trip that day. We are proud of their service and extend deepest sympathies to their families.

Lee Jackson, who was born in Montclair, NJ, part of my district, was Executive Director of the European Bank for Reconstruction and Development at the Treasury Department. He was a young, bright African-American fellow whose father was a former newspaper person, who, as a matter of fact, was a very close friend of my Newark district office manager. We sat, Rick Thigpen and myself, watching the television, very saddened, awaiting the news from over in Croatia.

Another person on that flight from New Jersey, Claudio Elia, was chairman and chief executive of Air and Water Technologies Corp. in Branchburg, NJ.

Walter Murphy was vice president of global sales at AT&T Submarine Systems in Morristown, NJ.

Our State also lost two young people who were serving our country in the military, as Secretary Ron Brown had done as a young U.S. Army captain early in his life. S. Sgt. Robert Farrington, Jr., was from Brierfield, NJ; and T. Sgt. Cheryl Turnege lived in Lakehurst before she joined the Air Force.

Ron Brown left us too soon. He had so many gifts and yet he was not to have the gift of long life. We do not understand how life is given out, it is beyond us. Yet we can take comfort in the fact that his spirit, his zest for living, and his monumental achievements will definitely live on.

Our heartfelt condolences go out to his loving family, his wife, Alma, his son, Michael, his daughter Tracey, and his grandchildren. We will keep them in our thoughts and in our prayers.

At this time, I would yield to the gentleman from Virginia, Representative BOBBY SCOTT.

Mr. SCOTT. Mr. Speaker, I want to thank the gentleman from New Jersey for having this special order. I rise to add my voice to the multitude of voices singing the praises of Ron Brown. With all that has been said about him in the last 12 days, some may feel that all that needs to be said has already been said; but as we frequently say, all that need to say it have not already said it.

The fact is that we have all been affected by Ron Brown's life in general and in unique ways, and feel the need to ensure that the record of his life and his good works reflects some of those unique contributions.

For example, Mr. Speaker, the Newport News shipyard in the Third Congressional District of Virginia, which I represent, was a beneficiary of his good works. Even before the collapse of the cold war, the shipyard knew it needed to diversify its business portfolio beyond just military shipbuilding, so it began to revive its commercial shipbuilding program.

Ron Brown stood ready when called upon to help the Newport News Shipyard, just as he had helped so many other businesses before. For the Newport News Shipyard, he took Pat Phillips, the former president of the shipyard, to the Middle East to meet with business and government leaders in Israel, Egypt, Kuwait, and the United Arab Emirates to market the frigate ship program, and they were very successful. Bill Fricks, the current president of the shipyard, stated upon the news of Ron's death that, and I quote:

> Ron Brown was a great advocate of our yard and voiced his support for Newport News Shipyard and other Tenneco subsidiaries during numerous trade missions overseas. Not only an advocate of stronger international ties, Brown was also a friend of Newport News Shipyard. He will truly be missed.

Mr. Speaker, there have been a lot of words used to describe Ron Brown and his life: trailblazer, bridgebuilder, fence mender, power broker, coalition builder, energizer, visionary, humanitarian, public servant, crusader, lawyer, businessman, politician, husband, father, friend; all extraordinaire. And to this descriptive list I have to add shipbuilder and a friend of the Third Congressional District of Virginia. We are all grateful for his life and his contributions and for the lives and contributions of those who were with him on that fateful trade mission.

Mr. Speaker, Ron Brown will truly be missed.

Mr. PAYNE of New Jersey. I thank the gentleman very much. I really appreciate the gentleman from Virginia for those kind remarks. Let me at this time recognize the gentlewoman from the great State of North Carolina, who has been doing special orders and has been talking about Ron Brown for the last day or two, the gentlewoman from North Carolina, Mrs. EVA CLAYTON.

Mrs. CLAYTON. Thank you, Mr. PAYNE.

I am indeed grateful to Mr. PAYNE for organizing this special order. I wanted to participate in this special order under the guidance of the Black Caucus, because I think it is appropriate in this leadership that we also have an opportunity to have a special order.

Mr. Speaker, Ron Brown was a bridgebuilder, a peacemaker, a soldier for souls, a fisher for young men and young women.

Out of the ashes and wreckage of that faraway mountain in Bosnia—something remains—a blade of grass, an idea.

The idea—Ron Brown's living legacy—is that you can grow up in Harlem, and progress in Washington.

He left with us a prototype to follow, a style, a design, a mold, a model that we may never duplicate, but we can certainly replicate.

Under the careful counsel of his father and mother, he learned that it is far better to build bridges than to burn them. He knew that a bridge could arch a flood.

And so, he built bridges between the rich and poor, between people of every hue, between cherished views and fresh beliefs. Perhaps that is why his motorcade journey to his resting place in Arlington was as appropriate on U Street as it was on Constitution Avenue.

Ron Brown was a bridgebuilder.

His time spent in service to America, as an officer of the U.S. Army, apparently taught him that the best way to preserve world peace and avoid war is by doing business.

That is why he travelled to China, journeyed to India, took a trip to Turkey, and voyaged to Africa. And, that is why he risked a rainstorm to get to Tuzla.

He was opening doors, cementing relationships, serving his country, and promoting peace, even in a region torn by war.

Ron Brown was a peacemaker.

His rapid rise to the top was by measured steps from the bottom.

He worked by day and attended law school by night. He was a welfare social worker, a leader with the Urban League, a brilliant political strategist, a lawyer, the pilot of the Democratic Party and the architect of one of the greatest Presidential campaign victories in history.

Through it all, he never lost the common touch.

He was as comfortable playing pickup basketball in the Shaw neighborhood of Washington, DC as he was conversing with Kings and Queens and Prime Ministers.

Ron Brown was a soldier of souls.

But, perhaps the mark that he made that is most worthy of note is his mentoring, wherever he went, he took others with him, especially young men and women.

Ron knew how tough it was for an African-American to move from 125th Street in the heart of Harlem to the Commerce Building at the center of power in Washington.

With each career step he took, he embraced young people, forming and fashioning the Ron Brown's of the future.

They are there, at the Department of Commerce, at Democratic National Headquarters, in the public sector and in the private sector—the next Ron Browns.

He was a fisher of young men and young women.

Whether he was building bridges or closing divides, fighting the good fight or making peace, reaching with a helping hand or bringing others along—he always did his duty with dignity, pride, graciousness, vision and boundless energy. He filled each unforgiving minute with 60 seconds of long distance run.

Our thoughts and prayers go out to his lovely wife Alma, his loyal son Michael and his darling daughter Tracey. They have every reason to be proud.

Ron was a trailblazer, a tireless champion for all, a role model for role models. He has left his permanent imprint on the sands of time. God's finger has touched him, and he now sleeps.

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Mr. PAYNE of New Jersey. Thank you for those remarks.

As you know, we are talking about the life of Ron Brown, but there were a number of people. I mentioned several of those who lived in my great State of New Jersey who lost their lives on that mountainside in Croatia and return flight from Bosnia. There were other people who worked for the government.

As we talked about the fact that all too often it is made trite about working for the government, we hear people saying that Americans should not have to pay taxes. Why should we be involved in such things? What right do we have to take their money? We heard some of that dialog earlier here tonight.

Well, because we live in a country that is great. We live in a country where you can get on a road and the road will take you where you need to go, with pavement, with utilities, with lights. We live in a place where you can drink clear water and not worry about having bacteria in it. We live in a place that you can call the authorities or go to a courtroom and find that you can have your cases heard. And that is why it is a responsibility of Americans to have a responsibility.

As a matter of fact, at some other time we will get on to this subject, but people make it seem that here in America we are overtaxed. We pay about 29 percent. Japan used to pay 19 percent; they paid 29 percent. In the Western Europe countries, most pay 38 to 39 percent. We should take a look at the global situation, and I say that to say that Ron Brown was a person who had to take this unnecessary bashing. People in government took unnecessary bashing. We heard people criticize the Department of Commerce, but billions of dollars worth of business have been brought back to this country.

There were other people who gave their life for this country.

Bill Morton was a fellow who was always at Ron Brown's side. Bill was a deputy assistant secretary for international trade. He was a long time aide of Ron Brown. He graduated from Georgetown University, a native of Colorado, was always there when Ron Brown had to go. Did not like to fly at all, did not like travel at all, but he felt that it was his responsibility to his boss, Ron Brown. it was the responsibility to his country, and he went when called and did not want to go on that trip to Bosnia, but he was there.

These are the types of Americans who are the unsung heroes, people who dedicate their time, their life, their energy, time away from their family. The Bill Mortons of the world are the type that makes this country run, that make it as great as it is.

There were a number of people on that flight. Duane Christian, who was Ron Brown's chief security officer, a person who had been in this government for many years, used to work for the Office of Personnel Management, a former school teacher.

On that trip was Adam Darling, just a 29-year-old person, a confidential assistant for the Deputy Secretary of Commerce. He worked in international trade, wanted to make America strong, wanted to increase our balance of trade, wanted to reduce the balance of trade deficit, a young 29-year-old person was there serving our country.

Gail Dobert, acting director of the office of business liaison, a person who had worked many years on the Hill, who was there serving our country.

Carol Hamilton, the press secretary for Ron Brown, who was a person who had worked in business and industry, worked for Chase Manhattan Bank, but decided to give her time, her talents to the United States Government and came to work in the Commerce Department so that the work that that great department was doing could be better told.

We have Kathryn Hoffman, a special assistant to Ron Brown who was a person who was interested in politics, worked in the Clinton campaign during 1992, and actually was the person that produced the first African-American inaugural gala and leadership forum at the inauguration of the inaugural committee for President Clinton, a person who worked for Sony Pictures and in the past for Senator BIDEN and Julian Bond. A person with tremendous amount of ability, also lost her life.

We have Stephen Kaminski, who was a senior commercial officer who traveled a great deal, who tried to see that the market access of American companies could be enlarged in places like Japan, and worked in capitals of Hamburg and Dusseldorf and Vienna, and was a person, a real world leader.

Kathryn Kellogg, a confidential assistant, office of business liaison, who came to that office from a background with the Jay Rockefeller office and did a tremendous amount.

And we had a very senior person with us on that trip with Ron Brown, Charles F. Meissner who was the Assistant Secretary of Commerce for International Affairs, has been very active in government, and his wife was the Immigration and Naturalization Service commissioner, Miss Doris Meissner, and certainly our heart goes out to her, a person who is still contributing to our Government.

Also a part of our Government team was Lawrence Payne, a special assistant, office of domestic operations. He was a person who added a great deal to the mission.

Naomi P. Warbasse, who was a deputy director of Central and East Europe Business Information Center.

We had James M. Lewek, who was an intelligence analyst who worked on European economic issues. He was a person who was an analyst, a very bright individual who served very well.

So these were people who worked for our government who felt it was important, who felt they had a contribution to make, who felt that this great Nation of ours could do better. They never accepted enough was enough. They went on to move to higher heights.

Ron Brown had gone on a mission to India. No one ever looked at India as a place where we should take trade missions. It was never on the radar screen. But Ron Brown looked at the population, a population of over 900 million people, a country that in the next 20 years will have a population in excess of the population of the People's Republic of China.

It is estimated by the year 2020 the population of India will exceed 1 billion 250 million people—1 billion 300 million people. This is awesome.

The People's Republic of China currently has 1 billion 100 million people. The population of the United States is 250 million.

Ron Brown looked at India and said, after analysis, that India has as many middle-income people as the entire population of the United States of America. He was one that looked around and saw the poverty and saw the problems, but he also looked at the aggregate number, 900 million people, and found out that 250 million were middle-income people in India. And so he took a trade mission and, in less than a week, did over $7 billion worth of business on that trip. It was Ron Brown conceiving that there is opportunity in that great country of India.

He took trade missions to South Africa, worked with Mr. Mandela. As a matter of fact, Ron Brown was one of President Nelson Mandela's favorite persons. Mr. Mandela, who, as you know, is probably one of the greatest leaders in this world, has tremendous insight, and he was a person that opened his doors to his personal home to Ron Brown because of the camaraderie between the two. Of course, President Mandela, being much older than Ron Brown, Ron just looked up to him and went to South Africa, and through Ron Brown's creativity the Mbeke-Gore Bilateral Commission for Trade, directly the deputy president, Tabo Mbeke, Vice President AL GORE co-chaired this trade development that will increase imports and exports from these two great countries.

Ron Brown went to Asia and was very popular.

The Japanese trade officials enjoyed working with Ron Brown. They felt that he was very astute, and he did outstanding business in Japan. He was one, and we heard of Mickey Kantor and his debates in Geneva with the auto parts, but Ron Brown would go over to Japan, and it was, they call it, the "bad cop, good cop," Mickey Kantor being the bad cop, tough guy, mean guy, never smiled, and Ron Brown would come with his smile. He was a good cop. But Ron would always get the signature on the dotted line. So, as we have recently heard, the tremendous increase in the amount of autos and auto parts being sold to Japan, a record for this country. Part of that success for our big three auto makers is because of Ron Brown and the work that he has done.

He went to the People's Republic of China and was ready to do business all over the place. It was just that it was so large, Ron just took a little piece of it, but billions of dollars' worth of People's Republic of China.

And so I mentioned these various missions that he took. He was interested in the whole relationship between Mexico and the United States. He felt that Mexico has tremendous potential, but that the human rights of people in Mexico must be observed better. He talked about changing over the type of government, making it more people oriented, and he was a person that saw that one way that we could stop illegal immigration is that Mexico itself becomes a place that people feel they should stay, their country. Most people prefer living in their own country. They do not like traveling to other countries. They do not want to learn a foreign language. They do not want to be put in substandard jobs. They do not want to be pointed out as the problem. So most people, wherever they live in the world, prefer to stay where their home country is.

Ron Brown felt that, with Mexico developing, with opportunities in Mexico for Mexicans, that would be the biggest way to slow down and eventually stop illegal immigration and actually have people emigrate back to Mexico once opportunities developed there. But he also said that, as Mexico developed, that there would be markets for the United States, there would be trade opportunities, that it would not be a one-way street, but we would be able to solve a tremendous social problem in our country of illegal immigration.

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So Ron Brown's policies really affected the world, whether it was in the Far East, the Pacific rim, whether it was in the new independent States, or in Africa. He was a person who felt that we could do things best in this country, we make the best products, once we put our minds to it. He felt that all we had to do was to get an opportunity to introduce our business people to foreign markets, and that they would really jump on board on getting our products.

So as we wind down on our commemoration of Ron Brown, the man, Ron Brown, the leader, Ron Brown, the father, Ron Brown was a person that even when he was under attack, and I sat at a hearing of the Committee on International Relations where there was the move to abolish and eliminate the Department of Commerce. Some mean-spirited questions were asked, and the manner in which some of the questioners on the other side of the aisle were lashing out at the Secretary of Commerce. He answered every question. He answered the questions well. He had the facts.

As a matter of fact, when the hearing ended, most of the Members who started out with this mean-spirited slash and burn type of philosophy had to admit that the Department of Commerce had done an outstanding job; had to admit that, truly, this is the first Department of Commerce Secretary that the American people can say the name of the person. This is a Commerce Department person that people felt was doing the job. But in their fallacy, their preconceived notion was to eliminate the Department of Commerce. I think that that started to sort of slow down once Ron Brown really gave the facts to people.

We are here to say, Mr. Speaker, that we hope that we will remember Ron. We will once again say that he was a great American. We will once again say that he is the type of person that we can have young men and women, African-American, Caucasian, native American, whatever, point to and say that he is the measure of a man. Anyone can succeed if you try hard enough, that all you have to do is to have a vision, have creativity, and be ready to step up to the plate.

Once again, I would like to thank the Speaker for this time, and to express to my colleagues who came out tonight that I appreciate their participation this evening. I also appreciate the participation of many, many Members who have expressed their views during the past week that we have been back here, Monday, Tuesday, and today.

As a matter of fact, concluding, it was going to be on a week from today that he was going to visit the Congressional Black Caucus' weekly meeting.

We talked before his trip, and April 24 was the date that he was scheduled to come to talk about women's opportunities, small business, the census. So we will certainly even more remember him next week when we meet in our weekly Wednesday meeting. He is a true American, a real American hero.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. JACKSON-LEE of Texas (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of family medical emergency.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RAHALL) to revise and extend their remarks and include extraneous material:)

Ms. PELOSI, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. KENNEDY of Rhode Island, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mrs. THURMAN, for 5 minutes, today.

Mr. WISE, for 5 minutes, today.

Mr. PALLONE, for 60 minutes, today.

Mr. PAYNE of New Jersey, for 5 minutes, today.

(The following Members (at the request of Mr. GUTKNECHT) to revise and extend their remarks and include extraneous material:)

Mr. EMERSON, for 5 minutes, today.

Mr. JONES, for 5 minutes, today and on April 18.

Mr. CHAMBLISS, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today and on April 18.

Mr. FUNDERBURK, for 5 minutes, today.

Mr. CHABOT, for 5 minutes, today.

Mr. MICA, for 5 minutes, today.

Mr. ENGLISH, for 5 minutes, today.

Mr. TALENT, for 5 minutes, today.

Ms. ROS-LEHTINEN, for 5 minutes, today.

Mr. HUNTER, for 5 minutes, today.

Mr. FORBES, for 5 minutes, today.

Mrs. MORELLA, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

Mr. DORNAN, for 5 minutes, today.

Mr. RIGGS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. RAHALL) and to include extraneous matter:)

Mr. STARK.

Mr. HAMILTON in two instances.

Mr. JACOBS.

Mr. FARR of California.

Mr. TOWNS in two instances.

Mr. SANDERS.

(The following Members (at the request of Mr. GUTKNECHT) and to include extraneous matter:)

Mr. SENSENBRENNER.

Mr. BAKER of California.

Mr. TALENT.

Mr. WATTS in three instances.

Mr. LAHOOD.

Mr. OXLEY.

Mr. CAMP.

Mr. CUNNINGHAM.

Mr. PORTER in two instances.

Mr. ZIMMER.

Mr. CRAPO.

Mr. LAZIO.

Mr. STUMP.

Mr. ZELIFF.

Mr. BRYANT.

Mr. WELLER.

(The following Members (at the request of Mr. PAYNE of New Jersey) and to include extraneous matter:)

Mr. GIBBONS.

Mr. BILIRAKIS.

Mr. GUTIERREZ.

Mr. HALL.

Mr. JOHNSTON of Florida, in two instances.

Mrs. JOHNSON of Connecticut.

Mr. DORNAN.

Mr. SHADEGG, in two instances.

Mrs. MORELLA.

Mr. DEUTSCH.

Mr. POSHARD.

Mr. PALLONE.

ADJOURNMENT

Mrs. CLAYTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 35 minutes p.m.), the House adjourned until tomorrow, Thursday, April 18, 1996, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2409. A letter from the Secretary of the Navy, transmitting notification that the joint tactical unmanned aerial vehicle-hunter and standard missile 2 block IV have breached the unit cost threshold, pursuant to 10 U.S.C. 2433(e)(1); to the Committee on National Security.

2410. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed issuance of export license agreement for the transfer of defense articles or defense services sold commercially to Japan (Transmittal No. DTC-13-96), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2411. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed issuance of export license agreement for the transfer of defense articles or defense services sold commercially to the Republic of Korea (Transmittal No. DTC-15-96), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2412. A letter from the Chairman, Merit Systems Protection Board, transmitting annual report of the Merit Systems Protection Board and review of OPM, pursuant to 5 U.S.C. 1206; to the Committee on Government Reform and Oversight.

2413. A letter from the Chairman, Pennsylvania Avenue Development Corporation, transmitting the Corporation's audited financial statements for fiscal year 1995; to the Committee on Government Reform and Oversight.

2414. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's summary by country program of the fiscal year 1996 budget allocation for the International Narcotics Control Program, pursuant to 22 U.S.C. 2291(b)(1); jointly, to the Committees on International Relations and Appropriations.

2415. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of intended reprograming of foreign aid funds, pursuant to 22 U.S.C. 2394-1(a); jointly, to the Committees on International Relations and Appropriations.

2416. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of foreign aid program changes, pursuant to 22 U.S.C. 2394-1(a); jointly, to the Committees on International Relations and Appropriations.

2417. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of foreign aid program changes, pursuant to 22 U.S.C. 2394-1(a); jointly, to the Committees on International Relations and Appropriations.

2418. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's listing of FDIC properties covered by the Coastal Barrier Improvement Act; jointly, to the Committees on Resources and Banking and Financial Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Ms. PRYCE: Committee on Rules. House Resolution 405. Resolution waiving points of order against the conference report to accompany the bill (S. 735) to prevent and punish acts of terrorism, and for other purposes (Rept. 104-522). Referred to the House Calendar.

Mr. GILMAN: Committee on International Relations. H.R. 3107. A bill to impose sanctions on persons exporting certain goods or technology that would enhance Iran's ability to explore for, extract, refine, or transport by pipeline petroleum resources, and for other purposes; with amendments (Rept. 104-523 Pt. 1). Ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 3107. Referral to the Committees on Banking and Financial Services, Government Reform and Oversight, and Ways and Means for a period ending not later than May 3, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SKEEN:

H.R. 3258. A bill to direct the Secretary of the Interior to convey certain real property located within the Carlsbad project in New Mexico to Carlsbad Irrigation District; to the Committee on Resources.

By Mr. COMBEST:

H.R. 3259. A bill to authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the U.S. Government, the community management account, and the Central Intelligence Agency retirement and disability system, for other purposes; to the Committee on Intelligence (Permanent Select).

By Mr. CRAPO:

H.R. 3260. A bill to amend the Federal Food, Drug, and Cosmetic Act relating to proposed regulation of pharmacists; to the Committee on Commerce.

By Mr. FRANK of Massachusetts (for himself, Mr. DICKEY, Mr. CARDIN, Mr. KENNEDY of Massachusetts, Mrs. MALONEY, Mr. MEEHAN, Mr. NEAL of Massachusetts, Mr. POMEROY, and Mr. RAHALL):

H.R. 3261. A bill to provide for annual payments from the surplus funds of the Federal Reserve System to cover the interest on obligations issued by the Financing Corporation; to the Committee on Banking and Financial Services.

By Mrs. GREENE of Utah:

H.R. 3262. A bill to amend title XVIII of the Social Security Act to expand coverage under part B of the Medicare Program of certain antibiotics which are parenterally administered in a home setting, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. JOHNSTON of Florida (for himself, Mr. FROST, Ms. LOFGREN, Mr. MCDERMOTT, Mr. THOMPSON, Mrs. THURMAN, Mrs. MEEK of Florida, Mr. SHAW, Mrs. MINK of Hawaii, Mr. CANADY, Mr. RAHALL, Mr. BRYANT of Texas, Ms. NORTON, and Mr. FRAZIER):

H.R. 3263. A bill to amend the Omnibus Crime Control and Safe Street Act of 1968 to establish a national clearinghouse to assist in background checks of law enforcement applicants; to the Committee on the Judiciary.

By Ms. NORTON:

H.R. 3264. A bill to waive the Medicaid enrollment composition rule for D.C. Chartered Health Plan; to the Committee on Commerce.

By Mr. QUINN (for himself, Mr. ENGLISH of Pennsylvania, Mr. SHAYS, Mr. GILMAN, Mr. WALSH, Mr. HORN, Mr. HOUGHTON, Mr. BOEHLERT, Mr. TORKILDSEN, Mrs. JOHNSON of Connecticut, Mr. LEACH, Mr. MARTINI, Mr. LAZIO of New York, Mr. FRANKS of New Jersey, Mr. FORBES, Mr. DIAZ-BALART, Mr. RIGGS, Mr. CREMEANS, Mr. LATOURETTE, and Mr. BLUTE):

H.R. 3265. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under the act; to the Committee on Economic and Educational Opportunities.

By Mr. TANNER (for himself, Mr. CASTLE, Mrs. LINCOLN, Mr. SHAYS, Mr. STENHOLM, Mrs. MORELLA, Mr. PAYNE of Virginia, Mrs. JOHNSON of Connecticut, Mr. ORTON, Mr. CAMPBELL, Mr. MINGE, Mr. HOUGHTON, Mr. BROWDER, Mr. FOX, Mr. CRAMER, Mr. BOEHLERT, Mr. BAESLER, Mr. RAMSTAD, Mr. HOLDEN, Mr. FRELINGHUYSEN, Mr. LIPINSKI, Mr. HORN, Mr. ROSE, Mr. FAWELL, Mrs. THURMAN, Mr. LAZIO of New York, Mr. ROEMER, Mr. KOLBE, Mr. CLEMENT, and Mr. GORDON):

H.R. 3266. A bill to restore the American family, enhance support and work opportunities for families with children, reduce out-of-wedlock pregnancies, reduce welfare dependence, and control welfare spending; to the Committee on Ways and Means, and in addition to the Committees on Agriculture, Banking and Financial Services, Commerce, Economic and Educational Opportunities, Government Reform and Oversight, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE:

H. Con. Res. 163. Concurrent resolution expressing the sense of Congress that March 25 be recognized as the anniversary of the Proclamation of Belarusan Independence, expressing concern over the Belarusan Government's infringement on freedom of the press in direct violation of the Helsinki Accords and the Constitution of Belarus, and expressing concern about the proposed union between Russia and Belarus; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 127: Mr. KENNEDY of Massachusetts and Ms. WOOLSEY.

H.R. 218: Mr. HANSEN.

H.R. 350: Mr. WALSH, Mr. HAYWORTH, and Mr. TATE.

H.R. 351: Mr. PICKETT, Mr. BRYANT of Tennessee, Mr. SAXTON, Mr. EWING, Mrs. SEASTRAND, and Mr. HUNTER.

H.R. 403: Mr. SHAYS.

H.R. 573: Mr. BONIOR and Mr. ANDREWS.

H.R. 582: Mr. KNOLLENBERG.

H.R. 973: Mr. LEWIS of Georgia.

H.R. 1023: Mr. SHUSTER, Mr. STOKES, and Mr. LARGENT.

H.R. 1073: Mr. DINGELL and Mr. BROWN of California.

H.R. 1074: Mr. DINGELL and Mr. BROWN of California.

H.R. 1127: Mr. CALVERT.

H.R. 1179: Ms. NORTON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JEFFERSON, and Mr. STOKES.

H.R. 1202: Mr. PICKETT, Mr. EVANS, and Mr. CLYBURN.

H.R. 1462: Mr. MENENDEZ, Mr. GUTIERREZ, and Mr. SMITH of New Jersey.

H.R. 1496: Mr. SCOTT.

H.R. 1950: Mr. FILNER.

H.R. 2214: Mr. BRYANT of Tennessee.

H.R. 2335: Mr. LARGENT, Mr. PETE GEREN of Texas, Mr. SISISKY, Mr. CRAMER, Mr. MCINTOSH, Mr. BATEMAN, Mr. CAMP, Mr. SKELTON, Mr. ROGERS, Mr. BALLENGER, and Mr. BURR.

H.R. 2579: Mr. EHRLICH, Mr. MANZULLO, Mr. LINDER, Mr. EVERETT, Mr. TAYLOR of Mississippi, and Mr. VISCLOSKY.

H.R. 2654: Mr. GUTIERREZ.

H.R. 2655: Mr. HINCHEY, Mrs. LOWEY, and Mr. LOBIONDO.

H.R. 2665: Mr. FRAZER, Mr. LEVIN, Mr. GREEN of Texas, Mr. DEUTSCH, and Mr. FARR.

H.R. 2827: Mr. HINCHEY and Mr. SERRANO.

H.R. 2834: Mr. KILDEE and Mr. GRAHAM.

H.R. 2914: Mr. GUTIERREZ.

H.R. 2925: Mr. LIGHTFOOT, Mr. PETERSON of Minnesota, and Mr. PAYNE of Virginia.

H.R. 2959: Mr. WELLER.

H.R. 2976: Mrs. CLAYTON, Mr. GUTIERREZ, Ms. JACKSON-LEE, Mr. MATSUI, Mr. MENENDEZ, and Ms. WOOLSEY.

H.R. 2996: Mr. HEINEMAN.

H.R. 3004: Mr. RAMSTAD.

H.R. 3024: Mr. BISHOP, Mr. CLYBURN, Mr. WILLIAMS, Mr. OWENS, Ms. NORTON, MR. WYNN, Mr. HASTINGS of Florida, Mr. FRAZER, Mr. ENGEL, Mr. HALL of Ohio, Mr. HINCHEY, Mr. PAYNE of New Jersey, Mr. ACKERMAN, Mr. FILNER, Ms. MCKINNEY, Mr. ORTIZ, Mr. LEWIS of Georgia, Mr. DAVIS, Ms. WOOLSEY, Mr. HYDE, Mr. GIBBONS, Mr. BARCIA of Michigan, Mr. FARR, Mr. POMBO, Mr. TOWNS, Mr. STUMP, Mr. FORBES, Mr. SAWYER, Mr. TORRES, Ms. LOFGREN, Ms. SLAUGHTER, Mr. GILCHREST, Mr. RICHARDSON, Mr. KIM, Mr. PICKETT, and Mr. DOYLE.

H.R. 3039: Mr. HALL of Texas.

H.R. 3060: Mr. DOYLE.

H.R. 3067: Mr. WALSH, Mr. LEVIN, and Ms. HARMAN.

H.R. 3118: Mr. FALEOMAVAEGA and Mr. MANTON.

H.R. 3152: Ms. LOFGREN.

H.R. 3156: Mr. NETHERCUTT.

H.R. 3177: Mr. RAMSTAD, Mrs. MEYERS of Kansas, and Mr. VENTO.

H.R. 3180: Mr. HUTCHINSON, Mr. HOLDEN, Ms. MCKINNEY, and Ms. LOFGREN.

H.R. 3195: Mr. BUNNING of Kentucky.

H.R. 3224: Mr. CLEMENT, Mr. FROST, Mr. CLINGER, and Mr. SMITH of New Jersey.

H.R. 3238: Ms. LOFGREN and Mr. FROST.

H. Con. Res. 105: Mr. BAKER of Louisiana.

H. Con. Res. 135: Ms. SLAUGHTER and Ms. FURSE.

H. Con. Res. 136: Mr. HOKE, Ms. PELOSI, Mr. FUNDERBURK, Mr. LIPINSKI, Mr. BRYANT of Texas, Mr. CARDIN, Mr. CALVERT, and Mr. ROMERO-BARCELO.

H. Con. Res. 158: Mrs. LOWEY.

H. Res. 347: Mr. LIPINSKI, Ms. SLAUGHTER, Mr. DELLUMS, Mr. BONIOR, and Mrs. LOWEY.

H. Res. 404: Mr. CONYERS, Mr. FORD, Mrs. COLLINS of Illinois, Mrs. CLAYTON, Mr. RANGEL, Mr. OWENS, Mr. FIELDS of Louisiana, Mr. HILLIARD, Mr. FRAZER, Ms. NORTON, Mr. WYNN, Mr. DELLUMS, Mr. JEFFERSON, Mr. DIXON, Mr. RUSH, Ms. MCKINNEY, Mr. CLAY, Ms. JACKSON-LEE, and Mr. BISHOP.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1675

OFFERED BY: MRS. LINCOLN

AMENDMENT NO. 2: At the end of the bill add the following new section:

SEC. . AUTHORITY OF SECRETARY OF THE INTERIOR TO ACCEPT STATE DONATIONS OF STATE EMPLOYEE SERVICES DURING GOVERNMENT BUDGETARY SHUTDOWN.

After section 2 of the Act, as redesignated by section 10(a)(4) of this Act, add the following new section:

"SEC. 3. AUTHORITY OF SECRETARY TO ACCEPT STATE DONATIONS OF STATE EMPLOYEE SERVICES DURING GOVERNMENT BUDGETARY SHUTDOWN.

"(a) IN GENERAL.—The Secretary shall accept from any qualified State donations of services of State employees to perform in a refuge, in a period of Government budgetary shutdown, fish- and wildlife-dependent recreation management functions otherwise authorized to be performed by Department of Interior personnel.

"(b) LIMITATIONS.—An employee of a State may perform functions under this section only—

"(1) within areas of a refuge that are located in the State; and

"(2) in accordance with an agreement entered into by the Secretary and the Governor of the State under subsection (c).

"(c) AGREEMENTS.—

"(1) IN GENERAL.—For purposes of this section, the Secretary may enter into an agreement in accordance with this subsection with the Governor of any State in which is located any part of a refuge.

"(2) TERMS CONDITIONS.—An agreement under this subsection shall—

"(A) contain provisions to ensure resource and visitor protection acceptable under the standards of the United States Fish and Wildlife Service;

"(B) require that each individual performing functions under the agreement shall have—

"(i) adequate safety training;

"(ii) knowledge of the terrain in which the individual will perform those functions; and

"(iii) knowledge of and adherence to Federal regulations relating to those functions; and

"(C) specify other terms and conditions under which a State employee may perform such functions.

"(d) EXCLUSION FROM TREATMENT AS FEDERAL EMPLOYEES.—A State employee who performs functions under this section shall not be treated as a Federal employee for purposes of any Federal law relating to pay or benefits for Federal employees.

"(e) ANTI-DEFICIENCY ACT NOT APPLICABLE.—Section 1341(a) of title 31, United States Code, shall not apply with respect to the acceptance of services of, and the performance of functions by, State employees under this section.

"(f) DEFINITIONS.—In this section—

"(1) the term 'Government budgetary shutdown' means a period during which there are no amounts available for the operation of the System, because of—

"(A) a failure to enact an annual appropriations bill for the period for the Department of the Interior; and

"(B) a failure to enact a bill (or joint resolution) continuing the availability of appropriations for the Department of the Interior for a temporary period pending the enactment of such an annual appropriations bill; and

"(2) the term 'qualified State' means a State that has entered into an agreement with the Secretary in accordance with subsection (c).".

EXTENSIONS OF REMARKS

SOMETHING IS RIGHT WITH AMERICA—IN COLUMBIA, TN

HON. ED BRYANT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. BRYANT of Tennessee. Mr. Speaker, we hear on every side today, loud and clear, about what is wrong with America. All too often the good that is being done never makes the news. May I tell you about the work being done by American Legion Post 19, Auxiliary Unit 19, the 40 & 8 and La Femmes in Columbia, TN?

Post 19, organized in the county on August 15, 1919, with 61 charter members, rose to a high of 1,270 members, and now stands at a membership of 933. From the very earliest days, this organization has been a driving force for good in the community. Men who served their country nobly in time of war returned home to assume leadership roles in the community.

Auxiliary Unit 19 was organized a year later, and membership stands now at 249. The oldest member is an active 94-year-old gold star mother, who lost a son in World War II, to a junior member, 2 years of age.

The 40 & 8 and La Femmes are also active. Let me begin with them. Five nursing scholarships, of $500.00 each, are given annually by this group. And during the past 2 years, a female veteran has been supported in nursing school in the amount of $3,000.00. The 40 & 8 engine is a familiar sight at all parades and fund raisers in this and adjoining counties. Many young children know how this organization got its name, if they know little else about American history. The veterans recycle aluminum cans to supplement their scholarship fund, which also helps the ecology by keeping the cans out of the landfill.

The American Legion may be best known in the community for their sponsorship of American Legion baseball. They support many teams annually, and this past year the Columbia team went all the way to the national finals. Boys in the program learn about sportsmanship, which helps them get along with people as they go forward with their lives.

Boy's State is also an important contribution to the Legion. Thirteen boys are sent by the Post to Boy's State where they learn about how our Government works. Many have gone on to become leaders in government as well as industry.

The Legion sponsors an oratorical contest annually, which is wonderful training for youngsters. And Post 19 hosted the State contest, after which members of Auxiliary Unit 19 provided a complementary lunch for those attending, many who had come from a great distance.

Scouting is also sponsored by Post 19, and many young men have gone on to become Eagle Scouts under the leadership of members of the post.

The post cares for veterans who are ill, or have fallen on hard times, and when veterans, whether or not members of the post, pass from this Earth and their families request it, provide military honors at their burial. There have been as many as four such funerals on a day, and the annual number is between 80 and 100, sad to say, the number is increasing as World War II veterans grow older.

Many, if not all, worthwhile charities find a sympathetic ear and a generous purse at Post 19. Their spacious meeting hall is used by many organizations. The Red Cross Bloodmobile is at the site monthly, and a recent fundraiser for the American Cancer Society was held there.

Post 19 is greatly enhanced by Auxiliary Unit 19. Many local, State, and national causes receive their wholehearted support. Americanism is promoted, especially in the schools. Essay contests are held and hundreds of classroom flags given each year. On Memorial Day, more than 1,000 flags are placed on graves of veterans.

Realizing the importance of education, Unit 19 gives an annual scholarship in the amount of $500. Many of the recipients would not have been able to further their education without this assistance, as would those who received the nursing scholarships. Members of the unit visit the elementary schools and read to the children. A gun safety program is being taught to elementary school students. Drugs are purchased for children whose parents have no insurance. Essay contests help children learn about their country. Many would otherwise get little instruction in American history. An outstanding Teacher of the Year is recognized by the unit, and a substantial sum is given each year to the Educational Foundation, which uses their funds to provide materials for the classroom not provided by the school system. Fourteen girls are sponsored to Girl's State.

As does the Legion, the auxiliary never turns a deaf ear on those seeking their support. Recently, it was learned that a local child who is suffering from cancer would attend Camp Horizon, if funding was found, and the unit voted unanimously to fund a scholarship in the amount of $386.00. This is only one example of their generosity.

Child and spousal abuse is a concern of all Americans, and unit 19 has generously supported a local home for battered women.

Monthly visits are made to VA hospitals, and approximately $2,500 spent on gifts, food, etc., annually. Monthly parties are also held at local nursing homes as well. At least $1,000.00 is spent locally on charities each year.

Realizing that the fear of crime is a leading concern of all citizens, unit 19 is focusing on crime prevention this year. Citizens are encouraged to form Neighborhood Watch organizations. Crime Prevention Call-In was featured on a local cable television station, under the leadership of the unit.

These are but a few of the good things being done by a group of veterans and their wives, sisters, and daughters. Will you not agree with me that something is right with America in Columbia, TN?

TRIBUTE TO OFFICER WARREN NEAL

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. TOWNS. Mr. Speaker, I have concluded after years of public service and personal experience that the lifeblood of a stable and effective community is mutual cooperation. Today I am pleased to acknowledge a process of mutual cooperation that has served the Borough of Brooklyn and the community of Canarsie very well. I am referring to the relationship between the Canarsie Volunteer Ambulance Corp. and the work of police officer Warren Neal, community affairs officer of the 69th Precinct which encompasses the Canarsie community.

The Canarsie Volunteer Ambulance Corp. provides free emergency medical care and is funded solely through donations from the Canarsie community. Officer Neal, a professional with 28 years of experience, is being honored by the corporation for his distinguished and dedicated service. Mr. Neal embarked on his law enforcement career in 1968 with the New York City Police Department, assigned to the Times Square area. He was later transferred to Canarsie and served as a patrol officer and was subsequently assigned to be the auxiliary police coordinator. Officer Neal was promoted to Community Affairs Officer for doing an effective job in recruiting and training auxiliary police officers. In that capacity he has represented the precinct at local civic, fraternal, religious and educational events conducted within the Canarsie community. His selfless efforts have endeared him to the numerous Canarsie residents.

Officer Neal is a dedicated family man and has been married to his wife Patricia for 36 years. They have three children, James, Michael, and Suzanne, and five grandchildren.

I am pleased to acknowledge to two community success stories that are mutually linked. The Canarsie Volunteer Ambulance Corp. and its relationship with Officer Warren Neal has been a fruitful relationship that has nothing but positive results. I am pleased to highlight this exceptional example of community cooperation.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

PRESIDENTIAL AWARDS FOR EXCELLENCE IN SCIENCE AND MATHEMATICS TEACHING

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. TALENT. Mr. Speaker, I rise today to acknowledge, Linda Lee Hydar, Linda Marie Kralina, and Kathleen M. Vielhaber in recognition of their 1995 Presidential Awards for Excellence in Science and Mathematics Teaching.

The Presidential Awards for Excellence in Science and Mathematics Teaching Program, administered by the National Science Foundation, is designed to recognize and reward outstanding teachers from elementary and secondary schools. These teachers serve as models for their colleagues in many important areas. At the same time, through such awards, they are able to increase the visibility and rewards of teaching in hopes of encouraging high quality individuals to enter and remain in the educational field.

In addition to the individual recognition that Ms. Hydar, Ms. Kralina, and Ms. Vielhaber receive, the school at which each teaches will be given a $7,500 grant from the National Science Foundation. These funds are to be used under the direction of the recipients to continue their excellent work in educating our Nation's children.

Mr. Speaker, it is an honor and a privilege for me to pay tribute to these fine teachers, and commend them upon their efforts in ensuring the next generation of quality foundation from where they can pursue their ambitions. I join the National Science Foundation in honoring the excellent work that each of these three teachers has been able to accomplish.

THE LAW ENFORCEMENT AND CORRECTIONAL OFFICERS EMPLOYMENT REGISTRATION ACT OF 1996

HON. HARRY JOHNSTON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. JOHNSTON of Florida. Mr. Speaker, today I am introducing the Law Enforcement and Correctional Officers Employment Registration Act of 1996. This bill will establish a national clearinghouse to assist in background checks on applicants for law enforcement jobs. The bill is a companion to S. 484, introduced by my colleague in the other body, Senator BOB GRAHAM.

This legislation will establish a national data bank providing quick and accurate information regarding an officer's prior employment history. Maintained by the Department of Justice, it will be accessible to law enforcement agencies to assist in background checks of those seeking employment.

The intent of this legislation is to help prevent what have been commonly known as "Rogue Cops". These are police officers who have been dismissed or have been forced to resign from previous positions but conceal their employment history in job applications. Florida Department of Law Enforcement Commissioner James T. Moore said, "Experience has shown that, after being found guilty of misconduct, many problem officers resign or are fired, only to seek police jobs elsewhere."

The clearinghouse will simply be a pointer file, maintaining basic information on all certified officers, including name, date of birth, Social Security number, and dates of employment. To protect the rights of officers, it would not contain information relating to causes of dismissal. The potential employer would still hold primary responsibility for conducting a thorough background check, but this measure will mean officers could no longer conceal their prior employment history simply by moving from one State to another.

The 1990 beating death of Bobby Jewett in West Palm Beach is a devastating example of the consequences of concealed records. Once the employment histories of the two officers involved in the death were uncovered, it was revealed that they had gone through four States and eight different law enforcement agencies. Much of this had been left out of their job applications.

This legislation has the support of both national law enforcement organizations and local authorities. Few agencies have the personnel and resources to conduct thorough background checks on police applications. A nationwide data base is needed.

TRIBUTE TO THE CAREER OF WILLIAM THOMAS HART

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. GIBBONS. Mr. Speaker, Dedication. Integrity. Professionalism. Wisdom. Humility.

These are attributes that we hold in high esteem and seek in those who lead us. It is reassuring to recognize some of these attributes in individuals; it is remarkable when we can recognize all of them in a single individual. I would like to take a few moments to tell you about William Thomas Hart, one such individual.

This month marks the second anniversary of the signing of this century's most comprehensive multilateral trade agreements, the Uruguay Round of Multilateral Trade Negotiations under the General Agreement on Tariffs and Trade [GATT]. It also marks the first April since 1949 that the U.S. Government will not be able to call upon the expertise of William Thomas Hart.

For over 53 years Mr. Hart has served this country, first as a young naval officer in World War II, then as an outstanding civil servant. In July 1948, Mr. Hart joined the staff of the U.S. Tariff Commission, now the U.S. International Trade Commission, beginning a distinguished career of public service in the trade field that would span almost 50 years before his retirement in February 1996.

Mr. Hart specialize in the somewhat arcane but critically important area of tariff negotiations. He most recently served as the U.S. International Trade Commission's [ITC] Director of the Office of Executive and International Liaison, responsible for planning and directing the ITC's activities in support of U.S. trade agreement negotiations and implementation. During his years of service he advised U.S. trade negotiations in all of the principal rounds of multilateral negotiations conducted under the GATT. He was also a key adviser in the negotiation of the United States-Israel Free Trade Area Agreement, the United States-Canada Free Trade Agreement, and the North American Free Trade Agreement. His wise counsel and encyclopedic knowledge of events, both large and small, in the field of international trade have been sought out by innumerable government officials and business executives both here and abroad.

Not only did Mr. Hart provide invaluable advice during the course of negotiations, but when the trade negotiators' work concluded, Mr. Hart's most lasting contributions began. For example, after the hundreds of trade negotiators gathered in Geneva for the signing of the Uruguay round agreements had congratulated themselves on their success and returned to their capitals, Mr. Hart and a small number of his colleagues turned to the critical task of translating the political results of the negotiations into tangible benefits for U.S. businesses, workers, and consumers. Mr. Hart was personally responsible for the production, under very stringent deadlines, of almost 2,500 pages of documentation necessary to record our international tariff commitments and update our tariff schedules. Mr. Hart meticulously checked and cross-checked every line of information in these documents to ensure the United States commitments were accurately represented and new tariff rates properly calculated. This is but one example of the dedication and professionalism that Mr. Hart exhibited throughout his long career.

Mr. Hart's contributions and the critical support he provided to the agencies responsible for U.S. trade policy have been recognized by the President's trade representatives from Christian Herter, the first Special Trade Representative, to Mickey Kantor. The ITC also recognized the exceptional talents and dedicated public service of Mr. Hart by twice awarding him that agency's highest honor, The Commissioners' Award for Exceptional Service.

Mr. Hart's service to his country and to his fellow citizens deserves our recognition and our praise. Bill, congratulations on your retirement. You did you job well, and you did it with care and pride and warmth. Your sense of honor, as well as your vast historical knowledge of trade negotiations, will be greatly missed. Your career serves as a fine example for your colleagues and for the generations of Government employees who will follow in your path.

A GOOD MAN

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. POSHARD. Mr. Speaker, I rise to join the American chorus of praise for Commerce

Secretary Ron Brown and to join my colleagues in expressing our profound sorrow at the loss of his life in the plan crash in Croatia. And I also take this time to let the Nation know that a constituent of mine, Air Force Staff Sgt. Gerald V. Aldrich, of Louisville, IL, was a member of the crew and also perished in that terrible crash.

Because of that, the 19th district of Illinois was touched as much as any other in the Nation by the news from that rugged mountainside in a nation torn apart by civil war and cultural strife.

Unexplainable tragedies inevitably take with them outstanding people who are a credit to their families, friends, and communities. Certainly that is true with Sergeant Aldrich and Secretary Brown.

I have talked with the Aldrich family at length, and know that they are extraordinarily proud of their fine son. He entered the military shortly after graduating from high school and fashioned a career that was clearly taking him to leadership positions in the Air Force. On behalf of everyone in the 19th district, I send my deepest sympathies to his entire family.

As I comprehended Secretary Brown's death, I knew that most people would remember him for his efforts in the Democratic Party and for his global approach to supporting American economic interests. And while he must certainly be commended for those things, I knew that I would remember him much more for two very simple, relatively small projects which were extremely important to me and the people in my district. There are two major construction projects underway in my district right now because the communities made their case to the Commerce Department, and Secretary Brown made sure their needs were addressed. He was personally interested in how these projects would create jobs and improve the lives of working people, and I will always be thankful for that.

Mr. Speaker, two fine Americans were taken from us on that mountain in Croatia. I thank the Aldrich and Brown families for sharing their precious gifts with us for as long as they did, and commend their careers of public service to the rest of us to emulate and admire.

TRIBUTE TO GIRL SCOUT GOLD AWARD RECIPIENTS

HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. LAHOOD. Mr. Speaker, today, I would like to salute a group of outstanding young women from my district who have been honored with the Girl Scouts of the U.S.A. Gold Award by the Kickapoo Council of Girl Scouts in Peoria, IL. The seven girls who received this award are the following: Jennifer Baker of Troop 47; Jennifer Grafelman of Troop 22; Nora Hegwood of Troop 1000; Aria Hoekstra of Troop 581; Lee Ann Kroppel of Troop 22; Jordan Maricle of Troop 144; and Jennifer Roth of Troop 345.

The Gold Award is the highest achievement award in Girl Scouting. It symbolizes outstanding accomplishments in the areas of leadership, community service, career planning, and personal development. The Girl Scout Gold Award can be earned by girls aged 14–17 or in grades 9–12.

Girl Scouts of the U.S.A., an organization serving over 3.3 million girls, has awarded more than 20,000 Girl Scout Gold Awards to Senior Girl Scouts since the inception of the program in 1980. To receive the award, a Girl Scout must fulfill five requirements: earn four interest project patches; earn the Career Exploration Pin; earn the Senior Girl Scout Leadership Award; earn the Senior Girl Scout Challenge; and design and implement a Girl Scout Gold Award project. A plan for fulfilling the requirements of the award is created by the Senior Girl Scout and is carried out through close cooperation between the girl and an adult Girl Scout volunteer.

Jennifer Baker began working on the Girl Scout Gold Award in early 1994. Her project was completed by making presentations to high school students regarding the importance of making and keeping family values a priority in their life. She worked on this with the guidance and supervision of the Fulton County Health and Child Services Department.

Jennifer Grafelman began working on her Girl Scout Gold Award requirements in 1994. She completed her project by presenting a Children's Safety Awareness With Strangers Program for a local elementary school, grades K–3. This program not only gave valuable information to the students, but also provided parents with a photo of their child, fingerprints and video tapes of the children. The local school board was very supportive of this project.

Nora Hegwood started work on the Girl Scout Gold Award in 1993. Her project involved working with an Early Childhood Education Center to assess the abilities of children who do not have minimal playing skills and then to work with each of them in play therapy/play intervention to improve their level of play with other children. This involved an average of 2-hour-long play sessions several times over a 3-month period.

Aria Hoekstra began work on the Gold Award in 1993. She completed her project by making and gathering toys, games, and books and making a toy box for these items, then donating them to the children's ward of a local hospital. In addition, she visited the hospital on several occasions and read, played games, and became friends to the children.

Lee Ann Kroppel started her work on the Girl Scout Gold Award in 1994. She completed her project by presenting a Children's Safety Awareness With Strangers program for a local elementary school, grades K–3. Working with the local school board, she provided valuable information to students and parents, including a photo and video tape of the child, as well as fingerprints.

Jordan Maricle initiated work on her Gold Award in 1994. Her project was completed by teaching French in an elementary school where there are no classes in French. The school has cooperated in allowing this to be done with interested children. This project helps expand the horizons of children to another culture different from their own.

Jennifer Roth began work on the Gold Award in 1994. She completed her project by cleaning, recording, and setting up a database for all of the band trophies and awards in her high school. They have received over 450 honors. This project will be one that can continue and will be of historical value to the school.

The earning of the Girl Scout Gold Award is a major accomplishment for all of these young women, and I believe they should all receive the public recognition due to them for their significant service to the community and to the country.

SALUTE TO THE UPPER MONTGOMERY COUNTY FIRE DEPARTMENT

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mrs. MORELLA. Mr. Speaker, I rise today to salute the Upper Montgomery County Volunteer Fire Department, which celebrates its 50th anniversary this year.

The Upper Montgomery County Volunteer Fire Department was incorporated in 1946 as a result of a major fire in the area. Before that time, the closest firefighting and emergency medical help had to respond from a distance of 18 miles. The department has grown to serve 80 square miles and currently covers almost one-fifth of the county.

The department is comprised of 80 members, with active volunteers and career firefighters making up one-half of the membership. For 50 years, these dedicated members have willingly placed themselves in great danger so as to make the community safer for others. In volunteering to undertake the risks inherent in firefighting, they have shown a rare dedication to helping others.

From the auxiliary to the board of directors to the firefighters themselves, the Upper Montgomery County Volunteer Fire Department's members are committed to keeping the community safe and fire-free. I would like to call special attention to George T. Hillard, who has served as the elected volunteer chief for every year but one since 1958, and the five charter members who are still with us: Charles Elgin, Sr., Charles Staub, A. Leland Clark, Benoni Allnut, and R. Edwin Brown. I would also like to recognize George Reid for the many years of comfort he has provided as the chaplain for the department.

I am certain my colleagues will join me in congratulating the Upper Montgomery County Fire Department on 50 years of dedicated service, and wish them equal success in the many years to come.

TRIBUTE TO MADGELEAN BUSH

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. BENTSEN. Mr. Speaker, I rise today to pay tribute to a very special friend and community leader from Houston. Ms. Madgelean

Bush will be honored this Friday as the 1996 recipient of the Joint Action in Community Service, Inc.'s [JACS] National Volunteer of the Year Award.

Ms. Bush has been a JACS volunteer coordinator for 10 years and serves as the executive director of the Martin Luther King, Jr., Community Center's halfway house in Houston. A natural leader and administrator, she supervises a staff of 45 and manages two and a half million dollars in city, county, State, and Federal funds. Among other services, she and her staff and volunteers have assisted more than 2,400 Job Corps students in their transition from Job Corps training to community readjustment and the world of work.

Ms. Bush was selected for this year's honor from a group of 10 individuals nominated as outstanding regional volunteers.

JACS Southwest Regional Director Deloris Kenerson, who nominated Ms. Bush, described her as "a dedicated, humble, yet dynamic advocate for the Job Corps program." Ms. Kenerson added, "Harris County has more students returning home from Job Corps than any other county in the Southwest region. The assistance Ms. Bush provides helps promote self-sufficiency and self-worth among the young people returning to the Houston area from Job Corps training."

Ms. Kenerson attributes much of Ms. Bush's success to the fact that she refuses to accept that what is right is not always possible. If each person does his/her small part, then what is right can be accomplished. Ms. Bush has never given any of her staff the luxury of saying, It can't be done.

When not helping Job Corps youth, Ms. Bush volunteers for a host of other worthy causes. Over two decades of service, she has contributed to the Houston Inter Faith Hunger Coalition, the Riverside Health Clinic Advisory Board, Twilight Chapter No. 393 Order of the Eastern Star Prince Hall Masons, the Dodson Elementary Advisory Group, the United Methodist Church Conference of Church and Society, and the Texas Conference of Churches. She serves as a precinct judge and a member of the Texas Democratic Executive Committee from Precinct No. 247.

The mother of a grown son and daughter, Ms. Bush enjoys her grandchildren and 150 foster children.

I am proud to call Madgelean Bush my friend and congratulate her on becoming JACS National Volunteer of the Year.

TRIBUTE TO ANNE MARIE FOY

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. TALENT. Mr. Speaker, I rise today to recognize one of my constituents, Anne Marie Foy, a student at Cor Jesu Academy who was recently awarded a Voice of Democracy Scholarship from the Veterans of Foreign Wars. Ms. Foy's essay was one chosen as a national winner from over 116,000 submitted. The contest theme this year was "Answering America's Call" and I have included her winning essay below.

Good morning friends. I come today to speak with you about an issue that is both very dear to my heart and extremely vital to our nation's well-being. I speak about our answer as citizens to America's call. Today I want to take a moment to reflect on this call and to see it in its fullness, as a necessary element of our personal democracy. I hope to inflame your American passions with these few words. In fact, I dream to awaken everything about you that defines you as an American citizen.

In the past, to be an American was to determine your own destiny. It was to have a voice in your government and to take a considerable role in the governing of yourself and of your community. Never before in the history of the modern world had autonomy been so real, so tangible, and so evident. It was our political pluralism, the sovereign contract with our government as a democratic people, and our rights to assemble and disagree with our governing figures that united us as America. It was our political views that we transformed into civic activism and our personal involvement with the government that made us strong. The freedom we enjoyed as empowered citizens of this democratic nation led us to be one of the great superpowers of the world. We had found our strength as a country in our reply to the great American call.

The truest beauty of America is her people. Under a democratic government each individual enjoys protected rights and liberties, but this political system is dependent on civic activism. Thus to enjoy your political rights, you must fulfill your responsibilities as a citizen and accept a political role. We as Americans are owners of a political mechanism designed to pursue justice, yet somehow in contemporary American society we managed to misplace the operations manual and have forgotten how to keep this beautiful machine working. If we are a government of the people, why are the people so upset at the government? In order to look at the real root problems we must first quiet our partisan babble, we must calm our nationalistic frustrations, we must look fearlessly at ourselves and then we must listen. Listening for our genuine voice is the first step. It will require patience and integrity and ultimately it will lead to an answer. How do you reply to this democratic call?

You must first reply through education. We as citizens must become knowledgeable of our history, our laws, and our government structure. If we are not educated, these institutions will cease to exist. We must strive to be aware of current issues, and how our government is responding to them. We as United States citizens are the government. We cannot shut our eyes to what our representatives are doing.

Education must be followed with action. A democratic state is dependent on this integrity. Whether we sit in on city council meetings, write letters to our government officials, or protest against things we view unjust, we must reply to the American call. If we feel far from Washington D.C. or detached from government, then we should rise up and demand straightforward dialogue. We must get past this glossy, polished, television image of the government. For we are the government. We are real. We are not polished. We are human. We have mentally separated ourselves from the government in this country. Government officials are no longer extensions of the people but, professional television personas. If we are upset with public officials, then we must vote them out of office. If we are tired of corrupt politicians, then we must speak with honesty ourselves and elect honest citizens. If we are exasperated with government programs, then we must take our seat on planning committees.

In a world where so many fought and died for their independence, for their freedom, for their autonomy, America and her people should stand as an encouraging light and example. We have so many brilliant minds, and caring hearts, and noble spirits, and yet America seems lost, somewhat bewildered about her path, her future. We are her future. Our parents, our children, our countrymen, and our very selves, we are the ones that must decide her path. First we must hear the call and then as Americans, boldly and courageously, we must answer.

THE MARCH OF THE LIVING PROGRAM

HON. HARRY JOHNSTON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. JOHNSTON of Florida. Mr. Speaker, April 16 marks Yom Hashoah, Holocaust Remembrance Day, on which we pay tribute to the memory of he 6 million Jews who died in concentration camps during World War II and take pride in programs, such as the March of the Living, which educate new generations on the Holocaust.

I was first apprised of this program by my good friend, Ernest Goldblum of Delray Beach, FL, who has worked with great love to promote this international program. Since its inception in 1988, over 20,000 high school students of Jewish heritage have traveled to various countries to visit concentration camps and witness the gas chambers, crematoria, and stockpiles of clothing and shoes left behind by the victims of the Holocaust. This important program provides young students from around the world with the opportunity to come together to learn of their ancestors' contributions, the atrocities committed against them, and the triumph of the Jewish Nation to survive and create their own state—the State of Israel.

The March of the Living Program is a compelling program that fosters a deeper understanding of the Holocaust, reminds us of the dangers of complacency, and commemorates what happened during World War II and the human spirit that triumphs with the Jewish Nation. I am encouraged by the statements made by countries, such as Austria, who have expressed an interest in participating in the March of the Living Program in the future.

SIKH NATION CELEBRATES ITS 297TH BIRTHDAY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. TOWNS. Mr. Speaker, on April 13, 1996 the Sikh nation celebrated its 297th birthday. Sikhs call this day Vaisaakhi Day. It was on Vaisaakhi Day in 1699 that the tenth Sikh Guru, Guru Gobind Singh, baptized the Sikhs into nationhood. Sikhs refer to their nation as the Khalsa Panth.

Since becoming a nation, Sikhs have experienced periods of great prosperity and periods of immense, brutal repression. Sikhs ruled Punjab from 1710 to 1716 and again from 1765 to 1849, establishing an enlightened form of government that recognized the equality of all citizens regardless of religious affiliation or social class standing. Sikhs have also persevered through periods of immeasurable oppression from Mogul invaders who desecrated the holiest of Sikh shrines, the Golden Temple in Amristar and who slaughtered Sikhs who refused to deny their faith. Throughout their entire history Sikhs have persisted in the command given to them by Guru Gobind Singh to stand up against tyranny and oppression no matter where it exist.

Today Sikhs find themselves again standing up against tyranny and oppression. This time the oppressor is the Government of India. Indian forces have murdered over 150,000 Sikhs since 1984. In June 1984 the Golden Temple was again desecrated, this time by the Indian military. In that assault, over 20,000 Sikhs were killed. In November 1984, over 40,000 Sikhs throughout India were killed by mobs instigated to murder Sikhs by leading members of the ruling Congress (I) party. According to prominent human rights activists in the Sikh homeland, the number of Sikhs who have been "disappeared" or illegally killed in "fake encounters" may be over 100,000. One Sikh human rights activist, Jaswant Singh Khalra, was abducted by Indian police on September 7, 1995 after he released a report showing that the Indian regime has abducted, tortured, murdered and cremated over 25,000 Sikhs. On October 19, 1995, 65 Members of the Congress sent a letter to Indian Prime Minister P.V. Narasimha Rao demanding Khalra's release. Mr. Khalra's whereabouts remain unknown, 7 months after his abduction.

India desperately wants the world to believe that the Punjab is a tranquil place and that Sikhs eagerly want to remain part of India. I want my colleagues in the U.S. Congress to know that the only peace in Punjab is the silence of a nation suffocating in the stranglehold of Indian repression. Every Sikh who has been bold enough to stand up and advocate the freedom of Khalistan through peaceful means has felt the immediate sting of Indian brutality. In January 1995, Simranjit Singh Mann asked a crowd of 50,000 Sikhs if they supported the independence of Khalistan through peaceful means. All 50,000 Sikhs raised their hands in support. Mr. Mann was then arrested by Indian police for asking this question despite the fact that in 1992 the Punjab and Haryana High Courts in India ruled that waging a peaceful struggle for self-determination is no offense. The hypocrisy of the Indian Government is evident. It is clear to Sikhs and non-Sikhs alike that India simply wants to prevent the Sikhs from enjoying their right of freedom.

In the face of this kind of repression, Sikhs are reminded of their duty to stand up against tyranny wherever it exists. On October 7, 1987, the Sikh nation declared itself independent from India forming the separate country of Khalistan. This Vaisaakhi Day, Sikhs are emboldened to carry on their struggle for freedom in the face of immense brutality, because to be a Sikh means either to live free of tyranny or to persistently struggle against it.

I call on my colleagues in the Congress to join me in supporting the Sikhs nation's struggle for freedom. As Americans it is our duty to do so, because like Americans, the Sikhs are a freedom-loving people struggling to break the chains of tyranny. Sikhs want to live in peace and be allowed to develop to their fullest potential. Sikh and American ideals parallel one another to a great degree, and it is my firm conviction that an independent Khalistan would be America's strongest ally in South Asia. Khalistan would form a buffer nation between India and Pakistan, thus reducing the potential for armed conflict between the two countries. Khalistan would also agree to the nuclear nonproliferation efforts currently being made by the United States and the international community in South Asia. And unlike India which depends on IMF loans and U.S. assistance to feed its people, while secretly spending billions on developing nuclear weapons and crushing freedom movements, an independent Khalistan would develop itself along the lines of a South Korea or a Taiwan, cultivating economic self-sustainability.

For America, the Sikh vision of an independent Khalistan is an attractive alternative to the current state of affairs in South Asia—a vision of economic development, nuclear nonproliferation and regional stability. Today, however, Sikhs are reeling under the boot of Indian state repression. I call on my colleagues to support the independence of Khalistan and help the Sikh nation obtain the freedom it so rightly deserves.

HONORING THE 1995–96 BASKETBALL SEASON OF THE POPE COUNTY PIRATES

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. POSHARD. Mr. Speaker, perhaps nothing in sports is as thrilling as the underdog beating the odds and having success. The story of a small-town Indiana basketball team was made famous by the movie "Hoosiers." Well, this past season, the Pope County Pirates lived out a similar story line, as this school near Golconda, IL, with an enrollment of 191 students came within one game of making the State finals. Along the way, they energized the surrounding area with their overpowering play in the regular season while displaying gritty determination in the playoffs. I would like to congratulate the players and coaches on a fantastic, record-setting campaign.

Second-year head coach Andy Palmer led his cagers to a team record 27 victories against only 3 defeats, smashing the old mark, set the year before, by 6 wins. The Pirates advanced farther in the State tournament than any previous Pope County team. winning the school's first sectional game and championship before bowing out in their maiden trip to the super-sectional. Also, they had the smallest enrollment of any school to advance to the Sweet Sixteen. The senior-led ball club dominated their opponents by an average 18½ points a game, easily winning the Greater Egyptian Conference.

Mr. Speaker, we need only remember the NCAA basketball finals 2 weeks ago or the Masters golf tournament last weekend to know how much sports provide us in terms of excitement, commitment, and emotion. The players of the Pope County Pirates have given something to their parents, friends, and community that can never be taken away, and that they can cherish for the rest of their lives. For that special gift to all of us, I thank them, and would like to read their names for the record, as well as those of the assistant coaches. cheerleaders, and management staff, as they all played an integral part of the team's accomplishments. The players: Casey Dugan, Patrick Presser, Ryan Fritch, James Joyner, Jason King, Clint Taylor, Jackie Scarborough, Brad Maynor, Mark Brueggert, Robin Pfeifer-Thompson, Rich Eddington, Dustin Turner, Jason Teitloff, Gordon Dugan, and Eric Suits. The assistant coaches: Eric Messmer and Tyler Presser. The cheerleaders, Misty Boyd, Julie Jeffords, Becky Roper, Kim Faulkner, April Vasseur, Marty Eason, Courtney Leach, Janice Shetler, Alisha Morris, Amey Hogg, Keesha Swinford , Rachel Douglass, and Kara Suits. The management staff: Brandie Simmons, Brandy Maynor, Jenny Skaggs, and Travis Kluge.

TRIBUTE TO THE FIRST BAPTIST CHURCH OF WESTON, FL

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. DEUTSCH. Mr. Speaker, today I pay tribute to the First Baptist Church in Weston, FL, which will begin a great undertaking next week as they break ground on a new 18,000-foot facility.

As south Florida has grown over the past several decades, First Baptist has played an increasingly important role in southwest Broward County. This church home has grown from a small community to what is today a family of over 900 believers.

This very special group of people have reached out to the community and have focused their energies on including everyone in Weston. Led by an ever growing ministry, their outreach programs have already been a positive influence in the lives of many.

The new facility which they are constructing will offer new space for workship and for education. This facility will also provide a recreational area for this community, as well as, for the church and Weston Christian Academy.

Mr. Speaker, in today's world in which so many are building walls, First Baptist Church is breaking them down. Their inclusive mission and programs are to be commended, and I know that if every community in our Nation shared their spirit and their mission, we would not face nearly so many problems today.

ALGONQUIN ARTS COUNCIL PRESENTS A TRIBUTE TO ERA TOGNOLI

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. PALLONE. Mr. Speaker, on Saturday, April 20, 1996, the Second Annual Algonquin Arts Ball, "A Tribute to Era Tognoli," will be held at the Warren Hotel in Spring Lake, NJ. On this occasion, Ms. Tognoli will receive the Algonquin Arts Award for Outstanding Service to the Arts for her contribution to the cultural life of the Jersey Shore area as founder and director of the Metro Lyric Opera Company and the Monmouth Opera Festival. Ms. Tognoli will also receive funding to establish an operetta series at the newly refurbished Algonquin Arts Theatre in Manasquan, NJ, and to continue opera education for children.

Saturday's ball will benefit the Algonquin Arts nonprofit corporation, which seeks to bring live performance programs and arts education to the Shore community. Proceeds from last year's ball sponsored a new children's concert series presented by one of the Shore area's great artistic traditions, Father Alphonse Stephenson and the Orchestra of St. Peter by the Sea. Live productions, children's theater, and educational programs have been highlights of the past season, while programming is being expanded to include ballet, jazz, and historic dramatizations.

Mr. Speaker, I am concerned that many people, including some Shore residents, do not realize the wonderful tradition of artistic and cultural offerings in coastal New Jersey. While the Jersey Shore is known for many things, many people often assume that you have to go to New York or Philadelphia for first-rate artistic events. Not true. I salute Era Tognoli, the Council of the Algonquin Arts Non-Profit Corporation, their board of directors and their many members and contributors, for continuing to contribute to excellence in the arts and further enhancing the quality of life in that unique region we proudly call the Jersey Shore.

TRIBUTE TO THE LATE THOMAS F. QUINLAN, SR.

HON. JOHN SHADEGG

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. SHADEGG. Mr. Speaker, it is with great sadness that I announce the death of a courageous American who fought for more than four decades on behalf of the principle that no worker should be forced to pay union dues as a condition of employment.

Thomas F. Quinlan, Sr., father, husband, teacher, small businessman, and public servant, died February 11 at his home in Wheaton, IL, where he moved after retiring to be near two of his six children.

As a history teacher in New Milford, CT, for 24 years and owner of a small lakeside resort for 20 years, Tom Quinlan appreciated the importance of right to work for both workers and small businessmen.

Mr. Quinlan also served three terms in the Connecticut general assembly, from 1954 to 1960. During those years, he worked tirelessly for enactment of a Connecticut right to work law, but was frustrated by the State's powerful union political machine, fed by the forced dues of the very workers whose rights Mr. Quinlan was working to protect.

But he never gave up.

After leaving electorial politics, Mr. Quinlan carried on his efforts, to bring the benefits of voluntary unionism to Connecticut's workers by helping to found, and serving as president of, the Connecticut Right to Work Educational Committee.

Tom Quinlan was also a leader in the fight against compulsory unionism on the national level, serving as a board member of the National Right to Work Committee, which has led the fight for worker freedom across the country for over 40 years, from 1965 until his recent passing.

As a member of the committee's board, Mr. Quinlan helped guide the right to work movement through its successful battles against big labor's attempt to repeal section 14(b) of the Taft-Hartley Act in the mid-sixties, the phony labor law "reform" bill of the seventies, and the so-called anti-striker replacement bill in the nineties.

His last service to the cause of freedom was helping to launch the campaign to pass the National Right to Work Act (S. 581/H.R. 1279), which will soon be voted on in the Senate.

That Congress is even considering repeal of those sections of Federal labor law that authorize forced-dues contracts is in no small measure due to Mr. Quinlan's work.

Remembering his departed colleague, National Right to Work Committee president Reed Larson recalled his optimism, "No matter how many temporary setbacks right to work forces suffered, Tom Quinlan remained confident that our cause was just and would prevail in the end."

I stand before this body to pay tribute to Tom Quinlan's achievements and to offer my condolences to his family and friends.

All Americans owe a debt of gratitude to this former history teacher and small businessman's tireless efforts on behalf of right to work, and those of us who remain active in this fight should share Tom Quinlan's firm belief in the eventual triumph of the right to work cause.

RECOGNIZING LAW DAY AT DIABLO VALLEY COLLEGE

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. BAKER of California. Mr. Speaker, on May 1, we will commemorate Law Day throughout America. The theme of "liberty under law" is as old as our Republic, and is central to understanding who we are as a people. Freedom without just legal restrain becomes license; law not moderated by respect for human rights is merely authoritarian.

At Diablo Valley College in my home district in California, Law Day will be celebrated under the theme of "We the People: The United States Constitution—the Original American Dream." A ceremony will be held at the College's Performing Arts Center and citizens from around the Contra Costa region will enjoy a presentation of what our Constitution, our laws, and our institutions mean to us all.

I am pleased to recognize Diablo Valley College for its commitment to the legal framework of our society, and most especially the College's reaffirmation of the value of our Constitution. The American Dream—a dream of "freedom and justice for all"—is alive and well, and Diablo Valley College deserves recognition for its role in honoring some of the best of our traditions.

A TRIBUTE TO THE HONORABLE RON BROWN FOR DISTINGUISHED SERVICE TO U.S. CITIZENS

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. SENSENBRENNER. Mr. Speaker, I rise today to pay tribute to the late Secretary Ron Brown, an American who distinguished himself as a leader in the Democratic Party and an outspoken supporter of free trade while serving as Commerce Secretary.

During his youth, Mr. Brown excelled in school. His success led him to Middlebury College in Vermont, which he attended on a ROTC scholarship. After graduating in 1962, Mr. Brown entered the Army and rose to the rank of captain.

Throughout his life he held many important positions in both the private and public sectors. Secretary Brown ably assisted Senator KENNEDY on his staff and with the Judiciary Committee. In addition, he was a highly sought lobbyist with Patton, Boggs & Blow.

Mr. Brown impressively unified the Jesse Jackson and Michael Dukakis supporters at the 1988 Democratic National Convention. His efforts propelled him to chairman of the Democratic National Committee, where he ably served for 4 years, culminating in Bill Clinton's 1992 election. Ron Brown deservedly received much of the credit for his work with the Clinton campaign.

Over the past 3 years, Mr. Brown had directed his efforts toward improving trade and commerce for the United States. He served as a proud emissary for American interests.

Mr. Brown was a talented and tireless adversary on the campaign trail as well as a distinguished member of the Clinton administration serving on behalf of the American people. I offer my condolences to the family and friends of Secretary Ron Brown.

IN RECOGNITION OF OPPORTUNITY INC.

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. PORTER. Mr. Speaker, I am pleased to rise today to recognize Opportunity, Inc., an outstanding organization located in Highland Park, IL.

Opportunity, Inc. is a unique, not-for-profit contract manufacturer that employs 150 persons, 80 percent of whom have developmental, physical and/or emotional disabilities. Founded by local construction executive John Cornell in 1976, who still serves on the board of directors, the company will be celebrating its 20th anniversary on May 7, 1996 at a benefit dinner to be held at the Hotel Nikko in Chicago, IL.

The company's mission is twofold: First, to provide a mainstream plant environment in which handicapable persons can work and earn a paycheck along with the dignity that comes from being employed productively on a full-time basis; and second, to provide its private sector customers with the best possible quality, price, and service.

In this age of fiscal restraint, Opportunity, Inc. stands as an outstanding example of how to accomplish an important social mission without using any Government subsidies. The key to the company's success is its determination to compete for business strictly on the basis of quality, price, and service.

Mr. Speaker, Opportunity, Inc. has demonstrated how competitive and productive handicapable employees can be. Opportunity, Inc. built and continues to operate the only not-for-profit, certified class "clean room" for medical and surgical packaging in the country. So stringent is Opportunity's commitment to quality that it has not had a lot rejected by its major medical/surgical customer—Baxter International—for more than 6 years.

Most important of all, however, is the pride of workmanship that you sense when you visit Opportunity, Inc. During a recent visit, I experienced firsthand how dedicated and competitive these employees are about their work. One man in his thirties said it best of all: "Congressman, all we need is a fair chance to compete. That's what we get here at Opportunity and just look at the results."

I am pleased to send congratulations to the employees, management and directors of Opportunity, Inc. on the occasion of this remarkable company's 20th anniversary, along with best wishes for their continued success into the next century. I also commend Opportunity, Inc. as a worthy example to my colleagues, who believe, as I do, that we must look to the private sector and to the local level for alternative solutions to difficult social problems such as unemployment among those with disabilities.

A TRIBUTE TO HARRY LARRISON, JR.

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. ZIMMER. Mr. Speaker, I rise today to honor a remarkable individual, Mr. Harry Larrison, Jr. of Ocean Grove, NJ. Mr. Larrison will be honored on Wednesday, April 17, 1996, at a testimonial dinner commemorating 30 years of service to the U.S. Freeholders. His years of service merit him the honor of being the dean of the U.S. Freeholders. I am proud that I have known Harry for many years both as a friend and a colleague in the State of New Jersey.

Harry's involvement in politics began at the age of 19 when he received an appointment to the Neptune Township Housing Authority. He went on to fill a vacancy and get reelected twice to the Neptune Township Committee. In 1966, Harry was asked to fill a vacancy on the Board of Chosen Freeholders. His appointment to this position began what has become a legacy of public service.

Over the years, Harry has been instrumental in the progressive development of Monmouth County government. The county has a number of distinguished facilities that can be attributed to Harry's dedication and insight, including an award-winning park system, the largest library system in New Jersey, and the county-owned Brookdale Community College.

Harry's foresight allowed him to recognize and develop a solution to the impending environmental problems associated with garbage waste disposal in Monmouth County. Despite significant opposition, Harry championed the development of a county-owned landfill which has improved the environment and generated a recycling problem that became the model for many programs around the State.

In 1995, Gov. Christine Todd Whitman appointed Harry to a seat on the prestigious New Jersey Highway Authority. In addition, he has served the State as a member of the State Department of Civil Service Intergovernmental Advisory Committee and as a former president of the New Jersey Association of Counties.

Harry Larrison remains an active member of the Eagle Hook and Ladder Fire Company of Ocean Grove where he served as chief. He also is a member and former captain of the Ocean Grove First Aid Squad, a member of the Neptune Township Citizens Advisory Committee, a member of the Ocean Grove Masonic Lodge No. 328, and Elks Lodge No. 128 of Asbury Park.

Although Harry has dedicated much of his life to Monmouth County and the State of New Jersey, nothing is more important to him than his family. I join his two daughters and two grandsons in thanking for his many years of dedication and service and wishing him all the best for the future.

AMERICA'S CABOTAGE LAWS ARE VITAL TO THE SUCCESS OF OUR U.S. FLEET

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. CUNNINGHAM. Mr. Speaker, earlier this week, all 14 members of the National Security Committee's Special Oversight Panel on the Merchant Marine circulated a "Dear Colleague" letter expressing our strongest support for America's cabotage laws, including the Jones Act, and our continuing opposition to changes in these laws. Effective at the beginning of this Congress, the National Security Committee became the committee of primary jurisdiction over cabotage matters such as the Jones Act. In addition, a majority of the members of the Coast Guard and Maritime Transportation Subcommittee also signed the "Dear Colleague."

In the letter, we noted the national security, economic, environmental and safety benefits of the cabotage laws. I have a particular interest in the national security importance of the U.S. fleet. Recently, 61 retired Navy admirals, including five former Chiefs of Naval Operations, penned an open letter to Congress calling the commercial maritime infrastructure of the United States—the domestic vessel operators, shipyards, seafarers and others operating under the cabotage laws—the true source of our maritime power. This is an extraordinary endorsement from the people who know best.

This "Dear Colleague" sends an unmistakable message to those who have spent the last year attempting to tear down the Jones Act and allow foreign ships into our domestic commerce. The Merchant Marine Panel's commitment to America's cabotage laws is unanimous. Although those 14 members—Democrats and Republicans, liberals and conservatives—disagree on many issues, there is an absolute agreements on the importance of cabotage. We will continue to oppose any changes to these important laws.

A copy of the "Dear Colleague" letter is attached. Signers of the letter include Representative HERB BATEMAN, chairman of the Merchant Marine Panel; Representative GENE TAYLOR, ranking member of the panel; Representative DUNCAN HUNTER, chairman of the Subcommittee on Military Readiness; Representative RON DELLUMS, ranking member of the full National Security Committee; Representative BOB CLEMENT, ranking member of the Coast Guard Subcommittee; Representative RANDY "DUKE" CUNNINGHAM; Representative WILLIAM J. JEFFERSON; Representative CURT WELDON; Representative JIM LONGLEY; Representative BOB BORSKI; Representative JOE SCARBOROUGH; Representative NEIL ABERCROMBIE; Representative TILLIE K. FOWLER; Representative JIM SAXTON; Representative PATRICK KENNEDY; Representative OWEN PICKETT; Representative DON YOUNG; Representative JANE HARMAN; and Representative SUSAN MOLINARI.

CABOTAGE LAWS PROVIDE IMPORTANT NATIONAL BENEFITS

DEAR COLLEAGUE: Congress has always supported the principle that vessels used to transport cargo and passengers between U.S. ports should be built in the United States, crewed by American citizens, and owned by American companies. The body of law affirming this principle is known as "cabotage" and is sometimes generically referred to as the Jones Act. (Other countries throughout the world, including major industrialized nations and key U.S. trading partners, have similar cabotage laws.) These laws provide critical national security, environmental, safety and economic benefits and deserve our support.

The national security benefit of the domestic fleet is substantial. In times of international crisis, the U.S. domestic fleet keeps goods flowing reliably and securely between U.S. ports, supporting military action overseas. In times of peace the cabotage laws help assure a vibrant, competitive marine infrastructure so critical to our nation's security. A recent letter to Congress from 61 retired Navy admirals, including five former Chiefs of Naval Operations, stressed the importance of the domestic fleet:

> American maritime power is the sum of our national maritime infrastructure . . . Carrier battle groups and modern containerships are at the forefront, militarily and economically. However, it is the shipyards and their skilled artisans, the pool of experienced and trained seafarers, marine suppliers large and small, vessel insurers and financiers, and the federal, state and private maritime training establishments that constitute the true source of our total power.

Of particular significance, the U.S. fleet provides vessels and crews to meet U.S. security needs without requiring the Defense Department—and hence the taxpayer—to bear the substantial costs of building, manning, and maintaining a government fleet and logistics capacity already provided by the private sector.

Repeal of the cabotage laws would result in a takeover of our domestic waterborne transportation system by foreign companies. Those foreign companies could enjoy a significant competitive advantage by: 1) operating subsidized vessels (U.S. domestic fleet vessels are not subsidized); and 2) operating exempt from the American tax system, labor laws, safety statutes, environmental requirements and a host of other laws. Our maritime industry—as well as railroads, truckers, and others engaged in the competitive American transportation business—should not be asked to compete here under a system that institutionalizes a capital and operating cost advantage to foreign operators. The American government must not discriminate against American business in this fashion.

The cabotage laws promote the highest standards of marine safety and environmental protection in U.S. ports and waterways. These laws ensure that vessels moving between U.S. ports comply with the full range of applicable environmental and safety laws, all of which are among the world's highest. The U.S. Coast Guard's ongoing "Port State Control" initiative, which aims to crack down on substandard foreign-flag vessels calling at U.S. ports, underscores the important contribution made by the cabotage laws in preserving the health of our resources-rich waters and coastlines.

Finally, because of our cabotage laws, the economic benefit of the U.S. domestic fleet is substantial. Our fleet pumps some $15 billion into the nation's economy annually, including $4 billion in direct wages to the 124,000 American workers employed in the operation, construction, and repair of Jones Act vessels. Jones Act wages alone generate $1.4 billion in Federal and state tax revenues. Because the domestic fleet receives no operating or construction subsidies from the U.S. government, these benefits accrue to the nation at no expense to the federal government or to the U.S. taxpayer.

American cabotage laws greatly benefit the U.S. national security, economy, and natural environment and deserve our committed and continuing support.

THE LEGACY OF JIM ROUSE

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. LAZIO of New York. Mr. Speaker, when I decided last Wednesday that I wanted to come to the floor to speak about Jim Rouse, I realized that there is a lot to talk about. Jim's involvement in housing and community building spans seven decades and represents some of the most important changes in how this country lives.

Jim Rouse's legacy is enormous, but it is more than creating the idea of a shopping mall. It's more than a Presidential Medal of Freedom. It's more than his work for the Federal Housing Administration in its infancy during the Great Depression, when it played such an important part in Americans lives and forged a new path for home finance. His legacy is more than the work he did for President Eisenhower's task force on housing in 1953 or for President Reagan's task force on private housing in 1982.

Jim Rouse's legacy goes beyond places like Columbia, MD, a town not far from this very building where his vision of integrated, economically varied community of families took root. His legacy is more than the revitalized urban areas in Boston and Baltimore and other cities across the country whose citizens owe him such a debt for his hard work and vision of the healthy and vibrancy that their neighborhoods and communities could regain.

Jim Rouse's legacy goes beyond even the Enterprise Foundation that he created in 1982 with his wife Patty and the goal of seeing that all low-income people in this country should have decent housing and an opportunity to pull themselves out of poverty.

Jim Rouse's most important legacy is his belief that we, as a Nation and as a national community, cannot and will not abandon cities and the families and people who live in them. We must embrace inner-city neighborhoods and work to improve their economies and to renew their vibrancy. Jim Rouse believed in the importance of cities both as centers of commerce and as a fundamental basis of what makes up our national identity—our fundamental American character.

It's a proud and potent legacy.

More than 10 years ago Jim Rouse said in an interview that "we need to work from the neighborhoods, from the bottom up" to create the necessary systems to deal with low-income families and poverty-stricken neighborhoods. He was pursuing just that kind of model when he died. His work in Baltimore's Sandtown-Winchester community tried to address all of the needs of a dysfunctional community—housing, education, health care, public safety and employment—to create a community based strategy.

Mr. Speaker, this country was very fortunate, not only to have had him a part of our national community, but to have had him play such an important role in shaping our national character and in defining not only who we are, but who we ought to be. I hope that we can continue to work in the spirit Jim Rouse inspired.

IN RECOGNITION OF DAN RIEDL'S "ANSWERING AMERICA'S CALL" WINNING COMPOSITION

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. OXLEY. Mr. Speaker, I want to take this chance to recognize Daniel Riedl, the Ohio State winner of the Voice of Democracy broadcast contest. This competition is sponsored by the Veterans of Foreign Wars and its Ladies Auxiliary.

Mr. Riedl exemplifies the civic and patriotic strength of much of today's youth. Mr. Riedl recounts the story of his immigrant grandfather who came to this country and worked his way through our educational system to earn his doctorate. His grandfather also defended this country in World War II. The United States is the land of freedom, but it is also a land where determined individuals use this blessing for a greater good. Mr. Riedl's grandfather did this and Mr. Riedl continues this responsibility today. America is the land of opportunity, but it would not be so if there were no people like the Riedls, who are willing to defend its ideals. I congratulate Daniel Riedl and his stirring account of freedom, responsibility, and sacrifice.

TRIBUTE TO RICHARD LEROY LEHNER

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. CAMP. Mr. Speaker, it is with great pleasure I rise today to congratulate Comdr. Richard Leroy Lehner of Sumner, MI, on his retirement as Michigan's State Commander of Foreign Wars.

Mr. Lehner has a long and distinguished career with the Veterans of Foreign Wars, first joining with the Mark Daniels V.F.W. Post #1735 in 1986. After years of hard work, and endless dedication, Richard was proudly elected as State commander on June 18, 1995.

His motto while State commander was "One Step Ahead" which clearly represents not only his personal commitment, but also the immense role he played in the progress and development of the V.F.W. Under Mr. Lehner's leadership were 86,479 members in the State of Michigan with 431 posts, 14 districts, and 10 county councils.

Mr. Speaker, Richard Lehner's active participation in the V.F.W. and community has earned him the respect and admiration of friends, family, and fellow community leaders. Richard's love of and dedication to this country and the American veterans is clear. He has consistently gone beyond what was expected or required to achieve excellence. His reputation as an honest, dedicated, hard-working public servant will serve as an example for many years to come. I know you will join me in recognizing his achievements and wishing him a satisfying retirement.

SARAH L. WATSON-BLANDING

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. TOWNS. Mr. Speaker, I want to recognize the contributions of one of Brooklyn's most committed community activists, Sarah L. Watson-Blanding.

Sarah is a native of Cameron, SC, and the daughter of Mrs. Hester Bookhardt and Mr. Richard Watson. After an early education from Orangeburg, SC, schools, she graduated from Claflin College with a major in Social Science and a minor in Education. Sarah also did graduate work at New York University.

For the past 25½ years, Sarah Blanding has been an outstanding employee with the Department of Labor. For her work, Sarah received both the Merit Award and the Julius Shapiro Youth Award for the highest placement of youth in New York City.

Sarah has continued her collegiate activism with the Zeta Phi Beta Sorority and the NAACP. She is also an energetic member of the New Canaan Baptist Church and is presently the president of the Brooklyn Alumni Association of Claflin College. Sarah and her husband Jesse have one daughter, Renee, a graduate of Brown University who resides in Atlanta.

I comment Sarah Watson-Blanding on her exceptional commitment and dedication to youth and the Brooklyn community at large.

PHARMACIST'S PATIENTS PROTECTION ACT OF 1996

HON. MICHAEL D. CRAPO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. CRAPO. Mr. Speaker, I rise today to introduce the Pharmacist's Patients Protection Act of 1996. This legislation relates to an everyday common occurrence, namely getting a prescription filled at your local pharmacy. As we all know, when you go to your pharmacy for a prescription, the pharmacist not only offers to counsel you on how to take your medication safely and effectively, but the pharmacist also provides detailed written information that is understandable and user friendly when the prescription is dispensed.

Through the use of computer technology, consumers routinely receive written information about prescription drugs from their pharmacist in a variety of retail settings, such as pharmacies located in supermarkets, chain drug stores and independent pharmacies. And not only are pharmacists providing the information voluntarily, more importantly this written information is often specifically tailored to the particular needs of the patient in order to achieve the maximum benefit from the prescribed medication.

I applaud community pharmacists for their dedication and commitment in this important area of patient education and information, but apparently these voluntary efforts aren't good enough for the Food and Drug Administration. Even though every survey conducted since 1994 shows that patients routinely receive written information on both new prescriptions and refills, FDA has decided that it wants to mandate this aspect of pharmacy practice and to restrict pharmacists so that only the information that FDA deems appropriate is distributed to patients.

In other words, FDA knows better than your personal physician and your pharmacist regarding the information you should receive. And on top of this, FDA wants everybody to get the same information, no matter whether you are elderly, a young child, male, female or pregnant.

The cost of this particular FDA initiative, called the Medguide Program will exceed $100 million each year to mandate what pharmacists are already doing voluntarily right now. FDA's Medguide Program is unnecessary, very costly and is the wrong approach.

Additionally, I should mention that FDA's Medguide Program exceeds the agency's statutory authority. While FDA does have legal authority over the content of a drug manufacturer's labeling and advertising, FDA has no authority whatsoever over the professional practice of pharmacy. Standards of professional practice, including patient care, counseling and the dissemination of written information to patients has always been and still are the responsibility of state boards of pharmacy—not FDA.

In summary, Mr. Speaker, the legislation I am introducing will prohibit the FDA from using any of its funding to implement its proposed Medguide Program.

We don't need this costly mandate from the FDA when the competitive retail pharmacy marketplace is making great strides in providing consumers with meaningful, accurate and easily understood written information about prescription drugs. I urge my colleagues to cosponsor and support the Pharmacist's Patients Protection Act of 1996. Let's stop the misguides Medguide Program.

RECOGNITION OF CONGREGATION AM SHALOM'S MITZVAH DAY

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. PORTER. Mr. Speaker, I am pleased to rise today to recognize Congregation Am Shalom of Glencoe, a synagogue in the 10th District of Illinois whose members are making a positive and wonderful contribution to our community.

Congregation Am Shalom has designated Sunday, April 28, 1996, as a Mitzvah Day. In the Jewish religion, a mitzvah is a commandment to perform acts of kindness to others. Mitzvah Day will be a voluntary, congregationwide community service endeavor to reach out with philanthropic hearts and resolute hands to the surrounding community and to help people in all walks of life.

As many as 1,000 Am Shalom volunteers will take part in worthwhile projects on that day, including repairing and painting homes, delivering home-cooked meals to the homebound and the elderly, taking children on outings, and cleaning up local parks. In all of these ways, they will touch the lives of others.

Mr. Speaker, Am Shalom's commitment to make a difference through these various projects should not only be recognized, but applauded. I am proud to represent a district that includes people with such tremendous volunteer spirit, and I am pleased to recognize am Shalom's community leadership and to praise the outstanding contributions of every participant in the April 28 Mitzvah Day.

TRIBUTE TO RON BROWN

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. FARR of California. Mr. Speaker, it is with great sadness that I rise today to salute a man who did more to advance U.S. economic interests at home and abroad than any other in our nation's distinguished history. Ron Brown, whose other accomplishments include revitalizing the Democratic party and advancing race relations in America, died tragically 2 weeks ago on a trade mission in Bosnia.

As Commerce Secretary, Brown was accompanied by 34 other brave Americans, one of whom was my constituent. Adam Darling, a 29-year Commerce Department assistant who offered to bike cross-country from his Santa Cruz, California home to promote Bill Clinton's 1992 presidential campaign, also lost his life on that terrible flight. I had the honor of saluting Adam's life last Friday, along with the First Lady, his family and friends at a touching memorial service. He will be sorely missed by all.

Adam was on board, because as President Clinton put it, Ron Brown could see in him and the others "the promise of a new tomorrow and he knew they needed someone to reach down and give them the opportunity to serve." Ron Brown was truly one of a kind.

The son of a hotel manager, Ron Brown grew up in black America but bridged the gap between white and black from the earliest years of his life. Attending white private schools, Brown went on to be the only African-American in his class at Middlebury College, where he forged the desegregation of his fraternity. He later attended St. John's University Law School and subsequently worked as a prominent attorney in the largely white world of law. After that, Ron Brown became the first African-American chairman of the Democratic National Committee. As former National Urban League chief John Jacob said, "Ron could accomplish anything, because he didn't believe he coundn't do it.

As Commerce Secretary, Ron Brown worked tirelessly to promote our economic interests both here an around the globe. He firmly believed that free, but fair trade was one of the best ways of advancing our country's national interests as we move into the 21st century. It was for this reason that Ron Brown enthusiastically led his mission to Bosnia. He believed that the untapped possibilities of the war-torn region held untold possibilities for the United States.

I personally have had the pleasure of working with Ron Brown on a number of occasions. Before his untimely death, he and I had been developing a unique initiative of sustainable development for my congressional district. We both eagerly looked forward to harnessing the creative energy of public and private enterprise to forget this new national model.

I don't believe a day has gone by since the tragic accident that I have not mourned what this country will miss without Ron Brown, and the others aboard his plane. While the important work of the Commerce Department will surely continue, America will never recapture the potential that traveled aboard that flight. We can never replace the enormous possibilities that traveled with Ron Brown.

IN RECOGNITION OF OFFICER KENNETH L. PONTIOUS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. STARK. Mr. Speaker, today I would like to join my constituents in commemorating the retirement of Officer Kenneth L. Pontious. Officer Pontious is retiring after 28 years of service to the community and citizens of Union City.

During his 28 years of service, Officer Pontious has contributed to the Union City Police Department in many different capacities. He has served as a Motorcycle Patrol Officer. In addition, he has worked as a Traffic Officer and a member of the Special Enforcement Response Team.

Officer Pontious has also assisted the community as a School Resource Officer giving his time directly to our young people. Finally, Officer Pontious has worked as a Field Training Officer, Rangemaster and Police Explorer Post Adviser.

Therefore, Mr. Speaker, I come before you today celebrating with my constituents the career of Officer Kenneth L. Pontious. I hope you and my colleagues will also join me in congratulating him for his contribution to the community.

IN MEMORY OF JOSE RIOS

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to a young Texas hero—Jose Rios, a 17-year-old who rescued a young boy from a house fire before tragically losing his own life during another heroic effort to save the life of the boy's brother.

There are no words to adequately express our sorrow when one so young, acting in such a courageous manner, should be taken so tragically. To his family and friends in the small community of Royse City, where he lived, he is a genuine hero. And as is common in small communities across America when tragedy strikes, the citizens of Royse City have united in their efforts to help the families of the victims and to make sure that Jose Rios will forever be remembered for his selfless act of courage.

Early in the morning of February 20, 1996, a fire broke out from a space heater in the bedroom shared by 11-year-old Aron Carreon and his 7-year-old brother, Ramon. Jose observed the fire coming from his neighbors' house and rushed over to help. He broke through the bedroom window and carried the wheelchair-bound Ramon to safety, apparently with the assistance of Ramon's brother, Aron. Without stopping to think of his own safety, Jose rushed back into the burning house in an effort to save Aron, but he was overtaken by smoke. Rescue efforts by the local fire department ended in vain. Both Jose and Aron died of smoke inhalation.

Jose was a student at Royse City High School. Principal Ruth Cherry said, "He's a hero. He helped a lot of the students who are new from Mexico. We'll miss him. I'm so happy to have known him." Aron was a student at Royse City Elementary School, where Principal Gary Evers described him as a "wonderful boy" who was respected and loved by everyone.

Royse City has been deeply moved by this act of courage and by the premature deaths of these two young boys. The story was carried in area newspapers. A memorial fund was established. There are plans for a permanent memorial. Jose Rios deserves this recognition, Mr. Speaker, and he deserves our respect. So as we adjourn today, I would like to ask my colleagues to join me in paying tribute to this courageous young Texan, Jose Rios, and to his young neighbor, Aaron Carreon, who died along with him. They will be missed by all those in Royse City who knew and loved them.

And they will be remembered. Jose Rios will be remembered as a genuine hero, one who gave his life to save the life of another. Mr. Speaker, Jose Rios is a hero for all times.

MEMORIALIZATION OF BRIG. GEN. RICHARD J. DIRGINS, U.S. ARMY RESERVE CENTER

HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. TIAHRT. Mr. Speaker, the first officially named U.S. Army Reserve center located outside of American territory will be dedicated in the memory of Brig. Gen. Richard J. Dirgins on April 19, 1995, in Schwetzingen, Germany. Dirgins, a native of Fairfield, CT, and an alumnus of Norwich University, Vermont, led the 7th Army Reserve Command for almost 7 years. The general died January 14, 1995, just months after relinquishing command of the 7th ARCOM, which has 23 Army Reserve units in Germany and Italy. Presently 11 of the command's units are mobilized in support of Operation Joint Endeavor.

Dirgins's many years of service in the Army will be remembered in an outdoor ceremony at Tompkins Barracks that will include the unveiling of a bronze plaque and a portrait and the planting of a tree outside the building which will bear his name.

321ST MISSILE GROUP, GRAND FORKS AFB, ND

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. DORNAN. Mr. Speaker, I rise today to pay tribute to the dedicated young men and women of the U.S. Air Force 321st Missile Group at Grand Forks, ND. The 321st, commanded by Col. Robert P. Summers, is currently undergoing a very stressful but highly successful realignment of Minuteman III intercontinental ballistic missiles [ICBM's] while at the same time maintaining an active nuclear deterrent force. Despite the apparent end to the cold war, recent tensions with mainland China and elsewhere in the world clearly demonstrate the need to maintain a reliable and effective ground-based nuclear deterrent force. Colonel Summers and everyone in his command are to be commended for their personal sacrifice, professionalism, and dedication towards ensuring we have the best nuclear deterrent in the world both today and tomorrow. I am including for my colleagues a copy of the mission statement, values, and strategic goals for the 321st Missile Group, as well as a unit history. Again, to Colonel Summers and everyone in the 321st—job well done. And may none of us ever forget the 321st motto: "Global Power for Peace."

321ST MISSILE GROUP HISTORY

Serving in defense of its country, the 321st Missile Group has undergone a comprehensive hardware metamorphosis over the past 40 years. The development of the 321st Missile Group began June 26, 1942, as the 321st Bombardment Group (Medium); assigned under Twelfth Air Force. The group flew B-25 Mitchell bombers in the Mediterranean theater from March 7, 1943, to September 12, 1945. For their flying accomplishments the group was awarded two Distinguished Unit Citations. The group was later deactivated September 12, 1945, at Pomigliano, Italy, and returned to the United States. The 321st reactivated as an Air Force Reserve unit under 15th Air Force and designated the 321st Bombardment Group (Light) on March 31, 1946. It was again inactivated on June 27, 1949.

The 321st reactivated at Pinecastle AFB, Fla., under Second Air Force as the 321st Bombardment Wing (Medium) Dec. 15, 1953. The wing flew the B-47 strategic bomber and won the Fairchild Trophy in the 1957 Strategic Air Command annual bombing, navigation and reconnaissance competition. During this period, the wing transferred from Second Air Force to the 6th Air Division under

Eighth Air Force Jan. 1, 1959. With the phase-out of the B-47, the unit deactivated again Oct. 25, 1961.

On Nov. 1, 1964, the Air Force again activated the 321st, this time as the 321st Strategic Missile Wing. The Missile Wing found a home at Grand Forks Air Force Base and assigned to the 4th Strategic Aerospace Division under Second Air Force. In 1965, the 446th, 447th, and 448th Strategic Missile Squadrons were activated. Together, they worked toward making the 321st the first operational Minuteman II Intercontinental Ballistic Missile Wing in Strategic Air Command on Dec. 7, 1966. The 321st became the first unit to deploy the LGM-30F Minuteman II Intercontinental Ballistic Missile.

In 1969, the wing won the Blanchard Trophy for excellence during the annual SAC missile combat competition, becoming the only wing in the Air Force to win top awards for both bombardment and missile excellence. The 321st Strategic Missile Wing won the Blanchard Trophy again in 1969, 1974, and 1987.

From 1970 until 1988, the wing fell under Fifteenth Air Force's 57th Air Division, and later the 4th Air Division. Between 1971 and 1973, the wing changed weapons systems turning over Minuteman II's for Minuteman III's.

After 18 years with Fifteenth Air Force, the 321st Strategic Missile Wing was reassigned to the Eighth Air Force when the 42nd Air Division came to Grand Forks Air Force Base June 16, 1988. Under the Eighth Air Force, the 321st Organizational Missile Maintenance Squadron received the Air Force Outstanding Unit Award from 1988 through 1990. Strategic Air Command also selected the 448th Strategic Missile Squadron as the ICBM Operational Squadron of the Year for 1990.

On Sept. 1, 1991 during a reorganization, the 321st was redesignated the 321st Missile Wing and assigned under the newly reactivated Twentieth Air Force with the inactivation of the 42nd Air Division. Then on June 1, 1992, the 321st Missile Wing became assigned to the newly formed Air Combat Command. While in the Air Combat Command, the 321st continued a tradition of excellence when in 1992 Air Combat Command named the 447th, ICBM Missile Squadron of the Year.

On May 1, 1993, Detachment 3, 37th Air Rescue Squadron was redesignated as the 79th Rescue Flight. The change realigned the bases HH-1H Huey helicopters, pilots, and support personnel under direct control of the 321st Operations Group commander.

Further changes in the Air Force resulted with the 321st Missile Wing being realigned from Air Combat Command to Air Force Space Command on July 1, 1993. The missile wing's move transferred the daily management of the Air Force's land-based intercontinental ballistic missiles to a command familiar with missile and rocket technology.

On Nov. 1, 1993, the 321st Organizational Missile Maintenance Squadron earned the Air Force Space Command Maintenance Effectiveness Award, and later went on to win the award at the Air Force level.

The 321st Missile Wing was redesignated the 321st Missile Group on July 1, 1994, due to a command-level reorganization. On 12 August 1994, Security Police from the 321st Missile Group placed third out of eleven teams during the 1994 Peacekeeper Security Police Competition. In November, the 321st underwent its first 20th Air Force Combat Capability Assessment under the revised inspection system. The 321st did well with particularly high marks by the Codes and Pneudraulics flights, Operations Support Squadron Security Police, and with all Missile Combat Crews passing evaluations.

On April 4, 1995, the 321st Missile Group welcomed a group of Russian inspectors as one of the first Strategic Arms Reduction Treaty (START) inspection took place. The inspection was a multilateral arms control treaty between the United States and successor states to the former Soviet Union. The inspection marked a significant day in the history of Grand Forks Air Force Base.

On July 7, 1995, the 321st Missile Group dedicated the headquarters building in honor of the first commander of the 321st, Brigadier General Robert D. Knapp. The dedication was in conjunction with a 321st Association Reunion, and the annual "Friends and Neighbors Day." Twentieth Air Force Commander Major General Robert Parker presided over the 321st Association Banquet as 321st veterans and retirees were honored.

In 1995, the 321st Missile Group was directed to realign its Minuteman III force, and now has a dual mission. Its mission now is to both operate, maintain and secure combat-ready ICBM forces for the National Command Authority; while at the same time, safely and securely transfer its alert responsibilities to the 341st Missile Wing at Malmstrom AFB, Montana. The mission realignment involves the transfer of 120 missiles to Malmstrom, and 30 missiles to the Ogden Air Logistics Center, Utah. This process started in October 1995 and is expected to take three years to complete.

OUR MISSION

Professional Warriors Operating, Maintaining, And Securing Combat Ready ICBM Forces For the National Command Authority.

OUR VALUES

Integrity—Commit to truth, morality, and honesty in all that you do.

Courage—Physical, moral, and mental bravery to make the right decision.

Competence—Strive to be an expert.

Tenacity—Stubborn persistence to mission.

Service—Dedicated to a higher purpose and to customer satisfaction.

Patriotism—Sacrifice for greater good and do what is best for our most important customer.

Teamwork—Respect and commitment to each other, above self in mission.

Loyalty—Faithful allegiance to yourself, to each other and the mission.

Pride—Take delight in both your actions and the actions of your teammates.

Self-Discipline—Display and require the correct pattern of behavior at all times.

Openness—Willingness to listen and consider the views of others.

OUR KEY RESULT AREAS

KRA 1—reliable weapon system.

KRA 2—mission ready people.

KRA 3—safe practices.

KRA 4—secure weapons system.

OUR STRATEGIC GOALS

Maximize our ICBM combat capability.

Enhance safety and nuclear surety.

Embrace our environmental responsibility.

Practice a healthy lifestyle.

Nurture professional development.

Foster a quality improvement culture.

TRIBUTE TO JOHN MACRI

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. JACOBS. Mr. Speaker, surely in God's eyes greatness is measured mostly by kindness. By that measure John Macri was one of the greatest of God's children ever to live.

His restaurant, the Italian Village, was not only a landmark in Indianapolis, but an institution and a legend as well.

Few serve humanity better than restaurateurs. They provide not only food and drink, but very special occasions especially for those who have to count their pennies and save up for the proverbial night out—no cooking and no dishes to wash.

Indianapolis mourns his death and celebrates his wonderfully kind and generous life.

[From the Indianapolis Star, Mar. 30, 1996]

SILVO JOHN MACRI, RESTAURANT OWNER AND NUMEROLOGIST

Services for Silvo John Macri, 70, Indianapolis, retired owner of Italian Village Restaurant and numerologist, will be April 2 at 1 p.m. in Flanner & Buchanan Broad Ripply Mortuary and at 3 p.m. in Sacred Heart Catholic Church. Calling will be from noon to 8 p.m. April 1 in the mortuary.

He died March 26.

Mr. Macri owned and operated the restaurant 43 years, retiring in 1994. When the restaurant was located in Carmel, it was called The Macri Family Italian Village.

He was a professional numerologist for thousands of people, including pianist Liberace, mentalist the Amazing Kreskin and actress Rita Moreno. Mr. Macri was an instructor of numerology and held workshops throughout the country. He also cohosted the John and Jan Show of WIFE radio in 1980-81.

He founded Realities Inc., PSI Inc., Perceptions Inc., A course in Miracles Central Indiana study group and The Seven Inc. He cofounded Indianapolis Meals on Wheels and Indiana Growth Center. He was a charter board member of Indianapolis for Free University and a council member of Unity and Indianapolis Diversity.

He was the author of Message of the Numbers.

He was an Army veteran of World War II.

Memorial contributions may be made to Hear My Voice. Protecting Our Nation's Children, P.O. Box 314, 2138 Broad Ripple Ave., Indianapolis 46220.

Survivors: children Toni Macri-Reiner, Gina Hayden, Victor, Katelyn Macri, Giovanna Macri-Russell; sisters Vera Agostino, Ida DeBlase; brother Joseph Macri; nine grandchildren; three great-grandchildren.

SALUTE TO THE U.S. BUREAU OF RECLAMATION AND THE SALT RIVER PROJECT

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. STUMP. Mr. Speaker, today I rise to salute the U.S. Bureau of Reclamation and the

Salt River Project [SRP] for their historic commitment to secure water resources for the economic vitality of central Arizona.

These two organizations worked together at the turn of this century to build the Theodore Roosevelt Dam, located about 80 miles northeast of what is today downtown Phoenix. On April 12, SRP and the Bureau, along with the Flood Control District of Maricopa County, a coalition of six Phoenix-area cities and the Tonto National Forest, will rededicate Roosevelt Dam. Over the last 5 years, these parties have worked together to add 77 vertical feet to Roosevelt Dam, providing for flood control and safety of dam storage as well as additional water conservation storage.

This $430 million reclamation safety of dams project, the largest in the Nation, will provide the metropolitan Phoenix area with additional water-storage capacity and a greater margin of safety from natural disasters like earthquakes and flooding.

On this historic occasion, I would like to review the background for this important Federal legislation. On the morning of June 5, 1976, Teton Dam, built in a steep-walled canyon 40 miles northwest of Idaho Falls, ID, failed. Thousands of farms and homes were washed away. Eleven people died. More than $400 million of property damage was done.

Though nothing could compensate for the destruction and pain caused by the Teton Dam failure, this disaster did result in a thorough review of all Bureau of Reclamation dams. That review led to the 1978 Federal Reclamation Safety of Dam Act. In its original form, the legislation appropriated $100 million to modify dams needing repair. By 1983, the estimated cost to repair a select group of dams had risen to $650 million.

Throughout the early 1980's, many in Congress argued persuasively for that $650 million appropriation for the dams needed repair in their States. Through their hard work, they succeeded in convincing skeptical colleagues that the repairs were indeed needed and that local entities would pay their fair share. The principle of cost-sharing with local entities was introduced and codified in reclamation law.

In Arizona, most of the dam modifications called for in the Safety of Dams Act have been completed, and without question, they have demonstrably improved the quality of life in central Arizona, which was subject to raging floods in 1978, 1980, and 1993. These modifications do not mean that Arizona will never again face flooding or other natural disasters. But the modifications have added an extra measure of safety to life in the Valley of the Sun.

At a time when Government-built dams are the target of criticism by some, I am encouraged that my colleagues in the House, and in the State and local government, have not lost sight of the many benefits that flow from multipurpose projects like the Theodore Roosevelt Dam.

CONGRATULATIONS TO THE TOWN OF ALTON, NH

HON. WILLIAM H. ZELIFF, JR.

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. ZELIFF. Mr. Speaker, let me extend my sincerest congratulations to the town of Alton, NH, as it celebrates its bicentennial anniversary on June 16, 1996. It is a pleasure to commemorate such a milestone event and recognize this New Hampshire village.

The people of Alton have preserved the town's historic past and traditions. Located on the southern tip of Lake Winnipesaukee, the town of Alton offers a pristine and unmatched beauty that attracts both residents and visitors of New Hampshire to this area. Whether it is the shores of Lake Winnipesaukee or the surrounding mountains, Alton offers unlimited enjoyment for all people throughout the year.

Alton's original town limits consisted of sections from: New Durham, Gilmanton, Gilford, and Wolfeboro. Over the years Alton has developed into seven neighborhoods: Alton Village, South Alton, East Alton, West Alton, Alton Bay, Alton Mountain, and The Gore. These seven boroughs have established their own identity, while strengthening and propelling the town of Alton into a leading New Hampshire community.

Once known as New Durham Gore, Alton established the traditional town meeting format of government that is still being practiced today. It is refreshing to be associated with people, such as the Alton residents, who have not forgotten their past and traditions.

I have had the opportunity to work with the people of Alton on many different occasions over the years. Most recently, I visited to evaluate the damage caused by the devastating dam break. After this visit I have come to fully understand the love, generosity, and bigheartedness of this town. I commend their independence, character, dedication, and mutual respect for one another.

Allow me to wish the town of Alton a happy bicentennial, and I appreciate the opportunity to be included in its celebration. It is an honor to represent the town of Alton in the U.S. Congress.

NEW BRITAIN ROTARY CLUB ANNIVERSARY

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mrs. JOHNSON of Connecticut. Mr. Speaker, it is with great pride and appreciation that I rise today to congratulate the members of the Rotary Club of New Britain, CT, as they celebrate their 75th anniversary.

It was on April 20, 1921, that Leon Sprague, the Rotary's organizer and charter president, brought into being the first local organization of professional, industrial, and business executives to serve the community. From the very beginning, the members of the Rotary Club of New Britain have committed themselves to their creed, "service above self," by generously providing the community with time, money, and unselfish service in the important fields of education, orphanages, hospitals, civic amenities, and scholarships to needy students. I am so proud of the men and women of the Rotary who work tirelessly to assure that needs of citizens are met.

Today, I congratulate the Rotary Club of New Britain on its anniversary and I commend its members on their dedication and lasting contributions.

INTRODUCTION OF THE HIPPOCRATIC OATH AND PATIENT PROTECTION ACT OF 1996

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1996

Mr. SANDERS. Mr. Speaker, I would like to say a few words about disturbing trends in contemporary health care, and to discuss H.R. 3222, The Hippocratic Oath and Patient Protection Act of 1996, which I introduced to halt those trends and protect strong doctor-patient relationships.

Mr. Speaker, more and more doctors and patients are enrolled with managed care and HMO's. The Wall Street Journal reports on the financial success of HMO's by stating it has left them "so awash in cash they don't know what to do with it all."

U.S. Healthcare, for example, is a major, corporate HMO with 2.4 million members. It makes $1 million a day in profits. Is CEO, Leonard Abramson, walked away from his company's recent merger with Aetna with a personal profit of nearly $1 billion.

Clearly, there is a built-in conflict between a for-profit HMO and the needs of a patient. The less money spent on providing care for the patient, the more money the company makes. It's that simple.

Obviously, Mr. Speaker, we must all work to control health care costs. However, we must also ensure that health care decisions are made by doctors using medical rationale with their patients' interests at heart, not insurance administrators using financial spreadsheets with their own economic interests at heart. And most importantly, we must preserve the fundamental core of successful health care—the strong doctor-patient relationship.

Unfortunately, with the growth of managed care and the power of large insurance companies, serious problems are developing which, in my view, threaten the doctor-patient relationship.

Many HMO's use what are essentially "free-for-denying-service" systems, which pay doctors for denying care and penalize them for providing it. Doctors under some plans lose up to 50 cents of compensation for every dollar they order spent on emergency care. And according to a Mathematica Policy Research study, 60 percent of managed care plans in this country currently place their providers at some financial risk for the cost of patient care. This places doctors in very difficult situations, as they are asked to base their decisions on criteria that is contrary to what they were taught and swore to uphold.

You would have to be patently insane to sign on with an HMO you know is going to pay your doctor not to treat you. So some insurance companies are taking steps to make sure you don't know what they are doing. They keep their incentive plans secret from their customers, and in many cases keep both patients and doctors in the dark about the formulas used to approve or deny coverage. Therefore, doctors and consumers signing on do not know what they are getting themselves into, and insurers are free to make arbitrary decisions without outside scrutiny.

Further, many HMO contracts contain blatant gag rules that tell doctors what they can and cannot say to their patients. Last year, for example, Kaiser Permanente of Ohio told its doctors not to discuss any possible treatments with patients before checking with the company's consultants.

These outrageous clauses strike at the heart of informed consent and health care ethics—someone considering an operation should have all the relevant information to make their decision, and doctors must be able to provide that information.

These problems are serious enough that Massachusetts has already passed a law banning gag rules, while New York and several other State legislatures are considering bills to deal with these issues. Before recess, I introduced legislation that will take three steps to preserve strong doctor-patient relationships. My bill has already been endorsed by Consumers Union, the American Nurses Association, the Vermont Psychological Association, the American Psychological Association, the National Medical Association, and the Gray Panthers.

First, my legislation will ban outright incentives to deny appropriate care, and ensure safeguards are installed so doctors are not placed at substantial financial risk for patient care.

Second, my bill prohibits gag rules and other interference in doctors' communications regarding patient care. It is the only legislation that safeguards doctors' communications with their colleagues and the public as well as their patients.

Third, to ensure neither doctors nor patients are kept in the dark about what their insurer is doing, my legislation provides for open, honest discussion of practices key to patient care by requiring disclosure of utilization review procedures, financial incentives for providers, and all services and benefits offered under the health plan.

That disclosure may be half the battle, because I think no insurance executive will be willing to stand up and defend these outrageous practices once they are out in the open.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, April 18, 1996, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 19

1:30 p.m.
Indian Affairs
To continue hearings on the President's proposed budget request for fiscal year 1997 for Indian programs.
SR-485

APRIL 23

9:00 a.m.
Indian Affairs
Business meeting, to consider pending calendar business.
SR-485

9:30 a.m.
Commerce, Science, and Transportation
Consumer Affairs, Foreign Commerce, and Tourism Subcommittee
To hold hearings on proposed legislation authorizing funds for the Consumer Product Safety Commission.
SR-253

Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on S. 1401, to amend the Surface Mining Control and Reclamation Act of 1977 to minimize duplication in regulatory programs and to give States exclusive responsibility under approved States program for permitting and enforcement of the provisions of that Act with respect to surface coal mining and reclamation operations.
SD-366

Environment and Public Works
To hold hearings on S. 1285, to reauthorize and amend the Comprehensive Environmental Recovery, Compensation, and Liability Act of 1980 (Superfund), as modified by S. Amdt. 3563, in the nature of a substitute.
SD-406

Special on Aging
To hold hearings to examine issues relating to Alzheimer's Disease.
SD-106

10:00 a.m.
Judiciary
To hold hearings on a proposed constitutional amendment to establish a bill of rights for crime victims.
SD-226

Small Business
To hold hearings to examine issues affecting home-based business owners.
SR-428A

11:00 a.m.
Foreign Relations
To hold hearings on the nominations of Prudence Bushnell, of Virginia, to be Ambassador to the Republic of Kenya, Charles O. Cecil, of California, to be Ambassador to the Republic of Niger, David C. Halsted, of Vermont, to be Ambassador to the Republic of Chad, Morris N. Hughes, Jr., of Nebraska, to be Ambassador to the Republic of Burundi, Tibor P. Nagy, Jr., of Texas, to be Ambassador to the Republic of Guinea, Dane Farnsworth Smith, Jr., of New Mexico, to be Ambassador to the Republic of Senegal, George F. Ward, Jr., of Virginia, to be Ambassador to the Republic of Namibia, and Sharon P. Wilkinson, of New York, to be Ambassador to Burkina Faso.
SD-419

APRIL 24

9:00 a.m.
Select on Intelligence
To resume hearings on the roles and capabilities of the United States intelligence community.
SD-106

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the U.S. Forest Service.
SD-138

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine distance learning, and on S. 1278, to establish an education satellite loan guarantee program for communications among education, Federal, State, and local institutions and agencies and instructional and educational resource providers.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
To continue hearings on S. 1285, to reauthorize and amend the Comprehensive Environmental Recovery, Compensation, and Liability Act of 1980 (Superfund), as modified by S. Amdt. 3563, in the nature of a substitute.
SD-406

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Army programs.
SD-192

2:00 p.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings to examine the need for additional bankruptcy judgeships and the role of the U.S. trustee system.
SD-226

Veterans' Affairs
To hold hearings on the President's proposed budget for fiscal year 1997 for veterans programs.
SR-418

APRIL 25

9:00 a.m.
Indian Affairs
To hold joint hearings with the House Committee on Resources on S. 1264, to

provide for certain benefits of the Missouri River Basin Pick-Sloan Project to the Crow Creek Sioux Tribe.

SR-485

9:30 a.m.

Energy and Natural Resources

Parks, Historic Preservation and Recreation Subcommittee

To hold hearings on S. 902, to authorize the Secretary of the Interior to assist in the construction of a building to be used jointly by the Secretary for park purposes and by the city of Natchez as an intermodal transportation center, S. 951, to commemorate the service of First Ladies Jacqueline Kennedy and Patricia Nixon to improving and maintaining the Executive Residence of the President and to authorize grants to the White House Endowment Fund in their memory to continue their work, S. 1098, to establish the Midway Islands as a National Memorial, H.R. 826, to extend the deadline for the completion of certain land exchanges involving the Big Thicket National Preserve in Texas, and H.R. 1163, to authorize the exchange of National Park Service land in the Fire Island National Seashore in the State of New York for land in the Village of Patchogue, Suffolk County, New York.

SD-366

APRIL 30

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Federal Emergency Management Agency.

SD-192

MAY 1

9:30 a.m.

Rules and Administration

To resume hearings on issues with regard to the Government Printing Office.

SR-301

2:30 p.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings to examine airport revenue diversion.

SR-253

MAY 3

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Veterans Affairs.

SD-192

MAY 8

10:00 a.m.

Veterans' Affairs

To hold hearings to examine the reform of health care priorities.

SR-418

2:00 p.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Housing and Urban Development.

SD-192

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Internal Revenue Service, Department of the Treasury.

SD-138

MAY 15

2:00 p.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the National Aeronautics and Space Administration.

SD-192

MAY 17

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Corporation for National and Community Service.

SD-192

MAY 24

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Environmental Protection Agency.

SD-192

SEPTEMBER 17

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Legion.

334 Cannon Building

POSTPONEMENTS

APRIL 25

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on proposed legislation authorizing funds for the Federal Trade Commission.

SR-253

HOUSE OF REPRESENTATIVES—*Thursday, April 18, 1996*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. QUINN].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 18, 1996.

I hereby designate the Honorable JACK QUINN to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We look at our world and too often we see distrust and strife, and yet we look elsewhere in our world and we see acts of kindness and deeds of good will. We live in our communities and are saddened by the strife of living and we also know people who work to strengthen our communities and build respect for every person. O gracious God, from whom comes the power for us to be people of good will, enable us to choose to be builders of character and models of integrity so we will contribute to the health of our Nation and strengthen the lives of those about us. Bless us today and every day, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Kansas [Mr. TIAHRT] come forward and lead the House in the Pledge of Allegiance.

Mr. TIAHRT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 735) "An act to prevent and punish acts of terrorism, and for other purposes."

The message also announced that pursuant to Public Law 70–770, the Chair, on behalf of the Vice President, appoints Mr. BREAUX to the Migratory Bird Conservation Commission, vice Mr. PRYOR.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain ten 1-minutes on each side.

DANGER OF A COMMUNIST COMEBACK TO THE WEST

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, those of us who thought the end of the cold war ended the danger of communism to the West had better think again. The headline on the front page of the New York Times recently read "Fear of a Communist Comeback Has Many in Russia Packing Bags."

With all our attention on the advance of communism in Russia, we have taken our eyes off the resurgence of Stalinist style communism that threatens elsewhere. Next Sunday, the Italian people go to the polls in what is their most important election, for they must make a basic choice: Will they select these Communists, no matter what name they call themselves, to rule their nation?

We may be appalled by the thought, but it is not difficult to achieve in this disordered political system. These are the facts: There are more than 20 political parties. The center right is projected to win 45 percent of the vote. The Communists under the banner of "Progressive Democrats of the Left" will have 21 percent. A union of members of the discredited parties of the past will add 14 percent. The Northern League will probably give its 5 to 7 percent to make it 40 percent.

That leaves the Stalinist Communist Refoundation Party with its 11 percent. They are the swing vote, and the left must join them if they want to rule. Thus, Stalinist Communists will write national policy.

This scenario played out in the recent election for mayor of Rome.

At issue in this campaign is electoral reform. The center right parties want an American Presidential-type government, elected directly by the people, not by the political parties. The Communists bitterly oppose. They are against it, they say, and hold on to your hats with this one, because it is not democratic.

I bring this to your attention because what happens in Italy has consequences for NATO, Europe, and ultimately the rest of the world.

STOP CODDLING CRIMINALS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, I thought I heard it all. Richard Allen Davis, the murderer of 12-year-old Polly Klaas, now says, yes, I killed her. I admit I killed her, but I did not rape her.

Check this out. Davis abducted 12-year-old Polly Klaas from her own home. She was later found with her miniskirt above her waist and her skull completely separated from her body. Now Davis is ready to admit the murder, but he said "I didn't rape her."

Only as a ploy to avoid the death penalty, Mr. Speaker. Unbelievable. Davis should not live to see the month of May. And I say instead of free health care for Davis, free television for Davis, free food for Davis, Davis should only get one thing free from the American taxpayers: 50,000 volts.

And it is time for Congress to stop murdering our country by coddling criminals and letting the Constitution's amendments be used to get around the death penalty.

HOW TO DO THE RIGHT THING

(Mr. BAKER of California asked and was given permission to address the House for 1 minute.)

Mr. BAKER of California. Mr. Speaker, I could not agree more with the gentleman from Ohio [Mr. TRAFICANT]. That tragedy occurred in California; the trial has gone on long enough. Let us commence the execution.

Mr. Speaker, the American people inherently know that the Federal Government has no problem spending money. This Government has created a $5 trillion national debt, which will be paid off by our children, grandchildren, and great-grandchildren. It has created

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

a bureaucracy so large that almost every aspect of your life is somehow touched by it, either through regulation or through taxation.

Since the Republicans took over Congress, we may not have done everything we want to accomplish, but we have done one thing very important: We have changed the debate. It is not whether we should do the right thing, it is how to do the right thing.

For 40 years Congress has been dominated by the liberal impulse to spend more and tax more. Hopefully that philosophy has been laid to rest. The Republicans will continue to fight for the kind of change demanded by the American people in the 1994 elections, because it is wrong to steal from our children and our grandchildren, no matter how compassionate it might be.

Mr. Speaker, let us kill the tax-and-spend philosophy, the minimum wage philosophy, to spend through regulation.

TIME TO RAISE THE MINIMUM WAGE

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, you just heard it and the American people heard it. The Republicans are talking a lot about working families, but it is time that they did more than just talk about it. It is time they decided to actually raise the minimum wage.

Seventy percent of Americans believe that the minimum wage must be increased. Now at least 20 Republicans are backing the increase in the minimum wage. It is time, Mr. Speaker, that we bring this to a vote.

Yesterday the Democrats on our Committee on Economic and Educational Opportunities asked our chairman of the committee to hold hearings on the minimum wage. Democrats understand that the purchasing power of the minimum wage will soon be the lowest it has been in 40 years.

American families are working hard to get ahead, but it is tough to get by when working full-time does not even pay to get off welfare. An increase of $0.90 means an additional $1,800 a year in the pockets of full-time workers.

Republicans have an opportunity to join us in helping America's working families. It is time to pass the minimum wage increase bipartisanly.

AMERICANS DESERVE TAX RELIEF

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, for nearly 4 years now Bill Clinton has promised a middle-class tax cut. He promised a tax cut in the presidential campaign and he throws the words "tax cut" around at opportune times. But his actions speak louder than his words.

By a single vote, Bill Clinton rammed through the last Congress the largest tax increase in history. Then, earlier this week, 88 percent of his party opposed requiring a two-thirds supermajority to raise taxes. Increasing taxes on hardworking Americans should be as difficult as completing the tax forms.

What really gets me about Bill Clinton's veto of tax relief is that taxes not only hit Americans in the wallet, but also in the home and family. The current tax system makes Americans work harder, take second jobs, and put in longer hours just to meet their tax burden. Not only is the Government taking Americans' money, it is essentially taking the precious time they would normally spend playing with their children, going to PTA or church functions, or volunteering in their communities. Higher taxes have become a tax on free time too.

ALLOW VOTE TO RAISE MINIMUM WAGE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, the House Republican leadership continues to pursue policies that hurt America's working families.

Just look at their continued opposition to the minimum wage. Even though the typical minimum wage worker is a woman in her twenties who is often the sole wage earner in the family, the House Republican leadership continues to dig in its heels in opposition to raising the minimum wage by a mere 90 cents from its 40-year low.

The fourth-ranking House Republican said yesterday that raising the minimum wage "is horrible economic policy." And the Republican majority leader says he would fight the minimum wage, "with every fiber of my being."

But despite their rock-like resistance, the Republican leadership can no longer duck voting to increase the minimum wage.

Stop toying with the lives of America's hard working families. Let us have a vote to raise the minimum wage.

STRANGE COMPASSION

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, with middle-class families paying 38 to 44 percent of family income in taxes, the claim that the era of big Government is over is utterly absurd. Think about it: 38 to 44 percent of middle-class family income goes to taxes. That means that the purpose of the second job in the household is to pay for taxes, which means you may think that your spouse is a computer operator or real estate agent or insurance agent or whatever, but the truth is your spouse is a government employee, working for the Government simply to pay taxes.

It got worse in 1993, when the President increased the gas tax 4 cents a gallon, increased Social Security tax, and increased taxes on small business. The Republican plan tried to counter this with a $500 per child tax credit, an adoption tax credit, and a senior dependent tax credit. But the President vetoed that.

Think about this: We have got a Democrat Party who is telling the American people, "We are compassionate because we want you to get 90 cents more an hour, but we are against the $500 per child tax credit offered by the Republican Party."

That is real compassion, comrades, real compassion.

THE NRA; AN ORGANIZATION WITH NO SHAME

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, tomorrow is April 19, the anniversary of the worst terrorist attach in U.S. history, the bombing in Oklahoma City. Timothy McVeigh, the person accused of the bombing, chose April 19, because that is the day the standoff with the Branch Davidians at Waco ended.

April 19 has become a holiday to some paranoid extremists, a day that to them symbolizes government's supposed tyranny. So the National Rifle Association, a group that gives aid and comfort to this paranoia and extremism by comparing law enforcement to Nazis, deliberately chose this day to hold their annual conference.

While most Americans will spend April 19 respecting the memory of those who died in Oklahoma City, the NRA will be at their convention bragging about their guns, thinking about AK-47's and their Uzis, instead of mourning the 169 people who died.

Simply put, the NRA leaders are thumbing their noses at the memory of those who died at Oklahoma City.

It is disgusting that the organization that called law enforcement storm troopers and jackbooted thugs is holding their convention tomorrow. The NRA is truly an organization with no shame.

THE OPPRESSIVE FEDERAL TAX BURDEN

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, this is the week that we are reminded by the April 15 filing deadline just how oppressive the Federal tax burden is in this country. But Tax Freedom Day, the day on which the average working person gets to stop working for the Government and begin working for themselves and their families, does not come until May 7 of this year, the latest date ever.

Working people in this country are being abused and ripped off by our Government. If any taxpayer has the audacity to complain about the ripoffs, he or she is immediately labeled as a member of the so-called greedy rich.

The Government takes money out of the pockets of working people so it can subsidize big corporations to advertise their products overseas. You do not like it? I guess you must be a member of the greedy rich. The Government takes money out of the pockets of working people to subsidize big agribusiness and inflate the cost of sugar, peanuts, and cotton. You do not like it? You must be a member of the greedy rich. The Government takes money out of the pockets of my people in Cincinnati, money that should be going to educate their own kids, and the Government uses that money to pay a bunch of bureaucrats here in Washington to write manuals about school uniforms. You do not like it? I guess you must be a member of the greedy rich. Then the President vetoes a bill to give tax relief to working people.

Mr. Speaker, it is time to cut taxes.

AMERICANS DESERVE A RAISE IN THE MINIMUM WAGE

(Ms. McKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. McKINNEY. Mr. Speaker, the 12 million Americans who earn the minimum wage aren't the only ones calling for an increase. In fact, 71 percent of Republican voters also support an increase in the minimum wage.

Moreover, 15 House Republicans are calling for a $1 increase in the minimum wage over the next 2 years—that's 10 cents an hour more than what even the President is calling for.

So, Mr. Speaker, why is it that the Republican leadership refuses to even allow a debate on the minimum wage? Well, it is because they don't even believe that there should be a minimum wage, period. In fact, the majority leader is on record as saying that he will oppose a minimum wage increase with every fiber of his being. That's strong language coming from someone who earns over $100,000 a year.

Mr. Speaker, America deserves a raise and it is time that we gave it to them.

□ 1015

COSPONSOR H.R. 739, THE ONLY BILL THAT WILL DISMANTLE THE BILINGUAL EDUCATION

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, I want to tell you about a young boy named David. He lives in New York City and goes to public school in Brooklyn. David is like millions of other school age children across this country, except for one thing: He is being robbed, his grandmother says, of his opportunity to learn.

How can this be, you ask? Well, because David has been trapped in a bilingual education classroom for the past 6 years.

I first learned about David through a story his grandmother Ada wrote in the New York Times. Her account of the problems David encountered in his bilingual class is a cautionary tale of public policy failure and bureaucratic excess.

David and his mother speak English at home, and he grew up speaking English with his friends. Yet when he entered grade school, he was placed into a bilingual program. You see, David's last name is Jimenez, and the Brooklyn school bureaucrats reflexively place every child with Hispanic surnames into bilingual education classrooms. Six years later, David's parents had to sue the Bushwick School District in order to win the right to take him out of his bilingual classroom. You see, after 6 years David still couldn't read English.

Help me stop these tragedies from occurring. Cosponsor H.R. 739, the only bill that will dismantle the bilingual education bureaucracy. David and his grandmother shouldn't have to move heaven and Earth to give David an opportunity to learn English.

RICHARD ARMEY: THE LEADER OF THE CLUB

(Mr. SAWYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAWYER. Mr. Speaker, I guess it was in all the papers, but I had to see it to believe it. With the Speaker devoting more time to campaigning, they said the majority leader would be taking over the day-to-day management of the House and that there would be big changes.

And so there have been. We return to find a whole new way of legislating: not by hearings and committee work, but by special theme weeks like, the "Era of Big Government Is Over Week," "Defending America Week," and—I am not making this up—"Individual Freedom Versus Government Bureaucracy Week."

It kind of reminds me of 40 years ago when we would come home from school to enjoy Jimmy, Cubby, and Annette as they romped through "Circus Day," "Talent Roundup Day," and everybody's favorite, "Anything Can Happen Day!"

So it must be true. There are big changes. And when people ask the musical question, "Who's the leader of the club that's made for you and I?"

We can answer: R-i-c-h-a-r-d A-r-m-e-y.

INTRODUCTION OF THE CHILD PILOT SAFETY ACT

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, as chairman of the Subcommittee on Aviation of the Committee on Transportation and Infrastructure, I am introducing legislation today, along with the ranking Democrat, the gentleman from Illinois [Mr. LIPINSKI], and others that addresses the issue of child pilots.

One week ago today, 7-year-old Jessica Dubroff, her father and flight instructor were killed when attempting to set an age record that would have made Jessica the youngest pilot to fly across the United States. Mr. Speaker, I encourage parents to spend time with their children, teach them new things, and expose them to new ideas and challenges. Unfortunately, though, some parents become obsessed with pushing their children up the ladder of success or notoriety at too early an age, and often common sense is displaced by greed and recklessness.

Mr. Speaker, this legislation will impose an age limit on any person attempting to set a record with an aircraft. This legislation will stop the type of ridiculous publicity stunts that needlessly killed Jessica last week. Had she been successful, next year we would have seen a 6-year-old or a 5-year-old trying to break this record. Twenty-three similar accidents have happened in the last few years involving child pilots.

This legislation will not result in any cumbersome regulations, and I encourage my colleagues to cosponsor this bipartisan legislation.

RAISE THE MINIMUM WAGE NOW

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, the Speaker of the House has reportedly said that the House can "no longer duck" a vote on the minimum wage. It's about time, Mr. Speaker. Why have you been ducking for so long.

The minimum wage is at a near 40-year low in real terms. People earning the minimum wage deserve the right to a livable wage. No one can live on $4.25 an hour, much less support a family.

Republican Majority Leader DICK ARMEY has said he will fight an increase in the minimum wage with "every fiber in his being." While corporate CEO's earn 212 times the wage of the average worker, Republicans would deny the poorest workers in America a modest increase in the minimum wage. This is not right, it is not fair, and it is not just.

Stop the stonewalling, Mr. Speaker. Let's raise the minimum wage now. People deserve the right to earn a livable wage.

WHAT HAPPENED TO OUR MIDDLE-CLASS TAX CUT?

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, millions of Americans are asking this week, Mr. President, what happened to our middle-class tax cut? Twenty-nine million American families could have enjoyed a $500 per child tax credit. Three and a half million lower-income American families could have had their Federal income tax burden completely eliminated because of the $500 per child tax credit. Twenty-three million American couples could have received relief from the marriage tax penalty through a higher standard deduction. One hundred thousand American families could have benefited from a $5,000 credit to assist with adoption expenses. Americans that care for an elderly relative in their home could have benefited from a $1,000 elder care deduction. If Americans paid a tax on capital gains from selling their house or other asset, they paid twice as much as you should have.

Under the Balanced Budget Act, millions of middle-class American families could have benefited from these tax cuts, except for one man. Mr. Speaker, taxpayers need to remember that President Clinton vetoed all of these middle-class tax cuts and a 7-year balanced budget.

RAISING THE MINIMUM WAGE IS THE DECENT THING TO DO

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, indeed it is time to raise the minimum wage. What is the argument that we hear the Republicans saying as to why we should not raise the minimum wage? They say when we do that we will reduce the opportunity for jobs; that, in fact, there are not a lot of people who are working at minimum wage, only teenagers.

Mr. Speaker, that is a false premise. In fact, two-thirds of the minimum wage earners are families with adults who are trying to support a livable income providing decent food, shelter, clothing. That is the basis for the minimum wage, a living wage.

Also, Mr. Speaker, it was said that if we do that, the economy will suffer. Why would it suffer? Where will that money go? As soon as the money comes in, it will go for food and shelter. It goes right back into there. What happened when the minimum wage was raised the last time? We did not have great inflation. That did not happen.

Who are we protecting? We are protecting the rich. That is the issue here. Are we equally concerned for those at the bottom of the scale as we are concerned about the 5 percent we are willing to give big tax breaks?

The minimum wage is the decent thing to do. It is also the economical thing to do. It is the fair thing to do. The American people want a minimum wage. We should do that.

PRESIDENT CLINTON VETOED MEASURES THAT WOULD HAVE HELPED MINIMUM WAGE EARNERS

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, we are talking about raising the minimum wage because it is at a 40-year low? Well, we have raised the minimum wage several times, and yet it is still at a 40-year low. I do not think it is working.

Common sense is not working, because historically it does push inflation. Unions tell me that purchasing power is at an all-time low because of inflation, and yet that is what the problem is and we want to raise the minimum wage.

Well, 75 percent of the people on minimum wage are students. Most of them in minority communities. That is the area that is hit the worst when we increase the minimum wage, the minority communities—6.5 percent of the people on minimum wage are heads of households.

Now, we have tried to help the working poor, the heads of households on minimum wage, with an earned income tax credit, actually putting more money into their pocket, and it is not inflationary. That was vetoed by Mr. Clinton. We also had a $500 per child tax credit, which would have put more money in the pockets of the working poor. Mr. Clinton vetoed it. Neither of them inflationary, neither of them eating into the wages of working Americans and the working poor.

It is time for Congress to do the right thing for the working poor and the working families. Oppose the minimum wage.

RAISING THE MINIMUM WAGE WILL NOT CAUSE INFLATION IN AMERICA

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. I find it the height of hypocrisy when Members of this body making $113,000 a year stand before the United States of America and proclaim that persons who are making $4.25 an hour, if we move it beyond $5, that will cause inflation in America.

Let me tell my colleagues what causes inflation in America. The hundreds of people who are CEO's of major corporations collecting millions of dollars, getting their golden parachutes and moving out to their various places, moving jobs outside this country so that they can benefit by low wages from persons who are not Americans and yet shipping back to America the products they produce and selling them at the highest possible price.

If we want to talk about who deserves it, it is not the persons who are at the top but the persons at the bottom, many of them working every day still impoverished. How can we justify this in a Nation where we dare to export our democracy?

We should be ashamed of ourselves. We should talk more fairly about all of our citizens and how we can bring them up. We cannot do it by giving to those at the top and taking from those at the bottom. I hope that our Congress will realize this and the American citizens will realize the game that is being played.

LEGISLATION CREATING THE AMERICAN DISCOVERY TRAIL

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, on Tuesday, this Member introduced legislation to designate the American Discovery Trail as a component of the National Trails System. The bill, H.R. 3250, also creates a new category in the system—National Discovery Trails. The bill is already supported by a bipartisanly balanced 44 cosponsors.

This legislation represents an exciting step forward in the development and connection of trails in the United States. The multiuse ADT provides the connections which are needed to link existing trails and create a backbone for the National Trails System. While stretching from the Atlantic to the Pacific, it connects large cities and small communities with forests and remote areas.

The American Discovery Trail will provide outstanding, family oriented recreation for all Americans. It will also offer important economic development opportunities to the communities along its route.

The ADT also takes into account private property concerns since almost all of the trail is on public lands. The few exceptions are in locations where there are existing rights-of-way or agreements with existing trails or by invitation. The bill also mandates that no lands or interests outside the exterior boundaries of federally administered areas may be acquired by the United States solely for the American Discovery Trail.

The American Discovery Trail is national in scope, but it is made possible by the grassroots efforts on the State and local level. This Member urges his colleagues to support these local efforts by cosponsoring the American Discovery Trail bill.

PRESIDENT CLINTON SHOULD BE TOUGH AND CONFRONTATIONAL WITH MR. YELTSIN

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, today the President of the United States travels to Russia. I would hope that the President would not pose for photo opportunities with Mr. Yeltsin but would instead be very tough and very confrontational on three important issues to America:

First, the ongoing war in Chechnya that is killing thousands and thousands of people each month. We need to bring an end to that war immediately.

Second, the New York Times recently reported a secret project going on in the Ural mountains in Russia. We need to find out more about that.

Third, renegotiating the space station on the part of the Russians could cost the American taxpayers several hundreds of millions of dollars. I would hope the President, in a policy of engagement, would be tough and confrontational and not coddle the Russians on these very important issues.

TRIBUTE TO SECRETARY RONALD H. BROWN AND AMERICANS WHO LOST THEIR LIVES ON MISSION TO BOSNIA

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the resolution (H. Res. 406) in tribute to Secretary of Commerce Ronald H. Brown and other Americans who lost their lives on April 3, 1996, while in service to their country on a mission to Bosnia.

The Clerk read the title of the resolution.

The SPEAKER pro tempore (Mr. QUINN). Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER pro tempore. The clerk will report the resolution.

The Clerk read as follows:

H. RES. 406

Whereas Ronald H. Brown served the United States of America with patriotism and skill as a soldier, a civil rights leader, and attorney;

Whereas Ronald H. Brown devoted his life to opening doors, building bridges, and helping those in need;

Whereas Ronald H. Brown lost his life in a tragic airplane accident on April 3, 1996, while in service to his country on a mission in Bosnia; and

Whereas thirty-two other Americans from government and industry who served the Nation with great courage, achievement, and dedication also lost their lives in the accident: Now, therefore, be it

Resolved, That the House of Representatives pays tribute to the remarkable life and career of Ronald H. Brown, and it extends condolences to his family.

Be it further resolved, That the House of Representatives also pays tribute to the contributions of all those who perished, and that we extend our condolences to the families of: Staff Sergeant Gerald Aldrich, Duane Christian, Barry Conrad, Paul Cushman III, Adam Darling, Captain Ashley James Davis, Gail Dobert, Robert Donovan, Claudio Elia, Staff Sergeant Robert Farrington, Jr., David Ford, Carol Hamilton, Kathryn Hoffman, Lee Jackson, Steven Kaminiski, Katheryn Kellogg, Technical Sergeant Shelley Kelly, James Lewek, Frank Maier, Charles Meissner, William Morton, Walter Murphy, Mathanial Nash, Lawrence Payne, Leonard Pieroni, Captain Timothy Shafer, John Scoville, I. Donald Terner, P. Stuart Tholan, Technical Sergeant Cheryl Ann Turnage, Naomi Warbasse, and Robert Whittaker.

SEC. 2. The Clerk of the House shall transmit a copy of the resolution to each of the families.

□ 1030

The SPEAKER pro tempore (Mr. QUINN). The gentleman from Missouri [Mr. GEPHARDT] is recognized for 1 hour.

Mr. GEPHARDT. Mr. Speaker, I yield myself such time as I may consume. In a moment, I will yield to the distinguished Speaker of the House.

Mr. Speaker, I rise this morning with great sadness to offer a resolution in tribute to Commerce Secretary Ron Brown and all of the Americans who lost their lives in that awful tragedy on April 3 while they were all serving their country on a mission to Bosnia. I am pleased that we are able to make this a bipartisan resolution, in fact, a resolution of all the Members of the House. For when a highly and distinguished member of the U.S. Cabinet is killed overseas for the first time in American history, when we lose an individual, and individuals of such extraordinary ability and achievement, when we lose so many other dedicated business leaders and public servants, members of the Commerce Department, members of the U.S. Air Force, it is not a partisan tragedy, it is truly a tragedy for all of our citizens and all of our country.

In the week since Ron Brown's death, it has already become a cliche to speak of his brilliant political and public service career. Of his pioneering role as chairman of the Democratic Party and his efforts to almost single-handedly redefine the Commerce Department and its mandate. For those of us who considered Ron a friend, as I did, it is reassuring to know that the country remembers him as fondly as we do. But when there are so many tangible achievements to celebrate in a man's life, it becomes harder to recognize what is less tangible but perhaps as more important.

To me, there is a simple reason why Ron Brown broke down so many barriers in so many areas and shattered so many preconceptions, about politics, race, and America's place in the world. For all of his practical and political talents, Ron Brown was an idealist, pure and simple. His goals for himself, his party and his country were always based on what should be and not on what others thought could be. This is a rare quality in any of us, in a politician, a rate quality in a human being. But it is why so many people loved and respected Ron Brown and were so often willing to abandon their own goals and egos to work with him for a higher purpose.

Mr. Speaker, much has been said in recent days about Ron Brown's ability to heal divisions, to reconcile views, to focus on what unite people rather than on what divide them. He truly believed that you could always accomplish more by working together, by bringing others along with you. That is one reason why he nurtured so much talent in so many other people throughout his career. As party chairman, he really did bring the Democratic Party together, something that is hard to do, sometimes almost one person at a time.

To see the depth of his empathy and understanding, to see how far he would go to understand people who disagreed with him and opinions and then to find the common ground between them was to see the very essence of leadership. Commerce Secretary Ron Brown dramatically expanded his mandate, reinvigorating the foreign commercial service and becoming a real booster of U.S. exports on a scale that we have never seen before. He poured all of his passion and energy in his work at Commerce, as he had at the Democratic Committee, and I always admired the aggressive way in which he led that department, even in the face of criticism.

Mr. Speaker, our country could use more Ron Browns, for he pushed boundaries, broke down barriers almost instinctively, intuitively as if he simply refused to acknowledge that they were there in the first place. Perhaps in that sense, we can find a shred of meaning in Ron Brown's death, because no risk, no naysayers could ever have kept him from exploring new terrain, for reaching new challenges, and from trying to redefine the world in which we live.

That he managed to do all of these things in so few years is a powerful legacy indeed. I also want to reach out on behalf of all of us to the families not only of Ron Brown but all of the Americans who died in this terrible tragedy. All of them together, in their own way, were trying to do something very important for the United States and for the world. The business people who were out there were out there to help rebuild an economy torn by war and strife.

Mr. Speaker, the truth is there was no real profit to be made by these companies. They were there on a mission of the United States to help the people of Bosnia. Unlike maybe many of the other trade missions that Ron Brown asked them to be on, this one was truly a mission of help. This was a mission of altruism in the highest sense of the business community and the people of this country.

So to the families of all of these people, whether it was business leaders, whether it is Ron Brown, whether it was the Air Force people who were trying to take them there, whether it was the staff people at Commerce, I want to reach out and deliver in as heartfelt a way as we can the deep sympathy and the feeling of gratitude and appreciation that all of us have for all of these people and their families.

There is no way that any of us can bring these lives back, but we can at least stand here today and on behalf of the American people give a heartfelt condolence of sympathy and heartfelt thanks and appreciation for the sacrifice of all of the people who died in this terrible tragedy.

Mr. Speaker, I yield such time as he may consume to the distinguished Speaker of the House, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Let me thank my colleague for yielding and let me thank the minority leader for proposing this resolution which I think every Member of the House will support and which I think every Member of the House wishes to reach each family touched by this tragedy.

The House, I believe, will want to extend condolences to every member of every family to realize that there were a number of Americans serving their country, serving the cause of freedom, seeking to help a war-torn region who found themselves willing to take real risks. This tragedy is a reminder that service in our armed services and at times service to our country is potentially dangerous and requires of our citizens a willingness to put duty above pleasure and to put country above self.

Mr. Speaker, Secretary Ron Brown is the first Cabinet Secretary killed on duty in over 150 years. I think it was an enormous shock to all of us to be reminded of the dangers traveling around the world that can affect those who serve even in civilian posts. I knew Ron Brown as a competitor. We did not meet in the same planning meetings. We were not involved in the same things when he was chairman of the Democratic National Committee, but I got to know him as somebody who was brilliant, who was charming, who was energetic and, maybe more important, who had a kind of creativity with a remarkable resilience. Whatever angle you came at Ron from, he came back with a new idea, a new approach, new intensity. He was a great competitor. I think that both Lee Atwater before his death and Haley Barbour since have found in Ron Brown a personal friend and somebody who shared their passion for democracy and shared their zest for partisan competition.

It is true that Ron Brown was at times very controversial and a lot of questions were raised, a lot of charges were made. Certainly, of all the Members of the House, I may be the most able to identify with being at the center of controversy at times. And I can say that every time we would meet and we would talk, there was a positiveness to his approach. There was an intensity and a willingness to live out whatever happened and whatever fights he was in, a willingness to move forward, to focus on getting things done that was quite remarkable.

At the Commerce Department, he traveled across the world, worked with senior executives, did, I thought, remarkably creative things to create American jobs through world sales. And again and again he would put together a team, they would go to a country and he would achieve breakthroughs for American workers and for American sales that had not occurred before. In his last mission, as my good friend from Missouri was pointing out, Ron Brown was on a selfless venture to help those who needed help, to help those who sought peace, recognizing that as Commerce Secretary, if he could help them begin to rebuild their economies, he might be able to begin to rebuild their cultures, and they might be able to find a way to seek prosperity together rather than to destroy their region in war.

I think we in the House want Ron Brown's family and the families of all of those who died in this accident to know that we are deeply grateful for the commitment they made to freedom, to the willingness they had to serve their country, and that our offices and our doors are open, both to Secretary Brown's family, but equally important, to the family of every American who was on that airplane, to the family of every person who died in service to their country.

Again, I thank my friend for offering this resolution which I so strongly support and which I would hope the House will pass unanimously in just a few minutes.

Mr. GEPHARDT. Mr. Speaker, I thank the Speaker for that fine statement and urge all the Members to vote for this resolution.

Mr. Speaker, I ask unanimous consent that the gentleman from Michigan [Mr. DINGELL] be allowed to manage the remainder of the time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. DINGELL. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I first want to commend our distinguished minority leader and the Speaker for introducing this important resolution and for bringing it to the floor in this expeditious manner.

I am pleased to be a cosponsor of this resolution, which pays tribute to Secretary of Commerce Ron Brown and the other 33 Americans who lost their lives in the tragic airplane crash on April 3.

In the past 2 weeks, we all have heard the tremendous accolades paid to Secretary Brown for his numerous contributions to this Nation. He was a great public servant, a loving husband and father, and a man who brought tremendous enthusiasm, vision, humor, and intelligence to every challenge he accepted.

The country is much better off because of Ron Brown. We have all heard the many tributes from American business leaders who have called him the best Secretary of Commerce in our Nation's history. These statements were made well before his tragic death. As Secretary of Commerce, Ron worked tirelessly and aggressively to create and protect American jobs. Under his leadership, the Department delivered more for less by making sensible investments in our communities, protecting intellectual property rights, stimulating advances in technology and telecommunications, increasing our competitiveness and exports, and providing essential weather forecasting, research, and environmental services.

I know many other Members with to speak this morning, so I will end by simply saying farewell and thank you to my dear friend Ron Brown and by extending my deepest condolences to his wife Alma, to his wonderful children, and to the families and friends of the other Americans who lost their lives in service to their country on April 3. The loss of their collective talents will be felt for years to come.

□ 1045

Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Mr. Speaker, first of all I would like to thank, as a representative of the Congressional Black Caucus, to thank the leader, the gentleman from Georgia [Mr. GINGRICH], to thank our Speaker, and to say to our Speaker we thank him for bringing in the bipartisan part of this resolution, and I thank him very much, Speaker GINGRICH, for adding this dimension to this resolution.

Secretary of Commerce Ron Brown and the other Americans who lost their lives on April 3 while in service to our country, they were true patriots, and they deserve the honor which patriots should receive.

The Congressional Black Caucus thanks all of this House for representing and paying a tribute to Secretary Brown. We also want to thank Senator BOB DOLE, who cosponsored the resolution in the Senate, and 98 of his colleagues properly and officially honored, just as we are doing, Secretary Brown and the other great Americans who died in the service of their country.

We pay tribute to Commerce Secretary Ron Brown and the others. He was the 30th U.S. Secretary of Commerce. He had been a strong and forceful advocate for not only American business, but Ron Brown stretched all out to the byways and the ghettos of this country, and they all had a model to follow, regardless of race, color, or creed. He was a beacon of hope for the divergent messages that make up this country.

Under Secretary Brown's leadership, the Commerce Department became one of the major success stories in the Clinton administration. He launched a national export strategy predicated on the very basic idea that American exports translate into jobs and opportunities for American business and working people. In the pursuit of this strategy, Secretary Brown conducted trade mission after trade mission.

He was a tireless worker or soldier in the American Army. He had the vision to see that beyond the horrors of war, behind the horrors of war-torn Bosnia lay opportunities, not only for American business, but for the Bosnian people. To be of service, he wanted to be, and he did it as well as to engage in commerce.

Ron Brown was a common man with an uncommon touch who, while fighting against this Nation's injustices, also believed he could be bettering this Nation and that all people could be lifted up to reach their highest potential. Because of Ron Brown, doors have been opened for many Americans that were never evern cracked before.

The Congressional Black Caucus is grateful for Secretary Ron Brown's legacy, which he left to all of us. He came from humble roots, but he did not internalize his race or his color or his creed. He did not internalize his humble beginnings. He made something out of each one. He did not relate himself to the roles which society had defined for him and others like him.

He was an unifying and driving force to indicate to all of us what a public servant should be like. He knew what it meant to be one. He put the needs of the American people ahead of his own. He lived for America, and ultimately, Mr. Speaker, he gave his life for America.

So I want to thank this House for bestowing this tribute on Ron Brown, and on behalf of the Congressional Black Caucus I would like to say, "Thank you to all of you."

Mr. DINGEL. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New York [Mr. FORBES].

Mr. FORBES. Mr. Speaker, I rise in support of this resolution, and most importantly I rise in support to celebrate the life of the man that we knew as Ron Brown.

I am a new Member of this body, going on my 15th month, and early in my tenure Ron Brown reached out to me as one of those new freshmen Members, those Republican freshmen Members of the Congress, because Ron Brown, above all else, was the kind of man that built bridges, and, yes, we know his service as a great politician, and I say that in the most reverent and decent sense because he understood good politics, he understood the art of compromise and building bridges.

Ron Brown was a people person, he was a good and decent man, and I am so very honored to stand in this well with so many others who have come to revere and respect Ron Brown and to have called him my friend.

Mr. Speaker, over the last 15 months we spent many moments together, some of his more difficult personal moments. I was honored to have spent some time over in his office with him, and, Mr. Speaker, Ron Brown, as I said, was a tremendous individual, and he was a tremendous public servant. He built the Commerce Department in a way that I think few on either side of the aisle would dispute. It said that the work of Ron Brown has sowed the seeds for about $44 billion in new economic opportunity for American businesses as a result of his travels around the globe to build partnerships with other nations.

As I said, he was a good and decent man, and we shared something else in common: our love for a place on eastern Long Island called Sag Harbor, and he spent many wonderful private moments there with his dear wife, Alma, and with his children.

Mr. Speaker, Ron Brown, as I say, will be sorely missed. He was a man of good humor, good decency, and we reached out and spoke with each other many, many times over the last 15 months.

I disagree with some who think that, for example, we should change the way the Commerce Department is set up. I disagree with that, and Ron understood that, and we talked at great length about that.

I shared his interest in the National Marine Fishery Service, which was one of the many agencies under his charge at the Department of Commerce, and they did tremendous things, the National Marine Fishery Service, something again that we had in common with my eastern Long Island district, and, as I have acknowledge, he has built tremendous bridges across the world on behalf of all Americans in the area of international trade particularly, and during my last 15 months in this body I have heard repeatedly, long before the tragedy, of the tremendous accomplishments of the Secretary of Commerce, Ron Brown, in the area of exporting.

So I rise today in support of the resolution. I extend to the family of Ron Brown, to his dear wife, Alma, and his children, Tracy and Michael, and to all of the families of the 33 others whom we lost in the tragedy earlier this month, I extend our condolences, our heartfelt sympathies, and our prayers and thoughts are with all of you.

I stood in this well several evenings ago and made note of another individual whom we lost in this tragedy from my district, young Gail Dobert, who served with Ron Brown in his chairmanship of the Democratic National Committee, and with excitement and great promise went with him over to the Department of Commerce and served so ably to help build this international presence that Ron made possible.

So I rise in support of this resolution, and I appreciate the House taking this time today to celebrate the life of Ron Brown. He was a good and decent man.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, today we honor a dear friend and a great leader, the late Commerce Secretary, Ron Brown.

Every so often, fortunately, our country produces someone who reminds us of the hope, energy, and optimism that are the very essence of being an American. Ron Brown was such a person. He was a vital man—vital in his love of life, and vital in the energy that he brought to his work.

Those of us who had the joy of working with Ron Brown know the total dedication he brought to any job. Verve, style, and sheer energy were his hallmarks.

But beyond that dazzling surface lay an intellect of great depth in understanding the forces at work in the world today. He knew that in an increasingly complex and competitive world, Government officials must fight to gain a fair share of foreign projects and markets for U.S. goods. So Ron Brown pioneered commercial diplomacy. From his first day at the Commerce Department to his last tragic flight, Ron Brown proved himself to be the best advocate American business ever had. Against the world's toughest competition, he championed our country's industries, workers, and products.

He pioneered commercial diplomacy from his first day at Commerce to his last, tragic flight.

Ron Brown proved himself to be a strong voice for American business and for all Americans. Against the world's toughest competition, he championed our country. His knowledge, his good will, and his commitment to this country will all be missed deeply. With my colleagues, I send my deepest sympathy to his family.

But, Mr. Speaker, on a personal note, I just want to speak about Ron Brown as I knew him. He had something that always had me in awe. When Ron Brown talked to you, you thought he cared about you.

The last time I talked to Ron Brown was a week before he went on his trip. My colleagues would have thought this terribly busy man was waiting for my call. And my call was a request, another request of so many requests, to take up part of his very important time.

My sympathy to his family, my sympathy to the United States of America, because he is gone.

Ron, your thousands of friends are going to miss you.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from Michigan, JOHN DINGELL, for being gracious with his time, and I will only take just a couple of minutes.

Mr. Speaker and colleagues, I rise as a conservative to pay tribute and give my sympathy to the family of Ron Brown.

Ron Brown was a liberal. We rarely shared the same philosophical views. But let me say to my colleagues there was no more trusted man in politics, in my opinion, than Ron Brown because he really believed what he said. He was truly genuine. I think we really need to learn from Ron Brown's spirit. Even though he was a partisan Democrat and I am a partisan Republican, we all could meet with him, and when that meeting was finished and when I was walking out of the room, it felt like walking out after having met with a friend even though we might have disagreed.

That is the kind of man that Ron Brown was. We need more people like that in Government, we need more people like that in this House of Representatives. We all, those of us who show emotion from time to time, could take a lesson from Ron Brown because he was truly a decent human being, liked by so many people, including me.

Our condolences also go out to all of the families of those who lost their lives in the terrible tragedy including the families from Glens Falls, NY, my hometown, Claudio Elia, the husband of Susan Day, who grew up next door, and to Walter J. Murphy, who also grew up in Glens Falls.

They and Ron Brown were just 2 of the 33 decent human beings who were doing their part in trying to bring peace and stability to that troubled part of the world.

May God Bless them all.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding this time to me, and I thank him for his leadership and his tribute to Ron Brown.

Seven Americans, seven public servants, went down on that fated plane in Bosnia. One of them was Ronald H. Brown. He was my friend of 30 years and my constituent. This was the city in which he was born, it is the city where he lived out his life, it was the city where he became known as both a public man and a public servant.

Many of us will remember him also as a family man. The most poignant photograph of Ron is the one with his twin grandsons.

□ 1100

What Ron meant to his son Michael and his daughter Tracy is itself a model for how to be a parent in these days when so many have lost that art. Yet, this most busy of men was a wonderful parent to his children.

Ron will be remembered as a breaker of barriers on one hand, and as an extraordinary innovator on the other. He broke barriers that no man or woman before him had even attempted. This was, I have to say, my colleagues, a black man who simply did not know his place and refused to accept the notion that there was one for him. So when it came time to resurrect the Democratic Party, it was Ron Brown who stepped forward and said not "Not me," but "It must be me."

When he went to the Commerce Department he said not "How do you do this job?" but "I will do this job in a way it has never been done before." So after he broke the barriers, he did something much more important. He was a pioneer in turning around each of those institutions.

It was Ron Brown who engineered the comeback of the Democratic Party in 1992, and it was Ron Brown who perfected the art of diplomacy, of commercial diplomacy at the Commerce Department. Either one of these breakthroughs, either one of these pioneering efforts, would have left Ron's name written in the book of American history. He wrote new pages wherever he went. He wrote them in part because he had it all. He was an extraordinarily talented man, and because he understood the expanse of his talents, he gave it all.

Ron exemplified the best of our country, the American spirit of optimism, the refusal to recognize any limits. May our country also make that same refusal.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, I rise in tribute today to a great America, Ron Brown, who was an outstanding father to Tracy and Michael, a loving husband to Alma, a fine Cabinet secretary, a trusted adviser to President Clinton, a champion of business. He helped increase the growth of this country's companies and, as well, increased jobs; a goodwill ambassador for the United States; a positive spirit; a modern-day Will Rogers. He never lost his cool.

The world gave him lemons and he made lemonade; a role model for our young people; for those who want to get involved in government, work for a good candidate, work for a good cause, and work for your country, just like Ron Brown did, a great American who we tribute today, and who will be greatly missed.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Speaker, I proudly sponsor this resolution because Ron Brown was a friend and a rare American. He was African-American, but he transcended race and color. He was a party leader, and one of the best because he resurrected our party, but there was nothing ever small or petty or partisan about him. He had this enormous affinity for people, and he led by bringing people together, not by splitting us apart.

When he came before our committee to defend his embattled Commerce Department, he was a forceful advocate with the facts at his command, but he made his case without a trace of rancor or resentment. He could do that because he sat there as the single best argument for that embattled department.

Ron Brown was a bridge-builder at a time when so many of our differences seem unbridgeable. His goodness and his decency and his energy and charm are assets we sorely need in the public life of this country. We can ill afford to lose leaders like him, before his time, still in his prime.

But in the broadest sense, we have not lost Ron Brown, for he remains a lasting symbol of what America at its best can be. I extend to his family, and to the families of all those who perished in this tragic accident, my sympathy and our gratitude for the selfless service rendered our country in the cause of peace in a forlorn place.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. NEY].

Mr. NEY. Mr. Speaker, I thank the gentleman from yielding time to me.

Mr. Speaker, I also wanted to extend on behalf of my district and, obviously, all the Members of the House, condolences to the family of Ron Brown and all those who were aboard the airplane that crashed in Bosnia.

Also, Mr. Speaker, I wanted to point out that one of my constituents who was originally from Zanesville, OH, Shelly McPeck Kelly, was aboard that plane. She leaves behind a loving family in Zanesville, OH. That would be her mother, Shirley Clark, and also her stepfather, Sam Clark, and several siblings. She also leaves behind a loving husband, Dennis, and two children, Sean and Courtney.

Shelly McPeck Kelly was to retire in 2 years from the Air Force. She achieved the rank of technical sergeant. She was a loyal and devoted wife and a loving mother. She served faithfully her Government aboard a U.S. Air Force plane, and also had previously served for the President aboard Air Force One during the Bush administration.

I recognize her service to the country, and rise on behalf of the residents of eastern Ohio to say that we want to commend Shelly McPeck Kelly for her service to the United States of America during the Bosnia peacekeeping mission, and just also say that the residents of eastern Ohio join me in honoring the memory of Shelly McPeck Kelly and send condolences to her family, as we also send to the family of Ron Brown and the other devoted and loyal Americans aboard that plane.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. JACKSON].

Mr. JACKSON of Illinois. Mr. Speaker, I thank the distinguished gentleman from Michigan [Mr. DINGELL] for yielding this time to me, and for his forthright vision in honoring the late Secretary of Commerce.

Mr. Speaker, I rise this morning to join my colleagues in sponsoring this resolution in honor of Secretary Ron Brown and the others who lost their lives on Wednesday, April 3. The tragic plane crash and death of Secretary of Commerce Ron Brown is a personal loss, as well as a national loss of a great public servant. In addition to being a professional colleague, I was a close personal friend, not only of Ron Brown, but of his entire family, his wife Alma, his two children, Tracey and Michael, and his brother Chip Brown.

Our prayers are with Ron Brown's family and with all of the families who lost loved ones in this terrible tragedy—Bill Morton, Carol Hamilton, Duane Christian, Kathryn Hoffman, and the others. It is a reminder to all of us to be good stewards of the time and talent that God has given us on this Earth, and to use it to serve others to the best of our abilities.

I was with Secretary Ron Brown just a couple of weeks ago at a breakfast meeting. He came up to me and congratulated me on my election to Congress. He said, "I am so proud of you." The feeling was mutual, I was also proud of him.

I was appointed to the Democratic National Committee [DNC] by Paul Kirk, largely at the behest of Ron Brown, who shortly thereafter was chosen as the chairman of the DNC. As Chair of the DNC, he is credited with running a coordinated campaign, which not only elected Democrats to the Senate and House, but helped to elect Bill Clinton President of the United States. Shorty, thereafter, he was appointed Secretary of Commerce, where he did a splendid job for the President and for the country.

Ron Brown was the convention manager for my father's Presidential campaign in 1988, where he used his bridge-building skills to close the gap between progressives and the more conservative members of our party. In many ways, even more than business development, that is Ron Brown's legacy. He was a gifted bridge builder—bridging the gaps of human misunderstanding and fear; and building human trust and understanding.

Mr. DINGELL. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I got to know Ron Brown because I serve on the International Relations Committee, and because I also serve as Chairman of the Congressional Travel and Tourism Caucus. Ron Brown had a great sense of humor. He was also a fellow that helped Republicans. I hold an exports conference every year, and over 1,000 people come to that conference each year. Ron Brown was one of the keynote speakers at the conference 2 years ago.

As I said, he had a great sense of humor. When I spoke with him at the White House Conference on Travel and Tourism, he said to me, "You know, you are my favorite Republican." I was really proud of that until someone told me, Ron tells all the Republicans they are his 'Favorite Republican'."

We have a travel and tourism bill developed from the recommendations of the White House conference. The success of that bill is a testimonial to Ron Brown, because we have 225 cosponsors of that legislation.

Ron and I also worked together on another bill, the Export Administration Act. For 17 years, Congress was unable to put together an export administration act. Then, I want to Ron Brown and said, "I have to talk to the President about this." Thanks to Ron Brown, I did have a chance to talk to President Clinton three times on the legislation. That bill has been reported out of our full committee, and it is waiting for a full House vote in May.

Ron Brown was a great Democrat, and he worked hard for the party. I think the loss of Ron Brown to Clinton is comparable to the loss of Lee Atwater to President Bush. That is my opinion. That is how much I thought of Ron Brown.

Yes, he was the loyal opposition, but he knew when to put aside partisan politics. He went out of his way to help make my Exports Conference a success, and I happen to be a Republican. His help with the Export Administration Act was invaluable. That bill will increase our exports by $30 billion.

Mr. Speaker, I just want the people of this body to know that when Ron Brown went overseas, he worked hard. When he went down with a number of CEO's to Brazil, Chile, and Argentina, he worked as many as 35 hours in a row briefing people, talking to people, and trying to create jobs. Ron Brown did a lot for the economy of this country, and we are going to miss him. I thank the gentleman for yielding me the time.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, let me thank the gentleman from Michigan [Mr. DINGELL] for handling this resolution.

Mr. Speaker, last night we held a special orders session to honor our friend and a great American hero, Ron Brown. I rise now to join my colleagues in supporting this resolution paying tribute to this remarkable public servant.

As Secretary of Commerce, Ron Brown was known around the world as a tireless crusader for fair and free trade. A skilled negotiator, he kept America's interests in the forefront while winning the respect of our foreign competitors. Although Ron Brown's life was cut short, it was filled with extraordinary achievements: U.S. Army captain, vice president of the National Urban League, chief counsel, Senate Judiciary Committee, partner in the law firm Patton, Boggs & Blow; chairman of the Democratic National Committee, and his crowning achievement, Secretary of Commerce.

His dynamic energy was the force that propelled the Commerce Department forward. He and his energetic young staff brought billions of dollars of business home to the United States, transforming a lackluster Federal agency into a whirlwind of productive activity. We take a moment now to say thank you, Secretary Brown, for being both a dreamer and a doer. Your candle has not been extinguished; its light continues to burn.

Our deepest sympathy goes to his loving family—his wife, Alma and children Michael and Tracey and to the families of all of those dedicated Americans who died on that fateful mission.

We will miss Ron. He was a true American. He was an American who said that we can do it. He opened the eyes of this world to what can be done with dedication. Thank you very much for your service.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding time to me, and I thank my colleague, the gentleman from Connecticut [Mr. FRANKS], for letting me go a bit out of order.

Mr. Speaker, I want to pay my solemn and deep respects for Mr. Brown, who was an outstanding chairman of a major political party, the Democrat Party, and an outstanding Secretary of Commerce. He was someone who was extraordinarily energetic. I never met with him when he was not upbeat and excited and very dynamic. I wish to express my condolences to his wife, Alma, and to his two magnificent children, Michael and Tracy.

□ 1115

This resolution also honors the others who died in this tragic plane crash in the former Yugoslavia, and I want to pay particular respect to Robert Donovan, who was the president and chairman of ABB, and, a resident of Fairfield, CT. I also want to pay respect to his magnificent wife Peg, and his two children, Kara and Kevin. I learned a lot from meeting with them after the death of their husband and father about the resilience of a great American family and how proud he could be of his family. I want to pay respect for his service to West Point and to his country. He was a true great American patriot.

At this time I also want to pay my respect to Claudio Elia, who was president and chairman of Air and Water Technology. He was a recent citizen of the United States, and I am told by his wife Susan and his children Mark and Christine that their father would have taken extraordinary joy, pleasure, and admiration—they would have been so proud to have heard the President of the United States call him and the others who went on this dangerous mission great American patriots. I was in awe of this family, the Elia family, in terms of my conversation and dialog with them, on how they dealt with the death of their husband and father.

My respects to Mr. Brown and to these two great families.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, let me thank my friend from Michigan for managing this bill for my dear friend Ron Brown.

One of the questions that I have found most difficult to answer was what made Ron Brown so different. I have to admit that I do not really have the answer, but one of the things that I think that made him different was the depth of which he loved this country and the fact that the country gave him an opportunity to show just how good he was.

When you think about that, you have to take a look at the history of our country, where we were and where we are going, and was Ron Brown not the right guy at the right time.

Everything that we have been taught in this country in our history deals with our relationship with England and with Europe. But now that they have their Common Market, we have to find other places to sell our goods: Central America, South America, Africa, China, all of these markets. And we have to do it in a way that we are not so hung up with our European connection as much as we are with our human being connection, and that was what Ron Brown was all about.

Ron Brown saw despair. He saw the need for economic development. He knew what a job would do for a person in terms of family values and dignity and planning a family and having a place to live. When he went to these countries, he did not just see a place to sell airplanes. He saw the pain and the misery and the opportunity to help build their economy, build friendships and, of course, while doing that, to create the jobs and the dignity and the disposable income that would be necessary for trade.

That is why when I have had the opportunity and the honor to travel with him, that he never just stayed with the big shots. He always went out there with the beneficiaries, the poor, those that sometimes seemed to be without hope. Even in South Africa, where he went to Soweto and spent more time than I would normally spend to see the people in Soweto, to sing their national anthem in his honor and his presence, meant that he did more than just sell goods to these people. He was selling the United States of America.

I hope those that have targeted the Commerce Department would realize that Ron Brown electrified everybody in Commerce. They love their country and they love what they are going. Whenever Ron Brown went overseas, our embassies turned overnight into being satellites of the Commerce Department, and our business people, instead of seeing staid diplomats and ambassadors, they saw those people that were there making deals for them.

I hope as this Congress moves forward and we have to go to the North American free trade countries and we have to go to China and Japan, that we really give other Americans the opportunities and change the complexion literally of the State Department, as Commerce has changed, and give America a better chance to show how good we really are.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Connecticut [Mr. FRANKS].

Mr. FRANKS of Connecticut. I thank the gentleman from Michigan for yielding me the time this morning.

Mr. Speaker, I would like to read a letter that I sent to Alma Brown, Michael, and Tracy and the other members of the Brown family:

> It is with great sorrow that I write this letter of condolence to all the members of your extended family. Losing a family member is always difficult, particularly when it is someone who has been so vibrant and been so wonderful to this country, as well as one who would have such a great future that was taken away from him so abruptly.
>
> Secretary Brown dedicated his life to his country and, ultimately, died in service of it. There is no greater love that one can have for one's country than to die for it.
>
> Even though he died at a relatively young age, Secretary Brown's accomplishments were far greater than most people ever achieve at any age.
>
> I realize the feelings of grief that you must feel at this tragic time. However, the love of your family and the warmth and sincerity of neighbors, friends and the many people of our great country who are mourning the loss of Secretary Brown, will help sustain you in the days to come.
>
> I know that Secretary Brown's memory will be cherished by the many people whose lives he touched and affected.

My prayers are also being sent, Mr. Speaker, to the other passengers who died in the crash, including the two families from my State of Connecticut.

Mr. DINGELL. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank my friend from Michigan for yielding me the time.

Mr. Speaker, on April 3 of this year, 33 bright and shining stars of America lost their lives on a mission for their Government. Whether they came from the private sector, the armed services, or public service as Ron Brown and his colleagues from Commerce, they were all serving America and serving as a shining example to us, all of the best that is within us.

I, and a number of my colleagues, went to Dover Air Force Base to welcome back the 33 caskets containing those bodies. Their souls, of course, had gone to God. But as we paid tribute to them as human beings and expressed our sorrow along with their families at their leaving, we listened to the President's eulogy which was appropriate and, I thought, compelling. He said that these 33 lives show us the best of America, and indeed they did. And as this resolution does, the President named each and every one of those 33.

Ron Brown was, as he was to so many, my friend. I particularly remember an incident where we were going to Los Angeles to speak, and he had arrived at Dulles on an airplane, and I had gone there from here, and he had a very short connection. We got on the plane and we were flying to Los Angeles, and he had to speak that night at 5 o'clock and, lo and behold, his bags had not followed him and he was in casual clothes.

Now, Ron Brown was not one to speak in casual clothes, as we will recall. Luckily, I had two suits in my bag, so we went in the men's room at the Denver Airport, and there we were, a black man and white man exchanging suits and dressing to speak that night. I am sure a lot of people said, "What's going on here?"

Ron Brown spoke that night, and he said, "I'm Ron Brown, but this is STENY HOYER's suit." He was so elegant, I am sure that he thought my suit was not quite up to his standards.

Ron Brown contributed greatly to this country in so many different ways. Yes, he was as shining an example of what a Secretary of Commerce ought to be as any in history, but he was much more than that. He was, as so many of my colleagues have indicated, a representation of what America is all about and what its best instincts produce.

Ron Brown was indeed a happy warrior. He was the embodiment of the joy of politics. Ron Brown, for all the young people of America, ought to be an example that there are no barriers too high, no mountains too hard to climb that should preclude you from accomplishing all that your character and your energy and your commitment will allow you to accomplish.

The President of the United States, as he closed the eulogy in Dover on April 6, said this:

> Today we bring their bodies back home to America, but their souls are surely at home with God. We welcome them home. We miss them. We ask God to be with them and their families.

The President said that we ought to pray that God bless America. And God did bless America. He did so through the lives of these 33 shining examples of the best of America.

Mr. Speaker, I include the remarks of the President on April 6 at this point in the RECORD.

REMARKS BY THE PRESIDENT AND BRIGADIER GENERAL WILLIAM J. DEDINGER, DEPUTY CHIEF OF CHAPLAINS, AT CEREMONY HONORING THE AMERICANS WHO ACCOMPANIED SECRETARY OF COMMERCE RON BROWN TO CROATIA

BRIGADIER GENERAL DEDINGER. Let us pray. Almighty God, source of all comfort and consolation, we ask your blessing as we receive the victims of this tragic accident. Though we walk through the valley of death and grief, we fear no evil, for you are with us with your comfort and consolation. You always prepare a table of refreshment for us, and surely your goodness and mercy will uphold us in our grief and sorrow in these days.

Help us always to remember these public servants, ever mindful of their willingness to share their talents and wisdom, not only with their own nation, but also with people seeking to recover from the ravages of war. May their example renew our personal vision of public service. Lord, give us this day a new hope, as we feel despair; new light, as we sense darkness; deeper compassion, as we experience loss. May this hope, this light, this compassion heal the brokenness of our hearts and minds.

This we ask in your holy name. Amen.

THE PRESIDENT. My fellow Americans, today we come to a place that has seen too many sad, silent homecomings. For this is where we in America bring home our own—those who have given their lives in the service of their country.

The 33 fine Americans we meet today, on their last journey home, ended their lives on a hard mountain a long way from home. But in a way they never left America. On their mission of peace and hope, they carried with them America's spirit, what our greatest martyr, Abraham Lincoln, called "the last, best hope of earth."

Our loved ones and friends loved their country and they loved serving their country. They believed that America, through their efforts, could help to restore a broken land, help to heal a people of their hatreds, help to bring a better tomorrow through honest work and shared enterprise. They know what their country had given them and they gave it back with a force, an energy, an optimism that every one of us can be proud of.

They were outstanding business leaders who gave their employees and their customers their very best. They were brave members of our military, dedicated to preserving our freedom and advancing America's cause.

There was a brilliant correspondent, committed to helping Americans better understand this complicated new world we live in. And there were public servants, some of them still in the fresh springtime of their years, who gave nothing less than everything they had, because they believed in the nobility of public service.

And there was a noble Secretary of Commerce who never saw a mountain he couldn't climb or a river he couldn't build a bridge across.

All of them were so full of possibility. Even as we grieve for what their lives might have been, let us celebrate what their lives were, for their public achievements and their private victories of love and kindness and devotion are things that no one—no one—could do anything but treasure.

These 33 lives show us the best of America. They are a stern rebuke to the cynicism that is all too familiar today. For as family after family after family told the Vice President and Hillary and me today, their loved ones were proud of what they were doing, they believed in what they were doing, they believed in this country, they believed we could make a difference. How silly they make cynicism seem. And, more important, they were a glowing testimonial to the power of individuals who improved their own lives and elevate the lives of others and make a better future for others. These 33 people loved America enough to use what is best about it in their own lives, to try to help solve a problem a long, long way from home.

At the first of this interminable week, Ron Brown came to the White House to visit with me and the Vice President and a few others. And at the end of the visit he was bubbling with enthusiasm about this mission. And he went through all the people from the Commerce Department who were going. And then he went through every single business leader that was going. And he said, you know, I've taken so many of these missions to advance America's economic interest and to generate jobs for Americans; these business people are going on this mission because they want to use the power of the American economy to save the peace in the Balkans.

That is a noble thing. Nearly 5,000 miles from home, they went to help people build their own homes and roads, to turn on the lights in cities darkened by war, to restore the everyday interchange of people working and living together with something to look forward to and a dream to raise their own children by. You know, we can say a lot of things, because these people were many things to those who loved them. But I say to all of you, to every American, they were all patriots, whether soldiers or civil servants or committed citizens, they were patriots.

In their memory and in their honor, let us rededicate our lives to our country and to our fellow citizens; in their memory and in their honor, let us resolve to continue their mission of peace and healing and progress. We must not let their mission fail. And we will not let their mission fail.

The sun is going down on this day. The next time it rises it will be Easter morning, a day that marks the passage from loss and despair to hope and redemption, a day that more than any other reminds us that life is more than what we know, life is more than what we can understand, life is more than, sometimes, even we can bear. But life is also eternal. For each of these 33 of our fellow Americans and the two fine Croatians that fell with them, their day on Earth was too short, but for our country men and women we must remember that what they did while the sun was out will last with us forever.

If I may now, I would like to read the names of all of them, in honor of their lives, their service and their families:

Staff Sergeant Gerald Aldrich
Ronald Brown
Duane Christian
Barry Conrad
Paul Cushman III
Adam Darling
Captain Ashley James Davis
Gail Dobert
Robert Donovan
Claudio Eli a
Staff Sergeant Robert Farrington, Jr.
David Ford
Carol Hamilton
Kathryn Hoffman
Lee Jackson
Stephen Kaminski
Katherine Kellogg
Technical Sergeant Shelly Kelly
James Lewek
Frank Maier
Charles Meissner
William Morton
Walter Murphy
Lawrence Payne
Nathaniel Nash
Leonard Pieroni
Captain Timothy Schafer
John Scoville
I. Donald Terner
P. Stuart Tholan
Technical Sergeant Cheryl Ann Turnage
Naomi Warbasse
Robert Al Whittaker

Today we bring their bodies back home to America, but their souls are surely at home with God. We welcome them home. We miss them. We ask God to be with them and their families.

God bless you all, and God bless our beloved nation. Amen.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I did not have the honor of personally knowing Ron Brown, but I knew him by reputation and by watching him work with flair and gusto in a very important job. He was a great role model for everybody. He was indeed a marvel.

One searches tragedies for some meaning or for some glimmer of good. Out of Ron Brown's tragic end and out of the deaths of his passengers, it seems to me we can take comfort in the fact that he died as a public servant and elevated the category of public service through his sacrifice and through his example. And those of us who are very concerned about the low estate and esteem that public service has in people's minds, it seems to me can take some consolation.

God bless Ron Brown and his family and all of those on the plane.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Tennessee [Mr. FORD].

□ 1130

Mr. FORD. Mr. Speaker, I want to thank my friend from Michigan for yielding me 2 minutes.

Mr. Speaker, I certainly want to support the resolution that is before the House today in tribute to Secretary Ron Brown and other Americans who met their untimely death.

Ron Brown, and I really associate myself first with all of the remarks that have been made so far on this resolution before the House, and we all were saddened with the death of Ron Brown and others, for this Nation to know that Ron Brown was a good public servant, that Ron Brown not only served his Nation well, but I was a neighbor of Ron Brown's. That is true for Alma and Tracy, along with Mike and the two grandchildren.

Being a neighbor, I guess for the past 15 years here in the D.C. area, to know Ron Brown and his family, and to see and to watch how he was able to develop such a great family and a good support system for that family, and he was a good neighbor. Ron kept the neighborhood upbeat. He was one who was always available and had time for young people.

I can say that, because I have three sons myself, and my three sons have been somewhat raised in the presence of Ron Brown, and to know of his leadership and to know of his character and to know of his smartness. He was extremely bright while he was there at the law firm here in the District.

He went on to become the chairman of the Democratic National Committee. Then I was on the plane with him going to my hometown in Memphis back in 1992, the end of 1992, when he was called by the President-elect Clinton to be offered a Cabinet slot in the administration. We had that 2-hour flight. He left Memphis and went to the Little Rock area.

But to hear him and listen to him, and to know he was about serving this Nation, and to see Ron Brown as a corporate giant, leading corporate American into other ventures throughout the world, and to create jobs and to bring huge dollar amounts into this country, as a neighbor and as a friend and as a Member of this body, I would say that he made a great contribution to mankind, he made a great contribution to America, and Ron Brown will be missed.We are certainly praying for the family and other family members of the other deceased persons.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio [Mr. PORTMAN].

Mr. PORTMAN. Mr. Speaker, I thank the gentleman for giving me the opportunity to speak.

I was over at my office and I heard this, and I wanted to be here. Twelve years ago, fresh out of law school, I worked with Ron Brown as an international trade lawyer. At the time I was doing volunteer work for then Vice President Bush. So clearly we were on opposite sides of the political aisle. Yet Ron reached out to me and befriended me, and for the past 12 years that friendship continued.

Most recently at home on a Sunday he called me to talk about preserving the international trade functions at the Department of Commerce, a function that he exercised as well as any Secretary of Commerce in history, I think better than any Secretary of Commerce in history.

As Ron was so good at doing, he reached out to me again and found common ground, in this case our mutual back problems we were experiencing. Unfortunately, my back surgery kept me away from his funeral last week.

TOBY ROTH said he called him his favorite Republican, and apparently he called some other Republicans that. He never called me that, but he did call me his friend, and I cherish that, and will cherish that forever.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Speaker, I rise today in support of this resolution, and I would like to thank the Democratic leader and the Speaker for bringing this measure to the floor today.

First, I wish to extend my condolences to the Brown family and to the families of all those who went down on that fateful flight. Their loss is our loss, and America mourns the passing of some of our best and brightest.

Mr. Speaker, I personally admired Ron Brown as a role model and as a public servant. Moreover, his work touched the lives of my constituents who benefited from his vision of improving the lives of working families through investments and exports.

Ron Brown exemplified everything we as Democrats believe in and stand for. His belief in the human spirit and the American dream permeated every aspect of his life. His unwavering compassion and concern for the less fortunate was the moral compass by which he guided his work. As Democrats, we have lost one of our party's finest.

Mr. Speaker, it is not often that I get to meet the likes of a Ron Brown. Moreover, I am proud to have known him and appreciate what he has done for my constituents, for my party, and for my country.

A young woman from Atlanta was also on that plane, Kathryn Hoffman. My condolences are extended to her family and to her friends.

I was recently asked by a journalist about the loss of Ron Brown, a black leader. I corrected that journalist. Ron Brown was an American leader.

Mr. DINGELL. Mr. Speaker, I yield 30 seconds to my good friend and colleague, the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, all of those of us who were friends of Ron Brown certainly have their own personal stories, and I have mine, but I will not take the time to dwell in personal stories.

I simply wanted to be one of the Members who rose in support of this resolution and to express my condolences to the Brown family and the families of all the other brave Americans who lost their lives in this tragic accident.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to my good friend and colleague, the gentleman from Georgia [Mr. BISHOP].

Mr. BISHOP. Mr. Speaker, history will remember Ron Brown as one of the most dynamic, creative and brilliant leaders to ever serve in a Presidential Cabinet.

These characteristics stand out strong and clear in the many articles reviewing his career that were published after the plane crash that took his life and the lives of the staff Members and business leaders accompanying him on that fatal trip to the former Yugoslavia.

One national magazine, Jet, featured a number of photographs of Ron Brown at work. They showed Ron Brown in China, in Japan, in South Africa, in Egypt, in Saudi Arabia, in Israel, in Gaza, in Russia, in Germany, in Chile, in Indonesia, and in Bosnia, just hours before the crash on the mountain top.

He seemed to be everywhere during those few busy years he served as Secretary of Commerce, the first African-American to hold that office, even coming to the Second District of Georgia to deliver the commencement address at Albany State College.

In a span of less than 3 years, he made 15 trade missions to more than 25 countries. These trips produced a record 80 billion dollars' worth of new business contracts for U.S. made goods and services. His work in foreign trade led to a 26-percent increase in U.S. exports. But he also worked to enhance minority business enterprise in America and abroad.

Vice President GORE called him the greatest Commerce Secretary in history. But it was not just political allies who recognized his extraordinary ability. Senator DOLE described him as a tireless advocate for American business and a gifted leader.

Born in Washington, DC, and raised in Harlem, Ron Brown was gifted at everything he did, as a student at Middlebury College and St. John's University, as an Army officer in Germany and Korea, as an official and social worker with the National Urban League, as a senatorial aide and chief counsel for the Senate Judiciary Committee, as chairman of the Democratic National Committee, as an attorney in a leading law firm, and as Secretary of Commerce, and as a friend.

Many of the articles about Ron Brown's career referred to him as a trailblazer. This was certainly true, and the trails he blazed brought jobs and a more secure economy for all Americans. He will be sorely missed.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, I rise in strong support of the resolution and thank the gentleman for bringing it forth. We have lost a dear friend.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, the outpouring of feeling after Ron Brown's death was unique. It was a tribute to Ron, to his capacity for friendship, to his verve, his zest for life, his intelligence, his caring. It was also a tribute to Ron Brown's America.

Ron Brown's life showed that there are almost no limits to opportunity in America. You have to work for it. But we often talk about the limitlessness of opportunity, It is not always quite true. Ron tried so hard to make it true.

Like so many other dear friends of Ron Brown, I have mourned his death. I miss of him every day.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, Ron Brown, who was a good friend of many years, and I appeared on a program about 3 weeks into his position as Secretary of Commerce, and I was somewhat nervous for my friend, because the breadth and depth of areas covered by the Commerce Department are so vast. Within 3 weeks he had mastered the area of high-technology licensing and exports to a degree which most secretaries had not at the completion of their term, his interest length was such and his intensity and commitment to the areas he was in charge of. He knew his job, he executed it with dignity and grace and with an energy that ought to inspire everyone in both the public and private sector.

He fought for the economic strength of this country from every working man and woman's point of view. He wanted to make sure there were jobs so that each American would have the kind of opportunity he had made for himself.

He was a friend, he was incredibly capable. I cannot imagine that there is anyone who will serve in that capacity who will have the energy and intellect that Ron Brown had.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. DINGELL] has 1½ minutes remaining.

Mr. DINGELL. Mr. Speaker, I yield the balance of the time to the distinguished gentleman from Louisiana [Mr. FIELDS].

Mr. FIELDS of Louisiana. Mr. Speaker, I want to thank the gentleman for yielding me time.

Mr. Speaker, Ron Brown was a very personal friend of mine. I had an opportunity to meet him on a Presidential campaign in 1988, where he and I shared many platforms together. There is not another American that I have ever met in my lifetime who has worked as hard, who has had such a strong commitment to country, than Ron Brown.

Mr. Speaker, I stand before the House today to say that Ron Brown was indeed a scholar, a leader, and a role model, for people all across this country.

The last time Ron Brown and I had an opportunity to sit down and talk was actually in the Fourth Congressional District. I called him at the Department of Commerce and said, Mr. Secretary, I want you to come to Louisiana and talk about economic development. And right off the cuff he just said, I will be there. And in about 30 minutes, he called back and said, I will be there in about 3 weeks.

So I want to thank the Ron Brown family. I also want to give a special tribute to a family from Louisiana. The pilot of that plane was from my home State of Louisiana, Ashley Davis. To his wife and to his two little children, we want to say that we offer our condolences to them and to all of the families of those who lost their lives in this tragic accident. To them we say God bless you, and we will pray for you.

Mr. Speaker, I do not think it is possible for everyone to fully comprehend what a loss the Nation will suffer without the late Commerce Secretary Ron H. Brown. Not only was he a champion for the domestic and international development of American business, but also, and more importantly, his extraordinary character was an invaluable asset to the U.S. Government. Every project he touched was approached with a tireless devotion and a profound understanding of the initiative's impact on the Nation's economy. He led by example, urging others to work as partners instead of competitors to maximize opportunities.

Truly, this man was in the business of building bridges and reinforcing existing relationships to ensure opportunities for advancement of large and small business interests alike. Under his leadership, all facets of the Commerce Department flourished and enjoyed the benefits of innovative policies. He was instrumental in developing a comprehensive and coordinated plan for bringing together the many elements of the U.S. Travel and Tourism Administration; he sought to improve patent and trademark protection of U.S. interests in intellectual property; he worked diligently for telecommunications reform to create a competitive marketplace and to illuminate how technology can alleviate geographic barriers and enhance education; he instituted a long-term plan to assist the New England fishing industry—the list goes on and on.

A man of firsts, Ron Brown was the first African-American chairman of the Democratic National Committee and the first African-American to hold the office of U.S. Secretary of Commerce. He worked tirelessly to promote the Commerce Department's mission of long-term economic growth—to him we owe a debt of gratitude for our Nation's prosperity. At a time when diversity seems to be a dividing force in this country, Ron Brown demonstrated that diversity is our Nation's greatest asset. It is in this spirit that I offer these words of tribute.

During this time of remembrance, I would like to pay tribute to an Air Force pilot who lost his life serving our country, Capt. Ashley J. Davis. Captain Davis was from my hometown, Baton Rouge, LA. A victim of the tragic plane crash which ended the lives of 33 Americans who were serving their country, Captain Davis' mission was to pilot the dignitaries who visited Europe. He was chosen for the job just 18 months ago, over 38 other pilots. I offer my condolences to Captain Davis' family. He is survived by his wife Debra, and two children. A man of great spirit and patriotism, I know his family and friends will miss him. The Air Force has also suffered a great loss in his untimely death during his dedicated service to our country. Today, I extend my prayers to this family as well as the families of all the persons who lost their lives in Croatia.

Mr. FAZIO of California. Mr. Speaker, I rise today to commemorate former Secretary of Commerce, Ron Brown.

Throughout the past several days I have heard the accomplishments of Ron Brown extolled by my colleagues. Americans everywhere, and especially those who were close to Ron are deeply affected by this tragedy. Ron was much more than a great chairman of the Democratic Party and Secretary of Commerce, he was a true pioneer and an inspirational human being.

I feel extremely fortunate to have known Ron as a personal friend. Ron began to serve as chair of the Democratic Party around the time I became chair of the Democratic Congressional Campaign Committee. Ron exhibited unwavering optimism in the face of adversity and inspired others to do the same. Through his tireless efforts, Ron Brown restored the Democratic Party to greatness and brought a Democrat back to the White House.

Ron was the type of person who consistently exceeded people's expectations. As Commerce Secretary, Ron single-handedly defined his role. He succeeded in promoting American business and boosting exports to new heights.

Ron Brown was a pioneer in every sense of the word. He spent his life overcoming obstacles and opening up new doors for others to follow. His death occurred while he was cultivating the seeds of economic growth and creating greater opportunities for a country ravaged by war.

Ron Brown will be long remembered for the tremendous service he provided to his country. However, I will miss him as a close friend.

Adam Darling, a 29-year-old Commerce Department employee was also among those who perished in the crash. Darling had worked at the Department since 1993 and had helped plan the trip to the region. A former Davis, CA resident and graduate of the University of Pennsylvania, Darling had a promising future ahead of him. My deepest sympathy goes out to Adam's family.

Tim Schaefer, a Sacramento native, was among the six Air Force crew members who perished in the accident. Schaefer, the plane's copilot, had earned a degree in mechanical engineering from California State University, Sacramento. Also among the crew was Capt. Ashley J. Davis. Both men had been stationed at Beale AFB. I salute these members of the armed services who paid the ultimate price to serve their country.

Mr. MARTINI. Mr. Speaker, I rise today to honor Ron Brown, the United States Secretary of Commerce who was killed in a tragic accident on April 3, 1996. He and 35 other victims died when their plane went down on a stormy evening in Croatia. He was serving as a diplomat in the war-torn area, analyzing the economy and what actions needed to be taken in the former Yugoslavia in order to spur economic growth to secure the peace.

Ron Brown was indeed an asset to the United States. He was one of the ambitious, special people who is capable of performing multiple roles in their lives while at the same time succeeding in all arenas and remaining true to their ideology.

Ron Brown was a vocal and successful civil rights advocate, political strategist, corporate lawyer, and propagator of American business interests.

He tirelessly campaigned to make the interests of American businesses a foreign policy goal. He certainly deserves credit and thanks for market expansion.

It is because of his success in multiple arenas and in the international community that the United States and the world mourn together. Today we should all take a moment to remember the career and the man we lost.

Ms. ESHOO. Mr. Speaker, on April 3, 1996 the United States lost a leader. Secretary of Commerce Ronald H. Brown inspired us all with his ability to bring together people from different backgrounds, beliefs, and cultures to find and achieve a goal for the common good.

He inspired us by his commitment to finding opportunities for U.S. businesses overseas, recognizing that our country's trade deficit is harmful to our domestic economy and the jobs Americans want and need.

Because of his leadership, many California technology firms have increased their sales to foreign countries, which has increased employment and a rebounding California economy. According to the Joint Venture's Index of Silicon Valley, 46,000 jobs have been added to our region since 1992. The semiconductor industry, which has endured years of job loss due to a trade deficit with Japan, showed a gain of 4,300 jobs between 1994 and 1995. Business confidence of Santa Clara County companies reached an all-time high of 73 percent in 1995.

Secretary Brown advocated effectively for economic and employment improvements in Silicon Valley, and this is just part of his legacy. Members of Congress, the administration, business leaders, and citizens must work to preserve this legacy of proactive work on behalf of the people of our country.

America will miss his leadership. I will miss his friendship of almost two decades. Secretary Brown gave his life while serving his country. God rest his good soul.

Ms. DUNN of Washington. Mr. Speaker, today I wish to pay tribute to Commerce Secretary Ronald H. Brown and the 32 other Americans who lost their lives when their plane crash near Dubrovnik, Croatia, on April 3, 1996.

Throughout his tenure as Commerce Secretary, Ron Brown successfully worked on behalf of American companies and their workers in opening doors to the global market. For many companies in my home State of Washington, Secretary Brown was instrumental in promoting our products and cultivating new and/or improved business relationships with our international neighbors.

The most important role of any Commerce Secretary is the promotion of American companies and the workers they employ. Ron Brown will forever be remembered as being a success at this task.

The people who died aboard that plane gave the ultimate sacrifice in the name of democracy and a global free market. Prosperity and economic hope are essential in bringing long-term peace and security to that region of the world. Ron Brown and the other individuals on that plane knew this and recognized their role in spreading our Nation's democratic and free-market beliefs around the globe.

My heart goes out to each and every family member of those who died in that tragic crash. In this time of great sadness, these families should know that as Americans their loved ones will be missed, as patriots they will never be forgotten.

Mr. TRAFICANT. Mr. Speaker, "Fanfare to the Common Man" was played triumphantly at the funeral of the late Commerce Secretary, Ronald H. Brown. His family could have played some horn tooting type music, in view of the facts that Mr. Brown was truly a successful, high stakes Washington player and an overachiever in many respects. However, they know Ron would not have wanted it any other way.

Ron Brown did not see himself as a Democratic power broker or jet setter or trailblazer like we did. He saw himself as a middle-class kid who grew up in Harlem that loved the basic things in life: family, friends, work, and country. He was passionate about each. He was also passionately devoted to ensuring that everyone got an opportunity, a chance to do better. He believed in opportunity so much that he insisted that his Commerce Department staff memorize a one-sentence mission statement. It reads: "The mission of the Department of Commerce is to ensure economic opportunity for every American." We should all agree that this is still a noble cause.

Mr. Brown set several honorable examples for people from different walks in life. He encouraged young people to strive and reach for the gold. And indeed, he practiced what he preached, he had several raising stars on that ill-fated plane with him. He encouraged CEO's and business leaders to lend their expertise for the improvement of cities in our country and in foreign lands. On that plane were business leaders from across the country. Ron Brown always did what he could to provide an opportunity for everyone, everywhere.

We each will remember Ronald Brown, in our own way, but collectively we will remember him as a great, inspiring American.

Ms. DELAURO. Mr. Speaker, I rise to pay tribute to Ron Brown and to express my deep sorrow and sincerest condolences to his wonderful family. Ron Brown was my friend, and he was a great American.

As Secretary of the Commerce Department, Ron Brown played an instrument role in implementing the administration's economic plan that has created 8.4 million jobs nationwide since taking office. He was a major force behind job creation efforts and the chief architect of high-technology initiatives to provide greater employment opportunities for working Americans.

Previously, Ron Brown served as chairman of the Democratic National Committee. He was the first African-American in history to head a major national political party. At the DNC, Ron Brown rebuilt the party and laid the groundwork for the Democrats to win back the White House after losing three straight national elections.

Last summer, Ron Brown traveled to my congressional district to attend the closing ceremony of the Special Olympics in New Haven. We spent the glorious Connecticut morning touring events and had a great time with those wonderful Special Olympians who shared Ron's never-give-up spirit.

Mr. Speaker, Ron Brown lived the American dream and served as an inspirational role model for America's youth. Our country has lost a great leader.

I also want to convey my condolences to the friends and families of Robert Donovan, the chief executive officer of ABB, Inc., headquartered in Norwalk, CT, and Claudio Elia, the chairman and chief executive officer of Air and Water Technologies Corp. in Branchburg, NJ, who lived in Greenwich, CT. In addition, the Nation lost many fine, dedicated people in this tragedy who gave their lives in an attempt to heal a nation and a world ravaged by war. Connecticut and the Nation mourn the loss.

Mr. CLAY. Mr. Speaker, I am honored to join my colleagues in tribute to a truly remarkable man, the late Honorable Ron Brown. Ron Brown was a prominent black American who dedicated his life to building a better world for all people. Blessed with many talents and opportunities, Ron used them wisely and he shared his gifts generously.

Ron Brown was a compassionate man who thrived on challenge. He blazed new trails and often was the first black American in his field. Ron was the first black member of his college fraternity, the first black counsel for the Senate Judiciary Committee, the first black chairman of the Democratic Party, and the first black Secretary of the Department of Commerce.

Ron had a charming manner and a graceful style. He showed a deftness for overcoming the odds and doing some impossible things. When many experts and political pundits said it could not be done, Ron rejuvenated the Democratic Party and spearheaded the campaign that elected Bill Clinton President, and when Ron did these things he made it look easy.

Ron Brown had the courage of convictions that inspired others to join in his crusades. He shared his vision and his faith in a brighter future. He was a force for unification of diverse groups and the resolution of conflict among them. His last mission was dedicated to rebuilding a war torn land and I am sure he would have made a great contribution to the rebuilding of Bosnia if only he had lived a little longer.

Ron lived his life sowing the seeds of peace and hope. He left this world way too soon, but he left it better than he found it. We will long feel the force of Ron Brown's smiling spirit and long celebrate the legacy of good will he left behind.

Mr. RUSH. Mr. Speaker, I rise today to honor the memory of a very special man, Ronald H. Brown. Most Americans will remember him as the Secretary of Commerce. However, he was much more. He was the personification of the concept of a bridgebuilder.

In his role as the Secretary of Commerce, Ron constantly promoted American trade. His zeal was premised upon the notion that if the commerce of the United States thrived it would directly translate to increased economic vitality for our Nation. Ron, who never forgot where he came from, knew that his efforts would result in jobs for the common man.

As chairman of the Democratic National Committee, Ron Brown set the stage for a resurgence of the Democratic Party. This is a resounding testament to his ability, for it was under his leadership that the Democratic Party was able to elect Bill Clinton as President. Ron accomplished this task on the heels of three consecutive Presidential defeats of Democratic candidates.

His memory deserves more than the mere recognition of his official position. For his title was but a small reflection of what he was. Drive, tenacity, compassion, and loyalty were his trademarks. Most of us hope to attain all of these attributes. Few of us attain them with the proper balance. And even fewer attain these attributes and are able to parlay them into avenues for even greater achievement. Ronald H. Brown was one of these rare individuals.

Whitney Young once said, "We can't * * * sit and wait for somebody else. We must go ahead—alone if necessary." Ron Brown was a trailblazer and a visionary. He never waited for opportunities, he created them. Because of this, all American people have benefited.

Mr. OWENS. Mr. Speaker, Ron Brown was a renaissance politician, a jack of all trades who mastered them all. He was a mentor for seasoned professional politicians and he was qualified to tutor most of us. Ron used his considerable influence and charm to become an extraordinary fundraiser for the Democratic Party. From the complex job of raising money to the details of election day engineering, Ron performed with great enthusiasm.

I first met Ron Brown in Chicago while campaigning for Harold Washington for mayor of Chicago. Former Majority Whip Bill Gray, Ron, and I were on a campaign swing through the public housing projects on Chicago's Southside. At that time, Ron was working with a well-known, prestigious, and powerful law firm in Washington. However, on that day, he was simply Ron the loyal friend, campaigning for a fellow Democrat. We went into huge, tall, cold concrete buildings and walked on floors which seemed to be completely out of this world.

The deterioration and garbage inside the halls were unbelievable even to a poor boy like me whose father had never earned more than the minimum wage. I had lived in some of the poorest neighborhoods of Memphis and worked in some of the poorest neighborhoods in New York, but never had I seen such despair. The only glimmer of light we saw in those highrise urban tunnels were the Harold Washington posters that the residents waved at us when they saw our familiar signs. We had connected with the most oppressed among us. As my eyes met Ron's he broke into his signature smile: "This is what politics has got to be all about," he said as we plunged into the crowd of outstretched hands and marched through the halls reminding folks that tomorrow was the day to go out and elect the first African-American mayor of Chicago.

Ron Brown was the unifying force behind the most successful and conflict-free convention the Democrats have had in nearly two decades. Ron was a star who kept his poise, kept peace among the many party factions, and made the Democratic National Committee an effective force to be reckoned with in politics. Ron Brown was a masterful strategist who began his tenure as party chairman with several special election victories despite great obstacles. He was a great communicator and a great cheerleader who also understood the nuts and bolts of winning campaigns.

Seldom in America does one man so gracefully transcend the racial chasm. Ronald H. Brown did, and in his journey, he deeply touched the heart and soul of a nation. As our Secretary of Commerce, he was our corporate ambassador to the world. As the chairman of the splintered, fractious Democratic Party, he was the glue that held it together, and in so doing, delivered the White House and became the most beloved chairman in history.

Ron Brown was undaunted and unfazed by challenges. Being a first was not unusual for him. He was the first African-American in his college fraternity, the first African-American counsel for the Senate Judiciary Committee, and the list goes on. Ron was a trailblazer and an eternal optimist. He saw no mountain that couldn't be climbed or moved or conquered.

The Nation has lost a great leader and statesman. I join Ron's many colleagues and friends not in mourning his death, but in celebrating his life, his accomplishments, his style, and his spirit. Ronald H. Brown will be missed, but never forgotten.

Mr. MCDADE. Mr. Speaker, I want to join my colleagues from both sides of the aisle today in paying tribute to former Commerce Secretary Ronald H. Brown and the 34 others who lost their lives in the tragic plane crash on April 3 in Croatia.

I had the privilege of personally knowing Ron Brown. I respected and liked him as a dedicated public servant, an individual of the highest caliber, and a man of great intellectual ability. A man of his abilities and experience, who possessed such tremendous personal characteristics, will be greatly missed.

Ron Brown leaves behind a legacy of achievement in the military, political, government, and business arenas that few people can match. He led an extraordinary life and we are all saddened by the loss of this talented, exceptional, and energetic man.

My sympathy and condolences go to his wife and two children and to all of the families of those who died in this tragic accident. As Americans, we all mourn the loss of life and note the sacrifice of these individuals who died in the service to their country.

Mr. KENNEDY of Massachusetts. Mr. Speaker, I wish to join my colleagues, Mr. GEPHARDT and Ms. MEEK, in support of the resolution in tribute to Secretary of Commerce Ron Brown and the 32 other patriotic Americans, including several from my State of Massachusetts, who lost their lives on St. John's Hill outside of Dubrovnik, Croatia.

Ron Brown was truly a living American hero, and his loss will be sorely missed—and my heart goes out to his lovely wife Alma and his loving children, Michael and Tracy. I will miss Ron dearly. He was a colleague and a friend of more than 20 years, and his loss is a personal one.

In an era where cynicism too often wins out over optimism, where fear too often conquers hope, and where the art of politics is seen by most in a less-than-admirable light, Ron Brown showed that public service is indeed an honorable profession.

Whether in his service to his country in the U.S. Army, as a leader in the civil rights movement, as a public and private sector lawyer, as a political party professional, or as an advocate of business and job creation for all Americans, Ron Brown was a leader, a visionary, and a dreamer of what America could and should be. But most importantly, was a passionate advocate for expanding equal opportunity to all Americans.

In a world with too few heroes, we have lost a true American hero.

Ron Brown was truly a man who viewed politics as the art of the possible. Ron Brown's legacy will far outlast most of us—his unique and enviable ability to bring people together to find a common goal.

You had to know Ron Brown on a personal level to understand his unique ability—his intelligence, his boundless energy, his strong will, his resilience, his ability to grasp complex ideas and to advocate them in a way that always brought people together.

But you also had to appreciate how Ron Brown took on each and every opportunity with a spring in his step, a twinkle in his eye, and a smile on his face. It's been said before, but Ron Brown was Will Rogers in reverse: you never met anyone who didn't like Ron Brown.

Ron Brown had a passion for achievement that you rarely see in individuals, and he was an extraordinarily gifted man. I will always consider myself fortunate to have known Ron Brown as a friend.

He will indeed be remembered as a patriot and a friend, and we will miss him dearly.

Mr. GILMAN. Mr. Speaker, it is a sad responsibility to rise to join with my colleagues in paying tribute to an outstanding public servant who has been lost to us all too prematurely and in support of House Resolution 406.

Secretary of Commerce, Ron Brown, throughout his many years of public service—and let there be no mistake that he did indeed contribute many years of public service—was well known for his outstanding personality, his determined professionalism, and perhaps, most importantly of all, his charming sense of humor which won him the admiration of political allies and adversaries alike.

Ron Brown, before entering the public limelight, was well known as political mover and shaker behind the scenes here on Capitol Hill. While serving on the staff of Senator EDWARD KENNEDY of Massachusetts, he learned the importance of compassion in legislation, the importance of compromise, and the importance of consensus.

As Secretary of Commerce, Ron Brown was an inspiration to us all. He genuinely cared about the business community of this Nation, and understood that a strong economy is the cornerstone of national strength.

It was in pursuit of expanding trade opportunities in that part of the world which used to be called Yugoslavia that Ron gave his life. The tragic and untimely death of Ron Brown is a reminder that those who devote their lives to public service are in just as much jeopardy as are those who volunteer for the battlefield.

The fact that 33 young public servants also gave their lives with Ron Brown only underscores his ability to inspire others, especially young people, to public service. These devoted young people deserve our admiration.

It is with deep regret that I learned that one of those 33 victims was a constituent in my 20th Congressional District of New York. Lee Jackson, a 37-year-old native of the town of Greenburgh in Westchester County, was the son of Luther Jackson, Jr., a highly respected journalism professor at Columbia University, and Mrs. Nettie Lee Jackson, a long time community activist.

Lee was inspired to go into public service by Secretary Brown, under whom he served in the Department of Commerce. As we extend our condolences to the Jackson family—and to the families of the other victims—the bereaved families should be assured that many Americans share their loss.

Ron Brown, and his courageous coworkers, will long be remembered and will long be missed.

Mr. WATTS of Oklahoma. Mr. Speaker, it was with great sadness that I learned of the tragic accident that took the life of Ron Brown and 34 dynamic young Americans who were on a journey of hope to a dangerous part of the world.

I had never had the pleasure to meet Ron Brown until I came to Washington last year, but I knew long before that, that he was a crusader, an energetic advocate, and a dedicated public servant. In politics he was a more than worthy opponent to his Republican counterparts, and in Government he was clearly a most valued member of the President's Cabinet and an effective ambassador for America around the world.

Our country was well served by Ron Brown's enthusiasm, competence, and determination. His work as a member of the Cabinet earned him well-deserved praise, especially from the Nation's business community.

My heart and prayers go out to Ron Brown's family at this difficult time, and also to the families of all those who lost their lives on this mission of hope. They all shared in that great American gift of optimism and that great American belief that we can make the future better than today. They went to the Balkans to share that great American gift with a people whose history has stolen their hope and their optimism and their dreams for their children.

Our greatest tribute to these dedicated Americans would be to renew their journey of hope and to share their great dream of a better future with those who suffer around the world.

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise to pay tribute to a great American, the late Secretary of Commerce, Ron Brown. I am pleased to be a part of this resolution for tributes to distinguished leaders of our great Nation. Ron Brown's life work is a true American success story. It is that American agenda opportunity that I alluded to when I was sworn in; that gives an opportunity to every American, that hope that is embodied in our creed. They will soar to high of this Cosmos.

The loss of the Secretary of Commerce is tragic which is underscored by his commitment to jobs, social justice, and economic security. During the times that we met at several official occasions, I found him to be a charming, warm, intelligent, and always a gentleman. I have fond memories of my discussions with Ron Brown.

I remember watching the news in the immediate aftermath of the civil unrest in Los Angeles in 1992 following the Rodney King beating trial verdict, when he met with the angry and frustrated youth of south central Los Angeles. He and the President played basketball, demonstrating his ability to relate intergenerationally and across the socio-economic spectrum. That was perhaps his greatest attribute. He understood that we must work to help others, and he did that.

Ron Brown perished in Bosnia trying to acquaint a delegation of businesspeople with the market conditions there and to bring peace to a war-torn region. Speaks to his humanitarian efforts and as a parallel—he also worked to bring jobs to south central Los Angeles and improve the lives of the people, and finally bring peace to people who have desired it for so long. Ron Brown knew the value of a job to people and to a community. He worked to improve people's lives by bringing jobs to those who wanted to work.

I want to offer my condolences to Alma Brown, a woman of courage and strength, the Brown family and the families of the people whose lives were lost that day.

I am pleased to participate in this tribute to a wonderful American.

Mr. LAZIO of New York. Mr. Speaker, it is with great sadness that I rise today to pay tribute to the late Commerce Secretary, Ron Brown, and his colleagues who lost their lives while serving our country in Bosnia. Secretary Ron Brown, through his eloquence and determination, contributed greatly to our Nation. Even before his days at the Commerce Department, Ron Brown's capability and many successes advanced racial equality in America. His commitment to fostering relations between foreign governments and U.S. business is evident in America recovering its leadership role in world trade.

Mr. Speaker, one can never be prepared for such a sad and unexpected event. Secretary Brown and his colleagues brought hopes of prosperity to a war-torn region. Those of us from Long Island were especially saddened to find that Gail Dobert of the Commerce Department was among those who lost their lives in this tragic end to a mission of peace. We have witnessed a great loss, not only to friends and family, but to the Nation. I join with my colleagues today in offering my deepest sympathy.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 406.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SHAW). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DINGELL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 423, nays 0, not voting 10, as follows:

[Roll No. 123]

YEAS—423

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss

Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Fields (TX)
Geren
Gibbons
Hayes
Hinchey
Jackson-Lee (TX)
Kasich
Lantos
Rose
Tanner

□ 1203

Messrs. STOCKMAN, LAHOOD, KENNEDY of Rhode Island, and HASTERT changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 735, ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996

Ms. PRYCE. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 405 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 405

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (S. 735) to prevent and punish acts of terrorism, and for other purposes. All points of order against the conference report and against its consideration are waived.

The SPEAKER pro tempore (Mr. SHAW). The gentlewoman from Ohio [Ms. PRYCE] is recognized for 1 hour.

Ms. PRYCE. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my friend, the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. PRYCE. Mr. Speaker, I am pleased to bring to the floor today the rule providing for the consideration of the conference report on S. 735, the Antiterrorism and Effective Death Penalty Act of 1996, which was passed overwhelmingly by the other body last evening. This is a simple, fair rule which waives all points of order against the conference report, and against its consideration, in order to permit the House to consider provisions which may exceed the scope of differences between the House and the Senate.

Ms. Speaker, the devastating terrorist attack that took place in Oklahoma City nearly 1 year ago today serves as a poignant and powerful reminder that the threat of domestic terrorism is a very real and present danger in our society. One hundred and sixty-eight innocent people, including dozens of children, lost their lives in that attack. Combined with the nearly 500 people who were injured in the blast, the bombing of the Federal building in Oklahoma City ranks as the worst terrorist incident ever to take place on American soil. Unfortunately, it was not the first. The bombing of New York's World Trade Center building in 1993. Americans for the first time faced the sobering prospect that terrorists are at work right here in the United States.

Among the lessons we have learned from these tragic events is that law enforcement must be prepared to respond effectively and immediately to terrorism when it occurs. More importantly, as technology rapidly advances, law enforcement officials at all levels must have access to reasonable and legitimate tools that will enhance their ability to prevent terrorist acts before they result in the loss of human life.

The difficult task which this body has faced during the past year has been to balance the needs of law enforcement with the need to preserve essential civil liberties. Today, under the terms of this simple, straightforward rule, we will debate a conference report that I believe improves upon the House-passed bill, while still assuring the Federal Government an appropriately limited but responsible role in the fight against terrorism.

Several key provisions have been added to the House-passed bill in this bipartisan conference report that will assist our country's fight against terrorism. For example, it provides procedures to allow for the removal of alien terrorists, fairly and with due process, but also with adequate protections to safeguard sources and methods of classified information.

It provides improved steps for designating foreign terrorist organizations, and contains provisions that severely restrict the ability of terrorist groups to raise funds in the United

States. As we all know, Mr. Speaker, money is the lifeblood of these ruthless organizations, and if we cut off their flow of funds, including the blocking of financial transactions, we will surely diminish their ability to carry out these cowardly, heinous acts here at home and abroad.

With regard to the exclusion of alien terrorists, the conference report authorizes State Department officials overseas to deny entrance visas to members and representatives of those same groups deemed to be foreign terrorist organizations, and it also allows the United States to stop or prohibit assistance to foreign countries that do not cooperate with our antiterrorism efforts.

And finally, in a move that will hopefully prevent future tragedies like the loss of Pan/Am flight 103 over Lockerbie, Scotland, the conference report requires that foreign air carriers traveling to and from United States airports follow the identical safety measures that our own American air carriers must follow under regulations issued by the FAA.

Equally important are other provisions contained in the conference report, including three key elements from the Contract With America: First, there are reasonable reforms to curb the abuse of habeas corpus by convicted criminals. This will help, finally, to free the judicial process from endless and frivolous appeals from prisoners convicted of capital offenses while victims and families of victims wait helplessly by for years and years for justice to finally be done.

Second, improved procedures for deporting criminal aliens are included which allow judges to order the deportation of aliens convicted of Federal crimes at the completion of their sentence.

Third, the bill calls for mandatory victim restitution. Securing the right to adequate restitution is a long overdue victory for crime victims and their families. For too long, our criminal justice system has devoted significant attention and resources to the plight of criminals. As a result, crime victims have often suffered twice—first at the hands of the criminals, and then by an inadequate, insensitive, inattentive justice system. By requiring fair restitution, we will give victims of crime some of the ranking and legal status they deserve while they recover from their unwanted and unwelcome trauma.

Mr. Speaker, as I have said before, this debate is not about who, or which political party, is more committed to fighting terrorism. I think we would all agree that keeping our Nation's cities and communities safe and secure is not a partisan issue. Rather, it is one of the fundamental duties and responsibilities of government.

This conference report accomplishes the very difficult task of providing our citizens with an increased level of safety and security, without trampling on our rights in the process. These provisions represent necessary, but narrowly drafted tools that will go a long way toward assisting our law enforcement professionals in combating the genuine threat of international terrorism.

So as we near the 1-year anniversary of the Oklahoma City bombing, I urge the House to accept the work of the conferees and send a clear signal to would-be terrorists that their cowardly, destructive acts will not be tolerated by the American people or by this institution. For the victims of Oklahoma City and victims of other tragic events, and their brave families, I urge your support for this conference report.

The Rules Committee reported this rule by unanimous voice vote yesterday, and I urge colleagues to give it their full support. Let's pass this fair rule, and let's pass the conference report without any further delay.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, much has been said about the tragic anniversary we will observe tomorrow. The loss of 168 men, women, and children in Oklahoma City because of an irrational and immoral act, has left a scar on our national psyche that will never really heal. But, Mr. Speaker, if something good is to come from such tragedy, then let it be a greater awareness that the freedoms we enjoy in this great Nation are indeed precious and that they are in need of protection.

Let us never forget those who died, those whose blood was spilled, those whose lives were irrevocably and irreversibly changed. Let us honor them by working diligently to protect the freedoms that embody the moral fabric of this great country of ours. The barbarous actions of one individual or of a group cannot be allowed to undermine the freedoms and liberties that constitute the American way of life. But, as we know all too well, in the world today, we must be ever vigilant and ever ready to come to the aid of those ideals we all hold so dear.

This legislation has come about because of the act of a terrorist. The conference report is not perfect: some Members may oppose it because of provisions relating to habeas corpus reform. Others may oppose it because it does not contain new wiretap authority for law enforcement officials to trace and track homegrown as well as international terrorists operating within our borders. But, I submit, it is the best we can produce when we must balance the need to vigorously defend and protect our safety while simultaneously defending and protecting our freedoms and liberties. I hope the legislation before us achieves that end.

This conference agreement does give us some tools which will help protect our shores and our people from the threat of international terrorism. The conference is to be commended for including new authorities to identify and designate foreign terrorist organizations, to prohibit fundraising on behalf of such terrorist organizations, and to exclude or remove alien members of those groups from our country. These authorities are essential if we are to begin to deal effectively with the unwelcome and unwanted intrusion of international terrorism.

However, Mr. Speaker, because the conference report does not contain language granting law enforcement agencies new wiretap authority, I am going to oppose ordering the previous question on this rule. While I am gratified that the conferees did include new powers to deal effectively with international terrorism, there is a concern that the fight against domestic terrorism is seriously handicapped because the wiretap authorities requested by the Department of Justice are not part of this agreement.

Therefore, a vote against the previous question is a vote to enhance this legislation by granting new wiretap authority that will allow law enforcement officials to keep up with the modern technologies used by almost every American, including those who plan barbarous acts like the one which killed 168 men, women, and children 1 year ago tomorrow.

Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I certainly thank the gentlewoman from Ohio for explaining the rule. It is not necessary to repeat her explanation.

Mr. Speaker, this Friday will mark the 1-year anniversary of the bombing of the Federal building in Oklahoma City. There have been a number of terrorist incidents like that in 1993. The New York Trade Center building was another terrible tragedy.

The deliberations on this bill have demonstrated that Members on both sides of the aisle do hold very strong, sincere views about the powers that should be granted to law enforcement to track and prosecute terrorists.

The balance between public safety and order, and individual rights, is always a difficult dilemma in a free society.

For this reason, significant time was needed to consider this legislation, and certainly the time has been devoted to it.

Today we have before us the final product. It achieves, I think, a fair balance and includes many provisions to not only prevent and punish terrorism, but also includes the ultimate punishment for those who would kill others, the effective death penalty.

As a matter of fact, the very first provision in this conference report, title I provides for a reform of the death penalty process with specific time limitations to insure that the process does not drag on forever and ever and ever, sometimes as much as 10 and 15 years. This provision alone is so important that it is more than sufficient justification for supporting this conference report today.

The conference report also includes a provision dealing with mandatory victim restitution and provides for specified assistance to victims of terrorism, and that is so terribly, terribly important. For too long in this country we have paid too little attention to the victims of crime while we have focused huge resources to protect the rights of the accused criminal.

Mr. Speaker, there is also a section which prohibits providing material support to, or raising funds for, foreign organizations designated as terrorist organizations.

This and the other provisions in this conference report designed to limit terrorism will never be a complete solution to the problem, but this conference agreement is a huge step in the right direction of terrorism prevention.

I would particularly like to commend the chairman of the Committee on the Judiciary, the gentleman from Illinois [Mr. HYDE], and the ranking minority member, the gentleman from Michigan [Mr. CONYERS], for all of their hard work in finally getting this bill here to the floor, along with the gentleman from New York [Mr. SCHUMER], who is sitting here. Without their help, this legislation certainly would not be here today. This has been an especially tough assignment in a long list of tough assignments for the Committee on the Judiciary.

In addition, sitting over to my right, I would like to recommend the gentleman from Georgia [Mr. BARR] for his extra efforts in shaping this final product. Without his efforts we never would have been here today either. The conference agreement before the House today includes many of the provisions sought by the gentleman from Georgia, and we take off our hat to him.

Mr. Speaker, adoption of this rule is necessary to allow the House to proceed to the consideration of the conference report. I would ask for a "yes" vote on the rule, and on the conference report and on the previous question, as well.

I do not know where this previous question fight has come from. This was not discussed in the Committee on Rules prior to today. Certainly the conference has already been abandoned because the Senate has already passed the bill. We should stop fooling around with this and making political points. We ought to get over here, vote for the previous question, vote for the rule, and then vote for this vital piece of legislation.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I thank the gentleman from Texas [Mr. FROST] for yielding me the time, and this is on the rule. I am going to have more to say on the bill later.

But one the rule I would urge that we vote down the previous question, and that is because this bill has one glaring omission, and that is the ability to do multipoint wiretaps.

The bill, if we ask law enforcement what was the No. 1 thing they needed to fight terrorism, and I have talked to lots of them, they would say it would be the multipoint wiretap. The multipoint wiretap has no civil liberties problems. Let me explain to my colleagues what it is: Still have to go to court to get the wiretap, and still have the probable cause standard.

However, in the past we have tapped, when they got a tap, it is on the person's phone number. So they say, "I want to tap number 345-6789 because John Smith, there is probable cause to believe John Smith is doing illegal things, and we want to find him."

But these days technology has allowed criminals and terrorists to get ahead of that. Why? They get cellular phones, and they change their number every third day. It takes law enforcement time to find that new number, and then under present law they would have to go to court and get a new court order.

Mr. Speaker, that makes no sense, and in the original bill that was introduced by myself and the subsequent bill introduced by the gentleman from Illinois [Mr. HYDE], the multipoint wiretap provision was put in. However, it was taken out because of the objection of some. I do not know what the objection is, frankly. Part it of may have been misnomered. It was first called roving wiretap, and roving implied it would go to any person. So now the name has been changed to multipoint wiretap.

It is still opposed by the far right and by some in the civil liberties community on the far left. But, my colleagues, they are simply wrong.

Mr. Speaker, when we discussed it in conference, the Senator from Utah asked the gentleman from Georgia and others what is a reason to be against these taps, and none was given. The only explanation given by my good friend from Florida was, well, there is a lot of misinformation, and Mr. HYDE, Mr. HATCH, who have worked laboriously on this bill, and I salute them and I will in my later remarks, and the gentleman from Florida, Mr. MCCOLLUM, all agree we should have that in a later bill and bring it to the floor.

Well, my colleagues, we should do it now. This bill is not strong enough.

I will vote for the bill. It is better than what we have now, and progress has been made since the Barr amendment stripped out the heart of the bill, and the gentleman from Georgia has changed his mind and supported some of the provisions that were stripped out in the House previously.

So, in my judgment. The bill is OK, but it could be a lot better. It is only half a full glass. And by voting down the previous question, and then voting on the concurrent resolution offered by the gentleman from Texas, we could restore the provision that law enforcement considers first and foremost what has been needed to fight the fight against terrorism.

So I would ask my colleagues to put down partisanship, to put down fear of some extreme groups who by misinformation and fear have mischaracterized this provision. Let us pass it now. We do not know what is going to happen in this Congress. I would say the odds are that we will not pass a multipoint wiretap later on in the year, despite the intentions of the chairman of the Committee on the Judiciary to get it.

So to toughen the bill up, to give law enforcement what they need without violating any civil liberties, we should vote down the previous question, add the multipoint wiretap provision, and then we could say we have passed a good bill.

Ms. PRYCE. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. BARR] who was very instrumental in the drafting of this legislation.

Mr. BARR. Mr. Speaker, I thank the gentlewoman for yielding this time to me.

Mr. Speaker, the gentleman from Georgia has not changed his mind on anything. The provisions that we have added back into this bill during the conference proceedings are different from those that were in the bill earlier and that were removed in the Barr amendment. The gentleman from New York may not be aware of that, but they are different. They are protective of civil liberties. They grant our law enforcement community the very specific narrowly crafted tools that it needs in certain key areas. But nothing has changed in terms of my regard for civil liberties, my regard for taking a very close look at those provisions and allowing those only insofar as I am able to be enacted into law that are absolutely essential.

The gentleman goes on and on about multipoint or roving wiretaps. The American people and Members of this body certainly are aware of the vast power that our Government currently has with which to wiretap. There indeed are provisions in current law in Title 18 of the United States Code that already provide for multipoint wiretap. They may not be the provisions that are the easiest to implement, but they are there, and they are used.

There may very well be civil liberties problems with the proposal of the other side. It is a vast expansion of current authority, and I do not feel that it would be at all appropriate to consider it precipitously as we would be doing today. Rather, Mr. Speaker, there is a provision in section 810 of this conference report, as presented to the House today, that provides for a comprehensive study by the administration, by the Attorney General, on the entire issue of wiretaps. That study would have to be completed in 90 days.

I and my colleagues who believe in effective but accountable law enforcement believe that that is the appropriate way to go so that we can study this with the deliberation that it requires, look at current law, which is vast in the area of wiretap authority for our Government, be very mindful of civil liberties and craft, if crafting new legislation is necessary, the most limited, not the most expansive, way of achieving that result.

□ 1230

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Speaker, what we have here is a classic case of, once again, the Republican Congress moving in a way which links two completely separate issues, and therefore mixes up and puts a number of Members of Congress that are very interested in establishing tough new standards on antiterrorism law, it forces us to vote against the bill because of the irreparable damage this does to our constitutional rights under habeas corpus.

Mr. Speaker, I am a strong supporter of the death penalty in this country, but I also believe very strongly, absolutely as strongly, that we ought to give people the absolute right to appeal their decisions under the constitutional guarantees of this land, to make certain that we do not make mistakes once which impose the death penalty.

Why is it necessary, why is it necessary to link the death penalty and the constitutional guarantees of habeas corpus to a terrorism bill? This is just a political deal. It is a political deal to get votes on the right, to get them to link up and vote for a bill that should stand on its own hind legs. It should stand on its own forelegs.

But what we have is, instead, a glomming together of separate ideas that are necessary to patch together the votes because of the craziness that has invaded this body. Please, can we not recognize that there are severe threats, as we have seen in Oklahoma, as we have seen in New York, as we have seen in provisions which are included in this bill, which I was able to get passed in conjunction with the gentleman from Ohio [Mr. KASICH], to make certain that we protect against Government-sponsored labs from providing all sorts of terrorist agents, such as serin and other pathogens that we have seen, the Ebola virus and the like, that have been made too readily available to anyone who writes in to a Government lab and claims that they need these terrible pathogens that can be used for all sorts of destruction.

Those are good provisions, those are antiterrorism provisions. Habeas corpus has nothing to do with an antiterrorism bill. It forces too many of us to finally vote "no" on this bill. I urge a "no" vote.

Ms. PRYCE. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, in listening to the remarks of the distinguished gentleman from Massachusetts [Mr. KENNEDY], now I am confused. I remember they used to criticize a former President by ridicule, saying he could not walk and chew gum at the same time. It would seem to me that handling two ideas is not that difficult: habeas and antiterrorism, even if what he said is true, that they were not related; however, they are.

If someone gets convicted of bombing a building and killing people, people who are the victims of that, and survivors, would like to be sure that the appeals cannot go on and on and on, as they do now. So bringing to closure and bringing the sentence that is imposed into reality does have something to do with bombing buildings, and that has something to do with terrorism.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Speaker, I do not quibble with the fact that we can impose tougher sentencing on people involved in terrorist activities. That is, obviously, a terrorism issue. But I would say to the gentleman from Illinois [Mr. HYDE], there is no one in this Congress who has stood up more eloquently for this Constitution in so many cases, since I have been here over the course of the last decade, than he.

Mr. HYDE. Mr. Speaker, I thank the gentleman.

Mr. KENNEDY of Massachusetts. At times, when it cuts against even issues that the gentleman believes in, I have seen him stand up on the House floor to stand up for the Constitution of this country. What we have here is an undoing of the Federal Government's rights to intervene in the State courts. That is what is wrong with this bill.

The gentleman can make the argument that this is necessary because he is so angry at these terrorists and the kinds of activities that they are involved with, but that does not excuse us from intervening in a way that the Constitution has always protected this country. If we are going to do it, we ought to do it on its own two legs, not by linking it to this terrorism bill.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. KENNEDY of Massachusetts. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I know the gentleman's concern. It is a common one. It has to do with the deference that Federal courts will give to State court decisions. I believe that is what he is talking about. We will discuss that at some length in our debate on the bill, but the Federal judge always reviews the State court decision to see if it is in conformity with established Supreme Court precedence, or if it has been misapplied. So it is not a blank, total deference, but it is a recognition that you cannot relitigate these issues endlessly.

Ms. PRYCE. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS], chairman of the Subcommittee on Commercial and Administrative Law of the Committee on the Judiciary.

Mr. GEKAS. Mr. Speaker, the debate has centered on the most important feature of this bill, in my judgment, and that is the habeas corpus provisions. It took us a generation to convince the people on the left that we ought to have a workable, reassurable, predictable death penalty that would inexorably exact the punishment that was intended.

We worked fro 20 years in this Chamber to try to accomplish a death penalty, because 80 percent of the American people wanted to see it happen. Then when we see the World Trade Center tragedy and other terrorism that has wreaked havoc across our land, then we reinstate the notion that we need the death penalty to allow a jury to exercise that ultimate option.

Now we have before us a habeas corpus procedure that forbade the final solution to the death penalty problem; namely, the execution of the killer. Here is a killer who viciously kills hundreds of people in one act, who can sit in a cell and file paper after paper, habeas corpus and other documents, to prevent the ultimate punishment that the jury prescribed for him.

In this antiterrorism bill, there is a strong, strong chain of events that lead from the kinds of acts that we abhor, like Oklahoma City, like the World Trade Center and others too horrible to conceive, where a jury is entitled to impose the death penalty. And we should not shrink from the responsibility of making sure that their final judgment is not set aside or weakened or laughed at by reason of the frivolous appeals that have been filed time after time in the history of these actions.

Mr. Speaker, I support the rule and I will support the conference report. It is a good antiterrorism mechanism that allows for the death penalty to be applied as a deterrent to future bombings like Oklahoma City, and as a punishment for those who do commit those kinds of acts.

Mr. FROST. Mr. Speaker, I yield 6 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, I want to first thank my colleague, the gentleman from Texas [Mr. FROST], from the Committee on Rules, for being generous with his time, because I may not have time on the debate of the bill itself to make some of the points that I would like to make.

Mr. Speaker, I am as upset about the Trade Center bombing and the Oklahoma City bombing as anybody in America. I do not want anybody to be misunderstanding what I am saying. But we are about to perpetrate a fraud on the American people, because this bill is not any longer about terrorism, the bill is about matters that go well, well beyond terrorism and we are, unfortunately, using these two terrorist acts as the predicate for undoing some important constitutional protections.

I will not even spend my time talking about the death penalty provisions in this bill. What I will spend my time talking about is the importance of the Great Writ of Habeas Corpus, which most people are not going to understand, because a lot of people think habeas corpus is about the death penalty. It is not. Only 1 percent or less of habeas corpus petitions involve the death penalty at all. That is, less than 100 out of 10,000 habeas corpus petitions involve the death penalty.

Habeas corpus appeals have been brought by gun owners who feel that they have been unjustly imprisoned for exercising their second amendment rights. They have been brought by pro-life protesters, who feel that they have been unjustly imprisoned by their first amendment rights being suspended. They have been brought by people who have been protesting on the pro-life side. They span the whole philosophical gamut of our Constitution.

Mr. Speaker, this is a constitutional attack that we are engaged in. First, petitioners are limited to one petition, 1 year of exhausting their appeals. By imposing this limitation, important new evidence, even new compelling evidence of one's innocence, can no longer be offered in a court of law to prove one's innocence. Compelling new evidence of one's innocence can no longer be offered, after that one bite within 1 year.

We have seen the advances that our country has made in DNA, and DNA evidence is now coming forward to reveal that people who have been in jail for 10 years, 15 years, are being held unjustly, without any contradiction, and we are willing to compromise the most basic thing, innocence, for political expediency.

Habeas corpus is only in the Federal Constitution, yet this bill says that the Federal courts must defer to State courts in the interpretation. That is unprecedented. Never has it happened in this country. Sandra Day O'Connor, not one of your liberal bastions, and you can call me anything, but she is certainly not there, she said that the Federal courts must presume the correctness of the State courts' legal conclusions on habeas, or that State courts' incorrect legal determination has ever been allowed to stand because it was reasonable.

What is a reasonable, unreasonable, interpretation of the Constitution? We have to defer only if the State court does something out of the ordinary, or unreasonable. It is the Federal court's prerogative and responsibility to determine our Federal constitutional rights.

Mr. Speaker, even Justice Rehnquist recently said that "Judicial independence is one of the crown jewels of our system of government."

Mr. Speaker, we cannot sacrifice our constitutional principles because we are angry at people for bombing. The constitutional principles that I am arguing for are for every single American, and the minute we start compromising them to get terrorists, to get anyone, we must compromise them for everyone.

Think about the number of cases in our judicial system that involve terrorist acts. They are few. We get angry about them. But think, on the other side, that our Constitution was written not to protect those people, but to protect every American. We are sacrificing our own individual liberties and our own constitutional rights for the political expediency that goes with passage of this bill.

Ms. PRYCE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from the great State of Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, let me first say that I support the rule and I will support the conference report. I think there are a lot of positive things that are in the conference report, including mandatory victims' restitution, a bill that I have introduced in several Congresses and hope will finally get a signature for that particular provision, habeas corpus reform, which I have also supported, and particularly the FBI counterterrorism center and funds available for that counterterrorism center.

□ 1245

I think that the conference committee overall did an excellent job in crafting this legislation. I have to agree, however, with my good friend from New York, Mr. SCHUMER, on one particular provision that was left out of the conference report, and that is the multipoint wiretap provision.

I can see no reason why that particular provision, which was requested specifically by the FBI and by Director Freeh, would be left out of the conference report. All of the safeguards that are currently in the law regarding wiretaps would be contained in that provision.

Wiretaps are an important tool of law enforcement to try to determine, before these kinds of tragedies exist and before they happen, to be able to catch the particular individuals involved. That is what law enforcement is all about.

Let us understand one thing here. The FBI and law enforcement is not the enemy. The enemy is the terrorists and people who would take advantage of our open system to further their political goals through the use of violence.

Our best protection against that kind of violence is the ability of law enforcement to ferret out beforehand those kinds of individuals, and use lawful techniques to investigate those perpetrators or those potential perpetrators. So let us give, hopefully, the benefit of the doubt to our judicial system and to our law enforcement officials to make those kinds of determinations.

Mr. Speaker, those of us who in the past have done this for a living understand how important wiretap evidence is. I am sorry it was not part of this conference report, but we ought to get to that later and I would suggest we do so.

Ms. PRYCE. Mr. Speaker, I yield 3 minutes to the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. I thank the gentlewoman for yielding me the time.

Mr. Speaker, today as we consider the antiterrorism bill, we do so in the memory also of those who were brutally killed when Libryan Government agents placed a bomb on Pan Am 103 on December 21, 1988. We can never forget the horror of that day.

As we learned of the loss of Pan Am 103, each of us thought of the great human tragedy that had struck the families of those who were passengers on that plane. Those passengers were flying home for the Christmas holidays, and each of us knew in our hearts how much their families were suffering.

For those who lost their loved ones in this despicable act of state terrorism, there can never be a moment's rest while those responsible for the murder of their loved ones remain at large.

My good friend Victoria Cummock of Coral Gables, FL, is president of a group called "Families of Pan Am 103/Lockerbie." Her husband, John Binning Cummock, was a victim of the Libyan terrorists that day.

Victoria and many others in her group have worked for many years with diligence and dedication to encourage the Congress to enact effective legislation against terrorism so that no other family will again experience the tragedy that befell the families of Pan Am 103. Although nothing can ever replace their loved ones and there is no word of comfort that any of us could say to alleviate their loss, we can bring the Libyan Government to justice by voting for this bill.

The bill creates a right for American citizens to sue in American courts any government that sponsors state terrorism. I am sure that an impartial jury, considering the nature of the Libyan act and its origin in Libyan Government policy, will conclude that financial compensation is indeed due to the families of the Pan Am 103 victims.

The administration, for reasons that no one has ever really satisfactorily explained, opposed giving the families of the victims of state-sponsored terrorism this right to compensation, but it has changed its mind in recent weeks. I am glad that the White House has agreed to sign this important bill into law.

The families of Pan Am 103/Lockerbie have endorsed this bill. I urge all of our colleagues in the House to support this legislation and send it to the President for his signature.

We grieve for the loss of the Cummock family and indeed all of the victims of the Pan Am 103/Lockerbie incident.

Ms. PRYCE. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE], the chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, I regret the gentleman from North Carolina has left the floor. I hope he can hear me, anyway. He said some rather harsh things.

He said this bill is a fraud. Since I am the chief sponsor of the bill, I guess I am trying to impose a fraud on America. Frankly, given the hyperbolic tendencies of all of us, even that is a little bit much.

He said the bill has nothing to do with terrorism. Then he talked about habeas corpus. I just wish he would read the bill, or at least the same bill that I read.

This bill provides for an open designation process of what is a foreign terrorist organization. It denies those terrorist organizations the ability to raise money in this country. It provides authority to the State Department to deny entrance visas to members of those designated foreign terrorist organizations. It provides a fair and even process to deport alien terrorists. It denies assistance to foreign countries that do not cooperate with us in our antiterrorism efforts.

It provides that foreign air carriers that travel to and from the United States abide by the same safety measures that American air carriers must follow; mandatory victim restitution, not discretionary; criminal alien deportation improvements; granting Federal courts jurisdiction to hear civil suits against state-sponsored terrorism; mandatory minimum penalties for explosive crimes; protection of all current and former Federal employees who are attacked on account of their employment.

That has nothing to do with terrorism? I find that incredible.

As far as the deference that a Federal judge must give in a habeas proceeding to a State court decision, I simply say the State judge went to the same law school, studied the same law and passed the same bar exam that the Federal judge did. The only difference is the Federal judge was better politically connected and became a Federal judge.

But I would suggest to my colleague when the judge raises his hand, State court or Federal court, they swear to defend the U.S. Constitution, and it is wrong, it is unfair to assume, ipso facto, that a State judge is going to be less sensitive to the law, less scholarly in his or her decision than a Federal judge. The Federal judge still has to look at the work product of the State court to decide if they got it right.

Somehow, somewhere we are going to end the charade of endless habeas proceedings, and this bill is going to do it.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will ultimately vote for the conference report. However, I again urge a "no" vote on the previous question on the rule.

If the previous question is defeated, I intend to offer an amendment to the rule which would provide that the House will have adopted a concurrent resolution directing the Clerk to correct the enrollment of this conference report by adding language granting law enforcement agencies new wiretap authority.

Mr. Speaker, the text of the amendment is as follows:

At the end of the resolution, add the following:

Section . Upon the adoption of this resolution, the House shall be considered to have adopted a concurrent resolution directing the Clerk of the House to correct the enrollment of S. 735 and consisting of the text contained in the next section of this resolution.

Section . *Resolved by the House of Representatives (The Senate concurring)*, that in the enrollment of the bill (S. 735) the Terrorism Prevention Act, the Clerk of the House of Representatives shall make the following corrections:

At the appropriate place, add the following:

SEC. . EXPANDED AUTHORITY FOR MULTI-POINT WIRETAPS.

Section 2518(11) of title 18, United States Code, is amended to read as follows:

"(11) The requirements of subsections (1)(b)(ii) and (3)(d) of this section relating to the specifications of facilities from which or the place where the communication is to be intercepted do not apply if in the case of an application with respect to the interception of wire, oral or electronic communications—

"(a) the application is by a federal investigative or law enforcement officer, and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or an Assistant Attorney General (or acting in any such capacity);

"(b) the application contains full and complete statements as to why such specifications is not practical and identifies the person committing the offense and whose communications are to be intercepted; and

"(c) the judge finds that such specification is not practical."

Mr. Speaker, I yield back the balance of my time.

Ms. PRYCE. Mr. Speaker, I yield myself such time as I may consume.

Let me say in closing that the conferees have worked very hard to produce an agreement that I believe assigns the Federal Government a reasonable and legitimate role in the fight against terrorism. This legislation has not been developed hastily. In fact, it has been nearly a yearlong process to craft a bill that provides law enforcement with the tools they need to effectively deter and punish terrorism, but in a way that balances public safety and security with individual rights and liberties.

It is vitally important that would-be terrorists understand our firm commitment to protecting our citizens from the threat of terrorist acts, especially here in these great United States.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. GILLMOR). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 274, nays 148, not voting 10, as follows:

[Roll No. 124]

YEAS—274

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bryant (TX)

Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeFazio
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Traficant
Upton
Volkmer
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
White
Whitfield
Wicker
Williams
Wise
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—148

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clyburn
Collins (IL)
Collins (MI)
Conyers
Coyne
Danner
de la Garza
DeLauro
Dellums
Dicks
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran
Nadler
Neal
Oberstar
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Peterson (FL)
Pomeroy
Radanovich
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Slaughter
Stark
Stokes
Studds
Stupak
Thompson
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Weller
Wilson
Woolsey
Wynn
Yates

NOT VOTING—10

Bartlett
Dingell
Fields (TX)
Gibbons
Hayes
Jackson-Lee (TX)
McIntosh
Skaggs
Souder
Tanner

□ 1314

Mr. STUPAK, Mr. GEPHARDT, and Ms. RIVERS changed their vote from "yea" to "nay."

Mr. HOLDEN, Mrs. CUBIN, Mrs. KENNELLY, and Messrs. OBEY, WAMP, PETERSON of Minnesota, MOLLOHAN, and WISE changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. BARTLETT of Maryland. Mr. Speaker, on rollcall No. 124, I was off the Hill well within 15 minutes return time. My pager did not respond to the 15-minute call. It did respond to the 10-minute call.

Had I been present, I would have voted "yes."

The SPEAKER pro tempore (Mr. GILLMOR). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DICKS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 289, noes 125, not voting 18, as follows:

[Roll No. 125]

AYES—289

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brown (FL)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crapo
Cremeans
Cunningham
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Green (TX)
Greene (UT)
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McKeon
McNulty
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sanford
Saxton
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)

Weldon (PA)
White
Whitfield
Wicker
Williams
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—125

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Berman
Bishop
Bonior
Brown (CA)
Brown (OH)
Bryant (TX)
Chapman
Clay
Clayton
Clyburn
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Danner
Dellums
Dixon
Doggett
Dooley
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Jackson (IL)
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Klink
LaHood
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Matsui
McDermott
McKinney
Meehan
Meek
Miller (CA)
Minge
Mink
Mollohan
Myers
Nadler
Neal
Oberstar
Obey
Olver
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (MN)
Rahall
Rangel
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Scarborough
Schroeder
Scott
Serrano
Skaggs
Slaughter
Souder
Spratt
Stark
Stokes
Studds
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weller
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—18

Crane
Cubin
DeFazio
Dingell
Fields (TX)
Forbes
Greenwood
Hayes
Hunter
Jackson-Lee (TX)
Largent
McIntosh
Millender-McDonald
Owens
Reed
Salmon
Tanner
Thompson

□ 1324

Mr. LUTHER changed his vote from "aye" to "no."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. MILLENDER-McDONALD. Mr. Speaker, I was unavoidably detained with constituents and unable to vote on rollcall 125. Had I been present I would have voted "aye."

PERSONAL EXPLANATION

Mr. REED. Mr. Speaker, it has come to my attention that on April 18, 1996, the House voting system did not record my vote on rollcall vote 125, final passage of the rule governing debate on the antiterrorism bill.

At the time the vote was held, I was on the floor of the House, having just voted against ordering the previous question.

It was my intent to vote for passage of the rule. Unfortunately, my vote was not properly recorded. I would ask the RECORD to reflect my presence in the Chamber and my intent to vote for passage of the rule.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2060

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2060.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 789 AND H.R. 2472

Mr. RIGGS. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 789 and as a cosponsor of H.R. 2472.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON S. 735, ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996

Mr. HYDE. Mr. Speaker, pursuant to House Resolution 405, I call up the conference report on the Senate bill (S. 735), to prevent and punish acts of terrorism, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of April 15, 1996, at page 7433.)

The SPEAKER pro tempore. The gentleman from Illinois [Mr. HYDE] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HYDE].

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on S. 735.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, 132 years ago, in a small cemetery in Pennsylvania, one of America's great presidents asked a very haunting question, whether a nation conceived in liberty and dedicated to the proposition that all men are created equal could long endure. Our answer to that question depends on how we legislate to protect a free people from those evil forces who seek our destruction through violence and terrorism.

The bill, the conference report that we have before us today, does that in exemplary fashion. It maintains the delicate balance between liberty and order, between our precious freedoms and defending this country, something we have sworn to do when we took our oath of office to defend the Constitution and the country behind it.

□ 1330

Now, this bill has had a stormy odyssey, and I think it is worthwhile to recapitulate a little bit. First of all, what has been added to the bill as it passed the House? Removal of alien terrorists. These provisions allow for the removal of alien terrorists fairly and with due process but also with protections adequate to safeguard sources and methods of classified information.

Under the conference report, the alien will be given a declassified summary of the classified information, and this summary must be sufficient to enable the alien to prepare a defense. If the district court judge presiding over the hearing determines that it is not adequate to prepare a defense, the hearing terminates and the alien goes free. But we must protect sources, we must protect methods. We must balance that with the need for a fair hearing.

So, we think this strikes the appropriate balance. There will be no secret proceedings or anything like that. Designation of foreign terrorist organizations, we got that back in the bill. It was taken out on the floor earlier. But we have provided that the Secretary of State, in cooperation with the Attorney General and the Secretary of the Treasury, can designate terrorist organizations.

We are not talking about countries now. That is under another law. They can designate terrorist organizations. They must notify Congress within 7 days. We have a chance to review that, and we can set it aside if we wish. With that authority, the Secretary of the Treasury can freeze assets in this country that belong to terrorist organizations.

Also back in the bill is the prohibition against terrorist fundraising. Raising money in this country is the lifeblood of many organizations, not excluding terrorists, and we put a stop to that with this bill.

We also, under this bill, we have a procedure for excluding alien terrorists. We authorize the State Department's embassy officials overseas to deny entrance visas to members and representatives of those same designated foreign terrorist organizations. The Washington Post had an editorial this morning talking about keeping out alien terrorists that we might want to come in so we can negotiate with them.

I suggest that the law has permitted that to happen, not this law but other laws. Yasser Arafat, Gerry Adams, people have come into this country under the law. And so this is not a hard and fast blanket exclusion. Prohibitions on foreign assistance, countries that do not cooperate with us in our antiterrorist acts will not get foreign assistance.

On foreign air carrier safety, the conference report requires foreign air carriers that come into our country and leave our country provide the same security and safety measures, the identical ones that American air carriers must follow under regulations promulgated by the FAA. Those are important antiterrorist laws that will help us protect ourselves in the future, and anyone who says that there are not serious antiterrorist measures in this bill as not read it.

Now, habeas corpus reform, that is the Holy Grail. We have pursued that for 14 years, in my memory. The absurdity, the obscenity of 17 years from the time a person has been sentenced till that sentence is carried out through endless appeals, up and down the State court system, and up and down the Federal court system, makes a mockery of the law. It also imposes a cruel punishment on the victims, the survivors' families, and we seek to put an end to that.

We are not shredding the Constitution. We are shaping a process to keep it within the ambit of the Constitution, but to bring justice to the American people. That is what we have done with habeas corpus reform, and I simply direct attention to quotations from President Bill Clinton, who has said in death penalty cases, it normally takes 8 years to exhaust the appeals. It is ridiculous, 8 years is ridiculous; 15 and 17 years is even more so. So heed the words of our President on this subject.

Now, we have a 1-year statute of limitations in habeas. Nothing wrong with that.

I would like to read. I have left the letter up there. Diane Leonard, who is the wife of a Secret Service agent who was killed in Oklahoma City, sent this letter, which I just received today:

> Dear Congressman HYDE, The antiterrorism bill has reached this far and represents a victory for the vast majority of Americans over extremists of the left and right. A victory over extremists whose volume sometimes overwhelms the quieter voice that differentiates between right and wrong. The people who killed my husband, his coworkers and other law-abiding Americans did not give a damn whether they were killing Republicans or Democrats. I am asking that you call on your colleagues to have a similar blindness to party to do one thing, only one thing: Give us justice.
>
> Diane Leonard, widow of Donald Leonard, U.S. Secret Service victim, Oklahoma bombing.

Mandatory victim restitution, right now it is discretionary. Under this bill, it is mandatory. Think of the victims and think of the victims first. Criminal alien deportation improvements, allowing for district court judges to order the deportation of aliens convicted of Federal crimes, not just because they are aliens. They are in the slammer for Federal crimes. But at the end of their term, they can get deported with expedition rather than go through another and another and another hearing.

We also have maintained a taggant study. We put taggants in plastic which is used for bombs. But as for other substances, it is a fact, and this is not the NRA talking. It is a fact that we are not sure how safe and how efficacious, how efficient and how cost effective they are in things like fertilizer. We are going to have a study, and that study is going to be a scientific one, an objective one. Following that study, regulations may be promulgated and Congress will have a chance to look at them, 9 months of review to determine whether we should put taggants in other substances.

I think it is sensible, a mainstream solution.

On expedited asylum procedures, the conference report does not add any wiretap authorities that were not in the bill when it left the House. It does not give law enforcement any additional access to consumer credit reports or common carrier records. It does not give the military any increased role in civilian law enforcement.

Now, these are here, some things I would love to have in the bill. I would love to have the multipoint wiretapping authority. I would love to use the technology and expertise of the military when chemical, biological, and nuclear weapons are used in public, but that is not in the bill. We did not have the votes, and so we put that aside in the interest of getting a good bill.

The survivors want the habeas corpus. Habeas corpus is tied up with terrorism because when a terrorist is convicted of mass killings, we want to make sure that terrorist ultimately and reasonably has the sentence imposed on him or her. It is not incommensurate with the Constitution, it follows the Constitution and due process.

So let us answer Lincoln's haunting question yes, a country conceived in liberty can long endure.

Mr. Speaker, I include for the RECORD the following information:

SECTION 806

By enacting section 806, Congress intends that the Commission examine closely the priorities and structure of Federal law enforcement as we head into the 21st century. The large proliferation of Federal agencies with law enforcement authorities, overlapping jurisdiction, nonstandardized policies and procedures among the various agencies, and separate training and administrative functions require examination to determine if Federal law enforcement effectiveness can be increased in an era of fiscal austerity.

There are clear distinctions in procedures, planning, and capabilities of the various law enforcement agencies. This is especially so when, as has increasingly become the case, Federal and local officials are working jointly on investigations and operations. Congress intends the Commission to examine issues of coordination to ensure effective utilization of scarce resources and to ensure proper Federal support for State and local law enforcement.

Accountability for law enforcement operations has increasingly become an issue before Congress. Congress specifically intends that the Commission examine who within the executive branch should ultimately be responsible, short of the President, for interagency coordination, uniform standards, ethical standards and the other issues common to all Federal law enforcement agencies. Congress believes the current proliferation of agencies, the confusion and dangers that result therefrom and the lack of clear accountability and responsibility has lead to an unhealthy level of competition fostering operations and inefficiencies that are not in the best interests of public safety.

Congress does not intend by the establishment of this Commission to create an oversight function separate from that already performed by Congress. Congress historically has always been very mindful of the dangers inherent in examining specific cases, of protecting raw investigative information and from ensuring that the political process does not impede or intimidate those line investigators and prosecutors charged with enforcing the law. The managers realize that having an outside Commission examining cases and the details of investigations could have a chilling effect on those who must protect our public safety.

Congress believes that to ensure the protection of the privacy and civil rights of people investigated but not charged, the Commission must not examine specific investigations or investigative or prosecutive strategies. Likewise, to ensure that investigations remain unimpeded and investigators and prosecutors remain free of the potential for influence or intimidation, the Commission must avoid examining specific cases, calling as witnesses line personnel or seeking information the disclosure of which would have dire consequences, for example, informant identities, confidential witnesses, sensitive techniques, et cetera. Even in closed cases, examination of discretionary investigative and prosecutorial decisions risk not only the appearance of political influence and chilling aggressive prosecution, it also threatens the due process rights of suspects and defendants. The Commission is not established to put specific cases under the microscope. To the contrary, it is intended to focus on macro issues that go to effectiveness, coordination, efficiency and public safety.

Congress does not intend the Commission to examine issues or cases involving national security.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself 4 minutes.

Mr. HYDE. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan [Mr. CONYERS].

The SPEAKER pro tempore (Mr. LINDER). The gentleman from Michigan [Mr. CONYERS] is recognized for 4 minutes and 30 seconds.

Mr. CONYERS. Mr. Speaker, we are here to discuss this bill. We have received the quotations from President Clinton and former Presidents, but let us look at what the gentleman from Illinois [Mr. HYDE] is talking about.

He is proud of the fact that we implement the convention on marketing plastic explosives that was noncontroversial. Restrictions on biological and chemical weapons, hooray, that was uncontroversial. We got in the bill mandatory victim restitution. Do you remember anybody ever quarreling with that? Not hardly.

Mr. Speaker, now we come to all of the Barr provisions that were killed out of this bill by 246 votes, a majority. Remember that? That was not such a great day on the floor, because the gentleman from Georgia [Mr. BARR] thought we should not strengthen the criminal alien deportation procedure, so he kicked it out and it won. The gentleman from Georgia [Mr. BARR] thought that we should not expedite the deportation of terrorists, and it won and we kicked it out. The gentleman from Georgia [Mr. BARR] thought that there should not be a ban on fundraising by terrorist groups, and he won and we kicked it out. Now in the conference we got pieces of it back in.

I am very happy that the chairman of the Committee on the Judiciary wishes that we had wiretap authority for terrorists, not for stealing cars, not for hijacking, not for simple felony crimes, but terrorism, this one thing that we are dealing with so completely here this afternoon. But we do not want wiretap authority extended. Oh, yes, we got it already, but we do not have enough and it is not directed at terrorists, of all people.

What about identifying explosives, which could have stopped at least one bombing I know about? Well, we do not want to include powder and things that are used in great quantity around the country. We will exclude that. We will put in taggants, but we will leave out the two kinds of powder that are used most. What about cop killer bullets? Oh, do not bring that up. We will deal with that separately. Let us study the armor-piercing ability of the jackets that policemen wear. Do not worry about the bullet.

Why not make it easier to sue foreign governments? Well, we do not want to get into that. That is foreign policy. What about cooperation with the Federal law and the U.S. military? Oh, no, let us not do that. So what we have is a bill that has taken out the guts of everything that should have been in it, and everything that could have been agreed on 1 year ago is in it and we are real proud of that.

This is a gutless bill, and how dare those tough crime fighters suggest that this is going to stop something? Oh, yeah, and then we throw in habeas so that a suicide bomber is going to read the new habeas law and he will get executed quicker. I say to the gentleman from Illinois [Mr. HYDE], he is willing to blow himself up. He does not need your law to help him get executed.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, is the gentleman aware that at the World Trade Center there were no suicide bombers? Is the gentleman aware that at Oklahoma City there were no suicide bombers?

Mr. CONYERS. Then that makes it OK then to bring in habeas?

Mr. HYDE. No. That is an easy question to answer. Just yes or no.

Mr. CONYERS. Mr. Speaker, yes.

Mr. HYDE. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I yield 5 minutes to the gentleman from Georgia [Mr. BARR], the distinguished gentleman who played a key role in the shaping of this bill.

□ 1345

Mr. BARR of Georgia. Mr. Speaker, I thank the gentleman from Illinois, the distinguished chairman of the Committee on the Judiciary, for yielding time to me.

The gentleman from Illinois, the chairman, has done tremendous service to the people of America in his work on this piece of legislation, this historic piece of legislation, and I am proud to have been associated with him and with this legislation.

Mr. Speaker, today the American people have much to be proud of, much to be optimistic about for the future credibility, integrity and ability of our law enforcement system to seek out, prosecute, prevent, and sentence, and carry out sentences effectively, efficiently, and within the bounds of our Constitution in a reasonable period of time.

When I met earlier this year, Mr. Speaker, with the number of individuals who represented the families of victims in Oklahoma and Lockerbie, they did not come to us in the Congress and say the Government needs more wiretap power, give them whatever they need. They did not come to us, Mr. Speaker, and say the Government needs in order to bring justice to us, more power to gain access to personal records without a court order, so give them whatever they need or whatever they want. They did not come to us, Mr. Speaker, and say despite the fact that for over a hundred years we have held a very bright and fine and important line between the functions of our military and protecting our borders and domestic law enforcement, and we need to blur that line, and we need to have the military involved in domestic law enforcement, so give them whatever they want.

No, Mr. Speaker, the families of those victims, of those people who have lost loved ones, colleagues and friends to acts of terrorism, came to us and said give us justice, give us habeas and death penalty reform because the very credibility, all of the confidence that we want to have in our criminal justice system, is being eroded by the failure to deliver that to the American people.

And that is what this bill is about, and I also say, Mr. Speaker, that to those warped minds who might today or tomorrow or 1 year from now or 10 years from now contemplate, irrationally as it may be, an act of terrorism against one of our citizens, against one of our Federal employees, against one of the greatest institutions of this Federal Government, let them think longer and harder about it, as I believe they will, knowing that we have passed this legislation, because it will tell them in no uncertain terms, and they do listen to this; this thought process goes on in their mind. They will know that no longer will they be able to, within our borders or come into our country, and kill our citizens, and destroy our government institutions and know that they will be able to spend the next 25 years laughing at us, thumbing their nose at the families of victims, because they will know because of the work of the gentleman from Illinois and our colleagues on both sides, 91 strong in the Senate, has stood up this day and said no more, never again, enough is enough.

That is the importance of this legislation, and there is no clearer link, no stronger link, Mr. Speaker, between effective antiterrorism legislation and deterring criminal acts of violence in this country than habeas and death penalty reform. The American people are demanding it. Future generations who will have to face the constant problem of terrorism demand it. They know that it will work. They know we must have it.

That is why, Mr. Speaker, this legislation, with the important civil liberties guarantees enshrined in it, is so very important, and that is why I am proud to stand here today as a Representative of the American people, shoulder to shoulder with Mr. HYDE, with Senator HATCH in the other body, and say, yes, we have heard the cries of the American people, we have heard the needs of law enforcement, the National District Attorneys Association, attorneys general all across this country, police chiefs, and sheriffs all across this country that say, contrary to what the gentleman from New York keeps saying, oh, we want more wiretap authority. They have come to us, in writing and in person, on the phone and over the fax machines of this country, and said we need habeas reform. That is the one thing, that most important element, the crown jewel here, that we must have. Let us today give it to the American people.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Speaker, the notion that the gentleman from Georgia [Mr. BARR], as he was saying, represented the interests of law enforcement here in this bill, that they were adequately represented when it was his amendment and his work that has allowed for a study of cop killer bullets to me is utter hypocrisy. That is all.

Mr. CONYERS. Mr. Speaker, I yield myself 2 minutes.

Letter to Chairman ORRIN HATCH, who has just distinguished us with his presence on the floor, from one of the surviving victims of the Oklahoma City bombing:

"I am sorry I missed you," the writer says to the gentleman from Utah [Senator HATCH], "when I was in Washington a couple of weeks ago. As the father of someone murdered by the Oklahoma City bomb, I write to urge you to reconsider the habeas corpus package in the bills you are being called into conference on.

"It utterly galls us as a family so devoted to my daughter that we and our loss should be used as a political football for politicians eager to posture themselves as tough on crime in order to reap some political advantage and to do the bidding of already powerful agencies who have demonstrated their inability to responsibly exercise enormous powers that they already possess. The habeas reform provisions in particular are not known or understood by the families who have used them to lobby on behalf of the bill. One family member even told me recently that she understood habeas corpus to be an antiterrorism investigation tool. Sincerely, Mr. Bud Welch."

Now I ask the gentleman from Illinois [Mr. HYDE], yes or no, is not it true that only 1 percent of the habeas cases involve the death penalty.

The answer the gentleman knows and I know.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Illinois.

Mr. HYDE. I do not know.

Mr. CONYERS. The gentleman does not know. Ah, the chairman is not sure, or he is not even not sure. He just does not know.

Mr. HYDE. That is right.

Mr. CONYERS. I will help the gentleman along the way.

Now I will go to a quote of the gentleman's, and I am not picking on the gentleman. He is just my chairman on the wrong side of an important bill.

When the issue came up during the hearings the gentleman from Illinois [Mr. HYDE] said: "I don't really see the wisdom of revisiting the whole habeas argument again in this committee on this bill."

Now it is the keystone of the antiterrorist legislation.

I know the gentleman does not remember that either.

Mr. HYDE. As you get older.

Mr. CONYERS. I know, I know, I know.

Check the committee hearings.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Indiana [Mr. BUYER], a valued member of the committee.

Mr. BUYER. Mr. Speaker, I have several remarks I would like to make. One is, I have enjoyed being a conferee on this particular bill, moving matters of substance. Also, I think we have to be very careful here when we are talking about family victims, of acts of terror or acts of violence, whether it is the ranking member that has his particular letter that gives, espouses one position, or I have a letter also from victims who espouse another position.

Matters of statecraft have to be based on the intellect and not giving to the emotions of the moment, and that is what is important here.

So let me say another comment I would like to make is that with regard to the acts of terrorists, especially international terror, the world and the dynamics of the world in which we live in have drastically changed. These international organizations have changed the lethality and increased the lethality of their actions. They used to rely upon their carjackings, and now what they have done are these bombings that are in public places, that are cowardly acts of terror that actually move the emotions of people because their actions are so outrageous.

So what we must do in order to combat those outrageous forms of terror is, in fact, give law enforcement the necessary tools.

Now, what is so difficult here is, in a free society, how we balance the protection of individual civil liberties with that of promoting public safety, and in this bill I believe that, in fact, has been achieved. It is not as strong as what some would like, perhaps the gentleman from New York [Mr. SCHUMER], for example, but the bill is that balance that I just discussed.

The bill also addresses, though,the need to insure the United States does not become the haven for international terrorists. Well, this legislation, members of terrorist organizations can be denied entry into the United States; that is extremely important. An alien terrorist discovered in the United States can be deported expeditiously. Our silent proceedings will not be perverted to let international terrorists slip into our country, as happened with the mastermind of the World Trade Center bombing. Known terrorists organizations cannot take advantage of the generosity of American citizens to bankroll their heinous activities.

This bill includes mandatory victim restitution in Federal cases.

Finally, the victims of crimes are going to be seen not by Federal courts as deserving of compensation. Not only will the criminal have to pay a debt to society, the criminal will also have to make amends to the victim.

Finally, the essence described as that crown jewel of this bill is the reform of habeas corpus for an effective death penalty. The bill sets time limits on the application and considerations of habeas writs; I think that is extremely important. No longer will petition after petition be filed with the courts, delaying endlessly the carrying out of sentences handed down by judges or juries.

We have a paradox in our society whereby someone serves on death row for life. If, in fact, we are going to have a strong deterrence, retribution so that the victim can actually feel as though they have been vindicated, we need an effective death penalty. This bill will give it for America.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. WATT], one of the hardest working members of the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Speaker and my colleagues, I hate terrorists. They are the scum of the Earth. There is nothing lower than a terrorist. They are worse even than people who shoot folks in the back. And if this bill were limited to terrorists, emotionally I would be doing exactly what my colleagues are proposing to do here. But this bill is not limited to terrorists; it goes well beyond terrorists to common ordinary citizens.

I read recently with horror a story of parents who, because their child got involved in something they did not like, they locked the child in the room for days at a time. And I got outraged by it. I think a number of us read that story and got outraged. This goes beyond that because what we are doing is locking other children, who had nothing to do with what we are here to talk about, in our constitutional closet with unconstitutional means today, and we are doing it in the name of combating terrorism when we know full well that there is a significant dislike between the two things.

Only 100 out of 10,000 habeas corpus issues come from death penalty cases. Even less come from terrorist cases. Yet this bill is not limited either to death penalty cases or to terrorist cases. It is depriving every single

American, every single child, every single one of us, of our constitutional protections of habeas corpus.

□ 1400

The chairman asked the question that Abraham Lincoln asked: Can a country conceived in liberty long endure? The ones that do not endure, Mr. Speaker, are the ones who concoct secret courts and deny their citizens the right to confront their accusers, and deny their citizens the right to contest unjust imprisonments, even in the face of compelling evidence of innocence. That is what this bill does. We ought to be ashamed of ourselves today for the American people.

Mr. CONYERS. Mr. Speaker, I am delighted to yield 3 minutes to the distinguished gentleman from Massachusetts [Mr. FRANK], the second-ranking member of the Committee on the Judiciary.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the ranking minority member for yielding time to me.

Mr. Speaker, I am going to vote against this bill. I voted for it in committee. I believe we ought to be strengthening our defenses against terrorism. But I do not believe we ought to be doing it in a fashion that misleads people.

This bill, unfortunately, is excessively harsh where it ought not to be, and much too weak where we need toughness. Essentially what has survived in the assault of the Hamas wing of the Republican Party on this bill is virtually all of the added tools for law enforcement within the United States by which they could detect and prevent this kind of activity, those have gone out. We are very tough on foreigners. Once we catch you, we are going to be even tougher than we used to be.

By the way, as to habeas corpus and the threat to our safety that is presented, remember, by definition, you are not eligible for habeas corpus unless you are locked up. We are not talking, when we talk about habeas corpus, about anybody walking around. We are talking about people who are locked up and who are a danger, presumably, to other prisoners, but certainly not to general society. But here is what was knocked out of this bill by the Hamas wing of the Republican Party, and their price apparently for letting the bill come back was to keep this out.

Mr. HYDE. Point of order, Mr. Speaker.

The SPEAKER pro tempore (Mr. LINDER). The gentleman will state his point of order.

Mr. HYDE. Mr. Speaker, the gentleman talked about the Hamas wing of the Republican Party. I think that is a little extravagant. Does the gentleman want to withdraw that?

Mr. FRANK of Massachusetts. Yes, I do, Mr. Speaker. I would modify that to the wing that expressed they trusted Hamas more than the American Government.

Mr. HYDE. It was not a wing, I would tell the gentleman. Wing implies more than one.

Mr. FRANK of Massachusetts. Mr. Speaker, I would say that the gentleman was the one who said this on the floor, and he said it in a context that said it was representative of more than just one person. The gentleman from Illinois, in explaining why an amendment passed to weaken this bill, suggested that this was a person who was representative of a broader spectrum.

Here is what they did. Here is what remains. As a result of the changes that were made when the bill left committee and came here, if there is an attack of a terrorist nature involving a major explosion anywhere in the world, and the U.S. military has the expertise to help analyze the cause, not arrest anybody, not prosecute anybody, not pursue anybody, but if we need the expertise of the U.S. military in analyzing the cause of a terrorist explosion, that expertise can be tendered to any government in the world except one.

What is the one government in the world that is considered ineligible to benefit from the law enforcement expertise of the U.S. military? The American Government. The American Government, as a result of the appeasement of the right wing of the Republican Party, they are in control, and the U.S. Attorney General cannot get that expertise.

Similarly, the FBI and other Federal law enforcement agencies get no significant expanded powers for detection. We retard, here, the ability to use taggants. It is not as bad as it was, but it is still substantially weakened. As a result of the need to pacify the right wing of the Republican Party, this bill has been substantially weakened where it ought to be tougher, and law enforcement simply does not have the authority it ought to have to be able to protect us.

Mr. CONYERS. Mr. Speaker, I am delighted now to yield 2 minutes to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, it is with a fair degree of hesitation that I rise in opposition to this bill, not that I am not fully committed in my opposition to this bill, but because of my deep and abiding respect for the chairman, the gentleman from Illinois [Mr. HYDE].

However, Mr. Speaker, this bill I feel does not just affect habeas corpus procedures for death row inmates, but it actually affects all of our rights to protections under the Constitution, that which habeas corpus has afforded. The rights to speak and assemble freely, to be ensured of due process of law, and to be protected against false imprisonment belong to all Americans. We cannot allow ourselves to be frightened into giving up these freedoms.

As Thomas Payne said in 1795, and true as ever today, he says: "He that would make his own liberty secure must guard even his enemy from oppression." This, Mr. Speaker, is a line-on-line runout by the Congressional Research Service of all the Federal antiterrorist criminal laws. I asked for CRS to run this out. Mr. Speaker, this is 17 pages long. We have enough laws on the books already. The problem is that we are not enforcing the laws we have. This law abridges some of our very precious freedoms.

Right now we have at least 353 Federal entities who already have police powers to enforce these kinds of laws. Mr. Speaker, it was Edmond Burke who said: "Seldom are men disposed to give up their liberties unless under some pretext of necessity." The Oklahoma City bombing was a tragedy that we never want to see repeated, but this bill will not add to our protections against that kind of horrendous terrorism.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BERMAN] who refused to sign the conference report.

Mr. BERMAN. Mr. Speaker, I rise in opposition to the conference report on the antiterrorism bill. Because the issues addressed in this legislation have been a major focus for me throughout the entirety of my career in Congress, I want to lay out very clearly the reasons why I will vote against the conference report, despite my strong support for many of its provisions.

I emphatically do think the case has been made that Federal law enforcement agencies must be granted expanded means to attack the scourge of terrorism, both international and domestic.

I believe that our freedoms, as well as those enjoyed by the citizens of other democratic nations, cannot survive if we do not create new tools to apprehend and punish those who engage in domestic and international terrorism. Our ultimate objective must be, of course, to prevent such crimes from being committed in the first place.

I want to acknowledge the fact that certain antiterrorism measures which I strongly support but which were ignominiously stripped from the House bill by the Barr amendment have now been restored in the conference report. It bears noting that valiant efforts were required to restore these provisions, for which I salute my colleagues on the conference committee.

In particular, I strongly support the prohibition on fundraising for terrorist organizations, and the expedited removal of alien terrorists, though as to the latter, I prefer the version in the substitute offered earlier by my colleagues Mr. CONYERS and Mr. NADLER, which more clearly protected the right to counsel and the ability to confront evidence.

I also strongly support the provision in the conference report which deletes impediments in current law to the ability of Federal law enforcement organizations to initiate investigations of suspected material support to terrorists, because I believe that the scourge of terrorism requires a careful recalibration from time to time of the balance between civil liberties concerns and law enforcement authority.

But despite my strong support for many provisions in this bill, I am compelled to vote against it because of my strenuous objection to title I, the habeas corpus provisions.

A decision was made by the Republican majority to jam into this bill, in the name of fighting terrorism, their long-sought objective of—for all intents and purposes—abolishing the ancient writ of habeas corpus. As former Attorneys General Levi, Katzenbach, Richardson, and Civiletti have written to us, "Nothing is more deeply rooted in America's legal traditions and conscience." The writ of habeas corpus is the guarantor of our constitutional rights, the bedrock of our Federal system, which has always provided an independent Federal court review of the constitutionality of State court prosecutions.

Indeed, the Habeas Corpus Act of 1867 was the first civil rights law enacted after the Civil War, intended to flesh out the habeas clause of the Constitution and thereby protect the rights of the newly freed slaves by giving Federal judges the power to hear "all cases where any person may be restrained of his or her liberty in violation of the Constitution."

Until very recently, only once did the Supreme Court undercut this authority, in the tragic case of Leo Frank, a Jewish man wrongly convicted and sentenced to die for the rape and murder of a Christian woman in Georgia. As too often happens when a brutal crime occurs, the cry went up in the community to find the perpetrator—or should I say, a perpetrator—and Leo Frank, a member of a despised minority, became a second victim in this case.

Leo Frank was unable to present a defense, because an anti-Semitic mob chased him from the courtroom. But when he filed a writ of habeas corpus to the Federal courts, the Supreme Court held that even though his trial was dominated by a mob, it would not order a new trial because the Georgia Supreme Court had held that the mob-dominated trial did not deprive Frank of due process, and the State supreme court's review was not corrupted by a mob.

The standard in the Frank case was overturned by the Supreme Court only a few years later, and has been deplored by Americans of conscience in the years since Leo Frank's execution and the subsequent emergence of an eyewitness to the crime who established Leo Frank's innocence, but who had been afraid to come forward in light of the hysteria that surrounded the crime and the trial.

Let me point out that according to reliable data, since 1978, 40 percent of the habeas petitions heard by Federal judges in capital cases resulted in the reversal of the conviction or death sentence because of constitutional violations. One can be dismayed by the number of State court trials impaired by constitutional error, as reflected in this statistic, but heretofore, we could be heartened that life-tenured Federal judges, shielded by constitutional design from local political pressures, could restore constitutional rights.

In this bill, in an action ill-befitting Members of Congress sworn to uphold the Constitution, we are about to obliterate the only effective means of vindicating those rights. It is not the bill's accelerated deadlines or limits on second or successive applications with which I differ. I believe that meritorious objections have been raised to protracted appeals which deprive families and communities of closure in heinous criminal cases. But to require deference by the Federal courts to State court determinations of Federal constitutional law, I cannot countenance.

Shame on those who invoke the names of innocents slaughtered in Oklahoma City and over the skies of Lockerbie in their quest to effectively abolish the writ of habeas corpus. We know that those charged with terrorism will invariably be tried in Federal court. Extinguishing the right to a writ of habeas corpus will have no bearing whatsoever on these cases.

A letter from the father of an Oklahoma City victim was recently shared with me. Mr. Bud Welch states,

> The habeas reform provisions . . . are not known or understood by the families who have been used to lobby on behalf of this bill. . . . Our family knows that meaningful, independent habeas court review of unconstitutional convictions is an essential fail-safe device in our all too human system of justice. And we have learned that this package of "reforms" you are being asked to vote for would raise hurdles so high to such essential review as to effectively ensure injustices of wrongful conviction will go unremedied. . . . We consider this a direct threat to us and our loved ones still living who may well find themselves the victim of abusive or mistaken law enforcement and prosecutor conduct and unconstitutional lower court decisions. Two wrongs have never made a right.

There is another provision in the bill to which I strongly object, and several which have not been restored to the bill which I support.

The summary or expedited exclusion provision of the bill applies to all asylum-seekers entering the United States with false or no documents, and has nothing whatsoever to do with our efforts to combat terrorism. The U.N. High Commissioner for Refugees is "deeply concerned," as am I, that this provision "would almost certainly result in the United States returning refugees to countries where their lives or freedom would be threatened."

Missing from the bill are several provisions which the Justice Department views as essential law enforcement tools if our fight against terrorism is to be successful, including adding terrorism-related crimes to the list of crimes which can be the basis for seeking a Federal wiretap order, and authorizing multipoint wiretaps. I deplore the absence of these provisions from the bill.

Mr. Speaker, the American Constitution is a living document which has thrived for two centuries because in its strength and vibrancy it has accommodated the realities of American life. And one of those realities, tragically, is terrorism—not a mere threat, but a reality. Because I believe that strong new measures are essential to combating terrorism, I support many of the provisions of this conference report.

But I cannot in good conscience vote for a bill which guts the historic means by which Americans enforce the Bill of Rights. That is why I will vote against the conference report.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia, Mr. BOBBY SCOTT.

Mr. SCOTT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, we find ourselves on the anniversary of the Oklahoma bombing with a bill with the title "antiterrorism." Mr. Speaker, I rise to oppose the conference report because it will do little, if anything, to reduce terrorism, while at the same time it will, in fact, terrorize our Constitution.

Mr. Speaker, we have a situation where the Secretary of State and Attorney General can designate terrorist organizations. In effect, politicians can designate which organizations are popular and which are not popular. The ANC in South Africa could be designated as a terrorist organization, and support of that organization would be in violation of the law. Politicians can choose which side in El Salvador we ought to be supporting or not supporting by designating one or the other as terrorist.

Mr. Speaker, what happens to our rights if we have secret trials where people can be deported, based on evidence presented in private, without the opportunity to be heard? The so-called crown jewel of the bill, the habeas corpus provision, Mr. Speaker, we have heard of the frivolous appeals. Forty percent of these appeals are in fact successful. People have been denied a fair trial. People are in fact sentenced to death who are factually innocent. These are not frivolous appeals. Those who have bona fide appeals will have their rights denied.

Mr. Speaker, we have a system where the innocent and the guilty are tried by the same procedure, so those who are guilty in fact may have a little more time on death row, but those who are innocent have an opportunity to present that evidence. If this bill is enacted, we will find that those who are factually innocent and can present evidence of innocence will in fact be put to death.

Mr. Speaker, that is not an effective death penalty when we put innocent people to death. Those who could show that they are probably innocent will not even get a hearing, under this bill. I would hope we would defeat this conference report.

Mr. HYDE. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentleman from New Mexico [Mr. SCHIFF], and ask that he yield to me in return.

Mr. SCHIFF. Mr. Speaker, I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, there is so much said here that is not so. There are no secret hearings. Nobody gets deported. Even an alien terrorist does not get deported unless the evidence that convicts him is introduced in trial; in open trial, no secret trials, no secret hearings.

In addition, talking about shredding the Constitution, the National Association of Attorneys General has sent us a letter signed by 34 attorneys general of 34 States supporting habeas in the bill. The National Association of District Attorneys has a unanimous resolution. So the talk about shredding the Constitution is just far of the mark.

Mr. SCHIFF. Mr. Speaker, first, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to say, first, I rise in support of the conference report. I hope it will pass the House by an overwhelming margin. I want to compliment the chairman, the gentleman from Illinois [Mr. HYDE], for putting this bill together, and I want to particularly thank the conference committee for keeping two amendments that I wrote into the bill back in the Committee on the Judiciary. One extends victim compensation to victims of terrorist crimes. We hope there will not be anymore terrorist crimes, but if they do occur we think the victim compensation laws should apply.

The second amendment that I introduced allows the sharing of our antiterrorist technology to detect explosives, to set them off safely if they are detected, and to detect firearms and so forth. We are allowed to share that with other countries. We are allowed to share that for two reasons: first of all, to protect Americans who go overseas. Americans could have been the victims of terrorism, as I understand a number of Greek citizens were the victims of terrorism in Egypt just this week.

Second of all, the fact of the matter is that terrorists have more in common than they would like to admit to themselves. Regardless of whether they are terrorists from the extreme left or terrorists from the extreme right, they all have a hatred of democratic governments, and they will all attack any democratic government that they have the opportunity to attack. Therefore, efforts to stop terrorists in one country ultimately benefit the United States, and vice versa.

Mr. Speaker, I want to say that I think the civil liberties objections, that were raised in part to the bill at the beginning, I believe have been adequately addressed by the chairman and the other members of the conference committee. The objection that still remains is the maybe Members who have already said they think this bill should be stronger.

I think in certain respects they may be right. There are certain areas where, upon further inspection, law enforcement may deserve further authority. But that is not a reason to vote against this bill. This bill gives law enforcement a number of tools that law enforcement has requested to fight terrorism. This is a good bill. This is a bill that should pass. It does not have to be our last word on the issue.

Mr. CONYERS. Mr. Speaker, I yield 15 seconds to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, I just need 10 seconds for the truth.

The gentleman from Illinois [Mr. HYDE], I am sure will admit that there is a provision in this bill that allows the consideration of secret evidence that the defendant will never even know about and can never refute. That is absolutely counter to everything that our country stands for.

Mr. CONYERS. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. SCHUMER], the former chairman of the Subcommittee on Crime in the Committee on the Judiciary.

Mr. SCHUMER. Mr. Speaker, I thank the gentleman from Michigan for his generous yielding of time, and for his leadership on this issue.

Mr. Speaker, I rise in support of the conference report. In all honesty, I have to say that we are faced with a glass that is only half full, which means that it is also half empty. Yes, we have made some good, solid improvements in this conference. I want to congratulate our conference managers, the chairman, the gentleman from Illinois, Mr. HYDE, and Senator HATCH, and the chairman of the Subcommittee on Crime, the gentleman from Florida, Mr. MCCOLLUM, for the leadership they displayed. Without their having stood up to extremists in their own party, this glass before us today would be empty, not just half full. They deserve to be congratulated for it.

But I also must say that this report is still not tough enough. It does not fully meet America's needs. The conference report has been whittled down to satisfy the small-minded fears of extremists, not beefed up to stop terrorism before it starts, and to swiftly track down those who commit it.

□ 1415

Ironically, the managers of this very conference agree that we need the tough measures that the President, the Attorney General, and the Director of the FBI asked for. They admitted publicly that this report leaves out the single most important thing that the FBI needs to fight terrorism, effective surveillance through multipoint wiretaps to keep up with the new technology of cellular phones.

But the majority still left them out just like they left out a long list of other good tough ideas. Why? Why, I ask? Because the Republican majority simply cannot bring itself to stand up to extremism, particularly domestic extremism that it has bred and pampered from some within its own ranks, and to do the right thing for America.

Mr. Speaker, in America there have always been paranoid extremists, but the fact that their arms are so long that they had enough reach to influence this body and strike out provision after provision that law enforcement considers essential in the war against terrorism is profoundly troubling.

I have sat face to face with the victims of terrorism and the families of the victims of terrorism, from Pan Am 103 through the World Trade Center bombing to the atrocity in Oklahoma City. I have met them all. When I compare that pain and that danger to the exaggerated rhetoric I hear from extremists about this bill, I fear for America and I fear for the lives of ordinary Americans.

I wonder can it really be that a Member of this body said during our last debate that he trusts the bloody terrorists of Hamas more than he trusts his own democratic Government? Can that really be, I ask myself? Can anyone be that foolish?

Mr. HYDE. Mr. Speaker, will the gentleman yield on that point?

Mr. SCHUMER. I do not have much time. I would like to finish my point. I am sorry. On his time I would like to hear what he has to say about it because I respect him so.

But what I was saying was all of us here, we are part of that Government. If any Member really said it, I invite him to come to this floor today and explain that remark and tell the American people why it was said and what was meant by it.

Let me finally say this. Even though I think this report should be tougher, I will vote for it. The hour is late. I am convinced we cannot delay further.

Tomorrow is the anniversary of the terrible, bloody terrorist bombing in Oklahoma City that took the lives of 168 men, women, and children. We all hope and we pray that such a senseless and cowardly event will never again stain our country. But we cannot depend on hope, we cannot wait for perfection. We must act, and I urge that we act today.

Mr. HYDE. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Florida [Mr. MCCOLLUM], the chairman of the Subcommittee on Crime.

Mr. Speaker, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I want to say to my dear friend, and he really is my dear friend, from New York that this Hamas situation is terribly unfortunate, it is very painful to me. But I would say to the gentleman, I know some Democrats who trusted the Sandinistas more than they trusted Ronald Reagan, who attended meetings in Nicaragua and ordered our embassy people out. There may be some present here today. So it happens on both sides and it is regrettable, in my opinion.

Mr. McCOLLUM. Mr. Speaker, I am very much concerned about the debate over this bill being misunderstood by the public. We have a very fine bill. It is not as good as some of us would like. That is, there are provisions that some of us think should have been in this bill. I concur with the gentleman from New York [Mr. SCHUMER] about some of them, and the gentleman from Illinois [Mr. HYDE]. But this bill is extremely good.

On one hand we deal with terrorism specifically by forbidding foreign terrorist organizations who are named by the President from being able to come to the country and raise money. A provision that I offered that was adopted as an amendment to this bill would prohibit Americans from being able to go abroad and get money from a foreign terrorist country that has been named.

We do all kinds of things relative to terrorism and then, in addition to that, this bill contains three of the seven crime bills that were in the Contract With America, the most significant of which has been debated a lot today but been voted on many times by this Congress. Finally, when the President signs this bill into law after years and years of struggle, we will have limited the appeals that death row inmates can take and we will have assured that sentences of death in this country will be carried out expeditiously, as the American public wants.

Second, we have victim restitution in this law that will be signed by the President, which provides a mandatory requirement on judges to make victims financially whole at the Federal level. We have a criminal alien deportation provision that eases the ability of the United States, without an additional hearing, to deport a person who has completed a prison term who is an alien.

But on top of that we have a provision I have worked on for more than 10 years that, when it is signed into law, will mean that when somebody lands at New York's airport or any other airport in the country, or a Haitian that in Florida, in Fort Lauderdale, on a beach sets foot on the soil, it means they will no longer automatically be able to tie up themselves in our court system and stay here. There is an expedited exclusion process so that when they claim political asylum, that "I'm fearful I will be politically persecuted if I'm sent home," whatever, the asylum officers can handle that early without getting all tied up in a court system that often meant and means today that aliens who are here illegally end up disappearing into our society and staying here forever.

This bill is extraordinarily important for all of these reasons and a whole host of others. It is positive legislation that I know some think, very minor thoughts I hope, undermines some liberties we have. I do not think it does in any way. It balances what is required between the responsibility of the Government to protect its citizens against foreign terrorists and to protect its citizens in the cases where we have heinous crimes, and to expedite the carrying out of penalties when the decisions of our court systems have been made to do so, and the interests of the individual which have always under our Constitution been paramount.

That balance is in the Constitution. It is in no way destroyed here. In fact, it is perfected. It is something that we have debated hard and long, and is why the conference report and all the work that the gentleman from Georgia and the gentleman from Illinois and many others of us have spent hours doing to make sure that we have not encroached in any way on personal liberties.

This bill, though, will fight foreign terrorism. It will be meaningful to the victims of Oklahoma City, especially in the habeas corpus provisions that, as I said earlier, after so many years when it is signed into law in a few days will mean that after all this fight, finally we will end the seemingly endless appeals of death row inmates and carry out with swiftness and certainty the sentence of justice in this country.

I thank the gentleman from Illinois for all of his work.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Mr. Speaker, rushing this bill to the floor just to meet a publicity deadline is irresponsible. Once again we are sacrificing our people to play election year politics. Americans and their civil rights are too important to allow this.

The right of habeas corpus is a national treasure. It is fundamental for all Americans—black and white; liberal and conservative. This conference report severely limits that right—all to fuel a national frenzy.

My colleagues, the Constitution says we are all entitled to equal protection under the law, but in today's society some of us are more equal than others. The reality is, if you have the money to hire a good lawyer, you can make it through our legal system. But, if you are a poor minority, lacking those resources, you will lose and not have the opportunity to prove you are innocent.

By severely limiting this ultimate right to appeal more innocent Americans will unfairly die. Their blood will be on your hands. I encourage a "no" vote on this conference report.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California [Ms. WATERS] who only shortly ago was nominated by the Democratic Steering and Policy Committee to join the House Judiciary Committee.

Ms. WATERS. Mr. Speaker, I would like to quote the sixth amendment to the United States Constitution. It simply says in all criminal prosecutions the accused shall enjoy the right of a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor and to have the assistance of counsel for his defense.

That is the sixth amendment to the Constitution. Mr. Speaker, the tragic bombing is not a reason to repeal the sixth amendment to the Constitution.

The habeas corpus reform provisions in this bill which require Federal courts to ignore unconstitutional court convictions and sentences unless the State court decision, though wrong as a constitutional matter, was unreasonably wrong, innocent persons will be held in prison or executed in violation of the Constitution. The bill would impose unreasonable short time limits for filing a claim for habeas corpus relief, limit petitioners to only one round of Federal review, and mandates the petitioner meet an unreasonably high clear and convincing burden of proof in order to secure relief.

This business of the conviction or sentence may be a little bit unconstitutional, if so, that is OK, as opposed to unreasonably wrong or unconstitutional, is outrageous. Mr. Speaker, that is like saying one can be a little bit pregnant. You are either pregnant or you are not. The sentence or conviction either meet the constitutional muster or they do not.

We cannot and must not shred and defy our Constitution little by little, bit by bit. We American public policymakers are better than that. We love and respect the Constitution more than that. We cannot in the name of expedient politics disrespect the world's greatest document, the Constitution of the United States.

Terrorism is wrong. My sympathy is with the victims, but we must maintain our integrity and support the Constitution of the United Sates. I ask for a "no" vote on this measure.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, I ask that this bill be defeated, and I am sorry to say that I have to disagree with my friend from Illinois, Mr. HYDE, on this. I speak to him personally now and request this, a reconsideration with respect to habeas corpus.

This past weekend I saw a student production, in an attic in a home in Honolulu, of "Death and the Maiden," Ariel Dorfman's play about Chile. The principal theme was when habeas corpus is absent, there we have authoritarianism and dictatorship. It leads to torture.

In Dorfman's essay on political code and literary code, and I am quoting from it:

> Terror then has a public character. As such it leads to a great ideological operation which authorizes, in the name of Western Christian values, a purifying crusade against the forces of the devil and of the anti-Nation.

He goes on to say:

> The principal obsession of authoritarian politics is to suppress history and those who could modify it, postulating an unchangeable and superior reality, God, father, and family, to which one owes loyalty.

This is the difficulty. If we abandon habeas corpus, we abandon one of the foundation stones of the United States of America.

□ 1430

You have heard me on this floor expound before on the right to a trial, the right to be able to vote freely, the right to sue, and the fourth leg of that foundation is habeas corpus, the right to be brought before a Federal court to say that your rights have been violated. If we take that away, then we are succumbing to terrorism. We are terrorizing the Constitution.

The time lapses. But the Constitution goes on. I ask, please, Mr. HYDE, reconsideration on the habeas corpus part of this bill, and then perhaps we could vote on the terrorist bill with full meaning.

Mr. HYDE. Mr. Speaker, I am pleased to yield 2½ minutes to the distinguished gentleman from Oklahoma [Mr. LUCAS], in whose district the Federal building rests that was bombed.

Mr. LUCAS of Oklahoma. Mr. Speaker, I rise in support of the conference report to S. 735, the Terrorism Prevention Act.

A year has passed since downtown Oklahoma City was ravaged by the worst domestic terrorist attack our country has ever endured. Yes my friends, a year has passed since we as a nation watched in horror the images of the pain and suffering that this heinous act brought. The name Alfred P. Murrah will be etched in our minds for many years to come, and most assuredly April 19 will never be the same.

As you vote today and reflect on the events of tomorrow, I implore you to remember those who perished and have long since been laid to rest. Our citizen's scars are deep and open wounds still abound. Oklahoma City is an innocent slowly rebuilding itself back to the greatness it strives to attain. Although we cannot turn back the clock and prevent this horrendous act from occurring, we must pass this antiterrorism conference report.

This bill will bring an end to the abuse of our Nation's appeals process. It will ensure this country has an effective and enforceable death penalty. It means justice will be served, and that the guilty will receive their punishment in a swift manner.

Further, the measure provides for closed-circuit broadcasting of court proceedings in cases where a trial has been moved out of State, more than 350 miles from the location in which the proceedings would have taken place.

This provision is timely in light of the upcoming bombing trial. I believe all Americans who must endure such a tragedy, like the people of Oklahoma, deserve the opportunity to view the trial in their State. This measure provides the best way to ensure that those most severely impacted by this tragedy will have access to the court proceedings of those accused in this case.

I would like to thank Chairman HYDE and his staff for their assistance on this measure. You have done a great service for Oklahoma City and the entire country.

Mr. Speaker, I rise in support of the conference report to S. 735. It is truly the right thing to do.

Mr. CONYERS. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. LINDER). The gentleman from Michigan is recognized for 3 minutes.

Mr. CONYERS. Mr. Speaker, this has been an important debate, and I think that it has become clear that this is a politically motivated bill, driven first by the National Rifle Association and Mr. BARR, and then finally by the 73 galloping freshmen Republicans who would not allow a deal to be made, and finally we were able to patch a little bit together.

We are dealing with a bill now that started off with no habeas corpus, we do not need it. But then, because there was nothing in the bill, we needed it.

So what do we have here? What we have is a bill that is missing, missing. Wiretaps for terrorist offenses, not in the antiterrorist conference report before this House. The current law allows for wiretaps for everything from fraud, embezzlement, destroying cars, numerous felonies, but the bill rejects on careful consideration the proposal that we be able to wiretap for crimes of terrorism and crimes where weapons of mass destruction are used.

Are you serious that this is an antiterrorist bill?

So while a Federal agent can get a wiretap if he believes a car is to be destroyed, he may not be able to get a wiretap if he believes an act of terror or mass destruction or murder is going to take out a building or someone is planning to gas the New York subway.

How silly and how unserious.

Similarly, while current law allows for emergency exceptions to the requirement of a court order for a wiretap in instances where the agent learns a criminal act is imminent, this bill refuses to extend that constitutionally permissible emergency circumstance exception to terrorism cases.

So, there you have it. Taggants? Oh, well, we put it back in, but we exempted black and smokeless powder. I wonder why? Well, it does not take a scientist to figure that one out.

So I guess you guys have proved your point. I mean, you are going to show that we got a terrorism bill on an anniversary and that, further, we put the President of the United States in a tremendously embarrassing position where he has to swallow a compromise of habeas corpus.

Mr. Speaker, reject this bill and let us in Committee on the Judiciary go back and do it right.

Mr. HYDE. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Illinois is recognized for 2 minutes.

Mr. HYDE. Mr. Speaker, I want to congratulate the gentleman from New York [Mr. SCHUMER] for his cooperation. He has been very helpful on this bill, and I did not want to let the time pass without doing that.

Mr. Speaker, we do not abolish habeas corpus. I keep hearing that. We strengthen habeas corpus by forbidding its abuse. That is what we do.

Now, I am the last one to instruct the newest member of the Committee on the Judiciary from California on the Constitution. I am the last one. I am not going to instruct her. I am going to instruct the world that the sixth amendment does not apply to deportation proceedings. That is a civil matter, not a criminal matter. I just thought I would throw that in the hopper.

There are no secret trials. There is classified information which will remain classified, but a fair summary of that is given to the alien and that has to be adequate to prepare a defense. If it is not, the proceedings are over.

Now, groups supporting this legislation are Citizens for Law and Order; the National Troopers Coalition, 45,000 members; the Christian Coalition; the Anti-Defamation League; the Leon and Marilyn Klinghoffer Foundation; Families of Pan Am 103 Lockerbie; Survivors of the Oklahoma City Bombing; International Association of Chiefs of Police; National Association of Police Organizations; the Law Enforcement Alliance of America; National Sheriffs' Association; National Rifle Association; International Association of Fire Chiefs; the Governor of the State of Oklahoma, a Republican; the attorney general of the State of Oklahoma, a Democrat; the National Association of Attorneys General passed a resolution that was unanimous; and the National Association of District Attorneys.

All of these folks love the Constitution and would not do anything to damage it or brutalize it.

Mr. Speaker, I urge an "aye" vote.

Ms. PELOSI. Mr. Speaker, tomorrow this country will pause in sorrowful remembrance as we observe the 1-year anniversary of the tragic bombing of the Murrah Federal Building in Oklahoma City. This incident shook the fabric of our Nation and illustrated the threat posed to us all by terrorism. Oklahoma City is the driving force behind the renewed push for anti-terrorism legislation. I believe we need an anti-terrorism bill. I do not believe that the conference report before us today is the anti-terrorism bill we need.

We, as Members of Congress, have a particular responsibility to be the guardians of the Constitution and the Bill of Rights. That responsibility is not always easy and it is not always popular. It is, however, always necessary. I oppose this anti-terrorism bill because I believe some provisions in it violate the Constitution. If we pass it, we are ignoring our duty to guard the basic principles upon which our great Nation is founded.

I oppose a number of provisions in this bill but will focus my remarks on my concerns about the habeas corpus reforms contained in it. To many people, habeas corpus sounds like an obscure legal phrase with minimal relevance to their lives. This misunderstanding could not be further from the truth. Habeas corpus is the mechanism by which a citizen in this Nation who is deprived of liberty can petition an independent court to test the legality of his or her detention. Habeas corpus safeguards our individual liberty and the bill before us today restricts habeas corpus appeals.

The habeas corpus provisions in this bill are dangerous to ordinary citizens. They increase the risk that innocent persons could be held in prison in violation of the constitution, or even executed. For the first time, a use it or lose it approach is being applied to a basic constitutional right. Constitutional rights are not time-bound, they are timeless or they are worthless.

The bill before us mandates strict habeas corpus filing deadlines that ordinary citizens, especially those lacking financial resources, may not be able to meet. It limits their right in almost all cases to only one round of Federal review, and severely limits the power that Federal courts have to correct unconstitutional incarceration. It cuts off most opportunities for incarcerated citizens to appeal to higher courts for relief.

The habeas corpus provisions in this bill are reason enough to oppose it. They are certainly not the only thing wrong with this bill. I would also like to note for the record my concern about the bill's changes to asylum law which severely threaten our country's rich history of providing refuge for people fleeing persecution in their homelands. The bill eliminates the suspension of deportation for anyone who enters this country without inspection. It also establishes summary removal at ports of entry if people lack valid documents. Valid documents are often difficult to find or to protect in war-torn countries.

As some of my colleagues know, I have been particularly concerned over the years about the plight of victims of rape, torture, and domestic violence. I am pleased that the Justice Department has a heightened sensibility to the particular problems faced by women who have experienced these crimes in their homelands. Rape is being used as a tool of terror and war in civil conflicts around the world. In many of these countries, rape victims may be unable to articulate immediately their fear of persecution, especially to a stranger who is usually a man. As a result of the provisions in this bill, these women, lacking documentation, will be summarily returned to their homelands.

Mr. Speaker, I understand the need to fight terrorism and I can support anti-terrorism legislation which does so while preserving our precious constitutional rights. This conference report does not meet that test and I urge my colleagues to oppose it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I applaud the members of the House Judiciary Committee and other Members of the House who have worked diligently to get an antiterrorism bill passed in this Congress. As we commemorate the 1 year anniversary of those 168 Americans who lost their lives in the bombing of the Federal building in Oklahoma City, it is fitting and proper that we consider this bill.

This bill, however, is really a weak antiterrorism bill. It does not give law enforcement officials all of the tools that they need to combat antiterrorism. For example, they will not have the emergency wiretapping authority and the ability to engage in multipoint wiretaps. Moreover, the bill's provisions relating to a cop-killer bullet study have been severely watered down. The study would only focus on reviewing the quality of police armor instead of concentrating on the types of bullets used to kill police officers.

It is important to point out that the perpetrators of the World Trade Center bombing were successfully prosecuted under existing law. While the intent of this bill was good, it focuses on many matters unrelated to preventing international terrorism.

I have some further concerns about the impact of this bill on the fundamental rights of all Americans. It dramatically expands the powers of the Federal Government by granting authority to the Secretary of State and Secretary of the Treasury to designate certain organizations as terrorist organizations. While this designation is subject to congressional and judicial review, it still would result in a chilling effect on the rights of freedom of assembly and freedom of association that Americans enjoy today, because this bill may encourage false accusations against certain groups.

Additionally, the bill modifies the current application of the habeas corpus doctrine by requiring Federal courts to ignore unconstitutional court convictions and sentences by State courts unless the State court decision was unreasonably wrong. Four former U.S. Attorneys General, both Republicans and Democrats, have argued that this provision is unconstitutional. Federal courts would lose the power to correct unconstitutional incarceration. If this bill becomes law, it could result in innocent persons being held in prison in violation of the Constitution and—even executed—because the bill imposes unreasonably short time limits for filing a claim of habeas corpus relief. All of us can cite instances in which innocent persons were released as a result of a comprehensive and fair review of their cases through the habeas corpus process in Federal courts.

The petitioner must also file the petition within 1 year after conviction becomes final. It limits almost all petitioners to only one round of Federal review and requires the petitioner to meet an extremely high clear and convincing burden of proof in order to secure relief.

What this bill does is provide selective due process and selective civil liberties. It allows the Government to arbitrarily designate those who are terrorists, and infringes the fundamental privacy rights of all Americans. We must punish to the fullest extent of the law those who commit terrorist acts against our Nation, and innocent citizens. However, I equally believe that we must carefully consider the bill before us and firmly support the constitutional rights of all Americans.

This bill is not as strong on measures that would prevent terrorism but it is filled with special loopholes that will not effectively help law enforcement officials in their fight against terrorism.

I urge my colleagues to carefully review this bill and its potential impact on the real issue to fight against terrorism and how it would strike a balance in preserving the rights of our citizens.

Mrs. SMITH of Washington. Mr. Speaker, today, I was inadvertently recorded as a "yes" vote in favor of final passage of the House-Senate conference report for S. 735, the Terrorism Prevention Act. After voting, I did not check to see how the machine had recorded my vote. My vote should have been a "no" vote for reasons that I will enumerate below.

Presently, there are more than 270 Federal laws that address domestic incidents of terrorism including penalties for specific types of murder, kidnapping, and assault committed with political intent. I am not convinced that adding additional laws will do anything to prevent another Oklahoma City tragedy from occurring.

The expansion of Federal law enforcement agencies via an additional authorization of $1 billion is fiscally imprudent and only gives a rubber stamp to agencies like the Bureau of Alcohol, Tobacco, and Firearms [BATF] that have come under close scrutiny in recent years.

While the multiple wire tapping provisions are not in this legislation, provisions are in place for intercepting wireless data through e-mail and document transmission when done by a wireless modem or through a laptop connected to a cellular phone. Specifically, the Electronic Communications Privacy Act [ECPA] provided these protections which have now been eliminated in section 731 of the conference report. With the phenomenal growth of communication via the Internet and on-line services, I am concerned about the violation of privacy rights of law abiding Americans.

Finally, it is important to keep in mind that there is a very valid argument negating the need for any counterterrorism legislation or at least in its present scope and scale. We live in a very free society that places a high premium on civil liberties.

Mr. Speaker, thank you for the opportunity to clarify the record on this legislation.

Mr. MARTINI. Mr. Speaker, I rise today in support of the conference report to S. 735, the Terrorism Prevention Act, and to honor the victims and salute the survivors of the Oklahoma City bombing. Those 168 innocent people who died in the most heinous act of terrorism committed on American soil; 19 children and 149 adults perished. The destruction does not end with these haunting figures. Hundreds of lives have been altered and the mindset of the entire Nation has changed because of one irrevocable act. The entire country has been suffering together for 1 year.

The events of April 19, 1995, are ingrained in all of our minds, hearts, and souls. We no longer look at our lives through the prism of safety and rationality, rather we have been forced to confront the evils that lurk in the dark and manifest themselves in the light. It was at 9:02 a.m., in the full light of a spring day that our perceptions of civility were shattered.

The rise of extremism and militant fundamentalism within our borders is horrifying and sickening. We must not surrender to terrorism, we must conquer it. We cannot allow the seeds of destruction to be sewn in our country. We must send the message loud and clear that the United States will act decisively against those who attempt to undermine civility. While the antiterrorism bill is not a panacea, it is a step in the right direction.

The Federal building in Oklahoma City no longer stands, but the U.S. Constitution and the laws that govern our great Nation are our iron shield. We must strengthen the death penalty for terrorist crimes which result in the death of an American citizen abroad or at home, we must improve current law to facilitate Government deportation of criminal aliens, and we must allow U.S. citizens to bring suit against a sponsoring terrorist nation in Federal court. The Terrorism Prevention Act accomplishes these necessary goals.

The site of the Federal building in Oklahoma City is now an empty, fenced-in field but the memory of what occurred on that soil on April 19, 1995, will live on forever. On this day, let us remember those innocent men, women, and children whose lives were ripped out from underneath them. We cannot bring these innocents back, but we can work to assure that the perpetrators of violent terrorist acts will themselves be judged.

Mr. Speaker, I am also pleased that the conference committee included the Martini amendment death penalty language in this legislation. On March 21, 1995, in the early evening a man walked into the Montclair, NJ, postal substation in my congressional district and summarily killed two postal employees and two customers. I offered the Martini amendment because I wanted to ensure that criminal acts like the Montclair postal shooting would be covered by the death penalty.

Postal workers Stanley Scott Walensky and Ernest Spruill and Montclair residents Robert Leslie and George Lomoga had their lives cut short in a senseless crime. We cannot bring these victims back, but we can send a strong, clear message to criminals like Christopher Green that their actions will not go unpunished.

The Martini language, formally known as the Death Penalty Clarification Act of 1995 (H.R. 1811), would expand the Federal death penalty statute to include situations in which a defendant, "* * * intentionally kills or attempts to kill more than one person in a single criminal episode." This provision sends a clear message to the criminal that execution style multiple killings will not go unpunished because of a loophole in Federal law. It will ensure that just and fair punishment is administered to individuals who fail to live by society's rules.

My heart goes out to the survivors of the Oklahoma City bombing, and I wish them good health and happiness in their futures. We, as a nation, must continue to help each other in the healing process.

Mr. POSHARD. Mr. Speaker, I rise in support of the conference report on S. 735, the Anti-Terrorism and Effective Death Penalty Act.

As the people in the 19th Congressional District know, I voted against the House version of the antiterrorism bill. I was concerned that it was overly broad in scope and encroached on individual rights of law-abiding citizens.

As the conference committee worked to merge the House and Senate versions of the bill, I noticed a number of important changes which led me to the conclusion that I could support this bill, and hopefully provide a meaningful response to the threat of terrorism.

The final bill allows the State Department to designate foreign groups as terrorist organizations, bars members and representatives of groups designated as terrorists from entering the United States, and prohibits such groups from engaging in fundraising in this country. It prohibits U.S. aid to countries providing assistance or military equipment to terrorist nations, unless the President waives those provisions. It includes provisions taken from the House bill which will allow deportation of immigrants who are or may be engaged in terrorist activity, and allows the Government to use classified information to deport terrorists.

Importantly, the conference report did not increase investigative powers such as extended wiretap authority for Federal law enforcement officials. We all have a mutual interest in making sure that our law enforcement agencies and the men and women who put their lives on the line in performance of their duties are adequately trained and equipped. But our rights as individual citizens must not be compromised, and I opposed efforts to expand certain powers which I saw as too invasive. That is why I supported the Barr amendment during House deliberation, and why I am able to support the final version before us today. The final version is also stronger on issues of compensating victims of terrorist attacks.

I note today the strong, bipartisan support for the bill which is before us, and take note of the overwhelming vote in favor of the bill in the U.S. Senate. This has been a process of careful consideration, not a rush to react, and as we near the 1 year anniversary of the Oklahoma City bombing, I believe we have before a vehicle to move ahead with an appropriate law enforcement response which does not infringe on rights we hold dear as citizens of a free nation.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise in opposition to this bill. I do so with deep regret because I would have hoped that this Congress could do something meaningful to respond to the dangerous threat of terrorism. Americans need to be safe here and abroad, and if we are to fight this new threat to our security, we need new tools in the battle. But when it comes to the fight against terrorism, this bill does too little. Sadly this legislation does not confine itself to the fight against terrorism, and it is here where the bill goes too far.

Sacrificing our Constitution and the integrity of our judicial system is too high a price to pay for an antiterrorism bill that, sadly, does not do enough. The right of every American to a fair hearing in court will be severely undermined by this legislation. No punishment should be dispensed in a manner that violates an individual's right to a fair hearing. This bill jeopardizes that right, not just for those on death row, but also for those who face other punishments.

This bill increases the risk that innocent persons would be held in prison in violation of the Constitution—and possibly even executed—because the bill imposes unreasonably short time limits for filing a claim of habeas corpus relief, limits almost all petitioners to only one round of Federal review, and requires petitioners to meet clear and convincing burden of proof standard in order to get relief.

This is not right and I will not support such a move.

The bill leaves out provisions which would have: added terrorism crimes to the list of those for which wiretaps can be approved, included terrorism crimes under RICO statutes, and have permitted our law enforcement agencies to draw upon the expertise to address the threat of chemical or biological weapons of mass destruction.

When we need to give law enforcement officials new powers to investigate these new threats, we fail to produce.

As well, this bill caves in to the demands of the gun lobby when it comes to confronting the threat posed by cop killer bullets. I have joined many of my colleagues in calling for a ban on these bullets which have only one purpose—piercing body armor. We could not achieve this victory this year, but hoped that a study of this ammunition would alert the public to the need for action. But now even this study has been disarmed. Rather than study the bullets that can pierce armor and kill law enforcement officers, this bill dances around the subject to the tune called by the NRA.

We face a serious threat from terrorism. We need to respond in a meaningful and comprehensive way. Unfortunately this bill is not up to the task at hand. It makes too many compromises on the fundamental issues and threatens the rights of all Americans to a fair hearing in our judicial system.

This is not the way to fight terrorism and that is why I will vote against the measure before us.

Mrs. KENNELLY. Mr. Speaker, I rise in support of this antiterrorism legislation.

Those conversant with our Constitution know that, in almost its first words, it speaks of the duty to "insure domestic tranquility." That is a difficult task—especially in a country that values freedom as highly as our own. Yet it is a duty we must carry out, because, as our Founders understood, freedom requires tranquility to flourish.

This legislation will help us protect our freedom and tranquility at a time when violence is a fact of daily life. We have seen the scars left by terrorists in countries around the world, and now, tragically, in our own. So it is high time we take these steps to strengthen law enforcement and protect Americans. I will support this conference report, and I urge my colleagues to do the same.

Mr. DEUTSCH. Mr. Speaker, as we get ready to vote on the Anti-Terrorism and Effective Death Penalty Act, I would like to focus on the fundraising provision of this legislation. Ever since the bombings at the World Trade Center and in Oklahoma City, exhaustive efforts have been made to curtail fundraising activities of terrorist organizations here in the United States. It is completely unacceptable that a terrorist organization like Hamas can establish a fundraising center just down the road from the United States Capitol.

The fundraising provision in the anti-terrorism bill serves as a crucial first step at ending extremist fundraising operations here in the United States. It enables the United States Government to designate those organizations, such as Hamas, that serve solely as agents of violence and destruction, and prevents them from raising money here in America. Additionally, it prohibits individuals from providing material resources to designated terrorist organizations.

But this is only a first step. During the House debate, I drafted an amendment that would have created an even stronger fundraising provision. It would have closed several of the loopholes that allow nondesignated organizations from serving as fundraising conduits for the benefit of outlawed terrorist groups. It would have broadened the scope of individuals prohibited from assisting these violent and ruthless organizations. I look forward to working with my colleagues in the near future to strengthen the current fundraising provision and pass legislation that would force violent extremists to leave the United States and look elsewhere to find their blood money.

Mr. SMITH of New Jersey. Mr. Speaker, I rise to call attention to section 422 of the conference report on S. 735, which provides for the summary exclusion of persons attempting to enter the United States without proper documentation.

It is important that we exclude persons who would abuse our generous immigration laws, and it is important that the process of exclusion be a speedy one. It is also important, however, that the process be fair—and particularly that it not result in sending genuine refugees back to persecution.

Section 422 provides that no person shall be summarily excluded if, in the opinion of an asylum officer at the port of entry, he or she has a credible fear of persecution. Unfortunately, the definitions of asylum officer and of credible fear of persecution are not as clear as they might be.

In particular, the definition of asylum officer requires professional training in asylum law, country conditions, and interviewing techniques, but does not state how much training or what kind. I am informed that assurances have been given from the staff members who worked on drafting the conference report that there is absolutely no intention that officers should be put in these positions who are not genuine asylum officers. Mr. Chairman, the INS now has a professionally trained corps of asylum officers, who have had substantial training in handling asylum cases. It should be clear that when we in Congress speak of asylum officers, we mean these professionally trained officers—people who by training and experience think of themselves as adjudicators rather than as enforcement officers—not some other officer who has been given a short course in asylum law and then given this extraordinary power to send people back to dangerous places.

Mr. Speaker, I think it should also be clear that our asylum officers will need to be very careful in applying the credible fear standard. In a close case, they must give the benefit of the doubt to the applicant. There are also some countries—such as Cuba, China, North Korea, Iran, and Iraq—in which persecution is so pervasive that any credible applicant would have a significant chance of success in the asylum process. Asylum applicants should not be returned to these totalitarian regimes without a full hearing.

I hope that regulations will be promptly adopted that explicitly provide for these and other safeguards in the summary exclusion process.

Mr. ALLARD. Mr. Speaker, I rise in support of this conference report.

Today I am going to vote in favor of S. 735, the Terrorism Prevention Act conference report. As I stated throughout debate on the antiterrorism bill I have had concerns that the bill might be used as a vehicle to expand Federal power over law-abiding citizens. This was my reason for opposing the original House bill, I was concerned that a House-Senate conference would add a number of undesirable Senate provisions. A number of bad ideas were in play, including expansive Federal wiretapping authority, included in the Senate bill, excessive power for certain Federal law enforcement agencies, and excessive spending.

I have followed the conference closely, and I am now satisfied that the civil liberties of law-abiding citizens are protected, and that Federal authority is appropriately restricted. The bill focuses on international terrorist organizations, a matter of Federal jurisdiction.

I want to strongly commend the death penalty reform measures of this conference agreement. I have always supported and cosponsored legislation to limit frivolous, repetitive appeals of convicted murderers on death row. I also strongly support mandatory victim restitution provisions included in this bill. For far too long we have ignored the rights of victims.

This bill helps focus our criminal justice system to where it should be, on swift and certain punishment for criminals and justice for victims.

Mr. NADLER. Mr. Speaker, I reluctantly rise in support of this conference report because despite some defects which, quite frankly, could easily have been fixed without compromising the fight against terrorism, it will give law enforcement important and overdue tools in the fight against international terrorism.

Thankfully, the conferees put back many important anti-terrorist provisions that were stripped out by a majority under the sway of the extreme right. I commend the conferees for their vision and courage.

This bill will give law enforcement the ability to crack down on fundraising by international terrorist organizations in the United States. No act of terrorism, anywhere in the world, should have a return address in the United States.

It will allow victims of terrorism to receive restitution from their victimizers whether the terrorists are governments or organizations.

It will add new criminal jurisdiction and penalties for terrorist acts so that law enforcement can reach the terrorists wherever they are.

It will give our Government an enhanced ability to deport alien terrorists.

It will enable law enforcement to battle terrorists who use chemical, biological, and nuclear weapons or who use plastic or other more conventional explosives.

It provides new resources to those law enforcement agencies charged with fighting terrorism.

At the same time, the conferees have repaired many of the dangerous and unnecessary civil rights violations in the bill reported by the Judiciary Committee, and which the distinguished ranking member, the gentleman from California and I sought to correct in our substitute. I am pleased that the conferees have responded to some of our concerns.

This bill no longer allows asylum officers summarily to send refugees back into the hands of their oppressors without review.

This bill no longer allows individuals to be deported without knowing the charges or basis of that deportation. They will now be allowed to select their own attorneys and those attorneys will have the ability to consult fully with their clients about the case.

This bill provides clearer standards for designating organizations as terrorist organizations and court review of that designation.

Unfortunately, this bill still guts the rules governing the writ of habeas corpus in ways that I am confident the courts will ultimately rule are unconstitutional and unenforceable. I wish we had the votes to strip these provisions from the bill, but I know we do not.

We will prevail in court on habeas, but today we prevail over terrorists and their cowardly and bloody handiwork whether they are in Cairo or Jerusalem or in Oklahoma City. We also prevail in the protection of many civil liberties that had been threatened by earlier versions of this bill. As with any compromise, I am unhappy with parts of this bill, but I am also pleased at the important progress we have made.

I urge my colleagues to vote "yes" on the conference agreement.

Mr. PACKARD. Mr. Speaker, today we will take up the most pro-victim bill Congress has considered in almost a decade. H.R. 2703 establishes tough new statutes to allow Federal law enforcement officials to combat and punish acts of domestic and international terrorism. This measure combines crime legislation from the Contract With America and additional provisions designed to bring criminals to justice while getting justice for victims.

H.R. 2703 makes the death penalty an effective and certain punishment by ending interminable delays and endless appeals. Further, the victim restitution act ensures that our judicial system pays victims of crime the utmost attention by implementing compliance standards for court ordered payments to crime victims as a condition for probation or parole.

For my district, where illegal immigration's impact is felt more than in any other region, the bill includes essential initiatives to improve criminal alien deportation. This provision will expedite the immediate removal of aliens convicted of Federal offenses after they serve their prison terms. In addition, the bill will deny asylum procedure for such aliens.

Mr. Speaker, my Republican colleagues and I are committed to ensuring the safety and well being of every American. The Effective Death Penalty and Public Safety Act of 1996 guarantees Americans the protections they want and deserve while providing tough penalties on those who would break our laws. I encourage all of my colleagues to support this measure.

Mr. SMITH of Texas. Mr. Speaker, I strongly support the terrorism prevention act, and want to commend our distinguished Judiciary Committee chairman, HENRY HYDE, for his excellent work on this issue.

The escalation of criminal and terrorist activity in our country is robbing Americans of the freedom to walk their neighborhood streets, the right to feel secure in their homes, and the ability to feel confident that their children are safe in their schools.

We cannot protect American lives and safety or preserve national security without preventing alien terrorists from entering the country. Alien terrorists are often able to enter the United States despite the fact that their entry violates our national interests. In several cases, the Department of Justice has spent many years and hundreds of thousands of dollars to remove terrorist aliens from the United States.

Terrorist organizations have developed sophisticated international networks that allow their members great freedom of movement and opportunity to strike. The need for special procedures to adjudicate deportation charges against alien terrorists is evident.

An increasing number of crimes are being committed by noncitizens: both legal and illegal aliens. Over one-quarter of all Federal prisoners are noncitizens—an astounding 42 percent of all Federal prisoners in my home State of Texas. Recidivism rates for criminal aliens are high—a recent GAO study revealed that 77 percent of noncitizens convicted of felonies are arrested at least one more time.

Mr. Speaker, too few criminal aliens are being deported today. The deportation process can be years in length. S. 735 streamlines the deportation process by eliminating frivolous challenges to deportation orders; expanding the list of aggravated felonies for which aliens can be deported; and closing the gap between the end of an alien's criminal sentence and the date the alien is deported from the United States.

Americans should not have to tolerate the presence of those who abuse both our immigration and criminal laws. S. 735 ensures that the forgotten Americans—the citizens who obey the law, pay their taxes, and seek to raise their children in safety—will be protected from the criminals and terrorists who want to prey on them. I urge my colleagues to vote "yes" on the terrorism prevention act.

I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I rise today in order to voice my strong opposition to the conference report for the Terrorism Prevention Act. I did not support the House bill as my voting record indicates and I did not intend to cast my support for the conference report. I strongly feel this legislation is a knee-jerk reaction to a most heinous crime. This body has passed enough legislation in previous years to catch and punish criminals who commit these atrocious acts against humanity. Unfortunately, I cannot change my vote but I do wish to make it clear that I opposed the conference report for the Terrorism Prevention Act.

Mrs. MINK of Hawaii. Mr. Speaker, I rise to support S. 735, the antiterrorism bill. When H.R. 2703 the House counterpart bill passed the House on March 14, 1996, I voted against it largely because of the severe restrictions on the writ of habeas corpus for death row prisoners. I voted "no" to signal the Senate to strike this section from the bill. Unfortunately they did not.

Other unacceptable invasions of personal privacy in H.R. 2703 eliminated by amendment in the House were not restored by the Senate in conference.

In the current era of threats and acts of domestic terrorism I believe that the Government needs greater authority to act to prevent and apprehend terrorists before they act. However, we must be careful not to create a state where illegal surveillance, spying, wiretapping, and electronic eavesdropping become instruments of violations of rights of privacy of lawful citizens.

It is a fine line between law enforcement and a free society. But however fine, it must be distinguishable.

We must guard against foreign terrorists in particular. These individuals must not be allowed to pervade our open society with seeds of hate and destruction. I support efforts to stop their entry and to enable expedited expulsions.

A free society cannot conduct witch hunts for suspected terrorists. Our country went through such a black period in the fifties when we unleashed the un-American label on thousands of loyal citizens because of suspected associations.

We must not now begin another period of impugning guilt because of life style, ethnic background, or political associations.

But we cannot fail to safeguard our own people from foreign enemies.

I disagree with the restrictions of habeas corpus and fully expect they will be expunged by courts as unconstitutional.

I vote for this conference report with this expectation.

Moreover, I regret that this legislation is being used as a vehicle to advance antiimmigrant attitudes. This bill increases the number of criminal activities that legal aliens can be deported for. Most of the additional offenses are not required to be linked to terrorism. Listed among these offenses are; prostitution, bribery, counterfeiting, forgery, vehicle theft, false immigration documents, obstruction of justice, perjury, bribery of witnesses, and failure to appear in court.

I am deeply concerned that these provisions expand authorization for deportation of aliens with any association with crimes of violence or terrorism.

I believe legal aliens should be granted the same due process opportunities as U.S. citizens.

We are all legitimately disturbed with terrorism and violence in our communities. However, it is wrong to place upon legal immigrants a higher penalty for crimes which in themselves are not related to terroristic actions. Deportation should be reserved for only the most heinous of crimes rending the person unfit to remain in the country.

These anti-immigrant provisions have been wrongly attached to this bill. I am voting for this conference report, with these serious reservations which I hope can be stripped from this legislation at a later time.

The only way out for now is to encourage aliens to become U.S. citizens and avoid this jeopardy.

Mr. STOKES. Mr. Speaker, I rise in strong opposition to the conference report for the Antiterrorism and Effective Death Penalty Act. As the recent despicable acts of terrorism in Oklahoma City clearly demonstrate, America must do all that it can to put an end to acts of terror. Unfortunately, this legislation has failed to achieve an appropriate balance between our desire to take action against terrorist acts and our desire to protect the fundamental civil rights of all Americans.

In my view, the attacks on habeas corpus included in this legislation that purports to address the terrorist threat is so objectionable I must oppose this bill. I do support my Democratic colleagues' carefully crafted genuine antiterrorism bill, that is unencumbered by the provisions hostile to our constitutional rights that have been included in S. 735.

Throughout my career, I have believed in and fought for the protection of all Americans' fundamental rights under habeas corpus. As Chief Justice Salmon P. Chase described it in ex parte Yerger U.S. (1868), habeas corpus is the most important human right in the Constitution and the best and only sufficient defense of personal freedom. As a nation, we cannot afford to compromise the cherished habeas corpus protections guaranteed each of us in the U.S. Constitution.

Mr. Speaker, the arbitrary 1-year limitation on the filing of general Federal habeas corpus appeals after all State remedies have been exhausted entirely fails to address real problems inherent in the current capital punishment system. For example, S. 735 does virtually nothing to deal with the lack of competent counsel at the trial level and on direct appeal which constitutes the primary basis for the delay of many appeals.

It is also no secret that I am opposed to the death penalty. S. 735, among other things, would greatly expand the reach of the Federal death penalty which I believe is overly harsh—particularly because it fails to address the economic and social basis of crime in our most troubled communities. Furthermore, when closely examined, the sentencing history of the death penalty has clearly been arbitrary, inconsistent, and racially biased. Regardless of whether this double standard is intentional or not, the result clearly establishes that there continues to be an impermissible use of race as a key factor in determining imposition of the death penalty. This measure fails to include any provisions to end the repugnant practice of the disproportionate application of the death penalty on minorities.

Mr. Speaker, I share the national outrage expressed against terrorism. America should and must act swiftly and decisively to end these despicable acts. We must not, however, under the guise of fighting acts of terror, sacrifice our constitutional rights. As legislators, we must judiciously seek a balanced strategy to diminish the dangers of terrorism and injustice. I urge my colleagues to therefore vote down this measure; preserve our ability to enforce the Bill of Rights.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HYDE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 293, nays 133, not voting 7, as follows:

[Roll No. 126]

YEAS—293

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brownback
Bryant (TN)
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Christensen
Chrysler
Clement
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Combest
Condit
Costello
Cox
Cramer
Cremeans
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Doyle
Dreier
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Everett
Ewing
Fawell
Fazio
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hefley
Hefner
Heineman
Hobson
Hoke
Holden
Horn
Houghton
Hoyer
Hunter
Hyde
Inglis
Istook
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kasich
Kelly
Kennelly
Kim
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Martini
Mascara
Matsui
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Menendez
Meyers
Mica
Miller (CA)
Miller (FL)
Mink
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myrick
Nadler
Neal
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Ramstad
Reed
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sawyer
Saxton
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spence
Spratt
Stearns
Stenholm
Stupak
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vento
Volkmer
Vucanovich
Walker
Ward
Watts (OK)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zimmer

NAYS—133

Abercrombie
Barcia
Barrett (WI)
Bass
Becerra
Beilenson
Berman
Bonilla
Bonior
Brown (OH)
Bryant (TX)
Bunn
Burr
Campbell
Chenoweth
Clay
Clayton
Collins (IL)
Collins (MI)
Conyers
Cooley
Coyne
Crane
Crapo
Cubin
DeFazio
Dellums
Dickey
Doggett
Duncan
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Funderburk
Furse
Graham
Gutierrez
Hancock
Hastings (WA)
Hayworth
Herger
Hilleary
Hilliard
Hinchey
Hoekstra
Hostettler
Hutchinson
Jackson (IL)
Jacobs
Johnston
Jones
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
King
LaFalce
LaHood
Lewis (GA)
Lewis (KY)
Lofgren
Manzullo
Markey
Martinez
McCarthy
McDermott
McKinney
Meek
Metcalf
Millender-McDonald
Minge
Mollohan
Myers
Nethercutt
Neumann
Ney
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Pelosi
Peterson (MN)
Pombo
Radanovich
Rahall
Rangel
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Scarborough
Schroeder
Scott
Serrano
Shadegg
Skaggs
Skeen
Slaughter
Souder
Stark
Stockman
Stokes
Studds
Stump
Tate
Torres
Towns
Velazquez
Visclosky
Walsh
Wamp
Waters
Watt (NC)
Waxman
Weldon (FL)
Williams
Wilson
Wise
Woolsey
Wynn
Yates
Zeliff

NOT VOTING—7

Coleman
Fields (TX)
Hayes
Jackson-Lee (TX)
Rose
Tanner
Thompson

□ 1457

Ms. FURSE, Ms. McKINNEY, Mr. WILSON, and Mr. GRAHAM changed their vote from "yea" to "nay."

Mr. CHAPMAN changed his vote from "nay" to "yea".

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, I was absent on Thursday, April 18, for a family medical emergency. Had I been present on rollcall 123, House Resolution 406, honoring Ron Brown, I would have voted "yes." On rollcall vote 124, ordering the previous question on S. 735, the antiterrorism bill, I would have voted "no." On rollcall vote 125, on S. 735, I would have voted "no." On rollcall 126, final passage, S. 735, I would have voted "yes."

□ 1500

LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, I rise to inquire of the distinguished majority leader of the schedule for the remainder of the week and for next week.

I yield to the gentleman from Texas [Mr. ARMEY], majority leader.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, before I announce the program for next week, I would like to take a moment and inform the body that the distinguished chairman of the Committee on the Judiciary has just completed work on a very, very important piece of legislation on the day of his birthday. I think it would behoove us all to congratulate Chairman HYDE on his 49th birthday.

Mr. Speaker, if the gentleman will continue to yield, I do appreciate the gentleman's indulgence with me.

Mr. Speaker, I am happy to announce that we have now concluded our legislative business for the week. There will be no votes on Monday, April 22. On Tuesday, April 23, the House will meet at 12:30 p.m. for morning hour and 2 p.m. for legislative business.

Members should be advised, Mr. Speaker, that we do not expect any recorded votes before 5 p.m. on Tuesday next. As our first order of business on Tuesday, the House will consider two bills on the Corrections Day Calendar: H.R. 3049, to provide for the continuity of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development;

and H.R. 3055, to permit continued participation by historically black graduate professional schools in the Grant Program.

After the corrections bills, we will then take up seven bills under suspension of the rules. I will not read the list now. I believe the gentleman has a copy before him, but a list of suspensions will be distributed to all Members' offices this afternoon.

After consideration of the suspensions on Tuesday, the House will dispose of the President's veto message for H.R. 1561, the American Overseas Interests Act of 1995.

On Wednesday, April 24, and Thursday, April 25, the House will take up the following items, all of which will be subject to rules: The conference report for H.R. 3019, the fiscal year 1996 omnibus appropriations conference report; H.R. 2715, the Paperwork Elimination Act of 1995; and H.R. 1675, the National Wildlife Refuge Improvement Act of 1995.

We should finish business and have Members on their way home to their families by 6 p.m. on Thursday, April 25. I thank the gentleman for yielding me this time.

Mr. BONIOR. Mr. Speaker, I would inquire of the gentleman from Texas a couple of points, if he would indulge me in a few questions.

The gentleman mentioned in his remarks that after consideration of the suspensions on Tuesday, the House will dispose of the President's veto message basically on the State Department Authorization Act. Will we vote on the veto override on Tuesday?

Mr. ARMEY. Mr. Speaker, yes, we will.

Mr. BONIOR. So this is not just a matter of sending it back to committee.

Mr. ARMEY. No, there will be a recorded vote.

Mr. BONIOR. I thank my colleague for that.

Mr. Speaker, can my friend from Texas, in light of what happened before we adjourned here for the Easter Passover recess, when the Chair was in error with respect to the motion on the previous question with respect to the minimum wage, can the gentleman assure our side that we will have an opportunity to vote on the issue of the minimum wage in the near future?

Mr. ARMEY. Mr. Speaker, if the gentleman will continue to yield, I was just asked by one of my colleagues a moment ago why is it the minority did not raise the minimum wage last year when they had the majority in the House and they had the majority in the Senate and they had the White House? Mr. Speaker, I suspect the reason is they read page 27 of Time magazine on February 6, 1995, where the President was quoted as saying that raising the minimum wage is, and I quote, "the wrong way to raise the incomes of the low wage workers." Perhaps they did not dispute the President at that time.

Mr. Speaker, I will say to the gentleman, I know of no consideration being given to this subject in any committee of jurisdiction of the House at this time. Consequently, I would see no basis by which I would anticipate a bill being reported out and a request being made to schedule floor time.

Mr. BONIOR. Mr. Speaker, I would say to my friend from Texas that his comments remind me of the comments that he made originally at the beginning of the session when he said, and I believe this is a direct quote, that he would fight the minimum wage with every fiber in his body. And the Speaker had said yesterday, at least according to the paper reports this morning, that the Republicans would not be able to duck, the word "duck" was used in many of the accounts in the papers this morning, this issue any further.

So I was just trying to find out how we could reconcile those two concerns and whether or not the people in this country who are choosing work over welfare and trying to raise a family on less than $8,500 a year, can they expect any type of relief yet?

Mr. ARMEY. Mr. Speaker, I again will tell the gentleman that I know of no committee of this body that has jurisdiction on this subject that is considering any legislation on this subject. Obviously, I would have no basis to anticipate any committee reporting legislation or requesting floor time for consideration of such legislation.

Mr. BONIOR. Mr. Speaker, the only other comment I have on this subject, I would tell my friend from Texas that 70 percent of the bills that have come to this floor this year have not gone through committee. They have come right our of the Committee on Rules. So we hope and pray that in the near future those folks who are working hard and have children and are working for $8,500 a year will be able to get the break they deserve.

One other question on the budget resolution, Mr. Speaker. Should we be finished with the budget resolution this week as the schedule calls for and the budget calendar for the year?

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding. If the gentleman will continue to yield, I am told by the Committee on the Budget that they expect to be prepared to report a budget to the floor the week following next.

Mr. BONIOR. Mr. Speaker, I thank my friend and colleague.

ADJOURNMENT FROM FRIDAY, APRIL 19, TO MONDAY, APRIL 22, 1996

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns tomorrow, Friday, April 19, 1996, it adjourn to meet at 2 p.m. on Monday next.

The SPEAKER pro tempore (Mr. PETRI). Is there objection to the request of gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TUESDAY, APRIL 23, 1996

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, April 22, 1996, it adjourn to meet at 12:30 p.m. on Tuesday, April 23, 1996, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2823

Mr. DEFAZIO. Mr. Speaker, I ask unanimous consent to remove my name as cosponsor of H.R. 2823.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

SALUTING MR. TAUZIN'S EFFORTS ON BEHALF OF LOUISIANA MISSIONARY CHARLES SONGE

(Mr. SCHAEFER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. SCHAEFER. Mr. Speaker, I would like to take this opportunity to recognize the efforts of one of our distinguished colleagues, the gentleman from Louisiana [Mr. TAUZIN], in securing the release from Russia of Rev. Charles Songe, a Christian missionary from Houma, LA.

Mr. Songe was arrested in Russia last year on charges of violating currency laws. However, the nature of his case indicates the real reason behind his arrest was the Russian Government continuing to harass him. Due to the serious nature of these charges and the hostility shown to Mr. Songe by the Russian Government because of his religious activities, Mr. TAUZIN swung into action, appealing to the United States State Department and to Vice President GORE.

Mr. TAUZIN spearheaded a joint letter to Russian officials which I signed as well as others. These efforts were richly rewarded when a Russian judge imposed a suspended 3-year sentence.

I want to congratulate Mr. TAUZIN today for his fierce devotion to the principle of freedom of religion in this country, one of the cornerstones of it.

I would also like to say that this is just one way that we, as Members of Congress, can satisfactorily help many, many people who are constituents throughout the country.

Mr. Speaker, I include for the RECORD the following articles:

[From the Houma, LA Courier, Apr. 12, 1996]

THE BEGINNING OF THE END IS FINALLY HERE FOR MISSIONARY

(By Dawn Crouch)

The Rev. Charles Songe is expected to return to Houma Sunday, ending a three-year odyssey that placed the Christian missionary at the center of cultural, religious and economic whirlwinds sweeping across Russia.

"He's on his way home," said Ken Johnson, a spokesman for U.S. Rep Billy Tauzin, R-Chackbay.

Johnson said he talked to Songe this morning before the Houma missionary boarded a train to Moscow.

"He was ebullient," Johnson said. "Clearly, he seemed as if he'd seen an angel. He just said how excited he was for this long ordeal to be finally over and how important it was for him to be united with his family and friends. He said he loved his family so much and was thankful that all this worked out."

In May, the Houma missionary was arrested in the town of Saransk on charges that he paid for goods and services using American dollars rather than Russian rubles.

Last week, Russian Judge Tatyana Yelina imposed a suspended three-year prison sentence and permitted him to leave the country voluntarily. Songe, 38, had faced the prospect of spending the rest of his life in jail until U.S. officials, led by Tauzin, waged a complex diplomatic effort to secure his release and return.

A Russian bureaucrat had refused to grant Songe an exit visa earlier this week, posing a potential last-minute hitch that could prevent the missionary from returning home. But Songe received a letter this morning from Yelina, who assured bureaucrats the missionary's case had been resolved.

"She assured the bureaucrats that they would not be held liable for cutting him loose," Johnson said.

After receiving his visa, Songe went to Russian police, who returned the property they had seized from him, including a journal of financial transactions that was used as evidence against him.

Songe's train ride from Saransk will take about 12 hours. He plans to board a plane in Moscow at 7 a.m. Saturday, arriving in New York that night. After a brief stop in Atlanta, Songe is expected to arrive at New Orleans International Airport at 5:30 p.m. Sunday aboard Delta Airlines Flight 2063. An entourage of relatives, church members and friends is expected to greet him, including Tauzin, who plans to fly in from Washington.

"It's been an extraordinary odyssey filled with happiness, sadness, disappointing setbacks and some major successes," Johnson said this morning. "I guess there's something to be said for the power of prayer."

IN THE BEGINNING

It all began when Songe, his wife Tina and their three children, members of Living Word Church in Houma, bought plan tickets to Russia in June 1993. Less than two years before, the Soviet hammer and sickle had been taken down from the Kremlin, marking the end of communist domination.

Charles and Tina Songe said this historic time offered a unique opportunity to spread the word of God as they understood it, in a country where religious freedom had been repressed for decades. Songe recalled those intentions in a final plea before Judge Tatyana Yelina and the two-member jury that heard his case.

"We came here to bless the people with the word of God, not to cause trouble," Songe said he told the judge.

But trouble was what he found, much of it having less to do with his own circumstances than with the larger political and social upheaval swirling around him.

After the fall of the Soviet Union's Iron Curtain of secrecy and censorship, chaotic winds of new-found freedom raced like wildfire across Russia. The country held its first truly free elections. A free press actively reported news of the nation and the world as its members saw fit.

Free-market reforms transformed a state-controlled economy into privatized industries. Many failed shortly after springing to life. Russia's currency, the ruble, was no longer subsidized and lost much of its value.

For seven decades, the government had tried to root out religious spirit and replace it with an atheism that set humanity, not God, as the master of its own destiny. One result of this new religious liberty was the opening of borders to foreign faiths for the first time since 1917.

The Songes arrived among many missionaries who flooded the Russian provinces, only too happy to do their part.

After reaching Moscow, the Songes traveled 200 miles southeast by train to Saransk, capital of the former Mordvinian Republic, now a region of Russia. The industrial town of 400,000, rooted in coal mining, sits on the banks of the Insar River in the Volga uplands. At first, the major and deputy mayor invited the Songes to locate in the town, and they quickly began their ministry.

But they were not as welcome as they thought. One of the most unwelcoming groups for Western missionaries is the Russian Orthodox Church, scholars say. The church had been the state religion under the czars prior to the rise of the Soviet Union, and its leaders longed to restore its pre-eminence in Russian society. Many Russian Orthodox church leaders in Saransk and throughout the country feel threatened by the increasing presence of Western missionaries, seeing them as religious and cultural competition.

The missionaries contend they are not trying to compete with Orthodox Church. Their following consisted mainly of young people, some of whom felt disconnected from the archaic language and rituals of Orthodox services.

LAYING A FOUNDATION

The Songes, working through an international missionary group called Global Strategies, built the Saransk Christian Center from the ground up. On weekends, the couple joined other missionaries, playing acoustic guitar and singing hymns on street corners.

As passersby stopped to listen, the Songes invited them to visit their small church for prayer and Bible discussions. Some accepted; others shunned the missionaries for their different religious beliefs. At its peak, the church had 150 members, but the number dropped by at least two-thirds as Songe's legal troubles dragged on.

On the night of last May 16, as the couple celebrated their 14th wedding anniversary, 11 Russian federal agents and two witnesses crowded at their apartment's front door, flashing a search warrant, the Songes said.

Through a translator, the agents demanded financial records and answers to questions. Items were confiscated, including the journal in which Tina had recorded all the family's purchases since arriving in Russia.

The next day, Charles Songe was arrested and charged with 74 counts of violating Russian currency laws. Each charge carries a maximum of 10 years in prison: 740 years total. The journal became a key piece of evidence in the legal proceedings that followed.

Russian media focused attention on the couple's plight, and Tina began to fear she would be charged as well. In July, the Songes' daughter, 13-year-old Heidi, required medical attention for a minor ailment and returned to Houma, where she remained with relatives. Tina and the Songes' two other children, Jonathan, 7, and Rene, 11, returned to Houma in August.

CHURCH AND STATE

Almost from the start, U.S. officials and members of Songe's church in Houma expressed grave concerns. Johnson suggested that Russian authorities might have singled Songe out because of his religious convictions.

"Our suspicions of religious persecution are fact, not fantasy," Johnson said in November. "Russian officials are flexing their muscles, showing other missionaries that they aren't welcome. A number of Russian leaders have admitted to the United States embassy that foreign missionaries have worn out their welcome."

Experts on the new Russian legal system agree that this was more than idle speculation. Foreign missionaries, seen by some Russian officials as spiritual predators in a land whose values and norms were undergoing rapid and dizzying change, were prohibited by an August 1993 version of the Russian Law on Freedom of Religion.

A provision of the Russian Constitution adopted by popular vote in December of that same year, however, made the ban moot, since broader religious freedom to all sects was granted—and protected. Attitudes die harder than laws, however, in any society. And the attitudes that sparked the missionary prohibitions—especially strong in provinces and towns removed from the urban centers of Moscow and St. Petersburg—remain.

Remote areas of any country—including the United States—are more prone to discretionary enforcement of laws, and Saransk is no different. The laws in Russia governing use of currency forbid the use of foreign currency—dollars included—for the purchase of goods or services.

Laws against using foreign currency were strengthened in about 1992 as a means of boosting the value of a plummeting ruble, experts on the post-Soviet legal system said. Greater devaluation of the ruble would mean inflation—which can have a disastrous effect on any economy.

Vratislav Techota, an adjunct professor of Russian law at Columbia University School of Law in New York, is among several experts who said that the currency law, with which Songe was charged with violating, is widely ignored.

"This is not a criminal offense in most cases," Techota said. "This is an administrative offense. Russia strictly regulates the circulation of foreign currency. It is not forbidden to bring the foreign currency into the country, but to bring the rubles out. You can exchange foreign currency for rubles at authorized banks."

Johnson is now convinced the currency charges were a ploy designed to harass Songe out of the country—and send a message.

"The case confirmed to me there is always another side to the story, and as a journalist, we always strive to get both sides. In this case we were getting it just from the embassy and the Russians—that he was guilty," said Johnson, a former news reporter. "Guilty of what? Guilty of breaking a law that everyone breaks or guilty of being a Christian in a country that didn't want him there?"

WATCHFUL EYES

Parts of Songe's ordeal reads like a spy novel. In May, he was placed under house arrest and prohibited from leaving Saransk. He and his wife, their landlord, a translator and fellow church members were interrogated by the FSB, Russia's equivalent of the United States' CIA. U.S. officials said the missionary feared his phones were being tapped, e-mail transmissions monitored and movements closely watched by Russian police.

One Friday night in February, Songe was attacked by two men as he walked along a Saransk street on his way to a prayer meeting. U.S. officials sought police protection.

"We have urged Charles to move into a new apartment and to have one or more church members staying with him at all times," Johnson said after the incident. "Charles' case is in the newspapers and on the TV. People know that his church at home sends him money. We suspect that someone was trying to cash in on this."

Songe's release rested heavily on diplomatic efforts. Early on, American officials reported trouble penetrating the Russian bureaucracy in an effort to open negotiations. After weeks passed with little progress, Tauzin appealed to Tom Pickering, American ambassador to Russia; and Rep. Ben Gilman, R-New York, head of the House International Relations Committee.

In September, Pickering sent a senior-level diplomat to Saransk. Tauzin also brought the case to the attention of U.S. Secretary of State Warren Christopher and Vice President Al Gore.

A LETTER FROM ON HIGH

By mid-October, a plea bargain was being arranged, and Tauzin's office said it was optimistic Songe could return home for Thanksgiving. Pickering appointed Richard Miles, the first ambassador to the former Soviet republic of Azerbaijan, to travel to Saransk and, as Johnson described it, "close the deal."

Back home, the family cautiously retained hopes that Songe would be home to celebrate his birthday Nov. 27.

"If this doesn't work, there will only be God," Tina, 37, said.

U.S. officials remained optimistic, but negotiations, dragged on. Russian authorities said the case would continue past Christmas.

At Tauzin and Pickering's request, two of the most powerful government officials in America sent a letter to Songe on Dec. 22. Senate Majority Leader and Republican presidential hopeful Bob Dole, along with House Speaker Newt Gingrich, said they were following the case and expressed hope for Songe's speedy return home.

"As American families all across the country celebrate this joyous season, we know how difficult it must be for you to be away from your loved ones," the Republican leaders wrote. "But please take heart that you are not alone. Members of Congress, as well as Americans around the nation, have you in their prayers."

HEADING FOR TRIAL

Efforts to negotiate a plea bargain failed, so officials focused on preparing Songe for trial. On March 22, the week-long proceedings against Songe and five other defendants began.

The prosecution's key witness was Oleg Kruchenkin, a Russian student who befriended the Songes early on. They said that later he turned against them. Kruchenkin reportedly described Charles Songe as the "ringleader of an illegal currency operation."

Songe pleaded "guilty in part," declaring that although he exchanged the money, he's been unaware that the transactions were illegal.

On April 3, Songe was convicted but given probation and allowed to return home voluntarily. The others on trial with him also were spared prison sentences.

Back home, a chorus of "hallelujahs" greeted Tina Songe as she stood before almost 100 members of Houma's Living Word Church, who gathered for a prayer service hours after learning that her husband's freedom was won.

Tina Songe noted that some had worried about the case greatly, but her faith in God kept her strong.

"I never lost a night of sleep during this, but I know some people would come to me and say, "I woke up in the night a couple of times and had to pray for Charles," she said.

Both Charles and Tina plan to continue their missionary work, perhaps traveling abroad once again.

"My one regret is that I didn't know the law," Charles Songe said in a telephone interview last week from Russia. "If I ever do it again, I will make sure to inform myself and be careful to observe that country's customs."

[From the Houma, LA Courier, Apr. 15, 1996]

CHARLES SONGE RETURNS HOME—ORDEAL ENDS FOR HOUMA MISSIONARY

(By Dawn Crouch)

NEW ORLEANS.—More than 200 well-wishers bearing banners and singing joyous songs greeted Houma missionary Charles Songe at the airport Sunday as he ended this three-year Russian odyssey.

"I was told there would be a lot of people, but when you come out into a place like this, you try to be prepared but you can never be prepared," Songe, clearly overwhelmed, told the crowd outside Gate 15-D at New Orleans International Airport.

Songe, 38, caught a train to Moscow on Friday for the first step in his journey back home. When his flight touched down here Sunday, his wife, Tina, and the couple's three children boarded the plane to welcome Songe before he emerged.

"We're just so thrilled that the separation is over," Tina Songe said beforehand. "It's like the closing of a chapter in our lives and the beginning of another. I knew that God was going to bring him home, It was just a matter of being patient enough for that to happen."

It was the first time Songe saw his wife and three children since he was charged with breaking Russian money-exchange laws 11 months ago in Saransk, where he had worked since 1993 organizing a Christian church.

Accused of buying goods and services with U.S. dollars, Songe was charged in May with 74 counts of currency violations, each carrying up to 10 years in prison.

Songe's wife; son Jonathan, 7; and daughters Renae, 11; and Heidi, 13; were allowed to leave Russia soon after his arrest.

Embracing his teary eyed wife. Songe emerged from the plane with his beige button-down shirt half untucked and loosened gray tie. He then hugged his mother, whom he hasn't seen since he left for Russia. The crowd sand "Celebrate Jesus" as Songe embraced and greeted family, friends and members of Houma's Living Word Church.

Before reaching the end of the walkway, Songe met U.S. Rep. Billy Tauzin, R-Chackbay, who had flown in from Washington to greet the missionary. Tauzin introduced himself and, without words, Songe clinched the congressman's fist. The two men held their hands above the crowd as Songe said "I wouldn't be here today if it weren't for Billy Tauzin."

Tauzin helped lead diplomatic efforts to secure Songe's return and release. The congressman enlisted the help of several top U.S. and Russian officials after Songe was arrested in May. Both Tauzin and his spokesman, Ken Johnson, kept in contact with the missionary several times a week as the case dragged on.

Tauzin repeated his contention that Russian authorities prosecuted Songe more for his religious beliefs than money-exchange laws, which experts have confirmed are selectively enforced.

"He was out there preaching the gospel of the Lord and doing his work and he was doing nothing wrong that any other citizen wouldn't do in Russia," Tauzin said. "If this wasn't a case of religious persecution, I've never seen one."

Tauzin said the Russian authorities were using Songe to send a message to missionaries that they are not wanted in the country.

"This was not just about you," Tauzin told Songe. "This was about every citizen who wants to do missionary work in other countries."

Tina Songe, carrying a batch of white roses given to her husband by a friend, held Charles' arm as the couple thanked the people who prayed for them during the long ordeal. Songe also exclaimed at such a joyous homecoming.

Eleven-year-old Renae planned to be the first to hug her father. But, she said, "Mom got to do that. I didn't mind. The first thing I did was sing a song I wrote for him."

Renae said she was too startled to cry the first time she saw her father, but her song, "Praise God," allowed her to express her overwhelming emotions.

"I didn't cry and neither did Heidi or Jonathan. But my mom just grabbed him and cried," the girl said. "I feel like I've gone to the toy store and gotten my daddy as a gift."

Songe first touched American soil Saturday night after his 17-hour flight from Moscow landed in New York. Songe said he was too tired that night to do anything but call his family and sleep. He woke the next morning and ate an early breakfast of eggs, bacon, hash browns, orange juice and coffee.

"It was great," he said. I haven't had a meal like that in years."

Songe ate his second meal in America since his return in a restaurant with Tina and the children Sunday night in New Orleans.

"It's fantastic to see cars, nice cars. You can't see that in Russia," he said. "There is just a special air that tells you you're in America."

COMMUNICATION FROM THE HONORABLE DAVID E. SKAGGS, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable DAVID E. SKAGGS, Member of Congress:

U.S. HOUSE OF REPRESENTATIVES,
April 15, 1996.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This letter notifies you, pursuant to Rule L [50] of the Rules of the House of Representatives, that a subpoena issued by the U.S. District Court for the District of Colorado in the case of United States v. Abbey was mailed to me at my Westminster, Colorado, district office.

I have been advised by the Office of the General Counsel of the House that the method of service of the subpoena did not comply with Rule 17(d) of the Federal Rules of Criminal Procedure. I have asked the Office of General Counsel to so advise the attorney who mailed the subpoena to me.

Sincerely yours,
DAVID E. SKAGGS.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

IN RECOGNITION OF NEAL WHITENER HAHN, JR., AND THE CHARLES GRAY MORGAN VFW POST, GREENVILLE, NC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, on April 25, 1996, the Charles Gray Morgan Veterans of Foreign Wars Post, in Greenville, NC, will celebrate their 50th anniversary by recognizing their charter members. They, like all of our veterans, have made great sacrifices to protect the American way of life.

Mr. Speaker, what stands out in my mind, is that this generation of veterans, gave so much for their country and asked for so little in return. They answered their country's call to arms, fought bravely on foreign battlefields, and returned home to work hard, and build strong families. Mr. Speaker, I would like to recognize one of these selfless individuals in particular, Neal Whitener Hahn, Jr., of Greenville, NC.

Mr. Hahn was born in Kinston, NC, on September 7, 1919. Raised with his two brothers and one sister, Mr. Hahn lived most of his younger life in Wilmington, NC. He is married to his wife of 50 years, Helen, and together they have raised four children.

In 1938, as WW II loomed in the horizon, Mr. Hahn joined the North Carolina National Guard, Company A, 105th Medical Battalion. He was trained as a medic. On September 16, 1940, he was inducted into the U.S. Army and stationed at Fort Jackson, SC. He spent the next 4 years training new troops. On February 12, 1944, Mr. Hahn was ordered overseas. Ten days later he landed in Scotland, where he trained for several months. On June 10, 1944, his unit landed at Omaha and Red Beach as part of the Allied invasion of France.

Mr. Hahn spent the next 337 days on the front lines, as a combat medic. He received five battle stars during that time. On January 10, 1945, he was wounded in Belgium, during the Battle of the Bulge, and was awarded the Purple Heart. Then, on April 12, 1945, Mr. Hahn was awarded the Silver Star for Valor, the military's second highest award for bravery. The following is an excerpt of the official citation:

Neil W. Hahn, Jr., Medical Department, United States Army, for gallantry in action on 21 December, 1944, in Belgium. When they learned that men were lying seriously wounded in an open field, across a river, Private Hahn waded through icy currents of the river, and crawled for one hundred yards through intense enemy fire to the casualties. Finding that the wounded men were unable to move, Private Hahn and his comrade gave first aid and made three trips to evacuate them through the enemy fire and across the river. Their great heroism and unselfish devotion to duty, saved the wounded men, from death through wounds or exposure.

Mr. Speaker, what is even more remarkable, is that Mr. Hahn never actually received some of his military decorations and awards. For 50 years, this humble man kept quiet, never asking our Government for his medals. To Mr. Hahn, the medals were not important. What is important is that he served his country with courage and honor. Now, in conjunction with their 50th anniversary, the VFW Post in Greenville will conduct a special ceremony to finally present to Mr. Hahn all of the medals he has earned and so clearly deserves.

Mr. Speaker, Neal Hahn is certainly not alone, in deserving our recognition. I stand here today and salute all of our veterans, for their dedication to duty, for risking their lives to protect our families, and for their continued commitment to our way of life. Mr. Hahn, you, and men and women like yourself are the real heroes in our Nation. To Neal Hahn and veterans everywhere, I say, thank you for your dedication to our Nation.

□ 1515

FINALLY, CORRIDOR H FOR WEST VIRGINIA REGION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, I want to talk today about a project that is very important not only to my State of West Virginia but indeed to this entire region, and that is corridor H.

Corridor H is a major four-lane road that has been on the books for 25 years and that we have been trying to build in West Virginia. The environmental impact statement after 6 years has finally been completed, and the public comment period begins on April 26 and will extend for 30 days. This is a time for citizens and groups and businesses and all those individuals who want to have another say and want to review the EIS to do so.

This EIS has been 6 years in the making. It has been one of contention. It has been one in which the State department of transportation has had to meet and accommodate many, many legitimate concerns: environmental, historical, terrain, cost. After a long time the State took four corridors and narrowed it down to a preferred corridor, and then within that 2,000-foot way the State has now accommodated the various concerns that have been made, whether it is a Civil War battlefield or whether it is a stretch of wetland.

After being in the Department of the Interior for a number of weeks, all questions about boundaries for historic battlefields have now been resolved. The Federal Highway Administration has signed off on corridor H and will review it, of course, again following the environmental impact statement. At that time, probably within the next few months, it will issue its final record of decision, or ROD. Then following that, the State can begin real estate acquisition and appraisal and, hopefully, go to bid at the end of the year.

I say this because corridor H is probably the single most important highway project, not only for West Virginia, but, I think, for this region of the country; 114 miles in West Virginia that are so crucial to not only opening up the eastern part of our State to the west but also then being a natural corridor that continues on out as once people get to Weston and then can continue north and then west toward the Ohio area or south and then west to Kentucky and points west.

Corridor H, I believe, is economically feasible. Indeed, the Appalachian regional studies demonstrate that countries that have a four-lane corridor of this magnitude see job creation three times that which is projected in counties without such a project.

This is a major east/west highway, and so my hope is that we can, with this completion of the environmental impact statement, I realize this is not going to make everyone happy, but with the completion of this environmental impact statement that we can get on about the business of building corridor H. It has been too long in contention, and at least in the West Virginia section it is important that this highway be completed and so to complete the Appalachian corridor system that has promised so much to our State.

So, Mr. Speaker, I just wanted to keep you up to date on this important project as it moves ahead. I encourage everybody to be involved in the public comment period, and I look forward to seeing this project actually go to bid sometime at the end of the year in the segments that have already been approved and where these issues have been resolved.

MONEY AND POWER INFLUENCE ON GAMBLING LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. WOLF] is recognized for 5 minutes.

Mr. WOLF. Mr. Speaker, money and power. That is the influence too often on Capitol Hill when it comes to the legislative process.

Money and power.

The American people more and more every day hold this institution in disrepute because of the influence they see wielded by special interests whose bottom line is money and power.

That influence has been evident throughout the legislative history of a bill to create a national commission to study what a front page article in today's Washington Post calls the "explosive growth in legalized gambling." And today, as Post reporter Blaine Harden reports, "Nevada-based gambling interests working with prominent Republican lobbyists" have "sabotaged" a bipartisan effort in Congress to pass legislation to establish a National Gambling Study Commission.

Money and power.

Those special interests are poised to effectively neuter legislation that would provide information to the American people on the effects of what has become a $40-billion-a-year industry that generates, according to the Post article, "six times the revenue of all American spectator sports combined." Think about that. Six times the revenue of all spectator sports combined. And when you add to spectator sports revenue other leisure activities for which American spend their money, such as movie box office totals, theme parks, cruise ships, and recorded music, that combined total is over $3 billion less than gambling revenues in a year.

As our colleagues will recall, we unanimously passed a responsible and fair National Gambling Study Commission bill in the House on March 5. There was bipartisan support for the legislation which has over 140 House cosponsors and which garnered the support of family interests groups across America and major newspapers including the Atlanta Journal and Constitution, Boston Globe, Chicago Sun-Times, Cincinnati Enquirer, Dallas Morning News, Los Angeles Times, Houston Chronicle, Philadephia Inquirer, USA Today, Portland Oregonian, New Orleans Times-Picayune, Indianapolis News, and Washington Post, among others.

But money and power have an insidious way of spreading their tentacles of influence and the gambling interests unleashed their money and power and were ready this morning with killer amendments to the gambling study bill in the Senate that would have made a mockery of the legislation. Perhaps the light of the Post article today shone too brightly on this disgraceful show because the Senate bill was pulled from the markup.

But the fingerprints of the gambling industry are all over the current effort in the Senate to stop the National Gambling Study Commission. Gambling interests last year set up the Washington-based American Gaming Association headed by Frank Fahrenkopf, former chairman of the Republican National Committee, who the Post report says is being paid over a half million a year for his work. He, in turn, hired Kenneth Duberstein, former top adviser to President Ronald Reagan, and other Republican Party and Presidential aides, as well as a former Democrat Member of Congress and the former chief floor counsel to then Democrat Senate Majority Leader George Mitchell, among others, to carry the water for the gambling industry and wield its money and power influence.

Just what did the gambling interests get for their high-priced and well-placed cadre of lobbyists? They have managed to rewrite the gambling bill that was ready for markup today in the Senate with amendments which would turn the study commission into a library study group with no power to convene investigative hearings, no power to subpoena information, no authority to do any original research and confined to only reviewing information that already exists, and with a limitation to only make recommendations on Indian and Internet gambling.

And one more amendment from the gambling interests: the Commission is directed not to examine the economic impact of gambling on businesses, political contributions, the relationship between gambling and crime, a review of the demographics of gamblers, a review of law enforcement, a review of State, Indian and Federal gambling policy, advertising or other issues the Commission chairman may deem appropriate.

And a final amendment: for what is supposed to be an objective commission charged with the responsibility of studying the full effects of gambling on American society, the gambling interests successfully pushed their way to the study table with the amendment to provide that individuals with an interest in the gambling industry should be appointed to the Commission.

With these amendments, the National Gambling Study Commission may as well convene at the library and chat about the books the gambling interests check out to read. This is a sham and a disgrace and an insult to the American people who are being suckered in by an industry which thrives when it operates in the shadows, much like roaches which find their way around in the dark. When the light shines though, the gambling interests, much like the roaches, scurry to hide.

Money and power.

High-priced lobbyists and political connections at work to thwart an attempt to provide basic information to cash-strapped local and State governments being drawn into the promises of easy money from legalized gambling. Why are the gambling interests spending millions of dollars in political contributions and lobbying campaigns to stop a national study of gambling's effects on America? Why are they trying to stop a bill that will allow an objective, comprehensive, and impartial legal and factual assessment of gambling, a bill that does not outlaw gambling, that does not tax gambling, that does not regulate gambling?

Why would they turn a blind eye to the stories of poor mothers playing the slots with their children's lunch money, or teenagers so addicted to gambling that they prostitute their girlfriends to pay off their mob debts, or the accounts of Americans who are so distraught over their mounting gambling debts that their only perceived recourse is suicide.

From what information we have gathered today, we see a picture of gambling hurting people and businesses. How many suicides and near misses does it take to make the case? How many bankruptcies and broken homes? How many failed careers, failed marriages and broken dreams are needed to register on the misery meter?

What is the gambling industry afraid of? What is driving their effort to stop this national commission to study the explosive influence of gambling on the American culture?

Money and power.

Consider these facts:

In Missouri, the gambling lobby spent $11.5 million, mostly raised from out-of-state companies, on a successful 1994 referendum to allow slot machines in casinos. According to an Associated Press report by Jim Drinkard, "after failing in its first attempt to legalize slot machines on Missouri riverboats, the gambling industry took no chance and spared no expense." Following a pattern that has been repeated across the country, Drinkard reported that it hired the chief strategist for then House Democrat majority leader, considered to be Missouri's most visible politician, paying her $218,750 to help win passage of the 1994 referendum.

In Louisiana, the gambling lobby contributed $1.07 million to State legislators in 1993 and 1994, $1 out of every $5 given to lawmakers and three times as much as was given by the petrochemical industry.

In Florida, the gambling lobby spent $16.5 million on an unsuccessful referendum campaign to legalize casinos in 1994, only $1 million less than the Republican and Democrat gubernatorial nominees spent in the Governor's race combined.

In Connecticut, four gambling groups spent $4.9 million over the last 4 years in an unsuccessful campaign to lobby the State for a casino.

In my own State of Virginia, gambling lobbyists spent over $1.1 million over 2 years to convince the general assembly to legalize casinos.

In Illinois, the gambling lobby contributed $1.24 million to candidates for State office between July 1, 1993, and June 30, 1994. Also in that State at one point gambling interests in Illinois had under contract people who formerly were Governor State senate president, house majority leader, attorney general, State police director, circuit judge, Chicago mayor, and two U.S. attorneys. The former head of the State gaming regulatory board now lobbies for a major gambling group and at least three former board officials are on casino payrolls.

According to figures compiled by the Center for Responsive Politics, a nonpartisan research group in Washington, over the past few years the gambling industry overall gave at least $4.5 million to the Republican and Democrat parties and their candidates for Federal office, including $1.8 million in "soft money"—unregulated, unlimited contributions to party committees donated since 1991.

These money and power brokers have been at work since House passage of the national gambling study bill to negate any responsible, fair or objective effort in the Senate to pass similar legislation. And with their money and power, as today's Washington Post headline proclaims: "Don't Bet on a U.S. Gambling Study."

How much longer will the best interests of the American people take a backseat to the influence of money and power in Washington?

Money and power.

□ 1530

GRAPES OF WRATH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. RAHALL] is recognized for 5 minutes.

Mr. RAHALL. Mr. Speaker, every country has the perfectly legitimate right to respond to terrorist attacks upon its borders and its people, regardless of whether those attacks were provoked or not. Such has been the case in southern Lebanon, the home of my grandfathers, where Israel has undertaken Operation Grapes of Wrath in order to end the terrorist Hezbollah attacks across the border into northern Israel.

This tit for tat, this eye for an eye, this cycle of violence has gone on for well over a decade now. Ever since Israel's bombardment into southern Lebanon, and indeed, into Beirut itself in 1982 to rid Lebanon of the PLO, they have occupied what they have called a buffer zone in southern Lebanon in order to protect its northern borders.

This Israeli occupation has led to the growth of Hezbollah, or Party of God. This Lebanese group has sought to end this occupation, and therefore has undertaken needless, uncalled for, unprovoked terrorist attacks into northern Israel. These have been undertaken, and in the past have been guided by unwritten agreements by which Israel and Syria, the two main power brokers in the region, have agreed not to attack each other directly. Therefore, Hezbollah operates as a proxy for outside powers, in this case obviously financed and trained by Iran and given the green light by Syria to operate in Lebanon.

In order to end these attacks, Israel undertook Operation Grapes of Wrath. As I say, every country has that perfectly legitimate right to respond to terrorist attacks across its border. Today we saw a dramatic change in its operation. We saw a dramatic turn of events in which innocent civilians who have been killed over the last week or so of this operation escalated into which the death count now stands at close to 100 innocent civilians killed in an Israeli bombardment of a U.N. base camp in southern Lebanon, these innocent civilians having tried to flee, according to Israeli warnings beforehand, in order to prevent harm to themselves.

Whether it was a mistake, whether it was just another message being sent in the long list of messages in which Lebanon is used as a chessboard in which outside powers play their game in Lebanon, remains to be debated, and is currently being debated in the highest echelons of Israeli government.

President Clinton, much to his credit and however late it may be, has, within the hour, from St. Petersburg, Russia, called for a cease-fire in the Middle East. He has issued his sympathy to the families of those innocent civilians killed in today's state-sponsored terrorist act, and he has called for a cease-fire to take place, I hope, immediately. The President is to be commended for this call, however late it is in coming.

But the final resolution, the final resolution of this conflict will only occur when a peace treaty is reached between those two main power brokers, Israel and Syria. It is time to quit using Lebanon as a chessboard. It is time to quit using the lives of innocent civilians, women and children, in order to send political messages to one party or another.

Let us hope that, as has happened in the past in the Middle East, with this outrageous action today and with this uncalled for action, that perhaps it will be the last salvo and we will see a true breakthrough and peace occur.

That peace will occur when the Lebanese Army, which in my opinion is quite capable of disarming Hezbollah, disarming them completely, put it in writing if need be, as Israel is demanding, with Syria guaranteeing the safety of Israel's northern border along with the Lebanese Government, and assurances that Hezbollah will stop these attacks once they are fully disarmed, and second, and at the same time, and no waiting until on down the road to see what happens, but at the same time, then I call upon the Israelis to recognize U.N. Resolution 425 and withdraw their forces from southern Lebanon at the same time.

Let us put it in writing. Let us do it, however, by unwritten agreement or whatever, but this is the only solution to the current eye-for-an-eye, tit-for-tat cycle of violence that has taken too many innocent lives, has caused too much suffering, and has inflicted economic damages upon a country friendly to the United States, upon a country that has not been responsible for these terrorist actions, the country of Lebanon, too weak to handle it, strong in my opinion, growing stronger militarily but not politically, because of the controls the Syrian Government has in that country.

But if we want to see peace, a truly just and comprehensive peace to which the President spoke today, to which all parties aspire, then it is time we get to the root of the problem. It is time we reach that agreement that would be a major step forward in Israel's recognition by all Arab countries in the region.

A EULOGY FOR RON BROWN

The SPEAKER pro tempore. Under a previous order of the house, the gentleman from California [Mr. MARTINEZ] is recognized for 5 minutes.

Mr. MARTINEZ. Mr. Speaker, earlier today there was a resolution that was passed by this Congress honoring former Secretary Ron Brown. I was unable to attend that because I was in a hearing of a subcommittee on which I am the ranking member, but I did want to do this then, and I take the time now to do it.

Mr. Speaker, one or two days after the tragic death of Ron Brown, I was traveling to an event in my district and listening to KNX news station. Dave Ross, reporting for CBS news radio, came on the air and gave what I consider to be a tremendous eulogy for Ron Brown.

I would like to share it with the Members of the House.

Mr. Ross entitled his tribute, "death of a salesman."

> A tragedy freezes time. Events you would otherwise ignore become significant.
>
> Pictures of a Cabinet official eating breakfast in a tent end up on the front page. And the story of a trade mission which otherwise couldn't compete with the FBI's latest unabomber suspect or the standoff in Montana becomes the center of attention.
>
> Before now the only time you heard of Ron Brown was when some new piece of evidence surfaced in his Justice Department investigation.
>
> He was suspected of spending too much on travel and using international junkets to reward campaign contributors.
>
> Some junket. Breakfast in a tent and travel in a plane so poorly equipped no passenger airline could legally fly it. But a salesman can't stop to wonder whether the plane is safe or what his critics are saying—there's a product to move.
>
> Instead of gun boat diplomacy, Brown's philosophy was MacDonalds diplomacy. If you want to spread democracy, sell American products. Sell a way of life where people spend their time making money instead of making enemies.
>
> The old Yugoslavia, which had a healthy economy, then killed it, seemed to defy that philosophy. But a good salesman keeps trying.
>
> My boss used to have a plaque on his desk which said, nothing happens until something is sold. It was there to remind us that those people in the sales department, the one's who got their hands dirty closing deals, were the people who kept our paychecks from bouncing.
>
> Trade missions, and I've attended a few, are pretty boring. Business executives talk about exchange rates, ownership rights, local taxes. It's nothing newsworthy. It just creates thousands of jobs.
>
> A toast then, to the salesman. Traveling on a shoe shine and a smile. Sometimes, on a wing and a prayer.

Thank you, Mr. Ross. I know that the family of Mr. Brown thanks you as well.

INCREASING THE MINIMUM WAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. WOOLSEY] is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, 28 years ago, I was a single working mother with three small children, receiving no child support and earning close to the minimum wage. Even though I was working, I was earning so little that I was forced to go on welfare to provide my children with the child care, the health care, and the food that they needed. Even though I was educated and had good job skills, I still was not earning enough to fully support my children. My story bears repeating tonight, because too many families today are in the same predicament I was 28 years ago.

Mr. Speaker, if this Congress is truly serious about reducing dependence on welfare, then let us increase the minimum wage. Let us make work pay, and let us make sure that paying working parents enough to support their families and take care of their children is a priority on our agenda.

Mr. Speaker, the minimum wage has not kept up with the increase in the cost of living. Workers these days can put in a full day of work, 40 hours a week, at minimum wage and still live below the poverty line. The new majority in Congress wants to cut the earned income tax credit, kick single moms and their children off welfare, and reduce health benefits for low-income families, but they will not even hold a hearing on increasing the minimum wage. If we want to reduce reliance on public assistance, Mr. Speaker, does it not make sense to make work pay? Should not entry level jobs pay more than public subsistence?

In addition to making economic sense, a minimum wage increase is also a matter of basic fairness for millions of working Americans. Mr. Speaker, in 1960, the average pay for a chief executive officer of some of the largest U.S. corporations was 12 times greater than the average wage of their factory workers. Today, those same CEOs receive wages and compensation worth more than 135 times the wages and benefits of their average employee, the average employee at the same corporation. In some instances, Mr. Speaker, the difference is more than 200 times. That is not fair, and it is not fair that about 70 percent of minimum wage earners are women, adult women with children. It is not fair that from 1973 to 1993, real income for working men, men with high school diplomas, dropped by 30 percent.

Businesses are doing well, Mr. Speaker. Private business productivity has been increasing. Profits are up, but wages are stagnant. What is wrong with this picture? Is it not time to let American workers share the fruits of their labor?

Speaker GINGRICH and his allies say they support traditional American values. Let us return to the traditional American value of paying an honest wage for an honest day's work. Let us raise the minimum wage, and let us do it now.

GROUNDS FOR OPPOSITION TO THE ANTITERRORISM BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii [Mr. ABERCROMBIE] is recognized for 5 minutes.

Mr. ABERCROMBIE. Mr. Speaker, I want to elaborate, if I might, on the remarks that I made with respect to the so-called antiterrorism bill earlier. As members know, we are constrained by time in our remarks, and by having 5 minutes today, perhaps I can make a little more clear or elaborate a bit on what the grounds were for my opposition.

Mr. Speaker, let me quote in part from a story written in today's Washington Post, as follows, excerpting from the story:

> It marks the first time in more than a century of law on the writ of habeas corpus that Federal judges would have to defer to State court determinations on whether a prisoner's constitutional rights were violated. A writ of habeas corpus is a way for Federal judges to assess whether a defendant's conviction is unconstitutional because, for example, his right to a fair trial was infringed. The writ orders the State to produce the prisoner, the body, or the corpus, so that he can make his case to a Federal court.

Mr. Speaker, I had indicated in my previous remarks that this past weekend my wife and I attended a play, were observers at a play that was given in Honolulu in a very small venue. I do not think there were 20 people there, mostly students. It was a student production, student-directed. The set was very simple. There are only three characters, if you will. The play was called "Death and the Maiden." It comes from a work by Schubert and is a beautiful piece, orchestral piece. Death and the Maiden was played by a doctor who is a participant in torture in an unnamed Latin American country. He plays the symphonic piece as he tortures people, to torment them.

In the play, a lawyer who has been named to a commission to examine what has happened in the country previously with respect to those who have been arrested and tortured and killed, disappeared, indicates that the reason that the regime was able to accomplish this in the first place was the abandonment of habeas corpus; that is to say, the capacity of the individual to be able to take a case to a Federal judge, in the context of the United States, to ask that judge to determine whether or not he or she is being fairly held.

☐ 1545

As my good friend from California, Mr. MILLER, said to me just very recently in discussion about these remarks and positions on the bill, the loss of our rights and our privileges do not come in grand sweeps. They come by degree, they come by circumstances that are deemed at the moment more than sufficient to erode that particular right.

And so I asked friends at the Library of Congress to provide for me a copy of the playwright's essays. Ariel Dorfman, the Chilean writer, is the author of the play "Death and the Maiden," and he was written a book of essays or compiled a book of his essays called "Some Write to the Future." I recommend it to the Speaker and to others who are concerned about this. I realize it was an agonizing vote for many.

But in the process of commenting on Chile, the country from which Mr.

Dorfman comes, he wrote an essay once called the Political Code and the Literary Code, the testimonial genre in Chile today.

In it he says, in that essay:

> Terror, then, has a public character. As such, it leads to a great ideological operation, which authorizes, in the name of Western, Christian values, a purifying crusade against the forces of the Devil and of the antination. The principal obsession of authoritarian politics is to suppress history and those who could modify it, postulating an unchangeable and superior reality, God, fatherland, family, to which one owes loyalty.
>
> What is paradoxical about this ideological framework is that it excuses a repression that, in fact, is never admitted by official channels. Memory of the suffering must survive in gossip, in rumor, in the whispering of what they did, and even in official threats, but at the same time, in each concrete case, in each undeniable and undocumented case, with damaged teeth, genitals, and ribs, in spite of each relative's identification, in spite of the cries of pain, the truth of the violence is denied. The people are punished, but in the long run the relationship is made benevolently and paternally innocent, translating it into terms that are almost familial and intimate: expulsion and exclusion of the wayward, the recalcitrant, the disturbers of public order; reintegration, of the misguided and the repentant. Neo-colonial fascism takes the bourgeois dream to its totalitarian culmination.

Mr. Speaker, in that context we see, then, that to eliminate habeas corpus does damage to the Constitution beyond repair.

MILLER EXPRESSES CONCERN REGARDING TONGASS AND REPUBLICAN MASQUERADING ON EARTH DAY

The SPEAKER pro tempore (Mr. PETRI). Under a previous order of the House, the gentleman from California [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of California. Mr. Speaker, the Tongass National Forest in southeast Alaska is one of the jewels of the American forest system. It is America's only temperate rain forest that is intact, that can be protected and that can be preserved. It is also the subject of a rider on the appropriations bill to do great damage to the Tongass, contrary to the law that was passed a couple of years ago to reform the forest practices on this forest.

The gentleman from Louisiana [Mr. LIVINGSTON], the chairman of the Committee on Appropriations, has asserted that the provision that is now in that legislation in fact is a decrease in the number of board feet eligible for cutting from 450 million board feet to 418 million board feet. The fact of the matter is that that is not accurate. The Tongass Reform Act of 1990 eliminated the 450 million board feet mandate for these lands and protected over 1 million acres from the forests for logging, reducing the amount of old growth timber that is eligible for harvesting by 51 million feet annually.

The number of board feet eligible for cutting is currently 399 million board feet. The rider would increase that by 19 million, to 418, which is over 100 million board feet above the average cut in the last decade.

The fact of the matter is that the rider is very detrimental to the future of the Tongass forest. It asks for cutting that is not sustainable, that will ruin this forest, that will put it into history, and far exceeds what the Forest Service just came out with today in terms of its preferred plan.

In fact, what it is, the Forest Service preferred plan, after going through the planning documents and how to sustain this forest for future generations and continue to be able to timber it, is 172 million board feet less than the 418 that the gentleman from Louisiana [Mr. LIVINGSTON] is talking about. That is because the rider is proposed to circumvent the public planning process, the public input into this process, and have the legislation dictate that cutting no matter whether it ruins the forest or not.

They say they are green, they say they honor the environment, they say they want to protect it, but do not look at what they say, look at what they do. This is another example. The law does not do what they say. In fact, it is very detrimental in this case to one of our prized national forests.

That is why today earlier Minority Leader GEPHARDT and many of my colleagues issued a warning, warning the American people to beware of Republican candidates coming to your hometown between now and election day saying that they support environmental protection, but who in fact have voted repeatedly in this Congress against environmental protection. These are Republicans practicing ecofraud. The only thing green about these Republican candidates is the camouflage they are using to mask their antienvironmental record and the money they take from special interests to gut environmental measures of this Nation.

To the Republican leadership and to those who follow them in this Congress, today we issue the following challenge: Stop your assault you are leading on the environment, stop the masquerade you are playing out on Earth Day to appear environmentally friendly, and work with us to protect those environmental laws that protect this Nation and to improve those that do not.

But do not pretend that because you bring to the House floor two minor bills that everybody supports, when you have voted in the past to destroy the basic environmental laws of this country, that somehow you are now pro-environment. You are not. Do not pretend that planting trees or cosponsoring a trails bill or a 1-day cleanup of the beach, as your campaign advisers have told you to do, makes you an environmentalist. It does not.

You cannot vote day in and day out, as you have in the Congress of the United States, to gut the Clean Water Act, to gut the Clean Air Act, to bankrupt the Environmental Protection Agency, to destroy the national parks and the public lands, and the forests of this Nation, and to give away those resources that belong to the taxpayers and the people of this Nation to the special interests. You cannot do that and then for 1 day dress up and pose as an environmentalist.

The fact is you will not get away with it. You will not do well on Earth Day. and you certainly cannot come to the well using the Republican Environmental Task Force to provide you cover, when the average environmental vote of the members of that task force is only 18 percent. That is the average vote. Think of how low you had to start at the top to get down to there.

The people will judge you by what you do and not what you say, and what you have done so far to lead the most comprehensive assault on environmental protection. The American people hold these values dear. They hold the protection of our air and our water to be very important. They will not give it away to a 1-day masquerade on Earth Day by the same forces who have gutted the essential environmental protection laws of this Nation.

CONGRESS ATTEMPTS TO COMBAT SCOURGE OF ILLICIT DRUGS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Illinois [Mr. HASTERT] is recognized for 60 minutes as the designee of the majority leader.

Mr. HASTERT. Mr. Speaker, first I yield to the gentleman from Pennsylvania [Mr. CLINGER], the distinguished chairman of the Committee on Government Reform and Oversight.

Mr. CLINGER. I thank the gentleman very much for yielding to me, and I would just, No. 1, commend him for holding this special order, and the gentleman from New Hampshire [Mr. ZELIFF] and the gentleman from Indiana [Mr. SOUDER]. You are three of the four Members who participated in what I consider to be perhaps the most significant and important congressional delegation of this year, certainly in terms of the work of the Committee on Government Reform and Oversight. This was an enormously important and very, very revealing, I think I might say, congressional delegation.

You visited five countries, and each one of them for a very specific purpose. In Mexico, because 70 to 80 percent of the drugs that enter this country come across that border, I think it is something that we need to be focused on.

How can we do a better job? What are the problems that we are facing there, and how must we deal with them?

You visited Panama, which has major money laundering problems, and shares an uncontrolled jungle border with Columbia. And of course Colombia, which is the world capital, if you will, in terms of the supply of cocaine worldwide; Bolivia, which is the second largest producer of cocaine after Columbia; and Peru, which produces two-thirds of the world's supply of coca leaf. I know, because the gentleman from Illinois has briefed me very thoroughly, as has the gentleman from New Hampshire, on this trip.

I must tell you I have been dismayed and really disappointed at some of the media coverage of this trip. If we indeed are going to assume that no congressional travel has any merit, and that is what seems to me that the press is deeming in this case, this was an incredibly active, vigorous CODEL. You did not engage in, quote, junketeering. I think it is fair to say you were all exhausted by the time this trip was over, because it was very intense, very focused and extraordinarily productive.

I look forward to the report that will come out of this matter, and I look forward to perusing the results of this special order. I again commend the gentleman from Illinois [Mr. HASTERT] as a leader of the delegation for the very excellent work that was done on behalf of the Committee on Government Reform and Oversight.

Mr. HASTERT. I thank the gentleman from Pennsylvania.

One of the things that we wanted to look at is what are the contributing causes to something that would kill 10,000 people in this country, many, many of them our youth, our college students, our high school students and yes, even some of our junior high students. One hundred thousand deaths because of some unseen, unknown culprit, $300 billion in the 1990's alone, the cost and the deaths that have resulted by this phenomenon.

What is the phenomenon? It is drugs, it is speed, it is crack, it is cocaine, it is heroin. Where does it come from? Why is it here? Those questions are pretty relevant, especially if you are a family across this country that has had a child involved in drugs or a death in your family because of drugs, or you have had your home burglarized or your person held up because some drug addict had to get money to get a fix. Then you are drawn into this whole idea of where drugs come from and why they exist and what is the whole issue and mechanics that move drugs from South American countries and southeast Asian countries into our borders.

If you live in a neighborhood that you are imperiled to go out at night because you are afraid you might be mugged, held up, or somebody is on crack cocaine or on heroin and you feel that you or your family may be accosted, the reason is that we have drugs in this country. We are the demand source for literally billions and billions and billions of dollars of drug trade.

In our emergency rooms every year, in our hospitals, and we have just moved a health care bill through here, but clearly 500,000 emergency room incidents in this country alone come from drug abuse. There are 250,000 Americans serving time in our prisons, both in our Federal prisons and in our State prisons, because of drug law violations. Unfortunately, drug use is involved in at least one-third of all our homicides and assaults and property crimes.

☐ 1600

Now, something that would cause, and we do not have the exact numbers because it is pretty fluctuating, but something that would cost between $70 and $90 billion to the people in this country every year, the net, and that cost piles up day in and day out, that is pretty important.

I think it is pretty important for this Congress, who initiated a pretty strong drug policy in the 1980's and has gone from a Just Say No policy to "just say nothing" government over the last few years, I think we need to examine ourselves. We need to examine where the cause of this problem is, examine our problems in trying to stop the demand in this country, but, most of all, we need to find out where this comes from and stop the growth of coca leaf, the growth of heroin poppies, the manufacture of speed or methamphetamines. That is what this endeavor was about. Where does this come from? What do we do? How do we find out about it?

This chart right here shows the toll of drug abuse's estimated cost in the United States. The cost of illness is over $8 billion. The cost of death is over $3.4 billion, if you can put a price on death. The cost of AIDS, $6.3 billion, AIDS that people get through use of intravenous needles and passing those needles around from drug addict to drug addict. And the direct medical costs in this country are $3.2 billion. But the big cost is crimes and misdemeanors to the American people because of drug use is over $46 billion.

Now, if you want to count all the victims of crime and people who have been assaulted and people who have been beaten up, then you can move this cost of nearly $66.7 billion probably up to $97 billion. It depends on the accounting method you use.

But if we are going to do something and impact upon the value and quality of this life this country is going to have, then we are going to have to start doing something about one of the main reasons that this problem exists.

Now, when you start to look at what the costs are to the American people and look at what the costs are to what this Congress is trying to do, let us take a look. Some $13.2 billion expended. Where does it go? State and local assistance, almost 10 percent. Other law enforcement, the FBI, DEA, others, about 2.5 percent. The research and development to find out what drugs do is another 4 percent. Drug abuse prevention, which is a good program and certainly gets into our neighborhoods and schools, it is almost 14 percent. Drug abuse and treatment for those people who have been into drugs and need to be led back and hopefully on a path that will rehabilitate them, although it does not have very good results, 20 percent of our budget. Interdiction of drugs, where we go out and try to catch the drugs moving through other countries, coming into this country, and drugs moving in this country, is roughly under 10 percent of our budget. Regulatory and compliance 0.38 percent, investigations, 13 percent, international involvement, 2.3 percent.

Now, remember, almost 90 percent of the drugs coming into the United States of America come from other countries. Our international involvement is 2.3 percent. Prosecution, it passes a lot of money, it takes prosecutors and district attorneys and States attorneys to prosecute drug thefts and drug crimes, 6.4 percent every year. Corrections, the costs that we have in this country to keep people in prisons, is 15.5 percent. Intelligence, to find out on the street where the drugs are coming from, who is selling them, where it is being put together, where drugs are manufactured, are 2.3 percent. And the State and local assistance we give to cities and States is nearly 10 percent. So that is almost $3.5 billion that every State and municipality has to dole out to find the reason, to find the solutions.

Now, why did we take this trip? It is a good question. I think we need to answer it. Because in this country, when we look at Mexico, and if we would take Mexico as a V or triangle and look over here in Mexico, we have four huge drug cartels. Coming up through the area of the Gulf State area, it comes into southern Texas. We have the problem of drugs coming up through the cartel zone in Sonora, which is along our Arizona border. We have drugs coming up along the Tijuana cartel that comes up into California. We have drugs coming up into the Juarez area, it goes into El Paso, TX, and up through that area.

So we have four huge cartels. Where are they? Not United States cartels, they are Mexican cartels. So nearly 70 percent of all drugs that come in, that are grown in Peru and grown in Columbia and manufactured in Colombia and grown in Bolivia, come up either through Colombia or up through the airways and land in those cartel areas in Mexico.

Well, we had a meeting with the Mexican Congress, and we stressed to them that it was important that in Mexico, we better start doing something, they better started doing something, on a cooperative basis.

What should be done? Well, we need to have good legislation, and the Mexicans understand that, and they are stating to do that. So they have money laundering legislation so that they can start to find the money that comes in these cartels, and they can start to trace where it comes from. And it does not just come from Mexico, folks. It comes from New York, Philadelphia, Chicago, Los Angeles, and San Francisco. So we can start to stress where that money comes from, because if we can take money out of the drug equation, that is the most important thing to the drug traffickers and the drug pushers and the cartels and the Mafioso and the street gangs that all make their money off drug trafficking. If we can take that money away, find the way that they launder that money we can begin to solve the problem. We can begin to deny those people from the end results, from all the trouble they get in with drugs in the first place.

We also need to have wiretap authority so those criminals who do the drug deals, especially in Mexico, that Mexico has the ability to tap in and find out who they are and what their deals are.

We need to have anticospiracy legislation and antiorganized crime and asset forfeiture. If you find a drug cartel or pusher that is moving drugs up into the United States, so that they can take their planes and automobiles and haciendas and those things away, deny them the tools that they use to move drugs into the United States. And we need to aggressively pursue the naroctraffickers.

These are things we stressed to the Mexican Congress and things they pledged to us they will begin to work on in the next year.

Mr. ZELIFF. I would just like to first, Mr. HASTERT, thank you for the leadership that you provided to this effort. Our overall leadership asked us to put this thing together. We have worked on this effort now for a year and a half on the drug issue, and started back in March 9, 1995.

Before I get into what we have done as a committee, I would just like to mention one other thing in Mexico. As you know, the Clinton administration just certified Mexico and decertified Colombia. So one of the things we looked at down there and some of the things that were brought out, the President of Mexico has made a major commitment that drugs and crime are now their No. 1 issue, their No. 1 threat. I think we are starting to make some progress. We are starting to see the beginnings of a process. When the President of Mexico starts to send that signal all the way through they are going to get serious on it, then we are starting to turn the corner.

The other thing I would just like to mention in addition to certification and the President, we talked about NAFTA has an impact here, economic development has an impact. But there are many things we looked at throughout all these countries.

If I can, can I just mention a few things that the committee has done as we led up to this trip.

We started out with Nancy Reagan and her effort back in the Reagan administration on "Just say no." That, of course, affects the demand side. We had Judge Robert C. Bonner, former Director of the Drug Enforcement Administration, testify; Bill Bennett, Co-Director, Empower America; Hon. Lee Brown, former Director, National Drug Control Policy, testified; Thomas Hedrick, vice chairman of the Partnership for a Drug-Free America; Mr. James Copple, national director of CADCA; Mr. Robert Heard, director of program services, Texas War on Drugs; Adm. Paul Yost, former Commandant, U.S. Coast Guard under the Reagan and Bush administrations.

We have had several hearings with Dr. Brown. I traveled to Boston with him. We went into Framingham Prison for Women. That certainly is a scary effort, where we talked to several women who hit the bottom due to drug abuse and alcohol abuse. We have learned a lot from that as well.

We went into treatment centers, and we have done a trip with this subcommittee with the Coast Guard in the interdiction zones. If you want to use an example of a narco democracy where the country has lost control, take a look at St. Kitts. That is what the problem here is. Mexico is starting to realize if they do not get serious, they can lose control of their country. The same thing with Peru and Bolivia and other countries we visited.

I would like to also just, if I would, mention Bob Kramek, the Commander of the U.S. Coast Guard. What a great job they have done.

One other thing is we are working very closely with Barry McCaffrey, the new drug czar, former 4-star general in the Army, doing a great job in putting this thing together.

We are just very encouraged that we are starting to get our arms around this thing, but we cannot do it from Washington, DC. We have got to get out on the front lines and see what is working and what is not working.

Manchester, NH—Peter Favreau, the chief of police in Manchester, NH, had Operation Street Sweeper. He recognized how serious this issue was. He called in help from the Attorney General's office. We also got help from Federal, State, and local police forces that all worked together as a team. They are getting crack off the streets. They are closing down crack houses. They are sending drug sellers to jail, getting them off the streets. They are taking back their streets, taking back their community. We are starting to see evidence of people starting to wake up and realizing the significance of how important this thing is across America, across all these countries and throughout the world.

Mr. HASTERT. Before you stood up, I wanted to congratulate the gentleman and his subcommittee work on the intervention and looking at the oversight. You have the oversight responsibility in the Committee on Government Oversight. You have done a very good job. You have set up the premise on this action and this joint teamwork we are going to do.

The first step is, of course, laying out what the problem is. The second step is to take a look at it and try to find some solutions to it. You also were instrumental in bringing the former ambassador of Colombia with us, and he paid his own way to be a part of this, to try to solve the problem; former ambassador Morris Busby, who did an invaluable service trying to lay out what the predicate was and trying to move through this whole process.

But I commend the gentleman, and you certainly have done a good job. But we have a lot of work to do.

Mr. ZELIFF. We sure do. I would throw out one other thing you have been a big help with. We started a congressional breakfast, where we have 40 to 50 Members of Congress working with CHARLIE RANGEL, both sides of the aisle, from New York. He has been a big leader in this effort as well. We have had meetings with Louis Freeh, Director of the FBI; Tom Constantine, DEA Administrator. We have great respect for both of those gentleman. Now, Barry McCaffrey most recently. We are going to keep our Members updated. There was a lot of concern and a lot of commitment. I thank the gentleman.

Mr. HASTERT. I would like to wrap up a little bit what we did and saw in Mexico. We have done five countries. I would like to yield some time to the gentleman from Indiana first.

Mr. SOUDER. Mr. Speaker, I briefly wanted to say here at the beginning, too, I wanted to thank Mr. ZELIFF, the chairman of the subcommittee, for raising the issue of the drug war and the battle that we need to do, because we had abandoned it for some time, and say what a privilege it has been to work on his subcommittee, to do the hearings over time, and to initiate this trip.

We really had a strong team. Mr. MICA, who had experience as a staffer, as an international businessman, and on the plane we could work together, and in your skill as a Representative of leadership and for them to know that they had the subcommittee chairman of multiple committees.

It was amazing as we went into some of these countries, they heard of Mr. ZELIFF. They said, "Oh, yes, he is the person who has brought drugs back in front." I heard several leaders of those countries take them aside. Your smoothness when we went into Mexico, it was a difficult situation. They had just had the immigration border incidents that we were there on a narcotics mission, but in fact it turned into a very touchy diplomatic mission as well in a lot of these countries.

I want to commend the gentleman as to how he smoothly handled that as we met with the Members of Congress there for dinners and President Zedillo and the foreign minister, because these turned, in Colombia and other countries we will talk about here, and particularly in Mexico, into potentially explosive international incidents that we were able to help facilitate.

□ 1615

Mr. HASTERT. I thank the gentleman for his contribution. I would also like to recognize our good friend and fellow traveler, Mr. MICA, from Florida.

Mr. MICA. Well, I want to, first of all, Mr. Speaker, thank Mr. HASTERT for his leadership. When this trip was originally planned, about 11 people indicated they were going to go; and as it turned out, Mr. HASTERT, Mr. SOUDER, and Mr. ZELIFF, and myself were the only Members that went.

I want the Speaker and my colleagues to know that, and listen to this, despite cables indicating 22 deaths from terrorist bombings on April 10, that is just before we left, in Columbia, and the discovery of dynamite at the Colombia Supreme Court, also on April 10, codel members stood by their commitment, and those who stood by their commitment are on the floor.

This trip is a culmination of some of the efforts that I and a few others, CHARLIE RANGEL, BILL RICHARDSON, on the other side of the aisle, have attempted to get the attention of this administration and this Congress on this issue. In the last Congress I had over 100 Members sign a letter to the former Democratic chairman of the Government Operations Committee asking for an oversight hearing on our national drug policy, and two farcical abbreviated hearing were held. Nothing was really held, until Mr. ZELIFF took over this position. Mr. CLINGER and Mr. HASTERT have also shown their leadership.

I would say that required reading, and I have seen on the floor for this, this committee is taking this very seriously, and they have produced a document that every American parent, every Member of Congress, and every member of the media should look at, and this details the epidemic drug situation in this country. It is not just with adults, it is with our children. Every single drug, marijuana, cocaine, heroin, designer drugs, are absolutely just going off the charts. This is a national tragedy. We have 70 percent of the people in our jails and in our prisons that are overloaded with people who are convicted of crimes that have some drug relation to it.

We have an epidemic in this country and no one, except some of these Members, is paying any attention. And these Members risked their lives and also time with their families to go on this visit to see firsthand. The first codel in my memory in the last 3 or 4 years, and certainly in this administration.

Then, also in required reading, I ask everyone to get a copy of this trip report, Mr. Speaker and my colleagues. This is an unclassified report. I know the media could not care less about it, but it details what is going on in the drug war and where we are. We have the report that details the failure, we have the report that details this delegation's travel to these countries and why they traveled to Bolivia, to Peru, to Colombia, to Panama, and to Mexico.

First of all, in Bolivia and Peru, they have nearly 100 percent of the cocaine being produced. If my colleagues want to hear some shocking news, we learned in Colombia, which was originally a transit zone, even though now they are producing some cocaine, but every American, every Congressman, and the Speaker of the House should be concerned about this, there are 10,000 hectares of poppies being grown there. Heroin will be on the streets of this country in tremendous amounts.

What is another concern, we learned from some agents that we met with that for the first time in Peru they found some cultivation of poppies. So we can see that we have a long way to go.

Part of the history of how we got in this situation is the administration shifted most of its resources to drug treatment, which is at the far end. Anyone who looks at the problem of drugs in this country knows that we must have a four-pronged approach. It must be, first of all, interdiction, which is dramatically decreased in these countries. We must have enforcement. In this administration the number of prosecutions has dropped dramatically in drug prosecution. We must have education and then we must have treatment. But it must be a four-pronged approach, and we are losing the war.

These people met with the leaders and other people who are involved in this war. And I must take just a minute, too, if I may, to tell the Members of Congress, Mr. Speaker, and the American people, that we have some dedicated people out there. I am still itching from bug bites. Our staff, almost all the staff got sick. The DEA agent that traveled with us had to almost be hospitalized by going into some of these areas, getting sick and bitten, but we came back. The good news is we came back.

The other news that everyone should know is that we have hundreds of dedicated Americans, our ambassadors, our Department of Defense employees, these young men and women who are out there in the jungles working with these people that are dedicated young Americans, committed to this fight. The Department of State employees in the narcotics assistance unit.

I am one of the biggest critics of AID, Agency for International Development, and a lot of their programs was wasteful, but down in these countries they are trying to work with crop substitution and other programs where we should be putting our emphasis, not on giveaway programs where we can make a difference.

And the DEA people. I met a DEA agent who has been in DEA for 12 years, 6 years in South America, his name is Bill, and he is a committed person. And I cannot single out all of them, but we have dozens of these people who are out there in the jungle working every day trying to stop this narcotics trafficking, when sometimes the administration or Congress undermines their efforts. So there are American heroes, our Customs people and intelligence agency people, that are also involved and should be recognized.

Mr. HASTERT. I thank the gentleman.

Mr. MICA. So that is the problem, that is where we are, and I wanted to shed that background of what we are trying to do and what some people are doing out there in the field.

Mr. HASTERT. I thank the gentleman. What I want to do now is take a few minutes and sort of let the Speaker, and the Members of Congress know exactly what we did, where we went, what we found during that period of time, and we will try to move through that as quickly as possible and then come up with wind-up remarks on this.

As I started out and talked about Mexico, I think the key thing is in our meetings with the President of Mexico and with the Ambassador, Mr. Jim Jones, a former Member of Congress, that we found out in discussions with the President, that he thinks that the drug problem, the trafficking problem up through Mexico is really Mexico's number one problem, because it is a false indicator on their economy. The money laundering, which only forces legitimate people out of business, and the tremendous amount of drugs that move up through Mexico really cause violence and shooting and some guerrilla activity.

For instance, in the last few years, deaths in Mexico because of this grew

145 percent, and there were over 2,000 speed or what we call speed or methamphetamine-related deaths between 1991 and 1992, even in the borders along Mexico, in Los Angeles, and San Diego, and San Francisco alone.

So the incidence of increase and literally trainloads of marijuana, thousands of pounds of cocaine and crack, and literally thousands of pounds also of heroin that is moving up through Mexico is not only a United States problem, but the Mexican President in our discussions has admitted it is the number one problem in Mexico as well.

The next place that we stopped was in Panama, and we met with Ambassador Bill Hughes and the new Ambassador to Colombia and the country team there. Then we met with the SOUTHCOM, which is the U.S. command that is out of Panama City, that is literally the source that we can send our AWAC planes down to Colombia and off the Andes area in Peru and Bolivia and we can actually see foreign flights coming up and the flights that deliver and drop—pick up the cocaine or coca paste and bring them up north either into Colombia or then into Mexico to be processed. That is a very sensitive place.

But Panama itself has a problem because they are in a very precarious position and a vulnerable position. The city on the north coast, on the north part of the Panama Canal that empties into the Atlantic Ocean, has the free trade zone in that area, has virtually been overtaken by Colombians, and literally hundreds of tons or pounds of cocaine and coca leaf and coca paste move through that area; and they understand a country without a military, with just a police force, that they have to do a better job of cracking down on that.

Also, Panama has over 400,000 shell companies or paper companies that are used as fronts to launder illegal drug profits. In talking with the Vice President of Panama, he admitted this and said this is one of the most important things that they need to do and they need to try to control. They know that Colombia is a primary drug transit zone.

The United States is currently in the process of turning over military bases to the Panamanians, and that is a sensitive thing to the United States. I think Howard Air Force Base, where we base our P-3's and our helicopters, and is the repair base for many of the operations in South America, was very important to the United States in drug control. So that is something else the United States has to deal with in the next couple of years.

But Panama has no military. It has not been eligible for the military sales systems. And in the last couple of days we have passed a piece of legislation in this Congress to allow the Ambassador to be able to use some of that money to work on the counternarcotics in Panama. Panama can and will be likely the gateway for the overtake of the narcos if we do not get something done there and if we do not beef up our activities.

Now, people talk about, well, how come we are sending money to Panama or Mexico. We are not sending money, we are sending people; those people who on the ground can make a difference. We are sending intelligence officers, members of the DEA, so that they can actually get in and find out where the source is of the storage, where the transshipment is, where the manufacturing of these narcotics is, and they are doing a good job. But we cannot shut that faucet off, because if we do shut that faucet off, we will see a huge increase of infusion in drugs added to the drugs that we already have in this country.

I think the next place that—I know the next place that we went was Colombia, and I would like to have Mr. MICA from Florida give you a little bit of a review on what we found in Colombia.

Mr. MICA. I thank the gentleman for yielding and, again, we wanted to trace the trail of illegal narcotics coming into this country. As you know, Colombia traditionally has been one of the major transit areas. We have had a program to eliminate some of the kingpins, and the Colombians have been very aggressively pursued, destroying both the Cali and the Medellin cartels.

In Colombia, under some pretty heavy security I might add, the Congressmen and the other members who traveled with us of our staff met with our Ambassador Myles Ferchette, who again I commend on his efforts, his incredible living conditions; as well as Defense Minister Esguerra, and Commander of Armed Forces Delgado.

As I mentioned, too, nearly several dozen police officers had been killed just prior to our arriving, and I understand another several dozen people have been killed in incidents down there just the past few days, plus other terrorist activities. So you can imagine the conditions that our representatives and Ambassadors are under.

It was necessary for this tight security to meet in our embassy. We met there and conversed with our DEA agents and others who were involved in the various projects.

Two of the Colombian leaders, and I must say that there are questions surrounding some of the drug relationships to the current President of Colombia. There are 109 members, I understand, of the Colombia's Congress, over 100 members of the Colombian Congress that may have some problems, and there are some investigations going on there.

□ 1630

But we met with 2 stars in their drug war, who have done an incredible job, and one is the national police chief, Mr. Serrano. He told us that they have lost over 3,000 officers in this war.

As you know, the drug cartels have killed judicial members, they have killed members of congress, they have killed hundreds, literally thousands, of police officers in their struggle.

We also had an opportunity to meet with defense minister and commander of the Colombian Armed Forces Admiral Delgado. So we had an opportunity to hear firsthand what they are doing, some of the problems.

I might say that one of the problems that we had is in 1994 this administration reversed its policy on the drug shootdown policy. They stopped giving information and intelligence and radar to the Colombians in the Andean countries through a liberal interpretation of one of the attorneys in the administration.

As you may know, Members of Congress, Mr. TORRICELLI, Mr. RANGEL, others on the Republican side, Mr. GILMAN, raised extreme concerns with the President, the vice president, the national security adviser. Congress did amend this, and there have been some changes. But some damage was done in the program.

The Colombians do not shoot the planes down out of the skies with drug traffickers, but they do shoot them when they reach the ground. One of the problems that we have now is that some of the shipments are being shipped around Colombia directly into Mexico, and Mexico is now one of the greatest transshipment areas.

Another problem that we have are these small cocaine producers. With the drug cartels being destroyed, we now have small producers. And they discussed that problem. They do need our assistance, continued assistance in this war, additional equipment and supplies. There are people there that are willing to fight, and they have seen how it has destroyed their country.

So those are a couple of the things that we saw in Colombia.

One other thing that I must mention again is the alarming news of 10,000 hectares of poppy growing, and they are now producing heroin there. And as you know, they have a great flower production, probably the flower capital of the world, and poppy is another flower.

So they have an unbelievable capacity to produce a new, inexpensive, illegal narcotic, and it is flooding our schools and our communities and our society, and we will probably see even more of it.

So those are some of the folks that we met with, some of the heroes I talked about, and some of the leaders in Colombia who are helping in our effort.

Mr. HASTERT. I thank the gentleman from Florida. We also want to mention that in our time in Mexico, we were joined by Senator COVERDELL of Georgia, who also has taken, in the other body, a great interest in this issue.

Now I would like to yield some time to our good friend from Indiana, who has done a great deal of work on this narcotics issue, Mr. MARK SOUDER.

Mr. SOUDER. Thank you very much for yielding.

I want to first just sketch a little bit of the problem. The United States is basically up here in relationship to this map, with Mexico and Panama and Central America coming down into Colombia, Peru and Bolivia. It does not take a genius to figure out what is going on here.

One hundred percent of the cocaine coming in from outside the United States is coming from here. Roughly 60 percent is now coming from Peru, which we will hear more about in a minute. About 30 percent of the growth is in Bolivia, with some in Colombia. Not only that, it is coming from basically two places just on the other side of the Andes in Peru and in Bolivia. Bolivia has been growing; Peru has been slightly declining.

Furthermore, we are seeing more of the processing. As the pressure goes on in Colombia, the processing starts to move to these two countries in these two valleys. Not surprisingly, as you put the pressure on, and this is a chart that shows some of the success in the Chapare region of Bolivia, that they have had. You can see that they seized aircraft, they have seized coca leaf, they hav seized coca-based paste and base. They have eradicated crops. They have made a major effort in this zone to try to crack down.

If you look at this third chart, what has happened, and this shows the Mexico through Central American areas we were in, as they put the pressure in the air, it starts to move to maritime.

What we were in was literally the jungle, the rivers areas that were feeding into the Amazon River Basin. It was very disturbing, quite frankly, as somebody who, in spite of the earlier comments, does care about the environment, and I am a Republican; it was very disturbing to see how the rivers were being killed by the chemicals from the cocaine labs and what that was doing to the wildlife.

We hear a lot of times about cutting down the Amazon rainforest, and we get many letters from schools. But we could see it burning in different places, and we could see it being cut so they can put cocaine labs in.

I want to show, if I can have the pictures now, what we did in Bolivia. After we had our country team briefing, we flew up in a C–130 Vietnam-era transport plane up into the Chapare region to meet with the Puma powers, the soldiers who are busy working in the fields. We did a helicopter, a Huey helicopter, overflight where you can see they have had success in converting things into banana production, pineapple production and others.

You could also see that they were hedging their bets, and some places underneath the banana plants you can see the coca. But they were working to eradicate that. They passed tougher laws.

Then they took us back in after we had had lunch. They landed us in helicopters. We took four-wheel-drives. We went back down dirt roads. The day before, they had a tip, and they took down a primitive lab.

Here what you see is the lab where they are turning it into paste. Here you see we got to witness them blowing up a lab, watching it burn. This is very dark because it is a jungle. It is the literal Amazon jungle. You cannot see it from an airplane overhead. They find six to eight of these a day that they destroy in the jungle that these troops are going through.

Here you see leaf that has been pulled up, green leaf that is planted.

Later on in the day we stopped at a local market, walked in and there the coca leaf was for sale in those markets, not converted to cocaine where we were.

Here you see the coca field that is feeding into this particular lab and the soldiers destroying it.

In the back part of this field there was a small area where the little coca plants were planted that would then continue to feed this field.

In my home area in Fort Wayne, IN, there are kids dying. You do not see the blood on the coca plants, but there are kids dying; they are shooting each other; they are destroying each other because of the coca plants that are coming in from these countries.

What they are telling us, however, is also it is not all our problems, you can see their troops here, you can see their airplane flights and crops being destroyed. We listened to their governments.

It is their police that are dying as we heard in Colombia how many are dying. And they are saying, you know, we would not have this problem if you were not consuming it all in your country, too, and you are bringing the problems into our country. It is twofold. We need to stop the interdiction, we need to put more money into these efforts, because our kids and people are dying in our country, and back up the people there, and at the same time we need to work at the demand reduction on our side.

Mr. HASTERT. I appreciate the gentleman yielding back for a second, but he makes very important points that the reason we are doing this is our children. Kids in the streets of the United States and our neighborhoods, both middle-class neighborhoods, upper-class neighborhoods, lower-class neighborhoods, are being effected by this.

If a kid uses crack cocaine, he only has to use it twice, and he gives up his free will for the rest of his life. Now that is something that is pretty important. I think parents and teachers and community leaders need to understand that.

Only two times do you need to use the crack cocaine, the pictures that Mr. SOUDER showed us, and a kid is hooked for life, and what an expense, what a waste of human life, what a waste of the human vitality that we have in this country and the potential that every kid has in this country to be a better person, to make a living, to raise a family and to be an American.

So that is really the issue there, and, Mr. SOUDER, we really appreciate the work you have done on this.

Now I would like to yield to the gentleman who really has been at the crux of this whole issue, driving it forward for a number of years and working on his committee to bring this issue forward, and certainly a great American, somebody that we have all looked up to on this issue, Mr. ZELIFF of New Hampshire.

Mr. ZELIFF. I feel awfully good that as we have come back and renewed our commitment, we are pleased to have the opportunity to talk to Members of the House, both the Senate and the House, talking to Barry McCaffrey, the drug czar, and hope to visit with the President, as well, and get his commitment.

We need to renew the commitment to the drug war because it is vital, it is the most important single thing that we have facing us. Crime, drugs, and terrorism are all one, and it is costing us far too much in terms of the next generation.

I just would like to talk a little bit about Peru. Saturday morning we met with the President of Peru, quite a guy; our Ambassador Adams in the country team in Peru. We met with them all day Saturday afternoon and evening. What a guy; the President of Peru is totally committed. Two-thirds of the world's cocaine is produced in coca leaf form right here, and this photo right here, these are the coca fields, this is a plant, and these are the coca leaves themselves. But the field is two-thirds of the world's cocaine, produced in Peru.

Now, what has happened with his policies, frankly, it is called a very effective shootdown policy. If they have intelligence that a plane is loaded with cocaine, they will address that plane, send two fighters up, have the plane be warned, have them bring it down. If they do not come down, they shoot it down.

Now, what happens is that the 50 percent pure flights on the air bridge, and you got now, you have got in Bolivia, you got Peru, Bolivia and Colombia. The air bridge goes through all three of those countries in terms of bringing the product up. So we basically have closed down 50 percent fewer flights in the air bridge and are now forced to do alternate routes, either into Brazil or boat by boat, up along the tributaries of the Amazon. We now have to ship policies and resources. There are small boats, small craft, and we need now to make sure we can fight the fight on the water as well.

The pilots before were making $25,000 a flight to fly a planeload of cocaine. Now, because of the shootdown policy, it has grown up to $200,000 a flight. And what is happening, by keeping the pressure on, the farmers have abandoned 20 to 40 percent of the coca fields in Peru. Peru and the United States have a delicate window of opportunity, while prices of coca are down and the risk of production is high, to get farmers out and start working with alternative crops. And this is true of Bolivia as well.

One of the things that I have to say is I was pretty biased, based on the GAO reports that we read, and we were told that programs and source countries eradication programs were badly managed and were not effective. Well, this may have been true a few years ago, but I believe, and I think all of us agree, that we are starting to see some signs, some light at the end of the tunnel, where programs are effective.

Mr. HASTERT. I think an important point that you started to bring out is that not only did the Peruvian campesinos or farmers start to abandon their fields, but the price of cocaine in Peru went down tenfold, and all of a sudden it was so cheap that they could not afford to grow other solid anymore.

So I think that is an important issue of the whole supply and demand, but it was directly because of Fujimora's actions.

Mr. SOUDER. He is a real hero in our books. I think we are all very impressed when we left, and we told him that.

And I think the other thing that we have to look at, an AID program and foreign policy programs need to be geared toward economic development, infrastructure improvements. And what is happening here is that if you leave it to their devices in working with the jungle, that is where the terrorism is. If the towns and the regular government give up the area, then we lose the war.

Let me just trace a very interesting article in the Union Leader back in February 26, an article, and I give him a lot of credit for bringing this out, and I believe that they are committed to this in a very strong way, Sissy Taylor, "Cocaine's Deadly Journey, Trip to New Hampshire Long and Costly." Just go through a little bit of how it all works.

□ 1645

I will go through a little bit of how it all works. Coca leaves are bundled. Again you have the field. Coca leaves are bundled into bags. The bags are brought to pits where the processing begins.

This is the pit. This is about 4- by 12-foot long. The bottom is lined with a filtering canvas. They dump the leaves in, add lime and kerosene or diesel fuel, sulfuric acid, then grind them together with the leaves. A paste is then formed and dried and then washed again with either ether, diesel fuel, or kerosene and then washed again. At this point it becomes coca base.

Then the base is bundled and flown or transported into clandestine air strips in Colombia. It is then transported to processing laboratories in the jungles. It then undergoes another chemical process before it becomes cocaine hydrochloride or powdered cocaine.

It is packaged into kilos, kilo bags, weighing a little bit more than 2 pounds. The farmer gets about $2,500 a hectare, and a hectare is 2½ acres, so he does not get much for growing the crop. Then it goes into Bogota as processed cocaine, worth $500 a kilo. Then that is transported either to New York, Miami, or Manchester or other cities around the United States, and it could reach as much as $20,000 a kilo.

There is so much money in it. What is happening here in each of these countries—President Fujimori of Peru, the President of Mexico, a lot of the areas in the Caribbean, and I want to mention the great Governor of Puerto Rico and some of the fine work he has done—but what happens here is they are afraid of losing control of their countries, losing control of democracy, losing control to drug traffickers, and frankly the drug traffickers are the scum of the Earth. We have got to wake up.

Let me just read a note. I met with the Governor of Puerto Rico yesterday, who is leading a valiant effort. We are going to be doing two more hearings, one in Puerto Rico in July and one in the district of the gentleman from Indiana [Mr. SOUDER], in Fort Wayne, and one in the district of the gentleman from Illinois [Mr. HASTERT], in Chicago that day if we can work it out. We need to get on top of it.

What he said:

> I want to say a few words about Puerto Rico. Puerto Rico, along with Mexico, is a major transshipment point for Latin America's illegal drug cartels. Eighty percent of all the drugs that get into Puerto Rico end up in the continental U.S.

There is no customs. It goes right through.

> But Puerto Rico is ahead of the curve under the Governor's leadership. In 3 years, he has shown what a good Governor can do. He has implemented an effective prevention and law enforcement strategy, and rescued 23,000 public housing units. He has used the National Guard effectively, and brought 16 different State agencies together to make Puerto Rico more secure.
>
> Governor Rosello's model is key, because other Governors and leaders have to realize that we are now confronting what is clearly a national security threat that has gotten into every State in our Nation.
>
> I also hope that the Governor's Conference in Puerto Rico this July will focus on the leadership that this Governor has shown. But more—the drug issue must be front and center with all of us.

If Congress, this President and all of the Governors of the United States make this number one, if we can put a man on the Moon, we can win the war on drugs.

Mr. HASTERT. I thank the gentleman from New Hampshire. I just wanted to make another couple of comments.

When we saw what was going on, the results of President Fujimori's shootdown policy in Peru, what happens is that cocaine piles up there and now they are trying to take it out in the river system. So another country which has been involved somewhat unwittingly is out in the Amazon Basin of Brazil, and so many of those flights now, because they cannot fly up through Peru and through Colombia to get into Colombia, now what they do is they go around through Brazil. That is a real job for our ambassadorial corps and others, to make Brazil aware of the problem that they have with drug traffickers moving that cocaine supply out of Peru and out of Bolivia and on up into Peru through the river system and ultimately through airways.

Mr. SOUDER. If the gentleman will yield, I want to make one additional point on the pictures the gentleman was just talking about. To give you the scale of why the best drug prevention program is interdiction and as we get into some of the things we need to do, that third picture, that is on fire, and the fourth picture. We took down around 100 crack houses in Fort Wayne last year. That is how great our problem is in a city the size of 300,000, roughly, in the metro area. That little fire there would be the biggest drug bust in the history of Fort Wayne, and they can make it in those little labs, starting for $500. We destroyed the biggest drug bust in the history of Fort Wayne. If we can get it there and reduce the supply, it has a major impact on our cities.

Mr. ZELIFF. But if the gentleman will yield, it has got to be balanced. We have got to do education, prevention. We have got to do treatment, interdiction. We have got to do source country eradication programs. If we do not, if we skip 3 or 4 of these pieces, then we lose. We have got to do it in a balanced program across the board.

Mr. HASTERT. I yield to the gentleman from Florida.

Mr. MICA. I want to follow up on what the gentleman had said, Mr. Speaker. This strategy has to start right at the top. It has to start out at the White House.

Listen to this. The President has really hardly talked about the issue for the last 3 years. Of the seven major addresses to the Nation in 1993 and 1994, President Clinton mentioned drugs in none of those addresses. In 1993, he gave 1,628 statements, addresses and interviews, but mentioned drugs a total of 13 times. In 1994 there were 1,742 presidential statements and he referred to the drug problem 11 times.

This has to be a national priority from the administration. We have a new drug czar. He has been great to work with so far. We have a great working relationship with him. As the other Members have seen and as I saw, we need the cooperation of many agents, we need the cooperation of many committees of Congress in both bodies and everyone working in the same direction.

We also must look at how we are spending these resources, and when you see that most of the drug treatment and abuse programs, at the very end, they are failures. Very few of them have any success rate whatsoever. Then the international program is 2.34 percent, and you dismantle an interdiction program at this critical juncture, you are making a mistake as far as your priorities. It has to be interdiction, enforcement, education, and there must be treatment also.

Mr. ZELIFF. If the gentleman will yield further, one of the things we are finding out in Manchester, NH, again I cite Peter Favreau, who has done a great job along with the Federal, State, and local agencies that have worked with him. But we have worked with courageous people in the school systems. You can put a policeman in a school yard but we have to get inside the schools, work with the kids and be role models.

It is not just the President, it is all of us individually. We have got to get the media to wake up and pay attention to this. We have got to start talking to parents. Parents have to start talking to their kids. Business people have to be involved, communities have to be involved. We have to reconnect with basic values. If we do not, we are going to lose big time and we will not have anything left.

It is time now, and hopefully with the leadership of the gentleman from Illinois [Mr. HASTERT], you might just describe what we ultimately want to try to do here. We are trying to bring it all together to show to everybody the importance of this issue, and we really appreciate your effort.

Mr. HASTERT. Reclaiming my time, we have used the word "balance" a number of times, but this is a balance purely between supply and demand. We have to do our part. We promised those Presidents and those Congresses in those Central American countries of Mexico and Panama, and certainly in the Andean countries of Colombia and Bolivia and Peru, that we would work in our country to try to hold down that demand.

That is partly a result of the government. If we take this chart, we can see that from basically 1980 the demand for drugs, the kids' usage of drugs in this country had fallen rapidly until 1992. All of a sudden, the demand for drugs and the use of drugs goes up.

This chart here shows exactly what happens. Twelfth graders, in 1980 the use started to go down. In 1992, it went up. Tenth graders, it went up. Eighth graders, it went up. I am sure if you have a chart there, you will find that sixth and fourth graders' use went up too.

We have to change from a government that used to say "just say no," and we had good results during that time, to a government which has lately just said nothing, and we need to work and develop that as a huge issue in this country. Parents, and as the gentleman from New Hampshire [Mr. ZELIFF] said, everybody has to work together. I am sure we can get the job done, but it has to be a country effort. And we have to work in those countries that produce this, work with their governments, work with their presidents who are willing to work with this country and try to eradicate the supply side of this, as well.

You can see in these charts it is there. They are doing it. They are doing it today. Farmers are planting cocaine seedlings on sides of mountains, under the brush in Bolivia and Peru, and we have to help stop that.

I yield to the gentleman from Indiana.

Mr. SOUDER. I am not necessarily known as "Mr. Internationalist." In fact, I authored with the gentleman from New Hampshire [Mr. ZELIFF] an amendment that said unless Mexico worked harder in this effort, that we were going to cut off funding and support. I have been critical of a number of the trade missions.

One thing I have seen, and we did not shy away from communicating this to them, that all the issues that we are dealing with are related to narcotics in our country. At the same time we need to acknowledge that we have leaders around the world, as you said earlier, who are committed to democracy, who need our support, or we are going to lose the best chance for freedom around the world.

Mr. HASTERT. In closing, I thank all the gentlemen who have worked on this, the gentleman from New Hampshire, Mr. ZELIFF, who has taken the lead in committee, our friend from Indiana, Mr. SOUDER, and of course my friend from Florida, Mr. MICA. I thank the gentlemen.

RAISE THE MINIMUM WAGE NOW

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 60 minutes as the designee of the minority leader.

Ms. DELAURO. Mr. Speaker, I come tonight to the well to talk about an issue really of great importance for working middle-class families in this country.

Mr. Speaker, America needs a raise. I call on Speaker GINGRICH to take a pause from the Republican revolution and allow the people's House to vote on raising the minimum wage now.

The Nation's minimum wage today is a paltry $4.25 an hour. I am proud to join with my Democratic colleagues and President Clinton to sponsor legislation to boost this wage to $5.15. It is the least we can do.

Hard working American families need a break. The minimum wage has lot 27 percent of its value over the past 15 years, and now stands at a 40-year low. It buys less groceries. It buys less gasoline. It buys less clothes for the children of these hard working families than it has in four decades.

These statistics are particularly troubling considering the fact that corporate CEO salaries have risen at the fast clip of 9 percent a year since 1990. In fact, last year the median compensation for CEO's was a staggering $2 million a year. That's more than 200 times the salary of a minimum wage worker.

A recent poll in my home State of Connecticut shows that a full 80 percent of the people support raising the minimum wage—four out of five Connecticut residents favor this measure. A New York Times poll reports that 94 percent of Democrats, 86 percent of Independents, and even 71 percent of Republicans support raising the minimum wage to $5.15 an hour.

Yesterday, a brave group of my Republican colleagues joined the Democratic call for a vote on this issue. I congratulate my colleagues for having the courage to challenge Speaker GINGRICH's wrongful opposition to giving minimum wage workers a modest raise in pay. But the bottom line is the Republican leadership refuses to bring this legislation to a vote. It's all talk and no action. The Republican leader has said the minimum wage increase will come to this floor over his dead body.

This morning's Congress Daily reports Speaker GINGRICH's latest cynical ploy to stiff working Americans. "We're going to look at it," Speaker GINGRICH is quoted as saying, "There should be hearings."

Hearings. The revolutionary Republican leaders just 3 days ago wanted to rewrite the U.S. Constitution without a single hearing.

Hearings. The revolutionary Republicans last year passed $270 billion in Medicare cuts to pay for tax breaks for their rich political contributors—all without a single hearing. And now that the American people are making their voices heard in support of raising the minimum wage, Speaker GINGRICH promises hearings.

Talk is cheap, Mr. Speaker, and so is the minimum wage. So too unfortunately is the cynical way the Republican leadership is treating this modest proposal. Forget the hearings. I call on Speaker GINGRICH to allow this House to vote to raise the minimum wage now. It is a no-brainer. We should do it without further delay.

Mr. Speaker, a livable wage is not exactly a revolutionary concept, but the American people need a raise nonetheless. If we are truly to move people from welfare to work, we must make work pay.

A great American once said, "No man can be a good citizen unless he has a wage more than sufficient to cover the bare costs of living . . . so that after his day's work is done he will have time and energy to bear his share in the management of the community, to help in carrying the general load." Which great American said that? Theordore Roosevelt, the former Republican President of the United States. He was not a revolutionary, but he did understand progress.

Workers who earn the minimum wage pocket only $8,500 a year. That is less than Members of this Congress made when they shut down the Government over Christmas.

Mr. Speaker, working American families do not ask for much. They work hard. They pay their bills. They play by the rules. They are not looking for a revolution. All they want is a little progress.

America needs a raise. I call on the House Republican leadership to stop the stalling tactics and allow the people's House to vote on raising the minimum wage. Now.

□ 1700

Mr. ABERCROMBIE. Mr. Speaker, if the gentlewoman will yield, it might be of interest in the context that you have just established in regard to the minimum wage to note that the State of Hawaii already has a minimum wage at $5.25. We were an economy in Hawaii based on agriculture. We have moved into one of the most service-oriented economies it is possible to have; that is to say, a dependence on travel and tourism.

Yet the argument is always made that if you are in a service economy, you have to keep wages at an absolute minimum. If you are in an agriculture economy, you have to keep wages at an absolute minimum. Yet the prosperity of the State of Hawaii has been based upon the fact that we recognized that people who are working, families that have to work, are best able not just to survive, but to prosper, when they are able to earn more than just a living wage, more than just an adequate wage, but a wage which enables them to fully participate in the economy.

That economy is invested in by the very people who are doing the work. The money stays in the area where it is earned. It is not taken by multinational companies, by international companies, elsewhere. It is not moved into a global economy as such.

That money earned in that State, whether it is Connecticut, whether it is in Hawaii, whether it is anyplace, whether it is in Georgia, in Cobb County, in Mr. GINGRICH'S home district, that money stays in that district. That money is invested in that district. Small business people make money in that district as a result of it.

Those kinds of wages, the minimum wage, in service oriented jobs, when it is earned, is spent in the clothing store to buy shoes for the children right there in the local community. That is where it goes. The small investor, the small businesses, are the direct beneficiary of the raise in the minimum wage.

Ms. DELAURO. Mr. Speaker, I thank the gentleman from Hawaii for his comments. It just makes good sense, and he is absolutely right. The money that is earned stays in the community. The purchases are made in the community, and it helps that local economy to succeed.

Mr. Speaker, I yield back the balance of my time.

MINIMUM WAGE INCREASE BENEFICIAL TO ALL AMERICANS

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). The Chair recognizes the gentleman from New York [Mr. OWENS] for the remainder of the hour as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, I would very much like to continue the discussion on the minimum wage. I serve as the ranking Democrat on the Subcommittee on Workforce Protections, which is directly responsible for the minimum wage, and I am certainly delighted that I hear rumors that suddenly there are manifestations taking place within both the House and the Senate, which means that our great logjam on the minimum wage may soon be broken.

I understand there are some Members of the Republican majority in this House who have begun developing a bill calling for an increase in the minimum wage, and this may lead to the call we hoped for for a long time. There are moments in this House when reason does prevail. There are times when parties lay aside their particular ideological bents and understand the best interests of the American people are served by a particular course of action and the two parties come together.

I hope we are on the way to doing that. I hope the Republicans will recognize that there is a terrible injustice that has been done to working people over the last 20 years. We have a wage gap that is increasing. The value of the dollar has fallen, the minimum wage value has fallen, and we should take steps to do something about that as soon as possible.

As the ranking Democrat on the Committee on Workplace Protections, I chaired a hearing on the minimum wage increase on Thursday, November 30 of last year. I invited several people to come. One of them was the minority leader for the Democrats, Mr. GEPHART. Mr. GEPHARDT'S testimony summarizes it very well.

That testimony I think is such that it would be good to quote it here again, because it does summarize very well where we are and it talks about where we should be going. Mr. GEPHARDT is the sponsor of the prime legislation that is now introduced in the House on increasing the minimum wage.

Mr. GEPHARDT and Mr. CLAY together are calling for a minimum wage increase of 45 cents per year for 2 years. We are talking about a 90-cent increase in the minimum wage over a 2-year period. This is a very modest increase, and the President has endorsed the increase, and indeed held a press conference at the White House where he announced that endorsement.

I just want to read some excerpts from the testimony of the Democrat minority leader, Mr. RICHARD GEPHARDT.

I would ask unanimous consent to include for the RECORD the statement in its entirety. I would like to note that I have requested unanimous consent on a few documents and they have not been entered in their entirety. In addition to entering this in its entirety, I will comment on it now. I would like at the end of the presentation to have it entered in its entirety.

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. OWENS. Mr. GEPHARDT said "I want to thank you for holding this important hearing—for realizing that, even as many Republican call for the outright abolition of the minimum wage—even as they refuse to schedule real hearings or a vote on a minimum wage increase—it is an issue we simply cannot ignore."

I might emphasize that we have repeatedly called for hearings in the committee. I am on the committee of jurisdiction. Just yesterday we called for hearings again on the minimum wage, and so far have had no response from the chairman of the subcommittee or the chairman of the committee.

Quoting Mr. GEPHARDT, "Real wages for all working people have been declining in this country for 20 years; some economists believe it is our longest and steepest income slide since 1820.

"And the people at the bottom of the income scale have been doing the worst. Between 1983 and 1989, two-thirds of all new wealth created in the United States went to the top 1 percent of American households. The bottom 80 percent actually saw their assets drop by about 3 percent. No wonder America has the greatest gap between the rich and the poor of any industrialized nation in the world."

Continuing to quote from the statement by the minority leader, "That is why we must question the wisdom of the Republicans' supply-side revival, which would shower more tax breaks on the wealthy, while raising taxes on the poorest working families, and making huge cuts in Medicare, student loans, and education. The Republican agenda would actually make America's income gap much worse.

"Democrats have a different philosophy. We believe in valuing and encouraging work—not passive profit and speculation. We believe in making work pay, and making sure that no working family has to live in poverty and deprivation. That's why, early this year, President Clinton joined with Congressional Democrats to propose a 90-cent increase in the minimum wage over the next 2 years—a way to lift up millions of hard-working families who have been falling behind."

Continuing to quote Minority Leader GEPHARDT, "Even before we announced this proposal, it came under fierce attack by Republicans who see stagnant wages and eroding job security not as problems, but as the solutions to their ultimate goal: "Helping those at the top of the economic ladder, even while they're sawing off the bottom rungs. Why else would Republicans propose a tax plan that cuts taxes by $8,500 a year for the top 1 percent of families, while raising taxes on the poorest working families by slashing the earned income tax-credit, cutting back on one of the best ways for struggling families to lift themselves into the middle class:

"The fact is, for the millions of Americans who try to support a family on the minimum wage, real wages have plummeted by 30 percent since 1979.

"We're not talking about a bunch of kids working at summer jobs. The fact is one-third of America's 4.8 million minimum wage earners are the sole earners in their families. Seventy percent of them are adults. They are now faced with the virtually impossible task of raising a family on $8,700 a year. In fact, one in five of them are still living below the poverty line.

"Is that the message we want to send to working America? That you can work hard, and take responsibility for your family, and still live in poverty and deprivation?

"That is why it's time to raise the minimum wage by 90 cents. It's a matter of fundamental fairness. It's a matter of basic decency for those at the bottom of the ladder, struggling to climb up. But there are other reasons to support this proposal.

"Raising the minimum wage would help make work pay more than welfare—and too often, that's just not the case today.

"Republicans keep saying a minimum wage increase will cost jobs. But it has been proven time and again that raising the minimum wage won't cost jobs. The last time we raised the minimum wage, Republican Members of the House said it would be a 'death warrant * * * for small business,' and that it would destroy jobs, increase the Federal deficit, and raise inflation. It did none of those things.

"On the contrary, recent research—including a study of noted economists David Card and Alan Krueger—shows that a minimum wage increase has little or no effect on the number of jobs. Since when it is bad for our economy to put more money in the pockets of our workers and families and consumers?

"And it has been proven that raising the minimum wage pushes up wages for millions who already earn more than the minimum wage today.

"Republican leaders have already pledged to fight this increase, as they have resisted similar increases in the past. Republican Leader DICK ARMEY does not merely oppose an increase—he wants to abolish the minimum wage altogether. To the Republicans, lower wages—combined with huge corporate tax breaks—are just money in the bank. Never mind that people are suffering while those profits soar.

"The American people want this increase by overwhelming margins. After too many years of declining wages and opportunities, they deserve it. And Democrats are going to fight to give it to them—because it's right for our economy, and it is right for the hard-working families who are the heart of our country."

I end my quote from the statement made by Minority Leader GEPHARDT on November 30, 1995, at a hearing held by the Democrats on the workplace, Subcommittee on Work Force Protections, which I will include for the RECORD.

TESTIMONY BY HOUSE DEMOCRATIC LEADER RICHARD A. GEPHARDT IN SUPPORT OF MINIMUM WAGE INCREASE, HEARING OF DEMOCRATIC MEMBERS OF HOUSE ECONOMIC AND EDUCATIONAL OPPORTUNITIES COMMITTEE, THURSDAY, NOVEMBER 30, 1995, 10:00 A.M.

Ranking Member Clay, and Members of the Committee on Economic and Educational Opportunities:

I want to thank you for holding this important hearing—for realizing that, even as many Republicans call for the outright abolition of the minimum wage—even as they refuse to schedule real hearings or a vote on a minimum wage increase—it is an issue we simply cannot ignore.

Let's begin at the beginning: America needs a raise.

Real wages for all working people have been declining in this country for twenty years; some economists believe it is our longest, steepest income slide since 1820.

And the people at the bottom of the income scale have been doing the worst. Between 1983 and 1989, two-thirds of all new wealth created in the United States went to the top one percent of American households. The bottom eighty percent actually saw their assets drop by about three percent. No wonder America has the greatest gap between the rich and the poor of any industrialized nation in the world.

That is why we must question the wisdom of the Republicans' supply-side revival, which would shower more tax breaks on the wealthy, while raising taxes on the poorest working families, and making huge cuts in Medicare, student loans, and education. The Republican agenda would actually make America's income gap much worse.

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Even before we announced this proposal, it came under fierce attack by Republicans who see stagnant wages and eroding job security not as problems, but as the solutions to their ultimate goal: helping those at the top of the economic ladder, even while they're sawing off the bottom rungs. Why else would Republicans propose a tax plan that cuts taxes by 8,500 dollars a year for the top one percent of families, while raising taxes on the poorest working families by slashing the Earnest Income Tax Credit, cutting back on one of the best ways for struggling families to lift themselves into the middle class?

The fact is, for the millions of Americans who try to support a family on the minimum wage, real wages have plummeted 30 percent since 1979.

We're not talking about a bunch of kids working at summer jobs. The fact is, one-third of America's 4.8 million minimum wage earners are the *sole* earners in their families. Seventy percent of them are adults. They are now faced with the virtually impossible task of raising a family on $8,700 a year. In fact, one in five of them are still living below the poverty line.

Is that the message we want to send to working America? That you can work hard, and take responsibility for your family, and still live in poverty and deprivation?

That is why it's time to raise the minimum wage by 90 cents. It's a matter of fundamental fairness. It's a matter of basic decency for those who are at the bottom of the ladder, struggling to climb up. But there are other reasons to support this proposal.

Raising the minimum wage would help make work pay more than welfare—and too often, that's just not the case today.

Republicans keep saying a minimum wage increase will cost jobs. But it has been proven time and again that raising the minimum wage *won't* cost jobs. The last time we raised the minimum wage, Republican Members of the House said it would be a "death warrant . . . for small business," and that it would destroy jobs, increase the federal deficit, and raise inflation. It did none of those things.

On the contrary, recent research—including a study by noted economists David Card and Alan Krueger—shows that a minimum wage increase has little or no effect on the number of jobs. Since when is it bad for our economy to put more money in the pockets of our workers and families and consumers?

And it has been proven that raising the minimum wage pushes up wages for millions who earn *more* than the minimum wage today.

Republican leaders have already pledged to fight this increase, as they have resisted similar increases in the past. Republican Leader Dick Armey does not merely oppose an increase—he wants to demolish the minimum wage altogether. To the Republicans, lower wages—combined with huge corporate tax breaks—are just money in the bank. Never mind that people are suffering while those profits soar.

The American people want this increase by overwhelming margins. After too many years of declining wages and opportunities, they deserve it. And Democrats are going to fight to give it to them—because it's right for our economy, and it's right for the hard working families who are the heart of our country.

Thank you for listening. Now I'm happy to take your questions.

Mr. Speaker, I now would like to yield to the gentlewoman from North Carolina [Mrs. CLAYTON] for a statement.

Mrs. CLAYTON. Mr. Speaker, I appreciate the gentleman from New York allowing me to participate in his time and particularly on the issue of the minimum wage.

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Also, Mr. Speaker, and to those who are privileged to have heard the reading of the statement from the minority leader, indeed those same issues are as pertinent now as they were then, and it is indeed the fair thing to do, it is the right thing to do, and in the final analysis it is the economical thing to do; for all of us to have a livable wage so Americans can live better and therefore our economy prosper.

Mr. Speaker, it makes no sense that a person in America who wants to work, and who has a job and works more than 40 hours a week, can still fall below the poverty level. That is the situation we have under the current minimum wage.

The President has proposed, and many Members are supporting, and even a few Republicans are supporting a modest increase. And I want to repeat, it is a modest increase. Only 90 cents over a period of 2 years, 45 cents per year.

Yes; Mr. Speaker, I know that some in the business community have argued that an increase in the minimum wage will cause many businesses to lay off workers. Yes; I know that some of the business community have maintained that an increase in the minimum wage would cause many businesses to increase the price of their products and their services in order to recoup what they pay the workers who provide services for us.

But, Mr. Speaker, let us be honest and recognize the fact that while, over the course of the past few years, without the minimum wage, we have witnessed the economy prospering. Wall Street is boasting of a great margin of profits, and indeed our economy is moving. But it is not moving for all Americans. And the minimum wage simply says that the average worker also should see their wages go up as well.

In fact, the average wages have stagnated and the minimum wage, indeed, has not moved at all. Mr. Speaker, the value of the minimum wage is now 29 percent lower than it was in 1979. In fact, it has fallen nearly 50 percent in real value since it was last increased. Yet we hear the Republicans say, "Well, you had 2 years and you have not done it''. Well, this may be the time we should go ahead and do it. Simply because we have not done it does not mean it should not be done now. That is why workers who work full time, 40 hours a week and more, are not able to provide, because the value of that has decreased over 50 percent in real value in the last few years.

And who are these people we are talking about? And by the way, why should we, those of us who make over $130,000, despair of other people getting a 50-cent increase? It is unbelievable that we have the gall, the arrogance, to be so uncaring about people.

Who are these workers we care about, Mr. Speaker? They are our fathers, our mothers, our children, our neighbors, their friends. Two-thirds of them are adults in working families, and only one-third of them are actually teenagers, which we hear thrown out as an excuse.

We also hear the excuse there are so few of them. Well, we are concerned about the top few of our economy; why not be concerned about the bottom few of our economy as well? Forty percent of those who are on minimum wage are the sole providers, the sole providers of their children.

Speaker GINGRICH often has compared this Congress with the New Deal under President Roosevelt, and he apparently is a great admirer of President Roosevelt, as I am; but I want to tell you there is no comparison. The New Deal Congress offered people hope, hope; it did not increase their economic insecurity or anxiety, where we are refusing to give people any hope. We are depressing their opportunity.

In this Congress, the Speaker offers only cynicism and anxiety by attempting to enrich the few at the expense of the poor.

It is unconscionable to me that the majority in control of this Congress would propose a huge tax cut for the wealthiest among us, while simultaneously attempting to eliminate the earned-income tax credit, and at the same time refusing to have any opportunity for increasing the minimum wage, as well as wanting to take Medicaid and other things that help the poor away.

True, Mr. Speaker, these are indeed tough times. Our Nation is faced with a staggering national debt, built up over the past decade, that is threatening to rob our children and our grandchildren. But what will rob our children and our grandchildren, Mr. Speaker, is an inability for their parents and their grandparents to earn for them, rather than to be dependent on welfare.

There is a growing gap between the rich and the poor, creating economic anxiety and fear, that has led many to question their place in society and to look with suspicion and envy at others of us. Nevertheless, Mr. Speaker, during these tough times, we must always remember the true test of a government is not where we stand when times are easy but, rather, where we stand when times are tough. History recalls how good government has responded during similar times, and I would say, Mr. Speaker, history will certainly ultimately judge this Congress and the this Government.

America has traditionally rewarded work. Why should we not reward work? It is better for us to reward work rather than welfare. If this Congress fails to pass a minimum wage, it would the tantamount to making the will to work a penalty rather than a prize. Reward work, raise the minimum wage. It is the right thing to do. It is the American thing to do.

Thank you, Mr. OWENS for allowing me to participate with you.

Mr. OWENS. I thank the gentlewoman from North Carolina, and I wonder if she knows that she has about 11.3 percent of her working population in North Carolina that earns a minimum wage. I wonder if she also knows a lot of fuss has been made about Davis-Bacon and how Davis-Bacon artificially inflates wages. The figures for North Carolina for Davis-Bacon, prevailing wages under Davis-Bacon, are only slightly higher than the minimum wage in North Carolina.

So the gentlewoman has a great depression of wages in her State. It is very interesting.

Mrs. CLAYTON. If the gentleman would yield, as those figures are depressing as a State, I want the gentleman to know that my district is even more disadvantaged because the earned-income tax credit eligibility is higher than it is for my State as a whole. Also, those who are working at lower wages in my district, which is the First Congressional District in North Carolina, again a higher percentage of my workers are working at lower wages.

So this is critical, critical to the survivability of a lot of my families in my district. It is not incidental. Their earned-income tax credit, Medicaid, minimum wage, all of these issues go to whether families in my district——

Mr. OWENS. Some of these people are at the very bottom of the rung. Although they are working, they are at the very bottom in terms of wages and income and were benefiting from the earned: income tax credit. You just mentioned that. But not only have the Republicans refused to allow a discussion of an increase in the minimum wage, but they have gone ahead and cut the earned-income tax credit also.

Mrs. CLAYTON. In some instances they wanted to eliminate it. They cut it, but they wanted to eliminate it in many instances.

Mr. OWENS. So there is a kind of war on the poor.

I want to yield to the gentlewoman from Georgia and say to her that her State is about the same in terms of the percentage of people who are making only the minimum wage, working people who are earning only the minimum wage, about 11.9 percent in Georgia.

Ms. MCKINNEY. Well, I would begin by thanking the gentleman from New York for reserving this time so that we could talk about how America does need a raise, and our constituents, in particular, need to have a raise.

I brought with me a cartoon from the Washington Post, Saturday, April 13. I want to read this cartoon. It says: "The bad news, Johnson, is you are being let go. The good news is you can have your old job back at half your former pay." And then poor Johnson says: "I can't live on that." And then his boss says: "The rest of the good news is we can offer you a second job, also at half your former pay."

The title of this cartoon is job growth. And now at the bottom it says: "I'd offer you a third, but I'm afraid of overheating the economy."

Mr. OWENS. They have been reading Alan Greenspan.

Ms. MCKINNEY. I think this poignantly demonstrates the situation that America's workers are facing today, even those people who had white-collar jobs, who thought that they were secure.

I have a constituent who was employed by IBM, who thought that that was a contract for life employment, and now, of course, finds himself among those others who have been downsized, dispossessed of their dignity, while corporate CEO's, of course, make salaries that even our athletes, our star athletes, begin to blush at.

Last year the heads of about 30 major corporations made 212 times more in compensation than the average American worker. And as we saw in the newspaper yesterday with Mr. Allen, the chairman of AT&T, he said that he really was not prepared to talk about his salary. And we saw him on "60 Minutes"; "60 minutes" did a thing, and he was not prepared to talk about his salary.

But, of course, what about those 43,000 who were downsized. What do they face? The fate that they face is jobs at half the pay, sometimes. If they are lucky, it is at half the pay of what they were formerly making.

I have another chart here. This is a quote from our right honorable majority leader. He says the minimum wage is a very destructive thing. I will resist a minimum wage increase with every fiber in my being.

Now, I do not know about my sister and my brother, my sister from North Carolina, my brother from New York, but I cannot imagine leadership of the United States of America that would resist giving people who are working every day——

Mrs. CLAYTON. Fifty cents.

Mr. OWENS. Forty-five cents.

Mrs. CLAYTON. Yes, 45 cents.

Ms. MCKINNEY. A dollar. Because now we have some Republicans who have said, well, we are willing to support a dollar increase in the minimum wage. I would suggest just with my last little quote here from my charts——

Mr. OWENS. Would the gentlewoman yield for just a minute?

Ms. MCKINNEY. I will.

Mr. OWENS. Most Americans do not realize that this is not a budget issue. An increase in the minimum wage will not cost the taxpayers a single penny. We are not talking about the Government paying an increase in the minimum wage. It is the people working out there for employers in the private sector who would receive the wages. It is not an item we put in the budget to increase the minimum wage. So we are not talking about downsizing the Government or helping to get rid of the deficit. We are talking about a humane action to make it possible for every American to pursue happiness

The Constitution and the Declaration of Independence talk about the right to pursue happiness. They need to have a decent wage before they can pursue happiness.

Ms. MCKINNEY. But this is the same group of people who want welfare reform, and they want to kick people off of welfare and send them to work, but they want to send them to work at a job that does not even sustain a decent living.

Mr. OWENS. I think $8,400 a year is what the present minimum wage comes out to. Eight thousand four hundred dollars a year. And we just pointed out about 4 million of these people are the sole wage earners in their families.

Ms. MCKINNEY. Kevin Phillips, a conservation political analyst, said the 104th Congress may be the worst in 50 years. Now, can you imagine that we are presiding over something that is going down in history, but going down in history the wrong way?

Mr. OWENS. Would the gentlewoman yield to correct that? We are not presiding over it.

Ms. MCKINNEY. That is true.

Mr. OWENS. There is a Republican majority in power for the first time; they are presiding over it.

Ms. MCKINNEY. Thank you very much for the correction. Perhaps this is one way that they can get on the right side of history, by doing something that is a moral obligation to working Americans so that they can at least go to work every day and then come home and not have to live in poverty.

Mrs. CLAYTON. Would the gentlewoman yield?

Ms. MCKINNEY. I certainly will.

Mrs. CLAYTON. I think you are right, it is the moral thing to do. And so often we hear values about family and we hear values about trust and honesty and decency. Well, how we really cause families to unite is to give them the resources to be self-sufficient. And the best welfare reform to take away dependency is to have sufficient income to take care of yourself.

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So that is indeed the right thing, the moral thing, the American thing, but in addition to that, this money goes right back into the economy. Why? Because people want to provide food, they want to provide shelter, they want to provide clothing. So this is not money that is going to be taken out. This money generates consumers who are purchasing services that they cannot purchase now; so this idea that it will be detrimental to the economy because it will reduce jobs, and think the comment that Congressman OWENS read earlier from the minority leader referenced a couple of studies that were made, one in New Jersey and the other in Pennsylvania, where they actually studied that there were increasing jobs. Why? Because there were demand for greater service. Philadelphia did not waste theirs, Pennsylvania did not raise theirs, New Jersey did raise theirs. New Jersey increased jobs; Pennsylvania did not.

In fact in my State, North Carolina, when they raised the minimum wage the last time, indeed there was a slowing of jobs. But when you looked at over a period of a year, that increase came back in, and I would ask some farmers, the minimum wage is, said you know what we have found out: you cannot keep good workers at the minimum wage. So people understand if you are going to sustain your company, you have to have a stable work force that you can depend on so it is good for the economy, it is the right thing to do, it is the moral thing to do.

And I agree with you. We do not want to be a part of a Congress that would be held accountable because I said earlier history records what we do and tough times, and indeed these are tough times, but there are a lot of people who are having tough times that government should give some hope to. The minimum wage gives just a little of that. Does not give a lot, but we should do that.

Mr. OWENS. I think it is important to point out at this point that I said earlier that there are rumors that the Republicans or some Members who are beginning to generate a bill calling for an increase in the minimum wage. In fact, the increase, as you pointed out, they are calling for a 50 cent per year for 2 years which means maybe a $1 increase.

I welcome that, and I hope that the American voters out there will also begin to encourage their Congressmen, whether they are Republicans or Democrats, to go forward. We need this increase.

And some of the brightest moments of my 14 years here in Congress have been the times, all too few, when Republicans and Democrats have come together on something that makes sense. We did it in terms of sanctions against South Africa, very tough sanctions against South Africa. We did it to pass the law which created the Martin Luther King birthday. We have done it on the occasion of the Americans With Disabilities Act; you know, Republicans and Democrats coming together to do something that makes sense and benefits large numbers of people.

In the next few days and weeks nothing would make me happier than to see the Republicans join us and do the right thing. You know, let us go forward on a minimum wage increase.

Mrs. CLAYTON. My understanding is that the minimum wage has been traditionally a bipartisan. In fact, Speaker GINGRICH has voted for the minimum wage. Senator DOLE has voted for the minimum wage. Why not now vote for it? You are right. Why cannot we join in that bipartisan effort, because when you look at who has been voting for the minimum wage, they are already. So why you at this time are refusing to do the right thing which you already have done? History has reported you have had a vote on the minimum wage, and they voted for it. So why not now? Is this just a political effort? People are suffering, so they need that effort, and I agree with you. It would be the right thing to do, and the Republicans have a bill that says a dollar, I think the dollar is better than 45 cents. I certainly would want to join that.

Mr. OWENS. People in the poorest parts of my district would welcome an increase of 45 cents or 50 cents. We really need more. They do not care where it comes from Republicans or Democrats. There are people who are suffering that need that increase in the minimum wage.

Ms. MCKINNEY. To deny an increase in the minimum wage and also to cut the earned income tax credit is nothing other than mean, and that is not the kind of government that the American people deserve, and I know that is not what they voted for.

Mr. OWENS. I think it is very important to note that 20 percent of those living on the minimum wage the last time it was raised in 1991 were in poverty. An additional 13 percent were near poverty. In 1993 the President expanded the earned income tax credit which we noted the Republicans have tried to cut out completely, but they certainly decreased, and it raised income to 15 million families that helped many working families move above the poverty line. Yet to complete the goal of insuring the full-time working families, getting them out of poverty, we need to raise the minimum wage.

Recent analysis by the economic policy institute and preliminary work by the Department of Health and Human Services suggest that 300,000 people would be lifted out of poverty if the minimum wage was raised to $5.15 an hour we are proposing. The figure includes 100,000 children who are currently living in poverty. The current poverty line for a family of four is $15,600. A family of four with one worker earning $4.25 an hour and working full-time year round earn $8,500, and they will receive a tax credit of $3,400 under the 1996 provisions of the earned income tax credit. They would collect food stamps worth $3,516 and would pay $615 in payroll taxes out of what they earn. This family would end up $834 below the poverty line.

With all that help, they go to work every day, they get the help from the food stamps, they get the earned income tax credit, they are still $835 below the poverty line.

On the other hand for a family of four with one worker earning $10,000, $300 a year, that would be a full-time worker on $5.15 an hour after the increase takes place. The EITC, the earned income tax credit, would provide the maximum tax credit of $3,560, food stamps would provide $2,876, and they would pay $788 and payroll taxes. The increase in the minimum wage, along with EITC and food stamps would lift this family out of poverty. A family of four with those kinds of, that kind of, assistance, plus working every day would be lifted out of poverty.

Ms. MCKINNEY. That is certainly an inducement to those who would want to get off welfare but who find welfare more attractive because working every day pays less than welfare in some places. This is an inducement for those people who want to work to go to work and then to be able to live a decent life at the end of their work.

Mr. OWENS. Now the problem is we have a kind of elite minority decadent reasoning that takes place. Even though it does not cost the government one penny, the elite minority reasoning is that you do not want to do anything which might lessen the profits of the people who are making all the money already.

The corporations are making tremendous amounts of money. We are in a boom cycle. You got a bull stock market, you know. Why are they watching so closely to see to it that the bottom line should be kept so low? Why are they trying to keep our wages in this country at the same level of the wages in Bangladesh or China, Mexico? Or why are they trying to bring down the American workers? Why not let everybody share in the prosperity?

We have this kind of decadence that has been made into a very complicated philosophy. We have Alan Greenspan adding to this decadent economics. But Alan Greenspan argues that whenever you have unemployment up, that is good because it means that it keeps inflation in check, but unemployment goes down, it is bad because inflation will increase because the number of workers out there, if the supply is less than the demand, and when the supply is less than the demand and the workplace that drives up the ability of the wages because the workers can negotiate for higher level of wages.

So our Federal Reserve has been pursuing a policy of keeping wages low, keeping unemployment high. You know, we have the body that is set up to promote prosperity for everybody, deliberately joining forces with the kind of reasoning that says wages should be kept at the present level or not increased in order to keep down the amount of money paid by corporations to the lowest-level workers in America.

These are decadent institutions they must be challenged head on. The American people need to understand. We recently had Mr. Greenspan up for reappointment, and he sailed through. Everybody agrees that Alan Greenspan should be reappointed. And he is the great untouchable on the Federal Reserve Board. But I think we better stop and take a look at the policies being promulgated by the Federal Reserve Board, especially since that same Federal Reserve Board which is responsible for keeping our economy well managed, for seeing to it that we have policies which promote prosperity, for seeing to it that we minimize waste, that same Federal Reserve Board was found by the GAO to have $3.7 point billion in a slush fund. They have $3.7 billion lying around that they are not using that they have not returned to the Treasury. If we had that $3.7 billion in the Treasury, the deficit would be decreased by $3.7 billion.

Why is the Federal Reserve holding on to the money? I have an answer, Mr. Greenspan, but the General Accounting Office points out they say they keep the money for a rainy day, they keep the money in case their operations, which are quite huge, they earn money on the interest they charge the banks, they earn money on the services they provide the banks.

In the last 79 years they have never had a rainy day, the last 79 years they have never had a loss, never broken even. They always have a surplus, but the surplus is now increased to the point where it is $3.7 billion.

Now, Mr. Greenspan is in charge of this, the same mentality that says keep unemployment up, keep wages low, also said that, "I need $3.7 billion around in my slush fund just because I might have a rainy day."

We ought to do something about that. The American people ought to listen closely to what is happening. You know, it is just like what happened in another one of those sacred cow agencies, the CIA; they found $2 billion lying around in a petty cash slush fund of the CIA, you know. If we get all of these slush funds cleaned out, you know, we could balance the budget properly.

You know, my friend from New York, CAROLYN MALONEY, has done a study, and she shows that the debts owed to the U.S. Government by the Farmers Home Loan Mortgage, which is one of the worst perpetrators, and many others, section A, the royalties that are due by companies that are supposed to pay, oil companies that are supposed to pay royalties to the Government, when you add it all up, there is $55 billion out there uncollected that, if we were to pursue with more zeal, we could get that money, help balance the budget, and we would not be talking about keeping the economy in check with inflation so that it can generate for profits; hopefully those profits would be taxed, and that is the way we get our revenue.

Let us bring down the deficit. Let us take care of the minimum wage. Let us begin to manage our economy better, and let us not have a balancing of the budget, a driving of the economy by shortchanging the people who are at the very bottom who are earning the minimum wage. It is a decadent scenario that ought to be challenged by every fair-thinking American.

Mrs. CLAYTON. I want to add, too, it has been usually the principle that we have been working on that would reward work, that productivity is a factor of the profit, and that we reward that when the productivity goes up and the profit goes up, you share that with the workers. But somehow the wages have been stagnant even for those who are not at the minimum wage; I mean those who are middle income. The wages have been stagnant at the same time the profit has been going up. So the productivity, which is a factor of that high profit, is not necessarily a benefit of the workers, and we need to change that principle, as well, also.

The other principle we need to change, it seems to me, is that America is a country of great opportunity. It is the entrepreneurship and the opportunity to work that should give hope to all of us that we always will work harder, train and be better skilled to get the next job. However, when we give messages that create such a disparity between the top 5 percent and the lower 5 percent, and it is growing, it is growing and we seem not to even concern ourselves about that, I mean the distance between the richest of the individuals in America and the poorest of the individuals is larger now than ever before, and yet at the same time we are having great profit, great productivity. You would think that that would inure to the workers as well. Just as you share the profit with your stockholders, you reward people for doing a good job; they get an increase.

And also the minimum wage should move up. And by the way, the cost of living has gone up rather than wages now, so it is costing the people to get a gallon of milk or bread or Medicare; all of those things that they must provide for their families, that is going up.

Ms. McKINNEY. And in order for the minimum wage to have the same purchasing power as it did in the 1970's, it would need to be $6.07 an hour. So when you talk about purchasing power and inflation, it has eroded the minimum wage, the purchasing power of the minimum wage.

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Mrs. CLAYTON. We are not talking about even taking people up to purchasing power, as you have indicated. This is just the beginning of the process.

Ms. McKINNEY. That is correct. I would just like to say something about the notion of a social good. At some point we have got to start thinking about the community. We have got to think about the community that is America.

I know we went through the 1980's, and the 1980's was the "I-me" decade. We are seeing the fruits of that now. The fruits of that, as you have correctly pointed out, is the fact that we have got concentration of wealth in the hands of fewer and fewer Americans. They are getting more and more and more of the pie. The rest of us are being left out.

At some point when you have productivity increases, you would think that America as a whole, the community, would grow as a result of that productivity growth. But what we have seen is that we have got this "winner take all," and the winner is the CEO and those folks who are in that orbit. They get everything, and can even get rewarded by laying people off, by putting people on the streets, by telling them "We don't need you anymore."

At some point we also have to think about the dignity of work and how people define themselves and their self-worth by what they do in life. If they have nothing to cling to because their commitment that they thought they had with their company, with their corporation, has been broken, not for the social good, not for America's good but for the good of individual people, one or two people get all of the results, all of the rewards, and they have to pay the price.

At some point America and Americans have to wake up and say that it is one thing to be an individual who can soar to the top, but there is also some emptiness in being at the top if everyone else beneath you is way down at the bottom. We all can soar, and that is what is so good about this country, is that there is room for everybody, if the value is there that includes everybody.

Mrs. CLAYTON. That is what America was built on. Give me your weak and your frail.

Ms. McKINNEY. That is correct.

Mrs. CLAYTON. This is what the Statue of Liberty is all about. That is why people want to come to America, for a better opportunity to live. So the quality of life adds to that community spirit, and also the quality of life and the community spirit adds to the stability in our communities.

When you find the family down the street who has no economic stake in that community, pretty soon he becomes a factor of the criminal element that finds themselves not feeling they need to protect you either. So we need to see how we keep our families together by ensuring that they have the resources to take care of themselves. That also will help stabilize our community as a place that is caring and protective.

We are all in this boat together. We are all in this American boat together. Obviously someone with greater skills is going to be rewarded but, as the gentlewoman said, we should be equally concerned for those who are at least among us, because their quality of life helps our quality of life.

Mr. OWENS. I thoroughly agree with both of my colleagues. We have a moral duty, and we are charged as public officials by our Constitution to promote the general welfare.

If you look at it in hard, cold terms in terms of promoting the general welfare, Henry Ford was a smart man. He might have had some problems with unions, et cetera, but he came to the reality that if he is going to sell his cars in large amounts, he has got to pay his workers enough wages to buy his cars, and that is just plain old American common sense.

We have serious problems in our economy right now with consumer spending. The retail establishments are suffering. Why they are suffering is because the people on the bottom, from the bottom up, are the ones who spend the money in the stores because they need immediate necessities. They need food, clothing, shelter, they need refrigerators, they need the kinds of things that you buy from our stores.

The people at the very top who are drawing large amounts of profits from Wall Street, they are the rich and the famous who pick up and travel around the world, and spend their money all over the world and buy real estate all over the world, buy diamonds, jewels, and certain kinds of things that do not feed back into the economy. They do not turn the money over.

The great locomotive of the free world economy has been the American consumer. We are about to destroy the American consumer and end the great economy that has fed the free world for all these many years. If you do not have those consumers with basically good salaries on a steady basis, then you are going to take the heart out of what drives our economy.

Other economies recognize this more so than we do. A higher standard of living of workers now is not in America. It is in Germany. Japan, with all of its economic difficulties, has a far lower rate of unemployment than America. Japan does things to protect its workers, and its workers are considered a large part of its middle class.

Japan does not have to spend large amounts of money on prisons, on crime prevention or crime detection. They do not have to spend large sums of money on drug rehabilitation and drug-related crimes. They do not spend almost any money on guns and the results of people being destroyed, mangled, injured by guns. We have got something like 16,000 people killed by guns 2 years ago. The statistics are complete. At the same time less than 100 people were killed by guns in Japan.

A more stable society, including gun control laws, by the way, a more stable society with a middle class preserved. We criticize Japan a lot about the way they resist our imports coming in. They have all kinds of tricks to slow down the flow of goods from the outside because they protect each industry, the middlemen and all the folks down at every level in their economy to maintain a middle class. The biggest part of that middle class are the workers in the factories who earn wages which are good enough to make it unnecessary for them to have to have EITC or food stamps or all the other benefits that we have to generate as a result of our failure to pay our workers.

In Japan, in Germany, in France, in all of the industrialized nations, the executives, the chief executive officers and the middle management earn far less than the chief executives in the United States corporations. Far less. You will have to look for a long time to find a chief executive officer in Japan who was paid more than $1 million in compensation last year. You might find a few more in Germany but you will not find them in Japan.

Let us make a comparison. If Majority Leader ARMEY is really interested in doing what is good for the economy instead of saying he wants to abolish and eliminate minimum wage, let us put some kind of hold on the unbridled, forever escalating amount of money that the chief executive officers of corporations are earning. Of course the chief executive officer earns, what is it, the top guy is $20 something million. AT&T or Disney, I forget, somebody is past $20 million in compensation per year.

Ms. MCKINNEY. I saw a newspaper article from I believe the Washington Post about a company called Greentree, and that CEO was being compensated at around $60 million. It is absolutely unbelievable.

Mr. OWENS. $60 million. Oh, that is an aberration, most of them are at around $20 or $15 million.

Ms. MCKINNEY. That is correct.

Mr. OWENS. Nowhere in Japan will you ever find anybody earning $60 million or $20 million.

Ms. MCKINNEY. It is absolutely incredible. Two hundred and twelve times more in compensation than the average American worker.

Mr. OWENS. Let us take care of our economy. Mr. Greenspan wants to take up inflation. Seems to me Mr. Greenspan would address his concern to inflated salaries at the top levels, and deal not so much and scrutinize not so much the wages paid to people at the very bottom.

Ms. MCKINNEY. If the gentleman and the gentlewoman would recall the arguments around NAFTA, do you remember that some people were saying that if we pass NAFTA and NAFTA becomes law, that American standards then would become global standards? So we did not have to fear about workers' wages going down, because workers' wages would go up. We did not have to fear about environmental standards going down because environmental standards were going up.

I do not know that that has been the experience.

Mr. OWENS. Just the opposite has happened. The common denominator is becoming the prison laborer in China, the workers in Bangladesh, the workers in Mexico. The philosophy behind the assertion by the Republican majority that we need to keep our wages low is that in order to be competitive, the lowest wages in the world is what we are competing with. So just the opposite has happened as a result of GATT and NAFTA. We are pulling down the standards of the American workers.

I thank my colleagues for joining me on the special order on minimum wage. I hope everybody understands we are moving forward and common sense will prevail. I hope our colleagues on the other side of the aisle will soon join us in increasing the minimum wage.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON APPROPRIATIONS

The SPEAKER pro tempore laid before the House the following communication from the Honorable BOB LIVINGSTON, chairman of the Committee on Appropriations:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, April 18, 1996.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that my committee has been served with a subpoena issued by the United States District Court for the District of Columbia.

After consultation with the General Counsel, I will make the determinations required by the Rule.

Sincerely,

BOB LIVINGSTON,
Chairman.

CALL FOR AN INCREASE IN MINIMUM WAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. PELOSI] is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, I rise today in support of the increase in the minimum wage. As probably has been mentioned on the floor here this afternoon, if an individual works full time, he or she brings home $8,400 a year. In a family of 4, if you have two wage earners working full time at the present minimum wage, they make, well, we can do the math, under $17,000 a year. How could it be that in a country this great and this decent that we do not pay a living wage to the hardworking people, hardworking families who want to do the best for their children.

We must reward work and we must do it with a decent livable wage. I hope that this Congress will be increasing the minimum wage by at least $1, which would enable families to buy more groceries. We are talking about the basics.

Another point I want to make about the minimum wage is that by keeping the minimum wage as low as it is, we are increasing the cost to the U.S. taxpayer. We have to provide food stamps, housing assistance, and other assistance to supplement the meager earnings that these people make, even though they are working full time, even welfare benefits I some cases. So this is not about reducing the deficit or anything else. It is about providing adequate rewards to Americans who work.

There has been some discussion in the course of this year about the earned income tax credit. I believe that the cuts that were proposed for American working families were wrong. Our colleagues on the other side will say, no, we kept it in there. We kept it in for some but not for all of the people who were working, hoping to have families and contribute to our country.

We have and we need an earned income tax credit because we have this artificially low minimum wage. The American taxpayer is subsidizing American business with food stamps, housing assistance, earned income tax credit, because we have such a low minimum wage.

I saw a cartoon in the paper that I want to share with my colleagues. On one side it had a woman working for the minimum wage for 1 year, her salary, $8,400 a year, working full time, and in the other frame was an executive, and the average salary for corporate CEO's in our country would make, in 1 day, some say really in a half a day but let us be generous, in 1 day what this woman was making in 1 year.

□ 1800

Certainly we want to reward success and we want to honor the entrepreneurial spirit. But how could it be OK for us to have one person working 1 day for the same as the average, and I am not talking about the highest, I am talking about the average corporate CEO's salary? I think it is a matter of conscience and decency, and a sign of a great country, that we reward work, we increased the morale of our work force, we give people a chance to take themselves out of poverty by saying we respect you, we respect what you do. We want to give you the dignity that you deserve as a hard-working person in our country. Not by throwing some crumbs to you and making you grovel for other benefits and be disdained for that, but instead by giving you a living wage.

Ms. McKINNEY. I did not necessarily want the gentlewoman to yield, but I was just thinking about the depth of your feeling and your compassion. It is a shame that we have leadership in this country, leadership that leads this country, that does not feel anything at all about leaving folks who are hard working, who go to work everyday, get up by the clock, punch out by the clock, and they want to leave them behind and leave the embrace of this Government away from them, yet they rush to those who already have.

Ms. PELOSI. Mr. Speaker, I appreciate the gentlewoman's comment on that. I was particularly concerned the majority leader, Mr. ARMEY, said he would fight the increase in the minimum wage with every fiber of his being. He is a good guy. Let us change his mind on that subject and show the support, which has always been bipartisan, has always been bipartisan, for an increase in the minimum wage.

REPORT FROM INDIANA: "MOTIVATE OUR MINDS"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. McINTOSH] is recognized for 5 minutes.

Mr. McINTOSH. Mr. Speaker, I rise today to give my report from Indiana. In the Second District of Indiana, there are so many special people striving day and night to make a difference.

These are good people doing good things. And today I rise to commend the volunteers at the "Motivate Our Minds" program in Muncie.

These individuals, Mr. Speaker, are Hoosier heros. Hoosier heros because they care about our community and care deeply about helping others.

These heros reach out and lend a helping hand to at-risk schoolchildren.

Motivate Our Minds—MOM's for short—is a very special organization in my hometown of Muncie.

Mr. wife, Ruthie, visited the MOM's program just a few weeks ago. She shared with me the love and friendship the volunteers at the MOM program give to inner city schoolchildren.

MOM's first started in 1987, when two women, Mary Dollison and Raushanah Shabazz (Ra-shanna sa-bez) opened up their home and went to work helping "at risk" schoolchildren.

They knew in their hearts that the key to a bright future for a disadvantaged child is a strong and loving hand to guide them. Special children need motivators.

Mary Dollison knew that when children feel good about themselves they do well in school. They become successful adults. and their contribute positively to their communities.

MOM's has grown from helping 16 students tutored in Mary's home, to providing assistance for more than 69 at-risk students today on East Highland Street.

Mom's teaches at-risk students: "To think they can, until they know they can." Parent volunteers like, Lola McGregor, Ball State students, community leaders, parents, and the children can witness first hand young men and women striving to achieve new goals and forming new hopes and dreams for their own future.

Dedicated volunteers, and the true Hoosier Heroes of the MOM's program. Volunteers, like Wilma Ferguson, a retired school teacher, gives her time and friendship every single week.

Beth Quarles, the office manager, at the MOM program, has worked tirelessly to ensure that the program has the funds and the resources needed to keep the center growing. Frances Garrett makes sure that the students' school projects and their art work is displayed at the center.

Mrs. McGregor has two daughters—LaRessa and LaNeice, who are 5th grade students enrolled in the program. Mrs. McGregor witnessed how the MOM program helped her own daughters and she decided to give something back. She is now one of the top volunteer at the MOM program.

When I was young, I can remember my mom tacking my drawings and assignments to the refrigerator door—it was something so small, but it sure made me feel good, but you know, I took that for granted. Some of these children, have never had their work tacked up on the refrigerator door.

But Frances Garrett makes sure their precious drawings, paintings, spelling tests, and high scored homework assignments are displayed.

This is important to send a message that hard work and accomplishments are honored. Students leave MOM program knowing in their hearts that there is nothing they can't do.

No task is too big. No challenge is too great. These dedicated young people are faced with amazing challenges but they never give up.

A special gift that these young men and women have received, is something that I, too, learned at an early age: "Always do your best, hard work will be rewarded and never, never give in."

Mr. Speaker, the volunteers and especially the children involved with the MOM program in Muncie, Indiana are Hoosier heroes. That is my report from Indiana. God bless.

PRESIDENT'S CATHOLIC STRATEGY

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes as the designee of the majority leader.

Mr. DORNAN. Mr. Speaker, in the full sense of collegiality here, I would like to yield, and I will stay on my feet, the first 20 minutes of my special order to my good friend, the distinguished colleague from Connecticut, CHRIS SHAYS, to speak about our budget crisis and getting America's fiscal house in order.

THE WORK ETHIC IN AMERICA

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding I will not be using the full time. I do appreciate his willingness to allow me to participate in your hour's time.

Mr. Speaker, this Republican majority, this new Congress, has three objectives. Our first objective is to get our financial house in order and balance our Federal budget, and at the same time grow this economy. That is the first objective, and it is absolutely essential that we succeed in it.

Our second objective is to save our trust funds for future generations, particularly Medicare, from ultimate bankruptcy. In fact, Medicare part B, the health services that Medicare recipients receive, started to go insolvent last year, not this year as expected.

Our third objective, Mr. Speaker, is to transform our caretaking social and corporate, I would even say farming welfare state, into a caring opportunity society.

Now, the words opportunity society are words used by conservatives primarily. They are great words, and are words that have existed in this country in particular for well over 200 years. And they are preceded by the word "caring."

This is not a conservative agenda that throws up our hands in the air and says, "You live in the cities, you were raised by a crack mother, you did not have much of an education. Too bad. You are on your own."

That is not the agenda. This agenda is an agenda that is trying to help people grow the seeds.

Mr. Speaker, we have an incredible opportunity to do what we have failed to do for so many years. We are not looking to repeal the New Deal, but much of the Great Society simply did not work. Not all of it, but a good part of it.

I was coming to Washington this week, I noticed on my calendar, I have quotes on my calendar. This one happened to have been from Ann Landers. I think it defines something that is absolutely essential. It says, "In the final analysis, it is not what you do for your children, but what you have taught them to do for themselves that will make them successful human beings."

I look at this and say this is absolutely the center of what we need to do as a Government. In the final analysis, it is not what you do for your citizens, but what you have taught them to do for themselves that will make them successful human beings.

As a moderate Republican, someone who has voted for a number of programs that would be part of the Great Society, I have had to analyze and say, where have I been doing the right thing, where I have helped make a difference, and where have I actually caused problems?

If I am honest with myself, there is a part of me that recognizes that I could go and vote for some of these programs and say, you know, I have dealt with your need. I can pat myself on the back. I can go to certain groups and they can say, oh, isn't it nice that you care?

Well, I would contend that some of my caring has resulted in caretaking, not in caring, and that what I need to truly do is be a caring person. And a caring person is going to do more what Ann Landers says, and that is what have you taught them to do for themselves that will make them successful human beings?

I have made a point in the last 4 years of my 9 years in Congress of asking anyone who has had a difficult life, that is perceived as difficult, and obviously nobody walks in someone else's moccasins, all of us face difficult things, but people who have been raised in poverty, been raised by one parent in poverty, people who may have had an experience on drugs, a whole host of different challenges that have faced them, and I have said what made a difference in your life? Why are you the successful person you are today? What was it in your life that made you so successful?

Almost to a person, it was "Someone in my life, my father, my mother, my brother, my sister, my aunt or my uncle, my grandparent, somebody, a mentor, someone took an interest in me and taught me how to grow my own seeds."

I think of parents who are raising their children, and I think well, in the final analysis, it is what you did for your children or what you taught your children to do for themselves that made the difference? And to a person they would not tolerate doing something for their children without teaching them what they can do for themselves, making them independent.

So I speak as someone who has been part of this political process, saying I feel I have done a lot of things that have made a positive difference in people's lives, but I have also looked and seen that there are things that I have not done, or things that I have done that have been in fact the exact opposite of what I intended.

This may sound a little harsh, but I believe it to be true: Poor people do not create jobs. Poor people need jobs. And sometimes the people who are going to create those jobs happen to be people who are well-to-do.

I went to a housing seminar and I was confronted by a group of people who think that we have given tax cuts for the wealthy at the expense of the poor, which simply is not true, but that is what they think. But at the same time, they said to me, "Why aren't you a stronger advocate of the low income housing tax credit?"

This is a tax credit to provide housing for low income people. And I said to this group, think of what you are asking. It has a wonderful name. It is in fact a fairly effective program. But the low income housing tax credit is going to benefit the poor and the well-to-do. The people who get the tax credit are the well-to-do. So the very group that was accusing me of having a tax credit for the wealthy were asking me to vote for a tax credit for the wealthy that had an intention to help the poor.

This is really what we have to wrestle with as a country. We have to be honest with ourselves about a lot of things. One, poor people do not create jobs, they need jobs. The people who can help create these jobs are people who have the financial resources to invest in new plant and equipment and invest in jobs in the process.

There is another statement that I just have pondered a lot. I do not understand how people can be pro-jobs and antibusiness. How can you say you want to create more jobs and they you want to be against the very people who create jobs? The fact is, you cannot.

Now, the Republican majority decided to do something that no other majority in Congress has ever attempted to do in the past. We have decided to get our financial house in order, and we are doing it in a very reasonable way. I am not saying everything we are attempting to do is perfect. I would not make that claim. But I have never been more proud to be part of a party and part of a majority than I am today.

We are trying to slow the growth in spending so it ultimately intersects and is no greater than the revenue that we receive.

Now, people say we have a revenue problem. That would be a hard one to understand, since revenues keep growing. We do not have a revenue problem, we have a spending problem. Our spending keeps going up more than our revenue does. It never intersects, it means that we continually have revenue and then an expense, and that difference is the deficit. At the end of each year, these deficits just keep getting added to our national debt. That is what I want to focus in on.

The national debt in 1945 was $260 billion. Today it is $4.9 trillion. But I could go back to just 1974. After the Vietnam War, it was only about $430 billion. $430 billion. It is now $5.2 trillion, or $5,200 billion. It has gone up well more than tenfold, 10 times. Not one time or doubled or tripled, quadrupled. It has gone up tenfold, 10 times, in 22 years.

☐ 1815

That is a disgrace. It is just simply a disgrace. When people say to me that the deficits do not matter, I say I do not understand it. I simply do not understand how it does not matter that our national debt has grown 10 times in 22 years.

I think historians will look at the Congresses of the past and, frankly, the White House of the past, Republicans and Democrats. Some Members of Congress on both sides of the aisle have been wanting to control spending. The White House never submitted balanced budgets from either party, and Congresses never gave back balanced budgets.

So I basically make the argument that both parties have had their fingers in this mess called the national debt. But we have a party now in the majority that is willing to change that, willing to stop it, willing to slow the growth in spending so it, ultimately, in 7 years, equals the revenue that we receive. No more deficits; therefore, no increase to our national debt.

I think historians will look at the last 20 years, will look at it much the way they looked at the Reconstruction era after the Civil War, not a particularly proud time in our history. I do not think it is a particularly proud time in some respects in terms of the national debt and what has happened to our society in a while host of different ways since 1974 to this year now, 1996, 22 years.

I look at the national debt and I look at what historians will say. I used to just blame Republicans and Democrats, the White House and Congress. I have come to the conclusion that the American people have a lot more to do with this than I ever realized in the past, and I speak from personal experience on this issue.

There was a Member of Congress who was a very liberal Republican named John Lindsey, and he ran for mayor of New York City. He won. This moderate to liberal, in fact very liberal Member of Congress, made a determination that he thought that the city could not afford the large increases in public salaries that were happening without a corresponding increase in productivity.

He felt it was wrong that sanitation workers completed their work before 11 o'clock in the day, did not work a full 8 hours. He thought it was wrong that welfare workers were not working as hard as they should, that police and firemen simply were getting increases in salary without corresponding increases in productivity, and this very liberal Republican said, "I am going to fight it," and he fought it.

The result was that the police went on strike, the firemen went on strike, the sanitation workers went on strike, the welfare workers went on strike, the subway workers went on strike. They all went on strike. The city shut down.

Did the people of New York City blame the workers for going on strike? No. They blamed the mayor. They thought he was incompetent, this incompetent mayor that could not keep the city running.

And I draw parallels today. People are saying we cannot shut down the Government; our job is to keep it running. Our job is to keep it running in the right way but not keep it running in the wrong way.

This mayor tried to confront that. What was the result? The result was that people thought he was incompetent. His polls went down, and he responded to the polls and the people of the city. He got the firemen back to work and the policemen back to work and the sanitation workers back to work. He got the welfare workers back to work. He got the subways running again, but he did it by selling the city down the river.

He basically caved in. He gave up, and he got reelected. That was the message: Cave in, get reelected, sell the city down the tubes. This city went bankrupt because of what happened. The city of New York went bankrupt, and then again he was considered incompetent. He was considered incompetent when they went on strike. They liked him when he put everybody back to work, failing to realize that in order to get them back to work he basically had to agree to their side of the position. He basically sold out and paid them the increases in wages without the corresponding increases in productivity.

I liken that to what I am experiencing today. I will not say it happens all the time, but when the Government shut down during Thanksgiving I did not want to open it up, and I would vote to this day to keep it shut until this generation is responsible to our children. I would not have increased the national debt because I think it is irresponsible to allow this national debt to keep growing when we have not controlled the growth of entitlements.

But let me give everyone an example of a letter I received from a constituent, a good friend. I received a letter from a constituent outraged that the Government had shut down. This happened to be the shutdown during the Christmas holidays, not a great time to have Government shut down, not something I particularly liked, but I did know why it happened.

It happened primarily, not entirely but primarily because the President had vetoed certain appropriations bills. When he vetoed these bills, we ended up with no budget. When we had no budget, we had to shut down the Government.

I had constituents who said, well, we should give the President a budget that he wants. The problem is the budget he wants, in my judgment, bankrupts this country. I did not feel right about that.

But this is the argument that I was receiving from some of my constituents. Some of my constituents, not all but too many, frankly, said—one of them said, in so many words, "Dear CHRIS, I have always liked you, I have always respected you and voted for you, but never again. Your job was to keep this government running. You failed in a very basic responsibility, and I will not only not vote for you again in the future, but I am going to actively work against you."

Now, I could have accepted all of that to that point, but then he gave me his big reason why. His big reason why was that his daughter wanted to study abroad, and she went to get her visa and the passport office was closed down. So basically he was saying for his daughter he was outraged.

I began to think about it, and I thought, this is unbelievable. Mr. Rabin, the former Prime Minister of Israel, said politicians are elected by the adults to represent the children, and I am thinking about this.

This is about his daughter, not about her getting a passport so she could study abroad. It is about the fact that if we continue our neglectful ways, our deficits will keep growing. Our debt will keep growing and ultimately his daughter, his precious dear daughter, will be paying anywhere from 60 to 80 percent of all the money she makes in taxes to Federal, State, and local governments. That is what this is about. It is about his daughter. And the fact is, he just did not get it.

Now, I have to blame myself, because I am an elected official and my job is to help explain it and to teach and to learn and to pay the consequences if I am not doing the right thing. There are many things that we could probably be criticized for, but the one thing we cannot be criticized for is not wanting to do the right thing about getting our financial house in order. This Republican majority is determined to grow this economy by ending these obscene deficits that add to this national debt that has grown 10 times in 22 years.

I had a number of constituents who said, "Don't you listen to the polls? Don't you see what is happening?" I am thinking, yes, I am listening to the polls. I see a lot of concerned and angry people. There is reason to be concerned. We have deficits that are growing and growing and growing. I am concerned.

There is reason to be disappointed with the growth of our economy that is only about 1 percent a year in the last 20 years on average. I would contend there is a very simple reason for it. There are probably a lot, but one that is right out there in front, our deficits are taking away money that could be invested in new plant and equipment, and the money that is being set aside in savings, 42 percent of it is being gobbled up to fund the national debt.

Why are we spending so much money of our savings to fund the national debt? Because our deficits keep growing and our national debt keeps growing.

I want to stop these deficits. I want interest rates to come down. I want businesses to be able to look at the interest rates and know that it can pay for them to invest in new plant and equipment.

So what about the polls? Well, the polls tells us that 47 percent basically say the President is right, Congress is cutting too much; 46 percent say Congress is right, we are cutting just right or not enough.

But they think that when we dealt with the earned-income tax credit we were cutting. They thought $19 billion was going to be less in the 7th year, but the fact is the earned-income tax credit is a payment paid to people who work but do not make enough. They actually get a payment from the taxpayers, a government check. Instead of giving the government money, as low-income workers they actually get money from the Government, from the taxpayers. That is growing from $19 billion to $25 billion under our plan.

The school lunch program is growing from $5.2 to $6.8 billion. That is not a cut; that is an increase. The student loan program is growing from $24 billion to $36 billion. Medicaid is growing from $89 billion to $127 billion. Medicare from $178 to $289 billion.

Only in this place when we spend so much more do people call it a cut. But the press reports it as a cut, and the unbelievable thing is that they think we are cutting too much when we are spending more.

Now, when the pollsters point out that the student loan program is growing from $24 billion to $36 billion, and they tell Americans the student loan program is going to grow 50 percent, the 46 percent that says we are cutting just right or not enough actually grows to 66 percent, and the group that thinks we are cutting too much, that 47 percent, drops down to about 33 percent.

So one aspect of the polls is that when the American people learn the truth, they want us to do what we are doing. In fact, when we tell the American people the truth, they will tell us to do the right thing. I would contend that they are not really hearing or learning from what they hear from the press what is happening.

Earned-income tax credits, school lunch, student loans, Medicare, and Medicaid are growing. Medicare is growing on a per-person basis from $4,800 to $7,100 in the 7th year. It is growing, in dollar amounts, 60 percent from this year to the 7th year. Then people say, yes, but we have more people participating. Well, even with more people it is growing at 49 percent per person.

So in response to the polls, one, I say when the American people know the truth, the polls will tell us to do what we are doing. I really believe that. If I am wrong, I will be looking for a new job. But I also think something else about the polls. Sometimes at critical moments in our history we have to do what is right even if the polls tell us to do something slightly different or significantly different.

I would make this comparison to what Abraham Lincoln found when he came forward and was sworn in as President. When he was sworn in as President, they had to sneak him into Washington. I want everyone to imagine what it must have been like in Lincoln's time when they literally had to sneak him into Washington. They had to sneak him into Washington because his life was threatened.

When he was sworn in, seven States decided to leave the Union. They said, we are out of here. When the seven States left the Union, a lot of the people in the North said, what an incompetent President. Already, practically before he has done anything, we have lost our country. It is breaking apart. A lot of people in the North began to look with disdain at this, quote-unquote, incompetent, bumbling President.

After the first few battles, and the first year and second year and even into the third year, as the battles continued and there was tremendous loss of life and some of the battles went against the North, a good number, there was even a greater conviction. All the powerful people in the North, the businessmen and women who were tied in with the military-industrial complex, for the most part were looking to find a replacement for this, quote-unquote, incompetent president.

Abraham Lincoln could not have been listening to the polls when he went to Gettysburg, the greatest victory to that point, and he was there to celebrate the victory of the North. He went there and gave a speech, and part of the speech talked about the brave men, living and dead, who fought here. He did not say the brave northern men.

Think of the temptation, given the polls, to rally the North against the South, to get them to hate the South, to get people to say, what a great President, he is finally getting everybody together. He could have unified the only people who could really vote for him, the North.

He did not give in to that temptation because he was a great President. He did not give in to the polls. Had he given in to the polls, he would have said "the brave northern men who fought here." He just said "the brave men, living and dead, who fought here."

He knew our country, knew there were families that had to bury their northern son and their southern son. In fact, one father during that time buried both sons in the same grave and the tombstone read, "Only God knows which one was right."

□ 1830

Mr. Speaker, I would just conclude, thank God Abraham Lincoln did not listen to the polls. Had he listened to the polls, we would not be one Nation, under God, indivisible. We would be two nations, very much divided. And I put the context of the debate that we are having today in the same context that I put back in Lincoln's time. We are doing what Mr. Rabin said we should do. We were truly elected by the adults, but we are trying to represent the children. We are trying to make sure that our children have a future and a country they can be proud of.

And with that, Mr. Speaker, I just thank the gentleman from California [Mr. DORNAN]. You were very nice to give me this time, and I apologize to you for going over a little bit.

Mr. DORNAN. Mr. Speaker, when I said to my colleague I was enjoying it, I truly was.

PRESIDENT'S CATHOLIC STRATEGY

Mr. DORNAN. Mr. Speaker, sometimes when I take a special order because there are good folks across the country who follow the proceedings of this House, they will call and say, "I enjoyed your words." They never call, and say, and insult you, and say, "I am glad there was nobody there to hear you." I guess maybe the negative calls are smarter than the positive ones. They know that a million people are hearing you. But a lot of good people will call in and say, "I appreciated what you were saying, I appreciated what Mr. SHAYS was saying, but no one was listening."

Now the audience averages between a million and a million and a half, and because of that, again as I seem to have closed out the Congress on the last two breaks, my special order is final tonight, and I want to pick up on my 5 minutes last night where I said I would read in totality one of the most amazing letters in American history from any Christian cleric or Christian leaders; in this case, they are Catholic cardinals, every one of them an archbishop, joined by the bishop who is the head of the National Catholic Conference of Bishops against Mr. Clinton for his veto of an overwhelming, overwhelmingly passed bill in both the House and the Senate, a little tighter in the Senate, but overwhelmingly passed here, against execution-style partial-birth abortion of fetuses that are children and babies in the process of being delivered that absolutely could live outside the womb.

So what I have done is picked up an article that skillfully gives Mr. Clinton's Catholic strategy. That is the title of the article from the newspaper in Los Angeles, the Tidings; used to be my archdiocese newspaper, Mr. Clinton's Catholic strategy. It is a syndicated column, and it has different titles around America. I am going to read that to set the scene on how the Clintons think they will retake the White House, have 5 more years, become a rare Presidency like Eisenhower's, Reagan's; both had 8 years; Roosevelt's, 12 years and 82 days, small part of a fourth term, and Teddy Roosevelt's short term of 8 years because he achieved, was given the office, through the tragic assassination of William McKinley, and Wilson who had earned 8 years, World War I saving him, as it got Roosevelt a fourth term in the second World War I, part two of the greatest slaughter of all mankind, World Wars I and II. But other than Teddy Roosevelt, Wilson, Franklin Roosevelt, Eisenhower, and Reagan, those five people, nobody in this century has had two terms.

Clinton thinks the key to a second term is the, quote, Catholic vote, so I am going to read this analysis of what Mr. George Weigel, the President of the Ethics and Public Center here in Washington, DC, thinks is the Clinton strategy, then read an article from Jose Kennard, who is head in Texas of the Hispanic Caucus, and that letter was read in part yesterday or the day before by people on both sides of the aisle. I am going to read it in toto, and then I will read, as I promised yesterday, the full text of this amazing historical letter from eight princes of the Catholic Church plus the Most Reverend Anthony Piela, President of the

National Council of Catholic Bishops. I will read this letter, and then I will leave it to people's imagination to figure out how rough this fight is going to be in the next 201 days, less than 200 days when we adjourn again for legislative business and votes on Tuesday next.

Then I will point out how we have a serious Catholic problem right in this House with the numbers, and I would suggest to all of my Jewish and Protestant brothers, please listen intently. If you think you have got division and problems in your denomination, listen to how split the Catholics are in this House. However, not a single Republican Catholic, good, bad or indifferent, voted for this partial-birth execution-style abortion in this Chamber when it came back from Senate conference with the slight differences worked out.

Before we do that, I want to take care of three housekeeping things here. One is the crash of Ron Brown's Air Force aircraft on my birthday, April 3. We had a unanimous vote for Mr. Brown, Secretary Brown, expressing our deep sorrow at losing for the first time in the line of duty a Cabinet officer in over almost a century and a half.

I said yesterday that I thought the majority of the crew was the crew that had flown me and five other Members, led by SONNY CALLAHAN of Alabama, to Tuzla and Sarajevo and Hungary, two of the bases in Hungary and to Zagreb, Croatia, and to our major air base, Aviano, in Italy. I was mercifully wrong, not for the four other crewmen that died, but of the six crewmen on that airplane, the pilot was the same as our pilot, Ashley J. Davis; that is a man's Ashley as in Ashley Wilkes. Ashley was the cocommander on our flight, on that C–43, used to be called a T–43, a civilian 737, and I was correct that T. Sgt. Shelly A. Kelly, who was the principal cabin steward for all of us in the congressional section up front and got to know her at Aviano, going through the PX to get some shaving gear. She told me a story about how on each trip she buys two bottles of wine, her husband is also assigned to Ramstein Air Base in Germany, and that he would do the same when he was on a cross-country, they would drink one in celebration of reuniting with their two children, and then they would save one. And she said, "We have quite a collection of wine from around the world".

Well, Shelly Kelly died serving her country, as did Capt. Ashley Davis, and I am going to fly flags on the Capitol next week for them, get every one of the Congressmen who were on CODEL Callahan, and fly flags for the other four crew members who were on the ill-fated Secretary Ron Brown delegation.

I will just briefly give their names now. On our aircraft on March 1, 2, 3, and again on my birthday, April 3, when 35 people were killed: 35-year-old Capt. Ashley J. Davis of Baton Rouge, LA, also married with two children; again, T. Sgt. Kelly, Shelly A. Kelly, 36, Zanesville, OH, husband, two children; and the other four crew members, Timothy Schafer, captain, 33 years of age, just outside my own district, Costa Mesa, CA, 33 I said. T.Sgt. Cheryl Turnage 37, Lakehurst, NJ; Sgt. Robert Farrington, 34, Briarfield, AL; and the youngest, 29-year-old S. Sgt. Gerald B. Adlrich, from Louisiana—excuse me, Louisville, IL; all six of them assigned to Ramstein.

Much has been talked about across the country, justifiably so, about Mr. Brown's service to country, captain in Europe and in Korea, and all of the CEO's who will be so grievously missed by their families and their children. But here are the six great Air Force young folks: 29, 33, 34, 35 and 37, that went down on that ill-fated flight.

Mr. Speaker, tomorrow I will be going to a funeral for a true one-of-a-kind, outstanding American hero, Medal of Honor winner, Vice Adm. John D. Bulkeley. Vice Adm. John Bulkeley became known to me as a young 8-year-old boy, child , in 1942, 54-years ago, when as a PT boat commander, PT–41, he, under orders from Washington, DC and Franklin Delano Roosevelt, tied up again in Corregidor and Bataan was soon to fall; this was March 11 of 1942; and took Gen. Douglas MacArthur, then a four-star, soon to be a five-star. Mrs. MacArthur and their young son, named after another Medal of Honor winner, Arthur MacArthur, Gen. Douglas MacArthur of course also a Medal of Honor winner, the only father-son team in that hall of valor in the Pentagon, the MacArthurs, young Arthur MacArthur was just a small child. I think he was under 10 years of age. The three of them and key staff got on PT–41, and through a Japanese submarine screen made it down to Mindenao and eventually to Australia.

That was in the end of Vice Admiral Bulkeley's service to his country. Building up to then he had earned the nickname "Wild Man From Borneo," and I will do a special tribute to him next week.

I had the honor of spending time with his daughters and sons-in-law and his lovely wife at D-Day on the morning of D-Day. Clinton infringed upon what was to be Admiral Bulkeley's moment of memorial to all the people who died at sea in the D-Day invasion 2 years and 3 months after he had saved General MacArthur. He commanded all the PT boats at the Normandy invasion, went on to be a destroyer commander and sink two German ships at the end of the war, but he was to throw the memorial wreath into the English Channel at dawn at the beginning of all the memorial ceremonies.

The Congressmen that I was with were not able to go out on the ship except two senior Democrat chairmen, and President Clinton asked to hold the wreath with John Bulkeley, throw it into the water. Given his own lack of service and avoidance thereof three times, it was a little rough for Admiral Bulkeley, but in the afternoon services I asked him, I heard that the honor was taken away from me. He said, well, we both held the wreath, but God understood.

So I will go to his funeral tomorrow morning, 10 o'clock, the Memorial Chapel at Fort Myer. Any naval folks in the area or Army, Marine Corps of Air Force, you may not be able to get in the church, but please come to the ceremony and send this Medal of Honor, great one-of-a-kind American hero; well, he is already in heaven, but give him a great fanfare and memorial sendoff. He was the Capitol here several times. I was planning a lunch with him with the freshmen, constructing a PT boat 41, PT–41, to present to him, and he always procrastinated, delay things with heroes, and suddenly they are gone to their regard. He was here in the crypt area, where Washington and Martha Washington were supposed to be interred, to put a beautiful ceremonial case to the Medal of Honor with the original parrot Medal of Honor for the great train chase in the Civil War and he was there for that.

When you call him at home, he would answer the phone, "Report." Quite a man. Served on active duty longer than any naval officer I can thing of, with the possible exception of our great nuclear scientist, the world's No. 1 submariner. But Vice Adm. John Bulkeley was either one or two.

Next week I will also do a special order on one of the most infamous traitors in American history, Alger Hiss. Here is an article from, not a conservative magazine, but tries to be fair, the New Republic, April 15 issue, Goodies from the Venona files. That is the name for some once top-top-top-secret Russian files. "Hiss' Guilt" by Eric Breindel.

□ 1845

He is the editorial page editor of the New York Post, a well-read syndicated columnist.

Mr. Speaker, I include the article at this point in the Record:

Goodies From the Venona Files: Hiss's Guilt

(By Eric Breindel)

Earlier this month, the National Security Agency released another batch of Soviet intelligence cables intercepted during the Second World War and decrypted under the auspices of the long-secret Venona project. The cables in question, which span a three-year period (1943–1945), were dispatched to Moscow from New York, Washington and various other North American stations.

In serious quarters, the authenticity of the Venona cables has not been challenged. Even hard-left historians long committed to the innocence of Julius and Ethel Rosenberg have accepted them as genuine, despite the fact that the intercepts prove the guilt of the Rosenbergs and their confederates.

The intercepted messages show that Moscow, had at least 100 American agents providing Soviet intelligence with classified information during the war years. Even now, many of these agents remain unidentified—due both to the use of "covernames" and to Washington's failure to fully crack Moscow's code. But it's plain that most of the spies were members or close associates of the American Communist Party. And this puts the lie to the ancient claim that American Communists were merely New Deal idealists—"liberals in a hurry"—who didn't constitute any sort of fifth column.

The single most interesting document in the new Venona batch is a March 30, 1945, Washintgon-to-Moscow message concerning an agent whose covername is "Ales." The accompanying NSA glossary—prepared for internal use only, long before there was any indication that the intercepts might be released to the public—explains that "Ales" is "probably" famed State Department official and ostensible martyr of the American left, Alger Hiss. Among Hiss apologists, much will likely be made of the "probably." But careful perusal of the document—and the relevant corroborating evidence—demonstrates beyond doubt that Hiss was indeed a Soviet agent. In fact, almost everything in the message conforms to representations about Hiss made by previous sources, including Whittaker Chambers, the journalist (and Soviet agent) who first exposed him.

The cable in question was sent to Moscow by "Vadim"—or Anatoli Gromov (actual surname Gorski)—the NKVD'S station chief in Washington, D.C. (The NKVD was the forerunner of the KGB.) "Vadim" reports on a "chat" between "A" and "Ales" [Hiss]. According to the codebreakers, "A" is Iskhak A. Akhmerov * * *. As an "illegal," Akhmerov wasn't attached to an official Soviet mission. He lived in America—mostly in New York and in Washington—under various false names, assisted by forged documents.

Akhmerov, it should be noted, was first identified as Hiss's control-agent by ex-KGB Colonel Oleg Gordievsky in the latter's 1990 memoir. Gordievsky, the KGB's London station chief, defected to the West in 1985; he'd served as a British mole in Soviet intelligence for the prior eleven years. In his book, KGB: The Inside Story, Gordievsky recalls having attended a training lecture early in his KGB career delivered by Akhmerov. According to Gordievsky, the "silver-haired" Akhmerov, who seemed to be in his 60s, discussed Hiss and other American agents he'd controlled. Gordievsky—who did not have access to the Venona cables when he produced his memoir—reports without reservation that Alger Hiss's Soviet codename was "Ales." In a 1989 essay in The New York Review of Books, intelligence historian Thomas Powers likewise declares that Hiss was known to Moscow as "Ales."

Akhmerov, meanwhile, also turns up in ex-NKVD General Pavel Sudaplatov's 1994 memoir, Special Tasks. It seems the high-level "illegal" had direct responsibility not just for Hiss, but also for Michael Straight, a young aide to Interior Secretary Harold Ickes. Straight, a former owner and editor of the NEW REPUBLIC, knew his Soviet control-agent as "Michael Green." Akhmerov also came to supervise Elizabeth Bently—later an FBI informant—who knew her control only as "Bill."

Gordievsky maintains that Akhmerov also managed to develop a secret relationship with Harry Hopkins, FDR's top lieutenant and closest political confidante. This claim provoked considerable controversy when KGB: The Inside Story first appeared. Indeed, the British historian Christopher Andrew—who co-authored the book with Gordievsky—prevailed upon the latter to depict Hopkins as an "unconscious rather than a conscious" Soviet agent, implying that Hopkins merely saw Akhmerov as a useful back-channel to Stalin.

The Venona documents, however, suggest otherwise. In one cable—released late last year—"deputy" is the covername for a Soviet agent who says he attended a May 1943 meeting in Washington, D.C., at which only two other parties were present. American archival records demonstrate that the meeting in question did, in fact, take place: the attendees were FDR, Churchill and—yes—Harry Hopkins. The decrypted cable makes reference to Roosevelt, to Churchill and to "deputy." The latter, apparently, briefed Akhmerov in detail directly after the session.

The meeting itself focused on an issue of enormous importance to Moscow: whether or not—and when—the Western allies would open a second front in the war on Hitler. Information about how Churchill and Roosevelt saw this matter certainly wasn't meant to reach Stalin—not by a back-channel and not by any other path.

"Vadim's" March 30, 1945, summary of Akhmerov's "chat" with "Ales"—who is identified specifically as a State Department official—confirms Chambers with respect to important details. The Washington-Moscow cable explains that "Ales" has been working with the "Neighbors continuously since 1935." The codebreakers determined that "Neighbors"—a term which appears regularly in the Venona intercepts—denotes a Soviet intelligence organization other than the NKVD. The contest in which it is used in other messages indicates that "Neighbors" refers to the GRU—Soviet military intelligence.

Chambers consistently described himself as a GRU—rather than NKVD—agent; and he claimed, by extension, that Hiss, too, was affiliated with the GRU. On this point, many will recall a ridiculous 1992 attempt to "exonerate" Hiss—trumpeted by The New York Times and the New Yorker—that came crashing down when Russian historian Dimitri Volkogonov, who'd announced his inability to locate archival material implicating Hiss in espionage, admitted that he hadn't examine any GRU files. (Volkogonov, a serious scholar, appears to have been misled by a Hiss acolyte affiliated with The Nation, long America's leading forum for Alger Hiss apologia.)

The key point is that Chambers—even on the issue of which Soviet intelligence service employed Hiss—is vindicated by an internal Soviet cable. Also noteworthy is "Vadim's" report that "Ales" had worked as an agency "continuously" since 1935. Chambers testified repeatedly that Hiss began providing information for transmission to Moscow in 1935. To be sure, Chambers also told authorities that he couldn't be sure whether or not Hiss continued to spy for Moscow after 1938, which is when Chambers himself broke with the communist underground. Judging from the 1945 cable, Hiss—undeterred by Chambers's defection and unaffected by the 1939 Hitler-Stalin Pact—served the Soviets at least through the end of the war.

The newly released document explains specifically that "Ales"—"for some years"—functioned as "the leader of a small group of Neighbor's probationers, for the most part consisting of his relations." Insofar as the term "probationers" translates as agents, it would seem that Hiss was running a small GRU agent-group dominated by "relations," i.e., family members.

Chambers—like Elizabeth Bentley—insisted to the FBI that Alger's brother, Donald Hiss, was also a Soviet agent; Chambers further claimed that Hiss's wife, Priscilla, was a communist who assisted her husband's espionage activities by copying classified State Department documents. Once again, therefore, Venona buttresses Chambers's testimony as well as Bentley's.

The March 30, 1945, cable refers to "Ales's" role as a member of the U.S. diplomatic team at the Yalta summit, which took place earlier that same year. Hiss, of course, was part of the American delegation at Yalta. This, in fact, is why the FBI focused on him shortly after Igor Gouzenko—a code clerk at the Soviet Embassy in Ottawa who defected in 1945—told Canadian and British security officials that Moscow had its own agent in Washington's Yalta delegation. Gouzenko identified the agent in question as an aide to Secretary of State Edward Stettinius. Hiss, though several levels beneath the Secretary of State in the bureaucratic pecking order, did enjoy a notably close working relationship with Stettinius. The two men even called each other "Alger" and "Ed."

According to the decrypted cable, "Ales" went on to Moscow after the Yalta summit. Here a single question seems central: Did Hiss, in fact, head to Moscow after Yalta? The answer is yes.

Actually, only four Americans who weren't U.S. Embassy staffers did so; most, like President Roosevelt himself, managed to avoid the grueling trip through wartime Russia. The four who traveled to Moscow—all of whom flew on the Secretary of State's plane—included Stettinius himself, two career diplomats and Hiss. None—apart from Hiss—can plausibly have been "Ales."

The chief significance of the "Ales" document consists not in the fact that it proves Hiss's role as a Soviet agent—only the willfully blind still believe in Hiss's innocence. What's important is that the intercepted cable provides strong new evidence that Hiss continued to serve Stalin long after Whittaker Chambers severed his own ties to Moscow. Alger Hiss, it's now plain, was still a Soviet agent in 1945—the year he traveled to Yalta and organized the founding session of the United Nations in San Francisco. No wonder, then, that the young soviet diplomat Andrei Gromyko—in a rare moment of post-war Soviet-American cooperation—told his U.S. counterparts in the summer of '45 that Moscow wouldn't object to the appointment of Hiss as Secretary-General of the U.N.'s founding conference. The gesture, obviously, wasn't as generous as it appeared.

This article puts it away for any intelligent thinking person. Alger Hiss, who is in his 80's, going to take a life of lying to his grave with him, kind of the counterpart to Admiral Bulkley. He was a Russian spy in the 1930's. He was the Secretary-General of the founding convention for the United Nations in San Francisco. He was at Yalta in a room alone with Stalin, Churchill, and Franklin Delano Roosevelt passing everything he could to the most evil regime in terms of killing human beings and torturing them than any regime in the world including Hitler. American boys and allied men and women died all over this planet to shut Hitler down in 12 years but Stalin had 29 years to kill and murder and tear that country apart and the issue is still in doubt whether the great Russian people can ever re-find their religious roots or seek the free enterprise, free market system they are fighting to achieve without crime completely swallowing them. They went from serfdom right into Communist slavery and American traitors like Alger Hiss helped extend that agony and he has his, I do not even want to call them liberals, they are beyond that, they are rock hard radical leftists still in a sense fellow travelers still running around the country trying to express doubt about his guilt from Ivy League colleges to great universities on the west coast. Unbelievable. Alger Hiss is guilty. It has never been said clearly on this House floor. I am going to ask other Members to join me and see if we can do an hour on that.

Now the theme from here on, this amazing historical letter. I am going to give the signatures first before I read George Weigel's column and the resignation from all positions of responsibility by Jose Kennard in Texas.

Signing the letter besides the aforementioned Bishop Pilla is Joseph Cardinal Bernardin, archbishop, Chicago; James Cardinal Hickey, archbishop of Washington, DC. I will read it the way they signed it because they took the traditional placing of "Cardinal" instead of the middle name and they put it at the beginning, so I should read it the way they did it.

Cardinal Bernard Law, archbishop, Boston; Cardinal Adam Maida, Detroit; Cardinal Anthony Bevilacqua, Philadelphia; Cardinal Keeler—who spoke from the pulpit about this driving a so-called Catholic U.S. Senator to get up and remove herself from the church—Cardinal Keeler of Baltimore; Cardinal Mahony, Los Angeles; Cardinal John O'Connor, my good friend up in New York.

Before I get to that letter, listen to this, Mr. Speaker. Here are George Weigel's words:

"Has your diocesan newspaper editor been invited to interview the President? Has Hillary Rodham Clinton made an appearance at your local Catholic orphanage? Has your bishop been brought to the Oval Office to discuss welfare reform?"

Or I might add the minimum wage.

"Do you detect a far milder, less confrontational State Department attitude toward the Holy See, the Vatican, at last September's world conference on women at Beijing?

World Conference on the culture of death.

"Did you notice the President invoking a conversation with the Holy Father when he made his case for sending U.S. troops to Bosnia?"

Boy, did I ever and could not find out if it was even true.

"Has Mrs. Clinton been spotted arm-in-arm with Mother Teresa on the front page of your local daily?

"To borrow from medievals: We may be reasonably sure that this is about substance, not accidents.

"Actually, that pun is philosophically misplaced. For the substance of Clinton administration policy, which has put it at cross-purposes with Catholic teaching on a host of issues, hasn't changed all that much. But the accidents—the appearances, or as the TV folks say, the images—have been retooled more extensively than the 1996 Ford Taurus.

"And the reason why is self-evidently clear: The President is seeking re-election and his handlers have concluded that the Catholic vote is the key to his success. Thus the administration and the Clinton re-election campaign have been aggressively conducting Operation Catholic Seduction for months.

"On the face of it, it seems a rather brazen strategy."

This is a month before the veto on execution style abortion, by the way.

"This is, after all, the President whose very first acts in office were to sign executive orders widening the availability of abortion-on-demand and lifting the ban on fetal tissue research. This is the President whose surgeon-general, the unforgettable Joycelyn Elders, was known for mocking a, quote, celibate, male-dominated church, unquote."

Attack on Catholicism.

"This is the administration that vastly expanded foreign aid funding for Planned Parenthood," the world's largest abortion provider.

"This is the administration that hired Faith Mitchell."

What a first name.

"You don't know Faith Mitchell? For shame. She was the State Department official who, during the administration's battle with the Vatican over a universal, quote, right to abortion, unquote, at the 1994 Cairo world population conference, said that the Clintonistas, quote, suspect that the pope's opposition to the Clinton position has to do with the fact that the conference is really calling for a new role for women, calling for girl's education and improving the status of women, unquote."

In other words, Faith Mitchell said that the Vatican was really trying to crush women and hold them down. That is why we objected to that disgrace in Cairo.

Weigel continues:

"This is, to make an end of it, the President whose own ambassador to the Vatican, a former Democratic mayor of Boston," I will put his name in, Ray Flynn, "said he was embarrassed by the, quote, ugly anti-Catholic bias shown by prominent Members of Congress and the administration, unquote."

Thank you, former Mayor Ray Flynn, Ambassador Flynn.

"Given this history, Operation Catholic Seduction set something of a record in campaign chutzpah." You have to go to a good Yiddish word to convey that hubris. Chutzpah.

"Imagine James G. Blaine, fresh from denouncing Rum, Romanism, that is, Catholicism, and Rebellion in 1884"—he lost, of course—"inviting Cardinal Gibbons to tea and pleading his undying affection for Pope Leo XII. But President Clinton, whose political skills no one should deny, can count. Catholics are heavily represented in the States the Clinton-Gore team has to win in November: California, and the big, electoral vote-rich states of the Northeast and Midwest.

"The Clinton handlers also know that, in the 1994 off-year election, the Catholic vote went majority Republican—for the first time in history—and the result was that the Democrats lost control of the House of Representatives for the first time since Dwight D. Eisenhower was resident at 1600 Pennsylvania Avenue Northwest. Fool me once, shame on you; fool me twice, shame on me.

"Does Operation Catholic Seduction have a chance?"

Does it, Mr. Speaker?

"It's already working in some quarters. One bishop, fresh from an encounter with the President in the Oval Office, reportedly told a friend, you know, he speaks our language on a lot of issues, quote-unquote.

"Perhaps he does. But there is abundant evidence that this President has a genius for suggesting one thing when you're in the room with him and doing something else after you leave. Moreover, shared but highly contingent judgments on welfare reform do not trump the encyclical evangelium vitae"—getting the word out on life, preaching life—"which poses a fundamental and unambiguous challenge to the administration."

It is coming up, that challenge by every single cardinal in America.

"Given what seems to be the Republican instinct for suicide"—I hear you, George, it is there—"Operation Catholic Seduction may be a sideshow by the fall. But it's going full blast, just now. And it's having an effect on experienced people who ought to know better."

Well, Operation Catholic Seduction may have come to a screeching halt. I do not know, but I believe Jose R. Kennard of El Paso, TX, is probably a loyal Hispanic American and a good loyal Roman Catholic. He writes to Clinton April 12, 6 days ago.

"Dear President Clinton:

"Wednesday evening when I learned that you had vetoed the partial-birth abortion bill, I felt stunned and angry. But mostly, I felt betrayed.

"Betrayal is a strong word. However, President Clinton, this is the anguish that I and many Democrats across the Nation feel now. As a dedicated Democrat, I believed Bill Clinton during the primary campaign in Texas in 1992, and in the general election as our nominee when you vowed to protect the rights of individuals and to forge an era of the New Democrat. An era that would avoid extremism of either side. I campaigned for that Bill Clinton and stood proudly in the cold in Washington at your inauguration when you gave your message of hope for those who had no voice. But last Wednesday, with your veto, you ignored the rights of innocent little children and literally sentenced them, thousands probably before this madness is brought to an end, to their deaths.

"Unlike the debate over abortion that has been ongoing for decades, this procedure is clearly the brutal taking of a human life."

I want to repeat that line, Mr. Speaker. This partial-birth, execution-style procedure is clearly the brutal taking of human life.

"The right-to-choose position of the Democratic Party has largely been driven by the belief that a fetus cannot survive outside the mother's womb. But in this case, medical evidence is clear that these babies could survive but are destroyed in the most vicious and inhumane way possible. Our society demands that even dogs be destroyed in a more humane fashion.

"For what purpose, Mr. President, did you do this? To satisfy a minority of extremists whose votes you would have gotten anyway? And please, consider again your rationalization that you acted, quote, to protect the safety of the mother, unquote, when the bill permitted an exception if a doctor deemed the procedure necessary to save a mother's life."

That is never going to happen, because you do not protect any mother's life by holding a baby in the birth canal, Mr. Speaker, and killing it, and exaggerating in extremis the birth process for the mother. What an absurd thought. And that was made on the Senate floor and shut up one of the lady Senators when BOB SMITH of New Hampshire asked her how that helped the mother to delay the birth and hold the baby in the womb so you could kill it and not be charged with infanticide 60 seconds or 5 seconds later.

Back to Mr. Jose Kennard's letter:

"You know full well the bill would not have received the support of the Council on Legislation of the American Medical Society—and it did receive that—and 73 Democrats in the House if it did not."

"Mr. President, with all due respect, there is no valid reason for your action, ethically or politically. And, it is certainly inconsistent with other positions you have taken.

"Your presence and comments in Oklahoma last week on the anniversary of the bombing tragedy—which will be tomorrow—reflected your deep concern for those who perished, especially the children. Yet, you signed the death certificate on Wednesday—Easter week, Easter Wednesday—for countless, equally innocent children. Several weeks ago I saw you visibly shaken when speaking of the mass murder of children in Scotland. You had a chance, with your vote, to prevent a much greater tragedy. Mr. President, you choose instead to trade those future lives for votes that you perceive are crucial for your reelection."

What does it profit a man to regain the White House even than jeopardize his immortal soul. Those are my words, Mr. Speaker.

Jose continues:

"In the past 3 years I have seen you time and time again speak out to the thousands, maybe millions, of young Americans who have been lost to the streets in a life of murder, destruction and mayhem, drugs and disease. You have pleaded with them to have respect for human life. But, with this veto, you did the opposite. And we, as party officials, have been put in the untenable position of having to live with that decision.

"Mr. President, I cannot and will not support this action. Therefore, I cannot in good conscience support your candidacy.

"As I contemplated this matter over these past days, I was reminded of the words of the late President John F. Kennedy when he said: Quote, sometimes party loyalty asks too much, unquote."

It is unbelievable that his nephew JOE voted for this partial-birth, execution-style abortion.

"Thus, it is with regret and sorrow that on this date, April 12, 1996, I have submitted my resignation as a member of the Texas State Democratic Executive Committee and the Chair of the Mexican-American Caucus. I have informed our State Chairman, Bill White. While I do not intend to actively support or vote for any Republican or Independent candidate, I will be asking other Democrats to consider withholding their support of your candidacy while continuing to support Democrats for other offices.

"Very truly yours, Jose R. Kennard, State Committeeman, District 29."

☐ 1900

Mr. Speaker, let me see if I can get through the Cardinals' letter. This is dated on my 41st wedding anniversary, my wife's birthday, April 16, two days ago.

"Dear President Clinton: It is with deep sorrow and dismay that we respond to your April 10th veto of the Partial-Birth," and I add execution style, "Abortion Ban Act." Your veto of this bill is beyond comprehension for those of us who hold human life sacred. It will ensure the continued use of the most heinous act to kill a tiny infant just seconds from taking his or her first breath outside the womb."

Mr. Speaker, when did we ever believe that eight Catholic Cardinals, what in my faith we call Princes of the Church, two liberals, a couple of moderates, and the rest generally conservative on theological issues, all of them united, and they are deadly serious on this.

Clinton with his 4 year Jesuit Georgetown education; I had 7 years of Jesuit education. I asked my pal, Cato Byrne, what is his thinking there? As they say to people in the conservative wing of the Republican Party, where else are they going to go if we pick a pro-choice Vice President candidate? We always say we man the phone banks, we energize a lot of races across this country. Not a single pro-life person lost at the Governor, House or Senate level in 1994.

Cato Byrne told me the analysis is that Clinton said we not only need them, sure they will be with us if I accept this ban, but we have to have them energized. They are our core base, like the homosexual activists. They are our fund raisers, they are our phone bank people.

What a role of the dice he made here. I will read the words of one Bishop, all the Bishops are unified, 300 them, but eight Cardinals.

"It will ensure the continued use of the most heinous act to kill a tiny infant just seconds from taking his or her first breath outside the womb."

"At the veto ceremony you told the American people that you 'had no choice but to veto the bill.' Mr. President, you and you alone had the choice of whether or not to allow children almost completely born to be killed brutally in partial-birth abortions. Members of both Houses of Congress made their choice. They said no to partial-birth abortions. American women voters have made their choice. According to a February 1996 poll," it is only 2 months ago, "by Fairbank, Maslin, Maullin & Associates, 78 percent of women voters said no to partial-birth execution style abortions. Your choice was to say yes, to allow this killing more akin to infanticide than abortion, to continue.

"During the veto ceremony you said you would ask Congress to change H.R. 1833 to allow partial-birth abortions to be done for "serious adverse health consequences to the mother." You added that if Congress had included that exception, everyone in the world will know what we are talking about."

"On the contrary," the eight Cardinals say, "Mr. President. Not everyone in the world would know that 'health' as the courts defined it in the context of abortion means virtually anything that has to do with a woman's overall 'well beginning.' For example, most people have no idea that if a woman has an abortion because she is not married, the law considers that abortion a 'health' reason."

Mr. Speaker, I am going to jump to the signature page. "Writing this response to you in unison is on our part virtually unprecedented." I believe it is unprecedented, not virtually.

It will, we hope, underscore our," the Cardinals and all the 300 Bishops, "resolve to be unremitting and unambiguous in our defense of human life."

Overwhelmingly the Episcopalian Bishops, the Board of Governors of the Southern Baptists, and every other denomination will weigh in in the majority on this. Jewish Orthodox Rabbis have already condemned this.

This whole page, page 2 of the 3 pages, I do not have time to read, it is hard hitting language. I am coming back to the well to read this entire letter at the beginning of a special order. But I want to close in about the minute I have left with this.

We have a Catholic problem in this House, Mr. Speaker. We have 129 Catholics here, almost 30 percent, 29.4 percent of the House. That is beyond the 23 or 24 percent American average. This is the biggest denomination of Christians, by a long shot, in this House, 128.

Fifty-seven are regularly pro-life; 59 are regularly pro-death. Twelve are all over the place. All 12 voted against partial-birth execution-style abortion, as did all 57 pro-lifers. Of the 59 who have been pro-abortion for the last year and 3 months, 26 we won back. But that leaves 33 Catholics, every one of them a Democrat, who are subject to this letter from the eight Cardinals just as much as President Clinton is.

Two of them are running for the Senate with Catholic in their bio; one of them has already been banned from speaking in New York City high schools. I guess I figured he lost it all anyway. Three Republicans who regularly vote abortion did absent themselves. Out of courtesy to them I will not mention their names. Thank heavens they did that.

We got back a Catholic doctor from the heartland of America. One Senator was notably absent. We got back JOE BIDEN. God bless you, JOE. you have been through a lot in life with family and your own surgeries. You are back.

But here are 10 Catholic Senators with beautiful Polish names, mostly Irish-American names, and one of them is running for reelection in the senate, three are running for reelection. The whole Boston delegation of Catholics is torn apart by this. We won back a lot of Good Democrats on this one vote.

Mr. Speaker, I am going to put this list in the RECORD at the end of my speech. Then I will come back for page 2, as a matter of fact, all three pages, next week.

Mr. Speaker, Let people who care get the CONGRESSIONAL RECORD of Jimmy Doolittle's Bombing Tokyo Day, April 18th, 54th anniversary.

Get this RECORD and read these Catholic names and pray for these 33 people that would not come home and think they no more than Mother Theresa, the Vicar of Christ of Earth and every single Catholic Cardinal in America.

Mr. Speaker, the documents referred to follow:

NATIONAL CONFERENCE OF CATHOLIC BISHOPS, OFFICE OF THE PRESIDENT,
Washington, DC, April 16, 1996.

President WILLIAM CLINTON,
The White House,
Washington, DC.

DEAR PRESIDENT CLINTON: It is with deep sorrow and dismay that we respond to your April 10 veto of the Partial-Birth Abortion Ban Act.

Your veto of this bill is beyond comprehension for those who hold human life sacred. It will ensure the continued use of the most heinous act to kill a tiny infant just seconds from taking his or her first breath outside the womb.

At the veto ceremony you told the American people that you "had no choice but to veto the bill." Mr. President, you and you alone had the choice of whether or not to allow children, almost completely born, to be killed brutally in partial-birth abortions. Members of both House of Congress made their choice. They said NO to partial-birth abortions. American women voters have made their choice. According to a February 1996 poll by Fairbank, Maslin, Maullin & Associates, 78 percent of women voters said NO to partial-birth abortions. Your choice was to say YES and to allow this killing more akin to infanticide than abortion to continue.

During the veto ceremony you said you had asked Congress to change H.R. 1833 to allow partial-birth abortions to be done for "serious adverse health consequences" to the mother. You added that if Congress had included that exception, "everyone in the world will know what we're talking about."

On the contrary, Mr. President, not everyone in the world would know that "health," as the courts define it in the context of abortion, means virtually anything that has to do with a woman's overall "well being." For example, most people have no idea that if a woman has an abortion because she is not married the law considers that an abortion for "health" reason. Similarly, if a woman is "too young" or "too old," if she is emotionally upset by pregnancy, or if pregnancy interferes with schooling or career, the law considers those situations as "health" reasons for abortion. In other words, as you know and we know, an exception for "health" means abortion on demand.

You say there is a difference between a "health" exception and an exception for "serious adverse health consequences." Mr. President, what is the difference—legally—between a woman's being too young and being "seriously" too young? What is the difference—legally—between being emotionally upset and being "seriously" emotionally upset? From your study of this issue, Mr. President, you must know that most partial-birth abortions are done for reasons that are purely elective.

It was instructive that the veto ceremony included no physician able to explain how a woman's physical health is protected by almost fully delivering her living child, and then killing that child in the most inhumane manner imaginable before completing the delivery. As a matter of fact, a partial-birth abortion presents a health risk to the woman. Dr. Warren Hern, who wrote the most widely used textbook on how to perform abortions, has said of partial-birth abortions: "I would dispute any statement that this is the safest procedure to use."

Mr. President, all abortions are lethal for unborn children, and many are unsafe for their mothers. This is even more evident in the late-term, partial-birth abortion, in which children are killed cruelly, their mothers placed at risk, and the society that condones it brutalized in the process.

As Catholic bishops and as citizens of the United States, we strenuously oppose and condemn your veto of H.R. 1833 which will allow partial-birth abortions to continue.

In the coming weeks and months, each of us, as well as our bishops' conference, will do all we can to educate people about partial-birth abortions. We will inform them that partial-birth abortions will continue because you chose to veto H.R. 1833.

We will also urge Catholics and other people of good will—including the 65% of self-described "pro-choice" voters who oppose partial-birth abortions—to do all that they can to urge Congress to override this shameful veto.

Mr. President, your action on this matter takes our nation to a critical turning point in its treatment of helpless human beings inside and outside the womb. It moves our nation one step further toward acceptance of infanticide. Combined with the two recent federal appeals court decisions seeking to legitimize assisted suicide, it sounds the alarm that public officials are moving our society ever more rapidly to embrace a culture of death.

Writing this response to you in unison is, on our part, virtually unprecedented. It will, we hope, underscore our resolve to be unremitting and unambigous in our defense of human life.

Sincerely yours,

Joseph Cardinal Bernardin, Archbishop of Chicago; James Cardinal Hickey, Archbishop of Washington, D.C. ; Bernard Cardinal Law, Archbishop of Boston; Adam Cardinal Maida, Archbishop of Detroit; Anthony Cardinal Bevilacqua, Archbishop of Philadelphia; William Cardinal Keeler, Archbishop of Baltimore; Roger Cardinal Mahony, Archbishop of Los Angeles; John Cardinal O'Connor, Archbishop of New York; Most Reverend Anthony Pilla, President, National Conference of Catholic Bishops.

List is as follows:

PRO-ABORTION CATHOLICS IN CONGRESS

Pastor, Becerra, Eshoo, George Miller, Pelosi, Roybal-Allard, DeLauro, Kennelly, Pete Peterson, McKinney, Durbin, Evans, Gutierrez, Visclosky, Baldacci, Joe Kennedy, Markey, Meehan, Luther, Vento, Clay, McCarthy, Pat Williams, Menendez, Pallone, Hinchey, Rangel, Velazquez, DeFazio, Coyne, Reed, Gonzalez.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ABERCROMBIE) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.

Mr. WISE, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Mr. RAHALL, for 5 minutes, today

Mr. MARTINEZ, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. ABERCROMBIE, for 5 minutes, today.

(The following Members (at the request of Mr. JONES) to revise and extend their remarks and include extraneous material:)

Mr. MCINTOSH, for 5 minutes, today.

Mr. WOLF, for 5 minutes, today.

Mr. GOSS, for 5 minutes, today.

Mr. WELLER, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. PELOSI, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. MILLER of California, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HYDE and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,221.

(The following Members (at the request of Mr. ABERCROMBIE) and to include extraneous matter:)

Mr. CLEMENT.

Ms. DELAURO.

Mr. CLAY.

Mr. MCNULTY.

Mr. HAMILTON in two instances.

Mr. TOWNS.

Mr. BONIOR in two instances.

Mr. BENTSEN.

(The following Members (at the request of Mr. JONES) and to include extraneous matter:)

Mr. EHLERS.

Mr. NEY.

Mr. WATTS of Oklahoma in two instances.

Mr. TORKILDSEN.

Mr. ALLARD.

Mr. HORN.

Mr. BURTON of Indiana in two instances.

Mr. KING.

Mr. CUNNINGHAM.

Mr. RADANOVICH.

Mr. BLILEY.

(The following Members (at the request of Mr. DORNAN) and to include extraneous matter:)

Mr. PACKARD.

Mr. FRANKS of Connecticut.

Mr. ROBERTS.

Mr. BURTON of Indiana in two instances.

Mr. SPENCE.

Ms. ESHOO.

Mr. MARTINI.

Ms. FURSE.

Mr. LANTOS.

Mr. FAZIO of California.

Ms. JACKSON-LEE of Texas.

Mr. ROMERO-BARCELÓ.

Mr. FRELINGHUYSEN.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 255. An act to designate the Federal Justice Building in Miami, Florida, as the "James Lawrence King Federal Justice Building";

H.R. 869. An act to designate the Federal building and United States courthouse located at 125 Market Street in Youngstown, Ohio, as the "Thomas D. Lambros Federal Building and United States Courthouse";

H.R. 1804. An act to designate the United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, as the "Judge Isaac C. Parker Federal Building";

H.R. 2556. An act to redesignate the Federal building located at 345 Middlefield Road in Menlo Park, California, and known as the Earth Sciences and Library Building, as the "Vincent E. McKelvey Federal Building"; and

H.R. 2415. An act to designate the United States Customs Administrative Building at the Ysleta/Zaragoss Port of Entry located at 797 South Zaragosa Road in El Paso, Texas, as the "Timothy C. McCaghren Customs Administrative Building."

ADJOURNMENT

Mr. DORNAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 8 minutes p.m.), the House adjourned until tomorrow, Friday, April 19, 1996, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2419. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's report on conditions in Hong Kong of interest to the United States for the period ending March 31, 1996, pursuant to 22 U.S.C. 5731; to the Committee on International Relations.

2420. A letter from the Secretary of Veterans Affairs, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ARCHER: Committee on Ways and Means. H.R. 2754. A bill to approve and implement the OECD Shipbuilding Trade Agreement; with an amendment (Rept. 104–524 Pt. 1). Ordered to be printed.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2594. A bill to amend the Railroad Unemployment Insurance Act to reduce the waiting period for benefits payable under that act, and for other purposes (Rept. 104–525). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2660. A bill to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge (Rept. 104–526). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2679. A bill to revise the boundary of the North Platte National Wildlife Refuge (Rept. 104–527). Referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 2754. Referral to the Committee on National Security extended for a period ending not later than May 30, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DUNCAN (for himself, Mr. SHUSTER, Mr. LIPINSKI, Mr. WELLER, Mr. CLINGER, Mr. LIGHTFOOT, Mr. PAXON, and Mr. MARTINI):

H.R. 3267. A bill to amend title 49, United States Code, to prohibit individuals who do not hold a valid private pilots certificate from manipulating the controls of aircraft in an attempt to set a record or engage in an aeronautical competition or aeronautical feat, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. CUNNINGHAM:

H.R. 3268 A bill to amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that act, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. CUNNINGHAM (for himself, Mrs. MINK of Hawaii, and Mr. BILBRAY):

H.R. 3269. A bill to amend the Impact Aid Program to provide for a hold-harmless with respect to amounts for payments relating to the Federal acquisition of real property and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. DOOLITTLE (for himself, Mr. MATSUI, Mr. FAZIO of California, Mr. POMBO, Mr. HERGER, Mr. RADANOVICH, Mr. CONDIT, and Mr. DOOLEY):

H.R. 3270. A bill to authorize and direct the Secretary of the Army to expeditiously construct a project for flood control on the Sacramento and American Rivers, CA, and to authorize and direct the Secretary of the Interior and the Secretary of the Army to enter into agreements that allow the State of California or other non-Federal sponsors to construct, without cost to the United States, a multipurpose dam and related facilities at Auburn on the American River; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. HOUGHTON, Mr. TRAFICANT, Mr. HOLDEN, Mr. GREEN of Texas, Mr. RAHALL, Ms. MCKINNEY, Mr. SPRATT, Mr. LIPINSKI, Mr. KENNEDY of Massachusetts, Mr. KLINK, Mr. CALVERT, and Mr. NEY):

H.R. 3271. A bill to amend the Trade Act of 1974 to extend the period of time within which workers may file a petition for trade adjustment assistance; to the Committee on Ways and Means.

By Mr. GILLMOR (for himself, Mr. FIELDS of Texas, Mr. BOUCHER, Mr.

OXLEY, Mr. MANTON, and Mr. STEARNS):

H.R. 3272. A bill to amend the Securities Exchange Act of 1934 to require improved disclosure of corporate charitable contributions, and for other purposes; to the Committee on Commerce.

By Mr. GILLMOR:

H.R. 3273. A bill to amend the Securities Exchange Act of 1934 to require corporations to obtain the views of shareholders concerning corporate charitable contributions; to the Committee on Commerce.

By Mr. GOSS:

H.R. 3274. A bill to amend the Federal Election Campaign Act of 1971 to reform House of Representatives campaign finance laws, and for other purposes; to the Committee on House Oversight, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. PRYCE (for herself and Mr. TIAHRT):

H.R. 3275. A bill to amend the Indian Child Welfare Act to exempt from coverage of the act child custody proceedings involving a child whose parents do not maintain significant social, cultural, or political affiliation with the tribe of which the parents are members, and for other purposes; to the Committee on Resources.

By Mr. RIGGS (for himself, Mrs. KELLY, Ms. LOFGREN, Mr. POSHARD, and Mr. NORWOOD):

H.R. 3276. A bill to provide that, to receive their pay, Members of Congress are required to certify that they have performed their congressional duties, and for other purposes; to the Committee on House Oversight.

By Mr. SMITH of Texas (for himself, Mr. CONDIT, Mr. DeLAY, Mr. CLINGER, Mr. McINTOSH, Mr. PETE GEREN of Texas, Mr. HASTERT, Mr. PETERSON of Minnesota, Mr. MILLER of Florida, Mr. WICKER, Mr. STOCKMAN, Mr. HERGER, Mr. ROHRABACHER, Mr. FUNDERBURK, Mr. WELLER, Mr. COBLE, Mr. PARKER, Mrs. CHENOWETH, Mr. BUNNING of Kentucky, Mr. LAUGHLIN, Mr. LEWIS of Kentucky, Mr. LARGENT, Mr. EMERSON, Mr. DEAL of Georgia, Mr. NORWOOD, Mr. THORNBERRY, Mr. DUNCAN, Mr. HOSTETTLER, Mr. GUTKNECHT, Mr. COBURN, Mr. COOLEY, Mr. FIELDS of Texas, Mr. GEKAS, Mr. BARTON of Texas, Mr. COMBEST, Mr. ARCHER, Mr. TAUZIN, and Mr. DAVIS):

H.R. 3277. A bill to ensure congressional approval of the amount of compliance costs imposed on the private sector by regulations issued under new or reauthorized Federal laws; to the Committee on Government Reform and Oversight, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUPAK:

H.R. 3278. A bill to direct the Secretary of Transportation to convey the St. Helena Island Light Station to the Great Lakes Lighthouse Keepers Association; to the Committee on Transportation and Infrastructure.

By Mr. WARD (for himself, Mr. HAMILTON, Mr. FAZIO of California, Mr. MATSUI, Mr. JACOBS, Mr. MYERS of Indiana, Mr. TEJEDA, Mr. LEWIS of Kentucky, and Mr. SHUSTER):

H.R. 3279. A bill to provide for early deferred annuities under chapter 83 of title 5, United States Code, for certain former Department of Defense employees who are separated from service by reason of certain defense base closures, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. WAXMAN:

H.R. 3280. A bill to amend the Safe Drinking Water Act to guarantee the public's right to know about contaminants in their drinking water; to the Committee on Commerce.

By Mr. ENGLISH of Pennsylvania:

H.J. Res. 172. Joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections; to the Committee on the Judiciary.

By Mr. BREWSTER (for himself, Mr. BURR, Mr. FRANKS of New Jersey, Mr. FRAZER, Mr. FROST, Mr. WAXMAN, Mr. WATTS of Oklahoma, and Mr. COBURN):

H. Con. Res. 164. Concurrent resolution honoring the national organization of Future Business Leaders of America—Phi Beta Lambda; to the Committee on Economic and Educational Opportunities.

By Mr. QUINN (for himself, Mr. BORSKI, Mr. FLANAGAN, Mr. KLECZKA, Mr. HOKE, and Mrs. JOHNSON of Connecticut):

H. Con. Res. 165. Concurrent resolution saluting and congratulating Polish people around the world as, on May 3, 1996, they commemorate the 205th anniversary of the adoption of Poland's first constitution; to the Committee on International Relations, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STOCKMAN:

H. Con. Res. 166. Concurrent resolution authorizing the use of the Capitol Grounds for the Washington for Jesus 1996 prayer rally; to the Committee on Transportation and Infrastructure.

By Mr. GEPHARDT (for himself, Mr. GINGRICH, Mrs. MEEK of Florida, Mr. DINGELL, Mr.PAYNE of New Jersey, Mr. CONYERS, Mr. FORD, Mrs. COLLINS of Illinois, Mrs. CLAYTON, Mr. RANGEL, Mr. OWENS, Mr. FIELDS of Louisiana, Mr. HILLIARD, Mr. FRAZER, Ms. NORTON, Mr. WYNN, Mr. DELLUMS, Mr. JEFFERSON, Mr. DIXON, Mr. RUSH, Ms. McKINNEY, Mr. CLAY, Ms. JACKSON-LEE, Mr. BISHOP, Mr. HOYER, Mr. MATSUI, Mrs. MINK of Hawaii, Mr. RAHALL, Mr. BARRETT of Wisconsin, Mr. GEJDENSON, Mr. COLEMAN, Mr. GORDON, Mr. BROWN of California, Ms. HARMAN, Mrs. KENNELLY, Mr. SAWYER, Ms. LOFGREN, Mr. BONIOR, Mr. FAZIO of California, Mr. FROST, Mr. LEWIS of Georgia, Ms. DeLAURO, Mr. EDWARDS, Mr. CARDIN, Mr. PALLONE, Mr. STENHOLM, Mr. LEVIN, Mr. STUPAK, Mr. SCHUMER, Mr. JOHNSTON of Florida, Ms. PELOSI, Mr. REED, Mr. BERMAN, Mr. MILLER of California, Mr. SABO, Mr. VOLKMER, Mr. OBERSTAR, Mr. SKAGGS, Mr. DURBIN, Mr. NEAL of Massachusetts, Mr. FRANK of Massachusetts, Ms. WOOLSEY, Mr.BENTSEN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. OBEY, Mr. OLVER, Mr. ABERCROMBIE, Mr. BORSKI, Mr. STUDDS, Mr. STOKES, Mr. MEEHAN, Mr. BALDACCI, Mr. McHALE, Mr. SKELTON, Mr. MASCARA, Mr. CLYBURN, Mr. FILNER, Mr. BARCIA of Michigan, Mr. KLECZKA, Mr. ACKERMAN, Mr. HINCHEY, Mr. DEUTSCH, Mrs. MALONEY, Mr. JACKSON, Mr. DOYLE, Ms. BROWN of Florida, Mr. TAYLOR of Mississippi, Miss COLLINS of Michigan, Mr. FATTAH, Mr. TRAFICANT, Mr. TOWNS, Mr. YATES, Mr. THORNTON, Mr. SCOTT, Mr. KANJORSKI, Mr. POSHARD, Mr. LANTOS, Mr. EVANS, Mr. MARTINEZ, Mr. HALL of Ohio, Mr. ANDREWS, Mr. BOUCHER, Mr. NADLER, Mr. ROMERO-BARCELO, Mr. MARKEY, Mr. STARK, Mr. MANTON, Mr. COYNE, Mr. WATT of North Carolina, Mr. MOAKLEY, Mr. GREEN of Texas, Mr. UNDERWOOD, Mr. KLINK, Ms. ESHOO, Mr. RICHARDSON, Mr. WARD, Mr. COSTELLO, Mr. SPRATT, Mr. ENGEL, Mr. VISCLOSKY, Ms. WATERS, Mr. LUTHER, Mr. KENNEDY of Massachusetts, Mr. FARR, Mr. WAXMAN, Ms. FURSE, Mr. THOMPSON, Mr. DE LA GARZA, Mr. FLAKE, Ms. MILLENDER-McDONALD, and Mr. FORBES):

H. Res. 406. Resolution in tribute to Secretary of Commerce Ronald H. Brown and other Americans who lost their lives on April 3, 1996, while in service to their country on a mission to Bosnia; considered and agreed to.

By Mr. SCHUMER:

H. Res. 407. Resolution condemning the National Rifle Association for holding its annual convention on the anniversary of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, OK; to the Committee on Government Reform and Oversight.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. BAKER of California and Mr. DICKEY.

H.R. 103: Mr. BISHOP.

H.R. 109: Mr. STARK.

H.R. 303: Mr. BAKER of California, Mr. COBURN, and Mr. DICKEY.

H.R. 488: Mr. GUTIERREZ.

H.R. 598: Mr. POMEROY, Mr. LUTHER, Mr. CALLAHAN, and Mr. BRYANT of Tennessee.

H.R. 739: Mr. LAUGHLIN and Mr. MONTGOMERY.

H.R. 820: Mr. MILLER of California and Mr. CREMEANS.

H.R. 885: Mr. LAZIO of New York and Mr. FRISA.

H.R. 940: Mr. McHALE.

H.R. 941: Mr. SMITH of New Jersey and Mr. OLVER.

H.R. 997: Mr. FRANK of Massachusetts.

H.R. 1000: Mr. ANDREWS and Mr. PORTER.

H.R. 1078: Mr. DEFAZIO.

H.R. 1363: Mr. SAM JOHNSON.

H.R. 1386: Mr. HEINEMAN, Mr. LATHAM, and Mr. COOLEY.

H.R. 1462: Mr. STUPAK, Mr. HOLDEN, Mr. McHALE, Mrs. SCHROEDER, Mr. KANJORSKI, Mr. McDADE, and Mr. LONGLEY.

H.R. 1484: Ms. McKINNEY.

H.R. 1684: Mr. GEKAS, Mr. GOSS, Mr. McCOLLUM, Mr. MILLER of Florida, Mr. PACKARD, Ms. ROS-LEHTINEN, Mr. THOMAS, Mr. WALKER, Mr. YOUNG of Florida, and Mr. TRAFICANT.

H.R. 1713: Mr. THORNBERRY and Mr. LEWIS of Kentucky.

H.R. 1776: Ms. PELOSI, Mr. OLVER, Mr. GUTIERREZ, Mr. TEJEDA, Mr. HEINEMAN, Mrs. MINK of Hawaii, Mr. FRANK of Massachusetts, Mr. CUNNINGHAM, Mr. LEACH, and Mr. HUNTER.

H.R. 1797: Ms. ROYBAL-ALLARD, Ms. LOFGREN, and Mr. STUPAK.

H.R. 1841: Mr. LATHAM.

H.R. 1957: Mr. GUTIERREZ.

H.R. 2011: Ms. ROYBAL-ALLARD.

H.R. 2019: Mr. SAXTON, Mr. GILMAN, and Mr. BARTLETT of Maryland.

H.R. 2134: Mr. McKEON.

H.R. 2185: Mr. RAHALL, Mr. DEUTSCH, Mr. OLVER, Mrs. MALONEY, Mr. MORAN, Mr. BOUCHER, Mrs. KELLY, Mr. COYNE, and Mr. KILDEE.

H.R. 2244: Mr. SALMON.

H.R. 2247: Mr. ENGEL, Mr. GORDON, Mr. HASTINGS of Florida, Mr. OBERSTAR, and Mr. OWENS.

H.R. 2271: Mr. DELLUMS, Mr. ENGEL, and Mr. LIPINSKI.

H.R. 2320: Mrs. MEYERS of Kansas, Mr. POMEROY, Mr. TALENT, Mr. GALLEGLY, and Mrs. SEASTRAND.

H.R. 2472: Mr. LEWIS of Georgia, Mr. MASCARA, Mr. ABERCROMBIE, Mr. PALLONE, and Mr. HINCHEY.

H.R. 2508: Mr. MATSUI, Mr. BEVILL, and Mr. TRAFICANT.

H.R. 2531: Mr. BUNNING of Kentucky.

H.R. 2548: Mr. LATOURETTE, Mr. CREMEANS, and Mr. NETHERCUTT.

H.R. 2579: Mr. KIM and Ms. ROYBAL-ALLARD.

H.R. 2602: Mr. HASTINGS of Florida.

H.R. 2634: Mr. RAHALL.

H.R. 2724: Mr. ABERCROMBIE, Mr. OLVER, Mr. CONYERS, Mr. KLINK, and Mr. BORSKI.

H.R. 2725: Mr. ABERCROMBIE, Mr. OLVER, Mr. CONYERS, Mr. KLINK, and Mr. BORSKI.

H.R. 2757: Mrs. THURMAN and Mr. LUCAS.

H.R. 2807: Mr. LEWIS of Georgia and Mr. DOOLEY.

H.R. 2843: Mr. BILIRAKIS.

H.R. 2856: Mr. PALLONE, Mrs. MALONEY, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 2931: Ms. VELAZQUEZ.

H.R. 2938: Mr. CAMP, Mrs. FOWLER, Mr. UPTON, Mr. LARGENT, Mr. QUINN, Mr. GUNDERSON, Mr. CRAPO, Mr. THORNBERRY, Mr. LAHOOD, Mr. FOLEY, and Mr. HALL of Ohio.

H.R. 3012: Mr. SCARBOROUGH, Mr. BROWN of California, Mr. LIPINSKI, Mr. STUPAK, Mr. ABERCROMBIE, Mr. RAHALL, Mr. WOLF, Mr. ORTIZ, Mr. HALL of Texas, Mr. EHRLICH, Mr. VOLKMER, Mr. GONZALEZ, Mr. TORRES, and Mr. OLVER.

H.R. 3050: Mr. SKELTON.

H.R. 3059: Mr. FILNER, Mr. DELLUMS, and Mr. YATES.

H.R. 3060: Mr. SENSENBRENNER, Mr. BARTLETT of Maryland, and Mr. WELDON of Florida.

H.R. 3078: Mr. ENGLISH of Pennsylvania, Mr. BALLENGER, Mrs. KELLY, Mr. BLUTE, and Mr. PICKETT.

H.R. 3081: Mr. STARK, Mr. FRAZER, Ms. PELOSI, Mr. UNDERWOOD, Mr. FATTAH, Mr. DELLUMS, Mr. BLUTE, Ms. LOFGREN, Mr. TORRES, Mr. THOMPSON, and Mr. DOOLEY.

H.R. 3119: Mr. FALEOMAVAEGA and Mr. MANTON.

H.R. 3142: Mr. HOYER, Mr. FAZIO of California, Mr. SPRATT, Mrs. VUCANOVICH, Mr. MILLER of Florida, Mr. SCHAEFER, Mrs. MORELLA, and Mrs. SCHROEDER.

H.R. 3152: Mr. CAMPBELL.

H.R. 3161: Mr. BEREUTER.

H.R. 3167: Mrs. MALONEY.

H.R. 3168: Ms. PELOSI.

H.R. 3173: Mr. EVANS, Mr. REGULA, Mr. GUTIERREZ, Mr. NADLER, and Mr. WELDON of Pennsylvania.

H.R. 3174: Mrs. JOHNSON of Connecticut, Mr. MCDERMOTT, Ms. PELOSI, Mrs. CLAYTON, Ms. DANNER, Mr. FILNER, Mr. HILLIARD, Mr. FROST, Ms. NORTON, Mr. STUDDS, Mr. FRAZER, Mr. HINCHEY, Ms. WATERS, Ms. LOFGREN, and Ms. ROYBAL-ALLARD.

H.R. 3176: Mrs. JOHNSON of Connecticut, Mr. MCDERMOTT, Ms. PELOSI, Mrs. CLAYTON, Ms. BROWN of Florida, Ms. DANNER, Mr. FILNER, Mr. HILLIARD, Mr. FROST, Ms. NORTON, Mr. STUDDS, Mr. FRAZER, Mr. HINCHEY, Ms. WATERS, Ms. LOFGREN, and Ms. ROYBAL-ALLARD.

H.R. 3187: Mr. TRAFICANT, Ms. BROWN of Florida, Mr. RAHALL, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. THOMPSON, and Mr. HILLIARD.

H.R. 3195: Mr. PARKER.

H.R. 3223: Mr. BEREUTER.

H.R. 3224: Mr. FOX and Mr. SKEEN.

H.R. 3236: Mr. BRYANT of Tennessee, Mr. MCCRERY, Mr. THOMPSON, Mr. MCHUGH, and Mr. WALSH.

H.R. 3238: Mr. THOMPSON.

H.R. 3246: Mr. MEEHAN, Ms. LOFGREN, Mr. MILLER of California, Mr. BARRETT of Wisconsin, Mr. FROST, and Mr. LIPINSKI.

H.R. 3248: Mr. BILIRAKIS.

H.R. 3250: Mr. LIPINSKI and Mr. POSHARD.

H.J. Res. 167: Mr. HANCOCK, Mr. HOKE, Mr. LIPINSKI, and Mr. CALVERT.

H. Con. Res. 47: Mr. BARCIA of Michigan and Mr. THOMPSON.

H. Con. Res. 83: Mr. GREEN of Texas.

H. Con. Res. 154: Mr. ARMEY, Mr. BAKER of Louisiana, Mr. BARR, Mr. BARRETT of Nebraska, Mr. BARTLETT of Maryland, Mr. BENTSEN, Mr. BILBRAY, Mr. BOEHLERT, Mr. BONILLA, Mr. BROWNBACK, Mr. BRYANT of Tennessee, Mr. BURR, Mr. CALVERT, Mr. CAMPBELL, Mr. CANADY, Mr. CHABOT, Mr. CHAMBLISS, Mr. CHRISTENSEN, Mr. CHRYSLER, Mrs. CLAYTON, Mr. COBURN, Mr. COLLINS of Georgia, Mr. COMBEST, Mr. CONDIT, Mr. COSTELLO, Mr. CRANE, Mr. CRAPO, Mr. CREMEANS, Mr. CUNNINGHAM, Mr. DAVIS, Mr. DELAY, Mr. DIAZ-BALART, Mr. DICKEY, Mr. DICKS, Mr. DOOLITTLE, Mr. DORNAN, Mr. DREIER, Mr. DUNCAN, Ms. DUNN of Washington, Mr. EHLERS, Mr. EMERSON, Mr. ENGLISH of Pennsylvania, Mr. ENSIGN, Ms. ESHOO, Mr. EWING, Mr. FALEOMAVAEGA, Mr. FLANAGAN, Mr. FOX, Mr. FRANK of Massachusetts, Mr. FRELINGHUYSEN, Mr. FRISA, Mr. GALLEGLY, Mr. GANSKE, Mr. GEJDENSON, Mr. GEKAS, Mr. GILCHREST, Mr. GILMAN, Mr. GREEN of Texas, Mr. GUNDERSON, Mr. HALL of Texas, Mr. HANCOCK, Mr. HAYWORTH, Mr. HEINEMAN, Mr. HERGER, Mr. HOEKSTRA, Mr. HOKE, Mr. HORN, Mr. HOSTETTLER, Mr. HOUGHTON, Mr. HUNTER, Mr. HUTCHINSON, Mr. SAM JOHNSON, Mr. KASICH, Mr. KIM, Mr. LAHOOD, Mr. LANTOS, Mr. LARGENT, Mr. LATHAM, Mr. LATOURETTE, Mr. LAUGHLIN, Mr. LEWIS of Kentucky, Mr. LINDER, Mr. LIVINGSTON, Mr. LOBIONDO, Mr. LONGLEY, Mr. MANZULLO, Mr. MCCRERY, Mr. MCINTOSH, Mr. MCKEON, Mrs. MEEK of Florida, Mr. METCALF, Mrs. MEYERS of Kansas, Mr. MICA, Mr. MONTGOMERY, Mr. NETHERCUTT, Mr. NEUMANN, Mr. NORWOOD, Mr. NUSSLE, Mr. ORTIZ, Mr. PARKER, Mr. PORTMAN, Ms. PRYCE, Mr. QUILLEN, Mr. RADANOVICH, Mr. ROBERTS, Ms. ROS-LEHTINEN, Mr. ROSE, Mr. ROTH, Mr. ROYCE, Mr. SABO, Mr. SANFORD, Mrs. SEASTRAND, Mr. SHADEGG, Mr. SMITH of Michigan, Mr. SOUDER, Mr. STEARNS, Mr. STENHOLM, Mr. STOCKMAN, Mr. STUMP, Mr. TALENT, Mr. TAYLOR of Mississippi, Mr. THOMAS, Mr. THORNBERRY, Mr. THORNTON, Mr. TIAHRT, Mr. TORKILDSEN, Mr. TOWNS, Mr. TRAFICANT, Mr. VOLKMER, Mrs. VUCANOVICH, Mrs. GREENE of Utah, Mr. WAMP, Mr. WATTS of Oklahoma, Mr. WELDON of Florida, Mr. WELLER, Mr. WHITE, Mr. WHITFIELD, Mr. WICKER, Mr. WOLF, Mr. YOUNG of Alaska, and Mr. ZIMMER.

H. Con. Res. 156: Ms. LOFGREN, Mr. TORRES, Ms. ROYBAL-ALLARD, Mr. STUPAK, Mr. THOMPSON, Mr. WATT of North Carolina, and Mr. COBURN.

H. Res. 49: Mr. BONIOR, Ms. VELÁZQUEZ, Mr. REED, and Mr. DELLUMS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 789: Mr. RIGGS.

H.R. 2060: Mr. BURTON of Indiana.

H.R. 2472: Mr. RIGGS.

H.R. 2823: Mr. DEFAZIO.

SENATE—*Thursday, April 18, 1996*

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

In our prayer this morning, let us think magnificently about God so that we may serve Him magnanimously throughout the day.

O God, whose love never lets us go, whose mercy never ends, whose strength is always available, whose guidance shows us the way, whose spirit provides us supernatural power, whose presence is our courage, whose joy invades our gloom, whose peace calms our pressured hearts, whose light illuminates our path, whose goodness provides the wondrous gifts of loved ones, family, and friends, whose will has brought us to the awesome tasks of this Senate today, and whose calling lifts us above party politics to put You and the good of our Nation first, we dedicate all that we have and are to serve You today with unreserved faithfulness and unfailing loyalty.

To God be the glory. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator DOLE, is recognized.

SCHEDULE

Mr. DOLE. Mr. President, we will immediately begin consideration of Calendar No. 205, S. 1028, the Health Insurance Reform Act of 1996. Amendments are expected to be offered. Rollcall votes can be anticipated throughout the day and into the late evening. We want to finish this bill today. We had hoped to start it last evening.

It is also possible that the Senate could resume immigration legislation if agreement can be reached with respect to relevant amendments. That is probably unlikely.

Then, on next Monday, or tomorrow, we hope to start the debate on term limits. We will be announcing more on that later. But we do hope to complete action on the Health Insurance Reform Act of 1996 today or tomorrow. So we will be making an announcement about votes on tomorrow later today.

Mrs. KASSEBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

HEALTH INSURANCE REFORM ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consider S. 1028, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1028) to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Insurance Reform Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

Subtitle A—Group Market Rules

Sec. 101. Guaranteed availability of health coverage.
Sec. 102. Guaranteed renewability of health coverage.
Sec. 103. Portability of health coverage and limitation on preexisting condition exclusions.
Sec. 104. Special enrollment periods.
Sec. 105. Disclosure of information.

Subtitle B—Individual Market Rules

Sec. 110. Individual health plan portability.
Sec. 111. Guaranteed renewability of individual health coverage.
Sec. 112. State flexibility in individual market reforms.
Sec. 113. Definition.

Subtitle C—COBRA Clarifications

Sec. 121. COBRA clarifications.

Subtitle D—Private Health Plan Purchasing Cooperatives

Sec. 131. Private health plan purchasing cooperatives.

TITLE II—APPLICATION AND ENFORCEMENT OF STANDARDS

Sec. 201. Applicability.
Sec. 202. Enforcement of standards.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. HMOs allowed to offer plans with deductibles to individuals with medical savings accounts.
Sec. 302. Health coverage availability study.
Sec. 303. Sense of the Committee concerning Medicare.
Sec. 304. Effective date.
Sec. 305. Severability.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) BENEFICIARY.—The term "beneficiary" has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(8)).

(2) EMPLOYEE.—The term "employee" has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)).

(3) EMPLOYER.—The term "employer" has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

(4) EMPLOYEE HEALTH BENEFIT PLAN.—

(A) IN GENERAL.—The term "employee health benefit plan" means any employee welfare benefit plan, governmental plan, or church plan (as defined under paragraphs (1), (32), and (33) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (32), and (33))) that provides or pays for health benefits (such as provider and hospital benefits) for participants and beneficiaries whether—

(i) directly;

(ii) through a group health plan offered by a health plan issuer as defined in paragraph (8); or

(iii) otherwise.

(B) RULE OF CONSTRUCTION.—An employee health benefit plan shall not be construed to be a group health plan, an individual health plan, or a health plan issuer.

(C) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(5) FAMILY.—

(A) IN GENERAL.—The term "family" means an individual, the individual's spouse, and the child of the individual (if any).

(B) CHILD.—For purposes of subparagraph (A), the term "child" means any individual who is a child within the meaning of section 151(c)(3) of the Internal Revenue Code of 1986.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

(6) GROUP HEALTH PLAN.—

(A) IN GENERAL.—The term "group health plan" means any contract, policy, certificate or other arrangement offered by a health plan issuer to a group purchaser that provides or pays for health benefits (such as provider and hospital benefits) in connection with an employee health benefit plan.

(B) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(7) GROUP PURCHASER.—The term "group purchaser" means any person (as defined under paragraph (9) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(9)) or entity that purchases or pays for health benefits (such as provider or hospital benefits) on behalf of two or more participants or beneficiaries in connection with an employee health benefit plan. A health plan purchasing cooperative established under section 131 shall not be considered to be a group purchaser.

(8) HEALTH PLAN ISSUER.—The term "health plan issuer" means any entity that is licensed (prior to or after the date of enactment of this Act) by a State to offer a group health plan or an individual health plan.

(9) PARTICIPANT.—The term "participant" has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(7)).

(10) PLAN SPONSOR.—The term "plan sponsor" has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(16)(B)).

(11) SECRETARY.—The term "Secretary", unless specifically provided otherwise, means the Secretary of Labor.

(12) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

Subtitle A—Group Market Rules

SEC. 101. GUARANTEED AVAILABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—

(1) NONDISCRIMINATION.—Except as provided in subsection (b), section 102 and section 103—

(A) a health plan issuer offering a group health plan may not decline to offer whole group coverage to a group purchaser desiring to purchase such coverage; and

(B) an employee health benefit plan or a health plan issuer offering a group health plan may establish eligibility, continuation of eligibility, enrollment, or premium contribution requirements under the terms of such plan, except that such requirements shall not be based on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, or disability.

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall prevent an employee health benefit plan or a health plan issuer from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(b) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering a group health plan may cease offering coverage to group purchasers under the plan if—

(A) the health plan issuer ceases to offer coverage to any additional group purchasers; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)), if required, that its financial or provider capacity to serve previously covered participants and beneficiaries (and additional participants and beneficiaries who will be expected to enroll because of their affiliation with a group purchaser or such previously covered participants or beneficiaries) will be impaired if the health plan issuer is required to offer coverage to additional group purchasers.

Such health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering a group health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer offers coverage to group purchasers under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(c) CONSTRUCTION.—

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering group health plans to actively market such plans.

(2) INVOLUNTARY OFFERING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to require a health plan issuer to involuntarily offer group health plans in a particular market. For the purposes of this paragraph, the term "market" means either the large employer market or the small employer market (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees).

SEC. 102. GUARANTEED RENEWABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—

(1) GROUP PURCHASER.—Subject to subsections (b) and (c), a group health plan shall be renewed or continued in force by a health plan issuer at the option of the group purchaser, except that the requirement of this subparagraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the group purchaser in accordance with the terms of the group health plan or where the health plan issuer has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the group purchaser;

(C) the termination of the group health plan in accordance with subsection (b); or

(D) the failure of the group purchaser to meet contribution or participation requirements in accordance with paragraph (3).

(2) PARTICIPANT.—Subject to subsections (b) and (c), coverage under an employee health benefit plan or group health plan shall be renewed or continued in force, if the group purchaser elects to continue to provide coverage under such plan, at the option of the participant (or beneficiary where such right exists under the terms of the plan or under applicable law), except that the requirement of this paragraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the participant or beneficiary in accordance with the terms of the employee health benefit plan or group health plan or where such plan has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the participant or beneficiary relating to an application for coverage or claim for benefits;

(C) the termination of the employee health benefit plan or group health plan;

(D) loss of eligibility for continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.); or

(E) failure of a participant or beneficiary to meet requirements for eligibility for coverage under an employee health benefit plan or group health plan that are not prohibited by this Act.

(3) RULES OF CONSTRUCTION.—Nothing in this subsection, nor in section 101(a), shall be construed to—

(A) preclude a health plan issuer from establishing employer contribution rules or group participation rules for group health plans as allowed under applicable State law;

(B) preclude a plan defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102(37)) from establishing employer contribution rules or group participation rules; or

(C) permit individuals to decline coverage under an employee health benefit plan if such right is not otherwise available under such plan.

(b) TERMINATION OF GROUP HEALTH PLANS.—

(1) PARTICULAR TYPE OF GROUP HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of group health plan, a group health plan of such type may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each group purchaser covered under a group health plan of this type (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 90 days prior to the date of the discontinuation of such plan;

(B) the health plan issuer offers to each group purchaser covered under a group health plan of this type, the option to purchase any other group health plan currently being offered by the health plan issuer; and

(C) in exercising the option to discontinue a group health plan of this type and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status or insurability of participants or beneficiaries covered under the group health plan, or new participants or beneficiaries who may become eligible for coverage under the group health plan.

(2) DISCONTINUANCE OF ALL GROUP HEALTH PLANS.—

(A) IN GENERAL.—In any case in which a health plan issuer elects to discontinue offering all group health plans in a State, a group health plan may be discontinued by the health plan issuer only if—

(i) the health plan issuer provides notice to the applicable certifying authority (as defined in section 202(d)) and to each group purchaser (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 180 days prior to the date of the expiration of such plan; and

(ii) all group health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(B) APPLICATION OF PROVISIONS.—The provisions of this paragraph and paragraph (3) may be applied separately by a health plan issuer—

(i) to all group health plans offered to small employers (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees); or

(ii) to all other group health plans offered by the health plan issuer in the State.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any group health plan in the market sector (as described in paragraph (2)(B)) in which issuance of such group health plan was discontinued in the State involved during the 5-year period beginning on the date of the discontinuation of the last group health plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A network plan (as defined in paragraph (2)) may deny continued participation under such plan to participants or beneficiaries who neither live, reside, nor work in an area in which such network plan is offered, but only if such denial is applied uniformly, without regard to health status or the insurability of particular participants or beneficiaries.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an employee health benefit plan or a group health plan that arranges for the financing and delivery of health care services to participants or beneficiaries covered under such plan, in whole or in part, through arrangements with providers.

(d) COBRA COVERAGE.—Nothing in subsection (a)(2)(E) or subsection (c) shall be construed to affect any right to COBRA continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.).

SEC. 103. PORTABILITY OF HEALTH COVERAGE AND LIMITATION ON PREEXISTING CONDITION EXCLUSIONS.

(a) IN GENERAL.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to treatment of a preexisting condition based on the fact that the condition existed prior to the coverage of the participant or beneficiary under the plan only if—

(1) the limitation or exclusion extends for a period of not more than 12 months after the date of enrollment in the plan;

(2) the limitation or exclusion does not apply to an individual who, within 30 days of the date of birth or placement for adoption (as determined under section 609(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(c)(3)(B)), was covered under the plan; and

(3) the limitation or exclusion does not apply to a pregnancy.

(b) CREDITING OF PREVIOUS QUALIFYING COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (4), an employee health benefit plan or a health plan issuer offering a group health plan shall provide that if a participant or beneficiary is in a period of previous qualifying coverage as of the date of enrollment under such plan, any period of exclusion or limitation of coverage with respect to a preexisting condition shall be reduced by 1 month for each month in which the participant or beneficiary was in the period of previous qualifying coverage. With respect to an individual described in subsection (a)(2) who maintains continuous coverage, no limitation or exclusion of benefits relating to treatment of a preexisting condition may be applied to a child within the child's first 12 months of life or within 12 months after the placement of a child for adoption.

(2) DISCHARGE OF DUTY.—An employee health benefit plan shall provide documentation of coverage to participants and beneficiaries whose coverage is terminated under the plan. Pursuant to regulations promulgated by the Secretary, the duty of an employee health benefit plan to verify previous qualifying coverage with respect to a participant or beneficiary is effectively discharged when such employee health benefit plan provides documentation to a participant or beneficiary that includes the following information:

(A) the dates that the participant or beneficiary was covered under the plan; and

(B) the benefits and cost-sharing arrangement available to the participant or beneficiary under such plan.

An employee health benefit plan shall retain the documentation provided to a participant or beneficiary under subparagraphs (A) and (B) for at least the 12-month period following the date on which the participant or beneficiary ceases to be covered under the plan. Upon request, an employee health benefit plan shall provide a second copy of such documentation to such participant or beneficiary within the 12-month period following the date of such ineligibility.

(3) DEFINITIONS.—As used in this section:

(A) PREVIOUS QUALIFYING COVERAGE.—The term "previous qualifying coverage" means the period beginning on the date—

(i) a participant or beneficiary is enrolled under an employee health benefit plan or a group health plan, and ending on the date the participant or beneficiary is not so enrolled; or

(ii) an individual is enrolled under an individual health plan (as defined in section 113) or under a public or private health plan established under Federal or State law, and ending on the date the individual is not so enrolled;

for a continuous period of more than 30 days (without regard to any waiting period).

(B) LIMITATION OR EXCLUSION OF BENEFITS RELATING TO TREATMENT OF A PREEXISTING CONDITION.—The term "limitation or exclusion of benefits relating to treatment of a preexisting condition" means a limitation or exclusion of benefits imposed on an individual based on a preexisting condition of such individual.

(4) EFFECT OF PREVIOUS COVERAGE.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition, subject to the limits in subsection (a)(1), only to the extent that such service or benefit was not previously covered under the group health plan, employee health benefit plan, or individual health plan in which the participant or beneficiary was enrolled immediately prior to enrollment in the plan involved.

(c) LATE ENROLLEES.—Except as provided in section 104, with respect to a participant or beneficiary enrolling in an employee health benefit plan or a group health plan during a time that is other than the first opportunity to enroll during an enrollment period of at least 30 days, coverage with respect to benefits or services relating to the treatment of a preexisting condition in accordance with subsections (a) and (b) may be excluded, except the period of such exclusion may not exceed 18 months beginning on the date of coverage under the plan.

(d) AFFILIATION PERIODS.—With respect to a participant or beneficiary who would otherwise be eligible to receive benefits under an employee health benefit plan or a group health plan but for the operation of a preexisting condition limitation or exclusion, if such plan does not utilize a limitation or exclusion of benefits relating to the treatment of a preexisting condition, such plan may impose an affiliation period on such participant or beneficiary not to exceed 60 days (or in the case of a late participant or beneficiary described in subsection (c), 90 days) from the date on which the participant or beneficiary would otherwise be eligible to receive benefits under the plan. An employee health benefit plan or a health plan issuer offering a group health plan may also use alternative methods to address adverse selection as approved by the applicable certifying authority (as defined in section 202(d)). During such an affiliation period, the plan may not be required to provide health care services or benefits and no premium shall be charged to the participant or beneficiary.

(e) PREEXISTING CONDITION.—For purposes of this section, the term "preexisting condition" means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before the effective date of the coverage (without regard to any waiting period).

(f) STATE FLEXIBILITY.—Nothing in this section shall be construed to preempt State laws that—

(1) require health plan issuers to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for periods that are shorter than those provided for under this section; or

(2) allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 30-day period provided for under subsection (b)(3);

unless such laws are preempted by section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 104. SPECIAL ENROLLMENT PERIODS.

In the case of a participant, beneficiary or family member who—

(1) through marriage, separation, divorce, death, birth or placement of a child for adoption, experiences a change in family composition affecting eligibility under a group health plan, individual health plan, or employee health benefit plan;

(2) experiences a change in employment status, as described in section 603(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163(2)), that causes the loss of eligibility for coverage, other than COBRA continuation coverage under a group health plan, individual health plan, or employee health benefit plan; or

(3) experiences a loss of eligibility under a group health plan, individual health plan, or employee health benefit plan because of a change in the employment status of a family member;

each employee health benefit plan and each group health plan shall provide for a special enrollment period extending for a reasonable time after such event that would permit the participant to change the individual or family basis of coverage or to enroll in the plan if coverage would have been available to such individual, participant, or beneficiary but for failure to enroll during a previous enrollment period. Such a special enrollment period shall ensure that a child born or placed for adoption shall be deemed to be covered under the plan as of the date of such birth or placement for adoption if such child is enrolled within 30 days of the date of such birth or placement for adoption.

SEC. 105. DISCLOSURE OF INFORMATION.

(a) DISCLOSURE OF INFORMATION BY HEALTH PLAN ISSUERS.—

(1) IN GENERAL.—In connection with the offering of any group health plan to a small employer (as defined under applicable State law,

or if not so defined, an employer with not more than 50 employees), a health plan issuer shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of—

(A) the provisions of such group health plan concerning the health plan issuer's right to change premium rates and the factors that may affect changes in premium rates;

(B) the provisions of such group health plan relating to renewability of coverage;

(C) the provisions of such group health plan relating to any preexisting condition provision; and

(D) descriptive information about the benefits and premiums available under all group health plans for which the employer is qualified.

Information shall be provided to small employers under this paragraph in a manner determined to be understandable by the average small employer, and shall be sufficiently accurate and comprehensive to reasonably inform small employers, participants and beneficiaries of their rights and obligations under the group health plan.

(2) EXCEPTION.—With respect to the requirement of paragraph (1), any information that is proprietary and trade secret information under applicable law shall not be subject to the disclosure requirements of such paragraph.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to preempt State reporting and disclosure requirements to the extent that such requirements are not preempted under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(b) DISCLOSURE OF INFORMATION TO PARTICIPANTS AND BENEFICIARIES.—

(1) IN GENERAL.—Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (B)—

(A) by striking "102(a)(1)," and inserting "102(a)(1) that is not a material reduction in covered services or benefits provided,"; and

(B) by adding at the end thereof the following new sentences: "If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, a summary description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1995, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.".

(2) PLAN DESCRIPTION AND SUMMARY.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(A) by inserting "including the office or title of the individual who is responsible for approving or denying claims for coverage of benefits" after "type of administration of the plan";

(B) by inserting "including the name of the organization responsible for financing claims" after "source of financing of the plan"; and

(C) by inserting "including the office, contact, or title of the individual at the Department of Labor through which participants may seek assistance or information regarding their rights under this Act and the Health Insurance Reform Act of 1995 with respect to health benefits that are not offered through a group health plan." after "benefits under the plan".

Subtitle B—Individual Market Rules

SEC. 110. INDIVIDUAL HEALTH PLAN PORTABILITY.

(a) LIMITATION ON REQUIREMENTS.—

(1) IN GENERAL.—With respect to an individual desiring to enroll in an individual health plan, if such individual is in a period of previous qualifying coverage (as defined in section 103(b)(3)(A)(i)) under one or more group health plans or employee health benefit plans that commenced 18 or more months prior to the date on which such individual desires to enroll in the individual plan, a health plan issuer described in paragraph (3) may not decline to offer coverage to such individual, or deny enrollment to such individual based on the health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, or disability of the individual, except as described in subsections (b) and (c).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall be construed to prevent a health plan issuer offering an individual health plan from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion or disease prevention.

(3) HEALTH PLAN ISSUER.—A health plan issuer described in this paragraph is a health plan issuer that issues or renews individual health plans.

(4) PREMIUMS.—Nothing in this subsection shall be construed to affect the determination of a health plan issuer as to the amount of the premium payable under an individual health plan under applicable State law.

(b) ELIGIBILITY FOR OTHER GROUP COVERAGE.—The provisions of subsection (a) shall not apply to an individual who is eligible for coverage under a group health plan or an employee health benefit plan, or who has had coverage terminated under a group health plan or employee health benefit plan for failure to make required premium payments or contributions, or for fraud or misrepresentation of material fact, or who is otherwise eligible for continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or under an equivalent State program.

(c) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering coverage to individuals under an individual health plan may cease enrolling individuals under the plan if—

(A) the health plan issuer ceases to enroll any new individuals; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)), if required, that its financial or provider capacity to serve previously covered individuals will be impaired if the health plan issuer is required to enroll additional individuals.

Such a health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering coverage to individuals under an individual health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer provides for enrollment of individuals under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(d) MARKET REQUIREMENTS.—

(1) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that a health plan issuer offering group health plans to group purchasers offer individual health plans to individuals.

(2) CONVERSION POLICIES.—A health plan issuer offering group health plans to group purchasers under this Act shall not be deemed to be a health plan issuer offering an individual health plan solely because such health plan issuer offers a conversion policy.

(3) MARKETING OF PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

SEC. 111. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH COVERAGE.

(a) IN GENERAL.—Subject to subsections (b) and (c), coverage for individuals under an individual health plan shall be renewed or continued in force by a health plan issuer at the option of the individual, except that the requirement of this subsection shall not apply in the case of—

(1) the nonpayment of premiums or contributions by the individual in accordance with the terms of the individual health plan or where the health plan issuer has not received timely premium payments;

(2) fraud or misrepresentation of material fact on the part of the individual; or

(3) the termination of the individual health plan in accordance with subsection (b).

(b) TERMINATION OF INDIVIDUAL HEALTH PLANS.—

(1) PARTICULAR TYPE OF INDIVIDUAL HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of individual health plan to individuals, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the expiration of the plan;

(B) the health plan issuer offers to each individual covered under the plan the option to purchase any other individual health plan currently being offered by the health plan issuer to individuals; and

(C) in exercising the option to discontinue the individual health plan and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status or insurability of particular individuals.

(2) DISCONTINUANCE OF ALL INDIVIDUAL HEALTH PLANS.—In any case in which a health plan issuer elects to discontinue all individual health plans in a State, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to the applicable certifying authority (as defined in section 202(d)) and to each individual covered under the plan of such discontinuation at least 180 days prior to the date of the discontinuation of the plan; and

(B) all individual health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A health plan issuer which offers a network plan (as defined in paragraph (2)) may deny continued participation under the plan to individuals who neither live, reside, nor work in an area in which the individual health plan is offered, but only if such denial is applied uniformly, without regard to health status or the insurability of particular individuals.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an individual health plan that arranges for the financing

and delivery of health care services to individuals covered under such health plan, in whole or in part, through arrangements with providers.

SEC. 112. STATE FLEXIBILITY IN INDIVIDUAL MARKET REFORMS.

(a) In General.—With respect to any State law with respect to which the Governor of the State notifies the Secretary of Health and Human Services that such State law will achieve the goals of sections 110 and 111, and that is in effect on, or enacted after, the date of enactment of this Act (such as laws providing for guaranteed issue, open enrollment by one or more health plan issuers, high-risk pools, or mandatory conversion policies), such State law shall apply in lieu of the standards described in sections 110 and 111 unless the Secretary of Health and Human Services determines, after considering the criteria described in subsection (b)(1), in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, that such State law does not achieve the goals of providing access to affordable health care coverage for those individuals described in sections 110 and 111.

(b) Determination.—

(1) In general.—In making a determination under subsection (a), the Secretary of Health and Human Services shall only—

(A) evaluate whether the State law or program provides guaranteed access to affordable coverage to individuals described in sections 110 and 111;

(B) evaluate whether the State law or program provides coverage for preexisting conditions (as defined in section 103(e)) that were covered under the individuals' previous group health plan or employee health benefit plan for individuals described in sections 110 and 111;

(C) evaluate whether the State law or program provides individuals described in sections 110 and 111 with a choice of health plans or a health plan providing comprehensive coverage; and

(D) evaluate whether the application of the standards described in sections 110 and 111 will have an adverse impact on the number of individuals in such State having access to affordable coverage.

(2) Notice of intent.—If, within 6 months after the date of enactment of this Act, the Governor of a State notifies the Secretary of Health and Human Services that the State intends to enact a law, or modify an existing law, described in subsection (a), the Secretary of Health and Human Services may not make a determination under such subsection until the expiration of the 12-month period beginning on the date on which such notification is made, or until January 1, 1997, whichever is later. With respect to a State that provides notice under this paragraph and that has a legislature that does not meet within the 12-month period beginning on the date of enactment of this Act, the Secretary shall not make a determination under subsection (a) prior to January 1, 1998.

(3) Notice to state.—If the Secretary of Health and Human Services determines that a State law or program does not achieve the goals described in subsection (a), the Secretary of Health and Human Services shall provide the State with adequate notice and reasonable opportunity to modify such law or program to achieve such goals prior to making a final determination under subsection (a).

(c) Adoption of NAIC Model.—If, not later than 9 months after the date of enactment of this Act—

(1) the National Association of Insurance Commissioners (hereafter referred to as the "NAIC"), through a process which the Secretary of Health and Human Services determines has included consultation with representatives of the insurance industry and consumer groups, adopts a model standard or standards for reform of the individual health insurance market; and

(2) the Secretary of Health and Human Services determines, within 30 days of the adoption of such NAIC standard or standards, that such standards comply with the goals of sections 110 and 111;

a State that elects to adopt such model standards or substantially adopt such model standards shall be deemed to have met the requirements of sections 110 and 111 and shall not be subject to a determination under subsection (a).

SEC. 113. DEFINITION.

(a) In General.—As used in this title, the term "individual health plan" means any contract, policy, certificate or other arrangement offered to individuals by a health plan issuer that provides or pays for health benefits (such as provider and hospital benefits) and that is not a group health plan under section 2(6).

(b) Arrangements Not Included.—Such term does not include the following, or any combination thereof:

(1) Coverage only for accident, or disability income insurance, or any combination thereof.

(2) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(3) Coverage issued as a supplement to liability insurance.

(4) Liability insurance, including general liability insurance and automobile liability insurance.

(5) Workers' compensation or similar insurance.

(6) Automobile medical payment insurance.

(7) Coverage for a specified disease or illness.

(8) Hospital or fixed indemnity insurance.

(9) Short-term limited duration insurance.

(10) Credit-only, dental-only, or vision-only insurance.

(11) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

Subtitle C—COBRA Clarifications

SEC. 121. COBRA CLARIFICATIONS.

(a) Public Health Service Act.—

(1) Period of coverage.—Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb–2(2)) is amended—

(A) in subparagraph (A)—

(i) by transferring the sentence immediately preceding clause (iv) so as to appear immediately following such clause (iv); and

(ii) in the last sentence (as so transferred)—

(I) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(II) by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title";

(B) in subparagraph (D)(i), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1995"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(2) Election.—Section 2205(1)(C) of the Public Health Service Act (42 U.S.C. 300bb–5(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof;

(B) in clause (ii), by striking the period and inserting ", or"; and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 2202(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) Notices.—Section 2206(3) of the Public Health Service Act (42 U.S.C. 300bb–6(3)) is amended by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(4) Birth or adoption of a child.—Section 2208(3)(A) of the Public Health Service Act (42 U.S.C. 300bb–8(3)(A)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this title.".

(b) Employee Retirement Income Security Act of 1974.—

(1) Period of coverage.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended—

(A) in the last sentence of subparagraph (A)—

(i) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(ii) by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part";

(B) in subparagraph (D)(i), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1995"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(2) Election.—Section 605(1)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof;

(B) in clause (ii), by striking the period and inserting ", or"; and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 602(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) Notices.—Section 606(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(3)) is amended by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(4) Birth or adoption of a child.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this part.".

(c) Internal Revenue Code of 1986.—

(1) Period of coverage.—Section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended—

(A) in the last sentence of clause (i) by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section";

(B) in clause (iv)(I), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this subclause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this subsection because of the provision of the Health Insurance Reform Act of 1995"; and

(C) in clause (v), by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(2) ELECTION.—Section 4980B(f)(5)(A)(iii) of the Internal Revenue Code of 1986 is amended—

(A) in subclause (I), by striking "or" at the end thereof;

(B) in subclause (II), by striking the period and inserting ", or"; and

(C) by adding at the end thereof the following new subclause:

"(III) in the case of an qualified beneficiary described in the last sentence of paragraph (2)(B)(i), the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 4980B(f)(6)(C) of the Internal Revenue Code of 1986 is amended by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this section.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualifying events occurring on or after the date of the enactment of this Act for plan years beginning after December 31, 1996.

(e) NOTIFICATION OF CHANGES.—Not later than 60 days prior to the date on which this section becomes effective, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and section 4980B(f) of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part or section of the amendments made by this section.

Subtitle D—Private Health Plan Purchasing Cooperatives

SEC. 131. PRIVATE HEALTH PLAN PURCHASING COOPERATIVES.

(a) DEFINITION.—As used in this Act, the term "health plan purchasing cooperative" means a group of individuals or employers that, on a voluntary basis and in accordance with this section, form a cooperative for the purpose of purchasing individual health plans or group health plans offered by health plan issuers. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of insurance may not underwrite a cooperative.

(b) CERTIFICATION.—

(1) IN GENERAL.—If a group described in subsection (a) desires to form a health plan purchasing cooperative in accordance with this section and such group appropriately notifies the State and the Secretary of such desire, the State, upon a determination that such group meets the requirements of this section, shall certify the group as a health plan purchasing cooperative. The State shall make a determination of whether such group meets the requirements of this section in a timely fashion. Each such cooperative shall also be registered with the Secretary.

(2) STATE REFUSAL TO CERTIFY.—If a State fails to implement a program for certifying health plan purchasing cooperatives in accordance with the standards under this Act, the Secretary shall certify and oversee the operations of such cooperatives in such State.

(3) INTERSTATE COOPERATIVES.—For purposes of this section, a health plan purchasing cooperative operating in more than one State shall be certified by the State in which the cooperative is domiciled. States may enter into cooperative agreements for the purpose of certifying and overseeing the operation of such cooperatives. For purposes of this subsection, a cooperative shall be considered to be domiciled in the State in which most of the members of the cooperative reside.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—Each health plan purchasing cooperative shall be governed by a Board of Directors that shall be responsible for ensuring the performance of the duties of the cooperative under this section. The Board shall be composed of a broad cross-section of representatives of employers, employees, and individuals participating in the cooperative. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of individual health plans or group health plans may not hold or control any right to vote with respect to a cooperative.

(2) LIMITATION ON COMPENSATION.—A health plan purchasing cooperative may not provide compensation to members of the Board of Directors. The cooperative may provide reimbursements to such members for the reasonable and necessary expenses incurred by the members in the performance of their duties as members of the Board.

(3) CONFLICT OF INTEREST.—No member of the Board of Directors (or family members of such members) nor any management personnel of the cooperative may be employed by, be a consultant for, be a member of the board of directors of, be affiliated with an agent of, or otherwise be a representative of any health plan issuer, health care provider, or agent or broker. Nothing in the preceding sentence shall limit a member of the Board from purchasing coverage offered through the cooperative.

(d) MEMBERSHIP AND MARKETING AREA.—

(1) MEMBERSHIP.—A health plan purchasing cooperative may establish limits on the maximum size of employers who may become members of the cooperative, and may determine whether to permit individuals to become members. Upon the establishment of such membership requirements, the cooperative shall, except as provided in subparagraph (B), accept all employers (or individuals) residing within the area served by the cooperative who meet such requirements as members on a first-come, first-served basis, or on another basis established by the State to ensure equitable access to the cooperative.

(2) MARKETING AREA.—A State may establish rules regarding the geographic area that must be served by a health plan purchasing cooperative. With respect to a State that has not established such rules, a health plan purchasing cooperative operating in the State shall define the boundaries of the area to be served by the cooperative, except that such boundaries may not be established on the basis of health status or insurability of the populations that reside in the area.

(e) DUTIES AND RESPONSIBILITIES.—

(1) IN GENERAL.—A health plan purchasing cooperative shall—

(A) enter into agreements with multiple, unaffiliated health plan issuers, except that the requirement of this subparagraph shall not apply in regions (such as remote or frontier areas) in which compliance with such requirement is not possible;

(B) enter into agreements with employers and individuals who become members of the cooperative;

(C) participate in any program of risk-adjustment or reinsurance, or any similar program, that is established by the State;

(D) prepare and disseminate comparative health plan materials (including information about cost, quality, benefits, and other information concerning group health plans and individual health plans offered through the cooperative);

(E) actively market to all eligible employers and individuals residing within the service area; and

(F) act as an ombudsman for group health plan or individual health plan enrollees.

(2) PERMISSIBLE ACTIVITIES.—A health plan purchasing cooperative may perform such other functions as necessary to further the purposes of this Act, including—

(A) collecting and distributing premiums and performing other administrative functions;

(B) collecting and analyzing surveys of enrollee satisfaction;

(C) charging membership fee to enrollees (such fees may not be based on health status) and charging participation fees to health plan issuers;

(D) cooperating with (or accepting as members) employers who provide health benefits directly to participants and beneficiaries only for the purpose of negotiating with providers; and

(E) negotiating with health care providers and health plan issuers.

(f) LIMITATIONS ON COOPERATIVE ACTIVITIES.—A health plan purchasing cooperative shall not—

(1) perform any activity relating to the licensing of health plan issuers;

(2) assume financial risk directly or indirectly on behalf of members of a health plan purchasing cooperative relating to any group health plan or individual health plan;

(3) establish eligibility, continuation of eligibility, enrollment, or premium contribution requirements for participants, beneficiaries, or individuals based on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, or disability;

(4) operate on a for-profit or other basis where the legal structure of the cooperative permits profits to be made and not returned to the members of the cooperative, except that a for-profit health plan purchasing cooperative may be formed by a nonprofit organization—

(A) in which membership in such organization is not based on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, or disability; and

(B) that accepts as members all employers or individuals on a first-come, first-served basis, subject to any established limit on the maximum size of and employer that may become a member; or

(5) perform any other activities that conflict or are inconsistent with the performance of its duties under this Act.

(g) LIMITED PREEMPTION OF CERTAIN STATE LAWS.—

(1) IN GENERAL.—With respect to a health plan purchasing cooperative that meets the requirements of this section, State fictitious group laws shall be preempted.

(2) HEALTH PLAN ISSUERS.—

(A) RATING.—With respect to a health plan issuer offering a group health plan or individual health plan through a health plan purchasing

cooperative that meets the requirements of this section, State premium rating requirement laws, except to the extent provided under subparagraph (B), shall be preempted unless such laws permit premium rates negotiated by the cooperative to be less than rates that would otherwise be permitted under State law, if such rating differential is not based on differences in health status or demographic factors.

(B) EXCEPTION.—State laws referred to in subparagraph (A) shall not be preempted if such laws—

(i) prohibit the variance of premium rates among employers, plan sponsors, or individuals that are members of a health plan purchasing cooperative in excess of the amount of such variations that would be permitted under such State rating laws among employers, plan sponsors, and individuals that are not members of the cooperative; and

(ii) prohibit a percentage increase in premium rates for a new rating period that is in excess of that which would be permitted under State rating laws.

(C) BENEFITS.—Except as provided in subparagraph (D), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative shall comply with all State mandated benefit laws that require the offering of any services, category or care, or services of any class or type of provider.

(D) EXCEPTION.—In those States that have enacted laws authorizing the issuance of alternative benefit plans to small employers, health plan issuers may offer such alternative benefit plans through a health plan purchasing cooperative that meets the requirements of this section.

(h) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) require that a State organize, operate, or otherwise create health plan purchasing cooperatives;

(2) otherwise require the establishment of health plan purchasing cooperatives;

(3) require individuals, plan sponsors, or employers to purchase group health plans or individual health plans through a health plan purchasing cooperative;

(4) require that a health plan purchasing cooperative be the only type of purchasing arrangement permitted to operate in a State;

(5) confer authority upon a State that the State would not otherwise have to regulate health plan issuers or employee health benefits plans; or

(6) confer authority upon a State (or the Federal Government) that the State (or Federal Government) would not otherwise have to regulate group purchasing arrangements, coalitions, or other similar entities that do not desire to become a health plan purchasing cooperative in accordance with this section.

(i) APPLICATION OF ERISA.—For purposes of enforcement only, the requirements of parts 4 and 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) shall apply to a health plan purchasing cooperative as if such plan were an employee welfare benefit plan.

TITLE II—APPLICATION AND ENFORCEMENT OF STANDARDS

SEC. 201. APPLICABILITY.

(a) CONSTRUCTION.—

(1) ENFORCEMENT.—

(A) IN GENERAL.—A requirement or standard imposed under this Act on a group health plan or individual health plan offered by a health plan issuer shall be deemed to be a requirement or standard imposed on the health plan issuer. Such requirements or standards shall be enforced by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this Act. In the case of a group health plan offered by a health plan issuer in connection with an employee health benefit plan, the requirements or standards imposed under this Act shall be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this Act.

(B) LIMITATION.—Except as provided in subsection (c), the Secretary shall not enforce the requirements or standards of this Act as they relate to health plan issuers, group health plans, or individual health plans. In no case shall a State enforce the requirements or standards of this Act as they relate to employee health benefit plans.

(2) PREEMPTION OF STATE LAW.—Nothing in this Act shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements—

(A) not prescribed in this Act; or

(B) related to the issuance, renewal, or portability of health insurance or the establishment or operation of group purchasing arrangements, that are consistent with, and are not in direct conflict with, this Act and provide greater protection or benefit to participants, beneficiaries or individuals.

(b) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(c) CONTINUATION.—Nothing in this Act shall be construed as requiring a group health plan or an employee health benefit plan to provide benefits to a particular participant or beneficiary in excess of those provided under the terms of such plan.

SEC. 202. ENFORCEMENT OF STANDARDS.

(a) HEALTH PLAN ISSUERS.—Each State shall require that each group health plan and individual health plan issued, sold, renewed, offered for sale or operated in such State by a health plan issuer meet the standards established under this Act pursuant to an enforcement plan filed by the State with the Secretary. A State shall submit such information as required by the Secretary demonstrating effective implementation of the State enforcement plan.

(b) EMPLOYEE HEALTH BENEFIT PLANS.—With respect to employee health benefit plans, the Secretary shall enforce the reform standards established under this Act in the same manner as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c)(1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(c) FAILURE TO IMPLEMENT PLAN.—In the case of the failure of a State to substantially enforce the standards and requirements set forth in this Act with respect to group health plans and individual health plans as provided for under the State enforcement plan filed under subsection (a), the Secretary, in consultation with the Secretary of Health and Human Services, shall implement an enforcement plan meeting the standards of this Act in such State. In the case of a State that fails to substantially enforce the standards and requirements set forth in this Act, each health plan issuer operating in such State shall be subject to civil enforcement as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c)(1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(d) APPLICABLE CERTIFYING AUTHORITY.—As used in this title, the term "applicable certifying authority" means, with respect to—

(1) health plan issuers, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this Act for the State involved; and

(2) an employee health benefit plan, the Secretary.

(e) REGULATIONS.—The Secretary may promulgate such regulations as may be necessary or appropriate to carry out this Act.

(f) TECHNICAL AMENDMENT.—Section 508 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1138) is amended by inserting "and under the Health Insurance Reform Act of 1995" before the period.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. HMOS ALLOWED TO OFFER PLANS WITH DEDUCTIBLES TO INDIVIDUALS WITH MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Section 1301(b) of the Public Health Service Act (42 U.S.C. 300e(b)) is amended by adding at the end the following new paragraph:

"(6)(A) If a member certifies that a medical savings account has been established for the benefit of such member, a health maintenance organization may, at the request of such member reduce the basic health services payment otherwise determined under paragraph (1) by requiring the payment of a deductible by the member for basic health services.

"(B) For purposes of this paragraph, the term 'medical savings account' means an account which, by its terms, allows the deposit of funds and the use of such funds and income derived from the investment of such funds for the payment of the deductible described in subparagraph (A).".

(b) MEDICAL SAVINGS ACCOUNTS.—It is the sense of the Committee on Labor and Human Resources of the Senate that the establishment of medical savings accounts, including those defined in section 1301(b)(6)(B) of the Public Health Service Act (42 U.S.C. 300e(b)(6)(B)), should be encouraged as part of any health insurance reform legislation passed by the Senate through the use of tax incentives relating to contributions to, the income growth of, and the qualified use of, such accounts.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that the Congress should take measures to further the purposes of this Act, including any necessary changes to the Internal Revenue Code of 1986 to encourage groups and individuals to obtain health coverage, and to promote access, equity, portability, affordability, and security of health benefits.

SEC. 302. HEALTH COVERAGE AVAILABILITY STUDY.

(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Secretary, representatives of State officials, consumers, and other representatives of individuals and entities that have expertise in health insurance and employee benefits, shall conduct a two-part study, and prepare and submit reports, in accordance with this section.

(b) EVALUATION OF AVAILABILITY.—Not later than January 1, 1997, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning—

(1) an evaluation, based on the experience of States, expert opinions, and such additional data as may be available, of the various mechanisms used to ensure the availability of reasonably priced health coverage to employers purchasing group coverage and to individuals purchasing coverage on a non-group basis; and

(2) whether standards that limit the variation in premiums will further the purposes of this Act.

(c) EVALUATION OF EFFECTIVENESS.—Not later than January 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning the effectiveness of the provisions of this Act and the various State laws, in ensuring the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a nongroup basis.

SEC. 303. SENSE OF THE COMMITTEE CONCERNING MEDICARE.

(a) FINDINGS.—The Committee on Labor and Human Resources of the Senate finds that the Public Trustees of Medicare concluded in their 1995 Annual Report that—

(1) the Medicare program is clearly unsustainable in its present form;

(2) "the Hospital Insurance Trust Fund, which pays inpatient hospital expenses, will be able to pay benefits for only about 7 years and is severely out of financial balance in the long range"; and

(3) the Public Trustees "strongly recommend that the crisis presented by the financial condition of the Medicare trust fund be urgently addressed on a comprehensive basis, including a review of the programs's financing methods, benefit provisions, and delivery mechanisms".

(b) SENSE OF THE COMMITTEE.—It is the Sense of the Committee on Labor and Human Resources of the Senate that the Senate should take measures necessary to reform the Medicare program, to provide increased choice for seniors, and to respond to the findings of the Public Trustees by protecting the short-term solvency and long-term sustainability of the Medicare program.

SEC. 304. EFFECTIVE DATE.

Except as otherwise provided for in this Act, the provisions of this Act shall apply as follows:

(1) With respect to group health plans and individual health plans, such provisions shall apply to plans offered, sold, issued, renewed, in effect, or operated on or after January 1, 1996; and

(2) With respect to employee health benefit plans, on the first day of the first plan year beginning on or after January 1, 1996.

SEC. 305. SEVERABILITY.

If any provision of this Act or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this Act and the application of the provisions of such to any person or circumstance shall not be affected thereby.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, Congress has spent significant time during the past 4 years debating comprehensive health care reform and major reforms to the Medicaid and Medicare Programs. While we have filled pages of newspapers and the CONGRESSIONAL RECORD and hearing records, our actions have not equaled our words.

Meanwhile, many American families worry about the availability, portability, and cost of their own health care coverage.

The health insurance problem is not merely one of perception. The health care market continues to transform itself. An example is the rapid movement toward managed care. At the same time, the number of uninsured and underinsured Americans has continued to climb. There are now over 40 million Americans without health insurance, and that number continues to grow.

Over 1 million working Americans have lost health insurance in the last 2 years alone, and over 80 million Americans have preexisting conditions that could make it difficult for them to maintain health coverage when they change jobs.

The current health insurance system provides too little protection for individuals and families with health problems and makes it too difficult for employers, particularly small employers, to obtain adequate coverage for their employees. It also locks people into jobs out of fear they will lose their health care coverage if they change jobs or if they lose their jobs.

Let me remind my colleagues that Federal law preempts States from providing portability to the majority of Americans who get their coverage through so-called self-insured health plans. Therefore, only Congress, only the Federal Government, can guarantee insurance portability and an end to job lock. That is one of the main reasons all major organizations representing the States have endorsed S. 1028.

The Health Insurance Reform Act before the Senate today passed the Senate Labor and Human Resources Committee in August by a unanimous vote. It now has 65 cosponsors, 27 Republicans and 38 Democrats. It is clear that, if this bill were to come to a vote in its current form, it would have more than enough votes to overcome any potential filibuster. The House of Representatives already has passed legislation containing health insurance reform similar to S. 1028.

Moreover, the bill has been endorsed by a wide range of organizations, including the National Governors' Association, the National Association of State Insurance Commissioners, the Consortium for Citizens with Disabilities, Small Business United, the National Association of Manufacturers, the National Federation of Independent Business, the U.S. Chamber of Commerce, the American Medical Association, American Hospital Association, Families USA, Consumers Union, the American Association of Retired Persons, and the AFL–CIO.

The portability provisions of this bill are even supported by many health insurers, including the American Association of Health Plans, Aetna, Prudential, Cigna, United Healthcare and the Blue Cross and Blue Shield Association, which is the largest health insurance carrier in the individual market.

Doctors, hospitals, insurers, HMO's, large business, small business, organized labor, and consumer groups all support the bill before us today. When one looks at the history of health care reform and the difficult tradeoffs and policy choices that must be made, that fact alone, I suggest, is remarkable.

The majority of these organizations have made clear that their support is conditioned on S. 1028 remaining free of contentious amendments.

We have a historic opportunity to pass limited, but real, health reform for the American people. We must not squander this opportunity by expanding the scope of this bill. The lessons of the past are clear. If we try to do too much, we will fail to do anything.

This bill is too important to people who may not have a voice in the Halls of Congress by any major organization, but who will be helped tremendously by this legislation. People like Tom Hall, a retired construction worker and farmer from Oklahoma City.

After 30 years of being covered by his employer, Tom started his own company and tried to buy an insurance policy for his family. However, the same insurer that had covered him while he was employed turned him down. Several years later, he did find an insurance policy that covers everything but his preexisting heart condition.

Mr. Hall testified before our committee, and it was very powerful testimony in its own significant way. Clearly, Mr. Hall would be protected by the group-to-individual portability provisions of this bill.

There are other families who would benefit. One is from Herndon, VA. A daughter who has cerebral palsy is excluded from coverage for at least 12 months every time the husband, Robert, changes jobs. While they have waited for these preexisting conditions to expire, they have had to pay both COBRA coverage and coverage under the new employer plan.

Mr. President, I also visited with a young woman who is an employee of the U.S. Senate. She has cancer. Her husband is completing his graduate work, and they hope to move to Florida. She is afraid to leave the coverage she has under her Federal employees health insurance for fear if they move to Florida, she may not be able to get insurance which would cover her because of her having cancer.

These are just some examples of people who would be helped directly by this legislation.

Only a year after President Clinton waved his veto pen and said he would not sign any bill that did not contain universal coverage, the President now says he will sign this carefully targeted health insurance portability bill. We should take him up on that offer.

The bill before us today does not achieve universal coverage. It is a far cry from the comprehensive health reform proposals that were considered by Congress only in the last Congress. However, it would immediately and measurably improve the lives of millions of Americans.

Through sensible, market-based reforms, the Health Insurance Reform Act would, first, limit the ability of insurers and employers to impose exclusions for preexisting conditions; second, prevent insurers from dropping coverage when an individual changes jobs or family members become sick; and third, help small companies gain more purchasing clout in the marketplace.

Despite its limited scope, the General Accounting Office estimates that the Health Insurance Reform Act would help at least 25 million Americans each year, and the Congressional Budget Office predicts that it would do so without any cost to the American taxpayers.

Mr. President, I do not know whether it is 25 million. I do not know if it is 10 million or if it is 5 million. What matters is each and every one of us in this U.S. Senate knows someone it would help. And if it only helps those few that we know even, it would be well worth positive consideration on the floor of the Senate.

I believe the legislation has achieved broad consensus for two main reasons. First, it is narrowly focused. It does not contain employer mandates, mandatory purchasing alliances, new taxes or new bureaucracies. Instead, the legislation focuses only on those areas where broad bipartisan agreement existed during the health care debate in the 103d Congress and where State insurance reforms have demonstrated the ability to work.

Second, the legislation was crafted with a significant input from consumers, insurers, businesses, hospitals and doctors. It is carefully attuned to the rapidly changing private health care market.

The Health Insurance Reform Act is not without some detractors. We have worked closely with the health insurance industry, and insurers generally support the bill. For example, the Health Insurance Association of America submitted testimony in favor of the vast majority of the bill's provisions. However, some continue to raise concerns about one provision of the legislation that is designed to help individuals and families who have played by the rules to maintain health coverage if they lose their job or leave a job to work for an employer that does not offer coverage.

I believe, however, that this provision strikes a careful balance between the need to provide consumers access to individual coverage and the need to protect the fragile individual insurance market.

The Health Insurance Reform Act would provide access to individual insurance only for those who have maintained prior continuous coverage under an employer-sponsored health plan for at least 1½ years, who have exhausted their COBRA benefits, and who are ineligible for coverage under another group policy.

Moreover, S. 1028 contains no restrictions on premiums. There are many who wish that it did, and it leaves broader reforms, such as guaranteed issue for individuals who have not had prior coverage, guaranteed issue for self-employed and portability between individual health plans to the States.

As a result, the bill requires individuals to pay into the system before being able to use its provisions for continued health coverage. This group-to-individual portability provision is carefully circumscribed precisely to avoid potential premium increases and adverse selection problems that could result from broader individual market reforms.

The American Academy of Actuaries, the Congressional Budget Office, the Rand Corp., the Hay Huggins Group and other credible independent actuaries have confirmed that this narrow provision would have only a minimal impact on the cost of health coverage in the individual market. There are some who have vastly exaggerated what the premium increase would be, but those that I have mentioned are sources that have no ax to grind in this area and whose reliability on projections are totally objective.

The substitute goes even further. It expressly provides that if a State has adopted or adopts in the future a high-risk pool or other means of allowing individuals to maintain health coverage, that State law or program will apply in lieu of the group-to-individual portability provision contained in the bill.

Instead of preempting State reforms that are working or prescribing a one-size-fits-all solution from Washington, S. 1028 allows each State to fashion individual market solutions that are appropriate for individuals in that State. This is another reason why both the Governors and the State insurance commissioners support the bill.

Mr. President, I think we all know those who would be helped by this legislation, as I said. The Health Insurance Reform Act does not strike out in a bold new direction, but it is a positive step forward that will help reduce barriers to health coverage for millions of working Americans. It is also an opportunity to demonstrate to the American people that Republicans and Democrats can work together to address their most serious concerns regarding health care.

As Robert Samuelson stated in his column on April 17 in the Washington Post:

> The virtue of this proposal is its modesty. There is nothing wrong with constructive tinkering. We've had enough of grand reforms, which promise much and deliver little. However, if enacted, it would provide a little extra peace of mind for those who have already had employer-paid insurance.

He concludes:

> This legislation isn't exciting but then again good government often isn't.

Mr. President, it may not be exciting, but let me tell you, if you know one person this legislation would help, it is, indeed, exciting.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want, first of all, as we begin the consideration of the legislation which can make such an extraordinary difference to millions of our fellow citizens in this country, mention at the outset my great respect, and I think the respect all of us in the Senate should have, for the chairperson of our committee of the Labor and Human Resources Committee.

I can remember going back the last time that the Senate was considering major legislation—we have had other legislation in the meantime—the comprehensive legislation that we considered now some 2 years ago. During that period of time, Senator KASSEBAUM was tireless in trying to find some common ground. We had some areas of agreement. We were unable, obviously, to get to the full measure of agreement during those considerations. But I think all of us who were a part of that effort knew that Senator KASSEBAUM was trying to find the areas of common ground on which we could move forward. At the end of the consideration of that legislation, I can remember a conversation that we had.

In her typical manner, she expressed a very compelling view that we should not let the issues of health care fall by the wayside and that we ought to try to look through the various proposals that had been considered at that period of time and that we ought to try to piece what we could together that could make an important difference for the American people and see if we could not work out a bipartisan effort.

It was really from that initiative and from that energy that she has spent hour after hour after hour in small meetings, large meetings, hearings, in visiting with various interested members of our committee and other Members of the Senate, and really helped in developing this legislation. In an extraordinary committee action, we were able to bring all the members and get a unanimous vote in support of this legislation, which is really an extraordinary achievement and accomplishment at any time. It certainly is now in this Congress, which in many instances has had more contentious debates and less agreement on many public policy issues.

But in this area, it is really a result of her own particular skills and talents and energy and strong commitment that we are here today with the extraordinary support that she has mentioned in regard to both Republicans and Democrats. I think all Members of the Senate, obviously, who know her and know her perseverance pay tribute to her extraordinary leadership on this issue.

I certainly at the outset of this debate and discussion acknowledge that and pay tribute to it. I think when the history of health policy is written, her imprint on not just this legislation but on so many other measures of health will be very, very much recognized, as it should be. It has been a personal pleasure to have the chance to work with her. I know all the members of the committee feel the same way.

Mr. President, the legislation we are considering today will end many of the most serious health insurance abuses and provide greater protection to millions of families. It is an opportunity we cannot afford to miss.

The abusive practices addressed by this bill create endless, unnecessary suffering. Millions of Americans are forced to pass up opportunities to accept jobs that would improve their standard of living or offer them greater opportunities because they are afraid they will lose their health insurance. Many others have to abandon the goal of starting their own business because health insurance would be unavailable to them or members of their families.

Children who age out of their parents' policies often find themselves unable to obtain their own insurance if they have any significant health problems. Early retirees can find themselves uninsured just when they are entering the years of highest health risks.

Other Americans lose their health insurance because they become sick or lose their job or change their job, even when they have faithfully paid their insurance premiums for many years.

With each passing year, the flaws in the private health insurance market become more serious. More than half of all insurance policies impose exclusions for preexisting conditions. As a result, insurance is often denied for the very illnesses most likely to require medical care. The purpose of such exclusions is reasonable to prevent people from gaming the system by purchasing coverage only when they get sick, but current practices are indefensible.

No matter how faithfully people pay their premiums, they often have to start over again with a new exclusion period if they change jobs or lose their coverage. And 81 million Americans have conditions that could subject them to such exclusions if they lose their current health care coverage. Sometimes the exclusions make them completely uninsurable.

Insurers impose exclusions for preexisting conditions on people who do not deserve to be excluded from the coverage they need. Sometimes insurers deny coverage to entire firms if one employee of the firm is in poor health or exclude that employee from the coverage. In other cases, entire categories of businesses with millions of employees are red lined out of coverage.

Even if people are fortunate enough to gain coverage and have no preexisting condition, their coverage can be canceled if they have the misfortune to become sick, even after paying premiums for years.

Robert Frasher from Mansfield, OH, works for an employer who offers health coverage to employees, but the insurance company will not cover him. Why? Because he has Crohn's disease.

Jean Meredith of Harriman, TN, and her husband Tom owned Fruitland USA, a mom-and-pop convenience store. They had insurance through their small business for 8 years until Tom was diagnosed with non-Hodgkin's lymphoma, and their insurance company dropped them. When the Merediths asked why, they were told they were no longer profitable insurance risks. Without health insurance, Tom Meredith had to wait a year to get the surgery he needed. After spending $60,000 of his own funds, his cancer recurred and he died of cancer about a year ago. Tom Meredith might still be alive today if he had not been forced to wait that year.

One of the most serious consequences of the current system is job lock. Workers who want to change jobs to improve their careers or provide a better standard of living for their families must give up that opportunity because it means losing their health insurance. A quarter of all American workers say they are forced to stay in a job they otherwise would have left because they are afraid of losing their health insurance.

Diane Bratten, from Grove Heights, MN, her family had insurance through Diane's employer. Because of a history of breast cancer—now in remission—Diane and her family will not be able to get decent coverage if she decides to change jobs or is laid off.

The legislation that Senator KASSEBAUM and I have introduced will address these problems effectively. The Kassebaum-Kennedy Health Insurance Reform Act is a health insurance bill of rights for every American and for every business as well. The legislation contains many of the provisions from the 1994 health reform debate which received bipartisan support, such as an increased access to health insurance, increased portability, protection of health benefits for those who lose their jobs or want to start their own business, and greater purchasing power for individuals and small businesses.

Those who have insurance deserve the security of knowing that their coverage cannot be canceled, especially when they need it the most. They deserve the security of knowing that if they pay their insurance premiums for years, they cannot be denied coverage, be subjected to a new exclusion for a preexisting condition when they change jobs, join another group policy, or when they need to purchase coverage in the individual market. Businesses, especially small businesses, deserve the right to purchase health insurance for their employees at a reasonable price.

Our Health Insurance Reform Act addresses these fundamental flaws in the private insurance system. The bill limits the ability of insurance companies to impose exclusions for preexisting conditions. Under the legislation, no exclusion can last for more than 12 months. Once someone has been covered for 12 months, no new exclusion can be imposed as long as there is no gap in coverage, even if someone changes jobs, loses their job, or changes insurance companies.

The bill requires insurers to sell and renew group health policies for all employers who want coverage for their employees. It guarantees renewability of individual policies. It prohibits insurers from denying insurance to those moving from group coverage to individual coverage. It prohibits group health plans from excluding any employee based on health status.

The portability provisions of the bill mean that individuals with coverage under a group health plan will not be locked into their job for fear that they will be denied coverage or face a new exclusion for a preexisting condition. These provisions will benefit at least 25 million Americans annually, according to the General Accounting Office. In addition, the provisions will provide greater security for the 131 million Americans currently covered under group health plans.

The bill will also help small businesses provide better and less expensive coverage for their employees. Purchasing cooperatives will enable small groups and individuals to join together to negotiate better rates in the market. As a result, they can obtain the kind of clout in the marketplace currently available only to large employers.

The bill also provides great flexibility for States to meet the objective of access to affordable health care for individuals who leave their group health plans.

During the debate on health reform in the last Congress, even the opponents of comprehensive reform urged Congress to pass at least the reforms that everyone supported—portability of coverage, guaranteed availability of coverage, and limitations on exclusions for preexisting conditions. These are exactly the provisions included in this bill.

Senator PHIL GRAMM, over 2 years ago said:

> We can fix the system and make it possible for people to change jobs without losing their health insurance. Every one of the proposals that has been made to reform health care—every single bill—has a provision that would make it possible for people to change jobs without losing their insurance.

Majority Leader DOLE, in his statement on the floor of the Senate in August 1994 said this:

> We will be back . . . And you can bet that health care will be near the top of our agenda. . . . There are a lot of plans and some have similarities. Many of us think we ought to take all the common parts of these plans, put them together and pass that bill.

Here is our chance. This is the bill.

The Health Insurance Reform Act is a modest, responsible, bipartisan solution to many of the most obvious abuses in the health insurance marketplace today. The bill was approved by the Senate Labor and Human Resources Committee last August by a unanimous vote of 16 to 0. It is similar to proposals made by President Clinton in his recent balanced budget plan.

The measures it includes are also virtually identical to provisions of legislation offered by Senator DOLE in the last Congress—legislation supported by virtually every Republican Member. Sponsors range from the most conservative Members of the Senate to the most liberal—because these reforms represent simple justice. They are not issues of ideology or partisanship.

Support for the bill by outside groups is equally broad. Almost 200 groups have expressed their support. These include business associations like the chamber of commercve, National Small Business United, the National Association of Manufacturers, the ERISA Industry Committee, and the Association of Private Pension and Welfare Plans. The AFL–CIO has endorsed the program, so that on this issue business and labor are united. The program is also supported by the National Governors' Association and the National Association of State Insurance Commissioners, who believe the legislation represents an appropriate balance between Federal and State responsibilities.

Responsible insurance companies support this bill, including the insurance companies in the Alliance for Managed Care, the American Association of Health Plans, Phoenix Life Insurance Co., the Blue Cross/Blue Shield Association, and other insurance companies. Blue Cross and Blue Shield are the largest carriers in the individual insurance market. The American Association of Health Plans has millions of individual subscribers. These responsible companies know that the insurance system is broken and needs to be fixed.

The Independent Insurance Agents of America—the largest association of agents in the country—sees the tragedies created by the current system every day. They support this bill.

Doctors, hospitals, and other health providers see those tragedies as well, and they support the legislation. It has been endorsed by the American Medical Association, the American Hospital Association, and over 44 medical specialty societies. This bill also enjoys the support of a number of the consumer groups that understand the need for legislation so well, including the Consortium for Citizens with Disabilities, and Consumers Union.

In fact, the only opposition to this legislation comes from those who profit from the abuses in the current system.

In his State of the Union Address last January, President Clinton challenged Congress to pass this bill. Now that the legislation has been brought to the floor of the Senate, I believe it will pass overwhelmingly—unless some in the Senate insist on following the Republican majority in the House of Representatives by addressing controversial and harmful provisions like medical savings accounts, federalization of multiple employer welfare arrangements, Federal caps on malpractice awards, repeal of MediGap rules protecting senior citizens against profiteers, or provisions making it more difficult to combat the waste, fraud and abuse in the current Medicare and Medicaid Programs. Almost all of the 200 groups that support the legislation have urged the Senate to pass a clean bill, without these controversial amendments.

These objectionable provisions of the House bill may serve the special interests, but they have no place in this legislation. Their adoption will almost certainly kill this bill, and destroy the hopes of millions of Americans for the kind of modest but effective reform that leaders of both parties have supported in the past.

Medical savings accounts, which are included in a major amendment to be offered later in this debate are particularly objectionable. They are opposed by virtually every credible health policy expert. They attract the healthy and wealthy, and add up to an unjustified $1.8 billion Federal giveaway to those who need it the least. They are a gift to the insurance companies with the worst record of abusive practices—a poorly disguised reward for millions of dollars of campaign contributions. And by pulling the healthiest individuals out of the conventional insurance market, they will raise premiums for everyone else, including those who need coverage the most.

In fact, the Congressional Budget Office concluded that, "In the long run, the existence of any type of catastrophic plus MSA option that would be attractive to a large number of people could threaten the existence of standard health insurance."

Members of the Senate who are serious about insurance reform should vote against all controversial amendments—including medical savings accounts. Senator KASSEBAUM and I have agreed that we will vigorously oppose all such amendments—even those that we might support under other circumstances. The Democratic leader, and many other Senators of both parties have joined us in this pledge. This is a test of the Senate's seriousness and ability to put the interest of the American people ahead of the special interests.

This legislation is not comprehensive health reform. It will not solve all the problems in the current system. But it is a constructive step forward—a step that will help millions of Americans. I urge its adoption.

Mr. President, if we are looking for just a shorthand explanation of what the legislation achieves, effectively, it is the Health Insurance Reform Act, the health insurance bill of rights. It guarantees that your insurance cannot be taken away because you, first, lose your job; second, change your job; third, become sick; or, fourth, start your own business. It protects against unfair preexisting conditions exclusion which affect millions of American citizens who virtually have no control over those preexisting conditions. In an important way it increases the purchasing power of small businesses so that they will be able to provide health insurance to the millions of Americans who work in small businesses and have no coverage at this time.

This is a modest bill, an important bill. It deserves overwhelming passage. It deserves, most importantly, to become law. Every day that we delay the legislation, there are other fellow citizens in this country that continue to be unable to get the kind of protections that they need and that they deserve. Hopefully, we will have overwhelming bipartisan vote on this legislation.

Mr. President, I see a number of our colleagues that will be speaking. I just hope that those that do have amendments—we hope there are not many of those—will make their amendments available to us at the earliest possible time so we can have a chance to review those amendments and to see what disposal we can make of them.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that members of the staff, four fellows, Lauren Ewers, Susan Castleberry, Sara Thom, and Anna Marie Murphy, be granted privileges of the floor during the debate on health insurance reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that Anne Rufo and Kevin McShane be extended floor privileges during the duration of the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I want to express my appreciation to Senator KENNEDY for his thoughtful statement. He is one who has been involved in health care issues for many, many years and cares deeply about it. He would, I am sure, like to have expanded this bill much further. But we worked hard to construct, as he mentioned, something that we felt could be passed and could be approved by the widest number in both the U.S. Senate and the House of Representatives. So I have greatly appreciated his leadership in the Labor and Human Resources Committee, as we have worked hard and constructively on both sides of the aisle in the committee, as well as on the floor, to bring this to fruition today.

One who has been a great asset in working with us is the Senator from Tennessee, who is waiting to speak. Not only has he been an exceptional legislator on this issue, he comes to it also with an expertise that the rest of us do not have—as a renowned cardiologist. So we have valued his willingness to be very engaged in this issue.

I have greatly appreciated his help on the Labor and Human Resources Committee as the ranking member. Senator KENNEDY and I have worked together to achieve this bill we are presenting today.

I yield the floor.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, I rise to congratulate Senators KASSEBAUM and KENNEDY for introducing what I consider to be a fair, balanced, focused, and excellent bill that will be to the benefit of over 25 million Americans. I welcome this opportunity to focus today on the Health Insurance Reform Act.

The bill before us provides protection for some 25 million Americans, who, each year—it is a rolling number—are at risk for becoming uninsured. Too many Americans today have to live each day with that fear of the loss of health insurance for preexisting illness—for example, if they have heart disease or if they have a stroke—and for the lack of insurance portability when they move from one job to another job.

I commend Senator KASSEBAUM for her leadership in crafting this legislation because it truly is balanced, bipartisan, and focused. There has been much misinformation and misunderstanding of what the provisions in this bill truly accomplish. Its objectives are very well-defined, very specific.

I reject the notion that this bill, in any way, resembles, as has been alleged, or is similar to President Clinton's very large, massive, failed health care plan. This bill is very different and should not be confused with the President's. This bill contains the very provisions which had broad, very bipartisan support throughout the entire health care debate.

The bill before us today proves that we can move forward incrementally, rationally, step by step, to fix the problems in our health care system today—without a massive Federal Government takeover of the entire delivery system.

I am a physician, and as we talk about this bill and as we look at the provisions of this bill, I see those faces of hundreds—in fact, even thousands—of patients who I have had the opportunity to serve in the past. Too many of those faces, when I picture them, are faces of terror, of fear, that one day they will lose the insurance they have, which they have purchased and that they have been a player in purchasing, historically, that they will lose it, and that it will be taken away simply because they want to change jobs or leave a group plan, leave an insurance plan to go out and set up their own business.

As the only physician in this body, I do feel a very special responsibility to speak out loudly, clearly, and forcefully in support of those very practical solutions and patient protection when the Senate considers matters dealing with these challenging issues of health care. Each time I make a decision in this body regarding health care legislation, I apply some very stringent tests that go back to my experience as a physician delivering care to individuals, one on one, who need that care, who depend on that care for their quality of life and for their well-being.

In my practice as a heart and lung transplant surgeon, I shared daily the obstacles that patients face. They tell you about that every day in your office. For example, after a patient receives a new heart, has a heart transplant, and after they are ready to return to the work force and productive lives, there is a huge barrier there today, a barrier that, once we remove it with this bill, will allow that individual to live a more productive life, a life more fulfilling, a better quality of life. When I give a person a new heart today, the next day they start asking questions because they are petrified that they are not going to be able to go back to their old job, to go back and get insurance if they decide to change jobs.

They get trapped in a current situation for the rest of their lives because of this lack of portability of insurance coverage. The cost of their care, by no fault of their own, restricts their freedom of movement within the workplace.

I cannot help but to think back to last July during our Labor and Human Resources Committee when a man from Oklahoma, Tom Hall, testified before us. He reminded me so directly of the hundreds of patients who have told me this same story. He was denied individual coverage because of what we call a preexisting heart condition. But it was denied by the same insurer that he had insurance with for the last 30 years. It was denied because he wanted to go out and start his own company. The insurance company who he had worked with for 30 years—the same person, the same condition—when he wanted to go out and start his own company, initially denied that insurance. Eventually, yes, he got that insurance. But, remember, he had a heart condition. He got that insurance, but it did not cover his heart condition.

Well, this bill will address that. It passed the Labor Committee unanimously and is currently supported by well over half of the U.S. Senate. It limits exclusions for preexisting medical conditions, it guarantees renewability of health coverage, and it reduces this concept of job-lock—being locked in a job—by making health insurance coverage portable from one job to another. In other words, when this bill becomes law, people like Tom Hall will no longer be locked into jobs or prevented from starting their own businesses for fear of losing their health coverage.

As a doctor, there is nothing worse than having a patient tell me that he or she cannot afford health care due to denial of coverage by an insurance company. Tragically, over 1 million working Americans have lost health insurance over the last 2 years. Over 80 million Americans have preexisting conditions of some sort that could make it difficult, if not impossible, for them to maintain coverage when they change jobs. Many of these people are willing to pay the insurance premiums. In many cases, those insurance premiums could be costly. But they cannot find coverage at any price.

As a physician and as someone who is a real advocate of the free market system, I find this unacceptable, unconscionable. People who are willing to play by the rules—and again, this bill addresses people who currently have insurance coverage, who have paid in, or had their employer pay in, and have coverage. These are people who have played by the rules in the system. These people should not be denied the opportunity to lead productive lives.

I applaud Majority Leader DOLE, who has a long record of support for health care reform, for bringing this bill to the Senate floor. It is important to debate, and it is important for us to take this step and vote on this legislation.

Before I entered the public service as U.S. Senator a year and a half ago, the Senate had already debated and even passed provisions almost identical to this bill—debated and passed. Unfortunately, as the scope of many of these bills grew larger and larger, the support for the overall bill dwindled. As a result, we are here today still debating those long-awaited insurance reforms.

In closing, while this bill is not a cure-all—and we should not pretend it to be a cure-all, but it is a good first step—it is incremental, it is straightforward, it is rationale, it is focused, and it is direct. The bill will correct many of those imperfections in the market that we have today for health insurance.

I am confident that this Congress will be the one—this Congress will be the one—to deliver these much-needed reforms.

I thank the President. I yield the floor.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

PRIVILEGE OF THE FLOOR

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that Greg Jones, a legislative fellow in my office, be allowed privileges of the Senate floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, I want to congratulate the Senator from Tennessee for the remarks just made. There is really an extraordinary synergy between Senator KASSEBAUM and Senator KENNEDY which has produced this legislation. It is interesting.

I was home last week in my State, and I was talking about this bill. As I talked, a lot of the feelings that a lot of us had 2 or 3 years ago began to come back. When the larger comprehensive health legislation failed, it was just pulled to the ground by Harry and Louise, special interests, and other things, there may be a feeling out there in the land that, well, since that did not pass, I guess things must be going better. Of course, that is not true. Things are really worse. The system is in worse condition than it was at that time, and people, I think, increasingly know that.

I think what we have to do is wait for a renewed demand, a broader demand, a broader anger on the part of the American people so that they will speak to us with more clarity than happened in the last go-around and we can respond. But in the meantime, Senator KASSEBAUM and Senator KENNEDY saw an opportunity to take certain very specific and important parts of this problem and solve them, and they did so in a way which was so successful and so agreeable that the vote was unanimous from that committee. The Labor and Human Resources Committee has a reputation for having a good deal of bipartisanship. But it is also a committee where there are sharp differences of views and, therefore, the unanimity of the vote I think is a very, very good sign for the Health Insurance Reform Act of 1995.

I think that we have to be fully aware that people in this country desperately want and thoroughly deserve the security that health insurance will not disappear the way it does now. The Senator from Tennessee was talking about how he could see that fear in people's faces. I am not a physician, but I hear that constantly in my State of West Virginia. When it disappears, it disappears cruelly. It disappears without warning. It disappears often because people are simply just laid off because of downsizing or because of other economic factors. It always affects, it seems, millions of hard-working men and women, people who are playing by the rules every day. I think today is our chance to really do something. I think we can do our job for the West Virginians, for the South Dakotans, the Kansans, and other Americans everywhere who are out there doing their job but still fear the loss of health insurance.

Health insurance is a little bit like air. Sometimes you take it for granted. All of a sudden it is not there. You panic very quickly, and I think a lot more Americans are doing that. Some people, in fact, are estimating—a lot of people are—that by the year 2000, which is really only 3-plus years off, that 50 percent of Americans who work for a living—not 50 percent of Americans but 50 percent of Americans who work for a living—will not have health insurance.

So, this problem just continues to get worse and worse. Yet, the Labor and Human Resources Committee has made a substantial improvement if we are able to pass this bill and if we can do it without controversial amendments. I will have more to say about that as the day goes along.

I have, frankly, waited for this day for a long, long time, and I am filled with a sense of gratitude and a sense of relief that we are finally, as a body, going to do something which is meaningful. If everything really goes well, we may do this by the end of the night or tomorrow night. But the point is we really have a chance to do this.

I do not know of a great deal of criticism about this bill on the part of my colleagues. Relatively few people on the outside are criticizing it, and, therefore, I have a good feeling about it.

The so-called Kassebaum-Kennedy bill, the Health Insurance Reform Act, would establish some of the most fundamental and far-reaching changes in health insurance since the creation, in fact, of Medicare and Medicaid in 1965. I, therefore, again salute the two Senators, the chairman and the ranking member, for their really inspiring bipartisan partnership in crafting and advancing this very important legislation. I think we all remember, as I indicated—it seems like a long time ago, but it really was not—that there was a mighty debate in this body about guaranteeing health insurance for every man, woman, and child in this country. I believe that must still be the goal and the vision for America. I believe that as strongly as I did at the time. I believe in that even more strongly as I watch what is happening to more and more people as they lose their health insurance even though they are working.

Mr. President, that comprehensive effort at that time to reform our country's health care system was stopped. But, again, the problems of losing health insurance continue. That is why in a sense we have won, through the good work of Senator KASSEBAUM and Senator KENNEDY, we have won another chance to enact something which is really meaningful in the way of health care reform. The people of our States are still writing, calling, visiting, and asking for help. I am going to do whatever I can to make sure that we do not let this opportunity pass us by—that we will not fail on this and that we will make a real difference in people's day-to-day lives.

That is why we simply have to also exercise restraint and not kill this bill with extra baggage. It is tempting, but it cannot happen. Amendments, whether they are well-intentioned or not, which are controversial will have the effect of bringing this bill down, and we all know that. We have to be very careful as we go through this exercise that we do not accept controversial amendments.

I think this bill is going to solve some really horrible problems for real people. So why would we accept controversial amendments which we might otherwise support, as the Senator from Massachusetts said, when it could pull down the chance to do something really good for a lot of people?

During debate on comprehensive health care reform several years ago, many of my colleagues—especially those on the other side of the aisle—said repeatedly that we should only enact those health reforms on which there is a strong bipartisan consensus and support. Well, here we have it. Here we have that piece of legislation. That is the precise description of this bill, S. 1028, which is before us today. It was so carefully crafted by the chairman and the ranking member; it came out of the committee by unanimous vote; it is a bill which should be sent to the President for his signature, and I am certain, although one never knows, that he would sign it.

Loading up this bill with extraneous provisions which will please certain special interests but only delay enactment of health reform just does not make any sense at all. So, Mr. President, I intend to join the floor managers of this bill and Minority Leader DASCHLE in opposing any controversial amendment that will delay enactment of this bill—any controversial amendment, even if it means voting against amendments that, as I have indicated and so have others, have merit on their own and I would fight to enact in other terms and other circumstances. We cannot be distracted from the basic purposes of this bill, which are terribly important.

Almost 40 million Americans lack basic health coverage today. It is going up about a million plus every year, Mr. President. It has been doing that regularly, and it will continue to do that, perhaps at an accelerating rate. One cannot be sure. Most of the people who are not lucky enough to have health insurance, with cards in their wallets or back pockets, are in fact the people we revere and honor in this body, and that is they are the hard-working, middle-class families who are victims of layoffs and downsizing or just plain profit gouging.

This country offers the best health care in the world. Nobody has ever denied that. It is terribly true. Unfortunately, that health care continues to be beyond the reach of too many of our fellow citizens who do not deserve that lot in a country that is as outstanding and great as ours.

As both Senator KASSEBAUM and Senator KENNEDY said, this bill before us today will not solve all of the problems in the health care marketplace. I think it was Senator KASSEBAUM who said that the so-called guarantee issue, or guaranteed coverage, for that matter, for every man, woman and child in this country has not diminished. The bill is not going to solve it.

I still believe it is a fundamental right for each and every one of us, not just for those who can afford it or are healthy enough to keep insurance companies profitable. But again, the machinery of our health care system is breaking down, and this bill helps substantially. If we cannot therefore enact a complete overhaul, if we are not going to be able to do that in this session, we must enact the individual fixes and the individual reforms that will at least keep the engine of this system running.

Evidence of this need for an overhaul of our health care system is everywhere. It is found in the emergency rooms of our public hospitals, collapsing under the demand of the growing millions who need medical treatment but cannot pay for it. It is found in our schools where far too many children go without immunization and preventive care. It is found in the rooms of our nursing homes with so many residents being uprooted from their homes and neighborhoods because of their inability to afford community-based alternatives. They are forced onto Medicaid. They are institutionalized because their savings have been exhausted, and on and on.

Mr. President, individuals and families go uninsured for several reasons. Often health insurance coverage is simply not available, or what is available is not affordable. The effect is the same. Health insurance often lapses after a worker is laid off and COBRA extensions that affect certain larger industries have expired.

Entrepreneurs who leave their jobs to start their own businesses, which is what we glory in America—IBM used to have it all and then people started going out and creating all kinds of other things. That is what we do in America. We are a country of entrepreneurs. Entrepreneurs who have to leave their jobs or want to leave their jobs to start their own companies because they think they have a better idea are sometimes unable to convert their group health insurance policies to an individual health plan, and, even more tragic, insurance coverage is often terminated by an insurer just when that insurance policy is needed the most, when an individual or a family member experiences a really serious, devastating illness or disability.

How reliable is a guarantee, so to speak, of health coverage when the health plan issuer acts in its own self-interest or cuts the safety line by either terminating a policy or increasing the premiums beyond the ability of the individual to pay, thus, in effect, accomplishing the same end—cutting that person off.

The Health Insurance Reform Act of 1995 makes significant strides to address each of these two problems, and that is why it is such a good bill and needs to be passed. The Health Insurance Reform Act will strengthen the safety net for millions of Americans by improving portability and security of private health insurance, especially in the small group and the individual insurance markets. I support this bill because I personally have heard the stories of hundreds of West Virginians who have fallen between the cracks of our health care system.

Mr. President, I wish to just give three personal examples that I know of and then end with a statement from the White House.

Mr. President, I want to start—and these are all people who would be helped by this bill, and the examples are so many—with one Norma Schoppert, who lives in Piedmont, WV—not large, near the top of our State. Several years ago, she developed diabetes. Lots of people do. When her husband was working, Mrs. Schoppert was covered by the health plan offered by his employer. That is understandable. But then he retired in 1991 and became eligible for Medicare. When that happened, she was able to extend her own health insurance coverage for 3 years because of the COBRA provisions that affected his health insurance, and thus she was able to pay monthly premiums of $354 and continue full health insurance coverage under COBRA for 3 years. But that only lasted from 1991 to 1994, those 3 years.

Mrs. Schoppert was offered an individual policy when her COBRA extension expired at a monthly premium, Mr. President, of $1,800. So you understand the effect, $354 in the COBRA extension, $1,800 without it. In effect, obviously, she could not pay that. She could not afford to pay this amount, so she has now no medical coverage at all. And unless the system is reformed, she will have to go without insurance until she qualifies for Medicare, which is still 3 years away.

Now, Mr. President, that means, as the Senator from Tennessee indicated, 3 more years of anxiety, 3 more years of fear, worrying about the risk of losing everything that she and her husband worked all of their lives to build. And we say that sentence so easily; it just rolls off our tongue. But these are gigantic tragedies in the lives of real people.

Second example. Juanita Taylor of Elkins, WV. Just a few years ago, she was a hard-working employee at Davis & Elkins, which is the local private college, but then she developed multiple sclerosis. She kept right on working, struggling to overcome the advancing weakness that her illness caused her. When she was, in fact, really too weak to meet the demands of her job, she lost her job and eventually the health insurance that had provided.

Her neighbors and her friends pitched in to help her pay for a wheelchair, so that she could stay connected and involved with her community, so that her morale would be better.

Those friends and neighbors told me that she was forced to pay out-of-pocket costs of $1,000 per treatment to help slow the advance of her multiple sclerosis. How many people can pay $1,000 per treatment? Although she now has Medicare, her medical expenses ate up all of her savings. Juanita Taylor courageously faced and fought a ravaging disease, only to be victimized by a system that cared more about how much money she had in her pocket than it did, quite honestly, about her health condition.

But the final story, and the saddest one of all, it seems to me, comes from Falling Waters, WV, which is in Berkeley County. In 1990, Walter McPeak and his wife, Karen, were granted custody of Mr. McPeak's two sons, Anthony and Thomas. They wanted these boys. Both the boys have severe hemophilia and hepatitis, as well as the social and the emotional difficulties that come from living in constant fear that even the slightest injury could result in terrible trauma or instant death.

At the time the boys came to live with them, both Walter and Karen McPeak were employed in high-paying management jobs. Together they earned a little over $80,000. But their employer's health plan would not issue coverage for Anthony or for Thomas. Their need for special clotting factors and other treatments means medical costs of several thousands of dollars each week.

So it was not long before the McPeak family had used up all of their savings. They had to sell their house and then they sold their first car, and then they sold their second car, but still the costs climbed and there was no help in sight. When they tried to apply for Medicaid—which you can imagine they did not want to have to do—because Medicaid would have helped pay for their sons' treatments, they were told that their family income was too high for the boys to be eligible for SSI, which would automatically make them eligible for Medicaid.

So, what choice did Walter and Karen McPeak have to make? In order to qualify the boys for SSI, which was their moral and parental responsibility, they gave up their management jobs, both of them, over $80,000 a year, and took minimum wage, unskilled jobs so their income would not exceed allowable limits for them to qualify for SSI and hence Medicaid.

This is a tragedy and this is a travesty. It should never happen in America. Anthony and Thomas got health insurance; yes, they did. But the McPeaks lost their savings, their home, their car, their jobs, probably a good deal of self-esteem—although not on a moral basis; and their employers, of course, lost two highly skilled managers. So we must pass health insurance reform in the form of this bill.

The bill we are considering is not a perfect solution and nobody has made that claim. But it will go a long way toward ensuring that working Americans and their families are able to keep the health insurance that they have, if they lose or if they change jobs. This legislation will mean that families like the McPeak's, who have children with special needs, will have the protection and have the security of insurance coverage. And it will mean that talented and hard-working individuals with new and creative ideas, entrepreneurs, will be free to go out and start their own businesses, because of this reform bill, without the fear of losing their health insurance.

Again, I thank and congratulate Senators KASSEBAUM and KENNEDY for their enormous leadership that gives us this historic—and it is historic—chance to do something that Americans deserve and want so badly. I conclude with a statement of administration policy. This is just for the edification of the membership.

I read from the administration's latest statement of administrative policy:

> Certain provisions included in the House-passed bill are so controversial and so potentially damaging to the health care system that they jeopardize enactment of the insurance reform that Americans want signed into law this year. Specifically, the inclusion of amendments that, one, provide for medical savings accounts, MSA's; two, deregulate multiple employer welfare arrangements—MEWA's; three, impose federally defined caps on punitive and noneconomic medical malpractice awards; four, undermine Medicare fraud and abuse efforts; and, five, weaken the ban on the sale of duplicative insurance policies to the Medicare beneficiaries, would call into question the seriousness of the commitment of the Senate to health insurance reform this year.
>
> The administration views such provisions as an effort to undermine a bipartisan consensus on health reform. If such amendments are adopted, they would create a grave risk to the passage and enactment of this bipartisan legislation.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I thank my friend and colleague from West Virginia for an excellent presentation on the current legislation and also for his really extraordinary leadership on the whole health care issue. As he mentioned, he was right in the vanguard of leaders when we debated the more comprehensive program over a year ago. I think he is tireless, as a member of the Finance Committee, in pursuing good health care policy. So I thank him for his comments. I am very hopeful he will be involved during the course of debate on this measure, because he brings great interest and knowledge to his comments.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I second those observations. Senator ROCKEFELLER has cared for a long time, as well, about a wide breadth of health issues, particularly as regards to children. I ask unanimous consent that the Senator from New Mexico [Mr. DOMENICI] be added as the 66th cosponsor of the bill before us.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. The next speaker is the leader of the Republican health care task force. Senator BENNETT has been a very, very strong and constructive Member of the Senate, working with health care issues. I have certainly valued his advice and support in this endeavor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I thank the Senator from Kansas for her kind and generous words. It has been an interesting odyssey for me to get involved in the health care issue. It came up in the 1992 campaign, when I ran for the Senate in the first instance. I must confess, the first time the question came up I was pretty much stumped for any kind of an answer as to what we ought to do on health care. I do not like being stumped for an answer, so I have plunged into this issue ever since I have been in the Senate, and the more I get into it, the more certain things become clear.

One of the things that is very clear is that we need insurance reform now. It is something we can do now. And we should be careful not to attempt a complete overhaul of the system just to get insurance reform. That was one of the errors, in my view, that was made strategically by the President of the then majority party in the last Congress.

I always said, and repeat again, that the President deserves credit for having raised this issue. It is such a thorny issue that the instinct of most politicians is to flee from it. I learned in the days when I was working with the Congress, before I came here, that all you needed to do in order to defeat a bill was, not convince Congress that it was a bad bill, all you had to do was convince them that it was a controversial bill and they would flee from the controversy. So I salute the President and have always done so, since coming to the Senate, for his courage in raising the issue.

But in the last Congress, I seriously departed from the President because of his insistence that the entire system had to be fixed at once with a single bill and a single Congress. I thought that was the height of arrogance and, ultimately, it proved to be impossible.

I remind people that the Clinton health care plan was not voted down in the 103d Congress. It simply died, collapsed of its own weight, and a vote was never taken on it because it could never be put together in such fashion that it was ready for a vote.

So I commend the Senator from Kansas and the Senator from Massachusetts in their willingness to say, "Let's step aside from the attempt to do everything in a single bill. Let's pick out the most pressing problems and see if we can address those."

Those of us who tried to put forth this strategy in the last Congress were attacked as incrementalists, and we were denounced as being insufficiently compassionate and concerned. I do not know anybody in this body who is more compassionate and more concerned than the Senator from Kansas. I stand now to say that the incremental approach that we proposed in the 103d Congress is now bearing fruit in the 104th, primarily due to her leadership and her compassion and her concern. So I am delighted to be a cosponsor of the bill and to participate in this debate.

I do have to make a few general observations, however, before I get into talking about this bill, so that people who have heard me on health care in the past will know that I have not abandoned those observations.

I believe that we have the system that we have in the country today primarily because of the tax laws in this country. We have a system that is distorted, for a whole series of reasons. Not to go through the whole litany but to, again, lay down certain principles so that I am not accused of abandoning them, we have not one health care system in this country but two.

The first one is the delivery system, and it is run by doctors and nurses and hospital administrators and researchers and research hospitals and foundations and all of the rest of it, and it is dedicated to delivering the finest health care medical result for our citizens as possibly can be.

The second system is the payment system, and it is run by insurance companies and adjustors and, to a very large extent, the Federal Government. Forty percent of the health care bills in this country are paid by the Federal Government.

The payment system, to a certain extent and certainly to a larger extent than is proper, in my view, distorts the delivery system. Delivery system decisions are made on the basis of payment system decisions, and that is where we get into all of the difficulty, in my view.

If we could devise a way that the delivery system goes forward with the focus primarily on producing the best medical result for the patient, undistorted by the payment system, we would have the ultimate circumstance.

If I may give us an example—I realize it is not perfect, but it is one we ought to look at—I have been in Shriners hospitals. The Shriners raise every dollar that they spend for health care, which means that they do not interface with a single insurance company or a single Government bureaucrat. They simply raise the money to pay the bill for the kids, and they make the decision as to what will be done in a Shriners hospital solely and entirely on the question of medical need.

Here is the result of not having to deal with insurance companies or the Government at the Shriners Hospital in Salt Lake City: The cost per day, per-bed night, or whatever the appropriate medical term is, in the Shriners Hospital in Salt Lake City is $95. What could we do in medical costs if the per-night cost in a hospital were $95 for every 24-hour period?

The administrative costs of running the Shriners hospital system are 4 percent, which means that 96 percent of every dollar they raise to take care of the medical needs of these kids goes to the kids and only 4 percent goes to administration.

That is what happens when you do not have to deal with an insurance company or with the Government bureaucrat. That is the goal for which we should aspire somewhere out there to clean up the enormous costs and complexity of the system in which we are engaged.

I think the answer to that lies in restructuring our tax laws in the way we deal with health insurance. That is a speech I have given before; it is not a speech I will give today, but I lay that down because I do not want anyone who is listening to me to think that for one moment I have abandoned that as my ultimate goal: To get to the circumstance where we clear up the enormous complexities that now beset the whole health care issue.

That having been said then, Mr. President, let me address S. 1028 and my support for it. As I said at the outset, I believe in the incremental approach. I believe that when you are dealing with a trillion dollars' worth of economic activity, trying to fix it all at once with a single piece of legislation is a major mistake, and I think we learned that lesson in the 103d Congress.

The most pressing issue for most Americans is the question of job lock, the question of insurance through the employer keeping people tied to a particular employer or to a particular job.

During the campaign, whenever this came up, I had a little exercise I would go through, and it never failed to produce exactly the same result. As people would turn to me and say, "What is the biggest problem with health insurance," I would answer with a question. I would say, "How many of you here know of someone—either yourself, a member of your family, or friend—who is locked in a job he or she hates because he or she is afraid to lose health insurance?"

I would just sit back and watch the hands go up, and they would always go up in sufficient number around the room to make my point: That portability of health insurance is, for most Americans concerned with this issue, the No. 1 challenge, and portability of health insurance is at the core of S. 1028.

If we can make it possible for people to ultimately control their own destiny and not be under the control of their employer, then we have solved the problem for many, many Americans.

I am not one who subscribes to the statistics about the tremendous number of uninsured. I point out that for most of the uninsured, they are just passing through that category. I give this example.

In my own family, I have a son who, when he turned 24, went off the family policy. The insurance company says he should be through with school at age 24. I said, "I agree with you he should be through with school at age 24, but he's not, so what do we do?"

Well, I called him up and said, "Jim, go down to the student health center and sign up for the student health policy at the University of Southern California."

He said, "Sure, dad, I'll take care of that."

Those of you who have children know that it took about 6 months for him to finally get around to taking care of that. During that 6-month period, he was one of those statistics of the uninsured. He had gone off my policy because he was too old to be a dependent and he had not gotten around to signing up with the other, and so he ended up in that statistical pool of the uninsured.

Frankly, it is not my son, Jim, we are worried about here. It is the people who, in that statistical pool, have a real problem.

I raise that only because I think it is unfair to use the huge statistical number of 37 or 40 million or whatever it may be, to try to highlight the problem that is really severe and significant for roughly a third or even a quarter of that number. But the people who are in that quarter, the 10 million, whatever, have real problems, and this bill addresses those problems.

We should understand that this terror of losing health insurance that has caused job lock can become more than just a personal problem for the individual involved. It can have consequences throughout the entire economy.

The Senator from West Virginia spoke about the entrepreneurs who leave a secure business to go start another one. I have been one of those entrepreneurs and had the experience of walking out of a secure company where I had health insurance, being told, "OK, you have COBRA coverage for 18 months, and in that 18-month period, good luck in lining up some other kind of health insurance."

I was able to line up another kind of health insurance for me, but discovered a very difficult problem. My secretary, who left with me when I left the company to start my own activity, was also covered by COBRA, and in that COBRA period while we were putting together a health insurance plan for our little tiny company—just the two of us; we were the only two employees—she came into my office one day and said she had to see a doctor, she was not feeling well. She came back from the appointment and said, "I have a brain tumor. It is operable. It can be handled, but the problem of dealing with it is going to take a timeframe longer than the 18 months of COBRA. What are we going to do?"

I will not bore the Senate with the details. We were able to solve the problem. We were able, through the State of Utah and some of the things that it does on health insurance, to find an insurance pool that would accept her. But I saw firsthand how difficult that can be. People who are normal and healthy and have no problems at all in the 18-month period of COBRA are suddenly faced with this kind of circumstance.

So that is why I have joined in cosponsoring S. 1028. It is focused on a single problem. It is not an attempt to solve all of the issues simultaneously and thereby get gummed up in all of the challenges that face our health insurance and health care problems. It deals with the most pressing problem for most Americans who fall in this category. It does so in such a way that it does not close the door to the kinds of solutions I want to see down the road. It does not close the door to the kind of tax reform that I think will ultimately bring us the ultimate health care solution.

So, for those who say, "Well, Senator BENNETT, you have been a voice for the entrepreneurial approach, the market approach, and don't endorse anything until you can restructure everything," I say, we have not got that luxury. We have to deal with the problem of job lock, the problem of portability of health insurance as quickly as we can, even as we have these other discussions for the solution a long way down the road.

Again, Mr. President, I congratulate the Senator from Kansas for her leadership and her tenacity. I say, as I have said before, that the loss of her membership in this body will be keenly felt. She brings an aura of civility and intelligence, combined with a tenacity and a sense of steel in her back that sometimes her pleasant exterior will cause people to misjudge. We have been honored with her service in the Senate. I think this will be a monument to her service in the Senate. I am delighted to be one of those who raises a voice in support of that concept. Mr. President, I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I would like to express appreciation to the Senator from Utah, who gave such a very thoughtful opening statement, I think, by example, showing concretely why the provisions of this bill are important. I know that the majority leader, the senior Senator from Kansas, has also over the years been cognizant of the very things that Senator BENNETT, as the leader of the Republican health care task force, spoke so eloquently and sincerely about. I am very appreciative.

Mr. DOLE. Mr. President, I understand there are a number of my colleagues who wish to make opening statements. I just want to indicate that I am prepared to offer the so-called tax amendment. We are trying to get some agreement that is acceptable on both sides as far as a motion to strike one provision of that. So I ask unanimous consent that, following opening statements, I be recognized to offer the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. First of all, I would like to thank the distinguished Senator from Vermont for permitting me to go ahead of him. I know he has been waiting. I assured him my statement would be brief, so I am going to be held to that.

Mr. President, I would like to take this opportunity to reaffirm my support for the Kassebaum-Kennedy health reform legislation. The sponsors of this legislation have worked for a number of years to enact reforms in the private insurance market. I applaud them for their considerable efforts in bringing this legislation to the floor.

It is interesting to note this legislation is quite similar to that which Senator Durenberger first presented in the Finance Committee, as I recall, or perhaps in the Labor Committee several years ago. Although he has left the Senate, I think he would be pleased to know we are making progress with the legislation he was so involved with.

In the wake of attempts in recent years to completely overhaul our health care system, this legislation has been characterized, as the distinguished Senator from Utah noted, as incremental. It has been criticized as even meager. But I urge my colleagues, as the Senator from Utah noted, not to underestimate the importance of this legislation.

One of the major failings of our health care system in this country is the difficulty thousands of Americans face each year when they change jobs or look for new jobs. But they find they cannot change jobs because they will no longer be eligible for health insurance. This is what is known in the trade as "job lock." This problem for many Americans would be addressed under the Kassebaum-Kennedy bill. Insurers would be required to offer coverage, with no preexisting condition exclusions, for those moving from one group plan to another or from a group plan to an individual plan.

I expect, Mr. President, we will see many amendments to this proposal, many of which I have supported in the past. Though laudable, these additional provisions could jeopardize the more immediate and important goal of enacting insurance market reforms. Those of us who worked to enact health care reform 2 years ago know all too well the consequences of attempting to do too much with respect to health care reform. We failed to enact comprehensive health care reform in 1994. You try to do too much and you end up getting nothing. We have been through that experience, Mr. President, not only with the health care measure that we tried in 1994, but in other efforts in the past.

In the last 2 years, over a million Americans lost their health insurance coverage. Although this proposal, the Kassebaum-Kennedy proposal, does not include many of the health reforms which I advocated 2 years ago, I strongly support its enactment as a sound first step toward reform and improvement in our Nation's health care system.

So I congratulate the two principal cosponsors of this legislation and am delighted to be listed as a cosponsor myself. I thank the Chair.

Mrs. KASSEBAUM. I thank the Senator from Rhode Island. He, too, has been a long-time worker in the vineyards of health care, a staunch leader in the last Congress to find some answers and to bring people together to present health care reform. I value his support in helping us work through the language in this bill.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

PRIVILEGE OF THE FLOOR

Mr. JEFFORDS. Mr. President, first, I ask unanimous consent that Theresa Stathas, a fellow in my office, be granted the privilege of the floor for the duration of the consideration of S. 1028.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I rise today in support of the Kassebaum-Kennedy bill. Before I do that, I want to express my deep appreciation for the efforts that were put in, in 1994, by Senator CHAFEE, in trying to reach a consensus on what we can do to move health care forward. We worked long and hard, many of us, and the issues which we are involved with today in S. 1028 were some of those which gave us the greatest concern.

I also want to thank Senator BENNETT for his work with the Republican task force on health care. His work has been invaluable to us as we move forward to try and find, again, the kind of consensus that is necessary to get us good health care reform. What a refreshing experience it is to have Senator Frist with us, who has given us the invaluable knowledge of a practicing physician, who kept us from going too far astray in our efforts. It is wonderful that we have this kind of a coalition. Senator ROCKEFELLER, who I have worked with, also, is so helpful in the health care reform area.

I am beginning to feel confident that we will do something constructive here in health care reform, and hopefully it will happen in the next few days. Of course, my chairman and my ranking member, Senator KENNEDY, who both have shown outstanding leadership in getting our committee to come out 16 to 0 on a bill, this is a miracle in itself. I am deeply appreciative of all their efforts.

I rise in support of the Kassebaum-Kennedy Health Insurance Reform Act. If we send this legislation to the President, the 104th Congress will be remembered in history for taking the first steps toward real market-based health care reform. Market reform is not as easy as it may sound, for the simple reason you must take into consideration the State's responsibility for regulating insurance versus the Federal responsibility for regulating ERISA, employee benefit plans.

That word, ERISA, is one that troubles many. The reason it troubles people is because there is not much there. We have the authority and the responsibility to provide good health care conditions for the self-funded plans, but we have exempted the self-funded plans from State regulations. That is why we are here today and why this is an important move forward.

Finding the right balance between insurance regulation and employee benefits, while trying to incrementally reform the market, is something like mastering the Rubic's cube. Just when you think you have all the sides lined up, you find out one square is out of place. Last August, the Labor and Human Resources Committee lined up that Rubic's cube and it all seemed right with the world.

As I mentioned, in a unanimous 16 to 0 vote, the committee voted favorably on S. 1028, the Health Insurance Reform Act of 1995. I must commend the chairman and the ranking member for that incredible feat. It is not an easy task putting together a health care reform bill that every member of the committee can vote for, but it happened. The Health Insurance Reform Act makes great strides in addressing many of the problems in the insured market and also begins to level the playing field in the self-funded ERISA market by apply the same national rules to both segments of the marketplace.

Chairman KASSEBAUM'S approach from the beginning was to build a bill around two areas of consensus—portability and elimination of discriminatory treatment of preexisting condition rules. The Kassebaum-Kennedy bill provides Americans the security of knowing that their health insurance will be portable from job to job and that all people who have insurance today will be able to purchase affordable insurance tomorrow even if they get sick. That is a critical phrase—even if they get sick, or change or lose their jobs.

This is accomplished by converting the rules in today's insurance market which reward excluding people into rules where health plans can take all comers. There is a tendency to want to exclude sick people, naturally. You make more money if that happens. This will step in and say, "Hey, no." S. 1028 provides much-needed improvements at the national level, but at the same time allows States the flexibility they need to move ahead in their own reform efforts.

As we attempt to make coverage more widely available, we must also not lose sight of affordability, particularly in a market where employers and individuals are not mandated to purchase insurance. We must be very careful as we reform the insurance market, because if we are not, reforms that we hope will reduce costs and improve access may do just the opposite.

How is this possible? Today, over 92 percent of the people who have private health coverage are part of a group—92 percent are part of a group. Most of these people get it through their employer under an ERISA health benefit plan. The key concern regarding ERISA is the risk segmentation that occurs in the private market due to the preemption clause. ERISA preemption effectively blocks States from regulating most employer-based health plans. ERISA preempts States from being in this area.

Although many employers still purchase health coverage from a State-regulated health insurer that is subject to State insurance regulation, employer plans that cover 44 million people have elected to self-fund and avoid the State insurance laws. These laws deal with financial solvency, market conduct, benefit coverage, and premium taxes. States impose taxes on insurers for general revenues, as well as for financing specific programs like State guaranty funds and high-risk pools.

Preemption made a lot of sense 20 years ago when the multistate employers and unions were looking for a way to offer uniform benefits to employees throughout the country. Most of the plans were offered through insurers. Most of the plans were offered through insurers. As States started to weigh down the insured market with mandated benefits, employers saw self-funding as a means of flexibility and plan design.

These are two reasons why employers have left the insured marketplace. In a preliminary report I just received from GAO, the estimated additional costs of these mandated benefits range from a high in Maryland of 22 percent additional cost and low in Iowa of 5 percent.

Mr. President, I ask unanimous consent that excerpts of the GAO preliminary estimate be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

GENERAL ACCOUNTING OFFICE,
Washington, DC, April 15, 1996.

Hon. JAMES M. JEFFORDS,
U.S. Senate,
Washington, DC.

DEAR SENATOR JEFFORDS: The Congress is considering proposals intended to enhance the availability of health insurance. This debate has led to specific questions about the state regulation of health plans, including mandated benefit laws. In particular, you asked us to provide information on—

1. state requirements affecting fully insured health plans and how they compare with federal requirements affecting self-funded health plans,
2. the number of states that have enacted particular mandated benefit laws,
3. estimates of the costs of mandated benefits in particular states, and
4. the extent to which commonly mandated benefits are provided by self-funded health plans that are exempt from state laws.

This letter provides interim information based on our ongoing work for you on the factors affecting the costs of state health insurance regulation. As part of this effort, we interviewed officials from the National Association of Insurance Commissioners (NAIC); several state insurance commissions; and national organizations representing actuaries, health insurers, and self-funded employers. We reviewed documents and used data provided by these groups as well as available studies on mandated benefits. In addition, we included and updated information from previous GAO reports on state insurance regulation and the Employee Retirement Income Security Act of 1974 (ERISA). Our review was conducted between January and March 1996 in accordance with generally accepted government auditing standards. We expect to issue a report to you later this year that will provide a more detailed analysis of the factors affecting the costs of state health insurance regulation.

RESULTS IN BRIEF

We found that states have an average of 18 mandated benefits that health insurers must cover but the number of mandated benefits varies from a low of 6 in Idaho to a high of 39 in Maryland. However, assessing the costs of mandated benefits is difficult because their impact varies depending on state laws and employer practices. Published studies provide a range of cost estimates. For example, a recent study found that Virginia's mandated benefits accounted for about 12 percent of claims costs; earlier studies estimated that mandated benefits in Maryland cost 22 percent of claims and in Iowa cost 5 percent of claims. In general, cost estimates are higher in states with more mandated benefits and in states that mandate more costly benefits, such as mental health services and substance abuse treatment. We also found that self-funded health plans often offer similar benefits, even though they are exempt from state-mandated benefit laws. For example, a survey by KPMG Peat Marwick found that a large percentage of self-funded health plans offer benefits similar to those mandated for health insurers in many states.

REGULATORY FRAMEWORK DEPENDS ON WHETHER A HEALTH PLAN IS FULLY INSURED OR SELF-FUNDED

While states are able to regulate health insurance, state regulation does not directly affect everyone with private health coverage. ERISA preempts states from directly regulating employer provision of health plans. This results in a very different regulatory framework depending on whether an employer purchases its health care coverage from an insurer that the state regulates or self-funds its health plan is not directly affected by state regulation.[1]

States focus their regulation on the financial soundness of insurers and their market conduct, including benefit coverage. In addition, states impose taxes on insurers for general revenues as well as for financing specific programs. While federal requirements include fiduciary and other responsibilities, in many other areas no federal requirements exist for self-funded health plans that are comparable to state requirements for health insurers. In particular, self-funded health plans are exempt from state laws that mandate insurers to include coverage for specific benefits. Table 1 companies the requirements that fully insured and self-funded health plans must meet.

TABLE 1.—COMPARISON OF RELEVANT STATE AND FEDERAL PROVISIONS AFFECTING FULLY INSURED AND SELF-FUNDED HEALTH PLANS

	State insurance regulations affecting fully insured health plans	ERISA provisions affecting self-funded health plans[1]
Financial requirements:		
Licensing	States license insurance companies and the agents who sell insurance to ensure that companies are financially sound and reputable and that agents are qualified.	No comparable requirements.
Financial solvency	States set standards for and monitor financial operations of insurers to determine whether they have adequate reserves to pay policyholders' claims. States restrict how insurers invest their funds.	No solvency requirements but fiduciary duty to act in a prudent manner solely in the interests of plan participants and beneficiaries.
Rate reviews	States review and approve rates to ensure that they are both reasonable for consumers and sufficient to maintain the solvency of insurance companies.	No comparable requirements.
	Some states regulate insurer rating practices in the small group market to determine the factors insurers may use in setting premiums[2].	No comparable requirements.
Market conduct requirements:		
Plan benefit coverage and description	States review and approve insurance policies to make sure that they are not vague or misleading and to ensure that they meet state requirements, such as mandatory benefit provisions.	Disclosure requirements to provide summary plan description to participants and the Department of Labor. No requirements to provide specific benefits.
Consumer protections and complaints	States monitor insurers' actions to make sure that they are not engaging in unfair business practices or otherwise taking advantage of consumers by investigating their complaints, answering questions, and conducting educational programs.	Plan must reconsider denied claims at participant's request. States have no authority to pursue consumer complaints regarding self-funded plans. Department of Labor has responsibility for complaints regarding self-funded health plans.
Small group reforms	Most states require insurers selling to small employers to accept and renew employees who want health insurance coverage, establish short waiting periods for preexisting conditions, and require portability of coverage even when an individual changes jobs or insurers[2].	States are preempted from applying small group reforms to self-funded health plans.
Tax requirements:		
Premium taxes	States assess premium taxes on insurers	States are preempted from assessing premium taxes on self-funded health plans.
Guaranty funds	States assess insurers to finance guaranty funds that provide financial protections to enrollees who have outstanding medical claims in the case of an insurer insolvency.	States are preempted from requiring self-funded health plans to participate in guaranty funds.
High-risk pools	Some states assess insurers to finance losses in high-risk pools that provide health coverage for individuals who otherwise had been denied health coverage due to a medical condition.	States are preempted from requiring self-funded health plans to participate in high-risk pools.

[1] ERISA requirements apply to all private employer and union health plans, including fully insured and self-funded health plans. See Employer-Based Health Plans (GAO/HEHS–95–167, July 25, 1995). While states are preempted from regulating self-funded health plans directly, some states regulate third-parties that provide administrative services for self-funded health plans and stop-loss insurance carriers that reimburse self-funded health plans for claims that exceed a predetermined threshold.

[2] For a listing of states that have enacted these reforms, see Health Insurance Regulation: Variation in Recent State Small employer Health Insurance Reforms (GAO/HEHS–95–161FS, June 12, 1995).

NUMBER AND TYPE OF MANDATED BENEFITS ADOPTED BY STATES VARY

On average, states have enacted laws mandating about 18 specific benefits. As shown in figure 1, 15 states have over 20 mandated benefits while 9 states have 10 or fewer mandates. Maryland (39), Minnesota (34), and California (33) are the states with the highest number of mandated benefits. In contrast, Idaho has only 6 mandated benefits; Alabama, Delaware, Vermont, and Wyoming each have 8 mandated benefits.[2]

States most frequently mandate coverage for preventive treatments like mammograms and well-child care or for treatment of mental illness or alcohol and drug abuse. (See table 2.) In addition, states often require coverage for some types of providers like optometrists and chiropractors. States typically mandate that insurers cover specific benefits in all plans sold, whereas some states merely mandate that each insurer make this service available in at least one plan that it offers. In some cases, the mandates are limited to particular types of plans such as health maintenance organizations or group insurance plans.

TABLE 2.—COMMONLY MANDATED BENEFITS

	Number of States		
	Cover	Offer	Total
Treatment-related:			
Mammography screening	42	4	46
Alcoholism treatment	23	16	39
Mental illness	15	16	31
Well-child care	21	4	25
Drug abuse treatment	13	10	23
Pap smear	17	0	17
Infertility treatment/in vitro fertilization	12	2	14
Temporomandibular joint disorders	11	3	14
Off-label drug use	13	0	13
Maternity care	11	2	13
Breast reconstruction following mastectomy	9	2	11
Provider-related:			
Optometrists	46	1	47
Chiropractors	43	3	46
Psychologists	42	0	42
Podiatrists	38	0	38
Social workers	26	0	26
Osteopaths	21	0	21
Nurse midwives	15	0	15
Physical therapists	14	0	14
Nurse practitioners	13	1	14

Source: NAIC, Compendium of State Laws on Insurance Topics: Mandated Benefits (Kansas City, Missouri: NAIC, 1995).

STUDIES VARY IN THEIR ESTIMATES OF THE COSTS OF MANDATED BENEFITS

Studies conducted in several states between 1987 and 1993 provide varying estimates of the costs associated with mandated benefits. (See table 3.) Among the most recent, the Virginia State Corporation Commission has required insurers to report cost and utilization information annually for each of the mandated benefits in the state. Overall, the commission reports that Virginia's mandated benefits accounted for about 12 percent of group health insurance claims in 1993. An earlier study in Maryland, the state with the most mandated benefits, estimated that mandated benefits represent 22 percent of average claims costs in 1988. At the other extreme, a 1987 study in Iowa estimated that the potential costs of introducing several commonly mandated benefits would be about 5 percent of claims costs.

TABLE 3.—STUDIES OF THE COSTS OF MANDATED BENEFITS IN SELECTED STATES

State	Year	Percent of total claims costs
Maryland	1988	22.0
Massachusetts	1990	18.0
Virginia	1993	12.2
Oregon	1989	8.1
Wisconsin[1]	1989	7.9
Iowa[2]	1987	5.4

[1] Includes six mandated benefits: alcohol and other drug abuse treatment, chiropractic care, diabetes care, home health care, skilled nursing facility care, and kidney disease treatment.

[2] The study in Iowa examined potential costs of six commonly mandated benefits, including mental health, alcohol and drug abuse, podiatrists, optometrists, registered nurses, and physical therapists. Iowa has not adopted all of these mandates; according to the Blue Cross and Blue Shield Association, Iowa's current mandates are mammography screening, well-child care, chiropractors, dentists, registered nurses, optometrists, and diabetic education.

To some extent, the differences in the cost estimates reported by the various studies are related to the number of mandated benefits included in each state. For example, the studies that showed the highest estimated costs were for Maryland and Massachusetts, states that have more mandated benefits than most states. Thus, these cost estimates cannot be generalized to other states.

While the studies report varying cumulative costs in different states, they generally agree that several specific mandated benefits account for a large share of the additional costs. In particular, mental health and substance abuse are often cited as the most costly mandated benefits whereas other commonly mandated benefits, such as mammography screening, account for fewer than 1 percent of costs. Furthermore, in some cases, mandated benefits covering services offered by some alternative types of providers, such as nurse midwives, may reduce costs because they substitute for more costly forms of care. However, some provider mandated benefits may also increase the demand for services, thereby increasing costs. For example, while chiropractic services may be a less expensive alternative for some treatments, mandating their coverage may also lead to increased use.

One limitation of most studies on mandated benefits is that they have examined the impact of mandated benefits on claims costs, which does not necessarily capture the actual effect on employers' costs. In particular, multistate employers note that varying state-mandated benefits result in additional administrative cost. Employers that purchase health insurance must modify their plans to meet these differences in state-mandated benefits. Furthermore, employers are concerned that mandated benefits limit their flexibility in designing the most cost-effective health benefit plan to best meet the needs of their employees.

SELF-FUNDED HEALTH PLANS OFTEN COVER BENEFITS COMMONLY MANDATED BY STATES

The actual cost impact of mandated benefits to employers also depends on whether the employer offers a comprehensive or limited health plan, which in turn is often related to the size of the employer. Many of the commonly mandated benefits are often offered by employers, even those who self-fund and are not subject to the state mandates. In general, large employers are more likely to self-fund their health plans and also tend to offer more comprehensive benefits than small employers. For small employers, who typically purchase fully insured health plans and are less likely to offer health coverage at all, mandates may impose claims costs for benefits that they otherwise might not have covered.

Studies have shown that self-funded health plans typically offer many of the benefits that are commonly mandated by states for fully insured health plans. For example, as shown in figure 2, a KPMG Peat Marwick survey of employer benefits among all firm sizes indicates that self-funded health plans are more likely to offer well-child care outpatient alcohol treatment, outpatient drug treatment, mental health benefits, and chiropractic care than fully insured health plans. This survey also reports similar patterns for other benefits that are not typically mandated, including prescription drugs, adult physicals, and dental benefits.[3] Similarly, a survey of Wisconsin insurers also found that: "self-funded health plans provide at least as many of the managed benefits as insured health plans and in some cases provide more generous coverage."

This result may partially be due to the tendency of large employers to both self-fund and offer more comprehensive benefits.

Although self-funded plans often offer the same types of benefits as are commonly mandated by states for insurers, they may include features that differ from the requirements of state mandates. For example, state mandates generally specify a minimum number of days of care that insurers must cover for inpatient mental health care. One employer association indicated that many employers prefer designing more flexible mental health benefits; for example, requiring case management rather than specifying a limited number of days of care. Thus, even though 97 percent of self-funded plans offer inpatient mental health care services, all these plans would not meet the state requirement for fully insured health plans.

Assessing the cost differences between self-funded and fully insured health plans resulting from mandated benefits is difficult. To the extent that self-funded health plans offer benefits that are similar to state-mandated benefits, they do not have lower claims costs due to their exemption from state-mandated benefit laws. For less commonly offered benefits, such as in vitro fertilization, self-funded employers would face additional claims costs if they were required to meet the state mandates.

Please contact me at (202) 512–7119 or Michael Gutowski, Assistant Director, at (202) 512–7128 if you or your staff have any questions. Other major contributions to this letter are John Dicken and Carmen Rivera-Lowitt.

Sincerely yours,

JONATHAN RATNER,
Associate Director,
Health Systems Issues.

Mr. JEFFORDS. Because the employer frequently pays a significant portion of the premium, a large majority of the eligible employee—both young and old, sick and healthy—choose to enroll in an employer-sponsored plan. Since so many people participate in group plans, the average per employee price of coverage stays relatively low and remains affordable for each employee, since the insurance risk is spread over a large pool of people.

The individual market, on the other hand, contrasts in many ways from the group market. For instance, those who buy individual health insurance pay the entire premium out of their own pockets, whereas, in most cases, a business picks up most of the tab. If an individual buys it, it is out of his own pocket. Not only do the people receive no subsidy from the employer, they also do not receive the same tax advantages afforded to employer-sponsored health plans. This is a critical difference. Therefore, costs to the individual is a major concern. When individuals leave a group coverage situation and decide not to purchase in the individual market, it is because they cannot afford it or because they are healthy and have decided they do not need the coverage and do not want to pay the amount of money they would have to pay.

The individual market is so price sensitive, as prices go up, healthy and less costly people leave the market, causing the prices to continue to spiral upward. This vicious cycle makes it inevitable that individual coverage will become less affordable for hundreds of thousands, if not millions, of Americans.

What is the solution? We must encourage purchasing cooperatives in the individual and small group market. Group purchasing is the first tool to bring down costs of individuals. The key concern regarding ERISA is the risk of segmentation.

I was very pleased when Senators KASSEBAUM and KENNEDY included in the health plan purchasing coalition section my own bill which I offered with Senator NUNN, S. 1062. I believe that the key to making health insurance more affordable for individuals and small employers is properly designed voluntary group purchasing arrangements.

Employer group purchasing is not in the concept. Many employers have been pooling funds and contracting with entrepreneurs to offer health benefits to their employees at reduced rates for many years through something defined as multiple employer welfare arrangements, referred to as MEWA's, under ERISA. A MEWA is an arrangement where two or more employers group together to purchase health benefits. The more that group together, the lower the per employee cost or employer cost.

While a number of MEWA's form important gaps in our health care system, some MEWA administrators have taken advantage of the confusion as to who bears responsibility for regulatory oversight, the Feds or the States. It is very, very confusing. They have been able to create and run ponzi schemes, designed to take premium payments with no intention of covering any major health claims. My esteemed cosponsor of S. 1062, Senator NUNN, led the effort to uncover the corruption of fraudulent MEWA's when he chaired the Senate Permanent Committee on Investigations. He was instrumental in drafting the section of the bill that addresses MEWA reform. It is important. I bring it up, also, as I will mention later, because of what is in the House bill.

The bill Senator NUNN and I introduced makes clear, once and for all, that the States are responsible for regulating all MEWA's. Therefore, the number of States that have moved forward in this area will no longer have to be involved in costly litigation, using precious State resources, to prove they are regulated.

I must say, I am very concerned about the way the House bill handles the group purchasing in the small group market. First, continuing to segment the market by creating different rules for insured and self-insured MEWA's is a mistake.

Second, giving the Department of Labor the additional responsibility of now being the insurance regulator for all self-insured MEWA's takes away a current State responsibility and hands it over to the Federal Government. This seems totally inconsistent with the philosophy and fiscal reality of less Federal Government and more responsibility for the States. I think we should be careful when we are looking at this in the conference committee.

Requiring purchasing cooperatives to offer only fully insured products, as in the case of S. 1028, is a much better solution. Although the group purchasing section of the Kassebaum-Kennedy bill is good, I hope we will be able to improve upon it in conference with the House. I hope we can take the lead from Governor Whitman accomplished in New Jersey. She saw the need to look at the impact overburdened State-mandated benefits laws can have in a small group market and developed a variety of distinct benefit packages that small employers can choose to purchase for their employees. This strikes me as a critical step at expanding health care coverage.

Fixing what is broken in our current health insurance system should be

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FOOTNOTES

[1] ERISA preemption effectively blocks states from regulating most employer-based health plans, but it permits states to regulate health insurers. The majority of employers purchase health coverage from a third-party insurer that is subject to state insurance regulation. However, for plans covering about 44 million people in 1993 the employer chose to self-fund and retain at least some financial risk for its health plan. Because these self-funded health plans are not deemed to be insurance, ERISA preempts them from insurance regulation and premium taxation. For a fuller discussion of the regulatory differences, see Employer Based Health Plans (GAO/HEHS-95-167, July 25, 1995).

[2] The calculation of the number of mandated benefits includes requirements that insurers provide or continue coverage for specific populations, such as dependent students, as a mandated benefit. Thus, the number of mandated benefits per state includes these requirements as well as treatment-related and provider-related mandated benefits. See Blue Cross and Blue Shield Association, State Legislative Health Care and Insurance Issuers: 1995 Survey of Plans (Washington, D.C.: Blue Cross and Blue Shield Association, 1995) for a list of mandated benefits for each state.

[3] The data in figure 2 represent the percentage of covered workers in conventional health plans. KPMG Peat Marwick reports similar findings for workers in preferred provider organizations and point-of-service plans that are either self-funded or fully insured. KPMG Peat Marwick is currently examining to what extent these differences in the rates of benefits coverage among self-funded and fully insured health plans can be explained by differences in firm size and premium levels.

what is accomplished in this year of incremental reform. Although I believe the Kassebaum-Kennedy bill is a good bill, I believe it can be a great one. That is the main reason Senator SIMON and I plan to offer an amendment that would raise lifetime limits, caps, to $10 million. We want to ensure that this bill lives up to its basic promise. What good does it do to pass a law that prevents insurers from excluding individuals with preexisting conditions if you let employers set lifetime caps at $50,000—which is probably 1 day or 1 week for those people—to meet the needs of those conditions?

It is critically important, in my mind, that we make sure that we make this remain a good bill and that we pass a good bill. I will mention that I offered this amendment in committee, and they said at that time that we wanted to come out with a 16 to 0 bill. This was the step that people have to understand—that I would not offer this in committee, but I said I would offer it on the floor. There was some concern raised about having amendments to this bill. But I point out that this is important to the bill in order to make it work.

This is not an extraneous amendment, unrelated to the purpose of the bill. If we do not prevent insurers from reducing lifetime caps, then we have the very likely situation where they will reduce the caps if they have to take sick people in. If we do that, we will have lost the great benefit of what we are trying to do today.

Let me talk about the lifetime cap amendment. In a letter I received from the American Academy of Actuaries addressing my amendment, they stated:

> . . . this amendment is unlike State mandates that require coverage of specific medical services. This is a Federal mandate that appears to greatly increase the security provided plan participants by raising their potential benefits to $10 million.

This is also important. CBO has estimated that premiums would only increase by 0.16 of a percent, while at the same time reducing Federal and State expenditures in the Medicaid Program. So what we would do is to prevent the horrendous situation we have now.

How do you take care of the sick people in this country that have an insurance policy that has a lifetime cap? What happens? You reach the cap and then you have to, under the present situation, drain all your resources until you are poor. And then you apply for Medicaid, and you are eligible for Medicaid. I want to point out that I think that is a terrible way to handle things.

I also point out that other information that we have received from reputable organizations has backed us up in the fact that this is a de minimus cost to most employers, and it is a huge benefit to the Federal budget. The National Taxpayers Union has said that the net savings could be as much as $2 billion in Federal savings and $3 billion in State and local savings by just passing this amendment, at a very minimal cost to employers.

As U.S. Senators, we have the peace of mind in knowing that our health insurance will be there if a catastrophic illness or injury strikes one of our families. In our plan, there is no cap. Anything can be covered. In a large number of HMO's, there are no lifetime caps, and in some other group policies there are no lifetime caps. So I want to focus your attention on that. Hopefully, in the time before I offer the amendment, you will learn more about this and agree with us.

For now, I would like to, once again, commend both Senators Kassebaum and Kennedy for bringing this bill to the floor of the Senate. I urge my colleagues to vote for its passage. I am hopeful that when we finally do get to my amendment, you will keep in mind that what we will do will be almost an unmentionable expense to most employers, but will save people from incredible experiences of having to go through bankruptcy in order to get health care coverage, and also will allow us to reduce the cost of Medicaid to State, local, and Federal Government.

Mr. President, I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

PRIVILEGE OF THE FLOOR

Mr. KERREY. Mr. President, I ask unanimous consent that Karen Davenport, a fellow in my office, be allowed privileges of the Senate floor during our debate and consideration of S. 1028.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, I rise to support the Kassebaum-Kennedy bill, S. 1028. I believe it is a long-overdue change. As the Senator from Rhode Island and others have said already, it is regarded by some as very incremental. I regard it as one of those very important pieces of legislation.

Earlier, we enacted a piece of legislation, ironically, that Senator KASSEBAUM actually took the lead on last year, which consolidated the job training programs and gave the States a lot more flexibility in designing their own programs. I said at the time that I thought this law was the second most important thing we could take up this year because we know, with certainty, that it is going to effect some 20 million people. It does not cost the taxpayers any money. It does make a change of the law, the Federal law and will alter the way the market works. But it is not the first time that we have interfered with the health care market.

One of the most expensive interferences that we have with the health care market is that we allow health insurance to be deducted with offsets against FICA by employers, as well. It is a very important deduction, but it also must be seen by citizens as an interference with the market because it is for upper income people in particular. For people like myself, if I am buying private health insurance, it provides me with a substantial subsidy.

It has been a very important way to allow people who otherwise would not be able to purchase health insurance to buy it. So it is not as if this kind of action is without precedent. There is no doubt that close to 21 million Americans will be positively affected by this. They will be able to purchase with their own money health insurance, and still in many cases it is going to be quite high. But nonetheless they are going to have an opportunity to buy it. They are not going to be denied the opportunity to purchase. It does not obliterate the high-risk pool States like Nebraska. We started one when I was Governor. It does not affect States that worked on this for years to try to provide some way to have all of us share a bit of the risk.

This bill, as I see it, is designed to accommodate or rather radically change the economy where we are seeing a lot of downsizing, particularly in larger corporations. You have individuals that are covered by group policies from those corporations. They will find themselves very quickly running out of their benefits and having to purchase individual policies. And very often they find themselves faced with the inability to make the purchase. This law will basically say we are all going to share the risk of that in the marketplace so that these individuals can make the purchase. As has already been pointed out, nearly 25 percent of all working Americans who have private sector jobs have job lock as a result of the lack of portability and the lack of ability to be able to purchase with preexisting conditions. Nearly 3.8 million American workers lost their jobs in March. It is a rather substantial paradox that it has become a fact of life that even at a time when the economy continues to grow, even as we have a recovery underway, that we have layoffs that are close to the same number that were occurring during the last recession that we experienced in the early 1990's. Thus, this change in the law accommodates rather substantial change in our economy.

One of the things that a lot of us who are older—I am 52—sometimes fail to recognize is that the cost of health care as it has gone up has changed the way people in the market, working people and particularly younger people, face health care expenditures. For example, when my babies were born 20 and 19 years ago I was able to pay cash for them. I did not insure against the risk of having a baby because it was a relatively modest amount of money. You paid for it out of pocket. It was not considered to be a big deal. Today you need to be insured because the normal delivery is expensive. But almost any extended stay in the hospital can put a young family in a great deal of financial distress.

That is just one of many, many examples that one could cite; a very relevant example because it is a rather common experience. There are 4 million live births a year in the United States, and an awful lot of those births are in families that are uninsured. This will make it more likely that those families will have insurance and have coverage.

It certainly will not get us to where I would like to see us; and, that is, at a point where every single American and legal resident knows with certainty that they have insurance. I hope this is a first step.

I will support Senator KASSEBAUM's and Senator KENNEDY's request to vote against all amendments. I believe that this bill needs to go across in an amendment-free fashion. I do not know if I ever stated what Senator KASSEBAUM is going to support. But I believe this bill is too important for me to be supporting, as Senator JEFFORDS earlier indicated, an amendment that I would under normal circumstances support. I will vote against that amendment because I believe the bill needs to be clean and clear. It came out of the Labor Committee with unanimous support. We have an opportunity to help 21 million Americans. I think it is very important, in spite of my respect for the Senator from Vermont and admiration for him personally, as well as my normal inclination to vote for that amendment. I believe an amendment-free strategy is the right one to adopt.

Mr. President, one of the things that I think we need to do as we move toward universal coverage—and I hope that is the goal—we spend $400 billion a year in Federal direct spending in tax benefits for health care. We spend a sufficient amount. If we would change the way eligibility occurs, one of the things we have to do in order to be able to get there is we all have to face the true cost of health care and very often we do not. Somebody else is paying for it. The insurance company is paying for it—the Government. So we really do not worry about whether or not the bill is high or the bill is low. The more that we can face that cost directly and understand that, if we do not have the resources to pay for it—it is paid for out of an insurance pool, paid for with Medicaid or Medicare, somebody else is essentially paying our bills—the more that we can face that fact the more likely it is that we will move quickly to a point where, if you are an American or legal resident, you will know for certainty that you have health insurance.

This morning June O'Neill, the Director of the Congressional Budget Office, appeared before the Senate Budget Committee and laid down a rather stark warning; that is, even if the President's budget or the Republican budget were adopted, we still have not controlled the growth of entitlement programs. I say that to colleagues because I think once we get beyond the Presidential election we are going face in 1997 a really rather difficult fact. And I believe June O'Neill laid it out for us this morning; that is, we have commitments on the mandatory side that are going to make it difficult for us to fund education, to fund transportation, to fund defense, to fund space, to fund law enforcement, and to fund all sorts of other things that are going on. Unfortunately, very often that occurs because people believe that they have a right to something, that they have a benefit that actually is paid up, the money is all there, and it is set aside for them—no problems, do not worry about it—when in fact that is not the case.

It gets back, it seems to me, to a problem that we have whether it is the tax deductibility, or whether it is Medicare part B. There is sort of a sense that somebody else is paying for it. Why should I have to worry about it? As a consequence, we just are not engaged personally as we ought to be in trying to control the cost of health care, and as a result, it seems to me, it is difficult for us to take the next step.

So again I want to say how much I really appreciate very much and applaud the determination of the Senator from Kansas, and the Senator from Massachusetts. They and the Labor Committee voted this out unanimously, and 21 million Americans will be affected positively. Taxpayers will not be on the hook for this thing. It has been measured. It will cost no more than 2 percent in premiums across the country and with reasonable changes in the law given what is happening out in the marketplace.

I hope this body will pass it as quickly as possible and get it on to the President for his signature.

I yield the floor.

Mr. JEFFORDS. Mr. President, I want to comment briefly on the comments of the Senator from Nebraska about my amendment. I point out that, unlike all of the other amendments, this one is very relevant to this bill and will improve the bill. It is not extraneous to it. If we do not keep track of what the lifetime caps are, then this bill will be a mockery because, if we require the insurers to take sick people on, one way of getting out of that is to reduce the lifetime caps so that as soon as they come in they are out the other end. It was offered in committee with the understanding that it would be brought forward at this time.

I just wanted to bring that to the Senator's attention and hope that I will make an exception to his decision in that regard.

Mr. President, I yield to the Senator from Iowa.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am very glad that this debate is taking place before this body. Having had an opportunity on two separate occasions to push concepts similar to what is in this legislation to accomplish the same goal in maybe not exactly the same way, I am glad that we are here today and that there is a bipartisan effort to get this legislation passed. I think being truly bipartisan is a continuation on these issues of guaranteeing some health insurance to people who can afford it—things that we have tried to accomplish before in a bipartisan fashion.

I respect Secretary of Treasury Bentsen because when he was chairman of the Senate Finance Committee he had proposals which I think were bipartisan with the ranking Republican at that time included in H.R. 11, a major tax bill. And those health insurance provisions went through without any debate on the floor of this body because they were accepted as things that should be done. To see that happen was good. Obviously, President Bush vetoed that bill because he did not like the tax provisions that were in it.

Then, if you remember the next step, there was a fairly bipartisan effort to make these provisions part of basic law. It was during the health care reform debate of 1993 and 1994. They were relatively noncontroversial provisions of much more controversial efforts by the Clinton administration to have the Government totally dominant in the delivery of health care in America and do it through a provision that we called employer mandates, meaning every employer, large or small, would have to provide health insurance to their employees.

Of course, that came down to total defeat in 1994 because the middle class and the small business people of America woke up to a couple of things: First, that small-business America could not afford an employer mandate because they could not pass it on to their consumers like big corporations can do; second, middle-class, taxpaying people saw their rates going up, or if their rates did not go up the services that they received from the health care industry and from the health insurance industry would have gone down.

You remember that was part of a big effort we had in 1993 and 1994 where we were going to insure everybody. Obviously, when there is 13 or 14 percent of the people who do not get insurance and a large percentage of them that cannot afford it, somebody is going to pay. There is no doubt about it. There is no free lunch in our system of doing business in America.

The middle class saw this problem, that we were trying to reduce the coverage, affordability and quality of health care to middle class working America as we were trying to solve the problems of the 13 or 14 percent of the American people who did not have any health insurance. Of course, it only took about 3 or 4 months until working, taxpaying American citizens found out what Congress was proposing to do, and they turned against the Clinton health care proposal.

Then that message really did sink in to the President of the United States because after the November election in 1994, when the Republicans took over the Congress, the President said he was not going to attempt to have that complete overhaul of the American health care provisions he incorporated in his 1993 and 1994 proposals, and that if he was going to do anything it was going to be done incrementally.

So you have a President, thankfully, waking up to the realities of what grassroots America wants, particularly what middle class America wants, they liked their health care plans and wanted to keep them from being diluted. You have the President waking up to that reality, on the one hand, and then you have Republicans who had accepted these noncontroversial parts of the President's health care provisions, the noncontroversial parts, being debated in this Chamber today, which bring together the bipartisan efforts that are going to make this legislation very successful.

So I just wanted to give that background before I express my words of support for and cosponsorship of this very important piece of legislation, because the American people for the last 6 or 7 years, as expressed by this history I just gave you, believe it is high time Congress passed legislation which provides basic health insurance protections for individuals and small businesses. The Kassebaum bill is our opportunity to respond to these concerns.

This bill would assure greater portability of health insurance for individuals. It would limit the ability of insurers to deny health insurance coverage because an individual has a preexisting condition. It would require insurers to offer health insurance to individuals who have lost jobs and seek such insurance. And it would require insurers to issue health coverage to individuals who want to purchase insurance for their employees on a group basis.

The bill defers to health insurance reforms passed by the States. This is very important for my State of Iowa, because in my State we have enacted a very good health insurance reform law. It went into effect on April 1 just past.

Enactment of the Kassebaum bill should not disrupt the reforms that are going on in my State. So, in my State, Iowans would continue to receive health insurance under the terms of the Iowa reforms.

I thank Senator KASSEBAUM and her very capable staff for working with me and my staff and with some of the Iowans who helped put together the Iowa reforms. The modifications Senator KASSEBAUM will offer to her bill would help make sure that Iowa and similar State reforms would not be disrupted when this bill is enacted. As a consequence of these changes, Iowa, and probably several other States should be able to carry out their own reforms without undue interference from the Federal level.

For States which have not implemented their own reforms, this bill would then reform both the group and the individual health insurance markets in those particular States. As I said earlier, these reforms would respond to some of the most pressing problems encountered by small businesses and individuals when they need health insurance.

For the group market, this bill would require insurers who offer group health plan coverage to offer such coverage to all groups that apply. This would prohibit insurers from denying health insurance coverage to employers whose work force the insurer believes is not healthy enough to insure.

Next, the Kassebaum bill would require insurers to offer coverage to all individuals in a group without regard to their health status. This would prohibit insurers then from denying coverage for an individual member of a group plan based on that individual's health status. This legislation would require insurers to renew group health plans at the option of the employer. Renewal may not be denied for reasons of health status of those in the plan. Thus, an insurer would not be able to refuse to renew a health insurance plan to a group based on changes in the health profile of the individual.

This legislation would limit an insurer's ability to deny coverage for preexisting conditions to 12 months. This waiting period would be reduced by 1 month for every month during which an individual was continuously covered under a prior health plan. Thus, Mr. President, an individual who had maintained continuous coverage for 12 months could not be denied coverage because of preexisting conditions.

I think it is simple to say, Mr. President—as far as I can tell—the provisions I have just outlined in this bill, the provisions which apply to the group health insurance market only, are relatively unopposed.

This bill would also reform the individual market. This bill would guarantee the availability of health insurance coverage for individuals leaving group coverage, who want to get individual insurance coverage, as long as they have been covered under their previous group plan for 18 months.

If those individuals were eligible for coverage under current Federal law, and we call that law by the acronym COBRA, these individuals must have exhausted that coverage before they can be guaranteed coverage in the individual market. But that is the only requirement that keeps these individuals from getting insurance.

This legislation would require that health plan insurers renew individual policies at the discretion of the individual, similar to group policies being renewed at the discretion of the employer providing the group policy. Now, without a doubt, there has been a lot of concern expressed about this provision, and it continues to be expressed. It continues to be expressed by insurers who operate primarily in the individual market.

I might say to these companies that I am talking about here, that have this concern—and I am not going to say that this concern is not legitimate—but, as far as practical matters are concerned, I want to remind these companies that if we were to have passed the Clinton health reform plan of 1993, there would not have been any individual market out there. These companies would have been out of business. A lot of the companies in my State that do a majority of group coverage still have a vast minority of their business in the individual market. That portion of their market would have been wiped out. I hope these companies that have some concern about this provision I am speaking about here realize that they have a lot of friends in this body that believe in the free market and do not want to hurt individual insurance coverage. A lot of Americans want individual insurance coverage, not necessarily because it is better than group, but because that may be the only way they can have it and get the type of health care that they want. These companies have that business today because we stopped the Clinton health care reform plan that would have wiped out individual insurance coverage for health care.

Now, what do these companies fear? They fear that the group to individual provisions in the Kassebaum bill would have the ultimate effect of greatly raising premiums in the individual market and hence, I suppose, cutting out a lot of their business because some people might drop it. The marketplace kind of dictates as the price goes up you sell less of something. So these insurers feel the numbers of insured are going to go up. Some of them would say the numbers would increase greatly. But going up greatly, compared to not having any of this business had these reforms been adopted in 1993, is the difference between night and day, as far as I can tell.

It is the case that the bill would not forbid health insurers from rating individuals and charging them a higher premium if such rating indicates that they are greater health risks than any other individuals. I would think that would help this problem for these individual policy companies to some extent. But as far as we can tell from analysis done by the independent actuaries, the premium price increases caused by the bill should be very modest.

The analysis done by the health insurers' association, the Health Insurance Association of America, wants us to believe that the premiums would increase in the neighborhood of 15 percent. But in making my decision to support the Kassebaum bill vis-a-vis this problem I am just describing, I took into consideration the analyses done by independent actuaries such as the American Academy of Actuaries, and Hay Huggins, which was done under contract with the Congressional Research Service at the request of Senator KASSEBAUM, and even the nonpartisan Congressional Budget Office. All these found that any premium increases attributable to the enactment of this legislation should be very modest, in the range of 1 to 5 percent. The Congressional Budget Office estimates that this increase would be no more than 2 percent as a result of the group to individual portability provisions. If this bill is enacted, it should help provide some peace of mind for a lot of people.

But we should make it clear to the public what this bill would not do. As a lot of people have said here already, it would not solve the problems of those people who cannot afford to have health care insurance. But that is what the term "incremental" meant. When President Clinton, after the November 1994 election, when the Republicans gained control of Congress, was asked about health care reform, he indicated he had learned a lesson from the debate of 1993 and 1994, and he was going to promote the incremental approach. Basically that means we should provide a marketplace out there so people who want and can afford health insurance are going to be able to buy it.

We are going to be able to get a better handle on what the cost is out there, for those who cannot afford insurance. Maybe we can help those people without screwing up the best health care system in the world, which would have been done with the effective Government takeover of health care, if the Clinton health care proposal had gone through in 1993.

But peace of mind for this percentage of people that can afford it is only one goal. That peace of mind should not be enough for everybody to buy into this, because there are some shortcomings that we have to admit to the American people. This bill would not completely eliminate the denial of coverage for every preexisting condition. It would not require employers to offer insurance to their employees. It would not provide portability between different individual policies. And it would not necessarily mean that currently uninsured individuals would have to be sold a health insurance policy.

It is for these reasons that I support the addition to the bill of provisions which would increase the tax deductibility of health care costs for the self-employed. That is not only to pick up a hole that is in this bill but to also bring some equity to the difference between the deductibility at 30 percent of health insurance for self-employed and the 100-percent deductibility for health insurance for employees of corporations. In my State of Iowa, that is like saying that the farmers of my State are denied equity when they can only deduct 30 percent of their health insurance from their income tax, where John Deere, for its workers, can deduct 100 percent of the cost of insurance for that corporation.

I support the addition of medical savings accounts. Both the tax deductibility of health care costs for the self-employed and MSA's, together, at a minimum should make health insurance more affordable, improve portability, as well as providing a greater degree of tax fairness. In any case, if enacted, the bill would be a step forward. The majority of those who are paying attention to our debate since it began several years ago very much want to see Senator KASSEBAUM's bill enacted. We have been promising these reforms, as I indicated at the opening of my remarks, since the Bentsen bill passed this body in 1992, without any debate—indicating, then, that it was the best thing to do. It was a good thing to do. It was a bipartisan thing to do.

So most of us have been saying since that date in 1992, or years before that, we could easily enact such reforms as those that are in this bill. Remember, then, what incremental health reform is. Incremental reforms were what most Republicans were saying was the way to go and we have the President of the United States, in November 1994, saying the same thing. Now we have before us a bill that will deliver incremental health insurance reform if it is enacted. We should pass it.

We have before us a bill that will deliver these incremental health insurance reforms if this bill is enacted—and it will be enacted—and we should pass it. Thank you.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Thank you, Mr. President.

I rise to voice my very strong support for this health insurance reform. This is a tremendous opportunity today to provide greater access to health care for millions of Americans and their families. The Kassebaum-Kennedy health insurance bill, of which I am a cosponsor, is an excellent step in that direction.

This bill will be a great relief for most working Americans. They will not have to worry about losing their insurance if they change jobs. Insurance companies will not be able to deny coverage or make it prohibitively expensive for a preexisting condition.

What this means, Mr. President, is that this bill is a safety net for working Americans and their families. This legislation will make health insurance portable and affordable, and it will give a benefit package that is both reliable and renewable.

I was disappointed that we were not able to enact comprehensive health insurance reform. After that debate came to a close, I pledged to continue the fight to reform health care. This is an important step in that direction, and Senator KASSEBAUM and Senator KENNEDY should be thanked for their great effort in bringing us this far.

Many Americans have medical histories of preexisting conditions that make it difficult for them to get insurance coverage. They stay locked in their jobs and unable to move to improve their standard of living because they fear they will not be able to get insurance coverage. This legislation will end job lock. This legislation will end the penalty for having a preexisting condition, like diabetes. People who work in small business, especially many women, will now be able to get health insurance.

The bill before us today goes a long way toward eliminating the barriers to coverage. For 81 million Americans who have preexisting medical conditions, insurance companies can no longer exclude them from coverage.

Millions of Americans will be able to be secure in the knowledge that if they change or lose their jobs, they will not lose their health insurance. And for those entrepreneurs who start and work in small business, this legislation will provide increasing purchasing power for them and their families.

I am pleased that the bill has the potential to help millions of women and their families. This legislation will help women who start a new job with an employer who provides health insurance. A woman will not be denied insurance for herself and/or family if there is a preexisting condition. Like when she is pregnant, she will be able to get immediate coverage for the pregnancy, even if she is already pregnant. Her newborn or adopted child will receive health insurance coverage as well.

This bill will stop the terrible practice of denying women insurance if they are victims of domestic violence. I think that is crucial. This bill will stop that horrible practice of denying women health insurance if they are victims of domestic violence.

There is much more that I would like to be able to do to make insurance coverage affordable, accessible, portable and undeniable. I would like to see coverage for long-term care, and I would like to see a comprehensive benefit package for women and children, but this is a very important step. We have a tremendous opportunity to improve the lives of many Americans, and I am pleased to support this bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Wyoming.

Mr. THOMAS. Mr. President, I rise in support of the Kassebaum bill. I suppose most of us today and on through the night will be saying much the same thing. We have not all said it yet, so we will have to keep doing it. But this is a bill that is very important to us, and we ought to comment on it.

It provides, I think, long-awaited reforms. We have all worked on health care for a very long time. I have had a particular interest in rural health care in that the delivery systems in rural States are necessarily quite different than they are in other States.

This is an incremental move, and I am for that. The portability is important so that people are not afraid to change jobs. Certainly, not prohibiting preexisting conditions and allowing small businesses to form purchasing cooperatives are terribly important. So these are practical and affordable reforms that we need—really relief from trying to change the whole system. I think Congress will meet this challenge.

The Health Insurance Reform Act helps each and every American, more than any other bill that has passed this year. Wyoming ranchers and farmers and owners of small businesses and folks in the mineral industry will no longer be excluded from care they deserve. S. 1028 is compassionate, and I challenge President Clinton to sign this bill for the sake of all Americans.

There has been a major shift in the debate, of course, over the last couple of years. It is historical when you look at how far we have come since we initially discussed health care reform. No longer are we considering the Clinton approach to a Government-run system. That was rejected by Americans, and I think properly so. Instead, we are going to move incrementally into some commonsense reforms. There will be some changes, and there have been some changes suggested by the managers, moving closer to the House proposal, in terms of high-risk pools.

In 1991, my State of Wyoming responded to the health care concerns of individuals with serious illnesses establishing a State insurance pool, a high-risk pool allowing States to continue these measures, rather than be forced to enact other individual insurance reforms. I think this is very helpful to rural States like Wyoming.

Moving incrementally does not mean keeping every worthwhile proposal off the table, however. I think we should promote solutions that expand health care choices and, most of all, in the final analysis, do something about cost. When you talk about health care, what do you usually end up talking about? Cost. Availability, of course, then cost.

I happen to favor medical savings accounts. I think this gives the kind of discipline to health care costs that individuals give when they are responsible for making some of the decisions.

Self-employed deductibility is fair and equitable, and we should have done it long, long ago. Eighty percent of that is good. Administrative simplification, of course. And I believe when we talk about costs, we ought to concern ourselves with malpractice reform. I do not think there is any question but what there are substantial costs there.

Mr. President, I have been dismayed that the President is threatening to veto health insurance reform over some of these provisions. I believe the veto flies in the face of what the American people want.

As part of the changes that have occurred in Washington last fall, I am committed to bringing quality health care to rural America, some equity to rural America, and that is why I have an amendment to offer that corrects the formula used to set payments for rates under managed care plans that participate under Medicare. We will see increasing numbers of managed care plans, and more and more people in Medicare going into them.

The formula is not fair, the formula is not equitable, and we need to make some adjustments. To give an example, the payments made in rural areas of South Dakota are $177 a month. Payments for similar services in New York are $678 a month based on historical utilization. That needs to be changed. That is unfair. When we have a program like Medicare that is treated somewhat uniformly, that is a 367-percent gap, and we can change that, and I think we should.

The longer these disparities exist, the longer rural seniors will be left with less health care choices.

So I am in support of this bill. I think it could be stronger. I hope it is. But I am supporting it. I think we should have this bill. Access to health insurance is, of course, a little comforting for those who need it.

Mr. INHOFE. Will the Senator yield?

Mr. THOMAS. Yes, I yield.

Mr. INHOFE. I recall the Senator bringing up and discussing some of these things that need to be done within our health care system. I remember so well back when we had the proposal by the President to have Government take over a system that has been run well but needed some improvements, we committed ourselves at that time to incremental improvements.

I think the bill that is before us today is good. But I also think that the amendments that will be offered, some of the provisions of which the Senator has talked about, are going to make it better. The MSA element of this bill I think is very significant. You know, this is the only product or service anywhere in America where it has built in a factor to pay more. I do not know of anyone in America, that once they pay their deductible on a health policy, watches what they spend as much as if they were paying their own money. This is human nature.

I am hoping that this bill that is a good bill, can be made a much better bill and we can come through and take care of some of the things that the Senator is talking about. I am particularly interested in some items that are not going in there. I would like medical malpractice reform but I also realize that would be a very heavy thing that would cause it to go down and perhaps cause a veto. I think with these very moderate and modest reforms that the Senator is talking about, I think it will be a better bill, better bill for our health delivery system in America. I applaud the Senator for bringing these up and discussing them.

Mr. THOMAS. I thank my colleague. Before I sit down, I do want to compliment the Senator from Kansas. This is the product of a great deal of work and great deal of leadership and something that we do need to do. I want to say, however, in closing, that I think we have made some real progress in the last couple years in the industry, in the private sector. And even though I think there are some problems that we will have to deal with as we go about it, managed care has been helpful, managed care has done something to control prices.

I think more and more people are becoming aware of their responsibility with regard to payments. I think it is true that third-party payers have been part of the problem of costs. We can work that out. So in any event, I rise in support of the basic bill. It guarantees coverage of the type of insurance particularly important today, and I compliment the Senator for it. I yield the floor.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. I thank the Presiding Officer.

Let me start by saying what I would imagine has already been said a number of times; that is, to compliment the junior Senator from the State of Kansas, Senator KASSEBAUM, and the senior Senator from the State of Massachusetts, Senator KENNEDY, for bringing together a unique, I think in these times, coalition of Members to support a major, major legislative effort in one of the most important areas that this Congress could be dealing with, and that is the health care of the citizens of this country.

This body is going to miss the Senator from Kansas for her wisdom and her balance and her willingness to work in a bipartisan fashion to accommodate the various interests of the Members of this body. It has been a real pleasure to work with her in the so-called Chafee-Breaux Group where we have been trying to come together to come up with a balanced budget. I commend her for her efforts in that regard, but particularly in bringing this Kassebaum-Kennedy bill to the floor; and, of course, for the years of tireless service by the senior Senator from Massachusetts, because he has really been dedicated over the years in trying to come up with health care legislation that really serves the needs of the people of this country.

Let me start by saying that this indeed is a large coalition. It is a large coalition—65 Members of Congress in the Senate alone have endorsed and have agreed to cosponsor this legislation. So that in itself is very rare in today's atmosphere of high partisanship that we see more and more, unfortunately. So anytime you can get a coalition of 65 cosponsors of a major piece of legislation indeed that is very, very good news.

Let me also say that while the coalition is large, the coalition is very fragile. It is very fragile because it does not do as much as what many Members would like to see it do. And there are still things that this legislation does not do that it should address. It probably does more than some people would like to see done with requirements from a Federal level that certain things be required when you sell health insurance in this country.

But the real accomplishment of the two Senators in bringing this legislation today to the floor of the Senate is the fact that it is a large coalition, it is a bipartisan coalition. It does, I think, accomplish some very important things that need to be done in the area of health insurance for the people of America.

In my own State of Louisiana there are nearly a million people who are uninsured, a million people who do not have enough money to buy a private insurance policy or who earn more than they are allowed to earn and qualify for Medicaid, the Federal-State health insurance program. So a million people walk around my State every day—go to work in most cases every day—but do not know how they are going to treat their children, their spouses, if they should get seriously ill other than through the charity of others or the charity of the hospital systems in my State of Louisiana.

Many people do not have insurance for reasons that are corrected by this legislation. For instance, there are many people who had insurance but when they got sick and needed it the most, it was canceled. How many of us as Members know a family or perhaps a member of our own families that have had health insurance, but then when they need it the most, when they get sick, after the illness is over, they get a little note in the mail from an insurance company that says, "Well, we're going to cancel your insurance"? And the only reason they really give is because you got sick. That was what they bought insurance for in the first place. If you get sick you have insurance. It takes care of the hospital and the doctor bills.

But today, unfortunately, in this society we have people who get sick and then have their insurance canceled just when they need it the most. So they do not have it today. This legislation, for the first time, says that you are not going to be able to cancel someone's health insurance because they got sick—sort of a logical thing I think we should have done a long time ago. But this legislation does accomplish that.

The second point is, people, in my State and other States, that have tried to buy health insurance, and, sometimes, because they have had a preexisting condition, they are prohibited from buying a health insurance policy. I do not think that is basically fair. Health insurance shares the risks. There are a lot of sick people that are in the insurance pool. There are a lot of well people in the insurance pool. On balance, the insurance companies make money and people get health insurance.

That is how the system is supposed to work. So this legislation addresses the problem of people who have had preexisting conditions and brings them in a fair fashion into the system in a way that I think makes a great deal of sense.

The other problem of all those people who do not have health insurance in my State and, again, in the other 49 States is because they have had to change a job. And we all know in this mobile society as people change jobs because of downsizing, or because of changes in technology, they are able to get a better job through education and training, they could move on to another field, the problem is that many people will not change jobs, will not get a better job even if it means better economic conditions for themselves and their families. Guess why? Because they will lose their health insurance.

So we have a situation referred to as "job lock" where our people would like to move on to better jobs—or maybe even forced to change to a new job because of downsizing—and cannot do so because they lose their health insurance, which is one of the most important things that the job market can provide. But if you cannot be guaranteed that coverage you have today will be with you tomorrow when you are in a different job, well then, people say, "I'm just going to stay right here." Or if they get laid off and they have to move to another job, they do so perhaps without any insurance because they are uninsurable when they move into the new position.

So what we have today through the Kassebaum-Kennedy legislation is a major, major health reform package which I enthusiastically am a cosponsor of and congratulate the people who have brought this monumental piece of legislation to us. It will, when it passes, and President Clinton signs it, be, I think, a shining example of what Congress can do when we are willing to work in a bipartisan fashion to accomplish something as monumental as this legislation does.

I know the majority leader has a package of amendments that he is going to present at a later time. I as an individual Senator and a member of the Finance Committee looked over a lot of the suggestions in the proposed amendments that he has submitted. You know, a lot of them are good ideas. They have not yet worked their way through the committee. That gives me a little concern about how these new ideas are going to be paid for. Our staffs are now, as we speak, looking at the legislation and the series of amendments. I think, by and large, most of them are pretty good—80 percent tax deductibility for self-employed people who buy insurance. All the people around the country that are self-employed, now, can only deduct about 30 percent of their premiums. With this amendment, you would be able to deduct 80 percent of your health insurance premiums. I think that is pretty darn good, just like a company that contributes to a policy can deduct 100 percent of their contributions. So we should do something for the self-employed people in this country. That amendment does that.

Penalty-free IRA, individual retirement accounts, withdrawals for large medical expenses and for the unemployed to pay their health insurance premiums. That is a good idea. We have talked about that. I think this should be bipartisan in that amendment. I think that is good.

My point, as I reach to a conclusion here, is that we have a large coalition, but it is a fragile coalition. I suggest that if people come up with amendments that are very controversial, that there is not a consensus on, or that we have not had hearings on, or amendments that have not been reported out, like this bill has, by a full committee of the Senate, that we will run into problems, and we will miss what I think is a golden opportunity to, in fact, create legislation which makes a lot of sense for all Americans.

One of the amendments I will just mention is a so-called medical savings account. This is a classic example of "if it sounds too good to be true, it probably is." I think that when you look at this concept—and I found after looking at it—that it, in fact, is too good to be true and causes problems that greatly outweigh the benefits. It is not to say that medical savings accounts do not have some benefits; they do. But I do not think that we are certain enough about those benefits as opposed to the negative problems that will occur to automatically accept this provision without a great deal of discussion.

I hope when that amendment is offered we will be able to strike out that section of the proposed Dole amendment and proceed to pass this legislation, hopefully with the other amendments that the majority leader is prepared to offer.

Let me tell you why I think medical savings accounts are a bad idea. I say, first of all, at one time I thought they were a great idea. At one time I introduced legislation to create medical savings accounts. Boy—they sound terrific. I asked my staff—"What is the problem?" At the time, we—like many others—did not have the full picture to understand the problems. Few had analyzed the effects of medical savings accounts.

The problem was that while it is really terrific for healthy people, it is not so terrific, in fact, potentially very bad, for people who are not healthy. If you take, for example, young people—I have four children who are relatively young and very healthy, thank goodness—a medical savings account is very attractive for them. Their employer can contribute money to an account, and they would use that account to pay for their initial medical bills during the course of the year. If they did not have to use it at all, they get to keep the money. What a great deal if you are 20, 25 years old and very healthy.

So, in the past, we had only looked at how it affected one group of people—healthy, basically young people. A terrific idea for them. What we failed to look at is how it affected other people who buy insurance because they may get sick—generally, more elderly people, and people who do get sick during the course of their life. If they have a very high deductible policy, as high as $3,000 for a family, they have a problem, because they will incur medical expenses during the year. If they have to pay for it out of their pocket, it is a really serious problem for them. Again, it is not a problem for people who are young and never have to go to the doctor during the course of the year.

Incentives for the medical savings account have a tendency to suck out all the healthy people from the insurance pool, put them into a medical savings account where they will not be using a lot of medical health care, but leaving behind people who do get sick, who do have to go to the doctor and do have to go to a hospital during the course of a year. If the only people remaining in an insurance pool are people who have to use doctors and hospitals, the risk becomes so great because of the loss of healthy people, that their premiums would rise so high that insurance would soon be unaffordable for them as well.

My fear is that while a medical savings account takes care of one group of people, it causes far greater problems than are justified for everybody else, which is the vast majority of the remaining people in this country.

I think at the appropriate time we should set aside the medical savings account, with an amendment if we have to, look at the other amendments that Senator DOLE has offered, and I think most of them, from my personal observation, are good. I think we should accept them. But certainly not the medical savings account at this time.

Let me conclude, once again, saying to Senator KENNEDY and Senator KASSEBAUM, my congratulations to you for bringing to the Senate a real opportunity to do real health care reform in 1996. We hope that the Senate and the House would ultimately pass this legislation, and the President should sign it.

Mr. FEINGOLD. Mr. President, I rise in support of this bipartisan health insurance reform bill, a measure that I was pleased to cosponsor. There are a number of reasons to support this legislation introduced by my good friends, the Senator from Kansas and the Senator from Massachusetts.

Let me focus my remarks on ways in which this measure should provide some meaningful help for one group in particular. That is our Nation's small businesses.

From existing companies trying to maintain health care coverage to individuals who are trying to start a small business, this bill addresses several problems confronting smaller firms trying to provide health insurance for their employees.

First, Mr. President, and I want to emphasize this, the measure addresses the barriers often posed by preexisting conditions. An estimated 81 million Americans have some kind of preexisting medical condition that could, unfortunately, affect their insurability. The legislation limits the ability of insurers to impose exclusions for preexisting conditions.

In addition, the bill requires insurers to sell and renew group health policies for all employers who want coverage for their employees, and it prohibits group health plans from excluding any employee based on health status.

Now, Mr. President, this can be especially helpful to our small businesses. The problem of getting insurance does not just affect individuals with preexisting conditions. Whole industries have been denied coverage by certain insurers because they are not to employ people who are more likely than others to get sick.

A study by the Congressional Research Service found that several insurers routinely denied coverage to dozens of different types of businesses ranging from some of the following: auto dealers, barber shops, beauty parlors, hotels, lodges, and restaurants. Mr. President, even businesses and individuals that have health insurance cannot be sure of maintaining their coverage if illness strikes.

Insurers can, therefore, collect premiums for years and then just suddenly refuse to renew coverage in individuals or employees who begin to incur large health care costs. So, requiring insurers to renew policies can certainly help address that problem. This bill finally helps move us down this road.

Mr. President, the bill also guarantees renewability of individual policies and prohibits insurers from denying insurance to those moving from group coverage to individual coverage. We know that the inability to retain health care coverage once somebody leaves a job can trap many people in the jobs they wish to leave. This is often referred to as "job lock," a problem, according to one survey, that may touch one quarter of all American workers—individuals that stay in jobs they would otherwise leave, because they fear losing their health care coverage.

Mr. President, this job-lock effect has an impact on small business, as well. Unless you inherit wealth, or maybe win the lottery, the chances are pretty good that anyone who wants to start a small business will be somebody's employee—at least as they make the decision to become a small business person. If you or a member of your family have any kind of preexisting condition, you may be faced with this job lock. The inability to get health insurance prevents those individuals from leaving their existing jobs to start their new business.

Mr. President, I think this barrier has a major impact on our economy by discouraging new business startups. We all know that small business is the real foundation of our economy. We have an insurance practice that discourages people from taking their good ideas and starting new businesses that will employ many more people. That is a real, real restraint on the growth of our economy.

Mr. President, finally, I want to commend the authors of this measure for the provisions that help make it easier for small businesses to form private, voluntary coalitions to purchase health insurance, and to also negotiate with providers in health plans.

While the economic power of big businesses has enabled many larger firms to contain health care costs and improve the quality of health care for their employees, small businesses continue to see health care costs climb.

The Senate Labor and Human Resources Committee reported that while health care costs for large employers declined 1.9 percent in 1994, small employers saw an average increase of 6.5 percent. This is a very large discrepancy, and one that really discourages small business at the same time that larger businesses are benefited.

By providing small employers and individuals with the kind of economic leverage in the marketplace that is currently enjoyed by large employers, these provisions should help bring the costs of health insurance down for small businesses and individuals.

Mr. President, as you know, there are over 50 cosponsors of this measure, pretty evenly divided between Democrats and Republicans. Of course, this is an indication of the broad desire for health insurance reform. But it is also an indication of the care taken by Senator KASSEBAUM and Senator KENNEDY in crafting a measure that, finally, has a real good chance of becoming law, at a time of very heightened political sensitivities on this issue.

Before any measure is enacted, it has to navigate the choppy waters of each body, a conference committee, going back to each body again, and, finally, receive Presidential approval.

That is no mean feat at any time, but it is especially difficult in the political environment of a Presidential election year.

If this bill becomes law, as I hope it will, its enactment would be in no small part due to the legislative skills of the Senator from Kansas and the Senator from Massachusetts, and, I might add, to the fondness and respect many of us in this body have for both of them.

Mr. President, I congratulate my friends, and I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, first of all, I ask unanimous consent that Dr. Maimon Cohen, a fellow on my staff, have the privilege of the floor during the pendency of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I think every Senator who came to the floor has thanked both Senator KASSEBAUM and Senator KENNEDY for their fine work. I wish to join in that. I also say to the Senator from Kansas, who is chair of the Labor and Human Resources Committee, that along with everyone else, I will miss her. I think she has been a great Senator for Kansas and for the benefit the country. I mean that sincerely.

Mr. President, I think this is a very important piece of legislation for a number of different reasons. I would like to start out talking about that. I am going to be relatively brief, I say to other colleagues, who may want to come down to the floor for opening statements.

I think this is important because, first of all, we will not be able to have any kind of regulation if we do not do it at the Federal level because of ERISA exemption—in other words, preemption. In other words, so many citizens in our States are insured by self-insured plans, and really it is impossible for States—and Minnesota has run into this—to pass reforms that, in fact, will help people and cover everyone because self-insured plans are exempt from that coverage. We ran into this the other day when we marked up an important piece of legislation that I hope will come to the floor, where we said, look, you really do not want to have a family be put in the situation where a mother with a newborn is told, after 24 hours, regardless of circumstances, "You are out." I mean, that is something that people in the country do not think is fair.

But the fact of the matter is that even though my State of Minnesota has passed such a piece of legislation, saying, no, that is not fair, there has to be a mother and a doctor and the family in consultation making decisions about what is good for that mother, about 40 percent of the citizens in Minnesota would not be covered because they are in a self-insured plan.

This is an extremely important piece of legislation. I hope it is not so weighted down with killer amendments that it does not pass. This is a bipartisan effort, and I think we ought to take this step for one reason more than any other; it is just a matter of elementary fairness. I have not seen polls on this, but I think the Senator from Kansas and the Senator from Massachusetts, and all the rest of us that are cosponsors, would go forward regardless, but I just bet that 99 percent of the country would agree with the proposition that if you have paid your premium on time, just because you now have a bout with breast cancer, or some other kind of illness, it would be outrageous to all of a sudden find yourself without coverage, or you should leave one job and go to another job and not be able to obtain coverage.

Most all Americans just find that to be an outrageous proposition. My wife, Sheila, has been my teacher when it comes to domestic violence issues. And with the support of both the Senators from Kansas and Massachusetts in markup, we have a provision in here that we think is important dealing with issues of family violence. I wish these issues were not out there. But we want to make sure battered women are not battered again. If a woman is beaten up and comes to a hospital with her children and reports that, which is what she should do, and which is the first step in being able to leave a very dangerous home—and, unfortunately, homes are not always the safest places in the world—she would not find herself without coverage for that condition.

So this is really a piece of legislation that is a matter of basic fairness. I know GAO has estimated that some 25 million Americans could benefit. I also want to make the point that most of the uninsured in our country are uninsured because they cannot afford coverage, not because they are denied coverage.

So, in other words, we have a piece of legislation that deals with accessibility and with portability. For those of you listening to the debate, that means you can go from one job to another and not lose your coverage or be locked out because of a preexisting condition. We are not still dealing with affordability. In Minnesota, there are 400,000 Minnesotans without insurance coverage, and 91,000 of them are children. In the main, that is not because of preexisting conditions, it is because the families cannot afford the coverage. Nationwide, the uninsured now number 40 million people.

I hope that we will get to the point, again, in this Congress when, in fact, we make sure that every citizen in our country has at least as good a health care coverage as we have as Senators and Representatives. This piece of legislation does not do all that, but it is an important step forward.

One other concern I have, Mr. President—and I just want to make this point—you cannot do everything in one piece of legislation. I am out here to support it. I worry a little bit that what might happen is that the insurance companies might say, "OK, when you shift from job to job, or you move from one job and now you want to set up your own small business, or whatever, we will not deny you coverage because of a preexisting condition, but we will raise your premium to $8,800 a year or $9,000 a year," in which case, my fear is that it will become the functional equivalent of preexisting condition discrimination. Let us hope we have the cooperation of the insurance industry. But I just flag that as a potential problem.

Last point, Mr. President. I have been doing a lot of work with my colleague from New Mexico, Senator DOMENICI. A couple of years ago, we started a working group on mental health. Both of us, and other Senators, feel very strongly about this issue. We are working on an amendment that I think is real important. It is an amendment that would provide equitable health care coverage for mental illness and substance abuse services. In other words, what we want to make sure of is that we, once and for all, put a stop to the discrimination that all too often takes place in the health care field. We are simply talking about parity—parity in coverage for physical and mental health and substance abuse services, and not different co-pay requirements, not arbitrary caps on visits with physicians or other health care providers. I have to say that I believe this amendment, which we have worked very hard on, is an extremely important amendment.

I believe that Senators, regardless of political party—Senator DOMENICI and I certainly do not agree on all issues, but we have been immersed in this issue for several years now. We have seen all of the ways in which people, who are struggling with these health care problems, fall between the cracks. We have seen the discrimination. And this amendment, which will really focus on the importance of parity, which will make sure there is no discrimination in this area, I think, is extremely important.

I will have data to bring to the floor. I will talk about some of the insurance plans right now that do not discriminate and will talk about why this part is so important. I will talk about the differences it can make for women and men being able to work, to live lives of dignity, and to contribute to the community.

But I do look forward at some point in time as we move along with this piece of legislation to bringing this amendment to the floor with my colleague, Senator DOMENICI. Mr. President, I do not know that there has been another Senator who has been a stronger voice in this area for those citizens who are struggling with mental illness. The same thing can be said for his wife Nancy. For Sheila and I, this has emerged as a professional and a personal friendship. I look forward to being able to proudly bring this amendment out to the floor with my colleague and good friend, Senator DOMENICI, and I hope in the spirit of what I think is bipartisanship that we will be able to get good, strong support.

I yield the floor.

Mrs. KASSEBAUM. Mr. President, may I respond for a moment to the Senator from Minnesota, who is a valued member of the Labor and Human Resources Committee?

When he mentioned the rate increase possibly coming if we do not cap any of the premiums, I would just say also that we do not preempt States from doing community weighting or a cap, if a State so desires. That is one of the flexibilities that I believe is important. It is one of the reasons we have the strong support of the State insurance commissioners. That flexibility which has been built into this also has strong support from the National Governors' Association.

Mr. WELLSTONE. Mr. President, I never argue or disagree with the chairman of my committee. I think it is a point well taken. I do hope at the State level we will have in fact that oversight and that accountability.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, thank you very much.

Mr. President, I take the floor today to speak on behalf of this extremely important bill. In doing so, I want to commend the chair, Senator KASSEBAUM, and also Senator KENNEDY for what I think is exactly the kind of spirit of bipartisan effort that is needed to produce an important health bill.

The reason this legislation is very important is it will provide a new path for upward mobility in American life. I have seen again and again in my home State—this goes back to the days when I was director of the Grey Panthers, a senior citizens group at home—I have seen citizens cut off from economic opportunity because this bill was not law. You could have, for example, a young person just starting their career in Oregon. They are working hard. They are committed, doing well in the marketplace, playing by the rules, and showing the kind of discipline to get ahead in the work force. But they, in effect, end up being cut off because they have a medical problem. So, if they hear about a better job across town, another economic opportunity where they can make a better wage, they lose out simply because today's insurance system does not work all that well unless you are healthy and wealthy.

With this legislation, it is going to be possible to make the health insurance system work for all Americans so that all Americans can get access to health insurance and get it when they need it most, which is when they have serious medical problems.

I would like to give special thanks to the chair, Senator KASSEBAUM, and to Senator KENNEDY for their efforts to work with those of us from Oregon. Oregon has been one of the States, as the Chair knows, that has consistently been out in front in terms of health reform. We have done it with the Oregon Health Plan, for example, innovative in terms of senior programs, and we have been on the cutting edge with insurance reform as well. There is a very special State effort supported by Republicans and Democrats alike at home. We have initiated a number of important insurance reforms at the State level that we felt had to be protected. Through the good offices of the chair, Senator KASSEBAUM, and Senator KENNEDY that has been possible.

I have been notified in writing that the Oregon insurance reforms that have been initiated on a bipartisan basis are working well according to the insurance industry, and consumer groups alike are protected under this legislation.

Finally, Mr. President, let me add that no one should be mistaken about how much more is left to do in the area of health reform. If I had my way, for example, a very important, albeit modest, change that we would add to this legislation would be to open up the national practitioner data base to the public so that the citizens of this country could get access to the disciplinary record where the medical profession has disciplined one of their colleagues. I wrote this law as a Member of the House of Representatives—again, a statute that has bipartisan support. Today in that data bank lay thousands and thousands of names of physicians who have been disciplined formally by their colleagues, and the American people cannot find out about it.

Senator BOXER has done yeoman work on this issue. A number of our colleagues on both sides of the floor have approached me on this. If I had my way, we would be on the floor today including this important change that would be of benefit to consumers.

But as a number of our colleagues have noted, it is not possible to get all the way to health reform in America. It is not possible today to get all of the work done that needs to be done to protect consumers and to insure universal coverage. But I think it is quite clear that a major step forward is being taken as a result of the bipartisan work done by Senator KASSEBAUM and Senator KENNEDY.

I urge my colleagues to support this legislation and then, as it goes to conference, to reject the number of anticonsumer provisions that were added in the House. For example, in the House—it seems, again, incredible to see this kind of anticonsumer retreat—the House wants to roll back the protections for older people who buy policies to supplement their Medicare care. The late Senator Heinz of Pennsylvania and others fought for years for this legislation. The House wants to roll it back. The House wants to roll back the fight against fraud and waste.

So, I hope today that the Senate will vote for this important bipartisan legislation—it is an important step forward—and then to reject the legislation in conference coming from the House.

Mr. President, I ask unanimous consent that my letter to Senator KENNEDY on the Oregon reform proposal and his reply to me be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 29, 1996.

Hon. EDWARD M. KENNEDY,
Ranking Member, Committee on Labor and Human Resources, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: The development of S. 1028, the "Health Insurance Reform Act of 1995," certainly is one of the current Congress' most important advances in assuring access to quality health care. I look forward to the debate of this significant legislation on the floor of the Senate.

I am, however, concerned that our efforts to extend health insurance coverage and end "job-lock" not impede significant advances made by individual states in the health insurance reform arena. One such effort is coming to culmination in my home state of Oregon, and I write to you today to inquire if the Oregon reform proposal likely would be subject to a favorable exemption ruling by the Secretary under the language of Section 112 of your legislation. The section's flexibility in this regard will be an important element in my consideration of the overall legislation.

Embodied by Oregon State Senate Bill 152, our group-to-individual portability plan was designed by a working group of state insurance officials, insurance carrier representatives and health insurance agents. This enacted state law will extend affordable health insurance coverage by mandating that all state-regulated group insurance carriers offer portability plans to persons leaving groups after having had six months of continuous insurance coverage.

This plan also demands that carriers offer a choice between both a moderately priced insurance package based on the average of the State's most popular HMO plans, and a lower-priced, catastrophic coverage option.

Finally, group carriers that have individual products can offer them as their portability products as long as they offer both the prevailing (HMO average-best) and low-cost options.

The Oregon insurance reform program, due to go into effect October 1, 1996, with portability plans on the market by January 1, 1997, has other encouraging elements as well. For your information, I attach a copy of a March 22, 1996, letter to me by two members of the working group which produced the plan. Should you have any questions regarding this letter, please don't hesitate to contact me, or Steve Jenning of my staff at 224-1084.

Thank you for your consideration of this matter. I look forward to working with you on this issue, and on other important health matters.

Sincerely,

RON WYDEN,
U.S. Senator.

U.S. SENATE, COMMITTEE ON
LABOR AND HUMAN RESOURCES,
Washington, DC, April 18, 1996.

Hon. RON WYDEN;
U.S. Senate,
Washington, DC.

DEAR RON: Based on my understanding of the Oregon plan, it would clearly meet the requirements for an alternative State mechanism under the State flexibility mechanism of the Kennedy-Kassebaum bill. My understanding is that your program offers a program for all individuals leaving insured group coverage that allows them to remain in a pool with employed persons remaining in the entire insured market. For those individuals leaving self-insured coverage, access to an open high risk pool meeting the standards of the bill is guaranteed.

Yours sincerely,

EDWARD M. KENNEDY.

Mr. WYDEN. Mr. President, I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I would like to say a few words in support of the pending legislation.

Our distinguished colleagues, the Senator from Kansas and the Senator from Massachusetts, I believe, have crafted a sensible piece of legislation that really represents the broadest possible consensus on health reform that we can achieve at this point.

Back in 1994 when I was a candidate for the U.S. Senate, the President was trying to get Congress to enact a health reform bill. That was a health reform bill that went substantially further than the national consensus on health care would allow. For better or for worse, the American people made a decision. They made a decision and determined that they would not support a bill that threatened a large expansion of Federal involvement in health care. They made the decision that that simply was not good.

During that debate when I was running for the Senate, I said that the failure to enact the President's plan did not mean that we would have to give up on health care reform. And we should not. In fact, what we should do, as I said at the time we should do, is to try to get a consensus, that there were things that we could agree on, there were things that Democrats and Republicans could agree on, liberals and conservatives. We ought to agree on those things. We ought to put that into legislation, and we ought to pass it. I think what we have in front of us today is just that. It is that bipartisan consensus. It is a consensus of what we can agree on.

There was, going back 2 years ago, a broad agreement on several aspects of this health care reform—disagreement on some areas but agreement on others. One of the areas where there clearly was agreement was on the problem of portability, or the challenge of portability or the need for portability. Basically, there was agreement on the issue of letting people who have preexisting conditions get health insurance. That was very important. Let small businesses form purchasing pools so their employees could get a better price for health insurance. There was and is agreement on that.

These are basic mainstream principles. I am happy to say that they are embodied in the legislation that we have before us today.

The Kassebaum-Kennedy legislation would create major positive changes in the health insurance market, and it would do so without imposing new mandates on employers or creating new Government bureaucracies. It would give workers the flexibility to change jobs without losing their health insurance coverage. It would protect families from losing their health insurance if a family member loses his or her job.

Mr. President, according to the General Accounting Office, the bill would provide health care security to 25 million additional Americans. This is genuinely a far-reaching health reform that I believe does in fact preserve the bipartisan support it is receiving in the Chamber. I am glad today to be able to add my voice in support of this legislation.

Let me, if I could, turn very, very briefly to another issue, and I had intended to speak and still intend to speak sometime today or tomorrow or early next week at length on this, but I wish to take a minute right now to call my colleagues' attention to this and also the American people.

Next week is National Organ Donor Awareness Week. I again will speak at length about this in the future. But the basic facts are that we lose people every day in this country, 7, 8, 9, 10 people, people who medical science, medical capabilities could save, but we lose these people, their families lose them, because they are on a waiting list, a waiting list to get an organ donor transplant.

They die because, frankly, there simply are not enough organ donations made in this country every day. The reason that there are not enough is very simple. It is that too many families, when faced with life's most horrible tragedy, and that is the loss of a loved one, do not really know what to do when they are asked whether or not they will donate their loved one's organ or organs.

I encourage my colleagues and families across the country to talk about this issue because I am convinced that the vast majority of American people are caring, loving people who want to help other people when they can and who, if they think about this for any period of time at all, will conclude that if, heaven forbid, something traumatic would happen to them and they would be killed, they would want their organs to be donated to somebody else, so somebody else could see, so somebody else could live, so somebody else could carry on a productive life.

As I said, I will speak more about this at length later. I see my colleague from North Dakota is present and ready to speak. I am not going to hold him up at this point. But I just again call my colleagues' attention to this. National Organ Donor Awareness Week is next week. It is one of the rare times in public office or in public debate in this country where, when we talk about an issue, we can help solve it. It does not cost any money to do it. It is just a question of getting people to be more aware of the tragedy that occurs every single day to someone who could be saved, when someone who could remain with their family and be productive and live a good life dies because other individuals, not knowing really what to do, make a decision not to allow their loved one's organs to be donated.

So, Mr. President, I appreciate the Chair's indulgence and my colleagues' indulgence, and I will today or tomorrow be talking further at length about this important issue.

I thank the Chair.

Mrs. KASSEBAUM. Mr. President, I should like to recognize first the valuable work that the Senator from Ohio has done on the Labor and Human Resources Committee. Senator DEWINE has worked hard to help us get this put together. He was worked hard on all the other health issues that have come before the committee, and as he mentioned is a major leader along with Senator FRIST on the organ donation issue. So I appreciate his assistance with the legislation.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I too commend the Senator from Ohio. I know he has done a great deal of work on the issue of organ donation—work that I support very strongly. I hope we will advance public understanding and knowledge about organ donation, not only in this legislation but in other pieces of legislation as we move forward.

I did want to say as I begin—and I will be very brief since there are others in the Chamber who wish to speak—I cannot think of two more able Senators to bring a piece of legislation like this to the floor than Senator KASSEBAUM and Senator KENNEDY. This Senate will be diminished when Senator KASSEBAUM leaves, but she has done outstanding work on this legislation and she and Senator KENNEDY deserves to be complimented for bringing this to the floor. In my judgment, the approach we've taken to this legislation—finding the issues that we all agree on—is the kind of thing we should be doing routinely. I did not support the Clinton health care plan. I did not cosponsor the Clinton health care plan because I believed then that it was too bureaucratic. But he was asking the right questions. We needed to address health care for two reasons. One, to provide broader access to health care. And two, to try to do something about the escalating costs of health care.

I happen to think the proposal that he made was too bureaucratic. It would have not advanced the solution in both of those areas that I think was appropriate. But that does not mean we do not have problems in both areas that we must address. This piece of legislation addresses one of those. It addresses the issue of access to health care.

Again, this is exactly what we should be doing when we have a disagreement, a substantial disagreement about a major policy issue. What we ought to do in those instances is find where is there an area of agreement, and that is what happened with this legislation.

This legislation addresses the issue of access. It brings together those varying viewpoints in the Senate into one bill on which we can all agree that, yes, this advances the issue of access to health care. That is why I am pleased to have been a cosponsor of the legislation and am pleased today to speak in favor of it.

The health care system in this country is a remarkable system. You do not see very many Americans who get sick and decide to get on an airplane and go to some other country for health care. That would be a very unusual thing to see. What you see instead is people getting on an airplane or getting on some other means of transportation and coming to America to get health care because we have a wonderful system of health care.

But we have two problems. One, not everyone has access to it, and, two, its cost is escalating. It has diminished a little bit in recent years, but it has been escalating double and triple the rate of inflation every year for many years, and that prices health care out of the reach of too many of our American citizens.

All of us understand that our health care system is a system that offers miracles to many Americans—new hips, new knees, cataract surgery, even heart transplants. The list is endless.

I would suggest that anyone who wonders about where all of this comes from might go out to the National Institutes of Health. Take a look at something they have out there called the "Healing Garden," where they do research on a range of plants and all kinds of other things that produce all of these wonderful new medicines. They do research on a whole range of health care issues and develop new surgical techniques and new approaches.

We have invested a substantial amount of money that has produced enormous rewards for our society. And with all of those miracles and all of this wonderful medicine, the two remaining questions are, one, how do we provide to people more access to this wonderful system, and, two, how do we bring the cost down so it does not rise out of the reach of too many American people?

This bill addresses that issue of access—not for everybody, but it does it in a way that pulls together those things that we agree on. This includes dealing with the limits on exclusions for preexisting conditions. This bill is a very modest approach that solves part of that problem, a major part of that problem, for many of the American people.

A whole lot of people are locked in their jobs because of this issue of preexisting conditions. They are unable to move, because if they move they cannot carry that insurance with them and no other insurance carrier will pick them up because they have had a preexisting condition. This piece of legislation deals with that in the right way.

This legislation says to insurance companies: if someone has been a good customer of yours, buying your policy for years, you cannot drop coverage simply because that person gets sick. This piece of legislation also addresses the issue of portability, and does it in exactly the right way.

So I am pleased that we are here on the floor with this piece of legislation. It is exactly the kind of thing we ought to do. Instead of continually talking about what we cannot agree on, we should find the areas where we can agree to begin moving toward a solution to a problem. That is exactly what this piece of legislation does.

Let me end where I began, by complimenting the Senator from Kansas, Senator KASSEBAUM. This body will be diminished by your leaving at the end of this year, but you will have left your mark here in many, many ways. You and Senator KENNEDY will have left an indelible mark, if we can pass this legislation, by advancing this issue of access to a wonderful health care system to millions and millions of additional Americans who ought not be left out of the system.

So I compliment Senator KASSEBAUM and Senator KENNEDY for their diligent work and I hope we can do exactly the same thing on other issues in the coming weeks. If we disagree, let us figure out where we disagree, but then let us find the center. We ought to come to the floor to move toward solving problems, rather than being so intractable in our own camps and deciding we simply cannot solve problems.

I look forward to casting a final vote, an aye vote on this legislation. I hope it does not get too loaded down as it moves along. I hope the Senate will act with some haste to try to move this to a conference.

I yield the floor.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Idaho, [Mr. CRAIG], is recognized.

Mr. CRAIG. Mr. President, I come to the floor this afternoon in support of the intent of S. 1028. Let me join my other colleagues in thanking the Senator from Kansas for her work in getting this kind of health care reform legislation to the floor, and also the Senator from Massachusetts for the work that he has done in this area.

Health care in some form has been on the congressional agenda for several years. It is an important issue, and I hope by the end of this process we will have a health care insurance reform proposal that will make health care insurance more accessible and more affordable.

The purpose of S. 1028, the Health Insurance Reform Act of 1995, is to increase access to health care insurance, improve the portability of benefits, give people greater security, and increase the purchasing power of individuals as well as small employers. The bill does this through a series of insurance market reforms. For example, the bill would reduce the duration of exclusions for preexisting conditions by crediting enrollees for maintaining continuous coverage through a previous employer. Another important component would be the portability of coverage from a group plan into the individual insurance market.

The bill also includes a proposal that would create new State-based health insurance purchasing cooperatives, or HIPC's, based on a program that was included in the Clinton-Mitchell health care reform bill. These HIPC's are intended to give small businesses and individuals greater purchasing power in negotiating more favorable rates.

Many Idahoans complain that they are locked into their current jobs because they fear losing their health care insurance. Several of my colleagues have been on the floor in the last few hours, giving examples of this kind of very real problem that Americans face. In some instances, entrepreneurs avoid starting their own businesses because they are unsure that they would be able to provide health care insurance for their families in the way that they were covered under their current employer. This is a problem that has existed in this country in an increasing way over the last decade, and it simply needs to get corrected. This legislation offers that correction.

Another problem commonly raised is that individuals who have had major illnesses or preexisting conditions cannot obtain coverage if they change jobs. In other words, once you have a medical record, insurance companies, by that record, can disallow you coverage for that problem under a new insurance policy. These kinds of fears are real. Real life examples are given, and they are faced by individuals and families every day. The security issue I mentioned, as part of the intent of this bill, is a very important component of health care insurance reform.

We must all be mindful that health insurance reform will have an impact on the marketplace. These kinds of reforms that are being proposed in this legislation are not without cost. As we cause the insurance market to change, the marketplace will price itself differently. In our effort to improve access to health care coverage we need to be extremely cautious and ensure that there is a minimal impact on the cost, or the increased costs of insurance, especially in the individual market.

One thing we can do is to address the issue of cost in this bill. A number of valuable provisions for addressing these consumer concerns were included in the Balanced Budget Act. However, that was vetoed by the President, so they are not yet available to correspond with this legislation when it becomes law.

Therefore, Mr. President, while I agree on the intent of S. 1028, to improve access, I do have concern about the issue, of affordability. In order to fully address access to health care coverage we must look at affordability. While we create potential flexibility in the marketplace, if we drive the cost beyond the reach of the individual, the family or the employer, then what have we solved? What old problems have we only changed into new ones?

In order to fully address access to health care coverage, we must look at the whole issue of affordability. There are several key amendments that I think are going to be offered by the leader which will help us a great deal in solving this potential problem, such as increasing tax deductions and implementing medical savings accounts, or MSA's, as the public has grown to know them. MSA's should be a part of this bill. That amendment will be offered. I certainly hope the Senate will respond as they should to the question of affordability, rounding out this legislation by addressing the cost component.

Title III of this legislation, S. 1028, includes a sense of the committee language that MSA's should be enacted. If they should be enacted—and that is what the committee says and what the legislation says—then why do we not do it? Let me read what the sense of the committee is.

> It is the sense of the committee on Labor and Human Resources of the Senate that the establishment of medical savings accounts, including those defined in . . . the Public Health Service Act . . . should be encouraged as part of any health insurance reform legislation passed by the Senate, through the use of tax incentives relating to contributions to, the income growth of, and the qualified use of, such accounts.

That is what the legislation says. That is what the law would say. But, if we do not add an amendment to it, it is fine rhetoric but it does not address the needs of the American people. And it does not, in my opinion, create the component of affordability that this Senate must be responsive to, if we are to bring about this kind of insurance reform.

I said the language is supportive, but it does not change anything. Instead of using this bill to speak to the issue, we should be using it as an opportunity to give consumers this valuable tool to finance health care costs.

MSA's work much like individual retirement accounts, something that the consuming public of this country knows about and likes. They are often coupled with a catastrophic health care policy, but some models have been conducted in combination with managed care plans. A limited amount can be deposited annually, usually equaling the amount of the high deductible. At the end of the year, the unused amount is rolled into the next year, allowing for savings to accrue.

If an individual does experience a catastrophic illness, savings can be used to meet the annual deductible, as well as cover any copayment that may be included as part of the catastrophic plan.

MSA's are portable because they belong to the individual. If we are reforming health care insurance, why do we not create a vehicle that provides increased opportunity for individuals to possess health insurance?

Regardless of your employment status, your MSA's stay with you. So, the job-lock question is less likely to occur. In addition, savings you accrue can then be taken with you and used to pay for insurance premiums if you are between jobs. If you want to start your own business and step away from an employer who provides insurance, the MSA stays with you. You can buy your own insurance with it.

It certainly creates tremendous choice and flexibility for the individual and families, and that is what we are concerned about here, the freedom of the individual and families to make sure they can provide for themselves. Health care insurance coverage and MSA's can play a tremendous role in doing just that.

Because MSA's have a higher deductible and lower premiums, they are a workable alternative for small employers who currently cannot afford to provide insurance as a benefit. So they even offer the small employer greater opportunity to provide health insurance benefits to his or her employees.

A catastrophic policy and a deposit in an MSA for the annual deductible are lower in cost than any other type of insurance coverage. In addition to the lowering of cost to the employer providing insurance, MSA's provide the beneficiary greater flexibility in how those health care dollars are spent and limit out-of-pocket exposure.

Finally, because savings can accrue, this is an opportunity to save over an individual's lifetime for those hefty, late-in-life health care costs such as long-term care. That is real health care reform. That is real health care insurance reform.

The cost of long-term care is a big problem that Senators have tried to deal with on this floor and that certainly the seniors of our country have faced themselves for a long time. Many of us at our age in life, who have parents who are nearing a time when they may need long-term care, all of a sudden begin to factor some of those financial costs into our own budget, if we are capable of doing so, in caring for the elderly of our family.

MSA's could help solve this problem in a generational way if this Senate and this Congress would simply quit talking about the value of them and allow them to become available to all Americans.

Mr. President, I have been frustrated by some of the references about MSA's, that they are an extreme idea that will help only the healthy and the wealthy. It could not be further from the truth. Rather, I argue that MSA's are a commonsense response to the current problems of our health care system, incorporating individual choice and responsibility. The American people understand that and I think the American people are ready to use this health care insurance tool in a way that works to their benefit.

The history of this issue has been one of bipartisan support. In both the House of Representatives and the Senate, MSA bills have been cosponsored and supported by Republicans and Democrats alike.

I have a copy of an old "Dear Colleague" letter on a bipartisan bill, S. 2873, the Medical Cost Containment Act of 1992. Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 8, 1992.

DEAR COLLEAGUE: The United States is faced with a crisis in health care on two fronts: access and cost control. So far, most of the proposals before Congress attempt to deal with access but do not adequately address the more important factor—cost control. We have introduced legislation that will begin to get medical spending under control by giving individual consumers a larger stake in spending decisions.

We have introduced a bill, the Medical Cost Containment Act of 1992 (S. 2873), which would allow employers to provide their employees with an annual allowance in a "Medical Care Savings Account" to pay for routine health care needs. This allowance would not be subject to income tax if used for qualified medical expenses. Any money not spent out of a given year's allowance could be kept by the employee in an account for future medical needs during times of unemployment or for long term care. In order to protect employees and their families from catastrophic health care expenses above the amount in the Medical Care Savings Account, an employer would be required to purchase a high-deductible catastrophic insurance policy.

Unlike many standard third party health care coverage plans, Medical Care Savings Accounts would give consumers an incentive to monitor spending carefully because to do otherwise would be wasting their "own" money. That is, money that they would otherwise be able to save in their account for future needs.

Once a Medical Care Savings Account is established for an employee, it is fully portable. Money in the account can be used to continue insurance while an employee is between jobs or on strike. Recent studies show that at least 50% of the uninsured are uninsured for four months or less.

Today, even commonly required small dollar deductibles (typically $250 to $500) create a hardship for the financially stressed individual or family seeking regular, preventive care services. With Medical Care Savings Accounts, however, that same individual or family would have this critical money in their account to pay for the needed services.

We feel that, while the Medical Care Savings Account concept does not provide the total solution to the crisis in health care access, it does begin to address the critical aspects of increasing costs and utilization by consumers.

We hope that you will join us as cosponsors of this legislation. If you have any questions please contact us or have your staff contact Laird Burnett of Senator Breaux's staff.

Sincerely,

JOHN BREAUX.
DAVID BOREN.
TOM DASCHLE.
RICHARD LUGAR.
DAN COATS.
SAM NUNN.

Mr. CRAIG. Mr. President, this letter outlines many of the beneficial aspects of MSA's, or medical savings accounts, in addition. I found it quite interesting that as part of his pension simplification proposal, President Clinton would allow withdrawals from individual retirement accounts for catastrophic health care insurance needs. That is a great idea. But that is an MSA. Whether Bill Clinton knew it or not, by his endorsement of this approach, he has, in effect, endorsed medical savings accounts, and I applaud him for doing so.

Since the healthy-and-wealthy assertions have been made, I want to take a moment to address this issue, because it is phony, phony, phony.

Anyone who has experienced chronic health problems or a catastrophic illness realizes how difficult it is to cover out-of-pocket expenses. If that health care problem is not covered by insurance, you get no assistance in helping finance the cost incurred. We have people who have minimal coverage and are making limited incomes, and they cannot afford the out-of-pocket costs to get across the deductible threshold to get the benefits of their insurance, in many instances. For families and individuals on fixed incomes, this is especially problematic.

I had a constituent who expressed to me a frustration that even though she had great health care insurance, it did not provide comprehensive dental benefits. She needed to get a tooth capped, which would cost her at least $500 out of pocket. Her alternative was that she should live with the discomfort until more serious problems occurred with the tooth that would be covered by her insurance.

Her frustration was that this was the only health care problem she had experienced in the last 2 years and the only cost incurred other than her annual physical and dental checkup. She had not met her deductible, but would have to find $500 in her monthly budget to pay for capping a tooth or go take out a loan, if she could qualify, to cap a tooth and then spread that cost over several months. If my constituent had an MSA, the $500 would have been covered by funds in her account.

Medical savings accounts would also benefit individuals with chronic illnesses, such as diabetes. A few years ago, several individuals who live with diabetes complained to me that many of the health care costs they incurred are not covered by insurance. For example, the glucose testing strips, the syringes for insulin, dieticians or nutritional services, and the pharmaceuticals are not always fully covered by insurance but are necessary in order to avoid more expensive, catastrophic illnesses.

With a medical savings account, a diabetic could pay for these expenses from his or her MSA. In addition, if they did experience a catastrophic illness, they would be covered once their high deductible was met.

Mr. President, some will claim that MSA's will cause people to forgo needed health care treatment. This is simply not the case. I must say, while that allegation is made, there is no proof that MSA's would have that effect. Unlike most health care coverage plans, MSA's give consumers an incentive to stay healthy because the money you spend is your own. In addition, they provide access to funds for preventive health care services which may not be covered by insurance plans.

Let me respond to the other half of the argument that MSA's are just another tax break for the rich. Working families will benefit greatly from MSA's. The United Mine Workers of America have a provision similar to MSA's in their current contracts. Mine workers and other working families, in my opinion, do not meet the definition of those who claim this is just for the rich. I think those are hard-working people who want and need good health care coverage for their families. That is exactly why the United Mine Workers Union negotiated it with their employers, because it was something the employers could afford and it gave those working men and women greater opportunities for coverage.

I must say I grow saddened by the kind of rich demagoguery that is played on the floor of this Senate on a variety of issues when we try to expand the base and expand the opportunity for all Americans by giving tax incentives or tax breaks that allow them to do certain things beneficial to their well-being.

Mr. President, regardless of income, if you get an MSA and catastrophic plan from your employer, your employer will be making the same contribution to your account. In addition, MSA catastrophic plans are a less expensive option for an employer, especially small businesses, providing another affordable option for employers who currently do not provide insurance. That is what insurance reform should all be about; as I said, to create affordability and to expand the opportunity for access to this kind of coverage.

Finally, MSA's give lower income individuals an account to draw from for primary care and other preventive services that otherwise would be paid out of pocket. The out-of-pocket issue to those less fortunate in our country is a very real issue, Mr. President. In other words, MSA's eliminate the upfront deductible required with most insurance policies and provide, in essence, by this very action, first-dollar coverage.

For example, with a traditional employer-provided insurance policy, a deductible must be reached before the insurance policy kicks in. A low-income parent with a sick child has to find funding out of his or her monthly budget to pay for the doctor or for any prescription. With an MSA, the worry is gone because the money has been placed by the employer in the MSA. Furthermore, if the problem is catastrophic, once the deductible is met from funds in the MSA account, the catastrophic policy provides the coverage.

In most cases, out-of-pocket exposure for individuals with MSA's is less than with other types of insurance coverage policies. In fact, low-income families have an opportunity to benefit from the savings that would accrue in an MSA over time.

Consider the following: Janet earns $13,000 a year. She is 20 years old and keeps her MSA through to age 60. If her employer deposits $1,800 a year in her medical savings account and she remains in good health and spends an average of $250 a year from her MSA, by the age of 60, assuming an 8 percent interest rate per year, Janet would have $433,661 in her medical savings account. Now, that is an optimum scenario.

Let me give a more likely one. Under the same scenario, with Janet experiencing more health problems, and let us say she is spending $1,000 a year from her medical savings account for health care, she would still accrue $223,000-plus in her medical savings account by the time she is 60. That is the opportunity that exists today if this Senate and this Congress will awaken to what the American consuming public wants.

Under a traditional fee-for-service HMO–PPO program, Janet would have health care coverage as long as she stayed with her employer. She would have to pay her annual deductible out of pocket and a copayment for service once she met that deductible. At age 60, if she retired, she would have no health care insurance and no medical savings account. That is the current law. Even this legislation does not really address that problem upon retirement, for those individuals who are not yet 65. Medical savings accounts do.

So, let us change S. 1028 from rhetoric to reality by amending it and putting medical savings accounts in it. While Janet may not be a real person, there are plenty of real Janets waiting to benefit from medical savings accounts.

Mr. President, my home State of Idaho was one of the first States to implement a statewide MSA program. Early reports and reactions to Idaho's program have been very, very favorable. Ada County, the largest metropolitan county in my State, was the first major employer in Idaho to offer the plan. It is saving the county a lot of money and providing greater flexibility for county employees. Passing a Federal MSA plan will enhance what is already a beneficial program in my home State of Idaho. It will allow our MSA program to be even more effectively used across the State. In short, Mr. President, passing a federal MSA plan will enhance what is already a beneficial program in Idaho.

Let me tell you about one of our county commissioners in Idaho who has been a great advocate of medical savings accounts and was instrumental in bringing that county on line with an MSA policy once the State legislature passed the law. Gary Glenn, an Ada County commissioner, participates in the optional MSA plan, as do about 20 percent of the Ada County employees.

Ada County's medical savings account plan saves taxpayers' dollars, maximizes patients' choices, and rewards responsible health care consumption. The benefits to Gary's six-member family are illustrated in these examples. The county's old indemnity program provided Gary's family typical coverage, $100 per person deductible, with a maximum of $300 per family, plus a 20-percent copay. The monthly premium was $494, of which Gary and his family paid $158 a month.

Under the new MSA, Gary's family has catastrophic coverage with a $2,000 per person deductible—the maximum per family, though, is $3,000—and 100 percent coverage or payment above that deductible. The new monthly premium is $194. Gary still pays $158, but the county pays $36 per month instead of $336.00 for the old indemnity plan. This is a dramatic reduction in the overall cost of insurance on a per month basis. This provides a savings of $3,600 per year. Out of the savings, the county will deposit $2,100 in Gary Glenn's medical savings account.

Under the old indemnity plan, Gary's family faced a much higher financial risk. In the worst case, they would be forced to pay $5,100 in deductibles and copays out of pocket and after taxes. Under the medical savings account, with a $3,000 deductible, no copayment, and $2,100 in his medical savings account, the most they would have to spend out of pocket in 1 year would be $900. That is important to remember. Instead of $5,100 out of pocket, they would spend $900. And the county is saving literally thousands of dollars as the employer.

In addition, by reducing Gary's out-of-pocket family risk by 82 percent and providing them with maximum flexibility in how they spend their health care dollars, any portion of the $2,100 deposit in their account—Gary Glenn's account now—is left to spend on health care, state income tax-free, or to carry forward and earn interest.

So under the Idaho medical savings account plan in Ada County, the taxpayers of that county and Gary's family are realizing real benefits. Mr. President, why cannot we be smart enough to provide that to all Americans—to give them at least the option, the choice? That is real insurance reform. That is real flexibility. That is real portability. MSA's are an idea whose time has come. We ought to do it. Today, though, in this bill we only offer the rhetoric. I hope the amendment that will be offered by the majority leader will pass and become a part of this important law.

Let me say in closing that S. 1028 is a good bill. What I have talked about is making it a better bill, a more complete reform of the health care system. Not the adjustments around the edges, but major reform in a way that fits 21st century Americans. It gives them the freedom of choice, access, the individual decisionmaking authority, the buying power they need, and it is effective for all levels of our society, the poor and the rich alike. That is what it should be about.

Mr. President, I ask unanimous consent that an editorial from the Idaho Statesman be printed in the Record. The headline says "Congress Can Follow County Lead on Medical Savings Accounts."

This editorial urges this Congress, this Senate, and the President himself to become modern, to become thinkers and not prohibitors, and add to this major reform package the concept of medical savings accounts. I hope we can accomplish that.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Idaho Statesman, Apr. 1, 1996]

CONGRESS CAN FOLLOW COUNTY LEAD ON MEDICAL SAVINGS ACCOUNT

Ada County is leading the way in health-insurance reform by its use of medical savings accounts. Too bad many Democrats in Congress and President Clinton are among those most afraid to follow.

The U.S. House endorsed medical savings accounts Thursday as part of its legislative package on health care, but the outcome in the Senate is less certain, especially with Clinton's threat of a veto looming over the whole bill.

The nation loses if medical savings accounts are stripped out of the final legislation in a compromise.

As local experience shows, they can be an effective way to save insurance expenses and give consumers more control over decisions about their own health care.

Instead of traditional and expensive health-insurance policies, Ada County buys only catastrophic policies for the 20 percent of its work force signed up for the program.

The savings are put into the accounts of participating individuals and can be used for routine medical expenses.

The measures in Congress works about the same.

Individuals could make tax-deductible contributions of up to $2,000 (or $4,000 for families) in a medical savings account and would be required to purchase a high-deductible health insurance policy for catastrophic illnesses.

The system saves money because workers have an incentive to shop around for medical care. Bargain hunters can motivate doctors and hospitals to compete, which in turn injects needed market forces into the health industry.

By eliminating the middle man—insurance companies—the accounts allow people more direct control of how, when and where they spend their medical dollars.

Sadly the issue of medical savings account has become embroiled in partisan politics in Congress. But reforming health care and giving consumers more options should not be a partisan issue.

It is simply a matter of giving consumers greater clout as the nation seeks an improved health-care industry.

Mr. KENNEDY. Mr. President, just for the information of the Senators, we have been on the legislation since 9:30 this morning, 5 hours, and we have not had amendments. In the earlier part of the day, I think both Senator KASSEBAUM and I were urging our colleagues to come over and make comments about it. We have been blessed with so many bipartisan comments on the legislation.

We are expecting an amendment by the majority leader momentarily to be put down, also a unanimous-consent agreement in the process of being circulated so we might be able to move toward the consideration, or we are going to find a situation as the evening time comes that Members will say, "Why can we not attend to some of our other responsibilities in the evening?" We want to try and accommodate everyone, but we are open for business. But the first business, we had hoped, would be the majority leader's amendment, and then to have a good debate on that. Part of the debate will be on the medical savings account, and we will address that issue in a more complete way at that time.

I just wanted to at least give some indication to our colleagues about where we are in the course of the debate.

Mr. SIMPSON. Mr. President, I certainly will not take 10 minutes.

I want to add my voice to the bipartisan chorus of support for S. 1028, the Health Insurance Reform Act. I am proud to say I was an early supporter of this one. I signed on as a cosponsor back on July 17, 1995, just 4 days after it was introduced by Senator KASSEBAUM.

I commend her and I commend Senator KENNEDY for their determined efforts to advance this legislation through the Senate in the politically charged atmosphere of an election year. She has created a bill that deserves the support of Republicans and Democrats alike.

The provisions of this bill have been well covered—portability, guaranteeing availability and renewability of coverage, preexisting medical conditions, and maintaining continuous health coverage, making it easier for small employers to voluntarily form purchasing cooperatives—and would bring about changes that a vast majority of us agree upon.

Even President Clinton, in a dramatic departure from his earlier proposal for a Government-run health care system, has now embraced health insurance reforms that are remarkably similar to those which President George Bush proposed back in 1992. Whatever one might be attempted to say about the irony of all of that, it clearly indicates that we now have a unique opportunity to correct the problems that pose the most serious threat to the health coverage of millions of Americans.

Though each of us can think of various ways in which we would like to expand upon the pending legislation, the reality is that the bipartisan appeal of the bill will be lost if we go too far in amending. I intend to be very cautious about amendments that are offered for the Senate's consideration, even in cases where I might support the amendment on its merits. I say this because I would rather pass legislation that actually becomes law, even if it is not as far reaching and perfect as I would like it to be, than to make a legal statement with legislation that ends up in the great scrap heap of unfinished business—and there will be plenty of that in this session of Congress, things that stood on principle and could not get into law because you did not have the votes to get them into law. Unfinished business—that stack.

When I hold town meetings in Wyoming—I do not know how many of us still do that; I do—the message I always come away with is that people are thirsty for action. They are not interested in excuses or rhetoric or political maneuvers from either party. No matter how clever or imaginative we are in explaining ourselves, they just do not buy it. They have had a bellyful of petty partisan squabbles. What they long for is to see a Congress identify areas of agreement, as Senators KASSEBAUM and KENNEDY have done with this legislation, and then act in the best interests of the American people, without agonizing who will win or who will lose, who will be the top dog, who will be the underdog when it is finished, or politically, how to simply portray Members of the other party in the worst possible light.

The pending bill would allow us to do something beneficial, I think, for millions of Americans who are at most risk of losing their health coverage. The General Accounting Office reports as many as 21 million Americans would benefit if preexisting-condition exclusions are waived for people who maintain continuous health coverage, and, furthermore, another 4 million would no longer experience job lock if portability of health insurance is insured.

I believe it is time to move forward, adopt these protections to the extent that more sweeping measures are needed to make health insurance more affordable, more accessible. I will help with that. I surely agree that there is much more we can do.

I worked with Senators CHAFEE and BREAUX on issues of a bipartisan nature. I think that is very important. Let us consider those items separately that might serve to bring this down and view them at another time in such a way that we do not jeopardize the enactment of the pending bill.

I think what we need, sometimes, is an old-fashioned trait known as self-restraint. Perhaps we could even adopt self-restraint as the theme for the next several hours as we consider the bill. It would surely be an appropriate manner in which to recognize Senator KASSEBAUM's tremendous leadership on this issue, and to preserve a thoughtful bill that will provide important health insurance protections to millions of Americans.

Finally, I note the senior Senator from North Dakota is not on the floor. I hope he will have an opportunity to address my remarks. I admire him. He is a friend. We have worked together. He has come forward and said that we should put aside our agendas, put aside our own causes, work in harmony and concert. I hear that, yet I also hear each and almost every day my good friend from North Dakota stirring up some issue in some way, usually with a partisan twist. I think that if we are going to do that, just note the pending business of the Senate on the calendar. The pending business of the Senate is the illegal immigration bill. It is not moving simply because the Senator from North Dakota wishes to place an amendment on it with regard to the balanced budget and Social Security.

I am not speaking in a partisan way. I have been here before. I remember my dear friend Senator John Heinz placed amendments on illegal immigration bills. Even my ranking member has done such heinous activity from time to time, the Senator from Massachusetts. I have seen him do that. I am not talking about partisanship. If we are going to do this—we have a bill that is stalled right now. We will see how long it will stall out. There are three amendments ready to be voted upon. Where it is all held up, that bill is held up for a single particular reason: Because of the Senator from North Dakota, because of an eternal amendment that he has with regard to Social Security, saying that no balanced budget can ever be done, and we do not do anything with Social Security, which is an extraordinary thing in itself because Social Security is going broke. The people that are telling us it is going broke are the trustees, the stewards of the system, who are saying the system will go broke in the year 2020.

So how do you keep ducking it, unless you are just carrying water for the AARP and the Committee for the Preservation of Social Security and Medicare and other 800-pound gorillas in that particular Social Security debate.

So I hope that we will proceed. I say to my friend from North Dakota—my friend and sometimes adversary—heed thine own advice. I will be waiting.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Mr. President, about 2 years ago, this Congress blocked attempts to act on comprehensive health care reform. While that year's effort to achieve the major reforms that are so needed and so long overdue did not succeed, the problems that led the President to make that proposal have not disappeared. Far from it.

There are over 40 million Americans without health insurance, and over 23 million of those are employed. Over a million working Americans have lost health care coverage over the past 2 years; 60 percent or more of all Americans currently worry about losing their current health insurance coverage.

Over the last few years, the rate of private health care cost increases has dropped substantially, but there are now increasing concerns about the quality of care. Public health care costs continue to increase at an unsustainable rate. The case for reform, therefore, is perhaps even more compelling now than it was 2 years ago when we first took up this issue.

I am, therefore, proud to be one of the cosponsors of S. 1028, the Health Insurance Reform Act. It is not the comprehensive reform that we looked at to begin with, but it is a good and important step in the right direction. Indeed, this may well be the first step on the road to reform that everyone can agree upon. I say to the Senator from Kansas and the Senator from Massachusetts that this legislation is brilliant in its simplicity, precisely because it cuts to the heart of the issues that concern the American people most about health care coverage.

Mr. President, in my view, there are four cornerstones of health care reform: Universal coverage, cost containment, maintaining the quality of care that we enjoy in this country, and retaining freedom of choice for the American people in terms of health care delivery and the providers of health care.

This bill moves us in the direction of universal coverage by keeping people insured who might otherwise not be. If there is any concern which everyone has regarding health insurance, it is the trap of preexisting conditions. All too often, individuals find themselves excluded from coverage because of a preexisting condition. In some cases, the individuals themselves are not even aware of the existence of that preexisting condition.

By limiting exclusions for preexisting conditions, by making health insurance coverage available for small businesses, and by ensuring portability and ending job lock, this legislation deals with the concerns of millions of Americans. It will help to make health insurance coverage more available for millions of Americans and for small businesses, help hold down health care costs for Americans, and further help to expand access to health care. That, in my opinion, is real reform, or a step in the right direction.

In my own State of Illinois, over 2 million people are currently without health insurance. This bill will make a critical difference in their lives and in the lives of similarly situated people all across our Nation.

Those who are now without insurance are far from the only beneficiaries of this legislation. For Americans who might want to leave their jobs and start their own businesses, or who might have to leave their jobs because of corporate restructuring, but who might have a preexisting condition or family medical history that would currently make it difficult or impossible for them to purchase an individual health policy, this bill will make a huge difference. It will guarantee their ability to access health insurance.

This bill will also guarantee that small businesses with only a few employees would not lose their group health care coverage because one of the people in the group develops a serious health problem, as is the case now. Moreover, it will make health insurance more affordable for those small groups, making it more likely that more small businesses will provide health insurance benefits for their employees.

Families with small children suffering from a serious health problem will no longer face the prospect of being unable to obtain health insurance if the child's parent changes jobs, ensuring that the child's parents are not themselves job locked because of the condition of a member of the family. It is tough enough for families to deal with serious health problems affecting one of their children without having to face the additional problem of losing access to health insurance if they are laid off or restructured out of their jobs or if they want to change jobs for a new, perhaps better paying job that could help their families in other ways.

Women who have had breast cancer or other diseases will no longer face higher premiums or loss of access to health insurance altogether if they change jobs once this bill becomes law. And young college graduates starting their first jobs would not be barred from access to health insurance simply because they suffer from a childhood ailment or a continuing disability from an unfortunate accident.

The Health Insurance Reform Act, therefore, represents a practical, caring set of reforms to deal with the real health care problems facing so many Americans, based on their everyday realities. It does not require Americans to radically change their behavior. It does not add another bureaucracy or a huge new paperwork system. It does not require new Federal spending or new taxes. It does not create any new unfunded mandate on State or local governments. At most, it will increase the costs for private health insurance companies by less than one-quarter of 1 percent.

This bill is about incremental reform, but real reform nonetheless. It will help virtually every working American, as well as millions of Americans who are temporarily out of the work force. The bill itself will work because it is based on what is actually going on in the world of real people who need health care.

Mr. President, it is worth thinking a moment about those everyday realities. Statistics tell us that the average American works at a job for about 4½ years. Over the course of a working career, therefore, an average working American could hold seven or more jobs. That fact alone makes it all too clear just how important it is for the American people to have portable health care coverage. That fact alone is a good indication of how necessary it is to end preexisting condition restrictions that result in Americans having to pay enormous sums for new health care policies, losing access to the one they had, or end up with no access to health insurance at all.

Eighty-one million Americans have preexisting conditions that could affect their insurability. More than half of all American workers are enrolled in health insurance plans that impose some form of preexisting condition exclusion. As I stated earlier, when you consider that most of us will change jobs several times in the course of a lifetime, the preexisting condition problem affects virtually every American family.

Mr. President, every American wants and needs health care security. It is as important to them as retirement security, an objective that should command absolute consensus in this country. That vision and importance of retirement security led to the creation of Social Security. That is why we provide tens of billions of dollars in annual tax incentives to companies to provide pension plans for their workers. That is why we support pension plans and retirement programs and savings.

Health care security is no less essential to the American people than retirement security, not only because you cannot enjoy retirement if you are in poor health, but because lack of access to affordable health care insurance can literally mean bankruptcy. Being able to roll over your insurance coverage, therefore, is just as important as being able to roll over pension savings. Maintaining health security deserves the same level of attention that we give to retirement security, and measures that protect and enhance that kind of health security deserve the same kind of consensus support.

Mr. President, the really good news is that so many of our colleagues—57, in fact—and so many different organizations, and the President, support this legislation. The American people support this. Facing the fear of loss of health insurance, facing the preexisting exclusion, those kinds of uncertainties will be resolved when we take this step in the direction of incremental reform.

This legislation has been carefully worked out. It represents a real compromise by both Democrats and Republicans who support it. I congratulate the chairman of the Labor and Human Resources Committee, Senator KASSEBAUM, and the ranking Democratic member, Senator KENNEDY, for their leadership and for all the hard work they have put into bringing this bill to this point. As I said earlier, it really is brilliant in its simplicity. I congratulate them for the bipartisan nature of this debate so far and for the efforts in bringing us together as representatives of the American people, whatever political party, bringing us together to get this badly needed legislation passed.

If there is one matter that commands consensus, it is what this bill addresses because it addresses it so brilliantly, in my opinion.

I urge Senators on both sides of the aisle to put aside partisan differences, put aside other good ideas, and let us move forward and pass this legislation so that it can be law and so we will have done the job the American people have every right to expect that we will do.

Thank you very much.

I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas, [Mr. GRAMM], is recognized.

Mr. GRAMM. Mr. President, I want to talk about the bill that is before the Senate and the amendment that Senator DOLE will offer on behalf of himself and others. I will also cosponsor that amendment. I want to try to explain why it is essential that we have measures which will promote efficiency and cost savings if we are going to adopt this bill.

Let me say that making insurance portable and permanent is something that I support. But I think that, if we are going to be honest with ourselves, it is very hard to do this with a straight face, which is what has been done in virtually every speech that has been given on the floor of the Senate this morning. We are talking about 25 million Americans who are going to benefit from this bill. This is a number that has been established independently of the Senate. We all rejoice in it—25 million beneficiaries of this bill, which is supposedly just a technical amendment. Yet I would point out to my colleagues, if you look through this bill, it does not appropriate one penny. It does not provide one cent.

Now ask yourself, how are 25 million people going to benefit from this bill, through greater availability of health insurance and lower prices, if the Government and the Congress which passes this bill are not providing one single penny? Is it somehow magic that through Government edict we can bestow billions of dollars of benefits on our fellow citizens at no cost and no dislocation whatsoever? The answer to that is clearly no.

I would like to begin by making a prediction. That prediction is, if we adopt this bill as it is written, at the end of the first full year of its implementation, the cost of individual private health insurance policies will rise by a minimum of 10 percent. I also believe that this is a conservative estimate.

I believe that group policy rates will go up because we are going to produce, through this effort, several undesirable effects. I want to go through them to be absolutely sure that anybody who really wants to understand can do so, and because I think they make the argument for medical savings accounts and other reforms to try to offset the basic cost increase that is going to result from this bill as it is currently written.

First of all, this bill guarantees that if a person wants private health insurance, they can get it. There may be a delay in the availability of benefits, depending on where the person works and when they have private health insurance, but under this bill, anybody who wants private health insurance at any time, under some circumstances, can get it. Furthermore, when someone comes into a group plan, no matter what the state of their health, they cannot be charged more than any other member of that group and if somebody leaves a private employer, they must be offered an individual insurance policy.

What is the result of this going to be? It seems to me there are going to be positive as well as negative results. The entire debate so far has been about the positive result: 21 million people that do not have private health insurance will be able to get it, because we are saying by law that insurance companies must sell it to them. An estimated 4 million people who are locked into their job because they fear the loss of their health insurance if they move will benefit since they will be guaranteed the issuance of health insurance when they change jobs. These are the positive impacts of the proposed changes.

But it is generally true, in the real world we live in, that not all impacts of dramatic changes are positive; let me outline some of the negative impacts.

No. 1, we are going to end up, by guaranteeing availability, distorting health coverage. Young, healthy people, knowing that they are going to be able to qualify for private health insurance in some form—either through a group or as individuals—are going to have a greater incentive to not obtain the coverage that they have today.

Why do young workers who are basically healthy buy private health insurance right now? Some might buy it because they are risk averse. But many buy it because they want to guarantee that in the future, when they may not be as healthy, they will have locked in their coverage.

What this produces is a balanced distribution of people who are buying private health insurance—many people who are young and healthy and who are very modest users of health care as well as many people who are older and less healthy and who are heavy users of health care are all buying insurance. Since many young people buy private health insurance in order to lock in guaranteed health coverage in the future, to the degree that we mandate that insurance companies sell people health insurance no matter what the state of their health is, we eliminate one of the primary reasons that young people buy private health insurance. So the first negative impact of this bill is the creation of a new incentive for young people not to buy private health insurance.

Under this bill we also have some rather extreme provisions. Before I mention one of them, let me say that I understand, when you are talking about health care, that it is hard to have a rational debate because you are talking about sick people who we can all empathize with. But I think it is important that we understand what we are doing if we are going to have a real debate in the Senate because, after all, that is our job—to understand what the implications are and to try to see that we make a rational decision.

Under this bill, not only will young people with guaranteed ability at a later point to buy private health insurance have an incentive not to buy it today, but in designating a series of health benefits for which there is no waiting period, we create a special class of people who will buy health insurance when they know they are going to need it, such as in a pregnancy, and then cancel the policy after they receive the benefit—only to buy another policy when they are ready to use the benefit again.

It is very difficult to quantify this, but anyone who read the article in the April 5 issue of the Wall Street Journal knows this is happening in States which have done exactly what we are proposing to do.

So the first negative impact of this bill is that it eliminates one of the prime incentives for young, healthy people to buy private health insurance, and the second negative impact is that it distorts the risk pool in the process.

The third thing it is going to do, which is part of the positive impact, is that the 21 million people who are sick today and as a result of being high risk have opted not to pay the going market rate—or in some cases they simply have not been able to afford health insurance—the positive thing for them will be that they will now be able to buy health insurance. The fact that they will opt for coverage, while younger healthier people, knowing they can get it later, will opt not to get the coverage, however, will further distort the risk pool of insurance. What this will mean is that in America there will be more young, healthy people who do not opt for health insurance than we have today, and there will be more older, less healthy people who do. Given the inherent cost of changing the mix of people who are buying private health insurance, the inevitable result of this is going to be that you drive up the cost of insurance premiums.

This is not just something that is theoretical, I know we have some study which says that costs are going to go up by some minuscule amount. I do not believe, however, that anybody who has looked at the experience of States like Washington could possibly believe this. I think what we are really looking at in this bill, independent of any other changes, is younger, healthier people dropping out and older, sicker people opting in. The net result of these shifts is going to be a substantial increase in insurance rates for those who have bought health insurance, for those who, in many cases, bought it when they were young and healthy in order to have a guarantee of insurability. The net result of this bill is going to be rising insurance costs.

Now, this bill, in fact, anticipates this result and sets up a series of powers to help the States try to deal with these potential impacts. At some later point I am going to debate and possibly offer an amendment dealing with a provision on page 40 that gives the Secretary of Health and Human Services the power to disallow a State program to deal with rising costs unless it implements a mechanism to spread the risk and to limit rate increases. I do not think we ought to be dictating to the States what they can and cannot do in order to deal with a problem that this bill is going to cause.

We have before us a bill that is going to help people, 25 million of them, and for these individuals it is going to be a godsend. But another 100 million people, who already have private health insurance and who are going to see their rates go up, are going to be losers from this reform. We are going to change behavior by inducing younger people to not buy into the system, and as a result rates will be raised. We are also going to bring sicker people into the system, and the final result is going to be a spike in insurance rates—just as has happened all over the country in States with similar programs.

We have now some 29 States that have gone about this in a different way by creating risk pools to help people who have a preexisting condition get health insurance. We are, in essence, going to kill that off this approach by mandating that the insurance policy be sold in the way we dictate at the Federal level.

There is a way to get the advantages to the 25 million people who will benefit from the bill and offset the cost to the 100 million who will lose from it. The way to do that is with fundamental reform which, it seems to me, can take two basic approaches. No. 1 is with medical savings accounts as will be offered by the majority leader. The idea behind the medical savings account is to change the Tax Code to allow an individual or a family to choose a high deductible insurance policy instead of a low deductible policy, and to put the savings from the resulting lower premiums into an account which is designated solely for the purpose of paying the policy's deductible. At the end of the year, if they do not spend that money on the deductible, they can roll it over for their retirement or take it out as income and pay taxes on it.

What that means is that for routine type care they are spending their own money. Medical savings accounts empower the individual consumer to be cost conscious and provide a mechanism that will save the concept of fee-for-service medicine so those who do not want to be members of an HMO or a prepaid system can opt to stay in fee-for-service medicine and yet have incentives to be cost conscious.

If we adopt the amendment of the distinguished majority leader, we will fundamentally change the health care market, and those savings will offset several times over the cost that is involved in driving up insurance rates for 100 million Americans to help the 25 million who will be beneficiaries of this program.

A second reform, which is not contained in the Dole amendment, deals with medical liability. We have some estimates which indicate that 20 percent of the cost of medical care in America comes from expenditures that are aimed at keeping people out of the courthouse instead of keeping people out of the hospital and out of the grave.

If we are going to make the changes envisioned in this bill, which in essence transfers costs to the people who have private health insurance—by raising their premiums—from people who do not have health insurance today, the way to offset that burden on people who have in essence done what we wanted them to do—bought private health insurance—is by allowing for medical savings accounts and dealing with medical liability.

If we do not make these two changes, my fear is that 2 years from today, insurance rates, especially on individual policies outside of group plans—because under this bill we guarantee the availability of a policy to somebody who leaves their group plan—I am concerned that without medical savings accounts or without medical liability reform, we are going to see insurance rates spike and we are going to see States try to hold them down with rationing mechanisms and price controls. I think they are going to fail, as they are failing in Washington State today, and I think we are going to be right here 2 years from now debating a health care bill again, and the demand will be made to do something about exploding costs. Yet we will have produced these exploding costs with this bill.

We have it in our power to help 25 million people and yet not hurt another 100 million people in order to pay for it. The way to do that is with a medical savings accounts and medical liability reform.

In and of itself, this bill simply transfers income and assets from one group of Americans to another, and in the whole you have 25 million winners but you have 100 million losers.

With reform, we can see that virtually every American family wins. If all we are doing is simply shifting risk, we are not dealing with the fundamental health care problem in America.

So I hope my colleagues will vote for the Dole amendment. I think it is very important. I totally reject the idea that this is a simple bill and that we ought not to load it up with other items. If we do not have fundamental savings, this bill is going to cause insurance rates to explode, and we are going to be right back here 2 years from now debating socialized medicine again. I have debated that once, I am not eager to do it again, but if it is required, I certainly will.

I yield the floor.

Mr. HELMS. Mr. President, more than 80 percent of Americans younger than 65 are covered by health insurance, but if one of them changes jobs, or is laid off, he or she may be denied health insurance because of a preexisting problem, or because his health insurance cannot move with him or her. A genuine fear therefore exists that the security of health insurance could very well be lost. In fact, opinion polls show that as many as one-third of employees fear that if they switch jobs they will be unable to obtain new health insurance.

The American people believe, and I agree, that they should be able to change jobs without losing their health insurance. Congress needs to insist that health insurance be made portable so that the fear of losing their health insurance should not plague the American people when they change or lose their jobs. This bill permits insured employees who leave one employer to be covered immediately upon taking another job that offers employees health insurance, regardless of their health status.

This bill does not establish community rating. Community rating is a grave threat to the insurance market. I have heard many cite the dismal failure of guaranteed issue in States such as New York. These States coupled guaranteed issue with price controls that kept premium prices equal for everyone regardless of age, health status, etc. This combination ensures collapse of the health insurance market. However, S. 1028 narrowly defines guaranteed issue in order to avoid the devastating effects of pushing healthy people out of the health insurance market.

There must be a limit to preexisting condition restrictions that now prevent many citizens from obtaining or holding onto health insurance. I am convinced, Mr. President, that small businesses should be encouraged to form groups to build joint purchasing power when buying health insurance for their employees.

These provisions of the Kassebaum bill will be welcome and overdue improvements in the health insurance market, and I wholeheartedly support them.

However, Mr. President, in the debate on health insurance reform, perhaps the most innovative solution has been given the shortest shrift—the medical savings account. This solution—that will provide the greatest freedom—has been successfully used by many businesses to keep their health care costs down and employee satisfaction up. In a truly American way, medical savings accounts harness the free enterprise profit motive to promote sorely needed efficiencies in the health care economy. MSA's confer upon individuals an incentive, a reason, to spend their health care dollars wisely by turning part of the savings over to the employees, in effect rewarding efficiency.

Mr. President, many private businesses are already using cash incentives and medical savings accounts to reduce their health care costs while, at the same time, achieving great employee satisfaction with the health care afforded them.

One company cut its health care costs significantly. In 1992, Forbes magazine was spending $2.3 million per year for health insurance from CIGNA at an average cost of about $5,000 per employee. In order to encourage employees to be more cost conscious, Malcolm Forbes, Jr., decided to reward his employees with a bonus for not filing major-medical and dental claims.

Forbes explained the choice to its employees: If, during the year, an employee minimized the number of claims filed with the insurance company, Forbes agreed to pay that employee a bonus of up to $1,200. Employees enthusiastically embraced this plan; insurance claims dropped dramatically. As of 1994, while premiums for other CIGNA clients rose between 21 and 25 percent, Forbes' major-medical premiums fell 17.6 percent.

The obvious lesson learned from the Forbes example is that employees will control their health spending—if they are allowed to keep the savings. Of course, in the case of employees who are really sick, they file the necessary claims and receive bonuses in lesser amounts. Employees choosing to pay out-of-pocket for routine health expenses instead of filing claims, get the bonuses at the end of the year.

Consider, Mr. President, how this kind of commonsense incentive will change the public attitudes about health care costs. For example, one Forbes employee regularly needs four different prescriptions filled, but as a result of the Forbes bonus program, this employee now shops around for the best price. Before, he didn't care how much a prescription cost because insurance paid it. And when insurance pays, we all pay, in the form of higher insurance premiums and lower income.

Forbes is not the only company to benefit from an incentive-based program. Dominion Resources, a public utility holding company in Richmond, VA, has likewise developed an innovative method of reducing its health care expenses, a medical savings account.

An MSA works: The employer buys its employees a health insurance policy with a high deductible. This kind of policy has two attributes: First, it protects the insured against catastrophic health care expenses; and second, its premiums are less expensive.

The employer then establishes a special account for each employee to pay for routine medical treatment. What the employee does not spend from the account, he keeps. This incentive encouraged 75 percent of Dominion's employees to enroll in a high-deductible plan. And guess what—since 1990, Dominion's health care costs have risen less than 1 percent per year; premiums have not increased in 3 years.

Forbes and Dominion Resources are but two examples of private industry enterprise coming up with health care solutions that work. Incentive-based solutions work for the company and they work for the employee. As one economist, Gerald Musgrave, put it, "We have thousands of years of experience with how people handle their own money."

So, why not let Americans continue to handle their own health care dollars and help them realize their role in cost savings? Time and time again, Americans have shown that they can and will make cost-conscious health care decisions when given a sensible incentive to do so.

So, Mr. President, insurance can be made more accessible by assuring Americans that their policies will not be canceled because of an illness or when they are changing jobs. These are some obvious flaws in the market and I believe further progress can be made by addressing the Tax Code. But I am convinced that we're on the right track.

Mr. President, I ask unanimous consent that an April 17, 1996 Wall Street Journal article entitled "A Way Out of Soviet-Style Health Care" by Milton Friedman be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 17, 1996]

A WAY OUT OF SOVIET-STYLE HEALTH CARE

(By Milton Friedman)

In a chapter in his novel "The Cancer Ward" titled "The Old Doctor," Alexander Solzhenitsyn compares "private medical practice" with "universal, free, public health service" through the words of an elderly physician whose practice predated 1918. A by-product is an eloquent statement of the major advantages of medical savings accounts for the U.S. in 1996.

Mr. Solzhenitsyn himself had no personal experience on which to base his account and yet, in what I have long regarded as a striking example of creative imagination, his character presents an accurate and moving vision. The essence of that vision is the consensual relation between the patient and the physician. The patient was free to choose his physician, and the physician free to accept or reject the patient.

In Mr. Solzhenitsyn's words, "among all these persecutions [of the old doctor] the most persistent and stringent had been directed against the fact that Doctor Oreschenkov clung stubbornly to his right to conduct a private medical practice, although this was forbidden."

"EASIER TO FIND A WIFE"

In the words of Dr. Oreschenkov in conversation with Lyudmila Afanasyevna, a longtime patient and herself a physician in the cancer ward: "In general, the family doctor is the most comforting figure in our lives. But he has been cut down and foreshortened. . . . Sometimes it's easier to find a wife than to find a doctor nowadays who is prepared to give you as much time as you need and understands you completely, all of you."

Lyudmila Afanasyevna: "All right, but how many of these family doctors would be needed? They just can't be fitted into our system of universal, free, public health services."

Dr. Oreschenkov: "Universal and public—yes, they could. Free, no."

Lyudmila Afanasyevna: "But the fact that it is free is our greatest achievement."

Dr. Oreschenkov: "Is it such a great achievement? What do you mean by 'free'? The doctors don't work without pay. It's just that the patient doesn't pay them, they're paid out of the public budget. The public budget comes from these same patients. Treatment isn't free, it's just depersonalized. If the cost of it were left with the patient, he'd turn the ten rubles over and over in his hands. But when he really needed help he'd come to the doctor five times over. . . .

"Is it better the way it is now? You'd pay anything for careful and sympathetic attention from the doctor, but everywhere there's a schedule, a quota the doctors have to meet; next! . . . And what do patients come for? For a certificate to be absent from work, for sick leave, for certification for invalids' pensions; and the doctor's job is to catch the frauds. Doctor and patient as enemies—is that medicine?"

"Depersonalized," "doctor and patient as enemies"—those are the key phrases in the growing body of complaints about health maintenance organizations and other forms of managed care. In many managed care situations, the patient no longer regards the physician who serves him as "his" or "her" physician responsible primarily to the patient; and the physician no longer regards himself as primarily responsible to the patient. His first responsibility is to the managed care entity that hires him. He is not engaged in the kind of private medical practice that Dr. Oreschenkov valued so highly.

For the first 30 years of my life, until World War II, that kind of practice was the norm. Individuals were responsible for their own medical care. They could pay for it out-of-pocket or they could buy insurance. "Sliding scale" fees plus professional ethics assured that the poor got care. On entry to a hospital, the first question was "What's wrong?" not "What is your insurance?" It may be that some firms provided health care as a benefit to their workers, but if so it was the exception not the rule.

The first major change in those arrangements was a byproduct of wage and price controls during World War II. Employers, pressed to find more workers under wartime boom conditions but forbidden to offer higher money wages, started adding benefits in kind to the money wage. Employer-provided medical care proved particularly popular. As something new, it was not covered by existing tax regulations, so employers treated it as exempt from withholding tax.

It took a few years before the Internal Revenue Service got around to issuing regulations requiring the cost of employer-provided medical care to be included in taxable wages. That aroused a howl of protest from employees who had come to take tax exemption for granted, and Congress responded by exempting employer-provided medical care from both the personal and the corporate income tax.

Because private expenditures on health care are not exempt from income tax, almost all employees now receive health care coverage from their employers, leading to problems of portability, third party payment and rising costs that have become increasingly serious. Of course, the cost of medical care comes out of wages, but out of before-tax rather than after-tax wages, so that the employee receives what he or she regards as a higher real wage for the same cost to the employer.

A second major change was the enactment of Medicare and Medicaid in 1965. These added another large slice of the population to those for whom medical care, though not completely "free," thanks to deductibles and co-payments, was mostly paid by a third party, providing little incentive to economize on medical care. The resulting dramatic rise in expenditures on medical care led to the imposition of controls on both patients and suppliers of medical care in a futile attempt to hold down costs, further undermining the kind of private practice that Dr. Oreschenkov "cherished most in his work."

The best way to restore freedom of choice to both patient and physician and to control costs would be to eliminate the tax exemption of employer-provided medical care. However, that is clearly not feasible politically. The best alternative available is to extend the tax exemption to all expenditures on medical care, whether made by the patient directly or by employers, to establish a level playing field, in terms of the currently popular cliche.

Many individuals would then find it attractive to negotiate with their employer for a higher cash wage in place of employer-financed medical care. With part or all of the higher case wage, they could purchase an insurance policy with a very high deductible, i.e., a policy for medical catastrophes, which would be decidedly cheaper than the low-deductible policy their employer had been providing to them, and deposit all or part of the difference in a special "medical savings account" that could be drawn on only for medical purposes. Any amounts unused in a particular year could be allowed to accumulate without being subject to tax, or could be withdrawn with a tax penalty or for special purposes, as with current Individual Retirement Accounts—in effect, a medical IRA. Many employers would find it attractive to offer such an arrangement to their employees as an option.

Some enterprises already have managed to do so despite the tax penalty involved. MSAs have proved very popular with employees at all levels of income, and they've been cost-effective for employers. The employee has a strong incentive to economize, but also complete freedom to choose a physician, and the equivalent of first-dollar coverage. There are no out-of-pocket costs. Until the employee spends more than the total amount in the MSA. Such costs are then limited to the difference between the amount in the account and the deductible in the catastrophic policy. Moreover, the employee can use money in the MSA at his or her discretion for dental or vision care that is typically not covered under most health plans. No need to get "authorization" from a gatekeeper or an insurance company to visit a specialist or to have a medical procedure—until the catastrophic policy takes over.

LIMITING COMPETITION

The managed care industry has come to recognize that MSAs might threaten its growing control of American medicine by offering a more attractive alternative. As a result, the managed care industry has recently become a vigorous enemy of MSAs. Every believer in competition will recognize that opposition for what it is: a special interest using government to limit rather than expand competition.

Medical savings accounts are not a panacea. Many problems would remain for an industry that now absorbs about a seventh of the national product. However, I believe that they offer the closest approximation that is currently feasible to the private medical practice that Dr. Oreschenkov cherished.

Mr. BRYAN. Mr. President, today is remarkable. At long last—on the floor of the Senate—we are considering health care reform legislation that the American people both want and support. And at long last, it is legislation with significant bipartisan support.

I am proud to be a cosponsor of this bill. It will provide health care insurance protection for thousands of Nevadans, and millions of Americans. This incremental bill is our best opportunity to get working Americans the health care access they deserve.

We have been close to this point before. It seems like ancient history when I think back to cosponsoring former Senator Lloyd Bentsen's small business insurance health care reform. It too had incremental insurance coverage improvements that many in this body supported—yet once again, the final hurdle could not be overcome.

Many times—and over many years—Nevadans have shared with me their heart breaking stories. Families whose children have medical conditions that prevent the family from being able to purchase health insurance, because no insurer will take a child with a pre-existing condition. Working individuals who develop chronic health conditions, and cannot leave their current employment for fear of not being able to get health insurance in their new job.

Health insurance is often denied for the very illnesses most likely to require medical care. Eighty-one million Americans have conditions that could subject them to such exclusions if they lose their current coverage, and sometimes these exclusions make them completely uninsurable.

People with preexisting conditions are penalized twice. First, they have a serious health care condition that requires medical care—a situation they did not choose. Second, they are at the mercy of insurers who decide whether they will have coverage, or be cut off.

For the person with a preexisting medical condition, who has been lucky enough to get health care insurance through his or her job, the secondary fear is keeping their job.

If the job is eliminated, it may mean no more health care insurance—ever. For the person who wants to better himself or herself by taking a new job, or starting a new business, it may mean no more health insurance—period. We can all imagine that fear.

These insurance company decisions affect working people who play by the rules. They pay their insurance premiums when they can get coverage. But they find themselves in untenable situations.

They are unable to have the most basic insurance of all—for themselves and their families—to not have to worry about health care coverage.

It is demeaning to all Americans if people cannot better themselves and their families' situations for fear of losing health care insurance. This legislation will free many working people from the stagnation of being unable to accept new job opportunities.

The Health Insurance Reform Act guarantees that private health insurance coverage will be available, renewable, and portable to working Americans.

This legislation will make it easier for individuals and employers to buy and keep health insurance, even when a family member or employee has a preexisting condition. This legislation makes health care coverage portable so workers would no longer be locked into jobs or prevented from starting their own business for fear of losing their health coverage.

Small businesses and self-employed individuals are particularly victimized under the current system, because they lack the bargaining power of larger corporations. This legislation addresses their problem by encouraging them to form private, voluntary coalitions for purposes of purchasing health plans and negotiating with providers. By forming these groups, the costs of health plans would be more competitive for small employers and individuals, as compared to large employers, by giving them more clout in the marketplace.

This bill is the foundation for incremental health reform. Although this insurance reform legislation will not solve all of the problems of the Nation's health care system, it will promote greater access and security for health coverage for all Americans. Private insurance carriers will compete based on quality, price and service, instead of by their ability to refuse coverage to those who need it the most.

We all know there will be attempts to add amendments to this legislation. Some of those amendments are going to be very hard to vote against.

But we must keep focused on what it is we are trying to accomplish here.

We have the opportunity to provide access to health care insurance for millions of Americans who each and every day face the uncertainty of whether they will have coverage.

We can do something to allay those fears.

Passing this bill is a big step to ensuring health care coverage is available to working Americans. Other steps are needed—but they need not be taken today.

Let us first take this big step, and get the job started. And from there, we can and will, work to ensure even better health care for all Americans.

Mrs. MURRAY. Mr. President, during the 103d Congress many of us worked very hard to try to enact comprehensive health care reform. Despite our efforts and what felt like endless debate, politics prevailed and we came up emptyhanded. Perhaps we were too optimistic to think we could accomplish such broad and sweeping reforms in 1993; but unfortunately health reform remains a critical high priority issue for every family in this country.

Well, political realities are still very real factors in determining the outcome of legislative initiatives here in Congress. And here we are again discussing health care reform, only in a much more limited and focused way.

I am encouraged that the dialogue is open once again, and that we are taking positive steps toward addressing the many health-related issues confronting people across our country.

If I had it my way, we would not just be talking about health insurance reform today. We would be doing more, especially for our most precious resource, children. We should be doing more, like: ensuring better pre- and post-natal care for women and their babies; boosting rates of immunization even higher for children across our nation; working even harder to reduce adolescent health problems like teen pregnancies, substance abuse and STD's; improving child nutrition programs and strengthening our overall national commitment to children and family health and well-being.

But, I recognize the realities of the 104th Congress, and realize that sometimes progress comes one step at a time. I am proud to be a cosponsor of S. 1028, the Health Insurance Reform Act. I believe this is a commonsense measure that will directly benefit working families across our country. I sincerely hope we can pass this bill and send it to the President for his signature.

We should not weigh this bill down with amendments that could undo the broad bipartisan support we so rarely see in this Congress. I applaud Senators KASSEBAUM and KENNEDY for their ongoing leadership and commitment to enacting this legislation.

S. 1028 was carefully crafted so that we could pass it overwhelmingly and see it enacted into law with the full support of the White House. For this reason, I will join my colleagues in opposing any controversial amendments that are offered, even those which I support in principle. We should learn from the past, Mr. President, and not try to bite off more than we can chew.

As I said, this bill is not a cure-all. We need to do more, of course. But, this is a reasonable, sensible first step and will go a significant distance toward guaranteeing coverage for millions of American workers and their families.

Mr. President, we owe it to those families to pass this bill, and pass it in its current form. To do anything which could jeopardize the fragile coalition of support for this bill would be irresponsible and bad public policy.

I appeal to my colleagues not to try and load up this bill with amendments that will ultimately kill the bill. Let us show our constituents that we can work together and we can put political differences aside for the greater good.

Much of what we are discussing here will not be news to people in my State. In 1993, we passed one of the most comprehensive health care measures in the country, and even after serious modification the people in Washington still have many of these same protections.

In some areas, like limits on pre-existing conditions, my State actually has a shorter limit of 3 months, which the Kassebaum-Kennedy bill will not preempt.

Earlier I said that we owe it to working families to pass this bill. I am talking about people across the country who have to worry about their health care coverage, people who want to work and take care of themselves and their families. People like:

The working family of three. Dad wants to change jobs to a higher paying company, but his daughter has multiple sclerosis. Under this bill, he wouldn't have to worry that she will not be able to get coverage under the new employer's plan. He plays by the rules, he pays his premiums—this family will not be confronted with a preexisting condition exclusion period.

By requiring insurance companies and employers to credit prior insurance coverage, this bill will give workers with disabled family-members peace of mind and the flexibility to change jobs without fear of losing their insurance.

Or a woman who had breast cancer who is starting a new job. Today, she could possibly be denied coverage or charged a higher premium because of her cancer history. But, tomorrow—under S. 1028—because insurance companies and employers would be prohibited from discriminating against workers because of past medical problems, this woman would be treated no differently than anyone else covered under the same plan.

And, the new small business owner and her three children. Mom was abused in her former marriage and is trying to start over. A woman in this situation is going to need all the help she can get to provide for herself and her kids.

Today, she could be facing not one but two obstacles to starting her new life for herself and her family. First, she could be denied coverage for herself for any preexisting condition that was caused by her years of being abused. Second, she is a new business owner and maybe can't afford to purchase insurance for her handful of employees.

S. 1028 will give this woman a chance to succeed. She will not be discriminated against because of her preexisting condition, and under the provisions of this bill—small businesses and individuals are permitted to form cooperatives to purchase insurance and negotiate with providers and health plans. This arrangement will spread administrative costs and empower the participants to negotiate for better prices.

In other words, S. 1028 will help this woman and her children put their troubled pasts behind them.

Mr. President, the examples are endless. We have heard many stories today, and as Senator KASSEBAUM pointed out—we all know someone who could be helped by this bill.

Even though this bill may not be as comprehensive as I personally would like, I want to reiterate my strong hope that we can pass S. 1028 without any controversial additions and move forward to address the many other issues facing America's families. That's why we're here.

Mr. COHEN. Mr. President, I rise in support of S. 1028, the Health Insurance Reform Act, which promises to relieve the anxiety that millions of Americans are feeling that they may lose their health care coverage if they change their jobs, lose their jobs, or become ill.

Health care reform is certainly not a new issue for any of us. In fact, I introduced my first comprehensive health care reform bill back in 1990. It was 76 pages long and it dealt with these same issues—the availability and affordability of health insurance.

Over the subsequent 6 years, we have spent countless hours studying and debating the issue. If we have learned anything, it is that the American people want health care reform, but they want something they can understand and afford, and something that builds upon rather than reinvents the current system.

The American public wisely rejected the big-government approach proposed in the last Congress by the administration—that 1,400 page proposal literally collapsed under its own weight. More Government bureaucracy is clearly not the way to lower health care costs or ensure access to care.

But rising health care costs and expanding gaps in coverage are still very much on the minds of the American people. Poll after poll continues to show that health care remains a top priority. In fact, a poll conducted late last year by Princeton Survey Research Associates found that more Americans are concerned about their own health care coverage than they are about crime, high taxes, the political system, or the economy.

Americans clearly want health care reform. But what they mean when they say that is: "If I lose my job or get sick, I want to keep my health insurance and I don't want it to cost so much." They want Congress to enact sensible, targeted reforms to make health insurance more affordable and available, and to ensure that they do not lose the coverage that they currently have.

We have that opportunity today. Despite the partisan and sometimes bitter debate over this issue in recent years, there is now broad-based, bipartisan support for this bill, which would benefit as many as 25 million Americans each year, at no additional cost to the taxpayers. The legislation currently has 65 Senate cosponsors and is supported by a wide range of diverse organizations including the National Governors' Association, the U.S. Chamber of Commerce, the American Association of Retired Persons, and the American Medical Association.

The Health Care Reform Act of 1996 builds upon and strengthens our current private insurance system to make it easier for individuals and their employers to buy and keep their health insurance. It contains a number of common sense, market-based reforms that are designed to guarantee that private health insurance coverage will be affordable, available, and portable. Most of these reforms have been included in my own health care bills over the years, and they have also been common elements of legislation introduced in past Congresses by both Republicans and Democrats.

First, the bill limits the ability of insurers and employers to restrict or exclude coverage for pre-existing health conditions like heart disease or cancer, making it easier for workers to change jobs and eliminating job lock. Insurers will also be prohibited from dropping or denying coverage for an individual when they or a family member becomes ill.

The legislation also provides a safety net for people who lose their employer-paid coverage—insurers will now be required to sell them individual policies. Some have expressed concern that this provision will cause premiums in the individual market to skyrocket. However, our experience in Maine—where insurers have been required to sell policies to any individual who applies since 1993—shows that this change should have only minimal price consequences. In fact, one Maine insurer reduced rates for its individual policies by 16 percent last year.

And finally, the bill assists employers and individuals in forming private, voluntary coalitions to purchase health insurance and negotiate with providers and health plans. These kinds of arrangements can provide small employers and individuals with the same kind of purchasing clout enjoyed by large employers, making insurance coverage more affordable.

No one pretends that the reforms contained in this bill are the answer to all of our Nation's health care woes. They are targeted and they are specific. But they will provide all Americans with what Robert Samuelson of Newsweek has termed "a little more peace of mind."

We should not underestimate the importance of providing this peace of mind to people like Susan Rogan, of Herndon, VA, who testified before the Labor Committee last summer.

She told the committee that the experience of obtaining health insurance after her husband's employers had gone bankrupt had been a nightmare, even though he quickly found a new job. Insurers were reluctant or unwilling to cover the family because their daughter has cerebral palsy.

She urged us to work together, saying:

> It is your responsibility, in Congress, to find a solution to the insurance problems that have caused so much heartache for so many American families. We voted for you, and we expect no less of you.

And Susan Rogan is right. She should expect no less of us. It is our responsibility to work together and take this positive step forward to tear down the barriers that millions of working Americans and their families face in obtaining and keeping essential health care coverage.

I therefore join the chairman and ranking member of the Labor Committee in urging my colleagues to resist the temptation to weigh down this important piece of legislation with highly controversial or extraneous amendments.

Some of the amendments that may be offered today are ones that I would, under other circumstances, support. For instance, I have been a long-time supporter of Senator DOMENICI's legislation to provide people with serious mental illness with health benefits and coverage that are comparable to those provided to people with physical illness.

However, this is neither the time nor the vehicle, and I intend to vote against all such extraneous amendments. We simply do not want to run the risk of having this very sensible and eminently doable package grow into yet another 1,400-page bundle of expensive mandates, more Government bureaucracy, and untested proposals.

We should not let the ghosts of health reform past destroy the promise that this important piece of legislation holds for resolving some of the most serious problems plaguing our health care system, and I urge my colleagues to join me in supporting it.

Mr. GORTON. Mr. President, let me make an important point about this bill. It is very narrow in scope, addressing portability and health coverage for preexisting conditions. It in no way resembles the expansive Clinton health care proposal this body defeated 2 years ago.

In the summer of 1994, many hundreds of Washington state citizens gathered in Westlake Mall in downtown Seattle to protest the proposed

Government takeover of their health care. They were outraged by the hubris and the arrogance of that health care plan, and rightly so. The plan focused on setting up new bureaucracies, that it completely ignored the people who would have been affected by it.

This legislation takes a clear-headed approach, responding to one problem that people face regarding preexisting conditions. It follows the conclusions of the Senate health care task force, of which I am pleased to have been a member for several years. We came up with the lessons learned from the Clinton health care debacle, and topping the list was the fact that there simply cannot be a government-run health care system. Period. The only sane, responsible way to address particular problems that may arise is to take a very narrow, targeted approach. In other words, you don't solve a problem with grandiose, wholly unworkable schemes. You solve a problem with a commensurate response.

In this case, we have the problem of coverage for preexisiting conditions. The goals of this bill are strickly defined and few. They are to:

First, develop insurance reform legislation that builds upon and strengthens the current private market system;

Second, make it easier for individuals to keep and obtain private health insurance coverage, including measures to limit preexisting condition exclusions and expand portability;

Third, increase the purchasing clout of individuals and small groups.

With that said, let me enunciate what this bill will not do.

It will not require employers to offer or pay for health insurance coverage.

It will not require individuals to purchase health insurance.

It will not impose new and expensive regulatory requirements on individuals, employers, or States.

It will not create new Federal boards, commissions, or regulatory bodies.

It will not contain a standard benefit package or mandated benefits.

It will not subject ERISA plans to state regulation.

It will not impose any new taxes.

This is not "Clinton Lite;" this is a modest, narrow, targeted proposal. This is the way health care reform should be accomplished: not consumed with utopian visions and grand schemes of expensive government power, but realistic and down-to-earth.

I believe we have finally got it right. I know that many of my constituents in Washington State, and many Americans, are concerned any time Congress addresses the issue of health care reform. With the memory of the Clinton plan fresh in their minds, they certainly have reason to be wary. But I believe that, once they know what is in this bill, they will be pleasantly surprised. This Congress has neither the intention nor the desire to let the government take over American health care, the best health care system in the world. This Congress wants to take a very limited approach to specific problems.

The Health Insurance Reform Act is in concert with the beliefs of most Americans, who do not want government-run health care, but who do expect Congress to address and resolve certain problems in the system. That is what this bill does, and I am glad to support it.

Mr. GLENN. Mr. President, as a cosponsor of S. 1028, the Health Insurance Reform Act, I am pleased that the Senate is considering this important legislation, and I urge its passage. I commend Senator KASSEBAUM and Senator KENNEDY for their leadership in crafting this bipartisan measure which will help many working Americans keep important health insurance protection for themselves and their families.

The purpose of the Health Insurance Reform Act is to ensure that people who have employer-provided health insurance will not lose their insurance if they change jobs, lose their jobs or become sick. This legislation makes changes in the private insurance market to protect employees, and to make insurance more affordable for small businesses and individuals.

The Health Insurance Reform Act requires insurers and health maintenance organizations to provide and renew group coverage to employers with two or more employees who want to purchase it, and this coverage must be available to all employees regardless of their health status. In addition, this legislation makes insurance portable by limiting pre-existing condition exclusions and by requiring group to individual coverage.

S. 1028 limits to 12 months exclusions for pre-existing conditions which occurred within the 6-month period prior to receiving insurance coverage. This 12-month limit will be imposed only one time for individuals who maintain continuous coverage even if they change jobs or insurance plans. Individuals who lose employer-provided health insurance will be guaranteed the opportunity to purchase an individual policy if they had continuous coverage for 18 months in a group plan, if they have exhausted their COBRA continuation coverage, and if they are not eligible for coverage under another group health plan. These provisions will go a long way toward ending the current problem of job lock, and ensuring that people who have been participating in health insurance plans do not lose protection when they change jobs or become sick.

S. 1028 is not comprehensive health care reform. It does not provide universal coverage for all Americans, and insurance costs will be unaffordable for others. However, it is a very important step forward in addressing problems in our current health insurance system, and it will provide peace of mind to many working Americans who have health insurance but fear losing it.

Mr. HATCH. Mr. President, I rise in strong support of the Health Insurance Reform Act, S. 1028. This important legislation represents a significant and reasonable step in extending health insurance coverage to a larger segment of the American population.

I am proud to serve as an original cosponsor of this bill and would like to take this opportunity to commend the distinguished chairman and ranking minority member of the Committee on Labor and Human Resources, Senator KASSEBAUM and Senator KENNEDY, for the outstanding contribution they have made in helping to provide literally millions of Americans with peace of mind that they will not lose their health coverage.

As my colleagues are aware, insurance market reform is a bipartisan issue and it is something we have been working toward for many years. I am thinking back to the Bentsen-Durenberger bill which many of us cosponsored 4 years ago.

Indeed, as most of my colleagues know, the Senate and House have spent considerable time and energy over the past 5 years debating various proposals designed to address problems with our Nation's health care system overall.

Perhaps no other issue in recent years has captured the attention and concern of the American people than the issue of health care reform and the role of the Federal Government in shaping that reform.

But I submit that today is not the time to debate measures of such tremendous scope.

Unlike the President's approach, S. 1028 is targeted and narrowly focused reform aimed at assisting nearly 25 million Americans in obtaining health insurance coverage.

Most of us in the Senate recall the innumerable hours spent considering President Clinton's legislation that was ultimately rejected by the American people and by the Congress.

One of the lessons we learned from that endeavor was the need to provide for greater access to health insurance than what is currently available.

And access to health insurance is unquestionably one of the fundamental problems facing Americans today.

The current health insurance market provides too little protection for individuals and families with significant health problems and makes it too difficult for employers—particularly small employers—to obtain coverage for their employees.

The health insurance reform bill is specifically designed to address this problem.

It will reduce many of the current barriers to obtaining health coverage by making it easier for people who change jobs or lose their jobs to maintain adequate coverage, and by providing increased purchasing power to small businesses and individuals.

The bill will not only increase access to health care coverage, but will also provide portability of insurance coverage and increase the purchasing power of individual and small employers who wish to seek to purchase insurance.

Specifically, the bill restricts the use of preexisting condition limitations by insurance carriers.

Some insurers today impose preexisting condition limitations or exclusions on individuals when they first become covered by an insurer.

These exclusions may limit coverage of a medical condition for a certain period or longer or may exclude coverage of a medical condition—forever.

Under the provisions of S. 1028, insurers, HMO's, and self-insured firms would be limited in the ability to use preexisting condition limitations to no more than 12 months after the enrollment date.

In addition, benefit limits or exclusions could not be imposed for newborns, newly adopted children, children newly placed for adoption, or for benefits for pregnancy.

Another important component of this bill is the provision regarding the guaranteed issue of health coverage benefits.

Under this provision, an insurer or health plan is required to cover any group or individual who applies, without regard to health status or claims experience. The bill would require all insurers who offer group coverage to accept coverage for all groups that apply.

Insurers would be required to offer individual coverage to all individuals moving from group coverage to individual coverage as well. However, to be eligible for this guarantee, the individual must satisfy the following four criteria:

First, the individual must have been covered under one or more group health plans for at least the past 18 months;

Second, the individual must not be eligible for group health coverage, or, if eligible for continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985, or COBRA, or a similar State program, then they must have elected, and exhausted that coverage;

Third, the individual must apply for individual coverage not more than 30 days after the last day of coverage under the group plans, or the termination date of COBRA benefits; and

Fourth, the individual must not have lost group coverage due to nonpayment of premiums or fraud.

Accordingly, in order to be eligible for insurance coverage in the individual market, we have incorporated important benchmarks to foster individual responsibility and accountability in the purchasing or insurance plans.

We are all aware that this bill has engendered considerable debate on how it would impact existing premiums.

The American Academy of Actuaries has studied this issue in great detail and estimates that people who are newly eligible for individual coverage would pay an average of two to three times the standard-risk premium rate, unless States restrict premiums.

The Academy further states that S. 1028 will have no effect on individual insurance premiums for those currently purchasing coverage in the vast majority of States.

In States that restrict premiums, S. 1028 would lead to individual market premium increases in the range of 2 to 5 percent, spread out over a 3-year period.

Thus, I believe that fears the bill will lead to large increases in premiums are unwarranted. However, I recognize those concerns, and I will be monitoring this situation closely.

Another important provision in this legislation addresses insurance portability.

During our consideration of health care reform, it was clear that the use of preexisting condition provisions in insurance plans has contributed to a problem referred to as "job lock".

In effect, employees are locked into their current jobs because changing jobs might subject them to periods without health insurance coverage because of a preexisting health condition.

For an employee with a medical condition, or a dependent with a medical condition, loss of coverage during a limitation period, or worse, exclusion of coverage of the condition forever could mean significant out-of-pocket health care expenditures.

As a result, guaranteed issue and limits on the use of preexisting condition provisions by insurers provide needed portability of coverage for American workers.

It is also important to note that the legislation provides specific guidance with respect to State flexibility in compliance with this new law.

Federal provisions for group to individual portability only become effective if States do not have programs meeting Federal requirements for access.

S. 1028 will provide for state flexibility for compliance with Federal provisions.

State mechanisms could include guaranteed issue or open enrollment programs by one or more plans, a high risk pool, or mandatory conversion policies.

In my State of Utah, we have already enacted many of these reforms.

The legislation would permit a waiver from Federal law if a State could demonstrate that its law achieved the objectives of affordable individual market portability and renewability.

And finally, S. 1028 promotes group purchasing by small businesses by assisting employers and individuals in forming private, voluntary coalitions to purchase health insurance and negotiate with providers and health plans.

These coalitions will provide small employers and individuals with the kind of clout in the marketplace currently enjoyed by large employers.

It's important to note what this bill does not contain.

S. 1028 does not impose new, expensive regulatory requirements on individuals, employers or States.

S. 1028 does not create new Federal bureaucracies or agencies.

S. 1028 does not contain any new taxes, spending, or price controls.

S. 1028 does not require employes to pay for health insurance coverage.

And, S. 1028 contains no unfunded mandates on State, local, or Indian tribal governments.

In effect, this bill contains none of the onerous provisions contained in the ill-fated Clinton health care reform bill.

Mr. President, I will state in all candor that initially I had reservations about supporting this legislation.

As a general rule, I believe the Federal Government should not intervene in areas where consumer choice and natural marketplace conditions determine the level and costs of products and services.

And, indeed, in the past I have supported what I believe were true market-based reform proposals in the health care area. However, the problem of access to health insurance has long been a problem to millions of Americans.

This problem remains, and it will continue to remain until appropriate Federal action is taken.

Over the course of the past year, we have worked to develop and fine-tune the provisions embodied in S. 1028.

Most of these modifications were developed to more clearly reflect the intent of the bill.

These revisions were principally designed to provide more certainty to States and insurers as well as to respond to concerns that the Secretary of the Department of Health and Human Services was given too much discretion over alternative State programs.

I am pleased that the manager's amendment deals with concerns expressed to me from constituents in Utah over the need to revise the bill's provisions regarding conflict of interest language as it applies to purchasing cooperatives.

And, I would like to thank Senator KASSEBAUM's cooperation in resolving these issues.

This legislation will now permit insurers, agents, and brokers to serve on purchasing cooperative boards or be employed by a cooperative as long as they do not personally benefit from the sale of services or products to that cooperative.

I believe we have come as close as possible in this present political environment in developing a viable measure that will appropriately address the problem of access to health insurance for millions of Americans.

The General Accounting Office estimates that passage of S. 1028 will help at least 25 million Americans each year.

According to the GAO, an estimated 43 million Americans or 18.7 percent of the nonelderly population were without health insurance coverage for some period of time in 1995.

This bill will truly help people, and I believe it deserves our strong support.

It is clear that insurance market reform is one area which enjoys wide bipartisan support in both houses of Congress. The fact that the bill currently has 65 cosponsors and was reported unanimously by the Labor and Human Resources Committee serves as a testimonial to its strong bipartisan support in the Senate.

It is clear that this important piece of legislation with its strong bipartisan support has the potential to be signed into law by the President as he indicated in his State of the Union Address in January.

I commend Senators KASSEBAUM and KENNEDY, and all the cosponsors, and hope that we can move this key legislation forward today.

Mr. ROTH. Mr. President, I rise in support of the pending legislation. Labor and Human Resources Committee Chairman KASSEBAUM and Senator KENNEDY deserve to be commended for there efforts in crafting the bill before the Senate which assures that workers who intend to change jobs will no longer experience the fear of losing their health care coverage. Not only have Senator KASSEBAUM, other members of her committee, and their staffs labored many long hours to draft the bill, they have also successfully built a strong coalition of support. Thanks to Senator KASSEBAUM and Senator KENNEDY this bill is supported by big business, small business, a wide array of advocacy groups, many insurance companies, and many Americans.

While I do think the Kassebaum-Kennedy bill could be improved, I think it is a critical step forward. At a later time, I will join the majority leader in offering an amendment which makes health insurance more affordable.

The Kassebaum-Kennedy health insurance reform bill has an important focus. The bill will assist people who want and need to make necessary and correct decisions about their health care needs—people who work, people who join their group health care plans and have paid their premiums continuously for no less than 12 months. The bill eliminates "job-lock" for workers who fear they will lose their health coverage when they change jobs, and the bill eliminates the fear of losing coverage for individuals who have maintained their group coverage and have a preexisting condition.

Recently my office was contacted by a lady who has always been insured and paid her premiums. Yet she finds herself today in a situation where she is unable to obtain health care coverage because of a preexisting condition. Nancy Miller is 56 years old, after a divorce from a 27-year marriage, she was allowed access to continued group health coverage through her former spouse's employer plan at the group premium rate for 3 years. Mrs. Miller's 36 month COBRA coverage expires at the end of May. To make sure she will not have a gap in health coverage, Mrs. Miller has worked with her current insurer, called many other insurers, contacted our office, worked with an insurance broker and yet she has been rejected from every health plan she has applied to. Mrs. Miller has a preexisting condition. She can not get health care coverage because she contracted breast cancer 2 years ago.

Mrs. Miller's situation could apply to anyone, because anyone could get sick. Mrs. Miller has not gamed the system seeking insurance only when she needed it. For years she was healthy, and for her entire life she has been insured. The letter Mrs. Miller's insurance broker recently wrote her could be a letter received by many women. The following is the letter she received from her broker:

> This letter is to inform you that we have contacted all of our standard individual health insurance carriers and are unable to find one that is capable of writing a policy for you because of your pre-existing condition. We have been advised by all of the carriers that they will not consider you for insurance until you are 5 years out from your time of release from the doctor.

The Kassebaum-Kennedy bill will provide assurances to responsible Americans. In particular, the bill provides portability in two settings: When individuals change from one group health plan to another group health plan (group to group), and when individuals leave their group health plan and seek coverage as an individual policyholder in the market (group to individual).

For group to group portability, the bill establishes uniform Federal standards for insurers, health maintenance organizations [HMO's], and employers who self-fund their health plan. There is a broad consensus that these measures should be enacted, and a very broad coalition of business as well as the insurance industry and advocacy groups support these provisions. There is a need to establish uniform Federal standards for the group to group portability measures as the bulk of employer sponsored health coverage is self-funded and exempt from State regulation. Under the Employee Retirement Income Security Act [ERISA], the Federal Government regulates private self-funded employer plans. ERISA prohibits States from regulating employer sponsored self-insured plans. Therefore, States cannot achieve all the reforms needed to assure portability when workers change jobs because the Federal ERISA law prohibits States from regulating any group health plan which is self-funded.

For those individuals leaving their group health care coverage and seeking coverage in the individual market, the bill provides access to coverage to individuals. The bill also provides States with important flexibility to meet the goals of this section of the bill. While there have been concerns raised regarding the bill's provision to guarantee that insurers make health coverage available to individuals, I think this section is important if we are to truly guarantee portability and access to coverage. States currently regulate insurance provided to individuals who are not in a group plan. The Federal role in this area of the marketplace has been minimal; therefore I agree with the bill's goal to retain a strong state role in the individual market. This section of the bill provides the needed flexibility for States to be creative.

It's important to note that the bill builds on responsible behavior because it requires that individuals have previous continued group health care coverage in order to qualify for the portability provisions. This is the case with Mrs. Miller who responsibly maintained her group coverage.

The pending bill provides that health plans can not impose preexisting condition limits on individuals who had prior group coverage. In fact no preexisting condition limits can be imposed on individuals who join a group health plan if they had continuous group health coverage for the previous 12 months. For individuals leaving a group plan, they must have had 18 months of continuous coverage in order to qualify for an individual policy without any preexisting condition limits. In either case, if individuals have less than the required months of coverage, their new plan would have to credit them for the time that they were covered.

Most Americans with private health insurance receive their coverage through their employers, and the majority of the uninsured are also tied to the workplace. The Kassebaum-Kennedy bill will strengthen the employer-based health care system we now have, and it will help responsible Americans like Mrs. Miller retain their coverage. In fact, the General Accounting Office estimates that as many as 21 to 25 million people per year could be affected by Federal portability standards in all markets. This is a good first step.

Mr. KOHL. Mr. President, I rise as an enthusiastic cosponsor of the Health Insurance Reform Act of 1995 and call on my colleagues to keep this straightforward measure clear of legislative land mines.

Passing this bill will help address a problem all too common in our health care system—the fact that people can lose their insurance coverage when they get sick even if they have paid their premiums.

Mr. President, there are a number of bipartisan initiatives that can and should be passed before we adjourn this fall. Chief among these proposals is this Health Insurance Reform Act.

Under the strong bipartisan leadership of Chairman KASSEBAUM and Senator KENNEDY, the bill unanimously passed the Labor and Human Resources Committee 8 months ago. It has since languished in the confounding waste zone between full Committee endorsement and Senate floor action because some are opposed to even narrow health reform.

Last Congress the American people called for comprehensive health reform. Unfortunately, consensus could not be reached on a single plan. Instead, the country watched in disappointment as a golden opportunity for health reform fizzled out. Partisan fights and interest group influence won the day.

It will serve no good purpose to rehash the health reform battles of the past. We now have the opportunity to move beyond party squabbling. Congress can clearly demonstrate the will to enact a bipartisan health reform bill. Or we can choose to remain gridlocked and at the mercy of special interests. I believe that choice is an easy one.

Fortunately, there still is a broad consensus in this country in favor of health insurance reform. Americans want to know that they won't lose coverage if they or someone in their family gets sick. Individuals and businesses want the ability to pool resources to get the best insurance coverage possible at an affordable price.

The Health Insurance Reform Act does not seek to change our Nation's health care structure drastically. Instead, it takes a careful approach to remedy widely acknowledged problems in the health insurance market. For the first time, preexisting condition exclusions would be limited, health coverage availability and renewability would be guaranteed, and small business group purchasing would be easier. At the same time, State flexibility would be maintained.

Many States have taken the initiative and made notable progress by enacting market-related reforms. But States are unable to achieve the most effective reforms because some businesses have federally protected self-insured health plans. This bill provides continuity by applying the same standards to all employment-based plans.

The bill is also notable for what it does not do. It won't require employer mandates, limit provider choice, set up new bureaucratic health structures, or create a global health spending budget.

Many strongly believe that health care reform should go farther than this bill. In fact, many Senators, including myself, worked hard last Congress on comprehensive measures to control health costs and expand health coverage. But those efforts turned out too complex to retain broad support.

We now have a more narrow consensus measure that can pass. Yet some Senators may offer a whole host of amendments to address special concerns. A few of these are popular, others problemmatic. The sponsors of this bill have taken careful steps to ensure that the bill is narrow and bipartisan. It should remain that way. For that reason, I too will oppose controversial, special interest amendments.

As we learned from previous attempts at reform, a consensus bill may be the only way we can pass health reform this year. I urge my colleagues to refrain from condemning this bill under a weight of controversial additions.

Nonetheless, we should not hold out on improvements if they are bipartisan and avoid endangering final passage.

As a long-time supporter of health care fraud and abuse legislation, I believe it is imperative that we act to tackle rampant abuse. If strong antifraud provisions, such as those included in Senator COHEN's anti-fraud bill, can be added without stalling the bill, they most certainly should. Similarly, provisions helping the self-employed afford insurance and incentives for long-term care may be possible.

However, there are other compelling issues that, if attached to the Health Insurance Reform Act, may kill this bill. We should not ingore those issues. They can and should be taken up at a later date.

Mr. President, if we keep this bill clean, we will take a huge step toward addressing compelling insurance problems facing the Nation. In the process, Congress will prove that it can act in a bipartisan fashion to help hard working Americans.

There are over 40 million people without health insurance in our country. I am proud to say that Wisconsin has one of the lowest numbers of uninsured people. However, there are still too many Wisconsinites without health coverage and still too many who fear losing their coverage.

The Health Insurance Reform Act will not solve all of the problems plaguing our health care system, but it does fill a huge gap by solving job lock. Workers will no longer have to live with the fear that if they change their jobs, they may lose their health coverage.

No doubt, there is special interest opposition to this bill. It is a rare legislative initiative that doesn't have critics. But this bill is a positive first step.

The Health Insurance Reform Act does not provide a handout to the public. No one gets a free ride at the expense of insurance companies. People must maintain their payments for a full year-and-a-half before qualifying for coverage guarantees. They also must be ineligible for another group policy and exhaust their COBRA benefits. Finally, people will still have to pay the rates charged by insurance companies. These requirements were added to minimize affects on insurance premiums. However, it is important to note that States would not be prevented from going further on insurance reform.

Mr. President, you cannot satisfy everyone, but this bill comes close. While there are opponents and critics on both sides, a large majority of Americans support passage.

If Senators need more impetus to allow this bill to go forward, the General Accounting Office estimates that passing the Health Insurance Reform Act will help 25 million Americans each year obtain or retain health coverage. That evidence alone is a compelling reason to pass a clean bill.

Mr. President, Americans have had little proof this session that Congress can act to help solve problems plaguing their families. Let's give them one good reason to have greater confidence in their elected officials and this institution. We should get the job done and pass the Health Insurance Reform Act now.

Mr. BAUCUS. Mr. President, I rise in support of this bill. I am very pleased to see that today, Congress is putting aside its petty divisions and rivalries to work together on a bill that will help people. Today, when the Senate votes on the Health Insurance Reform Act, we show our support for a bipartisan effort that will address the health needs of millions of Americans and thousands of Montanans.

RECORD OF THE CONGRESS

That is a truly important step forward for this Congress, and not only on health policy. At the beginning of 1995, a lot of Montanans had high hopes for this Congress.

But those hopes have vanished in the mess of bumbling revolutionary experiments and government shutdowns which the leadership, particularly in the House has created.

Rather than make people a little more prosperous and secure, the Congress seems to have deliberately done just the opposite. It has gone from closing Yellowstone and Glacier, to a proposal to let Medicare wither on the vine, to bills that would set up a Commission on closing National Parks and dump all the public lands on the States.

The fact is, the 104th Congress has let our state down pretty badly. All too often, rather than do something good and positive for the people, it has done something irrational and destructive.

A SECOND CHANCE

But this health insurance reform is a second chance for the Congress. A sign that with some more maturity and experience, we can accomplish something good.

This bill, taken as a whole, means some more security and stability for hard-working people.

It means that if you lose your job, you won't also face the loss of your health insurance and the constant threat of lifelong debt in the case of an accident.

It means that if you own a small business, you will have more ability to buy insurance for yourselves, your family and your employees.

And it means you can upgrade your skills and change your job without being denied insurance due to health troubles.

BELINDA BYRD

Look at the case of Belinda Byrd from Great Falls, Montana.

She wrote to me last year to explain her case and that of her sister. Belinda suffers from hydrocephalus, or "water on the brain," and she is about to undergo her fourth brain surgery.

She is fortunate enough to receive coverage through the Government Champus program. But she wrote to me about the problem with pre-existing conditions because of the problems her sister is having getting health insurance. Belinda's sister has the same condition and can not get affordable health insurance because of her health problem.

MONTANA AND HEALTH INSURANCE

Mr. President, that is wrong. We should not tolerate it even in one case. And the sad fact is that it is not just one case. Thousands of Montanans, and millions of Americans, have concerns just about as grave as those of the Byrd sisters.

As I have walked across the State in the past 2 years, a few subjects come up everywhere. In towns, on ranches, at small businesses, and in roadside coffee shops. The need to raise the minimum wage. The low cattle prices. And the fear of losing health insurance.

For individuals, today's bill will make a big difference. It will let self-employed people deduct most of their health insurance costs. Big businesses can already do this. Folks who are self-employed and buy their own health insurance out of pocket should be able to deduct it too. That is basic fairness and decency. With this reform, we raise the deduction from today's 30 percent of insurance costs to 80 percent. It is not all the way to 100 percent, but it is a very big step forward.

For farmers, ranchers, and small business owners, health insurance will be available and more affordable. We may have to do more down the line, but we are making a good start here.

And for people like the Byrd sisters who have pre-existing health conditions, this means justice and security. No longer will having an illness, no matter how treatable it is, mean going without affordable health insurance.

MEDICARE FRAUD AND ABUSE

Finally, we take some initial steps to fight health care fraud and abuse, particularly in Medicare and Medicaid. Today, anywhere from 5 percent to 10 percent of our Nation's entire trillion dollar health care bill goes to fraud. We need to step up our Federal efforts to fight this problem and I support efforts to do so.

However, I would caution that the savings we get from fighting fraud and abuse in Medicare or Medicaid must go to guarantee solvency for these essential programs. It should not pay for new tax breaks as last year's Medicare cuts would have done, nor to pay for untested ideas like Medical Savings Accounts.

CONCLUSION

Mr. President, I am very happy to be here supporting this bill. It is a sign that Congress is getting the message. Moving away from partisanship and revolutionary experiments. And moving toward practical, effective steps that makes life better and more secure for Montanans and all Americans.

I appreciate the work of the Labor Committee Chair, Senator NANCY KASSEBAUM and her counterpart, Senator TED KENNEDY. They have done this country a great service with their work on crafting this bill and moving it through the legislative process. I hope it will get the Senate's support.

Mr. BRADLEY. Mr. President, I am very pleased to lend my strong support to the Kennedy-Kassebaum health insurance reform bill. At long last, we are actually moving forward on the basic reforms that will make health insurance once again serve the function of insuring and protecting American families against devastating illness or injury.

The problem of health insurance is right at the center of the economic insecurity gripping American families. The 40 million or so people who have no insurance live in fear that a headache or stomach-ache will turn out to be a costly illness. But other workers, who have health insurance, are hardly blessed with security and comfort. As the American economy changes, they know that they can lose their jobs at any moment, with no certainty of being able to find new insurance, or if they do find new insurance, it might not cover the one medical concern that is most likely to become a problem.

We have lost the idea of health insurance as real insurance, in which we all pay premiums to spread our own risks over a lifetime, and to share risks across a larger number of people. Instead, health insurance has increasingly become a short-term privilege, that comes and goes with the job, that only comes with certain kinds of jobs, and that comes with exceptions and uncertainties. When you combine that with the increasing insecurity about jobs, working families can't afford the risk. People are trapped in jobs just to keep their insurance, rather than moving on to find the job that would better use their skills, or setting out as an entrepreneur, as many dream of doing.

This bill would restore the original concept of insurance to health care. It would allow workers to change jobs without putting insurance coverage at risk, to move from group to individual plans, and to buy insurance despite a preexisting condition. It will help small businesses afford insurance, and help people who want to start their own businesses to do so without worrying about the arbitrary nature of health insurance. It will help only some of the 40 million without insurance to become insured, but it will prevent that number from continuing to increase.

Mr. President, I hope that after this legislation becomes law, we will not stop here but continue to closely watch the health insurance market and make whatever further changes need to be made to keep the focus on health and security. The first such change, which I hope will occur by Mother's Day, and perhaps even before this bill gets through conference, is to end the practice of insurance companies forcing new mothers and their infants out of the hospital within a few hours, even against the best judgment of the mother's doctor. In general, I am concerned that this bill, because it is so narrowly targeted at certain insurance practices, could have unintended consequences. I hope that if rates do increase sharply, or if insurers cut back certain areas of business, Congress should be willing to look at slightly broader solutions that would address the health care crisis without unintended consequences.

I am generally confident, however, that this legislation will serve the purpose of protecting American families from the double risk of economic and health insecurity. I hope action will be completed quickly so that the President can implement these reforms without delay.

Mrs. FEINSTEIN. Mr. President, I rise to support the Kennedy-Kassebaum legislation on health insurance reform. This legislation, while not the comprehensive health care reform called for earlier, takes an important and long overdue step in addressing the insecurity many Americans feel about their health insurance.

Americans expect their insurance to be there when they need it. That is why we buy it. And yet many Americans find that, just when they need their health insurance, it is not there, or they are denied coverage, or they can't afford the policy premiums.

This bill provides a measure of health security in a number of ways.

No arbitrary, discriminatory terminations: This bill protects employers from having their policy terminated if their employees incur large medical costs. Insurers could not impose preexisting condition limitations for more than 12 months. This means that employees could change jobs without fear of losing their insurance.

Guaranteed access: Under this bill, insurers are required to offer insurance to all groups, regardless of the health status of any member of the group.

Nongroup coverage guaranteed: It protects people who leave their job from losing access to coverage. People who have had 18 months of prior employer group coverage and have exhausted their extended coverage—through COBRA—would be guaranteed access to an individual policy.

Enlarging small groups: The bill creates incentives for small employers to form cooperatives to strengthen their bargaining power with insurance companies.

Need for the bill: The need for insurance reform is very real:

Over 41 million Americans have no insurance. That is a 4-million increase since 1993;

In California, almost 23 percent of the population is uninsured—7.4 million people. And two-thirds of these uninsured people are under the age of 34;

Twenty-three million Americans lose their insurance every year;

Eighteen million people change insurance policies annually when someone in their family changes jobs;

Employer sponsored insurance is declining, going from 61 percent of employed workers in 1986 to 54 percent in 1996;

In California, it's even worse with only about 50 percent of people covered by employer sponsored insurance in 1994; and

With California's unemployment remaining above 7 percent for the last 5 years—employer sponsored insurance is getting more scarce.

Preexisting conditions: The problem of people being denied insurance because of preexisting health conditions is one of the most serious concerns people have today about their health care.

As a matter of fact, 81 million Americans have preexisting health conditions that could affect their health insurance;

Over 9 million Americans changed jobs in 1995; and

Millions more want to change jobs. The GAO estimates that as many as 4 million employees are "locked into" their jobs because they fear that the insurer for the next employer would refuse to insure them because of a preexisting health condition.

Take cancer as an example:

Over 1 million people are diagnosed with cancer each year. Over 10 million Americans alive today have a history of cancer.

About 184,300 new cases of breast cancer will be diagnosed this year—the most common form of cancer among women. And, 44,300 will die of breast cancer this year.

We probably all have some condition. And yet most policies sold to individuals, and over half of all plans provided by employers, deny coverage for some period of time for the conditions most likely to require insurance.

This bill addresses this serious problem by prohibiting insurers from imposing preexisting conditions for more than 12 months.

The Problem for Small Employers: Small employers acting alone often lack the leverage to negotiate good prices and benefits that large employers can get. More than half of all uninsured employees work in small firms.

Administrative costs are higher for small groups. One survey shows that health costs for large employers declined 1.9 percent in 1994, while small employers had an increase of 6.5 percent.

This bill creates incentives for small employers to form cooperatives to strengthen their bargaining power with insurance companies.

This approach can work. In 1993, California formed a health insurance purchasing cooperative for small businesses; 2,500 small businesses joined.

One year after formation, rates were 10 percent to 15 percent lower than conventional insurance plans.

Individuals: Finally, there are 10 to 20 million individual Americans seeking to buy insurance on their own. These people, who are not part of a large pool where risk can be offset, often find themselves excluded or unable to afford the premiums.

Genetic discrimination: I especially appreciate the agreement of Senators KASSEBAUM and KENNEDY to include in the managers' amendment provisions barring genetic discrimination by employer-based plans.

The language included in this bill is similar to S. 1600, a bill I introduced with Senator MACK, to prohibit health insurers from denying health coverage based on genetic information of the insured or applicant for insurance

Last fall, as co-chairs of the Senate Cancer Coalition, Senator MACK and I held a hearing on the status and use of genetic tests. Witnesses testified about the great promise of genetic testing in predicting and managing a range of diseases, but they also cautioned about the potential for discrimination.

In the past 5 years, there has been a virtual explosion of knowledge about genes. Scientists are decoding the basic units of heredity.

We know that certain diseases have genetic links, including cancer, Alzheimer's disease, Huntington's disease, cystic fibrosis, and Lou Gehrig's disease. Altered genes play a part in heart disease, diabetes, and may other more common diseases.

These advances pose some potential problems. Witness after witness at our hearing discussed the potential and the reality of health insurance discrimination based on genetic information.

They recounted actual cases where insurers denied or refused to renew coverage based on genetic information. This type of discrimination could have a catastrophic impact if it is not addressed:

About 15 million people are affected by one or more of the over 4,000 currently identified genetic disorders; genetic disorders account for one-fifth of all adult hospital occupancy, two-thirds of childhood hospital occupancy, one-third of pregnancy loss and one-third of mental retardation; and an even larger number of people are carriers of genetic disease. The June, 1994 issue of Scientific American estimated that every person has between 5 and 10 defective genes though they often are not manifested.

Insurance companies are poised to discriminate:

In a 1992 study, the Office of Technology Assessment found that 17 of 29 insurers would not sell insurance to individuals when presymptomatic testing revealed the likelihood of a serious, chronic future disease.

Fifteen of the thirty-seven commercial insurers that cover groups said that they would decline an applicant; and

Underwriters at 11 of 25 Blue Cross-Blue Shield plans said they would turn down an applicant if presymptomatic testing revealed the likelihood of disease.

The study also found that insurers price plans higher—or even out of reach—based on genetic information.

Another study conducted by Dr. Paul Billings at the California Pacific Medical Center, reached similar conclusions.

Here are a few examples of real-life cases:

An individual with hereditary hemochromatosis—excessive iron—who runs 10K races regularly, but who had no symptoms of the disease, could not get insurance because of the disease.

An 8-year-old girl was diagnosed at 14 days of age with PKU—phenylketonuria—a rare inherited disease, which if left untreated, leads to retardation. Most States require testing for this disease at birth. Her growth and development proceeded normally and she was healthy. She was insured on her father's employment-based policy, but when he changed jobs, the insurer at the new job told him that his daughter was considered to be a high risk patient and "uninsurable."

The mother of an elementary school student had her son tested for a learning disability. The tests revealed that the son had Fragile X Syndrome, an inherited form of mental retardation. Her insurer dropped her son's coverage.

After searching unsuccessfully for a company that would be willing to insure her son, the mother quit her job so she could impoverish herself and become eligible for Medicaid as insurance for her son.

Another man worked as a financial officer for a large national company. His son had a genetic condition which left him severely disabled.

The father was tested and found to be an asymptomatic carrier of the gene which caused his son's illness. His wife and other sons were healthy.

His insurer initially disputed claims filed for the son's care, then paid them, but then refused to renew the employer's group coverage. The company then offered two plans. All employees except this father were offered a choice of the two. He was allowed only the managed care plan.

A woman was denied health insurance because her nephew had been diagnosed as having cystic fibrosis and she was found to carry the gene that causes the disease. The insurer told her that neither she nor any children she might have would be covered unless her husband was determined not to carry the CF gene.

These are real horror stories.

If people with genetic conditions or predispositions cannot buy health insurance on the private market, they usually have nowhere to turn. To qualify for Medicaid, the primary public health insurance program for the nonelderly, families have to "spend down" or impoverish themselves.

Fear of discrimination can also have adverse health effects. If people fear retaliation by their insurer, they may be less likely to provide their physician with full information. They may be reluctant to be tested. This means that physicians might not have all the information they need to make a solid diagnosis or decide a course of treatment.

This bill can help make health insurance available to many who need it and who want to buy it. It can bring peace of mind to millions of Americans. It can restore insurance to what insurance is supposed to be.

I hope my colleagues will join me today in voting for this important bill.

Ms. SNOWE. Mr. President, I rise in support of The Health Insurance Reform Act of 1995, and would like to thank the Chairwoman of the Labor and Human Resources Committee, Senator KASSEBAUM, for bringing this common sense health care reform bill to the floor. Her knowledge and efforts in the area of health care have made progress on this issue possible, and her ability to craft consensus on this complex issue deserves enormous praise from both sides of the aisle.

I would also like to compliment the ranking Member, Senator KENNEDY, and the rest of my colleagues who serve on the Labor and Human Resources Committee—the strong bipartisan vote that brought this bill out of Committee restores my hope that bipartisanship is not completely lost in this Chamber.

It has been interesting to me, having "survived" the health care wars of the last Congress, to read some of the things that have been written about this bill. Talk about role reversal—you now have some members on this side of the aisle complaining that S. 1028 does not go far enough, and we have members on the other side of the aisle complaining that the bill isn't small enough. What a difference a year makes!

But one thing that has not changed is the fact that the American people continue to demand changes in the health care system. This bill, while not as large or as complex as the changes we considered in 1994, would provide security to millions of Americans—25 million according to the General Accounting Office. It would reassure them that their health care coverage could not be taken from them if they changed jobs, if they became pregnant, if their family situation changed, or if they lost their jobs.

It does not solve all our Nation's health care problems—but we tried the complicated, complex, approach with a more than 1,000 page bill in 1994 and we got nowhere. So what is wrong with taking a step in the right direction? It doesn't mean that this is the only change that Congress can or should make.

It is said that every journey begins with a single step. So let us consider the Kassebaum-Kennedy bill before us today as Congress' first step on the road to overhauling our health care reform system so that all Americans will have access to affordable, quality health care by the provider of their choice that can never be taken away.

The Health Insurance Reform Act of 1995 will achieve part of that shared goal by ensuring access to health care that can not be taken away. It will ensure that workers who are offered a new job opportunity with a different company will be able to accept it—instead of turning it down because they are afraid that a pre-existing condition will prevent them from obtaining health care coverage at their new firm.

It will ensure that workers who lose their job and have had insurance coverage for the last 18 months will be able to obtain an individual policy. They will still have a lot to worry about—but at least they will know that they can obtain insurance for their family.

And it will ensure that small businesses will no longer find themselves dropped from the insurance roles because one of their workers has medical problems.

Every Senator—every Member of Congress—has received letters or spoken with individuals who have been denied coverage or had their coverage—or their firm's coverage—dropped because of a preexisting condition. Yet these are the people who need the coverage most. It is estimated that 81 million Americans suffer from a preexisting medical condition that endangers their access to health care coverage. This bill will provide them that protection.

The Kassebaum-Kennedy bill restricts health insurance exclusions on preexisting conditions by prohibiting insurers and employers from limiting or denying coverage under group plans for more than 12 months for a medical condition that was diagnosed or treated during the previous 6 months. For example, if an individual had been covered under another employer's plan for 8 months, they would only have to work for 4 months in their new job before being covered.

The bill also prevents group health plans from excluding any employee from coverage based on health status and requires insurers to renew coverage for both groups and individuals as long as the premiums were paid.

Once an individual had been covered for 12 months, no new pre-existing condition could ever be imposed, even if they changed jobs or insurance plans.

The bill also will help make health care coverage more affordable for America's small businesses by lifting barriers to the formation of private, voluntary coalitions to purchase health insurance. For states like Maine, where small businesses are the backbone of our economy, this provision will be particularly helpful. Banding together to obtain health insurance coverage will give our small businesses the ability to spread the risk among a larger population and to use their negotiation power to get quality coverage at the best price. This bill will give employers and employees the ability to obtain quality coverage at a competitive price.

The Health Insurance Reform Act of 1995 is a commonsense approach to a serious problem in this country—access to affordable, quality health care that can never be taken away. It is not the complete answer to our health care problems, but it is a big step in the right direction and will help millions of Americans retain their health care coverage.

I would like to address one of the arguments being made against this bill. Opponents of reform have argued that while the bill ensures access, the practical problem will be that the cost of premiums will soar, making coverage unaffordable for many. The American Academy of Actuaries, however, has estimated that any premium increases would be quite small, ranging between 2 and 5 percent. In fact, this potential increase is lower than the increases we have seen in recent years: over the last 10 years the average rate paid for individual insurance premiums has increased between 8 and 15 percent annually.

And in my own State of Maine, which has had a law on the books guaranteeing issue for employers with fewer than 25 employees since 1992 and guaranteed issue for individuals since 1993, these changes have not resulted in premium increases that are outside the bounds of the normal increases in the cost of health care coverage.

By passing this bill we will be renewing our commitment to the American public that we have heard and have understood their demand that we act on health care reform. It will provide security for millions of Americans who currently fear losing their health care coverage, and will provide access to more affordable coverage for our small businesses as they band together to enhance their purchasing power. Passage of this bill will leave us with a long road ahead of us to address the outstanding issues of health care reform, but at least we will finally be on the road.

I urge my colleagues to join me in supporting passage of this bill and I yield the floor.

Mr. CONRAD. Mr. President, I want to express my strong support for S. 1028, the Health Insurance Reform Act.

Over the past several years, access to health care has been one of the most important issues facing Americans. Far too many Americans—over 40 million this year—are uninsured, and an equal number are affected each year by preexisting condition exclusions and the job lock that results when workers fear that they will lose all or part of their insurance if they change jobs.

Two year ago, I and many of my colleagues spent countless hours trying to find a compromise health care reform bill that would ensure access to health insurance and health care, maintain choice and quality for consumers, and control the skyrocketing growth in health care costs. Given the importance of this effort to millions of Americans, I was disappointed that our effort to find a moderate solution to these issues was blocked.

The bill before us today takes a modest step in the right direction. It attacks the most egregious barriers to health insurance: the use of preexisting condition exclusions to deny coverage to those who most need health insurance, and the lack of portability when workers change jobs. Addressing these issues will guarantee access to health insurance for an estimated 25 million Americans who would otherwise be subject to these barriers.

However, it is important to remember that, although this is an extremely important step, it is only a first step. It guarantees access to health insurance, but it does not guarantee that the available insurance will be affordable. And, as a representative of a rural State, I wish this bill improved access to health care services in medically underserved areas. Thus, when we complete the first step by enacting this bill, our health insurance reform journey will not be complete. There is lots of room for further progress in making health care available and affordable.

Mr. President, with that caveat, let me explain why this bill is so important. Today, millions of Americans are denied insurance because they or someone in their family have so-called preexisting conditions. This means the family of a child born with a heart murmur can't find insurance because no insurance company wants to take the risk of covering the costs of treating this heart condition. And it means that someone who has paid insurance premiums through an employer-sponsored plan but then leaves that job because she needs a major medical procedure—for example, an organ transplant—may not be able to get insurance when she tries to return to the workplace. That's just wrong. No one should be forced to stay in a job she hates because she fears she will lose her health insurance if she tries to change jobs. And no one who has paid insurance premiums faithfully for years should lose his insurance because he becomes sick and an insurance company refuses to renew his employer's policy.

This bill fixes these problems. It strictly limits preexisting condition exclusions when a person or a family applies for health insurance for the first time. It prohibits any preexisting condition exclusions for people who have faithfully paid their insurance premiums for at least 18 months and then need to get new insurance because they change jobs or lose their jobs. This means that people who change jobs can rest assured that their new insurance policy will fully cover them.

The bill also requires insurance companies to provide coverage to any employer with two or more employees. This keeps insurance companies from denying insurance to certain types of business just because the company thinks the employees are likely to get sick. It prevents the cancellation of coverage for a company just because one of its employees has gotten sick and incurred large medical costs. And it allows small businesses and other groups to band together in voluntary cooperatives to bargain as a larger group for lower premiums and better coverage.

Finally, the bill requires individual insurance companies to provide coverage to individuals who lose their job or become self-employed and exhaust their conversion coverage under COBRA. Coming from a State with large numbers of self-employed farmers and other small business men and women, I am keenly aware of the fragility of the individual insurance market. Average premiums in this market are much higher than in the group insurance markets because of adverse selection.

Although critics of this so-called group-to-individual portability provision greatly exaggerate its likely effect on this market, their arguments are not groundless. This provision will result in more sick people entering the individual market. In order to prevent this from greatly increasing premiums for those who are already in this market, I hope States will proceed very carefully in applying rating restrictions that could inadvertently worsen the adverse selection inherent in this market. I am encouraged that the bill gives States great flexibility in designing their own approaches to meet the goals of this legislation. This allows them to develop innovative solutions tailored to the special needs of their population while ensuring that workers still have access to affordable health insurance without unreasonable preexisting condition exclusions.

Mr. President, this legislation takes a major step forward in reforming the private insurance market. It removes the biggest barriers to health insurance and will enable Americans to change jobs freely without fear of losing all or part of their insurance coverage. I urge my colleagues to reject the controversial special-interest provisions added in the House that threaten to kill this important effort, and to instead pass a bill that commands broad bipartisan support.

Mr. CAMPBELL. Mr. President, I take this opportunity to support the health insurance reform bill, offered by Senators KASSEBAUM and KENNEDY. I am pleased to be a cosponsor of this legislation.

Reforming our Nation's health care system has been a concern for many Americans. I believe the bill before us today, although limited to the health insurance industry, is a significant step toward addressing some of the issues we face with health insurance—cost, portability, and preexisting conditions. Although this legislation will not fix all of our health care problems, I think we all need to recognize that it does make some progress toward addressing these issues.

Currently, reports indicate there are an estimated 40 million uninsured Americans. This, in and of itself, highlights one of the biggest problems within the health care industry—the availability of affordable, flexible insurance policies.

All too often, people are forced into a situation where they feel they must remain in a job they would rather leave just because they have long-term health care needs and have no other source for insurance other than through their employer. This "job lock," coupled with skyrocketing health care costs, makes the prospect of paying for your own medical costs without insurance, a frightening, and financially crippling situation. People simply can't afford to take this risk.

Over the past few years, my home State of Colorado has taken a very progressive approach in dealing with the issues of health insurance portability and preexisting conditions and has worked cooperatively with the health insurance industry to develop what everyone seems to recognize as a positive step forward. I have often had constituents tell me how surprised they are to learn how little other States have done in the area of health insurance reform. The Colorado State legislature was instrumental in making this law, and in conjunction with employers, have forged a partnership that seeks to cover as many Coloradans as possible in the most cost-effective manner. In fact, many of the safeguards and reforms already instituted within the State of Colorado are very similar to the Kassebaum-Kennedy bill. Currently, there are roughly 20 States that don't have this kind of insurance protection, and I believe that through this bill, we can cooperatively work to mirror at the Federal level some of the provisions the State of Colorado already enjoys.

I feel this bill will establish a much-needed standard for the health insurance industry and will work toward achieving the goal that all Americans have access to more cost-effective and affordable insurance. I don't believe anyone can deny the need for this.

Mr. President, I yield the floor.

Mr. SARBANES. Mr. President, I rise today to express my support for S. 1028, The Health Insurance Reform Act of 1995. While S. 1028 is not the comprehensive reform of our health system which would be necessary to guarantee quality health care for all Americans, it does make important strides in reducing the barriers to coverage for over 25 million people in this Nation.

The legislation before us today, S. 1028, would attempt to make modest incremental reforms in the health insurance market by addressing only those provisions upon which there is broad bipartisan agreement. In fact, the President and over 65 of my Senate colleagues are in agreement, supporting this legislation which would have an immediate impact on the lives of over 25 million people.

For these Americans who are unable to change jobs, who cannot leave their jobs to start a new business, or who lose their jobs, S. 1028 would provide an assurance of continued access to health insurance coverage. It would end the incidence of job lock in this country by limiting the ability of health insurers to deny coverage for people with preexisting medical conditions. Once an initial exclusion period of no longer than 12 months was exhausted no preexisting condition exclusion could ever be applied to a policy holder again. It would also guarantee that a group or individual who purchased an insurance policy and faithfully paid their premiums, could never have their coverage taken away from them or canceled.

Mr. President, the health care debate is one that goes to the heart of the quality of life of all Americans. Access to quality health care is a fundamental human need and is in my view a fundamental right in a democratic society. Our challenge is to achieve a situation in which every American has access to affordable, quality health care. While there is much more that I would like to do to ensure that each and every American is guaranteed the same high quality comprehensive care, the bill before us today makes important steps toward accomplishing this goal and improving the lives of over 25 million Americans and I urge its immediate passage.

The PRESIDING OFFICER (Ms. SNOWE). The Senate majority leader.

Mr. DOLE. Madam President, I think we have partial agreement here so we can move ahead. I want to associate myself with most of the remarks, probably all of the remarks made by my colleague from Texas. We do not want to have to refight that battle again. I think he raised some excellent points. I hope in part they have been addressed in the so-called Dole-Roth amendment, that I think does improve this bill substantially.

But I ask unanimous consent that during the consideration of S. 1028, the health insurance reform bill, and following opening statements and adoption of the managers' amendment as original text, the majority leader or his designee be recognized to offer his amendment concerning tax provisions and medical savings accounts.

I further ask that during the pendency of the Dole amendment, Senator KASSEBAUM be authorized to move to strike the medical savings account provision, there be 2 hours equally divided in the usual form on the motion to strike, and that no amendments be in order to the Dole amendment or the language proposed be stricken prior to the vote on or in relation to the motion to strike.

The PRESIDING OFFICER. Is there objection?

Several Senators addressed the Chair.

Mrs. KASSEBAUM. Reserving the right to object, I would just like to ask the majority leader, when we first discussed this we had 2 hours equally divided. So much time elapsed since then, I suggest that we would like to have the vote no later than 3:45, and time then be equally divided until that time because we have already eaten up so much. It had been my hope we could get through to some other amendments as well, since we had some considerable time, and still will, on discussing the provisions of the Finance Committee package. If that would be agreeable?

Mr. DOLE. Obviously, I would have no objection to that. I will modify the request to say the vote occur not later than 3:45 p.m., and that any time between the time we start the debate on that motion and 3:45 p.m. be equally divided.

Mr. GORTON. Madam President, reserving right to object.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Madam President, the Senator from Washington would like a clarification. I have just presented a small technical amendment to the Dole amendment to the chairman of the Finance Committee. I want that amendment to be in order.

If the understanding is that second-degree amendments would be in order if the Dole amendment is not tabled or rejected, then I will have no objection. I just want to make certain that before the Dole amendment is adopted that it is itself subject to amendment. Is that correct? Under the unanimous-consent request?

Mr. DOLE. That will be—let me just proceed with the request.

Mr. GORTON. I just want clarification my amendment will be in order some time before the adoption of the Dole amendment.

Mr. DOLE. Is it an amendment to the Dole amendment or a separate amendment?

Mr. GORTON. An amendment to the Dole amendment.

Mr. DOLE. I think the way it is going to work, it would be in order. Because I would hope to have, if the motion to strike fails, we would then get on the Dole amendment. But I could not get that agreement, so the answer would be yes.

Mr. GORTON. I have no objection.

Mrs. BOXER. Madam President, I think this could be accommodated easily. I have been waiting just to make a 3-minute statement on the overall bill. I greatly would appreciate having that opportunity before we get into the debate on the medical savings account.

Mr. DOLE. I will be happy to accommodate the Senator from California.

Mrs. BOXER. I thank the majority leader.

The PRESIDING OFFICER. Is there any objection? Without objection, it is so ordered.

Mr. DOLE. The vote will occur then. Also following that vote the Senator from North Dakota would like 15 minutes in a general statement. Prior to discussion, then, the Senator from California would have 3 minutes.

I also ask, if the Kassebaum motion to strike is agreed to, then the Dole amendment be immediately modified to reflect that chapters 2 and 3 of subtitle (f) of title IV be withdrawn.

Let me explain what that is.

In other words, they were "pay-fors," and if the MSA's were stricken we will take those "pay-fors" out of the bill. I think it has been cleared by both Senator KASSEBAUM and Senator KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I will send the amendment to the desk on behalf of myself, Senator ROTH, and others.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Amendment No. 3675

(Purpose: To provide for a substitute amendment)

Mrs. KASSEBAUM. Madam President, first I send to the desk a substitute amendment and ask it be considered original text for purpose of further amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM] for herself and Mr. KENNEDY, proposes an amendment numbered 3675.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. Under the agreement, the amendment is agreed to and is considered as original text.

The amendment (No. 3675) was agreed to.

AMENDMENT NO. 3676 TO AMENDMENT NO. 3675

(Purpose: To amend the Internal Revenue Code of 1986 to improve health and long-term care coverage in the group and individual markets by making health and long-term care insurance more accessible and affordable)

Mr. DOLE. Now I ask my amendment be called up.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. ROTH, Mr. NICKLES, Mr. PRESSLER, Mr. LOTT, Mr. CRAIG, Mr. MCCONNELL, Mr. COVERDELL, Mr. GRASSLEY, Mr. D'AMATO, Mr. GREGG, Mr. SANTORUM, Mr. SHELBY, and Mr. FAIRCLOTH, proposes an amendment numbered 3676 to amendment No. 3675.

Mr. DOLE. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DOLE. Madam President, I will explain, as will the distinguished chairman of the committee, Senator ROTH, explain in some detail what this amendment does. It is a very important amendment. It is about a $10 billion amendment. It is paid for. And it does help make health care more available and more affordable. That is the thrust of this bill and that is why, even though we certainly want to accommodate Senator KASSEBAUM and Senator KENNEDY, as far as amendments are concerned, we think this amendment does improve the bill and it does provide a great deal of opportunity for many Americans who are now denied health care. Let me tell you why.

I am committed to passing this bill and the amendment is designed to help make that happen.

For many years self-employed individuals have been uncertain as to whether they could deduct their health insurance premiums. And the Democrat-controlled Congress refused to make the deduction permanent to ensure that it would apply year after year.

Last year, one of the first things Republicans did when we took control of the House and Senate was to make this deduction permanent, and to increase it to 30 percent.

But we said then and we say now that 30 percent is not enough. The amendment I now offer would raise the deduction for the self-employed to 80 percent by phasing in increases over the next 10 years.

This will provide equity and much needed tax relief to farmers, small business men and women, and other self-employed Americans.

My attempts to raise the deduction for the self-employed are not new. An amendment I offered last year passed the Senate with strong bipartisan support, but that did not stop the President from vetoing it, just as he vetoed our $500 per child tax credit.

My amendment will also provide important tax relief regarding long-term care expenses. The Internal Revenue Service has not seen the wisdom to allow taxpayers a deduction for long-term care expenses or premiums paid on long-term care policies.

So this amendment is needed to force the IRS to recognize that expenses to care for those unable to care for themselves are legitimate medical expenses that should be deductible.

It is in the best interest of the country to provide appropriate incentives for families to give proper long-term care for family members or to plan for future expenses, such as by purchasing long-term care insurance. Families want to care for their own and the IRS should not stand in the way.

This provision is particularly important for Americans who are likely to face these expenses in the near future for their parents and grandparents. Expenses to provide long-term care of a disabled or elderly relative could bankrupt a family. We cannot and will not let that happen. And neither should my Democratic friends, although they have voted against this relief in the past and the President has already vetoed this tax relief once before.

I have also included medical savings accounts in this amendment. You may have heard a lot about MSA's already. But let me tell you about them. First of all, they are hardly a radical new concept. They are being used today in 13 States and have enjoyed bipartisan support for many years.

MSA's provide individuals with choice and flexibility. If an individual chooses to accept an MSA, the individual can tailor his or her own health care to his or her own needs. Individuals would have their own personal savings accounts dedicated to health care spending—similar to the way they have IRA's for their retirement savings.

Under the MSA proposal in this amendment, individuals could purchase a high-deductible plan and then use the money they accumulated in their savings account, up to the deductible limit, for health care expenses. They could deduct the amount they contribute to the MSA and the savings would accumulate tax free.

Who could argue against providing additional options and flexibility? The answer is the same people who thought that the best way to reform the health care system was to hand it over to the Federal Government—to impose more mandates and Government controls. The American people are thankful that the Democrat efforts to turn the health care system over to the Government failed, and they hope that Democrats will fail in their effort to block this amendment.

Let us remember that the Joint Tax Committee recently analyzed this MSA proposal and concluded that 88 percent of the MSA tax benefits would go to those making under $100,000 a year, with 78 percent of the benefits going to those making under $75,000 a year.

I urge my colleagues on both sides of the aisle to join with me in support of substantial tax relief for Americans.

Madam President, health insurance reform is, by no means, a newly debated issue in this Chamber. In fact, it predates many individuals in this town. The concern about the availability and affordability of health insurance goes back as early as the Nixon administration when President Nixon declared that the American health care system was in need of repair, particularly when it came to affordability.

Madam President, that was 25 years ago. Since then, there have been dozens of health care bills debated in this Chamber—the Bentsen bill, the Dole-Packwood bill, and others, all of which were drafted with the sole purpose of making health care more available and more affordable.

To this date, Madam President, none has been signed into law.

We now have before us a bipartisan bill that contains the kinds of commonsense insurance reforms that this Senator and many of my Republican colleagues have long advocated. I commend my colleague from Kansas, Senator KASSEBAUM, for her hard work and determination to craft a health insurance reform bill that could be supported by the vast majority—if not all Members—on both sides of the aisle.

Madam President, as I stand here, I have to say that I feel a great sense of relief—as I am sure many Americans will feel—that common sense has finally prevailed.

For nearly a decade now Republicans have been trying to pass an incremental health insurance bill that would solve many of the problems with the availability and affordability of insurance.

During the Bush administration, however, the Democrat-controlled Congress refused to give President Bush's proposal the time of day.

And then came the Clinton administration, and President Clinton's insistence that turning the American health care system over to the Federal Government was the only solution. It was a solution chock full of mandates, Government intrusion, and untold costs. And the American public took one good look at it and said, "No thanks."

From almost the very first day of the Clinton administration through the entire long national debate over the President's plan, I said the same thing day after day after day. And what I said was this: Fix what needs fixing, makes changes in the insurance market so that more Americans are able to obtain and afford health care, and leave the many very good parts of American health care alone.

Here we are, however, 2 years later, and still talking about insurance reforms that are still badly in need. And the tragedy of that, Mr. President, is that there are millions of Americans who could have been helped these past 2 years, had President Clinton not insisted on his plan or nothing.

Madam President, our first priority is to start with portability. This will assure that no American is denied coverage because he or she changes or loses a job. I am committed to passing that change because it will help millions of job-locked Americans with preexisting medical conditions and their families.

As I have said, eliminating job lock should have passed at least 2 years ago. Regrettably it did not.

Before we get much further into this debate, I want to underscore at the outset that it is very important that we pass a bill, once and for all, that can be signed into law. There is no hidden agenda—no surprises—no smoke and mirrors. This is serious work that we have promised to the American public for a very long time.

I also want to take a moment now, that I will elaborate on later, to describe an amendment Senator ROTH and I plan to offer to this bill. In that amendment there will be a number of tax provisions that will enhance the insurance reforms in this bill.

Again, I want to underscore, this amendment is not meant to defeat this bill or diminish its chances of being signed by the President. To the contrary, my amendment will strengthen this bill and help more people obtain affordable health insurance—all without the overdose of Government control the American people already rejected.

My amendment will include an increase in the deduction of health insurance premiums paid by the self-employed and provides deductions for long-term care expenses so that families have real incentives to plan for their later years. It also provides for tax-exempt high-risk pools, and allows for tax-free accelerated death benefits. In addition, this amendment makes medical savings accounts available to all Americans.

Medical savings accounts are not a new concept and have enjoyed bipartisan support. My view is that medical savings accounts are another choice for Americans. They may not be right for everyone. They may appeal to many others. They are included in this amendment as another option. Choice, after all, is one of the greatest virtues of American health care.

These are all provisions to help make insurance more affordable thereby increasing the number of people who are insured.

Madam President, this Congress has worked very hard to keep the promises we made to the American people when they gave us a majority. This bill represents relatively noncontroversial needed change—change we have promised for a long time. We owe it to the millions of Americans who need our help to do today what we should have done several years ago.

Passage of this bill will not only improve our health care system, it could very well restore the faith of the American public that the work for the Congress is not just a series of political stalemates. Even in an election year, we can work on a bipartisan basis to pass legislation that will improve the lives of so many Americans.

Let me indicate that the distinguished Senator from Maine, Senator COHEN, will discuss his part of this amendment, proposals to clamp down on health care fraud and abuse. Senator COHEN has been working on it for a number of years, and they save about $3 billion. They are a very important part of this overall amendment.

I will just say, as I said earlier, this is a very important piece of legislation. It is a bill that should be passed. It is a bill that can be signed into law. There is no hidden agenda, no surprises, no smoke, and no mirrors. This is a serious work product that we have promised to the American people for a long time. It seems to me we can get this done yet today. The House has passed a different version. We will go to conference. In my view, we can come up with a very reasonable proposal that I think President Clinton will sign.

We have offered what we believe will be an amendment to strengthen this bill. I happen to believe the medical savings account is another addition that will strengthen this bill. I know there is some objection to it. But all this is done without an overdose of Government control which the American people rejected just a few years ago.

For all the reasons I can think of, I urge the adoption of this amendment without anything being stricken from it. I hope at 3:45 the motion to strike will be defeated, and then we can determine if we can vote on the Dole-Roth amendment or should there be other amendments. Maybe the Senator from Washington has other amendments or maybe other people. We can then dispose of those amendments.

I yield the floor, and I thank the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, will you tell me when my 3 minutes are up? That is all I really need.

I believe we can have a rational debate about this bill. The Senator from Texas said it is hard to be rational when you debate health care, but I think Senator KASSEBAUM is a very rational woman, and I think Senator KENNEDY is a very rational Senator. I think the two of them have come together. They have brought us a bill that I am very proud to support.

In 1993, I authored a bill that would make it unlawful to cancel or reduce an employee's benefits because the employee suffered from a particular disease or illness, and it made it unlawful for employers to impose different benefit caps for different diseases.

What happened, as we all know, is we got off track with health care reform. It was derailed, and it took us some time to mend some frayed feelings, and now we are back here in a bipartisan effort. We are on the brink of a bipartisan success to bring some fairness to this world of health insurance coverage.

Clearly, millions and millions of Americans are going to be better off as a result of the Kassebaum-Kennedy bill, because we know we will have portability now of health care coverage. Many Americans who are locked in jobs because they fear losing their insurance—and I know so many myself who are in that situation—will no longer be fearful of that.

We think that will impact 25 million Americans. This bill will prohibit group health plans from excluding any employee based on their health status. We know that we do not want to encourage people just buying insurance when they get sick, so we require a 12-

month waiting period, and then they cannot be denied for a preexisting condition. We think 81 million Americans, Madam President, have conditions that could subject them to such exclusions, so we are talking about more than 100 million Americans benefiting from this, as well as small businesses.

I strongly urge us to support the Kassebaum-Kennedy bill. I think if we can support Senator KASSEBAUM's amendment to the Dole amendment, it would be far better off, because the medical savings accounts are good for some of the wealthiest and healthiest in our Nation but would be damaging to the vast majority of Americans.

So I look forward to voting for this bill. I think it will be a bright moment for this U.S. Senate.

I yield the floor, Madam President.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Madam President, the purpose of the leadership amendment to the Kassebaum-Kennedy health insurance reform bill is to help individuals and employers purchase affordable health and long-term care insurance, and it will particularly help small business men and women go a long way toward combating fraud and abuse in the Medicare system.

Affordability of health and long-term care insurance has long been a major problem in our country, and the leadership amendment provides concrete solutions. By eliminating many of the financial barriers to affordable health and long-term care insurance, Americans will take greater responsibility for their health and long-term care needs, relying less on the Federal Government.

The leadership amendment provides affordable health and long-term care insurance and personal responsibility by increasing the health insurance deduction for self-employed individuals to 80 percent. On average, employers pay about 80 percent of their employees health insurance costs. But under current law, employers can exclude this benefit tax.

In comparison, Madam President, under current law, self-employed individuals can only deduct 30 percent of their health insurance. Raising the health insurance deduction for self-employed individuals will eliminate this inequity and will be a good first step toward putting self-employed individuals on a par with workers who receive health insurance from their employer.

But this is not all this amendment provides. It provides tax clarification for long-term care insurance. Under this amendment, long-term care insurance that meets certain consumer standards will receive the same favorable tax treatment as medical insurance. The consumer standards require insurance companies to disclose information to consumers that will aid them in buying a long-term care policy that best fits their individual needs.

Long-term care insurance tax clarification will provide the much needed incentive for Americans to buy this insurance. All too often individuals without long-term care insurance end up depleting their life savings for their care and end up on Medicaid. Long-term care insurance will give Americans with long-term care needs the dignity of providing their own care and at the same time reducing the burden on Medicaid.

Additionally, Madam President, this amendment allows tax-free benefits from the early termination of life insurance. It permits terminally and chronically ill individuals to take tax-free withdrawals from their life insurance. Many terminally and chronically ill individuals end up depleting their life savings for their care and end up on Medicaid. This provision will provide an additional source of funds for the terminally and chronically ill to attend to their health care needs and at the same time will reduce the burden on Medicaid for their care.

This amendment also includes tax-favored medical savings accounts. Our medical savings account proposal permits an individual with a high-deductible health plan to make tax-deductible contributions to an MSA. Contributions to the medical savings account are limited to $2,000 for single coverage and $4,000 for family coverage. Distribution from the medical savings account can be used for medical expenses without being taxed.

Excess funds in a medical savings account can be carried over to the next year, would be available to pay for unexpectedly high health costs, long-term care insurance, or to continue health insurance during periods of unemployment, often called COBRA coverage. Madam President, among the great freedoms that Americans cherish is the ability to make choices and decisions about how to take care of their families. Medical savings accounts will place control of America's health care back in the family. It does so in significant ways that create the right incentives for health care.

With the medical savings accounts, Americans will be able to choose their physician, their hospital, and their health care plan. Not only will Americans be allowed to go to the doctor of their choice, but to the optometrist, the dentist, or the chiropractor of their choice as well. Traditional low-deductible health insurance may not cover visits to the dentist or optometrist, but the medical savings accounts will.

In addition, Madam President, many traditional low-deductible health insurance plans do not pay for preventive care. For working poor Americans, this feature of medical health savings accounts will be especially helpful. That is because Americans with medical savings accounts will have the money to pay for preventive care for their families, whereas they may not have the money in the absence of a medical savings account.

Beyond offering patients a choice, medical savings accounts will lower health care spending by empowering people to become knowledgeable about health care costs. As a result, medical savings account users become more effective consumers of health care and reject unnecessary or duplicative treatment. Unused medical savings account funds will accumulate from year to year, providing an incentive for people to remain healthy and consume medical care wisely.

In addition, Madam President, medical savings accounts will also restore the physician-patient relationship, something that has eroded over time. Patients are finding their choice of health care providers being limited and bureaucracies are interfering with their doctor-patient relationships. With medical savings accounts, a patient can go to any doctor, nurse, or other health care provider of their choice without worrying about whether their insurance will cover the bill.

Madam President, we already know about the success of medical savings accounts because hundreds of companies, including the United Mine Workers, are experimenting with them with great success. Companies that offer medical savings accounts have experienced significant reductions in health care spending by their employees. Most of these companies find that medical savings accounts are attractive to workers in both low- and high-income categories and workers in all health conditions. In fact, the Joint Committee on Taxation anticipates that about 78 percent of medical savings account users will have an annual income of less than $75,000.

Madam President, the problem with current medical savings accounts is that employees are treated worse under the tax laws by selecting a medical savings account and high-deductible health plan. At the end of each year the employee must include the full amount of the money deposited in his or her medical savings account as income. That is a grossly unfair result when employees with traditional low-deductible insurance do not pay tax on their employer provided insurance.

Furthermore, medical savings accounts advance an important goal of Senator KASSEBAUM's health insurance reform bill, and that is health insurance portability. Health insurance portability is something Americans have been requesting for years. The lack of health insurance portability is a problem with the current health insurance market and results in job lock for millions of Americans. Medical savings accounts will help end job lock for millions of American workers because they will be able to take their medical savings account with them when they change jobs. This would promote continuity of insurance coverage.

Another feature of a medical savings account is that it will allow a lower cost insurance alternative to millions of self-employed Americans. American farmers and small businesses will be able to buy high-deductible health insurance and fund a medical savings account to provide for their family's health care needs. This feature has the potential of removing millions of people from the ranks of the uninsured.

Madam President, it is interesting to note that 13 States and at least one city have passed medical savings account legislation and dozens more are moving to pass similar legislation. For example, Jersey City, NJ, has implemented medical savings accounts as an alternative for their city employees. Ohio is implementing a test program for State employees. Clearly, medical savings accounts offer Americans a choice about their health care that should be fundamental in a country built on free-market principles. It is the Federal Government that must now move ahead with the idea.

Madam President, strong efforts have been made to defeat medical savings account legislation by those who have a vested interest in the current health care system that is not working for millions of Americans. The real winners under medical savings accounts will be the hundreds of thousands of Americans who will grab control over their family's health care spending.

I hope the encouragement from hundreds of companies with successful medical savings account programs and the many States that are pioneering in medical savings accounts will serve as strong incentives for my fellow colleagues to join me in supporting the medical savings account provisions and the leadership amendment.

Madam President, I ask unanimous consent to have an editorial in the Wall Street Journal by Nobel Prize-winning economist Milton Friedman entitled "A Way Out of Soviet-Style Health Care" printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 17, 1996]

A WAY OUT OF SOVIET-STYLE HEALTH CARE

(By Milton Friedman)

In a chapter in his novel "The Cancer Ward" titled "The Old Doctor," Alexander Solzhenitsyn compares "private medical practice" with "universal, free, public health service" through the words of an elderly physician whose practice predated 1918. A byproduct is an eloquent statement of the major advantages of medical savings accounts for the U.S. in 1996.

Mr. Solzhenitsyn himself had no personal experience on which to base his account and yet, in what I have long regarded as a striking example of creative imagination, his character presents an accurate and moving vision. The essence of that vision is the consensual relation between the patient and the physician. The patient was free to choose his physician, and the physician free to accept or reject the patient.

In Mr. Solzhenitsyn's words, "among all these persecutions [of the old doctor] the most persistent and stringent had been directed against the fact that Doctor Oreschenkov clung stubbornly to his right to conduct a private medical practice, although this was forbidden."

EASIER TO FIND A WIFE

In the words of Dr. Oreschenkov in conversation with Lyudmila Afanasyevna, a longtime patient and herself a physician in the cancer ward: "In general, the family doctor is the most comforting figure in our lives. But he has been cut down and foreshortened. * * * Sometimes it's easier to find a wife than to find a doctor nowadays who is prepared to give you as much time as you need and understands you completely, all of you."

Lyudmila Afanasyevna: "All right, but how many of these family doctors would be needed? They just can't be fitted into our system of universal, free, public health services."

Dr. Oreschenkov: "Universal and public—yes, they could. Free, no."

Lyudmila Afanasyevna: "But the fact that it is free is our greatest achievement."

Dr. Oreschenkov: "Is it such a great achievement? What do you mean by 'free'? The doctors don't work without pay. It's just that the patient doesn't pay them, they're paid out of the public budget. The public budget comes from these same patients. Treatment isn't free, it's just depersonalized. If the cost of it were left with the patient, he'd turn the ten rubles over and over in his hands. But when he really needed help he'd come to the doctor five times over. * * *

"Is it better the way it is now? You'd pay anything for careful and sympathetic attention from the doctor, but everywhere there's a schedule, a quota the doctors have to meet; next! * * * And what do patients come for? For a certificate to be absent from work, for sick leave, for certification for invalids' pensions; and the doctor's job is to catch the frauds. Doctor and patient as enemies—is that medicine?"

"Depersonalized," "doctor and patient as enemies"—those are the key phrases in the growing body of complaints about health maintenance organizations and other forms of managed care. In many managed care situations, the patient no longer regards the physician who serves him as "his" or "her" physician responsible primarily to the patient; and the physician no longer regards himself as primarily responsible to the patient. His first responsibility is to the managed care entity that hires him. He is not engaged in the kind of private medical practice that Dr. Oreschenkov valued so highly.

For the first 30 years of my life, until World War II, that kind of practice was the norm. Individuals were responsible for their own medical care. They could pay for it out-of-pocket or they could buy insurance. "Sliding scale" fees plus professional ethics assured that the poor got care. On entry to a hospital, the first question was "What's wrong?" not "What is your insurance?" It may be that some firms provided health care as a benefit to their workers, but if so it was the exception not the rule.

The first major change in those arrangements was a byproduct of wage and price controls during World War II. Employers, pressed to find more workers under wartime boom conditions but forbidden to offer higher money wages, started adding benefits in kind to the money wage. Employer-provided medical care proved particularly popular. As something new, it was not covered by existing tax regulations, so employers treated it as exempt from withholding tax.

It took a few years before the Internal Revenue Service got around to issuing regulations requiring the cost of employer-provided medical care to be included in taxable wages. That aroused a howl of protest from employees who had come to take tax exemption for granted, and Congress responded by exempting employer-provided medical care from both the personal and the corporate income tax.

Because private expenditures on health care are not exempt from income tax, almost all employees now receive health care coverage from their employers, leading to problems of portability, third party payment and rising costs that have become increasingly serious. Of course, the cost of medical care comes out of wages, but out of before-tax rather than after-tax wages, so that the employee receives what he or she regards as a higher real wage for the same cost to the employer.

A second major change was the enactment of Medicare and Medicaid in 1965. These added another large slice of the population to those for whom medical care, though not completely "free," thanks to deductibles and co-payments, was mostly paid by a third party, providing little incentive to economize on medical care. The resulting dramatic rise in expenditures on medical care led to the imposition of controls on both patients and suppliers of medical care in a futile attempt to hold down costs, further undermining the kind of private practice that Dr. Oreschenkov "cherished most in his work."

The best way to restore freedom of choice to both patient and physician and to control costs would be to eliminate the tax exemption of employer-provided medical care. However, that is clearly not feasible politically. The best alternative available is to extend the tax exemption to all expenditures on medical care, whether made by the patient directly or by employers, to establish a level playing field, in terms of the currently popular cliché.

Many individuals would then find it attractive to negotiate with their employer for a higher cash wage in place of employer-financed medical care. With part or all of the higher cash wage, they could purchase an insurance policy with a very high deductible, i.e., a policy for medical catastrophes, which would be decidedly cheaper than the low-deductible policy their employer had been providing to them, and deposit all or part of the difference in a special "medical savings account" that could be drawn on only for medical purposes. Any amounts unused in a particular year could be allowed to accumulate without being subject to tax, or could be withdrawn with a tax penalty or for special purposes, as with current Individual Retirement Accounts—in effect, a medical IRA. Many employers would find it attractive to offer such an arrangement to their employees as an option.

Some enterprises already have managed to do so despite the tax penalty involved. MSAs have proved very popular with employees at all levels of income, and they've been cost-effective for employers. The employee has a strong incentive to economize, but also complete freedom to choose a physician, and the equivalent of first-dollar coverage. There are no out-of-pocket costs until the employee spends more than the total amount in the MSA. Such costs are then limited to the difference between the amount in the account and the deductible in the catastrophic policy. Moreover, the employee can use money in the MSA at his or her discretion for dental or vision care that is typically not covered under most health plans. No need to get "authorization" from a gatekeeper or an insurance company to visit a specialist or to have a medical procedure—until the catastrophic policy takes over.

LIMITING COMPETITION

The managed care industry has come to recognize that MSAs might threaten its growing control of American medicine by offering a more attractive alternative. As a result, the managed care industry has recently become a vigorous enemy of MSAs. Every believer in competition will recognize that opposition for what it is: a special interest using government to limit rather than expand competition.

Medical savings accounts are not a panacea. Many problems would remain for an industry that now absorbs about a seventh of the national product. However, I believe that they offer the closest approximation that is currently feasible to the private medical practice that Dr. Oreschenkov cherished.

Mr. ROTH. Madam President, in his editorial, Dr. Friedman recognizes medical savings accounts can be an important factor in restoring the freedom of choice for both the patient and physician and to control health care costs.

These important provisions in the leadership amendment are not all that we are offering. Our amendment also permits penalty-free withdrawals from IRA's for health and long-term care insurance. The leadership amendment encourages people to purchase health insurance by allowing penalty-free withdrawals from IRA accounts to buy health and long-term care insurance and to pay for major medical expenses.

This provision will allow unemployed workers the ability to access their IRA funds to continue their health insurance for their families.

The leadership amendment provides tax exemptions to State-sponsored, high-risk insurance pools, a provision that will encourage States to set up insurance pools from which high health risk individuals can purchase affordable insurance.

Madam President, the leadership amendment also contains new tools for law enforcement to aggressively attack fraud and abuse in health care. GAO estimates that as much as 10 percent of health spending in the United States is lost to fraud and abuse. Law enforcement officials believe that most health care fraud goes undetected.

The leadership amendment makes substantial new funds available to the Justice Department, the FBI and the IG of the Department of Health and Human Services for investigation and prosecution of health care fraud. These provisions also create for the first time a criminal statute for health care crimes, tough new penalties for fraud in Federal health programs, including Medicare and Medicaid.

Madam President, these health care fraud and abuse provisions were crafted by Senator COHEN over the past 3 years. I commend him and his staff on their tireless and important work. Madam President, the leadership amendment is actually paid for. The offsets are, first, large corporations will no longer be permitted to borrow corporate-owned life insurance and deduct the interest. The provision is a major corporate tax loophole that will be closed. The same proposal was included in the Balanced Budget Act of 1995 and is similar to the administration's proposal in its fiscal year 1997 budget.

Second, expatriates, those persons who leave the United States for tax avoidance purposes, will be subject to taxation upon exit from the United States. The proposal is similar to the expatriation provision in the Senate version of the Balanced Budget Act of 1995.

Third, starting in 1996, thrift institutions will calculate their tax deduction for bad debts the same way as banks. This provision will facilitate future legislation to harmonize the bank and thrift charters, and has widespread support. A similar proposal was included in the Balanced Budget Act of 1995 as well as an administration revenue proposal in the fiscal year 1997 budget.

Fourth, a measure to combat fraud and the earned-income credit program. This proposal is identical to the earned-income credit compliance provisions in the House health care bill.

Mr. President, I recognize that there are many other popular tax proposals championed by other Members that would likely find their way into this bill. However, this is a health insurance reform bill. The focus of this and other amendments should be on expanding the affordability of health and long-term care insurance for Americans. To stray from the purpose of this amendment may doom the entire health insurance reform effort. I suggest that no Senator wants to do that.

Mr. COATS. Madam President, the Congressional Budget Office reported that health care spending, rather than cost, is the major problem in U.S. health care. The report states that "a major reason for high and rapidly rising health cost is the failure of the normal discipline of the marketplace to limit the quantity of services supplied."

Today, nearly 80 percent of medical expenses are paid by somebody other than the patients themselves.

Out-of-pocket expenditures have declined from 60 percent of the Nation's total health bill in 1960 to 20 percent today. Since that time, the Government's share has doubled to 46 percent.

This means that most health care expenditures in the United States today are paid for by someone other than the consumer of health care—by the Government or by insurance carriers. Unlike any other purchase, when Americans receive medical care, they use someone else's money.

Our health care system has effectively insulated Americans from the cost of care. There is little incentive to spend wisely. There is no need to look for the best buy for the health care dollar.

Six years ago, I introduced the first MSA legislation in the Senate. My plan provides a financial incentive for Americans to choose a healthy lifestyle and to be better consumers of health care. Under my plan, employers provide an umbrella catastrophic policy and invest the rest of the money in a tax free account for each employee. I am pleased to be a cosponsor of the Finance Committee amendment which builds on these same principles.

For example, the average employer spends $4,500 on health benefits for an employee. Under the typical MSA, an employer would buy a catastrophic policy—with a $3,000 deductible—at an average cost of $1,500. The remaining $3,000 would be given to the employee to cover out-of-pocket medical expenses. Whatever is unused would be given to the employee. We would provide a financial incentive both to stay healthy and to shop for bargains in the system.

I was discussing this idea with some constituents in Indianapolis. One woman told me she knew exactly what I was driving at. She called her local hospital to inquire how much a mammogram would cost. When told $300, she asked if they ever offered any sales. Sure enough, Mother's Day week, the screenings cost only $50. However, because her insurance covered the cost, she had no incentive to purchase the care at the reduced price.

This sounds complicated, but the effect would be simple. People would be allowed to choose their own doctors, make their own health care decisions, have a financial incentive to live a healthier life, and control medical costs through increased competition.

Medical savings accounts are working. People with these plans are looking for and finding bargains. And they are getting more preventative care from their doctors.

Listen to a letter from one woman in Indiana:

> When the MSA account became an option at my company, I decided to try it with my family. For the last half of [the first year], our family will be receiving a refund for our unused portion. With five on our policy, this was a nice surprise.

"I was told I would be needing surgery performed in the near future. I have already made arrangements to pay our [catastrophic] deductible in full * * * the total surgeon's charge was $9,843. However, they have agreed to take off $3,797. With this account I have realized there is no set doctor's charge."

This Indiana woman has become a wise consumer of health care services. She bargained and saved nearly $4,000 in surgery costs. She scrutinizes her bills and makes sure that she is getting what she pays for.

Another Hoosier had this to say:

"The MSA plan has helped me become a more frugal shopper of health care for myself and my family. I now ask the doctor for generic prescriptions when available, and try to utilize our family doctors when available, instead of the more expensive immediate care centers."

Another Indiana resident was surprised to learn that the price of treatment does vary depending on the status of her insurance. Treatment to an ear damaged in an auto accident was $900 through insurance, but only $200 since she paid out-of-pocket.

A resident of Indianapolis writes, "I am a single parent who receives no outside support. Therefore, it is very important for me to have insurance coverage for my 12-year-old daughter and I. I made the decision to try the medical savings account because although vision and dental expenses were not covered under the traditional plan, I would be able to use the MSA money for these expenses * * * both my daughter and I wear glasses. Both our prescriptions had changed this past year, therefore I incurred the cost of the exams along with the cost of new glasses.

"I did have necessary medical expenses last year that used all but $37 of my MSA fund. While I may have received less than others who had MSA's last year, I gained a great deal more than those who had the traditional plan. I had no out-of-pocket expenses and still had $37 come back to me. There was nothing to lose, and everything to gain."

In addition to empowering people, medical savings accounts help control the costs of providing coverage for many companies.

In Indiana, 81 percent of employees at Golden Rule Insurance elected the medical savings account option the first year it was offered. These workers got $468,000 in reimbursements from their MSA's. Not surprisingly, the next year, 90 percent of the employees selected the MSA option. Golden Rule benefited as well—the company saw no increase in health care costs for 2 straight years, with $734,000 refunded to employees, an average of $1,000 per employee.

Dominion Resources has encouraged workers to opt for a high deductible plan and to place the monthly premium savings into a health account. Some 80 percent of Dominion's employees have selected this plan and the company has seen no increases in premiums since 1989.

Knox Semiconductor in Rockport, ME, has experienced only one rate increase in the last 4 years under its Health-Wealth Program. Its president, John Marley, claims that the program saved his company more than $100,000 in 3 years—a significant savings for a small business.

These savings are particularly impressive given the cost increases experienced by companies in conventional plans. The Clinton-Mitchell bill, for instance, claims it will achieve its major savings through encouraging HMO styled delivery of services. But even HMO costs are rising—13.6 percent a year between 1988 and 1992. In 1993, they jumped another 6.5 percent.

MSA's could potentially achieve savings in another significant way. Not only would they unleash the collective bargaining power of the American consumer, but they could significantly reduce the administrative burden on our health care system. Less than 15 percent of all Americans spend $3,000 a year on medical care, and therefore the accumulated cost of paperwork processing are for small claims. By paying these bills directly, our health care system would realize significant savings in paperwork reduction and substantially reduce the $90 billion in administrative costs we spent each year.

Forbes magazine has experimented with this concept. In order to cut down small claims, they give each employee an annual account of $1,200. For every dollar filed in medical claims, the employee loses $2 from the account. Employees can keep what is left in the account at the end of the year. This system obviously encourages employees to pay for small claims out-of-pocket. After the system was implemented, the paperwork on routine claims fell dramatically. The company's health costs fell by 17 percent in 1992 and by 12 percent the following year.

We are paying a high price for our social and behavioral attitudes, our personal lifestyle choices. The United States pays $52 billion each year on illnesses related to smoking. Unhealthy eating habits contribute directly to 5 of the 10 leading causes of death in the Nation. Two out of three deaths in the United States can be linked to tobacco use, alcohol use and abuse, controllable high blood pressure, overeating, traumatic injury, and lack of preventative care.

One man in Indiana commented, "the plan has also given me a better outlook on staying healthy. It provides financial incentive for not over utilizing health care, but at the same time provides a way to cover the more routine expenses which one would incur at regular intervals. Getting a regular check up could help prevent more costly health care bills. Its nice to have an outlet to pay for expenses when you really should go to the doctor instead of waiting to the last minute because our deductible is not satisfied."

The MSA is the only health reform plan that provides incentives to remain healthy. Indeed, the Kennedy bill entitles those at high risk of sexually transmitted disease more health care than it does to others not considered at risk. The Kennedy bill requires all Americans to pay for smoking cessation classes regardless of whether or not you smoke. So smokers get more care than nonsmokers under the Kennedy bill. Under the MSA, non-smokers, who likely will remain healthier than smokers, reap the rewards of their behavior.

The Wall Street Journal recently editorialized, "Most of the health bills before Congress remind us of Henry Ford's philosophy behind the Model-T car: "You can have any color you want as long as its black." [but] health care reform that includes medical savings accounts would represent real consumer sovereignty; patient self-interest would be harnessed to keep costs down, and workers would build up tax-free health care funds for when they were between jobs. Health care security would be enhanced, but not at the cost of quality or freedom of choice."

This Congress faces a fundamental choice. We can use the lessons of our experience—Americans empowered choose wisely—competition in the free market enhances quality and drives down costs—principles which guide reform through medical savings accounts. Medical savings accounts leave health care choices where they belong—in the hands of individuals. I urge my colleagues to support real reform—and to retain medical savings accounts.

AMENDMENT NO. 3677 TO AMENDMENT NO. 3676

(Purpose: To strike medical savings accounts)

Mrs. KASSEBAUM. Madam President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM] proposes an amendment numbered 3677 to amendment No. 3676.

The amendment is as follows:

Strike subtitle C of title IV.

Mrs. KASSEBAUM. Madam President, the purpose of this amendment is to strike the portion of the package put forward by Senator DOLE and Senator ROTH regarding medical savings accounts. It is difficult for me to stand here and do so because I think the rest of the provisions in the package that have been put forward are ones that are generally agreed to on both sides of the aisle. Senator DOLE has been a long-time leader of efforts to increase the deductibility for those who are self-employed. It is a very positive amendment. It will be a very positive part of this bill.

Also, Senator DOLE has been a long-time leader in wanting to address long-term care and to be able to provide some means of helping those families who have high costs and long-term care needs. This will provide tax credits to do so.

The chairman of the Finance Committee, Senator ROTH, has also been a long-time proponent of such measures. I think the way in which the measure is crafted is a very constructive addition to the legislation before the Senate.

When the ranking member of the Labor Committee, Senator KENNEDY, and myself completed the work of the committee in a unanimous vote last August, we agreed that we would not support any additional amendments that were highly contentious. This included amendments that individually we would support, as well as those that we would oppose. Cumulatively, they could cause a real collapse if they carried too much baggage, plus or minus. Therefore, we have agreed, whether we individually supported those amendments or not, to not support any amendments which would prove to be controversial.

I would like to speak for a moment about medical savings accounts and my own concerns regarding them. As has been pointed out, 13 States have now in place such savings accounts and I think that is going to be useful to analyze the effect of medical savings accounts. The proponents say MSA's will bring down health care costs by encouraging consumers to shop more wisely for health care, that they will increase coverage by making health care more affordable for individuals, and they will reduce health care spending for employers.

Nevertheless, we are not really certain, and I still believe that we need to carefully consider what medical savings accounts are about. To me, it is not a question of either/or. Medical savings accounts should be considered and we should debate the merits of medical savings accounts. However, I strongly question whether they should be attached to this particular bill as they do not really enhance the provisions of this bill that we are debating today.

I do believe that medical savings accounts are of benefit, particularly to the healthiest and most financially secure Americans. They do not really address those with preexisting conditions, nor those with catastrophic illnesses, nor those without a job or income who need coverage the most.

Medical savings accounts could also provide a false sense of security. It lends encouragement to invest wisely. It lends to a shelter in the Tax Code which would allow one to build up support that could be used at times that are important. However, it is a false sense of security, Madam President, I believe.

They are sold as giving Americans freedom to exercise choice and protecting people when they get catastrophic illnesses. However, as our colleague Senator JEFFORDS knows, most so-called catastrophic policies have very low lifetime limits. He will be offering an amendment, as a matter of fact, to address that concern. So, even with medical savings accounts people are not protected for truly catastrophic illnesses. Medical savings accounts are an experiment, not without merit. From the States that are already experimenting with the accounts and have passed legislation, we will be able to gather data which will be useful to us. But, as I said earlier, they should not be included in this bill.

I suggest that Blue Cross Blue Shield of Ohio has shown that MSA's would increase, not decrease, employer costs because there would be less money in the traditional insurance pool to cover above average costs of high-risk individuals. There needs to be the ability to have a risk pool, to have reinsurance, so that those costs can be spread more broadly.

Blue Cross and Blue Shield has observed that there is a concern that MSA's will segment the market into people who are very healthy and people who are not healthy. If that happens, you lose the ability to spread risk broadly and to protect the current insurance. Senator BREAUX spoke to that earlier this morning. So for all those reasons, Madam President, I have some serious reservations. Senator COHEN from Maine, as Senator ROTH pointed out, has legislation regarding fraud and abuse that helps provide savings, which has been incorporated in this amendment. I think that is a positive part of the package put forward by Senator DOLE and Senator ROTH.

But as long as medical savings accounts have such a high degree of uncertainty, I think the Dole-Roth amendment should be viewed with some skepticism. As we debate the Health Insurance Reform Act before us, which has universal support, we must be extremely careful about amendments which may cause us to lose that consensus.

I have the highest regard for the efforts of the majority leader, as he has put forward what I believe are positive additions to our bill. It is my hope that those additions can be accepted and that medical savings accounts, with my motion to strike, will be defeated.

I yield the floor.

Mr. KENNEDY. Madam President, how much time does the Senator from Connecticut need?

Mr. DODD. Seven minutes.

The PRESIDING OFFICER. The Senator is recognized for 7 minutes.

Mr. DODD. Madam President, 2 years ago the 203d Congress spent a great deal of time discussing the merits of comprehensive health care reform.

The Committee on Labor and Human Resources held more than 40 hearings debating the issue.

And in the end those opponents of comprehensive reform, who said we needed to go slow, won the day.

I, for one, thank that was a mistake.

But, at the same time, I understand the apprehension of my colleagues about comprehensive reform.

Well today, the legislation before us today—the Kassebaum-Kennedy Health Insurance Reform Act—gives us the opportunity to pass sensible, incremental and common-sense health reform measures that will help millions of Americans.

This bill may not solve every problem in our health care system. But, it is good public policy.

And it will make a real difference in the lives of millions of Americans.

And if we, as a body, believe that American workers should not live in fear of losing their health care when they change their job, then we must pass these sensible reforms.

In fact, recollecting our debates from 2 years ago, it's hard to imagine that this bill would not pass on a unanimous vote.

Not once in our many committee meetings did any member argue for the preservation of exclusions based on preexisting conditions.

Not once did anybody argue against insurance portability. Even while we were debating health care reform on the Senate floor, not once did anybody raise objection to the sort of market reforms that are included in this bill.

THE HEALTH CARE PROBLEM

And, I think we all recognize the huge scope of the problem.

Almost 40 million Americans have no health care insurance.

Approximately 12 million of those uninsured are children under the age of 21.

In my State of Connecticut, 300,000 people were uninsured in 1993.

That is 12.1 percent of the population, up from 9.7 percent in 1992. That's a 25 percent increase.

In fact according to a recent poll, 22 percent of Connecticut Residents who needed health care did not go to a doctor or receive health care services because it was either too expensive or simply inaccessible.

These are unacceptable statistics, and they make clear the need for reform.

JOB LOCK

And, throughout Connecticut and the Nation as a whole, millions of others live in fear that if they change their job, they will lose their health care as well.

Various surveys have found that as many as 30 percent of Americans report that either they or a family member suffer from job lock.

Too many Americans are being forced to stay at a job because they simply can not afford to lose their health care coverage.

But if this legislation passes, the provisions in this bill would relieve as many as 3 to 4 million Americans from the burden of job lock.

KASSEBAUM-KENNEDY IS A GOOD FIRST STEP

While I think that even my colleagues Senator KENNEDY and Senator KASSEBAUM would agree that this bill will not solve every problem with America's health care system, it is a crucial step in the right direction.

The Kassebaum-Kennedy bill would limit exclusions for pre-existing conditions.

It would allow small businesses to form purchasing alliances, which would be a difference for the 30 percent of employees at firms with 10 or less workers who do not have health insurance.

And most important it would guarantee to every American worker that if you change your job, you will not lose your health insurance.

The GAO estimates that 25 million Americans would be helped by this legislation.

These are common sense reforms and I believe that is one of the main reasons this bill is receiving huge bipartisan support.

The Kassebaum-Kennedy bill not only has more than 60 cosponsors, of which I am one, but it also passed our committee unanimously.

CLEAN BILL

With this clear level of bipartisan support it is hard for me to understand why many of my colleagues are insisting on offering amendments to this bill, that they know will make it impossible for it to pass.

Unfortunately, over the past few years it has become increasingly difficult for this body to reach compromise on any issue.

I think all my colleagues, from both sides of the aisle, bemoan this lack of bipartisan agreement.

And today we have a bill with over 60 cosponsors, with wide bipartisan support and with endorsement from much of the health insurance industry and yet several of my colleagues stubbornly insist that we allow amendments to be tacked on to this bill.

In particular, the insistence of some of my colleagues to add medical savings accounts, or MSA's, to this bill threatens the enactment of any health reform measure this year.

We all have provisions we would like to see included in this legislation. I, for one, would like to see greater health care coverage for our Nation's children.

But, this is not the time to be focusing on our individual projects, particularly at the expense of genuine reforms that we can all agree upon.

Today, we have the opportunity to help 25 million Americans with the Kassebaum-Kennedy bill and applying MSA's or any other provision to this bill will only undermine that effort.

The Kassebaum-Kennedy bill truly represents common sense, effective reform.

These are reforms that will spare millions of Americans the pain and suffering of losing their health care or being denied coverage because of preexisting conditions.

Today, we have a historic opportunity to make a real difference in the lives of millions of Americans.

As I do not need to remind most of you, cynicism toward Congress runs rampant in this Nation.

Too often the American people look to Washington and they shake their head at the partisan political games we play.

In the last two elections they have demanded that we start working together, Democrats and Republicans, and pass legislation that makes a real difference in their lives.

And I believe that if we polled the American people and asked them: Should Congress remove preexisting conditions in the health insurance industry?

Should Congress make health insurance more portable?

Should Congress guarantee that if you lose your job you do not lose your health insurance?

I think, the vast majority of the American people would respond with a resounding yes.

So today, let us uphold our responsibility to the American people and pass these sensible and commonsense reform measures.

Madam President, I ask unanimous consent to have printed in the RECORD a letter dated today from Cecil E. Roberts, international President of the United Mine Workers of America.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED MINE WORKERS OF AMERICA,
Washington, DC, April 18, 1996.

Senator BOB DOLE,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR DOLE: In recent days, certain special interest groups have wrongly portrayed members of the United Mine Workers of America as recipients of Medical Savings Account akin to those that would become more widely available under an amendment you are slated to offer to S. 1028.

The UMWA has been grossly misrepresented by these groups who have wrongly counted us as supporters in their effort to weaken the health care system through Medical Savings Accounts.

In recent collective bargaining agreements, we have negotiated a comprehensive health care plan for our members. Our members also receive a bonus and are responsible for pay equivalent deductibles under their medical plan. This plan is not an MSA.

Representing more than 200,000 working and retired coal miners and their dependents, the Mine Workers know that MSAs are not a panacea for the health care crisis. It would be unthinkable to leave such a group of people, many of whom suffer from injuries or disease brought on from working in the mines, dependent on MSAs for their health care coverage.

Sincerely,

CECIL E. ROBERTS,
International President.

Mr. DODD. Madam President, I commend our two colleagues. It has been a long ordeal, dealing with this very important piece of legislation. They deserve our universal acclaim for their efforts. It was a very good process in our committee. As the chairman of the committee, Senator KASSEBAUM, pointed out, this particular proposal was unanimously voted out of committee. To the credit of all of our members on the committee, Republicans and Democrats alike, we all have ideas that we would have liked to have incorporated in this legislation. But the agreement was that we would try and limit the bill to those areas where there was consensus, so that we could deal with the problems that 25 million Americans face today. With the passage of this legislation, and a Presidential signature, we would solve the problems immediately for 25 million Americans. It would immediately solve the problems they face with portability and preexisting conditions—not to mention some of the proposals in the leadership amendment, which the Senator from Kansas pointed out we all agree with and go back many years supporting.

We have a wonderful opportunity here. It has been almost since last August that this bill came out of committee. We are almost in May now, and the weeks are rolling by. Here is a chance to do something for 25 million Americans, without getting into a real disagreement and argument over a controversial proposal—the medical savings accounts.

Madam President, I would like to spend a few minutes on that particular subject matter. I will leave the remarks I have inserted in the RECORD that go to the general provisions in the bill, which have been discussed today at some length. I compliment my colleague from Kansas and my colleague from Massachusetts for doing a remarkably fine job in putting those provisions together.

I have inserted the letter from the United Mine Workers because there has been some discussion here on the floor that this was one organization that has a medical savings account. Without reading the entire letter, let me read paragraphs 2, 3, and 4 of the letter:

> The UMWA has been grossly misrepresented by these groups who have wrongly counted us as supporters in their effort to waken the health care system through Medical Savings Accounts.
>
> In recent collective bargaining agreements, we have negotiated a comprehensive health care plan for our members. Our members also receive a bonus and are responsible for paying equivalent deductibles under their medical plan. This plan is not an MSA.
>
> Representing more than 200,000 working and retired coal miners and their dependents, the Mine Workers know that MSAs are not a panacea for the health care crisis. It would be unthinkable to leave such a group of people, many of whom suffer from injuries or disease brought on from working in the mines, dependent on MSAs for their health care coverage.

I think that is important, since their names have been used as an example of an organization with an MSA, and by implicit suggestion that they are supporters of MSA's. I voted twice for medical savings accounts, back when we considered the larger health care package. I am proud of those votes. I have no inherent objection to the idea of a medical savings account. But they need to be, as the Senator from Kansas suggested, in the context of a larger discussion of health care.

Whether you agreed or disagreed with the large health care proposal of a year or so ago, in that context, medical savings accounts make sense. In the absence of it, you are running the risk of leaving people aside who cannot afford to get into these programs.

It is very controversial, too. As many have pointed out, the major insurance groups and consumer groups, which rarely agree on these matters, all agree on this point—that this could create some real problems. They all agree that this would segment and undermine the insurance market. They would divide the health care system and cater to the healthier and wealthier people at the expense of those with financial constraints, leaving those in traditional plans to pay a higher price tag on health care costs, as their risk pool shrinks and as the percentage of individuals with serious health conditions increases.

They point out that according to the Joint Committee on Taxation, it would cost taxpayers about $1.8 billion.

Again, I am not talking about one group versus another. The insurance industry, consumer groups, the Blues, are not saying that they are totally opposed to this, but that in this context, it does not make a great deal of sense.

I also point out there have been some studies done on the medical savings accounts. According to the Congressional Budget Office, medical savings accounts could threaten the existence of standard health insurance, placing a far greater burden on lower-income patients, individuals with chronic ailments, and patients with disabilities, who have larger out-of-pocket expenses. The Blue Cross and Blue Shield of Ohio, as the Senator from Kansas pointed out, says, "MSA's would bankrupt our current system of financing health care and significantly add to the cost of medical care." That is their language, not mine.

The American Academy of Actuaries said, "Less healthy individuals will likely pay more for their coverage, since the most healthy and highest persons in the group are likely to select MSA programs." That is not the Senator from Connecticut, or the Senator from Massachusetts, or the Senator from Kansas. That is the American Academy of Actuaries speaking.

We have a wonderful opportunity to deal with something we all agree on, in a bipartisan way. The current bill is bipartisan, as we have some 60 cosponsors. Why take on an MSA issue that is highly controversial with major private sector groups and consumer groups that are saying, "Please do not do this"? This is not the right suggestion at this hour. It jeopardizes what we could do for 25 million Americans, by eliminating the problem of portability and preexisting conditions, issues that we all agree on.

I do not know of anybody who stood up and suggested that we ought not to make those changes. We have the chance to do that in a bipartisan way. If you add the MSA's, given all the arguments raised by the private sector, consumer groups, and others, including the American Academy of Actuaries, and the Blues, who have looked at this issue carefully, then you do great damage and jeopardize what we can accomplish this afternoon by passing a good bill and showing the American public we care about their concerns and we are determined to see to it that they are addressed.

I strongly urge the adoption of the Kassebaum amendment to strike the MSA provisions, adopt the other provisions, and then adopt this overall piece of legislation.

I yield the floor.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator has 24½ minutes.

Mr. KENNEDY. I yield myself 10 minutes of our time.

Mr. President, our distinguished colleague and friend, Senator KASSEBAUM, has outlined, I think very effectively, the reasons why we should reject the part of Senator DOLE's proposal that deals with medical savings accounts. Senator KASSEBAUM has outlined the principal issues which are at stake—both the cost and the health implications of MSAs, and I am in total agreement. My friend and colleague from Connecticut has expanded on those thoughts in a very effective way.

I think many of the provisions that the majority leader has introduced are useful and, by and large, helpful. He brings focus on the need for long-term health care for the American people. If there is a part of our Social Security system that has been really left out over the period of the recent years, it has been the failure to deal effectively with long-term care for our parents, for neighbors, for friends, for communities, and for the American people. We are blessed and fortunate to have people living longer lives and more productive lives. That is an increasing phenomenon. The fragile elderly increasingly are an important concern before us. To be able to attend to their particular needs in a thoughtful way either through long-term care, through nursing homes, or through home care is immensely important. The idea that we have long-term care insurance included in this legislation, I think, is commendable.

The leader as well has identified additional areas—providing the deduction for the self-employed; the small businesses around this country, in rural towns and in cities as well, have a particular disadvantage in terms of the cost of health care for their employees. And certainly there is a strong justification for that provision.

I believe the provisions which apply as well in terms of terminal illnesses, to help those that have terminal illness, to give them at least some assistance in terms of the tax system, again, to give them some tax relief, is a commendable system.

So I hope at the time we have an opportunity to address those particular issues that we will find broad bipartisan support throughout the Senate on those measures. There may be a feature or two that we might discuss, but I commend the leader for bringing attention to that and for adding that particular measure.

Mr. President, I agree that those issues have been debated and discussed. There is broad understanding of them and broad support for them, and we are certainly justified in accepting those. But the issue in terms of the medical savings account is another matter entirely.

For the reasons that have been outlined, the overall Kassebaum/Kennedy legislation has broad support. Senator KASSEBAUM and I are in agreement that we will resist amendments that do not have the overwhelming support of the Members. There are many different provisions that I would like to see which I think have been tried and tested and for which there is a very important need.

My good friend from Vermont has talked about lifting the lifetime limits in terms of health insurance because many of those that have serious disabilities run up against the top limits in their health insurance. I would like to support that measure. Senator JEFFORDS spoke passionately about it, and he believes in it, and I look forward to working very closely with him on a different health care proposal. I am convinced that we will pass that proposal here in the U.S. Senate and the House of Representatives.

I agree with my friend, Senator DOMENICI from New Mexico, who is one of the real leaders in this body in terms of mental health issues. During the course of the debate the last time we addressed the comprehensive issues of health reform, one of the real important features that we effectively worked out was that we were going to consider the challenges of mental illness as well as physical illness similarly and treat them equitably. They are not treated equally under current law. I have supported that. We debated it. There is broad support for it. It is justified as a health improvement measure.

I support mandatory preventive services for children. That has been an issue where there has been broad support. It passed overwhelmingly in the Finance Committee as part of our previous discussions. There is strong justification for providing the range of services—immunizations, preventive, screening, and attention for children in our society. It is not costly. We have the expenditures for that proposal. Out of the list that is included in here, we certainly could have worked on that measure. There is broad support. But we have resisted that. Why? Because, as has been pointed out before, the range of different supporters that we have been able to gather for this measure—we have said that on this issue, on this bill, we will not accept provisions which are going to be untested, untried, and controversial in terms of their health implications and their cost implications.

There is not a lot of difference in this body—Republican and Democrat—about providing preventive health care services for children. There is not a lot of difference in this body in trying to equate mental health with other physical challenges. There is not a lot of difference I say in raising lifetime limits.

Those are measures that I feel strongly about and that I would like to support, but we do not have those measures up here. The reason we do not have them up here is because we have an understanding; we have an agreement that we are going to keep this legislation as close to the target as we possibly can in trying to deal with the problems of preexisting conditions so that individuals who are working and are playing by the rules of the game and are paying their premiums are going to be able, if they lose their job or change their job, to take their insurance with them. We are going to provide the incentives in terms of small business so that they can pull together and develop the economic advantages that the major corporations have. We have agreed to move in that area.

Now we have medical savings accounts. I have myself serious problems with that issue. Others have expressed support. The question should not be so much how we stand on these particular issues, but I want to just express very briefly my very serious concerns about it. But, nonetheless, it is highly divisive, highly controversial, and highly unacceptable. I think all of us understand that if this measure is included in the proposal, school is out—school is out in terms of amendments; school is out in terms of what may be added or what may be subtracted; school is out in terms of the focus and attention on a very important proposal that has the broad support and the unanimous support of Republicans and Democrats out of our committee.

So I hope that the proposal of Senator KASSEBAUM to strike this provision will be acceptable.

Let me mention briefly why I am opposed and others are opposed to medical savings accounts. First of all, over 10 years this is $3.2 billion. It is going to cost $3.2 billion. The fact of the matter is, we have to ask ourselves: Are we going to raise the deficit by $3.2 billion when many of us were around here trying to increase education programs, trying to even increase the various programs on Head Start? We were told we did not have the money when we tried to expand support for education on the Goals 2000, increasing academic achievement. We do not have that money. When we were out here trying to do something about increasing child care, we did not have the money. Now suddenly we have $3.2 billion. That is the cost, $3.2 billion.

So we have to ask ourselves: Well, $3.2 billion, who is going to benefit from the $3.2 billion? Is this going to be something that is going to be across the board in terms of beneficiaries? We can start right out and say, as the Joint Tax Committee has pointed out, no one whose income is below $20,000 will benefit one nickel—not one. Only one percent of all the benefits from the MSA proposal, will go to individuals who earn less than $30,000—only 1 percent of the benefits. Ninety-seven percent of the benefits will go only to people above the median family income in this country—only 3 percent of the benefits from MSAs will go to those below the median family income.

Who benefits from this? Who benefits are the wealthiest individuals. Sound familiar? Sound familiar? The higher income individuals are the ones that will be participating in this program.

So we ask ourselves at the beginning: Can we afford the $3.2 billion? If we get it, not according to my estimates, not by the various actuary and other groups, but by the Joint Tax Committee, Republican and Democrat alike, it has been pointed out that the great majority of Americans will not be eligible.

And why? It is quite understandable. They do not have the income to pay the deductibles for the MSA's. So therefore it does not do them any good. In order to be able to benefit from an MSA, an individual has to be able to afford the deductibles, and ordinary working Americans simply will not be able to do that; they won't be making enough money.

Second, we can ask, what is going to be the impact on our whole health care system? Well, the various reports that we have received—and we will have a chance perhaps to get into them in greater detail—demonstrate that what is going to happen in this situation is that the younger people and the wealthier people are going to take this opportunity to participate in the MSA's. They are going to take the opportunity. Why? Because they know they are not going to need to spend up to $3,000 for a sickness over the period of that next year. That is the deductible, $3,000. They know that by and large they are not going to get sick during that period of time. So they are not really at risk. They know they only need help if something serious is going to happen to them.

So the healthy and the individuals who have the resources are going to be the ones who use those MSA's. What about everyone else? Are they going to use it? Probably not. Because they know they are going to have deductibles and they know that they are going to have particular health care needs like every family has.

And the health implications of this are profound. It means that the general insurance pools are going to continue to include the sicker people, and the premiums are going to go up for everyone because they are going to have the sicker Americans and they are going to have the working Americans who can't afford the MSA's. And what is going to happen, the premiums are going to go up and therefore workers are going to begin to disband their commitment to health care for themselves because the costs are going up.

We have to ask ourselves: Does this really have an advantage in terms of savings? Is this a new process of delivering health care that many of us had hoped the HMO's would be? We hoped that by having the payment for health care at the beginning of the year and the incentives on the various kinds of HMO's to develop preventive programs that they would keep people healthier so they save money through prevention. But with MSA's, this won't happen.

To the contrary, every time a woman goes and gets a mammography test, they are going to have to pay out. Is that covered by your health insurance? No. Because you are not up to $3,000. Every time a woman gets a pap smear, she has to pay out. Is that going to be offset by health insurance? Absolutely not. They are going to have to pay out. All the screening for children, for the sons and daughters of working families, are they going to be encouraged to go to preventive health care? Absolutely not, because they are going to have to pay out.

Finally, make no mistakes—medical savings accounts are also part of the long-term Republican anti-Medicare agenda. Every senior citizen and every Senator who cares about Medicare should be aware of this Trojan horse. The special interests who are urging this provision now are part of the ongoing effort to undermine Medicare by turning it over to the private insurance industry. If we open the door to medical savings accounts for the non-elderly today, we will be opening the door to medical savings accounts for the elderly tomorrow and that is not a step Congress should take.

So, Mr. President, in summary, this proposal is skewed financially. The financial benefit goes to the wealthiest individuals and to the healthiest people. It is poor health policy because it is going to disadvantage the incentives in the areas where you can provide true savings on health care, and that is going about the business of providing preventive health care.

One of the extraordinary ironies in terms of our budget policy here is you do not get any credit in terms of CBO when you move towards preventive care. Even though you save the Government millions and millions of dollars over the period of years, you cannot get credit for any kind of preventive care. That is where savings come about—when you immunize children, when you give well-baby care, when you give an expectant mother good kinds of care and nutrition so the child is going to be healthy rather than have medical complications at birth.

This vote is not just about medical savings accounts. It is also about whether Americans will get the genuine health insurance reform they deserve. Senator KASSEBAUM and I have pledged that we will resist controversial amendments, because they will kill this bill. We intend to vote against even controversial amendments that we support. Many other Senators on both sides of the aisle have made the same pledge. This vote is the test. If Senators insist on their narrow agenda, this health reform will die.

This is an unwise, untested, unjustified measure. It is effectively a poison pill. There are many other, more deserving health care issues that we ought to be accepting or addressing ourselves to that are a lot less costly than this particular measure, and I hope that Senator KASSEBAUM's amendment is accepted.

I would be glad to yield 12 minutes——

Mr. NICKLES addressed the Chair.

Mr. KENNEDY. Twelve minutes to the Senator, 12 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from Massachusetts controls 10 minutes.

Mr. KENNEDY. Twelve minutes to the Senator from West Virginia.

The PRESIDING OFFICER. Does the Senator from Oklahoma have an inquiry?

Mr. NICKLES. Mr. President, I believe that both the Senator from Delaware and the Senator from Massachusetts have control of the time, and I also think the Chair has usually recognized Senators seeking recognition, and then the Senators delegate how they allocate that time, I think is the normal procedure.

Mrs. KASSEBAUM. Mr. President, not to intervene here, but I would suggest that I think the Senator from Oklahoma has been waiting quite some time to speak. And while I am not in charge of the time at this point, it would seem to me best to let that back-and-forth proceed.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. I yield 10 minutes of the leader's time to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for up to 10 minutes.

Mr. NICKLES. Mr. President, I thank you. I thank my colleague from West Virginia. I will be happy to accommodate my friend as well. I think it would be better if we go back and forth a little bit, if that is possible. I say to my colleague from Massachusetts, that was my interest because my colleague from Massachusetts has generated a little interest in me to respond.

I also compliment the Senator from Massachusetts and the Senator from Kansas for their work, but particularly I wish to compliment the Senator from Delaware and the Senator from Kansas, the majority leader, for this amendment. This amendment is probably the most significant health care provision that the Senate has considered in a long time.

I have heard a lot of people say we want to make insurance more portable; we want to make insurance more affordable. If you do, then we need to support Senator DOLE and Senator ROTH's amendment. That would include some tax equalization. The Tax Code is really skewed. It is really inequitable. It is not fair.

Let me just give you a couple of examples. The amendment that we have dealing both with the medical savings account and deductibility for self-insured help fix the problem—not totally, but they certainly improve it.

The Tax Code right now discriminates against people who do not work for generous employers. If you work for a generous employer, they can pay for your health care benefits and the individual can receive that tax free benefit, does not have to pay anything for it. It is nice. If you work for General Motors, they can deduct 100 percent for health care costs.

What if you do not work for a generous employer? What if you work for an employer who maybe cannot afford it or does not subsidize your health care? Then as an individual you have to pay for your health care with after-tax dollars. That is not fair.

What if you are self-employed? Right now, if you pay for your health care, you get a 30-percent deduction. Let me make sure everybody understands that. If you work for General Motors or a generous corporation, they get a 100-percent deduction, the company does. If you are self-employed, you get a 30-percent deduction.

That is not right. I used to run a manufacturing company, and at one time we paid 100 percent of health care costs. It was all deductible, a tax-free benefit for employees. I also used to be self-employed. Right now, they get 30 percent. I used to have a janitor service when I was self-employed. They only get 30 percent. But a big manufacturing company or a little manufacturing company, a corporation, they get 100 percent.

Now, what is right about that? That makes no sense, no sense whatsoever. This bill is going to help fix this.

What about an individual who maybe does not work, is unemployed. They need health care just as much as anybody else. This bill helps fix that. And the Senator from Massachusetts does not want to allow it to happen. He said, well, school is out if we allow medical savings accounts. Medical savings accounts are the only thing, the only thing, that will benefit somebody who does not have a job and wants to get health care. We do not help them in other areas. We are going to help them. We are going to say, yes, you can get health care; you can have your medical savings account; it is yours; it is portable; you do not have to have a job; it goes with you. It is not contingent on a job.

We use the Tax Code to encourage homeownership and so we say, you are entitled to an interest deduction on your home. And we do not say you have to have a job to get the interest deduction; it is yours; you designed the house, or you can buy the house. That is your decision, and it is your deduction. We do the same thing for other things. You make that decision. But we do not do it on health care. We say, well, you have to work for a generous employer. You get a real nice benefit. You work for yourself, you only get a third as much. You get a 30-percent deduction.

This bill takes it up to 80 percent for self-employed. And that is about what the average of a lot of companies is. So that is pretty equitable. It takes some time to get there, I might mention. We do not do it overnight. But at least it gets it up to 80 percent. That is a good move.

I compliment Senator DOLE. When we passed this originally in the Balanced Budget Act, it only went to 50 percent and Senator DOLE said, "Let's make it 80 percent." He was right. That is equitable, and that means that Don NICKLES' janitor service gets just about as good a deal as a manufacturing company in 7 years.

That is a good provision. It needs to pass. But equally as important is that individual who does not have a job or that individual who is unemployed or that individual who works for an employer that does not give anything to their health care. Right now, they have to buy their health care with after-tax dollars. And they need health care as much as somebody working for any company in America. Let us help them. Medical savings accounts will help them, and they are not something untested and untried, as my colleague from Massachusetts said. We have something like 3,000 firms right now offering those.

Seventeen States now have MSA laws, an additional 11 States have called on Congress to enact MSA legislation. We ought to do it. Everybody ought to have the opportunity to have this choice. We are not mandating it on anybody, but it should be a choice. They should have the opportunity.

What is the choice? Yes, they can buy insurance, I think pretty good insurance. They can buy insurance that is for the catastrophic illness. We say a medical savings account is very comparable to an Individual Retirement Account. Individuals can put in $2,000, families or couples can put in $4,000, and then use it for medical expenses. They have to buy at least catastrophic coverage, to cover the really expensive care. That makes sense.

We are encouraging this with medical savings accounts. A lot of the private sector is doing the same thing. In our company we used to ensure the first dollar coverage on anything. That is very expensive and it is not what insurance is for. When you buy car insurance you do not buy car insurance to fill the car up with gasoline or fill it up with oil. You buy car insurance for collision or something that is really expensive that you need insurance for. That also makes sense in the medical field, to let people use their own dollars for the small things, the routine things, the doctor's office visit. And they will use their own money. If they do not use it they can save it. It is not use it or lose it. They can save it, accumulate it. We encourage savings and they can use that money later for something that really is serious, that is problematic. Or they can use it for long-term health care.

This is a good provision. This will help countless middle-income families. Mr. President, 88 percent of the benefit falls to individuals who make less than $100,000. It is not for wealthy people, it is for American families and it will help people who get no help whatsoever from the present Tax Code. If we want to eliminate a lot of this tax inequity, medical savings accounts will go a long way to doing that. Let us give them some benefit. Right now they get zero. An individual who is unemployed, an individual who works for a corporation that does not subsidize his or her health care, they get zero tax benefits. Finally, if we pass this they will get something and to me that is a very positive contribution.

So I urge my colleagues, let us not make this a partisan issue. I know Senator BREAUX introduced a MSA bill in 1992. Senator DASCHLE, Senator NUNN, Senator BOREN, Senator Dixon—they cosponsored the bill. Representative GEPHARDT, in 1994—almost all Members but one of the Democrat Party on Ways and Means supported Mr. GEPHARDT's provision that had medical savings accounts. So why all of a sudden are we being partisan? This is a good provision. It is a bipartisan provision. It should be passed.

We should help individuals. We are not helping individuals. We should make insurance truly portable and we do that with medical savings accounts. It is not contingent on a job. If they lose their jobs they still have their medical savings account. It is portable. It stays with them. It is not contingent on employment. It is a good provision. So I am very disappointed in some of the comments that have been made.

This is a good provision. It will make health care more portable. It is the most portable health care plan you can have. It goes with the individuals. It is theirs. If they save the money and they do not spend it, it grows, it accumulates. They can use it for later times.

Also, it makes it more affordable. People are a lot more frugal with their own money than they are with employer money or than they are with Government money.

Mr. President, I urge my colleagues to pass the medical savings account provision, to vote against the amendment to delete this provision, and then also to pass the underlying Dole-Roth amendment. It is an excellent amendment that will help expand coverage to countless Americans that right now, because of inequities in the Tax Code, really come up short.

Again, I thank my colleague from Delaware for his leadership. And also Senator DOLE for proposing this amendment. I hope my colleagues will agree to it.

Mr. ROTH. Before we conclude action on the measure before us, I want to specially commend the Senator from Kentucky, Senator MCCONNELL, for his invaluable contribution to this effort. His introduction of S. 1658, the Family Choice in Long-Term Care Act, along with his behind-the-scenes advocacy on this issue, has made the difference in getting long-term care on the must-do list of health care reforms. Senator MCCONNELL has shown tremendous concern for the long-term care needs of elderly Americans and their families, and he has played a key role in proposing common sense and compassionate solutions to the problem. We all know how some people just talk about an issue; the junior Senator from Kentucky works issues, and the legislation before us reflects the work that Senator MCCONNELL has devoted to this crucial health care concern.

Mr. MCCONNELL. Let me thank the chairman for his generous remarks and for his tremendous work on this legislation. The need to provide meaningful long-term care coverage cannot be overstated. It is estimated that at least 40 percent of those aged 65 and over will require nursing home care at some point, costing an average of $38,000 per year. As the chairman knows, this poses a terrible Hobson's choice for most seniors and their families. Many seniors are forced to liquidate their life savings and sell off family heirlooms just to pay for this expensive care, and only when they have depleted nearly all of their assets will Medicaid pick up the tab. Because of the massive costs involved, private insurance has thus far played a negligible role in the financing of long-term care, accounting for less than 2 percent of long-term care payouts. The dearth of private planning options for long-term care is also having a devastating impact on strained State Medicaid budgets. Long-term care costs are draining away Medicaid resources that are needed to provide health care for indigent and disabled Americans. We cannot continue to rob Peter to pay Paul much longer. America's elderly population is expected to increase by almost 25 percent between 1993 and 2011, and this will place an unbearable burden on the Medicaid Program unless decisive action is taken. This bill provides essential private financing options for long-term care, and takes a positive step toward meeting the long-term care needs of future generations of Americans. Again, I want to thank the chairman for addressing this issue in his amendment, and look forward to having it signed into law.

Mr. SANTORUM. Mr. President, I wanted to take some time to discuss a specific provision included in the majority leader's amendment.

I have had the pleasure of working with the long term care industry in Pennsylvania during my service in Congress. I am extremely pleased that the leadership amendment included long-term-care provisions which will fill a void in the security of older Americans. I wrote my Senate colleagues this past week as well as the majority leader directly urging the inclusion of the long-term-care language. The long-term-care section will improve this bill by giving long-term-care insurance the same Federal tax treatment as health insurance and by establishing Federal long-term-care insurance standards and consumer protections.

The cost of long-term care is easily the biggest financial threat facing elderly Americans. The average cost of nursing home care has risen to $38,000 per year. We also know that more than 40 percent of those who turn 65 this year will require nursing facility care at some point in their lives. Medicaid does pay for nursing home care, but only after the costs of long-term care makes the recipient destitute. Basically, people in need of long-term-care services must pay for the care out of pocket until they spend down all their assets to the point of poverty. Then and only then do they qualify for Medicaid.

The real crime here is that people do not know that they will have to lose all their assets to obtain long-term-care services. They think Medicare covers it.

Even after 30 years of Medicare, many Americans remain confused regarding what Medicare does and does not cover—particularly regarding long-term care. Year after year, public surveys show that nearly half of Americans believe that Medicare covers long-term care. Because of this misconception, many Americans come to a rude awakening when they need long-term care for which they have not prepared. Helping individuals and families understand the limits on Government long-term-care assistance and giving them incentive to prepare for their needs will encourage more Americans to plan for, save for, and insure against the costs of long-term care.

We currently allow acute health care expenses and insurance premiums to be deducted. State laws require car insurance, home or flood insurance, and other protections for individuals and families. Yet we do not require, much less encourage, people to plan for something that more than likely will impact them—the need for long-term-care services.

The language in the leadership amendment would correct this. Specifically, the provisions will give long-term-care insurance the same Federal tax treatment as health insurance and link tax provisions to Federal long-term-care insurance consumer protections. This second part is so important because it ensures that policies offer value to consumers and pay appropriately and adequately for quality long-term care when needed.

Not only would greater use of long-term-care insurance help protect individuals and families from impoverishment due to long-term-care costs, but it would also help control Medicaid costs. Mr. President, in the long run this will save money for the Medicaid program.

In a 1994 article in Health Affairs, Marc Cohen, Nanda Kumar, and Stanley Wallack estimated that having a long-term-care insurance policy reduces the probability of spending down to Medicaid eligibility levels by some 39 percent. The authors estimate that, in the aggregate, Medicaid expenditures would be reduced by $8,000 to $15,000 for every nursing home entrant who had a long-term-care insurance policy. According to the analysis, this translates into cutting what Medicaid pays per nursing home entrant in half for long-term-care policy purchasers. It is in our best interest to encourage people who can meet their long-term-care needs to do so. Medicaid will then take care of truly needy individuals.

The majority leader's amendment assists America's elderly and their families with long-term care by putting policies in place that help assure the affordability and value of long-term-care insurance. Giving Americans tax incentives to insure against the potential costs of long-term care will also save Medicaid dollars in the long run. Since we cannot continue to rely so heavily on scarce Government dollars to pay for long-term care, individuals and families should be encouraged to plan for, save for, and insure against the potential long-term-care costs. I urge my colleagues to vote for this amendment and to support this specific language.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that there be 10 additional minutes for debate, equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. I am sorry, I did not hear.

Mrs. KASSEBAUM. There will be 10 additional minutes added, equally divided.

Mr. ROTH. I ask whether, because we agreed to a very brief time, whether at least on our side we could have another 10 minutes, total of 15 minutes.

Mr. KENNEDY. I will give you my 5.

Mrs. KASSEBAUM. That gives you 10 minutes additional.

Mr. ROTH. Can I have 15?

Mrs. KASSEBAUM. I think maybe you better take it. A bird in the hand is worth two in the bush.

The PRESIDING OFFICER. Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 14 minutes and 55 seconds.

Mr. KENNEDY. I yield 10 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for up to 10 minutes.

Mr. ROCKEFELLER. Mr. President, I agree with the Senator from Oklahoma that this could be the most significant health care legislation that we have passed in a long time, which is why I think it is terribly important that we pass it. What has been made very clear, very distinct throughout this discussion, is that we are in an argument now on MSA. We have not been in an argument on anything else. We are in an argument on MSA. The agreement, from the very beginning, was to take the controversial stuff out; leave that for now, and do it later. It will probably pass on its own, but now is not the time.

To back that up, I have a letter from the NFIB. This NFIB letter, signed by Dan Danner, says, "The NFIB opposes the adoption of any amendment to S. 1028 which would draw a Presidential veto or cause the bill to be defeated in the Senate."

I repeat the statement of administration policy from the White House, in which they indicated, as their first priority, that for the bill to include medical savings accounts would, as they say, "create grave risks to the passage and enactment of this bipartisan legislation." I think those who are pushing the MSA, for whatever the various interesting reasons that have floated around here for the past several days, ought to bear very carefully in mind that they are putting the entire bill in jeopardy. If the amendment passes with MSA's, as the Senator from Massachusetts said, "school is out." Everything else comes in. The bill is down. The bill is gone. An opportunity is finished.

I hope people will take moral responsibility in considering the decision which they are making. In fact, every single serious health policy analyst—and you can laugh at them, except when you realize they are just about the whole gamut—they all say that giving a tax break for medical savings accounts is a very bad idea. I repeat—it is a very bad idea. Medical savings accounts, they say, would cherry pick the healthy people —yes—and drive up health care costs for the sick—yes. Medical savings accounts would further destabilize an already seriously fragmented insurance risk pool. And of course we understand what that means.

The insurance risk pool gets fragmented when companies self-insure; many big companies do that now. They did not 25 years ago. That puts more pressure on the small business market where you have individual insurance. It is a very, very risky business in any event, without thrusting MSA into it.

Another thought worries me. The Republicans put MSA's into reconciliation, with respect to Medicare. CBO has determined that only about 1 or 2 percent of Medicare beneficiaries would, in fact, select a medical savings account. But let there be no doubt in the mind of anyone here that what is hoped is that the MSA's would spread, indeed, to the whole concept of Medicare. This should represent to every one of my colleagues a very severe threat to the future of Medicare. That, I think, is what is in mind here. Furthermore, CBO concluded that healthy seniors would opt in and out of traditional Medicare based on whether they thought they would be using health services in that particular year. In other words, there would be no predictable pattern.

Lewin-VHI, a well respected consulting firm, concluded that "An optional health coverage program that promises potential cash benefits to persons who are able to keep their health spending low will experience extreme selection bias."

The American Academy of Actuaries has also been quoted. This is an interesting quote from them. "Those who have little or no health care expenditures. . .would save money on MSA's. The greatest losses will be for those employees with substantial health care expenditures. Those with high expenditures are primarily older employees and pregnant women.

A report from the Congressional Research Office, written by the nonpartisan folks there says, "If MSA's only attracted the healthy, the cost of insurance for everyone else would increase due to adverse selection."

The Kaiser Family Foundation has concluded that, "Enrollees who leave the traditional Medicare plan would be healthier on average than those who remain in the traditional plan."

Again, notice that threat—the Medicare beneficiaries lost to MSA's would be healthier on average than those who remain in the traditional plan."

That foreshadows an ominous future for Medicare. And you have this broad, broad coalition that is saying exactly the same thing.

Mr. President, I do not think it is any secret that there have been special interests working very hard on this in the last several days, and those who are in the process of making up their mind at this point, I think, might consider that there is really one group that is especially interested in this particular medical savings account activity. Their president was working the entire Capitol yesterday and saw a number of people. In exchange, they are hoping to win approval of a special tax break that they hope will throw millions of dollars in new insurance business their way. Is that a crude thing to say? I do not know. I think it is a major part of this debate, and I think it is a major part of the reason that we are in a debate we should not be in at all. Debate on this bill was to be based on the clear premise that we agree that controversial stuff should be left out—so we can take, as the Senator from Oklahoma said, 25 million kids and adults and improve their lives substantially, in terms of health care.

This is a bill which enjoys strong bipartisan support. MSA's do not enjoy strong bipartisan support. I have to conclude that the vote on this will be very close, and I hope as people vote, they will consider the pressures which have been brought, particularly by one single company, on Members on both sides of the House and the Senate.

Are we really going to do their bidding, or are we going to help 25 million people in this country when we have a historic chance to do it? I think the answer is easy. I hope my colleagues will move to strike the MSA provision. I thank the Presiding Officer.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield 4 minutes to Senator FAIRCLOTH.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for up to 4 minutes.

Mr. FAIRCLOTH. Thank you, Mr. President.

Mr. President, what a difference 2 years makes. All of us remember that at this time 2 years ago, the Clinton administration was struggling to keep afloat their Health Security Act—the Clinton plan for a nationalized health care system.

In case anyone's memory needs refreshing, I have reproduced the chart that Senator SPECTER used to illustrate the workings of the Clinton plan. Once Members of Congress and the American people saw what was behind the President's rhetoric, nothing could save the Clinton plan. Once the American people realized that the Clinton plan was a big-government power grab on the most enormous scale ever attempted in this country, they rejected it.

Mr. President, in contrast, the general philosophy of Republicans in Congress supports health care reform that benefits and empowers Americans and their families on an individual scale. As these charts illustrate, this philosophy is about improvements for individuals, not big government.

On my chart, I have included four principles: affordability, availability, flexibility, and portability. In the bill we are now debating, Senator KASSEBAUM has done a fine job of addressing two of these principles. In the provisions for insurance reform and for insurance purchasing pools, Senator KASSEBAUM'S bill takes important steps to improve the availability and portability of health care coverage.

It is my strong and sincere hope that we can further improve this legislation by amending it to include provisions that enhance the flexibility and affordability of health care coverage for all Americans on an individual basis. The provisions I have in mind include those that I have placed on my chart: medical malpractice reform, increased deductibility of insurance for self-employed individuals, and medical savings accounts.

The majority of uninsured Americans are adults who work full-time jobs, usually in small businesses. Measures like more favorable rules for the formation of voluntary purchasing pools, increased deductions for health care expenses, medical malpractice reform, and medical savings accounts would give small employers more options at lower costs to help them offer the health coverage they currently cannot afford. Under these proposals the decisionmaking will remain where it belongs, with individuals and their employers.

To reduce the number of uninsured Americans, President Clinton proposed an employer mandate that would have required all businesses to cover their employees with a Cadillac plan designed in Washington. The result of this policy would have been hundreds of thousands of lost jobs, and hundreds of billions of dollars in increased costs for businesses.

President Clinton also proposed that his nationalized health care system would have been run by a system of health alliances. Through a complex system of cost controls and rationing, the bureaucrats who ran these alliances would have decided what Americans spent health care dollars on, and how much they spent individually and collectively. If medical savings accounts were available to Americans, any individuals who chose them would gain full control of their own health care decisions.

As chairman of the Labor Committee, Senator KASSEBAUM has done a commendable job of advancing the difficult issue of health insurance reform within the jurisdiction of her committee. But, medical savings accounts fall within the jurisdiction of the Finance Committee.

Mr. President, the rules of the Senate should not deprive the American people of the most meaningful free-market health care reform measure that we could give them.

Perhaps the most important debate that we can have is a debate on medical savings accounts. It is unfortunate that the administration has already tried to poison this debate by threatening to veto a health care reform bill that contains them. Their accusation is that anyone who wants to include medical savings accounts wants to kill the Kassebaum bill. That simply is not true. The truth is the President knows that if medical savings accounts become law, they will drive the final nails in the coffin of the Clinton plan, and bury his dream of nationalized health care.

Once individual Americans have the power to control how their own health care dollars are spent, they will never allow the Government to take that power back.

In his last State of the Union Address the President stated that "the era of big-government is over." I wonder if he really meant it, or if he was just echoing a decision already made by the voters in the last elections. Regardless, the decision has been made. We should pass health care reform that ensures that the power to make health care decisions is placed in the hands of individual Americans, not big-government. That means health care reform that includes medical savings accounts.

I applaud the decision of Chairman ROTH and the majority leader to bring an amendment to the floor that contains medical savings accounts. Just as he has done so many times in the past Senator DOLE has shown the leadership necessary to make the difficult decisions, and push aside the administration's rhetoric.

Mr. President, there are very different goals involved in this debate. Our goal should be health care reform based on improvements for individuals, not health care reform based on big-government solutions.

I plan to strongly support the Dole-Roth amendment, and I urge my colleagues to do the same.

Thank you Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FAIRCLOTH. I plan to support the Dole amendment and urge my colleagues to do the same.

Mr. ROTH. I yield 5 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 5 minutes.

Mr. SANTORUM. Thank you, Mr. President. I appreciate that.

As I always like to say, I was one of the first Members of Congress in either the House or Senate to introduce a medical savings account bill. I introduced a bill with JOHN KASICH, TOM DELAY and John Miller, a former Member from Washington, back in January 1992. I have followed it for a long, long time prior to corporate lobbyists being up here on the Hill, and I believe very strongly in its concept.

Let me explain. I guess we had a lot of talk about what is going on here with this specific MSA bill. Let me explain the concept behind medical savings accounts and the fear many of us have with, the best way I can put it, the "corporatization" of the health care field and how we see medical savings account as, really, the last chance for patient choice and for compassion in an industry that is becoming more and more regulated by third parties in the fundamental relationship between doctors and patients.

If I can, let me just walk back to the system we had before managed care came into place. What we had was a doctor/patient relationship. That was the problem. There was nobody in this relationship who had any incentive to control costs. As a rule, costs escalated out of control. Why?

If you were the patient and had first-dollar coverage, who asked how much things cost? Who asked whether you needed one or two or five of these? You took whatever the doctor suggested and you did not pay for it, so why did you care?

So, on the other side is the doctor, and what is the doctor's incentive in this doctor/patient transaction? The more the doctor does, the more money he gets paid. The more the doctor does, the less chance the doctor gets sued. So you have a doctor who gets more money, with less chance of being sued, and you have a patient who does not pay for anything.

Then we sat back and wondered several years ago, gee, why are health care costs going up? It was very simple. There was nobody with any incentive to control costs. We understood that and companies understood that and insurance companies understood that, and they did a very logical thing. They brought someone in to control costs, the gatekeeper, the insurance company, who came in; and now they are governing the relationship between the doctor and patient. If you want something done, you go through the insurance company. You get approval, and it can be done. That is now the governor, the one who is in charge of this relationship.

What many of us believe is that that is not the most compassionate, and some would suggest that it may not result in the best quality of care. It certainly does not result in the maximization of patient choice. So what we have put forward is a concept called medical savings. I think it is really misnamed. I think we should call it "patient choice accounts," because that is what is left. If we do not do medical savings accounts, if we do not do patient choice accounts, the doctor-patient relationship which we know will disappear in America. It will disappear. It is disappearing, has disappeared, in a lot of communities already in this country.

We hear so much from so many people on both sides of the aisle about being compassionate, about caring for people, about doing things to give people choices and to give people the ability to do what is best for them and their families. What we have here is a situation going on in the private sector in America where that choice is going away. Private practice is almost a thing of the past in many communities and is growing more apparent in all States across this country.

What medical savings accounts do is provide a chance, an opportunity, for the traditional doctor-patient relationship to be restored where now the incentive is on the patient to be cost conscious. How? Because, instead of the old system where you had first-dollar coverage and the insurance company pays for everything, we are going to say, look, we are going to take a higher deductible policy like an auto insurance policy—we do not pay, as Senator NICKLES said, for gasoline or oil changes—but you pay for the incidental costs of health care, the day-to-day costs, and we insure you for the catastrophic illness or for a year where you had a lot of serious problems.

So you take a high-deductible policy and you pay for the out-of-pocket expense and you afford that because, when you take a higher deductible policy, the cost of that policy is less.

Senator CRAIG gave an example earlier where a policy with a $250 deductible and a $500 cap and a 20-percent copay cost $458 a month for a family. A $3,000 deductible policy, same coverages, no copay, costs two-thirds less, costs under $200 a month. Where did that savings go between the $200 and $450? It went into the pocket of the person who had the medical savings account.

It would go, under this bill, tax free into an account you set up at your bank. You get a little debit card. You could then use it to purchase health care. You could use it to make choices about what doctor you wanted to go to, what hospital, and how much you wanted to spend.

I always ask people, "Who are the lowest paid doctors in this country?" Well, they are pediatricians and family practitioners and dentists because they are not covered under insurance. Why? They have to charge people who pay out of pocket, so they have to keep their costs down. Just imagine if we did that to most of the health care sector in this country. It would be an enormous contraction, I believe, in costs in our society. It would not lead to higher costs in other areas, in other insurance pools. I think this is a dramatic step forward. This is the reason that I applaud Senator DOLE for fighting to the end because this is the kind of dramatic reform that this country needs to preserve freedom of choice for patients.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I yield 2 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for up to 2 minutes.

Mrs. HUTCHISON. Thank you, Mr. President.

I appreciate the chairman's generosity in letting me talk on this very important issue. I wanted to speak on two points on the amendment. First, the deductibility for the self-employed is such an important step forward that the people who are self-employed will be encouraged to get health care coverage for themselves, and that is what we are trying to do here. It is what we have been trying to do for 2 years. To increase the tax deductibility for them to 80 percent from 30 percent is a big step in the right direction to encourage more people to get health care coverage.

The issue of medical savings accounts—"patient choice accounts" is a great name for it because it really will make a difference for so many people and so many small businesses in this country, giving them an opportunity they would not have had.

Senator KENNEDY's bill in 1994 had language saying that they hoped there would be medical savings accounts included in the health reform bill passed by the Senate. This is not a partisan issue. Congressman JACOBS and Congressman TORRICELLI today wrote the President of the United States asking him to support MSA's.

Let me give you some examples of companies that have benefited from MSA's, medical savings accounts, patient choice accounts.

Dominion Resources in Richmond, VA. Since 1989, the company's health care costs have risen less than 1 percent a year while other health care costs all over this country have risen over 10 percent. Here we are at 1 percent a year. Not only have their costs come down, but their employees are happy because they have had improved and expanded medical benefits under their medical savings accounts.

Knox Semiconductor in Rockport, ME. Their president says they have saved the company $100,000 over 3 years. That is with just 42 employees.

The National Center for Policy Analysis in Dallas, TX, has been on the leading edge of giving their employees the choices. They have been able to contain their health care costs, and their employees are happier with their coverage.

Mr. President, medical savings accounts are a key part of the reform that is necessary to give more health care coverage to more people, more working people, in our country. That is why it is important to keep this amendment, the medical savings account, in the bill. Thank you, Mr. President. I thank the chairman.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield 4 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Delaware controls 2 minutes 30 seconds.

Mr. ROTH. With 1½ minutes of leader time, we have a total of 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa is recognized for 4 minutes.

Mr. GRASSLEY. Mr. President, the best thing we can do for health care reform is to let the marketplace operate to a greater extent in the delivery of health care. This issue is the most important one that faces us today. You know how strong our argument is from the weakness of the argument made by those on the other side of this question.

The other side's argument is that we should leave this medical savings account provision out of this bill because it happens to be controversial. Well, that is the strength of their argument: it is controversial in Washington, DC; that is, inside the beltway. Well, Mr. President, medical savings accounts are not controversial outside of Washington, DC.

The people who oppose this amendment are some of the same people who believe that Washington knows best, that Washington knows how to dictate the delivery of health care better than the people themselves do, particularly people at the grassroots. It seems to me a weak argument when the strongest argument against this legislation is that it is controversial. Since when is giving people more choice in health care controversial? That is what people want. That is what people know will work better. This is the usual big Government argument against any changes.

It is the argument in favor of big government versus letting the free marketplace work. It is the old in favor of big government making decisions for people, as opposed to letting people themselves make decisions.

Medical savings accounts give people choice. It is letting people control their resources for health care. Quite frankly, it is going to save us a lot of money and reduce health care costs.

I am very happy that the leadership puts forth this amendment, because allowing medical savings accounts is a step in the right direction. They are basically like IRA's, giving people an opportunity to save for their retirement. Medical savings accounts are giving people an opportunity to save for themselves and to control their resources for their own medical expenses.

There is a widespread use of medical savings accounts already in this country that speaks better than any of us can to their legitimacy and to their hope for success. They should reduce health care costs. Administrative costs are lower. Consumers with MSA's should use health care services in a more discriminating manner. Consumers with MSA's should be more selective in choosing providers. This should cause those providers to lower their prices to attract medical savings account holders as patients. Medical savings accounts can also help to put the patient back into the health care equation.

Patients should make more cost-conscious choices about routine health care. Patients with medical savings accounts would have complete choice of providers. Medical savings accounts should make health care coverage more dependable. Medical savings accounts are completely portable. Medical savings accounts are still the property of the individual, even if they can change jobs.

Hence, for those reasons, I support medical savings accounts. I very much thank the leadership for providing this amendment. I yield the floor.

Mr. DASCHLE. Mr. President, I know that we want to have a vote by 4 o'clock so I will divide the time remaining with the distinguished Senator from Delaware.

How much time remains?

The PRESIDING OFFICER. Six minutes and twenty-two seconds.

Mr. DASCHLE. I yield 3 minutes to our side and leave the Senator from Delaware the final 3 minutes.

Mr. President, given the very short period of time we have remaining, and the fact that all of the arguments have been made, let me simply summarize the case against including MSA's on this bill.

Two years ago we all agreed that comprehensive health care reform would not pass. In the last year and a half we have all agreed that we can only pass something which enjoys broad bipartisan support. It was with that understanding and with the remarkable leadership of the Chair of the Labor Committee, the distinguished Senator from Kansas, and the Senator from Massachusetts, we now have a bill that we all agree is the only health reform legislation that can pass this Congress with broad, bipartisan support. This narrowly drafted bill some of the most pressing health problems facing Americans.

Portability and coverage for preexisting conditions are two of the most important issues we face. So let there be no mistake, we have an opportunity today to pass something, but we also have an opportunity to kill that very bill with this MSA provision in this amendment. The NFIB clearly stated in a letter dated today, and they have said very clearly, "We oppose any amendment which will bring about a defeat of the legislation before us."

They recognize the importance of this moment. They recognize what an opportunity we have before us. We should not blow it. We should not kill this bill. Let us recognize there will be another day to have yet another debate about many other health care issues. But let us not destroy the golden opportunity we have today to pass meaningful legislation, by adding something as controversial as MSA's. We can do better than that. We will do better than that if we can, on a bipartisan basis, strike the MSA portion of the Dole amendment and pass this bill intact, as we know we can.

If we do that we can look back on this Congress with some satisfaction that we have done our best under these circumstances to address some of the real health care problems working Americans face.

I yield the floor.

Mr. ROTH. Mr. President, medical savings accounts are among the most important steps that must be taken to address this country's health care needs, particularly the need for portability. MSA's are of such importance in our effort to address our health concerns that on September 8, 1992, several of my distinguished colleagues signed a letter calling for the introduction of MSA's as part of their bill.

Let me quote a portion of that letter:

> Unlike many standard third-party health care coverage plans, Medical Care Savings Accounts would give consumers an incentive to monitor spending carefully because to do otherwise would be wasting their "own" money. . . Once a Medical Savings Account is established for an employee, it is fully portable. Money in the account can be used to continue insurance while an employee is between jobs or on strike. Recent studies show that at least 50 percent of the uninsured are uninsured for four months or less. . . . Today, even commonly required small dollar deductibles (typically $250 to $500) create a hardship for the financially stressed individual or family seeking regular, preventative care services. With Medical Savings Accounts, however, that same individual or family would have this critical money in their account to pay for the needed services.

Mr. President, these are important arguments that were made for MSA's over 3 years ago. They are equally, if not more, important today. That letter was signed by Senators BREAUX, BOREN, DASCHLE, LUGAR, COATS, and NUNN, a formidable bipartisan coalition of Senators taking a necessary stand on a critical issue.

Mr. President, I have a copy of a letter received from the Vice President of the NFIB that makes it clear that they are supporting the MSA. This letter, dated today, April 18, 1996, to the Honorable DON NICKLES says, "Overall, NFIB members need health care reform. It has been a top priority for years. MSA's are among the provisions we have consistently supported. These also include portability, no preexisting condition exclusion, deductibility, and small business purchasing groups. We will continue to fight for all these provisions of importance to small business."

For these reasons, Mr. President, I urge my colleagues on both sides of the aisle to vote against the motion to strike. I yield the floor.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the KASSEBAUM amendment No. 3677.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] and the Senator from Colorado [Mr. CAMPBELL] are necessarily absent.

The VICE PRESIDENT. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 46, as follows:

[Rollcall Vote No. 72 Leg.]

YEAS—52

Akaka
Baucus
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

NAYS—46

Abraham
Ashcroft
Bennett
Brown
Burns
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—2

Campbell
Mack

So the amendment (No. 3677) was agreed to.

Mrs. KASSEBAUM. Mr. President, I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CRAIG). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, we had hoped that we might have a vote on the Dole amendment, a rollcall vote here. I need to check with one Senator on this side. Is there any objection on the other side to having a vote at this time or not? Are you prepared?

Mr. DASCHLE. Yes.

Mr. DOLE. I would say with reference to the last vote, I think it was a close vote. As one of the conferees on the tax side, I think there will still be opportunities in conference. We wanted as many votes as we could have. We have one absentee so I think we have about 47 or 48 votes, which puts us in a strong position in the conference.

But, in any event, the outcome here may permit us to conclude action on this bill today, hopefully. I trust that is what the managers have in mind.

So, perhaps maybe Senator DORGAN might proceed at this time so we would not lose any time, if he wants to take his 15 minutes now while we are checking to see if we can go ahead and have the vote?

Mr. DORGAN. I say to the majority leader, if the majority leader wishes to proceed I will defer my time until after the vote. I do not need to intervene at this point. All I want to do is get the appropriate time following the vote.

Mr. BUMPERS. Will the majority leader yield for a question?

The PRESIDING OFFICER. The Senate is not in order.

Mr. DOLE. I will be happy to yield to the Senator.

Mr. BUMPERS. Mr. President, I wonder if it is too early for the majority leader to tell us if plans have been made for a session tomorrow and, if so, will votes be included tomorrow?

Mr. DOLE. If we can complete action on this bill tonight I do not anticipate any votes tomorrow. We will probably move to term limits, unless we could have some agreement. There would not be any votes.

I do not believe there are that many amendments left on this bill. So, as soon as I check with the Senator from Texas, we will be able to proceed.

Mr. COHEN. Will the Senator yield? I inquire whether or not he included the antifraud provision in his amendment?

Mr. DOLE. We included the Cohen antifraud provision, which I think will save $3 billion.

Mr. COHEN. According to the CBO, they scored a $3 billion savings. I want to commend Senators DOLE and ROTH for including it in the package. We are losing roughly $18 billion a year just out of the Medicare Program itself, and we are losing about $100 billion itself throughout the health care system. It works out to about $275 million a day, $11.5 million an hour. I would also like to thank Mary Gerwin, Helen Albert, and Priscilla Hanley from the Aging Committee for all their hard work on the fraud legislation.

Mr. President, last spring the Medicare trustees, on a bipartisan basis, issued an urgent warning that the Medicare hospital trust fund will go broke by the year 2002, unless major changes are made to protect the system. Since that alarm was sounded, the Congress has been wrestling with ways to bring Medicare spending under control, in order to forestall impending bankruptcy and to strengthen Medicare for both current and future beneficiaries.

The debate over how—and how much—to control the unsustainable growth of Medicare spending was part of the budget reconciliation process which now remains stalled.

A major step we can and must take toward Medicare reform is to crack down on the fraud and abuse that drives up the costs of health care for senior citizens and taxpayers. Estimates are that Medicare loses over $18 billion each year to fraud and abuse, and that fraudulent schemes cost the entire health care system and our economy over $100 billion each year.

The investigation of the Senate Special Committee on Aging, which I chair, has revealed that it is shockingly simple to commit health care fraud, and that the size, complexity, and splintering of the current health care system creates an environment ripe for abuse.

Health care fraud is equal opportunity employer that does not discriminate against any part of the system. All Government health care programs—Medicare, Medicaid, CHAMPUS, and other Federal and State health plans, as well as private sector health plans, are ravaged by fraud and abuse.

Similarly, no one type of health care provider or provider group corners the market on health care fraud. Scams against the system run the gamut from small companies or practitioners who occasionally pad their Medicare billings because they know they'll never get caught, to large criminal organizations that systematically steal millions of dollars from Medicare, Medicaid, and other insurers. According to the FBI, health care fraud is growing much faster than law enforcement ever anticipated, and even cocaine distributions are switching from drug dealing to health care fraud schemes because the chances of being caught are so small—and the profits so big.

Of particular concern is the growing evidence that health care fraud has infiltrated the health care industries providing services to our nation's elderly and disabled Americans, and in turn, contributing to the runaway costs of these entitlement programs.

The Inspector General of the Department of Health and Human Services, for example, has cited problems in home health care, nursing home, and medical supplier industries as significant trends in Medicare and Medicaid fraud and abuse. Padding claims and cost reports, charging the government and patients outrageous prices for unbundled services, and billing Medicare for costs that have nothing to do with patient care are just a few of the schemes that are occurring in these industries.

Unscrupulous providers are enjoying a feeding frenzy on Medicare and Medicaid, while taxpayers are picking up the tab for their feast.

It is time that we crack down—and shut down—these schemes that are bilking billions of dollars from Medicare and other health care programs. If we have asked honest health care providers to take cuts in reimbursement and asked Medicare and Medicaid recipients to pay more out-of-pocket costs to bring spending under control, we have an absolute duty to ensure the American public that their health care dollars are not lining the pockets of criminals and greedy providers who are manipulating the system through fraud and abuse.

I was very pleased that the budget reconciliation bill includes anti-fraud legislation that I introduced last year as a result of an investigation of the Special Committee on Aging and I am pleased that my legislation is included in the leadership amendment on the Kassebaum bill.

Specifically, the proposal creates tough new criminal statutes to help prosecutors pursue health care fraud more swiftly and efficiently, increases fines and penalties for billing Medicare and Medicaid for unnecessary services, overbilling, and for other frauds against these and all Federal health care programs, and makes it easier to kick fraudulent providers out of the Medicare and Medicaid Program, so they do not continue to rip off the system.

Most importantly, the bill establishes an antifraud and abuse program to coordinate Federal and State efforts against health care fraud, and substantially increases funding for investigative efforts, auditors, and prosecutors.

According to the Congressional Budget Office, these provisions will yield over $3 billion in scorable savings to Medicare—without costing a penny to senior citizens. I am convinced that the long-term savings are much greater, and that billions more will be saved once dishonest providers realize that we are cracking down on fraud, and that they can no longer get away with illegally padding their bills to pad their own pockets.

The legislation has received the support of the FBI Director, the Attorney General, the HHS' Secretary, and the Congress, which passed it as part of Budget Reconciliation. We should not let an opportunity to pass this bill go by. We lose as much as $275 million per day or as much as $11.5 million per hour to health care fraud and abuse. Every day we wait, will be a victory to those unscrupulous providers who are bankrupting our public health programs.

I urge my colleagues to support this important endeavor and I would like to thank Senators ROTH and DOLE for including this proposal as part of the leadership amendment.

Mr. HATCH. If my colleague would yield for a moment, I would like to take this opportunity to discuss some concerns I have with the section which pertains to establishment of a new health care fraud and abuse data collection program.

Mr. COHEN. I would be glad to yield to my colleague.

Mr. HATCH. As you may be aware, the alternative medicine community has expressed concerns about this provision. I have received communications from, for example, the American Preventive Medical Association and the National Nutritional Foods Association. In general their concerns—which I share—focus on the potential abuse of the fraud provisions we are passing today. I am sure my colleague is aware, for I know he shares my strong support for alternative medicine, that providers of alternative medical treatments sometimes find themselves in the cross hairs of the more traditional medical establishment. Personally, I believe that both alternative and traditional medicine are important and that both can benefit patients. But, this cooperative coexistence has not been fully realized it seems.

While we are all supportive of strong efforts to weed out health care fraud and abuse, I hope the Senator from Maine will agree that we do not want to create an opportunity for those who might want to eliminate or discourage such alternative treatments by threatening fraud actions under the new language we are considering today.

Mr. COHEN. My colleague is correct. I have long been interested in promoting alternative medical treatments and I do not have any desire to enact a new law which might treat such providers unfairly. Could the Senator from Utah share with me specific concerns?

Mr. HATCH. I would be glad to. I have concerns in four specific areas. First of all, would the Senator agree that the mere practice of unconventional or non-standard therapies would not fall within the definition of fraud? I am not asking you to amend the bill here, but rather to give me your assurances and the implementing agencies your guidance that such is the case.

Mr. COHEN. I agree with my colleague that the practice of alternative medicine in itself would not constitute fraud.

Mr. HATCH. Thank you. My next concern relates to creation of the health care fraud and abuse data collection program. As you know, some people are concerned about the very establishment at the Federal level of this new program. I understand those concerns, but I also am very sympathetic to my colleague's argument that this would be a strong weapon in our Federal arsenal to fight the fraud and abuse which are costing our health care system so many billions of dollars each year and robbing us of valuable resources which would be better used for patient care.

The specific concern I want to raise now is that the program not duplicate existing data bases which already collect information about credentialing, licensing, and malpractice violations against providers. Is that the Senator's intent?

Mr. COHEN. My language does not cover malpractice at all. Further, it is my intent that the new data collection system be coordinated with existing data bases, so that there is no costly and burdensome duplication of effort. I have revised the language to reflect my colleague's concerns in this area. The new language makes it clear that there should be coordination with existing databases.

Mr. HATCH. I appreciate my colleague's actions to accommodate my concerns here. Turning to another concern I have with respect to reporting action on licensing and certification of health care providers, suppliers and licensed health care practitioners, I understand that the Senator intends that the actions to be reported are final actions, after completion of due process. Is my understanding correct?

Mr. COHEN. That is correct. I would want to make certain that participants in the system can avail themselves of due process guarantees, and that only final actions be included in the new database.

Mr. HATCH. The last issue I wish to raise is with respect to a data base requirement of reporting providers, suppliers, and licensed health care practitioners who are excluded from participation in Federal or State health care programs. This is my concern. Increasingly, managed care organizations are excluding providers from participation solely because of economic concerns, not because of any wrong-doing or program violations. For example, a physician could be excluded from a managed care organization certified by the State to care for the Medicaid population solely because that provider may have ordered more services than the managed care plan allows. If a provider were excluded from participation in such a plan because of such "economic decredentialing," could that provider be reported to the data base?

Mr. COHEN. That is certainly not my intent. I have revised the language in the bill to state specifically that only exclusions for program violations are to be reported.

Mr. HATCH. I thank Senator COHEN very much for his work in this area, and specifically for his efforts to clarify the bill with respect to the treatment of alternative medical providers. I think that his changes have improved the bill greatly. I appreciate his efforts in this regard.

Mr. PELL. Mr. President, I ask unanimous consent to speak as in morning business for 4 or 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TRAGEDY IN LEBANON

Mr. PELL. Mr. President, I am deeply upset by this morning's news from Lebanon. As many of my colleagues have heard, Israeli shells hit a United Nations base in the village of Cana near the city of Tyre, within which approximately 500 Lebanese civilians had taken refuge from the recent fighting between Israel and Hezbollah. According to early press reports, the shelling caused the death of at least 75 Lebanese refugees—and perhaps many more than that—including men, women, children, and the elderly. At least 120 have been wounded, and two Fijian peacekeepers were killed.

Both the United Nations and Israel agree that minutes before the Israeli attack, Hezbollah guerrillas had fired Katyusha rockets at Israel from a position roughly 300 meters from the refugee camp. Clearly the Israelis were responding to the Katyusha attack, and unintentionally hit the refugee camp. Israeli officials, including Foreign Minister Barak, have issued assurances that Israel is not targeting civilians and would not have fired intentionally on a U.N. base.

If today's early news reports are correct, then we have witnessed a tragedy in the classic sense of the word—the deaths of these innocent civilians need not have occurred. Hezbollah has no right to launch rockets in such proximity to a refugee camp, apparently hoping to use the refugees as a shield against Israeli retribution. Israel, by the same token, has no right to respond as it did if it had any inkling that civilians would be harmed. If either party had put the best interests of the refugees first, then some 75 innocent noncombatants would be alive right now.

I do not dispute that Israel has a right to its own self-defense. I have taken care not to criticize Israel for its actions in Lebanon for the past 8 days because I understand well the threat that Hezbollah poses to Israel's security. I am keenly aware of—and condemn—Hezbollah's actions and intentions towards Israel. There can be no doubt that Hezbollah aims squarely to undermine the Middle East peace process, and I, in fact, agree with the widely held public sentiment that Israel was prodded into this latest operation in Lebanon. The overwhelming carnage of the past 8 days, however, compels me to call attention to what increasingly looks to be a disproportionate Israeli response. We cannot wring our hands about Hezbollah attacks against civilians and say nothing of Israeli excesses, whether or not they were intentional. Human life, after all, means as much on one side of the border as the other.

In the effort to root out Hezbollah, the Israelis appear to be attempting to cripple Lebanon's civilian economy and infrastructure. But as it tries to turn Lebanon against Hezbollah, Israel is running the risk that Lebanese Government and people will lose any stake in settling their differences with Israel peacefully. I fail to see how such an outcome serves Israel's long-term interests.

In being critical of Israel, I do not wish to absolve the Lebanese Government or Syria of their own responsibilities. Lebanon does not have the luxury of throwing up its hands and saying that it has no control over Hezbollah, and then complaining when Israel takes matters into its own hands. That is having it both ways. And I reserve special criticism for Syria. Syria has both the power and the means to shut down Hezbollah, but cynically lacks the will and has allowed Hezbollah's terrorism to go unchecked.

President Clinton has just announced that U.S. Special Middle East Coordinator Dennis Ross—and subsequently Secretary of State Christopher—will go to the region to try to end the violence. I join the President in calling for an immediate cease-fire. After today's tragedy, I would urge Israel—our friend, ally, and presumably the most advanced democracy in the region, to show greater restraint. As the stronger and more enlightened party, Israel even should contemplate a unilateral cease-fire. I understand fully that Israel faces enormous security risks, but its obligations to avoid miscues such as today are equally great.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate majority leader.

HEALTH INSURANCE REFORM ACT

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, I wonder if we can get the yeas and nays on the Dole-Roth amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Maybe that vote can follow the statement of the Senator from Delaware, if it is all right with the Senator from North Dakota to wait for a later time.

Then after 3 minutes for the Senator from Delaware, we can start the vote on the Dole-Roth amendment.

TRAGIC MISTAKE IN LEBANON

Mr. BIDEN. Mr. President, I thank the majority leader. I was not going to take the occasion today, but in light of the distinguished Senator from Rhode Island speaking on this issue, I do not take issue with what he said but emphasize a very important point, from my point of view: this issue of sovereignty in Lebanon and whether or not there was a tragic mistake made in this particular raid. I do not deny there was a tragic mistake that was made.

I know we all know and heard that the Israeli military had no intention of striking the target they, in fact, struck. That happens in war. But the full responsibility, in my view, falls on the Lebanese Government and the Syrian Government. How can we talk about sovereignty, how can we talk about the notion that you cannot violate a nation's borders when, in fact, one nation—and the nation in this case, Lebanon—has within its borders Hezbollah that is, in fact, not under its control but within its mandate, and take no action to stop the action they are taking, firing Katyusha rockets into civilian populations into Israel and Syria, which has control of much of that area, refusing to do anything to stop it, and then criticize Israel for acting.

I just ask you all, what would happen if across the Mexican border Katyusha rockets were being fired into El Paso, TX, on a regular basis and the Mexican Government did nothing whatsoever to stop the terrorists from that action? Is there any American who would say we should withhold taking action on the grounds that we are crossing an international border? I think we would not even think twice about it.

I regret deeply the mistaken target that was, in fact, hit. I am confident the Israelis do as well. But we should be putting international pressure on Syria and Lebanon to act and deal with the Hezbollah operating almost in plain view across the Israeli border terrorizing Israeli citizens.

I yield the floor and thank my colleagues.

HEALTH INSURANCE REFORM ACT

The Senate continued with the consideration of the bill.

VOTE ON AMENDMENT NO. 3676, AS AMENDED, AS MODIFIED

The PRESIDING OFFICER. The question occurs on agreeing to amendment No. 3676, as amended, as modified, offered by the majority leader.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Colorado [Mr. CAMPBELL] and the Senator from Florida [Mr. MACK] are necessarily absent.

The PRESIDING OFFICER (Mr. DEWINE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 73 Leg.]

YEAS—98

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone
Wyden

NOT VOTING—2

Campbell
Mack

So the amendment (No. 3676), as amended, as modified, was agreed to.

Mr. MCCONNELL. Mr. President, 2 years ago, the Senate debated President Clinton's massive, 1,400-page proposal to radically restructure America's health care system. After great fan fare, this big-government era proposal faltered under the crushing weight of its 8 new entitlements, 17 new taxes, 50 newly-minted government bureaucracies, 177 new State mandates, and nearly 1,000 new Federal powers and responsibilities.

Republicans promised then that we would provide the focused, consumer-based health care reform plan that Americans have asked for by an overwhelming margin. Today, under the leadership of Senator KASSEBAUM, Senator ROTH, and Senator DOLE, we deliver on that promise.

S. 1028, the Health Insurance Reform Act, focuses on alleviating key burdens that restrict the ability of Americans to obtain and maintain health care coverage—a lack of portability and the barrier of preexisting conditions. Today when Americans change jobs or face layoffs, they are at-risk of becoming uninsured or subject to preexisting condition exclusions. When employers are forced to frequently change health care plans to control costs, employees with medical conditions find themselves further exposed to coverage gaps.

S. 1028 presents reforms that definitively address these problems. This bill limits the ability of insurers and employers to impose preexisting condition exclusions. It prevents insurers from dropping coverage when an individual changes jobs or a family member becomes sick. It helps small companies gain more purchasing clout in the market by allowing them to voluntarily form purchasing coalitions. According to GAO, S. 1028's portability reforms will help 25 million Americans each year.

By alleviating job lock and providing States with greater flexibility to address the coverage needs of high-risk consumers, S. 1028 presents broadly supported, commonsense reforms that build upon successful State health care initiatives.

I am proud to join with 64 of my colleagues in cosponsoring S. 1028's reasonable plan to promote private sector competition and market-driven innovation. This proposal fulfills Americans' request 2 years ago for sound, focused solutions to our Nation's health care concerns.

S. 1028's reforms to enhance the availability of health care coverage is further supported by the Finance amendment's provisions to address the affordability of health care insurance.

First, the Finance amendment increases the tax deduction for self-employed who purchase health insurance by 5-percent increments from the current 30 percent to 80 percent.

Second, it provides tax exemptions to State-sponsored risk pools which help bring down the cost of health insurance for businesses and high-risk individuals.

I am particularly supportive of the long-term care provisions included in the Finance package. The ability to access quality, private long-term care insurance plans is pivotal to families facing the emotional and financial challenges of long-term care.

Traditionally, a family member, most likely a wife or daughter, has cared for an ailing spouse or parent at home. However, today's pressures of work, child-rearing, and family mobility greatly restrict the ability of adult children to administer to the day-to-day needs of a chronically ill parent. In addition, the rigors of home-based care can have a debilitating impact on the health and well-being of a caring spouse.

As America's population ages, the need for long-term care increases. In 1993, almost 33 million Americans were over the age of 65, and by 2011, the elderly population is estimated to number close to 40 million. While the opportunity for a happy and healthy retirement is better than ever, an October 1995 long-term care survey by Harvard/Harris revealed that one in five Americans over age 50 is at high risk of needing long-term care during the next 12 months.

Today, a variety of long-term care services are available, from help in cleaning one's home and getting groceries to skilled nursing care with 24-hour supervision. However, the means to pay for long-term care are still very limited and the expense can be overwhelming. For example, $59 billion was spent on nursing home care for the elderly in 1993, and 90 percent was covered by out-of-pocket payments and Medicaid.

The cost of paying out-of-pocket for 1 year in a nursing home is more than triple a senior's average annual income. Long-term care expenses put a lifetime of work and investment at risk. To gain Medicaid coverage, seniors must "spend down" their assets in order to meet State eligibility requirements. While Medicare takes care of hospital costs and home care, it provides only limited coverage for short-term stays in skilled nursing facilities.

The medical side of long-term care has seen enormous advances over the years in new technologies, facilities, treatment methods, and even psychological studies of the effects of long-term care on patients. But the financing side of long-term care has simply failed to keep up, and as a result it is ill-prepared for seniors' future needs. Today, private insurance pays for less than 2 percent of long-term care costs. As Federal mandates for Medicaid coverage have increased, States have attempted to contain costs by restricting services for the elderly. State-imposed caps on the number of Medicaid-sponsored nursing home beds has separated families from their loved ones because the only Medicaid beds available were hundreds of miles away from their community. Most disturbingly, the remaining assets of a deceased elderly couple can be tapped through an estate recovery action to compensate the State for the couple's Medicaid expenses.

Since 1990, Medicaid expenditures for long-term care have been increasing by almost 15 percent annually, causing costs to double every 5 years. Medicaid's service as the sole long-term care safety net for middle class seniors may seriously impair the program's ability to serve the underprivileged. While low-income families accounted for 73 percent of Medicaid's beneficiaries in 1993, nearly 60 percent of expenditures went to nursing home care and other long-term care services. For example, in 1993, Kentucky's Medicaid spending per enrollee for children was $964; while the cost for elderly beneficiaries was $6,540. Without relief, a harsh battle between generations may emerge.

Mr. President, I am pleased that my work with Senator ROTH has produced a sound plan in response to this critical health care need. The Finance amendment includes several reforms which I supported through my own long-term care bill: providing long-term care insurance with the same favorable tax treatment now available to medical insurance; allowing tax-free withdrawals from life insurance policies for terminally and chronically ill patients; and establishing sound consumer protections.

Private long-term care insurance translates into quality, flexible care for seniors, more Medicaid funds for low-income families and the disabled, and essential support for families who want their loved ones to be safe and secure. These are priorities that all members of Congress share. We should not miss this opportunity to help America's families prepare for the challenges of long-term care.

I regret that the Senate was unsuccessful in retaining Finance's proposal to provide Americans with the choice of Medical Savings Accounts, better known as MSAs. Today, we have witnessed a full-court press against MSAs by those who favor greater government management of health care rather than the expansion of private-sector health care choice. They raise the specter of how MSAs would wreck havoc across our Nation's health care system, and present the threat of a Presidential veto of any health care bill that contains MSAs.

Mr. President, I find this attitude starkly contrasts the promotion of MSAs by the Democratic leadership just a few years ago. In 1992, Senator DASCHLE viewed MSAs as a means to effectively control medical spending by allowing employers to provide their employees with an annual allowance through a MSA to pay for their routine health care needs. During the 1994 consideration of the Clinton health care plan, Representative GEPHARDT offered a MSA plan in his leadership proposal, and all but one Democratic member of the House Ways and Means Committee supported it.

Just last week, President Clinton called for an expanded use of retirement accounts to pay for certain health care expenses. Ironically, Democratic members tell us today that the President firmly rejects the specific establishment of a medical account to pay for health care costs.

This inconsistent rhetoric blurs the potential benefits of a MSA option. In 17 states, 3,000 businesses as well as state and local governments are using MSAs. Based on a recent survey by Blue Cross/Blue Shield, 67 percent of employers surveyed were interested in MSAs. For employers who can not afford conventional coverage, and particularly for lower income workers, MSAs offer an affordable option to securing much-needed health care insurance.

As the House health care bill contains MSAs, it is my hope that this provision will be included in the conference committee's final legislative proposal for health care reform.

Mr. President, in sum, S. 1028 and the reforms included in the Finance amendment provide sensible, fundamental solutions to America's health care concerns. President Clinton has promised that "the Era of Big Government is over." In fulfillment of his promise, the President should support S. 1028's effort to provide health care security through greater consumer choice, not greater Federal regulation.

Mr. KENNEDY. Mr. President, it is a little after 5 now. We started off early today at 9:30. We had a number of speeches, a good debate, and, I think, we had two enormously significant votes here which, I believe, open up the way for an early conference. Hopefully, if our good friends in the House view the medical savings accounts the way it was reflected here in the Senate, we can have this bill on the President's desk in very short order.

The leaders have instructed that we will stay here through this evening. We want to deal with these various measures. Earlier today, we asked Members, if they had amendments, to come up and see us. We are working through some, which are effectively universally accepted. We will try and make sure they are. If they are controversial and not unanimously supported, we will resist them. We want to try to move this along.

We have had a good day. We still have some outstanding amendments, but there is no reason we cannot finish this by 8 or 9 o'clock this evening. So we hope the Members who have amendments will come in now. There are some people that will just wait and see. But Senator KASSEBAUM and I are committed to trying to get this finished up in short order. We will ask those that planned to offer their amendments, if they would, to contact us right away. Otherwise, we will move to third reading.

Mr. DOLE. Mr. President, let me indicate and underscore what the Senator from Massachusetts just stated. We want to complete action on this bill. If we do, we will not have votes tomorrow. We may have debate on term limits, but no votes. We need to complete this to keep on schedule here. We still have to go back and finish illegal immigration. We have a day or two to make up there. Maybe we can do that next week, and, if not, the following week.

I hope anybody who has amendments will come to the floor. I know the Senator from North Dakota wishes to speak. That will be 15 minutes. So anybody that has an amendment, if you can be on the floor at, say, 5:30, it would be helpful to the managers.

Mr. LOTT. Mr. President, I want to talk about a needed addition to the Kennedy-Kassebaum legislation.

If you are an employee of a Fortune 500 company, you will probably make out okay under Kennedy-Kassebaum. If you are a union member, you'll definitely come out ahead.

But there is not enough in Kennedy-Kassebaum to address the needs of working families and small businesses. How can you have health care portability when you cannot afford health care, like many small businesses cannot afford to provide for their employees?

In the House-passed health portability bill, there was a pro-small business provision that I think we should include in any bill sent to the President.

The provision, which the House called the Health Coverage Availability and Affordability Act of 1996, clarifies existing law. It allows small employers to join together to purchase health insurance for their employees.

This act also included provisions allowing individuals to open medical savings accounts—something I support.

But let me dwell on the small-business pooling aspect of this act. Right now, before we pass any bill in this Chamber, certain groups can pool their resources to buy lower cost insurance for their members or employees. These certain groups are large corporations and unions. For years, these groups could bargain for lower prices with insurers. If you are bigger, you can dictate better terms. That is just economics.

Unions and big business also could exempt themselves from burdensome State regulations. Each State has a different list of benefits that insurers usually must pay for.

Back in 1974, there were only 158 State-mandated benefits. Now, there are over 1,000 State-mandated benefits that insurers usually must cover. Some benefits covered in various States included massage therapy, acupuncture, hairpieces—and there are more exotic treatments. Many of these mandates are expensive. No wonder health costs are going up each year.

I said that insurers usually must cover these benefits. Under the Federal ERISA law, unions and large corporations are exempted from some State rules, and can set their own benefits. They also have less paperwork—complying with one general standard as opposed to 50 different State standards saves a lot of trees.

So we see that unions and big business have it easy when it comes to covering their members or workers. What about the small businessperson?

Well, the self-employed or small business owner does not have the bargaining power of a large corporation or union. They do not qualify for ERISA exemption. They have to comply fully with State regulations.

So, says the National Federation of Independent Businesses, small businesses' premiums are 30 percent higher than large corporations due to State mandates. Also, small businesses pay 30 percent more for similar benefits than larger corporations.

We talk a lot about the uninsured in this body. The Kennedy-Kassebaum bill is one way of addressing part of the problem. A large source of uninsured Americans though, is the inequity between small businesses and large businesses and unions. Kennedy-Kassebaum does not adequately address this issue.

Any final bill should include what the House did, and allow small businesses to form groups to purchase full health coverage or cover their employees under self-insured health plans. Allowing small companies to join together would give them bargaining powers similar to big businesses or unions. They would be exempt from certain burdensome State mandates.

Also, the House proposal allows States that allow small employers access to the small group market to opt out of the bill. The House bill balances the need for uniformity of laws across States, while maintaining States' rights.

The House bill is a good bill, and would have an immediate effect.

About 85 percent of the 40 million uninsured are in families with at least one employed worker, many of whom work for small businesses. That is a lot of people who could be covered if we changed the rules.

The National Center for Policy Analysis says that one in five small companies that do not now offer health insurance would do so if they could get free of heavy State mandates.

If these companies could have the same opportunity as big companies and unions, 6.3 million people would have access to health care. Immediately, you would take care of almost 16 percent of the uninsured in America. Others say 50 percent of the uninsured could probably have access to health care.

Whatever the number, we can take a substantial leap toward providing health care for all Americans—all without new taxes or unfunded mandates.

I am not the only one who thinks this is a good idea. Mr. President, I will soon submit for the RECORD two letters to the House leadership from the National Association of Manufacturers and the National Restaurant Association in support of the House bill.

Also, the chamber of commerce, National Association of Independent Businesses, National Retail Federation, and other groups supported the bill I have been talking about here.

So there is much support for this, and I hope at least in conference we can look at this issue, and provide some relief for small business and the self-employed. I personally believe that we have been unfair to the job creators and those who want to be their own boss.

Right now, self-employed people can only deduct 30 percent of their health care costs. Big businesses and unions can deduct 100 percent. This year, Congress passed a bill that would have raised this 30 to 50 percent. Guess what? The President vetoed it! Is this fair? Is this pro-business? Is the President for entrepreneurship in this country?

I think it is high time that the President signs the bill he vetoed, and we should eventually pass the House bill that expands health care for Americans who work for small businesses.

The large companies and the unions have had the benefits and advantages for too long. If they can do it, a small businessman in Pascagoula should be able to cover his family and employees.

Let us help small business in this Chamber. Remember them in this debate we are having about health care.

I ask unanimous consent that the letters I mentioned be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF
MANUFACTURERS,
Washington, DC, March 8, 1996.

Hon. J. DENNIS HASTERT,
Chief Deputy Whip, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE HASTERT: I am delighted to hear that the House Republican leadership has put together a package of realistic and achievable health care reforms and will pursue them as part of the 1996 legislative agenda. It is my understanding that these reforms include:

Portability reforms to ensure that employees won't be denied health coverage if they change or lose their jobs;

Medical malpractice reforms so that valuable dollars intended for health care won't be wasted on frivolous litigation;

Increased health insurance deductibility for the self-employed to further mitigate unfair differences based solely on the form of doing business;

Reforms to facilitate small group pooling and thereby improve both affordability and access for small businesses;

Medical savings account provisions to further improve both choice and affordability for all Americans; and

Accountability provisions to curb fraud and abuse, leading to lower costs throughout the system.

These are all provisions which NAM has supported in the past and continues to support. In our view, this kind of targeted, incremental approach, which retains the private, voluntary health system while improving and strengthening it, is exactly the right approach. The NAM is therefore pleased both to endorse and to enthusiastically support your plan.

Sincerely,

JERRY JASINOWSKI,
President.

NATIONAL RESTAURANT
ASSOCIATION,
Washington, DC, March 27, 1996.

House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the National Restaurant Association and the 739,000 foodservice units nationwide, we urge you to support H.R. 3103, the Health Coverage Availability and Affordability Act.

As you may know, our industry has been working to enact healthcare reform legislation for years. Our research continues to demonstrate that the basic reason why employers and individuals do not purchase health insurance is because of the cost. This legislation takes a major step forward by eliminating some of the barriers that prevent people from purchasing health insurance, while at the same time helps keep down the cost.

The restaurant industry is dominated by small businesses. More than four out of ten eating and drinking places are sole proprietorships or partnerships. Nine out of ten eating and drinking places have less than 50 paid employees. Seventy-two percent of eating and drinking places have sales of $500,000 a year or less. While many would like to offer their employees health benefits, the cost has proven to be prohibitive.

In addition to addressing key concerns about portability and preexisting condition limitations, H.R. 3070 would increase the deductibility of health insurance for the self-employed from 30 percent to 50 percent. For small businessmen and women—and their families—deductiblity of health insurance premiums is a must. Other important components of the legislation tackle medical malpractice reform, fraud and abuse and administrative simplification. Also, this legislation will allow small businesses to form voluntary purchasing pools which would help level the playing field by giving them some of the negotiating tools of large businesses and reducing the cost of providing coverage.

The National Restaurant Association is strongly opposed to any amendment that would raise the cost of health coverage with federal mandates or by expanding COBRA coverage. If employers cannot control the costs of their own health care plans because Congress mandates certain types of coverage, employers will be forced to drop their coverage altogether.

We urge you to support H.R. 3103, the Health Coverage Availability and Affordability Act.

Sincerely,

Elaine Z. Graham,
Senior Director, Government Affairs.
Christina M. Howard,
Legislative Representative.

Mr. LOTT. Mr. President, I had an amendment that I drafted, which I will not offer at this time for a variety of reasons. I do want to move this legislation along. But in the House-passed bill, there was a pro-small-business provision, and I think we should include that in any bill that we send to the President. The provision, which the House called the Health Coverage Availability and Affordability Act of 1996, clarifies existing law. It allows small business employers to join together to purchase health insurance for their employees.

This act also included provisions allowing individuals to open the medical savings accounts that we have already dealt with this afternoon. I really do think there is a real justification for small businesses to be able to join pools and provide coverage for their workers. That could be a pool through the Restaurant Association, the National Federation of Independent Business, or within their own corporation.

I realize that it is not as simple as it sounds, but it is something that should be done. I think it would help a lot of people now that work for small businesses—particularly fast food services—be able to get access to insurance through these pools.

So I will be working with the conferees to try to get them to take a look at this and see if we cannot perhaps perfect some of the language that was in the House bill and allow this coverage to be available.

I know of many instances where people are working for hamburger places or pizza places, where most employees have no coverage. They cannot afford it, and the employer cannot provide it. This would give them a way to get it through pools.

I hope we will look at this approach in the conference, since it is in the House bill. If we cannot work it out there, let us see if we cannot find an opportunity to give serious consideration to this at the earliest opportunity.

Mr. KENNEDY. Mr. President, we have some provisions in here to encourage pooling among small businesses. We would be glad to work with the Senator from Mississippi in reviewing that language, since the House has similar language, to find out how we may be able to make that more effective. And we will certainly be glad to visit with him prior to the time of the conference and see if we cannot find ways of making it more effective. He has identified a very important problem and challenge, and we attempted to make some important, modest steps, but very important steps, I think, to encourage this kind of activity and programs. He has additional ideas, and we look forward to talking with him.

Mr. LOTT. I thank the Senator. I will be glad to work with him on this issue.

AMENDMENT NO. 3678

(Purpose: To provide equitable relief for the generic drug industry)

Mr. BROWN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Colorado [Mr. Brown] proposes an amendment numbered 3678.

Mr. BROWN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title III, insert the following:

SEC. . EQUITABLE TREATMENT FOR THE GENERIC DRUG INDUSTRY.

(a) Sense of the Senate.—It is the sense of the Senate that the generic drug industry should be provided equitable relief in the same manner as other industries are provided with such relief under the patent transitional provisions of section 154(c) of title 35, United States Code, as amended by section 532 of the Uruguay Round Agreements Act of 1994 (Public Law 103–465; 108 Stat. 4983).

(b) Approval of Applications of Generic Drugs.—For purposes of acceptance and consideration by the Secretary of an application under subsections (b), (c), and (j) of section 505, and subsections (b), (c), and (n) of section 512, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (b), (c), and (j), and 360b (b), (c), and (n)), the expiration date of a patent that is the subject of a certification under section 505(b)(2)(A) (ii), (iii), or (iv), section 505(j)((2)(A)(vii) (II), (III), (IV), or section 512(n)(1)(H) (ii), (iii), or (iv) of such Act, respectively, made in an application submitted prior to June 8, 1995, shall be deemed to be the date on which such patent would have expired under the law in effect on the day preceding December 8, 1994.

(c) Marketing Generic Drugs.—The remedies of section 271(e)(4) of title 35, United States Code, shall not apply to acts—

(1) that were commenced, or for which a substantial investment was made prior to June 8, 1995; and

(2) that became infringing by reason of section 154(c)(1) of such title, as amended by section 532 of the Uruguay Round Agreements Act (Public Law 103–465; 108 Stat. 4983).

(d) Substantial Investment.—For purposes of this Act and section 154(c)(2)(A) of title 35, United States Code, with respect to a product that is subject to the requirements of subsections (b)(2) or (j) of section 505, or of subsections (b)(2) and (n) of section 512, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(2) and (j), and 360(b)(2) and (n), the submission of an application described in subsection (b), and only the submission of such an application, shall constitute substantial investment.

(e) Notice.—

(1) In general.—Unless the notice required by this subsection has previously been provided, when an applicant submitting an application described in subsection (b) receives notice from the Secretary that the application has been tentatively approved, such applicant shall give notice of such application to—

(A) each owner of the patent which is the subject of the certification or the representative of such owner designated to receive such notice; and

(B) the holder of the approved application under section 505(b) or section 512(c)(1), respectively, for the drug which is claimed by the patent or a use of which is claimed by the patent or the representative of such holder designated to receive such notice.

(2) Certification of notice.—The applicant shall certify to the Secretary the date that such notice is given. The approval of such application by the Secretary shall not be made effective until 7 calendar days after the date so certified by such applicant.

(f) Equitable Remuneration.—For acts described in subsection (c), equitable remuneration of the type described in section 154(c)(3) of title 35, United States Code, as amended by section 532 of the Uruguay Round Agreements Act (Public Law 103–465; 108 Stat. 4983) shall be awarded to a patentee only if there has been—

(1) the commercial manufacture, use, offer to sell, or sale, within the United States of an approved drug that is the subject of an application described in subsection (b); or

(2) the importation by the applicant into the United States of an approved drug or of active ingredient used in an approved drug that is the subject of an application described in subsection (b).

(g) Applicability.—The provisions of this section shall govern the approval or effective date of approval of all pending applications that have not received final approval as of the date of enactment of this Act.

Mr. BROWN. Mr. President, this is not a new subject for Members of Congress. This is one we have considered before. I will make my remarks very succinct. I know other Members are waiting to speak.

What this does is complete our consideration of GATT. In the GATT agreements, the provisions with regard to exclusive use of drugs was extended. But the GATT provided specifically for exceptions where people have made substantial investments in generic drugs. This goes along with the language in the GATT agreement. It puts us in conformity with what other countries are considering. It allows us to provide the original length of protection that was planned for drugs.

Without action on this amendment, what we stand to have is American consumers lose roughly $5 million a day. The impact on U.S. consumers is roughly $5 million. Every day we delay enacting this means a day in which consumers are denied generic drug alternatives, which can save them $5 million a day. We have already delayed to a point where, by the end of this month, U.S. consumers will have lost over $700 million, and the price tag rises dramatically.

A bill we had up in committee was put off. It is, thus, imperative that we offer this on this vehicle. It is an enormous savings to American consumers.

Mr. President, it is fairness because it gives drug companies the same protection for which they planned on all along. But it does not give them a windfall, or more than what was planned.

Mr. President, I yield the floor at this point.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me.

Mr. President, I am very pleased and honored to join with my friend from Colorado, Senator BROWN, in the introduction of this amendment. This is the so-called GATT Glaxo amendment. The issue has been presented here on the floor. In fact, this is a simple way of correcting a major mistake that Congress made in adopting the GATT Treaty. It was an oversight. It has been testified to time and time again by Mickey Kantor—our then U.S. Trade Representative who negotiated this particular treaty—that it was a mistake, and that it needs to be corrected. The Patent Office said it was a mistake, and all up and down the line people agree that this was an enormous mistake that we need to correct at this time.

The first time we brought this issue to a vote on the floor was December 7, 1995. On that particular vote, the vote cast in the Senate was 48 to 49. There was one abstention. There was one absent Senator. And since that day, since that particular delay, I think it might be interesting to note that very few—a handful of drug companies—Glaxo specifically, have made a profit, or a gross income, because of this variation in the GATT Treaty giving a particular exception, a particular benefit, to a handful of drug companies. There has been an extra $5 million per day in income to these companies. Since December 7, 1995, we have seen an income of $665 million extra to these drug companies that is being paid out of the pockets of the consumers especially for drugs such as Zantac; $665 million—a windfall profit gift that we have given to these particular companies, and especially to a company called Glaxo.

We also note that Senator HATCH wrote a letter to us, the sponsors of this amendment, on December 13. He said he promised hearings on February 27, 1996. So we waited and waited and waited around for that hearing. According to his promise, the distinguished chairman, Senator HATCH, held a hearing. By that time another $310 million had been given to the drug companies in a windfall profit situation.

We waited another month—until March 28, 1996. The Judiciary markup was scheduled, and it was abruptly canceled. So once again there was a delay.

This morning, on April 18, 1996, another Judiciary markup on S. 1277 to correct this egregious error in GATT was held. And, when the Senators arrived at the markup, it was noted that a Senator had put a hold on the markup, that there would be no actual vote on S. 1277. And, therefore, Mr. President, another $665 million in profits for a very few drug companies.

Now it is noted that the chairman this morning stated that if possible we will have a hearing in the Judiciary Committee next week on the 25th of April, and possibly we could mark this bill up, S. 1277.

But in the meantime, Mr. President, the clock is running. We feel that this is a health bill, that this is the proper way to bring this bill to the attention of our colleagues, and it is the proper measure to attach this correction to the GATT Treaty.

We hope that our colleagues will support this measure.

Mr. President, I thank the Chair for recognizing me. I yield the floor.

Mr. HATCH. Mr. President, although I understand that the Senator from Colorado plans to withdraw his amendment, I want to take this opportunity to express my opposition to both the Brown/Pryor/Chafee amendment and the idea that it should be included as part of the Kassebaum-Kennedy health insurance reform measure.

I said it on December 7, and I say it today: "Here we go again."

Four months ago, we considered the Pryor language in this chamber. That time, it was an amendment to the partial birth abortion ban bill the President just vetoed. We agreed then, by a vote of this body, that the Judiciary Committee should hold hearings on the issue.

On December 13, I sent a letter to Senators PRYOR, BROWN, and CHAFEE, and I made a commitment to hold a hearing on February 27 and a markup by the end of March.

In fact, the committee did hold the hearing on February 27, as I promised. I agreed to hold a markup the week of March 25, but had to delay that because of lengthy committee consideration of the immigration bills. I rescheduled the markup at the first opportunity. In fact, it was to have been today, but as my colleague may have heard, we did not get a quorum.

I still intend to press forward expeditiously for consideration of this issue in the committee. It will be on the agenda for the next markup and that is my commitment.

I find it ironic that proponents of this amendment are using the same timetable as I. There is no disagreement here. The process is moving forward.

In sum, I have lived up to my word.

As a matter of fact, I have bent over backwards to accommodate the interests of this body in a full and fair examination of the issue.

We had 10 witnesses at the February 27 hearing, 5 on each side. It was a good session, one during which I believe we all learned a lot.

I plan to go ahead with the markup. We will try to work out a resolution. I hope we will be able to. I don't think that the Brown amendment today meets that test.

The GATT/pharmaceutical patent issue is unquestionably one of the most complicated we have seen, as it involves the confluence of patent law, trade policy and food and drug law and regulations.

Its resolution has potentially enormous consequences, both on the future of biomedical research in this country and on the ability of consumers to have access to the most safe, effective, and low cost drugs possible.

The proponents of this amendment argued today, as they have in the past, that this is a case of Congress making a simple mistake and that now we should act to fix this mistake by adopting this technical mistake.

This is the type of argument that is often made when this body acts through unanimous consent.

I wonder how many times we have debated a purported technical corrections bill for 3 hours—as we did on December 7—then split almost down the middle on a 49–48 vote that cut across party lines.

There is no foundation for the argument that this is a simple perfecting amendment that would achieve a result which is clearly intended by Congress.

Again today we heard the now familiar litany on the issue of intent. We heard about Ambassador Kantor, FDA Deputy Commissioner Bill Schultz, and all the other Administration representatives who attend the school of revisionist history on this issue.

What has become apparent to me during this debate, a fact which has not been revealed today by any of my colleagues, is that the argument on intent has been rejected by the Court of Appeals for the Federal Circuit, which could find no definitive evidence of intent.

In the November, 1995 Royce decision, the Federal Circuit stated:

> The parties have not pointed to, and we have not discovered, any legislative history on the intent of Congress, at the time of passage of the URAA, regarding the interplay between the URAA and the Hatch-Waxman Act.

Perhaps some day my colleagues can explain why it is that the Federal Circuit, a neutral judicial tribunal, is having so much trouble finding any evidence on the question of intent, a question that seems to lie at the center of this debate.

Perhaps some day my colleagues can explain why, in their quest to "level the playing field," they have created a special benefit for one industry. I challenge them to identify any industry that has attempted, let alone succeeded, to use the GATT transition rules to reach the market prior to expiration of the newly extended patents. It just hasn't happened, and it probably will not unless anyone can identify acts that would not have been infringing before we enacted the URAA that continued and became infringing after the URAA was enacted.

It is curious to me that a lawyer for the generic drug industry would argue to the Supreme Court that "the most obvious intended beneficiary of this statutory licensing system was the generic drug industry . . . In fact, since the adoption of TRIPS and the URAA, no industry other than the generic drug industry has emerged as being potentially affected by the equitable remuneration system."

I will not prolong my remarks today. I look forward to exploring these and other issues in much greater detail at the markup.

In closing, I want to reiterate my strong opposition to the amendment, and my disappointment that we are considering it here today prior to the Judiciary Committee's scheduled markup.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I request to be able to use the 15 minutes that I am allotted under the former UC that was decided by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

MINIMUM WAGE AND SOCIAL SECURITY

Mr. DORGAN. Mr. President, I intend to yield some of that time to the Senator from South Carolina.

Mr. President, everyone has a right to characterize or mischaracterize the activities of the Senate. A colleague of mine during the previous debate on the motion to strike came to the floor and in that debate characterized the series of things that had happened earlier this week—or rather mischaracterized them—and described the certain circumstances as highly partisan, just politics, and so on.

I felt it necessary that I correct the RECORD and not allow this moment to pass without responding. I want everyone to understand that there are times here in the Chamber when amendments are offered that it is not convenient for people, amendments are offered that just are uncomfortable for people. But the way the system works here is sometimes you do not have an opportunity to offer an amendment except in the certain circumstance, and then you must offer it, or you are never going to have a chance to have the Senate consider it.

We had a circumstance earlier this week where a bill was brought to the floor of the Senate. Senator KENNEDY, I, and some others were intending to offer an amendment. Senator KENNEDY was going to offer an amendment on the minimum wage, which I support. That is inconvenient for some people. They do not want to debate the minimum wage. Some in this Chamber say we do not want to deal with the minimum wage issue. Some of us do. Some of us think when you have gone 6 years without a change in the minimum wage that at least those on the lower rung of the ladder have lost one-half dollar of their purchasing power from the minimum wage, and maybe people in this Chamber ought to care a little about that. I know there are no high-paid lobbyists out beyond this Chamber saying, "Yes, we care about the people at the bottom of the economic ladder." If we are working on issues that dealt with the people at the top of the ladder, you can bet the halls would be full of high-paid lobbyists. But not for the minimum wage.

Some of us insist that these are issues that we ought to be debating.

Is it partisan? No. It is public policy.

The second issue which I introduced as an amendment on Monday dealt with the Social Security issue. It is mischaracterized as totally partisan, irrelevant, and a troublemaking amendment.

Let me describe what this issue is. Let me go back to 1983. In 1983 this Congress passed the Social Security Reform Act. I know that because I helped write it. I was a member of the Ways and Means Committee in the U.S. House. If anybody wants to go back to the record of the markup, you will find that I offered the amendment in 1983 during the markup that said let us not use the Social Security revenues we are going to begin to save to meet our needs when the baby boomers retire. Let us not use them as other operating revenues. Let us truly save them. So let us create a firewall. Let us prevent people from misusing, or taking, the Social Security trust funds and using them for other purposes. In 1983 I offered that amendment. It was defeated in the Ways and Means Committee.

I have tried since repeatedly. The Senator from South Carolina has tried, and in some cases successfully. The fact is we have a law that prevents the Social Security funds from being misused for other purposes, and the law is ignored.

My intention was to bring to the floor on Monday an amendment that I offered that angered some people, an amendment that said, if we are going to consider a constitutional amendment to balance the budget which the majority leader said he will require us to do under reconsideration, a procedure that will allow no amendments and no debate—if we are going to do that—I said let us have the Senate vote on a sense-of-the-Senate amendment to create a firewall between the Social Security trust funds and other revenues because, if we do not do that, what will happen is $600 to $800 billion of Social Security trust funds will be misused. That is not trivial, and is not partisan. It is policy.

I understand that for some it is a nuisance. For some it is inconvenient. For some it is troublesome to have to deal with this.

So the result was people got in a pique and decide to put the Senate into a recess so one person or another cannot speak. It is not the way this place works.

We will vote on that sense-of-the-Senate resolution. We did not on Monday. But we will vote on it. We have the right to offer it, and we have the right to insist on a vote on it.

The same will be true with minimum wage, and the same will be true with several other issues that we think are important matters of policy. This is not about individuals on the Senate floor.

The PRESIDING OFFICER. If the Senator will suspend for a moment, will those Members in the Senate who are having discussions please retire to the Cloakroom, and members of staff as well?

The Senator from North Dakota.

Mr. DORGAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes and 20 seconds.

Mr. DORGAN. Let me finish, and then I will yield to the Senator from South Carolina under the 15 minutes.

My only point is this: I respect any Member who stands up and ascribes motives to others, but if they are motives that, in my judgment, do not comport with what we are trying to do, then I think we have a right to say that is not the case.

With respect to Social Security, Social Security is going to have problems beginning in the year 2018. That is the point at which the surplus discontinues accumulating. From 2019 down to 2029 or so we run out of surplus. The fact is in order to accumulate that surplus, we must set the surplus trust funds aside.

That is what the Senator from South Carolina and I have been trying to do for a long while. I encourage those who wonder about motives to go back to 1983 and the Ways and Means records and see who was making those motions 13 years ago on this very issue, and then call them political today, if you will. But you are wrong.

The Senator from South Carolina has been on this floor many times and I have been on the Senate floor and the House floor many times in the last 13 years on this subject, and I will continue to do so. It might be inconvenient to have offered the sense-of-the-Senate resolution last Monday, but we will vote on it at some point. I said then I would agree to a 20-minute time limit; it does not matter to me. I just want this Senate to go on record on those issues. Maybe that is partisan in the minds of some. To me it is a very important public policy.

Mr. President, I yield the remaining time to the Senator from South Carolina [Mr. Hollings].

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague from North Dakota. We have been working in the vineyards together in trying to end the practice of applying Social Security surpluses toward the deficit. Everyone is interested in balancing the budget. But what happens in all of these budgets, both the Republican and the administration budgets, is that they use Social Security trust funds to obscure the size of the deficit.

This minute, we owe $502 billion to Social Security. Over the next 6 years, we will borrow another $600 billion from that trust fund. So even if we succeed in enacting these so-called balanced budget plans, by 2002 we will have destroyed the Social Security program; we will owe Social Security over $1 trillion. No one is going to raise taxes some $1 trillion to make good on the Social Security trust fund.

The time to stop that nonsense is here and now. In order to do so, 98 Senators in this Chamber, as the Senator from North Dakota stated, voted for the Heinz-Hollings-Moynihan amendment on October 18, 1990. President George Bush, on November 5, 1990, signed section 13301 of the Budget Enforcement Act into law.

Republicans charge that offering the Dorgan amendment is delaying action on the immigration bill. But what is good for the goose is good for the gander. On yesterday afternoon, in the middle of the terrorism bill, the distinguished majority leader saw fit to come to the floor to talk about balancing the budget through spectrum auctions. Fine. That is his privilege and no one disrespects it. But we should not cry foul when other members talk about Social Security and balancing the budget.

The truth of the matter is that we are in a Catch-22. This Senator has produced balanced budgets. I had a AAA credit rating as the South Carolina's Governor. I voted for a balanced budget in 1968–69. Since that time, as chairman of the Budget Committee, I have proposed freezes, Gramm-Rudman-Hollings, and, yes, tax increases to try and balance the budget. So this is not a casual political maneuver to get high ground in any political campaign. It is done in an attempt to get us to keep our word—to not use Social Security trust funds in calculating the deficit. We cannot keep it when the leadership, in considering the constitutional amendment to balance the budget, which this Senator has voted for already three times——

The PRESIDING OFFICER. If the Senator will suspend, let the Chair try to get order in the Senate. If those Members who are having discussions, please, could retire to the cloakroom. The Senator is entitled to be heard.

Mr. HOLLINGS. I thank the distinguished Chair.

I voted for a balanced budget. I wish to vote for a balanced budget amendment to the Constitution. But I will not vote to repeal the firewall that we have in the law for the Social Security trust fund. Let us have really truth in budgeting.

I commend the distinguished Senator from North Dakota in bringing his amendment up in this particular fashion. It is unfortunate that we had no other option. We are not trying to delay the immigration bill. I commend the Senator from Wyoming and the Senator from Massachusetts on their leadership on immigration. I am ready to vote for their bill. We are ready to agree to a time agreement. But we want to vote on this issue to really fix into the conscience of the body that when we say it is a trust fund, we mean to protect it and not dip into those surpluses. That is what the chairman of the Budget Committee on the House side said they did last evening. They dipped once again into our children's piggy bank.

That piggy bank is there to protect retirement. Senator Thurmond and I, we are going to get ours. In fact, we are getting ours now. But I can see some young folks around here; when their time comes, they are never going to be able to receive it. Why? Because we have got this nonsense about a unified budget.

Here is the budget law. If you can find the word unified in there, I'll jump off the Capitol dome. There is no such thing as a unified budget in the budget law, but the administration goes along with it; the Congress goes along with it. They violate the law. Let us join with the distinguished Senator from North Dakota and stop violating the law.

I yield back the remainder of my time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I am just going to take one moment and then yield the floor. We have a measure that is before us, and I see the Senator from Vermont, who has an amendment, who had spoken to us earlier today and is waiting to move towards that amendment.

We are going to, in just a few moments, ask unanimous consent to finalize the list of amendments. We have been able to work through many of them. So we are expecting probably some votes that will be continuing along until we are able to hopefully get this concluded. We can do that in a period of time, but I hope that our membership will not be coming to us at 7, 7:15 asking for windows and other kinds of things, because we were able to really move this and follow the admonition of both the majority and minority leaders. So we are going to ask for a consent that we have received all the amendments in just a few moments. So if any of the Members are interested, this is really the last call.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

BALANCED BUDGETS AND SOCIAL SECURITY

Mr. SIMPSON. Mr. President, I just want to speak for a few moments on this issue of Social Security and balanced budgets. I have the greatest respect for Senator Fritz Hollings and my colleague Senator Kent Conrad, who sits there, and his friend and mine Byron Dorgan. They are a very remarkable duo from North Dakota, and they have been working hard on this issue a good long while, and so has my old friend Senator Hollings.

If we are going to debate this issue of Social Security, we are going to have to deal with reality. The reality has come to me and should come to everyone in this Chamber simply by studying the work of the entitlements commission, the Bipartisan Entitlements Commission, where Senator Bob Kerrey and Senator John Danforth of Missouri sat for a year and presented to 32 Americans, including many of us in this Chamber, what is going to happen to Social Security.

There is no way to duck it. There is no way to finesse it. There is no way to demagog it. That is no way to go. Because if you are going to talk about something that is worth $360 billion and leave it "off the table" in a fashion that no one in this body is supposed to touch it or say a word about Social Security while the senior citizens groups beat your head in and my head in and not allow us to even touch a system and keep telling us, and warning us, "Oh yes, it will need to be corrected" and, "Oh yes, we have a way to tell you how to do that"—and their solutions always have to do with raising the payroll tax, ladies and gentlemen, and guess who pays the payroll tax? Not the senior citizens.

Now, if we are going to deal with this issue, then I am going to begin to come to the floor each and every time we come to this issue of Social Security and balanced budgets concepts and begin to get one singular thing across. Hear it. There is no Social Security trust fund, ladies and gentlemen. There is no Social Security trust fund. None. And the reason there is none is because, when Franklin Delano Roosevelt and the Congress put this package together, they said that if there is any surplus in the Social Security system it will be invested in the securities of the United States Government, secured by the full faith and credit of the United States. And every shred of this surplus—and it is big and it is going to get a lot bigger—every shred of it is invested in the securities of the United States Government in a series of IOU's.

You know that and I know that. But, better yet, the trustees know that. And who is this group of people telling us about this? They are called the trustees of the Social Security system, three of whom are in the President's Cabinet: Robert Rubin, Donna Shalala, and Robert Reich; one Republican, one Democrat, and the Commissioner of Social Security. And they are the stewards of Social Security. There are no other designated stewards of it.

In the trustees little booklet of their annual review which is about that thick, and I hope you will read it, it says that in the year 2029, without doing something for Social Security, it will go broke. It will be out of business. But, more important, in the year 2012, when the payments coming in will not cover the payments going out, you are going to start cashing in the bonds. And then you begin to use up the interest. And between the year 2012 and the year 2029, it is history.

So, every time we hear this old saw, I want to be right here too and tell the American people, just as the trustees would if they were here—I will speak for them—that there is no Social Security trust fund. It is a floating pile of IOU's. You know it and I know it. So, when we come here to this Chamber to talk about cooperation, coordination, subjugating our own obsessions or our own agenda's to the body work of this then let us talk about that fact every time.

I have been through this plenty of times in this Chamber. I do not keep score of how many times I may have come to the floor on any issue. But I can tell my colleagues I do know how many times some people have come to the floor on this singular issue—time after time after time; and fully knowing that there is no trust fund.

We were just involved in a bill, talking about a rather interesting issue called illegal immigration reform. Several years ago—and I have done this too long, remember for 17 years—my dearest friend, Senator John Heinz, proposed an amendment on—guess what? Social Security. What was it that time? Listen to this one. I said to John Heinz, my old friend—and remember, we put together a package that said that the COLA would always be paid out, but if the inflation was ever 3 percent or less that we would not increase the COLA. If it was less than 3 percent we would not give a COLA on Social Security."

It was that year at 1.5 percent or something, or perhaps 2. And we came to the floor and Senator Heinz, who really was spectacular—in fact—if he were here today we would not be in the health care conundrum we are in. He was that good. He could have led us out of that.

I said, "John, you know it will pass. All you have to do is mention Social Security or a COLA and you know it will pass—or if you mention veterans, you know it will pass." We have all been there. We are all bright people. We know this.

So, there it was. An impasse. And finally he removed it from the immigration bill, placed it on another one, and so it is much like this one. We all know what this is. There is not a soul in this building, a soul in this city, a soul who follows this, like BOB KERREY and JACK DANFORTH did, who does not know that there is no Social Security trust fund—zero—zip—nothing. To hear it continued to be bandied about is an extraordinary adventure in fantasy.

Mr. HOLLINGS. Will the distinguished Senator yield?

Mr. SIMPSON. I will yield for a question.

Mr. HOLLINGS. With respect to Senator KERREY and Senator DANFORTH's recommendations, fine—I support their particular report. It is not a question of fixing Social Security. It is a question of not using the surpluses to obscure the size of the deficit and using them for Social Security.

I am sure the Senator was with me, on October 18, 1990. And I am sure he supports that law.

You and I act like there is some difference. There is no difference in our belief that changes will have to be made to protect the integrity of social security. But the law says thou shalt not use the Social Security moneys to obscure the size of the deficit? That is the law, 13301. The chairman of the Budget Committee is here, he is totally familiar with it. Isn't that correct?

Mr. SIMPSON. Mr. President, I do not think anybody would try to obscure anything—at least this Senator is not. The obfuscation and the obscuring is to tell the American people that there is a trust fund that we are using moneys from. There is not any trust fund there to be using. It is not there. It is a series of IOU's. So, when we say, "Oh, you are doing a terrible thing. You are hiding something or you are using the money that should have been there for us," that is simply not the case.

Let me just review just for the body in 4 more minutes eight rather recent votes on this issue. I can only find eight in the last 30 minutes, since I knew that this would come up on the floor. The amendments are not always offered up by the same Senator. They are offered by different people each time. It is kind of like we do with a "rolling hold." You kind of fire the one barrel and then you fire another barrel. So here it all is, of recent vintage.

On January 26, 1995, Senator HARKIN offered an amendment. Senator KEMPTHORNE made a second-degree amendment on it. The Kempthorne amendment said that implementing legislation should not cut Social Security. We all agree with that. You cannot miss on that one. If you simply, each time, want to talk about the balanced budget and add to it that we will never "cut" Social Security, that is a snapper in here—except for a few of us who will cast that opposite vote and know very well that it just does not fit.

Then Senator REID tried to table that. That failed. Senator KEMPTHORNE's amendment then passed. Then Senator HARKIN tried a perfecting amendment to add his language back, saying that the balanced budget itself should exempt Social Security. That was tabled.

On February 10, 1995, Senator DOLE offered the amendment to ask the Budget Committee to report instructions not affecting Social Security. That passed 87 to 10, like we all knew it would. Then it was done.

Then Senator REID presented an amendment, February 14 of 1995, saying Social Security is now counted in the balanced budget amendment. And Senator DOLE tabled that, 57 to 41.

On February 28, 1995 Senator FEINSTEIN offered a substitute for the balanced budget amendment with the exclusion of Social Security. That was tabled 56 to 39.

On February 28, 1995, Senator GRAHAM put forward an amendment to eliminate "held by the public" from the debt limit, so as to get the balanced budget to exclude Social Security. That was tabled 59 to 40.

Another Graham amendment was tabled 57 to 43.

This issue has been voted on time and time and time again. I think it is time that it not be voted on again, especially for this issue, on either illegal immigration or health care. Find a new line of work.

Several Senators addressed the Chair.

Mr. DORGAN. Will the Senator yield for one brief question? I wonder if the Senator will yield for a brief question?

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. SIMPSON. I yield for a question.

Mr. DORGAN. I appreciate that. I guess it is the Senator's contention that there is no Social Security trust fund. I just ask this question.

We were told early on that the Social Security trust fund was not being used for any other purpose. Then we were told by those who wanted an affirmative vote on the constitutional amendment to balance the budget that the Senator supported that, even though they had argued that it was not being used to balance the budget, they would stop using it to balance the budget by the year 2008.

How does one reconcile that if there is not a trust fund? If there is not a trust fund, how can you stop using it in the year 2008?

Mr. SIMPSON. Mr. President, I say to my friend from North Dakota that the travesty is that it is not being used. It is a series of IOU's. There is no Social Security trust fund. And the money is being invested.

You can say we will cut it back. You cannot. It is in T-bills. Some people here own T-bills. Banks own T-bills. There is no Social Security trust fund. I have never gone to my people and said we are stealing from the Social Security trust fund because I just stepped up to the plate and said there is none. So, when you bring that up, you are bringing up a fiction.

Mr. HOLLINGS. Mr. President, how would it be if we had IOU's for the same time, I ask the Senator?

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. HOLLINGS. How can it be invested and become an IOU? If it is invested, it is presumably going to be paid back? That is our problem, it is being spent on the deficit. That is my point.

Mr. SIMPSON. Mr. President, not only the fiction of it, but since 1938, by law, the trust fund buys T bills which are IOU's that the Government must pay back. FDR did that, and that is what it is. There is no mystery to it. It is a series of IOU's, and when those are outstanding and then the revenue from Social Security will not cover—it is a pay-as-you-go, do not forget, Social Security is pay-as-you-go, and if it does not cover, you have to cash in the IOU's and you have to get more money through the payroll tax, or reducing benefits or issuing some new kinds of securities.

Mr. HATCH. Will the Senator yield for a unanimous consent request?

Mr. SIMPSON. Yes.

HEALTH INSURANCE REFORM ACT

The Senate continued with the consideration of the bill.

Mr. HATCH. Mr. President, I understand the pending business is the BROWN amendment. It is my understanding that he will make his arguments and then withdraw the amendment; am I incorrect on that?

Mr. BROWN. Mr. President, the Senator is correct.

Mr. HATCH. I am correct.

Mr. SIMPSON. I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, prior to returning to Senator BROWN's amendment, if I may propose a unanimous consent request on behalf of Senator DOLE.

Let me yield and say, evidently, this has not been cleared fully on both sides, so we will return to Senator BROWN's amendment.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we want to try and accommodate the greatest number of Members. We have several Senators who are here with their amendments ready to address them and ready to act on them. We believe that if we are able to do that, we can afford, whoever wants to speak, as much time as they want to speak on other kind of matters. But we are here to deal with this legislation.

We have been urging Senators to come over here and offer their amendments. They are here now, and we can either do this later—I plan to stay here until it is done, but the greater numbers of Members would like to have at least some finality to the legislation. I believe we can do it. It is 6 o'clock now and we had the chance for general discussion during the course of the day. Many of our colleagues have come over here to address these issues and to vote on them, and they have been waiting as well.

I hope we will urge our colleagues who are not going to talk on these matter—we know they can; people can get up and address any other matters—but out of consideration of other Members, please try and see if we cannot focus on the matter that is at hand, and that is the Kassebaum-Kennedy bill, which is of enormous importance to many American families.

I see other Members here, and I am sure they will do what they have to do, but we are trying to conclude this and then to let others speak so that at least others will not be here tomorrow. We are going to end up being here tomorrow as sure as I am standing here unless we are able to make progress. That is fine with me, if that is what it is. But with some cooperation of the Members, we have a very good chance of finishing this. Otherwise, Members ought to understand we are going to be here late tonight voting and end up starting the votes later this evening and tomorrow.

We are just about to ask for the final list so that we can agree with that. But in the meantime, we have the Senators who are here who are prepared to move ahead. Senator BROWN is here, and Senator JEFFORDS was here just a few moments ago to deal with an extremely important measure and has been here now for an hour and a half trying to gain the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 3678

Mr. CHAFEE. Mr. President, I am going to address the amendment that is before us, the Brown amendment, but I say to the managers of the bill, I join with them in their enthusiasm to finish it up. I do not see why we do not seek time agreements, in case we get off on another Social Security argument, whatever it might be. But that is up to the managers.

Mr. President, I have a statement that I wish to make that deals with the subject Senator BROWN has been addressing, and Senator PRYOR, likewise, and which I joined in the past.

All I can say, Mr. President, is I just wish we would address this matter, both in the committee, and I understand Senator BROWN has been trying to achieve that, but also on the floor of the Senate. We have had one vote. It was a one-vote margin difference. Perhaps people's minds have been changed since then. Nonetheless, I support the efforts of Senators BROWN and PRYOR.

Congress and the administration made a simple—but costly—error in drafting the Uruguay Round Agreements Act of 1994. That inadvertent error is costing consumers, State governments, and the Federal Government millions of dollars, while providing an unintended windfall to a handful of drug companies. I don't believe we should let that error stand.

What happened? The facts of the case are straightforward. Back in 1994, Congress was drafting omnibus trade legislation designed to bring the United States into conformity with the important new global trade agreement known as the GATT. As part of our commitment to fulfill our new GATT obligations, the United States pledged to increase patent protection for future patents. In addition, the United States also pledged to boot protection for patents already in existence—a key point that goes to the heart of the issue before us today.

Accordingly, the trade bill that Congress wrote, boosted existing patent terms by up to 3 years, giving current patentholders a valuable extension on their patents. To be fair to generic manufacturers who had been preparing to go to market on the old patent expiration date, Congress fashioned a compromise: generic companies who had made a substantial investment in preparing for market would be allowed to proceed as planned, but would have to pay equitable remuneration—that is, a royalty—during the extended term. This carefully balanced compromise became law as part of the 1994 Uruguay Round Agreements Act.

However, in drafting this 653-page bill, Congress and the administration made a small—but very costly—mistake. A simple conforming amendment to an FDA statute was omitted. Yet the impact was enormous: the omission singlehandedly prevented the generic drug industry from going to market during the extended term. The result is that a handful of brand-name drug companies have received a staggering $4.3 billion windfall, at the expense of consumers, that Congress, United States trade officials, and even the brand-name companies themselves, neither intended nor expected.

The cost to consumers is enormous. The drugs that are covered by the windfall are widely prescribed, and are used for everyday ailments that affect millions of Americans. Keeping the generic version off the shelf for up to 3 years means that Americans—including and especially older Americans—are paying far more than was ever intended for their medications.

Not only are consumers paying for this error, but so are State governments and the Federal Government—in the form of higher reimbursements for prescription drugs for the elderly, veterans, and low-income Americans.

This is not right. We made a mistake. We should fix it. In this case, the solution is obvious and easy: simply enact the missing conforming amendment. That is exactly what Senator PRYOR, Senator BROWN, and I—and many others—have been working to do.

Let me take a moment to put to rest a few red herrings. Our amendment would not affect our GATT commitments or our efforts to promote patent protection worldwide. Our amendment would not upset the balance in U.S. drug patent laws, nor impede research and development of new drugs. If any of these misrepresentations were true, we simply would not be sponsoring this amendment. It is that simple.

It is time to correct this injustice—an injustice to consumers in our Nation, an injustice to the Federal and State governemnts that are paying extra and needless sums into Medicaid and Medicare and an injustice to the generic manfuactures who made the investment in reliance on the law as it was supposed to be.

It is time we fixed this unfairness.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, it is my intention to try and expedite the deliberations here tonight. In that regard, my thought would be to make a statement, hopefully, shedding some light on this amendment. I know Senator PRYOR has worked so hard in this area. He wants to make a statement, and then it will be my intention to withdraw the amendment. I withdraw it reluctantly, because I think it needs to be considered and dealt with as soon as possible. But I am persuaded that we will not have some votes that we need to adopt it if we insist on attaching it to this measure.

Having said that, let me simply outline the issue that is before us. It is well described in a New York Times editorial of February 28. I will quote a portion of that, because I think it is quite succinct and to the point:

> Congress finds it hard to remedy the simplest mistakes when powerful corporate interests are at stake. In 1974, when Congress approved a new trade pact with more than 100 other countries, it unintentionally handed pharmaceutical drug companies windfall profits. More than a year later, Congress has yet to correct the error. The trade pact obliged the United States to change its patent laws to conform with those of the rest of the world. They had the effect of extending some American patents for up to 20 months.

Mr. President, those are the opening lines of the editorial.

The simple fact is this. We had people research drugs and put the investment into it and receive the full length of their exclusivity that this Congress has supported and put into statute. The GATT agreement gave a serendipitous extension to that. In other words, under the GATT agreement and the conforming changes of law that this Congress adopted, people who had invested in and relied on our laws got a longer period of patent protection than they have ever planned for. But the GATT agreement also had a provision, an exception for that extended protection when someone had made a substantial investment in reliance on our laws in providing competitive products.

In other words, what we propose in this amendment is nothing more than absolutely the process that was contemplated and planned for under GATT. And, I might mention, Mr. President, many countries have done exactly the same thing. As a matter of fact, this country has done a similar kind of thing with other products.

What this amendment simply suggests is that where we have given someone an unexpected, unplanned extension in their patent protection, that we make an exception for that extension where someone else has made a substantial investment in producing and providing a competitive product—in this case, a generic drug.

If we do not adopt this, we will have said to people who produce products in reliance to our laws, "After you have made the investment, after you have put the money into it, after you have made under the terms of what will be the statute a substantial investment on reliance of our laws, we are going to pull the rug out from under you and change the rules retroactively."

Mr. President, that is not right. That is not honest. That is not fair. That is not a good way to do business. We have talked about the horrible damage—and it is enormous damage—done to consumers by this unjustified quirk of the ratification document.

But I want to focus the Members' attention on what is unfair to business. I believe it is unfair to business to say, "Look, here are the laws. Here is how long you have for patent protection. And by the way, we're going to change the law retroactively, and even though you made substantial investment in producing a competing product, we're not going to let you compete." Now, that is what has happened.

If we do not pass this bill as it is in committee or the amendment as we offer it on the floor, what you are going to do is not only impact consumers to the tune of billions of dollars, but you are going to say to businesses that have relied on the law, that it is tough luck, you should not have believed us. You should not have relied on what we did.

Why is it important to pass it on this bill or pass it quickly? I think that is a fair question. I must tell the Members, I am disappointed I have not been able to persuade all the other people who support the concept that it is important to pass it on this measure.

It is important because the impact of this, if it goes uncorrected, could be over $2 billion, according to the Washington Post. It is important because this costs consumers up to $5 million a day while we delay. Mr. President, let me repeat that because I am not sure people have focused on the impact of delay. It costs up to $5 million a day to consumers in this country if we do not act. Some estimates indicated it may have cost consumers already $700 million.

Mr. President, this is not anything other than fairness. This is not anything other than saying the patent protection that was planned in the law ought to be delivered as it was planned in the law.

Mr. President, I will not prolong the argument. I know the distinguished Senator from Arkansas has worked on this and has some remarks, but I ask unanimous consent to have printed in the RECORD the editorial from the Washington Post, a letter from The Seniors Coalition, a letter from the National Committee to Preserve Social Security and Medicare, a letter from the National Women's Health Network, a letter from the Citizen Action, a letter from the Gray Panthers, a letter from the Generic Drug Equity Coalition, a letter from the Consumer Federation of America, and a letter from the Citizen Advocacy Center, all pertaining to this subject and advocating the position of this amendment. I ask unanimous consent that all of these letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 4, 1995]

THE ZANTAC WINDFALL

All for lack of a technical conforming clause in a trade bill, full patent protection for a drug called Zantac will run 19 months beyond its original expiration date. Zantac, used to treat ulcers, is the world's most widely prescribed drug, and its sales in this country run to more than $2 billion a year. The patent extension postpones the date at which generic products can begin to compete with it and pull the price down. That provides a great windfall to Zantac's maker, Glaxo Wellcome Inc.

It's a case study in legislation and high-powered lobbying. When Congress enacted the big Uruguay Round trade bill a year ago, it changes the terms of American patents to a new worldwide standard. The effect was to lengthen existing patents, usually by a year or two. But Congress had heard from companies that were counting on the expiration of competitors' patents. It responded by writing into the trade bill a transitional provision. Any company that had already invested in facilities to manufacture a knock-off, it said, could pay a royalty to the patent-holder and go into production on the patent's original expiration date.

But Congress neglected to add a clause amending a crucial paragraph in the drug laws. The result is that the transitional clause now applies to every industry but drugs. That set off a huge lobbying and public relations war with the generic manufacturers enlisting the support of consumers' organizations and Glaxo Wellcome invoking the sacred inviolability of an American patent.

Mickey Kantor, the president's trade representative, who managed the trade bill for the administration, says that the omission was an error, pure and simple. But it has created a rich benefit for one company in particular. A small band of senators led by David Pryor (D-Ark.) has been trying to right this by enacting the missing clause, but so far it hasn't got far. Glaxo Wellcome and the other defenders of drug patents are winning. Other drugs are also involved, incidentally, although Zantac is by far the most important in financial terms.

Drug prices are a particularly sensitive area of health economics because Medicare does not, in most cases, cover drugs. The money spent on Zantac is only a small fraction of the $80 billion a year that Americans spend on all prescription drugs. Especially for the elderly, the cost of drugs can be a terrifying burden. That makes it doubly difficult to understand why the Senate refuses to do anything about a windfall that, as far as the administration is concerned, is based on nothing more than an error of omission.

THE SENIORS COALITION, PROTECTING THE FUTURE YOU HAVE EARNED,
Washington, DC, April 17, 1996.

Hon. HANK BROWN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BROWN: The Seniors Coalition urges you to support legislation offered by Senator Brown in the Judiciary Committee to correct an egregious mistake made in the implementation of the GATT treaty. This mistake has cost the consumers, and primarily the elderly, of this nation millions of dollars. This loophole has allowed a few drug companies to take advantage of a situation that was unintended and to line their pockets with unearned money from American citizens.

I ask you to read the article "What you don't know about brand name drugs is costing you millions" (pp. 4–5) in our latest edition of The Senior Class which outlines the problem and then to vote to support the correction. Your support for this effort is critical to the financial well being of thousands of senior citizens.

I submitted testimony to the Senate Judiciary Committee on this issue when the committee held hearings on this issue in February. At that time I called for the Congress to correct the mistake and reject the efforts of brand name companies to thwart the correction. The so-called "compromise" that has been drafted by Glaxo and may be offered by a member of the Judiciary Committee is nothing more than a thinly veiled effort to codify the mistake that was made. A careful reading of the language will find that it does even more damage to the ability of consumers, especially seniors, to find safe and affordable pharmaceutical products in the marketplace.

Again, please support Senator Brown and his effort to correct this mistake. Now is the time for the Congress to do something for the American public.

Sincerely,

THAIR PHILLIPS,
CEO.

NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE,
Washington, DC, March 27, 1996.

Honorable HANK BROWN,
Senate Judiciary Committee, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR BROWN: We understand the Senate Judiciary Committee plans to markup legislation addressing and General Agreement of Tariff and Trade (GATT) patent pharmaceutical issue tomorrow. We urge you to support legislation (S. 1277) sponsored by Senators Chafee, Pryor, and Brown to correct an oversight in the GATT implementing legislation that will save consumers and taxpayers billions of dollars in prescription drug costs. We urge you to oppose any alternative measures that would maintain this costly and unintended loophole under GATT.

As you know, because of an oversight in patent changes approved under the GATT treaty implementing legislation, the availability of lower-priced generic versions of more than 25 widely-prescribed drugs must be delayed for up to an additional three years. As a result, seniors and other consumers will wait longer for access to less-costly generic drugs.

Every day Congress delays in correcting this oversight costs consumers $5 million dollars in additional prescription drug costs. In fact, the delay has already cost consumers an additional $500 million dollars. The biggest losers among U.S. consumers are senior citizens, as older Americans consume about one-third of the prescription drugs sold in the United States. On fixed incomes and with no pharmaceutical coverage under Medicare, three out of four seniors cite prescription drugs as their largest out-of-pocket expense.

On behalf of our millions of members and supporters, the National Committee to Preserve Social Security and Medicare urges you to support and report out of Committee the Chafee/Pryor/Brown generic drug legislation.

Sincerely,

MARTHA A. MCSTEEN,
President.

NATIONAL WOMEN'S HEALTH NETWORK,
Washington, DC, March 21, 1996.

DEAR JUDICIARY COMMITTEE MEMBER: In this time of federal, state and local budget-cutting, threats to Medicare and Medicaid, and continually rising medical costs, health care savings are more important than ever to the American public. Given the seriousness of skyrocketing health care costs, it is unconscionable that Congress has so far failed to address an error that needlessly increases the cost of health care for millions of Americans, and unnecessarily boosts costs to the federal government, as well.

More than a year ago, Congress discovered that the legislation implementing the GATT Treaty contained an unintended loophole for some pharmaceutical drug companies. An error of omission granted the manufacturers of brand-name drugs treatment unique in all of American industry.

By failing to include generic drugs in its rules concerning transition to new patent terms under the GATT Treaty, Congress has done a disservice to women's health, specifically, and to consumers and taxpayers, generally. While the mistake was unintentional, the consequences are grave. Each day that passes without Congressional action to correct this error costs millions of dollars; the total cost is expected to exceed $2 billion.

The beneficiaries of the current situation are the handful of giant pharmaceutical corporations that will enjoy windfall profits for three additional years. Their glee at this unanticipated windfall is evidenced by the fierceness with which the lobbyists for these companies are fighting to preserve their protected status.

The exemption of drug companies from the GATT transition rules was a mistake. It would be intolerable to compound this mistake by failing to correct it. Please support the solution proposed by Senators BROWN, CHAFEE and PRYOR.

Sincerely,

CYNTHIA PEARSON,
Program Director.

CITIZEN ACTION,
Washington, DC, March 26, 1996.

DEAR JUDICIARY COMMITTEE MEMBER: On behalf of Citizen Action and our three million members, I would like to ask your support for a proposal which will shortly be offered by Senators Brown, Chafee and Pryor. This proposal would undo a legislative error which, if not corrected, will cost U.S. consumers hundreds of millions of dollars in unnecessary prescription drug costs.

When Congress passed new patent terms under the GATT Treaty, it failed to include prescription drugs under its transition rules. GATT extends patent terms of U.S. products from 17 to 20 years. Because many manufacturers had already invested millions of dollars in competing products in expectation of the 17-year limit, Congress adopted transition rules to allow those companies to introduce generic alternatives on the date that the 17-year patent would have expired.

The omission of prescription drugs in the transition rule means that makers of lower-cost generic drugs will be unable to bring their products to market until the full 20-year term of patent protection has expired. This loophole will allow a few large pharmaceutical companies to reap more than $2 billion in windfall profits. Because lower-cost generics will be kept off the market, consumers will be forced to pay higher prices for more than a dozen drugs, including big-sellers Zantac and Capoten.

Without a correction, taxpayer-funded federal and state health programs, as well as individual purchasers of prescription drugs, will be forced to pay higher than necessary costs. The Department of Veterans Affairs estimates that it alone will spend $211 million in additional costs over the next three years.

The Judiciary Committee has an opportunity to correct a provision that will have grave consequences for consumers. Again, Citizen Action urges that you act now to remove this unique loophole which rewards certain large pharmaceutical companies at the expense of taxpayers and consumers.

Sincerely,

CATHY L. HURWIT,
Legislative Director.

GRAY PANTHERS PROJECT FUND,
AGE AND YOUTH IN ACTION,
Washington, DC, February 29, 1996.

Hon. HANK BROWN,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR BROWN: Attached please find copies of Tuesday's ABC World News Tonight news story focusing on the negative impact that the GATT loophole will have on American consumers like Eleanor Black and her mother Sally. In addition, attached are copies of the testimony submitted to the Judiciary Committee from Ms. Black and myself, as well as Wednesday's New York Times editorial on the issue.

With the Senate Judiciary Committee hearings on GATT now behind us, Senators Chafee, Brown, and Pryor have vowed to introduce legislation within the next few weeks that will correct this loophole and bring relief to millions of consumers like the Blacks who rely on the savings that generic pharmaceuticals offer.

In December, an effort to bring the Chafee-Brown-Pryor amendment to the Senate floor was narrowly defeated by one vote. When the Chafee-Brown-Pryor amendment is introduced in the near future, I urge you and your colleagues to do the right thing and correct this Congressional oversight and save American taxpayers from a costly mistake.

Please support the Chafee-Brown-Pryor amendment and close the GATT loophole.

Sincerely,

DIXIE D. HORNING,
Executive Director.

GENERIC DRUG EQUITY COALITION,
Washington, DC, March 29, 1996.

To: Members, United States Senate
FR: Generic Drug Equity Coalition
RE: No More Delays, Pass Chafee/Pryor/Brown

When the Senate adjourns today for the Spring recess, consumers and taxpayers will have paid $580 million more for prescription drugs than they should have because of a mistake Congress and the administration made in December 1994, $580 million. Everyday that passes costs consumers and taxpayers $5 million more.

By the time you return in two weeks, the cost to consumers and taxpayers will have reached $650 million.

Yet, despite written commitments to markup a bill to close the GATT loophole in the Senate Judiciary Committee in March, nothing has happened.

A few companies continue to reap unintended windfall profits at the expense of American consumers, taxpayers and generic drug manufacturers.

While you are away observing the Easter and Passover Holidays be sure to think about Americans like 69-year old Eleanor Black and her 89-year old mother Sally who spend $339 a month, one quarter of their monthly income, for Zantac because of the GATT loophole.

The Generic Drug Equity Coalition urges you to support the Chafee/Pryor/Brown proposal and close the GATT loophole.

The Judiciary Committee leadership has missed its own, self-imposed deadline. It is time for a vote on the Senate floor.

CONSUMER FEDERATION OF AMERICA,
Washington, DC, March 27, 1996.

DEAR SENATE JUDICIARY COMMITTEE MEMBER: The Senate Judiciary Committee plans this week to examine the loophole in the General Agreement on Tariffs and Trade (GATT) which exempts the pharmaceutical industry from patent transition terms. We urge you at this time to support the efforts of Senators BROWN, CHAFEE, and PRYOR to redress this unintended and potentially costly, effect of the GATT Treaty.

As you know, an error of omission in the legislative language implementing the GATT Treaty has exempted the pharmaceutical industry from the patent transition terms. As a result, the pharmaceutical drug industry—alone among all industries—enjoys a 20-year patent term, and generic manufacturers are unable to market long-planned products.

The unintended effects of the patent extension include diminished market competition, an undeserved windfall to pre-GATT patent holders, and further inflated costs to millions of Americans. The Congressional Budget Office (CBO) has estimated that this simple mistake will cost consumers and taxpayers as much as $2 billion as drug companies reap windfall profits in the absence of competition. This windfall was not intended by Congress, nor envisioned in the GATT treaty itself.

Senators, BROWN, CHAFEE, and PRYOR have proposed closing the loophole, thereby protecting consumers' health and taxpayers' wallets. This solution would not convey special status on the generic drug industry; instead, this amendment provides for equal treatment, and would compel brand-name drug manufacturers to live under the same rules as every other American industry.

In the interest of consumers, taxpayers and fairness, we urge you to support the efforts Senators, BROWN, CHAFEE, and PRYOR have made to redress this costly error.

Sincerely,

MERN HORAN,
Legislative Representative,
Consumer Federation of America.

CITIZEN ADVOCACY CENTER,
Elmhurst, IL, March 25, 1996.

DEAR JUDICIARY COMMITTEE MEMBER: An oversight in the legislation implementing the GATT Treaty has granted the pharmaceutical industry a privileged status at the expense of consumers and taxpayers. More than a year after the implementing legislation was adopted, Congress has yet to correct this windfall benefit. Now, Senators Brown, Chafee, and Pryor have developed a solution that is fair and reasonable and deserving of your support.

GATT is premised on opening world markets to competition. Under our implementing legislation, however, manufacturers of generic drugs, alone among all industries in the United States, are prohibited from bringing products to market until the full twenty-year patent term has expired for brand-name drugs. This anticompetitive windfall is estimated to be worth two billion dollars in profits. Health care consumers are thus forced to pay higher costs, as will taxpayers, who fund drug purchases through a number of government programs. The City of Elmhurst has a high percentage of Senior Citizens, a group that is disproportionately harmed by high health care costs, and the adverse effects of the as yet uncorrected legislation.

Congress did not intend to bestow this windfall on drug companies when it adopted the transitional rules for GATT. We urge you, in the interest of consumers, seniors, and taxpayers, to correct this oversight and to not be lulled into inaction by the multimillion dollar lobbying blitz of the companies enjoying this windfall daily.

Senators Brown, Chafee and Pryor have proposed a simple solution that would protect the balance of interest between generic and brand-name manufacturers envisioned in the Hatch-Waxman Act of 1984. It's time to support their proposal.

Very truly yours,

THERESA AMATO,
Executive Director,
Citizen Advocacy Center.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, my apologies to the Senator from Colorado. Has the Senator from Colorado finished his statement?

Mr. BROWN. Yes.

Mr. PRYOR. Mr. President, I will take but a few moments of the Senate's time this evening. We need to move on. The distinguished managers have requested that we move to final resolution of this very important measure. But I would like to take, Mr. President, in opening, a few moments to discuss our particular concerns over this uncorrected error in our laws which has led to unnecessarily high drug prices.

I would like to quote from my good colleague who is departing the Senate and is a great friend, Senator PAUL SIMON of Illinois. Senator SIMON recently spoke on the issue of correcting this problem in the GATT treaty. I quote from Senator SIMON when he said, "This is a classic example of special interests versus the public interest."

Mr. President, that is what this debate, I am afraid, has boiled down to. I know my friend from Colorado, Senator BROWN, in his eloquent statement has placed into the RECORD a recent editorial of December 4, 1995 from the Washington Post. I will read a paragraph from that editorial:

> All for lack of a technical conforming clause in a trade bill, full patent protection for a drug called Zantac will run 19 months beyond its original expiration date. Zantac, used to treat ulcers, is the world's most widely prescribed drug, and its sales in this country run to more than $2 billion a year.

I continue quoting from the Washington Post editorial:

> The patent extension postpones the date at which generic products can begin to compete with it and pull the price down. That provides a great windfall to Zantac's maker, Glaxo Wellcome, Inc.

That is the beginning paragraph, Mr. President, of the Washington Post editorial. To conclude from that editorial, let me read:

That makes it doubly difficult to understand why the Senate refuses to do anything about a windfall that, as far as the administration is concerned, is based on nothing more than an error of omission.

Well, once again, this issue is with us. We failed by one vote back on December 7 to rectify this mistake. Since that time, a few companies like Glaxo Wellcome have earned more than $600 million in extra revenues because of a congressional error. It also means that the Veterans Administration, the Medicaid programs, the consumers of America, and especially the elderly of America are having to pay double for Zantac than what they would be paying had we allowed a generic to come into the marketplace and compete.

This is not fair, Mr. President. We know that this is not fair. The Judiciary Committee this morning had scheduled a markup, one which has already been delayed from last month. They continue to promise that they are going to mark up S. 1277, the measure offered by Senator BROWN and Senator CHAFEE and myself to correct this mistake in the GATT treaty.

But, once again, this morning an unnamed Senator objected to the Senate Judiciary Committee marking up this measure, and, once again, it means more and more windfall profits for undeserving companies at the expense of consumers. These delays are completely unacceptable and unwarranted. The American public simply cannot abide further delays on behalf of special interests.

What is at stake? Back on November 27, 1995, an editorial in the Des Moines Register stated that:

> A month's supply of Zantac ordinarily sells for around $115; the generic price—meaning the same drug without the Zantac label—would be around $35, the generic makers contend.

Mr. President, I ask unanimous consent that a copy of that Des Moines Register editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Des Moines Register, Nov. 27, 1995]

A COSTLY OVERSIGHT

FINE PRINT IN GATT LAW COULD COST ZANTAC USERS MILLIONS

The nation's prescription drug makers are at war again, with a $1 billion-plus purse going to the winner. If the brand-name drug manufacturers win, the losers will include the millions of Americans who suffer from ulcers or heartburn, and take the drug Zantac regularly to combat the problem. It's going to cost each of them about $1,600.

Zantac is made by GlaxoWellcome, the biggest in the business.

Here's what started the current war:

When a new prescription drug hits the market, generic drug manufacturers await the patent expiration so they can enter the market with the same drug. They offer it for sale without the brand name, usually at a fraction of the brand-name price.

The new international GATT treaty signed by the United States and 122 other countries sets the life of a patent at 20 years from the date of application. Former U.S. law provided patent protection for pharmaceuticals for 17 years from the date of approval. Because the difference could have a significant impact on the number of years a firm could market its patented drug without competition. Congress made special provisions for drugs under patent at the time GATT was approved last summer.

But when the legal beagles got done reading all the fine print, it turned out that Zantac was granted a 19-month extension of its patent life—and it is such a hugely popular drug that that translates into a multimillion-dollar windfall.

Generic drug makers call the windfall a congressional oversight, and estimate the difference is worth $2.2 billion to Glaxo, because the generics can't enter the market for 19 more months. Glaxo counters that Congress made no mistake, that the extension was part of the compromise with generics. It won't wash. Nothing in the GATT treaty was intended to further enrich the happy handful of brand-name drug makers who hold lucrative patents—or to personalize the users of the drugs.

A month's supply of Zantac ordinarily sells for around $115; the generic price—meaning the same drug without the Zantac label—would be around $35, the generic makers contend. Unless Congress changes the wording of the law regarding transition to GATT provisions, Zantac users will pay the difference for 19 months longer.

Some generic drug manufacturers had already spent a bundle preparing to enter the market before the GATT treaty took effect. They lose. So do taxpayers, who pay for Medicaid prescriptions. The Generic Drug Equity Coalition estimates that the higher costs of Zantac and some other drugs affected by the mistake (such as Capoten, for high blood pressure) will cost Iowa Medicaid $3.5 million. Further, say the generic drug makers, it will tack another $1.2 million onto the cost of health-insurance premiums for Iowa state employees.

Glaxo's political action committee has doubled its contributions to Congress in recent months. Glaxo wants the mistake to stay in the law. Generic drug manufacturers want it out.

So should ulcer sufferers. So should taxpayers. So should Congress.

Mr. PRYOR. Mr. President, finally, let me say we all know what this issue is about. We have debated this issue to some extent on the floor of the Senate and to a great extent in the Judiciary Committee. We heard our U.S. Trade Representative, Ambassador Kantor conclusively explain the situation, and I quote:

> The provision was written neutrally because it was intended to apply to all types of patentable subject matter, including pharmaceutical products. Conforming amendments should have been made to the Federal Food, Drug and Cosmetic Act and section 271 of the U.S. Patent Act, but were inadvertently overlooked.

One other quote from Ambassador Kantor:

> We intended to apply this grandfather provision to the pharmaceutical area. S. 1277 would result in a level of protection that is consistent with our original intent.

Mr. President, let me say, Senator BROWN, Senator CHAFEE and myself have tried to proceed in good faith. There are Members on each side of the aisle that have stated their concern about, and in some cases their objection to, certain language that we had in this legislation. We have attempted to meet with them. We have attempted to compromise. We have certainly gone to the negotiating table and attempted to bargain in good faith and see what their concerns are.

Truly, Mr. President, I believe that we now have come together and crafted an amendment that is acceptable to all those concerned with doing what is right for consumers, businesses which have relied upon the law in good faith and for our compliance with a very important treaty. The amendment represents the simplest and best means for us to correct the egregious flaw that persists today because of unconscionable delays and the efforts of special interests.

Mr. President, I want to say in conclusion that I have thoroughly enjoyed working with Senator BROWN of Colorado and Senator CHAFEE of Rhode Island, my colleagues on the other side of the aisle. I hope we can bring this matter to a resolution in the very near future.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Colorado.

Mr. BROWN. Mr. President, the vote on this measure was close, as has been noted. Since that time, I believe we have persuaded others to join us in advocating this amendment. The amendment has been compromised to the point that specifically we have spelled out in the compromise version that is before the Senate right now a very clear, bright-line test of what substantial investment is. It is easy and clear to work with. I think we have addressed the problems. I am confident we have the votes.

However, because of the urgency of the particular underlying measure that is here, some Members whose votes we need and count on are unable to support this amendment because they fear it would bring controversy to the bill. It is, therefore, necessary for me to reluctantly withdraw this measure.

I must mention, Mr. President, it does seem to me this is the appropriate kind of thing that ought to be considered on a prompt basis. Literally, to fail to act costs consumers $5 million or more a day, and literally if we fail to act very promptly, the issue becomes moot because the time simply runs out. I believe in fairness to companies that have reinvested, and, in fairness to consumers, we should and must act quickly.

I simply want to serve notice that we will be looking for other vehicles to offer on this floor in a rather prompt fashion.

With that, I reluctantly withdraw the amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment.

So the amendment (No. 3678) is withdrawn.

Mrs. KASSEBAUM. Mr. President, I very much appreciate the sponsors of the amendment withdrawing it. Senator BROWN and Senator PRYOR are very persuasive in their arguments, as Senator CHAFEE was as well. I am sympathetic to the purpose of the amendment.

As was noted by the sponsors, it is controversial. For that reason, we would have to oppose it on the health insurance reform bill. I appreciate the thoughtfulness in their withdrawal.

UNANIMOUS-CONSENT AGREEMENT

Mrs. KASSEBAUM. Mr. President, I put forward on behalf of the majority leader a unanimous-consent agreement.

I ask unanimous consent during the remainder of the Senate's consideration of S. 1028, the following amendments be the only first-degree amendments in order, that they may be subject to relevant second-degree amendments, and following the disposition of the listed amendments and the committee substitute, the bill be advanced to third reading, and the Senate then proceed to the House companion bill, that all after the enacting bill be stricken, the text of the Senate bill be inserted, the bill be advanced to third reading and the Senate proceed to vote on passage of H.R. 3103, as amended, without any intervening action or debate.

The list that I have of the amendments would be: Nickles, relevant; Jeffords, lifetime caps; Thomas, rural health; McCain, biological medical devices; Gramm, relevant; Coats, medical volunteer liability coverage; Domenici, mental health; Specter, public health; pecter, public health; Specter, public health; Gregg, choice care; Helms, study of access by HHS; Senator BROWN has withdrawn his amendment; McConnell, medical malpractice; Bond, administration simplification; Pressler, CRNAS; D'Amato, fair tax treatment; Kassebaum, relevant; Dole, relevant; Roth, relevant; Simpson, commission; Bennett relevant; Burns, telemedicine; Boxer, ban HMO gag rules; Conrad, nurse practitioner, nurse anesthetists, advance nurse practitioner; Feinstein, nonprofit insurance; Graham-Baucus, Medicare fraud; Harkin, fraud and abuse; Harkin, fraud and abuse; Kennedy, relevant; Pryor relevant; Wellstone, two domestic violence; Simon is a sense-of-the-Senate resolution; Dorgan, organ donations; Lieberman, MM data banks; Kennedy, nursing care; Daschle, relevant; Boxer, biomed devices.

Mr. KENNEDY. Would the Senator add Wellstone, relevant, sense of the Senate.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I believe Senator JEFFORDS has been waiting, and I believe he is next to be recognized.

Mr. JEFFORDS. Mr. President, I yield to the Senator from Arkansas.

Mr. PRYOR. Mr. President, if we could ask a question, Mr. President, while the two distinguished managers are on the floor. It is 6:15; I did not realize there were quite as many amendments.

Mrs. KASSEBAUM. Neither did we.

Mr. PRYOR. Are we planning to go on into the evening?

Mrs. KASSEBAUM. Yes, Mr. President, I say to the Senator from Arkansas, I think it is the hope not only of the managers but also of the minority leader and the majority leader that we finish tonight.

Mr. PRYOR. Good night, Mr. President, thank you.

AMENDMENT NO. 3679

(Purpose: To establish a minimum amount that may be applied as an aggregate lifetime limit with respect to coverage under an employee health benefit plan or a group health plan)

Mr. JEFFORDS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 3679.

Mr. JEFFORDS. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

At the end of section 103, add the following new subsection:

(g) LIMITATION ON LIFETIME AGGREGATE LIMITS.—

(1) IN GENERAL.—Except as provided in paragraph (2), an employee health benefit plan or a health plan issuer offering a group health plan may not impose an aggregate dollar lifetime limit of less than $10,000,000 (such amount to be adjusted for inflation in fiscal years subsequent to the fiscal year in which this subsection becomes effective) with respect to coverage under the plan.

(2) SMALL EMPLOYERS.—Paragraph (1) shall not apply to a group health plan offered to or maintained for employees of a single employer that employs 25 or fewer employees.

(3) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting the application by an employee health benefit plan or a health plan issuer offering a group health plan of any limits, exclusions, or other forms of cost containment mechanisms with respect to coverage under the plan other than the aggregate limit permitted under paragraph (1).

(4) DISCLOSURE.—Any limits, exclusions, or other cost containment mechanisms permitted under paragraph (3) shall be disclosed as provided for in section 105(c).

(5) APPLICATION OF SUBSECTION.—This subsection shall not apply to a health maintenance organization that meets the requirements of title XIV of the Public Health Service Act.

(6) EFFECTIVE DATE.—This paragraph shall become effective with respect to health plans on the date that is 2 years after the date of enactment of this Act.

At the end of section 105, add the following new subsection:

(c) DISCLOSURE OF LIMITS AND EXCLUSIONS.—An employee health benefit plan or a health plan issuer offering a group health plan shall disclose, as part of its solicitation and sales materials and in a form and manner that is conspicuous and understandable to a reasonable individual, any limits, exclusions, or cost containment mechanisms with respect to coverage provided under the plan.

Section 3711 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(g)(1) If a nontax debt or claim owed to the United States has been delinquent for a period of 180 days—

"(A) the head of the executive, judicial, or legislative agency that administers the program that gave rise to the debt or claim shall transfer the debt or claim to the Secretary of the Treasury; and

"(B) upon such transfer the Secretary of the Treasury shall take appropriate action to collect or terminate collection actions on the debt or claim.

"(2) Paragraph (1) shall not apply—

"(A) to any debt or claim that—

"(i) is in litigation or forelosure;

"(ii) will be disposed of under an asset sales program within 1 year after the date the debt or claim is first delinquent, or a greater period of time if a delay would be in the best interests of the United States, as determined by the Secretary of the Treasury;

"(iii) has been referred to a private collection contractor for collection for a period of time determined by the Secretary of the Treasury;

"(iv) has been referred by, or with the consent of, the Secretary of the Treasury to a debt collection center for a period of time determined by the Secretary of the Treasury; or

"(v) will be collected under internal offset, if such offset is sufficient to collect the claim within 3 years after the date the debt or claim is first delinquent; and

"(B) to any other specific class of debt or claim, as determined by the Secretary of the Treasury at the request of the head of an executive, judicial, or legislative agency or otherwise.

"(3) For purposes of this section, the Secretary of the Treasury may designate, and withdraw such designation of debt collection centers operated by other Federal agencies. The Secretary of the Treasury shall designate such centers on the basis of their performance in collecting delinquent claims owed to the Government.

"(4) At the discretion of the Secretary of the Treasury, referral of a nontax claim may be made to—

"(A) any executive department or agency operating a debt collection center for servicing, collection, compromise, or suspension or termination of collection action;

"(B) a contractor operating under a contract for servicing or collection action; or

"(C) the Department of Justice for litigation.

"(5) nontax claims referred or transferred under this section shall be serviced, collected, or compromised, or collection action thereon suspended or terminated, in accordance with otherwise applicable statutory requirements and authorities. Executive departments and agencies operating debt collection centers may enter into agreements with the Secretary of the Treasury to carry out the purposes of this subsection. The Secretary of the Treasury shall—

"(A) maintain competition in carrying out this subsection;

"(B) maximize collections of delinquent debts by placing delinquent debts quickly;

"(C) maintain a schedule of contractors and debt collection centers eligible for referral or claims; and

"(D) refer delinquent debts to the person most appropriate to collect the type or amount of claim involved.

"(6) Any agency operating a debt collection center to which nontax claims are referred or transferred under this subsection may charge a fee sufficient to cover the full cost of implementing this subsection. The agency transferring or referring the nontax claim shall be charged the fee, and the agency charging the fee shall collect such fee by retaining the amount of the fee from amounts collected pursuant to this subsection. Agencies may agree to pay through a different method, or to fund an activity from another account or from revenue received from the procedure described under section 3720C of this title. Amounts charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title.

"(7) Notwithstanding any other law concerning the depositing and collection of Federal payments, including section 3302(b) of this title, agencies collecting fees may retain the fees from amounts collected. Any fee charged pursuant to this subsection shall be deposited into an account to be determined by the executive department or agency operating the debt collection center charging the fee (in this subsection referred to in this section as the 'Account'). Amounts deposited in the Account shall be available until expended to cover costs associated with the implementation and operation of Governmentwide debt collection activities. Costs properly chargeable to the Account include—

"(A) the costs of computer hardware and software, word processing and telecommunications equipment, and other equipment, supplies, and furniture;

"(B) personnel training and travel costs;

"(C) other personnel and administrative costs;

"(D) the costs of any contract for identification, billing, or collection services; and

"(E) reasonable costs incurred by the Secretary of the Treasury, including services and utilities provided by the Secretary, and administration of the Account.

"(8) Not later than January 1, of each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of unobligated balances remaining in the Account at the close of business on September 30 of the preceding year, minus any part of such balance that the executive department or agency operating the debt collection center determines is necessary to cover or defray the costs under this subsection for the fiscal year in which the deposit is made.

"(9) To carry out the purposes of this subsection, the Secretary of the Treasury may prescribe such rules, regulations, and procedures as the Secretary considers necessary.

"(h)(1) The head of an executive, judicial, or legislative agency acting under subsection (a)(1), (2), or (3) of this section to collect a claim, compromise a claim, or terminate collection action on a claim may obtain a consumer report (as that term is defined in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a)) or comparable credit information on any person who is liable for the claim.

"(2) The obtaining of a consumer report under this subsection is deemed to be a circumstance or purpose authorized or listed under section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).".

Mr. JEFFORDS. Mr. President, I know that we have had a difficult day today. We are having a difficult time trying to face the facts of life that the bill we are amending is a very important one, one which I have been an original cosponsor and one which part of the bill is mine. It is something that I worked very hard on. I believe it is an excellent job.

However, I also believe that it has a very serious flaw in it. Thus, at the time the committee was meeting—and I want to point out that we have already made an exception today—the Finance Committee came and said, "Hey, we have a bunch of amendments." Most of them have been accepted. So we have already made several exceptions to the nonamendment rule. I want to remind people of that.

Now, I submitted this amendment, which I have before this body, at the committee. I am a member of the committee, ranking Republican on the committee. At that time it was said, "Hey, we want to get out of here a unanimous bill. We may have problems." So I said, "OK, I will wait until the floor." So I come to the floor to offer an amendment, which I think about everybody agrees ought to be on it, and they said, "No. No amendments—except for the Finance Committee amendments."

I understand that the ranking Republican and the chairman of the committee are bound by their commitment to no amendments, but nobody else is. Nobody else is in this body. So I hope Members would say he deserves to be heard. He has told me I could raise this amendment on the floor, and here it is.

Now we will talk about what the amendment is and why we are here. The bill is one which provides, if a person is working for a business and changing jobs, or whatever else, has a health problem, that they are guaranteed an issuance of a policy or a continuance of a policy, notwithstanding the fact that they are sick. That is very important. This is an important breakthrough. That is why I supported the bill.

However, what we were not aware of at the time and I brought to the committee's attention, but perhaps there was too little time to consider it, is the fact that there is no requirement now under the Federal law for any kind of a certain level of cap.

Now, what could happen to us is, OK, we require the insurance company to take a sick person, but then the insurance company has the right to change its benefits, or it can say, "OK, we will lower the lifetime cap. So when we take you on, as soon as we pay whatever level of funds we reduce the limit to, you are gone, finished, you have no more coverage."

Well, this amendment would rectify that and say we have to put—as a nationwide standard, with the exception, we admit it could cause some problems with small businesses, so we exempt 25 and under. We say you have to have $10 million of coverage. Why the $10 million? The $10 million lifetime cap is because the standard for the industry for many years was a million dollars. But that was 20 years ago. That million dollars is worth about $100,000 now. So we say, let us go back to the standard of 20 years ago and put on that cap.

I want to point out that when we do this, we are obviously going to cause some costs. I will explain that later. But let us take a look at who we are talking about when we are talking about those covered under this provision. We are talking about those that are working for businesses, as I say, that get sick. All of a sudden they have some pretty big bills. Remember, some of the lifetime caps out there on these insurance plans are $50,000. That is one day in a hospital sometimes. So you go in there sick, and all of a sudden you have no coverage. We are trying to correct that.

Now, let me point out to you, again, what we are talking about from a national policy perspective. What happens now to that sick person? That person is sick. They have been allowed to be covered and then chopped off because they have reached the lifetime limit of, say, $50,000. What happens? Under the law right now, in order for them to qualify for Medicaid, they cannot have resources beyond a certain level. So what we are talking about—and I will give some examples in a minute—is middle income people, or even higher income people, who suddenly are placed in a position where the only way they can get care for their loved one is to get rid of all of their assets and then they will qualify for Medicaid. So the household has to go through that—getting rid of its assets—and then they qualify for Medicaid. Should our policy in this Nation do that? I say no, and I am sure you will, too. This is not good policy.

Let me talk a little about some of the people involved. I think all of you have probably heard the ads of Christopher Reeve, or watched them on television, or read the editorials in the newspapers and the stories that have covered this. If you want an example as to whether or not it could happen to you, here is "Superman," who was involved in a very serious accident. He was thrown off his horse and he becomes a C-2, which is a broken neck. He has lost the functions below the neck level, without some assistance. He has a cap of $1.2 million, and it is costing him $400,000 a year. In 3 years, he will be past that cap.

Let us take Jim Brady, who is another one—not an example of the lifetime cap, because he is on worker's compensation, but he had a head injury caused by a bullet when he was with

President Reagan. He would be far beyond a million-dollar cap, to say nothing of a $50,000 cap at this time.

Let me talk about some of the people that do not have the resources of a Christopher Reeve, or the protection of the law with respect to worker's comp, like Jim Brady. Let me go through some of these so that you understand better what kind of people we are talking about.

This story is about Donelle and Kyle Meniketti, from the Washington Post. For 4 years, Donelle Meniketti waged a tremendous fight to save her son Kyle from suffering death or severe brain damage as a result of a rare breathing disorder that struck when he was 18 days old. It says:

> When he sleeps, said the Livermore, CA, woman, his airway collapses and his brain does not tell him to breathe. He needs a breathing machine at night and an oxygen monitor. When he sleeps, he must have someone there all the time to make sure he is breathing.

Home nursing care costs alone can be $10,000 a month, and even though Mrs. Meniketti has spent sleepless nights watching over her son rather than pay for a nurse, his medical care is making constant claims on the health insurance plan of her husband Keith. As these claims mounted, they face the terrible prospect of the child's expenses soon reaching the million-dollar cap.

He is 4 years old. So far he has escaped it. But they will be forced into Medicaid if this amendment does not succeed.

Then there is Heather Fraser. I wish you would have seen her. She appeared at our press conference the other day. She is 23 years old and suffers from cystic fibrosis. She has suffered already many times. She does not know from one day to the next whether she is going to have one of these respiratory infections. She has had chronic problems of all different kinds and will continue to do so. She graduated from college, is 23, and is looking forward to the future. What is going to happen? The average cost per year to treat a moderate case of cystic fibrosis is $46,000. More severe cases cost roughly $79,000. To date, Heather's medical expenses have exceeded $800,000. Research is going on, but right now she will be beyond the cap and on Medicaid.

Another one is Lauren Yandell of Williston, VT. Her policy has a cap of $1 million. Lauren has a son who has suffered from a chronic and very rare neurological disease since birth. Because of medications and frequent surgery and personal care, his medical expenses are extremely high—last year alone, over $70,000. He is only 5 years old. At this rate, Lauren believes her son will exhaust the limit within 10 years.

Barbara Church, in Shelburne, VT—these are Vermonters, but there are people like this all over the Nation. Barbara has a 12-year-old son who was in a car accident 3 years ago. He has a very similar condition to Christopher Reeve. Since the accident, medical expenses have ranged from $20,000 to $50,000 annually. Her policy through her employer does not have a cap, and she is wary because if she loses her job, as it is under this law now, and she tries to go somewhere, she will not have the cap, or it may be only $50,000. There is no protection for her.

These are the kinds of real-life situations. Is it appropriate for us to say that the way these people should get their continuous care is to get rid of all their assets and live in poverty for the rest of their lives, as long as their child survives? No, that is not what the policy of this Nation ought to be. This amendment would make sure that those occurrences do not occur.

I hope that people will take into consideration that this is an amendment which will correct the deficiencies in the bill before us by saying that there will be a cap out there, which will be sufficient to take care of the expenses of these people to whom we are saying, "You have a good deal because you can continue your coverage." Right now, the expectations are not there, and they can be changed at any moment.

So I want to urge you to consider that this is something that is important to the bill before us. It is an amendment to the bill before us. It is to correct the serious problem in the bill before us. What we are talking about here, as far as the impact, is, obviously, if somebody is paying some money, somebody is going to have to shell out some money somewhere else. If they are being paid to have their health taken care of—first of all, let me review for a moment the kinds of costs involved with these actions.

Look at this chart. It will show you about children with hemophilia. There are about 7,000 children with hemophilia, not many in terms of 250 million. The average cost per year per person is $100,000. Life expectancy is 40 years. Lifetime cost per person for hemophilia is $4 million. Do you want to put them all under Medicaid?

Cystic fibrosis, the case I talked about earlier; the prevalence is about 4,000 in this country. That is not many relative to the huge population. It is easy to spread around the cost. The average cost per person per year is $18,000, and the average life expectancy is 30 years; $2.5 million.

This is the kind of situation which we are talking about.

Let us take a look. There are other examples. Spinal injury and head trauma, you can also see where the costs are—around $5 million for a lifetime situation.

Now let us review the question of why this is going to be a reasonable cost with respect to the existing situation. Again, insurance—the main purpose of insurance is to spread costs over a larger population so that the cost is small to the employer and to the employee with the insurance policy. But because of the huge number for which we spread it, it makes it reasonable for a family to afford.

Let me remind all of my colleagues that we all have no lifetime cap. None of the Federal employees have anything to worry about. We are all covered, whatever the costs are. In addition to that, as this chart shows, we are one of the 20 percent in this country that have no limits whatsoever. There are those that have more than $1 million, about 6 percent. The biggest group is that one that has been carrying the $1 million forward for the last 20 years as long they have been in business. That is 46 percent. So already we are at over 70 percent. Then we go on down.

I will be candid with you. The lower, of course, your lifetime caps, especially when you get to the really low levels, you obviously start covering more things than normally, and you end up with more cost. But the thing I am trying to make sure you understand is the cost that is spread around is not that high.

Let us take a look at what some of the people say about what those costs would be. First of all, let me run through some of these that have given us some costs.

The American Academy of Actuaries, for instance, has given us a cost analysis which demonstrates what we are talking about. Let me go to Price Waterhouse first. Price Waterhouse is a noted accounting firm, which we often look to give us accurate information, estimates that the Jeffords amendment would save $7 billion in Medicaid costs—$7 billion—over 7 years. And more importantly, the cost to businesses would be somewhere in the area of—especially those in the larger areas—would be somewhere around 1 percent of their premiums.

Let us go to another one. We have several on this.

Also the National Taxpayers Union; let me tell the people on my side of the aisle what the National Taxpayers Union says. They are supporting it. They say it will be scored as a direct spending reduction in the Medicaid Program by approximately $2.8 billion over a 5-year period. In addition, $2.1 billion may be saved through State and local Medicaid Programs.

How can you say that this is not something that should be done when we know what it is going to do to help us address the budget problems which we have? Do you know what that amount of money means? That is going to be replaced by the insurance premiums? But it does not even cover the money that is drained out of all those families that went out for expenditures on health care.

The Consumers Union, the other side of the aisle usually looks forward to the lifetime cap amendment which would significantly benefit consumers. The Consumers Union agrees that, if health insurance policies have lifetime caps, it would be no lower than $10 million to the people exposed. They say it is important and essential.

Then, of course, we have to look to the Congressional Budget Office and we have CBO's estimates. This came to us today. The Congressional Budget Office says the amendment would increase the Federal deficit. They are the only ones who say it is a cost after you balance out the deductions for taxes—$120 million. So by the worst-case scenario we have an offset for this. You could have a tiny, itty-bitty negative impact of $120 million over 5 years.

So it is almost a no-brainer. It is hard to find out why anybody is against it.

This is the Congressional Budget Office again. The proposal would initially raise private insurance premiums by 0.4 percent. You want to keep in mind that, if you are an employer, you have options. You can increase your premiums, or you can increase your deductibles.

So it may not even cost the businessman anything. So again, the Congressional Budget Office says that we have something here which either costs nothing or something which is going to save the Treasury billions of dollars over 7 years.

So it is just hard for me to figure out why there can be any opposition to do this. Not only that. But Senator KENNEDY, and I think Senator KASSEBAUM, have suggested that this is a great amendment and that it ought to be on some other bill. What other bill? Why not the one it is most relevant to? Why not on the one with which we are trying to make sure is helping people with their transfer from job to job?

I understand the complexity of trying to get a bill through without any amendments on it. But I remind everyone that we have already granted exceptions to the Finance Committee, and I asked the committee that be one of those exemptions because I offered it at the committee level, and they said, "No way. Take it to the floor." I come to the floor. They say, "Sorry. No amendments even though it is relevant to the bill." It will save the middle-income people billions of dollars. It will not cost employers hardly anything, and it will establish for the first time a good policy in this situation so that we do not drive people through poverty to qualify for Medicaid.

Mr. President, I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

PRIVILEGE OF THE FLOOR

Mr. SIMON. Mr. President, I ask unanimous consent that Jayson Slotnik, a fellow on my staff, be permitted to be on the floor during the action on S. 1028.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I rise in support of Senator JEFFORDS' amendment. I am blessed to be a cosponsor of that. He mentioned the case of Christopher Reeve. Christopher Reeve and an actor named Robin Williams, when they were students, made a pact that they would support one another if they ever faced this kind of an emergency. Robin Williams, as an actor who makes a great deal of money, is able to help Christopher Reeve. But what about the thousands of Americans who do not have a Robin Williams?

It is very interesting. Senator JEFFORDS talked about the cost. We changed the Federal insurance. In other words, all Federal employees, including everyone here in the Senate right now—all of us—had some changes. We had two major changes. The most costly was adding mental health coverage for all Members—not only Members but all Federal employees. Do you know what that cost? It costs 27 cents each pay period. That is the additional mental health coverage cost. Twice a month we pay 27 cents. I tried to find out what taking the $1 million cap off cost us, and nobody knows what it cost. It is such a small amount.

My guess is, if you took that chart that Senator JEFFORDS has there of companies that have a $1 million limit and the 22 percent that do not have any limit, that you would find really no difference in the rates charged; no pattern of difference. You are talking about something that does not affect very many Americans. So the total cost is very limited.

I talked earlier today—four reporters stopped me out here, as they stop all of us. I said to the reporters, when they were asking me about this, "Do you know what kind of limits you have on your insurance?" Well, Adam Clymer of the New York Times knew, but the other three reporters did not know. I think very few Americans have any idea what kind of limit they have. They just know they are covered by insurance or they are not.

We should not impoverish people before we protect them. That is what we do with Medicaid. I think the Jeffords amendment makes a great deal of sense, and I am proud to support it and proud to be a cosponsor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it grieves me greatly to rise to indicate my reservation about this amendment on this particular bill. I know how hard the Senator has worked on this project, and in any other forum I would be a strong supporter. I am very familiar with Chris Reeve. He is a resident of my State out in the Berkshires. He was a strong supporter of mine in the last campaign, a personal friend as well. I am very familiar with the real challenges—first of all, the extraordinary courage of this absolutely incredible human being. It is what I think of first when I think of Christopher Reeve. As he has pointed out so well, the human tragedy of others who are facing these kinds of situations is incredible and incredibly difficult, and all of us are familiar with stories of families being bankrupt because of these ceilings which are out there. Most of them were about $1 million just until very recently, some of them as high as $2 million.

I agree with the Senator, and it pains me to oppose him on this particular measure. I was mindful of that during his presentation.

I ask the Senator what his disposition is, whether he might take a voice vote here. Does he prefer that we make a tabling motion, or is he willing to take——

Mr. JEFFORDS. That, of course, is the Senator's option. I cannot stand here representing 100 groups who support this amendment and taking into consideration the tremendous effort that Christopher Reeve has put into this personally to try and convince this body to do this reasonable thing, and not, unfortunately, from the Senator's perspective, ask for a recorded vote. I do not mean to embarrass the Members on this, but I just remind them that I was told I could come to the floor and offer it, and I am being precluded. But I understand that all got changed as we went along the way, and I do not hold any grudges against anybody. I understand you have to stand by that no amendment outside of the Finance Committee. I just would suggest to my colleagues that they are not bound by any such thing and would urge them to vote in favor of the amendment.

Incidentally, I have now heard something which occurs when you get people nervous here, that there has been a rush to find a new cost from CBO, and apparently they are ready to rush over and claim I do not have enough money.

Well, I am always ready for those circumstances, and we are rushing over with an amendment which will put a sufficient amount of money in it so I do not get into a budget problem. If they are not around, if we can just get the yeas and nays without going through the necessity of me amending the amendment, that is fine, too.

Mr. SIMON. Will my colleague yield?

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. KENNEDY. I want to be very clear. I had joined with the chairman of the committee in indicating I would oppose amendments on this that virtually were not unanimously accepted. I should like very much to accept it.

As I mentioned earlier in the day, there are many different features which I should like to add.

I can remember very well I had a son who was in an NIH program, and they terminated the NIH support. It was $3,200 for the treatment they had to give those children every 3 weeks for 3 days for 2 years, and I was able to afford it. Mothers and families were out there saying, well, my child only gets 5 months, 6 months. What chance does that child have to live?

I am very mindful of these situations. I feel very strongly about them, and I feel very sympathetic, too. But I am also mindful that we need this legislation, and we have made a commitment at the time which I hope the Senator from Vermont will understand. I joined with the chairman of the committee to that effect. But I will be glad to join with him at another time. But we are going to abide at least by the assurances we gave to the other members of the committee. At the appropriate time I will, or the chairman of the committee can, make a motion to table.

Mr. SIMON. Will the Senator from Massachusetts yield?

Mr. KENNEDY. I will be glad to yield.

Mr. SIMON. I cannot speak for the chief sponsor, but when you ask for a voice vote, the Senator from Massachusetts has a strong voice. If he will be fairly silent in that voice vote, I would be willing to take a voice vote, but I cannot speak for the Senator from Vermont.

Mrs. KASSEBAUM. Mr. President, if I may, I, too, am very sympathetic to the issue that Senator JEFFORDS is addressing. I think we all recognize—I believe the figures are almost 1,500 Americans at least that would benefit from this legislation. It is more than just the enormous financial cost. It is an emotional and difficult issue.

However, our agreement was not just with the Finance Committee. Unless there is a consensus of support on both sides of the aisle, then we have to oppose the amendments. I think the Senator from Vermont knows there are many in the business community, particularly the small business community, that have been opposed to this, who worry a great deal about the implications of it and have said they would oppose the whole bill if amendments like this one would be added. We felt that the underlying amendment offered so much that we then had to also oppose those other amendments which I think have much merit, and it is with regret that I would, too, have to oppose it. I certainly am willing to have a rollcall vote. I think it will be up to the sponsor of the legislation to determine that.

Mr. KENNEDY. I make a motion to table the Jeffords amendment.

Mr. JEFFORDS. I would like to amend my amendment first to have plenty of money in there so nobody can——

Mr. KENNEDY. I am not going to make that argument. That is fine.

Mr. JEFFORDS. All right.

Mr. KENNEDY. If it is all right with Senator KASSEBAUM. I have no objection to either doing it—we are not making a point of order on the money or questioning it at this time.

AMENDMENT NO. 3680 TO AMENDMENT NO. 3679

(Purpose: To reduce delinquencies and to improve debt-collection activities government-wide, and for other purposes)

Mr. JEFFORDS. I want to preclude that objection from being registered, so, Mr. President, I have an amendment to my amendment.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

Is this an amendment to the amendment?

Mr. JEFFORDS. Mr. President, it is an amendment to the amendment. I will ask to have it reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 3680 to amendment No. 3679.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with or we will be here the rest of the evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. JEFFORDS. What this does, Mr. President, is take an amount of money which has been verified by CBO, which has yet to be utilized and also verified by OMB, that will cover any conceivable cost of this bill, to make sure someone does not come back and say I failed to cover any cost of that.

I understand there will be maybe a motion to table. Let me just urge my colleagues to please remember what we are trying to do here. You have 100 disability groups of people who are in favor of this amendment. You have estimates which indicate that we have eliminated all the small businesses 25 or under. We have not pulled lifetime caps. We have gone to $10 million, which is exactly the value of what they were many years ago when the million dollar cap was in fashion.

What we are trying to do is prevent people going into bankruptcy in order to qualify for Medicaid in order to take care of their sick ones. It also improves this bill because this bill would allow an insurance company—although they are forced to take somebody on the policy, they can lower the lifetime caps and chop them off after a year again, and then they are back out on the street looking for care and back onto Medicaid.

With that, I would suffer the indulgence of a tabling motion at this time.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3680) was agreed to.

Mrs. KASSEBAUM. Does any Senator wish further debate on the amendment, as amended?

If not, I move to table the amendment of the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Kansas has moved to table the amendment of the Senator from Vermont, as amended.

Mr. JEFFORDS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. KASSEBAUM. Mr. President, I ask if there could be about a 5-minute delay to notify everybody to come.

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I ask that we now proceed to vote on the motion to table the amendment of the Senator from Vermont. The yeas and nays have been ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Vermont, No. 3679.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Colorado [Mr. CAMPBELL] and the Senator from Florida [Mr. MACK] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 74 Leg.]

YEAS—56

Abraham
Akaka
Ashcroft
Bennett
Bond
Bradley
Breaux
Brown
Bryan
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
Daschle
Dodd
Exon
Faircloth
Ford
Frist
Gorton
Gramm
Grassley
Gregg
Hatch
Hatfield
Heflin
Hollings
Hutchison
Inhofe
Inouye
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kohl
Kyl
Lieberman
McCain
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pressler
Reid
Rockefeller
Sarbanes
Simpson
Thomas
Thompson
Thurmond

NAYS—42

Baucus
Biden
Bingaman
Boxer
Bumpers
Burns
Byrd
Conrad
D'Amato

DeWine
Dole
Domenici
Dorgan
Feingold
Feinstein
Glenn
Graham
Grams
Harkin
Helms
Jeffords
Kerry
Lautenberg
Leahy
Levin
Lott
Lugar
McConnell
Pell
Pryor
Robb
Roth
Santorum
Shelby
Simon
Smith
Snowe
Specter
Stevens
Warner
Wellstone
Wyden

NOT VOTING—2

Campbell
Mack

So the motion to lay on the table the amendment (No. 3679) was agreed to.

Mr. KENNEDY. Mr. President, Senator DOMENICI has been seeking recognition, and I believe he is willing to enter into a time agreement.

Mr. DOMENICI. Senator WELLSTONE, how much time?

Mr. WELLSTONE. I think I need about 15 minutes.

Mr. DOMENICI. From the standpoint of proponents, we will settle on 35 minutes. You all can take whatever you would like.

Mr. KENNEDY. Mr. President, I ask that we have 40 minutes on the Domenici-Wellstone amendment, 35 minutes to be under the control of Senators DOMENICI and WELLSTONE, and 5 minutes under the control of Senator KASSEBAUM.

Mr. JOHNSTON. Does the Senator from Massachusetts know how many amendments and when we might expect to finish tonight?

Mr. KENNEDY. On our side there would probably be—we have Senator BOXER's amendment, which I think will take a very short period of time. We have Senator CONRAD on visa, which I think we can work out. We are waiting for the report of the chairman on the immigration control. Senator SIMON, a sense-of-the-Senate which I think will be very short. We are on the Domenici-Wellstone now. There is one by Senator DORGAN on the organ cards, which hopefully we can accept.

I do not think we have any amendments here that would require very much time to deal with.

Mrs. KASSEBAUM. Mr. President, if the Senator from Massachusetts would yield, there may be some amendments offered that will be withdrawn—not all have been agreed to or cleared. I think we are moving forward. We wish to complete this by 9:30 or 10 o'clock tonight at the latest. We need to know exactly who will be wanting a rollcall vote on their amendments. I think that is what everyone would like to know.

Senator DOMENICI's amendment will be next. There will be a rollcall vote I believe. At that point, we should know how many more votes would actually be ahead of us.

Mr. JOHNSTON. Will the Senator yield for a question?

Mrs. KASSEBAUM. I am happy to.

Mr. JOHNSTON. Would it be out of the question to stack some votes tonight?

Mrs. KASSEBAUM. We thought not. We thought it best to move forward. After the next vote, we will be able to tell you exactly how many more rollcall votes there will be.

Mr. DOMENICI. When you ask the Senator from Kansas a direct question, she gives you a direct answer, right?

The PRESIDING OFFICER. There is no unanimous-consent agreement before the Senate. The Senator from Massachusetts was propounding one, but it was not formally propounded.

UNANIMOUS-CONSENT AGREEMENT

Mr. KENNEDY. Mr. President, I ask unanimous consent that on the Domenici amendment that there be 40 minutes, with 35 minutes under the control of Senators DOMENICI and WELLSTONE, 5 minutes under the control of Senator KASSEBAUM and the Senator from Massachusetts, and that there be no second-degree amendments in order to the Domenici amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3681

(Purpose: To ensure that parity is provided under health plans for severe mental illness services)

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself and Mr. WELLSTONE, proposes an amendment numbered 3681.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DOMENICI. Mr. President, I yield myself 10 minutes and ask that I be advised when I have used 9 minutes of that time.

Mr. President, it is with a degree of regret that I have to bring this amendment to the floor on this bill because I understand that Senators KASSEBAUM, KENNEDY, and the committee of jurisdiction have worked very hard on the basic bill that is before us. They have made some commitments, which I gather, based on the last vote, that they take very seriously. They are going to try to keep this bill clean.

I have to say to my fellow Senators that when you are involved and understand what is going on out there in America with reference to the mentally ill people and their inability to get adequate insurance coverage, which I will explain in a little more detail to the Senate, you have to take every opportunity you can to try to effect some major change.

The country, in terms of insuring people for various physical disabilities has come a long way. But this country, in terms of insuring mentally ill people, is going backward instead of forward, because as insurance costs go up, insurance company after insurance company is finding a way to try to write cheaper and cheaper insurance, and they look for ways to drop groups of people from coverage by saying they are not covering them, or are covering them so inadequately that they are left back in the arms of their parents or relatives. So this is happening dramatically across America. When it comes to mental illnesses, I submit that I know a little bit more about severe mental illnesses because I have worked actively in committees on that issue for a long time.

But if you happen to be a parent of somebody who has schizophrenia, a very serious mental disease, and not some figment—it did not come because somebody's mother did not take care of them properly; it is a severe disease of the brain. If you happen to have one of those kinds of persons in your family and you have an insurance policy that is typical in America, it will, for the most part, not cover very much, it will have a cap that is very insignificant, and it will be very distinct from the rest of the policy coverage. In other words, they will go out of their way to cover mental illness differently and with less coverage than the basic coverage they are giving to physical ailments, diseases that we all understand.

The time has come—and we can wait once again, but I believe it is tonight—to send a signal that while we have a bill before us that is going to alter some serious shortcomings in insurance coverage in America—and we understand what they are and we compliment the committee for taking one good bite at this problem—but those of us who are worried about the problem of mental health and mental illness, including severe mental illnesses, like manic depression, severe depression, bipolar or serious depression, we understand that there is medication available, there is treatment available. But, occasionally, they have to be treated in an atmosphere that costs a lot of money, in an environment that costs a lot of money.

This amendment is very simple. I am offering it with my friend, Senator WELLSTONE. Essentially, Mr. President, it prohibits insurers and health plans from imposing treatment restrictions or financial requirements on services for the mentally ill that it does not impose on services for the physically ill.

We offer this today, although this country has come a long way in understanding and recognizing the special problems of people suffering from mental illness. We understand that structural and institutional discrimination continues and persists in our society. Stigmas are rampant in this area, and I am referring to another kind of discrimination—that is, the way health insurers and health plans treat these individuals, and I believe this situation represents one of the real continuing injustices in America today.

Although we now understand that mental illnesses are, in fact, for the most part, physical illnesses, they are still treated differently than other physical conditions. The only difference between the other physical ailments and mental illness is that mental illness is a disease of the brain, and it may be more complicated, but we are making excellent strides at understanding it. Because this disease manifests itself in our centers of thought, reason, and emotion, many find it easy to deride those problems and to deride those who are afflicted, or turn their back on the problem, or act as if the problem does not exist. Mental illness is not due to sinful behavior. It is not due to a weakness, or frail character. These illnesses are real, and they are debilitating, and there are many who suffer from them. Nearly 5 million Americans suffer from severe forms of mental illness. I will repeat just a few of them.

Schizophrenia affects about 2 million adults a year. And I repeat, nobody is at fault because somebody has schizophrenia and acts differently and reasons differently. They are just as sick as your neighbor who has cancer.

Yet only 2 percent of all individuals with mental illnesses are covered by insurance which provides benefits equal to the coverage for physical illnesses. I stated that in generalities a while ago. Now, here is the objective number. Through narrowing down the definitions through caps that are irresponsible but save money so insurance companies do it in their own self-interest, only 2 percent of Americans with mental illness are covered with the same degree of coverage as if they got tuberculosis or cancer instead of manic-depression or schizophrenia.

You can walk down any street in urban America and you will find them. It is time to give these people access to care they need, and as you see them in urban America sleeping on grates and other things, you should realize that they probably started out as wonderful teenage children in some beautiful family. And when the costs got prohibitive and the behavior uncontrollable, they are abandoned. In fact, you find more of them in jails than in the institutions which we ought to have to help them. Most studies reveal that most of the severely mentally ill are in prisons or county or city jails because of misbehavior than in places we put together to treat them. Part of that is because resources are not applied, and part of the reason resources are not applied is because the insurance companies—I am not here angry at them, I am not here fighting with insurance companies. Because what they say is, "How do we make money? So if we lessen the coverage for mental health, we get a better bargain for people who want coverage for the other things." But I am submitting that sooner or later we have to say to them that you all have to cover them. If you are covering physical illness and they get 6 months of hospitalization, you have to do the same for mentally ill people. If not, nobody is going to care for them.

Let me tell you, I have seen purposely and intentionally how this destroys families. I have been to the National Alliance for the Mentally Ill meetings with 1,000 of the finest people in America who are there talking about their children, and in many cases they are lost because they could not afford to pay for them when they were 19 and 20, and they do not even know where they are. Somebody in this society is paying for that. For the most part, the ill are paying for it, for they are not getting taken care of right.

I thought a bill that was aimed at correcting the lack of coverage in the private insurance industry of America—because you choose and pick insurance companies to cover what you want and what you do not want you do not cover—we came today to the Senate and in 1 day or 2 are going to pass a marvelous bill that says, in two areas, you are all going to cover something. I am just asking tonight that, in three areas, you say you are going to cover something.

I know the motion to table will be made, and the argument will be made that this is not the right time. And, of course, I am taking a gamble, because with that kind of power, I might lose this amendment. But let me suggest, if we do—and I hope we do not—you can count on it, we are going to be back here, and we are going to find and look until we find a vehicle that sets this thing straight.

Mr. President, when that bill was sent to the desk, I saw some Senators watch it go up there and they saw this very thick bill. I do not want you to think there is all kinds of language in there about mental illness. What we have to do is pay for this.

So much of that bill is to defer the cost in the first 5 years of this bill, and we have used offsets that are acceptable, which Senator WELLSTONE and I have used at other times here but have not become law. So we have offset it as best we could. That is what most of that is.

It is a rather simple bill. We could narrow it down. We chose not to. We talk about mental illness. That includes all of the severe ones, but it includes more, and it says as part of treatment, no more discrimination, no more treating them differently.

We have cost estimates. If it was done across the board in all policies, it would add about 1.6 percent net to the insurance coverage across the land. It obviously would not happen overnight. It would take some time. But, essentially, we want to give the Senate an opportunity to vote on this tonight.

That is my explanation for now. I want to say thanks to Senator WELLSTONE. He has been kind of my friend working on this for a long time. There are some other Senators on board.

I want to yield to him now 7 minutes of my time for him to tell us his version of why we ought to do that.

Thank you very much.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I am very pleased to be here with my colleague, Senator PETE DOMENICI, to introduce an amendment on an issue that I feel very strongly about. Our amendment deals with one issue, and we hope that we have our colleagues' vote tonight: equitable health care coverage for mental illness services.

Mr. President, let me say it has been a real honor to work with Senator DOMENICI on this issue. He has been a real leader, as has his wife, Nancy, and I personally appreciate all of their efforts.

I am proud to cosponsor this amendment, which would require that health plans to provide coverage for mental health services commensurate with what is provided for other physical illnesses.

For too long, mental health has been put in parenthesis; we did not want to talk about it, and we did not take it seriously as a country. The stigma of mental illness has kept many in need from seeking help, and it has prevented policymakers from providing it. And for too long, persons in need of mental health services who reach private coverage discriminatory limits have been dumped onto Government-funded programs.

Mr. President, I support a universal health coverage plan, and comprehensive benefits for mental health services. While we failed to enact legislation to achieve this during the 103d Congress, we did increase awareness. But now we are talking about parity, and awareness is not enough.

Our amendment would require health plans to provide parity in their coverage of physical and mental health. Plans would be prohibited from requiring copays, or deductibles, for mental health benefits, or establishing lifetime limits for mental health benefits, or establishing visit limitations for mental health services unless the same restrictions apply to other health services.

All we ask for is equitable treatment. That is all this amendment does. All this amendment does is say, please let us stop this discrimination.

Mr. President, many people, or most people's instinctive reaction is to assume that this amendment would be expensive. This is not the case. As a matter of fact, in my State of Minnesota, where we have already passed legislation requiring full parity for mental health and substance abuse services, this was implemented August 1, 1995, and the cost of the parity mandate was estimated to be 26 cents per member provided. Minnesotans who were unable to work full time either because they were too sick or they were forced to impoverish themselves in order to qualify for Medicaid benefits, are now able to work and pay taxes and be productive. Because of this discrimination, all too often people cannot work so that they can receive medical assistance. People are forced to impoverish themselves in order to qualify for the medical assistance they need.

Now, in Minnesota—this is what we propose to do for our Nation, because we have parity and we have ended this discrimination—these same Minnesotans are now able to work, to live a life with dignity, and to pay their taxes.

Mr. President, we have a tremendous body of evidence, new evidence, proving that, without a doubt, mental health disorders can be diagnosed and treated in a cost-effective manner.

In fact, we can show that within a very short period of time it costs less to treat those disorders directly and appropriately than not treat them at all. We can say that this is true based upon studies of every sector of our population—insured and employed, uninsured and unemployed, people who now use the private system and those who now use the public system.

Mr. President and colleagues, there are several arguments for requiring parity for mental health services. First, we now have cost-effective treatments for mental illnesses and high rates of success are being achieved across the spectrum of diagnosis. For example, 80 percent of individuals with depression respond to treatment. Second of all, mental illness results in physical illness, inability to work, impaired relationships, and sometimes crime and homelessness.

Would it not be better to end the discrimination and have less of the homelessness? Would it not be better to end the discrimination and enable people to work and be productive citizens? And finally, Mr. President, mental health services are already part of health delivery in the United States.

Let us have no doubt about it, this amendment leaves all decisions about the delivery of services to the private marketplace. The amendment does not require the provision of mental health services to employees, specify what care should be provided, interfere with the discretion of employers and health plans to negotiate reimbursement rates as they see fit, or mandate the use of any particular kind of delivery of needed care.

What this amendment calls for is just parity. Mental illness has touched many of our families and many of our friends. It is for this reason and many others that it is not a partisan issue. Mental illness is a problem affecting all sectors of American society. It shows up in both the rural and urban areas. It affects men and women, teenagers and the elderly, every ethnic group and people in every tax bracket. It can be effectively treated just like heart disease or diabetes. Treatment not only saves lives but it also saves dollars. That is why this amendment is so important.

I look forward to the adoption of this amendment and to continuing to work with Senator DOMENICI to end discrimination against this very vulnerable population and their families. It is only old data and old ideas that keep us from covering mental health, the same way we cover any other real illness, whether it is acute or chronic.

I know there has been some agreement on amendments, but I plead and implore my colleagues to please vote for this amendment. Senator DOMENICI is right. Tonight is just the beginning. If we do not win tonight—and I hope we get a very significant vote, and I hope we do win—then, of course, we will come back.

Colleagues, please support us. Please end the discrimination. That is what this amendment is all about.

I do not usually do this on the floor of the Senate, but I would like to dedicate my remarks to my brother who has struggled with mental illness almost his whole life. He is doing great now.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. How much time does the Senator from New Mexico have?

The PRESIDING OFFICER. The Senator has 13 minutes and 5 seconds.

Mr. DOMENICI. My good friend, Senator SIMPSON, desires to speak, and I yield him 5 minutes. And then, I say to the Senator from North Dakota, I will yield him some time.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I hope that all Members will read the amendment. I know sometimes we forget to do that from time to time, it is perhaps one of our failings. It is a very simple amendment. It is described as "parity." I think the Senator from New Mexico and the Senator from Minnesota have covered it very well.

The important thing that you want to hear regarding it is about the rule of its construction. It is just one construction because people say that it is going to be tremendously costly; or that this is going to "open the doors" or that this is the first step toward incurring tremendous cost. But what the amendment says is this:

> Nothing in [the subsection previous] shall be construed as prohibiting an employee health benefit plan, or a health plan issuer offering a group plan, or an individual health plan from requiring preadmission screening prior to the authorization of services covered under the plan or from applying other limitations that restrict coverage for mental health services to those services that are medically necessary.

I think that is a very important thing. That is a very critical part of this.

Let me just tell you that about 4 years ago a most beautiful girl in our family, the niece of my wife—my wife's twin sister's daughter, whom we had watched grow and mature from her birth—left our midst. She was a dancer; she was an artist; she was a poet; she was a guitarist; she was a singer; she was the rainbow of life.

We did not get or understand the signals in time, and the signals were very clear as we all look back now out of sheer guilt and anguish. She was tough minded, independent, loving, strong, and forceful. She would come into your kitchen and just cook up a batch and leave the stuff in the sink, and family would say, "Why doesn't Susan clean up afterwards?" And then, "Why doesn't Susan work? How old will she be before she ever works?"

She began to withdraw, and then she went into some religious and almost cultish activities, and she had a child. And that is a beautiful child. I know that child. That is the wonderful part of it now—because Susan is gone. And after years of reaching out to us in her way and us not hearing and us not knowing, she one day decisively purchased a pistol and a few hours later purchased the ammunition and went to an isolated field, removed her shoes, sat in a the crouched position in Bowling Green, KY, and blew her chest away.

That is what sometimes happens to these people, and we think, "well, but they should have tried to do something for themselves.

We thought we were doing something for her. We thought she was finally doing it for herself. She was taking medication, and it was working. But then something, something unknown, entered her mind and her life and she decided not to take the medication —knowing what would happen if she did not—and then her tragic plan of ultimate rejection came to pass.

There is a group of humans—a particular vulnerable group in society that the mental health workers and professionals tell us about who now are in their 37th to their 45th year, who somewhere along the line were perhaps those involved in the early experimentation with drugs, yes. Yes, of course, but that penalty should not be something visited upon them forever. So I say there is not a soul in this Chamber that has not been grievously affected in some way by these things. It is time for healing. It is time for understanding more than anything. It is time to minister. It is time to love and to be compassionate and time to learn so much more about these tragic things. For these are the people who you know and see every day, and they are making it, and they never did before, but they are now. If we can put this in this bill in this way with this language, I think it would be a tremendous benefit to them—and they are our first charge—and to the rest of us in society.

I thank the Chair.

Mr. DOMENICI. How much time do we have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 8 minutes and 50 seconds.

Mr. DOMENICI. Mr. President, I yield 5 minutes to Senator CONRAD.

Mr. CONRAD. Mr. President, I personally thank Senators DOMENICI and WELLSTONE for bringing this amendment to the Chamber tonight.

I rarely take the time of my colleagues, in the evening hours, to speak, because I often feel that it is an imposition on their time. Tonight, I think this amendment is so important that it requires all of us to speak. This amendment simply asks that mental illnesses be treated on a parity basis with other illnesses. It is inescapable: An illness is an illness. There should be no differentiation between how we treat those who have a mental illness and a physical illness.

When I was the assistant tax commissioner in North Dakota, Senator DORGAN was the tax commissioner. We had a young woman who was our receptionist. She was a beautiful and vibrant young woman. She was somebody who absolutely lit up an office. One day, she just went off the deep end with a mental illness that none of us knew that she had. Pictures were speaking to her. She had all kinds of aberrant thoughts. It led to her institutionalization. It led to her attempting to take her own life. That was a young woman, because of a suicide attempt, who did enormous damage to herself from which she will never fully recover.

That young woman had a mental illness, and that illness deserved to be treated like any other illness. She is not alone. There are millions like her all across America. As we sought to reach out and help this young woman, I became somewhat educated about what was happening in our communities. One thing I learned is that we actually treat differently those with a physical illness and those with a mental illness, and it is a tragedy.

In our State, we have taken the step to recognize that there should not be discrimination between illnesses. What we have found is it does not cost more money. Oh, it does as you begin, but as you go forward, it does not cost more money, and it does not cost more money because, if you fail to treat, the physical ailments mount and become much more expensive.

I would say to my colleagues, we passed this amendment. We passed this in the Finance Committee on Medicaid, during reconciliation. I offered the amendment. It was adopted. It passed here on the floor of the U.S. Senate. It was only taken out in conference.

We passed it in the Finance Committee based on the best evidence that shows over time this will not cost money. I submitted detailed studies from North Dakota that demonstrate that.

I hope my colleagues will vote for this amendment tonight. It is the right thing to do. I hope my colleagues will agree to the Domenici-Wellstone amendment. They will be proud the rest of their lives that they did.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 2½ minutes.

I have difficulty in not commending, which I do, my good friends and colleagues with whom I have worked over a very considerable time on the issues of mental health. This is obviously an awkward position for me to have these amendments come up and to be fighting these issues. One of the first pieces of legislation passed during President Kennedy's administration was the community health programs which got people out of institutions, and into the community. I worked with Senator DOMENICI and Senator WELLSTONE in 1990 to move the whole mental health research out to NIH, against strong opposition at that time. In the health insurance bill that we passed last year, we had effective equivalence between mental health and physical health, though there were some aspects of hospitalization that were phased in over a period of time.

So I am strongly sympathetic. I just regret this. Hopefully, it will be defeated. Maybe we are going to continue to have these votes so people are able to speak to them. Once again, I can understand the frustration because we have not gone ahead on it.

It is painful for many of us who are strongly committed to the whole issue of eliminating preexisting condition and our strong commitment to that, to have to go on record in opposition to these amendments. But if that is the cost, and Members of the Senate feel that is what they want to do to many of us who have been out there working on precondition year in and year out, we are prepared to do it.

I will join in urging that the Senate table this at the first opportunity.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from New Mexico has 4 minutes 26 seconds.

Mr. DOMENICI. Mr. President, I certainly do not intend by my action tonight to make it painful for Senator KENNEDY, who has been a staunch advocate. I hope that is not what he said tonight. I just believe very, very sincerely that the time is now to get something done.

I want to explain one more time in just a brief, few words what this amendment does not do, because I think there could be some confusion. Let me clear up what it does not do. It does not provide an open-ended entitlement to whatever mental health services an individual wants. It does not limit the ability of an insurer or health plan to limit services to only those who are medically necessary. It does not institute a service-by-service equivalency between physical and mental illness. It does not mandate a benefit package.

It simply makes the following common situations illegal. Let me cite a few:

Policies that allow 365 days in-patient care for physical illness allow only 45 days for in-patient psychiatric care.

Policies that provide a lifetime cap of $1 million for physical care have a $50,000 cap for mental illness.

Policies providing unlimited outpatient visits for physical care allow only 20 outpatient visits for mental illnesses.

Mr. President, 90 percent of employer-sponsored plans impose such limits, despite the proven efficacy of treatments for mental illness. Treatment for schizophrenia has a 60 percent success rate; manic depression, 80 percent; major depression, 65 percent. Yet commonly reimbursed procedures such as angioplasty and arthrectomy have only a 41-percent and a 52-percent ratio, and nobody seeks to treat them with limitations that are imposed on mental illnesses.

The era of managed care is upon us, making tight management of patient care the norm, and artificial cost measures to reduce utilization are a thing of the past.

I have a number of examples of companies that have covered with parity of treatment and, believe it or not, they have saved money and added to their work force in ways that are measurable and objectively beneficial to the companies that have so seen fit.

So, from my standpoint, from the standpoint of the Senator from New Mexico, I do not seek to kill this bill. I think it is a marvelous step in the right direction. But I ask my fellow Senators when, if not tonight, will we ever get around to this issue? If I thought there was another bill coming down this year, I would probably have made an agreement so that I could have the full support of my friend from Massachusetts and my colleague and friend from Kansas, Senator KASSEBAUM. But I do not see that coming.

I believe there is plenty of evidence that the discrimination continues. It grows more rampant. The stigma, since that discrimination is rampant, is growing instead of diminishing, in an era when knowledge is beginning to grow almost exponentially.

So, now is the time. Tonight is the time to send this to conference. Deny the motion to table. Let our Senate colleagues take this to conference. Let us work on the various interests that will be part of that conference and see if we cannot make this a better bill because it would have this amendment attached than it would if it fails tonight.

I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I know that many here would like to vote in favor of this amendment offered by Senator DOMENICI, and Senator WELLSTONE is one. It has been carefully crafted.

There is no greater dedication to this legislation than from those who have spoken to us, as well as Senator KENNEDY who, for a long time, has been a great supporter.

So it is with real disappointment, if all debate is over, that I will have to move to table, as it is not an amendment that has consensus of support. And so for that reason, I only hope we can find some other avenue later through which we can address this.

I move to table the Domenici-Wellstone amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Has all time expired?

The PRESIDING OFFICER. The Senator from New Mexico has 14 seconds remaining. The Senator from Kansas has 2 minutes.

Mr. DOMENICI. I yield back my time.

Mrs. KASSEBAUM. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 3681.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Colorado, [Mr. CAMPBELL] and the Senator from Florida [Mr. MACK] are necessarily absent.

The PRESIDING OFFICER (Mr. JEFFORDS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 33, nays 65, as follows:

[Rollcall Vote No. 75 Leg.]

YEAS—33

Ashcroft
Bond
Breaux
Brown
Bryan
Chafee
Coats
Cohen
Craig
Daschle
Dodd
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Gregg
Hollings
Inhofe
Johnston
Kassebaum
Kempthorne
Kennedy
Kohl
Kyl
McCain
Nickles
Reid
Rockefeller
Roth
Smith
Thompson

NAYS—65

Abraham
Akaka
Baucus
Bennett
Biden
Bingaman
Boxer
Bradley
Bumpers
Burns
Byrd
Cochran
Conrad
Coverdell
D'Amato
DeWine
Dole
Domenici
Dorgan
Exon
Feingold
Feinstein
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Helms
Hutchison
Inouye
Jeffords
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Pell
Pressler
Pryor
Robb
Santorum
Sarbanes
Shelby
Simon
Simpson
Snowe
Specter
Stevens
Thomas
Thurmond
Warner
Wellstone
Wyden

NOT VOTING—2

Campbell
Mack

So the motion to lay on the table the amendment (No. 3681) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. SANTORUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I think we are making progress. I wonder if the managers might be able to identify those amendments that would require rollcall votes and have the debate on those amendments, and then we can advise our other colleagues that did not have amendments that we would probably be voting, say, at 10 o'clock or 9:30, or whatever it might be. That would save everybody from having to stay on the floor. When you stay on the floor, sometimes you get excited and talk.

Mrs. KASSEBAUM. Mr. President, I say to the majority leader, on our side, I understand that Senator SPECTER would like to have a vote. He has two amendments.

Mr. DOLE. En bloc?

Mrs. KASSEBAUM. I would assume we could vote en bloc.

Mr. SPECTER. I am right here and ready to go, madam manager.

Mrs. KASSEBAUM. All right. I am not sure about Senator THOMAS, whether he will want a vote on his, and Senator GRAMM. I believe those are the only amendments that I have listed that would require—Senator BURNS, I believe, has one on telemedicine.

Mr. COATS. I have one, also.

Mrs. KASSEBAUM. I thought we were going to try to work that out.

Mr. COATS. We are not able to work that out, so we are going to have to have a vote on it.

Mr. DOLE. How many from the Senator from Massachusetts?

Mr. KENNEDY. We have the Conrad amendment on J-1 visas, which is acceptable. We have one other amendment where somebody wants to introduce it, speak, and withdraw it. Senator DORGAN's amendment on organ donor, which, I believe, has been accepted, with Senator FRIST. We have Senator HARKIN's, and we are waiting to see whether Senator WELLSTONE wants to work out an exchange of language or a vote. And there is a Senator Boxer sense of the Senate.

Some of those, as I mentioned—the Conrad visa amendment, and the organ donor amendment—have been worked out. I think they will just take very brief comments.

Mr. DOLE. So that will be two votes?

Mr. KENNEDY. Potentially, four. I hope we get it down to three.

Mr. DOLE. Let me encourage my colleagues, if there is an opportunity to work these out on either side, we hope we can do that and not require a rollcall vote. If you are going to work out your amendment and it is accepted without rollcall votes, I will look very kindly on those amendments. I will be a conferee.

Mr. DOMENICI. Mr. President, I ask that the yeas and nays be vitiated on the Domenici amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is agreed to.

So the amendment (No. 3681) was agreed to

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I think the distinguished Democratic leader wanted to add a word.

Mr. DASCHLE. Mr. President, I ask the majority leader whether or not, to accommodate a couple of our colleagues, who, I think, were working under the understanding that we might be able to stack votes, whether or not it may be possible to stack the next two or three votes so as to accommodate some of those who may have left with that understanding. Would that be possible?

Mr. DOLE. I am satisfied with that. I think it is a good idea.

Mrs. KASSEBAUM. As long as there are so few left.

Mr. DOLE. We can stack three or four votes back to back, accept the rest of them, and have final passage.

Mr. LEAHY. Will the majority leader yield for a question?

Mr. DOLE. Yes.

Mr. LEAHY. If we are going to stack them, do we know approximately when the votes will start?

Mr. DOLE. How much time will the Senator from Pennsylvania take?

Mr. SPECTER. Mr. President, responding to the majority leader's question, I think it can be disposed of in 20 minutes, 10 minutes a side.

Mr. DOLE. Each amendment, or both?

Mr. SPECTER. I am going to start with the first amendment.

Mr. KENNEDY. We would take 5 minutes.

Mr. DOLE. Let us say an hour from now.

Mr. LEAHY. Votes will start then, an hour from now?

Mr. DOLE. Yes.

AMENDMENT NO. 3682

(Purpose: To reauthorize and expand the healthy start program to target areas in need and to implement community driven strategies to reduce infant mortality)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 3682.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title III, insert the following new section:

SEC. . REAUTHORIZATION OF HEALTHY START PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—To enable the Secretary of Health and Human Services to carry out the healthy start program established under the authority of section 301 of the Public Health Service Act (42 U.S.C. 241), there are authorized to be appropriated $100,000,000 for each of the fiscal years 1997 through 2001.

(b) EXISTING PROJECTS.—

(1) IN GENERAL.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary of Health and Human Services shall reserve $30,000,000 for such fiscal year among demonstration projects that received funding under the healthy start program for fiscal year 1996.

(2) ELIGIBILITY.—To be eligible to receive funds under paragraph (1), an existing demonstration projects shall demonstrate to the satisfaction of Secretary of Health and Human Services that such project has been successful in serving needy areas and reducing infant mortality.

(3) USE OF PROJECTS.—A demonstration project that receives funding under paragraph (1) shall be utilized as a resource center to assist in the training of those individuals to be involved in projects established under subsection (c). It shall be the goal of such projects to become self-sustaining within the project area.

(c) NEW PROJECTS.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary of Health and Human Services shall allocate the remaining amounts for such fiscal year among up to 35 new demonstration projects. Such projects shall be community-based and shall attempt to replicate healthy start model projects that have been determined by the Secretary of Health and Human Services to be successful.

Mr. SPECTER. Mr. President, this is an amendment which provides for reauthorization of Healthy Start. This amendment would reauthorize the Healthy Start program for an additional 5 years at $100 million a year. It is important that the reauthorization occur on this bill because, given the Senate calendar, it is highly doubtful that this issue will be raised on any other bill.

In my capacity as Chairman of the Appropriations Subcommittee for Health and Human Services, I can say with some authority that we need the authorization so that we are prepared to make the appropriate appropriations.

Healthy Start is a program which is designed to provide prenatal care to infants. I saw my first 1-pound baby more than a decade ago at the Alma Ellery Clinic in Pittsburgh and, at that time, I saw a baby about as big as my hand, weighing a pound. Some babies weigh as little as 12 ounces, and they are human tragedies, carrying scars for a lifetime, and they are very expensive for our society, costing as much as $250,000 each.

In my position on the Appropriations Committee, I worked to start this program of Healthy Start, and it has had a really remarkable success. It has been in existence for 5 years, which is a relatively short period of time. But we already have statistics available that show the success of the program.

The 1994 statistics received from the projects demonstrated that from 1984 to 1988, baseline statistics in Philadelphia show that infant mortality had decreased some 28 percent. In Pittsburgh, the infant mortality rate decreased 20 percent since the start of the Healthy Start Program in 1993.

The Maternal and Child Health Bureau reports that for the State of New York, between 1990 and 1994, infant mortality rates decreased by 38 percent in the Healthy Start project area, compared to a 22 percent decline citywide.

Without going into any greater demonstration of statistics, Mr. President, I think it is apparent that Healthy Start is an important program. Dr. Koop commented that with these minimal four prenatal visits, women carrying children would not give birth to low-birthweight babies. It, obviously, has been a very important program. It exists in some 22 cities at the present time: Boston; New York; Philadelphia; Pittsburgh; Baltimore; Washington, the DCPD region; South Carolina; Birmingham, AL; Cleveland, OH. I read these listings so that my colleagues will know how many of these units are in existence in their locales. Troy, IN; Chicago, IL; New Orleans; the Northern Plains Indian Reservations; communities in South Dakota, North Dakota, Iowa; Oakland, CA; and special projects in Dallas, TX; Essex County, NJ; the Florida Panhandle; Milwaukee, WI; the Mississippi Delta; Richmond, VA; and Savannah, GA.

The plan is to expand these projects from the 17 projects which are now—from the 22 projects which are now in existence, to an additional 35 projects.

Mr. President, I think the value of this program is apparent on its face. It has been in existence for 5 years. It has been very successful and does not encumber or impede this bill in any way.

It is a little hard to understand why it is not accepted, but I think it ought to command the attention of this House and the House of Representatives. And I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. KASSEBAUM. Mr. President, is the Senator from Pennsylvania going to offer a second-degree amendment at this time?

Mr. SPECTER. I am not.

Mrs. KASSEBAUM. Is the Senator going to wait until quarter of 10 to speak on that? We are stacking the votes.

Mr. SPECTER. I understand we are stacking the votes. At this time I am offering this amendment and speaking about this amendment.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I understand the floor is open for amendments.

The PRESIDING OFFICER. There is a pending amendment which needs to be set aside by unanimous consent.

Mr. HARKIN. I understand, if I am not mistaken, that we are going to stack these votes. Is the Senator getting a vote right now under the regular order? The yeas and nays were ordered.

Mr. SPECTER. As I understand it, we are stacking the amendments. But I am not prepared to set the amendment aside at this point. I would like to see if the managers have contrary argument.

Mrs. KASSEBAUM. Mr. President, yes. This is not acceptable. The reason is that it is authorizing legislation which I believe needs to come through committee and the committee procedure before we would authorize this on this bill regarding health insurance reform.

That would be the objection of the managers of the bill.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, in response to the comments of the Senator from Kansas, it is my strong view that a healthy start program is directly germane and directly relevant to the pending legislation on health care and that it is a jurisdictional question. I do not quite understand the argument. This program has been in existence, has been a success, and there has been no denial by the managers that it is in existence and has been a success. It is hardly the kind of program which is going to require additional hearings. It seems to me that it is right for disposition. That is why I am offering the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mrs. KASSEBAUM. Mr. President, I stated the reasons why we have an objection. It is a program that has had some success. That is very true. And healthy start is very important. It is part of other programs in the public health sector to which that is directed. As I say, I think it should be really reviewed in oversight so we can analyze what is being done and what should be done. I just feel strongly that in this instance it needs to be handled through the authorizing process rather than an amendment.

The PRESIDING OFFICER. For clarification, there is no unanimous consent to stack the votes at this time. So the pending business is the amendment of the Senator from Pennsylvania.

Mrs. KASSEBAUM. Mr. President, just so I understand, I thought the majority leader asked that votes would be stacked until 9:45. Did I misunderstand?

The PRESIDING OFFICER. My understanding is that it was not posed as a unanimous consent request.

Mr. DOLE. I now make that request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

AMENDMENT NO. 3683 TO THE COMMITTEE SUBSTITUTE, AS AMENDED BY NO. 3675

(Purpose: To reduce health care fraud, waste, and abuse)

Mr. HARKIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself and Mr. BAUCUS, proposes an amendment numbered 3683.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. HARKIN. Mr. President, this is offered on behalf of myself and Senator BAUCUS.

Mr. President, this amendment deals with the continuing problem of waste, fraud, and abuse in the Medicare system. Over the last several years we have had numerous IG investigations, reports, GAO investigations, and GAO reports. The data is overwhelming. No one can dispute the findings. The Director of HCFA himself has testified before the Labor, Health and Human Services Appropriations Subcommittee as to the validity of these findings. No one disputes that there is tremendous waste, fraud, and abuse in Medicare. The GAO has estimated that up to 10 percent of Medicare funds are lost to waste, fraud, and abuse every year.

Out of a $180 billion program, 10 percent, that is up to $18 billion lost to waste, fraud, and abuse. That is $500 per beneficiary per year.

I know that we are not going to be able to get all of it out. I understand that. But at least we can make some important strides in saving a lot of this money. The amendment that was adopted earlier—the Dole-Roth amendment—had some provisions in it to combat fraud and abuse that I have pushed and supported for a long time, including increased resources for the HHS Inspector General and increased resources for Medicare contractors to fight fraud and abuse, and tougher penalties for fraudulent activities. These were in the amendment adopted.

I say that these are positive and long overdue steps. As I said, they are steps that I have pushed and promoted for years. However, they are inadequate. There is much, much more that needs to be done and can be done right now to really make a dent in the massive amounts of waste and abuse in the system.

Mr. President, every time I go to town meetings in Iowa and I meet with the elderly—or just basically anyone that has been involved in the Medicare system, like people who have had parents or grandparents who have received Medicare help and assistance—whenever you talk about waste and abuse you get an immediate response. They know it exists all too well. When you talk about looking at their bills and ask if they ever look at a bill and see an item on there that they did not really think they received, or maybe paid too much for—you watch the heads nod—they all have, and they are outraged about it. But what they will show you is they will hold up the form that they got from Medicare, and it will have stamped on the front of it, "This is not a bill."

A couple of years ago a woman by the name of Shirley Pollock from Atlantic, IA, got hold of me. She had received one of these for her mother-in-law who had been in a nursing home.

For something short of 5 weeks' time, she was billed over $5,000 for bandages. She was outraged, because she knew there was no way her mother-in-law had used that many bandages. But on the front it said, "This is not a bill." So Shirley Pollock complained to the Medicare payor about this and was told: Do not worry about it. You do not have to pay it anyway.

Well, as Shirley later told me, "I got so mad because I knew somebody's got to pay it. Obviously taxpayers or people paying into Medicare are paying for it. Someone is paying for it. I know we didn't receive $5,000 in bandages, and I want to do something about it."

So she contacted my office, and we worked it through and found out, indeed, that she was absolutely right. Her mother-in-law had never received $5,000 in bandages—maybe $500 worth but not $5,000, and yet the bill was paid. The bill was just paid as if nothing had happened.

So we know this is going on. And like I said, you can ask any person in a town meeting about this, especially those who have been in Medicare, and they will tell you that they know what we are talking about, too.

So I am offering this amendment to add what I believe are a few more important commonsense weapons in this fight against waste and abuse.

Now, I will for the benefit of my colleagues state at the outset that there is one provision I have been pushing for for some time that I do not have in this amendment because I know there is opposition to it on the floor. I have offered it before. And that is the idea of competitive bidding. I am not offering that as part of this package because I know they want to get the bill through, and I am for this bill; I am a cosponsor of it. I wish to get it through. But, obviously, unbelievable as it may seem to me and to others, there are some who do not believe that Medicare should adopt competitive bidding when it comes to medical supplies so that seniors and the taxpayers get the best price possible.

So I did not include it. I took it out because I know that that some have said it's too controversial. But I am going to be offering that again to get us to competitive bidding, just like the Veterans Administration has been doing for years. It's an outrage Medicare is losing millions because its payment system is prone to abuse and waste. Over a period of years I've compared like bills, like items between Medicare and the Veterans Administration, same city, same supplier. Medicare is often paying 30 to 50 percent more than what the Veterans Administration is. Why is that? Because the Veterans Administration engages in competitive bidding and Medicare does not. But as I said, I have not included that in this amendment. I wanted to make that clear.

All of the provisions in this amendment that I have offered are the result of extensive hearings held by the Labor, Health and Human Services Appropriations Subcommittee over the past several years. They are all recommendations of the General Accounting Office, the inspector general of the Department of Health and Human Services or other private sector medical experts. All of them are commonsense steps, and I just want to review very briefly what they are.

First, this would provide for improved information to seniors to allow them to better help in the fight against Medicare fraud, waste, and abuse. Seniors would be guaranteed the right to receive itemized bills instead of a summarized report from which it may be difficult to detect billing errors or abuses. Every Medicare payment statement would also have to include a toll-free hotline number to report suspected cases of fraud, waste, or abuse.

Now, to those who may say this is a burden, let me just point out that those who are sending in the bills have to keep an itemized record. But when they send it to the beneficiary, they can just summarize it. So the beneficiary can look at it, and a lot of times not even know what they are paying for and a lot of times Medicare does not know what it is paying for. They just pay it, but they really do not know what the itemized bill is.

The reason I know that you can go back and find the itemized bills is that the investigations we have done by the General Accounting Office have gone after some of these summarized bills, gone back to the claimant, back to the hospital or the nursing home or the doctor or whoever it might be and said, OK, what made up this summarized statement? Well, they had to produce the itemized bill so that the General Accounting Office could look at it. So they do have that itemized bill. I am saying it is no more of a problem for them just to print that out on the bill they send to Medicare. This amendment would guarantee seniors that they could get an itemized bill so that they know exactly what they were being charged for and how much they were being charged for it. And, as I said, it would also require Medicare to put on each explanation of Medicare benefits a toll-free hotline number so that a person could report any suspected case of fraud or abuse.

That is the first part of my amendment. The second part of my amendment establishes rewards of up to $10,000 for those providing information that leads to a health care fraud conviction. Again, it is to get people to step forward, to provide the information that we need, and if it leads to a health care fraud conviction they would be entitled to a reward up to $10,000.

The third part of my amendment prohibits Medicare payments for wasteful and unnecessary items such as sports cars for corporate executives, lucrative gifts to executive families and friends, tickets to sporting and other entertainment events, and other items not related to medical care.

In one of the most infuriating cases of abuse we found that health care executives were padding Medicare bills with all sorts of outrageous items identified as indirect costs. For example, we found the following items charged to Medicare: $2,433 for a trip to Italy to inspect a piece of sculpture; $10,215 billed to Medicare for clocks, watches, and bowls for employees and friends; thousands of dollars for a golf tournament that was only held for executives; a $4,200 bill for a sporting event, all billed to Medicare as indirect costs. That is outrageous.

Now, Medicare did take one step after I prodded them at hearings. No longer will they pay for alcohol or for lobbying expenses as indirect costs. Well, that was a good first step, but they still have not specifically excluded these other items. My amendment would change that.

Next, my amendment says that we would reduce Medicare waste by giving the private companies that administer Medicare the authority to reduce payments for items they identify as grossly overpriced. Currently this can only be done on a national basis by HCFA and has only been done once, a process that took HCFA 3 years.

I am familiar with that because I initiated it several years ago. We found a blood glucose monitor, a little device that you can buy at Kmart or any discount store; it is for people who have diabetes. They can get an accurate check on what their blood glucose level is. It is a little pocket device with a battery in it. We found that Medicare was reimbursing up to $200 for each one of those. I sent my staff down to the local Kmart. They bought one for $49.99—50 bucks. Medicare was reimbursing up to $200 for it.

So I went to Medicare, to HCFA. I said, "Okay, we have to stop it. You can go down and buy it for 50 bucks. Why are you paying $200?"

Believe it or not, from that moment to the day that they actually reduced the price to $50 took 3 years—3 years for them to do that. Well, this amendment would give a private company that administers Medicare the authority to reduce payments on items that they identify as grossly overpriced. So if they found something like a blood glucose monitor that they were reimbursing $200 for and they could buy it for 50 bucks, they could reduce the price down themselves. Again, right now, it takes HCFA over 3 years just to do one simple thing like that. This is a change that has been praised both by Medicare and the HHS Inspector General.

Next, my amendment would better assure that rapidly growing home health services are not subject to abuse by requiring that Medicare payments are not inflated by bills being filed in a higher payment area outside of where the service was provided, by establishing a fine for knowingly providing a false certification that a patient meets Medicare home health coverage criteria and by requiring that bills submitted for surgical dressings are itemized.

I will just read a little bit from this GAO report that covered excessive payments for medical supplies. Here is what happens. It says:

> Fiscal intermediaries pay medical supply claims without knowing specifically what they are being asked to pay for on behalf of beneficiaries. The claims submitted by providers have no detailed information that would allow fiscal intermediaries to assess the claims' reasonableness. This lack of detail exists because HCFA guidance allows providers to bill all medical supplies under 10 broad codes. Billed items are not listed by type or amount. A code frequently used to record medical supplies is code 270, that is medical/surgical supplies, which we found included many different items such as a $21,437 pacemaker, a 75 cent sterile sponge, and even daily rental charges of $59 for an aqua pad. Consequently, unless fiscal intermediaries identify these claims for review and request additional documentation before payment, they will pay for the claims without knowing what the specific purchase was or whether it was covered or medically necessary.

Again, my amendment would address that and allow them to get that necessary information so that they would know exactly what they were paying for. That change was recommended and drafted by the General Accounting Office.

Next, my amendment would require Medicare to replace its outdated computer systems with state-of-the-art private sector computer software to detect and stop billing abuse. The General Accounting Office found that this simple change would save about $600 million a year. Again, this provision carries out their recommended changes to save seniors and taxpayers money.

GAO found, in fact, that a number of the private companies that process Medicare claims use the more sophisticated computer software on their private sector business but are not allowed to use it on their Medicare claims. They actually have to have two computer systems. They have their own that they submit claims to. Then they have another set that they have to have and another set of software just for Medicare.

As I said, the General Accounting Office said that just by making this one change, this one change would save $600 million a year, and the cost for doing that was about $20 million. So, again, it would require Medicare to replace its computer systems with state-of-the-art private sector computer technology, just what most private companies are using today to detect and stop billing abuse. As the GAO said, the private sector ones were so much better at detecting fraud and abuse than the Medicare ones were. We have been after Medicare. They say they are going to do this; maybe by the end of 1999 they might have it changed. We could change it right now and, as GAO said, save up to $600 million a year.

Last, my amendment saves money and reduces hassle by cutting excessive Medicare and Medicaid paperwork. There would be a uniform application and benefit claims form that would be established and would eliminate duplicative forms.

Mr. President, these are really modest steps. Again, these are all steps that the GAO, the inspector general's office, and other private sector health care experts have said are necessary to at least stem this tremendous hemorrhaging of waste and abuse that we have in Medicare. When you are talking about up to $18 billion a year, even if we cannot get all of it, if we could just get half of it, that is $9 billion a year. That is a lot of money. I see no reason why we could not get at least half of it with these modest steps that I am proposing here.

As I said, I did not include the one on competitive bidding. We will revisit that at another time. But I thought in the spirit of moving this legislation along and offering something that I thought was modest, that would move us in the right direction, that is why I took out competitive bidding.

I offer this amendment to enhance this bill and hopefully make it a better bill for health care in America. That is what this bill is about, is to help us in health care reform. You cannot have real health care reform until you stop the waste, fraud and abuse in Medicare. It is in that spirit I offer this amendment.

I thank the Senator from Montana for his strong support over the years, trying to weed out this waste, fraud and abuse in Medicare. He has been a leader on this subject. I am happy to have him as a cosponsor on this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I hope my colleagues listened very closely to the Senator from Iowa. The big debate here is how to save Medicare. Senators on one side of the aisle say we have to cut Medicare to save it. We had this big debate over whether we should cut $270 billion out of Medicare in the next 7 years. We spent a lot of time debating this issue. Unfortunately, the majority Members in this body ended up deciding that, yes, we should cut that much money out of Medicare over 7 years. I think every Member on this side of the aisle voted against that.

Obviously, if we are going to save Medicare, we ought to first look at waste. It is clear there is waste in Medicare. We all know there is waste in Medicare. The General Accounting Office has documented the waste. The Senator from Iowa has listed all the Federal agencies that documented the millions of dollars lost to waste. Each of us, at home, talks to senior citizens, to providers and others who, on an anecdotal basis, tell us about waste in Medicare. We all know there is waste in Medicare.

We also know it takes a long time to get something done around here, way too long. Too many times we debate issues, not months but years. It takes way too long to get something meaningful accomplished around here. I think tonight we are debating a very important bill. We are going to pass this bill, hopefully tonight, that will take solid steps to provide better insurance coverage for millions of Americans and thousands of Montanans. This is important and I strongly support this bill. At the same time, we have the chance to take the steps necessary to cut some of the waste in Medicare.

Tonight, let us pass this amendment. It is not perfect. There will be a lot of opportunities to work with it, during the conference committee, but let us get started. Let us pass this. We all know we should. Let us just do it. It might not be perfect, but we should not let perfection be the enemy of the good. Every Senator here tonight knows that this is a good amendment. We all know it is on the right track. I, for the life of me, do not understand why we just do not accept it tonight, work on it in the conference committee, maybe fix it up a little bit, get it enacted into law, and begin to attack a lot of the waste that exists in Medicare.

I hope Senators listened to the examples the Senator gave tonight. There are many more. They are outrageous—trips to Italy, sports cars. You would be amazed what waste, fraud, and abuse occurs in our Medicare program. It is outrageous. So, let us begin to do something about it; just begin. We heard the figures. GAO says up to 10 percent. That is $18 billion.

Let us be honest, we are not going to get a full $18 billion recovered. We know that. But, as the Senator from Iowa says, let us at least make a start. Let us not say we are not going to do it tonight because we have a no-amendments policy. We have already adopted one amendment, and another one, already tonight. Certainly this is in the category of amendments that we know should be passed. Otherwise, we run the risk that nothing will happen to fight fraud and abuse in the Medicare program this year.

What is going to happen next year? We do not know, as we attempt to address the waste that exists in Medicare.

I am not going to belabor the issue. It is getting late tonight. The Senator from Iowa has listed all the various provisions of his amendment. I just hope we can leave the partisan fighting and political rhetoric behind and do something which we know the people at home whom we represent want. Let us begin to take some very critical and concrete steps to address the waste and fraud that does exist in Medicare. That is where we should begin, rather than just cutting Medicare. First, let us cut the waste out of Medicare and the fraud out of Medicare before we cut Medicare services and programs that help millions of seniors nationwide.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas, the majority manager, is recognized.

Mrs. KASSEBAUM. Mr. President, I am speaking somewhat on behalf of Senator COHEN from Maine. He has worked many years on this issue, and has worked with Senator HARKIN as well, trying to address the issues of fraud and abuse.

The language that Senator COHEN had worked on is now part of the bill. It is an important issue, and the very things that Senator HARKIN raised are issues Senator COHEN raised. But there have also been some concerns, and we have to be careful, if there are some problems, to see if we cannot get them worked out or else it poses a problem for the underlying bill.

I yield time to the Senator from Maine.

Mr. KENNEDY. Mr. President, I wonder if we can possibly get a time understanding. We have several Members here. I know people want to address this, and Senator COHEN wants to speak on it. I am wondering if the proponents of the amendment are willing to agree to a time limit.

Mrs. KASSEBAUM. There is very little time we need, Mr. President. My guess is, if Senator COHEN says 5 minutes, that is fine.

Mrs. BOXER. I am sorry, this is a time agreement?

Mr. KENNEDY. Just with regard to the Harkin amendment, can we agree that there be 10 minutes evenly divided? I ask unanimous consent that there be 10 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine.

Mr. COHEN. Mr. President, if I can be as brief as I can within the 5-minute limitation, the fraud and abuse provisions that we adopted in the leadership amendment is something that I have worked on now for over 3 years. It passed both the House and the Senate last year as part of the budget reconciliation act. It was included in the administration's budget reconciliation proposal.

So the legislation we have passed and adopted is something that has been completely vetted; it has been negotiated through a lengthy process; it has been through the hearing process; it has been on the floor on several occasions—in fact, numerous times.

Additionally, it has received the endorsement of the administration, the Attorney General, Secretary of Health and Human Services, the Finance Committee of the House and Senate, as well as many private groups. The Harkin legislation has not gone through any such review or scrubbing; it has not received these endorsements, to my knowledge. In fact, I am sure we do not know of all the objections to his provisions. I do believe that there are several that are the subject of controversy.

I am not here to argue the merits of each of the items I am about to raise, but I know that both Health and Human Services and HCFA, the Health Care Financing Administration, object to the section that requires HCFA to acquire commercial software technology for Medicare claims processing. I know HCFA has concerns with the Harkin section that requires Medicare payments for certain items.

Again, I am not here to argue the merits of these particular items tonight. I merely say to my colleagues, they are not without controversy. If our objective is to pass the Kassebaum-Kennedy bill because we want to see legislation that guarantees access, affordability and portability, it seems to me the best thing we can do is stay with the legislation we adopted. That is why it was included in the leadership amendment.

So we have adopted it on several occasions. There may be some merit to Senator Harkin's proposal, but I think because of the items that are in controversy, it is only going to jeopardize the legislation. I believe the fraud and abuse provisions we have adopted are an enormous step forward. CBO has scored the amendment we adopted as saving some $3 billion, and that is going to pay for a number of items in the bill itself.

So, Mr. President, I hope that my colleagues, when the appropriate time comes, will move to table the Harkin amendment, that we will enjoy the support of our colleagues, because I believe the Harkin amendment does raise controversial issues, and the last thing we need at this time is more controversy on this bill.

Mr. KENNEDY. I yield myself 2 minutes.

Mr. President, I have worked very closely with the Senator from Iowa, and I admire all of his extraordinary work in all of this area. I think it is very commendable, and I do not think we have really ensured that a number of the recommendations have been enacted. So I am, again, very sympathetic and supportive of the concept.

This is a matter really for the Finance Committee, and there has been an objection raised on that vote in support of tabling the amendment. But I give assurances to the Senator, as a member of the conference and given the fact the whole issue of fraud will be a matter of conference, I will do the best I can to see that we are able to include some of those measures in the conference. That is the best at least I can do, but I admire his work and look forward to joining with him on another occasion.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I appreciate Senator KENNEDY's comments, and I hope we can get some of these adopted in conference. I say, again, I appreciate what the Senator from Maine has done over the last few years. He has done a great job of going after these issues of waste and abuse. I have no major objections to what was adopted earlier. Overall, I think it is a great step in the right direction.

We probably have been working along parallel paths. I am on the Appropriations Committee and the Senator is on another committee, but I first started having hearings on this 6 years ago, so we have been working on parallel tracks. I do not think there is any need to debate that.

I was just saying I do not know that it is necessary before we pass anything around here that we have to have the approval of the administration. I find that kind of an odd concept at this time in the Senate that we have to have that kind of approval. We are the legislative branch.

I point out that every single item I just mentioned has gone through a process of hearings. We have had numerous hearings on this. We have had the approval of the inspector general's office and the GAO.

The Senator from Maine did mention one item. Out of all of these, there is only one item that HCFA opposes, and that is the provision in there that mandates they use state-of-the-art computer technology. That is because HCFA has been trying to develop its own. I have had some pretty fair battles with HCFA on this. I guarantee the Senator from Maine is right that they do not want that provision.

I am going to tell you they are wrong. There is high quality computer software out in the private sector that Medicare can adopt right now. They are wasting money developing their own. And I'm afraid by the time that the system they are developing won't solve the problem. The GAO study and investigation showed that. I have had Medicare intermediaries say that they have the software that Medicare could adopt, and, in fact, I say to the Senator from Maine that Medicare did adopt some changes of the type I've advocated in January of this year. They adopted a little bit of it. It will save some money, but much more could be saved.

Lastly, let me just say the amendment of the Senator from Maine does save $3 billion over 7 years. We do not have an estimate on how much this would save. All I know is, just on the computer software alone, that was $600 million in savings. I believe this amendment would save much, much more.

Again, I do not see anything here that is controversial but for that one item where HCFA says they are opposed to adopting private sector computer technology. As I said every single item in this amendment is a direct recommendation from the Inspector General, the General Accounting Office or other experts as effective methods to stop waste, fraud and abuse in Medicare.

This should be a completely noncontroversial amendment. I hope, again, as the Senator from Montana said, that we will not get caught up in jurisdictions.

Let us do what is right. What is right is to adopt this and start saving some money in the Medicare system. The amendment of the Senator from Maine is going to save some money. Darn right it is going to save some money. But we can save much more by adopting these other provisions.

The PRESIDING OFFICER. The Senator's time has expired. The minority manager is recognized

Mr. KENNEDY. I was going to make the tabling motion and then set that aside. What we had tried to do before is have the few amendments that we have here incorporated.

But I am reminded by my chairman that we had one over here and that it would be reasonable and fair to do one over there, and then we would come back to try and do all three of these here.

Mr. CONRAD. I wonder if we can get at least an order that would be acceptable so that those of us who have been waiting for an extended period might get a timeframe so that we will not just be waiting around and then find the list somehow gets altered and we wait some more.

Mr. KENNEDY. I was prepared to accept Senator CONRAD's amendment. It is going to take a minute.

Mr. KASSEBAUM. We are accepting it. So if the Senator wants to proceed—Senator COATS has been waiting too, but that is fine. It is acceptable.

Mr. KENNEDY. Mr. President, I make a motion to table the Harkin amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I ask that the Harkin amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3684

(Purpose: To extend State requested waivers of the foreign country residence requirement with respect to international medical graduates, and for other purposes)

Mr. CONRAD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes amendment numbered 3684.

Mr. CONRAD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) EXTENSION OF WAIVER PROGRAM.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking "June 1, 1996" and inserting "June 1, 2002".

(b) CONDITIONS ON FEDERALLY REQUESTED WAIVERS.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1184(e)) is amended by inserting after "except that in the case of a waiver requested by a State Department of Public Health or its equivalent" the following: "or in the case of a waiver requested by an interested United States Government agency on behalf of an alien described in clause (iii)".

(c) RESTRICTIONS ON FEDERALLY REQUESTED WAIVERS.—Section 214(k) (8 U.S.C. 1184(k)) is amended to read as follows:

"(k)(1) In the case of a request by an interested State agency or by an interested United States Government agency for a waiver of the two-year foreign residence requirement under section 212(e) with respect to an alien described in clause (iii) of that section, the Attorney General shall not grant such waiver unless—

"(A) in the case of an alien who is otherwise contractually obligated to return to a foreign country, the government of such country furnishes the Director of the United States Information Agency with a statement in writing that it has no objection to such waiver; and

"(B)(i) in the case of a request by an interested State agency—

"(I) the alien demonstrates a bona fide offer of full-time employment, agrees to begin employment with the health facility or organization named in the waiver application within 90 days of receiving such waiver, and agrees to work for a total of not less than three years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien would justify a lesser period of time); and

"(II) the alien's employment continues to benefit the public interest; or

"(ii) in the case of a request by an interested United States Government agency—

"(I) the alien demonstrates a bona fide offer of full-time employment that has been found to be in the public interest, agrees to begin employment with the health facility or organization named in the waiver application within 90 days of receiving such waiver, and agrees to work for a total of not less than three years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien would justify a lesser period of time); and

"(II) the alien's employment continues to benefit the public interest;

"(C) in the case of a request by an interested State agency, the alien agrees to practice medicine in accordance with paragraph (2) for a total of not less than three years only in the geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals; and

"(D) in the case of a request by an interested State agency, the grant of such a waiver would not cause the number of waivers allotted for that State for that fiscal year to exceed 20.

"(2)(A) Notwithstanding section 248(2) the Attorney General may change the status of an alien that qualifies under this subsection and section 212(e) to that of an alien described in section 101(a)(15)(H)(i)(b).

"(B) No person who has obtained a change of status under subparagraph (A) and who has failed to fulfill the terms of the contract with the health facility or organization named in the waiver application shall be eligible to apply for an immigrant visa, for permanent residence, or for any other change of nonimmigrant status until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least two years following departure from the United States.

"(3) Notwithstanding any other provisions of this subsection, the two-year foreign residence requirement under section 212(e) shall apply with respect to an alien in clause (iii) of that section who has not otherwise been accorded status under section 101(a)(27)(H)—

"(A) in the case of a request by an interested State agency, if at any time the alien practices medicine in an area other than an area described in paragraph (1)(C); and

"(B) in the case of a request by an interested United States Government agency, if at any time the alien engages in employment for a health facility or organization not named in the waiver application.".

Mr. CONARD. Mr. President, this is very simple. It is an extension of the popular J-1 visa program for 6 years. If we fail to do this, the authority runs out June 1. Mr. President, the J-1 visa waiver permits each of our States to extend 20 waivers a year. And 21 of our States have already done it. More are interested in doing it. They will not have a chance if the authority runs out June 1.

Mr. President, the amendment I am sponsoring would extend what has become known by some as the "Conrad State 20 Program." In 1994, I added a provision to the visa extension bill that allows state health departments or their equivalents to participate in the process of obtaining J-1 visa waivers. This process allows a foreign medical graduate (FMG) who has secured employment in the United States to waive the J-1 visa program's 2 year residency requirement.

As a condition of the J-1 visa, FMGs must return to their home countries for at least 2 years after their visas expire before being eligible to return. However, if the home countries do not object, FMGs can follow a waiver process that allows them to remain and work here in a designated health professional shortage area or medically underserved area. Before my legislation became law, that process exclusively involved finding an "interested federal agency" to recommend to the United States Information Agency (USIA) that waiving the 2 year requirement was in the public interest. The law now allows each State health department or its equivalent to make this recommendation to the USIA for up to 20 waivers per year.

This law as necessary for several reasons. Despite an abundance of physicians in some areas of the country, other areas, especially rural and inner city areas, have had an exceedingly hard time recruiting Americans doctors. Many health facilities have had no other choice but turn to FMGs to fill their primary care needs. Unfortunately, obtaining J-1 visa waivers for qualified FMGs through the federal program is a long and bureaucratic process that not only requires the participation of the "interested federal agency" but also requires approval from both the USIA and the Immigration and Naturalization Service.

Finding a federal agency to cooperate is difficult enough, considering that the Department of Health and Human Services does not participate. States who are not members of the Appalachian Regional Commission, which is eligible to approve its own waivers, have had to enlist any agency that is willing to take on these additional duties. These agencies, such as the Department of Agriculture or the Department of Housing and Urban Development, often have little or no expertise in health care issues. Once an agency does agree to participate, the word spreads quickly and soon that agency can be flooded with thousands of waiver applications from across the country.

Because states can clearly determine their own health needs far better than an agency in Washington, DC, my legislation now allows states to go directly to the USIA to request a waiver. It also is relieving some of the burden that participating federal agencies have incurred in processing waiver applications.

The Conrad State 20 Program is still very new, and not every state has yet elected to use it. But the program is beginning to work exactly as I had hoped. At least 21 States have reported using it to obtain waivers. More states are expected to participate in the coming months. Unfortunately, the Conrad State 20 program is scheduled to sunset on June 1, 1996, unless Congress approves an extension. The amendment I am offering would extend the program for 6 more years. This is not a permanent extension. The amendment would sunset the program on June 1, 2002.

My amendment also puts new restrictions and conditions on FMGs who use the federal program. As a condition of using the Conrad State 20 program to acquire a waiver, FMGs must contract to work for their original employer for at least 3 years. Otherwise, their waiver will be revoked and they will be subject to deportation. My amendment would apply the same 3-year contractual obligation for those who obtain a waiver through the Federal program.

We all know that State empowerment has been a major issue of the 104th Congress. The Conrad State 20 Program is one way of giving States more control over their health care needs. States that are using the program want to keep it operating for a few more years. They understand that this program does not take away jobs from American doctors, but instead is one more valuable tool to help serve the health care needs of rural and inner city citizens. The Senate passed my original legislation with strong bipartisan support. I am hopeful the Senate will agree that creating the Conrad State 20 program was very worthwhile, and will agree to accept this modest, 6-year extension.

I hope we can accept this amendment.

Mr. KENNEDY. Mr. President, we have talked to the chairman of the Immigration Committee, Senator SIMPSON. And I, as the ranking minority member on that committee, say this makes sense. It is targeting doctors in underserved areas. We welcome this. This is effective. It is time sensitive in terms of the reauthorization. We urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

The question occurs on agreeing to the amendment.

The amendment (No. 3684) was agreed to.

Mr. SIMON. Mr. President, I recognize Senator COATS is going to have his amendment next. But Senator CONRAD's point that we would like some kind of knowledge as to what order we are going to come in here—some of us have been waiting a long time. And it will take a few minutes. I wonder if there can be some agreement following the Coats amendment as to who is going to be up here with their amendments.

Mrs. KASSEBAUM. After the Coats amendment there are only two amendments I know of at this point that will require votes on this side, one is a Gramm amendment and, I believe, perhaps a Burns amendment.

Mr. KENNEDY. Mr. President, I ask Senator COATS, how long does he expect to take?

Mr. COATS. There are one or two people that may want to speak on it. They are not on the floor. I do not intend to take all that long, 15 minutes or so, 10, 15 minutes.

Mr. KENNEDY. All right. The Senator from Illinois was just trying to get through this. He has been here and has been prepared, and Senator BOXER. I ask unanimous consent that at the conclusion of the consideration of Senator COATS' amendment, Senator BOXER be recognized, and at the conclusion of Senator BOXER, Senator SIMON be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Could we get a time, for the benefit of our colleagues here? Could we set a time for the Senator's amendment?

Mr. COATS. Well, it is difficult for me to determine how much opposition there will be to this amendment.

Mr. KENNEDY. I think the opposition will not take very much time. We would request maybe 4 minutes for the opposition.

Mr. COATS. I think we can do this then in a total of 15 minutes equally divided.

Mr. KENNEDY. Mr. President, I ask unanimous consent that there be an allocation of 20 minutes, 15 minutes for the Senator from Indiana, and 5 minutes for this Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. I thank the Chair.

Mr. KENNEDY. Mr. President, I ask unanimous consent that we vitiate that unanimous consent request until I get agreement on our side.

The PRESIDING OFFICER. Without objection, it is so ordered. The request is vitiated.

AMENDMENT NO. 3685

(Purpose: To encourage the provision of medical services in medically underserved communities by extending Federal liability coverage to medical volunteers)

Mr. COATS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. COATS] proposes amendment numbered 3685.

Mr. COATS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title III, insert the following new section:

SEC. . MEDICAL VOLUNTEERS.

(a) SHORT TITLE.—This title may be cited as the "Medical Volunteer Act".

(b) TORT CLAIM IMMUNITY.—

(1) GENERAL RULE.—A health care professional who provides a health care service to a medically underserved person without receiving compensation for such health care service, shall be regarded, for purposes of any medical malpractice claim that may arise in connection with the provision of such service, as an employee of the Federal Government for purposes of the Federal tort claims provisions in title 28, United States Code.

(2) COMPENSATION.—For purposes of paragraph (1), a health care professional shall be deemed to have provided a health care service without compensation only if, prior to furnishing a health care service, the health care professional—

(A) agrees to furnish the health care service without charge to any person, including any health insurance plan or program under which the recipient is covered; and

(B) provides the recipient of the health care service with adequate notice (as determined by the Secretary) of the limited liability of the health care professional with respect to the service.

(c) PREEMPTION.—The provisions of this section shall preempt any State law to the extent that such law is inconsistent with such provisions. The provisions of this section shall not preempt any State law that provides greater incentives or protections to a health care professional rendering a health care service.

(d) DEFINITIONS.—For purposes of this section:

(1) HEALTH CARE PROFESSIONAL.—The term "health care professional" means a person who, at the time the person provides a health care service, is licensed or certified by the appropriate authorities for practice in a State to furnish health care services.

(2) HEALTH CARE SERVICE.—The term "health care service" means any medical assistance to the extent it is included in the plan submitted under title XIX of the Social Security Act for the State in which the service was provided.

(3) MEDICALLY UNDERSERVED PERSON.—The term "medically underserved person" means a person who resides in—

(A) a medically underserved area as defined for purposes of determining a medically underserved population under section 330 of the Public Health Service Act (42 U.S.C. 254c); or

(B) a health professional shortage area as defined in section 332 of such Act (42 U.S.C. 254e);

and who receives care in a health care facility substantially comparable to any of those designated in the Federally Supported Health Centers Assistance Act (42 U.S.C. 233 et seq.), as shall be determined in regulations promulgated by the Secretary.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Department of Health and Human Services.

Mr. COATS. Mr. President, the amendment I offer extends the Federal tort claim coverage to a health care professional if that health care professional volunteers his or her medical services to a medically underserved person. This is the same type of coverage—this is not new. We are not breaking new ground here. We extend that same type of Federal tort coverage for medical services provided in Indian health care facilities, in Federal community, migrant, homeless, and public housing health centers.

What I am attempting to do here is extend it to those volunteer efforts—

not paid—but volunteer efforts on the part of health care professionals if those medical services are provided to people from underserved areas that are deemed by the Secretary of Health and Human Services as medically underserved or medically needy.

We have built into this significant patient protection, indicating that the patient must receive notice before providing the care, and that the provider has agreed not to charge the party for any health care that is provided, and that the medical malpractice liability is shifted to the Federal Tort Claims Act.

We are not in any way limiting the plaintiff's right to receive compensation for negligence or for a successful award in a suit. We are just simply shifting it from the provider's insurance coverage to the Federal Tort Claims Act. The provider is deemed, for the purposes of providing that voluntary service, an employee of the Federal Government and therefore covered under the act.

The providers have to be licensed in the State in which the care is provided. The care must be covered under Medicaid in that State. In addition, the patient must receive the care in a health care facility that is substantially comparable in nature to the Federal migrant and community health centers that provide care to underserved populations. This is the protection that is needed in order to ensure that the care is provided in adequate facilities. So those facilities that are deemed by the Secretary of Health and Human Services as federally certified—if they are provided in substantially comparable facilities—the coverage will qualify.

What we are attempting to do here is to provide a way that medical personnel can provide medical services to people who otherwise cannot afford them, people who are uninsured but where doctors and professionals and providers in the community come together and volunteer their time.

We all know the horrendous cost of medical liability insurance. In many instances these medical providers cannot pay or do not choose to pay the additional liability cost. One of the primary reasons for this is that many of these individuals are retired. They are retired doctors or dentists or health care providers. So they do not have umbrella liability policies because they are not necessarily practicing on a full-time basis. But we want to encourage these individuals—as many of them already do—to engage in providing medical services.

I think the amendment is pretty straightforward. There has been a question about the cost. It is interesting to note that when we provided this liability coverage for community health centers, the Congress set aside $10 million a year to cover potential liability costs. It is important to note that none of this money has been used in the 2 years that this has been in operation.

People receiving free health care from professional providers generally are very grateful for the care and obviously are not looking to sue, yet we have protected their rights to do so if negligence occurs or if any liability occurs under the services. That is provided. It just simply is that the coverage comes under the Federal tort claims procedure rather than under the private insurance liability coverage of the medical provider.

Again, the purpose here is to encourage the provision of free medical services to people who either live in underserved areas—and who of us do not represent a State that has underserved areas—or to those people of such income level that do not have insurance or do not have the personal wherewithal to purchase the medical service that is needed.

This is widely supported. The American Medical Association supports this, the Catholic Health Association, the Christian Medical and Dental Society. Senators FRIST and KASSEBAUM have been cosponsors of this bill. And it is supported by professionals throughout our States and throughout our communities.

I have seen some marvelous examples of efforts where community medical professionals gather together, provide an acceptable clinic, volunteer their time and provide very needed services to people that need these free services in order to receive medical care.

I hope that our colleagues could support this amendment. I thought this was something that we might be able to work out. We were not able to do that. I will address any questions that might be raised in opposition to this. I reserve the balance of my time.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

This idea is a good idea. As the author of the community health centers, we had the Tort Claim Act covering all the medical personnel in there. Then there was a downsizing of service corps, we had other doctors that came in there, and we had an increase in the insurance costs for the neighborhood health centers as a result of that.

About 4 years ago, again, we worked out with the Treasury and the administration an indemnification program for those doctors in the neighborhood health centers. It has worked very well. The reason that has worked well is because there is supervision and accountability at the neighborhood health centers.

That aspect is missing in this program. That is why I will vote to table this measure. Then we will come back, one, on the issue of what the funding level would be in terms of it; and second, whether an overall program can be worked in terms of the accountability. Without an accountability, without some ideas of funding, this is not the place, the time. It is a good idea.

I commit to working with my friend from Indiana to try and see if we cannot make it a reality in the very near future.

Mr. COATS. Mr. President, I appreciate the offer of the Senator from Massachusetts to work with us on this. I hardly think this needs additional work.

First of all, it is important to understand that the bill itself addresses the issue that the Senator raised. In the definition of "medically underserved person" it says the term "medically underserved person" means a person who receives care in a health care facility substantially comparable to any of those designated in the federally-supported Health Centers Assistance Act as shall be determined in regulations promulgated by the Secretary. The Secretary of Health and Human Services has a sufficient amount of control by the promulgation of regulations to certify the types of facilities, and there is accountability.

If you feel that you need to have a Federal agency or a Federal supervisor standing over the shoulder of a health care professional, a doctor who might be earning $200 or $300 an hour performing services but who volunteers his time for free, if you say we cannot trust this person to provide adequate medical care, I think we are selling the medical profession very, very short and we are crediting the Government with an ability to supervise that it does not have.

We do not need a Government agency to oversee the efforts of nurses and doctors who volunteer their time—volunteer their time—to provide needed free medical services to underserved and low-income individuals. Again, we are not limiting the liability of anybody that is served here. We are not saying they cannot bring a claim. We are simply saying that claim, if brought and if successfully brought, will be paid for under the Federal Tort Claims Act and not paid for under the liability insurance of the professional.

Why do we need to do that? We need to do that so we can encourage these people to provide the care. Why is it necessary for most? Because many of these people are retired and they are not able or in a position to continue to pay the exorbitant medical liability insurance, sometimes running $50,000, $60,000, or $80,000, depending on the specialty, in order to cover themselves for the volunteer service they get. The last thing we need is more Federal oversight in a program that does not need oversight.

The PRESIDING OFFICER. Under the previous order the hour of 9:45 having arrived the question is on agreeing to the Specter amendment No. 3682.

Mrs. KASSEBAUM. Mr. President, I ask if we could delay this for 15 minutes. There are a couple more amendments that need to be offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Reserving the right to object, Mr. President, I do not wish to object, but I would like to know how much time is left and what the order will be. As I understand it, Senator KENNEDY mentioned I would go next, but if you are just going to finish everything up in 15 minutes, that would leave virtually no time for Senator SIMON and virtually no time for me.

I am confused about whether we will continue after the vote, I guess is the point. I only wish to take 5 minutes on my amendment.

Mr. SPECTER. Mr. President, while we are doing the order here, I think it might be appropriate to spend just a minute on a discussion which I had with the distinguished manager, the Senator from Kansas, talking about hearings before the Labor Committee, hopefully, by the end of May, looking for reauthorization or authorization of the healthy start program.

Mrs. KASSEBAUM. Mr. President, I wish the Senator from Pennsylvania might wait until we worked out the order here.

Mr. SPECTER. I am glad to do that.

Mrs. KASSEBAUM. I suggest at this point perhaps we could go an extra half hour, which I think will then take care of every amendment that is there to everyone's satisfaction.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. I respond, if I may, Mr. President, to the Senator from Indiana. I am a cosponsor, as a matter of fact, of the Senator's Medical Volunteer Act. I think it is a very positive step forward. It encourages medical voluntarism and brings some small measure of relief to the current liability system. There are objections that have been raised to this on the Democratic side, principally, and because of our need to try and get as strong a consensus as possible for the underlying measure I have to object.

At the appropriate time, after all debate is concluded, I would move to table the amendment of the Senator from Indiana.

Mr. KENNEDY. As a matter of order, I think we request to conclude with Senator BOXER and Senator SIMON and then come back to the other side. I think that is what is the order.

The PRESIDING OFFICER. Is there further debate on the Coats amendment?

Mrs. KASSEBAUM. If not, I ask for the yeas and nays and ask that the amendment be set aside.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered on the motion to table the Coats amendment.

The PRESIDING OFFICER. Under the previous order, the Senator from California is recognized.

AMENDMENT NO. 3686

Mrs. BOXER. Thank you very much, Mr. President. I would like to be advised when I have utilized 4 minutes and then I will wrap up my side of the argument.

I send an amendment to the desk and ask for its immediate consideration as a sense of the Senate.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from California [Mrs. BOXER], proposes an amendment numbered 3686.
>
> The Senate finds that:
>
> Patients deserve to know the full range of treatments available to them and,
>
> Patients should know if doctors receive bonuses for withholding treatment from them.
>
> It is the sense of the Senate that Congress should thoughtfully examine these issues to ensure that all patients get the care they deserve.

Mrs. BOXER. Mr. President, this is such a straightforward and simple sense-of-the-Senate. It is rather shocking to me that Members on the other side of the aisle have objected to it. I have to thank the chairwoman of the committee and Senator KENNEDY, who were quite willing to accept such a sense-of-the-Senate resolution. I do not know what Members oppose this. I cannot imagine why they have not identified themselves to me, Mr. President. I just hope that Members will read the sense-of-the-Senate.

Let me tell you a little story about why it is so important.

This is an L.A. Times story, entitled "HMO 'Gag Clauses' on Doctors Spur Protests." I will read just a few paragraphs:

> The Santa Monica oncologist thought she was being a strong advocate for her patient.
>
> In May, she referred the patient—a Los Angeles woman in her forties, who was rapidly losing her battle with metastatic colon cancer—to a Johns Hopkins University specialist using an experimental drug that had proven effective with similar cancers. It was, in the doctor's view, perhaps the best chance of extending the woman's life.
>
> But the patient's managed care group had a different view of the oncologist. It saw a doctor who said too much and broke the rules. She received a reproachful letter from the managed care group, stating that the Johns Hopkins specialist was not "in network" and that the patient should not have been referred there.
>
> "This occurrence," the letter warned, "had been noted in the computer, and a future occurrence may result in suspension of referral privilege or, in an extreme case, a recommendation for termination."

Mr. President, this is what is happening across the country in HMO's. Doctors, who refer patients to specialists are being warned that they may be fired. Doctors are receiving bonus payments from the HMO's for not giving care to patients.

Now, all I am asking in this sense-of-the-Senate is that we look into this. Already, we have looked into this in Medicare and, thank goodness, something is being done. Last month, the Department of HHS announced a regulation mandating that managed care plans serving Medicare and Medicaid patients reveal any arrangements in which doctors may face financial pressures to limit services or referrals to specialists.

What about those who are not on Medicare, who are not on Medicaid? Do they not deserve the same protections, at a minimum? Doctors across the country are protesting managed care companies' practices that they contend impede their ability to have candid discussions with patients about treatment options.

In this time of shifting health care needs and our attempt to restructure the health care delivery system, we must not lose sight of the valuable doctor-patient relationship. We should revere it, we should honor it. We should not allow the HMO's, because of the almighty bottom line, to interfere in this relationship and gag our physicians from telling their patients that there are other treatments for cancer, or whatever other condition it might be.

I really do not understand why we cannot get a simple sense of the Senate through this body.

In closing, I am going to read it to you one more time:

> The Senate finds that patients deserve to know the full range of treatments available to them, and patients should know if doctors receive bonuses for withholding treatment from them. It is the sense-of-the-Senate that Congress should thoughtfully examine these issues to ensure that all patients get the care they deserve.

Mr. President, we have a very good bill here. We can make it better, I believe, by just pledging to look into this situation and making sure that all of our people throughout this Nation are told all of the options, because if they are not told, they may lose their lives. I do not think we ought to have that on our hands.

Thank you, Mr. President. I reserve whatever time I have remaining.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Boxer amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

AMENDMENT NO. 3687

(Purpose: To express the sense of the Senate regarding the need to ensure adequate health care coverage for all children and pregnant women)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 3687.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

SEC. . SENSE OF THE SENATE REGARDING ADEQUATE HEALTH CARE COVERAGE FOR ALL CHILDREN AND PREGNANT WOMEN.

(a) FINDINGS.—The Senate finds the following:

(1) The health care coverage of mothers and children in the United States is unacceptable, with more than 9,300,000 children and 500,000 expectant mothers having no health insurance.

(2) Among industrial nations, the United States ranks 1st in wealth but 18th in infant mortality, and 14th among such nations in maternal mortality.

(3) 22 percent of pregnant women do not have prenatal care in the first trimester, and 22 percent of all poor children are uninsured, despite the medicaid program under title XIX of the Social Security Act.

(4) Of the 1,100,000 net increase in uninsured persons from 1992 to 1993, 84 percent or 922,500 were children.

(5) Since 1987, the number of children covered by employment based health insurance has decreased, and many children lack health insurance despite the relative affordability of providing insurance for children.

(6) Health care coverage for children is relatively inexpensive and in 1993 the medicaid program spent an average of $1,012 per child compared to $8,220 per elderly adult.

(7) Uninsured children are generally children of lower income workers, who are less likely than higher income workers to have health insurance for their families because they are less likely to work for a firm that offers insurance, and if such insurance is offered, it is often too costly for lower income workers to purchase.

(8) In 1993, 61 percent of uninsured children were in families with at least one parent working full time for the entire year the child was uninsured, and about 57 percent of uninsured children had a family income at or below 150 percent of the Federal poverty level.

(9) If Congress eliminates the Federal guarantee of medicaid, an estimated 4,900,000 children may lose their guarantee of health care coverage, and those same children may be added to the currently projected 12,600,000 children who will be uninsured by the year 2002.

(10) Studies have shown that uninsured children are less likely than insured children to receive needed health and preventive care, which can affect their health status adversely throughout their lives, with such children less likely to have routine doctor visits, receive care for injuries, and have a regular source of medical care.

(11) The families of uninsured children are more likely to take the children to an emergency room than to a private physician or health maintenance organization.

(12) Children without health insurance are less likely to be appropriately immunized or receive other preventive care for childhood illnesses.

(13) Ensuring the health of children clearly increases their chances to become productive members of society and averts more serious or more expensive health conditions later in life, and ensuring that all pregnant women receive competent prenatal care also saves social costs.

(14) Although the United States has made great improvements in health care coverage through the medicaid program, it is still the only developed nation that does not ensure that all of its children and pregnant women have health care coverage.

(15) The United States should not accept a status quo in which children in many neighborhoods are more likely to have access to drugs and guns than to doctors, or accept a status quo in which health care is ensured for all prisoners but not for all children.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the issue of adequate health care for our mothers and children is important to the future of the United States, and in consideration of the importance of such issue, the Senate should pass health care legislation in the 105th Congress that will ensure health care coverage for all of the United States's pregnant women and children.

Mr. SIMON. Mr. President, all this does, very simply, is say it is the sense of the Senate that in the next congressional session, starting in 1997, the 105th Congress pass health care legislation that protects pregnant women and children. That is all it does.

It is very interesting. Two years ago, we were discussing health care legislation, and virtually everyone in this body, including the majority leader, said, "We are going to work out some kind of health care for all Americans." I have to say, in fairness to Senator PHIL GRAMM, he said right from the start, "Over my dead body. We are not going to have any national health care program."

We are the only western industrialized nation that does not protect all of our citizens. Listen to this, Mr. President. I ask my colleagues on the other side to listen to this.

> In accepting the Republican nomination for President in 1928, Herbert Hoover said, "The greatness of any nation, its freedom from poverty and crime, its aspirations and ideals are the direct quotient of the care of its children. . .There should be no child in America that is not born and does not live under sound conditions of health."

That was in 1928, and we have not achieved Herbert Hoover's dream yet in 1996.

Let me add, providing coverage for children is the least expensive part of health insurance. As we get older, it is more demanding in terms of expense. But still we do not provide it for all children.

All women and children in Italy have health care coverage, but not in the wealthy United States of America.

All women and children in France have health care coverage, but not in the wealthy United States of America.

All women and children have health care coverage in Canada, but not in the wealthy United States of America.

All women and children have health care coverage in Great Britain, but not in the wealthy United States of America.

All women and children have health care coverage in Germany, but not in the wealthy United States of America.

All women and children have health care coverage in Luxembourg, but not in the wealthy United States of America.

All women and children have health care coverage in Belgium, but not in the wealthy United States of America.

All women and children have health care coverage in The Netherlands, but not in the wealthy United States of America.

All women and children have health care coverage in Portugal, but not in the wealthy United States of America.

All women and children have health care coverage in Spain, but not in the wealthy United States of America.

All women and children have health care coverage in Finland, but not in the wealthy United States of America.

All women and children have health care coverage in Austria, but not in the wealthy United States of America.

All women and children have health care coverage in Denmark, but not in the wealthy United States of America.

All women and children have health care coverage in Norway, but not in the wealthy United States of America.

All women and children have health care coverage in Sweden, but not in the wealthy United States of America.

All women and children have health care coverage in Japan, but not in the wealthy United States of America.

Mr. President, what we are just saying here is, let us in the next session of Congress—and I am not going to be here—at least protect pregnant women and children. That is all we ask. It is a sense of the Senate resolution.

I regret that 2 years ago—and I blame myself as much as anyone—that we did not even get a vote on the floor of the U.S. Senate on the fundamental issue of health care. Today, my friends, we are going to get a vote. We do not say how it should be done; we just say it is the sense of the Senate that in the next session of Congress, we are going to at least protect pregnant women and children.

I do not know how we can do anything less than that. That is what my amendment asks for.

Mrs. KASSEBAUM. Mr. President, I recognize it is just a sense-of-the-Senate resolution. But it is about 6 pages, and it is a fairly extensive direction for the next Congress. While there would be certainly a great deal of support for health care coverage for pregnant women and children, we are having a hard enough time in this Congress figuring out what we want to do, let alone applying some issues and directions to the next Congress.

For that reason, Mr. President, I would have to oppose.

Mr. KENNEDY. Mr. President, could we ask for the yeas and nays?

Mr. SIMON. I ask for the yeas and nays.

Mr. KENNEDY. That it would be in order to ask for the yeas and nays on the Boxer amendment.

Mrs. KASSEBAUM. Mr. President, I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. SIMON. If the Senator from Kansas will withhold for 30 seconds for me to respond, she mentions a 5-page amendment. These are all whereases. The conclusion is that it is a sense of the Senate. If she wants to agree to this, I will knock out all of the whereases and we will just take the sense of the Senate that we ought to, next session of the Congress, pass health care legislation for pregnant women and children.

Mrs. KASSEBAUM. Mr. President, I very much appreciate that Senator SIMON is always very accommodating. The Senator from Illinois is a superb debater. I would still have to object. If there is no further debate, I will move to table the Simon amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Are there further amendments?

Mr. KENNEDY. Mr. President, as I understand, the Senator is also asking for the yeas and nays on the tabling motion of the Boxer amendment.

Mrs. KASSEBAUM. Yes. Mr. President, if I may just speak for a moment, this is objected to by the Republican Members of the Senate because it references controversial regulations issued by HCFA regarding Medicare. They would like to debate that at another time, even though it is just a sense-of-the-Senate resolution.

Mrs. BOXER. Mr. President, if my friend will yield for a minute, we took out any reference to Medicare and Medicaid at the Senator's suggestion. It has nothing to do with Medicare and Medicaid. The way it reads now is simply that we should look to see whether patients are being denied the information they need. We deleted all reference to Medicaid and Medicare and asked just for the Congress to look at this matter.

So I tried to be very accommodating, if my friend would try to help me. As I say, we do not have any reference in here at all. We simply ask that the Congress should thoughtfully examine the issue of patients, finding out the full range of their treatment, and patients should know if doctors are receiving bonuses from the treatment. It does not mention Medicare and Medicaid.

Mr. BYRD. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. BYRD. Is not a motion to table now pending?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. There is no debate on a motion to table.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Shall we vote?

The PRESIDING OFFICER. We have a previous order to table the votes in sequential order and vote at 10:15.

Mr. BYRD. Very well. I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The minority manager is recognized.

AMENDMENT NO. 3688

(Purpose: To encourage organ and tissue (including eye) donation through the inclusion of an organ and tissue donation card with individual income refund payments, and for other purposes)

Mr. KENNEDY. Mr. President, there are two amendments which have been agreed to dealing with the organ transplants and information on organ transplants, the Dorgan-Frist amendment, in terms of information on the organ transplants. I would like to send it to the table and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for Mr. DORGAN, for himself and Mr. FRIST, proposes an amendment numbered 3688.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title III, add the following:

SEC. 3 . ORGAN AND TISSUE DONATION INFORMATION INCLUDED WITH INCOME TAX REFUND PAYMENTS.

(a) IN GENERAL.—The Secretary of the Treasury shall include with any payment of a refund of individual income tax made during the period beginning on February 1, 1997, and ending on June 30, 1997, a copy of the document described in subsection (b).

(b) TEXT OF DOCUMENT.—The Secretary of the Treasury shall, after consultation with the Secretary of Health and Human Services and organizations promoting organ and tissue (including eye) donation, prepare a document suitable for inclusion with individual income tax refund payments which—

(1) encourages organ and tissue donation;

(2) includes a detachable organ and tissue donor card; and

(3) urges recipients to—

(A) sign the organ and tissue donor card;

(B) discuss organ and tissue donation with family members and tell family members about the recipient's desire to be an organ and tissue donor if the occasion arises; and

(C) encourage family members to request or authorize organ and tissue donation if the occasion arises.

Mr. KENNEDY. Mr. President, I have described what it is. It is information on organ transplant in behalf of Senator DORGAN and Senator FRIST.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from North Dakota.

The amendment (No. 3688) was agreed to.

AMENDMENT NO. 3689

(Purpose: To prohibit the establishment of certain health plan requirements based on information relating to domestic violence)

Mr. KENNEDY. Mr. President, this amendment is in behalf of Senator WELLSTONE, and it is in regards to information relating to domestic violence. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for Mr. WELLSTONE, proposes an amendment numbered 3689.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 13 insert after evidence of insurability "(including conditions arising out of act of domestic violence);".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (No. 3689) was agreed to.

Mr. WELLSTONE. Is it the Senators' understanding that this language that we have accepted from the House bill ensures that women covered in an employment-based health plan, will not be discriminated against because of a medical condition caused by domestic violence, because of a history of domestic violence, or because of their status as a victim of domestic violence?

Mr. KENNEDY. Yes; that is my understanding.

Ms. KASSEBAUM. Yes; that is my understanding.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I thank my friend from Kansas. We are redrafting different language where one committee says the first shall be the last and the last shall be first.

I would like to yield the floor to my friend from West Virginia who has, I believe, an amendment to offer.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, the Senator from West Virginia would ask simply for 1 minute to make the following observation.

Earlier this evening there was substantial nonpublic discussion as to nondiscrimination and long-term care. There was then a very helpful, constructive, and useful colloquy on the floor which agreed that in the tax preferential treatment of long-term care, that nondiscrimination would be completely treated. There was some disagreement as to what Treasury was saying constituted nondiscrimination and what the Finance Committee staff said constituted nondiscrimination. There seemed to be a difference.

I simply, as a member of the Finance Committee, wanted to go on record as saying that the nondiscrimination aspect—this is not just racial, but we are talking just about the higher employer as opposed to the lowest employer—that nondiscrimination be done in the usual, customary, and effective manner for the tax preferential long-term care matters that we are now discussing.

AMENDMENT NO. 3690

Mrs. KASSEBAUM. Mr. President, I have here a study request that I cosponsored with Senator HELMS which would ask HHS to study options on point of service. It has been agreed to on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM], for Mr. HELMS, for himself and Mrs. KASSEBAUM, proposes an amendment numbered 3690.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend Title III—Miscellaneous Provisions, Section 302 (a) by striking "two part study" on line 19, and inserting "three-part study" and adding Section 302 (d):

"(d) EVALUATION OF ACCESS AND CHOICE.—Not later than June 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate Committees of Congress a report concerning—

(1) an evaluation of the extent to which patients have direct access to, and choice of, health care provider, including specialty providers, within a network of providers, as well as the opportunity to utilize providers outside of the network, under the various types of coverage offered under the provisions of this Act;

(2) an evaluation of the cost to the insurer of providing out-of-network access to providers, and the feasibility of providing out-of-network access in all health plans offered under provisions of this Act.

(3) an evaluation of the percent of premium dollar utilized for medical care and administration of the various types of coverage offered, including coverage which permits out-of-network access and choice of provider, under provisions of this Act.

Mr. HELMS. Mr. President, one of the many reasons for my having opposed the Clinton health plan was the well founded fear that the American people would have been denied their right to choose their medical care. The enormous bureaucracy of the Clinton plan made that apprehension a certainty—which is why the American people rejected it.

In the interest of time, I will not offer my amendment to guarantee patients the freedom to choose their health care provider.—This amendment was originally approved by the Senate last October by a vote of 79 to 20 when we considered Medicare reform.—I have no doubt that this provision continues to have strong bipartisan support in the Senate.

However, instead of offering the original amendment I submit this amendment to require the Department of Health and Human Services to conduct a study to make certain that any changes in the health insurance market will not result in the loss of the American people's freedom to choose their health care provider.

Whether Congress considers Medicare reform or health insurance reform, patients must not be deprived of the right to choose their own doctors. Even when Congress attempts to provide access to health insurance, that is only half of the equation. Equally important is that patients must not find themselves unknowingly thrown into health care coverage that limits their freedom to choose their own health care providers.

The purpose of my provisions is to provide to Congress the information Congress may need to evaluate whether patients continue to have direct access to specialist and choice of health care provider, both in-network and out-of-network, as we make changes to the health insurance market place. It will also determine the cost to the insurer of providing this freedom to choose, and if the premium dollar collected is effectively going toward patient care.

This study will not only go a long way to provide our Nation with useful information about health care delivery, but it will also emphasize the importance of preserving the patient's freedom of choice when it comes to their own doctor.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the amendment is agreed to.

The amendment (No. 3690) was agreed to.

AMENDMENT NO. 3691

(Purpose: To direct the Health Care Financing Administration to determine reimbursement rates for telemedicine services)

Mr. BURNS. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BURNS], for himself and Mr. HARKIN, proposes an amendment numbered 3691.

Mr. BURNS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On Page 71, line 19, add the following:

"SEC. 302.5. REIMBURSEMENT OF TELEMEDICINE.

The Health Care Financing Administration is directed to complete their ongoing study of reimbursement of all telemedicine services and submit a report to Congress with a proposal for reimbursement of fee-for-service medicine by March 1, 1997. The report shall utilize data compiled from the current demonstration projects already under review and gather data from other ongoing telemedicine networks. This report shall include an analysis of the cost of services provided via telemedicine.

Mr. BURNS. Mr. President, this amendment is sponsored also by my friend from Iowa Mr. HARKIN.

The Health Care Financing Administration has been reviewing telemedicine demonstration projects across the country. They have been studying them about 2 years now. They are analyzing the cost effectiveness of providing health services via telecommunications and how to reimburse health care providers.

Telemedicine is a technology that is spreading—thankfully—because rural areas and inner-city areas are in desperate need of health care. Getting health care services can be a challenge, especially if you are 180 miles away from a specialist. But even if that specialist is willing and able to visit his patients via telemedicine, HCFA will not reimburse him for those services. And as you can imagine, many health care providers aren't too willing to give their time without being compensated.

The study is already underway. But there is no anticipated deadline to finish the study and put the issue of reimbursement behind us. In fact, at a recent telemedicine conference, a HCFA representative stated that there would be no decision until Congress mandated one.

My amendment basically instructs HCFA to decide on reimbursement of telemedicine services by March 1, 1997. That gives them almost an entire year—in addition to the time they have already spent studying the issue—to compile their data, gather data from other ongoing demonstrations, if they choose, and determine the fee-for-service reimbursement for services provided via telemedicine.

There is no cost associated with this, since the study is already ongoing. I am simply asking that they finish the study and let rural areas and urban residents access the health care services that are currently out of their reach.

The Health Care Financing Administration has been in this process now for a couple of years and we think it is about time that they bring this to a close and recommend to the Congress how they are going to deal with it. We have this new technology. We passed a telecom bill that allows a lot of things to happen in distance learning, telemedicine, and these kinds of things, and we think it is now time that we move into the next generation of providing health care to our rural areas via telecommunications.

I appreciate my good friend from Iowa being a part of this.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I wish to congratulate the Senator from Montana for offering this amendment. I am proud to join with him in this.

When I was chair of the Labor, Health and Human Services Appropriations Subcommittee, Senator SPECTER and I initiated the funding 3 years ago for the demonstration projects for telemedicine. I know Montana was one State, Iowa was another, and there were several other States, I think Georgia, West Virginia, others that were involved in the demonstration projects in telemedicine.

One of the reasons that we had the demonstration projects was so that HCFA could develop a reimbursement means and determine how to reimburse.

We have enough data. They know. We have had 3 years of these projects. The date the Senator has there, they can do that easily. They can actually do that a lot sooner than that. I think the Senator is generous in giving them that much time.

Nonetheless, there is no doubt they have enough data—they have it now—that they can do this.

To echo what the Senator from Montana said, telemedicine will improve access to care in rural areas. It will attract more doctors to rural areas because then they will have the necessary backup they need for correct diagnosis and treatment. It will lower costs in rural areas by cutting down on travel, and it will allow more services to be done like at our rural health clinics where they can reach out over a broader area.

So this is a very good amendment and one that is going to help a lot in a lot of rural areas in the United States. I hope it will be adopted.

The PRESIDING OFFICER. Is there further debate on the amendment?

The vote now is on agreeing to the Burns amendment.

The amendment (No. 3691) was agreed to.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The majority manager is recognized.

AMENDMENT NO. 3682 WITHDRAWN

Mrs. KASSEBAUM. I would like now to have a colloquy with the Senator from Pennsylvania. Senator SPECTER and myself and Senator KENNEDY have discussed his amendment regarding healthy start and my objection had been it was authorization on this bill which I felt needed to go through the committee with some hearings, review what has always been an appropriations matter rather than an authorization, and I believe this has been agreed to by Senator SPECTER and we will have a hearing if possible by the end of May.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. The distinguished Senator from Kansas expresses it accurately. I think that will accomplish the purpose and lead to authorization, or a reauthorization. That is acceptable, and I formally withdraw the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The minority manager is recognized.

AMENDMENT NO. 3686, AS MODIFIED

Mr. KENNEDY. Mr. President, the Senator from California, Senator BOXER, proposed a sense-of-the-Senate. In her behalf, I have a revised sense-of-the-Senate and I ask unanimous consent that it be in order to send it to the desk and that it be in order for consideration at the appropriate time in the list of amendments.

The PRESIDING OFFICER. Is the Senator modifying the underlying Boxer amendment?

Mr. KENNEDY. The Chair is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment as modified is as follows:

At the appropriate place add:

It is the sense of the Senate that patients deserve to know the full range of treatments available to them.

Congress should thoughtfully examine these issues to ensure that all patients get the care they deserve.

Mr. KENNEDY. I will ask for a vitiation of the yeas and nays on that particular amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The hour of 10:15 having arrived, the question is on agreeing to the motion to table amendment No. 3683. That is the amendment offered by the Senator from Iowa, Senator HARKIN. The yeas and nays have been ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. I wanted to get consent that votes occur in the order in which they were debated, with 1 minute of debate after the first vote to be equally divided for explanation; that all votes after the first vote be reduced to 10 minutes in length. I think that is satisfactory to the managers.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

VOTE ON AMENDMENT NO. 3683

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Harkin amendment No. 3683. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Colorado [Mr. CAMPBELL] and the Senator from Florida [Mr. MACK] are necessarily absent.

The result was announced—yeas 62, nays 36, as follows:

[Rollcall Vote No. 76 Leg.]

YEAS—62

Abraham
Ashcroft
Bennett
Bond
Breaux
Brown
Bryan
Burns
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kohl
Kyl
Lott
Lugar
McCain
McConnell
Moynihan
Murkowski
Nickles
Nunn
Pressler
Reid
Robb
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—36

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Bumpers
Byrd
Conrad
Dorgan
Exon
Feingold
Feinstein
Glenn
Graham
Grassley
Harkin
Heflin
Hollings
Inouye
Jeffords
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Pell
Pryor
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

NOT VOTING—2

Campbell
Mack

So the motion to table the amendment (No. 3683) was agreed to.

The PRESIDING OFFICER. Under the previous order there is a minute to be utilized by the sponsor of the bill and the opposition.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I ask unanimous consent that after all the amendments are disposed of this evening, the vote occur on final passage of H.R. 3103, as amended, on Tuesday at a time to be determined by the majority leader after consultation of the Democratic leader. Let me indicate why I am doing that. Senator MACK's father passed away. He would like to make the final passage vote, unless there is some objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Is it the intention of the leader that we move to third reading tonight?

Mr. DOLE. Oh, yes. I think there is only one additional vote. I believe this will be the last vote.

The PRESIDING OFFICER. Does the sponsor of the amendment wish to debate the amendment? If not—

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois, Senator SIMON, is recognized.

AMENDMENT NO. 3687, AS MODIFIED

Mr. SIMON. Mr. President, I ask unanimous consent to vitiate the vote on my amendment and to modify it by dropping 4 words that I have given to the clerk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment, as modified, follows:

At the appropriate place in the bill insert the following new section:

SEC. . SENSE OF THE SENATE REGARDING ADEQUATE HEALTH CARE COVERAGE FOR ALL CHILDREN AND PREGNANT WOMEN.

(a) FINDINGS.—The Senate finds the following:

(1) The health care coverage of mothers and children in the United States is unacceptable, with more than 9,300,000 children and 500,000 expectant mothers having no health insurance.

(2) Among industrial nations, the United States ranks 1st in wealth but 18th in infant mortality, and 14th among such nations in maternal mortality.

(3) 22 percent of pregnant women do not have prenatal care in the first trimester, and 22 percent of all poor children are uninsured, despite the medicaid program under title XIX of the Social Security Act.

(4) Of the 1,100,000 net increase in uninsured persons from 1992 to 1993, 84 percent or 922,500 were children.

(5) Since 1987, the number of children covered by employment based health insurance has decreased, and many children lack health insurance despite the relative affordability of providing insurance for children.

(6) Health care coverage for children is relatively inexpensive and in 1993 the medicaid program spent an average of $1,012 per child compared to $8,220 per elderly adult.

(7) Uninsured children are generally children of lower income workers, who are less likely than higher income workers to have health insurance for their families because they are less likely to work for a firm that offers insurance, and if such insurance is offered, it is often too costly for lower income workers to purchase.

(8) In 1993, 61 percent of uninsured children were in families with at least one parent working full time for the entire year the child was uninsured, and about 57 percent of uninsured children had a family income at or below 150 percent of the Federal poverty level.

(9) If Congress eliminates the Federal guarantee of medicaid, an estimated 4,900,000 children may lose their guarantee of health care coverage, and those same children may be added to the currently projected 12,600,000 children who will be uninsured by the year 2002.

(10) Studies have shown that uninsured children are less likely than insured children to receive needed health and preventive care, which can affect their health status adversely throughout their lives, with such children less likely to have routine doctor visits, receive care for injuries, and have a regular source of medical care.

(11) The families of uninsured children are more likely to take the children to an emergency room than to a private physician or health maintenance organization.

(12) Children without health insurance are less likely to be appropriately immunized or receive other preventive care for childhood illnesses.

(13) Ensuring the health of children clearly increases their chances to become productive members of society and averts more serious or more expensive health conditions later in life, and ensuring that all pregnant women receive competent prenatal care also saves social costs.

(14) Although the United States has made great improvements in health care coverage through the medicaid program, it is still the only developed nation that does not ensure that all of its children and pregnant women have health care coverage.

(15) The United States should not accept a status quo in which children in many neighborhoods are more likely to have access to drugs and guns than to doctors, or accept a status quo in which health care is ensured for all prisoners but not for all children.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the issue of adequate health care for our mothers and children is important to the future of the United States, and in consideration of the importance of such issue, the Senate should pass health care legislation that will ensure health care coverage for all of the United States' pregnant women and children.

Mr. DOLE. Mr. President, I urge that the amendment be agreed to.

The amendment (No. 3687), as modified was agreed to.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The majority manager is recognized.

Mrs. KASSEBAUM. Parliamentary inquiry. Mr. President, I believe I moved to table the amendment of the Senator from Indiana, is that correct, and that I had asked for the yeas and nays at that time?

The PRESIDING OFFICER. The Senator is correct.

Mrs. KASSEBAUM. So this is a tabling motion.

VOTE ON AMENDMENT NO. 3685

The PRESIDING OFFICER. There is no debate on the amendment. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Indiana, [Mr. COATS]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Colorado [Mr. CAMPBELL] and the Senator from Florida [Mr. MACK] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 51, as follows:

[Rollcall Vote No. 77 Leg.]

YEAS—47

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
D'Amato
Daschle
Dodd
Feingold
Feinstein
Ford
Gorton
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Shelby
Simon
Snowe
Wellstone
Wyden

NAYS—51

Abraham
Ashcroft
Baucus
Bennett
Bond
Brown
Burns
Chafee
Coats
Cochran
Coverdell
Craig
DeWine
Dole
Domenici
Dorgan
Exon
Faircloth
Frist
Glenn
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lautenberg
Lieberman
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Roth
Santorum
Simpson
Smith
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—2

Campbell
Mack

The motion to lay on the table the amendment (No. 3685) was rejected.

Mr. COATS. Mr. President, I move to reconsider the vote.

Mrs. KASSEBAUM. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. FORD. Mr. President, on amendment numbered 3681, I am recorded voting "yea." Since it will not change the outcome of the vote, I ask unanimous consent to be changed from "yea" to "nay."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I understand that Senator BOXER's amendment is ready for final disposition.

Mr. REID. Mr. President, would my friend yield for a unanimous consent request?

Mr. KENNEDY. I think I will get acceptance for the Boxer amendment.

AMENDMENT NO. 3686

The PRESIDING OFFICER. The question is on agreeing to the Boxer amendment, Amendment 3686, as modified.

The amendment (No. 3686), as modified, was agreed to.

Mrs. BOXER. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. REID. Mr. President, on rollcall vote 75, it was my intention to vote "nay." Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way affect the outcome.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGE OF VOTE

Mr. BRYAN. Mr. President, on rollcall vote 75, I voted "yea" and intended to vote "nay." I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, today over 62,000 Vermonters are included in the 39.7 million Americans without health insurance. Unfortunately, this number is increasing every year. Health insurance has simply become less available and affordable, especially for small businesses and individuals. I am proud to cosponsor S. 1028, the Health Insurance Reform Act, that will address some of the issues blocking access to coverage that the uninsured face today.

This bill is a good bill and a step in the right direction. The bill increases the availability of insurance by ensuring that anyone who wants it, and can afford it, will be able to buy it. I am hopeful that provisions to encourage small employers to form voluntary purchasing pools will give some relief from rising health insurance premiums by giving them more leverage to negotiate lower premiums and better conditions of coverage.

To be clear, however, this bill does not address the larger issue of the skyrocketing cost of health care which will continue to be a looming problem that Americans face.

What the bill does do is end insurance practices that restrict the availability of insurance to people with preexisting medical conditions, or avoid enrolling or renewing coverage for older or sicker individuals and groups. The GAO estimates that up to 21 million Americans a year would benefit from federal laws waiving preexisting condition exclusions for persons who had prior coverage.

What these reforms add up to is portability of health insurance—an end to "job lock." Currently, some employees are "locked" into their current jobs because changing jobs might subject them to periods without comprehensive coverage while preexisting condition limitations were met. Under this bill, a person with previous group coverage would receive credit from this coverage toward any new limitation period. These portability provisions do not guarantee that an individual currently insured would be covered after a job change—the new employer must offer coverage for this guarantee to exist. The GAO estimates that ending job lock will benefit as many as 4 million Americans who have stayed in their jobs due to concerns about their preexisting conditions.

The individuals who will benefit from this bill are real people who have preexisting conditions that they were born with or people who become sick or have had a severe accident. Without the Kassebaum/Kennedy bill, insurance companies can continue to impose restrictions on the coverage they offer to these people whose health conditions are beyond their control. Even worse, someone seeking insurance who has an adverse health condition can be denied insurance altogether. These are children, teenagers, young people trying to get jobs for the first time, our brothers, sisters, parents, and our grandparents. We cannot, in good conscience, risk the well being of people whose health could be dramatically affected if denied coverage for the care they need.

I am proud to say that Vermont has already addressed many of the health insurance reforms included in S. 1028. In 1991, Vermont was the first state in the nation to prohibit insurance companies from denying coverage or charging excessive rates to high-risk groups. In 1992, the state extended this to the individual market. Today in Vermont, no one can be denied health insurance at a reasonable cost from a carrier doing business in the state.

However, there is a large exception to this rule. Due to a Federal law, the Employee Retirement Income Security Act [ERISA], the State of Vermont's insurance reforms do not apply to businesses that self-insure their health benefits programs.

For example, during the health reform debate in 1994, I was contacted by a Vermont woman who shared with me her husband's experience of losing health coverage due to a preexisting condition. This gentleman had worked for the same business for over 20 years. He had a heart condition, but had always been covered under his employer's health insurance plan. When his employer was bought out by a self-insured company from another state, the new employer deemed the heart condition a preexisting condition and denied insurance coverage.

Because of stories like this, I have sought to address the issue of self-insured employer plans being exempt from State regulation because of ERISA in past Congresses. I am very pleased that a key component of S. 1028 extends these nondiscrimination and portability requirements to self-insured plans. The GAO has estimated that about 44 million Americans are in self-insured health plans that states cannot regulate.

S. 1028 is long overdue. Nearly 2 years ago, Congress was engaged in a great battle over how to get health care costs under control and make health care services available to all Americans. That battle heeded few results and left millions of Americans frustrated and disappointed that health care would continue to be out of their reach. The obstacles that prevented Americans from buying health insurance have not gone away and Congress now owes it to Americans to pass the Kassebaum/Kennedy bill to address some of the issues that these individuals face.

We must pass this bill and make the modest changes that will make it easier for people to get the health care coverage they need. I hope in the future we will be able to come to agreement on further health reforms that will address the skyrocketing cost of health care—simply requiring access to health insurance coverage does not address this looming issue.

Mr. WARNER. Mr. President, at the close of debate during the series of rollcall votes, I was prepared to vote in favor of the amendment offered by the distinguished Senator from California, Senator BOXER, proposing a Senate Resolution that the Congress fully examine administrative practices of Health Maintenance Organizations [HMO's] in which physicians may be precluded from providing full and complete medical counsel, or referral for specialized care.

I am pleased that Senator BOXER's amendment was accepted but wish to take this opportunity to indicate that had there been a rollcall vote, I would have voted in favor of the Boxer Amendment.

No physician should feel that they are being subjected to a "gag rule" in the course of their professional practice. Patients are entitled to a full and open discussion of all medical options and physicians should not feel restrained in the process.

LIABILITY FOR BIOMATERIALS

Mr. MCCAIN. Mr. President, I had planned to offer an amendment which would ensure the availability of raw materials and component parts for implantable medical devices. This provision is necessary if Americans are to have continued access to a wide variety of life-saving devices, such as brain shunts, heart valves, artificial blood vessels, and pacemakers. Unfortunately, we were unable to obtain agreement for this amendment from my colleagues on the other side of the aisle.

Currently, the manufacturers and suppliers of materials used in implantable medical devices are subject to substantial legal liability for selling relatively small amounts of materials to medical device manufacturers. These sales generate relatively small profits and are often used for purposes beyond their direct control. Due to their small profit margins and large legal vulnerability for these sales, some of the manufacturers and suppliers of these materials are now refusing to provide them for use in medical devices.

It is absolutely essential that a continued supply of raw materials and component parts is available for the invention, development, improvement and maintenance of medical devices. Most of these devices are made with materials and parts that are not designed or manufactured specifically for use in implantable devices. Their primary use is in non-medical products. Medical device manufacturers use only small quantities of these raw materials and component parts, and this market constitutes a small portion of the overall market for such raw materials.

While raw materials and component parts suppliers do not design, produce or test the final medical implant, they have been sued in cases alleging inadequate design and testing of, or warnings related to use of, permanently implanted medical devices. The cost of defending these suits often exceeds the profits generated by the sale of materials. This is the reason that some manufacturers and suppliers have begun to cease supplying their products for use in permanently implanted medical devices.

Unless alternative sources of supply can be found, the unavailability of raw materials and component parts will lead to unavailability of life-saving and life enhancing medical devices. The prospects for development of new sources of supply for the full range of threatened raw materials and component parts are remote, as other suppliers around the world are refusing to sell raw materials or component parts for use in manufacturing permanently implantable medical devices in the United States.

The product liability concerns that are causing the unavailability of raw materials and component parts for medical implants is part of a larger product liability crisis in this country. Immediate action is necessary to ensure the availability of raw materials and component parts for medical devices so that Americans have access to the devices they need. Addressing this problem will solve some important aspect of our broken medical product liability system.

This issue came to my attention when I was contacted by one of my constituents, Linda Flake Ransom, about her daughter Tara who requires a silicon brain shunt. Without a shunt, due to Tara's condition called hydrocephalus, excess fluid would build up in her brain, increasing pressure, and causing permanent brain damage, blindness, paralysis and ultimately death. With the shunt, she is a healthy, happy and productive straight-A student with enormous promise and potential.

Tara has already undergone the brain shunt procedure five times in her brief life. However, the next time that she needs to replace her shunt, it is not certain that a new one will be available due to the unavailability of shunt materials. This situation is a sad example that our medical liability system is out of control. It is tragic, but not surprising that manufacturers have decided not to provide materials if they are subject to tens of millions of dollars of potential liability for doing so.

It is essential that individuals such as Tara continue to have access to the medical devices they need to stay alive and healthy. This amendment would have helped to ensure the ongoing availability of materials necessary to make these devices. It would not, in any way, have protected negligent manufacturers or suppliers of medical devices, or even manufacturers or suppliers of biomaterials that make negligent claims about their products. However, it would have protected manufacturers and suppliers whose materials are being used in a manner that is beyond their control.

Mr. President, we must act to ensure the continued availability of biomaterials to ensure that the lives of Tara and thousands of other Americans are not jeopardized. Because this is a life and death situation, I will do everything I can to assure that the Senate addresses this issue in the near future.

HEALTH INSURANCE REFORM AND GENETIC INFORMATION

Mr. HATFIELD. Mr. President, as we are all too aware, the past several months, it has grown exceedingly difficult for Members of Congress to focus their attention on anything other than sad circumstances of our Federal budget. As chairman of the Appropriations Committee, I share in the frustration. Fortunately, I am pleased to see that in the midst of our negotiations, and setbacks, excellent progress has been made in the area of health insurance reform. Senators KASSEBAUM and KENNEDY are to be commended for their efforts this past year. While compromise may not be in fashion, they have utilized this tool with extreme skill, crafting a bill that makes great strides towards improving the infrastructure of health care in the United States.

Accessibility to health care was the focus of debate in the 103d Congress and it has become our focus again. Many of you know that the State of Oregon is already on the cutting edge of improving accessibility for many groups. The Oregon Health Plan, with its focus on providing health care coverage under the Medicaid program, has successfully prioritized those health care services most important to its citizens. Oregon is therefore able to provide coverage to thousands of low-income individuals who would otherwise be uncovered. Oregon is also making progress improving its health insurance system. But issues to accessibility, affordability and portability are national issues as well.

Several of my colleagues have already discussed the merits of the Health Insurance Reform Act. As one who is about to change jobs, I strongly support the goal of increasing health insurance portability. We must keep this focus in mind. Several amendments are being offered, which I would normally tend to vote for. However, in light of our need to ensure that this reform is passed and signed, I will not be supporting such amendments. Again, several of these amendments being considered today are excellent. But if their passage only serves to make health insurance reform impossible to pass, my support would be in vain and our goal to increase portability would be unmet.

Increasing the availability and renewability of health coverage for millions of Americans is a reform Congress has sought for years. Individuals should not be refused the opportunity to renew or change health plans based on their preexisting conditions. Senator KASSEBAUM's bill addresses this problem and it is estimated it will serve over 25 million Americans each year. But I also want to thank Senator KASSEBAUM for clarifying in her bill that individuals with genetic information that predisposes them to a disease will also benefit from the Health Insurance Reform Act's portability conditions. This clarifying language is a first step toward bringing important issues surrounding genetics to their forefront. I would also like to thank Senator HARKIN for his leadership on the Labor Committee in working to see that genetic information is protected in the health insurance reform bill.

New biomedical technologies have resulted in scientific breakthroughs unimaginable just a generation ago. Scientists are working to decode our DNA and will ultimately map and sequence every gene in the human body. Such genetic research is our most advanced tool in the search for treatments and cures to diseases such as breast cancer, Alzheimer's or Huntington's disease. These are exciting medical frontiers, but if the fruit of this labor is to be realized, an unhindered commitment to genetic research must be promoted, and this includes protecting an individual from the threat of genetic discrimination. There have already been cases cited where a physically fit individual, with no previous health problems, is denied insurance on the basis of a single genetic test result.

This is a problem for two reasons. First, information about our genes tells us much about who we are, but is not accurate enough to tell us the state of our health in the future. Our future medical condition is a complex puzzle, of which our genetic makeup is just one piece. Health plans should not be discriminating on the basis of this single piece. Second, cases have been documented of individuals who wanted to participate in a genetic test, but when they were told that their participation may threaten their insurability, they turned around and walked out of the lab.

This is not in the best interest of research; this is not in the best interest of society; and it is certainly not in the best interest of the individual. Furthermore, while including genetic discrimination in the Health Insurance

Reform Act is a good start, but is just the beginning of a process aimed at protecting the privacy and insurability of individuals, regardless of their genetic information or family history.

As I mentioned earlier, it is estimated that this bill will affect about 25 million each year. I have sponsored a separate piece of legislation, the Generic Privacy and Nondiscrimination Act, S. 1416, with Senator MACK, which addresses the needs of millions of Americans who may not fit within the boundaries of the bill we are discussing today. S. 1416 also addresses issues of genetic privacy and employer discrimination. I am hopeful that the Senate's consideration of genetic information in this legislation will open the door wider to a deeper understanding of these important issues.

Mr. KENNEDY. Mr. President, I want to raise two concerns about the long-term care provisions in the leadership amendment to the Kassebaum/Kennedy health insurance reform bill.

First, under the leadership amendment, long-term care insurance receives the same tax treatment as medical insurance. Since long-term care insurance is treated as medical insurance, I want to make sure long-term care insurance provided to employees by an employer is subject to the same nondiscrimination rules as health insurance.

Second, I have a concern that the long-term care provisions in the leadership amendment (which includes the National Association of Insurance Commissioners' model long-term care consumer protections) precludes States from enacting stronger long-term care consumers protections.

Mr. ROTH. Mr. President, with respect to the first point, long-term care insurance is treated the same as medical insurance for tax purposes under the leadership amendment. Since long-term care insurance is treated as medical insurance it is intended that it will be subject to the nondiscrimination rules applicable to medical insurance provided to employees by an employer.

On the Senator's second point, it is not the intent of the leadership amendment to preclude States from enacting stronger long-term care consumer protections. A clarification of this issue can be addressed in the conference report to the bill if necessary.

JEFFORDS-SIMON AND DOMENICI-WELLSTONE AMENDMENTS

Mr. BREAUX. Mr. President, tonight the Senate voted on two amendments to S. 1028. The first offered by Senator JEFFORDS and SIMON, would increase the maximum lifetime benefit caps in health insurance plans to $10 million. The second, offered by Senators DOMENICI and WELLSTONE, would require health plans to provide mental health benefits comparable to their other medical benefits. I believe both of these amendments are good policy—providing meaningful and equitable coverage for those who purchase health insurance. Following the no amendment strategy of the bill's managers—Senators KASSEBAUM and KENNEDY—I regretfully voted to table these amendments. It is the unfortunate outcome the no-amendments strategy to have to table good policy such as these. However, the purpose is intended to maintain an important yet fragile bipartisan coalition to pass necessary insurance reform. I would otherwise support these policies.

Mr. MOYNIHAN. Mr. President, the Dole/Roth amendment adopted earlier today includes a provision designed to address the problem of renunciation of U.S. citizenship by Americans who move abroad in order to avoid U.S. taxation. On April 6, 1995, shortly after this issue first came to light, I introduced S. 700, a bill to close the loophole in the Tax Code that permits expatriates, as they have come to be called, from evading U.S. taxation. I said here on the floor that the Senate would act expeditiously to end this abuse, and would act in a careful and judicious manner to do so. The amendment before us today, which includes a modification of S. 700, would do just that.

Although expatriation to avoid taxes occurs infrequently, it is a genuine abuse. The Tax Code currently contains provisions, dating back to 1966, intended to prevent tax-motivated relinquishment of citizenship, but these provisions have proven difficult to enforce and are easily evaded. One international tax expert described avoiding them as "child's play." Individuals with substantial wealth can, by renouncing U.S. citizenship, avoid paying taxes on gains that accrued during the period that they acquired their wealth—and while they were afforded the many benefits and advantages of U.S. citizenship. Moreover, even after renunciation, these individuals are permitted to keep residences and reside in the United States for up to 120 days per year without incurring U.S. tax obligations. Indeed, certain wealthy individuals have renounced their U.S. citizenship and avoided their tax obligations while still maintaining their families and homes in the United States. They need only take care to avoid being in the United States for more than 120 days each year.

Meanwhile, ordinary Americans who remain citizens continue to pay taxes on their gains when assets are sold or when estate taxes become due at death.

I regret to say that the expatriation issue has been the subject of more controversy than it probably deserves, so in the interest of setting the record straight, I will briefly review the history of its consideration in the Congress. On February 6, 1995, the President announced a proposal to address expatriation in his fiscal year 1996 budget submission. Three weeks later, on March 15, 1995, during Finance Committee consideration of legislation to restore the health insurance deduction for the self-employed, I offered a modified version of the administration's expatriation tax provision as an amendment to the bill. My amendment would have substituted the expatriation proposal for the repeal of minority broadcast tax preferences as a funding source for the bill. The amendment failed in the face of united opposition by members of the majority on the Committee. The vote against the amendment was 11–9.

Subsequently, Senator BRADLEY offered the expatriation provision as a free-standing amendment, with the revenues it raised to be dedicated to deficit reduction. Senator BRADLEY's amendment passed by voice vote. That is how the expatriation tax provision was added to the bill that came before the Senate.

After the Finance Committee reported the bill, but before full Senate action and before our conference with the House, the Finance Committee held a hearing to review further the issues raised by expatriation. At our hearing, we heard criticisms of some technical aspects of the provision, as well as testimony raising the issue of whether the provision comported with Article 12 of the International Covenant on Civil and Political Rights, which the United States ratified in 1992. Section 2 of Article 12 states: "Everyone shall be free to leave any country, including his own."

Robert F. Turner, a professor of international law at the U.S. Naval War College, testified that the expatriation provision was problematic under the Covenant because it constituted a legal barrier to the right of citizens to leave the United States. The State Department's legal experts disagreed, as did two other outside experts who provided written opinions to the Committee: Professor Paul B. Stephan III, a specialist in both international law and tax law at the University of Virginia School of Law; and Mr. Stephen E. Shay, who served as International Tax Counsel at the Department of the Treasury in the Reagan administration.

Given this division in authority, it seemed clear that the Senate should not act improvidently on the matter. Genuine questions of human rights under international law, and the solemn obligations of the United States under treaties, had been raised. We therefore sought the views of other experts. Opinions concluding that the expatriation provision did not violate international law were received from Professor Detlev Vagts of Harvard Law School and Professor Andreas F. Lowenfeld of New York University School of Law. The State Department issued a lengthier analysis supporting the legality of the provision, and the

American Law Division of the Congressional Research Service reached a like conclusion. However, there were dissenting views, most notably the powerful opinion of Professor Hurst Hannum of the Fletcher School of Law and Diplomacy at Tufts University, who first wrote to me on March 24, 1995.

This is where things stood when the House-Senate conference met on March 28, 1995. Although the weight of authority appeared to support the validity of the provision under international law, very real questions remained. Yet the underlying bill had to move at great speed. As my colleagues well know, the legislation restoring the health insurance deduction for the self-employed for calendar year 1994 needed to be passed and signed into law well in advance of the April 17, 1995 tax filing deadline, so that self-employed persons would have time to prepare and file their 1994 tax returns. The conference committee had to decide immediately whether to retain the expatriation provision; there was no time for further inquiry into its validity under international law. We accordingly chose not to risk making the wrong decision with respect to international law and human rights, and so the expatriation provision was not included in the conference report. The conferees instead adopted a provision directing the Joint Committee on Taxation to study the matter and report back.

This decision, which was the only prudent one at the time, met with some not very pleasant criticism in the Senate. This was surprising, since I believed it was axiomatic that government should proceed with great care when dealing with human rights—particularly the rights of persons who are despised. The persons affected by the expatriation proposal—millionaires who renounce their citizenship for money—certainly fall into that category.

Since that time, a general consensus has developed that the provision does not conflict with the obligations of the United States under international law. Professor Hannum, after receiving additional and more specific information about the expatriation tax, wrote a second letter of March 31, 1995 stating that he was now "convinced that neither its intention nor its effect would violate present U.S. obligations under international law."

In the interim, there has been time to consider other approaches to the problem. On June 1, 1995, the Joint Committee on Taxation published its report on the tax treatment of expatriation. Shortly thereafter, on June 9, 1995, Chairman ARCHER introduced an expatriation bill that adopted a different approach than S. 700, the bill introduced by the Senator from New York. The Archer bill, rather than impose a tax on accrued gains, would build on the current law approach of taxing only a portion of the income of an expatriate received during the 10-year period following expatriation. A version very similar to the Archer bill was included in House-passed version of the Balanced Budget Act of 1995.

We held a second Finance Committee hearing on expatriation on July 11, 1995 to consider the two competing approaches. Soon thereafter, the Senate in the Senate-passed version of the Balanced Budget Act of 1995 adopted the accrued gains approach from my bill, rather than the House alternative, as the superior response to the problem.

During the conference on the Balanced Budget Act of 1995, the conferees opted for the House approach. This was, I believe, a serious error. Fortunately, that version did not become law because the President vetoed the conference agreement. The conferees on the pending bill will be faced with the same choice. The House version of the expatriation provision is included in the House-passed companion to the Kassebaum-Kennedy bill. We ought not repeat the mistake made in the Balanced Budget Act.

I am convinced that the House approach has serious defects and would fail to eliminate the very substantial tax advantages that currently accrue to those willing to give up their citizenship. Under the House proposal, several categories of taxpayers would continue to owe no tax at all should the IRS be unable to prove a tax avoidance motive for expatriating. As under current law, taxpayers who are patient would avoid all tax on accrued gains by simply holding their assets for 10 years. A wealthy expatriate in need of funds during the 10-year period could simply borrow money using his or her assets as security. Since the income from foreign assets generally would remain exempt as under current law, clever tax practitioners would continue to find ways to convert U.S. assets into foreign assets in order to avoid tax on the income earned during the 10-year period.

The House approach also would be destined to fail because it relies on the voluntary payment of taxes by people who have moved beyond the reach of U.S. courts. In contrast, the Senate version would collect tax while the individual is still subject to the taxing power of the United States, which is surely a more administrable approach.

A separate objection to the House bill is that it would unilaterally override existing tax treaties. In its report on expatriation, the Joint Tax Committee staff stated that the House version may ultimately require that as many as 41 of our 45 existing tax treaties be renegotiated and that it might be necessary for the United States to forego benefits to accomplish renegotiation. This is a serious matter.

Article VI of our Constitution states:

> . . . [A]ll Treaties made, or which shall be made, under the authority of the United States, shall be the supreme Law of the Land.

Further, our treaties come into being through a singular exacting sequence. Treaties are entered into by the United States with other nations either directly or through adherence to a common document. They are signed by a member of the executive branch. Thereafter, the Senate of the United States must by resolution, two-thirds of the Senators present concurring therein, give its advice and consent to ratification. This advice and consent having been given—by an extraordinary majority—the President then ratifies and confirms the treaty in an instrument of ratification. Only at that point shall the said treaty become "the supreme Law of the Land." Matters that survive this singularly exacting process should not be abrogated lightly.

One final point, of utmost importance. During the time we have taken to write this law carefully and well, billionaires have not been slipping through the loophole and escaping tax by renouncing their citizenship. The President announced the original proposal on February 6, 1995 and made it effective for taxpayers who initiate a renunciation of citizenship on or after that date. This was an entirely appropriate way to put an end to an abusive practice under current law. Likewise all the proposals considered by the Senate, including my bill S. 700, used February 6, 1995 as their effective date. The House conferees on the self-employed bill had proposed moving the effective date forward to March 15, 1995, the date of Senate Finance Committee action on the provision. But the two chairmen of the tax-writing committees ultimately—and wisely—resisted that overture, and issued a joint statement giving notice that February 6, 1995 would be the effective date of any legislation affecting the tax treatment of those who relinquish citizenship.

Now that the Senate has had adequate opportunity to fully explore the best way to address the expatriation problem, it is time to act. As the first Senator to have introduced legislation to end tax avoidance by so-called expatriates, and as one who urged that it be acted upon by the Senate expeditiously, I am pleased that the Dole/Roth amendment incorporates the expatriation changes I have favored. I hope that the conferees will retain the superior Senate expatriation provision, and that it will be enacted as soon as possible.

Mr. KOHL. Mr. President, earlier today I noted the serious problem this Congress faced in 1994 when it tried to take on too many health care-related issues under one bill. We learned that painful lesson during debate on the President's health care reform proposal.

For that reason, I mentioned that some amendments that would come up today, no matter how meritorious, should be considered on future measures and not impede passage of the Health insurance Reform Act.

Several amendments required votes today that, in another context, I would have strongly supported. The issue of life-time caps, and treatment of mental health coverage were passionately debated and deserve the attention of this Congress.

My votes on these issues were not intended to approve or disapprove of their merits. My overriding concern was that they could complicate this narrowly crafted proposal and jeopardize any chance at health reform this year. The sooner we pass this bill to address insurance problems of pre-existing condition exclusions, portability and renewability, the sooner we can address other pressing problems that affect the quality of health care in this Nation.

In the interest of time, I believe we should pass a clean health reform bill. I also believe that Congress should carefully consider several of the measures that failed today as soon as possible.

Ms. MOSELEY-BRAUN. Mr. President, subpart (a)(1)(B) of Section 101, Subtitle A of Title I of the bill now before us provides that "an employee health benefit plan or health plan issuer offering a group health plan may establish eligibility, continuation of eligibility, enrollment, or premium contribution requirements under the terms of such plan, except that such requirements shall not be based on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, or disability." As I understand it, this formulation is intended to ensure that, among other things, that participants and beneficiaries are not excluded from health care coverage because they participate in activities such as motorcycling, skiing, horseback riding, snowmobiling, all-terrain vehicle riding, or other similar kinds of activities. I would like to ask the distinguished manager of the pending bill whether my interpretation of this provision is a correct one.

Mrs. KASSEBAUM. The Senator from Illinois is correct.

Mr. McCAIN. Mr. President, Americans deserve the security of knowing that they will not lose their health care coverage if they get sick or lose their job or if they can change jobs. Currently, our system does not provide this security, and as a result many of our workers have to choose between changing jobs and retaining adequate health care for themselves or their families. Others live in fear of losing their health insurance if they lose their job. And many who have paid insurance premiums for years cannot get insurance at any price if they get sick. Clearly these Americans deserve to know that when they are sick or injured, they will get the medical attention that they need when they need it, without having to worry about losing their homes, savings and financial security.

Rather than attempting to change the entire health care system at once, this is an incremental approach which targets these specific problems. It will make it easier for those who change or lose their jobs to keep their health insurance, and by limiting exclusions for preexisting conditions, it will assure access to health care for many who are sick. By making health care portable, the legislation will allow millions of Americans to move to better jobs and improve their standard of living. And by ending "job lock," the legislation will improve the fit between workers and their jobs and increase the overall productivity of American workers. Finally, this legislation will make it easier for small employers to obtain adequate coverage for their employees. As a result, health insurance will be available to more Americans.

In addition to providing portability of health insurance and limiting exclusions for preexisting conditions, this legislation contains certain other important provisions. It will increase the tax deduction for health insurance for the self-employed to 80 percent, granting long overdue tax relief to the owners of small businesses and farms. The legislation also provides tax deductibility for long term care and insurance, making it possible for more Americans to avoid financial difficulty as the result of chronic illness.

Although there is broad bipartisan support for this legislation, I am aware of the concerns that it may increase individual health insurance premiums. The legislation addresses this issue in two ways. First, the legislation imposes no limit on the rate which individual insurers may charge those with preexisting illnesses, allowing premiums to be set at a level which would not raise costs for others. Therefore any increase in premiums which does occur will not be the result of this legislation but of how each State chooses to regulate its individual insurance market. Second, the legislation gives States considerable flexibility in how they address the requirements of the bill. This will allow States to devise strategies which fit their individual situations.

In the past several years, many States have taken significant steps to reform their health care systems, and they are to be commended for these efforts. For example, my home State of Arizona was one of the first to use managed care to improve the efficiency of publicly funded health care, and has passed legislation which encourages the use of Medical Savings Accounts. There are certain reforms, however, which only the Federal Government can make. These reforms fall in that category, and it is our responsibility to make them.

FUNDING MEDICARE FRAUD AND ABUSE CONTROL

Mr. DOMENICI. Mr. President, earlier today we adopted an amendment, now that we have had a chance to review, we find creates a concern.

In effect, in our proper and correct effort to address fraud and abuse in the Medicare Program, we converted spending that previously had been subject to appropriations into entitlement funding.

Because of the consent agreement it is too late to fix this problem.

I had an amendment, however, that would have corrected the problem.

My amendment would have provided a different funding mechanism for the Medicare fraud and abuse control program. Instead of funding this program by creating a very large new entitlement program, my amendment would have provided a different funding mechanism.

The issue is not whether we should fund the Medicare fraud and abuse control program, but how we should fund this program.

I strongly support the Medicare fraud and abuse control program, but I am troubled by the fact that the bill in its current form would create $1.5 billion in new mandatory spending for the administrative expenses for three agencies.

Congress already addressed this issue on the funding mechanism for the Continuing Disability Reviews [CDR's]. As part of the debt limit, we provided for funding for CDR's by providing a mechanism to give these programs additional funding through the appropriations process. My amendment would have essentially taken the same approach as we did with CDR's.

Mr. President, Medicare fraud and abuse control is currently funded through discretionary spending. Discretionary spending is the funding we provide annually for programs through the appropriations process.

My amendment would have replaced the unprecedented new entitlement spending for enforcement in this bill with a mechanism that would have provided an automatic upward adjustment for Medicare fraud and abuse control spending in the appropriations process.

The Medicare Fraud and Abuse Control allowance proposed in this amendment would have provided an automatic upward adjustment in the discretionary spending caps to make sure additional funding for the Inspector General of the Department of Health and Human Services, the FBI, and HCFA is not curtailed by budget limits.

However, under my amendment Congress would still have been required to annually review and fund these programs.

I want to emphasize two important points, Mr. President. First, this amendment would have done exactly what we did for increasing funding for continuing disability reviews in the debt limit bill.

Second, the policy effects for Medicare fraud and abuse control are exactly the same as in the current bill. The increased funding for fraud and abuse control would have still occurred, and the savings would still have resulted.

Mr. President, we will never gain control of Federal spending unless we gain control of entitlement spending. My amendment would have kept us from heading down the slippery slope of creating new entitlements for administrative expenses.

I hope that laying down this concern now, conferees on this bill will attempt to correct his problem before we take final action.

I ask unanimous consent that a copy of the amendment I would have offered be printed in the RECORD.

There being no objection, the text of the amendment was ordered to be printed in the RECORD, as follows:

At the appropriate place, insert the following:

SEC. . MEDICARE FRAUD AND ABUSE.

(a) ADJUSTMENT TO DISCRETIONARY SPENDING LIMITS.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding the following new subparagraph:

"(I) Health care fraud and abuse control.—

"(i) Whenever a bill or joint resolution making appropriations for fiscal year 1997, 1998, 1999, 2000, 2001, or 2002 is enacted that specifies an amount for health care fraud and abuse control under the heading 'Health Care Fraud and Abuse Control' for the Office of the Inspector General of the Department of Health and Human Services, under the heading 'Health Care Fraud and Abuse Control' for the Federal Bureau of Investigations, or under the heading 'Health Care Fraud and Abuse Control' for the Health Care Financing Administration, the adjustments for that fiscal year shall be the additional new budget authority in that Act for such health care fraud and abuse control for that fiscal year and the additional outlays flowing from such amounts, but shall not exceed—

"(I) with respect to fiscal year 1997,

"(aa) $14,000,000 in additional budget authority and $13,000,000 in additional outlays for the Office of the Inspector General of the Department of Health and Human Services;

"(bb) $8,000,000 in additional new budget authority and $6,000,000 in additional outlays for the Federal Bureau of Investigations; and,

"(cc) $18,000,000 in additional new budget authority and $29,000,000 in additional outlays for the Health Care Financing Administration;

"(II) with respect to fiscal year 1998,

"(aa) $29,000,000 in additional budget authority and $28,000,000 in additional outlays for the Office of the Inspector General of the Department of Health and Human Services;

"(bb) $17,000,000 in additional new budget authority and $15,000,000 in additional outlays for the Federal Bureau of Investigations; and,

"(cc) $78,000,000 in additional new budget authority and $89,000,000 in additional outlays for the Health Care Financing Administration;

"(III) with respect to fiscal year 1999,

"(aa) $41,000,000 in additional budget authority and $40,000,000 in additional outlays for the Office of the Inspector General of the Department of Health and Human Services;

"(bb) $27,000,000 in additional new budget authority and $24,000,000 in additional outlays for the Federal Bureau of Investigations; and,

"(cc) $143,000,000 in additional new budget authority and $154,000,000 in additional outlays for the Health Care Financing Administration;

"(IV) with respect to fiscal year 2000,

"(aa) $54,000,000 in additional budget authority and $53,000,000 in additional outlays for the Office of the Inspector General of the Department of Health and Human Services;

"(bb) $37,000,000 in additional new budget authority and $34,000,000 in additional outlays for the Federal Bureau of Investigations; and,

"(cc) $213,000,000 in additional new budget authority and $224,000,000 in additional outlays for the Health Care Financing Administration;

"(V) with respect to fiscal year 2001,

"(aa) $70,000,000 in additional budget authority and $68,000,000 billion in additional outlays for the Office of the Inspector General of the Department of Health and Human Services;

"(bb) $49,000,000 in additional new budget authority and $58,000,000 in additional outlays for the Federal Bureau of Investigations; and,

"(cc) $263,000,000 in additional new budget authority and $274,000,000 in additional outlays for the Health Care Financing Administration; and,

"(VI) with respect to fiscal year 2002,

"(aa) $88,000,000 in additional budget authority and $86,000,000 in additional outlays for the Office of the Inspector General of the Department of Health and Human Services;

"(bb) $62,000,000 in additional outlays for the Federal Bureau of Investigations; and,

"(cc) $283,000,000 in additional new budget authority and $294,000,000 in additional outlays for the Health Care Financing Administration.

"(ii) As used in this subparagraph—

"(I) the term 'health care fraud and abuse control' means the administration and operation of the health care fraud and abuse control program including the following activities—

"(aa) prosecuting health care matters (through criminal, civil, and administrative proceedings);

"(bb) investigations;

"(cc) financial and performance audits of health care programs and operations;

"(dd) inspections and other evaluations; and

"(ee) provider and consumer education regarding compliance with the health care fraud and abuse program;

"(II) the term 'additional new budget authority' means new budget authority provided for a fiscal year for health care fraud and abuse control under the heading 'Health Care Fraud and Abuse Control' for—

"(aa) the Office of the Inspector General of the Department of Health and Human Services in excess of $53,000,000;

"(bb) the Federal Bureau of Investigations in excess of $39,000,000; and,

"(cc) the Health Care Financing Administration in excess of $407,000,000; and

"(III) the term 'additional outlays' means outlays flowing from the amounts specified for health care fraud and abuse control under the heading 'Health Care Fraud and Abuse Control', including outlays in that fiscal year flowing from amounts specified in Acts enacted for prior fiscal years (but not before 1997), in excess of—

"(aa) $56,000,000 in a fiscal year for health care fraud and abuse control by the Office of the Inspector General of the Department of Health and Human Services;

"(bb) $38,000,000 in a fiscal year for health care fraud and abuse control by the Federal Bureau of Investigation; and

"(cc) $396,000,000 in a fiscal year for health care fraud and abuse control by the Health Care Financing Administration."

(b) BUDGET ALLOCATION ADJUSTMENT BY BUDGET COMMITTEE—Section 606 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding the following new subsection:

"(f) HEALTH CARE FRAUD AND ABUSE ADJUSTMENT.—

"(1) IN GENERAL.—

"(A) When the Committee on Appropriations reports an appropriations measure for fiscal year 1997, 1998, 1999, 2000, 2001, or 2002 that specifies an amount for health care fraud and abuse control under the heading 'Health Care Fraud and Abuse Control" for the Office of the Inspector General of the Department of Health and Human Services, the Federal Bureau of Investigations, or the Health Care Financing Administration, or when a conference committee submits a conference report thereon, the Chairman of the Committee on the Budget of the Senate or House of Representatives (whichever is appropriate) shall make the adjustments referred to in subparagraph (C) to reflect the additional new budget authority for health care fraud and abuse control provided in that measure or conference report and the additional outlays flowing from such amounts for health care fraud and abuse control.

"(B) the adjustments referred to in this subparagraph consist of adjustments to—

"(i) the discretionary spending limits for that fiscal year as set forth in the most recently adopted concurrent resolution on the budget;

"(ii) the allocations to the Committees on Appropriations of the Senate and the House of Representatives for that fiscal year under sections 302(a) and 602(a); and

"(iii) the appropriate budgetary aggregates for that fiscal year in the most recently adopted concurrent resolution on the budget.

"(C) The adjustments under this paragraph for any fiscal year shall not exceed the levels set forth in section 251(b)(2)(I) of the Balanced Budget and Emergency Deficit Control Act of 1985 for that fiscal year. The adjusted discretionary spending limits, allocations, and aggregates under this paragraph shall be considered the appropriate limits, allocations, and aggregates for purposes of congressional enforcement of this Act and concurrent budget resolutions under this Act.

"(2) REPORTING REVISED SUBALLOCATIONS.—Following the adjustments made under paragraph (1), the Committees on Appropriations of the Senate and the House of Representatives may report appropriately revised suballocations pursuant to sections 302(b) and 602(b) of this Act to carry out this subsection.

"(3) DEFINITIONS.—As used in this section, the terms 'health care fraud and abuse control', 'additional new budget authority', and 'additional outlays' shall have the same meanings as provided in section 251(b)(2)(I)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(c) CONTROL OF MANDATORY SPENDING.—Notwithstanding section 502(b) of this Act, funding for medicare fraud and abuse control provided by this Act shall only be available to the extent provided for in advance by appropriations Acts.

Mr. HARKIN. Mr. President, I am pleased to support and serve as a cosponsor of the Health Insurance Reform Act of 1995. Senators KASSEBAUM and KENNEDY have worked together in a bipartisan manner to craft legislation that every Senator should support because it will help millions of American families. As a member of the Labor and Human Resources Committee, I was proud to join in unanimous support for the bill in committee.

This is not perfect legislation. It does not fix many of the flaws in the current health care system. But it represents an important step toward reforming health care and injecting some fairness and common sense into the system.

While supportive of comprehensive health care reform in the last Congress I also offered a down payment that would have provided for insurance reform, enhanced tax deductibility of health insurance costs for the self-employed, and increased efforts to crack down on fraud, waste, and abuse in health care—all provisions contained in the bill the Senate is considering today.

Millions of Americans would benefit from the insurance reform provisions in S. 1028. Provisions that would gradually raise the percentage of health insurance costs that the self-employed can deduct from 30 percent to 80 percent over the next 10 years would provide greater equity with larger businesses. And, I am pleased that the bill includes provisions to increase funds for the inspector general to combat Medicare fraud and establish tougher sanctions for committing fraud.

Mr. President, Americans should not be denied health care coverage for changing jobs, getting sick or having a preexisting medical condition. And if someone loses their job, they shouldn't have to lose their health insurance, too. This legislation is designed to respond to those concerns.

The Health Insurance Reform Act will provide American families with more security and choices. It will offer some welcome relief for American families worried about losing their health insurance. It will help prevent people from losing their health insurance when they become sick. And it will limit preexisting conditions. These are all fundamental, necessary reforms.

I want to thank both Senators KASSEBAUM and KENNEDY for working with all the members of the committee to strengthen the bill. I am particularly grateful for their help in making sure that the legislation prohibits group and individual health plans from establishing eligibility, continuation, or enrollment requirements based on genetic information. I offered an amendment on this issue during committee consideration of S. 1028 and am pleased it is included in the bill.

I am also grateful for their help in ensuring that States are given appropriate flexibility. The legislation takes into account the progress already made by States like Iowa which just implemented additional and very significant insurance reforms on April 1 of this year. S. 1028 would allow States to preserve laws such as high risk pools that help small groups and individuals purchase insurance.

The provisions in the legislation related to preexisting conditions are important and add some common sense to the current health insurance market. The bill limits the ability of insurers to impose exclusions for preexisting conditions. Under the legislation, no such exclusion can last for more than 12 months. Once someone has been covered for 12 months, no new exclusions can be imposed as long as there is no gap in coverage—even if someone changes jobs, loses their job, or changes insurance companies.

The bill also requires insurers to sell and renew group health policies for all employees who want coverage for their employees. It guarantees renewability of individual policies.

It prohibits insurers from denying insurance to those moving from group coverage to individual coverage. It prohibits group health plans from excluding any employee based on health status.

The preexisting condition provisions will help real people who have already experienced an illness and want to switch insurers or change jobs.

For example, just last week a father from Iowa City called my office about his daughter who has a chronic health condition and will graduate from college this spring. He was worried that when she graduates and is no longer covered under his health insurance policy she will not be able to find insurance coverage for her chronic health condition.

Because the Health Insurance Reform Act would require insurers to credit prior insurance coverage, his daughter can move to another health insurance plan without being denied coverage for her preexisting condition.

The portability provisions in the bill will help with so-called job lock. Workers who want to change jobs for higher wages or advance their careers often have to pass up opportunities because it might mean losing health coverage. The portability provisions contained in this legislation would benefit at least 25 million Americans annually according to the General Accounting Office. And, these provisions will provide greater security for the millions of Americans currently covered under group health plans.

I've heard from Iowans who have had to pass up new job offers or forego starting their own small business because they or someone in their family has a preexisting condition. Workers with a sick child are forced to pass up career opportunities because their new insurance may not cover a preexisting condition for 6 months or more. These families have played by the rules and have been continuously insured—they deserve to know that if they pay their insurance premiums for years, they cannot be denied coverage or be subjected to a new exclusion for a preexisting condition because they change jobs. The Health Insurance Reform Act would allow people to switch jobs without worrying about denied coverage for preexisting conditions.

Many States, including Iowa, have already enacted standards for insurance carriers. In fact, legislation passed in Iowa is more comprehensive in many respects and includes provisions that help make insurance more affordable for small groups and individuals. But, Federal legislation is necessary because States are prevented from regulating self-funded health plans—the type of plans that cover the majority of Iowans. This legislation will also provide a national floor and a guaranteed level of protection for all Americans.

I support this bill and urge my colleagues to not offer amendments that will weaken it. We should keep this bill free of the objectionable provisions that were included in the House bill—provisions which will surely prompt President Clinton to veto the bill, and that will ultimately deny long-needed assistance to millions of middle-class American families.

ORGAN DONATION INSERT CARD ACT

Mr. DORGAN. Mr. President, first and foremost, I would like to thank the distinguished managers on both sides for agreeing to include this critical provision in the Health Insurance Reform Act.

The Senate's passage of the Organ Donation Insert Card Act is particularly timely. Next week is National Organ and Tissue Donor Awareness Week, and the need for organ and tissue donors is more crucial than ever. Right now, the national waiting list for an organ transplant has topped 45,000 people, and a new name is added to the list every 18 minutes.

The Organ Donation Insert Card amendment represents a simple, cost-effective way for the Federal Government to help save the lives of those who are waiting for an organ transplant. The amendment will provide millions of Americans with organ and tissue donor information with their income tax refund checks in 1997. This one-time insert will give taxpayers the opportunity to learn more about this important subject and to fill out cards to become donors.

Each year, we miss thousands of opportunities for organ transplantation because of a hesitancy among next-of-kin to authorize donation when they do not know their loved ones wishes. Of the 20,000 deaths each year that fulfill the medical criteria for becoming organ donors, only about one-fourth actually become donors.

As a result, eight people die every day while waiting for a transplant. At least some of these deaths could be prevented through the information campaign authorized by the Organ Donation Insert Card Act.

I understand that authorizing donation is a difficult decision for a grieving family to make, and their task is made much harder when they do not know their loved one's wishes. For that reason, I would like to take a moment to acknowledge a few of the families I have heard from who authorized donation.

Gary and Bobbie Schroeder say they did not give a lot of thought to organ transplantation. I suspect that is true for many of us.

But on November 26, 1989, their 21-year-old son Jeff was in a fatal car accident. Gary wrote to me,

> Jeff was a 4th year pre-med college student in Southern California, when he and his roommate, returning from playing in a college basketball tournament, ran into wet and slippery roads and had a single car accident. Jeff sustained a head injury, even though wearing his seat belt, causing brain death. * * *

Jeff was on life support, but tests showed absence of brain activity, and he was declared brain dead 4 days later.

We were then given the opportunity of making a decision that would give some purpose to a tragic situation. * * * Donating Jeff's organs gave us the opportunity to start the healing process. * * *

Jeff was a giver in life, always helping others; we know he would want to continue helping others, even in death.

Jeff's organs helped sustain life to four other individuals, by giving his heart, liver, and kidneys. He helped give hope and extended life to the recipients and their families. Our decision to give has been a step toward healthy grieving, and we would make the same decision again."

Patrick Pins, a high school Social Studies teacher in Mandan, ND, also knows firsthand the difficult decision that families face when a loved one dies. In 1992, his wife Barbara was attending a family reunion with her family when she developed a severe migraine, nausea, and neck pain. Although she was rushed to the hospital, she had suffered severe brain trauma and died within 24 hours of arriving at the hospital.

While only a machine kept Barbara's body alive, Patrick and the couple's three children struggled with their grief and talked and prayed. Ultimately, they decided to donate Barbara's organs.

Today, like the Schroeders, Patrick says that confronted with the same decision again, "I'd do the very same thing."

Throughout her life, Barbara's family and friends say the popular Head Start teacher constantly gave of herself and taught the children in her care and the people around her important lessons. Through the donation of her organs, she has been able to do the same even in death.

As I have worked for the enactment of this bill, I have also been motivated by the many families who have shared with me their stories of agonizing months spent waiting for a suitable organ and of the joy of receiving a chance to live. I think it would be appropriate to share some of those stories to remind us all that there are names and faces behind the statistics.

Donna Grendahl is a Minnesota mom whose son, Robby, received a heart transplant in 1986. In her letter to me, Donna wrote:

> My son received the gift of a new heart in transplant surgery 9 years ago. * * * Now 9 years later, he is a 24-year-old college graduate. He teaches American history/civics and coaches hockey and baseball at the high school level. * * *

Thanks to the availability of a donor, he has been able to enjoy the gift of his second chance at life to the fullest.

Bonnie Simonet, a wife and mother and a double-lung transplant recipient, told me: "I suffered for 10 years with a disease to my lungs. . . .

> Oxygen kept me alive, but my lips and fingernails were blue. I was on oxygen 24 hours a day, and I was only 47-years young, which I consider too young to die. I had a life left to live. . . .
>
> When my doctor suggested a lung transplant, it seemed so drastic, but I wanted to live. I went through a week of evaluation, many tests and had to get approval from my insurance company. When this was set in motion, I was put on the waiting list for a double lung transplant. . . .
>
> On August 4, 1994, after waiting on the list for 9 months, I was called. . .. I was in surgery 6 hours and came out a new person with a 2nd chance at life and a new attitude about what is important.

Janet Johnston's 19-month-old grandson, Colton, is alive today because he received a new liver. According to Janet,

> My grandson, Colton, went through his first surgery at a month and a half old, which didn't take care of his problem. He was put on a list in January for a liver transplant. We waited six long months, always worried if he was going to live long enough before a liver became available. On July 16th we got our gift.
>
> We are pleased to support your proposed "Organ Donation Insert Card Act. Please continue to work hard. There are people who do benefit and have happy endings.

Finally, Gary Rux, a heart transplant recipient shares his story:

> I recently received a copy of your proposed legislation for an "Organ Donor Insert Card." I want you to know that I support this legislation with all of my new heart. . . .
>
> I have firsthand knowledge of what it is like to spend over 2 years dying, not knowing for sure if I would be around to provide for my family. In spite of the time I spent waiting for a heart, I ask that you offer no sympathy to me. I am one of the lucky ones. . . . There are many, however, who are not so lucky. It is they who need and deserve our sympathy. Fortunately for them, you are in a position to do more than simply offer sympathy. I thank you on behalf of the many individuals who are waiting, and dying, at this very moment. Bear in mind as you promote this legislation that some of these individuals who are dying are just children. I believe they deserve a chance, and with your and our support, perhaps they can have that chance.

Fortunately, these stories all have happy endings and they are heartwarming to hear, but we must also remember the many families who do not have a happy ending. In my view, the most common tragedy of organ transplantation is not the patient who receives a transplant and dies, but the patient who has to wait too long, dying before a suitable organ can be found.

But today, the Senate has taken a step to prevent some of these needless deaths.

In closing, I want to thank the many organizations and supporters who have endorsed this bill and that worked tirelessly for its enactment. I also want to mention my Senate colleagues who have cosponsored the bill, Senators BRADLEY, COCHRAN, DEWINE, FRIST, HELMS, INOUYE, BOB KERREY, JOHN KERRY, LEAHY, LEVIN, MOSELEY-BRAUN, MURKOWSKI, ROBB, AND SIMPSON.

Finally, I want to again thank the managers, Senators KASSEBAUM and KENNEDY, for accepting this amendment, and I look forward to working with them to retain it in conference.

Mr. KYL. Mr. President, the U.S. Congress has begun the debate on legislation that will affect the way millions of Americans get their health insurance. Both the House and the Senate bills are intended to address a serious concern among millions of working Americans who currently have employer provided health insurance: the threat of losing private health insurance when they lose or change jobs or, try to obtain coverage when they have a preexisting medical condition.

The Kennedy-Kassebaum bill contains some useful provisions and addresses some important problems in the health insurance market. However, I believe these problems are more effectively addressed in the health insurance reform plan passed on March 27 in the House of Representatives—and reportedly contained in the Finance Committee amendment.

I believe the Kennedy-Kassebaum bill could be improved and expanded by incorporating important provisions in the House bill—and in the proposed Finance Committee amendment. These provisions more successfully address the health care problems faced by millions of Americans, such as:

The Problem: An ambitious worker who wants to pursue a career opportunity, but can't change jobs because his son has cancer, and wouldn't be covered by a new employer's insurance.

The Solution: The House bill guarantees that anyone with employer provided insurance can move to another job with employer provided insurance without losing coverage for a preexisting condition.

The Problem: A worker is laid off, and can't get coverage for a preexisting condition in the individual market.

The Solution: The House bill includes group-to-individual portability, so that when you leave a job that provided coverage for a chronic condition, you cannot be denied coverage in the individual market.

The Problem: An uninsured entrepreneur who can't afford insurance as a self-employed person today.

The Solution: The House bill allows the self-employed to deduct 50 percent of their premiums from their taxes. Increasing deductibility makes health insurance more affordable for self-employed individuals. The Finance Committee amendment may increase the deduction to 80 percent.

The Problem: An uninsured person, out of work, who can't afford a costly individual policy because it is loaded down with State mandated benefits.

The Solution: The House bill includes medical savings accounts, so that an individual can buy a high-deductible policy, with a much lower, more affordable premium.

Mr. President, MSA's offer the ultimate in portability and affordability, and I want to further address this critical issue later in my remarks.

The Problem: A small business employee, whose employer can't afford to purchase insurance for his five employees, because one of them has a chronic illness.

The Solution: The House bill allows small businesses to group together to purchase health insurance.

By grouping together, they can share risk and spread administrative costs over a larger group, lowering premiums for everyone.

These ERISA regulated arrangements would be exempted from state mandated benefits and pooling prohibitions that can drive up the cost of care.

The Problem: The federal tax code often discourages citizens from providing for their own health care needs.

The Solution: The House bill provides for tax deductibility for long-term care insurance premiums and expenses and, tax free use of accelerated life-insurance benefits for health expenses.

The Problem: Fear of frivolous lawsuits and outrageous recoveries forces many doctors to practice costly "defensive medicine."

The Solution: The House bill reforms medical malpractice claims. Patients who are injured as a result of malpractice deserve to be fully compensated.

But in today's system, an enormous amount of money that should be dedicated to health care spending goes instead to lawyers—sometimes as much as 40 percent to 50 percent.

The Problem: Fraud, waste, abuse and administrative inefficiency cost the health care system billions per year in wasted resources.

The Solution: Tougher penalties for waste, fraud, and abuse along with administrative simplification through electronic billing and uniform forms.

II. Mr. President, during this debate I plan to support the proposed Finance Committee Amendment. The provisions in this amendment will increase portability, tax equity, and affordability.

Mr. President, it is my understanding that the following provisions will be included in the Finance Committee Amendment to the Kennedy-Kassebaum Health Care Reform Act: an increase in the self-employed health care tax deduction to 50 percent or higher; medical savings accounts providing for deposits of $2,000 for individuals and $4,000 for families; deductibility for long-term care premiums and expenses; and, tax-free treatment of accelerated death benefits for the terminally ill.

Mr. President, assuming these provisions are included in the committee's amendment, it would not be my intention to offer any amendments; further, I would not object to a unanimous consent (UC) agreement.

However, in the event that any of the above provisions are not included in the amendment, I will offer and support amendments to replace these provisions.

III. The importance of MSAs. MSAs are one feature of the House bill—and reportedly the Finance Committee Amendment—that will increase the portability, availability, and affordability of health insurance. MSA are a simple, low cost alternative to traditional health care insurance for the millions of Americans who cannot afford today's health insurance options or, who are not happy with available insurance options.

Here is how an MSA can work: The employer purchases a high-deductible health insurance policy and places an amount of money equal to the employees' deductible in a special savings account called a medical savings account. The money in the MSA, tax-free, to cover most medical costs. The individual keeps what is not used after one year, collects interest, and the balance rolls over into the next year, when the employer makes additional contributions to the account.

In addition to covering basic medical services, these funds can be used to cover services not covered by health insurance, such as elective surgery and long-term care. Money accumulated in an MSA can only be withdrawn for medical expenses as established by the Internal Revenue Code. For MSAs to receive the same tax treatment as employer-provided health benefits plans, a high-deductible plan would have to be combined with the MSA. A high-deductible plan would have a deductible of at least $1,500 in the case of an individual, and $3,000 for a family. Individuals—including the self-employed—could make tax-deductible contributions: up to $2,000 if single, $4,000 if married. The inside build-up would be tax-free. The amounts could be withdrawn from the MSA tax- and penalty-free if used for medical purposes. Employer contributions to an MSA would not be taxable to the employee on whose behalf the contribution is being made.

While Congress has been considering MSAs, many companies have gone ahead on their own and have developed highly successful MSAs or MSA-type programs. A March 1995 study by the Evergreen Freedom Foundation analyzed the experience of 1037 companies nation-wide who had implemented MSAs. For instance, in 1994, the Valley Surgical Group Health Plan of Phoenix implemented an MSA plan for its 14 employees. According to the Evergreen Report, annual employer costs were reduced by $400 per employee in the first year alone. Mr. President, here is why MSAs will work:

1. Parity in tax treatment: MSAs grant high-deductible health plans—paired with an MSA—comparable tax treatment to that of other forms of employment-based group health plans, and allow people to claim the deduction even if they do not otherwise itemize taxes.

2. Positive incentives: MSAs provide Americans the incentives to purchase health care more carefully by letting them keep what they don't spend.

The current unlimited exclusion for employer-based health care encourages unnecessary spending.

3. Major medical protection: MSAs insure that the necessary coverage will be there in the event of an illness or accident.

4. The ultimate in portability: MSAs provide for real portability. Unlike other forms of employer-based health plans, medical savings in the MSA can be taken from job to job.

5. More choices for consumers: The MSAs empower people to make their own health care decisions.

Funds in the MSA may be spent, on qualified medical expenses that may not be covered under high-deductible plan (e.g., prescription drugs, durable medical equipment, etc * * *).

6. MSAs Help meet long term care needs: MSAs will help people who want to protect themselves against future long-term care needs.

MSA funds can be used to purchase long-term care insurance or services.

7. States are moving toward MSAs: Arizona is one of 15 states that have already passed laws granting favorable tax treatment to MSAs.

The failure to establish federal tax rules regarding MSAs will inhibit innovations that many states have decided is good health policy.

Mr. President, in spite of the overwhelming evidence that MSAs are a viable health insurance alternative with wide appeal, there are still a few who say MSAs favor only the healthy and wealthy. This is inaccurate. While MSAs will be attractive for the healthy, they will be equally attractive for the sick. The reason: The MSA gives individuals the ultimate freedom to choose their health care providers, thereby allowing individuals to seek out the best health care services that meet their budget.

The accusation that MSAs will work only for the wealthy is also inaccurate. According to a 1996 analysis by the Joint Committee on Taxation, middle-income Americans will choose MSAs. According to the Joint Committee, one million Americans are expected to sign up for MSAs. An estimated 650,000 people who earn between $40,000 and $75,000 a year would chose MSAs., 120,000 with incomes between $30,000 and $40,000 would choose MSAs.

MSAs could lower overall health care costs. Voluntarily uninsured workers might receive an incentive to obtain health insurance as a result of MSAs. Younger, healthier workers who don't purchase health insurance because they believe they will never get sick, would now have an incentive to be covered against major illnesses as a result of MSAs. This would increase the number of healthy people in the insurance pool and would lower overall health costs.

Are supporters of MSAs out of the mainstream? No. As part of the Kennedy/Kassebaum bill, the Labor Committee passed a "Sense of the Committee" resolution that said:

> It is the sense of the Committee that the establishment of medical savings accounts . . . be encouraged as part of any health insurance reform legislation passed by the Senate.

Also in the Kennedy/Kassebaum bill, there is a provision that allows Medicare risk HMOs to offer medical savings accounts.

The Democratic support MSAs. In 1994, all the Democrats on Ways and Means voted to include MSAs in the Clinton plan. In 1994, Representative GEPHARDT included them in his Democratic Leadership bill. In 1992, Senator JOHN BREAUX introduced a bipartisan MSA bill. Senators TOM DASCHLE, SAM NUNN, ALAN DICKSON, RICHARD SHELBY, and DAVID BOREN co-sponsored the legislation. In 1994, Senator PAUL SIMON was a cosponsor of MSA legislation.

Mr. President, MSAs are one of the keys to portability, affordability, and choice of health insurance for millions of Americans. I believe the Senate must pass MSAs.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time.

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 3103.

The legislative clerk read as follows:

> A bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage, and for other purposes.

The PRESIDING OFFICER. By previous order, all after the enacting clause is stricken and the text of S. 1028, as amended, is inserted in lieu thereof and the bill is deemed read a third time.

Under the previous order, the vote on final passage will occur on Tuesday, April 23, at a time to be determined by the majority leader.

MORNING BUSINESS

Mr. ABRAHAM. Mr. President, I ask that there now be a period for the transaction of routine morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRESS MUST STOP JUNK GUN VIOLENCE

Mrs. BOXER. Mr. President, in 1968, Senator Robert Kennedy was assassinated in California by an assailant carrying a junk gun. That terrible event convinced Congress that something had to be done about the dramatic increase in gun violence. Specifically, Congress concluded that it had to act to stem the proliferation of these junk guns, or as they are also known, Saturday night specials.

Later that year, Congress passed the Gun Control Act of 1968, which barred the importation of junk guns. The guns affected by the import ban had several things in common: They were cheap. They were poorly constructed, and they lacked important safety devices.

Shortly after the passage of the Gun Control Act, unintended consequences began to emerge. Many new companies were formed to manufacture junk guns domestically. Protected from foreign competition and given a virtual monopoly over the U.S. market, the domestic production of junk guns skyrocketed. In fact, all of the companies that produce today's criminals' favorite junk guns were founded after 1968.

In 1972, Congress tried to end the double standard that allows the domestic manufacture of junk guns. Sixty eight Senators—including BOB DOLE and STROM THURMOND—voted to close the loophole permanently. Unfortunately, despite its more than two to one support in the Senate, that bill was killed in a House committee.

Along with my cosponsors, JOHN CHAFEE and BILL BRADLEY, I have introduced legislation, S. 1654, that is closely modeled after that 1972 bill.

The principle of that bill that passed the Senate so overwhelmingly nearly 25 years ago and the bill I have introduced is simple: if a gun is such a great threat to public safety that its importation is banned, then its domestic manufacture should also be prohibited. Its point of origin is irrelevant.

By every measure, the problem of gun violence has grown worse since passage of the Gun Control Act. This indisputable fact was most recently demonstrated in the release last week of a study by the Children's Defense fund. Among CDF's findings was the chilling statistic that a child dies from gunfire every 92 minutes in the United States. And over the last 10 years, the rates of child gun deaths have nearly doubled.

A Center for Disease Control survey found that on an average day, 1 in 20 high school students carries a gun to school. But it is not just a high school problem. A few years ago in San Francisco, a 7 year old second grader was suspended for bringing his mother's junk gun to school, where he threatened to shoot a classmate.

What can we do to fight this problem? One Step is to end this junk gun double standard.

In my State of California, a bill to prohibit the manufacture and sale of junk guns passed the State senate last year, but was blocked in an assembly committee in January.

However, this is a problem that the U.S. Congress created, and it is one that the Congress should fix. Clearly, a nationwide ban would be the most effective way to keep these firearms out of the hands of criminals.

My bill applies prospectively only. It does not affect any guns currently in circulation.

I am proud that my legislation has been endorsed by the California Police Chiefs Association and the chiefs of some of California's largest cities including Willie Williams of Los Angeles, Fred Lau of San Francisco, Art Venegas of Sacramento, and Louis Cobarruviaz of San Jose. In all, 27 California police chiefs and sheriffs have endorsed my legislation. It has also been endorsed by the Coalition to Stop Gun Violence, a leading national antiviolence organization.

I am introducing this measure at the same time that Congress is moving backward on gun issues by reopening the assault weapons ban. I am confident that with the leadership of President Clinton, Senators DIANNE FEINSTEIN, PAUL SIMON and others, we will defeat efforts to roll back our progress on assault weapons, but I believe that just holding our ground is not enough. We must continue to move forward.

What is a junk gun? There are many differences between models, but they have certain traits in common. They are small and light, which make them highly concealable. They are made of inferior materials like zinc, instead of higher quality metal alloys. And they lack important safety features that can help prevent accidental shootings. Junk guns are cheap—some can be bought for as little as $69. The most striking feature in common is that junk guns are used disproportionately in crimes.

One recent study conducted by the U.C. Davis Violence Prevention Center found that junk guns are 3.4 times as likely to be used in crimes as are other firearms. This view was confirmed by Chief Ronald Lowenberg, president of the California Police Chiefs' Association who wrote to me, "There is no doubt that 'Saturday Night Specials' are disproportionately represented in homicides and other crimes." According to the Bureau of Alcohol, Tobacco, and Firearms, of the 10 guns most frequently traced at crime scenes, 8 are junk guns.

Junk guns' price and concealability—the factors that make them so attractive to criminals—are also the factors that make them unsuitable for general use.

What about junk guns for hunting and target shooting? According to firearms experts, they are totally unsuitable because of low accuracy and high failure rates. And what about home and self protection? Again, junk guns are ill suited for the job. These guns are inaccurate, poorly constructed, and lacking important safety features. Keeping a junk gun in the house is an invitation to disaster.

I know of one case in which a man was killed when his gun fell from its holster as he bent over to get a drink of water from a fountain. In another case, a man was critically injured when a junk gun he kept in his car fired when the car hit a bump in the road. These tragedies could have been prevented if these junk guns had better safety features.

I plan to fight hard for this bill, and I am confident that with the strong support of law enforcement and citizens' groups around the country, we will prevail.

TRIBUTE TO EDMUND S. MUSKIE

Mr. SARBANES. Mr. President, I wish to pay tribute to our wonderful colleague and dear friend Ed Muskie who passed away late last month. A distinguished public servant, an accomplished legislator, and a man of great integrity and humanity, Edmund Sixtus Muskie represented the best of the Senate and of the Nation.

Throughout his career in public service Senator Muskie exhibited a rare and remarkable gift; his extraordinary ability to see opportunities where others could not and to translate those opportunities into positive changes for the people of Maine and the Nation.

Ed Muskie began his career of dedicated public service in the Maine Legislature where he initially served as part of a small Democratic minority. From this modest beginning, he assumed the reins of the Maine Democratic party and revitalized it by exercising the vision and leadership necessary to involve people more fully in the political process. His efforts led to his own election as Maine's first Democratic governor in 20 years, and in 1958, he became the first popularly elected Democratic Senator in Maine's history.

But the depth and breadth of Ed Muskie's vision extended far beyond Maine politics. Upon his arrival in the U.S. Senate, he continued to exhibit the same straightforwardness and independent thinking that won him the trust of the citizens of Maine. These traits enabled him to make the Environment and Public Works Committee the forum which produced this Nation's landmark environmental protection legislation, the Clean Air Act and the Water Quality Act. These critical environmental statutes changed the way Americans view our precious natural resources and his work provided the foundation upon which all subsequent environmental protection statutes have been built.

In addition, his efforts were instrumental to the passage of the Congressional Budget Act of 1974, establishing the beginnings of the modern coordinated Congressional budget process. As the first chairman of the Senate Budget Committee, Ed Muskie was committed to the effective disciplined Federal spending; demonstrating that promoting fiscal responsibility and meeting the needs of our people were complementary objectives.

Throughout his lifetime of public service, Ed Muskie was a man his country could turn to in a time of crises. As a U.S. Senator, a vice-presidential and then presidential candidate, and as Secretary of State, he demonstrated an unsurpassed commitment to improving the welfare of all Americans. In his candid, forthright and honest way, he encouraged the free exchange of ideas within the democratic process, working to transcend partisan boundaries and foster what he called a "politics of trust" in this Nation.

One of his many legacies to our country is the large number of former Muskie staff members who under his leadership made such extraordinary contributions to our Nation's welfare. Many of these individuals continue to render dedicated public service and they constitute a national asset which is yet another tribute to Ed Muskie's sterling qualities.

Mr. President, I would like to take this opportunity not only to honor the life and service of Edmund Muskie, but to extend my deepest and heartfelt sympathies to his wife, Jane, and to his children, Stephen, Ellen, Melinda, Martha, and Ned, and their families. We thank them for sharing their husband and father with the Nation—America is a far better place for Ed Muskie's contributions.

On Saturday, March 30, 1996, an exceptionally moving service for Ed Muskie was held at the Church of the Little Flower in Bethesda, Maryland, followed by burial at Arlington National Cemetery. At that service, eloquent and heartfelt eulogies were delivered which greatly moved all of us who were present. In testimony to Ed Muskie's life of quality and honor, I ask unanimous consent that these eulogies be printed in the RECORD.

There being no objection, the eulogies were ordered to be printed in the RECORD, as follows:

REMARKS BY STEVE MUSKIE

Rev. Clergy, President and Mrs. Carter, Ed Muskie colleagues, family and friends. From my mother and everyone in our family, I want to thank you for coming here today to remember and honor my father. I expect that you will hear others speak about Dad's political life and the work he did over his long career of public service. But I would like to take a few minutes to tell you a little about some of the things that we, his wife, children and grandchildren, remember fondly. Thursday night we had a family dinner to celebrate Dad's 82nd birthday. We drank a toast to him, sang happy birthday and the youngest of Mom and Dad's seven grandchildren blew out the candles on two birthday cakes that we brought to the party. Of course, the celebration was bittersweet because Dad was not physically present. But he was present in spirit, in the thoughts of all of us who learned from him and loved him, you could see and hear the evidence all around the room—in the sixteen people there—some blood relations others bonded by marriage into the Muskie family. I saw it in their mannerisms, vocal inflections, proclivity for puns or quiet contemplation, in a hearty laugh or a mischievous twinkle of an eye. They were the telltale signs of Dad's lasting imprint on our lives. We have all been recalling images of Dad, many of which had been lost for a long time, tucked away in the recesses of our memories.

For me, one of the most vivid is an image of cold summer mornings at our Birch Point cottage on Maine's China Lake, forty years ago. The odor of smoke and the crackling sound of a fire just coming to life greeted Ellen and me when we padded down the stairs and climbed on to Dad's lap as he sat next to the fireplace in a big leather chair. While we warmed ourselves by the fire it was Dad's way to repeat the story that we most enjoyed hearing, a tale of young Biddo Bear who woke one cold morning, just as we had, and went with his father on a fishing trip. The story was replete with the kind of sound effects the public never heard from Dad during speeches. For example, Dad talked about Biddo Bear's father's tug on the starter cord of their small boat's outboard motor—Paroom! Putt-putt-putt! "They drove down the lake to catch some fishes," he said. That was a time when Dad was governor and the demands on his time were less than they were by the time the last of his children were almost grown. My brother Ned recalls that even when Dad was secretary of state, he regularly showed up at school, casually dressed and surrounded by security agents to attend a baseball game in which Ned might be pitching or to help Ned haul luggage and boxes into a new dormitory room. Ned of course swears the security agents didn't do any of the work.

Another powerful image is of Dad seated at the dining table surrounded by several of the youngest grandchildren. They always wanted to be near him at meal time, because he inevitably played games with them, walking his fingers across the table to tickle them or to catch their tiny hands in his big ones until Mom gently chastised him "now stop that poppa." The kids grinned feeling they had gotten away with something. As much as I would like to stand here displaying my photographs of Dad, these images and others like them are much more powerful than those captured by a camera because they improve and evolve with age and the mix of other memories we recall. They will never leave us. However wonderful and comforting those images are, more important are the lessons we learned and the characters we developed as a result of watching and trying to follow Dad's strong examples. My youngest sister, Martha, told me yesterday that her interest in social work really grew from some of those examples. She said:

"Dad believed that all people really are equal. That the color of your skin, the source of your beliefs, where you live or how much money you have doesn't matter."

When Greg Singleton, from the SW side of Washington, lived with us for several summers, "It was never any question," said Martha, "that he would be treated exactly like the rest of us." Martha's statement made me realize that we have all grown up and lived under the strong influence of both the public and private Ed Muskie. Today we acknowledge our love and gratitude and share with you a celebration of his life.

REMARKS BY LEON BILLINGS

People who loved Ed Muskie, welcome. As was so often the case in the thirty years I worked for Ed Muskie, 15 of which I was paid, I have the honor of speaking for the staff. Those who actually worked for the Senator and those he thought worked for him. The nameless, faceless staff. A couple of years ago, I had lunch with the Senator. By then I was in my early 50s, about the same age he was when he hired me. I decided that I could start calling him Ed. So we sat down and I used his first name and he looked at me and said, so its going to be Ed now is it? So Senator * * * Before I tell a couple stories I remember of some of our lighter moments, I want to say something about your role as this nation's most important environmental leader. Many times you would take a globe of the earth in your hand and point out that the earth's atmosphere was no thicker than that thin patina of shellac that covered that globe. And you would say, "that's all that protects human life. That thin layer, no thicker than that layer of shellac is all that is between humankind and extinction." That analogy in simple terms stated your commitment to achievement of a healthy environment. A concept you invented, a concept you institutionalized and a concept that you internationalized. You changed the way the world acts towards the environment. That legacy will endure as long as people breathe on this earth. From the Clean Air Act of 1970 to Global 2000 as Senator and Secretary of State, you took a problem too few people cared about and converted it into a movement and then into a reality. I recall after the Senate unanimously passed the Clean Air Act in 1970, Senator Eugene McCarthy said to Senator in the elevator, he said "Ed," (he could call him Ed) he said, "Ed you found an issue better than motherhood, there are even some people opposed to motherhood." So everyone here, please take a deep breath, and while holding that breath think just for a moment that each of us, our children, our grandchildren and the children of centuries yet to come, owe a single debt to you, Senator Muskie.

Sometimes working for you wasn't a day at the beach. But we were rewarded by your brilliance, your courageousness and your creative public policy mind. You evinced incredible loyalty. People stayed with you for years, for decades. What a luxury it was to be associated with someone about whom there were no doubt, no doubts about intellect, commitment and integrity. And Senator you gave us a lifetime of stories. Some are even repeatable. Each of us has a favorite and I'm going to tell a couple. Senator Muskie was an avid fisherman and though I was never invited to accompany him, I want to recall two occasions both of which involved President Carter. On the way back from the funeral of Prime Minister Ohira in Japan, the President and Senator Muskie went fishing in Alaska. And when they came back I learned that the President had caught many fish, and the Senator got one. I asked him to explain the difference and he said gruffly, "its easy to catch them if the secret service ties them down." And you know that's all the explanation I got!

On the other occasion, and this will be particularly memorable to some of you who are on the Senate staff. I was on the Senate floor during a budget debate and he called me over. I assumed he wanted my advice on the issue at hand. He said, "I can't find my fishing pole." He said, "President Carter is coming to Maine to fish and I can't find my fishing pole." So I called Gayle Cory, the longest and the loyalist of the Muskie staffers. She was out at his house and I asked her to find the pole and I went back and said, Gayle is at the house and she'll find the pole. And he said, "Gayle wouldn't know what a fishing pole looks like." Needless to say, Gayle found the pole, I didn't have to go out to the house to look for it, and I never learned how many fish he caught on the trip.

I want to close with one story which will be poignant to those who had the opportunity to travel with the Senator, and particularly to Jane, I think. The Senator always took the window seat on the airplane and the staff, and Jane, sat on the aisle to ward off intruders. It was his want to get on a plane and lose himself in a book or magazine and sometimes not talk to anyone for the entire five hour trip. On the occasion that Eliot Cutler remembers on a trip to Los Angeles, the Senator said not a word and at the end of the trip as they arrived to the gate, Eliot got up to proffer him his coat and he looked at Eliot and he said "what are you doing here?" He is smiling now, because I suspect he would say to us today, "what are we doing here?" Senator we came here to say good-bye. We came here to say thank you for five decades of public service and personal friendship and most of all, we came here to thank you for being the first steward of the planet earth.

REMARKS BY MADELEINE ALBRIGHT

Dear friends, my heart is sad for I have lost a friend. I asked myself why I feel such a void. Its not only the personal memories, memories that I share with many of you, although that is surely a part of it. It is also the fear that what Edmund Muskie represented, what he lived for and stood for, might somehow go with him. He has been our connection to each other, he has been our link to a proud democratic heritage. He gave validity to a vision of our country and service to it that has influenced each of our lives. There is an army of us in Washington, Maine and around the country who worked for him as he rose through the ranks of service to America. Whether we were interested in state government or just plain good government, clean air and water, a budget process that worked, a generous foreign policy that reflected our goodness and strength or just because we believed that politics and principles go together. He attracted us. Even today, when members of the Muskie team see each other any where, we exchange the political equivalent of the high-five. The reason that such a diverse group would have so much in common is that Ed Muskie didn't see his public service as compartmentalized. The federal government was not the enemy of state government. Democrats could work with Republicans. A healthy environment was important not only here, but globally. While as budget chairman, he often asked what was so liberal about wasting money, he worried about jobs and he never denied the resources needed to keep America strong. Can you imagine that he actually believed in the United Nations and Foreign Aid, not only when he was Secretary of State, but even when he was in the Senate. Edmund Muskie made history because he understood history. A lot of it he read, a lot of it be experienced personally and what he didn't know, he asked about. All of us who have been on the receiving end know how persistently he could ask questions. The look on his face or the "not so gentle" reproach when we didn't know the answers became an enormous incentive to learn. As a result, we grew with him. In his book we all, but mostly he himself, were accountable. His roots became ours. The great American leaders and their principles became ours. When he arrived at the State Department in May 1980, having been named by President Carter, he brought with him his capacity for endless questions. He brought Leon, Carole, Gayle and Berl. The foreign policy bureaucracy had a bit of trouble with the approach, not to mention with Leon. In the department and over at the national security council, there were rumblings. "Why all these questions about environmental consequences, fiscal implications, congressional consultations and public opinion." As Secretary of State he did not leave his old identities behind. He was still Mr. Clean, the father of the budget process, the chief sponsor of the War Powers Act, an elected official responsive to the people. Still he insisted on looking at all sides, still he wanted to reason everything out. That is why he got along so famously with his deputy, Warren Christopher, another who values principle and reason. Together, they worked patiently to answer the questions and solve the problems our nation faced. Most important they negotiated the safe return of the hostages from Iran. Reuniting families and leaving for the successor administration a clean slate from which to begin. When he left his official foreign policy post, along with the rest of us in January, 1981, he simply began pursuing public policy by private means. Although he was quite in the opposition he did not use his various platforms or chairmanships, of the Center for National Policy and Georgetown's Institute for the

Study of Diplomacy to mention two of my favorites, for the politics of protest but characteristically for the politics of healing. For example to consider mending relations with Cambodia and Vietnam, and in this, as in so many other things he was often ahead of his time.

Before I end with a personal message from President Clinton, I must say one more thing. I would obviously be here in my capacity as a proud member of the Muskie political family no matter what. But I would definitely not be here or anywhere else representing the President of the United States if it were not for Ed Muskie. It might not be the right answer for feminist groups and I do love Eleanor Roosevelt. But the truth is that this man was my role model. While we all had a good laugh when he sometimes slipped into political incorrect vocabulary or shielded his female staff members from some of his salted language, he was the man who earlier than others enabled women to take their place as public servants. Because he had faith in us, we had faith in ourselves. He was the first to name a woman, Karen Hastie-Williams, Chief Counsel of the Budget Committee, as head of the Congressional Budget Office, Alice Rivlin, he gave me the responsibility as his chief legislative director, for coordinating Leon, Al From, Doug Bennett and John McKvoy. The U.N. Security Council is a piece of cake. No wonder I learned about the politics of foreign policy. Finally I want to read a letter:

"DEAR JANE: Hillary and I were so sorry to learn of Ed's death and our hearts go out to you. Our nation was blessed to have Edmund Muskie in public service for so long. As governor, as Senator and Secretary of State. He was a leader of conscience and conviction and I will always be grateful for his wise counsel. His broad knowledge of both international and domestic affairs. His stalwart protection of our precious natural resources and his unshakable integrity as a public figure and private citizen earned him support of millions of Americans and the respect of all of us who were privileged to know him. As a mark of that respect, citizens across our country and around the world are lowering the American flag to half staff today. Hillary and I extend our deepest sympathy to you and your family and we hope you will take comfort in remembering that your husband has left an enduring legacy of public service that continues to inspire us all. We are keeping you in our thoughts and prayers.

"Sincerely

"Bill Clinton, President of the United States."

Dearest Jane, thank you for sharing this great man with us.

REMARKS BY GEORGE MITCHELL

Jane, Steve and Lexi, Ellen and Ernie, Melinda and Eddie, Martha, Ned and Julia, and other members of the family, Cardinal Hickey, Bishop Gerry and other members of the clergy, President and Mrs. Carter and other distinguished guests and friends of Ed Muskie. Senator Muskie once said that he didn't like being called "Lincolnesque" but it fit. With his lanky frame, his long and craggy face, his powerful voice, he was an imposing figure. He was loved and trusted by the people of Maine because they saw in him the qualities they most admire, independence, fairness, the lack of pretense, the willingness to speak the truth even when it hurt. He was plain spoken even blunt at times and they admired him for it. He had his faults and he made mistakes as do all human beings but he conquered his faults and he learned from his mistakes and as a result, he became the greatest public official in Maine's history and one of the most effective legislators in our nation's history. He accomplished much in a long and distinguished career. In that impressive record, nothing surpasses what he did to protect America's natural environment. Harry Truman once said that men make history, not the other way around. In periods where there is no leadership society stands still. Progress occurs when courageous skillful leaders seize the opportunity to change things for the better. Ed Muskie changed things for the better. When he went to the Senate, there were no national environmental laws, there was no environmental movement, there was hardly an awareness of the problem. Industries and municipalities dumped their wastes into the nearest river and America's waters were, for the most part, stinking open sewers. The air was unhealthy, the water polluted, Ed Muskie changed that. It's one thing to write and pass a law, it's another thing to change the way people live, it's yet another and a far more difficult thing to change the way people think. Ed Muskie did that. With knowledge, skill, determination and patience he won approval of the Clean Air Act and the Clean Water Act and America was changed forever for the better. Any American who wants to know what Ed Muskie's legacy is need only go to the nearest river. Before Ed Muskie it was almost surely not fit to drink or to swim or to fish in, because of Ed Muskie it is now almost surely clean. A source of recreation even revenue. Despite the efforts of some to turn back the clock, these landmark laws will survive because the American people know what a difference he has made in their lives. It has been said that what we do for ourselves, leaves this world with us, what we do for others remains behind. That's our legacy, our link with immortality. Ed Muskie's legacy will stand as a living memorial to his vision. It is his immortality. Each of us could say much more about Ed Muskie's public career but we are here today to pay tribute to Ed Muskie the man, so I would like to say a few words about the man who was my hero, my mentor, my friend. Thirty-four years ago this week, I received a telephone call that changed my life. It was from Don Nicoll, Senator Muskie's Administrative Assistant and close friend who is here today. He invited me to come to Capitol Hill to meet the Senator who was looking for someone from Maine to fill a vacancy on his staff. To help him evaluate me, Don asked that I prepare a memorandum on the legal aspects of an issue that was then being considered by the Senate. I prepared the memo and went up for the interview. I thought the memo was pretty good, but unknowingly I had made a huge mistake. I reached a conclusion that was the opposite of the Senator's. I had never met him but he didn't bother with any small talk. Within minutes of our introduction, he unleashed a ferocious cross-examination. He came out from behind his desk, he towered over me, he shook his finger at me and he took my memo apart, line by line. I was stunned, so intimidated that I couldn't control the shaking of my legs even though I was sitting down. I tried as best as I could to explain my point of view and we had what you might call a lively discussion. As I left he said the next time you come in here, you'll be better prepared. That's how I learned I'd been hired and I sure was better prepared the next time. Ed Muskie was even more imposing intellectually than he was physically. He was the smartest person that I ever met with an incisive analytical mind that enabled him to see every aspect of a problem and instantly to identify possible solutions. He challenged everyone around him to rise to his level of excellence. No one quite reached his level, but those who took up the challenge were improved by the effort. Those who knew him learned from that relationship, those of us who worked for him, most of all. Just about everything I know about politics and government I learned from him. Just about everything I have accomplished in public life, can be traced to his help. No one ever had a better mentor or a better friend. No discussion of Ed Muskie would be complete without mention of his legendary temper. After he became Secretary of State, a news magazine in an article described his temper as entirely tactical, something that he turned on and off at will to help him get his way. I saw him a few days later, he showed me the article, in fact he read it to me, and then he said laughingly, "all these years you thought my temper was for real." Well, I said, you sure fooled me, and a lot of other people. I think the reality is that it was both. When he yelled at you it was terrifyingly real, but you could never be sure that it wasn't also a tactic to move you his way, to get you to do what he wanted done and that's the way he wanted it and liked it. Almost as unnerving as one of his eruptions was the swiftness with which it passed and was forgotten. He was a passionate man and expressed himself with emotion. His point having been made, he moved on, he didn't believe in looking back or nursing grudges and maybe that's how he got past the disappointments he suffered. It surely also helped that he was a secure man, confident in, and comfortable with his values. Those values were simple, yet universal in their reach and enduring in their strength. They were faith, family and country. He was constant in his faith. He was comforted by it and he was motivated by its message. The prayer printed on the back of the program today written by Senator Muskie more than a quarter century ago with its emphasis on compassion and tolerance was the essence of his faith. He was totally devoted to his family, especially to Jane. They would have celebrated their 48th anniversary in May and for all those years, she supported him, she comforted him, she helped him. He was a passionate believer in democracy and especially in American democracy. I had the privilege of traveling all over Maine and all this country with him. Back when I was on Senator Muskie's staff we didn't have the resources available today so we used to share a motel room in small towns all across Maine as I drove him from one appearance to another. And I can recall the many times he spoke of his Father who he greatly admired and who he was very influenced by. His Father was a Polish immigrant who, like many others who fled from tyranny, flourished in the free air of this blessed land. No person I have ever heard and few in our history could match Ed Muskie's eloquence on the meaning of America. Once in public office, his profound respect for American democracy led him to act always with dignity and restraint, lest he dishonor those he represented. As a result, he was the ideal in public service, a man who accomplished much without ever compromising his principles or his dignity. Character is what you are when you are alone in the dark as well as with others in the daylight. Ed Muskie's character was strong. Strong enough to light up other people's lives. He taught us that integrity is more important than winning. That real knowledge counts more than slogans or sound bites. That we should live our values rather than parading them for public approval. Many years ago, Maine's greatest poet, Henry Wadsworth Longfellow, wrote of another great man these words: "Were a star quenched on high for ages would its light still traveling downward from the sky shine on our mortal sight. So when a great man dies for years beyond our kin, the light he leaves behind him lies upon the paths of men." A great man has died and for years his life will shine upon our paths. Goodbye Ed, may God bless you and welcome you.

Remarks by President Jimmy Carter

Ed Muskie had the appearance, the mannerisms, the actions of a true statesman. I first knew about him was when I became Governor and faced the almost overwhelming lobbying pressure from the power companies with their smokestacks spewing forth back smoke and the thirteen pump mills in our state that were destroying our rivers. I saw the difficulty then of an incredible political battle. But there was a hero in Washington which has been mentioned several times who faced much greater lobbying pressure from nationwide pollutants of our streams and air. Ed Muskie changed all of that. One of my heroes in Georgia was Dr. Benjamin Mays a graduate of Bates College which was very close to Ed Muskie. And in an unpublicized way, Ed Muskie was also a champion of basic civil rights at a time when it wasn't popular to be so. And he and Dr. Benjamin Mays worked hand-in-hand to inspire people like me and other governors and public servants around the country who looked on him with great admiration. I hope everyone here will read the prayer on the back of the program that George just mentioned that was given by Ed Muskie at a Presidential prayer breakfast in 1969, and see how pertinent it is to our nation's capital today, how Ed Muskie is needed. We saw then a budget problem in Washington and he decided to do something about it. He helped orchestrate and get passed a new budget law. He became the first Chairman of the Budget Committee and despite the equally formidable challenges that we now face, that he faced then, he was able to bring order out of chaos and to work harmoniously not only with the Senators, but members of the House of Representatives, jealous of their own prerogatives and with the Presidents who served with him. Democrats and Republicans, President Nixon, President Ford, and President me. I think that Ed was so successful in bringing this coalition together and healing the disparities between Capitol Hill and the White House, because when he spoke you knew at least three things: First, he deeply believed what he said, second, he knew what he was talking about, and third, it was the absolute truth. So I admired him from a distance until the Spring of 1972 when Ed was campaigning for President and he came down to Atlanta for a fund-raiser. I very eagerly invited him to spend the night with me at the Governor's mansion because of my admiration and because I had in the back of my mind, you won't believe this, the thought that he was going to get the nomination and he might be looking for a southern governor to be his running mate. So I wanted to make a good impression on him and I wanted him to think that I was a little more sophisticated than I was. So that night in the so-called Presidential suite in the front of the Governor's mansion, late at night he was very tired, he had been campaigning all day, and I said "Senator would you like to have a drink?" He said "yes Governor I believe I would." I said "well what would you like," he said "I'd like Scotch and milk." I was taken aback. I knew about Bourbon and Branch Water and a few other drinks of that kind but I tried to put on the appearance of being knowledgeable and I left him in the room and went down to the kitchen to prepare a drink. I got about halfway down the hall and a terrible question came to me and I went back into the room and I think ruined all my chances of being on the ticket. I said "is that sweet milk or buttermilk?" He very gently said "sweet milk." Later when I was elected President, I turned to Ed Muskie as one of my closest and most valued advisers. He was still a hero to me and I turned to him often. In 1980, as some of you would remember, my administration was in trouble. Fifty-three hostages were still being held by militants in Iran. In April we tried to rescue them and my Secretary of State in protest resigned with a great deal of public fanfare. I was facing a revolution in my own party from Senator Kennedy and others who were more liberal than I and it seemed very doubtful that I would even be renominated as an incumbent President. I turned to Ed Muskie who had a secure seat in the U.S. Senate and I ask him if he would serve as Secretary of State, and after checking with George and others, he said "yes." In a way I thought that I was doing him a big favor but when we had the little ceremony in the White House, I introduced him as the new Secretary of State being willing to serve and his comment was, "Mr. President, I'm not going to say thanks, I'm going to wait a few months and then make a judgment about whether I thank you or not." But he brought to the State Department, as Madeleine just pointed out, his formidable knowledge as a long-time Chairman of the Budget Committee, of every domestic and foreign policy program that our nation had and that statesmanship from Maine that let the members of our Congress, the people of our nation and leaders throughout the world know, that here was a man who spoke with absolute integrity. When the Prime Minister of Japan passed away, Ohira, who was one of my closest friends as Leon has pointed out, I wasn't going to mention this, we went to the funeral with a very devout expression on our face but arranged to stop in Alaska for a day of fishing which Ed suggested as a way for me to forget my troubles. I don't guess he was worried about his own troubles. We went to a little lake about an hour and one-half helicopter flight from Anchorage and were fishing for Grayling and I have to confirm part of Leon's story, I did catch 15 or 20 Grayling, the Secret Service were quite a distance from me I might add, and Ed only caught one fish. So after we got through fishing, Ed came up to me and said "Mr. President, I'd like to make a comment about the trip" and I waited for his approval and he said "you really need to practice your cast" and I said "thank you very much, Mr. Secretary." Later he sent me a wonderful fishing rod that I still have Leon. In the last few days of our administration it was Ed Muskie's integrity, his sound judgment, his wisdom and his determination and his patience that had made it possible for us to bring every hostage home, safe into freedom. Typically, Ed Muskie did not seek any credit for that achievement, he let others take the credit. I looked up last night the citation I read when I gave Ed Muskie the Presidential Medal of Freedom. "As Senator and Secretary of State, candidate and citizen, Edmund Muskie has captured for himself a place in the public eye and in the public's heart. Devoted to his nation and our ideals, he has performed heroically and with great fortitude in a time of great challenge." His response was you forgot that I was also Governor. This week I made a statement about my friend Ed Muskie and I closed the statement by saying of all the people I've ever known, no one was better qualified to be President of the United States but Jane, I'd like to say now that I don't believe many Presidents in history have ever contributed as much to the quality of life of people in our nation and around the world as your husband, Edmund Muskie. I am grateful to him. Thank you very much.

Remarks by Edmund S. Muskie, Jr.

I could not be more proud than to be here to read to you a prayer that my father wrote. He delivered this prayer at the Presidential Prayer Breakfast here in Washington, DC in January of 1969.

"Our father, we are gathered here this morning, perplexed and deeply troubled. We are grateful for the many blessings You have bestowed upon us.—the great resources of land and people—the freedom to apply them to uses of our own choosing—the successes which have marked our efforts. We are perplexed that, notwithstanding these blessings, we have not succeeded in making possible a life of promise for all our people. In that growing dissatisfaction threatens our unity and our progress towards peace and justice. We are deeply troubled that we may not be able to agree upon the common purposes and the basis for mutual trust which are essential if we are to overcome these difficulties. And so, our Father, we turn to you for help. Teach us to listen to one another, with the kind of attention which is receptive to points of view, however different, with a healthy skepticism as to our own infallibility. Teach us to understand one another with the kind of sensitivity which springs from deeply-seated sympathy and compassion. Teach us to trust one another, beyond mere tolerance, with a willingness to take the chance on the perfectibility of our fellow men. Teach us to help one another, beyond charity, in the kind of mutual involvement which is essential if a free society is to work. We ask it in Jesus' name, Amen."

CRISIS IN LIBERIA

Mr. PELL. Mr. President, the resumption of violence in Liberia is of great concern to me. A factional standoff over an ousted government minister has led to widespread looting, arson, and murder, plunging the country into a state of chaos. This spasm of violence is the first major interruption of the Abuja Accords, which have held peace together in Liberia since last August.

The deterioration of Liberia is disheartening. Since 1989, the civil war has caused the deaths of more than 150,000 people and has displaced more than 800,000. Thousands of children have been conscripted to the armed forces. The resumption of violence threatens the lives of even more Liberians. The potential of a massive humanitarian disaster is high, as supplies of food and water dwindle, sanitary conditions deteriorate, and outbreaks of cholera erupt.

Mr. President, The United States has a special responsibility toward Liberia. Founded in the early 19th century by freed slaves, the United States and Liberia have had almost 150 years of uninterrupted friendship. In World War II, the airfields and ports of Liberia were a key part of the link to supply the battlefields in North Africa and Europe. During the cold war, the people of Liberia were at many times the only reliable ally of the United States in Africa. Liberia served as a "listening post" and headquarters to the United States intelligence services. At the United Nations, Liberia consistently voted for the United States position even when this position was unpopular with other developing nations.

In addition, I would like to add that I have a special interest in this war-devastated country as so many emigrants from Liberia have settled in Rhode Island. Just this morning, a delegation of approximately 400 Liberian-Americans who live in my State participated in an impressive demonstration of their eagerness for peace to be restored to this tragically war-torn country.

These Rhode Islanders, led by long-time community leader Lady Bush, marched several miles into downtown Providence where they demonstrated in front of the Federal Courthouse Building and met with members of my staff and the staff of my colleague, Senator CHAFEE.

The demonstrators presented a petition, entitled "Plea for an Immediate End To the Human Carnage in Liberia." It urges active U.S. Government efforts to end the fighting and places the blame for the latest outbreak of terror and fighting squarely on the assorted warlords whose forces control various portions of the capital and the country.

I ask unanimous consent that a copy of that petition be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PELL. Mr. President, it is understandable that the international community is hesitant about investing anything more in Liberia. It is up to the faction leaders who constituted the last Council of State and who control the rival forces to stop the looting and killing and to rebuild a sense of national unity. The rival warlords must demonstrate that they are ready for peace. The people of Liberia should not have to endure any more violence. If the United States pulls out of Liberia, it will certainly put the last nail in the coffin for this poor, African nation. Moreover, if the situation in Liberia continues to unravel, the regional implications will be of monumental proportions.

I believe the United States must have an immediate response to this crisis. As a result, I am cosponsor of the resolution introduced this afternoon by my distinguished colleague from Wisconsin, Senator FEINGOLD. Among others, this resolution urges the administration to support West African peacekeepers, to influence other nations to support the peacekeeping force, and to lead efforts in the United Nations to sanction those parties which violate the U.N. arms embargo on Liberia.

I would like to add that it is imperative that the international community, at its highest levels, make public their views on the atrocities in Liberia. The international community, moreover, must actively engage with ECOMOG and ECOWAS, to find a lasting solution. And most importantly, I call upon the competing warlords to stop the pillaging of Liberia. There has already been too much bloodshed, too much hope lost.

EXHIBIT 1

LIBERIAN COMMUNITY ASSOCIATION
OF RHODE ISLAND, INC.,
Providence, RI, April 18, 1996.

Petition of the Liberian Community Association of Rhode Island to the Government of the United States

Subject: Plea for an Immediate End To the Human Carnage in Liberia

Whereas the Republic of Liberia was founded and funded by humanitarian societies in the United States, with the appropriation and assistance of the American Government as a safe haven for emancipated people of color;

And whereas throughout its one hundred forty nine years of independence, the people and Government of these United States of America have manifested friendly and benign interest in Liberia's right to exist as a sovereign state, lending aid in times of national exigencies and emergencies;

And whereas Liberia has always shown its gratitude and appreciation to the Government and people of the United States by being staunch ally and trusted African friend during times and circumstances critical to the national interest of the United States;

And whereas the on-going genocidal civil conflict in Liberia resulted from the rash, diabolical, dictatorial, and military rules which set the stage for subsequent atrocities and infrastructure destruction, causing the displacement at home and abroad of over one half the population, many of whom are stranded in the United States;

And whereas the civil war since 1989 has resulted into the slaughter of a quarter million people, most of whom are civilians; women, children and the elderly;

And whereas the war-lords do not have the fortitude to honor the many peace accords that they themselves signed, resulting into the carnage that began on April 5, 1996 and continues to date, described by the international press and the United States Government as the worst in three years;

And whereas the EMOMOG has proven that it cannot enforce the cease-fire, monitor the disarmament process and protect innocent civilians;

And whereas the rebels and government troops, some as young as six are still heavily armed;

And whereas the recent carnage that began April 5, 1996 is so war torn that the United States is evacuating its citizens from Liberia;

And whereas the recent massacre of women and children is so contiguous that Americans, Americans of Liberian descent, and Liberians residing in Rhode Island convened on April 14, 1996 and after deliberation resolved that the organization petitions the United States Government to intervene to help bring the carnage to an immediate end.

We therefore, appeal to the United States to:

1. intervene directly to bring the carnage to an end;
2. use it economic, diplomatic and military leverages to encourage the warring factions to call for, and honor a true cease-fire and disarmament;
3. convene a meeting of the war-lords in the United States to work out modalities for the enforcement of the cease-fire as in the case of Bosnia;
4. to help plan, monitor, and enforce the disarmament process;
5. impose an embargo on the shipment of arms to any of the warring factions;
6. freeze all assets of the war-lords, their family members, and representatives; and
7. deny all war-lords, their family members and representatives visas to travel to the United States except for a conference to resolve the conflict.

We call on all peace loving countries of the world, the United Nations and other international organizations to join the United States, a country of goodwill that has practically resolved all conflicts in modern times, to do the same for Liberia. We are pleading. Please help us.

NUCLEAR SECURITY

Mr. BIDEN. Mr. President, I rise today to call attention to the single greatest security threat to Americans in the post-cold war ERA—the possibility that weapons of mass destruction could be acquired by rogue states, criminal organizations, or terrorists, and used against American targets.

In the coming weeks, I hope that this body will have the opportunity to act on the Chemical Weapons Convention and reduce one portion of this threat.

Today, however, as President Clinton prepares to join President Yeltsin and the G–7 leaders in Moscow for a nuclear safety and security summit over the next 2 days, I would like to focus my remarks on the nuclear threat.

President Clinton has placed nuclear nonproliferation at the top of the U.S. national security agenda—he is clearly committed and willing to lead on this issue. Vice President GORE's regular meetings with Russian Prime Minister Chernomyrdin also have advanced nuclear security. Indeed, in the last 3 years we have seen important agreements and cooperative projects between U.S. officials and their counterparts in Russia and other Republics of the former Soviet Union.

Despite these positive steps, however, the threat before us remains immense, and the path to nuclear security remains long and difficult. We need to understand the potential magnitude of the threat, and muster the resolve and resources to address it effectively.

THE NATURE OF THE THREAT

Mr. President, Soviet nuclear missiles no longer point at American cities. With the START process, we have also seen and hopefully will continue to see significant reductions in strategic nuclear weapons in the former Soviet Union. But these arms control successes should not give us a false sense of security.

Over 100,000 weapons or weapons equivalent material remain strewn—literally strewn—about Russia, Ukraine, Kazakhstan, and Belarus. The centralized system that prevented the possible theft or diversion of this immense quantity of fissile material during the cold war no longer exists.

I should also note that each year as more nuclear warheads are dismantled, additional tons of weapons-grade material move from relatively more secure military facilities to less secure nuclear storage facilities. The 3,000 warheads that are dismantled each year yield 15 tons of plutonium and 45 tons of highly-enriched uranium.

Of this veritable cornucopia of dangerous fissile material spread across the territory of the former Soviet Union, only a small fraction would be required to wreak unspeakable damage.

It takes only 25 kilograms of highly enriched uranium or 8 kilograms of plutonium to create a weapon capable of massive destruction. We are talking about an amount of uranium the size of a softball—or a baseball in the case of plutonium. That small amount of material could be easily concealed and transported in a sturdy briefcase or a backpack.

As my colleagues know, the greatest barrier to overcome in manufacturing a nuclear weapon is acquiring the appropriate grade and quantity of fissile material. After that, it just takes a little time, money, and technical knowhow.

A determined terrorist or rogue state does not even need to build a perfectly designed atomic bomb with the highest grade fissile material to create unimaginable terror. A weapon built of crude, low-grade nuclear material such as a nuclear radiological device would be sufficient to generate widespread panic.

This is not just doomsday rhetoric. Does anyone actually deny that there exists a great demand today for nuclear material? Those who are not yet convinced need only consider the chilling incidents that have occurred over the last few years. As my colleagues are well aware, gram and kilogram quantities of weapons-grade uranium—almost surely leaked from the former Soviet Union—have been seized in Moscow, Munich, and Prague. In addition, dismantled parts of Soviet nuclear missiles have made their way to Iraq.

We know that the demand exists. We also know that the supply exists. Elementary economics tells us that without intervention, a supply curve and a demand curve will intersect—and you will have a transaction. It is incumbent upon us to intervene and prevent even one of these potentially deadly transactions from occurring.

These are the key challenges we face in doing so:

How do we develop a comprehensive accounting system for all nuclear material in the former Soviet Union?

How do we gather and physically protect nuclear material in a limited number of secure sites?

How do we safely dispose of excess nuclear material?

How do we prevent the theft and smuggling of nuclear material?

And, how do we prevent former Soviet nuclear experts from selling their knowhow to rogue states or terrorists?

The answers to these questions are not exclusively of concern to the United States. They are vitally important to Western Europe, Japan, and even to Russia.

THE SITUATION IN THE FORMER SOVIET UNION

Perhaps it would be useful if I briefly walked through what we know about the situation in Russia today to demonstrate the difficulties we face in meeting these challenges.

First, the collapse of the Soviet command and control security system has been replaced by chaos and the absence of many controls at sites where nuclear materials are stored. In the context of Russia's current tumultuous social and economic conditions, we are talking about an environment conducive to theft and extortion.

Second, the Soviet Union had no comprehensive accounting system for nuclear weapons and fissile material—certainly no computerized inventory. In other words, we—including the Russians—do not even know exactly where all of the Soviet nuclear material is stored or how much of it exists. We think most nuclear material is located in 80 to 100 sites. But there may be another 40 sites. We think the Soviet Union produced some 1,200 metric tons of highly enriched uranium and some 200 metric tons of plutonium. Needless to say, it would be difficult to determine if a few kilograms of this material were misplaced here and there.

Third, the lack of physical protection of nuclear material in the former Soviet Union is shocking. Nuclear material is stored in containers without seals to prevent tampering. Many of the labs, research centers, and power plants with nuclear material do not have perimeter fences, electronic sensors, or monitoring cameras to deter and detect intruders. Instead, U.S. officials have seen nuclear rods stored in metal lockers secured with padlocks. According to the Russian Government, 80 percent of its nuclear facilities—80 percent—do not have radiation detectors to prevent those on the inside from walking out the door with nuclear material.

Fourth, there are nuclear technicians and guards at these facilities who have not been paid in months. I have heard that the senior staff of one nuclear facility abandon their posts a few hours a day to tend to their potato gardens, so that they will have food to eat. It seems to me that these conditions are so ripe for corruption that the threat of an inside job is much greater than the threat of an outside thief entering a nuclear facility—as easy as that may be.

Fifth, current border controls throughout the former Soviet Union are notoriously weak. If smuggled nuclear material passes through Europe, we have some chance that intelligence officials and law enforcement can interdict it. However, trafficking routes through the Caucasus or Central Asia are another story—the chances of successful interdiction are slim to none.

Finally, we have the problem of the thousands of nuclear scientists and technicians in the former Soviet Union with knowledge about nuclear weapons who are looking for ways to make a living in the new world order. Their expertise would certainly be welcome in some aspiring nuclear states that immediately come to mind.

THE U.S RESPONSE

After a slow start 4 years ago, many of these problems are now being addressed by our Departments of Defense and Energy. The Energy Department, for example, has equipped a number of nuclear facilities in the former Soviet Union with fences, monitors, and sensors. The United States Enrichment Corporation has arranged for the purchase of 500 metric tons of highly enriched uranium to be converted into commercial reactor fuel. Newly created international research institutes have employed hundreds of Russian nuclear scientists. Such cooperative efforts need to be evaluated and duplicated on a much larger scale.

I commend my distinguished colleagues Senator NUNN and Senator LUGAR for bringing attention to global proliferation threats through Senator NUNN's recent hearings of the Permanent Subcommittee on Investigations and Senator LUGAR's hearings last august on the issue of Loose Nukes. I might add that Senator LUGAR's hearings are the only hearings that have been held on this critical issue in the Foreign Relations Committee in the 104th Congress.

Mr. President, I think that it is worth asking: are we directing America's limited resources proportionately to meet a clear and present threat which I and many of my colleagues regard as our greatest national security challenge?

In 1991, my colleagues Senators NUNN and LUGAR had the foresight to devise the cooperative threat reduction program to assist the states of the former Soviet Union in dismantling nuclear warheads and protecting nuclear materials. Over the last 5 years funding for the Nunn-Lugar program has totaled $1.5 billion—an average of $300 million per year, or about one-tenth of 1 percent of our annual defense budget. In addition, this year's funding level was cut 25 percent from last year's level.

In contrast, consider how much time, money, and energy we have spent on the proposed missile defense system to meet the improbable long-range ballistic missile threat, which we are told is at least 15 years away. We have spent some $35 billion over the years on missile defenses. I find it hard to believe that this disparity in spending corresponds to the threats we face.

As I have repeatedly stated on this floor, a long-range ballistic missile will not be the most likely means of delivery of a weapon of mass destruction to the United States. No. A much more likely scenario is that a terrorist group will smuggle material and parts for a nuclear, chemical, or biological device onto our shores—perhaps by any of the many routes used by narcotics traffickers—and then reconstruct a weapon of mass destruction, put it in a van, and detonate it in near an important American landmark.

That is the more likely threat, and that is where we should be focusing the bulk of our energies, not on reviving star wars.

THE NUCLEAR SUMMIT

Mr. President, I hope that my colleagues recognize that we are engaged in a race against time. Either we will help secure this material and provide our citizens with the safety to which they are entitled, or rogue elements will procure this material and use it to blackmail civilization.

The danger of uncontrolled nuclear material is a first level national security threat to the United States of America and a first level national security threat to our friends and allies. We cannot simply ignore the problem and leave if for Russia to solve on her own. Likewise, Russia cannot simply downplay the potential threat and delay implementing concrete measures. Indeed, Russia itself is a target—just last November Chechen separatists placed radioactive material in a Moscow park.

To be successful, the nuclear safety and security summit must build a global consensus on the nature of the threat before us and generate wider cooperation for swift action.

The critical first step must be to improve the physical protection of nuclear material at the source—secure the material at a limited number of sites and institute a comprehensive accounting system. That, in my opinion, is the most important agenda item for the leaders of the G–7 and Russia at the nuclear summit.

World leaders at the summit will also discuss ways to improve cooperation in countering nuclear material smuggling. Given the limited success we have had in interdicting narcotics traffickers, I am not optimistic about the prospects of interdiction alone to prevent the proliferation of nuclear material. Nonetheless, much more can and should be done to improve border controls and intelligence cooperation.

Mr. President, it is my hope that the nuclear safety and security summit in Moscow this week will help propel the world's leaders to take immediate preventative and rational steps toward nuclear security. The alternative is to delay action until after our first nuclear terrorist incident—whether in a Moscow park, a Tokyo subway, or a New York office building.

Mr. President, no other nation can match the expertise and resources of the United States. We must be the leader in promoting cooperative efforts to reduce the nuclear threat. Investments we make in this area today will reap a future return in the form of enhanced security for all Americans.

TRIBUTE TO FORMER ALABAMA AGRICULTURE COMMISSIONER A.W. TODD

Mr. HEFLIN. Mr. President, my longtime friend A.W. Todd, who served 3 terms as Alabama's commissioner of agriculture, passed away at his home on March 29, 1996. He was regarded as one of our State's most popular government leaders and one of the most colorful and effective politicians to ever hold office in Alabama.

A long-time Democrat, A.W. Todd represented Franklin, Colbert, and Marion Counties in the State Senate from 1950–1954. Colbert is my home county. His terms as commissioner of the Department of Agriculture and Industries ran from 1955–1959, 1963–1967, and 1991–1995. He was also a gubernatorial candidate in 1958 and 1966. He had boundless energy and was a tireless campaigner. In fact, the last time I saw him, A.W. told me that he was planning to run again for agriculture commissioner in 1998.

He is regarded by many as the best agriculture commissioner Alabama ever had. The small, family farmer was always foremost in his mind, and the agriculture community in the state benefitted directly from his devotion and hard work. Among his many accomplishments as commissioner was the coliseum program, which resulted in 6 coliseums being built statewide. He also oversaw the expansion of the farmers' market program to Birmingham, Montgomery, Slocomb, and Mobile. The quality of eggs sold in the State was dramatically improved through the Todd Egg Law, which placed new inspection requirements on eggs and established a grading system.

While serving in his last term, A.W. Todd had the distinction of being the oldest elected State official in Alabama and was among the oldest in the entire country. He took pride in introducing himself as the country's oldest "Young Democrat." He was an old-school Democrat who grew up in Belgreen, Alabama. When he was only 13, he was permanently injured in a hunting accident that resulted in his left arm being severed.

This did not slow him down at all. He used a job on Auburn University's experiment farm to work his way through college. After graduating, he returned to Franklin County, where he operated a feed mill and poultry company and served in State government. One of his children, Elizabeth Campbell, followed him into public service, becoming a Federal magistrate in Birmingham.

A.W. Todd was an outstanding public servant who will be greatly missed. I was proud to have known and worked with him over the years. I extend my sincerest condolences to his wife, Robbie, and their entire family in the wake of this tremendous loss.

TRIBUTE TO CHARLES E. GRAINGER

Mr. HEFLIN. Mr. President, one of the major reasons that Huntsville, AL, has been nationally recognized as one of the country's top high-technology growth areas is the strength and vitality of its community leadership. One of these visionary leaders is Charles E. Grainger, vice president of administration at Teledyne Brown Engineering and 1992 chairman of the Huntsville-Madison County Chamber of Commerce. Recently, he received the chamber's Distinguished Service Award.

As chairman of the chamber 4 years ago, Charlie Grainger expanded its economic development emphasis to create a coordinated Partnership for Economic Development. Madison County led all Alabama's counties in new plant and equipment investments that year.

As vice president of administration at Teledyne Brown, a major defense contractor, Charlie is responsible for coordinating governmental relations activities with agencies and Congress. He has overall management responsibility for the departments of human resources, facilities, public relations, administrative services, security, technical communications, and computing resources and technology. He has held his current position since 1978, having served as director of administration from 1967 to 1978. He joined Brown Engineering as assistant to the director of administration in 1963.

Charlie was elected to the Alabama House of Representatives in 1968 and 1970, and was an award-winning legislator. He sponsored a water pollution control act and a school bus safety act, both of which became national models. Both pieces of legislation were named after their sponsor by joint resolution, which is somewhat rare. As a member of the Ways and Means Committee, he secured funding to begin the University of Alabama in Huntsville nursing education program, to establish physical health facilities at Alabama A&M University, and to complete the Huntsville-Madison County Mental Health Center. He served as an elected member of the Alabama Democratic Executive Committee from 1966 through 1990, serving as a delegate to the 1980 Democratic National Convention. He was a presidential campaign coordinator for Senator John GLENN in 1984 and Vice President AL GORE in 1988.

A native of Lawrence County, Alabama, Charlie grew up in Sheffield, attended Florence State College, and earned a master of science degree in management from Southeastern Institute of Technology. His work as a member of the Base Realignment and Closing Commission Community Task Force was invaluable during the base closure rounds of 1991, 1993, and 1995. He has received the Governor's Air Pollution Control Award; Madison County Good Government Award; Alabama Water Conservationist of the Year Award; and Huntsville-Madison County Mental Health Distinguished Service Award.

He was originally a journalist. He spent several years as a reporter for the Birmingham News. He served as editor and publisher of the Valley Voice, a weekly newspaper published in Tuscumbia.

One of the secrets to Charlie Grainger's phenomenal success is that he truly understands that in order to thrive and grow, the various groups and resources within a community must be united in supporting the bottom-line economic imperatives. In Huntsville's case these are the defense and space industries. He is an instrumental unifying force who sees the big picture and Huntsville's role in that picture. He is a leader who brings people from divergent points of view to common understandings so they can work together for the common good.

I congratulate and commend Charlie for all his accomplishments and for his superb leadership role in the development, growth, and vitality of the Hunstville area. He is a unique role model and a living testament to the tremendous results which can be realized through strong partnerships between government and industry.

TRIBUTE TO JAMES STILLMAN FREE

Mr. HEFLIN. Mr. President, on April 3, James Stillman Free, a native of Gordo, Alabama and for 33 years the Washington correspondent for The Birmingham News, passed away at the age of 87. Jim enjoyed a rich and colorful career as a journalist and historian. Back in November 1993, I had the opportunity to attend his 85th birthday celebration and it was a wonderful experience for his many friends and associates as we gathered with him to celebrate and reflect.

Jim Free attended the public schools of Tuscaloosa, AL; earned his bachelor's degree at the University of Alabama; and obtained his master's degree from Columbia University. He was part owner and editor of a weekly Tuscaloosa newspaper shortly before joining the News in 1935.

Jim's 33 years as The Birmingham News' Washington correspondent was the longest tenure for any Washington correspondent for Alabama newspapers. He spent a total of 35 years with that paper, his name and writings becoming synonymous with Alabama political coverage and analysis in the nation's capital. He also served as the Washington correspondent for the Chicago Sun, Raleigh News and Observer, and Winston-Salem Journal during the 1940's and '50's.

His coverage extended from the Great Depression and New Deal through World War II preparations and his own combat duty as a Navy Captain in the Pacific; the McCarthy "Red Scare" era; the Civil Rights movement; the assassinations of John and Robert Kennedy and Martin Luther King; and all national defense, medical, educational, and environmental issues that affected Alabama. He was an on-the-scenes, eye witness to much of the social change and history of this century.

His many "scoops" included President Truman's 1946 order for the Army to take over strike-threatened railroads, and he led the national press with his stories on the Justice Department's civil rights decisions. Jim filed overseas reports on the 1957 Berlin crisis and NATO operations in the North Sea, Western Europe, and the United Kingdom in 1966. He served as the historian for the Gridiron Club and was the author of "The First One Hundred Years: a casual chronicle of the Gridiron Club."

His World War II service allowed him to bring special insight into his coverage of national defense issues. In an October 1961 article on his time in Berlin, he said, "* * * our test of strength with Russia in the months and years ahead * * * will be 90 percent non-military. It will be political, economic, scientific, and educational. It will be a showdown of our way of life against theirs." Indeed, history proved him right.

While covering the Justice Department, Jim relayed messages from Alabama moderates to then-Attorney General Robert Kennedy during the Freedom Rider bus burning crisis. He was also one of the first reporters to question in print the validity of charges brought against public officials and private citizens by Senator Joseph McCarthy.

Jim held a number of leadership positions in his field and received a number of honors. In 1967, he was elected president of the Washington chapter of the Society of Professional Journalists. In 1989, he was inducted into the society's hall of fame. The Raymond Clapper Award committee gave him a special citation for exceptional reporting on national affairs and he received the Outstanding Alumnus Award from the University of Alabama alumni association.

It is a grand understatement to say that Jim Free was a highly regarded and respected figure. He was a well-rounded professional and a genuine person of integrity. Jim never tried to purposely harm anyone's reputation through his reporting. His professional ethics dictated that he would let the facts speak for themselves. He never tried to make a career of finding dirt on government officials. He was not a practitioner of yellow journalism and was not a purveyor of scandal.

Jim was a gentleman who possessed all the traits that one would expect to find in a gentleman—civility, an educated mind, sensitivity, courteousness, and a healthy respect for the views of others.

I was proud to have known Jim Free, who will long be remembered in the dual worlds of journalism and politics for his lifetime of service to the cause of informing citizens about the world around them. I extend my condolences to his family in the wake of their tremendous loss.

BUSINESSWOMAN EULA SIMS DURBIN

Mr. HEFLIN. Mr. President, Eula Sims Durbin, who was a pioneer of the modern poultry industry in Alabama and throughout the southeast, passed away late last month at the age of 98. She earned a place in the annals of Alabama business history during the dark years of the Great Depression when she and her husband Marshall used her $500 in savings to finance a new business venture, a fish concession. Eventually, the Durbins switched to dressed chickens because of the great difficulty in keeping fresh fish, and opened their own processing plant in Birmingham. Today, the Birmingham-based Marshall Durbin Companies is the nation's 10th largest poultry producer.

On April 2, the Birmingham Post-Herald carried an excellent story detailing the history and growth of Marshall Durbin Companies and of the crucial role Mrs. Durbin played in its enormous success. I ask unanimous consent that the text of the article be printed in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. HEFLIN. Mr. President, Mrs. Eula S. Durbin will long be remembered for her astute business instincts, for her willingness to take risks, and for her perseverance in the face of great uncertainty and adversity. I extend my condolences to her family in the wake of their loss.

EXHIBIT 1

[From the Birmingham Post-Herald, April 2, 1996]

MRS. DURBIN'S RISKS ARE REMEMBERED

(By Patrick Rupinski)

When they write about the seeds of Alabama's successful businesses, the gamble of Eula Sims Durbin will be recorded.

Mrs. Durbin risked all of her personal savings in a move that helped build the poultry industry in both Alabama and the Southeast.

Mrs. Durbin, who co-founded Marshall Durbin Cos. with her husband—the late Marshall Durbin Sr., died Thursday. She was 98.

"She worked to build this company and kept an active interest in it even in her 90s," said Pat Shea, a spokeswoman for Birmingham-based Marshall Durbin Companies, the nation's 10th largest poultry producer.

Mrs. Durbin's place in Alabama's business history occurred as the Great Depression gripped Birmingham in the 1930s.

Her husband wanted to start a business even though businesses were failing in record numbers.

Money was tight, but Mrs. Durbin believed in her husband enough to give him her $500 in savings to finance the venture, a fish concession at a Birmingham market.

The business struggled, particularly in the hot Alabama summers when a lack of refrigeration made keeping fish fresh difficult. But Mrs. Durbin never shied from taking a risk and supported her husband's decision to begin selling dressed chickens.

The move proved popular and soon chicken sales replaced fish. In time, the Durbins opened their own chicken processing plant in downtown Birmingham.

It started small with Mrs. Durbin doing the bookkeeping and other chores, said Ms. Shea, who had interviewed Mrs. Durbin for a history of the company.

By the 1950s, the poultry industry was changing. No longer did farmers with a few hens sell directly to poultry processors. The industry was becoming highly integrated.

By the 1960s, Marshall Durbin Companies had become part of the changes. It added more processing plants plus feed mills, hatcheries, growing facilities and distribution centers.

Today, the family-owned company has annual sales of about $200 million with facilities in three states—Alabama, Mississippi and Tennessee.

The chickens—processed at a rate of more than 2 million a week—end up as everything from frozen breaded nuggets at local supermarkets to cut pieces at KFC restaurants in California and frozen leg quarters shipped to Russia.

Ms. Shea said Mrs. Durbin however, always seemed to take the most pride in how her husband taught their son the business.

Durbin died in 1971. The couple's son, Marshall Durbin Jr., runs the company today.

Mrs. Durbin's interest in the company never waned. Even in her 90s when she was legally blind, she would have someone read her the monthly employee newsletter, Ms. Shea said.

Mrs. Durbin was born in Brookhaven, Miss., and moved to Sulligent after finishing her education, becoming a secretary to the president of a lumber company. She met her future husband while in Sulligent.

Their courtship blossomed after Mrs. Durbin moved to Birmingham to take another secretarial job.

Mrs. Durbin's funeral will be at 2 p.m. today at Ridout's Valley Chapel, followed by a private family burial. Survivors besides her son include two granddaughters, two great-grandsons and six sisters.

In lieu of flowers, the family suggests memorials to the Eula Sims Durbin Scholarship Fund at Birmingham-Southern College, Box 549003, Birmingham, Ala. 35254.

TRIBUTE TO BUCKY MILLER

Mr. HEFLIN. Mr. President, one of the most interesting people and charming characters I have met in my lifetime is Aura J. "Bucky" Miller, who celebrates the 55th anniversary of first coming to work at the Marriott Grand Hotel Resort and Golf Club in Point Clear, AL, on April 18, 1996. He just celebrated his 79th birthday on April 12 and, thankfully, has no plans to retire.

As an associate at the Grand Hotel over the course of these many years, Bucky Miller has become the very embodiment of hospitality. For many years, he has served as the hotel's resident expert on mint juleps, all-around hospitality ambassador, and official historian. He is well-known throughout Alabama and the South. Once he meets a guest, he never forgets the name or face. He has taken care of a seemingly endless number of politicians, sports figures, actors, and business people who have been guests at the hotel over the decades.

As an extraordinary hospitality ambassador, he has received a great deal of recognition and attention for his natural skills in making people feel welcome and comfortable. In 1989, the town of Fairhope, which is near Point Clear, declared the first week of June "Bucky Miller Week." That same year, he was chosen along with 17 other Marriott associates nationwide to receive the J.W. Marriott Award of Excellence in recognition of exceptional hospitality skills.

As a people-person, Bucky has a caring attitude that really endears him to his guests. He has a talent for making people feel like they are special.

Over the years, Bucky has worked as a housekeeping aide, wine steward, bartender, and kitchen steward. He left the hotel for a time to serve in World War II and to teach mathematics, but soon returned for good saying, "This hotel is in my blood." His outgoing personality soon earned him the title "Mr. Hospitality," and resulted in a continuous flow of favorable guest comments and feature articles in newspapers and magazines.

His legendary mint juleps, which he makes from his own recipe with fresh mint he grows in a garden outside the lounge, are internationally known. Seagram's published his recipe in its recipe book and named Bucky one of the country's 100 best bartenders. Bucky's other specialties include his country lemonade, the Grand Hotel brunch punch, and his hot mint toddy.

An avid sports fan, he is well-known for his philosophical conversations about football with such notable figures as Alabama Coach "Bear" Bryant and sportscaster Howard Cosell.

I am proud to be among those many privileged patrons of the Grand Hotel to have enjoyed the unique charm and natural hospitality of Bucky Miller over the years. He has always practiced what he preaches, which is, "Let simplicity, sincerity, and service be your motto." As I look toward retirement, I want to thank and commend him for all his hard work and achievements. I am looking forward to enjoying more of his simplicity, sincerity, and service when I return to Alabama next year.

TRIBUTE TO DAVE HARRIS

Mr. HEFLIN. Mr. President, earlier this year, Dave Harris retired from his position as head of the public affairs office for Redstone Arsenal and the Army Missile Command in Huntsville, AL. He was a dedicated and outstanding public servant for 33 years.

An editorial which appeared in The Huntsville Times at that time discusses his career and the characteristics which make him a truly unique individual and pleasure with which to work. I ask unanimous consent that a copy of the editorial, "One Who Made a Difference," be printed in the RECORD following my remarks.

The PRESIDING OFFICER. without objection, it is so ordered

(See Exhibit 1.)

Mr. HEFLIN. I commend and congratulate Dave Harris for all his accomplishments and hard work on behalf of the Army over the years, and hope he is enjoying his well-earned retirement.

EXHIBIT 1

[The Huntsville Times, Friday, Dec. 8, 1995]

ONE WHO MADE A DIFFERENCE

There are a handful of people who make a difference in any community. They're usually visible personalities like government or community leaders, businessmen or clergy. Dave Harris has made an impact behind the scenes for 33 years.

Harris, 65, will retire Jan. 3 as the head of the public-affairs office for Redstone Arsenal and the Army Missile Command. During that time, he's been a trusted source of information for the media on subjects ranging from high-tech missiles to traffic accidents. He's also been a trusted source for Army employees, squelching unfounded rumors that could affect morale or raising legitimate concerns to management's attention.

Less well known has been his role as adviser to Redstone commanders, project managers and community leaders on matters of importance to each.

Harris is uncommon partly because he has been at the same job for so long. He knows who to call for answers. He has a historical perspective on weapons development and the community and knows how to put both in the proper context for generals, soldiers, civil servants and citizens.

Very few media spokespersons today have any actual media experience. Harris worked for a newspaper. He is a skilled writer and knows how a story will play. He not only understands reporters and tolerates their eccentricities, he likes working with them. Those qualities make news stories more accurate and cast the Army in a more positive light.

He has believed in what his Army was doing at Redstone Arsenal. Generals to whom Harris reported describe him as "the heart and soul" and "conscience and ombudsman" of the command.

Dave Harris possesses intelligence, honesty, integrity, common sense, a sense of duty and responsibility, and a long-standing reputation for all the above. He will be difficult to replace.

U.S. FOREIGN OIL CONSUMPTION? HERE'S TODAY'S WEEKLY BOX SCORE

Mr. HELMS. Mr. President, the American Petroleum Institute reports that, for the week ending April 12, the U.S. imported 7,635,000 barrels of oil each day—1,155,000 barrels more than the 6,480,000 barrels imported during the same period a year ago.

Americans now rely on foreign oil for more than 50 percent of their needs, and there are no signs that this upward trend will abate. Before the Persian Gulf war, the United States obtained about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians better ponder the economic calamity that will occur in America if and when foreign producers shut off our supply, or double the already enormous cost of imported oil flowing into the U.S.—now 7,635,000 barrels a day.

Mr. President, Joseph J. Romm and Charles B. Curtis wrote in the April 1996 Atlantic Monthly an extensive analysis of the impending crisis due to U.S. dependence on foreign oil. The article, "Mideast Oil Forever?" is very thorough and detailed—and I commend it to Senators and staff. At the very least, I hope Senators will read several paragraphs from this article under the subheading "The Coming Oil Crisis." Mr. President, I ask unanimous consent that the text be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Atlantic Monthly, Apr. 1996]

MIDEAST OIL FOREVER?

THE COMING OIL CRISIS

Given that the most recent war America fought was in the Persian Gulf, let's start by examining the likelihood that an oil crisis will occur in the coming decade. Forecasting is always risky, especially where oil is concerned, but consider what a variety of experienced energy hands from every point on the political spectrum have said in the past year alone. Donald Hodel, who was a Secretary of Energy under Ronald Reagan, has said that we are "sleepwalking into a disaster," and predicts a major oil crisis within a few years. Irwin Stelzer, of the American Enterprise Institute, says that the next oil shock "will make those of the 1970s seem trivial by comparison." Daniel Yergin says, "People seem to have forgotten that oil prices, like those of all commodities, are cyclical and will go up again." James Schlesinger, who was the Secretary of Energy under Jimmy Carter, has said, "By the end of this decade we are likely to see substantial price increases." In March of last year Robert Dole, the Senate majority leader, said in a speech at the Nixon Center for Peace and Freedom, "The second inescapable reality of the post-twentieth-century world is that the security of the world's oil and gas supplies will remain a vital national interest of the United States and of the other industrial powers. The Persian Gulf . . . is still a region of many uncertainties. . . . In this 'new energy order' many of the most important geopolitical decisions—ones on which a nation's sovereignty an depend—will deal with the location and routes for oil and gas pipelines. In response, our strategy, our diplomacy, and our forward military presence need readjusting." The chairman of the Federal Reserve, Alan Greenspan, not known for being an alarmist, in testimony before Congress last July raised concerns that a rising trade deficit in oil "tends to create questions about the security of our oil resources."

Concerns about a coming oil crisis have surfaced in the financial markets as well. Last October, in an article titled "Your Last Big Play in Oil," Fortune magazine listed several billionaires and "big mutual fund managers" who were betting heavily that oil prices would rise significantly. The magazine went on to suggest an investment portfolio of "companies that are best positioned to profit from the coming boom."

Fundamental trends in oil demand and supply underlie this emerging consensus. First, the world will probably need another 20 million barrels of oil a day by the year 2010, according to the Energy Information Administration (EIA). The International Energy Agency projects an even greater growth in demand, following the inexorable tide of population growth, urbanization, and industrialization.

Second, the world's population is expected to increase by 50 percent by 2020, with more than half those additional people born in Asia and Latin America. And as farm workers move to the city, much more energy and oil will be needed. The fundamentals of urbanization—commuting, transporting raw materials, constructing infrastructure, powering commercial buildings—all consume large amounts of oil and electricity. At the same time, fewer farms will have to feed more people, and so the use of mechanization, transportation, and fertilizer will increase, entailing the consumption of still more energy and oil. An analysis by one of the Department of Energy's national laboratories found that a doubling of the proportion of China's and India's populations that lives in cities could increase per capita energy consumption by 45 percent—even if industrialization and income per capita remained unchanged.

Finally, industrialization has an even greater impact on energy use. As countries develop industries, they use more energy per unit of gross national product and per worker. Crucial industries for development are also the most energy-intensive: primary metals; stone, clay, and glass; pulp and paper; petroleum refining; and chemicals. In the United States these industries account for more than 80 percent of manufacturing energy consumption (and more than 80 percent of industrial waste).

As Fortune has noted, if the per capital energy consumption of China and India rises to that of South Korea, and the Chinese and Indian populations increase at currently projected rates, "these two countries alone will need a total of 119 million barrels of oil a day. That's almost double the world's entire demand today."

Barring a major and long-lasting worldwide economic depression, global energy demand will be rising inexorably for the foreseeable future. The Persian Gulf, with two-thirds of the world's oil reserves, is expected to supply the vast majority of that increased demand—as much as 80 percent, according to the EIA. Within ten to fifteen years the Persian Gulf's share of the world export market may surpass its highest level to date, 67 percent, which was attained in 1974. The EIA predicts that in the face of increased demand, oil prices will rise slowly to $24 a barrel (1994 dollars) in 2010. If, instead, they remain low, the Gulf's share of the world export market may rise as high as 75 percent in 2010.

Although non-OPEC nations did increase production by almost 15 percent from 1980 to 1990, they increased proven reserves of oil by only 10 percent. The net result is that the remaining years of production for non-OPEC reserves has actually fallen from eighteen years to seventeen years. On the other hand, while OPEC increased production by 20 percent in the 1980s, it increased its proven reserves by 75 percent. As a result, OPEC's reserves-to-production ratio doubled to ninety years.

The growing dependence on imported oil in general and Persian Gulf oil in particular has several potentially serious implications for the nation's economic and national security. First, the United States is expected to be importing nearly 60 percent of its oil by ten years from now, with roughly a third of that oil coming from the Persian Gulf. Our trade deficit in oil is expected to double, to $100 billion a year, by that time—a large and continual drag on our economic health. To the extent that the Gulf's recapture of the dominant share of the global oil market will make price increases more likely, the U.S. economy is at risk. Although oil imports as a percent of gross domestic product have decreased significantly in the past decade, our economic vulnerability to rapid increases in the price of oil persists. Since 1970 sharp increases in the price of oil have always been followed by economic recessions in the United States.

Second, the Persian Gulf nations' oil revenues are likely to almost triple, from $90 billion a year today to $250 billion a year in 2010—a huge geopolitical power shift of great concern, especially since some analysts predict increasing internal and regional pressure on Saudi Arabia to alter its pro-Western stance. This represents a $1.5 trillion increase in wealth for Persian Gulf producers over the next decade and a half. That money could buy a tremendous amount of weaponry, influence, and mischief in a chronically unstable region. And the breakup of the Soviet Union, coupled with Russia's difficulty in earning hard currency, means that for the next decade and beyond, pressure will build to make Russia's most advanced military hardware and technical expertise available to well-heeled buyers.

The final piece in the geopolitical puzzle is that during the oil crisis of the 1970s the countries competing with us for oil were our NATO allies, but during the next oil crisis a new, important complication will arise; the competition for oil will increasingly come from the rapidly growing countries of Asia. Indeed, in the early 1970s East Asia consumed well under half as much oil as the United States, but by the time of the next crisis East Asian nations will probably be consuming more oil than we do.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, on Friday February 23, 1996, the Federal debt broke the 5 trillion dollar sound barrier for the first time in history. The records show that on that day, at the close of business, the debt stood at $5,017,056,630,040.53.

Twenty years earlier, in 1976, the Federal debt stood at $629 billion, after the first 200 years of America's history, including two world wars. The total Federal debt in 1976, I repeat, stood at $629 billion.

Then the big spenders went to work and the interest on the Federal debt really began to take off—and, presto, during the past 2 decades the Federal debt has soared into the stratosphere, increasing by more than $4 trillion in 2 decades—from 1976 to 1996.

So, Mr. President, as of the close of business yesterday, Wednesday, April 17, 1996, the Federal debt stood—down to the penny—at $5,146,356,518,536.99. On a per capita basis, every man, woman and child in America owes $19,445.43 as his or her share of that debt.

This enormous debt is a festering, escalating burden on all citizens and especially it is jeopardizing the liberty of our children and grandchildren. As Jefferson once warned, "to preserve [our] independence, we must not let our leaders load us with perpetual debt. We must make our election between economy and liberty, or profusion and servitude." Isn't it about time that Congress heeded the wise words of the author of the Declaration of Independence?

THE 12TH ANNUAL TUFTONIA'S WEEK CELEBRATION AT TUFTS UNIVERSITY

Mr. KENNEDY. Mr. President, next week Tufts University in Medford, MA, will hold its 12th Annual Tuftonia's Week Celebration. Tufts alumni from around the world will gather to honor their outstanding university. This celebration has special meaning for me because my daughter, Kara, is a graduate of Tufts, and I am proud to count myself as a member of the Tufts family.

Tufts was founded in 1852, and it now has over 8,000 students from all 50 States and more than 100 foreign countries. The university offers degrees in a wide range of disciplines, including Liberal Arts, Engineering, Occupational Therapy, Nutrition Science and Policy, Medicine, Dentistry, Veterinary Medicine, and Law and Diplomacy.

This year, the theme of Tuftonia's Week is community service. The occasion will honor the large number of Tufts graduates across the country who are volunteering in their communities and helping to improve the lives of others in their neighborhoods through the TuftServe program. Last year, Tufts alumni contributed more than 19,000 volunteer hours, and an even higher level of participation is anticipated this year. Tufts deserves great credit for its leadership among universities in emphasizing the value of service learning and providing opportunities for students to combine community service with their academic curriculum.

I am honored to take this opportunity to congratulate Tufts' President, John DiBiaggio, and the others in the Tufts community for their impressive accomplishments.

THE TEAM ACT

Mr. BURNS. Mr. President, I recently became a co-sponsor of S. 295, the Teamwork for Employers and Management Act, a bill that is scheduled for markup today in the Labor Committee and which the Small Business Committee, on which I sit, will consider tomorrow. This bill is very important to small businesses. It is important to all business but, with 98 percent of Montana's businesses considered small, those are the folks I'm hearing from.

Many of the businesses that have contacted me were in shock. They had no idea that the committees they had formed with their employees were in violation of the law. As far as they were concerned, they were just good business practice. The committees kept the employees involved in operations and improved customer satisfaction.

But according to the National Labor Relations Act, employee involvement is illegal. The intent of the law, established in the 1930's, was to prevent employers from dominating a labor organization. And labor organization is defined as a group of employees that discusses terms or conditions of employment with the employer. That may be well and good as far as collective bargaining is concerned—at the time, the NLRA wanted to stop employers from establishing these company unions to keep independent unions out—but the law is being interpreted to mean that discussions of safety, productivity, and quality are considered conditions of employment. That's causing more than a little heart burn.

Let me give you an example. There is a Montana company I have heard from, and I will not name them since, understandably, many small businesses are afraid of having their practices brought to the attention of the NLRB. But this company, with diversified interests, has formed a committee on safety—safety not only of employees who work with a variety of equipment but of the thousands of visitors who use their facilities every day. This committee gives the employees ownership of their surroundings and results in a safer workplace for everyone.

This same company also has a committee on customer satisfaction. The employees survey the facilities periodically and decide on changes in decorations, improvements in the surroundings, how to make the area more customer friendly—basically how to draw business in and keep it. Once again, this is not only a good business practice, it is a way to keep the employees energized about their work conditions. How can this possibly be against the law? That is not only the question they are asking, it is one we should all ask.

Yet, if the National Labor Relations Board learned about these employee involvement teams, according to the law, they could penalize the employer. And in a number of cases, they already have. That does not even make sense.

Now, I know that the Government is famous for not making sense—and that is what our regulatory reform efforts are about—but here is one specific place we can make a difference. By passing this bill, the Teamwork for Employees and Management Act, without any taxpayers dollars, without any new volumes of paperwork, we can let business get back to business without fear of the heavy hand of Government coming down on them.

By simply amending the National Labor Relations Act, we can allow teamwork to continue, and allow businesses to form teams to safeguard working conditions, improvement productivity and efficiency, and boost the quality of their products. This does not just benefit the employer and the employee, it helps our economy.

Mr. President, this provision of the law may have served its purposes 60 years ago, but it is not necessary today. Small businesses need all the help they can get to survive in today's competitive market and being flexible is vital to that success. Small business owners need the input, the advice, the cooperation, and the labor of their employees. To prohibit that involvement is to squash innovation and prosperity, the very ideals that make up the American Dream.

I strongly support this legislation, Mr. President. I hope we can bring this to the floor quickly and relieve the stress on our small businesses around the Nation who have learned of their allegedly "illegal" business practices. Let us get the government off their backs once again, and let business do what they do best—create jobs and produce high quality goods and services for the world to enjoy.

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT REAUTHORIZATION

Mr. BURNS. Mr. President, an important bill was recently reported out of the Senate Labor Committee and I hope it will make its way to the Senate floor quickly. This is a bill that was designed with not only children in mind—and that is foremost—but with the needs of teachers, administrators, and parents of children with disabilities. That can be a delicate balance, but I think it was achieved.

S. 1578, the Individuals With Disabilities Education Act reauthorization, ensures that children with disabilities have access to a free appropriate public education. At first, that may sound like something we would assume is a guaranteed right of any American citizen. And it is. But many children with disabilities have special needs—needs that neither the parents nor the schools can meet without sacrifice. And it seems that when this bill was first enacted in 1975, the burdens on some were increased. And 21 years later, we have the opportunity to make some positive changes.

Let me just highlight a few of the changes that are proposed that prompted me to sign my name on this bill. To begin with, S. 1578 reduces the bureaucratic maze that schools have been required to fight their way through. Right now, State and local education agencies must submit a plan or application every 3 years. Now, they will only have to prepare that plan once, unless they institute substantial changes. And the data they are required to collect is cut in half.

Some may say, "But how will that affect my child's education?" As I've visited with school administrators and teachers around Montana, it has amazed me to hear how many resources are tied up with paperwork generating, reporting requirements, and tracking. If it wasn't required by law, I wouldn't be surprised if schools refused to enroll children with disabilities. The amount of time it takes a school employee to keep up with the regulations, the amount of financial resources that are used to document school activities and student performance—it's almost a miracle that the school has the time to educate the children.

When we reduce the paperwork, the reporting requirements, the documentation, we free up time and money to devote to the education of our children and we allow those children with disabilities to achieve as much as they can possibly achieve. It allows the teacher to get back to the classroom, the administrator to get back to making sure the school is safe and the curriculum is top-notch, and the parents to rest easy knowing that their child is receiving the same educational opportunities every other child is receiving.

But one of the most common remarks I've heard from Montana schools is that they need more flexibility. And this bill gives them that. In particular, the question of discipline is often raised. Current law prohibits schools from suspending a disabled child for more than 30 days even if the child brought in a dangerous weapon or threatened a teacher or student. S. 1578 gives the school some flexibility in deciding how to handle that violation. If a child with a disability violates such a policy, that child may be suspended for up to 10 school days. In that time, the IEP team may designate an alternative placement for up to 35 days. And, if the behavior was not related to the disability, the child can be disciplined as any other nondisabled child would be.

Mr. President, I want to make sure that all children have access to a free, appropriate public education. Whether a child has a disability, mental or physical, whether a child is poor or disadvantaged, whether the parents of schoolaged children have the resources to afford special care or not—we need to take the responsibility of educating our future generations very seriously.

And there is a balance we need to maintain. Order and discipline in our schools is essential to creating an environment conducive to learning, for disabled and nondisabled children alike. There should be a balance between the parents involvement and the schools efforts in educating a child with disabilities. And there is a balance to be kept between making sure schools are accountable for the Federal dollars they receive and overburdening them with red tape. This bill, S. 1578, strikes that balance.

I join my colleagues in supporting this important legislation and I commend Senator FRIST for his hard work in making sure that both parents and schools were consulted in proposing these changes. With the bipartisan support it enjoyed in the Labor Committee, I look forward to seeing this bill brought to the Senate floor soon. Our Nation's future—our children—depend on it.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:54 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 842. An act to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund.

ENROLLED BILLS SIGNED

At 2:07 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the speaker has signed the following enrolled bills:

H.R. 255. An act to designate the Federal Justice Building in Miami, Florida, as the "James Lawrence King Federal Justice Building."

H.R. 869. An act to designate the Federal building and U.S. Courthouse located at 125 Market Street in Youngstown, Ohio, as the "Thomas D. Lambros Federal Building and U.S. Courthouse."

H.R. 1804. An act to designate the United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, as the "Judge Isaac C. Parker Federal Building."

H.R. 2415. An act to designate the United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Ysleta in El Paso, Texas, as the "Timothy C. McCaghren Customs Administrative Building."

H.R. 2556. An act to redesignate the Federal building located at 345 Middlefield Road in Menlo Park, California, and known as the Earth Sciences and Library Building, as the "Vincent E. McKelvey Federal Building."

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

At 4:09 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 735) to prevent and punish acts of terrorism, and for other purposes.

MEASURED REFERRED

Pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged, the following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 842. An act to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund; to the Committee on the Budget and the Committee on Governmental Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2262. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated April 1, 1996; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition, and Forestry, to the Committee on Armed Services, to the Committee on Environment and Public Works, to the Committee on Finance, and to the Committee on Foreign Relations.

EC-2263. A communication from the President of the United States, transmitting, pursuant to law, a report of proposed rescissions of budgetary resources; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, and to the Committee on Armed Services.

EC-2264. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the report of activities for fiscal year 1995; to the Committee on Commerce, Science, and Transportation.

EC-2265. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, a report relative to requests for extraordinary contractual relief; to the Committee on Commerce, Science, and Transportation.

EC-2266. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, a report relative to foreign aviation authorities; to the Committee on Commerce, Science, and Transportation.

EC-2267. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, a report relative to the Traffic Alert and Collision Avoidance System; to the Committee on Commerce, Science, and Transportation.

EC-2268. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, the report of the Aviation System Capital Investment Plan; to the Committee on Commerce, Science, and Transportation.

EC-2269. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the report of accomplishments during fiscal year 1994; to the Committee on Commerce, Science, and Transportation.

EC-2270. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to export vessels; to the Committee on Commerce, Science, and Transportation.

EC-2271. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled "The Department of Transportation Regulatory Reform Act of 1996"; to the Committee on Commerce, Science, and Transportation.

EC-2272. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on waste disposal sites; to the Committee on Commerce, Science, and Transportation.

EC-2273. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report entitled "The Automotive Fuel Economy Program"; to the Committee on Commerce, Science, and Transportation.

EC-2274. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the Airport Improvement Program; to the Committee on Commerce, Science, and Transportation.

EC-2275. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on tanker simulator training; to the Committee on Commerce, Science, and Transportation.

EC-2276. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on tanker navigation safety standards; to the Committee on Commerce, Science, and Transportation.

EC-2277. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the evaluation of oil tanker routing; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 811. A bill to authorize research into the desalinization and reclamation of water and authorize a program for States, cities, or qualifying agencies desiring to own and operate a water desalinization or reclamation facility to develop such facilities, and for other purposes (Rept. No. 104-254).

EXECUTIVE REPORTS OF COMMITTEES

The following executive report of committee was submitted:

By Mr. Stevens, from the Committee on Governmental Affairs:

Robert E. Morin, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SARBANES:

S. 1682. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Liberty*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. WYDEN:

S. 1683. A bill to amend part E of title IV of the Social Security Act to require States to regard adult relatives who meet State child protection standards as the preferred placement option for children, and to provide for demonstration projects to test the feasibility of establishing kinship care as an alternative to foster care for a child who has adult relatives willing to provide safe and appropriate care for the child; to the Committee on Finance.

By Mr. REID:

S. 1684. A bill to require that applications for passports for minors have parental signatures; to the Committee on Foreign Relations.

By Mr. KERRY:

S. 1685. A bill to provide income and economic security to the American family, and for other purposes; to the Committee on Finance.

By Mr. FORD (for himself, Mr. COATS, Mr. LUGAR, Mrs. HUTCHISON, and Mr. MCCONNELL):

S. 1686. A bill to provide for early deferred annuities under chapter 83 of Title 5, United States Code, for certain former Department of Defense employees who are separated from service by reason of certain defense base closures, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KERRY:

S. 1687. A bill to provide for annual payments from the surplus funds of the Federal Reserve System to cover the interest on obligations issued by the Financing Corporation; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOLE (for himself, Mr. SIMON, Mr. ABRAHAM, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Ms. MIKULSKI, Mr. HELMS, Mr. ROTH, Mr. SANTORUM, and Mr. LUGAR):

S.J. Res. 51. A joint resolution saluting and congratulating Polish people around the world as, on May 3, 1996, they commemorate the 205th anniversary of the adoption of Poland's first constitution; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FEINGOLD (for himself, Mrs. KASSEBAUM, Mr. SIMON, Mr. LEAHY, Mr. JEFFORDS, and Mr. PELL):

S. Res. 248. A resolution relating to the violence in Liberia; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN:

S. 1683. A bill to amend part E of title IV of the Social Security Act to require States to regard adult relatives who meet State child protection standards as the preferred placement option for children, and to provide for demonstration projects to test the feasibility of establishing kinship care as an alternative to foster care for a child who has adult relatives willing to provide safe and appropriate care for the child; to the Committee on Finance.

THE KINSHIP CARE ACT OF 1996

• Mr. WYDEN. Mr. President, I introduce the Kinship Care Act of 1996. Today Representative Connie Morella is introducing companion legislation in the House.

Grandparents caring for grandchildren represent one of the most underappreciated natural resources in our Nation. They hold tremendous potential for curing one of our society's most pressing maladies: The care of children who have no parents, or whose parents simply aren't up to the task of providing children a stable, secure and nurturing living environment.

There is such a great reservoir of love and experience available to us, and more especially to the tens of thousands of American children who desperately need basic care giving. We provide public assistance to strangers for this kind of care, but the folks available to provide foster care homes are in short supply.

At the same time, inflexibility in current regulations often force us to ignore a precious alternative that is right at our doorstep. Our public policy planners have missed the forest for the trees. Grandparents can fill the gap. They are ready, willing and able to provide the kind of care these youngsters so desperately need.

The legislation I plan to introduce in the Senate today will give States the flexibility to provide the support these grandparents need, so that our seniors can help fill the care gap.

The House included my legislation, similar to today's bill, as part of the welfare reform measure last year. My new legislation will continue the process of shifting the focus of our child welfare system from turning children over to strangers, to granting them the loving arms of grandparents and other relatives.

States have been moving in this direction for over a decade. Over the past 10 years the number of children involved in extended family arrangements has increased by 40 percent. Currently, more than 3 million children are being raised by their grandparents. In other words, 5 percent of all families in this country are headed by grandparents.

It's time that the Federal Government get with the program and start developing policies that make it easier, instead of more difficult, for families to come together to raise their children.

My bill has several parts. The first would require States to give preference to relative providers when a child is removed from their parents' home. Too often I have heard stories of grandparents or other relatives, not finding out that their grandchildren have been removed from their children's home. By the time they know what is happening, the grandchildren are locked into the foster care system.

Often I have heard stories where brothers and sisters are split up and grandparents spend years in court trying to reunite their own families. As we rethink our child protection system, we need to rededicate ourselves to looking to families, including extended families, for solutions. When a child is separated from their parents, it is usually a painful and traumatic experience. Living with people that a child knows and trusts gives children a better chance in the world and gives families a better chance to rebuild themselves.

The second part of my bill allows States to obtain waivers to set up kinship care guardianship systems where grandparents and other relative providers can receive some financial assistance without having to turn over custody of the child to the State, and without having to go through the paperwork and bureaucratic hurdles of the foster care system.

Our child protection system is where our welfare system was about 10 years ago. We know it isn't working well, but States and the Federal Government are still fumbling for solutions. What we need to do now, as we did for our welfare system, is start opening the door for States to try new ideas to both protect children and keep families together.

As we reevaluate the effectiveness of our country's child protection systems, it's time that we identify new ideas and new ways to find loving environments for our Nation's most vulnerable children. Grandparents can provide the lynchpin for such a new system.●

By Mr. REID:

S. 1684. A bill to require that applications for passports for minors have parental signatures; to the Committee on Foreign Relations.

THE MIKEY KALE PASSPORT NOTIFICATION ACT OF 1996

Mr. REID. Mr. President, I rise to introduce legislation I intended to offer as an amendment to the immigration bill. Unfortunately, it does not appear I will have the opportunity to offer this as an amendment to that bill. I therefore decided to offer this as a freestanding bill as I believe it is an issue that needs to be addressed whether or not we decide to go back to this bill.

Much of the debate on the immigration legislation involves complex issues and arcane areas of the law. My legislation is pretty easy to understand. It is a common sense legislative solution to a simple, but troubling, issue. The issue my bill attempts to resolve is that of international parental abductions. Significantly, my bill does not attempt to right a wrong. Rather, it attempts to prevent future wrongs from occurring. And there is little dispute that absent legislation, future wrongs will occur.

The wrong that occurs is best illustrated by a living nightmare forced upon an American family from Henderson, NV. No parent should ever have to go through what Fred and Barbara Spierer went through in 1993. That year, on Valentine's Day, Barbara Spierer's ex-husband took her son to his native country, war-torn Croatia. She would soon learn that upon their arrival, her ex-husband initiated official custody proceedings in a Croatian court.

Through tremendous emotional and financial costs, Fred and Barbara Spierer were able to secure the return of young Mikey. Incredibly, this could all have been prevented if our laws didn't permit such easy procurement of passports for minors. Few would disagree that parental consent should be given before a passport is issued to a minor child. Both parents ought to be notified before the State Department issues a document permitting their child to be taken out of this country.

Presently, such joint notification is not required. Under current law, one parent can apply for a U.S. passport for his or her child, receive it, and then depart from the country with that child. Again, this can all be accomplished without the notification of the other parent. Current law is an invitation to engage in the grossest of misbehavior by a scurrilous parent. And engage in it they do. Sadly, the case of Fred and Barbara Spierer is not an isolated incident.

International parental abductions are a growing problem. In 1994, there were over 600 cases of children being abducted from the U.S.A. Thousands of parents are attempting to bring home their children who were taken from this country by a mother or father. While these cases are tracked by the State Department, children's advocates believe many more go unreported. Often, the children are snatched during a divorce. The abducting parents usually have strong ties to a foreign country. But sometimes an American-born mother or father will take off for an unfamiliar nation to flee U.S. law. Regrettably, such surreptitious travel is made quite easy because of current law. Why? Because one parent can procure the child's passport without the other one knowing.

Left-behind parents are faced with wading through a maze of foreign laws and customs in their efforts to secure their child's return. Imagine how difficult it is to find a missing child in the United States and then multiply it by 1,000. That's about how difficult it is to locate and return a child abducted overseas. And finding a missing child is only the start.

A parent must then take their case to the foreign country's legal system. Most nations do not recognize custody orders from U.S. courts. Even when criminal charges have been filed against the abducting parent in the United States, many nations will not honor a U.S. request for extradition. Some countries simply discriminate against women. The decision to fight for a child's return consumes enormous amounts of time and money. Many parents are simply without the financial wherewithal to engage in a protracted international legal battle.

For a variety of reasons, the Government is able to do very little to assist these parents. The current budgetary constraints realistically preclude doing more to secure the return of abducted children. But they do not preclude efforts to implement additional barriers to prevent these tragic abductions from occurring.

My bill takes cost effective steps toward preventing future abductions. It implements a system of checks prior to the issuance of a minor child's passport. Both parents would be required to sign the passport application of a child under the age of 16. Or, if the parents were already divorced, the application would have to be signed by the parent of the child having primary custody. If such a law had been in place by 1993, Barbara Spierer's ex-husband would not have been able to abduct their child to Croatia. The passport would not have been issued because her written permission had not been given. I believe it is drafted in such a manner so as to give the State Department the discretion to implement a reasonable and flexible rule.

This bill is not just about parental rights and preventing these tragic international abductions. It is also about protecting the rights of our children. No one disagrees that the rights, liberties and freedoms provided in our Nation make it the best country in the world. No child should be forced to lose these rights. No child should be forced to undergo what Mikey Kale lived through. No American child, regardless of his age, should be abducted to the middle of a war torn part of the world. American parents should not be forced to endure the living nightmare that the Spierers' were forced to go through. If my bill prevents only one family from having to endure this nightmare it will be judged a success. I believe that more can be done but this is the most cost effective step we can take today.

I encourage my colleagues to cosponsor this legislation and support it should we return to consideration of the immigration bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PASSPORTS ISSUED FOR CHILDREN UNDER 16.

(a) IN GENERAL.—Section 1 of title IX of the Act of June 15, 1917 (22 U.S.C. 213) is amended—

(1) by striking "Before" and inserting "(a) IN GENERAL.—Before", and

(2) by adding at the end the following new subsection:

"(b) PASSPORTS ISSUED FOR CHILDREN UNDER 16.—

"(1) SIGNATURES REQUIRED.—In the case of a child under the age of 16, the written application required as a prerequisite to the issuance of a passport for such child shall be signed by—

"(A) both parents of the child if the child lives with both parents;

"(B) the parent of the child having primary custody of the child if the child does not live with both parents; or

"(C) the surviving parent (or legal guardian) of the child, if 1 or both parents are deceased.

"(2) WAIVER.—The Secretary of State may waive the requirements of paragraph (1)(A) if the Secretary determines that circumstances do not permit obtaining the signatures of both parents.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for passports filed on or after the date of the enactment of this Act.

By Mr. KERRY:

S. 1685. A bill to provide income and economic security to the American family, and for other purposes; to the Committee on Finance.

THE AMERICAN FAMILY INCOME AND ECONOMIC SECURITY ACT

Mr. KERRY. Mr. President, today I am introducing the American Family Income and Economic Security Act.

Not long ago the Treasury announced that the leading economic indicators were up 1.3 percent for February, the gross domestic product rose half a percent, the stock market is at record levels, inflation is subdued, interest rates are stable, unemployment is the lowest in the industrial world, job growth is the highest with over 8 million jobs since 1993; and—to topoff all of these positive indicators—the Democratic economic plan—that passed without one Republican vote—has cut the deficit by more than half—down from $290 billion to $140 billion.

We worked hard with the President against Republican stonewalling, gridlock, and continued opposition to make this happen so that even the Republican Chairman of the Federal Reserve, Alan Greenspan, told me 2 weeks ago, at a Banking Committee hearing, that this is the longest period of the most robust and sustained economic growth since the end of the Second World War, and he expects the economy to continue to grow "at a steady clip."

But this economic growth is best reflected in corporate boardrooms—businesses are finding it easier to borrow money, interest rates are low, executive salaries are up and continue to mushroom, regulations are being eased in every sector from financial services to basic manufacturing. But, in living rooms across Massachusetts there is extraordinary anxiety about jobs, health care, education, wages, and retirement.

Mr. President, I have talked to family after family in Massachusetts who told me that people at the top are doing great, but their friends on the shop floor are not. Statistics show that corporate executives are earning 170 times that of their lowest paid worker. Just last year CEO's had an average salary increase of 15 percent while their workers are downsized into the street. These workers—whose real wages have fallen half-a-percent every year since 1973—worry about the future, about elderly parents getting sick, about their kids' education, about their own health care if they lose their job, about the debt they are carrying, and about their retirement.

I understand how difficult it is when productivity rose 7 percent but real wages fell 3 percent in the first 6 years of the 1990's. A family that used to take out a loan for a major expense like a car, now put gas on their credit cards. They took out loans to send kids to college, now they take out loans to send kids to the pediatrician. The American family is sinking further and further into debt and this Republican Congress is making it worse.

In 1995 commercial banks earned an all-time record high profit of $48.8 billion while consumer debt has soared 39 percent in the last 5 years and now exceeds $1 trillion. Personal bankruptcies rose by 6 percent in 1 year, and consumers owe $360 billion on their credit cards. And families in Massachusetts, fourth in the Nation in loan delinquencies, have defaulted on $80 million in consumer loans.

Mr. President, in these economic times, the average American family has four credit cards—each with balances of $4,800. It's no wonder we are anxious. Thousands and thousands of families are one paycheck away from economic disaster. But, it took Pat Buchanan to wake up the Republican Party to do something the Democrats have been doing since the Roosevelt administration—fighting for working families and people struggling to make ends meet. Yet the Republicans have done nothing to alleviate this anxiety. They will not even raise the minimum wage—in fact they have downsized the American dream for millions of hard working families, but voted time and again to increase corporate welfare, and give huge tax breaks to the wealthiest Americans.

Therefore, today, to fight back, I am announcing that I will introduce the American Family Income and Economic Security Act.

It helps families by increasing the minimum wage, helps them educate their kids and re-educate themselves, helps secure portable, affordable, health care with no preexisting conditions clause, and makes investments for retirement easier. I believe that this legislation can go a long way to restoring faith in the American dream.

The American Family Income and Economic Security Act gives incentives to businesses that become better corporate citizens and that foster a family-friendly environment that provides high-wage jobs for the 21st century.

It includes 10 new approaches to family economic problems, and 10 initiatives that I have sponsored before. But, what makes this proposal unique is that it takes simple, necessary, common sense steps in the right direction. Each element of this plan can stand alone. It uses the Tax Code to help workers keep up, and rewards businesses that reward workers.

I believe that these proposals are what real families need to make ends meet and to feel that they have a chance in the new economy.

Let us start with wages. Under this proposal we reward work—those who are on the job and off the dole—by increasing the minimum wage from $4.25 and hour to $5.15 an hour. Maybe my Republican opponents don't know what an increase means in real terms: It means an additional $1,800—the equivalent of 7 months of groceries.

Second, when it comes to educating kids—while the Republicans are cutting Pell grants and student loans for average working families—I want to use the Tax Code creatively. This proposal gives every family a $10,000 maximum deduction for tuition costs; and it allows their sons or daughters, who take out a student loan, to deduct the interest on that loan so they are not saddled with debt as soon as they graduate.

But more than helping families pay for tuition costs, I want to help parents get the lifetime education and training they will need to compete. That is why my proposal encourages companies to provide education and training with a $5,200 per employee tax deduction for training.

These proposals are real-life solutions to real-life family problems. How can we say that everyone should go to college—everyone should be trained and retrained—and then make it as difficult as we can to do it. How can we not provide incentives to help educate our workforce when we know that in 1972 people with advanced degrees earned 72 percent more than high school graduates—when we know that by 1992 those with graduate degrees made 2.5 times more than high school graduates—and when we know that today high school dropouts earn scarcely half as much as high school graduates and the education gap is widening?

But education costs and retraining are not the only hurdles families are facing. Health care costs and the fear of catastrophic illness of a loved one add to America's insecurities. Every American has the right to feel secure that if they get sick, or their child or parents get sick, they will not face financial ruin. So, my plan endorses the Kennedy-Kassebaum bill that makes health insurance portable and limits preexisting condition clauses. But it goes one step further.

We know too well the horrors of a family who has tragically lost a loved one at a young age. The entire family, in a time of grief, can be faced with mounting medical bills. This proposal provides some security for younger families who are forced to sell family property because of a terminal illness. It zeroes-out capital gains taxes for them to give them a chance to recover.

I am tired of going around Massachusetts and hearing stories of a family that took 10 years to crawl out from under the burden of debt caused by the loss of a loved one to breast cancer—which strikes 1 in every 9 Massachusetts women—or AIDS—which is the leading killer of Massachusetts residents aged 25 to 44. I am tired of going back to Washington to see Republicans continue their attempts to cut Medicare and Medicaid and cruelly leave so many of these young families in their political wake.

Young families are the strength of this Nation. If they work hard they have every right to expect success, security, and a piece of the dream—and it is up to us to help them achieve it. I came to the Senate when my daughters were young and I know how hard it is to have a career and be a good parent. Many families cannot afford the cost of daycare, and do not want to be separated from their children. That is why I am proposing that businesses get a tax credit of up to 50 percent of their investment up to $150,000 for establishing on-site daycare centers for employees. Since the average American family spends $9,000 a year on daycare, it makes sense to help businesses keep families together—kids can be a few floors away rather than a few miles away, and we can take away parental anxiety while we raise their productivity. The Glass Ceiling Commission and others said that on-site daycare raises the productivity of American workers by 10 percent. So what are we waiting for?

These are proposals to put more money in people's pockets, and there is one more proposal that is especially important to Massachusetts and working families everywhere: I am proposing to create a Federal tax deduction for local sewer and water fees to help those hardest hit by soaring water rates that are above 1 percent of a taxpayers adjusted gross income.

In and around Boston, water rates continue to escalate—from $185 per year in 1985 to $525 per year in 1992 and $618 for 1996. By the year 2000, the rate is projected to rise to $800. The Tax Code allows deductions for State and local taxes, and this will similarly avoid the double tax on water and sewer rates for homeowners.

And most importantly I reiterate my strong desire to double the income levels for those who participate in IRA's. I want individuals with incomes of $50,000 and couples who make $80,000 to be allowed to deduct IRA contributions. And I want them to be allowed early distribution to finance education, first time home buying, medical bills associated with catastrophic illness and long-term unemployment. This is a common sense approach to increasing the national savings rate without breaking the Treasury. This is an innovative approach that gives families the flexibility to grow and build and cope with economic reality.

These are the creative programs we should incorporate into the Tax Code instead of giving tax breaks to MacDonalds to finance their foreign advertising budget. That is why I sponsored a bipartisan bill to cut $60 billion in corporate welfare and that is why I am proposing to stop companies from deducting the salaries of employees who earn over $1 million a year.

No wonder the average American does not trust Government to help them.

To begin helping business move us in the right direction I am proposing today a seven part business-to-family plan that provides direct assistance to high-growth, high-wage, job-producing businesses; and punishes businesses that put the bottom-line first and families last.

On the positive side, I am proposing to completely eliminate capital gains taxes for investors who hold stock for more than 10 years in qualified small, high-growth, job-creating, critical-technology companies that do at least 75 percent of their business in the United States; and I am proposing to reduce the tax burden by 50 percent for investors who hold stock for at least 5 years.

Massachusetts leads the Nation in these cutting-edge technology-driven businesses, and is a model for the Nation on making investments count for American working families. Let us make the Massachusetts high-tech experience, America's experience.

These businesses are doing it right and expanding into the global market, and we should be encouraging that expansion. That is why this plan encourages small businesses to export and that is why it levels the playing field in Federal export financing between the Export-Import Bank's 90-percent guaranteed coverage and the Small Business Administration's 75 to 80 percent coverage. The Coalition of New England Companies for Trade strongly supports this export enhancement idea because they know it will work. But, most importantly, it encourages companies to keep jobs in this country and—like Aaron Feuerstein—it encourages them to recognize that their employees are an asset not a liability.

My friends, as I meet people across this State, I find that many are concerned about their retirement. Employee pension plans should be sacred. That is why this proposal makes sure that private pension plans are not the toybox of corporate America. I am proposing that we prohibit companies from using pension plans when considering financing mergers and acquisitions; and we prohibit companies from deducting merger and acquisition expenses if the merger results in a 15 percent reduction in the work force.

And we should not be rewarding corporate behavior with misguided tax loopholes that gives favorable tax treatment to companies that move offshore. If nothing else, a good corporate citizen keeps jobs in America, stays in America, and builds the American economy. I am proposing that we close those loopholes immediately.

To take corporate citizenship one step further, I think we should punish Federal contractors that hire illegal immigrants. The Federal Government should lead by example and not allow its contractors to hire undocumented foreign workers at the expense of an American job. That is common sense and its the kind of corporate citizenship that we have every right to demand.

I am also proposing that Congress give its unequivocal support to the idea of companies granting stock options to people they layoff and downsize out of a job. Why should not CEO's with guaranteed golden parachutes give loyal workers at least a tin parachute to make downsizing easier?

I am also proposing that we retroactively and permanently extend the Research and Development tax credit that is so critical to a pro-growth, future oriented economy that understands that responsible, thoughtful investment in research and development can and will create the kind of high-wage jobs we need. This provision is, perhaps, the most critical of all. It establishes our commitment to investing in the future. It is not a gamble or a waste of taxpayers' dollars. It is a sure bet; and we should be willing to make it.

We should be willing to accept the costs of any and all of these proposals—first because they can be offset by the $60 billion in savings we get from stopping corporate welfare under the bi-partisan bill that Senator MCCAIN and I sponsored; and second, because we have to step up to the plate for what's right for working families and what's right for America.

So, what does my American Family Income and Economic Security Act do? It helps workers, it supports businesses, and it rewards corporate citizenship. It addresses the anxieties of American working families, and it begins to move us in the right direction. It fights against the wrong-headedness of Republican policies that have downsized the American dream and shifted wealth to the top 10 percent of Americans.

It is time to begin the shift back at least enough to protect hard working families from the extreme political agenda of the Republicans in Congress. So, this proposal is a hedge against the incredible odds that working families face every day in meeting the bills for health care, education, and a decent retirement. It is a hedge against stagnant wages, and it is a challenge to businesses to be good corporate citizens, and to build a family friendly workplace so that, together, we can build a better stronger American economy.

By Mr. FORD (for himself, Mr. COATS, Mr. LUGAR, Mrs. HUTCHISON, and Mr. MCCONNELL):

S. 1686. A bill to provide for early deferred annuities under chapter 83 of Title 5, United States Code, for certain former Department of Defense employees who are separated from service by reason of certain defense base closures, and for other purposes; to the Committee on Governmental Affairs.

DEFENSE PRIVATIZATION AND WORKER PROTECTION LEGISLATION

Mr. FORD. Mr. President, this country has undergone tremendous changes over the last few years as a result of military downsizing and base closures. Making the transition has proved very difficult to communities all across the country and today, in an effort to ease that transition, I am introducing legislation with original cosponsors Senators COATS, LUGAR, HUTCHINSON, and MCCONNELL directed at specific problems we've seen with privatization of these bases.

I know many of my colleagues are aware of the job loss that results from downsizing. That is because many jobs have become obsolete or redundant. But, there's also a whole other category of affected employees, whose skills and expertise are still needed by the military in the same roles, but in new privatized facilities. Under the 1995 Base Closure and Realignment Commission (BRAC), these employees are still eligible to work for the Federal Government and receive a Federal pension.

However, this would defeat one of our major goals in privatization—to save the taxpayer money. The idea under privatization is to continue utilizing these workers' much-needed skills, but in the private sector, at a reduced cost to the taxpayer. Yet, by sending these workers out into the private sector, we are asking a huge portion of them to give up their retirement benefits.

These workers are in a catch-22. If they move into the privatized facilities, where they would be performing the same mission and jobs as they had as Federal employees, they lose hard-earned pensions. If they remain in the Federal Government, they could face lower paying positions, while the community loses those workers altogether.

With little incentive to move into the private sector, these employees could create a vacuum that private contractors are unable to fill. Under that scenario everyone loses: Highly skilled workers will be underemployed and underpaid. Private contractors won't be able to meet the challenge of taking over government facilities. And the taxpayer will foot the $390 million cost-avoidance bill the Navy estimates the government faces if they have to keep these workers on the payroll and deal with the failure of privatization.

This problem was brought to my attention when the Louisville Naval Ordnance Station began the process of privatization, where unlike other base closings, moving the work would be a far greater cost than privatizing. But, it is a problem faced by workers in the same situation all across the country.

That is why I am introducing legislation to provide a deferred annuity for those Department of Defense employees who are targeted for privatization, but stand to lose their benefits under the Civil Service Retirement System (CSRS). With this legislation, we can make good on the promise our Government made with these employees when they entered Government Service, and assure private contractors that a skilled work force will be available to them when they assume control of former Defense Department facilities.

Most Federal employees hired before 1984 participate in the CSRS, while workers hired after 1984 belong to the Federal Employees Retirement System (FERS). Unlike CSRS, FERS is a portable plan, allowing a Federal employee to move between Federal and non-federal employment, without significantly penalizing the accrual of Federal benefits. Unfortunately, CSRS participants do not enjoy this same flexibility, because CSRS is a single component defined benefit plan.

Because CSRS-covered employees are forced to separate from Federal employment before they're eligible for an immediate annuity, they see their federal retirement benefits lose considerable value. And, employees who withdraw their retirement contribution not only forfeit all benefits, but also cost the government money up front.

I think we can all agree that privatization is a key component of reorganizing our defense priorities in this post-cold-war era of military downsizing. But, I believe my legislation is critical to ensuring that privatization works.

It can accomplish these goals by providing a deferred annuity with indexing pension benefits for CSRS Department of Defense employees. Their positions will be immediately transferred to contractors assuming the workload designated for privatization. In this way we can provide a very restricted, but common sense way of keeping our military infrastructure running smoothly as we embark on military privatization's maiden voyage.

And perhaps equally important, my legislation sends a clear message to this work force that their loyalty and dedication did not go unnoticed. These workers provided our men and women in uniform with the finest maintenance, supply and logistics system in the world. The best way we can repay this commitment to excellence is to uphold the Federal Government's end of the contract made when these workers first entered Government Service. That's in the workers' best interest and in the best interest of the Nation.

I would also like at this time to thank Mrs. Carolyn Merk of the Congressional Research Service for her outstanding professional work in helping craft this legislation that we're introducing today.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EARLY DEFERRED ANNUITIES OF CERTAIN FORMER EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "Civil Service Retirement System" means the retirement system under subchapter III of chapter 83 of title 5, United States Code;

(2) the term "defense contractor" means any entity that—

(A) contracts with the Department of Defense to perform a function previously performed by Department of Defense employees;

(B) performs that function at the same installation at which such function was previously performed by Department of Defense employees or in the vicinity of that installation; and

(C) is the employer of one or more transferred employees;

(3) the term "early deferred retirement age" means the first age at which a transferred employee would have been eligible for immediate retirement under subsection (a) or (b) of section 8336 of title 5, United States Code, if such transferred employee had remained an employee within the meaning of section 8331(1) of such title continuously until attaining such age;

(4) the term "severance pay" means severance pay payable under section 5595 of title 5, United States Code;

(5) the term "separation pay" means separation pay payable under section 5597 of title 5, United States Code; and

(6) the term "transferred employee" means a former employee of the Department of Defense (other than a temporary employee) who—

(A) while employed by the Department of Defense at a military installation to be closed or realigned pursuant to recommendations of the Defense Base Closure and Realignment Commission that were approved by the President in 1995 under section 2903(e) of the Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) and while covered under the Civil Service Retirement System, was separated from Federal service in a reduction-in-force resulting from conversion from performance of a function by Department of Defense employees at that military installation to performance of that function by a defense contractor at that installation or in the vicinity of that installation;

(B) is employed by the defense contractor within 60 days following such separation to perform substantially the same function performed before the separation;

(C) remains employed by the defense contractor or a successor defense contractor, or subcontractor of a defense contractor until attaining early deferred retirement age or is involuntarily separated from employment by the defense contractor before attaining such age for reasons other than misconduct;

(D) at the time separated from Federal service, was not eligible for an immediate annuity under the Civil Service Retirement System;

(E) does not withdraw retirement contributions under section 8342 of title 5, United States Code; and

(F)(i) has not received separation pay or severance pay due to a separation described in subparagraph (A); or

(ii) has repaid the full amount of such pay with interest (as determined by the Office of Personnel Management) to the Department of Defense before attaining early deferred retirement age.

(b) RETIREMENT BENEFITS OF TRANSFERRED EMPLOYEES.—Notwithstanding the age requirement under section 8338(a) of title 5, United States Code, payment of a deferred annuity for which a transferred employee is eligible under that section shall commence on the first day of the first month that begins after the date on which the transferred employee attains early deferred retirement age.

(c) COMPUTATION OF AVERAGE PAY.—(1)(A) This paragraph applies to the computation of the annuity of a transferred employee who retires under this section who immediately before separation from Federal service as described under subsection (a)(6)(A) was employed in a position classified under the General Schedule.

(B) Subject to subparagraph (C), in the computation of an annuity referred to under subparagraph (A) for a transferred employee, the average pay of the transferred employee under section 8331(4) of title 5, United States Code, shall be adjusted at the same time and by the same percentage that rates of basic pay are increased under section 5303 of title 5, United States Code, during the period beginning on the date on which the transferred employee separates from Federal service as described under subsection (a)(6)(A) and ending on the date on which the transferred employee attains early deferred retirement age.

(C) Average pay as adjusted by this paragraph may not exceed the limitation on maximum pay, final pay, or average pay (as applicable) under section 8340(g)(1) (A) or (B) of title 5, United States Code.

(2)(A) This paragraph applies to the compensation of an annuity of a transferred employee who retires in accordance with this section who immediately before separation from Federal service as described under subsection (a)(6)(A) was a prevailing rate employee as defined under section 5342(2) of title 5, United States Code.

(B) In the computation of an annuity referred to under subparagraph (A) for a transferred employee, average pay under section 8331(4) of title 5, United States Code, shall be adjusted at the same time and by the same percentage that pay rates for positions that are in the same area as, and are comparable to, the last position the transferred employee held as a prevailing rate employee, are increased under section 5343(a) of such title during the period beginning on the date on which the transferred employee separates from Federal service as described under subsection (a)(6)(A) and ending on the date on which the transferred employee attains early deferred retirement age.

(d) SERVICE FOR A DEFENSE CONTRACTOR RELATING TO CREDITABLE SERVICE AND HEALTH INSURANCE.—(1) Service performed by a transferred employee for a defense contractor after separation from Federal service as described under subsection (a)(6)(A) shall not be treated as creditable service for purposes of computing the amount of an early deferred annuity in accordance with this section.

(2) Nothing in this section shall be construed to require employee or agency contributions under chapter 89 of title 5, United States Code, for any period of service performed by a transferred employee for a defense contractor after separation from Federal service as described under subsection (a)(6)(A).

(e) RECEIPT OF BENEFITS WHILE EMPLOYED BY A DEFENSE CONTRACTOR.—A transferred employee may commence receipt of an early deferred annuity in accordance with this section while continuing to work for a defense contractor.

(f) LUMP-SUM CREDIT PAYMENT.—If a transferred employee dies before attaining early deferred retirement age, such employee shall be treated as a former employee who dies not retired for purposes of payment of the lump-sum credit under section 8342(d) of title 5, United States Code.

(g) IMPLEMENTING REGULATIONS.—The Office of Personnel Management shall promulgate regulations to carry out the provisions of this section.

(h) EFFECTIVE DATE.—This section shall take effect on August 1, 1996, and shall apply to transferred employees separated from Federal service on or after that date.

BRAC PRIVATIZATION: THE CSRS ISSUE

ISSUE

The 1995 Base Realignment and Closure (BRAC) Commission recommended the privatization of certain military facilities. The President has directed the Air Force to privatize two Air Force logistic centers. For privatization to succeed, the maintenance of an experienced workforce is critical. Retirement benefits have become recognized as a major impediment to the privatization of the Louisville and Indianapolis Navy facilities and other Department of Defense (DOD) facilities.

Without legislation to protect their retirement benefits many employees will—and are—transferring to other Federal positions to maintain and protect their retirement benefits under the Civil Service Retirement System (CSRS).

If many key employees transfer within the Government rather than work for a private sector contractor, privatization savings to the Government may not be fully realized. The Department of the Navy estimates that privatization of Louisville and Indianapolis would provide up to $390 million in "cost avoidance" to the Government. Unlike other Base closings, the cost to the Federal government to close and move the work at Louisville and Indianapolis is far greater than the cost of privatization. The retention of the Federal employees at these facilities is essential to the private contractor.

BACKGROUND

The 1995 BRAC Commission directed privatization of two Navy facilities with a large federal workforce, the Naval Surface Warfare Center, Louisville, Kentucky and the Naval Surface Warfare Center, Indianapolis, Indiana. In addition, President Clinton directed the Air Force to try and privatize two Air Force logistic centers, one in Texas and one in California which were ordered to be closed by the 1995 BRAC.

These Federal employees are different from other employees adversely affected by downsizing. The key difference is that these employees are not being separated because their services are no longer needed or because the work they accomplished is redundant or unnecessary. Under the BRAC "Close and Move" scenario, these employees would have been eligible to continue their Federal employment (and qualify for an annuity) at another federal installation. These employees are expected to continue accomplishing the same mission as before, but they will be working as private sector employees.

Most Federal employees hired before 1984 currently participate in the CSRS. Those workers hired after 1984 participate in the Federal Employees Retirement System (FERS). FERS is different than CSRS because it is a portable plan that allows a Federal employee to move between Federal and non-federal employment. In doing so, the accrual of Federal benefits is not significantly penalized.

However, employees under CSRS have no portability because it is a single component defined benefit plan. Therefore, when CSRS-COVERED workers are forced to separate from Federal employment before they are eligible for an immediate annuity, their retirement benefits lose considerable value. Employees who lose their Federal position and withdraw their retirement contribution early will forfeit all benefits from the Federal government and thereby are not eligible for a pension.

Employees with the most experience tend to be covered under CSRS. These are the employees the contractor taking over the work at a government facility considers to be very valuable. For example, 46% of the employees at the Louisville Naval Surface Warfare Center are covered by CSRS and are not eligible for retirement. Many of these employees, and those in Indiana, Texas and California who are highly skilled, are seeking to transfer to other Federal positions. Some are even accepting lower paid positions within DOD so they may maintain their CSRS retirement benefits. As a result, there is little incentive for CSRS employees to accept positions with the private contractor. Therefore, the privatization of Federal facilities could fail at a significant cost to the Government and the U.S. taxpayers.

LEGISLATIVE REMEDY:

To rectify the CSRS issue, the attached draft legislation proposes to index a deferred annuity for certain DOD CSRS Employees. The legislation would address the issue of CSRS employees receiving a retirement benefit by:

Indexing the average pay on which the annuity is computed, and

Allowing a Federal deferred annuity to be paid to specific CSRS employees at the individuals optional retirement age.

The legislation will apply only to Transferred Employees of the Department of Defense. A Transferred Employee is one whose job is privatized pursuant to a 1995 decision of the BRAC Commission and pursuant to a President directive privatizing a base to be closed by the 1995 BRAC. This indexedial deferred annuity will be available only to individuals participating in CSRS, and not to those participating in FERS. The proposed legislation will apply to only those CSRS employees who are ineligible to retire and who accept work with the private contractor. They will be ineligible for severance pay.

Reasons for legislation:

At this time there are no administrative remedies.

Treats employees equitably and thus stabilizes the work force for privatization.

By Mr. KERRY:

S. 1687. A bill to provide for annual payments from the surplus funds of the Federal Reserve System to cover the interest on obligations issued by the Financing Corporation; to the Committee on Banking, Housing, and Urban Affairs.

THE FEDERAL RESERVE SURPLUS ACT OF 1996

• Mr. KERRY. Mr. President, I am introducing the Federal Reserve Surplus Act of 1996 to provide a solution to an impending crisis in our financial services industry, and to avoid once again having to use taxpayers' money to bail out another round of S&L failures. I am happy to join my colleague in the House, Congressman BARNEY FRANK as well as other members of the Massachusetts delegation, Congressmen JOE KENNEDY, MARTY MEEHAN, and RICHARD NEAL, who introduced the companion bill in the House of Representatives.

This bill will ease the obligation remaining from the savings and loan crisis of the 1980's with a creative approach that does not burden the banking institutions or taxpayers, but uses an existing $3.7 billion fund at the Federal Reserve. The GAO tells us that because the Federal Reserve's interest income so far exceeds its expenses, we believe it is highly unlikely the System will ever incur sufficient annual losses such that it would be required to use any funds in the surplus account.

Savings and loans are required to pay almost $800 million per year in interest on financing corporation bonds which were sold to cover depositor claims on S&L's that failed in the 1980's. This legislation would use $3 billion from the Federal Reserve's surplus fund as a contribution toward the payment of the FICO interest obligation. This would leave about $1 billion in the fund.

It is generally believed, within the financial community, as Congressman FRANK has said, that "continuing to require the savings and loans to pay the entire FICO interest obligation would worsen the disparity between what banks must pay to such a degree as to risk default by the SAIF, which would ultimately result in a further drain on the Treasury."

Mr. President, this just makes sense. The Federal Reserve is controlling a fund with no specific purpose—paid in by banks—and the Congress should turn to this fund first before asking bankers in this country to bear the burden of recapitalizing the savings association insurance fund.

Mr. President, I ask unanimous consent to have the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1687

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Reserve Surplus Act of 1996".

SEC. 2. TRANSFER OF FEDERAL RESERVE SURPLUS FUNDS TO MEET FICO CARRYING COSTS.

(a) IN GENERAL.—Section 7(a) of the Federal Reserve Act (12 U.S.C. 289) is amended by adding at the end the following new paragraph:

"(4) FICO PAYMENTS.—

"(A) IN GENERAL.—During the period beginning on the date of enactment of the Federal Reserve Surplus Act of 1996 and ending on the date on which the Financing Corporation ceases to have any obligations outstanding under section 21(e) of the Federal Home Loan Bank Act, the Board shall annually transfer (in addition to the transfers of funds required under paragraph (3)) to the Financing Corporation, from amounts in the surplus funds of the Federal reserve banks, an amount equal to $3,000,000,000 divided by the number of calendar years any portion of which falls within such period for use in accordance with section 21(f)(1) of the Federal Home Loan Bank Act.

"(B) ALLOCATION.—The Board shall annually determine, on the basis of such factors as the Board considers appropriate, the manner in which the amount of the obligation of the Board under subparagraph (A) shall be allocated among the surplus funds of the Federal reserve banks.".

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 21(f) of the Federal Home Loan Bank Act (12 U.S.C. 1441(f)) is amended to read as follows:

"(1) FEDERAL RESERVE SURPLUS.—

"(A) IN GENERAL.—Amounts transferred to the Financing Corporation by the Board of Governors of the Federal Reserve System from the surplus funds of the Federal reserve banks in accordance with section 7(a)(4) of the Federal Reserve Act.

"(B) TREATMENT IN CASE OF BANK INSURANCE FUND MEMBER ASSESSMENTS.—To the extent Bank Insurance Fund members (as defined in section 7(l)(4) of the Federal Deposit Insurance Act) are subject to any assessments under this subsection, the total amount of such assessments which, but for this subparagraph, would be imposed on all such members for any year shall be reduced by the transferred amount referred to in subparagraph (A) with respect to such year.".•

By Mr. DOLE (for himself, Mr. SIMON, Mr. ABRAHAM, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Ms. MIKULSKI, Mr. HELMS, Mr. ROTH, Mr. SANTORUM, and Mr. LUGAR):

S.J. Res. 51. A joint resolution saluting and congratulating Polish people around the world as, on May 3, 1996, they commemorate the 205th anniversary of the adoption of Poland's first constitution; to the Committee on the Judiciary.

POLAND CONSTITUTION 205TH ANNIVERSARY COMMEMORATION JOINT RESOLUTION

Mr. DOLE. Mr. President, today I am introducing a joint resolution which salutes and congratulates Polish people around the world on the occasion of the 205th anniversary of the Polish Constitution. I am pleased to be joined by Senators SIMON, ABRAHAM, MOSELEY-BRAUN, MURKOWSKI, MIKULSKI, HELMS, ROTH, SANTORUM, and LUGAR. This resolution is being introduced today in the House by Congressman JACK QUINN of New York and a number of bipartisan cosponsors.

Poland is one of America's oldest and closest friends. Many of its sons and daughters have crossed the ocean to our shores over the past 200 years. Indeed, from the very birth of our great nation we have benefited from the talent and dedication of the Polish people. When we fought for our independence, Thaddeus Kosciuszko—a native son of Poland—fought alongside General Washington. Today, memorials to Kosciuszko's courage, military skill, and genuine friendship, can be found in our Capital and in many cities across the United States.

Following the War of Independence, Kosciuszko carried back to Poland the American concept of constitutional democracy. Poland's 1791 Constitution was the first constitution in Central and Eastern Europe to secure individual and religious freedom for all persons. It also formed a government much like ours, composed of distinct legislative, executive, and judicial powers. I would like to quote from the Polish Constitution which declares, "All power in civil society should be derived from the will of the people."

Tragically, this Constitution was only in effect for less than 2 years. However, its principles endured for 2 centuries. And over the last 5 years—since the disintegration of the Warsaw Pact—Poland has finally realized the promise of freedom and democracy held in the 1791 Constitution.

So, on May 3, 1996, when the citizens of Poland celebrate the 205th anniversary of the adoption of Poland's first Constitution, we want them to know that the United States Congress shares in their celebration. No doubt, all across our 50 States, Polish-Americans will be celebrating and taking pride in their rich heritage. This joint resolution salutes and congratulates all Polish people, wherever they may now reside, on this great and historic occasion.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 51

Whereas, on May 3, 1996, Polish people around the world, including Americans of Polish decent, will celebrate the 205th anniversary of the adoption of the first Polish constitution;

Whereas American Revolutionary War hero Thaddeus Kosciuszko introduced the concept of constitutional democracy to his native country of Poland;

Whereas the Polish constitution of 1791 was the first liberal constitution in Europe and represented Central-Eastern Europe's first attempt to end the feudal system of government;

Whereas this Polish constitution was designed to protect Poland's sovereignty and national unity and to create a progressive constitutional monarchy;

Whereas this Polish constitution was the first constitution in Central-Eastern Europe to secure individual and religious freedom for all persons in Poland;

Whereas this Polish constitution formed a government composed of distinct legislative, executive, and judicial powers;

Whereas this Polish constitution declared that "all power in civil society should be derived from the will of the people";

Whereas this Polish constitution revitalized the parliamentary system by placing preeminent lawmaking power in the House of Deputies, by subjecting the Sejm to majority rule, and by granting the Sejm the power to remove ministers, appoint commissars, and choose magistrates;

Whereas this Polish constitution provided for significant economic, social, and political reforms by removing inequalities between the nobility and the bourgeoisie, by recognizing town residents as "freemen" who had judicial autonomy and expanded rights, and by extending the protection of the law to the peasantry who previously had no recourse against the arbitrary actions of feudal lords;

Whereas, although this Polish constitution was in effect for less than 2 years, its principles endured and it became the symbol around which a powerful new national consciousness was born, helping Poland to survive long periods of misfortune over the following 2 centuries; and

Whereas, in only the last 5 years, Poland has realized the promise held in the Polish constitution of 1791, has emerged as an independent nation after its people led the movement that resulted in historic changes in Central-Eastern Europe, and is moving toward full integration with the Euro-Atlantic community of nations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the people of the United States salute and congratulate Polish people around the world, including Americans of Polish descent, as on May 3, 1996, they commemorate the 205th anniversary of the adoption of the first Polish constitution;

(2) the people of the United States recognize Poland's rebirth as a free and independent nation in the spirit of the legacy of the Polish constitution of 1791; and

(3) the Congress authorizes and urges the President of the United States to call upon the Governors of the States, the leaders of local governments, and the people of the United States to observe this anniversary with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 881

At the request of Mr. PRYOR, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 953

At the request of Mr. CHAFEE, the names of the Senator from Nebraska [Mr. KERREY], the Senator from Maine [Ms. SNOWE], the Senator from Iowa [Mr. HARKIN], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 953, a bill to require the Secretary of the Treasury to mint coins in commemoration of black revolutionary war patriots.

S. 968

At the request of Mr. MCCONNELL, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 968, a bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 984

At the request of Mr. GRASSLEY, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 984, a bill to protect the fundamental right of a parent to direct the upbringing of a child, and for other purposes.

S. 1028

At the request of Mr. WYDEN, his name was added as a cosponsor of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

At the request of Mrs. KASSEBAUM, the names of the Senator from Colorado [Mr. CAMPBELL], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 1028, supra.

S. 1183

At the request of Mr. HATFIELD, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1183, a bill to amend the Act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standards for coverage under the Act, and for other purposes.

S. 1355

At the request of Mr. DORGAN, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Nevada [Mr. BRYAN], the Senator from Arkansas [Mr. PRYOR], the Senator from California [Mrs. BOXER], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 1355, a bill to amend the Internal Revenue Code of 1986 to end deferral for United

States shareholders on income of controlled foreign corporations attributable to property imported into the United States.

S. 1400

At the request of Mrs. KASSEBAUM, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1400, a bill to require the Secretary of Labor to issue guidance as to the application of the Employee Retirement Income Security Act of 1974 to insurance company general accounts.

S. 1473

At the request of Ms. SNOWE, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1473, a bill to authorize the Administrator of General Services to permit the posting in space under the control of the Administrator of notices concerning missing children, and for other purposes.

S. 1505

At the request of Mr. LOTT, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 1505, a bill to reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids, and for other purposes.

S. 1537

At the request of Mr. ROBB, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 1537, a bill to require the Administrator of the Environmental Protection Agency to issue a regulation that consolidates all environmental laws and health and safety laws applicable to the construction, maintenance, and operation of above-ground storage tanks, and for other purposes.

S. 1563

At the request of Mr. SIMPSON, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1563, a bill to amend title 38, United States Code, to revise and improve eligibility for medical care and services under that title, and for other purposes.

S. 1568

At the request of Mr. HATCH, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 1568, a bill to amend the Internal Revenue Code of 1986 to provide for the extension of certain expiring provisions.

S. 1578

At the request of Mr. FRIST, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1578, a bill to amend the Individuals with Disabilities Education Act to authorize appropriations for fiscal years 1997 through 2002, and for other purposes.

S. 1610

At the request of Mr. BOND, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1623

At the request of Mr. WARNER, the names of the Senator from Virginia [Mr. ROBB] and the Senator from California [Mrs. BOXER] were added as cosponsors of S. 1623, a bill to establish a National Tourism Board and a National Tourism Organization, and for other purposes.

SENATE RESOLUTION 226

At the request of Mr. DOMENICI, the names of the Senator from Virginia [Mr. WARNER] and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Resolution 226, a resolution to proclaim the week of October 13 through October 19, 1996, as "National Character Counts Week."

SENATE RESOLUTION 248—RELATIVE TO LIBERIA

Mr. FEINGOLD (for himself, Mrs. KASSEBAUM, Mr. SIMON, Mr. LEAHY, Mr. JEFFORDS, and Mr. PELL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 248

Whereas, the war in Liberia begun in 1989 has devastated that country, with more than 150,000 people killed, up to 1 million forced to flee as refugees to neighboring countries, and thousands of children conscripted into the rebel armies;

Whereas, the Abuja Accords signed in August 1995 represented the most realistic path for lasting peace;

Whereas, the Senate passed a resolution on September 20, 1995, expressing the sense of the Congress that the United States should strongly support the peace process in Liberia, including support for the west African peacekeeping force;

Whereas the U.S. committed $10 million in support for the west African peacekeeping force, but has delivered only $5.5 million, most of which arrived only in February 1996;

Whereas, the peacekeeping force has fewer than 6,000 soldiers, but needs over 15,000 to carry out its mission;

Whereas, violence characterized by massive looting, shelling, and ethnic hostilities broke out in Monrovia on April 6, 1996, forcing tens of thousands of people into hiding, without food and water, halting most humanitarian assistance programs in Liberia, and signifying a failure of the west African peacekeeping force to maintain order and stability in Monrovia;

Whereas, 214 U.S. armed forces and 1400 support personnel have been deployed to Liberia to facilitate the successful evacuation of approximately 1800 people, including over 300 Americans, from Liberia;

Whereas, while the U.S. is the only functioning diplomatic mission in Monrovia, some nations, such as Japan, have continuing economic concerns in Liberia and other nations, such as France, have national interests in western Africa; and

Whereas, negotiations for a ceasefire and the peaceful release of hostages are being led by Ghanian Kojo Tsikata, and Cote D'Ivoire, Burkina Faso and others are trying to use their influence to moderate combatants.

Therefore, be it resolved, that the Senate

(1) commends the U.S. Armed Forces and the U.S. Embassy personnel for the successful evacuation of over 1795 people from Liberia;

(2) declares that a breakdown of the Abuja process would have disastrous humanitarian ramifications and seriously threaten other U.S. interests in west Africa;

(3) calls upon all factions to reach a ceasefire and re-commit themselves to the Abuja process; and

(4) urges the Administration to:

a. scrutinize the Federal budget to identify funds that could be either re-programmed or transferred and used to support additional non-Nigerian West African peacekeepers;

b. consider the provision of excess defense articles for communications and logistical support and training for crowd-control techniques for non-Nigerian troops to participate effectively in a west African peacekeeping force;

c. use its influence with other nations with interests in Liberia to solicit further support for west African peacekeeping forces, including their participation at the April 26 meeting of a newly-formed Contact Group in Liberia; and

d. lead efforts in the United Nations to activate a Commission in the United Nations to develop an implementation plan and sanctions against those parties violating the U.N. arms embargo on Liberia.

Mr. FEINGOLD. Mr. President, I am submitting a resolution today on behalf of myself, and Senators KASSEBAUM, SIMON, LEAHY, JEFFORDS, and PELL, which includes proposals for United States action in support of the Liberian peace process. I will be speaking at length on this later this week.

AMENDMENTS SUBMITTED

THE IMMIGRATION AND NATIONALITY ACT AMENDMENT ACT OF 1996

FAIRCLOTH AMENDMENT NO. 3674

(Ordered to lie on the table.)

Mr. FAIRCLOTH submitted an amendment intended to be proposed by him to the bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . REVIEW OF CONTRACTS WITH STANDARDIZED CITIZENSHIP TEST CENTERS.

(a) IN GENERAL.—The Attorney General of the United States shall investigate and submit a report to the Congress regarding the practices of test centers authorized to administer the standardized citizenship test pursuant to section 312.3(a) of title 8, Code of Federal Regulations. The report shall include any findings of fraudulent practices by the centers.

(b) PRELIMINARY AND FINAL REPORTS.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a preliminary report of the findings of the investigation conducted pursuant to subsection (a) and shall submit to the Congress a final report within 275 days after the submission of the preliminary report.

THE HEALTH INSURANCE REFORM ACT OF 1996

KASSEBAUM (AND KENNEDY) AMENDMENT NO. 3675

Mrs. KASSEBAUM (for herself and Mr. KENNEDY) proposed an amendment to the bill (S. 1028) to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Insurance Reform Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

Subtitle A—Group Market Rules

Sec. 101. Guaranteed availability of health coverage.
Sec. 102. Guaranteed renewability of health coverage.
Sec. 103. Portability of health coverage and limitation on preexisting condition exclusions.
Sec. 104. Special enrollment periods.
Sec. 105. Disclosure of information.

Subtitle B—Individual Market Rules

Sec. 110. Individual health plan portability.
Sec. 111. Guaranteed renewability of individual health coverage.
Sec. 112. State flexibility in individual market reforms.
Sec. 113. Definition.

Subtitle C—COBRA Clarifications

Sec. 121. COBRA clarifications.

Subtitle D—Private Health Plan Purchasing Cooperatives

Sec. 131. Private health plan purchasing cooperatives.

TITLE II—APPLICATION AND ENFORCEMENT OF STANDARDS

Sec. 201. Applicability.
Sec. 202. Enforcement of standards.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. HMOs allowed to offer plans with deductibles to individuals with medical savings accounts.
Sec. 302. Health coverage availability study.
Sec. 303. Sense of the Committee concerning medicare.
Sec. 304. Effective date.
Sec. 305. Severability.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) BENEFICIARY.—The term "beneficiary" has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(8)).

(2) EMPLOYEE.—The term "employee" has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)).

(3) EMPLOYER.—The term "employer" has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

(4) EMPLOYEE HEALTH BENEFIT PLAN.—

(A) IN GENERAL.—The term "employee health benefit plan" means any employee welfare benefit plan, governmental plan, or church plan (as defined under paragraphs (1), (32), and (33) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (32), and (33))), or any health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e)), that provides or pays for health benefits (such as provider and hospital benefits) for participants and beneficiaries whether—

(i) directly;

(ii) through a group health plan offered by a health plan issuer as defined in paragraph (8); or

(iii) otherwise.

(B) RULE OF CONSTRUCTION.—An employee health benefit plan shall not be construed to be a group health plan, an individual health plan, or a health plan issuer.

(C) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(5) FAMILY.—

(A) IN GENERAL.—The term "family" means an individual, the individual's spouse, and the child of the individual (if any).

(B) CHILD.—For purposes of subparagraph (A), the term "child" means any individual who is a child within the meaning of section 151(c)(3) of the Internal Revenue Code of 1986.

(6) GROUP HEALTH PLAN.—

(A) IN GENERAL.—The term "group health plan" means any contract, policy, certificate or other arrangement offered by a health plan issuer to a group purchaser that provides or pays for health benefits (such as provider and hospital benefits) in connection with an employee health benefit plan.

(B) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(7) GROUP PURCHASER.—The term "group purchaser" means any person (as defined under paragraph (9) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(9)) or entity that purchases or pays for health benefits (such as provider or hospital benefits) on behalf of two or more participants or beneficiaries in connection with an employee health benefit plan. A health plan purchasing cooperative established under section 131 shall not be considered to be a group purchaser.

(8) HEALTH PLAN ISSUER.—The term "health plan issuer" means any entity that is licensed (prior to or after the date of enactment of this Act) by a State to offer a group health plan or an individual health plan.

(9) PARTICIPANT.—The term "participant" has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(7)).

(10) PLAN SPONSOR.—The term "plan sponsor" has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(16)(B)).

(11) SECRETARY.—The term "Secretary", unless specifically provided otherwise, means the Secretary of Labor.

(12) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

Subtitle A—Group Market Rules

SEC. 101. GUARANTEED AVAILABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—

(1) NONDISCRIMINATION.—Except as provided in subsection (b), section 102 and section 103—

(A) a health plan issuer offering a group health plan may not decline to offer whole group coverage to a group purchaser desiring to purchase such coverage; and

(B) an employee health benefit plan or a health plan issuer offering a group health plan may establish, under the terms of such plan, eligibility, enrollment, or premium contribution requirements for individual participants or beneficiaries, except that such requirements shall not be based on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, genetic information, or disability.

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall prevent an employee health benefit plan or a health plan issuer from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(b) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering a group health plan may cease offering coverage to group purchasers under the plan if—

(A) the health plan issuer ceases to offer coverage to any additional group purchasers; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)), if required, that its financial or provider capacity to serve previously covered participants and beneficiaries (and additional participants and beneficiaries who will be expected to enroll because of their affiliation with a group purchaser or such previously covered participants or beneficiaries) will be impaired if the health plan issuer is required to offer coverage to additional group purchasers.

Such health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering a group health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer offers coverage to group purchasers under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(c) CONSTRUCTION.—

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering group health plans to actively market such plans.

(2) INVOLUNTARY OFFERING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to require a health plan issuer to involuntarily offer group health plans in a particular market or to require a health plan issuer to involuntarily issue a group health plan to a group health plan purchaser in a particular market if the group health plan was specifically designed for a different market. For the purposes of this paragraph, the term "market" means either the large employer market or the small employer market (as defined under applicable State law, or if not so defined, an employer with more than one employee and not more than 50 employees).

SEC. 102. GUARANTEED RENEWABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—

(1) GROUP PURCHASER.—Subject to subsections (b) and (c), a group health plan shall be renewed or continued in force by a health plan issuer at the option of the group purchaser, except that the requirement of this subparagraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the group purchaser in accordance with the terms of the group health plan or where the health plan issuer has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the group purchaser;

(C) the termination of the group health plan in accordance with subsection (b); or

(D) the failure of the group purchaser to meet contribution or participation requirements in accordance with paragraph (3).

(2) PARTICIPANT.—Subject to subsections (b) and (c), coverage under an employee health benefit plan or group health plan shall be renewed or continued in force, if the group purchaser elects to continue to provide coverage under such plan, at the option of the participant (or beneficiary where such right exists under the terms of the plan or under applicable law), except that the requirement of this paragraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the participant or beneficiary in accordance with the terms of the employee health benefit plan or group health plan or where such plan has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the participant or beneficiary relating to an application for coverage or claim for benefits;

(C) the termination of the employee health benefit plan or group health plan;

(D) loss of eligibility for continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.); or

(E) failure of a participant or beneficiary to meet requirements for eligibility for coverage under an employee health benefit plan or group health plan that are not prohibited by this Act.

(3) RULES OF CONSTRUCTION.—Nothing in this subsection, nor in section 101(a), shall be construed to—

(A) preclude a health plan issuer from establishing employer contribution rules or group participation rules for group health plans as allowed under applicable State law;

(B) preclude a plan defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102(37)) from establishing employer contribution rules or group participation rules; or

(C) permit individuals to decline coverage under an employee health benefit plan if such right is not otherwise available under such plan.

(b) TERMINATION OF GROUP HEALTH PLANS.—

(1) PARTICULAR TYPE OF GROUP HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of group health plan, a group health plan of such type may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each group purchaser covered under a group health plan of this type (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 90 days prior to the date of the discontinuation of such plan;

(B) the health plan issuer offers to each group purchaser covered under a group health plan of this type, the option to purchase any other group health plan currently being offered by the health plan issuer; and

(C) in exercising the option to discontinue a group health plan of this type and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status or insurability of participants or beneficiaries covered under the group health plan, or new participants or beneficiaries who may become eligible for coverage under the group health plan.

(2) DISCONTINUANCE OF ALL GROUP HEALTH PLANS.—

(A) IN GENERAL.—In any case in which a health plan issuer elects to discontinue offering all group health plans in a State, a group health plan may be discontinued by the health plan issuer only if—

(i) the health plan issuer provides notice to the applicable certifying authority (as defined in section 202(d)) and to each group purchaser (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 180 days prior to the date of the expiration of such plan; and

(ii) all group health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(B) APPLICATION OF PROVISIONS.—The provisions of this paragraph and paragraph (3) may be applied separately by a health plan issuer—

(i) to all group health plans offered to small employers (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees); or

(ii) to all other group health plans offered by the health plan issuer in the State.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any group health plan in the market sector (as described in paragraph (2)(B)) in which issuance of such group health plan was discontinued in the State involved during the 5-year period beginning on the date of the discontinuation of the last group health plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A network plan (as defined in paragraph (2)) may deny continued participation under such plan to participants or beneficiaries who neither live, reside, nor work in an area in which such network plan is offered, but only if such denial is applied uniformly, without regard to health status or the insurability of particular participants or beneficiaries.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an employee health benefit plan or a group health plan that arranges for the financing and delivery of health care services to participants or beneficiaries covered under such plan, in whole or in part, through arrangements with providers.

(d) COBRA COVERAGE.—Nothing in subsection (a)(2)(E) or subsection (c) shall be construed to affect any right to COBRA continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.).

SEC. 103. PORTABILITY OF HEALTH COVERAGE AND LIMITATION ON PREEXISTING CONDITION EXCLUSIONS.

(a) IN GENERAL.—An employee health benefit plan or a health plan issuer offering a group health plan may, with respect to a participant or beneficiary, impose a limitation or exclusion of benefits, otherwise available under the terms of the plan only if—

(1) such limitation or exclusion is a limitation or exclusion of benefits relating to the treatment of a preexisting condition; and

(2) such limitation or exclusion extends for a period of not more than 12 months after the date of enrollment in the plan.

(b) Crediting of Previous Qualifying Coverage.—

(1) In general.—Subject to paragraph (4), an employee health benefit plan or a health plan issuer offering a group health plan shall provide that if a participant or beneficiary is in a period of previous qualifying coverage as of the date of enrollment under such plan, any period of exclusion or limitation of coverage with respect to a preexisting condition shall be reduced by 1 month for each month in which the participant or beneficiary was in the period of previous qualifying coverage. With respect to a participant or beneficiary described in subsection (e)(2)(A) who maintains continuous coverage, no limitation or exclusion of benefits relating to treatment of a preexisting condition may be applied to a child within the child's first 12 months of life or within 12 months after the placement of a child for adoption.

(2) Discharge of duty.—An employee health benefit plan shall provide documentation of coverage to participants and beneficiaries whose coverage is terminated under the plan. Pursuant to regulations promulgated by the Secretary, the duty of an employee health benefit plan to verify previous qualifying coverage with respect to a participant or beneficiary is effectively discharged when such employee health benefit plan provides documentation to a participant or beneficiary that includes the following information:

(A) the dates that the participant or beneficiary was covered under the plan; and

(B) the benefits and cost-sharing arrangement available to the participant or beneficiary under such plan.

An employee health benefit plan shall retain the documentation provided to a participant or beneficiary under subparagraphs (A) and (B) for at least the 12-month period following the date on which the participant or beneficiary ceases to be covered under the plan. Upon request, an employee health benefit plan shall provide a second copy of such documentation to such participant or beneficiary within the 12-month period following the date of such ineligibility.

(3) Definitions.—As used in this section:

(A) Previous qualifying coverage.—The term "previous qualifying coverage" means the period beginning on the date—

(i) a participant or beneficiary is enrolled under an employee health benefit plan or a group health plan, and ending on the date the participant or beneficiary is not so enrolled; or

(ii) an individual is enrolled under an individual health plan (as defined in section 113) or under a public or private health plan established under Federal or State law, and ending on the date the individual is not so enrolled;

for a continuous period of more than 30 days (without regard to any waiting period).

(B) Limitation or exclusion of benefits relating to treatment of a preexisting condition.—The term "limitation or exclusion of benefits relating to treatment of a preexisting condition" means a limitation or exclusion of benefits imposed on an individual based on a preexisting condition of such individual.

(4) Effect of previous coverage.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition, subject to the limits in subsection (a), only to the extent that such service or benefit was not previously covered under the group health plan, employee health benefit plan, or individual health plan in which the participant or beneficiary was enrolled immediately prior to enrollment in the plan involved.

(c) Late Enrollees.—Except as provided in section 104, with respect to a participant or beneficiary enrolling in an employee health benefit plan or a group health plan during a time that is other than the first opportunity to enroll during an enrollment period of at least 30 days, coverage with respect to benefits or services relating to the treatment of a preexisting condition in accordance with subsections (a) and (b) may be excluded, except the period of such exclusion may not exceed 18 months beginning on the date of coverage under the plan.

(d) Affiliation Periods.—With respect to a participant or beneficiary who would otherwise be eligible to receive benefits under an employee health benefit plan or a group health plan but for the operation of a preexisting condition limitation or exclusion, if such plan does not utilize a limitation or exclusion of benefits relating to the treatment of a preexisting condition, such plan may impose an affiliation period on such participant or beneficiary not to exceed 60 days (or in the case of a late participant or beneficiary described in subsection (c), 90 days) from the date on which the participant or beneficiary would otherwise be eligible to receive benefits under the plan. An employee health benefit plan or a health plan issuer offering a group health plan may also use alternative methods to address adverse selection as approved by the applicable certifying authority (as defined in section 202(d)). During such an affiliation period, the plan may not be required to provide health care services or benefits and no premium shall be charged to the participant or beneficiary.

(e) Preexisting Condition.—

(1) In general.—For purposes of this section, the term "preexisting condition" means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before the effective date of the coverage (without regard to any waiting period).

(2) Birth, adoption and pregnancy excluded.—The term "preexisting condition" does not apply to—

(A) an individual who, within 30 days of the date of the birth or placement for adoption of a child (as determined under section 609(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(c)(3)(B)), was covered under the plan; or

(B) pregnancy.

(f) State Flexibility.—Nothing in this section shall be construed to preempt State laws that—

(1) require health plan issuers to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for periods that are shorter than those provided for under this section; or

(2) allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 30-day period provided for under subsection (b)(3); or

(3) require health plan issuers to have a lookback period that is shorter than the period described in subsection (e)(1);

unless such laws are preempted by section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 104. SPECIAL ENROLLMENT PERIODS.

In the case of a participant, beneficiary or family member who—

(1) through marriage, separation, divorce, death, birth or placement of a child for adoption, experiences a change in family composition affecting eligibility under a group health plan, individual health plan, or employee health benefit plan;

(2) experiences a change in employment status, as described in section 603(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163(2)), that causes the loss of eligibility for coverage, other than COBRA continuation coverage under a group health plan, individual health plan, or employee health benefit plan; or

(3) experiences a loss of eligibility under a group health plan, individual health plan, or employee health benefit plan because of a change in the employment status of a family member;

each employee health benefit plan and each group health plan shall provide for a special enrollment period extending for a reasonable time after such event that would permit the participant to change the individual or family basis of coverage or to enroll in the plan if coverage would have been available to such individual, participant, or beneficiary but for failure to enroll during a previous enrollment period. Such a special enrollment period shall ensure that a child born or placed for adoption shall be deemed to be covered under the plan as of the date of such birth or placement for adoption if such child is enrolled within 30 days of the date of such birth or placement for adoption.

SEC. 105. DISCLOSURE OF INFORMATION.

(a) Disclosure of Information by Health Plan Issuers.—

(1) In general.—In connection with the offering of any group health plan to a small employer (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees), a health plan issuer shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of—

(A) the provisions of such group health plan concerning the health plan issuer's right to change premium rates and the factors that may affect changes in premium rates;

(B) the provisions of such group health plan relating to renewability of coverage;

(C) the provisions of such group health plan relating to any preexisting condition provision; and

(D) descriptive information about the benefits and premiums available under all group health plans for which the employer is qualified.

Information shall be provided to small employers under this paragraph in a manner determined to be understandable by the average small employer, and shall be sufficiently accurate and comprehensive to reasonably inform small employers, participants and beneficiaries of their rights and obligations under the group health plan.

(2) Exception.—With respect to the requirement of paragraph (1), any information that is proprietary and trade secret information under applicable law shall not be subject to the disclosure requirements of such paragraph.

(3) Construction.—Nothing in this subsection shall be construed to preempt State reporting and disclosure requirements to the extent that such requirements are not preempted under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(b) DISCLOSURE OF INFORMATION TO PARTICIPANTS AND BENEFICIARIES.—

(1) IN GENERAL.—Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (B)—

(A) by striking "102(a)(1)," and inserting "102(a)(1) that is not a material reduction in covered services or benefits provided,"; and

(B) by adding at the end thereof the following new sentences: "If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, a summary description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.".

(2) PLAN DESCRIPTION AND SUMMARY.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(A) by inserting "including the office or title of the individual who is responsible for approving or denying claims for coverage of benefits" after "type of administration of the plan";

(B) by inserting "including the name of the organization responsible for financing claims" after "source of financing of the plan"; and

(C) by inserting "including the office, contact, or title of the individual at the Department of Labor through which participants may seek assistance or information regarding their rights under this Act and the Health Insurance Reform Act of 1996 with respect to health benefits that are not offered through a group health plan." after "benefits under the plan".

Subtitle B—Individual Market Rules

SEC. 110. INDIVIDUAL HEALTH PLAN PORTABILITY.

(a) LIMITATION ON REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsections (c) and (d), a health plan issuer described in paragraph (3) may not, with respect to an eligible individual (described in subsection (b)) desiring to enroll in an individual health plan—

(A) decline to offer coverage to, or deny enrollment of, such individual; or

(B) impose a limitation or exclusion of benefits, otherwise available under such plan, for which coverage was available under the group health plan or employee health benefit plan in which the individual was previously enrolled.

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall be construed to prevent a health plan issuer offering an individual health plan from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion or disease prevention.

(3) HEALTH PLAN ISSUER.—A health plan issuer described in this paragraph is a health plan issuer that issues or renews individual health plans.

(4) PREMIUMS.—Nothing in this subsection shall be construed to affect the determination of a health plan issuer as to the amount of the premium payable under an individual health plan under applicable State law.

(b) DEFINITION OF ELIGIBLE INDIVIDUAL.—As used in subsection (a)(1), the term "eligible individual" means an individual who—

(1) was a participant or beneficiary enrolled under one or more group health plans or employee health benefit plans for not less than 18 months (without a lapse of more than 30 days) immediately prior to the date on which such individual applies for enrollment in the individual health plan ;

(2) is not eligible for coverage under a group health plan or an employee health benefit plan;

(3) has not had coverage terminated under a group health plan or employee health benefit plan for failure to make required premium payments or contributions, or for fraud or misrepresentation of material fact; and

(4) has, if applicable, elected coverage and exhausted the maximum period of coverage as described in section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) or under a State program providing an extension of such coverage.

(c) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering coverage to individuals under an individual health plan may cease enrolling individuals under the plan if—

(A) the health plan issuer ceases to enroll any new individuals; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)), if required, that its financial or provider capacity to serve previously covered individuals will be impaired if the health plan issuer is required to enroll additional individuals.

Such a health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering coverage to individuals under an individual health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer provides for enrollment of individuals under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(d) MARKET REQUIREMENTS.—

(1) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that a health plan issuer offering group health plans to group purchasers offer individual health plans to individuals.

(2) CONVERSION POLICIES.—A health plan issuer offering group health plans to group purchasers under this Act shall not be deemed to be a health plan issuer offering an individual health plan solely because such health plan issuer offers a conversion policy.

(3) MARKETING OF PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

(4) CONSTRUCTION.—Nothing in this Act shall be construed to require that a State replace or dissolve high risk pools or other similar State mechanisms which are designed to provide individuals in such State with access to health benefits.

SEC. 111. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH COVERAGE.

(a) IN GENERAL.—Subject to subsections (b) and (c), coverage for individuals under an individual health plan shall be renewed or continued in force by a health plan issuer at the option of the individual, except that the requirement of this subsection shall not apply in the case of—

(1) the nonpayment of premiums or contributions by the individual in accordance with the terms of the individual health plan or where the health plan issuer has not received timely premium payments;

(2) fraud or misrepresentation of material fact on the part of the individual; or

(3) the termination of the individual health plan in accordance with subsection (b).

(b) TERMINATION OF INDIVIDUAL HEALTH PLANS.—

(1) PARTICULAR TYPE OF INDIVIDUAL HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of individual health plan to individuals, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the expiration of the plan;

(B) the health plan issuer offers to each individual covered under the plan the option to purchase any other individual health plan currently being offered by the health plan issuer to individuals; and

(C) in exercising the option to discontinue the individual health plan and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status or insurability of particular individuals.

(2) DISCONTINUANCE OF ALL INDIVIDUAL HEALTH PLANS.—In any case in which a health plan issuer elects to discontinue all individual health plans in a State, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to the applicable certifying authority (as defined in section 202(d)) and to each individual covered under the plan of such discontinuation at least 180 days prior to the date of the discontinuation of the plan; and

(B) all individual health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A health plan issuer which offers a network plan (as defined in paragraph (2)) may deny continued participation under the plan to individuals who neither live, reside, nor work in an area in which the individual health plan is offered, but only if such denial is applied uniformly, without regard to health status or the insurability of particular individuals.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an individual health plan that arranges for the financing and delivery of health care services to individuals covered under such health plan, in whole or in part, through arrangements with providers.

SEC. 112. STATE FLEXIBILITY IN INDIVIDUAL MARKET REFORMS.

(a) ADOPTION OF ALTERNATIVE MECHANISMS.—

(1) IN GENERAL.—A State, in accordance with this section, may adopt alternative mechanisms (public or private) that are designed to provide access to affordable health benefits for individuals meeting the requirements of sections 110(b) and 111 (such as mechanisms providing for guaranteed issue, open enrollment by one or more health plan issuers, high-risk pools, mandatory conversion policies, or any combination thereof).

(2) PROCEDURE FOR STATE ELECTION.—If, not later than 6 months after the date of enactment of this Act, the Governor of a State notifies the Secretary of Health and Human Services that—

(A) the State has adopted an alternative mechanism that achieves the goals of sections 110 and 111; or

(B) the State intends to implement an alternative mechanism that is designed to achieve the goals of sections 110 and 111;

such State alternative mechanism shall, except as provided in paragraphs (3) and (4), apply in lieu of the standards described in sections 110 and 111.

(3) NONAPPLICATION OF MECHANISM.—A State alternative mechanism adopted under paragraph (1) shall be presumed to achieve the goals of sections 110 and 111 and shall apply in lieu of such sections, unless the Secretary of Health and Human Services, in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, finds that the State alternative mechanism fails to—

(A) offer coverage to those individuals who meet the requirements of sections 110(b) and 111;

(B) prohibit a limitation or exclusion of benefits relating to treatment of a preexisting condition that was covered under the previous group health plan or employee health benefit plan of an individual who meets the requirements of sections 110(b) and 111;

(C) offer individuals who meet the requirements of sections 110(b) and 111 a choice of individual health plans, including at least one plan comparable to comprehensive plans offered in the individual market in such State or a plan comparable to a standard option plan available under the group or individual health insurance laws of such State; or

(D) except as provided in paragraph (4), implement a risk spreading mechanism, cross subsidy mechanism, risk adjustment mechanism, rating limitation or other mechanism (such as mechanisms described in the NAIC Model Health Plan for Uninsurable Individuals Act) designed to reduce the variation among the cost of such plans and other individual health plans offered by the carrier or available in such State.

(4) CHOICE OF PLANS.—The Secretary of Health and Human Services shall waive the requirement in subparagraph (D) of paragraph (3) with respect to a State if individuals who meet the requirements of sections 110(b) and 111 in such State are provided with a choice of all individual health plans otherwise available in the individual market.

(5) FUTURE ADOPTION OF MECHANISMS.—With respect to a State that implements an alternative mechanism under paragraph (1) after the period referred to in paragraph (2)—

(A) the State shall provide notice to the Secretary that such alternative mechanism achieves the goals of sections 110 and 111;

(B) the State alternative mechanism shall apply in lieu of sections 110 and 111;

(C) except as provided in subsections (d) and (e), the Secretary may make a determination as provided for in paragraph (3); and

(D) the procedures described in subsection (c) shall apply.

(b) TIMEFRAME FOR SECRETARIAL DETERMINATION.—

(1) IN GENERAL.—With respect to a State election under subsection (a)(2)(B), the Secretary of Health and Human Services shall not make a determination under subsection (a)(3) until the expiration of the 12-month period beginning on the date on which such notification is made, or until January 1, 1998, whichever is later.

(2) RULE APPLICABLE TO CERTAIN STATES.—With respect to a State that makes an election under subsection (a)(2)(B) and that has a legislature that does not meet within the 12-month period beginning on the date of enactment of this Act, the Secretary of Health and Human Services shall not make a determination under subsection (a) prior to January 1, 1999.

(c) NOTICE TO STATE.—If the Secretary of Health and Human Services determines that a State alternative mechanism fails to meet the criteria described in subsection (a)(3), or that such mechanism is no longer being implemented, the Secretary of Health and Human Services shall notify the Governor of such State of such preliminary determination and permit the State a reasonable opportunity in which to modify the alternative mechanism or to adopt another mechanism that is designed to meet the goals of sections 110 and 111. If, after an opportunity to modify such State alternative mechanism, the mechanism fails to meet the criteria described in subsection (a)(3), the Secretary shall notify the Governor of such State that sections 110 and 111 shall apply in the State.

(d) ADOPTION OF NAIC MODEL.—If, not later than 9 months after the date of enactment of this Act—

(1) the National Association of Insurance Commissioners (hereafter referred to as the "NAIC"), through a process which the Secretary of Health and Human Services determines has included consultation with representatives of the insurance industry and consumer groups, has adopted a model act or acts including provisions addressing portability from a group health plan or employee health benefit plan into the individual health insurance market; and

(2) the Secretary of Health and Human Services determines, within 30 days of the adoption of such NAIC model act or acts, that such act or acts comply with the goals of sections 110 and 111;

a State that elects to adopt such model act or acts shall be deemed to have met the requirements of sections 110 and 111 and shall not be subject to a determination under subsection (a)(3).

(e) STATE HIGH RISK POOLS DEEMED IN COMPLIANCE.—If the Governor of a State notifies the Secretary of Health and Human Services in a timeframe consistent with either subsection (a)(2) or (a)(5) that such State has a high risk pool open to those individuals meeting the requirements of sections 110(b) and 111, that limits preexisting condition waiting periods consistent with section 110(a)(1)(B) and that with respect to premium rates and covered benefits is consistent with standards included in the NAIC Model Health Plan for Uninsurable Individuals Act, such State high risk pool shall be deemed to have met the requirements of sections 110 and 111 and shall not be subject to a determination under subsection (a)(3).

SEC. 113. DEFINITION.

(a) IN GENERAL.—As used in this title, the term "individual health plan" means any contract, policy, certificate or other arrangement offered to individuals by a health plan issuer that provides or pays for health benefits (such as provider and hospital benefits) and that is not a group health plan under section 2(6).

(b) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(1) Coverage only for accident, or disability income insurance, or any combination thereof.

(2) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(3) Coverage issued as a supplement to liability insurance.

(4) Liability insurance, including general liability insurance and automobile liability insurance.

(5) Workers' compensation or similar insurance.

(6) Automobile medical payment insurance.

(7) Coverage for a specified disease or illness.

(8) Hospital or fixed indemnity insurance.

(9) Short-term limited duration insurance.

(10) Credit-only, dental-only, or vision-only insurance.

(11) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

Subtitle C—COBRA Clarifications

SEC. 121. COBRA CLARIFICATIONS.

(a) PUBLIC HEALTH SERVICE ACT.—

(1) PERIOD OF COVERAGE.—Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb-2(2)) is amended—

(A) in subparagraph (A)—

(i) by transferring the sentence immediately preceding clause (iv) so as to appear immediately following such clause (iv); and

(ii) in the last sentence (as so transferred)—

(I) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(II) by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title";

(B) in subparagraph (D)(i), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(2) NOTICES.—Section 2206(3) of the Public Health Service Act (42 U.S.C. 300bb-6(3)) is amended by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(3) BIRTH OR ADOPTION OF A CHILD.—Section 2208(3)(A) of the Public Health Service Act (42 U.S.C. 300bb-8(3)(A)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this title.".

(b) Employee Retirement Income Security Act of 1974.—

(1) Period of coverage.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended—

(A) in the last sentence of subparagraph (A)—

(i) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(ii) by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part";

(B) in subparagraph (D)(i), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(2) Notices.—Section 606(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(3)) is amended by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(3) Birth or adoption of a child.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this part.".

(c) Internal Revenue Code of 1986.—

(1) Period of coverage.—Section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended—

(A) in the last sentence of clause (i) by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section";

(B) in clause (iv)(I), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this subclause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this subsection because of the provision of the Health Insurance Reform Act of 1995"; and

(C) in clause (v), by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(2) Notices.—Section 4980B(f)(6)(C) of the Internal Revenue Code of 1986 is amended by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(3) Birth or adoption of a child.—Section 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this section.".

(d) Effective Date.—The amendments made by this section shall apply to qualifying events occurring on or after the date of the enactment of this Act for plan years beginning after December 31, 1997.

(e) Notification of Changes.—Not later than 60 days prior to the date on which this section becomes effective, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and section 4980B(f) of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part or section of the amendments made by this section.

Subtitle D—Private Health Plan Purchasing Cooperatives

SEC. 131. PRIVATE HEALTH PLAN PURCHASING COOPERATIVES.

(a) Definition.—As used in this Act, the term "health plan purchasing cooperative" means a group of employees or a group of individuals and employers that, on a voluntary basis and in accordance with this section, form a cooperative for the purpose of purchasing individual health plans or group health plans offered by health plan issuers.

(b) Certification.—

(1) Requirement.—If a group described in subsection (a), desires to form a health plan purchasing cooperative in accordance with this section and such group appropriately notifies the State and the Secretary of such desire, the State, upon a determination that such group meets the requirements of this section, shall certify the group as a health plan purchasing cooperative. The State shall make a determination of whether such group meets the requirements of this section in a timely fashion and shall oversee the operations of such cooperative in order to ensure continued compliance with the requirements of this section. Each such cooperative shall also be registered with the Secretary.

(2) State refusal to certify.—

(A) In general.—If a State fails to implement a program for certifying health plan purchasing cooperatives in accordance with the standards under this Act, the Secretary shall certify and oversee the operations of such cooperatives in such State.

(B) Exception.—The Secretary shall not certify a health plan purchasing cooperative described in this section if, upon the submission of an application by the State to the Secretary, the Secretary determines that under a State law in effect on the date of enactment of this Act, all small employers have a means readily available that ensures—

(i) that individuals and employees have a choice of multiple, unaffiliated health plan issuers;

(ii) that health plan coverage is subject to State premium rating requirements that are not based on the factors described in subsection (f)(3) and that contains a mandatory minimum loss ratio; and

(iii) that comparative health plan materials are disseminated consistent with subsection (e)(1)(D);

and that otherwise meets the objectives of this Act.

(3) Interstate cooperatives.—For purposes of this section, a health plan purchasing cooperative operating in more than one State shall be certified by the State in which the cooperative is domiciled. States may enter into cooperative agreements for the purpose of overseeing the operation of such cooperatives. For purposes of this subsection, a cooperative shall be considered to be domiciled in the State in which most of the members of the cooperative reside.

(c) Board of Directors.—

(1) In general.—Each health plan purchasing cooperative shall be governed by a Board of Directors that shall be responsible for ensuring the performance of the duties of the cooperative under this section. The Board shall be composed of a broad cross-section of representatives of employers, employees, and individuals participating in the cooperative.

(2) Limitation on compensation.—A health plan purchasing cooperative may not provide compensation to members of the Board of Directors. The cooperative may provide reimbursements to such members for the reasonable and necessary expenses incurred by the members in the performance of their duties as members of the Board.

(d) Membership and Marketing Area.—

(1) Membership.—A health plan purchasing cooperative may establish limits on the maximum size of employers who may become members of the cooperative, and may determine whether to permit individuals to become members. Upon the establishment of such membership requirements, the cooperative shall, except as provided in subparagraph (B), accept all employers (or individuals) residing within the area served by the cooperative who meet such requirements as members on a first come, first-served basis, or on another basis established by the State to ensure equitable access to the cooperative.

(2) Marketing area.—A State may establish rules regarding the geographic area that must be served by health plan purchasing cooperatives to ensure that cooperatives do not discriminate on the basis of the health status or insurability of the populations that reside in the area served. A State may not use such rules to arbitrarily limit the number of health plan purchasing cooperatives.

(e) Duties and Responsibilities.—

(1) In general.—A health plan purchasing cooperative shall—

(A) objectively evaluate potential health plan issuers and enter into agreements with multiple, unaffiliated health plan issuers, except that the requirement of this subparagraph shall not apply in regions (such as remote or frontier areas) in which compliance with such requirement is not possible;

(B) enter into agreements with employers and individuals who become members of the cooperative;

(C) participate in any program of risk-adjustment or reinsurance, or any similar program, that is established by the State;

(D) prepare and disseminate comparative health plan materials (including information about cost, quality, benefits, and other information concerning group health plans and individual health plans offered through the cooperative);

(E) broadly solicit and actively market to all eligible employers and individuals residing within the service area; and

(F) act as an ombudsman for group health plan or individual health plan enrollees.

(2) Permissible activities.—A health plan purchasing cooperative may perform such other functions as necessary to further the purposes of this Act, including—

(A) collecting and distributing premiums and performing other administrative functions;

(B) collecting and analyzing surveys of enrollee satisfaction;

(C) charging membership fee to enrollees (such fees may not be based on health status) and charging participation fees to health plan issuers;

(D) cooperating with (or accepting as members) employers who provide health benefits directly to participants and beneficiaries only for the purpose of negotiating with providers; and

(E) negotiating with health care providers and health plan issuers.

(f) Limitations on Cooperative Activities.—A health plan purchasing cooperative shall not—

(1) perform any activity relating to the licensing of health plan issuers;

(2) assume financial risk directly or indirectly on behalf of members of a health plan purchasing cooperative relating to any group health plan or individual health plan;

(3) establish eligibility, enrollment, or premium contribution requirements for individual participants or beneficiaries based on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, genetic information, or disability;

(4) operate on a for-profit or other basis where the legal structure of the cooperative permits profits to be made and not returned to the members of the cooperative, except that a for-profit health plan purchasing cooperative may be formed by a nonprofit organization or organizations—

(A) in which membership in such organization is not based on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, genetic information, or disability; and

(B) that accepts as members all employers or individuals on a first-come, first-served basis, subject to any established limit on the maximum size of an employer that may become a member; or

(5) perform any other activities that conflict or are inconsistent with the performance of its duties under this Act.

(g) Conflict of Interest.—

(1) Prohibition.—No individual, partnership, or corporation shall serve on the board of a health plan purchasing cooperative, be employed by such a cooperative, receive compensation from such a cooperative, or initiate or finance such a cooperative if such individual, partnership, or corporation—

(A) fails to discharge the duties and responsibilities of such individual, partnership or corporation in a manner that is solely in the interest of the members of the cooperative; or

(B) derives personal benefit (other than in the form of ordinary compensation received) from the sale of, or has a financial interest in, health plans, services or products sold by or distributed through that cooperative.

(2) Contracts with third parties.—Nothing in paragraph (1) shall be construed to prohibit the board of directors of a health plan purchasing cooperative, or its officers, at the initiative and under this direction of the board, from contracting with third parties to provide administrative, marketing, consultive, or other services to the cooperative.

(h) Limited Preemption of Certain State Laws.—

(1) In general.—With respect to a health plan purchasing cooperative that meets the requirements of this section, State fictitious group laws shall be preempted.

(2) Health plan issuers.—

(A) Rating.—Except as provided in subparagraph (B), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative that meets the requirements of this section shall comply with all State rating requirements that would otherwise apply if the health plan were offered outside of the cooperative.

(B) Exception.—A State shall permit a health plan issuer to reduce premium rates negotiated with a health plan purchasing cooperative that meets the requirements of this section to reflect savings derived from administrative costs, marketing costs, profit margins, economies of scale, or other factors, except that any such reduction in premium rates may not be based on the health status, demographic factors, industry type, duration, or other indicators of health risk of the members of the cooperative.

(C) Benefits.—Except as provided in subparagraph (D), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative shall comply with all State mandated benefit laws that require the offering of any services, category of care, or services of any class or type of provider.

(D) Exception.—In those States that have enacted laws authorizing the issuance of alternative benefit plans to small employers, health plan issuers may offer such alternative benefit plans through a health plan purchasing cooperative that meets the requirements of this section.

(i) Rules of Construction.—Nothing in this section shall be construed to—

(1) require that a State organize, operate, or otherwise create health plan purchasing cooperatives;

(2) otherwise require the establishment of health plan purchasing cooperatives;

(3) require individuals, plan sponsors, or employers to purchase group health plans or individual health plans through a health plan purchasing cooperative;

(4) preempt a State from requiring licensure for individuals who are involved in directly supplying advice or selling health plans on behalf of a purchasing cooperative;

(5) require that a health plan purchasing cooperative be the only type of purchasing arrangement permitted to operate in a State;

(6) confer authority upon a State that the State would not otherwise have to regulate health plan issuers or employee health benefits plans;

(7) confer authority upon a State (or the Federal Government) that the State (or Federal Government) would not otherwise have to regulate group purchasing arrangements, coalitions, association plans, or other similar entities that do not desire to become a health plan purchasing cooperative in accordance with this section; or

(8) except as specifically provided otherwise in this subsection, prevent the application of State laws and regulations otherwise applicable to health plan issuers offering group health plans or individual health plans through a health plan purchasing cooperative.

(j) Application of ERISA.—For purposes of enforcement only, the requirements of parts 4 and 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) shall apply to a health plan purchasing cooperative as if such plan were an employee welfare benefit plan.

TITLE II—APPLICATION AND ENFORCEMENT OF STANDARDS

SEC. 201. APPLICABILITY.

(a) Construction.—

(1) Enforcement.—

(A) In general.—A requirement or standard imposed under this Act on a group health plan or individual health plan offered by a health plan issuer shall be deemed to be a requirement or standard imposed on the health plan issuer. Such requirements or standards shall be enforced by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this Act. In the case of a group health plan offered by a health plan issuer in connection with an employee health benefit plan, the requirements or standards imposed under this Act shall be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this Act.

(B) Limitation.—Except as provided in subsection (c), the Secretary shall not enforce the requirements or standards of this Act as they relate to health plan issuers, group health plans, or individual health plans. In no case shall a State enforce the requirements or standards of this Act as they relate to employee health benefit plans.

(2) Preemption of state law.—Nothing in this Act shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements—

(A) not prescribed in this Act; or

(B) related to the issuance, renewal, or portability of health insurance or the establishment or operation of group purchasing arrangements, that are consistent with, and are not in direct conflict with, this Act and provide greater protection or benefit to participants, beneficiaries or individuals.

(b) Rule of Construction.—Nothing in this Act shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(c) Continuation.—Nothing in this Act shall be construed as requiring a group health plan or an employee health benefit plan to provide benefits to a particular participant or beneficiary, to all participants or beneficiaries, or to any class or group of participants or beneficiaries, in excess of or other than those provided under the terms of such plan.

SEC. 202. ENFORCEMENT OF STANDARDS.

(a) Health Plan Issuers.—Each State shall require that each group health plan and individual health plan issued, sold, renewed, offered for sale or operated in such State by a health plan issuer meet the standards established under this Act pursuant to an enforcement plan filed by the State with the Secretary. A State shall submit such information as required by the Secretary demonstrating effective implementation of the State enforcement plan.

(b) Employee Health Benefit Plans.—With respect to employee health benefit plans, the Secretary shall enforce the reform standards established under this Act in the same manner as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c)(1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(c) FAILURE TO IMPLEMENT PLAN.—In the case of the failure of a State to substantially enforce the standards and requirements set forth in this Act with respect to group health plans and individual health plans as provided for under the State enforcement plan filed under subsection (a), the Secretary, in consultation with the Secretary of Health and Human Services, shall implement an enforcement plan meeting the standards of this Act in such State. In the case of a State that fails to substantially enforce the standards and requirements set forth in this Act, each health plan issuer operating in such State shall be subject to civil enforcement as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c)(1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(d) APPLICABLE CERTIFYING AUTHORITY.—As used in this title, the term "applicable certifying authority" means, with respect to—

(1) health plan issuers, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this Act for the State involved; and

(2) an employee health benefit plan, the Secretary.

(e) REGULATIONS.—The Secretary may promulgate such regulations as may be necessary or appropriate to carry out this Act.

(f) TECHNICAL AMENDMENT.—Section 508 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1138) is amended by inserting "and under the Health Insurance Reform Act of 1996" before the period.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. HMOS ALLOWED TO OFFER PLANS WITH DEDUCTIBLES TO INDIVIDUALS WITH MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Section 1301(b) of the Public Health Service Act (42 U.S.C. 300e(b)) is amended by adding at the end the following new paragraph:

"(6)(A) If a member certifies that a medical savings account has been established for the benefit of such member, a health maintenance organization may, at the request of such member reduce the basic health services payment otherwise determined under paragraph (1) by requiring the payment of a deductible by the member for basic health services.

"(B) For purposes of this paragraph, the term 'medical savings account' means an account which, by its terms, allows the deposit of funds and the use of such funds and income derived from the investment of such funds for the payment of the deductible described in subparagraph (A).".

(b) MEDICAL SAVINGS ACCOUNTS.—It is the sense of the Committee on Labor and Human Resources of the Senate that the establishment of medical savings accounts, including those defined in section 1301(b)(6)(B) of the Public Health Service Act (42 U.S.C. 300e(b)(6)(B)), should be encouraged as part of any health insurance reform legislation passed by the Senate through the use of tax incentives relating to contributions to, the income growth of, and the qualified use of, such accounts.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that the Congress should take measures to further the purposes of this Act, including any necessary changes to the Internal Revenue Code of 1986 to encourage groups and individuals to obtain health coverage, and to promote access, equity, portability, affordability, and security of health benefits.

SEC. 302. HEALTH COVERAGE AVAILABILITY STUDY.

(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Secretary, representatives of State officials, consumers, and other representatives of individuals and entities that have expertise in health insurance and employee benefits, shall conduct a two-part study, and prepare and submit reports, in accordance with this section.

(b) EVALUATION OF AVAILABILITY.—Not later than January 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning—

(1) an evaluation, based on the experience of States, expert opinions, and such additional data as may be available, of the various mechanisms used to ensure the availability of reasonably priced health coverage to employers purchasing group coverage and to individuals purchasing coverage on a nongroup basis; and

(2) whether standards that limit the variation in premiums will further the purposes of this Act.

(c) EVALUATION OF EFFECTIVENESS.—Not later than January 1, 1999, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning the effectiveness of the provisions of this Act and the various State laws, in ensuring the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a nongroup basis.

SEC. 303. SENSE OF THE COMMITTEE CONCERNING MEDICARE.

(a) FINDINGS.—The Committee on Labor and Human Resources of the Senate finds that the Public Trustees of Medicare concluded in their 1995 Annual Report that—

(1) the Medicare program is clearly unsustainable in its present form;

(2) "the Hospital Insurance Trust Fund, which pays inpatient hospital expenses, will be able to pay benefits for only about 7 years and is severely out of financial balance in the long range"; and

(3) the Public Trustees "strongly recommend that the crisis presented by the financial condition of the Medicare trust fund be urgently addressed on a comprehensive basis, including a review of the programs's financing methods, benefit provisions, and delivery mechanisms".

(b) SENSE OF THE COMMITTEE.—It is the Sense of the Committee on Labor and Human Resources of the Senate that the Senate should take measures necessary to reform the Medicare program, to provide increased choice for seniors, and to respond to the findings of the Public Trustees by protecting the short-term solvency and long-term sustainability of the Medicare program.

SEC. 304. EFFECTIVE DATE.

Except as otherwise provided for in this Act, the provisions of this Act shall apply as follows:

(1) With respect to group health plans, such provisions shall apply to plans offered, sold, issued, renewed, in effect, or operated on or after January 1, 1997.

(2) With respect to individual health plans, such provisions shall apply to plans offered, sold, issued, renewed, in effect, or operated on or after the date that is 6 months after the date of enactment of this Act, or January 1, 1997, whichever is later.

(3) With respect to employee health benefit plans, such provisions shall apply to such plans on the first day of the first plan year beginning on or after January 1, 1997.

SEC. 305. SEVERABILITY.

If any provision of this Act or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this Act and the application of the provisions of such to any person or circumstance shall not be affected thereby.

DOLE (AND OTHERS) AMENDMENT NO. 3676

Mr. DOLE (for himself, Mr. ROTH, Mr. NICKLES, Mr. PRESSLER, Mr. LOTT, Mr. CRAIG, Mr. MCCONNELL, Mr. COVERDELL, Mr. GRASSLEY, Mr. D'AMATO, Mr. GREGG, Mr. SANTORUM, Mr. SHELBY, Mr. FAIRCLOTH, Mr. GRAMS, and Mr. WARNER) proposed an amendment to amendment No. 3675 proposed by Mrs. KASSEBAUM to the bill S. 1028, supra; as follows:

At the end, add the following new titles:

TITLE IV—TAX-RELATED HEALTH PROVISIONS

SEC. 400. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Health Insurance and Long-Term Care Affordability Act of 1996".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

TITLE IV—TAX-RELATED HEALTH PROVISIONS

Sec. 400. Short title; amendment of 1986 Code; table of contents.

Subtitle A—Increase in Deduction for Health Insurance Costs of Self-Employed Individuals

Sec. 401. Increase in self-employed individuals' deduction for health insurance costs.

Subtitle B—Long-Term Care Provisions

CHAPTER 1—LONG-TERM CARE SERVICES AND CONTRACTS

SUBCHAPTER A—GENERAL PROVISIONS

Sec. 411. Treatment of long-term care insurance.

Sec. 412. Qualified long-term care services treated as medical care.

Sec. 413. Certain exchanges of life insurance contracts for qualified long-term care insurance contracts not taxable.

Sec. 414. Exception from penalty tax for amounts withdrawn from certain retirement plans for qualified long-term care insurance.

Sec. 415. Reporting requirements.

SUBCHAPTER B—CONSUMER PROTECTION PROVISIONS

Sec. 421. Policy requirements.

Sec. 422. Requirements for issuers of long-term care insurance policies.

Sec. 423. Coordination with State requirements.

Sec. 424. Effective dates.

CHAPTER 2—TREATMENT OF ACCELERATED DEATH BENEFITS

Sec. 431. Treatment of accelerated death benefits by recipient.
Sec. 432. Tax treatment of companies issuing qualified accelerated death benefit riders.

Subtitle C—Medical Savings Accounts

Sec. 441. Medical savings accounts.

Subtitle D—High-Risk Pools

Sec. 451. Exemption from income tax for State-sponsored organizations providing health coverage for high-risk individuals.

Subtitle E—Penalty-Free IRA Distributions

Sec. 461. Distributions from certain plans may be used without penalty to pay financially devastating medical expenses.

Subtitle F—Revenue Offsets

CHAPTER 1—TREATMENT OF INDIVIDUALS WHO EXPATRIATE

Sec. 471. Revision of tax rules on expatriation.
Sec. 472. Information on individuals expatriating.
Sec. 473. Report on tax compliance by United States citizens and residents living abroad.

CHAPTER 2—REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS

Sec. 481. Repeal of bad debt reserve method for thrift savings associations.

CHAPTER 3—REFORM OF THE EARNED INCOME CREDIT

Sec. 491. Earned income credit denied to individuals not authorized to be employed in the United States.

CHAPTER 4—COMPANY-OWNED INSURANCE

Sec. 495. Denial of deduction for interest on loans with respect to company-owned insurance.

Subtitle A—Increase in Deduction for Health Insurance Costs of Self-Employed Individuals

SEC. 401. INCREASE IN SELF-EMPLOYED INDIVIDUALS' DEDUCTION FOR HEALTH INSURANCE COSTS.

(a) IN GENERAL.—Section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended—

(1) by striking "30 percent" in paragraph (1) and inserting "the applicable percentage", and

(2) by adding at the end the following new paragraph:

"(6) APPLICABLE PERCENTAGE.—For purposes of this subsection, the term 'applicable percentage' means the percentage determined in accordance with the following table:

"In the case of taxable years beginning in:	The applicable percentage is:
1997	35
1998	40
1999	45
2000	50
2001	55
2002	60
2003	65
2004	70
2005	75
2006 and thereafter	80."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle B—Long-Term Care Provisions

CHAPTER 1—LONG-TERM CARE SERVICES AND CONTRACTS

Subchapter A—General Provisions

SEC. 411. TREATMENT OF LONG-TERM CARE INSURANCE.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by inserting after section 7702A the following new section:

"SEC. 7702B. TREATMENT OF QUALIFIED LONG-TERM CARE INSURANCE.

"(a) IN GENERAL.—For purposes of this title—

"(1) a qualified long-term care insurance contract shall be treated as an accident and health insurance contract,

"(2) amounts (other than policyholder dividends, as defined in section 808, or premium refunds) received under a qualified long-term care insurance contract shall be treated as amounts received for personal injuries and sickness and shall be treated as reimbursement for expenses actually incurred for medical care (as defined in section 213(d)),

"(3) any plan of an employer providing coverage under a qualified long-term care insurance contract shall be treated as an accident and health plan with respect to such coverage,

"(4) except as provided in subsection (e)(3), amounts paid for a qualified long-term care insurance contract providing the benefits described in subsection (b)(2)(A) shall be treated as payments made for insurance for purposes of section 213(d)(1)(D), and

"(5) a qualified long-term care insurance contract shall be treated as a guaranteed renewable contract subject to the rules of section 816(e).

"(b) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—For purposes of this title—

"(1) IN GENERAL.—The term 'qualified long-term care insurance contract' means any insurance contract if—

"(A) the only insurance protection provided under such contract is coverage of qualified long-term care services,

"(B) such contract does not pay or reimburse expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

"(C) such contract is guaranteed renewable,

"(D) such contract does not provide for a cash surrender value or other money that can be—

"(i) paid, assigned, or pledged as collateral for a loan, or

"(ii) borrowed,

other than as provided in subparagraph (E) or paragraph (2)(C), and

"(E) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits.

"(2) SPECIAL RULES.—

"(A) PER DIEM, ETC. PAYMENTS PERMITTED.—A contract shall not fail to be described in subparagraph (A) or (B) of paragraph (1) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

"(B) SPECIAL RULES RELATING TO MEDICARE.—

"(i) Paragraph (1)(B) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

"(ii) No provision of law shall be construed or applied so as to prohibit the offering of a qualified long-term care insurance contract on the basis that the contract coordinates its benefits with those provided under such title.

"(C) REFUNDS OF PREMIUMS.—Paragraph (1)(E) shall not apply to any refund on the death of the insured, or on a complete surrender or cancellation of the contract, which cannot exceed the aggregate premiums paid under the contract. Any refund on a complete surrender or cancellation of the contract shall be includible in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

"(c) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services, which—

"(A) are required by a chronically ill individual, and

"(B) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"(2) CHRONICALLY ILL INDIVIDUAL.—

"(A) IN GENERAL.—The term 'chronically ill individual' means any individual who has been certified by a licensed health care practitioner as—

"(i) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living for a period of at least 90 days due to a loss of functional capacity,

"(ii) having a level of disability similar (as determined by the Secretary in consultation with the Secretary of Health and Human Services) to the level of disability described in clause (i), or

"(iii) requiring substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the preceding 12-month period a licensed health care practitioner has certified that such individual meets such requirements.

"(B) ACTIVITIES OF DAILY LIVING.—For purposes of subparagraph (A), each of the following is an activity of daily living:

"(i) Eating.
"(ii) Toileting.
"(iii) Transferring.
"(iv) Bathing.
"(v) Dressing.
"(vi) Continence.

Nothing in this section shall be construed to require a contract to take into account all of the preceding activities of daily living.

"(3) MAINTENANCE OR PERSONAL CARE SERVICES.—The term 'maintenance or personal care services' means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

"(4) LICENSED HEALTH CARE PRACTITIONER.—The term 'licensed health care practitioner' means any physician (as defined in section 1861(r)(1) of the Social Security Act (42 U.S.C. 1395x(r)(1)) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

"(d) Aggregate Payments in Excess of Limits.—

"(1) In general.—If the aggregate amount of periodic payments under all qualified long-term care insurance contracts with respect to an insured for any period exceeds the dollar amount in effect for such period under paragraph (3), such excess payments shall be treated as made for qualified long-term care services only to the extent of the costs incurred by the payee (not otherwise compensated for by insurance or otherwise) for qualified long-term care services provided during such period for such insured.

"(2) Periodic payments.—For purposes of paragraph (1), the term 'periodic payment' means any payment (whether on a periodic basis or otherwise) made without regard to the extent of the costs incurred by the payee for qualified long-term care services.

"(3) Dollar amount.—The dollar amount in effect under this subsection shall be $175 per day (or the equivalent amount in the case of payments on another periodic basis).

"(4) Inflation adjustment.—In the case of a calendar year after 1997, the dollar amount contained in paragraph (3) shall be increased at the same time and in the same manner as amounts are increased pursuant to section 213(d)(11).

"(e) Treatment of Coverage Provided as Part of a Life Insurance Contract.—Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by a rider on or as a part of a life insurance contract—

"(1) In general.—This section shall apply as if the portion of the contract providing such coverage is a separate contract.

"(2) Application of 7702.—Section 7702(c)(2) (relating to the guideline premium limitation) shall be applied by increasing the guideline premium limitation with respect to a life insurance contract, as of any date—

"(A) by the sum of any charges (but not premium payments) against the life insurance contract's cash surrender value (within the meaning of section 7702(f)(2)(A)) for such coverage made to that date under the contract, less

"(B) any such charges the imposition of which reduces the premiums paid for the contract (within the meaning of section 7702(f)(1)).

"(3) Application of section 213.—No deduction shall be allowed under section 213(a) for charges against the life insurance contract's cash surrender value described in paragraph (2), unless such charges are includible in income as a result of the application of section 72(e)(10) and the rider is a qualified long-term care insurance contract under subsection (b).

"(4) Portion defined.—For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract that are in addition to the terms and benefits under the contract without regard to the coverage under a qualified long-term care insurance contract."

(b) Reserve Method.—Clause (iii) of section 807(d)(3)(A) is amended by inserting "(other than a qualified long-term care insurance contract, as defined in section 7702B(b))" after "insurance contract".

(c) Long-Term Care Insurance Not Permitted Under Cafeteria Plans or Flexible Spending Arrangements.—

(1) Cafeteria plans.—Section 125(f) is amended by adding at the end the following new sentence: "Such term shall not include any long-term care insurance contract (as defined in section 4980C)."

(2) Flexible spending arrangements.—The text of section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

"(a) General Rule.—Except as otherwise provided in this section, gross income of an employee does not include employer-provided coverage under an accident or health plan.

"(b) Inclusion of Long-Term Care Benefits Provided Through Flexible Spending Arrangements.—

"(1) In general.—Effective on and after January 1, 1997, gross income of an employee shall include employer-provided coverage for qualified long-term care services (as defined in section 7702B(c)) to the extent that such coverage is provided through a flexible spending or similar arrangement.

"(2) Flexible spending arrangement.—For purposes of this subsection, a flexible spending arrangement is a benefit program which provides employees with coverage under which—

"(A) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

"(B) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage."

(d) Continuation Coverage Excise Tax Not To Apply.—Subsection (f) of section 4980B is amended by adding at the end the following new paragraph:

"(9) Continuation of long-term care coverage not required.—A group health plan shall not be treated as failing to meet the requirements of this subsection solely by reason of failing to provide coverage under any qualified long-term care insurance contract (as defined in section 7702B(b))."

(e) Amounts Paid to Spouse or Relatives Treated as Not Paid for Medical Care.—Section 213(d) is amended by adding at the end the following new paragraph:

"(10) Certain payments to spouse or relatives treated as not paid for medical care.—An amount paid for a qualified long-term care service (as defined in section 7702B(c)) provided to an individual shall be treated as not paid for medical care if such service is provided—

"(A) by the spouse of the individual or a relative (directly or through a partnership, corporation, or other entity) unless the spouse or relative is a licensed professional with respect to such services, or

"(B) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this paragraph, the term 'relative' means an individual bearing a relationship to the individual which is described in any of paragraphs (1) through (8) of section 152(a). This paragraph shall not apply for purposes of section 105(b) with respect to reimbursements through insurance."

(f) Clerical Amendment.—The table of sections for chapter 79 is amended by inserting after the item relating to section 7702A the following new item:

"Sec. 7702B. Treatment of qualified long-term care insurance.".

(g) Effective Date.—

(1) In general.—The amendments made by this section shall apply to contracts issued after December 31, 1996.

(2) Continuation of existing policies.—In the case of any contract issued before January 1, 1997, which met the long-term care insurance requirements of the State in which the contract was issued at the time the contract was issued—

(A) such contract shall be treated for purposes of the Internal Revenue Code of 1986 as a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), and

(B) services provided under, or reimbursed by, such contract shall be treated for such purposes as qualified long-term care services (as defined in section 7702B(c) of such Code).

(3) Exchanges of existing policies.—If, after the date of enactment of this Act and before January 1, 1998, a contract providing for long-term care insurance coverage is exchanged solely for a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), no gain or loss shall be recognized on the exchange. If, in addition to a qualified long-term care insurance contract, money or other property is received in the exchange, then any gain shall be recognized to the extent of the sum of the money and the fair market value of the other property received. For purposes of this paragraph, the cancellation of a contract providing for long-term care insurance coverage and reinvestment of the cancellation proceeds in a qualified long-term care insurance contract within 60 days thereafter shall be treated as an exchange.

(4) Issuance of certain riders permitted.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a rider which is treated as a qualified long-term care insurance contract under section 7702B, and

(B) the addition of any provision required to conform any other long-term care rider to be so treated,

shall not be treated as a modification or material change of such contract.

SEC. 412. QUALIFIED LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.

(a) General Rule.—Paragraph (1) of section 213(d) (defining medical care) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified long-term care services (as defined in section 7702B(c)), or".

(b) Technical Amendments.—

(1) Subparagraph (D) of section 213(d)(1) (as redesignated by subsection (a)) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

(2)(A) Paragraph (1) of section 213(d) is amended by adding at the end the following new flush sentence:

"In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in paragraph (11)) shall be taken into account under subparagraph (D)."

(B) Subsection (d) of section 213 is amended by adding at the end the following new paragraph:

"(11) Eligible long-term care premiums.—

"(A) In general.—For purposes of this section, the term 'eligible long-term care premiums' means the amount paid during a taxable year for any qualified long-term care insurance contract (as defined in section 7702B(b)) covering an individual, to the extent such amount does not exceed the limitation determined under the following table:

"In the case of an individual with an attained age before the close of the taxable year of:	The limitation is
40 or less	
$200	
More than 40 but not more than 50	375
More than 50 but not more than 60	750
More than 60 but not more than 70	2,000
More than 70	2,500.

"(B) INDEXING.—

"(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount contained in subparagraph (A) shall be increased by the medical care cost adjustment of such amount for such calendar year. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

"(ii) MEDICAL CARE COST ADJUSTMENT.—For purposes of clause (i), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(I) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(II) such component for August of 1996.

The Secretary shall, in consultation with the Secretary of Health and Human Services, prescribe an adjustment which the Secretary determines is more appropriate for purposes of this paragraph than the adjustment described in the preceding sentence, and the adjustment so prescribed shall apply in lieu of the adjustment described in the preceding sentence."

(3) Paragraph (6) of section 213(d) is amended—

(A) by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)", and

(B) by striking "paragraph (1)(C)" in subparagraph (A) and inserting "paragraph (1)(D)".

(4) Paragraph (7) of section 213(d) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 413. CERTAIN EXCHANGES OF LIFE INSURANCE CONTRACTS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS NOT TAXABLE.

(a) IN GENERAL.—Subsection (a) of section 1035 (relating to certain exchanges of insurance contracts) is amended by striking the period at the end of paragraph (3) and inserting "; or", and by adding at the end the following new paragraph:

"(4) a contract of life insurance or an endowment or annuity contract for a qualified long-term care insurance contract (as defined in section 7702B(b))."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 414. EXCEPTION FROM PENALTY TAX FOR AMOUNTS WITHDRAWN FROM CERTAIN RETIREMENT PLANS FOR QUALIFIED LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Paragraph (2) of section 72(t) is amended by adding at the end the following new subparagraph:

"(D) PREMIUMS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—Distributions to an individual from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3), to the extent such distributions do not exceed the premiums for a qualified long-term care insurance contract (as defined in section 7702B(b)) for such individual or the spouse of such individual. In applying subparagraph (B), such premiums shall be treated as amounts not paid for medical care."

(b) DISTRIBUTIONS PERMITTED FROM CERTAIN PLANS TO PAY LONG-TERM CARE PREMIUMS.—

(1) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date distributions for premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of such individual or the spouse of such individual are made, and".

(2) Section 403(b)(11) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for the payment of premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of the employee or the spouse of the employee."

(3) Subparagraph (A) of section 457(d)(1) is amended by striking "or" at the end of clause (ii), by striking "and" at the end of clause (iii) and inserting "or", and by inserting after clause (iii) the following new clause:

"(iv) the date distributions for premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of such individual or the spouse of such individual are made, and".

(c) CONFORMING AMENDMENT.—Section 72t(2)(B) is amended by striking "subparagraph (A) or (C))" and inserting "subparagraph (A), (C), or (D))".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1996.

SEC. 415. REPORTING REQUIREMENTS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new section:

"SEC. 6050Q. CERTAIN LONG-TERM CARE BENEFITS.

"(a) REQUIREMENT OF REPORTING.—Any person who pays long-term care benefits shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

"(1) the aggregate amount of such benefits paid by such person to any individual during any calendar year, and

"(2) the name, address, and TIN of such individual.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the person making the payments, and

"(2) the aggregate amount of long-term care benefits paid to the individual which are required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(c) LONG-TERM CARE BENEFITS.—For purposes of this section, the term 'long-term care benefit' means any amount paid under a long-term care insurance policy (within the meaning of section 4980C(e)).".

(b) PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

"(ix) section 6050Q (relating to certain long-term care benefits),".

(2) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (Q) through (T) as subparagraphs (R) through (U), respectively, and by inserting after subparagraph (P) the following new subparagraph:

"(Q) section 6050Q(b) (relating to certain long-term care benefits),".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6050Q. Certain long-term care benefits."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits paid after December 31, 1996.

Subchapter B—Consumer Protection Provisions

SEC. 421. POLICY REQUIREMENTS.

Section 7702B (as added by section 411) is amended by adding at the end the following new subsection:

"(f) CONSUMER PROTECTION PROVISIONS.—

"(1) IN GENERAL.—The requirements of this subsection are met with respect to any contract if any long-term care insurance policy issued under the contract meets—

"(A) the requirements of the model regulation and model Act described in paragraph (2),

"(B) the disclosure requirement of paragraph (3), and

"(C) the requirements relating to nonforfeitability under paragraph (4).

"(2) REQUIREMENTS OF MODEL REGULATION AND ACT.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any policy if such policy meets—

"(i) MODEL REGULATION.—The following requirements of the model regulation:

"(I) Section 7A (relating to guaranteed renewal or noncancellability), and the requirements of section 6B of the model Act relating to such section 7A.

"(II) Section 7B (relating to prohibitions on limitations and exclusions).

"(III) Section 7C (relating to extension of benefits).

"(IV) Section 7D (relating to continuation or conversion of coverage).

"(V) Section 7E (relating to discontinuance and replacement of policies).

"(VI) Section 8 (relating to unintentional lapse).

"(VII) Section 9 (relating to disclosure), other than section 9F thereof.

"(VIII) Section 10 (relating to prohibitions against post-claims underwriting).

"(IX) Section 11 (relating to minimum standards).

"(X) Section 12 (relating to requirement to offer inflation protection), except that any requirement for a signature on a rejection of inflation protection shall permit the signature to be on an application or on a separate form.

"(XI) Section 23 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

"(ii) MODEL ACT.—The following requirements of the model Act:

"(I) Section 6C (relating to preexisting conditions).

"(II) Section 6D (relating to prior hospitalization).

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) MODEL PROVISIONS.—The terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of January 1993).

"(ii) COORDINATION.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

"(3) DISCLOSURE REQUIREMENT.—The requirement of this paragraph is met with respect to any policy if such policy meets the requirements of section 4980C(d)(1).

"(4) NONFORFEITURE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any level premium long-term care insurance policy, if the issuer of such policy offers to the policyholder, including any group policyholder, a nonforfeiture provision meeting the requirements of subparagraph (B).

"(B) REQUIREMENTS OF PROVISION.—The nonforfeiture provision required under subparagraph (A) shall meet the following requirements:

"(i) The nonforfeiture provision shall be appropriately captioned.

"(ii) The nonforfeiture provision shall provide for a benefit available in the event of a default in the payment of any premiums and the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying policies approved by the appropriate State regulatory authority for the same policy form.

"(iii) The nonforfeiture provision shall provide at least one of the following:

"(I) Reduced paid-up insurance.

"(II) Extended term insurance.

"(III) Shortened benefit period.

"(IV) Other similar offerings approved by the Secretary.

"(5) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this subsection, the term 'long-term care insurance policy' has the meaning given such term by section 4980C(e).".

SEC. 422. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

(a) IN GENERAL.—Chapter 43 is amended by adding at the end the following new section:

"SEC. 4980C. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

"(a) GENERAL RULE.—There is hereby imposed on any person failing to meet the requirements of subsection (c) or (d) a tax in the amount determined under subsection (b).

"(b) AMOUNT.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be $100 per policy for each day any requirements of subsection (c) or (d) are not met with respect to each long-term care insurance policy.

"(2) WAIVER.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that payment of the tax would be excessive relative to the failure involved.

"(c) RESPONSIBILITIES.—The requirements of this subsection are as follows:

"(1) REQUIREMENTS OF MODEL PROVISIONS.—

"(A) MODEL REGULATION.—The following requirements of the model regulation must be met:

"(i) Section 13 (relating to application forms and replacement coverage).

"(ii) Section 14 (relating to reporting requirements), except that the issuer shall also report at least annually the number of claims denied during the reporting period for each class of business (expressed as a percentage of claims denied), other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition.

"(iii) Section 20 (relating to filing requirements for marketing).

"(iv) Section 21 (relating to standards for marketing), including inaccurate completion of medical histories, other than sections 21C(1) and 21C(6) thereof, except that—

"(I) in addition to such requirements, no person shall, in selling or offering to sell a long-term care insurance policy, misrepresent a material fact; and

"(II) no such requirements shall include a requirement to inquire or identify whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance.

"(v) Section 22 (relating to appropriateness of recommended purchase).

"(vi) Section 24 (relating to standard format outline of coverage).

"(vii) Section 25 (relating to requirement to deliver shopper's guide).

"(B) MODEL ACT.—The following requirements of the model Act must be met:

"(i) Section 6F (relating to right to return), except that such section shall also apply to denials of applications and any refund shall be made within 30 days of the return or denial.

"(ii) Section 6G (relating to outline of coverage).

"(iii) Section 6H (relating to requirements for certificates under group plans).

"(iv) Section 6I (relating to policy summary).

"(v) Section 6J (relating to monthly reports on accelerated death benefits).

"(vi) Section 7 (relating to incontestability period).

"(C) DEFINITIONS.—For purposes of this paragraph, the terms 'model regulation' and 'model Act' have the meanings given such terms by section 7702B(f)(2)(B).

"(2) DELIVERY OF POLICY.—If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is approved, the issuer shall deliver to the applicant (or policyholder or certificateholder) the policy (or certificate) of insurance not later than 30 days after the date of the approval.

"(3) INFORMATION ON DENIALS OF CLAIMS.—If a claim under a long-term care insurance policy is denied, the issuer shall, within 60 days of the date of a written request by the policyholder or certificateholder (or representative)—

"(A) provide a written explanation of the reasons for the denial, and

"(B) make available all information directly relating to such denial.

"(d) DISCLOSURE.—The requirements of this subsection are met if the issuer of a long-term care insurance policy discloses in such policy and in the outline of coverage required under subsection (c)(1)(B)(ii) that the policy is intended to be a qualified long-term care insurance contract under section 7702B(b).

"(e) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this section, the term 'long-term care insurance policy' means any product which is advertised, marketed, or offered as long-term care insurance.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end the following new item:

"Sec. 4980C. Requirements for issuers of long-term care insurance policies.".

SEC. 423. COORDINATION WITH STATE REQUIREMENTS.

Nothing in this subchapter shall prevent a State from establishing, implementing, or continuing in effect standards related to the protection of policyholders of long-term care insurance policies (as defined in section 4980C(e) of the Internal Revenue Code of 1986), if such standards are not in conflict with or inconsistent with the standards established under such Code.

SEC. 424. EFFECTIVE DATES.

(a) IN GENERAL.—The provisions of, and amendments made by, this subchapter shall apply to contracts issued after December 31, 1996. The provisions of section 411(g) of this Act (relating to transition rule) shall apply to such contracts.

(b) ISSUERS.—The amendments made by section 422 shall apply to actions taken after December 31, 1996.

CHAPTER 2—TREATMENT OF ACCELERATED DEATH BENEFITS

SEC. 431. TREATMENT OF ACCELERATED DEATH BENEFITS BY RECIPIENT.

(a) IN GENERAL.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, the following amounts shall be treated as an amount paid by reason of the death of an insured:

"(A) Any amount received under a life insurance contract on the life of an insured who is a terminally ill individual.

"(B) Any amount received under a life insurance contract on the life of an insured who is a chronically ill individual (as defined in section 7702B(c)(2)) but only if such amount is received under a rider or other provision of such contract which is treated as a qualified long-term care insurance contract under section 7702B.

"(2) TREATMENT OF VIATICAL SETTLEMENTS.—

"(A) IN GENERAL.—In the case of a life insurance contract on the life of an insured described in paragraph (1), if—

"(i) any portion of such contract is sold to any viatical settlement provider, or

"(ii) any portion of the death benefit is assigned to such a provider,

the amount paid for such sale or assignment shall be treated as an amount paid under the life insurance contract by reason of the death of such insured.

"(B) VIATICAL SETTLEMENT PROVIDER.—The term 'viatical settlement provider' means any person regularly engaged in the trade or business of purchasing, or taking assignments of, life insurance contracts on the lives of insureds described in paragraph (1) if—

"(i) such person is licensed for such purposes in the State in which the insured resides, or

"(ii) in the case of an insured who resides in a State not requiring the licensing of such persons for such purposes—

"(I) such person meets the requirements of sections 8 and 9 of the Viatical Settlements Model Act of the National Association of Insurance Commissioners, and

"(II) meets the requirements of the Model Regulations of the National Association of Insurance Commissioners (relating to standards for evaluation of reasonable payments) in determining amounts paid by such person in connection with such purchases or assignments.

"(3) Definitions.—For purposes of this subsection—

"(A) Terminally ill individual.—The term 'terminally ill individual' means an individual who has been certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in 24 months or less after the date of the certification.

"(B) Physician.—The term 'physician' has the meaning given to such term by section 1861(r)(1) of the Social Security Act (42 U.S.C. 1395x(r)(1)).

"(4) Exception for business-related policies.—This subsection shall not apply in the case of any amount paid to any taxpayer other than the insured if such taxpayer has an insurable interest with respect to the life of the insured by reason of the insured being a director, officer, or employee of the taxpayer or by reason of the insured being financially interested in any trade or business carried on by the taxpayer."

(b) Effective Date.—The amendment made by subsection (a) shall apply to amounts received after December 31, 1996.

SEC. 432. TAX TREATMENT OF COMPANIES ISSUING QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.

(a) Qualified Accelerated Death Benefit Riders Treated as Life Insurance.—Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

"(g) Qualified Accelerated Death Benefit Riders Treated as Life Insurance.—For purposes of this part—

"(1) In general.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

"(2) Qualified accelerated death benefit riders.—For purposes of this subsection, the term 'qualified accelerated death benefit rider' means any rider on a life insurance contract if the only payments under the rider are payments meeting the requirements of section 101(g).

"(3) Exception for long-term care riders.—Paragraph (1) shall not apply to any rider which is treated as a long-term care insurance contract under section 7702B."

(b) Effective Date.—

(1) In general.—The amendment made by this section shall take effect on January 1, 1997.

(2) Issuance of rider not treated as material change.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a qualified accelerated death benefit rider (as defined in section 818(g) of such Code (as added by this Act)), and

(B) the addition of any provision required to conform an accelerated death benefit rider to the requirements of such section 818(g),

shall not be treated as a modification or material change of such contract.

Subtitle C—Medical Savings Accounts

SEC. 441. MEDICAL SAVINGS ACCOUNTS.

(a) In General.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. MEDICAL SAVINGS ACCOUNTS.

"(a) Deduction Allowed.—In the case of an individual who is an eligible individual for any month during the taxable year, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate amount paid in cash during such taxable year by such individual to a medical savings account of such individual.

"(b) Limitations.—

"(1) In general.—Except as otherwise provided in this subsection, the amount allowable as a deduction under subsection (a) to an individual for the taxable year shall not exceed—

"(A) except as provided in subparagraph (B), the lesser of—

"(i) $2,000, or

"(ii) the annual deductible limit for any individual covered under the high deductible health plan, or

"(B) in the case of a high deductible health plan covering the taxpayer and any other eligible individual who is the spouse or any dependent (as defined in section 152) of the taxpayer, the lesser of—

"(i) $4,000, or

"(ii) the annual limit under the plan on the aggregate amount of deductibles required to be paid by all individuals.

The preceding sentence shall not apply if the spouse of such individual is covered under any other high deductible health plan.

"(2) Special rule for married individuals.—

"(A) In general.—This subsection shall be applied separately for each married individual.

"(B) Special rule.—If individuals who are married to each other are covered under the same high deductible health plan, then the amounts applicable under paragraph (1)(B) shall be divided equally between them unless they agree on a different division.

"(3) Coordination with exclusion for employer contributions.—No deduction shall be allowed under this section for any amount paid for any taxable year to a medical savings account of an individual if—

"(A) any amount is paid to any medical savings account of such individual which is excludable from gross income under section 106(b) for such year, or

"(B) in a case described in paragraph (2)(B), any amount is paid to any medical savings account of either spouse which is so excludable for such year.

"(4) Proration of limitation.—

"(A) In general.—The limitation under paragraph (1) shall be the sum of the monthly limitations for months during the taxable year that the individual is an eligible individual if—

"(i) such individual is not an eligible individual for all months of the taxable year,

"(ii) the deductible under the high deductible health plan covering such individual is not the same throughout such taxable year, or

"(iii) such limitation is determined under paragraph (1)(B) for some but not all months during such taxable year.

"(B) Monthly limitation.—The monthly limitation for any month shall be an amount equal to 1/12 of the limitation which would (but for this paragraph and paragraph (3)) be determined under paragraph (1) if the facts and circumstances as of the first day of such month that such individual is covered under a high deductible health plan were true for the entire taxable year.

"(5) Denial of deduction to dependents.—No deduction shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(c) Definitions.—For purposes of this section—

"(1) Eligible individual.—

"(A) In general.—The term 'eligible individual' means, with respect to any month, any individual—

"(i) who is covered under a high deductible health plan as of the 1st day of such month, and

"(ii) who is not, while covered under a high deductible health plan, covered under any health plan—

"(I) which is not a high deductible health plan, and

"(II) which provides coverage for any benefit which is covered under the high deductible health plan.

"(B) Certain coverage disregarded.—Subparagraph (A)(ii) shall be applied without regard to—

"(i) coverage for any benefit provided by permitted insurance, and

"(ii) coverage (whether through insurance or otherwise) for accidents, disability, dental care, vision care, or long-term care.

"(2) High deductible health plan.—The term 'high deductible health plan' means a health plan which—

"(A) has an annual deductible limit for each individual covered by the plan which is not less than $1,500, and

"(B) has an annual limit on the aggregate amount of deductibles required to be paid with respect to all individuals covered by the plan which is not less than $3,000.

Such term does not include a health plan if substantially all of its coverage is coverage described in paragraph (1)(B).

"(3) Permitted insurance.—The term 'permitted insurance' means—

"(A) Medicare supplemental insurance,

"(B) insurance if substantially all of the coverage provided under such insurance relates to—

"(i) liabilities incurred under workers' compensation laws,

"(ii) tort liabilities,

"(iii) liabilities relating to ownership or use of property, or

"(iv) such other similar liabilities as the Secretary may specify by regulations,

"(C) insurance for a specified disease or illness, and

"(D) insurance paying a fixed amount per day (or other period) of hospitalization.

"(d) Medical Savings Account.—For purposes of this section—

"(1) Medical savings account.—The term 'medical savings account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

"(A) Except in the case of a rollover contribution described in subsection (f)(5), no contribution will be accepted—

"(i) unless it is in cash, or

‘‘(ii) to the extent such contribution, when added to previous contributions to the trust for the calendar year, exceeds $4,000.

‘‘(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

‘‘(C) No part of the trust assets will be invested in life insurance contracts.

‘‘(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

‘‘(E) The interest of an individual in the balance in his account is nonforfeitable.

‘‘(2) QUALIFIED MEDICAL EXPENSES.—

‘‘(A) IN GENERAL.—The term ‘qualified medical expenses’ means, with respect to an account holder, amounts paid by such holder for medical care (as defined in section 213(d)) for such individual, the spouse of such individual, and any dependent (as defined in section 152) of such individual, but only to the extent such amounts are not compensated for by insurance or otherwise.

‘‘(B) HEALTH INSURANCE MAY NOT BE PURCHASED FROM ACCOUNT.—

‘‘(i) IN GENERAL.—Subparagraph (A) shall not apply to any payment for insurance.

‘‘(ii) EXCEPTIONS.—Clause (i) shall not apply to any expense for coverage under—

‘‘(I) a health plan during any period of continuation coverage required under any Federal law,

‘‘(II) a qualified long-term care insurance contract (as defined in section 7702B), or

‘‘(III) a health plan during a period in which the individual is receiving unemployment compensation under any Federal or State law.

‘‘(3) ACCOUNT HOLDER.—The term ‘account holder’ means the individual on whose behalf the medical savings account was established.

‘‘(4) CERTAIN RULES TO APPLY.—Rules similar to the following rules shall apply for purposes of this section:

‘‘(A) Section 219(d)(2) (relating to no deduction for rollovers).

‘‘(B) Section 219(f)(3) (relating to time when contributions deemed made).

‘‘(C) Except as provided in section 106(c), section 219(f)(5) (relating to employer payments).

‘‘(D) Section 408(g) (relating to community property laws).

‘‘(E) Section 408(h) (relating to custodial accounts).

‘‘(e) TAX TREATMENT OF ACCOUNTS.—

‘‘(1) IN GENERAL.—A medical savings account is exempt from taxation under this subtitle unless such account has ceased to be a medical savings account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

‘‘(2) ACCOUNT TERMINATIONS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to medical savings accounts, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

‘‘(f) TAX TREATMENT OF DISTRIBUTIONS.—

‘‘(1) AMOUNTS USED FOR QUALIFIED MEDICAL EXPENSES.—

‘‘(A) IN GENERAL.—Any amount paid or distributed out of a medical savings account which is used exclusively to pay qualified medical expenses of any account holder (or any spouse or dependent of the holder) shall not be includible in gross income.

‘‘(B) TREATMENT AFTER DEATH OF ACCOUNT HOLDER.—

‘‘(i) TREATMENT IF HOLDER IS SPOUSE.—If, after the death of the account holder, the account holder's interest is payable to (or for the benefit of) the holder's spouse, the medical savings account shall be treated as if the spouse were the account holder.

‘‘(ii) TREATMENT IF DESIGNATED HOLDER IS NOT SPOUSE.—In the case of an account holder's interest in a medical savings account which is payable to (or for the benefit of) any person other than such holder's spouse upon the death of such holder—

‘‘(I) such account shall cease to be a medical savings account as of the date of death, and

‘‘(II) an amount equal to the fair market value of the assets in such account on such date shall be includible if such person is not the estate of such holder, in such person's gross income for the taxable year which includes such date, or if such person is the estate of such holder, in such holder's gross income for the last taxable year of such holder.

‘‘(2) INCLUSION OF AMOUNTS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

‘‘(A) IN GENERAL.—Any amount paid or distributed out of a medical savings account which is not used exclusively to pay the qualified medical expenses of the account holder or of the spouse or dependents of such holder shall be included in the gross income of such holder.

‘‘(B) SPECIAL RULES.—For purposes of subparagraph (A)—

‘‘(i) all medical savings accounts of the account holder shall be treated as 1 account,

‘‘(ii) all payments and distributions during any taxable year shall be treated as 1 distribution, and

‘‘(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

‘‘(3) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—If the aggregate contributions (other than rollover contributions) for a taxable year to the medical savings accounts of an individual exceed the amount allowable as a deduction under this section for such contributions, paragraph (2) shall not apply to distributions from such accounts (in an amount not greater than such excess) if—

‘‘(A) such distribution is received by the individual on or before the last day prescribed by law (including extensions of time) for filing such individual's return for such taxable year, and

‘‘(B) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (B) shall be included in the gross income of the individual for the taxable year in which it is received.

‘‘(4) PENALTY FOR DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

‘‘(A) IN GENERAL.—The tax imposed by this chapter on the account holder for any taxable year in which there is a payment or distribution from a medical savings account of such holder which is includible in gross income under paragraph (2) shall be increased by 10 percent of the amount which is so includible.

‘‘(B) EXCEPTION FOR DISABILITY OR DEATH.—Subparagraph (A) shall not apply if the payment or distribution is made after the account holder becomes disabled within the meaning of section 72(m)(7) or dies.

‘‘(C) EXCEPTION FOR DISTRIBUTIONS AFTER AGE 59½.—Subparagraph (A) shall not apply to any payment or distribution after the date on which the account holder attains age 59½.

‘‘(5) ROLLOVER CONTRIBUTION.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

‘‘(A) IN GENERAL.—Paragraph (2) shall not apply to any amount paid or distributed from a medical savings account to the account holder to the extent the amount received is paid into a medical savings account for the benefit of such holder not later than the 60th day after the day on which the holder receives the payment or distribution.

‘‘(B) LIMITATION.—This paragraph shall not apply to any amount described in subparagraph (A) received by an individual from a medical savings account if, at any time during the 1-year period ending on the day of such receipt, such individual received any other amount described in subparagraph (A) from a medical savings account which was not includible in the individual's gross income because of the application of this paragraph.

‘‘(6) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—For purposes of determining the amount of the deduction under section 213, any payment or distribution out of a medical savings account for qualified medical expenses shall not be treated as an expense paid for medical care.

‘‘(7) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual's interest in a medical savings account to an individual's spouse or former spouse under a divorce or separation instrument described in subparagraph (A) of section 71(b)(2) shall not be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest shall, after such transfer, be treated as a medical savings account with respect to which the spouse is the account holder.

‘‘(g) COST-OF-LIVING ADJUSTMENT.—

‘‘(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount in subsection (b)(1), (c)(2), or (d)(1)(A) shall be increased by an amount equal to—

‘‘(A) such dollar amount, multiplied by

‘‘(B) the medical care cost adjustment for such calendar year.

If any increase under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

‘‘(2) MEDICAL CARE COST ADJUSTMENT.—For purposes of paragraph (1), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

‘‘(A) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

‘‘(B) such component for August of 1996.

‘‘(h) REPORTS.—The Secretary may require the trustee of a medical savings account to make such reports regarding such account to the Secretary and to the account holder with respect to contributions, distributions, and such other matters as the Secretary determines appropriate. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.’’

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

‘‘(16) MEDICAL SAVINGS ACCOUNTS.—The deduction allowed by section 220.’’

(c) EXCLUSIONS FOR EMPLOYER CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

(1) EXCLUSION FROM INCOME TAX.—Section 106 (relating to contributions by employer to accident and health plans), as amended by this Act, is amended by adding at the end the following new subsection:

"(c) CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

"(1) IN GENERAL.—In the case of an employee who is an eligible individual, gross income does not include amounts contributed by such employee's employer to any medical savings account of such employee.

"(2) COORDINATION WITH DEDUCTION LIMITATION.—The amount excluded from the gross income of an employee under this subsection for any taxable year shall not exceed the limitation under section 220(b)(1) (determined without regard to this subsection) which is applicable to such employee for such taxable year.

"(3) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of any employee solely because the employee may choose between the contributions referred to in paragraph (1) and employer contributions to another health plan of the employer.

"(4) SPECIAL RULE FOR DEDUCTION OF EMPLOYER CONTRIBUTIONS.—Any employer contribution to a medical savings account, if otherwise allowable as a deduction under this chapter, shall be allowed only for the taxable year in which paid.

"(5) DEFINITIONS.—For purposes of this subsection, the terms 'eligible individual' and 'medical savings account' have the respective meanings given to such terms by section 220".

(2) EXCLUSION FROM EMPLOYMENT TAXES.—

(A) SOCIAL SECURITY TAXES.—

(i) Subsection (a) of section 3121 is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting "; or", and by inserting after paragraph (21) the following new paragraph:

"(22) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c)."

(ii) Subsection (a) of section 209 of the Social Security Act is amended by striking "or" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting "; or", and by inserting after paragraph (18) the following new paragraph:

"(19) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c) of the Internal Revenue Code of 1986."

(B) RAILROAD RETIREMENT TAX.—Subsection (e) of section 3231 is amended by adding at the end the following new paragraph:

"(10) MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS.—The term 'compensation' shall not include any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c)."

(C) UNEMPLOYMENT TAX.—Subsection (b) of section 3306 is amended by striking "or" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting "; or", and by inserting after paragraph (16) the following new paragraph:

"(17) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c)."

(D) WITHHOLDING TAX.—Subsection (a) of section 3401 is amended by striking "or" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting "; or", and by inserting after paragraph (20) the following new paragraph:

"(21) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c)."

(d) MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS NOT AVAILABLE UNDER CAFETERIA PLANS.—Subsection (f) of section 125 is amended by inserting "106(c)," before "117".

(e) EXCLUSION OF MEDICAL SAVINGS ACCOUNTS FROM ESTATE TAX.—Part IV of subchapter A of chapter 11 is amended by adding at the end the following new section:

"SEC. 2057. MEDICAL SAVINGS ACCOUNTS.

"For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any medical savings account (as defined in section 220(d)) included in the gross estate."

(f) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting "medical savings accounts," after "accounts," in the heading of such section,

(2) by striking "or" at the end of paragraph (1) of subsection (a),

(3) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) a medical savings account (within the meaning of section 220(d)), or", and

(4) by adding at the end the following new subsection:

"(d) EXCESS CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—For purposes of this section, in the case of a medical savings account (within the meaning of section 220(d)), the term 'excess contributions' means the sum of—

"(1) the amount by which the amount contributed for the taxable year to the accounts (other than rollover contributions described in section 220(f)(5)) exceeds the amount allowable as a deduction under section 220 for such contributions, and

"(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of distributions out of the account included in gross income under section 220(f) (2) or (3) and the excess (if any) of the maximum amount allowable as a deduction under section 220 for the taxable year over the amount contributed to the accounts.

For purposes of this subsection, any contribution which is distributed out of the medical savings account in a distribution to which section 220(f)(3) applies shall be treated as an amount not contributed."

(g) TAX ON PROHIBITED TRANSACTIONS.—

(1) Section 4975 (relating to tax on prohibited transactions) is amended by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR MEDICAL SAVINGS ACCOUNTS.—An individual for whose benefit a medical savings account (within the meaning of section 220(d)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 220(e)(2) to such account."

(2) Paragraph (1) of section 4975(e) is amended to read as follows:

"(1) PLAN.—For purposes of this section, the term 'plan' means—

"(A) a trust described in section 401(a) which forms a part of a plan, or a plan described in section 403(a), which trust or plan is exempt from tax under section 501(a),

"(B) an individual retirement account described in section 408(a),

"(C) an individual retirement annuity described in section 408(b),

"(D) a medical savings account described in section 220(d), or

"(E) a trust, plan, account, or annuity which, at any time, has been determined by the Secretary to be described in any preceding subparagraph of this paragraph."

(h) FAILURE TO PROVIDE REPORTS ON MEDICAL SAVINGS ACCOUNTS.—

(1) Subsection (a) of section 6693 (relating to failure to provide reports on individual retirement accounts or annuities) is amended to read as follows:

"(a) REPORTS.—

"(1) IN GENERAL.—If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.

"(2) PROVISIONS.—The provisions referred to in this paragraph are—

"(A) subsections (i) and (l) of section 408 (relating to individual retirement plans), and

"(B) section 220(h) (relating to medical savings accounts)."

(i) EXCEPTION FROM CAPITALIZATION OF POLICY ACQUISITION EXPENSES.—Subparagraph (B) of section 848(e)(1) (defining specified insurance contract) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) any contract which is a medical savings account (as defined in section 220(d)).".

(j) CLERICAL AMENDMENTS.—

(1) The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following:

"Sec. 220. Medical savings accounts.
"Sec. 221. Cross reference."

(2) The table of sections for part IV of subchapter A of chapter 11 is amended by adding at the end the following new item:

"Sec. 2057. Medical savings accounts.".

(k) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle D—High-Risk Pools

SEC. 451. EXEMPTION FROM INCOME TAX FOR STATE-SPONSORED ORGANIZATIONS PROVIDING HEALTH COVERAGE FOR HIGH-RISK INDIVIDUALS.

(a) IN GENERAL.—Subsection (c) of section 501 (relating to list of exempt organizations) is amended by adding at the end the following new paragraph:

"(26) Any membership organization if—

"(A) such organization is established by a State exclusively to provide coverage for medical care (as defined in section 213(d)) on a not-for-profit basis to individuals described in subparagraph (B) through—

"(i) insurance issued by the organization, or

"(ii) a health maintenance organization under an arrangement with the organization,

"(B) the only individuals receiving such coverage through the organization are individuals—

"(i) who are residents of such State, and

"(ii) who, by reason of the existence or history of a medical condition, are unable to acquire medical care coverage for such condition through insurance or from a health maintenance organization or are able to acquire such coverage only at a rate which is substantially in excess of the rate for such coverage through the membership organization,

"(C) the composition of the membership in such organization is specified by such State, and

"(D) no part of the net earnings of the organization inures to the benefit of any private shareholder or individual.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle E—Penalty-Free IRA Distributions

SEC. 461. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PAY FINANCIALLY DEVASTATING MEDICAL EXPENSES.

(a) In General.—Section 72(t)(3)(A) is amended by striking "(B),".

(b) Penalty-Free Distributions for Payment of Health Insurance Premiums of Certain Unemployed Individuals.—Paragraph (2) of section 72(t), as amended by section 414, is amended by adding at the end the following new subparagraph:

"(E) Distributions to unemployed individuals for health insurance premiums.—Distributions from an individual retirement plan to an individual after separation from employment—

"(i) if such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation,

"(ii) if such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year, and

"(iii) to the extent such distributions do not exceed the amount paid during the taxable year for insurance described in section 213(d)(1)(D) with respect to the individual and the individual's spouse and dependents (as defined in section 152).

To the extent provided in regulations, a self-employed individual shall be treated as meeting the requirements of clause (i) if, under Federal or State law, the individual would have received unemployment compensation but for the fact the individual was self-employed.".

(c) Conforming Amendment.—Subparagraph (B) of section 72(t)(2), as amended by section 414, is amended by striking "or (D)" and inserting ", (D), or (E)".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle F—Revenue Offsets

CHAPTER 1—Treatment of Individuals Who Expatriate

SEC. 471. REVISION OF TAX RULES ON EXPATRIATION.

(a) In General.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) General Rules.—For purposes of this subtitle—

"(1) Mark to market.—Except as provided in subsection (f), all property of a covered expatriate to which this section applies shall be treated as sold on the expatriation date for its fair market value.

"(2) Recognition of gain or loss.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

"(3) Exclusion for certain gain.—The amount which would (but for this paragraph) be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(4) Election to continue to be taxed as United States citizen.—

"(A) In general.—If an expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph) shall not apply to the expatriate, but

"(ii) the expatriate shall be subject to tax under this title, with respect to property to which this section would apply but for such election, in the same manner as if the individual were a United States citizen.

"(B) Limitation on amount of estate, gift, and generation-skipping transfer taxes.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of paragraph (2)).

"(C) Requirements.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(D) Election.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) Election To Defer Tax.—

"(1) In general.—If the taxpayer elects the application of this subsection with respect to any property—

"(A) no amount shall be required to be included in gross income under subsection (a)(1) with respect to the gain from such property for the taxable year of the sale, but

"(B) the taxpayer's tax for the taxable year in which such property is disposed of shall be increased by the deferred tax amount with respect to the property.

Except to the extent provided in regulations, subparagraph (B) shall apply to a disposition whether or not gain or loss is recognized in whole or in part on the disposition.

"(2) Deferred tax amount.—

"(A) In general.—For purposes of paragraph (1), the term 'deferred tax amount' means, with respect to any property, an amount equal to the sum of—

"(i) the difference between the amount of tax paid for the taxable year described in paragraph (1)(A) and the amount which would have been paid for such taxable year if the election under paragraph (1) had not applied to such property, plus

"(ii) an amount of interest on the amount described in clause (i) determined for the period—

"(I) beginning on the 91st day after the expatriation date, and

"(II) ending on the due date for the taxable year described in paragraph (1)(B),

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

For purposes of clause (ii), the due date is the date prescribed by law (determined without regard to extension) for filing the return of the tax imposed by this chapter for the taxable year.

"(B) Allocation of losses.—For purposes of subparagraph (A), any losses described in subsection (a)(2)(B) shall be allocated ratably among the gains described in subsection (a)(2)(A).

"(3) Security.—

"(A) In general.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided with respect to such property.

"(B) Adequate security.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2)(A) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(4) Waiver of certain rights.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(5) Dispositions.—For purposes of this subsection, a taxpayer making an election under this subsection with respect to any property shall be treated as having disposed of such property—

"(A) immediately before death if such property is held at such time, and

"(B) at any time the security provided with respect to the property fails to meet the requirements of paragraph (3) and the taxpayer does not correct such failure within the time specified by the Secretary.

"(6) Elections.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(c) Covered Expatriate.—For purposes of this section—

"(1) In general.—The term 'covered expatriate' means an expatriate—

"(A) whose average annual net income tax (as defined in section 38(c)(1)) for the period of 5 taxable years ending before the expatriation date is greater than $100,000, or

"(B) whose net worth as of such date is $500,000 or more.

If the expatriation date is after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1995' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.

"(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) for not more than 8 taxable years during the 15-taxable year period ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) PROPERTY TO WHICH SECTION APPLIES.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided by the Secretary, this section shall apply to—

"(A) any interest in property held by a covered expatriate on the expatriation date the gain from which would be includible in the gross income of the expatriate if such interest had been sold for its fair market value on such date in a transaction in which gain is recognized in whole or in part, and

"(B) any other interest in a trust to which subsection (f) applies.

"(2) EXCEPTIONS.—This section shall not apply to the following property:

"(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

"(B) INTEREST IN CERTAIN RETIREMENT PLANS.—

"(i) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

"(ii) FOREIGN PENSION PLANS.—

"(I) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

"(II) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes his citizenship, or

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

"(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—

"(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the expatriation date occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

"(ii) any taxable year prior to the taxable year referred to in clause (i).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

"(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

"(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year in which the expatriation date occurs, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

"(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods.

"(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) TAX DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) DEFINITIONS AND SPECIAL RULE.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(I) which is organized under, and governed by, the laws of the United States or a State, and

"(II) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the expatriation date, is vested in the beneficiary.

"(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

"(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

"(B) OTHER DETERMINATIONS.—For purposes of this section—

"(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate, and

"(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) COORDINATION WITH ESTATE AND GIFT TAXES.—If subsection (a) applies to property held by an individual for any taxable year and—

"(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

"(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3),

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) to prevent double taxation by ensuring that—

"(A) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (a)(3), and

"(B) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(3)(B)(i), and

"(2) which provide for the proper allocation of the exclusion under subsection (a)(3) to property to which this section applies.

"(k) CROSS REFERENCE.—

"For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47).".

(b) INCLUSION IN INCOME OF GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.".

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).".

(d) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(f) APPLICATION.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995.".

(2) Section 2107(c) is amended by adding at the end the following new paragraph:

"(3) CROSS REFERENCE.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i).".

(3) Section 2501(a)(3) is amended by adding at the end the following new flush sentence: "For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i).".

(4) Paragraph (10) of section 7701(b) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1)).".

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to amounts received from expatriates (as so defined) whose expatriation date (as so defined) occurs on and after February 6, 1995.

(3) SPECIAL RULES RELATING TO CERTAIN ACTS OCCURRING BEFORE FEBRUARY 6, 1995.—In the case of an individual who took an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)–(4)) before February 6, 1995, but whose expatriation date (as so defined) occurs after February 6, 1995—

(A) the amendment made by subsection (c) shall not apply,

(B) the amendment made by subsection (d)(1) shall not apply for any period prior to the expatriation date, and

(C) the other amendments made by this section shall apply as of the expatriation date.

(4) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 472. INFORMATION ON INDIVIDUALS EXPATRIATING.

(a) In General.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. INFORMATION ON INDIVIDUALS EXPATRIATING.

"(a) Requirement.—

"(1) In general.—Notwithstanding any other provision of law, any expatriate (within the meaning of section 877A(e)(1)) shall provide a statement which includes the information described in subsection (b).

"(2) Timing.—

"(A) Citizens.—In the case of an expatriate described in section 877(e)(1)(A), such statement shall be—

"(i) provided not later than the expatriation date (within the meaning of section 877A(e)(2)), and

"(ii) provided to the person or court referred to in section 877A(e)(3).

"(B) Noncitizens.—In the case of an expatriate described in section 877A(e)(1)(B), such statement shall be provided to the Secretary with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

"(b) Information To Be Provided.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) the mailing address of such individual's principal foreign residence,

"(3) the foreign country in which such individual is residing,

"(4) the foreign country of which such individual is a citizen,

"(5) in the case of an individual having a net worth of at least the dollar amount applicable under section 877A(c)(1)(B), information detailing the assets and liabilities of such individual, and

"(6) such other information as the Secretary may prescribe.

"(c) Penalty.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year during any portion of which such failure continues in an amount equal to the greater of—

"(1) 5 percent of the additional tax required to be paid under section 877A for such year, or

"(2) $1,000,

unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(d) Information To Be Provided to Secretary.—Notwithstanding any other provision of law—

"(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

"(A) a copy of any such statement, and

"(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

"(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

"(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual relinquishing United States citizenship (within the meaning of section 877A(e)(3)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

"(e) Exemption.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if the Secretary determines that applying this section to such individuals is not necessary to carry out the purposes of this section.".

(b) Clerical Amendment.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Information on individuals expatriating.".

(c) Effective Date.—The amendments made by this section shall apply to individuals to whom section 877A of the Internal Revenue Code of 1986 applies and whose expatriation date (as defined in section 877A(e)(2)) occurs on or after February 6, 1995, except that no statement shall be required by such amendments before the 90th day after the date of the enactment of this Act.

SEC. 473. REPORT ON TAX COMPLIANCE BY UNITED STATES CITIZENS AND RESIDENTS LIVING ABROAD.

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report—

(1) describing the compliance with subtitle A of the Internal Revenue Code of 1986 by citizens and lawful permanent residents of the United States (within the meaning of section 7701(b)(6) of such Code) residing outside the United States, and

(2) recommending measures to improve such compliance (including improved coordination between executive branch agencies).

CHAPTER 2—REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS

SEC. 481. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) In General.—Section 593 (relating to reserves for losses on loans) is amended by adding at the end the following new subsections:

"(f) Termination of Reserve Method.—Subsections (a), (b), (c), and (d) shall not apply to any taxable year beginning after December 31, 1995.

"(g) 6-Year Spread of Adjustments.—

"(1) In general.—In the case of any taxpayer who is required by reason of subsection (f) to change its method of computing reserves for bad debts—

"(A) such change shall be treated as a change in a method of accounting,

"(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

"(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

"(i) shall be determined by taking into account only applicable excess reserves, and

"(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

"(2) Applicable excess reserves.—

"(A) In general.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

"(i) the balance of the reserves described in subsection (c)(1) (other than the supplemental reserve) as of the close of the taxpayer's last taxable year beginning before January 1, 1996, over

"(ii) the lesser of—

"(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

"(II) the balance of the reserves described in subclause (I), reduced in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

"(B) Special rule for thrifts which become small banks.—In the case of a bank (as defined in section 581) which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995—

"(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before such date if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A), and

"(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5) and (6) or subsection (e)(1).

"(3) Recapture of pre-1988 reserves where taxpayer ceases to be bank.—If, during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in paragraph (2)(A)(ii) and the supplemental reserve; except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

"(4) Suspension of recapture if residential loan requirement met.—

"(A) In general.—In the case of a bank which meets the residential loan requirement of subparagraph (B) for the first taxable year beginning after December 31, 1995, or for the following taxable year—

"(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

"(ii) such taxable year shall be disregarded in determining—

"(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

"(II) the amount of such adjustment.

"(B) Residential loan requirement.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

"(C) Residential loan.—For purposes of this paragraph, the term 'residential loan' means any loan described in clause (v) of section 7701(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

"(D) Base amount.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning on or before December 31, 1995. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after such date, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary.

"(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1), subparagraph (B) shall be applied with respect to such group.

"(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995:

"(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii), there shall be taken into account only the excess (if any) of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

"(B) TREATMENT UNDER ELECTIVE CUT-OFF METHOD.—For purposes of applying section 585(c)(4)—

"(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

"(ii) no amount shall be includible in gross income by reason of such reduction.

"(6) SUSPENDED RESERVE INCLUDED AS SECTION 381(c) ITEMS.—The balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection and the supplemental reserve shall be treated as items described in section 381(c).

"(7) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c) and exempt from taxation under section 501(a)—

"(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

"(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection and subsection (e), including regulations providing for the application of such subsections in the case of acquisitions, mergers, spin-offs, and other reorganizations.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence:

"Paragraphs (1)(A), (2)(A), and (4) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995."

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking "or to which section 593 applies".

(6) Subparagraph (A) of section 585(a)(2) is amended by striking "other than an organization to which section 593 applies".

(7)(A) The material preceding subparagraph (A) of section 593(e)(1) is amended by striking "by a domestic building and loan association or an institution that is treated as a mutual savings bank under section 591(b)" and inserting "by a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(B) Subparagraph (B) of section 593(e)(1) is amended to read as follows:

"(B) then out of the balance taken into account under subsection (g)(2)(A)(ii) (properly adjusted for amounts charged against such reserves for taxable years beginning after December 31, 1987),".

(C) The second sentence of section 593(e)(1) is amended by striking "the association or an institution that is treated as a mutual savings bank under section 591(b)" and inserting "a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(D) The third sentence of section 593(e)(1) is amended by striking "an association" and inserting "a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(E) Paragraph (1) of section 593(e) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any distribution of all of the stock of a bank (as defined in section 581) to another corporation if, immediately after the distribution, such bank and such other corporation are members of the same affiliated group (as defined in section 1504) and the provisions of section 5(e) of the Federal Deposit Insurance Act (as in effect on December 31, 1995) or similar provisions are in effect."

(8) Section 595 is hereby repealed.

(9) Section 596 is hereby repealed.

(10) Subsection (a) of section 860E is amended—

(A) by striking "Except as provided in paragraph (2), the" in paragraph (1) and inserting "The",

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(C) by striking in paragraph (2) (as so redesignated) all that follows "subsection" and inserting a period.

(11) Paragraph (3) of section 992(d) is amended by striking "or 593".

(12) Section 1038 is amended by striking subsection (f).

(13) Clause (ii) of section 1042(c)(4)(B) is amended by striking "or 593".

(14) Subsection (c) of section 1277 is amended by striking "or to which section 593 applies".

(15) Subparagraph (B) of section 1361(b)(2) is amended by striking "or to which section 593 applies".

(16) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 595 and 596.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SUBSECTION (b)(7)(B).—The amendments made by subsection (b)(7)(B) shall not apply to any distribution with respect to preferred stock if—

(A) such stock is outstanding at all times after October 31, 1995, and before the distribution, and

(B) such distribution is made before the date which is 1 year after the date of the enactment of this Act (or, in the case of stock which may be redeemed, if later, the date which is 30 days after the earliest date that such stock may be redeemed).

(3) SUBSECTION (b)(8).—The amendment made by subsection (b)(8) shall apply to property acquired in taxable years beginning after December 31, 1995.

(4) SUBSECTION (b)(10).—The amendments made by subsection (b)(10) shall not apply to any residual interest held by a taxpayer if such interest has been held by such taxpayer at all times after October 31, 1995.

CHAPTER 3—REFORM OF THE EARNED INCOME CREDIT

SEC. 491. EARNED INCOME CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) (relating to individuals eligible to claim the earned income credit) is amended by adding at the end the following new subparagraph:

"(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

"(i) such individual's taxpayer identification number, and

"(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse.".

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 is amended by adding at the end the following new subsection:

"(l) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act).".

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting after subparagraph (E) the following new subparagraphs:

"(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income credit) to be included on a return, and

"(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

CHAPTER 4—COMPANY-OWNED INSURANCE

SEC. 495. DENIAL OF DEDUCTION FOR INTEREST ON LOANS WITH RESPECT TO COMPANY-OWNED INSURANCE.

(a) IN GENERAL.—Paragraph (4) of section 264(a) is amended—

(1) by inserting ", or any endowment or annuity contracts owned by the taxpayer covering any individual," after "the life of any individual", and

(2) by striking all that follows "carried on by the taxpayer" and inserting a period.

(b) EXCEPTION FOR CONTRACTS RELATING TO KEY PERSONS; PERMISSIBLE INTEREST RATES.—Section 264 is amended—

(1) by striking "Any" in subsection (a)(4) and inserting "Except as provided in subsection (d), any", and

(2) by adding at the end the following new subsection:

"(d) SPECIAL RULES FOR APPLICATION OF SUBSECTION (a)(4).—

"(1) EXCEPTION FOR KEY PERSONS.—Subsection (a)(4) shall not apply to any interest paid or accrued on any indebtedness with respect to policies or contracts covering an individual who is a key person to the extent that the aggregate amount of such indebtedness with respect to policies and contracts covering such individual does not exceed $50,000.

"(2) INTEREST RATE CAP ON KEY PERSONS AND PRE-1986 CONTRACTS.—

"(A) IN GENERAL.—No deduction shall be allowed by reason of paragraph (1) or the last sentence of subsection (a) with respect to interest paid or accrued for any month to the extent the amount of such interest exceeds the amount which would have been determined if the applicable rate of interest were used for such month.

"(B) APPLICABLE RATE OF INTEREST.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The applicable rate of interest for any month is the rate of interest described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for such month.

"(ii) PRE-1986 CONTRACT.—In the case of indebtedness on a contract to which the last sentence of subsection (a) applies—

"(I) which is a contract providing a fixed rate of interest, the applicable rate of interest for any month shall be the Moody's rate described in clause (i) for the month in which the contract was purchased, or

"(II) which is a contract providing a variable rate of interest, the applicable rate of interest for any month in an applicable period shall be such Moody's rate for the last month preceding such period.

For purposes of subclause (II), the taxpayer shall elect an applicable period for such contract on its return of tax imposed by this chapter for its first taxable year ending on or after October 13, 1995. Such applicable period shall be for any number of months (not greater than 12) specified in the election and may not be changed by the taxpayer without the consent of the Secretary.

"(3) KEY PERSON.—For purposes of paragraph (1), the term 'key person' means an officer or 20-percent owner, except that the number of individuals who may be treated as key persons with respect to any taxpayer shall not exceed the greater of—

"(A) 5 individuals, or

"(B) the lesser of 5 percent of the total officers and employees of the taxpayer or 10 individuals.

"(4) 20-PERCENT OWNER.—For purposes of this subsection, the term '20-percent owner' means—

"(A) if the taxpayer is a corporation, any person who owns directly 20 percent or more of the outstanding stock of the corporation or stock possessing 20 percent or more of the total combined voting power of all stock of the corporation, or

"(B) if the taxpayer is not a corporation, any person who owns 20 percent or more of the capital or profits interest in the employer.

"(5) AGGREGATION RULES.—

"(A) IN GENERAL.—For purposes of paragraph (4)(A) and applying the $50,000 limitation in paragraph (1)—

"(i) all members of a controlled group shall be treated as 1 taxpayer, and

"(ii) such limitation shall be allocated among the members of such group in such manner as the Secretary may prescribe.

"(B) CONTROLLED GROUP.—For purposes of this paragraph, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as members of a controlled group.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to interest paid or accrued after December 31, 1995.

(2) TRANSITION RULE FOR EXISTING INDEBTEDNESS.—

(A) IN GENERAL.—In the case of—

(i) indebtedness incurred before January 1, 1996, or

(ii) indebtedness incurred before January 1, 1997 with respect to any contract or policy entered into in 1994 or 1995,

the amendments made by this section shall not apply to qualified interest paid or accrued on such indebtedness after October 13, 1995, and before January 1, 1999.

(B) QUALIFIED INTEREST.—For purposes of subparagraph (A), the qualified interest with respect to any indebtedness for any month is the amount of interest which would be paid or accrued for such month on such indebtedness if—

(i) in the case of any interest paid or accrued after December 31, 1995, indebtedness with respect to no more than 20,000 insured individuals were taken into account, and

(ii) the lesser of the following rates of interest were used for such month:

(I) The rate of interest specified under the terms of the indebtedness as in effect on October 13, 1995 (and without regard to modification of such terms after such date).

(II) The applicable percentage rate of interest described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for such month.

For purposes of clause (i), all persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 or subsection (m) or (o) of section 414 of such Code shall be treated as one person.

(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (B), the applicable percentage is as follows:

For calendar year:	**The percentage is:**
1995	100 percent
1996	90 percent
1997	80 percent
1998	70 percent.

(3) SPECIAL RULE FOR GRANDFATHERED CONTRACTS.—This section shall not apply to any contract purchased on or before June 20, 1986, except that section 264(d)(2) of the Internal Revenue Code of 1986 shall apply to interest paid or accrued after October 13, 1995.

(d) SPREAD OF INCOME INCLUSION ON SURRENDER, ETC. OF CONTRACTS.—

(1) IN GENERAL.—If any amount is received under any life insurance policy or endowment or annuity contract described in paragraph (4) of section 264(a) of the Internal Revenue Code of 1986—

(A) on the complete surrender, redemption, or maturity of such policy or contract during calendar year 1996, 1997, or 1998, or

(B) in full discharge during any such calendar year of the obligation under the policy or contract which is in the nature of a refund of the consideration paid for the policy or contract,

then (in lieu of any other inclusion in gross income) such amount shall be includible in gross income ratably over the 4-taxable year period beginning with the taxable year such amount would (but for this paragraph) be includible. The preceding sentence shall only apply to the extent the amount is includible in gross income for the taxable year in which the event described in subparagraph (A) or (B) occurs.

(2) SPECIAL RULES FOR APPLYING SECTION 264.—A contract shall not be treated as—

(A) failing to meet the requirement of section 264(c)(1) of the Internal Revenue Code of 1986, or

(B) a single premium contract under section 264(b)(1) of such Code,

solely by reason of an occurrence described in subparagraph (A) or (B) of paragraph (1) of this subsection or solely by reason of no additional premiums being received under the contract by reason of a lapse occurring after October 13, 1995.

(3) SPECIAL RULE FOR DEFERRED ACQUISITION COSTS.—In the case of the occurrence of any event described in subparagraph (A) or (B) of paragraph (1) of this subsection with respect to any policy or contract—

(A) section 848 of the Internal Revenue Code of 1986 shall not apply to the unamortized balance (if any) of the specified policy acquisition expenses attributable to such policy or contract immediately before the insurance company's taxable year in which such event occurs, and

(B) there shall be allowed as a deduction to such company for such taxable year under chapter 1 of such Code an amount equal to such unamortized balance.

TITLE V—HEALTH CARE FRAUD AND ABUSE PREVENTION

SEC. 500. AMENDMENTS AND TABLE OF CONTENTS.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) TABLE OF CONTENTS OF TITLE.—The table of contents of this title is as follows:

TITLE V—HEALTH CARE FRAUD AND ABUSE PREVENTION

Sec. 500. Amendments and table of contents.

Subtitle A—Fraud and Abuse Control Program

Sec. 501. Fraud and abuse control program.
Sec. 502. Medicare integrity program.
Sec. 503. Beneficiary incentive programs.
Sec. 504. Application of certain health anti-fraud and abuse sanctions to fraud and abuse against Federal health care programs.
Sec. 505. Guidance regarding application of health care fraud and abuse sanctions.

Subtitle B—Revisions to Current Sanctions for Fraud and Abuse

Sec. 511. Mandatory exclusion from participation in medicare and State health care programs.
Sec. 512. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.

Sec. 513. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.
Sec. 514. Sanctions against practitioners and persons for failure to comply with statutory obligations.
Sec. 515. Intermediate sanctions for medicare health maintenance organizations.
Sec. 516. Additional exceptions to anti-kickback penalties for risk-sharing arrangements.
Sec. 517. Effective date.

Subtitle C—Data Collection and Miscellaneous Provisions

Sec. 521. Establishment of the health care fraud and abuse data collection program.

Subtitle D—Civil Monetary Penalties

Sec. 531. Social Security Act civil monetary penalties.

Subtitle E—Amendments to Criminal Law

Sec. 541. Health care fraud.
Sec. 542. Forfeitures for Federal health care offenses.
Sec. 543. Injunctive relief relating to Federal health care offenses.
Sec. 544. False Statements.
Sec. 545. Obstruction of criminal investigations of Federal health care offenses.
Sec. 546. Theft or embezzlement.
Sec. 547. Laundering of monetary instruments.
Sec. 548. Authorized investigative demand procedures.

Subtitle A—Fraud and Abuse Control Program

SEC. 501. FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"FRAUD AND ABUSE CONTROL PROGRAM

"SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—Not later than January 1, 1997, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

"(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to health plans,

"(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

"(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse,

"(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section 1128D, and

"(E) to provide for the reporting and disclosure of certain final adverse actions against health care providers, suppliers, or practitioners pursuant to the data collection system established under section 1128E.

"(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

"(B) INFORMATION GUIDELINES.—

"(i) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

"(ii) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

"(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

"(4) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

"(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

"(b) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—

"(1) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payor, or otherwise.

"(2) CREDITING.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

"(c) HEALTH PLAN DEFINED.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

"(1) a policy of health insurance;

"(2) a contract of a service benefit organization; and

"(3) a membership agreement with a health maintenance organization or other prepaid health plan.".

(b) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

"(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

"(2) APPROPRIATED AMOUNTS TO TRUST FUND.—

"(A) IN GENERAL.—There are hereby appropriated to the Trust Fund—

"(i) such gifts and bequests as may be made as provided in subparagraph (B);

"(ii) such amounts as may be deposited in the Trust Fund as provided in sections 541(b) and 542(c) of the Health Insurance Reform Act of 1996, and title XI; and

"(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

"(B) AUTHORIZATION TO ACCEPT GIFTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

"(C) TRANSFER OF AMOUNTS.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

"(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

"(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XXI, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

"(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

"(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

"(3) APPROPRIATED AMOUNTS TO ACCOUNT FOR FRAUD AND ABUSE CONTROL PROGRAM, ETC.—

"(A) DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND JUSTICE.—

"(i) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (C), to be available without further appropriation, in an amount not to exceed—

"(I) for fiscal year 1997, $104,000,000, and

"(II) for each of the fiscal years 1998 through 2003, the limit for the preceding fiscal year, increased by 15 percent; and

"(III) for each fiscal year after fiscal year 2003, the limit for fiscal year 2003.

"(ii) MEDICARE AND MEDICAID ACTIVITIES.—For each fiscal year, of the amount appropriated in clause (i), the following amounts shall be available only for the purposes of the activities of the Office of the Inspector General of the Department of Health and Human Services with respect to the medicare and medicaid programs—

"(I) for fiscal year 1997, not less than $60,000,000 and not more than $70,000,000;

"(II) for fiscal year 1998, not less than $80,000,000 and not more than $90,000,000;

"(III) for fiscal year 1999, not less than $90,000,000 and not more than $100,000,000;

"(IV) for fiscal year 2000, not less than $110,000,000 and not more than $120,000,000;

"(V) for fiscal year 2001, not less than $120,000,000 and not more than $130,000,000;

"(VI) for fiscal year 2002, not less than $140,000,000 and not more than $150,000,000; and

"(VII) for each fiscal year after fiscal year 2002, not less than $150,000,000 and not more than $160,000,000.

"(B) FEDERAL BUREAU OF INVESTIGATION.—There are hereby appropriated from the general fund of the United States Treasury and hereby appropriated to the Account for transfer to the Federal Bureau of Investigation to carry out the purposes described in subparagraph (C)(i), to be available without further appropriation—

"(i) for fiscal year 1997, $47,000,000;

"(ii) for fiscal year 1998, $56,000,000;

"(iii) for fiscal year 1999, $66,000,000;

"(iv) for fiscal year 2000, $76,000,000;

"(v) for fiscal year 2001, $88,000,000;

"(vi) for fiscal year 2002, $101,000,000; and

"(vii) for each fiscal year after fiscal year 2002, $114,000,000.

"(C) USE OF FUNDS.—The purposes described in this subparagraph are to cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

"(i) prosecuting health care matters (through criminal, civil, and administrative proceedings);

"(ii) investigations;

"(iii) financial and performance audits of health care programs and operations;

"(iv) inspections and other evaluations; and

"(v) provider and consumer education regarding compliance with the provisions of title XI.

"(4) APPROPRIATED AMOUNTS TO ACCOUNT FOR MEDICARE INTEGRITY PROGRAM.—

"(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program under section 1893, subject to subparagraph (B) and to be available without further appropriation.

"(B) AMOUNTS SPECIFIED.—The amount appropriated under subparagraph (A) for a fiscal year is as follows:

"(i) For fiscal year 1997, such amount shall be not less than $430,000,000 and not more than $440,000,000.

"(ii) For fiscal year 1998, such amount shall be not less than $490,000,000 and not more than $500,000,000.

"(iii) For fiscal year 1999, such amount shall be not less than $550,000,000 and not more than $560,000,000.

"(iv) For fiscal year 2000, such amount shall be not less than $620,000,000 and not more than $630,000,000.

"(v) For fiscal year 2001, such amount shall be not less than $670,000,000 and not more than $680,000,000.

"(vi) For fiscal year 2002, such amount shall be not less than $690,000,000 and not more than $700,000,000.

"(vii) For each fiscal year after fiscal year 2002, such amount shall be not less than $710,000,000 and not more than $720,000,000.

"(5) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.".

SEC. 502. MEDICARE INTEGRITY PROGRAM.

(a) ESTABLISHMENT OF MEDICARE INTEGRITY PROGRAM.—Title XVIII is amended by adding at the end the following new section:

"MEDICARE INTEGRITY PROGRAM

"SEC. 1893. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established the Medicare Integrity Program (in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the medicare program by entering into contracts in accordance with this section with eligible private entities to carry out the activities described in subsection (b).

"(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are as follows:

"(1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

"(2) Audit of cost reports.

"(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

"(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

"(5) Developing (and periodically updating) a list of items of durable medical equipment in accordance with section 1834(a)(15) which are subject to prior authorization under such section.

"(c) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

"(1) the entity has demonstrated capability to carry out such activities;

"(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General of the United States, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

"(3) the entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement;

"(4) the entity meets such other requirements as the Secretary may impose; and

"(5) in the case of any contract entered into for years prior to 2000, the entity has entered into an agreement under section 1816 or a contract under section 1842.

In the case of the activity described in subsection (b)(5), an entity shall be deemed to be eligible to enter into a contract under the Program to carry out the activity if the entity is a carrier with a contract in effect under section 1842.

"(d) PROCESS FOR ENTERING INTO CONTRACTS.—The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary shall by regulation establish, except that such procedures shall include the following:

"(1) Procedures for identifying, evaluating, and resolving organizational conflicts of interest that are generally applicable to Federal acquisition and procurement.

"(2) Competitive procedures must be used when entering into new contracts under this section, or at any other time considered appropriate by the Secretary, except that the Secretary may contract with entities that are carrying out the activities described in this section pursuant to agreements under section 1816 or contracts under section 1842 in effect on the date of the enactment of this section.

"(3) A contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

"(e) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.".

(b) ELIMINATION OF FI AND CARRIER RESPONSIBILITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PROGRAM.—

(1) RESPONSIBILITIES OF FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(l) No payment may be made for carrying out any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893.".

(2) RESPONSIBILITIES OF CARRIERS UNDER PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(6) No payment may be made for carrying out any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).".

SEC. 503. BENEFICIARY INCENTIVE PROGRAMS.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall provide an explanation of benefits under the medicare program under title XVIII of the Social Security Act with respect to each item or service for which payment may be made under the program which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to the item or service.

(b) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(c) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

SEC. 504. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH CARE PROGRAMS.

(a) IN GENERAL.—Section 1128B (42 U.S.C. 1320a–7b) is amended as follows:

(1) In the heading, by striking "MEDICARE OR STATE HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE PROGRAMS".

(2) In subsection (a)(1), by striking "a program under title XVIII or a State health care program (as defined in section 1128(h))" and inserting "a Federal health care program".

(3) In subsection (a)(5), by striking "a program under title XVIII or a State health care program" and inserting "a Federal health care program".

(4) In the second sentence of subsection (a)—

(A) by striking "a State plan approved under title XIX" and inserting "a Federal health care program", and

(B) by striking "the State may at its option (notwithstanding any other provision of that title or of such plan)" and inserting "the administrator of such program may at its option (notwithstanding any other provision of such program)".

(5) In subsection (b), by striking "title XVIII or a State health care program" each place it appears and inserting "a Federal health care program".

(6) In subsection (c), by inserting "(as defined in section 1128(h))" after "a State health care program".

(7) By adding at the end the following new subsection:

"(f) For purposes of this section, the term 'Federal health care program' means—

"(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States Government (other than the health insurance program under chapter 89 of title 5, United States Code); or

"(2) any State health care program, as defined in section 1128(h).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997.

SEC. 505. GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS.

Title XI (42 U.S.C. 1301 et seq.), as amended by section 501, is amended by inserting after section 1128C the following new section:

"GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS

"SEC. 1128D. (a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

"(1) IN GENERAL.—

"(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1997, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

"(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a–7b note);

"(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) and shall not serve as the basis for an exclusion under section 1128(b)(7);

"(iii) interpretive rulings to be issued pursuant to subsection (b); and

"(iv) special fraud alerts to be issued pursuant to subsection (c).

"(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

"(C) REPORT.—The Inspector General of the Department of Health and Human Services (in this section referred to as the 'Inspector General') shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

"(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

"(A) An increase or decrease in access to health care services.

"(B) An increase or decrease in the quality of health care services.

"(C) An increase or decrease in patient freedom of choice among health care providers.

"(D) An increase or decrease in competition among health care providers.

"(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

"(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f)).

"(G) An increase or decrease in the potential overutilization of health care services.

"(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

"(i) whether to order a health care item or service; or

"(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

"(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

"(b) INTERPRETIVE RULINGS.—

"(1) IN GENERAL.—

"(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B (in this section referred to as an 'interpretive ruling').

"(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

"(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling not later than 90 days after receiving a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this clause shall be published in the Federal Register or otherwise made available for public inspection.

"(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision not later than 60 days after receiving such a request and shall identify the reasons for such decision.

"(2) CRITERIA FOR INTERPRETIVE RULINGS.—

"(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

"(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

"(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling (as defined in section 552 of title 5, United States Code) not authorized under this subsection.

"(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

"(c) SPECIAL FRAUD ALERTS.—

"(1) IN GENERAL.—

"(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under the medicare program or a State health care program, as defined in section 1128(h) (in this subsection referred to as a 'special fraud alert').

"(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

"(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

"(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

"(B) the volume and frequency of the conduct that would be identified in the special fraud alert.".

Subtitle B—Revisions to Current Sanctions for Fraud and Abuse

SEC. 511. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO HEALTH CARE FRAUD.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a-7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO HEALTH CARE FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Insurance Reform Act of 1996, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 1128(b) (42 U.S.C. 1320a-7(b)) is amended to read as follows:

"(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Insurance Reform Act of 1996, under Federal or State law—

"(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

"(i) in connection with the delivery of a health care item or service, or

"(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

"(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a-7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Health Insurance Reform Act of 1996, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) (42 U.S.C. 1320a-7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 512. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) (42 U.S.C. 1320a-7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 513. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) (42 U.S.C. 1320a-7(b)) is amended by adding at the end the following new paragraph:

"(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—(A) Any individual—

"(i) who has a direct or indirect ownership or control interest in a sanctioned entity and who knows or should know (as defined in section 1128A(i)(6)) of the action constituting the basis for the conviction or exclusion described in subparagraph (B); or

"(ii) who is an officer or managing employee (as defined in section 1126(b)) of such an entity.

"(B) For purposes of subparagraph (A), the term 'sanctioned entity' means an entity—

"(i) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

"(ii) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. 514. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c-5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. 515. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization's attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—Section 1876(i)(7)(A) (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1997.

SEC. 516. ADDITIONAL EXCEPTIONS TO ANTI-KICKBACK PENALTIES FOR RISK-SHARING ARRANGEMENTS.

(a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) any remuneration between an organization and an individual or entity providing items or services pursuant to a written agreement between the organization and the individual or entity if the organization is an eligible organization under section 1876, or if the written agreement places the individual or entity at substantial financial risk for the cost or utilization of the items or services, or a combination thereof, which the individual or entity is obligated to provide, whether through a withhold or capitation, or other similar risk arrangements which places the individual or entity at substantial financial risk.".

(b) REGULATIONS.—Section 1128B(b) (42 U.S.C. 1320a–7b(b)) is amended by adding at the end the following new paragraph:

"(4) The Secretary, in consultation with the Attorney General, not later than 1 year after the date of enactment of Health Insurance Reform Act of 1996, and not less than every 2 years thereafter, shall promulgate regulations to define substantial financial risk as necessary to protect against program or patient abuse.".

SEC. 517. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall take effect January 1, 1997.

Subtitle C—Data Collection and Miscellaneous Provisions

SEC. 521. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) IN GENERAL.—Title XI (42 U.S.C. 1301 et seq.), as amended by sections 501 and 505, is amended by inserting after section 1128D the following new section:

"HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM

"SEC. 1128E. (a) GENERAL PURPOSE.—Not later than January 1, 1997, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

"(b) REPORTING OF INFORMATION.—

"(1) IN GENERAL.—Each Government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

"(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

"(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

"(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

"(C) The nature of the final adverse action and whether such action is on appeal.

"(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

"(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

"(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

"(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

"(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

"(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

"(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

"(B) procedures in the case of disputed accuracy of the information.

"(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

"(d) ACCESS TO REPORTED INFORMATION.—

"(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

"(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee shall be sufficient to recover the full costs of operating the database. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

"(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

"(f) COORDINATION WITH NATIONAL PRACTITIONER DATA BANK.—The Secretary shall implement this section in such a manner as to avoid duplication with the reporting requirements established for the National Practitioner Data Bank under the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11101 et seq.).

"(g) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

"(1) FINAL ADVERSE ACTION.—

"(A) IN GENERAL.—The term 'final adverse action' includes:

"(i) Civil judgments against a health care provider, supplier, or practitioner in Federal or State court related to the delivery of a health care item or service.

"(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

"(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

"(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

"(II) any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, nonrenewability, or otherwise, or

"(III) any other negative action or finding by such Federal or State agency that is publicly available information.

"(iv) Exclusion from participation in Federal or State health care programs due to program violations.

"(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

"(B) EXCEPTION.—The term does not include any action with respect to a malpractice claim.

"(2) PRACTITIONER.—The terms 'licensed health care practitioner', 'licensed practitioner', and 'practitioner' mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

"(3) GOVERNMENT AGENCY.—The term 'Government agency' shall include:

"(A) The Department of Justice.

"(B) The Department of Health and Human Services.

"(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

"(D) State law enforcement agencies.

"(E) State medicaid fraud control units.

"(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

"(4) Health plan.—The term 'health plan' has the meaning given such term by section 1128C(c).

"(5) Determination of conviction.—For purposes of paragraph (1), the existence of a conviction shall be determined under paragraph (4) of section 1128(i).".

(b) Improved Prevention in Issuance of Medicare Provider Numbers.—Section 1842(r) (42 U.S.C. 1395u(r)) is amended by adding at the end the following new sentence: "Under such system, the Secretary may impose appropriate fees on such physicians to cover the costs of investigation and recertification activities with respect to the issuance of the identifiers.".

Subtitle D—Civil Monetary Penalties

SEC. 531. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) General Civil Monetary Penalties.—Section 1128A (42 U.S.C. 1320a–7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking "programs under title XVIII" and inserting "Federal health care programs (as defined in section 1128B(f)(1))".

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Health Insurance Reform Act of 1996 (as estimated by the Secretary) shall be deposited into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C).".

(3) In subsection (i)—

(A) in paragraph (2), by striking "title V, XVIII, XIX, or XX of this Act" and inserting "a Federal health care program (as defined in section 1128B(f))",

(B) in paragraph (4), by striking "a health insurance or medical services program under title XVIII or XIX of this Act" and inserting "a Federal health care program (as so defined)", and

(C) in paragraph (5), by striking "title V, XVIII, XIX, or XX" and inserting "a Federal health care program (as so defined)".

(4) By adding at the end the following new subsection:

"(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

"(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

"(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

"(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(b) Excluded Individual Retaining Ownership or Control Interest in Participating Entity.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking "or" at the end of paragraph (1)(D);

(2) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection—

"(i) retains a direct or indirect ownership or control interest in an entity that is participating in a program under title XVIII or a State health care program, and who knows or should know of the action constituting the basis for the exclusion; or

"(ii) is an officer or managing employee (as defined in section 1126(b)) of such an entity;".

(c) Modifications of Amounts of Penalties and Assessments.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs" after "false or misleading information was given"; and

(3) by striking "twice the amount" and inserting "3 times the amount".

(d) Claim for Item or Service Based on Incorrect Coding or Medically Unnecessary Services.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)), as amended by subsection (b), is amended—

(1) in subparagraph (A) by striking "claimed," and inserting "claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking the semicolon and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person knows or should know is not medically necessary; or".

(e) Sanctions Against Practitioners and Persons for Failure To Comply With Statutory Obligations.—Section 1156(b)(3) (42 U.S.C. 1320c–5(b)(3)) is amended by striking "the actual or estimated cost" and inserting "up to $10,000 for each instance".

(f) Procedural Provisions.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)), as amended by section 515(a)(2), is amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (B)(i) or (C)(i) in the same manner as such provisions apply to a civil money penalty or proceeding under section 1128A(a).".

(g) Prohibition Against Offering Inducements to Individuals Enrolled Under Programs or Plans.—

(1) Offer of remuneration.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended—

(A) by striking "or" at the end of paragraph (1)(D);

(B) by striking the semicolon at the end of paragraph (4) and inserting "; or"; and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program (as so defined);".

(2) Remuneration defined.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payers, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Health Insurance Reform Act of 1996; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.".

(h) Effective Date.—The amendments made by this section shall take effect January 1, 1997.

Subtitle E—Amendments to Criminal Law

SEC. 541. HEALTH CARE FRAUD.

(a) In General.—

(1) Fines and imprisonment for health care fraud violations.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1347. Health care fraud

"Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health care program, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care program in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person may be imprisoned for any term of years.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

(b) CRIMINAL FINES DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—The Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 501(b), an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. 542. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(i) section 1347 of this title;

"(ii) section 1128B of the Social Security Act; and

"(iii) sections 287, 371, 664, 666, 669, 1001, 1027, 1341, 1343, 1920, or 1954 of this title if the violation or conspiracy relates to health care fraud.".

(b) CONFORMING AMENDMENT.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting "or (a)(6)" after "(a)(1)".

(c) PROPERTY FORFEITED DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—After the payment of the costs of asset forfeiture has been made, and notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 501(b), an amount equal to the net amount realized from the forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

(2) COSTS OF ASSET FORFEITURE.—For purposes of paragraph (1), the term "payment of the costs of asset forfeiture" means—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services,

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Account;

(C) the compromise and payment of valid liens and mortgages against property that has been forfeited, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(E) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

SEC. 543. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);".

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting "or a Federal health care offense (as defined in section 982(a)(6)(B))" after "title)".

SEC. 544. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1033. False statements relating to health care matters

"Whoever, in any matter involving a health care program, knowingly and willfully—

"(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or

"(2) makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry,

shall be fined under this title or imprisoned not more than 5 years, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"1033. False statements relating to health care matters.".

SEC. 545. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1518. Obstruction of criminal investigations of Federal health care offenses

"(a) Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section the term 'Federal health care offense' has the same meaning given such term in section 982(a)(6)(B) of this title.

"(c) As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"1518. Obstruction of Criminal Investigations of Federal Health Care Offenses.".

SEC. 546. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 669. Theft or embezzlement in connection with health care

"Whoever willfully embezzles, steals, or otherwise willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health care program, shall be fined under this title or imprisoned not more than 10 years, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"669. Theft or Embezzlement in Connection with Health Care.".

SEC. 547. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 982(a)(6)(B) of this title.".

SEC. 548. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following new section:

"§ 3486. Authorized investigative demand procedures

"(a)(1)(A) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue in writing and cause to be served a subpoena compelling production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control.

"(B) A custodian of records may be required to give testimony concerning the production and authentication of such records.

"(C) The production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place; except that such production shall not be required more than 500 miles distant from the place where the subpoena is served.

"(D) Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(E) A subpoena requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(2) Investigative demands utilizing an administrative subpoena are authorized for any investigation with respect to any act or activity constituting or involving health care fraud, including a scheme or artifice—

"(A) to defraud any health care program, in connection with the delivery of or payment for health care benefits, items, or services; or

"(B) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care program in connection with the delivery of or payment for health care benefits, items, or services.

"(b)(1) A subpoena issued under this section may be served by any person designated in the subpoena to serve it.

"(2) Service upon a natural person may be made by personal delivery of the subpoena to such person.

"(3) Service may be made upon a domestic or foreign association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

"(4) The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c)(1) In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which such person carries on business or may be found, to compel compliance with the subpoena.

"(2) The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony required under subsection (a)(1)(B).

"(3) Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(4) All process in any such case may be served in any judicial district in which such person may be found.

"(d) Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

"(e)(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefor.

"(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

"(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3405 the following new item:

"3486. Authorized investigative demand procedures".

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice subpoena (issued under section 3486)," after "subpoena".

KASSEBAUM AMENDMENT NO. 3677

Mrs. KASSEBAUM proposed an amendment to amendment No. 3676 proposed by Mr. DOLE to amendment No. 3675 proposed by Mrs. KASSEBAUM to the bill S. 1028, supra; as follows:

Strike subtitle C of title IV.

BROWN AMENDMENT NO. 3678

Mr. BROWN proposed an amendment to the bill S. 1028, supra; as follows:

At the appropriate place in title III, insert the following:

SEC. . EQUITABLE TREATMENT FOR THE GENERIC DRUG INDUSTRY.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the generic drug industry should be provided equitable relief in the same manner as other industries are provided with such relief under the patent transitional provisions of section 154(c) of title 35, United States Code, as amended by section 532 of the Uruguay Round Agreements Act of 1994 (Public Law 103-465; 108 Stat. 4983).

(b) APPROVAL OF APPLICATIONS OF GENERIC DRUGS.—For purposes of acceptance of consideration by the Secretary of an application under subsections (b), (c), and (j) of section 505, and subsections (b), (c), and (n) of section 512, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (b), (c), and (j), and 360b (b), (c), and (n)), the expiration date of a patent that is the subject of a certification under section 505(b)(2)(A) (ii), (iii), or (iv), section 505(j)(2)(A)(vii) (II), (III), (IV), or section 512(n)(1)(H) (ii), (iii), or (iv) of such Act, respectively, made in an application submitted prior to June 8, 1995, shall be deemed to be the date on which such patent would have expired under the law in effect on the day preceding December 8, 1994.

(c) MARKETING GENERIC DRUGS.—The remedies of section 271(e)(4) of title 35, United States Code, shall not apply to acts—

(1) that were commenced, or for which a substantial investment was made prior to June 8, 1995; and

(2) that became infringing by reason of section 154(c)(1) of such title, as amended by section 532 of the Uruguay Round Agreements Act (Public Law 103-465; 108 Stat. 4983).

(d) SUBSTANTIAL INVESTMENT.—For purposes of this Act and section 154(c)(2)(A) of title 35, United States Code, with respect to a product that is subject to the requirements of subsections (b)(2) or (j) of section 505, or of subsections (b) (2) and (n) of section 512, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(2) and (j), and 360(b)(2) and (n), the submission of an application described in subsection (b), and only the submission of such an applications, shall constitute substantial investment.

(e) NOTICE.—

(1) IN GENERAL.—Unless the notice required by this subsection has previously been provided, when an applicant submitting an application described in subsection (b) receives notice from the Secretary that the application has been tentatively approved, such applicant shall give notice of such application to—

(A) each owner of the patent which is the subject of the certification or the representative of such owner designated to receive such notice; and

(B) the holder of the approved application under section 505(b) or section 512(c)(1), respectively, for the drug which is claimed by the patent or a use of which is claimed by the patent or the representative of such holder designated to receive such notice.

(2) CERTIFICATION OF NOTICE.—The applicant shall certify to the Secretary the date that such notice is given. The approval of such application by the Secretary shall not be made effective until 7 calendar days after the date so certified by such applicant.

(f) EQUITABLE REMUNERATION.—For acts described in subsection (c), equitable remuneration of the type described in section 154(c)(3) of title 35, United States Code, as amended by section 532 of the Uruguay Round Agreements Act (Public Law 103-465; 108 Stat. 4983) shall be awarded to a patentee only if there has been—

(1) the commercial manufacture, use, offer to sell, or sale, within the United States of an approved drug that is the subject of an application described in subsection (b); or

(2) the importation by the applicant into the United States of an approved drug or of active ingredient used in an approved drug that is the subject of an application described in subsection (b).

(g) APPLICABILITY.—The provisions of this section shall govern the approval or effective date of approval of all pending applications that have not received final approval as of the date of enactment of this Act.

JEFFORDS AMENDMENT NO. 3679

Mr. JEFFORDS proposed an amendment to the bill S. 1028, supra; as follows:

At the end of section 103, add the following new subsection:

"(g) LIMITATION ON LIFETIME AGGREGATE LIMITS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an employee health benefit plan or a health plan issuer offering a group health plan may not impose an aggregate dollar lifetime limit of less than $10,000,000 (such amount to be adjusted for inflation in fiscal years subsequent to the fiscal year in which this subsection becomes effective) with respect to coverage under the plan.

"(2) SMALL EMPLOYERS.—Paragraph (1) shall not apply to a group health plan offered to or maintained for employees of a single employer that employs 25 or fewer employees.

"(3) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting the application by an employee health benefit plan or a health plan issuer offering a group health plan of any limits, exclusions, or other forms of cost containment mechanisms with respect to coverage under the plan other than the aggregate limit permitted under paragraph (1).

"(4) DISCLOSURE.—Any limits, exclusions, or other cost containment mechanisms permitted under paragraph (3) shall be disclosed as provided for in section 105(c).

"(5) APPLICATION OF SUBSECTION.—This subsection shall not apply to health maintenance organization that meets the requirements of title XIV of the Public Health Service Act.

"(6) EFFECTIVE DATE.—This paragraph shall become effective with respect to health plans on the date that is 2 years after the date of enactment of this Act.".

At the end of section 105, add the following new subsection:

"(c) DISCLOSURE OF LIMITS AND EXCLUSIONS.—An employee health benefit plan or a health plan issuer offering a group health plan shall disclose, as part of its solicitation and sales materials and in a form and manner that is conspicuous and understandable to a reasonable individual, any limits, exclusions, or cost containment mechanisms with respect to coverage provided under the plan.".

Section 3711 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(g)(1) If a nontax debt or claim owed to the United States has been delinquent for a period of 180 days—

"(A) the head of the executive, judicial, or legislative agency that administers the program that gave rise to the debt or claim shall transfer the debt or claim to the Secretary of the Treasury; and

"(B) upon such transfer the Secretary of the Treasury shall take appropriate action to collect or terminate collection actions on the debt or claim.

"(2) Paragraph (1) shall not apply—

"(A) to any debt or claim that—

"(i) is in litigation or foreclosure;

"(ii) will be disposed of under an asset sales program within 1 year after the date the debt or claim is first delinquent, or a greater period of time if a delay would be in the best interests of the United States, as determined by the Secretary of the Treasury;

"(iii) has been referred to a private collection contractor for collection for a period of time determined by the Secretary of the Treasury;

"(iv) has been referred by, or with the consent of, the Secretary of the Treasury to a debt collection center for a period of time determined by the Secretary of the Treasury; or

"(v) will be collected under internal offset, if such offset is sufficient to collect the claim within 3 years after the date the debt or claim is first delinquent; and

"(B) to any other specific class of debt or claim, as determined by the Secretary of the Treasury at the request of the head of an executive, judicial, or legislative agency or otherwise.

"(3) For purposes of this section, the Secretary of the Treasury may designate, and withdraw such designation of debt collection centers operated by other Federal agencies. The Secretary of the Treasury shall designate such centers on the basis of their performance in collecting delinquent claims owed to the Government.

"(4) At the discretion of the Secretary of the Treasury, referral of a nontax claim may be made to—

"(A) any executive department or agency operating a debt collection center for servicing, collection, compromise, or suspension or termination of collection action;

"(B) a contractor operating under a contract for servicing or collection action; or

"(C) the Department of Justice for litigation.

"(5) nontax claims referred or transferred under this section shall be serviced, collected, or compromised, or collection action thereon suspended or terminated, in accordance with otherwise applicable statutory requirements and authorities. Executive departments and agencies operating debt collection centers may enter into agreements with the Secretary of the Treasury to carry out the purposes of this subsection. The Secretary of the Treasury shall—

"(A) maintain competition in carrying out this subsection;

"(B) maximize collections of delinquent debts by placing delinquent debts quickly;

"(C) maintain a schedule of contractors and debt collection centers eligible for referral of claims; and

"(D) refer delinquent debts to the person most appropriate to collect the type or amount of claim involved.

"(6) Any agency operating a debt collection center to which nontax claims are referred or transferred under this subsection may charge a fee sufficient to cover the full cost of implementing this subsection. The agency transferring or referring the nontax claim shall be charged the fee, and the agency charging the fee shall collect such fee by retaining the amount of the fee from amounts collected pursuant to this subsection. Agencies may agree to pay through a different method, or to fund an activity from another account or from revenue received from the procedure described under section 3720C of this title. Amounts charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title.

"(7) Notwithstanding any other law concerning the depositing and collection of Federal payments, including section 3302(b) of this title, agencies collecting fees may retain the fees from amounts collected. Any fee charged pursuant to this subsection shall be deposited into an account to be determined by the executive department or agency operating the debt collection center charging the fee (in this subsection referred to in this section as the 'Account'). Amounts deposited in the Account shall be available until expended to cover costs associated with the implementation and operation of Governmentwide debt collection activities. Costs properly chargeable to the Account include—

"(A) the costs of computer hardware and software, word processing and telecommunications equipment, and other equipment, supplies, and furniture;

"(B) personnel training and travel costs;

"(C) other personnel and administrative costs;

"(D) the costs of any contract for identification, billing, or collection services; and

"(E) reasonable costs incurred by the Secretary of the Treasury, including services and utilities provided by the Secretary, and administration of the Account.

"(8) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of unobligated balances remaining in the Account at the close of business on September 30 of the preceding year, minus any part of such balance that the executive department or agency operating the debt collection center determines is necessary to cover or defray the costs under this subsection for the fiscal year in which the deposit is made.

"(9) To carry out the purposes of this subsection, the Secretary of the Treasury may prescribe such rules, regulations, and procedures as the Secretary considers necessary.

"(h)(1) The head of an executive, judicial, or legislative agency acting under subsection (a) (1), (2), or (3) of this section to collect a claim, compromise a claim, or terminate collection action on a claim may obtain a consumer report (as that term is defined in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a)) or comparable credit information on any person who is liable for the claim.

"(2) The obtaining of a consumer report under this subsection is deemed to be a circumstance or purpose authorized or listed under section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).".

JEFFORDS AMENDMENT NO. 3680

Mr. JEFFORDS proposed an amendment to amendment No. 3679 proposed by him to the bill S. 1028, supra; as follows:

(Purpose: To reduce delinquencies and to improve debt-collection activities government-wide, and for other purposes)

Strike pages 4, 5, and 6 of amendment No. 3679, and insert:

SEC. 101. SHORT TITLE.

This Act may be cited as the "Debt Collection Improvement Act of 1995".

SEC. 102. EFFECTIVE DATE.

(a) Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act shall become effective October 1, 1995.

(b) The amendments made by title III of this Act shall become effective for levies issued after the date of enactment of this Act.

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TITLE I—GENERAL DEBT COLLECTION INITIATIVES

Subchapter A—General Offset Authority

SEC. 201. ENHANCEMENT OF ADMINISTRATIVE OFFSET AUTHORITY.

(a) Section 3701(c) of title 31, United States Code, is amended to read as follows:

"(c) In sections 3716 and 3717 of this title, the term 'person' does not include an agency of the United States government, or of a unit of general local government.".

(b) Section 3716 of title 31, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b) Before collecting a claim by administrative offset, the head of an executive, legislative, or judicial agency must either—

"(1) adopt regulations on collecting by administrative offset promulgated by the Department of Justice, the General Accounting Office and/or the Department of the Treasury without change; or

"(2) prescribe independent regulations on collecting by administrative offset consistent with the regulations promulgated under paragraph (1).";

(2) by amending subsection (c)(2) to read as follows:

"(2) when a statute explicitly prohibits using administrative 'offset' or 'setoff' to collect the claim or type of claim involved.";

(3) by redesignating subsection (c) as subsection (d); and

(4) by inserting after subsection (b) the following new subsection:

"(c)(1)(A) Except as provided in subparagraphs (B) or (C), a disbursing official of the Department of the Treasury, the Department of Defense, the United States Postal Service, or any disbursing official of the United States designated by the Secretary of the Treasury, is authorized to offset the amount of a payment which a payment certifying agency has certified to the disbursing official for disbursement by an amount equal to the amount of a claim which a creditor agency has certified to the Secretary of the Treasury pursuant to this subsection.

"(B) An agency that designates disbursing officials pursuant to section 3321(c) of this title is not required to certify claims arising out of its operations to the Secretary of the Treasury before such agency's disbursing officials offset such claims.

"(C) Payments certified by the Department of Education under a program administered by the Secretary of Education under Title IV of the Higher Education Act of 1965, as amended, shall not be subject to offset under this subsection.

"(2) Neither the disbursing official nor the payment certifying agency shall be liable—

(A) for the amount of the offset on the basis that the underlying obligation, represented by the payment before the offset was taken, was not satisfied; or

(B) for failure to provide timely notice under paragraph (8).

"(3)(A) Notwithstanding any other provision of law (including sections 207 and 1631(d)(1) of the Act of August 14, 1935 (42 U.S.C. 407 and 1383(d)(1)), section 413(b) of Public Law 91-173 (30 U.S.C. 923(b)) and section 14 of the Act of August 29, 1935 (45 U.S.C. 231m)), all payments due under the Social Security Act, Part B of the Black Lung Benefits Act, or under any law administered by the Railroad Retirement Board, shall be subject to offset under this section.

"(B) An amount of $10,000 which a debtor may receive under Federal benefit programs cited under subparagraph (A) within a 12-month period shall be exempt from offset under this subsection. In applying the $10,000 exemption, the disbursing official shall:

"(i) Apply a prorated amount of the exemption to each periodic benefit payment to be made to debtor during the applicable 12-month period; and

"(ii) Consider all benefit payments made during the applicable 12-month period which are exempt from offset under this subsection as part of the $10,000 exemption.

"For purposes of the preceding sentence, the amount of a periodic benefit payment shall be the amount after any reduction or deduction required under the laws authorizing the program under which such payment is authorized to be made (including any reduction or deduction to recover any overpayment under such program).

"(C) The Secretary of the Treasury shall exempt means-tested programs when notified by the head of the respective agency. The Secretary may exempt other payments from offset under this subsection upon the written request of the head of a payment certifying agency. A written request for exemption of other payments must provide justification for the exemption under the standards prescribed by the Secretary. Such standards shall give due consideration to whether offset would tend to interfere substantially with or defeat the purposes of the payment certifying agency's program.

"(D) The provisions of section 205(b)(1) or 1631(c)(1) of the Social Security Act shall not apply to any offset executed pursuant to this section against benefits authorized by either title II or title XVI of the Social Security Act respectively.

"(4) The Secretary of the Treasury is authorized to charge a fee sufficient to cover the full cost of implementing this subsection. The fee may be collected either by the retention of a portion of amounts collected pursuant to this subsection, or by billing the agency referring or transferring the claim. Fees charged to the agencies shall be based on actual offsets completed. Fees charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title. Fees charged under this subsection shall be deposited into the 'Account' determined by the Secretary of the Treasury in accordance with section 3711(g) of this title, and shall be collected and accounted for in accordance with the provisions of that section.

"(5) The Secretary of the Treasury may disclose to a creditor agency the current address of any payee and any data related to certifying and authorizing such payment in accordance with section 552a of title 5, United States Code, even when the payment has been exempt from offset. Where payments are made electronically, the Secretary is authorized to obtain the current address of the debtor/payee from the institution receiving the payment. Upon request by the Secretary, the institution receiving the payment shall report the current address of the debtor/payee to the Secretary.

"(6) The Secretary of the Treasury is authorized to prescribe such rules, regulations and procedures as the Secretary of the Treasury deems necessary to carry out the purposes of this subsection. The Secretary shall consult with the heads of affected agencies in the development of such rules, regulations and procedures.

"(7) (A) Any Federal agency that is owed, by a named person a past-due legally enforceable non-tax debt that is over 180 days delinquent (other than any past-due support), including non-tax debt administered by a third party acting as an agent for the Federal Government, shall notify the Secretary of the Treasury of all such non-tax debts for purposes of offset under this subsection.

"(B) An agency may delay notification under subparagraph (A) with respect to a debt that is secured by bond or other instruments in-lieu of bond, or for which there is another specific repayment source, in order to allow sufficient time to either collect the debt through normal collection processes (including collection by internal administrative offset) or render a final decision on any protest filed against the claim.

"(8) The disbursing official conducting the offset shall notify the payee in writing of—

"(A) the occurrence of an offset to satisfy a past-due legally enforceable debt, including a description of the type and amount of the payment otherwise payable to the debtor against which the offset was executed;

"(B) the identity of the creditor agency requesting the offset; and

"(C) a contact point within the creditor agency that will handle concerns regarding the offset.".

"Where the payment to be offset is a periodic benefit payment, the disbursing official shall take reasonable steps, as determined by the Secretary of the Treasury, to provide the notice to the payee not later than the date on which the payee is otherwise scheduled to receive the payment, or as soon as practical thereafter, but no later than the date of the offset. Notwithstanding the preceding sentence, the failure of the debtor to receive such notice shall not impair the legality of such offset.

"(9) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for offset received from other agencies.

(c) Section 3701(a) of title 31, U.S.C., is amended by adding at the end the following new paragraph:

"(8) 'non-tax claim' means any claim from any agency of the Federal Government other than a claim by the Internal Revenue Service under the Internal Revenue Code of 1986.".

SEC. 202. HOUSE OF REPRESENTATIVES AS LEGISLATIVE AGENCY.

(a) Section 3701(a) of title 31, United States Code, is amended by adding the following new paragraphs after paragraph (7)—

"(8) For purposes of subchapters I and II of chapter 37 of title 31, United States Code (relating to claims of or against the United States Government), the United States House of Representatives shall be considered to be a legislative agency (as defined in section 3701(a)(4) of such title), and the Clerk of the House of Representatives shall be deemed to be the head of such legislative agency.

"(9) Regulations prescribed by the Clerk of the House of Representatives pursuant to section 3716 of title 31, United States Code, shall not become effective until they are approved by the Committee on Rules of the House of Representatives."

SEC. 203. EXEMPTION FROM COMPUTER MATCHING REQUIREMENTS UNDER THE PRIVACY ACT OF 1974.

Section 552a(a) of title 5, United States Code, is amended—

(1) in paragraph (2), by inserting "acting in an individual, not a business capacity" after "residence";

(2) in paragraph (8)(B)—

(A) by striking "or" at the end of clause (vi);

(B) by inserting "or" at the end of clause (vii); and

(C) by adding after clause (vii) the following new clause:

"(viii) matches for administrative offset or claims collection pursuant to subsection 3716(c) of title 31, section 5514 of this title, or any other payment intercept or offset program authorized by statute;".

SEC. 204 TECHNICAL AND CONFORMING AMENDMENTS.

(a) Title 31, United States Code, is amended—

(1) in section 3322(a), by inserting "section 3716 and section 3720A of this title, section 6331 of title 26, and" after "Except as provided in"; and

(2) in section 3325(a)(3), by inserting "or pursuant to payment intercepts or offsets pursuant to section 3716 or 3720A, or pursuant to levies executed under 26 U.S.C. 6331," after "voucher"; and

(3) in sections 3711, 3716, 3717 and 3718, by striking "the head of an executive or legislative agency" each place it appears and inserting instead "the head of an executive, judicial or legislative agency".

(b) Subsection 6103(*l*)(10) of title 26, United States Code is amended—

(1) in subparagraph (A), by inserting "and to officers and employees of the Department of the Treasury in connection with such reduction" adding after "6402"; and

(2) in subparagraph (B), by adding "and to officers and employees of the Department of the Treasury in connection with such reduction" after "agency".

Subchapter B—Salary Offset Authority

SEC. 301. ENHANCEMENT OF SALARY OFFSET AUTHORITY.

Section 5514 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by adding at the end of paragraph (1) the following: "All Federal agencies to which debts are owed and are delinquent in repayment, shall participate in a computer match at least annually of their delinquent debt records with records of Federal employees to identify those employees who are delinquent in repayment of those debts. Matched Federal employee records shall include, but shall not be limited to, active Civil Service employees government-wide, military active duty personnel, military reservists, United States Postal Service employees, and records of seasonal and temporary employees. The Secretary of the Treasury shall establish and maintain an interagency consortium to implement centralized salary offset computer matching, and promulgate regulations for this program. Agencies that perform centralized salary offset computer matching services under this subsection are authorized to charge a fee sufficient to cover the full cost for such services.";

(B) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(C) by inserting after paragraph (2) the following new paragraph:

"(3) The provisions of paragraph (2) shall not apply to routine intra-agency adjustments of pay that are attributable to clerical or administrative errors or delays in processing pay documents that have occurred within the four pay periods preceding the adjustment and to any adjustment that amounts to $50 or less, provided that at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment.";

(D) by amending paragraph (5)(B) (as redesignated) to read as follows:

"(B) For purposes of this section, 'agency' includes executive departments and agencies, the United States Postal Service, the Postal Rate Commission, the United States Senate, the United States House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of government, and government corporations.";

(2) by adding at the end of subsection (b) the following new paragraphs:

"(3) For purposes of this section, the Clerk of the House of Representatives shall be deemed to be the head of the agency. Regulations prescribed by the Clerk of the House of Representatives pursuant to subsection (b)(1) shall be subject to the approval of the Committee on Rules of the House of Representatives.

"(4) For purposes of his section, the Secretary of the Senate shall be deemed to be the head of the agency. Regulations prescribed by the Secretary of the Senate pursuant to subsection (b)(1) shall be subject to the approval of the Committee on Rules and Administration of the Senate.".

(3) by adding after subsection (c) the following new subsection:

"(d) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for offset received from other agencies.".

Subchapter C—Taxpayer Identifying Numbers

SEC. 401. ACCESS TO TAXPAYER IDENTIFYING NUMBERS; BARRING DELINQUENT DEBTORS FROM CREDIT ASSISTANCE.

Section 4 of the Debt Collection Act of 1982 (Pub. L. 97-365, 96 Stat. 1749, 26 U.S.C. 6103 note) is amended—

(1) in subsection (b), by striking "For purposes of this section" and inserting instead "For purposes of subsection (a)"; and

(2) by at the end thereof the following new subsections:

"(c) FEDERAL AGENCIES.—Each Federal agency shall require each person doing business with that agency to furnish to that agency such person's taxpayer identifying number.

"(1) For purposes of this subsection, a person is considered to be 'doing business' with a Federal agency if the person is—

"(A) is a lender or servicer in a Federal guaranteed or insured loan program;

"(B) an applicant for, or recipient of—

"(i) a Federal guaranteed, insured, or direct loan; or

"(ii) a Federal license, permit, right-of-way, grant, benefit payment or insurance;

"(C) a contractor of the agency;

"(D) assessed a fine, fee, royalty or penalty by that agency;

"(E) in a relationship with a Federal agency that may give rise to a receivable due to that agency, such as a partner of a borrower in or a guarantor of a Federal direct or insured loan; and

"(F) is a joint holder of any account to which Federal benefit payments are transferred electronically.

"(2) Each agency shall disclose to the person required to furnish a taxpayer identifying number under this subsection its intent to use such number of purposes of collecting and reporting on any delinquent amounts arising out of such person's relationship with the government.

"(3) For purposes of this subsection—

"(A) The term 'taxpayer identifying number' has the meaning given such term in section 6109 of title 26, United States Code.

"(B) The term 'person' means an individual, sole proprietorship, partnership, corporation, non-profit organization, or any other form of business association, but with the exception of debtors owing claims resulting from petroleum pricing violations does not include debtors under third party claims of the United States.

"(d) ACCESS TO SOCIAL SECURITY NUMBERS.—Notwithstanding 5 U.S.C. 552a, creditor agencies to which a delinquent claim is owed, and their agents, may match their debtor records with the Social Security Administration records to verify name, name control, Social Security number, address, and date of birth.".

SEC. 402. BARRING DELINQUENT FEDERAL DEBTORS FROM OBTAINING FEDERAL LOANS OR LOAN GUARANTEES.

(a) Title 31, United States Code, is amended by adding after section 3720A the following new section:

"SEC. 3720B. BARRING DELINQUENT FEDERAL DEBTORS FROM OBTAINING FEDERAL LOANS OR LOAN GUARANTEES.

"(a) Unless waived by the head of the agency, no person may obtain any Federal financial assistance in the form of a loan or a loan guarantee if such person has an outstanding Federal non-tax debt which is in a delinquent status, as determined under the standards prescribed by the Secretary of the Treasury, with a Federal agency. Any such person may obtain additional Federal financial assistance only after such delinquency is received, pursuant to these standards. This section shall not apply to loans or loan guarantees where a statute specifically permits extension of Federal financial assistance to borrowers in delinquent status.

"(b) The head of the agency may delegate the waiver authority described in (a) to the Chief Financial Officer of the agency. The waiver authority may be redelegated only to the Deputy Chief Financial Officer of the agency.

"(c) For purposes of this section, 'person' means an individual; or sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association."

(b) The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720A the following new item:

"3720B. Barring Delinquent Federal Debtors from Obtaining Federal loans or Loan Guarantees.".

Subchapter D—Expanding Collection Authorities and Governmentwide Cross-Servicing

SEC. 501. EXPANDING COLLECTION AUTHORITIES UNDER THE DEBT COLLECTION ACT OF 1982.

(a) Subsection 8(e) of the Debt Collection Act of 1982 (Public Law 97–365, 31 U.S.C. 3701(d) and 5 U.S.C. 5514 note) is repealed.

(b) Section 5 of the Social Security Domestic Employment Reform Act of 1994 (P.L. 103–387) is repealed.

(c) Section 631 of the Tariff Act of 1930, as amended (19 U.S.C. 1631) is repealed.

(d) Title 31, United States Code, is amended—

(1) in section 3701—

(A) by amending subsection (a)(4) to read as follows:

"(4) 'executive, judicial or legislative agency' means a department, military department, agency, court, court administrative office, or instrumentality in the executive, judicial or legislative branches of government, including government corporations."; and

(B) by adding at the end the following new subsection:

"(d) Sections 3711(f) and 3716–3719 of this title do not apply to a claim or debt under, or to an amount payable under, the Internal Revenue Code of 1986;

(2) by amending section 3711(f) to read as follows:

"(f)(1) When trying to collect a claim of the Government, the head of an executive or legislative agency may disclose to a consumer reporting agency information from a system of records that an individual is responsible for a claim if notice required by section 552a(e)(4) of title 5, United States Code, indicates that information in the system may be disclosed to a consumer reporting agency.

"(2) The information disclosed to a consumer reporting agency shall be limited to—

"(A) information necessary to establish the identity of the individual, including name, address and taxpayer identifying number;

"(B) the amount, status, and history of the claim; and

"(C) the agency or program under which the claim arose."; and

(3) in section 3718—

(A) in subsection (a), by striking the first sentence and inserting instead the following: "Under conditions the head of an executive, legislative or judicial agency considers appropriate, the head of an agency may make a contract with a person for collection service to recover indebtedness owed, or to locate or recover assets of, the United States Government. No head of an agency may enter into a contract to locate or recover assets of the United States held by a state government or financial institution unless that agency has established procedures approved by the Secretary of the Treasury to identify and recover such assets; and

(B) in subsection (d), by inserting ", or to locate or recover assets of ," after "owed".

SEC. 502. GOVERNMENTWIDE CROSS-SERVICING.

Section 3711 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) At the discretion of the head of an executive, judicial or legislative agency, referral of a non-tax claim may be made to any executive department or agency operating a debt collection center for servicing and collection in accordance with an agreement entered into under paragraph (2). Referral or transfer of a claim may also be made to the Secretary of the Treasury for servicing, collection, compromise, and/or suspension or termination of collection action. Non-tax claims referred or transferred under this section shall be serviced, collected, compromised, and/or collection action suspended or terminated in accordance with existing statutory requirements and authorities.

"(2) Executive departments and agencies operating debt collection centers are authorized to enter into agreements with the heads of executive, judicial, or legislative agencies to service and/or collect non-tax claims referred or transferred under this subsection. The heads of other executive departments and agencies are authorized to enter into agreements with the Secretary of the Treasury for servicing or collection of referred or transferred non-tax claims or other Federal agencies operating debt collection centers to obtain debt collection services from those agencies.

"(3) Any agency to which non-tax claims are referred or transferred under this subsection is authorized to charge a fee sufficient to cover the full cost of implementing this subsection. The agency transferring or referring the non-tax claim shall be charged the fee, and the agency charging the fee shall collect such fee by retaining the amount of the fee from amounts collected pursuant to this subsection. Agencies may agree to pay through a different method, or to fund the activity from an account. Amounts charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title.

"(4) Notwithstanding any other law concerning the depositing and collection of federal payments, including section 3302(b) of this title, agencies collecting fees may retain the fees from amounts collected. Any fee charged pursuant to this subsection shall be deposited into an account to be determined by the executive department or agency operating the debt collection center charging the fee (hereafter referred to in this section as the 'Account'). Amounts deposited in the Account shall be available until expended to cover costs associated with the implementation and operation of governmentwide debt collection activities. Costs properly chargeable to the Account include, but are not limited to:

"(A) the costs of computer hardware and software, word processing and telecommunications equipment, other equipment, supplies, and furniture;

"(B) personnel training and travel costs;

"(C) other personnel and administrative costs;

"(D) the costs of any contract for identification, billing, or collection services; and

"(E) reasonable costs incurred by the Secretary of the Treasury, including but not limited to, services and utilities provided by the Secretary, and administration of the Account.

"(5) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts, an amount equal to the amount of unobligated balances remaining in the Account at the close of business on September 30 of the preceding year minus any part of such balance that the executive department or agency operating the debt collection center determines is necessary to cover or defray the costs under this subsection for the fiscal year in which the deposit is made.

"(6)(A) The head of an executive, legislative or judicial agency shall transfer to the Secretary of the Treasury all non-tax claims over 180 days delinquent for additional collection action and/or closeout.

"(B) Subparagraph (A) shall not apply—

"(i) to claims that—

"(I) are in litigation or foreclosure;

"(II) are eligible for disposition under the loan sales programs of a Federal department or agency;

"(III) have been referred to a private collection contractor for collection;

"(IV) are being collected under internal offset procedures;

"(V) have been referred to the Department of the Treasury, the Department of Defense, the United States Postal Service, or disbursing official of the United States designated by Secretary of the Treasury for administrative offset;

"(VI) have been retained by an executive agency in a debt collection center; or

"(VII) have been referred to another agency for collection;

"(ii) to claims which may be collected after the 180 day period in accordance with specific statutory authority or procedural guidelines, provided that the head of an executive, legislative or judicial agency provides notice of such claims to the Secretary of the Treasury; and

"(iii) to other specific class of claims as determined by the Secretary of the Treasury at the request of the head of an agency or otherwise.

"(C) The head of an executive, legislative or judicial agency shall transfer to the Secretary of the Treasury all non-tax claims on which the agency has ceased collection activity. The Secretary may exempt specific classes of claims from this requirement, at the request of the head of an agency, or otherwise. The Secretary shall review transferred claims to determine if additional collection action is warranted. The Secretary may, in accordance with section 6050P of title 26, United States Code, report to the Internal Revenue Service on behalf of the creditor agency any claims that have been discharged within the meaning of such section.

"(7) At the end of each calendar year, the head of an executive, legislative or judicial agency which, regarding a claim owed to the agency, is required to report a discharge of indebtedness as income under the 6050P of title 26, United States Code, shall either complete the appropriate form 1099 or submit to the Secretary of the Treasury such information as is necessary for the Secretary of the Treasury to complete the appropriate form 1099. The Secretary of the Treasury shall incorporate this information into the appropriate form and submit the information to the taxpayer and Internal Revenue Service.

"(8) To carry out the purposes of this subsection, the Secretary of the Treasury is authorized

"(A) to prescribe such rules, regulations and procedures as the Secretary deems necessary; and

"(B) to designate debt collection centers operated by other Federal agencies."

SEC. 503. COMPROMISE OF CLAIMS.

Section 11 of the Administrative Dispute Resolution Act (Public Law 101–552, 104 Stat.

2736, 5 U.S.C. 581 note) is amended by adding at the end thereof the following sentence:

"This section shall not apply to section 8(b) of this Act".

Subchapter E—Federal Civil Monetary Penalties

SEC. 601. ADJUSTING FEDERAL CIVIL MONETARY PENALTIES FOR INFLATION.

(a) The Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410. 104 Stat. 890, (28 U.S.C. 2461 note) is amended—

(1) by amending section 4 to read as follows:

"SEC. 4. The head of each agency shall, not later than 180 days after the date of enactment of the Debt Collection Improvement Act of 1995, and at least once every 4 years thereafter, by regulation adjust each civil monetary penalty provided by law within the jurisdiction of the Federal agency, except for any penalty under title 26, United States Code, by the inflation adjustment described under section 5 of this Act and publish each such regulation in the Federal Register.";

(2) in section 5(a), by striking "The adjustment described under paragraphs (4) and (5)(A) of section 4" and inserting "The inflation adjustment"; and

(3) by adding at the end the following new section:

"SEC. 7. Any increase to a civil monetary penalty resulting from this Act shall apply only to violations which occur after the date any such increase takes effect.".

(b) The initial adjustment of a civil monetary penalty made pursuant to section 4 of Federal Civil Penalties Inflation Adjustment Act of 1990 (as amended by subsection (a)) may not exceed 10 percent of such penalty.

Subchapter F—Gain Sharing

SEC. 701. DEBT COLLECTION IMPROVEMENT ACCOUNT.

(a) Title 31, United States Code, is amended by inserting after section 3720B the following new section:

"SEC. 3720C. DEBT COLLECTION IMPROVEMENT ACCOUNT

"(a)(1) There is hereby established in the Treasury a special fund to be known as the 'Debt Collection Improvement Account' (hereinafter referred to as the 'Account').

"(2) The Account shall be maintained and managed by the Secretary of the Treasury, who shall ensure that programs are credited with the amounts described in subsection (b) and with allocations described in subsection (c).

"(b)(1) Not later than 30 days after the end of a fiscal year, an agency other than the Department of Justice is authorized to transfer to the Account a dividend not to exceed one percent of the debt collection improvement amount as described in paragraph (3).

(2) Agency transfers to the Account may include collections from

"(A) salary, administrative and tax referral offsets;

"(B) automated levy authority;

"(C) the Department of Justice; and

"(D) private collection agencies.

"(3) For purposes of this section, the term 'debt collection improvement amount' means the amount by which the collection of delinquent debt with respect to a particular program during a fiscal year exceeds the delinquent debt baseline for such program for such fiscal year. The Office of Management and Budget shall determine the baseline from which increased collections are measured over the prior fiscal year, taking into account the recommendations made by the Secretary of the Treasury in consultation with creditor agencies.

"(c)(1) The Secretary of the Treasury is authorized to make payments from the Account solely to reimburse agencies for qualified expenses. For agencies with franchise funds, payments may be credited to subaccounts designated for debt collection.

"(2) For purposes of this paragraph, the term 'qualified expenses' means expenditures for the improvement of tax administration and agency debt collection and debt recovery activities including, but not limited to, account servicing (including cross-servicing under Section 502 of the Debt Collection Improvement Act of 1995), automatic data processing equipment acquisitions, delinquent debt collection, measures to minimize delinquent debt, asset disposition, and training of personnel involved in credit and debt management.

"(3) Payments made to agencies pursuant to paragraph (1) shall be in proportion to their contributions to the Account.

"(4)(A) Amounts in the Account shall be available to the Secretary of the Treasury to the extent and in the amounts provided in advance in appropriation acts, for purposes of this section. Such amounts are authorized to be appropriated without fiscal year limitation.

"(B) As soon as practical after the end of third fiscal year after which appropriations are made pursuant to this section, and every 3 years thereafter, any unappropriated balance in the account as determined by the Secretary of the Treasury in consultation with agencies, shall be transferred to the Treasury general fund as miscellaneous receipts.

"(d) For direct loan and loan guarantee programs subject to Title V of the Congressional Budget Act of 1974, amounts credited in accordance with section (c) shall be considered administrative costs and shall not be included in the estimated payments to the Government for the purpose of calculating the costs of such programs.

"(e) The Secretary of the Treasury shall prescribe such rules, regulation, and procedures as the Secretary deems necessary or appropriate to carry out the purposes of this section.".

(b) The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720B the following new item:

"3720C. Debt Collection Improvement Account.".

Subchapter G—Tax Refund Offset Authority

SEC. 801. OFFSET OF TAX REFUND PAYMENT BY DISBURSING OFFICIALS.

Section 3720A(h) of title 31, United States Code, is amended to read as follows:

"(h)(1) The term 'Secretary of the Treasury' may include the disbursing official of the Department of the Treasury.

"(2) The disbursing official of the Department of the Treasury—

"(A) shall notify a taxpayer in writing of—

"(i) the occurrence of an offset to satisfy a past-due legally enforceable non-tax debt;

"(ii) the identity of the creditor agency requesting the offset; and

"(iii) a contact point within the creditor agency that will handle concerns regarding the offset;

"(B) shall notify the Internal Revenue Service on a weekly basis of—

"(i) the occurrence of an offset to satisfy a past-due legally enforceable non-tax debt;

"(ii) the amount of such offset; and

"(iii) any other information required by regulations; and

"(C) shall match payment records with requests for offset by using a name control, taxpayer identifying number (as defined in 26 U.S.C. 6109), and any other necessary identifiers.".

SEC. 802. EXPANDING TAX REFUND OFFSET AUTHORITY.

(a) Section 3720A of title 31, United States Code, is amended by adding after subsection (h) the following new subsection:

"(i) An agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h) may implement this section at its discretion.".

(b) Section 6402(f) of title 26, United States Code, is amended to read as follows:

"(f) FEDERAL AGENCY.—For purposes of this section, the term 'Federal agency' means a department, agency, or instrumentality of the United States, and includes a government corporation (as such term is defined in section 103 of title 5, United States Code).".

SEC. 803. EXPANDING AUTHORITY TO COLLECT PAST-DUE SUPPORT.

(a) Subsection 3720A(a) of title 31, United States Code, is amended to read as follows:

"(a) Any Federal agency that is owed by a named person a past-due, legally enforceable debt (including past-due support and debt administered by a third party acting as an agent for the Federal government) shall, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once a year of the amount of such debt.".

(b) Section 664(a) of the Act of August 13, 1935, as amended (42 U.S.C. section 664(a)) is amended—

(1) in paragraph (1), by adding at the end thereof the following: "This subsection may be implemented by the Secretary of the Treasury in accordance with section 3720A of title 31, United States Code."; and

(2) in paragraph (2)(A), by adding at the end thereof the following: "This subsection may be implemented by the Secretary of the Treasury in accordance with section 3720A of title 31, United States Code.".

Subchapter H—Definitions, Due Process Rights, and Severability

SEC. 901. TECHNICAL AMENDMENTS TO DEFINITIONS.

Section 3701 of title 31, United States Code, is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) 'administrative offset' means withholding money payable by the United States (including money payable by the United States on behalf of a State government) to, or held by the United States for, a person to satisfy a claim.";

(2) by amending subsection (a)(4) to read as follows:

"(4) 'executive, judicial or legislative agency' means a department, agency, court, court administrative office, or instrumentality in the executive, judicial or legislative branches of government, including government corporations.";

(3) by amending subsection (b) to read as follows:

"(b)(1) The term 'claim' or 'debt' means any amount of money or property that has been determined by an appropriate official of the Federal Government to be owed to the United States by a person, organization, or entity other than another Federal agency. A claim includes, without limitation, money owed on account of loans insured or guaranteed by the Government, non-appropriated funds, over-payments, any amount the United States is authorized by statute to collect for the benefit of any person, and other amounts of money or property due the Government.

"(2) For purposes of section 3716 of this title, the term 'claim' also includes an amount of money or property owed by a person to a State, the District of Columbia, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico.";

(3) by adding after subsection (d) the following new subsection:

"(e) In section 3716 of this title—

"(1) 'creditor agency' means any entity owed a claim that seeks to collect that claim through administrative offset.

"(2) 'payment certifying agency' means any Federal department, agency or instrumentality and government corporation, that has transmitted a voucher to a disbursing official for disbursement.".

SEC. 902. SEVERABILITY.

If any provision of this title, or the amendments made by this title, or the application of any provision to any entity, person, or circumstance is for any reason adjudged by a court of competent jurisdiction to be invalid, the remainder of this title, and the amendments made by this title, or its application shall not be affected.

SEC. 903. SCOPE.

This Act, the Federal Claims Collection Act of 1966, as amended, the Debt Collection Act of 1982, as amended, and the remaining provisions of chapter 37 of title 31, United States Code shall not be deemed to apply to claims or debts involving foreign persons. For purposes of this section, 'foreign person' means any person, sole proprietorship, partnership, corporation, organization or other entity that is an agency, department or instrumentality of a government of a foreign country, is owned, controlled, operated or managed by a government of a foreign country or any agency, department or instrumentality thereof, is a citizen of a foreign country, is organized under the laws of a foreign country, or has its principal place of business outside the United States, and 'foreign country' means a country other than the United States.

Subchapter I—Reporting

SEC. 1001. MONITORING AND REPORTING.

(a) The Secretary of the Treasury, in consultation with concerned Federal agencies, is authorized to establish guidelines, including information on outstanding debt, to assist agencies in the performance and monitoring of debt collection activities.

(b) Not later three years after the date of enactment of this Act, the Secretary of the Treasury shall report to the Congress on collection services provided by Federal agencies or entities collecting debt on behalf of other Federal agencies under the authorities contained in section 3711(g) of title 31, United States Code, as added by section 502 of this Act.

(c) Section 3719 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) by amending the first sentence to read as follows: "In consultation with the Comptroller General, the Secretary of the Treasury shall prescribe regulations requiring the head of each agency with outstanding nontax claims to prepare and submit to the Secretary at least once a year a report summarizing the status of loans and accounts receivable managed by the head of the agency."; and

(B) in paragraph (3), by striking "Director" and inserting instead "Secretary"; and

(2) in subsection (b), by striking "Director" and inserting instead "Secretary".

(d) Notwithstanding any other provision of law, the Secretary of the Treasury is authorized to consolidate all reports concerning debt collection into one annual report.

TITLE II—JUSTICE DEBT MANAGEMENT

Subchapter A—Private Attorneys

SEC. 1101. EXPANDED USE OF PRIVATE ATTORNEYS.

(a) Section 3718(b)(1)(A) of title 31, United States Code, is amended by striking the fourth sentence.

(b) Sections 3 and 5 of the Federal Debt Recovery Act (Pub. L. 99-578, 100 Stat. 3305) are hereby repealed.

Subchapter B—Nonjudicial Foreclosure

SEC. 1201. NONJUDICIAL FORECLOSURE OF MORTGAGES.

Chapter 176 of title 28 of the United States Code is amended by adding at the end thereof the following:

"Subchapter E—Nonjudicial Foreclosure

"3401. Definitions.
"3402. Rules of construction.
"3403. Election of procedure.
"3404. Designation of foreclosure trustee.
"3405. Notice of foreclosure sale; Statute of limitations.
"3406. Service of notice of foreclosure sale.
"3407. Cancellation of foreclosure sale.
"3408. Stay.
"3409. Conduct of sale; postponement.
"3410. Transfer of title and possession.
"3411. Record of foreclosure and sale.
"3412. Effect of sale.
"3413. Disposition of sale proceeds.
"3414. Deficiency judgment.

"SEC. 3401. DEFINITIONS.

"As used in this subchapter—

"(1) 'agency' means—

"(A) an executive department as defined in section 101 of title 5, United States Code;

"(B) an independent establishment as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office);

"(C) a military department as defined in section 102 of title 5, United States Code; and

"(D) a wholly owned government corporation as defined in section 9101(3) of title 31, United States Code.

"(2) 'agency head' means the head and any assistant head of an agency, and may upon the designation by the head of an agency include the chief official of any principal division of an agency or any other employee of an agency.

"(3) 'bona fide purchaser' means a purchaser for value in good faith and without notice of any adverse claim who acquires the seller's interest free of any adverse claim.

"(4) 'debt instrument' means a note, mortgage bond, guaranty or other instrument creating a debt or other obligation, including any instrument incorporated by reference therein and any instrument or agreement amending or modifying a debt instrument.

"(5) 'file' or 'filing' means docketing, indexing, recording, or registering, or any other requirement for perfecting a mortgage or a judgment.

"(6) 'foreclosure trustee' means an individual, partnership, association, or corporation, or any employee thereof, including a successor, appointed by the agency head to conduct a foreclosure sale pursuant to this subchapter.

"(7) 'mortgage' means a deed of trust, deed to secure debt, security agreement, or any other form of instrument under which any interest in real property, including leaseholds, life estates, reversionary interests, and any other estates under applicable law is conveyed in trust, mortgaged, encumbered, pledged or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of any other obligation.

"(8) 'of record' means an interest recorded pursuant to Federal or State statutes that provide for official recording of deeds, mortgages and judgments, and that establish the effect of such records as notice to creditors, purchasers, and other interested persons.

"(9) 'owner' means nay person who has an ownership interest in property and includes heirs, devisees, executors, administrators, and other personal representatives, and trustees of testamentary trusts if the owner of record is deceased.

"(10) 'sale' means a sale conducted pursuant to this subchapter, unless the context requires otherwise.

"(11) 'security property' means real property, or any interest in real property including leaseholds life estates, reversionary interests, and any other estates under applicable State law that secure a mortgage.

"SEC. 3402. RULES OF CONSTRUCTION.

"(a) IN GENERAL.—If an agency head elects to proceed under this subchapter, this subchapter shall apply and the provisions of this subchapter shall govern in the event of a conflict with any other provision of Federal law or State law.

"(b) LIMITATION.—This subchapter shall not be construed to supersede or modify the operation of—

"(1) the lease-back/buy-back provisions under section 1985 of title 7, United States Code, or regulations promulgated thereunder; or

"(2) The Multifamily Mortgage Foreclosure Act of 1981 (Chapter 38 of title 12, United States Code).

"(c) EFFECT ON OTHER LAWS.—This subchapter shall not be construed to curtail or limit the rights of the United States or any of its agencies—

"(1) to foreclose a mortgage under any other provision of Federal law or State law; or

"(2) to enforce any right under Federal law or State law in lieu of or in addition to foreclosure, including any right to obtain a monetary judgment.

"(d) APPLICATION TO MORTGAGES.—The provisions of this subchapter may be used to foreclose any mortgage, whether executed prior or subsequent to the effective date of this subchapter.

"SEC. 3403. ELECTION OF PROCEDURE.

"(a) SECURITY PROPERTY SUBJECT TO FORECLOSURE.—An agency head may foreclose a mortgage upon the breach of a covenant or condition in a debt instrument or mortgage for which acceleration or foreclosure is authorized. An agency head may not institute foreclosure proceedings on the mortgage under any other provision of law, or refer such mortgage for litigation, during the pendency of foreclosure proceedings pursuant to this subchapter.

"(b) EFFECT OF CANCELLATION OF SALE.—If a foreclosure sale is canceled pursuant to section 3407, the agency head may thereafter foreclose on the security property in any manner authorized by law.

"SEC. 3404. DESIGNATION OF FORECLOSURE TRUSTEE.

"(a) IN GENERAL.—An agency head shall designate a foreclosure trustee who shall supersede any trustee designated in the mortgage. A foreclosure trustee designated under this section shall have a nonjudicial power of sale pursuant to this subchapter.

"(b) DESIGNATION OF FORECLOSURE TRUSTEE.—

"(1) An agency head may designate as foreclosure trustee—

"(A) an officer or employee of the agency; or

"(B) an individual who is a resident of the State in which the security property is located or

"(C) a partnership, association, or corporation, provided such entity is authorized to transact business under the laws of the State in which the security property is located.

"(2) The agency head is authorized to enter into personal services and other contracts not inconsistent with this subchapter.

"(c) Method of Designation.—An agency head shall designate the foreclosure trustee in writing. The foreclosure trustee may be designated by name, title or position. An agency head may designate one or more foreclosure trustees for the purpose of proceeding with multiple foreclosures or a class of foreclosures.

"(d) Availability of Designation.—An agency head may designate such foreclosure trustees as the agency head deems necessary to carry out the purposes of this subchapter.

"(3) Multiple Foreclosure Trustees Authorized.—An agency head may designate multiple foreclosure trustees for different tracts of a secured property.

"(f) Removal of Foreclosure Trustees; Successor Foreclosure Trustees.—An agency head may, with or without cause or notice, remove a foreclosure trustee and designate a successor trustee as provided in this section. The foreclosure sale shall continue without prejudice notwithstanding the removal of the foreclosure trustee and designation of a successor foreclosure trustee. Nothing in this section shall be construed to prohibit a successor foreclosure trustee from postponing the foreclosure sale in accordance with this subchapter.

"SEC. 3405. NOTICE OF FORECLOSURE SALE; STATUTE OF LIMITATIONS.

"(a) In General.—

"(1) Not earlier than 21 days nor later than ten years after acceleration of a debt instrument or demand on a guaranty, the foreclosure trustee shall serve a notice of foreclosure sale in accordance with this subchapter.

"(2) For purposes of computing the time period under paragraph (1), there shall be excluded all periods during which there is in effect—

"(A) a judicially imposed stay of foreclosure; or

"(B) a stay imposed by section 362 of title 11, United States Code.

"(3) In the event of partial payment or written acknowledgement of the debt after acceleration of the debt instrument, the right to foreclose shall be deemed to accrue again at the time of each such payment or acknowledgement.

"(b) Notice of Foreclosure Sale.—The notice of foreclosure sale shall include the following:

"(1) the name, title, and business address of the foreclosure trustee as of the date of the notice;

"(2) the names of the original parties to the debt instrument and the mortgage, and any assignees of the mortgagor of record;

"(3) the street address or location of the security property, and a generally accepted designation used to describe the security property, or so much thereof as is to be offered for sale, sufficient to identify the property to be sold;

"(4) the date of the mortgage, the office in which the mortgage is filed, and the location of the filing of the mortgage;

"(5) the default or defaults upon which foreclosure is based, and the date of the acceleration of the debt instrument;

"(6) the date, time, and place of the foreclosure sale;

"(7) a statement that the foreclosure is being conducted in accordance with this subchapter;

"(8) the types of costs, if any, to be paid by the purchaser upon transfer of title; and

"(9) the terms and conditions of sale, including the method and time of payment of the foreclosure purchase price.

"SEC. 3406. SERVICE OF NOTICE OF FORECLOSURE SALE.

"(a) Record Notice.—At least 21 days prior to the date of the foreclosure sale, the notice of foreclosure sale required by section 3405 shall be filed in the manner authorized for filing a notice of an action concerning real property according to the law of the State where the security property is located or, if none, in the manner authorized by section 3201 of this chapter.

"(b) Notice by Mail.—

"(1) At least 21 days prior to the date of the foreclosure sale, the notice set forth in section 3405 shall be sent by registered or certified mail, return receipt requested—

"(A) to the current owner of record of the security property as the record appears on the date that the notice of foreclosure sale is recorded pursuant to subsection (a);

"(B) to all debtors, including the mortgagor, assignees of the mortgagor and guarantors of the debt instrument;

"(C) to all persons having liens, interests or encumbrances of record upon the security property, as the record appears on the date that the notice of foreclosure sale is recorded pursuant to subsection (a); and

"(D) to any occupants of the security property. If the names of the occupants of the security property are not known to the agency, or the security property has more than one dwelling unit, the notice shall be posted at the security property.

"(2) The notice shall be sent to the debtor at the address, if any, set forth in the debt instrument or mortgage as the place to which notice is to be sent, and if different, to the debtor's last known address as shown in the mortgage record of the agency. The notice shall be sent to any person other than the debtor to that person's address of record or, if there is no address of record, to any address at which the agency in good faith believes the notice is likely to come to that person's attention.

"(3) Notice by mail pursuant to this subsection shall be effective upon mailing.

"(c) Notice by Publication.—Notice of the foreclosure sale shall be published at least once a week for each of three successive weeks prior to the sale in at least one newspaper of general circulation in any county or counties in which the security property is located. If there is no newspaper published at least weekly that has a general circulation in at least one county in which the security property is located, copies of the notice of foreclosure sale shall instead be posted at least 21 days prior to the sale at the courthouse of any county or counties in which the property is located and at the place where the sale is to be held.

"SEC. 3407. CANCELLATION OF FORECLOSURE SALE.

"(a) In General.—At any time prior to the foreclosure sale, the foreclosure trustee shall cancel the sale—

"(1) if the debtor or the holder of any subordinate interest in the security property tenders the performance due under the debt instrument and mortgage, including any amounts due because of the exercise of the right to accelerate, and the expenses of proceeding to foreclosure incurred to the time of tender; or

"(2) if the security property is a dwelling of four units or fewer, and the debtor:

"(A) pays or tenders all sums which would have been due at the time of tender in the absence of any acceleration;

"(B) performs any other obligation which would have been required in the absence of any acceleration; and

"(C) pays or tenders all costs of foreclosure incurred for which payment from the proceeds of the sale would be allowed; or

"(3) for any reason approved by the agency head.

"(b) Limitation.—The debtor may not, without the approval of the agency head, cure the default under subsection (a)(2) if, within the preceding 12 months, the debtor has cured a default after being served with a notice of foreclosure sale pursuant to this subchapter.

"(c) Notice of Cancellation.—The foreclosure trustee shall file a notice of the cancellation in the same place and manner provided for the filing of the notice of foreclosure sale under section 3406(a).

"SEC. 3408. STAY.

"If, prior to the time of sale, foreclosure proceedings under this subchapter are stayed in any manner, including the filing of bankruptcy, no person may thereafter cure the default under the provisions of section 3407(a)(2). If the default is not cured at the time a stay is terminated, the foreclosure trustee shall proceed to sell the security property as provided in this subchapter.

"SEC. 3409. CONDUCT OF SALE; POSTPONEMENT.

"(a) Sale Procedures.—Foreclosure sale pursuant to this subchapter shall be at public auction and shall be scheduled to begin at a time between the hours of 9:00 a.m. and 4:00 p.m. local time. The foreclosure sale shall be held at the location specified in the notice of foreclosure sale, which shall be a location where real estate foreclosure auctions are customarily held in the county or one of the counties in which the property to be sold is located or at a courthouse therein, or upon the property to be sold. Sale of security property situated in two or more counties may be held in any one of the counties in which any part of the security property is situated. The foreclosure trustee may designate the order in which multiple tracts of security property are sold.

"(b) Bidding Requirements.—Written one-price sealed bids shall be accepted by the foreclosure trustee, if submitted by the agency head or other persons for entry by announcement by the foreclosure trustee at the sale. The sealed bids shall be submitted in accordance with the terms set forth in the notice of foreclosure sale. The agency head or any other person may bid at the foreclosure sale, even if the agency head or other person previously submitted a written one-price bid. The agency head may bid a credit against the debt due without the tender or payment of cash. The foreclosure trustee may serve as auctioneer, or may employ an auctioneer who may be paid from the sale proceeds. If an auctioneer is employed, the foreclosure trustee is not required to attend the sale. The foreclosure trustee or an auctioneer may bid as directed by the agency head.

"(c) Postponement of Sale.—The foreclosure trustee shall have discretion, prior to or at the time of sale, to postpone the foreclosure sale. The foreclosure trustee may postpone a sale to a later hour the same day by announcing or posting the new time and place of the foreclosure sale at the time and place originally scheduled for the foreclosure sale. The foreclosure trustee may instead postpone the foreclosure sale for not fewer than 9 nor more than 31 days, by serving notice that the foreclosure sale has been postponed to a specified date, and the notice may include any revisions the foreclosure trustee deems appropriate. The notice shall be served by publication, mailing, and posting in accordance with subsections 3406 (b) and (c), except that publication may be made on any of three separate days prior to the new date of the foreclosure sale, and mailing may be made at any time at least 7 days prior to the new data of the foreclosure sale.

"(d) Liability of Successful Bidder Who Fails To Comply.—The foreclosure trustee may require a bidder to make a cash deposit before the bid is accepted. The amount or percentage of the cash deposit shall be stated by the foreclosure trustee in the notice of foreclosure sale. A successful bidder at the foreclosure sale who fails to comply with the terms of the sale shall forfeit the cash deposit or, at the election of the foreclosure trustee, shall be liable to the agency on a subsequent sale of the property for all net losses incurred by the agency as a result of such failure.

"(e) Effect of Sale.—Any foreclosure sale held in accordance with this subchapter shall be conclusively presumed to have been conducted in a legal, fair and commercially reasonable manner. The sale price shall be conclusively presumed to constitute the reasonably equivalent value of the security property.

"SEC. 3410 TRANSFER OF TITLE AND POSSESSION.

"(a) Deed.—After receipt of the purchase price in accordance with the terms of the sale as provided in the notice of foreclosure sale, the foreclosure trustee shall execute and deliver to the purchaser a deed conveying the security property to the purchaser that grants and conveys title to the security property without warranty or covenants to the purchaser. The execution of the foreclosure trustee's deed shall have the effect of conveying all of the right, title, and interest in the security property covered by the mortgage. Notwithstanding any other law to the contrary, the foreclosure trustee's deed shall be a conveyance of the security property and not a quitclaim. No judicial proceeding shall be required ancillary or supplementary to the procedures provided in this chapter to establish the validity of the conveyance.

"(b) Death of Purchaser Prior to Consummation of Sale.—If a purchaser dies before execution and delivery of the deed conveying the security property to the purchaser, the foreclosure trustee shall execute and deliver the deed to the representative of the purchaser's estate upon payment of the purchase price in accordance with the terms of sale. Such delivery to the representative of the purchaser's estate shall have the same effect as if accomplished during the lifetime of the purchaser.

"(c) Purchaser Considered Bona Fide Purchaser Without Notice.—The purchaser of property under this subchapter shall be presumed to be a bona fide purchaser without notice of defects, if any, in the title conveyed to the purchaser.

"(d) Possession by Purchaser; Continuing Interests.—A purchaser at a foreclosure sale conducted pursuant to this subchapter shall be entitled to possession upon passage of title to the security property, subject to any interest or interests senior to that of the mortgage. The right to possession of any person without an interest senior to the mortgage who is in possession of the property shall terminate immediately upon the passage of title to the security property, and the person shall vacate the security property immediately. The purchaser shall be entitled to take any steps available under Federal law or State law to obtain possession.

"(e) Right of Redemption; Right of Possession.—This subchapter shall preempt all Federal and State rights of redemption, statutory of common law. Upon conclusion of the public auction of the security property, no person shall have a right of redemption.

"(f) Prohibition of Imposition of Tax on Conveyance by the United States or Agency Thereof.—No tax, or fee in the nature of a tax, for the transfer of title to the security property by the foreclosure trustee's deed shall be imposed upon or collected from the foreclosure trustee or the purchaser by any State or political subdivision thereof.

"SEC. 3411. RECORD OF FORECLOSURE AND SALE.

"(a) Recital Requirements.—The foreclosure trustee shall recite in the deed to the purchaser, or in an addendum to the foreclosure trustee's deed, or shall prepare an affidavit stating—

"(1) the date, time, and place of sale;

"(2) the date of the mortgage, the office in which the mortgage is filed, and the location of the filing of the mortgage;

"(3) the persons served with the notice of foreclosure sale;

"(4) the date and place of filing of the notice of foreclosure sale under section 3406(a);

"(5) that the foreclosure was conducted in accordance with the provisions of this subchapter, and

"(6) the sale amount.

"(b) Effect of Recitals.—The recitals set forth in subsection (a) shall be prima facie evidence of the truth of such recitals. Compliance with the requirements of subsection (a) shall create a conclusive presumption of the validity of the sale in favor of bona fide purchasers and encumbrancers for value without notice.

"(c) Deed To Be Accepted for Filing.—The register of deeds or other appropriate official of the county or counties where real estate deeds are regularly filed shall accept for filing and shall file the foreclosure trustee's deed and affidavit, if any, and any other instruments submitted for filing in relation to the foreclosure of the security property under this subchapter.

"SEC. 3412. EFFECT OF SALE.

"A sale conducted under this subchapter to a bona fide purchaser shall bar all claims upon the security property by—

"(1) any person to whom the notice of foreclosure sale was mailed as provided in this subchapter who claims an interest in the property subordinate to that of the mortgage, and the heir, devisee, executor, administrator, successor or assignee claiming under any such person;

"(2) any person claiming any interest in the property subordinate to that of the mortgage, if such person had actual knowledge of the sale;

"(3) any person so claiming, whose assignment, mortgage, or other conveyance was not filed in the proper place for filing, or whose judgment or decree was not filed in the proper place for filing, prior to the date of filing of the notice of foreclosure sale as required by section 3406(a), and the heir, devisee, executor, administrator, successor or assignee of such a person; or

"(4) any other person claiming under a statutory lien or encumbrance not required to be filed and attaching to the title or interest of any person designated in any of the foregoing subsections of this section.

"SEC. 3413. DISPOSITION OF SALE PROCEEDS.

"(a) Distribution of Sale Proceeds.—The foreclosure trustee shall distribute the proceeds of the foreclosure sale in the following order—

"(1)(A) to pay the commission of the foreclosure trustee, other than an agency employee, the greater of—

"(i) the sum of—

"(I) 3 percent of the first $1,000 collected, plus

"(II) 1.5 percent on the excess of any sum collected over $1,000; or

"(ii) $250; and

"(B) the amounts described in subparagraph (A)(i) shall be computed on the gross proceeds of all security property sold at a single sale;

"(2) to pay the expense of any auctioneer employed by the foreclosure trustee, if any, except that the commission payable to the foreclosure trustee pursuant to paragraph (1) shall be reduced by the amount paid to an auctioneer, unless the agency head determines that such reduction would adversely affect the ability of the agency head to retain qualified foreclosure trustees or auctioneers;

"(3) to pay for the costs of foreclosure, including—

"(A) reasonable and necessary advertising costs and postage incurred in giving notice pursuant to section 3406;

"(B) mileage for posting notices and for the foreclosure trustee's or auctioneer's attendance at the sale at the rate provided in section 1921 of title 28, United States Code, for mileage by the most reasonable road distance;

"(C) reasonable and necessary costs actually incurred in connection with any search of title and lien records; and

"(D) necessary costs incurred by the foreclosure trustee to file documents;

"(4) to pay valid real property tax liens or assessments, if required by the notice of foreclosure sale;

"(5) to pay any liens senior to the mortgage, if required by the notice of foreclosure sale;

"(6) to pay service charges and advancements for taxes, assessments, and property insurance premiums;

"(7) to pay late charges and other administrative costs and the principal and interest balances secured by the mortgage, including expenditures for the necessary protection, preservation, and repair of the security property as authorized under the debt instrument or mortgage and interest thereon if provided for in the debt instrument or mortgage, pursuant to the agency's procedure.

"(b) Insufficient Proceeds.—In the event there are no proceeds of sale or the proceeds are insufficient to pay the costs and expenses set forth in subsection (a), the agency head shall pay such costs and expenses as authorized by applicable law.

"(c) Surplus Monies.—

"(1) After making the payments required by subsection (a), the foreclosure trustee shall—

"(A) distribute any surplus to pay liens in the order of priority under Federal law or the law of the State where the security property is located; and

"(B) pay to the person who was the owner of record on the date the notice of foreclosure sale was filed the balance, if any, after any payments made pursuant to paragraph (1).

"(2) If the person to whom such surplus is to be paid cannot be located, or if the surplus available is insufficient to pay all claimants and the claimants cannot agree on the distribution of the surplus, that portion of the sale proceeds may be deposited by the foreclosure trustee with an appropriate official authorized under law to receive funds under such circumstances. If such a procedure for the deposit of disputed funds is not available, and the foreclosure trustee files a bill of interpleader or is sued as a stakeholder to determine entitlement to such funds, the foreclosure trustee's necessary costs in taking or defending such action shall be deducted first from the disputed funds.

"SEC. 3414. DEFICIENCY JUDGMENT.

"(a) IN GENERAL.—If after deducting the disbursements described in section 3413, the price at which the security property is sold at a foreclosure sale is insufficient to pay the unpaid balance of the debt secured by the security property, counsel for the United States may commence an action or actions against any or all debtors to recover the deficiency, unless specifically prohibited by the mortgage. The United States is also entitled to recover any amount authorized by section 3011 and costs of the action.

"(b) LIMITATION.—Any action commenced to recover the deficiency shall be brought within 6 years of the last sale of security property.

"(c) CREDITS.—The amount payable by a private mortgage guaranty insurer shall be credited to the account of the debtor prior to the commencement of an action for any deficiency owed by the debtor. Nothing in this subsection shall curtail or limit the subrogation rights of a private mortgage guaranty insurer.".

TITLE III—IRS LEVY AUTHORITY

Subchapter A—Amendments to the Internal Revenue Code of 1986

SEC. 1301. PROVISION FOR CONTINUOUS LEVY.

Section 6331 of the Internal Revenue Code of 1986 (26 U.S.C. 6331) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h) CONTINUING LEVY ON NON-MEANS TESTED FEDERAL PAYMENTS.—The effect of a levy on non-means tested Federal payments to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released. Notwithstanding section 6334, such levy shall attach to up to 15 percent of any salary or pension payment due to the taxpayer. For the purposes of this subsection, the term 'non-means tested Federal payment' refers to a Federal payment for which eligibility is not based on the income and/or assets of a payee, or that is not a loan.".

SEC. 1302. MODIFICATION OF LEVY EXEMPTION

Section 6334 of the Internal Revenue Code of 1986 (26 U.S.C. 6334) is amended by adding at the end the following new subsection:

"(f) LEVY ALLOWED ON CERTAIN NON-MEANS TESTED FEDERAL PAYMENTS.—Non-means tested amounts—

(1) described in subsections (a)(7) and (a)(9) of this section; and

(2) annuity or pension payments under the Railroad Retirement Act and benefits under the Railroad Unemployment Insurance Act described in subsection (a)(6) of this section,

shall not be exempt from levy if the Secretary approves the levy of such property.".

SEC. 1303. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) Section 6103 of the Internal Revenue Code of 1986 (26 U.S.C. 6103) is amended by adding at the end of subsection (k) the following new paragraph:

"(8) LEVIES ON CERTAIN GOVERNMENT PAYMENTS.—

"(A) DISCLOSURE OF RETURN INFORMATION IN LEVIES ON FINANCIAL MANAGEMENT SERVICE.—The Secretary may disclose to officers and employees of the Financial Management Service return information, including taxpayer identity information, the amount of any unpaid liability under this title (including penalties and interest), and the type of tax and tax period to which such unpaid liability relates, in serving a notice of levy, or release of such levy, with respect to any applicable government payment.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Financial Management Service only for the purpose of, and to the extent necessary in, transferring levied funds in satisfaction of the levy, maintaining appropriate agency records in regard to such levy or the release thereof, notifying the taxpayer and the agency certifying such payment that the levy has been honored, or in the defense of any litigation ensuing from the honor of such levy.

"(C) APPLICABLE GOVERNMENT PAYMENT.—For purposes of this paragraph, the term 'applicable government payment' means any non-means tested Federal payment, as defined in section 6331(h) certified to the Financial Management Service for disbursement and any other payment certified to the Financial Management Service for disbursement and which the Commissioner designates by published notice.";

(b) Section 6301(p) of the Internal Revenue Code of 1986 (26 U.S.C. 6301(p)), is amended—

(1) in paragraph (3)(A), by inserting "(8)" after "(6),"; and

(2) in paragraph (4), by inserting "(k)(8)," after

"(j)(1) or (2),".

(c) Section 552a(a)(8)(B) of title 5, United States Code, is amended by adding at the end the following new clause:

"(ix) matches performed incident to a levy described in section 6103(k)(8) of the Internal Revenue Code of 1986.".

DOMENICI (AND WELLSTONE) AMENDMENT NO. 3681

Mr. DOMENICI (for himself and Mr. WELLSTONE) proposed an amendment to the bill S. 1028, supra; as follows:

At the end of title III, add the following:

SEC. ___. PARITY FOR MENTAL HEALTH SERVICES.

(a) PROHIBITION.—An employee health benefit plan, or a health plan issuer offering a group health plan or an individual health plan, shall not impose treatment limitations or financial requirements on the coverage of mental health services if similar limitations or requirements are not imposed on coverage for services for other conditions.

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed as prohibiting an employee health benefit plan, or a health plan issuer offering a group health plan or an individual health plan, from requiring preadmission screening prior to the authorization of services covered under the plan or from applying other limitations that restrict coverage for mental health services to those services that are medically necessary.

TITLE IV—INTERNAL REVENUE CODE AND OTHER PROVISIONS

SEC. 400. REFERENCES.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Foreign Trust Tax Compliance

SEC. 401. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) NOTICE OF CERTAIN EVENTS.—

"(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

"(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

"(3) REPORTABLE EVENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'reportable event' means—

"(i) the creation of any foreign trust by a United States person,

"(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

"(iii) the death of a citizen or resident of the United States if—

"(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(II) any portion of a foreign trust was included in the gross estate of the decedent.

"(B) EXCEPTIONS.—

"(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

"(ii) DEFERRED COMPENSATION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

"(I) described in section 402(b), 404(a)(4), or 404A, or

"(II) determined by the Secretary to be described in section 501(c)(3).

"(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of the creation of an inter vivos trust,

"(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

"(C) the executor of the decedent's estate in any other case.

"(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

"(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—

"(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

"(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

"(A) IN GENERAL.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

"(B) UNITED STATES AGENT REQUIRED.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

"(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

"(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

"(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

"(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

"(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

"(A) the name of such trust,

"(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

"(C) such other information as the Secretary may prescribe.

"(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—

"(A) IN GENERAL.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

"(B) APPLICATION OF ACCUMULATION DISTRIBUTION RULES.—For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be ½ of the number of years the trust has been in existence.

"(d) SPECIAL RULES.—

"(1) DETERMINATION OF WHETHER UNITED STATES PERSON RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

"(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

"(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information."

(b) INCREASED PENALTIES.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

"(1) is not filed on or before the time provided in such section, or

"(2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

"(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

"(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

"(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—

"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

"(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d) is amended by striking "or" at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting ", or", and by inserting after subparagraph (T) the following new subparagraph:

"(U) section 6048(b)(1)(B) (relating to foreign trust reporting requirements)."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 6048. Information with respect to certain foreign trusts."

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts."

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 402. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:

"(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property.

For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value."

(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

"(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTION.—

"(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

"(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and

"(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

"(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

"(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

"(i) the trust,

"(ii) any grantor or beneficiary of the trust, and

"(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust."

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 is amended by striking "section 404(a)(4) or 404A" and inserting "section 6048(a)(3)(B)(ii)".

(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:

"(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

"(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

"(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

"(5) OUTBOUND TRUST MIGRATIONS.—If—

"(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

"(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph."

(d) MODIFICATIONS RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

"(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer."

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),".

(f) REGULATIONS.—Section 679 is amended by adding at the end the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 403. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:

"(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

"(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

"(2) EXCEPTIONS.—

"(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—Paragraph (1) shall not apply to any trust if—

"(i) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

"(ii) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

"(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

"(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(B) paragraph (1) shall not apply for purposes of applying section 1296.

"(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

"(5) SPECIAL RULE WHERE GRANTOR IS FOREIGN PERSON.—If—

"(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

"(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

"(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases."

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting "subsection (f) and" before "sections 674".

(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income."

(c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 is amended by adding at the end the following new subsection:

"(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person."

(2) Section 665 is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 404. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

"(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after December 31, 1996, the $10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Notice of large gifts received from foreign persons."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 405. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

"(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

"(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996."

(b) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes."

(c) TREATMENT OF LOANS FROM TRUSTS.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) LOANS FROM FOREIGN TRUSTS.—For purposes of subparts B, C, and D—

"(1) GENERAL RULE.—Except as provided in regulations, if a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) RELATED PERSON.—

"(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) ALLOCATION.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title."

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting ", 643(i)," before "or 1274" each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) LOANS FROM TRUSTS.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities after September 19, 1995.

SEC. 406. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

"(D) any estate or trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

"(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust."

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

"(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

"If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust."

(2) PENALTY.—Section 1494 is amended by adding at the end the following new subsection:

"(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491 with respect to a trust, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

Subtitle B—Repeal of Bad Debt Reserve Method for Thrift Savings Associations

SEC. 411. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence:

"Paragraphs (1)(A), (2)(A), and (4) of section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995."

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking "or to which section 593 applies".

(6) Subparagraph (A) of section 585(a)(2) is amended by striking "other than an organization to which section 593 applies".

(7) Sections 595 and 596 are hereby repealed.

(8) Subsection (a) of section 860E is amended—

(A) by striking "Except as provided in paragraph (2), the" in paragraph (1) and inserting "The",

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(C) by striking in paragraph (2) (as so redesignated) all that follows "subsection" and inserting a period.

(9) Paragraph (3) of section 992(d) is amended by striking "or 593".

(10) Section 1038 is amended by striking subsection (f).

(11) Clause (ii) of section 1042(c)(4)(B) is amended by striking "or 593".

(12) Subsection (c) of section 1277 is amended by striking "or to which section 593 applies".

(13) Subparagraph (B) of section 1361(b)(2) is amended by striking "or to which section 593 applies".

(14) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 593, 595, and 596.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) REPEAL OF SECTION 595.—The repeal of section 595 under subsection (b)(7) shall apply to property acquired in taxable years beginning after December 31, 1995.

(d) 6-YEAR SPREAD OF ADJUSTMENTS.—

(1) IN GENERAL.—In the case of any taxpayer who is required by reason of the amendments made by this section to change its method of computing reserves for bad debts—

(A) such change shall be treated as a change in a method of accounting,

(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

(i) shall be determined by taking into account only applicable excess reserves, and

(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

(2) APPLICABLE EXCESS RESERVES.—

(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

(i) the balance of the reserves described in section 593(c)(1) of such Code (as in effect on the day before the date of the enactment of this Act) as of the close of the taxpayer's last taxable year beginning before January 1, 1996, over

(ii) the lesser of—

(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

(II) the balance of the reserves described in subclause (I), reduce by an amount determined in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

(B) SPECIAL RULE FOR THRIFTS WHICH BECOME SMALL BANKS.—In the case of a bank (as defined in section 581 of such Code) which is not a large bank (as defined in section 585(c)(2) of such Code) for its first taxable year beginning after December 31, 1995—

(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserve as of the close of its last taxable year beginning before January 1, 1996, if the additions to such reserve for all taxable years had been determined under section 585(b)(2)(A), and

(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5), (6), and (7).

(3) RECAPTURE OF PRE-1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in subparagraph (A)(ii) except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

(A) IN GENERAL.—In the case of a bank which meets the residential loan requirement of subparagraph (B) for a taxable year beginning after December 31, 1995, and before January 1, 1998—

(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

(ii) such taxable year shall be disregarded in determining—

(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

(II) the amount of such adjustment.

(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term "residential loan" means any loan described in clause (v) of section 7701(a)(19)(C) of such Code but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

(D) BASE AMOUNT.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning before January 1, 1996. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after December 31, 1995, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary of the Treasury or the Secretary's delegate.

(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1) of such Code, subparagraph (B) shall be applied with respect to such group.

(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2) of such Code) for its first taxable year beginning after December 31, 1995:

(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii) of such Code, there shall be taken into account only the excess of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

(B) TREATMENT UNDER ELECTIVE CUT-OFF METHOD.—For purposes of applying section 585(c)(4) of such Code—

(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

(ii) no amount shall be includible in gross income by reason of such reduction.

(6) Continued Application of Section 593(e).—Notwithstanding the amendments made by this section, in the case of a taxpayer to which paragraph (1) of this subsection applies, section 593(e) of such Code (as in effect on the day before the date of the enactment of this Act) shall continue to apply to such taxpayer as if such taxpayer were a domestic building and loan association but the amount of the reserves taken into account under subparagraphs (B) and (C) of section 593(e)(1) (as so in effect) shall be the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

(7) Certain Items Included as Section 381(c) Items.—The balance of the applicable excess reserves, and the balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection, shall be treated as items described in section 381(c) of such Code.

(8) Conversions to Credit Unions.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c)(14)(A)—

(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

(9) Regulations.—The Secretary of the Treasury or the Secretary's delegate shall prescribe such regulations as may be necessary to carry out this subsection, including regulations providing for the application of paragraphs (4) and (6) in the case of acquisitions, mergers, spin-offs, and other reorganizations.

Subtitle C—Other Provisions

SEC. 421. EXTENSION OF MEDICARE SECONDARY PAYOR PROVISIONS.

Section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking clause (iii) and redesignating clause (iv) as clause (iii); and

(B) in the matter following clause (ii) of subparagraph (C), by striking ", and before October 1, 1998"; and

(2) in paragraph (5)(C), by striking clause (iii).

SEC. 422. ANNUAL ADJUSTMENT FACTORS FOR OPERATING COSTS ONLY; RESTRAINT ON RENT INCREASES.

(a) Annual Adjustment Factors for Operating Costs Only.—Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended—

(1) by striking "(2)(A)" and inserting "(2)(A)(i)";

(2) by striking the second sentence and all that follows through the end of the subparagraph; and

(3) by adding at the end the following new clause:

"(ii) Each assistance contract under this section shall provide that—

"(I) if the maximum monthly rent for a unit in a new construction or substantial rehabilitation project to be adjusted using an annual adjustment factor exceeds 100 percent of the fair market rent for an existing dwelling unit in the market area, the Secretary shall adjust the rent using an operating costs factor that increases the rent to reflect increases in operating costs in the market area; and

"(II) if the owner of a unit in a project described in subclause (I) demonstrates that the adjusted rent determined under subclause (I) would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary, the Secretary shall use the otherwise applicable annual adjustment factor.".

(b) Restraint on Section 8 Rent Increases.—Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)), as amended by subsection (a) of this section, is amended by adding at the end the following new clause:

"(iii)(I) Subject to subclause (II), with respect to any unit assisted under this section that is occupied by the same family at the time of the most recent annual rental adjustment, if the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor, and if the rent for the unit is otherwise eligible for an adjustment based on the full amount of the annual adjustment factor, 0.01 shall be subtracted from the amount of the annual adjustment factor, except that the annual adjustment factor shall not be reduced to less than 1.0.

"(II) With respect to any unit described in subclause (I) that is assisted under the certificate program, the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area in which the unit is located.".

(c) Effective Date.—The amendments made by this section shall be construed to have become effective on October 1, 1995.

SEC. 423. FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE.

(a) Effectiveness and Applicability.—Section 407 of The Balanced Budget Downpayment Act, I (Public Law 104–99) is amended—

(1) in subsection (c)—

(A) by striking "Except as provided in subsection (e), the" and inserting "The"; and

(B) by striking "only with respect to mortgages insured under the National Housing Act that are originated before October 1, 1995" and inserting "to all mortgages insured under the National Housing Act"; and

(2) by striking subsection (e).

(b) Technical Amendment.—Section 230(d) of the National Housing Act (12 U.S.C. 1715u(d)) is amended by striking "the Departments" and all that follows through "1996", and inserting "The Balanced Budget Downpayment Act, I".

SPECTER AMENDMENT NO. 3682

Mr. SPECTER proposed an amendment to the bill S. 1028, supra; as follows:

At the appropriate place in title III, insert the following new section:

SEC. . REAUTHORIZATION OF HEALTHY START PROGRAM.

(a) Authorization of Appropriations.—To enable the Secretary of Health and Human Services to carry out the healthy start program established under the authority of section 301 of the Public Health Service Act (42 U.S.C. 241), there are authorized to be appropriated $100,000,000 for each of the fiscal years 1997 through 2001.

(b) Existing Projects.—

(1) In general.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary of Health and Human Services shall reserve $30,000,000 for such fiscal year among demonstration projects that received funding under the healthy start program for fiscal year 1996.

(2) Eligibility.—To be eligible to receive funds under paragraph (1), an existing demonstration projects shall demonstrate to the satisfaction of Secretary of Health and Human Services that such project has been successful in serving needy areas and reducing infant mortality.

(3) Use of projects.—A demonstration project that receives funding under paragraph (1) shall be utilized as a resource center to assist in the training of those individuals to be involved in projects established under subsection (c). It shall be the goal of such projects to become self-sustaining within the project area.

(c) New Projects.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary of Health and Human Services shall allocate the remaining amounts for such fiscal year among up to 35 new demonstration projects. Such projects shall be community-based and shall attempt to replicate healthy start model projects that have been determined by the Secretary of Health and Human Services to be successful.

HARKIN (AND OTHERS) AMENDMENT NO. 3683

Mr. HARKIN (for himself, Mr. Baucus, and Mr. Graham) proposed an amendment to the bill S. 1028, supra; as follows:

At the end of the bill, insert the following new title:

TITLE V—ADDITIONAL STEPS TO REDUCE HEALTH CARE FRAUD, WASTE, AND ABUSE

SEC. 500. SHORT TITLE.

This title may be cited as the "Health Care Fraud, Waste, and Abuse Reduction Act of 1996".

SEC. 501. MEDICARE/MEDICAID BENEFICIARY PROTECTION PROGRAM.

(a) Establishment of Program.—Not later than July 1, 1996, the Secretary of Health and Human Services (referred to in this title as the "Secretary") (through the Administrator of the Health Care Financing Administration and the Inspector General of the Department of Health and Human Services) shall establish the Medicare/Medicaid Beneficiary Protection Program. Under such program the Secretary shall—

(1) educate medicare and medicaid beneficiaries regarding—

(A) medicare and medicaid program coverage;

(B) fraudulent and abusive practices;

(C) medically unnecessary health care items and services; and

(D) substandard health care items and services;

(2) identify and publicize fraudulent and abusive practices with respect to the delivery of health care items and services; and

(3) establish a procedure for the reporting of fraudulent and abusive health care providers, practitioners, claims, items, and services to appropriate law enforcement and payer agencies.

(b) Dissemination of Information.—The Secretary shall provide for the broad dissemination of information regarding the Medicare/Medicaid Beneficiary Protection Program.

SEC. 502. IMPROVING INFORMATION TO MEDICARE BENEFICIARIES.

(a) Clarification of Requirement To Provide Explanation of Medicare Benefits.—

Section 1804 of the Social Security Act (42 U.S.C. 1395b-2) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall provide a statement which explains the benefits provided under this title with respect to each item or service for which payment may be made under this title which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to such item or service.

"(2) Each explanation of benefits provided under paragraph (1) shall include—

"(A) a statement that, because billing errors do occur and because medicare fraud, waste, and abuse is a significant problem, beneficiaries should carefully check any statement of benefits received for accuracy and report any questionable charges;

"(B) a clear and understandable summary of—

"(i) how payments for items and services are determined under this title; and

"(ii) the beneficiary's right to request a itemized bill (as provided in section 1128A(n)); and

"(C) a toll-free telephone number for reporting questionable charges or other acts that would constitute medicare fraud, waste, or abuse, which may be the same number as described in subsection (b).".

(b) REQUEST FOR ITEMIZED BILL FOR MEDICARE ITEMS AND SERVICES.—

(1) IN GENERAL.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended by adding at the end the following new subsection:

"(m) WRITTEN REQUEST FOR ITEMIZED BILL.—

"(1) IN GENERAL.—A beneficiary may submit a written request for an itemized bill for medical or other items or services provided to such beneficiary by any person (including an organization, agency, or other entity) that receives payment under title XVIII for providing such items or services to such beneficiary.

"(2) 30-DAY PERIOD TO RECEIVE BILL.—

"(A) IN GENERAL.—Not later than 30 days after the date on which a request under paragraph (1) has been received, a person described in such paragraph shall furnish an itemized bill describing each medical or other item or service provided to the beneficiary requesting the itemized bill.

"(B) PENALTY.—Whoever knowingly fails to furnish an itemized bill in accordance with subparagraph (A) shall be subject to a civil fine of not more than $100 for each such failure.

"(3) REVIEW OF ITEMIZED BILL.—

"(A) IN GENERAL.—Not later than 90 days after the receipt of an itemized bill furnished under paragraph (1), a beneficiary may submit a written request for a review of the itemized bill to the appropriate fiscal intermediary or carrier with a contract under section 1816 or 1842.

"(B) SPECIFIC ALLEGATIONS.—A request for a review of the itemized bill shall identify—

"(i) specific medical or other items or services that the beneficiary believes were not provided as claimed, or

"(ii) any other billing irregularity (including duplicate billing).

"(4) FINDINGS OF FISCAL INTERMEDIARY OR CARRIER.—Each fiscal intermediary or carrier with a contract under section 1816 or 1842 shall, with respect to each written request submitted to the fiscal intermediary or carrier under paragraph (3), determine whether the itemized bill identifies specific medical or other items or services that were not provided as claimed or any other billing irregularity (including duplicate billing) that has resulted in unnecessary payments under title XVIII.

"(5) RECOVERY OF AMOUNTS.—The Secretary shall require fiscal intermediaries and carriers to take all appropriate measures to recover amounts unnecessarily paid under title XVIII with respect to a bill described in paragraph (4).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to medical or other items or services provided on or after July 1, 1996.

SEC. 503. REWARDS FOR INFORMATION LEADING TO HEALTH CARE FRAUD PROSECUTION AND CONVICTION.

(a) IN GENERAL.—In special circumstances, the Secretary and the Attorney General of the United States may jointly make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution for health care fraud.

(b) INELIGIBLE PERSONS.—A person is not eligible for a payment under subsection (a) if—

(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

(2) the person knowingly participated in the offense;

(3) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

(A) in a criminal, civil, or administrative proceeding;

(B) in a congressional, administrative, or General Accounting Office report, hearing, audit, or investigation; or

(C) by the news media, unless the person is the original source of the information; or

(4) in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

(c) DEFINITIONS.—

(1) HEALTH CARE FRAUD.—For purposes of this section, the term "health care fraud" means health care fraud within the meaning of section 1347 of title 18, United States Code.

(2) ORIGINAL SOURCE.—For the purposes of subsection (b)(3)(C), the term "original source" means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

(d) NO JUDICIAL REVIEW.—Neither the failure of the Secretary of Health and Human Services and the Attorney General to authorize a payment under subsection (a) nor the amount authorized shall be subject to judicial review.

SEC. 504. UNIFORM MEDICARE/MEDICAID APPLICATION PROCESS.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish procedures and a uniform application form for use by any individual or entity that seeks to participate in the programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.). The procedures established shall include the following:

(1) Execution of a standard authorization form by all individuals and entities prior to submission of claims for payment which shall include the social security number of the beneficiary and the TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner providing items or services under the claim.

(2) Assumption of responsibility and liability for all claims submitted.

(3) A right of access by the Secretary to provider records relating to items and services rendered to beneficiaries of such programs.

(4) Retention of source documentation.

(5) Provision of complete and accurate documentation to support all claims for payment.

(6) A statement of the legal consequences for the submission of false or fraudulent claims for payment.

SEC. 505. STANDARDS FOR UNIFORM CLAIMS.

(a) ESTABLISHMENT OF STANDARDS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish standards for the form and submission of claims for payment under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.).

(b) ENSURING PROVIDER RESPONSIBILITY.—In establishing standards under subsection (a), the Secretary, in consultation with appropriate agencies including the Department of Justice, shall include such methods of ensuring provider responsibility and accountability for claims submitted as necessary to control fraud and abuse.

(c) USE OF ELECTRONIC MEDIA.—The Secretary shall develop specific standards which govern the submission of claims through electronic media in order to control fraud and abuse in the submission of such claims.

SEC. 506. UNIQUE PROVIDER IDENTIFICATION CODE.

(a) ESTABLISHMENT OF SYSTEM.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a system which provides for the issuance of a unique identifier code for each individual or entity furnishing items or services for which payment may be made under title XVIII or XIX of the Social Security (42 U.S.C. 1395 et seq.; 1396 et seq.), and the notation of such unique identifier codes on all claims for payment.

(b) APPLICATION FEE.—The Secretary shall require an individual applying for a unique identifier code under subsection (a) to submit a fee in an amount determined by the Secretary to be sufficient to cover the cost of investigating the information on the application and the individual's suitability for receiving such a code.

SEC. 507. USE OF NEW PROCEDURES.

No payment may be made under either title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.) for any item or service furnished by an individual or entity unless the requirements of sections 505 and 506 are satisfied.

SEC. 508. PROHIBITING UNNECESSARY AND WASTEFUL MEDICARE PAYMENTS FOR CERTAIN ITEMS.

Notwithstanding any other provision of law, including any regulation or payment policy, the following categories of charges shall not be reimbursable under title XVIII of the Social Security Act:

(1) Tickets to sporting or other entertainment events.

(2) Gifts or donations.

(3) Costs related to team sports.

(4) Personal use of motor vehicles.

(5) Costs for fines and penalties resulting from violations of Federal, State, or local laws.

(6) Tuition or other education fees for spouses or dependents of providers of services, their employees, or contractors.

SEC. 509. REDUCING EXCESSIVE BILLINGS AND UTILIZATION FOR CERTAIN ITEMS.

Section 1834(a)(15) of the Social Security Act (42 U.S.C. 1395m(a)(15)) is amended by striking "Secretary may" both places it appears and inserting "Secretary shall".

SEC. 510. IMPROVED CARRIER AUTHORITY TO REDUCE EXCESSIVE MEDICARE PAYMENTS.

(a) General Rule.—Section 1834(a)(10)(B) of the Social Security Act (42 U.S.C. 1395m(a)(10)(B)) is amended by striking "paragraphs (8) and (9)" and all that follows through the end of the sentence and inserting "section 1842(b)(8) to covered items and suppliers of such items and payments under this subsection as such provisions (relating to determinations of grossly excessive payment amounts) apply to items and services and entities and a reasonable charge under section 1842(b)".

(b) Repeal of Obsolete Provisions.—

(1) Section 1842(b)(8) of the Social Security Act (42 U.S.C. 1395u(b)(8)) is amended—

(A) by striking subparagraphs (B) and (C),

(B) by striking "(8)(A)" and inserting "(8)", and

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(2) Section 1842(b)(9) of such Act (42 U.S.C. 1395u(b)(9)) is repealed.

(c) Payment for Surgical Dressings.—Section 1834(i) of the Social Security Act (42 U.S.C. 1395m(i)) is amended by adding at the end the following new paragraph:

"(3) Grossly excessive payment amounts.—Notwithstanding paragraph (1), the Secretary may apply the provisions of section 1842(b)(8) to payments under this subsection.".

SEC. 511. REQUIRED BILLING, PAYMENT, AND COST LIMIT CALCULATION TO BE BASED ON SITE WHERE SERVICE IS FURNISHED.

(a) Conditions of Participation.—Section 1891 of the Social Security Act (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

"(g) A home health agency shall submit claims for payment of home health services under this title only on the basis of the geographic location at which the service is furnished, as determined by the secretary.".

(b) Wage Adjustment.—Section 1861(v)(1)(L)(iii) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking "agency is located" and inserting "service is furnished".

SEC. 512. STANDARDS FOR PHYSICAL THERAPY SERVICES FURNISHED BY PHYSICIANS.

(a) Application of Standards for Other Providers of Physical Therapy Services to Services furnished by physicians.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph 14;

(2) by striking the period at the end of paragraph (15) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(16) in the case of physicians' services under 1848(j)(3) consisting of outpatient physical therapy services or outpatient occupational therapy services, which are furnished by a physician who does not meet the requirements applicable under section 1861(p) to a clinic or rehabilitation agency furnishing such services.".

(b) Conforming Amendment.—Section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w-4(j)(3)) is amended by inserting "(subject to section 1862(a)(16))" after "(2)(D)".

(c) Effective Date.—The amendments made by this section shall apply to services furnished on or after July 1, 1996.

SEC. 513. PENALTY FOR FALSE CERTIFICATION FOR HOME HEALTH SERVICES.

(a) In General.—Section 1128A(b) of the Social Security Act (42 U.S.C. 1320a–7a(b)) is amended by adding at the end the following new paragraph:

"(3)(A) Any physician who executes a document described in subparagraph (B) with respect to an individual knowing that all of the requirements referred to in such subparagraph are not met with respect to the individual shall be subject to a civil monetary penalty of not more than the greater of—

"(i) $5,000, or

"(ii) three times the amount of the payments under title XVIII for home health services which are made pursuant to such certification.

"(B) A document described in this subparagraph is any document that certifies, for purposes of title XVIII, that an individual meets the requirements of section 1814(a)(2)(C) or 1835(a)(2)(A) in the case of home health services furnished to the individual.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to certifications made on or after the date of the enactment of this Act.

SEC. 514. ITEMIZATION OF SURGICAL DRESSING BILLS SUBMITTED BY HOME HEALTH AGENCIES.

Section 1834(i)(2) (42 U.S.C. 1395m(i)(2) is amended to read as follows:

"(2) Exception.—Paragraph (1) shall not apply to surgical dressings that are furnished as an incident to a physician's professional service.".

SEC. 515. IMPLEMENTATION OF GENERAL ACCOUNTING OFFICE RECOMMENDATIONS REGARDING MEDICARE CLAIMS PROCESSING.

(a) In General.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall, by regulation, contract, change order, or otherwise, require medicare carriers to acquire commercial automatic data processing equipment (in this title referred to as "ADPE") meeting the requirements of section 516 to process medicare part B claims for the purpose of identifying billing code abuse.

(b) Supplementation.—Any ADPE acquired in accordance with subsection (a) shall be used as a supplement to any other ADPE used in claims processing by medicare carriers.

(c) Standardization.—In order to ensure uniformity, the Secretary may require that medicare carriers that use a common claims processing system acquire common ADPE in implementing subsection (a).

(d) Implementation Date.—Any ADPE acquired in accordance with subsection (a) shall be in use by medicare carriers not later than 180 days after the date of the enactment of this Act.

SEC. 516. MINIMUM SOFTWARE REQUIREMENTS.

(a) In General.—The requirements described in this section are as follows:

(1) The ADPE shall be a commercial item.

(2) The ADPE shall surpass the capability of ADPE used in the processing of medicare part B claims for identification of code manipulation on the day before the date of the enactment of this Act.

(3) The ADPE shall be capable of being modified to—

(A) satisfy pertinent statutory requirements of the medicare program; and

(B) conform to general policies of the Health Care Financing Administration regarding claims processing.

(b) Minimum Standards.—Nothing in this title shall be construed as preventing the use of ADPE which exceeds the minimum requirements described in subsection (a).

SEC. 517. DISCLOSURE.

(a) In General.—Notwithstanding any other provision of law, and except as provided in subsection (b), any ADPE or data related thereto acquired by medicare carriers in accordance with section 515(a) shall not be subject to public disclosure.

(b) Exception.—The Secretary may authorize the public disclosure of any ADPE or data related thereto acquired by medicare carriers in accordance with section 515(a) if the Secretary determines that—

(1) release of such information is in the public interest; and

(2) the information to be released is not protected from disclosure under section 552(b) of title 5, United States Code.

SEC. 518. REVIEW AND MODIFICATION OF REGULATIONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary shall order a review of existing regulations, guidelines, and other guidance governing medicare payment policies and billing code abuse to determine if revision of or addition to those regulations, guidelines, or guidance is necessary to maximize the benefits to the Federal Government of the use of ADPE acquired pursuant to section 515.

SEC. 519. DEFINITIONS.

For purposes of this title—

(1) The term "automatic data processing equipment" (ADPE) has the same meaning as in section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2)).

(2) The term "billing code abuse" means the submission to medicare carriers of claims for services that include procedure codes that do not appropriately describe the total services provided or otherwise violate medicare payment policies.

(3) The term "commercial item" has the same meaning as in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

(4) The term "medicare part B" means the supplementary medical insurance program authorized under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j–1395w–4).

(5) The term "medicare carrier" means an entity that has a contract with the Health Care Financing Administration to determine and make medicare payments for medicare part B benefits payable on a charge basis and to perform other related functions.

(6) The term "payment policies" means regulations and other rules that govern billing code abuses such as unbundling, global service violations, double billing, and unnecessary use of assistants at surgery.

(7) The term "Secretary" means the Secretary of Health and Human Services.

SEC. 520. NONDISCHARGEABILITY OF CERTAIN MEDICARE DEBTS.

(a) Payment to Providers.—Section 1815(d) of the Social Security Act (42 U.S.C. 1395g(d)) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of law, amounts due to the program under this subsection are not dischargeable under any provision of title 11, United States Code.".

(b) Payment of Benefits.—Section 1833(j) of the Social Security Act (42 U.S.C. 1395l(j)) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of law, amounts due to the program under this subsection are not dischargeable under any provision of title 11, United States Code.".

SEC. 521. APPLICABILITY OF THE BANKRUPTCY CODE TO PROGRAM SANCTIONS.

(a) EXCLUSION OF INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN FEDERAL HEALTH CARE PROGRAMS.—Section 1128 of the Social Security Act (42 U.S.C. 1320a–7) is amended by adding at the end the following new subsection:

"(j) APPLICABILITY OF BANKRUPTCY PROVISIONS.—An exclusion imposed under this section is not subject to the automatic stay imposed under section 362 of title 11, United States Code.".

(b) CIVIL MONETARY PENALTIES.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended by adding at the end the following sentence: "An exclusion imposed under this subsection is not subject to the automatic stay imposed under section 362 of title 11, United States Code, and any penalties and assessments imposed under this section shall be nondischargeable under the provisions of such title.".

(c) OFFSET OF PAYMENTS TO INDIVIDUALS.—Section 1892(a)(4) of the Social Security Act (42 U.S.C. 1395ccc(a)(4)) is amended by adding at the end the following sentence: "An exclusion imposed under paragraph (2)(C)(ii) or paragraph (3)(B) is not subject to the automatic stay imposed under section 362 of title 11, United States Code."

CONARD AMENDMENT NO. 3684

Mr. CONARD proposed an amendment to the bill S. 1028, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) EXTENSION OF WAIVER PROGRAM.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking "June 1, 1996" and inserting "June 1, 2002".

(b) CONDITIONS ON FEDERALLY REQUESTED WAIVERS.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1184(e)) is amended by inserting after "except that in the case of a waiver requested by a State Department of Public Health or its equivalent" the following: "or in the case of a waiver requested by an interested United States Government agency on behalf of an alien described in clause (iii)".

(c) RESTRICTIONS ON FEDERALLY REQUESTED WAIVERS.—Section 214(k) (8 U.S.C. 1184(k)) is amended to read as follows:

"(k)(1) In the case of a request by an interested State agency or by an interested United States Government agency for a waiver of the two-year foreign residence requirement under section 212(e) with respect to an alien described in clause (iii) of that section, the Attorney General shall not grant such waiver unless—

"(A) in the case of an alien who is otherwise contractually obligated to return to a foreign country, the government of such country furnishes the Director of the United States Information Agency with a statement in writing that it has no objection to such waiver; and

"(B)(i) in the case of a request by an interested State agency—

"(I) the alien demonstrates a bona fide offer of full-time employment, agrees to begin employment with the health facility or organization named in the waiver application within 90 days of receiving such waiver, and agrees to work for a total of not less than three years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien would justify a lesser period of time); and

"(II) the alien's employment continues to benefit the public interest; or

"(ii) in the case of a request by an interested United States Government agency—

"(I) the alien demonstrates a bona fide offer of full-time employment that has been found to be in the public interest, agrees to begin employment with the health facility or organization named in the waiver application within 90 days of receiving such waiver, and agrees to work for a total of not less than three years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien would justify a lesser period of time); and

"(II) the alien's employment continues to benefit the public interest;

"(C) in the case of a request by an interested State agency, the alien agrees to practice medicine in accordance with paragraph (2) for a total of not less than three years only in the geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals; and

"(D) in the case of a request by an interested State agency, the grant of such a waiver would not cause the number of waivers allotted for that State for that fiscal year to exceed 20.

"(2)(A) Notwithstanding section 248(2) the Attorney General may change the status of an alien that qualifies under this subsection and section 212(e) to that of an alien described in section 101(a)(15)(H)(i)(b).

"(B) No person who has obtained a change of status under subparagraph (A) and who has failed to fulfill the terms of the contract with the health facility or organization named in the waiver application shall be eligible to apply for an immigrant visa, for permanent residence, or for any other change of nonimmigrant status until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least two years following departure from the United States.

"(3) Notwithstanding any other provisions of this subsection, the two-year foreign residence requirement under section 212(e) shall apply with respect to an alien in clause (iii) of that section who has not otherwise been accorded status under section 101(a)(27)(H)—

"(A) in the case of a request by an interested State agency, if at any time the alien practices medicine in an area other than an area described in paragraph (1)(C); and

"(B) in the case of a request by an interested United States Government agency, if at any time the alien engages in employment for a health facility or organization not named in the waiver application.".

COATS AMENDMENT NO. 3685

Mr. COATS proposed an amendment to the bill S. 1028, supra; as follows:

At the appropriate place in title III, insert the following new section:

SEC. . MEDICAL VOLUNTEERS.

(a) SHORT TITLE.—This title may be cited as the "Medical Volunteer Act".

(b) TORT CLAIM IMMUNITY.—

(1) GENERAL RULE.—A health care professional who provides a health care service to a medically underserved person without receiving compensation for such health care service, shall be regarded, for purposes of any medical malpractice claim that may arise in connection with the provision of such service, as an employee of the Federal Government for purposes of the Federal tort claims provisions in title 28, United States Code.

(2) COMPENSATION.—For purposes of paragraph (1), a health care professional shall be deemed to have provided a health care service without compensation only if, prior to furnishing a health care service, the health care professional—

(A) agrees to furnish the health care service without charge to any person, including any health insurance plan or program under which the recipient is covered; and

(B) provides the recipient of the health care service with adequate notice (as determined by the Secretary) of the limited liability of the health care professional with respect to the service.

(c) PREEMPTION.—The provisions of this section shall preempt any State law to the extent that such law is inconsistent with such provisions. The provisions of this section shall not preempt any State law that provides greater incentives or protections to a health care professional rendering a health care service.

(d) DEFINITIONS.—For purposes of this section:

(1) HEALTH CARE PROFESSIONAL.—The term "health care professional" means a person who, at the time the person provides a health care service, is licensed or certified by the appropriate authorities for practice in a State to furnish health care services.

(2) HEALTH CARE SERVICE.—The term "health care service" means any medical assistance to the extent it is included in the plan submitted under title XIX of the Social Security Act for the State in which the service was provided.

(3) MEDICALLY UNDERSERVED PERSON.—The term "medically underserved person" means a person who resides in—

(A) a medically underserved area as defined for purposes of determining a medically underserved population under section 330 of the Public Health Service Act (42 U.S.C. 254c); or

(B) a health professional shortage area as defined in section 332 of such Act (42 U.S.C. 254e);

and who receives care in a health care facility substantially comparable to any of those designated in the Federally Supported Health Centers Assistance Act (42 U.S.C. 233 et seq.), as shall be determined in regulations promulgated by the Secretary.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Department of Health and Human Services.

BOXER AMENDMENT NO. 3686

Mrs. BOXER proposed an amendment to the bill S. 1028, supra; as follows:

At the appropriate place add:

The Senate finds that—

Patients deserve to know the full range of treatments available to them and,

Patients should know if doctors receive bonuses for withholding treatment from them.

It is the sense of the Senate that Congress should thoughtfully examine these issues to ensure that all patients get the care they deserve.

SIMON AMENDMENT No. 3687

Mr. SIMON proposed an amendment to the bill S. 1028, supra; as follows:

At the appropriate place in the bill insert the following new section:

SEC. . SENSE OF THE SENATE REGARDING ADEQUATE HEALTH CARE COVERAGE FOR ALL CHILDREN AND PREGNANT WOMEN.

(a) FINDINGS.—The Senate finds the following:

(1) The health care coverage of mothers and children in the United States is unacceptable, with more than 9,300,000 children and 500,000 expectant mothers having no health insurance.

(2) Among industrial nations, the United States ranks 1st in wealth but 18th in infant mortality, and 14th among such nations in maternal mortality.

(3) 22 percent of pregnant women do not have prenatal care in the first trimester, and 22 percent of all poor children are uninsured, despite the medicaid program under title XIX of the Social Security Act.

(4) Of the 1,100,000 net increase in uninsured persons from 1992 to 1993, 84 percent or 922,500 were children.

(5) Since 1987, the number of children covered by employment based health insurance has decreased, and many children lack health insurance despite the relative affordability of providing insurance for children.

(6) Health care coverage for children is relatively inexpensive and in 1993 the medicaid program spent an average of $1,012 per child compared to $8,220 per elderly adult.

(7) Uninsured children are generally children of lower income workers, who are less likely than higher income workers to have health insurance for their families because they are less likely to work for a firm that offers insurance, and if such insurance is offered, it is often too costly for lower income workers to purchase.

(8) In 1993, 61 percent of uninsured children were in families with at least one parent working full time for the entire year the child was uninsured, and about 57 percent of uninsured children had a family income at or below 150 percent of the Federal poverty level.

(9) If Congress eliminates the Federal guarantee of Medicaid, an estimated 4,900,000 children may lose their guarantee of health care coverage, and those same children may be added to the currently projected 12,600,000 children who will be uninsured by the year 2002.

(10) Studies have shown that uninsured children are less likely than insured children to receive needed health and preventive care, which can affect their health status adversely throughout their lives, with such children less likely to have routine doctor visits, receive care for injuries, and have a regular source of medical care.

(11) The families of uninsured children are more likely to take the children to an emergency room than to a private physician or health maintenance organization.

(12) Children without health insurance are less likely to be appropriately immunized or receive other preventive care for childhood illnesses.

(13) Ensuring the health of children clearly increases their chances to become productive members of society and averts more serious or more expensive health conditions later in life, and ensuring that all pregnant women receive competent prenatal care also saves social costs.

(14) Although the United States has made great improvements in health care coverage through the Medicaid program, it is still the only developed nation that does not ensure that all of its children and pregnant women have health care coverage.

(15) The United States should not accept a status quo in which children in many neighborhoods are more likely to have access to drugs and guns than to doctors, or accept a status quo in which health care is ensured for all prisoners but not for all children.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the issue of adequate health care for our mothers and children is important to the future of the United States, and in consideration of the importance of such issue, the Senate should pass health care legislation in the 105th Congress that will ensure health care coverage for all of the United States's pregnant women and children.

DORGAN (AND FRIST) AMENDMENT NO. 3688

Mr. KENNEDY (for Mr. DORGAN, for himself and Mr. FRIST) proposed an amendment to the bill S. 1028, supra; as follows:

At the end of title III, add the following:

SEC. 3. ORGAN AND TISSUE DONATION INFORMATION INCLUDED WITH INCOME TAX REFUND PAYMENTS.

(a) IN GENERAL.—The Secretary of the Treasury shall include with any payment of a refund of individual income tax made during the period beginning on February 1, 1997, and ending on June 30, 1997, a copy of the document described in subsection (b).

(b) TEXT OF DOCUMENT.—The Secretary of the Treasury shall, after consultation with the Secretary of Health and Human Services and organizations promoting organ and tissue (including eye) donation, prepare a document suitable for inclusion with individual income tax refund payments which—

(1) encourages organ and tissue donation;

(2) includes a detachable organ and tissue donor card; and

(3) urges recipients to—

(A) sign the organ and tissue donor card;

(B) discuss organ and tissue donation with family members and tell family members about the recipient's desire to be an organ and tissue donor if the occasion arises; and

(C) encourage family members to request or authorize organ and tissue donation if the occasion arises.

WELLSTONE AMENDMENT NO. 3689

Mr. KENNEDY (for Mr. WELLSTONE) proposed an amendment to the bill S. 1028, supra; as follows:

On page 9, line 13 insert after evidence of insurability "(including conditions arising out of acts of domestic violence);".

HELMS (AND KASSEBAUM) AMENDMENT NO. 3690

Mrs. KASSEBAUM (for Mr. HELMS, for himself and Mrs. KASSEBAUM) proposed an amendment to the bill S. 1028, supra; as follows:

Amend Title III—Miscellaneous Provisions, Section 302(a) by striking "two part study" on line 19, and inserting "three-part study" and adding Section 302(d):

"(d) EVALUATION OF ACCESS AND CHOICE.—Not later than June 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate Committees of Congress a report concerning—

(1) an evaluation of the extent to which patients have direct access to, and choice of, health care provider, including specialty providers, within a network of providers, as well as the opportunity to utilize providers outside of the network, under the various types of coverage offered under the provisions of this Act;

(2) an evaluation of the cost to the insurer of providing out-of-network access to providers, and the feasibility of providing out-of-network access in all health plans offered under provisions of this Act.

(3) an evaluation of the percent of premium dollar utilized for medical care and administration of the various types of coverage offered, including coverage which permits out-of-network access and choice of provider, under provisions of this Act.

BURNS (AND HARKIN) AMENDMENT NO. 3691

Mr. BURNS (for himself and Mr. HARKIN) proposed an amendment to the bill S. 1028, supra; as follows:

On Page 71, line 19, add the following:

"SEC. 302.5. REIMBURSEMENT OF TELEMEDICINE.

The Health Care Financing Administration is directed to complete their ongoing study of reimbursement of all telemedicine services and submit a report to Congress with a proposal for reimbursement of fee-for-service medicine by March 1, 1997. The report shall utilize data compiled from the current demonstration projects already under review and gather data from other ongoing telemedicine networks. This report shall include an analysis of the cost of services provided via telemedicine.

NOTICE OF HEARING

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that the hearing previously scheduled before the Subcommittee on Forests and Public Land Management on S. 1401, Surface Mining Control and Reclamation Amendments Act of 1995 on Tuesday, April 23, 1996, at 9:30 a.m. has been rescheduled for Thursday, May 2, 1996, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

In addition to S. 1401, we will receive testimony on S. 1194, to amend the Mining and Mineral Policy Act of 1970 to promote the research, identification, assessment, and exploration of marine mineral resources.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Michael Flannigan of the subcommittee staff at 202–224–6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 5 p.m. on Thursday, April 18, 1996, to receive testimony in executive session to mark up S. 1635, the Defend America Act of 1996—National Missile Defense—and to discuss markup.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, April 18, 1996, to markup a resolution to authorize the committee to conduct an investigation of Madison Guaranty Savings and Loan Association and related matters, amend the committee's rules to facilitate the investigation and related public hearings, and to authorize the issuance of subpoenas.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Thursday, April 18, 1996, session of the Senate for the purpose of conducting a hearing on spectrum use and management.

The PRESIDENT OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, April 18, 1996, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony on the Tongass land management plan.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 18, at 2 p.m. to hold a business meeting to vote on pending items.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to conduct three consecutive hearings during the session of the Senate on Wednesday, April 17, Thursday, April 18, and Friday, April 19, 1996, on the President's budget request for fiscal year 1997 for Indian programs and related budgetary issues from fiscal year 1996. The hearings will be held at 1:30 p.m. each day in room 485 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, April 18, 1996, at 10 a.m. to hold an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for a hearing on Thursday, April 18, 1996, at 9:30 a.m., in room 428A of the Russell Senate Office Building, to conduct a hearing focusing on "Small Business and Employee Involvement: The TEAM Act Proposal."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, EXPORT AND TRADE PROMOTION

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Export and Trade Promotion of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 18, 1996, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NATIONAL RECORDS AND INFORMATION MANAGEMENT DAY

• Mr. FRIST. Mr. President, I rise today to note the observance of National Records and Information Management Day which occurred on April 2, 1996 while the Senate was in recess. The management and control of information are increasingly critical to every industry, business and government agency, and the systematic creation, distribution, storage and retrieval of records are of critical importance to the continued and efficient operation of any good organization.

The organizations that excel today and tomorrow will be those recognizing information as a major resource and structuring it as efficiently as they do their assets. An effective records management program assures the availability of information as a basis for sound decisionmaking by providing security and control against loss by mismanagement, natural disaster, theft or inadvertent destruction. All Americans should recognize the significant and important role that records management professionals render in maintaining appropriate business, civic, and government records. I commend businesses such as ARMA International who have brought National Records and Information Management Day to my attention and wish them every success as they educate the business community regarding the importance of records management.•

EARTH DAY/ARBOR DAY TRIBUTE TO THE CITY OF DETROIT

•Mr. LEVIN. Mr. President, I rise today to pay tribute to the city of Detroit for its efforts to beautify its neighborhoods and improve its natural environment. The city of Detroit on Earth Day/Arbor Day, Monday, April 22, 1996, is holding a ceremony kicking off a week long program to plant trees in parks around the city.

For its tree planting efforts, Detroit, for the ninth time, has been named a Tree City USA by the National Arbor Day Foundation. Detroit recognizes the importance that trees play in not only making our communities more attractive, but by providing tremendous environmental benefits as well. Trees produce oxygen, help clean the air, provide a habitat for wildlife and provide humankind with great visual beauty.

The city of Detroit recognizes the importance of tree planting and is committed to the continuation of its exemplary reforestation programs. I am proud of the efforts of my home city and I ask that my colleagues join me in congratulating the city of Detroit.•

THE ANTITERRORISM BILL

• Mr. MACK. Mr. President, I wish to apologize for my absence during consideration of the conference report to S. 735 due to the passing of my father. I believe that this is an essential piece of legislation to address the current deficiencies in our judicial system which made it that much easier for the tragedy in Oklahoma City to take place. In addition, this bill makes much-needed revisions to the current habeas corpus system in our country.•

STEVE JESSMORE

•Mr. LEVIN. Mr. President, I rise to honor Steve Jessmore of Saginaw, MI, who has been awarded the Robert F. Kennedy Journalism Award for outstanding coverage of the problems of the disadvantaged. Mr. Jessmore won the award in the photojournalism category for his photo essay, "Blind Faith."

"Blind Faith" follows the life of Carl, a yellow labrador retriever puppy raised by a Carrolton Township elementary school class. Carl was trained as a leader dog for the blind and eventually placed with a visually impaired man in Kansas City, MO.

Judges for the Kennedy award included journalists from the Washington

Post, Knight Ridder, CNN, the Wall Street Journal, and NBC. "Blind Faith" has also won the national Lincoln University of Missouri 43d Annual Unity Awards in Media, as well as several other awards in State, regional, and national contests.

"Blind Faith" marks the first time that someone has followed the story of a leader dog since 1939, when the Rochester-based nonprofit organization that trained Carl was founded. The photos from "Blind Faith" will now be permanently on display in the Robert F. Kennedy collection of the John F. Kennedy Library in Boston.

On hearing that he had won the award, Jessmore said, "I'm real happy that so many other people get to see it now, because it's such a tremendous, positive story—kids learning early how to help other people."

I know my Senate colleagues join me in honoring Steve Jessmore for his outstanding work in the field of photojournalism. •

WHITEWATER INVESTIGATION

• Mr. GLENN. The Whitewater investigation is the longest running congressional inquiry in the recent past. At 20 months, it exceeds Abscam—9 months—the POW/MIA hearings 17—months and Watergate 16—months. It has cost the American taxpayers over $30 million which could have vaccinated 107,000 children, paid the Medicare costs of 9,200 seniors, and provided health care for nearly 7,000 families.

Mr. President, I was disappointed to learn that an agreement had been reached to continue the Whitewater investigation. Because I thought it was a poor use of the taxpayer's money, I voted against the original resolution and had the current resolution been brought to a rollcall vote, I would have voted to discontinue proceedings dealing with Whitewater.

The Whitewater investigation duplicates the ongoing independent counsel's investigation and wastes the limited time we have left in this session to pass important legislation. The independent counsel has full authority and budget to continue the investigation as long as he thinks is practicable. Calling an end to the Senate Whitewater investigation only stops the duplication of investigations, neither of which have so far resulted in anything of substance.

The current resolution extends the committee's deadline until June 14 and will cost the taxpayer's an additional $480,000. I believe this investigation could have been completed by the original promised deadline of February 29.•

SAGINAW HIGH SCHOOL

•Mr. LEVIN. Mr. President, on March 28, 1996, I spoke about the inspiring victory of Saginaw High School in the Michigan Class A State Basketball Championship. However, I neglected to mention the names of the players and coaches. I submit the list of Saginaw's valiant victors for the RECORD.

Saginaw High School varsity basketball team and coaching staff. Players: Deon Anderson, Lawandzo Harris, Montell Lewis, Marcus McCray, Dwayne Nash, Jason Peoples, Deronnie Pitts, Andre Reed, Terrance Reed, Antoine Tatum, Armar Vansant, Terry Washington, Torrance Whitson, and Freeman Battle. Head coach: Marshall Thomas. Assistant coaches: Ronnie Bryant, Brian Humes, Larry Kelly, and Shevonne Weems.•

VOTE IN SUPPORT OF THE ANTITERRORISM BILL

•Mr. WELLSTONE. Mr. President, much has happened in the year since this bill left the Senate. Oklahoma City has begun the healing process from the senseless violence it suffered at the hands of a terrorist bomber. Prime Minister Yitzhak Rabin was killed by a terrorist. Terrorism in the Middle East, against subway riders in Tokyo and elsewhere have reminded us of the vulnerability of free societies to this kind of senseless violence. The unabomber's reign of terror has apparently been brought to an end by the FBI. And the antiterrorism bill that left this Senate has come back, in some ways, a better bill: It is less invasive of civil liberties when it comes to eavesdropping by Federal agents, and it prevents defendants from being deported based only on evidence they are not allowed to understand.

What happened to Rabin shows us all that terrorism is not going away. What may have been a success in stopping the unabomber shows that the Federal Government can fight back. I support this bill because I recognize that terrorism is a threat that puts all our lives at risk, and that we must bolster national antiterrorism efforts, including by providing to law enforcement and the courts new tools to combat cutting edge technologies of violence and increasingly bold villains, in order to stem the tide of destruction.

I have made it clear that I do not support everything in this bill. I voted against the Senate bill last year largely because of its broad habeas corpus provisions, which will limit Federal court review in death penalty cases. I am also opposed to this bill's provisions to weaken protections for refugees and asylees fleeing persecution in other countries which has nothing to do with antiterrorism efforts. While I am still profoundly opposed to these provisions, I have concluded that on balance this bill should pass.

There is much in this bill that is good, that will address concerns Minnesotans have expressed to me. This bill will make a real difference in the fight against terrorism. It includes many necessary changes to our Federal criminal laws. It will make it a Federal crime to plan or to carry out terrorist attacks in the United States. It will make it a Federal crime to plan terrorist attacks in the United States, even if the attacks are carried out overseas. It includes increased penalties for conspiracies involving explosives. It will make it easier to detect plastic explosives, and to track chemicals of which most bombs are composed. It will make it harder for terrorist groups to raise funds in the United States. It provides mandatory restitution for victims of terrorist acts. It will help prevent the sale of arms to terrorist states by third parties. And it expands the authority of government officials to deal with threats posed by chemical, biological, and nuclear technologies, involving deadly nuclear materials.

While I did not agree with every aspect of the 1994 crime bill I supported it because I concluded that, on balance, it contained many effective provisions to fight crime and violence. By the same token this is a bill that on balance can make an impact against terrorism.

I voted against provisions in this bill that I fiercely opposed, and supported many changes that were not agreed to. The President and Members of both parties on both sides of Capitol Hill have nearly unanimously come together in this statement against destruction and violence. Because this bill successfully addresses a threat that endangers all of us and because a unified effort makes a strong statement and therefore my voice can help make it stronger, I join my colleagues in its support.•

COL. JAMES C. BARBARA

• Mr. LEVIN. Mr. President, I rise today to honor Col. James C. Barbara on his retirement from the U.S. Army after 32 years of dedicated service. Colonel Barbara has had a far-reaching and successful career which has had a profound effect on the evolution of our Nation's armored vehicles.

Col. Jim Barbara was commissioned in armor through the Reserve Officer Training Corps and has served in Europe, Vietnam, and the United States. He has been the commander of five companies; adviser to Alabama, Mississippi, and Tennessee National Guard units; and the Secretary of the General Staff XVIII Airborne Corps.

From 1981–85, Colonel Barbara was the TRADOC systems manager and assistant manager for tanks, becoming responsible in 1986 for M1A1 initial production, follow-on evaluation, and live fire testing. From 1988–90, he led the common chassis advanced technology transition demonstrator, the largest, competitive weapons system program in the history of the Army.

In 1993, Colonel Barbara led a process action team focusing on ways to develop and implement reengineering techniques to support acquisition streamlining. In 1995, Jim became the deputy program executive officer for tactical wheeled vehicles, where he was responsible for organizing the tactical vehicle community's emergency efforts to design, test, produce, and field armor protection kits for use in Bosnia.

Jim holds bachelor's and master's degrees from Boston College and an MBA from Northwood University. Colonel Barbara's awards and decorations include the Legion of Merit, Bronze Star of Valor, Meritorious Service Medal, and Army Commendation Medal. He is married to the former Eleanor B. McMorrow of Worcester, MA.

I know that my Senate colleagues join me in congratulating Col. James C. Barbara on his 32 years of dedicated service to our Nation. •

THE BUDGET DEBATE

• Mr. ABRAHAM. Mr. President, as the Senate continues to debate our proper budget priorities, I have noted the presence of a number of inaccurate arguments. These arguments, in my opinion, are distracting us from the central question of how our taxing and spending policies affect middle-class Americans. Particularly worrisome to me are inaccurate views concerning the historical performance of tax cuts, and their impact on middle-class income in particular. Specifically, some are arguing that tax cuts in the 1980's produced lower incomes for our middle class, and saddled them with a larger percentage of total tax receipts.

In an attempt to focus debate more effectively on questions of what will and will not work for the American people, I would like to have inserted into the RECORD an article of mine, published recently in The World & I. In this article I set forth my view of the real effect of tax cuts in the 1980's. As published, the article is accompanied by spirited responses and defenses from several distinguished observers, including Gary Burtless of the Brookings Institution, Michael Meeropol of the Center for Popular Economics, Bruce Bartlett of the National Center for Policy Analysis, Norman B. Turé of the Institute for Research on the Economics of Taxation, and Paul M. Weyrich of the Free Congress Foundation.

I argue that the pro-growth and pro-family tax policies of the 1980's contributed significantly to the prosperity of America's middle-class families. In addition, I point out that tax cuts produce lower, not higher, deficits and that tax cuts help the middle class and poor more than the rich. Not all the respondents agreed completely with my argument. But I believe the article can help all of us form more useful, coherent arguments as we face the budget challenges ahead.

The article follows:

THE REAL 1980'S

(By Spencer Abraham)

The debate over the budget is becoming a debate over the 1980s. Opponents of tax cuts and spending restraints are claiming that these policies wreaked havoc when tried before under Ronald Reagan. The policies of the 1980s, in this view, hurt American families and the American economy, and so should not be repeated.

To answer this criticism, one must explode three interrelated myths that are exercising undue influence over the budget debate today:

The progrowth and profamily tax policies of the 1980s actually hurt America's middleclass families.

Tax cuts necessarily increase the budget deficit.

Tax cuts disproportionately benefit the rich at the expense of the middle class and poor.

Using these myths, defenders of the status quo paint reformers as heartless friends of rich people and enemies of the poor and middle class. By exploding them, we can return the focus of our budget debate to the question of how best to reform tax and spending policies for the benefit of all Americans. But to do this, we must reestablish the truth about how our nation's middle class really fared under the low-tax, limited-government policies of the 1980s.

MYTH NO. 1

The claim that middle-class families suffered under conservative reforms is based on an inaccurate representation of the income data. For example, opponents of reform have said over and over that household income fell over a 15-year period, from $38,248 in 1979 to $36,959 in 1993, and that this decline was the direct result of the policies of Ronald Reagan and the Republicans. They wield a frightening graph, much like figure 1.

But the graph does not reflect reality. These 15 years did not constitute one monolithic era of Republican policy dominance. Rather, they included two periods characterized by overtaxation and overregulation (1979–81 and 1990–93) and one period (1982–89) during which Republican policies of lower taxes and less regulation were in place. An accurate portrayal of this overall period would look like figure 2.

In truth, this 15-year period consists of one era of middle-class prosperity under low-tax, limited-government policies and two eras of middle-class pain under policies of high taxes and increased regulation. Americans had 8 years of improvement in middle-class incomes from 1982 to 1989. Unfortunately for the middle class, the periods from 1979 to 1981 and 1990 to 1993 were dominated by overtaxation and overregulation, policies that resulted in declines in middle-class incomes.

Opponents of reform attempt to paint Ronald Reagan's low-tax, limited-government policies as harmful by treating the 1979–93 period as if all of it were in the Reagan era. They wrongly imply that Reagan was president and Republicans were in control throughout this period.

On closer inspection, it becomes clear that the first 3 of the 15 years were under high-tax and heavy regulatory policies. It is also clear that, during this first period, real median family income fell precipitously from over $38,000 to under $36,000, for a total loss of over $2,500, according to Census Bureau data. In fact, one of the sharpest declines in median family income on record occurred in the year 1980.

As anyone with a working knowledge of the calendar and even a passing interest in American politics Knows, Ronald Reagan was not president in 1979 or 1980. Jimmy Carter was. Further, Republicans controlled the Senate for only the first 6 years of Reagan's tenure.

What is more, Republicans did not control the House of Representatives at any time during this 15-year period. Democrats were in charge the entire time. And, in 1979 and 1980, they controlled both the legislature and the presidency.

Yet opponents of lower taxes and slower spending growth almost always include 1979 and 1980, the last years of the Carter era, in describing the impact of the Reagan administration's conservative tax and regulatory reforms. But no matter how much one opposes tax cutting and deregulation, it is difficult to argue that these policies, pursued under Ronald Reagan and the GOP in 1981 and beyond, were bad enough to cause income declines in the years before they were implemented.

Unlike the 1993 Clinton income tax increases, many of which were implemented retroactively, the 1981 Reagan economic policies did not take effect until the middle of 1982. And what happened after these policies went into effect in 1982? As anyone can see from figure 2, real, postinflation median family income in the United States rose between 1982 and 1990, from $35,419 to $39,086, for an increase of 10.4 percent.

COLD WATER ON THE ECONOMY

But in 1990, the Democratic majority in Congress began insisting that tax-revenue increases had to be part of any effort to reduce the budget deficit. The result was the budget summit deal of 1990.

After that, again shown in figure 2, we saw a different pattern. Between 1990 and 1993, median family income plummeted 5.4 percent, from $39,086 to $36,959. The most severe drop in middle-class income began in 1993, the year the Clinton retroactive tax increases took effect. In that year, there was a remarkable $709 (1.9 percent) plunge in real median family income.

So what conclusion should we reach? The answer seems clear: Republican economic and tax policies helped the middle class. Thus, to get middle-class incomes moving upward again, we should return to the low-tax, deregulatory policies of the 1980s. These policies produced one of the most dramatic increases in middle-class incomes in the last 30 years.

Nineteen million new jobs were created between 1982 and 1989—2.4 million in 1989 alone. And 82 percent of these jobs were in higher-paying occupations: technical, precision production, and managerial and professional. Clearly then, tax cuts helped the middle class in the best way possible, by producing economic opportunity and good jobs.

This brings us to a subset of the first myth: that the rich got richer and the poor got poorer during the 1980s. Once again, this claim is unsubstantiated by the facts. First, let us look at a graph (fig. 3) that surfaced during the economic policy debate.

According to this figure, the 15 years between 1979 and 1993 produced:

A 15 percent decline in real family income for the bottom 20 percent of America taxpayers.

A 7 percent drop in income for the second-lowest 20 percent of taxpayers.

A 3 percent drop in income for the middle 20 percent.

Meanwhile, this 15-year period saw:

A 5 percent increase in income for the fourth 20 percent.

An 18 percent increase in income for the richest 20 percent of taxpayers, which was most problematic of all for critics of taxcut policy.

Once again, however, the use of this 15-year conglomeration produces misleading figures. The data look bad for the poor and middle class on this graph because, once again, the figure lumps in the effects of Jimmy Carter's high-tax, high-regulation policies with those of low taxes and low regulation.

When we separate out the 1979–81 period (fig. 4) from the 1982–90 recovery years (fig. 5), we find that everyone got poorer under the high-tax, high-regulation policies of 1979–81—the poor much more so and much more devastatingly than the rich. From 1979 to 1981, the poorest fifth experienced a drop in income of 9 percent, the next fifth a drop of 6.8 percent, the middle fifth a drop of 5.4 percent, the following fifth a drop of 3.5 percent, and the top fifth a drop of 4.5 percent.

Meanwhile, when the government lowered taxes and regulations during the 1982–90 period, everyone got richer.

During the 1982–90 Reagan-Bush era, everyone was better off. The bottom fifth experienced an 11 percent increase in income, the next fifth experienced a 9.7 percent gain, the middle fifth a 10.3 percent increase, the next fifth an 11.8 percent rise, and the highest fifth a 17.9 percent increase.

After the 1990 budget deal, everyone again became worse off. And after President Clinton's retroactive tax hike took effect in 1993, average Americans were hit hard.

Perhaps some would complain that people with high incomes did even better than other Americans during the prosperous 1980s. But government's goal should not be to make all people the same. It should be to allow everyone to become better off. And policies of low taxes and fewer regulations did precisely this.

It really is very simple: Lower taxes and less regulation help the poor, along with everyone else, while higher taxes and more regulation hurt the poor, along with everyone else.

MYTH NO. 2

What about the notion that we cannot afford tax cuts and that the tax cuts of the 1980s produced the burdensome deficits our economy is staggering under today?

This myth, unfortunately, has led some in Congress to abandon their commitment to tax cuts in the name of common sense. They now argue that common sense demands that we delay, cut back, or abandon entirely any tax cuts, at least until we achieve a balanced budget.

In fact, tax cuts can help America achieve the goal of balancing the budget. Tax reductions—particularly those that strengthen incentives to work, save, and invest—increase the rate of economic growth and thereby produce higher tax revenues for the Treasury than would be the case under a high-tax regime.

It is a paradoxical truth—to paraphrase what President John F. Kennedy said in 1962—that tax rates are too high today and tax revenues are too low. And the soundest way to raise revenue in the long run is to cut the rates now.

Kennedy was right and for a simple if somewhat unexpected reason: Irrespective of the top marginal tax rate, the government will take in about the same amount as a percentage of gross domestic product (GDP).

Research by economist W. Kurt Hauser shows that government receipts as a proportion of GDP have continued to hover at 19.5 percent since 1960. In 1982, the tax share stood at 19.8 percent of GDP. By 1989, the tax share had declined slightly to 19.2 percent of GDP—much the same as it had been back in 1960.

In short, whether we have raised or lowered tax rates, the percentage of GDP in taxes has hovered at 19 percent. The issue, of course, is 19 percent of what? Is it 19 percent of a large and growing GDP, or of an anemic, stagnant one?

Here again, the real numbers destroy the myths and tell the true story. According to the federal Office of Management and Budget (OMB), in 1982, the year the tax cuts were implemented, tax receipts stood at $617.8 billion. By 1989, tax receipts had increased to $990.7 billion.

How did this come about? By lowering taxes, the government freed up capital and entrepreneurial spirit, creating jobs and wealth and expanding the size of the economic pie. From 1982 to 1989, GDP increased from $3.1 to $5.4 trillion. Therefore, while tax revenues as a share of GDP remained relatively constant at just over 19 percent, the dollar amount of tax revenues collected by the federal government rose dramatically, because the economy grew dramatically.

Tax cuts will increase economic growth and thereby reduce the deficit. The question is, by how much? Economist Bruce Bartlett, a former assistant secretary of the Treasury, notes that the OMB figures show that increases in real GDP significantly reduce the deficit. By the year 2000, the deficit would be diminished by more than $150 billion if the economy grew just 1 percent faster than currently projected over the next five years.

Of course, Bartlett says, there is no guarantee that the Republican tax cuts will achieve a 1 percent faster growth rate. But there is no doubt they will increase growth above what would otherwise have occurred. If growth is just 0.4 percent faster per year it would be enough to make the tax cut deficit-neutral, based on the OMB data.

Thus, a dispassionate review of the figures shatters the myth that the Reagan tax cuts increased the deficit. The problem was not our revenue stream, either in terms of the percentage of GDP paid in taxes, or in real tax dollars received. The problem was too much spending. From 1982 to 1989, government spending rose from $745 billion to $1.14 trillion, a 53 percent jump.

Tax cuts in the 1990s can help produce the same type of economic growth they generated in the 1980s. This growth in turn will help us reduce the deficit. All we must do is reduce the rate at which government spending grows. CBO figures show that, if we simply hold the rate at which federal spending grows to a little over 2 percent per year, we can cut taxes by $189 billion and balance the budget by the year 2002.

MYTH NO. 3

But this reference to tax cuts brings us face to face with another myth, namely, that tax cuts disproportionately benefit the rich at the expense of the poor.

The myth explodes, however, on contact with IRS data conclusively show that lower income-tax rates actually increase the percentage of the total tax bill paid by the rich while decreasing the tax burden on the poor.

There is an amazing historical correlation between decreases in the marginal tax rate and increases in the share of revenue paid by the top 1 percent of income earners. And, of course, along with this increase in taxes paid by the most wealthy went a decrease in the taxes paid by the lower 50 percent of income earners.

For example, by 1988, the share of income taxes paid by the bottom 50 percent of taxpayers assumed just 5.7 percent of the income tax burden. Also in 1988, the average tax payment of the top 1 percent of taxpayers amounted to 27.5 percent of the total.

On the other hand, after the budget summit deal of 1990, the top marginal tax rate was increased from 28 to 31 percent. This produced a 3.5 percent decrease in the revenue share paid by the top 1 percent—down to 24.6 percent of the total. That is, as marginal rates decreased, the rich paid more, and as marginal rates increased the rich paid less, leaving more for the middle class and poor to pay.

Clearly, then, if we want to help the middle class, the last thing we should do is increase marginal tax rates. Such an increase will lead to lower productivity, lower tax revenues from the rich, and an increased tax burden for those who are not rich.

The answer to our dilemma, then, is not to keep our current high taxes but to cut taxes while bringing spending under control.

By bringing together disparate kinds of tax cuts, from a $500-per-child tax credit to a reduction in the capital-gains tax rate that will strengthen small businesses and entrepreneurs, we can increase the well-being and productivity of America's middle-class families. These tax cuts would allow middle-class families to build a better future for their children.

The proposed $500-per-child tax credit directly benefits the middle class. The Joint Committee on Taxation has reported that three-quarters of the benefits from this tax cut will go to people with incomes less than $75,000.

A capital-gains tax cut will accrue to the middle class as well. IRS data show that 55 percent of taxpayers who report long-term capital gains earn $50,000 or less. And 75 percent of them earn $75,000 or less.

These tax cuts will bring real relief to America's middle class. They will help the economy and thereby help lower the deficit.

The 1980s teach us—if only we will examine their lessons properly—that a vibrant economy, spurred by low taxes and fewer regulations, will produce balanced budgets and economic well-being for the middle class. We need only trust Americans to spend and invest their own money as they see fit. We need only trust the people, rather than government, to make their own decisions about how to take care of their families and improve their lot in life.•

CONGRESSIONAL REVIEW TITLE OF H.R. 3136

• Mr. NICKLES. Mr. President, I will submit for the RECORD a statement which serves to provide a detailed explanation and a legislative history for the congressional review title of H.R. 3136, the Small Business Regulatory Enforcement Fairness Act of 1996. H.R. 3136 was passed by the Senate on March 28, 1996, and was signed by the President the next day. Ironically, the President signed the legislation on the first anniversary of the passage of S. 219, the forerunner to the congressional review title. Last year, S. 219, passed the Senate by a vote of 100 to 0 on March 29, 1995. Because title III of H.R.

3136 was the product of negotiation with the Senate and did not go through the committee process, no other expression of its legislative history exists other than the joint statement made by Senator REID and myself immediately before passage of H.R. 3136 on March 28. I am submitting a joint statement to be printed in the RECORD on behalf of myself, as the sponsor of the S. 219, Senator REID, the prime cosponsor of S. 219, and Senator STEVENS, the chairman of the Committee on Governmental Affairs. This joint statement is intended to provide guidance to the agencies, the courts, and other interested parties when interpreting the act's terms. The same statement has been submitted today in the House by the chairmen of the committees of jurisdiction over the congressional review legislation.

The joint statement follows:

STATEMENT FOR THE RECORD BY SENATORS NICKLES, REID, AND STEVENS

SUBTITLE E—CONGRESSIONAL REVIEW SUBTITLE

Subtitle E adds a new chapter to the Administrative Procedure Act (APA), "Congressional Review of Agency Rulemaking," which is codified in the United States Code as chapter 8 of title 5. The congressional review chapter creates a special mechanism for Congress to review new rules issued by federal agencies (including modification, repeal, or reissuance of existing rules). During the review period, Congress may use expedited procedures to enact joint resolutions of disapproval to overrule the federal rulemaking actions. In the 104th Congress, four slightly different versions of this legislation passed the Senate and two different versions passed the House. Yet, no formal legislative history document was prepared to explain the legislation or the reasons for changes in the final language negotiated between the House and Senate. This joint statement of the authors on the congressional review subtitle is intended to cure this deficiency.

Background

As the number and complexity of federal statutory programs has increased over the last fifty years, Congress has come to depend more and more upon Executive Branch agencies to fill out the details of the programs it enacts. As complex as some statutory schemes passed by Congress are, the implementing regulations are often more complex by several orders of magnitude. As more and more of Congress' legislative functions have been delegated to federal regulatory agencies, many have complained that Congress has effectively abdicated its constitutional role as the national legislature in allowing federal agencies so much latitude in implementing and interpreting congressional enactments.

In many cases, this criticism is well founded. Our constitutional scheme creates a delicate balance between the appropriate roles of the Congress in enacting laws, and the Executive Branch in implementing those laws. This legislation will help to redress the balance, reclaiming for Congress some of its policymaking authority, without at the same time requiring Congress to become a super regulatory agency.

This legislation establishes a government-wide congressional review mechanism for most new rules. This allows Congress the opportunity to review a rule before it takes effect and to disapprove any rule to which Congress objects. Congress may find a rule to be too burdensome, excessive, inappropriate or duplicative. Subtitle E uses the mechanism of a joint resolution of disapproval which requires passage by both houses of Congress and the President (or veto by the President and a two-thirds' override by Congress) to be effective. In other words, enactment of a joint resolution of disapproval is the same as enactment of a law.

Congress has considered various proposals for reviewing rules before they take effect for almost twenty years. Use of a simple (one-house), concurrent (two-house), or joint (two houses plus the President) resolution are among the options that have been debated and in some cases previously implemented on a limited basis. In *INS* v. *Chadha*, 462 U.S. 919 (1983), the Supreme Court struck down as unconstitutional any procedure where executive action could be overturned by less than the full process required under the Constitution to make laws—that is, approval by both houses of Congress and presentment to the President. That narrowed Congress' options to use a joint resolution of disapproval. The one-house or two-house legislative veto (as procedures involving simple and concurrent resolutions were previously called), was thus voided.

Because Congress often is unable to anticipate the numerous situations to which the laws it passes must apply, Executive Branch agencies sometimes develop regulatory schemes at odds with congressional expectations. Moreover, during the time lapse between passage of legislation and its implementation, the nature of the problem addressed, and its proper solution, can change. Rules can be surprisingly different from the expectations of Congress or the public. Congressional review gives the public the opportunity to call the attention of politically accountable, elected officials to concerns about new agency rules. If these concerns are sufficiently serious, Congress can stop the rule.

Brief procedural history of congressional review chapter

In the 104th Congress, the congressional review legislation originated as S. 348, the "Regulatory Oversight Act," which was introduced on February 2, 1995. The text of S. 348 was offered by its sponsors, Senators Don Nickles and Harry Reid, as a substitute amendment to S. 219, the "Regulatory Transition Act of 1995." As amended, S. 219 provided for a 45-day delay on the effectiveness of a major rule, and provided expedited procedures that Congress could use to pass resolutions disapproving of the rule. On March 29, 1995, the Senate passed the amended version of S. 219 by a vote of 100-0. The Senate later substituted the text of S. 219 for the text of H.R. 450, the House passed "Regulatory Transition Act of 1995." Although the House did not agree to a conference on H.R. 450 and S. 219, both Houses continued to incorporate the congressional review provisions in other legislative packages. On May 25, the Senate Governmental Affairs Committee reported out S. 343, the "Comprehensive Regulatory Reform Act of 1995," and S. 291, the "Regulatory Reform Act of 1995," both with congressional review provisions. On May 26, 1995, the Senate Judiciary Committee reported out a different version of S. 343, the "Comprehensive Regulatory Reform Act of 1995," which also included a congressional review provision. The congressional review provision in S. 343 that was debated by the Senate was quite similar to S. 219, except that the delay period in the effectiveness of a major rule was extended to 60 days and the legislation did not apply to rules issued prior to enactment. A filibuster of S. 343, unrelated to the congressional review provisions, led to the withdrawal of that bill.

The House next took up the congressional review legislation by attaching a version of it (as section 3006) to H.R. 2586, the first debt limit extension bill. The House made several changes in the legislation that was attached to H.R. 2586, including a provision that would allow the expedited procedures also to apply to resolutions disapproving of proposed rules, and provisions that would have extended the 60-day delay on the effectiveness of a major rule for any period when the House or Senate was in recess for more than three days. On November 9, 1995 both the House and Senate passed this version of the congressional review legislation as part of the first debt limit extension bill. President Clinton vetoed the bill a few days later, for reasons unrelated to the congressional review provision.

On February 29, 1996, a House version of the congressional review legislation was published in the Congressional Record as title III of H.R. 994, which was scheduled to be brought to the House floor in the coming weeks. The congressional review title was almost identical to the legislation approved by both Houses in H.R. 2586. On March 19, 1996, the Senate adopted a congressional review amendment by voice vote to S. 942, which bill passed the Senate 100-0. The congressional review legislation in S. 942 was similar to the original version of S. 219 that passed the Senate on March 29, 1995.

Soon after passage of S. 942, representatives of the relevant House and Senate committees and principal sponsors of the congressional review legislation met to craft a congressional review subtitle that was acceptable to both Houses and would be added to the debt limit bill that was scheduled to be taken up in Congress the week of March 24. The final compromise language was the result of these joint discussions and negotiations.

On March 28, 1996, the House and Senate passed title III, the "Small Business Regulatory Enforcement Fairness Act of 1996," as part of the second debt limit bill, H.R. 3136. There was no separate vote in either body on the congressional review subtitle or on title III of H.R. 3136. However, title III received broad support in the House and the entire bill passed in the Senate by unanimous consent. The President signed H.R. 3136 into law on March 29, 1996, exactly one year after the first congressional review bill passed the Senate.

Submission of rules to Congress and to GAO

Pursuant to subsection 801(a)(1)(A), a federal agency promulgating a rule must submit a copy of the rule and a brief report about it to each House of Congress and to the Comptroller General before the rule can take effect. In addition to a copy of the rule, the report shall contain a concise general statement relating to the rule, including whether it is a major rule under the chapter, and the proposed effective date of the rule. Because most rules covered by the chapter must be published in the Federal Register before they can take effect, it is not expected that the submission of the rule and the report to Congress and the Comptroller General will lead to any additional delay.

Section 808 provides the only exception to the requirement that rules must be submitted to each House of Congress and the Comptroller General before they can take effect. Subsection 808(1) excepts specified rules relating to commercial, recreational, or subsistence hunting, fishing, and camping. Subsection 808(2) excepts certain rules that are not subject to notice-and-comment procedures. It provides that if the relevant agency finds "for good cause . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, [such rules] shall take effect at such time as the Federal agency promulgating the rule determines." Although rules described in section 808 shall take effect when the relevant Federal agency determines pursuant to other provisions of law, the federal agency still must submit such rules and the accompanying report to each House of Congress and to the Comptroller General as soon as practicable after promulgation. Thus, rules described in section 808 are subject to congressional review and the expedited procedures governing joint resolutions of disapproval. Moreover, the congressional review period will not begin to run until such rules and the accompanying reports are submitted to each House of Congress and the Comptroller General.

In accordance with current House and Senate rules, covered agency rules and the accompanying report must be separately addressed and transmitted to the Speaker of the House (the Capitol, Room H-209), the President of the Senate (the Capitol, Room S-212), and the Comptroller General (GAO Building, 441 G Street, N.W., Room 1139). Except for rules described in section 808, any covered rule not submitted to Congress and the Comptroller General will remain ineffective until it is submitted pursuant to subsection 801(a)(1)(A). In almost all cases, there will be sufficient time for an agency to submit notice-and-comment rules or other rules, that must be published to these legislative officers during normal office hours. There may be rare instance, however, when a federal agency must issue an emergency rule that is effective upon actual notice and does not meet one of the section 808 exceptions. In such a rare case, the federal agency may provide contemporaneous notice to the Speaker of the House, the President of the Senate, and the Comptroller General. These legislative officers have accommodated the receipt of similar, emergency communications in the past and will utilize the same means to receive emergency rules and reports during nonbusiness hours. If no other means of delivery is possible, delivery of the rule and related report by telefax to the Speaker of the House, the President of the Senate, and the Comptroller General shall satisfy the requirements of subsection 801(a)(1)(A).

Additional delay in the effectiveness of major rules

Subsection 553(d) of the APA requires publication or service of most substantive rules at least 30 days prior to their effective date. Pursuant to subsection 801(a)(3)(A), a major rule (as defined in subsection 804(2)) shall not take effect until at least 60 calendar days after the later of the date on which the rule and accompanying information is submitted to Congress or the date on which the rule is published in the Federal Register, if it is so published. If the Congress passes a joint resolution of disapproval and the President vetoes such resolution, the delay in the effectiveness of a major rule is extended by subsection 801(a)(3)(B) until the earlier date on which either House of Congress votes and fails to override the veto or 30 session days[1] after the date on which the Congress receives the veto and objections from the President. By necessary implication, if the Congress passes a joint resolution of disapproval within the 60 calendar days provided in subsection 801(a)(3)(A), the delay period in the effectiveness of a major rule must be extended at least until the President acts on the joint resolution or until the time expires for the President to act. Any other result would be inconsistent with subsection 801(a)(3)(B), which extends the delay in the effectiveness of a major rule for a period of time after the President vetoes a resolution.

Of course, if Congress fails to pass a joint resolution of disapproval within the 60-day period provided by subsection 801(a)(3)(A), subsection 801(a)(3)(B) would not apply and would not further delay the effective date of the rule. Moreover, pursuant to subsection 801(a)(5), the effective date of a rule shall not be delayed by this chapter beyond the date on which either house of Congress votes to reject a joint resolution of disapproval.

Although it is not expressly provided in the congressional review chapter, it is the authors' intent that a rule may take effect if an adjournment of Congress prevents the President from returning his veto and objections within the meaning of the Constitution. Such will be the case if the President does not act on a joint resolution within 10 days (Sundays excepted) after it is presented to him, and "the Congress by their Adjournment prevent its Return" within the meaning of Article I, §7, cl. 2, or when the President affirmatively vetoes a resolution during such an adjournment. This is the logical result because Congress cannot act to override these vetoes. Congress would have to begin anew, pass a second resolution, and present it to the President in order for it to become law. It is also the authors' intent that a rule may take effect immediately if the President returns a veto and his objections to Congress but Congress adjourns its last session sine die before the expiration of time provided in subsection 801(a)(3)(B). Like the situations described immediately above, no subsequent Congress can act further on the veto, and the next Congress would have to begin anew, pass a second resolution of disapproval, and present it to the President in order for it to become law.

Purpose of and exceptions to the delay of major rules

The reason for the delay in the effectiveness of a major rule beyond that provided in APA subsection 553(d) is to try to provide Congress with an opportunity to act on resolutions of disapproval before regulated parties must invest the significant resources necessary to comply with a major rule. Congress may continue to use the expedited procedures to pass resolutions of disapproval for a period of time after a major rule takes effect, but it would be preferable for Congress to act during the delay period so that fewer resources would be wasted. To increase the likelihood that Congress would act before a major rule took effect, the authors agreed on an approximately 60-day delay period in the effective date of a major rule, rather than an approximately 45-day delay period in some earlier versions of the legislation.

There are four exceptions to the required delay in the effectiveness of a major rule in the congressional review chapter. The first is in subsection 801(c), which provides that a major rule is not subject to the delay period of subsection 801(a)(3) if the President determines in an executive order that one of four specified situations exist and notifies Congress of his determination. The second is in subsection 808(1), which excepts specified rules relating to commercial, recreational, or subsistence hunting, fishing, and camping from the initial delay specified in subsection 801(a)(1)(A) and from the delay in the effective date of a major rule provided in subsection 801(a)(3). The third is in subsection 808(2), which excepts certain rules from the initial delay specified in subsection 801(a)(1)(A) and from the delay in the effective date of a major rule provided in subsection 801(a)(3) if the relevant agency finds "for good cause . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." This "good cause" exception in subsection 808(2) is taken from the APA and applies only to rules which are exempt from notice and comment under subsection 553(b)(B) or an analogous statute. The fourth exception is in subsection 804(2). Any rule promulgated under the Telecommunications Act of 1996 or any amendments made by that Act that otherwise could be classified as a "major rule" is exempt from that definition and from the 60-day delay in section 801(a)(3). However, such an issuance still would fall within the definition of "rule" and would be subject to the requirements of the legislation for non-major rules. A determination under subsection 801(c), subsection 804(2), or section 808 shall have no effect on the procedures to enact joint resolutions of disapproval.

A court may not stay or suspend the effectiveness of a rule beyond the period specified in section 801 simply because a resolution of disapproval is pending in Congress

The authors discussed the relationship between the period of time that a major rule is delayed and the period of time during which Congress could use the expedited procedures in section 802 to pass a resolution of disapproval. Although it would be best for Congress to act pursuant to this chapter before a major rule goes into effect, it was recognized that Congress could not often act immediately after a rule was issued because it may be issued during a recesses of Congress, shortly before such recesses, or during other periods when Congress cannot devote the time to complete prompt legislative action. Accordingly, the authors determined that the proper public policy was to give Congress an adequate opportunity to deliberate and act on joint resolutions of disapproval, while ensuring that major rules could go into effect without unreasonable delay. In short, the authors decided that major rules could take effect after an approximate 60-day delay, but the period governing the expedited procedures in section 802 for review of joint resolution of disapproval would extend for a period of time beyond that.

Accordingly, courts may not stay or suspend the effectiveness of any rule beyond the periods specified in section 801 simply because a joint resolution is pending before Congress. Such action would be contrary to the many express provisions governing when different types of rules may take effect. Such court action also would be contrary to the authors' intent because it would upset an important compromise on how long a delay there should be on the effectiveness of a major rule. The final delay period was selected as a compromise between the period specified in the version that passed the Senate on March 19, 1995, and the version that passed both Houses on November 9, 1995. It is also the authors' belief that such court action would be inconsistent with the principles of (and potentially violate) the Constitution, art. I, §7, cl. 2, in that courts may not give legal effect to legislative action unless it results in the enactment of law pursuant that Clause. See *INS* v. *Chadha*, 462 U.S. 919 (1983). Finally, the authors intend that a court may not predicate a stay on the basis of possible future congressional action because it would be improper for a court to rule that the movant had demonstrated a "likelihood of success on the merits," unless and until a joint resolution is enacted into law. A judicial stay prior to that time would raise serious separation of powers concerns because it would be tantamount to the court making a prediction of what Congress is likely to do and then exercising its own power in furtherance of that prediction. Indeed, the authors intend that Congress may have been reluctant to pass congressional review legislation at all if its action or inaction pursuant to this chapter would be treated differently than its action or inaction regarding any other bill or resolution.

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[1] In the Senate, a "session day" is a calendar day in which the Senate is in session. In the House of Representatives, the same term is normally expressed as a "legislative day." In the congressional review chapter, however, the term "session day" means both a "session day" of the Senate and a "legislative day" of the House of Representatives unless the context of the sentence or paragraph indicates otherwise.

Time periods governing passage of joint resolutions of disapproval

Subsection 802(a) provides that a joint resolution disapproving of a particular rule may be introduced in either House beginning on the date of the rule and accompanying report are received by Congress until 60 calendar days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress). But if Congress did not have sufficient time in a previous session to introduce or consider a resolution of disapproval, as set forth in subsection 801(d), the rule and accompanying report will be treated as if it were first received by Congress on the 15th session day in the Senate, or 15th legislative day in the House, after the start of its next session. When a rule was submitted near the end of a Congress or prior to the start of the next Congress, a joint resolution of disapproval regarding that rule may be introduced in the next Congress beginning on the 15th session day in the Senate or the 15th legislative day in the House until 60 calendar days thereafter (excluding days either House of Congress is adjourned for more than 3 days during the session) regardless of whether such a resolution was introduced in the prior Congress. Of course, any joint resolution pending from the first session of a Congress, may be considered further in the nest session of the same Congress.

Subsections 802(c)-(d) specify special procedures that apply to the consideration of a joint resolution of disapproval in the Senate. Subsection 803(c) allows 30 Senators to petition for the discharge of resolution from a Senate committee after a specified period of time (the later of 20 calendar days after the rule is submitted to Congress or published in the Federal Register, if it is so published). Subsection 802(d) specifies procedures for the consideration of a resolution on the Senate floor. Such a resolution is highly privileged, points or order are waived, a motion to postpone consideration is not in order, the resolution is unamendable, and debate on the joint resolution and "on all debatable motions and appeals in connection therewith" (including a motion to proceed) is limited to no more than 10 hours.

Subsection 802(e) provides that the special Senate procedures specified in subsections 802(c)-(d) shall not apply to the consideration of any joint resolution of disapproval of a rule after 60 session days of the Senate beginning with the later date that rule is submitted to Congress or published, if it is so published. However, if a rule and accompanying report are submitted to Congress shortly before the end of a session or during an intersession recess as described in subsection 801(d)(1), the special Senate procedures specified in subsections 802(c)-(d) shall expire 60 session days after the 15th session day of the succeeding session of Congress—or on the 75th session day after the succeeding session of Congress first convenes. For purposes of subsection 802(e), the term "session day" refers only to a day the Senate is in session, rather than a day both Houses are in session. However, in computing the time specified in subsection 801(d)(1), that subsection specifies that there shall be an additional period of review in the next session if either House did not have an adequate opportunity to complete action on a joint resolution. Thus, if either House of Congress did not have adequate time to consider a joint resolution in a given session (60 session days in the Senate and 60 legislative days in the House), resolutions of disapproval may be introduced or reintroduced in both Houses in the next session, and the special Senate procedures specified in subsection 802(c)-(d) shall apply in the next session of the Senate.

If a joint resolution of disapproval is pending when the expedited Senate procedures specified in subsections 802(c)-(d) expire, the resolution shall not die in either House but shall simply be considered pursuant to the normal rules of either House—with one exception. Subsection 802(f) sets forth one unique provision that does not expire in either House. Subsection 802(f) provides procedures for passage of a joint resolution of disapproval when one House passes a joint resolution and transmits it to the other House that has not yet completed action. In both Houses, the joint resolution of the first House to act shall not be referred to a committee but shall be held at the desk. In the Senate, a House-passed resolution may be considered directly only under normal Senate procedures, regardless of when it is received by the Senate. A resolution of disapproval that originated in the Senate may be considered under the expedited procedures only during the period specified in subsection 802(e). Regardless of the procedures used to consider a joint resolution in either House, the final vote of the second House shall be on the joint resolution of the first House (no matter when that vote takes place). If the second House passes the resolution, no conference is necessary and the joint resolution will be presented to the President for his signature. Subsection 802(f) is justified because subsection 802(a) sets forth the required language of a joint resolution in each House, and thus, permits little variance in the joint resolutions that could be introduced in each House.

Effect of enactment of a joint resolution of disapproval

Subsection 801(b)(1) provides that: "A rule shall not take effect (or continue), if the Congress enacts a joint resolution of disapproval, described under section 802, of the rule." Subsection 801(b)(2) provides that such a disapproved rule "may not be reissued in substantially the same form, and a new rule that is substantially the same as such a rule may not be issued, unless the reissued or new rule is specifically authorized by a law enacted after the date of the joint resolution disapproving the original rule." Subsection 801(b)(2) is necessary to prevent circumvention of a resolution disapproval. Nevertheless, it may have a different impact on the issuing agencies depending on the nature of the underlying law that authorized the rule.

If the law that authorized the disapproved rule provides broad discretion to the issuing agency regarding the substance of such rule, the agency may exercise its broad discretion to issue a substantially different rule. If the law that authorized the disapproved rule did not mandate the promulgation of any rule, the issuing agency may exercise its discretion not to issue any new rule. Depending on the law that authorized the rule, an issuing agency may have both options. But if an agency is mandated to promulgate a particular rule and its discretion in issuing the rule is narrowly circumscribed, the enactment of a resolution of disapproval for that rule may work to prohibit the reissuance of any rule. The authors intend the debate on any resolution of disapproval to focus on the law that authorized the rule and make the congressional intent clear regarding the agency's options or lack thereof after enactment of a joint resolution of disapproval. It will be the agency's responsibility in the first instance when promulgating the rule to determine the range of discretion afforded under the original law and whether the law authorizes the agency to issue a substantially different rule. Then, the agency must give effect to the resolution of disapproval.

Limitation on judicial review of congressional or administrative actions

Section 805 provides that a court may not review any congressional or administrative "determination, finding, action, or omission under this chapter." Thus, the major rule determinations made by the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget are not subject to judicial review. Nor may a court review whether Congress complied with the congressional review procedures in this chapter. This latter limitation on the scope of judicial review was drafted in recognition of the constitutional right of each House of Congress to "determine the Rules of its Proceedings," U.S. Const., art. I, §5, cl. 2, which includes being the final arbiter of compliance with such Rules.

The limitation on a court's review of subsidiary determination or compliance with congressional procedures, however, does not bar a court from giving effect to a resolution of disapproval that was enacted into law. A court with proper jurisdiction may treat the congressional enactment of a joint resolution of disapproval as it would treat the enactment of any other federal law. Thus, a court with proper jurisdiction may review the resolution of disapproval and the law that authorized the disapproved rule to determine whether the issuing agency has the legal authority to issue a substantially different rule. The language of subsection 801(g) is also instructive. Subsection 801(g) prohibits a court or agency from inferring any intent of the Congress only when "Congress does not enact a joint resolution of disapproval," or by implication, when it has not yet done so. In deciding cases or controversies properly before it, a court or agency must give effect to the intent of the Congress when such a resolution is enacted and becomes the law of the land. The limitation on judicial review in no way prohibits a court from determining whether a rule is in effect. For example, the authors expect that a court might recognize that a rule has no legal effect due to the operation of subsections 801(a)(1)(A) or 801(a)(3).

Enactment of a joint resolution of disapproval for a rule that was already in effect

Subsection 801(f) provides that: "Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect." Application of this subsection should be consistent with existing judicial precedents on rules that are deemed never to have taken effect.

Agency information required to be submitted to GAO

Pursuant to subsection 801(a)(1)(B), the federal agency promulgating the rule shall submit to the Comptroller General (and make available to each House) (i) a complete copy of the cost-benefit analysis of the rule, if any, (ii) the agency's actions related to the Regulatory Flexibility Act, (iii) the agency's actions related to the Unfunded Mandates Reform Act, and (iv) "any other relevant information or requirements under any other Act and any relevant Executive Orders." Pursuant to subsection 801(a)(1)(B), this information must be submitted to the Comptroller General on the day the agency submits the rule to Congress and to GAO.

The authors intend information supplied in conformity with subsection 801(a)(1)(B)(iv) to encompass both agency-specific statutes and government-wide statutes and executive orders that impose requirements relevant to each rule. Examples of agency-specific statutes include information regarding compliance with the law that authorized the rule and any agency-specific procedural requirements, such as section 9 of the Consumer Product Safety Act, as amended, 15 U.S.C. §2054 (procedures for consumer product safety rules); section 6 of the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §655 (promulgation of standards); section 307(d) of the Clean Air Act, as amended, 42 U.S.C. §7607(d) (promulgation of rules); and section 501 of the Department of Energy Organization Act, 42 U.S.C. §7191 (procedure for issuance of rules, regulations, and orders). Examples of government-wide statutes include other chapters of the Administrative Procedure Act, 5 U.S.C. §§551–559 and 701–706; and the Paperwork Reduction Act, as amended, 44 U.S.C. §§3501–3520.

Examples of relevant executive orders include E.O. No. 12866 (Sept. 30, 1993) (Regulatory Planning and Review); E.O. No. 12606 (Sept. 2, 1987) (Family Considerations in Policy Formulation and Implementation); E.O. No. 12612 (Oct. 26, 1987) (Federalism Considerations in Policy Formulation and Implementation); E.O. No. 12630 (Mar. 15, 1988) (Government Actions and Interference with Constitutionally Protected Property Rights); E.O. No. 23875 (Oct. 26, 1993) (Enhancing the Intergovernmental Partnership); E.O. No. 12778 (Oct. 23, 1991) (Civil Justice Reform); E.O. No. 12988 (Feb. 5, 1996) (Civil Justice Reform) (effective May 5, 1996).

GAO reports on major rules

Fifteen days after the federal agency submits a copy of a major rule and report to each House of Congress and the Comptroller General, the Comptroller General shall prepare and provide a report on the major rule to the committee of jurisdiction in each House. Subsection 801(a)(2)(B) requires agencies to cooperate with the Comptroller General in providing information relevant to the Comptroller General's reports on major rules. Given the 15-day deadline for these reports, it is essential that the agencies' initial submission to the General Accounting Office (GAO) contain all of the information necessary for GAO to conduct its analysis. At a minimum, the agency's submission must include the information required of all rules pursuant to 801(a)(1)(B). Whenever possible, OMB should work with GAO to alert GAO when a major rule is likely to be issued and to provide as much advance information to GAO as possible on such proposed major rule. In particular, OMB should attempt to provide the complete cost-benefit analysis on a major rule, if any, well in advance of the final rule's promulgation.

It also is essential for the agencies to present this information in a format that will facilitate the GAO's analysis. The authors expect that GAO and OMB will work together to develop, to the greatest extent practicable, standard formats for agency submissions. OMB also should ensure that agencies follow such formats. The authors also expect that agencies will provide expeditiously any additional information that GAO may require for a thorough report. The authors do not intend the Comptroller General's reports to be delayed beyond the 15-day deadline due to lack of information or resources unless the committees of jurisdiction indicate a different preference. Of course, the Comptroller General may supplement his initial report at any time with any additional information, on its own, or at the request of the relevant committees or jurisdiction.

Covered agencies and entities in the executive branch

The authors intend this chapter to be comprehensive in the agencies and entities that are subject to it. The term "Federal agency" in subsection 804(1) was taken from 5 U.S.C. §551(1). That definition includes "each authority of the Government" that is not expressly excluded by subsection 551(1)(A)–(H). With those few exceptions, the objective was to cover each and every government entity, whether it is a department, independent agency, independent establishment, or government corporation. This is because Congress is enacting the congressional review chapter, in large part, as an exercise of its oversight and legislative responsibility. Regardless of the justification for excluding or granting independence to some entities from the coverage of other laws, that justification does not apply to this chapter, where Congress has an interest in exercising its constitutional oversight and legislative responsibility as broadly as possible over all agencies and entities within its legislative jurisdiction.

In some instances, federal entities and agencies issue rules that are not subject to the traditional 5 U.S.C. §553(c) rulemaking process. However, the authors intend the congressional review chapter to cover every agency, authority, or entity covered by subsection 551(1) that establishes policies affecting any segment of the general public. Where it was necessary, a few special exceptions were provided, such as the exclusion for the monetary policy activities of the Board of Governors of the Federal Reserve System, rules of particular applicability, and rules of agency management and personnel. Where it was not necessary, no exemption was provided and no exemption should be inferred from other law. This is made clear by the provision of section 806 which states that the Act applies notwithstanding any other provision of law.

Definition of a "major rule"

The definition of a "major rule" in subsection 804(2) is taken from President Reagan's Executive Order 12291. Although President Clinton's Executive Order 12866 contains a definition of a "significant regulatory action" that is seemingly as broad, several of the Administration's significant rule determinations under Executive Order 12866 have been called into question. The authors intend the term "major rule" in this chapter to be broadly construed, including the non-numerical factors contained in the subsections 804(2)(B) and (C).

Pursuant to subsection 804(2), the Administrator of the Office of Information and Regulatory Affairs in the Office of Management and Budget (the Administrator) must make the major rule determination. The authors intend that centralizing this function in the Administrator will lead to consistency across agency lines. Moreover, from 1981–93 OIRA staff interpreted and applied the same major rule definition under E.O. 12291. Thus, the Administrator should rely on guidance documents prepared by OIRA during that time and previous major rule determinations from that Office as a guide in applying the statutory definition to new rules.

Certain covered agencies, including many "independent agencies," include their proposed rules in the Unified Regulatory Agenda published by OMB but do not normally submit their final rules to OMB for review. Moreover, interpretative rules and general statements of policy are not normally submitted to OMB for review. Nevertheless, it is the Administrator that must make the major rule determination under this chapter whenever a new rule is issued. The Administrator may request the recommendation of any agency covered by this chapter on whether a proposed rule is a major rule within the meaning of subsection 804(2), but the Administrator is responsible for the ultimate determination. Thus, all agencies or entities covered by this chapter will have to coordinate their rulemaking activity with OIRA so that the Administrator may make the final, major rule determination.

Scope of rules covered

The authors intend this chapter to be interpreted broadly with regard to the type and scope of rules that are subject to congressional review. The term "rule" in subsection 804(3) begins with the definition of a "rule" in subsection 551(4) and excludes three subsets of rules that are modeled on APA sections 551 and 553. This definition of a rule does not turn on whether a given agency must normally comply with the notice-and-comment provisions of the APA, or whether the rule at issue is subject to any other notice-and-comment procedures. The definition of "rule" in subsection 551(4) covers a wide spectrum of activities. First, there is formal rulemaking under section 553 that must adhere to procedures of sections 556 and 557 of title 5. Second, there is informal rulemaking, which must comply with the notice-and-comment requirements of subsection 553(c). Third, there are rules subject to the requirements of subsection 552(a)(1) and (2). This third category of rules normally either must be published in the Federal Register before they can adversely affect a person, or must be indexed and made available for inspection and copying or purchase before they can be used as precedent by an agency against a non-agency party. Documents covered by subsection 552(a) include statements of general policy, interpretations of general applicability, and administrative staff manuals and instructions to staff that affect a member of the public. Fourth, there is a body of materials that fall within the APA definition of "rule" and are the product of agency process, but that meet none of the procedural specifications of the first three classes. These include guidance documents and the like. For purposes of this section, the term rule also includes any rule, rule change, or rule interpretation by a self regulatory organization that is approved by a Federal agency. Accordingly, all "rules" are covered under this chapter, whether issued at the agency's initiative or in response to a petition, unless they are expressly excluded by subsections 804(3)(A)–(C). The authors are concerned that some agencies have attempted to circumvent notice-and-comment requirements by trying to give legal effect to general statements of policy, "guidelines," and agency policy and procedure manuals. The authors admonish the agencies that the APA's broad definition of "rule" was adopted by the authors of this legislation to discourage circumvention of the requirements of chapter 8.

The definition of a rule in subsection 551(4) covers most agency statements of general applicability and future effect. Subsection 804(3)(A) excludes "any rule of particular applicability, including a rule that approves or prescribes rates, wages, prices, services, or allowances therefore, corporate and financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing" from the definition of a rule. Many agencies, including the Treasury, Justice, and Commerce Departments, issue letter rulings or other opinion letters to individuals who request a specific ruling on the facts of their situation. These letter rulings are sometimes published and relied upon by other people in similar situations, but the agency is not bound by the earlier rulings even on facts that are analogous. Thus, such letter rulings or opinion letters do not fall within the definition of a rule within the meaning of subsection 804(3).

The different types of rules issued pursuant to the internal revenue laws of the United States are good examples of the distinction between rules of general and particular applicability. IRS private letter rulings and Customs Service letter rulings are classic examples of rules of particular applicability, notwithstanding that they may be cited as authority in transactions involving the same circumstances. Examples of substantive and interpretative rules of general applicability will include most temporary and final Treasury regulations issued pursuant to notice-and-comment rulemaking procedures, and most revenue rulings, revenue procedures, IRS notices, and IRS announcements. It does not matter that these later types of rules are issued without notice-and-comments rulemaking procedures or that they are accorded less deference by the courts than notice-and-comment rules. In fact, revenue rulings have been described by the courts as the "classic example of an interpretative rul[e]" within the meaning of the APA. See *Wing* v. *Commissioner*, 81 T.C. 17, 26 (1983). The test is whether such rules announce a general statement of policy or an interpretation of law of general applicability.

Most rules or other agency actions that grant an approval, license, registration, or similar authority to a particular person or particular entities, or grant or recognize an exemption or relieve a restriction for a particular person or particular entities, or permit new or improved applications of technology for a particular person or particular entities, or allow the manufacture, distribution, sale, or use of a substance or product are exempted under subsection 804(3)(A) from the definition of a rule. This is probably the largest category of agency actions excluded from the definition of a rule. Examples include import and export licenses, individual rate and tariff approvals, wetlands permits, grazing permits, plant licenses or permits, drug and medical device approvals, new source review permits, hunting and fishing take limits, incidental take permits and habitat conservation plans, broadcast licenses, and product approvals, including approvals that set forth the conditions under which a product may be distributed.

Subsection 804(3)(B) excludes "any rule relating to agency management or personnel" from the definition of a rule. Pursuant to subsection 804(3)(C), however, a "rule of agency organization, procedure, or practice," is only excluded if it "does not substantially affect the rights or obligations of non-agency parties." The authors' intent in these subsections is to exclude matters of purely internal agency management and organization, but to include matters that substantially affect the rights or obligations of outside parties. The essential focus of this inquiry is not on the type of rule but on its effect on the rights or obligations of non-agency parties.•

10TH ANNIVERSARY OF CHERNOBYL

• Mr. LEVIN. Mr. President, on April 26, 1986, reactor number 4 at the V.I. Lenin Atomic Power Plant in Chernobyl near Kiev, Ukraine exploded. The explosion released a cloud of radioactive steam into the atmosphere reported to contain about 200 times more radio activity than was released at Hiroshima and Nagasaki.

The explosion took an enormous toll on the people directly exposed to the radiation emitted from the plant. Shortly after the explosion, Soviet officials admitted to 31 deaths among reactor operators and the team attempting to contain the damage. Thousands of workers were eventually exposed at the site.

However, children have been the first among the general population to suffer from the effects of the explosion at Chernobyl. Children are most susceptible to the radioactive iodine emitted from Chernobyl because of their active thyroid glands. Researchers in the region have seen a dramatic increase in thyroid cancer among children. However, this is only the earliest problem to make itself known and one of the few to be studied. The problem with estimating the toll on human life in the region is that 10 years is a short period of time to see all of the impacts. Radioactive fallout is only beginning to show its damaging effects on the population.

At the time of the explosion, the prevailing winds carried much of the radiation north into Belarus and points beyond. Excessive levels of radiation were recorded in Scandinavia, Great Britain, the Mediterranean, and Alaska in the first weeks after the explosion. About 1000 acres of pine forest in the path of the first plume of the Chernobyl explosion died immediately as a result of direct fallout. A permanent 30-kilometer dead zone was established around the power station where human habitation is still forbidden today because of the high level of contamination. The Chernobyl area, known as the Polissia region, was once famous for its old-growth forests rich with mushrooms, berries and medicinal herbs. The community's well-being revolved around the health of the forest. Their dependency on the forest resulted in a very unique spirituality and culture in the region. After the accident, residents were forced to leave their homes and move to completely different environments. The inability to return to the land they once knew and worries about possible exposure to radiation now cause great stress among the population. Two of Chernobyl's four units remain functional today. Ukraine says it wants to completely close Chernobyl, but cannot function without the energy it provides and cannot afford to properly close the plant, even though radioactive material is now threatening water tables in the area. The American people should specifically lend their support to the efforts to make the area around Chernobyl as safe as possible. We should also work to improve the health, economic and environmental well-being of areas affected by the Chernobyl disaster. The Chernobyl explosion has been a devastating event for the entire world. Ukrainian-Americans have worked strenuously to lend support to their homeland. In my home State, the Michigan Committee—Chernobyl Challenge 1996 will be holding events to commemorate the 10-year anniversary of the explosion. On April 28, 1996, a commemorative program will be held at St. Josaphat Ukrainian Catholic Church in Warren, MI. The guest speaker will be Ukraine's Ambassador to the United Nations, Anatoly Zlenko. There will also be blood drives held at the Ukrainian Cultural Center and at St. Michael Ukrainian Catholic Church in cooperation with the American Red Cross, where volunteers will bring to the public's attention the ongoing tragedy in Ukraine. I salute their efforts to help Ukraine recover from the tragedy that occurred a decade ago at Chernobyl.•

SUBMITTING CHANGES TO THE BUDGET RESOLUTION DISCRETIONARY SPENDING LIMITS, APPROPRIATE BUDGETARY AGGREGATES, AND APPROPRIATIONS COMMITTEE ALLOCATION

• Mr. DOMENICI. Mr. President, section 103(c) of Public Law 104–121, the Contract With America Advancement Act, requires the chairman of the Senate Budget Committee to adjust the discretionary spending limits, the appropriate budgetary aggregates and the Appropriations Committee's allocation contained in the most recently adopted Budget Resolution—in this case, House Concurrent Resolution 67—to reflect additional new budget authority and outlays for continuing disability reviews—CDR's, as defined in section 201(g)(1)(A) of the Social Security Act.

I hereby submit revisions to the nondefense discretionary spending limits for fiscal year 1996 contained in sec. 201 of House Concurrent Resolution 67 in the following amounts:

	1996
Budget authority:	
Current nondefense discretionary spending limit	$219,668,000,000
Adjustment	15,000,000
Revised nondefense discretionary spending limit	219,683,000,000
Outlays:	
Current nondefense discretionary spending limit	267,725,000,000
Adjustment	60,000,000
Revised nondefense discretionary spending limit	267,785,000,000

I hereby submit revisions to the budget authority, outlays and deficit aggregates for fiscal year 1996 contained in sec. 101 of House Concurrent Resolution 67 in the following amounts:

	1996
Budget authority:	
Current aggregate	$1,285,500,000,000
Adjustment	15,000,000
Revised aggregate	1,285,515,000,000
Outlays:	
Current aggregate	1,288,100,000,000
Adjustment	60,000,000
Revised aggregate	1,288,160,000,000
Deficit:	
Current aggregate	245,600,000,000
Adjustment	60,000,000
Revised aggregate	245,660,000,000

I hereby submit revisions to the 1996 Senate Appropriations Committee budget authority and outlay allocations, pursuant to sec. 302 of the Congressional Budget Act, in the following amounts:

	1996
Budge authority:	
Current Appropriations Committee allocation	$772,349,000,000
Adjustment	15,000,000
Revised Appropriations Committee allocation	772,364,000,000
Outlays:	
Current Appropriations Committee allocation	$807,374,000,000
Adjustment	60,000,000
Revised Appropriations Committee allocation	807,434,000,000

Public Law 104–121 also requires me to adjust discretionary spending limits for any future fiscal year—1997–2002—when the Committee on Appropriations reports an appropriations measure specifying an amount in excess of a 1995 base level amount for continuing disability reviews. The allowable adjustment to the outlay cap amounts to $2.7 billion over the period 1996 to 2002. CBO estimates that the additional CDR's flowing from the increased appropriations would result in savings in the Social Security, SSI Medicare and Medicaid programs of roughly $3.5 billion over the 7-year time frame.•

TRIBUTE TO PRINCE GEORGES COUNTY

• Mr. SARBANES. Mr. President, I rise to join the people of Maryland in celebrating the tricentennial anniversary of the founding of Prince Georges County on April 23, 1696. Over the centuries the residents and leadership of Prince Georges County have demonstrated a remarkable commitment to preserving their rich historic legacy, while encouraging economic growth and cultural enrichment.

While evidence suggests that the first human settlements in the area later to be called Prince Georges County existed over 10,000 years ago, the first documented visit to the region occurred in 1608 when Captain John Smith sailed up the Potomac River to map the Chesapeake Bay region and search for food for the fledgling Jamestown Colony. Captain Smith paid only a brief visit to this region which, less than a century later, would be home to about 1,700 Marylanders. This rich land extending from Mattawoman Creek in the south all the way to the Pennsylvania border was proclaimed a self-governing county by the colonial Governor in 1696, and was named Prince Georges County in honor of Prince George of Denmark, husband of Princess Anne, heir to the throne of England.

Due to the abundance of fertile farm land, agriculture dominated the local economy in colonial times, contributing to the livelihood of almost every Prince Georges County inhabitant. Preservation of this important aspect of colonial life has remained a priority to the residents of Prince Georges County who, through groups such as the Accokeek Foundation, work to maintain the National Colonial Farm, displaying to all a continuum of American farm life from the 1600's through the 18th century.

Evidence of the importance of the agricultural economy in southern Maryland remains in many aspects of Prince Georges County life, including the Maryland higher education system. In 1856, in order to educate the sons of colonial farmers and to foster the exchange of new ideas, the Maryland Agricultural College—the first of its kind in the Nation—was established in Prince Georges County. Today we know the Maryland Agricultural College as the University of Maryland College Park, the flagship institution of the University of Maryland system.

While agriculture was the predominant force in the Prince Georges County economy, the push for western expansion in Maryland led to the growth of thriving commercial and trading centers such as Upper Marlboro, Laurel and Bladensburg. Cotton mills, steamboats, and railroads resulted in increased commercial development, strengthening the county's ties with Europe and other American colonies and leading to increased economic development.

This early entrepreneurial spirit continues to flourish and thrive today. Prince Georges County is now home to over 13,600 businesses which employ over 223,700 workers. Major employers including Giant Food, United Parcel Service, and Dimensions Health Corporation serve to make Prince Georges County a prime example of a large and prospering business community, while the Prince Georges County Economic Development Corporation has been nationally recognized for its programs to assist individual entrepreneurs and small minority-owned businesses.

The county's close proximity to the District of Columbia has been another factor in its evolution and maturation. Over the years towns and cities have sprung up to meet the needs of a growing community of Federal employees who increasingly choose to live outside the Federal city in suburban Maryland. Towns such as Takoma Park, New Carrollton, Greenbelt, and District Heights are home to the over 87,000 Federal employees who work both in the District and at the many Federal installations which are located in modern Prince Georges County.

Prince Georges County is today one of the Nation's largest and most vibrant subdivisions, winning widespread acclaim and national recognition for its success in promoting diversity and opening up the doors of opportunity for all of its citizens. This well-deserved reputation as a national model is due to a strong sense of community and cooperation among its residents and to enlightened and visionary leadership. In the forefront of these efforts have been our respected Governor and former Prince Georges County Executive Parris Glendening, two of my distinguished colleagues in the Congress, Representatives STENY HOYER and ALBERT WYNN, and the present dynamic County Executive Wayne Curry.

Such citizens and leaders throughout history have guided Prince Georges County from a region of frontier wilderness and rural plantations to today's modern urban communities and advanced agricultural centers. Prince Georges County has adapted to meet the changes wrought by the centuries, while preserving the evidence of 300 years of growth and progress. This tricentennial celebration pays tribute to the rich legacy of our Maryland ancestors and bears testament to the limitless promise and potential of Prince Georges County.•

A FOND FAREWELL TO AN HISTORIC AIRCRAFT

• Mr. KEMPTHORNE. Mr. President, on April 20, 1996, the last of the Idaho Air National Guard's F–4G "Wild Weasels" will be retired.

As we bid farewell to this reliable workhorse that has served this Nation well for nearly three decades, let me recognize the historic accomplishments of the Wild Weasel and the superb men and women of the 124th Fighter Group stationed at Gowen

Field in Boise, ID, who have flown and maintained this remarkable aircraft.

Since June 1991, the 124th has flown the F-4G Wild Weasel. It is a two-seat, twin engine jet that can travel at more than twice the speed of sound. Armed with radar and heat seeking missiles as well as conventional bombs, the Wild Weasel is often the first aircraft to enter combat and the last to leave. Its mission is to find and attack enemy radar and missile sites—clearing the path in a hostile environment for friendly fighters and bombers to enter enemy airspace.

When the Wild Weasels first arrived at Gowen Field, the 124th converted to the new mission and was combat ready in record time.

Six months later, these men and women were called on to leave their homes, families and jobs to serve their Nation. Without a Presidential call-up, these troops volunteered for service and became the first Air National Guard unit activated for a combat mission during peace time when they were deployed to Saudi Arabia as part of Operation Southern Watch.

The Group was fully integrated into the Air Force Wing deployed to the region. They were given day to day mission responsibilities for patrolling southern Iraq and escorting coalition aircraft into enemy airspace that had proven over time to be a hostile environment.

As I visited the men and women of the Idaho Guard stationed in Saudi Arabia, I saw how effectively the active duty and National Guard forces were working together to defend our Nation's interest. I also heard British and French pilots state they would not fly over Iraq unless they knew the Wild Weasels were also in the sky to protect them against surface to air missiles.

Maj. Gen. Darrell V. Manning praised his men and women for their critical role in this international enforcement effort. He said, "They were the only trained organization in place that could perform this mission and we had the trained and motivated people required to succeed in this critical role."

But this success required the support of hundreds of personnel who performed their duties to near perfection. The mechanics, refuellers, weapons handlers, and every other member of this team—and I mean team—contributed to the effectiveness of the 124th Fighter Group.

The 124th was again called to service in Operation Provide Comfort—this time to Turkey where they enforced the northern Iraq no-fly zone as part of combat-ready patrol along with other United States, British, French and Turkish coalition forces.

In the fall of 1995, the Idaho Air National Guard made Air Force history by flying the 50,000th aerial mission in support of Operation Provide Comfort II.

I had the privilege of visiting the 124th Fighter Group in Turkey in early October, 1995. Once again I saw a well trained and well disciplined group of men and women serving our Nation's interests. I also saw the pride that these men and women from Idaho had in their venerable aircraft, the Wild Weasel. And while there, I let them know their State and country were proud of the 124th's dedication and commitment to peace in that troubled region.

Mr. President, it is clear the men and women of the 124th Fighter Group have established themselves as one of the premier Guard units in the country. And while I have some parochial pride in making that statement, that distinction was hard-earned and well-deserved.

Based on the Wild Weasel's performance in Saudi Arabia, the Secretary of the Air Force came to Boise, ID in December 1993 to honor the 124th Fighter Group. Secretary Sheila Widnall and Maj. Gen. Philip G. Killey, Director of the Air National Guard, presented the men and women of the 124th Fighter Group with the Air Force's Outstanding Unit Award for their role as the leading edge of force projection during peacetime, and the first to assume this new and difficult role for Air Reserve forces.

Mr. President, we all knew the time would come for the Wild Weasel to be retired, and with the downsizing of active and reserve units that has taken place, there were concerns over future missions for Gowen Field.

As we looked for a new mission for Gowen Field, it was clear the men and women of the Idaho Air National Guard had already presented their case. The performance of the Wild Weasel was well-documented. The dependability of the Idaho Air Guard was second to none. Together, they had earned not one, but two new missions to replace the Wild Weasels—the A-10's and the C-130's.

And while we say goodbye to this trusted airframe, we know the tradition of the Wild Weasel will live on with the men and women of the Idaho Air National Guard where the motto is "First Class or Not At All."●

AMENDING THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3034 just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3034) to amend the Indian Self-Determination and Education Assistance Act to extend for two months the authority for promulgating regulations under the Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed, that the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3034) was deemed read the third time and passed.

ORDERS FOR FRIDAY, APRIL 19, 1996

Mr. ABRAHAM. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m., on Friday, April 19; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour deemed to have expired, and the time for the two leaders reserved for their use later in the day; that there then be a period for morning business until the hour of 12 noon, with Senators permitted to speak therein for up to 5 minutes each, with the first 75 minutes under the control of Senator COVERDELL, or his designee, and the last 45 minutes under the control of Senator DASCHLE, or his designee, with 10 minutes of that time reserved for Senator MURRAY; further, that at the hour of 12 noon the Senate begin consideration of Calendar No. 201, S.J. Res. 21, regarding a constitutional amendment to limit congressional terms.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ABRAHAM. Mr. President, for the information of all Senators, the Senate will convene at 10 a.m. Shortly after convening, the Senate will consider a sense-of-the-Senate resolution regarding the anniversary of the Oklahoma City bombing. The Senators are asked to be on the floor promptly at 10 a.m., as there will be a brief period of silence to remember the tragedy.

Following morning business, the Senate will then begin consideration of the term limits legislation. No rollcall votes will occur during Friday's session.

When the Senate completes debate Friday, it will resume consideration of the term limits legislation on Monday. No rollcall votes will occur during Monday's session. However, Senators are encouraged to debate the legislation and offer any amendments during Friday's and Monday's sessions of the

Senate. The Senate may also be asked to turn to any other legislative items that can be cleared for action.

ORDER FOR ADJOURNMENT

Mr. ABRAHAM. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order following the remarks of Senator LAUTENBERG.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

TOXIC WASTE CLEANUP

Mr. LAUTENBERG. Mr. President, at this moment, though the hour is late, and I apologize to those who are inconvenienced while I make my remarks, this is a topic of great importance to me and my home State of New Jersey, and a number of communities across the country—that is, the cleanup of toxic waste.

Mr. President, 73 million Americans live near toxic waste sites. That is about one of every four of our citizens. Many people think of hazardous waste as a problem of ugly dump sites that harm a community's appearance and property values. But it is far more than that, Mr. President. Toxic waste is a huge threat to public health. By contaminating our drinking water, our air and our soil, dangerous waste contributes to a wide range of health problems, and these include cancer, birth defects, cardiovascular problems, immune disorders, and even something as simple and obvious as dermatitis.

Now, Mr. President, it is difficult to say how many people are harmed because of exposure to toxic waste. But the number is considerable. Unfortunately, New Jersey, where there are more Superfund sites than any other State, is being hit especially hard. Recent studies found that in all but one of New Jersey's 21 counties, cancer rates and areas around hazardous waste sites exceeded the national average.

Studies from other parts of the country also suggest that those living near toxic waste sites have suffered disproportionately from serious health problems. Beyond the public health problems associated with toxic waste, these sites also have serious economic effects on local communities. They discourage investment and occupy otherwise valuable real estate that could be used for productive economic activity. If we do not clean up these sites, we are depriving communities of good jobs and local tax revenues.

Mr. President, Congress created the Superfund Program in 1980, largely to respond to health problems, to save lives and protect and restore the environment. The program was designed to ensure that toxic waste sites were cleaned up promptly and that polluters took responsibility for cleaning them up.

Unfortunately, as many know, the Superfund Program got off to a very slow start for a variety of reasons, including a lack of Presidential commitment. Many cleanups were delayed. However, in recent years, the program has turned around. Under the Clinton administration, toxic waste cleanups have been 20 percent faster, 25 percent cheaper, and there is real progress in cleaning up sites. Although we have a long way to go, many more sites are being cleaned up, and delays have been reduced significantly.

Like any program, Mr. President, Superfund has its share of problems and critics. And there are many legitimate concerns that must be addressed. We do need to speed cleanups, reduce unnecessary litigation, and make the program work more efficiently.

Still, Mr. President, there has been tremendous progress. And President Clinton and EPA Administrator Carol Browner deserve real credit for that.

Unfortunately, just as the program has picked up steam, the Congress has permitted its funding mechanism to expire. This funding source simply must be reestablished, or the whole program could be threatened.

It is important, in my view, to pass a Superfund reform bill. Many of us in the Congress have been working long and hard, and in a bipartisan way, to develop reform legislation, and to make needed improvements in the program.

As ranking minority member of the Senate's Superfund Subcommittee, I have worked with many of my colleagues on this issue for several years now, especially my distinguished colleague from Montana, Senator BAUCUS, the ranking member of the Environment and Public Works Committee.

Last congress, after a long and arduous process involving all affected parties, we developed a bill that would have made comprehensive changes in the Superfund program.

Our bill would have made Superfund fairer, more efficient, and less costly. It addressed every major issue raised by those affected by Superfund, and provided relief on every front.

It would have fostered greater and earlier community involvement in cleanup decisions. It speeded up cleanups and made them more efficient. It would have slashed private litigation costs in half, and established a mechanism to efficiently resolve disputes involving polluters, their insurers, and the Government.

It allowed qualified States to play a greater role in remedy selection and cleanup of sites, including federally-owned facilities. It promoted the voluntary cleanup and economic redevelopment of contaminated properties. And it provided much-needed relief to lenders, small businesses, municipalities and others who have been caught up in the liability scheme.

Unfortunately, despite very broad support from environmentalists, industry, small businesses, State and local governments, communities, lenders, and others involved in Superfund, this reform bill was killed in the waning days of the 103d Congress. And so, last year, a new effort began to reauthorize the Superfund Program.

Senator SMITH, our new chairman of the Superfund Subcommittee, introduced a proposal last October.

And for the past few months, Senator CHAFEE, chairman of the Committee, and Senators BAUCUS, SMITH, and myself have spent countless hours trying to resolve our differences and produce a bill that can enjoy broad, bipartisan support. Representatives from the Clinton administration have worked with us virtually every day to support this effort.

Last month, Senators CHAFEE and SMITH introduced another measure that proposed a new liability scheme and made some other changes.

Mr. President, I remain hopeful that we can reach an agreement on comprehensive reform, and note that the latest bill introduced by Senators CHAFEE and SMITH—apart from the provisions on liability—include improvements over the earlier draft.

For example, the new measure would require that Superfund cleanups continue to meet Federal and State cleanups standards, and would allow States to impose their own liability and cleanup requirements. I am pleased by this progress and hope that it continues. Of course I would like to see it continue.

At the same time, I remain deeply concerned about provisions in the chairmen's latest proposal that would dramatically reduce the responsibility of polluters to clean up their own waste.

Before I go further, Mr. President, let me emphasize that Senators CHAFEE, SMITH, BAUCUS and I share many goals. And I know every one of these senators is genuinely committed to making progress. We all want to reduce unnecessary litigation, and make Superfund more fair. Yet, I believe the approach embodied in their legislation has serious flaws.

Their legislation essentially would eliminate polluters' liability for all actions causing pollution that took place before 1980.

By letting so many polluters off the hook entirely, the proposal would fundamentally alter a basic principle of the Superfund Program: the principle that, in general, polluters—not taxpayers—should pay for cleaning up their own toxic waste.

Mr. President, abandoning this principle would have serious consequences.

It would lead to fewer cleanups. It would impose huge new burdens on State and local governments, which would be left holding the bag for cleaning up hundreds, if not thousands, of sites. And it would mean, in the end, that many fewer toxic waste sites will get cleaned up.

Mr. President, Senator BAUCUS and I, along with the administration, have developed a different approach to reforming Superfund liability. I ask unanimous consent that an outline of our proposal be printed in the RECORD. I hope my colleagues will take a close look at it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIABILITY COUNTERPROPOSAL TO S. 1285

I. RELIEF FOR SMALL BUSINESS

A. Exempt all businesses which are liable solely under CERCLA sections 107(a)(3) or (a)(4) as generators or transporters for activities occurring wholly before 1/1/96, where the party seeking the benefit of the exemption demonstrates that the business (including its parents, subsidiaries and other affiliates):

1. had annual gross revenues of no more than $2 million as reported to the Internal Revenue Service for each of the preceding three years;

2. has 25 or fewer employees;

3. provides full cooperation, assistance and facility access in connection with the implementation of response actions at the facility; and

4. is not affiliated with any other party liable for response costs at the facility (through any direct or indirect family relationship, or any contractual, corporate, or financial relationship other than a contract for the treatment or disposal of hazardous substances) unless the President determines:

1. that the party seeking the exemption has not complied with all requests made under authority of CERCLA section 104(e); or

2. that the materials containing hazardous substances generated or transported by the business have contributed significantly or could contribute significantly to the costs of the response or to natural resource damages.

B. Funding. Shares of responsibility attributed by an allocator to the exempt small businesses that do not also qualify for the de micromis exemptions in III.A and IV. shall be included in the orphan share, subject to the provisions of section VI.

C. Recognition of Limited Ability to Pay of Businesses with Fewer than 100 Employees: For parties not exempt under I.A. above, EPA will implement expedited ability to pay settlements for those small businesses with fewer than 100 employees, including small business owner or operators that demonstrate a limited ability to pay.

II. RELIEF FOR MUNICIPAL OWNERS AND OPERATORS

A. Liability Cap:

1. For a municipality with a population of greater than 100,000 that is or was an owner or operator of a landfill listed on the NPL that contains predominantly municipal solid waste (MSW) or municipal sewage sludge (MSS), its response costs liability at the facility shall not exceed the cost of closing the facility under RCRA Subtitle D.

2. For a municipality with a population of fewer than 100,000 that is or was an owner or operator of a landfill listed on the NPL that contains predominantly municipal solid waste (MSW) or municipal sewage sludge (MSS), its response costs liability at the facility shall not exceed the lesser of the cost of closing the facility under RCRA Subtitle D or 10% of the total response costs for remediation of the site;

unless the President determines that the municipal owner or operator seeking the liability limitation does not meet the following criteria:

1. the municipality has complied with all requests made under authority of CERCLA section 104(e);

2. the municipality provides full cooperation, assistance and facility access in connection with the implementation of response actions at the facility;

3. the municipality, during its period of ownership or operation, accepted predominantly MSW or MSS, and any materials, other than MSW or MSS, containing hazardous substances accepted at the site do not contribute significantly to the costs of the response or to natural resource damages; and

4. for activities occurring after 1/1/96, the municipality had a qualified household hazardous waste collection program in effect, and accepted for disposal only materials that it was permitted to accept by law.

B. Funding: Shares of responsibility attributed to municipal owners or operators in excess of the amount specified under II.A. above shall be included in the orphan share, subject to the provisions of para. VA below.

C. Recognition of Municipalities' Limited Ability to Pay: EPA will implement expedited ability to pay settlements for all municipalities which demonstrate a limited ability to pay.

III. EXEMPT GENERATORS AND TRANSPORTERS OF MUNICIPAL SOLID WASTE

A. Small MSW contributors: Exempt all generators and transporters of MSW or MSS that are businesses with fewer than 100 employees, residential homeowners, and small non-profit organizations who:

1. are liable solely under CERCLA sections 107 (a)(3) or (a)(4) as generators or transporters;

2. contributed only MSW or MSS;

3. have complied with all requests made under authority of CERCLA section 104(e); and

4. provides full cooperation, assistance and facility access in connection with the implementation of response actions at the facility.

B. Other MSW contributors: Exempt all other generators and transporters of MSW or MSS (including federal government entities) at NPL sites for activities occurring wholly prior to 1/1/96. The party seeking the exemption must demonstrate that:

1. it is liable solely under CERCLA sections 107 (a)(3) or (a)(4) for activities occurring prior to 1/1/96;

2. a) it contributed only MSW or MSS; or b) it contributed predominantly MSW or MSS—in which case the exemption under this paragraph shall apply only to the portion of its waste that is demonstrated by the generator or transporter to be solely MSW or MSS, and the generator or transporter shall become an allocation party, or an expedited settlement party, and shall pay its allocated share for the waste that is not demonstrated to be MSW or MSS;

3. it has complied with all requests under authority of CERCLA section 104(e); and

4. it provides full cooperation, assistance and facility access in connection with the implementation of response actions at the facility.

For activities occurring after 1/1/96, no generator or transporter that otherwise demonstrates that it satisfies criteria (1)–(4) above shall be liable for more than 10 percent of total response costs at a facility listed on the NPL, provided its waste was disposed of pursuant to a qualified household hazardous waste collection program. Where more than one generator or transporter qualifies under this paragraph, the 10% limitation shall apply to the aggregate liability for response costs of all such generators and transporters.

C. Funding: The allocator shall not assign a share of responsibility to the parties exempt under paragraph III.A. above. Shares of responsibility attributed to parties exempted under paragraph III.B. above shall be included in the allocation and shall be attributed to the orphan share, subject to the provisions of para. VI below.

IV. EXEMPT DE MICROMIS CONTRIBUTORS OF HAZARDOUS WASTE

A. Exempt all generators and transporters (including federal government entities) who contributed to a site 110 gallons or less of liquid materials containing hazardous substances or 200 pounds or less of solid materials containing hazardous substances wholly before 1/1/96, provided that:

1. the party has complied with all requests made under authority of CERCLA section 104(e); and

2. the party provides full cooperation, assistance and facility access in connection with the implementation of response actions at the facility,

unless the President has determined that the waste contributed significantly or could contribute significantly to the costs of response or natural resource restoration.

B. Funding: The allocator shall not assign a share of responsibility to exempt de micromis parties.

V. EXPEDITED DE MINIMIS SETTLEMENTS

The government will provide expedited settlements to any small volume (de minimis) waste contributors (including federal government entities). A "small volume" is presumed where the President estimates the volume to be 1% or less of the total waste at the site. The President may determine that site specific conditions indicate that another amount constitutes a small volume. To provide finality for these settling parties, such settlements shall include premia that cover the risks of, among other things, cost overruns. Recovery from these settlements will be used to reduce the liability of other settling responsible parties.

VI. FULL FUNDING—MAINTAINING THE PACE OF CLEANUP

A. Orphan share includes shares of responsibility for response costs specifically attributable to:

1. identified but insolvent or defunct allocation parties who are not affiliated with any other person liable for response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship;

2. the ability to pay settlement "delta";

3. small businesses that are exempt under section I.A. and that do not also qualify for the exemptions described in sections III.A. IV.;

4. municipal owners and operators for whom liability is limited under section II.A., to the extent that their shares of responsibility exceed this liability limitation; and

5. the shares of responsibility attributable to parties exempt under section III.B.

B. Responsibility for hazardous substances that the allocator cannot attribute to any identified party shall be distributed among the allocation parties, including the orphan share.

C. The bill shall authorize up to $450 million per year for orphan share payments funded under para. A.

D. The amount of funding available for orphan share payments in any fiscal year:

1. shall not exceed the amounts that have been specifically appropriated by Congress for that purpose in the fiscal year in which the claim for payment is presented; and

2. must be in excess of the President's budget request for Superfund (excluding those amounts identified in section VI.A.) or the budget for the Superfund program as established in a Budget Reconciliation Act signed by the President (excluding those amounts identified in section VI.A.).

Shortfall: If claims for such payments exceed available funds, any deficit shall be allocated pro rata among the parties presenting the claim in that fiscal year. If funds appropriated for this purpose are not fully obligated in the fiscal year appropriated, the funds shall be carried over and made available for claims in subsequent years.

VII. OTHER ISSUES

A. NPL Listing Cap: Delete the cap in NPL listings.

B. Burden of proof: For each liability exemption or limitation described in this document, the party claiming the benefit of the exemption or limitation or seeking to establish the availability of an orphan share payment shall demonstrate the applicability of that exemption or limitation.

C. Related allocation issues: Establish an allocation process to enable PRPs to reach settlement with the United States based on their allocated shares and to provide a mechanism for determining the Trust Fund payments provided for above. The allocation process would have the following key features:

1. Allocations shall be required for sites with 2 or more potentially responsible parties, for which

a. a remedial action is selected after enactment; and

b. a remedial action was selected prior to enactment, if requested by the parties performing the remedial action.

2. The Administrator shall have discretion to provide allocations at other sites.

3. Allocations shall not be required for sites where there has been a previous adjudication or settlement determining liability of all parties or the allocated shares of all parties, or at sites where all parties are liable under sections 107(a)(1) and (2).

4. Allocations under 1.b. and 2. shall not be construed to require the payment of orphan shares, to confer reimbursement rights, or to permit the reopening of a settlement.

D. *Additional exemptions, limitations and clarifications:* Liability exemptions, limitations and clarifications should be provided, as appropriate, for the following additional parties: lenders; fiduciaries; bona fide prospective purchasers; inheritors of real property; federal, state and local governments who own rights-of-way or issue business licenses; federal agencies providing disaster relief; contiguous landowners; religious, charitable, scientific or educational organizations who receive property as gifts; owners of railroad spurs; and recyclers.

E. *Settlements:* any settlement or judgment signed or entered prior to date of enactment shall not be affected by any exemption or limitation set forth above.

F. *Fee Shifting:* Any party who seeks to bring a non-liable party or a party who has fully resolved its liability to the United States into the allocation system will be responsible for paying the attorney fees and other costs of the nominated party for participating in the allocation system. Any party who sues another party during the allocation moratorium or who sues a party who has fully settled its liability to the United States will be responsible for paying that party's attorney fees and other litigation costs.

G. *Small business ombudsman:* The Administrator shall establish a small business assistance section within EPA's small business ombudsman office, to act as a clearinghouse of information for small businesses regarding CERCLA. The office will also provide general advice and assistance to small businesses regarding the allocation and settlement process, but will not give legal advice or participate in the allocation process.

Mr. LAUTENBERG. Mr. President, we think our proposal addresses many of the concerns that have been raised about Superfund's liability system. It would increase fairness, increase efficiency, and reduce transaction costs. At the same time, it would protect both the pace and protectiveness of cleanups.

It would provide greater fairness and efficiency by establishing an allocation system under which those responsible for pollution pay only their fair share. Under this system, they would be able to do this quickly and without litigation.

Second, the proposal increases fairness and efficiency, and cuts down on lawsuits, by pulling out of the process people who never should have been pulled in. This is accomplished through a series of exemptions and limitations on liability for small businesses, contributors of small amounts of waste, municipalities, charities, lenders, and other parties.

The proposal would exempt as many as 30,000 small businesses from Superfund liability. It would limit the liability of up to 525 municipal owners and operators of municipal landfills. It would exempt countless individuals, businesses, and small nonprofit organizations that otherwise would be liable as a generator or transporter of municipal solid waste.

It would exempt cities whose involvement is due solely to household trash created by its citizens. And it would exempt approximately 10,000 contributors of small amounts of waste.

This means that parties like the Girl Scouts, local taxpayers, pizza parlors, and churches will be protected from frivolous lawsuits—suits brought by polluters who have tried to force innocent parties to bear cleanup costs, simply because they have sent ordinary household garbage to Superfund sites.

At the same time, Mr. President, our proposal would reaffirm the principle that polluters should pay. It would ensure the availability of funding for more cleanups. And it would ensure that those responsible for pollution are held accountable for cleaning up the mess they have made.

It is important to provide relief to many who have been swept into the Superfund system unfairly. But it is equally critical that toxic waste sites not be left untended as a result, or passed off as a burden to local taxpayers.

Mr. President, I remain committed and hopeful about the possibility of enacting a Superfund bill in this Congress. I also want to express my appreciation to Senators SMITH and CHAFEE for their acknowledgment that the only way to get Superfund reform this year is through a bipartisan effort.

That kind of cooperation is part of a long tradition at the Environment and Public Works Committee, and it has resulted in landmark legislation protecting our citizens and environment. It will also be necessary if President Clinton is to sign a reform proposal into law.

Chairman CHAFEE has scheduled hearings next week on Superfund, and I hope we will have an opportunity to discuss this proposal, among others.

We have shared this proposal with our Republican colleagues, and we hope they will view it favorably. If we work together, we believe there is still time left in this session of Congress for the full Senate to consider a bill and work with our colleagues in the House of Representatives to approve a bipartisan, consensus bill the President can sign.

We believe our proposal is a serious effort to address concerns raised by our Republican colleagues. It also has the strong endorsement of the Administrator of the Environmental Protection Agency, Carol Browner, and the White House.

Mr. President, I believe that this proposal represents the best hope of securing a bipartisan Superfund bill this year that not only will be approved by the Senate, but which will be signed into law. And I remain committed to working hard with my colleagues to reach an agreement.

Mr. President, we can have a Superfund program that is both more fair and more efficient at protecting public health and the environment. To accomplish this goal, we need to continue working together in a cooperative fashion.

Seventy-three million Americans in every State of the country are counting on us to get the job done. I hope we will not let them down.

With that I conclude my remarks. I yield the floor.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 10 a.m. Friday, April 19, 1996.

Thereupon, the Senate, at 11:15 p.m., adjourned until Friday, April 19, 1996, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate April 18, 1996:

THE JUDICIARY

ARTHUR GAJARSA, OF MARYLAND, TO BE U.S. CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT, VICE HELEN WILSON NIES, RETIRED.

LAWRENCE E. KAHN, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF NEW YORK, VICE NEAL P. MCCURN, RETIRED.

WALKER D. MILLER, OF COLORADO, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLORADO, VICE JIM R. CARRIGAN, RETIRED.

EXTENSIONS OF REMARKS

INTRODUCTION OF THE IDEA IMPROVEMENT ACT OF 1996

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. CUNNINGHAM. Mr. Speaker, today I introduce the renewal of America's special education law, the Individuals with Disabilities Education Act [IDEA] Improvement Act of 1996.

This measure is the product of 16 months of work, building consensus to improve this law that has transformed the lives of children with disabilities. For 20 years, children with disabilities have been assured a free, appropriate public education. But as one of my Democrat colleagues said in one of our IDEA hearings, we no longer question whether children should be educated, but how well their education is being done. We see and know that education transforms individuals who were once thought to be helpless into productive, working, taxpaying citizens.

This legislation, which I will summarize, is based upon certain foundational principles.

First, we need to improve IDEA because children with disabilities can and should have a fighting chance to achieve the American dream. We need to make the system work better for children and their families, for teachers and schools, and for the taxpaying citizens who work hard to pay the bill. We want quality education for children, not just a process.

Second, where we recognize that resources are tight, we direct more money to schools to provide services to children. We also reduce paperwork and other administrative burdens, freeing more resources to educate young people.

Third, where we find unnecessary and costly conflict and discord, this legislation renews a focus on education and cooperation.

And fourth, where we have identified confusion in the process of educating children with special needs, we have sought to provide certainty and understanding, based upon consensus and common sense. The area of this law that has probably drawn the most attention is the area of discipline. The IDEA Improvement Act of 1996 contains clear procedures for removing dangerous students from the classroom, with instructions to determine whether the behavior is a manifestation of a student's disability. If a child's wrongdoing has nothing to do with his or her disability, schools should have authority to discipline in a manner consistent with the way they discipline other children. Schools need authority to maintain safe classrooms, and children with disabilities need protections against arbitrary discipline.

Let me say a few words about the process which has brought us to this point, and where we go from here. For 16 months, through three staff drafts, numerous hearings and public and private meetings, we have sought to find agreement in the many difficult issues affecting renewal of our Nation's special education law. This bill represents much of that consensus, but not all of it, and certainly not the end of it. And while I believe this is an excellent bill, no individual or organization will wholeheartedly support it all. That is the nature of this process. But the process thus far has given me, and should give all Americans, hope for a successful conclusion.

For the past several weeks, my friend from Michigan, Representative DALE KILDEE and I have been negotiating on many issues in this bill. We have come to many agreements which are reflected in this legislation. There are some issues reminding. Between today and the House Subcommittee on Early Childhood, Youth and Families markup, scheduled for Wednesday, April 24, Members and committee and personal staffs from both parties will continue seeking to resolve issues. Some may be completed in time to be included in a chairman's mark. Others will be held for possible bipartisan amendments, in subcommittee or full committee.

In the interest of citizens and Members who wish to review this bill, its text will be available most quickly on the House Opportunities Committee World Wide Web site, which is "http://www.house.gov/eeo/", and soon through the Thomas service of the Library of Congress. I welcome comments and cosponsors, encourage citizens to understand that this is a work in progress, and urge Members to support the bill.

Following is a summary of how the IDEA Improvement Act of 1996 addresses key issues of interest:

OVERVIEW OF THE IDEA IMPROVEMENT ACT OF 1996 AS INTRODUCED APRIL 18, 1996

The following are the major improvements to the Individuals with Disabilities Education Act in the IDEA Improvement Act of 1996:

1. Funding Formula (§611). The bill makes a ten-year transition from a "head-count formula based on the number of children with disabilities counted in the State, to a population-based formula with a factor for child poverty. The new formula would be based 85% on number of children in the State and 15% on State poverty statistics. Transition years would use a declining fraction (90% in FY 1997 to 0% in FY 2006) under the current formula and an increasing fraction (10% in FY 1997 to 100% in FY 2006) under the new formula.

2. Least Restrictive Environment and State Funding Formulae (§612(a)(4)). The bill requires States to use "placement neutral" funding formulae for distributing funds within the State.

3. Discipline/"Stay-Put" (§615). Under current law, a school cannot suspend or expel a disabled student for more than 10 days except where the student has brought a gun to school. With guns, the school may remove a student from school for 10 days, and then may place the student in an "interim alternative placement" for up to 45 additional days. During that period, the student's Individual Education Program (IEP) team must agree on a new placement. If the parents and school disagree, the student will remain in their interim alternative placement for the pendency of any due process proceedings. This bill addresses the classroom safety issue, but maintains protections against arbitrary placement changes.

The student's IEP will include behavior management techniques to help avoid disruptive, dangerous, and inappropriate behavior.

The bill adds the following categories to the "firearms" category in current law, permitting removal from the classroom to an alternative educational placement for up to 45 days:

Bringing weapons to school;

Bringing illegal drugs to school or illegally distributing legal drugs;

Engaging in an assault and battery (striking another person with the intention of bringing about harmful or offensive contact which is not legally consented by the person); or

By proof of substantial evidence, representing a danger to oneself or others.

These terms and, in the case of the first three categories, which school official would have the discretion to remove the student would be defined through State law or policy.

The bill requires a review by the IEP team of whether the child's action was a manifestation of the disability. The team will consider the implementation of behavior management strategies in the child's IEP, the appropriateness of the placement, and other information presented by the parents. Where an action is not disability related, any school discipline policy applied to nondisabled students may be equally applied to the disabled student.

4. Mediation (§615(d)). Three-fourths of the states have established mediation systems on their own accord and have been successful in reducing the number of formal disputes. The bill requires states to offer voluntary mediation to parents prior to any administrative or judicial dispute. Attorneys would not be permitted to participate for either side in mediation, and attorney's fees would not be available for mediation proceedings.

5. Categorization/Eligibility (§602(3)(B)). The bill permits States to extend use of the "developmental delay" definition for children aged 3 to 5 (current law) up to age 9, but otherwise maintains the current categories.

6. Discretionary Programs (Part D). The bill reorganizes and consolidates the existing discretionary programs (currently Parts D–G), and I). Subpart I grants broad authority for national projects to the Secretary of Education. Subpart 2 permits State grants for reform and improvement of their special education and early intervention systems, with an emphasis on in-service and preservice professional development for general educators and special educators. Subpart 3 maintains the current Parent Training Center program.

7. Reduction of State Education Agency Funds Reservation (§611(c)). Current law

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

only requires that at least 75% of IDEA funds flow through to local schools. The bill would require states to pass at least 90% through to LEAs, with the remainder reserved for administrative and statewide activities, unless the State seeks a waiver permitting retention of an additional 15%.

8. Restructuring of Parental Notice Requirements (§615(c–d)). IDEA currently promotes the use of consolidated notices that notify parents of a host of procedural and other rights under the act. The prior written notice and the notification of procedural safeguards requirements in current law have been separated for the purpose of clarity. The prior written notice will only address actions proposed or refused by the local education agency (LEA). The new procedural safeguards notice provision details the frequency and content of the notice to be given to parents.

9. Attorney's Fees (Part B). The bill maintains the current law on attorney's fees by permitting them for parents who prevail against the school. Parents are required to have notified the school district of their concerns at some point prior to filing to obtain attorney's fees. In cases where there are multiple issues in dispute, the judge will be permitted to award fees only on the issues upon which the parents prevailed.

10. Policy Letters (§605(c)). Currently, many U.S. Dept. of Education "policy letters" are treated as having regulatory authority without being submitted to public comment or without having underlying regulatory authority. The bill limits the applicability of such letters to the parties to whom they have been addressed.

11. Parent's Right of Refusal for Initial Evaluation and Consent for Evaluation Not Construed as Consent for Services (§614(a)(1)(C)). The bill clarifies that the parents of a child who has been referred for an initial evaluation have the right to refuse that evaluation placing the onus of making an administrative appeal on the school district where it believes that a child needs special education services. This provision would also clarify that parental consent for a child's evaluation shall not be construed as consent for delivery of special education services based on that evaluation.

12. Commingling of Funds (current §613(a)(9)(A)). The bill maintains the requirement that funds must be expended for the benefit of special education students, but removes the prohibition on commingling of funds. This provision will only permit commingling of Federal and state special education funds. This change will not permit consolidation of Federal special education funds with other Federal funds or with other non-special education funds.

13. Personnel Standards and Personnel Development. The bill maintains the current requirement that States establish and enforce personnel standards (§612(a)(15)). In the bill's newly configured discretionary programs, the State Improvement Grant program will dedicate 75% of appropriated funds to personnel development (§674).

14. Narrow Exceptions for Maintenance of Local Education Agency (LEA) Effort (§613(a)(2)(B)). The bill permits school districts to reduce special education expenditures in the following limited circumstances: replacement of higher cost staff with lower cost staff, such as with retirement; departure of particular high-cost students from the LEA; decreases in special education enrollment; and one-time expenditures of funds by the LEA.

15. Payment for Placement of Students in Private Schools without the Consent of or Referral by the Public Agency (§612(a)(9)(C)). This change would prevent tax-payer financed private school education where the public schools have never been given the opportunity to determine if the child can be served in public schools. This section would require parents to give 10-day written notice to receive reimbursement private, special education school tuition without LEA consent.

The bill would establish that local schools must be permitted to conduct an initial evaluation of a student prior to publicly-funded private school placement. Exceptions would include: (1) where parents are illiterate or cannot write English; (2) where providing notice would result in delay that would likely result in physical or serious emotional harm to the child; (3) where the school prevents the parent from providing notice; and (4) where parents did not receive notice of this requirement.

16. Disclosure of Evaluations and Recommendations (§615(f)). This provision would require schools and parents to disclose to the other party any evaluations and recommendations based on those evaluations 15 days prior to any due process proceeding. This change will ensure that both parties are given the opportunity to review evaluations of a child's special education needs that the other party intends to use in a due process hearing.

17. Modification of Requirements to Achieve Innovative Delivery of Services (§613(g)). This provision will apply to 10 LEAs or groups of LEAs selected by the Secretary of Education who have demonstrated excellence in providing services to students with disabilities and who have obtained the cooperation of parents of students with disabilities in the area. Selected LEAs will be permitted to modify existing Part B requirements for improving services to disabled students and for improving the operation of the local special education system. Analytic instruments will be developed to quantitatively determine the effectiveness of the modification, and determine the ability for replication of successful changes.

18. State Application for Part C (formerly Part H) (current §678). The bill essentially maintains the current Part H program as Part C. The bill will enable Part C funding applicants to reduce application process paperwork by eliminating the requirement that all State policies and assurances pertaining to Part C be filed with every application to the U.S. Department of Education. This language corresponds to the language in Part B.

PHOTOGRAPHIC TRIBUTE TO FORMER ISRAELI PRIME MINISTER YITZHAK RABIN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. LANTOS. Mr. Speaker, I rise today to call the attention of my colleagues to an excellent exhibition of photographs—Yitzhak Rabin Remembered—which displays in pictures the life and accomplishments of assassinated Israeli Prime Minister Yitzhak Rabin. This superb exhibit is now on display in the rotunda of the Cannon House Office Building. Last January when my wife, Annette, and I were in Israel on a private visit, we saw an outstanding photographic exhibit about Prime Minister Rabin in the Israeli Knesset, and right there, Annette and I determined that we should make every effort to have those photographs brought here to Washington so that the Members of the Congress could have a greater understanding and appreciation of this great man of peace.

Through the efforts of the Speaker of Knesset, Prof. Shevach Weiss, and the Embassy of Israel here in Washington, we were able to arrange for these photographs to be displayed in the Cannon rotunda. Last night, we held a reception to mark the opening of this exhibit and to pay tribute to this most distinguished Israeli leader, this man of war who became a leader in the effort to bring peace and cooperation.

Those who paid tribute to Prime Minister Rabin last night were: Our distinguished colleague from Georgia, the Speaker of the House, NEWT GINGRICH; Pro. Shevach Weiss, Speaker of Knesset; Dalia Rabin Filosof, the daughter of Prime Minister Rabin; His Excellency Itamar Rabinovich, the Ambassador of Israel to the United States; and Walter Reich, executive director of the U.S. Holocaust Memorial. Those of our colleagues who sponsored this event, in addition to Speaker GINGRICH, were Senators ORRIN HATCH of Utah and JOE LIEBERMAN of Connecticut; Democratic leader of the House, RICHARD GEPHARDT; and our House colleagues Congressman BENJAMIN A. GILMAN of New York, the chairman of our International Relations Committee; Congressman JOHN PORTER of Illinois; and Congressman HOWARD BERMAN of California. A number of our colleagues joined us in paying tribute, including Congressman BILL MARTINI of New Jersey and HOWARD COBLE of North Carolina.

Mr. Speaker, it is entirely appropriate that we pay tribute to Prime Minister Rabin for his contributions to the State of Israel, our only stable democratic ally in the Middle East, and for his contributions to the peace process in that region.

Yitzhak Rabin was born in Jerusalem in 1922. He was only 26 years of age when the State of Israel was proclaimed in 1948, and in many ways his biography is the biography of Israel. He has played pivotal roles throughout his country's history.

In the war of Israeli independence in 1948, Yitzhak Rabin commanded the Harel brigade, which opened the road to besieged Jerusalem. He served in positions of command in the Israel Defense Forces, culminating with his appointment as chief of staff in 1964, when he led IDF forces to victory in the Six-Day War. Following his retirement from military service in 1968, he became Ambassador of Israel to the United States for a period of 5 years.

In 1973 when he returned to Israel, he was elected a member of the Knesset, and a year later in June 1974 he became Prime Minister, serving until 1977. During this period, disengagement agreements were signed with Egypt and Syria, followed by an interim agreement with Egypt. These were the key agreements that prepared the way for Egyptian President Anwar Sadat's historic visit to Jerusalem. During the period of the coalition government, Rabin served as Minister of Defense from 1984–90.

In July 1992 he became Prime Minister for the second time and also Minister of Defense.

This period in office was marked by major landmarks in the peace process. On September 13, 1993, he signed the Israel-Palestinian Declaration of Principles on the South Lawn of the White House. On October 26, 1994, he signed the Treaty of Peace between Israel and Jordan. On September 28, 1995, he signed the Israeli-Palestinian Interim Agreement at the White House. In recognition of his major contributions to Middle East peace, he was awarded the Nobel Prize for Peace in December 1994 along with Israeli Foreign Minister, now Prime Minister, Shimon Peres and PLO Chairman Yasser Arrafat.

Few of us will ever forget the tragedy of his death on November 4, 1995. He was assassinated by an Israeli citizen shortly after speaking at a massive peace rally in Tel Aviv. In tribute to his contribution to the peace, kings, presidents and other heads of state and government from around the world participated in a memorial service honoring him at his burial in Jerusalem.

Mr. Speaker, I urge our colleagues to pause in the Cannon rotunda to see these photographs—Yitzhak Rabin Remembered—and to honor the memory and the outstanding achievements of this great man.

A TRIBUTE TO TARA SAKRAIDA

HON. WES COOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. COOLEY. Mr. Speaker, the Veterans of Foreign Wars of the United States recently concluded its annual Voice of Democracy scriptwriting contest. One of the winners of this year's competition is a bright young student from North Medford High School in Medford, OR. Tara Sakraida has won the first place award for the entire State of Oregon. Her submission, entitled "Answering America's Call," serves as a moving tribute to the type of civic-minded community involvement that has motivated so many of our Nation's veterans.

If I may, Mr. Speaker, I would like to submit Tara Sakraida's award-winning essay for the record. "Answering America's Call"—by Tara Sakraida of Medford, OR.

ANSWERING AMERICA'S CALL

Hi. You've reached 555-Americans, and we're either too busy or too lazy to answer the phone, so leave a message and we may call you back.

Hello? Hello? This is America, your country, calling. Is anyone home? Well, I needed to talk to someone . . . I'm feeling pretty low. People are burning my flag, Old Glory, as I speak. They are yelling and protesting that desecrating Old Glory is freedom of speech. Why are they doing this? After everything I have given them. A constitution, a democracy, freedom to make choices and decisions. I don't understand—they've chosen to dishonor me. Where are you, Americans? If you're sitting at home, please pull yourself away from the television and answer my call. We need Help.

When some people say the Pledge of Allegiance, they don't even place a hand over their hearts. They recite it unenthusiastically, like lyrics to an outdated song. And when my melodic, patriotic anthem is played, some do not stand or remove their hats, for they feel it is unnecessary or trite. The polls are no longer overflowing with anxious voters; many don't believe their vote makes a difference. And the meaning of Veteran's Day is often lost in the excitement of a vacation. Americans, are you doing something to solve these problems?

I'm asking each and every American to take time to listen and answer my cries. Begin by volunteering at a Domiciliary, giving blood to the Red Cross, or serving in the military. You can show patriotism by flying my flag; show your pride by standing when my anthem is played; and acknowledge those military crusaders by observing Veteran's Day. I hope you understand my message, Americans. I need you to come together as a community so my message can be heard.

I called Mr. Retired the other day. You know, your elderly neighbor across the street? His social security checks stopped coming, and he can't afford his high medical bills after breaking his hip. He needs your help.

I called a grieving mother yesterday. Her sobs and tears rang over the phone as she described her young son's death after being caught in a gang cross-fire. She needs your help.

I called a lonesome, homeless teenager today. He told the violent story of being beaten at home and turning to the streets for refuge. He needs your help.

Now I'm calling you, Americans. Please answer the call of rising health care costs by electing officials who will work to change the system. Answer the call of crime by educating children about the dangers of drugs, guns, and violence. And answer the call of abuse by confronting the problem and volunteering for Crisis Intervention Organizations or homeless shelters.

You've heard my call, Americans. Now don't hang up on me . . . I need you. I have given everything I can, and now it is up to you. I hope to hear from you soon, Americans. Good-bye.

*If you don't answer America's call, you may be disconnected.

THE FARM BILL

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. HAMILTON. Mr. Speaker, I am inserting my Washington Report for Wednesday, April 3, 1996 into the CONGRESSIONAL RECORD:

THE 1996 FARM BILL

Congress recently passed the 1996 farm bill, and the President signed it into law. This seven-year bill makes sweeping reforms toward a free-market agricultural system. It also includes agricultural research, rural development, conservation, nutrition, and agricultural export and food assistance programs. Saving more than $2 billion, the bill passed with my support.

Passage of the bill was helped because Congress was months late. On January 1, the 1990 farm bill expired, and the 1949 "permanent law" came into effect. Everyone agreed that the expensive 1949 law would be changed before harvest, but Congress took no action, and farmers were forced to make important business decisions in the dark. The congressional leadership's decision last year to put farm legislation in the huge, omnibus budget bill was clearly a mistake, because it delayed action on this important, bipartisan measure.

CROP PROGRAMS

The heart of the bill is the so-called "Freedom to Farm" approach, which replaces commodity programs with a yearly payment to farmers—declining each year—based on their past production. The payment would be separated from specific crop production, letting farmers choose which crops to plant. Previous policy had used complicated payment formulas and required some land to be idled. Instead, the new bill gives farmers flat payments and independence. The only requirement is that farmers meet current conservation standards.

I have always supported a more market-oriented farm policy. This measure is a good step in that direction. The elimination of most planting restrictions will allow farmers to plant according to supply and demand, and to respond more efficiently to global markets. Reduced regulation will also ease the burden of paperwork on farmers.

DRAWBACKS

I agree with criticism of the Freedom to Farm approach that it fails to require farmers to farm in order to receive payments. This is a common-sense requirement, and it is disappointing that the leadership blocked an opportunity to vote on this issue. My suspicion is that farm issues will come back to Congress sooner than many expect. It was easier to pass major changes because crop prices are at their highest levels in decades. If falling prices threaten family farms, farmers may demand a better safety net in later years.

WETLANDS AND CONSERVATION

The final bill includes some limited wetlands reform, similar to a bill I helped introduce last year. Under current law, farmers are not allowed to farm on wetlands for environmental reasons. But it is difficult to determine exactly what a wetland is—particularly in tiny areas. An area that was dry one month might be wet the next, and two scientists can make different determinations. Moreover, farmers risk drastic penalties for even the smallest violation, even if they make a good faith effort to correct the situation.

The 1996 farm bill consolidates authority for agricultural wetlands in the Agriculture Department, and makes penalties proportional to any violation. The wetlands reforms in the farm bill are significant, but they fall short of the reforms that passed the House last year, but stalled in the Senate. This other measure addressed wetlands protection in a more comprehensive manner, narrowing the definition of wetlands, ensuring that the costs and benefits of regulation are analyzed with sound scientific evidence, and consolidating agricultural wetlands authority in USDA. Congress should revisit and pursue these important reforms.

The farm bill also reauthorizes the Conservation Reserve Program (CRP). In effect, CRP leases environmentally sensitive farmland from farmers to reduce soil erosion, protect water quality, and promote wildlife. This program is credited for restoring numerous threatened species, including ducks and quail. CRP was not included in the original House bill, but it was added on the floor with my strong support. The new bill also includes provisions to assist livestock producers in protecting water supplies from animal waste.

EXPORTS

The 1996 farm bill includes an amendment I offered on the House floor to renew export and food assistance programs. Exports are critical to the average Hoosier farmer, who receives some $32,000 in export sales each year. Export promotion and food assistance have been key to the success of U.S. agriculture in world markets.

The farm bill reauthorizes export and food aid programs through 2002 to help open new markets and counter unfair foreign subsidies. These efforts are especially important as we pursue additional reductions in foreign tariffs. We made progress in the Uruguay Round of the General Agreement on Tariffs and Trade (GATT), but we must maintain our leverage to push our competitors to reduce their trade barriers further. The bill provides export credits for purchasing U.S. products, authorizes measures to help promote U.S. food products in tough foreign markets, and boosts the role of private entities in distributing U.S. farm products under food aid programs.

RESEARCH AND RURAL DEVELOPMENT

The new farm bill makes agricultural research and rural development a higher priority with a "Fund for Rural America". The fund would invest in rural infrastructure and housing, and make competitive research grants for technological advancement. These efforts pay for themselves dozens of times over in economic growth, increased productivity, and innovative uses for agricultural products. Many Hooseir farmers expressed their support for making research a higher priority, and I agree.

CROP INSURANCE

The farm bill includes provisions from a bill I cosponsored to allow farmers to waive crop insurance mandates if they forego future disaster payments. Under the old crop insurance program, farmers who chose to participate in USDA programs were required to purchase catastrophic insurance from the government, even if it made little sense for a particular farmer's crop or size of operation.

OTHER PROVISIONS

The new bill includes dairy reforms that phase out price supports and replace them with market loans. Unfortunately, the bill made only modest reforms to the sugar and peanut programs. These programs impose production quotas that protect a few sugar and peanut farmers at the expense of consumers. I voted to phase out both the sugar and peanut programs, but the effort failed.

CONCLUSION

The 1996 farm bill passed with broad bipartisan support. While not perfect, this legislation includes many important reforms. I believe it will strengthen the American farmer, both at home and abroad, and maintain the U.S. food supply as the cheapest and safest food supply in the world.

SUSAN AND ROBERT H. FRIEBERT, RECIPIENTS OF AMERICAN JEWISH COMMITTEE'S HUMAN RELATIONS AWARD

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. KLECZKA. Mr. Speaker, I rise today to congratulate my friends Susan and Robert Friebert on receiving the American Jewish Committee's 1996 Human Relations Award.

Susan and Bob Friebert, together and as individuals, have left a lasting mark on their community and have touched the lives of literally thousands of people in the Milwaukee area.

Susan Friebert, through her involvement in organizations such as the Quality Education Commission, the Wisconsin Council on Children and Families, and the White House Commission on Presidential Scholars, has made the education and well-being of Wisconsin's children a top priority. She is also very proud of her Jewish faith and heritage and has assumed leadership positions in the National Council of Jewish Women, the Wisconsin Jewish Conference, the Milwaukee Jewish Council for Community Relations, and the Milwaukee Jewish Federation. Susan's involvement in these outstanding organizations has helped to ensure that Milwaukee's Jewish community remains an active and vital voice in Milwaukee's civic life.

Through his involvement in Wisconsin's legal community and the Democratic Party of Wisconsin, Bob Friebert has helped to shape our State's legal and political landscape. Bob was instrumental in organizing Wisconsin's State Public Defender's Office and also served as State chair of the Wisconsin Civil Liberties Union. While serving as chairman of the Wisconsin Jewish Conference, Bob helped to author and secure passage of Wisconsin's hate crimes law. He is also a leading Democrat and through the years, has played key roles in numerous local, State, and national political campaigns. Like his wife, Bob is also very proud of his Jewish heritage and has assumed leadership positions with organizations such as the Wisconsin Jewish council, the National Jewish Democratic Council, and the Milwaukee Jewish Council on Community Relations.

I commend Susan and Bob Friebert on receiving the 1996 Human Relations Award and on their outstanding service to our community.

GRAND OPENING OF MAIN BRANCH, SAN FRANCISCO LIBRARY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. LANTOS. Mr. Speaker, I rise today, on the 90th anniversary of the devastating 1906 San Francisco earthquake, to celebrate with the city of San Francisco a monumental achievement of community cooperation and commitment. I invite my colleagues to join me in conveying our congratulations and admiration to the people of San Francisco who have committed their precious resources to the construction of the new main branch of the San Francisco Library, a beautiful and highly functional testament to the love that San Franciscans have for their city and for books and education. It is a love that has found its voice through the coordinated efforts of corporations, foundations, and individuals.

A library should reflect the pride, the culture, and the values of the diverse communities that it serves. The San Francisco main library will undoubtedly be successful in reaching this goal. The library will be home to special centers dedicated to the history and interests of African-Americans, Chinese-Americans, Filipino-Americans, Latino-Americans, and gays and lesbians. The library will be designed to serve the specialized needs of the businessman as well as the immigrant newcomer. It will become home to the diverse communities that make San Francisco unique among metropolitan areas of the world. It will also become a home, most importantly, that serves to unite.

The new San Francisco main library represents an opportunity to preserve and disperse the knowledge of times long since passed. The book serves as man's most lasting testament and the library serves as our version of a time machine into the past, the present and the future. This library, built upon the remains of the old City Hall destroyed 90 years ago today, is a befitting tribute to the immortality of thought. Buildings will come as they will most definitely pass, but the books of this new library and the information that they hold are eternal and serve as an indelible foundation that cannot be erased by the passage of time.

The expanded areas of the new main library will provide space for numerous hidden treasures that no longer will be hidden. The people of San Francisco will have the opportunity to reacquaint themselves with numerous literary treasures previously locked behind the dusty racks of unsightly storage rooms.

Although the new San Francisco main library serves as a portal into our past, it also serves to propel us into the future. It is an edifice designed to stoke the imagination by providing access to the numerous streams of information that characterize our society today. The technologically designed library will provide hundreds of public computer terminals to locate materials on-line, 14 multimedia stations, as well as access to data bases and the Information Superhighway. It will provide education and access for those previously unable to enter the "computer revolution." The library will provide vital access and communication links so that it can truly serve as a resource for the city and for other libraries and educational institutions throughout the region. The new library will serve as an outstanding model for libraries around the world to emulate.

Like an educational institution,the San Francisco Library will be a repository of human knowledge, organized and made accessible for writers, students, lifelong learners and leisure readers. It will serve to compliment and expand San Francisco's existing civic buildings—City Hall, Davies Symphony Hall, Brooks Hall, and the War Memorial and Performing Arts Center. The library serves as a symbiotic commitment between the city of San Francisco and its people. In 1988, when electorates across the country refused to support new bond issues, the people of San Francisco committed themselves to a $109.5 million bond measure to build the new main library building and to strengthen existing branch libraries. Eight years later those voices are still clearly heard and they resonate with the dedication of this unique library, built by a community to advance themselves and their neighbors.

Mr. Speaker, on this day, when we celebrate the opening of the new main branch of the San Francisco Library, I ask my colleagues to join me in congratulating the community of San Francisco for their admirable accomplishments and outstanding determination.

TRIBUTE TO DAVID J. WHEELER

HON. WES COOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. COOLEY of Oregon. Mr. Speaker, on February 1, 1996, the President signed H.R. 2061, a bill to designate the Federal building in Baker City, OR in honor of the late David J. Wheeler. As the congressional representative for Baker City, and as the sponsor of H.R. 2061, I recently returned to Baker City for the building dedication ceremony. Mr. Wheeler, a Forest Service employee, was a model father and an active citizen. In honor of Mr. Wheeler, I would like to submit, for the record, my speech at the dedication ceremony.

Thank you for inviting me here today. It has been an honor to sponsor the congressional bill to designate this building in memory of David Wheeler. I did not have the privilege of knowing Mr. Wheeler myself, but from my discussions with Mayor Griffith—and from researching his accomplishments—I've come to know what a fine man he was. I know that Mr. Wheeler was a true community leader, and I know that the community is that much poorer for his passing. With or without this dedication, his spirit will remain within the Baker City community.

Mayor Griffith, I have brought a copy of H.R. 2061—the law to honor David Wheeler. The bill has been signed by the President of the United States, by the Speaker of the House, and by the President of the Senate. Hopefully, this bill will find a suitable place within the new David J. Wheeler Federal Building.

I'd like to offer my deepest sympathy to the Wheeler family, and to everyone here who knew him. And, I'd like to offer a few words from Henry Wadsworth Longfellow—who once commented on the passing-away of great men. His words—I think—describe Mr. Wheeler well:

If a star were quenched on high,
For ages would its light,
Still traveling down from the sky,
Shine on our mortal sight.

So when a great man dies,
For years beyond our ken,
The light he leaves behind him lies
Upon the paths of men."

So too with David Wheeler. His light will shine on the paths of us all—particularly of his family—for the rest of our days.

THE MINIMUM WAGE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, April 17, 1996, into the CONGRESSIONAL RECORD.

RAISING THE MINIMUM WAGE

Rewarding work is a fundamental American value. There are many ways to achieve that goal, including deficit reduction to boost the economy, opening markets abroad to our products, improving education and skills training, and investing in technology and infrastructure. Increasing wages must be a central objective of government policies.

The economy is improving. It has in recent years reduced the unemployment rate of 5.6%, cut the budget deficit nearly in half, and spurred the creation of 8.4 million additional jobs. Real hourly earning has now begun to rise modestly, and the tax cut in 1993 for 15 million working families helped spur economic growth.

But much work needs to be done. We must build on the successes of the last few years, and address the key challenges facing our economy, including the problem of stagnant wages. This problem will not be solved overnight, but one action we can take immediately, and which I support, is to raise the minimum wage.

RAISING THE MINIMUM WAGE

The minimum wage was established in 1938 in an attempt to assist the working poor, usually non-union workers with few skills and little bargaining power. The wage has been increased 17 times, from 25 cents per hour in 1938 to $4.25 per hour in 1991. Currently some 5 million people work for wages at or below $4.25 per hour, and most of them are adults rather than teenagers.

I support a proposal to increase the minimum wage 90 cents over two years, from its current level of $4.25 per hour to $5.15 per hour. The first 45 cents of the new increase would not even restore the buying power the minimum wage has lost since the last increase five years ago. Inflation has already eaten away 81% of that increase. If we do not act to increase the minimum wage this year, it will fall to a 40 year low in terms of purchasing power.

WHO EARNS MINIMUM WAGE

The typical minimum wage worker is a white woman over age 20 working in the service sector or the retail industry. About 60% of the minimum wage earners are women, and about 70% of the 12 million workers who would benefit from a minimum wage increase—since their wages are less than $5.15 per hour—are 20 years of age or older. The average minimum wage worker brings home half of the family's earnings, so an increase in the minimum wage can make a real difference.

An increase in the minimum wage would benefit over 315,000 Hoosiers, or 12.4% of the Indiana workforce, and would mean an additional $1800 in earnings each year.

EFFECT ON JOBS

Opponents of a minimum wage increase claim that it will wipe out jobs. But the weight of the evidence today supports the conclusion that a moderate minimum wage increase would not have a significant impact on job levels, because it would help boost productivity and lower employee turnover. Over 100 economists, including several Nobel laureates, have urged the President and Congress to approve a minimum wage increase and have affirmed that it would not have a significant effect on employment.

Opponents of a minimum wage increase also criticize it as being an inefficient way to alleviate poverty. In a sense they are right. A minimum wage increase is not as well targeted as the earned income tax credit, which directly benefits low-paid workers either by cutting their taxes or, if they owe no tax, giving them a check from the Treasury. The credit is structured to encourage the poor to go to work without hitting their employers. My view is that the best anti-poverty strategy is probably to mix minimum wages with tax credits.

There are limits, however, to how much higher Congress can push the tax credit. The problem, of course, with increases in the earned income tax credit is that it costs the government billions of dollars that it does not have, and won't for many years. I do not, however, support efforts by Speaker Gingrich to reduce the earned income tax credit.

A MATTER OF FAIRNESS

Surely we want to help ensure that people who work hard can get ahead. Raising the income of America's lowest paid workers is part of meeting that challenge. If we value work, we ought to raise the value of the minimum wage. Most people believe that somebody who works a 40-hour week ought to make a wage they can live on. It is hard to believe that people can oppose that notion.

I have been particularly troubled by growing income inequality in this country, an the declining value of the minimum wage only contributes to that problem. For most of the past four decades the minimum wage averaged between 45% and 50% of the average hourly wage in the economy. After a small gain in 1990 and 1991, the minimum wage has now dropped to 38% of the average hourly wage.

My view is that the minimum wage should be increased as a simple matter of fairness to unskilled workers. These workers are not protected by unions. They cannot and do not lobby Congress. The minimum wage offers a margin of security to those who want a job rather than a handout. For a rich country like America, that's not too much to provide.

I have been frustrated in Congress in recent weeks when we were even denied an opportunity to vote on a raise in the minimum wage. It is unfair to refuse to allow a vote on the increase in the minimum wage, which is supported by 75% of the American people.

CONCLUSION

I don't for a moment think that an increase in the minimum wage is ultimately the cure for low working wages in this country, but until we find an answer to that broader question fundamental decency requires us to increase the income of the lowest-income working Americans.

I talked to a person earning minimum wage the other day. When pay day comes, she is several days late on the rent, the fuel tank on her automobile has to be filled, she is unable to buy enough food, her family is not healthy and needs medical help, and the utility companies are about ready to shut the power off. She is faced with miserable choices. But she said she was proud to be a working person, and only wished she could make a living for her family.

An increase in the minimum wage would help families get by. It would reward work, giving 12 million workers a direct increase, and it would be good for the American economy.

A PROCLAMATION REMEMBERING SHELLY McPECK KELLY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. NEY. Mr. Speaker, I commend the following article to my colleagues:

Whereas, Shelly McPeck Kelly, a United States Air Force Technical Sergeant that died in the plane crash along with Commerce Secretary Ron Brown, and

Whereas, Shelly McPeck Kelly, was a loyal and devoted wife, and loving mother of two; and,

Whereas, Shelly McPeck Kelly, served faithfully as an airplane stewardess in the United States Air Force achieving the rank of Technical Sergeant, and

Whereas, Shelly McPeck Kelly, should be commended for her service to the United States of America during the Bosnian Peacekeeping Operation; and,

Whereas, the residents of Eastern Ohio join me in honoring Shell McPeck Kelly for her brave and loyal citizenship to the United States.

TRIBUTE TO JOHN O. HEMPERLEY

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. PACKARD. Mr. Speaker, I rise today to pay tribute to John O. Hemperley, the budget officer of the Library of Congress, who passed away last Saturday. As former chairman and now as ranking member on the Legislative Branch Subcommittee of Appropriations, Congressman VIC FAZIO, worked with John for many years and joins me in honoring his memory.

Appropriations Committee members and staff rely heavily on the expertise, efficiency, and responsiveness of agency budget officers. John embodied the highest standards of dedicated public service. Both VIC and I counted on his unsurpassed knowledge and understanding of the Library's budget. John fervently supported the Library's mission and the budget funding that mission. However, he always presented the facts honestly and faithfully executed the budget enacted by the Congress.

For 196 years, the Congress of the United States supported and nurtured the Library's development. Today, it stands as a unique and treasured institution—the greatest repository of knowledge in the history of the world. The Library continues to explore new frontiers, expanding its mission to provide electronic services to all its constituent groups while maintaining its traditional services to the Congress and the Nation.

John O. Hemperley was a unique and treasured individual. For the past 23 years, he developed and cultivated the relationship between the Library of Congress and the Committee on Appropriations. He will be sorely missed, not only by those who knew and loved him here in the Congress and in the Library, but by all those who may never have known him but who benefit daily from the enormous resources the Library provides. The challenges the Library faces will be more daunting without him.

Mr. Speaker, as chairman of our Legislative Branch Appropriations Subcommittee, and for all other members of the Appropriations Committee, and our staff, I would like to express our great sorrow and extend our sincere condolences to John's wife, Bess Hemperley, their children, and grandchildren.

CHILDREN ARE OUR MOST PRECIOUS POSSESSION

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. OWENS. Mr. Speaker, our children are our most precious possessions. Both Republicans and Democrats theoretically and philosophically agree on this self-evident, but nevertheless profound truth. In practice and policymaking with respect to programs that benefit children; however, there is a deep chasm of disagreement between the two parties. Since it gained control of the House of Representatives the Republican majority has waged a cruel and unrelenting war on children.

While trumpeting its support for the "right-to-life" for unborn children, the Republican majority has made survival much more difficult for living children. Aid to Families with Dependent Children has been eliminated as a Federal entitlement in House legislation. Within the next few weeks it is expected that the White House will surrender and agree to remove this Federal protection for poor children that has existed since the New Deal. The entitlement for MedicAid which protects the health of our poorest children is also under attack with all of the State's Governors voting to eliminate it. The new Government-health care industrial complex has already begun to endanger the lives of newborn infants and their mothers by forcing them out of hospitals within 24 to 48 hours after birth.

Immigrant children will now be searched out in schools and denied school lunches if Republican legislation prevails. And, of course, immigrant children will be denied access to Medicaid. Cuts in funding for education threaten the provision of opportunity for all poor children. Republicans have proposed to cut even the very successful HeadStart Program. Teenagers who have benefited from the Summer Youth Employment Program for more than 20 years may be the victims of the zero funding passed by the Republican majority and find there are no jobs in this summer of 1996. Children in poor working families will continue to suffer despite the fact that their parents go to work every day but are still unable to adequately provide for their families on the present hourly minimum wage.

The "right-to-life" is just an empty slogan unless it is accompanied by programs and policies which provide an even playing field of opportunity for all children. On June 1 the Children's Defense Fund is sponsoring a great summit in Washington called "Stand For Children." This is a gathering which deserves the support of all Members of Congress. We should all join the "Stand For Children" on that specific day. And for all the days before and after June 1 Congress should refocus on the business of protecting our most precious resource—children outside of their mothers' wombs as well as children inside the wombs.

MESSAGE FROM THE NEWBORN TO THE FETUS

Man stay in there
The womb is where its at
Until tots slide out and breathe
The right-to-life is guaranteed
You never had it so good
Out here in America
They don't treat us
Like they promised they would
Right away at the hospital
They put us out
Cause my welfare Mom
Didn't have no clout
Stay where you are man
The womb is where its at
A smart fetus can live
Like a rich lady's cat
No food stamps for immigrants
But long picket lines protect
Our pre-birth rights
The womb they glorify
Outside they watch us die
The womb is where its at
Curled up in that nice nest
You always get the very best
But out here only fear
They'll take my entitlement
Man stay in there
Cash in on this fetus fetish
Be a hero embryo
Pro-life politicians
Offer nine months of love
But at birth's border
Immigrants from heaven
Receive a hellish shove
Until tots slide out and breathe
The right to life is guaranteed
Long protest lines protected
Our pre-birth rights
We crave the medals they gave
When we were hidden
Intimately way out of sight
The womb is where its at
Safely grow soft and fat
Immigrant school lunches are now gone
Budget cuts down to the bone
Newborns sound the trumpet
This land is littered
With ugly infant tombs
Babies must unite in battle
Make war to regain
Out wonderful respected wombs
The womb is where its at
Until tots slide out and breathe
The right-to-life is guaranteed
We appeal to the United Nations
We cry out to the Almighty Pope
The holy right of return
Is now our only hope
Man stay in there
The womb is where its at.

TRIBUTE TO MS. MARGARET SIMMS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. CLAY. Mr. Speaker, I rise to pay tribute to a magnificent lady, Ms. Margaret Simms, who retired from 23 years of service to the

National Democratic Club [NDC] at the end of March. She played an important role in the daily lives of Members of Congress, political party representatives, lobbyists, and friends of the NDC. She will be sorely missed.

Margaret labored faithfully on behalf of the NDC. She performed her job with grace and perfection. She greeted all patrons with respect and courtesy. My constituents, family, friends, and I were beneficiaries of her geniality on numerous occasions. She was cherished by all of us.

On April 2, Members of Congress and friends of the National Democratic Club gathered to pay tribute to Margaret and to thank her for making their lives in Washington more pleasant. I was among those Members who took time during the recent congressional recess to personally express my appreciation to Margaret. In addition, I presented her with a proclamation, designating Tuesday, April 2, 1996 as "Margaret Simms Day" in the First Congressional District of Missouri, in recognition of her dedication, excellence, and hospitality to citizens of the First District. It was an honor much deserved.

I wish Margaret Simms great health and wonderful fellowship in her retirement.

A TRIBUTE TO THE VARICK FAMILY LIFE CENTER

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Ms. DELAURO. Mr. Speaker, this Saturday, April 20, 1996 the Varick Family Life Center will celebrate its official opening. The Center is a multi-service resource and support center for children and families in the Dixwell Avenue neighborhood of New Haven. It is with great pleasure that I rise today to commend this wonderful organization.

The Varick Family Life Center adheres to the Old African proverb "It takes a whole village to raise a child." The proverb encapsulates one of the main goals of the Center which is to make already existing services more available to the residents of the neighborhood. Parents will be guided through the use of family services and have an advocate as they seek the resources they need. Effectively bringing parents into contact with community resources will go a long way toward making parents feel connected to the community and neighborhood.

The second goal of the Center is to provide families with the tools to become self-sufficient. I believe that this dual focus of family and community will be the cornerstone of the Center's success. By integrating the many human services and programs available in New Haven neighborhoods, the Center hopes to insure that all the needs of the family are attended to and that no family slips through the cracks. By truly coordinating family services, the Center will make vital community resources more available to the families that need them.

The Center will maintain its focus on families by appointing four neighborhood residents and training them to act as Family Resource Specialists. These specialists will focus on the social, health and financial concerns of needy families. I believe that this is the most crucial aspect of the Center. The Family Resource Specialists will work with parents to help them become more proactive rather than reactive in situations that affect their lives and families. Economic and financial concerns are addressed by the Center through job training and educational programs in the areas of budgeting and money management. By providing parents and families with these valuable tools we are enabling them to become more self-reliant and independent. We are giving them a chance to make a difference in their own lives and to feel that they have some control over their life's course. This is ultimately the most important and best solution to the problems and challenges faced by the residents of the neighborhood.

I commend the congregation and leadership of the Varick Memorial AME Zion Church for their amazing dedication to this worthwhile project. They have every reason to believe that their vision and hopes for the project will be realized. The Center is a wonderful community resource that should serve as a model for other cities and towns in Connecticut and in the Nation.

IN HONOR OF DR. HENRY PONDER

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. CLEMENT. Mr. Speaker, it is an honor and a privilege for me to pay tribute to one of Nashville's favorite citizens, Dr. Henry Ponder. Dr. Ponder is retiring from his position as President of Fisk University shortly, and he will be missed at that fine institution and in the Nashville community more than words can say.

I am certain, however, that we will not find Dr. Ponder resting on his laurels. In fact, he will be coming to Washington to head an organization whose mission is to further the cause of minority higher education. I look forward to having Henry and his lovely wife Eunice as neighbors in our Nation's Capitol. I am certain he will continue to make all of us very proud.

I have had the great pleasure over the years to interact professionally with Dr. Ponder on several occasions. Most recently, he came to Washington and we both testified in front of the House Subcommittee on National Parks, Forests and Lands in support of legislation I introduced that would provide much-needed monetary support for the restoration of historic buildings on the campuses of America's Historically Black Colleges and Universities. As a college president, Dr. Ponder has always attended to the needs of every aspect of university life. Not only was he responsible for eliminating a $4 million debt at Fisk, he also staged an extremely successful 5-year, 25 million capital campaign that revitalized and re-energized the school.

By the same token, Dr. Ponder realized the importance of obtaining funds to restore badly deteriorating buildings, such as Administration Hall, whose history and significance are an embodiment of all that Fisk stands for. The health of the complete university—from fundraising to student recruitment to building maintenance to school spirit—is Dr. Ponder's mission. By all accounts, he is leaving Fisk University in a state of wonderful health.

Dr. Ponder is a native of Oklahoma. He received his Bachelor of Science from Langston University, his Masters Degree from Oklahoma State University and his Ph.D. from Ohio State University. Prior to becoming president of Fisk, Henry Ponder served in various academic and administrative positions at universities throughout the Southeastern United States: president of Benedict College in Columbia, SC; vice president and dean of the College of Alabama A&M University; chairman of the department of agribusiness and assistant professor of that department at Virginia State College in Petersburg, VA.

Henry Ponder is also an economist of national and international renown. He has served as a consultant for and on special assignment to the Federal Reserve Bank of New York, Philadelphia National Bank, Chase Manhattan Bank, the Irving Trust Co. and Omaha National Bank. Dr. Ponder also serves on the Bishop Desmond Tutu Southern Africa Refugee Scholarship Fund committee. In 1986, he was chosen as one of the "One Hundred Most Effective College Presidents in the United States."

On behalf of all Nashvillians, Dr. Ponder, thank you for all you have done to improve the quality of life at Fisk and in the community. People with your dedication and energy are rare indeed, and those of us who have had the pleasure of working with you can only consider ourselves blessed for the lessons you have taught us and the example you have been. You have left an outstanding legacy of growth and achievement that will stand for decades to come. We wish you well in your new career. You will be missed.

SHERROD RAYBORN, LONGTIME LAWRENCE COUNTY CHANCERY CLERK, IS HONORED

HON. MIKE PARKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. PARKER. Mr. Speaker, today I stand in the Halls of Congress to ask you to join me in paying tribute to the late Sherrod Rayborn, who died March 24, 1996, at the Mississippi Baptist Medical Center following heart surgery.

Sherrod Rayborn was elected to his first term as Lawrence County chancery clerk in 1972, and he served in that position for 24 years. At the time of his death at age 60, he had recently begun serving his seventh term. A native of Walthall County, he attended school in Lawrence County and spent his adult life in Monticello. Mr. Rayborn was a member of Bethel Baptist Church, where he served as a deacon. He also was minister of music at the church for the last 26½ years.

In addition to his career in politics, he also was known for his musical talents, his sense of humor, and his positive outlook. Several friends describe Sherrod Rayborn and his service to the county and the church as "irreplaceable." But I was particularly moved by what his friend Carey Hedgepath told a local reporter: "He was a man of character. You could take for granted the accuracy of anything he told you."

These words are a fitting tribute to Sherrod Rayborn. Indeed, he is irreplaceable and truly an unforgettable friend to those who knew him. He will be greatly missed by his friends and family. He is survived by his wife, Madeleine; two sons, Mitch and Kevin; a daughter, Mali Rayborn Powell; a brother, W.T.; two sisters, Willene Alexander and Alyne Sumrall; and a grandson, Jerrod.

Mr. Speaker and my colleagues in the U.S. House of Representatives, I ask you again to join me in honoring a man of character, Sherrod Rayborn, his willing sacrifice of his time and energy for the public good, and his representation of all that is good, true, and steadfast in our society.

CAMP TALL TURF MAKING A DIFFERENCE

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. EHLERS. Mr. Speaker, it is with great pleasure that I take this time to tell you about an extremely important and effective program for inner-city children and families in my district. Every summer since 1968, hundreds of children, ages 8–16, have been given the opportunity to get away from it all by attending Camp Tall Turf. The camp is appropriately named for its location among very large trees in Walkerville, MI. At Camp Tall Turf campers learn that God is present and that there can be no taller turf than that. The camp was established in response to racial strife that was prevalent during the sixties in cities across the Nation. Since that first summer over 15,000 young people have benefited from the positive Christian activities and messages presented by the caring, committed, and dedicated staff of Camp Tall Turf.

When the founders of this camp first came together, little did they know that their ideas and visions would reach this level almost 30 years later. The camp, located on Lake Campbell, provides an environment conducive to growing both mentally and spiritually. Through daily chapel, cabin devotions, drama, and singing, each camper gains a new outlook on his or her life and is able to store away these lessons for the future. These valuable lessons have helped prepare hundreds of children, who might not have received the opportunity otherwise, for roles of service and leadership in their young adult and adult lives.

It is important to point out that Camp Tall Turf is not just a one day, week, or month gathering. Staff members work year round to continue relationships that have been established at the summer camp. These relationships are so very important for the young people who need Christian role models and friends. In addition to encouraging meaningful and positive social relationships, the interaction between the staff and the child helps promote cooperation, companionship, and respect. Camp Tall Turf also helps to provide opportunities and experiences that strengthen self confidence and build character in youths who are involved with the camp.

Mr. Speaker, far too often we read or hear negative stories involving children. Camp Tall Turf and its staff should be praised for their continuous effort to change the negatives that we read and hear about, and make them positive. Their work to enhance the quality of life and relationships of others should not go unnoticed and should serve as an example for others to follow. It is a great pleasure and honor for me to commend the founders, board and staff of Camp Tall Turf for their outstanding work.

HOLOCAUST REMEMBRANCE DAY

HON. J.C. WATTS, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. WATTS of Oklahoma. Mr. Speaker, today is Holocaust Remembrance Day. It is a time to pause and pray for the day when mankind will value understanding over hate, respect over contempt, and life over death. Today we must take time to remember this event. We cannot let the day slip by without a solem moment for remembrance.

I cannot know their names nor see their faces, but in my heart, in my mind, and in my prayers, I pause today to remember the millions of men, women, and children whose lives were taken in one of history's most heinous events—the Holocaust.

I ask my colleagues and the people of the world to do the same. Please pause for a moment today and recall the needless loss of mankind that was the Holocaust. While it must never be repeated, we must never forget its occurrence. Let the people of the world take time to recognize what happened and to recall those who perished. We owe them the time to remember.

IN MEMORY OF RUBY WORTHEN

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to a longtime civic and political leader from east Texas—Ruby Irene Worthen of Terrell—who died recently at the age of 95. Mrs. Worthen was an outstanding citizen who devoted a lifetime to helping those in her community, and she will be missed by all those who knew her.

Born on January 22, 1901, Mrs. Worthen served her community as a teacher, home demonstration agent for the Texas A&M Extension Service, real estate agent, and as a moving force in community activities in Terrell—especially in the development of services for senior citizens. On her 95th birthday this year, the Kaufman County Commissioners' Court recognized her life of dedication to others by proclaiming the day as Ruby M. Worthen Day in Kaufman County. The proclamation noted her many accomplishments and contributions to the community and stated that "she is perhaps most widely known and highly acclaimed as a loving and selfless caregiver to anyone in need, having provided meals and a place to live for many through the years."

Mrs. Worthen was active in the Democratic Party. She taught the senior adult ladies Sunday school class at the First Baptist Church for several years. She also was active in the AARP.

Mrs. Worthen was preceded in death by her husband, Don; a sister, Idella Coffman; and a brother, T.O. Mashburn. She is survived by a brother, Eugene Mashburn of Dallas, a sister, Thelma Mashburn of Terrell, and other relatives and friends. She was well-loved and well-respected in Terrell, and she will be missed by all those who knew her. Mr. Speaker, I am honored today to pay a final tribute to this outstanding community leader, Ruby Irene Worthen of Terrell, TX.

IN REMEMBRANCE OF APHIS EMPLOYEES

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. DE LA GARZA. Mr. Speaker, 1 year ago, on April 19, 1995, 168 people were murdered in the bombing of the Alfred P. Murrah Federal Building in Oklahoma City. The explosion killed scores of innocent children and adults, injured hundreds, and devastated thousands of lives. We remember and honor them all.

I took part in a ceremony in South Texas in which the Kika de la Garza Elementary School in the La Joya school district planted a tree in memory of the children who died in the Oklahoma bombing to link themselves to the loss. I was particularly moved by this ceremony because although they did not know any of the children personally, they had a common bond in that they were children also.

I, too, have a common bond with some of the victims. In this case the bond is the agricultural community.

Among the victims were seven employees of the Department of Agriculture's Animal and Plant Health Inspection Service—dedicated workers who left a legacy of service and believed that protecting American agriculture was a goal worth achieving.

These were people who were loved by their families and friends and respected by their colleagues. Today, we especially remember and honor these APHIS employees.

We honor as well the survivors and the many people who gave of themselves to aid in rescue efforts and reach out with helping hands and loving hearts. In their hope, we found hope: in their strength, we found strength; in their actions, we found the power to act. In adversity, America came together.

Robert Green Ingersoll said "in the night of death hope sees a star and listening love can hear the rustle of a wing." We remember those who lost their lives in Oklahoma. We embrace those who were left behind, and we hope our caring helps soothe their grief.

Together, we all listen for the rustle of a wing that whispers of hope.

PROBLEMS WITH TRUTH IN BUDGETING

HON. BILL ORTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. ORTON. Mr. Speaker, yesterday, the House considered and passed H.R. 842, the so-called Truth in Budgeting Act. During my statements in opposition to this unwise bill, I made reference to a letter sent last year by the Council for Citizens Against Government Waste, in opposition to this bill.

I would now like to enter this letter into the RECORD. I believe it makes a compelling case against enacting this bill into law.

COUNCIL FOR CITIZENS AGAINST GOVERNMENT WASTE,
Washington, DC, March 16, 1995.

DEAR REPRESENTATIVE: We were intrigued when we learned of proposals to move the various transportation trust funds off-budget and out of the hands of the usual budgeting and appropriations process. Despite proponents' arguments for "truth in budgeting," we discovered that advocates of off-budget transportation trust funds seek not to increase fiscal accountability but to increase the ease of pork-barrel spending.

While the Committee on Transportation and Infrastructure does not have a corner on congressional pork-barrel spending, the committee's record is seriously tarnished. The 1991 Intermodal Surface Transportation Efficiency Act (ISTEA), replete with such dubious pork as studying the use of zebra mussels as an infrastructure building material or building bicycle paths with highway funds, is as much evidence as we need to conclude that the off-budget trust funds proposal lacks credibility.

There is also alarming and vicious counterattack from pork-barrelers to Rep. Bill Orton's suggestion that line-item veto authority extend to "contract authority" for which transportation authorizations are famous. Since the Council for Citizens Against Government Waste (CCAGW) testified at joint line-item veto hearings in favor of presidential authority over contract authority as proposed by Rep. Orton, you can understand that we are suspicious that the off-budget transportation trust funds gambit is yet another end-run for the pork-barrel goal line.

The past pattern of pork-barrel abuse in funding highway, airport and waterway projects compels us to recommend in the strongest possible manner that you defeat any attempt to move the transportation trust funds off-budget. Indeed, a message needs to be sent to the entire Transportation and Infrastructure Committee—majority and minority—that we had an election last November. The old days are gone.

A final note: Not gone, apparently, are threats to cancel projects in the districts of legislative opponents, an all-too-frequent bullying tactic of the folks who used to run Congress that showed up again in the debate on the Orton amendment to the line-item veto bill. CCAGW deplores such threats and, knowing that the public would not take kindly to such intimidation and threats, hopes Members will make them known when they occur.

Sincerely,
TOM SCHATZ,
President.
JOE WINKELMANN,
Chief Lobbyist.

THE FUTURE IS OURS TO CREATE

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. McDERMOTT. Mr. Speaker, I am pleased to welcome the Wound, Ostomy and Continence Nurses Society [WOCN] to my congressional district, Seattle, WA, on June 15–19, for their 28th annual conference. The theme of the conference, "The Future is Ours to Create," will focus on future opportunities and challenges relating to the changing and expanding role of enterostomal therapist [ET] nurses and other nurses specializing in wound, ostomy, and continence care.

Founded in 1968, the WOCN is the only national organization for nurses who specialize in the prevention of pressure ulcers and the management and rehabilitation of persons with ostomies, wounds, and incontinence. WOCN, an organization of ET nurses, is a professional nursing society which supports its members by promoting educational, clinical, and research opportunities, to advance the practice and guide the delivery of expert health care to individuals with wounds, ostomies, and incontinence.

In this age of changing health care services and skyrocketing costs, the WOCN nurse plays an integral role in providing cost-effective care for their patients. This year's Seattle conference will provide a unique opportunity for WOCN participants to learn about the most current issues and trends related to their practice. I am honored that WOCN has chosen Seattle to host its conference and wish them every success.

AMERICA DESERVES A RAISE

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. PACKARD. Mr. Speaker, while the President offers a politically appealing, yet ineffective plan to give Americans a raise, my Republican colleagues and I have a very sound plan to give millions of working American families more money in their paychecks and greater power to decide how and where the Federal Government spends their hard earned pay.

Under the President Clinton's plan to raise the minimum wage, countless employers will have to rob Peter to pay Paul. Millions of working men and women will lose job opportunities, employment security, and pay raises. The Republican plan gives Americans the raise they deserve. It provides tax relief for families with children. Over 6 million new and more secure high-wage jobs will result from a balanced budget and less Washington redtape.

Mr. Speaker, the President's plan to raise the minimum wage is a bad policy. It is simply a political ploy designed to divide America along class, ethnic, and gender lines. Even some of the President's own advisers, agree that his proposal hurts the people most in need: low-skilled workers, women and inter-city residents. It does not help working families.

American families deserve more. They deserve to keep more of their hard earned money, they deserve lower interest rates and they deserve better, higher wage jobs. My Republican colleagues and I provide working families a true raise—the President's policies do not.

THANK YOU, VIRGINIA CARTER

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. BARCIA. Mr. Speaker, dedicated individuals who are willing to put the interests of those in their community ahead of their own comforts are people we should admire. The people of Sanilac County within my congressional district have been blessed with such an individual, Mrs. Virginia Carter, who is retiring after 20 years as a member of the Sanilac County Mental Health Board's Recipient Rights Advisory Committee.

People who have benefited from the excellent care provided by Sanilac County Mental Health Services have most assuredly benefitted from programs either pioneered by Virginia Carter—supported employment, for example—or thriving because of her devotion to maintaining these important programs.

Not only has Virginia Carter served for 20 years on the recipient rights committee, she has been elected chairperson for 18 of those years, a real testimony to the fact that she is held in high esteem by her colleagues on the committee.

Mental health care can be a particularly trying field. Most people have a more difficult time dealing with the identification and treatment of mental health problems. Signs are not as easily identified as is a cold, nor is treatment as easy as a prescription for several days. Those who deal with the needs for mental health services must be patient, understanding, and resilient. They also need to have the support of understanding people like Virginia Carter who knows the meaning of pursuing quality care.

It has been my privilege and pleasure to know many fine, dedicated people who live in Sanilac County. It is a particular pleasure to join with so many of them who will be honoring her at a special retirement event this Friday evening.

Mr. Speaker, I urge you and all of our colleagues to join me in wishing her the very best.

TRIBUTE TO DR. ROBERT E. HENDERSON

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. SPENCE. Mr. Speaker, I rise today to recognize Dr. Robert E. Henderson, as he retires as President and Director, Chief Executive Officer of the South Carolina Research

Authority [SCRA]. The SCRA was established in 1983 as a nonprofit scientific and engineering corporation to address national and international manufacturing issues through the development of new technologies. For the past 12½ years, Dr. Henderson has shaped the SCRA into the dynamic organization that it is today, and South Carolinians are most appreciative of the contributions that he has made to our State and to the Nation.

Under the leadership of Dr. Henderson, nearly one-half billion dollars have been invested, sold, and/or contracted through SCRA research parks and technology management programs. In addition to leading South Carolina to the cutting-edge of technology, the SCRA has become a recognized leader nationally, through SCRA projects, technology, and corporate teams representing activity in almost every State in the Union.

Dr. Henderson has always responded to the call of his country and his community. During World War II, he served as a staff sergeant in the infantry of the U.S. Army, and was awarded the Purple Heart medal. He then received the bachelor of arts degree in physics from Carlton College, as well as the masters of arts degree in physics and the doctor of philosophy degree in physics from the University of Missouri.

Dr. Henderson has distinguished himself in the fields of physics and engineering, and he has published numerous scholarly articles. He has been appointed to the Defense Science Board and the Defense Manufacturing Board, in addition to having served as president of the Indianapolis Scientific and Engineering Foundation, director of the International Solar Energy Society, and a member of the Board of Visitors of Clemson University. He recently received South Carolina's highest recognition, The Order of the Palmetto.

Dr. Henderson has made great contributions to South Carolina and to our country through an outstanding career that has been diverse and exemplary. He is wished much continued success as he moves on to face new challenges and rewards.

TALENTED HIGH SCHOOL STUDENTS REPRESENTING OREGON

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Ms. FURSE. Mr. Speaker, on April 27–April 29, 1996, more than 13,000 students from 50 States and the District of Columbia will be in Washington, DC, to compete in the national finals of the "We the People . . . The Citizen and the Constitution" Program. I am proud to announce that the class from Lincoln High School from Portland will represent Oregon and the First Congressional District. These young scholars have worked diligently to reach the national finals by winning local competitions in their home State.

The distinguished members of the team representing Oregon are: Students: Vasiliki Despina Ariston, Jereme Rain Axelrod, Rebekah Rose Cook, Tawan Wyndelle Davis, David Eyre Easterday, Amanda Hope Emmerson, Tiffany Ann Grosvenor, William John Hawkins IV, Soren Anders Heitmann, Stacy Elizabeth Humes-Schulz, Martissa Tamar Isaak, Heather Brooke Johnson, Katherine Mace Kasameyer, Christopher Michael Knutson, Jeanne Marie Layman, Daniel Hart Lerner, Casey James McMahon, Lindsay Katrina Nesbit, Gerald William Palmrose, Mary Ruth Pursifull, Catherine Clare Rockwood, Daniel Boss Rubin, Elizabeth Leslie Rutzick, Mark Richard Samco, Kathryn Denelle Stevens, Simon Brendan Thomas, Miles Mark Von Bergen, Lauren Elizabeth Wiener, and Farleith Aiken Wolfe.

I would also like to recognize their teacher, Mr. Hal Hart, who deserves much of the credit for the success of the team. The district coordinator, Mr. Daniel James, and the State coordinator, Ms. Marilyn Cover, also contributed a significant amount of time and effort to help the team reach the national finals.

The "We the People . . . The Citizen and the Constitution" Program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day national competition simulates a congressional hearing in which students' oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Administered by the Center for Civic Education, the "We the People" Program, now in its ninth academic year, has reached more than 70,400 teachers, and 22,600,000 students nationwide at the upper elementary, middle and high school levels. Members of Congress and their staff enhance the program by disucssing current constitutional issues with students and teachers.

The "We the People" Program provides an excellent opportunity for students to fain an informed perspective on the significance of the U.S. Constitution and its place in our history and our lives. I wish these students the best of luck in the national finals and look forward to their continued success in the years ahead.

THE WATER QUALITY PUBLIC RIGHT-TO-KNOW ACT OF 1996

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. WAXMAN. Mr. Speaker, today I am introducing the Water Quality Public Right-To-Know Act of 1996. This bill will guarantee the public's right to know about the contaminants that they are exposed to in their drinking water.

Under current law the public has no information about the presence of serious contaminants in their drinking water. Every year millions of Americans unknowingly drink tap water contaminated with cryptosporidium, carcinogens, and arsenic. If we can't prevent this contamination, we should at least give our constituents the ability to protect themselves.

The Water Quality Public Right-To-Know Act of 1996 will require water systems to annually report to their customers a plainly worded explanation of the health implications of contaminants present in their drinking water. It also allows States the flexibility to shape this program.

During the last 2 years many of my Republican colleagues have argued for a devolution revolution. They have urged that we move power from the Federal Government to the State and local level. My legislation goes one step further. It requires that information be given directly to our constituents, which will allow them to make individual choices about the level of exposure to dangerous contaminants.

A TRIBUTE TO CHARLOTTE J. VISCIO

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. MCNULTY. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conduct the Voice of Democracy broadcast scriptwriting contest. This year more than 116,000 secondary school students participated, competing for 54 national scholarships.

I am pleased to announce that my constituent, Ms. Charlotte J. Viscio, a senior at Guilderland Central High School in Guilderland, NY, has been named a national winner and recipient of the Larry W. Rivers Scholarship Award.

This year's theme was "Answering America's Call." I found great inspiration in Charlotte's words and wanted to share them here with my colleagues. They are as follows:

> It doesn't sound like a trumpet or an angel's harp. Nor does it echo like a cannon or fire crackers on the Fourth of July. It's not about war or winning. Nor is it about uniforms or medals. It's not just for leaders or peacemakers, soldiers or sons. Nor is it only for women. Whether ten or eight times ten, age makes no difference. The call of America is simply what United States citizens, proud and loving of their country, answer to when their services are needed.
>
> In some, the call is not loud, while in others, it's the only thing that they hear. For the President of the United States, this call is his job description. If he fails to answer, he's failed as America's leader and role model. Some Americans hear the call loud and clear and enlist in the military. Often, they are sent to foreign countries to strive for an American goal, realizing that they might lose their lives for America. And what, exactly, in America is worth fighting for? What is in our country's history that is worth preserving? It is the strongest nation in the world. It is a symbol of hope for countries striving for democracy. It is a place on the earth where all nationalities, religions, sexes, races and colors are unified by equality. America screams of hope and strength and leadership. And this is within every American.
>
> To be an American is a choice. Just because a person lives in the United States does not mean that he or she is a true American. A true American recognizes the call and is willing to answer it. It is not hard to answer. Some answer by volunteering their services to fire companies, food drives and

charities. Others collect litter from the sides of roads, improving the appearance of American land. Many people answer the call by casting their votes on election day for the candidates they feel will make strong American leaders. All these activities are examples of how people answer America's call, giving of themselves for the betterment of their country.

What called these Americans to their duty? Was it a television or radio advertisement? Were they inspired by a hero or a role model? Or, was it simply the voice inside them, the voice of their conscience leading them to serve their country? Within every true American's heart, the call exists.

Answering this call is the duty of an American. The United States is a proud country, but it isn't self-centered. It has concern for other nations around the world and strives to help these nations. This is a reflection of its people. Since they are willing to give their services to their country they make life better not only for themselves but for their fellow Americans and others around the world.

America is the voice of democracy. It is not the voice of one person but of all Americans, an accumulation of answers they have given to their calls. Nothing sounds louder than America's response. Nothing is more powerful. This is the foundation of the United States of America. A person simply needs to listen closely for the call within and then respond with the conviction that shows and professes, "I'm proud to be an American."

CONGRATULATIONS HERITAGE CHRISTIAN HIGH SCHOOL STUDENTS—"WE THE PEOPLE" CHAMPIONS

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. KLECZKA. Mr. Speaker, I rise today to congratulate a group of students from Heritage Christian High School in West Allis, WI, and their teacher, Mr. Tim Moore, on being judged this year's State of Wisconsin "We the People" champions.

The "We the People" program, funded by the U.S. Department of Education by an act of Congress, promotes the study of our Nation's Constitution. Mr. Moore's students have displayed an exceptional foundation of knowledge of its history, as well as the constitutional issues of today.

The Heritage Christian High School group has been given the honor of representing the State of Wisconsin in the national "We the People" competition to be held here in Washington, DC. I am very proud that these students come from Wisconsin's Fourth Congressional District and commend their hard work and dedication.

Once again, I congratulate Mr. Moore and his students and wish them the very best of luck in the upcoming competition.

RONALD J. DEL MAURO HONORED FOR OUTSTANDING LEADERSHIP BY MENTAL HEALTH ASSOCIATION

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor Mr. Ronald J. Del Mauro, president and CEO of St. Barnabas Health Care System. On April 20, 1996, Mr. Del Mauro will be honored by the Mental Health Association of Essex County for his outstanding leadership and philanthropy in serving as head of the St. Barnabas Behavioral Health Care System. His worked has helped thousands of residents who are often the most vulnerable members of our population—the mentally ill.

Mr. Del Mauro created the St. Barnabas Behavioral Health Network because, unfortunately, for many parents and their children, a number of health services are often separated for those with psychiatric problem and those with substance abuse problems. Mr. Del Mauro, recognizing this, created the St. Barnabas Behavioral Health Network to provide parents and their children with a place to turn get appropriate diagnosis and treatment.

Mr. Del Mauro is also responsible for the St. Barnabas Health Care System which includes, in addition to St. Barnabas Medical Center, the 201-bed Union Hospital, four nursing homes with 660 beds, 10 corporate affiliates and 20 for-profit business ventures. The St. Barnabas Health Care System operates in 13 facilities throughout New Jersey and the Behavioral Health Network has 17 locations in the tristate area. More than 7,000 employees, including 1,800 physicians, treat a total of 59,000 inpatients, and provide treatment and services for more than 300,000 outpatient visits annually.

I recently had the opportunity to visit St. Barnabas and tour their facility in Livingston, NJ. The health care delivery system Mr. Del Mauro has developed is an outstanding one and I would strongly recommend any of my colleagues look to at St. Barnabas as a national model.

Mr. Del Mauro is also an active and effective leader in other areas. He serves as chairman of the New Jersey Hospital Association, as well as being a member of the Center for Health Affairs, Inc., Life Sciences Advisory Committee of the CIT Group, Inc., Seton Hall University Center for Public Services Advisory Council, board of trustees of the Paper Mill Playhouse and the Essex/Hudson/Union Hospital Council.

He is a graduate of Seton Hall University, where he served as a adjunct professor at the Graduate School of Public Administration from 1983 to 1985.

Mr. Speaker, today I honor Mr. Del Mauro for his leadership in helping to make our communities a healthier place to live and for his ongoing commitment to the mentally ill in New Jersey.

MORE INDIAN OPPRESSION

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. BURTON of Indiana. Mr. Speaker, on Thursday, April 18, the Indian police detained six Kashmiri leaders when they tried to peacefully walk to India's military headquarters in the Kashmiri capital of Srinigar to protest India's human rights violations.

The six, who are well known on Capitol Hill for their tireless efforts to win the right of self-determination for Kashmiris and are all executive members of the All Parties Hurriyat—Freedom—Conference, were stopped by police as they approached the United Nations Military Observer Group's office. Syed Ali Shah Geelani, Abdul Gani Lone, Shabir Shah, Abdul Gani Bhat, Moulana Abass Ansari, and Yasin Malik were only allowed to walk 2 kilometers—1 mile—through the deserted streets on Srinigar before being detained by police.

Mr. Speaker, as you may know, the Government of India has banned public gatherings in Kashmir to prevent protests against India for its terrible human rights violations against the people of Kashmir. In response to this continual brutality, the Hurriyat had called a strike in the Kashmir Valley and asked Kashmiris to remain indoors. Why did these leaders risk their lives to challenge India? According to Abdul Gani Bhat—one of the detainees, we walked to offer our lives to the Indian army for peace and stability in the whole sub-continent.

Most of these leaders have already narrowly escaped attempts on their lives by renegade militant groups which have been armed and supported by India's intelligence agencies. So perhaps for them—risking their lives one more time is business as usual. Nevertheless, their bravery to secure peace and happiness for the people of Kashmir should not be ignored here in the U.S. Congress.

Mr. Speaker, while I wish I could say that this most recent incident is isolated—it is not. For the last decade, the Government of Indian has used every measure at its disposal to suppress the peace-loving people of Kashmir who desire nothing more than the internationally-recognized right of self-determination. As Thursday's events demonstrate, the leadership of India only respects the right of free speech when the words are spoken by the majority Hindu population. The time has come for the U.S. Government to forcefully condemn this tyrannic behavior and demand the immediate release of these six Kashmiri leaders.

If India ever hopes to be treated as the world class power it believes it is—it must respect human rights.

IN HONOR OF THE HOMETOWN TREES PROGRAM

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize the Hometown Trees Program for its dedicated service toward improving and preserving hometown landscapes. The program which began 4 years ago will plant its 4 millionth tree on Earth Day, April 22, 1996. I would also like to take this opportunity to honor Kristin Hyman, the 9-year-old grand-prize winner in a nationwide contest on the importance of trees.

The Hometown Trees Program has prospered since its inception 4 years ago. Every spring, the program teams up with thousands of local volunteers who plant trees in their communities to ensure that future generations will enjoy their natural beauty. To date, through the Hometown Trees Program, more than 3 million trees have been rooted in over 1,500 cities in 43 States.

The program's pledge to enhance, protect and generate awareness about the environment is of great importance. The planting of one tree today will serve the community for hundreds of years to come. This program also develops amongst our children an appreciation for nature that will serve our Nation for generations that follow.

In February, a nationwide essay contest was held to increase children's environmental awareness and appreciation. I am pleased to announce to my colleagues that the winner of the nationwide event was 9-year-old Kristin Hyman of Bayonne, NJ. Her poem, "Tree Reasons," was selected from the hundreds of entries received in her age group for its creativity and uniqueness. I am proud to say that she will be honored in a special ceremony in her hometown on Earth Day.

I ask that my colleagues join me in honoring the achievements of the Home Trees Program and its continuing commitment to the environment. I would also like to pay tribute to Kristin Hyman, a special young lady who has demonstrated to her community that no one is ever too young to care for and appreciate the environment. I am proud to have such a talented young woman living within my district.

RAISE THE MINIMUM WAGE

HON. CARLOS A. ROMERO-BARCELÓ

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thusday, April 18, 1996

Mr. ROMERO-BARCELÓ. Mr. Speaker, I rise in strong support of the Democratic efforts to raise the Federal minimum wage.

The proposal for a moderate 90-cent increase in 2 years is needed because workers at the minimum wage level have actually seen their real incomes decrease in the last decades. In 1979, the minimum wage was the equivalent of about $6 per hour in 1996 dollars.

Real wages and the purchasing power of millions of families have become stagnant. We must support the incentives that reward hard work, such as a minimum wage.

When I was Governor of Puerto Rico, I took the bold step of asking the Federal Government to extend minimum wage laws to Puerto Rico, where at the time they did not apply. Special interests and many corporations lobbied hard against it, predicting economic havoc and job displacement.

Such bleak scenarios did not materialize. In fact, the minimum wage has been a blessing for the 3.7 million American citizens of Puerto Rico. It raised the standard of living of thousands of working class families, took tens of thousands of working families out of welfare and brought them added dignity.

Both sides of the aisle should seek to promote and assure a decent standard of living for all Americans. Raising the minimum wage is a wise move, based on solid economic policy and common sense.

I urge our colleagues to support raising the minimum wage to $5.15 an hour over the next 2 years. Millions of hard working Americans who deserve better economic opportunities will appreciate our leadership.

SALUTE TO DON NICOLAI, CHEVRON USA AND OLYMPIC HIGH SCHOOL

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. MILLER of California. Mr. Speaker, today I rise to salute the contributions of Chevron USA and particularly their dedicated employee Don Nicolai, manager of business products and services, to Olympic High School in Concord, CA.

Mr. Nicolai first became involved with Olympic High School when he served as "principal for a day" in 1994 through a local schools and business partnership initiative. That service for a day turned into much, much more, prompting the Olympic staff and students to vote to rename their guest principal "hero of the year." The expanse of Mr. Nicolai's contributions includes a donated van for transporting students, numerous pieces of equipment and furniture, work experience and summer employment opportunities for Olympic students and sponsorship of ongoing employability skills training seminars. Additionally, Mr. Nicolai has made it possible for several other Chevron employees to be present in the classrooms, working directly with students to share their professional expertise and personal talents.

Don Nicolai and Chevron USA have formed a substantive, long-term partnership with Olympic High School that goes far beyond the rhetoric of school-business partnerships or school-to-work transition. They see the value in a well-prepared work force and recognize that changing the social and economic conditions that plague our communities today must be addressed by individuals and businesses which can lend a helping hand.

I am pleased to rise today to recognize Mr. Don Nicolai, and I am confident that my colleagues join me in this tribute.

IN TRIBUTE TO DAVID LEON FORD

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. DINGELL. Mr. Speaker, 33 Americans were taken from us far too early in the plane that crashed April 3 near Dubrovnik. This morning, we paid tribute to our good friend, Secretary Ron Brown. At this time, I want to commemorate one of those brave souls traveling with the Secretary, Mr. David L. Ford.

David Ford was one of 12 American business executives accompanying Secretary Brown on a mission with the most noble goal of helping the people of Bosnia and Croatia to rebuild their war-ravaged countries. An executive with Guardian Industries, headquartered in Michigan, David was to donate 23 metric tons of flat glass to Sarajevo, enough to produce about 8,000 windows for use in rebuilding the Bosnia capital. After the trade mission ended in tragedy, the glass was delivered to Sarajevo as planned and donated to the people by the U.S. Embassy.

David Ford's career at Guardian began in 1971, and he spent time at its facilities around the country, including several years at the Guardian plant in Carleton, MI, in my congressional district. He helped lead his company's expansion into the European market, and at the time he was taken from us he headed Guardian's European operations.

We will remember David Ford as a successful businessman, but more importantly, his wife and two children will remember him as a loving husband and devoted father. He was a deeply religious man, who before his passing was able to provide some desperately needed relief to the people of Sarajevo. There, his final effort will be honored by a plaque.

I know that my colleagues join me in sending our thoughts and prayers to his family.

TRIBUTE TO RAKI NELSON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. TOWNS. Mr. Speaker, I am pleased to acknowledge Raki Nelson, a young man who is destined to achieve greatness. Raki is the 1996 Watkins Award Winner, and has been honored as the premier African-American student-athlete in the country.

Raki has committed to attend Notre Dame University as a wide receiver on a full football scholarship. He has achieved recognition for not only his dazzling display on the football field, but his contributions to his community. As the recipient of the Watkins Award, he is being honored for exemplifying leadership. Franklin Watkins was one of the founding fathers of the National Alliance of African-American Athletes. The alliance lists a host of professional athletes who support the organization's endeavors, including Reggie White, Green Bay Packers; Charlie Ward, New York Knicks; and Royce Clayton of the St. Louis Cardinals.

Raki's sterling career as a wide receiver ended with 185 catches for 34 touchdowns which generated 3,132 total yards. However, the hallmark of his efforts was his community action poster. He and a fellow team member distributed and autographed posters for grade school and midget football programs throughout his home State of Pennsylvania. I am pleased to recognize one of college football's future stars, and a shining light in his own community.

UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA 100TH ANNIVERSARY DINNER-DANCE

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. PALLONE. Mr. Speaker, on Saturday, April 20, 1996, at the Hyatt Regency in New Brunswick, NY, the United Brotherhood of Carpenters and Joiners of America, Local No. 65, of Perth Amboy, NJ, will hold its 100th anniversary dinner-dance.

It is a great honor for me to join the members of Local No. 65 for this momentous occasion. The Carpenters and Joiners have consistently been a strong supporter and a tireless fighter, not only for the needs of their own members, but for the American worker in general. In a time when labor unions are being attacked and the gains that organized labor has made over the past century are under constant threat, I have stood up to defend the livable wages and good working conditions that have contributed to the creation of the great American middle class.

Mr. Speaker, this 100th anniversary is a great occasion for us all to remember the important contributions that labor unions have made and continue to make to improve the quality of life at home and abroad.

A SALUTE TO CHARLES ALFRED ANDERSON, TRAINER OF TUSKEGEE AIRMEN

HON. GLEN BROWDER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. BROWDER. Mr. Speaker, Members of the House will be saddened to know that Charles Alfred Anderson, who trained the Army's first black fliers in Alabama and formed the famed Tuskegee Airmen during World War II, has died. He was 89.

Mr. Anderson was a self-taught pilot who served as the chief instructor of Tuskegee University's pilot training program from 1938 through 1945. To thousands of fliers, he was known affectionately as "Chief."

Members may recall "The Tuskegee Airmen," an HBO movie last year, which told the story of the 332d Fighter Group and its exploits over North Africa, Sicily, and Europe. Those African-American flyers destroyed 260 enemy planes, damaged an additional 148, and sank a Nazi destroyer. No U.S. bomber under the protection of the Tuskegee airmen was ever shot down.

The roster of fliers who trained under "Chief" Anderson includes Gen. Daniel "Chappie" James, the Nation's first four-star black general; Coleman Young, who became mayor of Detroit; and William Coleman, Transportation Secretary under President Gerald Ford.

Mr. Anderson was an aviation pioneer, a teacher, and a great American. I wish to extend my condolences and deep sympathy to his two sons, Alfred Forsythe Anderson of Seattle and Charles A. Anderson, Jr. of Tuskegee, and to his three grandchildren and one great-grandchild.

The Opelika-Auburn News published a wonderful account of Mr. Anderson's career and his exploits in the early days of flying. This salute to the father of black aviation was written by men who knew "Chief" well. I am attaching the article for publication in the CONGRESSIONAL RECORD.

An equally impressive article was published in the Tuskegee News and that is included for publication also.

[From the Opelika-Auburn News, Apr. 17, 1996]

FAMED TUSKEGEE AIRMAN DIES

(By Vascar Harris and Roosevelt J. Lewis, Jr.)

TUSKEGEE.—Charles Alfred "Chief" Anderson, a self-taught pilot who trained the military's first black flyers and formed the famed Tuskegee Airmen, died Saturday at age 89 after a lengthy battle with cancer.

Anderson was born to Janie and Iverson Anderson of Bryn Mawr, Pa., and was a 56-year resident of Tuskegee Institute.

"Chief" was an inductee of the Alabama Aviation Hall of Fame (1991), The International Order of the Gathering of Eagles (1990), winner of the famous Brewer Trophy (1985), and held other aviation awards. An honorary doctorate of science was conferred by Tuskegee University in 1988.

His first love was teaching new students to fly, and he amassed more than 52,000 flying hours in his lifetime.

He is best remembered as the chief flight instructor and mentor of the famed "Tuskegee Airmen" of World War II. His 40-minute flight with First Lady Eleanor Roosevelt during her Tuskegee visit in 1941, was the catalyst that led to the training of the first African-American military pilots, the "Tuskegee Experiment."

He also flew Vice President Henry Wallace from Tuskegee to Atlanta during that period.

As a boy of 6, "Chief" was fascinated with the idea of airplanes and knew he had to fly. At 8, he ran away from home looking for airplanes rumored to be barnstorming in the area, he had to have a ride. As a teen-ager, no one would give him a ride because of racism.

At 22, he borrowed $2,500 from friends and relatives, bought a used airplane and taught himself to fly. By 1920, he had learned so well he received a private license and in 1932, an Airline Transport Rating (#7638), the equivalent of the Ph.D. in the act of science of flying an airplane.

In 1932, he would wed his childhood sweetheart, Gertrude Elizabeth Nelson, who died in 1995.

That same year, with a friend and flying partner, Dr. Albert Forsythe, an Atlantic City, NJ surgeon, he became known for long distance flying. East coast-West coast and back to the East coast. They also flew the first overseas flight by Negroes to Montreal, Canada, where Foresythe had studied medicine.

In preparation for a Pan American Goodwill Tour in 1934, they brought a Lambert Moncoupe airplane in St. Louis, Mo., where they met Charles Lindbergh, Lindbergh also bought an aircraft. Separated by one serial number, it hangs in the Lambert St. Louis airport today. Linbergh discouraged their plan to fly.

"Chief" and Foresythe continued to Tuskegee, where the aircraft was christened the "Spirit of Booker T. Washington." He and Foresythe made the first land plane flight from Miami to Nassau in 1934.

They island hopped throughout the Caribbean, to the Northeastern tip of South America. They overflew the Venezuelan straits and landed in Trinidad as national heroes. "Chief," at the age of 86, recreated the trip 59 years later, as his birthday present to himself. He was accompanied in his aircraft by Roscoe Draper, lifelong friend and Tuskegee Airmen instructor, and Dr. and Mrs. Lawrence Koons.

With his credentials as a Certified Flight Instructor and Airline Transport rated pilot, "Chief" touched thousands of the nation's military and civilian pilots, such as Gen. B.O. Davis Jr.; Gen. Daniel "Chappie" James; Col. Herbert Carter, and other Tuskegee Airmen during the Tuskegee Experiement.

"Chief" gave countless free airplane rides to the youth of the world, and was a founding member of the NAI, Black Wings in Aviation; the Tuskegee Chapter bears his name. For 22 years, youth from 16–19 have received intensive ground and flight training during the last two weeks in July at the NAI Summer Flight Academy, in order to prepare them for pilot ratings.

Many of his students, such as Capt. Raymond Dothard, U.S. Air, and president Mandella's U.S. pilot; Southeast Asian standouts much as Lt. Col. Robert V. Western, (Bob Mig Sweep); Judge John D. Allen, F–4 Flight Commander, Columbus, Ga; Col. James Otis Johnson, USAF, and many others, have continued in the footsteps of "Chief."

He also soloed the late Capt. "Pete" Peterson of the USAF Thunderbirds Flight Demonstration Team.

At 84, Chief turned over the reins of his beloved Moton Field training site airport to Col. Roosevelt J. Lewis Jr., USAF, another aviation protege, who flew his aircraft to Trinidad with "Chief" in 1993. They proceeded to facilitate 18 young people into military training needs since 1991.

Two of his last students, Capt. Kevin T. Smith and Lt. Greg West, were the first two blacks in the history of the Alabama Air National Guard. With 385 hours in the F–16, Capt. Smith scored "Top Gun" honors for the USAF in March 1996 Red Flag competition. "Chief" was thrilled.

He is survived by sons, Alfred and Charles; Charles' wife, Peggye; his grandchildren, Vincent, Christina and Marina; his great-granddaughter Krystal; his nieces and nephews, in-laws, and his dog, "Stinky."

[From the Tuskegee News, Apr. 1996]

PIONEER AVIATOR "CHIEF" ANDERSON DIES AT AGE 89

C. Alfred "Chief" Anderson, one of America's last aviation pioneers, died Saturday morning, April 13, 1996, at his Tuskegee home after a lengthy bout with cancer. He was 89.

Born to Janie and Iverson Anderson of Bryn Mawr PA, and a 56-year resident of Tuskegee, "Chief" Anderson was a inductee of the Alabama Aviation Hall of Fame (1991), the International Order of the Gathering of Eagles (1990), and winner of the famous Brewer Trophy (1985).

He held many other aviation awards. An Honorary Doctorate of Science was conferred by Tuskegee University in 1988. His first love always was teaching students to fly. He amassed over 52,000 flying hours.

Universally known as "Chief," he is best remembered as the Chief Flight Instructor and mentor of the famed "Tuskegee Airmen" of WWII.

His 40-minute flight with First Lady Eleanor Roosevelt during her Tuskegee visit in 1941 was the catalyst that led to the training of the first African American military pilots, known as the "Tuskegee Experiment."

He also flew Vice President Henry Wallace from Tuskegee to Atlanta during that period. Chief Anderson's life has been a shining example of integrity, self reliance, adventure and contributions to others.

As a young boy of six, Chief Anderson was fascinated with the idea of airplanes and knew that he had to fly. At eight he ran away from home looking for airplanes rumored to be barnstorming in the areas he had to have a ride.

As a teenager, no one would give him a ride because of racism. At the age of 22, he borrowed $2,500 from friends and relatives, bought a used airplane and taught himself to fly. By 1929, he had learned so well until he received a private license and in 1932 an Airline Transport Rating, an equivalent of the Ph.D. in the art and science of flying an airplane.

More importantly that year (1932), he married his childhood sweetheart, Gertrude Elizabeth Nelson, who preceded him in death in 1995.

Later in 1932, with a friend and flying partner, Dr. Albert Foresythe, an Atlantic City, N.J. surgeon, he became known for long distance flying; East coast-West coast and back to the East coast.

They also flew the first overseas flight by Negroes to Montreal, Canada, where Dr. Foresythe had studied medicine. In preparation for a Pan American Goodwill tour in 1934 they bought a Lambert Monocoupe airplane in St. Louis, Mo., where they met Charles Lindbergh.

HONORING THE VICTIMS AND SURVIVORS OF THE OKLAHOMA CITY BOMBING

HON. PAT ROBERTS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. ROBERTS. Mr. Speaker, 1 year ago today, the Nation was gripped by the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, OK. We looked on in shock and horror as rescue workers and members of the community tried valiantly to reach the victims still trapped in the rubble—victims who were young and old, victims who were somebody's child or parent, husband or wife, brother or sister, friend or colleague. The magnitude of the tragedy was incomprehensible, the sense of loss overwhelming. We were left, in the words of the Roman philosopher Virgil, with "a grief too much to be told."

As the hours and days passed, our grief continued to mount. Mixed with the grief was a sense of empathy and compassion so strong that it gave birth to courage and hope and a resolute spirit. We watched the faces of thousands of heroes as they reached out with gestures large and small. We knew as a community and as a nation that we would endure.

Some 168 lives were lost that day, including the lives of 7 employees from the Department of Agriculture's Animal and Plant Health Inspection Service [APHIS]. A little over a month after the bombing, we paid tribute to the seven APHIS employees on the floor of this Chamber. Last year in this Chamber I paid tribute to Olen Bloomer, Jim Boles, Peggy Clark, Dick Cummins, Adele Higginbottom, Carole Khalil, and Rheta Long. I spoke of the lives they had led—good, productive, loving lives—and remembered their dedication to their work and their families. Today, we honor their memory and we remember as well the other victims, the survivors, and all the people whose lives were so sadly transformed by the events in Oklahoma.

SALUTE TO THE SIKH NATION

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. KING. Mr. Speaker, I would like to take this opportunity to congratulate the Sikh Nation on Vaisakhi Day, the anniversary of the founding of the Sikh Nation. The 297th birthday of the Sikh Nation occurred this past Saturday, April 13. I salute the Sikh Nation on this occasion.

The Sikh religion is a revealed, monotheistic religion which believes in the equality of all people, including gender equality. Its principles are found in the Guru Granth Sahib, the writings of the 10 Gurus, founders of the Sikh religion. Vaisakhi Day marks the anniversary of the consecration of the Sikh Nation by the tenth and final Guru, Guru Gobind Singh. The Sikh Nation has always tried to live in peace with its neighbors. The Sikhs suffered disproportionate casualties in India's struggle for independence, and Punjab, the Sikh homeland, was the last part of the subcontinent to be subdued by the British.

Sikhs ruled Punjab from 1710 to 1716 and again from 1765 to 1849. When India achieved its independence, the Sikh Nation was one of the three nations that were to receive sovereign power. However, the Sikh leaders of the time chose to take their share with India on the promise of autonomy and respect for Sikh rights—an arrangement similar to America's own association with the people of Puerto Rico. Many of us have spoken about Indian violations of the fundamental human rights of the Sikhs and others. The abduction and "disappearance" of human rights activist Jaswant Singh Khalra is one prominent example. Despite the solemn promises of Gandhi and Nehru, these violations have been going on since the Union Jack was taken down for the last time in 1947. As a result, no Sikh to this day has ever signed the Indian constitution. If the people of New York, California, or Illinois had not agreed to the U.S. Constitution, would we consider them part of this country?

When India attacked the Golden Temple, the Vatican or Mecca of the Sikh Nation, in 1984, more than 20,000 people were killed. Another 20,000 were killed in simultaneous attacks on 38 other Sikh temples, or Gurdwaras, throughout Punjab, Khalistan.

The Indian regime also has imposed "Presidential rule"—that is, direct rule from the central government which supersedes the elected state government—on Punjab nine times. It is likely that if Punjab, Khalistan makes any move toward freedom after the elections, Presidential rule will be imposed for a tenth time. This is one more way to deny the Sikh Nation the freedom that is its birthright.

On October 7, 1987, the Sikh Nation declared its independence and the sovereign country of Khalistan was born. The Sikh Nation is set unalterably on a course to freedom, although this movement is nonviolent and democratic. Khalistan will secure its freedom the same way that India secured its independence. India cannot keep together an empire which has 18 official languages. Many experts predict that India will unravel within ten years, if not sooner. It is falling apart in front of our eyes, and too many of my colleagues do not even recognize it. The collapse of the Soviet empire shows that you cannot keep an empire of many nations by force permanently.

America is a country founded on the idea of freedom. Let us remember America's mission: in the words of John F. Kennedy, "to secure the survival and success of liberty." We must support freedom around the world because we are the land of the free. The American idea requires us to support freedom for the Sikhs, the Muslims of Kashmir, the Christians of Nagaland, the peoples of Assam and Manipur, and all the oppressed peoples of the Indian subcontinent. Two bills are pending which address this issue. The first, H.R. 1425, would cut off United States development aid to India until basic human rights are respected. The second, House Concurrent Resolution 32, calls for self-determination in Indian-occupied Khalistan. I call upon my colleagues to support these bills. They will help to end India's brutal occupation of Khalistan and insure that when we congratulate the Sikh Nation on its 300th anniversary three years from now, we can offer those congratulations to the leaders of a free and sovereign Khalistan.

TRIBUTE TO LYNDEN B. MILLER

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mrs. MALONEY. Mr. Speaker, I am especially pleased today to bring to the attention of my colleagues Mrs. Lynden B. Miller, my close personal friend, whose years of behind-the-scene service to the public is deserving of a very special tribute. We owe a debt of gratitude to Lynden who, as a designer of public gardens, has made an immeasurable contribution of beauty and grace to the great parks and public spaces of New York City.

Lynden Miller's most recent and notable contribution is on view in Bryant Park, on 6 acres located behind the New York Public Library. The city of New York closed Bryant Park in the late 1980's because it had become a haven for crime. In 1992, after 5 years of renovation, and with gardens newly designed by Lynden, Bryant Park was triumphantly reopened. Since its opening, 10,000 visitors walk through the garden each day, rejuvenated by Lynden's pallet of spiraeas, hydrangeas, foxgloves, sedums, phlox, hollyhocks and Japanese anemones set in borders 300 feet long by 12 feet deep. Today, due largely to Lynden's vision of the possibilities for public space, Bryant Park has been transformed into an oasis of peace and elegance in the midst of busy midtown Manhattan.

As the director of the Conservatory Garden in Central Park since 1982, Lynden has again defied expectations. This northeastern most area of Central Park was designed in the 1930's as an Italianate estate garden. Fifty years later, at the time Lynden was appointed to take on its renaissance, it has been abandoned. After 14 years of Lynden's direction of garden design, relentless fundraising and staff supervision, the Conservatory Garden of Central Park has become one of the great jewels in the greatest public park in the world. Under Lynden's guidance, the Conservatory Garden has also remained a community institution serving residents of both upper Fifth Avenue and some of the blighted neighborhoods of East Harlem.

Other public spaces which bear Lynden's signature include the garden at the Central Park Zoo, portions of the New York Botanical Gardens, Wagner Park at Battery Park City, spring and summer annuals at Grand Army Plaza in Brooklyn, gardens at the Cooper-Hewitt Museum, and Herald & Greeley Squares. She is on the Boards of Directors of the United States National Advisory Council for the National Arboretum in Washington, DC, and New York City's Central Park Conservancy and The Parks Council, among others. Lynden also lectures and participates in symposiums in the United States and abroad. She has written several articles and essays on garden design.

Lynden owes her sense of color to her training as an artist. She was a successful studio artist from 1967 until 1982 and has had several gallery shows in London and New York. She was educated at Smith College, the New York Botanical Gardens, Chelsea-Westminster College in London, and the University of Maryland.

I am very proud to pay tribute to Lynden Miller, who for fourteen years has been quietly dedicated to the well-being and beauty of New York City's most frequented public spaces. I ask my colleagues to join with me today in celebration of Lynden for her many wondrous botanical gifts to the millions of residents and visitors of the city of New York.

HAVERHILL GIRLS BASKETBALL CHAMPS

HON. PETER G. TORKILDSEN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. TORKILDSEN. Mr. Speaker, this morning I spoke on the floor praising the UMASS Minutemen basketball team—the best college basketball team in the country. Now I rise to applaud and celebrate the best women's basket ball team in Massachusetts—from Haverhill High School—on their championship win. These athletes have proven they possess the necessary edge to be champions and rightfully deserve heartfelt congratulations.

On Saturday, March 16, 1996, at the Worcester Centrum in Massachusetts, Haverhill won its third consecutive Division I girls crown with a 74–46 victory over Pittsfield High School. With nine seniors leading the team to victory, UMASS-bound Kelly Van Heisen netted 12 points in the championship game.

Other members of this championship team include Julie Szabo, Jaimie DeSimone, Samantha Good, Sara Jewett, Allison Godfrey, Julie Dirsa, Tricia Guertin, Cheryl Leger, Nicole Lacroix, Kelly Van Keisen, Melissa Rowe, Melissa Cerasuolo, Meghan Buckley, Heather Langlois and Caitlin Masys.

Thirteen-year head coach Kevin Woeflel had led his teams to win six State titles in the last 10 years, finished second twice and has a stunning overall record of 275–37, for a winning percentage of 88 percent.

To be a champion athlete requires dedication, perservance, skill and drive. The young women who make up this winning team possess all of these characteristics and combined them to produce a group of unbeatable champions.

I'm very proud to have such an outstanding team from my district. Success in any field demands a great deal of commitment and hard work, and it's obvious from these championship victories that these women have what it takes to win.

These incredibly talented young women have not only proven themselves to be the best this past season, but to possess a record of six championship wins in the past 10 years reflects the dedication of their coach, Mr.Kevin Woelfel. In the equation for success, effective leadership and guidance are as necessary as talent and commitment from the players.

Once again, congratulations to this winning team, and I wish you nothing but continued success as you continue on to college and throughout the rest of your lives. You are excellent role models for those who follow in your footsteps, and you are outstanding representatives of both your school and the State of Massachusetts.

CONGRATULATIONS TO SIKHS ON VAISAAKHI DAY

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. BURTON of Indiana. Mr. Speaker, I rise today to recognize the 297th celebration of Vaisaakhi Day, the birthday of the Sikh nation. On Vaisaakhi Day in 1699, Guru Gobind Singh, the tenth and last Guru of the Sikh religion, formally baptized the Sikhs into nationhood, creating the order of the Khalsa Panth.

The Sikhs are a proud, hard-working, and freedom-loving people. At times they have prospered. At times they have persevered under immense tyranny. They have always conducted themselves according to the axiom uttered by Guru Gobind Singh: "Recognize ye all the human race as one."

Sikhism is a monotheistic, independent religion that should not be confused with Hinduism or Islam. Sikhism dates back to the first of the ten Sikh Gurus, Guru Nanak, born in 1469. He laid the foundation of Sikhism by preaching a simple creed based on three principles: 1.) Pray daily, meditating on God's name; 2.) Work hard and earn an honest living by the sweat of your own brow—live a family life and practice honesty in all dealings, and 3.) Be charitable, sharing the fruits of your labor with others.

Most importantly, the Guru instructed Sikhs to stand up against tyranny wherever it exists. On many occassions, Sikhs have lived up to this high calling, defending Hindus from the aggression of Mogul invaders from Afghanistan. Today Sikhs find themselves in a position of defending themselves from the brutal tyranny of the Indian Government. Over the past ten years, over 100,000 Sikhs have been killed by Indian security forces. Yet Sikhs continue to look to the spirit imbued in them on Vaisaakhi Day in 1699.

Mr. Speaker, the Sikh people remain bloody but unbowed in the face of the campaign of murder, torture and rape being waged by the Indian military. Because of India's bloody rule, the Sikh people are seeking to exercise their right to self determination and declare an independent Sikh homeland. In October 1987, three years after India's bloody assault and massacre at the Golden Temple in Amritsar, every major Sikh political group joined together to issue a declaration of nationhood and independence.

I ask all of my colleagues to support two pieces of legislation: H.R. 1425. "The Human Rights in India Act, which would cut off U.S. aid to India until it stops the human rights abuses; and House Resolutions 32, which would recognize the Sikh people's right to self-determination. America stands for freedom, human rights and democracy, and we should support these ideals.

FOR SURVIVORS OF THE ARMENIAN GENOCIDE

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. RADANOVICH. Mr. Speaker, between 1915 and 1923 the Ottoman Turkish Empire committed a terrible genocide against Armenians. In a systematic and deliberate campaign to eliminate the Armenian people and erase their culture and history of 3,000 years the Turks committed this atrocity. As a result, over one-half million Armenians were massacred. The Armenian genocide is a historical fact, and has been recognized by academicians and historians all over the world. The documentary evidence is irrefutable and beyond question. Unfortunately, the Turkish Government is still persisting in their denial that the genocide took place.

Many survivors of the genocide have made the United States their new home. On April 24, 1996 Armenians all over the world will commemorate the 81st anniversary of the Armenian genocide. Commemoration activities will occur in Washington, D.C., Los Angeles, and in my district in Fresno, California. I have the honor of representing thousands of Armenians in California's 19th Congressional District, and I send my sincerest condolences on this solemn occasion to all members of the Armenian community. As a member of the Congressional Caucus on Armenian Issues, I intend to join my colleagues, Representatives JOHN PORTER and FRANK PALLONE in a special order on April 24, 1996 on the floor of the House of Representatives to commemorate the genocide victims.

I am an original cosponsor of House Concurrent Resolution 47 which calls on Congress to officially recognize the Armenian genocide and encourages the Republic of Turkey to do the same. This legislation would call on the Government of Turkey to turn away from its denials of the Armenian genocide, and instead, to openly acknowledge this tragic chapter in its history. By doing so, the Turkish Government can help to raise the level of trust in a strategic, yet highly unstable, region of the world and facilitate the normalization of relations between Turkey and Armenia. I encourage my colleagues to vote for the passage of H. Con. Res. 47.

Remembering this genocide against the Armenians will help ensure that this type of tragedy is never allowed to occur again.

HOUSE OF REPRESENTATIVES—*Friday, April 19, 1996*

The House met at 10 a.m.

The Reverend Dr. Ronald F. Christian, Office of the Bishop, Evangelical Lutheran Church in America, Washington, DC, offered the following prayer:

Almighty God, on this day, when our thoughts are focused on the violence that is all about us, we remember, reflect, and give thanks for individuals, young and old, who innocently lost their lives as a result of that violence. When a Cain kills an Able, we must confess that all of humanity is less because of it and all of humanity is pained from the act.

From shootings on city streets to the horrors of bombings bringing great loss of life and grief to people, our hearts cry out, Why, O God, Why?

With violence so commonplace, hatred so prevalent, anger so much a part of our lives, we must pray, O God, for a new understanding of Your peace.

We pray for a peace that will allow the lion and lamb to lie down together.

And, we pray for a peace where brother or sister will not again willfully or maliciously harm another human creature in Your kingdom.

So, for a few moments, as the work of the day begins in this place, we let our souls speak to You, O God, in words and thoughts that rise up in our innermost being. May the moments and our quiet personal expressions be a fitting tribute to the many who died a year ago and throughout this year as a result of humanity's violence. May our thoughts be also prayers for all those who now are left only with memories. Let us each in our own way remember and pray.

Hear our prayers, O Lord. Amen.

MOMENT OF SILENCE IN TRIBUTE TO OKLAHOMA CITY BOMBING VICTIMS

The SPEAKER. The Chair asks the House to join in a silent prayer for 168 seconds in honor and memory of the 168 Americans who died 1 year ago in Oklahoma City.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Mississippi [Mr. MONTGOMERY] come forward and lead the House in the Pledge of Allegiance.

Mr. MONTGOMERY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

EXPRESSION OF CONDOLENCES TO FAMILIES OF VICTIMS AND THE PEOPLE OF OKLAHOMA CITY

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I want to rise today and on behalf of the entire House to express to the families of those who were killed 1 year ago and to the people of Oklahoma City who have borne up under such a tragedy the House's condolences, our sense of commitment to working with the people of Oklahoma City. I want to express the grief that all of us feel, both at the personal level for the loss of loved ones, for families torn apart, for children left without parents, for parents who lost children, but also to express what I think was the shock and the outrage of the whole House, and I believe of the whole country, that an American could do such a thing to other Americans.

I believe everyone in this House joins in condemning that kind of vicious and mindless violence against our fellow citizens, and on this day, in memory of the citizens of Oklahoma City, this House, I am sure, unanimously would want to extend our prayers, our concerns, and our thoughts to those families and in memory of their loved ones.

IN REMEMBRANCE OF OKLAHOMA CITY BOMBING VICTIMS

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, on behalf of the minority leader, Mr. Gephardt, and from my side of the aisle, we join with the Speaker in expressing our sadness of what has happened in Oklahoma City and where 168 were killed. We just had a silence of the whole House of 168 seconds in memory of those people who did lose their lives, so we should never forget or let this happen again, if possible.

I am not sure whether we could control sad incidents such as this, but to the people and individuals who were involved in government work, visiting that facility at Oklahoma City, we certainly go out and reach for them. As mentioned by the Speaker, some of these individuals were severely wounded, and watching in the news, these persons are fighting back, they are taking their wounds and they are moving ahead, and that is what we have to do in this great country.

So on behalf of my other colleagues, this is a sad day for us. Let us hope that it will never happen again.

LIBERAL JUDICIAL APPOINTEES

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, I believe that the American peoples' values do not reflect the values of President Clinton's liberal judicial appointees. Recently, disturbing evidence has come to light about liberal judges who have let criminals off the hook because their social conscience got the best of them.

Mr. Speaker, we do not need judges who care more about criminals than they do victims. We do not need judges who try to blame society for individual wrongdoings. The American people want our judicial system to hold people personally accountable for their actions.

Mr. Speaker, one thing is clear—judges make a difference in the lives of all Americans. Judges set the benchmark for what criminals think they can get away with. President Clinton's judges do not represent the values of our citizens. The Clinton judges are letting criminals off the hook.

THE ISSUE OF CRIME

(Mr. SCARBOROUGH asked and was given permission to address the House for 1 minute.)

Mr. SCARBOROUGH. Mr. Speaker, we have been talking so much about crime and about the prevention of crime, I am going to tell you, we are not going to be able to tackle the issue of crime until we get tough on criminals and, unfortunately, the Clinton administration continues to coddle criminals through the judges that they appoint.

Mr. Speaker, I am going to tell you, being from Florida, I am distressed by what a Florida judge recently wrote that was appointed by Bill Clinton. Rosemary Barkett, a Clinton judge, voted to reduce the death sentence of a

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

murderer who sent a tape to the mother of the murdered victim, boasting about his crime and killing her daughter. Judge Barkett wrote:

> The killer's impatience for change, for understanding, for reconciliation matured into taking the illogical and drastic action of murder. His frustration, anger and obsession of injustice overcame reason. The murder victim was a symbolic representation of the class which caused the perceived injustices.

She went on to say he matured into the decision of killing this person, then bragging about it by mailing a tape to the mother of the murdered victim. And so she reduced the sentence. Let me tell you over the next 4 years, President Clinton or President Dole will elect and select one out of every four Federal judges that we appoint. It does not matter what laws we pass in this Chamber, so long as the President nominates justices that coddle criminals. We have got to get tough on crime by pushing the existing laws that we have and not by making new ones.

LIBERALS AND CRIME

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, well, we have just heard it, today we are celebrating that sad tragedy of a year ago, and while this House and the liberals talk about taking away private citizens' right to own a weapon, we do almost nothing to those heinous killers and criminals who violate society's rules. We have heard about Harold Baer until we are sick of it. Harold Baer decides that it is OK to run away from policemen. From kindergarten we are taught policemen are our friends and we, even if a red light is in front of them and they tell to you go through the light, do what the policeman says.

They run away from the policeman and Harold Baer says that is a natural thing to do in that neighborhood so they should not have searched the poor, sorry individual who only had 80 pounds of cocaine in the trunk of their car.

Then Rosemary Barkett, who we just heard about, and I am going to read her famous line because nobody could even believe this. She says this about a killer who killed someone and then sent a tape recording mocking the killing to the victim's mother. This is what she said about that inhuman human being:

> His impatience for change, for understanding, for reconciliation matured to taking the illogical and drastic action of murder. His frustration, his anger and his obsession of injustice overcame reason. The murder victim was a symbolic representation of the class which caused the perceived injustice.

You talk about it is society's fault, what nonsense. Let us get a new President and some new judges.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. PETRI). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE OKLAHOMA CITY TRAGEDY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. GEPHARDT] is recognized for 5 minutes.

Mr. GEPHARDT. Mr. Speaker, today, on the first anniversary of the tragedy that shook Oklahoma City and the entire Nation, I join with my colleagues on both sides of the aisle in offering condolences to the friends and families of those who lost their lives—gratitude to those Federal workers and citizens whose bravery saved lives—and resolve to do all we can to prevent such acts of hateful terrorism and violence from happening again.

No words or deeds of this Congress can ever bring back the dedicated public servants, citizens, and innocent children who lost their lives in the Oklahoma City bombing. Even 1 year after this awful tragedy, it is hard to find meaning in their loss—to make sense of the random hatred they suffered. And as we move toward enacting crucial antiterrorism legislation in the Congress, the image of those who lost their lives 1 year ago—especially the precious young children—reminds us of how fragile human life can be, and how each day is truly a blessing for ourselves and for our families.

My hope is that by remembering what happened on April 19, 1995, we will not only redouble our efforts to secure the safety and security of our citizens—beyond all boundaries of party or partisanship—but that we will also come to appreciate the gifts of service and citizenship we receive from our fellow Americans each and every day. Such gifts, like the good works of those who died in Oklahoma City and those who risked their lives to save others, are all too easy to take for granted.

THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. SCARBOROUGH] is recognized for 5 minutes.

Mr. SCARBOROUGH. Mr. Speaker, there has been so much debate over the past 6 months to 1 year over the balanced budget, and the budget battle, and Americans have been so swept away with sort of the currents of the demagoguery that is coming out of the White House and the debate that is going back and forth that we have really lost sight of really what has been happening here.

We have been governing by CR, continuing resolutions, where, since we cannot get the President to agree to a balanced budget deal, we go from month to month to month. I have been disappointed that we have not been able to get a balanced budget and wish that we could have moved swifter, wished that we would have had a President that would have signed the first balanced budget plan in a generation. But I found out something very interesting this past week.

What I found out was, even governing by CR, we are ahead of schedule to balancing the budget. We are further along on that 7-year track to balancing the budget than we would have been even if we had passed our 7-year plan last year. And this is great news. On the front page of Investors' Business Daily this morning, had a wonderful quote. The quote said that, while Bill Clinton has been winning the PR battle with the public, the Republicans have been quietly winning the war. This is great news for all of America today.

Mr. Speaker, I yield to the gentleman from California [Mr. BAKER].

Mr. BAKER of California. It is good news, and I try and keep this fact well hidden, but I am one of the few budget analysts on the floor. For 4 years I worked for the department of finance in the State of California. If I had had a little more personality, I would have become an accountant. But studying these figures, what we found out was we cannot change the way Washington does business. Over two-thirds of our budget is entitlements locked into law. That means an entitlement is when you show up at the window and you say, I would like some money, the Government shells it out. Until you change those laws, either requiring work from welfare recipients or requiring that people be citizens or making these other changes in laws, you are going to have the budget on automatic pilot.

Where we have made the improvements is in the discretionary funds, that small area outside of defense and outside of the entitlement areas where we can change. But there is only so much longer you can squeeze the parts in the other areas of the budget to make them efficient. It would be like asking IBM to get all of their salary savings out of the clerical help and not to do it out of the executives or any of the sales force. So IBM has to have a more balanced view as they try and downsize their corporate structure in order to make themselves profitable.

We in Government have to do the same thing. We have to change the entitlement process to make sure those people who receive a Government check are actually in need. That is what our welfare reform is about, and that is what all of the changes in immigration are about.

Mr. SCARBOROUGH. Mr. Speaker, there has been a lot of discussion, especially during the presidential campaigns that Americans do not care about balancing the budget, Americans have moved their attention to something else. I can tell you that I got elected and the majority of the 73 freshmen, Republican freshmen got elected in 1994 because we promised first and foremost to balance the budget.

Social issues aside, all this other stuff aside, we said we were going to spend only as much money as we take in. We are going to balance the budget. I am still hearing Americans tell me, at the 75 townhall meetings I have held over the past year and a half, they are still saying the same thing: Balance the budget, get Washington's business in order and you guys live by the same rules that we have to live by across the country. So this is great news.

Mr. BAKER of California. Mr. Speaker, if the gentleman will yield for one more thought, that is this is not even partisan. The demographics are what are crushing us. When the baby boomers, people younger than me, even, retire, 37 million people are going to stop paying 16 percent to Social Security and welfare and SDI, and they are going to start receiving.

Mr. SCARBOROUGH. Right.

Mr. BAKER of California. The ship goes upside down. This is not debate over whether we want to balance or whether we want to stop living off our grandkids.

Mr. SCARBOROUGH. Sure.

Mr. BAKER of California. By 2010 it is over. We have 14 to 16 years to straighten this out. While the others drag their feet, my own Senator ran ads saying, I will vote for the balanced budget, vote for me. She got here and reneged. It was the one vote that killed the balanced budget amendment.

We do not have the luxury any longer to debate whether. It is when and how, and those are tough decisions. I have projects in my district that I would like to see expanded, too, but we are going to have to suck it up, take our medicine and balance this budget. I appreciate the gentleman bringing up the point.

Mr. SCARBOROUGH. Reclaiming my time, you said something very important. This is not an ideological issue. If the environment is important to you, if you think we need to fund environmental cleanups, if somebody thinks that welfare is poverty to them, if somebody thinks Social Security is important, defense, it does not matter what the issue is.

MORE ON THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BAKER] is recognized for 5 minutes.

Mr. BAKER of California. Mr. Speaker, I yield to the gentleman from Florida [Mr. SCARBOROUGH].

Mr. SCARBOROUGH. I was just going to say, regardless of what is important to you on issues, we must balance the budget first. We have got to make sure that on April 15 that Americans are not paying more of their tax money to service the debt than take care of the things that Government needs to take care of.

Again, the news today is great news. I read the news today, great news. We are actually winning the war against the deficit despite the fact we have had no cooperation from the White House.

Mr. BAKER of California. Mr. Speaker, next year we will go over the line. We spent more on the interest on the national debt than we do on defense. You know, this President is not hesitant about deploying our troops in all kinds of foreign wars. We have to say strong in defense. Interest on the national debt will exceed what we spend on defense.

Mr. SCARBOROUGH. The same people that vote against balanced budget are the same people that say we are spending too much money on defense.

Mr. BAKER of California. Fifteen percent of the budget.

Mr. SCARBOROUGH. If we are spending too much money on defense, we are really spending too much money on interest on the Federal debt. I say it is time we do what middle-class Americans have done for years, spend only as much money as you take in, balance the budget and cause an economic revival in this country that is unprecedented that will lift all the boats.

Mr. BAKER of California. Amen.

Mr. SCARBOROUGH. Mr. Speaker, I thank the gentleman.

CYNICISM IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, this is the anniversary of the Oklahoma explosion, which made everybody stop in their tracks and ask very deep questions about the cynicism that is raging in America and about the cynicism that has been unleashed, I think most unfairly, on Government employees. They have been the scapegoats for so much of talk radio, so much of the hate that has been unleashed.

A year ago today, we suddenly saw the faces of Federal employees, that they were like us, that they had families, they were hard-working, they were there, they were trying to live their lives and serve their country. Suddenly, many of their lives stopped or many of their lives will never be the same. I hope that we continue to fight very hard to come out of this big hole of cynicism that we have dug ourselves in.

I remind people that the word "cynic" comes from the old Greek word about yapping dogs. Cynics really do not contribute anything positive, they just yap, yap, yap, yap, yap. And that type of thing ends up in destruction. It is very easy to destroy things. It is very difficult to rebuild. So if anyone has criticism, fine, but then tell us what you are going to do about it after your criticize.

I must also say, as I rise today to talk about this year anniversary, how very proud I am of my congressional district. Denver, CO, has been selected as the place to have the trial for the outcome of this Oklahoma explosion. Obviously the citizens of Denver were not particularly thrilled about that for fear that it just painted a big bull's eye on them for all sorts of security problems at our own Federal building, which is where the Federal courthouse is near, and all the other issues that might come from this trial, which will clearly be a very high-profile trial.

Yet, as we all know, as citizens, it is our part to make sure everybody gets a fair trial. It was determined a fair trial probably could not be held in Oklahoma City. So Denver, Colorado bit its lip and said OK, we have to do our part. I guess this goes on. This big media carnival will go on there, and we only hope justice comes out of the media carnival rather than something else. But in the interim, one of the very moving things that has happened that Coloradans have done has been their reaching out to the families of the Oklahoma victims. Many of the Oklahoma victims' families want to be present at these trials, want to come and want to see justice be done, want to sit in the courtrooms, want to participate in some way or another, to make sure that this awful, awful tragedy does not go totally without anyone paying a price and they want to do that.

Yet, for them to come to Colorado is expensive for them, to stay in Colorado is expensive. The amazing thing that has been happening in Colorado is, as we hear these stories, the number of people, churches, community centers and everyone that have said we will open our doors. People can stay here. We will try and help fund folks who want to come and be here to help them through this grieving period and to try and make sure that they can witness this system that we call justice and we hope ends up being that I think is very moving.

So the saga of what Oklahoma City has done for Americans continues. It continues in my district by people continuing to reach out and try to help those who were struggling to deal with this as we are all struggling to deal in our own way with this. But I must say we also need to not only just tend to the wounds that came. Let us look at what caused those wounds to come, and it is the cynicism that has been unleashed in an unchecked manner in this country. Until we get that cynicism under control, there are no guarantees that this cannot happen again.

So, yes, continue to reach out, but also I hope everybody starts looking into what they have been doing and have they been contributing to the cynicism or have they been really trying to get on to constructive criticism. There is a huge difference between those two things. Somehow I think in the 1990's we forgot that distinction. Let us revitalize it.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. MONTGOMERY) to revise and extend his remarks and include extraneous material:)

Mr. GEPHARDT, for 5 minutes, today.

(The following Members (at the request of Mr. SCARBOROUGH) to revise and extend their remarks and include extraneous material:)

Mr. GOSS, for 5 minutes each day on April 19 and 22.

Mr. SCARBOROUGH, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Mrs. SCHROEDER, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BAKER of California, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Member (at the request of Mr. MONTGOMERY) and to include extraneous matter:)

Mr. LANTOS.

ADJOURNMENT

Mrs. SCHROEDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 29 minutes a.m.), under its previous order, the House adjourned until Monday, April 22, 1996, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2421. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule and interim rules—amending the Defense Federal Acquisition Regulation Supplement [DFARS], pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

2422. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to the People's Republic of China (China), pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

2423. A letter from the Director, Financial Crimes Enforcement Network, transmitting the Network's interim rule—exemptions from the requirement to report large currency transactions pursuant to the Bank Secrecy Act, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

2424. A letter from the Director, Audit Oversight and Liaison, General Accounting Office, transmitting a report entitled, "Financial Audit: U.S. Government Printing Office's Financial Statements for Fiscal Year 1995" (GAO/AIMD-96-52) April 1996, pursuant to 31 U.S.C. 9106(a); to the Committee on Government Reform and Oversight.

2425. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1995, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2426. A letter from the Postmaster General, CEO, U.S. Postal Service, transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

2427. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations governing news stories and candidate debates staged by cable television organizations (11 CFR Parts 100, 110, and 114), pursuant to 2 U.S.C. 438(d)(1); to the Committee on House Oversight.

2428. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

2429. A letter from the Clerk, U.S. Court of Appeals, District of Columbia Circuit, transmitting an opinion of the U.S. Court of Appeals for the District of Columbia Circuit (No. 95-7051—*Fawn Mining* v. *Hudson*) April 5, 1996; to the Committee on Ways and Means.

2430. A letter from the Director, Audit Oversight and Liaison, General Accounting Office, transmitting a report entitled, "Financial Audit: Independent Counsel Expenditures for the Six Months Ended September 30, 1995" (GAO/AIMD-96-67) March 1996, pursuant to 31 U.S.C. 9106(a); jointly, to the Committees on Government Reform and Oversight and the Judiciary.

2431. A letter from the Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, transmitting the Administration's final rule—implementing provisions of the Domestic Chemical Diversion Control Act of 1993, pursuant to 5 U.S.C. 801(a)(1)(A); jointly, to the Committees on the Judiciary and Commerce.

2432. A letter from the Secretary of Veterans Affairs, transmitting the Department's sixth report describing the administration of the Montgomery GI bill—active duty educational assistance program, pursuant to 38 U.S.C. 3036; jointly, to the Committees on Veterans' Affairs and National Security.

2433. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to make various changes to laws affecting the management and operations of the Department of Defense, and for other purposes; jointly, to the Committees on National Security, Ways and Means, Transportation and Infrastructure, Commerce, and International Relations.

MEMORIALS

Under clause 4 of rule XXII,

217. The SPEAKER presented a memorial of the House of Representatives of the State of Georgia, relative to urging the U.S. Congress to appropriate funds at the fully authorized level for payments in lieu of taxes to local governments; to the Committee on Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1050: Ms. WATERS.

H.R. 2976: Mr. NETHERCUTT.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

Petition 12 by Mrs. SMITH of Washington on House Resolution 373: Jack Metcalf, Thomas M. Foglietta, Thomas M. Davis, Fortney Pete Stark, Richard J. Durbin, Brian P. Bilbray, Patrick J. Kennedy, Joseph P. Kennedy II, Paul McHale, Sidney R. Yates.

SENATE—*Friday, April 19, 1996*

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, a year ago at this very hour we were shocked and stunned by the catastrophic bombing of the Federal building in Oklahoma City. At this sacred moment of remembered grief, we join with millions of people across our land in mourning for the victims, especially the children, of this violent terrorism.

We ask You very specifically for two things this morning. Dear God, bless the families of these victims. Heal their grief and grant them a special sense of Your comfort and strength. May the outpouring of love from all over our Nation be a balm in the raw nerves and the aching wounds of their pain and anguish. And then, Holy Lord, press us forward in our battle against the fanatical forces of organized terrorism.

We thank You for the decisive legislation passed by this Senate. Now we unite our hearts in prayer that You will stay the hand of those who willfully cause suffering through acts of violent destruction. Rise up with mighty indignation, O God, and save our land from this danger. Lord God of Hosts, be with us lest we forget, lest we forget. In the name of our Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator DOLE, is recognized.

EXPRESSING THE SENSE OF THE SENATE ON THE ANNIVERSARY OF THE OKLAHOMA CITY BOMBING

Mr. DOLE. I send a resolution to the desk and ask that its title be read.

The PRESIDENT pro tempore. The Secretary will read the resolution.

The Secretary of the Senate read as follows:

A resolution (S. Res. 249) expressing the sense of the Senate on the anniversary of the Oklahoma City bombing.

Mr. DOLE. I ask unanimous consent that the resolution and its preamble be agreed to.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 249) was agreed to.

The preamble was agreed to.

Mr. DOLE. Mr. President, the resolution just agreed to expresses the sense of the Senate on this first anniversary of the tragic Oklahoma City bombing that took 168 lives. One of the provisions of the resolution is that the Senate join with the Nation in observing a moment of silence at 9:02 a.m. central daylight time. That moment now having arrived, I invite all Senators to join with me and with the staffs of Senators NICKLES and INHOFE who are in the gallery in observing 168 seconds of silence.

[A period of silence.]

Mr. DOLE. Mr. President, I now ask that the entire resolution be read.

The PRESIDENT pro tempore. The resolution will be read.

The Secretary of the Senate read as follows:

Whereas, on Wednesday, April 19, 1995, at 9:02 a.m. Central Daylight Time, a bomb exploded at the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma, collapsing the north face of this nine-story building, killing 168 men, women, and children and injuring scores of other innocent victims;

Whereas, today, Friday, April 19, 1996, marks the one-year anniversary of this tragic event which is without equal in our nation's history;

Whereas, in the words of the Reverend Billy Graham to the families and survivors, "Someday the wounds will heal, and someday those who thought they could sew chaos and discord will be brought to justice. The wounds of this tragedy are deep, but the courage and the faith and determination of the people of Oklahoma City are even deeper";

Whereas, this was the deadliest terrorist attack ever on U.S. soil; and

Whereas, the United States Senate passed by an overwhelming margin the Comprehensive Terrorism Prevention Act on Wednesday, April 17, 1996; Now therefore be it

Resolved, That the Senate of the United States:

Observes a moment of silence at 9:02 a.m. Central Daylight Time in remembrance of the innocent children and adults who lost their lives or were injured in this heinous attack one year ago;

Remembers the families, friends, and loved ones of those whose lives were taken away by this abhorrent act;

Salutes the people of Oklahoma for the courage, faith and determination they have exhibited throughout the past year;

Commends the rescuers, federal agencies and countless volunteers who gave of themselves and their resources to provide aid and relief;

Commends the federal employees from across the nation who came to the aid of their co-workers during this crisis; and

Reaffirms its trust in our system of justice to ensure that the perpetrators of this heinous crime be convicted and appropriately punished so that justice may be served and carried out swiftly.

Mr. DOLE. Mr. President, I have long been inspired by the Kansas State motto: "To the Stars Through Difficulties."

The people of Oklahoma have persevered this past year through almost unimaginable difficulties with grace, with grit, and with courage. Our thoughts and prayers will remain with them as they continue to reach for the stars.

(At the request of Mr. DOLE, the following statement was ordered to be printed in the RECORD.)

• Mr. NICKLES. Mr. President, today, we look back from the distance of a year's time to a tragic event without equal in our Nation's history. It is still almost impossible to believe that it actually happened—that such an abhorrent, evil act could have been committed in the heartland of America.

However, Oklahomans did not suffer through this tragedy alone. The sheer enormity of it drew the entire Nation to our side. People thought, "If something like this could happen in Oklahoma City, it could happen anywhere."

It was that awareness, I believe, coupled with the innate goodness of the American people that brought the flood of rescuers from all corners of the Nation. They came as strangers and left as friends. We will never forget them. They made us know we were not alone.

I know for many this first awful anniversary brings back the pain with a fresh intensity. But we should also recall the words of the Reverend Billy Graham who, at a memorial service in the aftermath of this evil deed, gave us hope.

He said, "Someday the wounds will heal, and someday those who thought they could sow chaos and discord will be brought to justice. The wounds of this tragedy are deep, but the courage and the faith and determination of the people of Oklahoma City are even deeper."

He was right.

We are introducing this sense-of-the-Senate resolution today because we remember. This resolution calls for a moment of silence at 9:02 a.m. central daylight time in remembrance of the innocent children and adults who lost their lives one year ago.

We remember the families, friends, and loved ones of those innocent victims, and we send you our sincerest prayers.

We remember the countless hundreds who were injured, physically and emotionally by the blast.

We remember the many more from all corners of the state and all corners of the Nation who came together to help in the rescue process and then in the healing process.

And we also are introducing this resolution because we recognize and pay tribute to the spirit of recovery, courage, and faith that has been an example and an encouragement to everyone.

I have never been more proud to be an Oklahoman.

In honor of those who lost their lives, I ask that their names be printed in the RECORD at this point.

The names are as follows:

Victims of the Oklahoma City Bombing

Names	*Ages*
Charles E. Hurlburt	73
John Karl Vaness III	67
Anna Jean Hurlburt	67
Donald Lee Fritzler	64
Eula Leigh Mitchell	64
Donald Earl Burns, Sr.	63
Norma Jean Johnson	62
Calvin C. Battle	62
Laura Jane Garrison	61
Olen Burl Bloomer	61
Luther Hartman Treanor	61
Kathy Cregan	60
Rheta Ione Bender Long	60
Raymond Johnson	59
Juretta Colleen Guiles	59
Robert Glen Westberry	57
Carolyn Ann Kreymborg	57
Leora Lee Sells	57
Mary Anne Fritzler	57
Virginia Mae Thompson	56
Peola Y. Battle	56
Peter Robert Avillanoza	56
Richard Leroy Cummins	55
Ronald Vernon Harding	55
LaRue Ann Treanor	55
Ethel Louise Griffin	55
Antonio C. Reyes	55
Thompson Eugene Hodges, Jr.	54
Alvin Junior Justes	54
Margaret Goodson	54
Oleta Christine Biddy	54
David Jack Walker	54
James Anthony McCarthy	53
Carol L. Bowers	53
Linda Coleen Housley	53
John Albert Youngblood	52
Robert Nolan Walker, Jr.	52
Thomas Lynn Hawthorne, Sr.	52
Robert Chipman	51
Dolores Marie Stratton	51
Jules Alfonso Valdez	51
John Thomas Stewart	51
Mickey Bryant Maroney	50
John Clayton Moss III	50
Carole Sue Khalil	50
Emilio Tapia-Rangel	50
James Everette Boles	50
Donald R. Leonard	50
Castine Deveroux	49
Clarence Eugene Wilson	49
Wanda Lee Watkins	49
Michael Lee Loudenslager	48
Carrol June Fields	48
Frances Ann Williams	48
Claudine Ritter	48
Ted Leon Allen	48
Linda Gail Griffin McKinney	47
Patricia "Trish" Ann Nix	47
Betsy Janice McGonnell	47
David Neil Burkett	47
Michael George Thompson	47
Catherine Mary Leinen	47
Sharon Louise Wood Chesnut	47
Ricky Lee Tomlin	46
Larry James Jones	46
Richard Arthur Allen	46
Harley Richard Cottingham	46
Lanny Lee David Scroggins	46
Gilberto Martinez	45
George Michael Howard	45
Jerry Lee Parker	45
Judy Joann Fisher	45
Diane Elaine Hollingsworth Althouse	45
Michael D. Weaver	45
Robert Lee Luster, Jr	45
Peter Leslie DeMaster	44
Katherine Ann Finley	44
Doris Adele Higginbottom	44
Steven Douglas Curry	44
Michael Joe Carrillo	44
Cheryl E. Bradley Hammon	44
Aurelia Donna Luster	43
Linda L. Florence	43
Claudette Meek	43
William Stephen Williams	42
Johnny Allen Wade	42
Larry Laverne Turner	42
Brenda Faye Daniels	42
Margaret Louise Clark Spencer	42
Paul Gregory Broxterman	42
Paul Douglas Ice	42
Woodrow Clifford "Woody" Brady	41
Clause Arthur Medearis	41
Teresa Lea Lauderdale	41
Terry Smith Rees	41
Alan Gerald Whicher	40
Lola Renee Bolden	40
Kathy Lynn Seidl	39
Kimberly Kay Clark	39
Mary Leasure Rentie	39
Diana Lynn Day	38
Rebecca Anderson	37
Robin Ann Huff	37
Peggy Louise Jenkins Holland	37
Victoria Jeanette Texter	37
Susan Jane Ferrell	37
Kenneth Glenn McCullough	36
Victoria Lee Sohn	36
Pamela Denise Argo	36
Rona Linn Chafey	35
Jo Ann Whittenberg	35
Gilbert Xavier Martinez	35
Wanda Lee Howell	34
Saundra Gail "Sandy" Avery	34
James Kenneth Martin	34
Lucio Aleman, Jr.	33
Valerie Jo Koelsch	33
Teresa Antionette Alexander	33
Kim Robin Cousins	33
Michelle Ann Reeder	33
Andrea Y. Blanton	33
Karen Gist Carr	32
Christi Yolanda Jenkins	32
Jamie Lee Genzer	32
Trudy Rigney	32
Ronota Ann Woodbridge	31
Benjamin Laranzo Davis	29
Kimberly Ruth Burgess	29
Tresia Jo Mathes-Worton	28
Mark Allen Bolte	28
Randolph Guzman	28
Sheila R. Gigger Driver	28
Karan Denise Shepherd	27
Sonja Lynn Sanders	27
Derwin Wade Miller	27
Jill Diane Randolph	27
Anita Hightower	27
Carrie Ann Lenz	26
Cynthia Lynn Campbell Brown	26
Cassandra K. Booker	25
Shelly Deann (Turner) Bland	25
Scott Dwain Williams	24
Dana LeAnne Cooper	24
Kathry Ridley	24
Julie Marie Welch	23
Frankie Ann Merrell	23
Christine Nicole Rosas	22
Lakesha Levy	21
Cartney J. McRaven	19
Aaron M. Coverdale	5
Ashley Megan Eckles	4
Zackary Taylor Chavez	3
Kayla Marie Haddock	3
Peachlyn Bradley	3
Chase Dalton Smith	3
Anthony Christopher Cooper II	2
Colton Smith	2
Elijah Coverdale	2
Dominique R. London	2
Baylee Almon	1
Jaci Rae Coyne	1
Blake Ryan Kennedy	1
Tevin D'Aundrae Garrett	1
Danielle Nicole Bell	1
Tylor S. Eaves	8 months
Antonio Ansara Cooper, Jr.	6 months
Kevin Lee Gottshall II	6 months
Gabreon Bruce	4 months•

(At the request of Mr. DOLE, the following statement was ordered to be printed in the RECORD.)

• Mr. INHOFE. Mr. President, the 1-year anniversary of the bombing of the Murrah Federal Building in Oklahoma City reminds us of many things. We recall the emotional shock and grief. We visualize the physical destruction and devastation. We revisit the still unanswered questions: Why this terrible deed and why Oklahoma, of all places?

But at the same time, we must also remember the remarkable flowering of the true spirit of our great Nation. In the wake of unspeakable pain and adversity, there came extraordinary acts of heroism, compassion, and voluntarism. There came a unity of purpose and strength of faith few would have believed possible.

We were moved beyond words by the outpouring of help and assistance which came without solicitation from friends far and wide, from caring individuals, public servants, private organizations, and communities throughout Oklahoma and throughout America. We were reminded what a truly great country this is and how blessed we are here in the land of the free and the home of the brave.

On behalf of all of us in Oklahoma, thank you, America. Thank you for helping. Thank you for caring. Thank you for being there in this most difficult time of need.

Nothing anyone can do will erase the indelible scars, pain, and loss that innocent citizens in our State have suffered. But the memories of the generosity and compassion displayed by so many will live in our hearts forever.•

Mr. DOLE. Let me now yield to my distinguished colleague from Illinois.

Ms. MOSELEY-BRAUN. I thank the Senator.

I join my colleague, the majority leader, in his prayers for the families of the victims of the Oklahoma City bombing and the entire American family for the great tragedy that event caused to all of us.

REMEMBERING THOSE WHO LOST THEIR LIVES IN BOSNIA

Ms. MOSELEY-BRAUN. At this time, Mr. President, I also call upon my colleagues and the American people to offer a prayer in behalf of the late Secretary of Commerce, Ron Brown, and the 34 others who died with him that tragic day in Bosnia. They were serving our Nation. They were pursuing the goals of peace, and their deaths all came too soon. Because of those losses, as a country we have lost so much.

I appreciate the majority leader giving us this opportunity to express our great sympathy and condolences to their families and again to give us a chance to reaffirm the mission; that they have all given their lives in pursuit of the higher goals of our Nation.

Thank you very much, Mr. President. I yield the floor.

Mr. DOLE. I now ask, in response to the statement by my colleague from Illinois, that we now observe a moment of silence in honor of the memory of Ron Brown and others who died in that tragic accident.

[A period of silence.]

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURNS). Without objection, it is so ordered.

MORNING BUSINESS

Mr. KERREY. Mr. President, is the order morning business?

The PRESIDING OFFICER. The Senator is correct. We are in morning business, but the first part of morning business is controlled by the Senator from Georgia, Senator COVERDELL.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I ask unanimous consent to speak for 5 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I wonder if following the Senator, I could speak for 4 minutes in morning business?

Mr. COVERDELL. Mr. President, reserving the right to object, I say to the Senator from Alaska, we have people trying to catch aircraft. Is it an absolute necessity he have the time? Otherwise, on the time we control, I am trying to accommodate people who are trying to catch aircraft, so I cannot relinquish and relinquish. Does that create a problem for my colleague?

Mr. MURKOWSKI. What is the order of business, if I may ask the Chair?

The PRESIDING OFFICER. The order of business at the present time is we are in morning business and the Senator from Nebraska, under a previous order, has 5 minutes.

Mr. COVERDELL. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Is it not true the Senator from Georgia has control of 1 hour and 15 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. COVERDELL. We relinquished 5 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. That is correct. The Senator from Nebraska is recognized.

Mr. MURKOWSKI. The Senator from Alaska has asked for 4 minutes following the Senator from Nebraska.

The PRESIDING OFFICER. Is there objection?

Mr. COVERDELL. Reserving the right to object, I am going to grant the 4 minutes, but I want it to be known that I will ask to recover these 10 minutes at the end of it, because we have people who are lined up. Again, I am trying to accommodate people, so this will be the last I will acknowledge.

The PRESIDING OFFICER. Without objection, the time will not be taken out of the time of the Senator from Georgia.

The Senator from Nebraska is recognized.

IRAN-BOSNIA

Mr. KERREY. Mr. President, I rise to discuss the investigation which the Select Committee on Intelligence has undertaken at the majority leader's request regarding allegations that the administration may have secretly acquiesced in or facilitated Iranian arms shipments to the Bosnian Moslems in 1994 and 1995, in violation of stated United States policy. This is a serious request made by a Senator long involved with United States policy in Bosnia. Some have said this request was made for political reasons. Perhaps that is the case. But there is also sufficient reason to believe the Senator from Kansas would have made this request regardless of the political climate or season.

The Intelligence Committee begins this task with a solid base of information because we received some, but not all, of the intelligence available to the administration at the time the Iranian arms shipments were occurring. Our committee has been reviewing and adding to that information base in the 2 weeks since Chairman SPECTER received the majority leader's request. We are well positioned to do a through job for the Senate on the sensitive intelligence issues surrounding this matter, particularly the question of whether or not the administration conducted a covert action without informing Congress.

In addition to our familiarity with the topic, the Intelligence Committee is also likely to do a good job on its part of this investigation because we are a bipartisan committee. In setting the strength and composition of the committee, the Senate directed, in Senate Resolution 400, that our membership be close to balance at nine majority members and eight minority, regardless of the composition of the Senate floor, and that the senior minority member function as a vice chairman, not as a ranking member. In creating the Intelligence Committee, the Senate clearly believed that intelligence was too sensitive to be overseen in a partisan, adversarial manner. Chairman SPECTER approaches his leadership duties on the committee in that nonpartisan spirit, and so do I.

The history of this committee is replete with conduct like that of Senators COHEN and WARNER, BOREN, NUNN, MOYNIHAN, and others, who have come to this committee and said we are not going to serve in a partisan fashion. We are not going to answer the call of our party, we are going to answer the call of our country. The present and future course of this committee should as well.

Open allegations against the administration, and a requirement to investigate those allegations, can strain even the most sincere commitment to bipartisanship. Those strains have not yet been felt in the Intelligence Committee in this case. Chairman SPECTER and I have tasked a single group of professional staff to support all committee members and all information which comes into the committee's hands will be shared equally with all members. This is the way we have always operated.

As for myself, I don't see the vice chairman's role to be an advocate of the administration. As we pursue questions, I will not be a Democratic Senator defending fellow Democrats, but rather a U.S. Senator following the facts wherever they lead and reaching a conclusion based on those facts. I am confident Chairman SPECTER feels the same way about his role.

I spoke of the Intelligence Committee's readiness to do a thorough job. Our thoroughness will be improved if we get all the relevant information from the administration. As many colleagues are aware, the committee has been denied the opportunity to read the intelligence oversight board's report on this case. The implication is clear that if we subpoena the report, the President will assert executive privilege.

The intelligence oversight board is wholly within the Executive Office of the President, so there may be legitimate executive privilege here. But if the report is off limits to Congress, then the administration should not cite the report as having determined that no covert action occurred. The administration can't have it both ways. They should either give Congress the report, or stop citing it as vindication.

An Associated Press story yesterday quoted a White House spokeswoman, Mary Ellen Glynn, saying, "the point is not to withhold information. The point is to protect sources." Mr. President, this rationale for denying information to Congress has no basis. The Intelligence Committee has received and stored the most highly classified material for years, and its record for protecting sources and methods is far better than that of the executive branch. So security is simply no excuse, and an invalid reason to deny information to Congress. My advice to the administration is, fully inform Congress.

The committee lacks all the facts, but on the basis of what we have, I do not see evidence of a covert action. But I stress that is a preliminary assessment and not a conclusion. I am open to the evidence. Certainly, if there was a covert action, Congress should have been informed, and the Intelligence Committee received no such information. If press reports are correct, in later 1994 CIA Director Woolsey sensed from information he was getting from CIA channels that a United States covert action, an action he and presumably other CIA personnel were not privy to, was in progress in Croatia. Director Woolsey reportedly came to the White House with his concerns. The Intelligence Committee needs to know what evidence was the basis of Director Woolsey's concerns. We also need to know why he did not share his concerns with the oversight committees.

Mr. President, my interest in getting to the bottom of this case is not based solely on the majority leader's request. In my view, if the press reports are correct, the United States chose a course of action in Croatia and Bosnia with very serious down-side risks. The Bosnian situation was and is exceptionally complex and presented few good options to policymakers. But our alignment with Iran, even if it was a passive and accidental alignment, was very dangerous. Every President since Jimmy Carter has declared a state of emergency with respect to Iran, and United States laws and Executive orders have embargoed imports from Iran, limited United States exports to Iran, banned United States trade and investment in Iran including the trading of Iranian oil overseas by United States companies or their foreign affiliates, and placed sanctions on persons or countries who supply Iran with any goods or technologies that could contribute to Iran getting destabilizing conventional weapons or any weapons of mass destruction technology. These laws and Executive orders are there for a reason: to contain and isolate a country which conducts and supports terrorism and attempts to proliferate nuclear and chemical weapons. A policy which depends on such an amoral country to arm the otherwise defenseless Bosnian Moslems is dangerous—not merely politically dangerous, but potentially threatening to our allies and eventually to our own forces, when they deployed a year later. To turn a blind eye to Iranian shipments is to turn a blind eye to the possibility of United States casualties at the hands of the very people we have allowed to be armed, especially with a United States deployment imminent.

Critics of this policy have to admit an inconvenient fact: risky as it was, the policy worked. Our allies did not pull their forces summarily out of the former Yugoslavia, which they might have done if we had unilaterally lifted the arms embargo. The Bosnian Moslems were not overwhelmed; in fact, they defended themselves creditably and even went on the offensive. The policy brought about a balance which made possible the Dayton Accords and the peace which IFOR is enforcing today.

But even though the administration's risky Bosnia policy has worked, at least so far, the Intelligence Committee is obligated to investigate whatever may have been the United States role in the Iranian arms shipment. I take that obligation very seriously, and I look forward to joining with my chairman in rendering a full report.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank my distinguished colleagues from Alaska and Georgia for yielding me a moment. I compliment my distinguished colleague from Nebraska for his eloquent statement. I think it is very important, as Senator KERREY has outlined, the bipartisan, nonpartisan nature of the Intelligence Committee being emphasized.

As Senator KERREY, I approach this investigation with a total open mind and no predisposition and determination to see the inquiry is totally nonpolitical, bipartisan, nonpartisan, as we take a look at the shipment of Iranian arms to the Bosnian Moslems.

I thank my colleagues and yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska is recognized.

IN THE SPIRIT OF EARTH DAY

Mr. MURKOWSKI. I thank the Chair and my colleague.

Mr. President, on the eve of Earth Day, I want to alert Members of legislation that I will be introducing to help raise funds from the private sector to support our national parks, particularly with regard to repair. In this regard, I think it is appropriate that we thank the thousands of people and organizations who are answering the call to help repair and preserve an important part of this Nation's past and future: the historic C&O Canal.

That canal extends 184 miles between Cumberland, MD, and Georgetown in the District of Columbia. The C&O Canal National Historic Park is a major recreation attraction and a part of our national heritage. As we know, the flooding of the Potomac River in the blizzard of 1996 has taken a heavy toll. Repairs require funds at a time when our Federal budget is already stretched to the hilt.

That is where the sweat and ingenuity of the private sector is going to come in. Let me tell you about it, because it is going to come in a big way.

In the spirit of Earth Day, which asks every one of us to do what he or she can to help make the Earth a better place, people and organizations are rising to the challenge and giving their money, time, and effort.

The National Parks and Conservation Association, with the help of WRC–TV Channel 4 and others, has organized and publicized tomorrow's March for Parks along the canal route. The purpose is to raise funds for the canal. These organizations have done an outstanding job on the project and thousands of dollars are already pouring in. They are doing a wonderful service to the Nation.

In an effort to keep these private donations coming in, I am today announcing the introduction of legislation which will help raise as much as $100 million in each year in support of our national parks, specifically for repairs.

First, the legislation will revitalize and expand the scope of the operation of the National Park Foundation so it can work with the private sector to raise additional funds for parks. It would encourage business relationships similar to those engaged by the National Fish and Wildlife Foundation and the National Forest Foundation.

Second, it will grant the sort of authority already enjoyed by the U.S. Olympic Committee to sanction appropriate private sponsorship of the parks.

Third, each year publishing, advertising, movie making, and similar pursuits make use of the intellectual property and assets of our national parks with virtually no return to the parks. Reform is needed to enable the Park Service, through the National Park Foundation, to capture some of the potential income through licensing and other marketing agreements.

Fourth, the legislation will contain safeguards to negate improper commercialization of our parks, but it will allow new revenue-generated opportunities outside the parks in partnership with the private sector.

The National Park Foundation was created by Congress in 1967 as an official nonprofit partner of the National

Park Service. It serves as a vehicle for donors who want to contribute with the assurance that gifts will be carefully managed and used wholly and exclusively for the purpose specified by the donor. It is governed by a board of civic and distinguished leaders committed to helping the parks, with the Secretary of the Interior serving as chairman, and the Director of the Park Service serving as secretary. None of this is going to change, Mr. President.

During the last 5 years, the foundation has made over $10 million in grants to our national parks, but the changes contained in my legislation will empower it to contribute much more for the repair and preservation of the C&O Canal and other elements of our park system.

Obviously, none of this will or should detract from the Federal Government's or the Park Service's responsibility to our parks. The goal is to augment that involvement with additional private funds, much like those currently being raised by the March for Parks, and I commend the Secretary of the Interior for his effort in this regard.

Finally, we need the private sector, including those for-profit organizations who have used the National Park Service facilities and property and given little or nothing in return to help sustain our parks for the future.

The private sector can help by providing additional funds for resource management and infrastructure repair required in our parks across the Nation.

The C&O Canal National Historical Park and our other park units across the Nation connect us to our past and provide us with a vision of the future. They are some of the most beautiful and historic parcels of land to be found. In the spirit of Earth Day and American generosity and philanthropy, it is time for us to make the effort to meet the challenge.

Thanks to the NPCA, WRC-TV and the thousands of marchers and volunteers who tomorrow will be helping to show us the way. In the spirit of Earth Day, I ask for each Senator's help in passing this legislation to help our parks, and I commend our leader, Senator DOLE, for supporting this.

I thank the Chair and thank my friend from Georgia.

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia is recognized.

A TRAGIC ASSAULT: DRUG USE AMONG TEENAGERS

Mr. COVERDELL. Mr. President, this morning we gathered in the Senate Chamber to remember a very solemn moment in American history: the needless loss of 168 citizens in Oklahoma City. It reminds me of another tragic assault that goes on against the youth of our country on a day-to-day basis.

In the last 36 months, drug use among our teenagers 8 to 15 years of age has doubled, and we are in the midst of a new epidemic. What does that mean? That means that nearly 2 million—2 million—American youth have been ensnared in the assault by the drug lords of this hemisphere and their lives are potentially ruined, devastated and stunted.

Not only will their lives be impaired and ruined, but a chain of events will follow because as these youngsters are consumed by drugs, they are driven into a life of crime, an effect on our Nation which is immeasurable.

Of the 35,000 prisoners in Georgia this morning, 80 percent of them are there today because of drug-related offenses. The impact of this war, this assault on the youth of our country is having a devastating impact across the land as it drives crime, assault and battery, murder, theft, robbery, burglary.

Mr. President, I spent a few minutes with President Zedillo of Mexico not long ago. He said the drug war was the single greatest threat to his country. I said, "I agree with you, Mr. President, with one amendment. The drug war is the single greatest threat to this hemisphere of democracies, to all of our nations in this hemisphere of democracies."

Mr. President, I yield up to 10 minutes to my distinguished colleague, the Senator from Iowa, the chairman of a drug task force and eminent figure in this issue and assault on the youth of our country. I yield 10 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

PRESIDENT CLINTON'S JUDICIAL NOMINEES SOFT ON CRIME

Mr. GRASSLEY. Mr. President, today we do remember what happened 1 year ago in Oklahoma City, a very horrible crime. People are concerned about crime in America. People expect the Congress of the United States to do something about crime. We have this week taken a giant step by passing the antiterrorism bill that the President says he will sign.

So I rise this morning to talk about crime as the Senator from Georgia indicated. The war on drugs has a lot to do with the whole subject of crime, but I also want to make some reference to the negative effect that this administration has had on the Federal courts.

I think it is fair to say that President Clinton's judicial appointments communicate the President's vision of the kind of America that the President would like to have. I do not share his soft-on-crime vision. I do not think most Americans do. Mr. President, you can say that you are putting all the cops on the streets all you want, but unless you appoint Federal judges who will enforce the law and protect victims over criminals, all the cops in the world will not make any difference.

In regard to the appointments that the President made, I read with amusement in this morning's Washington Post where Vice President GORE attempted to defend President Clinton's record on judicial nominations. I believe that the Vice President's efforts fall far short. For instance, one of his primary arguments is that this administration's nominees have enjoyed more support from the American Bar Association than the last three administrations. Mr. President, this just goes to show how out of touch the Vice President is with the American people and with even the President's own appointees.

President Clinton has a powerful ally in his judicial jihad to protect criminals, and that happens to be the American Bar Association, because somehow the ABA mysteriously and without input from the American people set itself up as the ultimate arbiter of who should or should not be a judge. The ABA happens to share the President's own frightening vision of criminals' rights over victims' rights.

We just passed a very fair and balanced antiterrorism bill in this body. That bill contained habeas corpus reform, badly needed, to permit prisoners just one bite at the apple and to limit that bite in order to stop frivolous and successive postconviction appeals that allowed people to stay on death row for 10 to 15 years. Vice President GORE uses the ABA as a mantle to say that the President's judges are ideal appointees. Yet the American Bar Association strongly opposes these necessary anticrime provisions that were in the antiterrorism bill.

Unfortunately, I believe that the current administration has then done a disservice to the American people by gathering liberal activists from every coffee house and every street corner in America and nominating them to some of the most important and influential Federal courts in America.

Few Americans would dispute and few in this body dispute the fact that in the arena of criminal justice, the legacy of the Earl Warren Supreme Court of the 1960's and 1970's has been devastating. Violent criminals who have committed heinous, shocking crimes are routinely freed on bogus technicalities first invented during the Earl Warren period. We are still paying that price. These violent individuals go back out on the streets and commit even more crimes and victimizing more people.

Until the President came on to the scene, I thought that we had turned a corner on that sort of Warren Court thinking. I had thought there was a broad consensus that law enforcement should not have their hands tied by highly technical rules. I had thought that there was a broad consensus that serving time in prison for committing crimes should be punishment and not a blissful vacation at taxpayers' expense.

But, Mr. President, I was wrong. President Clinton has sent up a number of law professors and liberal activists to sit on the Federal bench and impose their preconceived, unrealistic ideas on the rest of America. Now, a simple fact of American Government: Bad judges are worse than even bad Presidents, because we can vote bad Presidents out of office, but we are stuck with bad judges for life. We cannot send them back to their coffee houses and street corners. To be honest, the Republican-controlled Senate has been somewhat to blame, as we trusted the President to do the right thing. But now with this record, Mr. President, I think it is time that we start giving judicial nominees the scrutiny that they obviously deserve.

We have been lax, in deference to the President. But that needs to end given his poor performance of nominating judges intent upon protecting criminals over victims' rights. Of course, we in the Senate have a right under the Constitution to comment on the direction the country is taking and how the courts have played a role in this. So the concept of the separation of powers remains untouched and intact and alive and well.

Take a good, hard look at some of the President's more notable judges. In the first circuit Judge Sandra Lynch overturned a life sentence imposed for a brutal murder. This is a pattern that we see over and over again—liberal, soft-on-crime, Clinton judges lending convicted felons a hand.

In the Second Circuit Court of Appeals, Judge Guido Calabresi dissented from an opinion which denied a prisoner the right to receive pornography in his jail cell. This is another theme with Clinton judges, making sure that prisoners have all the amenities that they want. The logic must be that prison should not be too uncomfortable or too difficult.

In the Third Circuit Court of Appeals, Judge H. Lee Sarokin has issued a few zingers. This judge has ruled that prisoners have a constitutional right to prevent prison officials from opening and inspecting mail. This judge has voted to overturn the death sentences of two murderers who brutally ended the lives of two elderly couples.

In the fourth circuit, Judge Blane Michael argued in a dissenting opinion that a criminal who had tried to murder a Federal prosecutor could not be found guilty under Federal statute prohibiting the mailing of a bomb to Federal officials because the bomb was poorly made and unlikely to actually explode. Mr. President, how could this judge have done any more to help that criminal?

In the Fifth Circuit Court of Appeals, District Judge Robert Parker ruled that it was unconstitutional for the police to search for hidden marijuana plants by using an infrared device. Mr. President, what more could drug dealers ask for to help them?

In the Eleventh Circuit Court of Appeals, Judge Rosemary Barkett wrote an opinion granting a hearing for a man who had been convicted of setting his former girlfriend's house on fire and killing her two children.

Lest anyone think that the President has seen the errors of his ways and will start putting more mainstream judges on the Federal bench, let us look at a nonconfirmed nominee to the eleventh circuit. At his recent judiciary confirmation hearing, Mr. Stack was asked what he thought of the applicable law of search and seizure law relative to the now infamous New York case in which Judge Baer initially suppressed evidence of millions of dollars worth of illegal drugs.

Mr. Stack was unable to cite even the most fundamental criminal law precedents. In fact, his only comment that he made was that he would "applaud the use of all evidence * * * legally obtained in the courtroom" but would not want to "throw * * * away the constitutional guarantees that each of us in America is afforded." I do not believe this is a response worthy of a Federal circuit court nominee. This is unacceptable from a circuit court nominee who is supposed to have the necessary credentials and qualifications for appointment to the Federal bench.

Next to the Supreme Court, the Federal court of appeals is the most important court in the country. It appears as though Mr. Stack's qualifications for the eleventh circuit post has been based solely on raising $11 million for President Clinton's 1992 Presidential campaign and another $3.4 million for the National Democratic Committee, and not on Mr. Stack's legal capacity, his competence, or his temperament. If this does not a least give the appearance of buying a Federal court seat, I do not know what does.

In fact, Mr. Stack has little, if no experience, in criminal law or practice before the Federal courts. He has no substantive legal writings to speak of.

Further, Mr. Stack was surprisingly ignorant about recent developments in the law. Mr. Stack was comfortable telling the Senators at his confirmation hearing that he would seek guidance from other judges and the Federal Judicial Center if he was not knowledgeable about a particular area of law. So I look to him asking Judge Barkett, that what she can teach him and mold him about Mr. Stack's views of criminal law as a fierce defender of criminals—I think it is clear that the American people find this extremely disturbing.

In conclusion, with Clinton-appointed judges, I think a pattern has emerged. In those rare circumstances when Clinton judges believe that criminals should go to prison, they certainly want to make sure that prison is not too inconvenient. While Clinton judges write on and on about the rights of prisoners, they are silent about the rights of crime victims. That is why it is so important for the Senate to speak out to be the champions of the victims and not of the predators.

Mr. COVERDELL. Mr. President, I thank the Senator from Iowa for his thoughtful remarks. They were very eloquently presented.

I yield up to 10 minutes to the distinguished Senator from Texas.

CRIME IN AMERICA

Mrs. HUTCHISON. Thank you, Mr. President. I thank my colleague from Georgia.

Mr. President, today all Americans will stop and remember the terrible tragedy that occurred 1 year ago today in Oklahoma City. We extend, all of us in the U.S. Congress and all over America, our prayers and our thoughts to those who lost family and friends in that senseless tragedy.

Last week, Congress passed laws to make it harder for criminals to inflict the kind of terror we saw in Oklahoma City and at the New York World Trade Center before that. This antiterrorist law is just one small step toward taking back our cities, our towns, and our communities. Taking them back from dangerous and predator criminals who have made us afraid to walk the streets at night, who have forced us to put bars on our windows, and who have caused us to place metal detectors in our Federal buildings and in some public schools in our country.

Mr. President, one thing the law we just passed does is make it harder for prison inmates to file years and years of appeals that tie up our courts for years, dulling the sword of justice. Often, to many Americans, it seems as if our court system cares more about criminals' rights than the rights of law-abiding citizens. But there is more the American people expect of us. They have had enough of liberal judges who think it is their responsibility to turn dangerous criminals out to society, when society would like to keep them behind bars. They are tired of a revolving-door justice system.

According to a recent study by the Bureau of Justice statistics, an incredible 94 percent of State prisoners are violent criminals or repeat offenders.

I introduced legislation this year that is on its way to the President. It will permit the States to take back control of their prison systems away from Federal judges who are out of touch with the everyday concerns of working, law-abiding families. In my own State, one Federal judge has taken it upon himself to say that prison cells in the State prisons are too small and there is not enough recreation space. What is his remedy? His remedy is to release prisoners early. As a result, in Texas, violent criminals serve 6 months of every year of their sentences.

Mr. President, what we need is judges who understand it is not cruel and unusual punishment for a criminal who has a victim to endure a hot, uncomfortable jail cell without color TV, without his or her favorite foods, without indoor and outdoor recreational facilities.

Mr. President, Americans are ready for a prison system that does not more for prisoners, but less for prisoners and more for law-abiding citizens. No prisoner should be eligible for early release or parole who is not drug free, able to read, and trained in a skill that will enable that person to get a job outside. If you cannot function in society outside, you should remain inside the prison if you have not served your time.

We should say very clearly to those who commit crimes and end up behind bars, we want you to learn to cooperate with society. We want to give you a chance. You are locked up because you did not cooperate with society and you have a victim.

The Speaker of the House said, "We ought to require prisoners to work 48 hours a week and study 12 hours a week. If we kept them busy 60 hours a week doing something positive, I think they would be different people when they go out into the word. Recidivism would fall and victims would be spared."

Mr. President, what is the first and foremost responsibility of Government? The first and foremost responsibility is to provide law-abiding citizens the conditions to live freely. But for too long, the Federal Government and Federal judges have interfered with the responsibility of States to meet their first responsibility to their citizens. Texans and Americans all over this country have had enough. They are tired of politicians and judges that blame society for crime. They blame criminals for crime. They would like for Government to do the same thing.

There were 10 million violent crimes in America in 1993. Those were the ones that were reported. Mr. President, 100,000 criminals were sent to prison to serve time for violent crimes. What has happened to a criminal justice system that imprisons 1 person in 100 for every violent crime committed in this country?

Mr. President, we can put barricades in front of the White House, but too many Americans do not have that luxury. Ordinary citizens are faced each day with the threat of violent crime. They have had enough. They want their streets back. They want their communities back.

Mr. President, I want to end with a recollection that I had 1 year ago today. It was from a victim of the Oklahoma tragedy. I will never forget watching television, as so many of us in this country did, and I saw this man, bandaged, his eyes swollen shut, you could not see anything else on his face, and a news reporter put a camera and a microphone in front of this victim. He was a man who had gotten up and gone to work that day. His life had blown up in front of him in just a few short minutes. The reporter said, "How do you feel?" This man, through his bandages and his swollen eyes, said, "I feel like I live in the greatest country on Earth, and I'm going to have to work harder to make it better."

Mr. President, that victim's spirit will do more to return this country to its bearing than any laws that Congress could pass.

Our Nation's leaders must strive to do what is legally possible to give our citizens a society in which they can go to work and raise their families freely.

But, Mr. President, even more important, our leaders should never forget the victims' spirit from Oklahoma City and all the people who came to help after that tragedy in the great spirit of this country. We must remember that spirit is what will rebuild this country, that is the spirit on which this country's future is based.

We will provide the laws. We have done that. We have done that this week and we must do more. But we must also come back to our bearings. What made this country great was people who love this country no matter what victimization they have had. They are going to work harder to make it better.

Thank you, Mr. President. I yield the floor.

Mr. COVERDELL. Mr. President, I appreciate the remarks of the Senator from Texas. As always, she is an eloquent voice on this subject, and I am most pleased that she could be here this morning.

Mr. President, I yield up to 10 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for up to 10 minutes.

GUNS AND CRIMINALS

Mr. DEWINE. I thank my friend and colleague from Georgia for putting this time together this morning.

Mr. President, I want to talk this morning about the question of guns and criminals who use guns. We have debates—and often they are very contentious debates—about a lot of issues concerning crime. We talk on this floor about contentious issues, such as the Brady bill and assault weapons. And these are important issues. They are important. I happen to favor these bills. But I think we need to recognize what really is important, and we need to step back a little bit and talk about what really makes a difference when we talk about what we do to deal with the crime problem.

These two issues—the Brady bill and assault weapons—are highly contentious. Second, frankly, they, at best, only have a marginal impact on the problem. Third, they tend to attract somewhat overblown rhetoric, frankly, on both sides of the issue. I think both sides of the Brady bill debate and both sides of the assault weapon debate overemphasize what the importance of this debate is.

I am, frankly, puzzled that we cannot seem to move forward on more effective proposals that everyone ought to favor—proposals that will really make a difference. These proposals that I am talking about may not be very exciting, but they are real, they work, they make a difference, they make a difference out on the street.

Mr. President, we all agree that we, as a society, ought to do more to protect our citizens from armed career criminals. There are predators out there—predators, Mr. President—who are repeat violent criminals who use a gun while committing a crime. We, as a society, have to make a strong, effective response to this threat.

Mr. President, in this area, as in all areas of national concern, we really need to be asking the following questions: One, what works? What really makes a difference? Two, what level of Government should do this particular job?

In the area of gun crimes, we have a pretty good answer. We have an answer that is based on experience and based on history. Now, we all know that there is some controversy over whether general restrictions on gun ownership would help to reduce crime. But there is no controversy over whether taking guns away from felons would reduce crime. Democrat, Republican, liberal, conservative—I think everyone gets that, everyone understands it, and there should not be any controversy about it. If you take guns out of the hands of felons, you are going to reduce crime.

When it comes to felons, Mr. President, unilateral disarmament of the thugs is simply the best policy. Let us disarm the people who hurt people. Although we can quibble about statistics, the facts are that the vast majority of crimes in this country today, the vast majority of violent crimes, the vast majority of crimes that hurt people are committed by a small number of the criminals. One estimate is that 70 percent of all violent crime in this country is committed by less than 6 percent of the criminals, which is a relatively small number of people.

And so what I say that we need to do, Mr. President, is to target the violent career criminals, particularly those who use a gun to commit a felony—target them, convict them, get them off the street, lock them up, and keep them locked up.

Mr. President, we have actually tried this, and we know it works. One of the most successful crime fighting initiatives of recent years was known as Project Triggerlock. This project was wildly successful precisely because it addressed a problem squarely head on, and it placed the resources where they were most needed.

Let me talk for a moment and share with you the story about Project Triggerlock. The U.S. Justice Department began Project Triggerlock in May 1991. The program targeted for prosecution in Federal court armed, violent, repeat offenders. Under Project Triggerlock, U.S. attorneys throughout the country turned to their local, State prosecutors and said this: "If you catch a felon, and you catch that felon with a gun, and if you want us to, the U.S. attorneys, we, the Federal prosecutors, will take over the prosecution for you. We will prosecute this individual under Federal law—Federal law that many, many times, in regard to violent repeat offenders who use a gun in the commission of a felony, is tougher than State law. We will prosecute this individual. We will convict this individual, and we will hit this person with a stiff Federal mandatory sentence. And then we will lock him up in a Federal prison at no cost to the State or local community. Basically, we will deep-six this guy, get him out of society. We will take the cost of prosecution and then we will pay to house him for 10, 15, 20 years while he is out of society."

That is the type of assistance to local communities that makes a difference. That is what Project Triggerlock did. Triggerlock was an assault on the very worst criminals in America. Mr. President, it worked.

Listen to these figures. This program took 15,000—15,000—criminals off the streets in an 18-month period of time. Triggerlock caused a dramatic increase in Federal firearms prosecutions. In the first 12 months of Triggerlock, the program initiated firearms prosecutions against 6,454 defendants. It worked.

Now, incredibly, Mr. President—incredibly—the Clinton Justice Department has chosen to deemphasize Project Triggerlock. They tell us they still have it; they just do not talk about it. Apparently, they do not even keep the statistics on it. They do not make it a priority.

Mr. President, Project Triggerlock was the most effective Federal program in recent history for targeting and removing armed career criminals. But the Clinton administration Justice Department, today, acts like Triggerlock simply does not exist. While the Clinton Justice Department says that Triggerlock remains important, the facts, the statistics do not bear this out. They, apparently, no longer keep records on these prosecutions—and, I guess, for very good reason.

If you look at the records kept in Federal courts—go to the Federal courts to get your statistics, here is what you learn: Since the advent of the Clinton administration we have seen a substantial decrease in the prosecution for weapons and firearms offenses.

That is a shocking fact.

We also see a substantial decrease in actual convictions for these firearm related offenses in Federal court.

Let us look at the numbers. In 1992, there were 4,501 prosecutions of gun criminal charges for these crimes. In 1993, the number of prosecutions dropped slightly to 4,348. But in 1994, the number plunged all the way down to 3,695. We should have been seeing an increase. Instead, we started going the wrong way. That is a 19-percent drop in weapons and firearms prosecutions in the Federal courts during the Clinton administration—a 19-percent drop.

Mr. President, who in this country can believe that this is justified? Who in this country believes that the threat of gun criminals to the society is less than it was 2 years ago? Clearly, it is not.

Mr. President, the number of total convictions for firearm-related prosecutions in Federal court has dropped as well. Again, let me go back to 1992. In 1992, 3,837 of these defendants were convicted. In 1993, there was a drop, a drop to 3,814. But in 1994, we see a more severe drop—down to 3,345. Again, instead of going up in prosecutions, which is what you would have expected, we see the trend lines going down. Mr. President, that is going in exactly the wrong direction.

Last year, I introduced a crime bill that would have restored Project Triggerlock. It would have required a U.S. attorney in every jurisdiction in this country to make a monthly report to the Attorney General in Washington on the number of arrests, the prosecutions and convictions that they had achieved in the previous month on gun-related defenses. The Attorney General under my bill should then report semiannually to the Congress on the work of these prosecutors. Then we would know the information would be available.

It is like anything else. When you start counting, when you start publicizing the results, you start holding people accountable, and people then respond.

Let me say that there are a lot of U.S. prosecutors who are doing a good job in this area who on their own are emphasizing the prosecution of people with guns. But it should not just be left up to every U.S. attorney in the country to decide one way or the other. This should be a national policy. It should be a national policy that is driven by the Attorney General and driven by the President of the United States. Quite frankly, nothing short of that, in my opinion, is acceptable.

The truth is that, like all prosecutors, U.S. attorneys have limited resources. So like all prosecutors, U.S. attorneys have to exercise discretion about whom to prosecute. We know that. We all recognize that Congress can and should not dictate to prosecutors whom they should prosecute. But it is clear that we as a Congress, that we as a Senate, should go on record with the following proposition. There is nothing more important in fighting crime than getting armed career criminals off the streets.

Mr. President, I think the Project Triggerlock is a very important way to keep the focus on the prosecution of gun crimes. Getting gun criminals off the streets is a major national priority. I believe that we should behave accordingly.

This is no time to turn our backs on a proven, promising mainstream anticrime initiative; an anticrime initiative that is not controversial, an anticrime initiative that would not tie up 5 minutes of debate on the Senate floor in regard to whether or not we should do it. Everyone understands that we need to do this. What we need is the will from the executive branch to really reinstitute Project Triggerlock and make it work.

Mr. President, families who are living in crime-threatened communities need to know that we are going to do what it takes to get guns off their streets. We are going to go after the armed career criminals. We are going to prosecute them, we are going to convict them, we are going to lock them up, and we are going to keep them locked up.

Mr. President, in conclusion, this is why we have a Government in the first place—to protect the innocent, to keep ordinary citizens safe from violent predatory criminals.

I think Government needs to do a much better job at this very fundamental task, and it is inherently the fundamental task of the Government. That is why targeting the armed career criminal is such a major component of our national policy.

The Clinton administration, I believe, should reverse its opposition to Project Triggerlock, and should do so immediately.

I thank my colleague from Georgia for the time. I thank the Chair.

I yield the floor.

Mr. COVERDELL. Mr. President, I appreciate the remarks of the Senator from Ohio.

I now yield up to 5 minutes to the senior Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

PRISON CONSTRUCTION AND CRIME IN TEXAS

Mr. GRAMM. Mr. President, I want to thank our colleague from Georgia for leading this effort. We are always looking for good news in our war on violent crime and the threat that it poses to our families. This morning I want to share some good news. This good news is based on hard facts presented in a major study done by the National Center for Policy Analysis, which is located in my State. I think that when you listen to the numbers, they speak as loudly and as clearly as a clap of thunder.

Five years ago, Texans finally had enough of violent crime, so we launched the largest prison building program in the history of the United States of America. Over a 4-year period, we expanded the size of the Texas prison system from a 49,000 criminal capacity to a 150,000 criminal capacity.

In terms of our population, Texas started out having a per capita violent criminal incarceration rate that was roughly equal to the national average. Four years later, we have the highest criminal incarceration rate of any State in the Union. I believe that this is a direct result of building new prisons, putting people in jail, and beginning to approach what we call "truth in sentencing," so that when somebody is sentenced to prison for 10 years, they actually, honest to God, serve 10 years in prison.

We have seen the following things happen in Texas in terms of expected punishment for committing major crimes. Over the 6-year period between 1988 and 1994, the expected punishment in Texas for murder rose by 360 percent. For rape, the expected punishment rose by 266 percent; for larceny, 167 percent; for aggravated assault, the expected punishment rose by 360 percent. For burglary, the expected punishment rose by 299 percent; for robbery, 220 percent; and for motor vehicle theft, 222 percent.

In other words, we built prisons, we got tough, we sent people to prisons, and we extended the amount of time criminals actually spend in prison. What happened? Well, what happened is that the overall crime rate in Texas has fallen by 30-percent since 1988. Let me repeat that. We increased the number of prison beds. We more than doubled the expected punishment for crimes ranging from murder to car theft, we increased the number of people in prison, and the crime rate fell by 30 percent.

Let me put that in more meaningful terms: As compared to 5 years ago when we started building prisons and putting violent criminals in prison in Texas—as compared to 1991—the 30-percent lower crime rate we have today means that in this year alone, 1,140 people in Texas who, at the crime rate of 5 years ago would have been murdered in my State, will not be murdered. It means that in 1996, 450,000 less serious crimes will be committed than would have been committed had we not tripled the capacity of our prisons.

The lesson is very clear. We have a small number of violent predator criminals who commit a huge percentage of our violent crimes. When you are willing to put them in jail and keep them there, the crime rate falls.

The time has come for us to get serious at the Federal level. We have three major statutes that criminalize prison labor. We are one of the few countries in the world which cannot make people in prison work to produce something that can be sold in order to help pay for the cost of incarceration. Three depression-years laws make it a crime to require prisoners work, make it a crime to sell what they produce, and make it a crime to transport what is produced. In other words, we can require taxpayers to work in order to pay for building and maintaining prisons, but we cannot make prisoners work in order to do the same. We should repeal those three statutes. We should turn our Federal prisons into industrial parks. We should cut the cost of prison construction by stopping the building of prisons like Holiday Inns. We need to put people in jail for violent crimes. We need to have sentences of 10 years in prison without parole for possessing a firearm during the commission of a violent crime or drug felony, 20 years for discharging it, and the death penalty for killing one of our neighbors.

If we do those things, we can end this wave of violence. We are allowing our fellow citizens to be brutalized by violent criminals because we will not do something about it. In Texas, we have shown that you can do something about it and I would like us to follow that lead at the Federal level. I commend the National Center for Policy Analysis for conducting this study which was released in January of this year. Every Member of Congress should read this study and I would be happy to supply it to anyone who is interested in doing so.

Mr. President, I thank you for listening.

Let me now yield 10 minutes to the Senator from Michigan [Mr. ABRAHAM].

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

Mr. ABRAHAM. I thank the Chair.

CONTROL OF PRISONS

Mr. ABRAHAM. Mr. President, I should like to pick up on some of the topics which the Senator from Texas was discussing and particularly focus on one aspect of the Republican agenda on crime, prison reform. I would like today to discuss the proposals we Senate Republicans have developed under the leadership of the majority leader, Senator DOLE, to end frivolous lawsuits brought by prisoners, to remove our prisons from the control of Federal judges, and return control over them to our State and local officials.

Mr. President, let me begin by outlining the problem. In 1995, 65,000 prisoner lawsuits were filed in Federal courts alone. To put that in context, 65,000 lawsuits is more than the total number of Federal prosecutions initiated in 1995. In other words, prisoners incarcerated in various prisons brought more cases in the Federal courts than all Federal prosecutions last year combined.

The vast majority of these lawsuits are nonmeritorious. The National Association of Attorneys General estimated that 95 percent of them are dismissed without the inmate receiving anything.

Let me just list a few examples.

First, an inmate claimed $1 million in damages for civil rights violations because his ice cream had melted. The judge ruled that the right to eat ice cream was clearly not within the contemplation of our Nation's forefathers.

Second, an inmate alleged that being forced to listen to his unit manager's country and western music constituted cruel and unusual punishment.

Third, an inmate sued because when his dinner tray arrived, the piece of cake on it was "hacked up."

Fourth, an inmate sued because he was served chunky instead of smooth peanut butter.

Fifth, two prisoners sued to force taxpayers to pay for sex change surgery while they were in prison.

On and on the list goes, Mr. President, with more and more ridiculous lawsuits brought by inmates in penitentiaries. A prisoner who sued demanding LA Gear or Reebok "Pumps" instead of Converse tennis shoes.

These kinds of lawsuits are an enormous drain on the resources of our States and localities, resources that would be better spent incarcerating more dangerous offenders instead of being consumed in court battles without merit.

Thirty-three States have estimated that they spend at least $54.5 million annually combined on these lawsuits. The National Association of Attorneys General has extrapolated that number to conclude that the annual costs for all of these States are approximately $81 million a year to battle cases of the sort that I have just described.

In addition to the problems created by the lawsuits the courts have dismissed, we have what is, if anything, a more serious problem—lawsuits the courts have not dismissed that have resulted in turning over the running of our prisons to the courts.

In many jurisdictions, including my own State of Michigan, judicial orders entered under Federal law have effectively turned control of the prison system away from elected officials accountable to the taxpayers and over to the courts. The courts, in turn, raise the costs of running prisons far beyond what is necessary and undermine the very legitimacy and deterrent effect of prison sentences. Judicial orders entered under Federal law have even resulted in the release of dangerous criminals from prison. Thus, right now, our existing Federal laws are actually wasting the taxpayers' money and creating risk to public safety.

Let me explain a little bit about how this works. Under a series of judicial decrees resulting from Justice Department lawsuits against the Michigan Department of Corrections back in the 1960's, the Federal courts now monitor our State prisons to determine: first, how warm the food is; second, how bright the lights are; third, whether there are electrical outlets in each cell; fourth, whether windows are inspected and up to code; fifth, whether a prisoner's hair is cut only by licensed barbers; and sixth, whether air and water temperatures in the prison are comfortable.

Complying with these court orders, litigating over what they mean, and producing the reports necessary to keep the courts happy has cost the Michigan taxpayers hundreds of millions of dollars since 1984.

This would be bad enough if a court had ever found that Michigan's prison system was at some point in violation of the Constitution or if the conditions there had been declared inhumane, but that is not the case. To the contrary, nearly all of Michigan's facilities are fully accredited by the American Corrections Association.

We have what may be the most extensive training program in the Nation for corrections officers. Our rate of prison violence is among the lowest of any State. And we have spent an average of $4,000 a year per prisoner for health care, including nearly $1,700 for mental health services.

Rather, the judicial intervention is the result of a consent decree that Michigan entered into in 1982, 13 years ago, that was supposed to end a lawsuit filed at the same time. Instead, the decree has been a source of continuous litigation and intervention by the court into the minutia of prison operations.

The Michigan story is a bad one, Mr. President, but let me tell you a story that causes me even more concern, and that is on the public safety side, the example that is going on even today in the city of Philadelphia. There a Federal judge has been overseeing what has become a program of wholesale releases of up to 600 criminal defendants per week to keep the prison population down to what the judge considers an appropriate level.

As a result, a large number of defendants have been released back onto the streets. Following their release, thousands of these defendants have been rearrested for new crimes every year including 79 murders, 90 rapes, 959 robberies, 2,215 drug dealing charges, 701 burglaries, 2,748 thefts, and 1,113 assaults.

Under this order, there are no individualized bail hearings based on a defendant's criminal history before deciding whether to release the defendant pretrial. Instead, the only consideration is what the defendant is charged with the day of his or her arrest.

No matter what the defendant has done before, even, for example, if he or she was previously convicted of murder, if the charge giving rise to the specific arrest on the specific date is a nonviolent crime, the defendant may not be held pretrial.

Moreover, the so-called nonviolent crimes include stalking, carjacking, robbery with a baseball bat, burglary, drug dealing, vehicular homicide, manslaughter, terroristic threats, and gun charges. Those are charged as nonviolent and consequently those arrested are not detained.

Failure to appear rates, needless to say, for crimes covered by the cap are up around 70 percent as opposed to noncovered crimes for aggravated assault where the rate is just 3 percent.

The Philadelphia fugitive rate for defendants charged with drug dealing is 76 percent, three times the national average. Over 100 persons in Philadelphia have been killed by criminals set free under this prison cap.

Mr. President, I think this is all wrong. People deserve to keep their tax dollars or to have them spent on progress they approve. They deserve better than to have their money spent on keeping prisoners and prisons in conditions a particular Federal judge feels are desirable but not required by the Constitution or any law.

They certainly do not need it spent on endless litigation over these matters.

Meanwhile, criminals, while they must be accorded their constitutional rights, deserve to be punished. Obviously, they should not be tortured or treated cruelly. At the same time, they also should not have all the rights and privileges the rest of us enjoy. Rather, their lives should, on the whole, be describable by the old concept known as "hard time." By interfering with the fulfillment of this punitive function, the courts are effectively seriously undermining the entire criminal justice system.

Our distinguished majority leader, Senator DOLE, working with Senator HATCH, Senator KYL, Senator HUTCHISON, and myself, has developed legislation to address these problems. Our proposals will return sanity and State control to our prison systems.

To begin with, we would institute several measures to reduce frivolous inmate litigation. We would require judicial screening, before docketing, of any civil complaint filed by a prisoner seeking relief from the Government.

This provision would allow a Federal judge to immediately dismiss a complaint if either the complaint does not state a claim upon which relief may be granted, or the defendant is immune from suit. In addition, State prisoners would have to exhaust all administrative remedies before filing a lawsuit in Federal court.

We would also create disincentives for prisoners to file frivolous suits. Under current law, there is no cost to prisoners for filing an infinite number of such suits. First, we would require inmates who file lawsuits to pay the full amount of their court fees and other costs. We also would make that requirement enforceable by allowing their trust accounts to be garnished to pay these fees. If a prisoner is unable to fully pay court fees and other costs at the time of filing a lawsuit, 20 percent of the funds in his trust account would be garnished for this purpose. Every month thereafter 20 percent of the income credited to the prisoner's account would be garnished until the full amount is paid off.

We would also allow Federal courts to revoke any good-time credits accumulated by a prisoner who files a frivolous suit. Finally, we would prohibit prisoners who have filed three frivolous or obviously nonmeritorious in forma pauperis civil actions from filing any more unless they are in imminent danger of severe bodily harm, and we would cap and limit the attorney's fees that can be obtained from the defendant in such suits.

As to the powers of judges to overrule our legislatures, we would forbid courts from entering orders for prospective relief—such as regulating food temperatures—unless the order is necessary to correct violations of individual plaintiffs' Federal rights. We also would require that the relief be narrowly drawn and be the least intrusive means of protecting the Federal rights. We would direct courts to give substantial weight to any adverse impact on public safety or the operation of the criminal justice system caused by the relief. And we would impose important new requirements before a court can enter an order that requires the release of prisoners, including that such orders may be entered in the Federal system only by a three-judge court.

We also would provide that any party can seek to have a court decree ended after 2 years, and that the court will order it ended unless there is still a constitutional violation that needs to be corrected. As a result, no longer will prison administration be turned over to Federal judges for the indefinite future for the slightest reason. No longer will public safety be jeopardized by capricious judicial prison caps. And no longer will the taxpayers be socked for enormous, unnecessary bills to pay for all this.

Instead, the States will be able to run prisons as they see fit unless there is a constitutional violation. If there is, a narrowly tailored order to correct the violation may be entered.

This is a balanced set of proposals, allowing the courts to step in where they are needed, but puts an end to unnecessary judicial intervention and micromanagement of our prison system we see too often.

These proposals were included as part of the Commerce, State, Justice appropriation bill. Unfortunately, President Clinton vetoed this legislation. As a result, we continue to have more frivolous prisoner lawsuits and we continue to have some courts running prisons.

President Clinton said his veto was based on other parts of the legislation. Accordingly, we will shortly be sending him a new version of an omnibus appropriations bill that again includes these proposals. This is one measure we can take that will plainly advance our fight against crime. We hope this time, President Clinton will help.

Mr. President, at this time, I yield the floor to the Senator from Tennessee for up to 10 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee.

TOUGH RHETORIC ABOUT CRIME

Mr. THOMPSON. Mr. President, we are listening to a lot of rhetoric about crime and being tough on crime. But no matter how many cops we put on the street, no matter how many laws we pass, unless we have strong law enforcement efforts at the very top of the Justice Department and the very top of the executive branch of this Government, we are going to be letting out the back door whatever we are putting in our prison system in the front door.

In fact, the policies of an administration are much more important than any other component of our law enforcement system. An administration's decisions as to who to prosecute, how effectively to prosecute, what cases to appeal, and what positions to take, affect thousands and thousands of cases. They affect not only the specific cases that are brought but maybe even can determine what cases are brought in the future.

In other words, an administration needs to be strong in its law enforcement position. It needs to advocate the legitimate interests of the Federal Government, when Federal criminal statutes are involved. The President has engaged in strong law enforcement rhetoric. The President states that he is for the death penalty. But it is my unfortunate duty to report that the rhetoric does not match the action.

I am specifically referring to the actions of the Solicitor General. The Solicitor General in this country is the Government's lawyer. The Solicitor General advocates the Government's position before the Supreme Court of the United States. The Solicitor General is appointed by the President of the United States and confirmed by the U.S. Senate. Time after time, the position taken by the Solicitor General has been inconsistent with the rhetoric coming out of the White House.

The Solicitor General, in case after case, has refused to appeal cases in which lower courts have overruled the Government, have overturned the defendant's convictions or have made it practically impossible that the defendant be prosecuted. Instead of appealing that case, even when in some decisions there are strong dissents saying, "No, no, the Government is right here and the defendant is wrong," in case after case, the Solicitor General has taken the position of the defendant, essentially, and not appealed that case to at least give a higher court an opportunity to hold for the Government.

When the Solicitor General makes a decision whether to appeal an adverse ruling, he is not in the position of a judge making an objective determination. The Solicitor General is supposed to be an advocate for us, an advocate for the people trying to enforce the law in this country. If there is a legitimate position to take in an important case—and these dissents, if nothing else, would indicate there would be in those cases—the Solicitor General is supposed to take that position and give the courts an opportunity to hold with the Government and against the defendant in those cases.

We will have more to say about that later on next week with regard to some specific cases. But there is one particular point that is very relevant. It has to do with the recent bombing case that we all know about. It has to do with the so-called Cheely decision. There, a panel of the court, not even the full court, ruled that death penalties provided in two Federal statutes, essentially statutes prohibiting sending bombs through the mails, were unconstitutional. That is the ninth circuit decision; by a lower court. It was a panel of the full court that made that decision. The Solicitor General chose not to appeal to let the full court of the ninth circuit even have an opportunity to overrule the panel.

So, as far as it stands out there, the death penalties contained in the mail bomb statutes are unconstitutional as far as that circuit is concerned. Obviously, that has some great relevance to what we are seeing now. We are all pleased that a suspect has been taken into custody with regard to the Unabomber case. Whether or not this man is charged with any of the three killings, or the terrorizing of many other people through a series of mail bombs, a jury hearing the Unabomber case should have the option of imposing the death penalty. But I fear that if he is charged in the Unabomber killings, the Justice Department may well have made it so that it is impossible for the jury or the court out there to impose the death penalty.

The problem is that the most recent Unabomber killing occurred in California. California is in the ninth circuit. The ninth circuit decided the case I referred to a minute ago in 1994, called Cheely versus United States. Cheely had been convicted of murder. He and his coconspirators arranged for a mail bomb to be sent to the post office box of a key witness against them in a trial. The witness' father was killed when he opened the packaged bomb.

Obviously, the facts are similar to the Unabomber case. Cheely was charged with interstate transport of an explosive that resulted in death and for death resulting from mailing nonmailable items. The Bush administration, which was in office at the time, asked for the death penalty. The ninth circuit panel ruled, however, that the death penalty statutes for mail bombings were unconstitutional.

The ninth circuit held that the class of persons eligible for the death penalty under these statutes was unconstitutionally broad. Now mind you, a Carter-appointed judge on that same panel dissented from that decision.

Given that President Clinton publicly supports the death penalty, it would seem reasonable to expect that the Justice Department would automatically have sought to appeal that sort of decision which struck down a Federal statute allowing the death penalty, with a strong dissent included. But the Solicitor General did not file a petition for rehearing by the full court.

In an extraordinary move, however, the full ninth circuit ordered the parties to address whether an en banc hearing should be granted. Surprisingly, the Justice Department argued that the ninth circuit should not grant review in this case.

Mr. President, the Justice Department wound up arguing against itself. Not so surprisingly, the ninth circuit then failed to grant rehearing. The Clinton Justice Department did not file an appeal with the Supreme Court.

The Judiciary Committee held an oversight hearing this past November. At that hearing, I asked Solicitor General Days why he did not file a rehearing petition in Cheely and in another case in another circuit. He indicated that although there was an argument to be raised on the other side, he did not think that the cases raised large enough concerns to justify asking for a rehearing. Of course, the constitutionality of many death sentences obtained on the basis of pre-1976 Federal statutes was at issue. He also indicated that he had discussed the case with Attorney General Reno.

The effects of this are obvious, because if this man is charged under the

Federal mail bomb statutes for the Unabomber killing in California, he cannot be given the death penalty. Had the Sacramento Federal building, and not the Oklahoma City Federal building, been bombed, the death penalty might not be available to be sought against Timothy McVeigh in Federal court.

According to the Saturday Washington Post, Justice Department officials say they are "pondering whether to bring charges against Koczynski," in the Unabomber case, "initially in Sacramento, the site of the last bombing in April 1995, or in New Jersey," where a 1994 killing occurred. I have a good idea why they are pondering. Any other time, the prosecutor might bring charges where the most recent case occurred, and where the evidence is fresher. And, in fact, the Unabomber sent more bombs to California than anywhere else.

But the case maybe cannot be brought there if the administration desires to seek the death penalty. I do not know if the New Jersey case is as strong as the California case. The third circuit, which includes New Jersey, has not issued opinions striking down the Federal death penalty statutes.

I am deeply disturbed, however, that this administration has precluded one death penalty prosecution of the Unabomber, and now we will all have to live with the consequences.

Thank you, Mr. President.

Mr. COVERDELL. Mr. President, the statement by the Senator from Tennessee underscores the majority leader's emphasis on a tough judiciary, and just points, once again, to what we have been hearing from Majority Leader DOLE with regard to how important the judiciary system is and the judges we appoint to maintain civil order in our country.

Mr. President, I now yield up to 10 minutes to the Senator from Washington.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Washington.

ANTITERRORISM BILL

Mr. GORTON. Mr. President, the day before yesterday, this Senate completed a vitally important task. A part of that task, an antiterrorism bill, was brought into being as a consequence of the tragedy 1 year ago in Oklahoma City. Another part of that accomplishment is the result of the work of many Members on this side of the aisle, some on the other side of the aisle, extending over a period of well over a decade to reform and make more just our criminal justice system.

There are those among our constituents, a number of whom have called my office, who oppose the antiterrorism bill simply because they did not wish any enhancement of the criminal justice powers of Federal agencies.

I believe their apprehension to be misdirected. I am convinced that to face the possibility of terrorism, both foreign and domestic, a possibility which has clearly been a terrible reality both in Oklahoma City and in New York City, that some enhancement of Federal law enforcement was, in fact, necessary, and, as a consequence, I supported the antiterrorism elements in that bill.

At the same time, Mr. President, I am convinced that the reform in what is known technically as habeas corpus will be of a more profound and a more positive nature in connection with our criminal justice system.

It is a simple truism that justice delayed is justice denied, and with respect to myriad State court convictions for serious criminal violations, including the most serious criminal violations resulting in capital punishment sentences, we have a spectacle in the United States of America unseen anyplace else in the world.

Here, of course, with our unique and uniquely valuable system of dual sovereignty, most criminal justice prosecutions take place in our State courts. Many here claim a sophistication by asserting some kind of second-rate justice at the State court system. Those observations do not accord with my own practice as attorney general of the State of Washington, but, nevertheless, they are reflected in the nature of our habeas corpus proceedings.

A normal prosecution proceeds through a trial before a jury in a State court, a conviction, a sentence, at least one and usually two appeals to an intermediate appellate court and then to a State supreme court in connection with any serious violation. In most other jurisdictions in the world, including other countries as free as the United States, that would be the end of the process. But in the United States, any convicted person can say, "No, I don't accept that proceeding," no matter how great the protections of the rights of the individual accused. "I'm going to start all over again in the Federal court system and assert some violation of my constitutional rights."

We have the paradox California situation—I believe, again, Mr. President, unprecedented in the world—in which a single trial level Federal judge can say that everything that the State trial judge did, everything that the State appellate system, everything that the State supreme court did was wrong and violated the constitutional rights of this individual convicted person. And you have to start all over again or perhaps even dismiss the case entirely.

Even if that single Federal court judge says, no, everything was done in accordance with the Constitution, the accused person can then take that to a circuit court of appeals as a matter of right and try it in the Supreme Court of the United States to succeed in his or her claims.

But, Mr. President, at the present time it does not stop there. You can go all the way up on one claim of a constitutional violation and then say, oh, by the way, I forgot, I have another claim of a different constitutional violation. And we will start all over again in another Federal district court and repeat the process.

Mr. President, when I spoke here during the debate of one of the motions to recommit of the distinguished Senator from Delaware, [Mr. BIDEN], I talked about Charles Campbell.

Charles Campbell, a released rapist, almost immediately after his release from a prison in Washington State went to the home of the person he raped and in cold blood murdered her, her child, and a neighbor who happened to be there at the time. This took place in 1982, Mr. President.

By 1984 Mr. Campbell had been tried, convicted, sentenced to death, and had exhausted his appeals in the Washington court system. But, Mr. President, that was only the beginning. From 1984 to 1994 Charles Campbell cheated justice by endless appeals to the Federal courts of the United States. After literally millions of dollars had been used, his judgment was finally confirmed and he was executed in mid 1994.

Mr. President, that was a misuse of the system. It taught disrespect of the law to the people of the State of Washington who had to follow this through the newspapers and over television for more than 10 years. And, Mr. President, fundamental respect for and obedience to our law requires a public opinion that believes that the legal system does work. This kind of misuse undercuts that trust and confidence. We simply cannot have it, Mr. President.

Finally, as a result of this bill, and the intense decade-long work of the Senator from Utah, Senator HATCH, we do have reforms in this habeas corpus set of procedures. It is not an abolition, not a way to deny true constitutional violations, but a way that requires them to be asserted within a reasonable time and concluded within a reasonable time. And as a consequence, Mr. President, I believe that we have made a huge step forward in a campaign which has lasted for an extended period of time.

Just going back in the RECORD to 1980—I find a bill 2 years after that by Senator East. It did not get out of committee. The next year there was one by Senator THURMOND that actually passed the Senate, but was killed in the House. The next year a similar bill by Senator DOLE, without action. During that same year 1984, a proposition from Congressman Foley from my own State, before he was Speaker, that said we could not do anything in Congress about habeas corpus until there had been a study and recommendations from the U.S. Supreme Court, which study has been completed.

Then again in 1992 another proposal by Senator THURMOND. In the various crime bills in the 4 years leading up to 1994, tiny little proposals, minor changes—major changes constantly defeated on the floor of the Senate or the floor of the House. And finally now in this Congress with appropriate leadership a reform in the system that really works. Mr. President, this is a real triumph.

The PRESIDING OFFICER. All the time under the previous order has expired at this point.

Mr. COVERDELL. Mr. President, I would like to ask unanimous consent that our time be extended by 6 minutes. I have spoken to the Senator from Connecticut.

The PRESIDING OFFICER. Is there objection?

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent, upon the conclusion of that time period, that Senator DODD be recognized for the purposes of making some remarks, and following that I be recognized for 20 minutes in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE ADMINISTRATION AND DRUG USE BY OUR YOUTH

Mr. COVERDELL. Mr. President, I think what we have seen here this morning is that there are consequences from policies. This administration has presided over significant policy changes and decisions for which there have been extraordinary consequences.

Mr. President, the interdiction effort of drugs on our borders, particularly between the United States and Mexico, have been reduced by 40 percent. The drug czar's office under this administration until recently was reduced by 80 percent. This administration has presided over the appointment of such judicial figures as Judge Baer who is now a celebrity in his own right for an initial resistance to a drug case brought in a celebrated case in New York.

These isolated incidences though need to be looked at and reviewed again in the context of what has resulted from these decisions. And what has resulted is an alarming epidemic of drug use among American citizens, particularly our youth.

Drug use among teenagers has doubled in the last 36 months. From 1980 to 1992 drug use among teenagers was cut in half. It has now skyrocketed and as I said has virtually doubled. Mr. President, drug use among our youth age 12 to 17 since 1992 has gone from 2.4 to 3.8 million. That is all illicit drugs. It has gone from 1.6 to 2.9 million for marijuana. Drug use among 12th graders in that same 36 months is up 60 percent. For 10th graders it is up 95 percent. For eighth graders, Mr. President—eighth graders—it is up 110 percent.

The emergency room episodes of cocaine-related incidents has gone from 110,000 to 147,000. The role of substance abuse and violence has skyrocketed and is involved in 70 percent-plus of rapes in the United States. Every statistic, Mr. President, we can review is up and we are now presiding over a new drug epidemic in the United States. These statistics are a direct result of major changes in policy.

That is where we need to revert to truth-in-sentencing, new interdiction and being tougher on the judges who sit on the bench to fulfill and honor the laws of our land.

This is a war, Mr. President, that we cannot afford to lose, because to do so is to condemn millions, millions of Americans to devastation.

ADM. JAMES S. RUSSELL: IN MEMORIAM

Mr. GORTON. Mr. President, Jim Russell died last Sunday. My life and the lives of a legion of others are diminished as a result. Today the flags in Lakewood, WA, will fly at half mast for retired Adm. James Russell, who died last Sunday at the age of 93.

It is difficult to compress a panegyric for Admiral Russell into a few short minutes, but he was, after all, a modest man who sought out neither praise nor glory. He eschewed grandiloquence, and so shall I. A simple retelling of his remarkable life will suffice.

James Russell was born in Tacoma, WA. When he was 15 he tried to join the Navy, but was turned away. Undeterred, he joined the Merchant Marine. His official naval career began in 1922 when he entered the U.S. Naval Academy. He went to the California Institute of Technology to get a master's degree in aeronautical engineering. In 1939 he worked on the design of the Essex-class aircraft carriers. Seventeen of the Essex-class were built, and none were sunk during World War II. He not only helped design, but also helped serve on the carriers, where he was, as the Tacoma News Tribune points out, the first naval aviator to take off from and land on the first six U.S. aircraft carriers.

In the war Admiral Russell served as a lieutenant commander of a patrol squadron in the Aleutians. He defended Dutch Harbor, and America against a Japanese fighter attack. Later on he fought in the Pacific aircraft carrier offensive that destroyed the Japanese fleet and helped assure the American victory. For his service, he received the Distinguished Service Medal twice, the Distinguished Flying Cross, and the Air Medal for Heroism.

Admiral Russell was part of the military occupation in Japan. In 1946 he became commander of the carrier USS *Bairoko*. In 1958 he rose to the No. 2 position in the Navy: vice chief of naval operations. From 1962 to 1965 he was commander in chief of NATO forces in Southern Europe. In 1965 he retired.

During the post-war period Admiral Russell helped develop the F–8 Crusader, the first of the Navy's aircrafts to fly 1,000 miles-per-hour, for which he was awarded the Collier Trophy in 1956. The Seattle Post-Intelligencer quotes Admiral Russell saying in 1994 that, "one of his proudest accomplishments was to have personally flown Navy aircraft 'ranging from biplanes to supersonic fighters.' "

After his retirement Admiral Russell was active in his community, and always kept abreast of military matters. He garnered respect and admiration from the people around him. Dignified, courteous, gracious, kind—these are some of the words his friends and associates use to describe him. His son Donald remembers that his father not only did not harbor ill feelings against his former Japanese enemies, but sought to reconcile with some of them. When two Japanese veterans—former pilots who had attacked the base where Admiral Russell served in the war—came to the Tacoma area to attend ceremonies marking the anniversary of the surrender, he insisted they stay with him, at his home. One can hardly think of a more apt example than this to describe the word "gracious." It was for this and for a lifetime of unimpeachable behavior that Admiral Russell was known as Gentleman Jim.

It was in his retirement that I met Jim Russell, who provided constant encouragement to me in my career—and constant wise counsel about the security of our beloved country as well. And so I will greatly miss him.

Admiral Russell is survived by his wife, Geraldine; a son and daughter-in-law, Donald and Katherine Russell; a daughter-in-law, Anitha Russell; a stepson, Fred Rahn; a stepdaughter, Barbara Frayn; five grandchildren and three great-grandchildren. His first wife, Dorothy, died in 1965. My condolences and prayers go to his family.

A few years ago Admiral Russell expressed his concern over all the honors he had received. "It worries me a little," he said. "I wonder if I've lived up to it." Clearly, the admiral was not a boaster. He did what he enjoyed; he served his country and his community, and he did not expect to be fussed over.

The Tacoma News Tribune mentions the mayor of Lakewood, Bill Harrison's, recollection of Admiral Russell:

> Harrison said he still remembers seeing Russell during a military parade, dressed in white, a sword gleaming at his side.
>
> He was absolutely resplendent, Harrison said. That was the first time I ever saw him, and that's the way I will always think of him.

What a treasure was James Sargent Russell. His life, of simple dignity, bravery, service, enthusiasm, and kindness, reminds us of the better angels of our nature.

One of Admiral Russell's nicknames was the ancient mariner. And so, in Coleridge's words, let us bid "Farewell, farewell, the Mariner is gone." Farewell, Admiral.

Mr. President, I ask unanimous consent that a front page article dated April 16, 1996, and a lead editorial dated April 17, 1996, from the Tacoma News Tribune be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Tacoma News Tribune, Apr. 16, 1996]

ADMIRAL RUSSELL, A LEADER AND A GENTLEMAN, DEAD AT 93

(By Hector Castro)

He was known as Gentleman Jim, the Gray Eagle, the Father of Naval Aviation and in recent years, the Ancient Mariner.

On Sunday, the man with so many titles, retired Adm. James S. Russell, died at his Lakewood home. He was 93.

"I have very fond memories of him," Lakewood Mayor Bill Harrison said. "He became one of my heroes."

Russell was a Tacoma native who went away to sea as a boy and returned 43 years later as a four-star admiral.

In a career that began before World War II, Russell was a Navy flier, a designer of aircraft carriers, commander of nuclear tests in the Marshall Islands and commander-in-chief of NATO forces in Southern Europe.

Russell's elder son, Donald Russell of Lakewood, said his father always loved the sea and the water.

"The last day he was alive he looked at me and said, 'I want to go to the lake. I want to go to the lake.'" Donald Russell said.

James Russell was 15 when he graduated from Stadium High School and immediately tried to join the Navy. He was turned away because of his youth. But he wasn't put off so easily and joined the Merchant Marine.

His naval career began in 1922 when he enrolled in the U.S. Naval Academy. He later attended the California Institute of Technology to study aeronautical engineering.

That education, plus his experience as a Navy flier, proved invaluable when he helped design the Essex-class aircraft carriers shortly before the start of World War II. The ships proved to be among the toughest in the Navy. None of the 17 built by the start of the war was sunk.

Donald Russell remembers the start of the war, and his father's last words to him before shipping out.

"If I don't come back from the war, take care of your mother," Donald Russell said he was told. He was 11 years old at the time.

James Russell was a lieutenant commander of a patrol squadron during the war. At one time, he patrolled in the Alaskan Theater and helped fend off an attack by Japanese fighters on the American base at Dutch Harbor.

His actions during wartime earned him the Distinguished Flying Cross and the Air Medal for Heroism.

After the war, Russell rose to become second in command of the U.S. Navy. When he retired in 1965, he was commander-in-chief of NATO forces in Southern Europe, based in Italy.

That's when Harrison first met him. At the time, Harrison was a captain in the Army, though he retired as a three-star general.

The admiral, he said, immediately impressed him with his dignity and courtly manners.

Harrison saw the admiral's diplomacy at work, whether he was negotiating a peace between Greece and Turkey for smoothing over the boorish remarks of a fellow officer at a social function.

"I never saw him when he wasn't spic and span, doing and saying the right things," Harrison said.

Russell married Dorothy Johnson in 1929 and they had two sons, Donald and Kenneth. Dorothy Russell died in 1965, and Russell married Geraldine Rahn in 1966. She survives him.

Friends and family members said Russell enjoyed talking about his experiences, but never boasted.

"He was a very modest man," said Paul Hunter, staff commodore of the Tacoma Yacht Club. "He was not arrogant."

After his retirement, Russell became very involved in local community and military affairs. His popularity was such that last year civic leaders from around Tacoma pushed for a maritime park for him.

The park was not named for Russell, but he has received plenty of other honors.

They include France's highest award, the Legion of Honor, Greece's Order of King George I, Italy's Order of the Republic, Peru's Great Cross of Naval Merit, and Brazil's Order of Naval Merit. The USO Center at SeaTac bears his name.

His grandson, Malcolm Russell, also of Lakewood, said his grandfather's home could pass for a military museum. Walls and bookcases are filled with medals, awards and signed photos from such people as John F. Kennedy and King Paul of Greece.

Donald Russell said his father never hated his wartime enemies, and had invited Japanese military men and veterans of the war to his Lakewood home.

"He reconciled with his enemies," the younger Russell said. "It was extraordinarily important to him."

Harrison said he still remembers seeing Russell during a military parade, dressed in white, a sword gleaming at his side.

"He was absolutely resplendent," Harrison said. "That was the first time I ever saw him, and that's the way I will always think of him."

[From the Tacoma News Tribune, Apr. 17, 1996]

ADMIRAL RUSSELL GAVE A LIFETIME OF SERVICE

Retired four-star admiral James S. Russell, the most distinguished military leader to come out of Tacoma, was reflecting a few years ago on all the honors that had come his way.

"It worries me a little, I wonder if I've lived up to it," he said with typical modesty.

The admiral shouldn't have worried. The honors were well-deserved, and he wore them with surpassing grace.

Russell died peacefully at his Lakewood home Sunday at the age of 93. He is remembered not only for his 43 years of service to the nation as a much-decorated naval aviator and commanding officer, but for the years he spent here since his retirement in 1965 as a goodwill ambassador to military newcomers and visitors.

Russell graduated from Stadium High School at 15, and too young to enlist in the Navy, joined the Merchant Marine. A U.S. Naval Academy graduate, he earned a master's degree in aeronautical engineering at Cal Tech and went on to help design the tough Essex-class aircraft carriers in 1939. He was the first naval aviator to take off from and land on the first six U.S. aircraft carriers.

After distinguished service as a patrol squadron lieutenant commander in the Aleutians during World War II, Russell took command of his first carrier, the USS Bairoko, in 1946. He became vice chief of naval operations, the Navy's No. 2 position, in 1958, and was commander in chief of NATO forces in Southern Europe from 1962 until he retired in 1965. He was recalled to active duty twice.

One of the more revealing stories about Russell was about the graciousness he showed to one-time enemies. Two former Japanese pilots who had attacked the Aleutians base where Russell served in World War II were in the area last summer to participate in ceremonies marking the anniversary of the surrender. Russell, who insisted they stay in his home, said he felt no animosity toward those who once tried their hardest to kill him.

It's entirely professional. There were in their service, I was in mine, and we understand one another."

That attitude was typical of "Gentleman Jim" Russell, the consummate professional who earned the respect of everyone from swabbies to heads of state.

The PRESIDING OFFICER (Mr. GORTON). Under the previous order, the Senator from Connecticut is recognized.

IN MEMORY OF OKLAHOMA CITY

Mr. DODD. Thank you, Mr. President. Mr. President, first of all, I have two sets of remarks I want to make on separate subjects. The first has to do with the subject matter that has been discussed already this morning over a period, I gather, of some 75 minutes. That is, of course, the 1-year anniversary of the tragedy of the bombing in Oklahoma City.

Allow me on behalf of my constituents, if I may, of the State of Connecticut, to express condolences to our colleagues here from Oklahoma as well as to the people of Oklahoma, particularly the people of Oklahoma City, and of course the family, friends, and associates of the 168 people who lost their lives a year ago today in one of the worst, if not the worst, incidence of terrorism in the history of the United States.

In addition, among that 168 people who lost their lives a year ago, Mr. President, 19 were innocent children, mostly in a day care center in that building in Oklahoma City. Of the rest, the vast majority, as we know, were Federal employees, Government workers. It was not, apparently, just any building in Oklahoma City that was the target of this deranged individual or individuals, as only time will tell through the various proceedings, it was a Government building and it was Government employees. They did not belong to any particular cause, these employees. They were not opposed because they were a particular group of people engaged in some political activity. They were people that worked at

HUD and the Social Security Administration, the Veterans' Administration, people that were going to work that morning, doing what they do across this country in a building like it, serving our constituents.

Because they were Government employees in a Government building, and because people had decided they needed to send a message about their Government, they were targets, including 19 innocent children. This was a crime committed, obviously, by a violent, aberrant American or persons. We all know that. I think it is important to remember that the vast majority of Americans were repulsed by what happened, that they wholly reject violence as a method of political change in this country, and that all of us share in the grief that the families and friends of the people of Oklahoma and Oklahoma City are remembering today.

Mr. President, on behalf of my constituents and certainly myself and our office here, we wish to express our deepest condolences to those people and to rededicate ourselves here to take all necessary steps to try and stop those who would engage in that kind of activity as a way of expressing their political views.

I point out that I supported the antiterrorism bill yesterday, as most of us did in this body. I felt it could have been a stronger bill, Mr. President. I must say that. I deeply regret we did not take additional actions such as identified by our colleague from Delaware, Senator BIDEN, and others to strengthen the hand of law enforcement in areas where, for instance, people on the Internet now, instruct people how to make bombs with the intent that they be used—we do not prohibit that. We cannot allow our military forces at the direction of the Attorney General to step in where terrorism may be used. I think that is regrettable. I think we ought to be able to use our forces where appropriate. That is not in the bill. It was struck from the bill.

Hopefully, we can come back and make some of these changes and strengthen the legislation. Nonetheless, it is a positive step forward. I am glad Congress has gone on record in pressing its opposition to terrorism, and hope we can do more in the coming weeks and months before this Congress is adjourned.

The major point today is that all of us here, not to use this as a forum somehow to express our oppositions to various policies, but at least for a moment or two, to express our deep, deep sense of sorrow to the people of Oklahoma City, and particularly to the families and friends of the 168 individuals who lost their lives.

TRIBUTE TO RON BROWN

Mr. DODD. Mr. President, just 2 weeks ago, this Nation was saddened and anguished by the tragic death of Commerce Secretary Ron Brown and 32 other Government and business leaders in Croatia. As a very close personal friend of Ron Brown's, I regret deeply, Mr. President, that I could not be here to console his widow, Alma, and his children, Michael and Tracy, in their time of grief. My thoughts and prayers today, as they have been over the last several weeks, are with the Brown family and with the families of all of the victims of this terrible tragedy.

Although we have many pressing issues before us in this body, Mr. President, I want to take just a few minutes, if I can, to reflect and remember the extraordinary and distinguished legacy of Ron Brown. As I stand before the Senate here today, many thoughts come to mind, Mr. President, about Ron Brown—civil rights activists, Democratic Party chairman, Commerce Secretary, bridge builder, and certainly a very close and dear personal friend.

Beyond my great sense of personal loss, Mr. President, when I think of Ron Brown I also think of public service and public servant. From all the time that I knew Ron Brown, from when he was a trusted aide to our colleague, Senator KENNEDY, to when he was chairman of the Democratic Party and his last role as Secretary of Commerce, Ron Brown epitomized, in my view, what public service is all about. Ron Brown labored tirelessly for what he believed in. It seemed that no obstacle could prevent him from attaining his goals.

At a time when respect for public service and public servants has diminished, when pundits too often cynically demean those who serve America, Ron Brown presented the quiet dignity that comes with superb public servants. Ron believed that one person committed to a task with conviction in their heart could make a difference, and he certainly did. His labors were the embodiment of George Bernard Shaw's timeless words, "You see things, and you say why; but I dream things that never were and say why not."

On April 3, when Secretary Brown's plane crashed in Croatia, Mr. President, I was in Ireland to fulfill a longstanding commitment. Together with Ambassador Jean Kennedy Smith and Prime Minister Bruton, we attended and participated in a wonderful memorial service dedicate to Ron Brown's memory at St. Patrick's Cathedral.

I say as an aside, Mr. President, we anticipated 30 or 40 people would show up, maybe from the Embassy staff, to come by and pay their respects. In fact, over 500 people unannounced showed up at the cathedral that morning to participate in that service. I want to thank Dean Stewart, who was in charge of St. Patrick's Cathedral, along with other members of the clergy from throughout Ireland who participated that morning, as well as some very distinguished people who sang and purchased musical pieces in memory of Ron Brown, not to mention the 500 people that came from across the island of Ireland to express their sense of loss.

For all of us there that morning, Mr. President, our remembrances of Ron Brown hearken back to the visit he had made to Ireland 2 years ago, to which I was a member, a trip not unlike the one to Croatia, involving some 15 chief executive officers of businesses in this country, as well as others from the House and the Senate that were part of an economic mission to Northern Ireland.

A visit, Ambassador Smith reminded us, which led to President Clinton to dub Ron Brown an "honorary Irishman," and it was mentioned again by her that morning at St. Patrick's Cathedral. Ron Brown, Mr. President, had come to Ireland with an ambitious but challenging goal: To make the dream of peace during the formal cease-fire in Northern Ireland a reality. Certainly, it was no easy task, as we know, even today.

For anyone who knew Ron Brown, there were not too many challenges that phased him. While I had known him for many years, it was on that trip to Ireland that I had the opportunity to see firsthand the enthusiasm and optimism that infused him.

Remarkably, Mr. President, I watched an African-American man, born and raised in Harlem, with no ethnic or religious connection to Ireland, come to that island and champion the peace process and the opportunities for economic development. While on that trip, Ron Brown became the first U.S. Cabinet secretary to make an official visit to Belfast.

The success of Ron's trip to Ireland prompted President Clinton to send Ron on many other missions across the globe, including the one to the former Yugoslavia, a mission which ended so tragically on that rainy and windswept mountain in Croatia. This final mission, Mr. President, was one of many that Ron tirelessly made to the world's troubled spots promoting American companies and American workers.

As Secretary of Commerce, on one level, Ron's job, of course, was to promote U.S. business interests, which he did very, very well. But for all who knew Ron Brown well, his interests ran much deeper than that. Ron Brown used the legitimate goal of increasing U.S. economic opportunities as a means of advancing other interests as well.

Ron traveled to many places that are beginning the difficult journey toward reconciliation and economic revitalization because, as a public man, a public servant, he believed that the dynamism of private enterprise could help bring lasting peace to regions that, for years, had known only violence and hatred.

But Ron Brown understood that these trips were about more than just helping business or free enterprise. As Ambassador Smith noted in her eulogy in Dublin a week ago, these trips were truly—to use her words—"peace and democracy missions, too, missions of hope and idealism."

Mr. President, these trips were about promoting the importance of work, and the notion that through economic opportunity, the process of political reconciliation could begin and, more importantly, could last.

In the absence of it, of course, no permanent healing will ever occur.

From Ron Brown's earliest days, at his first job carrying records and reading public service announcements at WLIB-AM, a radio station in Harlem, he understood the critical importance of work. He understood that there is nothing as rewarding, for individuals or a nation, as waking up in the morning, going to work, and coming home in the evening knowing that you have earned a true wage.

That is why Ron Brown went to Ireland and so many other places, and it is why he was in the Balkans on that tragic evening.

Ron Brown knew that after the peace treaties were signed and when the guns were finally laid to rest, the possibility of a truly lasting peace anyplace around the globe would depend on every person having the same opportunity to realize today the dream of a far better tomorrow for themselves and their families.

When Ron Brown journeyed to the Balkans, he took with him the unquenchable spirit of American optimism. He sought to use American enterprise and the American can-do spirit to promote economic development as a means of bringing a truly lasting peace. And he sought to heal the lingering anguish of ethnic violence with a promise of a brighter future for all the peoples of the region.

Ron Brown leaves this world, Mr. President, with an amazing legacy. He was the first African-American to head a major political party in our country. He was the first African-American to be Secretary of Commerce. He rebuilt the Democratic Party, and he certainly helped to elect President Clinton in 1992. He used the Commerce Department to create millions of jobs for American workers and spread the doctrine of economic development and cooperation across the globe.

Ron Brown enjoyed a full and all-too-brief life on this Earth and must be a source of inspiration to all of us, in not just Government, but in our Nation as a whole.

In Ireland, Prime Minister Bruton described Ron Brown in these words, which I think bear repeating—as a role model "for those looking for inspiration as to how a life can be led for the good of others."

Ron Brown understood, Mr. President, that our lives must have purpose and direction. And we can best remember him by emulating the way he lived his life. Mr. President, I think the poet Ralph Waldo Emerson said it well when he said, "I expect to pass through this world but once. Any good therefore that I can do or any kindness that I can show for any fellow creature, let me do it now. Let me not defer or neglect it, for I shall not pass this way again."

Ron Brown's life symbolized these solemn words. While he passed through our world, Mr. President, he did good. He showed kindness and, regrettably—so regrettably—he will not pass this way again.

Mr. President, I ask unanimous consent that the comments of our Ambassador, Jean Kennedy Smith, along with an article that appeared in the Irish Times, which captured, as well, the remarks of Prime Minister Bruton, who spoke at the memorial service in Dublin, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY AMBASSADOR JEAN KENNEDY SMITH AT MEMORIAL SERVICE FOR SECRETARY OF COMMERCE RON BROWN AND HIS DELEGATION

Taoiseach, distinguished guests, and friends of Ron Brown, of Chuck Meissner, and of the other brave pioneers for peace whose lives of courage and service were so tragically cut short last week.

This has, indeed, been a sad week for America, a sad week for Ireland. We have lost friends. But today, we gather not only to mourn them, but to celebrate their lives.

Last night, I spoke with Alma Brown and told her of the memorial service we were holding today. She was so pleased that Ron was to be remembered in this way by the people of Ireland, because this country was so important to him.

I first met Ron Brown in the fall of 1979. My brother, Ted, was about to begin a campaign for President of the United States in 1980. My husband, Steve, was to manage the campaign, as he had done for my brothers, Jack and Bob. Steve needed a deputy campaign manager for civil rights, and everyone said that Ron Brown was the perfect choice—a new young leader in the civil rights movement, and a worthy heir of the Reverend Martin Luther King.

We all loved Ron from the start. He served far above and beyond the call of duty in the campaign. He gave his heart to Ted and Steve and all of us in the Kennedy family gave our hearts to Ron.

In the years since, I saw him often, most recently during his frequent visits to Ireland. He once told me that he felt a special welcome and sense of humanity in Ireland, even for those who are not of Irish descent. In fact, he enjoyed his time here so much that President Clinton dubbed him an honorary Irishman.

Ron Brown was an original. I never met a person who had greater ability to go into a hornet's nest, come out with the honey, and leave all the bees laughing. No tunnel was too long or too dark for Ron to not see the light at the end. His warmth, and wit, and optimism were inspiring and infectious.

He was a charismatic leader, who was good at every job he ever took on—as a leader in the civil rights movement, chairperson of the Democratic National Committee, and as the Secretary of Commerce. A son of Harlem, he was a remarkable American success story, and he dedicated his life to helping others achieve their potential and their dreams, as he had one.

He brought that same spirit of optimism to Ireland. As he said during President Clinton's historic visit, he found a "belief in self that wasn't here before."

"We are on a path," he said, "and we won't be denied."

Ron was deeply committed to public service, and he instilled that commitment in all who worked for him; in Chuck Meissner, his tireless assistant secretary of commerce, who felt very strongly the pulse for peace in Northern Ireland, and in all those from the Department of Commerce who are here today. The mission Ron Brown led to South Africa and China, to the Middle East and Northern Ireland, and, finally, to Bosnia, were more than trade missions. They were peace and democracy missions too, missions to hope and idealism. The understood that peace, prosperity, and economic justice go hand in hand.

As President Clinton has said, "Ron Brown walked and ran and flew through life. He was a magnificent life force."

In the wake of that force, in the wake of that remarkable life, all of us who knew Ron Brown, Chuck Meissner, and the members of the delegation, all of us who were fortunate to be touched by their warmth and share their vision must try to carry on their work for peace, for that is their legacy to us.

[From the Irish Times, Apr. 11, 1996]

BRUTON SAYS BROWN WAS A MODEL FOR ALL WHO WANT TO HELP OTHERS

(By Mark Brennock)

Politicians, business people and many others who knew Ron Brown gathered in Dublin's St. Patrick's Cathedral yesterday to honour an African-American whom President Clinton had dubbed "an honorary Irishman."

As one who had not known him the Dean of St. Patrick's the Very Rev Maurice Stewart, said he had two images of the late U.S. Commerce Secretary in his mind.

The first was of a man who had been praised after his death by Northern Irish politicians of both persuasions.

The second was that when Mr. Brown was seen on television, "he always seemed to be smiling. He was a happy man, and these days, that is as good an image as any politician could project."

Mr. Brown was among 33 people killed last week when their plane crashed in Crostia. He had been on a trade and aid mission to Bosnia and Crotia. He was also a key figure in the US Administration's involvement in the Northern Ireland peace process.

The US Ambassador, Ms. Jean Kennedy Smith, told the congregation Mr. Brown had once said he felt "a special welcome and sense of humanity in Ireland, even for those who are not of Irish descent. In fact, he enjoyed his time here so much that President Clinton dubbed him an honorary Irishman.

"The missions Ron Brown led to South Africa and China, to the Middle East and Northern Ireland and, finally, to Bosnia, were more than trade missions. They were peace and democracy missions too, missions of hope and idealism. He understood that peace, prosperity and justice go hand in hand."

She said everyone who had known Mr. Brown, Mr. Chuck Meissner and the others who died in the plane crash "must try to carry on their work for peace, for that is their legacy to us."

US Senator Chris Dodd, who had travelled to Ireland with Mr. Brown in recent years, said on one level he had been in Ireland to promote US business, but "Ron Brown understood that these trips were about far more than promoting business.

"He knew that after the peace treaties were signed and the guns laid to rest, the possibility of a truly lasting peace depended on each person having the same opportunity to realize their dreams of a better tomorrow. He sought to heal the lingering anguish and ethnic violence with the promise of brighter opportunities.

"On the trip to Ireland, I . . . watched an African-American born and raised in Harlem with no ties here come and champion the cause of peace and economic opportunity in Ireland."

The Taoiscach, Mr. Bruton hailed Mr. Brown as a role model "for those looking for inspiration as to how a life can be led for the good of others". He said Mr. Brown had brought his experience of a Harlem upbringing and his involvement in the civil rights movement to work towards the creation of "a structure of peace" in the world.

"As head of the Irish Government I want to thank him for the enormous interest he took in peace and prosperity on this small island."

Ireland was not a major strategic interest for the US, he said. The US could have confined itself to expressing pious words and the occasional reference to Ireland at election time. But the Clinton Administration had gone far beyond that.

The President, who is in the west of Ireland, was represented at the service by her aide-decamp, Col. Bernard Howard. The attendance included the Lord Mayor of Dublin, Mr. Seán D. Dublin Bay Loftus.

The Government was also represented by the Minister for Finance, Mr. Quinn; the Minister for Enterprise and Employment, Mr. Bruton; and the Minister for Tourism and Trade, Mr. Kenny. Ministers of State present included Mr. Pat Rabbitte and Mr. Austin Currie.

Other politicians attending included the ?ianna ??il deputy leader, Ms. Mary O'Rourke, the Progressive Democrats leader, Ms. Mary Harney, and the former PD leader, Mr. Desmond O'Malley Sinn Féin was represented by Monaghan, counsellor Mr. * * *

There was a large representation from the US Embassy. Among the other diplomatic missions represented were those of Norway, Thailand, Nigeria and Israel.

A large contingent from the Department of Foreign Affairs included the second secretary, Mr. Seán O hUiginn, the Chief of Protocol, Mr. John O. Burke and Mr. Brendan Scannell of the Anglo-Irish division. The Taoiscach's programme manager. Mr. Seán Donlon, and representatives of a number of other government Departments were also present.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I appreciate the unanimous consent to speak for 20 minutes. Let me associate myself strongly with both sets of remarks by the Senator from Connecticut—first, as to our good friend and great loss with regard to Secretary Brown, who we will miss greatly. And, second, nothing could be more on our minds today than the horror of last year in Oklahoma City. The moments of silence here and across the country were a fitting reminder of that tragedy, but also a time to feel some real gratitude toward the employees of our Federal Government, who do not always get treated with all the respect and admiration they deserve. They had a very rough year in 1995. I, for one, want to thank them for their services and the sacrifices of their families throughout the country, particularly with regard to those who suffered the loss in Oklahoma City.

I thank the Senator from Connecticut for his remarks.

CAMPAIGN FINANCE REFORM

Mr. FEINGOLD. Mr. President, it looks like a very ambitious agenda has been announced for this session until Memorial Day. I welcome much of that agenda, and I especially welcome the type of bill that we handled yesterday, the so-called Kennedy-Kassebaum bill.

That bill regarding health care reform is a classic example of a good, bipartisan effort that I think the American people are really starved for. They want nothing more than to see those of us who have the honor of being elected to Congress work together on a bipartisan basis. What we did yesterday, I think, exemplifies better than anything else the possibilities of working together in this body for the good of the country.

In fact, Mr. President, in his State of the Union, President Clinton endorsed the Kennedy-Kassebaum bill, saying that that bipartisan effort was acceptable to him and that he would be happy to sign it. That gave the bill a lot of impetus, and I think it was a very important moment in the State of the Union.

Mr. President, the President of the United States also endorsed another bipartisan bill that night on another topic that might be even more fundamental—I would say it is even more fundamental than the important bill we passed yesterday. The topic that the President was referring to was campaign finance reform, and the bill that he endorsed was S. 1219, the first bipartisan bill on campaign reform in this body in about 10 years.

Mr. President, I rise today—and, in a moment, a couple of my colleagues will also rise—to say that the time is now to take up the issue of campaign finance reform on this floor, to take up this bipartisan effort, which, among other things, will, for the first time, voluntarily limit the overall amount a candidate can spend when they run for the U.S. Senate or the House of Representatives, and for the first time say that you have to get a majority of your campaign contributions from individuals, from the people from your own home State, not from PAC's or from out-of-staters, but the majority from your own home State, if you want to get the benefits of the bill; and finally, for the very first time, some reasonable incentives to get people to not spend unlimited amounts of their own cash, so that people get the sickening feeling that elections can be bought.

All of this is highlighted in S. 1219. In doing so, of course, Mr. President, I especially pay tribute to the first sponsor of the bill, who has been central to the bipartisan reform efforts in the 104th Congress, the senior Senator from Arizona, Senator McCAIN.

He has been steadfast and very dedicated to this effort. He, I, and the others who are involved in this speak almost every day about how we can move this effort from concept to fruition during the 104th Congress.

In addition, my friend who will speak next, the Senator from Minnesota, Senator WELLSTONE, and others have worked together almost on a daily basis to try to move this issue forward. We have been very encouraged that this is not just happening in this House. It is also happening in the other body where another very similar bipartisan effort is being led by a group of people from very disparate ideological viewpoints. It is one of the rare examples, I am told, where there is not just a bipartisan effort going on but a bicameral effort, a real groundswell of effort in both Houses working together for campaign finance reform.

Of course, I would be remiss not to mention the tremendous public support we are finding for S. 1219—groups like Common Cause, Public Citizens, and over 50 newspapers have endorsed the bill.

So I think it is fair to say we are in an excellent position to say that the time is now to have this issue debated on the floor.

So I, Senator McCAIN, and the others who have been working together on this bill have come to the conclusion that it may well be necessary now to seek to amend another piece of legislation, perhaps the next appropriate vehicle, to move this issue forward given the inability of having this bill scheduled on its own at this point. I would prefer—I think we would all prefer—that the bill be scheduled separately. But, given the passage of time, I think we have very little alternative.

Mr. President, given the unprecedented level of bipartisan support, there is clearly a consensus among the public that S. 1219 ought to come to the floor. Admittedly, there was a time some years ago when I did not think we could, having passed campaign finance reform in both Houses in the 103d Congress and see it die. I was skeptical. When I read the Contract With America and saw the other party win the election, campaign finance reform was not even mentioned in the Contract With America.

Nonetheless, Mr. President, thanks to Members of both parties, this is truly a bipartisan effort. The reform agenda has arisen in the 104th Congress. It has been proven by not just introducing but by succeeding on the issues of the gift ban and lobby reform for which my friend from Minnesota was very central to in both causes. These are among the very few real accomplishments thus far in the 104th Congress. So the reform agenda has done surprisingly well.

Mr. President, I want to especially remind the body today that it is important to do this. This is not just one Senator's view of what ought to be on the floor or just the view of the cosponsors of the bill. This is the will of the body of the U.S. Senate as voted on a bipartisan basis in July of 1995.

Mr. President, last July I authored a bipartisan resolution that simply said we should consider campaign finance reform during the 104th Congress. I thought it would be a quick voice vote and be put away. But it was tested. It was sorely tested. The majority leader left his office and came to the floor personally and urged that that resolution which I had proposed be defeated, and called for a rollcall. As we know, the majority leader rarely fails to prevail. The majority leader almost never fails to get a majority. But on this one he did, and 13 Republicans joined with many Democrats so that on a 57 to 41 vote the Senate voted not to table our resolution that campaign finance reform should be considered during the 104th Congress. Subsequently, in the next vote, campaign finance reform was added to a list of items that we all voted to say ought to be considered in the 104th Congress.

Mr. President, I think that was a very key sign of the desire of this body to do campaign finance reform. I certainly believed that every Senator, when they said they wanted the issue considered, meant that they wanted it considered in a timely manner so that campaign finance reform could become law. In other words, I did not consider this to be something that Senators would want to do so late that it would not wind its way through this difficult process, and so that it would not get to the President who has said he is ready to sign the bill.

Mr. President, since that time, many other items that were on that list that we all voted for have been passed or dealt with. Welfare reform has been dealt with, the Defense Department authorization, Bosnia arms embargo, job training, and legislative branch appropriations have all been considered on the floor of the Senate—but not campaign finance reform.

Here we are in mid-April in the second year of the 104th Congress with no debate on campaign finance reform, no consideration, and thus far no votes on the issue.

So this is obviously somewhat troubling, and it becomes much more troubling when we have a spate of news articles this week announcing what the agenda will be during this floor period ending with Memorial Day. In fact, we have begun the first of several days now that are going to be devoted not to campaign finance reform but just to the issue of term limits. Admittedly, many Americans want that debate on term limits. But where is the mention in the agreement about when campaign finance reform will come up?

Some might say the bill need hearings. It has had extensive hearings in front of the Senate Rules Committee—helpful, meaningful hearings. But that opportunity has now been given, and the time has come to move forward.

So, Mr. President, before I yield to my other colleagues, let me say that I remain very optimistic about this bill. We have preferred to go the route of a separate bill, and maybe that can still happen. But we have no choice at this point but to move forward and try to amend another piece of legislation.

Some are saying that there is already not enough time to pass this bill in this Congress. But do know what that is? That is wishful thinking on the part of those who want this bill to go away. That is what you say when you hope you will try to slow the momentum of those pushing this issue. You tell everyone there is not enough time and we cannot do it until they move on to other things. But supporters of this bill all across the country know that we have bipartisan momentum and that we will come to the floor in the near future. And once that act begins, the public support and feeling about this issue will keep the issue moving in this Congress.

Mr. President, on this one, the public knows because of the bipartisan support that they will reject excuses that there was not enough time. They know that 6 months remain, at least, before we adjourn, and they will certainly tell anyone who tries to tell them there was not time, they will say that, if there is a will, there is a way.

So, Mr. President, I am very encouraged that we are ready to move.

I now yield 5 minutes of my time to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Thank you, Mr. President.

Mr. President, first of all, let me just say that I am really proud to have introduced this bill with Senator FEINGOLD, Senator MCCAIN, and Senator THOMPSON. Now we have Senator GRAMM and Senator KASSEBAUM. I think that is a really good, bipartisan working group.

I am also especially proud to be out here with my colleague from Wisconsin from the Midwest. I think both of us see this issue in really the same way. This is all about trust.

There was in the Washington Post not too long ago an article about the Harvard-Kaiser Foundation study—really, the erosion of trust that people have in basic institutions of American life. By the way, right there at the top of the Congress is politics. I think it is because of the money choice and the appearance of corruption and gifts. By the way, I am not arguing that there is individual corruption. I do not believe that. But the point is people want to have a political process that they believe in. They yearn for a political process that they believe in. All too often money is too important in campaigns.

When I first came here almost 6 years ago, I came to the floor of the Senate. I said that the whole question of the way in which money dominates politics has become the ethical issue of our time. I have given many, many speeches on the floor of the Senate about the need for campaign finance reform. I have introduced many amendments and many bills. I thought at the end of the last Congress we were going to pass a bill. But it was filibustered and blocked at the end.

But, Mr. President, let me just say that it just looks awful for the Congress to try to stonewall this issue. I do not think symbolic politics is going to work. On the House side they are talking about some committee or commission and another study. This has an Alice in Wonderland quality to it—appoint another study by another commission followed by the same recommendations, followed by the same inaction, followed by nothing happening.

We know what the problems are. The problems are clear. There is too much money in the political process. It is too important in determining the outcome of elections. It gives the appearance of corruption. We should have a more open political process, and we should make every effort possible to try to get a lot of this big money out of politics.

Mr. President, I do not have time to go into the features. But trying to get some agreed-upon limits makes all the sense in the world. Trying to have some accountability about where the money comes from makes all the sense in the world. Trying to move toward debates and have a political process more accountable to people makes all the sense in the world.

I do not agree with every provision. I think the $250,000 limit on what an individual can spend on his campaign is too high. A lot of us cannot afford that.

I also think there is a variable campaign limit that goes up if your opponent does not agree, and I would like to work on improving that.

We came together as a bipartisan working group because we decided the time is now. The idea of campaign finance reform is an idea, colleagues, Democrats and Republicans alike, whose time has come in America. The idea for campaign finance reform for politics, for campaigns and for elections that people can believe in, this is an idea whose time has come in America.

This is deja vu to me, I say to my colleague from Wisconsin. We tried to do it on gift ban and lobbying disclosure. We kept getting put off and put off and put off. In all due respect to my colleagues, it just looks to me as if some people are not listening. We are not out here for symbolic reactions. We just announced, all of us together, we will bring this to the floor in May as an amendment if we do not get a time certain for an up-or-down vote on this piece of legislation, and we intend for the Senate to go on record in May. It is important that all of us do it. It is important we do it in a bipartisan way.

Let me just say again this is all about trust. We want, Democrats and Republicans alike, people to trust this political process. We want people to trust their Congress. We want people to have trust in their public officials. I am just telling you that this system in which all of us have to operate is fundamentally flawed. It is a core problem. It is badly needing reform. There is enough time that has gone by, and we are not going to let this Congress stonewall it. We are going to make sure that action is taken by this Senate and that action will be taken this May.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FEINGOLD. Mr. President, I appreciate the comments of the Senator from Minnesota. I yield the remainder of my time to the junior Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. I thank the Chair. I thank my colleague.

I join in the proposition that it is time we address the issue of campaign finance reform in this body. It is too bad that we are having to consider it in what may be considered the midst of a Presidential campaign year. It should not be a partisan matter. Senator JOHN MCCAIN, of course, has been the leader, along with Senator FEINGOLD, on the bill on which I am privileged to be one of the original cosponsors. So we are trying to take a bipartisan look at it.

We have spent entirely too much time in times past as parties trying to figure out what would be to our advantage and our disadvantage, and both parties have done that. Nobody really knows the result of reforms we might make in terms of the success of political parties. I continue to believe that the primary ingredient is the quality of the candidate and the quality of the message regardless of what rules we play under.

I have the simple belief that there is too much money in the system. I know that it is becoming currently in vogue to say there is not enough money in the system; we need to have more. I do not believe that. I have had the opportunity in very short order to run as a challenger. I am now running for reelection after 2 years. Because I had the unexpired term of Vice President GORE, I am now running as an incumbent. I have seen it from both sides. It takes entirely too much time to raise the millions of dollars it takes to run for political office in this country, time that we ought to be spending on the Nation's business.

People are cynical of the system that we now have. After a brief rise in public opinion, it seems, after the last Congress, we are going right back to where Congress has always been in the view of the American people, and that is basically abysmally very low. People look at the huge amounts of money in the system that both parties raise, that all candidates raise if they have any hope of being successful, and they simply do not think there is no relationship between the huge amounts of money being paid out and the actions that are being taken.

That is one of the reasons why people have less and less faith in their Government. It is heavily weighted toward incumbents. As I have said, I have seen it from both sides now, as the old song goes, and incumbency brings the finances that a challenger cannot bring against a well-entrenched incumbent who has had the opportunity to spend the last several years raising money and putting it back. Someone must have the temerity to go out and challenge him and overcome that big advantage the incumbent has.

That is not a good system. It is not serving us well. We can look at the bottom line and tell it is not serving us well. It is not producing the results. Whether it is the fiscal policy or social policy or anything you want to look at in terms of the indicators as to what direction our country is going, it is not producing the results we want to see produced in this country.

There are a lot of problems with any particular piece of legislation. I am sure there are problems with the piece that we will be supporting. To me, it is a much broader and more basic question than whether you have a $1,000 limit or a $500 limit or $250 or $5,000 or even whether you have PAC's or not. Political action committees were touted as a great reform measure just a few years ago. Now they are out of favor. I do not think it makes any difference. Individuals can contribute around PAC's anyway. PAC's at least are fully disclosed and there are some limitations on them. The same people contributing to the PAC's can contribute individually. So that is all kind of a sideshow as far as I am concerned. I think if we can do something about the overall amounts we will be making real progress.

So I join with my colleague's statement, and I am looking forward to making some progress on this, this year.

Mr. WARNER. Mr. President, we have heard from several of my colleagues about the need to move forward on campaign finance reform. I wholeheartedly agree—but we must not move forward without reviewing, analyzing, and understanding what those reforms entail.

Campaign finance reform is indeed a very important issue and one that has received increasing publicity and discussion among the American people.

The Senate Rules Committee has taken a bipartisan lead in bringing the full spectrum of the issues surrounding campaign finance to this discussion, and there are many important and significant issues surrounding the reform efforts.

In a series of hearings specifically designed to permit the examination and full discussion of this very important subject, the Rules Committee has heard from Senators MCCAIN, FEINGOLD, THOMPSON, WELLSTONE, FEINSTEIN, and BRADLEY, about legislation they have proposed. We have also received testimony from Members of the House—Messrs. SHAYS and MEEHAN, and Mrs. SMITH—on legislation they introduced in the House.

We have benefited in our understanding of the scope of these proposals from several distinguished lawyers and scholars who have raised significant—and serious—concerns about the constitutionality of some of the proposed reforms. This should cause every Senator to tread slowly, and ensure we have the benefit of full analysis. It remains my greatest concern that many of the reform proposals carry a high risk of being held unconstitutional. The American people would be rendered a serious disservice if we were to knowingly pass legislation which would likely prove to be an empty solution to the problems associated with campaign financing. To this end I have asked—just this past Wednesday—that the chairmen of the Republican and Democratic National Committees provide us with their analysis of the constitutionality of several of the major reform proposals, including: The ban on political action committees; the limitations placed on independent expenditures; and the soft money restrictions placed on the political parties.

In addition to appreciating the constitutional problems with some of the reform proposals, we need to understand the effects of these proposals. We should not head into a darkened tunnel without benefit of a light.

To this end, we heard pros and cons for various aspects of campaign finance reform from prestigious policy institutes—CATO Institute, Brookings Institute, and Heritage Foundation, as well as general calls for significant reform by several advocate groups.

Our hearings have permitted organizations and individuals to provide us with their perspective of campaign finance reform proposals that would eliminate political action committees [PAC's] and the bundling of funds.

We have also learned about the costs and management problems associated with the proposals that candidates for election be given reduced-fee postage. There is no free lunch—reduced-fee postage ultimately means increased prices to the American postal user. This does not necessarily mean the idea is bad, but we should understand what the costs are and who we are asking to bear those costs.

The committee has also heard positive, thought-provoking testimony about new ideas for reform that should be considered in any campaign reform evaluation. Ideas such as increasing the spending limits to adjust for inflation and increasing the role of the political parties in supporting campaigns.

In our continuing effort to cover the issues in a complete and timely manner, our next hearing is scheduled for May 8. We will bring representatives of the broadcast industry to address the costs and mechanics of implementing the reduced-fee broadcast proposals. We also hope to have testimony on the broadcast industry's efforts to voluntarily provide free broadcast time for the Presidential election—and assess the applicability of this effort to Senate elections.

In addition, we will hear from a panel of experts on the issue of campaign financing and reform, who will hopefully present meaningful analysis of the proposals as well as provide us with concrete and clearly constitutional suggestions for meaningful reform.

These bipartisan hearings are providing the basis for intelligent and meaningful floor discussion and knowledgeable voting when the vote is taken.

We should not proceed without hearing from those who are directly affected; without understanding the constitutional concerns associated with some of the reform proposals; or without permitting those who have studied this matter to present their understanding of the consequences of the proposed reforms and their suggestions for improvement.

I assure my fellow Senators, the Rules Committee will continue to hold hearings at an aggressive pace to cover the remaining issues.

The PRESIDING OFFICER. The 4 minutes yielded to the Senator from Tennessee have expired. The Senator from California is informed there are 10 minutes remaining.

Mrs. FEINSTEIN. I thank the Chair.

ALIEN SMUGGLING

Mrs. FEINSTEIN. Mr. President, last evening, I had a brief opportunity to indicate to the majority leader my view of the importance of the illegal immigration bill and my hope that it would be restored to the floor very shortly.

Yesterday, the Justice Department made a series of arrests on the west coast which I believe underscore the need for this bill to be rapidly considered by this Senate and hopefully passed.

Arrests were made yesterday in San Francisco of persons involved in large-scale alien smuggling. They capped a 3-year investigation by the Immigration and Naturalization Service and the U.S. attorney in the northern district of California. This operation was known as Operation Sea Dragon, and the investigation resulted in a sealed four-count indictment of 23 people, all of whom were members of organized and violent gangs.

The investigation revealed that a number of powerful New York-based gangs, including the White Tigers, the Fuk Ching, and the Broom Street Boys, joined forces with two Bay Area gangs to smuggle several hundred aliens from China into the United States in 1993.

According to the U.S. attorney's office, a San Francisco-based Vietnamese gang was responsible for furnishing the fishing vessels to ferry the smuggled aliens from the mother ship to the coast. A Chinese gang operating out of Oakland then arranged for land transportation and drop houses to facilitate the aliens' travel to New York. More than 270 illegal Chinese aliens were detained when the two fishing boats, the *Angel* and the *Pelican*, landed in San Francisco Bay. As many as 15 passengers escaped and an additional 24 smuggled aliens were arrested later at a drop house in New York City.

Initially, five people were arrested in San Francisco in connection with the arrival of the two ships. These five smugglers were sentenced in June 1994 to just—to just 2 years in prison.

What is interesting is that it is clear from the level of sophistication in this particular operation that organized smuggling of illegal aliens is now becoming a huge business. It is estimated at more than $3 billion a year. It is also clear from the relatively light sentences imposed on those involved that the current penalties do not outweigh the fortune illegal alien smugglers win by breaking the law. And that is the point of my remarks today.

Since August 1991, at least 21 boatloads carrying almost 3,000 illegal aliens have been intercepted in U.S. waters by American authorities, 3 near Los Angeles, 4 outside San Diego, and 3 in San Francisco, including the 2 ships involved in this story.

The State Department estimates that today there are at least 50 ships used by smugglers, or being constructed to smuggle immigrants. Smugglers cram hundreds of illegal immigrants into decrepit ships in inhumane, cramped quarters where all kinds of abuse often occurs. They are often subject to near starvation. They arrive to lives as indentured workers, and they struggle to pay off their crossing debts which reportedly are around $25,000 to $30,000.

Currently the maximum penalty for this kind of smuggling is 5 years. The 23 people indicted in these sealed indictments, these sealed arrest indictments, will be charged with 4 counts, including conspiracy, transportation and harboring of illegal aliens. Each count carries a maximum penalty of just 5 years and a fine of $250,000.

If past sentences handed down in similar cases serve as any indication, it is likely that most of these 23 will serve either a year-and-a-half or maybe somewhat more. So, less than 3 years will be served for smuggling nearly 300 people into the country. That is one of the reasons why present Federal sentences do in no way, shape, or form deter this kind of activity.

The illegal immigration bill proposed by the Judiciary Committee, and which was taken down by the majority leader, provides much stronger sentences. Federal prosecutors around my State have asked that the Congress increase the penalties against alien smugglers, and the bill does just that. It doubles the maximum sentence for alien smuggling from the current 5 years to 10 years for the first and second offenses. If a third offense occurs, the maximum penalty is increased to 15 years.

The bill would make alien smuggling a predicate act under RICO. This would mean that longer prison sentences could be handed down if other crimes were committed, and in general that the racketeering statutes could be applied.

It would also allow fines amounting to twice the profit made through smuggling to be imposed. And it would change the penalty so that smugglers can be charged with a violation for each person smuggled. Current law makes it one criminal act, regardless of the number of people smuggled.

It would also make any person who knowingly hires an illegal alien or smuggled alien subject to a fine and up to 5 years in prison. It would increase prison sentences for smugglers who bring an alien into this country who later commits a crime, and it would allow asset forfeiture laws to be applied.

The U.S. attorney says to us, if this legislation had already become law, the sentences to these 23 smugglers arrested yesterday would be increased by 50 to 100 percent. Instead of facing maximum sentences of 20 years, they would be 30 to 40 years, and the end result would be that the actual time served would increase.

I would like to particularly congratulate U.S. Attorney Michael Yamaguchi, the INS, and all the Federal agents involved in this successful investigation.

Now the Congress must do its job to see that the laws in place are adequate to deter this kind of illegal alien smuggling. The bill also provides an opportunity to stop illegal immigration—a huge, huge problem in the State of California, with 2 million people there now illegally—the ability to stop it at the borders.

It would include an additional 700 Border Patrol officers. It would include $12 million for infrastructure, for roads and for fencing. And it would include an additional 300 INS investigators. It would also toughen the so-called employer sanctions promulgated in 1986.

I can only tell you that Proposition 187 passed overwhelmingly in the State of California, the largest State in the Union. If this is not a message that reaches this Congress, I do not know what kinds of actions it takes. So I would simply like to say, please, majority leader, I say this very sincerely, reschedule this bill soon so the many amendments pending can be considered, so this floor can engage in a practical, a fair, and a just debate, and so that those sanctions that can prevent illegal immigration into this country can be revised and based on modern-day needs.

I yield the floor.

TRIBUTE TO THE LATE HONORABLE EDMUND S. MUSKIE

Mr. COVERDELL. Mr. President, I rise today to join my colleagues from both sides of the aisle in paying respect to a giant of contemporary politics. Edmund S. Muskie, loyal son of Maine, selflessly gave his entire life to public service. His passing is a profound loss, but his shining example of integrity and decency is a legacy for all Americans to admire.

A man of deep intellect, wisdom, and passion, Edmund Muskie graduated from Maine's Bates College to serve three terms as State legislator, two terms as Maine's Governor, and 22 years in the U.S. Senate. He answered President Carter's call to resign from the Senate to become Secretary of State.

As David Broder of the Washington Post has pointed out, Muskie was a politician of rare vision, one who addressed two overriding national issues decades before most others—shifting responsibility from the Federal Government to the States, and putting America's fiscal house in order.

While often supporting activist Government, Muskie recognized that many programs needed to be tailored to the varying situations in each of the 50 States. Indeed, he was ahead of his time. He was the first chairman of the Senate Budget Committee and he fought to keep deficits of the 1960's a minute fraction of what they have become today.

Perhaps standing above all his many achievements is his lead in creating a cleaner environment. He worked tirelessly to create bipartisan support for landmark environmental laws which have allowed our children to grow up in a more healthy and beautiful America.

So today, we pay tribute to a man who cared deeply for his native State, his New England, and his country. We grieve with his family, and hope their time of suffering is alleviated in some way by knowing that America is grateful for his service and shares in their loss. Edmund Muskie, a great man, made the United States a greater nation.

RECOGNITION OF NATIONAL TEACHER OF THE YEAR

Mr. GRAMS. Mr. President, I take this opportunity to recognize an outstanding Minnesotan who has been chosen as the national Teacher of the Year.

A resident of Worthington, MN, Mary Beth Blegen has been teaching for 30 years. This year she was selected as the national Teacher of the Year for her significant contributions to education.

Mary Beth Blegen teaches social studies and English at Worthington Senior High School. Her principal, Bruce Blatti, describes her as a teacher who cares for her students inside and outside of the classroom.

Mary Beth Blegen's theater arts background allows her classroom to become an interactive learning center where student participation is an integral part of the process.

Whether it is history, humanities, or English literature, she allows her students to form their own ideas, discuss them and implement them.

This environment allows her to listen to her students and engage in conversation that enables students to bring out the best in themselves.

Teachers like Mary Beth Blegen represent the key to America's future. As our children face the challenges of the 21st century, it is dedicated educators like Mary Beth Blegen who accept the challenge of turning the young people of today into the leaders of tomorrow.

Mr. President, I hope that you and the rest of my Senate colleagues will join me in congratulating one of America's outstanding educators.

CONSTITUTIONAL AMENDMENT TO LIMIT CONGRESSIONAL TERMS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Senate Joint Resolution 21, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 21) proposing a constitutional amendment to limit congressional terms.

The Senate proceeded to consider the joint resolution, with an amendment to strike all after the resolving clause and inserting the part printed in italic;

S.J. RES. 21

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than six times; no person who has been a Senator for more than three years of a term to which some other persons was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 3692

(Purpose: To amend the joint resolution to change the length of limits on Congressional terms to 6 years in the House of Representatives and 12 years in the Senate)

Mr. THOMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for Mr. ASHCROFT, proposes an amendment numbered 3692.

Mr. THOMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

"*(two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE —

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

Mr. THOMPSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3693 TO AMENDMENT NO. 3692

(Purpose: To permit each State to prescribe the maximum number of terms to which a person may be elected to the House of Representatives and the Senate)

Mr. THOMPSON. I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for Mr. BROWN, proposes an amendment numbered 3693 to amendment No. 3692.

Mr. THOMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposal to be inserted, insert the following: "*(two-thirds of each House concurring therein)*, That the following article is hereby proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

"SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

"SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several State within seven years from the date of its submission to the States by the Congress.".

AMENDMENT NO. 3694

(Purpose: To provide a perfecting amendment)

Mr. THOMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for Mr. ASHCROFT, proposes an amendment numbered 3694.

Mr. THOMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the language proposed to be inserted, strike all after the first word and insert the following: *of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

Mr. THOMPSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3695 TO AMENDMENT NO. 3694

(Purpose: To permit each State to prescribe the maximum number of terms to which a person may be elected to the House of Representatives and the Senate)

Mr. THOMPSON. I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for Mr. BROWN, proposes an amendment numbered 3695 to amendment No. 3694.

Mr. THOMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following: "*of each House concurring therein*), That the following article is hereby proposed as an amendment to the Constitution of the United States:

"ARTICLE —

"SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

"SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

"SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

AMENDMENT NO. 3696

(Purpose: To amend the joint resolution to change the length of limits on Congressional terms to 12 years in the House of Representatives and 12 years in the Senate)

Mr. THOMPSON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON] proposes an amendment numbered 3696.

Mr. THOMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert the following: "*of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than six times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

Mr. THOMPSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3697 TO AMENDMENT NO. 3696

(Purpose: To permit each State to prescribe the maximum number of terms to which a person may be elected to the House of Representatives and the Senate)

Mr. THOMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for Mr. BROWN, proposes an amendment numbered 3697 to amendment No. 3696.

Mr. THOMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following: "*of each House concurring therein*). That the following article is hereby proposed as an amendment to the Constitution of the United States:

"ARTICLE —

"SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

"SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

"SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

MOTION TO RECOMMIT

Mr. THOMPSON. I now send a motion to recommit the joint resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON] moves to recommit.

Mr. THOMPSON. Mr. President, I ask unanimous consent that reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion to recommit is as follows:

Motion to recommit the resolution to Committee on the Judiciary with instructions to report the resolution back to the Senate without amendment forthwith.

AMENDMENT NO. 3698

(Purpose: To amend the motion to recommit to change instructions to report back with limits on Congressional terms of 6 years on the House of Representatives and 12 years in the Senate)

Mr. THOMPSON. Mr. President, I send a first-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for Mr. ASHCROFT, proposes an amendment numbered 3698.

Mr. THOMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the proposed instructions, insert the following: with instructions to report the resolution back to the Senate forthwith with an amendment as follows: "*(two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term, as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

Mr. THOMPSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3699 TO AMENDMENT NO. 3698

(Purpose: To amend the motion to recommit to change instructions to report back with language allowing each State to set the terms of members of the House of Representatives and the Senate from that State)

Mr. THOMPSON. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for Mr. BROWN, proposes an amendment numbered 3699 to amendment No. 3698.

Mr. THOMPSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the proposed instructions, insert the following: with instructions to report the resolution back to the Senate forthwith with an amendment as follows: "*(two-thirds of each House concurring therein)*, That the following article is hereby proposed as an amendment to the Constitution of the United States:

"ARTICLE —

"SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

"SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

"SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

Mr. THOMPSON. Mr. President, for the information of all Senators, the Senate is now considering the constitutional amendment regarding congressional term limits. I have just sent to the desk a series of amendments to the joint resolution, the effect of which is to ensure that the debate remains on the issue of congressional term limits. If the amendment process had not been completed, it was the fear of this Senator and many others on this side of the aisle that other Members were intending to offer an amendment which would not be relevant to the pending term limits legislation. With the so-called amendment tree now filled, it is the hope of this Senator that the debate will now stay focused on this very important legislation.

It is also the understanding of this Senator that later today, the majority leader will file a cloture motion on the joint resolution which will allow for a cloture vote on Tuesday, April 23, 1996.

I appreciate the cooperation and support of the majority leader for bringing this issue before the Senate in such a timely manner, and I look forward to a vigorous debate today, Monday and Tuesday.

The PRESIDING OFFICER. Does the Senator from Tennessee yield the floor?

Mr. THOMPSON. I will yield the floor. I note my colleague from Montana seeking recognition, and I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, in 1994, in my campaign for reelection to the U.S. Senate, term limits was part of that campaign, and the Senator from Tennessee has picked up the yoke, so to speak, and is trying to do something about that. I was not convinced, when I first came to the U.S. Senate, that term limits was needed, but I am even more convinced now.

Mr. President, I ask unanimous consent that I may proceed as in morning business for just the next 4 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMERICANS ARE ON MY MIND

Mr. BURNS. Mr. President, I thank my friend from Tennessee. I thank the Chair. I have Americans on my mind today, and I am concerned that maybe some of us are not listening, especially the President and the Democrats, to America as closely as they should.

One stark realization, when I was home over the Easter break a few days ago, is that I filed and paid my taxes, like 115 million other Americans did. I imagine that most of them were a little bit upset after they paid the taxes. More than two-thirds of all taxpaying Americans, in a recent poll, think taxes are too high. Well, that is not a very revealing thing, because we know two-thirds of them probably pay taxes and they probably think they are too high. A third think they are about right, and just 1 percent think they are too low.

Americans are a little upset—the people I talked to—and they have good reason to be. The Federal Government demands more and more of their hard-earned money and gives less and less in return. But there may be a blessing in that. Maybe we are lucky we are not getting all the Government that we pay for.

But I believe that this President, in the 1993 tax bill or the budget that at that time would put the biggest tax increase on the American people that this country had ever seen, was wrong on taxes and was also wrong on spending—both ends of the spectrum.

I think it is time that we extended the debate on the role of the Federal Government. In fact, if 1994 taught us anything, it is to say, "Let's reexamine the role of Government at all levels, State, local, and Federal, and identify what we are supposed to be doing."

Americans are on my mind, because the average hard-working American now works 2 hours 47 minutes of every single day just to pay their taxes. The average family pays 38.2 percent of the total income in taxes paid each year. This means that he or she will work 128 days, until May 7 of this year, just to pay its taxes.

A typical family pays the Federal Government before it pays its mortgage, before it puts food on the table, before it puts clothes on their kids' back. We must change the direction that the curve is headed. We must change and we must stop that curve. Government is hard put because taxes are easy to raise. Most Americans may be astonished to know that their taxes have been raised 16 times in the past 30 years, as opposed to being lowered only once. With only a simple majority required to raise taxes, it is easier to pass a tax hike than it is to cut runaway entitlement programs.

President Clinton proved this in 1993 when he pushed through the Democratic Congress the largest tax increase in Congress, and I alluded to that before. Even today, the Federal debt continues to skyrocket because President Clinton refuses to sign a budget that brings down the yearly deficit. Not only has the President blocked passage of a balanced budget, but he has also taken away the middle class tax cut that Republicans promised in 1994 and that he also promised in 1992.

I want to bring up one figure, too, that a lot of folks do not realize. Here is how important this is. Forty percent of the income taxes you paid this year to the Federal Government just went to service the national debt, to pay the interest on the national debt—40 percent. We cannot allow that to happen if our children and their children are to have the same opportunities that we had in our growing up and the opportunities to live in a great and free country.

Americans are on my mind today because of high taxes on American families, businesses are strangling, the economy is hurting, and they are hurting our children's future. They have to come down.

So, as Americans are on my mind, and I think they are on the minds of many of my distinguished colleagues who represent real people in a real world, we must demand this Government to tighten its belt first rather than making you tighten yours. It is a problem that is magnified every day in the private sector. All one has to do is go home and just go down that path. Before we ever become Senators or Representatives, before we ever have anything to do with Government, in our private life, we should talk to the real folks that make America great.

AMERICA CONTINUES TO BE GREAT

Mr. BURNS. Mr. President, I associate my remarks with those recognizing Oklahoma City. That tragedy and what we learn from it is another sign that America continues to be great. The wounds will heal. There will always be scars, but we pick up and we continue to thrive and thrive in this great and free country.

So we salute Oklahoma, Oklahoma City, and all the Americans whose lives were touched by that tragedy.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

CONSTITUTIONAL AMENDMENT TO LIMIT CONGRESSIONAL TERMS

The Senate continued with the consideration of the joint resolution.

Mr. THOMPSON. Mr. President, I would like to take up once again the business before the Chamber, the constitutional amendment on term limits. This amendment would provide for a limitation of 12 years for Members of the U.S. Senate and 12 years for the House of Representatives. It is a constitutional amendment which will require two-thirds vote of this body and then ratification by the States. It is prospective in nature. That is what we are about here today.

It has been a long time coming. I believe this is the first time that a constitutional term limits amendment has worked its way through the committee system. I was proud to be able to sponsor the amendment coming out of the Judiciary Committee, and now we find it finally on the floor of the U.S. Senate for the first time in history.

I appreciate the leadership and the assistance of the majority leader in seeing that this has come about.

There was a term limits vote in 1947, as I read my history. I think term limits got one vote at that time. So it has been right at 50 years now since there has been any vote at all on the issue of term limits.

I find that absolutely remarkable because poll after poll after poll indicates that upward of 70 to 75 percent of the people in this country support term limits. I cannot think of anything else that enjoys such broad popular support that cannot even find its way on to the floor, much less get passed, before the Congress.

In a day and time when we are all hooked up with all kinds of electronic devices in order to monitor the pulse of the American people almost on an hourly basis—some say too much—there is such little time we have to reflect and deliberate, but that is what we do. At a time when we take public opinion polls, it looks like about every couple of hours in this country, in order to test what the people want, and at a time when we pick up the fact that 50 to 55 percent of the people want something in this country and we seem to jump through hoops around here in order to get it done and be responsive to the American people, we find that when it comes to term limits, although an overwhelming majority of people consistently say that they want this, it takes 50 years to even get it to a vote in the U.S. Senate.

I find that somewhat remarkable. Obviously, the reason is because in our daily lives here in regulating other people's lives and in spending other people's moneys, when it comes to us, when it comes to maybe short-circuiting what would otherwise be a lifetime political career, we turn the other way and we are not quite as interested in what the majority of the people want, or we come up with ingenious arguments why in this particular case we must show our independence and not give the majority of the people what they want.

We cannot say no to any kind of spending program that would balance our budget. But in this particular instance, we need to show our independence because what choice do we have if we accede to the wishes of the people? We would only have an additional 12 years in the U.S. Senate—an additional 12 years—as if this were an onerous proposition.

It is not an onerous proposition. It is not revolutionary. It is something that was contemplated by our Founding Fathers, who knew that from time to time circumstances would change and who provided in the Constitution a way to address those changing circumstances. Circumstances have indeed changed, and we will address those and why we need this particular amendment.

Let us talk for a moment about what the effort to get the constitutional amendment for term limits on to the floor is not all about. It is not about simply changing new faces for old faces. It is not about simply replacing people for the sake of replacing people. It is not because of any vindictiveness because we are mad at Congress, as a lot of people are, and that we want to punish somebody. It is not about that at all.

As a matter of fact, it is about just the opposite. It is about making Congress more credible with the American people. It is about enhancing the stature of Congress. Syndicated columnist George Will wrote a book a few years ago entitled "Restoration." It was about term limits and the need for term limits. He is an individual who, he says, opposed term limits for many, many years; and for a variety of reasons he came to believe that this was perhaps the only way that we would be able to work our way out of our problems that we are getting deeper and deeper into in this country.

But why would he call his book on term limits "Restoration"? It is because he believes that term limits would be something that would restore and enhance the credibility and the stature of the U.S. Congress. Indeed, how could it get much lower? Poll after poll after poll, again, indicates that after a brief blip after this last election, we are back down there in the view of public opinion, the American people, where we have been for so long that is abysmally low.

People have less and less confidence in their Government, have less and less confidence in their Congress. It is Mr. Will's view, and it is my view, that if we had more of a system that was contemplated by our Founding Fathers who could not have dreamed of a professional legislature at that time, that if we went back more to a citizen legislature type approach, that people would feel closer to their Government and have more respect for it.

I mention our Founding Fathers. I was reading recently, again, after George Washington served two terms, they beseeched him to stay on. "How can we lose the services of the father of our country? Surely the republic will fall if George Washington does not stay on past his two terms." George Washington knew better. That is why he goes down into the history books in the manner that he has and is viewed in the manner that he is viewed. He knew better. He got on his horse, road out of town, and history records that he never even set foot back in Washington, DC.

The same thing with Thomas Jefferson after serving two terms. Surely—surely—we need Jefferson to run again because we know what kind of respect and admiration we have for him, and back then also. He took his slings and arrows by his opponents and the press at the time, but he was greatly admired and respected. He, too, knew it would be a bad precedent.

We are talking about the Presidency in those cases, but it was before term limits, which, of course, we have on the Presidency. People who fight most vigorously against term limits for Members of Congress, who are usually Members of Congress, seem to be quite content to keep the term limits on the Presidency, which we have. But at a time before we had the term limits on the Presidency, those two great men saw the wisdom of serving a couple of terms and then moving on. History will reflect that we have had some pretty good ones to follow them, also, who would not have been serving at the time that they served had the others chosen to stay.

So that is what it is not about. It is not about change for change's sake. There is nothing that inherently goes wrong with an individual when he reaches a certain age or you have served in Congress for a certain period of time. There is no biological changes that necessarily take place. He does not become evil because of that service.

We are talking about doing something that will enhance the stature and effectiveness of the Congress. What it is about is more than the individual Members who serve in this body or who have ever served in this body. It is no reflection on them. It is about us as an institution, and it is about us as a nation and about our future and about equipping ourselves in a way that will more effectively allow us to deal with what some believe to be insurmountable problems that we already have, fundamental problems that we really show no indication that we are capable of solving.

Mr. President, it is no less true that we are bankrupting this Nation simply because it is heard so often. But it has happened. We know it is happening. We know that the demographics are catching up with us. We know that when the baby boomers start retiring, it is going to wreak havoc on many of our social programs. We know that Social Security is in dire jeopardy. We know that Medicare is in dire jeopardy. Yet we cannot get to first base in doing anything about it.

We continue, after this so-called congressional revolution when my party was rewarded at the polls and we were all brought in, even after all of that, we have found that as an institution—I will even include the Presidency in that certainly—as a working government we cannot get to first base in solving the most dire fiscal problem that this country has ever faced.

We probably cannot do enough wrong to mess things up in the next few years. We will be OK. Most of us will be out of office and drawing our pensions, and we will once again have handed the problem over to the next generation. But down the road, as surely as I am standing here, we know the demographers tell us that we cannot continue down the road that we are on. It is just that simple. Everybody in Washington, DC, behind closed doors will acknowledge that.

Doing something about it, of course, is the hard part. We have not shown any indication that we can really do anything about it. We are talking about a 7-year balanced budget plan. The Republicans have tried mightily to get that done. We passed in the Senate for the first time in decades a balanced budget. The President vetoed it.

But even if we had that plan according to what we wanted, at the end of the 7 years, our country would still be looking at a $6 trillion debt, a $6 trillion debt. We talk about addressing this problem to the extent that we claim to be addressing it with the assumption there are not going to be any recessions and not going to be any international conflicts and not going to be all the things that always happen—that always happen.

What are we doing to try to get to the first step? We are arguing over the division between entitlement spending and discretionary spending. Nobody really wants to do anything about entitlement spending because where the problem is is also where the votes are. It is tough to tell people we cannot continue to do things the same old way and we cannot continue to increase every year at the rate of 10 percent. Everybody knows it. We do not have the ability to tell that to anybody, because we are afraid to, because we want to get reelected, and we want the campaign contributions that come from it.

The plans that have been laid on the table, and I will be as bipartisan as I can about this, all the plans that have been laid on the table back end load the problem. The President's plan does it more than any of the rest of them, but all of them back end load the problem. So when we come up with a so-called balanced budget, all we are doing is putting numbers down on a piece of paper, hoping that years later some future Congress will have the guts to do what we do not have the guts to do, and we claim we will slash discretionary spending in the outyears, after we are out of office.

That is what will happen. That is the way we balance the budget. That is hogwash. It will not happen and everybody knows it is not going to happen. That is the best-case scenario. That is the best-case scenario.

If we made that initial downpayment, that is what we would be doing. It is not really a downpayment. If it really were a downpayment, we would still be looking at very bleak fiscal circumstances on down the road. That is not even to address the need that we have in so many other areas.

We talk about—we who call ourselves conservatives—talk about the need to reduce the rate of growth of some of these spending programs which has surely got to be done—and will be done, also, one way or another or we will monetize the debt and inflate our way out of it and become a second-rate country.

What we do not talk about sometimes is the fact that we need to spend more in certain areas in terms of our infrastructure, in terms of research and development, things of that nature. What do those things have in common that the things I have been talking about do not? It has to do with the future. There is no immediate payoff for infrastructure and research and development and things that will make our industry stronger, policies that will make our industry stronger down the road. There is no immediate political payoff for that. It is difficult to explain that to people.

What is not difficult to explain is a check in the mail 10 percent more than the check you got in the mail last year. That is what is driving the process. That is why we are in the position we are in.

So not only are the demographics going to catch up with us as far as our spending problems are concerned, we are going—without taking care of some basic fundamental needs that any strong nation has, because all this money is being eaten up with regard to a handful of programs which, with the increased interest on the national debt, is facing us with catastrophic circumstances.

You will hear the debate now that the deficit has gone down a little bit. Well, it does not make any difference if you look down the road just a little, if we look past our nose—and that is about as long range as we look or plan anymore in this country. When our competitors think in terms of decades, we think in terms of the next election and next quarterly statement if we are a corporation. If we look past our nose, the temporary ups and downs, the demographics and what is built into the system is simply going to kill us. It cannot be sustained.

That is what term limits is about. You wonder maybe where this comes in, that and what term limits is all about. It is not about kicking a bunch of people out. It is a system, a system. What kind of a system is it that produced what I just described? What kind of a system is it that we have that has produced those circumstances?

In the first place, it is not a system that we have had since the history of the country. I mentioned changed circumstances and our constitutional framework being such and our Founding Fathers being wise enough to see that there would be times and circumstances when we would have to adjust our underlying document to meet those changing circumstances. You look back in the days of the Founding Fathers and look at the challenges that they faced, it seems to me like, in many cases, or in most cases, it was more of an intellectual challenge. You needed people who understood history. You needed people who knew about other governments. You needed people who understood human nature. You needed some philosophers. Yes, you even needed some lawyers and people who understood Constitutions and how laws were written. But you needed those intellectual traits that really laid down the most noble document in the history of the world as far as what secular man has produced. We got it.

Then it seems to me that as time came along in the 1930's and the 1940's, new challenges were presented. We had the Great Depression, which my mother tells me about. We had a major war, a world war. At that time we needed inspiration. We needed programs. We need the Government to do the things that the Government maybe had not done before. We needed unifying actions. That was the era in the beginning of what some referred to as the "rhetorical Presidency," when FDR—and Woodrow Wilson was a great advocate of this—we needed somebody who could rally the people and get them together to a concentrated course of action. That was needed during those times.

Those circumstances have changed now. We do not need what we needed before because we are not faced with what we were faced with before. In many cases, we have to go back and revisit what we have already done, because since those times the very nature of our Government and society has changed. We, as an institution, are less well equipped to deal with the problems than we have ever been before. Our basic problem now is not one of intellectual leadership. It is not one of rhetorical leadership. Our problem now is the lack of will, the lack of will to do what we know that somebody, either us or our successors, have to do. We do not have the lack of will.

Why is it we are in such a system now? I think it is because of many reasons. Look at what has happened since then—the growth of Government. Government has grown mightily since then. That means spending, the cult of spending, the political reward you get from bribing taxpayers with their own money. It sounds pretty harsh, but that is essentially what it amounts to. No politician was ever turned out of office simply because he said yes to somebody, that, yes, they could have whatever they wanted. That is kind of what we feel like we are there to do, is to listen to people who want money, want programs, want increases and want more and respond to that. It is the cult of spending.

Because of our desire not to ever want to say no to anybody, because that could endanger our career, we more likely than thought, "Go along with it." That is a shorthand for the basic problem we have. There are other factors—the overall philosophy that you need somebody in the Senate, for example, who has been around for a long time. The idea is you come up here and you stay as long as you can and then at the end of the day you are in a position to get more pork for your State than anybody else.

That is the philosophy that still holds over to this day. You do not worry about the Nation necessarily; it will take care of itself. For a long time, the Nation did take care of itself. It was like one old Texan said one time, "I have watched those folks from up North talk about this. They do not do it better than we do, and every time they get a ham, I'm going to get a hog." That is the way he worked his career, and he got a lot of hogs.

That might have been all right for a while. But now, what is good for the Nation is good for the State; what is bad for the Nation is bad for the State. Nothing is going to be good for any particular State if it is bad for the Nation. We all live in the same world. We are bringing kids up in the same world. They are all going to be suffering from the consequences of what we are doing right now. But usually, again, getting back to spending, they are the ones that are going to be paying 80 percent tax rates and paying astronomical interest rates when they go to buy their first home or automobile. They are the ones who are going to suffer the consequences. It is not going to make any difference to them whether or not we got an extra road built somewhere.

The interest groups have proliferated every year, and more and more come to town. People have a right to come and petition their Government. I have never been one of those who criticize people who come in and petition their Government, whether they do it personally or through a hired lobbyist. If we are going to pass laws that affect people's lives, we have to expect people to come in and tell us what effect that is going to have. But we have passed so many laws, regulating so many aspects of life in America and business in America, and everybody now has a stake up here, and they interpret that stake in terms of how much more can they get from up here. It is not a matter of concentrating on making the pie bigger anymore, it is a matter of making sure you get a bigger share of the pie, which means taking it away from somebody else. That is the fight up here.

As the interest groups grow and become more powerful, they have a carrot and a stick for every Member of Congress. The carrot is financing them. The stick is working against them for their reelection. Those are powerful motivations, all under pressure and going toward the ultimate result of more and more spending—more and more spending.

Someone said one time that the ultimate test of a democracy was whether or not, once the people learn they can pay themselves out of their own treasury, they will never have interest rates. That is the question we are going to have to answer in this debate. I am not sure that the answer is looking all that good.

So what will term limits do? It is no panacea, we know that. There is no short-term solution. This constitutional amendment process in and of itself certainly is not a short-term process. But what I think it will do is better give us a chance to deal with these problems, to ameliorate the influence of the cult of spending that we have all fallen into in this town. In the first place, it will open up the process. People will know that certain positions will be open from time to time, and if they ever want to serve their country a little bit and come up here and look after the interests of their children and do the right thing, they do not have to go up against some well-entrenched incumbent who has all the money he can possibly use because that is where the money flows, but it is going to be open. They say, yes, I have done something with my life already. I have a career, I am a small business woman, or I am a farmer, or I am a professional person. But I can give a few years, knowing that I will be coming back home before too long. I can give a few years of service. What is the motivation? What is going to be the motivation of that person to go build a political career and be timid and say, yes, and spend and spend? No, he cannot, because after a certain number of years, under this constitutional amendment, he is out. Two terms in the Senate.

I ask my colleagues, most of whom are going to oppose me on this amendment, I regret to say, what it would be like to run or serve 6 years in the U.S. Senate, knowing you are not going to have to raise any more money, and knowing that you are not going to have to worry about being turned out of office. Some people do that anyway—under self-imposed circumstances. I have committed to do that. I do not say that that is the only way to go. It is not the only way to go. I admire my colleagues who say let us change the system, including me, but until then I am not going to do it myself. I do not personally have any desire to stay past that allotted amount of time. That is my own personal decision. I am looking forward to the time when I can spend all of my time doing what the people sent me up here to do. That is the kind of system that we would have under term limits.

A third of the people, at all times, in this body would be under those circumstances. Would that not be more likely to produce people who would be willing to take some risks in leveling with the American people, and saying we cannot consume any more right now because we are taking it from the unborn, we are taking it from your daughter's unborn child, because they will be the ones that have to pay the consequences. So we cannot have that right now. How many times have you heard anybody say that recently? I think if we had a different kind of system, we would be more likely to see that on a consistent basis. I think we would be more likely to do something about the cynicism that we have seen, which has been too prevalent for too many years.

I see other colleagues on the floor, Mr. President. So at this time, I will relinquish the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Parliamentary inquiry. Mr. President, under what order are we? Is the Senator yielding and controlling the time?

The PRESIDING OFFICER. There is no order with respect to that.

Mr. COVERDELL. Mr. President, I rise in support of the efforts of the Senator from Tennessee, and the Senator from Missouri, in support of the amendment to the Constitution to limit terms.

Mr. President, wherever I travel in my State, the citizens of my State are vastly in support of term limits. The Senator from Tennessee said it is not a panacea, and that is right. But I do believe that the reason the American people are so supportive of term limits is because they have come to view the Nation's Capital as a bastion, a fortress, a place where their accessibility is difficult to accomplish. I think they have come to believe that the responsive nature of our Capital City is lacking. And they are seeking to support every tool, every form of discipline, which they envision might contribute to opening it up—like opening windows to air things out in the springtime. They are looking for tools that they believe will help break through this fortress, that will help bring change to the way things are managed in our Capital City, and that will make the Government, their elected officials, more responsive.

There can be no doubt but that over the last half century Washington has become a professionalized institution. The politician of today does not remotely resemble what our forefathers had envisioned. They envisioned legislators for an interim period. They envisioned legislators who dedicated a certain portion of their lives of each year to legislating, but were still connected in the workplace at home. They were still farmers, they were still merchants, they were still engaged in the life-making activities. They were not separated from the trials of their own fellow citizens. But today, as we have changed, and Senators talked about change, it is an entirely different process.

If you go over here to the Russell Building, which is where my office is, named after one of the most distinguished Members of this body, Richard B. Russell, of Georgia, and if you look up at the top of the doors, they were all numbered differently. The reason is that each one of those cubicles was the entire office of a U.S. Senator. Of course, it is half the floor now. That Senator had a personal secretary and maybe one other assistant. They got on a train, or they traveled by car in that day. They came to Washington, and they were here for a period of time entirely and then they went back. That Senator and that one employee were enough to respond to all the inquiries.

Today those are vastly enlarged offices. I do not know about the Presiding Officer's office. But we receive 1,000 to 2,000 inquiries a day—a day. It vastly changed the manner in which we function, and it tends to separate us.

Term limits will cause an opening up of the process. It will free and make more independent the voting of the membership. Perhaps, Mr. President, the single most important thing that term limits will do is to bring to Washington contemporary thought about the day and about the time.

Mr. President, in another life I had an opportunity to be director of the U.S. Peace Corps. In that role, I probably met more of our ambassadors than any other individual in the Government, with perhaps the exception of the President, and I might have met more of them. There has always been an argument that they should be professional and not political appointees, and there is always a pressure that there be fewer and fewer political appointees. I always argued against it. I thought the majority should be Foreign Service in training. But I thought both the Foreign Service and the world were well served by mixing with these professionals contemporary thought, people who came from the workplace and who recently came from the workplace so that the Foreign Service in the countries around the world could get a feel for what was being thought in the country at that very time.

It is very easy to get disconnected in the Foreign Service, and it is very easy to get disconnected in this service because you are removed. It is not an intentional effort, but you are removed from day-to-day affairs, so contemporary thought is left behind. I think term limits addresses that issue, just as I believe that there is a purpose and use for involving in the Foreign Service's political appointments people who come from the workplace, who come into that apparatus and who have been dealing with the trials of the day because they are a better reflection and mirror of who we are as we send these people abroad. They can talk in very contemporary terms about what is happening on the streets, so to speak. I think that turnover, or that bringing to the Capital City the most contemporary thought, is useful.

Both the Presiding Officer and the Senator from Tennessee are contemporarily elected, and I think both agree with me that our attitudes are quite different than some of the colleagues who have been here for an extended period of time—not necessarily better, but certainly different because we have been on the hustings. We have been in our cities and towns. We brought the newest thoughts, one of which is term limits, to the Capital City. We were running for change, and I think term limits would be a perpetual agent of change.

Mr. President, I will make a couple more comments and then yield.

For the life of me, I do not understand why we have term limits for mayors, for Governors, for Presidents, for State legislators, but that for some reason it would have a dilatory effect on the U.S. Senate. Somehow my State has survived rather adequately with stringent term limits. At one time you could only serve as Governor for one term. At one time the terms were only 2 years. Yet, the State prospered and grew and became better. I cannot find any empirical evidence where term limits have diminished the expertise, or talent, or ability of Government. In fact, I think it has had the capacity of energizing it because there was always a new personality coming into the picture, a new emphasis. I think it has stimulated citizen thought because we are seeing an array of different personalities and ideas that are being brought into the system. I think again that is what term limits will ultimately produce.

I do not believe it will diminish this institution. I think it will help the institution as it has in our States as Governors and in our cities as mayors. This device has been a useful tool to bring contemporary thought to invigorate the debate of ideas to our institutions.

I commend the Senator from Tennessee, I commend the Senator from Missouri, and others who have joined in this historic effort to bring this institutional change.

The Senator was talking about the vast difference in our times. It was de Tocqueville who warned us of the one frailty he saw in our new democracy which was that as time went on, would it be able to have the will to discipline itself from the pressures of elections, the pressure to stay elected mounting a burden on that constantly seeking of elections? I think it is right to raise that issue because it is clearly an issue of independence and intimidation that has produced a financial dilemma for our country that could bring about the fact that we are sitting here today in the U.S. Senate faced with, in the decade, five different programs consuming 100 percent of the U.S. Treasury. It is clearly a result of a citizenry that is not functioning the way our forefathers intended it to function.

So I commend you and the others, and I am pleased to have had an opportunity to come to the floor.

Mr. President, I yield the floor.

Mr. THOMPSON. Mr. President, I thank my colleague from Georgia. He has been a leader in this effort for some time and a leader before I got here. I would like to refer again to the thought that he expressed, that term limits would not diminish this institution; it would enhance the institution, going back to the proposition of restoration, and restoring it.

Mr. Will pointed out in his book that back when the country was founded, people would line the streets and say, "Long live Congress, long live Congress." Can you imagine someone—anyone—much less lining the streets, today saying "Long live Congress"?

I think this would do more to enhance the U.S. Congress in the eyes of the American people, make it a part of them, and open it up for them. It would give the 250 million people in this country—we have 250 million. They say, "My goodness, if we had term limits, we would not have had Senator Jones here for all of these years. We all acknowledge that our Republic would surely have fallen if we had not had Senator Jones." But we have 250 million people. How many potentially wonderful contributors to our society are there out there, if we open up that system for them and let them compete in the political marketplace without having to overcome the insurmountable odds and money that our system has thrown in their way?

I see my colleague from Missouri, whom I am proud to say I have walked shoulder to shoulder with through this process. He and I have been here. No one has worked harder in this area. I see he is present.

I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Senator from Missouri.

Mr. ASHCROFT. Mr. President, thank you very much. I want to thank the Senator from Tennessee for his leadership and commitment on this issue.

Term limits, at its core, is about fundamental American values. More than anything else, a free society respects the will of the people. It is understood that from time to time the passion of the people will move wildly in one direction or other. But when we are talking about term limits, we are not talking about some passionate wave of support for a novel concept.

Term limits is a considered understanding of a reform which is working. It is a limitation on service that has been operative for the duration of our democracy in terms of the executive branch, with the exception of President Roosevelt. It is in place in States all across America. So it is indeed consistent with one of the basic values upon which this Nation was founded—a respect for the will of the people.

Our ability to receive communication from the people and to respond constructively is one of the reasons that I have sponsored and opened the first electronic on-line petition to the Congress of the United States, from the people of the United States, so that groups and individuals can show their support for congressional term limits.

I think it is important that we provide this opportunity for the people of America to indicate their support and demonstrate their interest in this issue. And for groups, interest groups and citizens, that have worked together on other projects, they can knock on the door of the U.S. Congress through the Internet and alert us. We have had more than 40,000 people visit the term limits petition page.

Mr. GRAMS. Mr. President, I was wondering if I could ask the Senator from Missouri a question regarding just what he has said about this petition bill which the groups are trying to help with on the World Wide Web and Internet. Where do you find the most of the support coming from? Who has been out there knocking on the door offering their support, and, maybe more importantly, who has not been there when we have needed this type of help and support?

Mr. ASHCROFT. I thank the Senator from Minnesota. We have gotten lots of support from groups, of course, who are focused on term limits—United States Term Limits, Americans Back In Charge, the American Legion, the American Conservative Union, the Christian Coalition—politically focused groups that understand the need for the revolution, which the American people have asked for, and a change in the way Washington does business.

Individuals all across this great land have flooded our term limits home page. It has been especially interesting to see what has happened on the Internet because it allows people who might not have the capacity to come to Washington the chance to communicate. I have had blind people use the Internet. I have also had paraplegics write thanking us for opening this link of communication.

Interestingly enough, I am pleased to say to the Senator from Minnesota, the community at large has been willing and eager to help us open this link of communication. C-SPAN linked our term limits home page to their home page. USA Today, the newspaper, linked our term limits home page and our petition to their home page. CNN, the Cable News Network, provided a link. Politics USA, which is on the net, provided the services of CompuServe and America Online. We have had a tremendous outpouring of assistance and support. It has been very interesting to see the surge of interest and support that individuals have rendered which have made it possible for Americans to express themselves.

(Mr. GRAMS assumed the chair.)

Mr. ASHCROFT. The Senator asked who has not been here. We have had people from virtually every walk of life, but there have been a few notable absences, and that has caused substantial disappointment. For instance, United We Stand, Ross Perot's organization, has always advocated term limits, but I have not heard a thing from Ross Perot about this. That is a disappointment. I certainly hope that his commitment to term limits is not just lip service. People want commitment to revolution—change or reformation—

to be substantial, and I believe that Americans want a real commitment to this kind of revolution.

An important aspect of this debate is the fact that Senator DOLE first scheduled it last fall, and it was clearly sent as a signal. With such advanced notice, we had the ability to set up the home page for term limits. Not every issue comes to the Senate with this much advanced publicity. With that kind of open communication, people who really care about term limits have had the opportunity to get involved.

That is why I thank Americans Back in Charge, US Term Limits, the American Legion, the Christian Coalition, the American Conservative Union, and numerous other groups. And I thank groups like USA Today and CNN who allowed us to have a link from our home page to theirs. It is disappointing that those I expected to be there, who have given lots of voice to a commitment to term limits, have not shown up. However, I believe we have very broad-based support. Yes, there are a few disappointments, such as Ross Perot, but that does not mean they do not favor term limits.

Speaking of those who favor term limits and what we have done with it nationally, let me go to a chart which illustrates some important points.

About 7 or 8 out of 10 people, according to all the polls, favor term limits. These States have sought to enact term limits for the U.S. Congress, saying that people who represent their State should be limited in the number of terms they can serve.

It is interesting to know that these are the States, by and large, that have the initiative process for enacting legislation, meaning that if you are in one of these States and you do not like what your legislature is doing, you can start a petition drive. You can actually initiate a move to enact, to enshrine in the law, a concept that the people want regardless of what the legislature wants.

The fact is, you would find that there are 23 States that, on their own motion, simply took the matter into their own hands. They said, "We want term limits. We are probably not going to get it from the professional politicians, but we will do it by signing petitions; we will take to the streets; we will provide the impetus for this revolution."

Arkansas is a good example of a State which took such initiative. Arkansas was one of the more recent States to attempt to limit the number of terms the individuals from their State could spend here in Washington, DC representing them. And out of that enactment came a famous case which was handed down by the U.S. Supreme Court last year saying the States cannot do this. The States cannot individually decide on their own that they will limit the terms of the individuals they send to Congress. So, it is 23/50 of the States generally. It is almost 100 percent of the States with initiatives by the people.

The Arkansas case, which was ruled on by the U.S. Supreme Court, said that the States cannot limit the period in which their own representatives serve. In effect you have the U.S. Supreme court saying that States do not have the authority. You have the courts, public servants who upon appointment are there for life, against term limits.

One of the reasons we had the judiciary against term limits is that the administration, the executive branch, argued before the court in opposition to term limits. With both the executive branch and the judicial branch standing before the will of the American people their only hope is for the United States Congress to be for term limits.

I suppose it is true that the Congress is for term limits—term limits for everybody but the Congress. It reminds me of that old saying in my legislature back in Missouri. They would say, "I will not tax you and I will not tax me, we will tax the fellow behind the tree." We are willing to have discipline for everybody but ourselves.

The whole idea of term limits is not novel. Senator THOMPSON, from Tennessee, has done a masterful job of talking about this concept. It is not novel. George Washington set the standard for term limits in this country when he said we should distinguish America from the monarchs of Europe, that we needed to have that renewing flow of creative energy from the citizenry of the country regularly. And he walked away because he understood the value of new life, of new input, of the new energy that comes from new people coming forth from the American citizenry.

Term limits reflects George Washington's view of the depth of the talent pool of a free society. He may have looked to some casual observers like the only person with the integrity and capacity in America who could have led the country. There have been times, I suppose, when it may have appeared that there was only one. But I happen to have a view of the talent pool of America that is similar to that of George Washington, and that is that we have enough talent that we do not have to lock a few people into office, thinking they are the only ones who can do the job.

I do not think there is any concept that is more ridiculous—and it is almost amusing except it is tragic—than the thought by some Members of this body that we are the only 100 people who could make good decisions in the U.S. Senate. As a matter of fact, we may not be capable of the good decisions, and I think the marketplace of public opinion will determine that. But this country is rich in terms of individuals with the capacity to make good judgments. We need not fear that we do not have enough talent to change public officials once in a while.

We have established a history of term limits in this country. In the early 1950's, we checked term limits for the President of the United States. We had a President in the mid-1930's and 1940's who ran four times and, with the tilted field of incumbency, snowballed himself into office four times. The American people understood that the value of incumbency is the No. 1 perk of public office. You can talk about election reform. There is no election reform more important than the election reform of term limits. The American people understood that the tilted field that came from long-term exploitation of incumbency simply had to be leveled, and they leveled the field for President back in the early 1950's, with the 22d amendment to the U.S. Constitution. The President became a term-limited office.

To hear some of the academics talk about term limits, you would think that would have been the ruination of America. Not so. Not so at all. As a matter of fact, there are a number of States that have long embraced the concept of term limits for Governor. As my friend from Georgia, Senator COVERDELL, indicated, some of those term limits were very short. But the States prospered, finding that the talent pool available in their jurisdictions was always adequate to supply the need for good public officials. There are 41 States that have sought to limit their terms.

Mr. President, 23 States tried to limit the terms of Members of Congress, and most of those came as a result of the will of the people specifically, and there are about 20 States where the State legislatures themselves have limited themselves in their terms, because they have understood the value of term limits.

I say this to make a point that I hope can be made fundamentally clear. Term limits is not an experimental, novel theory. We have only had one time when we did not have a limit of two terms on President of the United States by virtue of the respect for the term-limits policy of George Washington, and now we have it by virtue of the 22d amendment to the U.S. Constitution.

We have 41 Governors who are term limited. We have 20 State legislatures that work under term limits. We have a Congress of the United States which should have been term limited, I suppose, in 23 States, were the courts to allow the will of the people to prevail. But the courts said that had to be set aside. So that the American people have a vast experience with term limits.

Not only do we have term limits at the State level but at the municipal level as well. Cities have term limits, notably the largest city in America, Los Angeles, and the second largest city in America, New York City.

The President of the United States works under term limits. The Governors of the States are term limited. You have the State legislatures that are term limited. And you have the individuals who work in the cities that are term limited. You say, "Wait a second, who is out of step here? Members of Congress or the American people?"

You also have the academics and those from the think tanks who say that term limits simply cannot be respected and that they cannot be expected to operate. It is a terrible concept. It will destroy Government. I say to those guys in the think tanks, "You may not be able to work this out in theory, but the American people have worked it out in practice." It may not work inside the ivy-covered tower of academia, but it has for centuries, and in hundreds and hundreds of circumstances. And what is more impressive to me than that is, where are the people rising up to set term limits aside?

You have this incredible array of term-limit operations all across America, and the people operate in the context of term limits, where it is there, and they like it. They do not overthrow it. They do not have petitions to get rid of it. They do not have demonstrations against it. As a matter of fact, when the people see it operate in all these segments and the big zero here around the Congress of the United States, what do the people want to do? Does their aspiration reflect their displeasure with term limits as a concept or their endorsement of term limits as a concept? I submit it takes no rocket scientist to figure this one out. Mr. President, 70 to 80 percent of the American people endorse the concept of term limits for the U.S. Congress.

I just want to point out they do not endorse the concept out of ignorance. They do not endorse the concept out of a lack of familiarity. They do not endorse the concept because they do not know what they are talking about. They endorse the concept on a basis, a very substantial basis, of watching, observing and living with the observable impacts of the concept as it is related to the President of the United States, as it is related to the Governors of their States, as it is related to legislatures in their States, as it is related to city, county, and local officials in their States. And, all of a sudden, we come to the judgment: Wait a second, maybe—maybe—the people could be right about this. Of course, it is part of the definition of democracy that we value the input of the people, especially when the people are not responding to some cataclysm, but they are reflecting their considered judgment after a rich heritage of experience.

It reflects their confidence that America is not a shallow pool containing scarcely 100 people who could serve in the Senate. No, it reflects their understanding that with individuals who can use the perk of incumbency to vote themselves back into office by dealing out the resources of the next generation, they look at that and say, "There's a difference between what we do at the State and local level and what the Congress does."

Mr. LEAHY. Will the Senator yield for a question?

Mr. ASHCROFT. Certainly.

Mr. LEAHY. I do not know if the Senator was aware that in the Judiciary Committee I had offered an amendment and included in the Committee report that I intended to offer an amendment during this debate which would basically make term limits effective immediately. Obviously, you could finish the term that you are in; the Constitution would require that. But if, at the end of that term, you fit the number, whether it is two in the Senate and whatever it might be in the House, you would have to leave. That would be true term limits.

I say this because I have heard a number of Members of the House who have been here for 20 years who say they are for term limits, and we have at least one senior Member of this body who has been for term limits literally before I was born but is still here.

Would the Senator from Missouri support my amendment to make term limits effective immediately, that is, at the end of whatever term you are in? If you fit the bill you are out?

Mr. ASHCROFT. First, I was aware of the Judiciary Committee's deliberations on this. Second, I am aware of your position. Now, let me tell you what I support.

I support a measure which would limit the terms of Members of the House of Representatives to three terms and Members of the Senate to two. It would be no problem for me to limit my own terms, particularly since I am new to this Chamber. Indeed, I came here intending to limit my own terms to two.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 3699, AS MODIFIED

Mr. THOMPSON. Mr. President, I modify amendment No. 3699 with the text I now send to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment, and the amendment is so modified.

The amendment, as modified, is as follows:

Strike all after the first word and insert the following: "instructions to report the resolution back to the Senate forthwith with an amendment as follows:

"(*two-thirds of each House concurring therein*), That the following article is hereby proposed as an amendment to the Constitution of the United States:

"ARTICLE —

"SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

"SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

"SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

Mr. THOMPSON. Thank you, Mr. President.

Mr. ASHCROFT. Mr. President, if I may reclaim my time.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. LEAHY. Will the Senator yield for a further question?

Mr. ASHCROFT. The Senator will be pleased to yield at the conclusion of his remarks. I would add that I happen to be one of the few people in this body who has been term limited. I think it was a good thing.

I have observed the operation of term limits at the State level and, believe me, it is appropriate. I think it is important that the Senator understand what differences there might be if we were to have term limits.

Term limits change the way decisions are made. It is of interest to me that Stephen Moore of the Cato Institute conducted a study to determine what life under term limits might be like. What he found is we would have passed the balanced budget amendment three times. Concurrently, we could have equipped the President with the line-item veto as long ago as 1985. Can you imagine? Life under term limits would be different alright.

It is my belief that the people of this great land have said, "We are tired of displacing the costs of our own consumption to generations yet to come. We are tired of the fact that every new child has a debt at birth of $18,000." And yet, commonsense reforms like these continue to fall short of the support needed for passage.

Mr. President, those are the things that did not pass. The study went on to note things that did. It is interesting. I see my friend, the Senator from Tennessee, is nodding his head because he knows what the issues are. Neither of the last two tax increases would have passed, and the last two pay increases would have failed as well.

I do not think that we should have term limits in order to get specific legislation. I think we ought to have term limits because it reflects well on the fundamental values of America. We should give the people what they ask for, what they know they want. We should at least give them the opportunity to vote on it. What stuns me is that Members of this body do not even want to let the States have a chance to consider it. That is a rather troublesome thing.

There are a wide variety of arguments that people bring up against term limits. It is said, "Well, won't term limits increase the power of nonelected bureaucrats and staffers?" I think in theory you might think the staffers will know everything. That has not been the way things have happened, however. It was not too long ago that PHIL GRAMM came to the Senate and tried to upset the apple cart of spending in his very first term. I think the 1994 newcomers have brought new ideas and energy as well.

Somebody said, "Well, it will increase the influence of lobbyists." I think the basis of lobbyist relationships is long-term. As a matter of fact, most of the lobbyists I have talked to are opposed to term limits. They make big investments. They want those relationships to be as cozy as possible. I do not think we ought to have individuals in the Congress looking forward to long careers in Washington, DC. I think we need people looking forward to service in their district or State.

I believe the people of America have a strong understanding of term limits. The people have enacted term limits for 41 State Governors. In every State where they have had the initiative process, they have added Congress to the mix.

The beltway around Washington is the barrier to reform. Roughly 74 percent of the people want term limits. We have the opportunity to give it to them. And we have resisted. It is our fundamental duty to reflect the will of the people, to offer them the opportunity to embrace term limits for the Constitution of the United States.

The Senator from Vermont inquired earlier about retroactive term limits. What is interesting to me is that, to my knowledge, everywhere the people have had an opportunity to enact term limits on their own, they have made the limits prospective. I believe that is why we should have the kind of bill which has been proposed. It is not that you could not have another kind of concept. Instead, it is because this is what the American people prefer.

So I think the will of the people themselves is instructive. There may, of course, be a theoretical reasons why people would want a different approach. I do not know what that might be. But given the experience that the American people have had, and the durability of their understanding, I think it would behoove us to make our approach consistent with what they have requested in the past and with what they have specifically asked for themselves. That is consistent with the fundamental value of democracy for which this country stands.

Ultimately, term limits and our ability to offer it to America for inclusion into the Constitution at the adoption of the States is something that should foster, underscore, emphasize, improve, and strengthen the values for which we stand. I yield the floor.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Vermont.

Mr. LEAHY. Mr. President, I listened to this whole debate on term limits with some interest. I am well aware of the fact that the Republican leadership has tried to set this up so that nobody can introduce any amendments. The Republican leadership has filed for cloture within 5 minutes of beginning proceedings and is apparently going to do everything possible to block anybody from raising questions.

I succeeded a Republican Senator. Everybody who has ever been elected from Vermont has succeeded a Republican Senator because I am the only Democrat our State has ever elected. We are the only State in the Union that has elected only one, and, for better or worse, that is me. My predecessor, a distinguished Republican, was elected the year I was born and served until I arrived here. This Republican Senator was considered the dean of the Senate. The fact that he served from the year I was born until I came here probably gives some sense of term limits in our State.

Frankly, I have a great deal of respect for our distinguished majority leader, Senator DOLE. On term limits, I would have only gotten a chance to serve with him for one term, way back in the 1970's. Then he would have been gone. The distinguished President pro tempore, Senator THURMOND, who held elective office long before I was born, I would not have gotten a chance to serve with him at all. In fact, virtually the whole Republican leadership would have been long gone by now.

What I worry about when the amendment is written so as not to apply to current Members is that this is a little bit of a shell game on the American public. It is a bit of a con. It was probably not meant that way, but it amounts to this: You could have a Senator who has been here for, say, three or four terms and vote for term limits. They are up for election this year, knowing that a constitutional amendment cannot be ratified in time this year. That same three- or four-term Senator if reelected this year, could proceed to serve that 6-year term and two additional 6-year terms, 18 more years, after voting to impose a 12-year limit on all those who are first elected to the Senate after the amendment is ratified. Or somebody who had served five terms, say, a Senator who has been here for 30 years, could vote for term limits and, having served 30 years, serve 18 more. Then they would say, "I am for term limits." Now, be honest. Vote for it or do not vote for it. Everybody has to make a determination.

There are, of course, term limits. Every 2 years in the House of Representatives there is a term limit. It is called an election. In my State, every 2 years there is a term limit for Governor, and virtually every other office has a term limits. It is called an election. Every 6 years is a term limit for Members of the Senate. It is called an election.

However, do not call this proposed constitutional amendment one of term limits when it is set up in such a way that most of the Senators in this place could vote for it, and no matter how many terms they had already served, could count on serving for 12 to 18 more years. You have Senators who served here before people were born, who could be serving here long after they are retired under these so-called term limits. Now, that is not term limits.

Make sure that the American public understands, under this proposal, any Senator, no matter how long he or she has been here, could vote for this, see it go into the Constitution and still be in office for another 12 to 18 years, even if they have already been here for 20 years, 30 years or whatever else it might be.

I hope, Mr. President, that even though the Republican leadership—all of whom have served here for many more than two terms—have done their best to block any chance for my amendment to come up, I hope they would change their mind and realize that blocking a vote on it might appear a tad hypocritical to those people who live in the real world. Those are the people who do not rely on their elective office, who do not, as the distinguished Senator from Missouri said, live in think tanks, but the men and women of the streets of Vermont, Missouri, or anywhere else. Those people may see a bit of hypocrisy if they see somebody who has been here for 24 or 30 years, whatever, vote for a proposal which would still allow them to serve for another 12 to 18 years, and call it term limits.

I think the American public will see through that hypocrisy, especially when the American public knows that they can set term limits anytime they want, every single election. That is something to keep in mind.

Some say we do not have it in our power to pass term limits. We have it in our power. Every one of us has to file petitions or take steps in our States to qualify for election. Any one of us can say, "I am setting term limits. I am leaving at the end of this term." No constitutional amendment is needed to that. It is term limits.

I wonder how many Senators are here who are now in their fourth, fifth, or sixth term, who every single time they run say, "We need term limits, we need term limits, and I will keep on saying it for the next 20 years, we need term limits." They could limit it simply by leaving.

Do not call this amendment term limits, where a Senator in his third, fourth, fifth or sixth term could vote for this and still run for three more terms. That is not term limits. That is a bumper-sticker slogan. That is a political fundraising device. That is rhetoric for the campaign trail. But that is not term limits.

Term limits are imposed when Senators, and we have had a number on both sides of the aisle, who say, "I came here to serve two terms, or one term, or three terms," and then leave when they say they would. We have had many, many Senators on both sides of the aisle who were facing an easy reelection, but said, "This is the time to go. I leave."

Ultimately, in my State, where my Republican predecessor was elected the year I was born and served until I arrived, enjoying greater popularity every year, this is reflective of what happened. I think every so often we have to make it clear what is really happening here. I would vote to bring this amendment up for a vote. I think we should. But we should bring up each aspect of it and not do as the Republican leadership has: Stack the deck and do everything possible to block the chance that somebody might bring up an amendment that would raise a real question. Let us test whether those who claim they are for term limits would be for such limits being applied to them. Let them vote on something that might limit them at the end of this term, not at the end of this term plus another 18 years.

What this is, this amendment is an incumbent's protection limit bill, not real term limits. This is saying that somebody elected in the future will have term limits, but those of us who are already here after several terms, we are protecting ourselves for another 18 years. If you are brandnew out there, a few years from now, we will term limits for you, but, boy, we are sure protecting us. Because if we have been in the Senate for 24 years or 30 years or 36 years, we are going to make sure we can stay around for another 18 years. We have protected ourselves in this.

No one who votes for term limits should stand up and say, "See how brave I am." Go back to the American public and say, "We are so brave, we limited somebody else to two terms, but for those still there, we have another three terms."

We will limit the men and women out there who have not yet run to two terms, but we will protect every single term we have already served and give ourselves another two to three terms. That is not term limits, that is campaign fodder, that is a bumper sticker, that is sloganeering rhetoric, but it is not term limitation at all.

FEDERAL JUDGES

Mr. LEAHY. Mr. President, every so often we have to remember that this is an election year, when a lot of campaign rhetoric comes up, just as it has in the past few weeks about the Federal judges nominated by President Clinton and confirmed by this Senate, which is now under Republican control.

I am a member of the Judiciary Committee and I have served on these nominations. I am familiar with the outstanding backgrounds of these nominees. I believe the U.S. Senate was right when we confirmed them and the President was right when he appointed them to the Federal bench around the country.

President Clinton took a Federal judge, the chief district judge in our State, a Republican, appointed by a Republican President, and moved him to the Second Circuit Court of Appeals. I believe that was the right move. The President then appointed J. Garvin Murtha, of Dummerston, Vermont, as the chief Federal district judge for the District of Vermont—another very good move. He appointed William Sessions of Cornwall, Vermont, as a Federal district judge, another good move and one applauded by Republicans and Democrats alike throughout our State—all three of these. Two of them were former prosecutors. I served as a prosecutor with two of them.

I am troubled by efforts to characterize President Clinton's appointments as soft on crime. Ask some of the people that have been sentenced by some of these Federal judges whether they think they are soft on crime. There was one reference made in one of the sentencings, "If you ever have to have a heart transplant, you would want the judge's heart because it has not been used yet." These are tough judges.

I was privileged to serve for 8 years as a prosecutor before being elected to the Senate by the people of Vermont. I know a little bit about law enforcement, and I also know a little bit about political campaigns.

If you want to play a game of, "Oh, look at these judges President Clinton has appointed," and pick out an isolated case here and there—and there are tens of thousands of cases—you can play that game. If someone were cynical, they could play that game. If somebody wanted to pick out selected cases, they could play the game.

If I wanted to—and I do not, of course—I could talk about some of the decisions of judges appointed by Presidents Reagan and Bush, who reversed convictions or sentences of defendants that juries found guilty beyond a reasonable doubt of atrocious crimes.

If I wanted to, I could talk about Judge Deanell Tacha. I believe she was suggested by the distinguished Republican leader for an appointment to a seat on the tenth circuit. A good Republican appointment. She recently wrote an interesting opinion that suppressed evidence seized by a Utah State trooper. After a lawful stop, upon learning that the license of the driver had expired and after receiving suspicious responses from the vehicle occupants, the State trooper asked for and received permission to search the trunk of the car. Let us be clear that he had a right to do that on the face of it. He found a gun, scales, and a duffel bag that had crack cocaine in it. Despite the fact that the driver consented to the search, this Republican Judge ruled that once the trooper determined that the car was properly registered, he could no longer detain the defendant and, thus, the search was unlawful. The judge ruled that the crack cocaine was to be suppressed. If I were cynical, I would say that was an indication of how the Republican judiciary feels. But I am not going to.

In another case, a 13-year-old boy was murdered by four young men because the boy caught them stealing a bicycle worth $5. These men stomped this 13-year-old boy to death and stifled his screams by shoving stones down his throat. All four men were convicted by a State court, and their appeals were rejected. But then Judge Edward Korman, a Reagan appointee, decided that the State appellate court was incorrect. He found "troubling inconsistencies" in the story told by law enforcement officials. As a result, he decided to free the convicted murderers—these men convicted of stomping to death this 13-year-old—on $3,000 bail. I have seen traffic cases that got higher bail than that.

Now, if I was cynical, I would blame President Reagan for appointing them. But, instead, I will praise three other judges appointed by President Reagan—no, actually I cannot. I was going to say that they overturned this decision when it went to the court of appeals. But these other three appointees of President Reagan affirmed this. They did not even bother to issue an opinion. Is that an indication of the judicial philosophy of President Reagan? No, I do not think so at all. But is it an indication of some of the judges appointed?

Judge William Cambridge of Nebraska, a Reagan appointee, overturned the death sentence of a defendant who not only confessed to killing three young boys, but who said that he would do it again if he were ever set free. One of the boys was pinned to the ground by a knife through his back and was slashed and stabbed to death as he pleaded for his life. One of the other victims endured a similar fate, and when they found his body, it had a drawing of a plant cut into his torso. Judge Cambridge vacated the sentence because he concluded that the State statute's use of the term "exceptional depravity" was too vague. If this is not exceptional depravity, I do not know what in Heaven's name is.

On appeal, the deciding vote to reverse Judge Cambridge and affirm the death sentence, the deciding vote to reverse the Reagan appointee's decision was cast by Judge Diana Murphy—and she, incidentally, was a Clinton appointee. She helped correct what I think was an egregious mistake and concluded that under any reasonable interpretation of the statute, these crimes certainly qualified as depraved and for the sentence.

In another recent case from Nebraska, Judge Richard Kopf, an appointee of President Bush, reversed the death sentence of a convicted double murderer. The defendant was given two capital sentences in the stabbing deaths of his cousin and her house guest. Despite suffering seven stab wounds, the defendant's cousin was able to make her way to a phone, summon help, and then died. After the Nebraska Supreme Court twice rejected appeals, Judge Kopf granted a habeas corpus petition, concluding that the Nebraska Supreme Court had misinterpreted its own State law by reweighing the aggravating and mitigating circumstances involved in the case. It went up on appeal, and the eighth circuit reversed the decision, finding that Judge Kopf had exceeded his authority by contesting the Nebraska Supreme Court's interpretation of a Nebraska statute.

These were all Reagan and Bush appointees, and one of the most egregious decisions made was reversed by a Clinton appointee.

Those of us who have tried a lot of cases know that sometimes cases do not turn out the way you want. That is why you have appellate courts. Sometimes judges rule in a way that you just cannot understand. But I am not going to condemn President Reagan's appointees as judges and President Bush's appointees as judges, or President Reagan or President Bush, because of a few aberrations, decisions about which I do not know all the facts and in connection with which I have not reviewed all the evidence. I would not do this and no one else should try, in a political year, to condemn President Clinton, who I must say has appointed some darned good men and women to the judiciary—just as President Bush appointed some darned good men and women to the judiciary, and President Reagan did, and President Carter did, and President Ford did. All of these Presidents have appointed judges on whom I had the opportunity to vote.

I have voted for some Republican nominees and against some. I voted for some Democratic nominees and against some. But that is where we get involved. We can vote for them or against them. But do not take some isolated incident and try to turn it into a Presidential election year thing.

If we did that, we could go to the notorious 911 murders in Detroit. One of the victims was shot repeatedly while frantically calling for police assistance. The entire episode was recorded by the 911 operator, and the defendant ultimately pleaded guilty to two counts of murder. Sixteen years after the fact, the convicted murderer filed his second habeas corpus petition claiming that comments made by the African-American State judge, several years after the case was over, somehow revealed bias against fellow African-Americans. Make sure you understand this. The defendant said that based on the comments made by the African-American judge 16 years after the case concluded the judge had expressed bias against African-Americans. Most judges would just toss this out the window it is so far-fetched. But Judge David McKeague, a Bush appointee, granted relief and ordered resentencing. Fortunately, the prosecutor appealed and the decision was unanimously reversed.

The defendant in another case broke into his neighbor's home and brutally attacked four young children. Three children died from multiple skull fractures, and the fourth survived an apparent sexual assault. The defendant was convicted of murder and sentenced to death. Because the jury had not been presented with mitigating evidence concerning the childhood abuse and mental disorder the defendant allegedly suffered, Judge Sam Sparks, an appointee of President Bush, vacated the sentence. That decision, incidentally, was unanimously reversed on appeal.

Another defendant brutally murdered his ex-wife in the basement of her residence, stabbing her over 40 times. He was convicted by a jury of murder. Judge Thomas O'Neil, a Reagan appointee, reversed the conviction. That decision was unanimously reversed on appeal.

Does that mean that President Reagan was soft on crime? Of course not, even though obviously a number of his judges made decisions that I as a former prosecutor find very, very difficult to understand.

Just like Judge Huff, an appointee of President Bush, who sentenced a defendant to 2 years and 9 months in prison for smuggling illegal aliens into the country even though three of the illegal aliens died during the attempt. That is hard to understand. But I do not consider President Bush, whom I happen to know and admire, as being soft on crime because of that.

Judge Vaughn Walker, appointed by President Bush, publicly called for the legalization of drugs. He has repeatedly refused to abide by binding Supreme Court precedents, the sentencing guidelines, and mandatory minimum sentencing statutes based on his personal beliefs about the propriety of decriminalizing narcotics. The ninth circuit has frequently and summarily reversed him.

He has also issued a number of rulings that stymied efforts to prosecute drug traffickers. The U.S. attorney's office for the Northern District of California, which is headed by a U.S. attorney appointed by President Clinton, has found itself frustrated with the judge's rulings in major drug cases. In a case involving the seizure of 1,000 pounds of heroin—incidentally, the largest bust of heroin in U.S. history at the time—Judge Walker repeatedly dealt setbacks to prosecutors, including suppressing several key pieces of evidence and releasing two defendants on bail. In one of his suppression orders, he minimized heroin trafficking as little more than mercantile crimes. Two of these were reversed.

Does that mean that President Bush favored legalizing heroin or drugs? I doubt that very much—any more than I do. It is unfortunate that the Clinton appointee, the person that President Clinton appointed as U.S. attorney, who is trying to clean up drug trafficking and is trying to stop heroin trafficking, is frustrated by the judge appointed by the previous Republican administration. But I do not think it reflects the views of President Bush.

I think what is more accurately reflected is that a U.S. attorney can be replaced very easily. In fact, you have a tough U.S. attorney out there who really wants to prosecute drugs and who reflects President Clinton's views.

Chief Judge Richard Posner of the seventh circuit, is another appointee of President Reagan, who has similarly taken a public position advocating the legalization of drugs.

If I was cynical, which, fortunately, I am not, being from a small State like Vermont, I could come to the floor and make the case that Republican judges let off criminals on technicalities and that they are soft on crime. Some might even call for impeachment of the judges that made such decisions and took such positions. But in the recorded words of another Republican President, for whom I have a lot of affection, I say, That would be wrong.

As I said in my statement 2 weeks ago on this floor, no one should be making such statements or demagoging judges based on isolated decisions. We disserve our system of justice, our system of government, and the American people when we engage in such rhetoric.

As anyone who is at all familiar with our criminal justice systems knows, in the overwhelming majority of cases, Federal judges, regardless of whether they were appointed by Republican Presidents or Democratic Presidents, uphold the law, and they do an excellent, if often difficult, job.

We have been fortunate, Mr. President, in this country that Presidents of both parties have appointed some of the finest men and women in this country as Federal judges. Those men and women have upheld the liberties of every one of us, no matter what our political party might be, no matter what our ideology might be, no matter whether we are wealthy or poor, and no matter what our backgrounds are.

We have been blessed in this country with very, very good Federal judges. We have had a few clunkers. Yes, we have a few clunkers. I probably appeared before some at one time or another. But the vast, vast majority of our Federal judges do a very difficult, very honorable, and a very good job.

The Presidents who appoint them ought to be praised for it. I think that it demeans the Office of the Presidency and it demeans the Federal judiciary and it demeans the Senate to make this some a political thing where we go after the incumbent President and claim that he is not doing a good job in appointing judges.

In fact, President Clinton's judicial appointees have won praise around the country as well qualified and centrist. That is why we have confirmed each of them—the Republican-controlled Senate has, and the Democratic-controlled Senate has. Each of them has had an exhaustive and intrusive examination before the Judiciary Committee, and each has been confirmed by this body. In fact, only 3 of the 185 lower Federal court judges who President Clinton appointed to the bench have even been the subject of contested votes.

We hear a lot of criticism now, but the distinguished majority leader and the chairman of the Judiciary Committee voted for 182 of the 185 judges now on the courts of appeals and districts courts appointed by President Clinton.

In fact, the Legal Times says of President Clinton's judges:

> From the beginning, his philosophy toward judicial selection has differed from that of his two immediate predecessors [who] engaged in a crusade to put committed conservatives on the bench. President Clinton's criteria, by contrast, seem less ideological. He has primarily sought two attributes in his judicial candidates—undisputed legal qualifications, and gender and ethnic diversity.

In a comprehensive report at the midpoint of President Clinton's first term, the New York Times reported:

> Political scientists, legal scholars and nonpartisan groups like the American Bar Association who have studied the new judges' records also said Mr. Clinton's choices were better qualified than those of Mr. Reagan or President George Bush.
>
> The new judges were deliberately chosen to fit squarely in the judicial mainstream and were, by and large, replacing liberal Democrats.

Everyone always talks about making the judicial selection process less political. Now election year politics threaten to bring political rhetoric about judges to the forefront. Let us not make judges or isolated decisions into political issues. Let us work together to increase respect for our system of justice and for those who serve within it.

Mr. President, I see my good friend from Tennessee in the Chamber and I know he seeks—I see both of my good friends from Tennessee in the Chamber. I know one or the other is going to want to talk. So I yield the floor.

CONSTITUTIONAL AMENDMENT TO LIMIT CONGRESSIONAL TERMS

The Senate resumed consideration of the joint resolution.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. I thank the Chair.

Mr. President, the fundamental question of the debate on term limits to me can be put very simply. Are we as a nation better served by a system that encourages career politicians who over time grow entrenched in Washington and increasingly removed from the concerns of the very people who elected them or are we better served by an ever-changing legislative body of citizens who bring with them those vast experiences that color America, who have no political career to protect and who serve and then return home to live under the laws that they helped pass?

Next week, the Senate will get its chance to answer that fundamental question. I draw upon my own personal experiences. I came directly to the Senate a year and a half ago from the private sector. In fact, I contrast this very Chamber before us, with its rich history and its culture and its historical significance, with what I was doing 3 years ago, and that is moving every day and too many nights in an operating room.

It is that contrast, it is that perspective that colors much of what I have to say about term limits. I have never served in elective office, and I have had no previous ties to Washington, DC, or the Federal Government before coming to this body. I ran on the issue of term limits, and I pledged personally to serve no more than two terms. It is because I believe in that fundamental concept of the citizen legislator contributing in his or her own way based on his or her own past experiences to a citizen legislature.

That unique perspective on Washington encouraged me to promote not only the issue of term limits but to strongly support Senate Joint Resolution 21. I now, having been here a year and a half, feel even more strongly than 2 years ago when I was campaigning. Senate Joint Resolution 21, a constitutional amendment providing for term limits, serves as a steppingstone down that long road—and we have a long road to go—to renew the citizens' respect, the citizens' faith, the citizens' trust in their Federal Government.

Too often, Members of Congress are forced in the current system to spend their time focusing on reelection, focusing on fundraising, watching the polls, instead of doing what we need to be doing, and that is doing what is best for the country. As a result, I truly feel that Washington has become much more of a 2-year town, focused on the short term rather than what it should be, a 20-year town with long-term thinking.

One need look no further than the recent debate over Medicare and entitlement reform to see how true this is. Because of the unrestrained growth of entitlements, our Nation faces a true fiscal disaster within 15 years, yet this past Congress has been unable to have a reasoned, meaningful debate on this most critical of issues. Why? Because of the political ramifications of taking on, of addressing middle-class entitlements. We missed a valuable opportunity to take real steps toward reducing the deficit, eventually reducing the debt and truly reining in entitlements.

I think it is time for us to pause a moment and ask a simple question. If Members of Congress had been freed in large part from reelection concerns, would politics have destroyed the debate that prevented us once again from addressing these fundamental problems? The answer to me is clear and the reason is obvious. As long as there are careers to protect, there will be politics to play almost by definition. The longer politicians stay in Washington, the more risk averse they become. They become more attached and more detached from that average citizen and they become more eager to spend the hard-earned dollars of America's taxpayers. The answer is this resolution before us today, Senate Joint Resolution 21.

What are the arguments against term limits? Many of my colleagues oppose term limits on the grounds that we should not alter the Constitution, and I think they have a point. As a conservative, I think we have to be very careful before we alter the Constitution in any way, and only in rare circumstances should this take place. In fact, the first bill that I introduced in the Senate was the Electoral Rights Enforcement Act of 1995, and it was a very simple statute that would have given the States additional authority to enact term limits on Members of their congressional delegation. Unfortunately, the U.S. Supreme Court's decision in U.S. Term Limits versus Thornton mooted that bill and made it clear that the only alternative, the only remaining course available to us is a constitutional amendment.

Others cloud the debate on issues as to whether or not the term limits will be retroactive or should be retroactive or the technicalities or whether the real answer should be campaign finance reform. The American people are not going to be fooled. They understand. They have spoken loudly that they want term limits. Others will say that we have term limits at the ballot box; that we can always vote somebody out we do not like.

Once again, the American people recognize that you cannot vote someone out easily. In fact, the statistics are that about 90 percent of Senators running for reelection will win. And if you look at the election of 2 years ago, when a new revolution took place, there were 11 new Senators and only 1 of those defeated an incumbent, full U.S. Senator. The power of the incumbency is too strong. The answer is term limits.

Finally, some opponents will contend that term limits will rob Congress of experienced legislators who are necessary to the proper functioning of our Government. And, yes, experienced legislators who are good, who have contributed significantly will, after a period of time, have to leave this body. Yet, the second half of that is, are they absolutely necessary to the proper functioning of our Government? And I would argue no. If our Government is so complex and so complicated and so convoluted that only a full-time career politician, a class of politicians that is here to stay forever, can run it, that is not an argument against term limits; it is an argument for drastically changing the way our Government does business.

Mr. President, I have an interest in history. As the only physician in the U.S. Senate today, I have gone back to look at the number of physicians in the Senate over time. It has been fascinating. Over the last 100 years, there have been only eight physicians who served in the U.S. Senate. Over the period of 1800 to 1899, that 100-year period, in contrast to the 8 for the last 100 years, 37 physicians served in the U.S. Senate.

You can argue that is good or that is bad, I would say, not necessarily because they are physicians, but because they are another profession, not just another lawyer in this body but another profession. I would argue that is good; that is what the American people want. It represents America today.

It is interesting to look back at that period of 1800 to 1849. Mr. President, 23 physicians served in that period. If you look down the list, Dr. Bateman was a Senator for 3 years, Dr. Borland for 5 years, Dr. Campbell for 4 years, Dr. Harrison for 3 years, Dr. Kent for 4 years. The length of time these Senators served was short, was narrower.

Shall we argue they did not contribute in a substantial way in that period of time? I would argue absolutely not. You do not have to be here for 12 years or for 18 years or for 24 years to contribute.

As I look through this history of physicians in the U.S. Senate, it causes me to go back and reflect on that concept upon which this country was founded, and that is the citizen legislator, someone who comes from running a filling station, someone who comes from having a farm, someone who comes from the practice of medicine here for a period of time, from real jobs, after which they go back home and live under the laws that were passed.

In closing, Americans understand that Government truly works best when it is composed and comprised of citizens who have worked alongside them, who still consider themselves part of the communities from which they came. Yes, I truly feel that term limits will focus Members of Congress on the issues at hand rather than that next election, or that next fundraiser in preparation for that election. Members will not shy away from tough decisions. The doors of Congress will be thrown open with new ideas, innovative ideas, all brought to the table of citizen legislators.

Yes, I feel we need term limits. The question remains for our Senate colleagues, how long can we, will we, ignore the will of the American people?

Mr. President, I ask unanimous consent that the tally by half century of physicians in the Senate that I referred to earlier be printed in the RECORD, and I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

"PHYSICIANS IN THE SENATE" SPEECH TALLY BY HALF CENTURY

1750–1799: Bradford (1793–1797), Clayton (1798), Elmer (1789–1791), Latimer (1795–1801).

1800–1849: Bateman (1826–1829), Bibb (1813–1816), Borland (1848–1853), Campbell (1809–1813), Chambers (1825–1826), Condit (1803–1817), Harper (1826), Harrison (1825–1828), Hunter (1811–1821), Jones (1807), Kent (1833–1837), Leib (1809–1814), Linn (1833–1843), Logan (1801–1807) Mitchell (1804–1809), Morril (1817–1823), Naudain (1830–1836), Pinkney (1819–1822), Spence (1836–1840) Storer (1817–1819), Sturgeon (1840–1851), Tiffin (1807–1809), Ware (1821–1824).

1850–1899: Bates (1857–1859), Chilcott (1882–1883), Conover (1873–1879), Cowan (1861–1867), Deboe (1897–1903), Dennis (1873–1879), Fitch (1857–1861), Gallinger (1891–1918), Gwin (1850–1855, 1857–1861), Miller (1871), Mitchell (1861), Nourse (1857), Wade (1851–1869), Withers (1875–1881).

1900–1949: Ball (1903–1905, 1919–1925), Copeland (1923–1938), Ferris (1923–1928), France (1917–1923), Hatfield (1929–1935), Lane (1913–1917).

1950–present: Frist (1995–?), Gruening (1959–1969).

Total: 49 physicians in the Senate.

Note: Five Senators who overlapped half-centuries are listed only under the half-century when their first terms began.

Mr. GRAMS. Mr. President, I wanted to note I am a strong supporter of this term limits resolution, and I will engage in this debate again next week as well and plan to vote for this.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I thank my colleague, Senator FRIST, from Tennessee, because he made a very interesting point there, talking about the number of physicians who served in this body for the first 100 years. I think the number was 37. We were just talking about that. That was back when there were many fewer Members of the Senate. There were only 15 States by 1800 or so, so we only had about 30 Senators. Yet, a great number of them seem to have been physicians.

I think you can say that about a lot of other professions back then, too. As time has gone on, that number has diminished. We have fewer and fewer people who have done anything except be in politics. So, again, I think he is a good example of the citizen legislator.

He and I both came to the Senate together a little over a year ago, neither one of us having run for office before. We vowed, together, that we would do what we could to advance the concept of a citizen legislator and fight for term limits. As we said earlier, this is the first time in 49 years that we will have a vote on term limits in this body.

I would like to just very briefly respond to a couple of the comments that the Senator from Vermont made earlier about term limits. The opponents of term limits, of course, are a little bit between a rock and a hard place. They have a tremendous burden to overcome. One of those burdens is the fact that, as this chart indicates here, 75 percent of the people—according to Luntz Research Co.—75 percent of the people are in support of term limits and only 16 percent of the people oppose it. So, what many of the opponents have done is tried their best to talk Members here into not supporting the term-limits concept. In the process, they have personalized the debate.

They talk in terms of how it will affect this Member or how it will affect that Member or the majority leader's situation, the President pro tempore's situation, individual Members on both sides of the aisle. I think that points up a problem that we have in this body overall. It is a problem with this debate; that is, the personalizing of the debate, the personalizing of it. The point is that it does not matter how it affects individual Members. It does not matter that some Member might have served here for a long time and might be entitled to another two terms. What we are trying to do is fashion something that eventually has a chance of passing and becoming law. It is irrelevant as to what has gone on in the past. What is relevant is this country and what is relevant is this body as an institution as we go into the next century.

If you want to make the argument that this would lower the quality of this body, that this would hurt the United States, then that is, I think, a valid argument. But to argue that a person cannot support term limits because he has already been here for awhile, I think that is an invalid argument. That is an attempt to label people as hypocrites. So the opponents of term limits say this is not real term limits. You have a proposition here that will allow two more terms, 12 years. That is going to be extremely difficult to get passed. It has taken 49 years to get another vote on it as it is.

So we say, let us have something reasonable, regardless of the past. The system has served us pretty well in the past. We balanced the budget up to 1967. Let us concentrate on the future —another 12 years. But opponents of term limits say, no, that is not good enough. Let us fashion something that we know is impossible of getting passed, like making it retroactive. That will be consistent. That will be nonhypocritical.

Perfection should not be the enemy of the good. The strategy is obvious on its face. The opponents of term limits are not interested in what they would call real term limits or genuine term limits. The opponents of term limits are interested in deflecting the debate from the future of this Nation onto individual Members and saying you cannot vote for term limits because you think that now we have dug ourselves into this hopeless ditch of debt, that you cannot vote for term limits for the future knowing it would be a few years before the ratification process would even have an opportunity to be completed. Then you have another 12 years. You cannot vote for that because you would be accused of being a hypocrite because you have been here for a while.

That is a part of the "me" generation, Mr. President. We criticize our kids for a lot of things and ourselves as part of the "me" generation—me, me, me, self-centered. The same thing is true with this body—totally, totally consumed with ourselves as individuals and how things will affect us.

Senator Jones here, we would have lost the benefit of his services if we had term limits. Well, there are millions of Mr. Joneses out there who might be Senator Joneses who might be better than Senator Jones. We have 250 million people in this country, and I do not even know what fraction of 1 percent have ever served in this body.

Are we so self-centered and conceited and blinded that we think that this fraction of 1 percent are the only people qualified because we spent a few years up here spending other people's money and regulating other people's lives that we have the only expertise in America that qualifies us to sit here?

Let us, as we go forward with this debate next week, not personalize this thing. Let us not personalize this debate. Let us not accuse people of being hypocrites. Let us not concentrate on the past. You can make an argument that in the past we did not need this. We fought two world wars, we went through a Great Depression, and we were always able to come back and balance the budget in short order. We balanced the budget up until 1969.

Recently things have gotten out of hand with the growth of Government and the growth of spending, the proliferation of interest groups and the pressures on this body, of the desire for constant reelection, never having the will to say no to anybody, but always wanting to say, "Yes, you can have this. We can increase this program at 10 percent a year because we want your vote and we want your financial support and we want this system of professional politicians that we have always had."

It has gotten us into a quagmire that our kids will find it hopeless to dig themselves out of. We are bankrupting this country in short order. We all know it, and it constitutes criminal negligence if we do not do what we can about it.

I have heard many, many times, and I heard again today, "We have term limits; we have term limits, they are called elections." If you want to call the present system term limits, you are going to have to convince me that people have a decent shot at getting what they want from the present system, what they demand.

If you are talking about electoral politics, unless you are an incumbent, you are not going to have access to the money to even run. We have millions of citizens out there who would like to serve and have the opportunity to serve, but they know, with all of the advantages of incumbency and all of the money that incumbency brings in terms of contributions, why bother? Why bother?

They say, "Well, there is a lot of turnover." That is for various reasons. Some people want to run for other offices; some people leave town one step ahead of the sheriff; some people want to go back and live in the real world. There are a lot of reasons for that. But the fact of the matter is, of those who want to stay, of those who run for reelection, about 90 percent still get reelected in the middle of all this turnover.

So, the question is not what the turnover rate is. It goes up and down. The question is, What is the motivation of the overwhelming majority of the people who serve? If they ultimately decide to leave for whatever reason, or even maybe within their term for whatever reason, that still does not answer the question, what was their motivation while they were there?

I firmly believe that if that motivation is, in large part, not totally, but in large part, simply staying and getting reelected and doing the things necessary to stay in office year in and year out, because the longer you stay the less touch you have with the real world and, in some cases, the less you feel like you will be able to do, and then age catches up with you perhaps and you become more and more desperate to stay and you are willing to do more and more things to stay—what is the motivation of those kind of people?

The motivation of those kind of people to point out that "We cannot increase your program, madam, at 10 percent this year. We maybe could increase it 6 or 7 percent. But your check might be a little less than what you were expecting it to be from the Federal Government." That is dangerous. That is dangerous, and we need people in this body who are willing to risk a little danger. That is what we do not have, and that is what this is all about.

So as I say, next week we can get back on the central issue here: What is best going to equip this country to meet the challenges of the next century—as we, as sure as I am standing here, are bankrupting this country—not how it affects some individual Members. We will be lucky if we are remembered 24 hours after we leave. It does not have to do with that.

So with that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMPSON). Without objection, it is so ordered.

CLOTURE MOTION

Mr. DOLE. Mr. President, I send a cloture motion to the desk relating to the committee substitute to Senate Joint Resolution 21.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the committee substitute to Calendar No. 201, Senate Joint Resolution 21, a joint resolution proposing a constitutional amendment to limit Congressional terms:

Bob Dole, Fred Thompson, Spencer Abraham, Rod Grams, Mike DeWine, John Ashcroft, Craig Thomas, Jon Kyl, Trent Lott, John McCain, Slade Gorton, Rick Santorum, Bill Frist, Larry E. Craig, Paul Coverdell, Lauch Faircloth.

Mr. DOLE. Mr. President, I ask unanimous consent that the cloture vote occur at 2:15 p.m. on Tuesday, April 23, and the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DOLE. Mr. President, I now ask that there be a period for the transaction of routine morning business, not to extend beyond 4 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Thursday, April 18, 1996, the Federal debt stood at $5,099,448,998,247.15.

On a per capita basis, every man, woman, and child in America owes $19,267.75 as his or her share of that debt.

TRADE WITH JAPAN

Mr. THOMAS. Mr. President, as the chairman of the Subcommittee on East Asian and Pacific Affairs, I come to the floor today to discuss briefly an issue that causes me some concern.

I see from press reports and statements released by the White House that during his recent visit to Japan, President Clinton touted his successes vis-a-vis trade with Japan, claiming that his administration has steered that trade relationship in the most positive direction in years. These statements follow others President Clinton made last week stating that recent increases in automobile and automotive parts exported to Japan are the result of an auto trade agreement his administration signed with Japan last August.

Now, you'd think that after two recent articles in the Journal of Commerce and the Washington Post—entitled respectively "More Auto Exports to Japan: Who Gets the Credit?" and "Clinton Claims on Auto Trade Disputed"—the President would have thought twice about taking credit for something that's going on anyway. Since the articles speak for themselves, I would ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follow:

MOVE AUTO EXPORTS TO JAPAN: WHO GETS THE CREDIT?

(By John Maggs)

WASHINGTON.—The closer one looks at the upturn in U.S. automotive exports to Japan, the tougher it gets to lay all the credit at the feet of President Clinton and his top trade negotiator Mickey Kantor.

President Clinton is expected to trumpet those trade results in a White House event today marking the first six months since last year's landmark U.S. Japan auto trade pact.

Claiming credit for that agreement is a small but significant piece of Mr. Clinton's re-election strategy, in which he will argue that his "free and fair" trade policy has created thousands of U.S. jobs.

As the center of that strategy, the Japan agreement mandates some of the biggest reforms Japan has ever undertaken to loosen formal and informal barriers to imports.

U.S. officials cite numerous regulatory changes they expect to yield results in additional imports. The trickier part is making the connection between these reforms and the statistics on auto trade that Mr. Clinton is expected to cite today.

The numbers are impressive. Exports to Japan by American and Japanese-owned auto factories in the United States were up 50% in 1995, and exports by Ford, Chrysler and General Motors alone are up 36% in the first two months of 1996.

U.S. auto parts exports to Japan—the real focus of the trade agreement—seem to be increasing steadily, although the rise in 1995 was smaller than the year before.

The U.S. parts-content of cars made at Japanse-owned "transplant" factories in the United States, meanwhile, increased 14% in 1995.

The problem is the sheer number of factors affecting the huge U.S.-Japan auto trade, including currency shifts—which made U.S. products much more competitive in 1995—and the lead time to design parts into Japanese models, a factor that makes higher import part levels more likely after 1998.

Among replacement parts, there is very encouraging anecdotal evidence of new retail outlets opening in Japan that will carry U.S. parts, but little evidence that this has yet had a trade effect.

Mr. Clinton will note that auto parts exports to Japan have increased 60% since 1992 but the growth rate is slowing.

CLINTON CLAIMS ON AUTO TRADE DISPUTED

(By Paul Blustein)

The hoopla is scheduled to start around 2 p.m. today at the White House. President Clinton will be there, as will representatives of the Big Three U.S. auto companies and the United Auto Workers. Three new American cars will be on display, with the steering wheels on the right-hand side—made to order for the Japanese market.

The purpose? To celebrate rising automobile and parts sales to Japan and make the claim—which critics call hype—that a major cause was an auto trade agreement that the administration negotiated with Tokyo last year.

The White House has marshaled some impressive-sounding statistics to make the accord look like a job-generating winner. An administration report due to be released today will highlight the fact that in the six months after the pact was signed last August, sales of U.S.-made General Motors Corp., Ford Motor Co. and Chrysler Corp. vehicles in Japan rose 33 percent over the same period a year earlier, according to people familiar with the report.

It also trumpets higher sales of U.S. auto parts to Japanese companies, citing an anticipated increase of 14 percent in the North American content of 1996 model vehicles at Japanese factories on this side of the Pacific.

But many experts question whether such recent increases can be attributed to an agreement reached just a few months ago. While the administration can reasonably claim it created new business opportunities in Japan's repair parts market, they say, most of the latest surge in sales of automotive products is part of a longer-term trend stemming from prior trade deals, the weakness of the U.S. dollar and other factors.

It's "a notable achievement" that U.S. auto parts are making inroads in Japan, said Marcus Noland, a Japan expert at the Institute for International Economics and former senior economist at Clinton's Council of Economic Advisers. But "the administration is probably taking credit for something that's going on anyway." Other skeptics note that sales in Japan of European carmakers like AB Volvo and Volkswagen AG have risen at roughly the same sizzling pace over the past few months as those of the Big Three—without the benefit of a trade deal.

The upbeat nature of today's event will set the tone for Clinton's trip to Tokyo next week, which is shaping up as one of the friendliest U.S.-Japan summits in years as the two sides concentrate on shoring up their security alliance. While Clinton is expected to raise simmering trade disputes over film, computer chips and insurance, the administration is planning to try to focus attention on successes in other trade areas.

U.S. Trade Representative Mickey Kantor is fond of pointing out that U.S. exports to Japan soared 20 percent last year, to $64 billion, yielding the first decline since 1990 in the U.S.-Japan trade gap. But many economists ascribe Japan's rising appetite for foreign goods to the strength of the yen, which makes foreign goods cheaper to Japanese buyers, and market-opening measures adopted long ago, rather than to the 20 U.S.-Japan trade deals struck during the Clinton era.

But in an election year, the White House is eager to claim that its aggressive trade diplomacy is producing results. That's particularly true for the auto pact, which came after a high-stakes confrontation.

On one score, the accord has clearly helped generate business for U.S. firms. Tokyo's loosening of its rules concerning the parts used in required periodic auto repairs enabled Tenneco Automotive, among others, to strike a lucrative deal for distribution of its Monroe shock absorbers in Japan.

But can the administration claim that it is responsible for the sizable rise in sales of cars and components to Japanese consumers and factories? "Whatever success you see today, the seeds were planted for that many years earlier," said a Bush administration trade official, who noted that Japanese auto companies typically choose their parts suppliers several years before a car model is produced.

Moreover, the pact has fallen short of administration hopes in one area—agreements by Japanese auto dealers to sell U.S. cars. When the deal was signed, Washington declared (without Tokyo's concurrence) that over the remainder of this decade, 200 dealers a year should sign up with GM, Ford or Chrysler. Only 30 have done so in the months since the accord was struck, although sources said yesterday that Chrysler may soon announce a deal for 60 or 70 more.

Mr. THOMAS. While I would agree that our Trade Representative Mickey Kantor has done an impressive job, not only in negotiations with Japan but with other countries as well, most notably China, but I would also agree with the vast majority of economic analysts who believe that most of the improving climate for American cars in Japan is due to natural market forces. For example, over the last year or so the yen has grown stronger compared with the dollar, making American goods cheaper in Japan. Matsushita Noriyuki, a senior economic analyst at the Nikko Research Centre, attributes increased sales of U.S. cars in his country primarily to the fact that the price of those cars has decreased. In addition, Matsushita points to major changes made by American car manufacturers to accommodate Japanese tastes and habits—such as increased attention to quality, right-hand steering wheels, and smaller model sizes—as a major factor in increased sales. More importantly, trade agreements struck before Mr. Clinton took office—under Republican administrations—are finally bearing fruit.

Mr. President, since 1992 we've grown used to a Clinton foreign policy that is an oxymoron, to a foreign policy that is reactive rather than proactive. We've grown used to a wide credibility gap between what Governor Clinton said as a candidate and what his actions are as President—I've spoken before on this floor about the irony of a President who accused George Bush of coddling China now doing more coddling of that country than President Bush could ever have been accused of. We've grown used to President Clinton coopting as his own such Republican initiatives as the line-item veto, budget cutting, and calls for an end to the era of big government.

I guess that now, as the November elections approach, it should come as no surprise that we can now also look forward to President Clinton's rhetoric far outpacing his performance in the foreign policy arena and for him to increasingly take credit for the hard work of others.

VIOLENCE IN LEBANON

Mr. ABRAHAM. Mr. President, I rise today to express my deep concern regarding the most recent violence in Lebanon. I have immediately contacted the Clinton administration and urged them in the strongest possible terms to do everything in the power of the United States to cease the hostilities between Israel and Hezbollah in Lebanon. Many innocent civilian men, women, and children have been killed and there have been thousands of refugees who have been forced to flee their homes.

The Arab-American community, many who have family and friends in Lebanon, have communicated to me first-hand accounts of the recent violence and tragedy. The most disturbing fact is the great loss of civilian lives, especially the children. These deaths, no matter where they occur, are always tragic.

To help us immediately address the plight of these innocent victims, I have requested emergency assistance for the Lebanese civilians and refugees from the Department of State, the Agency for International Development, and the Department of Defense. The Lebanese are in need of food, medicine, water, emergency electric generators, beds, and other necessities. Mr. President, I am hopeful that my colleagues will support this request for aid and I am hopeful that this administration will use all of American's influence to cease the fighting in Lebanon immediately.

PRAISING THE LATE SENATOR EDMUND MUSKIE

Mr. CONRAD. Mr. President, the death of Ed Mudkie marks a deep personal loss for me, and a loss for our Nation. Senator Muskie was a close personal friend and leader in both the Senate and our national political scene. As a young man, I can remember my admiration for his integrity and dedication when I served as a midwestern State coordinator for his Presidential campaign in 1972. In the Senate he was the leader in urging creation of a Senate Budget Committee so the Chamber would have a committee with a board overview of the budget process. In this time of public concern over the Federal budget, it is important we remember that as the first chairman of the Budget Committee, Senator Muskie warned the Congress and the Nation of the need to balance our Federal budget to protect America's future. Those of us who serve on the committee today are still mindful of the foresight he showed, and are working to see that his legacy is fulfilled. Americans of this generation also owe a debt to the former Senator from Maine for his vision and his tireless efforts in awakening Congress and the Nation to the critical importance of enacting comprehensive laws to protect our Nation's environment for future generations. Our Nation owes him a deep debt of gratitude we can never repay.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:45 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following resolution:

H. Res. 406. Resolution in tribute to Secretary of Commerce Ronald H. Brown and other Americans who lost their lives on April 3, 1996, while in service to their country on a mission to Bosnia.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 1422. A bill to authorize the Secretary of the Interior to acquire property in the town of East Hampton, Suffolk County, New York, for inclusion in the Amagansett National Wildlife Refuge, and for other purposes (Rept. No. 104–255).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BUMPERS:

S. 1688. A bill to establish a National Center for Rural Law Enforcement, and for other purposes; to the Committee on the Judiciary.

By Mr. GRAMM (for himself and Mrs. Hutchison):

S. 1689. A bill to provide regulatory fairness for crude oil producers, and to prohibit fee increases under the Hazardous Materials Transportation Act without the approval of Congress; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for Mr. Nickles (for himself, Mr. Inhofe, Mr. Dole, Mr. Daschle, Mr. Lott, Mr. Ford, Mr. Abraham, Mr. Akaka, Mr. Ashcroft, Mr. Baucus, Mr. Bennett, Mr. Biden, Mr. Bingaman, Mr. Bond, Mrs. Boxer, Mr. Bradley, Mr. Breaux, Mr. Brown, Mr. Bryan, Mr. Bumpers, Mr. Burns, Mr. Byrd, Mr. Campbell, Mr. Chafee, Mr. Coats, Mr. Cochran, Mr. Cohen, Mr. Conrad, Mr. Coverdell, Mr. Craig, Mr. D'Amato, Mr. DeWine, Mr. Dodd, Mr. Domenici, Mr. Dorgan, Mr. Exon, Mr. Faircloth, Mr. Feingold, Mrs. Feinstein, Mr. Frist, Mr. Glenn, Mr. Gorton, Mr. Graham, Mr. Gramm, Mr. Grams, Mr. Grassley, Mr. Gregg, Mr. Harkin, Mr. Hatch, Mr. Hatfield, Mr. Heflin, Mr. Helms, Mr. Hollings, Mrs. Hutchison, Mr. Inouye, Mr. Jeffords, Mr. Johnston, Mrs. Kassebaum, Mr. Kempthorne, Mr. Kennedy, Mr. Kerrey, Mr. Kerry, Mr. Kohl, Mr. Kyl, Mr. Lautenberg, Mr. Leahy, Mr. Levin, Mr. Lieberman, Mr. Lugar, Mr. Mack, Mr. McCain, Mr. McConnell, Ms. Mikulski, Ms. Moseley-Braun, Mr. Moynihan, Mr. Murkowski, Mrs. Murray, Mr. Nunn, Mr. Pell, Mr. Pressler, Mr. Pryor, Mr. Reid, Mr. Robb, Mr. Rockefeller, Mr. Roth, Mr. Santorum, Mr. Sarbanes, Mr. Shelby, Mr. Simon, Mr. Simpson, Mr. Smith, Ms. Snowe, Mr. Specter, Mr. Stevens, Mr. Thomas, Mr. Thompson, Mr. Thurmond, Mr. Warner, Mr. Wellstone, and Mr. Wyden)):

S. Res. 249. A resolution expressing the sense of the Senate on the anniversary of the Oklahoma City bombing; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BUMPERS:

S. 1688. A bill to establish a National Center for Rural Law Enforcement, and for other purposes; to the Committee on the Judiciary.

THE NATIONAL RURAL LAW ENFORCEMENT ACT OF 1996

• Mr. BUMPERS. Mr. President, I am introducing the National Rural Law Enforcement Act of 1996. This bill is not very complicated. It establishes a National Center for Rural Law Enforcement, to provide rural police and sheriff departments with the training they need to meet the demands of modern rural law enforcement.

Consider a few facts and figures about rural crime and law enforcement:

One third of all Americans live in rural areas.

Ninety percent of the law enforcement agencies in our country serve populations of 25,000 or fewer citizens. Three quarters of those departments serve fewer than 10,000 citizens.

Crime in rural communities has risen more than 35 percent during the last decade.

The Criminal Justice Institute at the University of Arkansas at Little Rock has been the headquarters of a movement by rural law enforcement administrators to fill the training void they face. The Institute has sponsored a number of conferences in five regions around the country to identify the training needs of rural law enforcement and prescribe measures to meet those needs. This bill is a response to their efforts and the needs they have documented and described.

The National Center for Rural Law Enforcement will: Provide rural law enforcement managers training tailored to rural law enforcement needs; provide research and technical assistance to rural law enforcement agencies; provide a communications network linking rural agency heads around the country, develop curriculum tailored to the needs of rural law enforcement officers; articulate the viewpoint of rural law enforcement professionals; and project its training capability to sites in communities all over the United States.

Every Senator represents rural communities. As we travel our States, we hear time and again about sophisticated and vicious crime in small rural communities, the sort of crime we used to believe was found only in big cities. The National Center for Rural Law Enforcement will help to equip rural law enforcement professionals to deal with those problems in the most effective manner, with the same tools their urban colleagues enjoy.

The NCRLE will enjoy the participation and input of the FBI and the Justice Department and some Federal funding, but its heart and soul will be the State and local law enforcement officers of rural America. It represents the kind of Federal State local cooperation that is so vital today. I hope that arrangement, along with the obvious need for a National Center for Rural Law Enforcement, will bring bipartisan support for this bill. The National Center for Rural Law Enforcement is necessary. It will meet a vital need for rural America, at low cost in the context of a true Federal partnership. I urge my colleagues to cosponsor the National Rural Law Enforcement Act of 1996. •

By Mr. GRAMM (for himself and Mrs. HUTCHISON):

S. 1689. A bill to provide regulatory fairness for crude oil producers, and to prohibit fee increases under the Hazardous Materials Transportation Act without the approval of Congress; to the Committee on Commerce, Science, and Transportation.

THE CRUDE OIL TRANSPORTATION FAIRNESS ACT OF 1996

Mr. GRAMM. Mr. President, I rise to introduce legislation to remove an onerous and, I believe, unintended regulatory burden from independent oil and gas producers. The Crude Oil Transportation Fairness Act of 1996 would exempt oil and gas producers who do not transport crude oil themselves from the registration and fee requirements of the Hazardous Materials Transportation Act. Those who actually transport crude oil would continue to register and pay fees as under current law. Also, the bill removes the Secretary of Transportation's unilateral authority under current law to raise these fees on transporters. My colleague from Texas, Senator HUTCHISON, has joined me in introducing this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD, and that letters of support from the Independent Petroleum Association of America and the Texas Independent Producers and Royalty Owners Association also appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1689

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Crude Oil Transportation Fairness Act of 1996”.

SEC. 2. REGULATORY FAIRNESS FOR CRUDE OIL PRODUCERS.

Section 5108(a) of title 49, United States Code, is amended by adding at the end the following:

“(5)(A) Notwithstanding any other provision of law, a person who offers crude oil or condensates for transport in commerce shall not be required to file a registration statement or pay a fee otherwise required under this section if that person transfers title to the crude oil or condensates to a transporter at the time that the crude oil or condensates are initially transported in commerce from a storage location by the transporter.

“(B) Subparagraph (A) does not apply to any person who transports crude oil in commerce in a quantity that is subject to the requirement of this section.”.

SEC. 3. PROHIBITION OF FEE INCREASES WITHOUT THE APPROVAL OF CONGRESS

Section 5108(g)(2)(A) of title 49, United States Code, is amended in the second sentence, by striking “at least $250 but not more than $5,000” and inserting “not more than $250”.

INDEPENDENT PETROLEUM
ASSOCIATION OF AMERICA,
Washington, DC, March 27, 1996.

Hon. PHIL GRAMM,
U.S. Senate, 370 Senate Russell Office Building, Washington, DC.

Re Crude Oil Transportation Fairness Act of 1996

DEAR SENATOR GRAMM: The Independent Petroleum Association of America (IPAA) strongly supports The Crude Oil Transportation Fairness Act of 1996 and appreciate your efforts on behalf of independent oil and natural gas producers. As you know, IPAA represents approximately 5,500 independent oil and natural gas producers in 33 states. The regulatory problem which is addressed in the proposed legislation has been particularly onerous for our membership as they are primarily small businesses with less than 20 employees that can not afford the annual fee assessed under this program.

The Hazardous Materials Transportation Registration and Fee Assessment Program, which was implemented under the Hazardous Materials Transportation Uniform Safety Act of 1990, requires registration for persons engaged in transporting or offering for transportation certain categories and quantities of hazardous materials in intrastate, interstate, and foreign commerce. Persons subject to the registration program are required to annually file a registration statement with DOT and pay a total annual fee of $300. Last year, DOT unsuccessfully proposed a graduated filing fee that would in many cases raise the registration fee to $5050.

After a major educational effort led by IPAA, with strong congressional support, the proposal was defeated. However, even at the $300 per year level, IPAA has strongly opposed the inclusion of persons who “offered for transportation” in the registration program as both burdensome and unnecessary. Crude oil producers sell their oil to purchasers who take possession of it on the lease directly from the crude oil storage tank. The purchaser owns the crude oil before it ever reaches a public road. While the oil is in the storage tank the facility owner is subject to numerous state and federal safety requirements.

At a time when our domestic oil production has fallen to its lowest point in 40 years, and over 500,000 jobs in the industry have been lost in the last decade, we cannot continue to penalize domestic producers. The current financial state of the domestic oil and gas industry is illustrated by the following indicators:

Jobs. Since the early 1980s, oil and gas employment has been cut in half. Employment in the industry through 1996 stood at 305,100 employees compared to 332,800 in 1995. There has been a loss of 9500 employees since 1995 and nearly 500,000 since 1985.

Crude Oil Production. Crude oil production in 1995 fell to an estimated 6.5 MMb/d, compared to 6.7 MMb/d during 1994, representing a 200,000 b/d decrease. Crude oil production in the lower 48 states has fallen to 5 MMb/d, the lowest level since 1946.

Rotary Rig Activity. In 1995, the rotary rig count averaged 723 rotary rigs for the United

States, a decrease of 52 rigs from 1994. This is the second lowest rig count since World War II. Forty-five percent of the rigs were drilling for oil, 53 percent for gas and 2 percent miscellaneous.

Well Completions. In 1995, total well completions totaled 19,756, with 8,114 wells completed for the production of natural gas, 6,917 wells completed for the production of crude oil and 4,725 dry holes. There were 2,037 fewer completions in 1995 than 1994. In 1985, 70,806 wells were completed, a 72% decline in 10 years.

In conclusion, IPAA strongly supports the Crude Oil Transportation Fairness Act which will have the effect of eliminating the DOT Hazardous Materials Transportation fee for individuals and companies that only offer for sale, but do not transport crude oil or condensates.

Thank you again for your legislative leadership in this area.

Sincerely,

DENISE A. BODE,
President.

TEXAS INDEPENDENT PRODUCERS &
ROYALTY OWNERS ASSOCIATION,
Austin TX, March 27, 1996.

Hon. PHIL GRAMM,
U.S. Senate, 370 Russell Building, Washington, DC.

DEAR SENATOR GRAMM: On behalf of Texas independent oil and gas producers, I wish to thank you for introducing the "Crude Oil Transportation Fairness Act of 1996." As you know, this bill is badly needed to ensure that another unnecessary, onerous regulation does not play a role in the demise of the small independent oil and gas producer.

Your bill will ensure that the regulation is properly applied to those who transport crude and not those who only sell it. Some of our members are also transporters and should be paying this fee, but far more are producers who produce crude and sell it at the lease. Those producers have unfortunately been required to pay this transporter fee needlessly. Soon after the program began, we narrowly defeated an effort by the Department of Transportation to increase the annual fee of $5,050—which in many cases is more than the annual revenue from a single well.

Your bill appropriately places the responsibility on crude transporters. We appreciate your interest in correcting this regulation.

Sincerely,

REX H. WHITE, JR.,
President.

ADDITIONAL COSPONSORS

S. 800

At the request of Mr. COCHRAN, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 800, a bill to provide for hearing care services by audiologists to Federal civilian employees.

S. 1578

At the request of Mr. FRIST, the names of the Senator from Virginia [Mr. WARNER] and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 1578, a bill to amend the Individuals With Disabilities Education Act to authorize appropriations for fiscal years 1997 through 2002, and for other purposes.

SENATE CONCURRENT RESOLUTION 41

At the request of Mr. INOUYE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Concurrent Resolution 41, a concurrent resolution expressing the sense of the Congress that the George Washington University is important to the Nation and urging that the importance of the university be recognized and celebrated through regular ceremonies.

SENATE RESOLUTION 248

At the request of Mr. FEINGOLD, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Resolution 248, a resolution relating to the violence in Liberia.

SENATE RESOLUTION 249—EXPRESSING THE SENSE OF THE SENATE ON THE ANNIVERSARY OF THE OKLAHOMA CITY BOMBING

Mr. DOLE (for Mr. NICKLES (for himself, Mr. INHOFE, Mr. DOLE, Mr. DASCHLE, Mr. LOTT, Mr. FORD, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, Mr. WELLSTONE, and Mr. WYDEN)) submitted the following resolution; which was considered and agreed to:

S. RES. 249

Whereas, on Wednesday, April 19, 1995, at 9:02 a.m. central daylight time, a bomb exploded at the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma, collapsing the north face of this nine-story building, killing 168 men, women, and children and injuring scores of other innocent victims;

Whereas today, Friday, April 19, 1996, marks the one-year anniversary of this tragic event which is without equal in our nation's history;

Whereas, in the words of the Reverend Billy Graham to the families and survivors, "Someday the wounds will heal, and someday those who thought they could sow chaos and discord will be brought to justice. The wounds of this tragedy are deep, but the courage and the faith and determination of the people of Oklahoma City are even deeper";

Whereas this was the deadliest terrorist attack ever on U.S. soil; and

Whereas the United States Senate passed by an overwhelming margin the Comprehensive Terrorism Prevention Act on Wednesday, April 17, 1996; Now therefore be it

Resolved, That the Senate of the United States:

Observes a moment of silence at 9:02 a.m. Central Daylight Time in remembrance of the innocent children and adults who lost their lives or were injured in this heinous attack one year ago;

Remembers the families, friends, and loved ones of those whose lives were taken away by this abhorrent act;

Salutes the people of Oklahoma for the courage, faith and determination they have exhibited throughout the past year;

Commends the rescuers, federal agencies and countless volunteers who gave of themselves and their resources to provide aid and relief;

Commends the federal employees from across the nation who came to the aid of their co-workers during this crisis; and

Reaffirms its trust in our system of justice to ensure that the perpetrators of this heinous crime be convicted and appropriately punished so that justice may be served and carried out swiftly.

AMENDMENTS SUBMITTED

CONGRESSIONAL TERMS LIMIT CONSTITUTIONAL AMENDMENT

ASHCROFT AMENDMENT NO. 3692

Mr. THOMPSON (for Mr. ASHCROFT) proposed an amendment to the joint resolution (S.J. Res. 21) proposing a constitutional amendment to limit congressional terms; as follows:

In lieu of the matter proposed to be inserted, insert the following: "*(two-thirds of each House concurring therein),* That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE —

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

BROWN AMENDMENT NO. 3693

Mr. THOMPSON (for Mr. BROWN) proposed an amendment to amendment

No. 3692 proposed by Mr. ASHCROFT to the joint resolution (S.J. Res. 21) supra; as follows:

In lieu of the matter proposed to be inserted, insert the following: "*(two-thirds of each House concurring therein)*, That the following article is hereby proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

"SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

"SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

ASHCROFT AMENDMENT NO. 3694

Mr. THOMPSON (for Mr. ASHCROFT) proposed an amendment to the joint resolution (S.J. Res. 21) supra; as follows:

In the language proposed to be inserted, strike all after the first word and insert the following: "*of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE —

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

BROWN AMENDMENT NO. 3695

Mr. THOMPSON (for Mr. BROWN) proposed an amendment to amendment No. 3694 proposed by Mr. ASHCROFT to the joint resolution (S.J. Res. 21) supra; as follows:

In lieu of the matter proposed to be inserted, insert the following: "*of each House concurring therein)*, That the following article is hereby proposed as an amendment to the Constitution of the United States:

"ARTICLE—

SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

"SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

"SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

THOMPSON AMENDMENT NO. 3696

Mr. THOMPSON proposed an amendment to the joint resolution (S.J. Res. 21) supra; as follows:

Strike all after the first word and insert the following: "*of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than six times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

BROWN AMENDMENT NO. 3697

Mr. THOMPSON (for Mr. BROWN) proposed an amendment to amendment No. 3696 proposed by Mr. THOMPSON to the joint resolution (S.J. Res. 21) supra; as follows:

In lieu of the matter proposed to be inserted, insert the following: "*of each House concurring therein)*, That the following article is hereby proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

"SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

"SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

ASHCROFT AMENDMENT NO. 3698

Mr. THOMPSON (for Mr. ASHCROFT) proposed an amendment to the motion to recommit proposed by Mr. THOMPSON to the joint resolution (S.J. Res. 21) supra; as follows:

In lieu of the proposed instructions, insert the following: with instructions to report the resolution back to the Senate forthwith with an amendment as follows: "*(two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

BROWN AMENDMENT NO. 3699

Mr. THOMPSON (for Mr. BROWN) proposed an amendment to amendment No. 3698 proposed by Mr. ASHCROFT to the joint resolution (S.J. Res. 21) supra; as follows:

In lieu of the proposed instructions, insert the following: with instructions to report the resolution back to the Senate forthwith with an amendment as follows: "*(two-thirds of each House concurring therein)*, That the following article is hereby proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected or appointed to the Senate of the United States.

"SECTION 2. Each State or the people thereof may prescribe the maximum number of terms to which a person may be elected to the House of Representatives of the United States.

"SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON INDIAN AFFAIRS

Mr. THOMPSON. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to conduct three consecutive hearings during the session of the Senate on Wednesday, April 17, Thursday, April 18, and Friday, April 19, 1996, on the President's Budget Request for fiscal year 1997 for Indian programs and related budgetary issues from fiscal year 1996. The hearings will be held at 1:30 p.m. each day in room 485 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

(At the request of Mr. DOLE, the following statement was ordered to be printed in the RECORD.)

OKLAHOMA CITY BOMBING

• Mr. INHOFE. Mr. President, as we commemorate the 1 year anniversary of the horrific bombing of the Murrah Federal Building in Oklahoma City, I would like to share with my colleagues excerpts from poem written by S.L. (Spud) Beckes the day after the bombing.

April 19th, of 95;
A day Oklahoma and the world
will remember, for the rest of their lives;
It's nine a.m. and most is calm;
Then comes nine-0-two and straight from hell
comes devastation in the form of a bomb;
Quickly, we turn to the TV, we see panic and fear,
we see death and destruction and for some,
death grows near,
Death and destruction by terrorist, how can this be;
it's just not heard of in OKC;
We listen close, as the body count grows;
then we realize "Oh my God" that can't be, that's someone I know;
Then comes the helplessness, from within;
because, we realize there's nothing to justify this act, that cost us relatives and friends;
We ask ourselves, "Why Oklahoma" but if
we stop and think, the answer is simple;
the actions of the hunter, is to kill not cripple;
The hunter, goes for the heart and the rest of the body falls;
but the cowards, that hit the heart of the United States, did
not know, how strong faith in Oklahomans can be and this
they did not anticipate;
Oklahoma is not only, the heart of America, it is the backbone;
and our pride in faith will show the world, even in tragedy,
we will hold our head up, trust in god and walk tall;
We think of the loss, Men, Women and Children, and ask the Lord "Why";
We try to be strong at first but it's too much, we are but man, so for most,
We bow our head and cry; but when the tears stop and our eyes clear;
Nothing on this earth can stop an American, and even in tradegy, we will show the world, there is nothing to fear;
"We" are a proud Country, the best on the planet; and from our childhood,
to our death, our pride in faith, become part of us and this we never regret;
So for the good of the world, I say this;
"Be with God, fear not the evil from Hell, for hell has not the courage,
the pride, the body or the heart of an American, and this day,
today, the world and Oklahoma will never forget;
"God Bless America"

By S.L. (Spud) Beckes, The Oklahoma Poet.•

STATEMENT ON LIBERIA

• Mr. FEINGOLD. Mr. President, as the United States military winds up its spectacularly successful evacuation of over 1,795 people from Liberia, I rise today to pay tribute both to our 214 soldiers who conducted this very difficult mission, and to the United States personnel, led by Chargé D'Affaires Bill Mylam, who are working under dire circumstances to try to bring some stability to Liberia. These people have undertaken magnificent and courageous endeavors, endeavors of which the American people should be very proud.

Today I also want to focus on the challenge that must be faced in dealing with this unfortunate turn of events in West Africa.

After a few months of guarded optimism that there might be peace in Liberia, it appears that this woeful country is once again on the brink of collapse. Looting and fighting have overtaken the capital, halting implementation of the Abuja Accords, suspending humanitarian operations and limiting food and water supplies. In addition to the 1 million-odd refugees around Liberia, 60,000 people have been newly displaced in Monrovia, and 15 to 20,000 Liberians are crowded into the Barclay's Training Center [BTC], seeking protection from tribal warfare. After United States evacuation efforts, only 19 Americans remain in Liberia in an official capacity, and humanitarian efforts are endangered. The prospects look bleak, but our resolve to contain the fighting and disintegration must remain steadfast. We have so few alternatives.

Since September 1995 when the Abuja Accords were signed by all the warring factions, the United States, along with other interested members of the international community, has tried to help implement them. The primary tasks were deploying West African peacekeeping forces through ECOMOG throughout the country, militarily disengaging and disarming the factions, and quickly investing in an economy that had virtually nothing to offer the citizens of Liberia.

Mr. President, this has not been overly successful. While thee have been many false hopes in Liberia, Abuja represented a reasonable plan, but only if each phase of that plan was fully met. It has not been—not by the Liberian factions, not by the international community, and not by the United States.

ECOMOG has never been strong enough to help create an atmosphere of stability needed for peace to survive. Nigerian elements have remained dominant in ECOMOG, while new forces—such as a Ghanaian battalion that had previously succeeded at peacekeeping missions—have not been funded. This is a failing of the international community, including the United States, that had pledged to support the Abuja Accords. At the pledging conference, the United States committed $10 million for ECOMOG—a small sum for peace in any case. We have only delivered $5.5 million of that.

Mr. President, strengthening ECOMOG to help it carry out its mission is a commitment the United States made, correctly, to help prevent an explosion like the current one in Monrovia from occurring. But the fact that we barely delivered on our commitment has been damaging to the peace process. Two months ago, Senator KASSEBAUM and I made a proposal to transfer $20 million from democracy programs at AID to help fund a new battalion for ECOMOG. An unusual source of funding, perhaps, but indicative of the high priority we placed on the funding of ECOMOG, and a statement that ECOMOG is part of our development efforts in West Africa. The administration opposed this particular transfer, but promised to work to come up with other sources of funding for ECOMOG. Not only did the administration not find the money, but it also did little in this time frame to solicit contributions from others. Crises like these demand creative responses, so I would propose we take a hard look at other programs for this purpose. Strong cases can be made that Liberia is relevant to both these accounts. I will work with the administration to continue to look for resources which we can redirect to this cause.

In theory I support the proposals I have heard about on the table today to extend communications and other logistical support and training to new battalions for ECOMOG, but I can't resist asking why the administration didn't focus on this earlier? Why did it take massive looting and displacement in Monrovia to solicit this response? And if the fighting lulls, will the interest in Liberia be sustained long enough to actually realize a support package for the Abuja Accords? I will be anxious to see what plan the European Command submits to the United States at the end of this week, and, if appropriate, will do what I can to assist the administration in making these plans operational.

While I understand and sympathize with the tight budgets under which the administration must live, this is symptomatic of a larger trend to resistance to reinvent U.S. activities in the realm of peacemaking that I see. For example, at the time of the Abuja Accords, the United States pledged $75 million to help implement the peace process; $10 million of that was for ECOMOG, and $65 million for humanitarian assistance. I fully support emergency aid, Mr. President, but I think it is shortsighted—and perhaps even becomes as self-fulfilling prophecy—when we under-finance peace and development efforts, because we are invested in humanitarian funding. In Liberia, it is to some degree a chicken-and-egg scenario, given the destruction and desperation in the country. However, this should not deter us from investing in creation of an infrastructure for peace and development. As we ignore development needs, we only increase the potential for violent outbreaks, which, in turn, as we saw in Bosnia and Rwanda, could lead to the use of United States troops. While I understand that the use of United States military in Liberia is quite unlikely, if we do not invest in the peace process and in Liberia's development, we could very well face calls for United States military engagement, which in my view would be tragic and unwise.

Regional peacekeeping is a peace and development idea worth investing in, Mr. President. In a post-cold-war era, as we restructure U.S. and U.N. doctrines for the use of force, it will become inevitable that regional forces, in most cases, will be the best deterrent early on to contain the spread of violence and instability. If the international community ignores, or does not work to strengthen, these organizations then it will all too often lead to pressure for the deployment of foreign—and in some cases American—troops. Bosnia is a prime example: for several years we tried to work with the Europeans to address effectively the Balkan war. But when it was clear the Europeans had completely failed, for a variety of reasons, it was U.S. troops that stepped in to fill the vacuum and lead the way to a peace implementation force. I still disagree with the decision to deploy United States troops in Bosnia, and I see the potential for calls for a similar path in Liberia if we do not support ECOMOG at this important juncture.

Another serious failure of Abuja has been the process of disarmament. Under Abuja, all parties were to disengage and disarm completely by February of this year. Of course, without any economic alternative other than soldiering, or any hope of protecting themselves without their weapons, most Liberians did not disarm. The lack of logistical support also made it difficult for ECOMOG to deploy to supervise the disarmament. Then, factions such as Charles Taylor's NPFL placed conditions on disarmament—in effect, reopening the delicate Abuja Accord. Another problem in the disarmament effort has been the last of effort by Liberia's neighbors—namely Burkina Faso, Cote D'Ivoire, and Guinea—in halting the arms—on both the black and gray markets—that cross their borders into Liberia.

Mr. President, this is an issue we should take quite seriously. I have raised the issue directly with parties involved in public and private, and am aware that high-ranking administration officials have done the same. Yet even as Abuja had its most reasonable chance to succeed, arms have flowed to the parties each country it favors. I will work to finally activate the U.N. Commission that was created after the U.N. arms embargo was imposed against Liberia, and establish sanctions for those flaunting the international embargo. I will also submit that if this practice continues, the United States consider sanctions of its own against those working to undermine the Abuja Accords. At a minimum, we should revive the sanctions against individuals working against democratization efforts that were lifted when Abuja was concluded.

At this point, I request that an op-ed in yesterdays' New York Times by Jeffery Goldburg be printed in the RECORD. I do not agree with all the conclusions it draws, particularly the proposal that the preferable course of action is to have U.S. marines occupy Monrovia. However, I do recommend the article as a cogent analysis of what went wrong, and what the United States can try to do the repair the Abuja process.

The article follows:

[From the New York Times, Apr. 15, 1996]

LIFTING LIBERIA OUT OF CHAOS

(By Jeffrey Goldberg)

George Boley stood in a clearing deep in a Liberian rain forest and said that he was misunderstood. "I am not a warlord," he told me in late 1994. "I don't know why they use this term to describe me."

Behind the self-styled chairman of the wildly misnamed Liberian Peace Council stood 80 soldiers. Most were teen-agers, some were as young as 9. All were armed, many were drunk. "These are professional fighting men," he said, without irony.

Mr. Boley, who holds a Ph.D. in educational administration from the University of Akron, is most assuredly a warlord, as are the other Liberian faction leaders who last week drove their country back into chaos.

Fighting in the capital, Monrovia, has killed untold numbers. United States troops have evacuated more than 1,600 Americans and other foreigners. But the United States must take stronger action to restore peace—and it can do so without endangering American troops.

The civil war began in 1989 when Charles Taylor, the warlord of the National Patriotic Front of Liberia, invaded from neighboring Ivory Coast. The next year, Liberia's dictator, Master Sgt. Samuel Doe, was killed, setting off six years of gang warfare among several factions.

A peace accord struck in Abuja, Nigeria, last August was supposed to end the war. It handed Monrovia over to the warlords, who agreed to share power peacefully. But they never came through on their pledge to disarm their supporters.

So it was inevitable that violence would erupt this month after Mr. Taylor sent his men to arrest a rival, Roosevelt Johnson, on murder charges. Mr. Johnson's faction has indeed murdered civilians. But Mr. Taylor's fighters have also indiscriminately killed civilians, including five American nuns in 1992.

The fault for this new spasm of violence rests mostly with the warlords, of course. But the United States is also to blame. Last year, it missed a chance to adequately finance a disarmament effort by the United Nations and West African Peacekeeping Force, which has been in Liberia since 1990.

The peacekeeping force—with soldiers from nine countries—successfully defended Monrovia from a 1992 attack by Charles Taylor's faction. But it is now demoralized, cashstrapped and undermanned. Its ground forces, once at 12,000, are down to 5,000 or so poorly equipped men. Their commanders are for the most part Nigerian Army generals and are widely considered corrupt.

For Liberia, the best scenario would have United States Marines occupying Monrovia. But with Somalia still fresh on Americans' minds, this is probably not politically feasible. Still, a strong West African force of about 15,000 men could disarm the ragtag factions and weaken the warlords. This would take American cash and equipment—from ammunition and food to armored vehicles and helicopters. The United States would also have to send military trainers and communications equipment to Ghana and other willing and capable West African nations.

All this would cost more than $20 million. But over the past six years, Washington has poured almost half a billion dollars of humanitarian aid into the country, not including the cost of the current evacuation—the third such operation since 1989.

America has a special responsibility to Liberia, founded in 1847 by freed American slaves. Liberia was also an American ally in the cold war, and $500 million in American aid propped up the brutal Doe regime.

The only way to end the terror of the warlords is to take their guns away. If Washington helps West African troops do so, not a single American soldier would be endangered. And it would ultimately cost less than airlifting Americans out of Monrovia every time the city explodes.

Mr. FEINGOLD. Situations like Liberia—and indeed other conflicts that have not been resolved by post-cold-war politics—demand creative responses by the international community. Liberia poses challenges that do not fall under the traditional definitions of United States national security, but they do include threats to our well-being and national interests. For instance, as Liberian refugees spill over into Guinea, the stresses on some of the last remaining tropical rainforest in West Africa become untenable, and the rainforest shrinks, causing shortages of resources, food, and medicine. Large concentrations on refugees and displaced persons also heighten potential for outbreaks of disease. One case of Ebola or typhoid in a refugee camp, and we have a humanitarian disaster that can spread anywhere in just a plane ride.

Unfortunately, our option is not to pull out of Liberia and wash our hands of the problem: because of regional ramifications and threats of disease and environmental degradation, the issue is whether we meet the challenge of Liberia, or invest more after more destruction in the tragedies that would unravel in Sierra Leone, Guinea, Cote D'Ivoire, Burkina Faso, Ghana, and perhaps elsewhere in West Africa. So, Mr. President, we don't really have a choice: the problem is maintaining stability in West Africa, whether we call it Liberia or Burkina.

For these reasons, yesterday I introduced a resolution, Senate Resolution

248 with Senators KASSEBAUM, SIMON, LEAHY, JEFFORDS, and PELL, declaring the breakdown of the Abuja process would have serious ramifications for United States interests in Liberia and throughout West Africa, and urging the administration to consider a number of steps. These include scrutinizing the budget to find funding for ECOMOG; this is key. We also suggest considering the provision of excess defense articles for communications and logistical support for troops willing to participate in ECOMOG. The resolution also urges the administration to use its influence with other governments to solicit interest in ECOMOG, and finally, it calls on the administration to lead U.N. efforts to establish finally a committee to enforce the U.N. arms embargo against Liberia. These are all suggestions that the administration should consider, and it is not an exhaustive list. The point is, we need decisive and creative action in Liberia—and part of that must be real support for the west African peacekeeping force.

So, once again I applaud the work of our diplomatic and military forces in Liberia today, and compliment the administration on its efforts to help calm the situation. At the same time, I urge them to focus fully on Liberia—not just to quell the current tensions, but invest in trying to prevent them from erupting again.

I also want to express our gratitude to Ghana's President Jerry Rawlings and his senior diplomatic team which has worked tirelessly and somewhat successfully to negotiate a ceasefire. Other ECOWAS states, particularly Cote D'Ivoire, have been very helpful in trying to reach the same goal. We also owe a debt of gratitude to Sierra Leone for making Freetown available as a transit point for those evacuated. While multilateral efforts may have failed to this point in Liberia, with each step—as painful as it is—the United States, ECOWAS, and the rest of the international community seem to be strengthening their abilities. We must learn from the past and look creatively to the future: we have no choice, unless we are willing to confront what could be even bigger disasters in the near future.•

HEALTH CARE

• Mr. GORTON. Mr. President, yesterday the U.S. Senate moved in a positive direction in reforming our Nation's health care system. S. 1028, a bill narrow in scope that builds upon and strengthens the current private market system, moved one step closer to becoming law.

During yesterday's debate, the merits of including medical savings accounts in the legislation were discussed at great length. I believe MSA's are a good idea. MSA's give people control over their health care dollars and encourage them to make their own decisions about health care benefits. They preserve medical freedom and provide plenty of incentives for cost control.

Choice is the keystone of MSA's. As many of my colleagues have pointed out, with MSA's people can choose their physician, their hospital, their health care plan. Additionally, MSA's will bring about lower health care spending. Consumers will become more savvy about their health care options, and certainly the system will benefit as a result.

The problem, Mr. President, is that it was absolutely clear that including an MSA provision would derail the entire bill and a real opportunity to enact meaningful health care reform would be lost. If the legislation had included that provision, my Democratic colleagues indicated they would filibuster the bill and the President indicated he would veto the entire measure. In short, this targeted, commonsense bill would have been killed.

I am dedicated to the passage of health care reform and I do not want a good bill to be sacrificed for one provision, however worthy that provision may be. It was for this reason that I did not support the inclusion of MSA's in the final bill, and it's also the reason this MSA effort failed.

Yes, Mr. President, medical savings accounts are a good idea. Although S. 1028 was not the right vehicle, I will look for other opportunities to promote and encourage them.•

TRIBUTE TO THE CADDO MAGNET ORCHESTRA

• Mr. JOHNSTON. Mr. President, I rise today to pay tribute to an exceptional group of students from my hometown of Shreveport, LA. The Caddo Magnet Orchestra, combined of 103 high school and middle school students from Caddo Parish in northwestern Louisiana, has for years been recognized as one of the most outstanding student orchestras in our State. Since its inception in 1980, the orchestra has consistently received superior performance ratings in all regional and State competitions and has won several prestigious awards from music festivals around the Nation. In light of its impressive reputation, this year the orchestra was invited to perform at Carnegie Hall, a rare privilege offered to very few young performers.

After many months of intensive rehearsal and fundraising, the Caddo Magnet Orchestra traveled to New York City last month for its March 24 Carnegie Hall debut, where its performance was met by a standing ovation from the 1,000 audience members in attendance. The evening's performance, consisting of pieces by English composers Gustav Holst, John Ireland, Edward Elgar and John Rutter, was flawless and has earned this orchestra national recognition.

Louisiana is enormously proud of these outstanding young people, not only for their individual talents, but also for their overall commitment to excellence and their spirit of community. The students worked together to make beautiful music, and the harmony they created represents all that can be achieved when we put forth our best efforts to reach a common goal. This is citizenship at its finest.

The members of the orchestra have represented the State of Louisiana with great distinction. I congratulate these musicians and their director, Ms. Johnette Parker, as well as the parents and faculty of Caddo Magnet High School and Caddo Middle Magnet School for their marvelous collective effort in reaching this pinnacle and for setting an example of excellence from which we all can benefit.•

TRIBUTE TO JUDI BAYLY AND HER IRISH SETTER, LYRIC

• Mr. SMITH. Mr. President, I rise today to congratulate a Nashua, NH, resident, Judi Bayly and her 8-year-old Irish setter, Lyric, who dialed 911 and helped save Judi's life when she noticed Judi had stopped breathing.

Last month, Judi Bayly who has asthma and sleep apnea, stopped breathing temporarily. When the oxygen generator she uses became unplugged and the alarm sounded, Judi did not hear it as she slept. Lyric, her Irish setter, did and tried to alert Judi by barking, pawing and sniffing at her. Unfortunately, Judi didn't wake up so Lyric dialed 911. When rescuers arrived at Judi's house, Lyric continued to bark and guided them to her.

Amazingly, Lyric has also saved Judi's life twice before by dialing 911. Although Lyric is trained by Service Dogs America in New York to recognize Judi's seizures, Lyric has a special loyalty to Judi and is by her side constantly. As an emergency medical technician, Judi also trains dogs professionally. She has bred Irish setters before and she and her husband own three of Lyric's puppies. I admire Judi's devotion to her dogs and her promotion of the use of trained dogs.

Lyric is an exceptional dog and deserves the national recognition she has seen over the past few weeks. Lyric is an example of a truly sensitive and astute dog. As a dog lover myself, I congratulate Lyric and her owner on a job well done!•

REV. ROOSEVELT AUSTIN

• Mr. LEVIN. Mr. President, I rise to honor Rev. Roosevelt Austin and his wife, Dr. Nurame Austin, who will be celebrating their 40 years of dedicated service to the Saginaw community and the State of Michigan. Reverend Austin is the pastor of Zion Missionary Baptist Church in Saginaw, MI.

Reverend Austin was ordained June 25, 1953, at Western Seventh District Association in Opelousas, LA. This day was the start of a long and fruitful career of community service. Reverend Austin's pastoral experience began as a youth minister at Mt. Calvary Baptist Church in Opelousas, LA, the church where he was converted on April 7, 1936. Reverend Austin went on to receive bachelor's and master's degrees in theology. He received a doctorate of divinity degree with honors from the American Divinity School in Chicago, IL.

Reverend Austin has always stressed the importance of education. He has become a shining example to the community of what a lifetime of learning can accomplish. He has served on local, State, and national congresses of Christian education. He has also served as a board member on the Commission on Quality Education for All Children for Saginaw Public Schools. Reverend Austin sees that improving the condition of our inner cities begins with improving the education of our children.

Reverend Austin's dedication to improving the condition of our Nation's inner cities has been a driving in his life s work. During the course of his career, Reverend Austin has taken part in many institutes, organizations, and community groups that focus on solving problems associated with poverty. He is a board member of the Saginaw chapter of the NAACP and also serves as a spiritual advisor to inmates at the Saginaw County Jail.

On May 4, 1996, Reverend Austin will be awarded an honorary doctor of humanities degree from Saginaw Valley State University for the leadership role he has played in seeking neighborhood improvement.

Through his life's work, Reverend Austin has touched and improved the lives of countless people. I know that my Senate colleagues will join me in congratulating Rev. Roosevelt Austin on his 40 years of outstanding service to the community.•

HIGHLAND HIGH SCHOOL ACADEMIC DECATHLON TEAM

• Mr. BINGAMAN. Mr. President, I rise today to commend the students and coach of the Highland High School Academic Decathlon Team. This team, comprising of 15 New Mexico students, is the New Mexico representative to the 1996 National Academic Decathlon competition in Atlanta, GA.

The academic decathlon is a unique program that encourages academically well rounded students to compete in a variety of events. The decathlon encourages students to develop a greater respect for knowledge, promotes wholesome competition in academic areas of study and interest, stimulates intellectual growth and achievement, and encourages public interest and awareness of outstanding programs in our schools. This valuable program challenges students to strive for goals and to work hard academically.

Mr. President, these 15 students and their coach have worked extremely hard since early fall to prepare themselves for this event. Through their hard work and their extensive efforts, they have been able to overcome obstacles and achieve very high goals. Too often, Mr. President, we reward students for their athletic prowess instead of their academic abilities. Today, I want to highlight the achievements of these students. Our students can be champions in the classroom as well as on the athletic field.

Mr. President, for their outstanding accomplishments, and their sincere commitment to academics, I commend the members of the Highland High School Decathlon team. I believe that I speak for all New Mexicans when I wish them the best of luck and congratulate them on their success.•

THE DOMENICI-WELLSTONE MENTAL HEALTH PARITY AMENDMENT

• Mr. BRADLEY. Mr. President, last night Senators DOMENICI and WELLSTONE introduced an amendment to establish parity in treatment between mental health and physical health. I want to thank them for their leadership. Their remarks, along with those by Senators CONRAD and SIMPSON, were moving and sometimes very personal. I know they were inspiring to me, and I believe to many others, as the strong vote in favor of their amendment suggests. I congratulate them.

There is little doubt remaining even among the most skeptical people that biochemical disturbances are major precipitating factors for the major mental illnesses like schizophrenia, bipolar disorder, and major depression. Nonetheless, longstanding biases, which are really fears in disguise, still frame our understanding and treatment of mental health disorders and mental illness. As Senators DOMENICI and WELLSTONE have said so well, it is time for this country to speak more openly and forcefully about the broad scope of mental health issues. Mr. President, last night we began the important work of reforming our health insurance practices so that more Americans have access to health insurance and greater protection against losing coverage. We will complete this step of that work on Tuesday. With this work, we have an excellent opportunity to begin to build a healthcare insurance structure that recognizes both physical and psychological factors in health and illness.

One of the most promising directions in healthcare is the increased recognition of social and psychological variables. We know that depression is a better predictor of relapse among coronary patients than is a high cholesterol level. We know that breast cancer patients who participate in support groups experience greater longevity than those who do not. We know that 50 to 60 percent of patients who visit a primary care physician do not have a physical condition that can be diagnosed. Instead, they bring the sequelae of trauma, violence, and abuse. They bring masked drug and alcohol problems; they bring rage and impulse control problems that are often amplified by the loss of employment, marital and family strains. They bring a sense of hopelessness that can get so bad that suicide seems like the only way out.

Mr. President, we know that emotional and behavioral factors, including tobacco use, obesity, and a sedentary lifestyle are ones contributing to physical health problems and huge healthcare costs.

By treating physical, psychological, and other factors together in a collaborative setting, we can begin to control and change many of the manifestations of illness.

This insurance reform debate has provided an occasion to highlight this model of health and subsequent opportunities to work toward greater parity for mental health treatment.

Last night Senator DOMENICI has called the inequities in the treatment of mental illness and physical illness "one of the real, continuing injustices in America today * * * someone with schizophrenia is just as sick as your neighbor with cancer."

Senator DOMENICI is right. Serious mental illness is devastating in a way that few of us can imagine. Enough of the discrimination we have shown toward those who are mentally ill. Enough of the blind eye and deaf ear we have turned toward mental health. Today, Mr. President, I am asking that this country catch up with science, catch up with the reality of who goes to the doctor with what kind of problem. Today, Mr. President, we need to understand that compassion does not have to be costly. We can use our brains and show our heart and say it is time to work toward parity between mental health and physical health. We can work toward health care treatments that show that mind and body are not separate.

As Senator WELLSTONE said last night, "for too long mental health has been put in parentheses." I agree. I ask that we take away those parentheses that are more like prisons to those suffering and begin to study how we can provide better, comprehensive health care that is fair to all.•

NATIONAL COUNTY GOVERNMENT WEEK

• Mr. BURNS. Mr. President, I rise today to recognize National County Government Week from April 21 to 27.

National County Government Week is an important opportunity to remember the values on which our country was founded. County governments have an advantage over the mammoth Federal bureaucracy—county governments are able to keep in touch with their constituency.

Before the voters in Montana asked me to represent them in Washington, DC, the voters in Yellowstone County asked me to be their commissioner. I know from experience that county governments can easily maintain a high level of efficiency.

Local governments don't compromise the sovereignty of the individual, which tends to be the case with the Federal Government. Mr. President, as the role of today's Federal Government expands, so does its intervention into the privacy of individuals.

The Montana Association of County Governments, also known as MACO, along with its national parent organization NACO, has the ability to reallocate the power of the Federal bureaucracy in a manner that would benefit all Montana taxpayers.

The goal of the Republican agenda, a goal I heartily support, is the redistribution of Federal power to the State, county and local governments. As a former Yellowstone County commissioner, I had face-to-face encounters with Montana taxpayers on a daily basis. If a Montanan had a concern about local, State, and even Federal issues, all they had to do was pick up the phone and call me at the office or at home—my number was listed. And whether they wanted to talk about the neighbors' cattle that seemed to always be loose or potholes you could lose a tractor in, my experiences as a Yellowstone County elected official were a valuable lesson in where the rubber really meets the road.●

TRIBUTE TO THE NEW HAMPSHIRE BUSINESS PERSON OF THE YEAR, CHUCK HENDERSON

● Mr. SMITH. Mr. President, I rise today to congratulate a hard-working New Hampshire entrepreneur, Chuck Henderson, on being named the 1996 New Hampshire Small Business Person of the Year. The New Hampshire Small Business Administration (SBA) recently honored Chuck with this award, and in June, he will receive special recognition from the President.

In 1969, as a young high school student, Chuck started a business by developing his first skiing product. Twenty-six years later, Chuck is the proud owner of Chuck Roast Equipment, Inc., which now offers more than 100 products for cold weather. His company is nationally known and employs 47 people.

Chuck grew up in Conway, NH, and undoubtedly saw a need for warm clothing during the severe winter months. Snow gaiters were the first products he developed while in high school in response to wet socks and pants during cross country skiing. Chuck Roast Equipment, Inc., now has an extensive line of high-quality outerwear. His company has been one of the leaders in the production of pile clothing, and its brightly colored and patterned fleece jackets and pullovers are popular across the country. Other products include hats, mittens, blankets, daypacks, and baby buntings. He now sells to over 300 retailers, exports to six countries, and operates three retail stores in the State.

As a dedicated entrepreneur, Chuck attributes the success of his business to perseverance, hiring and keeping competent and loyal employees while also diversifying the product line when the need arises. He also donates baby bunting to every baby born at Memorial Hospital in North Conway and is involved in other community service projects.

He credits the SBA and its resource partners, the Service Corps of Retired Executives [SCORE] and the New Hampshire Small Business Development Center [SNDC] with helping Chuck Roast get started and grow to be the success company it is today. His company received several SBA loans and the assistance from the agency's export finance program.

Small business is the backbone of our economy in the United States. I am proud to honor Chuck for preserving and establishing a thriving business in New Hampshire. He has devoted himself to working hard and providing our State with warm clothes during the harsh winters. Congratulations to Chuck and all the employees at Chuck Roast Equipment, Inc., for this prestigious recognition.●

THE 100TH ANNIVERSARY OF THE HYANNIS FIRE DEPARTMENT

● Mr. KENNEDY. Mr. President, May 8, 1996, marks the 100th anniversary of the establishment of the Hyannis Fire Department and the Hyannis Fire District. It is a privilege to take this opportunity to commemorate this important milestone and to commend Commissioner Richard Gallagher and all the brave men and women who have served in the Hyannis Fire Department over the past 100 years.

Over the years, the members of the department have done an outstanding job protecting the people of Hyannis, and they have also been valued friends and neighbors. My family and I, as longtime residents of Hyannis, have many friends in the department, and we greatly admire their ability and dedication.

I welcome this opportunity to join many others in Massachusetts in praising the Hyannis Fire Department on this auspicious centennial anniversary, and I ask that an article by Edward F. Maher published in 1930, entitled "The History and Functioning of the Hyannis Fire District," be printed in the RECORD.

The article follows:

THE HISTORY AND FUNCTIONING OF THE HYANNIS FIRE DISTRICT

The history of the Hyannis Fire District, as given by Edward F. Maher before the Hyannis League of Woman Voters on Tuesday, Dec. 29th last, was of such general interest and so informing in detail that it is printed herewith in its entirety;

The science of Civil Government enlightens us on the great aspect of National life, describes the divisions and sub-divisions of the great body politic into which our nation is divided and sets forth the laws and methods by which they are administered.

The National government, at Washington levies taxes, makes and executes laws applicable to the country as a whole and to the territories thereof. The various state governments make and execute laws applicable to the states as a whole.

The states are divided into counties which have functions dealing with large sections of the state and separated from the rest for political or judicial purposes.

The counties of the state are divided into cities and towns.

The cities are the large populous and compact sections incorporated as muncipalities usually having a mayor and council in charge.

The towns are the more numerous sub-divisions, often large in area but of not sufficient wealth and population to be incorporated as a city. The rights and duties of a city. The rights and duties of the voters of towns are unique in that the matter of raising moneys and its appropriation is exercised by the voters themselves whereas in cities, counties and other large divisions this power is delegated to others. It has been said that the New England town meeting is the ideal form of Democratic government.

Now it may transpire that there is a certain populous, and important community within a town that desires certain conveniences, improvements and protection that the town as a whole may not wish to provide funds for. In that case the law provided that this community may petition the town to set it aside as a Fire District and define its boundaries. If the town refuses to comply the petitioners may proceed to organize a Fire District under the general laws.

A Fire District may be formed also by special act of the legislature.

In the course of events it came about that the village of Hyannis required improvements, conveniences and protection comparable with its material growth, and it was evident these could only be acquired through the incorporation of the village of Hyannis as a Fire District.

Now a Fire District is in some respects like a little town with restricted rights. Its powers being the right to raise money by taxation for the maintenance of a Fire Department, including fire houses, fire engines, chemical engines, hook and ladder trucks, articles used in the extinguishment of fires, hose carriages, hydrant rental, pay for firemen, a few other minor matters and the installation and maintenance of street lights, Its activities are limited to these matters, unless by special act of the legislature.

Now the establishment and organization of the Hyannis Fire District was achieved in this manner:

An article was inserted in the warrant for the annual town meeting held, on March 2, 1896 on petition of a number of citizens, inhabitants of Hyannis, to see if the town of Barnstable will receive and act on said petition for the establishment of a Fire District in the village of Hyannis.

Following such refusal a petition signed by a number of freeholders, inhabitants of Hyannis was addressed to the selectmen of the town of Barnstable asking them to notify a meeting of the inhabitants of the proposed District to meet in Hyannis for the purpose of considering the expidiancy of organizing the Fire District and establishing a Fire Department.

The selectmen of the town of Barnstable called a meeting of the voters of Hyannis the same being held in Masonic Hall, Hyannis on May 6, 1896 and there after fullfiling all the legal requirements was voted to stablish the Hyannis Fire District with the same limits as set forth in the petition to the selectmen of the town of Barnstable.

At this meeting the Fire District organized by the choice of Henry H. Baker, Jr., as clerk and appointed a committee consisting of Messrs. Franklin Crocker, James H. French and Charles C. Crocker to investigate water works and other methods of fire protection.

The first Prudential Committee of the District elected May 20, 1896 consisted of F. Percy Goss, Charles C. Crocker and George M. Smith.

On May 29, 1896 it was voted to purchase a chemical engine, a hook and ladder truck, four hand, extinguishers and to build a house for the use of the department the whole entailing an expenditure of $1,500.00. It was voted at this meeting to establish a Fire Department and at a subsequent meeting O. Howard Crowell was chosen the first Chief Engineer of the District.

On May 23, 1902 the sum of $1,100.00 was raised and appropriated with which to purchase a new chemical engine the first one not being deemed adequate as it had been in use elsewhere before coming to Hyannis.

During this period and at each annual meeting there were discussions, suggestions and investigations concerning street lightning by the District but nothing was really accomplished until the year 1904.

The matter of lighting the streets of Hyannis had always been one of much concern. Years ago the individual would place a kerosene lamp in front of his house and would keep it lighted. This was done here and there throughout the village.

Then the Village Improvement Society was organized and with such leaders as Miss Ida Bearse, Miss Clara J. Hallett, Mrs. Sarilla H. Smith, Mrs. Maud P. Chase, Mrs. Cleone Chase, Mrs. Ida Frost and others a more general system of lighting the streets was accomplished.

Later under the management of the Hyannis Womans Club the matter was gone into more seriously, more lights were added. A system of gas lighting was introduced and a man employed to care for the lights and light them at the proper time. Much progress was made under that management and through their untiring labors and efforts.

On May 25, 1904, the following vote was passed at the Annual meeting of the Hyannis Fire District: Voted to accept certain street lamps, poles and other appurtances, together with a certain sum of money from the Social Service Department of the Hyannis Woman's Club. That sum of $325 was raised and appropriated at this meeting for the erection and maintenance of street lights within the District, and thus the Fire District formally assumed the duties of street lighting. (20 street lights on moonlight schedule).

And thus began through the instrumentality and Co-operation of the women of Hyannis a system of street lighting which has steadily increased and today compares favorably with the best in any town in the state.

In the year 1905 a movement was started to investigate the installation of Hydrant and Water service in the District and it was voted to petition the legislature for an act authorizing it to produce pure water to the said District for domestic, fire and other purposes.

The Legislature, in June 1906, passed an act to provide for a water supply for the Hyannis Fire District to become operative upon its access to the District.

The matter was twice formally presented to the voters of the District and each time rejected.

Many believe that had we than accepted the provisions of that act and installed our own water system, today we would be free from debt and water would be had at a very low rate.

In 1907, a new chemical engine was purchased at an expenditure of $1,300.

In 1909, the street lighting system had been so extended as to call for an appropriation of $1,000.

Since its establishment and up to the year 1911, the District through its Fire Department depended upon the valor of its firemen and the use of hand drawn chemical engines, hand fire extiguishers and the hook and ladder equipment to cope with any conflagration and wish to say that on all occasions the Fire Department has done the best of work.

In 1911 the Barnstable Water Company installed a water system in Hyannis and the Fire District in 1912 appropriated $2,380.00 to cover the rental of 68 hydrants which was at the rate of $35.00 per hydrant, per annum. We have one of the best water systems in the state there being a pressure of 80 lbs. to the square inch at the hydrants and capable of throwing three streams of water from the same hydrant to a height of more than 70 ft.

Much can be accomplished by the chemical engines if they reach a fire early, but water is the most effective agent after a fire is well started.

In 1914 a substantial and artistic drinking fountain dedicated to the use of human beings and dumb animals and erected at a cost of several hundred dollars was presented to the Hyannis Fire District. This fountain is located in Depot Square and is a monument to the benevolence, charity and humanity of the Hyannis Womans Club.

The appropriation for Street lighting was increased from year to year according as additional lights were needed and is 1922 electric lights were installed on that part of Main Street between Ocean Street and the residence of Dr. Harris. For a number of years there had been a division of opinion as to whether pole locations should be granted on that part of Main Street, but this matter having been amicably adjusted Main Street received the lights as was its due.

In 1922 the Fire District was * * * was given further attention and Main Street from the Yarmouth line to Sherman Square was converted into a great white way by the installation of forty 250 watt lights throughout its length. This has been very satisfactory and strangers entering our village are favorably impressed.

The Distrct seems to be very well taken care of at present. There was appropriated for Street lighting at the last annual meeting the sum of $4,728.00 which provides one hundred sixteen 40 watt lights equitably—distributed throughout the district and the forty 250 watt lights on Main Street.

For many years a fire alarm system was considered and there was appropriated the sum of $1,100 in 1923 and the following year a siren was purchased and through the courtesy of the officers of the Federated church, it was installed in the belfry of the church. The telephone company have co-operated cordially with the District and when notice of a fire is received the operator through a system of wires connected with the siren sends out the alarm.

Heretofore all the equipment in use by the District was drawn by hand or conveyed by horse or automobile but in 1923 a new motorized chemical engine was purchased at a cost of $3,500 which is really a credit to the community.

In 1923 the Fire District was enlarged by the addition of adjacent territory at the request of the residents.

The organization of the Hyannis Fire District is as follows:

A Prudential Committee of three members whose duties in the Fire District are similar to the duties of Selectmen of towns.

The following have served at various times since the organization of the District:

Chas. Grocker, Percy Goss, George H. Smith, Arthur G. Guyer, Edw. L. Chase, Luther G. Hallet, Irving W. Cook, Edw. C. Hinckley, N.A. Bradford and the present board—Frank Thacher, Chas. W. Megathlin and Edw. F. Maher.

The following have served as Clerk and Treasurer: Henry H. Baker, Edw. F. Maher, Walter S. Chase and the present incumbent Wm. G. Currier.

The following have served as Chief Engineer: O. Howard Crowell, N. Alphonso Bradford, Irving W. Cook, W.R. Nickerson and the present Chief, Everett O. Bond.

The present Asst. Engineers are Winslow K. Thacher, Frederic Scudder and J. Lester Howland.

All the officers of the District serve without pay with the exception that for the last few years the Clerk and Treas. held by the same person is paid $50 per year.

The Fire Department is organized under the engineers in to Fire Policy Day Crew, Night Crew, and are on call at all times and should the apparatus be called out of town at any time, competent men are always on duty at Hyannis.

The money appropriated at Fire District meetings is assessed by the assessors of the town and collected by the tax collector of the town and paid over to Treasurer of the Fire District.

A total of $118,416.33 has been appropriated in the Fire District since its establishment.

The assessed valuation of property real and personal within the District in 1898 was $970,000.00 and on April of this year it amounted to $2,757,610.00 and at the present time it is probably more than $3,000,000.00 and is larger than most towns in Barnstable County.

For some years the old engine house has been inadequate for the needs of the Fire Department and last year the District voted to expend the sum of $28,000.00 for a plot of land and the construction of a new engine house.

A plot of land was purchased on Barnstable Road for the sum of $3,000.00 and there has been erected thereon a model fire proof engine house complete in all details and it is believed it will serve the needs of the District for years to come.

There is ample room to store the engines, hook and ladder truck, hose reels and other equipment. There is an apartment for drying the hose after a fire. There is an assembly room for the firemen. The building is heated with a modern Spencer heater so there is no danger of the radiators freezing in the cold weather. It is a building that any city might be content with and I am recently told by the Chief Engineer that the assembly will soon be furnished after which open house is to be held to which the public including this worthy gathering are to be invited to attend.●

THE USE OF FOREIGN TRUSTS TO AVOID TAXES

Mr. MOYNIHAN. Mr. President, last evening the Senate adopted a proposal I introduced in September of last year to curb the use of foreign trusts to avoid U.S. tax responsibilities.

The Treasury Department first called attention to this problem early in 1995. Thereafter, I worked with Representative GIBBONS to develop legislation to prevent taxpayers from evading taxes by transferring assets offshore. Legislation very similar to the bill that I introduced (S. 1261) was included in the Senate-passed health insurance reform bill late yesterday.

There is disturbing evidence of the extent of tax avoidance through the use of foreign trusts. Although taxpayers are required to report the value of their assets held in foreign trusts, only $1.5 billion were reported in 1993, according to the IRS. Yet it is estimated that total U.S. source funds held abroad in tax haven jurisdictions are in the hundreds of billions.

In 1989, the New York Times reported that financial institutions in the Cayman Islands, Luxembourg, and the Bahamas had $240, $200, and $180 billion, respectively, on deposit from the U.S. New York Times, October 29, 1989, page 10. More recently, Barron's estimated that a total of $440 billion was on deposit in the Cayman Islands in 1993, with 60 percent of that amount—$264 billion—coming from the U.S. Barron's, January 4, 1993, page 14. To put this in some perspective, Barron's calculated that there was more American money on deposit in the Cayman Islands than in all of the commercial banks in California. Although only a portion of U.S. funds abroad are held in foreign trusts, the Treasury Department estimates that tens of billions of dollars are held in offshore asset protection trusts established by U.S. citizens and residents.

Once assets move offshore, it has been difficult for the IRS to enforce the tax laws. Foreign bank secrecy laws preclude the IRS from uncovering the information necessary to determine what is owed. Central to the legislative solution that I have proposed are provisions designed to provide the IRS with better information on foreign trusts. The bill would substantially strengthen the obligations of taxpayers to report information to the IRS and impose penalties with genuine deterrent effect for failure to do so. Among other changes, the bill includes new rules designed to lead most foreign trusts established by U.S. persons to appoint a U.S. agent that can provide trust information to the IRS.

The bill would also close a number of loopholes in the existing grantor trust tax rules. These rules specify when the existence of a trust will be ignored for tax purposes because the creator of the trust retains sufficient control over the assets transferred to be treated as continuing to own the assets. For example, a foreign person; generally not taxable in the United States, transferring assets to a trust for the benefit of U.S. persons generally would not be treated as the tax owner of the assets in the trust unless the trust was fully revocable. Instead, the U.S. beneficiary receiving income from the trust would be taxed on receipt of that income.

I am pleased that the Senate has adopted these changes. These are practical rules that would dramatically improve tax compliance without unduly burdening legitimate financial transactions.

LEBANON

● Mr. LEVIN. Mr. President, I am deeply distressed by the events of recent days in southern Lebanon. The deaths of innocent civilians is a horrible human tragedy and our hearts go out to the families of those who have been lost. The U.S. Government should continue to attempt to facilitate an end to the fighting and to provide humanitarian assistance.

I support the President's call on all sides for a cease-fire in the area. The cycle of violence, of attack and counterattack, must be broken immediately.

The Secretary of State has been consulting with leaders in the region in an effort to reach an agreement which will restore calm to the area. I support those efforts. The Secretary will travel to the Middle East tomorrow. I am hopeful that he will be able to facilitate diplomatic efforts to reach a peaceful settlement and an end to the bloodshed and violence.

I have joined with Senator ABRAHAM and others in a letter to the Secretary of State, the Secretary of Defense, and the Director of the Agency for International Development calling for emergency humanitarian assistance for civilian refugees in Lebanon.●

TRIBUTE TO ROWAN COLLEGE

● Mr. BRADLEY. Mr. President, I rise today with great pleasure to congratulate New Jersey's very own Rowan College. As you may know, the Profs of Rowan College recently defeated Hope College by a score of 100 to 93 to become the 1995–96 NCAA Division III men's basketball champions.

Rowan's basketball team is special in more ways than one. Having finished the year with a 28–4 record, the Profs have once again risen to the challenges and competition of college basketball. This is hardly Rowan's first trip to the Final Four. Under the tutelage of their coach, Dr. John Giannini, the Profs have proven to be no flukes, as they have reached the Final Four three years running.

This championship season also marks the end of Terrence Stewart's stellar career. Terrence leaves Rowan College as its all-time leading scorer. Having been named this year's tournament most valuable player, Terrence has much to be proud of. As I can attest to, though, a championship team consists of a group of players who are all dedicated to the game, the work ethic, and the goal of being the best. Indeed, the entire team deserves praise and admiration.

Having played in a Final Four tournament myself, I know first hand how much hard work, time, and energy these players have put into achieving this tremendous goal. For college athletes face not only the pressures of the hardwood floor, but also the day-to-day pressures of performing in the classroom.

In closing, Mr. President, I would like to once again offer congratulations to Rowan College. Success in the sports arena, like many other endeavors, requires a great deal of dedication, hard work, and courage. I am very proud to have Rowan College represent our State.●

AN ANNIVERSARY STATEMENT—THE TECHNOLOGY REVOLUTION FOR PEOPLE WITH DISABILITIES

Mr. DOLE. Mr. President, Sunday, April 14, was a special anniversary for me. It was on that date during World War II I was wounded and joined the ranks of America's disability community.

We are a large, diverse community, from all walks of life, of every race and creed, and with the same hopes and dreams as other Americans.

Since joining the Senate, it has been my custom to remember this anniversary each year by speaking about an issue important to Americans with disabilities.

So today I will discuss a revolution in technology for the disabled—a quiet but extraordinary revolution that is bringing us closer to our national goals of independence and full participation.

NEW TECHNOLOGIES FOR THE DISABLED

Mr. President, today's technologies for the disabled are yesterday's science fiction pipedreams.

For my friend Kyle Hulet in Hutchinson, KS, technology provides a new world of independence. Kyle has only limited use of his hands, and has had to depend on others for the simplest things—even turning the lights on in his room.

But with a new environmental control unit strapped to his wheelchair, which operates much like a TV remote control, Kyle can run 16 appliances, including lights, TV, and stereo.

Jenni Koebel of Topeka, who cannot speak and has limited use of her hands, taps out words on the keyboard of a communication device—that then speaks with a voice synthesizer. Sure, the voice is a little mechanical, but Jenni's intelligence and charm shine through.

When Jenni visited me sometime back, she was a high school student. Today, she is enrolled in my alma mater, Washburn University. Technology has helped make this possible.

Even the venerable wheelchair has gone high technology. For too long wheelchair users have been described as "wheelchair bound" or "confined to a wheelchair." This stereotype unfortunately contained some truth—wheelchairs were heavy and awkward.

That is, until innovators like Marilyn Hamilton came along. Marilyn, who became a wheelchair user following a hang-gliding accident in 1978, asked why chairs couldn't be light, compact, fast—and good looking.

And when no one could give her a good answer, she went out and built a chair that was all these things. And then helped set up a company, Quickie Designs, to build those chairs for others.

And for the amputee, artificial legs made of new plastics can now mimic the spring and bounce of the natural footstep.

Perhaps the toughest test for these artificial limbs is sports. And the toughest sports events for disabled athletes can be found at the Paralympic games.

For example, in 1992, Tony Volpentest of Edmonds, WA, ran the 100-meter dash in 11.63 seconds, just 1.83 seconds off Carl Lewis' Olympic record. Tony was born without hands or feet, and uses two high technology artificial legs.

The 1996 Paralympics will be held later this year in Atlanta, following the Olympics. Over 120 countries will be represented—and with talent like Tony's, we are talking real competition among world class athletes.

In the future, we can expect even more astounding devices—such as systems that will allow blind people to freely navigate city streets using signals beamed from global positioning satellites overhead. And sophisticated voice recognition systems that will automatically closed caption videophones of the future.

The bottom line here is simple. For people with every kind of disability—whether sensory, cognitive, motor, or communication—technology can provide tools to speak, hear, see, learn, write, be mobile, work, and play—in short, to live as fully and independently as possible. Technology increasingly allows people with disabilities to make the same choices about their lives—good and bad—that other Americans often take for granted.

THE INFORMATION SUPERHIGHWAY

Mr. President, one can hardly open a newspaper or turn on the TV these days without hearing about the Internet—the worldwide hookup of thousands of computers. For the price of a local phone call, an individual can retrieve information from almost anywhere on the planet.

But for Holly Haines, the Internet is about a job. Holly lives in rural Pennsylvania. The nearest traffic light is 8 miles away—a lot like western Kansas where I grew up. Because of muscular dystrophy, Holly rarely leaves home.

Several years ago Holly called my office, asking for some help in getting access to the Internet through a local university. She had a job offer at a national database company, but to call the company's computer directly every day would have meant huge, unaffordable long-distance phone bills.

Well, Holly got on the Internet and went to work. And about a year ago the Microsoft Network called to offer her a job as supervisor of Chat World.

Every day hundreds of network subscribers talk on-line in the virtual town square of Chat World. Life in the virtual world can get pretty wild, and Holly is Chat World's mayor and Miss Manners rolled into one. She oversees a staff of 75 people.

By the way, Microsoft never had a clue that Holly was disabled when they hired her. And here's the important lesson. For Holly, and for millions of Americans with disabilities, the Internet is both a great equalizer and a great opportunity.

FULFILLING THE PROMISE OF TECHNOLOGY

Mr. President, the news is not all good. Thousands of Americans with disabilities cannot afford these technologies, some of which cost thousands of dollars. In my home State of Kansas, the legislature has recognized this problem and recently authorized an annual appropriation of $100,000 to help pay for technology.

And in the Balanced Budget Act, I sponsored a provision with Senator CONRAD to allow Medicare beneficiaries to use their own funds to pay for more sophisticated technologies, by supplementing Medicare's payment for a standard item.

But we need to do much, much more.

The second big issue is that we must be careful that new technologies—whether personal computers, the Internet, or whatever—are designed to be accessible to the disabled from the start. We have learned the hard way how expensive it can be to retrofit buildings and streets. We do not need to learn that lesson twice.

In this regard, the new Telecommunications Act has several provisions designed to encourage companies that manufacture telecommunications equipment or provide services to make their products accessible to the disabled. Another provision in the act also provides for more closed captioning of TV and video programs.

Mr. President, in closing, I would like to say a few words about the Americans With Disabilities Act. ADA was passed 6 years ago. Some people claim that I have backed off my support for ADA. That is simply not true. But I believe, and have always believed, that ADA can work, must work, for everyone—people with disabilities, Government, and business. I am trying hard to see that happens.

The poet Archibald MacLeish once wrote, "America was always promises." The technology revolution, together with important laws like ADA, are helping people with disabilities realize America's promises.

MEASURE PLACED ON THE CALENDAR—S. 1028

Mr. DOLE. Mr. President, I ask unanimous consent that S. 1028 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

HAITI POLICY

Mr. DOLE. Mr. President, this week marks the final withdrawal of United States Armed Forces from Haiti. It is an appropriate time to ask, "What did our second intervention of the century in Haiti achieve?" Congress and the American people were deeply divided over the wisdom of Operation Uphold Democracy. Many of us were concerned that the American intervention to restore President Aristide would not lead to lasting and durable change in Haiti.

Unfortunately, it is now clear that U.S. policy has not achieved its stated goals of establishing a rule of law, fostering genuine democratic change, and creating sustainable economic development. A bicameral staff delegation visited Haiti over the April recess and has completed a report which details serious failures of American policy—failures in each of the three critical areas of politics, security, and the economy.

HUMAN RIGHTS

The report concludes that the Clinton administration and the United States Embassy have not taken human rights seriously in Haiti. A particularly disturbing incident involves the event leading up to the assassination of Mrs. Bertin on March 28, 1995—3 days before President Clinton visited Haiti. The U.S. Government had concrete information about a plot to kill Mrs.

Bertin which implicated Aristide government officials, including the Minister of Interior. Inexplicably, no one in the U.S. Government warned Bertin of the plot. Instead, U.S. officials decided to rely on the same government planning Bertin's murder to provide her with warning of the plot. This incident deserves, as the report recommends, full investigation by the executive branch and by the Congress to examine why U.S. officials neglected to act effectively on information that they possessed.

NO PROGRESS ON DOLE AMENDMENT

The report details lack of progress in meeting the conditions of the so-called Dole amendment on investigating political murders. The report also details the lack of action by the U.S. Embassy in examining and reporting on a wide range of human rights and police issues. The compromise of police investigations by Aristide loyalists was not reported. Basic information about murders involving the U.S.-trained police forces was not even gathered. It seems clear that the attitude of the United States Government was they did not want to know about government death squads which would prove embarrassing to the claim of Haiti as a foreign policy success.

ADMINISTRATION'S CONFLICTING STORIES

The report also details the sustained campaign by the administration, chiefly the Agency for International Development [AID], to blame Congress by providing intentionally misleading information about U.S. assistance programs. The Clinton administration cannot even get its own story straight. For example, while AID criticizes Congress for delaying aid to the Haitian police because of human rights concerns, the State Department takes credit for suspending aid to the Haitian police for the same human rights concerns. And while AID was holding up health programs because of their concerns about the competence of the Haitian Minister of Health, AID officials in Washington, regularly criticized Congress for holding up health projects in Haiti.

A FOREIGN POLICY SUCCESS?

There has been much in the media about the success of President Clinton's Haiti policy. There has been little about the fundamental flaws detailed in this report. It is clear, however, that the administration knows it is on thin ice: changes in their Haiti policy have already been announced in recent days. Earlier this year, congressional pressure led to the dismissal of some of the worst human rights violators in the Haitian security forces. This week, the administration announced it was suspending aid because the Dole amendment conditions could not be met. The administration is reportedly considering reopening a fund for the victims of human rights violations. Most notably, the administration now points to the importance of thwarting former President Artiside's effort to undermine important policy goals. Long the defender of Aristide, even the Clinton administration now admits he refused to allow progress on police reform or free market economics. What a difference congressional pressure can make.

PLAYING POLITICS WITH HAITI POLICY

Mr. President, there is no difference between congressional Republicans and the stated goals of the Clinton administration in Haiti—democracy, economic recovery, and the rule of law. Our differences are about the very real problems which have been swept under the rug—in the name of defending policy failures. Our differences are over the administration's effort's effort to make Haiti a political football by blaming Congress for their own shortcomings.

Mr. President, the U.S. military did its job. There is no security threat to the government of Haiti. The dictatorship is destroyed and the Haitian army no longer exists. It is on the civilian side where our policy has fallen short.

What have we achieved in our Haiti intervention after 18 months and more than $2 billion? The answer is disappointment and missed opportunities. The answer is not nearly as much as could have been achieved if the administration had been more honest and more able. For the sake of the long-suffering people of Haiti, I hope the administration will jettison its political approach, and begin working with Congress to fashion a workable Haiti policy. I hope they begin soon.

I ask unanimous consent that the report be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Congress,
Washington, DC, April 17, 1996.

Hon. Bob Dole,
Majority Leader,
U.S. Senate, Washington, DC.

Dear Senator Dole: Pursuant to your authorization, we traveled to Haiti from March 30, 1996, to April 3, 1996, to examine political, economic, security and assistance issues. We met with a wide range of U.S., Haitian, and international officials and visited a number of sites including the Haitian National Police Training Center, U.S. Agency for International Development projects, and U.S. Armed Forces headquarters.

As the final withdrawal of U.S. Armed Forces is underway, we believe our findings and recommendations are particularly timely. Still, if the United States is ever to achieve a truly bipartisan policy toward Haiti, the Clinton Administration must cease its efforts to blame Congress for the shortcomings of its own policy. Our seven principal findings are:

More than eighteen months after Operation Uphold Democracy began, Haiti's social, political and economic situation remains troubled and tenuous. The U.S. intervention successfully destroyed the military dictatorship, and significantly reduced human rights violations, at a cost of more than $2 billion. However, the U.S. intervention in Haiti has not yet laid the foundation for lasting progress in establishing genuine democracy, in generating economic reform and sustainable development, or fostering respect for the rule of law.

The conditions set forth in section 583 of Public Law 104–107 (the "Dole Amendment") on conducting thorough investigations and cooperating with the United States on investigations of extrajudicial and political killings have not been met and will not be met in the foreseeable future.

The U.S. Embassy in Port-au-Prince has failed to devote sufficient attention or resources to the critical issues of extrajudicial killings and human rights abuses perpetrated by officials of the Haitian government.

The work of the SIU has been severely compromised by the presence of three American attorneys and one American "investigator" closely identified with many who have publicly and regularly questioned the overwhelming evidence of Haitian government involvement in extrajudicial killings. These individuals are paid by the government of Haiti on terms they refused to disclose to the staff delegation, and have had total access to all SIU investigative files. Prior to the arrival of two American contractors hired by the Department of State to work with the SIU, all SIU investigations were supervised and controlled by these attorneys.

The Clinton Administration has conducted a sustained and coordinated inter-agency effort designed to blame the legislative branch for the shortcomings of its own policies in Haiti. By repeatedly seeking to politicize Haiti policy, the Clinton Administration has done a disservice to the appropriate role of Congress and, more importantly, to the Haitian people. They have also, as a result of systematic obfuscation, kept their own program managers in the dark about these matters, risking the effectiveness of important programs.

In a striking and profound reversal, U.S. and international officials in Haiti now argue that the Preval government deserves U.S. support in order to *prevent* former President Aristide from thwarting important policy objectives, especially on economic and judicial reform. The staff delegation consistently heard numerous officials cite policy initiatives—moribund under the Aristide government—which could actually proceed under the Preval government if U.S. and international support was provided. Such criticisms of the Aristide regime, voiced now in retrospect, were not voiced when they could have made a difference.

The Haitian economy remains highly dependent on foreign assistance, including food aid, and remittances from Haitians living abroad; at least 65 percent of the 1995 budget was provided by international assistance. Despite attempts to promote private investment, adverse internal political developments have reinforced foreign and Haitian investor concerns about the political and security outlook in Haiti. The 1985 level of private investment in Haiti—a very low baseline—is not likely to be restored in this century.

We have attached our full report with appendices. Finally, we wish to express our appreciation for the efforts of U.S. Ambassador to Haiti, William Lacy Swing, and his staff for facilitating our visit. Despite our differences over elements of U.S. policy in Haiti, Ambassador Swing, our control officer Julie Winn, and the Embassy staff provided invaluable support for our visit.

Sincerely,
Randy Scheunemann,

CHARLES FLICKNER,
CHRISTOPHER WALKER,
LOUIS H. DUPART,
ROGER NORIEGA.

REPORT OF CONGRESSIONAL STAFF DELEGATION TO HAITI

From March 30, 1996 to April 3, 1996, a delegation of Congressional staff members traveled to Haiti to assess political, economic and human rights issues, and to examine U.S. assistance programs. Our staff delegation was assisted by Karen Harbert, a former AID and International Republican Institute official who traveled to Haiti at her own expense.

Our delegation included:

Randy Scheunemann, Adviser on National Security, Majority Leader, United States Senate;

Louis Dupart, Chief Counsel, Permanent Select Committee on Intelligence, United States House of Representatives;

Charles Flickner, Staff Director, Subcommittee on Foreign Operations, Committee on Appropriations, United States House of Representatives;

Roger Noriega, Professional Staff Member, Committee on International Relations, United States House of Representatives;

Christopher Walker, Senior Professional Staff Member, Committee on Foreign Relations, United States Senate.

FINDINGS

More than 18 months after Operation Uphold Democracy began, Haiti's social, political and economic situation remains troubled and tenuous. The U.S. intervention successfully destroyed the military dictatorship, and significantly reduced human rights violations, at a cost of more than $2 billion. However, the U.S. intervention in Haiti has not yet laid the foundation for lasting progress in establishing genuine democracy, in generating economic reform and sustainable development, or fostering respect for the rule of law.

RULE OF LAW

Human rights and extrajudicial killings

The conditions set forth in section 583 of Public Law 104–107 (the "Dole Amendment") on conducting thorough investigations and cooperating with the United States on investigations of extrajudicial and political killings have not been met and will not be met in the foreseeable future.

The U.S. Embassy in Port-au-Prince has failed to devote sufficient attention or resources to the critical issues of extrajudicial killings and human rights abuses perpetrated by officials of the Haitian government.

Despite general statements about the importance of human rights and the rule of law in Haiti by senior U.S. policymakers, no unequivocal or specific statement on more than 25 extrajudicial killings or the emergence of government-sponsored death squads in Haiti has been made. Serious inattention in Washington to systematic human rights violations contributed to the Embassy's uneven and incomplete attention to the critical issues of human rights and the rule of law. Moreover, there is no commitment to incarceration and prosecution of anyone involved in political murders.

Examples of the Embassy's failure to gather, act on, or report on information concerning extrajudicial killings and human rights abuses includes the following examples:

One week prior to the assassination of Mireille Durocher Bertin, the U.S. Embassy and U.S. Armed Forces in Haiti received concrete information concerning a plot to murder her which implicated senior Haitian government officials, including the Minister of Interior. For reasons which remain unclear, no American official ever directly warned Bertin or her family of the assassination plot. The decision not to provide a direct warning based on information in the possession of the United States Government had grave and quite possibly fatal consequences. Apparently, the final decision was made—and not challenged by the U.S. Embassy—by the U.S. Military Commander in Haiti, Major General George Fisher.

Until facilitating a meeting requested by the staff delegation, the American Embassy had no contact with the family of slain lawyer Mireille Durocher Bertin more than one year after her murder—despite the dispatch of some 20 U.S. Federal Bureau of Investigation Special Agents to investigate the murder. The family provided the staff delegation with new and useful information about the killing.

Until facilitating a meeting requested by the staff delegation, the U.S. Embassy had made no contact with the relatives of the March 6, 1996, Cite Soleil massacre in which eight people were killed and 11 were wounded.

The November 7, 1995, shooting in which parliamentarian Jean Hubert Feuille was killed and his colleague Gabriel Fortune was injured has not been investigated adequately. This attack had many similar characteristics to other extrajudicial killings. Fortune publicly claimed that the killers were sent by the "Palace" because of Fortune's anti-corruption campaign in the Parliament. The Embassy has made no apparent independent effort to follow-up on Fortune's explosive allegations or determine the status of the material evidence and investigation.

The Embassy has made no effort to determine basic facts surrounding the May 22, 1995, murder of Michel J. Gonzalez, a neighbor of President Aristide's who was shot and killed near his home by four gunmen riding two motorcycles; the attack was witnessed by Gonzalez' daughter, a U.S. citizen. In a meeting with members of the delegation, sources close to the Gonzalez family confirmed persistent rumors that Gonzalez had been pressed repeatedly to move from his rented home so that President Aristide could acquire the property. Despite these widespread rumors, which might suggest a motive in the attack, neither the Embassy nor MICIVIH has made any effort to determine whether the Gonzalez property (where the house has reportedly been demolished) has been incorporated into Aristide's growing 17-hectare compound.

Duly Brutus, a member of the democratic PANPRA party, was arrested briefly in July 1995 and his home was attacked by a 300-person mob in October, less than a week after his testimony before the House International Relations Committee's Subcommittee on the Western Hemisphere. Brutus became aware of threats on his life in November 1995. He was advised by the U.S. military in Haiti to contact the U.S. Embassy with regard to the threat. The Embassy was totally unresponsive to his urgent pleas for help. Because the threats persisted and no one at the Embassy would help, Brutus called the Department of Defense in Washington to request there assistance. DoD interceded on his behalf to ensure that he received safe escort to the airport in Port-au-Prince an onto a airplane bound for the U.S. In a bizarre turn of events, the Embassy vocally protested DoD's help, which ironically probably saved Mr. Brutus's life. Mr. Brutus has now sought temporary refuge in the United States.

Just before the delegation's arrival in Haiti, Mr. Brutus' wife heard a disturbance during the night at her home in Port au Prince, after which she found five bullets wrapped in stationery of the Ministry of the Interior. An Embassy political officer called Mrs. Brutus after hearing of the incident but took no further action after being assured by Mrs. Brutus that the HNP authorities appeared to be responding adequately to the incident.

Carl Denis and four other persons associated with the "Political Organization for Democracy in Haiti" (founded by Mireille Durocher Bertin shortly before her murder) were arrested on August 18, 1995, a day after a four-person demonstration in Port au Prince. They have since languished in the Haitian National Penitentiary without being charged with any crime, reportedly in violation of Haitian criminal procedure. Mr. Denis told members of the delegation that the lone U.S. Embassy visit was by a "staff sergeant"; Mr. Denis' arrest was reported in the State Department's 1995 human rights report on Haiti. In early March, Mr. Denis was visited by a representative of the Minister of Justice, who told him that there was no merit to the case; he and his companions remain in prison today.

The Embassy terminated its human rights victims fund shortly after the U.S. intervention. The fund provided more than $219,000 for more than 1,700 victims of human rights abuses and their relatives during the de facto regime's rule. Terminating the fund after the installation of President Aristide sent a clear signal that victims of human rights abuses under the Aristide and Preval governments are of less importance to the U.S. government that victims of abuses under the de facto regime.

The U.S. Embassy's Political Section is now fully staffed—which was not the case when one member of the delegation traveled to Haiti in August 1996. The section includes three officers covering political-military issues on a full time basis and one full-time human rights officer. Given the adequate staffing, the Embassy's apparently complete reliance on non-U.S. sources (such as foreigners serving with the United Nations) for reporting on high-profile cases ostensibly important to Washington is perplexing and disturbing.

In light of Washington's silence and the Embassy's inaction, it is difficult to escape the conclusion that U.S. officials did not attempt to develop independent information on extrajudicial killings because U.S. policymakers did not want to know the truth.

U.S. government lack of interest and attention to extrajudicial killings—until forced by Congressional pressure to act—sent a signal to successive Haitian governments that the U.S. would tolerate these actions.

The "Presidential Commission on Truth and Justice," which was established after President Aristide's return, to investigate human rights violations that took place during his exile, presented its report to Aristide on February 5, 1996. Although the Commission's findings have not been made public, its recommendations reportedly include compensating victims and establishing an international tribunal with foreign assistance to adjudicate some of the "5,000 cases" covered in the Commission's report. The Commission relied on support from the Canadian government and the UN Development Program since USAID failed to deliver on its promise to provide the Commission $50,000 for vehicles, computers, and office equipment.

Police dismissals

Eight individuals in the police and security apparatus of the Aristide regime have been implicated in extrajudicial murders by credible evidence. After pressure from Congress, including passage of the "DOLE Amendment" and objection to obligation of police assistance by House International Relations Committee Chairman Gilman, the Preval government agreed these individuals would not serve in any police and security force.

Congressional Republicans had long raised concerns about these individuals even before Operation Uphold Democracy began. President Aristide consistently refused to take any action against these individuals, and many of them remained in Aristide's inner circle until the end of his rule. Many of them remain close to Aristide today. President Preval deserves credit for doing what his predecessor would not: acting against the most egregious violators of human rights in the Haitian security forces.

Haitian National Police

Creation of a 5,000 person Haitian National Police (HNP) has been a massive undertaking costing the U.S. taxpayers more than $45 million to date. Despite the assistance provided by the Department of Justice's International Criminal Investigative Training Assistance Program (ICITAP), the HNP continues to be plagued by the absence of qualified leadership, lack of equipment, and lack of clear political support at the highest levels of the Haitian government.

The March 6, 1996 killings in Cite Soleil will be a critical watershed for the Haitian National Police. Reliable reports—including eyewitnesses interviewed by the staff delegation—implicate members of the HNP in the murders. Beyond the alleged direct involvement of HNP officers in the crimes, senior HNP officials must bear responsibility for the loss of control of the situation. The new HNP Inspector General—dismissed under the Aristide regime for actually trying to investigate a political murder—has begun to investigate the Cite Soleil incident.

In addition to Cite Soleil, HNP officers have been involved in a number of shootings, beatings and other human rights abuses. In addition, at least one officer has been murdered in circumstances which remain unclear.

Although the HNP has developed its manuel de directives, a code of regulations and operating procedures, most HNP officers are not familiar with it, making disciplinary action against HNP officers for violations of law or human rights infrequent. Staff were informed by MICIVIH officials in Goniaves that a local HNP commissaire was known to have committed at least two abuses, including severely beating a civilian, but was merely demoted to the rank of officer.

The delegation learned from U.N. Civilian Police (CIVPOL) trainers that HNP officers recently destroyed two new U.N. vehicles during routine patrols in Gonaives and that the drivers of the vehicles possessed no driver's licenses nor had been taught how to drive. CIVPOL field personnel estimate that 98 percent of all HNP officers do not know how to drive. According to the U.S. State Department, 300 of the 500 vehicles provided to the HNP have been wrecked.

In addition to the Haitian National Police, numerous other armed governmental security forces exist in Haiti, including the National Intelligence Service (SIN), the Ministerial Guards, the National Palace and Residential Security Unit (NPRSU) and the Presidential Security Unit. Particularly in the cases of the SIN, the NPRSU and the Ministerial Guards, it is unclear who in the Government of Haiti controls their activities. There are widespread and credible reports of serious human rights abuses by these security forces.

Special Investigative Unit (SIU)

The much-trumpeted Special Investigative Unit (SIU) of the Haitian National Police is woefully ill-prepared to undertake the criminal investigations with which it has been charged.

SIU investigators have no more than one week of specialized training in skills necessary to conduct criminal investigations.

The SIU is only at 25 percent of the strength proposed by the U.S., and has yet to receive any of the 100 percent increase in investigators promised by the Haitian government. The SIU currently consists of only 10 officers, charged with more than 80 cases.

SIU investigators do not have access to vehicles, communications equipment, office supplies, and basic investigative equipment. The SIU received office space large enough and secure enough to accommodate its needs.

The work of the SIU has been severely compromised by the presence of three American attorneys and one American "investigator" closely identified with many who have publicly and regularly questioned the overwhelming evidence of Haitian government involvement in extrajudicial killings. These individuals are paid by the government of Haiti on terms they refused to disclose to the staff delegation, and have had total access to all SIU investigative files. Prior to the arrival of two American contractors hired by the Department of State to work with the SIU, all SIU investigations were supervised and controlled by these lawyers.

U.S. Embassy officials did not comprehend or report on the significance of critical issues relating to extrajudicial killings, including crucial developments at the Special Investigative Unit (SIU) of the Haitian National Police. The Embassy official responsible for police issues visited the SIU less than once a month since its creation in October, 1995.

Even if the American lawyers and "investigator" who have tainted SIU actions to date are physically removed and receive no further access to SIU investigators and information, severe damage has already compromised the activities of the SIU on the most important cases. One lawyer was present for the December, 1995 FBI briefing of Haitian government officials on the Bertin case, and all SIU files have already been available for their unlimited perusal.

It is unclear why the vast majority of the SIU's caseload involves crimes from the de facto years. These cases were the subject of the Truth Commission report, and these crimes were an important factor leading to U.S. intervention. It is also unclear why, in light of the decision to include cases prior to September 1994, cases from the first seven months of President Aristide's rule were excluded.

Narcotics

For years, endemic corruption and unpatrolled borders, water, and ports have made Haiti a prime target for the smuggling of illicit drugs. After months of inaction under Aristide, the new Haitian government has named a chief of its anti-narcotics unit. The police chief has promised but not yet delivered adequate nationwide staffing or resources. Members of the inexperienced police force will require basic investigative and anti-drug training. A full time DEA office and a State Department Narcotics Assistance Section resident in Miami is moving to implement training and cooperation plans.

Judicial reform

Haiti's judicial system is almost completely dysfunctional. Despite more than $3 million in AID assistance already obligated (AID has programed $18 million through FY 1999), even the most basic training and equipment needs remain unmet. While AID claims that 400 judges and prosecutors have benefited from short-term training seminars, AID has "detected a steady pattern of judges selected by the Ministry for training only to be fired shortly after—or even during—the two week course." Even if HNP investigations bring prosecutions against those responsible for the politically motivated murders, it is unlikely that the judicial system can swiftly, much less impartially, act on these cases.

CLINTON ADMINISTRATION POLITICIZATION OF HAITI POLICY

The Clinton Administration has conducted a sustained and coordinated inter-agency effort designed to blame the legislative branch for the shortcomings of its own policies in Haiti. By repeatedly seeking to politicize Haiti policy, the Clinton Administration has done a disservice to the appropriate role of Congress and, more importantly, to the Haitian people. It has also, as a result of systematic obfuscation, kept its own program managers in the dark about these matters, risking the effectiveness of important programs.

The staff delegation heard numerous examples of incomplete, inaccurate, and intentionally misleading information about the role of Congress provided by Clinton Administration officials in Washington to staff, the AID mission, government of Haiti officials and the Haitian business community.

The Embassy and senior Administration officials have repeatedly stated that they welcome Congressional pressure because it leverages their pressure on the Haitian government. Unfortunately, the staff delegation found an absence of pressure by the Administration unless there was Congressional interest.

While senior AID officials assert that Congress is responsible for delays in providing police training programs in Haiti, State Department officials take credit for suspending police training assistance because of the presence of alleged criminals in senior police positions. ICITAP officials in Haiti were not informed of key policy decisions impacting police training programs nor the basis for such decisions.

Senior Administration officials in Washington also criticize Congress for failing to make available funding for certain AID projects in Haiti, yet they conceal the complete picture of serious problems with U.S. assistance programs in Haiti.

While criticizing Congressional concerns about $4.2 million in development assistance programs alleged to be "humanitarian", AID itself has delayed obligation of more than $5.5 million for similar programs because of serious concerns about the competence of the Haitian cabinet minister responsible for administering these funds.

AID, not Congress, has withheld since 1995 a $4.6 million cash transfer to the Haitian treasury because of that government's failure to meet mutually-agreed upon privatization goals.

AID officials have criticized a congressional hold on an environmental project known as "Agricultural Sustainable Systems and Environmental Transformations" (ASSET). Yet at a bipartisan congressional staff briefing in February, 1996, AID officials stated that they intended to withdraw the project altogether because, according to internal AID documents, the project "has been stymied" by the Haitian Ministry of Environment. Other AID electronic mail messages reveal that AID did not withdraw the project because AID's Assistant Administrator of Latin America and the Caribbean sought political advantage in blaming Congress for holding up the project.

In Washington, the Administrator of AID blames Congress for withholding humanitarian aid, but in Haiti, AID internal documents state that "the $50 million Health Systems 2004 Project "is languishing" because of problems with the Haitian Minister of Health.

The impact of the "Dole Amendment" has been consistently misrepresented by officials in Washington and within the U.S. Embassy in Haiti. Despite the clear exemptions for humanitarian and electoral assistance, numerous Haitian and U.S. officials have been informed—incorrectly—that the "Dole Amendment" is responsible for delays in such programs.

DEMOCRATIZATION AND POLITICAL ISSUES

Haiti's political power struggle

In a striking and profound reversal, U.S. and international officials in Haiti now argue that the Preval government deserves U.S. support in order to prevent former President Aristide from thwarting important policy objectives, especially on economic and judicial reform. The staff delegation consistently heard numerous officials cite policy initiatives—moribund under the Aristide government—which could actually proceed under the Preval government if U.S. and international support were provided. Such criticisms of the Aristide regime, voiced now in retrospect, were not voiced when they could have made a difference.

Although Lavalas formally controls the executive, legislative and judicial branches of government, a three way struggle for political power is thought to be underway in Haiti: President Preval has the government, Gerard Pierre Charles has the Lavalas political organization, and former President Aristide has the popular support. Unfortunately, while President Preval's stated objectives most closely match U.S. policy goals, he is the weakest of the three contenders.

Presidential elections

Presidential elections were held on December 17, 1995. Aristide's hand-picked successor, Rene Preval, won 80 percent of the vote with only 25 percent of eligible voters casting ballots. Preval campaigned as Aristide's "twin," touting "Five More Years of Lavalas." Although these elections were run more efficiently than the controversial June 25 parliamentary balloting, a level playing field did not exist. Aristide's Lavalas movement dominated the Provisional Electoral Council (CEP) on national and regional levels. Lavalas partisans routinely harassed opposition figures, driving some center-to-right leaders out of the country altogether. The presidential filing deadline coincided with widespread political riots, incited by President Aristide's November 11, 1995 eulogy for slain parliamentarian Jean Hubert Feuille.

Opposition parties, whose many valid complaints about the parliamentary elections were unheeded, boycotted the elections altogether. What remained of the "independent media" (where radio is most important) practiced "self-censorship," avoiding stories that might offend Lavalas partisans. And, international observers (including the United States government, the OAS, and the UN), in a rush to vindicate their mission, rubber-stamped the parliamentary and presidential results.

The 1995 elections

Haiti's series of elections in 1995 were deeply flawed and did little to advance genuine democracy in Haiti. The egregious flaws before, during and after the June, August, September and November elections cast a serious and lingering cloud over the limited progress toward democratic pluralism in Haiti.

The democratic opposition in Haiti is demoralized and fragmented. U.S. credibility with the democratic opposition never recovered from two serious blows: refusal to acknowledge systematic problems before the June 25 elections; and the rapid U.S. stamp of approval issued the day of the elections before the polls closed by the head of the official U.S. observer delegation, AID Administrator J. Brian Atwood. Overwhelming evidence of insecure ballots, candidate exclusion and a host of other problems has been detailed comprehensively by the International Republican Institute and the Carter Center. AID documents published recently have dropped the word "fair" from its descriptions of the 1995 electoral process.

A U.S. government-brokered accord between the democratic opposition and Aristide government after the June 25 elections were belated, and ultimately ineffective. The most significant potential breakthrough in these negotiations was halted by President Aristide's own intransigence.

There still has not been a full and satisfactory accounting of all U.S. election support assistance in 1995 (in excess of $12 million). Because of this failure, AID has no funds programmed for the 1996 Territorial Assembly and Senate elections and refuses to provide any election support until the United Nations and the Haitian Provisional Electoral Council (CEP) undertake and release a complete accounting of all USAID funds in the Haitian Election Trust Fund.

Haitian Parliament

The Lavalas-dominated bicameral parliament has demonstrated unusual independence from the executive branch by rejecting Aristide's choice for police chief, negotiating prime minister and cabinet candidates, and scrutinizing Preval's budget request. Preval is moving slowly to educate and inform a skeptical, populist Parliament that will be called upon, within a few months, to consider budget cuts, civil service reform, privatization of state enterprises, among others. Many parliamentarians have no government experience, and the institution has no research staff or facilities to carry out basic analytical or deliberative functions. For these reasons, despite the guarded optimism about the Preval government's commitment to economic reform, the parliament may prove to be a battleground—and a bottleneck.

INTERNATIONAL PRESENCE

O.A.S./U.N. civilian monitoring mission in Haiti (MICIVIH)

A case has been made for a continued international presence in Haiti after the expiration of the UNMIH II and MICIVIH mandates, but it is by no means certain that extension of either of these operations under their current mandate is the best form for such a presence to take.

MICIVIH's current mandate expires on May 31 and an internal U.N. Security Council dispute may preclude extension. In its current scaled-down form, MICIVIH has 64 observers in Haiti (each paid $5-6000 monthly) down from a peak of 170, and has 7 offices down from a peak of 12. MICIVIH currently spends almost $600,000 monthly.

MICIVIH has adopted a passive role in observing human rights conditions in Haiti, with the mission's director describing conditions today as "relatively quiet." MICIVIH has identified more than 20 murders in the past year as "commando-style executions", the victims of which include political opposition leaders and business persons. U.S. officials acknowledge publicly that several of these killings are linked and that Haitian government officials appear to have been involved in the murders and the subsequent cover-up. MICIVIH, which played an activist role when the de facto regime held power, has made little effort to press the Haitian government for investigation or prosecution of these killings.

U.S. MILITARY PRESENCE

All U.S. military forces associated with UNMIH operation are scheduled to leave Haiti by April 23. The U.S. bilateral military engineering, medical, and civil affairs exercise "Fairwinds", consisting of active duty and reserve forces, will continue through 1997.

The U.S. military continues to provide important engineering and civil works support in Haiti. Despite the persistent refusal of the government of Haiti to respond to requests about priority projects, the U.S. military has undertaken a series of successful civil works efforts to rehabilitate roads, sewers, schools and health clinics.

The Administration recently decided to keep two Chinook heavy-lift helicopters and 40 personnel in Haiti to support the Canadian contingent of UNMIH through May 10. After that, a U.S. contractor will operate helicopters in support of UNMIH forces. On April 10, 1996, the State Department notified Congress of its intent to finance the air support (at least $1.2 million during the next six months) from its voluntary peacekeeping account.

ECONOMY AND DEVELOPMENT

Haitian Economy

The Haitian economy remains highly dependent on foreign assistance, including food aid, and remittances from Haitians living abroad; at least 65 percent of the 1995 budget was provided by international assistance. Despite attempts to promote private investment, adverse internal political developments have reinforced foreign and Haitian investor concerns about the political and security outlook in Haiti. The 1985 level of private investment in Haiti—a very low baseline —is not likely to be restored in this century.

A major problem for Haitians seeking to break their nation's cycle of misgovernance and poverty is the simple fact that revenues (at about 3 percent of GDP) do not come close to the admittedly inadequate level of government spending (about 7 percent of GDP). Ambitious U.S. Embassy and AID attempts to "irreversibly and fundamentally change Haitian society" through projects aimed at Haitian institutions over several years will fail if Haiti cannot pay its government workers and police. They will also fail if Haiti cannot correct its macroeconomic policy. Sustainable development is a distant dream under these circumstances.

Privatization

President Preval renewed the commitments he made in Washington, D.C. in late March 1996 to resume the privatization program halted by former President Aristide in October 1995. Whether the new President can overcome strident opposition to privatization from his predecessor and a skeptical parliament remains to be seen.

An ambitious schedule for comprehensive economic reforms calls for negotiations between the Preval Government and international donors to begin on April 15, possibly resulting in signed agreements by the end of May. The untested new Haitian Minister of Finance and the remaining Preval economic team will have to stretch their limited political mandate and untested political skills to the limit if there is to be hope of reaching agreements acceptable to both Washington and the Lavalas coalition.

Privatization will continue to be a major sticking point. Both the U.S. and the World Bank appear to be insisting on completion of the process of turning over to private management on a lease basis the local flour mill and cement plant—both of which are idle. Both became symbols of Aristide's resistance to economic reform when he refused to open bids for management of the mill and plant in October 1995. This led to the resignation of reformist Prime Minister Smarck Michel, and the termination of nascent economic recovery in the months since.

At the beginning of April, some elements of Haiti's economic team were searching for a way to proceed with privatization while taking into account popular resistance to the concept. A draft proposal would accelerate the outright sale of 50 percent of the flour mill and cement plant. The remaining 50 percent would be assigned to a holding company representing local authorities who could eventually benefit from any distributed profits.

Bureaucratic waste, fraud and corruption continue to be a major drag on the Haitian government. More than 90 percent of the entire Haitian budget is dedicated to salaries, and up to 30 percent of the Haitian civil service consists of "phantom" employees drawing 50 percent of the payroll.

International financial institutions

The International Monetary Fund (IMF), the World Bank, and the Inter-American Development Bank (IDB) are committing far more economic resources to Haiti than the major bilateral donors, the United States, Canada, and France. About $230 million was made available by the IFIs in 1995 through the simple device of releasing funds frozen during Aristide's exile. An equal or greater amount is scheduled for 1996. Of course, the military costs absorbed by the United States and Canada in restoring President Aristide have not been taken into account when measuring bilateral foreign aid contributions.

More than $100 million in IFI assistance is frozen because of the Haitian government's refusal to meet mutually-agreed upon privatization goals.

The IMF and World Bank are approaching their 1996 negotiations with the Preval Government with some determination to avoid repeating the exceptional procedures used to disburse funds to the Aristide Government in early 1995. Those loans lacked specific conditions and were heavily front-loaded, precluding any opportunity to match promises with performance.

By summer, IMF and World Bank disbursements will be needed in order to meet GOH payrolls and balance of payments requirements. Without a viable economic reform package in place by June 1, that schedule will not be met. Any delays or breakdown in negotiations with the IFIs will result in a renewal of Clinton Administration efforts to fill the resulting budget gap through use of bilateral ESF, of which up to $60 million may remain from the 1996 appropriation. Much of the ESF for Haiti is now allocated to projects.

The IDB representative in Haiti may be more willing than his IFI counterparts to advance up to $350 million in additional concessional loans to the Preval Government. He appeared to measure success by the level of loans committed, not their contribution to sound policies in Haiti. It should be noted that the IDB and the World Bank were willing to co-finance public works projects in Haiti undertaken by U.S. armed forces engineers when AID appeared unable to do so.

AID mission in Haiti

Many AID projects do not meet the basic criteria of "sustainability". For example, according to an internal AID evaluation of its community development projects in one area of Port-au-Prince, a majority either failed or were unsustainable. AID's internal auditor notes in the case of renovations to the school, Ecole La Sanctification, "This was a gift, not a project!" and for another project AID writes, "This project was a one time affair without a sustainable component towards development."

AID's sole contribution to privatization in Haiti has been a $2 million grant to the International Finance Corporation to fund IFC-sponsored reports and, according to AID, a "public awareness campaign". In light of the strong—and ill-informed—public opposition to privatization in Haiti, any public awareness campaign has failed.

Through AID's new "Results Review and Resource Requirements" ("R4") process, it is difficult to assess AID's successes and failures since AID now claims credit for projects in which it has no financial or technical stake. For example, AID claims it "assisted the U.S. military. . .to identify infrastructure projects." Senior U.S. military officials claim that no collaboration exists between the U.S. military and USAID. Further, the project in question, repairs to Harry Truman Blvd.—the city's main thoroughfare which runs in front of the U.S. Embassy—were paid for by the Inter-American Development Bank.

As part of its short term jobs program, AID contracted to develop a data-base of Haitians and Haitian-American residents with marketable technical skills. An AID contractor was paid to develop the skills bank database, which includes 1,171 listings, and it completed its work in October 1995. Despite AID's purported goal of the project which was "rapid mobilization of individuals", today—five months later—no part of the data-base has been made available to the Haitian government or local organizations.

AID lacks innovative methods for dealing with the critical problems facing Haiti. For example, AID's ASSET project seeks to plant more trees in Haiti, continuing a program which has resulted in the planting of 90 million trees over 15 years. Regrettably, there is little evidence that additional tree planting will be effective since Haitians continue the massive deforestation of their country at a rate of 30 million trees annually.

AID's grantee to work with the Parliament, has little experience working with legislatures or working with Haiti, is moving slowly in its critical work. A previous contractor with extensive experience in Haiti and in parliamentary development, was dropped by AID, apparently because of the contractor's previous work with the democratic opposition to President Aristide.

AID takes credit for a training program for 3,000 demobilized enlisted former members of the Haitian armed forces (FAd'H), and for 2,400 ex-members of Interim Public Security Force. While AID claims 2,800 "employment opportunities with private employers have been identified," AID documents omit the fact that less than 4 percent of the former FAd'H members have actually found employment. AID officials also reportedly boycotted graduation ceremonies for the former FAd'H trainees for ideological reasons.

U.N. development program

As with all UNDP projects, it is difficult to determine their success, failure or sustainability since nearly all of UNDP projects are subcontracted out to other United Nations agencies or to private contractors to provide "technical assistance." Staff did learn that UNDP's contribution to Haitian privatization consisted of a single technical report, which, despite 15 months of preparation and review, has not yet been submitted to the government of Haiti nor disseminated to the private sector. The U.S. Embassy also remains at odds with UNDP over a prison reform project, repeatedly yet unsuccessfully urging UNDP to do more than offer seminars.

Staff visited a $10,000 pilot project designed by UNDP to teach rural farmers basic agricultural methods to alleviate soil erosion from hillside farming. It is curious that UNDP is only now undertaking a pilot project of this nature since environmental destruction due to this method of farming has been evident in Haiti for decades.

RECOMMENDATIONS

Rule of Law

Haitian National Police

The Government of Haiti should immediately demonstrate its commitment to the Haitian National Police and the Special Investigative Unit. President Preval's visit to the SIU immediately after the delegation left Haiti was a positive step—unfortunately, the visit was not well-coordinated and no one was at the unit's headquarters during the visit.

ICITAP should repair the critical flaws apparent in its Haiti training program, especially in supervisory and investigative personnel, revising future training programs it carries out. The desperate lack of trained supervisory and investigatory personnel must also be immediately addressed if the Haitian National Police and its specialized units are ever to operate effectively. Both shortages should have been foreseen much earlier, and should be addressed in future ICITAP programs.

Visas to enter the United States should be immediately withdrawn for all current or former Haitian officials suspected on the basis of credible evidence to be involved in extrajudicial killings or other gross violations of human rights until they are formally cleared by the Haitian judicial system.

In light of the fact that the report required by the "Dole Amendment" cannot be honestly made, U.S. assistance to the government of Haiti must be immediately reviewed, and all ongoing assistance programs, except for legitimate humanitarian or electoral assistance, to the government should be suspended pending the outcome of the review.

Special Investigative Unit

No further assistance to the HNP or the SIU should be obligated or expended until the following conditions have occurred:

A credible, respected head of the SIU is appointed.

A full-time prosecutor is assigned to the SIU.

Additional investigators are assigned to the unit, reflecting the U.S. preference for 40 full-time investigators.

Priority in manpower and other resources is given to cases of extrajudicial killing after the return of former President Aristide.

Access to SIU investigations, investigators and material is completely and demonstrably denied to the American lawyers and "investigator" who have been working with the SIU or anyone else who might compromise the integrity of the investigations.

If the above conditions have been met, and after prior consultation with Congress, ICITAP should move immediately to augment training and technical assistance for the Inspector General of the HNP and the Special Investigative Unit, including forensics, communication and other much-needed aid.

After the modus operandi of the SIU is clearly defined to ensure the security of sensitive material, the FBI should cooperate fully, including sharing complete files, with the U.S. SIU contractors to ensure timely access to all evidence and reports needed to conduct a thorough investigation of extrajudicial killings.

U.S. Embassy

The Embassy must make human rights a priority. The Embassy should immediately reconstitute its human rights fund to assist victims of political violence and their families. The Embassy should assume responsibility for monitoring, gathering information and reporting on extrajudicial killings, including the murders of Mireille Bertin, Jean Hubert Feuille, Michael Gonzalez, and those killed in the Cite Soleil massacre.

The Inspectors General at the Department of Defense and the Department of State, the General Accounting Office and the U.S. Congress should conduct independent investigations into the reasons why no U.S. government official warned Mireille Durocher Bertin of an assassination plot against her involving senior Haitian government officials, despite possessing clear and credible information of such a plot. The investigation should include the role of U.S. Embassy and U.S. Armed Forces personnel in the decision not to directly inform Bertin about the assassination plot.

Politicization

The Administration should cooperate fully with all Congressional Committee requests for documents related to U.S. policy in Haiti. Timely responses to all Congressional requests for information regarding the Administration's policies in Haiti would be a positive, good faith step in restoring bipartisan cooperation in Haiti.

Administration officials should end their intentional mischaracterizations of the "Dole Amendment" and should make available to the U.S. Embassy, the USAID mission in Haiti, the government of Haiti, nongovernmental organizations and the media accurate information about the reasons for the withholding of U.S. assistance.

Economy and development

AID and assistance issues

AID should not consider releasing the Fiscal Year 1995 $4.6 million cash transfer to the government of Haiti until true privatization has taken hold. Under current circumstances, the staff delegation does not foresee the situation in Haiti improving to the point at which there would be justification for releasing any Fiscal Year 1996 funds for balance of payments support. Without swift action by the government of Haiti to substantially cut its civil service payroll, any U.S. balance of payments support will only be wasted.

Congress should not approve any additional Administration requests to use scarce ESF funds in Haiti until a sustainable economic reform program has been implemented. Congress should also carefully monitor the use of the $60 million in ESF made available from the FY 1996 appropriation.

Given that AID claims it cannot move forward on its ASSET project due to government of Haiti intransigence, AID should immediately withdraw this Congressional Notification.

AID should immediately terminate projects which are not sustainable. While many of the short term jobs programs and training aid have given the perception that Haiti's economy is progressing and that AID's efforts in this area have been successful, that is simply not the case. As seen by the staff delegation, when AID resources for these projects are exhausted, the projects have failed.

Privatization

The Government of Haiti must accelerate the rate of privatization. Privatizing the cement factory and the flour mill, while important, should not represent the culmination of the government's efforts, rather they should serve as a useful first step catalysts to further privatization.

The International Financial Institutions should hold firm on their insistence on steps toward privatization, requiring that reforms be enacted before assistance is disbursed. Congress should carefully review the 1997 request for the IADB's Fund for Special Operations to ensure that its use in Haiti would not result in the postponing of economic and civil service reform and privatization. Further, U.S. executive directors at these institutions should use significant American leverage, including their voice and vote, to ensure that reforms precede assistance.

Democratization and politics

AID must intensify its effort to provide material and technical support so the Parliament can function as efficiently as possible. Current delays, in large part due to AID's change of contractor midstream, should be immediately resolved. Support should include timely, practical assistance on substantive issues which are expected to be taken up by the Parliament soon.

AID should demand a full and complete accounting from the United Nations and the government of Haiti for all U.S. assistance provided for the 1995 elections. No additional election assistance should be provided until this accounting is made public and made available to Congress.

International presence

The MICIVIH mission should not divert all its attention toward long-term institution building in Haiti at this time, rather it should be more aggressive in its basic human rights monitoring and reporting activities. MICIVIH should further press the Preval government to investigate all human rights violations, especially those cases under the investigative jurisdiction of the SIU and the Truth Commission.

ORDERS FOR MONDAY, APRIL 22, 1996

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. on Monday, April 22; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date; no resolutions come over under the rule; the call of the calendar be dispensed with; the morning hour be deemed to have expired; the time for the two leaders be reserved for their use later in the day; and that there then be a period for morning business until the hour of 2 p.m. with Senators to speak for up to 5 minutes each with the first 90 minutes under the control of Senator DASCHLE, or his designees, and the last 90 minutes under the control of Senator COVERDELL, or his designee; further, that at the hour of 2 p.m. the Senate resume consideration of Calendar No. 201, Senate Joint Resolution 21 regarding a constitutional amendment to limit congressional terms.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I further ask unanimous consent that following the 2:15 p.m. cloture vote on Tuesday, notwithstanding rule XXII, the Senate proceed to the vote on final passage of the health insurance reform bill, H.R. 3103.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I further ask unanimous consent that at 12 noon on Tuesday, April 23, there be 30 minutes equally divided in the usual form with respect to closing remarks on the health insurance reform bill which was considered and debated throughout yesterday's session of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. I just say for the information of all Senators and members of their staffs, we will convene at 11 o'clock on Monday. There will be 3 hours of morning business, and following morning business the Senate will then resume consideration of term limits legislation. No rollcall votes will occur during Monday's session of the Senate. Senators are reminded that under rule XXII all first-degree amendments to the term limits legislation must be filed with the clerk by 1 p.m. on Monday. Second-degree amendments must be filed no later than 1 hour prior to the cloture vote on Tuesday.

Since the Senate will be in recess for the weekly party caucuses to meet, I now ask unanimous consent that Members have until 12:30 p.m. on Tuesday, April 23, to file their second-degree amendments to the term limits legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. When the Senate completes debate on Monday, it will resume consideration of the term limits legislation Tuesday morning until 12 noon. No rollcall votes will occur during Tuesday's session prior to the hour of 2:15 p.m.

At 2:15 p.m. on Tuesday, two votes will occur back to back, the first being a cloture vote with respect to the term limits legislation, and the second vote will be on passage of the health insurance reform bill. Senators are encouraged to debate the term limits legislation during the session of the Senate on Monday and Tuesday morning. The Senate may also be asked to turn to any other legislative items to be cleared for action.

Unless there is some objection, I ask unanimous consent that that second vote be limited to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I am not certain what we will have to do after the vote, depending on whether cloture is obtained. If it is not obtained, we may move on to other business. We could go back to the immigration bill. I am not certain of that. But we would like to stay on schedule, and we need to complete action on the immigration bill.

Let me indicate there is widespread support all across America, nonpartisan, bipartisan support for immigration reform, and I hope we can complete action on that bill sometime next week.

ADJOURNMENT UNTIL 11 A.M. MONDAY, APRIL 22, 1996

Mr. DOLE. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 3:50 p.m., adjourned until Monday, April 22, 1996, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate April 19, 1996:

IN THE COAST GUARD

THE FOLLOWING OFFICERS OF THE U.S. COAST GUARD TO BE MEMBERS OF THE PERMANENT COMMISSIONED TEACHING STAFF AT THE COAST GUARD ACADEMY IN THE GRADE OF LIEUTENANT COMMANDER:

VINCENT WILCZYNSKI
JOHN B. MCDERMOTT

THE FOLLOWING OFFICER OF THE U.S. COAST GUARD TO BE A MEMBER OF THE PERMANENT COMMISSIONED TEACHING STAFF AT THE COAST GUARD ACADEMY IN THE GRADE OF LIEUTENANT:

JAMES R. DIRE

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

LT. GEN. WESLEY K. CLARK [redacted] U.S. ARMY.

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE STAFF CORPS IN THE NAVY OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

MEDICAL CORPS

To be rear admiral (lower half)

CAPT. ALBERTO DIAZ, JR. [redacted] U.S. NAVY.

SUPPLY CORPS

To be rear admiral (lower half)

CAPT. DAVID P. KELLER [redacted] U.S. NAVY.

CIVIL ENGINEER CORPS

To be rear admiral (lower half)

CAPT. PETER W. MARSHALL [redacted] U.S. NAVY.

IN THE AIR FORCE

THE FOLLOWING CADETS, U.S. MILITARY ACADEMY, FOR APPOINTMENT AS SECOND LIEUTENANT IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF SECTIONS 531 AND 541, TITLE 10, UNITED STATES CODE, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

RYAN C. BERRY, [redacted]
MATTHEW K. BRANDT [redacted]
IAN S. CURRIER, [redacted]
STEPHEN P. PIRNER [redacted]
JAMAR D. SCOTT [redacted]
GERALD T. YAP [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE:

ARMY COMPETITIVE

To be lieutenant colonel

ROBERT A. CHILDERS [redacted]

THE FOLLOWING-NAMED INDIVIDUALS FOR A RESERVE OF THE ARMY APPOINTMENT, WITHOUT CONCURRENT ORDER TO ACTIVE DUTY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 12203, 12204, 3353 AND 3359:

MEDICAL CORPS

To be lieutenant colonel

CARL E. DAWKINS, JR. [redacted]
JOHN B. LEARY [redacted]
LEON I. STEINBERG [redacted]

EXTENSIONS OF REMARKS

SOUTH DAKOTA VOICE OF DEMOCRACY WINNER

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 19, 1996

Mr. JOHNSON of South Dakota. Mr. Speaker, Ms. Nicole Sanderson of Wagner, SD, was recently selected as a State winner in the Voice of Democracy broadcast script writing contest conducted each year by the Veterans of Foreign Wars of the United States and its ladies auxiliary. The contest theme for this year was answering America's call, and of the more than 116,000 secondary school students who participated in this year's contest, Nicole was also named a winner at the national level. Mr. Speaker, I ask that Nicole's winning script be reprinted in the CONGRESSIONAL RECORD. She deserves to be commended for her exceptional efforts in writing this script and participating in this contest. Nicole's insights and enthusiasm will serve as a model to others her age.

ANSWERING AMERICA'S CALL

(By Nicole Sanderson, Post 7319, WAGNER, SD)

Alexander Hamilton once said, "The sacred rights of mankind are not to be rummaged for, among old parchments, or musty records. They are written, as with a sunbeam in the whole volume of human nature, by the hand of the divinity itself; and can never be erased or obscured by mortal power." Not in the course of human events would one discover a more substantial remark or a clearer understanding of the prospect of the American dream than that of Alexander Hamilton's. Hamilton truly believed that the so-called "American experiment" would succeed and over generations would prove to be a powerful existence. Hamilton realized that to simply live under the wrath of tyranny with no objections would be surrendering the very rights he deemed necessary, but to fight for the rule of one's own hand was justification for every rebellion in the cause for justice and freedom.

In the two hundred years since our forefathers signed the Constitution, America has gained the respect of those very nations who believed we were a failing idea from the start. She has grown to be the strong, influential nation Hamilton and many others had foreseen, regarding with utmost respect those ideas we were founded on. Today, however, America is lacking the respect from her own citizens that we once so eagerly prided ourselves on.

Many Americans have turned to the idea of hatred, deceit, and revenge. But why? Has the American dream failed them or have they simply failed the American dream? With crime rate on a drastic increase and disregard for the law a common occurrence, Americans have lost the sense of direction that the founders of this great country so generously provided and intended for us. We must not sit back and watch as the destruction of our country continues, but we must speak out to those who are disrespectful to the constitution and to the American people. We must prove to them that America is not the villain they see, but merely one modest voice in the choir of heroes.

When Abraham Lincoln was assassinated, that was not the dream intended for our country, and when the innocent people of the Oklahoma City bombing were so brutally victimized, that was not the dream America would one day prosper from either, but merely the blatant disrespect for human life and the rights of all who care for this country. Once again, I ask why? America is about freedom and responsibility. America is the dream of unity and everlasting respect. Why, then, are there demonstrations burning the very flag in which we should so gratefully salute, burning the very idea our forefathers worked, fought and died for. The authors of the Constitution did not attempt to establish a government and a symbol for all to honor so that one day their descendants could flagrantly burn and degrade their accomplishments. We must encourage those voices that they did not choose America, but America chose them, and now they must return her kind favor and participate in the Government which tries so very hard to guarantee their freedom, their responsibility, and their prosperity.

Never have I been so disappointed with my fellow citizens as when I see such horrendous disregard for human rights. Does not the Declaration of Independence directly state that "all men are created equal, that they are endowed by their creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness?"

Then why are people committing such acts of violence against one another, so unthinkable to our choice of freedom, hindering every possibility of justice among free, self-governed men? As a young citizen of this remarkable country, I feel it not only my privilege, but also my duty to protect and honor her at all times and to create within her the direction our fathers intended.

We must not blind ourselves to the needs of our nation, but we must stand up and fight to regain the pride and honesty we once knew. America is calling us, pleading for us to help her. As the future of this great nation, we must not only believe in the ideas of unity among the people, freedom and equality for all men, and the pleasure and possibilities of good government, but we must also act on them. Answering her calls will not be easy, but it will be necessary to fight the hatred that is growing stronger every day.

This nation calls to us from the graves of those long since gone, from the patriotic memorials of those we honor, and from the very idea we hold strong in our hearts, the idea of freedom, asking us kindly to remember those who gave so graciously to this country their lives and their freedom so that we might have ours. We must never forget how fortunate we are to be Americans and how wonderful it is to be free. America is calling out to you. Are you listening?

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

HOUSE OF REPRESENTATIVES—*Monday, April 22, 1996*

The House met at 2 p.m. and was called to order by the Speaker pro tempore [Mr. FUNDERBURK].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 22, 1996.

I hereby designate the Honorable DAVID FUNDERBURK to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

In this moment of quiet and reverence remind us, O God, that we can hear Your word in the hushed moments of life, when the detractions of every day are put aside and we allow our senses to listen and to hear Your words of faith and hope and love. Open our senses so we are alert to Your leading and unlock any perception we have that hinders us from Your blessings. Be with us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Louisiana [Mr. LIVINGSTON] come forward and lead the House in the Pledge of Allegiance.

Mr. LIVINGSTON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, April 19, 1996.

Hon. NEWT GINGRICH,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on Friday, April 19, 1996 at 12:40 p.m.: That the Senate passed without amendment H.R. 3034.

With warm regards,

ROBIN H. CARLE,
Clerk.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Friday, April 19, 1996: H.R. 3034, to amend the Indian Self-Determination and Education Assistance Act to extend for 2 months the authority for promulgating regulations under the act.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 3019, BALANCED BUDGET DOWN PAYMENT ACT, II

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, Monday, April 22, 1996, to file a conference report on the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES AND COMMITTEE ON INTERNATIONAL RELATIONS

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Economic and Educational Opportunities and the Committee on International Relations:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 22, 1996.

Hon. NEWT GINGRICH,
Speaker, the Capitol,
Washington, DC.

DEAR MR. SPEAKER: I hereby resign my position as a member of the Economic and Educational Opportunities Committee and the International Relations Committee effective upon ratification by the full House of my membership on the House Commerce Committee.

I wish to thank Chairman Gilman, Ranking Member Hamilton, Chairman Goodling, Ranking Member Clay and all the members of these committees for the many courtesies extended to me during my service on these two panels.

While I am honored to serve as the newest member of the Commerce Committee, I look forward to also returning to my assignment on the International Relations Committee where I have been a member for more than seven years.

Thank you for your assistance with this matter.

Sincerely,

ELIOT L. ENGEL,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON SMALL BUSINESS

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Small Business:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 22, 1996.

Hon. NEWT GINGRICH,
Speaker, House of Representatives, Capitol Building, Washington, DC.

DEAR MR. SPEAKER: This letter serves as my formal resignation from the House Committee on Small Business. This resignation is effective as of the date of this letter.

Sincerely,

BENNIE G. THOMPSON,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. FAZIO of California. Mr. Speaker, I offer a privileged resolution (H. Res. 408) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

HOUSE RESOLUTION 408

Resolved, That the following named Members be, and that they are hereby, elected to the following standing committees of the House of Representatives:

To the Committee on the Budget, Sander Levin of Michigan; Bennie Thompson of Mississippi; to the Committee on Commerce, Eliot Engel of New York; to the Committee on Small Business, Jesse Jackson, Jr. of Illinois; Juanita Millender-McDonald of California; to the Committee on Transportation and

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Infrastructure, Juanita Millender-McDonald of California.

The resolution was agreed to.

A motion to reconsider was laid of the table.

HONORING THE LEGACY OF THEODORE ROOSEVELT ON EARTH DAY

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I am proud to have with me a group of outstanding high school students from southwest Florida. They are participating in a unique congressional classroom program designed to examine the role of Government. Today—Earth Day—we are heading to Roosevelt Island, a living monument to a President who defined the proper role of Government in conservation. In 1907, Teddy Roosevelt said:

> To waste, to destroy our natural resources, to skin and exhaust the land instead of using it so as to increase its usefulness, will result in undermining in the days of our children the very prosperity which we ought by right to hand down to them amplified and developed.

These stirring words ring just as true today. I hope all Americans will join in honoring the legacy of Teddy Roosevelt, reflecting upon the importance of careful stewardship of our planet.

Mr. Speaker, this is not a partisan matter, this is not a matter of extremism. This is a matter of good sense and good will that all Americans will share in.

PRESIDENT CLINTON IS APPOINTING JUDGES WHO AGREE WITH HIS VIEW OF SOCIAL AND JUDICIAL LIBERALISM

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, the philosophy of the 1960's was to "do your own thing" and to ignore the consequences. This philosophy has crept into almost every institution in American life, including the law. Instead of dispensing justice, jurisprudence today seems more like a competition to see which judge or lawyer can come up with the most unusual or creative way to let criminals off the hook.

Perhaps the clearest evidence of this is Bill Clinton's appointments to the Federal bench. District Judge Harold Baer, Circuit Judge Rosemary Barkett, and District Judge Leonie Brinkema—just to name a few. All of these judges, Mr. Speaker, have devised new and interesting ways to excuse blatant criminal behavior, including armed robbery, drug dealing, and murder.

Bill Clinton's record is clear. As a product of the touchy-feely 1960's, he is willing to excuse criminal activity and is now appointing judges who agree with his view of social judicial liberalism.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Member will be recognized for 5 minutes.

A POSITIVE SIGN FOR JUSTICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, at the end of last week we learned of a breakthrough in a long stalemate between approximately 8,000 American hemophiliacs infected with HIV and the manufacturers of blood-clotting products that led to the hemophiliacs' infection. News reports indicate a settlement offer of $600 million if certain conditions are met. This is certainly a welcome development after years of fingerpointing and frustrated court proceedings. As I have said many times, it is time the victims of this tragedy in the United States achieved some closure in this case. It is my strong hope that this settlement proposal will lead to a concrete result for the victims and their families. These folks have suffered since the early 1980's with the knowledge that a product they relied on to improve their quality of life actually carried the virus that causes deadly AIDS. For many years, people in the hemophilia community have charged that more could have been done to make those products safe. While recognizing that hindsight is always crystal clear, many experts have concluded that efforts to develop and market safer products sooner were not given a high priority in the face of powerful incentives to preserve the status quo.

Mr. Speaker, as Members know, I have sponsored legislation to provide compassionate assistance to these victims from the Government. It is my conclusion—and one reached by a distinguished panel of objective experts from the Institute of Medicine [IOM] at the National Academy of Sciences—that Government shares responsibility for this tragedy. The IOM panel outlined the failure of the regulatory system to recognize and respond to the early warning signs of blood-borne AIDS. According to the IOM report, the system "Did not deal well with contemporaneous blood safety issues such as hepatitis and was not prepared to deal with the far greater challenge of AIDS." Citing the extent to which Government officials lacked independent analysis of scientific information or a strong interest in encouraging development of techniques to make blood products safer, the IOM report found "a failure of leadership and inadequate institutional decision-making processes," which led Federal officials to "consistently [choose] the least aggressive option that was justifiable." The IOM found that the Government "did not adequately use its regulatory authority and therefore missed opportunities to protect the public health." As part of its concluding recommendations for changes in the system to prevent this type of crisis from recurring, the IOM panel suggested a compensation program involving the government—one similar to that which exists for vaccines. Well, Mr. Speaker, that is what I and 224 of my bipartisan colleagues in this House—and Senator DEWINE and four of his colleagues in the other body—have sought to do with the Ricky Ray Hemophilia Relief Fund Act. This legislation is based on the premise that Government has a unique responsibility for regulating the safety of blood products and that Government failed to live up to that responsibility during the 1980s. We have not changed our view on that point, even in light of last week's welcome news about a potential settlement between the product manufacturers and the victims. It was never our intention to substitute public money for private settlement—but rather to stand up to a share of the obligation we believe rests with the Government. As Members know, in Japan recently a settlement was announced that involves both the industry and the Government. The Japanese proposal offers a significantly larger financial settlement than is being discussed in this country, with the Government shouldering 44 percent of the burden. In addition, apologies were extended to the victims and their families and the responsibility of the Japanese Government and the blood products companies was clearly acknowledged. While I commend the blood products companies for their offer to the American victims, I still think it is important that all parties involved stand up to their obligations and that means we must explore Government sharing in the compensation. Only in that way will real justice be reached in the United States.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOSS) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes each day, on April 23, 24, and 25.

Mr. PORTER, for 5 minutes, on April 24.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GOSS) and to include extraneous matter:)

Mr. WAXMAN.

Mr. CARDIN.

(The following Member (at the request of Mr. GOSS) and to include extraneous matter:)

Mr. LOBIONDO.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3034. An act to amend the Indian Self-Determination and Education Assistance Act to extend for two months the authority for promulgating regulations under the act.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following titles:

On April 19, 1996:

H.R. 255. An act to designate the Federal Justice Building in Miami, Florida, as the "James Lawrence King Federal Justice Building";

H.R. 869. An act to designate the Federal building and United States courthouse located at 125 Market Street in Youngstown, Ohio, as the "Thomas D. Lambros Federal Building and United States Courthouse";

H.R. 1804. An act to designate the United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, as the "Judge Isaac C. Parker Federal Building";

H.R. 2415. An act to designate the United States Customs Administrative Building at the Yeleta/Zaragosa Port of Entry located at 797 South Zaragosa Road in El Paso, Texas, as the "Timothy C. McCaghren Customs Administrative Building"; and

H.R. 2556. An act to designate the Federal building located at 345 Middlefield Road in Menlo Park, California, and known as the Earth Sciences and Library Building, as the "Vincent E. McKelvey Federal Building."

On April 22, 1996:

H.R. 3034. An act to designate the Indian Self-Determination and Education Assistance Act to extend for two months the authority for promulgating regulations under the act.

ADJOURNMENT

Mr. GOSS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 15 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, April 23, 1996, at 12:30 p.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2434. A letter from the Director, Defense Security Assistance Agency, transmitting a report of enhancement or upgrade of sensitivity of technology or capability for Saudi Arabia (Transmittal No. D-96), pursuant to 22 U.S.C. 2776(b)(5)(A); to the Committee on International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1772. A bill to authorize the Secretary of the Interior to acquire certain interests in the Waihee Marsh for inclusion in the Oahu National Wildlife Refuge Complex; with an amendment (Rept. 104–528). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1836. A bill to authorize the Secretary of the Interior to acquire property in the town of East Hampton, Suffolk County, NY, for inclusion in the Amagansett National Wildlife Refuge (Rept. 104–529). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X an clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BATEMAN (for himself and Mr. TAYLOR of Mississippi) (both by request):

H.R. 3281. A bill to authorize appropriations for fiscal year 1997 for certain maritime programs of the Department of Transportation, and for other purposes; to the committee on National Security.

H.R. 3282. A bill to authorize expenditures for fiscal year 1997 for the operation and maintenance of the Panama Canal, and for other purposes; to the Committee on National Security, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MORAN (for himself, Mrs. MORELLA, and Mr. DAVIS):

H.R. 3283. A bill to require the Administrator of the Environmental Protection Agency to issue a regulation that consolidates all environmental laws administered by the Agency and health and safety laws applicable to the construction, maintenance, and operation of aboveground storage tanks, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HYDE:

H.J. Res. 173. Joint resolution proposing an amendment to the Constitution of the United States to protect the rights of victims of crime; to the Committee on the Judiciary.

H.J. Res. 174. Joint resolution proposing an amendment to the Constitution of the United States to protect the rights of victims of crime; to the Committee on the Judiciary.

By Mr. FAZIO of California:

H. Res. 408. Resolution designating minority membership on certain standing committees of the House; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. LONGLEY introduced a bill (H.R. 3284) for the relief of Nancy B. Wilson; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 324: Mr. MEEHAN.

H.R. 447: Ms. DELAURO.

H.R. 835: Mr. WATT of North Carolina, Ms. ROYBAL-ALLARD, Mr. THOMPSON, and Mrs. COLLINS of Illinois.

H.R. 1023: Mr. HASTERT, Mr. SCHAEFER, and Mr. MONTGOMERY.

H.R. 2745: Mr. PAYNE of Virginia and Mr. CLEMENT.

H.R. 2749: Mr. NEY and Mr. BLILEY.

H.R. 2996: Mr. TORKILDSEN.

H.R. 3002: Mr. LATHAM.

H.R. 3107: Mr. WARD, Mr. LEWIS of Georgia, Mr. FRELINGHUYSEN, Ms. FURSE, Mr. MCCRERY, Mr. REED, Mr. LAHOOD, Mr. CAMPBELL, Ms. SLAUGHTER, Mr. BENTSEN, and Mrs. ROUKEMA.

H.R. 3139: Mr. SCHUMER, Mr. TOWNS, Ms. MOLINARI, Mrs. MALONEY, Mr. RANGEL, Mr. ENGEL, Mr. MCNULTY, and Mr. HINCHEY.

H.R. 3213: Mr. WALSH.

H.R. 3246: Mr. TORRES, Mr. STARK, Mr. FRANKS of New Jersey, and Mr. RANGEL.

H.R. 3265: Mr. MCHALE, Ms. ROS-LEHTINEN, Mr. METCALF, and Mr. HINCHEY.

SENATE—*Monday, April 22, 1996*

The Senate met at 11 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, infinite, eternal, and unchangeable, full of love and compassion, abundant in grace and truth, we praise You for being the faithful initiator and inspiration of prayer. We need not search for You, because You have found us; we need not ask for Your presence, because You already are impinging on our minds and hearts; we need not convince You of our concerns, because You know what we need even before we ask. What we do need are humble and receptive minds. Awe and wonder grip us as we realize that You want our attention and want to use us to accomplish Your plans for our Nation. We openly confess the inadequacy of our limited understanding. Infuse us with Your wisdom.

The week ahead is filled with crucial issues to be debated and decided. Reveal Your will for what is best for our Nation. We yield our minds to think, and then communicate, Your thoughts. Invade our attitudes with Your patience so that we will be able to work effectively with those who differ with us. Help us to listen to others as attentively as we want them to listen to us. In the midst of controversy keep us unified in the bond of our greater commitment to be servant-leaders of our Nation.

As we press on with the work You have given us to do here, we commit to You the care of loved ones and friends who need Your physical healing and spiritual strength. In Your holy name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, today there is a period for morning business until 2 p.m., with the following Senators controlling debate: Senator DASCHLE or his designee controlling the first 90 minutes, Senator COVERDELL or his designee in control of the second 90 minutes.

At 2 o'clock we resume consideration of Calendar No. 201, Senate Joint Resolution 21, proposing a constitutional amendment to limit congressional terms. No votes will occur today; however, Senators are expected to debate the joint resolution and pending amendments. A cloture motion was filed on the committee amendment on Friday and, under the consent, that vote will occur tomorrow at 2:15. Following that vote there will be a vote on the passage of the health insurance reform bill. So there will be two consecutive rollcall votes beginning at 2:15.

In accordance with rule XXII, Senators have until 1 o'clock today to file first-degree amendments and until 12:30 tomorrow to file second-degree amendments to the committee amendment to the congressional term limits resolution.

Mr. DOLE. Mr. President, was leader time reserved?

The PRESIDING OFFICER (Mr. THOMAS). It was. The majority leader is recognized.

TRIBUTE TO BROOK BERRINGER AND TOBEY LAKE

Mr. DOLE. Mr. President, today is a very sad day in the northwest Kansas community of Goodland. For today is the day when much of the community will gather to say their final farewells to one of Goodland's favorite sons.

Much of America came to know Brook Berringer for his leadership on the football field, and for the role he played in helping to quarterback the Nebraska Cornhuskers to back-to-back national championships in 1994 and 1995.

More important than being a champion on the field, however, is being a champion off the field.

And in the days that have followed the tragic death of Brook and his friend and former Goodland resident Tobey Lake, countless Kansans and Nebraskans have testified to the fact that Brook was a champion in all aspects of his life.

"Unassuming," "modest," "role model," "a great kid"; these are some of the words that Brook's family, friends, teachers, and coaches have used to describe him. Brook used his status as a football hero to make a difference in the lives of others.

He was active in church and charitable activities, and was a dedicated member of the Fellowship of Christian Athletes.

He returned to Goodland often during his college years to visit with family and friends, and to provide an inspiration to young people.

Brook's tragic death occurred just 2 days before the National Football League draft, in which he surely would have been selected. In a gesture typical of this outstanding young man, Brook had said that he hoped he would be selected by Kansas City or Denver, so he could remain close to home.

Mr. President, as I think about Brook Berringer, I am reminded of the famous poem by A.E. Housman entitled "To an Athlete Dying Young."

The last four lines of that poem read:

> Now you will not swell the rout
> Of lads that wore their honors out
> Runners whom renown outran
> And the name died before the man.

In countless communities in Kansas and Nebraska, the name and the memory of Brook Berringer will live on for years and years to come.

Mr. President, I know I speak for all Senators, particularly my colleague Senator KASSEBAUM and my two colleagues from Nebraska, Senator EXON and Senator KERREY, in extending our sympathies to the families and friends of Brook Berringer and Tobey Lake.

TRIBUTE TO VICE ADM. JOHN BULKELEY

Mr. DOLE. Mr. President, it is with deep sorrow I note the passing of Vice Adm. John Bulkeley. Friday morning a memorial service was held at Memorial Chapel at Fort Myer to honor Admiral Bulkeley, and I think it only appropriate that the Senate takes a few minutes to honor this true American hero.

Admiral Bulkeley had a long and distinguished military career. However, he is best remembered for his service during World War II. In August 1941, then-Lieutenant Bulkeley assumed command of Motor Torpedo Boat Squadron 3, which participated in one of the most spectacular events of the Philippine campaign.

Lieutenant Bulkeley helped break through Japanese lines to transport Gen. Douglas MacArthur and his staff from Corregidor and Bataan to Mindanao. From there MacArthur flew to Australia, where he assumed command of the Allied Forces in the Southwest Pacific.

Shortly thereafter, Lieutenant Bulkeley returned to Negros Island and located and transported the President and Vice President of the Philippine Islands through the Japanese lines to Mindanao to be flown to Australia.

For his service in defense of the Philippines, Admiral Bulkeley was awarded the Medal of Honor. The citation read in part:

> For extraordinary heroism, distinguished service and conspicuous gallantry above and beyond the call of duty, as Commander of Motor Torpedo Board Squadron Three, in Philippine waters during the period December 7, 1941 to April 10, 1942. The remarkable

achievement of Lieutenant Bulkeley's Command in damaging or destroying a notable number of Japanese enemy planes, surface combatant and merchant ships, and in dispersing landing parties and land based enemy forces during the four months and eight days of operations without benefits of repairs, overhaul or maintenance facilities for his squadron, is believed to be without precedent in this type of warfare. His dynamic forcefulness and daring in offensive action, his brilliantly planned and skillfully executed attacks, supplemented by an outstanding leader of men and a gallant and intrepid seaman. These qualities coupled with a complete disregard for his own personal safety reflect great credit upon himself and the Naval Service.

Admiral Bulkeley's service did not end there. He went on to further distinguish himself in the European theater. In 1944, while in command of 110 mine sweepers and escorting motor torpedo boats, he spearheaded the invasion of Normandy by sweeping the Baie de LaSeine assault area prior to the arrival of the assault force. In July he conducted an operation which successfully deceived the Germans into believing that the main landings for the invasion of Southern France would come in the Baie del Ciotat. Consequently, Admiral Bulkeley engaged in a running gunfight with two German corvettes, both of which were eventually sunk.

Admiral Bulkeley also served with distinction in the Korean conflict, during which he commanded a destroyer division. Later he commanded the naval base at Guantanamo Bay, Cuba.

Finally, in June 1967, Admiral Bulkeley reported to Washington, where he headed the Board of Inspection and Survey, a position he held for an unprecedented 21 years.

So I think it is fair to say Admiral Bulkeley's life was marked by courage, dedication, and sacrifice. He is a man who loved his country and served it with distinction. We would all do well to emulate Admiral Bulkeley, a true American hero who will be greatly missed.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DASCHLE. Mr. President, it is my understanding that we are in morning business.

The PRESIDING OFFICER. We are. The minority leader controls 90 minutes.

Mr. DASCHLE. I thank the Presiding Officer.

SENATE DELEGATION VISIT TO THE FORMER YUGOSLAVIA

Mr. DASCHLE. Mr. President, I want to touch on a couple of matters this morning. The first relates to the opportunity that I had during the recent recess to travel to the former Yugoslavia. I was fortunate enough to travel with two colleagues who, in the past, have indicated a great deal of interest in Bosnia and other countries of the former Yugoslavia, the distinguished Senator from Nevada, Senator REID, and the senior Senator from Utah, Senator HATCH.

Our purpose was really threefold: First, to assess the progress of the Dayton accords; second, to examine, as carefully as we could, the role of the United States military and our Foreign Service personnel in the implementation of those accords; and third, to assess the longer term issues of democratization and privatization as they are developing in the former republics of Yugoslavia.

It was with a great deal of sadness that we left on the very day that the Secretary of Commerce lost his life in a plane crash near Dubrovnik. He and I were supposed to have attended a reception the following evening in Zagreb, Croatia.

I was extraordinarily saddened and disturbed by the early reports that we were given regarding his accident. There has been no one more dedicated to the causes of economic development in troubled countries than the Secretary of Commerce. There has been no one who has carried the message of new opportunities for U.S. business all over the world more diligently than Secretary Brown.

Last week, I addressed my thoughts with regard to the many extraordinary accomplishments of Secretary Brown. I will not do so again this morning except to say that his loss will be mourned and his effort will, again, be realized for what it was: a major achievement in peace, a major achievement in creating new-found opportunities for U.S. businesses abroad, and a major opportunity for countries to continue to find new ways to work and to conduct business with the United States.

His peace effort, on behalf of this country and the people of the former Yugoslavia, was deeply appreciated. And I must say, every place we went, it was the first issue to be raised with me by governmental leaders and others who mourned his loss and recognized his contribution. They expressed the hope that his effort would continue, that through other people and in other ways, the extraordinary accomplishments of the Secretary of Commerce would be continued.

So, while our trip began on a very sad and somber note, our entire delegation chose to continue with it, in part, to show the people of Bosnia and the entire region that the United States remains committed to the peace and development effort for which Ron Brown gave his life.

The Dayton accord has meant a lot of things to a lot of countries and a lot of people, but I think it is fair to say that today in the former Yugoslavia there exists what is termed a "cold peace." We see a lot of opportunity for those who have confronted one another politically and militarily to find peaceful solutions, and there has been progress in that regard. But there is a long, long way to go.

As we traveled to all of the countries that comprise the former Yugoslavia—Bosnia, Serbia, the former Yugoslav Republic of Macedonia, Croatia, Slovenia—as well as Albania and Hungary, we could see the tremendous success that has been generated, in part by the courageous new leadership in each of these countries.

There can be no better success story thus far in this area than what we witnessed in Slovenia: a dynamic private sector working daily and weekly to become more a part of the West; economic success very evident as we walked the streets; political success, very evident as we listened to the debate.

Slovenia may be the first and the strongest, but there are others, too.

We were extremely pleased at the progress we saw in the former Yugoslav Republic of Macedonia, the only country of the former Yugoslavia to make a completely peaceful transition to independence. Without a doubt, their peaceful existence today can be tied directly to a decision made initially by former President George Bush—and later carried out by President Bill Clinton—to send a meager 200 troops along the Macedonian border. There are now 550 U.S. troops stationed there.

Were it not for those troops, there is no doubt, in my mind at least, that Macedonia, too, could have been engaged in war. Those troops singlehandedly stopped the conflict that we see so prevalent in so many other areas of the former Yugoslavia. We owe a great debt of gratitude to those brave people who still today patrol the Macedonian border in 10 remote locations for 21 days at a time, patrolling, watching, observing with great diligence the activity along the Macedonian border.

The visibility of American peacekeepers in Bosnia and at the Macedonian border—the knowledge that they are there—has served as a very strong warning to all countries in the region that we will not tolerate—we will not tolerate—the conflict that we have seen elsewhere. Because of that presence—I must say, only because of the U.S. presence—we see peace today.

In terms of successful transitions toward democracy, much can also be said for Albania, frankly. The work there under President Berisha has been extraordinarily impressive. I must say, of all countries I have ever visited, none has needed democracy and privatization more. Under the Communist regime, the construction of more than 600,000 concrete and steel bunkers is evident regardless of where you are. They are ubiquitous reminders of the paranoia of the past, demonstrated through virtually every aspect of public policy in that country.

It is clear the Albanians have suffered a great deal. My generation, those people who were born after the war, feeling the full brunt of Communist rule, a totalitarian dictatorship, could not possibly have imagined what freedom could now entail. But it is freedom they are now enjoying. It is democracy they are now growing. It is free enterprise they are now pursuing. We applaud them in their efforts and find remarkable progress in the very short time that they have had the opportunity to pursue that freedom, to pursue that new future.

Perhaps our travels to Slovenia, Albania, and the other republics of the former Yugoslavia made our visit to Bosnia all the more tragic. Bosnia is a beautiful country, with mountains and idyllic scenes of winding streams through small villages of burnt orange tile roofs. The idyllic areas and the extraordinary beauty make all the more tragic the scene there now.

In all my travels, and having seen all the pictures we are provided on television and in the newspapers and magazines and books, there is no way one could be prepared for the incredible scene that one witnesses as soon as you get off the airplane in Sarajevo. The devastation cannot be fully appreciated unless you see it with your own eyes. There is no building untouched. Most buildings are virtually blown away, roads completely destroyed, bridges out, buildings without windows, houses without roofs, rubble in virtually every direction.

Not only is there devastation, but there is danger. We are told there are more than 3 million landmines planted throughout that country. Almost daily people become victims of these mines. Limbs blown away, lives destroyed, given up because those mines continue to be so dangerous.

Unfortunately, it is hard to describe what this conflict has been all about. It is not over political philosophy. It is not over economic determinism. It is over ethnic differences and ultranationalism, fanned in the flames of rhetoric by leaders outside Bosnia.

Admira Ismic and Bosko Brekic were two people who felt the full brunt of this ultranationalism and this war between ethnic groups. They lived outside of Sarajevo, both 25 years old. They grew up together, fell in love as high school sweethearts and decided to go to college together in Sarajevo. They were chemistry students, very good students.

In 1992, as they became increasingly concerned with the thousands and thousands of weapons raining in on Sarajevo, they, like many others, asked for safe passage out of that war-torn city. They had been given assurances from both sides that they would be given safe passage. They packed their meager belongings as college students, put them on their backs, and began walking down a road and across a bridge. They were only about halfway across the bridge when Bosko was shot in the back. It was not long after that—moments—that Admira was shot, too. They both fell in the middle of that bridge, embracing one another; and there they died.

They were left there in the sun on that bridge for 8 days, according to Associated Press reports. Finally, during the middle of the night, because both sides continued to argue as to who was at fault, they were buried right next to the bridge, and there they lay for 3 years.

During the week we were there, Admira's and Bosko's bodies were exhumed and moved to another cemetery in Sarajevo.

Cemeteries carry a special significance in Bosnia. You see them everywhere. Soccer fields are now cemeteries; city parks are now the sites of thousands and thousands of additional graves. Admira's and Bosko's grave will be among them. They were buried together during the week we were there. Her father expressed both sadness and exhilaration. Sadness that life could be taken from two such young, promising students who could give so much to their country, but exhilaration that, after 3 long years, in peace he could bury them in a permanent location.

He said, "I was worried that I, too, would be killed prior to the time I could accomplish this task." Admira and Bosko's story is but one of thousands and thousands of stories just like that. The number of people buried in mass graves now is estimated to be over 300,000—tens of thousands of people amassed together, their families robbed of even the opportunity to mourn for them individually. They are mourned, but not forgotten.

Mr. President, now there is peace. There is no more war. The shooting has ended. People are crossing that bridge freely. Life is coming back to the city. One day, in my view, Bosnia and all the other countries that once comprised Yugoslavia can flourish. They can flourish, like Slovenia, like Macedonia. There is no doubt in my mind that with proper political leadership, with the opportunity to continue to experience some stability, indeed, there is a possibility that all of these countries could experience democracy.

So, I have four observations in closing, having had the opportunity to travel through this war-torn, yet extraordinarily beautiful area. The first is that this President, this administration, Assistant Secretary of State Richard Holbrooke, and so many others who personally made the contribution to achieve meaningful peace in Dayton deserve a great deal of credit. It was courageous. Everyone recognizes how many times others have tried and failed, but this worked. This worked, in my view, because the United States put its moral, military, and diplomatic strength behind it.

We would have failed had the United States not been willing to commit its credibility, its resources, and its talent to the task in spite of the political risks involved. This administration ought to be given our gratitude and the credit it deserves for showing the kind of leadership required at times like this.

Second, let me say that we have never been better served by anybody than we are now being served by our U.S. military and Foreign Service personnel. Adm. Leighton Smith, Gen. Bill Nash, our Ambassadors, those who are attempting in what has to be some of the worst circumstances any of our personnel have faced in post-cold-war periods anywhere deserve our thanks.

We have not been served better. We were told that in Sarajevo for many months Foreign Service personnel were not only required to work in what were clearly unacceptable circumstances, but they were required to live there, to eat there, to sleep there, to exist there for month after month after month without even the opportunity to leave the Embassy. And yet they did so, demonstrating all the professionalism that we could probably expect, even as they watched this Congress shut the Government down, and as they attempted to explain to those Bosnian nationals who were working for the United States Government, in particular, why we could not pay them. They worked anyway. They carried on their mission as best they could.

So it was with our U.S. military. In mud that had to have been 10 inches deep, in tents and in buildings on top of a hill, they tried as best they could to establish a presence from which to carry on their operations. Soldiers told us that one night, after having just constructed their tents and established their infrastructure in this base, 80-mile-per-hour winds blew it down, blew down equipment, blew down tents, blew down virtually everything that was standing. So, again, the next morning, with the determination we have come to expect from the U.S. military, they put it all back, determined to carry out the mission as only the U.S. military can.

As we traveled all through Bosnia and all the former Republics of Yugoslavia, the one thing we were told over and over again is that while it may be a 32-country mission, the fact is one country made the difference, one country made it happen, one country made it all possible. One country had the credibility, the stature, the power to bring peace to this region. That one country is well represented by our military and Foreign Service personnel.

My third observation is that we must applaud the people of the former Yugoslavia, especially those in Bosnia, for their resiliency, their determination to find peace, tranquility, stability, economic vitality, and, yes, a political opportunity to achieve the same level of democracy as others in the region. That determination could not have been more evident.

I thought it was a poignant metaphor to be standing on a hill in Sarajevo overlooking two soccer fields. One soccer field was filled with crosses, thousands and thousands of crosses marking the graves of casualties of the war. The other soccer field was filled with mud and young boys playing soccer, mud on every inch of their bodies, determined to play, recognizing that in the field just next to them lay their former friends and relatives, brothers and sisters.

It is that determination, that willingness to survive it all, to confront it all, that we found in great abundance throughout the country. Certainly, we applaud the people in all of these Republics, in all of these countries, struggling to achieve democracy, for their determination and their ability to accomplish what they know they can.

Finally, Mr. President, we ask frequently as we traveled through each country, "Tell us why a skeptical South Dakotan or a skeptical American ought to agree that our presence there is in our best interest. How would you tell him or her that our troops, our personnel ought to be there, and what is it about the American interests that would convince a skeptical American that they should stay, at least through the end of this year?"

I think the answer, as given on so many occasions in such eloquent fashion, simply came down to this: "Only you can make it happen. Only you can ensure that the progress you are seeing continues." A Slovenian perhaps said it best when he looked me in the eye as we were discussing this, and he said, "Let me tell you very honestly, in the short-term there is nothing in it for you—nothing. But in the long term, you who espouse democracy, who have enjoyed it for 200 years, have the opportunity to see people who have lived for generations under tyranny, under dictatorship, under communism, now breathe freely under democracy. We, the small, struggling republics, could be like you."

"What is that worth? How much is that worth to you?"

He said, "New little countries are like children: They fight sometimes, often unnecessarily. They need a firm hand. They need guidance. They need somebody to watch over them as they struggle to grow. And you—well, you are like a big brother. You are the only one we've got. You can turn away or you can stay. It's up to you."

Mr. President, let us hope these democracies—these children—continue to grow. Let us hope that the people of these wonderful little countries continue to experience democracy and free enterprise. Let us hope that as they do, we have the courage and the dedication and the opportunity to make little, weak democracies strong ones. That is what this is all about.

Let me say it again, were it not for the courage and the commitment of this administration, our military, and Foreign Service personnel, little countries would have no reason to dream, would have no opportunity to experience what we in this great country experience each and every morning when we wake up.

Mr. President, I see the distinguished Senator from Washington waiting to speak. I had another statement, but I will wait until she has concluded before I make that statement. I yield the floor.

Mrs. MURRAY. Mr. President, let me congratulate my colleague, the minority leader, for an excellent statement. I hope that all of our colleagues take time to read it. Certainly, we do stop and question our role in the world often on this floor, and I think the words that Senator DASCHLE just gave to us are words that we all should heed. I appreciate his statement.

IN OPPOSITION TO RIDERS ATTACHED TO THE INTERIOR APPROPRIATIONS BILL

Mrs. MURRAY. Mr. President, today is Earth Day. It is a day that many young people and adults across our country take time out to plant a tree, clean up a river or a lakeside, and to make the statement that each of us has a responsibility to pass on a safe, clean, healthy, and secure environment to the generations that come behind us.

Mr. President, today I use Earth Day to voice my concerns with the many riders that are attached to the Interior section I of the omnibus appropriations bill that is currently in conference. These riders, I believe, are not good policies for today or for tomorrow, and they certainly go against the concept that Earth Day was designed to highlight.

Mr. President, I am particularly concerned about three riders that most directly affect my home State of Washington. The riders are the limitations to the interior Columbia basin ecosystem management project, the restricted timber salvage provisions, and the threats to the Lummi Nation.

Mr. President, let me begin with the Columbia basin ecosystem management project. Most people in this Chamber know little about the Columbia basin project. I would like to change that today by explaining briefly what the project is and what its creators hope to accomplish.

This project is a joint planning effort by the Forest Service and the Bureau of Land Management to develop a scientifically sound ecosystem-based strategy for managing the forests and the lands of the interior Columbia basin. Its most salient feature is that it is one of the first attempts made in natural resource policy to get ahead of the problem, rather than simply reacting to it. Its original proponents, Senator HATFIELD and former Speaker Foley, had dealt firsthand with the spotted owl controversy and wanted to attack the problems of the inland West differently.

In addition—and this may come as a surprise to my colleagues—almost everyone, from commodity interests to environmental activists, agrees that we have problems with the ecosystems of the inland West. They agree on something. So let us use that consensus to figure out how to manage these damaged or unhealthy lands. We need to develop a plan to ensure sustainable commodity production, healthy fish stocks and wildlife populations, and protection of ecosystems. That is what the Columbia basin project attempts to do.

Unfortunately, some commodity interests are afraid of this project. I don't want to discount their fear, because I know some businesses have been hurt by changing Federal policies and lawsuits. However, the limitations imposed in the Interior appropriations rider will too severely restrict sound resource management, ecosystem restoration, and decisionmaking.

At every stage of this lengthy appropriations process, I have tried to improve the Columbia basin provisions, since I knew I did not have the votes to strike the section. I was successful in two areas. First, we have allowed the agencies to spend up to $4 million to finish this important project. This is a dramatic improvement over the original House bill, which prohibited any money from being spent for implementation of the project and which allowed only $600,000 to be spent to complete the project.

The second important change I fought for was the removal of shackles from the scientists. The bill had limited the scientific assessment to such things as forest land management and had prohibited study of anything else. The omnibus appropriations bill now allows a scientific assessment of the entire ecosystem, not just that portion of the system primarily affecting commodity production.

So, the Columbia basin project provisions have improved somewhat from what the House originally proposed. However, serious, serious problems remain. The most wrongheaded provision is that shielding many timber sales, mining operations, and other projects from Endangered Species Act consultation. Any national forest or BLM district may, at its discretion, amend the plans in place for protecting threatened fish and wildlife, namely PACFISH and INFISH, and thereby avoid later consultation on potentially harmful activities.

This provision is made worse by another limitation imposed in the appropriations bill: The agencies may not select preferred management alternatives in the draft environmental impact statements or publish a record of decision. These restrictions on implementation of the National Environmental Policy Act thwart decisionmaking about management decisions that affect diverse and wide-ranging species, such as salmon and bull trout. It allows individual forests to alter existing fish and wildlife protections in any manner they desire and then escape ESA consultation scrutiny on individual projects and timber sales.

Mr. President, sufficiency language regarding the ESA and NEPA is very popular with this Congress. I believe that limiting consultation, restricting public review, and piecemeal management of public lands is a bad way to manage our Nation's resources. I urge the conferees to strip the entire Columbia basin project section. In the alternative, the conferees should delete the ESA and NEPA sufficiency language and allow the agencies to select a preferred alternative and publish a record of decision providing direction regarding the best management alternative.

TIMBER SALVAGE

Last month I offered an amendment to repeal the timber salvage rider and replace it with a long-term timber salvage program. Unfortunately, the majority voted against my amendment, deciding the agencies should not be required to comply with environmental laws and should be protected from public challenge of their decisions. After the defeat of my amendment, the omnibus appropriations bill went forward with language contained in the chairman's mark designed to solve a few of the problems associated with the timber salvage rider, by only a few.

Let me be clear. I appreciate the efforts of Chairman HATFIELD to get these modest changes included in the timber salvage rider. They move in the right direction, but simply do not go far enough.

The major flaws with the salvage provisions in the omnibus appropriations bill are: First, they do not give the agencies sufficient authority to withhold sales and/or suspend harvesting where there is serious environmental damage; second, they extend the sufficiency granted these controversial old growth sales indefinitely; third, they provide language in the report that attempts to influence ongoing marbled murrelet litigation; fourth, they give too much power to timber sale contract holders in negotiations; fifth, they restrict the timeliness for buy-one provisions and alternative volume; and sixth, they provide no money to fund buyouts.

I urge the conferees to work with the administration to improve these provisions because they could provide needed flexibility on these highly controversial and damaging old growth sales. We need to provide timber purchasers with fair replacement volume or buy out their contracts as quickly as possible and ease growing tensions in the Pacific Northwest.

The anger and frustration of many citizens concerned about ecosystem health and protection of our forests is increasing. We must act quickly to avoid harming key watersheds and important old growth ecosystems. The time is now.

THE LUMMI NATION

Another provision I continue to oppose is that preventing the Lummi Nation, and potentially other tribes, from exercising their water rights on tribal lands. The Lummis and other parties, including non-Indian landholders, are engaged in negotiations that appear to be going very well. I appreciate the willingness of Senator GORTON to remove language that would likely have derailed these negotiations. However, the language still existing in the omnibus appropriations bill is counterproductive and simply ignores the history of the dispute. In addition, that language represents a threat to tribal sovereignty and sets an extremely poor precedent for government-to-government relations.

From the day I first became aware of this language I have been trying to remove or modify it because I respect tribal and local efforts to resolve the issue. Unfortunately, despite repeated efforts to develop compromise language that would serve all parties' interests; despite repeated opposition from leading tribal policy experts in Congress; despite veto threats, as evidenced in the statement of administration policy; and despite the continued progress of negotiations, the provision remains virtually unchanged.

There is only one purpose for this provision: to threaten and coerce the Lummi people. This is the wrong way to encourage negotiated settlement of a controversial, far-reaching, and complicated dispute over tribal water rights. I urge the conferees to remove the punitive language and allow the affected people and governments to solve this problem.

Mr. President, some of my colleagues have argued that the concerns expressed by the administration have been sufficiently addressed. While I agree that progress has been made and appreciated the many concessions both sides have made in the omnibus appropriations bill, I want to state clearly that serious concerns, expressed in writing by the administration, myself and others, remain unaddressed.

Mr. President, we are already more than halfway through fiscal year 1996. We need to rid this bill of these three controversial riders, other antienvironmental riders, and others, such as those addressing individual transferable quotas for our fisheries and HIV-positive military personnel.

We need to govern. We need to fund our Government through the appropriations process and set policy through the authorizations process. Let us strip these riders and send a clean spending bill to the President—and get on with governing. It would be the right message for Earth Day.

UNANIMOUS-CONSENT AGREEMENT

Mrs. MURRAY. Mr. President, I ask unanimous consent that 15 minutes of the Democratic leader's time be reserved for Senator KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to be recognized for the purposes of morning business for such time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

EARTH DAY

Mrs. FEINSTEIN. Mr. President, today marks Earth Day. It is a day to celebrate our past achievements in protecting the environment. It is also a day, I hope, to rededicate ourselves to environmental protection.

I think, without question, over the last 26 years since the first Earth Day in 1970, we have made enormous environmental gains. We have taken steps to clean up our air and our water, cut toxic emissions from factories by 50 percent—that is in half—and we have taken steps to prevent pollution that threatens our children's health.

I remember when my own city, San Francisco, used to pollute the bay and the ocean through 40 different outlets all around the city. The water in the San Francisco Bay has been cleaned up. Dungeness crab has come back to the bay. And I know that this is appreciated by all our citizens: Lead levels in children's blood has been cut by 70 percent. We have worked to protect our remaining wild places and to wisely manage irreplaceable natural resources. But in spite of these accomplishments, much, much work remains to be done.

According to the Environmental Protection Agency, 50 million Americans every year drink tap water which fails to meet at least one Federal health standard. About 1 million people each year become ill from drinking unsafe tap water, the Centers for Disease Control reports.

Toxic air pollutants need to be regulated to protect public health. According to the Environmental Protection Agency, exposure to particulate matter may result in as many as 70,000 premature deaths each year. In my own State, in Los Angeles County, children actually grow up in Los Angeles with reduced lung capacity because of pollution.

There are 1,290 toxic sites on the Superfund national cleanup priority list, and they include 96 in my own State of California. One in four Americans lives within 4 miles of a Superfund site. These sites must be cleaned up. So we need to move forward. Instead, our past environmental achievements are being threatened often by this very Congress, by efforts to roll back existing environmental laws.

Of immediate concern is the omnibus appropriations bill which contains more than a dozen riders, riders which would roll back existing environmental protection. Many have proposed cuts in funds that assist States in providing clean, safe drinking water to Americans. They have proposed cuts that would affect the Environmental Protection Agency's ability to enforce the Clean Air Act and to issue new standards for toxic air pollutants. They have proposed cuts in the Superfund Program, which would jeopardize cleanup of over 400 of the worst toxic waste sites around the country.

One of them is Iron Mountain mine in Redding, CA. This is an old vacant chemical mine with a huge hole in it. The hole is as big as a 30-story office building, and when it rains the water and the air interact with the metals within the mountain, and it throws off sulfuric acid, which then drains into the river and metallizes the river banks. This is one of California's urgent priority Superfund sites that needs cleanup.

Also of particular interest to me and to the people of California is the rider on the Mojave National Preserve, the newest unit of our National Park Service System. The conferees on the omnibus appropriations bill have agreed to a revised rider for the National Mojave Preserve that, like the earlier versions, is intended to overturn provisions of the California Desert Protection Act and strip national park protection for the Mojave National Preserve. The new rider reinstates multiple-use management of the east Mojave, management which allowed open pit mining, cross-country motorcycle racers, and other destructive activities to occur in the area.

In 1994, Congress overwhelmingly approved the California Desert Protection Act, which I authored, and which established the Mojave National Preserve. That national preserve was already a compromise. I would have had it a national park, but Congress agreed that the Mojave qualified as a national park and should be managed by the National Park Service under park, not multiple-use, regulations. The Desert Protection Act transferred management of the Mojave from the Bureau of Land Management to the National Park Service so the area would receive the protection and the care that it deserves.

The National Park Service opened a new visitor center and improved law enforcement. It actually made arrests and shut down a methamphetamine lab, and it improved resource protection. Visitation to the area increased substantially and motels, restaurants, and other businesses in the nearby communities flourished as a result.

Now the Mojave rider on the omnibus appropriations bill seeks to reverse that decision. The omnibus appropriations bill appropriates funding for the National Park Service to manage the Mojave National Preserve, but it requires the agency to administer the area as a multiple-use area before passage of the California Desert Protection Act. In other words, it pretends that the Desert Protection Act, overwhelmingly passed by both Houses and signed by the President, does not really exist.

This multiple-use management permits a wide variety of development activities which degrades the area's outstanding natural and cultural resources. Specifically, the new rider requires the National Park Service to manage the Mojave under the historic management practices of the Bureau of Land Management rather than under the policies and regulations of the National Park Service.

This establishes a dangerous precedent.

While early language that attempted to transfer control of the Mojave to the Bureau of Land Management has been dropped, the new rider could be interpreted to require the National Park Service to approve resource-damaging activities that were previously allowed within the Mojave before its designation. That would include off-road vehicle races, open pit mining, garbage dumps, and uncontrolled use of firearms.

Many are particularly concerned that one of the reasons for this rider is to permit this kind of open pit mining in the New York mountains.

In my legislation, we very carefully maintain that existing mining uses, those with existing permits, would be able to continue, so that no jobs would be lost. But apparently there are those who even want to go in and open pit mine some of the more fragile areas of this preserve.

This new rider could be interpreted to allow unlimited use of motorized vehicles in wilderness areas. The new rider sets the stage for litigation over its interpretation, and the new rider limits funding for the Mojave to less than one-half what the Park Service estimated would be required in FY 1996.

The statement of managers accompanying the rider requires the Appropriations Committees to approve the preserve's general management plan. This gives authority to committee members to dictate provisions of a park management plan for the first time in the history of this kind of legislation. In sum, it leaves the east Mojave a national preserve in name only, and no one is fooled by that.

The Mojave has been discussed and debated in the House and Senate for 8 years now. The California Desert Protection Act, which passed in the last Congress and was signed by the President, as I have already stated, was a substantial compromise. Rather than carrying out the intent of the legislation, which was to have a national preserve under National Park Service management, we see in the omnibus appropriations bill further efforts to erode and destroy the Desert Protection Act. This, frankly, is unconscionable. It is absolutely contrary to the wishes of the people of the State of California.

A Field Institute poll, an objective poll, conducted in December of last year, shows continuing, overwhelming support; 85 percent of Californians support keeping east Mojave a national park—85 percent. In every region of the State, people overwhelmingly support keeping the Mojave as a national park.

As we celebrate Earth Day, Congress, I believe, should strip all environmental riders, including the Mojave rider, from the omnibus appropriations bill. That is what Congress can do right now to continue our commitment to environmental protection.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. BROWN). Who seeks recognition?

Does the Senator note the absence of a quorum?

Mrs. FEINSTEIN. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Dakota is recognized.

EARTH DAY LEGACY

Mr. DASCHLE. Mr. President, Teddy Roosevelt said that, "Conservation is a great moral issue, for it involves the patriotic duty of ensuring the safety and continuance of the nation."

As a result of the translation of that ethic into the legislative process, and the foresight of our political predecessors, the United States today leads the world in efforts to protect the environment.

Our laws have become models for other nations' efforts to grapple with their own air and water pollution and wildlife conservation challenges. And, as a result of this commitment to a healthier environment, the United States has succeeded in reversing the course of environmental degradation that we followed for too long.

Today, on Earth Day, rivers and lakes are cleaner, waste is being disposed in a more secure and responsible manner, and the air most of us breath contains fewer dangerous pollutants, such as lead. We can rejoice at the progress made.

Congress and a number of Republican and Democratic Presidents can and should take credit for this accomplishment.

The tangible environmental success this Nation has experienced over the last three decades is one of the reasons I have been so disappointed by the direction of the debate over the environment in the 104th Congress.

It is as though too many of us have forgotten the environmental challenges we have faced and overcome since President Nixon create the Environmental Protection Agency and Congress began its legislative journey that produced: The Safe Drinking Water Act, the Clean Water Act, Superfund, the Resource Conservation and Recovery Act, and the rest of the laws that make up the canon known as American environmental law.

Collectively, that body of law represents one of the most important legacies we will leave our children and grandchildren.

I hope the fabric created by those laws will not be stretched and torn. I hope the quality of our environment that results from implementation of those laws will not be sacrificed to short-term political considerations.

We need to embrace opportunities to improve and refine the impressive body of environmental law that has been developed over the last three decades.

In the spirit of that bipartisan legacy, today—Earth Day—I urge my colleagues on both sides of the aisle to embrace their legislative heritage and work to protect and strengthen it. The contribution of this generation of lawmakers to that impressive body of law should be one of thoughtful improvement, drawing upon the lessons learned from past implementation of those very laws.

We should continue to search the fabric of our laws and seek to repair the rips and the frayed ends.

We should seek commonsense solutions to our remaining environmental problems.

In doing so, we should work to find consensus, as we have even in this partisan year with the passage in the Senate, unanimously, of the Safe Drinking Water Act and the recently enacted small business regulatory reform bill.

As we stand here on Earth Day and survey the few months remaining in this legislative session, let us resolve to keep the fabric of American environmental law whole. Let us not turn back the clock on the accomplishments of a generation.

In that regard, just on Friday, 41 of our colleagues here in the Senate joined with me in sending a letter to our majority leader and the Speaker, to indicate our strong determination not to roll back the standards affecting clean air; not to weaken the regulations relating to safe drinking water or industrial polluters; not to slow down or stop the cleanup of hazardous waste sites; not to weaken the community right-to-know laws, such as the toxic release inventory; not to abolish protections for endangered species and all the other efforts that are underway.

It is our view that we have a sufficient number of votes to extend debate for whatever length of time, if that is required to protect the laws that we have steadfastly supported over the last generation. It is our strong desire, our sincere hope, that extended debate on any of these efforts will not be necessary, that we can work together to resolve our differences and to continue to build upon the impressive record that we have now generated over the last three decades.

So, as we stand here on Earth Day, let us again renew our commitment to work together to eliminate those threats to the environment that we see yet today. Let us eliminate the antienvironmental riders from the appropriations bill this week, to demonstrate our commitment to Earth Day, to demonstrate our resolve, continuing to build on the impressive record that we have achieved. On the major environmental laws that are being reauthorized, let us work to find ways in which to strengthen those laws, enact new ones where we identify new ones are needed, and leave future generations with a clean and healthy environment.

As Teddy Roosevelt stated nearly a century ago, that is truly our patriotic duty. It is one I believe every Member of this body can and should embrace on this day, on all days.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. COVERDELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia has the floor.

Mr. COVERDELL. Mr. President, parliamentary inquiry. It is my understanding that the time from 12:30 to 2 o'clock has been designated to myself or management; is that correct?

The PRESIDING OFFICER. The Senator is correct.

EARTH DAY AND THE ENVIRONMENT

Mr. COVERDELL. Mr. President, as we all know now, today is Earth Day, a day dedicated to remembering our commitment to the environment, to the future, a commitment on the part of every generation of Americans to assure that those who come behind us will not be jeopardized by contemporary actions and, better, that those who follow us will have the opportunities to enjoy a healthy environment—an environment in which recreation can be pursued, an environment in which future generations will not be troubled by the water they drink, by the air they breathe, by the environment in which they live.

There has been a lot of rhetoric in this 104th Congress, finger pointing about who is for the environment and who is not for the environment. I do not know anybody who is not for an improved environment; at least I have not met them.

In all the discussion, though, a little-told story is that this Congress has passed one of the most historic pieces of environmental legislation in the history of our country. I will quote from F. Graham Liles, Jr., who is executive director of the Georgia Soil and Water Conservation Commission. It is a letter addressed to me dated April 11, 1996. He says:

> With regard to the new Farm Bill, I feel this is probably the strongest conservation legislation to have been signed in decades.

I do not believe that, when we were considering the farm bill, it was generally acknowledged that that legislation is monumental environmental legislation that this Congress can take credit for, that it will be a legacy of the 104th Congress. Yes, the farm bill does bring about monumental change in marketing reforms, in flexibility in terms of farmer planning, vast savings in these Government programs. But the untold story is the environmental effect of the legislation.

Another general thought—I am going to describe some of these achievements, but this is the kind of environmental legislation that is logical, that in my judgment creates the appropriate balance between the stewards of the land and public policy. It is characterized by a word called "partnership." I do not think we can say this is the case in each of our environmental laws. But here in this new farm bill the concept of partnering, shared responsibility, working together to produce a positive result is well rooted in the legislation. Therefore, it can become a benchmark, a guide, something to point to in terms of the manner in which we should design future legislation designed to protect the environment.

Under the farm bill conservation title, as I said, the bill is hailed by many, including the American Farm Bureau, as "the most environmentally responsible farm legislation in history." In the State of Georgia, the soil and water conservation commission, as I just quoted, calls it the strongest conservation legislation to have been signed in decades.

Under the conservation title, it reauthorizes the following programs:

The Conservation Reserve Program. Under this program landowners idle highly erodible farmland in exchange for payments—partnership. This is the Government working with the stewards of the land. Under this program soil erosion rates in my State of Georgia have dropped 50 percent. The Speaker often refers to producing effect more than effort. This is effect—reducing erosion rates in Georgia by 50 percent. And 36.5 million acres of sensitive farmland nationwide is being protected under the Conservation Reserve Program.

We hear a lot of discussion about wetlands and our desire to protect them. This new farm bill focuses on wetlands. Under this provision of the bill, farmers enter into cooperative easement arrangements with the Government. Once again, Mr. President, partnership. Generally, permanent or 30-year easements are arranged and a farmer is compensated. It is a cooperative arrangement. Under these provisions, we will protect nearly 1 million acres of wetlands nationwide.

Fish and Wildlife Service oversight is replaced by State technical committees. We are moving the decisions to the States.

The Forestry Incentive Program. Farmers are provided with cost share agreements with the Department of Agriculture designed to plant trees on private land. The program is simple—incentives to plant more trees. In my State, we have over 800 participants. We have planted over 10,000 acres of new trees. That is just Georgia alone; 10,000 acres of new trees. This program has put trees on land that would have ordinarily been used for other purposes.

New programs that were authorized in this bill:

The Environmental Quality Incentive Program, the EQIP program. This is the cornerstone of the conservation title for soil and water quality restoration and enhancement. Its highlights are: The program targets $1.2 billion over 7 years to assist crop and livestock producers in building environmental improvements on the farm, including animal waste facilities, grass waterways, filterstrips, and other practices geared toward land preservation.

Mr. President, partnership. Here, again, in each one of these titles we see a new roadmap to the work on the environment, working with, as partners and facilitators, stewards of the land itself.

Farms for the Future Program. This program will provide $35 million to buy easements on prime American farmland in areas where they are threatened. Some of the best farmland is being swallowed by development. This program understands that and tries to ease the burden of the development. This money will protect our country's best farmland from urban sprawl and will preserve it for future generations, as I said a moment ago, trying to preserve and keep for our future generations historical and environmentally sound areas for them to visit and study and review.

Wildlife Habitat Enhancement Program, the WHEP Program. You have to have an acronym for everything here. The WHEP Program will provide $10 million per year for cost-share payments to farmers who improve their wildlife habitat for upland and wetland wildlife. Again, partnership, Mr. President, working with the stewards of the land. This is especially important for States like mine with extensive bird and riparian populations. This is a win-win for naturalists and sportsmen alike.

The Florida Everglades restoration. Congress has resolved to clean up the Florida Everglades by providing $200 million for acquisition, easements, and other restoration activities. Congress here, instead of talking, has taken action by cleaning up the Everglades. This method of cleanup will allow farmers to survive and will repair the land in a unique partnership.

So, Mr. President, I reiterate that we have created in this historic piece of legislation conservation efforts, efforts to protect wetlands and include wetlands in the reserve. Forestry, the planting of new trees, the protection of environmental quality, the Farms for the Future Program, wildlife habitat and the Everglades—all of these environmental programs are encompassed in the new farm bill. This is a new historic piece of legislation, not only with regard to the farm programs, but with regard and with the intent to partner with the stewards of the land, these great protectors of the land, because no one has a greater interest in protecting the environment than our farming and agricultural community.

This is the stamp that demonstrates that very fact.

Mr. President, in the debate with regard to environmental legislation, as I said when I made an opening statement, there is a lot of rhetoric that follows the environment. It is often politicized extensively. We do, as I said in scoping out the word "partnership" have to be conscious of a balance between protecting the environment and protecting the fundamental rights of the owners of our land, of securing an appropriate balance in terms of the burden and costs of the environmental legislation. We cannot ignore the fact that some of our work in the environment has posed great questions for us with regard to cost and logic.

Some of the bureaucrats, some of the regulators, in my judgment, have forgotten this concept we call partnership. They are in the business of imparting a word that was more reminiscent of arrogance, bossism, pushiness. Let me just give a couple of examples of the kind of thing that I think most Americans find illogical.

There is a gentleman by the name of Junior Childress. He is from Alabama. He has a radiator repair store. He thought he could be environmentally correct and start a nest egg at the same time when he took a load of car batteries to Interstate Lead Co. for recycling in 1985. Here we have a radiator repairman. He took several batteries to the Interstate Lead Co. in 1985 and sold them to this other company for the monumental sum of $337.50. I repeat, he sold a handful of batteries to this other company for $337.50—an absolutely legal transaction, normally.

Subsequently—and by subsequently, I mean 9 years later; 9; a decade later—this company, Interstate Lead Co. was determined to be a Superfund site which alleged that they had not managed toxic material appropriately. They came under the scope of the Superfund cleanup. The problem is that the owner of Interstate Lead Co. had left the country in the decade and was residing somewhere in Germany. So under our new regulatory system they go through the transaction records and find everybody who has ever done business with this outfit and put them on a liability list. If the person responsible for it does not have the resources or has disappeared or died then we start going through the records and seeing anybody that ever did business with this Interstate Lead Co.

Lo and behold, 9 years ago, Junior Childress sold them $337.50 worth of batteries, and because of that, 9 years later, finds himself and his family liable—liable—for the full responsibility, which is $90 million. That is not a very good financial transaction—$337.50; now he is on the hook for $90 million—he and 900 other people who were interacting and selling goods to this company.

This is the kind of illogical conclusion that, in my judgment, has done so much damage to the environment, because it makes people cynical. It makes them lose faith. Everybody who reads this story is going to say, "My heavens, what logic could there be in this? How in the world will we go back and unload on this man who sold a handful of batteries to this company 9 years ago," and wrap the arms of the Government around him and cause him to bear the burden of this liability?

I happen to know an individual in my own State who is in the business of recycling, recycling metal, recycling other goods, who has experienced this same threat. This company, no need to name it, is 100 years old. It is 100 years old. That family has been doing business in Atlanta, GA, for 100 years. They are as good a public citizen as you will ever meet. They are committed at every level of the community. They are good citizens. They are good stewards. They are good business people. Their company, after a century of operation, is at risk, all of their savings, all that they have built, all that they have stored, all of their work is at risk, for an incident just like this.

It is this kind of illogical behavior that is at the core of people asking us to change some of the way we manage our pursuit of a sound environment. This man, Junior Childress, my friend in Atlanta, GA, should not be staring down a double-barreled shotgun called the U.S. Government. They simply do not have any liability here. They have been good stewards. They did things the way they thought they should be done. Yet they are at risk.

It is this kind of illogical behavior—this does not help our pursuit of cleaning the environment, Mr. President. This hurts. I just described the farm bill and the logical flow of events between stewards and the Government. That helps. That produces a better environment. This hurts.

Mr. President, I see I have been joined by my good colleague from the State of Wyoming. I am going to yield up to 10 minutes to my colleague, the Senator from Wyoming.

Mr. THOMAS. Mr. President, I appreciate our colleague bringing us to the floor to talk today about the environment. Certainly, this is Earth Day, and we ought to talk about it.

We just have one Earth and one planet. There is more and more of us and we have the same amount of space. Clearly, we will have to pick up after ourselves. I suspect there is no one in this body, and indeed, very few anywhere, who would not agree with that.

There are differing views of the best way to do it, of course, to provide a healthy environment. There are questions of who should do it. Should it be left entirely to the central Government, to the Federal Government? Should we take advantage of the State and local expertise? Should there be incentives for the private sector to perform? Those are the kinds of questions that I think we need to be asking.

There should be questions about the balance between use and the economy and the environment, and how we have jobs and how we protect the environment at the same time. There is reason to disagree on those kinds of things. There is a question of whether or not there should be congressional oversight of the statutes of laws that have been passed. Many of them—indeed most of them—passed 20 years ago. Or whether or not there should be opposition to every effort to restructure some of these laws and, indeed, to sort of demonize every effort as if it is going to be gutted or rolled back when, in fact, the effort is to take a look at a bill that has been in place for 20 years and see if there are better ways to do it, to see if it could be done more efficiently. That is what it is about.

I am sorry there has been this sort of politicizing of this issue in this Congress. I think it is appropriate that we use Earth Day not just to look at the past environmental successes but to look to the future as well. The successes have been numerous, to say the least. You would not know it by the kind of "Chicken Little" rhetoric that comes from, I think, environmental extremists who would rather scare folks than deal with the facts. I hope we can stick with the facts. We do not do enough of that here. There is too much overstatement about "gutting" and "rolling back" when that is really not what is happening.

Look how far we have come since Earth Day in 1970. Our rivers, lakes and streams are vastly improved. The Potomac is a good example. It was a wasteland 20 years ago, and now families fish there on the weekends. I suppose we all come from a little different life experience. I grew up in Wapiti, WY, which I am sure you all have heard of. It is just a post office and a school halfway between Yellowstone Park and Cody. It is called by some the "most scenic 50 miles in the world." And it could be. In fact, we had the last place next to the forest, and all around us were wilderness areas. I do not think there is anybody who has a stronger feeling or a caring for the environment than I do coming from there.

On the other hand, you may have come from a city where there was excessive pollution, and that is your experience. But now our air is cleaner, according to EPA. Particulate matter emissions have been reduced 60 percent. VOC's have been reduced 25 percent. Carbon monoxide has been reduced 40 percent. Lead emissions have been reduced by 96 percent. All emissions have been reduced by a third. That is great.

Wildlife populations are increasing, such as the bald eagle, white-tailed deer, elk, moose, bighorn sheep, and wild turkey. Simply put, the environment is cleaner now than at any time in the last 50 years. Americans are living longer and healthier because of that. We can be very proud of that. Both Democrats and Republicans have been a big part of this success during the 26 years since the first Earth Day. For 18 of those years, there was a Republican President in the White House. So we can all share in this movement forward on a nonpartisan issue.

However, despite all that we have done, we still have some things to address, certainly. Unfortunately, we are now trying to solve 21st century environmental problems with laws designed a quarter of a century ago. One of the areas in which I happen to be involved is endangered species. I do not know of anybody that does not want to protect endangered species. Certainly, I do, and everybody I know on our committee wants to do that. It has been up for reauthorization now for 3 years. It has not been reauthorized. It is not doing as well as it might be. It is not doing as well because we need to do something about peer review for science.

I went to a hearing out west, and we had scientists from both sides of the issue, from lumber people to environmentalist scientists, and you would never know they were talking about the same thing. If you want science to be the basis, we need to change that. We need peer review. We need to set priorities. There is a finite amount of money, so which of these endangered species do we put our money into. Are they all equally valuable? I do not know.

We have to do something to encourage private landowners to be more interested in endangered species. Now, frankly, in my State, if someone discovers an endangered species on their ranch or property, they are hesitant to know about it, because it might mean you cannot use your property for anything else. We need to find a way so that private owners can say, "Let us work on that."

So we have to update these things. That is what we are seeking to do. But this year, unfortunately, every time we take a look at how we might change it and make it more effective and efficient, then we are confronted with this "we are going to save you" idea. Frankly, the administration has led that. Regarding everything that has happened, the President is going to "save you" from those crazies in the Congress.

We have to start using some facts and we have to start really dealing with what the issues are. And I hope that this Earth Day will cause us to help do that. I think we can utilize the vast expertise local people have. All of these efforts will help us. I think there has to be, obviously, some balance. There are different kinds of environmental places, of course—parks and wilderness and forests—and many of those things should be set aside for single use. But the vast majority of Federal lands should be managed for multiple use. I am thinking about the West, particularly, because that is where I am from. Those are multiple use lands and we can find a balance between jobs, the economy, and protecting the environment; I am confident of that. It does not have to be one or the other. That is what we are seeking to do.

Superfund legislation. I am, frankly, disappointed. It is designed, of course, to clean up sites that have hazardous waste. We have spent billions of dollars, mostly that comes from a tax, to do that job. Do you know what most of it has gone for? Litigation. Lawyers and courtrooms. That is where the money has gone. A great deal of it comes from insurance policies for people involved. Someone said that nearly 90 percent of that money has gone to legal activities, not cleaning up the sites. That is what we really need to do.

So there has been a status quo opposition almost at every turn. I hope we get by that. I think there has been some deliberate misleading of people. This idea of somehow we are going to poison the children is silly. I am just as interested in my children as Carol Browner is or as Vice President GORE is. So we ought not to be talking about that. Some of that stuff is downright misleading.

The idea that one political party cares more about the environment than the other is laughable. We all live here together. We need to make some changes. I hope we can upgrade the Superfund in the next few months and that we can do something about the Endangered Species Act, Clean Water Act, and the Safe Drinking Water Act. We are ready to do that. We need to get the bogeyman out of the closet and quit talking about the sky is falling and take a real factual approach to making these things work better. We, indeed, can do that.

So, Mr. President, thanks to the efforts of lots of folks in this country, thanks to the efforts of people who care about the environment, the sky is not falling, it is in pretty good shape. We need to take care of it. We have some responsibility. Every citizen has some responsibility and we can do that. I am glad it is Earth Day. I look forward to this country being in even better shape next Earth Day, and all of us need to contribute to do that.

I yield the floor.

Mr. COVERDELL. Mr. President, I thank my colleague from Wyoming, and I appreciate his remarks. The exact figure on the Superfund is $25 billion that has been spent, and we have corrected 12 percent of the problem. So that is an issue in and of itself.

At this point, I yield up to 5 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BROWN. Mr. President, I rise with great pleasure on Earth Day. Environmental legislation has been one of the most enjoyable areas of legislation in the 16 years I have had in Congress and the 4 years that I served in the Colorado State Senate.

I was a sponsor of Colorado's conservation trust fund, a measure that set money aside to be used to purchase open space, preserving it for future generations. We, in Colorado, prize our environment and our open space and are determined to make sure we do not repeat the mistakes of the east coast and west coast, as they have seen cities grow together without adequate open space. It could only be done through a positive program. That is why the Colorado trust fund was such a monumental effort—not because the money is as great as we would like—it is not, but it is growing. It represents a positive step for the environment. Instead of saying "no," we can say "yes."

I am convinced that real environmental progress is going to be a product of saying "yes," of thoughtful and assertive action that does positive things, not just negative things. I am a sponsor of the minimum stream flow statute, sought to recognize minimum stream flow as a proper use of water and recognize it as a property right in the State. It is a fundamental step toward adding minimum stream flow to all of our streams.

Mr. President, on the national level, one of the most enjoyable things I have done are three additions to the Rocky Mountain National Park. The Rocky Mountain National Park is perhaps one of the most beautiful areas in the entire world, and it attracts literally millions of visitors every year.

Tragically, in recent years, Democratic Congresses have dramatically increased the cost of entering the park so that it becomes a preserve for only those who can afford to enter it rather than the poor. It has been a tragic mistake, in my view, because Democratic Congresses' actions have served to restrict young people who may not be wealthy from having an opportunity to visit that park. Our natural wonders of beauty, I believe, should be available to all Americans.

Mr. President, I am the sponsor in Colorado of the only wild and scenic river, the Cache La Poudre River. It was with great pride that we put it together. It was a compromise between those who use the river and those who enjoy it from an environmental and scenic point of view. It set aside areas where water storage can be added, which is important for preserving our water quality and our water flow in the State. But it also set aside specific large portions of the river for wild, recreational, and scenic uses.

Mr. President, I am the sponsor of three studies on the Cache La Poudre River examining a portion of the river to be included as a national heritage area. Before this Congress right now is a bill that I have worked on for more than a decade. The Cache La Poudre River National Water Heritage Area bill is one that will set aside the flood plain of the Cache La Poudre River as it flows down from the mountains through Fort Collins and through Greeley just below the areas that are designated as wild and scenic.

It is a wonderful opportunity because through land exchanges—that is, taking land that is declared surplus in the State owned by the Federal Government and exchanging it for ownership in the flood plain—we can preserve the area in the flood plain along an important stretch of river that, if no action is taken, will become city within two to three decades. Literally, we have the chance to do what they wished they had done in New York or what they wished they had done in San Francisco or what they wished they had done in Los Angeles—leave open space and beauty.

Mr. President, I have been shocked at the very partisan nature of some of the attacks by Democratic Members on this floor upon Republicans. I cannot help but reflect that this bill, which has unanimous support at home from both Democrats and Republicans, appears to be in jeopardy of dying simply because of the actions of the Democratic Senator from New Jersey, who put a hold on the bill for months and months, and may well have achieved killing it. It is an environmental bill. I must say I cannot understand the action of that Democratic Senator and why he would want to kill it. But to claim that interest in the environment falls along partisan lines is just silly. It is widely shared by all Americans, and it is why we honor this day.

I am convinced that we have to take strong, bold, affirmative action if we are to do our part. Simply saying no is not enough.

Mr. President, most important of all, refusing to look at the statutes that have been passed with an eye to improving them is not enough either. No one can look at the Superfund and not be ashamed of what has happened. Ninety percent of the money that was spent on the Superfund, money designed to clean up our environment, is spent for lawyers and process costs. That is a disgrace. Anyone who comes to this floor and decries the efforts to reform Superfund simply has not taken the time to look at it or does not genuinely care about the environment, and I know that cannot be true.

The reality is we need to use that money in the Superfund to clean up the environment—not simply pay lawyers. The actions with regard to environmental reform should not be dictated by trial lawyers who donate large amounts of money to political campaigns. They ought to be dedicated in our interest and our need to reform and improve the environment.

Mr. President, I yield the floor.

[Disturbance in the Visitors' Galleries.]

The PRESIDING OFFICER. The Chair will note that no demonstrations are allowed from the galleries.

Mr. COVERDELL. Mr. President, I yield 10 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

HOLISTIC RESOURCE MANAGEMENT, EARTH DAY 1996

Mr. BENNETT. Mr. President, I am delighted to join with my colleagues in commenting on Earth Day and, I hope, adding some information and perspective to the debate on Earth Day that will move in the direction that will be good for our country as a whole.

Mr. President, I appreciate the opportunity to speak on this 26th anniversary celebration of Earth Day. Many natural factors influence grazing on western public lands, with precipitation or the lack thereof probably being the single most important one. Without moisture, and specifically, moisture falling at the correct time, the amount of potential forage can be severely impacted. We can try but there is usually little, outside of asking for divine intervention, that humans can do to influence natural events. But we can change perceptions about public land grazing. We can manage the conflict that arises based on these perceptions. Never before in the history of this country has there been an issue so divisive, emotional and surrounded by perception, myth and hysteria as the issue of western public land grazing. Yet there are solutions; solutions that can solve conflict through planning, science, consensus, and shifting from traditional paradigms.

I speak to you today about a solution that has my support. It blends new ideas about natural resource management, planning and science with a healthy dose of old-fashioned hard work and common sense. Coordinated resource management is not about the management of grazing; any issue that has polarized western public land managers, public land users and lawmakers. CRM is a process that offers solutions to natural resource problems, requiring the cooperation of landowners, Government agencies, and other interested individuals and groups. Coordinated resource management is a voluntary and cooperative solution to natural resource management issues. CRM is based on the work of many, but notably the work of Allan Savory culminated in his book "Holistic Resource Management."

Conflict about management and use of western public lands has festered for years especially over multiple uses on lands managed by the Bureau of Land Management. This low profile agency, often overlooked by most Americans, has become the focus of intensive battles over the variety of uses it manages. Western public lands have gone from being the lands that no one wanted, to lands targeted by special interest groups for designation or special uses. This has been done without regard for traditional uses of the land and the families and industries that have adapted to the use of these lands. Conflict between users perceptions about management and the future of western public land agencies are the issues. These can be resolved by careful implementation of coordinated resource management.

Using the best efforts of local people, private landowners, interested Federal, State, local and State agencies, CRM integrates and coordinates resource uses to accomplish specific goals. The process is designed to achieve comparability between land and resources uses. There are a number of success stories world wide where CRM has been used to solve resource management issues. In my State, one of the notable examples is the Desert Ranch in northeastern Utah. Once a ranch troubled by apparent downward trends in forage production, conflicts with wildlife, incidents of extreme erosion, and degraded riparian areas, it is now a model of natural resource management efficiency. After implementing a holistic or coordinated resource Management plan, the ranch now graze more livestock than it has traditionally and produces some of the finest big game hunting in the West. Cattle have been used at such intensities as to make traditional private and public land range managers blanch. In most instances several hundred more cattle than normal graze pastures, which rebound with dramatic increases in forage production. Riparian areas have improved significantly, after being grazed at such intensities, to the point that streams are stocked by naturally breeding populations of trout instead of the Utah Division of Wildlife resources. Compare this to adjacent public and private lands where decreases in the numbers of livestock are almost annual, and where erosion and over grazing impact riparian areas and their value. Why this dramatic difference? Hard work, vision and a coordinated resource management plan. There are many other successes, especially tied to grazing. But the value of CRM is that the process can be applied to almost any resource management issue including the designation of wilderness.

CRM addresses the dilemma of managing areas with multiple use ownership, conflicting management objectives and requirements, conflicting land-use demands and off-site impacts. The overall goal of coordinated resource management is to serve as a vehicle to reach agreement on natural resources issues that will improve natural resources values for all users and to promote quality natural resource management through collaborative efforts. In other words, if people come to the table with the goal of reaching consensus, regardless of the diversity of agendas, many natural resource conflicts can be solved and perceptions changed. I support the concepts of CRM and encourage the use of the process to solve natural resource problems. We can set a goal to use the coordinated resource management process as a dynamic, long-term tribute to Earth Day 1996.

I remember as a freshman Member of this body sitting on the Energy and Natural Resources Committee when someone came before that committee for confirmation. I will not identify him because I do not want to embarrass him. The exchange that occurred between him and the then chairman of the committee, the Senator from Louisiana [Mr. JOHNSTON], speaks for itself and does not need to necessarily be personalized.

In the process of the confirmation hearing, Chairman JOHNSTON said to this man, somewhat startling me, "When you make your decisions on the environment, will you make those decisions on the basis of sound science or superstition?" Well, I sat there as a new member of the committee and thought this is a very easy question to answer. I wondered why the chairman raised it. Then I heard the response from the witness. He started to give all kinds of discussions about considerations that had to be examined and constituencies that should be heard from, and so on. Chairman JOHNSTON interrupted him. He said, "You are not answering my question. When it comes to issues of the environment, will you make your decisions on the basis of sound science or superstition?" The answer came back in the same mode, that there are many constituencies of the Department of Energy and the constituencies have to be heard. A third time Chairman JOHNSTON stopped him and asked the question. "Do not evade it. Give me a direct answer. Will you make your decisions on the basis of sound science or superstition?" For the third time the answer started to come out, and the chairman cut him off, and said, "It is clear that you do not want to answer the question, and we will move on."

I was sufficiently disturbed by that. But when it finally came my turn to question the witness, I said to him, "Do you realize what this Record says as it currently stands? You have been asked three times by the chairman of this committee, a senior member of the Democratic Party, a major figure in the party that controls both Houses of Congress, and the administration, that, 'Will you make your decisions on the basis of sound science or superstition?' and each time you have failed to answer. Unless you do answer that, the Record is going to stand quoting you as saying you do not believe that sound science should rule over superstition when it comes to the environment. Do you really want the Record to show that?" At that point he said to me, "Well, no, Senator, I do not want the Record to show that. Of course we will pay attention to science." I said, "That is the point that gets lost in all of this debate about the environment. We have a number of misconceptions about the environment to make us feel good, and I am delighted that you have finally made it clear that at least in your area under your jurisdiction environmental decisions will be based on sound science instead of response to the superstitions that are going around."

That particular exchange, long since passed into history, has stuck in my mind. I repeat it here on Earth Day because I think that is the crux of the various controversies that we are involved in when we talk about the environment.

Let me address one of the misconceptions that I find as I go around and talk to people about the environment. That is the notion that Nature is perfect, human beings are despoilers, Nature does things in an orderly way, and human beings just mess things up. That, I think, is the misconception that surrounds this whole environmental debate.

I sat in the chair one evening during the debate on the grazing bill, and the senior Senator from Wyoming, Senator SIMPSON, showed us some photographs. I was sufficiently impressed by that. I think we ought to take a look at them again. I brought them along.

It so happens that over 100 years ago, in 1870, a photographer went out in Wyoming and started to take pictures of the magnificent scenery that is available in Wyoming.

Here is the photograph taken on August 12, 1870, of a particular vista in Wyoming. In 1976, a photographer went back to the same spot and took a picture from the same location.

If you will examine the difference, you will see that under wise management by human beings, the grasses are much healthier, the area and vegetation is much lusher. Human beings, instead of despoiling the ground, have in fact improved it.

The Senator from Wyoming had a number of such pictures. I have brought along two of them. Here is another one. Here is the 1870 photograph—pretty barren, pretty bleak. Here is the 1976 photograph, 100 years later—much healthier vegetation, much healthier conditions.

In the debate on the Utah wilderness bill, I produced this photograph for our colleagues to see. This is not 100 years. This is only 50 years. The Escalante River in 1949. You can see how barren this is. After 50 years of wise management in the area, you can see now that this area is revegetated.

I showed this in Utah during the Easter break, and I was attacked by some people who said, "Senator, just because its pretty doesn't mean its wilderness."

They pointed to the lower photograph and said, "That's a violation of nature because," Senator, "you're not smart enough to know this. We are. Some of that vegetation down there is not indigenous to Utah. These trees that ended up here came from outside of Utah. It's a violation of the purity of this wilderness to have Asian species in that area."

I went back to some land managers to ask them about that, and they said, "Yes, there is some tamarisk there. Some of the green vegetation around the river area—you see no vegetation whatever here—some of the green vegetation is tamarisk, but most of the vegetation is cottonwood, shrubs, and grasses indigenous to Utah. Tamarisk is not a weed. It is a tree that was imported ironically for soil conservation reasons. The tamarisk was planted to prevent erosion.

Now, if we adopt the notion that everything nature does is perfect and everything we need to do should be geared toward preserving things in their absolutely natural state, we run into a very serious problem. That problem is this: Nature is not constant. Nature changes the face of the land all the time.

Secretary Babbitt has just spent 4 days walking along the C&O Canal to try to raise our awareness of Earth Day. Why the C&O Canal? Because with one storm, nature devastated the C&O Canal. It was all scenic, protected, and preserved, but nature came along and after one storm, with the winter floods the C&O Canal was devastated.

If you go back to my home State of Utah and say we want our land to remain in the condition that nature decreed that it should be, the argument could be made that the entire State should be under water. There was a time—and it can be demonstrated by the geologic features along the benches around the Salt Lake Valley, and throughout the mountains, that Lake Bonneville, as we call it, once covered most of the State of Utah and southern Idaho. It was bigger than any of the Great Lakes—bigger than Lake Michigan or Lake Huron or Lake Superior—it was a huge body of inland water.

Is it not wonderful that nature has created this magnificent, inland, freshwater sea? And then something happened. Nature changed it. One day, in southern Idaho, up by Lone Rock, the lake burst its banks and an outlet to that freshwater sea was created. It started, over the many millennia, to disappear.

What we have remaining in Utah now is another magnificent gift of nature. It is the Great Salt Lake. The salt flats to the west of the lake are the remnants of Lake Bonneville which over the millennia. In that area now you have this unique natural phenomenon called the Bonneville Salt Flats created by nature. If we are going to say that in the name of the environment we must preserve nature as it was, we have to go back to the boundaries of Lake Bonneville and try to find some way to fill it all up with water again because that is what nature once had.

The fact of the matter is—and this is sound science, Mr. President—nature changes. It changes daily. It changes over the years. It changes in ways that are good, and, as the C&O Canal, it changes in ways that are bad.

Our responsibility as proper, sound stewards of the land and environment is to make intelligent decisions and not get carried away with superstition, nor rely on misconceptions as fact.

Mr. COVERDELL. Mr. President, I yield up to 15 minutes to the Senator from Idaho.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Wyoming is recognized.

Mr. KEMPTHORNE. I thank the Chair. I wish to thank the Senator from Georgia very much for his leadership as we debate this issue.

Mr. KEMPTHORNE. Mr. President, today, as we celebrate Earth Day, we should stop to consider our air, the quality of life, and the world we will leave our children. And because of the lessons that he taught that we should pass on to our children, this is the right occasion to look back on the legacy of Teddy Roosevelt, a great Republican, a true conservative, who first taught America the importance of conservation. Under President Roosevelt's stewardship, America first endorsed the wise use of our natural resources, established the National Park System, and preserved for all time the great Yellowstone National Park.

In a message to Congress on December 3, 1907, President Roosevelt said:

> To waste, to destroy our natural resources, to skin and exhaust the land instead of using it so as to increase its usefulness, will result in undermining in the days of our children the very prosperity which we ought—by right—to hand down to them amplified and developed.

President Roosevelt's words are as true today as when spoken 90 years ago. We Republicans can be proud of President Roosevelt's heritage, but as a nation we must implement President Roosevelt's vision of leaving our children an environment and an economy better than that which we inherited.

We are all environmentalists. We have to be. Who can be against our life support system? Our own personal experiences make the environment an emotional issue. All of us have great stories of the outdoors.

Being from Idaho, I can tell you that I have had some tremendous trips down the white-water rapids where, as you begin to hear the first roar of the rapids, you are filled with anticipation, and then when you make it through those rapids the exhilaration that you feel camping under the majesty of the canopy of ponderosa pines, with the full moon above.

I know the great splendor of Idaho's Sawtooth Mountains, and I wish to leave my children a legacy of conservation of which they can be proud.

Before coming to the Senate, I served as mayor of Boise, ID. Boise is graced with the Boise River. This river serves many uses. It provides about a third of our drinking water. It serves as a major recreational and fishing amenity, and it provides habitat to many diverse species.

How many cities in America can boast of bald eagles and blue heron just 5 minutes from the center of downtown? Boise is fortunate, but Boise is not unique. From the Puget Sound to the Everglades, this country is blessed with some of the most magnificent natural and scenic treasures on the planet. We are also blessed with the largest and most vibrant economy on the planet. We must preserve these gifts of economy and environment.

If you have a high-paying job but you live in a community where the air and the water is polluted, weeds and trash have overrun your parks, you do not have quality of life. But conversely, if your community enjoys clean air, clean water, beautiful open spaces, but you do not have a job and you cannot provide for your children, then you do not have quality of life either. So, our challenge is to reach that balance between a clean environment and a sound economy. I believe that we can. In fact, this Senate has already taken major steps to make that happen.

I am proud of the work that we did on the Safe Drinking Water Act reauthorization. Working in a bipartisan way, we passed a bill that is strong on public health protection; in fact, we ought to call it the "safer" drinking water act. It takes into consideration the costs of providing clean and safe water.

The Safe Drinking Water Act should serve as a model for accomplishing sound environmental law. Everyone had a seat at the table and a say in drafting the legislation. The environmental and public health advocates, water utilities, States, cities, counties, businesses, all worked cooperatively on the bill. Republicans and Democrats put aside partisan politics for the good of the Nation.

As a result, the Senate passed the Safe Drinking Water Act 99 to 0, and everyone in this Chamber can be proud of that legislation. That is an example of a bill that improves public health and safety and leads to good quality of life. It is good for the environment, and it is good for our communities.

There were lessons learned during the 10 months we negotiated that bill, and those lessons will serve us well as we look at other environmental issues. One key was the active participation of State and local governments. Who knows better what each community needs, a local leader or a Washington bureaucrat, who quite often has never been to your State or your community? Believe me, as a former local official, I had much more confidence in my city's ability to meet its needs than any orders from Washington, DC.

True, Congress must set national standards, but we should allow local and State governments the flexibility to let those standards work in their specific situations. The only way to do this efficiently and economically is by bringing the local leaders and the State leaders into the process. We should also let local communities solve their problems without the burden of Government redtape.

One example is the Henry's Fork Watershed Council in northeastern Idaho. The council grew out of years of conflict between fly fishermen and irrigators. Each group had what they believed to be legitimate claims to the waters of Henry's Fork system. The river is a blue-ribbon trout fishery, revered by fly fishermen from across the world for is crystal clear water and trophy rainbow and brown trout. But the farmers in Fremont and Madison Counties need the water from the Island Park Reservoir also. They need the water to irrigate their acres of potatoes and barley. A great number of Idaho's famous potatoes are grown in this region, and those crops help sustain the economy of that part of Idaho.

Finally, after years of fighting, the Fremont-Madison Irrigation District and the Henry's Fork Foundation fly fishermen realized that while they argued, the quality of the resource that they both so desperately needed was deteriorating. So they put aside their differences and they started working together for the common good.

It has worked. Last summer, for example, when the water temperatures soared and threatened the fish, the irrigators voluntarily agreed to release the water from the dam, filling the streambeds with cold water and saving the fish. Before this cooperative agreement, it might have taken weeks of negotiations and miles of redtape before anything was done.

I will add that the Federal Government is a partner in this sort of situation—the U.S. Fish and Wildlife Service, the Forest Service, the Bureau of Reclamation, the Natural Resources Conservation Service. But the key is it was the local parties that got together and found the solution—local people, local solutions.

In another pristine part of Idaho, industry has taken the lead in environmental protection and restoration. Potlach Corp. has voluntarily set aside valuable forest land along Mica Creek. I have been to that location. I took with me the chairman of the full Environment and Public Works Committee, Senator JOHN CHAFEE. The goal of the Mica Creek project is to establish baseline management data surrounding natural events and conditions. The project is proof that there are so many, many businesses in this great land of ours who want to do the best possible job that they can to protect and even enhance the environment. And just as in the case of Mica Creek, they did not need Government to tell them to do this. They did this on their own, because they know it is the right thing to do.

Local people, local solutions—they can also help with other monumental tasks facing Congress, tasks such as the Endangered Species Act.

There is a growing recognition in this country that the Endangered Species Act must be reformed. Last year I introduced legislation to improve the Endangered Species Act, to make it more effective in recovering species and to make it more fair. Last month I began bipartisan discussion with my colleagues on the Environment and Public Works Committee and the administration with the goal of developing a bill over the next few weeks that will actually preserve endangered species, improve their habitat while recognizing the legitimate needs of people and making the act work. This is a goal that we can all share.

My view is that too often the interpretation and the implementation of the Endangered Species Act has gone far beyond the original intent. The Endangered Species Act should not be a tool that places entire communities at risk by threatening their economic survival. At the same time, we cannot turn our backs on the efforts to save endangered species.

For now, though, this Endangered Species Act, on its present course of heavy regulation, putting people at risk, is not working. To single out individual communities to carry the full brunt of recovery of an endangered species when the entire national community is the beneficiary is wrong. But to say that the extinction of a species is no big deal and just the luck of the draw of that particular species is also wrong. The extreme entities that would advocate both positions, in all honesty, probably deserve one another, on some remote desert island where the only way they will survive is to help each other.

So, what is right? Should we make concerted efforts to save species? Absolutely. Can we prioritize which species we should make greater efforts towards? We must. Can we do this without undermining private property rights and putting whole communities at risk? We had better, or the outcry against the act will kill it.

Reauthorization of the Endangered Species Act is, without question, one of the most politically polarized issues that we will ever deal with. It may also be one of the most important environmental issues for us and for our children. As lawmakers, we have a duty to rise above the rhetoric. So, let us get real and let us get practical.

A lot has changed since the Endangered Species Act was enacted in 1973. For one thing, scientists have made tremendous advances in every discipline. Biology, botany, genetics, and other sciences are much more sophisticated than they were 23 years ago. But the rules and the regulations of the Endangered Species Act have not changed to keep up with the science. So we need to acknowledge the advances and use them to balance an improved Endangered Species Act.

Untold millions of dollars have been spent to save species with very few results. Of the more than 1,500 species of plants and animals that have been qualified for protection in the 23 years the law has been in effect, only 20 have been removed from the list, either because they have gone extinct or were placed on the list by mistake. Only six can be claimed as successes under the Endangered Species Act, and even they were largely recovered due to the efforts of private conservation groups.

One such group is the Peregrine Fund at the World Center for Birds of Prey in Boise, ID.

The efforts of this private group has led to a proposed delisting of the peregrine falcon. Just 20 years ago, there were only 39 known pairs of peregrine falcons in the lower 48 States. Today, recovery and reintroduction efforts have produced nearly 1,000 pairs. More than 81 percent of the falcons released have reached independence. The success of the Peregrine Fund should be a model for reforming the Endangered Species Act. If at all possible, we want to avoid putting species on the endangered list. We would like to take them off, and the only acceptable way is through recovery. This cooperative effort shows that we can use good science and manage a species early in its decline and bring about these kinds of results. We can recover species, and the work of the Peregrine Fund shows that if Government will provide incentives and then get out of the way, that we can, through innovation and good science, achieve the very results that all of us applaud.

I envision an Endangered Species Act that uses good science, innovation, incentives, and, where necessary, public financial resources to do what we, the stewards of this wonderful land, can do to benefit not only other species but ourselves as well.

I envision an Endangered Species Act that encourages all of us to participate willingly to conserve rare and unique species.

I envision an Endangered Species Act that treats property owners fairly and with consideration and that minimizes the social and economic impact of this law on the lives of citizens.

Working together, we can draft legislation that takes that important step in that direction. We can make the act smarter, and we can make that act better.

I believe that Congress has abdicated its responsibility by not dealing with the Endangered Species Act sooner. I can see why. Advocate change and you are immediately labeled as antienvironmentalist.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KEMPTHORNE. I ask for 2 additional minutes.

Mr. COVERDELL. I grant the Senator from Idaho 2 additional minutes.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, this should not be a contest to see who is more for the environment. We should all be in favor of a cleaner, safer, healthier America for our children and their children.

I have called myself a probusiness environmentalist. We have been able to strike a balance between development and the environment. A good environment makes good business and, therefore, good business will invest in protecting the environment. Economic growth and quality environment are not mutually exclusive. They, in fact, can and should and must support one another.

With that, Mr. President, I yield back the remainder of my time.

Mr. COVERDELL. Mr. President, at this time, I yield up to 10 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

EARTH DAY, 1996: A DIFFERENT SHADE OF GREEN

Mr. GRAMS. Mr. President, on a day set aside to recognize the importance of protecting our environment and preserving our natural resources, I am pleased to join with my colleagues in this frank discussion of the substantial progress we have made and the steps we have yet to take.

But first, it is important to recognize that environmental protection is not a partisan matter. It is not about Republicans or Democrats. This is one issue which should bring us together, because on this issue, we share the same goal: We all want a clean America, where our children can breathe clean air and drink clean water. And there is not a man or woman in this Congress who would demand anything less for their families.

I am so proud, Mr. President, that over the past 20 years, we have made such great strides toward achieving that goal.

Our urban landscapes are no longer polluted by the thick, black smoke of industrial smokestacks. Our lakes and rivers are no longer the dumping ground for toxic sludge. We are recycling newspapers, glass, and plastics in record numbers. Through efforts such as the Conservation Reserve Program, Congress is working in partnership with the American people to ensure our generation leaves behind a cleaner Earth than the one we inherited.

We acknowledge that government at all levels can and should play a strong role in protecting our environment. Maybe that is why the United States spends more per capita on environmental protection than any other Western, industrialized nation.

The question is no longer whether or not we want to protect the environment—we all do. The question is, How do we achieve it?

It is an interesting coincidence that just a week ago, the American people were filing their Federal income tax returns and thinking about Government and how it impacts the family finances.

Today, exactly 1 week after Tax Day, we are marking Earth Day. And once again, the American people have an opportunity to think about Government—this time, its impact on the environment. But in the 26 years since Earth Day was first celebrated, Americans have grown concerned with Washington's environmental activism: What it is doing to jobs and salaries, and the bite it takes out of the family checkbook.

What they are telling us is yes, government ought to protect the environment. But they are also saying it can do better by the taxpayers, too. And so they have asked this Congress to find a better balance, a "different shade of green" for Earth Day, 1996.

Over the past two decades, the Federal Government has worked toward better environmental protection by passing new legislation and imposing necessary new regulations. But in our zeal to protect the environment, we have often neglected to consider the serious, unintended consequences of the actions we are taking here in Washington.

We have cleaned up neighborhoods by clamping down on pollution, but we have handcuffed job-providers from finding better ways to achieve the same results.

We have sought out and protected wetlands and other unique environmental areas, but we have often commandeered people's land, without compensation, to do it.

We have demanded a great deal of the American people through our environmental regulations, but we have forgotten about the burdensome costs and confusing bureaucracies our vigilance have imposed on everybody.

It is hard to measure the benefits of our well-intentioned, environmental safeguards when these Federal regulations come at such a high cost.

The American people are telling us that Washington has gone too far, especially given the estimates that complying with environmental regulations cost an estimated $850 billion every year. That is $850 billion no longer available to pay higher wages and better benefits, and creating new jobs.

Is it possible that the environmental policies of the past have a cost that can be measured in terms greater than just dollars? Could they be costing human lives as well? According to researchers at Harvard University, the answer is yes. Because the government has increasingly focused its precious resources guarding the public against minuscule, theoretical risks, they are ignoring much greater dangers—a situation Dr. John Graham of the Harvard Center for Risk Analysis labels "statistical murder." It is a policy, say researchers, that costs 60,000 lives every year.

In other words, we have spent a lot of our taxpayers' hard-earned money on wasteful and nonproductive programs, rather than spending those dollars on finding a cure for, say, cancer, leukemia, or heart disease.

That kind of micromanagement, undertaken at such a horrible cost, is the wrong approach. No wonder so many average Americans feel they are being victimized by oppressive environmental legislation. In many cases, the Government has caused more damage than it has improved, and our goal should be to balance environmental protection with the need for economic growth as well. We always talk about the best welfare program being a job, but we have unnecessarily lost thousands of jobs because we have ignored the end result of bad policy. If we are ever going to achieve balance, the solutions will not be dictated from Washington, DC, where layers of bureaucracy and waste cloud every decision. Sensible relief will only be found outside the beltway, by reining in the Federal regulators and giving our constituents the freedom to achieve the environmental goals everyone shares.

The Government can set goals or limits, but we should then step back and let the creative genius of Americans work on the solution in less costly, innovative ways. Expensive, one-size-fits-all dictates from Washington are not the answer, nor is using old technology to treat new problems. If experience has taught us anything over the past 26 years, it is that wisdom and compassion does not flow from the Federal Government.

That has clearly been the lesson of the Superfund program, a classic example of Washington-knows-best gone wrong.

Let us look at the facts.

Mr. President, 25 billion taxpayer dollars have been spent over the past 15 years cleaning up toxic waste sites on Superfund's National Priorities List. Yet as of today, only 12 percent of these sites have actually been cleaned up. Excessive administrative costs and a bloated bureaucracy have eaten away a lot of the money, while billions of dollars have gone to line the pockets of trial lawyers, who continue to delay Superfund's important work. The lawyers are benefiting while the American taxpayers get burned.

The end result? Fewer hazardous sites are being cleaned up and more Americans are being put at risk.

Clearly, the Superfund program is broken. Congress has an opportunity this year to reform Superfund and redirect the taxpayers' dollars away from the bureaucrats and lawyers, and toward meeting the original intent of the law: and that was cleaning up the environment.

The Endangered Species Act is another well-intentioned, but problematic, piece of legislation.

I have always believed the Federal Government can assist landowners in being the best stewards of their lands. But the Endangered Species Act provides an incentive for them to actually harm endangered species.

Under the act, if a landowner is told by the Government that their property is home to an endangered species, they are stripped of their ability to use their own land. Not only are they deprived of that land—and the enjoyment and revenue it might generate—but they are also denied any compensation from the Federal Government.

While that is obviously not the intent of the Endangered Species Act, it has become an unfortunate, perverse byproduct of the legislation.

One way Congress could improve the endangered species legislation is to provide incentives for property owners that would enable them to protect the environment, instead of forcing them into desperate actions when they've been threatened by Federal bureaucrats.

Mr. President, what is most often lacking in Washington's attempts to improve the environment through regulation is an effort to get the big picture—a scientific approach to assess the various risks, and then direct resources where they can do the most good. Risk assessment and cost-benefit analyses are commonsense approaches undertaken out in the real world, but sorely missing in the Federal Government.

When businesses or individuals make important decisions, they usually perform their own version of a risk assessment. To best serve the taxpayers—who deserve to know what kind of bang their getting for their bucks—Federal agencies ought to be targeting their resources in the same way, eliminating overzealous regulation by asking the Environmental Protection Agency to focus on real solutions to real problems. This will not only free up more funds for financially strapped Federal agencies, but also provide a higher level of environmental and public health protection.

Giving our job creators more flexibility in meeting national standards is another way to eliminate the pervasive command and control approach that has infected many Federal programs. A pilot program called Project XL is proof that these efforts do work.

I have been working on Project XL with the Minnesota Pollution Control Agency, Minnesota-based 3M, and the EPA. This popular program allows participating companies to come up with their own methods to go beyond minimum environmental compliance. Allowing business to best determine how to meet all Federal standards is an innovative idea that should be expanded. As long as those standards are met, the path traveled to reach compliance should be open to experimentation.

And finally, the Federal Government needs to promote a better partnership between all levels of government, job providers, environmental interest groups, and the taxpayers. The most effective way for the Federal Government to play a strong role in protecting the environment is to do it in concert with those closest to the problems. Local solutions, not Washington domination.

That means setting reasonable national standards and giving technical advice to State and local governments and businesses. I have always believed that Minnesota taxpayers and our elected officials in St. Paul are much more aware of local problems and how to solve them than Washington will ever be.

"It is not easy being green," went the lyrics of a popular song from the 1980's. Maybe not, if being green in the 1990's means promoting an environmental agenda that flies in the face of common sense and treats the taxpayers with contempt.

Americans are looking for a different shade of green, Mr. President, an approach to the environment that strengthens the protection of our precious natural resources, promotes better health and safety measures, and helps rein in the exploding regulatory costs that are threatening people's paychecks.

Government does have an important role in ensuring a strong environmental safety net. But we can do better. In closing, Mr. President, by reforming the system and providing balance, we will enhance environmental cleanup and preservation while we protect landowners from undue Government interference, reduce costly, arbitrary regulations, and ultimately, save more lives.

So, Mr. President, on Earth Day, 1996, that is the shade of green this Congress is working to deliver.

I yield the floor.

Mr. COVERDELL. I thank my colleague from Minnesota. I yield up to 10 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I thank the Chair. And I thank the Senator from Georgia for his effort to organize this group of conversations regarding the protection of our environment.

I noticed from some of the comments that certain Democrats, anyway, I should say, have appeared to take offense that Republicans are actually working to protect the environment, apparently under the belief that Earth Day is a special day for them to demagog and politicize environmental issues. The real purpose of Earth Day is to recognize important work being done to protect our environment.

Today I want to discuss briefly two specific projects undertaken by a broad group of interests in my home State of Arizona that do exactly that.

The first has to do with ranchers in southeast Arizona who are acting as true stewards of the lands for the purpose of protecting the grasslands on which they currently are grazing. Many ranchers are working in harmony with nature not only to earn a living but also to protect the environment upon which they are earning that living. They are using their natural resources in a way that it is meant to be used.

In his forward to Dan Dagget's book called "Beyond the Rangeland Conflict—Toward a West That Works," David Getches, who is chairman of the board of trustees of the Grand Canyon Trust, said of ranchers on the Colorado Plateau—I am quoting—

> It's not hard to find ranchers on the plateau who share some of our most heartfelt values. Most want their grandchildren to know a region with a healthy ecosystem and places of wonder, beauty and solitude. And most can understand that economic stability and permanence of communities are intertwined with the permanent health of the surrounding land, water, and wildlife.

Certainly Professor Getches is correct because some of the people who care the most about the land are those ranchers. I speak specifically of a new group called the Malpai Borderlands Group which is the essence of this commitment for protection. I met with representatives of the Malpai Group over the Easter recess when I was in Douglas, AZ. I was very impressed with the work they are doing as a combined group of ranchers, representatives of environmental groups, Federal agencies, and other people in the community.

The area in which they are working together is an area of thousands of acres in both New Mexico and Arizona which is the home of a great many endangered species and an environment that needs help. The land ownership is about half private and half Federal agency, the Federal lands being the Bureau of Land Management and the Forest Service as well as some State trust land.

But in 1990 this group got together to begin discussing ways of dealing with what they thought was a deteriorating situation, an attack on ranching generally, and also a deteriorating environment. The grasslands, with some shrubs, were moving inexorably to shrub lands with some grass. And this occurred for many reasons. But the principal one was the absence of a very natural element—fire.

For years fire used to sweep through this area every decade or so and, in effect, cleanse it of all of the woody shrubby plants which then promoted very shortly thereafter fresh new grass for the wildlife then to thrive on. But because of the fire suppression that has not occurred in the last 100 years or so, the result is that the grasslands have gradually now become woods where there are shrubby lands that cannot support grazing.

So the agenda of this group was to address both the threat of fragmentation of the landscape—selling off smaller parcels for development—and the decreasing productivity and loss of biological diversity accompanying the encroachment of these woody species on the grasslands.

What they did is form the 501(c)3 organization called the Malpai Borderlands Group with 45 rancher members. And its 19-member board includes local ranchers, a scientist, and a businessman, and, as I said, representatives of various environmental groups. It has a 5-year plan for ecosystem management that targets three key concerns.

First, conservation and land protection, including such things as on-the-ground projects, use of fire, and holding of conservation easements; second, sustaining rural livelihoods, including innovative approaches to grazing, possibly the cooperative marketing of beef, and exploring other opportunities with low impact to the environment; and, third, science and education, including a comprehensive resource inventory of the area.

The Malpai Group has taken an evolutionary, if not revolutionary, approach to ranching, working with biologists, soil conservation specialists, BLM and Forest Service representatives, and the Nature Conservancy to find ways to keep this area literally a working wilderness.

As I alluded to, reintroducing fire is a crucial element of the Malpai group's plan to restore the range. As a result, they have worked in several experimental areas restoring that element of fire and bringing back the grasslands.

The success of this group, as I said, is really due to a commitment of the landowners. Participation is purely voluntary. The enthusiasm of this group of land stewards is clearly a shining example to those who would like to create such organizations and protect their own areas, working together.

As Bill McDonald, Malpai Borderlands Group president, says of the group: "In a political climate where the traditional position on the issue of land use is usually to be at one end of the spectrum or the other, we find ourselves in the 'radical center.' We invite you to join us right there."

Mr. President, I joined that group just a couple of weeks ago to try to help them clear away some of the bureaucratic underbrush that might prevent them from moving forward with their very important, innovative experimentation.

Now, the second key thing relates to the forests in the arid Southwest. Natural fire is not just a friend of the grasslands but has also helped to maintain the health of our forests over the years. Once again, because of fire suppression and other problems, our forest health has deteriorated because that natural phenomena that used to keep it healthy is no longer part of our management process. Instead, what happens is that because we suppress fire, the fuel in the forests builds up and the growth begins to become very concentrated, with the result that when the fire comes, it burns not only the underbrush as it used to do, thus clearing the forest of the smaller, scrubbier kind of plants, but quickly crowns to the top of the trees and literally jumps from tree to tree, devastating entire forests.

The other problem with the forests is the health condition today. Too many trees are crowding into too small an area which then sucks all of the nutrients and the moisture from that area, thus providing a more disease-prone forest. Rather than the open and rather park-like environment that existed 100 years ago, tree densities now make a very unattractive and unhealthy forest. Mr. President, 100 years ago the tree density was typically 20 trees per acre, with most trees of a relatively large diameter. By contrast, the present forest averages about 850 trees per acre, with an average diameter of less than 4 inches. I have three cross sections of trees in my office. One is about this big, one this big, and one is this big. All three trees are 60 years old, but the big tree exists in the open park-like environment, and the little tree exists in a cramped environment with 850 or 1,000 trees per acre. Obviously, all are competing for the same nutrients and water.

What we need to do is open the forests up. Two professors from Northern Arizona University have begun an ambitious program to do precisely that. Professors Wally Covington and Margaret Moore have begun to use what they call adaptive management techniques to restore the southwestern ponderosa forests to their natural presettlement conditions. Their partners are the Bureau of Land Management, the U.S. Forest Service, and Northern Arizona University. Their work is being supported by Secretary Bruce Babbitt, Secretary Glickman, and others in the region who understand the importance of bringing environmental groups and other persons interested in forest health together to reintroduce some of the natural methods of forest management that have been lacking in recent years, including both the thinning of the small, unhealthy trees and the use of fire to get rid of the brush and the fuel which could, of course, create the fire danger.

In October 1995, these scientists initiated the Southwest forest ecosystem restoration project near Mount Trumbull, AZ. This is roughly a 5,000-acre pilot project in which these new management techniques will be utilized to determine whether or not they can truly restore the health of the forest and whether these management techniques would then be useful throughout the arid Southwest. They will remove the dense, young growth to restore the open forests of large older trees and hope to do ecological sampling that include overstory trees, understory trees, understory shrubs, grasses, wildflowers, and forest floor fuels. Sampling will also extend to birds, mammals, and insect communities.

I saw a pilot project just west of Flagstaff which had only been under experimentation for 2 years, but it is amazing that sap contents of the trees—which did not mean anything to me before I heard about it—had grown by an order of magnitude in just 2 years, thus making the tree almost impervious to bark beetles.

Mr. COVERDELL. Mr. President, we worked with the other side. We have another speaker. I ask unanimous consent our time be expanded by 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, I yield 2 additional minutes to the Senator from Arizona.

Mr. KYL. I see the majority leader is here.

Just increasing the sap content of the trees makes them more impervious to beetles, and thus disease, thereby creating more nutrients in the grasses because the forest has opened up. Wildlife needs less grass because the protein content has quadrupled. There are so many benefits to this kind of management that it is clear we need to expand it to broader sectors of our forest environment.

The point is there are innovative things being done to protect our fragile environment, with land stewards and environment groups and others all working together. These two examples I have discussed today show that through this kind of cooperation and innovation, we can truly protect the environment in a very bipartisan and cooperative way.

I commend these two experiments to my colleagues.

Mr. COVERDELL. Mr. President, I compliment the Senator from Arizona on his remarks.

I yield up to 10 minutes to the Senator from New Hampshire.

Mr. SMITH. Mr. President, I thank the Senator from Georgia for yielding.

As we celebrate the 26th anniversary of Earth Day, Americans will again have an opportunity to reflect on many of our past environment successes and, frankly, some shortcomings, which I hope we will be able to address. We should also take this opportunity to set a course to correct any past failures regarding the protection and restoration of our precious environment, as well as dwelling and focusing on those that have been successful.

Let me, as many of my colleagues before me have done, set the record straight once again, Mr. President. We are all environmentalists here in the Senate. I think most of us would call ourselves environmentalists in the United States of America as citizens. This is a beautiful country. It is home to all of us. The environment is not a Democratic issue. It is not a Republican issue. It should be a bipartisan issue. I very frankly and honestly, as one who has worked for the past 2 years on the Superfund bill, take great issue with those who would somehow accuse me or anyone else in my party of being antienvironment. Yet that is happening.

Unfortunately, the political environment has become so partisan during this Congress that it is almost outrageous. My children, I think, would like to drink clean water. I certainly recognize the fact that President Clinton's daughter might like to drink clean water. I hope you will recognize that my two sons and my daughter would like to drink clean water as well.

My family breathes the same air as Vice President GORE and his family and the President and his family. I have enjoyed fishing and hiking in the trails and ponds and lakes and streams of New Hampshire, probably some of the same lakes and streams that some of the people in the administration have. We are very proud of the fact that in northern New Hampshire we have the great northern forests which are protected by landowners, as well as the Federal Government. But landowners take good care of that land and have been good stewards. We are very proud of what they have done to protect that land.

I think most of the environmental laws on the books today were initiated—not just signed; were not vetoed, certainly—but were initiated by Republican Presidents—Theodore Roosevelt, George Bush, Richard Nixon, to name just a few. They have very strong environmental protection records. Our National Park System was started under President Theodore Roosevelt. The EPA was started under Richard Nixon. The Clean Air Act amendments and the Oil Pollution Act were under George Bush. They were all initiated under Republican administrations. Yes, the Congress, many Democrats in Congress, sent those bills to the President's desk. My point is it is a bipartisan matter, and these bills were signed.

One statute, though, I have been involved in stands out as one of the least effective. That is a bill called Superfund. Mr. President, $30 billion has been spent over 15 years to clean up 50 sites. If you do the math on that, it does not work out very well. I have devoted many hours on developing appropriate reforms to this failed program. Our goal is to change this program from one of litigation and wasted resources and delay to one that actually cleans up hazardous sites expeditiously.

While Republicans and Democrats agree on the need for reform, there is still some disagreement on how to get there. One of the basic problems with the current Superfund Program is that it is more focused on process than results, more focused on litigation and arguing than on getting results.

I issue a challenge now to my Democrat colleagues on the other side of the aisle and say that we are ready—Majority Leader DOLE is ready, I am ready, and Senator CHAFEE is ready to get a bipartisan Superfund bill and put it on the President's desk. I challenge my colleagues not to play politics with this bill and help us get it there.

A number of environmental laws are long overdue. For 3 years, I have been involved in efforts to reauthorize the Safe Drinking Water Act as was Senators CHAFEE, KEMPTHORNE, and others. The vote was 99 to 0. I find it hard to believe that we can be accused of being antienvironment.

There is no doubt that the environmental movement in the 1970's served an important purpose. Our air and water are cleaner today and continue to improve. Now is the time to reflect on the successes and build upon them and address some of the failures, so that we can get more bang for the buck. Let us face it, many of the things that have been done to clean up the environment have been done, but pollution controls from this point forward will be very expensive. We need to be able to pick and choose the best technology and be up to speed on that. Carol Browner, the EPA Administrator, said, "We need to develop better, smarter, cheaper regulations."

I could not agree more. Is the environment getting cleaner? Yes, thanks to a lot of bipartisan leadership over a lot of years. Are there less expensive efforts to achieve the same or higher level of protection? I think the answer is yes. I think we have an obligation to look at those least expensive methods, and one condition is that it does not detract in any way from the pace of cleanup of the environment.

To what degree should the Federal Government mandate regulations on States and local communities without providing adequate resources to comply? That is another question we need to ask. But there are a number of themes that my Republican colleagues and I believe should be the foundation for effective improvements in current environmental law. One should be that we ought to promote sound, effective market-based environmental regulations, because when you bring the market in, you save the taxpayers money and you bring the businesses in as a partnership. Therefore, since they are responsible for some of the problems, they are willing to help us clean them up. We must recognize that States and local communities often do a better job of protecting the environment within their borders than the Federal Government can. So, partners, not enemies.

We must incorporate better risk management and cost-benefit analysis in our environmental regulations that will enable us to prioritize our goals. We must base our environmental decisions on the highest quality, peer-reviewed science, not questionable, unreliable data and unfair politics. Finally, and most important, our goal is to enhance, not detract from, a cleaner environment, to enhance it. That is our goal, not just to save dollars for the sake of saving dollars. If it detracts from our environment, then we spend the money. And if we can spend less and do more and accelerate the pace, why not do it? We have an obligation to do that.

I ask my colleagues to take a look at that and realize that just because we say we can do it better, not less efficiently, that does not necessarily mean it is negative. We all want a clean, healthy environment to pass on to future generations. It is one of our most important responsibilities.

However, the American people also believe we need to reduce Government waste and bureaucracy, to update environmental programs, to address problems more effectively and allow American business to remain more competitive. If we can do all of those things and enhance the environment, we ought to do it.

My Republican colleagues and I are trying to accomplish these goals. We consider such things as cost benefits and risks and rewards not as trivial, but as very important. We must strive to prioritize risk reduction and get the biggest bang for the buck in every American program. That is just common sense.

Environmental policy is at a crossroads, Mr. President. We have a historic opportunity to improve our environmental laws so that they better serve the American people. That is not to say that we have failed in the past. We have many, many, many successes, including the Merrimack River in my State, which is now beginning to see fish and recreation again. It should not be controversial. We all live on this planet, and we should be working together on this. If there is anything we ought not to be partisan about, it ought to be the environment.

I will close on this point. This week, as Earth Day commences, the Senate Environment and Public Works Committee begins hearings on a Superfund bill. During the Earth Day festivities, Americans will be presented with a number of conflicting images of what is good for the environment and what is not. It is my hope that the President and Members of Congress, as I said earlier, will rise above the urge to exploit this event for short-term political gain and join our efforts to inject common sense and fairness into the Nation's Superfund Program, which is the one program which I happen to be involved in because I chair the subcommittee.

So, Mr. President, at this point, I yield the floor and thank my colleagues, and I thank the Senator from Georgia for the opportunity to speak on this very important issue.

Mr. COVERDELL. How much time remains, Mr. President?

The PRESIDING OFFICER. One minute remains.

Mr. COVERDELL. I thank all of the Senators who came to the floor to honor Earth Day and to talk in very meaningful terms about how to manage our environment. This legislation, wherever it falls in the environment, should be guided by a working relationship between the Government and the stewards of the land. In too many cases, recently, we are seeing the Government taking on the form of arrogance. We have threatened the constitutional rights of personal property. That is a very high law, the Constitution. If it becomes public policy to take interests of private property owners, the public will have to assume the responsibility for that. That has to be a working partnership. We have to protect our constitutional rights. We must learn to work together on this legislation. We have heard words like partnership, balance, working together, common ground, nonpartisan. This is the answer to our modern environment.

I appreciate the Senate's time this afternoon, and I yield back whatever seconds are remaining.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, is leader time reserved?

The PRESIDING OFFICER. The leader time has been reserved.

Mr. DOLE. Mr. President, first, I thank the distinguished Senator from Georgia for his efforts this morning on Earth Day and on the environment. I will be making a statement later on that.

I thank Senator SMITH for his efforts on Superfund. He has been working on this, I know, month after month after month, and we have been trying to come together with a bipartisan bill. Hopefully, that will be accomplished and we can pass Superfund legislation in the next 30 to 60 days.

NOMINATION OF CHARLES STACK TO ELEVENTH CIRCUIT COURT OF APPEALS

Mr. DOLE. Last Friday, I outlined some of my views on the issue of judicial nominations, one of the most lasting legacies of any President. I said that Federal judges should respect the clear language of the Constitution as it is written; that judges should understand that society is not to blame for crime, criminals are; that judges should protect the rights of crime victims, not invent new and more expansive rights for criminal defendants.

Today, let me make another point: Those who seek to sit on the Federal bench should be well-grounded in the basics of constitutional law. Unfortunately, Charles "Bud" Stack, one of President Clinton's nominees to the Eleventh Circuit Court of Appeals, does not meet this standard.

During his recent confirmation hearing, Mr. Stack was unable to cite any fourth amendment case concerning the law of search and seizure. He demonstrated little knowledge about Supreme Court precedent on capital punishment. And despite the Supreme Court's highly publicized decision in the Adarand case, Mr. Stack was unable to discuss any Supreme Court or Federal case concerning discrimination or affirmative action.

When asked how he would remedy his own ignorance of key aspects of the law, Mr. Stack said he "Could attend some courses" or ask other judges for help.

Yet Mr. Stack has been nominated to sit on one of the Nation's most influential judicial panels, the court that effectively serves as the court of last resort for the citizens of Florida, Georgia, and Alabama.

Apparently, Mr. Stack's most important qualification is his prowess as a political fundraiser. According to news reports, administration aides had discussed offering Mr. Stack an ambassadorship and a seat on the Federal district court as a reward for his rundrasing efforts, but that Mr. Stack had his heart set on a court of appeals position.

Mr. President, I understand that Mr. Stack raised millions and millions of dollars for President Clinton and the Democratic Party, but does that qualify him to be on the next highest court in the land? I do not think so. That is not what the judicial system is all about.

Mr. President, I understand that the American Bar Association has given Mr. Stack a qualified rating, but in my judgment, this rating is yet another example of why we should not rely on the ABA to review the qualifications of our judicial nominees.

Although I do not know Mr. Stack personally, I have no reason to challenge his integrity. I am sure he is a fine man who has contributed much to his community and to his country. But that is not the point. The question we must ask is whether Mr. Stack is, in fact, qualified to sit on the Eleventh Circuit Court of Appeals, the second highest court in the land? The answer, or course, is, "No." President Clinton should withdraw the Stack nomination without delay.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

NO MORE GAMES—RAISE THE MINIMUM WAGE

Mr. KENNEDY. Mr. President, I know that under the rule we will move very swiftly to the term limit legislation, but I would like to speak before that debate starts on another matter which, although not directly before the Senate today, is very much in the thinking of Members of the Senate and the House of Representatives, certainly the President and, most importantly, working families and needy working families, and that is the issue of the increase in the minimum wage.

On "Face the Nation" yesterday, Senator DOLE was asked whether he would allow a straight up or down vote on the minimum wage. Senator DOLE said, "No, our view is that it needs to be packaged with other things—maybe comp time, flex time."

Let me be very clear in response. There is no reason to delay or saddle the minimum wage with other controversial measures. I intend to offer a clean vote on increasing the minimum wage on the nuclear waste bill or any other bill this week or next week that is open to amendments. There is no excuse for further delay in raising the minimum wage.

Raising the minimum wage is a matter of basic economics, not politics, for millions of American families. More than 10 million people will receive a direct pay increase if the minimum wage is raised to $5.15 or $5.25 an hour. To those millions of working Americans, the issue is not politics. It's paying the rent and putting food on the table for themselves and their families.

An overwhelming majority of Americans want the minimum wage increased. They do not want to see this legislation buried in procedural maneuvers, or loaded up with antiunion amendments. They want to see it increased, and increased now.

Yet, ignoring the clear interest of low-wage workers and the desire of an overwhelming majority of the American people, Senator DOLE intends to prevent a straight up-or-down vote on the minimum wage. We can only wonder why. Senator DOLE says it is politics, but it is hard to believe that this kind of inside-the-beltway politics will work to his advantage.

A Lou Harris poll released 2 weeks ago found that 85 percent of surveyed adults support an increase to $5.15 an hour, and Chilton Research Services found that 80 percent support such a raise. Even 73 percent of Republicans support raising the minimum wage to $5.15.

But no group feels more strongly about this than women. The Chilton survey asked about the strength of the respondents' feelings and found that a clear majority—57 percent—feel strongly that the raise should be enacted. But 64 percent of women strongly agree with the legislation.

What explains the strength of women's support?

First, 60 percent of the 10 to 12 million people who will get a pay increase from this legislation are women, and 77 percent of those women are adults.

That means 7 million women, and 5 million adult women will get a pay raise from this bill.

Second, who are these 5 million adult women? Two million are single heads of households with at least one dependent. They are raising families, caring for children, and trying to get by on poverty level wages.

Third, 60 percent of minimum wage workers are married. They contribute, on average, 51 percent of family earnings. We are not talking about teenagers earning pocket money. We are talking about people whose families depend on them for their survival and well-being.

Fourth, what kinds of work do these 7 million women do? Many of them are in the retail, hospitality, and food service industries, where they work as cashiers, serve meals, clean hotel rooms, and work in laundries. Their jobs are hard and unrewarding, but they do them with dignity, working to provide for their families.

Fifth, but many of these women work directly with children in occupations that are almost entirely held by women, such as child care. The vast majority of child care workers would get a pay increase from a raise in the minimum wage to $5.15. Teachers aides, too, hold low-paid jobs dominated by women. These people deserve more for the care they give the Nation's children—it is time they got a raise.

Sixth, the other major industry that employs large numbers of women at or just above the minimum wage is health care, including occupations such as nurses aides and home health care aides. These are some of the hardest jobs in our society, caring for the sick and helpless, washing them, feeding them, cleaning their bedpans. The women who hold these jobs deserve a raise.

Seventh, raising the minimum wage is the best, most targeted solution we have to the problem of the income gap between the richest and poorest American families. Its distributional effects are powerful and positive.

Since 1979, the bottom three-fifths of American families have experienced a loss in their real income, while the top 1 percent of families saw its income grow 62 percent.

The bottom 40 percent of American families, whose incomes have suffered the most since 1979, would get 60 percent of the gains from raising the minimum wage.

That says that those workers who are out there now working 40 hours a week, 52 weeks of the year, the ones that have fallen the furthest behind since 1979, they would get 60 percent of the benefits of the increase in the minimum wage, and they are the ones who have been left furthest behind.

This is the single most effective thing Congress can do for those families. Compared with balancing the budget—I ask the attention of our colleagues on this issue—compared with balancing the budget, for example, which the Congressional Budget Office claims will raise average wages one-half of 1 percent by the year 2002, the Congressional Budget Office says, if you pass the Republican balanced budget amendment by the year 2002, average wages will increase one-half of 1 percent. Raising the minimum wage will increase the earnings of people in the bottom 40 percent by 4 percent in just 2 years—the bottom 40 percent. If you go down to 30 percent or 20 percent it becomes 8 or 10; down to just the bottom line, you go up to about 20, 22 percent, because you will go from $4.25 to $5.15, or $5.25, as suggested over in the House of Representatives. That represents almost 25 percent of the wages.

But just with this very modest increase, we are seeing for the bottom 40 percent of American workers that they will go up 4 percent while just the balanced budget in and of itself will provide one-half of 1 percent.

Eighth, women will not lose jobs, despite the scare tactics of the Republicans. The economy has added 10 million new jobs since the last increase 5 years ago. A dozen studies show that even teenagers won't lose jobs. In fact, the Card & Krueger study of New Jersey and Pennsylvania showed that employment in the fast food industry increased after New Jersey raised its minimum wage. Other studies have also found employment increases. There are two reasons: First, better wages attract more employees to the job market; second, because workers have better pay, they have more to spend and the economy gets a boost that leads to more employment.

Massachusetts raised the minimum wage to $4.75 an hour as of January 1, 1996. Unemployment has fallen in Massachusetts since the start of the year, while in neighboring New Hampshire, which left its minimum wage at $4.25, unemployment has increased.

In Massachusetts, we have seen the continued reduction in the unemployment figures virtually across the State, even with that increase up to $4.75 an hour.

The opponents of raising the minimum wage cry crocodile tears about its effect on the employment of people at the bottom of the economic ladder, but the people at the bottom of the economic ladder want the raise.

Lou Harris' most recent poll showed that 94 percent of Americans with household income of $7,500 or less support the legislation.

So to all those on the other side from whom we hear the arguments that they are most concerned about those poor workers, many of them women, many of them minorities; we do not want to have them thrown out of a job, the fact is the poor workers are the ones who overwhelmingly say they want the increase in the minimum wage.

Industry lobbyists probably should not try to speak for families at the bottom of the economic ladder.

This is an issue about women and the children they raise; 100,000 of whom will be lifted out of poverty with this bill's passage—100,000 Americans lifted out of poverty when this bill passes. Two million single heads of households who have to feed their children on poverty wages, get them to school while getting themselves to work, arrange for child care and provide them shelter is the issue in this legislation.

Mr. President, $1,800—the annual increase in the earnings this bill will provide to minimum wage workers—provides 7 months' of groceries for those families, 9 months' worth of utility bills, and an entire year of health care costs; the tuition for a community college or a State 2-year college.

This is an issue of fairness. CEO pay is up 30 percent and corporate profits are higher than they have been since the 1960's. It is time businesses shared that wealth with the lowest paid of their workers. Productivity has increased 25 percent over the last 20 years, but the value of the minimum wage has fallen 25 percent.

Is that not an interesting phenomenon? Productivity has increased 25 percent and generally at other times when we have had a level playing field, where all of the country moved up in terms of wages, the standard of living, the hopes and dreams for everyone, for the families and for their children, and for the parents, everyone moved up together. Now we have seen a 25-percent increase in productivity, which is usually associated with the increase in the wages for those workers, and we have seen a 25-percent reduction for those individuals at the lowest level of the economic ladder, again men and women that are working.

Finally, Mr. President, this legislation could mean important savings to the Government. This is an argument that is forgotten by those who are unalterably opposed to the minimum wage. It would mean savings to the Government in food stamps, Medicaid, and other public welfare programs. We can save more than $600 million in AFDC, $350 million in Medicaid, $300 million more in food stamps.

In a two-earner family where both parents earn the minimum wage, $3,600 in additional pay would make a dramatic difference in their dependence on public support. Why? Because their income would be sufficiently raised that they would no longer qualify for that kind of safety net. And if they no longer qualified for it, that would be a savings. And what should that mean savings for? Workers and workers' families because they are the principal ones paying taxes.

Or you can ask the question the other way. Why should all American workers, who are the bulk of the taxpayers, subsidize certain companies that are using sweat labor and refuse to pay the minimum wage for those who are working in the workplace?

That is what is happening today. So this is action in the interest of saving American taxpayer funds because it will raise sufficient numbers of needy people out of eligibility for these various support payments.

Mr. President, it is time to stop playing games and raise the minimum wage. I urge the majority leader to schedule a clean up-and-down vote on our bill to raise the minimum wage to $5.15 an hour. We need that. American workers need it.

It is interesting to those of us who had introduced at the start of the last Congress the increase in the minimum wage; that could have taken effect a year ago. We have already lost that year. Purchasing power has already declined. At that time, it was 50 cents, 50 cents, 50 cents. Instead, we went 45, 45, 45 as a way of compromise, and it is time we address this issue. This issue is not complex, nor complicated. It is a simple, straightforward issue that every Member is familiar with. We do not need to have more studies, more hearings. It is a matter of fundamental economic justice and fairness for hard working Americans. It is about time we get about that business.

I thank the Senator from Tennessee for allowing me the opportunity to speak at this time. I yield the floor.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. I thank the Chair. Before I discuss the pending business, I might make one comment. It certainly seems that partisan accusations are still alive and well. I sit here and listen to Republican this and Republican that. Of course, we are in the middle of an election year, but it occurs to me that in a 2-year period when the President of the United States was a Democrat, the Democrats controlled the Senate and Democrats controlled the House, we did not hear these calls on behalf of women and children and lower income workers. Such a bill was not introduced, and no committee hearings were held. In fact, the President indicated that was not the way to go. So now I am relieved that we have discovered women and children and the lower paid workers of this country and perhaps we can have a debate on it and do the right thing. But I would like to discuss something that should be of bipartisan concern.

Mr. KENNEDY. Could I just respond?

Mr. THOMPSON. Yes.

Mr. KENNEDY. Will the Senator yield?

Mr. THOMPSON. Yes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I just wanted to mention the fact that, of course, during that debate in the earlier Congress we were debating comprehensive health care. The value of the comprehensive health care was between 40 and 50 cents an hour. It was the request of the workers at that time that we focus on that rather than the minimum wage, and the minimum wage came back into play right after that was defeated. It was very easy and understandable for those of us who had been working on it, but I just mention to our colleague that the last time we had a bipartisan increase in the minimum wage, as the Senator knows, was in 1989. At that time we had two-thirds of the Republicans who supported it. We had a Republican President, Democratic Congress, and now we have a Republican

Congress and a Democratic President. Presidents Eisenhower and Nixon supported it as well.

So this is, as we have tried to point out over the period of time, what Republicans and Republican Presidents and Republican Congresses have supported, as Senator DOLE and Congressman GINGRICH did at other times. So it is a bit of a stretch to say that they would have supported it another time if it was just a partisan issue but not supporting it now.

I know we may have differences on the understanding of those series of events, but I wanted to just have a chance to add those brief comments to the RECORD.

Mr. THOMPSON. I would just say to my colleague that it is not I who was making it a partisan issue or saying it was a partisan issue. It has not been that in times past. It seems as if recently it has become a partisan issue. And I think the point still is well made that for a period of 2 years, both before and after the health care debate, certainly after the health care debate, when control of the Congress was well within the power of the other side, this could have been brought up and discussed. And the President did indicate that the minimum wage was not the way to go. As I understand it, the position is that there was other legislation which would obviate the need for the minimum wage, and some would say today there is other legislation that could obviate the need for the minimum wage. I am not even saying where this Senator would come down. I would like to listen to the debate on it. We have not had a chance to debate it.

I just find two things that are happening very strange. First, is now it is an issue that is first and foremost in the minds of some of my colleagues on the other side. And, second, they seem to be the ones who are trying to make this a partisan issue. I say, let us consider it on its merits, both sides of the aisle, and do the right thing about it. But, if we start off in the very beginning making it a partisan issue and trying to draw lines and distinctions when the people on the other side of the aisle have sat and done nothing with regard to the minimum wage when they had it within their power to do so, we are not going to have much progress.

Mr. KENNEDY. Could I have one final moment in the exchange? Of course, as the Senator knows, we have had good Republican support on the last vote for an increase in the minimum wage. That, I think, was something that was notable.

Second, as the Senator knows, we have not been given an opportunity to get to this issue scheduled as an order of doing business. As we have said—and I am sure the Senator is familiar with this—if we were able to get a time agreement on a clean bill, we would certainly welcome that opportunity. We have indicated we would be glad to let time go, as the Senator knows, on the two last occasions where the Senate has addressed it. We have had Republican support, the majority of the Members. There was Republican support.

Finally, as the Senator knows, we have both the minimum wage and the EITC, both of which affect the working poor. The increase in the minimum wage has the greatest advantage for single individuals, which, increasingly, are numbers of single women. The EITC has a greater impact on those families where they have a number of children. Really, if we are interested in doing it, these matters ought to be embraced and put on together. We have seen the expansion of the EITC in recent times, although there were attempts to cut back on that during the budget consideration.

So I agree with my colleague and friend. I would welcome the opportunity to join with him so we could have a good discussion. Let Members of this body have a look at these items and then make a judgment. I am just concerned, as the time goes on, and as we know we have less than 40 days legislatively where we expect the Congress to meet and where the House has not taken action, it might be appropriate to do so at a particular time. But I am grateful to the Senator for his comments, and I certainly welcome the chance to engage in further discussion when we focus on this particular matter.

Mr. THOMPSON. I appreciate the comments of my colleague, and I share his view this is something that ought to be considered deliberately and fully at the appropriate time. I think it is wise that we approach it from the standpoint of what is good for the country; that neither side try to make undue political points at the outset. Otherwise, we are not going to get anywhere. I simply say, I share my colleague's concern and desire to get anything up for a vote.

It has taken 49 years to get the matter I am about to discuss up for a vote in this body, so I would like to turn to that now unless my colleague has any more comments.

Mr. KENNEDY. I thank the Senator.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. GRAMS). Twenty minutes has expired. Morning business is now closed.

CONSTITUTIONAL AMENDMENT TO LIMIT CONGRESSIONAL TERMS

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of Senate Joint Resolution 21, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 21) proposing a constitutional amendment to limit congressional terms.

The Senate resumed consideration of the joint resolution.

Pending:

Thompson (for Ashcroft) amendment No. 3692, in the nature of a substitute.

Thompson (for Brown) amendment No. 3693 (to amendment No. 3692), to permit each State to prescribe the maximum number of terms to which a person may be elected to the House of Representatives and the Senate.

Thompson (for Ashcroft) amendment No. 3694, of a perfecting nature.

Thompson (for Brown) amendment No. 3695 (to amendment No. 3694), to permit each State to prescribe the maximum number of terms to which a person may be elected to the House of Representatives and the Senate.

Thompson amendment No. 3696, to change the length of limits on Congressional terms to 12 years in the House of Representatives and 12 years in the Senate.

Thompson (for Brown) amendment No. 3697 (to amendment No. 3696), to permit each State to prescribe the maximum number of terms to which a person may be elected to the House of Representatives and the Senate.

Thompson motion to recommit the resolution to the Committee on the Judiciary with instructions.

Thompson (for Ashcroft) amendment No. 3698 (to the motion to recommit), to change instructions to report back with limits on Congressional terms of 6 years in the House of Representatives and 12 years in the Senate.

Thompson (for Brown) modified amendment No. 3699 (to amendment No. 3698), to change instructions to report back with language allowing each State to set the terms of members of the House of Representatives and the Senate from that State.

Mr. THOMPSON. Mr. President, this is a constitutional amendment to limit the terms of Members of Congress. It calls for a limitation of 12 years, 2 terms in the U.S. Senate; a limitation of 12 years, 6 terms in the House of Representatives.

As I indicated, the last vote on term limitations in this body was in 1947, so it has taken about 49 years to get the second vote on this, not that anybody has been particularly pushing for it.

I believe it is the first constitutional amendment for term limits to ever come out of committee. This had a full committee hearing. It passed out of the Judiciary Committee, and now, for the first time, a committee bill is on the floor ready for consideration. I think it is long overdue.

In this body, it has been my observation that we pay as close attention as we can to what the American people want. We pay as close attention as we can to what our constituents want. We have offices all across the various States. We go to those offices, we listen, we get tallies on what people are calling in about, what people's concerns are. We go out and we pride ourselves, as elected Members, having town hall meetings, and we say a large part of the purpose of that is to listen, to see what is going on so we can be reflective of the opinions of the people that we represent.

We run our campaigns on the same basis. We say, let us be your Representative and we will go up and listen to the people. Let us turn the Congress back to the people. We try to respond every time we get the feeling that 51 percent of our constituents want something. There is nothing more responsive than someone who has been elected to office, who feels his constituents are pressing for something, even by the barest of margins—except in one area. That is the area we are dealing with here today, term limits.

We see poll after poll after poll, and we poll early and often. Sometimes it is like all that is happening around here is a rendition of those polls. My colleague from Massachusetts was talking about how many women favored minimum wage, how many Republicans, how many Democrats, all based on polling results. Who is ahead in the Presidential race? All these various issues. Who is for us and who is against us? By what margin? The distinction between last week, when 52 percent of the people were for this proposition, and the week before last when only 49 percent of the people were for this proposition, so we see a little movement there.

There is extreme, extreme attention to the temperature of the American people and to our constituents, except about one thing, and that is term limits. Poll after poll indicates that upward of 75 percent of the American people favor term limits, and the overwhelming majority of States and localities that have had the opportunity to vote on term limits have come out in favor of term limits. Mr. President, 22 States have imposed term limits on themselves, even while other States were not doing so, saying: We think it is an idea whose time has come. It would be for the benefit of America for us to set the example, and we are willing to impose it on ourselves even though there is no obligation for other States to do so.

Yet, even in light of this overwhelming majority of the American people who feel something is basically going wrong with their country and they are searching for something fundamental to do about it, we pay absolutely no attention to what is going on. We pay no attention to the overwhelming sentiment of the American people with regard to this one area.

The case can be made that we ought to be more reflective in some cases, that we ought to be a little more isolated. This is supposed to be a deliberative body and sometimes we do not take enough time to really reflect on the important issues that are facing us. Sometimes we get too caught up in the number of bills that we can pass and the gamesmanship of what is going on in this town. But, why is this the only one area where this rule seems to apply to this body, and no other area? The answer, of course, is because in a Congress that busies itself in regulating other people's lives and purifying other institutions, other businesses, other individuals, that changes when it comes to doing something about ourselves, even something as innocuous as a 12-year term. This constitutional amendment would not even need to be ratified for 7 years. Then it would be prospective. It is the most minimal first step toward trying to put us in a position to face the 21st century that we could possibly think of. It probably would not affect anybody in this body right now, another 12 years on top of what they have already served, and on top of the 7 years it might take for ratification of the constitutional amendment. That is not exactly a drastic move, not exactly a revolutionary change. Yet we have all this difficulty even getting to first base.

Let us talk about what this is not all about, because the detractors of term limits, in their scrambling around to try to come up with reasons why in this particular case the overwhelming majority of the American people are wrong, have set the terms of the debate for us, in many cases.

What it is not about is vindictiveness. A lot of people are angry with the Congress of the United States, but this is not about vindictiveness. Life is too short for that.

On the contrary, Mr. President, I really believe that imposing term limits on ourselves would do more to restore the dignity and the esteem of Congress with the American people than anything else. I pointed out the other day that columnist George Will wrote a book awhile back called "Restoration," and it was about term limits. Most people would have a hard time seeing that connection until they got into it and read it.

The point is, and a very valid point, I think, indeed, is that at the time our country was founded, people would line the streets and say, "Long live Congress, long live Congress." Can you imagine what most of them would be saying today if they had a shot at making a comment at us parading down the street together?

What has changed in that period of time? We have lost the respect of the American people. I believe this self-imposition is something that the people feel in their hearts is right and something that would, in one way, be to our own detriment—it might cut a few careers a few years short—but would do more to restore the faith of the United States people in the U.S. Congress than anything else. And that, Mr. President, is probably more important than anything else, because Congress is the message deliverer, and we have some tough messages to deliver to this country. A lot of it is not going to be well received. A lot of it is not being well received, but it is the truth, and it has to do with the future of our country and the things we need to do to make sure we fulfill that tacit understanding that each generation is supposed to have with the next, and that is, that we will leave this place a little better off than we found it. We are not fulfilling that commitment now.

Another thing it is not about is simply changing new faces for old faces. There is nothing that inherently goes wrong with someone because they have been around a place for a while. There is nothing beneficial about changing a new face for an old face if a new face comes in with the same attitude as the old one had. That is not what it is all about.

In fact, I am willing to concede that you could make a pretty good case for the proposition that for the majority of our history in this country, our system served us pretty well. We went through two world wars in this country, we went through a Civil War, we went through a Great Depression, and we had to dip into the till pretty deep sometimes, but we always came back and balanced our budget. We had a balanced budget as late as 1969 in this country.

Our Founding Fathers did not address term limits. It never occurred to them that we would wind up with the professionalism and the careerism that we see today.

So, for a long, long time, we could get by with what we had, because we did not have the culture of spending, we did not have the growth of Government and all the demands and pressures that are on us day in and day out to spend more and more and more. We did not have members so faced with the proposition, are we going to get along with people and get reelected by saying yes to any and every spending measure that comes down the pike, or are we going to risk our political future and say, "We can't do things the same old way anymore; we can't necessarily grow each program at 10 percent a year anymore."

Everybody in this town knows that—both ends of Pennsylvania Avenue and both sides of the aisle. We know that, and yet we are afraid, basically, to say that. Or somebody says it and somebody else will get up and say they are trying to harm old people and trying to harm young people to get political advantage out of it for the next election. We get into that cycle: scare people momentarily. Sometimes it works, and yet the American people have this sense, this innate sense that something is really going wrong, something is not working right.

So it is not about vindictiveness or even throwing the rascals out. My goodness, we in this body, anything that we are able to accomplish, we stand on the shoulders of giants. Many giants have been in this body. I hold this body in the highest esteem. I have reverence for this body. I have never understood why somebody would want to be part of an institution for which they did not have any respect.

I used to come here as a very young man and sit up in the gallery and watch the great debates that would take place, even at that stage, and that has not been that long ago. People were talking about the issues. People seemed to have a little bit more time to deliberate. We were still right at the point where we were capable of balancing the budget. That time has changed.

So what is it about? What it is about is not all the little things that you hear debated back and forth on the 6 o'clock news. If you cannot get it out in 15 or 20 seconds, it is going to be totally lost. It is not about new faces, it is not about experience, it is not about whether the lobbyists or the staffs are for it or against it. It is about dealing with the monumental problems that are facing this country, problems that are so great and so ingrained that many thoughtful people on both sides of the aisle think that it is already too far gone for us to do anything about. And it is about the fact that we are proving ourselves incapable under current circumstances of dealing with it.

We are mortgaging our future, and it has to do with nothing more basic than our need to perpetuate ourselves and to avoid risk, which too often means avoiding the truth, and, therefore, we continue to go down the road that we know is bound to lead to disaster unless we make significant changes.

What does this desire for reelection and staying do to us? It causes us to spend. It all comes down to the growth of Government and the culture of spending. This is not a partisan issue. You can pick your administration or you can pick who is in control of Congress—the House or the Senate—and go back for the last few decades, and I am willing to say that there is enough fault on either side; that neither side can take partisan advantage of this if you view it objectively.

Every time someone stood up to speak the simple truth about the future and took their eyes for a few minutes off the next election and tried to do something that would make this country stronger for the future, the other side would invariably get up and take partisan advantage of it, scare people, go on television with 30-second ads, and whoever brought it up would cower back to their corner, not to be brought up again for a while.

Mr. President, there is no simple solution to what I am talking about. It is fundamental. We have gotten ourselves into a deep ditch. We did not get there overnight, and we will not get ourselves out of it overnight, but we have to start examining possibilities that will put us in a position of doing something about it.

How can we continue down this road? This proposal will not affect me personally either way and it will affect hardly any of the Members in this Congress, I would think. But if we had a system that concentrated on how best could we operate in the next century in order to solve these problems, I think that term limits would be a major, major step toward doing that.

I believe if we open the system up so that people knew that these jobs would be open from time to time, in the first place you would draw more people into the system. Right now, unless you have access to millions of dollars—and usually through incumbency, which allows you to raise millions of dollars—it is not a participation that you can enjoy as an average citizen. We have 250 million citizens in this country, and one small fraction of 1 percent are all that have any realistic shot of ever setting foot on this floor.

So bring more people in. What kind of motivation would those people have? If people were coming into the system knowing from day one that this could not be their career, that, hopefully, they have already had a career and, hopefully, they will have another one and this will be an interruption to a career and not a career in and of itself, would they be as frightened of the special interests?

Would they be as frightened of the poll numbers? Would they be as frightened of the proposition that 51 percent of the people might get temporarily mad at them if they spoke the truth and said, "You can have a 7 percent increase this year but you can't have 10 percent"?

I think we would have people who would come in with a different agenda. I think we would have people who would come in with the idea, more likely—not universal, because nothing is—more likely that, I'm going to give a few years to my country. Just because it is 12 years does not mean you have to stay 12 years either. That is a maximum. Give a few years to my country the way they used to, the way they used to some years ago, and try to do the right thing. It is called public service. That is what it used to be. Citizens used to come in and do that. That is what the Founding Fathers had in mind, and that would go on. I think it is only a Congress which is peopled by individuals who have that attitude that is ever, ever going to get us out of the monumental straits we are in.

By the year 2000, the net interest paid on the national debt will surpass defense spending and is projected to become the second largest Federal expenditure after Social Security. This is from the Bipartisan Commission on Entitlement and Tax Reform —the bipartisan commission. By 2012, unless appropriate policy changes are made, projected spending on entitlement programs and interest on the debt will grow so rapidly they will consume all tax revenues collected by the Federal Government—all tax revenues. In 2030, to bring the deficit down to the current level, the Bipartisan Commission on Entitlement and Tax Reform concluded that either all Federal taxes would have to be increased by 85 percent or all Federal spending programs would have to be cut in half. This bipartisan commission is telling you what is going to happen. Have you heard it anywhere else?

By 2012, mandatory spending, interest, and entitlements will exceed all Federal revenues, leaving no money for the Federal Government to spend at its discretion on programs like education, law enforcement, research and development, national defense, and health research. By 2030, entitlement spending alone is projected to exceed all Federal revenues.

We have had a philosophy now for several years in this town that a Senator is judged in large part by the amount of pork he can bring back to his State, not realizing that ultimately what is good for Tennessee is good for America and what is bad for America cannot be good for Tennessee or any other State.

We have a proliferation of interest groups as we pass more and more laws and regulate more and more things. Those who are the objects of those laws and those who are being regulated naturally come to town to tell us what we are doing to them. When these programs are ingrained and people are used to receiving these moneys, there is no turning back. It is always more and more and more.

You attend hearings for a month, and you will never hear anybody coming back in saying they want to give some money back to the Federal Government. It all goes the other way. We are now facing what one philosopher said a long time ago; that is, the ultimate test for any democracy is whether or not, when they discover they can pay themselves out of their own treasury, there can ever be any turning back.

The other thing we need to address, along with the absolutely horrendous fiscal problem that lies for our children to keep up with, is the public cynicism. Out of all of this trying to be responsive, out of all of this poll taking, out of all this technology that we have to monitor the pulse so we can claim we are doing just exactly what the people want us to do, what do the people think about their Government?

A very thoughtful gentleman by the name of Haynes Johnson wrote a book a year or so ago called "Divided We Fall." He stated the following:

> For at least a decade, and in reality far longer, people at the bottom have grown increasingly alienated from those at the top, and especially from leaders who seem unable and often unwilling to address their concerns. Over the last generation, surveys on public alienation have tracked America's

steadily eroding confidence in its leaders and in its institutions—a decline so uniform and so steep that it raises the most serious questions about public faith in the democratic system and therefore the ability of that system to function.

Mr. President, that is serious stuff. Mr. Johnson went around the country talking to people, and spent a long time in researching this book. He pointed out a recent Harris poll indicating that, "At the bottom in public esteem were law firms, with only 11 percent of Americans expressing great confidence in them. Barely above them was Congress at 12 percent." Thank God for law firms.

He further states:

> Traditionally, American politicians are driven by the short-term approach. From city council members to members of Congress, emphasis is on the "quick fix" to complex problems and on claiming political credit for responding to immediate needs. The result, as we have seen, is postponement of decisions on major long-term issues. Thus, the real size of the budget deficit is masked. Genuine attempts to reduce it are put off to the next session of Congress—and the next and the next. Action is not taken today; it is always planned for tomorrow, to take place in what Washington policymakers, in typical semantic obfuscation, call "the out years." The out years never quite arrive; they continue to lie beyond grasp. So the debts increase and the charade continues with each new congressional session.

I ask my colleagues whether or not that sounds familiar.

Finally, he states that:

> These are among the many reasons the political system remains under siege. A more elemental one involves the public conviction that the American political system has produced a generation of politicians in both parties who can't, or won't, tell the truth, because if they do, they will not win; and that lie permeates American politics.

It is a sad situation, Mr. President, sad situation. For those of us who simply say, the status quo, we cannot make any fundamental changes, things are going great, I think the evidence is overwhelmingly to the contrary.

So, Mr. President, I say let us give the States an opportunity. That is all we are doing with this constitutional amendment. Let us give the States an opportunity to address this issue and see whether or not the people really believe what the polls indicate that they do. I feel like that is the least we can do and is our foremost responsibility to see if we cannot better derive a system in the future that would allow us to cope with this unbelievable cynicism of the American people toward us and our clear inability to get a handle on problems that are going to be the ruination of the next generation. I yield the floor.

[Disturbance in the visitors' galleries.]

The PRESIDING OFFICER. Just to mention to those in the gallery, it is against Senate rules to have any show of approval or disapproval of any statements made on actions taken on the Senate floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Thank you, Mr. President.

Let me begin by offering my appreciation and compliments to the Senators from Tennessee and Missouri for having worked as hard as they have on the issue of term limits and bringing the issue of term limits to the attention of the U.S. Senate.

I think our freshman class is strongly supportive as a group of the term limits effort. I think that Senators who have led this battle deserve special acknowledgement for the support they have given. I rise today and thank them and also make some comments of my own which are pertinent to this debate.

Mr. President, in my State of Michigan, the people have already spoken on an important issue the Senate will consider here this week; that is, term limits. In 1992, Michigan voters passed term limits for Federal officials by an overwhelming margin—6 years for the U.S. House of Representatives and 12 years for the U.S. Senate.

I repeat, it was an overwhelming margin, Mr. President. This was not a close vote. In 1993, as a candidate for the U.S. Senate, and in 1994 I ran on a platform committed to trying to make certain that the will of the people of my State was acknowledged and was followed by the Congress of the United States.

The fight for term limits in Washington, however, must continue. I pledge to fight in Washington and make sure that the limits the people of Michigan voted for would be permissible. Term limits are widely observed at other levels of Government, Mr. President.

The President of the United States, 41 Governors, 20 State legislators, and hundreds of State and local officials currently abide by term limits. Why not Congress?

There has been an overwhelming expression of support for term limits in State after State. Since 1990, more than 25 million votes have been cast by voters in 22 States supporting congressional term limits. Polls have consistently shown that more than three-quarters of the American people favor term limits. I believe, Mr. President, that it is our obligation to fight to make sure that the people's voice does not go unheard.

The 104th Congress is the first Congress to have recorded votes in either Chamber on term limits. The Senate vote this week will join the 1995 House vote to produce first-ever votes in both Houses. The vote in the House was held in March 1995 and received a majority of 227 votes. Passage, however, of a constitutional amendment would have required a two-thirds majority, or 290 votes.

For the first time in history, the Senate will vote on term limits. While the measure is not currently expected to receive the necessary 67 votes required for passage, this vote is an important beginning to what I believe is an inevitable outcome. While approval by two-thirds of the House and Senate will not be easy, the support of 75 percent of the American people will make a difference as we continue this important effort.

When I campaigned for the Senate in 1994 in my State, I heard from one end of Michigan to the other a consistent and very, very responsive, positive public outpouring of support for term limits. People felt that the Congress, in particular, and Washington as an institution was out of touch. They felt that a lot of factors were at play, but, most importantly, they felt that too many people ran for Congress or for the U.S. Senate, went to Washington, and ultimately stayed so long that they lost sight of the reasons that they ran for in the first place.

Promises in campaigns were seldom, if ever, kept. Indeed, by the end of a term the promises of the previous campaign had often been totally forgotten. People felt that this lack of contact and communication, this out-of-touch, Washington, inside-the-beltway mentality was the reason that Washington had not been able to deal with important problems confronting America and, in particular, the problems of the Federal budget deficit and runaway Federal spending.

People in my State believe that they have sent too many of their hard-earned earnings to Washington. They would like to keep more of what they earn. They feel the Federal tax burden is too high. They cannot understand why they have to balance their family budget, but we in Washington have not been able for 25 years to balance the Federal budget.

The reason, they feel, more than any other that has led to this problem, this lack of responsiveness, is that too many Federal officials have been away from home too long, too many Federal officials have lost touch with voters back home and do not understand the things that motivate the average working families in Michigan.

Mr. President, I do not think Michigan is atypical. I suspect that virtually every Member of this body hears the same thing in their State. I suspect Members of the House of Representatives, likewise, hear the same sentiments expressed to them when they are in their constituency.

Now, this Congress has begun to move, I believe, in the right direction to address some of these concerns. Last year, for the first time we voted in the very first action taken by the Congress, to apply the laws that apply to the rest of the country to Members of Congress themselves. We put an end, in the Congressional Accountability Act, to the double standard that said that things we adopted here as Federal law were fine for the rest of America but not fine for ourselves. That has begun to change the way we do things here in the U.S. Senate.

I have been intrigued by the fact that so many of my colleagues and I have found that meeting the various labor and other laws, requirements that we now are required to follow, have changed the way we operate our office and made us more mindful and concerned about labor relations and other issues that come on a day-to-day basis before us in our Senate offices. In the same way that has put us more in touch, I think nothing will put Congress more in touch with people back home than a frequent and regular turnover in the composition of the House and Senate of the United States.

Mr. President, I believe that the term limits movement is a movement that will only grow. If 75 percent favor term limits today, I believe it will be even a higher percentage in the years to come. That is why whether or not we are able to succeed this year in passing term limits, it is only a matter of time, I believe, before we will have term limits as part of our Constitution.

To that, I want to commend the majority leader, Senator DOLE, for scheduling the vote on term limits here in the Senate. For all the talk about bringing reform to Congress, I believe our best approach to make Congress better is through term limits. I urge all of my colleagues to support this much-needed reform of our political system. I urge them to support it because it is the right direction to take. I urge them to support it because it has such strong popular support. I also urge them to support it because I think it is only right that the citizens of the various States have the chance to set the limits on terms of Federal officials.

To conclude, that the citizens of Michigan do not have the constitutional authority to determine how long their Members of Congress and their U.S. Senators may serve, is, in my judgment, a strong repudiation of the rights of people in a free democracy to make decisions for themselves.

Mr. President, I close on this note, by urging my colleagues to support the term limit efforts we are undertaking this week.

Before I yield the floor, I will ask unanimous consent to speak as in morning business for 2 minutes to make a brief statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

SYMPATHY TO MICHIGAN FAMILY

Mr. ABRAHAM. Mr. President, I rise today to express my deep condolences to the entire Bitar family of Dearborn, MI, who lost their two sons due to the most recent violence in Lebanon that occurred last Thursday. Hadi, who was age 8, and his brother, Abdul Mohsin, age 9, were visiting their grandmother in their home village of Qana during their spring break from school when the fighting broke out last week. They sought refuge in the United Nations shelter, which was tragically bombed.

The loss of civilian lives, Mr. President, no matter where it occurs, is always devastating, but it is especially tragic when children, in this case, 8- and 9-year-old children, are killed senselessly. When a loss such as this occurs so close to home, as it did in an important city in my State, many individuals in the Michigan community were affected. They feel this very deeply. I am here today to speak on their behalf.

This occurrence highlights both the urgency and the necessity of bringing peace to the Middle East. I strongly urge the administration to persist in trying to negotiate a cease-fire in Lebanon and to bring an end to the hostilities immediately. I sincerely hope that no more tragedies such as this occur and that no more innocent lives are lost while these negotiations persist. Yesterday, I attended a special prayer service for the two boys who were killed last week. The ribbon I am wearing today, Mr. President, was given to me at that service as a tribute to the lives that have been lost. All I can say, Mr. President, is I intend to be on the floor every day to talk about what is going on, and these tragedies, until, hopefully, we will see a cease-fire and an end to the senseless killing and the bloodshed.

CONSTITUTIONAL AMENDMENT TO LIMIT CONGRESSIONAL TERMS

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. The amendment before the body is amendment 3698.

Is there further debate?

Mr. ASHCROFT. Mr. President, thank you for the recognition. I want to thank my friend, the Senator from Michigan, for his outstanding analysis. I also want to express my sympathy to him and to those citizens of Michigan whose children were victims of the latest bombings. I commend him for his work in this area and thank him for bringing our attention to this matter.

Mr. President, I want to talk about term limits. I want to mention some important reasons why I think it is essential that Members of this body support the opportunity of the States to ratify a constitutional amendment.

The Senate does not have the authority to amend the Constitution. We merely have the authority to extend to the States the right to ratify a proposed amendment to the Constitution. To vote against this proposal is basically to say that the wisdom of the Congress is so superior to that of the States that we should not even entrust them with decisionmaking power on limited tenure.

Why, then, should we have congressional term limits? Why should we send to the States this opportunity for ratification? I believe we ought to because that potential for ratification is consistent with the central values of this Republic, the central political themes and understandings of our democracy. The first of those is that we are representatives of the people. We come here to provide the people a voice. And while we are to exercise our own judgment, we are to represent the people of the State or district from which we hail.

What do the people of America think about term limits? Well, the polling data indicates that 74 percent of them favor term limits. And 41 States have imposed term limits on their Governors. As it relates to city councils, many cities—from New York to Los Angeles—have imposed term limits on their own city councils.

As you look at the political map, you find out that there is a glaring hole in the term limits net: the U.S. Congress. It exists for the President, not the Congress; it exists for Governors, for State legislatures, for cities, counties, and towns. all kinds of things across America. But there is one place where it has not existed.

There is another fundamental value of American culture that term limits respects and reinforces. It is the value of access and participation. When a few people believe they are the only people that have the capacity to do a particular job, they tend to shut others out of the process. The unfortunate effect of incumbency is that it has closed down the system even further.

The American people are understanding folks. They have watched as 91 percent of the incumbents who run for office win reelection. That means that a challenger has a 1-in-10 chance to defeat a sitting Member. Now, you do not have to be a math wizard to understand that, in an open seat situation, the two challengers have a 50 percent chance of winning. Furthermore, the data suggests that when there is the prospect of an open seat, the number of candidates increases exponentially. In other words, there is a substantial broadening of the variety of choices that the American people have from which to choose.

I think we ought to make sure that happens more and more frequently. Those who study political science indicate that as you approach an open seat race there are increasing numbers of individuals who prepare themselves for the vacancy by offering themselves as candidates.

That is one of the reasons why I think the 6-year limit in the House is so valuable. It would virtually guarantee that we would have enhanced levels of choice for the American people in every elections.

It is also important to look at the history of term limits. I think the word "history" is important here. So often people debate term limits as if this were some theory that needs to be hashed out in the think tanks before the American people could understand it. This is not a decision made in a vacuum of facts or experience. It is a decision made in an arena with which the American people are fully familiar.

The American people have a history of term limits. It is not the passion of the moment. It is not the whim of a particular time. It is an understanding about the way government works. And they have said, yes, we want it for the Presidency of the United States. So you have term limits for the Presidency of the United States.

Let me also say that I believe that those who indicate that there are not enough qualified people in the country to replace qualified Members of the Congress have a view of a talent pool in America which is unduly shallow.

When George Washington walked away from the Presidency after his first two terms in office he understood that America was a place filled with knowledgeable citizens whose judgment and capacity would sustain this Republic, and he did not allow himself to be swayed by the arrogant nonsense that there are just a few people in America who are bright enough, or capable enough, or sound enough to make decisions. He understood that the tree of liberty would be nourished by an influx of creativity that would be found as individuals stepped aside to return to citizenship and as citizens stepped in to accept the responsibilities of government.

It is high time that we had the same understanding of the talent pool in the United States. The pool of available talent in this country is incredibly deep. We have great resources. We have tremendous citizens. There are outstanding persons, and we ought to tap them and call them into the process. Then we ought to send ourselves home to live under the very laws for which we vote.

I do not want to be a part of those who underestimate the strength and the capacity of the people of this great land. We have a tremendous capacity in America. We should open the door of self-government to those individuals so that they can participate in government by virtue of coming in and being a part of the U.S. Congress.

What would the United States look like if we were to have had term limits? What kind of changes would there be? Mind you that I am prepared to say that I believe we ought to make the decision about term limits based on the fundamental values of this country, based on the sense that we ought to have open access and that we ought to have more participation based on the fact that we represent the people.

But what would America look like? When Stephen Moore of the Cato Institute conducted a study, he indicated that we would have had a balanced budget amendment, something we have yet to get. In 1990, 1992, and in 1994, we would have approved the balanced budget amendment.

Not surprisingly, the line-item veto, which we only passed this month, would have been enacted more than 10 years ago, in 1985. Think of the thousands, tens of thousands, think of the millions of dollars that might well have been saved had we had the capacity to knock pork out of Federal budgets as early as 1985. I believe that newcomers do reflect something special about the process.

Let me make another point. Some people have said that we need experienced people in Washington. I could not agree more. But I have to say that I do not believe that the only experience we need in Washington is government experience. Some of the very best Members of this body are individuals who have brought a wealth of experience from the private sector. To suggest that we need people who have years and years of experience in government is a bankrupt idea which fails to understand that experience happens in places outside the public sector.

A couple of other things that are significant to me about the Cato study.

And what are the things which would have failed? You guessed it. The last two tax increases and the last two congressional pay increases would not have passed the Congress. Interesting. All of the things that would restrain Government would have passed, and the things which fund Government would not have.

It comes down to this fundamental set of values as to whether government exists for the benefit of government or whether government exists for the benefit of the people. In "The Federalist Papers," Madison wrote of a Congress with a "habitual recollection of its dependence on the people." Unfortunately, we find ourselves in a democracy where the citizens all too frequently have a constant recollection of their dependence on government.

Just think of the agriculture bill we passed early this month. Farmers were waiting to find out what they could plant. It was a country dependent upon government, instead of a government that was dependent upon, and cognizant of, the citizens.

The principal value here is that we recognize what it is the people want. In this case, it is a constitutional amendment on term limits. I believe we should reinforce a reform which would promote access and participation, and which would level the playing field so that individuals who offer themselves for service have a fair shot.

One last footnote. A term-limited Senate would be a different Senate because it would require the Chamber to operate on the basis of merit, rather than seniority. While I respect the individuals whose dedication to their country has allowed them to serve this body, I do not concede that they are, by virtue of their service, the most qualified to lead committees or determine policy. I believe we should think about developing, and would develop if we had term limits, a leadership framework based on merit, not rank seniority. Incidentally, the 3–2 constitutional amendment I proposed would do just that.

Mr. President, it is time for us to respect the values of the American people; 70 percent of them would like to consider a term limits constitutional amendment. The time for us to extend them that opportunity is now.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

(Mr. ASHCROFT assumed the chair.)

Mr. THOMPSON. Mr. President, I thank my colleague from Missouri. He has been a leader in this fight for a long time. His points are so well made. He mentioned the precedent set by George Washington, that after serving two terms, purportedly got on his horse and rode out of town never to return to Washington. People asked him to stay, but he knew better. He knew there were other people who were qualified to serve, and because he left when he did, other people were able to serve. He set a good example.

The same example was set by Thomas Jefferson. He served two terms back when a President could serve for as long as they could continue getting elected. So this is the example that was set for us. And, of course, the people who were in the Congress at that time would not have thought of serving many, many years in Congress. They were citizen legislators who came to town to interrupt their career and not make a career. So I think that the Senator's point is very well made.

I see my colleague from Colorado is in the Chamber. I yield the floor.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. I thank the distinguished Senator from Tennessee for his leadership on this issue, as well as the distinguished Senator from Missouri. Both of these first-term Senators have made an enormous difference in the body, and I think their service speaks volumes about the talent that is available in this Nation.

Mr. President, this is a hotly debated item, and while opinion in this country overwhelmingly supports term limits, it is not a secret that it is not the most popular item ever presented in this Chamber. We have had difficulty getting votes. The first vote on this was in 1947 by a Senator from Texas. He succeeded in getting one vote—his own—and it was a long time before it was raised again.

In the last several years, we have been able to get several votes, but they have never been clear and on the point. I think we should note at least that Senator DOLE's leadership provides the first opportunity in the history of our country to have this issue aired in this Chamber in a clear fashion. He is the first majority leader of the Senate to bring it to the floor and hopefully provide us with the opportunity for a vote. It is a courageous thing to do because there is enormous pressure in this body and outside this body not to allow it to come forward.

Over 200 years ago, Thomas Jefferson wrote a friend and he suggested some interesting things. He said three things were missing in the American Constitution: a Bill of Rights, of course, which was passed later on; limits on the tenure of the chief executive—he was about 150 years too early, but he got that right, because, as all the Senators are well aware, that was eventually passed and added to our Constitution—and lastly, the third item Thomas Jefferson mentioned was rotation in office for Members of Congress.

What prophetic words. Two of the three have come to pass. Mr. President, I believe with all my heart the third will come to pass as well.

Many Members for whom I have deep respect have spoken on this subject and expressed real regret about this issue. To some, they have taken the issue personally, as a question of the value of their service or a question of the value of their continued effort to serve this country.

Speaking for myself, but I believe speaking for others as well, no such intent or castigation of their service is intended at all. As a matter of fact, there could be nothing more American than putting a limit on power. That is really what this is all about. It is not just about the example of Cincinnatus returning to his farm after serving his country. It goes to the very core and very heart of what Americans believe about government. We are unique. We are not simply the longest surviving democracy in the history of mankind, but we are a shining example to the rest of the world of what can blossom forth when people are free, what can happen when the power of the Nation is primarily centered in the individual and not in those who govern.

The world's history, recorded for some 4,000 to 5,000 years, is replete with examples of people who performed great service. It is also replete with examples of countries where power corrupted. Americans, when we drafted our Constitution, were more aware than any people in the history of mankind of the value of governments in the past. The writings of Polybius, Montesquieu, and Cicero were on the minds and words and lips of the drafters of the Constitution.

They understood the cycle of government that Polybius had observed, so many, many centuries ago; the tendency of power to corrupt. The tendency of democracy to turn into an aristocracy, ruling by the few; and the tendency of an aristocracy to devolve into a dictatorship, and the corruption that comes from dictatorship; followed by anarchy and then the process starting all over again.

Those evils were on the minds and in the hearts of the people who drafted our Constitution. They sought for something different and greater than anything in the history of mankind, any government in the history of mankind. They sought to find a government that would last. They sought to find a government that would provide the blessings of tranquility and order and liberty; that would not be simply temporary, as every government had been in the past, but that would be as close to permanent as we could achieve.

They believed that reliance on the individual and a stable form of government could bring about blessings to mankind that had never before been seen. This great experiment in democracy, in republican democracy, has shown exactly what they had hoped for. The very essence of what American government is all about is an understanding that power corrupts and a firm belief that, to have a stable, lasting government, we need to limit power. We need to limit power because power can corrupt and destroy and harm the stability and the freedom that we so highly prize.

For those who think that term limits is out of touch with the American experience, who have not read the words of Jefferson, who have not looked at the history of this country, where the pattern was for a turnover in Congress—for those who have not focused on that and somehow doubt that term limits is in the tradition of the American experience, think about the limits we put on power. It is the very essence and the very genius of what the American experience is. We designed a Government where the House is able to check the Senate and the Senate check the House. We do not allow a rush to judgment. We think a longer view, a more thorough analysis, can be beneficial. Is it slower? Yes. Does it limit one body's power? Yes. Would the Senate be more efficient without a House? I suspect you could get an argument on that. But our founders thought the essence was to limit power to cause good deliberation and also prevent corruption.

It is not just the House and the Senate that balance each other. It is an executive that has the power of a veto. And it is not just the executive and the Congress that face limitations, we have a Supreme Court and a court system that limits our power as well. The founders thought long and hard and they set up a system of government whose very essence, whose very core is a limitation on power.

They were concerned, some would say obsessed, with preventing the corruption that comes with too much power so they set up a system that puts its primary focus on individuals and not in government, not in the hands of a few but in the hands of many. And what power we gave to the Federal Government we limited.

It is not just the checks and balances in the Federal system that exist, but a separation of powers between the Federal and the State level. Specific provisions, article X, the Bill of Rights, leaves those powers to individuals and States not specifically given to the Federal Government. All Members know this. They are familiar with it. But to say or to think for one moment that term limits is not the very essence of the spirit of the American experience of government is to miss the point. Our whole approach has been an understanding of the corruption power can bring about, and the need to make sure—the need to make absolutely sure—that no one can rule without limitations. This is not an aberration. This is not a change of the spirit of the American government. This term limit is the embodiment of it.

Some will say wait a minute, we have gotten along pretty well without it. For those, I suggest they look at the history of this Nation. For one, term limits was not included in the Constitution because people never thought Congress would turn into a lifetime career. Service in the U.S. Congress was thought to be just that, a service. One of the big issues early on was raising of the pay to $6. For that they threw out most of the Congress, for that huge pay increase. Service in the House and the Senate was thought to be a time where you would serve your country, not gain financially. That has changed. Some will say Members of Congress are overpaid. Others, many here, think they are underpaid. But whether you believe we are overpaid or underpaid, there is no question that the salary for a Member of Congress is much different than what it once was.

There is no question that it is a good living compared to any standard in America today. Are there people here who could earn more? Yes, I hope so. There are some who could earn less on the outside. But the point is this. Serving in Congress has changed from a period of service that costs people money to serve, where the remuneration was much less than what they could get on the outside, to a compensation that, even by the most meager description, is fairly adequate; something quite good.

The phenomenon of people serving a long period in Congress has accompanied a number of things. One, a dramatic increase in compensation, and a dramatic increase in the power that is here. Service now is different than it was in the 1800's. There are financial motives that did not exist.

Do we want to go back to those days where Members of Congress received little or nothing? No, perhaps not. But neither should we close our eyes to the impact of that change. The simple fact is, this country has changed. Because of the power and because of the rewards, people now wish to serve long periods of time.

There are three areas that I believe will change dramatically if we pass term limits. Here they are.

First of all, I believe the background of the people who serve in this body in both the House and the Senate will change if we have term limits. One need only look at the lengthy service of time that some Members have. But even more significant, I think, is that when we debate legislation we debate without the benefit of people having fresh experiences in the real world with regard to that legislation. I cannot tell you how many times I have come and listened to millionaires discuss the minimum wage, when they never held a minimum wage job in their life. Let me tell you, if you got through school by working and paying your own way with a series of minimum wage jobs, you have a different view of minimum wage jobs than if you inherited your money.

If spring break meant you had a chance to get a second job to make your tuition payment instead of taking a yacht tour on your daddy's yacht, you have a different view of what that issue is.

If you are concerned about welfare, I can tell you, if you have had to work for a living, if you have had to scratch for a living, you have a different view of what welfare is and ought to be than if you have been wealthy all your life.

If you are talking about regulating businesses and jobs, you have a different view if you have been subject to that regulation. Members of Congress for the first time—and I think it is of great benefit to this Nation—are now being subjected to the same laws, or almost the same laws—we are not quite there but we are close—almost the same laws that working men and women in this country are. Does that make a difference? You bet it makes a difference. I see, day after day, thoughtful, reasonable, intelligent people on this floor talk about imposing regulations on the working men and women of this country.

Mr. President, with due respect, I cannot help but think if they had actually had those jobs, if they had actually done that work, they would have a much different view. I believe term limits will change some of that. Term limits will mean some turnover in the people who serve. I think it is much more likely we will have people serve here who have actually had working experiences in the areas they attempt to regulate.

I see the distinguished Senator from Tennessee here, a physician, in our midst. All of us have grown to respect and admire him greatly as we have gotten to know him and seen the integrity that he brings to his job. But he brings something more than just a bright mind and great integrity. He brings firsthand experience of his profession as a physician. It is not a secret that when Members have questions about that, they turn to the Senator from Tennessee for a practical view. Do they always agree with him? No. But they at least have access to someone who has actually done it, who understands it, who has been there firsthand. How much more effective this body could be if we had more Members who had real lifetime experiences like the Senator from Tennessee.

I believe, as I listen to these issues debated, if we had that, we would have much more effective laws. One thing else I would suggest. If we had people who worked for a living and a real turnover, I do not believe we would have had 65,000 pages of new regulations put in the Federal Register last year.

For Members who are not aware of it, that is what it was—over 65,000 pages of new regulations were added last year. That is not the total regulations that Americans are subjected to; that is just what we added last year.

If you sat down today to read the regulations to which you are subjected and for which you can go to prison if you violate them or at the very minimum face heavy fines, if you simply wanted to find out what it is you are required to do, and you read 300 words a minute, which is pretty good for regulations, and you read all day long, 8 hours a day, with no coffee breaks, 5 days a week with no holidays and 52 weeks a year with no vacations, you would barely get halfway through. You literally could not read them if you devoted yourself full time, and those are what we expect the American people to follow. That is just the new ones; that is not the ones that are already on the books.

(Mr. THOMPSON assumed the chair.)

Mr. BROWN. Mr. President, one of the great benefits of term limits is to bring into this body a group of people who have a broader wealth of practical experience. By that turnover, I think what we will find is that we have become better legislators.

There are a few subjects, no matter the most liberal Democrat or conservative Republican who, if they sit down and get their facts right, cannot come to agreement on. Yes, there are differences; yes, there is a different philosophy. But generally when men and women have the same basis of facts, they are able to come to a similar logical conclusion.

I believe one of the great advantages of term limits is it will give our Members broader background, a greater basis of personal facts and, as a consequence, they will be able to work better together. I think you are going to find them able to do a much better job.

There is no society in the history of mankind that has ever produced 65,000 pages of new regulations every year, not Hammurabi, not Napoleon with his code, nobody ever came close.

If we think we can continue to be effective and competitive in a world market when we have committed to tying ourselves in redtape and regulations, we are dreaming. That is not going to change until we have legislators who have had real-life experiences. That is one reason I think term limits will be a great blessing for this Nation.

Second, it is my observation, from having spent 10 years in the House and 6 years in the Senate, that unlimited terms has led to a corruption of the process. Mr. President, I do not make that charge lightly. Let me be specific about it.

One of the political action committees or groups that supported me when I ran for an open seat for the Senate was very frank. They said, "If we had an incumbent that had a decent record, we would never have supported you, no matter how much we like you, no matter how you would vote, no matter what you would do. Our policy is to support incumbents."

Is it a good policy on their part? I do not think it is good for the country, but it is probably good for their narrow issues. I do not mean to give shortchange to those issues. I agree with this particular group and many of the things they do, but not with their announced policy to only support incumbents. Is that unusual? Tragically, it is not. The reality is many of our political action committees support incumbents if they have a voting record that is close to what they want.

Instead of being viable competitive races, what we have seen is a system where the funding for campaigns has become huge and incumbents have had an enormous advantage. Let us not kid ourselves. Anyone who says, "Look, we don't need term limits because democracy will take care of the process," has not looked at the facts.

In 1 year in the House, we had more people indicted than we had incumbents defeated. Let me repeat that. One of the years in the House, we had more Members of Congress indicted than we had incumbents defeated. Does that mean some people who were indicted got reelected? Yes, that is exactly what that means.

Mr. President, this is not a fair fight; this is not a fair process. Incumbents have an incredible advantage. Those who say, "We don't need term limits because the voters will take care of it," overlook the fact of what happens when one candidate is on the air and can outspend the other candidate 3 and 4 to 1. They are closing their eyes to the reality. The simple fact is, as long as you have long-term incumbency, you are going to have an enormous advantage for incumbents in this Congress. We have corrupted the process.

In the House of Representatives, even in years when you have huge turnovers, you have had more than 90 percent of incumbents reelected. The Senate incumbency is of little less value, I suspect, because there are slightly more competitive races. But make no mistake about it, incumbents in the Senate have a huge advantage in terms of fundraising.

If you believe in viable, competitive races, you are going to want term limits. The process has been corrupted and it is not going to change until we put a limit on the number of terms a Member of Congress may serve.

Third, Mr. President, I think there will be an advantage to this Nation with term limits with regard to the pork-barrel spending. Let me put it as succinctly as I can.

This Nation, in 1945, was the greatest creditor nation in the history of the world. More people owed us more money than any in the history of mankind. We produced 50 percent of the world's GNP. One nation, 6 percent of the world's population, produced half the world's products and services, and we were the greatest creditor nation on the face of the Earth.

Today, we are the biggest debtor nation on the face of the Earth. We owe more money than any nation in the history of mankind.

How does that happen? How could thoughtful, reasonable people spend themselves into potential insolvency? How could we set up trust funds that promise benefits, require people to pay in for their whole life on a chain-letter financing scheme? If private insurance companies did what the Federal Government does, we would put them in jail for fraud.

How could this happen? All of us know how it has happened. All of us know how this spending went wild. It happened because we set up a system where people would be in place for long periods of time, and the way to get along was to go along.

Members have heard this on the floor. This does not shock or surprise anyone. Perhaps someone will come down and say, Hank, that's not true, but, Mr. President, it is true.

I cannot mention how many times I have been in debate on farm bills and we will offer an amendment to eliminate the honey program. Some Members sincerely believe, if we did not have a subsidy program for honey, that bees would lose interest in flowers. Perhaps their parents did not give them a talk about the birds and the bees. But, they either believed that or they voted for the honey program for another reason, and that reason, if you review the debate, is pretty clear.

People said, "Look, this may not be the best program in the world, but if you do not vote for the honey program, I will not vote for your cotton program." And, "If you don't vote for the cotton program, I won't vote for the tobacco program." And "If you don't vote for the tobacco program, we won't vote for the peanut program."

Mr. President, how does this happen? Everybody here knows that is what happened. Everybody knows and understands how we got into these silly programs. We got into these silly programs because people said, "I can get what I want for my State if I will simply support these programs for other States."

Term limits make a big difference in that. Are you going to go against the chairman of the Appropriations Committee who you know is going to be there for another 20 years and you know that if you ever want anything out of that Appropriations Committee, that person, that man or woman, is going to remember you and is going to penalize you?

The simple fact is, the majority of Members of Congress over the last quarter century, and perhaps the last 50 years, have not done it. It is part of how we got into this circumstance. The pork-barrel spending, spending not on what each of us felt in our heart was a good program—we have passed programs that are nonsensical.

How do you defend a subsidy program for tobacco, for heaven's sake? I do not think anybody comes here thinking that makes sense—maybe there are some—but it gets passed and it stays in law. And it does, not because people think it is such a great idea, but because they know to get along you have to go along.

Mr. President, if you have term limits the world changes. Suddenly the person who could retaliate against you, if you did not support every one of his appropriations or her appropriations is not there permanently. Yes, you may not get what you want this year, but next year or the year after there will be a new chairman, there will be a rotation, there will be fresh ideas, there will be new people, there will be a turnover in thoughts and ideas and personnel and the ability to enforce the go-along, get-along rule will be dramatically reduced. Will it be ended? No. I wish there was a way to end it. But this will dramatically reduce the ability of people to enforce a go-along, get-along policy. It will dramatically cut back on pork barrel spending.

Mr. President, I am persuaded that all three of these things will happen if we have term limits. We will have much more knowledgeable people. We will eliminate some of the corruption in the process by having a turnover rather than having the built-in advantage for incumbents. We will strike a blow at pork barrel spending in a way that will be more effective than anything that is currently being done.

But, Mr. President, I am persuaded not just by these three things, but by something much more important. There are people who can come to this body and serve and keep their confidence and keep their independence and keep their integrity. I salute them. Many serve in this body right now, and America is a better place for it. But we must decide whether or not it is better to have a rotation of those who serve in public office. It is better to have a turnover. Will some great talent be lost? Of course there will. But, Mr. President, some great talent will be found. This is not a zero-sum game. For every person who retires we bring in someone new with fresh, new vibrant ideas and new experiences.

This Nation was founded on the precept that we will reflect the will of the people. Almost 80 percent of the American people in every survey that is found support this idea. Some surveys go as low as 75, others to 85 and 90. But the reality is the American people support term limits. They support that because they do not believe that anyone in American Government should be that powerful or that this should be a lifetime job.

I believe, Mr. President, we will find an enormous benefit to the American public with term limits. Is it going to pass this time? I do not know. The vote count seems to indicate that we are short. But, Mr. President, I do believe it will pass. I do believe Thomas Jefferson's third suggestion for the Republic will be enacted. I believe we will be a stronger, greater, more productive and creative people because of it. I yield back, Mr. President.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I associate myself with the remarks of Senator BROWN. He has outlined the issue very, very well, as has the Presiding Officer, and as others.

Mr. President, as Americans from across this great Nation demand true congressional reform and greater accountability from their elected officials, I rise today to strongly support this resolution which would impose term limits on Congress.

When I ran for the U.S. House of Representatives in 1992, I made a firm commitment to the voters of Minnesota's Sixth District that I would support

Federal term limits. When I ran for the Senate in 1994, I made that same commitment. And amidst a political climate of voter distrust and disgust with the system, I firmly believe that my strong support for term limits is one of the reasons I won both of those elections.

On January 5, 1993, after I was sworn into public office for the first time, the very first thing I did was cosponsor a bill to establish term limits for Members of Congress: two 6-year terms for Senators, and six 2-year terms for Members of the House.

After 2 years in the House, and now into my second year of serving in the Senate, my enthusiasm for term limits has not wavered. If anything, I am even more convinced that congressional term limits would be the single most important reform measure Congress could pass this session.

When we look at the problems facing our Nation today, and the inability of Congress to deal with our skyrocketing budget deficit and national debt, much of the responsibility rests upon career politicians, because studies have shown, the longer elected officials are in Washington, the more they come to believe that government has all the answers. More spending will solve the problems.

The longer they serve in Congress, the more likely they are to support even larger spending programs which means they believe—maybe they have been here too long—that Congress or Government has all the answers, not the individual.

Congress is no longer the body of the people that was envisioned by our Founding Fathers. Instead of citizen legislators, it has become a body of professional politicians whose ultimate goal, again, is to spend the entire balance of their careers in public office. Public service has become the basis of their way of life. Again, I would like to add, public service in itself is not bad. But, again, too much power or control in the hands of too few for too long is bad.

But when individuals have a vested interest in maintaining their elected positions, they are hardly the people you should entrust to reduce the size of Government and reform the institution that keeps them fed.

Career politicians too often put their own short-term personal interest in seeking reelection ahead of the long-term good of the country.

Too often, they are the first to cave in to special interests and too often, career politicians are the last people in Washington who really want to cut spending.

And again, statistics show, the longer a person serves in Congress, the more spending he or she supports, because they believe Washington has all the answers.

During the 1980's, it was easier to remove a member of the Soviet Politburo than it was to remove a Member of the U.S. Congress.

The arrogance of power exhibited by these career politicians has led many voters to become disenchanted, frustrated with Congress' inability or unwillingness to put aside personal motives of protecting political careers and honestly deal with the Federal Government's budget problems.

Fortunately, Mr. President, times have changed. Some of the most ardent opponents of term limits are no longer among us. I believe one of the reasons for this change is the commitment of so many of our new Senators and Representatives to the concept of term limits. And it is a message that resonates mightily across this country. National polls have shown time and time again that the American public overwhelmingly supports term limits.

Throughout my campaign in 1994, I spoke with voters across my great State—Minnesotans young and old, Republican and Democrat, from factory workers to corporate executives. And these individuals impressed upon me the importance of term limits.

Opponents of term limits claim that Congress will lose effective leaders, which it will. I will say there are many who have served many years and served well, but, at the same time, Congress will gain effective new Members, who will take up where others have left off. In the private sector, many corporations and factories replace their CEO's, every 5 to 10 years, mainly to get new life, new ideas, and new enthusiasm, new direction for their business, times change and needs change.

In the words of former Minnesota Congressman Bill Frenzel, "All the titans of Congress were pea-green freshmen once. They were good when they got there. Experience did not make them smarter. It just gave them more staff and made them harder to say no to." Like Congressman Frenzel, I, too, believe that "Congressional term limits would restore balance to our system by extending to the legislative branch the noble precedent of term limits applied by the 22d amendment to the executive branch only. Both branches need limits."

The 1994 elections were a mandate for change. Establishing term limits will deliver on a promise we made to the American people. It was a promise, I can assure you, from which this Minnesota Senator will not back down. Because service in this institution should be exactly what our forefathers intended it to be—that is, a temporary period of service to the Nation, followed by a return to our jobs, to the family business or to other careers, a return home, to live under the laws he or she helped to enact.

We talk about the lack of faith Americans have in Congress and those who serve here. We joke about those polls which show Members of Congress at the lowest levels when it comes to the public trust. But, Mr. President, it is not a joke. We have got to restore the public confidence which has been stripped away by years of abuse by powerful, lifelong politicians.

Mr. President, let me conclude by saying that term limits are a first step toward restoring that trust. I believe that is a vital step. I urge my colleagues to support the passage of this resolution which will go a long way toward restoring the faith of the American people in their elected representatives here in Washington.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BROWN). Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I want to thank our friend and colleague, Senator FRED THOMPSON of Tennessee, for what he is doing and the way he is doing it. He does it out of the utmost sincerity, the utmost authenticity. I have known him a long time, since back in the days when he worked with our leader, Howard Baker, in a different role. He ran on this issue. A lot of people did. This was just one of many issues that he laid himself out to the voters on. He said, "I believe in this." And they said, "We believe in you." So that is why he is here.

There are those in both parties who would hope to avoid this measure, obviously. I want to indicate my strongest support for this measure which is offered by our friend, to limit the terms of service in the U.S. Congress—contentious, a bitter pill for some, difficult to grasp for others, but seen pretty clearly by the people of the United States, especially in my own State, where 77 percent of the people voted for term limits. Of course, they did not do that when I was running for my third term. But I was always very, very much in favor of limitation of terms, as I say, until I got to my third one. Then I had a lapse, just a light lapse, and now I am restored. I am back. Of course, not running again, but I will get to that in proper context.

Let me tell you why I am here to support Senator THOMPSON. I did not come quickly or early to this position. I came painfully to this position about term limits. I really thought they were a mistake at first. I say facetiously—obviously, when I ran for my third term, but I cannot help but notice now there is a certain strain in some editorial commentary about this measure, implying that it is some kind of "feel-good", toothless symbolic action, a way of diverting us from our real challenges. Saying if we would only do our work, "if you would just do your work, you would not need all these remarkable dodges and sophistries."

I cannot disagree with those charges any more strongly than I do right now. I will briefly describe for my colleagues the real-world road which I took to my current opinion—book, page, and hymn number, with no musical accompaniment. Here it is. My interest come only when I first served this party in this Senate as the Republican whip—I hope you hear this—when I became the whip, the second in my party serving under this remarkable man, Senator BOB DOLE, who I have the richest admiration and regard for, in every respect. I served him loyally and will continue to do that in any capacity that he would request of me—here or whatever the endeavors of his life take him. It was when I was the Republican whip that I began to appreciate the severe need for some kind of term limitation.

Let me tell you how that work went on, even though many of my colleagues know exactly what that work is, the work of the whip. We would have a very tough vote ready on this floor. The troops would be out, the deputy whips, and the leader would say, "This is a critical national issue," and I and my colleagues would go to each Senator and say, "This is a tough bill, but this is a critical national issue. This is bigger than you, bigger than me, bigger than any individual item. Are you with us?" About once every 2 months, sometimes even once a month, one of my colleagues would say, "You know, I would love to do that, but I can't, because if I do that, I'll be history. I'll be out of here. I've got a tough campaign and you are asking me to cast this vote—forget it. I'm gone if I vote that way. They will just use it against me, and I'm out of here. I'll be history."

So we would go down the list. Both parties do this—do not miss this. I hope the American people do not miss it. OK, you go down the list and say, "This Senator is up for reelection. So we cannot ask too much of him or her, that would be terrible. We cannot put the heat on them. But this other Senator was just reelected. We can get him or her to go with us," and so on, down the list. Everyone around here knows how very solicitous we become of our colleagues on our own side of the aisle when they have a tough reelection fight. That is the way this remarkable arena works. Help so-and-so, he is coming up, get the heat off of him, put it on this fellow who has 5 more years, and they will forget his vote by the time it is time for his reelection. On and on it goes. That is the way it is played.

On every even-numbered year, one-third of the Senate and the entirety of the House is quaking in its political skin, afraid to cast any of the really, really tough votes, because they dare not do anything but cast the really political vote, the one, if it is called political, for which there is only one reason, and that is to get reelected.

That is what I found. It was very clear to me what was happening. There is this large number, every even-numbered year, all of the House Members, a third of the Senate, a large number of legislators in Washington, thinking too much about politics and not sufficiently about principle and about the best interests of their Nation. It is no wonder that it is terribly hard around here to take action against the challenges that so vex this country.

That is what I observed. What I felt then and now, if we do term limits, then after it kicks in—I shall tell you what you have after it kicks in. You will have one-third of the U.S. Senate voting right. That is what you will have. Then you go find 18 other people, and that will give you 51. You can always find those other 18 people because they are in that pool of about 40 Democrats and Republicans in this body who are "always right there." They are always there. They are steady, thoughtful, they watch, they sometimes do their partisan strut—often, and we are all good at that—and they are always there. They are the ones from whom you would draw 18 and then with the 33 you have voting right with no pressure, you find the 18 out of the pool of 40 and move on with the Nation's business.

The astonishing and truly regrettable aspect about all of this is, even when there is a broad consensus about the nature of the problem, pure politics will keep us from addressing it.

If you want a few examples, well, I just happened to drag a few in. Case in point. This year, the Consumer Price Index—this is a pure "no-brainer," and there was not a shred of substantive controversy here until the senior citizens groups got worked up. Every economist who testified before the Finance Committee said that it is overstated. Every single one of them. Every budget analyst agrees that so long as the Government indexes inflation at too high a rate, we will overspend on COLA's—and in everything from Social Security to Federal retirement, to military retirement. And we will also collect too little in tax revenues as a consequence of improper indexing. That, my friends, results in larger and larger deficits. This is no secret. We all know this is the case.

There is not a thing that I will relate in these remaining minutes that is not consistent with the facts. We all know this is the case. The economists who have testified know it to be true. That CPI overstates inflation by 0.7 to 2.2 percent. CBO knows it is true. OMB knows it is true. And that is why neither of them is using CPI to index our discretionary appropriations caps. I hope you heard that. No, they both use a "chain-weighted GDP index." I am going to try that one on the floor. I know that is a mouthful. But if it is good enough for OMB and CBO, surely it should be good enough for us, as we wander through the wilderness here. So we will try that chain-weighted GDP index, which will knock off about 0.4, and that will be a lot better progress than what we are getting right now.

But the politics have been diagnosed as the problem. The President does not want to offend anyone who might be receiving a COLA. I understand that. Even if the COLA they are now getting is certifiably too large and even though it has nothing to do with your net worth or your income. Try that one. That is the way it works. It does not matter what your net worth or your income is. CPI, Consumer Price Index—oh, is that a COLA? They are not the same. Heed the words of our able friend from New York, Senator PAT MOYNIHAN, about how the distortion has come about with the cost-of-living allowance and CPI. They do not fit. But they have been fitted.

So even if the COLA is now certifiably too large, we do nothing. And so the President, being the very savvy political person he is, in a political year, intends to use this as a political weapon. A Republican-controlled Congress will refuse to jump off the cliff, then, because of that effect, not wanting to give him any political benefit. As a consequence—both parties playing what is called partisan politics—nothing gets done, even when we all agree that it is a must and could be done without really setting back this country in any sense. And a 1-percent reduction in the CPI—and nobody is suggesting that—in 10 years lops $680 billion off the pile. It is a lot smaller in 7 years, about $68 billion. So that shows you the exponential growth, if 1 percent of the CPI would save $68 or $70 billion in 7 years in 10 years it will save you $680 billion. You are saying that is impossible, but it is not. That is what is happening here, and that is what we should address—and we do nothing.

When we did this and discussed it in the Bipartisan Commission on Entitlement and Tax Reform, we actually, naively, thought that it would be like falling off a log, to simply do something with the CPI, which is so overstated at every turn. But, no, the AARP did not like that idea at all. No, indeed. And the Commission for the Preservation of Medicare and Medicaid thought that was an ugly trick. And so they will help us administer it on into bankruptcy.

I am grateful to my colleagues for hearing me out, because I deal with these issues regularly, and I have been talking about these things all of my political life. This is not something new or some swan song caper in the middle of the night. I am grateful for those who come up and say, "You are right, AL, we need to do something about CPI." I wish I could count all of my colleagues who have said that; yet, nothing gets done. How can that be?

The answer lies wholly in the area of political fear. That is a word I want to use. The word is "fear." Forget all the rest of it. "Fear."

So there is an example just right off the bat—and that is the meat part of the bat, not the end—how term limits might immediately save future taxpayers untold billions in deficit spending. One percent in 10 years would be $680 billion. And we are not even asking that.

So, as I say, in 1994, I served on the President's Bipartisan Commission on Entitlement and Tax Reform. And like that movie, "The Man Who Knew Too Much," I almost wish I had not been appointed to do it. I have shown you a copy of our report. This is the interim report. This was approved by a vote of 30 to 1. Who was on this Commission? Who were these dastardly people that were pointing out these things with regard to Medicare, Medicaid, Social Security, bankruptcy in the system? I will tell you who they were. Let me read the names: Chairman BOB KERREY and Vice Chairman John Danforth, two very fine men that I have come to enjoy. Who was on the Commission? I am not going to read the titles because the names will be so familiar: BILL ARCHER; DALE BUMPERS; MIKE CASTLE; EVA CLAYTON; THAD COCHRAN; CHRIS COX; KIKA DE LA GARZA; Robert Denham; JOHN DINGELL; PETE DOMENICI; Tom Downey; Sandra Freedman; PORTER GOSS; William Gray, former Congressman; Robert Greenstein; JUDD GREGG; Karen Horn; Tom Kean; ALEX MCMILLAN; CAROL MOSELEY-BRAUN; DANIEL PATRICK MOYNIHAN; PETE PETERSON; HARRY REID; Roy Romer; Dan Rostenkowski; MARTIN SABO; Jim Sasser; Myself; Richard Trumka, and Malcolm Wallop of Wyoming. Those are the Members who served on the Commission. Some did not attend any meetings. I think you might be able to pick out one or two.

There we were. That is the work we did and we put out this statement. It was signed by all but one of these people. I have shown you the remarkable cross-pollinization of the issue with those people that I just described and some of them we enjoy and work with every day. Then why did we sign this—30 of 31 of us? It was because it is a report of a statement of fact. It is not about ideas, not about ideology, not about partisanship. These are facts.

One fact is very evident—and remember we were appointed by our President—and that one fact is that we are on an unsustainable course. We have locked into the law a huge promise of benefits that far exceed our country's ability ever to pay. The unfunded mandates for these programs will simply wipe us away. We all know this to be the case. Largely due to the growth of Social Security, Medicare, Medicaid, and Federal retirement, this country stands, by the year 2012—now here is what the report disclosed: That with no increase in revenues—that means no more taxes, no more, never, never, ever no taxes—and having done a perfect health care bill, which we know would—as we see in our votes with regard to the Kassebaum-Kennedy proposal—be tough to do, and ours is presently an incremental approach and has to be—but if we were to do a "perfect health care bill" and no further taxes now, and of course that would please all of our constituents. Then hear this scenario;

Were this the case then in the year 2012, there will then be only sufficient revenue—that is, money—to pay for Medicare, Medicaid, Social Security, Federal retirement, and interest on the national debt. There will be not one penny for transportation, education, defense, WIC, WIN, Head Start, NEA, NIH, the National Institutes of Health, or anything else in this Government. Remember too—I do so hope the people of America can remember that those of us in this body do not even vote on 67 percent of the national budget. Those of us in the Congress of the United States do not cast a single vote on 67 percent of the national budget. It goes right on out the window, period Automatic pilot. In 7 years we will not be even casting a vote on 73 percent of the national budget. It will just be going out, being paid out and it goes out regardless. It goes out without regard to means testing or "affluence testing." It just gets paid out. It goes to people regardless of their net worth or their income. Every year that we are here—you have seen it, and I have seen it—we spend our time hacking around on the Appropriations Committee on the only things we can find that we can cut, which is defense, education, transportation, WIC, WIN, Head Start, and we don't lay a hand on all the things we call "mandatory spending."

So we are trapped. We are trapping ourselves daily ever more deeply. These things cannot be sustained. That is the situation which is impervious to ideology, or philosophy. It really does not matter whether your highest priority as an elected Senator is placed on a strong national defense, or on the children, or on vaccinating our kids, or the NIH, or the NEA, or roads, or whatever, or veterans, or seniors, or whatever it is we most want to do ourselves—or on keeping the size of the Federal Government within reasonable bounds.

It is a reality that we cannot escape unless we radically reduce the growth of the largest entitlement programs.

What has been our response? The first response was to leave Social Security "off the table". That is a remarkable thing to do—to leave off the table an item that is $360 billion a year, and it is now "off the table." Both Republicans and Democrats did that. If one single Senator can demonstrate to me that this was the result of substantive critical analysis rather than political positioning, I would be most intrigued to hear the rationale. The truth is we all know better—as we admit in a jocular way to each other when the cameras are not rolling.

Let me show you Social Security, the one we left off the table, which we are never supposed to talk about. I do like to talk about it. I take these charts to my town meetings to ward off the gray-haired cat in the back of the room. When I ask for a final question, I will often say, "I will take a final question from the gray-haired gentleman in the back." Then the fellow will respond, "I'd rather have my hair turn gray than turn loose," which is disturbing, when you look at my hairline, that I have to take that kind of terrible abuse.

So then he will say, "I put in it from the beginning. SIMPSON, I want it all out, every bit of it. That is the contract." I say, "By George, you are right. I agree with you. You put in from the beginning, did you?" "Yes, I did." "Great. Let us then review for everybody here in the town meeting how much you put in because, if you put it in it from the beginning"—and any 64-year-old, gray-haired cat like me cannot escape this because we all put in the same. "So, if you put it in from the beginning, you never put in over 30 bucks a year for the first 8 years. And then you never put in over 174 bucks a year for the next 18 years, ladies and gentleman." Not one of them did.

Then, finally you got stuck 300 bucks a year, 800 bucks a year, $1,000 a year, $1,500 a year, $2,000 a year, $3,000 a year, and in the 1980's, $4,000. Now I think I am putting in $5,000 a year, which is my Medicare and Social Security.

So when I am all finished up with contributions of payroll tax" if I retire next year at 65, I will have put into the Social Security system about $55,000 in an entire lifetime. I will get it all back in 6½ years. Everybody knows that. Everybody knows that. And if you retired in the 1980's, the early 1980's, you got everything back you put in, plus interest, in only 2½ years. And those are people who still show up at your town meeting.

There is no means test of benefits, no affluence test of their COLA, and that is the way that is. But take a look at this.

This is a chart about me, ALAN K. SIMPSON. This is a blow-up of my Social Security earnings record for a lifetime. It started between 1937 and 1950. I went to work at the Cody Bakery at the age of 14; got the Social Security card that year. My particular role in that particular confectionery was to place the pink glob in the midst of that white, crusty sugary business on top of the mushy sweet roll. I have never touched one of those since; never will eat another one of those because that was my job—plop, plop, plop. I was paid $583, to which I coughed up a real chunk into Social Security—5 bucks that year. The next year he paid me less—for they found what I had been doing with the confectioneries.

Then I went off to the University of Wyoming and paid nothing because I never earned over $3,600 in a summer. I worked every summer, but I never earned $3,600. Remember, ladies and gentleman, you could make a million bucks, but you never paid anything over this lid here. So, if you made 40,000 bucks this year, you never paid any Social Security over $4,800 in this year. Then they slowly raised that through the years.

So, anyway, I finished the Army, finished college, went on to practice law, and in the first year of practice when my father took all the money and I did all the work, I put in 42 bucks—42 bucks. I made a little over $1,600.

Then, in the most productive years of my life to that point, for 18 years of practicing law, I never put in over 816 bucks a year. Nobody else did either. Not one person in this country put in any more in those years as a self-employed person than 816 bucks a year.

That is where we are. And you are telling us that this is sustainable? How absurd. But it is "off the table." The biggest gorilla in the jungle is now off the table.

So, then, finally I came here in 1979, and put 615 bucks into Social Security that first year. Then the next year, 951. Then, you know. There it is—in 1989. My total contribution was $2,980. So was it for everybody else in America; period. So, if you total it all up, over a lifetime it is about $55,000.

Now here is the slot machine handle. Here is what I will get, and so will anybody else my age. This is my estimate of benefits. This is a photocopy of the document directly from the Social Security Administration. Thank Heaven they are sending this to people now. It is going out automatically to people. Millions of copies are going out thanks again to Senator MOYNIHAN. We owe him a great deal.

We owe him a great deal because, do not forget, he was very involved in the blue ribbon commission that met in the early 1980's and said to us all: We can save Social Security with a deft blend of payroll taxes and some other changes, and if we do—and we all voted on it—if we do, it will save the Social Security System until the year 2063.

Do you remember that? I hope you all do. Because now we are told by the trustees of the system that Social Security can only now be saved until the year 2029. So from 1983 to 1996, we have compressed the drop dead date from 2063 to 2029, and everybody knows it. Everybody knows it.

So if I were to retire at age 65, I will receive $1,170 a month. But if I wait until age 70, I will get $1,555 per month, with a life expectancy of—well, it is cheerful news. My father lived to be 95, my mother 94, my grandmother 100. I will be rolling and rolling over in it, and it will not matter what my net worth or income is. Then also add to it a COLA every year.

Does anybody within the range of my voice believe this is a sustainable system? It is not. Senator KERREY and I are trying to restore long-term solvency to this system, because it will be broke in the year 2029, and will begin to go broke in the year 2012 when we start cashing in the bonds and Treasury securities.

Remember, ladies and gentlemen—and please do not lob anything—there is no Social Security trust fund. There is no such fund. You know it. I know it. All we have is what Franklin Delano Roosevelt as President and the Congress set for us, which is this: That if there is any surplus, any surplus at all in the Social Security funds, it must be invested in securities of the United States, backed by the full faith and credit of the U.S. Treasury. So when there are reserves, the Treasury purchases T bills, savings bonds, whatever. Some of those are purchased by those of us in this body. They are purchased by banks. By other Americans. The interest on those securities is not paid out of some kitty called the Social Security trust fund. It is paid out by the General Treasury, ladies and gentlemen. We all know that. Everybody knows that. We do not "steal" from the Social Security trust fund and in profligate ways just poof it on down the street. We do not do that. But we go back to the town meeting and they will say, "Now, that's what you did. You stole from the Social Security trust fund and blew it. You never put it back." I said, "My friend, there was nothing there to blow." It is a series of IOU's that would stack to the top of this Chamber.

It is all good stuff. It is good financial paper, but it is not—it is not—some kind of separate fund. If it was a separate fund, it would be, right now, over $220 billion. Do you think we would leave that untouched if we could find our way into it? Of course not.

The thing about it is that those reserves could reach $2 trillion before the year 2012, but then when we get to the year 2012, that is it. That is it, because there will not be enough revenue coming in to take care of the monthly payments going out—period, nothing.

This is a pay-as-you-go system. It has nothing to do with a rolling trust fund or anything else. The people who are paying their Social Security payroll tax in today, that tax is going right out this month to senior citizens regardless of their net worth or their income.

Now, that is the way it is, and the sooner we get to dealing quite honestly with what this system is, I think we might have some semblance of ability to get out of it.

Then came the proposal to reduce the growth in Medicare below catastrophic rates—not "cut" it, but to slow the growth in the way that every objective analysis has shown that we must. The President was suggesting slowing the rate of growth when he dealt with his very controversial health care plan which was defeated. The President then later talked about letting Medicare go up 7.6 percent or 7.8.

I admired that. I said that at the time. Republicans are trying to let it to go up 6.4. The President might be at 7 now. We are not that far apart. That gap could be closed very well. We could close that gap because both the President and the Congress know that we must slow the growth in Medicare. Because why? Who is telling us all this bizarre business? The people telling us this bizarre business are the trustees of the Social Security and Medicare Programs. Slowing the growth in the way that every objective analysis has shown us that we must.

Are we going to get a severe political lesson from that one, an example of what the Washington Post had called "Medagoguing?" President Clinton and too many others of us, Republicans and Democrats, have decided to run for office this November on the assertion that we are saving America from "cuts" in Medicare while at the same time "behind the scenes" every single one of us agrees somewhat on what kind of target needs to be hit to bring Medicare within reasonable bounds. We all know that. As a consequence, what have we accomplished? Not much on the Medicare front. That spending continues to spiral upwards unabated.

Get this one. A few weeks ago what were we told? A little miscalculation there. Instead of a surplus of $4.2 billion that month in Medicare, we found a $37 million deficit. That is the trustees telling us this too. It was startling to them. So maybe Medicare will not go broke in 2002; it will only go broke in 2001.

But do not forget this. If the Republicans get away with all these terrible tricks and do everything that we have proposed to do to balance the budget in 7 years, and do it, Medicare will not go broke in 2002; it will go broke in 2010. What a deal. What a deal that we have "balanced the budget" and Medicare will not go broke in 2002; it will go broke in 2010. Everybody knows that. Everybody.

So as the spending continues to spiral upwards unabated, the only real accomplishment of the exercise possibly will be to elect some new legislators who have pledged on their highest honor to stop any cruel efforts to ever deal with that silly problem again. Oh no, we will not do that one again, because obviously too many people got beat when they tried to do that.

Then I do have this other document here which is worth everyone's attention. It is a little yellow booklet entitled, "Status of the Social Security and Medicare Programs." It comes to us from the Board of Trustees of Social Security, and those persons are three of the President's Cabinet, Robert Rubin, Robert Reich, Donna Shalala; and Shirley Chater, Stanford Ross, and David Walker.

Then let me read this from page 11 in the section entitled "Need For Action." Remember, these are the trustees of the system, the stewards of the system telling us this:

> During the past 5 years, there has been a trend of deterioration in the long-range conditions of the Social Security and Medicare Programs and an acceleration in the projected dates of exhaustion in the related trust funds.

I paraphrase what the words "projected dates of exhaustion" mean—that is, going flat broke is what that means.

And further then:

> To some extent, the increasingly adverse projections have come from unforeseen events and from the absence of prompt action in response to clear warnings that changes are necessary. These adverse trends can be expected to continue and indicate the possibility of a future retirement crisis. We urge that concerted action be taken promptly to address the critical public policy issues raised by the financing projection for these programs.

To repeat the line I found most interesting: This situation arises "from the absence of prompt action in response to clear warnings that changes are necessary."

In other words, we know fully that we must act, and yet we refuse, out of political fear, to do so. That, to my mind, is well defined as irresponsibility, or as akin to chickens, as I have patterned upon my tie here. I wore this appropriately today. These are chickens that I try to show to people between 18 and 40, so that they know that they will be picking grit with the chickens when they are 65 and that they must get in this game and figure out what is going to happen to them. That is why I wear this beautifully patterned haberdashery.

I could go on, but I can see my colleagues rising and heaving at their desks. My colleagues have heard me speak on this issue before. Perhaps somewhat tiring is the message. But remember this. It will not work to say SIMPSON is off the rail, or easy for him to say, he is not running, because I have said these things back in time immemorial, every time I ran. But I assure you I, too, am tiring of the inaction. If we want to be spared the alarm bells that will be coming in this area, all we need do is meet our responsibility to our citizenry and cast the tough votes to correct these problems. I have heard that one, too. Do not think I have not cast these politically correct votes, too, as a chicken. I have done that. But we will not get there by enacting tax cuts. That was something the President wanted, something we wanted. I was ready to go for capital gains. I will still go over the cliff, but we will not get there by doing that.

We will not get there by increasing the minimum wage. We will not get there with line-item veto. We will not get there by getting rid of fraud and abuse. That will not get you there. More of it. The only way you get there is to deal with Medicare, Medicaid, Social Security, Federal retirement—period. All other is true fiction.

And we will not get there by saying we are going to slavishly posture to protect Social Security from the balanced budget amendment and thus let it go bankrupt on its own. We will not get there by giving out more money to employed seniors with no affluence test, and I voted for that one, too. We will get there only by slowing the growth of spending to the point where revenues can keep the pace, and that is it, substantively. That is very difficult politically. That is, alone, why it does not happen.

Finally, I just could not let this go by. I have a new missive from the remarkable group, the National Committee to Preserve Social Security and Medicare. These people are something, they really are, not quite as slick as the AARP, but nearly. Do not forget the AARP is simply a group of 33 million Americans bound tightly together by a common love of airline discounts and automobile discounts and pharmacy discounts, and they are really a rugged and remarkable group. They are. They live in poverty downtown here in a building they lease for $17 million a year—$17 million a year. They have about $345 million in T-bills in the bank and rake in about $106 million a year from Prudential Insurance Co., getting 3 percent of the premiums on the MediGap policies.

And guess who helped kill off any reform and helped stall the Government? Do not miss this one. You remember why we shut down the Government? One of the reasons is because part B—a totally voluntary program—premiums in Medicare were going to go up $7 a month. Some said, "We cannot have that." So the AARP rose in high indignation, then helped kill that off, and, at the same time, they watched the increase in the MediGap monthly insurance policies they placed with Prudential go up 31 bucks a month—all while they killed off the ability for us to say that those who have more should pay more for part B premiums—like $7 a month.

You have a current situation in America about which every thoughtful American must scratch his or her head. Part B premiums are paid, 25 percent by the beneficiary and 75 percent by the people working here in the Senate kitchen. Those folks pay 75 percent of the premium for us, or for anyone else, regardless of their net worth or their income. And we cannot even change that.

So here is AARP, through Prudential raising their own premiums $31 a month while they are killing off a program in America to raise it $7 a month on something which is totally voluntary. You do not want anything to do with a group like that. Yes, I know people stay in AARP because you can get a room at Westin Hotel for $80 instead of $140—I know those things—and the senior discounts here and there and at the movies. I know those things. I do not want to detract. I am a member. I am using some of those.

But here is this new one, just this little one from this remarkable group, regarding the type of political pressure I am talking about. This is the most recent mailing from one of our most intriguing senior citizen organizations, the National Committee to Preserve Social Security and Medicare. It is labeled as "The 1996 Benefit Cut Impact Survey." Very interesting stuff.

Question 1: "After promising never to touch Social Security, many political leaders in Washington are discussing proposals that will result in smaller Social Security COLA's, making it impossible for your benefits to keep pace with the real inflation you experience." This is best described—in the West, we would have a different term, a different, perhaps, appellation for it—it is a lie right off the bat. Because no one is talking about taking COLA's below the true size of inflation—nobody, not a soul.

Next question, "Should your congressional representatives pose any measure that would result in lower Social Security COLA's?"

Oh, that one should not be too difficult to answer for the citizen that receives it. It is a rather brazen appeal to the recipient's financial self-interest without any accompanying discussion about the country as a whole and it skillfully say the seeds for wrath to be expressed subsequently at the ballot box. That is very important, that you do that when these mailings go out.

Question 2: "If such COLA legislation goes through, would you support your national committee in an all-out campaign to repeal it?"

That is pretty easy to understand, I think, pretty easy. Another way of saying it is: "Will this committee be able to bilk you out of more contributed bucks to our organization as compensation for raining political threats down upon the bald or hirsute domes of those in Washington and environs?"

Question 4: "If a balanced budget amendment, one that did not protect the Social Security trust funds, came to a vote in Congress this session, would you urge your elected representatives in Congress to oppose it?" How nice. We have seen that campaign brought to the floor of the Senate several times, the use of the Social Security "hot button" as a means of derailing the balanced budget amendment. And it worked. It was also marvelously done when we repealed catastrophic health care. If we had done that 1 year ago, we would not be in this box today. And the AARP, although they say they never did have any official fingerprints on that, I mean, it looked like the Abominable Snowman footprint when you got right down underneath it all—much more than a fingerprint, a giant track, a gaping hole, a crevasse in the ice. And there they were, then, and it worked, and it continues to be a source of political agitation to this day and on into the future.

So this—and I conclude my remarks—this mailing is but one example of the cottage industries which have sprung up all over this country which aim to drain the Treasury of everything they can get by whipping credulous Americans and senior citizen into a frenzy and scaring elected representatives half to death. It matters not that these mailings are filled with sophistry and distortion and emotion and obfuscation. What matters is that they have a political impact and raise big bucks, and too many here are afraid to buck the tide which they produce.

By the way, I should note that the final request on page 6 of this missive is for additional bucks, for the poor, ragged committee, a curious way to protect the meager finances of the poor senior citizens, is it not? Asking them to give up $10 of their hard-earned Social Security money for this committee's sake? And one effect of term limits, in its most succinct form, is the one effect it would hopefully have on organizations like this, who are dedicated, apparently, to the bankruptcy of our country, is that it is very likely such groups would vanish without a trace. And no one would miss them.

Then lacking any substantive basis for their position and lacking any further clout stemming from political fear, what reason would still persist for their existence? I can bet you that the national committee here is not too excited about term limits legislation. They would find it far more effective to frighten legislators, simply continue to do it, to do their bidding. What a bunch. Martha and Max should be ashamed, but I can tell you they are not.

So, I am very pleased to support my colleague, Senator THOMPSON, with his initiative.

I, of course, have been forcing my own brand of term limitations this year by retiring from Washington and going on to other work. But it is extremely refreshing and like a splash of mountain spring water not to have concerns about November mixed in with one's vote recommendations. I can say to you, it is a rare tonic which I recommend in large doses to the entirety of the House and the Senate, and I believe if we enact this measure, we will have taken one significant step toward resolving some of the largest, greatest and most serious challenges facing this country.

We all know it, we like these jobs; we want to continue. None of these critical things I describe will be done without a term limit. None. After it kicks in, I can only say one-third of the U.S. Senate will be voting right every time, and the Democrats or Republicans who are leading this body at that time will be able to find those other 18 to get the 51 votes to do the Nation's business. I think that is a very important thing to do, is to be about the Nation's business and not just continue to be assailed and hammered flat by the groups who are so skilled at peddling fear, but ever more skilled at raising bucks, as they terrify the American senior citizens.

I thank the Chair.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mr. KYL). The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I think that I may be the first person today to speak against this resolution, but let me say, first of all, I am delighted to do so. It is, admittedly, a freebie. You can vote for it in the absolute certainty that it is going nowhere, and you can send out your newsletters and press releases and tell your constituents that you did your best.

I have heard a lot of speakers this afternoon say, "Well, this is popular with the American people." Slavery was once popular also, but I don't hear any of my colleagues arguing that slavery was a good idea.

Prohibition was also once popular. Do you know what we got out of prohibition because it was popular? Organized crime, and that is all we got out of prohibition. Organized crime is still ensconced as part of our society because we voted for a constitutional amendment because it was popular.

In my State of Arkansas in 1992 the voters approved term limits, by a 60–40 margin, for both State and Federal officers. As you know, the Supreme Court, by a very narrow vote of 5 to 4, ruled that the people of Arkansas did not have the right to limit the terms of Federal officials which had been set by the Constitution. It is still in effect.

Interestingly, while 60 percent of the voters of Arkansas were voting by a 60-percent margin for term limits, they reelected me to a fourth term by a margin of 60 percent. You can only conclude that it is all those other guys who they are wanting to get rid of. I do not quarrel with the popularity of this proposition with the American people. They have a right to favor it. But I also want to say that one of the biggest responsibilities Members of Congress have is to be an educator as well as a legislator, and I have never passed up the opportunity at a Rotary Club or a chamber of commerce banquet to express my unalterable opposition to term limits. It is not meant to demean, it is meant to give people a side that they never hear at the coffee shop and why I think it is a bad idea, why Alexander Hamilton thought it was a bad idea, and why the Founding Fathers dismissed it almost summarily.

People have a right to believe something is a good idea, but I have an obligation, if I happen to disagree with that, to try my very best to educate them, at least to an alternative view.

This whole idea is based on the assumption that every man and woman who seeks public office does so, not to serve the public good, not to promote a national agenda, which is good for our people, but to feather his own nest, to pursue a personal agenda. "You just cannot trust those people in the U.S. Senate for more than 12 years, because you give them 13 years and they lose all of their integrity, all of their interest in the national good."

Unhappily, occasionally somebody around here proves that to be true. Somebody proves himself to be dishonest or unethical or just a lousy Member of Congress. But I tell you, Mr. President, the vast majority of the 535 Members of Congress are honest, they are ethical, they are hard working and they are fighting for what they believe is in our national interest.

Ethics has become a very big issue around here. Most secretaries and office managers keep the Ethics Committee on autodial. So intent are they in complying with arcane rules that a lot of people around here do not understand, and the ethics manual gets thicker and thicker each year.

In 1960, 70 percent of the people in this country said they had quite a bit of confidence in Congress. In 1960, while 70 percent of the people were saying they had quite a bit of confidence in Congress, Members of Congress could take a $100,000 contribution in $100 bills and did not have to report it to anybody.

Members of Congress could make a speech and take $5,000 in honoraria and did not have to report it to anybody. They could practice law. They could take the people who came into their offices soliciting their favors, lobbyists and could refer them to their law firms back home and then share in the profits of that law firm that fall. And 70 percent of the people in this country thought things in Washington were just hunky-dory, because they did not know it.

Today, the ethics manual grows thicker and thicker, to the point that people are afraid to take an insulated coffee mug from the Rotary Club, and you dare not risk allowing anybody to buy you a dinner for fear that it might exceed $50, if you are a Senator, or any amount if you are a House Member.

Every Member must file an ethics report of what stock he owns, the value of it, where his income came from last year. It is all there, and the press microscopically examines it every year, and it is appropriate. That is the way it ought to be.

So today, you have to report every significant contribution made to your campaign and lay bare your own personal net worth. And you cannot receive honoraria for any speeches that you give. And today, 1996, 23 percent of the people of this country have quite a bit of confidence in Congress.

Can you imagine the people in this Chamber voting aye on this resolution, and essentially saying, "You're right." I will be a good, decent, ethical, honest Senator for 12 years. But if you elect me to a third term, look out, I'm going to be uncontrollable. If you allow me 6 more years, don't count on anything."

That is what we are saying here. I cannot be trusted with more than 12 years in this body. What we are engaged in here is the height of pandering. This is not a serious debate. If it were, why would the manager of the resolution offer immediately seven amendments which are identical to the resolution to make sure that no Senator can offer an amendment to improve the resolution?

That is right. We are going to talk about this resolution until 2:15 tomorrow afternoon. We are going to have a cloture vote, and cloture is going to fail miserably. Everybody here knows it is going to fail miserably. Everybody knows this is a freebie.

Do you know something else? Of the 45 Senators that voted for Senator ASHCROFT's resolution in support of term limits last year, 25 of them have been here longer than two terms, which is what this resolution would deal with. Do you know why else they filled the tree? To keep anybody from offering an amendment to it, because they knew that Senator LEAHY or I would offer an amendment to make the term-limits resolution apply to terms already served.

They did not want any of that retroactive stuff. You have been here five terms, and you are hot for term limits? Of course you do not want it to be retroactive so you cannot even run again.

I do not mean this personally because I admire him and I like him and I consider him my friend. The senior Senator from South Carolina will be eligible for four more terms if this resolution were to pass and it took 7 years for the people of this country to adopt it—four more. He would be 117. I would be eligible for three more terms.

Oh, it has all been carefully crafted to take care of those who have. We have a saying in Arkansas "them what has, gets." Oh, it is very popular. You know, when you are standing before an audience and there is a question: "Senator, how do you feel about an amendment to the Constitution to balance the budget?"

"I'm for that."

"How do you feel about flag burning?"

"You bet. Count me in."

"Well, how about term limits?"

"You bet. I'm for term limits."

It is so easy to agree with what you know is popular among the group you happen to be speaking to.

I saw a story the other day in the Hill newspaper discussing how the Republicans requested that term limit supporters not punish the junior Senator from Kentucky because he is adamantly opposed to this resolution. I guess only the Democrat opponents of term limits are worthy of criticism.

You think about even considering punishing somebody for the courage of their convictions. The proponents of term limits say that is the reason they want it, so people will be courageous and stand up for what they believe.

Mr. President, do you know what a courageous vote is? It is an unpopular vote. If it were not unpopular, it would not be courageous. So the people say, "If we limit them to 12 years, they will be courageous knowing they cannot run again. If we won't let them run again after 12 years, they are going to be statesmen. They will say what they really believe. And they are going to say courageous things. They are going to be men of principle."

Here is what Alexander Hamilton said about that in Federalist paper No. 72:

> There are few men who would not feel much less zeal in the discharge of a duty when they were conscious that the advantage of the station with which it was connected must be relinquished at a determinant period, than when they were permitted to entertain a hope of obtaining, by meriting, a continuation of them.

That is right. Let them stand for reelection on the merits of their past 6 years' performance. Do not pass some kind of undemocratic nonsense saying the people do not have enough sense to know who they want to vote for.

I daresay, my colleague, Senator PRYOR, would probably have run without opposition this time if he chose to run again. But if he had an opponent, I can tell you he would have won overwhelmingly. Do you know why? Because he has been a man of conviction, he has been a man of courage, he has not jumped under his desk every time the National Rifle Association issued a press release. He has talked sense to his people. And they love him for it. And Alexander Hamilton says that is what Members of Congress are supposed to do. Why take away that right of the people to elect whomever they choose?

What was the origin of term limits? Let me tell you, I have so many friends on the other side, I do not like to describe them in terms of partisanship a lot of times—but I think organizations, many times ultraconservative organizations, have made up their minds that the Democrats were never, never going to lose control of Congress if we did not have term limits. So it became fashionable.

Congress was losing credibility and respect and prestige with the people all along. As I said, down to 23 percent. So they said, "We believe we can sell this constitutional amendment to limit people to 12 years in the Senate and 6 or 12 years in the House." So what happened? The American people said, we will decide for ourselves. The two Senators—one from Tennessee and one from Arizona—are sitting here and are the beneficiaries of the American people saying, "We're tired of the Democrats. We're going to give the Republicans a chance." That is the reason those Senators were elected in 1994. That is what is called term limits, allowing the people to vote. They just did it. I personally hope the American people are not happy with their decision, but in any event that is their call, not mine.

Mr. President, I think about some of the greatest Senators this body has ever had, who would not even be an asterisk in the history books if they had been limited to 12 years. When I came to the U.S. Senate, Abe Ribicoff, Jack Javits, Cliff Case, Jim Pearson, Scoop Jackson, Ed Muskie, Hubert Humphrey, on and on the list goes of truly great Senators, Republican and Democrat, that would be a footnote in the history books if this thing had been on the books.

Finally, let me just close by expressing my utter contempt for trying to solve every single problem from whether drinking water ought to be on the Senator's desk, to term limits, by an amendment to the Constitution. There are a few people in this body who apparently feel the Constitution is just a rough draft for them to finish up. I am one of those people who believe that Hamilton, Adams, Ben Franklin, James Madison, and the other Framers was the greatest assemblage of minds ever under one roof in the history of the world, who produced the document second only in its powerfulness to the Holy Bible.

I do not vote often for constitutional amendments. I am not saying I never would. All this nonsense that comes through this place—"Let's amend the Constitution," think about it. Over 17,000 efforts to amend the Constitution since 1789—17,000, count them. Taking the Bill of Rights out, the first 10 amendments which were adopted almost as part of the Constitution, and the American people, out of those 17,000 efforts, have chosen to amend the Constitution 18 times. You take prohibition which was ratified in the late

1920's, and the repeal of prohibition, take those two out, and the people of this country have tinkered with the Constitution 16 times out of 17,000 to 18,000 resolutions offered since 1789. There have been 83 amendments introduced in this Congress, and 2,000 since I came to the Senate. How can we conclude that Members of the Congress do not think the Constitution is just a rough draft, when they treat it with such contempt?

As I said a moment ago, who likes flag burning? I do not. But it is presented in political terms. It is not presented the way things were presented in Philadelphia 206 years ago. It is always politics.

Let me digress just a moment to say I have been reading a book by James Fallows called "Breaking the News: How the Media is Undermining American Democracy," and he makes this point, that if you watch "Face the Nation," "Meet the Press," and David Brinkley on Sunday morning, you hear how well Medicare or Medicaid is working. Do you hear anything about the environment and how it is working and the new regulations coming out of EPA? No, those are policy decisions. For a writer to write about a policy, that writer has to go to the stacks and do some work, find out the history of them. Why do we have Medicaid? Because we do not want elderly people laying in the streets, we do not want children without health care—a policy decision that was debated a very long time here before we adopted Medicaid policy. Why do we have school lunches? So children are not hungry. Why do we have food stamps? So nobody is hungry. We did not do that willy-nilly. That was debated in the Senate. We adopted it as a policy, as a great nation who believes in trying to help people.

So when you hear all the gurus on the Sunday morning talk shows: "What do you think about block grants? Do you think that will help Bill Clinton or hurt him? Do you think that will help BOB DOLE or hurt him?" Not a question of whether the States can do a better job administering it. Will they comply with the policy we made that we do not want children to go without health care, we do not want the elderly to be lying on the streets, we want them taken care of in nursing homes? No, you do not hear that. It is the politics of this issue. So it is with this.

What is the politics of it? Well, you do not have to be brilliant to know what the politics of this is. If you want to go home and tell the townhall meeting and the chamber of commerce and Rotary Club, if you want them to stand up and clap, you vote "aye." If you took your oath when you came here to perfect and defend the Constitution of the United States against all kinds of assaults on it, vote "no."

I promise you, when the people of this country voted the way they did in 1994, they were not saying they wanted to turn their back on the environment. They were saying they did want the budget balanced, but they did not say they wanted to cut educational funds, because the one thing people in this country would still vote taxes for is for the education of their children. They did not say they wanted Medicare whacked, though everybody knows Medicare is going to have to be reformed. Be honest about it and talk sense about it.

Mr. President, this will be the last time we will address term limits for some time to come and get it off the agenda. Everybody knows it is going nowhere, but everybody can go home and say they did their best. But they did not. They did their worst. I yield the floor.

Mr. THOMPSON. Mr. President, I am sorry that my friend from Arkansas thinks that this is such a partisan debate. This is my second day in the midst of this debate, and until a few minutes ago I had not known it was.

If my colleague had been following closely, he would have heard a discussion by several Members of this body, some of whom are new to the body, some of whom have been here for a while, who are greatly concerned about the future of their country and are struggling for means and methods to do something about it. He would have heard that the bipartisan commission, which my friend from Arkansas is a member of, reported that in 2030 to bring the deficit down to its currents level, either all Federal taxes would have to be increased by 85 percent or all Federal spending programs would have to be cut in half. That by 2012, mandatory spending and interest and entitlements will exceed all Federal revenues, leaving no money for the Federal Government to spend on programs like education, law enforcement, research and development, national defense, health research and all the other programs he mentioned. By 2030, entitlement spending alone is expected to exceed all Federal revenue.

That is what this debate is about. I find it unfortunate that certain Members who choose this particular occasion to exhibit courage to stand against the overwhelming will of the people will not address the true nature of this debate and what is happening to this country. It is equated with slavery. Term limits, I heard just a few minutes ago on this floor, being equated with slavery. That is how much some Members want to cling to their profession, as professional politicians.

I heard that no amendment, no amendment ever is a good idea. I assume that would include the 13th amendment which abolished slavery. I hope we would have all been for that. I wish the strong stands on principle had resulted over the past few decades and some hope for the next generation, instead of bankruptcy and total loss by the American people in the confidence of the legislative branch of Government, which is exactly what we have today. It may not go anywhere because everybody is hunkered down in their offices, feeling confident that their colleagues, when it comes right down to it, will not vote for term limits.

Yes, they can stand in the face of the will of 75 percent of the American people, because at a time when we rush to get the American people's opinion on everything and anything that comes across the horizon, in this particular case, we will stand firm against it as a matter of principle. Yes, we can be confident when it comes right down to it. We may not have the votes, because there is only one thing worse than risking the wrath of the American people on term limits. It is just one issue. That thing is actually putting your career in jeopardy. That is what it is. That is not what our Founding Fathers envisioned. We can quote Alexander Hamilton, but Alexander Hamilton, that aristocrat, that Federalist, wanted lifetime tenure for Senators. So I can see why some of my colleagues might want to line up with him.

This is not based on the assumption that Members of Congress and Members of the Senate are only interested in feathering their own nests. This is not a get-even strategy, and not something that is mean spirited to get at people. We all have Members whom we admire. As I said earlier, I sat in the lobby and watched, as a boy, what went on in this body. I had the opportunity to serve with Senator Sam Ervin of North Carolina and Senator Howard Baker of Tennessee as I was counsel on the Watergate committee many years ago. I did not go through what it took to get here to become a member of a body that I had no respect for. What I am trying to do is to try to help get that body back to the level of esteem with the American people that the American people once had for that body.

When my colleague points out that, once upon a time, we had no ethics rules, we could take money and do lectures and all these things; yet, 70 percent of the people approved of Congress. Now we have all these ethics rules and nobody approves of Congress. To me, that demonstrates that it is not matters of ethics rules that are concerning the American people. The low esteem they have for us has to do with other things. Those other things have to do with the fact that just like Senator SIMPSON said, we are bankrupting the Nation, Mr. President. We are bankrupting the Nation, and just because we get used to hearing it makes it no less true.

Yet, we hear on and on and on again about these favorite programs that we cannot touch. No, I agree; this is the reason for the abysmal decline of confidence of the American people, barely above, according to some surveys, 12 percent approval—only law firms had lower at 11 percent approval—by the American people. We want to stand up and be proud of these last few decades and all the people who have served, proud of what we have done as an institution, and all the people who would not have been able to serve if we had not had the system that we have now.

What about those 250 million people who have no hope of serving under the system that we have now? To my colleague, it may be inconsistent for his State to pass term limits and reelect him. To me, it is not. We have a closed system, whereby, regardless of the disgust the American people have with the Congress of the United States, or the distrust they have, or the feeling of revulsion, even, according to some of these surveys, we get reelected at a 90 percent rate. Does that have to do with some schizophrenia in the American people, or does it have to do with the fact that the incumbents get all the money? Most people with good judgment do not even try to break into a system like that. He mentioned my colleague from Arizona and myself as being a part of the system. I believe those were both open seats. If those seats had not been open and we knew we were going to have to go against a well-entrenched incumbent, the decision might have been different because the odds are not good.

In the 1950's, a vote was taken on who the best five Senators in history were. Five Members were voted the best, and their portraits adorn the reception room of the Senate. These are Webster, Calhoun, Clay, La Follette, and Taft. Only one of these great Senators served more than two full terms—Senator La Follette.

So let us not worry too much about the proposition that it takes 20 years in order to make an impact in this body. We know different. We know different. We heard yesterday from the Senator from Vermont and today from the Senator from Arkansas. The basic criticism, as I understand it, of this constitutional amendment—which they vigorously oppose—is that it does not go far enough. They would be for retroactivity; that this is not real term limits. They want real term limits, and they are concerned they are not going to get a vote on that. The reason we filled up the tree, of course, was the fact that the Senator from Arkansas and his colleagues wanted to add amendments totally unrelated to term limits so we would never get a true vote on term limits. Everybody knows that.

Mr. President, I just urge, as this debate goes on, hopefully, we can shed a little more light on the subject than heat. Hopefully, we can keep it from being a partisan issue. It should not be a partisan issue. Those young kids coming up today, and those yet to be born, are going to be Democrats and Republicans. It does not matter what party we are a member of or what party they are going to be members of. They are going to bear the consequences of the system we have now. We do not have the political will to do the things that we know we have to do to save this Nation from bankruptcy. We do not have the political will because, as Senator SIMPSON said, it is fear. It is stark fear of having to do something else for a living. We are willing to put our own professional careers ahead of the welfare of the next generation.

I yield the floor.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, I rise today to continue our discussion of Senate Resolution 21, a constitutional amendment providing for a limit of six terms in the House and two in the Senate. As a freshman Senator who came directly from the private practice of medicine, I believe strongly that Washington would not be out of touch with average Americans if Members of Congress were not permitted to make a career out of serving in Congress, and instead came to Washington to serve only for a time, and then return to live under the laws they passed.

More than 200 years ago, the Founders of this great Nation fought and won a war that replaced a tyrannical, permanent government in London with a democratic Republic where the people, not an aristocracy, rule. James Madison wrote in Federalist 10 of his concern about the influence special interests—he called them factions would have if Members of Congress were permitted to remain in office for too long. He argued that without the regular rotation of citizens into and *out* of elected office, those elected would put the interests of the well-connected ahead of the interests of the country.

Mr. President, Madison was right. Unfortunately, the Constitutional Convention in 1787 did not adopt Madison's approach. Why? Not because the Convention attendees believed in political careerism—they had just fought a war against a permanent government back in England. They did not include term limits on Congress because they felt it was unnecessary. Who would want to stay in Congress for year after year, traveling back and forth on horseback to this city, which was literally in the middle of a swamp, WITHOUT a staff, without air conditioning, without an office, for a tiny salary, with no pension? Very few, Mr. President. And for more than 150 years, the Founders were right. Citizens would often come to Congress, serve a single term, and then leave voluntarily. Others would leave after serving only two or three terms, either voluntarily or after having been defeated at the ballot box. The era of career politics is a relatively new one in our Nation's history.

Our Founding Fathers believed in a citizen legislature. They believed, as I do, that for the Congress to accurately reflect the will of the people, rather than the factions Madison feared, it must have the frequent and regular rotation of its Members into and out of private life.

Yet today, Mr. President, we have drifted from that principle. No longer do citizens from every walk of life come to Washington to lend their expertise to the Nation, then return home to live and work under the laws they passed. Over the last 40 years, we have seen the ideal of the citizen legislator displaced by the career politician—and the American people are not happy about it.

Mr. President, since the end of World War II, the Federal Government has swollen to a point where it now consumes more than $1.6 trillion every single year. We have incurred a total debt of nearly $5 trillion, a debt that we will shamefully pass on to our children and grandchildren, a debt that threatens the ability of every child born today to achieve the American dream.

In fact, by the year 2012—16 years from now—our entitlement programs Medicare, Medicaid, welfare, retirement, and Social Security plus interest, will be greater than all Federal receipts, leaving no funds for spending on other priorities such as our Nation's defense, roads and bridges, education, national parks, or the environment. And worse yet, last year's debate over the Balanced Budget Act of 1995 showed that reelection politics will continue to thwart any serious debate regarding how to solve the entitlement situation. Unfortunately, demagoguery and scare tactics rendered true reform of unbridled entitlement spending impossible.

When politicians have careers to protect, there will be politics to play. Washington is a 2-year town, focused on the next election—short-term thinking. It should be a 20-year town, focused on long-term thinking and on the true problems facing America. Two weeks ago, one of my constituents told me that he thinks America lacks statesmen. He said, "Senator Frist, what we really want are statesmen. People who will put the interest of the country ahead of party and politics and self-interest. People who will make the tough calls." Mr. President, he's right. I think a vast majority of Americans would like to see so much more of that in Washington, and term limits is the way to accomplish it.

Mr. President, we must ask ourselves how we've ended up in this position. And more importantly, what's the solution?

The problem lies not with the individual men and women who are elected to Congress, but with a system of perpetual incumbency that has become so entrenched that it shields the Governors from the governed, and creates a culture that separates Washington from the rest of America. The longer Members serve in Congress the more removed they become from the rich blend of experience of American life. More importantly, career legislators become ever more risk averse, avoiding tough but necessary decisions because of consideration for political constituencies needed for reelection. A true citizen legislature would suffer from neither of these problems.

Still, the American people know that Members of Congress have a tough time with the issue of term limits. It is, after all, our own jobs that are at stake. That's why, beginning in Colorado in 1990, the American people took matters into their own hands and began voting, at the State level, to enact term limits on their Federal delegations. Twenty-two States followed, Mr. President. From Alaska to California to Florida to Massachusetts, and several States in between, more than 25,000,000 people voted for term limits.

Mr. President, I think the American people have made their point. Unfortunately, in May of last year, the U.S. Supreme Court invalidated the term limits laws of 23 States and made it clear that the only remaining course to impose term limits is to enact a constitutional amendment.

So here we are. And the question is what we will do. Will we swallow self-interest and career protectionism and do the will of the people? Or will we stonewall the will of the people and tell them we know better here in Washington?

There are some who argue that the American people can already decide when they want new representation by simply voting us out of office at the next election. That claim, Mr. President, assumes that incumbents and challengers compete on a relatively level playing field. They don't. Look at the 1994 elections. In 1994, a year of radical political change in America, 92 percent of all Members of the Senate and 90 percent of the House Members who sought reelection were returned to office. The power of incumbency is vast.

Mr. President, I was the only Member of this body elected in 1994 to have defeated a full-term incumbent Senator. Now, some have said that my election proves it's possible to defeat an incumbent, and they're right. But I believe, as do the American people, that it should be more than merely possible for ordinary citizens to be elected to Congress. What of the ordinary citizens who never even come forward to challenge incumbents because of extraordinary odds against them? Surely the current system, which gives so much power to incumbents, discourages some of our finest citizens from ever running in the first place, clearly depriving the electorate of the widest possible choice of candidates. Every Member of each body should know that there is a date-certain when they will return home to make room for another citizen to serve in Congress. That is not a radical idea; it's an idea that is embraced by over 80 percent of the American people.

And to those who argue that the American public is served well by legislators who have years of experience in Congress, I say that the Federal Government should not be so large and complicated that only a professional class of politicians can possibly understand or oversee it. We should restructure, streamline and downsize the Federal Government so that Americans from all walks of life can serve in Congress without having to become professional politicians to master its inner workings.

President Andrew Jackson who occupied the seat I hold in the Senate said it well, nearly 170 years ago: "I can not but believe that more is lost by the long continuance of men in office than is generally to be gained by their experience." Later Presidents agreed. A former Member of this body from Missouri by the name of Harry Truman said in a way that only Harry Truman could, that term limits would "cure both senility and seniority, both terrible legislative diseases."

Mr. President, I do not believe the Constitution should be amended any time there is another way of reaching the same legislative goal. That's why the first bill I introduced in this body was the Electoral Rights Enforcement Act of 1995, a statute that would have given the States and the people additional authority to enact limits on the terms of their delegations in Congress. I also believe, as Justice Thomas argued in his dissenting opinion in U.S. Term Limits versus Thornton, that the States already have the right to enact term limits under the 10th amendment to the Constitution, which states that:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

Nevertheless, Mr. President, the Supreme Court of the United States has ruled that the only way to implement the American people's demand for term limits on Members of Congress is through a constitutional amendment. If Tuesday's vote is unsuccessful, I intend to support the grass roots term limits movement that grows ever stronger outside the beltway. This movement will not be quelled with the Senate's failure to enact a constitutional amendment this week. In fact, this vote may well fuel an even stronger groundswell in favor of a term limits constitutional amendment.

For those who oppose the reforms which I consider to be of seminal importance, a term limits constitutional amendment and a balanced budget constitutional amendment, they should take note of article V of the Constitution, which would allow the calling of a Constitutional Convention upon a vote of two-thirds of the States. That is only 34 States, Mr. President, and 23 States have already voted in favor of term limits. Term limits activists approach their cause seriously and tenaciously, and I support their efforts to enact a term limits constitutional amendment in whatever way is possible. I look forward to Tuesday's vote, and I hope that each Member of this body will consider his or her vote carefully, with the knowledge that a vote against this measure is a vote against the will of the people.

I thank the chair and yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

THE VOID IN MORAL LEADERSHIP—PART 5

Mr. GRASSLEY. Mr. President, on March 19, I began a series of speeches on this floor. The subject—the common thread in these speeches—has been the void in moral leadership at the White House. What this means is simply this: The President and the First Lady are failing to set a good example for the American people.

These are failures of the most basic principles that Americans expect from their leaders: Failures like accountability; taking responsibility for one's actions; straightforwardness and candor; the public trust. The breakdown of these principles has eroded the President's ability to show strong leadership. It has undercut his moral authority to lead. The best way to lead is by example. If this is true, then White House leadership is truly lacking.

In my previous speeches, I gave illustrations of my observations. I identified specific actions from each of Whitewatergate, Travelgate, and Cattlegate. And I showed how these illustrations are of great significance to the average citizen.

In my March 22 speech, I referred to a familiar quote from John Mitchell. He was an Attorney General in the Nixon administration. He's remembered as saying, "You will be better advised to watch what we do instead of what we say."

People all across America now are discovering the secret of politicians who give the profession a bad name. People in this town have known this little secret for a long time. The secret is this: Say what the public wants to hear, but then do whatever you want. By the time they figure out what you did, you can point the finger at someone else.

The governing-industry in Washington has mastered this game.

It has created a process designed to avoid accountability. It is designed to avoid taking responsibility for one's actions. Most data are presented in a way that avoids measuring performance. They are designed to show that everything is always rosy under their watch.

Think of how a used car dealer often buffs up a lemon of a car until it gleams—to gloss over all the defects. Unless you know about cars and what to look for, you might be tempted to buy that pile of junk because it looks so pretty. A few months later, you suddenly discover that the parts are falling off right there on the highway.

This is what our Government is like. They tell the taxpayers all the great things they are getting in this budget, or that bill. What a deal. And the people buy it. But after a while, all they see are piles of debt, a rising tax burden, growing job insecurity, serious social pathologies, and rampant crime and drug use. Do you see the analogy, Mr. President?

The question is, How can we be told everything is going to be rosy, and yet it turns out so bad? The answer is, We listened to what they said, not what they did. We made the mistake of falling for the ol' political soft shoe routine, the ol' used car pitch. They did a bait and switch on us, and we took the bait. Many of us here in Congress have worked hard to shine a big spotlight on this racket. We have tried to expose some of the games played that create the illusions—just like Dorothy exposed the Wizard of Oz.

For instance, by showing systematic bias in budget estimating, we were able to cause the Congressional Budget Office to produce more realistic estimates of Congress' budget decisions. For the lay person, all this means is, we can now better estimate how much our income and outgo will be. Before that, we were always unjustifiably optimistic. We always assumed we would have a flood of revenues pouring into the Treasury.

Why? Because that way we could keep the spending faucets on full blast. Things did not look so expensive as long as we could cook the books and show a rising tide of revenues. The shell game was on, Mr. President. It got us all re-elected, but it also got us in a ton of debt. I call this problem the Narcotic of Optimism.

There are other examples of attempts by some of us to expose Government by illusion. Let me just describe some that I have taken the lead on, just to illustrate what I am saying:

First, most recently, I and my colleagues in both the House and Senate forced the President's AmeriCorps Program to clean up its act. It is a program that was paying $29,000 per volunteer. Imagine the taxpayers paying $29,000 per volunteer. This gave boondoggles at the Pentagon a real run for their money.

We poured through AmeriCorps' documents during a 2-year battle. We shined a big spotlight on the program's activities and costs. We showed where the bulk of the money was going—overhead and bureaucracy. We have now reinvented the program.

Before this, the program never lived up to the President's lofty rhetoric. Now, it has a chance to do what the President says it will do.

Second, I worked hard, with the help of many of my colleagues, on protecting whistleblowers, who are the footsoldiers of the war to expose Government illusions. Every administration waxes poetic about how much they honor whistleblowers. But as soon as our backs are turned, Government managers search them out like a heat-seeking missile.

That is because whistleblowers, want the truth out; Government does not. Congress has toughened up the laws protecting whistleblowers. And we are always on the vigil.

Third, I have worked to pass or bolster initiatives that detect and measure bureaucratic sleight of hand at the Pentagon. We created an independent office of testing to make sure our troops have fully and effectively tested equipment. We were not getting that before.

We have also worked on numerous financial reforms that expose cost and budget problems. All of these are designed to make it easier for us to see what the Pentagon is actually doing, as opposed to what they say they are doing.

I have been at this kind of reform since I first joined the Senate in 1981. Sometimes it is a lonely battle. I often think I can live to be 100 years old and work on reforms non-stop, but I will still only make a dent because the problem is so big.

That is what Presidents are for. Presidential leadership can make the biggest difference in the world. The credibility of the presidency, as leader of the executive branch, can bring leadership to bear on the system and really shake things up. The President has not just the ability to do this, but the responsibility to do it as well.

In fact, Mr. President, these were the types of things that Bill Clinton pledged to do as a Presidential candidate in 1992. He would expose and put an end to the illusions game in Washington. That is what he promised. And that would help put on an equal footing those who had played by the rules, yet had failed to get ahead. And so the American people put their thrust and faith in Bill Clinton to lead the way.

After 4 years, however, a different picture has emerged. As I have specifically laid out in my previous speeches, the President has failed in such leadership, because he has failed to set the proper example.

For instance: How can this President end cronyism and favoritism? He fired innocent, low-level public servants in the White House Travel Office, and gave the travel business to a family member and a slick Hollywood buddy. What kind of example is that for equal treatment and fairness?

How can this President end the failure in this town to take responsibility for one's actions? When the Travelgate Seven were fired, fingers were pointed at others for having made the decision to fire them. What kind of leadership is that? What kind of example is that? How can this White House end the enormous problem in this town of cover-up, and lack of candor and straight shooting?

The mysterious appearance of the Whitewater documents in the White House reading room were blamed on the Document Fairy. Whenever the First Lady or her staff are questioned in either the Whitewatergate or Travelgate affairs, no one can recall a thing.

In my speech of March 28, I gave an example of this. On March 21, the First Lady responded to questions from Chairman CLINGER of the House Committee on Government Reform and Oversight. The subject matter was, who knew what, when, about the firing of the Travelgate Seven. In 16 pages of responses, I counted 54 instances of "I cannot recall;" "vague recollection;" "it's hard to remember;" and so on. Anything but candid, Mr. President. And this from people who are at the very top of their profession—the legal profession—in terms of intelligence and competence. That is kind of hard to swallow.

Moral leadership means leading by example. If you are a leader, that means the people expect you always to be candid in what you say; they expect you to treat everyone fairly and equally; they expect you to be accountable and take responsibility for what you do, both good and bad. That is what people expect in their leaders.

The American people are not getting that kind of leadership from this White House, Mr. President. Instead, they are seeing their leaders commit acts of favoritism, cronyism, avoiding responsibility, cover up. When people who work for such leadership see this, they follow the leader. People tend to do what their leaders do. Could this be why there are an unprecedented four independent counsels looking into questionable actions of Clinton cabinet secretaries?

We certainly should not be surprised at this record-setting pace for investigating high-level government officials.

I have been searching for an explanation for why an administration that promised to change all this is instead caught up in it, at record levels. I think I may have found a clue. It is a quote from this week's Time magazine. The article is called "Clinton's Stealth Campaign." It is written by Eric Pooley.

Here is what it says:

> Since the Republicans control Congress, he [meaning, President Clinton] opted for an illusion of control, which suits him just fine. In this almost holographic approach, speeches are as important as substance and rhetoric becomes its own reality. For this President, says senior adviser George Stephanopoulos, "words are actions."

Do you see, Mr. President? Here is a senior adviser to the President saying "words are actions." There is no distinction. Either this shows a breakdown of leadership, or it reflects very questionable leadership from the top down—remember I mentioned that workers tend to do what their leaders do. This practice—as articulated by a White House senior adviser—turns John Mitchell's adage into something you would read in Kafka, or Orwell. It turns Mitchell's statement on its head. In effect, it is a sly, Washington way of saying "watch what we say, not what we do." It says "watching what we do is irrelevant; only words are relevant."

This clarifies a lot for me, Mr. President. It reinforces my perception of the void in moral leadership in this White House. But it also gives us a glimpse into how the continuing charade of illusions is being conducted and perpetrated by this White House. It does so precisely because of an absence of leadership.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE OAK RIDGE BOYS

Mr. DOLE. Mr. President, I apologize for being a bit late, but I was listening to the Oak Ridge Boys next door. You might be able to hear them.

The PRESIDING OFFICER. The Chair was listening, too.

Mr. DOLE. They were very good.

EARTH DAY

Mr. DOLE. Mr. President, as America marks Earth Day 1996, I would like to remind my friends across the aisle that the environmental heritage we are all so proud of was forged under Republican stewardship. Our Republican environmental heritage stretches back to Ulysses S. Grant, who established Yellowstone as the first of the crown jewels of our precious national parks. President Theodore Roosevelt set up the National Wildlife Refuge System and promoted the value of conservation.

It was Republicans, under President Nixon, who created the Environmental Protection Agency and enacted the first Clean Air and Clean Water Acts. Under Presidents Ford, Reagan, and Bush we enacted and implemented the majority of the enabling statutes to protect our environment. An important Clean Air Act revision in 1990, which introduced new initiatives like using markets to achieve our goals, has helped to set new directions for the future.

The progress we have made as a nation over the last 25 years deserves praise. We saw problems that needed to be addressed—setting pollution standards to protect public health and dealing with pollution that crosses State and international boundaries. We responded with laws that I was proud to support—laws that addressed those problems in the best way we knew then.

We have learned a lot over these 25 years of environmental experience and progress. America's ability to create innovative ways of dealing with environmental protection and, at the same time, have continued economic growth is the envy of the rest of the world. Now we are at a crossroads about how to make further progress. I want to improve the system so it protects people's health and the environment better with less cost and complexity. I want to put more trust in the ability of all Americans—at all levels of government—and their desire to do the right thing. The old ways won't help much as we face new problems in the future.

During the last 25 years, the States have become very knowledgeable about the best way to deal with most environmental problems. The States have become laboratories of innovation on better ways to deal with many issues of concern: Welfare and health care reform—and environment as well. California, for example, is leading the way in setting up an integrated approach that calls for simpler permits and dealing with air, water, and waste in a coordinated way that goes after the worst problems first. Other States also lead the way.

Wisconsin, for example, has a Brownfields program in place which allows appropriate clean up for urban areas previously written off for development. That makes good sense and shows a sense of the right priorities.

Eighteen States—including Kansas, Texas, Indiana, Colorado, and Oregon—are encouraging their own companies to voluntarily find and fix environmental problems on their own. This is a partnership that works. We should follow that example and encourage rather than punish our communities and businesses for trying to do the right thing.

The States and localities are leading the way in these and other areas. We should use the most appropriate level of Government for the problem at hand. Try the local level first, States next. Try regional solutions when environmental issues involve more than one State. The Federal Government should step back when it can and use its expertise when it is most helpful to the States: To provide scientific or technical help.

Farmers, ranchers, businesspeople, families—all are partners, not villains. We should acknowledge that these people do the right thing every day. Let us measure environmental protection not by the size of a Federal bureaucracy or the number of regulations on the books but by the desire of our people to work together to protect the environmental values that we all treasure.

One of the things I have tried to promote this last year was that we must use good science to set environmental priorities, and then we should tackle the most important problems first. We know we could do better. The Harvard Center for Risk Analysis, for example, estimates that 60,000 lives per year could be saved with the same level of spending if we targeted our money at the worst problems.

It takes leadership to make choices. We need to be wiser about what we go after and at what level that is done.

I want to say one word about individual private property rights, which are so precious that they are protected by the Constitution. Owning property is a right that makes us strong and is a powerful force for the environment. If the Government takes someone's property for a public purpose, that person should be compensated. If we as a society believe that that person's property is needed for an important purpose, let us make that choice as a nation and ensure that we are not diminishing our citizens' rights.

I am proud of what we have done this year on the farm bill. It is the most environmentally sensitive farm bill ever. The conservation title of the farm bill reflects a commonsense approach. The bill continues the Conservation Reserve Program, expands the Wetlands Reserve Program, making this program the Nation's biggest and most successful environmental efforts. In addition, we provided $300 million to restore the Everglades. This was an immediate response to a need identified by the people of Florida.

The farm bill provides a good example of what we can do in other areas: Injecting simplicity, common sense, and flexibility, and lifting the heavy hand of the Government. These goals were also met in the Safe Drinking Water Act and resulted in a bipartisan bill that passed the Senate 99 to 0. We have set the same goals for Superfund reform, to get the lawyers out and get sites cleaned up. Yet today, no Democrats have joined us in this effort. We can get things done when we focus on the goals and not the rhetoric.

Today I received a letter from my Democrat colleagues. I share their environmental goals. But there are better ways to achieve these goals. No one is interested in repealing or weakening environmental protections. Years ago, we accomplished our work by using typewriters. Today our offices are run by computers. Were we rolling back our desire to communicate efficiently by moving from typewriters to computers? I think not. Let's take the same approach on the environment.

That proud tradition and the strong Republican values of personal stewardship, good science, trust in the people, and respect for the States and localities will be used to build a better environmental future for our children.

MORNING BUSINESS

Mr. DOLE. Mr. President, I now ask that there be a period for the transaction of routine morning business, with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, the impression will not go away: The $5 trillion Federal debt stands today as an increasingly grotesque parallel to the energizer bunny that keeps moving and moving and moving on television—precisely in the same manner and to the same extent that the President is allowing the Federal debt to keep going up and up and up into the stratosphere.

A lot of politicians like to talk a good game—"talk" is the operative word here—about cutting the Federal spending and thereby bringing the Federal debt under control. But watch how they vote on spending bills.

Mr. President, as of the close of business Friday, April 19, 1996, the exact Federal debt stood at $5,100,053,596,414.66 or $19,268.51 per man, woman, and child on a per capita basis.

STATEMENT HONORING THE McWORKMANS ON THEIR 60TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "til death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Mr. Robert A. and Mrs. Clara Belle McWorkman of West Plains, MO, who on May 30 will celebrate their 60th wedding anniversary. They understand the meaning of the word "covenant." My wife, Janet, and I look forward to the day we can celebrate a similar milestone. The McWorkmans' commitment to the principles and values of their marriage deserves to be saluted and recognized. I wish them and their family all the best as they celebrate this substantial marker on their journey together.

HONORING THE SHANNONS FOR CELEBRATING THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data is undeniable: individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "till death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Paul and Thelma Shannon of St. Peters, MO, who on June 8, 1996 will celebrate their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. Paul and Thelma's commitment to the principles and values of their marriage deserves to be saluted and recognized. I wish them and their family all the best as they celebrate this substantial marker on their journey together.

TRIP TO PEOPLE'S REPUBLIC OF CHINA, HONG KONG, AND TAIWAN

Mr. THOMAS. Mr. President, I recently returned from a trip to the People's Republic of China, Hong Kong, and Taiwan over the April recess in my capacity as chairman of the Senate Subcommittee on East Asian and Pacific Affairs. While I would like at some time to share my observations of that trip with my colleagues, some confusion has arisen in the Asian press over a remark I made on that trip which I feel I need to correct sooner rather than later.

On April 3, I was privileged to have an hour-long meeting with Chinese President Jiang Zemin at Zhongnanhai in Beijing. A central focus of our discussion was the tense situation in the Taiwan Straits and strained relations between the PRC and Taiwan. When the conversation turned toward what President Jiang perceived to be the then-current situation and prospects for a return to a more stable cross-strait relationship, he replied paraphrasing a Chinese saying to illustrate his position. The President said, "When the wind blows through the pavilion, it means the rains will come," or, in Chinese, "Shan yu yu lai feng man lou di xing shi si hu yi jing guo qu le." After a brief pause, he then added, "But in this case, I think the rain is over." I took this to be an encouraging sign that, perhaps with the conclusion of Taiwan's presidential election and the PRC's somewhat worrisome military exercises in the Strait, the situation might be calming down and the two sides might be ready to resume cross-strait contacts through the Association for Relations Across the Taiwan Strait and the Straits Exchange Foundation, the two semi official bodies set up to handle that relationship.

After visiting other cities in China and then Hong Kong, I spent a day in Taipei, Taiwan, on the way back to the United States. There I met with Foreign Minister Chen and President Lee Teng-hui, both of whom I told of my conversation with President Jiang, and Jiang's statement about the "rain being over." They found the statement to be encouraging, just as I had. In meetings with the Taiwan press during my stay, I made it clear that I was not delivering a message from the government of the PRC to the Government of Taiwan; I had simply relayed the particulars of my conversation with President Jiang to Chen and Lee. This is where the confusion arose.

One of the Taipei newspapers, on hearing that President Jiang had said "the rain is over" incorrectly assumed that he had cited another Chinese saying: "the rain is over and the sun is shinning"—in Chinese "yu guo tian qing." The Taiwan press sometimes tends to shoot first and ask questions later, and other papers were soon picking up the inaccurate statement. As a result, by the next day papers islandwide were reporting that Jiang had made statements that were much more rosy than what was actually said. Not only were the newspaper reports inaccurate, but they missed the entire gist of Jiang's statement. By referring to the saying "the rain is over * * *" but leaving off the part of the saying "* * * the sky is blue," President Jiang was making the specific point that while the storm had passed things were still far from "sunny."

Anyway, Mr. President, soon other newspapers in Asia were repeating the inaccurate Taiwanese reports. As a result, the Chinese Government, through two newspapers in Hong Kong known to be directed by Beijing—Ming Pao and Wen Wei Po—began to publish articles denying—correctly of course—that Jiang had made the statement attributed to him by me as reported by Taiwan's press.

I became aware of the confusion when I returned to Washington last week, and issued a press release to several Asian papers in an effort to correct the inaccuracies. Although many papers ran articles correctly reflecting the actual comments made by President Jiang, the confusion still persists.

So, Mr. President, I come to the floor today to publicly set the record straight once and for all in the hopes of removing the last vestiges of confusion. I did not travel to Taipei to deliver a specific message from the PRC to Taiwan; I simply reported to the Taiwan Government the details of my conversation with President Jiang. In that conversation, President Jiang said, "When the wind blows through the pavilion, it means the rains will come. But in this case, I think the rains are over"—no more, no less. I hope this will lay the issue to rest.

THE PASSING OF COMMERCE SECRETARY RON BROWN

Mr. ABRAHAM. Mr. President, I rise to note the passing of our Commerce Secretary, Ron Brown, in a plane crash outside Dubrovnik, Bosnia. This tragic accident took with it a vast amount of talent and expertise in the persons of numerous American business people, and specifically in the person of Secretary Brown. A dedicated member of his party and this administration, Secretary Brown fought hard for the ideals and programs in which he believed. His commitment to the Commerce Department he led was shown by his willingness to brave the dangers of Bosnia, business leaders in tow, in pursuit of opportunities to help rebuild that war-torn country.

Secretary Brown also was a committed family man, and I know that his death is a great loss to his wife, his family, his friends, and his neighbors. I extend my condolences to his family in particular and hope that they can find solace in the knowledge of God's grace and in memories of the life they had with Ron Brown.

COMMEMORATING SECRETARY OF COMMERCE RON BROWN

Ms. MOSELEY-BRAUN. Mr. President, it is always painful when death comes too soon. It is even more so when the circumstances are so overwhelmingly dramatic and tragic as the airplane crash in Bosnia that took the life of our Nation's Secretary of Commerce, Ron Brown, and 34 others.

Ron Brown was a dear and personal friend. His loss was compounded by my personal friendship with four other people who died that day. The shock of it still resonates.

His family, and the families of the others who died with him in the service of their country feel the pain most directly. There is no substitute for the love and the loss of a husband, a father, and relative. I want to offer them my sincere condolences and prayers at this sad time.

His colleagues in the Government and in the private sector will miss him and his leadership. Ron Brown not only energized the Democratic Party, but the Department of Commerce as well. The result of his efforts ranged from the creation of jobs for hundreds of thousands of American workers, to a special job for a singular American, Bill Clinton, now President of the United States.

Ron Brown's legacy of achievement is a beacon of hope to all Americans, precisely because he exemplified the possibilities when the higher angels of the American character prevail. He overcame potential limitations, and turned liabilities into assets by dint of commitment, effort, and talent. His was the essential American success story. But his was also a success story for all humanity. Ron Brown was not a selfish person. His life was dedicated to reaching out to others in pursuit of the common good. That legacy is no more poignantly demonstrated than in the young people to whom he gave opportunity and guidance and a chance. Ron Brown did not pull the ladder of success up behind him.

I count myself among the fortunate proteges of Ron Brown. He helped make my history-making election to the U.S. Senate possible. I was only one of many of his students. Several others died with him that day.

Ron Brown's passing has been publicly mourned by millions, and created an opportunity for a public expression of gratitude for his public service. I hope the families of those who perished with him will take some measure of that expression as gratitude in mourning for the lost ones: Ron Brown, Kathryn Hoffman; Duane Christian; Carol Hamilton; Bill Morton; Chuck Meissner; Gail Dobert; Lawrence Payne; Adam Darling; Steve Kaminski; Naomi Warbasse; Kathy Kellogg; Jim Lewek; Lee Jackson; Dragica Lendic Bebek; Niksa Antonini; Nathaniel Nash; Barry Conrad; Paul Cushman; Robert Donovan; Claudio Elia; Leonard Pieroni; John Scoville; Donald Terner; Stuart Tholan; David Ford; Frank Maier; Walter Murphy; Robert Whittaker; Ashley Davis; Tim Schafer; Gerald Aldrich; Robert Farrington, Jr.; Cheryl Turnage; Shelly Kelly.

We will, as a community, have to close ranks to go forward without them, but with God's grace the mark they made in service to us all will carry on.

TRIBUTE TO "CHIEF" CHARLES ALFRED ANDERSON, FATHER OF BLACK AVIATION

Mr. HEFLIN. Mr. President, one of the great pioneers of aviation passed away on Saturday, April 13, at the age of 89 at his home in Tuskegee, AL. Charles Alfred Anderson, who as a young boy dreamed of soaring through the skies as a pilot, leaves a legacy of breaking down racial barriers in the field of aviation. He did this by training a famed unit of black fighter pilots during World War II, known since as the Tuskegee Airmen.

Among the members of Chief Anderson's unit were Coleman Young, who later became the mayor of Detroit; Gen. Daniel "Chappie" James, the Nation's first four-star black general; and William Coleman, Transportation Secretary under former President Ford. The inspirational story of the 332d Fighter Group was told in a 1995 movie, "The Tuskegee Airmen."

In 1939, a decade after obtaining his own flying license, Charles Anderson began a civilian pilot training program at Alabama's Tuskegee Institute, now Tuskegee University. In 1940, First Lady Eleanor Roosevelt visited the campus and decided to take a plane ride. At that time, an erroneously-held view was that blacks could not fly planes. Mrs. Roosevelt brushed aside the nervous warnings of her Secret Service detail and went on a long ride with Anderson, landing safely nearly an hour later.

Soon after, Tuskegee Institute was chosen for an experimental Army Air Corps Program designed to determine whether black men could be successful pilots. The participants, many of whom came from small towns all across America, passed rigorous tests to join what became the 332d Fighter Group. Anderson was the chief flight instructor, thus earning him the nickname "Chief," by which he was widely known throughout the rest of his life.

The Tuskegee Airmen overcame extreme prejudice to win combat status, allegedly only after Mrs. Roosevelt pressed their case with her husband. The unit escorted American bombers over Europe and North Africa, providing a virtually impenetrable shield while downing hundreds of German fighters. After the war, Anderson managed an aircraft-sales business and continued to give flight instruction at Tuskegee. By this time, he had earned the title of "Father of Black Aviation."

Chief Anderson borrowed $2,500 from friends and relatives and bought a used airplane when he was only 22. He learned to fly by reading books and getting tips from the white pilots who were willing to be cooperative. He eventually became the first black pilot to hold an air transport license. He flew a round trip transcontinental flight in 1933 and is believed to have flown the first land plane to the Bahamas in 1934. He flew up until a few years ago, still willing to teach anyone who wanted to learn.

Chief Charles Anderson was a great American and an outstanding, committed teacher who will forever be remembered as someone who overcame unfair barriers and prejudice to change the course of history. I extend my sincerest condolences to his family in the wake of this tremendous loss and share their enormous pride in all that he accomplished.

TRIBUTE TO FORMER CONGRESSMAN LAURIE CALVIN BATTLE

Mr. HEFLIN. Mr. President, former Alabama Congressman Laurie Calvin Battle will be inducted into the Birmingham-Southern College Sports Hall of Fame on Saturday, April 27. As a member of the Sports Hall of Fame's Class of 1996, Congressman Battle will be honored and recognized for his many athletic achievements while at Birmingham-Southern and since.

Laurie Battle was born in Wilsonville, AL in 1912, attended elementary school in Jefferson County, and moved to my hometown, Tuscumbia, in 1926. He graduated from Deshler High School in 1930 and went on to obtain his bachelor's degree in psychology at Birmingham-Southern, my alma mater. He later earned his master's degree in sociology at Ohio State University. During World War II, he served in the U.S. Army Air Corps, rising to the rank of major, with service in the Asiatic-Pacific theater. He was awarded a Bronze Star for his bravery and remained in the Reserves until 1972.

He was first elected to the U.S. Congress in 1946, serving four consecutive terms from 1947 until 1955. After retiring from the House of Representatives, he began a career in the insurance business in Birmingham. The former Congressman later served as a government relations executive in Washington, DC, and as staff director and counsel for the House of Representatives Rules Committee from 1966–76. He was later a special adviser to the U.S. League of Savings Associations.

Laurie Battle is well-renowned for his athletic ability. Although he is now retired, he still plays paddleball with one of his constituents, former Alabama Congressman Ben Erdreich, now chairman of the U.S. Merit Systems Protection Board. They play twice a week in the House gymnasium, even as Congressman Battle approaches his 84th birthday on May 10. He was Ben's Congressman when he was in high school in Jefferson County.

I am pleased to commend and congratulate former Congressman Laurie Battle for accomplishing so much during his outstanding and colorful career, and especially for this latest honor of being inducted into Birmingham-Southern's Sports Hall of Fame.

KATHRYN HOFFMAN AND GAIL DOBERT—LIVES OF PROMISE CUT SHORT

Mr. KENNEDY. Mr. President, the tragic plane crash in Croatia on April 3 that took the life of Secretary of Commerce Ron Brown also took the lives of 34 other men and women of great talent, promise, and dedication, including 11 other employees of the Department of Commerce.

Since that tragedy, many eloquent words have been spoken and written about all of the victims. In two of the most eloquent articles I have seen, Michael Wilbon wrote extremely movingly in the Washington Post on April 5 about his friend Kathryn Hoffman, and Cindy Loose wrote equally movingly in the Post last week about the life of Gail Dobert. Sadly, these two lives of great promise have been suddenly and tragically cut short. I know that many others will be interested to learn more about the lives of these two dedicated employees, and I ask unanimous consent that the articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 5, 1996]

THE DEATH OF MY FRIEND IS OUR LOSS

(By Michael Wilbon)

One of my dearest friends, Kathryn Hoffman, was on that plane. I have no idea of her official Commerce Department title, but I do know she was Ron Brown's right hand, his scheduler. When he went to Africa, she went with him. When he went to Asia, she went with him. I have her postcards from South America and Eastern Europe and other corners of the world in a kitchen drawer.

Kathryn was the girl you dreamed about meeting as a little boy: stunningly pretty, smart, quick with a comeback, and a sports enthusiast. Okay, she wasn't perfect; she was a Knicks fan. But Boys Night Out often was amended to Boys & Kathryn. Never Kathy. Kathryn. I called her from the 1988 Summer Olympics in Seoul and made her give me play-by-play on the fourth quarter of a Bears game, and she was seamless. Another time we drove from Chicago to Capital Centre in 10 hours, just in time to see Tyson knock out Spinks in the first round on closed circuit. She used to say I had the greatest, most glamorous job—traveling the world in search of games, but last week there was this late-night phone call. I was going to the Final Four; she was going to France, then Bosnia. I told her I couldn't believe a basketball fan such as Ron Brown was leaving during the Final Four, and she laughed.

She had taken her dogs, Max and Bo, to Fredericksburg to the breeder where they stay when she's traveling. She had a house now and a four-wheel drive vehicle and a garden, for crying out loud, and I couldn't help but ask if finally, having seen the entire world and then some, if she still thought this life of hopping planes was so glamorous. And she said, no, not anymore, but there are people who love their work and are addicted to excitement in a way no desk job can satisfy. It's the truth. We made the promise we always made about getting more balance in our lives, about traveling less. We planned dinner for Saturday—tomorrow night.

Most of us who live our lives this way don't think about dying on a plane, not when you're single and 35 has yet to come and the career—in Kathryn's case, public service—keeps you on a high. You get on the plane and read, work, go to sleep. It becomes, perversely enough, the place you can relax. I never, not for one split second, thought a U.S. military jet would fail to bring her back alive.

Four of my closest friends have worked for Ron Brown at Commerce, which made the moments immediately following the news of the crash, well, numbing. Through them, I got to know. "The Secretary" (as they'd call him) a little bit and to admire him a lot. His death, and the recent deaths of Arthur Ashe and entrepreneur Reginald Lewis, depress me to the point of despair, not just because inspired and productive men were snatched from earth in the primes of their lives, but because they were the hedge against hopelessness. They were the healers, the men who could negotiate any situation—men who looked at bigots and fools and laughed inside while brushing them aside. It's sick, debating whether Michael Irvin or Mike Tyson is a role model when Ron Brown was on TV every night, dressed up, looking good, sounding even better, jetting hither and yon, networking with world leaders and businessmen to do work that mattered, helping save the Democratic Party from itself, being a patriot. No, you couldn't find him on "SportsCenter," and he didn't have stats or a trading card, but he was a role model. He defined it.

I wonder, in the wake of his death, how many Division I scholarship football and basketball players (outside of Washington) can tell you what Ron Brown did for a living, why he needed to go to Dubrovnik and why his death has caused so much anguish among people who never met him. No Ashe, no Lewis, no Brown. Sports, business and government. Are there people in the ranks like them? Can we be certain the intellect and relentless work they provided will be replenished in the near future? Perhaps the worst thing about the crash is that it deprived us not only of the general, but of his lieutenants such as Carol Hamilton and Bill Morton and Kathryn Hoffman, people who had made public service their lives, their passion. We have to hope there's no shortage of worthy candidates to take up their missions.

This was to be a festive weekend, and not just because of Easter. For the first time since last August, just about all the members of the crew going to be off the road, off the planes and out of the hotels. Many of us made plans here in Washington. Age 35, which Kathryn would have been in August, is about the time you start to realize life isn't everlasting, when you become more serious and consistent about those silent prayers for your friends in flight, when it first hits you that just because you planned dinner doesn't mean everybody's going to be there.

I joined a couple of my friends from Commerce late last night because sleep wasn't coming, and misery needs company most when nobody's got any answers. I tried to think of all the safe, productive trips abroad that Kathryn made with The Secretary, all the trade and business their missions helped generate, all the goodwill their junkets created for the country. But the head is never any match for the heart, and that didn't change last night. What I wanted was another postcard in the mailbox, one from Singapore or Venezuela that let me know she was safe, one signed, like so many others, "Be home soon, Love, Kathryn."

[From the Washington Post, Apr. 15, 1996]

(By Cindy Loose)

AFTER FUNERAL, A CELEBRATION OF A RICH LIFE—BIRTHDAY PARTY BECOMES TRIBUTE TO CROATIA VICTIM

Gail Dobert was always up to something. She was the one to organize the beach house rental at Rehoboth Beach, Del., every summer, inviting so many people that you never got your own room—and felt lucky if you got a bed.

She could get tickets to anything and persuade her friends to go anywhere, even a business dinner. "I have to go talk to a Bonsai tree woman," she once told her friend Krista Pages. "Come on, you'll have a great time." Believe it or not, it turned out to be fun, Pages said.

If she could have been at her 35th birthday party, which she organized before leaving for Bosnia with Commerce Secretary Ronald H. Brown, she would have loved it.

The barbecue and keg party took place Saturday, just as she had planned, a few hours after her burial in a Maryland cemetery. Dobert, the acting director of the Commerce Department's Office of Business Liaison, was among the 35 people who died when Brown's airplane crashed into a Croatian hillside. Like her, several of the victims were young and most were in the middle ranks of government service.

Her friends and family memorialized her in all the traditional ways. On Friday, the anniversary of her birth, a funeral was held in her home town on Long Island. On Saturday morning, hundreds gathered at St. Peter's Church on Capitol Hill to eulogize her, then followed the hearse for a graveside service.

It might seem strange to follow that with a party, conceded her friend Chris Wilson. But if you knew Gail Dobert, he said, it would not seem that extraordinary. She was, he explained, a festive, life-loving person who would have wanted her family and friends—well in excess of 100, it turned out—to hold the party she had planned for them.

Besides, they couldn't just all go home alone. What else, then, could they do? "This party has got to be the beginning of getting better—her death has been so hard, it just has to be," Wilson said.

Despite working grueling hours at the Commerce Department, Dobert was always the life of the party. If anyone could persuade a shy person to sing along at a karaoke bar, belting out, "These boots were made for walking," it would be Dobert.

"There is so much to celebrate about Gail's life and so many fun things to remember," Pages said. "For her to live on, you have to talk about the good times."

So there they were, eating and drinking and sharing pictures in the Alexandria home and back yard of Chip Gardiner, a congressional aide.

"This is such a tribute these young people are paying our Gail," said Dobert's mother, Maureen. "When people think of Washington, they think of a huge bureaucracy. I wish they knew how many idealistic, hard-working young people there are. The politics in the halls of Congress may be the engine, but the train is run by them."

"She made us very proud," said Dobert's father, Ken. "We always said that if parents got paid, we'd have to take half pay because she and her brother made our job so easy." Dobert's brother, Ray, turned 33 the day of his sister's burial. There was a cake for him at her birthday party, just as she had intended.

Small groups at various times surrounded photo albums, laughing. "There's the famous raincoat," someone said, pointing at a photo snapped at a wedding reception as the band played "It's Raining Men." No one was dancing until Dobert decided to enliven things by hopping on the dance floor with a tambourine and the bright pink and iridescent yellow coat.

Eileen Parise had a picture from the time she got Dobert and two other friends tickets to the Baltimore reception Vice President Gore gave in honor of Pope John Paul II. As happened not infrequently, Dobert's battered car broke down, this time on Route 50 near the Baltimore airport.

"The other people in the car were praying and saying Hail Marys," Parise said. "Gail starts schmoozing the state trooper that came by. He not only had the car towed but then drove everyone to the reception."

From inside, someone shouted, "Here's Gail," and about a dozen people, expecting to see a vacation videotape from Rehobeth, ran inside. Instead, it turned out to be the evening news, with a snippet of Dobert's memorial service that day. The clip went by quickly, segueing into another memorial for another crash victim. There was pained silence. Then someone moved to turn off the television, and another guest arrived.

"We brought a semi-good bottle of wine," the new guest told Gardiner.

"You can drop the semi—it's full isn't it?" Wilson asked. "Hey, it even has a cork."

The celebration and jocularity were real, but so were the moments of pain expressed on every face at some point. Maureen Dobert sang along when a birthday cake was brought out for her son and another guest with an April 13 birthday. But she confided that she was using her public face. The private one, she said, gives into grief sometimes.

"You know, one day they go to kindergarten, and you have to let them go," she said. "Then they want to ride their bike around the corner, and you tell them to be careful and let them go. Before you know it, they're adults and you say, okay, I'm going to let them go.

"But this is the hardest letting go you ever have to do. I wanted her longer, but it's not going to work. It's the hardest letting go, but somehow you have to do it."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate message from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, on April 19, 1996, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 3034. An act to amend the Indian Self-Determination and Education Assistance Act to extend for two months the authority for promulgating regulations under the Act.

Under the authority of the order of the Senate of January 4, 1995, the enrolled bill was signed subsequently on April 19, 1996, during the adjournment of the Senate, by the President pro tempore [Mr. THURMOND].

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2278. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–216 adopted by the Council on February 6, 1996; to the Committee on Governmental Affairs.

EC–2279. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–228 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC–2280. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–227 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC–2281. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–229 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC–2282. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–230 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC–2283. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–231 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC–2284. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–232 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC–2285. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–233 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC–2286. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–234 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC–2287. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–235 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC–2288. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–236 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC–2289. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of

D.C. Act 11–237 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC–2290. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–238 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC–2291. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–240 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC–2292. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–242 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC–2293. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–243 adopted by the Council on March 5, 1996; to the Committee on Governmental Affairs.

EC–2294. A communication from the Executive Director of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, the report on the Mayor's budget for fiscal year 1997 and multiyear plan; to the Committee on Governmental Affairs.

REPORT OF COMMITTEE

The following report of committee was submitted:

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1324. A bill to amend the Public Health Service Act to revise and extend the solid-organ procurement and transplantation programs, and the bone marrow donor program, and for other purposes (Rept. No. 104–256).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CONRAD (for himself, Mr. GRASSLEY, Mr. HARKIN, Mr. PRYOR, Mr. BUMPERS, Mr. HEFLIN, Mr. KERREY, Mr. DORGAN, Mr. DASCHLE, and Mr. PRESSLER):

S. 1690. A bill to provide a grace period for the prohibition on Consolidated Farm Service Agency lending to delinquent borrowers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HARKIN:

S. 1691. A bill to provide for a minimum presence of INS agents in each State; to the Committee on the Judiciary.

S. 1692. A bill to bar Federal agencies from procuring goods and services from employees of illegal aliens; to the Committee on Governmental Affairs.

By Mr. KYL (for himself, Mrs. FEINSTEIN, Mr. HATCH, and Mr. CRAIG):

S.J. Res. 52. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of victims of crimes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CONRAD (for himself, Mr. GRASSLEY, Mr. HARKIN, Mr. PRYOR, Mr. BUMPERS, Mr. HEFLIN, Mr. KERREY, Mr. DORGAN, Mr. DASCHLE, and Mr. PRESSLER):

S. 1690. A bill to provide a grace period for the prohibition on Consolidated Farm Service Agency lending to delinquent borrowers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL LEGISLATION

• Mr. CONRAD. Madam President, the farm bill enacted 2 weeks ago has changed the Farm Service Agency's loan eligibility rules for thousands of producers only a few weeks from planting. It has become very clear that the effective date of the new loan eligibility provisions is causing hardship for producers in the midst of implementing farm and ranch plans for the year. Farmers and ranchers are being informed that, although their loan applications were approved, the Secretary is now prohibited from providing the loan funds to the farmer under the new farm bill. Thousands of farmers will be forced to cancel seed, fertilizer, machinery, and land contracts with local, main street businesses. Many businesses have already delivered seed and fertilizer based on the Government loan commitment. Many farmers who expected to plant a crop this year when prices are high will simply have to move to town and look for other work. This is not sensible policymaking. My legislation will delay the effective date of some of the loan eligibility provisions to give farmers and ranchers, and the businessmen who depend on doing business with the farmers and ranchers, time to adjust to the new loan eligibility law.

Section 648(b) of the credit title of the farm bill was made effective on the date of enactment. My bill will change the effective date of section 648(b) to make the provisions effective 90 days after enactment, or July 5, 1996. It is my hope that my colleagues will support this legislation.

During conference, I and many of my colleagues hoped that section 648(b)'s effective date would be deferred to allow farmers some warning of the new restrictions and avoid the problems farmers are now experiencing. However, the majority insisted on making the provisions of section 648(b) effective upon enactment. As a result, the Secretary is prohibited from allocating funds and making those loans, even if there were pending applications or approved applications or borrowers who had relied on approved applications to their detriment. The immediate and harsh effect of this provision was part of the reason I opposed the farm bill conference report.

It is my opinion that the entire farm bill should be revisited and corrected. However, the case for correcting the harsh effective date of section 648(b) is particularly compelling and that is why I am introducing this legislation today.

It is April 1996 and no one can argue that many farmers and ranchers, who are now prohibited from borrowing under section 648(b), have relied to their detriment on approved applications for ownership loans, operating loans, and emergency disaster loans. It is also too late in the season to provide these farmers and ranchers with time to obtain some other form of financing.

During my time in the Senate and on the Agriculture Committee, I have supported measures to make the Federal Government a more responsible and practical agricultural lender. I have worked to reduce and eliminate the amount of debt the Farm Service Agency carries on its books. By introducing this legislation, I am not encouraging the Farm Service Agency to make risky loans. However, for those farmers who have been approved for loans, have relied on that approval to their detriment, and find themselves days away from planting, it is just too late to secure other forms of financing. The timing of the immediate effective date in the Farm Bill is plain mean-spirited. I hope my colleagues support this bill to give farmers and ranchers 90 days to adjust to the Farm Bill's new restrictions.•

• Mr. GRASSLEY. Madam President, I am pleased to join in introducing legislation establishing a transition period to help our farmers who are attempting to obtain financing under the Consolidated Farm and Rural Development Act. The comprehensive farm bill that was signed into law earlier this month made a number of significant reforms to our Federal agriculture policy. Among these reforms was a change in how the U.S. Department of Agriculture extends credit to certain types of borrowers. This new policy is necessary to ensure the sound investment of taxpayer dollars.

Specifically, section 373 of the act prohibits the Secretary of Agriculture from making or guaranteeing loans to borrowers who have received debt forgiveness in the past. Debt forgiveness is defined as a writeoff or reduction of a direct or guaranteed loan or discharge of debt through bankruptcy.

Although I was not on the Agriculture Committee last summer when the credit title was marked up, it is my understanding that no member from either side of the aisle objected to this provision. Also, this section was not subject to amendment during the floor debate in February.

So we are not necessarily arguing with the policy of this section. But there are farmers who had applied for their annual operating loans in February or March, who expected to receive this financial assistance. They have been caught in the pipeline, so to speak, through no fault of their own. This group of farmers were eligible for these loans when they applied. But under the new farm bill they are ineligible.

It is only fair to give these farmers a period to adjust to the new rules. That is all this bill does. It does not change the reform-minded policy put in place by section 373. It merely moves back the implementation date of the section to allow the Farm Service Agency to process these loan applications and release the money to these borrowers. More importantly, this bill gives the farmers subject to this section an opportunity to adjust to a significant change in policy that could adversely affect their business.

This Congress passed a revolutionary farm bill, characterized by long-needed reforms. But we must remember that these changes affect real people, like family farmers. Therefore, it is necessary that sufficient transition time be given so that farmers can adjust and modify their business practices accordingly.•

Mr. PRESSLER. Mr. President, now that the farm bill is in place, farmers are doing their spring planting for the 1996 crops, or soon will begin. However, an unintended glitch has been discovered in the implementation of the new farm bill. Certain sections of the credit title of the new farm bill are being implemented to the detriment of farmers who have had any debts forgiven by the Government in the past.

This has come as quite a surprise to many farmers in South Dakota and other parts of the Nation. I have heard from several farmers who had applied for operating or emergency disaster loans who are now being told they are ineligible because of past debt forgiveness. That is not right. That is not what Congress intended. Most important, this is the last thing a farmer needs to hear, especially when he needs a loan to get this year's crop in. In some cases, Mr. President, I have learned that farmers who had approved loans that had not been disbursed by April 4, are also now being told they are no longer eligible. Again, this is not what Congress intended.

You can imagine how a farmer would feel when, after having his loan approved and a date set for disbursement, he's told the check's no longer in the mail.

Mr. President, already Members of Congress are seeking to correct his unintended development. The chairmen of the Senate and House Agriculture Committees have written to U.S. Secretary of Agriculture, Dan Glickman, to express their concerns about this implementation. It is clear we need legislation to ensure pending and future loans can go through. Therefore, today we are introducing a bill that would delay the implementation of section 373 of the Consolidated Farm and Rural Development Act, until July 5, 1996. This would provide the time for USDA to disburse loans to farmers for this year's spring planting.

I am pleased to undertake this corrective effort along with Senator GRASSLEY and others. Similar legislation has been introduced in the House of Representatives and I urge congressional adoption of these measures as soon as possible. Time is running out and we must act.

Mr. HARKIN. Mr. President, I want to commend Senator CONRAD for introducing this legislation to correct a provision in the newly passed farm bill that threatens to leave thousands of farm families in the lurch as they attempt to get a crop in the ground this spring. This feature of the new farm bill hits especially hard farmers, such as those in parts of Iowa, who are trying to recover from the hardships caused by disaster situations beyond their control. It is my understanding that some 30 to 40 percent of the approximately 8,000 USDA borrowers in Iowa are likely to be adversely affected by this provision.

The provision involved here prohibits USDA from making any type of operating, farm ownership, or emergency loan to a person who has at any time received any debt forgiveness from USDA on such a loan in the past. This provision was by clear terms made effective immediately upon enactment of the new farm bill, which was signed into law on April 4 of this year. As a consequence, many farmers who were in the process of having loans approved are cut off at the very last moment from credit that they were fully justified in counting on for planting this year's crop. Farm families have enough to worry about during planting season without having Congress create a whole new set of unanticipated problems and worries for them.

The consequence of this provision of the farm bill is that no matter how small the amount forgiven, no matter whether the forgiveness was due to reasons entirely beyond the control of the borrower, no new credit may be provided even if the farmer is now a sound credit risk—except for limited circumstances in the case of annual operating loans for borrowers whose debt was restructured under section 353. For example, even if a portion of interest, but no principal, was forgiven on a loan during the farm crisis a decade or more ago, for reasons beyond the control of the borrower, this provision says no more loans.

There may be reasonable arguments over the fairness of that policy, but clearly the harshest aspect of the new farm bill's loan ineligibility provision is that it kicked into effect on the date the bill became law, with little or no warning to farmers whose loans were in the process of being approved. The farm bill was long overdue by the time it passed Congress, and the problems caused by the lateness of the bill were compounded by the specific preclusion of any grace period for the new prohibition against loans to borrowers receiving past loan forgiveness. Farmers were left with virtually nowhere to turn because it was too late in the season to have a realistic chance to arrange other financing.

There has been some discussion whether USDA has misinterpreted the language of the bill or the legislative intent as to the effect of the new ineligibility provision, but the language of the bill is quite clear. Moreover, the matter of a reasonable grace period was specifically discussed during conference, but was rejected by the majority conferees.

I believe USDA should be careful in lending money, but the new farm bill is too extreme and too harsh.

This bill is a limited remedy for the harshness of the new ineligibility provision in the farm bill and the serious hardship it is causing. I am hopeful that legislation can be passed yet this week to address this very unfair situation created by the new farm bill.

By Mr. HARKIN:

S. 1691. A bill to provide for a minimum presence of INS agents in each State; to the Committee on the Judiciary.

THE IMMIGRATION CONTROL ENFORCEMENT ACT

• Mr. HARKIN. Mr. President, much of the debate on this floor is focused on how to strengthen our immigration laws. But whatever we pass will not mean much if we do not make sure that our States have the tools and support they need to enforce those laws in the first place.

That is why I rise today to offer this bill that would require the Attorney General to provide at least 10 full-time active duty agents of the Immigration and Naturalization Service in each State. These can be either new agents or existing agents shifted from other States.

In America today, immigration is not simply a California issue or a New York issue or a Texas or Florida issue. I can tell you that it is a real issue—and a real challenge—in my own State.

But today there are three States—including Iowa—that have no permanent INS presence to combat illegal immigration or to assist legal immigrants. In fact, in Iowa every other Federal law enforcement agency is represented except the Immigration and Naturalization Service.

This is a commonsense amendment. Ten agents is a modest level compared to agents in other States. According to INS current staffing levels, Missouri has 92 agents, Minnesota has 281 agents, and the State of Washington has 440. And Iowa, West Virginia, and South Dakota have zero. This just does not make any sense.

Clearly every State needs a minimum INS presence to meet basic needs. My bill would ensure that need is met. It would affect 10 States and only require 61 agents which is less than 0.3 percent of the current 19,780 INS agents nationwide.

Let me speak briefly about the situation in my own State. Currently, Iowa shares an INS office located in Omaha, NE. In its February report, the Omaha INS office reported that they apprehended a total of 704 illegal aliens last year for the two-State area. This number is up by 52 percent from 1994.

The irony here is that in 1995, the INS office in Omaha was operating at a 33-percent reduction in manpower from 1994 staff levels. Yet the number of illegal aliens apprehended increased by 52 percent that year.

This same report states that there are about 550 criminal aliens being detained or serving sentences in Iowa and Nebraska city/county jails. Many of these aliens were arrested for controlled substance violations and drug trafficking crimes.

A little law enforcement relief is on its way to Iowa. The Justice Department announced that it will establish an INS office in Cedar Rapids with four law enforcement agents. That is a good step. And it is four more agents then we had before.

But we need additional INS enforcement to assist Iowa's law enforcement in the central and western parts our State.

In fact, the Omaha district office assessed in their initial report to the Justice Department that at least eight INS enforcement agents are needed simply to handle the issue of illegal immigration in Iowa.

Mr. President, in the immigration reform legislation before the Senate this week, the Attorney General will be mandated to increase the number of Border Patrol agents by 1,000 every year for the next 4 years. Yet for Iowa, the Justice Department can only spare four law enforcement agents and no agents to perform examinations or inspections functions.

By providing each State with its own INS office, the Justice Department will save taxpayer dollars by reducing not only travel time but also jail time per alien, since a permanent INS presence would substantially speed up deportation proceedings.

There is also a growing need to assist legal immigrants and to speed up document processing. The Omaha INS office reported that based on its first quarter totals for this year the examinations process for legal immigrants applying for citizenship or adjusting their status went up 45 percent from last year. Even though, once again, the manpower for the Omaha INS office is down by one-third.

I have recommended that a permanent INS office in Des Moines be located in free office space that would be provided by the Des Moines International Airport. Placing the office in the Des Moines International Airport would benefit Iowa in three ways. First, it would cut costs and save taxpayers money. Second, it would generate economic benefits for Iowa because the airport could then process international arrivals and advance Iowa's goal of becoming increasingly more competitive in the global market. Third, the office would be able to process legal immigrants living in Iowa.

I urge my colleagues to join in support of my bill. It is common sense, it is modest, and it sends a clear message to our States that we are committed to enforcing our immigration laws and giving them the tools they need to do it.•

By Mr. HARKIN:

S. 1692. A bill to bar Federal agencies from procuring goods and services from employees of illegal aliens; to the Committee on Governmental Affairs.

THE ILLEGAL WORKER PREVENTION ACT

• Mr. HARKIN. Mr. President, the chief magnet drawing illegal immigrants into the United States and enabling them to stay—is jobs. Border control is an effective strategy against illegal immigration but the lure of jobs will continue to attract illegal workers. We must reduce the job magnet that draws illegal immigrants to this country and deprives American workers of their livelihood.

For years, illegal aliens entering the United States have found employers ready and willing to hire them, often for wages which were substandard and under conditions which ranged from improper to illegal and inhumane. We passed the Immigration Reform and Control Act of 1986 which made it illegal to hire undocumented workers. We have recently beefed up enforcement of this legislation but must continue to do more.

Today I am introducing legislation to keep Federal contracts from going to businesses who knowingly hire illegal workers. My legislation makes permanent, President Clinton's February 13 Executive order. Employers who knowingly hire illegal workers should not benefit from Government business and tax dollars.

Consider the following two incidents which occurred at work sites in Maryland in March of this year. On March 21, INS agents arrested four illegal immigrants working on Fort Meade Army base. They were building Government town homes under a $24 million Federal contract. A week later, INS agents arrested 12 illegal immigrants removing asbestos from the Fallon Federal Building in downtown Baltimore.

Benedict Ferro, INS Director for the Maryland district, noted, "* * * there is a willingness by employers to hire them. Without that willingness, we wouldn't have this problem. It hurts, these are not jobs that permanent residents of the United States wouldn't want. These are jobs that could be filled by the unemployed in Maryland."

These are examples of the employers we need to focus our efforts on. Most employers want to comply with the law but for the few that spoil it for everyone, we have to have a tough strategy.

Any effort to stem the flow of illegal immigration into our country cannot succeed if the lure of U.S. jobs remains. American jobs belong to lawful workers. A strong worksite enforcement policy discourages illegal workers from crossing the border into the United States in addition to supporting American jobs for citizens and other legal workers.

Curbing illegal immigration by enforcing worker protection laws has a direct, if too seldom noted, policy connection. Illegal immigrants are frequently subjected to subminimum wages, dangerous workplaces, long hours, and other poor working conditions because they are desperate for work and in a weak position to insist on their rights. Knowingly hiring illegal immigrants both reveals, and rewards, an employer's willingness to break the law, and undermine wages and working conditions for legal workers. My legislation would ensure that the Federal Government does not reward such conduct with U.S. tax dollars.

Labor law enforcement not only helps ensure fairness and minimally acceptable employment standards in the workplace, but also helps to foster a level competitive playing field for employers. Businesses who knowingly hire illegal workers at substandard wages and working conditions have an advantage over employers who do not exploit their workers. INS agents note that companies are willing to hire illegal workers to slash costs and increase profits. This is blatantly against the law and not only unfair to American workers who need the jobs but to other employers who abide by the law and do not boost profits by exploiting their labor.

At the same time, by introducing this legislation, I want to make clear that employment discrimination will not be tolerated. Existing Federal laws prohibit employers from discriminating against employees on the basis of national origin or race. Enforcement of this legislation will not undermine antidiscrimination protection for legal workers.

From its beginning, our Nation has been a land of immigrants—people from the world over seeking refuge, opportunity, and a better life for themselves and their families. Like my mother, who came to Iowa from Slovenia. America is the land of opportunity, but America is also a land of responsibility. I remain adamantly opposed to discrimination at the workplace but feel that we must do more to crack down on illegal immigration and those who violate our laws at the expense of American workers.●

By Mr. KYL (for himself, Mrs. FEINSTEIN, Mr. HATCH, and Mr. CRAIG):

S.J. Res. 52. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of victims of crimes; to the Committee on the Judiciary.

RIGHTS OF CRIME VICTIMS CONSTITUTIONAL AMENDMENT

Mr. KYL. Mr. President, April 21–27 is National Crime Victims' Rights Week.

To ensure that crime victims are treated with fairness, dignity, and respect, I rise—along with my colleague Senator FEINSTEIN—to introduce a joint resolution proposing a constitutional amendment to establish and protect the rights of crime victims.

Representative HENRY HYDE will introduce a companion joint resolution in the House. The Senate Judiciary Committee will hold a full committee hearing on the resolution tomorrow, Tuesday, April 23. And I would like to thank Senator HATCH for recognizing the importance of this issue and moving so quickly to hold hearings. This should be a signal to my colleagues and to all America that the time for justice for crime victims is at hand.

The proposed constitutional amendment will give victims fundamental rights to be informed, present, and heard at critical stages throughout their case, and the rights to a speedy trial, reasonable protection, and full restitution from the convicted offender—the least the system owes to those it failed to protect.

The text of the amendment is clear and straightforward. It reads:

> SECTION 1. To ensure that the victim is treated with fairness, dignity, and respect, from the occurrence of a crime of violence and other crimes as may be defined by law pursuant to section 2 of this article, and throughout the criminal, military, and juvenile justice processes, as a matter of fundamental rights to liberty, justice, and due process, the victim shall have the following rights: to be informed of and given the opportunity to be present at every proceeding in which those rights are extended to the accused or convicted offender; to be heard at any proceeding involving sentencing, including the right to object to a previously negotiated plea, or release from custody; to be informed of any release or escape; and to a speedy trial, a final conclusion free from unreasonable delay, full restitution from the convicted offender, reasonable measures to protect the victim from violence or intimidation by the accused or convicted offender, and notice of the victim's rights.
>
> SECTION 2. The several States, with respect to a proceeding in a State forum, and the Congress with respect to a proceeding in a United States forum, shall have the power to implement further the rights established in this article by appropriate legislation.

Mr. President, these simple words will help to restore justice to a system fraught with injustice.

SUPPORT

The amendment is supported by major national victims' rights groups: Parents of Murdered Children, Mothers Against Drunk Driving [MADD], the National Organization for Victim Assistance, the National Victim Center, the National Victims' Constitutional Amendment Network, the Victim Assistance Legal Organization, and the Doris Tate Crime Victims Bureau.

NEED TO PROTECT VICTIMS' RIGHTS—SCALES OF JUSTICE IMBALANCED

There is a need to protect victims' rights because the scales of justice are imbalanced.

Those accused of crime have many constitutionally protected rights; They are innocent until proven guilty; they have the right to due process; right to confront witnesses; right against self-incrimination; right to a jury trial; right to a speedy trial; right to counsel; right to be free from unreasonable searches and seizures.

Yet, despite rights for the accused, the U.S. Constitution, our highest law, does not protect the rights of crime victims.

The recognized symbol of justice is a figure holding a balanced set of scales, but in reality the scales are heavily weighed on the side of the accused. These protections are sadly one-sided. My proposal will not deny or infringe any constitutional right of any person accused or convicted of a crime. But it will add to the body of rights we all enjoy as Americans.

Each year, about 43 million Americans are victims of serious crime. These victims have no constitutional rights. They are often treated as mere inconveniences, forced to view the process from the sidelines. Defendants can be present through their entire trial because they have a constitutional right to be there. But in many trials, victims are ordered to leave the courtroom.

Victims often are not informed of critical proceedings, such as hearings to consider releasing a defendant on bail or allowing him to plea bargain to a reduced charge. Even when victims find out about these proceedings, they frequently have no opportunity to speak.

Today, victims have no right to reasonable finality. It is not uncommon for cases to last years and years after the jury verdict, while courts again and again review the same issue. These lengthy delays cause terrible suffering for crime victims, especially the loved ones of homicide victims. What others consider as a mere inconvenience can be an endless nightmare for the victim.

PATRICIA POLLARD

Consider the case of Patricia Pollard—a woman from my home State of Arizona. In July 1974, on a road just outside of Flagstaff, AZ, Patricia Pollard was silenced—first by an attacker, and then by the judicial system. Eric Mageary used the jagged edge of a ripped beer can to inflict deep slash wounds in her body. He broke her ribs and her jaw. He choked her into unconsciousness and left her for dead by the side of the road.

Patricia survived. Mageary was convicted and sent to prison. Ten years short of serving his minimum sentence, he was paroled. No notice was given to Patricia. If given the opportunity, Patricia would have wanted to tell the judge about the crime, about how dangerous Mageary was, and how a long prison sentence was needed to protect the community from this vicious criminal. But the law gave Patricia no right to be heard, and society paid for its silencing of her. Mageary's parole was soon revoked for serious narcotics violations, and he was back in prison.

In 1990, the people of Arizona amended their State constitution to add a victims' bill of rights, which established the right of victims to be informed, present, and heard at every critical stage in their case.

Incredibly, in 1993, in direct violation of Patricia's new constitutional rights, the parole board voted to release Mageary—again without hearing from Patricia.

But this time there was a remedy for this injustice. An action was filed to stop the release and force the board to hold another hearing in which Patricia's rights would be protected. The Arizona Court of Appeals acted swiftly and stopped the release. The second time around, after the board took the time to hear directly about the horrible nature of the crime, they voted for public safety and for Patricia, and kept Mageary behind bars. Without constitutional rights for Patricia, the safety of the community would have been jeopardized again.

Constitutional rights restored Patricia's voice. Not all Americans have these rights, and even those that exist are not protected by the supreme law of the land, the U.S. Constitution. That is why today, during National Crime Victims' Rights Week, Senator FEINSTEIN and I are introducing a victims' bill of rights to the U.S. Constitution to extend to victims throughout the country a threshold of basic fairness. Victims must be given a voice—not a veto, but a real opportunity to stand and speak for justice and the law abiding in our communities.

STATISTICS

Patricia Pollard is not an isolated example. As I noted earlier, each year 43 million Americans are victims of serious crime, according to the Department of Justice.

According to DOJ statistics released last week, during 1994 there were 10.9 million violent crimes, 6.6 million simple assaults, 2.5 million aggravated assaults, 1.3 million robberies, and 430,000 rapes or other types of sexual assault.

Also, one of every nine persons from 12 through 15 years old was a violent crime victim during 1994.

And just this week the Clinton administration reported that crime costs Americans at least $450 billion a year.

These numbers are staggering and sobering. And they demonstrate the enormous burden that crime forces its victims to carry.

The breakdown of social order and the crisis of crime that accompany it, have swelled the ranks of criminals, and those who suffer at their hands, to proportions that astonish us, that break our hearts, and that demand collective action. And the process of detecting, prosecuting, and punishing criminals continues, in too many places in America, to ignore the rights of victims to fundamental justice.

TWENTY STATES HAVE CONSTITUTIONAL AMENDMENTS

The need for a constitutional amendment was first recognized in 1982 by a President's Task Force on Victims of Crime, which concluded that the criminal justice system has lost its essential balance. Since then, 20 States have adopted victims' amendments.

The average electoral support for these amendments was 78 percent. In 1994, six States approved constitutional amendments—all by landslides: Alabama, 80 percent; Alaska, 87 percent; Idaho, 79 percent; Maryland, 92 percent; Ohio, 77 percent; and Utah, 68 percent.

But this patchwork of State constitutional amendments is inadequate. A Federal amendment would establish a basic floor of victims' rights—a floor below which States could not go.

VICTIMS NEED RIGHTS IN THE FEDERAL CONSTITUTION

Some may say, "I'm all for victims' rights but they don't need to be in the U.S. Constitution. The Constitution is too hard to change. All we need to do is pass some good statutes to make sure that victims are treated fairly."

But statutes have not worked to restore balance and fairness for victims. The Federal Government has well-written statutes that were intended to establish rights for victims in Federal proceedings. Yet the promise of those statutes lies largely unfulfilled. The whole history of our country teaches us that constitutions are needed to protect the basic rights of the people. The original Bill of Rights was adopted to guarantee that the Federal Government would never infringe on inalienable rights enjoyed by the people—neither at the hands of an overreaching executive nor an inflamed majority in Congress. Some argued that because the Federal Government did not possess the power in the Constitution to infringe these rights, the express protection of them in the Constitution was unnecessary. History soon taught us the wisdom of including the Bill of Rights.

Who would be comfortable now if the right to free speech, or a free press, or to peaceably assemble, or any of our other rights were subject to the whims of changing legislative or court majorities? When the rights to vote were extended to all regardless of race, and to women, were they simply put into a statute? Who would dare stand before a crowd of people anywhere in our country and say that a defendant's rights to a lawyer, a speedy public trial, due process, to be informed of the charges, to confront witnesses, to remain silent, or any of the other constitutional protections are important, but don't need to be in the Constitution?

Such a position would be rightly subject to ridicule. Yet that is precisely what critics of the victims' bill of rights would tell crime victims. Victims of crime will never be treated fairly by a system that permits the defendant's constitutional rights always to trump the protections given to victims. Such a system forever would make victims second-class citizens. It is precisely because the Constitution is hard to change that basic rights for victims need to be protected in it.

Our criminal justice system needs the kind of fundamental reform that can only be accomplished through changes in our fundamental law. Today we have a system of justice that accommodates the interests of its professionals fairly well, but it all too often treats its citizens, its victims, with hostility, and almost always with indifference. Attitudes will not change without a constitutional reform that recognizes the rights of victims as a core value.

AMENDING THE CONSTITUTION IS A BIG STEP, BUT A NECESSARY ONE

Amending the Constitution is, of course, a big step—one which I do not take lightly—but, on this issue, it is a necessary one.

As Thomas Jefferson once said:

> I am not an advocate for frequent changes in laws and constitutions, but laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times.

CONLCUSION

In closing, I would like to thank Senator DIANNE FEINSTEIN for her hard work on this amendment and for her tireless efforts on behalf of crime victims.

Mr. President, for far too long, the criminal justice system has ignored crime victims who deserve to be treated with fairness, dignity, and respect. Our criminal justice system will never be truly just as long as criminals have rights and victims have none. We need a new definition of justice—one that includes the victim.

Today, as we begin National Victims' Rights Week, in courtrooms across America, victims will be forced to sit outside while their attackers are tried. Today and every day, critical proceedings will be held in criminal cases and victims will not be informed of those proceedings or given the opportunity for their voices to be heard. Today, and every day, victims will be forced to endure endless delays.

Mr. President, with this joint resolution, we can cure this injustice. Victims groups across America support this effort and are watching to see if Congress has the will to make this Victims' Rights Week truly a celebration for crime victims.

ADDITIONAL COSPONSORS

S. 295

At the request of Mrs. KASSEBAUM, the names of the Senator from Montana [Mr. BURNS] and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 295, a bill to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

S. 684

At the request of Mr. HATFIELD, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 704

At the request of Mr. SIMON, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 953

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 953, a bill to require the Secretary of the Treasury to mint coins in commemoration of black revolutionary war patriots.

S. 1043

At the request of Mr. STEVENS, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1043, a bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes.

S. 1072

At the request of Mr. THURMOND, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1072, a bill to redefine "extortion" for purposes of the Hobbs Act.

S. 1166

At the request of Mr. LUGAR, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 1166, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide

Act, to improve the registration of pesticides, to provide minor use crop protection, to improve pesticide tolerances to safeguard infants and children, and for other purposes.

S. 1578

At the request of Mr. FRIST, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1578, a bill to amend the Individuals with Disabilities Education Act to authorize appropriations for fiscal years 1997 through 2002, and for other purposes.

S. 1579

At the request of Mr. GLENN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1579, a bill to streamline and improve the effectiveness of chapter 75 of title 31, United States Code (commonly referred to as the "Single Audit Act").

S. 1608

At the request of Mr. MCCAIN, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 1608, a bill to extend the applicability of certain regulatory authority under the Indian Self-Determination and Education Assistance Act, and for other purposes.

S. 1610

At the request of Mr. BOND, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1644

At the request of Mr. BROWN, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1644, a bill to authorize the extension of nondiscriminatory treatment—(most-favored-nation)—to the products of Romania.

S. 1660

At the request of Mr. GLENN, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 1660, a bill to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes.

SENATE CONCURRENT RESOLUTION 42

At the request of Mrs. KASSEBAUM, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of Senate Concurrent Resolution 42, a concurrent resolution concerning the emancipation of the Iranian Baha'i community.

SENATE RESOLUTION 217

At the request of Mrs. KASSEBAUM, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of Senate Resolution 217, a resolution to designate the first Friday in May 1996, as "American Foreign Service Day" in recognition of the men and women who have served or are presently serving in the American Foreign Service, and to honor those in the American Foreign Service who have given their lives in the line of duty.

At the request of Mrs. MURRAY, her name was added as a cosponsor of Senate Resolution 217, supra.

SENATE RESOLUTION 226

At the request of Mr. DOMENICI, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of Senate Resolution 226, a resolution to proclaim the week of October 13 through October 19, 1996, as "National Character Counts Week."

SENATE RESOLUTION 247

At the request of Mr. SPECTER, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of Senate Resolution 247, a resolution expressing the sense of the Senate regarding a resolution of the dispute between Greece and Turkey over sovereignty to the islet in the Aegean Sea called Imia by Greece and Kardak by Turkey.

AMENDMENTS SUBMITTED

CONGRESSIONAL TERMS LIMIT CONSTITUTIONAL AMENDMENT

LEAHY AMENDMENT NO. 3700

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to the joint resolution (S.J. Res. 21) proposing a constitutional amendment to limit congressional terms; as follows:

In the committee substitute strike all after the words "Section 1" and insert the following:

"No person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

"SECTION 3. A member of the Senate serving a term of office on the date of the ratification of this article, who upon completion of that term will have served two or more terms in the Senate, may complete that term. A member of the House of Representatives serving a term of office on the date of ratification of this article, who upon completion of that term will have served six or more terms in the House of Representatives, may complete that term."

LEAHY AMENDMENT NO 3701

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to the motion to recommit proposed by Mr. THOMPSON to the joint resolution Senate Joint Resolution 21, supra; as follows:

In lieu of the proposed instructions, insert the following: with instructions to report the resolutions back to the Senate forthwith with an amendment as follows: That the following article is proposed as an amendment to the Constitution of the United States;

"ARTICLE —

"SECTION 1. No person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

"SECTION 3. A member of the Senate serving a term of office on the date of the ratification of this article, who upon completion of that term will have served two or more terms in the Senate, may complete that term. A member of the House of Representatives serving a term of office on the date of ratification of this article, who upon completion of that term will have served six or more terms in the House of Representatives, may complete that term."

LEAHY AMENDMENT NO. 3702

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to an amendment to the joint resolution Senate Joint Resolution 21, supra; as follows:

In the language proposed to be stricken, strike all after the words "Section 1" and insert the following:

"No person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

"SECTION 3. A member of the Senate serving a term of office on the date of the ratification of this article, who upon completion of that term will have served two or more terms in the Senate, may complete that term. A member of the House of Representatives serving a term of office on the date of ratification of this article, who upon completion of that term will have served six or more terms in the House of Representatives, may complete that term."

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs has rescheduled the business meeting that was originally scheduled for 9 a.m. on Tuesday, April 23, 1996, to 9:30 a.m. on Tuesday, April 23, 1996.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will conduct a joint hearing with the Subcommittee on Native American and Insular Affairs of the House Committee on Natural Resources during the session of the Senate on Thursday, April 25, 1996, on S. 1264, a bill to provide certain benefits of the Missouri River Basin Pick-Sloan Project to the Crow Creek Sioux Tribe, and for other purposes. The hearing will be held at 9:00 a.m. in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

ADDITIONAL STATEMENTS

TAX FREEDOM DAY

• Mr. ABRAHAM. Mr. President, I rise today to recognize the novel approach one business in my State has undertaken to educate the public about the high Federal tax burden suffered by working families in our country.

The Lockwood Companies, based in Bingham Farms, are a group of seven construction, housing-material procurement, and development services firms. In the past 50 years, Lockwood has built more than $1.25 billion of housing in Michigan, including affordable and luxury multifamily housing, as well as independent living, assisted, and skilled care communities. In the previous 2 years, Lockwood has been Michigan's leading apartment builder.

In early 1995, Lockwood management was discussing the high, unfair tax burden imposed upon average employees. Someone observed a major problem in our country is the general lack of public awareness as to how high our tax rates actually have risen. A suggestion was given that some sort of creative effort be made to highlight Tax Freedom Day.

Tax Freedom Day is determined each year by the Tax Foundation, a nonpartisan, nonprofit, public policy research group based in Washington, DC. Tax Freedom Day is estimated to be the day average Americans must work to from January 1 just to pay their Federal, State, and local taxes for that year.

To exemplify just how much taxes have risen over the years, I point out that in 1944, the year Lockwood was founded, Tax Freedom Day would have been March 30. In 1995, Tax Freedom Day was May 7, more than 5 weeks later.

To draw attention to this situation, Lockwood management devised the idea of an employee strike on Tax Freedom Day, and declared it a paid company holiday. Lockwood's protest last year drew significant media coverage, both local and national.

Encouraged by the positive response, Lockwood will again this year publicize Tax Freedom Day giving its employees a paid day off. Among the other Michigan companies that have been persuaded to join in this year's protest and do likewise are Sartech Distribution & Building Supply, Jordan Oliver Building Systems, and Schneider & Smith Architects.

In announcing Lockwood's repeat observance of Tax Freedom Day, President Rodney Lockwood said his firm has, "helped start more than 10 new woman- and minority-owned companies by awarding them contracts, supplying funding, or training their workers . . . If the tax situation were more favorable, we could help even more companies because we'd have more money available for that kind of discretionary spending."

Undoubtedly, countless other job providers in Michigan and the rest of the country would appreciate tax relief that would allow them to assist fledgling small businesses as well.

The Lockwood Companies' unique manner of protesting high levels of taxation deserves to be recognized. Increased awareness of the oppressive tax burden on American families can only yield positive results. The Lockwood Companies, and those who will strike alongside with them this year, are providing an invaluable public education, and I commend their efforts.•

CHINA: WHERE DO WE GO FROM HERE

• Mrs. FEINSTEIN. Mr. President, I recently delivered a speech to the World Affairs Council of Los Angeles. I took the opportunity to lay out some of the areas in which I believe the United States needs to improve its policy toward the People's Republic of China. I thought my colleagues would find this speech to be of interest. I ask that the full text of the speech be printed in the RECORD.

The speech follows:

CHINA: WHERE DO WE GO FROM HERE?

(Remarks of U.S. Senator Dianne Feinstein to World Affairs Council, April 11, 1996)

It is a great pleasure to be in the City of Los Angeles. And it is my honor to be introduced by such a distinguished resident of this great city.

I'm delighted to be at the World Affairs Council, I've had the privilege of speaking at the World Affairs Council in San Francisco on several occasions, but never in this major capital city, so I'm delighted to be here.

I want to share with you today some candid thoughts that I have about what I believe to be one of the most important issues for peace and stability in the world today: The current crisis in negotiations on Sino-American relations, and to discuss for a moment how we can forge a new, and better, era in this important relationship.

One hundred years from now, I have no doubt that when historians look back, the remarkable rise of China as a world power will be considered one of the most important international events of the latter half of the twentieth century.

More than the tragic war in Bosnia, more than the unsteady march toward peace in the Middle East, more even than the collapse of the Soviet Union, China's ascendence as a great power—and the content and quality of U.S.-Chinese relations—will shape the direction of global history in the Pacific Century.

Following what the Chinese view as a "century of humiliation" at the hands of western imperial powers, and fifty years of war-lord rivalries, revolution, and economic stagnation, China today is poised at the brink of a remarkable renaissance.

For close to two decades the Chinese economy has grown by a staggering 10% a year. China is now the world's 11th largest exporter—that's where Japan was in 1980—and moving up fast. By most estimates, by early in the next century China will have the world's largest economy.

In a little more than a decade, U.S. trade with China has grown from some $1.2 billion to over $50 billion per year. China has emerged as a major presence on the world stage.

It is a shame that we do not have the benefit of the hindsight that our children and grandchildren will have, because I believe that most Americans—including many policymakers—do not understand the magnitude or breadth of the changes currently underway in China and what they mean for the future peace and stability of Asia and, yes, the world.

U.S. POLICY MISSTEPS

This fundamental lack of understanding is unfortunate—and could turn out to be tragic—because how we manage our relationship with China will have a greater effect on stability in Asia and peace in the world than nearly anything else we do.

In recent months U.S.-China relations have reached perhaps their lowest level since President Nixon's historic trip to China in 1972. Our relationship is plagued by tensions in nearly every area in which we interact: a large trade imbalance; China's failure to curb pirating of U.S. intellectual property; China's transfers of sensitive weapons, nuclear materials and technology to Pakistan, Iran, and others; clashing visions of human rights; most importantly, U.S. concerns about Taiwan, Hong Kong, and Tibet, these are perceived as deep threats to Chinese sovereignty.

This situation is made even more complicated by domestic politics in both countries.

In the U.S., the relationship between China and the U.S. has been buffeted by the vicissitudes of a Presidential election year and provocative Congressional actions. For example, the recent Department of State Authorization Conference Bill contains ill-advised policy mandates, including an invitation for a 1996 visit by Lee Teng-hui to the U.S. "with all appropriate courtesies," and an elevation of the Taiwan office in Washington.

In China, the lingering of Deng Xiaoping has prevented, in a sense, the cementing of new leadership, resulting in jockeying and in-fighting among China's political hierarchy. It is difficult for any Chinese leader to take bold action to improve relations with the United States for fear of being accused of weakness.

Fundamental to the worsening of relations between our two countries is the lack of any conceptual framework or long-term strategy on the part of the U.S. policy with respect to China—a strategy which sets specific goals for the relationship five and ten years down the road.

Instead, U.S. policy has been reactive and "event-driven," responding to whatever happens to be the current revelation, which generally concerns human rights. This calls into question our entire relationship with China each time we lurch from crisis to crisis.

A whole host of events have contributed to the current downward spiral in our relations: Tiananmen Square, the sale of F-16's to Taiwan, Congressional opposition to China's bid for the Olympics, U.S. opposition to the construction of Three Gorges Dam project, and Taiwan President Lee Teng-hui's visit to the United States last year.

Each of these events has helped create the current atmosphere. Let me say a few words about why these events were so important.

Americans were understandably horrified by the globally-televised scenes of Chinese tanks advancing on unarmed civilians at Tiananmen Square in 1989. Unfortunately, those images have come to color our perception of nearly every aspect of the U.S. relationship with China. For most Americans Tiananmen Square is all they know of the China of today.

In the wake of Tiananmen, the U.S. made a number of policy decisions that further antagonized China. In 1992, for example, President Bush, who understands China better than most Americans, made what, I believe, was an unfortunate decision to sell 150 F-16 aircraft to Taiwan.

The sale, announced during an election campaign, was made without strong evidence that Taiwan faced a significantly enhanced threat from China that made these advanced military planes necessary. For China, the sale was a violation of the "One China" policy which has been the bedrock of Sino-American relations since 1972.

China put forth an extensive effort to host the Summer Olympic games in 2000: they built a large stadium, apartments and several other facilities, and made a strong pitch to the International Olympic Committee. This was going to be China's introduction to the world—a moment of great national pride.

But, the U.S. reaction was distinctly negative. The House of Representatives passed a resolution urging the IOC not to give the games to Beijing and a majority of U.S. Senators sent a letter urging denial to the IOC. The IOC decided, by one vote, to give the games to Sydney, Australia, and, again, China felt the sting of humiliation.

Another American effort to thwart Chinese development, from China's perspective, has been our reaction to the Three Gorges Dam project. This massive undertaking, designed to generate power for the enormous Chinese market, is considered a critical step in China's economic development program.

Anyone that has been to Beijing has seen the choking clouds of high sulfur coal dust and lacking sufficient power for the basic necessities of life for millions of its people, the Three Gorges Dam represents an important national priority for the Chinese. But the United States has criticized the project, on environmental grounds and last year the Administration indicated it would oppose multilateral and U.S. financing of Three Gorges.

The current crisis in U.S.-China relations came to a head last year with the U.S. decision to allow Taiwanese President Lee Teng-hui to visit the United States last summer to receive an honorary degree at Cornell University.

The Administration had told the Chinese—as late as May of last year—that allowing the visit would be inconsistent with the United States' longstanding "One China" policy. Congress then voted overwhelmingly—myself included—to allow this "private" visit, and the Administration changed its policy about the visa.

The Chinese President, Jiang Zemin, learned of the decision by reading it in the newspaper, as he told me when I visited him in August. You can imagine what the impact was.

President Lee's visit, although billed as a private visit, turned out to be much more than that. Members of the Senate met him, he spoke at Cornell and spoke about opportunity for representation in the United Nations. Again generating a deep visceral reaction within the Chinese leadership, not only within the leadership, and this is what Americans must come to understand, but within the Chinese people itself. And this gave rise to a new wave of nationalism among its people. The Chinese showed their anger by overreaction— engaging in missile tests and live ammunition war games in the Taiwan Straits just prior to the Taiwanese elections.

These provocative and unneccessary actions prompted President Clinton to place two carrier groups in the immediate area, sending a clear message that the U.S. would not tolerate military action against Taiwan.

It is clear that none of us fully understood the depth to which Taiwan presents a deep and fundamental sovereign imperative to China. We must understand this if we are to deal directly with China.

These events, occurring against a background of little dialogue between our two nations and constant criticisms in the American press, added to the strain and distance.

The Chinese, for their part, have contributed to the downward spiral in our relations by failing to carry out commitments made. For example, China's failure to carry out last year's Intellectual Property Rights agreement signed last May has cost American copyright-holders over $2 billion in 1995, and less than full compliance with nuclear Non-Proliferation and violations of missile reduction treaties are areas which have drawn considerable and legitimate U.S. concern.

THE COSTS OF U.S. MISSTEPS

The consequence of this confused and reactive relationship is that —precisely at the time when we should be doing everything we can to strengthen and encourage reform in China by increasing relations with the West—some in China believe that the U.S. is intentionally encouraging China's increasing hardline attitudes with the purpose of pushing China toward an adversarial posture reminiscent of Cold War years with the Soviet Union.

As you know, a long, drawn-out leadership struggle has been going on in China for the past several years as the elderly Deng Xiaoping has disappeared from public life. Although a new leadership is in place, competitive forces within that leadership appear to be growing stronger. Hardline actions are more prevalent.

For example,

China's provocative war games in the Taiwan Straits leading up to the Taiwanese election.

China's continued provision of sensitive nuclear and missile technology to Pakistan.

The increasingly strong rhetoric toward Hong Kong, such as announcing that the elected Legislative Council will be dissolved and that Hong Kong civil servants will be required to take an oath of loyalty to Beijing.

And just last week, when Chinese police tried to stop fundraising for Chinese orphanages at a dinner attended by U.S. Ambassador James Sasser and prevented Chinese-American author Amy Tan from delivering a speech.

Additionally, U.S. policy has not enabled those within the Chinese leadership who favor greater cooperation with the West to advance their program. In my conversations with President Jiang Zemin and Executive Vice Premier Zhu Rongji, I have become convinced of their genuine desire to reach out to the United States and build a much more cooperative relationship. In fact, Deng Xiaoping himself, empowered Jiang Zemin to be in charge of American relations and this was ratified by the 14th People's Congress.

But to do that, they need our help. They need to be able to engage in a genuine dialogue with U.S. leaders, at the very highest levels. Our President and the President of China need to be able to sit and talk face-to-face, and to pick up the phone and call one another on a regular basis. But they do not yet have that kind of relationship.

When the Administration decided not to invite President Jiang Zemin to Washington for a state visit, I believe we lost a valuable opportunity to give "face" and support to a moderate, pro-Western leader, thereby enabling the Chinese to see greater value in increased ties and pro-Western views.

MOST-FAVORED NATION STATUS

In approximately two months, Congress will consider whether to grant the President's request to renew China's Most-Favored Nation trading status. I believe this issue will spark a definitive debate in the Congress on the future of the United States' China policy.

The political implications of revoking MFN for China are great, and dangerous. Revoking MFN would be seen, I believe, as a complete break in U.S.-Chinese cooperation.

For a country such as China, where face and respect are such central issues, revoking MFN—a trading status the U.S. grants to all but a handful of rogue nations—would be seen as tantamount to the United States telling China that we no longer accept them as a member of the family of nations. More importantly, thousands of businesses and millions of jobs in this country and in China who are now dependent on MFN status would be lost. To deny it would be shooting ourselves in the foot. Also, our ability to work with the Chinese on other trade issues, on Asian security, on non-proliferation, on Taiwan, and on human rights would be severely diminished, if not incapacitated.

WHERE DO WE GO FROM HERE?

Many of you may be wondering if there is anything we can do to repair a relationship that many feel has already been irreparably harmed. As a Chinese proverb goes, "Laughter cannot bring back what anger has driven away." But there is another Chinese proverb that is perhaps more relevant—"By hard work one can succeed in moving two mountains to open a road."

First, we must elevate the importance of the relationship with China. President Clinton, Secretary Christopher and high officials must become much more directly involved. With China, in many cases, the messenger is as important as the message.

Most Americans know little of China and less about the importance of this relationship. The President must speak to Americans directly of the importance of this relationship and make the case for an improved relationship to the American people. He has not done so thus far. It must be done.

Secondly, Secretary Christopher who has visited China only once, must devote to this relationship the same time and energy as he has so effectively applied in the Middle East.

Third, we must realize that despite recent tensions, China and the United States have many more common interests than is generally realized, and we must build on those common interests.

Four areas in which our shared interests outweigh our differences include: Taiwan, trade, security and nuclear non-proliferation, and improving the quality of life for people.

Taiwan: The role of the United States in constructing a relationship between China and Taiwan must, by necessity, be supportive. We should not attempt to impose a solution on either party. The United States can, however, provide the underlying stability for Chinese-Taiwanese cooperation by continually and publicly reaffirming our commitment to a "One China" policy.

We must also continue to encourage China to refrain from aggressive military actions and rhetoric. The key to a solution remains peaceful reunification. How and when that takes place is up to the two parties involved. Our interest must be to see that peace is maintained, to encourage the two sides to talk, to be an honest broker.

Both Taiwan and China should be encouraged to restart the Cross-Strait Initiative that was conducted by China's Association for Relations across the Taiwan Strait and Taiwan's Strait Exchange Foundation. This dialogue showed much promise until it was derailed last summer. Even at the nadir of relations earlier this year, Chinese Prime Minister Li Peng renewed President Jiang Zemin's offer from last year for a Taiwan-China summit. And the Chinese offer to begin direct air, sea, and postal service with Taiwan can only be beneficial.

Trade: Trade issues have all too often become flashpoints in U.S.-China relations, with blame to be shared by both sides.

This past January, while I was in Beijing, Executive Vice Premier Zhu Rongji, who is in charge of Central Economic Planning, told us that, effective this month, China will lower tariffs by 34% across the board and bring its tariff rate schedule in line with the average of developing countries within two years.

Our Trade Representative, Mickey Kantor, told me that he is now reviewing this proposed schedule. The U.S. should work with China to increase U.S. exports to China, now growing at a rate of 17% per year. China states it wants to increase U.S. exports, and this would lower our trade deficit with China. The U.S. should also review provisions of our laws which restrict high value exports.

At the same time, the United States should continue to insist that China live up to fair trade policies, in particular, its agreements to protect U.S. intellectual property rights. For example China must prevent the illegal production of pirated CDS, CD-ROMs, and Lds.

The best way to accomplish this goal is the development of joint ventures between U.S. copyright holders and Chinese manufacturers, which could transform factories from illegal to legal operations with little job cost. In January, I presented to both the President, the Executive Vice Premier and to the Trade Minister, a letter from the Recording Industries of America containing a proposal that six major American copyright holders are prepared to enter into such joint agreements.

As I left China and was in Hong Kong, I noted that a Chinese representative said, "but we already have these joint ventures." And that is exactly the key, the joint ventures are not with the copyright holders, and in order to carry out the intent of the law the venture must be with the U.S. copyright holder.

As the world's 11th largest exporter and moving up fast, China's entry into the World Trade Organization is strongly in the United States' interests and holds the best promise for preventing trade disputes from escalating into major conflicts. Although it will take time, we need to continue to work with China to help them develop the commercial legal structure and fair trade policies that are necessary for their membership in that organization.

Security: It is vital that China be engaged in a new security partnership, one that is cooperative rather than confrontational. With more than a fifth of the world's population, a permanent seat on the United Nations Security Council, and an arsenal of nuclear weapons and intercontinental ballistic missiles, isolating China is a very dangerous course.

Such a partnership suggests that China be encouraged to become an active and responsible party to international organizations, treaties, and regimes. As such, China should be granted an equal say in setting the "rules of the game." The corollary of this, of course, is that China must agree to abide by those rules.

One area that immediately suggests itself as a testing ground for this type of partnership is the threat of nuclear proliferation in South Asia. China was helpful in preventing nuclear proliferation in North Korea, a situation that still remains problematic.

It is also clearly in the interests of both China and the United States to ensure that tensions are de-escalated in the highly unstable India-Pakistan relationship. Both India and Pakistan have the ability to launch 10 to 20 kiloton nuclear devices, that is twice the size of Hiroshima, in a matter of weeks. Both countries are on China's Southern border, and both suffer from major internal instability. Acting alongside other local and regional powers, the United States and China must work together to de-escalate growing tensions between these two countries.

Quality of Life: Finally, despite the bad press that China has received in this country of late regarding human rights, I believe that here too there is opportunity for progress. However, to believe that China will change its ways merely to please America is naive. The real key to change is convincing China that it is in China's interests to change.

We have tried lecturing China on individual human rights cases, and have found that method to be unsuccessful. A more productive approach would be to work with China to develop an independent judicial system that can guarantee due process and the rule of law—an area in which China has asked for our help.

By engaging China in a larger dialogue about good governance, through exchange programs, assistance in the drafting of criminal and commercial codes, and in establishing an independent judiciary with due process of law, we will do much more to advance the cause of human rights in China in the long run than through constant castigation.

Even without our help, China is moving in this direction. Last month, the National People's Congress enacted legislation that provides individuals greater protection from arbitrary punishment by police and government agencies, which sets stricter standards on government agencies for imposing fines and fees, and which requires the ruling State Council to secure the approval of the People's Congress before declaring martial law.

Evidence of the past twenty years suggests that China is changing. You must remember back to the 1960's, when 10–15 million people were harmed or lost their lives. When I first went to China in 1979, it was impossible to have an open political discussion. People were simply too afraid.

Last month, international journalists openly interviewed ordinary Chinese citizens on the street about their views of the Taiwanese elections. Some supported the government's response, others did not. This change should not be underestimated. It is the unavoidable result of improving conditions and interaction with the West.

One has but to look back at the Cultural Revolution of 35 years ago to see the contrast and improvement in freedoms, in the increasing standard of living, wages and savings, and better education of the people, to know that things are changing and improving. As Minister of Trade Wu Yi said to me, "It isn't easy to go from a China which has been ruled by man for 5000 years to a China ruled by law." And that is what is happening.

With the Taiwan elections behind us, we now have the opportunity to move past some of the events that soured Sino-American relations earlier this year.

To do this, President Clinton must immerse himself fully in the details of this most delicate and critical of American relations. In the final analysis, the goal of American policy must be to encourage China toward a full and active relationship with the West and to work together toward a China that is able to take its role as a stable leader of peace and security in Asia, and an America that can be her ally.●

NATIONAL ENDOWMENT FOR DEMOCRACY TRIBUTE TO PRESIDENT LEE TENG-HUI, PRESIDENT OF THE REPUBLIC OF CHINA

● Mr. MURKOWSKI. Mr. President, I rise today to call my colleagues' attention to a recent event hosted by the National Endowment for Democracy honoring the first popularly elected President of the Republic of China, Lee Teng-hui. I was honored to serve as a cosponsor of this event with Senator LIEBERMAN.

It is entirely appropriate that this reception was organized by the National Endowment for Democracy [NED]. The recent direct, free and fair multiparty election for President in Taiwan is a model example of the activities supported by NED. I want to use this occasion to congratulate the NED for its continued involvement in encouraging free and democratic institutions throughout the world through private sector initiatives. A copy of the National Endowment for Democracy's tribute to President Lee is included at the end of my statement.

Americans everywhere should congratulate the people of Taiwan in casting ballots to complete their transition to a democracy during trying times—the first such transition in Chinese history. It is a tribute to the people's spirit and determination that bullets did not deter people from casting their ballots. And President Lee, who received 54 percent of the vote, can proudly take credit for having led Taiwan to this important juncture. He has set an example in leading his countrymen in deciding that the leadership of Taiwan will forever more be settled at the ballot box.

His victory on March 23 culminated a series of reforms—including lifting martial law, deregulating the media, legalizing opposition parties, and holding popular elections for all parliamentary seats—that have taken place in a peaceful and prosperous environment. This is an accomplishment for which all the free world should be proud.

President Lee deserves not only our well-wishes, but also our continued support as he now moves forward to map out Taiwan's destiny. As Taiwan continues to emerge as a force for democracy, freedom, and stability in Asia, I believe the United States should encourage their efforts to be represented in international organizations such as the World Trade Organization. The United States should also do what it can to encourage dialog between Taiwan and Beijing, and to contribute to peace and stability in the region.

I join my many friends in Taiwan in celebrating President Lee's triumph as Taiwan marks a milestone in civilization's march down the road of self-determination leading to liberty, human dignity, and personal and societal fulfillment.

I ask that a statement from the National Endowment for Democracy be printed in the RECORD.

The statement follows:

TRIBUTE TO PRESIDENT LEE TENG-HUI

(By the National Endowment for Democracy, April 16, 1996)

The election of Lee Teng-hui on March 23, 1996, as the first popularly elected President of the Republic of China was the culmination of a 10-year process of transition which The Encyclopedia of Democracy has called "a political miracle in twentieth-century Chinese politics, making Taiwan the first Chinese democracy." President Lee was the central figure and driving force behind this remarkable political transformation.

From the moment he assumed the presidency on January 13, 1988, becoming the first native-born Taiwanese to hold this office, he devoted himself entirely to the historic task of democratic transformation launched by his predecessor Chiang Ching-kuo. The process was at once swift and methodical, with each bold step coming in the proper sequence, laying the foundation for each subsequent advance.

Acting in the Confucian tradition of governance through consensus, he initiated the process with a conference on national affairs that achieved a political reconciliation between his own Nationalist Part and the opposition Democratic Progressive Party. There followed an agreement to establish a memorial and pay compensation to the victims of the uprising of February 1947; the elaboration of an approach to the issue of unification which became the basis for a new, pragmatic policy toward the People's Republic; the election of a new National Assembly representing only the voters of Taiwan that amended the constitution, preparing the way for the popular election of the president and vice-president by 1996; the voluntary retirement from the government of the party elders from the generation of Chiang Ching-kuo; and the first election for provincial governor and for mayors of Kaohsiung and Taipei, the race in Tapei being won by a member of the DPP who was a former political dissident.

This stunning process of change, leading ultimately to President Lee's election and the establishment of the first Chinese democracy, was all the more significant because it took place against a background of mounting threats from the mainland—which fears a Chinese model of democracy—and skepticism emanating from some capitals to the effect that democracy is a Western system unsuited to Asian cultures.

But it is precisely on this point, having to do with the roots of Chinese democracy in Confucian culture, that President Lee has spoken with unusual power and eloquence. At the conference on third wave democracy sponsored last August by the Endowment and the Institute for National Policy Research, President Lee expressed his confidence that "by injecting into our modern democratic order the political precepts long inherent in Chinese culture—of exalting the people's will and claiming that the government and the people form a unity—we can infuse democracy with a new vitality."

Lee Teng-hui is thus a unique figure in Chinese history, an individual with the wisdom to understand the need to integrate the two competing camps of contemporary Chinese political thought: the Confucianists and the advocates of Westernization. In so doing, he has embodied the Confucian ideal of ren, described in the entry on Confucianism in The Encyclopedia of Democracy as "cultivating benevolence, developing one's faculties, sublimating one's personality, and upholding the right to education, the right to subsistence, and the right to social and political mobility without distinction according to class." Ren, according to the Encyclopedia, represents "a new democratic ideal of society."

It is this ideal which President Lee Teng-hui has sought for his country and for the Chinese people. The National Endowment for Democracy is therefore proud to honor President Lee by presenting him with an embossed four-volume set of The Encyclopedia of Democracy, which recognizes his extraordinary contribution and confirms his philosophical vision. We do so in the belief that his message of democracy and reconciliation, rooted in Chinese history and culture, have an enduring relevance for China's future.●

CITIZENSHIP U.S.A. DAY IN CHICAGO

● Mr. SIMON. Mr. President, our Nation's immigrant heritage is exemplified best in the city of Chicago. Generations of immigrants, from Europe, Latin America, and more recently Asia and Africa have chosen to come to Chicago and have contributed immensely to the vitality and fabric that makes it such a great city.

Recently, the city of Chicago sponsored a naturalization ceremony for 1,200 new citizens at historic Navy Pier with the Immigration and Naturalization Service Chicago District Office.

To help immigrants fully integrate into our city and our society, Mayor Richard M. Daley established a citizenship assistance council to help thousands of immigrants complete the often complicated naturalization process. The council has attracted leaders from various ethnic communities and corporate leaders from Fannie Mae, United Airlines, and First Chicago. Through the citizenship council, Mayor Daley has committed to sponsor several large scale citizenship ceremonies with INS in the coming months.

The naturalization program in the city of Chicago is truly a joint effort between the Federal and local government. I applaud Mayor Daley's effort and ask that his speech welcoming the new U.S. citizens on March 18, 1996, and his proclamation declaring the day to be Citizenship U.S.A. Day in Chicago be printed in the RECORD.

The material follows:

MAYOR RICHARD M. DALEY'S REMARKS, CHICAGO CITIZENSHIP ASSISTANCE COUNCIL—NATURALIZATION CEREMONY, MARCH 18, 1996

I want to begin by congratulating everyone here on becoming United States citizens.

As Mayor, I attend many events—but swearing-in ceremonies are always very special.

Two years ago, I formed Chicago's Citizenship Assistance Council to coordinate the efforts of community groups that help immigrants become citizens. Today's ceremony is made possible thanks to a strong partnership among the Citizenship Assistance Council, the federal government, and the private sector.

Together, we are working to help the INS relieve the backlog of over 50,000 citizenship applications in the Chicago area. People have been waiting for as long as 17 months to be sworn in as citizens.

Throughout the year, we will work with the INS to increase the number of swearing-in ceremonies to help speed up the process.

We will conduct several large-scale citizenship ceremonies in the summer and fall.

Our corporate leaders on the Council include Fannie Mae, United Airlines, and First Chicago.

They will provide assistance in finding the necessary facilities and help to cover associated costs.

This is a wonderful example of how local and federal government can work with the private sector to get the job done.

Immigrants built Chicago and our country. And the business community understands this better than anyone.

America has always been strong because we have been a beacon for people who want to work hard, make something of their lives, and become Americans. We lose part of our national character when we shut ourselves off to different cultures.

Some politicians are trying to use immigrants as scapegoats. They have gone beyond blaming illegal immigrants for our problems—now they are even calling for more restrictions on legal immigration.

Legislation now pending before Congress would keep U.S. citizens from bringing their parents or children to this country.

This is wrong and unfair because it tears families apart and it sends the wrong message.

Proposed restrictions on employment-related immigration will also damage our country.

A flexible legal immigration system is essential to our economic growth and well-being.

Until last week, these restrictions were found in one piece of legislation that dealt with all aspects of immigration.

I want to thank Senator Paul Simon for helping to restructure that legislation into two bills—so that they address legal and illegal immigration separately.

And, I want to encourage the members of the House to do the same thing when the issue comes up for debate.

Immigrants help build this country—and they are still making us strong. We can't turn our backs on them now.

I urge Congress to keep this in mind as they debate restrictions on immigration.

Now, I'd like to read a proclamation designating March 18th as "Citizenship U.S.A. Day" in Chicago.

OFFICE OF THE MAYOR,
CITY OF CHICAGO,
Chicago, IL, March 14, 1996.

PROCLAMATION

Whereas, thousands of people have left their homes in other lands to come and live in America; and

Whereas, these immigrants have contributed their dreams, labor, and talents to making America a great country filled with opportunity and freedom; and

Whereas, these same people wish to show their commitment to their new country by pledging allegiance as new citizens; and

Whereas, today, we acknowledge the dedication of Commissioner Doris Meissner and the Immigration and Naturalization Service in assisting immigrants through the naturalization process; and

Whereas, Commissioner Meissner has made citizenship a priority, and has charged the Immigration Service to make major improvements in the processing of applications, working side by side with local governments and community organizations:

Now, Therefore, I, Richard M. Daley, Mayor of the City of Chicago, do hereby proclaim March 18, 1996, to be Citizenship U.S.A. Day in Chicago, and extend the City of Chicago's appreciation to Commissioner Meissner for helping to make thousands of immigrants' dreams come true.

RICHARD M. DALEY,
Mayor.•

CONGRATULATING THE UNIVERSITY OF MICHIGAN ICE HOCKEY TEAM ON WINNING THE 1995–96 MEN'S DIVISION I CHAMPIONSHIP

• Mr. ABRAHAM. Mr. President, I rise today to congratulate the University of Michigan ice hockey team on winning the 1995–96 NCAA Men's Division I Championship. With their 3-to-2 victory over Colorado College on March 30, the Wolverines captured the school's eighth NCAA National Championship, and first since the 1963–64 season.

The win was especially significant for head coach Gordon "Red" Berenson. After 12 seasons in Ann Arbor, Berenson, already the winningest coach in school history, celebrated his 300th career victory with the national championship. In the past 6 seasons, the Wolverines have won at least 30 games each year, the only team in college hockey to do so.

The Wolverine's accomplishments this season are certainly deserving of recognition. In addition to compiling an impressive 34 wins, tying a team record, the Wolverines were also the CCHA Playoff Champions, CCHA regular season cochampions, and Great Lakes Invitational champions. In the postseason, U-M's play was brilliant as well, managing three one-goal victories and one shutout in three different buildings in three different weekends on their road to the championship.

The 1995–96 University of Michigan men's hockey team has represented their school and themselves with distinction. Our State has every reason to be proud of these student-athletes, and we salute their dedication and excellence.•

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

HUMAN RIGHTS IN CHINA

• Mr. KERRY. Mr. President, the U.N. Human Rights Commission is preparing to consider a resolution that expresses the concern of the international community over human rights abuses in the People's Republic of China. As has been well-documented over the last year by the State Department, U.N. officials, and numerous human rights organizations, the Government of China has been responsible for an alarming number of human rights violations. In particular, there have been reports of arbitrary arrests and detention, torture, persecution of religious and ethnic minorities—particularly in Tibet, and censorship of expression. The evidence clearly demonstrates a deterioration in the human rights situation in China.

Despite this overwhelming evidence, apparently some of the members of the Human Rights Commission are reluctant to support a resolution that criticizes China. Unfortunately, this seems to be a response to intensive diplomatic pressure from Beijing. In fact, the Chinese diplomatic pressure began even before a resolution was introduced at the U.N. Commission.

At the end of March, I learned from the State Department that some members of the European Union [EU] were reconsidering their commitment to introduce a resolution on China at the Commission meeting this spring. I strongly believe that multilateral efforts, in institutions such as the Human Rights Commission, are potentially the most effective tool for pressuring China to improve its human rights record. Therefore, I authored a letter, signed by 10 of my colleagues from the Foreign Relations Committee, urging the Europeans to maintain their commitment to introduce a resolution on China at the Human Rights Commission. I am pleased that the EU members ultimately decided to introduce this resolution, and I hope that our letter encouraged this decision.

The European initiative, however, will be in vain if the Commission does not act upon the resolution. This is an important and opportune moment for the members of the Commission to join together in a multilateral effort to persuade China to improve its human rights record. I urge all member states to support the resolution. Even more importantly, we must reaffirm the prerogative of the Commission to consider any country's human rights record and to hold a vote on any resolution that is offered. That prerogative is being challenged by China, which is attempting to prevent the Commission from even considering the European resolution.

On December 10, 1948, the U.N. General Assembly adopted the Universal Declaration of Human Rights. For the first time in history, the countries of the world made a commitment to recognizing international human rights. Motivated by a conviction to prevent future atrocities, such as those committed during World War II, this declaration defined the human rights basic to every human being and pledged an international effort to protect these rights. Since the adoption of that declaration, many other international conventions have been signed and ratified by the international community. These conventions address a variety of internationally recognized human rights, including political and civil rights, the right to be free from torture or religious or ethnic persecution, the rights of refugees, and the rights of the child.

Why has the international community taken these steps to codify international human rights law? Because all societies around the world have recognized these principles as standards that should govern every state's behavior toward its own and other citizens. When a country violates the human rights of its citizens, it should be censured by the entire international community. We cannot allow any country—no matter how powerful or wealthy—to ignore the international legal norms of human rights. The United States has always supported the right of the international community to raise concerns over human rights violations in any country. In fact, last year the Government of Cuba introduced a resolution in the U.N. Commission on Human Rights condemning the United States for human rights violations. While this resolution was obviously ridiculous, the United States did not block a vote and the members of the Commission voted against Cuba's proposal. The important message here is that the United States recognizes the right of the international community to review every country's human rights record.

It is therefore all the more outrageous that China seeks to prevent international consideration of its own dismal human rights record. Whether or not countries support the resolution, which I fervently hope they do, all members should reject China's effort to prevent the Commission from carrying out its mission of calling attention to and censuring human rights violations wherever they occur around the world.

Mr. President, I urge all member states of the Human Rights Commission to vote against China's motion to prevent a vote and to support the resolution criticizing China's human rights record. It is only if the international community continues to work together multilaterally that we will be able to compel all countries—particularly China—to uphold internationally recognized human rights standards.•

ORDERS FOR TUESDAY, APRIL 23, 1996

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m., Tuesday, April 23; further, that immediately following the prayer, the Journal of the proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the Senate immediately resume consideration of Senate Joint Resolution 21, the term limits legislation, with debate between 10 a.m. and 12 p.m. equally divided in the usual form; I further ask that the Senate stand in recess from the hours of 12:30 to 2:15 for the weekly policy conferences to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, for the information of all Senators, the Senate will resume the term limits legislation at 10 a.m. At 12 noon on Tuesday, under a previous order, there will be 30 minutes of debate regarding the health insurance reform bill. It is hoped that an agreement can be reached Tuesday morning enabling the cloture vote on the term limits legislation to occur at 3:45 or 4 o'clock tomorrow afternoon. This would allow for the final passage vote on the health insurance reform bill to occur at 2:15 on Tuesday, immediately following the recess for the party conferences. The Senate may also turn to other legislative items that can be cleared.

So if we can work out this vote on term limits, that would probably be another 1½ hours for debate equally divided.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. DOLE. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:46 p.m., adjourned until Tuesday, April 23, 1996, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate April 22, 1996:

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

VICTOR H. ASHE, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2000, VICE ANDREA N. BROWN, TERM EXPIRED.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

ALAN G. LOWRY, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM EXPIRING MAY 29, 2001, VICE ROBERT W. NAYLOR, TERM EXPIRED.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED, UNDER TITLE 10, UNITED STATE CODE, SECTIONS 12203 AND 8373:

TO BE MAJOR GENERAL

BRIG. GEN. WALLACE W. WHALEY, [redacted] AIR FORCE RESERVE.

EXTENSIONS OF REMARKS

TRIBUTE TO JAMES I. GRACYALNY, A DEDICATED CIVIL SERVANT

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 22, 1996

Mr. LEWIS of California. Mr. Speaker, I rise to pay tribute to James I. Gracyalny, the Associate Deputy Assistant Secretary for Budget at the U.S. Department of Veterans Affairs. Jim is retiring after 35 years of Federal service.

Jim has appeared many times before the Appropriations Subcommittee on VA, HUD, and Independent Agencies in defense of VA's budget requests. Over the years he has been of great assistance to the subcommittee in its day-to-day dealings with the Department. We have always valued his counsel.

Jim is, I believe, a truly dedicated civil servant. His high standards represent what is best about the civil service.

Mr. Gracyalny began his Federal service at the VA in 1964. During his 32 years of service with the VA he has held a variety of positions. Since 1990, he has been Associate Deputy Assistant Secretary for Budget. Throughout his career, he has been a champion of his coworkers and has provided them with the inspiration to further their education and training.

Mr. Gracyalny received his undergraduate degree at La Salle University. He received a masters in public administration from George Washington University. Jim served his country during the Korean war as a line medic in the Army and continued serving after active duty, retiring from the Army Reserve as a colonel.

Mr. Speaker, Tuesday, April 30, 1996, is Jim's last day at VA. We will miss him. I know that you join me in wishing him and his wife, Barbara, a long, happy, and healthy retirement after 35 years of distinguished Federal service.

TRIBUTE TO THE LATE EDMUND G. (PAT) BROWN

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 22, 1996

Mr. WAXMAN. Mr. Speaker, on February 16, 1996, the State of California lost Edmund G. (Pat) Brown, one of its most beloved statesmen. All Californians have mourned the passing of this great leader, who was unmatched in his political skill, courageous leadership, and benevolence. He used his talents to make government an instrument of public good and his accomplishments as California's Governor from 1958 to 1966 are legendary.

Pat Brown embodied all of the qualities the American people yearn for in their elected officials. Columnist David Broder captured him in a way we can all appreciate in a column he wrote shortly after Pat died. April 21, 1996, would have been Pat's 91st birthday. In memory of his long and rich life, I invite you to take a moment to read David Broder's words, which are reprinted below.

CALIFORNIA IS HIS MONUMENT

(By David Broder)

If California were a nation, and not just a nation-state, the visage of Edmund G. (Pat) Brown Sr. would be carved into the Sierra equivalent of Mount Rushmore. Brown, who died last week at 90, shaped his megastate as surely as the greatest of the presidents have shaped this country. Reporters who covered him during his eight years as governor, from 1958 through 1966, and visited with him over the last 30 years mourn him as one of the true blithe spirits of 20th century politics. He was the most amiable of companions, a grand storyteller who liked nothing better than to tell or hear jokes at his own expense.

For years after it happened, you could get "the Guv" laughing so hard that his eyes teared by describing to him the spectacle he made when he missed John Kennedy's campaign train during a whistle-stop tour of California's Central Valley in September 1960. Brown had introduced the candidate from the back platform in one of the Valley towns, then climbed down and began schmoozing with people in the crowd.

Engrossed in conversation, Brown missed Kennedy's cue lines for departure—a quotation from "Colonel Davenport" that staff members and reporters took as a signal to jump back aboard—and made an unsuccessful lunge for the back platform. As Kennedy joined the others laughing, the portly governor jogged down the track, puffing heavily until the train was halted so he could reboard.

But there was nothing comical about what Brown accomplished in Sacramento. Elected at a time of burgeoning population and economic growth, Brown put in place the three ingredients vital for sustaining his state's progress: improved transportation, education and water systems.

His administration built 1,000 miles of freeways to keep the state from traffic gridlock. He opened almost a dozen new campuses of the University of California and the state colleges, giving California—for a time—the most accessible and inexpensive higher education system in the world. The Berkeley campus was one of the crown jewels of research and graduate education.

Perhaps his greatest achievement was the legislation creating the California water system. A native of San Francisco, Brown recognized that water was the issue that could deepen the long-simmering division between his own northern California, eager to protect its rich water resources, and the fast-growing but arid south.

At that time, before the Supreme Court's one-man-one-vote edict, small rural counties dominated the state Senate, where Los Angeles' millions of people had only one vote. It fell to Brown to cajole and pressure the Senate to authorize a 444-mile aqueduct that brought almost 2 billion gallons of water a day to the south, and later to obtain approval of the project in a closely fought referendum.

It was a battle that only a visionary would have waged, but Brown was a man who believed—in a way few politicians do now—that government has enormous capacity to improve life for people.

He also had an enormous capacity to enjoy people, whatever their politics. He started life as a Republican and once gained both Democratic and Republican nominations for attorney general under California's now-defunct cross-filing system.

Martin Smith, the retired political columnist of the Sacramento Bee, recalled Brown saying of Ronald Reagan, who thwarted his bid for a third term in 1966, "What an extraordinary human being. . . . Of course, I disagree with him 90 percent of the time."

Lyn Nofziger, Reagan's former press secretary, who was here helping Sen. Bob Dole, told me that just a few years ago, when he was crossing a street in Washington, "a big car rolled up, and Pat Brown rolled down the window, and asked, 'How the hell are you, Lyn?' He tied up traffic for 10 minutes just wanting to talk."

Jack Burby, who handled the press for Brown, recalled a different kind of encounter in 1963, a year after Brown beat Nixon to win his second term. The governor and Burby and their wives were having dinner at a restaurant in Paris. "The Nixons and a small entourage walked in. Pat, being Pat, wanted to jump up and lick his face. I suggested that he send him a note and invite him to join us for coffee and dessert. The waiter took the note over—and a few minutes later, the Nixon party walked past us without a word, and left the restaurant."

"It used to drive me crazy," Burby said, "that Pat had no mean streak. I would tell him, 'Even FDR got even.' but he wasn't interested in that."

The things he was interested in gave California its future. The whole state is his monument.

TRIBUTE TO THE ALLIANCE FOR THE CHESAPEAKE BAY

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, April 22, 1996

Mr. CARDIN. Mr. Speaker, I rise today to pay special tribute to the Alliance for the Chesapeake Bay, an environmental organization concerned with cleaning up and preserving Maryland's greatest environmental treasure, the Chesapeake Bay.

It is very appropriate that today, Earth Day, we turn our attention to the fine job done by the Alliance for the Chesapeake Bay. The bay is a national resource that has a profound affect on much of the east coast. It is 64,000-square-mile drainage basin—from the Finger Lakes in New York to the ports of Baltimore and Hampton Roads—provides millions of us with food, energy, recreation, and water.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Since its inception in 1971, the alliance has been dedicated to creating a healthier, cleaner bay. It has proven equal to the task. The alliance's nonadversarial approach has enabled it to work with a wide range of people for a better, cleaner bay. Over the years, the alliance has successfully rallied support from the business community, citizens groups, environmentalists, industry, scientists, farmers, sports enthusiasts, and others to preserve and restore the Chesapeake Bay.

The alliance has accomplished its mission by establishing several important programs. The alliance's public policy program builds consensus on issues that directly affect the bay; the Information Services Program provides unbiased information about issues; and the Watershed Restoration Program gets people involved in hands-on habitat restoration work.

I urge my colleagues to acknowledge the fine work of the Alliance for the Chesapeake Bay and to commit themselves to preserving the important programs that are so vital to the health of the Chesapeake Bay.

PATRIOTISM IS ALIVE AND WELL IN AMERICA

HON. FRANK A. LoBIONDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, April 22, 1996

Mr. LOBIONDO. Mr. Speaker, I commend to my colleagues and all Americans the following letter I received from Vincent E. Pellegrino, Adjutant of the Veterans of Foreign Wars Post 386 in Cape May, NJ. Patriotism is indeed alive and well in America.

VETERANS OF FOREIGN WARS
OF THE U.S.,
Cape May, NJ, April 1, 1996.

Congressman FRANK LOBIONDO,
Cannon House Office, Washington, DC.

DEAR CONGRESSMAN LOBIONDO: On Sunday, March 24, 1996, we both attended the Fiftieth Anniversary celebration of the Veterans of Foreign War Petrella, Repici, Caprionini, Champion Post 6257 in Belle Plain, New Jersey. The celebration was also attended by many veterans groups from the surrounding area, as well as the Gold Star Parents of Leland Champion, Jr., one of the veterans for whom this post is named.

I only wish that all of your colleagues in Congress could have been with us, to hear a very patriotic and emotional speech given by Commander Frank DiLorenzo, a veteran and Commander of Post 6257 in Belle Plain, N.J.

Commander DiLorenzo pointed out that it is no longer fashionable to salute or respect the flag of the United States, our greatest symbol of freedom. He also reminded us that Congress had refused to pass a law making it a crime to deface or destroy the American Flag.

As a veteran of World War II who served in the European theatre, I sometimes become discouraged at the direction this country is going. It appears that our Democratic system has failed, with high crime rates in our cities, failure of our children to be properly educated, families struggling to survive, high taxes, corruption in government, and a political system that appears to be in chaos. These concerns are also shared by many of my fellow veterans. We sometimes wonder if the sacrifices that were made in World War II, Korea, Vietnam, Lebanon, Somalia and Desert Storm are appreciated by our fellow Americans.

On Sunday, March 24, 1996, my faith in our Democratic way of life was restored, after listening to the speech given by Commander DiLorenzo. I know that he and many other Frank DiLorenzos throughout this country will continue to carry the message that patriotism is still alive in America.

I was also encouraged as we paraded through the streets of Belle Plain, N.J. to see American flags displayed on every home along our parade route.

Belle Plain, N.J. is a small rural community and during World War II had approximately two hundred residents. Twenty five men enlisted in the service and in 1944, Belle Plain, N.J. was notified that four of their young men, Joseph Petrella, Frank Repici, Thomas Caprioni, and Leland Champion, Jr. were killed in action. This is a close knit community where patriotism and family values are high.

Congressman LoBiondo, there are many communities like Belle Plain, N.J. in this country and my faith in the American system has been renewed.

I know that you are able to make a one minute speech in Congress before the regular session begins.

Please give your fellow Congressmen the message conveyed by Commander DiLorenzo, that patriotism still lives in America. Let them know that the sacrifices made by the residents in Belle Plain, N.J. through the four veterans Corporal Joseph Petrella, Private 1st Class Frank Repici, Private 1st Class Thomas Caprioni, and Staff Sergeant Leland Champion, Jr., who gave their lives for their country were not in vain.

God Bless Our Flag.
God Bless America.

Very truly yours,
VINCENT E. PELLEGRINO,
Adjutant.

EARTH DAY AND AST LEGISLATION

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 22, 1996

Mr. MORAN. Mr. Speaker, today we commemorate the 26th anniversary of Earth Day and recommit ourselves to protecting and improving our environment. We celebrate the progress we have made in cleaning our air and our water. We recognize, however, that we still have much more to do to ensure that our natural resources are preserved and protected for future generations.

It is in this spirit of protecting and preserving our environment that I rise today to introduce legislation that will provide greater protection for our ground and surface water against leaks from aboveground petroleum storage tanks [AST's]. Currently there are approximately half a million aboveground storage tanks located throughout this country. According to the Environmental Defense Fund [EDF], between 20 and 25 percent of AST's nationwide are leaking, posing threats to our ground water and surface water.

In northern Virginia, we learned all too well the problems that leaking tanks can cause. In September 1990, a petroleum sheen was discovered in a neighborhood creek in a Fairfax, VA, community. It was the beginning of a continuing nightmare for a number of local residents, who had to live with the knowledge that more than 200,000 gallons of petroleum products had seeped into their ground water and spread underneath their community, posing risks of fire and explosion. Home values plummeted, many people living in the community suffered from respiratory ailments, and Star Enterprise, a Texaco affiliate, spent more than $100 million cleaning the leak and settling claims.

No one wants these leaks to occur. But, unfortunately they do. Problems with leaking AST's are not restricted to northern Virginia. Leaks have occurred across the Nation, from Anchorage, AK, to Everglades, FL.

I have introduced comprehensive AST legislation in the past to address these leaks. In this session of Congress, I have moved away from the idea of a comprehensive regulatory program for AST's. Instead of duplicating efforts undertaken by States and the petroleum industry to improve AST safety, this bill builds on and enhances those efforts.

This bill represents a commonsense approach to ensuring better management of AST's. It acknowledges that five different Federal offices currently regulate AST's and that tankowners feel overwhelmed and overburdened by duplicative regulations.

To address these concerns, the bill requires the EPA to consolidate AST offices within EPA. In performing that consolidation, EPA must review all regulations that currently apply to ASTs and eliminate those that are duplicative. This consolidation will lead to simplification of the regulatory program and will ensure that tankowners understand the current regulations with which they must comply.

By improving the organization of the current AST program we allow EPA to do more with less. We also permit tank owners the opportunity to benefit from a streamlined, understandable regulatory structure.

In 1995, the General Accounting Office conducted a study of the AST regulatory program and identified seven areas where the program needed improvement. The bill provides EPA the authority to correct those deficiencies in federal law identified by the GAO. Any new regulations must be designed in the most cost-effective manner and substantial weight must be given to current industry standards.

This needed regulatory reform will improve the effectiveness of current regulations, lead to greater prevention and containment of releases from AST's and improve the environment. This new, streamlined approach to AST regulation has been developed with the guidance and input of a diverse coalition of industry and environmental groups, from the American Petroleum Institute, to the Petroleum Marketers Association of America, to the Environmental Defense Fund. Together, we have drafted a bill which both industry and environmental groups can support.

I am proud to have both Congressman DAVIS and Congresswoman MORELLA as original cosponsors of this legislation. In addition, I want to thank Senator ROBB for his work on similar legislation which has bipartisan support in the Senate.

This bill is a commonsense proposal to help improve our environment through regulatory reform. I look forward to working with my House colleagues and with the chairman of the relevant congressional committees to ensure that this legislation becomes a reality.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, April 23, 1996, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 24

9:00 a.m.
Select on Intelligence
To resume hearings on the roles and capabilities of the United States intelligence community.
SD–106

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the U.S. Forest Service.
SD–138

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine distance learning, and on S. 1278, to establish an education satellite loan guarantee program for communications among education, Federal, State, and local institutions and agencies and instructional and educational resource providers.
SR–253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD–366

Environment and Public Works
To continue hearings on S. 1285, to reauthorize and amend the Comprehensive Environmental Recovery, Compensation, and Liability Act of 1980 (Superfund).
SD–406

Labor and Human Resources
Business meeting, to mark up S. 1643, to authorize funds for fiscal years 1997 through 2001 for programs of the Older Americans Act, and S. 1360, to ensure personal privacy with respect to medical records and health care-related information.
SD–430

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Army programs.
SD–192

Special Committee To Investigate Whitewater Development Corporation and Related Matters
To resume hearings to examine issues relating to the Whitewater Development Corporation.
SH–216

2:00 p.m.
Foreign Relations
To hold hearings on the nomination of Princeton Nathan Lyman, of Maryland, to be Assistant Secretary of State for International Organization Affairs.
SD–419

Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings to examine the need for additional bankruptcy judgeships and the role of the U.S. trustee system.
SD–226

Veterans' Affairs
To hold hearings on the President's proposed budget for fiscal year 1997 for veterans programs.
SR–418

Select on Intelligence
Closed business meeting, to mark up proposed legislation relating to intelligence renewal and reform.
SH–219

APRIL 25

9:00 a.m.
Indian Affairs
To hold joint hearings with the House Committee on Resources on S. 1264, to provide for certain benefits of the Missouri River Basin Pick-Sloan Project to the Crow Creek Sioux Tribe.
SR–485

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on domestic air service in the wake of airline deregulation, focusing on challenges faced by small communities.
SR–253

Energy and Natural Resources
Parks, Historic Preservation and Recreation Subcommittee
To hold hearings on S. 902, to authorize the Secretary of the Interior to assist in the construction of a building to be used jointly by the Secretary for park purposes and by the city of Natchez as an intermodal transportation center, S. 951, to commemorate the service of First Ladies Jacqueline Kennedy and Patricia Nixon to improving and maintaining the Executive Residence of the President and to authorize grants to the White House Endowment Fund in their memory to continue their work, S. 1098, to establish the Midway Islands as a National Memorial, H.R. 826, to extend the deadline for the completion of certain land exchanges involving the Big Thicket National Preserve in Texas, and H.R. 1163, to authorize the exchange of National Park Service land in the Fire Island National Seashore in the State of New York for land in the Village of Patchogue, Suffolk County, New York.
SD–366

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Transportation.
SD–192

Judiciary
Business meeting, to consider pending calendar business.
SD–226

Special Committee To Investigate Whitewater Development Corporation and Related Matters
To continue hearings to examine issues relating to the Whitewater Development Corporation.
SH–216

2:00 p.m.
Foreign Relations
Business meeting, to consider pending calendar business.
SD–419

APRIL 26

10:00 a.m.
Commission on Security and Cooperation in Europe
To hold a briefing on the ethnic Turkish minority of Greece.
2200 Rayburn Building

APRIL 30

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Federal Emergency Management Agency.
SD–192

Commerce, Science, and Transportation
To hold hearings on the proposed nomination of Michael Kantor, of California, to be Secretary of Commerce.
SR–253

10:00 a.m.
Judiciary
To hold hearings to examine affirmative action in Calfifornia.
SD–226

2:30 p.m.
Commerce, Science, and Transportation
Oceans and Fisheries Subcommittee
To hold hearings On S. 1420, to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean.
SR–253

MAY 1

9:30 a.m.
Rules and Administration
To resume hearings on issues with regard to the Government Printing Office.
SR–301

2:30 p.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings to examine airport revenue diversion.
SR–253

MAY 2

9:30 a.m.

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To hold hearings on S. 1401, to amend the Surface Mining Control and Reclamation Act of 1977 to minimize duplication in regulatory programs and to give States exclusive responsibility under approved States program for permitting and enforcement of the provisions of that Act with respect to surface coal mining and reclamation operations, and S. 1194, to amend the Mining and Mineral Policy Act of 1970 to promote the research, identification, assessment, and exploration of marine mineral resources.

SD-366

MAY 3

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Veterans Affairs.

SD-192

MAY 7

10:00 a.m.

Judiciary

To resume hearings on S. 1284, to amend title 17 to adapt the copyright law to the digital, networked environment of the National Information Infrastructure.

SD-106

Joint Library

Business meeting, to consider a report of the General Accounting Office on the Library of Congress.

SR-301

MAY 8

10:00 a.m.

Veterans' Affairs

To hold hearings to examine the reform of health care priorities.

SR-418

2:00 p.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Housing and Urban Development.

SD-192

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Internal Revenue Service, Department of the Treasury.

SD-138

MAY 15

2:00 p.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the National Aeronautics and Space Administration.

SD-192

MAY 17

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Corporation for National and Community Service.

SD-192

MAY 24

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Environmental Protection Agency.

SD-192

SEPTEMBER 17

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Legion.

334 Cannon Building

CANCELLATIONS

APRIL 25

10:00 a.m.

Appropriations

Commerce, Justice, State, and the Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year1997 for the Department of State.

S-146, Capitol

POSTPONEMENTS

APRIL 25

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on proposed legislation authorizing funds for the Federal Trade Commission.

SR-253

SENATE—*Tuesday, April 23, 1996*

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear Father, help us to use things and love people rather than using people and loving things. Enable us all through this day to communicate esteem and affirmation to the people with whom we work. Help us to take time to express our gratitude for who people are, not just for what they do. Make us sensitive to those burdened with worries, problems, or heartaches and help us to make time to listen to them. May we take no one for granted.

Gracious God, we want to live this entire day with a sure sense of Your presence with us. Our desire is to do every task for Your glory, speak every word knowing You are listening. Remind us that every thought, feeling, and attitude we have is open to Your scrutiny. We commit ourselves to work for You with excellence so that when this day is done we will have that sheer delight of knowing we did our best for You. In the name of our blessed Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator LOTT of Mississippi, is recognized.

SCHEDULE

Mr. LOTT. Thank you, Mr. President.

Mr. President, this morning the Senate will immediately resume consideration of Calendar No. 201, Senate Joint Resolution 21, the constitutional amendment limiting congressional terms. Debate between now and 12 noon is equally divided in the usual form. Under a previous order, at noon the Senate will begin 30 minutes of debate on H.R. 3103, the health insurance reform bill.

Following that debate, the Senate will recess between the hours of 12:30 and 2:15 for the weekly policy conferences to meet.

Shortly, it is expected, we will be able to reach unanimous consent which will allow for the vote on passage of the health insurance reform bill to occur at 2:15 this afternoon.

Following that vote, the Senate will debate the cloture motion on term limits with the vote on cloture occurring at 3:45 today.

The Senate may consider any other legislative items during today's session that can be cleared on both sides for action.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. SANTORUM). Under the previous order, leadership time is reserved.

CONSTITUTIONAL AMENDMENT TO LIMIT CONGRESSIONAL TERMS

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of Senate Joint Resolution 21, a joint resolution proposing a constitutional amendment limiting congressional terms, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 21) proposing a constitutional amendment to limit congressional terms.

The Senate resumed consideration of the joint resolution.

Pending:

Thompson (for Ashcroft) amendment No. 3692, in the nature of a substitute.

Thompson (for Brown) amendment No. 3693 (to amendment No. 3692), to permit each State to prescribe the maximum number of terms to which a person may be elected to the House of Representatives and the Senate.

Thompson (for Ashcroft) amendment No. 3694, of a perfecting nature.

Thompson (for Brown) amendment No. 3695 (to amendment No. 3694), to permit each State to prescribe the maximum number of terms to which a person may be elected to the House of Representatives and the Senate.

Thompson amendment No. 3696, to change the length of limits on Congressional terms to 12 years in the House of Representatives and 12 years in the Senate.

Thompson (for Brown) amendment No. 3697 (to amendment No. 3696), to permit each State to prescribe the maximum number of terms to which a person may be elected to the House of Representatives and the Senate.

Thompson motion to recommit the resolution to the Committee on the Judiciary with instructions.

Thompson (for Ashcroft) amendment No. 3698 (to the motion to recommit), to change instructions to report back with limits on Congressional terms of 6 years in the House of Representatives and 12 years in the Senate.

Thompson (for Brown) modified amendment No. 3699 (to amendment No. 3698), to change instructions to report back with language allowing each State to set the terms of members of the House of Representatives and the Senate from that State.

The PRESIDING OFFICER. Under the previous order, the time for debate until noon today is equally divided and controlled in the usual form.

Who yields time?

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I thank the Chair.

Mr. President, several of my colleagues have expressed a desire to speak on the term limits amendment. As they work their way to the floor, I would like to make a couple of comments.

We have had a good debate in the last couple of days on term limits. It has taken about 50 years to get such a clear vote to the floor, and I can assure the President that it will not take another 50 years to get another vote on it. It is an idea that is not only demanded by the American people, but I think more and more the people in this body understand that we are incapable institutionally now of dealing with the problems facing this country under the current setup.

One could not be anything but amazed and somewhat saddened to listen to that giant oak of a man, Senator ALAN SIMPSON from Wyoming, yesterday as he recounted his experiences of three terms in this body. It was with a twinkle in his eye—because he always has a twinkle in his eye even under the most serious circumstances—but somewhat with a heavy heart as he is leaving this body after this year that he had to recount one more time what everyone in this body knows behind closed doors; that is, that we are bankrupting our country; that our Social Security system cannot survive as currently constituted; that Medicare will fall; that within a relatively few years a handful of programs and the interest on the national debt will take all of our revenues. He has seen this happen in his work on the entitlement commission, which is a bipartisan entitlement commission, and it comes to this same result, Democrats and Republicans alike. It was an almost unanimous report coming out of there saying basically that we are on the road to destruction for this country.

We probably cannot do enough wrong over the next 2 or 3 years, or maybe even past that, to really run our ox totally in the ditch. But just as sure as I am standing here, catastrophe lies down the road, and we are all fiddling while Rome continues to burn. That is what this constitutional amendment for term limits is all about because we are putting reelection above all else. Reelection requires spending because that is the way we buy votes with taxpayers' own money—by giving it back to them a little bit at a time. That is the cruel, hard truth. I do not claim to be the first one that said it.

In looking over some old documents in books, I ran across a quotation from

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Senator Danforth of Missouri who served in this body, who had the respect, I believe, of everyone on both sides of the aisle. As he left, he said these words:

> Deep down in our hearts, we believe that we have been accomplices to something terrible and unforgivable to this wonderful country. Deep down in our hearts, we know that we have bankrupted America and that we have given our children a legacy of bankruptcy. We have defrauded the country to get ourselves elected.

Those are harsh words spoken by a gentle man just as Senator SIMPSON did yesterday. All of the pundits and folks in the media who are only concerned about wins and losses and numbers of votes will have their day perhaps this time because we will have a vote this afternoon. But I can assure you that on down the road, as the consequences of our actions become clearer and clearer and clearer, the time will come with the success of a constitutional amendment for term limits.

One of our distinguished colleagues took the floor yesterday opposing term limits, and it seems that he took the matter somewhat personally. He operated under the assumption that this amendment cannot possibly be anything other than an attack, a personal attack, on Members who have been here for a long time, and he seems to take it as such; it cannot be anything but based on an assumption that everybody that comes to the U.S. Congress is coming to line their own pockets. He said that he thought basically that was the assumption for the term limits movement—that we wanted to get even with somebody; that we wanted to punish somebody.

That is not it, Mr. President. That is not it. Had he listened to the debate, listened to Senator SIMPSON, listened to Senator BROWN, who served in the House and the Senate—and he is also leaving this body of his own volition to return to private life—Senator ASHCROFT, and the other Members, I think he would have found a gentleness of approach, a gentleness of spirit, of sincerity, and a concern for the future of this country.

This is not about getting even. This is not about besmirching the reputation of those who have served here before so gallantly. This is not about defiling the names of the giants who have walked these aisles.

As I said, yesterday, I used to sit up here in the galleries, not much more than a small boy, and look at these giants whose shoulders we stand on today, and listened to their debates. Back in a time not too long ago when we had more time to debate, we had more time to reflect, the Government had not grown quite so large. We were still balancing the budget in this country as late as 1969.

A good argument can be made that our system has worked pretty well now for a long period of time. The only problem is now that circumstances have changed. Our Founding Fathers never could have anticipated a professional Congress, but our Founding Fathers could anticipate changes in society and circumstances. They could not probably have ever guessed of the modern technological miracles we have today such as television, such as the fax machine, such as airplanes, and the vast numbers of things bringing people to Washington, DC, wanting more—wanting more programs, wanting more money, wanting a bigger share: "Yes, I know you have to balance the budget but take a look at ours; this is different," which we get day in and day out, day in and day out.

Over the past relatively few decades, it has resulted in a situation where, as I said before, a relatively few, a handful of programs are going to take all of the revenues that we have. Those who are concerned about children, there will be no money for children's programs. Those who are concerned about the elderly, there will be no money for that. Infrastructure, many thoughtful people in this country, with whom I agree, say that in some areas we ought to be spending more on infrastructure—roads and bridges are falling into disrepair; research and development, things that will make us stronger in the future, we are not spending enough on that.

The reason, of course, is that there is no immediate political payoff. If you cannot send somebody a check in the mail before the next election, there is no immediate political payoff, and it comes right back around again. Our desire for constant reelection pushes the spending, pushes the growth of Government, and pushes the next generation into bankruptcy just as surely as I am standing here.

That is what this is about, trying to come up with a system, adjusting under the Constitution as our Founding Fathers anticipated and as they provided for in the Constitution, a thoughtful deliberation, which is very difficult to get. It has to pass here by a two-thirds vote and then be sent to the States, and the States have 7 years to ratify it—a very long and difficult process. So it is not radical. It is a conservative process based on the principles of the Founding Fathers.

So that is what it is about, trying to come up with a system, trying to adjust our system in a way so that we are better equipped to deal with the problems we do not seem to be able to deal with today.

Would it solve all of our problems? Certainly not. Would we immediately start balancing the budget and would the prestige of Congress immediately change? Probably not. But we would be on the right path. If we try something long enough and keep getting the same results, is it not, when the stakes are so high, incumbent upon us to try something a little bit different? As much as most of us respect and revere this institution—and I do—it has never made any sense to me to struggle so hard and sacrifice so much to become a Member of a body that you do not respect. But despite our respect, we must recognize that among the American people it is not there anymore. It is not there the way it should be.

So in our constant scramble to supposedly be responsive and give people what they want, that is, money, programs, expanded in many cases at 10 percent a year ad infinitum, which we all know cannot be sustained, we are creating the enmity of the American people at the same time, as if they were not aware of all of these wonderful things we were supposedly doing for them.

It has been pointed out that we would lose the benefit of the services of many people who have served long terms in this body before, and that is true. There is no question but that term limits would deprive us of the services of some good people. But I urge, Mr. President, that as we continue this debate we refrain from personalizing this debate. This has nothing to do with myself. This has nothing to do with individual Members who are currently serving in this body. We will be lucky if they remember us 24 hours after we leave.

This has to do with the institution. This has to do with the country. This has to do with the kind of institution that this country needs in order to carry us into the next century to cope with these terrible problems. Certainly we would lose some valuable experience, but in all candor the experience that we have has not shown or demonstrated the ability to keep us out of the fiscal and reputation quagmire we see in Congress today.

We would lose some expertise, but what would we gain? We have 250 million people in this country. Under the current system where the incumbent has all of the advantages because of the spending I referred to and because of the reciprocation by those who have the money spent on them, usually in terms of campaign support, incumbents even in revolutionary years are reelected at the rate of 90 percent if they choose to stand for reelection.

So we have a small fraction of 1 percent of the people who have a realistic chance, a realistic opportunity to serve in this body. Most good people now do not bother. If the system were opened up to these positions after 12 years, 12 years is by some measures not a great deal of time but by some measures it is not a short period of time either. It is much longer than George Washington served. It is longer than Thomas Jefferson served. They managed to make a name for themselves in less than 12 years. So it is not an onerous, punishing type of proposition. But look at what expertise and experience we would bring into the system if people knew these positions were going to be open from time to time. We would have people coming in from the private sector. We would have people with acknowledged experience in business and labor, in farming, in being a mother and a father to mix and mingle with those who have already been here for a while.

Senator FRIST, my colleague from Tennessee, pointed out the number of physicians we used to have in this body, a high percentage of physicians when the country was first founded, members of the clergy. You do not see that much anymore. I simply think that if we had the system open, it would encourage more people, knowing they could not stay forever when they came, that it would be not a career for them but an interruption to a career, and they would come in with that experience, bring it to bear on their public service and, while they were here, I think would be more likely to do what it would take to speak the plain truth even if they risked the voters getting angry at them and sending them home a little prematurely because they are going home anyway. It would not be a catastrophic condition. I believe we would see a little more courage, a little more ability to stand up to the tough challenges that this country is going to face.

So just to attempt to refocus as we begin the morning—I see Senator BYRD is in the Chamber—I reiterate this is not about vindictiveness. It is not about personalities. It is not about quick fixes. It is a sincere effort on the part of many people around this country and in this body to think in terms of how best can we be equipped.

The current system arguably has served us very well for a long period of time. But is it not incumbent upon us to make adjustments as we go along to better equip ourselves to cope with the problems that we are leaving the next generation?

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the Chair.

Mr. President, I compliment those Senators on both sides of the aisle and those on both sides of the question. Everyday we disagree about one thing or another, and so we can expect to disagree in this instance, on this issue. I have nothing but the utmost respect, however, for those Senators who hold a different viewpoint from the one that I hold and that I will undertake to express.

Mr. President, proposing to amend the Constitution of the United States is one of the most serious and profound endeavors that this or any other Congress can undertake. It is not an act that any Senator or any Member of the House of Representatives, having sworn to support and defend the Constitution, can take lightly or inadvertently or absent great deliberation. On the contrary, a constitutional amendment must be considered thoroughly and exhaustively if it is going to be adopted here and ratified in the States. All of its ramifications must be rooted out and fully understood.

While some may believe that it is important to consider an amendment with deference to the views of the American people—and I think that is important—I believe it is equally important that we also maintain a deep respect for the wisdom and the vision of those Framers who painstakingly crafted the Constitution 209 years ago.

It is extremely important, then, particularly as we consider a constitutional amendment to limit the service of Members of the House of Representatives and the Senate, that each of us looks beyond the opinion polls, beyond the radio talk shows, beyond the op-ed pages. We must, as I believe our duty requires, go beyond the rhetoric, the political posturing and pandering and the 30-second sound bites that have enveloped this issue.

Instead, we must look back, back to the history of the Federal Convention of 1787. Cicero said, "To be ignorant of what occurred before you were born is to remain always a child." So, let us look back. It is paramount, I think, that we take the time to understand and reflect on what the Founding Fathers intended, but before proceeding down that path, I think it is also important to point out the often overlooked fact that a limit on the terms of the Members of Congress already exists in the Constitution.

Here in my hand is my Contract With America. I took an oath to support and defend it. I have taken that oath many times. It is the Constitution of the United States, and in article I, section 2, a limit is placed on the terms of the Members of the House of Representatives, and in article I, section 3 of the Constitution—not the so-called Contract With America—the Constitution, article I, section 3, a limitation of 6 years is placed upon the terms of U.S. Senators.

And so, Mr. President, by that very language that was written into this Constitution, one can see that Members of Congress have already been subjected to limited terms—2 years in the case of the House and 6 years in the Senate.

Consequently, what we are debating here with respect to this proposed constitutional amendment is not a term limits amendment, per se, but rather an amendment that would limit the tenure, an amendment that would limit the service of a Member of Congress; a vastly different proposition, a limitation on the service of Members of the Senate, a limitation on the service of Members of the House.

I am hardly surprised that when proponents of the so-called term limits amendment refer to the Framers, they do so to evoke the image of a citizen legislator as a way of bolstering support for their cause. They say we need to amend the Constitution in order to preserve the Framers' original vision of individuals who would set aside their plows—as did Cincinnatus in the year 458 B.C.—to serve this great Republic, only to return to their fields as swiftly as possible. Citizen legislators! Well, I am a citizen. I am a citizen legislator. I do not look at service here as a hobby, something I should engage in for one or two terms. I look upon it as a service which I can contribute to my State and my country.

When I think about those men who labored to write the Constitution—men like James Madison who served in the other body four terms, not a maximum of three terms, he served four terms in the House of Representatives—George Mason, James Wilson, Benjamin Franklin and others who labored to write the Constitution—I have serious doubts about the veracity of that claim. That such men could truly embrace that bucolic notion is, at best, dubious, particularly in light of the fact that these were men who devoted nearly all of their adult lives to public service. No one, then, should be misled by this romanticized interpretation of the Framers' views.

The lack of a provision in the Constitution limiting the tenure of Members of Congress was certainly no oversight. In fact, the issues of terms and tenure were discussed by the delegates on several different occasions.

As early as May 29, 1787, days after the requisite number of delegates had taken their place in Philadelphia, the so-called Virginia plan was laid before the participants. May 29, that is my wedding anniversary. Next May 29, the good Lord willing, my wife and I will have been married 59 years. So it is easy for me to remember the day on which Edmund Randolph submitted his plan—May 29, 1787. That plan, which would become the basis from which the convention worked, was offered by the State's Governor, Edmund Randolph, on behalf of his fellow delegates from Virginia. The Virginia, or Randolph, plan proposed 15 resolutions for the formation of a government, with the fourth and fifth resolutions directly addressing the issues of terms and tenure.

It is instructive to note that with respect to tenure for Members of the House and Senate, both the fourth and fifth resolutions of the Virginia plan remained silent. Neither offered the assembled delegates a specific recommendation. On the contrary, the spaces on the page stipulating how long it would be before a Member would be "incapable of reelection," were simply left blank. Moreover, by June 12, after initially debating the issue of term length, the Convention unanimously agreed to strike the clauses in both the fourth and fifth resolutions limiting reelection. Here we have, then, the assembled delegates to the Federal Convention refusing to limit the number of terms a member of the proposed national legislature could serve.

Mr. President, notwithstanding their unanimous agreement on the matter of tenure, we also know from Madison's notes on the debates that there was a wide range of views among the delegates as to how long a Senator's term should be. While there was a general consensus that, of the two legislative bodies, the Senate was to be the one of greater deliberation, greater stability, greater continuity, the duration of that term was the subject of much debate.

On June 12, which happens to be my lovely wife's birthday—but she was not around on the June 12 that I am talking about—on June 12, 1787, for example, before striking the clause limiting tenure, the delegates turned their attention to the issue of term length. While in the Committee of the Whole, the first proposal for senatorial terms came from Richard Spaight of North Carolina, who thought that 7 years would be a proper amount of time. Roger Sherman thought 7 years was too long, arguing that if Senators did their jobs well, they would be reelected, and if they "acted amiss, an earlier opportunity should be allowed for getting rid of them." As a compromise, Sherman thought a term of 5 years suitable.

Edmund Randolph, who offered the original Virginia plan, weighed in on the matter with the observation that the object of the Senate would be to control the House. If it were not a firm body, according to Randolph, the House, by virtue of its superior number of Members, would overwhelm the Senate. Madison agreed. He considered a 7-year term appropriate and not giving too much stability to the Senate. On the contrary, Madison "conceived it to be of great importance" that a stable and firm government, "organized in the republican form," was what the people desired. With that, the delegates adopted a 7-year Senate term by a vote of 8 to 1.

On June 25 and June 26, the delegates returned to the issue of senatorial terms. Nathaniel Gorham of Massachusetts initially suggested a 4-year term, with one-fourth of the Senate to be elected every year. Roger Sherman of Connecticut proposed a 6-year term. George Read of Delaware went so far as to suggest that Senators hold their offices "during good behavior," thus, in effect, constituting a lifetime term.

Despite these differences, the delegates did, as we know, eventually agree to a 6-year term. But even that decision was tempered with a "check" by requiring that one-third of the Senate stand for election every 2 years, a provision aimed at ensuring the frequent participation in the electoral process of the State legislatures, whose members, prior to the adoption of the 17th amendment in 1913, were charged with selecting Members of the U.S. Senate.

Mr. President, clearly, the underlying issue for the delegates to the Federal Convention, as it should be for us here today, was the degree to which limited tenure, the degree to which limited service in office would adversely impact on the level of experience gained by a Member of Congress.

Mr. President, one of the great advantages that comes from allowing voters to return their Representatives and Senators to Congress again and again is that Members of Congress are able to gain experience in the legislative process—the experience. It is a process that has become increasingly difficult to master. James Madison understood that. He told us right there in Federalist No. 53 that a crucial part of experience "can only be attained, or at least thoroughly attained," by the actual experiences a person gains as a result of practicing his craft.

I shall read from Federalist Paper No. 53 this excerpt:

> No man can be a competent legislator who does not add to an upright intention and a sound judgment a certain degree of knowledge of the subjects on which he is to legislate. A part of this knowledge may be acquired by means of information which lie within the compass of men in private as well as public stations. Another part can only be attained, or at least thoroughly attained, by actual experience in the station which requires the use of it.

No Senator, Mr. President, can garner more experience as a legislator, and no Member of the House can become a more seasoned Member of that body, through the route of constitutionally mandating limited service in the Senate or in the House.

I know of no other profession in which we actually consider experience a disadvantage. Would anyone needing open heart surgery seriously consider going to someone who had never performed the operation? Or would one tend to seek out a seasoned surgeon who had performed many such operations, perhaps hundreds?

I recently had the experience of having a root canal done. It was the second such that I had experienced. Would I have felt confident in the hands of someone who just walked in off the street or in the hands of someone who had practiced only, say, for 6 months? When that drill starts twirling and whirling and cutting, throwing the dust, I feel better that the person who is handling that drill is a person long experienced. The individual who performed my root canal had done perhaps 40,000 to 50,000 such operations over a long period of time. I submit that the answer is obvious. Only in the area of public service are the people being asked to believe that less is really more.

I do not like to fly. I never have liked to fly, and when I have been on an airliner in a storm I have always felt better believing that that pilot possessed the long experience that gave me the confidence that I needed so much at that point in time.

Mr. President, we are discussing an amendment to the Constitution that would, by definition, create a class of legislators who would, for virtually all of their service, remain relatively inexperienced. Patrick Henry said in a speech delivered in the Virginia House of Delegates, in 1775, "I have but one lamp by which my feet are guided, and that is the lamp of experience." Benjamin Franklin, in "Poor Richard's Almanac," said, "Experience keeps a dear school, but fools will learn in no other."

There is no substitute for it—none! It takes years to master many of the difficult issues with which this country must contend, but here we are, discussing an amendment to the Constitution that would, by definition, create a class of legislators who would, for virtually all of their service, remain relatively inexperienced.

Clear comprehension of national defense policy or the Federal budget or tax issues does not come without long, long years of study and experience. Yet, this amendment implies that we can cure the Nation's ills if only we can find a way to eliminate, or at least reduce, experience. It is really a turning of logic on its head.

Additionally, I wonder if the proponents of the amendment have considered the effect which limiting terms may have on the careful attempt by the Framers to balance the power of the small States and those with larger populations. There has historically been a desirable offset, an advantage that such experience can bring to a State like Rhode Island or North Dakota or Montana or my own State of West Virginia. As it is now, a small State can have confidence that if its Members are in the other body long enough under the system of seniority, they may become chairmen of important committees.

Under this amendment, the small States will be at the mercy of the large States. The few large States will control the House of Representatives under this amendment. They would determine who would serve as chairmen of the committees. The small States will be at a great disadvantage. The large States will be able to control the committee chairmanships in the other body. The other States will not be in a position to control, but will be controlled by the large States. How can a small State, stripped of even the advantage of an experienced legislator, hold its own against the more populous States, which have a numerical advantage in the House of Representatives?

Mr. President, I will also point out that the issue of experience goes well beyond the ability of a single Member of Congress to offer effective representation to a State or district. Indeed, the lack of experience on the part of the whole would affect each and every one of us in this Chamber or in the House of Representatives. For to whom is the inexperienced legislator to look for guidance if all of his colleagues are inexperienced? When we have our debates on national defense, I listen to SAM NUNN. He has no equal in this body when it comes to knowledge of military affairs—national defense. I listen to him. I do not have that knowledge. I serve on his committee. I have been serving there 3 or 4 years. But SAM NUNN possesses the knowledge that not only benefits him and his own constituents, but benefits me and my constituents, and benefits every other Member of this body. We look to him for guidance.

What about a PAT MOYNIHAN, when we think about legislation affecting Social Security or welfare? He has been here 19 years, and he has gained through the experience. So I listen to him. With whom do Members of the Senate discuss defense issues if there is no SAM NUNN? Or foreign affairs, if there is no J. William Fulbright, or if there is no RICHARD LUGAR? From whom do the less experienced Members seek advice on the difficult issue of immigration? I go to ALAN SIMPSON on matters affecting immigration. I do not serve on the committee that has jurisdiction over that subject matter, so I go to someone who serves on that committee and who, by virtue of his long service and experience, is in a position to advise me. The same thing can be said about the freshman legislator who is concerned with the issue of Medicaid or Medicare. Again, I would look to PAT MOYNIHAN.

So each of us seeks out the advice of senior colleagues on these other matters. Each of us looks to the more experienced Senator when trying to understand the great issues that face this body. Each of us seeks advice. All of us benefit from that advice and that experience.

The problem with the issue of term limits is that it is but another quick fix in the growing list of quick fixes which have been advocated by those who seek easy answers to our Nation's complex problems. Well, there is an easy answer to every problem. But, unfortunately, those easy answers are usually the wrong answers.

In each of the last six congressional elections, less than 40 percent of the voting age population in this country actually voted—less than 40 percent. Interest in Government, generally, is not very high. I believe that putting congressional elections on a sort of automatic pilot would very likely have the unintended effect of further lessening that voter interest—meaning that Members of Congress would, instead of drawing closer to the folks at home, likely become even more distant. Voters would, I fear, tend to not even bother to follow the views of a Member in his or her second term, since that individual could not run for the same office again anyway.

Consider that what we may be doing here, in the case of the second term for a Senator, should this amendment be adopted—which God avert—is to create an individual accountable to absolutely no one in his second term in the Senate. Once he is elected to that second term and walks up there and takes the oath, he can forget about his constituents. He need not be obligated to them. He cannot be elected to a third term. He or she could vote any way they pleased, cutting a deal that benefits them or rip off the Public Treasury with wild abandon, because there would be no election or voter scrutiny to worry about. Why even bother to answer the mail in that second term? He will be looking at every lobbyist who walks in the door of the office as a potential employer. "That is the guy I will be working for, perhaps, after this 6-year term is up. I cannot run again for reelection. So he is a potential employer. I should align myself with his interests and feather my own nest in that fashion."

Mr. ASHCROFT. Will the Senator yield?

Mr. BYRD. I am happy to yield.

Mr. ASHCROFT. Is the Senator representing that, because a person is term limited he will automatically ignore his constituency? I ask that question because I spent two terms as Governor of my State. In my second term as Governor, I was term limited. But the kind of considerations which the Senator appears to be suggesting are really foreign to my mentality. I did not seek to rip off the public treasury, and I did not ignore my constituents. I did not view people who came to my office as potential employers. I sought to serve the people of my State. I am just not sure what the line of reasoning is. I inquire of the Senator, is this projection something that he thinks is an inevitable consequence of term limits?

Mr. BYRD. Mr. President, I heard the distinguished Senator from Tennessee [Mr. THOMPSON] say a little earlier today that it was his hope that we would avoid dealing in personalities. Of course, I do not imply anything of the sort of the distinguished Senator from Missouri. He may read that implication into what I have said. But I do not intend to imply that. I wish that he would not infer such. I am simply saying that Members who are elected to the Senate for a second term, under the pending constitutional amendment, could—and in some instances would, human nature being what it is—tend to forget their constituents, the people who sent them to this body, and look upon the lobbyist as a potential employer. That is plain language, and it should be easy to understand.

Mr. ASHCROFT. I thank the Senator.

Mr. BYRD. I thank the Senator.

Mr. President, one of the arguments put forth in favor of term limits is that Members of Congress, over a period of years, become corrupt as they acquire power. Well, let us see. BOB DOLE has been a Member of this body 28 years. Has he been corrupted? If he has, why does some Member not take action to haul him up before the Ethics Committee? I have never heard even a whisper of corruption directed toward BOB DOLE. But he has been here 28 years. What about Senator Russell, who was here 38 years? Not a whisper. Not a whisper of corruption. According to term limit advocates, the longer legislators stay around, the worse the corruption. What about Henry Jackson? He was here 30 years in this body, serving here the day he died. Was he corrupt? What about Everett Dirksen, a great Republican leader. I served here when Everett Dirksen was the Republican leader. He had been here 18 years when he died in office. Was he corrupt? What about TED STEVENS, who has been here 28 years. Is he corrupt? No. He is an experienced, dedicated legislator. His constituents are fortunate in having a man like TED STEVENS here, with all the experience he brings to bear in their behalf.

So to avoid this corruption, they say, limit legislators to a specific number of terms. Well, no one doubts that some individuals will abuse power. They always have since the beginning of the human race. Whether they are in the private sector or in the public sector, in the legislative, executive, or judicial branches, the examples of corruption are obvious.

It is highly specious, however, to jump to the conclusion that corruption is a result of long service in office. Yes, of course, there are examples of legislators abusing their power over the years. But there are many more examples of legislators using their office, tenure, and experience for the public good, without thought of private reward, other than the satisfaction of seeing a job well done.

If we believe that tenure breeds corruption, why not extend that theory to other occupations? At the very moment when surgeons, engineers, teachers, carpenters, electricians, and other specialists master their jobs and hone their skills, down comes the decision to end their careers. "Sorry, you might be good at your job, but you are apt, over the years, to abuse the trust we have placed in you and become corrupt. We are replacing you with neophytes and amateurs."

What a transparently arid theory. What a colossal loss of talent. What a lamentable waste of money.

If there had been a constitutional amendment limiting service in the other body to six terms, John Quincy Adams would not have served there 17 years after he had been President of the United States—17 years, and he died while serving in that office. TRENT LOTT would not have served in the House of Representatives for 16 years before coming to this body.

Howard Baker would not have served 18 years in this body, had this amendment been in place.

Sam Ervin, one of the great constitutional experts in our Nation's history, would not have served in this body 20 years and given to those of us who served with him, to his constituents, and to the people of the country the benefit of his valuable service.

Ed Muskie, who was the father of the Clean Water Act and the father of the Clean Air Act, served 21 years in this body. But with this amendment in place we would not have had an Ed Muskie.

Arthur Vandenberg, a great Republican statesman, who was steeped in foreign affairs, was able to give to the service of this country 23 years in this body.

Look at PETE DOMENICI from the State of New Mexico. Nobody in this body is his peer on budget matters when it comes to knowledge in depth about the budget. PETE DOMENICI is a man who is, in my judgment, the best informed on the budget of anyone in this Chamber. With this amendment in place, he could not have served the 23 years by virtue of which he has acquired that knowledge.

Thomas Hart Benton of Missouri would not have served 30 years in this body.

Moses would not have led the Israelites from Egypt through the wilderness to bring them to view the Promised Land—he led them for 40 years—if there had been a limit on service. He would have been out a long time ago. Cato would not have served long in the Roman Senate, and Cicero would not have served long in the Roman Senate.

Winston Churchill served the people of England 50 years in Parliament. I am told that Churchill served 50 years in the Parliament. Would the people of Great Britain have had the path of leadership of that great giant Churchill in World War II, who talked about sweat, blood, and tears? Not if there had been a term limitation. If there had been a limitation on terms, they would not have had that leadership, nor would the free world have had it.

The awful simplicity of the term limits idea is even more obvious when we think about the practical results. Right now, Members of Congress can remain in office so long as their interest in public office continues and they are successful in primary and general elections. Their thoughts are devoted to reelection and service in office.

Mr. President, do you know how many Senators in this body today have served less than two full 6-year terms? More than half—51 Senators—51 percent of the Senators, have served less than two full terms in this body as of this moment. In the other body, almost half of the membership has served less than 4 years—less than two full 2-year terms. One-hundred and ten came into the House in 1992, and six more by special election in between, and 87 freshmen last year.

So there are 203—almost half—218 would be half. Almost half of the other body has served less than two full terms.

Then why do we talk about term limits? The American people already have it within their hands to limit the service, the tenure, of Members. Look at the membership in both of these bodies, and you will see that the scheme which was laid down by the Framers of the American Constitution has been working, and working well.

It takes little imagination to realize what happens when legislators, under the shadow of term limits, meet with lobbyists and members of the private sector. No longer are these meetings limited to an exchange of ideas and information. The agenda widens. Legislators look at lobbyists as potential employers after they leave Congress. Lobbyists treat legislators as future members of their work force.

What could be more corrupting? Legislators would then be tempted, from the start, to perform their public jobs with an eye toward private employment. Legislative decisions, trips, speeches, meetings, and other activities would be carried out not by focusing on public policy but on private ends: the private ends of legislators seeking jobs and the private ends of people in industry seeking special favors.

Talk about corruption? There it is, front and center. Why should legislators be concerned about the well-being of their own constituents? Why not, instead, feather their own nests? Why not elevate private interests over the public good?

That will be the contribution of this amendment to the Constitution.

Madison warned us against amending the Constitution too often. And, since that Constitution was written, there have been 10,869 constitutional amendments proposed—10,869. How many have been adopted and ratified? Twenty-seven, and the first 10 of those 27 constituted the American Bill of Rights.

(Mr. THOMAS assumed the chair.)

Mr. DORGAN. Mr. President, I wonder if the Senator will yield for a question?

Mr. BYRD. Yes. Let me say that I intended to yield the floor soon because I see other Senators here who are wanting to speak.

Yes. I yield.

Mr. DORGAN. Mr. President, I have listened with interest to those who have made their case, and the Senator from West Virginia, as always, makes a compelling case against term limits. It occurs to me that the term "term limits" is used to suggest somehow that it will limit those in politics.

Is not the case that this proposed constitutional amendment really limits the choices of the American people?

As I was thinking about that, there are very few examples, it seems to me, in the history of this country where we have changed the Constitution in a way that takes power away from the people. Prohibition was one, for example, and, of course, the country changed its mind on that after discovering its failure. But there are only a couple of instances in which proposed changes to the Constitution have diminished the people's opportunities and the people's right of expression.

This constitutional amendment, it seems to me, would say to the people in Arizona, or in Minnesota, that you cannot have the service of Barry Goldwater, even if you want him, beyond 12 years.

You are prevented from selecting Hubert Humphrey to serve beyond 12 years even if you choose to want that to happen. So is not this constitutional amendment one that is one of those unusual circumstances proposing to limit the choices the American people can make?

Mr. BYRD. The Senator is preeminently correct. It is a very undemocratic amendment. It is saying to the people: You are not smart enough to make a choice, so we are going to put into automatic pilot the limitation on the service of your Senators or your Members of the House of Representatives.

Mr. THOMPSON. Will the Senator yield?

Mr. BYRD. We are not going to leave to the people that choice. That choice will be taken away from them.

Yes, I yield.

Mr. THOMPSON. But is it not true that we often as a people place restrictions on ourselves as a part of our process? Is it not true that if 51 percent of the people or 60 percent of the people or 75 percent of the people want to abridge my speech, they cannot do that because of the Constitution, because of limitations we have placed on us, and specifically limitations we have placed on Congress, our elected representatives, that prohibit certain things regardless of how appropriate they may be? But it is a deliberate decision of the American people to restrict themselves. It is not that unusual. That is called the Bill of Rights and happens in other constitutional amendments.

Mr. DORGAN. Will the Senator yield for one additional question?

Mr. BYRD. Yes. Let me comment on what has been said by the distinguished Senator from Tennessee.

People may restrict themselves, but here we are talking about an amendment that restricts the people from exercising their own good judgment as to selecting for additional terms men and women who have served them honestly and well. So we are doing the restricting here through this amendment. Let us look at what the constitutional Framers did and see how well it has worked. They discussed that restriction and rejected it.

Yes, I yield.

Mr. DORGAN. I appreciate the Senator yielding. The point made by the Senator from Tennessee is an interesting one. I sat in the room in Philadelphia where they wrote the Constitution, and those who visit that room, called the "Assembly Room," will see George Washington's chair still in the front of the room, Ben Franklin, Madison, Mason. You will sit in there and experience the goose bumps, understanding what was done there over a couple of hundred years ago.

The point I was making was that with respect to constitutional change, it has been very rare that we would change the Constitution in a way that would provide a limitation on people. The Constitution largely sets out what are the powers of the Government specifically and all other powers vest in the people of this country. And so it has been only very rarely that anyone has successfully proposed placing limitations in the Constitution on the rights of the people—the right of the people from Tennessee to say to Howard Baker: We would like you to serve a third term. This change would say to the people of Tennessee: You no longer have that right. We are going to take that right away from you by amending the Constitution.

That is the point I was making. We certainly have the capability of changing the Constitution to do that. The point I was making is that we have done that only rarely because in most cases proposed constitutional changes are done to take rights away from Government and say, no, there is too much encroachment here. This by contrast is to say, no, we will diminish somehow the rights people now have. That is the point.

Mr. THOMPSON. Will the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. THOMPSON. I appreciate that. The Senator makes a very good point. But I would ask, what do we say to those people who go to the ballot box in their own States on a referendum and vote overwhelmingly to restrict themselves and say we choose for our own good reasons to restrict our Members as, what, 22 States have done? And now the Supreme Court, of course, has said you cannot do that. That is the one of the reasons we are here today.

I thank the Senator.

Mr. BYRD. Mr. President, I thank both Senators. Not only is this amendment undemocratic, but it also weakens the only branch of Government in which all of the members are elected by the people. Look at the executive branch and the judicial branch. Only two members, the President and the Vice President, are elected by the people, and they are not directly elected by the people. They are indirectly elected by the people, who elect the electors, who, in turn, elect the President and Vice President. But in this body and in the body across the way, on the other side of the Capitol, all Members are elected by the people. So this amendment would weaken the only branch of Government that is wholly elected by the people. It is going to say: You can only elect this person for two terms to the Senate, only three terms in the House.

I see in this ill-advised "solution-for-everything" called term limits, yet a further weakening of the people's branch. Few Americans realize how severely we have already tipped the checks and balances toward the executive branch. Thousands of executive branch bureaucrats, elected by no one remain in their posts for 20 or even 30 years. Congress is supposed to be the watchdog of executive branch activity. We are already badly outnumbered. Are we to totally cripple our ability to perform our oversight function by stripping ourselves of our one possible advantage, the ability of Members to become specialists, and, in many instances, experts in certain critical areas? This proposed change will leave Members of Congress mostly dependent upon the advice of executive branch bureaucrats, because they will have the only reservoir of indepth knowledge around.

In a country that tends to lurch and knee-jerk on questions of public policy, intentionally destroying any hope of institutional memory—and this body is lacking in institutional memory, almost totally lacking, and it will be more lacking when some of our good Members retire this year, and if this amendment is added to the Constitution it will be gone—seems to be a peculiar course to advocate.

As a matter of fact, the word "peculiar" fairly well sums up my own personal view of the popularity of this term limits idea, for it seems to imply that voters are not intelligent enough to decide for themselves when they wish to get rid of any single representative of the Senate or the House and put someone else in that person's place. This approach would make that decision for the voter, a sort of unfounded Federal mandate, if you will excuse the play on words. It would say, whether you want this person or not for a third or fourth term, you cannot make that decision. Whether or not a good job is being done for your State is an irrelevancy.

Such an approach is arbitrary. Such an approach diminishes the quality and depth of our national leadership overall, and is based on very little in the way of concrete evidence to recommend it. It is instead, an idea rooted in popular anger, whipped up by demagogues who peddle simplicity for political advantage.

This so-called term limits idea is little more than an over-sold bromide, purporting to fix everything from budget deficits to corns and bunions. In reality, it will do none of the above and should be roundly rejected in this body as it has already been in the House of Representatives. I urge Senators to vote against cloture later today on the resolution proposing this amendment to the Constitution.

I yield the floor.

Mr. President, I thank the Chair and I thank all Senators.

I yield the floor.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

UNANIMOUS-CONSENT AGREEMENT

Mr. THOMPSON. I ask unanimous consent that the vote on the passage of H.R. 3103, the health insurance reform bill, occur at 2:15 today, and further that immediately following that vote, the Senate resume consideration of Senate Joint Resolution 21, with the vote on the motion to invoke cloture occurring at the hour of 3:45, with all debate prior to the vote equally divided in the usual form, for debate only.

I understand this meets with the Democratic leader's approval.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. THOMPSON. Mr. President, I ask unanimous consent that Senator GRAMS and Senator THURMOND be listed as cosponsors of Senate Joint Resolution 21.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMPSON. Mr. President, I ask unanimous consent that Senator ABRAHAM be listed as cosponsor of amendments Nos. 3693, 3695, 3697, and 3699.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMPSON. Mr. President, I yield 10 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 10 minutes.

Mr. COATS. Mr. President, I thank my colleague for yielding.

It is really not my purpose today to criticize the 104th Congress. I have been a long-time advocate of congressional reform, and I think a number of important reforms have been undertaken and at least debated and discussed in this Congress. For the first time in my experience in Congress, we have actually addressed in a serious manner some of the reforms that I think the American people have advocated and that many of us who have studied the institution believe are necessary to respond to a more effective and efficient means of doing business.

We have finally applied those laws and regulations that we impose on others to ourselves. I think that alone will bring about a fairly dramatic way in which we analyze and review those laws, because for too long, we have followed the unconscionable practice of saying, "It is good enough for you but not good enough for us."

We have also passed the line-item veto, returning accountability to the budget process, an extraordinary transfer, voluntary transfer of authority and power from the Congress to the executive branch in recognition of our inability to grasp and get ahold of necessary spending limitations in order to be responsive to the principle of not spending more than we take in or ask from the people who we represent.

We have not only paid lip service to a balanced budget, but this Congress passed what I think was the most courageous budget in a generation, which, unfortunately, the President vetoed.

Some may argue that this issue of term limits is now less urgent or even unnecessary given these changes that we have made. But I argue that this is not the case. We have learned that changes in our laws must be accompanied by changes in the procedures of our institutions if change is to be meaningful and if it is to be lasting. Term limits remain, in my opinion, the single most important reform that will restore this institution to a position of public trust, and the trust in this institution is near an all-time low.

Mr. President, I believe that the most effective method for turning the tide of public cynicism toward Congress to a positive vein is to break the tie between careerism and power.

Prior to the Civil War, it was the common conviction that the surest protection from an imperial Congress—we hear a lot of words about an imperial Presidency here—but the best protection from an imperial Congress—and we have had imperial Congresses—was a frequent rotation of office.

Americans expected a Government of citizen legislators then, not career politicians. Though the principle was voluntary, it worked, because during the first half of the 19th century, between 40 and 50 percent of the Congress left office in every election. The theory is simple: Public servants will pass better laws, or perhaps no laws at all, when they expect to go home and live under the product of their work.

One delegate to the American Constitutional Convention warned, "By remaining in the seal of Government, they would acquire the habits of the place, which might differ from those of their constituents."

Mr. President, I am certainly not opposed to professionalism, but limits on a career would make the normal time-consuming, wasted business of reelection less urgent, because no amount of effort would guarantee job security. This would leave more time to the serious work of Congress, and strengthen the trust of this institution in the minds of the citizenry.

In addition, term limits, by forcing representatives to have one foot in the real world, might help restore their ability to empathize and their capacity for outrage.

A story about a former Senator George McGovern, I think, is instructive here. After retiring from public life, he opened an inn in Connecticut, a lifetime dream of his. After covering startup costs, meeting payroll, complying with regulations, and the general ups and downs in the free market, the inn, unfortunately, went belly up.

His comment on these events is instructive, and I quote him:

> I wish someone had told me about the problems of running a business. I have to pay taxes, meet payroll. I wish I had a better sense of what it took to do that while I was in Washington.

And, therefore, we are back to the concept of citizen legislator. Those who have had one foot in the real world, those who have experienced the problems of meeting a payroll, running a business, performing in a profession, being apart from the governmental process, have learned lessons that are invaluable when they give to public service and bring that experience with them.

Term limits serve two very important purposes: They rotate politicians back into the private sector to labor under the results of their work, and they create more opportunity for people of broad experience to come to Washington with the practical knowledge and innovative ideas in the private sector, assuring that our laws pass the reality check. We need public servants connected to their community by experience, not just by sympathy.

Do we risk losing the contributions of some very fine people? Without question, we do. However, as John Taylor said in 1814: "More talent is lost on long contrivances in office than by a system of rotation."

The hard fact is that our greatest problem is not the lack of talented men and women waiting in the ranks to take the place of those who leave; rather, it remains a surplus of entrenched power.

Some have argued that term limits would vest too much power with congressional staff, and that is hardly true either. The average length of service for House staff is 5 years; for Senate staff, 5.7 years. This is hardly a problem. Further, when you have new Representatives and Senators who come to office, they generally bring their own people with them, rather than inherit an entrenched staff. Term limits would more likely limit the tenure of powerful staffers who would lose their longtime patrons.

Others argue that term limits would restrict the public's choice. The Senator from North Dakota just argued that a few moments ago. I think just the opposite is true. By denying the American people the opportunity through their States and their State legislatures to ratify under the constitutional process what this Congress has done is a limitation on the power of people, not as the Senator from North Dakota said, term limits being a limitation.

It is clearly a more democratic process to give the people the right to make this decision as to their elected representatives through a constitutional ratification process than for 100 people to stand here arrogantly and say, "We're not going to give the people those choices. We're going to deny them that opportunity. And even though they exercise those powers through their State legislatures and impose those restrictions on us, we're going to draw an iron curtain across that process and say, 'No, you cannot reach into the Federal level to impose that.'"

So I think it is just the opposite of what the Senator from North Dakota has said. Well over three-quarters of the American people have chosen term limits. Opinion polls show that constantly. Aside from the balanced budget amendment, which has always been denied to the American people, there is no other issue that has so much popular support.

Only in Washington could an idea ensuring a rotation from office creating entirely new choices for office be seen as a limitation on the American people. It certainly is not seen that way by the people outside of Washington. It is an example, Mr. President, of the newspeak that has produced so much cynicism on the part of the American people toward their Government.

This measure may not pass the Senate. As the past year has demonstrated, even with the revolutionary changes of the last election, the system continues to be weighted against change.

We are now faced with a procedural process here where we need to obtain the 60 votes in order to just bring this issue to debate and to a vote. The vote that will be taken this afternoon at 3:45 is not a direct vote on the measure, it is simply a vote on whether or not we will go forward to examine the legislation, to offer amendments, to modify it, and then to bring it to a final vote, which appears we may not get to that point.

We will, however, I believe, ultimately prevail in this battle. The question comes down to individuals. Will a candidate for Congress commit to limited terms even if it is not the law? Will those of us in the Congress make the commitment to limited terms even though it is not in the law?

Mr. President, one of the first bills that I introduced in the Congress when I was a Member of the House of Representatives was a term limits bill, a limitation of 12 years of service in the House, no more than six 2-year terms, and 12 years in the Senate, no more than two 6-year terms. I made an exemption in that legislation for those who served partial terms, appointed because of a death of a sitting Member or the resignation of a sitting Member. I thought it was fair for them to be able to fill out that term and then have the full term limit apply. I never realized that that would apply to me. A serendipitous act. I would call it an act of providence. I received an appointment to the Senate to fill the unexpired term of the recently resigned Senator from Indiana, Senator Quayle, who then became Vice President. I fulfilled that unexpired term.

At the time I pledged to the people of Indiana that I was a strong advocate of term limits and felt, whether or not it was the law of the land, I should abide by it. And I pledged to the people of Indiana that I would not serve more than two full terms in the U.S. Senate. I hold to that pledge.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COATS. Mr. President, I ask for 1 additional minute to conclude my statement.

The PRESIDING OFFICER. Is there objection? Hearing none, without objection, it is so ordered.

Mr. COATS. Mr. President, as I said, this is a procedural bill. Even though this bill will not completely conform to my own legislation regarding unexpired terms, I do believe that the debate should go forward. If changes are necessary, amendments obviously can be offered. This is too important an issue, too vital a reform to die in a procedural vote here today. The American people deserve full consideration, and only a vote of 60 Senators to invoke cloture will allow that full consideration to take place.

So I urge my colleagues to join with me in voting for cloture. Hopefully we can garner 60 votes so that we can, in this important debate, fulfill the wishes of more than 80 percent of the American people, that we address this fairly, and give them a fair opportunity to weigh in, as I think they deserve.

Mr. President, I thank Senator THOMPSON and Senator ASHCROFT for their diligent efforts in this and the additional time they have yielded me, and I yield the floor.

Mrs. HUTCHISON addressed the Chair.

Mr. THOMPSON. Mr. President, I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mrs. HUTCHISON. Thank you, Mr. President.

I want to thank Senator THOMPSON and Senator ASHCROFT for taking the lead on this very important measure.

Mr. President, our Founding Fathers crafted a Constitution that was built around balance. The checks and balances have made this Constitution endure for over 200 years. Part of the balance was that the Federal Government would be limited, that Federal Government would have very narrow responsibilities. It would be strong in its responsibilities, but nevertheless the social programs, the education, the time-consuming, more detailed areas of responsibility were clearly left to the States and to the people.

So, Mr. President, our Founding Fathers intended for us to have a small Federal Government, made by citizen legislators, citizen legislators who would come to Washington to do the business of the Federal Government, which was limited, and go home and have professions. The people that wrote the Constitution were not full-time writers of the Constitution. The Congresses in the early days were not full-time Congresses. They were made up of citizens who had vocations, who understood what the problems of the States were, who came together on a limited basis to correct those problems.

Mr. President, we have gotten out of kilter. The balance is no longer there because we have a full-time Congress, because we have people who have been here as a career for 20, 25, 30 years, some of whom are wonderful people.

This is not a personal attack in any way on those people. They are good people. I think every Member of this Congress is sincere about what he or she is trying to do. But, nevertheless, because it is career politicians who are making the laws, our Government has grown and grown, and the Federal Government is out of control. Part of the reason is because we have a Congress that is out of touch with the real world, with the small businessperson that is trying to make it, trying to make ends meet with all of the regulations and the taxes and the litigation that is complicating our lives today.

To bring back the balance, Mr. President, we need term limits because we need citizen legislators. We need small businesspeople who have lived with the regulations and the taxes that keep them from growing and creating the new jobs that will really make this economy strong. We need the working people of this country who know what it is like to go into a workplace and not be sure if they can walk inside the line on the factory floor or outside the line on the factory floor.

Mr. President, we need citizen legislators because we need people who have experienced how hard it is to deal with the morass of Federal regulations, with the fines that come from minor infractions. Sometimes our small businesspeople think that Government does not want them to succeed. They forget, people in Government, that the American dream is that you can work hard and do better. The Federal Government should not be there to tamp you down. It should be there to build you up, to let more people have access to the American dream. If we can have term limitations, Mr. President, we can get the balance back in our Government structure because we will have people who have come from the real world and who are going back to the real world.

Mr. President, our seniority system is a waiting game. The average number of years of a Senate committee chairman is about 22; a House committee chairman is about 25. So when we talk about all this free access that the voters have to vote somebody out of office, we are talking about giving up this seniority system, and it does become a dilemma because even if someone is out of touch, they are powerful. They are able to produce for their districts.

So it is a dilemma for someone going in the voting booth to say, "I'm going to oust someone who has been there 25 years, who is high in the seniority system, who is a committee chairman," or whatever. It is very difficult. It happens when there is a real movement like happened in 1994. The people did rise above that seniority system. But it is very rare, Mr. President.

My distinguished colleague from West Virginia, who I admire greatly, talked about Winston Churchill serving in Parliament for 50 years. Yes, but back then and even to an extent now, Parliament was part time, except in the British system, of course. Members of Parliament are also the Cabinet officers, if they are in the front bench, but if they are back benchers, they do something else. Winston Churchill at the time he was a back bencher wrote, gave speeches. That was his vocation. Cicero, the Roman Senator, also wrote a little bit. I think many of us remember many of the things that he wrote.

We have had citizen legislators in our best Senates and Congresses through the ages. That is because it works best when the people who are trying to make this country what we want it to be are the people who decide to give a little time for public service and then go back out and live in the real world of business and commerce, working people that understand best what it takes to get this country going in the right direction. They are the people that have the values. They are the Sunday school teachers. They are the people that go to PTA meetings, that work with their children in their schools. They give back to their communities.

Those are the kind of people that we want in Congress. That is why we are trying to have term limitations, so that we can bring back the concept of a citizen legislator; so that we can meet a few months every year, go home and be in a real vocation, so that we will not have new laws with new regulations and new things that bureaucrats can dream up to do to tamp down the spirit of entrepreneurship that built this country.

That is why we are fighting so hard today. It is why we have to have a constitutional amendment, because we cannot do it by State law, because States have tried and the Supreme Court said last year that will not work. You have to amend the Constitution. This was not Senator THOMPSON'S first choice. He would love to have gotten 51 votes because we could pass it with 51 votes, but we will probably not be able to have the two-thirds vote required to amend the Constitution. That is why it is so important for the people of this country to understand that the fight is going to continue.

We will try to get cloture today. If we do not get cloture, I have a bill I have introduced that I will try to put on some other measure coming down. It is going to be a national referendum on this issue. Let the people speak. Let the Congress hear. Let people ask their Member of Congress that is running for reelection, or their Senator that is running for reelection how they feel on this issue, so that they get committed.

We are going to have to keep working at it. I hope I can get a national referendum, if we do not get cloture today, to do what we ought to do. That is, amend the Constitution. This is a basic tenet of the balance of powers in our Government. A citizen legislator is a basic part of the balance that is necessary to keep the Federal Government from getting so big and overblown that they start encroaching on States rights. The government that is closest to the people at the State level—this is part of the balance. It is part of reform that is necessary to get this country back on track, so that more people can realize the American dream, so that the immigrants who come to our country, because it is the beacon of opportunity anywhere in the world, they come to this country for the American dream, which is if you work hard and you start a small business you can keep the fruits of your labor. In America, success that is gotten from someone by the sweat of their brow or by their hands or by their brains—working, writing—we want those people to succeed. We do not look down on success. We want everyone to have that opportunity.

If we are going to keep the American dream, Mr. President, it is going to be with people who are understanding that the Federal Government is limited and those people are going to be citizen legislators, not career politicians.

Mr. President, I want to thank Senator THOMPSON and Senator ASHCROFT for bringing this to us. This is the first step in a very long march, Mr. President. This is not going to end today, but we are going to be there with the American people to fight for what we know will bring back the values and the dreams and the opportunity of this country through citizen legislators that will work with us to do it.

Mr. THOMPSON. Mr. President, I yield 10 minutes to the Senator from Idaho.

Mr. CRAIG. Mr. President, if I could indulge you for just a moment this morning, I would like to incorporate you in my discussion on term limits, because I want to tell a little story to my colleagues who are here and for the record.

A good number of years ago I engaged in a conversation with the former Senator from Wyoming, Malcolm Wallop, who you followed to the Senate. We were talking about the advantage of freshmen, new people, coming to the U.S. Congress. I alluded at that time that you can always tell the difference between a freshman and a more senior Member by this simple adage: Freshmen were always going around asking why Government did certain things, and more senior Members were going around saying "because."

In other words, what has often happened as a result of seniority and longevity of service in the U.S. Senate or the U.S. Congress in general is that Members of those bodies become advocates of Government, defenders of Government, instead of responsible citizen critics of their Government.

One of the things that I know the chairman, the President, and I have tried to do, and I mean the President of the Senate, the presiding Chair of the Senate and I have tried to do is be constant critics of Government, critics of Government.

Oftentimes we find out that the longer Members are here, while they may serve well, they become the advocates of an ever-increasing Government. It was under that belief in my years of service, while I think I remain a responsible critic, that I have grown to support term limits, because I believe they are a rejuvenator of the system. It creates, once again, the process that our Founding Fathers had intended. That was the citizen legislator coming to this Congress to direct the affairs of Government, not to be the advocate but to be the friendly critic.

Now that both the House and the Senate are under the control of a Republican Congress, we are going to have votes on this issue. We are going to be able to stand up and express our wishes, hopefully reflecting the will of the American people, that has been spoken to by the Senator from Tennessee, who has done such a fine job of bringing this issue to the floor, and the Senator from Missouri, that 77-plus percent of the American people believe that term limits are a responsible way of governing, and that those of us who seek to serve in public life at this level be limited to a certain number of years in our public service, and in doing so, hopefully, retaining those concerns or those issues that brought us to this Congress.

It is because of a Republican-controlled Congress that we will have the privilege to vote today on this important issue. Hopefully, we can take this issue to the American people. It is significantly important. We are asking the American people to change the way their Government has operated for well over 200 years.

That is why I am pleased that we are moving to the constitutional amendment approach. Yes, the courts have said we must strike uniformity in the terms of Federal officers, and that is what we all are who serve in this body, and that all States must be served and represented equally. Beyond that court edict and the responsibility that is being taken here today in the debating of and the voting on this constitutional amendment, remember our civics lesson, to understand that the Congress can only propose an amendment. That in proposing it, what we are really doing is sending it out to all 50 States for what will be a fundamentally important national debate on term limits.

Every State legislator, if this passes the Congress, will engage in a debate at the State level on the validity of term limits and the responsibility of those limits and how they ought to be carried out under the edicts of this constitutional amendment. That is what representative Government is all about. That is why I recognize these two Senators for the work they have put in in the leadership of this issue.

While I have been a strong and outspoken supporter of term limits, we have not had the opportunity to vote on them in previous years. Now we are guaranteed that opportunity. I am pleased to join with my colleagues in support of this amendment.

Thomas Jefferson and George Washington were ardent supporters of term limits. Maybe they saw something that some of our other Founding Fathers did not see. Maybe they recognized there could be a time when Government would grow to a point that those who served in it would ultimately become individuals who would seek a lifetime of service here.

While there are a tremendous number of dedicated Members of the U.S. House and the U.S. Senate who have served well beyond the limits that are proposed within this amendment, I believe the concept of term limits, as I have spoken to, serve as a phenomenally rejuvenating factor in what we believe to be the founding premises of this country, that States would not have lost as much control as they have lost over the last 200 years if we had term limits. Citizens who had served and would serve in Congress would find themselves much more subject to the laws they passed because they would not spend a lifetime here, a lifetime in an environment that was relatively sheltered, relatively protected from the citizen on the street of America, who had to live under the laws that the Congress had passed.

For 200-plus years, Congress has been exempt from all of those laws. It is only in the last few years, under phenomenal pressure from the citizens, that we are finally saying we are not special and we are not something different. Thank goodness we are saying that. I have been pleased to support the fact that we now subject our offices to the same labor laws that the average employer must subject his work force to and the average worker must be subjected to.

Why should we be different? Why should we be special? We should not be. But it has been under a protected environment of continual service that that kind of situation existed. It is my guess that if term limits had been imposed some time ago, that would not have been allowed to happen. The Congress would not have become the special, unique haven that it was for so many years, while at that time it might have been observed as the right thing to do. In an America of today that wants to see a limited Government, to see a great deal more authority returned to the States, this amendment, and our debate on this amendment, fits that approach in a most important way.

I look forward to an opportunity to continue to work on this, and I hope we can get the vote this afternoon. But as the Senator from Tennessee admonished us when the debate began, this is an issue that will not go away. If we are not successful this time, I am confident we will be back, and I will be a supporter of that effort. If that cannot occur, you heard the Senator from Texas talking about the allowance of a national referendum that causes this debate and a vote of the people of this country on this type of an issue.

So while a Senator from Wyoming chose, a few years ago, to limit his terms, which gave opportunity for the Presiding Officer to be a new face in the U.S. Senate, bringing new debate and new ideas, I believe this is an issue that we ought to respond to in a representative way to the citizens of our country, who have spoken so clearly on it.

While the issue of rotation in office—term limits—for elected Federal officials has been around as long as our country itself, this current Congress will make history on the issue of term limits.

In prior Congresses, neither the House nor the Senate had voted on a congressional term limits amendment, despite the efforts of myself and others.

Finally those efforts have paid off. This Republican Congress has kept its promises, and is trying to pass a term limits constitutional amendment.

It is the first U.S. Congress ever which the House and the Senate will both have floor debates and recorded votes of all the Members on a constitutional amendment to limit congressional terms.

The term limits constitutional amendment that I am an original cosponsor of will impose a uniform, national term limit of 12 years in the House and 12 years in the Senate.

It is critical that if we impose term limit, we do it across the board, State by State. No State should be singled out to be disadvantaged by the loss of seniority in Congress.

My support of this grew out of my observation of how this business on Capitol Hill works—or does not work.

Why do I feel so strongly that congressional term limits are an important and fundamental step in restoring our Nation's political health?

The Governors of 40 States, including my State of Idaho, are subject to term limits. Why not Congress?

The State legislatures of 21 States, including Idaho, are subject to term limits. Why not Congress?

Thomas Jefferson and George Washington were two ardent supporters of term limits.

The issue of term limits for Members of Congress is favored by 77 percent of the American people, according to a national poll conducted in January.

Support for term limits never falls below 64 percent in any demographic group; white, black, Hispanic, male, female, young, old, Republican, Democrat, Independent, or geographic residence.

Term limits received more votes in the 14 States where it appeared on the ballot in 1992 than Ross Perot received in all 50 States in the 1992 Presidential election.

According to studies conducted by the National Taxpayers Union, the shorter the tenure of a Member of Congress, the more likely that Member of Congress is to vote against tax and spending increases for the Federal Government.

The bottom line is this: if we want to change the mindset in Washington, DC, we must change the players.

A limited central government and limited tenure in that government are essential elements on which our form of government is based.

We must embrace the principles articulated by the Founders of our country and supported today by an overwhelming number of American people.

To do otherwise is to forget our roots and responsibilities as representatives of the voters. We are not free agents doing whatever we want in Washington.

When I joined in the battle for term limits years ago, I knew it would not be a quick, easy process. My fight for a balanced budget amendment to the Constitution has showed me that.

But, like the balanced budget amendment, we must let the people of our country decide whether they wish to ratify the term limits amendment. If Congress passes the term limits amendment, it must still be ratified by 38 States.

That is my goal here today: to pass this legislation so that the people of Idaho and everywhere else will be able to let their State legislatures know whether or not to support this term limits amendment.

Let the people decide, not us. I will be proud to cast my vote in favor of term limits on behalf of the people of the great State of Idaho.

I strongly urge my colleagues to do the same.

Mr. HATFIELD. Mr. President, the Senate has before it today an issue that goes to the heart of our democratic system of government. Limiting congressional terms has been one of the most consistently visible issues in our Nation's political arena for the past 6 years. In addition to being a significant plank of congressional campaigns, several States have voted to limit the terms of those elected to Federal offices. The Supreme Court ruled last year in the Thornton case that statutory efforts by Congress or individual States to impose term limits on Federal officials are unconstitutional.

In lieu of this recent action by the Supreme Court, the only remaining option is a constitutional amendment limiting the number of terms a Member of Congress may serve. The Senate has before it and will soon vote on such a measure. I oppose amending the Constitution to limit the number of terms a Member of Congress may serve and will vote against this resolution. I will, however, vote in favor of cloture on this resolution so that debate on this important issue can be brought to a timely conclusion.

It should be recognized that, despite their recent visibility, proposals to limit congressional terms are not a new phenomenon. This is a debate that has been evolving for many years. Our Founding Fathers considered including term limits in the Constitution. They grappled with the question and rejected the idea, preferring to allow such authority to be exercised by the citizenry at the ballot box.

At the beginning of my career in the U.S. Senate, I introduced legislation to restrict Senators to no more than two terms. When this measure did not pass and my own second term came to an end, I decided I could be more effective for the people of Oregon by continuing my service in the Senate. My constituents agreed with me and, at the ballot box, chose to continue my term of service in this body.

During the years of debate over term limits, many have argued the only way to remove entrenched incumbents from Congress is to override the will of the voters by placing a mandatory limit on the number of terms a member may serve. However, the American voters currently have the authority to limit the terms of any member of Congress during each election. Voters in the 1992 election gave 110 new individuals the opportunity to serve in the House. In 1994 86 new Members were elected to the House of Representatives and 11 to the Senate. The 1996 cycle, at least for the Senate, has already achieved the distinction of having the most retirements of any cycle in this century. An analysis of our recent elections shows that over half of the Members of the House of Representatives and nearly a third of the Members of the Senate have been elected since 1990.

Mr. President, term limits are an important issue worthy of debate, but they are not a panacea for reforming Congress or improving the public's perception of this institution. In fact, I believe they have the potential to cause significant damage by depriving voters and this institution of the best qualified candidates. Congressional turnover is something best left in the hands of the local voters.

The 1994 elections not only brought numerous new Members to Congress, but they also gave the Republican Party control of both Houses for the first time in over 40 years. This drastic change was accomplished by the American people exercising their constitutional right to vote for the candidate of their choice. It was not accomplished by imposing a structural change upon the electoral process so thoughtfully conceived by the Framers of the Constitution.

As the Nation deliberates the issue of term limits, I would encourage proponents of limitation to consider each candidate individually. The difficulty in setting arbitrary limits is, simply, that they are arbitrary. Citizens should not be denied the service of the effective, elected representative of their choice merely because that person had already served them well.

Candidates should not be judged by a constitutional provision that looks only at the length of their prior service. Rather, candidates should be judged by their constituents, who invariably look at the quality of the service provided in past terms and the likelihood of satisfactory representation over the next time-limited term.

Mr. HEFLIN. Mr. President, I rise in opposition to Senate Joint Resolution 21, which provides for a constitutional amendment to limit congressional terms.

Nearly 1 year ago, the U.S. Supreme Court ruled that State-imposed term limits on Federal legislators are unconstitutional. The only way to institute such limits is, therefore, through a U.S. constitutional amendment such as that embodied in Senate Joint Resolution 21. Altering our cherished Constitution in such a way would be a huge mistake in my opinion.

The idea of term limits for Members of Congress addresses the general disapproval voters seem to consistently have for Congress as an institution. However, they do not address the issue of losing good, productive leaders through arbitrary limits on their time of service. Many believe the experience gained from serving in Congress is a valuable resource for serving effectively as a legislator and as a questioner in an oversight role over agencies and departments of the executive branch of the Federal Government. This experience can only be gained over a period of years. Even those who support term limits acknowledge that the many years of service to our Nation by many long-time Members of Congress have made a meaningful difference in countless lives.

In this body, leaders such as Senator BYRD, Senator DOLE, Senator BIDEN, Senator STEVENS, Senator BUMPERS, Senator LEAHY, Senator SIMPSON, Senator HOLLINGS, Senator NUNN, Senator THURMOND, Senator KASSEBAUM, and Senator HATFIELD, to name only a few, would not be here if term limits were in effect today. This is not a partisan issue; term limits would deny the Nation the service of outstanding leaders on both sides of the aisle.

Term limits are an unwarranted restraint on democracy. I think the limit on Presidential terms passed in the wake of Franklin Roosevelt's long tenure in the Oval Office was a mistake. The most fundamental and basic right citizens of this country have is the right to vote for the candidates of their choice. This right should not be abridged just because some Government leaders are reelected with regularity and are labeled as being bad because of that. If they are reelected, common sense would suggest that the voters are generally happy with the job he or she is doing. If not, they can vote for the opposing candidate. They already have the right to limit the term of any officeholder they wish by voting.

In effect, term limits suggest that the ultimate judges in the political arena, the voters, are not competent to make decisions after a public servant has served for a few years. Voters should view term limits as a slap in the face that restricts their discretion and their right to be represented by those whom they so choose.

If term limits are instituted, what we will see is a Congress run by a staff of unelected bureaucrats with no limits on the time they can work in the legislative branch. Members will increasingly come to depend on staff as the institutional memory and precedent that guide much of the work here are eliminated. Term limits will also shift more power to the executive branch and its legions of unelected and unaccountable careerists.

Simply put, there is no reason to deny voters the right to elect an individual to Congress simply because of that person's previous service. In their wisdom, the Founders correctly chose not to incorporate term limits in the Constitution for Members of Congress or the President. Alexander Hamilton called them "ill-founded," "pernicious," and "a diminution of the inducements to good behavior." The Constitution already provides a check on the power of Members of Congress by requiring that each Member of the House and one-third of the Members of the Senate be presented for reelection every 2 years.

The clamoring for term limits is a byproduct of the bumper sticker admonition to just "throw the bums out!" It is a populist slogan that in no way addresses the issue of making Congress more effective. This specious argument is based on the notion that anyone who has been in office for any length of time is automatically corrupt and incapable of being responsive to the views of their constituents. But, how responsive will they be when they do not have to face the voters for reelection? They will be free to simply ignore the wishes of the people.

The process of learning issues and policy takes time. Voters might prefer a long-distance runner over the sprinter, a representative for the long haul, not just for the short term. Voters should have the option of electing a person who will work in the long-run for the best interests of the district or State they represent and the Nation which they serve. Voters can make up their own minds about the effectiveness and worthiness of a candidate regardless of the length of service. There is no more effective or dependable means for applying term limits than election day, the second Tuesday of November every 2 years. All Americans should think carefully before this precious freedom is abridged by this amendment.

Mr. THOMPSON. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Approximately 8½ minutes.

Mr. THOMPSON. Does the Senator from North Carolina wish to be recognized?

Mr. FAIRCLOTH. Yes.

Mr. THOMPSON. I yield the Senator from North Carolina 8½ minutes.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I am delighted and proud to join with Senator THOMPSON and cosponsor Senate Joint Resolution 21, which would provide for national term limits for 12 years for any Member of the U.S. House of Representatives or Senate.

In the past, Congress has avoided taking a vote on term limits. We have tried to have it both ways—to tell the people at home that we support term limits, but we have simply bottled it up in Washington.

Under Senator DOLE's leadership, with the support of many others, I want to thank them for bringing this resolution to the Senate floor. It will be the first-ever recorded vote, and it will be the right move. Regardless of the outcome of the vote, I think it is a historic moment that we will all be proud to have participated in.

There are many reasons for limiting the terms of all Members of Congress. First, the Founding Fathers, led by James Madison, intended that service in Congress would be that—a service, not a permanent job. We would not have so many burdensome, expensive, and often useless rules and regulations if we had more people in the Congress who had spent some time in the workplace in the private sector.

The President of the United States has term limits, and the country is better off for it. So why should not the Congress have term limits? The custom of voluntary rotation in office was once followed by the President and Congress alike. But it became necessary to pass a constitutional amendment to restore the two-term limit on the Presidency, and it certainly is clear now that we need to do the same thing with the House and Senate to limit the tenure.

A second reason for term limits is that a governing elite is more likely to decide that what the citizens earn through their work belongs to the Government and not to the people that earned it. That is one of the dismal results of career bureaucrats in the National Capital. They are so caught up in government and its activities that they have lost sight of the fact that our system was founded on the spirit of free enterprise and individual rights.

Third, the people of North Carolina and the rest of America overwhelmingly support term limits. One national poll of registered voters in January 1996 found that 77 percent of the American people favor term limits, and only 17 percent oppose them. Further, 62 percent of the American people say they wanted their Congressmen and Senators to vote "yes" on a constitutional amendment for term limits that provides a 12-year limit.

Will term limits pass the Senate this time? Maybe not. I certainly hope so. As we all know, it is difficult to get a two-thirds vote, which will be necessary to adopt this. The Constitution was designed for it to be difficult to amend it. So for term limit supporters, we know that the upcoming vote is just the beginning of our efforts and not the end. We will stay with it until we do get it passed.

By committing ourselves to supporting term limits for as long as it takes to get the job done, we are committing ourselves to making the national Congress the model of citizen representation it was intended to be, and restoring our Federal Government to its proper role, and limited role, in our national life.

I strongly support this resolution and am delighted to be a cosponsor on it. I yield the remainder of my time.

Mr. THOMPSON. Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator has 2 more minutes.

Mr. THOMPSON. I yield back the remainder of our time.

The PRESIDING OFFICER. All time is yielded.

HEALTH INSURANCE REFORM ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 3103, the health insurance reform bill, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuation of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term-care services and coverage, to simplify the administration of health insurance, and for other purposes.

The Senate resumed consideration of the bill.

Mr. THOMPSON. Mr. President, to clarify, the term limits debate will resume again immediately after the health care vote, is that correct.

The PRESIDING OFFICER. The Senator it correct.

Mr. THOMPSON. We will have a vote on term limits at approximately 3:45.

The PRESIDING OFFICER. The Senator is correct.

Mr. SPECTER. Mr. President, I am pleased to support the Health Insurance Reform Act of 1995 and want to commend my colleagues, Senator KASSEBAUM and Senator KENNEDY, for their excellent work on this important subject. As a cosponsor of this bill, I believe that enactment of legislation improving health insurance coverage is long overdue. We owe it to the American people to pass this bill.

The Health Insurance Reform Act represents the type of incremental health care reform which I have long supported. It targets the problems with our current health care system while leaving in place a system that works well for most Americans.

Mr. President, in June 1993, I had my own health problem when a magnetic resonance imaging machine discovered an intercranial lesion in my head. I was the beneficiary of the greatest health care delivery system in the world—the American health care system. That experience made me ever more aware, knowledgeable of, and sensitive to the subject than I had been in the past.

There are some who believed health care reform was dead and declared as much in the fall of 1994 when Congress failed to enact comprehensive health care reform legislation. I am hopeful that they will be proven wrong by the enactment of this bill. President Clinton was in error when he proposed health care by Government mandate and massive bureaucracy. But anyone who read the repudiation of the Clinton bill as an excuse to do nothing is equally in error. We still have a great need to correct the problems in our health care system for the 15.2 percent or 39.7 million Americans, for whom the system does not work. In my own State of Pennsylvania, there is even a greater need, because the number of uninsured under the age of 65 has grown from 10.8 percent to 13.4 percent of the population while we in Congress have done little but debate the correct approach to take concerning health reform. It is high time that Congress takes a real step forward in health care reform, without big government and without turning the best health care system in the world on its head.

To be sure, health care reform remains a very complex issue for Congress to address. But it is not so complex that we cannot act on a bipartisan basis. This is something we should have done years ago. Sixty-five Democrats and Republicans have agreed to cosponsor a bill containing policy matters we all agree on, such as the need to limit exclusions for preexisting conditions and make health insurance more portable for workers changing jobs. Of course, more can and should be done. But this is what we can agree on now. We will be helping a great many people who desperately need these critical changes in law by acting now.

By way of background, I would note that the legislation before the Senate today, S. 1028, contains provisions very similar to those contained in title I of my own health care reform bill, the Health Assurance Act of 1995,—S. 18—which I introduced on January 4, 1995. I have heard for years from constituents, friends, and family on how important it is that we pass basic insurance market reforms to protect those who are not in perfect health but have some preexisting medical condition. We all are aware of people who are afraid to leave their jobs because they have a heart condition or another medical condition and therefore would be unable to obtain insurance for this problem outside of their present employer. Under the Kassebaum-Kennedy bill, a person can be assured that no preexisting condition exclusion can ever last more than 12 months for conditions discovered in the 6 months prior to coverage. Equally important, the bill enables those workers that were covered under a group health insurance plan to reduce this 12-month preexisting condition exclusion for each month they were covered by a plan. So if an employee with a medical problem is covered by a plan under her current job for more than 12 months, if she takes a job elsewhere, she will be covered under the plan of the new employer.

S. 1028 also contains language similar to my legislation which extends the COBRA health benefits options in a limited manner. S. 1028 specifically extends this option when a former employee or family member becomes disabled during the initial coverage period, and allows newborns and adopted children to be covered immediately under a parent's COBRA policy. Also, S. 1028 provides individuals access to affordable insurance through purchasing groups, which was also allowed under S. 18. This and the other elements of S. 1028 will give the 228 million workers who now have insurance the security of knowing that health coverage options exist if they change jobs, or become unemployed for a limited period of time.

Mr. President, as my colleagues are aware, I have been advocating incremental health care reform in one form or another throughout my 15 years in the Senate, and have introduced and cosponsored numerous bills concerning health care in our country since 1983. In my first term, I sponsored the Health Care Cost Containment Act of 1983, S. 2051, which would have granted a limited antitrust exemption to health insurers, permitting them to engage in certain activities aimed at curtailing then escalating health-care costs. In 1985, I introduced the Community Based Disease Prevention and Health Promotion Projects Act of 1985, S. 1873, directed at reducing the human tragedy of low birthweight babies and infant mortality.

During the 102d Congress, I again pressed for Senate action on this issue. On July 29, 1992, I offered an amendment to legislation pending on the Senate floor that would have increased the deductibility for health care insurance purchased by self-employed persons from 25 to 100 percent, and would have made health coverage more affordable for small businesses through insurance market reforms. This amendment included provisions from legislation introduced by Senator CHAFEE, which I cosponsored, and which was previously proposed by Senators Bentsen and Durenberger. My amendment was defeated on a procedural motion by a vote of 35 to 60 along party lines, and the Senate did not consider comprehensive health care legislation during the balance of the 102d Congress. The substance of that amendment, however, was adopted later by the Senate on September 23, 1992 as an amendment to H.R. 11, the broader tax legislation introduced by Senators Bentsen and Durenberger and which I cosponsored. This latter amendment, which included substantially the same self-employed deductibility and small group reforms that I had proposed on July 29, passed the Senate by voice vote. Unfortunately, these provisions were later dropped from H.R. 11 in the House-Senate conference.

On August 12, 1992, I introduced legislation entitled the "Health Care Affordability and Quality Improvement Act of 1992," S. 3176, that would have enhanced informed individual choice regarding health care services by providing certain information to health care recipients, lowered the cost of health care through use of the most appropriate provider, and improved the quality of health care.

On January 21, 1993, the first day of the 103d Congress, I introduced comprehensive health care legislation entitled the "Comprehensive Health Care Act of 1993," S. 18. This legislation was comprised of reform initiatives that would have improved both access to and the affordability of insurance coverage, and would have implemented systemic changes to lower the escalating cost of care in this country.

On March 23, 1993, I introduced the Comprehensive Access and Affordability Health Care Act of 1993, S. 631, which was a composite of health care legislation introduced by Senators COHEN, KASSEBAUM, BOND, and MCCAIN, as well as my bill, S. 18. I introduced this legislation in an attempt to move ahead on the consideration of health care legislation and provide a critical mass as a starting point. On April 28, 1993, I proposed this bill as an amendment to the legislation then pending on the Senate floor, the Department of Environment Act, S. 171, in an attempt to urge the Senate to act on health care reform. My amendment was tabled by a vote of 65 to 33, largely along party lines.

As I mentioned earlier, on January 4, 1995, I introduced S. 18, the Health Assurance Act of 1995, which improved upon many provisions included in my health care legislation from the 103d Congress and provided a framework for targeted reform that could be built upon if needed. In addition to addressing the portability issue, S. 18 has three other important objectives: First, to provide affordable health insurance for the 40 million Americans now not covered; second, to reduce health care costs for all Americans; and third, to improve coverage for underinsured individuals and families. All of these objectives are accomplished through initiatives that our health care system could readily adopt without creating an enormous new bureaucracy.

In total, I have come to the Senate floor on 14 occasions over the past 4 years to urge the Senate to address health care reform. As early as June 26, 1984, I stated that the issue of health care is one of the most important matters facing the Nation today. That statement continues to ring true today, nearly 12 years later. According to the Health Care Financing Administration, national health expenditures totaled an estimated $949.4 billion in 1994, representing 13.7 percent of GDP. The Congressional Budget Office [CBO] projected that national health expenditures will total an estimated $1 trillion for 1995, or 14.1 percent of GDP. According to CBO, spending for health care grew about 6 percent in 1994, and was expected to grow about 7 percent in 1995.

I believe we have learned a great deal about our health care system and what the American people are willing to accept from the Federal Government as a result of debate over President Clinton's proposal in the fall of 1994. The message we heard loudest was that Congress was acting too hastily, and that Americans did not want a massive overhaul of the health care system. Instead, our constituents want Congress to proceed more slowly and to target what isn't working in the health care system while leaving in place what is working.

As I have said both publicly and privately, I was willing to cooperate with President Clinton in solving the problems facing the country. However, there were many important areas where I differed with the President's approach and I did so because I believed they were proposals that would have been deleterious to my fellow Pennsylvanians, to the American people, and to our health care system. Most importantly, I did not support creating a large new government bureaucracy because I believe that savings should go to health care services and not bureaucracies.

On this latter issue, I became concerned about the creation of such a bureaucracy, and asked my staff to review the President's 1,342-page Health Security Act when it was transmitted to Congress on October 27, 1993. My staff found an increase of 105 new agencies, boards, and commissions and 47 existing departments, programs, and agencies with new or expanded jobs. This chart received national attention after being used by Senator Bob DOLE in his response to the President's State of the Union address on January 24, 1994. The response to the chart was tremendous, with more than 12,000 people from across the country contacting my office for a copy. Numerous groups and associations, such as United We Stand America, the American Small Business Association, the National Federation of Republican Women, and the Christian Coalition, reprinted the chart in their publications amounting to hundreds of thousands more in distribution.

In addressing our health care problems, let me be clear: In creating solutions it is imperative that we do so without adversely affecting the many positive aspects of our health care system which works for 85 percent of all Americans. The pending legislation, the Health Insurance Reform Act, achieves this objective and should be viewed as the first step of an incremental approach to health care reform. It is my hope that we can accomplish some additional health care reforms that are equally necessary but would also not disrupt our system, such as increasing the deduction for the health care of the self-employed. Further, we should continue to pursue other initiatives to help reduce health care costs and increase the quality of health care that the majority of this body can agree upon.

The Health Insurance Reform Act of 1995 deserves our strong support and I urge my colleagues to enact this much-needed legislation.

Mr. KERRY. Mr. President, I want to thank Senators KASSEBAUM and KENNEDY for their leadership in putting together this bill which the General Accounting Office [GAO] estimates will help over 21 million people.

I also want to talk today about a woman from Florence, MA, who wrote me about her daughter. She supports this bill, she said, because her daughter has diabetes and the family had a terrible time finding health insurance that would cover her. In her letter she told me, "I think it's immoral for health insurance companies to cut off coverage even while the people they cover are paying their premiums. No health insurance company should have the power to do this to their clients."

Millions of Americans have medical histories or preexisting conditions that make it difficult to get comprehensive insurance coverage. As many as 81 million Americans have preexisting medical conditions that could affect their insurability. Many people are locked in their jobs because they fear they will be unable to obtain comprehensive insurance in new jobs. And many people who work in small businesses often have trouble getting insurance especially if one employee has medical problems.

I am hopeful that this important bill will pass Congress and will be enacted into law this year. It is time that we help the American people get the health insurance they rightfully deserve.

This bill takes very important steps forward. But we must do more, so that ultimately we have coverage for all Americans. Currently, 40 million Americans live without health insurance, and 23 million of the 40 million are workers, according to a study by the Tulane University School of Public Health. Furthermore, an average of more than 1 million children a year have been losing private health insurance since 1987. In Massachusetts alone, there are more than 130,000 children—one-tenth of all the children in my State—who are without any health insurance, private or public, for the entire year. And many more children lack health insurance for part of the year. A recent study in the Journal of the American Medical Association reported that almost one-quarter of U.S. 3-year-olds in 1991 lacked health insurance for at least a month during their first three years, and almost 60 percent of those lacked insurance for 6 or more months.

Mr. President, this Congress has an unacceptable record when it comes to addressing the real needs of American workers and families. Political divisions and Presidential politics have become an everyday feature of Senate floor action, making it impossible for us to do much of the people's business. This bill still holds the promise of being a notable exception.

I applaud the vision, commitment, and political savvy of the distinguished chairman of the Labor and Human Resources Committee, Senator KASSEBAUM, whom I greatly admire, and the distinguished ranking member of that committee who is the senior Senator from my State. They have crafted a bill which will provide real help to meet the needs of real Americans, and have brought it to the Senate in a form that can become law. I urge all my colleagues to vote for this bill and the conferees to speedily send it to the President's desk for his signature. I will proudly vote for passage this afternoon.

Mr. HEFLIN. Mr. President, for the past 5 years, the issue of health care reform has been at the top of our national agenda. The need for an overhaul in our health care delivery system was a centerpiece of President Clinton's campaign, and our inability to enact comprehensive reform legislation 2 years ago was a profound disappointment.

The debate on the size and scope of the Federal budget and on various items within the so-called Contract With America have dominated congressional business for much of the last year and a half. Nevertheless, there remains a firm national consensus that something must be done to reform the health care system.

In light of all the money spent on the provision of health care in this Nation, it is surprising that we have not already found a way to deliver a sufficient level of care to the millions of citizens who do not have health insurance. The Department of Health and Human Services estimates that between 32 and 37 million Americans have no health insurance, and an additional 50 to 60 million are underinsured. As translated by the Office of Management and Budget, a total of 13 percent of all Americans are completely uninsured, with as many as 28 percent without insurance for 1 month or more. The Labor Department reports that each year, one million people lose their health insurance.

As currently structured, the private health insurance market provides an insufficient level of coverage for individuals and families with major health problems and makes it difficult for employers to obtain adequate coverage for their employees. This is especially true of small businesses.

The bill before us—S. 1028, The Health Insurance Reform Act—will reduce many of the existing barriers to obtaining insurance coverage by making it easier for people who change jobs or lose their jobs to maintain adequate coverage. It will also provide increased purchasing power to small businesses and individuals. I am proud to support this legislation, which is aimed at covering millions of those who do not have insurance or who have an inadequate level by addressing the issues of portability and preexisting conditions.

S. 1028 builds upon innovative and successful State reforms and enhances the private market by requiring health plans to compete based on quality, price, and service instead of refusing to offer coverage to those who are in poor health and need it the most. Passage of this measure is being called a relatively modest first step toward the kind of comprehensive reform legislation we tried to pass in 1994. I agree that it is only a first step, but feel instead that it is a rather major first step in that it goes a long way toward reaching the goal of universal health care.

The General Accounting Office estimates that enactment of S. 1028 would help at least 25 million Americans each year. This would be a major step in the right direction. It would also provide much-needed momentum for future reform efforts. Equally important, it would not increase Federal spending, impose new or expensive requirements on individuals, employers, or States, or create new Federal layers of bureaucracy.

This measure enjoys wide bipartisan support in Congress and from a host of organizations, including the National Association of Manufacturers, the U.S. Chamber of Commerce, the National Governors Association, the American Medical Association, the American Hospital Association, Independent Insurance Agents of America, and the Consortium for Citizens with Disabilities.

Specifically, the bill does the following: Limits exclusions for preexisting conditions; guarantees insurance availability; guarantees renewability; ensures portability; and allows small employers and individuals to increase their purchasing power by negotiating for more competitive rates with health plans and providers.

S. 1028 was passed unanimously by the Labor and Human Resources Committee under the leadership of Senators KASSEBAUM and KENNEDY. During this year's State-of-the-Union address, President Clinton challenged Congress to pass it quickly, and described it as the very least that can be done to help some of those 37 million with inadequate care or no care at all. It is a sound, targeted, market-based reform measure that will make it easier for millions of Americans to change jobs without the fear of losing their health coverage. It is a consensus-building approach that can lead to comprehensive reform down the road.

While it is true that this measure does not make all the necessary changes we need in the health care system, it does make a series of valuable reforms that will make a discernible difference in the lives of millions of our citizens. It does this without interfering with those parts of the system which work and without taking away the ability of States to implement their own reforms. I congratulate the bill's managers for their work and the majority leader for scheduling this debate, and urge its swift passage.

Mr. WARNER. Mr. President, it is a pleasure to rise as a cosponsor of H.R. 3103, the Health Insurance Reform Act of 1996. Over the last few years, the Senate has been on a long road on health care reform, and it is a matter of great satisfaction that we have finally reached this important milestone.

H.R. 3103, the so-called Kassebaum-Kennedy bill, represents the core of market-based health insurance reforms on which there has always been wide agreement. The provisions of H.R. 3103 were, in essence, the heart of the Republican Health Care Reform bill developed in 1994 as an alternative to the big-government top-down Clinton health plan.

The 1994 elections, which brought the first Republican majority to Congress in 40 years, provided a clear indication of the overwhelming rejection of President Clinton's plan by the American people. More than any other factor, it was the mandate of the 1994 election which shaped the policy that has guided this debate.

I cannot praise highly enough the remarkable leadership brought to this legislation by the chairman of the Labor and Human Resources Committee, Senator NANCY KASSEBAUM of Kansas. Her careful management has been discreet, thoughtful, responsive, and thorough. With her partner for the minority in this endeavor, ranking member Senator EDWARD KENNEDY, they have shepherded a unique bipartisan measure—devoid of any real controversy—which could in itself extend health insurance access to an estimated 25 million Americans who, as we say, have fallen through the cracks of health insurance coverage.

This is not a universal coverage bill. Nor does it prescribe specific benefits. It does, however, provide the level playing field which the health insurance industry has long needed to eliminate the 50-State patchwork of different rules and standards for coverage of preexisting conditions, portability, and renewability. As insurance companies will no longer have broad discretion in excluding people from coverage, all companies will be accomodating the costs of high-risk employees.

When speaking of preexisting condition problems, I always remember the case of the young father employed at a lumber mill in northern Virginia. His wife gave birth to a severely disabled child resulting in abnormally high costs for his employer's health insurance company. At the end of the year, that insurance company approached the mill owner with an impossible choice: If you retain coverage for the disabled child, your premiums will go up by 150 percent. If you exclude coverage for the disabled child, your premium will only go up by 12 percent. The mill owner absolutely could not afford the higher premium and was forced to drop the young family with the disabled child.

So, here you had a case in which an employee wished to stay with his company but had to seek coverage elsewhere. Ironically, current insurance coverage in this country may also cause the reverse: Individuals who wish to move on to another employer but cannot because a preexisting condition can preclude future coverage. They are essentially locked in their jobs for fear of losing their health insurance.

These examples of discriminatory treatment are precisely what we are trying to remedy with the Kassebaum-Kennedy bill. The legislation is good medicine for American health care.

For preexisting conditions, American workers would be required to comply with a maximum 1 year waiting period for coverage by their insurance plan. Were there no waiting period, individuals would be tempted to only purchase health insurance when they or their family members were ill—a practice which would understandably substantially undermine the fiscal strength of the insurance industry.

Once the preexisting condition waiting period has been met, and as long as health insurance premiums are paid up, there should not be a lapse in coverage if you remain with covered employers.

If you should be required to seek individual rather than group coverage, the legislation includes important safeguards for the individual market from the costs of preexisting conditions. One must first have been in group coverage for a minimum of 18 months and then fully used and paid for an additional 18 months of COBRA coverage.

Upon meeting these conditions, the individual health insurance market will be required to offer full benefits without a preexisting condition clause.

I commend the managers of the bill for their efforts to keep the legislation as uncluttered as possible with unrelated or controversial amendments. With the exception of the Dole-Roth Finance Committee amendment, which I was pleased to cosponsor, the bill has the best chance of reaching the President's desk if it remains clean.

I regret that the Medical Savings Account [MSA] provision of the Finance amendment was not retained, but I understand that it might have prompted a Presidential veto. I did support and have cosponsored in the past Senator DOMENICI's successful mental health parity amendment. I sincerely hope that it too will be retained.

Above all, this legislation must pass. We can not allow this opportunity to pass us by. These are the vital health insurance reforms we first learned of in the historic health care debate of the 103d Congress, and it is our job in the 104th to see the job through.

Mr. President, in closing, I must state that this bill is extremely significant to me on a personal level.

My father was a physician who cared deeply about his patients, regardless of their ability to pay. He died when I was only a young man, but I have always revered his legacy of caring for others. If, with this bill, we can extend health insurance coverage to 25 million Americans who now are being denied benefits, my father would be the first to urge its swift passage.

Mr. BIDEN. Mr. President, when comprehensive health care reform went down to defeat in 1994, many of us in the Senate were frustrated because we had let yet another opportunity for reforming the health care system slip away.

At that time, there was wide agreement on some elements of health care reform. I, for one, wanted to go forward with those items—even if they fell short of addressing all of the problems in the health care system. Unfortunately, political considerations on both sides of the aisle and at both ends of Pennsylvania Avenue prevented us from passing even those things we all agreed on.

Today, it appears that cooler heads will prevail. Today, it appears that the Senate will pass—and I will proudly vote for—the Kassebaum-Kennedy health insurance reform bill.

Who would have believed less than 2 years ago that we would be on the verge of passing a bipartisan health care bill. And, who would have believed that the bill would provide real reform by addressing the most pressing problem faced by middle-class Americans—the possibility that they will lose their health insurance just because they change jobs or get sick.

Four years ago, a national survey showed that nearly one-third of all Americans had at some time in their lives been the victim of "job lock." Fearing the loss of health insurance, they stayed in a job they did not want and did not like. Two years ago, I asked Delawareans that same question—and in responding to my questionnaire, 21 percent of Delawareans said they had experienced job lock. Addressing this problem is long overdue. But, it may finally happen.

With the bipartisan Kassebaum-Kennedy bill, no longer will insurance companies be able to deny coverage for most pre-existing conditions. No longer will Americans be locked in jobs they do not want because changing jobs means losing health insurance. And, no longer will insurance companies be able to cancel a person's policy just because they get sick.

Last year, a General Accounting Office study showed that nearly 25 million Americans could benefit from legislation similar to what we are considering today. It will provide security and peace-of-mind to millions of middle-class Americans and their families.

Mr. President, the Kassebaum-Kennedy bill also provides some important help to small businesses—those who have been most devastated by the rapidly rising costs of health care. First, the bill would increase the self-employed health insurance tax deduction to 80 percent. I am a cosponsor of legislation to increase the deduction to a full 100 percent. This bill falls short of that goal, but it continues to move us in the right direction.

Second, the bill would make it easier for small businesses to join together to purchase health insurance. By pooling their employees, small businesses can spread the health risks among a large number of people and get cheaper insurance rates as a result.

And, third, the bill guarantees that all small businesses will have health insurance available to them. It prohibits insurance companies from cherry picking the businesses with the healthiest employees and refusing to sell to all other businesses. It says, if an insurance company sells to small businesses, it must sell to all small businesses. This sounds simple—even unnecessary. But, in the real world, it is crucial. When just one employee in a small business has a problem pregnancy, or has a disabled child, or suffers from some other medical condition, it often means that no one that works in that small business can get health insurance.

Finally, Mr. President, I want to address the provisions in the bill regarding health care fraud. This is something I have worked on for 4 years now. In 1992, I introduced legislation to crack down on the small number of health care providers who engage in fraud against their patients, insurance companies, and the American taxpayers.

Those who perpetrate fraud are few in number, but their crimes are large in dollars. During a hearing I held in the Judiciary Committee in 1992, it was reported that up to 10 percent of total health care spending in this country is fraudulent. That is over $100 billion in health care fraud this year alone.

My bill would have cracked down on these cynical manipulators of the system by increasing the number of Federal investigators and prosecutors going after health care fraud; doubling the penalties for those found guilty; providing rewards for patients and health care workers who come forward with information about fraud; and making sure that the guilty make restitution to the victims. My legislation passed the Senate in 1992 but was never taken up in the House.

A year later, with the leadership of Senator COHEN, health care fraud provisions were included in the Biden crime bill. But, again, the House would not go along, and they were dropped during the conference.

Now, they are back again. And, the fraud provisions in the Kassebaum-Kennedy bill are very similar to the legislation I first introduced in 1992. I want to commend Senator COHEN for his diligence in this area. But, I wish to note that while the House health care bill also contains fraud provisions, some of those provisions would actually weaken the anti-fraud laws. I urge the Senate to insist that they be stripped during the conference.

Mr. President, despite all of the good about this bill—protecting Americans from losing their health insurance, helping small businesses, and cracking down on health care fraud—it will not solve all of America's health care problems. And, it is not intended to.

The fact that it does not address a whole host of problems—including comprehensive cost control and the nearly 40 million uninsured Americans, including 100,000 in Delaware—does not mean these problems do not exist and should not be addressed. Failing to deal with these matters may be a weakness of the legislation. But, ironically, it is also the bill's strength.

Precisely because the bill deals only with the most pressing health care problems, we have a very real chance of passing a health care reform bill for the first time in my nearly 24 years in the Senate. We are on the verge of breaking the gridlock on health care reform.

The fact that it is an incremental—not comprehensive—bill is not a reason to vote against it. In fact, Mr. President, I would argue that it is a reason to vote for the bill. By passing the Kassebaum-Kennedy legislation, we will have made a downpayment on health care reform—addressing some important problems and helping meet real needs of the American people. If we show that responsible Government action can work—and work well—we will have opened the door to possible future bipartisan agreements to solve other health care issues.

I hope that we will be back to address those issues. But, in the meantime, I hope that we will not let another opportunity slip away. I hope that we will pass the Kassebaum-Kennedy bill.

Mr. SMITH. Mr. President, I rise in support of S. 1028, the Health Insurance Reform Act. This is a good bill that will help millions of Americans obtain health care.

Today, I would like to discuss four provisions that I believe are central to meaningful health care reform. For years, I have said that Congress should pass targeted reforms that take care of these core issues, and this bill does address three of them. They are: health insurance portability, full tax deductibility for long term care insurance, and deductibility of health insurance for the self-employed.

Let me just say for now that we missed a tremendous opportunity to enact tax deductions for medical savings accounts, or MSA's. I will go into that issue in more depth later, but I am very disappointed about its removal from this bill. I can only hope it will prevail in conference.

Health care reform is a very complicated and sensitive issue. Before we start restructuring one of the most important sectors of our economy, we need to study the issue thoroughly. We must make sure we approach it in the proper manner, and listen to all concerns.

In 1994, I was host to a statewide health care conference that featured leading policy experts from every facet of the health care system. I invited doctors, providers, nurses, patients—everyone who would be impacted by health care reform. From this, everyone who participated gained a greater understanding of the complexities of our health care system.

Since that time, I have held citizens' forums to discuss the issue in each of the 10 counties in New Hampshire. In addition to this outreach, I also met privately with every interested group to discuss their specific concerns more deeply.

This is the way to approach this issue—open, public forums, where all of the interested parties get to voice their concerns and share their views. I think the lesson of the White House Task Force, which produced the Clinton reform proposal, is that secret meetings and back room deals are not the way to approach a critical issue like this. Congress must act from a position of genuine consideration and understanding.

The very best part about open forums is that you get a very good sense of what people want, and don't want. In my experience, I hear overwhelming opposition to a Clinton-style government-run health care system. At the same time, I also hear avid support for the four reforms that I will now discuss.

The first concern is that health insurance should be "portable." I feel very strongly about this issue, as I know the rest of my colleagues do. It is of particular concern to individuals who have preexisting conditions. These are people who are terrified of leaving their jobs, being fired or laid off, changing their jobs, or starting their own businesses—because of the risk of becoming uninsured.

The freedom to change jobs, or even to become self-employed, is one of the cornerstones of our free market economy. When we picture the America dream, we think of a family, a home, children, a college education. But, I think a big part of the American dream is finding a job that you enjoy, one that fits your interests and skills, and working your way up the ladder of success.

This is not always easy. Some people get lucky early in life. They find a good employer and work their way up the company ladder. This was the predominant trend years ago. But for most of us today, the ladder does not go straight up. An individual works at a job for a while and finds that it does not suit him. He may not get along with his boss. Or, maybe he wants to move. Perhaps he wants a larger salary. There are countless reasons why people change jobs these days, and it is a very healthy process. In fact, it has been reported that individuals today hold an average of seven jobs over the course of a lifetime.

I have held a number of different jobs throughout my career: teacher, real estate broker, public servant. As I think back, I don't know whether I would have been as comfortable making some of the career decisions I did if I had to risk losing health coverage for myself and my family.

The greatest fear that most Americans have in changing jobs is the fear of losing their health coverage. There is a term for it now: "Job Lock." It is the one concern that I hear about over and over again at my citizen forums and constituent meetings.

And, it is a concern that applies to the people in our society who are the most vulnerable—people who have chronic health problems, disabilities, injuries, or illnesses. For many of these Americans, finding and holding a job that fits their abilities and interests is not an easy task. For many of these people, there are additional issues related to daily living, caring for children, maintaining a home, transportation, paying the bills, that are particularly challenging for them. The last thing they need, on top of all that, is to be denied health insurance. Most of them have been paying into insurance plans for their whole lives. Now, because they have left their employer, they risk losing everything. It is unfair.

Mr. President, it isn't just the worker who benefits from portability reform. In the same way that an employee can become unhappy with his job, sometimes the employer has reasons to let one of his workers go. These employers face tough decisions. It might be a small business owner who finds that he can't balance his books without making some reductions. It is always a tough situation to face, but these are the economic realities of the business world.

But what if this same small business owner knows that an employee, perhaps a close friend, has a preexisting condition of a family member with one? This employer has a terribly difficult decision on his hands. He can keep his employee on, just so that the employee can maintain his health coverage—perhaps risking bankrupting the business—or he can lay him off and let him go without insurance. Health portability is probusiness, because it would allow a small business to make those tough decisions while having the peace-of-mind in knowing that the employee and his family would not lose their health coverage.

I have said publicly for years that Congress should do something about portability, and that we do not need socialized medicine to do it. This bill proves that. My State already has an extensive guarantee issue law, so the group-to-individual portability provisions would be superseded by the New Hampshire law. But, frankly, the Kassebaum-Kennedy portability provisions are much more modest than those enacted in my State of New Hampshire.

Next, I would like to address the important provision in the bill that provides for an 80 percent tax deduction for health insurance for the self-employed.

Mr. President, in discussing the portability provisions, I briefly touched on the issue of individuals who, for one reason or another, choose to be a self-employed. Whether it is running a corner store, or even a family farm, many Americans rely on self-employment for their survival. Additionally, these are many Americans who, for a variety of reasons, from physical disability to spending time with their children, find working at home to be the most appropriate and fulfilling way to earn their income.

For these self-employed Americans, health insurance can be a very expensive proposition—so expensive that many choose to go without coverage. There are three main reasons for this.

The first and most obvious reason is that the self-employed have to pick up the full cost of the premiums. Most Americans get insurance through their employer. They pay a portion of the premium, but the best is paid by their employers. For these Americans, there is a big incentive to take advantage of this benefit. But the self-employed are forced to pick up the entire premium. This just goes with the territory. The reason I am pointing it out is to highlight the fact that tax deductibility is particularly important for these Americans.

The second reason it is so expensive is that individual insurance is much more expensive than group insurance. When I say group insurance, I am generally talking about employer-based insurance.

The reason that group plans are cheaper is because the risk is spread over a broad group of people, sick people and healthy people. But, due to the costly nature of individual insurance and the unfavorable tax situation, healthy individuals are less inclined to buy individual plans. Many of them simply choose to go uninsured. Consequently, because there are fewer healthy individuals to spread the risk, individual insurance is very expensive.

But the primary reason is the tax situation. And this is very easy to fix. Employers get a 100-percent tax deduction for their contribution to an employee's health premiums. Earlier their year, we did raise the self-employed tax deduction to 30 percent. But, I believe that this is still unfair. It ought to be 100 percent for everyone—employers, self-employed, and the individual policy buyer whose employer does not offer health insurance.

This bill raises the deduction for the self-employed insurance premiums to 80 percent. This will go a long way toward eliminating the powerful disincentives for self-employed Americans to buy insurance. It phases the deduction in over 10 years. While I still wish it were 100 percent, and I would like to see it changed right away, this is indeed progress.

In addition to helping the self-employed, this bill has a provision that is of great concern to Americans who wish to purchase long-term care insurance. Just today, I had a constituent visit my office from the Alzheimer's Association. Among her primary concerns was this provision to amend the tax code to make long-term care insurance and expenses tax deductible. I know this disease very well, because my father-in-law had Alzheimer's, and I know how expensive long-term care can be.

Health care is important, but for many, such as those with Alzheimer's disease, it is activities related to daily living that are the problem. The bill specifically defines these activities to include "eating, toileting, transferring, bathing, dressing, and continence."

Under current law, health insurance is tax deductible. But long-term care insurance gets taxed. This bill would provide the same deductibility for long-term care that is currently afforded to health care.

Mr. President, the final provision that I would like to discuss is not in this bill, and that is the tax deductibility for Medical Savings Accounts. It was in the Senate Finance Committee's amendment, and it was in the House bill. Unfortunately, this vital provision was defeated on the Senate floor by a vote of 52 to 46.

I have discussed the important provisions for self-employed Americans, and employer-based benefits. But, there is another group of people who are in desperate need of help, and that is individuals who are not self-employed, but whose employers do not offer an insurance plan. Many of them are restaurant workers, farm workers, or other people who work for a small employer who cannot offer or chooses not to offer an insurance package.

Under current law, these workers get no tax deduction whatsoever. Not 100 percent, not 30 percent—nothing. It is the same for Americans who are unemployed.

Huge corporations get a 100-percent tax deduction to subsidize their employees' insurance premiums—from the CEO on down. But someone living paycheck to paycheck whose employer can not provide them with insurance—or someone who is unemployed—gets taxed on the full premium.

There are provisions in both the House and Senate bills to allow small businesses join together and form purchasing pools in order to buy insurance at lower rates. The House provisions were somewhat stronger than those in the Senate bill. I am confident that the conferees will work to produce a final version that would greatly increase the number of small businesses that offer insurance to their employees.

As helpful as these provisions will be in increasing access to insurance, there will still be millions of Americans whose employers don't offer insurance, or who are unemployed. For these Americans, there is only one provision that would have helped them—and that is the full tax deductibility for Medical Savings Accounts, or MSA's.

I can't understand why my colleagues would have voted against it. It will obviously be an important issue in Conference, and I am hopeful that it will make it into the final package.

Some have suggested that if we include MSA's in the conference report that it will provoke opposition or even a filibuster by the Democrats. I find it very hard to accept the proposition that Senators would filibuster health care portability reform solely on the basis that we give tax relief for Americans to put money in a savings account for health expenses.

I believe that MSA's are vital to true health care portability. By definition, MSA's are the very essence of portability. When we talk about insurance "portability" as it pertains to the underlying Kassebaum-Kennedy bill, we are using the term figuratively. The employee isn't really bringing his insurance with him, we are just providing him the freedom to shift from one plan to another without being denied coverage.

So, lets take the example of an individual who works for a company for 20 years, and becomes disabled or ill, and must leave his job and give up his employer-based health insurance. Under the bill, he would be able to buy an individual insurance policy. The insurers would have to take him. But it says nothing about how much the insurer could charge.

So, when he goes to the individual insurance company, the company is going to evaluate him in terms of the health risk that he poses to the plan. It does not matter if he was insured for 3 years or 30 years, the insurance company would consider only his current health status in determining the premium he would pay. Those 30 years of payments mean nothing to the new insurance company.

The only provision that would allow him to transport at least a portion of his coverage is the medical savings account [MSA]. MSA's allow individuals to supplement their insurance policy by investing a certain amount into a tax-free savings account and using that account to pay for their predeductible medical expenses. Any money that the patient has not spent at the end of the year would remain in his account.

It is portability in its most pure form. Because it stays with the employee if he change jobs, because it is his account. If he gets fired, and cannot find a job, he still has the MSA. He could even use the MSA to pay his insurance premiums while he tries to find a job. If he moves to a plan that provides a lower level of coverage, he would still have his MSA money to pay for the uncovered expenses. I feel that he should get a tax deduction for this account, just like Americans get for their individual retirement accounts, mortgages, charitable contributions, and health insurance.

But, there is another reason that MSA's are important to real health care reform, and that is the increased use of preventive health services. I really believe that preventive health care is the solution to many of our health problems.

Most insurance plans have a deductible that people need to meet before their insurance company pays for coverage. This acts as a built-in disincentive for individuals to use preventive health services, and I believe it needs to be at the center of health care reform.

For example, let us say a person has an illness such as diabetes. In order to avoid major health problems, they need to maintain an adequate insulin balance, appropriate diet, and so forth. This can become very costly when the patient must pay for needles, insulin, monitoring devices, perhaps dietitian services, and other costs. If these services are not covered, the individual must pay out of pocket. This discourages the use of preventive health care.

The unfortunate result is major health problems for these people. For diabetes patients, it might even mean a foot or leg amputation—major short term and long term costs to the insurer, the individual, and his family. Of course, add to that the years of pain and hardship that result from this perhaps preventable situation.

Let me explain why MSA's encourage preventive health care. The three major issues that result in individuals not getting preventive health care are: deductibles, copayments, and uncovered or partially covered services. In these three situations, the individual is forced to come up with the money on their own, without help from the insurer. In some cases, this forces the individual to choose between the expenses of daily life—food, rent, heating bill—and paying for the preventive health services. Not surprisingly, it is the preventive services that are often pushed aside.

Millions of Americans believe that managed care, so-called health maintenance organizations [HMO's], are the solution to cost control and preventive health care. I would concede that HMO's have done some great things in controlling health care costs in our country. But HMO's still leave the issue of uncovered expenses. There is also the problem where many Americans do not want to join the HMO because they might not be able to keep going to their family doctor, if the doctor does not belong to the HMO.

With an MSA, there are no predeductible expenses, no uncovered health expenses, no copayment as long as the individual still has money in his MSA. So the disincentives that discourage individuals from obtaining preventive health care are greatly diminished.

A March 14, 1995, policy analysis done by the Cato Institute addressed the successes of MSA's in the current system. Even without the favorable tax treatment, the paper states that in its experience with MSA's under the current system, Golden Rule Insurance Co.'s employees increased their use of preventive care.

About 20 percent of the workers with MSAs reported that they used their MSA funds to pay for a medical service they would not have bought under the traditional health insurance policy. That is because the MSA provided the funds at hand that they could use to pay for such services, whereas the traditional policy imposed deductible and coinsurance fees that actually discouraged the use of such services. Moreover, the traditional policy might not cover some services, and the uncertainty alone discouraged workers from obtaining preventive care. But workers know that MSA funds can be used for whatever services they choose.

So we can philosophize all we want about why it happens, but I like to look at the hard evidence. When we look at the facts, MSA's increase the use of preventive care.

Mr. President, recently this issue has somehow become a partisan issue. Some Democrats have put themselves in the awkward position of saying that people should have to pay taxes on their prededuetible health care expenses, copayments, prescription drugs, and other uncovered expenses. They can try to explain that to the voters when the election comes around.

But, I think it is worthwhile to briefly review the record here, because historically, this has been a very bipartisan issue, and my colleagues on the other side should be aware of this before they fall on their swords over this so-called controversial provision.

I have a series of letters and a television transcript here from House and Senate Democrats in support of MSA's, including Representatives ANDREW JACOBS, ROBERT TORRICELLI, and House Minority Leader DICK GEPHARDT, as well as Senators JOHN BREAUX, SAM NUNN, and the distinguished Senate Democratic leader, Senator DASCHLE. I also have a letter from the National Mineworkers.

These materials clearly show that MSA's have enjoyed broad bipartisan support in the past, and I ask unanimous consent that they be printed in the RECORD at the conclusion of my remarks.

Mr. President, this bill is not perfect. I am sure all of us have changes we would make. I know there are a number of provisions that I would like to see added to the bill. But I am going to vote for it, because I believe it is a big step in the right direction. After the failure of the Clinton socialized medicine plan, Republicans said that we needed a change. We promised Americans that if they gave us a chance, we would give them a real health reform bill—without Big Brother, without the "standard benefits package," without rationing care. We promised them portability and tax relief for the self-employed, and long-term care. We have made good on our promise to the American people and I urge my colleagues to support this legislation.

I ask unanimous consent that letters and a television transcript to which I earlier referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, April 17, 1996.

Hon. WILLIAM J. CLINTON,
President, The White House, Washington, DC.

DEAR PRESIDENT CLINTON: As original cosponsors of Medical Savings Accounts (MSA) legislation in the House of Representatives, we urge your review of and your public support for this wonderfully innovative idea.

The recent vote on the House Republican plan should not be used to judge the Democratic Party's position on MSAs. As you know, MSAs have become a major plank in Congressman Torricelli's health care platform in his Senate race.

We cannot think of a more Democratic idea than MSAs. In fact, it *was* originally our idea. We want Democrats to get the credit for it. In the Senate, Democrats John Breaux, Tom Daschle, Sam Nunn and David Boren initiated the idea.

Dick Gephardt included MSA's in the House Democratic Leadership bill in 1994. There were 28 House Democrats who cosponsored our initial MSA legislation. There are currently three Democratic U.S. Senate candidates who have supported MSA legislation: Dick Durbin, Tim Johnson and, of course, Bob Torricelli.

You also should know that the current contract of the United Mine Workers provides its members with MSAs. We do not believe the UMW qualifies as healthier and wealthier than the general population—a charge leveled by uninformed MSA opponents.

MSAs will hold down health costs and be a boon to lower income employees, single working mothers, as well as the lower and middle income employees all across America. With MSAs, people are rewarded for shopping around and can, in many cases, for the first time spend first dollar health insurance dollars (there are no deductibles or copayments) on dental care, vision, mammograms, alternative medical therapies, etc.

Mr. President, we believe MSAs will be a huge benefit to the American public. MSAs are not a partisan issue. Democrats supported MSAs in the 102nd and 103rd Congresses and we support them in this Congress because they are a good idea that increases access, controls costs and extends options.

Sincerely,

ROBERT G. TORRICELLI,
Member of Congress.
ANDREW JACOBS, Jr.,
Member of Congress.

CONGRESS OF THE UNITED STATES,
Washington, DC, March 27, 1996.

Medical Savings Accounts

DEAR DEMOCRATIC COLLEAGUE: Many interest groups are posturing on the health insurance reform issue. A few are to draw an imaginary line in the sand on Medical Savings Accounts. Medical Savings Accounts should not be a partisan issue.

Please note:

1. Democrats were the initial sponsors of MSAs.

2. MSAs passed the House Ways & Means Committee unanimously in May 1994—when Democrats were in control. Obviously, in 1994, we believed it was part of the solution.

3. MSAs are included as the "sense of the committee" in the Kassebaum-Kennedy bill.

4. MSAs do not favor the young and healthy any more than optional conventional health insurance in the workplace. MSA funds can be used for diabetic maintenance testing and other procedures not generally covered by traditional health insurance. MSA funds can be used for orthodontia care which is also not generally covered.

Health insurance reform is too important to allow the posturing of a few to kill it.

Sincerely,

ANDY JACOBS, JR.
BILL LIPINSKI.
GLENN POSHARD.

U.S. SENATE,
Washington, DC, September 8, 1992.

DEAR COLLEAGUE: The United States is faced with a crisis in health care on two fronts: access and cost control. So far, most of the proposals before Congress attempt to deal with access but do not adequately address the more important factor—cost control. We have introduced legislation that will begin to get medical spending under control by giving individual consumers a larger stake in spending decisions.

We have introduced a bill, the Medical Cost Containment Act of 1992 (S. 2873), which would allow employers to provide their employees with an annual allowance in a "Medical Care Savings Account" to pay for routine health care needs. This allowance would not be subject to income tax if used for qualified medical expenses. Any money not spent out of a given year's allowance could be kept by the employee in an account for future medical needs during times of unemployment or for long term care. In order to protect employees and their families from catastrophic health care expenses above the amount in the Medical Care Savings Account, an employer would be required to purchase a high-deductible catastrophic insurance policy.

Unlike many standard third party health care coverage plans, Medical Care Savings Accounts would give consumers in incentive to monitor spending carefully because to do otherwise would be wasting their "own" money. That is, money that they would otherwise be able to save in their account for future needs.

Once a Medical Care Savings Account is established for an employee, it is fully portable. Money in the account can be used to continue insurance while an employee is between jobs or on strike. Recent studies show that at least 50% of the uninsured are uninsured for four months or less.

Today, even commonly required small dollar deductible (typically $250 to $500) create a hardship for the financially stressed individual or family seeking regular, preventive care services. With Medical Care Savings Accounts, however, that same individual or family would have this critical money in their account to pay for the needed services.

We feel that, while the Medical Care Savings Account concept does not provide the total solution to the crisis in health care access, it does begin to address the critical aspects of increasing costs and utilization by consumers.

We hope that you will join us as cosponsors of this legislation. If you have any questions please contact us or have your staff contact Laird Burnett of Senator Breaux's staff at 4-4623.

Sincerely,

JOHN BREAUX.
DAVID BOREN.
TOM DASCHLE.
RICHARD LUGAR.
DAN COATS.
SAM NUNN.

[From CNBC's "Equal Time"—Aug. 2, 1994]

MARY MATALIN. You think the Medical Savings Accounts are going to make it through conference?

DICK GEPHARDT. Absolutely. This is an idea the Ways and Means Committee has worked on for three or four years. It's very popular. A lot of people like that option and I think it will be in the final bill. I think it's a great option.

JULY 29, 1994.

Hon. PAUL SIMON,
U.S. Senate, Dirksen Building, Washington, DC.

DEAR SENATOR SIMON: An amendment to the Health Care Package has been offered to add a medical care savings account provision. The United Mine Workers have a similar provision in our current contract that is anticipated to produce a significant savings to our previous insurance. If the amendment offered is consistent with the objectives of our contractual health care provisions, the United Mine Workers in Illinois would support it. The options of utilizing a medical care savings account may assist in solving the Health Care problems in this country.

Another concern of our members is the possible taxation of benefits. Any provisions that allow for taxation of health care benefits would be totally unacceptable. Over the years, the United Mine Workers have negotiated a total package for our members. Advances in wages and other fringe benefits have suffered because of the high cost of health insurance. Taxation of health care benefits would be a slap in the face to the miners in Illinois who agreed to maintaining their health care in lieu of other benefit increases.

I appreciate your efforts on behalf of our members as well as all Americans during the health care debate. I believe that everyone in the United States must be afforded quality comprehensive health benefits without the fear of losing these benefits through job loss.

Sincerely,

DAN REITZ,
COMPAC Coordinator, District 12, U.M.W.A.

Mr. KEMPTHORNE. Mr. President, I support the Health Insurance Reform Act, for the simple reason it will help provide more accessible and affordable health insurance to more Americans.

The Health Insurance Reform Act helps those who are now unable, for reasons beyond their control, to buy health insurance. It prevents insurance companies from denying coverage to individuals with preexisting conditions, while ensuring that individuals are not able to take unfair advantage of the system by only purchasing coverage when it is actually needed. It prevents job-lock by guaranteeing that individuals who are covered by an employer-sponsored policy will not lose their coverage by changing jobs. It also allows individuals and small businesses to join together to purchase insurance, thereby leveraging their negotiating power to gain better rates and/or benefits. In addition, the bill makes health care more affordable by gradually increasing the deductibility of premium costs for the self-employed to 80 percent—a move which will be of great benefit to the more than 56,000 self-employed Idahoans. I am also pleased to note the bill allows for the cost of long-term care insurance and expenses to be deductible—another of the reforms I have supported since before I joined the Senate. And the Health Insurance Reform Act achieves all these goals without unnecessary Federal intrusion into the health care system.

This bill is the result of the heated and controversial debate over health care policy 2 years ago. You will recall Congress and the American public rejected the proposed Government takeover of health care, but recognized that targeted reforms were needed in health insurance.

The crisis in health care is that too many people are being denied health insurance. That is why, 2 years ago I introduced legislation to address those market reforms on which I knew there was broad agreement. While the details of my bill differ in many ways from the bill we passed, I am pleased to note many of the concepts I embraced then—increasing access to health insurance, portability, renewability, and an end to preexisting conditions exclusions—are found in the Health Insurance Reform Act. The American public said they wanted us to keep the Government out of health care, and to target our health insurance reforms to the market. With this bill, I can say the Congress listened.

I just had a clear example of why this legislation is needed. An Idahoan contacted my office last week asking if the Health Insurance Reform Act would help him. He is currently receiving disability benefits but would rather be working. His American dream is to start his own business. But he fears that becoming more productive will cause him to lose the Federal benefits which now provide him with his only access to adequate health care. If he knew that his disability, his preexisting condition, would not prevent him from gaining access to health insurance, he could start that business, to provide for himself and his family without the Federal assistance he does not really want, anyway.

During the previous Congress many of us had the opportunity to learn a great deal about the way health care is provided in this Nation. We saw aspects of the system which worked, and I would point out that the overwhelming majority of the system works very well, providing most Americans with the best health care in the world. We also learned about those aspects which needed some adjustments. And that is what we are trying to do—not rebuild health care in the United States, but make appropriate corrections to specific aspects of the system to make it work even better. Most importantly, we are achieving more affordable and accessible health care through private sector reforms.

I must, however, express my disappointment with the vote to exclude medical savings accounts MSA's from this bill. MSA's allow people to save money, tax free, to cover medical expenses. In cases where an employer provides health insurance, the employer contributes to the MSA and, again, these funds are not taxable provided they are used for medical expenses. When combined with a high-deductible, catastrophic insurance policy, MSA's provide individuals with low-cost health care coverage which provides the maximum level of consumer choice and eases many of the financial concerns which face those who need health care services. MSA's are the responsible way to increase both accessibility and affordability in health care coverage.

States are the proving ground for many innovative ideas. Idaho is one of many States to have enacted MSA legislation in recent years and numerous Idahoans have expressed their support for MSA's as a health insurance option. While I believe Idaho, among other States, should be commended for its efforts on this issue, regrettably, the full benefits of MSA's will not be discovered until they are recognized by the Federal Government and given appropriate treatment under the Tax Code. Once again, the States have shown initiative and it is time for the Federal Government to get out of the way and give our citizens the options for which they have asked. As a recent editorial in the Idaho Statesman noted, The nation loses if medical savings accounts are stripped out of the final legislation.

The bill is not perfect. Small insurers have shared their views with me that the provisions related to small group and individual coverage will actually increase the cost of individual policies, thus adding to one of the current insurance problems we face—the lack of affordability. As premium costs increase people will drop out of the system, leaving us with more uninsured and, with a shrinking market, even fewer options for those who continue to purchase health insurance coverage. Obviously, this is not the result for which we are aiming and addressing these questions should be a priority.

That said, I support the Health Insurance Reform Act because I believe it steps in the right direction toward increasing accessibility to health care insurance. Allowing those with preexisting conditions to get and keep health insurance will help ensure coverage for Americans unfairly denied access to health insurance. Providing for portability of health care coverage will help end job-lock and will ensure that those who have faithfully paid into the system will not suddenly be dropped from it. And providing for more favorable tax treatment of insurance premiums for the self-employed, and for long-term care insurance, will make insurance more affordable for numerous other Americans. These are significant reforms which I believe all of us should support, and I urge my colleagues to pass this bill.

Mr. LEVIN. Mr. President, many Americans today, particularly middle-income working families face the declining purchasing power of their wages. They are saddled with the high cost of child care, are trying to get a college education for their children, working to reach the traditional American dream of home ownership and some security for their own retirement years. But perhaps most difficult is the struggle to keep up with the sky-rocketing costs of health care which many are forced to face without adequate health insurance.

Americans want health insurance which covers all Americans, which is affordable, protects the quality of their health care, and can never be taken away. Today, the Senate, I hope, will take a first step in that direction. This legislation does not address the costs, but takes a very important step in protecting the availability of health insurance for many Americans.

I support the legislation before the Senate today. I am pleased to be a cosponsor of this health insurance reform measure, along with 55 of my colleagues in the Senate. Although it does not solve and does not attempt to solve all of the problems of the present system, it does address some of the most pressing concerns that middle-income Americans have expressed about the diminishing availability and portability of health coverage for themselves and their families.

This bill makes important changes that will protect those who currently lose their insurance coverage because they lose their job or change jobs. And, it protects those who are unable to attain health insurance because of a preexisting medical condition, or who now lose it when they get sick.

One of the consequences of the present health insurance system is that it creates what is often called "job lock"; that is workers who want to change jobs to improve their careers are forced to give up the opportunity because it means losing their health insurance. A quarter of all Americans say they have been forced to stay in a job they otherwise would have left, because they were afraid of losing their health insurance. This bill ends job lock.

Under the Kennedy-Kassebaum reform bill, exclusion of a preexisting condition will be limited. Employer-provided health plans will not be able to limit or deny coverage for new employees for more than a year because of a medical condition that was diagnosed or treated during the previous 6 months for employees changing plans. No new limit on preexisting conditions may then ever be imposed on those who maintain their coverage, even if they change jobs or their employer changes insurance companies. Cancellation of policies for employees who continue to pay their premiums will be prohibited. Employees coverage can no longer be terminated because they become sick. No employers who want to buy policies can be turned down because of the health of their employees.

Mr. President, I am especially pleased with significant improvements in coverage for pregnant women and newborn children. Under the bill, pregnancy can no longer be considered a preexisting medical condition as is presently the case with some health plans. In some such situations, the mother has no prenatal coverage for pregnancy related services.

The bill also contains a special enrollment period for change in family composition. Under this provision, newborns whose parents wish to enroll them in their group health plan within 30 days of birth may not be excluded from coverage under a group or individual health plan during the child's first 12 months of life.

Additionally, as is the case with individuals who are previously enrolled, children cannot be subject to a preexisting condition exclusion once the condition has been diagnosed, if the condition was previously covered. This provision is intended to ensure that children under the age of 1 are not subjected to new preexisting condition exclusions when their parents change jobs or health plans simply because of their age.

Mr. President, this legislation helps real people. It will help Mike and Elizabeth Gregory of Gains Township, MI. When Mike Gregory was left jobless due to his company's downsizing, his wife Elizabeth and their two daughters lost their health coverage. This situation primarily impacted their youngest child, Danielle, who has cerebral palsy. Only one of the three plans at Mike's new place of employment offers insurance that will not limit coverage for Danielle's preexisting condition, thereby limiting their choice and therefore their selection of benefits.

Barbara Barton of Grand Rapids suffers from MS. She was forced to leave her job in order to reduce the stress that worsened her symptoms, which included temporary blindness and difficulty walking. Ms. Barton was forced to wait 6 months to get health coverage, since MS is classified as a preexisting condition. Under this bill, she would have been eligible to move to an individual health insurance plan immediately.

Fear of losing health coverage for Mr. Al Miller's preexisting condition prevents his wife from seeking a higher-paying job. The Millers are from Charlotte, MI. Mr. Miller has MS.

Mr. Michael Peel of Flint recently changed jobs and is covered under COBRA has a 2-year-old son with a number of physical ailments. He and his wife are expecting their second child and fear they will not be able to get coverage under Mr. Peel's new job that does not exclude his preexisting condition.

Steven West of Nashville, MI, spoke to me about problems he and his wife Lori have experienced in attaining health insurance coverage for their son, Jacob. Jacob has multiple birth defects. Steven has been able to negotiate coverage at his current job, but fears that he is trapped there by Jacob's needs. Steven has an opportunity to move to a better job, but has been unable to do so because the health coverage would not take care of Jacob.

Mr. President, these are just a few real people in my home State of Michigan who stand to benefit from this legislation, there are thousands like them. I want to commend my colleagues Senator KASSEBAUM and Senator KENNEDY for forging a bipartisan approach to addressing this critical issue. While I would prefer for the Senate to be passing more far-reaching health reform today, perhaps covering all American children, for example, I believe this bill is an important step forward and I urge its enactment.

Mr. MACK. Mr. President, I would like to thank my colleagues for postponing final passage of the Health Insurance Reform Act until my return. The legislation which we will pass today is the straightforward health insurance reform which my constituents have been telling me they want for many years.

The American people rejected the big-government, big-bureaucracy social experiment which the Clinton administration developed—in secrecy, I might add—in 1994. People don't want a one-size-fits-all, government-controlled health insurance system. Americans won't tolerate having a Government board deciding for them which procedures are medically necessary and appropriate. And we know from leading economists that price controls produce shortages, black markets, and reduced quality. Therefore, most Americans and those of us who serve them in Congress rejected the Clinton health care plan.

Two years later, under Republican leadership, we are addressing the aspects of health insurance reform which most people outside the beltway want us to address. We will provide portability of health insurance, which will help put an end to job lock. Insurers will no longer be able to deny coverage due to preexisting conditions. As a cancer survivor, I know personally how important this provision of health insurance reform is to patients.

The legislation ensures guaranteed renewability of policies, with the exceptions of fraud and nonpayment of premiums. It will help the self-employed by increasing the deductibility of health insurance premiums. It facilitates the establishment of voluntary coalitions of small businesses and individuals to negotiate and purchase health insurance. Finally, the legislation provides tax incentives for the purchase of long-term care insurance, and tax-free treatment of accelerated life insurance benefits for those with chronic or terminal illnesses.

I am especially grateful to Senators KASSEBAUM and KENNEDY for agreeing to include genetic information in this important legislation.

I cochaired a hearing with Senator FEINSTEIN last September to examine the issue of genetic information and health insurance. We listened to patients, researchers, biomedical ethics experts, consumer advocates, and others who made the case that Congress must address this complex issue now.

Why now? Because the scientific data and technology for genetic testing are here; but the social, ethical, and legal ramifications have only begun to resonate beyond the scientific community. Put another way: The science of human genetics research is on the Concorde. Yet the legal, social, and ethical debate about how to handle the information in our society has been stuck at Kitty Hawk trying to get off the ground.

This legislation takes an important first step by clarifying that employer-based plans cannot deny coverage, or charge higher premiums, to individual employees based upon their health status, including health status based upon genetic information. While this may not have significant implications today, it certainly will by the end of the decade when international scientists complete the mapping of the entire human genome.

There is still more which needs to be accomplished in this area, such as ensuring the privacy of medical records and prohibiting employment discrimination based upon an applicant's genetic information. Senator HATFIELD, Senator FEINSTEIN, and I look forward to working with our colleagues to enact our legislation to address these concerns.

Today is an historic moment in our Nation's history. We will ensure that all Americans have access to health insurance coverage while maintaining the freedom to choose providers and benefits. We will preserve our system with the highest quality of care and continue to foster research, innovation, and competition. We will provide employers with the positive incentives to provide health insurance coverage for their employees, and provide tax equity for the self-employed to acquire insurance for themselves and their families.

All of this will be accomplished under the system which has served as the bedrock of every great stride our Nation has made—not through higher taxes, more Government, and more bureaucracy, but rather through free markets and free choice.

Mr. THOMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent I be allowed to speak briefly as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERM LIMITS

Mr. INHOFE. Mr. President, I have been watching and listening with a great deal of interest to the debate on term limits. I think there are a lot of us who believe that, regardless of the arguments that come forth on term limits, there are not many minds that will be changed in this Chamber. But many of us have been concerned about the term limits issue long before we got to Congress. I know I became interested in it back in the 1970's, long before I was a Member of Congress.

I think a lot of the reason is that you look and you see the things that are going on in this country, and you see that there is a necessity to change the way we have been doing business.

One argument that has not been used during the course of this debate, that I have heard anyway, is the argument that if we had term limits, it would deter a lot of people from getting into a legislative position for perhaps the wrong reasons. I think quite often people with whom I have served who came here to Congress directly out of college never really had a real job in terms of the real world and did not have any idea of how tough it was out there.

I look at a lot of the things that passed, such as the deficit that has piled up over the years. Certainly, in my position, I look at this as if this is a moral issue, and it is not going to be changed until we are able to change the type of individuals that serve here.

We have excellent people serving here in Congress, but the thing that has always been a problem with me is that people who come to Congress, never having been exposed to the real world, have a different set of values and have a different outlook on life than we have.

I would agree with some of the previous speakers that we ought to have a situation in America where Members of Congress should all have to go out and make a living under the laws that they pass, and we would not have these problems.

Someone not too long ago said that we have an overregulated society here. We certainly do. It is overregulation which mostly came about by people who have been in Congress for their entire adult life. This is something that can be changed.

I am not optimistic that anything is going to happen with this today. But I will say this. There is going to be a record that will be established so that people who are running for office will know that the public will know how they stand on this very contentious issue. Over in the other body, in the House of Representatives, there is a Contract With America; 9 of the 10 items were passed over there. The tenth one that was not passed was term limitation.

I believe it is something that is very healthy for our system, something that we all need to get on the record, and I think we will have that opportunity today. I believe that is in the best interest of this country.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH INSURANCE REFORM ACT

The Senate continued with the consideration of the bill.

Mrs. KASSEBAUM. Mr. President, first before we go to the closing statements on the health insurance reform bill, I would like to yield the floor 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota, [Mr. GRAMS] is recognized for 5 minutes.

Mr. GRAMS. Thank you very much, Mr. President.

Mr. President, I rise today to offer my strong support for the Health Insurance Reform Act, and I commend the distinguished chairman from Kansas and the Senator from Massachusetts for drafting legislation which seeks to ensure affordable, accessible health insurance for all Americans.

In September of 1993, President Clinton and the First Lady presented a sweeping health care reform proposal which they believed would resolve the health care problems facing many in our country. They said we needed to make insurance portable . . . they said we needed to protect individuals with pre-existing conditions . . . and they said we needed to bring down the rising costs of health insurance. I agreed with the problems identified by the President, however, I strongly disagreed with the solutions he proposed.

Crafted during a year of closed-door meetings by the White House's Health Care Task Force, the Clinton plan set in place global budgets, price controls, tax increases, reduced choice and rationing—all housed within a massive, new layer of Federal bureaucracy. Fortunately, Americans recognized the President's plan for what it really was—a government takeover of the Nation's health care system, and they had the good sense to reject it.

Mr. President, I believe government-controlled health care failed in 1994 because the President underestimated the ability and desire of Americans to make their own health care choices, free from government intrusion or control. Only by empowering consumers, rather than the Government, will we allow the marketplace to evolve into a quality, cost-effective, and responsive health care provider, able to offer affordable insurance to all Americans.

While socialized medicine failed in 1994, Americans did embrace four important concepts which emerged from the health care debate: health insurance should be accessible, it should be affordable, it should be portable, and pre-existing conditions shouldn't disqualify anyone from obtaining health insurance. Those principles lie at the heart of the Health Insurance Reform Act.

It is estimated that 43 million Americans went without health insurance in 1995. According to the Minnesota Health Care Commission, the number of uninsured Minnesotans has remained stable for the last 5 years at approximately 400,000 individuals, or nearly 9 percent of the State's population. That is below the national average of close to 15 percent uninsured but still too high.

Mr. President, what keeps health insurance out of the reach of so many? The two main barriers are access and affordability.

A majority of Americans under the age of 65 are insured through their workplace. Many job providers, however—small employers in particular—find themselves shut out of the health insurance market when it comes to obtaining affordable coverage for their employees.

And even insurance obtained through a job doesn't last forever, because few Americans stay with a single employer throughout their entire work career. Each year, 18 million Americans change insurance when a family member moves between jobs, often stranding them without insurance and usually forcing them to find new coverage. Many who are unwilling or unable to risk going without insurance just stay put. A Washington Post/CBS News survey found that one quarter of all American workers experience "job lock"—they are staying in jobs they would otherwise leave because they are afraid of losing their health coverage.

Another flaw of our insurance system is that it offers little protection to individuals or their family members suffering from major health disorders. Because they are victims of what are known as "preexisting conditions," these Americans are denied insurance because of the cost they represent to the system.

Americans who play by the rules, who buy health insurance when they are healthy, should be allowed to keep it when they get sick. This is why I supported Senator JEFFORDS' amendment which would have raised the lifetime cap on insurance policies.

Individuals buy health insurance to not only ensure treatment for relatively minor medical problems—strep throat and the occasional broken bone, for example—but also to protect themselves against crippling accidents or catastrophic illness. It is important that these individuals continue to be covered by their private insurance company. If they are dropped, their only alternative is to spend-down their assets in order to qualify for Medicaid.

This moves more patients into the Medicaid program, overloading the taxpayers and a system that is already buckling under heavy costs.

This is unfair to those individuals who have played by the rules, and I will continue to work with the Senator from Vermont to address this issue.

Expanding access to insurance, allowing individuals to move between jobs with insurance policies that can move with them, and preventing insurance companies from denying coverage based on a preexisting condition, is precisely what the Health Insurance Reform Act attempts to provide.

The Federal Government's General Accounting Office estimates this legislation would open the door to health insurance for 25 million more Americans.

Americans will no longer be forced to decide between taking a new job or losing their medical coverage—the Health Insurance Reform Act guarantees health care that is always there, regardless of where an employee works or even if they work at all.

My own State of Minnesota embarked on reforming its health care delivery system long before most of the rest of the country.

For three decades, we have debated these very same issues and worked long and hard to achieve portability, renewability, and the elimination of preexisting condition exclusions, thereby increasing the number of insured.

Minnesotans have been innovative and progressive in reform of our health care marketplace.

We have celebrated success and we have endured failure.

While our system is far from perfect, our legislators, our health care community, and our constituents continue to work to improve the delivery of quality health care and guarantee its affordability in Minnesota.

One of this bill's most beneficial aspects is the flexibility it gives States to create and administer their own health insurance reform programs—away from Washington's control.

Under this legislation, States such as Minnesota, which have already implemented reforms, are exempted from any changes established by the Kassebaum-Kennedy bill.

Furthermore, Minnesota has already enacted laws in the large group, small group, and individual markets which go beyond what is laid out in the Kassebaum-Kennedy legislation.

That includes guarantee issue, guaranteed renewability, limits on pre-existing condition exclusions, a State risk pool for uninsurable individuals, and reforms to enhance and encourage the bargaining power of small businesses.

The Kassebaum bill will have minimal effect on most of my constituents, but it will provide new portability and access protections for Minnesota employees and their dependents.

It does so by requiring insurers to guarantee issue coverage to plans with 50 or more employees, which includes self-insured plans not currently providing these protections.

I am disappointed that medical savings accounts are not part of the Senate bill.

I am encouraged, however, by the large number of my colleagues who share the majority leader's commitment to including MSA's in the conference report. I believe MSA's would substantially enhance the legislation before us.

While this legislation will go a long way toward expanding access to health insurance, I am still concerned that the bill does not provide enough affordable access. Keep in mind that health insurance which is accessible yet unaffordable will not improve the current problems in our marketplace.

The inclusion of MSA's in this legislation is not a Republican issue or a Democrat issue—it is a Main Street issue. MSA's enhance portability and promote consumer choice, while they empower individuals with the same tax equity large corporations receive under our Tax Code.

I am deeply concerned that many of those who claim to be advocates for the so-called little guy want to deny lower income Americans the choice of medical savings accounts.

I believe MSA's are the best way we can put low-income wage earners on an equal footing with their corporate cousins in the health care marketplace.

I received a letter last week from a coalition of rural Minnesotans based in Fergus Falls called Communicating for Agriculture.

Comprised of farmers, ranchers, and agribusinesses, and boasting a national membership of 80,000, Communicating for Agriculture has been advocating an MSA-type plan since 1978.

They write;

> Managed care is not an option to hold down health care costs since [rural Minnesota] has little or no competition in health care. Without competition, you can't have managed care. MSA's allow us to spend our medical dollars where it is most convenient.
>
> It also eliminates a great amount of administrative expense which is a major contributor to health inflation over the years.

A recent study by Blue Cross and Blue Shield revealed that 43 percent of employees would definitely or probably switch to an MSA if given the opportunity. In light of this broad, public support for MSA's, we should at the very least allow individuals this choice. While the Kassebaum legislation is good and worth passing on its own merits, I certainly hope that the conference committee will adopt MSA's as part of the final version of our health insurance reform efforts this year.

As I conclude, I want to assure my colleagues and my constituents that my position on the issues before us has not wavered since I first ran for public office in 1992:

I strongly support legislation ensuring portability.

I strongly support legislation ensuring limiting preexisting condition exclusions.

I strongly support legislation providing tax equity for all Americans through medical savings accounts, and increasing deductibility to 100 percent.

And I strongly support the efforts of this Congress to deliver these desperately needed reforms to the American people.

As Congress prepares a final bill to send to the President, I will be working to ensure that provisions promoting greater access and affordability are incorporated into the final bill.

Only through such comprehensive reforms will we encourage more Americans to purchase health insurance, thereby expanding the ranks of those with coverage and eventually making health insurance more accessible and affordable for all.

Again, Mr. President, I strongly support this bill. I thank the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). Who yields time?

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas, [Mrs. KASSEBAUM].

Mrs. KASSEBAUM. I thank the Senator from Minnesota for his support on this legislation.

If I may speak for a few moments in closing before our vote this afternoon on the health insurance legislation. For a bill that is a very modest bill with a broad consensus of support, the Health Insurance Reform Act certainly has attracted a lot of controversy. It is not a Trojan pony. It is a bill that was carefully put together, learning from the mistakes of the past and building together in the Labor and Human Resources Committee legislation that we believed could garner the broadest possible support and yet represent a meaningful step forward in health care legislation.

During the debate in the last Congress on health care, there were many questions raised of particular concern to most people. One was portability, a sense of insecurity where many Americans found they were not able to maintain health insurance if they lost their job or changed jobs. That is what we started with—something that is clearly, I believe, a small but important step forward. It is what I believe will be very valuable to many people in this country. We recognized we were only going to be able to achieve success if the bill had the broadest support possible. And indeed, the legislation has garnered over 60 cosponsors. From there, of course, the legislation has grown to be more expansive than what we initially started with.

It has been our goal all along, Senator KENNEDY as the ranking member of the Labor and Human Resources Committee and myself, to say that amendments which did not have broad-based support—amendments which were controversial—were ones that we would have to object to, whether we favored them individually or opposed them individually. And that is what we have tried to do throughout this debate.

This legislation now reflects, I think, two very positive amendments that had unanimous support here on the Senate floor and that were offered by the chairman of the Finance Committee, Senator ROTH, and Senator DOLE, who has been a long supporter of these two initiatives. One was to increase the percentage of deduction that would be allowed to those who are self-employed from 30 to 80 percent. The second was to provide tax deductions for long-term care coverage, an issue which many of us have believed was very important and of which Senator DOLE has long been a leader. Those were valuable additions to the underlying bill.

As my colleagues know, Senator KENNEDY has for many years in his legislative career in the Senate, both as chairman of the Labor Committee and as ranking member, been a strong advocate of improving the health care system. This bill certainly does not go as far as Senator KENNEDY would like it to go, but he was realistic about the possibilities of what we could achieve with a more limited bill.

Whether this legislation helps 25 million people, as has been estimated by the General Accounting Office, or whether it only helps 10 million people or if it helps 50 million people, the important fact is that the Health Insurance Reform Act does provide some peace of mind for those who desperately want to have some assurance that they will not be excluded from coverage because of a preexisting medical condition if they lose their job or change their job.

That is an important sense of security for many Americans, and I believe one of the main reasons this legislation has garnered such strong support.

It is my hope, Mr. President, that out of this bipartisan effort we can go to conference and we can come through conference with a bill that will be acceptable to everyone, because what we can accomplish with this more limited legislation will be of value and far better to have accomplished than to try for too much and to fail again.

Other aspects that have been added as amendments in both the House and the Senate, may have some value. But because they are extremely controversial, I would suggest that they need to be debated on their own merits at another time. The clear danger is that if we add too much, we will again fail to deliver real reform for the American people.

Mr. President, this is an effort that has had a great deal of help along the way from all sides—from consumers, from the medical community, from the insurance community, from employers, and certainly from colleagues in the Senate and in the House of Representatives. I particularly thank staff members who have worked tirelessly on this effort, certainly on my own staff, Dean Rosen, who has spent months and months trying to pull together a consensus of support, as well as Susan Hattan, Rebecca Jones, and Ann Rufo, and all of the staff of the Republican members of the Labor and Human Resources Committee. I also thank David Nexon and Lauren Ewers of Senator KENNEDY's staff for their hard work and dedication on this issue as well.

I do not think today's vote would have been possible without the efforts of Senator KENNEDY, who has championed this legislation even though, as I said earlier, his own interests would have been more expansive than what we would have been able to achieve. It also would not have been possible without the support of those on my side of the aisle, as well, who have been willing to settle for what is possible and of greatest value to most people.

So it has been a collaborative effort. It has been an effort that garnered unanimous support when it came out of the committee in August, and I believe will have if not unanimous support here in the U.S. Senate, close to that. I think it will be an important moment in advancing health care efforts on the part of the U.S. Government today.

I want to thank the staff who worked countless hours on this legislation. I want to thank Susan Hattan, Dean Rosen, Rebecca Jones, and Anne Rufo of my staff for their contributions and persistence in helping to make this legislation a reality. I want to thank David Nexon and Lauren Ewers of Senator KENNEDY's staff for their hard work and dedication. And I want to commend the Republican staff of the Senate Labor and Human Resources Committee: Elaina Goldstein of Senator JEFFORD's staff, Vince Ventimiglia of Senator COAT's staff, Kimberly Spaulding with Senator GREGG, Susan Ramthun with Senator FRIST, Saira Sultan of Senator DEWINE's staff, Annie Billings of Senator ASHCROFT's staff. Greg Willhauck with Senator ABRAHAM, and Tammi Brueske with Senator GORTON. I also want to thank Bill Baird with legislative counsel for his patience and hard work, and Beth Fuchs of the Congressional Research Service for her invaluable guidance. Finally, I would like thank Michael Gutowski and Mark Nadel of the General Accounting Office for their analysis of the impact of S. 1028.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts has 10 minutes 30 seconds.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Senator PRYOR be able to speak for not to exceed 10 minutes at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, first of all, I would like to express my appreciation to a number of our colleagues. I start with our chairman of the Labor and Human Resources Committee, the leading sponsor of the bill, Senator KASSEBAUM. I think that when this legislation becomes law—and I believe that it will become law—the American people will owe her a debt of gratitude. I am proud to have joined her in recommending to the Senate this legislation and to join her in recommending the passage of the legislation, as well.

I think the entire Senate understands the extraordinary leadership that she has provided on this legislation, and it is important, I believe, that the American people do as well.

When the Senate votes on the Health Insurance Reform Act today, the bill will pass overwhelmingly for many reasons. It will pass because it is broadly bipartisan. It will pass because it is solidly supported by over 200 organizations and a coalition of consumer groups, business and labor and responsible insurance companies. It will pass because the Senate acted responsibly last week in rejecting a killer amendment that would serve special interests rather than the public interest.

Senators have made important contributions to the construction of this legislation, and I would like to mention several of my colleagues. This is not a complete list, but those who I have had the chance to work with most closely.

First of all, Senator HARKIN, who was a leader in the effort to protect people against health insurance discrimination based on genetic information.

Senator WELLSTONE worked hard to assure similar protections for victims of domestic violence.

Senator JEFFORDS was a key leader on the provisions of the bill enabling small business to create purchasing pools to increase their bargaining power.

Senator FRIST contributed key ideas to address the special needs of the disabled.

Senator DODD worked with the responsible insurance companies to see that their concerns were addressed while protecting the interests of consumers and gathering considerable support within the insurance industry for this proposal on the basis of its merits.

Senator ABRAHAM contributed to the State flexibility provisions which was a matter of considerable concern and interest to many different Members of this body.

Senator ROCKEFELLER was an early supporter of this effort and provided enormous assistance during the floor debate.

Senator BENNETT worked hard to bring this bill to the floor and to build a consensus behind it.

Others contributed as well.

We are grateful for the additions that were made by Senator DOLE and Senator ROTH focusing on making the availability of insurance more attractive to small businesses, that provided the support for extended care for many of our seniors, which is the great gap in the Medicare system today, and also for the initiatives for terminally ill patients to permit them greater flexibility to deal with some of their particular financial interests.

So we are grateful for all of their support and for many others. For Senator DOMENICI and Senator WELLSTONE who offered their amendment dealing with mental health, that was accepted by the Senate. Senator KASSEBAUM and I resisted that amendment on the basis of our earlier understandings and agreements that we would resist all amendments. But, nonetheless, I think there is great value of that particular provision as well.

The Kassebaum-Kennedy bill will end many of the most serious health insurance abuses and provide greater protections to millions of families. It is an opportunity that we cannot afford to miss.

Before some final brief remarks about the legislation, I want to recognize some of our very good staff people for their hard work.

On our side, my staff, Nick Littlefield, Dave Nexon, and Lauren Ewers were particularly active; Susan Castleberry, Sara Thom, Brian Moran, Ron Weich, and Melody Barnes.

For Senator HARKIN: Peter Reineke and Anne Ford.

For Senator WELLSTONE: Alex Clyde.

For Senator DODD: Jane Lowenson.

For Senator PRYOR: Bonnie Hoque.

For Senator ROCKEFELLER: Ellen Doneski and also Mary Ella Payne.

For Senator DASCHLE: Rima Cohen and Cybele Bjorklund. All of them were involved and helpful.

Senator KASSEBAUM has mentioned those Republican staff who have been involved and worked very closely with us. But in this instance, as in many others, some of them worked very closely with all of us, the Members of the Senate, as well as our staffs: Susan Hattan; Dean Rosen, Anne Rufo, and Rebecca Jones.

For Senator JEFFORDS: Elaine Goldstein.

And for Senator FRIST: Sue Ramthun.

We are grateful to all of them. They have a remarkable sense of knowledge and awareness in very special segments of this legislation, and their experience and knowledge and understanding of these nuances were valuable to all of us. We are grateful for their help.

Finally, Mr. President, briefly, the abusive practices addressed by this bill create endless, unnecessary suffering. It was our attempt to address that unnecessary suffering by focusing on language to provide millions of Americans with a new sense of hope in the workplace, Americans who are today forced to pass up jobs that would improve their standard of living or offer greater opportunities because they are afraid they will lose their health insurance.

Many others have to abandon the goal of starting their own business because health insurance would be unavailable to them or members of their families. We have tried to provide ways in which they can come together to provide coverage for their families and for the families of those who work in many of the mom-and-pop stores and smaller businesses of this country.

Children who "age out" of their parents policies often find themselves unable to obtain their own insurance if they have significant health problems. We have addressed that.

Early retirees can find themselves uninsured just when they are entering the years of highest health risks. We tried to address those issues.

Many other Americans lose their health insurance because they become sick or lose their job or change their job, even when they have faithfully paid their insurance premiums for many years. This is perhaps the most difficult concept for people to understand, where they have paid their premiums for 20, 25 years, suddenly have an illness and they are either dropped from coverage or their premiums go up extraordinarily to the point where they cannot effectively afford it. We have really provided some important reassurances to families.

More than half of all insurance policies impose exclusions for preexisting conditions and, as a result, insurance is often denied for the very illness most likely to require medical care. The purpose of such exclusions is reasonable, to prevent people from gaming the system by purchasing coverage only when they get sick. But current practices are indefensible, and no matter how faithfully people pay their premiums, they have to start all over again with new exclusions if they change jobs or lose their coverage.

The Health Insurance Reform Act is a modest, responsible bipartisan solution to many of the most obvious abuses in the health insurance market today. In fact, the only active opposition to the legislation comes from those who profit from the abuses in the current system. In his State of the Union Address last January, President Clinton challenged the Congress to pass this bill. Now the Senate is poised to fulfill that pledge.

Mr. President, the only thing that stands between this bill and the President's signature are controversial provisions added in the House of Representatives. These objectionable provisions include the medical savings accounts which we have debated——

Mr. President, I ask for 3 more minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. The federalization of multiple employer welfare arrangements. A number of years ago we provided the States the power regulate these arrangements. It is rather strange now that those provisions which permit the States to enforce these regulations are effectively being preempted so that the Federal Government will regulate them.

Repeal of the MediGap rules protecting senior citizens against profiteers. That is a very dangerous provision. Up until 1984, we found that many elderly people would buy 2, 3, 4, 5, 10 different programs which people thought would cover various gaps in their insurance—instead the policies duplicated one another with no additional benefit to the individual. We found all kinds of abuses. We passed legislation to protect seniors against these abuses. It has been effective. We should not go back to the earlier period.

The provisions making it more difficult to combat waste, fraud, and abuse in the current Medicare-Medicaid programs. I think that issue is one that is not going to go away. There are many concerns that some of the provisions that have been made in the House bill will lower the standard, make it more difficult to prove the abuse and waste and fraud. I am not sure we want to go in those directions.

The malpractice issues were debated earlier in the Congress. I think they ought to be addressed outside of this legislation.

We go to conference in a bipartisan spirit, committed to trying to get this legislation passed—obviously they have a right to pass their bills and we have a responsibility to work through the differences—but we hope that, given the spirit with which this legislation started, both in the House and the Senate, that we will be able to do it. Every day that is delayed, there are millions of our fellow citizens who are denied the kinds of protections that this legislation will provide for them. It is an extremely important piece of legislation, in many respects I think maybe the most important piece of legislation that we will pass in this Congress.

When the Senate votes on the Health Insurance Reform Act today, the bill will pass overwhelmingly for many reasons. It will pass because it is broadly bipartisan. It will pass because it is solidly supported by over 200 organizations in a coalition of consumer groups, business and labor, and responsible insurance companies. It will pass because the Senate acted responsibly last week in rejecting killer amendments that serve special interests rather than the public interest.

I commend the chairman of the Labor Committee and the leading sponsor of the bill, Senator KASSEBAUM. She worked long and well to make this day a reality. Her leadership resulted in a unanimous vote for this bill in our committee. Her courage and commitment made it possible for this bill to pass the Senate without crippling amendments. The American people owe her a debt of gratitude, and I am proud to serve with her and join her and recommend passage of this legislation.

Other Senators have also made important contributions. Senator HARKIN was a leader in the effort to protect people against health insurance discrimination based on genetic information. Senator WELLSTONE worked hard to assure similar protection for victims of domestic violence. Senator JEFFORDS was a key leader on the provisions of the bill enabling small businesses to create purchasing pools to increase their bargaining power. Senator FRIST contributed key ideas to address the special needs of the disabled. Senator DODD worked with the responsible insurance companies to see that their concerns were addressed while protecting the interests of consumers.

Senator ABRAHAM contributed to the State flexibility provisions. Senator ROCKEFELLER was an early supporter of this effort and provided enormous assistance during the floor debate. Senator BENNETT worked hard to bring this bill to the floor and to build consensus behind it. Others contributed as well.

The Kassebaum-Kennedy bill will end many of the most serious health insurance abuses and provide greater protection to millions of families. It is an opportunity we cannot afford to miss.

The abusive practices addressed by this bill create endless unnecessary suffering:

Millions of Americans are forced to pass up jobs that would improve their standard of living or offer greater opportunities because they are afraid they will lose their health insurance.

Many others have to abandon the goal of starting their own business, because health insurance would be unavailable to them or members of their families.

Children who age out of their parent's policies often find themselves unable to obtain their own insurance if they have any significant health problems.

Early retirees can find themselves uninsured just when they are entering the years of highest health risks.

Many other Americans lose their health insurance because they become sick, or lose their job, or change their job—even when they have faithfully paid their insurance premiums for many years.

Each year, the flaws in the private health insurance market become more serious. More than half of all insurance policies impose exclusions for preexisting conditions. As a result, insurance is often denied for the very illnesses most likely to require medical care. The purpose of such exclusions is reasonable—to prevent people from gaming the system by purchasing coverage only when they get sick. But current practices are indefensible. No matter how faithfully people pay their premiums, they often have to start over again with a new exclusion period if they change jobs or lose their coverage.

Eighty-one million Americans have conditions that could subject them to such exclusions if they lose their current coverage. Sometimes, the exclusions make them completely uninsurable.

Insurers impose exclusions for preexisting conditions on people who don't deserve to be excluded from the coverage they need. Sometimes, insurers deny coverage to entire firms if one employee of the firm is in poor health, or at least exclude that employee from coverage. In other cases, entire categories of businesses, with millions of employees, are redlined out of coverage.

Even if people are fortunate enough to gain coverage and have no pre-existing condition, their insurance can be canceled if they have the misfortune to become sick—even after paying premiums for years.

One of the most serious consequences of the current system is job lock. Workers who want to change jobs must often give up the opportunity because it means losing their health insurance. A quarter of all American workers say they are forced to stay in a job they otherwise would have left, because they are afraid of losing their health insurance.

During the debate on this legislation, we have heard from Americans who have been victimized by the abuses in the current system.

Robert Frasher, of Mansfield, OH, works for an employer who offers health coverage to employees, but the insurance company won't cover him. Why? Because he has Crohn's disease.

Jean Meredith of Harriman TN, and her husband Tom owned Fruitland USA, a mom and pop convenience store. They had insurance through their small business for 8 years, until

Tom was diagnosed with non-Hodgkin's lymphoma and their insurance company dropped them. When the Merediths asked why, they were told they were no longer profitable insurance risks. Without health insurance, Tom Meredith had to wait a year to get the surgery he needed. After spending $60,000 of his own funds, his cancer recurred and he died about a year ago. Tom Meredith might still be alive today if he had not been forced to wait that year.

Diane Bratten, of Grove Heights, MN, and her family have insurance through Diane's employer. Because of a history of breast cancer now in remission, Diane and her family would not be able to get decent coverage if she decided to change jobs or was laid off.

Nancy Cummins, of Louisville, KY, lost her health insurance when her husband's employer went bankrupt. When their COBRA coverage expired, they were uninsured for 3 years, until they qualified for Medicare. During this period, she suffered three heart attacks, which left their family with $80,000 in debts.

Jennifer Waldrup, of Massachusetts, was covered by her husband's health insurance until his employer went out of business. When she applied for coverage under her own employer, she was turned down because she had multiple sclerosis. Her employer tried to help, but could not find an insurer who would offer coverage. Her husband had to cash in his life insurance to pay her medical bills.

Tom Hall, of Oklahoma City, faithfully paid his premiums for 30 years under the group insurance policy of the construction business that he co-owned. When the company dissolved and he became self-employed, the insurer refused to give him coverage because he had a heart condition. He lives in fear that his life savings will be wiped out.

The legislation we will pass this afternoon will address these problems effectively. The Health Insurance Reform Act is a health insurance bill of rights for every American, and for every business as well.

The legislation contains many of the provisions from the 1994 health reform debate which received broad bi-partisan support—such as increased access to health insurance, increased portability, protection of health benefits for those who lose their jobs or want to start their own business, and greater purchasing power for small businesses.

Those who have insurance deserve the security of knowing that their coverage cannot be canceled, especially when they need it the most. They deserve the security of knowing that if they pay their insurance premiums for years, they cannot be denied coverage or be subjected to a new exclusion for a preexisting condition when they change jobs and join another group policy, or when they need to purchase coverage in the individual market. Businesses—especially small businesses—deserve the right to purchase health insurance for their employees at a reasonable price.

Our Health Insurance Reform Act addresses these fundamental flaws in the private insurance system. The bill limits the ability of insurance companies to impose exclusions for preexisting conditions. Under the legislation, no such exclusion can last for more than 12 months. Once someone has been covered for 12 months, no new exclusion can be imposed as long there is no gap in coverage—even if someone changes jobs, loses their job, or changes insurance companies.

The bill requires insurers to sell and renew group health policies for all employers who want coverage for their employees. It guarantees renewability of individual policies. It prohibits insurers from denying insurance to those moving from group coverage to individual coverage. It prohibits group health plans from excluding any employee based on health status.

The portability provisions of the bill mean that individuals with coverage under a group plan will not be locked into their job for fear that they will be denied coverage or face a new exclusion for a preexisting condition. These provisions will benefit at least 25 million Americans annually, according to the General Accounting Office. In addition, the provisions will provide greater security for the 131 million Americans currently covered under group health plans.

The bill will also help small businesses provide better and less expensive coverage for their employees. Purchasing cooperatives will enable small groups and individuals to join together to negotiate better rates in the market. As a result, they can obtain the kind of clout in the marketplace currently available only to large employers.

The bill also provides great flexibility for States to meet the objective of access to affordable health care for individuals who leave their group health plans.

The bottom line is that this legislation guarantees that those who faithfully pay their premiums will not have their insurance taken away or preexisting conditions imposed, even if they change jobs or lose their job.

The Health Insurance Reform Act is a modest, responsible, bipartisan solution to many of the most obvious abuses in the health insurance marketplace today. The bill was approved by the Senate Labor and Human Resources Committee last August by a unanimous vote of 16 to 0. It is similar to proposals made by President Clinton in his recent balanced budget plan.

In fact, the only opposition to this legislation comes from those who profit from the abuses in the current system.

In his State of the Union Address last January, President Clinton challenged Congress to pass this bill. Now the Senate is poised to fulfill that pledge.

The only thing that stands between this bill and the President's signature are controversial and harmful provisions added by the Republican majority in the House of Representatives to their version of the bill. These objectionable provisions include medical savings accounts, federalization of multiple employer welfare arrangements, Federal caps on malpractice awards, repeal of MediGap rules protecting senior citizens against profiteers, and provisions making it more difficult to combat the waste, fraud, and abuse in the current Medicare and Medicaid programs. Almost all of the 200 groups that support the legislation have urged Congress to pass a clean bill, without these controversial amendments.

Each of these provisions represents a special interest agenda that has no place in this legislation. Medical savings accounts are a $3.2 billion Federal giveaway that provides special tax breaks for the healthy and the wealthy at the expense of the average taxpayer. They raise premiums for the vast majority of Americans, by siphoning the healthiest people out of the insurance pool. As premiums rise for those remaining in the pool, the number of the uninsured grows.

In fact, in the words of the Congressional Budget Office, medical savings accounts "could threaten the existence of standard health insurance." They discourage the use of preventive care and raise health costs in this way as well. The House provision is also the first step toward similar accounts for Medicare—a key part of the Republican plan to undermine Medicare by privatizing it.

Impartial health analysts agree that medical savings accounts are a bad idea. They have nothing to do with genuine insurance reform or health security for American families. They are in the House bill as a reward to Golden Rule Insurance Co. and other insurance companies that profit from the worst abuses of the current system. Golden Rule alone has made over $1.6 million in political contributions over the last 5 years. Medical savings accounts should be dropped in conference, so that this bill can be quickly signed into law.

Several other special interest provisions in the House bill also jeopardize the hopes of American families for genuine insurance reform. The House provision to exempt multiple employer welfare plans, or MEWA's from State regulation will turn back the clock to a time when these arrangements were rife with fraud and abuse and millions of workers and their employers were victimized. Inclusion of this provision would seriously weaken the constructive small business insurance reforms enacted by many States in recent years.

The other House provisions, such as those imposing Federal caps on malpractice awards, opening new opportunities to defraud senior citizens by unscrupulous insurance companies, and weakening Medicare protections against fraud and abuse are equally counterproductive and controversial, and they have no place in this consensus bill.

Because of the importance of enacting the broad-based insurance reforms included in this bill, Senator KASSEBAUM and I announced early in the process that we would oppose all controversial amendments to our legislation. Along with almost all of the more than 200 groups supporting the legislation, we urge our colleagues in the House to support this approach.

The Senate has acted responsibility. None of these controversial amendments are included in the bill that we will pass later this afternoon. Some were rejected but most were never even offered.

If the Republican majority in the House insists on including these controversial provisions they will kill this bill, and destroy the hopes of millions of Americans for the kind of modest but effective reform that is now well within our grasp, and that leaders and member of both parties have supported in the past. This measure is a test of the Congress' seriousness and its ability to put the interests of the American people ahead of the special interests.

Finally, this legislation is not comprehensive health reform. It will not solve all the problems in the current system. But it is a constructive step forward—a step that will help millions of Americans. Above all, it is proof positive that progress is again possible on health reform, and that the ghosts of gridlock for the 1994 debate no longer haunt our work on health care.

I urge the Senate to pass this bill by the largest margin possible. The larger the margin, the louder the message, and the more likely the Senate-House conferees will send this bill to the President expeditiously, without controversial amendments, and ready for his signature. On this issue, every day we delay is a day that brings unnecessary misery to large numbers of our fellow citizens.

Mr. President, I would like to discuss with the Senator from Kansas how H.R. 3103 treats association plans which arrange to provide their members the option to buy group health insurance. These association plans frequently are made up of self-employed individuals or small businesses. Is it not correct that our legislation imposes no new regulatory requirements on association plans, other than the general requirements affecting other health plans?

Mrs. KASSEBAUM. The bill establishes standards regarding portability, renewability, and pre-existing conditions, but does not otherwise disturb the association plan world. States will still regulate and certify insured plans, and the Secretary of Labor will continue to regulate self-insured plans that are currently exempt from State regulation.

Mr. KENNEDY. It is my understanding that the bill authorizes creation of health plan purchasing cooperatives, a concept discussed frequently in Congress over the past few years. The purpose of these cooperative provisions is to provide clear statutory authorization and guidance to groups of small employers and individuals who want to join together to buy health insurance at a lower cost. Is there any provision that requires these groups to join or create mandatory purchasing cooperatives?

Mrs. KASSEBAUM. No. Health purchasing cooperatives are purely voluntary. Subtitle D is intended to create special benefits for cooperatives that meet the standards in the bill. Congress does not intend that these provisions in any way affect the legal status or rights of purchasing cooperatives, employer coalitions, multiemployer plans, MEWA's, association plans, or other similar arrangements that do not meet the standards of this subtitle. The statute clearly states this intent.

Mr. KENNEDY. For example, could association plans sponsored by professional organizations or local chambers of commerce be forced to form or join a purchasing cooperative as the result of this bill?

Mrs. KASSEBAUM. No. The bill does not require groups to form or join a purchasing cooperative. Nor does the legislation preclude any other type of groups purchasing arrangements from existing.

Mr. KENNEDY. So aside from having to meet the insurance reforms contained in the bill and standards like portability, renewability, and preexisting conditions, your bill does not disturb association plans at all?

Mrs. KASSEBAUM. That is correct. Congress intends that association plans may continue to do business as they always have, except that they must meet the same insurance reform standards as other health plans under the bill.

Mr. KENNEDY. An additional matter that I would like to discuss is the provisions under the bill forbidding discrimination in the provision of health insurance in the group market. Section 101(a)(1)(B) forbids an employee health benefit plan or a health plan issuer from conditioning eligibility, enrollment, or premium contributions for individual participants or beneficiaries on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, genetic information, or disability. The purpose of this provision is to prevent health plans from denying coverage to individuals or charging them higher premiums because the plan believes they may have higher than average health costs. Is this correct?

Mrs. KASSEBAUM. Yes. This provision is meant to prohibit insurers or employers from excluding employees in a group from coverage or charging them higher premiums based on their health status and other related factors that could lead to higher health costs. This does not mean that an entire group cannot be charged more. But it does preclude health plans from singling out individuals in the group for higher premiums or dropping them from coverage altogether.

Mr. KENNEDY. We intend the words "health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, genetic information, or disability" to have a broad meaning, do we not?

Mrs. KASSEBAUM. Yes. These words are meant to broadly preclude the use of any of the categories insurance companies have historically used to deny people coverage based on health status and related factors—that reasonably could lead a health plan to believe that an individual would incur high health costs or be uninsurable. They are meant to preclude use of any of the categories insurance companies have historically used to deny people coverage based on their expected health costs—not only medical history or the presence of preexisting conditions, but also including such factors as family history, likelihood of experiencing domestic violence—or actual experience of domestic violence, genetic predispositions or other genetic information, or residence in a low-income neighborhood.

I want to just mention a few measures that we will have to address in the conference. The Health Insurance Reform Act is a modest, responsible bipartisan solution to many of the most obvious abuses in the health insurance market today. In fact, the only active opposition to the legislation comes from those who profit from the abuses in the current system. In his State of the Union Address last January, President Clinton challenged the Congress to pass this bill. Now the Senate is poised to fulfill that pledge.

Mr. President, the only thing that stands between this bill and the President's signature are controversial provisions added in the House of Representatives. These objectionable provisions include, again, the medical savings accounts which we have debated, the federalization of multiple employer welfare arrangements—Mr. President, I ask for 3 more minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. The federalization of multiple employer welfare arrangements. A number of years ago we provided the States the power for the enforcement of those arrangements. It is rather strange now that those provisions which permit the States to enforce it are effectively being preempted so that the Federal Government will support it.

Repeal of the MediGap rules protecting senior citizens against profiteers. That is a very dangerous provision. Up to 1984 we found that many elderly people would buy 2, 3, 4, 5, 10 different programs to cover various gaps in their insurance. We found all kinds of abuses. We passed legislation to deal with that. It has been effective. I am not sure that we ought to go back to the earlier period.

The provisions making it more difficult to combat waste, fraud and abuse in the current Medicare-Medicaid programs, I think that issue is one that is not going to go away. There are many concerns that the provisions that have been made in the House bill will lower the standard, make it more difficult to prove the abuse and waste and fraud. I am not sure we want to go in those directions.

I think the malpractice issues have been debated earlier in the Congress. I think they ought to be addressed outside of this legislation.

We go to that conference in a bipartisan spirit, committed to trying to get this legislation—obviously they have a right to pass their bills and we have a responsibility to work through the differences—but we hope that, given the spirit with which this legislation started, both in the House and the Senate, that we will be able to do it. Every day that is delayed, there are millions of our fellow citizens who are denied the kinds of protections that this legislation will provide for them. It is an extremely important piece of legislation, in many respects I think maybe the most important piece of legislation that we will pass in this Congress.

Mr. President, I urge the passage of the legislation when the Senate votes on it this afternoon.

The PRESIDING OFFICER. Under the previous order, a vote on passage of H.R. 3103, as amended, will occur at 2:15. All time has expired.

Mrs. KASSEBAUM. Mr. President, I ask for the yeas and nays on final passage of H.R. 3103.

The yeas and nays were ordered.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 10 minutes.

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me.

Before I speak, Mr. President, on the subject that I have chosen here for the next few minutes, I compliment my colleagues from Massachusetts and Kansas for the tremendously fine work they have done in this whole field of health care over a long period of time. This, today, I think is the culmination of their sincere effort, their tedious effort, and certainly demonstrates their commitment to improving the health care available in our country. So, Mr. President, this Senator certainly congratulates these two fine Senators for their commitment and their work.

AT WHAT COST?

Mr. PRYOR. Mr. President, the Senate special Whitewater committee resumes its hearings tomorrow. The committee's tentative schedule is, as I understand—I am not on the committee—to have a hearing on every Tuesday, Wednesday, and Thursday of each week until the authorization of the committee expires on June 17, 1996. As I have said before, the time and money being spent by this special committee could be better spent on other issues of greater importance and magnitude to this country of ours.

Mr. President, I will take just a moment to discuss, if I might, the amount of money and the time and the resources being spent on the Whitewater investigation, both here and in my home State of Arkansas. The Senate has called 121 witnesses during its 47 days of its special committee review. In an earlier statement, Mr. President, I mentioned the fact that in 1995 alone the Senate held 34 hearings on Whitewater, while we held only six hearings on Medicaid funding and only one hearing—only one hearing—on Medicare reform. After all the time we have already spent on Whitewater, these types of issues are far more deserving of our attention in the remainder of this session of the Congress.

However, Mr. President, it is not just the amount of time and money that the Senate has spent on the Whitewater review that concerns me. There is another side of this discussion, and it is the amount of money, the amount of resources, that our Government has spent on the issue of Whitewater.

The Senate has spent roughly $1.35 million on its Whitewater investigation in the 104th Congress. That is just the amount that the Senate has specifically appropriated to the Whitewater review panel. This does not include, Mr. President, the money spent by the Senate Banking Committee on its Whitewater efforts. It does not include the amount of money spent by the House of Representatives in its Whitewater review.

Of course, it does not even begin to take into consideration the amount of money spent by our special counsels. In addition to the congressional efforts in this issue, I would also like to discuss the independent counsel review. According to the General Accounting Office, Robert Fiske, the special counsel originally named to investigate the Whitewater issue, spent $2,498,744 from January 22, 1994, through September 30, 1995, which was the latest date which the GAO had this information. I am sure more tallies will be coming in soon. On his investigation alone, almost $2.5 million was spent. Then he was fired from the case. The GAO also points out that Kenneth Starr, the independent counsel appointed to replace Mr. Fiske, has spent $4,512,065 from August 5, 1994, through September 30, of 1995. We have no more recent figures, Mr. President, since September 30 of last year.

But today's Washington Post had an article, I must say, Mr. President, that caught my attention. It is an article which illustrates where some of this money is going. Sam Dash, the Watergate chief counsel, famed, well known, well respected, is now being paid $3,200 a week for his service as ethics adviser to Mr. Starr. I am going to repeat that, Mr. President. Sam Dash, the Watergate chief counsel, is now being paid $3,200 each week for his service as ethics adviser to Mr. Kenneth Starr.

Mr. Starr is the first independent counsel in the history of our Republic to see the need to hire an independent counsel that advises him on ethics.

I think I echo, Mr. President, the statement made by Stephen Gillers, a legal ethics professor and scholar at New York University, who recently said in a Baltimore Sun article:

> When the public hears that the independent counsel—who is there supposedly because of his distance from the traditional prosecutorial office—needs an independent counsel for ethics advice [at a substantial cost] it's almost impossible to explain how that can be so. The perception is that something's amiss.

Mr. President, that was Stephen Gillers, a legal ethics scholar from New York University, who made that particular statement.

Mr. President, I have other concerns as well. I have recently asked the Federal Bureau of Investigation to share with me the five top cases currently being investigated by the Federal Bureau of Investigation. Mr. President, here are the top five cases. One is the Oklahoma City bombing. That makes sense. Second, the Unabomber. That makes sense. Thriftcon—a national bank fraud and embezzlement case. Fourth, Mr. President, is Whitewater. Fifth is the World Trade Center bombing.

Now, this is based upon the number of personnel, the amount of resources, the number of dollars, and the establishment of priorities of our own Federal Bureau of Investigation. Whitewater, today, comes right after Thriftcon, Unabomber, Oklahoma City bombing, and before resources and dollars that the Federal Bureau of Investigation have used to investigate the

World Trade Center bombing in the city of New York. Mr. President, I do not know how in the world we could go home and explain such a poor allocation of priorities as the one demonstrated by this particular chart.

Mr. President, the money spent by the independent counsel does not tell the whole story. Those numbers do not even include the moneys spent by the FBI and other agencies to support the independent counsels.

Under the statute authorizing the independent counsel, each independent counsel is able to request and receive assistance from Federal agencies. Mr. President, most of the independent counsels are using the talents of the Federal employees and the resources of the Federal Government available to them. According to the figures supplied by GAO, the IRS has spent over $1 million to support the Fiske-Starr Whitewater investigation. The Justice Department, apart from the FBI, has spent $86,000 on the investigation. However, Mr. President, the FBI has spent far and away the most money of any agency working for Mr. Fiske, the former independent counsel, and Mr. Starr, the present independent counsel.

According to the numbers reported by the GAO, the FBI spent $3,473,000 in support of Mr. Fiske's investigation, and already has surpassed $8,064,000 supplying staff for Mr. Starr's investigation. To get a sense of what these figures mean, Mr. President, I asked the FBI how many people that number represents. They told me that the $11.5 million represents 41 special agents and 81 support staff.

Thus far, I know I have thrown around a lot of numbers and my time has expired. When we add everything together, the Whitewater independent counsels have spent $19,673,809, Mr. President, almost $20 million, in less than a year and a half, has been spent on the Whitewater investigation. That, Mr. President, is why I continue to have grave concerns about appropriating any more money to start up the second phase of the Whitewater investigation.

Mr. President, I ask unanimous consent to have printed in the RECORD a story in this morning's Washington Post, dated April 23, 1996, and I ask unanimous consent to have printed in the RECORD an article of April 15, 1996, as published in the Baltimore Sun.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 23, 1996]

SAY IT AGAIN, SAM

(By Lloyd Grove)

He's the brilliant chief counsel of Senate Watergate Committee fame and a drafter of the independent counsel statute. He's an arbiter of professional conduct for the American Bar Association and an oracle of criminal law, an internationally acclaimed advocate for human rights and a widely revered guru of legal ethics.

But it seems to have come to this for the distinguished Samuel Dash:

"I don't want to be in a situation where you're asking me a lot of questions and I'm not commenting, and the story makes me look like a Mafia figure who's pleading the Fifth Amendment," says Dash, 71. He is beginning an interview about his role as the highly paid ethics adviser to Kenneth Starr, the Whitewater special prosecutor whose own legal ethics come under searing attack.

"Mafia figure"?

Surely Sam Dash not has not worked so hard, for so long, to take a swift tumble from wise man to wiseguy. He has spent much of his time in recent weeks mounting pained public defenses of Starr's simultaneous work as a government prosecutor—investigating President Clinton & Co.—and as a private lawyer for an array of corporate clients opposed to the president's policies. But Dash certainly hasn't cultivated his envirable reputation to sell his birthright for a mess of pottage—in this case, a consulting fee of $3,200 a week.

In his memo-strewn office at the Georgetown University Law Center, where he has been a full professor for the last three decades, Dash expresses himself in bursts of nervous energy, interrupting his questioner—and frequently himself—to spray fusillades of self-protective verbiage and twist his winding sentences into word-pretzels.

"Once again, I do not want to do an interview," he protests. "It isn't that I haven't been available for interviews. I have. I've helped set a policy now—not because there's anything to hide. I think [Starr's] office has become very visible as a result of these issues, and they have so much important work to do, it's all distracting the work to always—even when they to read about what I may be saying—it distracts the work and calls for [phone] calls and things like that, but I don't want, I really don't want to be distracting anymore."

Dash, whose regular public statements about the work of the special prosecutor have made him something of a de facto spokesman for the press-averse Starr, is providing more than his share of distractions. In the past few weeks, he has been forced to justify his recently revealed consulting fee-astronomical by government standards. And he has been caught defending Starr's behavior while, at the same time, appearing to criticize it in publications ranging from the New York Observer (with which he has tangled over the accuracy of damaging quotes) to the New Yorker.

He may have had enough of the hot seat. Dash says he'll suspend his Starr consultancy as of May 23, to spend two months on a long-planned teaching vacation in Europe. He won't commit himself to returning to Starr's employ. "If Ken asks me, I'll consider it," is as far as he'll go.

Dash presents himself as a man who wants, in so many words, to have and eat his cake.

He was cited by the New Yorker's Jane Mayer as giving his seal of approval to Starr's pursuit of a million-dollar private practice—even though he wished Starr wouldn't to it: "If I had my own preferences, I'd hope he'd be a full-time independent counsel. . . . What he's doing is proper. . . . But it does have an odor to it."

Dash explains that what he actually meant to say is that others, but not he, might detect an ordor—as though recusing his sense of smell. Trying to move away from another published statement, he says, with an insistence on precision: "I didn't use the word 'proper.' 'Proper' is a weasel word. I think what I tried to say—and maybe I misstated—is everything he's doing is 'legal' and 'ethical' and 'lawful'—not 'proper.'"

On the issue of whether he wants Starr to be a full-time prosecutor, Dash is equally microscopic. "I didn't say, 'I wish he would be.' I say: 'I prefer he would be.' No, no, no: 'My preference is . . .'"

Why the hair-splitting? Isn't it all the same thing?

"It is essentially the same thing," he concedes with a deep breath. "I'm not trying to split hairs. All I'm saying is, I am expressing myself as an independent person. I'm not saying I would do the same thing he would do." Yet a moment later Dash draws another fine distinction. "I'm not passing on his judgment. I don't think I have the right to. If I were a private independent professor . . . I could speak freely my mind. But—"

Wait a minute. So he's not independent?

"I may be constrained, but I'm only constrained because when I speak I can't speak as Sam Dash, private [citizen]. I am speaking as Sam Dash in the role of ethics counsel to Ken Starr and the office. Therefore, I don't have a right . . to express judgments which I could have as an independent person. I don't even know why it's relevant."

Does Dash at least know the identity of all Starr's private clients?

"I'm not sure," he says. "The relationship isn't one in which, like coming to Mommy, he has to tell me. 'Can I do this? Can I do that? . . . He has to bring to my attention any situation that he feels could possibly be considered a problem. I would think as a lawyer, and he's been a federal judge, he's been a solicitor general, with his reputation for integrity—and he does have it—that he doesn't have to come to me initially. His first screen is himself."

In the New Yorker, Dash bemoaned the dismissal of Robert Fiske, Starr's predecessor as Whitewater prosecutor. (Dash went to work for Starr in the fall of 1994, initially for a weekly fee of $1,600, long after Fiske was gone.) "Should Fiske have been reappointed? My answer is probably yes," Dash mused to the magazine. "It may have been a mistake" to remove him. "But that's not Ken's fault."

A month after signing him up, Starr doubled Dash's compensation (billed as eight hours of work a week at $400 per hour). And he broadened his role from simply ethics to advising on prosecutorial strategy and a host of other issues. The money is clearly a sore spot for Dash.

"I'm putting in not eight hours, I'm putting in 20 to 30 hours," he says. "If one were to take what I'm being paid and divided it into the hours I'm working, I'm being paid at what a paralegal earns in most law firms"—a debatable claim, to be sure.

Last Wednesday, Dash had the novel (for him) experience of receiving a hard editorial slap from the New York Times. The paper demanded that Starr give up the "major national responsibility" of Whitewater prosecutor because of his "conspicuously fastpaced and politically freighted private practice," and added sharply: "Mr. Dash is right about the odor, but wrong about the propriety."

"I'll just say this to that," Dash says dismissively. "I testify all over the country as an expert [on legal ethics], and judges ask me about the law and I answer. I don't recall a single time when any judge of a federal court or a state court ever asked me: 'What does the New York Times think?'"

He displays less equanimity when it comes to other critics, such as Democratic spinmeister James Carvell—the public voice of the White House's energetic campaign to undermine Starr's integrity as the Whitewater special prosecutor.

"If Sam Dash was my doctor, I'd be happy," Carville says. "If you wanna smoke, fine. High blood pressure? Fine. Eat a lot of steaks and drink some whiskey! Go ahead, I'm not worried. He's the Alfred E. Neuman of ethics counselors. he doesn't worry about anything."

"What does he know?" Dash demands with a frown. "He doesn't know what I'm doing, he doesn't know who I am. Maybe he does know who I am. But he actually should be very grateful that I am in this position—that at least somebody like me is doing this. . . . But by challenging my independence and the professional role I play, he in effect is harming his own partisan interests. And I'm not a partisan and my role is not to protect anybody, but it certainly is to see that this prosecution is conducted fairly and objectively without any political overtones to it."

But that is quite impossible. The Starr matter has become intensely political—for Rep. Martin Meehan (D-Mass.), a harsh critic of Starr, the political overtones are all but deafening. "I thought it was a good political move by Starr to pick Sam Dash, with his outstanding reputation. . . . Clearly his role is to provide advice to Mr. Starr, and that advice is interpreting technically the basis upon which Starr can justify his representing a tobacco company and other clients. And Mr. Dash makes statements giving technical, legal interpretations on why it's okay."

New York University Law School Professor Stephen Gillers agrees.

"I think Starr was wise, even brilliant, to choose Sam Dash, because of Sam's prestige and credibility with the media. That has given Starr some cover, which actually worked for a while to stave off criticism. But Sam Dash has no cover. Sam is exposed in ways that I don't think he fully could have anticipated."

Harvard Law School Professor Lawrence Tribe is also concerned about Dash's exposure. "I would not have agreed to play that role," he says. "I would feel ethically compromised. Providing legal consultation and trying to make legal arguments on behalf of the independent counsel is one thing. But I wouldn't want in effect to be allowing my reputation to be used as a shield for someone whose circumstances, in the end, I don't have the ability to influence. That would make me feel extremely uncomfortable."

Dash insists that such worries are misplaced.

"I'm not giving Ken Starr my reputation," he says. "I'm giving him my expertise."

He adds that Starr and others in the prosecutor's office are following his advice. And Washington lawyer Abbe Lowell, a longtime acquaintance, finds this claim persuasive.

"Sam Dash isn't a shrinking violet," Lowell says. "He wouldn't have gotten involved in this if he didn't think he could have an important impact. To say he's a fig leaf for Ken Starr does an injustice to Sam Dash."

For his part, Dash sees his current preoccupation as a fitting capstone to a career in which he has been, by turns, the district attorney in Philadelphia, a hero of Watergate, a legal theoretician and international human rights activist, the first American citizen to visit Nelson Mandela in a South African jail.

"I'm not a stranger to controversy," Dash says. "And I don't want to look like I run away from it. I think Harry Truman's statement was correct: If you can't stand the heat, get out of the kitchen. I like being in the kitchen."

But the Cuisinart?

[From the Baltimore Sun, Apr. 15, 1996]

ETHICS INSURANCE AT $3,200 A WEEK; WHITEWATER COUNSEL'S ADVISER ASSUMES A LARGER ROLE IN PROBE

(By Susan Baer)

WASHINGTON—Samuel Dash, the celebrated lawyer who was hired by Whitewater independent counsel Kenneth W. Starr in 1994 to advise him on ethics issues, is now playing a much broader role in the investigation—and collecting a sizable government-paid fee for his services.

Mr. Dash said that while Mr. Starr hired him to work on ethics questions, he is now weighing in on everything from prosecutorial strategy to dealing with witnesses.

"He's asked me to go beyond ethics issues," said Mr. Dash, a 71-year-old full-time law professor at Georgetown University who gained fame as chief counsel to the Senate Watergate Committee.

For his part-time services—which include advising Mr. Starr on how much of his $1 million-a-year private law practice he may retain while leading the government's Whitewater investigation—Mr. Dash is paid a flat fee of $3,200 a week.

The professor, whose pay was raised by Mr. Starr from $1,600 a week in July, said he works an average of 20 hours a week, sometimes up to 30 hours, for the Whitewater prosecutor, but is charging Mr. Starr for only eight hours a week, at his regular consulting rate of $400 an hour.

"This is pro bono," Mr. Dash said with a laugh, referring to the public-interest work lawyers do for no pay.

When it was suggested to him that only by superlawyer standards would $3,200 a week be considered "pro bono," he said, with apologies for immodesty, "People of my stature charge way more than I do."

Mr. Dash, whose Whitewater pay was disclosed recently by the Arkansas Times, was hired by Mr. Starr in October 1994, two months after Mr. Starr was chosen to head the inquiry, which reaches up to the Clinton presidency.

A highly respected lawyer and a Democrat, Mr. Dash was retained to calm concerns about Mr. Starr's impartiality, given his background as an active and partisan Republican, and his selection by judges with ties to conservative Republicans.

In the 1970s, Mr. Dash assisted Chief Justice Warren E. Burger in devising the American Bar Association's ethical standards for prosecutors and criminal defense lawyers.

Mr. Dash, who also helped draft the law that established the independent counsel's office, noted that he is the first person to be an outside ethics adviser to an independent counsel.

"This is somewhat unique," Mr. Dash said. "Starr felt when he was appointed, fairly or unfairly, there was quite a bit of criticism because he was a partisan Republican. There was some concern, at the White House and other places, that he may not be objective.

"My personal belief is he didn't need me. But he was thinking of perception problems. He thought it was proper, to preserve public confidence, to bring someone like me in. He felt he needed somebody to assure the public that his decisions are being made on the basis of the right judgments."

Mr. Dash's weekly fee would amount to an annual rate of about $160,000 a year. But officials with Mr. Starr's office have said he won't receive that much because they are applying to Mr. Dash, an independent contractor, the same salary cap of $115,700 that applies to employees of the independent counsel's office. So far, Mr. Dash has been paid $147,200 for the 16 months he has worked for Mr. Starr.

Many lawyers believe the hiring of Mr. Dash was a masterful strategic move by Mr. Starr, insulating him from political-bias charges by having a prominent Democrat look over his shoulder each step of the way.

But some have questioned the need for such a sizable expense, given that an independent counsel is hired precisely because of his or her ostensible impartiality.

Lawrence E. Walsh, the independent counsel in the Iran-contra case, said he thought it was "regrettable" that such an expense must be incurred to ensure the perception of objectivity.

A DEFENSIVE MEASURE

"It's really a defensive measure," said Mr. Walsh, a Republican former federal judge. "But the question is, why do you get in a position where you have to defend yourself? The real thing [an independent counsel] brings that nobody else can bring is his independence. That's the excuse for this very expensive procedure."

Mr. Walsh said that during the Iran-contra investigation, he sought the help of Laurence Tribe, a Harvard law professor, for ethics concerns about the publication of his final report. But, he said, Mr. Tribe did not accept a fee.

Stephen Gillers, a professor of legal ethics at New York University who was critical of Mr. Starr's appointment because of his history as an outspoken Republican, said he thought such a six-figure expense could be damaging.

"When the public hears that the independent counsel—who is there supposedly because of his distance from the traditional prosecutorial office—needs an independent counsel for ethics advice [at a substantial cost], it's almost impossible to explain how that can be so," Mr. Gillers said. "The perception is that something's amiss."

Mr. Starr did not respond to questions, submitted to him in writing, regarding Mr. Dash's role and pay.

Terry Eastland, author of a book on independent counsels, said he did not consider the expense for an ethics consultant unreasonable. "Lawyers are expensive," he said.

And other ethics consultants say $400 an hour is reasonable for top-level experts, although they also say they bill far less—and occasionally, nothing—if the government is the client.

Geoffrey C. Hazard Jr., a University of Pennsylvania law professor and ethics consultant, called Mr. Dash's fee as a part-time adviser "pretty high pay." But, he added, "The value of having somebody just a little bit more credible is very high."

So far, the independent counsel's Whitewater inquiry has cost about $26 million. Mr. Starr is spending about $1 million a month on the investigation.

Mr. Dash said he may suspend has involvement this summer, when he plans to serve as a visiting professor at the University of Heidelberg Law School in Germany.

For now, Mr. Dash said, his work for the Whitewater office includes such activities as advising Mr. Starr on whether there is enough evidence to sustain a charge, reviewing all cases referred to the grand jury, and consulting on issues of fairness.

For example, when false reports surfaced that Gov. Jim Guy Tucker of Arkansas had sought a plea bargain after being indicted, Mr. Starr asked Mr. Dash for advice on whether the usual policy of issuing a "no comment" to questions about the case should be followed, according to Mr. Dash.

The ethics counselor advised Mr. Starr that the more proper response, in fairness to Mr. Tucker, was to issue a statement denying the accuracy of the reports.

Mr. Dash has also been advising Mr. Starr on the propriety of the private work he has continued to do. Critics have charged that Mr. Starr, who earned $1.1 million in private practice in 1994, is spending too much time on lucrative high-profile cases for his firm, some of which could compromise—or appear to compromise—his independence as special counsel.

For instance, Mr. Starr has argued a federal appeals case on behalf of the Brown & Williamson Tobacco Corp., and has represented Gov. Tommy G. Thompson of Wisconsin, a potential Republican vice presidential nominee, in school-voucher case before the Wisconsin Supreme Court.

CONFLICT OF INTEREST ALLEGED

Rep. Martin Meehan, a Massachusetts Democrat, wrote to Mr. Starr last week, imploring him to end his representation of the tobacco company on the ground that it created a conflict of interest because President Clinton has been an opponent of big tobacco.

A potential problem area—cited by those who believe Mr. Starr should have taken a leave from his law firm, the Chicago-based Kirkland & Ellis—is a lawsuit filed against the firm by the Resolution Trust Corp., a federal agency that figures prominently in the Whitewater affair.

Defending his private work, Mr. Starr, in an address last week in San Antonio, said: "My ethics counselor is Professor Sam Dash of Georgetown University, legend of Watergate fame, and he has affirmed that it's completely appropriate."

Mr. Dash said that while he has advised Mr. Starr that there is nothing wrong, legally or ethically, with his outside work, his own "preference"—"because of questions reasonable people ask" about conflicts—is that Mr. Starr not take on as much.

"I have discussed with him that he should take heed, and I think he will take heed," Mr. Dash said. "He is concerned. But he doesn't think he's doing anything wrong. I tell him he's not doing anything wrong."

Richard Ben-Veniste, the Democratic counsel for the Senate Whitewater Committee who was an assistant to the Watergate special prosecutor, said Mr. Starr's full plate of outside work illustrates the need for Mr. Dash's services.

"Given the list of things Mr. Starr is engaged in outside of his job as independent counsel, he's kept Mr. Dash pretty busy," Mr. Ben-Veniste said.

"I think Sam's earning his money."

Mr. LEAHY. Will the Senator yield?

Mr. PRYOR. I am happy to yield to the Senator.

Mr. LEAHY. Mr. President, I heard the distinguished Senator from Arkansas say something that struck me. All this money that is being spent is taxpayers' money?

Mr. PRYOR. Every bit is taxpayers' money.

Mr. LEAHY. I have been reading a number of articles in the national press raising some very serious questions about the appearance of conflict of interest on the part of Mr. Starr, the special prosecutor. As a former prosecutor myself, I feel strongly that there is at the very least an appearance of a conflict of interest. But notwithstanding what appears to be conflict of interest, are you telling me that he is paying somebody out of tax money, on a part-time basis, the equivalent of about $160,000 a year to give him ethical advice?

Mr. PRYOR. This is the first time, I answer my friend from Vermont, in the history of all of the legal independent counsels that we have had, that an independent counsel has felt the necessity of retaining an ethics attorney or an ethics adviser. In this one, the taxpayers are paying $3,200 each week. I imagine that is more than a member—I do not know what a member of the Supreme Court gets.

Mr. LEAHY. A member of a Supreme Court who works full time is paid less. The attorney retained as the ethics adviser is, I realize, a wonderful man and a good friend of mine, but this is extraordinary—this ethics adviser is paid on a part-time basis with taxpayer money?

Mr. PRYOR. That is correct. He is a fine law professor. Mr. Starr gave him this job in order to advise Mr. Starr on ethics. I do not know one time yet that Mr. Dash has not told Mr. Starr what he was doing was OK, including making $1.3 million last year.

RECESS

The PRESIDING OFFICER. Under the previous order, vote on passage of H.R. 3103 will occur at 2:15.

Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:47 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Ms. SNOWE].

HEALTH INSURANCE REFORM ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Senate will now vote on H.R. 3103. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 78 Leg.]

YEAS—100

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone
Wyden

So the bill (H.R. 3103), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 3103) entitled "An Act to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Insurance Reform Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

Subtitle A—Group Market Rules

Sec. 101. Guaranteed availability of health coverage.
Sec. 102. Guaranteed renewability of health coverage.
Sec. 103. Portability of health coverage and limitation on preexisting condition exclusions.
Sec. 104. Special enrollment periods.
Sec. 105. Disclosure of information.

Subtitle B—Individual Market Rules

Sec. 110. Individual health plan portability.
Sec. 111. Guaranteed renewability of individual health coverage.
Sec. 112. State flexibility in individual market reforms.
Sec. 113. Definition.

Subtitle C—COBRA Clarifications

Sec. 121. COBRA clarifications.

Subtitle D—Private Health Plan Purchasing Cooperatives

Sec. 131. Private health plan purchasing cooperatives.

TITLE II—APPLICATION AND ENFORCEMENT OF STANDARDS

Sec. 201. Applicability.
Sec. 202. Enforcement of standards.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. HMOs allowed to offer plans with deductibles to individuals with medical savings accounts.
Sec. 302. Health coverage availability study.
Sec. 303. Reimbursement of telemedicine.
Sec. 304. Sense of the Committee concerning medicare.

Sec. 305. Parity for mental health services.
Sec. 306. Waiver of foreign country residence requirement with respect to international medical graduates.
Sec. 307. Organ and tissue donation information included with income tax refund payments.
Sec. 308. Sense of the Senate regarding adequate health care coverage for all children and pregnant women.
Sec. 309. Sense of the Senate regarding available treatments.
Sec. 310. Medical volunteers.
Sec. 311. Effective date.
Sec. 312. Severability.

TITLE IV—TAX-RELATED HEALTH PROVISIONS

Sec. 400. Short title; amendment of 1986 Code.

Subtitle A—Increase in Deduction for Health Insurance Costs of Self-Employed Individuals

Sec. 401. Increase in self-employed individuals' deduction for health insurance costs.

Subtitle B—Long-Term Care Provisions

CHAPTER 1—LONG-TERM CARE SERVICES AND CONTRACTS

SUBCHAPTER A—GENERAL PROVISIONS

Sec. 411. Treatment of long-term care insurance.
Sec. 412. Qualified long-term care services treated as medical care.
Sec. 413. Certain exchanges of life insurance contracts for qualified long-term care insurance contracts not taxable.
Sec. 414. Exception from penalty tax for amounts withdrawn from certain retirement plans for qualified long-term care insurance.
Sec. 415. Reporting requirements.

SUBCHAPTER B—CONSUMER PROTECTION PROVISIONS

Sec. 421. Policy requirements.
Sec. 422. Requirements for issuers of long-term care insurance policies.
Sec. 423. Coordination with State requirements.
Sec. 424. Effective dates.

CHAPTER 2—TREATMENT OF ACCELERATED DEATH BENEFITS

Sec. 431. Treatment of accelerated death benefits by recipient.
Sec. 432. Tax treatment of companies issuing qualified accelerated death benefit riders.

Subtitle C—High-Risk Pools

Sec. 451. Exemption from income tax for State-sponsored organizations providing health coverage for high-risk individuals.

Subtitle D—Penalty-Free IRA Distributions

Sec. 461. Distributions from certain plans may be used without penalty to pay financially devastating medical expenses.

Subtitle E—Revenue Offsets

CHAPTER 1—TREATMENT OF INDIVIDUALS WHO EXPATRIATE

Sec. 471. Revision of tax rules on expatriation.
Sec. 472. Information on individuals expatriating.
Sec. 473. Report on tax compliance by United States citizens and residents living abroad.

CHAPTER 2—COMPANY-OWNED INSURANCE

Sec. 495. Denial of deduction for interest on loans with respect to company-owned insurance.

TITLE V—HEALTH CARE FRAUD AND ABUSE PREVENTION

Sec. 500. Amendments.

Subtitle A—Fraud and Abuse Control Program

Sec. 501. Fraud and abuse control program.
Sec. 502. Medicare integrity program.
Sec. 503. Beneficiary incentive programs.
Sec. 504. Application of certain health anti-fraud and abuse sanctions to fraud and abuse against Federal health care programs.
Sec. 505. Guidance regarding application of health care fraud and abuse sanctions.

Subtitle B—Revisions to Current Sanctions for Fraud and Abuse

Sec. 511. Mandatory exclusion from participation in medicare and State health care programs.
Sec. 512. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.
Sec. 513. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.
Sec. 514. Sanctions against practitioners and persons for failure to comply with statutory obligations.
Sec. 515. Intermediate sanctions for medicare health maintenance organizations.
Sec. 516. Additional exceptions to anti-kickback penalties for risk-sharing arrangements.
Sec. 517. Effective date.

Subtitle C—Data Collection and Miscellaneous Provisions

Sec. 521. Establishment of the health care fraud and abuse data collection program.

Subtitle D—Civil Monetary Penalties

Sec. 531. Social Security Act civil monetary penalties.

Subtitle E—Amendments to Criminal Law

Sec. 541. Health care fraud.
Sec. 542. Forfeitures for Federal health care offenses.
Sec. 543. Injunctive relief relating to Federal health care offenses.
Sec. 544. False statements.
Sec. 545. Obstruction of criminal investigations of Federal health care offenses.
Sec. 546. Theft or embezzlement.
Sec. 547. Laundering of monetary instruments.
Sec. 548. Authorized investigative demand procedures.

TITLE VI—INTERNAL REVENUE CODE AND OTHER PROVISIONS

Sec. 600. References.

Subtitle A—Foreign Trust Tax Compliance

Sec. 601. Improved information reporting on foreign trusts.
Sec. 602. Modifications of rules relating to foreign trusts having one or more United States beneficiaries.
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Sec. 605. Modification of rules relating to foreign trusts which are not grantor trusts.
Sec. 606. Residence of estates and trusts, etc.

Subtitle B—Repeal of Bad Debt Reserve Method for Thrift Savings Associations

Sec. 611. Repeal of bad debt reserve method for Thrift Savings Associations.

Subtitle C—Other Provisions

Sec. 621. Extension of medicare secondary payor provisions.
Sec. 622. Annual adjustment factors for operating costs only; restraint on rent increases.
Sec. 623. Foreclosure avoidance and borrower assistance.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) BENEFICIARY.—The term "beneficiary" has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(8)).

(2) EMPLOYEE.—The term "employee" has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)).

(3) EMPLOYER.—The term "employer" has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

(4) EMPLOYEE HEALTH BENEFIT PLAN.—

(A) IN GENERAL.—The term "employee health benefit plan" means any employee welfare benefit plan, governmental plan, or church plan (as defined under paragraphs (1), (32), and (33) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (32), and (33))), or any health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e)), that provides or pays for health benefits (such as provider and hospital benefits) for participants and beneficiaries whether—

(i) directly;

(ii) through a group health plan offered by a health plan issuer as defined in paragraph (8); or

(iii) otherwise.

(B) RULE OF CONSTRUCTION.—An employee health benefit plan shall not be construed to be a group health plan, an individual health plan, or a health plan issuer.

(C) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(5) FAMILY.—

(A) IN GENERAL.—The term "family" means an individual, the individual's spouse, and the child of the individual (if any).

(B) CHILD.—For purposes of subparagraph (A), the term "child" means any individual who is a child within the meaning of section 151(c)(3) of the Internal Revenue Code of 1986.

(6) GROUP HEALTH PLAN.—

(A) IN GENERAL.—The term "group health plan" means any contract, policy, certificate or other arrangement offered by a health plan issuer to a group purchaser that provides or pays for health benefits (such as provider and hospital benefits) in connection with an employee health benefit plan.

(B) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(7) GROUP PURCHASER.—The term "group purchaser" means any person (as defined under paragraph (9) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(9)) or entity that purchases or pays for health benefits (such as provider or hospital benefits) on behalf of two or more participants or beneficiaries in connection with an employee health benefit plan. A health plan purchasing cooperative established under section 131 shall not be considered to be a group purchaser.

(8) HEALTH PLAN ISSUER.—The term "health plan issuer" means any entity that is licensed (prior to or after the date of enactment of this Act) by a State to offer a group health plan or an individual health plan.

(9) PARTICIPANT.—The term "participant" has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(7)).

(10) PLAN SPONSOR.—The term "plan sponsor" has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(16)(B)).

(11) SECRETARY.—The term "Secretary", unless specifically provided otherwise, means the Secretary of Labor.

(12) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

Subtitle A—Group Market Rules

SEC. 101. GUARANTEED AVAILABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—

(1) NONDISCRIMINATION.—Except as provided in subsection (b), section 102 and section 103—

(A) a health plan issuer offering a group health plan may not decline to offer whole group coverage to a group purchaser desiring to purchase such coverage; and

(B) an employee health benefit plan or a health plan issuer offering a group health plan may establish, under the terms of such plan, eligibility, enrollment, or premium contribution requirements for individual participants or beneficiaries, except that such requirements shall not be based on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability (including conditions arising out of acts of domestic violence), genetic information, or disability.

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall prevent an employee health benefit plan or a health plan issuer from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(b) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering a group health plan may cease offering coverage to group purchasers under the plan if—

(A) the health plan issuer ceases to offer coverage to any additional group purchasers; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)), if required, that its financial or provider capacity to serve previously covered participants and beneficiaries (and additional participants and beneficiaries who will be expected to enroll because of their affiliation with a group purchaser or such previously covered participants or beneficiaries) will be impaired if the health plan issuer is required to offer coverage to additional group purchasers.

Such health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering a group health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer offers coverage to group purchasers under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(c) CONSTRUCTION.—

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering group health plans to actively market such plans.

(2) INVOLUNTARY OFFERING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to require a health plan issuer to involuntarily offer group health plans in a particular market or to require a health plan issuer to involuntarily issue a group health plan to a group health plan purchaser in a particular market if the group health plan was specifically designed for a different market. For the purposes of this paragraph, the term "market" means either the large employer market or the small employer market (as defined under applicable State law, or if not so defined, an employer with more than one employee and not more than 50 employees).

SEC. 102. GUARANTEED RENEWABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—

(1) GROUP PURCHASER.—Subject to subsections (b) and (c), a group health plan shall be renewed or continued in force by a health plan issuer at the option of the group purchaser, except that the requirement of this subparagraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the group purchaser in accordance with the terms of the group health plan or where the health plan issuer has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the group purchaser;

(C) the termination of the group health plan in accordance with subsection (b); or

(D) the failure of the group purchaser to meet contribution or participation requirements in accordance with paragraph (3).

(2) PARTICIPANT.—Subject to subsections (b) and (c), coverage under an employee health benefit plan or group health plan shall be renewed or continued in force, if the group purchaser elects to continue to provide coverage under such plan, at the option of the participant (or beneficiary where such right exists under the terms of the plan or under applicable law), except that the requirement of this paragraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the participant or beneficiary in accordance with the terms of the employee health benefit plan or group health plan or where such plan has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the participant or beneficiary relating to an application for coverage or claim for benefits;

(C) the termination of the employee health benefit plan or group health plan;

(D) loss of eligibility for continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.); or

(E) failure of a participant or beneficiary to meet requirements for eligibility for coverage under an employee health benefit plan or group health plan that are not prohibited by this Act.

(3) RULES OF CONSTRUCTION.—Nothing in this subsection, nor in section 101(a), shall be construed to—

(A) preclude a health plan issuer from establishing employer contribution rules or group participation rules for group health plans as allowed under applicable State law;

(B) preclude a plan defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102(37)) from establishing employer contribution rules or group participation rules; or

(C) permit individuals to decline coverage under an employee health benefit plan if such right is not otherwise available under such plan.

(b) TERMINATION OF GROUP HEALTH PLANS.—

(1) PARTICULAR TYPE OF GROUP HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of group health plan, a group health plan of such type may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each group purchaser covered under a group health plan of this type (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 90 days prior to the date of the discontinuation of such plan;

(B) the health plan issuer offers to each group purchaser covered under a group health plan of this type, the option to purchase any other group health plan currently being offered by the health plan issuer; and

(C) in exercising the option to discontinue a group health plan of this type and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status or insurability of participants or beneficiaries covered under the group health plan, or new participants or beneficiaries who may become eligible for coverage under the group health plan.

(2) DISCONTINUANCE OF ALL GROUP HEALTH PLANS.—

(A) IN GENERAL.—In any case in which a health plan issuer elects to discontinue offering all group health plans in a State, a group health plan may be discontinued by the health plan issuer only if—

(i) the health plan issuer provides notice to the applicable certifying authority (as defined in section 202(d)) and to each group purchaser (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 180 days prior to the date of the expiration of such plan; and

(ii) all group health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(B) APPLICATION OF PROVISIONS.—The provisions of this paragraph and paragraph (3) may be applied separately by a health plan issuer—

(i) to all group health plans offered to small employers (as defined under applicable State

law, or if not so defined, an employer with not more than 50 employees); or

(ii) to all other group health plans offered by the health plan issuer in the State.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any group health plan in the market sector (as described in paragraph (2)(B)) in which issuance of such group health plan was discontinued in the State involved during the 5-year period beginning on the date of the discontinuation of the last group health plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A network plan (as defined in paragraph (2)) may deny continued participation under such plan to participants or beneficiaries who neither live, reside, nor work in an area in which such network plan is offered, but only if such denial is applied uniformly, without regard to health status or the insurability of particular participants or beneficiaries.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an employee health benefit plan or a group health plan that arranges for the financing and delivery of health care services to participants or beneficiaries covered under such plan, in whole or in part, through arrangements with providers.

(d) COBRA COVERAGE.—Nothing in subsection (a)(2)(E) or subsection (c) shall be construed to affect any right to COBRA continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.).

SEC. 103. PORTABILITY OF HEALTH COVERAGE AND LIMITATION ON PREEXISTING CONDITION EXCLUSIONS.

(a) IN GENERAL.—An employee health benefit plan or a health plan issuer offering a group health plan may, with respect to a participant or beneficiary, impose a limitation or exclusion of benefits, otherwise available under the terms of the plan only if—

(1) such limitation or exclusion is a limitation or exclusion of benefits relating to the treatment of a preexisting condition; and

(2) such limitation or exclusion extends for a period of not more than 12 months after the date of enrollment in the plan.

(b) CREDITING OF PREVIOUS QUALIFYING COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (4), an employee health benefit plan or a health plan issuer offering a group health plan shall provide that if a participant or beneficiary is in a period of previous qualifying coverage as of the date of enrollment under such plan, any period of exclusion or limitation of coverage with respect to a preexisting condition shall be reduced by 1 month for each month in which the participant or beneficiary was in the period of previous qualifying coverage. With respect to a participant or beneficiary described in subsection (e)(2)(A) who maintains continuous coverage, no limitation or exclusion of benefits relating to treatment of a preexisting condition may be applied to a child within the child's first 12 months of life or within 12 months after the placement of a child for adoption.

(2) DISCHARGE OF DUTY.—An employee health benefit plan shall provide documentation of coverage to participants and beneficiaries whose coverage is terminated under the plan. Pursuant to regulations promulgated by the Secretary, the duty of an employee health benefit plan to verify previous qualifying coverage with respect to a participant or beneficiary is effectively discharged when such employee health benefit plan provides documentation to a participant or beneficiary that includes the following information:

(A) the dates that the participant or beneficiary was covered under the plan; and

(B) the benefits and cost-sharing arrangement available to the participant or beneficiary under such plan.

An employee health benefit plan shall retain the documentation provided to a participant or beneficiary under subparagraphs (A) and (B) for at least the 12-month period following the date on which the participant or beneficiary ceases to be covered under the plan. Upon request, an employee health benefit plan shall provide a second copy of such documentation to such participant or beneficiary within the 12-month period following the date of such ineligibility.

(3) DEFINITIONS.—As used in this section:

(A) PREVIOUS QUALIFYING COVERAGE.—The term "previous qualifying coverage" means the period beginning on the date—

(i) a participant or beneficiary is enrolled under an employee health benefit plan or a group health plan, and ending on the date the participant or beneficiary is not so enrolled; or

(ii) an individual is enrolled under an individual health plan (as defined in section 113) or under a public or private health plan established under Federal or State law, and ending on the date the individual is not so enrolled;

for a continuous period of more than 30 days (without regard to any waiting period).

(B) LIMITATION OR EXCLUSION OF BENEFITS RELATING TO TREATMENT OF A PREEXISTING CONDITION.—The term "limitation or exclusion of benefits relating to treatment of a preexisting condition" means a limitation or exclusion of benefits imposed on an individual based on a preexisting condition of such individual.

(4) EFFECT OF PREVIOUS COVERAGE.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition, subject to the limits in subsection (a), only to the extent that such service or benefit was not previously covered under the group health plan, employee health benefit plan, or individual health plan in which the participant or beneficiary was enrolled immediately prior to enrollment in the plan involved.

(c) LATE ENROLLEES.—Except as provided in section 104, with respect to a participant or beneficiary enrolling in an employee health benefit plan or a group health plan during a time that is other than the first opportunity to enroll during an enrollment period of at least 30 days, coverage with respect to benefits or services relating to the treatment of a preexisting condition in accordance with subsections (a) and (b) may be excluded, except the period of such exclusion may not exceed 18 months beginning on the date of coverage under the plan.

(d) AFFILIATION PERIODS.—With respect to a participant or beneficiary who would otherwise be eligible to receive benefits under an employee health benefit plan or a group health plan but for the operation of a preexisting condition limitation or exclusion, if such plan does not utilize a limitation or exclusion of benefits relating to the treatment of a preexisting condition, such plan may impose an affiliation period on such participant or beneficiary not to exceed 60 days (or in the case of a late participant or beneficiary described in subsection (c), 90 days) from the date on which the participant or beneficiary would otherwise be eligible to receive benefits under the plan. An employee health benefit plan or a health plan issuer offering a group health plan may also use alternative methods to address adverse selection as approved by the applicable certifying authority (as defined in section 202(d)). During such an affiliation period, the plan may not be required to provide health care services or benefits and no premium shall be charged to the participant or beneficiary.

(e) PREEXISTING CONDITION.—

(1) IN GENERAL.—For purposes of this section, the term "preexisting condition" means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before the effective date of the coverage (without regard to any waiting period).

(2) BIRTH, ADOPTION AND PREGNANCY EXCLUDED.—The term "preexisting condition" does not apply to—

(A) an individual who, within 30 days of the date of the birth or placement for adoption of a child (as determined under section 609(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(c)(3)(B)), was covered under the plan; or

(B) pregnancy.

(f) STATE FLEXIBILITY.—Nothing in this section shall be construed to preempt State laws that—

(1) require health plan issuers to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for periods that are shorter than those provided for under this section; or

(2) allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 30-day period provided for under subsection (b)(3); or

(3) require health plan issuers to have a lookback period that is shorter than the period described in subsection (e)(1);

unless such laws are preempted by section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 104. SPECIAL ENROLLMENT PERIODS.

In the case of a participant, beneficiary or family member who—

(1) through marriage, separation, divorce, death, birth or placement of a child for adoption, experiences a change in family composition affecting eligibility under a group health plan, individual health plan, or employee health benefit plan;

(2) experiences a change in employment status, as described in section 603(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163(2)), that causes the loss of eligibility for coverage, other than COBRA continuation coverage under a group health plan, individual health plan, or employee health benefit plan; or

(3) experiences a loss of eligibility under a group health plan, individual health plan, or employee health benefit plan because of a change in the employment status of a family member;

each employee health benefit plan and each group health plan shall provide for a special enrollment period extending for a reasonable time after such event that would permit the participant to change the individual or family basis of coverage or to enroll in the plan if coverage would have been available to such individual, participant, or beneficiary but for failure to enroll during a previous enrollment period. Such a special enrollment period shall ensure that a child born or placed for adoption shall be deemed to be covered under the plan as of the date of such birth or placement for adoption if such child is enrolled within 30 days of the date of such birth or placement for adoption.

SEC. 105. DISCLOSURE OF INFORMATION.

(a) DISCLOSURE OF INFORMATION BY HEALTH PLAN ISSUERS.—

(1) IN GENERAL.—In connection with the offering of any group health plan to a small employer (as defined under applicable State law, or if not so defined, an employer with not more

than 50 employees), a health plan issuer shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of—

(A) the provisions of such group health plan concerning the health plan issuer's right to change premium rates and the factors that may affect changes in premium rates;

(B) the provisions of such group health plan relating to renewability of coverage;

(C) the provisions of such group health plan relating to any preexisting condition provision; and

(D) descriptive information about the benefits and premiums available under all group health plans for which the employer is qualified.

Information shall be provided to small employers under this paragraph in a manner determined to be understandable by the average small employer, and shall be sufficiently accurate and comprehensive to reasonably inform small employers, participants and beneficiaries of their rights and obligations under the group health plan.

(2) EXCEPTION.—With respect to the requirement of paragraph (1), any information that is proprietary and trade secret information under applicable law shall not be subject to the disclosure requirements of such paragraph.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to preempt State reporting and disclosure requirements to the extent that such requirements are not preempted under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(b) DISCLOSURE OF INFORMATION TO PARTICIPANTS AND BENEFICIARIES.—

(1) IN GENERAL.—Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (B)—

(A) by striking "102(a)(1)," and inserting "102(a)(1) that is not a material reduction in covered services or benefits provided,"; and

(B) by adding at the end thereof the following new sentences: "If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, a summary description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.".

(2) PLAN DESCRIPTION AND SUMMARY.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(A) by inserting "including the office or title of the individual who is responsible for approving or denying claims for coverage of benefits" after "type of administration of the plan";

(B) by inserting "including the name of the organization responsible for financing claims" after "source of financing of the plan"; and

(C) by inserting "including the office, contact, or title of the individual at the Department of Labor through which participants may seek assistance or information regarding their rights under this Act and the Health Insurance Reform Act of 1996 with respect to health benefits that are not offered through a group health plan." after "benefits under the plan".

Subtitle B—Individual Market Rules

SEC. 110. INDIVIDUAL HEALTH PLAN PORTABILITY.

(a) LIMITATION ON REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsections (c) and (d), a health plan issuer described in paragraph (3) may not, with respect to an eligible individual (described in subsection (b)) desiring to enroll in an individual health plan—

(A) decline to offer coverage to, or deny enrollment of, such individual; or

(B) impose a limitation or exclusion of benefits, otherwise available under such plan, for which coverage was available under the group health plan or employee health benefit plan in which the individual was previously enrolled.

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall be construed to prevent a health plan issuer offering an individual health plan from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion or disease prevention.

(3) HEALTH PLAN ISSUER.—A health plan issuer described in this paragraph is a health plan issuer that issues or renews individual health plans.

(4) PREMIUMS.—Nothing in this subsection shall be construed to affect the determination of a health plan issuer as to the amount of the premium payable under an individual health plan under applicable State law.

(b) DEFINITION OF ELIGIBLE INDIVIDUAL.—As used in subsection (a)(1), the term "eligible individual" means an individual who—

(1) was a participant or beneficiary enrolled under one or more group health plans or employee health benefit plans for not less than 18 months (without a lapse of more than 30 days) immediately prior to the date on which such individual applies for enrollment in the individual health plan;

(2) is not eligible for coverage under a group health plan or an employee health benefit plan;

(3) has not had coverage terminated under a group health plan or employee health benefit plan for failure to make required premium payments or contributions, or for fraud or misrepresentation of material fact; and

(4) has, if applicable, elected coverage and exhausted the maximum period of coverage as described in section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) or under a State program providing an extension of such coverage.

(c) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering coverage to individuals under an individual health plan may cease enrolling individuals under the plan if—

(A) the health plan issuer ceases to enroll any new individuals; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)), if required, that its financial or provider capacity to serve previously covered individuals will be impaired if the health plan issuer is required to enroll additional individuals.

Such a health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 202(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering coverage to individuals under an individual health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer provides for enrollment of individuals under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(d) MARKET REQUIREMENTS.—

(1) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that a health plan issuer offering group health plans to group purchasers offer individual health plans to individuals.

(2) CONVERSION POLICIES.—A health plan issuer offering group health plans to group purchasers under this Act shall not be deemed to be a health plan issuer offering an individual health plan solely because such health plan issuer offers a conversion policy.

(3) MARKETING OF PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

(4) CONSTRUCTION.—Nothing in this Act shall be construed to require that a State replace or dissolve high risk pools or other similar State mechanisms which are designed to provide individuals in such State with access to health benefits.

SEC. 111. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH COVERAGE.

(a) IN GENERAL.—Subject to subsections (b) and (c), coverage for individuals under an individual health plan shall be renewed or continued in force by a health plan issuer at the option of the individual, except that the requirement of this subsection shall not apply in the case of—

(1) the nonpayment of premiums or contributions by the individual in accordance with the terms of the individual health plan or where the health plan issuer has not received timely premium payments;

(2) fraud or misrepresentation of material fact on the part of the individual; or

(3) the termination of the individual health plan in accordance with subsection (b).

(b) TERMINATION OF INDIVIDUAL HEALTH PLANS.—

(1) PARTICULAR TYPE OF INDIVIDUAL HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of individual health plan to individuals, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the expiration of the plan;

(B) the health plan issuer offers to each individual covered under the plan the option to purchase any other individual health plan currently being offered by the health plan issuer to individuals; and

(C) in exercising the option to discontinue the individual health plan and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status or insurability of particular individuals.

(2) DISCONTINUANCE OF ALL INDIVIDUAL HEALTH PLANS.—In any case in which a health plan issuer elects to discontinue all individual health plans in a State, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to the applicable certifying authority (as defined in section 202(d)) and to each individual covered under the plan of such discontinuation at least 180 days prior to the date of the discontinuation of the plan; and

(B) all individual health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A health plan issuer which offers a network plan (as defined

in paragraph (2)) may deny continued participation under the plan to individuals who neither live, reside, nor work in an area in which the individual health plan is offered, but only if such denial is applied uniformly, without regard to health status or the insurability of particular individuals.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an individual health plan that arranges for the financing and delivery of health care services to individuals covered under such health plan, in whole or in part, through arrangements with providers.

SEC. 112. STATE FLEXIBILITY IN INDIVIDUAL MARKET REFORMS.

(a) ADOPTION OF ALTERNATIVE MECHANISMS.—

(1) IN GENERAL.—A State, in accordance with this section, may adopt alternative mechanisms (public or private) that are designed to provide access to affordable health benefits for individuals meeting the requirements of sections 110(b) and 111 (such as mechanisms providing for guaranteed issue, open enrollment by one or more health plan issuers, high-risk pools, mandatory conversion policies, or any combination thereof).

(2) PROCEDURE FOR STATE ELECTION.—If, not later than 6 months after the date of enactment of this Act, the Governor of a State notifies the Secretary of Health and Human Services that—

(A) the State has adopted an alternative mechanism that achieves the goals of sections 110 and 111; or

(B) the State intends to implement an alternative mechanism that is designed to achieve the goals of sections 110 and 111;

such State alternative mechanism shall, except as provided in paragraphs (3) and (4), apply in lieu of the standards described in sections 110 and 111.

(3) NONAPPLICATION OF MECHANISM.—A State alternative mechanism adopted under paragraph (1) shall be presumed to achieve the goals of sections 110 and 111 and shall apply in lieu of such sections, unless the Secretary of Health and Human Services, in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, finds that the State alternative mechanism fails to—

(A) offer coverage to those individuals who meet the requirements of sections 110(b) and 111;

(B) prohibit a limitation or exclusion of benefits relating to treatment of a preexisting condition that was covered under the previous group health plan or employee health benefit plan of an individual who meets the requirements of sections 110(b) and 111;

(C) offer individuals who meet the requirements of sections 110(b) and 111 a choice of individual health plans, including at least one plan comparable to comprehensive plans offered in the individual market in such State or a plan comparable to a standard option plan available under the group or individual health insurance laws of such State; or

(D) except as provided in paragraph (4), implement a risk spreading mechanism, cross subsidy mechanism, risk adjustment mechanism, rating limitation or other mechanism (such as mechanisms described in the NAIC Model Health Plan for Uninsurable Individuals Act) designed to reduce the variation among the cost of such plans and other individual health plans offered by the carrier or available in such State.

(4) CHOICE OF PLANS.—The Secretary of Health and Human Services shall waive the requirement in subparagraph (D) of paragraph (3) with respect to a State if individuals who meet the requirements of sections 110(b) and 111 in such State are provided with a choice of all individual health plans otherwise available in the individual market.

(5) FUTURE ADOPTION OF MECHANISMS.—With respect to a State that implements an alternative mechanism under paragraph (1) after the period referred to in paragraph (2)—

(A) the State shall provide notice to the Secretary that such alternative mechanism achieves the goals of sections 110 and 111;

(B) the State alternative mechanism shall apply in lieu of sections 110 and 111;

(C) except as provided in subsections (d) and (e), the Secretary may make a determination as provided for in paragraph (3); and

(D) the procedures described in subsection (c) shall apply.

(b) TIMEFRAME FOR SECRETARIAL DETERMINATION.—

(1) IN GENERAL.—With respect to a State election under subsection (a)(2)(B), the Secretary of Health and Human Services shall not make a determination under subsection (a)(3) until the expiration of the 12-month period beginning on the date on which such notification is made, or until January 1, 1998, whichever is later.

(2) RULE APPLICABLE TO CERTAIN STATES.—With respect to a State that makes an election under subsection (a)(2)(B) and that has a legislature that does not meet within the 12-month period beginning on the date of enactment of this Act, the Secretary of Health and Human Services shall not make a determination under subsection (a) prior to January 1, 1999.

(c) NOTICE TO STATE.—If the Secretary of Health and Human Services determines that a State alternative mechanism fails to meet the criteria described in subsection (a)(3), or that such mechanism is no longer being implemented, the Secretary of Health and Human Services shall notify the Governor of such State of such preliminary determination and permit the State a reasonable opportunity in which to modify the alternative mechanism or to adopt another mechanism that is designed to meet the goals of sections 110 and 111. If, after an opportunity to modify such State alternative mechanism, the mechanism fails to meet the criteria described in subsection (a)(3), the Secretary shall notify the Governor of such State that sections 110 and 111 shall apply in the State.

(d) ADOPTION OF NAIC MODEL.—If, not later than 9 months after the date of enactment of this Act—

(1) the National Association of Insurance Commissioners (hereafter referred to as the "NAIC"), through a process which the Secretary of Health and Human Services determines has included consultation with representatives of the insurance industry and consumer groups, has adopted a model act or acts including provisions addressing portability from a group health plan or employee health benefit plan into the individual health insurance market; and

(2) the Secretary of Health and Human Services determines, within 30 days of the adoption of such NAIC model act or acts, that such act or acts comply with the goals of sections 110 and 111;

a State that elects to adopt such model act or acts shall be deemed to have met the requirements of sections 110 and 111 and shall not be subject to a determination under subsection (a)(3).

(e) STATE HIGH RISK POOLS DEEMED IN COMPLIANCE.—If the Governor of a State notifies the Secretary of Health and Human Services in a timeframe consistent with either subsection (a)(2) or (a)(5) that such State has a high risk pool open to those individuals meeting the requirements of sections 110(b) and 111, that limits preexisting condition waiting periods consistent with section 110(a)(1)(B) and that with respect to premium rates and covered benefits is consistent with standards included in the NAIC Model Health Plan for Uninsurable Individuals Act, such State high risk pool shall be deemed to have met the requirements of sections 110 and 111 and shall not be subject to a determination under subsection (a)(3).

SEC. 113. DEFINITION.

(a) IN GENERAL.—As used in this title, the term "individual health plan" means any contract, policy, certificate or other arrangement offered to individuals by a health plan issuer that provides or pays for health benefits (such as provider and hospital benefits) and that is not a group health plan under section 2(6).

(b) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(1) Coverage only for accident, or disability income insurance, or any combination thereof.

(2) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(3) Coverage issued as a supplement to liability insurance.

(4) Liability insurance, including general liability insurance and automobile liability insurance.

(5) Workers' compensation or similar insurance.

(6) Automobile medical payment insurance.

(7) Coverage for a specified disease or illness.

(8) Hospital or fixed indemnity insurance.

(9) Short-term limited duration insurance.

(10) Credit-only, dental-only, or vision-only insurance.

(11) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

Subtitle C—COBRA Clarifications

SEC. 121. COBRA CLARIFICATIONS.

(a) PUBLIC HEALTH SERVICE ACT.—

(1) PERIOD OF COVERAGE.—Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb-2(2)) is amended—

(A) in subparagraph (A)—

(i) by transferring the sentence immediately preceding clause (iv) so as to appear immediately following such clause (iv); and

(ii) in the last sentence (as so transferred)—

(I) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(II) by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title";

(B) in subparagraph (D)(i), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(2) NOTICES.—Section 2206(3) of the Public Health Service Act (42 U.S.C. 300bb-6(3)) is amended by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(3) BIRTH OR ADOPTION OF A CHILD.—Section 2208(3)(A) of the Public Health Service Act (42 U.S.C. 300bb-8(3)(A)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this title.".

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) PERIOD OF COVERAGE.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended—

(A) in the last sentence of subparagraph (A)—

(i) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(ii) by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part";

(B) in subparagraph (D)(i), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(2) NOTICES.—Section 606(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(3)) is amended by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(3) BIRTH OR ADOPTION OF A CHILD.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this part.".

(c) INTERNAL REVENUE CODE OF 1986.—

(1) PERIOD OF COVERAGE.—Section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended—

(A) in the last sentence of clause (i) by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section";

(B) in clause (iv)(I), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this subclause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this subsection because of the provision of the Health Insurance Reform Act of 1995"; and

(C) in clause (v), by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(2) NOTICES.—Section 4980B(f)(6)(C) of the Internal Revenue Code of 1986 is amended by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(3) BIRTH OR ADOPTION OF A CHILD.—Section 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this section.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualifying events occurring on or after the date of the enactment of this Act for plan years beginning after December 31, 1997.

(e) NOTIFICATION OF CHANGES.—Not later than 60 days prior to the date on which this section becomes effective, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and section 4980B(f) of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part or section of the amendments made by this section.

Subtitle D—Private Health Plan Purchasing Cooperatives

SEC. 131. PRIVATE HEALTH PLAN PURCHASING COOPERATIVES.

(a) DEFINITION.—As used in this Act, the term "health plan purchasing cooperative" means a group of employees or a group of individuals and employers that, on a voluntary basis and in accordance with this section, form a cooperative for the purpose of purchasing individual health plans or group health plans offered by health plan issuers.

(b) CERTIFICATION.—

(1) REQUIREMENT.—If a group described in subsection (a), desires to form a health plan purchasing cooperative in accordance with this section and such group appropriately notifies the State and the Secretary of such desire, the State, upon a determination that such group meets the requirements of this section, shall certify the group as a health plan purchasing cooperative. The State shall make a determination of whether such group meets the requirements of this section in a timely fashion and shall oversee the operations of such cooperative in order to ensure continued compliance with the requirements of this section. Each such cooperative shall also be registered with the Secretary.

(2) STATE REFUSAL TO CERTIFY.—

(A) IN GENERAL.—If a State fails to implement a program for certifying health plan purchasing cooperatives in accordance with the standards under this Act, the Secretary shall certify and oversee the operations of such cooperatives in such State.

(B) EXCEPTION.—The Secretary shall not certify a health plan purchasing cooperative described in this section if, upon the submission of an application by the State to the Secretary, the Secretary determines that under a State law in effect on the date of enactment of this Act, all small employers have a means readily available that ensures—

(i) that individuals and employees have a choice of multiple, unaffiliated health plan issuers;

(ii) that health plan coverage is subject to State premium rating requirements that are not based on the factors described in subsection (f)(3) and that contains a mandatory minimum loss ratio; and

(iii) that comparative health plan materials are disseminated consistent with subsection (e)(1)(D);

and that otherwise meets the objectives of this Act.

(3) INTERSTATE COOPERATIVES.—For purposes of this section, a health plan purchasing cooperative operating in more than one State shall be certified by the State in which the cooperative is domiciled. States may enter into cooperative agreements for the purpose of overseeing the operation of such cooperatives. For purposes of this subsection, a cooperative shall be considered to be domiciled in the State in which most of the members of the cooperative reside.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—Each health plan purchasing cooperative shall be governed by a Board of Directors that shall be responsible for ensuring the performance of the duties of the cooperative under this section. The Board shall be composed of a broad cross-section of representatives of employers, employees, and individuals participating in the cooperative.

(2) LIMITATION ON COMPENSATION.—A health plan purchasing cooperative may not provide compensation to members of the Board of Directors. The cooperative may provide reimbursements to such members for the reasonable and necessary expenses incurred by the members in the performance of their duties as members of the Board.

(d) MEMBERSHIP AND MARKETING AREA.—

(1) MEMBERSHIP.—A health plan purchasing cooperative may establish limits on the maximum size of employers who may become members of the cooperative, and may determine whether to permit individuals to become members. Upon the establishment of such membership requirements, the cooperative shall, except as provided in subparagraph (B), accept all employers (or individuals) residing within the area served by the cooperative who meet such requirements as members on a first come, first-served basis, or on another basis established by the State to ensure equitable access to the cooperative.

(2) MARKETING AREA.—A State may establish rules regarding the geographic area that must be served by health plan purchasing cooperatives to ensure that cooperatives do not discriminate on the basis of the health status or insurability of the populations that reside in the area served. A State may not use such rules to arbitrarily limit the number of health plan purchasing cooperatives.

(e) DUTIES AND RESPONSIBILITIES.—

(1) IN GENERAL.—A health plan purchasing cooperative shall—

(A) objectively evaluate potential health plan issuers and enter into agreements with multiple, unaffiliated health plan issuers, except that the requirement of this subparagraph shall not apply in regions (such as remote or frontier areas) in which compliance with such requirement is not possible;

(B) enter into agreements with employers and individuals who become members of the cooperative;

(C) participate in any program of risk-adjustment or reinsurance, or any similar program, that is established by the State;

(D) prepare and disseminate comparative health plan materials (including information about cost, quality, benefits, and other information concerning group health plans and individual health plans offered through the cooperative);

(E) broadly solicit and actively market to all eligible employers and individuals residing within the service area; and

(F) act as an ombudsman for group health plan or individual health plan enrollees.

(2) PERMISSIBLE ACTIVITIES.—A health plan purchasing cooperative may perform such other functions as necessary to further the purposes of this Act, including—

(A) collecting and distributing premiums and performing other administrative functions;

(B) collecting and analyzing surveys of enrollee satisfaction;

(C) charging membership fee to enrollees (such fees may not be based on health status) and charging participation fees to health plan issuers;

(D) cooperating with (or accepting as members) employers who provide health benefits directly to participants and beneficiaries only for the purpose of negotiating with providers; and

(E) negotiating with health care providers and health plan issuers.

(f) LIMITATIONS ON COOPERATIVE ACTIVITIES.—A health plan purchasing cooperative shall not—

(1) perform any activity relating to the licensing of health plan issuers;

(2) assume financial risk directly or indirectly on behalf of members of a health plan purchasing cooperative relating to any group health plan or individual health plan;

(3) establish eligibility, enrollment, or premium contribution requirements for individual participants or beneficiaries based on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, genetic information, or disability;

(4) operate on a for-profit or other basis where the legal structure of the cooperative permits profits to be made and not returned to the members of the cooperative, except that a for-profit health plan purchasing cooperative may be formed by a nonprofit organization or organizations—

(A) in which membership in such organization is not based on health status, medical condition, claims experience, receipt of health care, medical history, evidence of insurability, genetic information, or disability; and

(B) that accepts as members all employers or individuals on a first-come, first-served basis, subject to any established limit on the maximum size of an employer that may become a member; or

(5) perform any other activities that conflict or are inconsistent with the performance of its duties under this Act.

(g) CONFLICT OF INTEREST.—

(1) PROHIBITION.—No individual, partnership, or corporation shall serve on the board of a health plan purchasing cooperative, be employed by such a cooperative, receive compensation from such a cooperative, or initiate or finance such a cooperative if such individual, partnership, or corporation—

(A) fails to discharge the duties and responsibilities of such individual, partnership or corporation in a manner that is solely in the interest of the members of the cooperative; or

(B) derives personal benefit (other than in the form of ordinary compensation received) from the sale of, or has a financial interest in, health plans, services or products sold by or distributed through that cooperative.

(2) CONTRACTS WITH THIRD PARTIES.—Nothing in paragraph (1) shall be construed to prohibit the board of directors of a health plan purchasing cooperative, or its officers, at the initiative and under this direction of the board, from contracting with third parties to provide administrative, marketing, consultive, or other services to the cooperative.

(h) LIMITED PREEMPTION OF CERTAIN STATE LAWS.—

(1) IN GENERAL.—With respect to a health plan purchasing cooperative that meets the requirements of this section, State fictitious group laws shall be preempted.

(2) HEALTH PLAN ISSUERS.—

(A) RATING.—Except as provided in subparagraph (B), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative that meets the requirements of this section shall comply with all State rating requirements that would otherwise apply if the health plan were offered outside of the cooperative.

(B) EXCEPTION.—A State shall permit a health plan issuer to reduce premium rates negotiated with a health plan purchasing cooperative that meets the requirements of this section to reflect savings derived from administrative costs, marketing costs, profit margins, economies of scale, or other factors, except that any such reduction in premium rates may not be based on the health status, demographic factors, industry type, duration, or other indicators of health risk of the members of the cooperative.

(C) BENEFITS.—Except as provided in subparagraph (D), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative shall comply with all State mandated benefit laws that require the offering of any services, category of care, or services of any class or type of provider.

(D) EXCEPTION.—In those States that have enacted laws authorizing the issuance of alternative benefit plans to small employers, health plan issuers may offer such alternative benefit plans through a health plan purchasing cooperative that meets the requirements of this section.

(i) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) require that a State organize, operate, or otherwise create health plan purchasing cooperatives;

(2) otherwise require the establishment of health plan purchasing cooperatives;

(3) require individuals, plan sponsors, or employers to purchase group health plans or individual health plans through a health plan purchasing cooperative;

(4) preempt a State from requiring licensure for individuals who are involved in directly supplying advice or selling health plans on behalf of a purchasing cooperative;

(5) require that a health plan purchasing cooperative be the only type of purchasing arrangement permitted to operate in a State;

(6) confer authority upon a State that the State would not otherwise have to regulate health plan issuers or employee health benefits plans;

(7) confer authority upon a State (or the Federal Government) that the State (or Federal Government) would not otherwise have to regulate group purchasing arrangements, coalitions, association plans, or other similar entities that do not desire to become a health plan purchasing cooperative in accordance with this section; or

(8) except as specifically provided otherwise in this subsection, prevent the application of State laws and regulations otherwise applicable to health plan issuers offering group health plans or individual health plans through a health plan purchasing cooperative.

(j) APPLICATION OF ERISA.—For purposes of enforcement only, the requirements of parts 4 and 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) shall apply to a health plan purchasing cooperative as if such plan were an employee welfare benefit plan.

TITLE II—APPLICATION AND ENFORCEMENT OF STANDARDS

SEC. 201. APPLICABILITY.

(a) CONSTRUCTION.—

(1) ENFORCEMENT.—

(A) IN GENERAL.—A requirement or standard imposed under this Act on a group health plan or individual health plan offered by a health plan issuer shall be deemed to be a requirement or standard imposed on the health plan issuer. Such requirements or standards shall be enforced by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this Act. In the case of a group health plan offered by a health plan issuer in connection with an employee health benefit plan, the requirements or standards imposed under this Act shall be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this Act.

(B) LIMITATION.—Except as provided in subsection (c), the Secretary shall not enforce the requirements or standards of this Act as they relate to health plan issuers, group health plans, or individual health plans. In no case shall a State enforce the requirements or standards of this Act as they relate to employee health benefit plans.

(2) PREEMPTION OF STATE LAW.—Nothing in this Act shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements—

(A) not prescribed in this Act; or

(B) related to the issuance, renewal, or portability of health insurance or the establishment or operation of group purchasing arrangements, that are consistent with, and are not in direct conflict with, this Act and provide greater protection or benefit to participants, beneficiaries or individuals.

(b) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(c) CONTINUATION.—Nothing in this Act shall be construed as requiring a group health plan or an employee health benefit plan to provide benefits to a particular participant or beneficiary, to all participants or beneficiaries, or to any class or group of participants or beneficiaries, in excess of or other than those provided under the terms of such plan.

SEC. 202. ENFORCEMENT OF STANDARDS.

(a) HEALTH PLAN ISSUERS.—Each State shall require that each group health plan and individual health plan issued, sold, renewed, offered for sale or operated in such State by a health plan issuer meet the standards established under this Act pursuant to an enforcement plan filed by the State with the Secretary. A State shall submit such information as required by the Secretary demonstrating effective implementation of the State enforcement plan.

(b) EMPLOYEE HEALTH BENEFIT PLANS.—With respect to employee health benefit plans, the Secretary shall enforce the reform standards established under this Act in the same manner as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c)(1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(c) FAILURE TO IMPLEMENT PLAN.—In the case of the failure of a State to substantially enforce the standards and requirements set forth in this Act with respect to group health plans and individual health plans as provided for under the State enforcement plan filed under subsection (a), the Secretary, in consultation with the Secretary of Health and Human Services, shall implement an enforcement plan meeting the standards of this Act in such State. In the case of a State that fails to substantially enforce the standards and requirements set forth in this Act, each health plan issuer operating in such State shall be subject to civil enforcement as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c)(1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(d) APPLICABLE CERTIFYING AUTHORITY.—As used in this title, the term "applicable certifying authority" means, with respect to—

(1) health plan issuers, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this Act for the State involved; and

(2) an employee health benefit plan, the Secretary.

(e) REGULATIONS.—The Secretary may promulgate such regulations as may be necessary or appropriate to carry out this Act.

(f) TECHNICAL AMENDMENT.—Section 508 of the Employee Retirement Income Security Act of

1974 (29 U.S.C. 1138) is amended by inserting "and under the Health Insurance Reform Act of 1996" before the period.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. HMOS ALLOWED TO OFFER PLANS WITH DEDUCTIBLES TO INDIVIDUALS WITH MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Section 1301(b) of the Public Health Service Act (42 U.S.C. 300e(b)) is amended by adding at the end the following new paragraph:

"(6)(A) If a member certifies that a medical savings account has been established for the benefit of such member, a health maintenance organization may, at the request of such member reduce the basic health services payment otherwise determined under paragraph (1) by requiring the payment of a deductible by the member for basic health services.

"(B) For purposes of this paragraph, the term 'medical savings account' means an account which, by its terms, allows the deposit of funds and the use of such funds and income derived from the investment of such funds for the payment of the deductible described in subparagraph (A).".

(b) MEDICAL SAVINGS ACCOUNTS.—It is the sense of the Committee on Labor and Human Resources of the Senate that the establishment of medical savings accounts, including those defined in section 1301(b)(6)(B) of the Public Health Service Act (42 U.S.C. 300e(b)(6)(B)), should be encouraged as part of any health insurance reform legislation passed by the Senate through the use of tax incentives relating to contributions to, the income growth of, and the qualified use of, such accounts.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that the Congress should take measures to further the purposes of this Act, including any necessary changes to the Internal Revenue Code of 1986 to encourage groups and individuals to obtain health coverage, and to promote access, equity, portability, affordability, and security of health benefits.

SEC. 302. HEALTH COVERAGE AVAILABILITY STUDY.

(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Secretary, representatives of State officials, consumers, and other representatives of individuals and entities that have expertise in health insurance and employee benefits, shall conduct a three-part study, and prepare and submit reports, in accordance with this section.

(b) EVALUATION OF AVAILABILITY.—Not later than January 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning—

(1) an evaluation, based on the experience of States, expert opinions, and such additional data as may be available, of the various mechanisms used to ensure the availability of reasonably priced health coverage to employers purchasing group coverage and to individuals purchasing coverage on a non-group basis; and

(2) whether standards that limit the variation in premiums will further the purposes of this Act.

(c) EVALUATION OF EFFECTIVENESS.—Not later than January 1, 1999, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning the effectiveness of the provisions of this Act and the various State laws, in ensuring the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a non-group basis.

(d) EVALUATION OF ACCESS AND CHOICE.—Not later than June 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report concerning—

(1) an evaluation of the extent to which patients have direct access to, and choice of, health care provider, including specialty providers, within a network of providers, as well as the opportunity to utilize providers outside of the network, under the various types of coverage offered under the provisions of this Act;

(2) an evaluation of the cost to the insurer of providing out-of-network access to providers, and the feasibility of providing out-of-network access in all health plans offered under provisions of this Act; and

(3) an evaluation of the percent of premium dollar utilized for medical care and administration of the various types of coverage offered, including coverage which permits out-of-network access and choice of provider, under provisions of this Act.

SEC. 303. REIMBURSEMENT OF TELEMEDICINE.

The Health Care Financing Administration is directed to complete their ongoing study of reimbursement of all telemedicine services and submit a report to Congress with a proposal for reimbursement of fee-for-service medicine by March 1, 1997. The report shall utilize data compiled from the current demonstration projects already under review and gather data from other ongoing telemedicine networks. This report shall include an analysis of the cost of services provided via telemedicine.

SEC. 304. SENSE OF THE COMMITTEE CONCERNING MEDICARE.

(a) FINDINGS.—The Committee on Labor and Human Resources of the Senate finds that the Public Trustees of Medicare concluded in their 1995 Annual Report that—

(1) the Medicare program is clearly unsustainable in its present form;

(2) "the Hospital Insurance Trust Fund, which pays inpatient hospital expenses, will be able to pay benefits for only about 7 years and is severely out of financial balance in the long range"; and

(3) the Public Trustees "strongly recommend that the crisis presented by the financial condition of the Medicare trust fund be urgently addressed on a comprehensive basis, including a review of the programs's financing methods, benefit provisions, and delivery mechanisms".

(b) SENSE OF THE COMMITTEE.—It is the Sense of the Committee on Labor and Human Resources of the Senate that the Senate should take measures necessary to reform the Medicare program, to provide increased choice for seniors, and to respond to the findings of the Public Trustees by protecting the short-term solvency and long-term sustainability of the Medicare program.

SEC. 305. PARITY FOR MENTAL HEALTH SERVICES.

(a) PROHIBITION.—An employee health benefit plan, or a health plan issuer offering a group health plan or an individual health plan, shall not impose treatment limitations or financial requirements on the coverage of mental health services if similar limitations or requirements are not imposed on coverage for services for other conditions.

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed as prohibiting an employee health benefit plan, or a health plan issuer offering a group health plan or an individual health plan, from requiring preadmission screening prior to the authorization of services covered under the plan or from applying other limitations that restrict coverage for mental health services to those services that are medically necessary.

SEC. 306. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) EXTENSION OF WAIVER PROGRAM.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking "June 1, 1996" and inserting "June 1, 2002".

(b) CONDITIONS ON FEDERALLY REQUESTED WAIVERS.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1184(e)) is amended by inserting after "except that in the case of a waiver requested by a State Department of Public Health or its equivalent" the following: "or in the case of a waiver requested by an interested United States Government agency on behalf of an alien described in clause (iii)".

(c) RESTRICTIONS ON FEDERALLY REQUESTED WAIVERS.—Section 214(k) (8 U.S.C. 1184(k)) is amended to read as follows:

"(k)(1) In the case of a request by an interested State agency or by an interested United States Government agency for a waiver of the two-year foreign residence requirement under section 212(e) with respect to an alien described in clause (iii) of that section, the Attorney General shall not grant such waiver unless—

"(A) in the case of an alien who is otherwise contractually obligated to return to a foreign country, the government of such country furnishes the Director of the United States Information Agency with a statement in writing that it has no objection to such waiver; and

"(B)(i) in the case of a request by an interested State agency—

"(I) the alien demonstrates a bona fide offer of full-time employment, agrees to begin employment with the health facility or organization named in the waiver application within 90 days of receiving such waiver, and agrees to work for a total of not less than three years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien would justify a lesser period of time); and

"(II) the alien's employment continues to benefit the public interest; or

"(ii) in the case of a request by an interested United States Government agency—

"(I) the alien demonstrates a bona fide offer of full-time employment that has been found to be in the public interest, agrees to begin employment with the health facility or organization named in the waiver application within 90 days of receiving such waiver, and agrees to work for a total of not less than three years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien would justify a lesser period of time); and

"(II) the alien's employment continues to benefit the public interest;

"(C) in the case of a request by an interested State agency, the alien agrees to practice medicine in accordance with paragraph (2) for a total of not less than three years only in the geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals; and

"(D) in the case of a request by an interested State agency, the grant of such a waiver would not cause the number of waivers allotted for that State for that fiscal year to exceed 20.

"(2)(A) Notwithstanding section 248(2) the Attorney General may change the status of an alien that qualifies under this subsection and section 212(e) to that of an alien described in section 101(a)(15)(H)(i)(b).

"(B) No person who has obtained a change of status under subparagraph (A) and who has failed to fulfill the terms of the contract with the health facility or organization named in the waiver application shall be eligible to apply for an immigrant visa, for permanent residence, or for any other change of nonimmigrant status until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least two years following departure from the United States.

"(3) Notwithstanding any other provisions of this subsection, the two-year foreign residence requirement under section 212(e) shall apply with respect to an alien in clause (iii) of that section who has not otherwise been accorded status under section 101(a)(27)(H)—

"(A) in the case of a request by an interested State agency, if at any time the alien practices medicine in an area other than an area described in paragraph (1)(C); and

"(B) in the case of a request by an interested United States Government agency, if at any time the alien engages in employment for a health facility or organization not named in the waiver application.".

SEC. 307. ORGAN AND TISSUE DONATION INFORMATION INCLUDED WITH INCOME TAX REFUND PAYMENTS.

(a) IN GENERAL.—The Secretary of the Treasury shall include with any payment of a refund of individual income tax made during the period beginning on February 1, 1997, and ending on June 30, 1997, a copy of the document described in subsection (b).

(b) TEXT OF DOCUMENT.—The Secretary of the Treasury shall, after consultation with the Secretary of Health and Human Services and organizations promoting organ and tissue (including eye) donation, prepare a document suitable for inclusion with individual income tax refund payments which—

(1) encourages organ and tissue donation;

(2) includes a detachable organ and tissue donor card; and

(3) urges recipients to—

(A) sign the organ and tissue donor card;

(B) discuss organ and tissue donation with family members and tell family members about the recipient's desire to be an organ and tissue donor if the occasion arises; and

(C) encourage family members to request or authorize organ and tissue donation if the occasion arises.

SEC. 308. SENSE OF THE SENATE REGARDING ADEQUATE HEALTH CARE COVERAGE FOR ALL CHILDREN AND PREGNANT WOMEN.

(a) FINDINGS.—The Senate finds the following:

(1) The health care coverage of mothers and children in the United States is unacceptable, with more than 9,300,000 children and 500,000 expectant mothers having no health insurance.

(2) Among industrial nations, the United States ranks 1st in wealth but 18th in infant mortality, and 14th among such nations in maternal mortality.

(3) 22 percent of pregnant women do not have prenatal care in the first trimester, and 22 percent of all poor children are uninsured, despite the medicaid program under title XIX of the Social Security Act.

(4) Of the 1,100,000 net increase in uninsured persons from 1992 to 1993, 84 percent or 922,500 were children.

(5) Since 1987, the number of children covered by employment based health insurance has decreased, and many children lack health insurance despite the relative affordability of providing insurance for children.

(6) Health care coverage for children is relatively inexpensive and in 1993 the medicaid program spent an average of $1,012 per child compared to $8,220 per elderly adult.

(7) Uninsured children are generally children of lower income workers, who are less likely than higher income workers to have health insurance for their families because they are less likely to work for a firm that offers insurance, and if such insurance is offered, it is often too costly for lower income workers to purchase.

(8) In 1993, 61 percent of uninsured children were in families with at least one parent working full time for the entire year the child was uninsured, and about 57 percent of uninsured children had a family income at or below 150 percent of the Federal poverty level.

(9) If Congress eliminates the Federal guarantee of medicaid, an estimated 4,900,000 children may lose their guarantee of health care coverage, and those same children may be added to the currently projected 12,600,000 children who will be uninsured by the year 2002.

(10) Studies have shown that uninsured children are less likely than insured children to receive needed health and preventive care, which can affect their health status adversely throughout their lives, with such children less likely to have routine doctor visits, receive care for injuries, and have a regular source of medical care.

(11) The families of uninsured children are more likely to take the children to an emergency room than to a private physician or health maintenance organization.

(12) Children without health insurance are less likely to be appropriately immunized or receive other preventive care for childhood illnesses.

(13) Ensuring the health of children clearly increases their chances to become productive members of society and averts more serious or more expensive health conditions later in life, and ensuring that all pregnant women receive competent prenatal care also saves social costs.

(14) Although the United States has made great improvements in health care coverage through the medicaid program, it is still the only developed nation that does not ensure that all of its children and pregnant women have health care coverage.

(15) The United States should not accept a status quo in which children in many neighborhoods are more likely to have access to drugs and guns than to doctors, or accept a status quo in which health care is ensured for all prisoners but not for all children.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the issue of adequate health care for our mothers and children is important to the future of the United States, and in consideration of the importance of such issue, the Senate should pass health care legislation that will ensure health care coverage for all of the United States's pregnant women and children.

SEC. 309. SENSE OF THE SENATE REGARDING AVAILABLE TREATMENTS.

It is the sense of the Senate that the Senate finds that patients deserve to know the full range of treatments available to them and Congress should thoughtfully examine these issues to ensure that all patients get the care they deserve.

SEC. 310. MEDICAL VOLUNTEERS.

(a) SHORT TITLE.—This title may be cited as the "Medical Volunteer Act".

(b) TORT CLAIM IMMUNITY.—

(1) GENERAL RULE.—A health care professional who provides a health care service to a medically underserved person without receiving compensation for such health care service, shall be regarded, for purposes of any medical malpractice claim that may arise in connection with the provision of such service, as an employee of the Federal Government for purposes of the Federal tort claims provisions in title 28, United States Code.

(2) COMPENSATION.—For purposes of paragraph (1), a health care professional shall be deemed to have provided a health care service without compensation only if, prior to furnishing a health care service, the health care professional—

(A) agrees to furnish the health care service without charge to any person, including any health insurance plan or program under which the recipient is covered; and

(B) provides the recipient of the health care service with adequate notice (as determined by the Secretary) of the limited liability of the health care professional with respect to the service.

(c) PREEMPTION.—The provisions of this section shall preempt any State law to the extent that such law is inconsistent with such provisions. The provisions of this section shall not preempt any State law that provides greater incentives or protections to a health care professional rendering a health care service.

(d) DEFINITIONS.—For purposes of this section:

(1) HEALTH CARE PROFESSIONAL.—The term "health care professional" means a person who, at the time the person provides a health care service, is licensed or certified by the appropriate authorities for practice in a State to furnish health care services.

(2) HEALTH CARE SERVICE.—The term "health care service" means any medical assistance to the extent it is included in the plan submitted under title XIX of the Social Security Act for the State in which the service was provided.

(3) MEDICALLY UNDERSERVED PERSON.—The term "medically underserved person" means a person who resides in—

(A) a medically underserved area as defined for purposes of determining a medically underserved population under section 330 of the Public Health Service Act (42 U.S.C. 254c); or

(B) a health professional shortage area as defined in section 332 of such Act (42 U.S.C. 254e);

and who receives care in a health care facility substantially comparable to any of those designated in the Federally Supported Health Centers Assistance Act (42 U.S.C. 233 et seq.), as shall be determined in regulations promulgated by the Secretary.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Department of Health and Human Services.

SEC. 311. EFFECTIVE DATE.

Except as otherwise provided for in this Act, the provisions of this Act shall apply as follows:

(1) With respect to group health plans, such provisions shall apply to plans offered, sold, issued, renewed, in effect, or operated on or after January 1, 1997.

(2) With respect to individual health plans, such provisions shall apply to plans offered, sold, issued, renewed, in effect, or operated on or after the date that is 6 months after the date of enactment of this Act, or January 1, 1997, whichever is later.

(3) With respect to employee health benefit plans, such provisions shall apply to such plans on the first day of the first plan year beginning on or after January 1, 1997.

SEC. 312. SEVERABILITY.

If any provision of this Act or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this Act and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE IV—TAX-RELATED HEALTH PROVISIONS

SEC. 400. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Health Insurance and Long-Term Care Affordability Act of 1996".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Increase in Deduction for Health Insurance Costs of Self-Employed Individuals

SEC. 401. INCREASE IN SELF-EMPLOYED INDIVIDUALS' DEDUCTION FOR HEALTH INSURANCE COSTS.

(a) IN GENERAL.—Section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended—

(1) by striking "30 percent" in paragraph (1) and inserting "the applicable percentage", and

(2) by adding at the end the following new paragraph:

"(6) APPLICABLE PERCENTAGE.—For purposes of this subsection, the term 'applicable percentage' means the percentage determined in accordance with the following table:

"In the case of taxable years beginning in:	The applicable percentage is:
1997	35
1998	40
1999	45
2000	50
2001	55
2002	60
2003	65
2004	70
2005	75
2006 and thereafter	80.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle B—Long-Term Care Provisions

CHAPTER 1—LONG-TERM CARE SERVICES AND CONTRACTS

Subchapter A—General Provisions

SEC. 411. TREATMENT OF LONG-TERM CARE INSURANCE.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by inserting after section 7702A the following new section:

"SEC. 7702B. TREATMENT OF QUALIFIED LONG-TERM CARE INSURANCE.

"(a) IN GENERAL.—For purposes of this title—

"(1) a qualified long-term care insurance contract shall be treated as an accident and health insurance contract,

"(2) amounts (other than policyholder dividends, as defined in section 808, or premium refunds) received under a qualified long-term care insurance contract shall be treated as amounts received for personal injuries and sickness and shall be treated as reimbursement for expenses actually incurred for medical care (as defined in section 213(d)),

"(3) any plan of an employer providing coverage under a qualified long-term care insurance contract shall be treated as an accident and health plan with respect to such coverage,

"(4) except as provided in subsection (e)(3), amounts paid for a qualified long-term care insurance contract providing the benefits described in subsection (b)(2)(A) shall be treated as payments made for insurance for purposes of section 213(d)(1)(D), and

"(5) a qualified long-term care insurance contract shall be treated as a guaranteed renewable contract subject to the rules of section 816(e).

"(b) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—For purposes of this title—

"(1) IN GENERAL.—The term 'qualified long-term care insurance contract' means any insurance contract if—

"(A) the only insurance protection provided under such contract is coverage of qualified long-term care services,

"(B) such contract does not pay or reimburse expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

"(C) such contract is guaranteed renewable,

"(D) such contract does not provide for a cash surrender value or other money that can be—

"(i) paid, assigned, or pledged as collateral for a loan, or

"(ii) borrowed,

other than as provided in subparagraph (E) or paragraph (2)(C), and

"(E) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits.

"(2) SPECIAL RULES.—

"(A) PER DIEM, ETC. PAYMENTS PERMITTED.—A contract shall not fail to be described in subparagraph (A) or (B) of paragraph (1) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

"(B) SPECIAL RULES RELATING TO MEDICARE.—

"(i) Paragraph (1)(B) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

"(ii) No provision of law shall be construed or applied so as to prohibit the offering of a qualified long-term care insurance contract on the basis that the contract coordinates its benefits with those provided under such title.

"(C) REFUNDS OF PREMIUMS.—Paragraph (1)(E) shall not apply to any refund on the death of the insured, or on a complete surrender or cancellation of the contract, which cannot exceed the aggregate premiums paid under the contract. Any refund on a complete surrender or cancellation of the contract shall be includible in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

"(c) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services, which—

"(A) are required by a chronically ill individual, and

"(B) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"(2) CHRONICALLY ILL INDIVIDUAL.—

"(A) IN GENERAL.—The term 'chronically ill individual' means any individual who has been certified by a licensed health care practitioner as—

"(i) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living for a period of at least 90 days due to a loss of functional capacity,

"(ii) having a level of disability similar (as determined by the Secretary in consultation with the Secretary of Health and Human Services) to the level of disability described in clause (i), or

"(iii) requiring substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the preceding 12-month period a licensed health care practitioner has certified that such individual meets such requirements.

"(B) ACTIVITIES OF DAILY LIVING.—For purposes of subparagraph (A), each of the following is an activity of daily living:

"(i) Eating.

"(ii) Toileting.

"(iii) Transferring.

"(iv) Bathing.

"(v) Dressing.

"(vi) Continence.

Nothing in this section shall be construed to require a contract to take into account all of the preceding activities of daily living.

"(3) MAINTENANCE OR PERSONAL CARE SERVICES.—The term 'maintenance or personal care services' means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

"(4) LICENSED HEALTH CARE PRACTITIONER.—The term 'licensed health care practitioner' means any physician (as defined in section 1861(r)(1) of the Social Security Act (42 U.S.C. 1395x(r)(1)) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

"(d) AGGREGATE PAYMENTS IN EXCESS OF LIMITS.—

"(1) IN GENERAL.—If the aggregate amount of periodic payments under all qualified long-term care insurance contracts with respect to an insured for any period exceeds the dollar amount in effect for such period under paragraph (3), such excess payments shall be treated as made for qualified long-term care services only to the extent of the costs incurred by the payee (not otherwise compensated for by insurance or otherwise) for qualified long-term care services provided during such period for such insured.

"(2) PERIODIC PAYMENTS.—For purposes of paragraph (1), the term 'periodic payment' means any payment (whether on a periodic basis or otherwise) made without regard to the extent of the costs incurred by the payee for qualified long-term care services.

"(3) DOLLAR AMOUNT.—The dollar amount in effect under this subsection shall be $175 per day (or the equivalent amount in the case of payments on another periodic basis).

"(4) INFLATION ADJUSTMENT.—In the case of a calendar year after 1997, the dollar amount contained in paragraph (3) shall be increased at the same time and in the same manner as amounts are increased pursuant to section 213(d)(11).

"(e) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE CONTRACT.—Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by a rider on or as a part of a life insurance contract—

"(1) IN GENERAL.—This section shall apply as if the portion of the contract providing such coverage is a separate contract.

"(2) APPLICATION OF 7702.—Section 7702(c)(2) (relating to the guideline premium limitation) shall be applied by increasing the guideline premium limitation with respect to a life insurance contract, as of any date—

"(A) by the sum of any charges (but not premium payments) against the life insurance contract's cash surrender value (within the meaning of section 7702(f)(2)(A)) for such coverage made to that date under the contract, less

"(B) any such charges the imposition of which reduces the premiums paid for the contract (within the meaning of section 7702(f)(1)).

"(3) APPLICATION OF SECTION 213.—No deduction shall be allowed under section 213(a) for charges against the life insurance contract's cash surrender value described in paragraph (2), unless such charges are includible in income as a result of the application of section 72(e)(10) and the rider is a qualified long-term care insurance contract under subsection (b).

"(4) PORTION DEFINED.—For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract that are in addition to the terms and benefits under the contract without regard to the coverage under a qualified long-term care insurance contract.".

(b) RESERVE METHOD.—Clause (iii) of section 807(d)(3)(A) is amended by inserting "(other than a qualified long-term care insurance contract, as defined in section 7702B(b))" after "insurance contract".

(c) LONG-TERM CARE INSURANCE NOT PERMITTED UNDER CAFETERIA PLANS OR FLEXIBLE SPENDING ARRANGEMENTS.—

(1) CAFETERIA PLANS.—Section 125(f) is amended by adding at the end the following

new sentence: "Such term shall not include any long-term care insurance contract (as defined in section 4980C).".

(2) FLEXIBLE SPENDING ARRANGEMENTS.—The text of section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, gross income of an employee does not include employer-provided coverage under an accident or health plan.

"(b) INCLUSION OF LONG-TERM CARE BENEFITS PROVIDED THROUGH FLEXIBLE SPENDING ARRANGEMENTS.—

"(1) IN GENERAL.—Effective on and after January 1, 1997, gross income of an employee shall include employer-provided coverage for qualified long-term care services (as defined in section 7702B(c)) to the extent that such coverage is provided through a flexible spending or similar arrangement.

"(2) FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, a flexible spending arrangement is a benefit program which provides employees with coverage under which—

"(A) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

"(B) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage.".

(d) CONTINUATION COVERAGE EXCISE TAX NOT TO APPLY.—Subsection (f) of section 4980B is amended by adding at the end the following new paragraph:

"(9) CONTINUATION OF LONG-TERM CARE COVERAGE NOT REQUIRED.—A group health plan shall not be treated as failing to meet the requirements of this subsection solely by reason of failing to provide coverage under any qualified long-term care insurance contract (as defined in section 7702B(b)).".

(e) AMOUNTS PAID TO SPOUSE OR RELATIVES TREATED AS NOT PAID FOR MEDICAL CARE.—Section 213(d) is amended by adding at the end the following new paragraph:

"(10) CERTAIN PAYMENTS TO SPOUSE OR RELATIVES TREATED AS NOT PAID FOR MEDICAL CARE.—An amount paid for a qualified long-term care service (as defined in section 7702B(c)) provided to an individual shall be treated as not paid for medical care if such service is provided—

"(A) by the spouse of the individual or a relative (directly or through a partnership, corporation, or other entity) unless the spouse or relative is a licensed professional with respect to such services, or

"(B) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this paragraph, the term 'relative' means an individual bearing a relationship to the individual which is described in any of paragraphs (1) through (8) of section 152(a). This paragraph shall not apply for purposes of section 105(b) with respect to reimbursements through insurance.".

(f) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by inserting after the item relating to section 7702A the following new item:

"Sec. 7702B. Treatment of qualified long-term care insurance.".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued after December 31, 1996.

(2) CONTINUATION OF EXISTING POLICIES.—In the case of any contract issued before January 1, 1997, which met the long-term care insurance requirements of the State in which the contract was issued at the time the contract was issued—

(A) such contract shall be treated for purposes of the Internal Revenue Code of 1986 as a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), and

(B) services provided under, or reimbursed by, such contract shall be treated for such purposes as qualified long-term care services (as defined in section 7702B(c) of such Code).

(3) EXCHANGES OF EXISTING POLICIES.—If, after the date of enactment of this Act and before January 1, 1998, a contract providing for long-term care insurance coverage is exchanged solely for a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), no gain or loss shall be recognized on the exchange. If, in addition to a qualified long-term care insurance contract, money or other property is received in the exchange, then any gain shall be recognized to the extent of the sum of the money and the fair market value of the other property received. For purposes of this paragraph, the cancellation of a contract providing for long-term care insurance coverage and reinvestment of the cancellation proceeds in a qualified long-term care insurance contract within 60 days thereafter shall be treated as an exchange.

(4) ISSUANCE OF CERTAIN RIDERS PERMITTED.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a rider which is treated as a qualified long-term care insurance contract under section 7702B, and

(B) the addition of any provision required to conform any other long-term care rider to be so treated,

shall not be treated as a modification or material change of such contract.

SEC. 412. QUALIFIED LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.

(a) GENERAL RULE.—Paragraph (1) of section 213(d) (defining medical care) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified long-term care services (as defined in section 7702B(c)), or".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 213(d)(1) (as redesignated by subsection (a)) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

(2)(A) Paragraph (1) of section 213(d) is amended by adding at the end the following new flush sentence:

"In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in paragraph (11)) shall be taken into account under subparagraph (D).".

(B) Subsection (d) of section 213 is amended by adding at the end the following new paragraph:

"(11) ELIGIBLE LONG-TERM CARE PREMIUMS.—

"(A) IN GENERAL.—For purposes of this section, the term 'eligible long-term care premiums' means the amount paid during a taxable year for any qualified long-term care insurance contract (as defined in section 7702B(b)) covering an individual, to the extent such amount does not exceed the limitation determined under the following table:

"In the case of an individual with an attained age before the close of the taxable year of:	***The limitation is:***
40 or less	*$200*
More than 40 but not more than 50	*375*
More than 50 but not more than 60	*750*
More than 60 but not more than 70	*2,000*
More than 70	*2,500.*

"(B) INDEXING.—

"(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount contained in subparagraph (A) shall be increased by the medical care cost adjustment of such amount for such calendar year. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

"(ii) MEDICAL CARE COST ADJUSTMENT.—For purposes of clause (i), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(I) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(II) such component for August of 1996.

The Secretary shall, in consultation with the Secretary of Health and Human Services, prescribe an adjustment which the Secretary determines is more appropriate for purposes of this paragraph than the adjustment described in the preceding sentence, and the adjustment so prescribed shall apply in lieu of the adjustment described in the preceding sentence.".

(3) Paragraph (6) of section 213(d) is amended—

(A) by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)", and

(B) by striking "paragraph (1)(C)" in subparagraph (A) and inserting "paragraph (1)(D)".

(4) Paragraph (7) of section 213(d) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 413. CERTAIN EXCHANGES OF LIFE INSURANCE CONTRACTS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS NOT TAXABLE.

(a) IN GENERAL.—Subsection (a) of section 1035 (relating to certain exchanges of insurance contracts) is amended by striking the period at the end of paragraph (3) and inserting "; or", and by adding at the end the following new paragraph:

"(4) a contract of life insurance or an endowment or annuity contract for a qualified long-term care insurance contract (as defined in section 7702B(b)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 414. EXCEPTION FROM PENALTY TAX FOR AMOUNTS WITHDRAWN FROM CERTAIN RETIREMENT PLANS FOR QUALIFIED LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Paragraph (2) of section 72(t) is amended by adding at the end the following new subparagraph:

"(D) PREMIUMS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—Distributions to an individual from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3), to the extent such distributions do not exceed the premiums for a qualified long-

term care insurance contract (as defined in section 7702B(b)) for such individual or the spouse of such individual. In applying subparagraph (B), such premiums shall be treated as amounts not paid for medical care.".

(b) DISTRIBUTIONS PERMITTED FROM CERTAIN PLANS TO PAY LONG-TERM CARE PREMIUMS.—

(1) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date distributions for premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of such individual or the spouse of such individual are made, and".

(2) Section 403(b)(11) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for the payment of premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of the employee or the spouse of the employee.".

(3) Subparagraph (A) of section 457(d)(1) is amended by striking "or" at the end of clause (ii), by striking "and" at the end of clause (iii) and inserting "or", and by inserting after clause (iii) the following new clause:

"(iv) the date distributions for premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of such individual or the spouse of such individual are made, and".

(c) CONFORMING AMENDMENT.—Section 72t(2)(B) is amended by striking "subparagraph (A) or (C))" and inserting "subparagraph (A), (C), or (D))".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1996.

SEC. 415. REPORTING REQUIREMENTS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new section:

"SEC. 6050Q. CERTAIN LONG-TERM CARE BENEFITS.

"(a) REQUIREMENT OF REPORTING.—Any person who pays long-term care benefits shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

"(1) the aggregate amount of such benefits paid by such person to any individual during any calendar year, and

"(2) the name, address, and TIN of such individual.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the person making the payments, and

"(2) the aggregate amount of long-term care benefits paid to the individual which are required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(c) LONG-TERM CARE BENEFITS.—For purposes of this section, the term 'long-term care benefit' means any amount paid under a long-term care insurance policy (within the meaning of section 4980C(e)).".

(b) PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

"(ix) section 6050Q (relating to certain long-term care benefits),".

(2) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (Q) through (T) as subparagraphs (R) through (U), respectively, and by inserting after subparagraph (P) the following new subparagraph:

"(Q) section 6050Q(b) (relating to certain long-term care benefits),".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6050Q. Certain long-term care benefits.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits paid after December 31, 1996.

Subchapter B—Consumer Protection Provisions

SEC. 421. POLICY REQUIREMENTS.

Section 7702B (as added by section 411) is amended by adding at the end the following new subsection:

"(f) CONSUMER PROTECTION PROVISIONS.—

"(1) IN GENERAL.—The requirements of this subsection are met with respect to any contract if any long-term care insurance policy issued under the contract meets—

"(A) the requirements of the model regulation and model Act described in paragraph (2),

"(B) the disclosure requirement of paragraph (3), and

"(C) the requirements relating to nonforfeitability under paragraph (4).

"(2) REQUIREMENTS OF MODEL REGULATION AND ACT.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any policy if such policy meets—

"(i) MODEL REGULATION.—The following requirements of the model regulation:

"(I) Section 7A (relating to guaranteed renewal or noncancellability), and the requirements of section 6B of the model Act relating to such section 7A.

"(II) Section 7B (relating to prohibitions on limitations and exclusions).

"(III) Section 7C (relating to extension of benefits).

"(IV) Section 7D (relating to continuation or conversion of coverage).

"(V) Section 7E (relating to discontinuance and replacement of policies).

"(VI) Section 8 (relating to unintentional lapse).

"(VII) Section 9 (relating to disclosure), other than section 9F thereof.

"(VIII) Section 10 (relating to prohibitions against post-claims underwriting).

"(IX) Section 11 (relating to minimum standards).

"(X) Section 12 (relating to requirement to offer inflation protection), except that any requirement for a signature on a rejection of inflation protection shall permit the signature to be on an application or on a separate form.

"(XI) Section 23 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

"(ii) MODEL ACT.—The following requirements of the model Act:

"(I) Section 6C (relating to preexisting conditions).

"(II) Section 6D (relating to prior hospitalization).

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) MODEL PROVISIONS.—The terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of January 1993).

"(ii) COORDINATION.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

"(3) DISCLOSURE REQUIREMENT.—The requirement of this paragraph is met with respect to any policy if such policy meets the requirements of section 4980C(d)(1).

"(4) NONFORFEITURE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any level premium long-term care insurance policy, if the issuer of such policy offers to the policyholder, including any group policyholder, a nonforfeiture provision meeting the requirements of subparagraph (B).

"(B) REQUIREMENTS OF PROVISION.—The nonforfeiture provision required under subparagraph (A) shall meet the following requirements:

"(i) The nonforfeiture provision shall be appropriately captioned.

"(ii) The nonforfeiture provision shall provide for a benefit available in the event of a default in the payment of any premiums and the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying policies approved by the appropriate State regulatory authority for the same policy form.

"(iii) The nonforfeiture provision shall provide at least one of the following:

"(I) Reduced paid-up insurance.

"(II) Extended term insurance.

"(III) Shortened benefit period.

"(IV) Other similar offerings approved by the Secretary.

"(5) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this subsection, the term 'long-term care insurance policy' has the meaning given such term by section 4980C(e).".

SEC. 422. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

(a) IN GENERAL.—Chapter 43 is amended by adding at the end the following new section:

"SEC. 4980C. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

"(a) GENERAL RULE.—There is hereby imposed on any person failing to meet the requirements of subsection (c) or (d) a tax in the amount determined under subsection (b).

"(b) AMOUNT.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be $100 per policy for each day any requirements of subsection (c) or (d) are not met with respect to each long-term care insurance policy.

"(2) WAIVER.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that payment of the tax would be excessive relative to the failure involved.

"(c) RESPONSIBILITIES.—The requirements of this subsection are as follows:

"(1) REQUIREMENTS OF MODEL PROVISIONS.—

"(A) MODEL REGULATION.—The following requirements of the model regulation must be met:

"(i) Section 13 (relating to application forms and replacement coverage).

"(ii) Section 14 (relating to reporting requirements), except that the issuer shall also report at least annually the number of claims denied during the reporting period for each class of business (expressed as a percentage of claims denied), other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition.

"(iii) Section 20 (relating to filing requirements for marketing).

"(iv) Section 21 (relating to standards for marketing), including inaccurate completion of medical histories, other than sections 21C(1) and 21C(6) thereof, except that—

"(I) in addition to such requirements, no person shall, in selling or offering to sell a long-term care insurance policy, misrepresent a material fact; and

"(II) no such requirements shall include a requirement to inquire or identify whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance.

"(v) Section 22 (relating to appropriateness of recommended purchase).

"(vi) Section 24 (relating to standard format outline of coverage).

"(vii) Section 25 (relating to requirement to deliver shopper's guide).

"(B) MODEL ACT.—The following requirements of the model Act must be met:

"(i) Section 6F (relating to right to return), except that such section shall also apply to denials of applications and any refund shall be made within 30 days of the return or denial.

"(ii) Section 6G (relating to outline of coverage).

"(iii) Section 6H (relating to requirements for certificates under group plans).

"(iv) Section 6I (relating to policy summary).

"(v) Section 6J (relating to monthly reports on accelerated death benefits).

"(vi) Section 7 (relating to incontestability period).

"(C) DEFINITIONS.—For purposes of this paragraph, the terms 'model regulation' and 'model Act' have the meanings given such terms by section 7702B(f)(2)(B).

"(2) DELIVERY OF POLICY.—If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is approved, the issuer shall deliver to the applicant (or policyholder or certificateholder) the policy (or certificate) of insurance not later than 30 days after the date of the approval.

"(3) INFORMATION ON DENIALS OF CLAIMS.—If a claim under a long-term care insurance policy is denied, the issuer shall, within 60 days of the date of a written request by the policyholder or certificateholder (or representative)—

"(A) provide a written explanation of the reasons for the denial, and

"(B) make available all information directly relating to such denial.

"(d) DISCLOSURE.—The requirements of this subsection are met if the issuer of a long-term care insurance policy discloses in such policy and in the outline of coverage required under subsection (c)(1)(B)(ii) that the policy is intended to be a qualified long-term care insurance contract under section 7702B(b).

"(e) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this section, the term 'long-term care insurance policy' means any product which is advertised, marketed, or offered as long-term care insurance.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end the following new item:

"Sec. 4980C. Requirements for issuers of long-term care insurance policies.".

SEC. 423. COORDINATION WITH STATE REQUIREMENTS.

Nothing in this subchapter shall prevent a State from establishing, implementing, or continuing in effect standards related to the protection of policyholders of long-term care insurance policies (as defined in section 4980C(e) of the Internal Revenue Code of 1986), if such standards are not in conflict with or inconsistent with the standards established under such Code.

SEC. 424. EFFECTIVE DATES.

(a) IN GENERAL.—The provisions of, and amendments made by, this subchapter shall apply to contracts issued after December 31, 1996. The provisions of section 411(g) of this Act (relating to transition rule) shall apply to such contracts.

(b) ISSUERS.—The amendments made by section 422 shall apply to actions taken after December 31, 1996.

CHAPTER 2—TREATMENT OF ACCELERATED DEATH BENEFITS

SEC. 431. TREATMENT OF ACCELERATED DEATH BENEFITS BY RECIPIENT.

(a) IN GENERAL.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, the following amounts shall be treated as an amount paid by reason of the death of an insured:

"(A) Any amount received under a life insurance contract on the life of an insured who is a terminally ill individual.

"(B) Any amount received under a life insurance contract on the life of an insured who is a chronically ill individual (as defined in section 7702B(c)(2)) but only if such amount is received under a rider or other provision of such contract which is treated as a qualified long-term care insurance contract under section 7702B.

"(2) TREATMENT OF VIATICAL SETTLEMENTS.—

"(A) IN GENERAL.—In the case of a life insurance contract on the life of an insured described in paragraph (1), if—

"(i) any portion of such contract is sold to any viatical settlement provider, or

"(ii) any portion of the death benefit is assigned to such a provider,

the amount paid for such sale or assignment shall be treated as an amount paid under the life insurance contract by reason of the death of such insured.

"(B) VIATICAL SETTLEMENT PROVIDER.—The term 'viatical settlement provider' means any person regularly engaged in the trade or business of purchasing, or taking assignments of, life insurance contracts on the lives of insureds described in paragraph (1) if—

"(i) such person is licensed for such purposes in the State in which the insured resides, or

"(ii) in the case of an insured who resides in a State not requiring the licensing of such persons for such purposes—

"(I) such person meets the requirements of sections 8 and 9 of the Viatical Settlements Model Act of the National Association of Insurance Commissioners, and

"(II) meets the requirements of the Model Regulations of the National Association of Insurance Commissioners (relating to standards for evaluation of reasonable payments) in determining amounts paid by such person in connection with such purchases or assignments.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) TERMINALLY ILL INDIVIDUAL.—The term 'terminally ill individual' means an individual who has been certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in 24 months or less after the date of the certification.

"(B) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r)(1) of the Social Security Act (42 U.S.C. 1395x(r)(1)).

"(4) EXCEPTION FOR BUSINESS-RELATED POLICIES.—This subsection shall not apply in the case of any amount paid to any taxpayer other than the insured if such taxpayer has an insurable interest with respect to the life of the insured by reason of the insured being a director, officer, or employee of the taxpayer or by reason of the insured being financially interested in any trade or business carried on by the taxpayer.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after December 31, 1996.

SEC. 432. TAX TREATMENT OF COMPANIES ISSUING QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.

(a) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

"(g) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—For purposes of this part—

"(1) IN GENERAL.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

"(2) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.—For purposes of this subsection, the term 'qualified accelerated death benefit rider' means any rider on a life insurance contract if the only payments under the rider are payments meeting the requirements of section 101(g).

"(3) EXCEPTION FOR LONG-TERM CARE RIDERS.—Paragraph (1) shall not apply to any rider which is treated as a long-term care insurance contract under section 7702B.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall take effect on January 1, 1997.

(2) ISSUANCE OF RIDER NOT TREATED AS MATERIAL CHANGE.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a qualified accelerated death benefit rider (as defined in section 818(g) of such Code (as added by this Act)), and

(B) the addition of any provision required to conform an accelerated death benefit rider to the requirements of such section 818(g),

shall not be treated as a modification or material change of such contract.

Subtitle C—High-Risk Pools

SEC. 451. EXEMPTION FROM INCOME TAX FOR STATE-SPONSORED ORGANIZATIONS PROVIDING HEALTH COVERAGE FOR HIGH-RISK INDIVIDUALS.

(a) IN GENERAL.—Subsection (c) of section 501 (relating to list of exempt organizations) is amended by adding at the end the following new paragraph:

"(26) Any membership organization if—

"(A) such organization is established by a State exclusively to provide coverage for medical care (as defined in section 213(d)) on a not-for-profit basis to individuals described in subparagraph (B) through—

"(i) insurance issued by the organization, or

"(ii) a health maintenance organization under an arrangement with the organization,

"(B) the only individuals receiving such coverage through the organization are individuals—

"(i) who are residents of such State, and

"(ii) who, by reason of the existence or history of a medical condition, are unable to acquire medical care coverage for such condition through insurance or from a health maintenance organization or are able to acquire such coverage only at a rate which is substantially in excess of the rate for such coverage through the membership organization,

"(C) the composition of the membership in such organization is specified by such State, and

"(D) no part of the net earnings of the organization inures to the benefit of any private shareholder or individual.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle D—Penalty-Free IRA Distributions

SEC. 461. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PAY FINANCIALLY DEVASTATING MEDICAL EXPENSES.

(a) IN GENERAL.—Section 72(t)(3)(A) is amended by striking "(B),".

(b) PENALTY-FREE DISTRIBUTIONS FOR PAYMENT OF HEALTH INSURANCE PREMIUMS OF CERTAIN UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t), as amended by section 414, is amended by adding at the end the following new subparagraph:

"(E) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS FOR HEALTH INSURANCE PREMIUMS.—Distributions from an individual retirement plan to an individual after separation from employment—

"(i) if such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation,

"(ii) if such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year, and

"(iii) to the extent such distributions do not exceed the amount paid during the taxable year for insurance described in section 213(d)(1)(D) with respect to the individual and the individual's spouse and dependents (as defined in section 152).

To the extent provided in regulations, a self-employed individual shall be treated as meeting the requirements of clause (i) if, under Federal or State law, the individual would have received unemployment compensation but for the fact the individual was self-employed.".

(c) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2), as amended by section 414, is amended by striking "or (D)" and inserting ", (D), or (E)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle E—Revenue Offsets

CHAPTER 1—TREATMENT OF INDIVIDUALS WHO EXPATRIATE

SEC. 471. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) MARK TO MARKET.—Except as provided in subsection (f), all property of a covered expatriate to which this section applies shall be treated as sold on the expatriation date for its fair market value.

"(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

"(3) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this paragraph) be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

"(A) IN GENERAL.—If an expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph) shall not apply to the expatriate, but

"(ii) the expatriate shall be subject to tax under this title, with respect to property to which this section would apply but for such election, in the same manner as if the individual were a United States citizen.

"(B) LIMITATION ON AMOUNT OF ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of paragraph (2)).

"(C) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(D) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) ELECTION TO DEFER TAX.—

"(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property—

"(A) no amount shall be required to be included in gross income under subsection (a)(1) with respect to the gain from such property for the taxable year of the sale, but

"(B) the taxpayer's tax for the taxable year in which such property is disposed of shall be increased by the deferred tax amount with respect to the property.

Except to the extent provided in regulations, subparagraph (B) shall apply to a disposition whether or not gain or loss is recognized in whole or in part on the disposition.

"(2) DEFERRED TAX AMOUNT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'deferred tax amount' means, with respect to any property, an amount equal to the sum of—

"(i) the difference between the amount of tax paid for the taxable year described in paragraph (1)(A) and the amount which would have been paid for such taxable year if the election under paragraph (1) had not applied to such property, plus

"(ii) an amount of interest on the amount described in clause (i) determined for the period—

"(I) beginning on the 91st day after the expatriation date, and

"(II) ending on the due date for the taxable year described in paragraph (1)(B),

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

For purposes of clause (ii), the due date is the date prescribed by law (determined without regard to extension) for filing the return of the tax imposed by this chapter for the taxable year.

"(B) ALLOCATION OF LOSSES.—For purposes of subparagraph (A), any losses described in subsection (a)(2)(B) shall be allocated ratably among the gains described in subsection (a)(2)(A).

"(3) SECURITY.—

"(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided with respect to such property.

"(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2)(A) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(4) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(5) DISPOSITIONS.—For purposes of this subsection, a taxpayer making an election under this subsection with respect to any property shall be treated as having disposed of such property—

"(A) immediately before death if such property is held at such time, and

"(B) at any time the security provided with respect to the property fails to meet the requirements of paragraph (3) and the taxpayer does not correct such failure within the time specified by the Secretary.

"(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(c) COVERED EXPATRIATE.—For purposes of this section—

"(1) IN GENERAL.—The term 'covered expatriate' means an expatriate—

"(A) whose average annual net income tax (as defined in section 38(c)(1)) for the period of 5 taxable years ending before the expatriation date is greater than $100,000, or

"(B) whose net worth as of such date is $500,000 or more.

If the expatriation date is after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1995' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.

"(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) for not more than 8 taxable years during the 15-taxable year period ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) PROPERTY TO WHICH SECTION APPLIES.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided by the Secretary, this section shall apply to—

"(A) any interest in property held by a covered expatriate on the expatriation date the gain from which would be includible in the gross income of the expatriate if such interest had been sold for its fair market value on such date in a transaction in which gain is recognized in whole or in part, and

"(B) any other interest in a trust to which subsection (f) applies.

"(2) EXCEPTIONS.—This section shall not apply to the following property:

"(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

"(B) INTEREST IN CERTAIN RETIREMENT PLANS.—

"(i) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

"(ii) FOREIGN PENSION PLANS.—

"(I) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

"(II) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes his citizenship, or

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

"(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—

"(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the expatriation date occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

"(ii) any taxable year prior to the taxable year referred to in clause (i).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

"(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

"(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year in which the expatriation date occurs, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

"(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods.

"(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) TAX DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) DEFINITIONS AND SPECIAL RULE.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(I) which is organized under, and governed by, the laws of the United States or a State, and

"(II) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the expatriation date, is vested in the beneficiary.

"(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

"(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

"(B) OTHER DETERMINATIONS.—For purposes of this section—

"(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate, and

"(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) COORDINATION WITH ESTATE AND GIFT TAXES.—If subsection (a) applies to property held by an individual for any taxable year and—

"(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

"(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3),

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) to prevent double taxation by ensuring that—

"(A) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (a)(3), and

"(B) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(3)(B)(i), and

"(2) which provide for the proper allocation of the exclusion under subsection (a)(3) to property to which this section applies.

"(k) CROSS REFERENCE.—

"For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47).".

(b) INCLUSION IN INCOME OF GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.".

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).".

(d) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(f) APPLICATION.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995.".

(2) Section 2107(c) is amended by adding at the end the following new paragraph:

"(3) CROSS REFERENCE.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i).".

(3) Section 2501(a)(3) is amended by adding at the end the following new flush sentence:

"For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i).".

(4) Paragraph (10) of section 7701(b) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1)).".

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to amounts received from expatriates (as so defined) whose expatriation date (as so defined) occurs on and after February 6, 1995.

(3) SPECIAL RULES RELATING TO CERTAIN ACTS OCCURRING BEFORE FEBRUARY 6, 1995.—In the case of an individual who took an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)–(4)) before February 6, 1995, but whose expatriation date (as so defined) occurs after February 6, 1995—

(A) the amendment made by subsection (c) shall not apply,

(B) the amendment made by subsection (d)(1) shall not apply for any period prior to the expatriation date, and

(C) the other amendments made by this section shall apply as of the expatriation date.

(4) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 472. INFORMATION ON INDIVIDUALS EXPATRIATING.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. INFORMATION ON INDIVIDUALS EXPATRIATING.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any expatriate (within the meaning of section 877A(e)(1)) shall provide a statement which includes the information described in subsection (b).

"(2) TIMING.—

"(A) CITIZENS.—In the case of an expatriate described in section 877(e)(1)(A), such statement shall be—

"(i) provided not later than the expatriation date (within the meaning of section 877A(e)(2)), and

"(ii) provided to the person or court referred to in section 877A(e)(3).

"(B) NONCITIZENS.—In the case of an expatriate described in section 877A(e)(1)(B), such statement shall be provided to the Secretary with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

"(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) the mailing address of such individual's principal foreign residence,

"(3) the foreign country in which such individual is residing,

"(4) the foreign country of which such individual is a citizen,

"(5) in the case of an individual having a net worth of at least the dollar amount applicable under section 877A(c)(1)(B), information detailing the assets and liabilities of such individual, and

"(6) such other information as the Secretary may prescribe.

"(c) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year during any portion of which such failure continues in an amount equal to the greater of—

"(1) 5 percent of the additional tax required to be paid under section 877A for such year, or

"(2) $1,000,

unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(d) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

"(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

"(A) a copy of any such statement, and

"(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

"(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

"(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual relinquishing United States citizenship (within the meaning of section 877A(e)(3)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

"(e) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if the Secretary determines that applying this section to such individuals is not necessary to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Information on individuals expatriating.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals to whom section 877A of the Internal Revenue Code of 1986 applies and whose expatriation date (as defined in section 877A(e)(2)) occurs on or after February 6, 1995, except that no statement shall be required by such amendments before the 90th day after the date of the enactment of this Act.

SEC. 473. REPORT ON TAX COMPLIANCE BY UNITED STATES CITIZENS AND RESIDENTS LIVING ABROAD.

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report—

(1) describing the compliance with subtitle A of the Internal Revenue Code of 1986 by citizens and lawful permanent residents of the United States (within the meaning of section 7701(b)(6) of such Code) residing outside the United States, and

(2) recommending measures to improve such compliance (including improved coordination between executive branch agencies).

CHAPTER 2—COMPANY-OWNED INSURANCE

SEC. 495. DENIAL OF DEDUCTION FOR INTEREST ON LOANS WITH RESPECT TO COMPANY-OWNED INSURANCE.

(a) IN GENERAL.—Paragraph (4) of section 264(a) is amended—

(1) by inserting ", or any endowment or annuity contracts owned by the taxpayer covering any individual," after "the life of any individual", and

(2) by striking all that follows "carried on by the taxpayer" and inserting a period.

(b) EXCEPTION FOR CONTRACTS RELATING TO KEY PERSONS; PERMISSIBLE INTEREST RATES.—Section 264 is amended—

(1) by striking "Any" in subsection (a)(4) and inserting "Except as provided in subsection (d), any", and

(2) by adding at the end the following new subsection:

"(d) SPECIAL RULES FOR APPLICATION OF SUBSECTION (a)(4).—

"(1) EXCEPTION FOR KEY PERSONS.—Subsection (a)(4) shall not apply to any interest paid or accrued on any indebtedness with respect to policies or contracts covering an individual who is a key person to the extent that the aggregate amount of such indebtedness with respect to policies and contracts covering such individual does not exceed $50,000.

"(2) INTEREST RATE CAP ON KEY PERSONS AND PRE-1986 CONTRACTS.—

"(A) IN GENERAL.—No deduction shall be allowed by reason of paragraph (1) or the last sentence of subsection (a) with respect to interest paid or accrued for any month to the extent the amount of such interest exceeds the amount which would have been determined if the applicable rate of interest were used for such month.

"(B) APPLICABLE RATE OF INTEREST.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The applicable rate of interest for any month is the rate of interest described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for such month.

"(ii) PRE-1986 CONTRACT.—In the case of indebtedness on a contract to which the last sentence of subsection (a) applies—

"(I) which is a contract providing a fixed rate of interest, the applicable rate of interest for any month shall be the Moody's rate described in clause (i) for the month in which the contract was purchased, or

"(II) which is a contract providing a variable rate of interest, the applicable rate of interest for any month in an applicable period shall be such Moody's rate for the last month preceding such period.

For purposes of subclause (II), the taxpayer shall elect an applicable period for such contract on its return of tax imposed by this chapter for its first taxable year ending on or after October 13, 1995. Such applicable period shall be for any number of months (not greater than 12) specified in the election and may not be changed by the taxpayer without the consent of the Secretary.

"(3) KEY PERSON.—For purposes of paragraph (1), the term 'key person' means an officer or 20-percent owner, except that the number of individuals who may be treated as key persons with respect to any taxpayer shall not exceed the greater of—

"(A) 5 individuals, or

"(B) the lesser of 5 percent of the total officers and employees of the taxpayer or 10 individuals.

"(4) 20-PERCENT OWNER.—For purposes of this subsection, the term '20-percent owner' means—

"(A) if the taxpayer is a corporation, any person who owns directly 20 percent or more of the outstanding stock of the corporation or stock possessing 20 percent or more of the total combined voting power of all stock of the corporation, or

"(B) if the taxpayer is not a corporation, any person who owns 20 percent or more of the capital or profits interest in the employer.

"(5) AGGREGATION RULES.—

"(A) IN GENERAL.—For purposes of paragraph (4)(A) and applying the $50,000 limitation in paragraph (1)—

"(i) all members of a controlled group shall be treated as 1 taxpayer, and

"(ii) such limitation shall be allocated among the members of such group in such manner as the Secretary may prescribe.

"(B) CONTROLLED GROUP.—For purposes of this paragraph, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as members of a controlled group.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to interest paid or accrued after December 31, 1995.

(2) TRANSITION RULE FOR EXISTING INDEBTEDNESS.—

(A) IN GENERAL.—In the case of—

(i) indebtedness incurred before January 1, 1996, or

(ii) indebtedness incurred before January 1, 1997 with respect to any contract or policy entered into in 1994 or 1995,

the amendments made by this section shall not apply to qualified interest paid or accrued on such indebtedness after October 13, 1995, and before January 1, 1999.

(B) QUALIFIED INTEREST.—For purposes of subparagraph (A), the qualified interest with respect to any indebtedness for any month is the amount of interest which would be paid or accrued for such month on such indebtedness if—

(i) in the case of any interest paid or accrued after December 31, 1995, indebtedness with respect to no more than 20,000 insured individuals were taken into account, and

(ii) the lesser of the following rates of interest were used for such month:

(I) The rate of interest specified under the terms of the indebtedness as in effect on October 13, 1995 (and without regard to modification of such terms after such date).

(II) The applicable percentage rate of interest described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for such month.

For purposes of clause (i), all persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 or subsection (m) or (o) of section 414 of such Code shall be treated as one person.

(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (B), the applicable percentage is as follows:

For calendar year:	**The percentage is:**
1995	100 percent
1996	90 percent
1997	80 percent
1998	70 percent.

(3) SPECIAL RULE FOR GRANDFATHERED CONTRACTS.—This section shall not apply to any contract purchased on or before June 20, 1986, except that section 264(d)(2) of the Internal Revenue Code of 1986 shall apply to interest paid or accrued after October 13, 1995.

(d) SPREAD OF INCOME INCLUSION ON SURRENDER, ETC. OF CONTRACTS.—

(1) IN GENERAL.—If any amount is received under any life insurance policy or endowment or annuity contract described in paragraph (4) of section 264(a) of the Internal Revenue Code of 1986—

(A) on the complete surrender, redemption, or maturity of such policy or contract during calendar year 1996, 1997, or 1998, or

(B) in full discharge during any such calendar year of the obligation under the policy or contract which is in the nature of a refund of the consideration paid for the policy or contract,

then (in lieu of any other inclusion in gross income) such amount shall be includible in gross income ratably over the 4-taxable year period beginning with the taxable year such amount would (but for this paragraph) be includible. The preceding sentence shall only apply to the extent the amount is includible in gross income for the taxable year in which the event described in subparagraph (A) or (B) occurs.

(2) SPECIAL RULES FOR APPLYING SECTION 264.—A contract shall not be treated as—

(A) failing to meet the requirement of section 264(c)(1) of the Internal Revenue Code of 1986, or

(B) a single premium contract under section 264(b)(1) of such Code,

solely by reason of an occurrence described in subparagraph (A) or (B) of paragraph (1) of this subsection or solely by reason of no additional premiums being received under the contract by reason of a lapse occurring after October 13, 1995.

(3) SPECIAL RULE FOR DEFERRED ACQUISITION COSTS.—In the case of the occurrence of any event described in subparagraph (A) or (B) of paragraph (1) of this subsection with respect to any policy or contract—

(A) section 848 of the Internal Revenue Code of 1986 shall not apply to the unamortized balance (if any) of the specified policy acquisition expenses attributable to such policy or contract immediately before the insurance company's taxable year in which such event occurs, and

(B) there shall be allowed as a deduction to such company for such taxable year under chapter 1 of such Code an amount equal to such unamortized balance.

TITLE V—HEALTH CARE FRAUD AND ABUSE PREVENTION

SEC. 500. AMENDMENTS.

Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

Subtitle A—Fraud and Abuse Control Program

SEC. 501. FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"FRAUD AND ABUSE CONTROL PROGRAM

"SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—Not later than January 1, 1997, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

"(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to health plans,

"(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

"(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse,

"(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section 1128D, and

"(E) to provide for the reporting and disclosure of certain final adverse actions against health care providers, suppliers, or practitioners pursuant to the data collection system established under section 1128E.

"(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

"(B) INFORMATION GUIDELINES.—

"(i) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

"(ii) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

"(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

"(4) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

"(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

"(b) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—

"(1) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payor, or otherwise.

"(2) CREDITING.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

"(c) HEALTH PLAN DEFINED.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

"(1) a policy of health insurance;

"(2) a contract of a service benefit organization; and

"(3) a membership agreement with a health maintenance organization or other prepaid health plan.".

(b) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

"(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

"(2) APPROPRIATED AMOUNTS TO TRUST FUND.—

"(A) IN GENERAL.—There are hereby appropriated to the Trust Fund—

"(i) such gifts and bequests as may be made as provided in subparagraph (B);

"(ii) such amounts as may be deposited in the Trust Fund as provided in sections 541(b) and 542(c) of the Health Insurance Reform Act of 1996, and title XI; and

"(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

"(B) AUTHORIZATION TO ACCEPT GIFTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

"(C) TRANSFER OF AMOUNTS.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

"(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

"(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XXI, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

"(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

"(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

"(3) APPROPRIATED AMOUNTS TO ACCOUNT FOR FRAUD AND ABUSE CONTROL PROGRAM, ETC.—

"(A) DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND JUSTICE.—

"(i) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (C), to be available without further appropriation, in an amount not to exceed—

"(I) for fiscal year 1997, $104,000,000, and

"(II) for each of the fiscal years 1998 through 2003, the limit for the preceding fiscal year, increased by 15 percent; and

"(III) for each fiscal year after fiscal year 2003, the limit for fiscal year 2003.

"(ii) MEDICARE AND MEDICAID ACTIVITIES.—For each fiscal year, of the amount appropriated in clause (i), the following amounts shall be available only for the purposes of the activities of the Office of the Inspector General of the Department of Health and Human Services with respect to the medicare and medicaid programs—

"(I) for fiscal year 1997, not less than $60,000,000 and not more than $70,000,000;

"(II) for fiscal year 1998, not less than $80,000,000 and not more than $90,000,000;

"(III) for fiscal year 1999, not less than $90,000,000 and not more than $100,000,000;

"(IV) for fiscal year 2000, not less than $110,000,000 and not more than $120,000,000;

"(V) for fiscal year 2001, not less than $120,000,000 and not more than $130,000,000;

"(VI) for fiscal year 2002, not less than $140,000,000 and not more than $150,000,000; and

"(VII) for each fiscal year after fiscal year 2002, not less than $150,000,000 and not more than $160,000,000.

"(B) FEDERAL BUREAU OF INVESTIGATION.—There are hereby appropriated from the general fund of the United States Treasury and hereby appropriated to the Account for transfer to the Federal Bureau of Investigation to carry out the purposes described in subparagraph (C)(i), to be available without further appropriation—

"(i) for fiscal year 1997, $47,000,000;

"(ii) for fiscal year 1998, $56,000,000;

"(iii) for fiscal year 1999, $66,000,000;

"(iv) for fiscal year 2000, $76,000,000;

"(v) for fiscal year 2001, $88,000,000;

"(vi) for fiscal year 2002, $101,000,000; and

"(vii) for each fiscal year after fiscal year 2002, $114,000,000.

"(C) USE OF FUNDS.—The purposes described in this subparagraph are to cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

"(i) prosecuting health care matters (through criminal, civil, and administrative proceedings);

"(ii) investigations;

"(iii) financial and performance audits of health care programs and operations;

"(iv) inspections and other evaluations; and

"(v) provider and consumer education regarding compliance with the provisions of title XI.

"(4) APPROPRIATED AMOUNTS TO ACCOUNT FOR MEDICARE INTEGRITY PROGRAM.—

"(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program under section 1893, subject to subparagraph (B) and to be available without further appropriation.

"(B) AMOUNTS SPECIFIED.—The amount appropriated under subparagraph (A) for a fiscal year is as follows:

"(i) For fiscal year 1997, such amount shall be not less than $430,000,000 and not more than $440,000,000.

"(ii) For fiscal year 1998, such amount shall be not less than $490,000,000 and not more than $500,000,000.

"(iii) For fiscal year 1999, such amount shall be not less than $550,000,000 and not more than $560,000,000.

"(iv) For fiscal year 2000, such amount shall be not less than $620,000,000 and not more than $630,000,000.

"(v) For fiscal year 2001, such amount shall be not less than $670,000,000 and not more than $680,000,000.

"(vi) For fiscal year 2002, such amount shall be not less than $690,000,000 and not more than $700,000,000.

"(vii) For each fiscal year after fiscal year 2002, such amount shall be not less than $710,000,000 and not more than $720,000,000.

"(5) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.".

SEC. 502. MEDICARE INTEGRITY PROGRAM.

(a) ESTABLISHMENT OF MEDICARE INTEGRITY PROGRAM.—Title XVIII is amended by adding at the end the following new section:

"MEDICARE INTEGRITY PROGRAM

"SEC. 1893. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established the Medicare Integrity Program (in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the medicare program by entering into contracts in accordance with this section with eligible private entities to carry out the activities described in subsection (b).

"(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are as follows:

"(1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

"(2) Audit of cost reports.

"(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

"(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

"(5) Developing (and periodically updating) a list of items of durable medical equipment in accordance with section 1834(a)(15) which are subject to prior authorization under such section.

"(c) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

"(1) the entity has demonstrated capability to carry out such activities;

"(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General of the United States, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

"(3) the entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement;

"(4) the entity meets such other requirements as the Secretary may impose; and

"(5) in the case of any contract entered into for years prior to 2000, the entity has entered into an agreement under section 1816 or a contract under section 1842.

In the case of the activity described in subsection (b)(5), an entity shall be deemed to be eligible to enter into a contract under the Program to carry out the activity if the entity is a carrier with a contract in effect under section 1842.

"(d) PROCESS FOR ENTERING INTO CONTRACTS.—The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary shall by regulation establish, except that such procedures shall include the following:

"(1) Procedures for identifying, evaluating, and resolving organizational conflicts of interest that are generally applicable to Federal acquisition and procurement.

"(2) Competitive procedures must be used when entering into new contracts under this section, or at any other time considered appropriate by the Secretary, except that the Secretary may contract with entities that are carrying out the activities described in this section pursuant to agreements under section 1816 or contracts under section 1842 in effect on the date of the enactment of this section.

"(3) A contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

"(e) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.".

(b) ELIMINATION OF FI AND CARRIER RESPONSIBILITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PROGRAM.—

(1) RESPONSIBILITIES OF FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(l) No payment may be made for carrying out any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893.".

(2) RESPONSIBILITIES OF CARRIERS UNDER PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(6) No payment may be made for carrying out any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).".

SEC. 503. BENEFICIARY INCENTIVE PROGRAMS.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall provide an explanation of benefits under the medicare program under title XVIII of the Social Security Act with respect to each item or service for which payment may be made under the program which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to the item or service.

(b) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(c) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

SEC. 504. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH CARE PROGRAMS.

(a) IN GENERAL.—Section 1128B (42 U.S.C. 1320a–7b) is amended as follows:

(1) In the heading, by striking "MEDICARE OR STATE HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE PROGRAMS".

(2) In subsection (a)(1), by striking "a program under title XVIII or a State health care program (as defined in section 1128(h))" and inserting "a Federal health care program".

(3) In subsection (a)(5), by striking "a program under title XVIII or a State health care program" and inserting "a Federal health care program".

(4) In the second sentence of subsection (a)—

(A) by striking "a State plan approved under title XIX" and inserting "a Federal health care program", and

(B) by striking "the State may at its option (notwithstanding any other provision of that title or of such plan)" and inserting "the administrator of such program may at its option (notwithstanding any other provision of such program)".

(5) In subsection (b), by striking "title XVIII or a State health care program" each place it appears and inserting "a Federal health care program".

(6) In subsection (c), by inserting "(as defined in section 1128(h))" after "a State health care program".

(7) By adding at the end the following new subsection:

"(f) For purposes of this section, the term 'Federal health care program' means—

"(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States Government (other than the health insurance program under chapter 89 of title 5, United States Code); or

"(2) any State health care program, as defined in section 1128(h).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997.

SEC. 505. GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS.

Title XI (42 U.S.C. 1301 et seq.), as amended by section 501, is amended by inserting after section 1128C the following new section:

"GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS

"SEC. 1128D. (a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

"(1) IN GENERAL.—

"(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1997, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

"(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a–7b note);

"(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) and shall not serve as the basis for an exclusion under section 1128(b)(7);

"(iii) interpretive rulings to be issued pursuant to subsection (b); and

"(iv) special fraud alerts to be issued pursuant to subsection (c).

"(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

"(C) REPORT.—The Inspector General of the Department of Health and Human Services (in this section referred to as the 'Inspector General') shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

"(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

"(A) An increase or decrease in access to health care services.

"(B) An increase or decrease in the quality of health care services.

"(C) An increase or decrease in patient freedom of choice among health care providers.

"(D) An increase or decrease in competition among health care providers.

"(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

"(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f)).

"(G) An increase or decrease in the potential overutilization of health care services.

"(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

"(i) whether to order a health care item or service; or

"(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

"(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

"(b) INTERPRETIVE RULINGS.—

"(1) IN GENERAL.—

"(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B (in this section referred to as an 'interpretive ruling').

"(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

"(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling not later than 90 days after receiving a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this clause shall be published in the Federal Register or otherwise made available for public inspection.

"(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision not later than 60 days after receiving such a request and shall identify the reasons for such decision.

"(2) CRITERIA FOR INTERPRETIVE RULINGS.—

"(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

"(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

"(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling (as defined in section 552 of title 5, United States Code) not authorized under this subsection.

"(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

"(c) SPECIAL FRAUD ALERTS.—

"(1) IN GENERAL.—

"(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under the medicare program or a State health care program, as defined in section 1128(h) (in this subsection referred to as a 'special fraud alert').

"(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

"(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

"(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

"(B) the volume and frequency of the conduct that would be identified in the special fraud alert.".

Subtitle B—Revisions to Current Sanctions for Fraud and Abuse

SEC. 511. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO HEALTH CARE FRAUD.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO HEALTH CARE FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Insurance Reform Act of 1996, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 1128(b) (42 U.S.C. 1320a–7(b)) is amended to read as follows:

"(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted *after the date of the enactment of the Health Insurance Reform Act of 1996, under Federal or State law—*

"(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

"(i) in connection with the delivery of a health care item or service, or

"(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

"(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Health Insurance Reform Act of 1996, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 512. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 513. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following new paragraph:

"(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—(A) Any individual—

"(i) who has a direct or indirect ownership or control interest in a sanctioned entity and who knows or should know (as defined in section 1128A(i)(6)) of the action constituting the basis for the conviction or exclusion described in subparagraph (B); or

"(ii) who is an officer or managing employee (as defined in section 1126(b)) of such an entity.

"(B) For purposes of subparagraph (A), the term 'sanctioned entity' means an entity—

"(i) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

"(ii) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. 514. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c–5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. 515. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization's attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—Section 1876(i)(7)(A) (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1997.

SEC. 516. ADDITIONAL EXCEPTIONS TO ANTI-KICKBACK PENALTIES FOR RISK-SHARING ARRANGEMENTS.

(a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) any remuneration between an organization and an individual or entity providing items or services pursuant to a written agreement between the organization and the individual or entity if the organization is an eligible organization under section 1876, or if the written agreement places the individual or entity at substantial financial risk for the cost or utilization of the items or services, or a combination thereof, which the individual or entity is obligated to provide, whether through a withhold or capitation, or other similar risk arrangements which places the individual or entity at substantial financial risk.".

(b) REGULATIONS.—Section 1128B(b) (42 U.S.C. 1320a–7b(b)) is amended by adding at the end the following new paragraph:

"(4) The Secretary, in consultation with the Attorney General, not later than 1 year after the date of enactment of Health Insurance Reform Act of 1996, and not less than every 2 years thereafter, shall promulgate regulations to define substantial financial risk as necessary to protect against program or patient abuse.".

SEC. 517. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall take effect January 1, 1997.

Subtitle C—Data Collection and Miscellaneous Provisions

SEC. 521. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) In General.—Title XI (42 U.S.C. 1301 et seq.), as amended by sections 501 and 505, is amended by inserting after section 1128D the following new section:

"HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM

"Sec. 1128E. (a) General Purpose.—Not later than January 1, 1997, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

"(b) Reporting of Information.—

"(1) In general.—Each Government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

"(2) Information to be reported.—The information to be reported under paragraph (1) includes:

"(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

"(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

"(C) The nature of the final adverse action and whether such action is on appeal.

"(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

"(3) Confidentiality.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

"(4) Timing and form of reporting.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

"(5) To whom reported.—The information required to be reported under this subsection shall be reported to the Secretary.

"(c) Disclosure and Correction of Information.—

"(1) Disclosure.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

"(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

"(B) procedures in the case of disputed accuracy of the information.

"(2) Corrections.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

"(d) Access to Reported Information.—

"(1) Availability.—The information in this database shall be available to Federal and State government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

"(2) Fees for disclosure.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee shall be sufficient to recover the full costs of operating the database. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

"(e) Protection From Liability for Reporting.—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

"(f) Coordination With National Practitioner Data Bank.—The Secretary shall implement this section in such a manner as to avoid duplication with the reporting requirements established for the National Practitioner Data Bank under the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11101 et seq.).

"(g) Definitions and Special Rules.—For purposes of this section:

"(1) Final adverse action.—

"(A) In general.—The term 'final adverse action' includes:

"(i) Civil judgments against a health care provider, supplier, or practitioner in Federal or State court related to the delivery of a health care item or service.

"(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

"(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

"(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

"(II) any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or

"(III) any other negative action or finding by such Federal or State agency that is publicly available information.

"(iv) Exclusion from participation in Federal or State health care programs due to program violations.

"(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

"(B) Exception.—The term does not include any action with respect to a malpractice claim.

"(2) Practitioner.—The terms 'licensed health care practitioner', 'licensed practitioner', and 'practitioner' mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

"(3) Government agency.—The term 'Government agency' shall include:

"(A) The Department of Justice.

"(B) The Department of Health and Human Services.

"(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

"(D) State law enforcement agencies.

"(E) State medicaid fraud control units.

"(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

"(4) Health plan.—The term 'health plan' has the meaning given such term by section 1128C(c).

"(5) Determination of conviction.—For purposes of paragraph (1), the existence of a conviction shall be determined under paragraph (4) of section 1128(i).".

(b) Improved Prevention in Issuance of Medicare Provider Numbers.—Section 1842(r) (42 U.S.C. 1395u(r)) is amended by adding at the end the following new sentence: "Under such system, the Secretary may impose appropriate fees on such physicians to cover the costs of investigation and recertification activities with respect to the issuance of the identifiers.".

Subtitle D—Civil Monetary Penalties

SEC. 531. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) General Civil Monetary Penalties.—Section 1128A (42 U.S.C. 1320a–7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking "programs under title XVIII" and inserting "Federal health care programs (as defined in section 1128B(f)(1))".

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Health Insurance Reform Act of 1996 (as estimated by the Secretary) shall be deposited into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C).".

(3) In subsection (i)—

(A) in paragraph (2), by striking "title V, XVIII, XIX, or XX of this Act" and inserting "a Federal health care program (as defined in section 1128B(f))",

(B) in paragraph (4), by striking "a health insurance or medical services program under title XVIII or XIX of this Act" and inserting "a Federal health care program (as so defined)", and

(C) in paragraph (5), by striking "title V, XVIII, XIX, or XX" and inserting "a Federal health care program (as so defined)".

(4) By adding at the end the following new subsection:

"(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

"(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

"(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

"(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of

the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.''.

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking ''or'' at the end of paragraph (1)(D);

(2) by striking '', or'' at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting ''; or''; and

(4) by inserting after paragraph (3) the following new paragraph:

''(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection—

''(i) retains a direct or indirect ownership or control interest in an entity that is participating in a program under title XVIII or a State health care program, and who knows or should know of the action constituting the basis for the exclusion; or

''(ii) is an officer or managing employee (as defined in section 1126(b)) of such an entity;''.

(c) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking ''$2,000'' and inserting ''$10,000'';

(2) by inserting ''; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs'' after ''false or misleading information was given''; and

(3) by striking ''twice the amount'' and inserting ''3 times the amount''.

(d) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)), as amended by subsection (b), is amended—

(1) in subparagraph (A) by striking ''claimed,'' and inserting ''claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided,'';

(2) in subparagraph (C), by striking ''or'' at the end;

(3) in subparagraph (D), by striking the semicolon and inserting '', or''; and

(4) by inserting after subparagraph (D) the following new subparagraph:

''(E) is for a medical or other item or service that a person knows or should know is not medically necessary; or''.

(e) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) (42 U.S.C. 1320c–5(b)(3)) is amended by striking ''the actual or estimated cost'' and inserting ''up to $10,000 for each instance''.

(f) PROCEDURAL PROVISIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)), as amended by section 515(a)(2), is amended by adding at the end the following new subparagraph:

''(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (B)(i) or (C)(i) in the same manner as such provisions apply to a civil money penalty or proceeding under section 1128A(a).''.

(g) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended—

(A) by striking ''or'' at the end of paragraph (1)(D);

(B) by striking the semicolon at the end of paragraph (4) and inserting ''; or''; and

(C) by inserting after paragraph (4) the following new paragraph:

''(5) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program (as so defined);''.

(2) REMUNERATION DEFINED.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by adding the following new paragraph:

''(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

''(A) the waiver of coinsurance and deductible amounts by a person, if—

''(i) the waiver is not offered as part of any advertisement or solicitation;

''(ii) the person does not routinely waive coinsurance or deductible amounts; and

''(iii) the person—

''(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

''(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

''(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

''(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payers, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Health Insurance Reform Act of 1996; or

''(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.''.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1997.

Subtitle E—Amendments to Criminal Law

SEC. 541. HEALTH CARE FRAUD.

(a) IN GENERAL.—

(1) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§1347. Health care fraud

''Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

''(1) to defraud any health care program, in connection with the delivery of or payment for health care benefits, items, or services; or

''(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care program in connection with the delivery of or payment for health care benefits, items, or services; shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person may be imprisoned for any term of years.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1347. Health care fraud.''.

(b) CRIMINAL FINES DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—The Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 501(b), an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. 542. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

''(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

''(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

''(i) section 1347 of this title;

''(ii) section 1128B of the Social Security Act; and

''(iii) sections 287, 371, 664, 666, 669, 1001, 1027, 1341, 1343, 1920, or 1954 of this title if the violation or conspiracy relates to health care fraud.''.

(b) CONFORMING AMENDMENT.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting ''or (a)(6)'' after ''(a)(1)''.

(c) PROPERTY FORFEITED DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—After the payment of the costs of asset forfeiture has been made, and notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 501(b), an amount equal to the net amount realized from the forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

(2) COSTS OF ASSET FORFEITURE.—For purposes of paragraph (1), the term ''payment of the costs of asset forfeiture'' means—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services,

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Account;

(C) the compromise and payment of valid liens and mortgages against property that has been

forfeited, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(E) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

SEC. 543. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);".

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting "or a Federal health care offense (as defined in section 982(a)(6)(B))" after "title)".

SEC. 544. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

"§1033. False statements relating to health care matters

"Whoever, in any matter involving a health care program, knowingly and willfully—

"(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or

"(2) makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry,

shall be fined under this title or imprisoned not more than 5 years, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"1033. False statements relating to health care matters.".

SEC. 545. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

"§1518. Obstruction of criminal investigations of Federal health care offenses

"(a) Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section the term 'Federal health care offense' has the same meaning given such term in section 982(a)(6)(B) of this title.

"(c) As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"1518. Obstruction of Criminal Investigations of Federal Health Care Offenses.".

SEC. 546. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§669. Theft or embezzlement in connection with health care

"Whoever willfully embezzles, steals, or otherwise willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health care program, shall be fined under this title or imprisoned not more than 10 years, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"669. Theft or Embezzlement in Connection with Health Care.".

SEC. 547. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 982(a)(6)(B) of this title.".

SEC. 548. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following new section:

"§3486. Authorized investigative demand procedures

"(a)(1)(A) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue in writing and cause to be served a subpoena compelling production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control.

"(B) A custodian of records may be required to give testimony concerning the production and authentication of such records.

"(C) The production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place; except that such production shall not be required more than 500 miles distant from the place where the subpoena is served.

"(D) Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(E) A subpoena requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(2) Investigative demands utilizing an administrative subpoena are authorized for any investigation with respect to any act or activity constituting or involving health care fraud, including a scheme or artifice—

"(A) to defraud any health care program, in connection with the delivery of or payment for health care benefits, items, or services; or

"(B) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care program in connection with the delivery of or payment for health care benefits, items, or services.

"(b)(1) A subpoena issued under this section may be served by any person designated in the subpoena to serve it.

"(2) Service upon a natural person may be made by personal delivery of the subpoena to such person.

"(3) Service may be made upon a domestic or foreign association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

"(4) The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c)(1) In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which such person carries on business or may be found, to compel compliance with the subpoena.

"(2) The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony required under subsection (a)(1)(B).

"(3) Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(4) All process in any such case may be served in any judicial district in which such person may be found.

"(d) Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

"(e)(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefor.

"(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

"(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3405 the following new item:

"3486. Authorized investigative demand procedures.".

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice subpoena (issued under section 3486)," after "subpoena".

TITLE VI—INTERNAL REVENUE CODE AND OTHER PROVISIONS

SEC. 600. REFERENCES.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Foreign Trust Tax Compliance

SEC. 601. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) NOTICE OF CERTAIN EVENTS.—

"(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

"(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

"(3) REPORTABLE EVENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'reportable event' means—

"(i) the creation of any foreign trust by a United States person,

"(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

"(iii) the death of a citizen or resident of the United States if—

"(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(II) any portion of a foreign trust was included in the gross estate of the decedent.

"(B) EXCEPTIONS.—

"(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

"(ii) DEFERRED COMPENSATION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

"(I) described in section 402(b), 404(a)(4), or 404A, or

"(II) determined by the Secretary to be described in section 501(c)(3).

"(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of the creation of an inter vivos trust,

"(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

"(C) the executor of the decedent's estate in any other case.

"(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

"(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—

"(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

"(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

"(A) IN GENERAL.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

"(B) UNITED STATES AGENT REQUIRED.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

"(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

"(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

"(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

"(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

"(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

"(A) the name of such trust,

"(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

"(C) such other information as the Secretary may prescribe.

"(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—

"(A) IN GENERAL.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

"(B) APPLICATION OF ACCUMULATION DISTRIBUTION RULES.—For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be ½ of the number of years the trust has been in existence.

"(d) SPECIAL RULES.—

"(1) DETERMINATION OF WHETHER UNITED STATES PERSON RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

"(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

"(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.".

(b) INCREASED PENALTIES.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

"(1) is not filed on or before the time provided in such section, or

"(2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

"(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

"(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

"(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—

"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

"(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d) is amended by striking "or" at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting ", or", and by inserting after subparagraph (T) the following new subparagraph:

"(U) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).".

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 6048. Information with respect to certain foreign trusts.".

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts.".

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 602. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:

"(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.".

(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

"(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTION.—

"(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

"(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and

"(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

"(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

"(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

"(i) the trust,

"(ii) any grantor or beneficiary of the trust, and

"(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust.".

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 is amended by striking "section 404(a)(4) or 404A" and inserting "section 6048(a)(3)(B)(ii)".

(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:

"(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

"(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

"(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

"(5) OUTBOUND TRUST MIGRATIONS.—If—

"(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

"(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.".

(d) MODIFICATIONS RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

"(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.".

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),".

(f) REGULATIONS.—Section 679 is amended by adding at the end the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 603. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:

"(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

"(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

"(2) EXCEPTIONS.—

"(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—Paragraph (1) shall not apply to any trust if—

"(i) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

"(ii) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

"(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

"(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(B) paragraph (1) shall not apply for purposes of applying section 1296.

"(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

"(5) SPECIAL RULE WHERE GRANTOR IS FOREIGN PERSON.—If—

"(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

"(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

"(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.".

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting "subsection (f) and" before "sections 674".

(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income.".

(c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 is amended by adding at the end the following new subsection:

"(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.".

(2) Section 665 is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 604. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

"(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after December 31, 1996, the $10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Notice of large gifts received from foreign persons.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 605. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

"(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

"(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996.".

(b) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.".

(c) TREATMENT OF LOANS FROM TRUSTS.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) LOANS FROM FOREIGN TRUSTS.—For purposes of subparts B, C, and D—

"(1) GENERAL RULE.—Except as provided in regulations, if a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) RELATED PERSON.—

"(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) ALLOCATION.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title.".

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting ", 643(i)," before "or 1274" each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) LOANS FROM TRUSTS.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities after September 19, 1995.

SEC. 606. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

"(D) any estate or trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

"(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust.".

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

"(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

"If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.".

(2) PENALTY.—Section 1494 is amended by adding at the end the following new subsection:

"(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491 with respect to a trust, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

Subtitle B—Repeal of Bad Debt Reserve Method for Thrift Savings Associations

SEC. 611. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence:

"Paragraphs (1)(A), (2)(A), and (4) of section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995.".

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking "or to which section 593 applies".

(6) Subparagraph (A) of section 585(a)(2) is amended by striking "other than an organization to which section 593 applies".

(7) Sections 595 and 596 are hereby repealed.

(8) Subsection (a) of section 860E is amended—

(A) by striking "Except as provided in paragraph (2), the" in paragraph (1) and inserting "The",

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(C) by striking in paragraph (2) (as so redesignated) all that follows "subsection" and inserting a period.

(9) Paragraph (3) of section 992(d) is amended by striking "or 593".

(10) Section 1038 is amended by striking subsection (f).

(11) Clause (ii) of section 1042(c)(4)(B) is amended by striking "or 593".

(12) Subsection (c) of section 1277 is amended by striking "or to which section 593 applies".

(13) Subparagraph (B) of section 1361(b)(2) is amended by striking "or to which section 593 applies".

(14) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 593, 595, and 596.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) REPEAL OF SECTION 595.—The repeal of section 595 under subsection (b)(7) shall apply to property acquired in taxable years beginning after December 31, 1995.

(d) 6-YEAR SPREAD OF ADJUSTMENTS.—

(1) IN GENERAL.—In the case of any taxpayer who is required by reason of the amendments made by this section to change its method of computing reserves for bad debts—

(A) such change shall be treated as a change in a method of accounting,

(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

(i) shall be determined by taking into account only applicable excess reserves, and

(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

(2) APPLICABLE EXCESS RESERVES.—

(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

(i) the balance of the reserves described in section 593(c)(1) of such Code (as in effect on the day before the date of the enactment of this Act) as of the close of the taxpayer's last taxable year beginning before January 1, 1996, over

(ii) the lesser of—

(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

(II) the balance of the reserves described in subclause (I), reduce by an amount determined in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

(B) SPECIAL RULE FOR THRIFTS WHICH BECOME SMALL BANKS.—In the case of a bank (as defined in section 581 of such Code) which is not a large bank (as defined in section 585(c)(2) of such Code) for its first taxable year beginning after December 31, 1995—

(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserve as of the close of its last taxable year beginning before January 1, 1996, if the additions to such reserve for all taxable years had been determined under section 585(b)(2)(A), and

(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5), (6), and (7).

(3) RECAPTURE OF PRE-1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in subparagraph (A)(ii) except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

(A) IN GENERAL.—In the case of a bank which meets the residential loan requirement of subparagraph (B) for a taxable year beginning after December 31, 1995, and before January 1, 1998—

(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

(ii) such taxable year shall be disregarded in determining—

(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

(II) the amount of such adjustment.

(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term "residential loan" means any loan described in clause (v) of section 7701(a)(19)(C) of such Code but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

(D) BASE AMOUNT.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning before January 1, 1996. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after December 31, 1995, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary of the Treasury or the Secretary's delegate.

(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1) of such Code, subparagraph (B) shall be applied with respect to such group.

(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2) of such Code) for its first taxable year beginning after December 31, 1995:

(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii) of such Code, there shall be taken into account only the excess of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

(B) TREATMENT UNDER ELECTIVE CUT-OFF METHOD.—For purposes of applying section 585(c)(4) of such Code—

(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

(ii) no amount shall be includible in gross income by reason of such reduction.

(6) CONTINUED APPLICATION OF SECTION 593(e).—Notwithstanding the amendments made by this section, in the case of a taxpayer to which paragraph (1) of this subsection applies, section 593(e) of such Code (as in effect on the day before the date of the enactment of this Act) shall continue to apply to such taxpayer as if such taxpayer were a domestic building and loan association but the amount of the reserves taken into account under subparagraphs (B) and (C) of section 593(e)(1) (as so in effect) shall be the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

(7) CERTAIN ITEMS INCLUDED AS SECTION 381(c) ITEMS.—The balance of the applicable excess reserves, and the balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection, shall be treated as items described in section 381(c) of such Code.

(8) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c)(14)(A)—

(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

(9) REGULATIONS.—The Secretary of the Treasury or the Secretary's delegate shall prescribe such regulations as may be necessary to carry out this subsection, including regulations providing for the application of paragraphs (4) and (6) in the case of acquisitions, mergers, spin-offs, and other reorganizations.

Subtitle C—Other Provisions

SEC. 621. EXTENSION OF MEDICARE SECONDARY PAYOR PROVISIONS.

Section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking clause (iii) and redesignating clause (iv) as clause (iii); and

(B) in the matter following clause (ii) of subparagraph (C), by striking ", and before October 1, 1998"; and

(2) in paragraph (5)(C), by striking clause (iii).

SEC. 622. ANNUAL ADJUSTMENT FACTORS FOR OPERATING COSTS ONLY; RESTRAINT ON RENT INCREASES.

(a) ANNUAL ADJUSTMENT FACTORS FOR OPERATING COSTS ONLY.—Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended—

(1) by striking "(2)(A)" and inserting "(2)(A)(i)";

(2) by striking the second sentence and all that follows through the end of the subparagraph; and

(3) by adding at the end the following new clause:

"(ii) Each assistance contract under this section shall provide that—

"(I) if the maximum monthly rent for a unit in a new construction or substantial rehabilitation project to be adjusted using an annual adjustment factor exceeds 100 percent of the fair market rent for an existing dwelling unit in the market area, the Secretary shall adjust the rent using an operating costs factor that increases the rent to reflect increases in operating costs in the market area; and

"(II) if the owner of a unit in a project described in subclause (I) demonstrates that the adjusted rent determined under subclause (I) would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary, the Secretary shall use the otherwise applicable annual adjustment factor.".

(b) RESTRAINT ON SECTION 8 RENT INCREASES.—Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)), as amended by subsection (a) of this section, is amended by adding at the end the following new clause:

"(iii)(I) Subject to subclause (II), with respect to any unit assisted under this section that is occupied by the same family at the time of the most recent annual rental adjustment, if the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor, and if the rent for the unit is otherwise eligible for an adjustment based on the full amount of the annual adjustment factor, 0.01 shall be subtracted from the amount of the annual adjustment factor, except that the annual adjustment factor shall not be reduced to less than 1.0.

"(II) With respect to any unit described in subclause (I) that is assisted under the certificate program, the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area in which the unit is located.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be construed to have become effective on October 1, 1995.

SEC. 623. FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE.

(a) EFFECTIVENESS AND APPLICABILITY.—Section 407 of The Balanced Budget Downpayment Act, I (Public Law 104–99) is amended—

(1) in subsection (c)—

(A) by striking "Except as provided in subsection (e), the" and inserting "The"; and

(B) by striking "only with respect to mortgages insured under the National Housing Act that are originated before October 1, 1995" and inserting "to all mortgages insured under the National Housing Act"; and

(2) by striking subsection (e).

(b) TECHNICAL AMENDMENT.—Section 230(d) of the National Housing Act (12 U.S.C. 1715u(d)) is amended by striking "the Departments" and all that follows through "1996" and inserting "The Balanced Budget Downpayment Act, I".

CONSTITUTIONAL AMENDMENT TO LIMIT CONGRESSIONAL TERMS

The PRESIDING OFFICER. The clerk will now report Senate Joint Resolution 21.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 21) proposing a constitutional amendment to limit congressional terms.

The Senate continued with the consideration of the joint resolution.

The PRESIDING OFFICER. The time until 3:45 is equally divided.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, who controls the time? I would like to speak in favor of the matter before the Senate. My understanding is the Senator from Tennessee or the Senator from Missouri.

The PRESIDING OFFICER. The time is divided between the Senate majority leader and the Senate minority leader or their designees.

Mr. WARNER. Madam President, I inquire of the distinguished Senator from Tennessee if I might have 5 minutes within which to speak in favor of the pending matter.

Mr. THOMPSON. I yield 5 minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I intend to vote in favor of the constitutional amendment limiting the number of terms Members of Congress can serve.

I voted for a similar sense-of-the-Senate amendment on October 17, 1995, and despite the clarity of my position and the documented record thereof in the Senate, the official records of my votes are continually distorted by my detractors. But that is nothing new in the life of a Senator. I wish to say exactly what I believe on this issue.

I think the public is entitled to a national referendum on this issue, and the procedures outlined by the Constitution of the United States as to how the Nation addresses such an issue are very clear. It is not the duty nor the power of the Congress to enact this. It has to be done by the requisite number of State legislatures, and I am highly in favor of that process beginning at the earliest possible date.

In my view, however, we already have term limits, and should this debate unfold in my State and across America, I will take an active role in it, and I will address my concerns about the adoption of such an amendment.

I feel the current constitutional procedures for the election of U.S. Senators and Members of the House of Representatives are themselves adequate protection that could be afforded by any constitutional amendment. It gives the right of the electorate of the States to make their own decision, as they think best for their State at that point in time, as it relates to their Senators and Members of the House of Representatives.

Finally, I am concerned about if we were to adopt for the Nation such a procedure that we would be shifting too much power to the executive branch and also, too, I say candidly, to those individuals who have spent much time here in the U.S. Senate as very capable, very knowledgeable, well trained, dedicated and committed staff persons. If they were to stay here for periods much longer than their respective committee chairmen, for example, or Senators themselves, it seems to me that, too, adds to the imbalance of power.

Then it comes to the question of the seniority procedures and tradition in the U.S. Senate. Seniority is a very important part of the rules and traditions followed by both sides of the aisle, particularly as it relates to the election of committee chairmen or ranking members. That system was adopted because earlier procedures by the Senate were found to lend themselves to what I call pleasing politics. In other words, an individual would run for chairmanship of a committee and promise and promise to all the members of the committee that whatever they brought up, he or she would vote for.

Fortunately, in the period I have been privileged to serve in the U.S. Senate on behalf of Virginia, we have had very strong and resolute chairmen in the several committees on which I have served. I mention only the Senate Armed Services Committee. Richard Russell, John Stennis, John Tower, Barry Goldwater and now STROM THURMOND, Scoop Jackson for a period and SAM NUNN. What finer men have ever served in the U.S. Senate. But they had to make tough decisions, often inimical and in opposition to their own colleagues of their own party. But they could do so knowing full well that the traditions of how one becomes eventually a chairman could withstand what I call the politics of trying to please everyone.

If a chairman has to please everyone, in my mind it is very doubtful that you will have the strong leadership that is needed in the office of chairman and in the ranking member of our committees.

So I put that out as an open question, and I hope we might address it in the context of this amendment.

Madam President, I thank the distinguished floor leaders for the time, and I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Madam President, I yield myself 3 minutes in the absence of anyone else, and then 5 minutes to the Senator from California and 5 minutes to the Senator from New Jersey.

Madam President, I think I can speak without anyone saying, "He is trying to help himself," because I am going to be retiring at the end of this year.

Government is complicated. No one here would go to the yellow pages of their phone book when they had plumbing difficulties and get a plumber and he advertises, "I have no experience with plumbing, call" whatever the number is. If that is true with something as relatively simple as plumbing, it is infinitely more true of the decisions that we have to make in this body.

BENNETT JOHNSTON, for example, who is retiring, has huge knowledge in the scientific area that I think is unequaled in this body. Meaning no disrespect to whomever may succeed him, that person is not going to have that kind of knowledge.

Senator BYRD brings a wealth of knowledge here from that experience. On the other side of the aisle, a former colleague of yours and mine, Madam President, HENRY HYDE—I differ with Congressman HENRY HYDE on a lot of things, but he is a class act. He brings a wealth of experience, and he has improved the end product of the laws of our country because of what he has contributed. To cut off a HENRY HYDE or a BENNETT JOHNSTON or a ROBERT BYRD arbitrarily and take that decision away from the people of the Nation and of their respective States and districts, I think, is wrong. This is a constitutional amendment that should be defeated.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you very much, Madam President. I think the remarks of the Senator from Illinois are very important.

I want to put on the table my position on term limits which is, I support them if they are applied retroactively to all of us, to sitting officeholders. I had planned to support an amendment which Senator LEAHY had planned to offer to make these term limits apply retroactively. Unfortunately, through a series of parliamentary maneuvers known as "filling the amendment tree," the Republican leadership has made it impossible for us to amend this resolution. It is either up or down. So here we are unable to make these term limits apply to us.

Advocates of this proposal assert that in its present form, it limits Senators to two terms. That is simply untrue. Without retroactivity, Senators in this Chamber—every one of us—can serve an additional two terms if this amendment passes.

That is very convenient for Members here, but it really, to me, does not get at the issue of term limits.

Let me cite two specific examples. Under this proposal, the majority leader would be limited to seven terms, or 42 years, in the U.S. Senate. The distinguished chairman of the Armed Services Committee will be limited to nine terms, or 54 years, in the U.S. Senate.

I do not think that most supporters of term limits will be satisfied with so-called limits that allow politicians to stay in office for more than half a century.

One Senator now serving in this body was serving here before another sitting Senator was 2 years old. It is incredible that the Members who would be serving over 50 years or 42 years are going to vote for this term-limit proposal.

So I think the situation undermines the credibility of the Senate. We cannot offer amendments, we cannot make it apply to us, and I do not think we should be congratulating ourselves for supporting term limits when it is obvious that the limits proposed are little more than what I consider to be a sham for every Member serving in this Chamber. It is more of "do as I say not as I do," and I think the public is very tired of that.

So let us offer our retroactivity amendment and not exempt ourselves from this law. Perhaps the majority leader will allow us that chance if we vote down cloture. Let me be clear. At that time, if we vote down cloture and the majority leader allows us a vote on retroactivity, I will support cloture. I think it is very important that we be allowed to make sure that this amendment that so many are congratulating themselves on applies to each and every one of us.

I thank the Chair very much. I believe Senator BRADLEY now has 5 minutes.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Madam President, I rise in opposition to the cloture motion. I oppose term limits at this time. I think the answer to the problems of democracy is not less democracy, but is more democracy. Why should we say to people in this country who want a particular Senator or Congressman to return to office that they arbitrarily cannot return them to office?

I also regret the parliamentary circumstance here, the constitutional amendment on term limits. Many of us believe that the problems of democracy have deeper root causes than Senators and Congressmen staying in office more than 12 years and that, indeed, money is at the root of the problem in our democracy.

I had hoped to be able to offer a constitutional amendment as an amendment here in these proceedings that would allow the Congress and the States to limit what an individual may spend on his or her campaign. In my view, it is money that is creating a much greater problem for our democracy than somebody staying in office for 13 years.

I think fundamental campaign finance reform is what we need. I think it has to be radical. I think money and politics is a little bit like ants in your kitchen—you either have to get them all out, block all the holes, or some of them are going to find a way in.

A fundamental campaign finance reform proposal would be limits in primaries and would be also, I think, financing the election in the general election, dividing it equally among Republican, Democrat, and qualified independents, and it would mean a constitutional amendment. That would allow the Congress and States to limit what an individual spends on his or her own campaign. Everybody knows that a wealthy person has a microphone and everybody else has a megaphone here. The ability to raise money is often the prerequisite for deciding to run for Congress.

When everybody goes in to visit their campaign committee, whether it is Republican or Democrat, the first question that is asked them is not, "Gee, have you been a good citizen? Do you have a good record? Do you have ideas on how to make the country better? Are you willing to put yourself on the line to do that? Are you willing to stand up for your convictions?" It is, "Can you raise $1 million?" Better yet, "Do you have $1 million to spend on your campaign?"

Imagine a world in which there are term limits, but without strong campaign finance laws. How is democracy going to be improved? You will have the Senators and Congressmen coming from the same cast, raising money from the same sources, in some cases financing their own campaigns themselves, and will simply have a more active turnover of the same problem that we have now. It will not solve the problem—money in politics—which is the root cause of a lot of our problems. It will simply bring more people who are dependent on a special interest who have to finance their own campaigns themselves.

On the other hand, imagine a campaign or situation where you had strong finance laws but no term limits. Imagine general elections where Republicans and Democrats divided the money in a fund and they each had equal amounts of money, and the money could only come from people in their own State, and that is all the money that they had to spend. You would then have the possibility of a battle of ideas. There is no possibility of a battle of ideas where money dominates the process as much as it does today. Even if term limits passes but we do not address the issue of money in politics, we are not going to have as vibrant a democracy as we otherwise could have. There are no two ways about that.

I rise today simply to make this point because I had hoped, as I said earlier, to offer an amendment, a constitutional amendment, that would allow the Congress and the States to limit what an individual can spend on his or her own campaign as a part of an overall campaign finance proposal. Unfortunately, I cannot do that. I regret that I cannot do that because of the parliamentary circumstance. I hope that I will before the end of this Congress. I think it is absolutely essential. Anything that fails to address the issue of money in politics and claims to be the answer to the problems of democracy is false advertising. I yield the floor.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. I yield 7 minutes to the Senator from Wyoming.

Mr. THOMAS. I thank the Senator. I thank him for his effort to bring this issue to the floor. It is an issue certainly that all of us who were elected in 1994 had a great interest in because that is what people were talking about. Frankly, had it not been for the Senator from Tennessee and the Senator from Missouri and the leader, we would not be here talking about it.

I rise in strong support of Senate Joint Resolution 21 as a cosponsor of the bill and a long-time advocate of responding to the voice of voters and the voice of the people. I am pleased that the Senate will finally go on record on this important issue.

Obviously, there are different points of view about it. We have heard a number of things just in the last few minutes. Let me comment on some of them.

One of them is the idea of amending. That certainly, if I ever heard a political response, is one. The Senator from California would not vote for this under any circumstances. So the idea that it cannot be amended to be retroactive is simply an obstruction to what we are trying to do.

Limiting dollars. We have talked about that a lot. I think it is a great idea. The only trouble is it does not work. How are you going to do that? Reporting is the best issue. Talk about limiting dollars that can be spent by candidates, we are looking this year at the AFL–CIO spending $35 million, which would not count because they are not in the campaign.

You have heard a little bit about the idea of people having the chance to make their own choice. It makes some sense. They are going to have a chance to make a choice. This is a constitutional amendment. The Congress does not pass this; it simply submits it to the States. The people will have an opportunity to express their feeling on it. This comes up from time to time.

I hear it at home, "Well, you know, if the folks in that district want someone to continue to serve, they should be able to." I thought about that some. I was in the House before I came here. One of the very good Members of the House just 2 years ago had been in the House since before Pearl Harbor. I simply want to make the point that that person, who had a congressional district, as I did, had 10 times as much thrust in the Congress as I did because of the seniority. So the people from every other congressional district had no input into that. But the folks in that district are never going to change because here is a guy who has more authority than anybody else in the Congress. Of course, he is going to continue to be there. That is kind of what we are up against, it seems to me.

In 1992, 77 percent of the Wyoming voters supported term limits, and 70 to 80 percent of Americans support term limits. I think it is important to note that the majority and the freshmen who came in last year support term limits, people who were elected last year when the voters were saying, "Yes, we're for term limits."

I think it is important that we consider not just the term limits, but what has to be done to make some institutional change in the Congress. If you do not like the way things have been done for 40 years, if you want to see some fundamental change, then it is difficult to imagine that there is going to be change if we continue to do things the same way.

That is what term limits is about. It is about the end of career politicians in Congress. I happen to think that is a good idea. I happen to think that is what the drafters of the Constitution had in mind, to return to the Founders' vision, to the extent possible, of citizen legislators.

I was impressed this morning by someone's observation that one of the necessary things to represent your constituents in this Congress is to have had some experience in the private sector, to have had some experience in the real world. I think that is terribly important.

We need fundamental change that has some impact on reducing the size of Government. I think it is pretty evident that the longer you are here, the less likely you are to be enthusiastic about reducing the size of the Government. Someone mentioned this morning, and I think it is exactly right, when people first come here they seem to have objective questions. They seem to have ideas. How can we do this better? How can we change? After being here for a very long time, you are advocates for the status quo, sort of defensive about what has been going on. We do not need more of that.

I am very much in favor of term limits. I think that it is important. There is, indeed, a considerable turnover. I think the point was made this morning that 51 percent of the Senate has been here less than two terms. That is true. The same thing is true in the House. The difficulty is that you live in the seniority system, and the other 50 percent has been here a very long time. They are the ones, of course, that have all the leadership positions, so change does not come about. That is what we are talking about.

Madam President, I am delighted that we are here. I suggest to my associates here in the Senate that it is time to come to the snubbing post. We have talked about it. It is time to support what we think people have said to us or not. It is time to support change that brings about fundamental change here—smaller Government, less expensive Government, less restrictive Government. That is what we are voting on today—changing the direction that will take us into the next century. I urge support.

Mr. DOLE. Madam President, was leader's time reserved?

The PRESIDING OFFICER. It was.

Mr. DOLE. I ask for my leader time on this issue plus another issue I will speak to briefly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Madam President, today the Senate takes a historic step on whether to move forward to pass a constitutional amendment to limit the terms of Members of both the House and the Senate. I am proud this step is one promised by the Republican Party in our last two party platforms. I am proud we made this promise in 1994. I am proud that the Republicans in the House of Representatives delivered on this promise that the Senate will have a chance to do so in about 45 minutes.

I acknowledge the fine leadership of our newer Members, such as Senators THOMPSON, ASHCROFT, INHOFE, THOMAS and others, who have joined other leaders like Senator BROWN for fighting for this reform. After years of rhetoric and stonewalling, this is a huge step forward for the American people.

I am mindful this is not the last step. While the vast majority of Republicans in both the House and the Senate support term limits, the fact is that this is a constitutional amendment. We cannot do it without substantial support on the other side of the aisle.

With President Clinton leading the opposition, it appears no such support exists on the other side of the aisle. It is pretty much like the debate on the constitutional amendment for a balanced budget we had last year. President Clinton not only has consistently opposed term limits, but he sent his Solicitor General to the U.S. Supreme Court to argue against the term limits law that passed overwhelmingly in his own State of Arkansas. He should drop his opposition to term limits and help deliver the votes necessary to pass the constitutional amendment.

Madam President, I share my view of why I believe this is important. As someone who has served this country for most of his adult life, I am not one that subscribes to the notion that this is about the people who serve in representative democracy. I know it is fashionable to attack politicians, but the truth is that those elected represent the people, at whatever level of Government, reflect both the strength and weakness of the electorate in a thousand different ways.

What this is about is the institution of representative democracy itself. I believe that the notion of a citizen legislator is an honorable one. I believe that representing your constituents to the best of your abilities is at the core of the success of the American experiment over the last 200 years. It is not an effort to tear down this relationship. Term limits certainly are not that. Instead, they are an effort to strengthen that bond.

This is an issue that not many Americans—in fact, not many legislators, not many anybody—thought about until recently. Now, I think it is clear that I have been lukewarm to the idea for some time and only started indicating 2 or 3 years that it seems to me if we want to send it back to the legislatures—the people send it back, want to ratify—that is fine.

I think we are capable also of keeping up with the American people. The American people, 75 to 80 percent, favor term limits. There clearly is a sense of something going wrong. We owe it to them and the future generation to think about whether the comfortable status quo is doing the job.

For me, it has come down to this. We are a Republic founded on the rule of law. There are many ways to define what the rule of law means, but it is the genius of republican democracy that those who make the laws also live under them. That is what the rule of law means to me. I think in some respects we sort of drifted away from that.

It was only last year in a Republican Congress that we insisted for the first time that all those laws that apply to the private sector had to apply to Congress, as well. I think that is probably a pretty good step in the right direction. When legislators leave Congress to start a business or do whatever, they will have to bear the consequence of those actions in a way that they may be insulated from if they served 15, 20, or 30 years in Congress.

Now, obviously, I feel like I understand these consequences, and I'll bet most of my colleagues do too. But, studies that show that the longer a legislator spends in Congress, the more readily he or she spends taxpayers' money, suggest that this is not always the case.

In such situations, I think it is wise to rely on the good sense of the American people. They are the ones most affected, and that brings me to my final point on why I support a constitutional amendment.

The very nature of the process surrounding a constitutional amendment is that we let the people decide. Issues that go to the core of our Republican institutions are properly the province of the people.

All we do when we pass a resolution on a constitutional amendment is allow the people in all of the States to decide—and, in fact, three-fourths of those States have to decide in the affirmative before an amendment becomes part of our Constitution.

As I have said before, the Federal Government of today is not the same as that envisioned by our Founders. We need to dust off the 10th amendment, and return power back to the States and to the people.

I say, give those we represent this opportunity to debate, consider, and decide. It is particularly appropriate that we do so, when the issue before us goes to the core of the relationship between those elected and those represented. This is not an issue we should decide alone.

Mr. President, there should be no mistake about the importance of the vote today. The vote today is about whether we move forward and give the people the opportunity to make that choice.

As with other constitutional amendments, you don't always succeed the first time. Nor should we necessarily. Constitutional amendments almost always involve great issues.

But in State after State, the American people have already indicated their views on term limits. A vote today to end debate and move toward final passage is a vote to take the American people at their word and build momentum for support.

I urge my colleagues to vote to end debate and support allowing the American people we represent the opportunity to choose for themselves.

This is an opportunity for all of us who believe in sending power back to the States, back to the people. Also, it is an indication that we listen. Yes, we can change our mind. We listen. We listen to the American people. The American people have spoken, and I believe it is time for us to speak.

I hope when the vote comes at 3:45, we will have a resounding vote for cloture—maybe 100 to 0, like we had on the last vote here at 2:15.

Mr. THOMPSON. Madam President, I thank the majority leader. The fact of the matter is that we have not had a vote such as this—a constitutional amendment on term limits—for almost 50 years in this country. Were it not for the majority leader, we still would not have a vote on a constitutional amendment for term limits. He is very right when he says this is not the last vote on it. This is really the first vote in a succession of votes. This will be with us from now on. He is also right in pointing out that you could probably measure people's desire for term limits with different fervor, but you cannot deny the fact that 75 percent of the people now are in favor of it.

What we are here about today is giving the States an option of considering whether or not they want to pass a constitutional amendment. As we know, 22 States, on their own volition and for their own good reasons, have sought to limit themselves, even without other States acting. So there can be no doubt about what the sentiment of the American people is regarding this.

With regard to a couple of earlier comments by our colleagues in opposition to term limits, a statement has been made that we need the expertise that long experience brings to us and that, if you are going to have surgery performed, you would want a surgeon with some experience. I have no quarrel with either one of those propositions. Certainly, expertise and experience in any area, standing alone, in and of itself, is not a bad thing. In most cases, it is a good thing. But what we are suffering from, I respectfully submit, in this body is not a lack of expertise. We have all of the know-how, all of the brain power that any such institution would ever hope to have.

Madam President, I simply suggest that we do not have the willpower that is necessary. It has nothing to do with expertise and experience. It has to do with motivation. It is not because of a lack of expertise that we are bankrupting this Nation. It is not because of a lack of expertise that we have the situation that Senator SIMPSON described, wherein it was demonstrated that Social Security only has another set number of days before it is going to be bankrupt and Medicare is going to be bankrupt.

Senator DANFORTH's comments, as he left this body when he retired, were that we are doing something terrible to the next generation. We are bankrupting them for the sake of our own reelection. That is at the root of the problem—the motivation of those who serve here, on out into the next century. It will take years for this to be ratified, and a person would have years to serve. It is not about the Members serving today, and it is not about the Members who served before in this body. Many, many good people have done so. It is about what will equip us best to meet the challenges that we are clearly not meeting now because we do not have the willpower, because we cannot resist the temptation to do those things which are necessary for perpetual reelection. Those things usually translate into one word, and that is "spending." Spending. People descend upon us from all directions, from all walks of life, each wanting their programs funded, and you do not make friends and influence people by saying "no," and you do not perpetuate a professional political career by saying "no." Therein lies the root of the problem.

I might also say, if I went to a surgeon, I would ask what his survival ratio was. I think if people came to this body and asked what our success rate is and looked at the numbers and what we are doing to the next generation, our inability to even take the first step to balance the budget, and even if we got everything that we on this side of the aisle wanted, at the end of the 7 years we would still be looking at a $6 trillion-plus deficit, even if we did not have a recession or a war, even if nothing really untoward happened. If we got everything we wanted—and we cannot even take the first step on that scenario, which would still put us in a hopeless situation because so much of the proposals are back-end loaded, which are simply hopes and desires that future Congresses will have the courage to do what we do not have the courage to do. We put the numbers down on the paper, saying that future Congresses, when we are long out of office, will do the right thing and, therefore, we balance the budget.

So we cannot even put this—to put it charitably—questionable approach into operation, much less go any further. That is what all this is about.

One of my colleagues mentioned the role of money. As I am sure he would agree, I have taken a very clear stance with regard to that in disagreement. But some of my colleagues on my own side of the aisle say—and I agree with them—that money plays a much too important part in our process. But money alone is not the process. The reason money is important is because money buys those television ads to tout how great we are and how lousy our opponent is. Money is what keeps us up here. It is the money and the desire for perpetual reelection that is getting us into the problem with the deficit and the debt and the ruination of the next generation.

So, if we have campaign finance reform without term limits, we will never have such reform that totally takes the role of money out of politics. There is always going to be some money involved in politics. You can have all the reform that you want, and if the motivation is still there to use whatever the system would then give you to continue to perpetuate yourself, the situation would not really improve.

On the other hand, if you had term limits without campaign finance reform—and I assure you I am for both of them—as one example, in the U.S. Senate you could serve your second term, one full term of 6 years, without having to raise a dime. What would that be like?

One of the other Members implied that if we did not have the threat of voter sanctions, we would kind of steal and pillage and do all kinds of terrible things. I do not know what his feeling is with regard to a President who is term limited and has a lame duck 4-year term when he wins his second term. But I think it would be a very beneficial thing to have Members serving in the U.S. Senate under all of the scrutiny and all of the disclosure that you would always have, but not have to worry about raising one dime from one soul. That is what term limits would do, even if you did not have campaign finance reform.

Finally, Madam President, I, again, echo the leader's comments because he gets to the heart of the problem.

He, above all—and all the other Members who have served this body so well—would not imply in any way, or reflect in any way, on the service of those Members—valiant service over the years. We are talking about the future. We are talking about a system over here that has served us pretty well for a long period of time, but now it is not working anymore. We were balancing the budget up to 1969. But we are not anymore. The pressures are too great anymore with the growth of Government, the growth of programs, and the growth of spending.

What do we do? We do what the Founding Fathers envisioned. They could not have envisioned all the technological advances, pressures, all the interest groups and the way the political parties behave, but they could envision change of circumstances that would need an amendment to the Constitution.

So we are talking about the future and something that would not diminish Congress, something that would enhance Congress and enhance Congress in the eyes of the American people because we would once again be a part of them.

I thank the Chair.

Mr. KYL. Madam President, I rise in support of Senate Joint Resolution 21, a resolution proposing an amendment to the Constitution to limit congressional terms to two in the Senate and six in the House—12 years in each body.

Madam President, I want to begin my remarks by thanking the majority leader, Senator DOLE, for making good on his promise to schedule Senate action on the term limit amendment this month. Without his support and his commitment to term limits, this initiative probably would never have seen the light of day.

It would have been easy to dodge a vote—as many opponents, no doubt, would like to have been able to do—since the House already voted down a term limit amendment last year. But Senator DOLE followed through on his commitment to ensure that there would be a full and fair debate and that we would have an opportunity to vote on the issue. The American people deserve to know where their Senators stand.

Madam President, term limits are no panacea. They will not guarantee the election of sensible and honest individuals to Congress. They will not put an end to the influence that special interests can sometimes wield on Capitol Hill. However, term limits will help.

They will help by ensuring regular turnover in Congress—guaranteeing that the people who make our laws have to live under the laws they have passed. It is too easy for legislators, who have been on Capitol Hill too long, to forget what it is like to struggle in the marketplace to survive—what it means to try to meet a payroll when the Federal Government is constantly imposing new mandates on a small business. New taxes, new regulations, more redtape. They forget what it is like for a family to try to make ends meet, when more and more is taken from their paychecks in taxes every week—higher gasoline and FICA taxes, for example.

Members of Congress have learned a lot in just the short time that the Congressional Accountability Act has been in place. The myriad of workplace laws and regulations had little meaning before last year because they never applied to Congress. When we finally had to live under the same laws and regulations as the rest of the country, the people's frustrations took on a whole new meaning.

It is that kind of connection with what people have to endure from their government on a daily basis that term limits will foster. Congressional service should not be a life-long career.

Term limits would also help to disperse some of the power that has become concentrated in the hands of a few very senior Members of both bodies. It would also help to ensure that all of us make decisions that are in accord with the views of the electorate.

Take the Federal budget, for example. The American people have been demanding less spending, lower taxes, and a balanced budget in more forceful terms every year. Newer Members of Congress tend to vote for less Federal spending than those who have served for a long time. In fact, a recent National Taxpayers Union [NTU] survey found a correlation between tenure in Congress and increased spending.

NTU found that the 88 freshmen members of the House who were elected in 1994 voted for an average of $26 billion less in spending than non-freshmen did. The 11 new Senators elected in 1994 supported an average of $26.2 billion more in spending reduction than their senior colleagues.

That is not to say that all of the more senior Members voted for more Government spending. But as a group, newer Members more closely reflected the desires of their constituents for less spending and leaner Government. It is a trend that term limits would help to promote.

Madam President, 23 States, including my home State of Arizona, have attempted to impose term limits on their congressional delegations. But a year ago, the U.S. Supreme Court held that all State term-limit laws that apply to U.S. Senators and Congressmen are unconstitutional. The majority held that the Constitution fixes the qualifications for congressional service, and that neither Congress nor the States may supplement them. That is why we have a constitutional amendment before us today—because all other legislative avenues have been foreclosed.

More than 200 years ago, Thomas Jefferson wrote a friend suggesting ways that the newly drafted Constitution could be improved. Jefferson said three things were missing: a Bill of Rights, limits on the tenure of the Chief Executive, and term limits for Congress. Since then, we have seen Jefferson's first two ideas implemented; the resolution before us today embraces the last.

Madam President, I urge support for the term limits amendment.

Mr. GRASSLEY. Madam President, I rise today in support of term limits. By overwhelming margins, the American people support term limits for Members of Congress. In a democratic society, the people's elected officials have a responsibility to respond to what the people want. Of course, we in Washington have a duty to exercise leadership—but leadership means responding to the strongly held preferences of the American people.

Although there is a long history both at the State and Federal levels in limiting the service of executives, term limits for legislators have a short history. So, we are participating in a work in progress when we debate this amendment.

It may be that term limits enhance the power of lobbyists, as some say, or term limits may lessen the power of lobbyists. Term limits may weaken the legislative branch or they may strengthen it. Term limits may cause the loss of valuable experience or it may lead to passage of reform legislation. There's no way to tell at this point. But with fresh faces with new ideas in Congress, it seems to me that reform and common sense change are far more likely.

And of course, the Constitution was made to be amendable. Since 1791, we have amended the Constitution 17 times. Each of these amendments brought about significant changes in the nature of American Government. Similarly, I believe that a term limits amendment will make needed and beneficial changes.

Prior to the Supreme Court's Thornton decision last year, I intended to introduce a statute to set term limits. That option is no long longer possible. We are in a situation where the Supreme Court has unequivocally spoken—the Constitution as currently written does not give Congress or the States the power to impose term limits by statute. So, this is not a willy-nilly amendment we are debating. This amendment is the only way to have term limits.

If we do not vote to pass this amendment, the States won't even have the chance to pass term limits. They won't even be able to consider the idea of term limits. This is an important debate, and I think that Congress should not stand in the way. Voting to pass this amendment doesn't create term limits. It just lets the debate go forward. Let's pass this amendment. The American people want it. They deserve it, and it would do much good.

Mr. DODD. Madam President, I rise today in strong opposition to this constitutional amendment.

I understand that much of what is driving today's debate is the belief among the American people that Congress is out of touch with their needs and their concerns. And to some extent their frustration is genuine and justified.

We spend too much of our time engaging in partisan political games and not enough time working together in a bipartisan manner to craft legislation that benefits all Americans.

There are many things we could do to reform Congress and make this body work more effectively. Term limits is not one of them.

If we truly want to renew the American people's faith in democracy and return their voices to our debates in Washington then we need to remove the corrosive influences of money on our campaign system.

I believe that all the goals proponents of term limits hope to achieve through this amendment, would be realized if we simply passed genuine and comprehensive campaign finance reform.

For example, public service is more and more restricted to those Americans who have the deep pockets necessary to run for Congress. And term limits would not change that.

Even if we passed this amendment, candidates would still be forced to raise millions of dollars in order to win election. And the aspirations of public service would continue to remain unachievable for the vast majority of the American people.

In order to change the way Washington operates and level the campaign playing field, we need to remove the pervasive, almost epidemic, role of money in our political system.

That is why I have long supported steps to reform our campaign system. And it's the reason I've sponsored the McCain-Feingold campaign finance reform bill.

We need to change our campaign system and allow access to public service for the American people. But, term limits is simply not the solution.

We have term limits in this country. They're called elections. And they are already enshrined in our Constitution. Look it up, article 1, section 2; article 2, section 4; and of course the 17th amendment, which dictated the manner by which we as Senators would be chosen.

These provisions of the Constitution describe the specific process of how our elected officials are chosen. And nowhere in the Constitution is there any mention of term limits, or the amount of time a Senator or Congressman must serve.

Over the past few days, I've listened to my colleagues invoke the name of the Founding Fathers in justifying their support for this amendment.

Well, I would remind them to go back to their history books, to the Constitutional Convention of 1787, which debated the issue of term limits and see what James Madison, the father of our Constitution said about this issue:

> Frequent elections; that's the answer, that a voter should be able to decide whether he wants somebody new or whether he wants somebody with experience.

Or look to the words of Robert Livingston, who said:

> The people are the best judges who ought to represent them. To dictate and control them, to tell them whom they shall not elect is to abridge their natural rights. * * * This is an absolute abridgement of the people's rights.

A years and a half ago the American people made an overwhelming decision on who would represent them. Although I can't say that I agreed with their choice and while I would have preferred that they had selected different leaders, their ballot was a reflection of our freedoms and rights as a people and a nation to choose our leaders.

And in the past few years the American people have loudly made their voices heard. In fact, more than 50 percent of the current Members of the House of Representatives were elected in the past 6 years alone.

And, in January 1997, there will be at least 38 new Senators, elected since 1992.

That represents an enormous infusion of new people and new ideas to this Congress. And, all this change came about without term limits and without a Constitutional amendment telling voters from whom they could or could not choose to represent them.

But even with these historic changes, proponents of this amendment would still have us believe that we need term limits in order provide greater choices for the American people.

Instead, term limits would limit the alternatives of the American people, because they would be precluded from voting for an incumbent. Abrogating the right of the American people to freely choose their leaders subverts the democratic principles and full rights of franchise that are every American's birthright.

Over the past few days, I've listened to the debate here in the Senate. And over and over I've heard the recurring notion that America needs term limits in order to prevent lawmakers from being contaminated by special interests and institutional corruption.

I've served in the Senate for 16 years and my belief in the dignity of public service has not dissipated. And when I look around this body at my fellow Senators I see other dedicated public servants.

I see men and women who withstand personal attacks on their character; I see men and women who give up both their privacy and a stable family life; I see men and women who labor tirelessly in these halls for one reason and one reason only—because they want to make America a better country.

Now, we may not agree on every issue. In fact, some of us may not agree on any issues. But whatever our personal beliefs, our goals and our reasons for being here are the same—to uphold our duty to our constituents, the Constitution and most important the American people.

And what about all those who came before us? The great leaders from both sides of the political aisle who have served in this austere body: Henry Clay, Daniel Webster, Everett Dirksen, Lyndon Johnson, Richard Russell, Sam Ervin and today ROBERT BYRD and BOB DOLE, to name a few.

Were they corrupted by their tenure in the United States Senate? Or was their experience integral in helping them pass legislation that made this nation a better place to live? I for one think it is the latter.

But, if we passed this amendment the hard-earned experience of lawmakers would be supplanted by a dramatic increase in the reliance on permanent staff, lobbyists and special interests.

Instead of ending careerism in Congress, we would create a permanent and unelected staff bureaucracy that would run the Federal Government.

They would have no responsibility to the American people because unlike the so-called career politicians they wouldn't be held accountable for their actions.

They wouldn't have to go to the town meetings, political rallies, Chamber of Commerce banquets and the other events that politicians in this body regularly attend to keep themselves in touch and culpable to their constituents.

What's more, small States like my home State of Connecticut would be irreparably weakened. Through the seniority system, elected officials from small States can make sure that their voices are heard when important policy decisions are being made.

But, if we enact term limits small States Would be shut out by larger States with greater representation in Congress.

Consider that just nine States can command a voting majority in the House of Representatives.

Those nine States, through their voting power, could assure that the vast majority of Federal spending be concentrated in their locales at the expenses of forty-one other States, with fewer representation and less clout.

I know that this amendment is popular among the American people.

But, the popular way isn't always the right way.

As Senators, we must always be cognizant and accountable to the will of our constituents. But, at the same time we are sworn to uphold the Constitution. And we owe the American people the wisdom of our best judgment in maintaining that solemn duty.

Adlai Stevenson once said that "My definition of a free society is a society where it is safe to be unpopular." And I think we all need to be reminded of those words when any one of us holds a view that runs contrary to the popular opinion of the American people.

Today, I will cast a vote against the popular will of the American people not because I reject their beliefs, but because I must cast my ballot for what I think is best for the country.

I hope my colleagues join me in upholding our Constitutional oath and rejecting this amendment.

Mr. SMITH. Madam President, I rise in support of Senate Joint Resolution 21, which proposes a constitutional amendment to limit congressional terms.

Mr. President, I strongly support term limits for both U.S. Senators and Representatives. The American people want term limits because they recognize that service in Congress should not be a lifetime career, but rather a temporary stewardship. Term limits will bring fresh blood and new ideas into the Congress and dilute the power of the seniority system.

Last year's U.S. Supreme Court decision on term limits made clear that the goal of limiting congressional terms cannot be accomplished except by means of a constitutional amendment. This is consistent, of course, with the manner in which Presidential term limits were established more than four decades ago.

Madam President, I am proud to be an original cosponsor of Senate Joint Resolution 21, which, in its original form, would have amended the Constitution to limit service in the Senate to two terms of 6 years each and service in the House to three terms of 2 years each.

As we wait what I believe is the inevitable addition of a term limits amendment to the Constitution, it is important to keep in mind that term limits are already happening in different ways. Voters already can and do impose term limits in the voting booths. Moreover, voluntary retirements continue at a record pace. Already in 1996, a record 13 Senators have announced their retirements.

It is also important, Madam President, to keep in mind that term limits are not a panacea. But they are a start—a start toward a Congress that is even more representative and responsive to "We the People."

Mr. LEVIN. Madam President, I will vote against ending debate on the constitutional amendment to limit congressional terms. Term limits is a serious matter which deserves serious debate. Amending the Constitution of the United States is always a serious matter and should not be done without adequate deliberation. The majority leader filed a cloture petition immediately upon calling the term limits amendment up for debate even though there has been no effort to filibuster this issue. Invoking cloture at this stage would have the affect of cutting off debate.

The Senate should have a full and open debate on this matter, and fully consider amendments which have been offered and other amendments which Senators wish to propose. For example, there is no amendment before the Senate which conforms to the language contained in the Michigan Constitution which calls for a limit on Representatives of three terms in any 12-year period, and a limit on Senators of two terms in any 24-year period. That amendment would not be allowed, for instance, if cloture is invoked. Ending the debate now would also preclude other amendments from being offered, including an amendment which would count the terms of office already served by those presently in office.

Madam President, I will oppose cloture which would prematurely cut off that debate and make it impossible to offer relevant modifications to the constitutional amendment on the ground that they are not technically germane. If there is a filibuster on this amendment, I will then vote to cut off debate so that we can vote on the constitutional amendment. In the absence of a filibuster, stopping debate will unfairly restrict consideration of possible modifications and a fair consideration of the amendment itself.

Mr. MACK. Madam President, I rise today to express my strong support for a constitutional amendment to limit congressional terms. I commend the Senators from Tennessee and Missouri for their tireless efforts on behalf of this measure and I also commend the majority leader for allowing us the opportunity to vote on this amendment. This is a truly historic debate and one that the American people would do well to note and remember.

The amendment before the Senate today is very simple. It would limit future Senators and House Members to two and six terms respectively and it further outlines the procedure for Members who assume office in midterm.

This measure's simplicity, Mr. President, is only matched by its popularity in the country and its exceeding difficulty to pass. The American people have consistently indicated their overwhelming support for term limits. This support remains solid regardless of who controls the Congress or how much the issue is debated. I remain amazed that the people's representatives continually refuse to do their bidding on this issue.

This is not the first time the Senate has considered this measure, nor will it likely be the last. The first proposal to limit congressional terms was offered in 1789. In the modern era, hearings on term limits were held in 1945, and the only straightforward Senate vote on a term limits amendment in history occurred in 1947.

It is interesting to note, Mr. President, that Republicans controlled the Senate at that time as well. At no time since have the Democrats attempted to constructively deal with the term limits issue. It is only because of the Republican majority that we stand here today. We made the commitment to the American people in the last election to bring this measure to the floor and we are keeping our word.

In the past year, we have seen several measures come and go on this floor that—in one way or another—have attempted to curb Senators' and Representatives' appetites for continual public service. All failed.

Due to the utter lack of Democratic support for the concept of term limits, it appears that the measure before us today will fail as well. This is one more battle, however, in a larger—and longer—fight. In the end, I remain confident that a meaningful, binding term limits amendment will be passed by Congress and ratified by the necessary number of States.

Mr. President, we live in a democracy that thrives on the free exchange of innovative ideas. These ideas are the lifeblood of our progress and it is critical to bring them into the political process and into the public arena. Term limits will ensure that the people's representatives continually bring fresh, new perspectives to public service and create a more responsible and respected government.

We suffer not from a dearth of new ideas in America, Mr. President; we are lacking only in the opportunity to express them in public service. The amendment before us today will change that, and I again offer it my unqualified support.

Mr. CONRAD. Madam President, today, the Senate considers a constitutional amendment regarding term limits for Members of Congress. The debate over the term limits constitutional amendment has shown that both sides of this issue are passionate about the importance of congressional service. The proponents of the term limits amendment argue that it is time to change our Constitution to address the length of congressional service. The opponents of the term limits amendment respond that not only is a term limits constitutional amendment unnecessary, it threatens the foundation of our system of government and principles of democracy. I cast my vote against the term limits constitutional amendment.

My service in the Senate began as a result of an election held in North Dakota in the fall of 1986. I won election to the U.S. Senate by defeating an incumbent who served North Dakota for 6 years in the Senate and 17 years in the House. Because of this election, I can appreciate arguments about the power of incumbency. However, most importantly, I appreciate the power of the voters. Voters have the power to vote for the candidate they feel best fits the elective office, whether the person is an incumbent or a challenger. It concerns me that a term limits constitutional amendment would limit the voters' choice to only those persons who are not disqualified because of this amendment.

It is my view that in a democracy, voters should be able to choose whomever they want to represent them. We should not deny voters the opportunity to vote for someone they believe best represents their interests simply because that person has been in the office for 12 years. According to the Congressional Research Service, at the beginning of the 104th Congress, the average length of service of a Member of the House of Representatives was 7.75 years, while the average length of service of a Member of the Senate was 10.2 years. So despite the lack of a constitutional term limits amendment of 12 years, the voters have successfully managed their own system of term limits, commonly known as the elective system.

Term limitations might be more detrimental than beneficial. It takes time to develop real expertise and experience on the wide variety of issues that come before Congress. Term limitations could result in the loss of this experience. In a sense, the voters already have the power of term limits in their hands: they can vote their elected representatives out of office at any election, from their local sheriff to their U.S. Senator. Additionally, the loss of the seniority system would prevent small States such as North Dakota from getting and keeping clout in Congress. Large State delegations would dominate the leadership and become even more powerful, and small States would be hurt as a result. California has 54 seats in Congress; New York has 33; Texas has 32; Florida has 25; and Pennsylvania has 23. North Dakota has only three.

Rather than impose arbitrary term limits, I believe we should focus our attention on campaign finance reform to allow a larger number of people to enter congressional races. I supported campaign reform in past legislative sessions, and I will continue to support campaign reform in the 104th Congress.

Mr. McCONNELL. Mr. President, congressional term limits are the most toxic of the seemingly magical elixirs called reform. Alluring in their simplicity. Enticing in their popularity. Term limits are the blunt ax of political reforms.

Conveniently, the term limits would not kick in until most current Senators, under recent rates of attrition, were long gone from this Chamber. Prospective term limits such as are before us today have a buy now, pay later appeal as nearly two decades would elapse between their passage, ratification, and the moment at which they began to clear the decks in Washington.

If term limits are the medicine for what ails the Nation, it is ludicrous to wait so long for their curative powers. Retroactive limits would be in order.

Dissenting from the majority in my party is not something I relish. While I have often observed, with some irritation, that in the eyes of the media it seems the only thoughtful Republican is a dissenting Republican, it is not a role I seek. My colleagues, with whom I disagree on this issue, arrived at their positions for a host of reasons. It is not my place or privilege, nor would I presume, to cast aspersion on motives. But I must disagree as strongly and forcefully as decorum, and facility with the English language, will allow.

Never more than in this instance, am I conscious of Edmund Burke's eloquent assertion that: "Your representative owes you, not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion." All of us exercise this wisdom, though rarely all in the same way, at the same time or on the same issue. Sometimes our judgment and popular opinion converge. Sometimes not. And we answer to the voters, in any event. On this issue, the polls and my judgment are at variance.

Mr. President, in a bit of an aside but touching on the climate of cynicism in which term limit polls are conducted, I would like to draw attention to an article David Shaw wrote in the Los Angeles Times on April 17 entitled "A Negative Spin on the News." The subtitle is: "Many journalists are worried that cynicism is poisoning their profession. Displaying such an attitude may erode respect for their craft and also harm confidence in public institutions." A telling passage from the article:

> The most scathing—and most widely publicized—indictment of the news media by the news media has come from James Fallows, Washington editor of the Atlantic Monthly, in his book "Breaking the News."
>
> "Step by step," he writes, "mainstream journalism has fallen into the habit of portraying public life in America as a race to the bottom, in which one group of conniving, insincere politicians ceaselessly tries to outmaneuver another."
>
> The journalistic implication—and often it's more than an implication—that all politicians are liars and hypocrites who invariably act out of self-interest and self-aggrandizement rather than out of a commitment to the public good, has created a self-fulfilling phenomenon.
>
> As Fallows puts it: "By choosing to present public life as a contest between scheming political leaders, all of whom the public should view with suspicion, the news media brings about that very result."

Mr. President, political reform debates, especially term limits and campaign finance, should carry an advisory—"Warning: profoundly disturbing to impressionable Americans who thought democracy was a good thing." Term limits and campaign finance reform proponents wrongly assume democracy as we have known it for 200 years, has failed. They may characterize their proposals as fine-tuning democracy but I and others see it as far more serious than that. Quite simply, we have gone with such proposals from Let Freedom Ring to Rein Freedom In—in the name of reform.

For the past few years, there has been a furious race to embrace the disaffected, disgusted and dissatisfied. Thoroughly probed by prolific pollsters, the prognosis is in: people hate politicians, so go with it. Pander or perish. This destructive phenomenon is not the exclusive province of any party. The essential point is that having for so long been a convenient receptacle for hateful bile from within and out, it should surprise no one that all who serve in Congress are sullied. We are reaping what we have sown, with ample assistance from a cynical media.

Having examined the climate of cynicism which breeds demand for term limits, I turn now to the merits of the proposal before us. What term limits would do is restrict the freedom of voters to elect whomever they please. Like them or not, term limits undeniably, fundamentally restrict freedom. A Senator in the 21st century may be Daniel Webster reincarnate, but under two terms-and-out limits, merit, performance and voter sentiment matter not after the first term.

Under term limits, merit, performance and voter sentiment hold no sway in the second term except to the extent Members are guided by their own morals and sense of place in history. That is sufficient restraint for most Members now, and probably even in a term limited future. But this lack of accountability under term limits should greatly trouble people who believe that power breeds corruption.

The dominant theme of the term limit movement is populist—that term limits will wrest the system away from the career politicians and return power to the people. Yet one of the most prominent term limit advocates, conservative columnist George Will, supports term limits because they would establish a constitutional distance between people and politicians. Just this last Sunday, in the Washington Post, Will wrote that ". . . term limits would make Congress less subservient to public opinion. . ."

There is a news flash: the revolutionary motive behind term limits is to insulate Congress from popular accountability at the ballot box. Remove all concerns about reelection, the theory goes, and Congress will do the right thing. The presumption is that the right thing must be contrary to the will of the people. This confirms how anti-populist and undemocratic term limits really are.

That is why last year I introduced a bill to repeal the 22d amendment limiting Presidents to two terms. In 1947, with great haste a Republican majority—fresh from political exile—rammed through the 22d amendment imposing presidential term limits. Fifty years ago, the zeal was in response to the unprecedented tenure of President Franklin Delano Roosevelt. Not one Republican in the House or Senate voted against that proposal. Ironically, the only Presidents since limited by it have been Dwight D. Eisenhower and Ronald Reagan.

We were very fortunate that those two-term Presidents were such honorable men. But we should consider a bleak alternative. The prospect of a second term of a scoundrel, unconcerned with reelection to a third term, is very disturbing. With the prospect of another election, even the most scurrilous are more likely to at least pretend to be thoughtful, honest, and responsive to the concerns of voters. In my view, the 22d amendment was a mistake that should be repealed, not compounded with congressional limits.

Alexander Hamilton was succinct in Federalist Paper No. 72—which presented the case against Presidential term limits:

> There is an excess of refinement in the idea of disabling the people to continue in office men who had entitled themselves, in their opinion, to approbation and confidence, the advantages of which are at best speculative and equivocal, and are overbalanced by disadvantages far more certain and decisive.

Term limits make elected representatives less accountable to voters and public service less appealing to middle class citizens. Thus, would term limits engender a new elitism and create ethical quagmires. People of moderate means, with family responsibilities and promising private careers, would pass on a congressional career certain to be cut short. Only the rich could afford such a brief dilettante fling with politics. And on the other hand, those who did interrupt private pursuits for a term-limited stint in Congress would feel pressed to keep an eye on post-congressional employment—a conflict rife with ethical potholes and considered by Alexander Hamilton two centuries ago when he observed that the prospect of reelection would promote better representation than would term limits. Hamilton said, "when a man knows he must quit his station, let his merit be what it may, he will turn his attention chiefly to his own emolument."

Term limits would transform Congress into an exclusive haven for the independently wealthy, the comfortably retired, and those who see public service as nothing more than a profitable resume-builder.

I put this forth in jest, but if the goal is to make Congress older and richer, we should just raise the minimum age requirements set in the Constitution. Two hundred years ago, when the limits were set at 25 for the House and 30 for the Senate, the average life expectancy was 34. Perhaps age requirements should be doubled—just as life expectancy has—and made retroactive. An argument could be made that the problem is not that members serve too long but that they arrive too young.

Congressional term limits would make Government overall less accountable by vesting far more power in unelected and un-term limited staff, bureaucrats, the judiciary and lobbyists, rather than in the people's elected representatives. This is self-evident and surely is not a desirable effect in the minds of most Americans. As a former staffer I do not say this to denigrate staff, but it has been my experience that courage is not a staff-driven quality. Staff—in their desire to serve and protect their boss—is far more likely to opt to trim the political sails, so to speak. This is conjecture on my part but certainly warrants serious consideration when increasing staff influence is contemplated.

As a Senator from Kentucky, I am very concerned about the power shift from small and medium-sized States to more populous States, resulting from the diminution of seniority under term limits. Since the power of small States is greatly amplified by the Senate's seniority system, they stand to lose the most when the sheer size of a State's House delegation becomes the principal congressional power gauge. David Broder explored this side effect in the Washington Post (12/6/95):

> Large-state delegations are not nearly as subject to the caprice of resignation or political defeat. Their leverage lies in their numbers, and they would not be nearly as disadvantaged should term limits be imposed someday. Indeed, there is good reason to speculate that, in the constant bargaining for leadership positions that would probably take place in a term-limited Congress, the mega states like California and Texas would use their numbers to grab off the best spots for themselves and install their allies in the rest.
>
> You can make a selfish argument for term limits if you come from one of the mega states. But there is every reason for small- and medium-sized states to oppose that change in the Constitution.

Mr. President, term limits are premised on an illusion of rampant careerism. The fact is, voters already are limiting tenure—selectively. And many members have bowed out voluntarily. Over half of the House of Representatives arrived since 1990 and over half of the Senate was elected since 1984. The right to vote is the right to limit tenure. Much ado is made over the high reelection rates of those incumbents who choose to run for reelection. However, this ignores the self-selection element inherent in those rates. Some members—it can only be speculated which ones—choose to retire rather than risk defeat. Particularly, those wounded by scandal. Moreover, incumbents—but for the few who were first appointed to office—were first elected as challengers or in open seats. It stands to reason that the qualities which made them admirable in their first election would often propel them to victory in subsequent elections.

And what of competition, post-term limits? It is persuasively argued that competition would actually decrease because able candidates would bide their time until a seat opened up rather than risk an uphill fight against an incumbent. This is a phenomenon we see on occasion in the current system. I expect the frequency would increase dramatically under term limits.

People should not be denied the right to vote for someone simply because of an arbitrary term limit. As Robert Livingston noted two centuries ago: "The people are the best judges who ought to represent them. To dictate and control them, to tell them whom they shall not elect, is to abridge their natural rights."

Yet at its root, term limits conclude that people are capable of only limited self-governance. I wonder, do people in these polls that are cited fault themselves in their support of term limits or are they passing judgment on the irresponsibility of other electorates, in states and districts other than their own? It has been argued by term limit proponents that voters' inability to vote against candidates in other states and districts cries out for arbitrary term limits. Evidently, voters in other states and districts are not trustworthy. Take that premise and run with it.

Perhaps Americans should be able to vote in every election everywhere because lawmakers at all levels of Government can increasingly affect people outside the scope of their own electorate. That is a reform that surely, and correctly, would be rejected. In any event, citizens in one State can affect election outcomes in another by participating in politics through campaign contributions. That is a laudable, legal and constitutional manner in which to hold accountable lawmakers one cannot legally vote against.

In hindsight, among the most interesting observations made by term limit supporters two hundred years ago was that they were necessary because the Federal City would be an Eden from which Members and their families could not bear to part.

The reality hardly needs elaborating. At best, Washington, DC—with its crime, potholes, filth, and corruption—has become a sort of purgatory from which most of us can hardly wait to flee and go home to our States.

Where is the logic in the absurd notion that Government is the only arena in which experience is a bad thing? Experience is desirable in every other venue—professional and otherwise—that I am aware of. Experience certainly did not impair Henry Clay, John Sherman Cooper, Howard Baker, Everett Dirksen, Sam Rayburn, Arthur Vandenburg, and Sam Ervin's commitment to serve the national interest. To name just a few.

There are many in this Senate today who have served far more than two terms whose service has been nothing short of heroic. Experience has made them better and braver. It steels them against many shortsighted proposals. But I will not name names because in this environment to highlight a Member's lengthy service on national television could be construed as a rule 19 transgression. In a term limited future, we would see fewer of their caliber.

God willing, the Senate will never again be confronted with a war resolution. But if it is in, say, another generation, I hope there are some Members who experienced the Persian Gulf war debate. And who had to cast that vote. It was a debate which itself benefited from the presence of Members who served in the Vietnam-era Senate.

Senators, no matter how bright, educated, eager, or accomplished, do not know anywhere near all they need to when they arrive here. Parliamentary procedure is mastered with experience. Defense, commerce, finance, environment, energy, and agriculture issues take time to learn. Does any nonincumbent candidate even know upon which committees they will serve?

Term limits, however well-intentioned, are terribly dangerous. We would do the American people no favor in passing this constitutional amendment and would cause great harm in the future. Constitutional amendments such as this one are forever. Only one—the 18th instituting prohibition—has ever been repealed. And we cannot presume to ever be missed so much as Americans missed their bourbon.

Mr. FEINGOLD. Madam President, I want to begin by commending the Senator from Tennessee, the Senator from Missouri, and others, who I believe are sincere in their belief on the need for fundamental reforms in Congress.

I disagree with their approach on this issue, but it would be nearly impossible to dispute that the American people expect the Congress to pass meaningful reforms of this institution and they are expecting those reforms soon.

Madam President, it is a troubling reality that more and more Americans are finding it difficult to trust their Government and their elected officials. Trusting your Government and having faith in your elected leaders is perhaps the most fundamental tenet of American democracy.

Unfortunately, this trust and faith has been shattered by a culture of special interest influence that has convinced the American people that their elected representatives are no longer working in the people's interest, but rather for their own and special interests.

But the proposed solution to changing those negative perceptions that we are debating today would, I believe, represent a profound retreat from the principle of representative government itself.

Moreover, what we are debating is yet another proposed fundamental change to the U.S. Constitution. Consider that already in the 104th Congress we have debated and voted on a constitutional amendment to balance the budget and a constitutional amendment to prohibit individuals from dishonoring the American flag.

It should be pointed out that in the entire 209-year history of our Nation that, excluding the Bill of Rights, we have amended the Constitution just 17 times. Just 17 times Mr. President, in over 200 years.

And yet in the 104th Congress alone, almost 140 constitutional amendments have been introduced, from issues ranging from the balanced budget, to tax increases, to flag burning, to school prayer, to the abortion issue and so on.

Madam President, I do not believe that we should seek to solve every social ill in our country by making radical alterations to a document that was so carefully crafted 200 years ago and that has provided remarkable guidance to our Nation for so long. We must find alternative solutions.

It has, in fact, been well established that the Framers of the Constitution did not believe congressional term limits would be beneficial to the new nation.

Let me quote James Madison, the architect of the Constitution, in Federalist Paper No. 53. He wrote the following about his vision of a Congress:

> A few of the members, as happens in all such assemblies, will possess superior talents; will, by frequent re-elections, become members of long standing; will be thoroughly masters of public business. . . . The greater the proportion of new members and the less the information of the bulk of the members, the more apt they will be to fall into the snares that may be laid for them.

It is this point of Madison's that I would like to underscore and that I believe illustrates why it is so important to have a mix of individuals—some experienced and seasoned, others newly elected—serving in the U.S. Senate. Moreover, it is important for us to consider how the history of the U.S. Senate and this Nation might have been different had term limitations been in effect for the past 200 years.

We have had some truly outstanding individuals serve in the U.S. Senate. Republican or Democratic, Conservative, or Liberal, these individuals, whether you agreed with them or not, were defined not only by their tremendous legislative accomplishments but also by their character and the principles they often stood and fought for.

Had we had term limits, a great number of these individuals would have been needlessly forced out of office.

I am sure that all of my colleagues at one time or another have spent time in the Senate reception room, just outside this Chamber, and noticed the magnificent portraits hanging in that room.

In 1955, the U.S. Senate established a commission headed by Senator John F. Kennedy, charging that commission with the responsibility of designating the five greatest U.S. Senators in our Nation's history.

After substantial input from other Senators and the academic community, the commission chose Henry Clay, Daniel Webster, John C. Calhoun, Robert M. LaFollette, Sr., and Robert A. Taft, Sr., Portraits of these five Senators are hanging today in the Senate reception room.

Clearly, the great legislative and oratory skills exercised by these great figures can be directly attributed to their extended years of service in the U.S. Senate. Interestingly, not a single one of these five greatest Senators served in the Senate for less than 12 years. Taft was the novice, having served only 14 years. Calhoun served 19 years, LaFollette served 22 years and Clay and Webster each served 24 years.

And these five Senators are certainly not alone. The history books are full of names such as Humphrey, Dirksen, Goldwater, Hart, and so on.

I believe that having experienced Senators in this body is not only healthy for our democracy, but critical to our ability to responsibly carry out the constitutional duties of the legislative branch of Government.

Madam President, as a relatively new Member to this body, it has been personally beneficial and an honor to serve with some of the more senior Members, such as the senior Senator from West Virginia, whose mere presence reminds us all of the importance of maintaining a sense of respect and civility and the need to pay deference to this institution and the traditions associated with it that have enduring value.

And think about so many effective and honorable Members of the current U.S. Senate whose services would be lost if a term limits law was in effect.

In all, 44 current Members of this body—almost half—would not have the ability to continue as U.S. Senators because they have been here for more than 12 years.

Mr. President, judging an elected official's commitment, their dedication and their competence by an arbitrary time limit is senseless. Term limits supporters seem to suggest that representing the people is the one profession in America in which having experience makes you underqualified for the job.

We must remember that what term limits supporters are asking us to do is to take away the cornerstone of a representative democracy—the right to vote for the candidate of your choice. More than anything else, the freedoms associated with the right to vote are what make Americans the envy of the modern world. We should not take that right away from the American people.

We have heard a lot of talk, Mr. President, during this Congress about the importance of devolution, and returning control over local matters to State and local governments. The majority leader wants to "dust off the 10th amendment" and we have been told time after time that the Federal Government should stay out of State and local decisionmaking.

Well, Mr. President, the legislation before us today makes a mockery out of that principle. The legislation before us provides that the Federal Government will automatically disqualify certain individuals from representing their States and local communities.

I believe, and the Framers clearly believed, that neither residents of other States nor elected representatives of other States have the right to tell the people of Wisconsin who they can and cannot vote for, other than the qualifications that are enumerated in the Constitution.

And that is what term limits is all about—telling the American people that they are prohibited from voting for a particular representative because that individual has bumped up against some arbitrary deadline.

Supporters of term limits argue that if elected officials know that they are only serving for a set amount of time and do not have to be concerned with frequent campaigning, these representatives will be more apt to work in the public's interest, and not their own.

Quite frankly, I find this hard to believe. Numerous historical documents demonstrate that the Framers included the concept of frequent elections to the Congress to make representatives directly accountable to those they represent.

The rationale was, if a legislator did his job, and adequately represented his constituents and advanced what was in their collective best interests, that representative would be rewarded by reelection. If the legislator was irresponsible, did not perform or fulfill his duties, the voters would exercise their right to replace that particular representative. The ballot box, as it was intended to be by the Framers, is essentially a job performance review for Members of Congress.

But term limits would nullify this check, taking these sort of decisions out of the hands of the voters.

Moreover, if a Senator is in their final term, knowing they cannot be reelected, it would seem to me that they would be less likely to represent the best interests of their constituents and more likely to represent their own self-interests.

After all, they can no longer serve in Congress, they will have to seek future outside employment—maybe with a Washington DC, special interest group or lobbying firm. The argument that term limits would make elected officials more responsible legislators was raised over 200 years ago at the New York ratification convention, to which Alexander Hamilton replied, "When a man knows he must quit his station, let his merit be what it may, he will turn his attention chiefly to his own emolument."

Supporters would have us believe that our current system would be supplanted with a class of citizen-legislators, who are less concerned about a career of politics and more concerned about being a truly deliberative body than they are with responding to the whims of the electorate.

This line of reasoning sounds like an attempt to reinvent the wheel. First of all, the Congress of the United States is already comprised of a diverse groups of individuals with unique backgrounds in a variety of fields, including education, law, business, journalism, medicine, and yes, politics. Virtually every one of us held jobs in the private sector before we ran for public office, and we will all eventually return to the private sector either when we decide to retire or when our employers, the voters, believe we have overstayed our welcome.

I would like to briefly respond to those who suggest that seeking a career in public service is somehow an inherent character flaw. First, let me say that the list of "professional politicians" begins with names such as Madison and Jefferson, and ends with figures such as Roosevelt and Kennedy. We should remember that these individuals were truly public servants, and gave little thought to what Alexander Hamilton referred to as "personal emolument."

They inspired many of us to enter into public service because we too thought it was a noble and honorable thing to do.

Madam President, as I said from the outset, I agree with many of the assumptions and concerns that term limits supporters put forth in their arguments.

The election scales today are unquestionably weighted unevenly toward incumbents, and challengers do not have an adequate opportunity to unseat sitting Members of Congress.

One very viable alternative to term limits that does not require amending the Constitution—and what I believe represents one of the most important issues facing us today—is the opportunity to reform our campaign finance laws. I am convinced that fundamental campaign finance reform would cure the ills of incumbency that have been derided by term limits supporters and what have unquestionably contributed to the deterioration of fair and competitive congressional elections.

That is why I have joined others, including some very noted term limits supporters such as the senior Senator from Arizona, Senator McCAIN, the Senator from Tennessee, Senator THOMPSON, and others in offering the first bipartisan and bicameral campaign finance reform bill in nearly a decade.

This bill has an enormously broad range of bipartisan support. Fifty-six Members of the 104th Congress, including 25 Republicans and 31 Democrats, have signed on to the House and Senate bills. The President supports it. The Ross Perot organization supports it. Common Cause, Public Citizen and newspaper editorials from around the country have endorsed the McCain-Feingold-Thompson legislation.

And while only 45 Senators voted earlier this year for a sense of the Senate that we should consider term limits legislation, 57 Senators voted for the resolution I offered last year stating that we should consider campaign finance reform legislation prior to the conclusion of the 104th Congress.

This body recently demonstrated on the issue of health reform that Senators from the two parties can set aside their partisan and ideological differences, compromise when necessary and produce a meaningful piece of legislation that will help a great number of people.

Campaign finance reform is no different, and I am convinced that there are enough Senators who care about this issue, including many of the supporters of term limits, who can come together and pass a meaningful and comprehensive reform bill.

Term limits are no doubt a popular idea, but so is comprehensive campaign finance reform. And if we can solve a problem that all parties seem to agree exists—that is, the unfair advantages held by incumbents—by means other than a constitutional amendment, we should aggressively pursue that avenue before considering such a fundamental change to our Constitution.

In a society that considers the right to vote its national treasure and most sacred natural resource, term limits may be the ultimate form of an intrusive and overreaching Federal Government. I urge my colleague to reject this latest proposed change to our Constitution.

Mr. KEMPTHORNE. Mr. President, I rise today in support of Senate Joint Resolution 21 proposing a constitutional amendment to limit the terms for Members of Congress to two terms in the Senate and six terms in the House of Representatives.

This Congress has passed some critical pieces of legislation, many of which effectively limit the role of the Federal Government in the everyday lives of citizens and shift power back to the States. Members on both sides of the aisle worked together in a bipartisan manner to enact legislation such as the Congressional Accountability Act, the Unfunded Mandate Reform Act, and even the Line-Item Veto Act, all which improve the responsiveness of Congress to the people. In this same vein of limited government, accountability, and States rights I strongly support passage of Senate Joint Resolution 21 before us today.

Term limit legislation is an important issue to the voters of Idaho. Since 1990, 23 States, including Idaho, have clearly voiced their support for limiting congressional terms. In 1994, Idahoans overwhelmingly approved a ballot measure supporting term limits. However, on May 22, 1995, the U.S. Supreme Court, in U.S. Term Limits versus Thorton ruled that State-imposed term limits are unconstitutional. With the Supreme Court decision against State-imposed term limits, the only avenue left to implement the will of the people is through passage of a constitutional amendment.

Our Founding Fathers envisioned a citizen legislature where Members would do their civic duty and then return home. Individuals from all walks of life could bring new ideas and special talents to this body. The natural rotation in office was what was expected by the public and demonstrated by the public servants. But over the years, this practice has changed.

The Framers of our Constitution pictured private citizens—not career politicians—who took time to serve their country. A rotation of service in Congress allows for new people to participate in the legislative process. As Thomas Jefferson stated about tenure for congressional Members, he said, "(m)y reason for fixing them for a term of years, rather than life, was that they might have an idea that they were at a certain period to return into the mass of the people and become the governed instead of the governors * * *."

Far too many Members stay in our Nation's Capital too long, losing touch with their constituency. The time is here for Congress to pass legislation to constitutionally limit the tenure of Members of Congress. I believe we should let the States have the opportunity to ratify a constitutional amendment to limit the terms of Members of Congress.

As we discuss term limitations, we are not without precedent for Federal term limitations. We are a co-equal branch of Government with the executive branch. But with the ratification of the 22d amendment in 1957, the American people imposed term limits on the executive branch. If service for the President of the United States should be limited, why shouldn't the legislative branch be treated equally?

In 1992, on the 4th of July, in fact, as a candidate for the U.S. Senate, I pledged my support to constitutionally limit the length of time a citizen may serve in the U.S. House of Representatives and the U.S. Senate. I have kept my promise. During my first year in the U.S. Senate I cosponsored term limit legislation. And last year, I cosponsored Senate Joint Resolution 21, which is before us today, to propose a constitutional amendment to limit the terms of Members of Congress.

Not only do I believe I have kept my promise to the people of Idaho, I believe I have kept an unspoken promise to the Framers of our Constitution.

In fact, as presented in the Federalist Papers, No. 57, James Madison wrote,

> The aim of every political constitution is, or ought to be, first to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of the society; and * * * to take the most effectual precautions for keeping them virtuous whilst they continue to hold their public office.

James Madison continued to write, that the most effective way to prevent degeneracy of representation is that "a limitation of the term of appointments * * * will maintain a proper responsibility to the people."

In conclusion, I believe we can achieve this ideal envisioned by our Founding Fathers by enacting 12-year term limits within each Chamber of Congress—two terms in the Senate and six terms in the House. It is this Senator's view that term limits would improve the efficiency of the Congress and make it more responsible to the people of this great Nation. Let us pass Senate Joint Resolution 21 and give the States the power to decide if there ought to be term limitations on Members of Congress.

Mr. THOMPSON. Madam President, how much time do we have remaining?

The PRESIDING OFFICER. Twenty-two minutes.

Mr. LEAHY. How much time is on this side, Madam President?

The PRESIDING OFFICER. I am told it is 22 on the Democratic side, and 12 minutes and 15 seconds on the Republican side.

Mr. LEAHY. Madam President, if the Senator from Tennessee and the Senator from Missouri do not mind, I will yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I hope that the American people are not being fooled by what is going on in connection with Senate "nonconsideration" of this proposed constitutional amendment to impose term limits. Basically, the way it was zipped through the Judiciary Committee and called up here with a protective series of amendments and a cloture petition was done in such a way that you cannot even attempt to amend it. It is bumper-sticker politics. It is campaign fodder. But it is not a serious debate. I say that meaning no disrespect for the handful of Senators—and it really is only a handful of Senators—in this body who actually do want a constitutional amendment on term limits.

The way this has been set up almost guarantees that there will be no cloture voted. Certainly guarantees that my amendment, which would make it apply to each of us and thus make it real term limits, could not be voted on. Some want to be able to stand up and say, "I was for term limits. Gosh, what a shame we did not get to vote on it." And they will blame everybody else.

I suspect that we will probably see the Whitewater prosecutor coming in and blaming the President and the First Lady for this. Lord knows, he is blamed for just about everything else, from tornadoes to whether they made $1,000 or lost $1,000.

Frankly, I feel sorry for my good friend from Tennessee, whom I know does believe strongly in favor of term limits but is being put through a charade. The charade is this: In the first 5 minutes of consideration last Friday, the Republican leadership acted to ensure two things—that the proposal would not be fully debatable and amendable, and that there would be no votes on the merits in the Senate this year.

I regret that the American people have to endure this surreal display by a body that is yet to complete action on the budget, or appropriations, for the fiscal year that is more than half over.

Debate has been cut out. This constitutional amendment is really an incumbent's protection limit bill. Understand, Madam President, what it means. The American people think that we are voting for term limits. We are not.

If we were to pass this in the House and Senate and send it to the States for ratification, do you know what this means? It means that a five-term Senator in this body who voted for term limits could have three more terms. They are not limited to two. They could have eight. I know that there are Senators who say they are for term limits, and apparently, on at least one occasion, have been for term limits before I was born. But they will keep on being here. They will keep on running. This does not limit them.

For example, consider a fourth-term Senator under this provision. The Senator could have at the very least two more terms and probably have three more terms under this amendment for a total of six or seven, not just two terms. That Senator could end up voting for term limits and become a seven-term Senator.

What the proposed amendment does say is that somewhere way out into the next century those men and women running for office could be limited, but not those of us who are here. We protect ourselves under this.

What we have is a case where you could say you are voting for a constitutional amendment to consider limits on everybody else, but we end up protecting ourselves.

So it is like Moliere's "Tartuffe." In that play, a hypocrite succeeds for a time in fooling others and profiting from their naivete and trust. In the play, as here, in the end the hypocrisy is revealed and justice is done.

The fundamental hypocrisy in this term limits debate is that is has been orchestrated to include a special exemption for current Members of Congress. It has been designed expressly to disregard the full terms of service of current Members. This is guaranteed.

For example—I only take these out as examples—I have great respect for our distinguished President pro tempore who was first elected to the Senate some 40 years ago—some 40 years ago, when I was 15, and has served in the Senate since I was 15. He would be able to run for at least three more terms. Knowing him, I suspect that he would be healthy enough to do it.

Our Judiciary Chairman observed in his additional views to the Committee report: "[I] have no personal interest in the prospects of such an amendment. Even were it to be passed by Congress and ratified by the States in relatively short order, it likely would not bar me from running for reelection until the year 2012, when I would be a spry 78 years of age. There are many things that I hope to be doing in the year 2012. Running for reelection is not on the list."

I want to commend the House Judiciary Committee Chairman and our Senate Judiciary Committee Chairman for being honest in their views and declaring their opposition to term limits from the outset. Chairman Hyde made an impassioned speech on the House floor during their debate last year and Chairman HATCH observed in his additional views in the Committee report his "strong reservations" against the proposal and his reasons for them.

I just worry that what much of the Senate is saying is one thing but what we are doing is something entirely different. In his column over the last weekend, George Will may have said it best when he noted that the Republican majority is "deceiving the country about a principle of constitutional dimension."

If people really want to take this seriously, they would be moving to vote on the Leahy amendment, which would say any constitutional amendment would take effect immediately upon ratification without a special exemption for sitting Members. Obviously, you could finish serving the term you were in, but if that was your second or greater term, you could not run again. Instead, the way this is set up, a Senator can be in his fourth or fifth term, and run for as many as three more terms.

If we intend to consider term limits, let us make it a real term limit. If not, then what we are doing is simply playing games.

When I look at my own State, my predecessor Republican was elected the year I was born and served until I got here. The people in each of our States make up their minds about what makes sense in term limits. As the representative of a small State, I am acutely aware that we fulfil the purposes of the Senate and the best interests of our States when we obtain a bit of seniority and a track record on the issues. I urge all of our colleagues from smaller States to consider on this point the additional views of Senator BIDEN and Senator HATCH from the Committee report. As Senator BIDEN eloquently noted, the Connecticut Compromise and the equality of small States are put at issue by this proposed constitutional amendment. Term limits were viewed by the Founders as both "pernicious" and "ill-founded".

I have an enormous amount of respect for the distinguished majority leader. I have served with him throughout my whole Senate career. But he would have had to leave at the end of my first term had there been a 2-term limit in effect. The distinguished majority leader is one of the most able legislators of either party with whom I have served. I think that the country is better off because he is here. I hope that does not hurt his standing back home, but I mean it most sincerely.

This could be said of all of the majority and minority leaders we have had here in both parties. These have been extremely able people—Senator Mansfield, Senator Baker, Senator BYRD, Senator Mitchell, Senator DOLE, and Senator Scott. These are people that we would not have seen under term limits.

I must oppose what I perceive to be a growing fascination with laying waste to our Constitutions and the protections that have served us well for over 200 years. The First Amendment, separation of powers, the power of the purse, the right of the people to elect their representatives, should be supported and defended. That is the oath that we swore when we entered this public service. That is our duty to those who forged this great document, our commitment to our constituents and our legacy to those who will succeed us.

The Constitution should not be amended by sound bite. This proposed constitutional amendment evidences a distrust not just of congressional representatives but of those who sent us here, the people of our States. Term limits would restrict the freedom of the electorate to choose and are based on disdain for their unfettered judgment. These are not so much term limits as limits on the electorate to choose their representatives.

To those who argue that this proposal will embolden us or provide us added independence because we will not be concerned about reelection, I would argue that you are turning our democracy on its head. This proposal would have the effect of eliminating accountability, not increasing it.

It is precisely when we stand for reelection that the people, our constituents, have the opportunity to hold us accountable. This proposal would eliminate that accountability by removing opportunities for the people to reaffirm or reject our representation. It would make each of us a lame duck immediately upon reelection.

My fundamental objection to the proposed constitutional amendment is this: It is, at base, distrustful of the electorate. It does not limit candidates so much as it limits the rights of the people to choose whoever they want to represent them. We should be acting to legislate more responsively and responsibly, not to close off elections by making some candidates off limits to the voters. I will put my faith in the people of Vermont and keep faith with them to uphold the Constitution.

Now, let me ask, Madam President, I would like the opportunity to call up my amendment. I filed it to the underlying bill and to the variety of procedural alternatives filed by the Republican majority. It is my understanding that in the procedural posture that we have been put, I cannot call up my amendment as Leahy amendment Nos. 3700, 3701, 3702, or the four second-degree amendments I filed earlier this afternoon.

Is my understanding correct that no Leahy amendment is in order?

The PRESIDING OFFICER. At this point, there is no amendment in order, and the Senator's time has expired.

Mr. LEAHY. I yield myself 1 more minute.

Madam President, would my amendments be in order if cloture was voted?

The PRESIDING OFFICER. Until an amendment is acted upon, no further amendment is in order.

Mr. LEAHY. At some time, Madam President, when my amendments are still pending and all other amendments have been acted on, would they be in order under cloture?

The PRESIDING OFFICER. If the pending amendments are not acted on within the 30 hours, no other amendments would be in order.

Mr. LEAHY. Is it the Chair's ruling that if you had an amendment pending and the 30 hours ran out, that it would not be voted on even though there was no time for debate?

The PRESIDING OFFICER. All of the pending amendments could be acted on but no further amendment could be called up.

Mr. LEAHY. Madam President, what the Chair is saying, for a layman, is that the Republican leadership has set up a way to make sure that nobody would be able to vote on a true term limit amendment, that is, one that was retroactive in the sense that it would apply to us. Rather, the situation we are in is one in which we could only vote on something that would allow a fourth or fifth or sixth-term Senator to still run for as many as three more terms.

I yield the floor. I reserve the remainder of my time.

Mr. THOMPSON. Madam President, I yield the remaining time to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Madam President, I thank you very much for this opportunity to speak. I express my deep appreciation to the majority leader for scheduling this historic opportunity for the Senate to act in a way which will allow the States to make a decision about whether or not to amend the Constitution of the United States to limit the terms of those of us who serve in the Congress.

Senator DOLE, by bringing this issue to the floor when no other leader has been willing to do so for the last several decades, has staked himself clearly on the side of the American people, the 70 to 80 percent of the American people who have endorsed term limits. And they have done so knowingly. They have done so having had experience. They understand that the President of the United States has been term limited since the early 1950's, that the Governors of 41 States are term limited, that legislatures in a number of States are term limited, that city councils are term limited from New York to Los Angeles and many cities in between, and State officials in addition to the Governor. What we find is that there is a tremendous exception that has been carved out for the Congress.

The suggestion that somehow the proposal before the Congress today does not involve real term limits because they are not retroactive really flies in the face of what the people across this country have done regarding term limits at home, for their city councils, for their Governors, for their State legislatures. It flies in the face of their efforts because none of their efforts really provide for all this retroactivity.

When the people have spoken, they have decided that our laws should operate prospectively. This amendment would say that after its enactment, if it were to be embraced by the States, no person could be elected more than twice.

I believe that is a step in the right direction. It is a step in the right direction, and it is a necessary step because it reflects the will of the people. We need to accord to the people the opportunity to make a judgment about whether they want to amend the Constitution of the United States so as to impose term limits on the Congress.

There have been those who have come to say that this is an idea of passionate demagogs, who as a result of frustration in the body politic have now somehow embraced this issue because it is one for demagogs.

This issue was close to the heart of Thomas Jefferson. It was close to the heart of Richard Henry Lee. It was part of the debate at the founding of our Republic. And then when they find out they do not want to call Thomas Jefferson a demagog and they do not want to say that Richard Henry Lee was a passionate individual just trying to play upon the passions of the voters, they say, well, they decided against term limits for the Senate and House and therefore the decision has been made and we must respect it.

In all honesty, we have to understand that the Senate is a different body than it was when the Founding Fathers created it. When the Founding Fathers assembled our Constitution and when it was embraced by the colonies which were States, the Senate was not composed of people elected in popular elections. It was composed of individuals who were sent here by the State legislatures. None of the problems with elections, none of the problems with campaign financing, none of the incredible value to incumbents had surfaced. The Founding Fathers could not possibly have anticipated that the Senate would need term limits because none of them really anticipated the popular election of Senators.

So for us to say that we need to give States the opportunity to implement or employ term limits is for us to allow the people of the United States to fine tune a change they have already made to the Constitution. The change already made was to provide for the popular election of Senators which resulted in the campaigns we see, resulted in the influence of resources in the campaigns, and it is high time that we be able to correct an adjustment which we already made.

It is an adjustment which has tilted the playing field so dramatically toward incumbents that incumbency is a virtual guarantee of reelection. Nine out of every 10 incumbents end up being reelected. It is no wonder then when there are incumbencies the number of people who are running for office is constricted. People do not bother to try to get involved. That offends a fundamental value of America which is access and participation.

It is kind of interesting to look back. Two years ago I was running for the Senate. One of my opponents was a Member of the House. In the year before he chose to step down and run for the Senate, there were only two candidates. This year there are only two candidates for his seat. But in the year it was an open seat, there were 11 candidates. Some people say that to have term limits would reduce the number of choices. If you reduce it from 11 to 2, I think it is an exponential explosion in the number of choices. So the real choice would be expanded by term limits, not limited.

Then there are those who say we have to have experience in the House and Senate. Nothing would keep us from having experience. People who are experienced in State government, people experienced in the House move to the Senate. People experienced in the Senate move to the House. They would not have the value of incumbency to tilt the playing field.

More importantly, I think it is essential that we recognize there is experience in this life that counts every bit as much as experience in the House or the Senate, and the people of America know about that experience. It is the experience of raising families. It is the experience of living under the laws. It is the experience of the private sector.

One of our colleagues said that we needed the experience of one Senator who is particularly good in the area of scientific awareness. Well, for Heaven's sake, the Senate is not the repository of science in America. We need to welcome people from outside who know about science. And as I think about my colleague from Tennessee, who is a surgeon in heart transplantation, that is the kind of experience you cannot get in the Senate. When we talk about things relating to medical challenges and how we are going to solve problems of access for people regarding health care, we have to listen carefully to experience that comes from beyond Government. People of America know that the future of this country is far too important to trust to Government alone or to those who are experienced in Government alone. We need to welcome experience from far beyond just the governmental sector. I think it is important to listen to what George Washington said. Washington said:

> Nor can the Members of Congress exempt themselves from consequences of any unjust and tyrannical acts which they may impose upon others for in a short time they will mingle with the mass of the people.

It was anticipated that Members of the Congress would shortly mingle with the mass of the people. One of those who has debated in this Chamber suggested that the anticipation of mingling with the mass of the people might somehow undermine the commitment of a person for service.

George Washington saw it absolutely opposite. He thought that people who knew they were going to have to go out there and live with the people would render better service, not render lesser service; that their service would be more noble. And how do you measure nobility? By whether or not it makes it better for the general public, whether it elevates the general welfare. George Washington said beware because you will have to be mingling with the public. I think every Member of the House and Senate should look forward to mingling with the public. They should look forward to going home. They should look forward to being in a situation at a time and place when they live under the laws that we not only propose but under the laws which we enact.

So we have a tremendous opportunity. It is an opportunity which will reinforce fundamental values of America.

The people's will must be served. Let me just reinforce this point. Seventy to 80 percent of Americans, with the knowledge of 50 years of experience of term limits, say, "It is something we want, we like."

I think we ought to represent the people to the extent we are saying, "If you think you like that, let us give you a choice," not impose term limits on them, but let us send it out to the States and create a great debate about it and let States determine whether or not they want term limits. Let the people participate.

Seventy-four percent of the American people, according to one poll, support term limits. Twenty-three States, almost all of which had the initiative so that people could start the movement for term limits themselves with petitions, have enacted term limits.

We have the new "electronics to petition the Congress." Over 50,000 people visited the home page for term limits here in the U.S. Senate. Well over 7,000 people signed the petition. Of those—it was overwhelmingly in favor of term limits.

I believe that, in a democracy, we should accord to the people the opportunity to make decisions. We should trust them.

Then there is this idea, "Oh, somehow we have to be careful that we do not find ourselves absent the talent." There has been a wonderful parade of public figures oratorically through the Chamber of all the people who were here and who might not have been able to serve for life or for extended periods had we had term limits.

If George Washington had thought that he was the only person who could lead America, he would not have walked away after two terms. If Thomas Jefferson had thought that there was a limited pool of talent, that the American people were a very shallow pool and you could not trust anyone else but them, he would not have walked away. President after President walked away for the first 100 years of this Republic because they had a different kind of confidence in the American people than we have heard expressed all too often here. They had a confidence that there was greatness in this Republic and it was not limited to a few who had been elected.

I was interested in what those people who wrote me on the Internet had to say. One was "7100" who communicated, who said:

> I see that you're a Republican. I'm not. This is one issue, however, more important to me than the success of any party.

Another said:

> Serving the public was never meant to be a way to amass power and money. Our Founding Fathers would be ashamed. Please stop the insanity and pass term limits now.

I think what we have is a great opportunity to say to the people, "We welcome your participation in Government." We hope that more people will find their way into elections, and they will if there are fewer incumbencies that are extremely well funded. We hope that more people will find their way into office to bring the wisdom of America to Washington, DC.

We do not distrust the talent of the American people. We think there are plenty of people who are capable of serving.

We think that the nature of real choice will be expanded, and we think that there will be the evidence of a discipline in the Senate which will come from individuals who expect to return to mingle with the public.

There are those who have said, "Well, unless we make term limits retroactive so that we will virtually say anybody who has already served two terms will be out from the date of enactment forward, we will not have real term limits." Let me tell you, that is not the way term limits have ever worked. The American people know how term limits work. They have seen it work in their city councils, they have seen it work in their States, they have seen it work for 40-plus Governors, and they have seen it work for the President of the United States. The truth of the matter is, so many of those individuals who suggest they want that kind of term limits are opposing term limits altogether.

Madam President, I ask unanimous consent for 1 minute in which to conclude.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. Madam President, the fundamental values of the American people compel us to accord them the opportunity to evaluate an amendment to the Constitution proposing term limits, the value of choice, the value of representing the people, the value of access and participation in politics and the value of limited power.

All of these components of American history, all of these principles by which we have stood are the principles which call upon us now in the voices of 70 to 80 percent of the population in saying to us, "Give us the opportunity to participate in Government by ratifying an amendment to the U.S. Constitution which would limit terms of Members of the U.S. Congress."

I thank the Chair.

The PRESIDING OFFICER. All time has expired for the majority side. Is there anyone seeking recognition from the minority side?

Mr. THOMPSON. Madam President, I am informed that we have permission to yield back the time of the minority.

CLOTURE MOTION

The PRESIDING OFFICER. All time having been yielded back, under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the committee substitute to Calendar No. 201, Senate Joint Resolution 21, a joint resolution proposing a constitutional amendment to limit Congressional terms.

Bob Dole, Fred Thompson, Spence Abraham, Rod Grams, Mike DeWine, John Ashcroft, Craig Thomas, Jon Kyl, Trent Lott, John McCain, Slade Gorton, Rick Santorum, Bill Frist, Larry E. Craig, Paul Coverdell, Lauch Faircloth.

CALL OF THE ROLL

The PRESIDING OFFICER. The mandatory quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the committee substitute to Senate Joint Resolution 21, a joint resolution proposing a constitutional amendment to limit congressional terms, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 58, nays 42, as follows:

[Rollcall Vote No. 79 Leg.]

YEAS—58

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Exon
Faircloth
Feinstein
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kohl
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NAYS—42

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Feingold
Ford
Glenn
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wyden

The PRESIDING OFFICER (Mr. COVERDELL). On this vote, the yeas are 58, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. DASCHLE. I move to reconsider the vote.

Ms. MOSELEY-BRAUN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

Mr. President, I withdraw that request. I understand the Senator from Maryland has some remarks he would like to make.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maryland.

A TRIBUTE TO CHRISTINE MIKULSKI

Mr. SARBANES. Mr. President, as I think most of our colleagues know, Mrs. Christine Mikulski, the mother of our dear friend and colleague, Senator BARBARA MIKULSKI, passed away on March 31, during our Easter recess.

My wife and I were fortunate to know "Miss Chris," as she was known to all, for many years, and were privileged to call her our friend.

Miss Chris was enormously proud of the accomplishments of her daughter, our colleague, Senator BARBARA MIKULSKI, as indeed are we all. Miss Chris played a key role in all of BARBARA's campaigns, and a key role in BARBARA's life, to really be very explicit about it. She was an effective and enthusiastic volunteer in Senator MIKULSKI's constituent service office in her home neighborhood of Highlandtown in east Baltimore. Indeed, she became known as Miss Chris, the First Lady of Highlandtown. And, indeed, she was a first lady.

Miss Chris was an extraordinary woman beloved by her family and friends. She was part of that immigrant generation—her father was born in Poland—that built our Nation over the early decades of this century. She reflected that determination of spirit, courage and strength of character, which are exactly the values we hold out to our young people to emulate today.

In an eloquent and heartfelt tribute at the funeral service on Wednesday, April 3, Senator MIKULSKI spoke movingly about her mother and about the many ways in which her mother was so special to her family, her community, her church, and all who were privileged to know her. I simply wanted to take this opportunity to share with my colleagues Senator MIKULSKI's eloquent tribute to her mother on that occasion.

I ask unanimous consent that her tribute be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR BARBARA A. MIKULSKI

My mother would have been pleased by this gathering. She would have been honored that so many people came today. She would have been pleased to have her family here today. She would have been honored that the Governor and the mayor were here.

My mother would have been honored that Senator Paul Sarbanes, members of Congress, and the Baltimore City Council were here today. She would have loved that members of her clubs and organizations were here.

She would have also loved the fact that she made the headlines in the Baltimore Sun and the Washington Post. That she was on radio and television. That Richard Scher announced her favorite name—the First Lady of Highlandtown.

She would have been touched by the fact that the President of the United States called to express his condolences and that Vice President Al Gore called because he very much wanted me to bring my mother to lunch at their home in Washington. He was sorry that he and Tipper never met my mother.

My mother, as you know was a very determined lady. She always planned ahead. She had very specific instructions about today and the way she wanted to be remembered. In her final days, with the illness fast overtaking her, she gave me some very specific instructions about today.

One of those was to be sure to thank everybody. You know my mother was an enormously courteous and considerate woman. So there were certain thank you's she wanted me to give for her. I'd also like to say they are from me and my family.

First she said be sure to thank the priests. Thank the priests of Loyola College. Other priests in the audience.

My mother particularly wanted me to thank the priest of Holy Rosary, where she was baptized, went to school, and married. She also wanted me to thank the priests here at Sacred Heart, her home parish for more than 50 years. She said say thanks to the priests at Sacred Heart for their prayers, where we made our first communion, graduation, and where we went to school.

Father Ed Foley, she particularly wanted me to thank you for bringing her communion every day throughout the days she was shut-in. As she would always say to you when you left, "Father, I am very grateful."

She wanted me particularly to thank the nuns. All of those who are here, who taught my sisters and me. The holy nuns who ran the day care center, she wanted to say thanks to you all for the good work that you do and for what you meant to our family.

My mother wanted me to thank the Sisters of Mercy. The Sisters of Mercy who educated my sisters and me, who ran the hospital where my sisters and me were born. My mother said thank you. It was there that we were born, it was there that she died. It was there she went during so many emergencies and was rescued. And she was very grateful for your comfort until the end. So she asked me to thank you.

She also said to say thank you to the Polish Women's Alliance ladies, who were her honorary pall bearers today. She loved being a member of the Alliance. She was very proud of her Polish heritage. She was very proud to be a member of a Polish Heritage Association. She loved the friendship. She loved the fellowship. She loved the bingo. She loved you, Lorraine. She loved your mother, Miss Viki.

She asked me to remind you that when she was 16 years old, she won an essay contest run by the Polish Falcons. The prize was a trip to Poland. She was very proud of that and very thankful for the opportunity to go to the land of her heritage.

She wanted me to thank the ladies at the Altar Society, who gave her a candle light honor guard today. She wanted me to give a special thanks to the "Cheer-up Club," of which she was a perpetual member.

My mother also wanted me to thank the neighbors. To Rosie, to Pat, to Mel—thanks for helping out and being there during the hard days. But, she said, remember the good days and the grocery store.

As you know my mother and my father, Willie, ran a grocery store in Highland. They saw many people through hard times. My mother asked me to thank all the people for coming to the store. There were so many of you who told so many stories to me about going to the store.

My mother was Miss Chris and my father was Mr. Willie. My sisters and I were known as little Willies. We heard all the stories about the extra candy my mother distributed to the children. She was known as the lollipop lady. Also she was the lady who, along with my father, would give extra store credit to families during those hard times.

My mother would stand at the back of the store by the cash register and give tips to the homemakers and favorite recipes. She always pretended she liked to cook, but as my sisters and I know, my mother really liked carry out. She was a woman of the 90's—in the 1950's and the 1960's.

She and my father were a fantastic team running that grocery store. And as you know, they brought a tremendous amount of goodness and generosity into this community.

My mother and father were also wonderful parents. My sisters and I could not have had a better mother than our mother. She saw to it that we had a good home.

They worked very hard so that we would have a good education, and that we would also have the extras. Whether it was the ballet lessons or whether it was the trip for leadership training. Whatever it was—slumber parties, the prom, all of those things—they wanted us to have a very good life. They didn't realize though that the greatest gift they gave us was themselves and their love.

My mother really loved her family. She loved her husband, her daughters, her brothers, her sisters, her in-laws.

She remembered the great times when we would all go down to my grandfather's shore. We played scrabble and canasta. My mother loved the lottery. You have to know that over the last days, my mother had five of us buying her little lotto tickets. Why? Not because she liked to gamble. She liked the action. She loved being involved.

When our grocery store closed in the 1970's, mother volunteered in my office. That's where she got the great name—Miss Chris, The First Lady of Highlandtown.

She helped run my neighborhood office. She worked with me in the City Hall when I served on the City Council. Then she worked in my Congressional office on Eastern Avenue and then my Senate office on Highland Avenue.

She ran my neighborhood office. Whenever people would call she would say, "Hi. I'm Barb's mother. What can I do to help you?" If anyone asked where I was, my mother would say, "Don't worry about. I'll take care of it. I'll tell her tonight, because I talk to her everyday." And she did.

When I looked at the flowers at the funeral home, I noticed that many of the flowers were from workers. They were from the workers at General Motors. They came from the workers at the Coast Guard Yard. They came from the workers at Goddard. Why? Not because of me, but because many of them knew her. They often spoke to her on the phone.

When Congress threatened to close Goddard, the workers called my mother looking for me. They came last night to the funeral home. They brought a poem. They told me they had a great time talking to my mother. She told them I loved the space program. My mother didn't know I ever loved the space program, but she made them feel special, feel valued and reassured like she did for so many.

Well for all of us, my sister, her grandchildren, she always loved us. She would leave us little messages on the answering machine. She would leave us little notes. She would send us notes in the mail that said, "Be aware." And then she would ask about them.

My mother would also send us prayers. Because she believed that for every problem, there wasn't always a solution, but for every problem, there was always a prayer that helped us get to the solution. She was devoutly religious. It was her faith and her prayers that sustained her.

Mother had a very keen mind, incredible attention to detail, and was a superb organizer. She had an enormously strong presence.

Now, as we come close to the end, and we can all think back to the wonderful days and years we had together. She was a wonderful neighbor. She was always taking care of someone. She was always taking care of her family. She was always taking care of people in need.

But I want you also to know that our mother was a lot of fun. She had a great sense of humor. She loved getting out with her friends. She loved family outings and social occasions. She loved going to political events.

My mother loved hearing about the new restaurants with names like "Wild Mushroom." And she loved the old favorites that she and my father went to like Haussner's. She loved going to Eastern House with her friend Ethel.

Mother was so outgoing. She was so strong. She had incredible presence. And because of this presence and because of her outgoingness, we all wondered with some apprehension how she would cope with being a shut in.

Two years after my father's death, she was so ill, she could no longer go out. Diabetes had given her diabetic neuropathy. Illness had taken its toll. She was to stay at home—most often in a wheelchair.

Once more, our mother surprised us. She amazed us. And she inspired us. Though she had to give up going out or going to the office, she just didn't give up. Her presence was strong to the end.

In her wheel chair, or welcoming visitors or being on the phone, she was full of great cheer. She called me to tell us what was happening and always wanted us to do the same.

My mother was intellectually inquisitive until the last days, reading The Paper. She wanted a subscription to People magazine so she could be "up on it" and be able to talk to her grandsons and granddaughters. Even when her eyes were going, she would read with a magnifying glass with a light so that she could be involved.

My mother faced her illness the way she faced life itself—with great dignity and with great courage. My mother was incredible. She had great spirit, great stamina and great spunk.

She insisted on being self-sufficient. Whenever we wanted to help, she would say, "let me do it myself, that's how I keep going." And she did, right up to the end.

Mother's faith inspired us all. She adopted a prayer ministry when she was at home with her illness, praying for the sick, for a special intention someone had requested, for her family, friends and her country.

She took it very seriously. Like everything else, she believed in doing her duty. She did it with a combination of great determination, great devotion and great love.

My mother had a good life. She celebrated her 50th wedding anniversary with my father, who was still well enough to participate. She saw my two sisters, Chris and Fran, marry two wonderful men, both named Ed. She had five fantastic grandchildren. One is a Captain in the United States military. She has a granddaughter who is a nurse at Johns Hopkins. Another soon will be a nurse. A grandson planning on medical school. And another grandson contemplating about what he can do to bring about social change.

She saw me elected to the United States Senate. She was very proud that I was the first woman of Polish heritage ever elected to Congress and the first Democratic woman elected to the Senate in her own right. So she saw many good things. She loved life.

So in closing, we ask you to remember our mother. We ask you to remember the good times. To her friends of many years, remember her young and dancing. To those who were her neighbors and her constituents, remember her at the store and at the office, helping out with a helping hand.

We, her family, will remember her playing with us, playing with her grandchildren. We'll remember her playing cards and just having a good time. We'll remember her being there for us in so many ways.

We ask that you remember her during the holidays and the Holy days. She and my father would have been getting ready now for Easter. Now she is with her own mother, and with our dear father. I know she will remember us in paradise.

Ms. MIKULSKI. Mr. President, I want to, in the most heartfelt way, thank Senator SARBANES for the very kind words he said about my mother and for his gracious generosity in putting that statement in the RECORD. My mother thought the world of Senator SARBANES, but she also thought the world of the U.S. Senate and was very honored that I was in it. I thank the Senate for its courtesy at this moment.

I yield the floor.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSTITUTIONAL AMENDMENT TO LIMIT CONGRESSIONAL TERMS

The Senate continued with the consideration of the joint resolution.

Mr. DOLE. Mr. President, we have just had a very historic vote. I commend my colleagues on both sides for this bipartisan vote. I think it was 58 to 42. But it is an indication that term limits will not go away. I want to commend my colleagues, as I have done before, particularly the freshmen on this side, many of whom have pledged to serve only two terms. They have made their point. They have made it in a very objective way and a nonpartisan way. They have listened to the American people.

I congratulate Senator THOMPSON, Senator ASHCROFT, Senator THOMAS, and others who worked so hard, and also Senator BROWN, who has been pursuing this matter for some time, and thank all of my colleagues who voted, in effect, with us on cloture.

That would not have determined whether or not we would have term limits, but we could have gone on to the debate on term limits.

Perhaps there will be another day. There will be another day, not "perhaps." There will be another day. I believe the American people can now sift through the records and make a determination on who was for and who was against even debating or going to term limits.

I think that is very significant. I think the vote just held in the U.S. Senate is a most significant vote, and it will have a far-reaching impact.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I ask unanimous consent for permission to proceed as if in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRAHAM. Thank you, Mr. President.

HAITI

Mr. GRAHAM. Mr. President, a week ago today the last of the United States troops who had been sent to Haiti came home. These brave soldiers, as well as others from countries around the world, helped bring enormous changes to that troubled nation, that troubled neighbor of the United States. Last Tuesday's withdrawal provides us an opportunity to reflect upon what has been accomplished, what is left to be done, and what special role the United States—and particularly those of us who have a responsibility in the National Government of the United States—will play in this next series of chapters of the nation of Haiti.

There has been considerable attention focused on the problems that remain in Haiti, and any observer would admit that there are very substantial challenges yet to be overcome in that nation. But I believe that an analysis would also require some comparison of what is the circumstance in Haiti today, in April of 1996, as compared to the recent past.

Let us take the period of 1993. Haiti in 1993 was a scene of anarchy and lawlessness. Haiti's military dictatorship ruled by machete. There had been an estimated 3,000 political killings per year during the reign of terror of the military dictatorship.

I remember, Mr. President, visiting a Catholic church in downtown Port-au-Prince where a Government official had been removed from a mass in front of his terrorized family and friends, taken into the street, and summarily executed.

A few weeks later, with a delegation from the United States, I had the honor of placing a wreath at the point at which that brave citizen of Haiti gave his life. For that action and others, I was declared persona non grata and was not allowed to reenter Haiti as long as the military dictatorship was in control.

Haiti continues as a violent society. It has been a violent society since the establishment of the republic, the second republic—second only to the United States of America—in the Western Hemisphere.

But since the arrival of United States troops and other international military and civilian participants in an effort to restore democracy to Haiti, 30,000 weapons have been removed from the streets. Today there is the fledgling beginnings of civilian law enforcement and a judicial system.

In 1993, there was no independent law enforcement capability in Haiti. Law enforcement was an adjunct of a corrupt military. There was no semblance of an independent judiciary. The judiciary was subservient to the autocratic military dictatorship. While there is a long road to travel to bring Haiti to a mature justice system, the first steps have been taken.

In 1993 and again in 1994, thousands of refugees left Haiti headed for the United States in man-made rafts. Mr. President, 25,600 persons were rescued at sea during the first half of 1994 alone—25,600 persons rescued at sea during a 6-month period. Countless others were less fortunate. They died of dehydration or were eaten by sharks.

After the United States-led operation, the flow of refugees from Haiti has plummeted. In 1995, the Coast Guard intercepted only 5 percent of the number that had been intercepted in

1994, the first 9 months of 1994 having been under the rule of the military regime. The total numbers intercepted in 1995 were 1,204 individuals.

On democracy, Haiti has been an independent Republic with the pretense of democracy for 192 years. But during the first 191 of those 192 years, there has never been in the history of the country a transition of power peacefully from one democratically elected President to a successor democratically elected President—191 years in which the democratically elected President was either toppled by a military regime, beheaded, forced into exile, or in some other manner involuntarily relinquished political responsibility and another, often nondemocratically elected, successor took his place.

In February of this year, for the first time, that historic event occurred. President Aristide voluntarily, peacefully, pursuant to the Haitian Constitution, transferred the power to the new President. The United States, during an equivalent period of time of our history as a Republic, had 40 peaceful democratic changes of administration. This was the first time that had occurred in the history of Haiti.

So, Mr. President, as we talk about the things yet to be done, I think we as a democratic nation, we as a nation which has had a long and intimate history with Haiti, we as a nation which decided that it was intolerable to have old-style military autocratic regimes using their power of the machete, power of the sword, and power of the gun in order to displace a democratically elected government, we who are willing to organize the international community in an effective effort to restore democracy to Haiti, I think should take some pride in the changes that have occurred and the steps, beginning though they may be, toward respect for human rights and democracy in Haiti.

But much remains to be done. Since Operation Restore Hope, the United States troops and their civilian counterparts have given the people in Haiti the chance to rebuild their country. Some of the things that remain to be done include poverty and unemployment, which continue to plague the Haitian people. The estimates are that unemployment now is in the range of 80 percent plus. With an uncertain future, the Haitian people lack a sense of optimism for what the future holds for themselves and their children. International investors have been wary about returning to Haiti and continuing the rebuilding of the economy.

I applaud those of my colleagues who are dissatisfied with actions that have occurred in Haiti such as the limited investigation of some of the political killings. We must insist upon continued progress in this area. This Congress and this Federal Government have special responsibilities to help the Haitian people maintain their momentum toward democracy and respect for human rights and an improved economic future.

Some of the things that are particular responsibilities of this Congress include a role to play in training the new Haitian Parliament, the first Parliament that truly justifies the characterization of being an independent legislative branch in the history of the Republic of Haiti.

The Haitian police force needs continued guidance. We have assisted in selecting and training some 5,000 Haitian police officers who will be the beginnings of an independent police presence in that nation. It is like having a police force made up of 5,000 rookie police, each with approximately 4 months of training before being placed on the streets. We now have a role to play in the maturing of that police force, the development of a leadership cadre, the development of a culture of how a police force maintains itself in that democratic society.

Probably the most difficult task that we face is in assisting the Haitian people in the revitalization of their economy. We must work with President Preval, and we must assure that there is a movement toward a marketplace, privatized economy in Haiti. For too long the Haitian people have suffered under an economy which has been highly centralized, highly socialized, and enormously corrupt and inefficient. The Haitian Government must also work with international financial institutions to create a climate that will make it again receptive for foreign investment.

President Aristide established the goal of Haitian economic progress which was to move from misery to poverty with dignity. The Haitian people should have a friend and partner in the United States in that road that they have yet to walk.

Mr. President, a concern that I have at this juncture is the ability of the United States to build on the progress that has been made and to assist the Haitian people in overcoming the challenges that still remain. It has become bogged down in domestic partisan politics, and we have been less constructive than we need to be in assisting our neighbors in Haiti. We have wasted valuable energy and time trying to either establish the grandeur of the gains that we have made or to point out each shortcoming. As difficult as those shortcomings may be, they have been given a proportion which is out of relationship to the totality of the circumstances in Haiti.

Both the Congress and the administration, both Republicans and Democrats, have some legitimate opportunity to share in the successes that have been achieved in Haiti and to accept the responsibilities for the future. We will do a disservice to the United States ability to influence the progress and future of a country which is important enough to us that we have just invested almost $2 billion and the lives of thousands of U.S. uniformed and civilian personnel, and we will have lost the opportunity to demonstrate our serious commitment to assisting a country which is trying to go through some of the most difficult transitions—from tyranny to democracy, from anarchy to a civilized society, from misery to poverty with dignity.

Those are our challenges. Those challenges are only going to be met if we do it on a bipartisan basis. This Senate met that challenge in times past. In 1948, when many felt it would be impossible for a divided Government—with a Republican-controlled Congress and a Democrat in the White House, a Democrat who appeared to be vulnerable and therefore should be exploited by emphasizing differences—men of the stature of Senator Arthur Vandenberg recognized that the American national interest was in unifying behind policies that would serve our Nation's need to constrain the expansion of communism. We followed the enlightened leadership of Senator Vandenberg, and now, 50 years later, we see the fruits of that policy by the collapse of the Soviet Union and our ability, through almost a half a century of bipartisan commitment to that policy, to have avoided the need to use nuclear power and an excessive amount of United States military force in order to achieve that objective of the collapse of the Soviet Union and communism. We need to use that example as our standard as we set our policy for Haiti.

Mr. President, there are very real consequences if we continue a policy of treating Haiti as a partisan domestic political issue rather than an American foreign policy opportunity. We do not need to ask ourselves what will happen if we allow the progress that has occurred in Haiti to wither. We have already seen what will happen. We will see it again on our beaches with the dead bodies of Haitians who tried but failed to make it to our shores. We will see it at the tarmac of Guantanamo with hundreds of tents of refugees who have been able to survive and are awaiting their fate in limbo as they were just 3 years ago. We are not playing our role today in termination of a constructive American policy toward Haiti.

I am concerned that within the Senate we see a blocking of humanitarian assistance which will be critical to this next stage of Haiti's development. Assistance in the form of health care, funding that will be needed to procure essential medical supplies, vaccines, and for the operation of health clinics throughout Haiti is being held up by this Congress. The shutting down of humanitarian programs will exacerbate adverse conditions in Haiti and could contribute to further economic and political instability.

Equally disturbing, it has become fashionable to denounce Haiti's efforts to make a transition to democracy. If the question is, were the elections that were held in 1995 a standard of perfection by a mature democracy, the answer is clearly no. If the question is, were they the fairest, most accurate reflections of the opinion of the Haitian people in the 192-year history of that country, the answer is, with as much energy and confidence, yes.

We need to build on these successes, and we must do so in a bipartisan manner. I support the efforts of Congress to assist and demand that there be performance, performance in areas such as investigation of political murders. But I also ask us to recognize the reality of the situation. We are asking a government, whose President told us in person-to-person communication in this very Capitol just a few days ago, that his government had reached the point of financial stringency, that it could not pick up the garbage. To now expect that this government is going to have American or Western European standards of sophistication in forensic investigation is to ask what is not going to exist.

We must work with the people of Haiti and with their government. If we fail to do so, we will, again, see the kind of pictures that we saw in the very recent past of U.S. Coast Guard ships picking up overladen small wooden boats with refugees reaching out for salvation. We will see, again, the pictures of the butchered citizens of Haiti, like the man dragged from the Catholic church during mass.

At that point, we will ask ourselves not whether we scored appropriate political points, but whether we serve the national interest.

It is ironic that at the very time Congress is about to turn again to the question of illegal immigration and how to frustrate its imposition on the United States, that we are close to bringing about a crisis on an island which has been the source of so much of that illegal immigration. Clearly, one of the most fundamental things that the United States can do to reduce the amount of illegal immigration is to turn serious attention to assist in the social and economic development of those countries which are the most likely sources of illegal immigration.

We have made progress on that front as it relates to Haiti. Illegal immigration is down by over 20 times in the last 3 years. The question is, are we going to lose this momentum or are we going to build on the progress that we have made?

During the period of military rule in Haiti, as has been the case for decades previously, Haitians, in a time of desperation, stripped the country's hilly terrain of trees in order to make charcoal for heat and for cooking.

Today, actions by the Federal Government and the White House and the Congress threaten to cause a mud slide that will bury the progress that Haiti has made with our cooperation and assistance over the past 2 years. It is our challenge to see that we can plant trees and stabilize the soil of Haiti so that, together, the people of Haiti, the people of the Western Hemisphere, and particularly the people of the nation which has been their longest and truest friend, the United States of America, can look forward to a new century of prosperity, a new century in which at least the people of Haiti have realized the goal of moving from misery to poverty with dignity.

Thank you, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are considering Senate Joint Resolution 21.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENT CLINTON'S PERFORMANCE

Mr. GRASSLEY. Mr. President, since March 19, I have been delivering a series of statements on the Senate floor. The common thread of my statements is my observation of the President's performance in office. I have concluded that he is not setting a good example for the people whom he serves. Basically, I mean that he does not perform in office commensurate with the rhetoric.

This also soon becomes an issue of the failure to show moral leadership, which basically means that you do what you say you are going to do. It is the single most important attribute of any President. I have quoted Franklin Delano Roosevelt on the floor of this Senate on this issue many, many times. One of his President leadership flaws is the fact that he says one thing and yet does another.

Last night, I had an opportunity to talk about a clue that I discovered as to why the President of the United States might say one thing and do another. I quoted from last week's Time magazine article, which quoted the President's senior adviser, George Stephanopoulos. His quote was just three words: "Words are actions." So if the President says something, that means that is what people know he is going to do. In other words, you say something, the President either thinks it is happening or he wants us to think it is happening. I have not quite discovered which one it is, Mr. President.

Yesterday provided a further case in point to illustrate what I am saying. Yesterday, we celebrated Earth Day across the country. There is nothing wrong with celebrating Earth Day. There has been great progress made in this country on the environment, and maybe it would not have been made without annually remembering the things that come about through Earth Day and the movements connected with them.

Also, it has become kind of a political event, as well. The TV news shows were full of slick photo ops of President Clinton and Vice President GORE cleaning up the C&O Canal outside of Washington and visiting a national park. They also took the opportunity to campaign against Republicans on the issue of the environment.

Never have I seen an Earth Day used for such pure politics as it was yesterday by the President. The President would have us believe that the only thing standing between the public and dirty air and dirty water is President Clinton himself. If you would listen long enough to the President, you would think that his environmental record is unblemished. Unfortunately for the President, the facts belie the image that he is trying to present.

I want to briefly show this by discussing two items that were brought to my attention yesterday that clearly illustrate that President Clinton's deeds are different from his rhetoric. First, the director of the Iowa Department of Natural Resources, Mr. Larry Wilson, sent a letter to my office regarding President Clinton's fiscal year budget proposals for the Army Corps of Engineers. The letter states: "The President's proposal will have substantial adverse impacts on several environmental programs important to my State. One of these programs focuses on habitat restoration, which is vital to supporting endangered species. This program will be shut down due to the President's administration budget proposals." This is an environmental issue, and the President is cutting the budget. That belies the fact that yesterday he was out saying the great things he was doing about the environment.

As President Clinton demagogs against Republican programs to reform the Endangered Species Act, he is shutting down an existing program that has actually been successful in saving endangered species. Again, his rhetoric does not match his words.

Other programs that will be shut down affect the wetlands in my State. There are several wetland restoration and enhancement projects that will be terminated if the President's budget is adopted. According to the Iowa Department of Natural Resources, these projects not only provide critical habitat for wildlife, but they also provide hunting, fishing, and other outdoor recreational opportunities for all Iowans. As the President talks about his initiative to protect national parks, he is jeopardizing these same resources in Iowa with his budget proposals.

The second item that I will discuss concerns an article in this morning's Washington Post. It says that the President, out on the C&O Canal, talking abut the good he does for the environment, is saying one thing, but there is an Agency of his Government, in his administration, that is causing environmental damage in another place.

This is where the Sierra Club alleges that the U.S. Government is responsible for illegal dumping of PCB's, lead, mercury, and arsenic in the Anacostia River right here in Washington, DC. The Sierra Club is a group that often supports the President on his environmental initiatives and is often critical of Republican proposals. So, it is very unusual that this organization would question this administration on an environmental issue.

Yet, the Sierra Club is alleging that the Washington Navy Yard and Southeast Federal Center are violating the Clean Water Act and polluting this local river.

Mr. President, I can tell you that if a family farmer was thought to have violated the Clean Water Act, that farm would be shut down immediately. I know of cases in Iowa where the EPA showed up armed and without warning to close down small businesses because of potential violations of environmental laws. Yet, the Federal Government remains the biggest polluter in the country and is not subject to the same rules that apply to small businesses and family farms. This is hypocrisy. This is a double standard.

President Clinton should stop playing politics with the environment. The public health is too important to be used as a campaign issue. The more politics he plays, the less he is able to bring fairness and uniformity to our Nation's environmental laws. I urge the American people to look behind the political demagoguery that was characterized on Earth Day and take a good look at the deeds of this administration. You my find that, once again, President Clinton's action falls short of his rhetoric.

This country is suffering from a severe bout of cynicism. That is exactly why we have this legislation on the floor regarding term limits, because term limits are the people's expression of dissatisfaction with Washington, DC, with the Congress, and with other institutions of Government. The cause of this is that politicians say one thing and do another. This has reflected an absence of moral leadership over time of our elected officials. Usually the public does not discover this until they have come and gone. I want to lay the record out right now because we need accountability right now. We need leadership right now.

What we do not need now is the same old "say one thing and do another" routine. To stop the growth of cynicism and the fact that we must restore trust of the American people in our institutions of Government, we in Washington need to show the American people that they can trust our words, that our words not only can be trusted, but our words are followed up by actions.

Mr. President, I ask unanimous consent that two documents I referred to be printed in the RECORD, the newspaper article and the letter from the director of the Iowa Department of Natural Resources.

There being no objection, the material was ordered to be printed in the RECORD as follows:

[From the New York Times, Apr. 23, 1996]

NEW MEDICARE TRUST FUND DATA SHOW UNUSUALLY LARGE SHORTFALL

WASHINGTON, April 22,—Medicare's Hospital Insurance Trust Fund lost $4.2 billion in the first half of the current fiscal year, according to new Government data, which suggest that the financial condition of the program is worse than projected by Administration officials last year.

The trust fund, which pays hospital bills for the elderly and disabled, lost money last year for the first time since 1972. But the loss for all of last year was only $35.7 million.

The new data show that the losses are growing. In the first half of the current fiscal year, from October 1995 through March of this year, the trust fund spent $60.5 billion and took in $56.3 billion, a shortfall of $4.2 billion, the Treasury said.

There is little chance that the trust fund will actually run out of money. It still contains more than $120 billion, and Congress would almost surely act to rescue the program before it ran out of money. But the new data provide fresh evidence that, after months of acrimonious debate between the White House and Congress, Medicare remains a budget problem of immense and growing proportions.

Chris Jennings, a special assistant to President Clinton for health policy, said today that the new numbers were not surprising. "They indicate the need to move forward, balance the budget and enact some changes in Medicare that will strengthen the trust fund," he said. "Republicans and Democrats should work together to address the problem."

In a letter to Congress last week, Treasury Secretary Robert E. Rubin suggested that Congress and the Administration resume discussions to reach an agreement on Medicare and the budget.

Republicans proposed many changes in Medicare last year to help control costs, but President Clinton said the changes would hurt beneficiaries. Republicans may hesitate to put forward new proposals after they were bloodied in that battle. Representative Bill Archer, the Texas Republican who is chairman of the Ways and Means Committee, said, "The President preferred to scare seniors and play politics instead of saving Medicare."

It is not entirely clear why the hospital trust fund is running out of money faster than expected. One factor, Administration officials said, is an unanticipated increase in the number of admissions of Medicare patients to hospitals, but that does not explain all of the discrepancy.

The new losses accelerate a trend that started several years ago, when spending by the hospital trust fund began to increase faster than the money coming into the fund. The Administration had predicted that the amount of money in the trust fund would increase by $4.7 billion in the 1995 fiscal year, which ended Sept. 30, but instead the trust fund spent $35.7 million more than it took in.

Likewise, the Administration predicted last April that the trust fund would take in $45 million more than it would spend in the current fiscal year. But that now appears highly unlikely. Treasury Department data show that the trust fund has lost money in five of the last six months.

In the first half of the last fiscal year, from October 1994 to March 1995, the trust fund lost $135 million.

Any trust fund money not immediately needed to pay hospital bills is invested in Government securities. The amount of such holdings has declined, to $126.1 billion on March 31 from $129.9 billion on Oct. 1, 1995.

If nothing is done to change the financing and design of Medicare, losses from the trust fund are expected to grow from year to year. Payroll taxes account for most of the trust fund's income, and no tax increases are scheduled under current law. Unless President Clinton and Congress arrive at a long-term budget deal, Federal officials said, there is no reason to expect a significant reduction in the rate of growth of Medicare spending.

But no such deal is in sight. In this election year, lawmakers and Administration officials are wary of any action that might offend elderly voters by restricting Medicare spending.

Last year, Republicans proposed vast changes in Medicare to slow the program's growth. But the proposals were included in a bill to balance the Federal budget, and Mr. Clinton vetoed that bill in December, saying it contained "the biggest Medicare and Medicaid cuts in history."

Republicans said their proposals were needed to prevent Medicare from going bankrupt, but Democrats said the changes would devastate the program and push beneficiaries into health maintenance organizations.

The new Treasury data do not indicate when Medicare's Hospital Insurance Trust Fund will run out of money. In April 1995, the Administration predicted that the trust fund would be depleted at some point from October to December 2002, but it now appears that the money could run out earlier because the trust fund is spending more than expected and is taking in less than expected.

Senator Pete V. Domenici, the New Mexico Republican who is chairman of the Budget Committee, said he believed that the trust fund would run out of money by May 2001.

Roland E. King, former chief actuary of the Health Care Financing Administration, which runs Medicare, said today that he believed the Hospital Insurance Trust Fund "will run out in late 2000 or early 2001." Richard S. Foster, who succeeded Mr. King as chief actuary, said he could not discuss the financial condition of Medicare without permission from top officials at the Department of Health and Human Services, and such permission was not given today.

Under Federal law, the trustees of the Medicare trust fund, including four Administration officials, were supposed to submit a report to Congress on the financial condition of the program by April 1. But Administration officials say that report has been delayed because of Government shutdowns and snowstorms last winter and will probably not be issued until late May or early June.

Some Democrats have played down the significance of the losses from Medicare's Hospital Insurance Trust Fund. Representative Pete Stark, Democrat of California, said, "The past is littered with inaccurate forecasts of Medicare's demise." Moreover, he said, "The Democrats will not let Medicare go insolvent."

Hospital executives and Medicare officials said they were puzzled by the recent increase in admissions. James D. Bentley, senior vice president of the American Hospital Association, said tonight, "Hospital admissions of Medicare patients are rising more than could be explained by growth in the number of beneficiaries—but not enough to account for all of the unexpected increase in Medicare spending."

[From the U.S. Senate—Republican Policy Committee, Apr. 23, 1996]

TODAY'S NEW YORK TIMES DEMONSTRATES URGENT NEED TO SOLVE MEDICARE'S IMPENDING CRISIS, NOW

Today's New York Times front-page article (on the reverse side) once again reveals the Medicare Part A trust fund's uncontrolled hemorrhaging. It remains uncontrolled because the Clinton Administration decided to play "Medi-Scare" with Medicare last year. Clinton vetoed the plan from Congress that would have allowed it to grow at twice the rate of inflation and would have kept it solvent for the next generation. In contrast, President Clinton's latest unbalanced budget—his ninth, scored last week by CBO—would barely keep the current trust fund solvent through fiscal year 2002.

Medicare's Hospital Insurance trust fund, commonly known as "Part A," has lost $4.2 billion in the first half of FY 96 [says the New York Times, citing government data].

This compares with a loss in the first half of FY 95 of $135 million, and the Clinton Administration's prediction that Part A would run a $45 million surplus for FY 96.

These losses indicate that Medicare's bankruptcy is even closer than the 2002 date the Administration reported April 3, 1995.

Because the Administration has still not produced a report this year, we must rely on outside estimates. Budget Committee Chairman Domenici has stated Part A could be bankrupt by May of 2001; former chief HCFA actuary Roland King predicts bankruptcy as soon as late 2000.

Clinton's latest budget would only push bankruptcy back a year beyond its last year's estimate. According to CBO under his budget—without utilizing for gimmick of cost-shifting $60 billion to the taxpayer—Part A would be barely solvent in FY 2002 ($1.5 billion) and would be bankrupt by FY 2003.

In contrast, Congress' Balanced Budget Act would have preserved Part A beyond 2010—when Baby Boomers begin retiring—while allowing spending to grow at twice the inflation rate.

While the Republican party in Congress wants to protect Medicare for the next generation, Clinton wants to abandon it to the next Administration.

DEPARTMENT OF
NATURAL RESOURCES,
Des Moines, IA, April 10, 1996.

Re Mississippi River Environmental Management Program (EMP) and Missouri River Fish and Wildlife (F&W) Mitigation—Affects in Iowa of the President's FY 1997 Budget Request.

Hon. CHARLES E. GRASSLEY,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRASSLEY: I want to alert you to the impacts that the Administration's FY 1997 budget proposal will have in Iowa with regard to two programs administered by the U.S. Army Corps of Engineers: (1) Missouri River Fish and Wildlife Mitigation and (2) Mississippi River EMP. The President's proposal will have substantial adverse impacts on both of these programs which in recent years have been operating at close to full authorized funding and providing long-awaited benefits to Iowans. I urge you to do whatever you can to restore the appropriations in FY 1997 to levels that equal or at least come closer to the amounts available in prior years.

The Corps has explained their priorities for funding which are navigation, flood control, and environment projects. While we understand how the Corps developed these priorities, their application results in a disproportionate impact on projects that are important to Iowa. For example, funding of only $100,000 for mitigation projects on the Missouri in the Omaha District, means projects on hold for years while habitat restoration is viewed as a key way to resolve historic conflicts between uses while enhancing support for endangered species. The Mississippi River EMP is slated for cuts of nearly $4 million in FY 97, and projections are for cuts of about $7 million for FY 98 and nearly $11 million in future years. These levels will delay projects for years while threatening the viability of an essential long-term monitoring effort.

It has been difficult for us to obtain information as to whether the Administration's budget cuts are greater for the North Central and Omaha Divisions than for other regions. If these divisions suffered proportionally greater reductions than other divisions, it could help to explain the difficulty that they have had trying to meet all of their obligations and ensure the timely completion of Iowa projects.

MISSOURI RIVER FISH AND WILDLIFE MITIGATION

Mitigation was authorized in the Water Resources Development Act of 1986 to satisfy the federal requirement to mitigate for the loss of fish and wildlife habitat with the construction of the navigation and flood control works on the river in Iowa and the other lower basin states. Appropriations commenced in 1989. While the program includes land acquisition, that has been less important in Iowa than habitat development. The state already owns numerous sites along the river that can be improved by the mitigation program. The Corps of Engineers has purchased some land adjacent to existing public land as required to make the habitat development projects work. Mitigation is critical on the Missouri River if the Corps is going to make progress in supporting endangered species. There is a terrible shortage of fisheries habitat in the lower river. These conditions have economic consequences as well, since the lack of habitat reduces the quality of the fishery. The net result is less recreational opportunity on the river, which impacts businesses that provide goods and services along the river.

Missouri River Fish and Wildlife Mitigation has received as much as $8 million a year, which was fairly evenly split between the Kansas City and Omaha Corps Districts. The administration's budget for FY 1997 includes $1.6 million for mitigation, of which $1.5 million is programmed for the Kansas City District and only $100,000 for the Omaha District. Iowa projects are in the Omaha District, so Missouri River fish and wildlife mitigation will essentially come to a halt in Iowa. The discrepancy among the two districts is based upon individual district priorities. Fish and wildlife mitigation requires more than a token $100,000 in the Omaha District.

The following are the specific projects programmed for work in FY 97 that will not happen if current funding levels remain:

Blackbird/Tieville/Decatur Bend near Onawa is an $8.8 million project that includes 3,500 acres and 11.8 miles of wetlands and river side channels. The definite project report (DPR) is complete, design and engineering is near completion, and construction was programmed in begin in Fall 1996 and be completed during FY 97.

California Bend near Missouri Valley just north of Council Bluffs is a $785,000 project to restore a running side chute connected to the Missouri River. The plans and specifications are close to completion and construction was scheduled for FY 96 and 97.

Winnebago Bend near Sloan is a $1.3 million project to add water into a rapidly disappearing wetland. It too was programmed for FY 96 & 97 construction.

In addition to the improvement or creation of critical habitat, all of these projects would provide hunting, angling and outdoor recreation opportunities to Iowans along the Missouri River.

The Corps' report proposing these projects was completed in 1981. With nearly two decades of delays, the lack of habitat continues to frustrate efforts to maintain several fish species. It would be most unfortunate to lose the momentum that has developed as these projects have moved this close to construction.

MISSISSIPPI RIVER ENVIRONMENTAL MANAGEMENT PROGRAM (EMP)

EMP was also authorized in the Water Resources Development Act of 1986 and has become a model program for the restoration of fish and wildlife on big rivers. Its authorized funding is $19.4 million per year and it has been receiving that amount in recent years. It too is a program that has taken a long time to attain solid momentum, but is now providing increasing benefits. EMP contains two primary components; (1) habitat rehabilitation and enhancement projects (HREP) and (2) long-term resource monitoring (LTRM). The Administration's budget contains $15.6 million for EMP in FY 97, which is not devastating in itself. Our concern lies with the Corps' projections in FY 98, 99, and 00, which are $12.4 million, $8.7 million, and $9.8 million, respectively. Reductions of that magnitude will have serious adverse implications in Iowa.

EXAMPLES OF COMPLETED HREPS IN IOWA ARE:

Bussey Lake dredging near Guttenberg—Dredging will improve the fishery by providing deeper water, diversity of habitat and wintering-over areas.

Brown's Lake restoration near Green Island—This area has been protected from sedimentation by dike improvements and a water control structure. A deeper channel through the project and dredging in the lake have improved the fishery, while the dredge spoil was collected on site to create terrestrial habitat. This project along with the improvements at Green Island will be beneficial for both hunting and fishing.

Big Timber backwater rehabilitation and pothole creation near Muscatine—Dredging at this site restored an area that was nearly completely filled in with sediment.

Lansing Big Lake side channel closures—This project is designed to decrease sedimentation and flow rates in the lake to maintain its currently very popular panfishery. We are currently proposing some follow-up work in Lansing Big Lake to further assure project objectives are obtained.

Iowa's Princeton HREP project near Princeton is hit the hardest by the proposed change in funding. This project is designed to create new wetlands and improve the dike system for waterfowl management. The construction contract was close to being let to a minority contractor. Our local DNR biologist was ready to issue a news release explaining to local hunters that Princeton would be closed this fall due to construction. The Corps is considering delaying construction until late 1997. Making this decision at the last minute is inefficient and will cost time and money if the Corps decides to shelve the project. Because of great interest in this project by local hunters and others who live along the river, the delay will cause many to become extremely upset.

Iowa's Lake Odessa EMP project near Wapello is currently undergoing planning, engineering, and design. The Corps has informed us that it will complete this work, but will not construct the project under current EMP authorization. The Lake Odessa HREP project would therefore only become reality if authorization for EMP is extended beyond 2002.

HREP projects for Huron Island near Burlington, Molo Slough near Dubuque, and Peosta Channel also near Dubuque were also programmed to be completed under the current EMP authorization. The Corps is now considering deletion of these projects completely from EMP.

The Long-Term Resource Monitoring (LTRM) element of EMP is collecting data on Mississippi River water quality, aquatic and floodplain habitat, microinvertebrates, and fisheries. LTRM also evaluates the physical, chemical, and biological responses of habitat projects. This program was designed to identify trends and support decisions about river management including such projects as the current navigation study.

Iowa DNR operates one of six monitoring stations that are located throughout the river. Iowa's station is in Bellevue and is staffed by six permanent employees and typically hires up to five seasonal workers during summer months. These are all state employees, but funding for their salaries and operations comes totally from federal EMP dollars. Reductions in the LTRM budget will likely occur because of overall EMP cutbacks, which means that Iowa's station in Bellevue and its employees will be affected. It is important that data gathering not be curtailed to the extent that the integrity of the data base created over the past several years is jeopardized. In addition, the loss of jobs at the station will impact the economy in Bellevue due to the loss of employment. Bellevue along with other cities along the Mississippi will see reduced recreational activity as the maintenance of the natural resources of the river are neglected.

Budget reductions are difficult, and we understand that there will be some impacts on programs that we believe to be important to the long term viability of the natural river systems. It appears that the Missouri River Fish and Wildlife Mitigation and Mississippi River Environmental Management Programs are expected by the Administration to bear proportionally greater budget reductions than other programs. We also fear that the North Central and Missouri River Divisions are taking a greater share of cuts than those in other parts of the country. This further harms Iowa projects. If budget reductions that are currently being proposed happen, Missouri River Fish and Wildlife Mitigation in Iowa will come to a complete halt, Mississippi River EMP habitat projects in Iowa will be delayed and some will be eliminated. The Bellevue monitoring station will face cuts that could mean its demise with the added cuts proposed in future years. As noted above, reductions in these efforts will have economic as well as natural resource consequences that should not be underestimated given the Corps' own study showing an annual value of recreation in the Upper Mississippi River basin of over $1 billion. We ask for your help to do whatever you can to assure these programs and their respective projects in Iowa are not forced to take on more than their fair share of setbacks.

Sincerely,

LARRY J. WILSON,
Director.

Mr. GRASSLEY. Mr. President, I ask unanimous consent for 5 additional minutes. How much time do I have left?

The PRESIDING OFFICER. Eight minutes 56 seconds.

Mr. GRASSLEY. I ask unanimous consent for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE

Mr. GRASSLEY. Mr. President, about a year ago the President appointed trustees for the Medicare fund to study Medicare, to project its problems, its solvency, and everything like that. A year ago, six trustees of the Medicare fund—and these are four people in the President's Cabinet and two citizens, one Republican and one Democrat, so altogether there would be five Democrats and one Republican—unanimously said that the Medicare program would be bankrupt in the year 2002. They also said that Congress should take immediate action to keep the long-term viability of Medicare. They asked the Republican Congress to take action to do that. We did that.

The Balanced Budget Act of 1995 is this 1,800-page bill, which took 13 committees over an 8-month period of time to put together, the first Balanced Budget Act passed by Congress in a quarter of a century, to balance the budget in 7 years. Part of this document is not only doing what President Clinton's trustees of the Medicare system asked us to do, to save it from bankruptcy, but we also gave senior citizens of America a choice that if they did not want to have traditional Medicare, we would pay for other forms of health care delivery. We would take their money and pay for it, so that they could have something if they wanted something different than Medicare. That is all in this document.

In November of last year, we presented the President of the United States not only the balanced budget, but also provisions to save Medicare, to strengthen Medicare, and to give people on Medicare, for the first time in 30 years, a choice of their medical care.

The President vetoed it. The President vetoed those Medicare reforms. He wanted people to believe that we were cutting Medicare. He was on television every day on these paid ads saying that "Republicans are cutting Medicare." Under the Balanced Budget Act, Medicare would have grown at 7 percent every year. What we are spending on Medicare per beneficiary is $4,900 this year, and in 7 years we would have been spending $6,700 per Medicare recipient. Maybe it is even closer to $7,000 per Medicare recipient. So, obviously, we were not cutting anything. We were saving Medicare from bankruptcy. We were extending the life of it for another 9 or 10 years.

Well, the President vetoed it. One person is standing in the way of doing what his trustees said should be done, what the people want done, and what the Congress did. The President of the United States vetoed the first balanced budget act passed in a quarter of a century, balancing the budget in 7 years, and saving Medicare, as his trustees said. Well, the President kind of ignored what his trustees said.

But, more importantly, even before last year was out, we were finding out that Medicare was coming up short of expectations of what the income and outgo of it was, to a point of where it was going to be broke before the year 2002.

Senator PETE DOMENICI says that it is going to be May of the year 2001, just 6 years from now. Roland King, former chief actuary of the Health Care Financing Administration, says that it will run out in late 2000—that is 4 years from now—or early 2001, 5 years from now. There is a Richard S. Foster, who succeeded Mr. King as chief actuary, who said that the top officials at the Department of Health and Human Services would not give him permission to talk about this issue. What I am referring to here, Mr. President, is the New York Times article of today that is headlined "New Medicare Trust Fund Data Shows Unusually Large Shortfalls." The subheadline is: "Program is Solvent, But Gap Shows Weakening."

What has happened in the 12 months since the last report? Instead of Medicare starting to spend out more than the income in 1996, it actually started to happen in 1995, and it is happening at a much faster rate than we anticipated. So, Medicare will be broke not in 7 years, not in 6 years, but maybe in 5 years.

What is kind of special about this article is this. Normally this report would be out in April every year by the trustees. It is not out yet, I imagine because it is an election year. This is bad news for this administration, which was told 12 months ago that Medicare was going to be bankrupt in the year 2002, and they vetoed the only bill presented to extend the life of it. Not only that, but the situation is worse than the report said it was 12 months ago.

It says here that Chris Jennings, a special assistant to President Clinton for health policy, said today that the new numbers were not surprising: "They indicate the need to move forward to balance the budget and enact some changes in Medicare that will strengthen the trust fund. Republicans and Democrats should work together to address the problem."

Get that—"Republicans and Democrats should work together to address the problem." Immediately after Labor Day last year, constantly Senator DOLE and Speaker GINGRICH were inviting the White House to sit down and reach some sort of an agreement with us, a long time before we ever put this together and finally passed it. But, no, they did not want to sit down and talk about it. Yet, we are being admonished by the White House that "Republicans and Democrats should work together to address the problem."

A letter to Congress last week from Treasury Secretary Robert E. Rubin suggested that Congress and the administration resume discussions to reach an agreement on Medicare and the budget. Well, we do not have that report. They say it might come out in June or July.

Do you know what they are blaming for the delay? The fact that we had snow in January. We have snow every January in the Midwest, and it does not slow down the deadlines that we have to get reports out. But the longer this report can languish in the bureaucracy downtown, as long as some faceless bureaucrat can keep it under control, then it is less out there for public consideration and for the shots that it is going to take because of that.

Mr. President, I hope that the administration will forget the fact that we had snow in January, because what is news about that? This report that is supposed to be issued in April, that was issued in April of last year, would be issued, and I will bet we will see the same Presidential appointees to the trustees tell us that Congress should do something about it. Well, if you ever wonder as part of the cynical public about Washington, DC whether Congress will ever balance the budget, it is right here in these 1,800 pages. We passed that last year. The President vetoed it. It saved Medicare from bankruptcy. We would not have to be dealing with this issue. Instead of Senator DOMENICI saying that we will run out of money in May of the year 2001, we would be saving that deadline for another decade down the road.

I hope, Mr. President, that the President of the United States will come forth with his report. The longer you wait to make public bad news, the worse it is for the people that are giving the bad news.

It would seem to me that the right thing to do is to simply state what the facts are, and the fact is that the situation with Medicare is much worse. It could be bankrupt in 5 more years—at the most, 6 years—and the situation is deteriorating considerably because this administration vetoed the bill that we passed last year to save Medicare.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OUR PRESIDENT AND EARTH DAY

Mr. PRYOR. Mr. President, I thank the Chair very much for recognizing me, and I will not belabor this issue very long. I know the Senate is leaving early this afternoon, and I do not want to delay the departure of our staff members who have been so loyal in helping us this afternoon and today. It has been an interesting day in the U.S. Senate.

I just was listening to one of the monitors and watching one of the monitors. I happened to note my very, very good friend from Iowa, the Honorable Senator CHARLES GRASSLEY, a wonderful long-time friend of mine, someone I have worked with very closely on the issues of oversight and overstepping of the Internal Revenue Service, of defense spending, which we thought at the time had gotten out of hand and was very unfair. We worked on several issues over these years together. I look forward to the remainder of my term in working with him further on various matters that affect our respective States and certainly our great country.

But I was a little taken aback when my friend from Iowa got up and started talking about our President, Earth Day, and what happened yesterday nearby, just a few miles away, I think, on the upper reaches of the Potomac River. My friend from Iowa sort of took our President to task and the Vice President to task I guess for even appearing at an Earth Day event. I do not know what his concern was. But if in fact the President did mention that the other political party's proposals on some of our environmental concerns were in fact lacking, then, Mr. President, I am going to have to disagree with my friend from Iowa, and I am going to have to, yes, agree with our President. For example, legislation recently circulated to rewrite the Clean Air Act by our good friends on the other side of the aisle would repeal the toxic air pollution standards and would absolutely cripple the enforcement of the Clean Air Act.

I do not think that is a piece of legislation we can go to future generations with and say we were very proud of ourselves when we attempted to cripple the enforcement of the Clean Air Act.

I think our President was right when he said that there is a difference between the two political parties and the way that they look at the environment and legislation that would perhaps undo all of the progress that has been made in cleaning up the air we breathe under the Clean Air Act over the last 25 years.

Some 25 years ago, when I first came to the House of Representatives as a young Member, as a new Member of that great body, I remember during that time I had three small sons, and from time to time on a Sunday afternoon or Saturday afternoon, perhaps, we would get a fishing pole or swimming suit and we would go down to the banks of the Potomac River, and I will never forget—and this was not long ago—there were signs up and down the banks of the Potomac River: no swimming allowed; do not eat any fish, the fish will be contaminated if caught in this river.

Mr. President, in this quarter of a century what we have done as a body, Republicans and Democrats alike, has not only helped to clean up that river, but we are helping today to clean up our air, and we cannot make a retreat, especially in a political year when it might have a short-term appeal to some local interests, maybe some local business interests that want to compromise and that want to sacrifice the environment we have to pass on to future generations.

I think the President was right when he implied yesterday that some of the legislation as proposed—we call them riders—to the VA appropriations bill would delay the issuance of toxic standards, air standards, that is, and would allow for the exemption of industries, exempt industries—just say we are sorry; we are going to apply this to some industries, but the rest of you are going to get off; you do not have to comply with the law; you do not have to obey the law; there is no law that impacts you.

As we speak today, Fort Smith and Van Buren, AR, Sebastian and Crawford Counties in Arkansas, 48 hours ago were hit with massive tornadoes, two dead, hundreds of homes damaged. At this very moment, as we stand in the Senate Chamber and talk about clean air and clean water, because of necessity we are dumping raw sewage into the Arkansas River. We have no other option. Senator BUMPERS and I will be calling in the morning Carol Browner of the EPA to say that we have an emergency; we have to do something.

We have emergencies all over this country not caused by a recent natural disaster but emergencies that are existing today where we are polluting our streams and our air and where we have to do something about it. This generation cannot back away. Our President yesterday was talking sincerely and earnestly about what we can do together as political parties.

The Republicans, by the way, at that Earth Day event yesterday, several Republican Representatives from Congress were agreeing with our President. I hope that we can make this a nonpolitical issue and talk about the facts, those facts being we do have a difference of opinion, but we do need to join together and do what is right for the environment.

Budget cuts—and I know the Presiding Officer realizes this—and the Government shutdowns, what have they done? What have they accomplished? Have they saved any money? Probably not much. What have they really done? They have delayed the EPA's issuance of new standards for toxic industrial air pollutants—new standards for toxic industrial air pollutants. Those standards are now on hold. Why? Because of Government shutdowns and budget cuts.

The delay in the issuance of air toxic standards has resulted in the continued release of harmful chemicals—mercury, chromium, formaldehyde, and lead—into our air. More than 45 million people, Mr. President—the distinguished occupant of the chair realizes this—in our country still live in areas with unhealthy levels of ground level ozone or smog. I did not know this until just lately, but the EPA reports that the United States refineries alone, and I quote, "emit more than 78,000 tons per year of established hazardous air pollutants, or 9 tons of toxics emitted into the air every hour nationwide."

How can we repeal some of these rules? How can we say that some companies and some industries are exempt and do not need to comply with making progress in eliminating this unclean air and unclean water.

My good friend from Iowa also talked about another issue. I am going to come back to this issue of the environment in a moment. I was hoping that my friend from Iowa was going to be here because he made reference to not only the President of the United States, but he made reference to another gentleman, a gentleman who is very close to my heart. His name is Chris Jennings. He says, who is this man, Chris Jennings? He said that this Chris Jennings, whoever he is, said, and then he quoted something that Chris Jennings had said.

First, Chris Jennings for many years worked for the Senate Special Committee on Aging, probably one of the finest staff people who ever worked for that particular committee or has ever worked in the Senate, and I would daresay that most of the Members on this side of the aisle at one time or the other have worked closely with this so-called man named Chris Jennings. I would say that Members on the other side of the aisle have worked closely with Chris Jennings. If I could only jog the memory of my friend from Iowa, Senator GRASSLEY, who has been for years a loyal member of the Special Committee on Aging, I am sure that Mr. Jennings has not only worked for Senator GRASSLEY in many capacities, has served him in many capacities, but also I am sure that should Mr. GRASSLEY see Mr. Jennings and reacquaint himself with him, he would know him and would respect him, as all of us do in the Senate.

Chris Jennings is a remarkable individual, a splendid and dedicated servant. But, somehow or another, I did not quite appreciate the tone of my friend from Iowa. I know he did not mean in any way to be disparaging of our friend, Mr. Jennings, I am sure, today. I hope our friend, Senator GRASSLEY, will realize the dedication of this fine former member of our Senate Special Committee on Aging staff. I am sure he knows his great qualifications and his great commitment.

Our friend from Iowa was talking, of course, about the Medicare funding. We think it is very important to point this out. Absolutely. We know what the dollars and cents are. I do not think we are arguing with those figures. But I think we also need to point out there remains today over $120 billion in the trust fund for Medicare. There is no imminent danger that claims are not going to be paid—absolutely none. There is no imminent danger that these claims are not going to be paid.

The updated information should not be used to scare the 37 million elderly citizens in this country or people with disabilities. They should not be used for partisan political purposes. The trust fund will pay out the claims. I repeat, the trust fund will pay out the claims, at least through the turn of this century, no matter what, and much longer if the Congress would only enact the President's balanced budget proposal.

We think it is very, very important to lay on the table the facts, as I have stated. We think there is equal importance not to intentionally scare the seniors of this country and to lead them to believe, or to imply, that their checks may not be paid and their claims will go unnoticed.

We think, too, the information validates the President's position on Medicare that he has maintained during his Presidency. The latest information simply provides additional validation for the President's position that we should move forward and balance the budget to strengthen the trust fund. In fact, I have not talked to the President about this matter in a long time, but I would imagine, when the President read the Post or the New York Times or wherever this appeared this morning, about the trust fund, I imagine that the President said, "Those are not very pretty figures, but we think that those figures will put people to thinking and start people to believing that we have to do something about our budget."

The President has offered a proposal that achieves $124 billion in Medicare savings that would extend the life of the trust fund by at least 10 years from now. This proposal builds on the President's successes in strengthening the Medicare trust fund.

Let me say this, and I hope I will not be accused of being too partisan. In 1993, let me remind my good friend from Iowa and the distinguished Members on the other side of the aisle that in 1993, without one Republican vote, not one, the President signed into law Medicare savings and other financing charges that extended the life of the trust fund from 2 to 3 years. That was a major accomplishment.

So, as we enter now the real meat, I guess you would say, approaching a Presidential election, I think we should inform the citizenry of this wonderful country of ours that from time to time there will be skirmishes in this body because of necessity, because of beliefs, because of different ideologies. We will see those debates.

I never thought this particular Chamber should become a political convention hall. I hope it does not. But I do think it can become the proper forum for us to discharge our obligations and certainly to debate the issues of our time and our generation.

I would like to say I am sorry my friend from Iowa was not here. I do not mean in any way to be disparaging of him or question his sincerity. I just wanted to sort of set the record straight, after I heard my good friend's remarks.

I hope in the coming days, again, we will have ample opportunity to lay these issues out on the table, out in the public, let the sunshine shine among them, and let us, at that time, bring to the people what we consider important questions of today.

Mr. President, I see no Senator seeking recognition. Therefore, I yield the floor, Mr. President, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOSNIA, SERBIA, AND THE WAR CRIMES TRIBUNAL IN THE HAGUE

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly on a trip which I made recently, earlier this month to The Hague, Serbia, and Bosnia for the purpose of taking a look at the situation with our military forces in Bosnia and taking a look at what is happening at The Hague with the War Crimes Tribunal. I would like to highlight a few of my observations because there are a few moments available on the Senate floor this afternoon.

In visiting Tuzla on April 4, which followed the visit to Serbia on April 3 and the visit to The Hague on April 2, before returning to Paris en route back to the United States, in Tuzla, I saw the presence of the U.S. Army of which people of the United States can be very, very proud.

The United States moved in as part of the NATO force, the IFOR force, short for the Implementation Force, with an overwhelming strength to stop the fighting and preserve the peace. It is a truly remarkable scene to see an army moved halfway around the world with the power and force of the United States, really the one remaining superpower in the world.

As I have had the opportunity to travel abroad, to see the great respect and admiration in which the United States is held, it is something that we ought to focus on in this country. A mark of our power is our military force. When we spend as much as we do on the defense budget, some $243 billion this year, we see it in operations; we have gone in there with overwhelming force. All of the participants to the conflict have stopped fighting and are observing the rules and regulations set up by IFOR, the NATO forces and U.S. forces.

We had the opportunity to talk to many in the military there on a tour provided by General Cherrie. We visited a military installation on Mount Viz, 450 meters through solid mud, virtually straight up, traveling on a tracked military vehicle in order to climb an incline 60 degrees on terrain which did not seem possible to move up. But the mechanism of the military force carried us to the top where we had a briefing on the military operation where we were briefed by military personnel and where I visited with quite a number of military personnel from Pennsylvania, my State, as well as from other States. They had very high morale and were glad to see a visitor from the United States. We had an excellent lunch prepared in the field.

I talked to a young lieutenant colonel who was in command of the operation. The lieutenant colonel told us about taking over the mount from a Serbian major who talked about the killing, the military casualty of his brother-in-law in the fighting which had occurred prior to the time the United States and NATO forces took over. As a matter of fact, in a professional way, with no animus, at least by all surface indications, the Bosnian Serb major said to the U.S. colonel, "Take care of my mountain. I intend to take it back." It was sort of foreboding as to what may occur after the United States and the NATO forces depart the premises.

But as of the moment, there is peace there. I had heard, and was glad to have repeated, that we have had only two casualties. Of course, two is two too many, but the casualties occurred, one from a motor vehicle accident and the other when someone was dismantling a landmine contrary to regulations.

When we arrived in Tuzla, we heard about the visit just the day before of Secretary of Commerce Ron Brown. General Cherrie, who met us on our arrival there, midmorning of April 4, told us that Secretary Brown had been there the day before, arriving at about 6:20 in the morning and departing shortly before 2 p.m. when the tragic accident occurred.

We had seen Secretary Brown the night before in Paris at a reception at the residence of Ambassador Pamela Harriman. We renewed our longstanding friendship, talked about possibly meeting in either Sarajevo or in Zagreb. Of course, that was not to be.

When I flew out of Paris on the morning of April 3 and went to Belgrade, we had planned to fly to Sarajevo. Because of the weather conditions, the very high winds, our plane was grounded. We did not undertake the flight. I think those may have been the same weather conditions which caused or related to the fatality involving Secretary BROWN, whose presence will be sorely missed, as will the presence of all those 34 people who were on board with him on that ill-fated flight.

We had an opportunity to talk to the people in Bosnia about the efforts to gather evidence, which is very important for the War Crimes Tribunal. They have drawn a fine line. That is, IFOR will protect the personnel of the War Crimes Tribunal, but they will not protect the evidence itself. But the War Crimes Tribunal personnel are engaged there and are taking a look at a lot of the grave sites, gathering evidence for prosecutions. So long as the personnel from the war crimes prosecution team are there gathering evidence, then military personnel will protect the prosecution team.

We discussed with the military personnel, General Cherrie, the issue about the potential of taking into custody the Bosnian Serb President Karadzic and General Mladic. The word was that individuals, such as those two people, under indictment would be taken into custody if the NATO and U.S. forces came upon them, but they would not be sought out or hunted.

While we were there at the headquarters at Tuzla, we saw posters, candidly not very good identifying pictures, but, as to the major people under indictment including Bosnian Serb President Karadzic and General Mladic.

We heard about an incident where IFOR forces had come upon General Mladic, but he was surrounded by many of his own military personnel, and to attempt on that occasion to take him into custody would have precipitated a battle. Since the IFOR forces were outnumbered, they did not seek to take him into custody at that time.

But I think it is very important that, ultimately, President Karadzic and General Mladic be taken into custody so they can be prosecuted at the War Crimes Tribunal. I believe prosecutions at the War Crimes Tribunal are a very, very important aspect of what the United States and NATO are doing there. That may be the event of the decade or perhaps the event of the century if international legal precedence can be established that genocide and the atrocities will not be tolerated and they will in fact be prosecuted by an international tribunal.

The establishment of the rule of law as an outgrowth of what has happened in Bosnia would be an enormous step forward in international law, and is something which has to be pursued.

I had traveled to the Hague on January 4th this year and talked to the prosecution team at that time. I found that there were a number of very serious problems and I undertook to write to the Secretary of State, the Attorney General, the Director of the FBI, the Director of the CIA, and the Secretary of Defense. Their letter replies are attached and I ask that they be printed at the conclusion of my remarks along with the full text of my statement.

A great deal has been done. The prosecution team was much more encouraged when I met with them on April 2; I was impressed with their approach back on January 4. I am pleased to say that CIA Director John Deutch has been very cooperative in working hard to make information available which is necessary to obtain the convictions of those under indictment at the War Crimes Tribunal.

Mr. President, a very fundamental issue is what will happen with Bosnia, when our forces are due to withdraw by December 1996. The Intelligence Committee, which I chair, heard from General Pat Hughes about the problems which exist there at the present time and the prognosis is that if there is not a significant improvement in the infrastructure, the economy and the local police forces in Bosnia, there is likely to be a problem of fighting erupting again. We heard about the implementation of the Dayton accord, that it is proceeding on schedule, as detailed in the statement that I will introduce into the RECORD. I was pleased to see in the press Sunday April 21, statements by the military commanders in Bosnia, Adm. Leighton Smith and Lt. Col. Ben Barry, about the compliance by the warring faction in withdrawing their military forces and complying with the Dayton accord. That is certainly good news. A great deal more has to be done in terms of fulfilling the commitments which have been made by the major Western democracies, by Japan and by other countries, to see to it that local police forces are established, that the infrastructure is built up, that the economy is supported, so that there is a realistic opportunity for peace to prevail there.

Mr. President, that is a brief summary of the highlights. I ask unanimous consent to have printed in the RECORD certain letters.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, I would like to take this opportunity to report on my recent visit to the War Crimes Tribunal in The Hague on April 2, Serbia on April 3, and Bosnia on April 4. The primary purpose of this trip was to assess the progress being made on implementation of the Dayton accords, particularly the prosecution of war criminals, and the degree of intelligence support to the War Crimes Tribunal and the Implementation Force [IFOR].

Our first stop was The Hague, where the International War Crimes Tribunal sits. There, we met with Judge Antonio Cassese, the President of the Tribunal prosecuting crimes against humanity committed in the former Yugoslavia. Judge Cassese stated that the first trial of indicted war criminals will commence on the 7th of May. At this time, there are five other trials planned against six indictees—two Moslems, one Bosnian-Croat, and three Bosnian-Serbs, all of whom are being held in custody.

The Tribunal is in the somewhat delicate position of needing to maintain judicial independence while relying heavily on the political support of the former Yugoslavian adversaries and the IFOR countries. One of the issues I discussed with Judge Cassese was the role of IFOR support of the tribunal. While some progress has been made in this effort, there is apparently still some disagreement between the Court and U.S. force commanders on the degree of IFOR support. Of particular importance is the issue of United States support for the apprehension of indicted war criminals, especially Bosnia-Serb President Karadzic and General Mladic. Judge Cassese indicated that the Europeans believe that only the Americans have the capacity to arrest Karadzic and Mladic. Neither the French, British or Italians appear ready to arrest these individuals for various unspecified reasons.

President Cassese advised that he had initiated a meeting with the Russian Foreign Minister who urged the War Crimes Tribunal not to proceed against Mladic or Karadzic until after the September elections. The judge commented that he advised the Russian Minister that he would take his views into account but would not be influenced as to what action the Judicial Tribunal would take. As evidence of the conflicting pressures on the tribunal, at least one NATO country has reportedly urged that as many suspected war criminals as possible should be indicted before the elections in order to preclude their running in those elections, but that no additional suspects should be indicted after elections so that there is no risk of indicting newly elected officials.

We also met with the one American judge on the tribunal, Judge Gabrielle McDonald, formerly a U.S. District Court judge in Texas, who is currently the presiding judge on two trials. Judge McDonald highlighted the difficulties the tribunal faces in attempting to move promptly against indicted war criminals. For example, she pointed out that while the first trial is scheduled for May 7, 1996, against a Bosnian-Serb by the name of Tadic, there may be a delay if the tribunal does not receive some key equipment—simultaneous translation equipment with a 2 to 3 second broadcast time delay—by April 23 and if the U.N. fails to accept this equipment as a gift. The delayed transmission is required to ensure there is no inadvertent broadcast of names. Judge McDonald also expressed her view that there are not enough tribunal courtrooms to try all the cases and attempting to try multiple defendants won't work in this particular situation.

We also met with the prosecution team which is assisting Judge Goldstone in investigating and prosecuting the war crimes. Included in this group are representatives from the Department of Justice, Department of State, Defense Department, and the FBI. The 10 individuals with whom I met were very impressive and very dedicated to the task of trying to bring justice to this great tragedy in current history.

I had met with this team earlier this year, on January 4, 1996. After assessing their needs at that time, I wrote to the President, the Secretary of State, the Secretary of Defense, the Attorney General, the Director of the CIA, the Director of the FBI and the Ambassador to the United Nations.

When I met with the prosecution team on January 4, they were concerned with cooperation by IFOR and the various agencies of the U.S. Government in supplying personnel and assistance in carrying out the efforts of the tribunal investigators. At the April 2 meeting, attended by many of the same people who were present on January 4, there was considerably more optimism because they had received assurances of support, including replacement personnel for the team, and assistance was being given to the gathering of evidence in Bosnia.

To date the United States has been the biggest supporter of the tribunal and its chief contributor. By the end of this fiscal year 1997, the U.S. will have contributed nearly $35 million to the court. Included in this figure is $3 million in services from more than 23 prosecutors, investigators and other experts from the departments and agencies of the U.S. Government.

It is clear, however, that this U.S. support alone is not sufficient. International pressure is needed on all parties to the Dayton accords to abide by that agreement to force them to turn over indicted personnel to the tribunal. The tribunal team reported that there is a prevailing view among potential witnesses that the tribunal will not be continually supported and this is affecting witness willingness to step forward.

The prosecution team highlighted one particular set of indictments in which greater Serbian cooperation is needed. A Serbian army colonel by the name of Veselin Sljidancanin and two other Serbians have been indicted for ordering the mass killings of 260 Croatians near Vukovar, Croatia after they forcibly removed these people from a hospital on March 20, 1991. Sljidancanin is free in Serbia and there is no indication that the Serbian Government intends to extradite him to the tribunal.

I advised the prosecution team that I would raise this issue with Serbian officials. The next day, April 3, I raised the issue with Serbian Foreign Minister Milutinovic and Assistant Foreign Minister Jovanovic. I discussed the charges which had been filed against three men and gave the Foreign Minister a copy of the indictment and the transcript of the argument made by the prosecutor before the War Crimes Tribunal on this issue. I ask unanimous consent that the indictment and the transcript of the argument be inserted in the CONGRESSIONAL RECORD.

Foreign Minister Milutinovic said that Serbia could not extradite Colonel Sljivancanin because it was prohibited by the Serbian constitution. It appears that the other two men, Mrksic and Radic, are not in Serbia at the present time.

I responded to Foreign Minister Milutinovic that a legal analysis had been made showing that the Serbian constitution only prohibited extradition to another nation but the constitution did not prohibit extradition to the War Crimes Tribunal. Foreign Minister Milutinovic showed little interest in having his government assist in bringing Colonel Sljivancanin to the trial.

I asked Foreign Minister Milutinovic if his government would cooperate in bringing Bosnian Serb President Karadzic and General Mladic to trial before the War Crimes Tribunal. While Foreign Minister Milutinovic said that Karadzic and Mladic should be ousted from power, he would not assist in taking those men into custody so they could be tried under pending indictments issued by the War Crimes Tribunal.

On April 4 we traveled to Tuzla, the headquarters of the American contingent of IFOR. Our military operation there was enormously impressive. The United States had moved an army of nearly 18,000 men and women with spectacular results. I noted that women comprised between 10 to 15 percent of the American force serving in a variety of jobs including military police and senior intelligence.

Our host was Brig. Gen. Stan Cherrie. Due to weather, we were unable to visit one of the mass grave sites that was being investigated by the War Crimes Tribunal. Instead, we visited one of the intelligence surveillance outposts at the top of Mount Vis. The purpose of our force on Mount Vis is to monitor the perimeter areas to be sure there are no violations of the accords. Getting there in knee-deep mud was accomplished riding in a track vehicle up the mountainside. This turned out to be an adventure in itself.

Foremost in my mind during this visit was what happens in December 1996 when U.S. forces, which make up approximately one-third of the Implementation Force, are scheduled to withdraw from the region. By coming in with overwhelming force, IFOR has been able to dominate the entire scene. The United States has suffered only two deaths; one was an individual who was dismantling a mine without following instructions and the other was a motor vehicle fatality. It is problematic what will happen when IFOR leaves.

Of particular concern is the prospect that while IFOR may have completed its mission to stabilize the area militarily and allow political, economic and law enforcement initiatives to generate peace to the region, the civil mission to rebuild the economy and infrastructure will not have made sufficient progress.

In testimony on March 27, 1996, before the Senate Select Committee on Intelligence, Gen. Pat Hughes, the Director of the Defense Intelligence Agency, stated that violence is likely to resume in Bosnia unless allied forces quickly help improve living conditions and provide the basis for a stable economy.

The message I heard in Bosnia was similar: there is a need for economic development to take hold. One senior military officer highlighted the danger of not providing sufficient incentive to maintain the peace, noting that the region is marked by the greatest level of hatred and distrust that he has ever seen. There is some evidence that the fighting forces on all sides are tired. There are other indications that fighting will resume once IFOR leaves. Many at the scene predict that stability can be maintained if the economy and infrastructure are developed and the local authorities are able to put their police forces into operation.

Some of our military personnel in Bosnia were more optimistic about Bosnia's future. One ranking officer noted that if the September elections result in moderates replacing the current corrupt regime, then the prospects for peace were good. He further advised that the schedule of confidence-building measures is proceeding according to the Dayton accords. On day 1, a one kilometer zone of separation was established. On days 30 to 45, both factions—Bosnians and Bosnians Serbs—gave the locations of their heavy weapons to the United States and to each other. On D+90, the Dayton accords called for the consolidation of air-defense weapons systems into approved sites. Seventy-five percent of those weapons were located and moved into those sites by the deadline. Now it's up to 90 percent. On D+120 days, which will be on April 20, all armed forces are to be in their containment and barrack areas. Inspection teams will visit those areas. Any deployments from containment areas will give IFOR a warning of intentions to initiate possible military action.

I raised with General Cherrie the role of IFOR in assisting the War Crimes Tribunal. He stated what he understood to be IFOR's mission: U.S. forces in IFOR would not seek out those indicated, such as General Mladic, for example, but would be prepared to arrest him if IFOR forces came upon him. All checkpoints have picture posters of those indicted. We saw one of those posters. Regrettably, the photographs on many of them are nearly impossible to make a clear identification.

I also asked General Cherrie for more details on IFOR's tasking in regard to support for the War Crimes Tribunal investigators examining the sites of atrocities. He answered that it was to protect the War Crimes Tribunal personnel but not the war crimes sites. When War Crimes Tribunal personnel leave a site, IFOR will leave. If the War Crimes Tribunal personnel were to remain overnight, then IFOR would remain to protect them.

At the top of Mount Vis we were treated to lunch with the military personnel. There we found their morale to be very high. They are doing an excellent job under an extraordinarily difficult situation. Wherever we turned, the mud was ankle deep. One quip which seemed particularly appropriate was that Bosnia was Latin for mud.

I also had a chance to meet several soldiers from Pennsylvania; including one young man from Philadelphia, S.Sgt. Michael J. Smith, another from Pittsburgh, Christopher Klauer, and a third from Allentown, M.Sgt. Douglas Sleeth.

We departed Tuzla by 2:15 p.m. and headed for Aviano Air base in Italy where we received an operational and intelligence brief on air support capabilities to the Bosnia area. Air support and air strikes may be one option in which military force can be brought to bear after the pullout of IFOR forces.

We had been scheduled to travel to Zagreb, where we were to meet with Croatian President Tudjman, but that part of the trip was canceled after the tragic crash of the plane carrying Secretary of Commerce Ron Brown and his delegation.

Instead, we held a series of meetings on April 5 with officials in our Embassy in Paris. These discussions also focused primarily on the situation in the former Yugoslavia, where France is a key player.

Ambassador Harriman noted that France is now probably the most important United States ally in Europe. She is concerned that a planned 40-percent cut in the U.S. embassy in Paris will severely hamper her ability to deal with the political and economic requirements of this increasingly important relationship. She noted that, in spite of press accounts to the contrary, there is excellent United States-French cooperation in the evolution of NATO, on the Former Yugoslavia, arms control issues, terrorism, and organized crime. The Ambassador further noted that the implementation of embassy cuts also will affect their ability to encourage free trade and to promote U.S. exports.

We also discussed with Ambassador Harriman the issue of economic espionage and the impact of the recent controversy when France accused the United States of using spies based at the Embassy to attempt to recruit French government officials to gather information on economic policies. We talked with the Embassy team about the history of French activities targeting United States economic information, including proprietary information of United States firms. I sought their views regarding legislation we are considering on the Intelligence Committee to criminalize theft of trade secrets, as well as a bill to prevent corrupt trade practices by foreign firms along the lines of the prohibitions currently in place for U.S. firms.

As amplified in a floor statement on April 17, we were very favorably impressed by the operation of the U.S. Embassy in Paris.

EXHIBIT 1

UNITED STATES SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, January 18, 1996.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: When you called me on November 25, 1995 seeking support for your Bosnian policy, we had an opportunity to talk briefly about the International Criminal Tribunal for the former Yugoslavia.

On January 4, I had an opportunity to meet with the prosecution team in The Hague and was enormously impressed with what they are doing.

In my view, these prosecutions are of historic importance. I strongly believe that the United States government should do everything in its power to assist in the prosecutions. Toward that end, I have written the various Department and Agency heads urging cooperation in a number of specific ways. I believe that support by the American people and by the Congress could be enhanced by successful prosecutions by the War Crimes Tribunal.

I am sending to your National Security Council head, Tony Lake, a copy of this letter and copies of my letters to the respective Department and Agency heads.

I look forward to an opportunity to discuss this issue with you further at your earliest convenience.

My best.

Sincerely,

ARLEN SPECTER.

THE WHITE HOUSE,
Washington, DC, February 21, 1996.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SPECTER: Thank you for your recent letter expressing your support for the International Criminal Tribunal for the former Yugoslavia. I agree with you that its work is of historic importance. The United States government will continue to assist the Tribunal in its work.

The United States already has contributed more to the Tribunal than any other nation—upwards of $14 million. This includes the services of more than 22 prosecutors, investigators and other experts. Assistant Secretary of State for Democracy, Human Rights and Labor John Shattuck has traveled to the former Yugoslavia eight times since July 1995—most recently in January 1996—to investigate and communicate news of the serious violations of human rights that occurred around Srebrenica and Zepa last summer.

The IFOR Commander, Admiral Leighton Smith, and Justice Goldstone met on January 22 and agreed on how they can coordinate their respective missions under the Dayton Accords. Admiral Smith expressed his satisfaction that IFOR will be able to provide appropriate assistance to ensure security for Tribunal teams carrying out investigations at mass grave sites. Justice Goldstone expressed his satisfaction with the level of support offered by Admiral Smith recently when he met with my National Security Advisor, Anthony Lake.

Your continuing support and ideas are greatly appreciated, as always. I look forward to discussing with you the implementation of human rights in the former Yugoslavia as we work together to restore peace to the Balkans.

Sincerely,

BILL CLINTON.

U.S. DEPARTMENT OF STATE,
Washington, DC, March 26, 1996.

Hon. ARLEN SPECTER,
Chairman, Select Committee on Intelligence, U.S. Senate.

DEAR MR. CHAIRMAN: We regret the delayed response to your letters of January 18, 1996 to Secretary Christopher and Ambassador Albright, in which you underline the importance of pursuing defendants indicted by the International Tribunal for the former Yugoslavia.

Demanding an accounting for injustices perpetrated in the former Yugoslavia is a fundamental tenet of our policy there. In the long term, peace can be secured only through justice.

The Parties to the Dayton Agreement obliged themselves to cooperate fully in the investigation and prosecution of war crimes and other violations of international humanitarian law in Article IX of the General Framework Agreement. This obligation has been reaffirmed several times since, most recently in a meeting held among the Parties in Rome on February 18 when the Parties agree to provide unrestricted access to places, including mass grave sites, relevant to such crimes and to persons with relevant information. At this meeting, IFOR repeated its readiness to work to provide a secure environment for the completion of these tasks.

The Parties also acknowledged in Rome that persons other than those already indicted by the Tribunal, would be arrested and detained for serious violations of international humanitarian law only pursuant to a previously issued order, warrant or indictment that has been reviewed and deemed consistent with international legal standards by the International Tribunal. Although IFOR will not pursue persons indicted by the Tribunal, it will detain any persons indicted by the International War Crimes Tribunal who come into contact with IFOR in its execution of assigned tasks and will transfer these persons to the Tribunal.

You mentioned that the Tribunal's prosecution staff expressed concerns about adequate financing and the need for the help of more U.S. Government detailees. The United States is the leading supporter of the Tribunal, having contributed since 1994 over 12 million dollars (of a total 19 million) and 22 U.S. government detailees to the Tribunal. We are arranging to send in the near future an additional investigative team of nine (seven investigators and two translator) to aid the prosecution staff of the Tribunal for Rwanda. We understand that the Department of Justice is also detailing two prosecutors to the Tribunal.

The Yugoslav Tribunal is preparing its 1996-97 budget. We understand that the preliminary two-year estimate is in excess of 85 million dollars for operations related to the former Yugoslavia. The UN has adopted a funding formula that covers half of the Tribunal's cost through unencumbered UN peacekeeping balances and half through the normal UN scale of assessments—a rate of 25 percent for the U.S. Of course, actual expenses will depend in large part on the demands placed on the Tribunal—especially trials—in the next two years. Our ability to pay our UN assessment in full in 1996 and 1997 is dependent on Congressional approval of funds for U.S. contributions to international organizations.

We appreciate your strong and ongoing commitment to the work of the Tribunal and hope this information is responsive to your concerns. Please do not hesitate to contact us if we can be of further assistance.

Sincerely,

BARBARA LARKIN,
Acting Assistant Secretary,
Legislative Affairs.

THE SECRETARY OF DEFENSE,
Washington, DC, March 9, 1996.

Hon. ARLEN SPECTER,
Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In response to your letter of January 18, the Department of Defense (DoD) is participating with others in the Intelligence Community (IC) to provide U.S. intelligence support to the International Criminal Tribunal for the Former Yugoslavia (ICTFY). IC participation is guided by the State Department Bureau of Intelligence and Research (INR), which acts as the point of contact for the IC with the Office of the Prosecutor.

The Defense Intelligence Agency (DIA) is the focal point for DoD support to the ICTFY. The initial search of DoD data bases was designed to locate all intelligence information which might be of evidentiary value to the Office of the Prosecutor. As a result of that search, and others in response to specific requests from the Office of the Prosecutor, DIA initially identified over 3,000 documents, the majority of which were Information Intelligence Reports (IIRs). Approximately 1,000 documents were determined to be of no value to the ICTFY. Of the remainder, 444 IIRs were forwarded to State INR and have been delivered to the Office of the Prosecutor. The remaining 1,550 IIRs are undergoing review, and those with information responsive to the ICTFY requests will be delivered to the State Department by 15 March.

The Office of the Prosecutor, through State INR, has given assurance that our responses to their various requests have been concurrent with their needs. Adequate resources are assigned to the job. You may be assured we are monitoring requests from the Office of the Prosecutor, through the State Department, on a daily basis and are prepared to increase our efforts if necessary. We are committed to continuing both intelligence and Judge Advocate support to the Office of the Prosecutor within the scope of available resources.

Sincerely,

WILLIAM J. PERRY.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, February 29, 1996.

Hon. ARLEN SPECTER,
Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter to the Attorney General regarding the International Criminal Tribunal for the former Yugoslavia.

At the outset, I would like to convey the Department's deep appreciation for the critical role you have played in this area. We are grateful for your efforts in passing legislation that gives the United States full authority to obtain evidence for, and to extradite offenders to, the Tribunal.

The Department of Justice remains firmly committed to supporting the important work of the Tribunal. We share your pride in the work done by the Department's prosecutors currently detailed to the Tribunal, and it is our goal to carry that work forward.

In addition, as Director Freeh states in his separate letter on this topic, the Department remains committed to continuing to provide Federal Bureau of Investigation agents to the Tribunal. The United States also has already provided, and will continue to provide, information to the Tribunal.

Finally, we have on occasion been contacted by the Tribunal on witness protection issues. As you know, however, the federal Witness Security Program is designed to protect persons who are expected to testify in proceedings in the United States. While there has been one relocation of a witness in connection with Tribunal proceedings, that was a most unusual case. Yet, the Department remains willing to work with Tribunal authorities on alternative solutions to this problem.

Thank you again for you efforts and your support. Please do not hesitate to contact this office if we can be of further assistance with regard to this or any other matter.

Sincerely,

ANDREW FOIS,
Assistant Attorney General.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, February 27, 1996.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SPECTER: Thank you for your letter of January 18, 1996. I appreciate the interest and support that you expressed in the FBI's involvement in the United Nation's International War Crimes Tribunal at the Hague. As background, in June 1994, three FBI Special Agents were assigned to the Tribunal for a one-year assignment. The Department of State requested our investigative expertise to help in "jump starting" the investigative arm of the Tribunal. In June 1995, the Department of State petitioned Deputy Attorney General Jamie S. Gorelick for a one-year extension of these resources. I remain committed to continue this level of support in the work of the Tribunal.

As you are aware, the efforts of the Tribunal have yielded indictments against war criminals. I share your opinion that the work of the Tribunal must continue and they must bring the individuals responsible for these atrocities to justice.

As you are aware, the Witness Security Program is administered by the U.S. Marshals Service under the aegis of the Department of Justice. I have been informed by the U.S. Marshals Service that there is no statutory or budgetary authority to use this program for witnesses of the Tribunal. I am aware, however, that they have relocated one witness from Bosnia with the assistance of the Department of Justice and the Marshals Service. I have been advised that this relocation involved extraordinary circumstances. The FBI Special Agents assigned to the Tribunal have been advised by FBIHQ that any requests for witness assistance should be brought to the direct attention of the Criminal Division.

You may be aware that the Department of State has put forth a plan to establish an international, unarmed law enforcement contingent to develop civilian law enforcement programs in Bosnia. The protection of witnesses developed by the Tribunal may be addressed as a function of this proposed police force.

If I can be of any further assistance to you, please do not hesitate to call upon me.

Sincerely yours,

LOUIS J. FREEH,
Director.

Mr. SPECTER. Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON CALENDAR—SENATE JOINT RESOLUTION 21

Mr. DOLE. Mr. President, I ask unanimous consent that Senate Joint Resolution 21 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak therein for up to 5 minutes each.

CLINTON JUDGES

Mr. DOLE. Last week, Vice President GORE stated that Republican criticism of Clinton-appointed judges was misguided—A "smoke screen," as he put it, "to hide our own poor record on crime."

While the Vice President is off-base with his smoke screen comments, he is absolutely right to suggest that it is important to look at the record.

The record is that the number of prosecutions initiated by the Clinton Justice Department for crimes involving guns and drugs has dropped significantly since the Bush administration.

The record is that the Clinton Justice Department has virtually ignored the enforcement of the Federal death penalty, established by the 1994 crime bill.

The record is that the Clinton administration's top lawyer has actually argued in favor of narrowly interpreting and weakening the Federal child pornography laws.

The record is that President Clinton has vetoed legislation that would help stop the thousands of frivolous lawsuits filed every year by convicted criminals that serve only to clog the courts and waste millions of taxpayer dollars.

Of course, there is the Clinton record on drugs. Drug enforcement is down. Drug interdiction is down. And the antidrug bully pulpit has been all but abandoned. Just say no has become just say nothing. Not surprisingly, teenage drug use has nearly doubled since President Clinton first took office.

Yes, Vice President GORE is right: It is important to look at the record.

Then there's the issue of Federal judges. With all due respect to the Vice President, I suggest that he take a close look at the decisions of Judge Martha Craig Daughtrey, a former member of the Tennessee Supreme Court and a Clinton appointee to the Sixth Circuit Court of Appeals.

In an important search and seizure case, Judge Daughtrey ruled that the police acted improperly when they searched the trunk of a car that they had pulled over early one morning after the car made a left turn without signaling. At the time of the stop, the police suspected that the driver might have been driving under the influence of alcohol. During the search, the police frisked the car's passenger for weapons and found a cellular phone, a pocket beeper, and $2,100 in cash. The police then asked the car's driver and passenger whether they could search the trunk. The driver and the passenger consented—consented—and the police found a shopping bag containing a baggie with a large amount of crack cocaine.

Yet, Judge Daughtrey ruled that the police acted unreasonably and she voted to suppress the crack cocaine evidence. Judge Ryan, a Reagan appointee, dissented on the grounds that the police acted appropriately.

In another fourth amendment case, Judge Daughtrey dissented from a decision upholding a police search that led to the discovery of a large stash of vicious child pornography. The two Republican-appointed judges upheld the constitutionality of the search, saying that it was fully consistent with fourth amendment precedent.

Unfortunately, Judge Daughtrey is not an aberration. Last year, in an important case before the D.C. Court of Appeals, two Clinton-appointed judges dissented from the court's majority opinion upholding the FCC's regulations prohibiting the transmission of indecency on television and radio during certain hours of the day. The purpose of these regulations is, obviously, to protect our children from images that would be harmful to their moral and psychological development. Yet, the two Clinton judges on the court joined with the two Carter appointees in arguing that these regulations somehow violate the first amendment.

So while President Clinton touts the V-chip and holds high-profile White House conferences with television executives, his judges are attempting to strip the very protections that he supposedly supports. President Clinton may talk a moderate game, but his appointees to the Federal bench are attempting to stamp their own brand of stealth liberalism on America.

And that is my point: Selecting who sits on the Federal bench is one of the most critical responsibilities of any President. Long after a President has left office, the judges he appoints will leave their mark on American society. While the Vice President may say that the Clinton administration appoints judges on the basis of excellence, not ideology, the facts—regrettably—tell a much different story.

PLEASE, MR. PRESIDENT, NO UNITED STATES FORCES IN LIBERIA

Mr. HELMS. Mr. President, 2½ years ago, 18 American soldiers were gunned down in the streets of Mogadishu, Somalia. What happened October 3, 1993, in Somalia was another one of those tragic mistakes. U.S. servicemen should not be asked to risk their lives in so-called peacekeeping missions where there is really no peace, and where no U.S. national interests are at stake.

As the last of United States forces pull out of Haiti, the American people are learning that Operation Uphold Democracy was not the resounding success President Clinton led us to believe. The bottom line, it seems to me, is that America's military cannot achieve what the people and leaders of Somalia and Haiti refuse to do. This so-called nation building is fanciful rhetoric for fleecing the American taxpayers.

I had hoped and prayed that President Clinton had learned his lesson from Somalia, and Haiti, but President Clinton has already landed several hundred Marines, from Camp Lejeune, NC, inside Liberia. More than 1,600 Marines and 1,900 sailors on warships are awaiting further orders.

But, Liberia is in, quite literally, a state of anarchy, and I fear there is little the United States can do about it. Consider, Mr. President, that since 1990, American taxpayers have given Liberia—a country of 3 million people—at least $429 million of foreign aid, according to A.I.D.—and President Clinton proposes to forgive Liberian debt to the American taxpayers. And what has all this assistance accomplished? Since the outbreak of the civil war in 1989, intensive fighting has been the cause of the United States having to evacuate Americans and others from the country on three separate occasions. tens of thousands of Liberians are dead and thousands more fled.

Tragically, the lives saved by $429 million in U.S. foreign aid are today being gunned-down at the hands of heavily armed drunken teenagers, looting the capital city of Monrovia, raping and killing for sport. The so-called leaders in Liberia, as in Somalia, are bloodthirsty warlords who are more vicious criminals than national leaders. In fact, one warlord, Charles Taylor, escaped from Plymouth County Jail in Massachusetts in 1985.

Mr. President, on April 15, the Foreign Relations Committee was assured that if United States Marines went into Liberia, they would only be protecting the United States Embassy and assisting with evacuations, although all Americans who have asked to leave are already evacuated. The Sunday Washington Times, however, reported that several hundred Marines landed in Liberia over the weekend, and that they "would be able to provide humanitarian assistance." This makes me very concerned about mission creep.

Congress does not want United States Marines hunting down Liberian warlords, as in Somalia, or picking up trash on the streets of Monrovia, as in Port-au-Prince. Mr. President, there are no United States interests in Liberia worth the life of even one United States service man or woman.

I have written President Clinton to raise a number of questions about his policy. Congress and the American people deserve answers. Of course, I pray the President does not get the United States into another Somalia or Haiti.

Mr. President, I ask unanimous consent that my letter to the President be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, April 22, 1996.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: In response to the most recent outbreak of violence in Liberia and the mass evacuation that followed, I note that the Administration has undertaken a comprehensive review of its policy toward Liberia. Congress is also fully aware of the likelihood of further humanitarian tragedy in Liberia.

With the unnecessary deaths of eighteen U.S. servicemen in Somalia (October 3, 1993) lingering on our minds, the landing of several hundred U.S. Marines in Liberia over the weekend has Congress to be all the more concerned about developments in Liberia—and, frankly, the Administration's response to that crisis.

Administration officials briefed Congressional staff this past week about the situation in Liberia, but a number of important questions went unanswered. The Foreign Relations Committee will appreciate prompt answers to the following questions:

(1) What is the exit strategy for the U.S. troops currently in Liberia?

(2) Under what rules of engagement are U.S. servicemen in Liberia operating?

(3) As humanitarian concerns are necessarily incidental—as important as they may be—what the U.S. national interests in Liberia, besides protecting U.S. citizens?

(4) What interests in Liberia are worth risking the life of one American citizen?

(5) Inasmuch as Liberia is in anarchy, why should any U.S. Embassy personnel remain?

(6) To whom is the U.S. Embassy accredited?

(7) If U.S. Embassy personnel remain, what kind of security will they have?

(8) Has the U.S. Government received any assistance with evacuations or security from France, Britain or any other country?

(9) What countries have overseas bases in African countries in proximity to Liberia?

(10) How many people, and from which countries, have been evacuated from Liberia by U.S. forces?

(11) How many private Americans and U.S. citizens working at the Embassy remain in Liberia?

(12) Do any United Nations Development Program personnel remain in Liberia?

(13) Are personnel from any United Nations agency on the ground in Liberia?

(14) To date, what is the total cost of the evacuation effort?

(15) How many U.S. Navy vessels have arrived off Liberia, and how many Marines and sailors does this represent?

(16) Under what circumstances would these Marines go into Liberia?

(17) Is an expanded role for U.S. military forces being contemplated? If so, please explain.

(18) If a contingent of U.S. forces goes into Liberia, from where will they be supported?

(19) What would such an operation cost?

(20) Given the state of anarchy in Liberia, and the individuals with whom diplomats are forced to deal, how does the Administration expect to influence events?

(21) To date, how much U.S. funding has ECOMOG received, including equipment, and how effective has it been?

(22) To date, how much U.S. funding have the countries of ECOWAS received, including equipment, and how effective has it been?

(23) As Nigeria has been decertified on account of noncooperation in the fight against illegal narcotics, how does the Administration intend to provide funding to Nigerian troops, which make up a majority of ECOMOG in Liberia—will the Administration seek a waiver in order to provide funding or equipment to Nigerian forces?

(24) How much money and equipment does the Administration propose giving ECOMOG and ECOWAS, and from where will the funds come?

(25) Since the outbreak of the civil war in 1989, how much U.S. Government assistance has gone to Liberia?

(26) Since the outbreak of the civil war in 1989, what is the total amount of international assistance that has gone to Liberia, including from United Nations agencies and all international financial institutions?

(27) Have any of the Liberian warlords ever been wanted, or are currently wanted, in the United States for any violation of law? If so, please explain.

Many thanks.

Sincerely,

JESSE HELMS.

MEDICARE

Mr. DOLE. Mr. President, 2 years ago, the Medicare trustees—three of whom are members of the President's Cabinet—reported to President Clinton and Congress that Medicare would be bankrupt by the year 2002.

From the day the Medicare trustees issued their report, Republicans have worked to preserve and strengthen

Medicare. We proposed to do this not by cutting Medicare—but by slowing its rate of growth. Under the Republican plan adopted by Congress, annual spending per Medicare beneficiary would increase from $4,800 this year to more than $7,200 in 2002.

If you believed what President Clinton and some of my friends on the other side of the aisle had to say, however, you would have thought that instead of increasing Medicare spending from $4,800 per beneficiary to $7,200 per beneficiary, Republicans were trying to throw America's seniors out on the streets. And to the President's credit as a public speaker, a lot of Americans believed what he was saying.

There is, however, a very big difference between leading and misleading. Republicans chose to lead—and we suffered in the polls because of it. President Clinton chose to mislead—and he gained in the polls because of it.

But as a story in this morning's New York Times makes very clear, the President's gain came at the expense of the millions and millions of Americans who depend on Medicare.

The story reveals the fact that Medicare's hospital insurance trust fund, which pays hospital bills for the elderly and disabled, lost $4.2 billion—that is billion with a "B"—in the first half of the current fiscal year. Those losses are more than 100 times larger than the $35.7 million loss the trust fund experienced all last year.

The $4.2 billion loss is also in stark contrast to the rosy scenario coming out of the White House last year. As part of their attempt to lead the public to believe that Republicans concern with Medicare was "much ado about nothing," they predicted that the Medicare trust fund would take in $45 million more than it would spend in the current fiscal year. Obviously, the White House was as off base in its economic projections as they were in their political accusations.

The article also reports that Roland King, former chief actuary of the Health Care Financing Administration, which runs Medicare, said that after analyzing these new numbers, he believes the hospital insurance trust fund will not run out in 2002 as the trustees originally projected. Instead, it will run out in 2000 or 2001.

I am sure that a number of Republicans are tempted to say "I told you so," this morning. But saying that will get us no closer to the solutions necessary to save Medicare from bankruptcy.

And so, Mr. President, this Senator stands ready to work on a bipartisan basis to save, preserve, and strengthen Medicare. It is my hope that in the face of these alarming new numbers, the President will choose the path of leading rather than the path of misleading.

SENATOR EDMUND S. MUSKIE: THE SENATE'S FIRST ENVIRONMENTAL LEADER

Mrs. BOXER. Mr. President. As all senators know, former Senator Edmund S. Muskie passed away on March 26, two days before his 82d birthday. Senator Muskie served in this body from January, 1959, until May 1980, when he resigned to become Secretary of State in the Carter administration.

As a freshman Senator, Ed Muskie ardently desired a position on the Foreign Relations Committee. He was disappointed to be appointed to the Public Works Committee instead. But his loss proved to be the Nation's gain. As a member of the Public Works Committee, later the chairman of the Environmental Pollution Subcommittee, Senator Muskie became the chief architect of America's first environmental laws.

At the funeral service for Senator Muskie, his protege and former chief of staff, George Mitchell, who took Muskie's Senate seat and went on to become the Senate majority leader, delivered a wonderful tribute to Senator Muskie's environmental leadership. I would like to share his remarks with the Senate today by asking unanimous consent that they be printed in the CONGRESSIONAL RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS OF GEORGE MITCHELL

Jane, Steve and Lexi, Ellen and Ernie, Melinda and Eddie, Martha, Ned and Julia, and other members of the family, Cardinal Hickey, Bishop Gerry and other members of the clergy, President and Mrs. Carter and other distinguished guests and friends of Ed Muskie. Senator Muskie once said that he didn't like being called "Lincolnesque" but it fit. With his lanky frame, his long and craggy face, his powerful voice, he was an imposing figure. He was loved and trusted by the people of Maine because they saw in him the qualities they most admire, independence, fairness, the lack of pretense, the willingness to speak the truth even when it hurt. He was plain spoken even blunt at times and they admired him for it. He had his faults and he made mistakes as do all human beings but he conquered his faults and he learned from his mistakes and as a result, he became the greatest public official in Maine's history and one of the most effective legislators in our nation's history. He accomplished much in a long and distinguished career. In that impressive record, nothing surpasses what he did to protect America's natural environment.

Harry Truman once said that men make history, not the other way around. In periods where there is no leadership society stands still. Progress occurs when courageous skillful leaders seize the opportunity to change things for the better. Ed Muskie changed things for the better. When he went to the Senate, there were no national environmental laws, there was no environmental movement, there was hardly an awareness of the problem. Industries and municipalties dumped their wastes into the nearest river and America's waters were, for the most part, stinking open sewers. The air was unhealthy, the water polluted. Ed Muskie changed that.

It's one thing to write and pass a law, it's another thing to change the way people live, it's yet another and a far more difficult thing to change the way people think. Ed Muskie did that. With knowledge, skill, determination and patience he won approval of the Clean Air Act and the Clean Water Act and America was changed forever for the better. Any American who wants to know what Ed Muskie's legacy is need only go to the nearest river. Before Ed Muskie it was almost surely not fit to drink or to swim or to fish in, because of Ed Muskie it is now almost surely clean. A source of recreation even revenue. Despite the efforts of some to turn back the clock, these landmark laws will survive because the American people know what a difference he has made in their lives

It has been said that what we do for ourselves, leaves this world with us, what we do for others remains behind. That's our legacy, our link with immortality. Ed Muskie's legacy will stand as a living memorial to his vision. It is his immortality.

Each of us could say much more about Ed Muskie's public career but we are here today to pay tribute to Ed Muskie the man, so I would like to say a few words about the man who was my hero, my mentor, my friend. Thirty-four years ago this week, I received a telephone call that changed my life. It was from Don Nicoll, Senator Muskie's Administrative Assistant and close friend who is here today. He invited me to come up to Capitol Hill to meet the Senator who was looking for someone from Maine to fill a vacancy on his staff. To help him evaluate me, Don asked that I prepare a memorandum on the legal aspects of an issue that was then being considered by the Senate. I prepared the memo and went up for the interview. I thought the memo was pretty good, but unknowingly I had made a huge mistake. I reached a conclusion that was the opposite of the Senator's. I had never met him but he didn't bother with any small talk. Within minutes of our introduction, he unleashed a ferocious cross-examination. He came out from behind his desk, he towered over me, he shook his finger at me and he took my memo apart, line by line. I was stunned, so intimidated that I couldn't control the shaking of my legs even though I was sitting down. I tried as best as I could to explain my point of view and we had what you might call a lively discussion. As I left he said the next time you come in here, you'll be better prepared. That's how I learned I'd been hired and I sure was better prepared the next time.

Ed Muskie was even more imposing intellectually than he was physically. He was the smartest person that I ever met with an incisive analytical mind that enabled him to see every aspect of a problem and instantly to identify possible solutions. He challenged everyone around him to rise to his level of excellence. No one quite reached his level, but those who took up the challenge were improved by the effort. Those who know him learned from that relationship, those of us who worked for him, most of all. Just about everything I know about politics and government I learned from him. Just about everything I have accomplished in public life, can be traced to his help. No one ever had a better mentor or a better friend.

No discussion of Ed Muskie would be complete without mention of his legendary temper. After he became Secretary of State, a news magazine in an article described his temper as entirely tactical, something that he turned on and off at will to help him get his way. I saw him a few days later, he showed me the article, in fact he read it to me, and then he said laughingly, "all these years you thought my temper was for real." Well, I said, you sure fooled me, and a lot of other people. I think the reality is that it was both. When he yelled at you it was terrifyingly real, but you could never be sure that it wasn't also a tactic to move you his way, to get you to do what he wanted done and that's the way he wanted it and liked it.

Almost as unnerving as one of his eruptions was the swiftness with which it passed and was forgotten. He was a passionate man and expressed himself with emotion. His point having been made, he moved on, he didn't believe in looking back or nursing grudges and maybe that's how he got past the disappointments he suffered. It surely also helped that he was a secure man, confident in, and comfortable with his values. Those values were simple, yet universal in their reach and enduring in their strength. They were faith, family and country. He was constant in his faith. He was comforted by it and he was motivated by its message. The prayer printed on the back of the program today written by Senator Muskie more than a quarter century ago with its emphasis on compassion and tolerance was the essence of his faith. He was totally devoted to his family, especially to Jane. They would have celebrated their 48th anniversary in May and for all those years, she supported him, she comforted him, she helped him. He was a passionate believer in democracy and especially in American democracy.

I have the privilege of traveling all over Maine and all this country with him. Back when I was on Senator Muskie's staff we didn't have the resources available today so we used to share a motel room in small towns all across Maine as I drove him from one appearance to another. And I can recall the many times he spoke of his Father who he greatly admired and who he was very much influenced by. His Father was a Polish immigrant who, like many others who fled from tyranny, flourished in the free air of this blessed land. No person I have ever heard and few in our history could match Ed Muskie's eloquence on the meaning of America. Once in public office, his profound respect for American democracy led him to act always with dignity and restraint, lest he dishonor those he represented. As a result, he was the ideal in pubic service, a man who accomplished much without ever compromising his principles or his dignity. Character is what you are when you are alone in the dark as well as with others in the daylight. Ed Muskie's character was strong. Strong enough to light up other people's lives. He taught us that integrity is more important than winning. That real knowledge counts more than slogans or sound bites. That we should live our values rather than parading them for public approval.

Many years ago, Maine's greatest poet, Henry Wadsworth Longfellow, wrote of another great man these words: "Were a star quenched on high for ages would its light still traveling downward from the sky shine on our mortal sight. So when a great man dies for years beyond our kin, the light he leaves behind him lies upon the paths of men." A great man has died and for years his life will shine upon our paths. Goodbye Ed, may God bless you and welcome you.

Mrs. BOXER. Finally, Mr. President, I would also like to share with my colleagues a beautiful prayer, written by Senator Muskie for the occasion of the Presidential Prayer Breakfast in January, 1969. The message of this prayer—a plea on behalf of all public officials for mutual trust and understanding, cooperation and compassion—is more relevant today than ever. I ask unanimous consent that the full text of the prayer be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRESIDENTIAL PRAYER

(Written by Senator Edmund S. Muskie and delivered at the Presidential Prayer Breakfast January 30, 1969—Washington, DC)

Our Father—we are gathered here this morning, perplexed and deeply troubled.

We are grateful for the many blessings You have bestowed upon us—the great resources of land and people—the freedom to apply them to uses of our own choosing—the successes which have marked our efforts.

We are preplexed that, notwithstanding these blessings, we have not succeeded in making possible a life of promise for all our people in that growing dissatisfaction threatens our unity and our progress toward peace and justice.

We are deeply troubled that we may not be able to agree upon the common purposes and the basis for mutual trust which are essential if we are to overcome these difficulties.

And so, Our Father, we turn to you for help.

Teach us to listen to one another, with the kind of attention which is receptive to other points of view, however different, with a healthy skepticism as to our own infallibility.

Teach us to understand one another with the kind of sensitivity which springs from deeply-seated sympathy and compassion.

Teach us to trust one another, beyond mere tolerance, with a willingness to take the chance on the perfectibility of our fellow men.

Teach us to help one another, beyond charity, in the kind of mutual involvement which is essential if a free society is to work.

We ask it in Jesus' name. Amen.

HONORING THE COLLARDS FOR CELEBRATING THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data is undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "till death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor James and Esther Morales of Neosho, MO who on March 9, 1996 celebrated their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. George and Barbara's commitment to the principles and values of their marriage deserves to be saluted and recognized. I wish them and their family all the best as they celebrate this substantial marker on their journey together.

HONORING THE MORALES FOR CELEBRATING THEIR 50TH WEDDING ANNIVERSARY

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For these important reasons, I rise today to honor George and Barbara Morales of Costa Mesa, CA who on March 29, 1996 celebrated their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. George and Barbara's commitment to the principles and values of their marriage deserves to be saluted and recognized. I wish them and their family all the best as they celebrate this substantial marker on their journey together.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Monday, April 22, 1996, the Federal debt stood at $5,101,586,172,580.18.

On a per capita basis, every man, woman, and child in America owes $19,273.81 as his or her share of that debt.

TRIBUTE TO JIMMY JONES

Mr. HEFLIN. Mr. President, I am proud to pay tribute today to a dear friend to me and several members of my staff, James L. Jones. Jimmy is a long-time employee of the Senate Superintendent's Office of the Architect of the Capitol, where his friendliness, dedication, and warm personality have become familiar to many of us. On April 26, Jimmy will be retiring from his position with the Superintendent's Office after 31 years of service to the U.S. Senate. He started out working on the grounds and worked his way up to become the Senate garage attendant foreman. For many years, he has headed up the entire Senate parking garage operation.

Jimmy Jones is one of those individuals who takes extreme pride in his work and who truly loves the Senate as an institution. He and his capable staff are welcome sights to those who routinely park in the various garages in the Senate office buildings. He is fun to joke around with and he really goes the extra mile to take care of those who use the parking facilities. He is a Maryland native, and his delicious crabcakes have been most appreciated over the years. He never fails to greet us with a joke or humorous story to brighten our day, and his special brand of generosity and humor never fail to uplift our spirits and provide a welcome reprieve from the rigors of Senate business.

Jimmy Jones is one of those colorful Senate institutions who will be sorely missed after he retires. His friendliness, cheerfulness, and willingness to accommodate are genuine. He is a person of character. I join my colleagues in thanking him, commending him, and wishing him all the best as he embarks upon a well-earned retirement. I do hope he will continue to bring us his crabcakes from time to time. Since he is such an avid stock car racing fan, I also expect to see him at the Talladega International Motor Speedway on occasion after my own retirement.

TRIBUTE TO SHERIFF MEL BAILEY

Mr. HEFLIN. Mr. President, Jefferson County Sheriff Mel Bailey announced earlier this month that he will be retiring after a distinguished 33-year record as the county's chief law enforcement official. This means that for the first time since the early days of the Civil Rights Movement, Jefferson County will have a new sheriff. He is the dean of Alabama law enforcement officers.

Mel Bailey has provided outstanding leadership, guidance, and service to the State of Alabama as Jefferson County's sheriff since 1963. Throughout his terms in office, he has made tremendous strides in preparing the sheriff's department for its fight against crime and in serving the citizens who elected him. In the process, he has become known as a symbol of law and order in Alabama.

Since he has been in office, Mel Bailey has come to epitomize the office in the minds of many citizens. He joined the Birmingham Police Department in 1946 and was promoted to detective in 1953, resigning in 1962 to successfully campaign for sheriff. He didn't draw an opponent until 1978, when he still received 70 percent of the vote.

When Sheriff Bailey began his tenure, there were 77 sheriff's department employees working within a $735,000 budget. Today, the department has about 600 workers and a $28 million budget. He began the Turn in a Pusher [T.I.P.] program, the United Narcotic Detail Operation Program, and developed one of the first SWAT teams in the United States. He also initiated a countywide radio network that linked 34 cities with the sheriff's department.

Many give Sheriff Bailey credit for creating a modern, professional law enforcement agency. He put deputies in uniforms and into marked cars, and got his department to start investigating automobile accidents and keeping records. During the 1960's, he dramatically improved working conditions for deputies. In the 1970's, he established the county's substation system and the special deputies program. A training program for jailers was implemented in 1982. He worked to provide his deputies with the best equipment possible and began a standard training procedure which provided them with the expertise necessary to meet any threat. He has been instrumental in obtaining innovative equipment for use in fighting crime.

For example, he implemented a radio-controlled toy airplane which can be used to drop tear gas or small bombs to stop a sniper lodged in a protected place. He also added a robot which police agencies can send into a building to dismantle a bomb. In both of these cases, a highly dangerous problem can now be handled without threat to the life of an officer.

The outstanding contributions Sheriff Mel Bailey has made during his long tenure in office are the result of his great capabilities, his ability to delegate responsibility, and by his professional attitude. He has also surrounded himself with outstanding people who hold the same qualities of professionalism and commitment to fighting crime. He is a prominent symbol of law and order throughout Alabama. He has enjoyed the full confidence of the people of Jefferson County for good reason: his fundamental effectiveness in battling crime, as evidenced by the fact that he was named Alabama's Law Officer of the Year in 1971 and was inducted into the Alabama Peace Officers Hall of Fame in 1991.

I commend and congratulate Sheriff Mel Bailey for his many years of service to the cause of law enforcement in Alabama's most populous county. All are proud of his achievements and thankful for his long period of excellent service. He has done an outstanding job and I wish him well as he enters retirement.

TRIBUTE TO WILLIAM MANSEL LONG, SR.

Mr. HEFLIN. Mr. President, my dear friend William Mansel Long, Sr., passed away on March 31, 1996, at the age of 92. Mr. Long was an outstanding civil rights leader and senior citizens advocate and was one of the founding members of the Alabama Democratic Conference. His son, William Mansel, Jr., has been on my staff ever since I came to the Senate, and has been my legislative director for several years.

Mansel Long made his mark on society in many ways during his long life. His tenacity and accomplishments were an inspiration to so many who knew him. His was a life of struggle, but also one of extraordinary achievement spurred by an unusual devotion to duty. He dedicated himself to improving the quality of life for his fellow citizens and to enriching his community and society as a whole. His life was marked by many varied accomplishments—he excelled on both a professional and personal level. Even late in life, he continued to be a vital force in political and religious affairs.

Mr. Long received the certificate of appreciation from the Northwest Alabama Council of Local Governments Area Agency on Aging; the Quality of Life Award, presented by the Mental Health Association; the Community Leadership Award, presented by the Shoals National Bank; and awards of appreciation for his long years of service to Lesley Temple Christian Methodist Episcopal Church. He was my appointee to the 1981 White House Conference on Aging, where he helped formulate the recommendations for developing national policy on aging.

Mansel Long was a gifted orator, organizer, and a moral force in his community. Over the course of several decades, he fought for civil rights and for social and economic equality for all people. In addition to helping establish the Alabama Democratic Conference, he was a member of the board of directors of the Alabama Legal Services Corporation; served as president of the Colbert County League of Voters; a member of the Council on Human Relations; a member of the board of directors of the Young Volunteers in Action; and was chairman of the Board of Stewards and a leader of the trustee board of his beloved Lesley Temple church in Tuscumbia.

After serving for 30 years as a chemical analyst with the Tennessee Valley Authority, Mr. Long began a career as an advocate of the rights of the elderly. His record of accomplishment in this field was awesome. His many, many years of tireless leadership in the North Alabama community are unmatched in time and in scope. He commanded the respect of all those who met him and was one of the most hardworking, dedicated, and selfless individuals I have ever known. He was not only an exemplary citizen and community leader, but also a loving husband, father, grandfather, and great-grandfather. As the patriarch of his family, he passed on his legacy of community involvement and concern for others to his children and grandchildren.

One of the most moving stories about Mansel Long which I will always cherish is how he graduated from college in 1985 at the age of 81. He had entered Alabama's Talladega College in 1925 at the age of 22 after working 4 years to save enough money to pay his tuition. He studied biology and chemistry there for more than 3½ years, but had to leave to take a job in order to help his family financially. Sixty years later, his life-long goal of being a college graduate was fulfilled as he received his bachelor of arts degree.

Mansel Long was a prime example of those ideals that we hold dear in our country. He was a model to emulate and one of Tuscumbia's and Alabama's most revered citizens. He was a credit to his family, church, community, state, and country who will be solely missed by all of those fortunate to have know him. His legacy of service and duty will serve as an inspiration to many future generations.

NOTICE OF ISSUANCE OF FINAL REGULATIONS

Mr. THURMOND. Mr. President, pursuant to section 304(d) of the Congressional Accountability Act of 1995 (2 U.S.C. 1384(d)), various notices of issuance of final regulations, together with a copy of the final regulations, were submitted by the Office of Compliance, U.S. Congress. These regulations relate to the Family and Medical Leave Act of 1993, the Employee Polygraph Protection Act of 1988, the Fair Labor Standards Act of 1938, and the Worker Adjustment and Retraining Notification Act of 1988. The notices announce the issuance of final regulations on these matters with an effective date of April 16, 1996. The Congressional Accountability Act specifies that the notices and regulations be printed in the CONGRESSIONAL RECORD. Therefore, I ask unanimous consent that the notices and issued regulations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993

NOTICE OF ISSUANCE OF FINAL REGULATIONS

On January 22, 1996, the Board of Directors of the Office of Compliance adopted and submitted for publication in the Congressional Record final regulations implementing section 202 of the Congressional Accountability Act of 1995 ("CAA") (2 U.S.C. §§1302 *et seq.*), which applies certain rights and protections of the Family and Medical Leave Act of 1993. On April 15, 1996, pursuant to section 304(c) of the CAA, the House and the Senate agreed to resolutions approving the final regulations. Specifically, the Senate agreed to S. Res. 242, to provide for the approval of final regulations that are applicable to the Senate and the employees of the Senate; the House agreed to H. Res. 400, to provide for the approval of final regulations that are applicable to the House and the employees of the House; and the House and the Senate agreed to S. Con. Res. 51, to provide for approval of final regulations that are applicable to employing offices and employees other than those offices and employees of the House and the Senate. Accordingly, pursuant section 304(d) of the CAA, the Board submits these regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for issuance by publication in the Congressional Record.

Pursuant to paragraph (3) of section 304(d) of the CAA, the Board finds good cause for the regulations to become effective on April 16, 1996, rather than 60 days after issuance. Were the regulations not effective immediately upon the expiration of the interim regulations on April 15, 1996, covered employees, employing offices and the Office of Compliance would be forced to operate under the same kind of regulatory uncertainty that the Board sought to avoid by adopting interim regulations effective as of the January 23, 1996, which was the effective date of the relevant provisions of the CAA.

Signed at Washington, DC, on this 19th day of April 1996.

GLEN D. NAGER,
Chair of the Board, Office of Compliance.

[Final Regulations]

Part 825—Family and Medical Leave

825.1 Purpose and scope

Subpart A—What is the Family and Medical Leave Act, and to Whom Does it Apply under the Congressional Accountability Act?

825.100 What is the Family and Medical Leave Act?

825.101 What is the purpose of the FMLA?

825.102 When are the FMLA and the CAA effective for covered employees and employing offices?

825.103 How does the FMLA, as made applicable by the CAA, affect leave in progress on, or taken before, the effective date of the CAA?

825.104 What employing offices are covered by the FMLA, as made applicable by the CAA?

825.105 [Reserved]

825.106 How is "joint employment" treated under the FMLA as made applicable by the CAA?

825.107–825.109 [Reserved]

825.110 Which employees are "eligible" to take FMLA leave under these regulations?

825.111 [Reserved]

825.112 Under what kinds of circumstances are employing offices required to grant family or medical leave?

825.113 What do "spouse," "parent," and "son or daughter" mean for purposes of an employee qualifying to take FMLA leave?

825.114 What is a "serious health condition" entitling an employee to FMLA leave?

825.115 What does it mean that "the employee is unable to perform the functions of the position of the employee"?

825.116 What does it mean that an employee is "needed to care for" a family member?

825.117 For an employee seeking intermittent FMLA leave or leave on a reduced leave schedule, what is meant by "the medical necessity for" such leave?

825.118 What is a "health care provider"?

Subpart B—What Leave Is an Employee Entitled to Take Under the Family and Medical Leave Act, as Made Applicable by the Congressional Accountability Act?

825.200 How much leave may an employee take?

825.201 If leave is taken for the birth of a child, or for placement of a child for adoption or foster care, when must the leave be concluded?

825.202 How much leave may a husband and wife take if they are employed by the same employing office?

825.203 Does FMLA leave have to be taken all at once, or can it be taken in parts?

825.204 May an employing office transfer an employee to an "alternative position" in order to accommodate intermittent leave or a reduced leave schedule?

825.205 How does one determine the amount of leave used where an employee takes leave intermittently or on a reduced leave schedule?

825.206 May an employing office deduct hourly amounts from an employee's salary, when providing unpaid leave under FMLA, as made applicable by the CAA, without affecting the employee's qualification for exemption as an executive, administrative, or professional employee, or when utilizing the fluctuating workweek method for payment of overtime, under the Fair Labor Standards Act?

825.207 Is FMLA leave paid or unpaid?

825.208 Under what circumstances may an employing office designate leave, paid or unpaid, as FMLA leave and, as a result, enable leave to be counted against the employee's total FMLA leave entitlement?

825.209 Is an employee entitled to benefits while using FMLA leave?

825.210 How may employees on FMLA leave pay their share of group health benefit premiums?

825.211 What special health benefits maintenance rules apply to multi-employer health plans?

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§825.1 Purpose and scope

(a) Section 202 of the Congressional Accountability Act (CAA) (2 U.S.C. 1312) applies the rights and protections of sections 101 through 105 of the Family and Medical Leave Act of 1993 (FMLA) (29 U.S.C. 2611–2615) to covered employees. (The term "covered employee" is defined in section 101(3) of the CAA (2 U.S.C. 1301(3)). See §825.800 of these regulations for that definition.) The purpose of this part is to set forth the regulations to carry out the provisions of section 202 of the CAA.

(b) These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 202(d) and 304 of the CAA, which direct the Board to promulgate regulations implementing section 202 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 202 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." The regulations issued by the Board herein are on all matters for which section 202 of the CAA requires regulations to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of the promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 202 of the CAA]."

(c) In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

SUBPART A—WHAT IS THE FAMILY AND MEDICAL LEAVE ACT, AND TO WHOM DOES IT APPLY UNDER THE CONGRESSIONAL ACCOUNTABILITY ACT?

§825.100 What is the Family and Medical Leave Act?

(a) The Family and Medical Leave Act of 1993 (FMLA), as made applicable by the Congressional Accountability Act (CAA), allows "eligible" employees of an employing office to take job-protected, unpaid leave, or to substitute appropriate paid leave if the employee has earned or accrued it, for up to a total of 12 workweeks in any 12 months because of the birth of a child and to care for the newborn child, because of the placement of a child with the employee for adoption or foster care, because the employee is needed to care for a family member (child, spouse, or parent) with a serious health condition, or because the employee's own serious health condition makes the employee unable to perform the functions of his or her job (*see* §825.306(b)(4)). In certain cases, this leave may be taken on an intermittent basis rather than all at once, or the employee may work a part-time schedule.

(b) An employee on FMLA leave is also entitled to have health benefits maintained while on leave as if the employee had continued to work instead of taking the leave. If an employee was paying all or part of the premium payments prior to leave, the employee would continue to pay his or her share during the leave period. The employing office or a disbursing or other financial office of *the House of Representatives or*[1] the Senate may recover its share only if the employee does not return to work for a reason other than the serious health condition of the employee or the employee's immediate family member, or another reason beyond the employee's control.

(c) An employee generally has a right to return to the same position or an equivalent position with equivalent pay, benefits and working conditions at the conclusion of the leave. The taking of FMLA leave cannot result in the loss of any benefit that accrued prior to the start of the leave.

(d) The employing office has a right to 30 days advance notice from the employee where practicable. In addition, the employing office may require an employee to submit certification from a health care provider to substantiate that the leave is due to the serious health condition of the employee or the employee's immediate family member. Failure to comply with these requirements may result in a delay in the start of FMLA leave. Pursuant to a uniformly applied policy, the employing office may also require that an employee present a certification of fitness to return to work when the absence was caused by the employee's serious health condition (*see* §825.311(c)). The employing office may delay restoring the employee to employment without such certificate relating to the health condition which caused the employee's absence.

§825.101 What is the purpose of the FMLA?

(a) FMLA is intended to allow employees to balance their work and family life by taking reasonable unpaid leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition. The FMLA is intended to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity. It was intended that the FMLA accomplish these purposes in a manner that accommodates the legitimate interests of employers, and in a manner consistent with the Equal Protection Clause of the Fourteenth Amendment in minimizing the potential for employment discrimination on the basis of sex, while promoting equal employment opportunity for men and women.

(b) The enactment of FMLA was predicated on two fundamental concerns the needs of the American workforce, and the development of high-performance organizations. Increasingly, America's children and elderly are dependent upon family members who must spend long hours at work. When a family emergency arises, requiring workers to attend to seriously-ill children or parents, or to newly-born or adopted infants, or even to their own serious illness, workers need reassurance that they will not be asked to choose between continuing their employment, and meeting their personal and family obligations or tending to vital needs at home.

(c) The FMLA is both intended and expected to benefit employers as well as their employees. A direct correlation exists between stability in the family and productivity in the workplace. FMLA will encourage the development of high-performance organizations. When workers can count on durable links to their workplace they are able to make their own full commitments to their jobs. The record of hearings on family and medical leave indicate the powerful productive advantages of stable workplace relationships, and the comparatively small costs of guaranteeing that those relationships will not be dissolved while workers attend to pressing family health obligations or their own serious illness.

§825.102 When are the FMLA and the CAA effective for covered employees and employing offices?

(a) The rights and protection of sections 101 through 105 of the FMLA have applied to certain Senate employees and certain employing offices of the Senate since August 5, 1993 (*see* section 501 of FMLA).

(b) The rights and protection of sections 101 through 105 of the FMLA have applied to any employee in an employment position and any employment authority of the House of Representatives since August 5, 1993 (*see* section 502 of FMLA).

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[1] Italicized language is in only the House and Instrumentalities versions of the regulations.

(c) The rights and protections of sections 101 through 105 of the FMLA have applied to certain employing offices and covered employees other than those referred to in paragraphs (a) and (b) of this section for certain periods since August 5, 1993 (*see, e.g.*, Title V of the FMLA, sections 501 and 502).

(d) The provisions of section 202 of the CAA that apply rights and protections of the FMLA to covered employees are effective on January 23, 1996.

(e) The period prior to the effective date of the application of FMLA rights and protections under the CAA must be considered in determining employee eligibility.

§825.103 How does the FMLA, as made applicable by the CAA, affect leave in progress on, or taken before, the effective date of the CAA?

(a) An eligible employee's right to take FMLA leave began on the date that the rights and protections of the FMLA first went into effect for the employing office and employee (*see* §825.102(a)). Any leave taken prior to the date on which the rights and protections of the FMLA first became effective for the employing office from which the leave was taken may not be counted for purposes of the FMLA as made applicable by the CAA. If leave qualifying as FMLA leave was underway prior to the effective date of the FMLA for the employing office from which the leave was taken and continued after the FMLA's effective date for that office, only that portion of leave taken on or after the FMLA's effective date may be counted against the employee's leave entitlement under the FMLA, as made applicable by the CAA.

(b) If an employing office-approved leave is underway when the application of the FMLA by the CAA takes effect, no further notice would be required of the employee unless the employee requests an extension of the leave. For leave which commenced on the effective date or shortly thereafter, such notice must have been given which was practicable, considering the foreseeability of the need for leave and the effective date.

(c) Starting on January 23, 1996, an employee is entitled to FMLA leave under these regulations if the reason for the leave is qualifying under the FMLA, as made applicable by the CAA, even if the event occasioning the need for leave (*e.g.*, the birth of a child) occurred before such date (so long as any other requirements are satisfied).

§825.104 What employing offices are covered by the FMLA, as made applicable by the CAA?

(a) The FMLA, as made applicable by the CAA, covers all employing offices. As used in the CAA, the term "employing office" means—

(1) the personal office of a Member of the House of Representatives or of a Senator;

(2) a committee of the House of Representatives or the Senate or a joint committee;

(3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(4) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

(b) [Reserved]

(c) Separate entities will be deemed to be parts of a single employer for purposes of the FMLA, as made applicable by the CAA, if they meet the "integrated employer" test. A determination of whether or not separate entities are an integrated employer is not determined by the application of any single criterion, but rather the entire relationship is to be reviewed in its totality. Factors considered in determining whether two or more entities are an integrated employer include:

(i) Common management;

(ii) Interrelation between operations;

(iii) Centralized control of labor relations; and

(iv) Degree of common financial control.

§825.105 [Reserved]

§825.106 How is "joint employment" treated under the FMLA as made applicable by the CAA?

(a) Where two or more employing offices exercise some control over the work or working conditions of the employee, the employing offices may be joint employers under FMLA, as made applicable by the CAA. Where the employee performs work which simultaneously benefits two or more employing offices, or works for two or more employing offices at different times during the workweek, a joint employment relationship generally will be considered to exist in situations such as:

(1) Where there is an arrangement between employing offices to share an employee's services or to interchange employees;

(2) Where one employing office acts directly or indirectly in the interest of the other employing office in relation to the employee; or

(3) Where the employing offices are not completely disassociated with respect to the employee's employment and may be deemed to share control of the employee, directly or indirectly, because one employing office controls, is controlled by, or is under common control with the other employing office.

(b) A determination of whether or not a joint employment relationship exists is not determined by the application of any single criterion, but rather the entire relationship is to be viewed in its totality. For example, joint employment will ordinarily be found to exist when:

(1) an employee, who is employed by an employing office other than the personal office of a Member of the House of Representatives or of a Senator, is under the actual direction and control of the Member of the House of Representatives or Senator; or

(2) two or more employing offices employ an individual to work on common issues or other matters for both or all of them.

(c) When employing offices employ a covered employee jointly, they may designate one of themselves to be the primary employing office, and the other or others to be the secondary employing office(s). Such a designation shall be made by written notice to the covered employee.

(d) If an employing office is designated a primary employing office pursuant to paragraph (c) of this section, only that employing office is responsible for giving required notices to the covered employee, providing FMLA leave, and maintenance of health benefits. Job restoration is the primary responsibility of the primary employing office, and the secondary employing office(s) may, subject to the limitations in §825.216, be responsible for accepting the employee returning from FMLA leave.

(e) If employing offices employ an employee jointly, but fail to designate a primary employing office pursuant to paragraph (c) of this section, then all of these employing offices shall be jointly and severally liable for giving required notices to the employee, for providing FMLA leave, for assuring that health benefits are maintained, and for job restoration. The employee may give notice of need for FMLA leave, as described in §§825.302 and 825.303, to whichever of these employing offices the employee chooses. If the employee makes a written request for restoration to one of these employing offices, that employing office shall be primarily responsible for job restoration, and the other employing office(s) may, subject to the limitations in §825.216, be responsible for accepting the employee returning from FMLA leave.

§825.107 [Reserved]

§825.108 [Reserved]

§825.109 [Reserved]

§825.110 Which employees are "eligible" to take FMLA leave under these regulations?

(a) An "eligible employee" under these regulations means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

(b) The 12 months an employee must have been employed by any employing office need not be consecutive months. If an employee worked for two or more employing offices sequentially, the time worked will be aggregated to determine whether it equals 12 months. If an employee is maintained on the payroll for any part of a week, including any periods of paid or unpaid leave (sick, vacation) during which other benefits or compensation are provided by the employer (e.g., workers' compensation, group health plan benefits, etc.), the week counts as a week of employment. For purposes of determining whether intermittent/occasional/casual employment qualifies as "at least 12 months," 52 weeks is deemed to be equal to 12 months.

(c) If an employee was employed by two or more employing offices, either sequentially or concurrently, the hours of service will be aggregated to determine whether the minimum of 1,250 hours has been reached. Whether an employee has worked the minimum 1,250 hours of service is determined according to the principles established under the Fair Labor Standards Act (FLSA) , as applied by section 203 of the CAA (2 U.S.C. 1313), for determining compensable hours of work. The determining factor is the number of hours an employee has worked for one or more employing offices. The determination is not limited by methods of record-keeping, or by compensation agreements that do not accurately reflect all of the hours an employee has worked for or been in service to the employing office. Any accurate accounting of actual hours worked may be used. For this purpose, full-time teachers (*See* §825.800 for definition) of an elementary or secondary school system, or institution of higher education, or other educational establishment or institution are deemed to meet the 1,250 hour test. An employing office must be able to clearly demonstrate that such an employee did not work 1,250 hours during the previous 12 months in order to claim that the employee is not "eligible" for FMLA leave.

(d) The determinations of whether an employee has worked for any employing office for at least 1,250 hours in the previous 12 months and has been employed by any employing office for a total of at least 12 months must be made as of the date leave commences. The "previous 12 months" means the 12 months immediately preceding the commencement of the leave. If an employee notifies the employing office of need for FMLA leave before the employee meets these eligibility criteria, the employing office must either confirm the employee's eligibility based upon a projection that the employee will be eligible on the date leave would commence or must advise the employee when the eligibility requirement is met. If the employing office confirms eligibility at the time the notice for leave is received, the employing office may not subsequently challenge the employee's eligibility. In the latter case, if the employing office does not advise the employee whether the employee is eligible as soon as practicable (*i.e.*, two business days absent extenuating circumstances) after the date employee eligibility is determined, the employee will have satisfied the notice requirements and the notice of leave is considered current and outstanding until the employing office does advise. If the employing office fails to advise the employee whether the employee is eligible prior to the date the requested leave is to commence, the employee will be deemed eligible. The employing office may not, then, deny the leave. Where the employee does not give notice of the need for leave more than two business days prior to commencing leave, the employee will be deemed to be eligible if the employing office fails to advise the employee that the employee is not eligible within two business days of receiving the employee's notice.

(e) The period prior to the effective date of the application of FMLA rights and protections under the CAA must be considered in determining employee's eligibility.

(f) [Reserved]

§825.111 [Reserved]

§825.112 Under what kinds of circumstances are employing offices required to grant family or medical leave?

(a) Employing offices are required to grant leave to eligible employees:

(1) For birth of a son or daughter, and to care for the newborn child;

(2) For placement with the employee of a son or daughter for adoption or foster care;

(3) To care for the employee's spouse, son, daughter, or parent with a serious health condition; and

(4) Because of a serious health condition that makes the employee unable to perform the functions of the employee's job.

(b) The right to take leave under FMLA as made applicable by the CAA applies equally to male and female employees. A father, as well as a mother, can take family leave for the birth, placement for adoption or foster care of a child.

(c) Circumstances may require that FMLA leave begin before the actual date of birth of a child. An expectant mother may take FMLA leave pursuant to paragraph (a)(4) of this section before the birth of the child for prenatal care or if her condition makes her unable to work.

(d) Employing offices are required to grant FMLA leave pursuant to paragraph (a)(2) of this section before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed. For example, the employee may be required to attend counseling sessions, appear in court, consult with his or her attorney or the doctor(s) representing the birth parent, or submit to a physical examination. The source of an adopted child (*e.g.*, whether from a licensed placement agency or otherwise) is not a factor in determining eligibility for leave for this purpose.

(e) Foster care is 24-hour care for children in substitution for, and away from, their parents or guardian. Such placement is made by or with the agreement of the State as a result of a voluntary agreement between the parent or guardian that the child be removed from the home, or pursuant to a judicial determination of the necessity for foster care, and involves agreement between the State and foster family that the foster family will take care of the child. Although foster care may be with relatives of the child, State action is involved in the removal of the child from parental custody.

(f) In situations where the employer/employee relationship has been interrupted, such as an employee who has been on layoff, the employee must be recalled or otherwise be re-employed before being eligible for FMLA leave. Under such circumstances, an eligible employee is immediately entitled to further FMLA leave for a qualifying reason.

(g) FMLA leave is available for treatment for substance abuse provided the conditions of §825.114 are met. However, treatment for substance abuse does not prevent an employing office from taking employment action against an employee. The employing office may not take action against the employee because the employee has exercised his or her right to take FMLA leave for treatment. However, if the employing office has an established policy, applied in a non-discriminatory manner that has been communicated to all employees, that provides under certain circumstances an employee may be terminated for substance abuse, pursuant to that policy the employee may be terminated whether or not the employee is presently taking FMLA leave. An employee may also take FMLA leave to care for an immediate family member who is receiving treatment for substance abuse. The employing office may not take action against an employee who is providing care for an immediate family member receiving treatment for substance abuse.

§825.113 What do "spouse," "parent," and "son or daughter" mean for purposes of an employee qualifying to take FMLA leave?

(a) Spouse means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized.

(b) Parent means a biological parent or an individual who stands or stood *in loco parentis* to an employee when the employee was a son or daughter as defined in (c) below. This term does not include parents "in law".

(c) Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability."

(1) "Incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in three or more of the "activities of daily living" (ADLs) or "instrumental activities of daily living" (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

(2) "Physical or mental disability" means a physical or mental impairment that substantially limits one or more of the major life activities of an individual. See the Americans with Disabilities Act (ADA), as made applicable by section 201(a)(3) of the CAA (2 U.S.C. 1311(a)(3)).

(3) Persons who are "*in loco parentis*" include those with day-to-day responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

(d) For purposes of confirmation of family relationship, the employing office may require the employee giving notice of the need for leave to provide reasonable documentation or statement of family relationship. This documentation may take the form of a simple statement from the employee, or a child's birth certificate, a court document, *etc.* The employing office is entitled to examine documentation such as a birth certificate, *etc.*, but the employee is entitled to the return of the official document submitted for this purpose.

§825.114 What is a "serious health condition" entitling an employee to FMLA leave?

(a) For purposes of FMLA, "serious health condition" entitling an employee to FMLA leave means an illness, injury, impairment, or physical or mental condition that involves:

(1) *Inpatient care* (*i.e.*, an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of *incapacity* (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom), or any subsequent treatment in connection with such inpatient care; or

(2) *Continuing treatment* by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(i) A period of *incapacity* (*i.e.*, inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(A) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (*e.g.*, physical therapist) under orders of, or on referral by, a health care provider; or

(B) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(ii) Any period of incapacity due to pregnancy, or for prenatal care.

(iii) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(A) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(B) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(C) May cause episodic rather than a continuing period of incapacity (*e.g.*, asthma, diabetes, epilepsy, *etc.*).

(iv) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(v) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, *etc.*), severe arthritis (physical therapy), kidney disease (dialysis).

(b) Treatment for purposes of paragraph (a) of this section includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under paragraph (a)(2)(i)(B), a regimen of continuing treatment includes, for example, a course of prescription medication (*e.g.*, an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (*e.g.*, oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

(c) Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, *etc.*, are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(d) Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.

(e) Absences attributable to incapacity under paragraphs (a)(2)(ii) or (iii) qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

§825.115 What does it mean that "the employee is unable to perform the functions of the position of the employee"?

An employee is "unable to perform the functions of the position" where the health care provider finds that the employee is unable to work at all or is unable to perform any one of the essential functions of the employee's position within the meaning of the Americans with Disabilities Act (ADA), as made applicable by section 201(a)(3) of the CAA (2 U.S.C. 1311(a)(3)). An employee who must be absent from work to receive medical treatment for a serious health condition is considered to be unable to perform the essential functions of the position during the absence for treatment. An employing office has the option, in requiring certification from a health care provider, to provide a statement of the essential functions of the employee's position for the health care provider to review. For purposes of FMLA, the essential functions of the employee's position are to be determined with reference to the position the employee held at the time notice is given or leave commenced, whichever is earlier.

§825.116 What does it mean that an employee is "needed to care for" a family member?

(a) The medical certification provision that an employee is "needed to care for" a family member encompasses both physical and psychological care. It includes situations where, for example, because of a serious health condition, the family member is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport himself or herself to the doctor, etc. The term also includes providing psychological comfort and reassurance which would be beneficial to a child, spouse or parent with a serious health condition who is receiving inpatient or home care.

(b) The term also includes situations where the employee may be needed to fill in for others who are caring for the family member, or to make arrangements for changes in care, such as transfer to a nursing home.

(c) An employee's intermittent leave or a reduced leave schedule necessary to care for a family member includes not only a situation where the family member's condition itself is intermittent, but also where the employee is only needed intermittently—such as where other care is normally available, or care responsibilities are shared with another member of the family or a third party.

§825.117 For an employee seeking intermittent FMLA leave or leave on a reduced leave schedule, what is meant by "the medical necessity for" such leave?

For intermittent leave or leave on a reduced leave schedule, there must be a medical need for leave (as distinguished from voluntary treatments and procedures) and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. The treatment regimen and other information described in the certification of a serious health condition (*See* §825.306) meets the requirement for certification of the medical necessity of intermittent leave or leave on a reduced leave schedule. Employees needing intermittent FMLA leave or leave on a reduced leave schedule must attempt to schedule their leave so as not to disrupt the employing office's operations. In addition, an employing office may assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced leave schedule.

§825.118 What is a "health care provider"?

(a)(1) The term "health care provider" means:

(i) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or

(ii) Any other person determined by the Office of Compliance to be capable of providing health care services.

(2) In making a determination referred to in subparagraph (1)(ii), and absent good cause shown to do otherwise, the Office of Compliance will follow any determination made by the Secretary of Labor (under section 101(6)(B) of the FMLA, 29 U.S.C. 2611(6)(B)) that a person is capable of providing health care services, provided the Secretary s determination was not made at the request of a person who was then a covered employee.

(b) Others "capable of providing health care services" include only:

(1) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law;

(2) Nurse practitioners, nurse-midwives and clinical social workers who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law;

(3) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts. Where an employee or family member is receiving treatment from a Christian Science practitioner, an employee may not object to any requirement from an employing office that the employee or family member submit to examination (though not treatment) to obtain a second or third certification from a health care provider other than a Christian Science practitioner except as otherwise provided under applicable State or local law or collective bargaining agreement.

(4) Any health care provider from whom an employing office or the employing office's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and

(5) A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law.

(c) The phrase "authorized to practice in the State" as used in this section means that the provider must be authorized to diagnose and treat physical or mental health conditions without supervision by a doctor or other health care provider.

SUBPART B—WHAT LEAVE IS AN EMPLOYEE ENTITLED TO TAKE UNDER THE FAMILY AND MEDICAL LEAVE ACT, AS MADE APPLICABLE BY THE CONGRESSIONAL ACCOUNTABILITY ACT?

§825.200 How much leave may an employee take?

(a) An eligible employee's FMLA leave entitlement is limited to a total of 12 workweeks of leave during any 12-month period for any one, or more, of the following reasons:

(1) The birth of the employee's son or daughter, and to care for the newborn child;

(2) The placement with the employee of a son or daughter for adoption or foster care, and to care for the newly placed child;

(3) To care for the employee's spouse, son, daughter, or parent with a serious health condition; and,

(4) Because of a serious health condition that makes the employee unable to perform one or more of the essential functions of his or her job.

(b) An employing office is permitted to choose any one of the following methods for determining the "12-month period" in which the 12 weeks of leave entitlement occurs:

(1) The calendar year;

(2) Any fixed 12-month "leave year," such as a fiscal year or a year starting on an employee's "anniversary" date;

(3) The 12-month period measured forward from the date any employee's first FMLA leave begins; or

(4) A "rolling" 12-month period measured backward from the date an employee uses any FMLA leave (except that such measure may not extend back before the date on which the application of FMLA rights and protections first becomes effective for the employing office; see §825.102).

(c) Under methods in paragraphs (b)(1) and (b)(2) of this section an employee would be entitled to up to 12 weeks of FMLA leave at any time in the fixed 12-month period selected. An employee could, therefore, take 12 weeks of leave at the end of the year and 12 weeks at the beginning of the following year. Under the method in paragraph (b)(3) of this section, an employee would be entitled to 12 weeks of leave during the year beginning on the first date FMLA leave is taken; the next 12-month period would begin the first time FMLA leave is taken after completion of any previous 12-month period. Under the method in paragraph (b)(4) of this section, the "rolling" 12-month period, each time an employee takes FMLA leave the remaining leave entitlement would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months. For example, if an employee has taken eight weeks of leave during the past 12 months, an additional four weeks of leave could be taken. If an employee used four weeks beginning February 1, 1997, four weeks beginning June 1, 1997, and four weeks beginning December 1, 1997, the employee would not be entitled to any additional leave until February 1, 1998. However, beginning on February 1, 1998, the employee would be entitled to four weeks of leave, on June 1 the employee would be entitled to an additional four weeks, *etc.*

(d)(1) Employing offices will be allowed to choose any one of the alternatives in paragraph (b) of this section provided the alternative chosen is applied consistently and uniformly to all employees. An employing office wishing to change to another alternative is required to give at least 60 days notice to all employees, and the transition must take place in such a way that the employees retain the full benefit of 12 weeks of leave under whichever method affords the greatest benefit to the employee. Under no circumstances may a new method be implemented in order to avoid the CAA's FMLA leave requirements.

(2) [Reserved]

(e) If an employing office fails to select one of the options in paragraph (b) of this section for measuring the 12-month period, the option that provides the most beneficial outcome for the employee will be used. The employing office may subsequently select an option only by providing the 60-day notice to all employees of the option the employing office intends to implement. During the running of the 60-day period any other employee who needs FMLA leave may use the option providing the most beneficial outcome to that employee. At the conclusion of the 60-day period the employing office may implement the selected option.

(f) For purposes of determining the amount of leave used by an employee, the fact that a holiday may occur within the week taken as FMLA leave has no effect; the week is counted as a week of FMLA leave. However, if for some reason the employing office's activity has temporarily ceased and employees generally are not expected to report for work for one or more weeks (*e.g.*, a school closing two weeks for the Christmas/New Year holiday or the summer vacation or an employing office closing the office for repairs), the days the employing office's activities have ceased do *not* count against the employee's FMLA leave entitlement. Methods for determining an employee's 12-week leave entitlement are also described in §825.205.

(g)(1) If employing offices jointly employ an employee, and if they designate a primary employer pursuant to §825.106(c), the primary employer may choose any one of the alternatives in paragraph (b) of this section for measuring the 12-month period, provided that the alternative chosen is applied consistently and uniformly to all employees of the primary employer including the jointly employed employee.

(2) If employing offices fail to designated a primary employer pursuant to §825.106(c), an employee jointly employed by the employing offices may, by so notifying one of the employing offices, select that employing office to be the primary employer of the employee for purposes of the application of paragraphs (d) and (e) of this section.

§825.201 *If leave is taken for the birth of a child, or for placement of a child for adoption or foster care, when must the leave be concluded?*

An employee's entitlement to leave for a birth or placement for adoption or foster care expires at the end of the 12-month period beginning on the date of the birth or placement, unless the employing office permits leave to be taken for a longer period. Any such FMLA leave must be concluded within this one-year period.

§825.202 *How much leave may a husband and wife take if they are employed by the same employing office?*

(a) A husband and wife who are eligible for FMLA leave and are employed by the same employing office may be limited to a combined total of 12 weeks of leave during any 12-month period if the leave is taken:

(1) for birth of the employee's son or daughter or to care for the child after birth;

(2) for placement of a son or daughter with the employee for adoption or foster care, or to care for the child after placement; or

(3) to care for the employee's parent with a serious health condition.

(b) This limitation on the total weeks of leave applies to leave taken for the reasons specified in paragraph (a) of this section as long as a husband and wife are employed by the "same employing office." It would apply, for example, even though the spouses are employed at two different worksites of an employing office. On the other hand, if one spouse is ineligible for FMLA leave, the other spouse would be entitled to a full 12 weeks of FMLA leave.

(c) Where the husband and wife both use a portion of the total 12-week FMLA leave entitlement for one of the purposes in paragraph (a) of this section, the husband and wife would each be entitled to the difference between the amount he or she has taken individually and 12 weeks for FMLA leave for a purpose other than those contained in paragraph (a) of this section. For example, if each spouse took 6 weeks of leave to care for a healthy, newborn child, each could use an additional 6 weeks due to his or her own serious health condition or to care for a child with a serious health condition.

§825.203 *Does FMLA leave have to be taken all at once, or can it be taken in parts?*

(a) FMLA leave may be taken "intermittently or on a reduced leave schedule" under certain circumstances. Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason. A reduced leave schedule is a leave schedule that reduces an employee's usual number of working hours per workweek, or hours per workday. A reduced leave schedule is a change in the employee's schedule for a period of time, normally from full-time to part-time.

(b) When leave is taken after the birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the employing office agrees. Such a schedule reduction might occur, for example, where an employee, with the employing office's agreement, works part-time after the birth of a child, or takes leave in several segments. The employing office's agreement is not required, however, for leave during which the mother has a serious health condition in connection with the birth of her child or if the newborn child has a serious health condition.

(c) Leave may be taken intermittently or on a reduced leave schedule when medically necessary for planned and/or unanticipated medical treatment of a related serious health condition by or under the supervision of a health care provider, or for recovery from treatment or recovery from a serious health condition. It may also be taken to provide care or psychological comfort to an immediate family member with a serious health condition.

(1) Intermittent leave may be taken for a serious health condition which requires treatment by a health care provider periodically, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy. A pregnant employee may take leave intermittently for prenatal examinations or for her own condition, such as for periods of severe morning sickness. An example of an employee taking leave on a reduced leave schedule is an employee who is recovering from a serious health condition and is not strong enough to work a full-time schedule.

(2) Intermittent or reduced schedule leave may be taken for absences where the employee or family member is incapacitated or unable to perform the essential functions of the position because of a chronic serious health condition even if he or she does not receive treatment by a health care provider.

(d) There is no limit on the size of an increment of leave when an employee takes intermittent leave or leave on a reduced leave schedule. However, an employing office may limit leave increments to the shortest period of time that the employing office's payroll system uses to account for absences or use of leave, provided it is one hour or less. For example, an employee might take two hours off for a medical appointment, or might work a reduced day of four hours over a period of several weeks while recuperating from an illness. An employee may not be required to take more FMLA leave than necessary to address the circumstance that precipitated the need for the leave, except as provided in §§825.601 and 825.602.

§825.204 May an employing office transfer an employee to an "alternative position" in order to accommodate intermittent leave or a reduced leave schedule?

(a) If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment for the employee or a family member, including during a period of recovery from a serious health condition, or if the employing office agrees to permit intermittent or reduced schedule leave for the birth of a child or for placement of a child for adoption or foster care, the employing office may require the employee to transfer temporarily, during the period the intermittent or reduced leave schedule is required, to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position. See §825.601 for special rules applicable to instructional employees of schools.

(b) Transfer to an alternative position may require compliance with any applicable collective bargaining agreement and any applicable law (such as the Americans with Disabilities Act, as made applicable by the CAA). Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent or reduced leave.

(c) The alternative position must have equivalent pay and benefits. An alternative position for these purposes does not have to have equivalent duties. The employing office may increase the pay and benefits of an existing alternative position, so as to make them equivalent to the pay and benefits of the employee's regular job. The employing office may also transfer the employee to a part-time job with the same hourly rate of pay and benefits, provided the employee is not required to take more leave than is medically necessary. For example, an employee desiring to take leave in increments of four hours per day could be transferred to a half-time job, or could remain in the employee's same job on a part-time schedule, paying the same hourly rate as the employee's previous job and enjoying the same benefits. The employing office may not eliminate benefits which otherwise would not be provided to part-time employees; however, an employing office may proportionately reduce benefits such as vacation leave where an employing office's normal practice is to base such benefits on the number of hours worked.

(d) An employing office may not transfer the employee to an alternative position in order to discourage the employee from taking leave or otherwise work a hardship on the employee. For example, a white collar employee may not be assigned to perform laborer's work; an employee working the day shift may not be reassigned to the graveyard shift; an employee working in the headquarters facility may not be reassigned to a branch a significant distance away from the employee's normal job location. Any such attempt on the part of the employing office to make such a transfer will be held to be contrary to the prohibited-acts provisions of the FMLA, as made applicable by the CAA.

(e) When an employee who is taking leave intermittently or on a reduced leave schedule and has been transferred to an alternative position no longer needs to continue on leave and is able to return to full-time work, the employee must be placed in the same or equivalent job as the job he/she left when the leave commenced. An employee may not be required to take more leave than necessary to address the circumstance that precipitated the need for leave.

§825.205 How does one determine the amount of leave used where an employee takes leave intermittently or on a reduced leave schedule?

(a) If an employee takes leave on an intermittent or reduced leave schedule, only the amount of leave actually taken may be counted toward the 12 weeks of leave to which an employee is entitled. For example, if an employee who normally works five days a week takes off one day, the employee would use 1/5 of a week of FMLA leave. Similarly, if a full-time employee who normally works 8-hour days works 4-hour days under a reduced leave schedule, the employee would use ½ week of FMLA leave each week.

(b) Where an employee normally works a part-time schedule or variable hours, the amount of leave to which an employee is entitled is determined on a pro rata or proportional basis by comparing the new schedule with the employee's normal schedule. For example, if an employee who normally works 30 hours per week works only 20 hours a week under a reduced leave schedule, the employee's ten hours of leave would constitute one-third of a week of FMLA leave for each week the employee works the reduced leave schedule.

(c) If an employing office has made a permanent or long-term change in the employee's schedule (for reasons other than FMLA, and prior to the notice of need for FMLA leave), the hours worked under the new schedule are to be used for making this calculation.

(d) If an employee's schedule varies from week to week, a weekly average of the hours worked over the 12 weeks prior to the beginning of the leave period would be used for calculating the employee's normal workweek.

§825.206 May an employing office deduct hourly amounts from an employee's salary, when providing unpaid leave under FMLA, as made applicable by the CAA, without affecting the employee's qualification for exemption as an executive, administrative, or professional employee, or when utilizing the fluctuating workweek method for payment of overtime, under the Fair Labor Standards Act?

(a) Leave taken under FMLA, as made applicable by the CAA, may be unpaid. If an employee is otherwise exempt from minimum wage and overtime requirements of the Fair Labor Standards Act (FLSA), as made applicable by the CAA, as a salaried executive, administrative, or professional employee (under regulations issued by the Board, at part 541), providing unpaid FMLA-qualifying leave to such an employee will not cause the employee to lose the FLSA exemption. This means that under regulations currently in effect, where an employee meets the specified duties test, is paid on a salary basis, and is paid a salary of at least the amount specified in the regulations, the employing office may make deductions from the employee's salary for any hours taken as intermittent or reduced FMLA leave within a workweek, without affecting the exempt status of the employee. The fact that an employing office provides FMLA leave, whether paid or unpaid, or maintains any records regarding FMLA leave, will not be relevant to the determination whether an employee is exempt within the meaning of the Board's regulations at part 541.

(b) For an employee paid in accordance with a fluctuating workweek method of payment for overtime, where permitted by section 203 of the CAA (2 U.S.C. 1313), the employing office, *during the period* in which intermittent or reduced schedule FMLA leave is scheduled to be taken, may compensate an employee on an hourly basis and pay only for the hours the employee works, including time and one-half the employee's regular rate for overtime hours. The change to payment on an hourly basis would include the entire period during which the employee is taking intermittent leave, including weeks in which no leave is taken. The hourly rate shall be determined by dividing the employee's weekly salary by the employee's normal or average schedule of hours worked during weeks in which FMLA leave is not being taken. If an employing office chooses to follow this exception from the fluctuating workweek method of payment, the employing office must do so uniformly, with respect to all employees paid on a fluctuating workweek basis for whom FMLA leave is taken on an intermittent or reduced leave schedule basis. If an employing office does not elect to convert the employee's compensation to hourly pay, no deduction may be taken for FMLA leave absences. Once the need for intermittent or reduced scheduled leave is over, the employee may be restored to payment on a fluctuating work week basis.

(c) This special exception to the "salary basis" requirements of the FLSA exemption or fluctuating workweek payment requirements applies only to employees of employing offices who are eligible for FMLA leave, and to leave which qualifies as (one of the four types of) FMLA leave. Hourly or other deductions which are not in accordance with the Board's regulations at part 541 or with a permissible fluctuating workweek method of payment for overtime may not be taken, for example, where the employee has not worked long enough to be eligible for FMLA leave without potentially affecting the employee's eligibility for exemption. Nor may deductions which are not permitted by the Board's regulations at part 541 or by a permissible fluctuating workweek method of payment for overtime be taken from such an employee's salary for any leave which does not qualify as FMLA leave, for example, deductions from an employee's pay for leave required under an employing office's policy or practice for a reason which does not qualify as FMLA leave, *e.g.*, leave to care for a grandparent or for a medical condition which does not qualify as a serious health condition; or for leave which is more generous than provided by FMLA as made applicable by the CAA, such as leave in excess of 12 weeks in a year. The employing office may comply with the employing office's own policy practice under these circumstances and maintain the employee's eligibility for exemption or for the fluctuating workweek method of pay by not taking hourly deductions from the employee's pay, in accordance with FLSA requirements, or may take such deductions, treating the employee as an "hourly" employee and pay overtime premium pay for hours worked over 40 in a workweek.

§825.207 Is FMLA leave paid or unpaid?

(a) Generally, FMLA leave is unpaid. However, under the circumstances described in this section, FMLA, as made applicable by the CAA, permits an eligible employee to choose to substitute paid leave for FMLA leave. If an employee does not choose to substitute accrued paid leave, the employing office may require the employee to substitute accrued paid leave for FMLA leave.

(b) Where an employee has earned or accrued paid vacation, personal or family leave, that paid leave may be substituted for all or part of any (otherwise) unpaid FMLA leave relating to birth, placement of a child for adoption or foster care, or care for a spouse, child or parent who has a serious health condition. The term "family leave" as used in FMLA refers to paid leave provided by the employing office covering the particular circumstances for which the employee seeks leave for either the birth of a child and to care for such child, placement of a child for adoption or foster care, or care for a spouse, child or parent with a serious health condition. For example, if the employing office's leave plan allows use of family leave to care for a child but not for a parent, the employing office is not required to allow accrued family leave to be substituted for FMLA leave used to care for a parent.

(c) Substitution of paid accrued vacation, personal, or medical/sick leave may be made for any (otherwise) unpaid FMLA leave needed to care for a family member or the employee's own serious health condition. Substitution of paid sick/medical leave may be elected to the extent the circumstances meet the employing office's usual requirements for the use of sick/medical leave. An employing office is not required to allow substitution of paid sick or medical leave for unpaid FMLA leave "in any situation" where the employing office's uniform policy would not normally allow such paid leave. An employee, therefore, has a right to substitute paid medical/sick leave to care for a seriously ill family member only if the employing office's leave plan allows paid leave to be used for that purpose. Similarly, an employee does not have a right to substitute paid medical/sick leave for a serious health condition which is not covered by the employing office's leave plan.

(d)(1) Disability leave for the birth of a child would be considered FMLA leave for a serious health condition and counted in the 12 weeks of leave permitted under FMLA as made applicable by the CAA. Because the leave pursuant to a temporary disability benefit plan is not unpaid, the provision for substitution of paid leave is inapplicable. However, the employing office may designate the leave as FMLA leave and count the leave as running concurrently for purposes of both the benefit plan and the FMLA leave entitlement. If the requirements to qualify for payments pursuant to the employing office's temporary disability plan are more stringent than those of FMLA as made applicable by the CAA, the employee must meet the more stringent requirements of the plan, or may choose not to meet the requirements of the plan and instead receive no payments from the plan and use unpaid FMLA leave or substitute available accrued paid leave.

(2) The FMLA as made applicable by the CAA provides that a serious health condition may result from injury to the employee "on or off" the job. If the employing office designates the leave as FMLA leave in accordance with §825.208, the employee's FMLA 12-week leave entitlement may run concurrently with a workers' compensation absence when the injury is one that meets the criteria for a serious health condition. As the workers' compensation absence is not unpaid leave, the provision for substitution of the employee's accrued paid leave is not applicable. However, if the health care provider treating the employee for the workers' compensation injury certifies the employee is able to return to a "light duty job" but is unable to return to the same or equivalent job, the employee may decline the employing office's offer of a "light duty job". As a result the employee may lose workers' compensation payments, but is entitled to remain on unpaid FMLA leave until the 12-week entitlement is exhausted. As of the date workers' compensation benefits cease, the substitution provision becomes applicable and either the employee may elect or the employing office may require the use of accrued paid leave. *See* also §§825.210(f), 825.216(d), 825.220(d), 825.307(a)(1) and 825.702 (d) (1) and (2) regarding the relationship between workers' compensation absences and FMLA leave.

(e) Paid vacation or personal leave, including leave earned or accrued under plans allowing "paid time off," may be substituted, at either the employee's or the employing office's option, for any qualified FMLA leave. No limitations may be placed by the employing office on substitution of paid vacation or personal leave for these purposes.

(f) If neither the employee nor the employing office elects to substitute paid leave for unpaid FMLA leave under the above conditions and circumstances, the employee will remain entitled to all the paid leave which is earned or accrued under the terms of the employing office's plan.

(g) If an employee uses paid leave under circumstances which do not qualify as FMLA leave, the leave will not count against the 12 weeks of FMLA leave to which the employee is entitled. For example, paid sick leave used for a medical condition which is not a serious health condition does not count against the 12 weeks of FMLA leave entitlement.

(h) When an employee or employing office elects to substitute paid leave (of any type) for unpaid FMLA leave under circumstances permitted by these regulations, and the employing office's procedural requirements for taking that kind of leave are less stringent than the requirements of FMLA as made applicable by the CAA (*e.g.*, notice or certification requirements), only the less stringent requirements may be imposed. An employee who complies with an employing office's less stringent leave plan requirements in such cases may not have leave for an FMLA purpose delayed or denied on the grounds that the employee has not complied with stricter requirements of FMLA as made applicable by the CAA. However, where accrued paid vacation or personal leave is substituted for unpaid FMLA leave for a serious health condition, an employee may be required to comply with any less stringent medical certification requirements of the employing office's sick leave program. *See* §§825.302(g), 825.305(e) and 825.306(c).

(i) Compensatory time off, if any is authorized under applicable law, is not a form of accrued paid leave that an employing office may require the employee to substitute for unpaid FMLA leave. The employee may request to use his/her balance of compensatory time for an FMLA reason. If the employing office permits the accrual of compensatory time to be used in compliance with applicable Board regulations, the absence which is paid from the employee's accrued compensatory time "account" may not be counted against the employee's FMLA leave entitlement.

§825.208 Under what circumstances may an employing office designate leave, paid or unpaid, as FMLA leave and, as a result, enable leave to be counted against the employee's total FMLA leave entitlement?

(a) In all circumstances, it is the employing office's responsibility to designate leave, paid or unpaid, as FMLA-qualifying, and to give notice of the designation to the employee as provided in this section. In the case of intermittent leave or leave on a reduced schedule, only one such notice is required unless the circumstances regarding the leave have changed. The employing office's designation decision must be based only on information received from the employee or the employee's spokesperson (*e.g.*, if the employee is incapacitated, the employee's spouse, adult child, parent, doctor, etc., may provide notice to the employing office of the need to take FMLA leave). In any circumstance where the employing office does not have sufficient information about the reason for an employee's use of paid leave, the employing office should inquire further of the employee or the spokesperson to ascertain whether the paid leave is potentially FMLA-qualifying.

(1) An employee giving notice of the need for unpaid FMLA leave must explain the reasons for the needed leave so as to allow the employing office to determine that the leave qualifies under the FMLA, as made applicable by the CAA. If the employee fails to explain the reasons, leave may be denied. In many cases, in explaining the reasons for a request to use paid leave, especially when the need for the leave was unexpected or unforeseen, an employee will provide sufficient information for the employing office to designate the paid leave as FMLA leave. An employee using accrued paid leave, especially vacation or personal leave, may in some cases not spontaneously explain the reasons or their plans for using their accrued leave.

(2) As noted in §825.302(c), an employee giving notice of the need for unpaid FMLA leave does not need to expressly assert rights under the FMLA as made applicable by the CAA or even mention the FMLA to meet his or her obligation to provide notice, though the employee would need to state a qualifying reason for the needed leave. An employee requesting or notifying the employing office of an intent to use accrued paid leave, even if for a purpose covered by FMLA, would not need to assert such right either. However, if an employee requesting to use paid leave for an FMLA-qualifying purpose does not explain the reason for the leave consistent with the employing office's established policy or practice and the employing office denies the employee's request, the employee will need to provide sufficient information to establish an FMLA-qualifying reason for the needed leave so that the employing office is aware of the employee's entitlement (i.e., that the leave may not be denied) and, then, may designate that the paid leave be appropriately counted against (substituted for) the employee's 12-week entitlement. Similarly, an employee using accrued paid vacation leave who seeks an extension of unpaid leave for an FMLA-qualifying purpose will need to state the reason. If this is due to an event which occurred during the period of paid leave, the employing office may count the leave used after the FMLA-qualifying event against the employee's 12-week entitlement.

(b)(1) Once the employing office has acquired knowledge that the leave is being taken for an FMLA required reason, the employing office must promptly (within two business days absent extenuating circumstances) notify the employee that the paid leave is designated and will be counted as FMLA leave. If there is a dispute between an employing office and an employee as to whether paid leave qualifies as FMLA leave, it should be resolved through discussions between the employee and the employing office. Such discussions and the decision must be documented.

(2) The employing office's notice to the employee that the leave has been designated as FMLA leave may be orally or in writing. If the notice is oral, it shall be confirmed in writing, no later than the following payday (unless the payday is less than one week after the oral notice, in which case the notice must be no later than the subsequent payday). The written notice may be in any form, including a notation on the employee's pay stub.

(c) If the employing office requires paid leave to be substituted for unpaid leave, or that paid leave taken under an existing leave plan be counted as FMLA leave, this decision must be made by the employing office within two business days of the time the employee gives notice of the need for leave, or, where the employing office does not initially have sufficient information to make a determination, when the employing office determines that the leave qualifies as FMLA leave if this happens later. The employing office's designation must be made before the leave starts, unless the employing office does not have sufficient information as to the employee's reason for taking the leave until after the leave commenced. If the employing office has the requisite knowledge to make a determination that the paid leave is for an FMLA reason at the time the employee either gives notice of the need for leave or commences leave and fails to designate the leave as FMLA leave (and so notify the employee in accordance with paragraph (b)), the employing office may not designate leave as FMLA leave retroactively, and may designate only prospectively as of the date of notification to the employee of the designation. In such circumstances, the employee is subject to the full protections of the FMLA, as made applicable by the CAA, but none of the absence preceding the notice to the employee of the designation may be counted against the employee's 12-week FMLA leave entitlement.

(d) If the employing office learns that leave is for an FMLA purpose after leave has begun, such as when an employee gives notice of the need for an extension of the paid leave with unpaid FMLA leave, the entire or some portion of the paid leave period may be retroactively counted as FMLA leave, to the extent that the leave period qualified as FMLA leave. For example, an employee is granted two weeks paid vacation leave for a skiing trip. In mid-week of the second week, the employee contacts the employing office for an extension of leave as unpaid leave and advises that at the beginning of the second week of paid vacation leave the employee suffered a severe accident requiring hospitalization. The employing office may notify the employee that both the extension and the second week of paid vacation leave (from the date of the injury) is designated as FMLA leave. On the other hand, when the employee takes sick leave that turns into a serious health condition (*e.g.*, bronchitis that turns into bronchial pneumonia) and the employee gives notice of the need for an extension of leave, the entire period of the serious health condition may be counted as FMLA leave.

(e) Employing offices may not designate leave as FMLA leave after the employee has returned to work with two exceptions:

(1) If the employee was absent for an FMLA reason and the employing office did not learn the reason for the absence until the employee's return (*e.g.*, where the employee was absent for only a brief period), the employing office may, upon the employee's return to work, promptly (within two business days of the employee's return to work) designate the leave retroactively with appropriate notice to the employee. If leave is taken for an FMLA reason but the employing office was not aware of the reason, and the employee desires that the leave be counted as FMLA leave, the employee must notify the employing office within two business days of returning to work of the reason for the leave. In the absence of such timely notification by the employee, the employee may not subsequently assert FMLA protections for the absence.

(2) If the employing office knows the reason for the leave but has not been able to confirm that the leave qualifies under FMLA, or where the employing office has requested medical certification which has not yet been received or the parties are in the process of obtaining a second or third medical opinion, the employing office should make a preliminary designation, and so notify the employee, at the time leave begins, or as soon as the reason for the leave becomes known. Upon receipt of the requisite information from the employee or of the medical certification which confirms the leave is for an FMLA reason, the preliminary designation becomes final. If the medical certifications fail to confirm that the reason for the absence was an FMLA reason, the employing office must withdraw the designation (with written notice to the employee).

(f) If, before beginning employment with an employing office, an employee had been employed by another employing office, the subsequent employing office may count against the employee's FMLA leave entitlement FMLA leave taken from the prior employing office, except that, if the FMLA leave began after the effective of these regulations (or if the FMLA leave was subject to other applicable requirement under which the employing office was to have designated the leave as FMLA leave), the prior employing office must have properly designated the leave as FMLA under these regulations or other applicable requirement.

§825.209 *Is an employee entitled to benefits while using FMLA leave?*

(a) During any FMLA leave, the employing office must maintain the employee's coverage under the Federal Employees Health Benefits Program or any group health plan (as defined in the Internal Revenue Code of 1986 at 26 U.S.C. 5000(b)(1)) on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period. All employing offices are subject to the requirements of the FMLA, as made applicable by the CAA, to maintain health coverage. The definition of "group health plan" is set forth in §825.800. For purposes of FMLA, the term "group health plan" shall not include an insurance program providing health coverage under which employees purchase individual policies from insurers provided that:

(1) no contributions are made by the employing office;

(2) participation in the program is completely voluntary for employees;

(3) the sole functions of the employing office with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer;

(4) the employing office receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deduction; and,

(5) the premium charged with respect to such coverage does not increase in the event the employment relationship terminates.

(b) The same group health plan benefits provided to an employee prior to taking FMLA leave must be maintained during the FMLA leave. For example, if family member coverage is provided to an employee, family member coverage must be maintained during the FMLA leave. Similarly, benefit coverage during FMLA leave for medical care, surgical care, hospital care, dental care, eye care, mental health counseling, substance abuse treatment, *etc.*, must be maintained during leave if provided in an employing office's group health plan, including a supplement to a group health plan, whether or not provided through a flexible spending account or other component of a cafeteria plan.

(c) If an employing office provides a new health plan or benefits or changes health benefits or plans while an employee is on FMLA leave, the employee is entitled to the new or changed plan/benefits to the same extent as if the employee were not on leave. For example, if an employing office changes a group health plan so that dental care becomes covered under the plan, an employee on FMLA leave must be given the same opportunity as other employees to receive (or obtain) the dental care coverage. Any other plan changes (*e.g.*, in coverage, premiums, deductibles, *etc.*) which apply to all employees of the workforce would also apply to an employee on FMLA leave.

(d) Notice of any opportunity to change plans or benefits must also be given to an employee on FMLA leave. If the group health plan permits an employee to change from single to family coverage upon the birth of a child or otherwise add new family members, such a change in benefits must be made available while an employee is on FMLA leave. If the employee requests the changed coverage it must be provided by the employing office.

(e) An employee may choose not to retain group health plan coverage during FMLA leave. However, when an employee returns from leave, the employee is entitled to be reinstated on the same terms as prior to taking the leave, including family or dependent coverages, without any qualifying period, physical examination, exclusion of pre-existing conditions, etc. *See* §825.212(c).

(f) Except as required by the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) or 5 U.S.C. 8905a, whichever is applicable, and for "key" employees (as discussed below), an employing office's obligation to maintain health benefits during leave (and to restore the employee to the same or equivalent employment) under FMLA ceases if and when the employment relationship would have terminated if the employee had not taken FMLA leave (*e.g.*, if the employee's position is eliminated as part of a nondiscriminatory reduction in force and the employee would not have been transferred to another position); an employee informs the employing office of his or her intent not to return from leave (including before starting the leave if the employing office is so informed before the leave starts); or the employee fails to return from leave or continues on leave after exhausting his or her FMLA leave entitlement in the 12-month period.

(g) If a "key employee" (*See* §825.218) does not return from leave when notified by the employing office that substantial or grievous economic injury will result from his or her reinstatement, the employee's entitlement to group health plan benefits continues unless and until the employee advises the employing office that the employee does not desire restoration to employment at the end of the leave period, or FMLA leave entitlement is exhausted, or reinstatement is actually denied.

(h) An employee's entitlement to benefits other than group health benefits during a period of FMLA leave (*e.g.*, holiday pay) is to be determined by the employing office's established policy for providing such benefits when the employee is on other forms of leave (paid or unpaid, as appropriate).

§ 825.210 How may employees on FMLA leave pay their share of group health benefit premiums?

(a) Group health plan benefits must be maintained on the same basis as coverage would have been provided if the employee had been continuously employed during the FMLA leave period. Therefore, any share of group health plan premiums which had been paid by the employee prior to FMLA leave must continue to be paid by the employee during the FMLA leave period. If premiums are raised or lowered, the employee would be required to pay the new premium rates. Maintenance of health insurance policies which are not a part of the employing office's group health plan, as described in § 825.209(a), are the sole responsibility of the employee. The employee and the insurer should make necessary arrangements for payment of premiums during periods of unpaid FMLA leave.

(b) If the FMLA leave is substituted paid leave, the employee's share of premiums must be paid by the method normally used during any paid leave, presumably as a payroll deduction.

(c) If FMLA leave is unpaid, the employing office has a number of options for obtaining payment from the employee. The employing office may require that payment be made to the employing office or to the insurance carrier, but no additional charge may be added to the employee's premium payment for administrative expenses. The employing office may require employees to pay their share of premium payments in any of the following ways:

(1) Payment would be due at the same time as it would be made if by payroll deduction;

(2) Payment would be due on the same schedule as payments are made under COBRA or 5 U.S.C. 8905a, whichever is applicable;

(3) Payment would be prepaid pursuant to a cafeteria plan at the employee's option;

(4) The employing office's existing rules for payment by employees on "leave without pay" would be followed, provided that such rules do not require prepayment (*i.e.*, prior to the commencement of the leave) of the premiums that will become due during a period of unpaid FMLA leave or payment of higher premiums than if the employee had continued to work instead of taking leave; or,

(5) Another system voluntarily agreed to between the employing office and the employee, which may include prepayment of premiums (*e.g.*, through increased payroll deductions when the need for the FMLA leave is foreseeable).

(d) The employing office must provide the employee with advance written notice of the terms and conditions under which these payments must be made. (*See* § 825.301.)

(e) An employing office may not require more of an employee using FMLA leave than the employing office requires of other employees on "leave without pay."

(f) An employee who is receiving payments as a result of a workers' compensation injury must make arrangements with the employing office for payment of group health plan benefits when simultaneously taking unpaid FMLA leave. *See* paragraph (c) of this section and § 825.207(d)(2).

§ 825.211 What special health benefits maintenance rules apply to multi-employer health plans?

(a) A multi-employer health plan is a plan to which more than one employer is required to contribute, and which is maintained pursuant to one or more collective bargaining agreements between employee organization(s) and the employers.

(b) An employing office under a multi-employer plan must continue to make contributions on behalf of an employee using FMLA leave as though the employee had been continuously employed, unless the plan contains an explicit FMLA provision for maintaining coverage such as through pooled contributions by all employers party to the plan.

(c) During the duration of an employee's FMLA leave, coverage by the group health plan, and benefits provided pursuant to the plan, must be maintained at the level of coverage and benefits which were applicable to the employee at the time FMLA leave commenced.

(d) An employee using FMLA leave cannot be required to use "banked" hours or pay a greater premium than the employee would have been required to pay if the employee had been continuously employed.

(e) As provided in § 825.209(f), group health plan coverage must be maintained for an employee on FMLA leave until:

(1) the employee's FMLA leave entitlement is exhausted;

(2) the employing office can show that the employee would have been laid off and the employment relationship terminated; or,

(3) the employee provides unequivocal notice of intent not to return to work.

§ 825.212 What are the consequences of an employee's failure to make timely health plan premium payments?

(a)(1) In the absence of an established employing office policy providing a longer grace period, an employing office's obligations to maintain health insurance coverage cease under FMLA if an employee's premium payment is more than 30 days late. In order to drop the coverage for an employee whose premium payment is late, the employing office must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date. If the employing office has established policies regarding other forms of unpaid leave that provide for the employing office to cease coverage retroactively to the date the unpaid premium payment was due, the employing office may drop the employee from coverage retroactively in accordance with that policy, provided the 15-day notice was given. In the absence of such a policy, coverage for the employee may be terminated at the end of the 30-day grace period, where the required 15-day notice has been provided.

(2) An employing office has no obligation regarding the maintenance of a health insurance policy which is not a "group health plan." See § 825.209(a).

(3) All other obligations of an employing office under FMLA would continue; for example, the employing office continues to have an obligation to reinstate an employee upon return from leave.

(b) The employing office may recover the employee's share of any premium payments missed by the employee for any FMLA leave period during which the employing office maintains health coverage by paying the employee's share after the premium payment is missed.

(c) If coverage lapses because an employee has not made required premium payments, upon the employee's return from FMLA leave the employing office must still restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not been taken and the premium payment(s) had not been missed, including family or dependent coverage. See § 825.215(d)(1)–(5). In such case, an employee may not be required to meet any qualification requirements imposed by the plan, including any new preexisting condition waiting period, to wait for an open season, or to pass a medical examination to obtain reinstatement of coverage.

§ 825.213 May an employing office recover costs it incurred for maintaining "group health plan" or other non-health benefits coverage during FMLA leave?

(a) In addition to the circumstances discussed in § 825.212(b), the share of health plan premiums paid by or on behalf of the employing office during a period of unpaid FMLA leave may be recovered from an employee if the employee fails to return to work after the employee's FMLA leave entitlement has been exhausted or expires, unless the reason the employee does not return is due to:

(1) The continuation, recurrence, or onset of a serious health condition of the employee or the employee's family member which would otherwise entitle the employee to leave under FMLA; or

(2) Other circumstances beyond the employee's control. Examples of "other circumstances beyond the employee's control" are necessarily broad. They include such situations as where a parent chooses to stay home with a newborn child who has a serious health condition; an employee's spouse is unexpectedly transferred to a job location more than 75 miles from the employee's worksite; a relative or individual other than an immediate family member has a serious health condition and the employee is needed to provide care; the employee is laid off while on leave; or, the employee is a "key employee" who decides not to return to work upon being notified of the employing office's intention to deny restoration because of substantial and grievous economic injury to the employing office's operations and is not reinstated by the employing office. Other circumstances beyond the employee's control would not include a situation where an employee desires to remain with a parent in a distant city even though the parent no longer requires the employee's care, or a parent chooses not to return to work to stay home with a well, newborn child.

(3) When an employee fails to return to work because of the continuation, recurrence, or onset of a serious health condition, thereby precluding the employing office from recovering its (share of) health benefit premium payments made on the employee's behalf during a period of unpaid FMLA leave, the employing office may require medical certification of the employee's or the family member's serious health condition. Such certification is not required unless requested by

the employing office. The employee is required to provide medical certification in a timely manner which, for purposes of this section, is within 30 days from the date of the employing office's request. For purposes of medical certification, the employee may use the optional form developed for this purpose (see §825.306(a) and Appendix B of this part). If the employing office requests medical certification and the employee does not provide such certification in a timely manner (within 30 days), or the reason for not returning to work does not meet the test of other circumstances beyond the employee's control, the employing office may recover 100% of the health benefit premiums it paid during the period of unpaid FMLA leave.

(b) Under some circumstances an employing office may elect to maintain other benefits, *e.g.*, life insurance, disability insurance, *etc.*, by paying the employee's (share of) premiums during periods of unpaid FMLA leave. For example, to ensure the employing office can meet its responsibilities to provide equivalent benefits to the employee upon return from unpaid FMLA leave, it may be necessary that premiums be paid continuously to avoid a lapse of coverage. If the employing office elects to maintain such benefits during the leave, at the conclusion of leave, the employing office is entitled to recover only the costs incurred for paying the employee's share of any premiums whether or not the employee returns to work.

(c) An employee who returns to work for at least 30 calendar days is considered to have "returned" to work. An employee who transfers directly from taking FMLA leave to retirement, or who retires during the first 30 days after the employee returns to work, is deemed to have returned to work.

(d) When an employee elects or an employing office requires paid leave to be substituted for FMLA leave, the employing office may not recover its (share of) health insurance or other non-health benefit premiums for any period of FMLA leave covered by paid leave. Because paid leave provided under a plan covering temporary disabilities (including workers' compensation) is not unpaid, recovery of health insurance premiums does not apply to such paid leave.

(e) The amount that self-insured employing offices may recover is limited to only the employing office's share of allowable "premiums" as would be calculated under COBRA, excluding the 2 percent fee for administrative costs.

(f) When an employee fails to return to work, any health and non-health benefit premiums which this section of the regulations permits an employing office to recover are a debt owed by the non-returning employee to the employing office. The existence of this debt caused by the employee's failure to return to work does not alter the employing office's responsibilities for health benefit coverage and, under a self-insurance plan, payment of claims incurred during the period of FMLA leave. To the extent recovery is allowed, the employing office may recover the costs through deduction from any sums due to the employee (*e.g.*, unpaid wages, vacation pay, *etc.*), provided such deductions do not otherwise violate applicable wage payment or other laws. Alternatively, the employing office may initiate legal action against the employee to recover such costs.

§825.214 What are an employee's rights on returning to work from FMLA leave?

(a) On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee has been replaced or his or her position has been restructured to accommodate the employee's absence. *See* also §825.106(e) for the obligations of employing offices that are joint employing offices.

(b) If the employee is unable to perform an essential function of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. However, the employing office's obligations may be governed by the Americans with Disabilities Act (ADA), as made applicable by the CAA. *See* §825.702.

§825.215 What is an equivalent position?

(a) An equivalent position is one that is virtually identical to the employee's former position in terms of pay, benefits and working conditions, including privileges, perquisites and status. It must involve the same or substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, responsibility, and authority.

(b) If an employee is no longer qualified for the position because of the employee's inability to attend a necessary course, renew a license, fly a minimum number of hours, *etc.*, as a result of the leave, the employee shall be given a reasonable opportunity to fulfill those conditions upon return to work.

(c) *Equivalent Pay.* (1) An employee is entitled to any unconditional pay increases which may have occurred during the FMLA leave period, such as cost of living increases. Pay increases conditioned upon seniority, length of service, or work performed would not have to be granted unless it is the employing office's policy or practice to do so with respect to other employees on "leave without pay." In such case, any pay increase would be granted based on the employee's seniority, length of service, work performed, *etc.*, excluding the period of unpaid FMLA leave. An employee is entitled to be restored to a position with the same or equivalent pay premiums, such as a shift differential. If an employee departed from a position averaging ten hours of overtime (and corresponding overtime pay) each week, an employee is ordinarily entitled to such a position on return from FMLA leave.

(2) Many employing offices pay bonuses in different forms to employees for job-related performance such as for perfect attendance, safety (absence of injuries or accidents on the job) and exceeding production goals. Bonuses for perfect attendance and safety do not require performance by the employee but rather contemplate the absence of occurrences. To the extent an employee who takes FMLA leave had met all the requirements for either or both of these bonuses before FMLA leave began, the employee is entitled to continue this entitlement upon return from FMLA leave, that is, the employee may not be disqualified for the bonus(es) for the taking of FMLA leave. *See* §825.220 (b) and (c). A monthly production bonus, on the other hand, does require performance by the employee. If the employee is on FMLA leave during any part of the period for which the bonus is computed, the employee is entitled to the same consideration for the bonus as other employees on paid or unpaid leave (as appropriate). *See* paragraph (d)(2) of this section.

(d) *Equivalent Benefits.* "Benefits" include all benefits provided or made available to employees by an employing office, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employing office through an employee benefit plan.

(1) At the end of an employee's FMLA leave, benefits must be resumed in the same manner and at the same levels as provided when the leave began, and subject to any changes in benefit levels that may have taken place during the period of FMLA leave affecting the entire work force, unless otherwise elected by the employee. Upon return from FMLA leave, an employee cannot be required to requalify for any benefits the employee enjoyed before FMLA leave began (including family or dependent coverages). For example, if an employee was covered by a life insurance policy before taking leave but is not covered or coverage lapses during the period of unpaid FMLA leave, the employee cannot be required to meet any qualifications, such as taking a physical examination, in order to requalify for life insurance upon return from leave. Accordingly, some employing offices may find it necessary to modify life insurance and other benefits programs in order to restore employees to equivalent benefits upon return from FMLA leave, make arrangements for continued payment of costs to maintain such benefits during unpaid FMLA leave, or pay these costs subject to recovery from the employee on return from leave. *See* §825.213(b).

(2) An employee may, but is not entitled to, accrue any additional benefits or seniority during unpaid FMLA leave. Benefits accrued at the time leave began, however, (*e.g.*, paid vacation, sick or personal leave to the extent not substituted for FMLA leave) must be available to an employee upon return from leave.

(3) If, while on unpaid FMLA leave, an employee desires to continue life insurance, disability insurance, or other types of benefits for which he or she typically pays, the employing office is required to follow established policies or practices for continuing such benefits for other instances of leave without pay. If the employing office has no established policy, the employee and the employing office are encouraged to agree upon arrangements before FMLA leave begins.

(4) With respect to pension and other retirement plans, any period of unpaid FMLA leave shall not be treated as or counted toward a break in service for purposes of vesting and eligibility to participate. Also, if the plan requires an employee to be employed on a specific date in order to be credited with a year of service for vesting, contributions or participation purposes, an employee on unpaid FMLA leave on that date shall be deemed to have been employed on that date. However, unpaid FMLA leave periods need not be treated as credited service for purposes of benefit accrual, vesting and eligibility to participate.

(5) Employees on unpaid FMLA leave are to be treated as if they continued to work for purposes of changes to benefit plans. They are entitled to changes in benefits plans, except those which may be dependent upon seniority or accrual during the leave period, immediately upon return from leave or to the same extent they would have qualified if no leave had been taken. For example if the benefit plan is predicated on a pre-established number of hours worked each year and the employee does not have sufficient hours as a result of taking unpaid FMLA leave, the benefit is lost. (In this regard, §825.209 addresses health benefits.)

(e) *Equivalent Terms and Conditions of Employment.* An equivalent position must have substantially similar duties, conditions, responsibilities, privileges and status as the employee's original position.

(1) The employee must be reinstated to the same or a geographically proximate worksite (*i.e.*, one that does not involve a significant increase in commuting time or distance) from where the employee had previously been employed. If the employee's original worksite has been closed, the employee is entitled to the same rights as if the employee had not been on leave when the worksite closed. For example, if an employing office transfers all employees from a closed worksite to a new worksite in a different city, the employee on leave is also entitled to transfer under the same conditions as if he or she had continued to be employed.

(2) The employee is ordinarily entitled to return to the same shift or the same or an equivalent work schedule.

(3) The employee must have the same or an equivalent opportunity for bonuses and other similar discretionary and non-discretionary payments.

(4) FMLA does not prohibit an employing office from accommodating an employee's request to be restored to a different shift, schedule, or position which better suits the employee's personal needs on return from leave, or to offer a promotion to a better position. However, an employee cannot be induced by the employing office to accept a different position against the employee's wishes.

(f) The requirement that an employee be restored to the same or equivalent job with the same or equivalent pay, benefits, and terms and conditions of employment does not extend to *de minimis* or intangible, unmeasurable aspects of the job. However, restoration to a job slated for lay-off, when the employee's original position is not, would not meet the requirements of an equivalent position.

§825.216 *Are there any limitations on an employing office's obligation to reinstate an employee?*

(a) An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. An employing office must be able to show that an employee would not otherwise have been employed at the time reinstatement is requested in order to deny restoration to employment. For example:

(1) If an employee is laid off during the course of taking FMLA leave and employment is terminated, the employing office's responsibility to continue FMLA leave, maintain group health plan benefits and restore the employee ceases at the time the employee is laid off, provided the employing office has no continuing obligations under a collective bargaining agreement or otherwise. An employing office would have the burden of proving that an employee would have been laid off during the FMLA leave period and, therefore, would not be entitled to restoration.

(2) If a shift has been eliminated, or overtime has been decreased, an employee would not be entitled to return to work that shift or the original overtime hours upon restoration. However, if a position on, for example, a night shift has been filled by another employee, the employee is entitled to return to the same shift on which employed before taking FMLA leave.

(b) If an employee was hired for a specific term or only to perform work on a discrete project, the employing office has no obligation to restore the employee if the employment term or project is over and the employing office would not otherwise have continued to employ the employee.

(c) In addition to the circumstances explained above, an employing office may deny job restoration to salaried eligible employees ("key employees," as defined in paragraph (c) of §825.217) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the employing office; or may delay restoration to an employee who fails to provide a fitness for duty certificate to return to work under the conditions described in §825.310.

(d) If the employee has been on a workers' compensation absence during which FMLA leave has been taken concurrently, and after 12 weeks of FMLA leave the employee is unable to return to work, the employee no longer has the protections of FMLA and must look to the workers' compensation statute or ADA, as made applicable by the CAA, for any relief or protections.

§825.217 *What is a "key employee"?*

(a) A "key employee" is a salaried FMLA-eligible employee who is among the highest paid 10 percent of all the employees employed by the employing office within 75 miles of the employee's worksite.

(b) The term "salaried" means paid on a salary basis, within the meaning of the Board's regulations at part 541, implementing section 203 of the CAA (2 U.S.C. 1313) (regarding employees who may qualify as exempt from the minimum wage and overtime requirements of the FLSA, as made applicable by the CAA, as executive, administrative, and professional employees).

(c) A "key employee" must be "among the highest paid 10 percent" of all the employees both salaried and non-salaried, eligible and—ineligible—who are employed by the employing office within 75 miles of the worksite.

(1) In determining which employees are among the highest paid 10 percent, year-to-date earnings are divided by weeks worked by the employee (including weeks in which paid leave was taken). Earnings include wages, premium pay, incentive pay, and non-discretionary and discretionary bonuses. Earnings do not include incentives whose value is determined at some future date, *e.g.*, benefits or perquisites.

(2) The determination of whether a salaried employee is among the highest paid 10 percent shall be made at the time the employee gives notice of the need for leave. No more than 10 percent of the employing office's employees within 75 miles of the worksite may be "key employees."

§825.218 *What does "substantial and grievous economic injury" mean?*

(a) In order to deny restoration to a key employee, an employing office must determine that the restoration of the employee to employment will cause "substantial and grievous economic injury" to the operations of the employing office, not whether the absence of the employee will cause such substantial and grievous injury.

(b) An employing office may take into account its ability to replace on a temporary basis (or temporarily do without) the employee on FMLA leave. If permanent replacement is unavoidable, the cost of then reinstating the employee can be considered in evaluating whether substantial and grievous economic injury will occur from restoration; in other words, the effect on the operations of the employing office of reinstating the employee in an equivalent position.

(c) A precise test cannot be set for the level of hardship or injury to the employing office which must be sustained. If the reinstatement of a "key employee" threatens the economic viability of the employing office, that would constitute "substantial and grievous economic injury." A lesser injury which causes substantial, long-term economic injury would also be sufficient. Minor inconveniences and costs that the employing office would experience in the normal course would certainly not constitute "substantial and grievous economic injury."

(d) FMLA's "substantial and grievous economic injury" standard is different from and more stringent than the "undue hardship" test under the ADA (see, also §825.702).

§825.219 *What are the rights of a key employee?*

(a) An employing office which believes that reinstatement may be denied to a key employee, must give written notice to the employee at the time the employee gives notice of the need for FMLA leave (or when FMLA leave commences, if earlier) that he or she qualifies as a key employee. At the same time, the employing office must also fully inform the employee of the potential consequences with respect to reinstatement and maintenance of health benefits if the employing office should determine that substantial and grievous economic injury to the employing office's operations will result if the employee is reinstated from FMLA leave. If such notice cannot be given immediately because of the need to determine whether the employee is a key employee, it shall be given as soon as practicable after being notified of a need for leave (or the commencement of leave, if earlier). It is expected that in most circumstances there will be no desire that an employee be denied restoration after FMLA leave and, therefore, there would be no need to provide such notice. However, an employing office who fails to provide such timely notice will lose its right to deny restoration even if substantial and grievous economic injury will result from reinstatement.

(b) As soon as an employing office makes a good faith determination, based on the facts available, that substantial and grievous economic injury to its operations will result if a key employee who has given notice of the need for FMLA leave or is using FMLA leave is reinstated, the employing office shall notify the employee in writing of its determination, that it cannot deny FMLA leave, and that it intends to deny restoration to employment on completion of the FMLA leave. It is anticipated that an employing office will ordinarily be able to give such notice prior to the employee starting leave. The employing office must serve this notice either in person or by certified mail. This notice must explain the basis for the employing office's finding that substantial and grievous economic injury will result, and, if leave has commenced, must provide the employee a reasonable time in which to return to work, taking into account the circumstances, such as the length of the leave and the urgency of the need for the employee to return.

(c) If an employee on leave does not return to work in response to the employing office's notification of intent to deny restoration, the employee continues to be entitled to maintenance of health benefits and the employing office may not recover its cost of health benefit premiums. A key employee's rights under FMLA continue unless and until either the employee gives notice that he or she no longer wishes to return to work, or the employing office actually denies reinstatement at the conclusion of the leave period.

(d) After notice to an employee has been given that substantial and grievous economic injury will result if the employee is reinstated to employment, an employee is still entitled to request reinstatement at the end of the leave period even if the employee did not return to work in response to the employing office's notice. The employing office must then again determine whether there will be substantial and grievous economic injury from reinstatement, based on the facts at that time. If it is determined that substantial and grievous economic injury will result, the employing office shall notify the employee in writing (in person or by certified mail) of the denial of restoration.

§825.220 How are employees protected who request leave or otherwise assert FMLA rights?

(a) The FMLA, as made applicable by the CAA, prohibits interference with an employees' rights under the law, and with legal proceedings or inquiries relating to an employees' rights. More specifically, the law contains the following employee protections:

(1) An employing office is prohibited from interfering with, restraining, or denying the exercise of (or attempts to exercise) any rights provided by the FMLA as made applicable by the CAA.

(2) An employing office is prohibited from discharging or in any other way discriminating against any covered employee (whether or not an eligible employee) for opposing or complaining about any unlawful practice under the FMLA as made applicable by the CAA.

(3) All employing offices are prohibited from discharging or in any other way discriminating against any covered employee (whether or not an eligible employee) because that covered employee has

(i) Filed any charge, or has instituted (or caused to be instituted) any proceeding under or related to the FMLA, as made applicable by the CAA;

(ii) Given, or is about to give, any information in connection with an inquiry or proceeding relating to a right under the FMLA, as made applicable by the CAA;

(iii) Testified, or is about to testify, in any inquiry or proceeding relating to a right under the FMLA, as made applicable by the CAA.

(b) Any violations of the FMLA, as made applicable by the CAA, or of these regulations constitute interfering with, restraining, or denying the exercise of rights provided by the FMLA as made applicable by the CAA. "Interfering with" the exercise of an employee's rights would include, for example, not only refusing to authorize FMLA leave, but discouraging an employee from using such leave. It would also include manipulation by covered an employing office to avoid responsibilities under FMLA, for example:

(1) [Reserved];

(2) changing the essential functions of the job in order to preclude the taking of leave;

(3) reducing hours available to work in order to avoid employee eligibility.

(c) An employing office is prohibited from discriminating against employees or prospective employees who have used FMLA leave. For example, if an employee on leave without pay would otherwise be entitled to full benefits (other than health benefits), the same benefits would be required to be provided to an employee on unpaid FMLA leave. By the same token, employing offices cannot use the taking of FMLA leave as a negative factor in employment actions, such as hiring, promotions or disciplinary actions; nor can FMLA leave be counted under "no fault" attendance policies.

(d) Employees cannot waive, nor may employing offices induce employees to waive, their rights under FMLA. For example, employees (or their collective bargaining representatives) cannot "trade off" the right to take FMLA leave against some other benefit offered by the employing office. This does not prevent an employee's voluntary and uncoerced acceptance (not as a condition of employment) of a "light duty" assignment while recovering from a serious health condition (*see* §825.702(d)). In such a circumstance the employee's right to restoration to the same or an equivalent position is available until 12 weeks have passed within the 12-month period, including all FMLA leave taken and the period of "light duty."

(e) Covered employees, and not merely eligible employees, are protected from retaliation for opposing (*e.g.*, file a complaint about) any practice which is unlawful under the FMLA, as made applicable by the CAA. They are similarly protected if they oppose any practice which they reasonably believe to be a violation of the FMLA, as made applicable by the CAA or regulations.

SUBPART C—HOW DO EMPLOYEES LEARN OF THEIR RIGHTS AND OBLIGATIONS UNDER THE FMLA, AS MADE APPLICABLE BY THE CAA, AND WHAT CAN AN EMPLOYING OFFICE REQUIRE OF AN EMPLOYEE?

§825.300 [Reserved]

§825.301 What notices to employees are required of employing offices under the FMLA as made applicable by the CAA?

(a)(1) If an employing office has any eligible employees and has any written guidance to employees concerning employee benefits or leave rights, such as in an employee handbook, information concerning both entitlements and employee obligations under the FMLA, as made applicable by the CAA, must be included in the handbook or other document. For example, if an employing office provides an employee handbook to all employees that describes the employing office's policies regarding leave, wages, attendance, and similar matters, the handbook must incorporate information on FMLA rights and responsibilities and the employing office's policies regarding the FMLA, as made applicable by the CAA. Informational publications describing the provisions of the FMLA as made applicable by the CAA are available from the Office of Compliance and may be incorporated in such employing office handbooks or written policies.

(2) If such an employing office does not have written policies, manuals, or handbooks describing employee benefits and leave provisions, the employing office shall provide written guidance to an employee concerning all the employee's rights and obligations under the FMLA as made applicable by the CAA. This notice shall be provided to employees each time notice is given pursuant to paragraph (b), and in accordance with the provisions of that paragraph. Employing offices may duplicate and provide the employee a copy of the FMLA Fact Sheet available from the Office of Compliance to provide such guidance.

(b)(1) The employing office shall also provide the employee with written notice detailing the specific expectations and obligations of the employee and explaining any consequences of a failure to meet these obligations. The written notice must be provided to the employee in a language in which the employee is literate. Such specific notice must include, as appropriate:

(i) that the leave will be counted against the employee's annual FMLA leave entitlement (see §825.208);

(ii) any requirements for the employee to furnish medical certification of a serious health condition and the consequences of failing to do so (see §825.305);

(iii) the employee's right to substitute paid leave and whether the employing office will require the substitution of paid leave, and the conditions related to any substitution;

(iv) any requirement for the employee to make any premium payments to maintain health benefits and the arrangements for making such payments (see §825.210), and the possible consequences of failure to make such payments on a timely basis (i.e., the circumstances under which coverage may lapse);

(v) any requirement for the employee to present a fitness-for-duty certificate to be restored to employment (see §825.310);

(vi) the employee's status as a "key employee" and the potential consequence that restoration may be denied following FMLA leave, explaining the conditions required for such denial (*see* §825.218);

(vii) the employee's right to restoration to the same or an equivalent job upon return from leave (see §§825.214 and 825.604); and,

(viii) the employee's potential liability for payment of health insurance premiums paid by the employing office during the employee's unpaid FMLA leave if the employee fails to return to work after taking FMLA leave (see §825.213).

(2) The specific notice may include other information—*e.g.*, whether the employing office will require periodic reports of the employee's status and intent to return to work, but is not required to do so. A prototype notice is contained in Appendix D of this part, or may be obtained from the Office of Compliance, which employing offices may adapt for their use to meet these specific notice requirements.

(c) Except as provided in this subparagraph, the written notice required by paragraph (b) (and by subparagraph (a)(2) where applicable) must be provided to the employee no less often than the first time in each six-month period that an employee gives notice of the need for FMLA leave (if FMLA leave is taken during the six-month period). The notice shall be given within a reasonable time after notice of the need for leave is given by the employee—within one or two business days if feasible. If leave has already begun, the notice should be mailed to the employee's address of record.

(1) If the specific information provided by the notice changes with respect to a subsequent period of FMLA leave during the six-month period, the employing office shall, within one or two business days of receipt of the employee's notice of need for leave, provide written notice referencing the prior notice and setting forth any of the information in subparagraph (b) which has changed. For example, if the initial leave period were paid leave and the subsequent leave period would be unpaid leave, the employing office may need to give notice of the arrangements for making premium payments.

(2)(i) Except as provided in subparagraph (ii), if the employing office is requiring medical certification or a "fitness-for-duty" report, written notice of the requirement shall be given with respect to each employee notice of a need for leave.

(ii) Subsequent written notification shall not be required if the initial notice in the six-month period *and* the employing office handbook or other written documents (if any) describing the employing office's leave policies, clearly provided that certification or a "fitness-for-duty" report would be required (*e.g.*, by stating that certification would be required in all cases, by stating that certification would be required in all cases in which leave of more than a specified number of days is taken, or by stating that a "fitness-for-duty" report would be required in all cases for back injuries for employees in a certain occupation). Where subsequent written notice is not required, at least oral notice shall be provided. (*See* § 825.305(a).)

(d) Employing offices are also expected to responsively answer questions from employees concerning their rights and responsibilities under the FMLA as made applicable under the CAA.

(e) Employing offices furnishing FMLA-required notices to sensory impaired individuals must also comply with all applicable requirements under law.

(f) If an employing office fails to provide notice in accordance with the provisions of this section, the employing office may not take action against an employee for failure to comply with any provision required to be set forth in the notice.

§ 825.302 What notice does an employee have to give an employing office when the need for FMLA leave is foreseeable?

(a) An employee must provide the employing office at least 30 days advance notice before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member. If 30 days notice is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. For example, an employee's health condition may require leave to commence earlier than anticipated before the birth of a child. Similarly, little opportunity for notice may be given before placement for adoption. Whether the leave is to be continuous or is to be taken intermittently or on a reduced schedule basis, notice need only be given one time, but the employee shall advise the employing office as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown.

(b) "As soon as practicable" means as soon as both possible and practical, taking into account all of the facts and circumstances in the individual case. For foreseeable leave where it is not possible to give as much as 30 days notice, "as soon as practicable" ordinarily would mean at least verbal notification to the employing office within one or two business days of when the need for leave becomes known to the employee.

(c) An employee shall provide at least verbal notice sufficient to make the employing office aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave. The employee need not expressly assert rights under the FMLA as made applicable by the CAA, or even mention the FMLA, but may only state that leave is needed for an expected birth or adoption, for example. The employing office should inquire further of the employee if it is necessary to have more information about whether FMLA leave is being sought by the employee, and obtain the necessary details of the leave to be taken. In the case of medical conditions, the employing office may find it necessary to inquire further to determine if the leave is because of a serious health condition and may request medical certification to support the need for such leave (see § 825.305).

(d) An employing office may also require an employee to comply with the employing office's usual and customary notice and procedural requirements for requesting leave. For example, an employing office may require that written notice set forth the reasons for the requested leave, the anticipated duration of the leave, and the anticipated start of the leave. However, failure to follow such internal employing office procedures will not permit an employing office to disallow or delay an employee's taking FMLA leave if the employee gives timely verbal or other notice.

(e) When planning medical treatment, the employee must consult with the employing office and make a reasonable effort to schedule the leave so as not to disrupt unduly the employing office's operations, subject to the approval of the health care provider. Employees are ordinarily expected to consult with their employing offices prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both the employing office and the employee. If an employee who provides notice of the need to take FMLA leave on an intermittent basis for planned medical treatment neglects to consult with the employing office to make a reasonable attempt to arrange the schedule of treatments so as not to unduly disrupt the employing office's operations, the employing office may initiate discussions with the employee and require the employee to attempt to make such arrangements, subject to the approval of the health care provider.

(f) In the case of intermittent leave or leave on a reduced leave schedule which is medically necessary, an employee shall advise the employing office, upon request, of the reasons why the intermittent/reduced leave schedule is necessary and of the schedule for treatment, if applicable. The employee and employing office shall attempt to work out a schedule which meets the employee's needs without unduly disrupting the employing office's operations, subject to the approval of the health care provider.

(g) An employing office may waive employees' FMLA notice requirements. In addition, an employing office may not require compliance with stricter FMLA notice requirements where the provisions of a collective bargaining agreement or applicable leave plan allow less advance notice to the employing office. For example, if an employee (or employing office) elects to substitute paid vacation leave for unpaid FMLA leave (see § 825.207), and the employing office's paid vacation leave plan imposes no prior notification requirements for taking such vacation leave, no advance notice may be required for the FMLA leave taken in these circumstances. On the other hand, FMLA notice requirements would apply to a period of unpaid FMLA leave, unless the employing office imposes lesser notice requirements on employees taking leave without pay.

§ 825.303 What are the requirements for an employee to furnish notice to an employing office where the need for FMLA leave is not foreseeable?

(a) When the approximate timing of the need for leave is not foreseeable, an employee should give notice to the employing office of the need for FMLA leave as soon as practicable under the facts and circumstances of the particular case. It is expected that an employee will give notice to the employing office within no more than one or two working days of learning of the need for leave, except in extraordinary circumstances where such notice is not feasible. In the case of a medical emergency requiring leave because of an employee's own serious health condition or to care for a family member with a serious health condition, written advance notice pursuant to an employing office's internal rules and procedures may not be required when FMLA leave is involved.

(b) The employee should provide notice to the employing office either in person or by telephone, telegraph, facsimile ("fax") machine or other electronic means. Notice may be given by the employee's spokesperson (*e.g.*, spouse, adult family member or other responsible party) if the employee is unable to do so personally. The employee need not expressly assert rights under the FMLA, as made applicable by the CAA, or even mention the FMLA, but may only state that leave is needed. The employing office will be expected to obtain any additional required information through informal means. The employee or spokesperson will be expected to provide more information when it can readily be accomplished as a practical matter, taking into consideration the exigencies of the situation.

§ 825.304 What recourse do employing offices have if employees fail to provide the required notice?

(a) An employing office may waive employees' FMLA notice obligations or the employing office's own internal rules on leave notice requirements.

(b) If an employee fails to give 30 days notice for foreseeable leave with no reasonable excuse for the delay, the employing office may delay the taking of FMLA leave until at least 30 days after the date the employee provides notice to the employing office of the need for FMLA leave.

(c) In all cases, in order for the onset of an employee's FMLA leave to be delayed due to lack of required notice, it must be clear that the employee had actual notice of the FMLA notice requirements. This condition would be satisfied by the employing office's proper posting, at the worksite where the employee is employed, of the information regarding the FMLA provided (pursuant to section 301(h)(2) of the CAA, 2 U.S.C. 1381(h)(2)) by the Office of Compliance to the employing office in a manner suitable for posting. Furthermore, the need for leave and the approximate date leave would be taken must have been clearly foreseeable to the employee 30 days in advance of the leave. For example, knowledge that an employee would receive a telephone call about the availability of a child for adoption at some unknown point in the future would not be sufficient.

§ 825.305 When must an employee provide medical certification to support FMLA leave?

(a) An employing office may require that an employee's leave to care for the employee's seriously-ill spouse, son, daughter, or parent, or due to the employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of the employee's position, be supported by a certification issued by the health care provider of the employee or the employee's ill family member. An employing office must give notice of a requirement for medical certification each time a certification is required; such notice must be written notice whenever required by § 825.301. An employing office's oral request to an employee to furnish any subsequent medical certification is sufficient.

(b) When the leave is foreseeable and at least 30 days notice has been provided, the employee should provide the medical certification before the leave begins. When this is not possible, the employee must provide the requested certification to the employing office within the time frame requested by the employing office (which must allow at least 15 calendar days after the employing office's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

(c) In most cases, the employing office should request that an employee furnish certification from a health care provider at the time the employee gives notice of the need for leave or within two business days thereafter, or, in the case of unforeseen leave, within two business days after the leave commences. The employing office may request certification at some later date if the employing office later has reason to question the appropriateness of the leave or its duration.

(d) At the time the employing office requests certification, the employing office must also advise an employee of the anticipated consequences of an employee's failure to provide adequate certification. The employing office shall advise an employee whenever the employing office finds a certification incomplete, and provide the employee a reasonable opportunity to cure any such deficiency.

(e) If the employing office's sick or medical leave plan imposes medical certification requirements that are less stringent than the certification requirements of these regulations, and the employee or employing office elects to substitute paid sick, vacation, personal or family leave for unpaid FMLA leave where authorized (*see* §825.207), only the employing office's less stringent sick leave certification requirements may be imposed.

§825.306 How much information may be required in medical certifications of a serious health condition?

(a) The Office of Compliance has made available an optional form ("Certification of Physician or Practitioner") for employees' (or their family members') use in obtaining medical certification, including second and third opinions, from health care providers that meets FMLA's certification requirements. (*See* Appendix B to these regulations.) This optional form reflects certification requirements so as to permit the health care provider to furnish appropriate medical information within his or her knowledge.

(b) The Certification of Physician or Practitioner form is modeled closely on Form WH–380, as revised, which was developed by the Department of Labor (*see* 29 C.F.R. Part 825, Appendix B). The employing office may use the Office of Compliance's form, or Form WH–380, as revised, or another form containing the same basic information; however, no additional information may be required. In all instances the information on the form must relate only to the serious health condition for which the current need for leave exists. The form identifies the health care provider and type of medical practice (including pertinent specialization, if any), makes maximum use of checklist entries for ease in completing the form, and contains required entries for:

(1) A certification as to which part of the definition of "serious health condition" (see §825.114), if any, applies to the patient's condition, and the medical facts which support the certification, including a brief statement as to how the medical facts meet the criteria of the definition.

(2)(i) The approximate date the serious health condition commenced, and its probable duration, including the probable duration of the patient's present incapacity (defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) if different.

(ii) Whether it will be necessary for the employee to take leave intermittently or to work on a reduced leave schedule basis (*i.e.*, part-time) as a result of the serious health condition (see §825.117 and §825.203), and if so, the probable duration of such schedule.

(iii) If the condition is pregnancy or a chronic condition within the meaning of §825.114(a)(2)(iii), whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity.

(3)(i)(A) If additional treatments will be required for the condition, an estimate of the probable number of such treatments.

(B) If the patient's incapacity will be intermittent, or will require a reduced leave schedule, an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any.

(ii) If any of the treatments referred to in subparagraph (i) will be provided by another provider of health services (e.g., physical therapist), the nature of the treatments.

(iii) If a regimen of continuing treatment by the patient is required under the supervision of the health care provider, a general description of the regimen (see §825.114(b)).

(4) If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), whether the employee:

(i) is unable to perform work of any kind;

(ii) is unable to perform any one or more of the essential functions of the employee's position, including a statement of the essential functions the employee is unable to perform (see §825.115), based on either information provided on a statement from the employing office of the essential functions of the position or, if not provided, discussion with the employee about the employee's job functions; or

(iii) must be absent from work for treatment.

(5)(i) If leave is required to care for a family member of the employee with a serious health condition, whether the patient requires assistance for basic medical or personal needs or safety, or for transportation; or if not, whether the employee's presence to provide psychological comfort would be beneficial to the patient or assist in the patient's recovery. The employee is required to indicate on the form the care he or she will provide and an estimate of the time period.

(ii) If the employee's family member will need care only intermittently or on a reduced leave schedule basis (*i.e.*, part-time), the probable duration of the need.

(c) If the employing office's sick or medical leave plan requires less information to be furnished in medical certifications than the certification requirements of these regulations, and the employee or employing office elects to substitute paid sick, vacation, personal or family leave for unpaid FMLA leave where authorized (see §825.207), only the employing office's lesser sick leave certification requirements may be imposed.

§825.307 What may an employing office do if it questions the adequacy of a medical certification?

(a) If an employee submits a complete certification signed by the health care provider, the employing office may not request additional information from the employee's health care provider. However, a health care provider representing the employing office may contact the employee's health care provider, with the employee's permission, for purposes of *clarification* and authenticity of the medical certification.

(1) If an employee is on FMLA leave running concurrently with a workers' compensation absence, and the provisions of the workers' compensation statute permit the employing office or the employing office's representative to have direct contact with the employee's workers' compensation health care provider, the employing office may follow the workers' compensation provisions.

(2) An employing office that has reason to doubt the validity of a medical certification may require the employee to obtain a second opinion at the employing office's expense. Pending receipt of the second (or third) medical opinion, the employee is provisionally entitled to the benefits of the FMLA as made applicable by the CAA, including maintenance of group health benefits. If the certifications do not ultimately establish the employee's entitlement to FMLA leave, the leave shall not be designated as FMLA leave and may be treated as paid or unpaid leave under the employing office's established leave policies. The employing office is permitted to designate the health care provider to furnish the second opinion, but the selected health care provider may not be employed on a regular basis by the employing office. See also paragraphs (e) and (f) of this section.

(b) The employing office may not regularly contract with or otherwise regularly utilize the services of the health care provider furnishing the second opinion unless the employing office is located in an area where access to health care is extremely limited (*e.g.*, a rural area where no more than one or two doctors practice in the relevant specialty in the vicinity).

(c) If the opinions of the employee's and the employing office's designated health care providers differ, the employing office may require the employee to obtain certification from a third health care provider, again at the employing office's expense. This third opinion shall be final and binding. The third health care provider must be designated or approved jointly by the employing office and the employee. The employing office and the employee must each act in good faith to attempt to reach agreement on whom to select for the third opinion provider. If the employing office does not attempt in good faith to reach agreement, the employing office will be bound by the first certification. If the employee does not attempt in good faith to reach agreement, the employee will be bound by the second certification. For example, an employee who refuses to agree to see a doctor in the specialty in question may be failing to act in good faith. On the other hand, an employing office that refuses to agree to any doctor on a list of specialists in the appropriate field provided by the employee and whom the employee has not previously consulted may be failing to act in good faith.

(d) The employing office is required to provide the employee with a copy of the second and third medical opinions, where applicable, upon request by the employee. Requested copies are to be provided within two business days unless extenuating circumstances prevent such action.

(e) If the employing office requires the employee to obtain either a second or third opinion the employing office must reimburse an employee or family member for any reasonable "out of pocket" travel expenses incurred to obtain the second and third medical opinions. The employing office may not require the employee or family member to travel outside normal commuting distance for purposes of obtaining the second or third medical opinions except in very unusual circumstances.

(f) In circumstances when the employee or a family member is visiting in another country, or a family member resides in another country, and a serious health condition develops, the employing office shall accept a medical certification as well as second and third opinions from a health care provider who practices in that country.

§825.308 Under what circumstances may an employing office request subsequent recertifications of medical conditions?

(a) For pregnancy, chronic, or permanent/long-term conditions under continuing supervision of a health care provider (as defined in §825.114(a)(2) (ii), (iii) or (iv)), an employing office may request recertification no more often than every 30 days and only in connection with an absence by the employee, unless:

(1) Circumstances described by the previous certification have changed significantly (*e.g.*, the duration or frequency of absences, the severity of the condition, complications); or

(2) The employing office receives information that casts doubt upon the employee's stated reason for the absence.

(b)(1) If the minimum duration of the period of incapacity specified on a certification furnished by the health care provider is more than 30 days, the employing office may not request recertification until that minimum duration has passed unless one of the conditions set forth in paragraph (c) (1), (2) or (3) of this section is met.

(2) For FMLA leave taken intermittently or on a reduced leave schedule basis, the employing office may not request recertification in less than the minimum period specified on the certification as necessary for such leave (including treatment) unless one of the conditions set forth in paragraph (c) (1), (2) or (3) of this section is met.

(c) For circumstances not covered by paragraphs (a) or (b) of this section, an employing office may request recertification at any reasonable interval, but not more often than every 30 days, unless:

(1) The employee requests an extension of leave;

(2) Circumstances described by the previous certification have changed significantly (*e.g.*, the duration of the illness, the nature of the illness, complications); or

(3) The employing office receives information that casts doubt upon the continuing validity of the certification.

(d) The employee must provide the requested recertification to the employing office within the time frame requested by the employing office (which must allow at least 15 calendar days after the employing office's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

(e) Any recertification requested by the employing office shall be at the employee's expense unless the employing office provides otherwise. No second or third opinion on recertification may be required.

§825.309 What notice may an employing office require regarding an employee's intent to return to work?

(a) An employing office may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work. The employing office's policy regarding such reports may not be discriminatory and must take into account all of the relevant facts and circumstances related to the individual employee's leave situation.

(b) If an employee gives unequivocal notice of intent not to return to work, the employing office's obligations under FMLA, as made applicable by the CAA, to maintain health benefits (subject to requirements of COBRA or 5 U.S.C. 8905a, whichever is applicable) and to restore the employee cease. However, these obligations continue if an employee indicates he or she may be unable to return to work but expresses a continuing desire to do so.

(c) It may be necessary for an employee to take more leave than originally anticipated. Conversely, an employee may discover after beginning leave that the circumstances have changed and the amount of leave originally anticipated is no longer necessary. An employee may not be required to take more FMLA leave than necessary to resolve the circumstance that precipitated the need for leave. In both of these situations, the employing office may require that the employee provide the employing office reasonable notice (*i.e.*, within two business days) of the changed circumstances where foreseeable. The employing office may also obtain information on such changed circumstances through requested status reports.

§825.310 Under what circumstances may an employing office require that an employee submit a medical certification that the employee is able (or unable) to return to work (i.e., a "fitness-for-duty" report)?

(a) As a condition of restoring an employee whose FMLA leave was occasioned by the employee's own serious health condition that made the employee unable to perform the employee's job, an employing office may have a uniformly-applied policy or practice that requires all similarly-situated employees (*i.e.*, same occupation, same serious health condition) who take leave for such conditions to obtain and present certification from the employee's health care provider that the employee is able to resume work.

(b) If the terms of a collective bargaining agreement govern an employee's return to work, those provisions shall be applied. Similarly, requirements under the Americans with Disabilities Act (ADA), as made applicable by the CAA, that any return-to-work physical be job-related and consistent with business necessity apply. For example, an attorney could not be required to submit to a medical examination or inquiry just because her leg had been amputated. The essential functions of an attorney's job do not require use of both legs; therefore such an inquiry would not be job related. An employing office may require a warehouse laborer, whose back impairment affects the ability to lift, to be examined by an orthopedist, but may not require this employee to submit to an HIV test where the test is not related to either the essential functions of his/her job or to his/her impairment.

(c) An employing office may seek fitness-for-duty certification only with regard to the particular health condition that caused the employee's need for FMLA leave. The certification itself need only be a simple statement of an employee's ability to return to work. A health care provider employed by the employing office may contact the employee's health care provider with the employee's permission, for purposes of clarification of the employee's fitness to return to work. No additional information may be acquired, and clarification may be requested only for the serious health condition for which FMLA leave was taken. The employing office may not delay the employee's return to work while contact with the health care provider is being made.

(d) The cost of the certification shall be borne by the employee and the employee is not entitled to be paid for the time or travel costs spent in acquiring the certification.

(e) The notice that employing offices are required to give to each employee giving notice of the need for FMLA leave regarding their FMLA rights and obligations as made applicable by the CAA (see §825.301) shall advise the employee if the employing office will require fitness-for-duty certification to return to work. If the employing office has a handbook explaining employment policies and benefits, the handbook should explain the employing office's general policy regarding any requirement for fitness-for-duty certification to return to work. Specific notice shall also be given to any employee from whom fitness-for-duty certification will be required either at the time notice of the need for leave is given or immediately after leave commences and the employing office is advised of the medical circumstances requiring the leave, unless the employee's condition changes from one that did not previously require certification pursuant to the employing office's practice or policy. No second or third fitness-for-duty certification may be required.

(f) An employing office may delay restoration to employment until an employee submits a required fitness-for-duty certification unless the employing office has failed to provide the notices required in paragraph (e) of this section.

(g) An employing office is not entitled to certification of fitness to return to duty when the employee takes intermittent leave as described in §825.203.

(h) When an employee is unable to return to work after FMLA leave because of the continuation, recurrence, or onset of the employee's or family member's serious health condition, thereby preventing the employing office from recovering its share of health benefit premium payments made on the employee's behalf during a period of unpaid FMLA leave, the employing office may require medical certification of the employee's or the family member's serious health condition. (*See* §825.213(a)(3).) The cost of the certification shall be borne by the employee and the employee is not entitled to be paid for the time or travel costs spent in acquiring the certification.

§825.311 What happens if an employee fails to satisfy the medical certification and/or recertification requirements?

(a) In the case of foreseeable leave, an employing office may delay the taking of FMLA leave to an employee who fails to provide timely certification after being requested by the employing office to furnish such certification (*i.e.*, within 15 calendar days, if practicable), until the required certification is provided.

(b) When the need for leave is not foreseeable, or in the case of recertification, an employee must provide certification (or recertification) within the time frame requested by the employing office (which must allow at least 15 days after the employing office's request) *or* as soon as reasonably possible under the particular facts and circumstances. In the case of a medical emergency, it may not be practicable for an employee to provide the required certification within 15 calendar days. If an employee fails to provide a medical certification within a reasonable time under the pertinent circumstances, the employing office may delay the employee's continuation of FMLA leave. If the employee never produces the certification, the leave is not FMLA leave.

(c) When requested by the employing office pursuant to a uniformly applied policy for similarly-situated employees, the employee must provide medical certification at the time the employee seeks reinstatement at the end of FMLA leave taken for the employee's serious health condition, that the employee is fit for duty and able to return to work (see §825.310(a)) if the employing office has provided the required notice (see §825.301(c); the employing office may delay restoration until the certification is provided. In this situation, unless the employee provides either a fitness-for-duty certification or a new medical certification for a serious health condition at the time FMLA leave is concluded, the employee may be terminated. See also §825.213(a)(3).

§825.312 Under what circumstances may an employing office refuse to provide FMLA leave or reinstatement to eligible employees?

(a) If an employee fails to give timely advance notice when the need for FMLA leave is foreseeable, the employing office may delay the taking of FMLA leave until 30 days after the date the employee provides notice to the employing office of the need for FMLA leave. (*See* §825.302.)

(b) If an employee fails to provide in a timely manner a requested medical certification to substantiate the need for FMLA leave due to a serious health condition, an employing office may delay continuation of FMLA leave until an employee submits the certificate. (*See* §§825.305 and 825.311.) If the employee never produces the certification, the leave is not FMLA leave.

(c) If an employee fails to provide a requested fitness-for-duty certification to return to work, an employing office may delay restoration until the employee submits the certificate. (*See* §§825.310 and 825.311.)

(d) An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. Thus, an employee's rights to continued leave, maintenance of health benefits, and restoration cease under FMLA, as made applicable by the CAA, if and when the employment relationship terminates (*e.g.*, layoff), unless that relationship continues, for example, by the employee remaining on *paid* FMLA leave. If the employee is recalled or otherwise re-employed, an eligible employee is immediately entitled to further FMLA leave for an FMLA-qualifying reason. An employing office must be able to show, when an employee requests restoration, that the employee would not otherwise have been employed if leave had not been taken in order to deny restoration to employment. (*See* §825.216.)

(e) An employing office may require an employee on FMLA leave to report periodically on the employee's status and intention to return to work. (See §825.309.) If an employee unequivocally advises the employing office either before or during the taking of leave that the employee does not intend to return to work, and the employment relationship is terminated, the employee's entitlement to continued leave, maintenance of health benefits, and restoration ceases unless the employment relationship continues, for example, by the employee remaining on *paid* leave. An employee may not be required to take more leave than necessary to address the circumstances for which leave was taken. If the employee is able to return to work earlier than anticipated, the employee shall provide the employing office two business days notice where feasible; the employing office is required to restore the employee once such notice is given, or where such prior notice was not feasible.

(f) An employing office may deny restoration to employment, but not the taking of FMLA leave and the maintenance of health benefits, to an eligible employee only under the terms of the "key employee" exemption. Denial of reinstatement must be necessary to prevent "substantial and grievous economic injury" to the employing office's operations. The employing office must notify the employee of the employee's status as a "key employee" and of the employing office's intent to deny reinstatement on that basis when the employing office makes these determinations. If leave has started, the employee must be given a reasonable opportunity to return to work after being so notified. (See §825.219.)

(g) An employee who fraudulently obtains FMLA leave from an employing office is not protected by job restoration or maintenance of health benefits provisions of the FMLA as made applicable by the CAA.

(h) If the employing office has a uniformly-applied policy governing outside or supplemental employment, such a policy may continue to apply to an employee while on FMLA leave. An employing office which does not have such a policy may not deny benefits to which an employee is entitled under FMLA as made applicable by the CAA on this basis unless the FMLA leave was fraudulently obtained as in paragraph (g) of this section.

SUBPART D—WHAT ENFORCEMENT MECHANISMS DOES THE CAA PROVIDE?

§825.400 What can employees do who believe that their rights under the FMLA as made applicable by the CAA have been violated?

(a) To commence a proceeding, a covered employee alleging a violation of the rights and protections of the FMLA made applicable by the CAA must request counseling by the Office of Compliance not later than 180 days after the date of the alleged violation. If a covered employee misses this deadline, the covered employee will be unable to obtain a remedy under the CAA.

(b) The following procedures are available under title IV of the CAA for covered employees who believe that their rights under FMLA as made applicable by the CAA have been violated:

(1) counseling;

(2) mediation; and

(3) election of either—

(A) a formal complaint, filed with the Office of Compliance, and a hearing before a hearing officer, subject to review by the Board of Directors of the Office of Compliance, and judicial review in the United States Court of Appeals for the Federal Circuit; or

(B) a civil action in a district court of the United States.

(c) Regulations of the Office of Compliance describing and governing these procedures are found at [proposed rules can be found at 141 Cong. Rec. S17012 (November 14, 1995)].

§825.401 [Reserved]

§825.402 [Reserved]

§825.403 [Reserved]

§825.404 [Reserved]

SUBPART E—[RESERVED]

SUBPART F—WHAT SPECIAL RULES APPLY TO EMPLOYEES OF SCHOOLS?

§825.600 To whom do the special rules apply?

(a) Certain special rules apply to employees of "local educational agencies," including public school boards and elementary schools under their jurisdiction, and private elementary and secondary schools. The special rules do not apply to other kinds of educational institutions, such as colleges and universities, trade schools, and preschools.

(b) Educational institutions are covered by FMLA as made applicable by the CAA (and these special rules). The usual requirements for employees to be "eligible" apply.

(c) The special rules affect the taking of intermittent leave or leave on a reduced leave schedule, or leave near the end of an academic term (semester), by instructional employees. "Instructional employees" are those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. It does not include, and the special rules do not apply to, teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

(d) Special rules which apply to restoration to an equivalent position apply to all employees of local educational agencies.

§825.601 What limitations apply to the taking of intermittent leave or leave on a reduced leave schedule?

(a) Leave taken for a period that ends with the school year and begins the next semester is leave taken consecutively rather than intermittently. The period during the summer vacation when the employee would not have been required to report for duty is not counted against the employee's FMLA leave entitlement. An instructional employee who is on FMLA leave at the end of the school year must be provided with any benefits over the summer vacation that employees would normally receive if they had been working at the end of the school year.

(1) If an eligible instructional employee needs intermittent leave or leave on a reduced leave schedule to care for a family member, or for the employee's own serious health condition, which is foreseeable based on planned medical treatment, and the employee would be on leave for more than 20 percent of the total number of working days over the period the leave would extend, the employing office may require the employee to choose either to:

(i) Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or

(ii) Transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.

(2) These rules apply only to a leave involving more than 20 percent of the working days during the period over which the leave extends. For example, if an instructional employee who normally works five days each

week needs to take two days of FMLA leave per week over a period of several weeks, the special rules would apply. Employees taking leave which constitutes 20 percent or less of the working days during the leave period would not be subject to transfer to an alternative position. "Periods of a particular duration" means a block, or blocks, of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed, and may include one uninterrupted period of leave.

(b) If an instructional employee does not give required notice of foreseeable FMLA leave (see § 825.302) to be taken intermittently or on a reduced leave schedule, the employing office may require the employee to take leave of a particular duration, or to transfer temporarily to an alternative position. Alternatively, the employing office may require the employee to delay the taking of leave until the notice provision is met. See § 825.207(h).

§ 825.602 What limitations apply to the taking of leave near the end of an academic term?

(a) There are also different rules for instructional employees who begin leave more than five weeks before the end of a term, less than five weeks before the end of a term, and less than three weeks before the end of a term. Regular rules apply except in circumstances when:

(1) An instructional employee begins leave more than five weeks before the end of a term. The employing office may require the employee to continue taking leave until the end of the term if—

(i) The leave will last at least three weeks, and

(ii) The employee would return to work during the three-week period before the end of the term.

(2) The employee begins leave for a purpose other than the employee's own serious health condition *during* the five-week period before the end of a term. The employing office may require the employee to continue taking leave until the end of the term if—

(i) The leave will last more than two weeks, and

(ii) The employee would return to work during the two-week period before the end of the term.

(3) The employee begins leave for a purpose other than the employee's own serious health condition during the three-week period before the end of a term, and the leave will last more than five working days. The employing office may require the employee to continue taking leave until the end of the term.

(b) For purposes of these provisions, "academic term" means the school semester, which typically ends near the end of the calendar year and the end of spring each school year. In no case may a school have more than two academic terms or semesters each year for purposes of FMLA as made applicable by the CAA. An example of leave falling within these provisions would be where an employee plans two weeks of leave to care for a family member which will begin three weeks before the end of the term. In that situation, the employing office could require the employee to stay out on leave until the end of the term.

§ 825.603 Is all leave taken during "periods of a particular duration" counted against the FMLA leave entitlement?

(a) If an employee chooses to take leave for "periods of a particular duration" in the case of intermittent or reduced schedule leave, the entire period of leave taken will count as FMLA leave.

(b) In the case of an employee who is required to take leave until the end of an academic term, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. The employing office has the option not to require the employee to stay on leave until the end of the school term. Therefore, any additional leave required by the employing office to the end of the school term is not counted as FMLA leave; however, the employing office shall be required to maintain the employee's group health insurance and restore the employee to the same or equivalent job including other benefits at the conclusion of the leave.

§ 825.604 What special rules apply to restoration to "an equivalent position?"

The determination of how an employee is to be restored to "an equivalent position" upon return from FMLA leave will be made on the basis of "established school board policies and practices, private school policies and practices, and collective bargaining agreements." The "established policies" and collective bargaining agreements used as a basis for restoration must be in writing, must be made known to the employee prior to the taking of FMLA leave, and must clearly explain the employee's restoration rights upon return from leave. Any established policy which is used as the basis for restoration of an employee to "an equivalent position" must provide substantially the same protections as provided in the FMLA, as made applicable by the CAA, for reinstated employees. See § 825.215. In other words, the policy or collective bargaining agreement must provide for restoration to an "equivalent position" with equivalent employment benefits, pay, and other terms and conditions of employment. For example, an employee may not be restored to a position requiring additional licensure or certification.

SUBPART G—HOW DO OTHER LAWS, EMPLOYING OFFICE PRACTICES, AND COLLECTIVE BARGAINING AGREEMENTS AFFECT EMPLOYEE RIGHTS UNDER THE FMLA AS MADE APPLICABLE BY THE CAA?

§ 825.700 What if an employing office provides more generous benefits than required by FMLA as Made Applicable by the CAA?

(a) An employing office must observe any employment benefit program or plan that provides greater family or medical leave rights to employees than the rights established by the FMLA. Conversely, the rights established by the FMLA, as made applicable by the CAA, may not be diminished by any employment benefit program or plan. For example, a provision of a collective bargaining agreement (CBA) which provides for reinstatement to a position that is not equivalent because of seniority (*e.g.*, provides lesser pay) is superseded by FMLA. If an employing office provides greater unpaid family leave rights than are afforded by FMLA, the employing office is not required to extend additional rights afforded by FMLA, such as maintenance of health benefits (other than through COBRA or 5 U.S.C. 8905a, whichever is applicable), to the additional leave period not covered by FMLA. If an employee takes paid or unpaid leave and the employing office does not designate the leave as FMLA leave, the leave taken does not count against an employee's FMLA entitlement.

(b) Nothing in the FMLA, as made applicable by the CAA, prevents an employing office from amending existing leave and employee benefit programs, provided they comply with FMLA as made applicable by the CAA. However, nothing in the FMLA, as made applicable by the CAA, is intended to discourage employing offices from adopting or retaining more generous leave policies.

(c) [Reserved]

§ 825.701 [Reserved]

§ 825.702 How does FMLA affect anti-discrimination laws as applied by section 201 of the CAA?

(a) Nothing in FMLA modifies or affects any applicable law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability (e.g., Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act), as made applicable by the CAA. FMLA's legislative history explains that FMLA is "not intended to modify or affect the Rehabilitation Act of 1973, as amended, the regulations concerning employment which have been promulgated pursuant to that statute, or the Americans with Disabilities Act of 1990, or the regulations issued under that act. Thus, the leave provisions of the [FMLA] are wholly distinct from the reasonable accommodation obligations of employers covered under the [ADA] . . . or the Federal government itself. The purpose of the FMLA is to make leave available to eligible employees and employing offices within its coverage, and not to limit already existing rights and protection." S. Rep. No. 3, 103d Cong., 1st Sess. 38 (1993). An employing office must therefore provide leave under whichever statutory provision provides the greater rights to employees.

(b) If an employee is a qualified individual with a disability within the meaning of the Americans with Disabilities Act (ADA), the employing office must make reasonable accommodations, *etc.*, barring undue hardship, in accordance with the ADA. At the same time, the employing office must afford an employee his or her FMLA rights. ADA's "disability" and FMLA's "serious health condition" are different concepts, and must be analyzed separately. FMLA entitles eligible employees to 12 weeks of leave in any 12-month period, whereas the ADA allows an indeterminate amount of leave, barring undue hardship, as a reasonable accommodation. FMLA requires employing offices to maintain employees' group health plan coverage during FMLA leave on the same conditions as coverage would have been provided if the employee had been continuously employed during the leave period, whereas ADA does not require maintenance of health insurance unless other employees receive health insurance during leave under the same circumstances.

(c)(1) A reasonable accommodation under the ADA might be accomplished by providing an individual with a disability with a part-time job with no health benefits, assuming the employing office did not ordinarily provide health insurance for part-time employees. However, FMLA would permit an employee to work a reduced leave schedule until the equivalent of 12 workweeks of leave were used, with group health benefits maintained during this period. FMLA permits an employing office to temporarily transfer an employee who is taking leave intermittently or on a reduced leave schedule to an alternative position, whereas the ADA allows an accommodation of reassignment to an equivalent, vacant position only if the employee cannot perform the essential functions of the employee's present position and an accommodation is not possible in the employee's present position, or an accommodation in the employee's present position would cause an undue hardship. The examples in the following paragraphs of this section demonstrate how the two laws would interact with respect to a qualified individual with a disability.

(2) A qualified individual with a disability who is also an "eligible employee" entitled to FMLA leave requests 10 weeks of medical leave as a reasonable accommodation, which the employing office grants because it is not an undue hardship. The employing office advises the employee that the 10 weeks of leave is also being designated as FMLA leave and will count towards the employee's FMLA leave entitlement. This designation does not prevent the parties from also treating the leave as a reasonable accommodation and reinstating the employee into the *same* job, as required by the ADA, rather than an equivalent position under FMLA, if that is the greater right available to the employee. At the same time, the employee would be entitled under FMLA to have the employing office maintain group health plan coverage during the leave, as that requirement provides the greater right to the employee.

(3) If the same employee needed to work part-time (a reduced leave schedule) after returning to his or her same job, the employee would still be entitled under FMLA to have group health plan coverage maintained for the remainder of the two-week equivalent of FMLA leave entitlement, notwithstanding an employing office policy that part-time employees do not receive health insurance. This employee would be entitled under the ADA to reasonable accommodations to enable the employee to perform the essential functions of the part-time position. In addition, because the employee is working a part-time schedule as a reasonable accommodation, the employee would be shielded from FMLA's provision for temporary assignment to a different alternative position. Once the employee has exhausted his or her remaining FMLA leave entitlement while working the reduced (part-time) schedule, if the employee is a qualified individual with a disability, and if the employee is unable to return to the same full-time position at that time, the employee might continue to work part-time as a reasonable accommodation, barring undue hardship; the employee would then be entitled to only those employment benefits ordinarily provided by the employing office to part-time employees.

(4) At the end of the FMLA leave entitlement, an employing office is required under FMLA to reinstate the employee in the same or an equivalent position, with equivalent pay and benefits, to that which the employee held when leave commenced. The employing office's FMLA obligations would be satisfied if the employing office offered the employee an equivalent full-time position. If the employee were unable to perform the essential functions of that equivalent position even with reasonable accommodation, because of a disability, the ADA may require the employing office to make a reasonable accommodation at that time by allowing the employee to work part-time or by reassigning the employee to a vacant position, barring undue hardship.

(d)(1) If FMLA entitles an employee to leave, an employing office may not, in lieu of FMLA leave entitlement, *require* an employee to take a job with a reasonable accommodation. However, ADA may require that an employing office offer an employee the opportunity to take such a position. An employing office may not change the essential functions of the job in order to deny FMLA leave. See §825.220(b).

(2) An employee may be on a workers' compensation absence due to an on-the-job injury or illness which also qualifies as a serious health condition under FMLA. The workers' compensation absence and FMLA leave may run concurrently (subject to proper notice and designation by the employing office). At some point the health care provider providing medical care pursuant to the workers' compensation injury may certify the employee is able to return to work in a "light duty" position. If the employing office offers such a position, the employee is permitted but not required to accept the position (*see* §825.220(d)). As a result, the employee may no longer qualify for payments from the workers' compensation benefit plan, but the employee is entitled to continue on unpaid FMLA leave either until the employee is able to return to the same or equivalent job the employee left or until the 12-week FMLA leave entitlement is exhausted. See §825.207(d)(2). If the employee returning from the workers' compensation injury is a qualified individual with a disability, he or she will have rights under the ADA.

(e) If an employing office requires certifications of an employee's fitness for duty to return to work, as permitted by FMLA under a uniform policy, it must comply with the ADA requirement that a fitness for duty physical be job-related and consistent with business necessity.

(f) Under Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act, and as made applicable by the CAA, an employing office should provide the same benefits for women who are pregnant as the employing office provides to other employees with short-term disabilities. Because Title VII does not require employees to be employed for a certain period of time to be protected, an employee employed for less than 12 months by any employing office (and, therefore, not an "eligible" employee under FMLA, as made applicable by the CAA) may *not* be denied maternity leave if the employing office normally provides short-term disability benefits to employees with the same tenure who are experiencing other short-term disabilities.

(g) For further information on Federal anti-discrimination laws applied by section 201 of the CAA (2 U.S.C. 1311), including Title VII, the Rehabilitation Act, and the ADA, individuals are encouraged to contact the Office of Compliance.

SUBPART H—DEFINITIONS

§825.800 Definitions.

For purposes of this part:

ADA means the Americans With Disabilities Act (42 U.S.C. 12101 *et seq.*).

CAA means the Congressional Accountability Act of 1995 (Pub. Law 104-1, 109 Stat. 3, 2 U.S.C. 1301 *et seq.*).

COBRA means the continuation coverage requirements of Title X of the Consolidated Omnibus Budget Reconciliation Act of 1986 (Pub. Law 99-272, title X, section 10002; 100 Stat. 227; as amended; 29 U.S.C. 1161-1168).

Continuing treatment means: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(1) A period of *incapacity* (*i.e.*, inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(i) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (*e.g.*, physical therapist) under orders of, or on referral by, a health care provider; or

(ii) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(2) Any period of incapacity due to pregnancy, or for prenatal care.

(3) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(i) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(ii) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(iii) May cause episodic rather than a continuing period of incapacity (*e.g.*, asthma, diabetes, epilepsy, *etc.*).

(4) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(5) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, *etc.*), severe arthritis (physical therapy), kidney disease (dialysis).

Covered employee—The term "covered employee", as defined in the CAA, means any employee of—(1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; (8) the Office of Compliance; or (9) the Office of Technology Assessment.

Eligible employee—The term "eligible employee", as defined in the CAA, means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

Employ means to suffer or permit to work.

Employee means an employee as defined in the CAA and includes an applicant for employment and a former employee.

Employee employed in an instructional capacity. See Teacher.

Employee of the Capitol Police—The term "employee of the Capitol Police" includes any member or officer of the Capitol Police.

Employee of the House of Representatives—The term "employee of the House of Representatives" includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (9) under "covered employee" above.

Employee of the Office of the Architect of the Capitol—The term "employee of the Office of the Architect of the Capitol" includes any employee of the Office of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants.

Employee of the Senate—The term "employee of the Senate" includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (9) under "covered employee" above.

Employing Office—The term "employing office", as defined in the CAA, means:

(1) the personal office of a Member of the House of Representatives or of a Senator;

(2) a committee of the House of Representatives or the Senate or a joint committee;

(3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(4) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

Employment benefits means all benefits provided or made available to employees by an employing office, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employing office or through an employee benefit plan. The term does not include non-employment related obligations paid by employees through voluntary deductions such as supplemental insurance coverage. (See §825.209(a)).

FLSA means the Fair Labor Standards Act (29 U.S.C. 201 *et seq.*).

FMLA means the Family and Medical Leave Act of 1993, Public Law 103-3 (February 5, 1993), 107 Stat. 6 (29 U.S.C. 2601 *et seq.*).

Group health plan means the Federal Employees Health Benefits Program and any other plan of, or contributed to by, an employing office (including a self-insured plan) to provide health care (directly or otherwise) to the employing office's employees, former employees, or the families of such employees or former employees. For purposes of FMLA, as made applicable by the CAA, the term "group health plan" shall not include an insurance program providing health coverage under which employees purchase individual policies from insurers provided that:

(1) no contributions are made by the employing office;

(2) participation in the program is completely voluntary for employees;

(3) the sole functions of the employing office with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer;

(4) the employing office receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deduction; and,

(5) the premium charged with respect to such coverage does not increase in the event the employment relationship terminates.

Health care provider means:

(1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; or

(2) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law; and

(3) Nurse practitioners, nurse-midwives and clinical social workers who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law; and

(4) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.

(5) Any health care provider from whom an employing office or a group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

(6) A health care provider as defined above who practices in a country other than the United States, who is licensed to practice in accordance with the laws and regulations of that country.

"Incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in several of the "activities of daily living" (ADLs) or "instrumental activities of daily living" (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

Instructional employee: See *Teacher.*

Intermittent leave means leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy.

Mental disability: See *Physical or mental disability.*

Office of Compliance means the independent office established in the legislative branch under section 301 of the CAA (2 U.S.C. 1381).

Parent means the biological parent of an employee or an individual who stands or stood in loco parentis to an employee when the employee was a child.

Physical or mental disability means a physical or mental impairment that substantially limits one or more of the major life activities of an individual. See the Americans with Disabilities Act (ADA), as made applicable by section 201(a)(3) of the CAA (2 U.S.C. 1311(a)(3)).

Reduced leave schedule means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

Secretary means the Secretary of Labor or authorized representative.

Serious health condition entitling an employee to FMLA leave means: (1) an illness, injury, impairment, or physical or mental condition that involves:

(i) *Inpatient care* (*i.e.*, an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of *incapacity* (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom), or any subsequent treatment in connection with such inpatient care; or

(ii) *Continuing treatment* by a health care provider. A serious health condition involving continuing treatment by a health care provider includes:

(A) A period of *incapacity* (*i.e.*, inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(*1*) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (*e.g.*, physical therapist) under orders of, or on referral by, a health care provider; or

(*2*) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(B) Any period of incapacity due to pregnancy, or for prenatal care.

(C) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(*1*) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(*2*) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(*3*) May cause episodic rather than a continuing period of incapacity (*e.g.*, asthma, diabetes, epilepsy, *etc.*).

(D) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(E) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, *etc.*), severe arthritis (physical therapy), kidney disease (dialysis).

(2) Treatment for purposes of paragraph (1) of this definition includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under paragraph (1)(ii)(A)(2) of this definition, a regimen of continuing treatment includes, for example, a course of prescription medication (*e.g.*, an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (*e.g.*, oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as

aspirin, antihistamines, or salves; or bedrest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

(3) Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, *etc.*, are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(4) Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.

(5) Absences attributable to incapacity under paragraphs (1)(ii)(B) or (C) of this definition qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is under 18 years of age or 18 years of age *or* older and incapable of self-care because of a mental or physical disability.

Spouse means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized.

State means any State of the United States or the District of Columbia or any Territory or possession of the United States.

Teacher (or *employee employed in an instructional capacity*, or *instructional employee*) means an employee employed principally in an instructional capacity by an educational agency or school whose principal function is to teach and instruct students in a class, a small group, or an individual setting, and includes athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. The term does not include teacher assistants or aides who do not have as their principal function actual teaching or instructing, nor auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers, or other primarily noninstructional employees.

APPENDIX A TO PART 825—[RESERVED]

APPENDIX B TO PART 825—CERTIFICATION OF PHYSICIAN OR PRACTITIONER

CERTIFICATION OF HEALTH CARE PROVIDER (FAMILY AND MEDICAL LEAVE ACT OF 1993 AS MADE APPLICABLE BY THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995)

1. Employee's Name:

2. Patient's Name (if different from employee):

3. The attached sheet describes what is meant by a "serious health condition" under the Family and Medical Leave Act as made applicable by the Congressional Accountability Act. Does the patient's condition qualify under any of the categories described? If so, please check the applicable category.

(1)___ (2)___ (3)___ (4)___ (5)___ (6)___, or None of the above ___

4. Describe the medical facts which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:

5.a. State the approximate date the condition commenced, and the probable duration of the condition (and also the probable duration of the patient's present incapacity if different):

b. Will it be necessary for the employee to take work only intermittently or to work on a less than full schedule as a result of the condition (including for treatment described in Item 6 below)? _____

If yes, give probable duration:

c. If the condition is a chronic condition (condition #4) or pregnancy, state whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity.

6.a. If additional treatments will be required for the condition, provide an estimate of the probable number of such treatments:

If the patient will be absent from work or other daily activities because of treatment on an intermittent or part-time basis, also provide an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any:

b. If any of these treatments will be provided by another provider of health services (e.g., physical therapist), please state the nature of the treatments:

c. If a regimen of continuing treatment by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment):

7.a. If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), is the employee unable to perform work of any kind? _____

b. If able to perform some work, is the employee unable to perform any one or more of the essential functions of the employee's job (the employee or the employer should supply you with information about the essential job functions)? ___ If yes, please list the essential functions the employee is unable to perform:

c. If neither a. nor b. applies, is it necessary for the employee to be absent from work for treatment? _____

8.a. If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation? ____

b. If no, would the employee's presence to provide psychological comfort be beneficial to the patient or assist in the patient's recovery? _____

c. If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need:

(Signature of Health Care Provider):

(Address):

(Type of Practice):

(Telephone number):

To be completed by the employee needing family leave to care for a family member:

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule:

(Employee signature):

(Date):

A "Serious Health Condition" means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. *Hospital Care:* Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.

2. *Absence Plus Treatment:*

(a) A period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:

(1) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider: or

(2) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

3. *Pregnancy:* Any period of incapacity due to pregnancy, or for prenatal care.

4. *Chronic Conditions Requiring Treatments:* A chronic condition which:

(1) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(3) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, *etc.*)

5. *Permanent/Long-term Conditions Requiring Supervision:* A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

6. *Multiple Treatments (Non-Chronic Conditions):* Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

APPENDIX C TO PART 825—[RESERVED]

APPENDIX D TO PART 825—PROTOTYPE NOTICE: EMPLOYING OFFICE RESPONSE TO EMPLOYEE REQUEST FOR FAMILY AND MEDICAL LEAVE

Employing Office Response to Employee Request for Family or Medical Leave

(Optional use form—see §825.301(b)(1) of the regulations of the Office of Compliance)

(Family and Medical Leave Act of 1993, as made applicable by the Congressional Accountability Act of 1995)

(Date):

To: ____________

(Employee's name)

From: ____________

(Name of appropriate employing office representative)

Subject: Request for Family/Medical Leave

On *(date)* ________, you notified us of your need to take family/medical leave due to:

☐ the birth of your child, or the placement of a child with you for adoption or foster care; or

☐ a serious health condition that makes you unable to perform the essential functions of your job; or

☐ a serious health condition affecting your ☐ spouse, ☐ child, ☐ parent, for which you are needed to provide care.

You notified us that you need this leave beginning on *(date)* ________ and that you expect leave to continue until on or about ________.

Except as explained below, you have a right under the FMLA, as made applicable by the CAA, for up to 12 weeks of unpaid leave in a 12-month period for the reasons listed above. Also, your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work, and you must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from leave. If you do not return to work following FMLA leave for a reason other than: (1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; or (2) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.

This is to inform you that: *(check appropriate boxes; explain where indicated)*

1. You are ☐ eligible ☐ not eligible for leave under the FMLA as made applicable by the CAA.

2. The requested leave ☐ will ☐ will not be counted against your annual FMLA leave entitlement.

3. You ☐ will ☐ will not be required to furnish medical certification of a serious health condition. If required, you must furnish certification by ________ *(insert date)* (must be at least 15 days after you are notified of this requirement) or we may delay the commencement of your leave until the certification is submitted.

4. You may elect to substitute accrued paid leave for unpaid FMLA leave. We ☐ will ☐ will not require that you substitute accrued paid leave for unpaid FMLA leave. If paid leave will be used the following conditions will apply: *(Explain)*

5(a). If you normally pay a portion of the premiums for your health insurance, these payments will continue during the period of FMLA leave. Arrangements for payment have been discussed with you and it is agreed that you will make premium payments as follows: *(Set forth dates, e.g., the 10th of each month, or pay periods, etc.* that specifically cover the agreement with the employee.)

(b). You have a minimum 30-day *(or, indicate longer period, if applicable)* grace period in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled, *provided* we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work. We ☐ will ☐ will not pay your share of health insurance premiums while you are on leave.

(c). We ☐ will ☐ will not do the same with other benefits (e.g., life insurance, disability insurance, etc.) while you are on FMLA leave. If we do pay your premiums for other benefits, when you return from leave you ☐ will ☐ will not be expected to reimburse us for the payments made on your behalf.

6. You ☐ will ☐ will not be required to present a fitness-for-duty certificate prior to being restored to employment. If such certification is required but not received, your return to work may be delayed until the certification is provided.

7(a). You ☐ are ☐ are not a "key employee" as described in §825.218 of the Office of Compliance's FMLA regulations. If you are a "key employee," restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us.

(b). We ☐ have ☐ have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us. *(Explain (a) and/or (b) below. See §825.219 of the Office of Compliance's FMLA regulations.)*

8. While on leave, you ☐ will ☐ will not be required to furnish us with periodic reports every ____ *(indicate interval of periodic reports, as appropriate for the particular leave situation) of your status and intent to return to work (See §825.309 of the Office of Compliance's FMLA regulations).* If the circumstances of your leave change and you are able to return to work earlier than the date indicated on the reverse side of this form, you ☐ will ☐ will not be required to notify us at least two work days prior to the date you intend to report for work.

9. You ☐ will ☐ will not be required to furnish recertification relating to a serious health condition. *(Explain below, if necessary, including the interval between certifications as prescribed in §825.308 of the Office of Compliance's FMLA regulations.)*

APPENDIX E TO PART 825—[RESERVED]

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

NOTICE OF ISSUANCE OF FINAL REGULATION

On January 22, 1996, the Board of Directors of the Office of Compliance adopted and submitted for publication in the Congressional Record final regulations implementing Sections 204(a) and (b) of the Congressional Accountability Act of 1995 ("CAA"), which relate to the Employee Polygraph Protection Act of 1988. On April 15, 1996, pursuant to section 304(c) of the CAA, the House and the Senate agreed to resolutions approving the final regulations. Specifically, the Senate agreed to S. Res. 242, to provide for the approval of final regulations that are applicable to the Senate and the employees of the Senate; the House agreed to H. Res. 400, to provide for the approval of final regulations that are applicable to the House and the employees of the House; and the House and the Senate agreed to S. Con. Res. 51, to provide for approval of final regulations that are applicable to employing offices and employees other than those offices and employees of the House and the Senate. Accordingly, pursuant to section 304(d) of the CAA, the Board submits these regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for issuance by publication in the Congressional Record.

Pursuant to paragraph (3) of section 304(d) of the CAA, the Board finds good cause for the regulations to become effective on April 16, 1996, rather than 60 days after issuance. Were the regulations not effective immediately upon the expiration of the interim regulations on April 15, 1996, covered employees, employing offices and the Office of Compliance would be forced to operate under the same kind of regulatory uncertainty that the Board sought to avoid by adopting interim regulations effective as of January 23, 1996, the effective date of the relevant provisions of the CAA.

Signed at Washington, D.C. on this 19th day of April, 1996.

GLEN D. NAGER,
Chair of the Board, Office of Compliance.

Accordingly, the Board of Directors of the Office of Compliance hereby issues the following final regulations:

[Final Regulations]

Application of Rights and Protections of the Employee Polygraph Protection Act of 1988

Subpart A—General

Section—

1.1 Purpose and scope.
1.2 Definitions.
1.3 Coverage.
1.4 Prohibitions on lie detector use.
1.5 Effect on other laws or agreements.
1.6 Notice of protection.
1.7 Authority of the Board.
1.8 Employment relationship.

Subpart B—Exemptions

1.10 Exclusion for employees of the Capitol Police. [Reserved]
1.11 Exemption for national defense and security.
1.12 Exemption for employing offices conducting investigations of economic loss or injury.
1.13 Exemption for employing offices authorized to manufacture, distribute, or dispense controlled substances

Subpart C—Restrictions on Polygraph Usage Under Exemptions

1.20 Adverse employment action under ongoing investigation exemption.
1.21 Adverse employment action under controlled substance exemption.
1.22 Rights of examinee—general.
1.23 Rights of examinee—pretest phase.
1.24 Rights of examinee—actual testing phase.
1.25 Rights of examinee—post-test phase.
1.26 Qualifications of and requirements for examiners.

Subpart D—Recordkeeping and Disclosure Requirements

1.30 Records to be preserved for 3 years.
1.35 Disclosure of test information.

Appendix A—Notice to Examinee

Authority: Pub. L. 104-1, 109 Stat. 3, 2 U.S.C. 1314(c)

SUBPART A—GENERAL

Sec. 1.1 Purpose and scope.

Enacted into law on January 23, 1995, the Congressional Accountability Act ("CAA") directly applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 204(a) of the CAA, 2 U.S.C. §1314(a) provides that no employing office may require any covered employee (including a covered employee who does not work in that employing office) to take a lie detector test where such test would be prohibited if required by an employer under paragraphs (1), (2) or (3) of section 3 of the Employee Polygraph Protection Act of 1988 (EPPA), 29 U.S.C. §2002(1), (2) or (3). The purpose of this part is to set forth the regulations to carry out the provisions of Section 204 of the CAA.

Subpart A contains the provisions generally applicable to covered employers, including the requirements relating to the prohibitions on lie detector use. Subpart B sets forth rules regarding the statutory exemptions from application of section 204 of the CAA. Subpart C sets forth the restrictions on polygraph usage under such exemptions. Subpart D sets forth the rules on recordkeeping and the disclosure of polygraph test information.

Sec. 1.2 Definitions

For purposes of this part:

(a) *Act* or *CAA* means the Congressional Accountability Act of 1995 (P.L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301-1438).

(b) *EPPA* means the Employee Polygraph Protection Act of 1988 (Pub. L. 100-347, 102 Stat. 646, 29 U.S.C. §§2001-2009) as applied to covered employees and employing offices by Section 204 of the CAA.

(c) The term *covered employee* means any employee of (1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Congressional Budget Office; (5) the Office of the Architect of the Capitol; (6) the Office of the Attending Physician; (7) the Office of Compliance; or (8) the Office of Technology Assessment.

(d) The term *employee* includes an applicant for employment and a former employee.

(e) The term *employee of the Office of the Architect of the Capitol* includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.

(f) The term *employee of the Capitol Police* includes any member or officer of the Capitol Police.

(g) The term *employee of the House of Representatives* includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(h) The term *employee of the Senate* includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(i) The term *employing office* means (1) the personal office of a Member of the House of Representatives or of a Senator; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or (4) the Capitol Guide Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment. The term *employing office* includes any person acting directly or indirectly in the interest of an employing office in relation to an employee or prospective employee. A polygraph examiner either employed for or whose services are retained for the sole purpose of administering polygraph tests ordinarily would not be deemed an employing office with respect to the examinees. Any reference to "employer" in these regulations includes employing offices.

(j) (1) The term *lie detector* means a polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device (whether mechanical or electrical) that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual. Voice stress analyzers, or psychological stress evaluators, include any systems that utilize voice stress analysis, whether or not an opinion on honesty or dishonesty is specifically rendered. (2) The term *lie detector* does not include medical tests used to determine the presence or absence of controlled substances or alcohol in bodily fluids. Also not included in the definition of *lie detector* are written or oral tests commonly referred to as "honesty" or "paper and pencil" tests, machine-scored or otherwise; and graphology tests commonly referred to as handwriting tests.

(k) The term *polygraph* means an instrument that—

(1) Records continuously, visually, permanently, and simultaneously changes in cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards; and

(2) Is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

(l) *Board* means the Board of Directors of the Office of Compliance.

(m) *Office* means the Office of Compliance.

Sec. 1.3 Coverage.

The coverage of Section 204 of the Act extends to any "covered employee" or "covered employing office" without regard to the number of employees or the employing office's effect on interstate commerce.

Sec. 1.4 Prohibitions on lie detector use.

(a) Section 204 of the CAA provides that, subject to the exemptions of the EPPA incorporated into the CAA under section 225(f) of the CAA, as set forth in Sec. 1.10 through 1.12 of this Part, employing offices are prohibited from:

(1) Requiring, requesting, suggesting or causing, directly or indirectly, any covered employee or prospective employee to take or submit to a lie detector test;

(2) Using, accepting, or inquiring about the results of a lie detector test of any covered employee or prospective employee; and

(3) Discharging, disciplining, discriminating against, denying employment or promotion, or threatening any covered employee or prospective employee to take such action for refusal or failure to take or submit to such test, or on the basis of the results of a test. The above prohibitions apply irrespective of whether the covered employee referred to in paragraphs (1), (2) or (3), above, works in that employing office.

(b) An employing office that reports a theft or other incident involving economic loss to police or other law enforcement authorities is not engaged in conduct subject to the prohibitions under paragraph (a) of this section if, during the normal course of a subsequent investigation, such authorities deem it necessary to administer a polygraph test to a covered employee(s) suspected of involvement in the reported incident. Employing offices that cooperate with police authorities during the course of their investigations into criminal misconduct are likewise not deemed engaged in prohibitive conduct provided that such cooperation is passive in nature. For example, it is not uncommon for police authorities to request employees suspected of theft or criminal activity to submit to a polygraph test during the employee's tour of duty since, as a general rule, suspect employees are often difficult to locate away from their place of employment. Allowing a test on the employing office's premises, releasing a covered employee during working hours to take a test at police headquarters, and other similar types of cooperation at the request of the police authorities would not be construed as "requiring, requesting, suggesting, or causing, directly or indirectly, any covered employee * * * to take or submit to a lie detector test." Cooperation of this type must be distinguished from actual participation in the testing of employees suspected of wrongdoing, either through the administration of a test by the employing office at the request or direction of police authorities, or through reimbursement by the employing office of tests administered by police authorities to employees. In some communities, it may be a practice of police authorities to request testing by employing offices of employees before a police investigation is initiated on a reported incident. In other communities, police examiners are available to covered employing offices, on a cost reimbursement basis, to conduct tests on employees suspected by an employing office of wrongdoing. All such conduct on the part of employing offices is deemed within the prohibitions of section 204 of the CAA.

(c) The receipt by an employing office of information from a polygraph test administered by police authorities pursuant to an investigation is prohibited by section 3(2) of the EPPA. (*See* paragraph (a)(2) of this section.)

(d) The simulated use of a polygraph instrument so as to lead an individual to believe that an actual test is being or may be performed (e.g., to elicit confessions or admissions of guilt) constitutes conduct prohibited by paragraph (a) of this section. Such use includes the connection of a covered employee or prospective employee to the instrument without any intention of a diagnostic purpose, the placement of the instrument in a room used for interrogation unconnected to the covered employee or prospective employee, or the mere suggestion that the instrument may be used during the course of the interview.

(e) The Capitol Police may not require a covered employee not employed by the Capitol Police to take a lie detector test (on its own initiative or at the request of another employing office) except where the Capitol Police administers such lie detector test as part of an "ongoing investigation" by the Capitol Police. For the purpose of this subsection, the definition of "ongoing investigation" contained section 1.12(b) shall apply.

Sec. 1.5 Effect on other laws or agreements.

(a) Section 204 of the CAA does not preempt any otherwise applicable provision of federal law or any rule or regulation of the House or Senate or any negotiated collective bargaining agreement that prohibits lie detector tests or is more restrictive with respect to the use of lie detector tests.

(b)(1) This provision applies to all aspects of the use of lie detector tests, including procedural safeguards, the use of test results, the rights and remedies provided examinees, and the rights, remedies, and responsibilities of examiners and employing offices.

(2) For example, a collective bargaining agreement that provides greater protection to an examinee would apply in addition to the protection provided in section 204 of the CAA.

Sec. 1.6 Notice of protection.

Pursuant to section 301(h) of the CAA, the Office shall prepare, in a manner suitable for posting, a notice explaining the provisions of section 204 of the CAA. Copies of such notice may be obtained from the Office of Compliance.

Sec. 1.7 Authority of the Board.

Pursuant to sections 204 and 304 of the CAA, the Board is authorized to issue regulations to implement the rights and protections of the EPPA. Section 204(c) directs the Board to promulgate regulations implementing section 204 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) [of section 204 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." The regulations issued by the Board herein are on all matters for which section 204 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) [of section 204 of the CAA]."

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

Sec. 1.8 Employment relationship.

Subject to the exemptions incorporated into the CAA by section 225(f), section 204 applies the prohibitions on the use of lie detectors by employing offices with respect to covered employees irrespective of whether a covered employee works in that employing office. Sections 101(3), (4) and 204 of the CAA also apply EPPA prohibitions against discrimination to applicants for employment and former employees of a covered employing office. For example, an employee may quit rather than take a lie detector test. The employing office cannot discriminate or threaten to discriminate in any manner against that person (such as by providing bad references in the future) because of that person's refusal to be tested. Similarly, an employing office cannot discriminate or threaten to discriminate in any manner against that person because that person files a complaint, institutes a proceeding, testifies in a proceeding, or exercises any right under section 204 of the CAA. (*See* section 207 of the CAA.)

SUBPART B—EXEMPTIONS

Sec. 1.10 Exclusion for employees of the Capitol Police. [Reserved]

Sec. 1.11 Exemption for national defense and security.

(a) The exemptions allowing for the administration of lie detector tests in the following paragraphs (b) through (e) of this section apply only to the Federal Government; they do not allow covered employing offices to administer such tests. For the purposes of this section, the term "Federal Government" means any agency or entity within the Federal Government authorized to administer polygraph examinations which is otherwise exempt from coverage under section 7(a) of the EPPA, 29 U.S.C. §2006(a).

(b) Section 7(b)(1) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any counterintelligence function, to any expert, consultant or employee of any contractor under contract with the Department of Defense; or with the Department of Energy, in connection with the atomic energy defense activities of such Department.

(c) Section 7(b)(2)(A) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any intelligence or counterintelligence function of the National Security Agency, the Defense Intelligence Agency, or the Central Intelligence Agency, to any individual employed by, assigned to, or detailed to any such agency; or any expert or consultant under contract to any such agency; or any employee of a contractor to such agency; or any individual applying for a position in any such agency; or any individual assigned to a space where sensitive cryptologic information is produced, processed, or stored for any such agency.

(d) Section 7(b)(2)(B) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any intelligence or counterintelligence function, to any covered employee whose duties involve access to information that has been classified at the level of top secret or designated as being within a special access program under section 4.2(a) of Executive Order 12356 (or a successor Executive Order).

(c) *Counterintelligence* for purposes of the above paragraphs means information gathered and activities conducted to protect against espionage and other clandestine intelligence activities, sabotage, terrorist activities, or assassinations conducted for or on behalf of foreign governments, or foreign or domestic organizations or persons.

(d) Lie detector tests of persons described in the above paragraphs will be administered in accordance with applicable Department of Defense directives and regulations, or other regulations and directives governing the use of such tests by the United States Government, as applicable.

Sec. 1.12 Exemption for employing offices conducting investigations of economic loss or injury.

(a) Section 7(d) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides a limited exemption from the general prohibition on lie detector use for employers conducting ongoing investigations of economic loss or injury to the employer's business. An employing office may request an employee, subject to the conditions set forth in sections 8 and 10 of the EPPA and Secs. 1.20, 1.22, 1.23, 1.24, 1.25, 1.26 and 1.35 of this part, to submit to a polygraph test, but no other type of lie detector test, only if—

(1) The test is administered in connection with an ongoing investigation involving economic loss or injury to the employing office's operations, such as theft, embezzlement, misappropriation or an act of unlawful industrial espionage or sabotage;

(2) The employee had access to the property that is the subject of the investigation;

(3) The employing office has a reasonable suspicion that the employee was involved in the incident or activity under investigation;

(4) The employing office provides the examinee with a statement, in a language understood by the examinee, prior to the test which fully explains with particularity the specific incident or activity being investigated and the basis for testing particular employees and which contains, at a minimum:

(i) An identification with particularity of the specific economic loss or injury to the operations of the employing office;

(ii) A description of the employee's access to the property that is the subject of the investigation;

(iii) A description in detail of the basis of the employing office's reasonable suspicion that the employee was involved in the incident or activity under investigation; and

(iv) Signature of a person (other than a polygraph examiner) authorized to legally bind the employing office; and

(5) The employing office retains a copy of the statement and proof of service described in paragraph (a)(4) of this section for at least 3 years.

(b) For the exemption to apply, the condition of an ongoing investigation must be met. As used in section 7(d) of the EPPA, the ongoing investigation must be of a specific incident or activity. Thus, for example, an employing office may not request that an employee or employees submit to a polygraph test in an effort to determine whether or not any thefts have occurred. Such random testing by an employing office is precluded by the EPPA. Further, because the exemption is limited to a specific incident or activity, an employing office is precluded from using the exemption in situations where the so-called "ongoing investigation" is continuous. For example, the fact that items are frequently missing would not be a sufficient basis, standing alone, for administering a polygraph test. Even if the employing office can establish that unusually high amounts of property are missing in a given month, this, in and of itself, would not be a sufficient basis to meet the specific incident requirement. On the other hand, polygraph testing in response to missing property would be permitted where additional evidence is obtained through subsequent investigation of specific items missing through intentional wrongdoing, and a "reasonable suspicion that the employee to be polygraphed was involved" in the incident under investigation. Administering a polygraph test in circumstances where the missing property is merely unspecified, statistical shortages, without identification of a specific incident or activity that produced the missing property and a reasonable suspicion that the employee was involved, would amount to little more than a fishing expedition and is prohibited by the EPPA as applied to covered employees and employing offices by the CAA.

(c)(1)(i) The terms *economic loss or injury to the employing office's operations* include both direct and indirect economic loss or injury.

(ii) Direct loss or injury includes losses or injuries resulting from theft, embezzlement, misappropriation, espionage or sabotage. These examples, cited in the EPPA, are intended to be illustrative and not exhaustive. Another specific incident which would constitute direct economic loss or injury is the misappropriation of confidential or trade secret information.

(iii) Indirect loss or injury includes the use of an employing office's operations to commit a crime, such as check-kiting or money laundering. In such cases, the ongoing investigation must be limited to criminal activity that has already occurred, and to use of the employing office's operations (and not simply the use of the premises) for such activity. For example, the use of an employing office's vehicles, warehouses, computers or equipment to smuggle or facilitate the importing of illegal substances constitutes an indirect loss or injury to the employing office's business operations. Conversely, the mere fact that an illegal act occurs on the employing office's premises (such as a drug transaction that takes place in the employing office's parking lot or rest room) does not constitute an indirect economic loss or injury to the employing office.

(iv) Indirect loss or injury also includes theft or injury to property of another for which the employing office exercises fiduciary, managerial or security responsibility, or where the office has custody of the property (but not property of other offices to which the employees have access by virtue of the employment relationship). For example, if a maintenance employee of the manager of an apartment building steals jewelry from a tenant's apartment, the theft results in an indirect economic loss or injury to the employer because of the manager's management responsibility with respect to the tenant's apartment. A messenger on a delivery of confidential business reports for a client firm who steals the reports causes an indirect economic loss or injury to the messenger service because the messenger service is custodian of the client firm's reports, and therefore is responsible for their security. Similarly, the theft of property protected by a security service employer is considered an economic loss or injury to that employer.

(v) A theft or injury to a client firm does not constitute an indirect loss or injury to an employing office unless that employing office has custody of, or management, or security responsibility for, the property of the client that was lost or stolen or injured. For example, a cleaning contractor has no responsibility for the money at a client bank. If money is stolen from the bank by one of the cleaning contractor's employees, the cleaning contractor does not suffer an indirect loss or injury.

(vi) Indirect loss or injury does not include loss or injury which is merely threatened or potential, e.g., a threatened or potential loss of an advantageous business relationship.

(2) Economic losses or injuries which are the result of unintentional or lawful conduct would not serve as a basis for the administration of a polygraph test. Thus, apparently unintentional losses or injuries stemming from truck, car, workplace, or other similar type accidents or routine inventory or cash register shortages would not meet the economic loss or injury requirement. Any economic loss incident to lawful union or employee activity also would not satisfy this requirement.

(3) It is the operations of the employing office which must suffer the economic loss or injury. Thus, a theft committed by one employee against another employee of the same employing office would not satisfy the requirement.

(d) While nothing in the EPPA as applied by the CAA prohibits the use of medical tests to determine the presence of controlled substances or alcohol in bodily fluids, the section 7(d) exemption of the EPPA does not permit the use of a polygraph test to learn whether an employee has used drugs or alcohol, even where such possible use may have contributed to an economic loss to the employing office (e.g., an accident involving an employing office's vehicle).

(e) Section 7(d)(2) of the EPPA provides that, as a condition for the use of the exemption, the employee must have had access to the property that is the subject of the investigation.

(1) The word *access*, as used in section 7(d)(2), refers to the opportunity which an employee had to cause, or to aid or abet in causing, the specific economic loss or injury under investigation. The term "access", thus, includes more than direct or physical contact during the course of employment. For example, as a general matter, all employees working in or with authority to enter a property storage area have "access" to unsecured property in the area. All employees with the combination to a safe have "access" to the property in a locked safe. Employees also have "access" who have the ability to divert possession or otherwise affect the disposition of the property that is the subject of investigation. For example, a bookkeeper in a jewelry store with access to inventory records may aid or abet a clerk who steals an expensive watch by removing the watch from the employing office's inventory records. In such a situation, it is clear that the bookkeeper effectively has "access" to the property that is the subject of the investigation. (2) As used in section 7(d)(2), *property* refers to specifically identifiable property, but also includes such things of value as security codes and computer data, and proprietary, financial or technical information, such as trade secrets, which by its availability to competitors or others would cause economic harm to the employing office. (f)(1) As used in section 7(d)(3), the term "reasonable suspicion" refers to an observable, articulable basis in fact which indicates that a particular employee was involved in, or responsible for, an economic loss. Access in the sense of possible or potential opportunity, standing alone, does not constitute a basis for "reasonable suspicion." Information from a co-worker, or an employee's behavior, demeanor, or conduct may be factors in the basis for reasonable suspicion. Likewise, inconsistencies between facts, claims, or statements that surface during an investigation can serve as a sufficient basis for reasonable suspicion. While access or opportunity, standing alone, does not constitute a basis for "reasonable suspicion", the totality of circumstances surrounding the access or opportunity (such as its unauthorized or unusual nature or the fact that access was limited to a single individual) may constitute a factor in determining whether there is a reasonable suspicion.

(2) For example, in an investigation of a theft of an expensive piece of jewelry, an employee authorized to open the establishment's safe no earlier than 9 a.m., in order to place the jewelry in a window display case, is observed opening the safe at 7:30 a.m. In such a situation, the opening of the safe by the employee one and one-half hours prior to the specified time may serve as the basis for reasonable suspicion. On the other hand, in the example given, if the employee is asked to bring the piece of jewelry to his or her office at 7:30 a.m., and the employee then opened the safe and reported the jewelry missing, such access, standing alone, would not constitute a basis for reasonable suspicion that the employee was involved in the incident unless access to the safe was limited solely to the employee. If no one other than the employee possessed the combination to the safe, and all other possible explanations for the loss are ruled out, such as a break-in, a basis for reasonable suspicion may be formulated based on sole access by one employee.

(3) The employing office has the burden of establishing that the specific individual or individuals to be tested are "reasonably suspected" of involvement in the specific economic loss or injury for the requirement in section 7(d)(3) of the EPPA to be met.

(g)(1) As discussed in paragraph (a)(4) of this section, section 7(d)(4) of the EPPA sets forth what information, at a minimum, must be provided to an employee if the employing office wishes to claim the exemption.

(2) The statement required under paragraph (a)(4) of this section must be received by the employee at least 48 hours, excluding weekend days and holidays, prior to the time of the examination. The statement must set forth the time and date of receipt by the employee and be verified by the employee's signature. This will provide the employee with adequate pre-test notice of the specific incident or activity being investigated and afford the employee sufficient time prior to the test to obtain and consult with legal counsel or an employee representative.

(3) The statement to be provided to the employee must set forth with particularity the specific incident or activity being investigated and the basis for testing particular employees. Section 7(d)(4)(A) of the EPPA requires specificity beyond the mere assertion of general statements regarding economic loss, employee access, and reasonable suspicion. For example, an employing office's assertion that an expensive watch was stolen, and that the employee had access to the watch and is therefore a suspect, would not meet the "with particularity" criterion. If the basis for an employing office's requesting an employee (or employees) to take a polygraph test is not articulated with particularity, and reduced to writing, then the standard is not met. The identity of a co-worker or other individual providing information used to establish reasonable suspicion need not be revealed in the statement.

(4) It is further required that the statement provided to the examinee be signed by the employing office, or an employee or other representative of the employing office with authority to legally bind the employing office. The person signing the statement must not be a polygraph examiner unless the examiner is acting solely in the capacity of an employing office with respect to his or her own employees and does not conduct the examination. The standard would not be met, and the exemption would not apply if the person signing the statement is not authorized to legally bind the employing office.

(h) Polygraph tests administered pursuant to this exemption are subject to the limitations set forth in sections 8 and 10 of the EPPA, as discussed in Secs. 1.20, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part. As provided in these sections, the exemption will apply only if certain requirements are met. Failure to satisfy any of the specified requirements nullifies the statutory authority for polygraph test administration and may subject the employing office to remedial actions, as provided for in section 6(c) of the EPPA.

Sec. 1.13 Exemption of employing offices authorized to manufacture, distribute, or dispense controlled substances.

(a) Section 7(f) of the EPPA, incorporated into the CAA by section 225(f) of the CAA, provides an exemption from the EPPA's general prohibition regarding the use of polygraph tests for employers authorized to manufacture, distribute, or dispense a controlled substance listed in schedule I, II, III, or IV of section 202 of the Controlled Substances Act (21 U.S.C. §812). This exemption permits the administration of polygraph tests, subject to the conditions set forth in sections 8 and 10 of the EPPA and Sec. 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part, to:

(1) A prospective employee who would have direct access to the manufacture, storage, distribution, or sale of any such controlled substance; or

(2) a current employee if the following conditions are met:

(i) The test is administered in connection with an ongoing investigation of criminal or other misconduct involving, or potentially involving, loss or injury to the manufacture, distribution, or dispensing of any such controlled substance by such employing office; and

(ii) The employee had access to the person or property that is the subject of the investigation.

(b)(1) The terms *manufacture, distribute, distribution, dispense, storage, and sale,* for the purposes of this exemption, are construed within the meaning of the Controlled Substances Act (21 U.S.C. §812 et seq.), as administered by the Drug Enforcement Administration (DEA), U.S. Department of Justice.

(2) The exemption in section 7(f) of the EPPA applies only to employing offices that are authorized by DEA to manufacture, distribute, or dispense a controlled substance. Section 202 of the Controlled Substances Act (21 U.S.C. §812) requires every person who manufactures, distributes, or dispenses any controlled substance to register with the Attorney General (i.e., with DEA). Common or contract carriers and warehouses whose possession of the controlled substance is in the usual course of their business or employment are not required to register. Truck drivers and warehouse employees of the persons or entities registered with DEA and authorized to manufacture, distribute, or dispense controlled substances, are within the scope of the exemption where they have direct access or access to the controlled substances, as discussed below.

(c) In order for a polygraph examination to be performed, section 7(f) of the Act requires that a prospective employee have "direct access" to the controlled substance(s) manufactured, dispensed, or distributed by the employing office. Where a current employee is to be tested as a part of an ongoing investigation, section 7(f) requires that the employee have "access" to the person or property that is the subject of the investigation.

(1) A prospective employee would have "direct access" if the position being applied for has responsibilities which include contact with or which affect the disposition of a controlled substance, including participation in the process of obtaining, dispensing, or otherwise distributing a controlled substance. This includes contact or direct involvement in the manufacture, storage, testing, distribution, sale or dispensing of a controlled substance and may include, for example, packaging, repackaging, ordering, licensing, shipping, receiving, taking inventory, providing security, prescribing, and handling of a controlled substance. A prospective employee would have "direct access" if the described job duties would give such person access to the products in question, whether such employee would be in physical proximity to controlled substances or engaged in activity which would permit the employee to divert such substances to his or her possession.

(2) A current employee would have "access" within the meaning of section 7(f) if the employee had access to the specific person or property which is the subject of the on-going investigation, as discussed in Sec. 1.12(e) of this part. Thus, to test a current employee, the employee need not have had "direct" access to the controlled substance, but may have had only infrequent, random, or opportunistic access. Such access would be sufficient to test the employee if the employee could have caused, or could have aided or abetted in causing, the loss of the specific property which is the subject of the investigation. For example, a maintenance worker in a drug warehouse, whose job duties include the cleaning of areas where the controlled substances which are the subject of the investigation were present, but whose job duties do not include the handling of controlled substances, would be deemed to have "access", but normally not "direct access", to the controlled substances. On the other hand, a drug warehouse truck loader, whose job duties include the handling of outgoing shipment orders which contain controlled substances, would have "direct access" to such controlled substances. A pharmacy department in a supermarket is another common situation which is useful in illustrating the distinction between "direct access" and "access." Store personnel receiving pharmaceutical orders, i.e., the pharmacist, pharmacy intern, and other such employees working in the pharmacy department, would ordinarily have "direct access" to controlled substances. Other store personnel whose job duties and responsibilities do not include the handling of controlled substances but who had occasion to enter the pharmacy department where the controlled substances which are the subject of the investigation were stored, such as maintenance personnel or pharmacy cashiers, would have "access." Certain other store personnel whose job duties do not permit or require entrance into the pharmacy department for any reason, such as produce or meat clerks, checkout cashiers, or baggers, would not ordinarily have "access." However, any current employee, regardless of described job duties, may be polygraphed if the employing office's investigation of criminal or other misconduct discloses that such employee in fact took action to obtain "access" to the person or property that is the subject of the investigation—e.g., by actually entering the drug storage area in violation of company rules. In the case of "direct access", the prospective employee's access to controlled substances would be as a part of the manufacturing, dispensing or distribution process, while a current employee's "access" to the controlled substances which are the subject of the investigation need only be opportunistic.

(d) The term *prospective employee,* for the purposes of this section, includes a current employee who presently holds a position which does not entail direct access to controlled substances, and therefore is outside the scope of the exemption's provisions for preemployment polygraph testing, provided the employee has applied for and is being considered for transfer or promotion to another position which entails such direct access. For example, an office secretary may apply for promotion to a position in the vault or cage areas of a drug warehouse, where controlled substances are kept. In such a situation, the current employee would be deemed a "prospective employee" for the purposes of this exemption, and thus could be subject to preemployment polygraph screening, prior to such a change in position. However, any adverse action which is based in part on a polygraph test against a current employee who is considered a "prospective employee" for purposes of this section may be taken only with respect to the prospective position and may not affect the employee's employment in the current position.

(e) Section 7(f) of the EPPA, as applied by the CAA, makes no specific reference to a requirement that employing offices provide current employees with a written statement prior to polygraph testing. Thus, employing offices to whom this exemption is available are not required to furnish a written statement such as that specified in section 7(d) of the EPPA and Sec. 1.12(a)(4) of this part.

(f) For the section 7(f) exemption to apply, the polygraph testing of current employees must be administered in connection with an ongoing investigation of criminal or other misconduct involving, or potentially involving, loss or injury to the manufacture, distribution, or dispensing of any such controlled substance by such employing office.

(1) Current employees may only be administered polygraph tests in connection with an ongoing investigation of criminal or other misconduct, relating to a specific incident or activity, or potential incident or activity. Thus, an employing office is precluded from using the exemption in connection with continuing investigations or on a random basis to determine if thefts are occurring. However, unlike the exemption in section 7(d) of the EPPA for employing offices conducting ongoing investigations of economic loss or injury, the section 7(f) exemption includes ongoing investigations of misconduct involving potential drug losses. Nor does the latter exemption include the requirement for "reasonable suspicion" contained in the section 7(d) exemption. Thus, a drug store operator is permitted to polygraph all current employees who have access to a controlled substance stolen from the inventory, or where there is evidence that such a theft is planned. Polygraph testing based on an inventory shortage of the drug during a particular accounting period would not be permitted unless there is extrinsic evidence of misconduct.

(2) In addition, the test must be administered in connection with loss or injury, or potential loss or injury, to the manufacture, distribution, or dispensing of a controlled substance.

(i) Retail drugstores and wholesale drug warehouses typically carry inventory of so-called health and beauty aids, cosmetics, over-the-counter drugs, and a variety of other similar products, in addition to their product lines of controlled drugs. The non-controlled products usually constitute the majority of such firms' sales volumes. An economic loss or injury related to such non-controlled substances would not constitute a basis of applicability of the section 7(f) exemption. For example, an investigation into the theft of a gross of cosmetic products could not be a basis for polygraph testing under section 7(f), but the theft of a container of Valium could be.

(ii) Polygraph testing, with respect to an ongoing investigation concerning products other than controlled substances might be initiated under section 7(d) of the EPPA and Sec. 1.12 of this part. However, the exemption in section 7(f) of the EPPA and this section is limited solely to losses or injury associated with controlled substances.

(g) Polygraph tests administered pursuant to this exemption are subject to the limitations set forth in sections 8 and 10 of the EPPA, as discussed in Secs. 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part. As provided in these sections, the exemption will apply only if certain requirements are met. Failure to satisfy any of the specified requirements nullifies the statutory authority for polygraph test administration and may subject the employing office to the remedies authorized in section 204 of the CAA. The administration of such tests is also subject to collective bargaining agreements, which may either prohibit lie detector tests, or contain more restrictive provisions with respect to polygraph testing.

SUBPART C—RESTRICTIONS ON POLYGRAPH USAGE UNDER EXEMPTIONS

Sec. 1.20 Adverse employment action under ongoing investigation exemption.

(a) Section 8(a)(1) of the EPPA provides that the limited exemption in section 7(d) of the EPPA and Sec. 1.12 of this part for ongoing investigations shall not apply if an employing office discharges, disciplines, denies employment or promotion or otherwise discriminates in any manner against a current employee based upon the analysis of a polygraph test chart or the refusal to take a polygraph test, without additional supporting evidence.

(b) "Additional supporting evidence", for purposes of section 8(a) of the EPPA, includes, but is not limited to, the following:

(1)(i) Evidence indicating that the employee had access to the missing or damaged property that is the subject of an ongoing investigation; and

(ii) Evidence leading to the employing office's reasonable suspicion that the employee was involved in the incident or activity under investigation; or

(2) Admissions or statements made by an employee before, during or following a polygraph examination.

(c) Analysis of a polygraph test chart or refusal to take a polygraph test may not serve as a basis for adverse employment action, even with additional supporting evidence, unless the employing office observes all the requirements of sections 7(d) and 8(b) of the EPPA, as applied by the CAA and described in Secs. 1.12, 1.22, 1.23, 1.24 and 1.25 of this part.

Sec. 1.21 Adverse employment action under controlled substance exemption.

(a) Section 8(a)(2) of the EPPA provides that the controlled substance exemption in section 7(f) of the EPPA and section 1.13 of this part shall not apply if an employing office discharges, disciplines, denies employment or promotion, or otherwise discriminates in any manner against a current employee or prospective employee based solely on the analysis of a polygraph test chart or the refusal to take a polygraph test.

(b) Analysis of a polygraph test chart or refusal to take a polygraph test may serve as one basis for adverse employment actions of the type described in paragraph (a) of this section, provided that the adverse action was also based on another bona fide reason, with supporting evidence therefor. For example, traditional factors such as prior employment experience, education, job performance, etc. may be used as a basis for employment decisions. Employment decisions based on admissions or statements made by an employee or prospective employee before, during or following a polygraph examination may, likewise, serve as a basis for such decisions.

(c) Analysis of a polgraph test chart or the refusal to take a polygraph test may not serve as a basis for adverse employment action, even with another legitimate basis for such action, unless the employing office observes all the requirements of section 7(f) of the EPPA, as appropriate, and seciton 8(b) of the EPPA, as described in sections 1.13, 1.22, 1.23, 1.24 and 1.25 of this part.

Sec. 1.22 Rights of examinee—general.

(a) Pursuant to section 8(b) of the EPPA, the limited exemption in section 7(d) of the EPPA for ongoing investigations (described in Secs. 1.12 and 1.13 of this part) shall not apply unless all of the requirements set forth in this section and Secs. 1.23 through 1.25 of this part are met.

(b) During all phases of the polygraph testing the person being examined has the following rights:

(1) The examinee may terminate the test at any time.

(2) The examinee may not be asked any questions in a degrading or unnecessarily intrusive manner.

(3) The examinee may not be asked any questions dealing with:

(i) Religious beliefs or affiliations;

(ii) Beliefs or opinions regarding racial matters;

(iii) Political beliefs or affiliations;

(iv) Sexual preferences or behavior; or

(v) Beliefs, affiliations, opinions, or lawful activities concerning unions or labor organizations.

(4) The examinee may not be subjected to a test when there is sufficient written evidence by a physician that the examinee is suffering from any medical or psychological condition or undergoing any treatment that might cause abnormal responses during the actual testing phase. Sufficient written evidence shall constitute, at a minimum, a statement by a physician specifically describing the examinee's medical or psychological condition or treatment and the basis for the physician's opinion that the condition or treatment might result in such abnormal responses.

(5) An employee or prospective employee who exercises the right to terminate the test, or who for medical reasons with sufficient supporting evidence is not administered the test, shall be subject to adverse employment action only on the same basis as one who refuses to take a polygraph test, as described in Secs. 1.20 and 1.21 of this part.

(c) Any polygraph examination shall consist of one or more pretest phases, actual testing phases, and post-test phases, which must be conducted in accordance with the rights of examinees described in Secs. 1.23 through 1.25 of this part.

Sec. 1.23 Rights of examinee—pretest phase.

(a) The pretest phase consists of the questioning and other preparation of the prospective examinee before the actual use of the polygraph instrument. During the initial pretest phase, the examinee must be:

(1) Provided with written notice, in a language understood by the examinee, as to when and where the examination will take place and that the examinee has the right to consult with counsel or an employee representative before each phase of the test. Such notice shall be received by the examinee at least forty-eight hours, excluding weekend days and holidays, before the time of the examination, except that a prospective employee may, at the employee's option, give written consent to administration of a test anytime within 48 hours but no earlier than 24 hours after receipt of the written notice. The written notice or proof of service must set forth the time and date of receipt by the employee or prospective employee and be verified by his or her signature. The purpose of this requirement is to provide a sufficient opportunity prior to the examination for the examinee to consult with counsel or an employee representative. Provision shall also be made for a convenient place on the premises where the examination will take place at which the examinee may consult privately with an attorney or an employee representative before each phase of the test. The attorney or representative may be excluded from the room where the examination is administered during the actual testing phase.

(2) Informed orally and in writing of the nature and characteristics of the polygraph instrument and examination, including an explanation of the physical operation of the polygraph instrument and the procedure used during the examination.

(3) Provided with a written notice prior to the testing phase, in a language understood by the examinee, which shall be read to and signed by the examinee. Use of Appendix A to this part, if properly completed, will constitute compliance with the contents of the notice requirement of this paragraph. If a format other than in Appendix A is used, it must contain at least the following information:

(i) Whether or not the polygraph examination area contains a two-way mirror, a camera, or other device through which the examinee may be observed;

(ii) Whether or not any other device, such as those used in conversation or recording will be used during the examination;

(iii) That both the examinee and the employing office have the right, with the other's knowledge, to make a recording of the entire examination;

(iv) That the examinee has the right to terminate the test at any time;

(v) That the examinee has the right, and will be given the opportunity, to review all questions to be asked during the test;

(vi) That the examinee may not be asked questions in a manner which degrades, or needlessly intrudes;

(vii) That the examinee may not be asked any questions concerning religious beliefs or opinions; beliefs regarding racial matters; political beliefs or affiliations; matters relating to sexual behavior; beliefs, affiliations, opinions, or lawful activities regarding unions or labor organizations;

(viii) That the test may not be conducted if there is sufficient written evidence by a physician that the examinee is suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the examination;

(ix) That the test is not and cannot be required as a condition of employment;

(x) That the employing office may not discharge, dismiss, discipline, deny employment or promotion, or otherwise discriminate against the examinee based on the analysis of a polygraph test, or based on the examinee's refusal to take such a test, without additional evidence which would support such action;

(xi)(A) In connection with an ongoing investigation, that the additional evidence required for the employing office to take adverse action against the examinee, including termination, may be evidence that the examinee had access to the property that is the subject of the investigation, together with evidence supporting the employing office's reasonable suspicion that the examinee was involved in the incident or activity under investigation;

(B) That any statement made by the examinee before or during the test may serve as additional supporting evidence for an adverse employment action, as described in paragraph (a)(3)(x) of this section, and that any admission of criminal conduct by the examinee may be transmitted to an appropriate government law enforcement agency;

(xii) That information acquired from a polygraph test may be disclosed by the examiner or by the employing office only:

(A) To the examinee or any other person specifically designated in writing by the examinee to receive such information;

(B) To the employing office that requested the test;

(C) To a court, governmental agency, arbitrator, or mediator pursuant to a court order;

(D) By the employing office, to an appropriate governmental agency without a court order where, and only insofar as, the information disclosed is an admission of criminal conduct;

(xiii) That if any of the examinee's rights or protections under the law are violated, the examinee has the right to take action against the employing office under sections 401-404 of the CAA. Employing offices that violate this law are liable to the affected examinee, who may recover such legal or equitable relief as may be appropriate, including, but not limited to, employment, reinstatement, and promotion, payment of lost wages and benefits, and reasonable costs, including attorney's fees;

(xiv) That the examinee has the right to obtain and consult with legal counsel or other representative before each phase of the test, although the legal counsel or representative may be excluded from the room where the test is administered during the actual testing phase.

(xv) That the employee's rights under the CAA may not be waived, either voluntarily or involuntarily, by contract or otherwise, except as part of a written settlement to a pending action or complaint under the CAA, agreed to and signed by the parties.

(b) During the initial or any subsequent pretest phases, the examinee must be given the opportunity, prior to the actual testing phase, to review all questions in writing that the examiner will ask during each testing phase. Such questions may be presented at any point in time prior to the testing phase.

Sec. 1.24 Rights of examinee—actual testing phase.

(a) The actual testing phase refers to that time during which the examiner administers the examination by using a polygraph instrument with respect to the examinee and then analyzes the charts derived from the test. Throughout the actual testing phase, the examiner shall not ask any question that was not presented in writing for review prior to the testing phase. An examiner may, however, recess the testing phase and return to the pre-test phase to review additional relevant questions with the examinee. In the case of an ongoing investigation, the examiner shall ensure that all relevant questions (as distinguished from technical baseline questions) pertain to the investigation.

(b) No testing period subject to the provisions of the Act shall be less than ninety minutes in length. Such "test period" begins at the time that the examiner begins informing the examinee of the nature and characteristics of the examination and the instruments involved, as prescribed in section 8(b)(2)(B) of the EPPA and Sec. 1.23(a)(2) of this part, and ends when the examiner completes the review of the test results with the examinee as provided in Sec. 1.25 of this part. The ninety-minute minimum duration shall not apply if the examinee voluntarily acts to terminate the test before the completion thereof, in which event the examiner may not render an opinion regarding the employee's truthfulness.

Sec. 1.25 Rights of examinee—post-test phase.

(a) The post-test phase refers to any questioning or other communication with the examinee following the use of the polygraph instrument, including review of the results of the test with the examinee. Before any adverse employment action, the employing office must:

(1) Further interview the examinee on the basis of the test results; and

(2) Give to the examinee a written copy of any opinions or conclusions rendered in response to the test, as well as the questions asked during the test, with the corresponding charted responses. The term "corresponding charted responses" refers to copies of the entire examination charts recording the employee's physiological responses, and not just the examiner's written report which describes the examinee's responses to the questions as "charted" by the instrument.

Sec. 1.26 Qualifications of and requirements for examiners.

(a) Section 8 (b) and (c) of the EPPA provides that the limited exemption in section 7(d) of the EPPA for ongoing investigations shall not apply unless the person conducting the polygraph examination meets specified qualifications and requirements.

(b) An examiner must meet the following qualifications:

(1) Have a valid current license, if required by the State in which the test is to be conducted; and

(2) Carry a minimum bond of $50,000 provided by a surety incorporated under the laws of the United States or of any State, which may under those laws guarantee the fidelity of persons holding positions of trust, or carry an equivalent amount of professional liability coverage.

(c) An examiner must also, with respect to examinees identified by the employing office pursuant to Sec. 1.30(c) of this part:

(1) Observe all rights of examinees, as set out in Secs. 1.22, 1.23, 1.24, and 1.25 of this part;

(2) Administer no more than five polygraph examinations in any one calendar day on which a test or tests subject to the provisions of EPPA are administered, not counting those instances where an examinee voluntarily terminates an examination prior to the actual testing phase;

(3) Administer no polygraph examination subject to the provisions of the EPPA which is less than ninety minutes in duration, as described in Sec. 1.24(b) of this part; and

(4) Render any opinion or conclusion regarding truthfulness or deception in writing. Such opinion or conclusion must be based solely on the polygraph test results. The written report shall not contain any information other than admissions, information, case facts, and interpretation of the charts relevant to the stated purpose of the polygraph test and shall not include any recommendation concerning the employment of the examinee.

(5) Maintain all opinions, reports, charts, written questions, lists, and other records relating to the test, including, statements signed by examinees advising them of rights under the CAA (as described in section 1.23(a)(3) of this part) and any electronic recordings of examinations, for at least three years from the date of the administration of the test. (See section 1.30 of this part for recordkeeping requirements.)

SUBPART D—RECORDKEEPING AND DISCLOSURE REQUIREMENTS

Sec. 1.30 Records to be preserved for 3 years.

(a) The following records shall be kept for a minimum period of three years from the date the polygraph examination is conducted (or from the date the examination is requested if no examination is conducted):

(1) Each employing office that requests an employee to submit to a polygraph examination in connection with an ongoing investigation involving economic loss or injury shall retain a copy of the statement that sets forth the specific incident or activity under investigation and the basis for testing that particular covered employee, as required by section 7(d)(4) of the EPPA and described in 1.12(a)(4) of this part.

(2) Each examiner retained to administer examinations pursuant to any of the exemptions under section 7(d), (e) or (f) of the EPPA (described in sections 1.12 and 1.13 of this part) shall maintain all opinions, reports, charts, written questions, lists, and other records relating to polygraph tests of such persons.

Sec. 1.35 Disclosure of test information.

This section prohibits the unauthorized disclosure of any information obtained during a polygraph test by any person, other than the examinee, directly or indirectly, except as follows:

(a) A polygraph examiner or an employing office (other than an employing office exempt under section 7 (a), or (b) of the EPPA (described in Secs. 1.10 and 1.11 of this part)) may disclose information acquired from a polygraph test only to:

(1) The examinee or an individual specifically designated in *writing* by the examinee to receive such information;

(2) The employing office that requested the polygraph test pursuant to the provisions of the EPPA (including management personnel of the employing office where the disclosure is relevant to the carrying out of their job responsibilities);

(3) Any court, governmental agency, arbitrator, or mediator pursuant to an order from a court of competent jurisdiction requiring the production of such information;

(b) An employing office may disclose information from the polygraph test at any time to an appropriate governmental agency without the need of a court order where, and only insofar as, the information disclosed is an admission of criminal conduct.

(c) A polygraph examiner may disclose test charts, without identifying information (but not other examination materials and records), to another examiner(s) for examination and analysis, provided that such disclosure is for the sole purpose of consultation and review of the initial examiner's opinion concerning the indications of truthfulness or deception. Such action would not constitute disclosure under this part provided that the other examiner has no direct or indirect interest in the matter.

APPENDIX A TO PART 801—NOTICE TO EXAMINEE

Section 204 of the Congressional Accountability Act, which applies the rights and protections of section 8(b) of the Employee Polygraph Protection Act to covered employees and employing offices, and the regulations of the Board of Directors of the Office of Compliance (Sections 1.22, 1.23, 1.24, and 1.25), require that you be given the following information before taking a polygraph examination:

1. (a) The polygraph examination area [does] [does not] contain a two-way mirror, a camera, or other device through which you may be observed.

(b) Another device, such as those used in conversation or recording, [will] [will not] be used during the examination.

(c) Both you and the employing office have the right, with the other's knowledge, to record electronically the entire examination.

2. (a) You have the right to terminate the test at any time.

(b) You have the right, and will be given the opportunity, to review all questions to be asked during the test.

(c) You may not be asked questions in a manner which degrades, or needlessly intrudes.

(d) You may not be asked any questions concerning: Religious beliefs or opinions; beliefs regarding racial matters; political beliefs or affiliations; matters relating to sexual preference or behavior; beliefs, affiliations, opinions, or lawful activities regarding unions or labor organizations.

(e) The test may not be conducted if there is sufficient written evidence by a physician that you are suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the examination.

(f) You have the right to consult with legal counsel or other representative before each phase of the test, although the legal counsel or other representative may be excluded from the room where the test is administered during the actual testing phase.

3. (a) The test is not and cannot be required as a condition of employment.

(b) The employing office may not discharge, dismiss, discipline, deny employment or promotion, or otherwise discriminate against you based on the analysis of a polygraph test, or based on your refusal to take such a test without additional evidence which would support such action.

(c)(1) In connection with an ongoing investigation, the additional evidence required for an employing office to take adverse action against you, including termination, may be (A) evidence that you had access to the property that is the subject of the investigation, together with (B) the evidence supporting the employing office's reasonable suspicion that you were involved in the incident or activity under investigation.

(2) Any statement made by you before or during the test may serve as additional supporting evidence for an adverse employment action, as described in 3(b) above, and any admission of criminal conduct by you may be transmitted to an appropriate government law enforcement agency.

4. (a) Information acquired from a polygraph test may be disclosed by the examiner or by the employing office only:

(1) To you or any other person specifically designated in writing by you to receive such information;

(2) To the employing office that requested the test;

(3) To a court, governmental agency, arbitrator, or mediator that obtains a court order.

(b) Information acquired from a polygraph test may be disclosed by the employing office to an appropriate governmental agency without a court order where, and only insofar as, the information disclosed is an admission of criminal conduct.

5. If any of your rights or protections under the law are violated, you have the right to take action against the employing office by filing a request for counseling with the Office of Compliance under section 402 of the Congressional Accountability Act. Employing offices that violate this law are liable to the affected examinee, who may recover such legal or equitable relief as may be appropriate, including, but not limited to, employment, reinstatement, and promotion, payment of lost wages and benefits, and reasonable costs, including attorney's fees.

6. Your rights under the CAA may not be waived, either voluntarily or involuntarily, by contract or otherwise, except as part of a written settlement to a pending action or complaint under the CAA, and agreed to and signed by the parties.

I acknowledge that I have received a copy of the above notice, and that it has been read to me.

(Date):

(Signature):

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988—EXCLUSION OF CAPITOL POLICE

NOTICE OF ISSUANCE OF FINAL REGULATION

On January 22, 1996, the Board of Directors of the Office of Compliance adopted and submitted for publication in the Congressional Record a final regulation authorizing the Capitol Police to use lie detector tests under Section 204(a)(3) and (c) of the Congressional Accountability Act of 1995 ("CAA"). On April 15, 1996, pursuant to section 304(c) of the CAA, the House and the Senate agreed to resolutions approving the final regulations. Specifically, the Senate agreed to S. Res. 242, to provide for the approval of final regulations that are applicable to the Senate and the employees of the Senate; the House agreed to H. Res. 400, to provide for the approval of final regulations that are applicable to the House and the employees of the House; and the House and the Senate agreed to S. Con. Res. 51, to provide for approval of final regulations that are applicable to employing offices and employees other than those offices and employees of the House and the Senate. Accordingly, pursuant section 304(d) of the CAA, the Board submits these regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for issuance by publication in the Congressional Record.

Pursuant to paragraph (3) of section 304(d) of the CAA, the Board finds good cause for the regulations of become effective on April 16, 1996, rather than 60 days after issuance. Were the regulations not effective immediately upon the expiration of the interim regulations on April 15, 1996, covered employees, employing offices and the Office of Compliance would be forced to operate under the same kind of regulatory uncertainty that the Board sought to avoid by adopting interim regulations effective as of the January 23, 1996, which was the effective date of the relevant provisions of the CAA.

Signed at Washington, D.C. on this 19th day of April, 1996.

GLEN D. NAGER,
Chair of the Board, Office of Compliance.

Accordingly, the Board of Directors of the Office of Compliance hereby issues the following final regulation:

[Final Regulation]

EXCLUSION FOR EMPLOYEES OF THE CAPITOL POLICE

None of the limitations on the use of lie detector tests by employing offices set forth in Section 204 of the CAA apply to the Capitol Police. This exclusion from the limitations of Section 204 of the CAA applies only with respect to Capitol Police employees. Except as otherwise provided by law or these regulations, this exclusion does not extend to contractors or nongovernmental agents of the Capitol Police; nor does it extend to the Capitol Police with respect to employees of a private employer or an otherwise covered employing office with which the Capitol Police has a contractual or other business relationship.

SCOPE OF REGULATIONS

These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 204(a)(3) and 304 of the CAA, which authorize the Board to issue regulations governing the use of lie detector tests by the Capitol Police. The regulations issued by the Board herein are on all matters for which section 204(a)(3) of the CAA requires a regulation to be issued.

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

NOTICE OF ISSUANCE OF FINAL REGULATIONS

On January 22, 1996, the Board of Directors of the Office of Compliance adopted and submitted for publication in the Congressional Record final regulations implementing section 203 of the Congressional Accountability Act of 1995 (CAA), which apply certain rights and protections of the Fair Labor Standards Act of 1938. On April 15, 1996, pursuant to section 304(c) of the CAA, the House and the Senate agreed to resolutions approving the final regulations. Specifically, the Senate agreed to S. Res. 242, to provide for the approval of final regulations that are applicable to the Senate and the employees of the Senate; the House agreed to H. Res. 400, to provide for the approval of final regulations that are applicable to the House and the employees of the House; and the House and the Senate agreed to S. Con. Res. 51, to provide for approval of final regulations that are applicable to employing offices and employees other than those offices and employees of the House and the Senate. Accordingly, pursuant section 304(d) of the CAA, the Board submits these regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for issuance by publication in the Congressional Record.

Pursuant to paragraph (3) of section 304(d) of the CAA, the Board finds good cause for the regulations to become effective on April 16, 1996, rather than 60 days after issuance. Were the regulations not effective immediately upon the expiration of the interim regulations on April 15, 1996, covered employees, employing offices and the Office of Compliance would be forced to operate under the same kind of regulatory uncertainty that the Board sought to avoid by adopting interim regulations effective as of the January 23, 1996, which was the effective date of the relevant provisions of the CAA.

Signed at Washington, D.C. on this 19th day of April, 1996.

GLEN D. NAGER,
Chair of the Board, Office of Compliance.

Accordingly, the Board of Directors of the Office of Compliance hereby issues on an the following final regulations:

[Final Regulations]

SUBTITLE B—REGULATIONS RELATING TO THE HOUSE OF REPRESENTATIVES AND ITS EMPLOYING OFFICES—H SERIES

CHAPTER III—REGULATIONS RELATING TO THE RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

PART H501—GENERAL PROVISIONS

Sec.
H501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
H501.101 Purpose and scope.
H501.102 Definitions.
H501.103 Coverage.
H501.104 Administrative authority.
H501.105 Effect of Interpretations of the Labor Department.
H501.106 Application of the Portal-to-Portal Act of 1947.

§H501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the parts of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding parts of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
Part 531—Wage payments under the Fair Labor Standards Act of 1938.	Part H531
Part 541—Defining and delimiting the terms "bona fide executive," "administrative," and "professional" employees.	Part H541
Part 547—Requirements of a "Bona fide thrift or savings plan".	Part H547
Part 553—Application of the FLSA to employees of public agencies.	Part H553

SUBPART A—MATTERS OF GENERAL APPLICABILITY

§H501.101 Purpose and scope.

(a) Section 203 of the Congressional Accountability Act (CAA) provides that the rights and protections of subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (FLSA) (29 U.S.C. §§206(a)(1) & (d), 207, 212(c)) shall apply to covered employees of the legislative branch of the Federal government. Section 301 of the CAA creates the Office of Compliance as an independent office in the legislative branch for enforcing the rights and protections of the FLSA, as applied by the CAA.

(b) The FLSA as applied by the CAA provides for minimum standards for both wages and overtime entitlements, and delineates administrative procedures by which covered worktime must be compensated. Included also in the FLSA are provisions related to child labor, equal pay, and portal-to-portal activities. In addition, the FLSA exempts specified employees or groups of employees from the application of certain of its provisions.

(c) This chapter contains the substantive regulations with respect to the FLSA that the Board of Directors of the Office of Compliance has adopted pursuant to Sections 203(c) and 304 of the CAA, which require that the Board promulgate regulations that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of §203 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section."

(d) These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 203(c) and 304 of the CAA, which directs the Board to promulgate regulations implementing section 203 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection a [of section 203 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." The regulations issued by the Board herein are on all matters for which section 203 of the CAA requires regulations to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of the promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 203 of the CAA]."

(e) In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§H501.102 Definitions.

For purposes of this chapter:

(a) *CAA* means the Congressional Accountability Act of 1995 (P.L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301-1438).

(b) *FLSA* or Act means the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §201 et seq.), as applied by section 203 of the CAA to covered employees and employing offices.

(c) *Covered employee* means any employee of the House of Representatives, including an applicant for employment and a former employee, but shall not include an intern.

(d) *Employee* of the House of Representatives" includes any individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment.

(e) *Employing office and employer* mean (1) the personal office of a Member of the House of Representatives; (2) a committee of the House of Representatives or a joint committee; or (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives.

(f) *Board* means the Board of Directors of the Office of Compliance.

(g) *Office* means the Office of Compliance.

(h) *Intern* is an individual who (a) is performing services in an employing office as part of a demonstrated educational plan, and (b) is appointed on a temporary basis for a period not to exceed 12 months; *provided* that if an intern is appointed for a period shorter than 12 months, the intern may be reappointed for additional periods as long as the total length of the internship does not exceed 12 months; *provided further* that the defintion of intern does not include volunteers, fellows or pages.

§H501.103 Coverage.

The coverage of Section 203 of the CAA extends to any covered employee of an employing office without regard to whether the covered employee is engaged in commerce or the production of goods for interstate commerce and without regard to size, number of employees, amount of business transacted, or other measure.

§H501.104 Administrative authority.

(a) The Office of Compliance is authorized to administer the provisions of Section 203 of the Act with respect to any covered employee or covered employer.

(b) The Board is authorized to promulgate substantive regulations in accordance with the provisions of Sections 203(c) and 304 of the CAA.

§H501.105 Effect of Interpretations of the Department of Labor.

(a) In administering the FLSA, the Wage and Hour Division of the Department of Labor has issued not only substantive regulations but also interpretative bulletins. Substantive regulations represent an exercise of statutorily-delegated lawmaking authority from the legislative branch to an administrative agency. Generally, they are proposed in accordance with the notice-and-comment procedures of the Administrative Procedure Act (APA), 5 U.S.C. §553. Once promulgated, such regulations are considered to have the force and effect of law, unless set aside upon judicial review as arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. See *Batterton* v. *Francis*, 432 U.S. 416, 425 n.9 (1977). See also 29 C.F.R. §790.17(b) (1994). Unlike substantive regulations, interpretative statements, including bulletins and other releases of the Wage and Hour Division, are not issued pursuant to the provisions of the APA and may not have the force and effect of law. Rather, they may only constitute official interpretations of the Department of Labor with respect to the meaning and application of the minimum wage, maximum hour, and overtime pay requirements of the FLSA. See 29 C.F.R. §790.17(c) (citing Final Report of the Attorney General's Committee on Administrative Procedure, Senate Document No. 8, 77th Cong., 1st Sess., at p. 27 (1941)). The purpose of such statements is to make available in one place the interpretations of the FLSA which will guide the Secretary of Labor and the Wage and Hour Administrator in the performance of their duties unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon reexamination of an interpretation, that it is incorrect. The Supreme Court has observed: "[T]he rulings, interpretations and opinions of the Administrator under this Act, while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance. The weight of such a judgment in a particular case will depend upon the thoroughness evident in the consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control." *Skidmore* v. *Swift*, 323 U.S. 134, 140 (1944).

(b) Section 203(c) of the CAA provides that the substantive regulations implementing Section 203 of the CAA shall be "the same as substantive regulations promulgated by the Secretary of Labor" except where the Board finds, for good cause shown, that a modification would more effectively implement the rights and protections established by the FLSA. Thus, the CAA by its terms does not mandate that the Board adopt the interpretative statements of the Department of Labor or its Wage and Hour Division. The Board is thus not adopting such statements as part of its substantive regulations.

§H501.106 Application of the Portal-to-Portal Act of 1947.

(a) Consistent with Section 225 of the CAA, the Portal to Portal Act (PPA), 29 U.S.C. §§216 and 251 et seq., is applicable in defining and delimiting the rights and protections of the FLSA that are prescribed by the CAA. Section 10 of the PPA, 29 U.S.C. §259, provides in pertinent part:

> [N]o employer shall be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, . . . if he pleads and proves that the act or omission complained of was in good faith in conformity with and reliance on any written administrative regulation, order, ruling, approval or interpretation of [the Administrator of the Wage and Hour Division of the Department of Labor] . . . or any administrative practice or enforcement policy of such agency with respect to the class of employers to which he belonged. Such a defense, if established shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect."

(b) In defending any action or proceeding based on any act or omission arising out of section 203 of the CAA, an employing office may satisfy the standards set forth in subsection (a) by pleading and proving good faith reliance upon any written administrative regulation, order, ruling, approval or interpretation, of the Administrator of the Wage and Hour Division of the Department of Labor: *Provided*, that such regulation, order, ruling approval or interpretation had not been superseded at the time of reliance by any regulation, order, decision, or ruling of the Board or the courts.

PART H531—WAGE PAYMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Subpart A—Preliminary Matters

Sec.

H531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

H531.1 Definitions.

H531.2 Purpose and scope.

Subpart B—Determinations of "Reasonable Cost;" Effects of Collective Bargaining Agreements

H531.3 General determinations of 'reasonable cost'.

H531.6 Effects of collective bargaining agreements.

SUBPART A—PRELIMINARY MATTERS

§H531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations		OC Regulations
531.1	Definitions	H531.1
531.2	Purpose and scope	H531.2
553.3	General determinations of "reasonable cost"	H531.3
531.6	Effects of collective bargaining agreements	H531.6

§H531.1 Definitions.

(a) Administrator means the Administrator of the Wage and Hour Division or his authorized representative. The Secretary of Labor has delegated to the Administrator the functions vested in him under section 3(m) of the Act.

(b) Act means the Fair Labor Standards Act of 1938, as amended.

§H531.2 Purpose and scope.

(a) Section 3(m) of the Act defines the term 'wage' to include the 'reasonable cost', as determined by the Secretary of Labor, to an employer of furnishing any employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by the employer to his employees. In addition, section 3(m) gives the Secretary authority to determine the 'fair value.' of such facilities on the basis of average cost to the employer or to groups of employers similarly situated, on average value to groups of employees, or other appropriate measures of 'fair value.' Whenever so determined and when applicable and pertinent, the 'fair value' of the facilities involved shall be includable as part of 'wages' instead of the actual measure of the costs of those facilities. The section provides, however, that the cost of board, lodging, or other facilities shall not be included as part of 'wages' if excluded therefrom by a bona fide collective bargaining agreement. Section 3(m) also provides a method for determining the wage of a tipped employee.

(b) This part 531 contains any determinations made as to the 'reasonable cost' and 'fair value' of board, lodging, or other facilities having general application.

SUBPART B—DETERMINATIONS OF "REASONABLE COST" AND "FAIR VALUE"; EFFECTS OF COLLECTIVE BARGAINING AGREEMENTS

§H531.3 General determinations of 'reasonable cost.'

(a) The term reasonable cost as used in section 3(m) of the Act is hereby determined to be not more than the actual cost to the employer of the board, lodging, or other facilities customarily furnished by him to his employees.

(b) Reasonable cost does not include a profit to the employer or to any affiliated person.

(c) The reasonable cost to the employer of furnishing the employee with board, lodging, or other facilities (including housing) is the cost of operation and maintenance including adequate depreciation plus a reasonable allowance (not more than 5 1/2 percent) for interest on the depreciated amount of capital invested by the employer: *Provided*, That if the total so computed is more than the fair rental value (or the fair price of the commodities or facilities offered for sale), the fair rental value (or the fair price of the commodities or facilities offered for sale) shall be the reasonable cost. The cost of operation and maintenance, the rate of depreciation, and the depreciated amount of capital invested by the employer shall be those arrived at under good accounting practices. As used in this paragraph, the term good accounting practices does not include accounting practices which have been rejected by the Internal Revenue Service for tax purposes, and the term depreciation includes obsolescence.

(d)(1) The cost of furnishing 'facilities' found by the Administrator to be primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not therefore be included in computing wages.

(2) The following is a list of facilities found by the Administrator to be primarily for the benefit of convenience of the employer. The list is intended to be illustrative rather than exclusive: (i) Tools of the trade and other materials and services incidental to carrying on the employer's business; (ii) the cost of any construction by and for the employer; (iii) the cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.

§H531.6 Effects of collective bargaining agreements.

(a) The cost of board, lodging, or other facilities shall not be included as part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the particular employee.

(b) A collective bargaining agreement shall be deemed to be "bona fide" when pursuant to the provisions of section 7(b)(1) or 7(b)(2) of the FLSA it is made with the certified representative of the employees under the provisions of the CAA.

PART H541—DEFINING AND DELIMITING THE TERMS "BONA FIDE EXECUTIVE," "ADMINISTRATIVE," OR "PROFESSIONAL" CAPACITY (INCLUDING ANY EMPLOYEE EMPLOYED IN THE CAPACITY OF ACADEMIC ADMINISTRATIVE PERSONNEL OR TEACHER IN SECONDARY SCHOOL)

Subpart A—General Regulations

Sec.

H541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

H541.01 Application of the exemptions of section 13(a)(1) of the FLSA.

H541.1 Executive.

H541.2 Administrative.

H541.3 Professional.

H541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.

H541.5d Special provisions applicable to employees of public agencies.

SUBPART A—GENERAL REGULATIONS

§H541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
541.1—Executive	H541.1

Secretary of Labor Regulations	OC Regulations
541.2—Administrative	H541.2
541.3—Professional	H541.3
541.5b—Equal pay provisions of section 6(d) of the FLSA apply to executive, administrative, and professional employees.	H541.5b
541.5d—Special provisions applicable to employees of public agencies.	541.5d

§H541.01 Application of the exemptions of section 13 (a)(1) of the FLSA.

(a) Section 13(a)(1) of the FLSA, which provides certain exemptions for employees employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in a secondary school), applies to covered employees by virtue of Section 225(f)(1) of the CAA.

(b) The substantive regulations set forth in this part are promulgated under the authority of sections 203(c) and 304 of the CAA, which require that such regulations be the same as the substantive regulations promulgated by the Secretary of Labor except where the Board determines for good cause shown that modifications would be more effective for the implementation of the rights and protections under §203.

§H541.1 Executive.

The term *employee employed in a bona fide executive * * * capacity* in section 13(a) (1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the management of an employing office in which he is employed or of a customarily recognized department of subdivision thereof; and

(b) Who customarily and regularly directs the work of two or more other employees therein; and

(c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(d) Who customarily and regularly exercises discretionary powers; and

(e) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours of work in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (d) of this section: *Provided*, That this paragraph shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment; and

(f) Who is compensated for his services on a salary basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities: Provided, That an employee who is compensated on a salary basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the management of the employing office in which the employee is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of the work of two or more other employees therein, shall be deemed to meet all the requirements of this section.

§H541.2 Administrative.

The term *employee employed in a bona fide * * * administrative * * * capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of either:

(1) The performance of office or nonmanual work directly related to management policies or general operations of his employer or his employer's customers, or

(2) The performance of functions in the administration of a school system, or educational establishment or institution, or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein; and

(b) Who customarily and regularly exercises discretion and independent judgment; and

(c)(1) Who regularly and directly assists the head of an employing office, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined in the regulations of this subpart), or

(2) Who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge, or

(3) Who executes under only general supervision special assignments and tasks; and

(d) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours worked in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (c) of this section; and

(e)(1) Who is compensated for his services on a salary or fee basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities, or

(2) Who, in the case of academic administrative personnel, is compensated for services as required by paragraph (e)(1) of this section, or on a salary basis which is at least equal to the entrance salary for teachers in the school system, educational establishment or institution by which employed: Provided, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance of work described in paragraph (a) of this section, which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all the requirements of this section.

§H541.3 Professional.

The term *employee employed in a bona fide* * * * professional capacity in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the performance of:

(1) Work requiring knowledge of an advance type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or

(2) Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee, or

(3) Teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in the school system, educational establishment or institution by which employed, or

(4) Work that requires theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming, and software engineering, and who is employed and engaged in these activities as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer software field; and

(b) Whose work requires the consistent exercise of discretion and judgment in its performance; and

(c) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

(d) Who does not devote more than 20 percent of his hours worked in the workweek to activities which are not an essential part of and necessarily incident to the work described in paragraphs (a) through (c) of this section; and

(e) Who is compensated for services on a salary or fee basis at a rate of not less than $170 per week, exclusive of board, lodging or other facilities: *Provided*, That this paragraph shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof, nor in the case of an employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of medicine or any of its branches, nor in the case of an employee employed and engaged as a teacher as provided in paragraph (a)(3) of this section: *Provided further*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance either of work described in paragraph (a) (1), (3), or (4) of this section, which includes work requiring the consistent exercise of discretion and judgment, or of work requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section: *Provided further*, That the salary or fee requirements of this paragraph shall not apply to an employee engaged in computer-related work within the scope of paragraph (a)(4) of this section and who is compensated on an hourly basis at a rate in excess of 6 1/2 times the minimum wage provided by section 6 of the FLSA as applied by the CAA.

§H541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.

The FLSA, as amended and as applied by the CAA, includes within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools) under section 13(a)(1) of the FLSA. Thus, for example, where an exempt administrative employee and another employee of the employing office are performing substantially "equal work," the sex discrimination prohibitions of section 6(d) are applicable with respect to any wage differential between those two employees.

§ H541.5d Special provisions applicable to employees of public agencies.

(a) An employee of a public agency who otherwise meets the requirement of being paid on a salary basis shall not be disqualified from exemption under Sec. H541.1, H541.2, or H541.3 on the basis that such employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because—

(1) permission for its use has not been sought or has been sought and denied;

(2) accrued leave has been exhausted; or

(3) the employee chooses to use leave without pay.

(b) Deductions from the pay of an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid "on a salary basis" except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

PART H547—REQUIREMENTS OF A "BONA FIDE THRIFT OR SAVINGS PLAN"

Sec.

H547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
H547.0 Scope and effect of part.
H547.1 Essential requirements of qualifications.
H547.2 Disqualifying provisions.

§ H547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
547.0—Scope and effect of part.	H547.0
547.1—Essential requirements of qualifications.	H547.1
547.2—Disqualifying provisions.	H547.2

§ H547.0 Scope and effect of part.

(a) The regulations in this part set forth the requirements of a "bona fide thrift or savings plan" under section 7(e)(3)(b) of the Fair Labor Standards Act of 1938, as amended (FLSA), as applied by the CAA. In determining the total remuneration for employment which section 7(e) of the FLSA requires to be included in the regular rate at which an employee is employed, it is not necessary to include any sums paid to or on behalf of such employee, in recognition of services performed by him during a given period, which are paid pursuant to a bona fide thrift or savings plan meeting the requirements set forth herein. In the formulation of these regulations due regard has been given to the factors and standards set forth in section 7(e)(3)(b) of the Act.

(b) Where a thrift or savings plan is combined in a single program (whether in one or more documents) with a plan or trust for providing old age, retirement, life, accident or health insurance or similar benefits for employees, contributions made by the employer pursuant to such thrift or savings plan may be excluded from the regular rate if the plan meets the requirements of the regulation in this part and the contributions made for the other purposes may be excluded from the regular rate if they meet the tests set forth in regulations.

§ H547.1 Essential requirements of qualifications.

(a) A "bona fide thrift or savings plan" for the purpose of section 7(e)(3)(b) of the FLSA as applied by the CAA is required to meet all the standards set forth in paragraphs (b) through (f) of this section and must not contain the disqualifying provisions set forth in § H547.2.

(b) The thrift or savings plan constitutes a definite program or arrangement in writing, adopted by the employer or by contract as a result of collective bargaining and communicated or made available to the employees, which is established and maintained, in good faith, for the purpose of encouraging voluntary thrift or savings by employees by providing an incentive to employees to accumulate regularly and retain cash savings for a reasonable period of time or to save through the regular purchase of public or private securities.

(c) The plan specifically shall set forth the category or categories of employees participating and the basis of their eligibility. Eligibility may not be based on such factors as hours of work, production, or efficiency of the employees: *Provided, however*, That hours of work may be used to determine eligibility of part-time or casual employees.

(d) The amount any employee may save under the plan shall be specified in the plan or determined in accordance with a definite formula specified in the plan, which formula may be based on one or more factors such as the straight-time earnings or total earnings, base rate of pay, or length of service of the employee.

(e) The employer's total contribution in any year may not exceed 15 percent of the participating employees' total earnings during that year. In addition, the employer's total contribution in any year may not exceed the total amount saved or invested by the participating employees during that year.

(f) The employer's contributions shall be apportioned among the individual employees in accordance with a definite formula or method of calculation specified in the plan, which formula or method of calculation is based on the amount saved or the length of time the individual employee retains his savings or investment in the plan: *Provided*, That no employee's share determined in accordance with the plan may be diminished because of any other remuneration received by him.

§ H547.2 Disqualifying provisions.

(a) No employee's participation in the plan shall be on other than a voluntary basis.

(b) No employee's wages or salary shall be dependent upon or influenced by the existence of such thrift or savings plan or the employer's contributions thereto.

(c) The amounts any employee may save under the plan, or the amounts paid by the employer under the plan may not be based upon the employee's hours of work, production or efficiency.

PART H553—OVERTIME COMPENSATION: PARTIAL EXEMPTION FOR EMPLOYEES ENGAGED IN LAW ENFORCEMENT AND FIRE PROTECTION; OVERTIME AND COMPENSATORY TIME-OFF FOR EMPLOYEES WHOSE WORK SCHEDULE DIRECTLY DEPENDS UPON THE SCHEDULE OF THE HOUSE

Introduction

Sec.

H553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
H553.1 Definitions
H553.2 Purpose and scope

Subpart C—Partial Exemption for Employees Engaged in Law Enforcement and Fire Protection

H553.201 Statutory provisions: section 7(k).
H553.202 Limitations.
H553.211 Law enforcement activities
H553.212 Twenty percent limitation on nonexempt work.
H553.213 Public agency employees engaged in both fire protection and law enforcement activities
H553.214 Trainees.
H553.215 Ambulance and rescue service employees.
H553.216 Other exemptions.
H553.220 "Tour of duty" defined.
H553.221 Compensable hours of work.
H553.222 Sleep time.
H553.223 Meal time.
H553.224 "Work period" defined.
H553.225 Early relief.
H553.226 Training time.
H553.227 Outside employment.
H553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k)
H553.231 Compensatory time off.
H553.232 Overtime pay requirements.
H553.233 "Regular rate" defined.

Subpart D—Compensatory Time-off for Overtime Earned by Employees Whose Work Schedule Directly Depends upon the Schedule of the House

H553.301 Definition of "directly depends."
H553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the House.
H553.303 Using compensatory time off.
H553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service.

Introduction

§ H553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
553.1—Definitions	H553.1
553.2—Purpose and scope	H553.2
553.201—Statutory provisions: section 7(k).	H553.201
553.202—Limitations.	H553.202
553.211—Law enforcement activities.	H553.211
553.212—Twenty percent limitation on nonexempt work.	H553.212
553.213—Public agency employees engaged in both fire protection and law enforcement activities..	H553.213
553.214—Trainees.	H553.214
553.215—Ambulance and rescue service employees.	H553.215
553.216—Other exemptions.	H553.216
553.220—"Tour of duty" defined.	H553.220
553.221—Compensable hours of work.	H553.221
553.222—Sleep time.	H553.222
553.223—Meal time.	H553.223
553.224—"Work period" defined.	H553.224

Secretary of Labor Regulations	OC Regulations
553.225—Early relief.	H553.225
553.226—Training time.	H553.226
553.227—Outside employment.	H553.227
553.230—Maximum hours standards for work periods of 7 to 28 days—section 7(k).	H553.230
553.231—Compensatory time off.	H553.231
553.232—Overtime pay requirements.	H553.232
553.233—"Regular rate" defined.	H553.233

Introduction

§H553.1 Definitions

(a) Act or FLSA means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201-219), as applied by the CAA.

(b) 1985 Amendments means the Fair Labor Standards Amendments of 1985 (Pub. L. 99-150).

(c) Public agency means an employing office as the term is defined in §—501.102 of this chapter, including the Capitol Police.

(d) Section 7(k) means the provisions of §7(k) of the FLSA as applied to covered employees and employing offices by §203 of the CAA.

§H553.2 Purpose and scope

The purpose of part H553 is to adopt with appropriate modifications the regulations of the Secretary of Labor to carry out those provisions of the FLSA relating to public agency employees as they are applied to covered employees and employing offices of the CAA. In particular, these regulations apply section 7(k) as it relates to fire protection and law enforcement employees of public agencies.

SUBPART C—PARTIAL EXEMPTION FOR EMPLOYEES ENGAGED IN LAW ENFORCEMENT AND FIRE PROTECTION

§H553.201 Statutory provisions: section 7(k).

Section 7(k) of the Act provides a partial overtime pay exemption for fire protection and law enforcement personnel (including security personnel in correctional institutions) who are employed by public agencies on a work period basis. This section of the Act formerly permitted public agencies to pay overtime compensation to such employees in work periods of 28 consecutive days only after 216 hours of work. As further set forth in §H553.230 of this part, the 216-hour standard has been replaced, pursuant to the study mandated by the statute, by 212 hours for fire protection employees and 171 hours for law enforcement employees. In the case of such employees who have a work period of at least 7 but less than 28 consecutive days, overtime compensation is required when the ratio of the number of hours worked to the number of days in the work period exceeds the ratio of 212 (or 171) hours to 28 days.

§H553.202 Limitations.

The application of §7(k), by its terms, is limited to public agencies, and does not apply to any private organization engaged in furnishing fire protection or law enforcement services. This is so even if the services are provided under contract with a public agency.

Exemption Requirements

§H553.211 Law enforcement activities.

(a) As used in §7(k) of the Act, the term 'any employee . . . in law enforcement activities' refers to any employee (1) who is a uniformed or plainclothed member of a body of officers and subordinates who are empowered by law to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury, and to prevent and detect crimes, (2) who has the power to arrest, and (3) who is presently undergoing or has undergone or will undergo on-the-job training and/or a course of instruction and study which typically includes physical training, self-defense, firearm proficiency, criminal and civil law principles, investigative and law enforcement techniques, community relations, medical aid and ethics.

(b) Employees who meet these tests are considered to be engaged in law enforcement activities regardless of their rank, or of their status as 'trainee,' 'probationary,' or 'permanent,' and regardless of their assignment to duties incidental to the performance of their law enforcement activities such as equipment maintenance, and lecturing, or to support activities of the type described in paragraph (g) of this section, whether or not such assignment is for training or familiarization purposes, or for reasons of illness, injury or infirmity. The term would also include rescue and ambulance service personnel if such personnel form an integral part of the public agency's law enforcement activities. See Sec. H553.215.

(c) Typically, employees engaged in law enforcement activities include police who are regularly employed and paid as such. Other agency employees with duties not specifically mentioned may, depending upon the particular facts and pertinent statutory provisions in that jurisdiction, meet the three tests described above. If so, they will also qualify as law enforcement officers. Such employees might include, for example, any law enforcement employee within the legislative branch concerned with keeping public peace and order and protecting life and property.

(d) Employees who do not meet each of the three tests described above are not engaged in 'law enforcement activities' as that term is used in sections 7(k). Employees who normally would not meet each of these tests include:

(1) Building inspectors (other than those defined in Sec. H553.213(a)),

(2) Health inspectors,

(3) Sanitarians,

(4) Civilian traffic employees who direct vehicular and pedestrian traffic at specified intersections or other control points,

(5) Civilian parking checkers who patrol assigned areas for the purpose of discovering parking violations and issuing appropriate warnings or appearance notices,

(6) Wage and hour compliance officers,

(7) Equal employment opportunity compliance officers, and

(8) Building guards whose primary duty is to protect the lives and property of persons within the limited area of the building.

(e) The term 'any employee in law enforcement activities' also includes, by express reference, 'security personnel in correctional institutions. Typically, such facilities may include precinct house lockups. Employees of correctional institutions who qualify as security personnel for purposes of the section 7(k) exemption are those who have responsibility for controlling and maintaining custody of inmates and of safeguarding them from other inmates or for supervising such functions, regardless of whether their duties are performed inside the correctional institution or outside the institution. These employees are considered to be engaged in law enforcement activities regardless of their rank or of their status as 'trainee,' 'probationary,' or 'permanent,' and regardless of their assignment to duties incidental to the performance of their law enforcement activities, or to support activities of the type described in paragraph (f) of this section, whether or not such assignment is for training or familiarization purposes or for reasons of illness, injury or infirmity.

(f) Not included in the term 'employee in law enforcement activities' are the so-called 'civilian' employees of law enforcement agencies or correctional institutions who engage in such support activities as those performed by dispatcher, radio operators, apparatus and equipment maintenance and repair workers, janitors, clerks and stenographers. Nor does the term include employees in correctional institutions who engage in building repair and maintenance, culinary services, teaching, or in psychological, medical and paramedical services. This is so even though such employees may, when assigned to correctional institutions, come into regular contact with the inmates in the performance of their duties.

§H553.212 Twenty percent limitation on nonexempt work.

(a) Employees engaged in fire protection or law enforcement activities as described in Sec. H553.210 and H553.211, may also engage in some nonexempt work which is not performed as an incident to or in conjunction with their fire protection or law enforcement activities. For example, firefighters who work for forest conservation agencies may, during slack times, plant trees and perform other conservation activities unrelated to their firefighting duties. The performance of such nonexempt work will not defeat the §7(k) exemption unless it exceeds 20 percent of the total hours worked by that employee during the workweek or applicable work period. A person who spends more than 20 percent of his/her working time in nonexempt activities is not considered to be an employee engaged in fire protection or law enforcement activities for purposes of this part.

(b) Public agency fire protection and law enforcement personnel may, at their own option, undertake employment for the same employer on an occasional or sporadic and part-time basis in a different capacity from their regular employment. The performance of such work does not affect the application of the §7(k) exemption with respect to the regular employment. In addition, the hours of work in the different capacity need not be counted as hours worked for overtime purposes on the regular job, nor are such hours counted in determining the 20 percent tolerance for nonexempt work discussed in paragraph (a) of this section.

§H553.213 Public agency employees engaged in both fire protection and law enforcement activities.

(a) Some public agencies have employees (often called 'public safety officers') who engage in both fire protection and law enforcement activities, depending on the agency needs at the time. This dual assignment would not defeat the section 7(k) exemption, provided that each of the activities performed meets the appropriate tests set forth in Sec. H553.210 and H553.211. This is so regardless of how the employee's time is divided between the two activities. However, all time spent in nonexempt activities by public safety officers within the work period, whether performed in connection with fire protection or law enforcement functions, or with neither, must be combined for purposes of the 20 percent limitation on nonexempt work discussed in Sec. H553.212.

(b) As specified in Sec. H553.230, the maximum hours standards under section 7(k) are different for employees engaged in fire protection and for employees engaged in law enforcement. For those employees who perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§H553.214 Trainees.

The attendance at a bona fide fire or police academy or other training facility, when required by the employing agency, constitutes engagement in activities under section 7(k) only when the employee meets all the applicable tests described in Sec. H553.210 or Sec. H553.211 (except for the power of arrest for law enforcement personnel), as the case may be. If the applicable tests are met, then basic training or advanced training is considered incidental to, and part of, the employee's fire protection or law enforcement activities.

§H553.215 Ambulance and rescue service employees.

Ambulance and rescue service employees of a public agency other than a fire protection or law enforcement agency may be treated as employees engaged in fire protection or law enforcement activities of the type contemplated by §7(k) if their services are substantially related to firefighting or law enforcement activities in that (1) the ambulance and rescue service employees have received training in the rescue of fire, crime, and accident victims or firefighters or law enforcement personnel injured in the performance of their respective, duties, and (2) the ambulance and rescue service employees are regularly dispatched to fires, crime scenes, riots, natural disasters and accidents. As provided in Sec. H553.213(b), where employees perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§H553.216 Other exemptions.

Although the 1974 Amendments to the FLSA as applied by the CAA provide special exemptions for employees of public agencies engaged in fire protection and law enforcement activities, such workers may also be subject to other exemptions in the Act, and public agencies may claim such other applicable exemptions in lieu of §7(k). For example, section 13(a)(1) as applied by the CAA provides a complete minimum wage and overtime pay exemption for any employee employed in a bona fide executive, administrative, or professional capacity, as those terms are defined and delimited in Part H541. The section 13(a)(1) exemption can be claimed for any fire protection or law enforcement employee who meets all of the tests specified in part H541 relating to duties, responsibilities, and salary. Thus, high ranking police officials who are engaged in law enforcement activities, may also, depending on the facts, qualify for the section 13(a)(1) exemption as 'executive' employees. Similarly, certain criminal investigative agents may qualify as "administrative" employees under section 13(a)(1).

Tour of Duty and Compensable Hours of Work Rules

§H553.220 "Tour of duty" defined.

(a) The term "tour of duty" is a unique concept applicable only to employees for whom the section 7(k) exemption is claimed. This term, as used in section 7(k), means the period of time during which an employee is considered to be on duty for purposes of determining compensable hours. It may be a scheduled or unscheduled period. Such periods include 'shifts' assigned to employees often days in advance of the performance of the work. Scheduled periods also include time spent in work outside the "shift" which the public agency employer assigns. For example, a police officer may be assigned to crowd control during a parade or other special event outside of his or her shift.

(b) Unscheduled periods include time spent in court by police officers, time spent handling emergency situations, and time spent working after a shift to complete an assignment. Such time must be included in the compensable tour of duty even though the specific work performed may not have been assigned in advance.

(c) The tour of duty does not include time spent working for a separate and independent employer in certain types of special details as provided in Sec. H553.227.

§H553.221 Compensable hours of work.

(a) The rules under the FLSA as applied by the CAA on compensable hours of work are applicable to employees for whom the section 7(k) exemption is claimed. Special rules for sleep time (Sec. H553.222) apply to both law enforcement and firefighting employees for whom the section 7(k) exemption is claimed. Also, special rules for meal time apply in the case of firefighters (Sec. H553.223).

(b) Compensable hours of work generally include all of the time during which an employee is on duty on the employer's premises or at a prescribed workplace, as well as all other time during which the employee is suffered or permitted to work for the employer. Such time includes all pre-post-shift activities which are an integral part of the employee's principal activity or which are closely related to the performance of the principal activity, such as attending roll call, writing up and completing tickets or reports, and washing and re-racking fire hoses.

(c) Time spent away from the employer's premises under conditions that are so circumscribed that they restrict the employee from effectively using the time for personal pursuits also constitutes compensable hours of work. For example, where a police station must be evacuated because of an electrical failure and the employees are expected to remain in the vicinity and return to work after the emergency has passed, the entire time spent away from the premises is compensable. The employees in this example cannot use the time for their personal pursuits.

(d) An employee who is not required to remain on the employer's premises but is merely required to leave word at home or with company officials where he or she may be reached is not working while on call. Time spent at home on call may or may not be compensable depending on whether the restrictions placed on the employee preclude using the time for personal pursuits. Where, for example, a firefighter has returned home after the shift, with the understanding that he or she is expected to return to work in the event of an emergency in the night, such time spent at home is normally not compensable. On the other hand, where the conditions placed on the employee's activities are so restrictive that the employee cannot use the time effectively for personal pursuits, such time spent on call is compensable.

(e) Normal home to work travel is not compensable, even where the employee is expected to report to work at a location away from the location of the employer's premises.

(f) A police officer, who has completed his or her tour of duty and who is given a patrol car to drive home and use on personal business, is not working during the travel time even where the radio must be left on so that the officer can respond to emergency calls. Of course, the time spent in responding to such calls is compensable.

§H553.222 Sleep time.

(a) Where a public agency elects to pay overtime compensation to firefighters and/or law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude sleep time from hours worked if all the conditions for the exclusion of such time are met.

(b) Where the employer has elected to use the section 7(k) exemption, sleep time cannot be excluded from the compensable hours of work where

(1) The employee is on a tour of duty of less than 24 hours, and

(2) Where the employee is on a tour of duty of exactly 24 hours.

(c) Sleep time can be excluded from compensable hours of work, however, in the case of police officers or firefighters who are on a tour of duty of more than 24 hours, but only if there is an expressed or implied agreement between the employer and the employees to exclude such time. In the absence of such an agreement, the sleep time is compensable. In no event shall the time excluded as sleep time exceed 8 hours in a 24-hour period. If the sleep time is interrupted by a call to duty, the interruption must be counted as hours worked. If the sleep period is interrupted to such an extent that the employee cannot get a reasonable night's sleep (which, for enforcement purposes means at least 5 hours), the entire time must be counted as hours of work.

§H553.223 Meal time.

(a) If a public agency elects to pay overtime compensation to firefighters and law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude meal time from hours worked if all the statutory tests for the exclusion of such time are met.

(b) If a public agency elects to use the section 7(k) exemption, the public agency may, in the case of law enforcement personnel, exclude meal time from hours worked on tours of duty of 24 hours or less, provided that the employee is completely relieved from duty during the meal period, and all the other statutory tests for the exclusion of such time are met. On the other hand, where law enforcement personnel are required to remain on call in barracks or similar quarters, or are engaged in extended surveillance activities (e.g., stakeouts'), they are not considered to be completely relieved from duty, and meal periods would be compensable.

(c) With respect to firefighters employed under section 7(k), who are confined to a duty station, the legislative history of the Act indicates Congressional intent to mandate a departure from the usual FLSA 'hours of work' rules and adoption of an overtime standard keyed to the unique concept of 'tour of duty' under which firefighters are employed. Where the public agency elects to use the section 7(k) exemption for firefighters, meal time cannot be excluded from the compensable hours of work where (1) the firefighter is on a tour of duty of less than 24 hours, and (2) where the firefighter is on a tour of duty of exactly 24 hours.

(d) In the case of police officers or firefighters who are on a tour of duty of more than 24 hours, meal time may be excluded from compensable hours of work provided that the statutory tests for exclusion of such hours are met.

§H553.224 "Work period" defined.

(a) As used in section 7(k), the term "work period" refers to any established and regularly recurring period of work which, under the terms of the Act and legislative history, cannot be less than 7 consecutive days nor more than 28 consecutive days. Except for this limitation, the work period can be of any length, and it need not coincide with the duty cycle or pay period or with a particular day of the week or hour of the day. Once the beginning and ending time of an employee's work period is established, however, it remains fixed regardless of how many hours are worked within the period. The beginning and ending of the work period may be changed, provided that the change is intended to be permanent and is not designed to evade the overtime compensation requirements of the Act.

(b) An employer may have one work period applicable to all employees, or different work periods for different employees or groups of employees.

§ H553.225 Early relief.

It is a common practice among employees engaged in fire protection activities to relieve employees on the previous shift prior to the scheduled starting time. Such early relief time may occur pursuant to employee agreement, either expressed or implied. This practice will not have the effect of increasing the number of compensable hours of work for employees employed under section 7(k) where it is voluntary on the part of the employees and does not result, over a period of time, in their failure to receive proper compensation for all hours actually worked. On the other hand, if the practice is required by the employer, the time involved must be added to the employee's tour of duty and treated as compensable hours of work.

§ H553.226 Training time.

(a) The general rules for determining the compensability of training time under the FLSA apply to employees engaged in law enforcement or fire protection activities.

(b) While time spent in attending training required by an employer is normally considered compensable hours of work, following are situations where time spent by employees in required training is considered to be noncompensable:

(1) Attendance outside of regular working hours at specialized or follow-up training, which is required by law for certification of public and private sector employees within a particular governmental jurisdiction (e.g., certification of public and private emergency rescue workers), does not constitute compensable hours of work for public employees within that jurisdiction and subordinate jurisdictions.

(2) Attendance outside of regular working hours at specialized or follow-up training, which is required for certification of employees of a governmental jurisdiction by law of a higher level of government, does not constitute compensable hours of work.

(3) Time spent in the training described in paragraphs (b) (1) or (2) of this section is not compensable, even if all or part of the costs of the training is borne by the employer.

(c) Police officers or firefighters, who are in attendance at a police or fire academy or other training facility, are not considered to be on duty during those times when they are not in class training session, if they are free to use such time for personal pursuits. Such free time is not compensable.

§ H553.227 Outside employment.

(a) Section 7(p)(1) makes special provision for fire protection and law enforcement employees of public agencies who, at their own option, perform special duty work in fire protection, law enforcement or related activities for a separate and independent employer (public or private) during their off-duty hours. The hours of work for the separate and independent employer are not combined with the hours worked for the primary public agency employer for purposes of overtime compensation.

(b) Section 7(p)(1) applies to such outside employment provided (1) the special detail work is performed solely at the employee's option, and (2) the two employers are in fact separate and independent.

(c) Whether two employers are, in fact, separate and independent can only be determined on a case-by-case basis.

(d) The primary employer may facilitate the employment or affect the conditions of employment of such employees. For example, a police department may maintain a roster of officers who wish to perform such work. The department may also select the officers for special details from a list of those wishing to participate, negotiate their pay, and retain a fee for administrative expenses. The department may require that the separate and independent employer pay the fee for such services directly to the department, and establish procedures for the officers to receive their pay for the special details through the agency's payroll system. Finally, the department may require that the officers observe their normal standards of conduct during such details and take disciplinary action against those who fail to do so.

(e) Section 7(p)(1) applies to special details even where a State law or local ordinance requires that such work be performed and that only law enforcement or fire protection employees of a public agency in the same jurisdiction perform the work. For example, a city ordinance may require the presence of city police officers at a convention center during concerts or sports events. If the officers perform such work at their own option, the hours of work need not be combined with the hours of work for their primary employer in computing overtime compensation.

(f) The principles in paragraphs (d) and (e) of this section with respect to special details of public agency fire protection and law enforcement employees under section 7(p)(1) are exceptions to the usual rules on joint employment set forth in part 791 of this title.

(g) Where an employee is directed by the public agency to perform work for a second employer, section 7(p)(1) does not apply. Thus, assignments of police officers outside of their normal work hours to perform crowd control at a parade, where the assignments are not solely at the option of the officers, would not qualify as special details subject to this exception. This would be true even if the parade organizers reimburse the public agency for providing such services.

(h) Section 7(p)(1) does not prevent a public agency from prohibiting or restricting outside employment by its employees.

Overtime Compensation Rules

§ H553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k).

(a) For those employees engaged in fire protection activities who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 212 as the number of days in the work period bears to 28.

(b) For those employees engaged in law enforcement activities (including security personnel in correctional institutions) who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 171 as the number of days in the work period bears to 28.

(c) The ratio of 212 hours to 28 days for employees engaged in fire protection activities is 7.57 hours per day (rounded) and the ratio of 171 hours to 28 days for employees engaged in law enforcement activities is 6.11 hours per day (rounded). Accordingly, overtime compensation (in premium pay or compensatory time) is required for all hours worked in excess of the following maximum hours standards (rounded to the nearest whole hour):

Work period (days)	Maximum hours standards	
	Fire protection	Law enforcement
28	212	171
27	204	165
26	197	159
25	189	153
24	182	147
23	174	141
22	167	134
21	159	128
20	151	122
19	144	116
18	136	110
17	129	104
16	121	98
15	114	92
14	106	86
13	98	79
12	91	73
11	83	67
10	76	61
9	68	55
8	61	49
7	53	43

§ H553.231 Compensatory time off.

(a) Law enforcement and fire protection employees who are subject to the section 7(k) exemption may receive compensatory time off in lieu of overtime pay for hours worked in excess of the maximum for their work period as set forth in Sec. H553.230.

(b) Section 7(k) permits public agencies to balance the hours of work over an entire work period for law enforcement and fire protection employees. For example, if a firefighter's work period is 28 consecutive days, and he or she works 80 hours in each of the first two weeks, but only 52 hours in the third week, and does not work in the fourth week, no overtime compensation (in cash wages or compensatory time) would be required since the total hours worked do not exceed 212 for the work period. If the same firefighter had a work period of only 14 days, overtime compensation or compensatory time off would be due for 54 hours (160 minus 106 hours) in the first 14 day work period.

§ H553.232 Overtime pay requirements.

If a public agency pays employees subject to section 7(k) for overtime hours worked in cash wages rather than compensatory time off, such wages must be paid at one and one-half times the employees' regular rates of pay.

§ H553.233 'Regular rate' defined.

The statutory rules for computing an employee's 'regular rate', for purposes of the Act's overtime pay requirements are applicable to employees or whom the section 7(k) exemption is claimed when overtime compensation is provided in cash wages.

SUBPART D—COMPENSATORY TIME-OFF FOR OVERTIME EARNED BY EMPLOYEES WHOSE WORK SCHEDULE DIRECTLY DEPENDS UPON THE SCHEDULE OF THE HOUSE

§H553.301 Definition of "directly depends."

For the purposes of this Part, a covered employee's work schedule "directly depends" on the schedule of the House of Representatives only if the eligible employee performs work that directly supports the conduct of legislative or other business in the chamber and works hours that regularly change in response to the schedule of the House and the Senate.

§H553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the House.

No employing office shall be deemed to have violated section 203(a)(1) of the CAA, which applies the protections of section 7(a) of the Fair Labor Standards Act ("FLSA") to covered employees and employing office, by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under section 7(a) of the FLSA where the employee's work schedule directly depends on the schedule of the House of Representatives within the meaning of §H553.301, and: (a) the employee is compensated at the rate of time-and-a-half in pay for all hours in excess of 40 and up to 60 hours in a workweek, and (b) the employee is compensated at the rate of time-and-a-half in either pay or in time off for all hours in excess of 60 hours in a workweek.

§H553.303 Using compensatory time off.

An employee who has accrued compensatory time off under §H553.302 upon his or her request, shall be permitted by the employing office to use such time within a reasonable period after making the request, unless the employing office makes a bona fide determination that the needs of the operations of the office do not allow the taking of compensatory time off at the time of the request. An employee may renew the request at a subsequent time. An employing office may also, upon reasonable notice, require an employee to use accrued compensatory time-off.

§H553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service.

An employee who has accrued compensatory time authorized by this regulation shall, upon termination of employment, be paid for the unused compensatory time at the rate earned by the employee at the time the employee receives such payment.

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

NOTICE OF ISSUANCE OF FINAL REGULATIONS

On January 22, 1996, the Board of Directors of the Office of Compliance adopted and submitted for publication in the Congressional Record final regulations implementing section 203 of the Congressional Accountability Act of 1995 (CAA), which apply certain rights and protections of the Fair Labor Standards Act of 1938. On April 15, 1996, pursuant to section 304(c) of the CAA, the House and the Senate agreed to resolutions approving the final regulations. Specifically, the Senate agreed to S. Res. 242, to provide for the approval of final regulations that are applicable to the Senate and the employees of the Senate; the House agreed to H. Res. 400, to provide for the approval of final regulations that are applicable to the House and the employees of the House; and the House and the Senate agreed to S. Con. Res. 51, to provide for approval of final regulations that are applicable to employing offices and employees other than those offices and employees of the House and the Senate. Accordingly, pursuant section 304(d) of the CAA, the Board submits these regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for issuance by publication in the Congressional Record.

Pursuant to paragraph (3) of section 304(d) of the CAA, the Board finds good cause for the regulations to become effective on April 16, 1996, rather than 60 days after issuance. Were the regulations not effective immediately upon the expiration of the interim regulations on April 15, 1996, covered employees, employing offices and the Office of Compliance would be forced to operate under the same kind of regulatory uncertainty that the Board sought to avoid by adopting interim regulations effective as of January 23, 1996, which was the effective date of the relevant provisions of the CAA.

Signed at Washington, D.C. on this 19th day of April, 1996.

GLEN D. NAGER,
Chair of the Board, Office of Compliance.

Accordingly, the Board of Directors of the Office of Compliance hereby issues the following final regulations:

[Final Regulations]

SUBTITLE A—REGULATIONS RELATING TO THE SENATE AND ITS EMPLOYING OFFICES—S SERIES

CHAPTER III—REGULATIONS RELATING TO THE RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

PART S501—GENERAL PROVISIONS

Sec.
S501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S501.101 Purpose and scope.
S501.102 Definitions.
S501.103 Coverage.
S501.104 Administrative authority.
S501.105 Effect of Interpretations of the Labor Department.
S501.106 Application of the Portal-to-Portal Act of 1947.

§S501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the parts of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding parts of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
Part 531— Wage payments under the Fair Labor Standards Act of 1938.	Part S531
Part 541—Defining and delimiting the terms "bona fide executive," "administrative," and "professional" employees.	Part S541
Part 547—Requirements of a "Bona fide thrift or savings plan".	Part S547
Part 553—Application of the FLSA to employees of public agencies.	Part S553
Part 570—Child labor	Part S570

SUBPART A—MATTERS OF GENERAL APPLICABILITY.

§S501.101 Purpose and scope.

(a) Section 203 of the Congressional Accountability Act (CAA) provides that the rights and protections of subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (FLSA) (29 U.S.C. §§206(a)(1) & (d), 207, 212(c)) shall apply to covered employees of the legislative branch of the Federal government. Section 301 of the CAA creates the Office of Compliance as an independent office in the legislative branch for enforcing the rights and protections of the FLSA, as applied by the CAA.

(b) The FLSA as applied by the CAA provides for minimum standards for both wages and overtime entitlements, and delineates administrative procedures by which covered worktime must be compensated. Included also in the FLSA are provisions related to child labor, equal pay, and portal-to-portal activities. In addition, the FLSA exempts specified employees or groups of employees from the application of certain of its provisions.

(c) This chapter contains the substantive regulations with respect to the FLSA that the Board of Directors of the Office of Compliance has adopted pursuant to Sections 203(c) and 304 of the CAA, which require that the Board promulgate regulations that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of §203 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section."

(d) These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 203(c) and 304 of the CAA, which directs the Board to promulgate regulations implementing section 203 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection a [of section 203 of the CAA] except insofar as the Board may determine, for good cause shown . . .that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." The regulations issued by the Board herein are on all matters for which section 203 of the CAA requires a regulations to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of the promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 203 of the CAA]."

(e) In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§S501.102 Definitions.

For purposes of this chapter:

(a) *CAA* means the Congressional Accountability Act of 1995 (P.L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301-1438).

(b) *FLSA* or *Act* means the Fair Labor Standards Act of 1938, as amended (29 U.S.C.

§201 et seq.), as applied by section 203 of the CAA to covered employees and employing offices.

(c) *Covered employee* means any employee of the Senate, including an applicant for employment and a former employee, but shall not include an intern.

(d) *Employee of the Senate* includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment.

(e) *Employing office* and *employer* mean (1) the personal office of a Senator; (2) a committee of the Senate or a joint committee; or (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the Senate.

(f) *Board* means the Board of Directors of the Office of Compliance.

(g) *Office* means the Office of Compliance.

(h) *Intern* is an individual who (a) is performing services in an employing office as part of a demonstrated educational plan, and (b) is appointed on a temporary basis for a period not to exceed 12 months; provided that if an intern is appointed for a period shorter than 12 months, the intern may be reappointed for additional periods as long as the total length of the internship does not exceed 12 months; *provided further* that an intern for purposes of section 203(a)(2) of the CAA also includes an individual who is a senior citizen appointed under S. Res. 219 (May 5, 1978, as amended by S. Res. 96, April 9, 1991), but does not include volunteers, fellows or pages.

§S501.103 Coverage.

The coverage of Section 203 of the CAA extends to any covered employee of an employing office without regard to whether the covered employee is engaged in commerce or the production of goods for interstate commerce and without regard to size, number of employees, amount of business transacted, or other measure.

§S501.104 Administrative authority.

(a) The Office of Compliance is authorized to administer the provisions of Section 203 of the Act with respect to any covered employee or covered employer.

(b) The Board is authorized to promulgate substantive regulations in accordance with the provisions of Sections 203(c) and 304 of the CAA.

§S501.105 Effect of Interpretations of the Department of Labor.

(a) In administering the FLSA, the Wage and Hour Division of the Department of Labor has issued not only substantive regulations but also interpretative bulletins. Substantive regulations represent an exercise of statutorily-delegated lawmaking authority from the legislative branch to an administrative agency. Generally, they are proposed in accordance with the notice-and-comment procedures of the Administrative Procedure Act (APA), 5 U.S.C. §553. Once promulgated, such regulations are considered to have the force and effect of law, unless set aside upon judicial review as arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. See *Batterton v. Francis*, 432 U.S. 416, 425 n. 9 (1977). See also 29 C.F.R. §790.17(b) (1994). Unlike substantive regulations, interpretative statements, including bulletins and other releases of the Wage and Hour Division, are not issued pursuant to the provisions of the APA and may not have the force and effect of law. Rather, they may only constitute official interpretations of the Department of Labor with respect to the meaning and application of the minimum wage, maximum hour, and overtime pay requirements of the FLSA. See 29 C.F.R. §790.17(c) (citing Final Report of the Attorney General's Committee on Administrative Procedure, Senate Document No. 8, 77th Cong., 1st Sess., at p. 27 (1941)). The purpose of such statements is to make available in one place the interpretations of the FLSA which will guide the Secretary of Labor and the Wage and Hour Administrator in the performance of their duties unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon reexamination of an interpretation, that it is incorrect. The Supreme Court has observed: "[T]he rulings, interpretations and opinions of the Administrator under this Act, while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance. The weight of such a judgment in a particular case will depend upon the thoroughness evident in the consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control." *Skidmore v. Swift*, 323 U.S. 134, 140 (1944).

(b) Section 203(c) of the CAA provides that the substantive regulations implementing Section 203 of the CAA shall be "the same as substantive regulations promulgated by the Secretary of Labor" except where the Board finds, for good cause shown, that a modification would more effectively implement the rights and protections established by the FLSA. Thus, the CAA by its terms does not mandate that the Board adopt the interpretative statements of the Department of Labor or its Wage and Hour Division. The Board is thus not adopting such statements as part of its substantive regulations.

§S501.106 Application of the Portal-to-Portal Act of 1947.

(a) Consistent with Section 225 of the CAA, the Portal to Portal Act (PPA), 29 U.S.C. §§216 and 251 et seq., is applicable in defining and delimiting the rights and protections of the FLSA that are prescribed by the CAA. Section 10 of the PPA, 29 U.S.C. §259, provides in pertinent part:

"[N]o employer shall be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, . . . if he pleads and proves that the act or omission complained of was in good faith in conformity with and reliance on any written administrative regulation, order, ruling, approval or interpretation of [the Administrator of the Wage and Hour Division of the Department of Labor] . . . or any administrative practice or enforcement policy of such agency with respect to the class of employers to which he belonged. Such a defense, if established shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect."

(b) In defending any action or proceeding based on any act or omission arising out of section 203 of the CAA, an employing office may satisfy the standards set forth in subsection (a) by pleading and proving good faith reliance upon any written administrative regulation, order, ruling, approval or interpretation, of the Administrator of the Wage and Hour Division of the Department of Labor: *Provided*, that such regulation, order, ruling approval or interpretation had not been superseded at the time of reliance by any regulation, order, decision, or ruling of the Board or the courts.

PART S531—WAGE PAYMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Subpart A—Preliminary Matters

Sec.

S531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S531.1 Definitions.
S531.2 Purpose and scope.

Subpart B—Determinations of "Reasonable Cost;" Effects of Collective Bargaining Agreements

S531.3 General determinations of 'reasonable cost'.
S531.6 Effects of collective bargaining agreements.

SUBPART A—PRELIMINARY MATTERS.

§S531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
531.1 Definitions	S531.1
531.2 Purpose and scope	S531.2
531.3 General determinations of "reasonable cost"	S531.3
531.6 Effects of collective bargaining agreements	S531.6

§S531.1 Definitions.

(a) *Administrator* means the Administrator of the Wage and Hour Division or his authorized representative. The Secretary of Labor has delegated to the Administrator the functions vested in him under section 3(m) of the Act.

(b) *Act* means the Fair Labor Standards Act of 1938, as amended.

§S531.2 Purpose and scope.

(a) Section 3(m) of the Act defines the term 'wage' to include the 'reasonable cost', as determined by the Secretary of Labor, to an employer of furnishing any employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by the employer to his employees. In addition, section 3(m) gives the Secretary authority to determine the 'fair value.' of such facilities on the basis of average cost to the employer or to groups of employers similarly situated, on average value to groups of employees, or other appropriate measures of 'fair value.' Whenever so determined and when applicable and pertinent, the 'fair value' of the facilities involved shall be includable as part of 'wages' instead of the actual measure of the costs of those facilities. The section provides, however, that the cost of board, lodging, or other facilities shall not be included as part of 'wages' if excluded therefrom by a bona fide collective bargaining agreement. Section

3(m) also provides a method for determining the wage of a tipped employee.

(b) This part 531 contains any determinations made as to the "reasonable cost" and "fair value" of board, lodging, or other facilities having general application.

SUBPART B—DETERMINATIONS OF "REASONABLE COST" AND "FAIR VALUE"; EFFECTS OF COLLECTIVE BARGAINING AGREEMENTS

§S531.3 General determinations of "reasonable cost."

(a) The term *reasonable cost* as used in section 3(m) of the Act is hereby determined to be not more than the actual cost to the employer of the board, lodging, or other facilities customarily furnished by him to his employees.

(b) Reasonable cost does not include a profit to the employer or to any affiliated person.

(c) The reasonable cost to the employer of furnishing the employee with board, lodging, or other facilities (including housing) is the cost of operation and maintenance including adequate depreciation plus a reasonable allowance (not more than 5½ percent) for interest on the depreciated amount of capital invested by the employer: *Provided*, That if the total so computed is more than the fair rental value (or the fair price of the commodities or facilities offered for sale), the fair rental value (or the fair price of the commodities or facilities offered for sale) shall be the reasonable cost. The cost of operation and maintenance, the rate of depreciation, and the depreciated amount of capital invested by the employer shall be those arrived at under good accounting practices. As used in this paragraph, the term *good accounting practices* does not include accounting practices which have been rejected by the Internal Revenue Service for tax purposes, and the term *depreciation* includes obsolescence.

(d)(1) The cost of furnishing "facilities" found by the Administrator to be primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not therefore be included in computing wages.

(2) The following is a list of facilities found by the Administrator to be primarily for the benefit of convenience of the employer. The list is intended to be illustrative rather than exclusive: (i) Tools of the trade and other materials and services incidental to carrying on the employer's business; (ii) the cost of any construction by and for the employer; (iii) the cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.

§S531.6 Effects of collective bargaining agreements.

(a) The cost of board, lodging, or other facilities shall not be included as part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the particular employee.

(b) A collective bargaining agreement shall be deemed to be "bona fide" when pursuant to the provisions of section 7(b)(1) or 7(b)(2) of the FLSA it is made with the certified representative of the employees under the provisions of the CAA.

PART S541—DEFINING AND DELIMITING THE TERMS "BONA FIDE EXECUTIVE," "ADMINISTRATIVE," OR "PROFESSIONAL" CAPACITY (INCLUDING ANY EMPLOYEE EMPLOYED IN THE CAPACITY OF ACADEMIC ADMINISTRATIVE PERSONNEL OR TEACHER IN SECONDARY SCHOOL).

Subpart A—General Regulations

Sec.

S541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S541.01 Application of the exemptions of section 13(a)(1) of the FLSA.
S541.1 Executive.
S541.2 Administrative.
S541.3 Professional.
S541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.
S541.5d Special provisions applicable to employees of public agencies.

SUBPART A—GENERAL REGULATIONS

§S541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
541.1 Executive	S541.1
541.2 Administrative	S541.2
541.3 Professional	S541.3
541.5b Equal pay provisions of section 6(d) of the FLSA apply to executive, administrative, and professional employees.	S541.5b
541.5d Special provisions applicable to employees of public agencies.	S541.5d

§S541.01 Application of the exemptions of section 13(a)(1) of the FLSA.

(a) Section 13(a)(1) of the FLSA, which provides certain exemptions for employees employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in a secondary school), applies to covered employees by virtue of Section 225(f)(1) of the CAA.

(b) The substantive regulations set forth in this part are promulgated under the authority of sections 203(c) and 304 of the CAA, which require that such regulations be the same as the substantive regulations promulgated by the Secretary of Labor except where the Board determines for good cause shown that modifications would be more effective for the implementation of the rights and protections under §203.

§S541.1 Executive.

The term *employee employed in a bona fide executive* * * * capacity in section 13(a) (1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the management of an employing office in which he is employed or of a customarily recognized department of subdivision thereof; and

(b) Who customarily and regularly directs the work of two or more other employees therein; and

(c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(d) Who customarily and regularly exercises discretionary powers; and

(e) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours of work in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (d) of this section: *Provided*, That this paragraph shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment; and

(f) Who is compensated for his services on a salary basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities: *Provided*, That an employee who is compensated on a salary basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the management of the employing office in which the employee is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of the work of two or more other employees therein, shall be deemed to meet all the requirements of this section.

§S541.2 Administrative.

The term *employee employed in a bona fide* * * * *administrative* * * * *capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of either:

(1) The performance of office or nonmanual work directly related to management policies or general operations of his employer or his employer's customers, or

(2) The performance of functions in the administration of a school system, or educational establishment or institution, or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein; and

(b) Who customarily and regularly exercises discretion and independent judgment; and

(c)(1) Who regularly and directly assists the head of an employing office, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined in the regulations of this subpart), or

(2) Who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge, or

(3) Who executes under only general supervision special assignments and tasks; and

(d) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours worked in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (c) of this section; and

(e)(1) Who is compensated for his services on a salary or fee basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities, or

(2) Who, in the case of academic administrative personnel, is compensated for services as required by paragraph (e)(1) of this section, or on a salary basis which is at least equal to the entrance salary for teachers in the school system, educational establishment or institution by which employed: *Provided*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance of work described in paragraph (a) of this section, which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all the requirements of this section.

§S541.3 Professional.

The term *employee employed in a bona fide* * * * *professional capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the performance of:

(1) Work requiring knowledge of an advance type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or

(2) Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee, or

(3) Teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in the school system, educational establishment or institution by which employed, or

(4) Work that requires theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming, and software engineering, and who is employed and engaged in these activities as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer software field; and

(b) Whose work requires the consistent exercise of discretion and judgment in its performance; and

(c) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

(d) Who does not devote more than 20 percent of his hours worked in the workweek to activities which are not an essential part of and necessarily incident to the work described in paragraphs (a) through (c) of this section; and

(e) Who is compensated for services on a salary or fee basis at a rate of not less than $170 per week, exclusive of board, lodging or other facilities: *Provided*, That this paragraph shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof, nor in the case of an employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of medicine or any of its branches, nor in the case of an employee employed and engaged as a teacher as provided in paragraph (a)(3) of this section: *Provided further*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance either of work described in paragraph (a) (1), (3), or (4) of this section, which includes work requiring the consistent exercise of discretion and judgment, or of work requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section: *Provided further*, That the salary or fee requirements of this paragraph shall not apply to an employee engaged in computer-related work within the scope of paragraph (a)(4) of this section and who is compensated on an hourly basis at a rate in excess of 6 1/2 times the minimum wage provided by section 6 of the FLSA as applied by the CAA.

§ S541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.

The FLSA, as amended and as applied by the CAA, includes within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools) under section 13(a)(1) of the FLSA. Thus, for example, where an exempt administrative employee and another employee of the employing office are performing substantially "equal work," the sex discrimination prohibitions of section 6(d) are applicable with respect to any wage differential between those two employees.

§ S541.5d Special provisions applicable to employees of public agencies.

(a) An employee of a public agency who otherwise meets the requirement of being paid on a salary basis shall not be disqualified from exemption under Sec. S541.1, S541.2, or S541.3 on the basis that such employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because—

(1) permission for its use has not been sought or has been sought and denied; (2) accrued leave has been exhausted; or

(3) the employee chooses to use leave without pay.

(b) Deductions from the pay of an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid "on a salary basis" except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

PART S547—REQUIREMENTS OF A "BONA FIDE THRIFT OR SAVINGS PLAN"

Sec.

S547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

S547.0 Scope and effect of part.

S547.1 Essential requirements of qualifications.

S547.2 Disqualifying provisions.

§ S547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
547.0 Scope and effect of part.	S547.0
547.1 Essential requirements of qualifications.	S547.1
547.2 Disqualifying provisions.	S547.2

§ S547.0 Scope and effect of part.

(a) The regulations in this part set forth the requirements of a "bona fide thrift or savings plan" under section 7(e)(3)(b) of the Fair Labor Standards Act of 1938, as amended (FLSA), as applied by the CAA. In determining the total remuneration for employment which section 7(e) of the FLSA requires to be included in the regular rate at which an employee is employed, it is not necessary to include any sums paid to or on behalf of such employee, in recognition of services performed by him during a given period, which are paid pursuant to a bona fide thrift or savings plan meeting the requirements set forth herein. In the formulation of these regulations due regard has been given to the factors and standards set forth in section 7(e)(3)(b) of the Act.

(b) Where a thrift or savings plan is combined in a single program (whether in one or more documents) with a plan or trust for providing old age, retirement, life, accident or health insurance or similar benefits for employees, contributions made by the employer pursuant to such thrift or savings plan may be excluded from the regular rate if the plan meets the requirements of the regulation in this part and the contributions made for the other purposes may be excluded from the regular rate if they meet the tests set forth in regulations.

§ S547.1 Essential requirements for qualifications.

(a) A "bona fide thrift or savings plan" for the purpose of section 7(e)(3)(b) of the FLSA as applied by the CAA is required to meet all the standards set forth in paragraphs (b) through (f) of this section and must not contain the disqualifying provisions set forth in § S547.2.

(b) The thrift or savings plan constitutes a definite program or arrangement in writing, adopted by the employer or by contract as a result of collective bargaining and communicated or made available to the employees, which is established and maintained, in good faith, for the purpose of encouraging voluntary thrift or savings by employees by providing an incentive to employees to accumulate regularly and retain cash savings for a reasonable period of time or to save through the regular purchase of public or private securities.

(c) The plan specifically shall set forth the category or categories of employees participating and the basis of their eligibility. Eligibility may not be based on such factors as hours of work, production, or efficiency of the employees: *Provided, however*, That hours of work may be used to determine eligibility of part-time or casual employees.

(d) The amount any employee may save under the plan shall be specified in the plan or determined in accordance with a definite formula specified in the plan, which formula may be based on one or more factors such as the straight-time earnings or total earnings, base rate of pay, or length of service of the employee.

(e) The employer's total contribution in any year may not exceed 15 percent of the participating employees' total earnings during that year. In addition, the employer's total contribution in any year may not exceed the total amount saved or invested by the participating employees during that year.

(f) The employer's contributions shall be apportioned among the individual employees in accordance with a definite formula or method of calculation specified in the plan, which formula or method of calculation is based on the amount saved or the length of time the individual employee retains his savings or investment in the plan: *Provided*, That no employee's share determined in accordance with the plan may be diminished because of any other remuneration received by him.

§S547.2 Disqualifying provisions.

(a) No employee's participation in the plan shall be on other than a voluntary basis.

(b) No employee's wages or salary shall be dependent upon or influenced by the existence of such thrift or savings plan or the employer's contributions thereto.

(c) The amounts any employee may save under the plan, or the amounts paid by the employer under the plan may not be based upon the employee's hours of work, production or efficiency.

PART S553—OVERTIME COMPENSATION: PARTIAL EXEMPTION FOR EMPLOYEES ENGAGED IN LAW ENFORCEMENT AND FIRE PROTECTION; OVERTIME AND COMPENSATORY TIME-OFF FOR EMPLOYEES WHOSE WORK SCHEDULE DIRECTLY DEPENDS UPON THE SCHEDULE OF THE HOUSE

Introduction

Sec.
S553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S553.1 Definitions.
S553.2 Purpose and scope.

Subpart C—Partial Exemption for Employees Engaged in Law Enforcement and Fire Protection

S553.201 Statutory provisions: section 7(k).
S553.202 Limitations.
S553.211 Law enforcement activities.
S553.212 Twenty percent limitation on nonexempt work.
S553.213 Public agency employees engaged in both fire protection and law enforcement activities.
S553.214 Trainees.
S553.215 Ambulance and rescue service employees.
S553.216 Other exemptions.
S553.220 "Tour of duty" defined.
S553.221 Compensable hours of work.
S553.222 Sleep time.
S553.223 Meal time.
S553.224 "Work period" defined.
S553.225 Early relief.
S553.226 Training time.
S553.227 Outside employment.
S553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k).
S553.231 Compensatory time off.
S553.232 Overtime pay requirements.
S553.233 "Regular rate" defined.

Subpart D—Compensatory Time-off for Overtime Earned by Employees Whose Work Schedule Directly Depends upon the Schedule of the House

S553.301 Definition of "directly depends."
S553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the House.
S553.303 Using compensatory time off.
S553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service.

Introduction

§S553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
553.1 Definitions	S553.1
553.2 Purpose and scope	S553.2
553.201 Statutory provisions: section 7(k).	S553.201
553.202 Limitations	S553.202
553.211 Law enforcement activities.	S553.211
553.212 Twenty percent limitation on nonexempt work	S553.212
553.213 Public agency employees engaged in both fire protection and law enforcement activities.	S553.213
553.214 Trainees	S553.214
553.215 Ambulance and rescue service employees	S553.215
553.216 Other exemptions	S553.216
553.220 "Tour of duty" defined	S553.220
553.221 Compensable hours of work	S553.221
553.222 Sleep time	S553.222
553.223 Meal time	S553.223
553.224 "Work period" defined	S553.224
553.225 Early relief	S553.225
553.226 Training time	S553.226
553.227 Outside employment	S553.227
553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k).	S553.230
553.231 Compensatory time off	S553.231
553.232 Overtime pay requirements	S553.232
553.233 "Regular rate" defined	S553.233

Introduction

§S553.1 Definitions.

(a) Act or FLSA means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201-219), as applied by the CAA.

(b) 1985 Amendments means the Fair Labor Standards Amendments of 1985 (Pub. L. 99-150).

(c) Public agency means an employing office as the term is defined in §—501.102 of this chapter, including the Capitol Police.

(d) Section 7(k) means the provisions of §7(k) of the FLSA as applied to covered employees and employing offices by §203 of the CAA.

§S553.2 Purpose and scope.

The purpose of part S553 is to adopt with appropriate modifications the regulations of the Secretary of Labor to carry out those provisions of the FLSA relating to public agency employees as they are applied to covered employees and employing offices of the CAA. In particular, these regulations apply section 7(k) as it relates to fire protection and law enforcement employees of public agencies.

SUBPART C—PARTIAL EXEMPTION FOR EMPLOYEES ENGAGED IN LAW ENFORCEMENT AND FIRE PROTECTION

§S553.201 Statutory provisions: section 7(k).

Section 7(k) of the Act provides a partial overtime pay exemption for fire protection and law enforcement personnel (including security personnel in correctional institutions) who are employed by public agencies on a work period basis. This section of the Act formerly permitted public agencies to pay overtime compensation to such employees in work periods of 28 consecutive days only after 216 hours of work. As further set forth in §S553.230- of this part, the 216-hour standard has been replaced, pursuant to the study mandated by the statute, by 212 hours for fire protection employees and 171 hours for law enforcement employees. In the case of such employees who have a work period of at least 7 but less than 28 consecutive days, overtime compensation is required when the ratio of the number of hours worked to the number of days in the work period exceeds the ratio of 212 (or 171) hours to 28 days.

§S553.202 Limitations.

The application of §7(k), by its terms, is limited to public agencies, and does not apply to any private organization engaged in furnishing fire protection or law enforcement services. This is so even if the services are provided under contract with a public agency.

Exemption Requirements

§S553.211 Law enforcement activities.

(a) As used in §7(k) of the Act, the term "any employee * * * in law enforcement activities" refers to any employee (1) who is a uniformed or plainclothed member of a body of officers and subordinates who are empowered by law to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury, and to prevent and detect crimes, (2) who has the power to arrest, and (3) who is presently undergoing or has undergone or will undergo on-the-job training and/or a course of instruction and study which typically includes physical training, self-defense, firearm proficiency, criminal and civil law principles, investigative and law enforcement techniques, community relations, medical aid and ethics.

(b) Employees who meet these tests are considered to be engaged in law enforcement activities regardless of their rank, or of their status as "trainee," "probationary," or "permanent," and regardless of their assignment to duties incidental to the performance of their law enforcement activities such as equipment maintenance, and lecturing, or to support activities of the type described in paragraph (g) of this section, whether or not such assignment is for training or familiarization purposes, or for reasons of illness, injury or infirmity. The term would also include rescue and ambulance service personnel if such personnel form an integral part of the public agency's law enforcement activities. See Sec. S553.215.

(c) Typically, employees engaged in law enforcement activities include police who are regularly employed and paid as such. Other agency employees with duties not specifically mentioned may, depending upon the particular facts and pertinent statutory provisions in that jurisdiction, meet the three tests described above. If so, they will also qualify as law enforcement officers. Such employees might include, for example, any law enforcement employee within the legislative branch concerned with keeping public peace and order and protecting life and property.

(d) Employees who do not meet each of the three tests described above are not engaged in "law enforcement activities" as that term is used in sections 7(k). Employees who normally would not meet each of these tests include:

(1) Building inspectors (other than those defined in Sec. S553.213(a)),

(2) Health inspectors,

(3) Sanitarians,

(4) Civilian traffic employees who direct vehicular and pedestrian traffic at specified intersections or other control points,

(5) Civilian parking checkers who patrol assigned areas for the purpose of discovering parking violations and issuing appropriate warnings or appearance notices,

(6) Wage and hour compliance officers,

(7) Equal employment opportunity compliance officers, and

(8) Building guards whose primary duty is to protect the lives and property of persons within the limited area of the building.

(e) The term "any employee in law enforcement activities" also includes, by express reference, "security personnel in correctional institutions." Typically, such facilities may include precinct house lockups. Employees of correctional institutions who qualify as security personnel for purposes of the section 7(k) exemption are those who have responsibility for controlling and maintaining custody of inmates and of safeguarding them from other inmates or for supervising such functions, regardless of whether their duties are performed inside the correctional institution or outside the institution. These employees are considered to be engaged in law enforcement activities regardless of their rank or of their status as "trainee," "probationary," or "permanent," and regardless of their assignment to duties incidental to the performance of their law enforcement activities, or to support activities of the type described in paragraph (f) of this section, whether or not such assignment is for training or familiarization purposes or for reasons of illness, injury or infirmity.

(f) Not included in the term "employee in law enforcement activities" are the so-called "civilian" employees of law enforcement agencies or correctional institutions who engage in such support activities as those performed by dispatcher, radio operators, apparatus and equipment maintenance and repair workers, janitors, clerks and stenographers. Nor does the term include employees in correctional institutions who engage in building repair and maintenance, culinary services, teaching, or in psychological, medical and paramedical services. This is so even though such employees may, when assigned to correctional institutions, come into regular contact with the inmates in the performance of their duties.

§S553.212 Twenty percent limitation on nonexempt work.

(a) Employees engaged in fire protection or law enforcement activities as described in Sec. S553.210 and S553.211, may also engage in some nonexempt work which is not performed as an incident to or in conjunction with their fire protection or law enforcement activities. For example, firefighters who work for forest conservation agencies may, during slack times, plant trees and perform other conservation activities unrelated to their firefighting duties. The performance of such nonexempt work will not defeat the §7(k) exemption unless it exceeds 20 percent of the total hours worked by that employee during the workweek or applicable work period. A person who spends more than 20 percent of his/her working time in nonexempt activities is not considered to be an employee engaged in fire protection or law enforcement activities for purposes of this part.

(b) Public agency fire protection and law enforcement personnel may, at their own option, undertake employment for the same employer on an occasional or sporadic and part-time basis in a different capacity from their regular employment. The performance of such work does not affect the application of the §7(k) exemption with respect to the regular employment. In addition, the hours of work in the different capacity need not be counted as hours worked for overtime purposes on the regular job, nor are such hours counted in determining the 20 percent tolerance for nonexempt work discussed in paragraph (a) of this section.

§S553.213 Public agency employees engaged in both fire protection and law enforcement activities.

(a) Some public agencies have employees (often called 'public safety officers') who engage in both fire protection and law enforcement activities, depending on the agency needs at the time. This dual assignment would not defeat the section 7(k) exemption, provided that each of the activities performed meets the appropriate tests set forth in Sec. S553.210 and S553.211. This is so regardless of how the employee's time is divided between the two activities. However, all time spent in nonexempt activities by public safety officers within the work period, whether performed in connection with fire protection or law enforcement functions, or with neither, must be combined for purposes of the 20 percent limitation on nonexempt work discussed in Sec.S553.212.

(b) As specified in Sec. S553.230, the maximum hours standards under section 7(k) are different for employees engaged in fire protection and for employees engaged in law enforcement. For those employees who perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§S553.214 Trainees.

The attendance at a bona fide fire or police academy or other training facility, when required by the employing agency, constitutes engagement in activities under section 7(k) only when the employee meets all the applicable tests described in Sec. S553.210 or Sec. S553.211 (except for the power of arrest for law enforcement personnel), as the case may be. If the applicable tests are met, then basic training or advanced training is considered incidental to, and part of, the employee's fire protection or law enforcement activities.

§S553.215 Ambulance and rescue service employees.

Ambulance and rescue service employees of a public agency other than a fire protection or law enforcement agency may be treated as employees engaged in fire protection or law enforcement activities of the type contemplated by §7(k) if their services are substantially related to firefighting or law enforcement activities in that (1) the ambulance and rescue service employees have received training in the rescue of fire, crime, and accident victims or firefighters or law enforcement personnel injured in the performance of their respective duties, and (2) the ambulance and rescue service employees are regularly dispatched to fires, crime scenes, riots, natural disasters and accidents. As provided in Sec. S553.213(b), where employees perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§S553.216 Other exemptions.

Although the 1974 Amendments to the FLSA as applied by the CAA provide special exemptions for employees of public agencies engaged in fire protection and law enforcement activities, such workers may also be subject to other exemptions in the Act, and public agencies may claim such other applicable exemptions in lieu of §7(k). For example, section 13(a)(1) as applied by the CAA provides a complete minimum wage and overtime pay exemption for any employee employed in a bona fide executive, administrative, or professional capacity, as those terms are defined and delimited in Part S541. The section 13(a)(1) exemption can be claimed for any fire protection or law enforcement employee who meets all of the tests specified in part S541 relating to duties, responsibilities, and salary. Thus, high ranking police officials who are engaged in law enforcement activities, may also, depending on the facts, qualify for the section 13(a)(1) exemption as 'executive' employees. Similarly, certain criminal investigative agents may qualify as "administrative" employees under section 13(a)(1).

Tour of Duty and Compensable Hours of Work Rules

§S553.220 "Tour of duty" defined.

(a) The term "tour of duty" is a unique concept applicable only to employees for whom the section 7(k) exemption is claimed. This term, as used in section 7(k), means the period of time during which an employee is considered to be on duty for purposes of determining compensable hours. It may be a scheduled or unscheduled period. Such periods include 'shifts' assigned to employees often days in advance of the performance of the work. Scheduled periods also include time spent in work outside the "shift" which the public agency employer assigns. For example, a police officer may be assigned to crowd control during a parade or other special event outside of his or her shift.

(b) Unscheduled periods include time spent in court by police officers, time spent handling emergency situations, and time spent working after a shift to complete an assignment. Such time must be included in the compensable tour of duty even though the specific work performed may not have been assigned in advance.

(c) The tour of duty does not include time spent working for a separate and independent employer in certain types of special details as provided in Sec. S553.227.

§S553.221 Compensable hours of work.

(a) The rules under the FLSA as applied by the CAA on compensable hours of work are applicable to employees for whom the section 7(k) exemption is claimed. Special rules for sleep time (Sec. S553.222) apply to both law enforcement and firefighting employees for whom the section 7(k) exemption is claimed. Also, special rules for meal time apply in the case of firefighters (Sec. S553.223).

(b) Compensable hours of work generally include all of the time during which an employee is on duty on the employer's premises or at a prescribed workplace, as well as all other time during which the employee is suffered or permitted to work for the employer. Such time includes all pre-shift and post-shift activities which are an integral part of the employee's principal activity or which are closely related to the performance of the principal activity, such as attending roll call, writing up and completing tickets or reports, and washing and re-racking fire hoses.

(c) Time spent away from the employer's premises under conditions that are so circumscribed that they restrict the employee from effectively using the time for personal pursuits also constitutes compensable hours of work. For example, where a police station must be evacuated because of an electrical failure and the employees are expected to remain in the vicinity and return to work after the emergency has passed, the entire time spent away from the premises is compensable. The employees in this example cannot use the time for their personal pursuits.

(d) An employee who is not required to remain on the employer's premises but is merely required to leave word at home or with company officials where he or she may be reached is not working while on call. Time spent at home on call may or may not be compensable depending on whether the restrictions placed on the employee preclude using the time for personal pursuits. Where, for example, a firefighter has returned home after the shift, with the understanding that he or she is expected to return to work in the event of an emergency in the night, such time spent at home is normally not compensable. On the other hand, where the conditions placed on the employee's activities are so restrictive that the employee cannot use the time effectively for personal pursuits, such time spent on call is compensable.

(e) Normal home to work travel is not compensable, even where the employee is expected to report to work at a location away from the location of the employer's premises.

(f) A police officer, who has completed his or her tour of duty and who is given a patrol car to drive home and use on personal business, is not working during the travel time even where the radio must be left on so that the officer can respond to emergency calls. Of course, the time spent in responding to such calls is compensable.

§ S553.222 Sleep time.

(a) Where a public agency elects to pay overtime compensation to firefighters and/or law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude sleep time from hours worked if all the conditions for the exclusion of such time are met.

(b) Where the employer has elected to use the section 7(k) exemption, sleep time cannot be excluded from the compensable hours of work where

(1) The employee is on a tour of duty of less than 24 hours, and

(2) Where the employee is on a tour of duty of exactly 24 hours.

(c) Sleep time can be excluded from compensable hours of work, however, in the case of police officers or firefighters who are on a tour of duty of more than 24 hours, but only if there is an expressed or implied agreement between the employer and the employees to exclude such time. In the absence of such an agreement, the sleep time is compensable. In no event shall the time excluded as sleep time exceed 8 hours in a 24-hour period. If the sleep time is interrupted by a call to duty, the interruption must be counted as hours worked. If the sleep period is interrupted to such an extent that the employee cannot get a reasonable night's sleep (which, for enforcement purposes means at least 5 hours), the entire time must be counted as hours of work.

§S553.223 Meal time.

(a) If a public agency elects to pay overtime compensation to firefighters and law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude meal time from hours worked if all the statutory tests for the exclusion of such time are met.

(b) If a public agency elects to use the section 7(k) exemption, the public agency may, in the case of law enforcement personnel, exclude meal time from hours worked on tours of duty of 24 hours or less, provided that the employee is completely relieved from duty during the meal period, and all the other statutory tests for the exclusion of such time are met. On the other hand, where law enforcement personnel are required to remain on call in barracks or similar quarters, or are engaged in extended surveillance activities (e.g., stakeouts'), they are not considered to be completely relieved from duty, and any such meal periods would be compensable.

(c) With respect to firefighters employed under section 7(k), who are confined to a duty station, the legislative history of the Act indicates Congressional intent to mandate a departure from the usual FLSA 'hours of work' rules and adoption of an overtime standard keyed to the unique concept of 'tour of duty' under which firefighters are employed. Where the public agency elects to use the section 7(k) exemption for firefighters, meal time cannot be excluded from the compensable hours of work where (1) the firefighter is on a tour of duty of less than 24 hours, and (2) where the firefighter is on a tour of duty of exactly 24 hours.

(d) In the case of police officers or firefighters who are on a tour of duty of more than 24 hours, meal time may be excluded from compensable hours of work provided that the statutory tests for exclusion of such hours are met.

§ S553.224 "Work period" defined.

(a) As used in section 7(k), the term 'work period' refers to any established and regularly recurring period of work which, under the terms of the Act and legislative history, cannot be less than 7 consecutive days nor more than 28 consecutive days. Except for this limitation, the work period can be of any length, and it need not coincide with the duty cycle or pay period or with a particular day of the week or hour of the day. Once the beginning and ending time of an employee's work period is established, however, it remains fixed regardless of how many hours are worked within the period. The beginning and ending of the work period may be changed, provided that the change is intended to be permanent and is not designed to evade the overtime compensation requirements of the Act.

(b) An employer may have one work period applicable to all employees, or different work periods for different employees or groups of employees.

§ S553.225 Early relief.

It is a common practice among employees engaged in fire protection activities to relieve employees on the previous shift prior to the scheduled starting time. Such early relief time may occur pursuant to employee agreement, either expressed or implied. This practice will not have the effect of increasing the number of compensable hours of work for employees employed under section 7(k) where it is voluntary on the part of the employees and does not result, over a period of time, in their failure to receive proper compensation for all hours actually worked. On the other hand, if the practice is required by the employer, the time involved must be added to the employee's tour of duty and treated as compensable hours of work.

§ S553.226 Training time.

(a) The general rules for determining the compensability of training time under the FLSA apply to employees engaged in law enforcement or fire protection activities.

(b) While time spent in attending training required by an employer is normally considered compensable hours of work, following are situations where time spent by employees in required training is considered to be noncompensable:

(1) Attendance outside of regular working hours at specialized or follow-up training, which is required by law for certification of public and private sector employees within a particular governmental jurisdiction (e.g., certification of public and private emergency rescue workers), does not constitute compensable hours of work for public employees within that jurisdiction and subordinate jurisdictions.

(2) Attendance outside of regular working hours at specialized or follow-up training, which is required for certification of employees of a governmental jurisdiction by law of a higher level of government, does not constitute compensable hours of work.

(3) Time spent in the training described in paragraphs (b) (1) or (2) of this section is not compensable, even if all or part of the costs of the training is borne by the employer.

(c) Police officers or firefighters, who are in attendance at a police or fire academy or other training facility, are not considered to be on duty during those times when they are not in class or at a training session, if they are free to use such time for personal pursuits. Such free time is not compensable.

§ S553.227 Outside employment.

(a) Section 7(p)(1) makes special provision for fire protection and law enforcement employees of public agencies who, at their own option, perform special duty work in fire protection, law enforcement or related activities for a separate and independent employer (public or private) during their off-duty hours. The hours of work for the separate and independent employer are not combined with the hours worked for the primary public agency employer for purposes of overtime compensation.

(b) Section 7(p)(1) applies to such outside employment provided (1) the special detail work is performed solely at the employee's option, and (2) the two employers are in fact separate and independent.

(c) Whether two employers are, in fact, separate and independent can only be determined on a case-by-case basis.

(d) The primary employer may facilitate the employment or affect the conditions of employment of such employees. For example, a police department may maintain a roster of officers who wish to perform such work. The department may also select the officers for special details from a list of those wishing to participate, negotiate their pay, and retain a fee for administrative expenses. The department may require that the separate and independent employer pay the fee for such services directly to the department, and establish procedures for the officers to receive their pay for the special details through the agency's payroll system. Finally, the department may require that the officers observe their normal standards of conduct during such details and take disciplinary action against those who fail to do so.

(e) Section 7(p)(1) applies to special details even where a State law or local ordinance requires that such work be performed and that only law enforcement or fire protection employees of a public agency in the same jurisdiction perform the work. For example, a city ordinance may require the presence of city police officers at a convention center during concerts or sports events. If the officers perform such work at their own option, the hours of work need not be combined with the hours of work for their primary employer in computing overtime compensation.

(f) The principles in paragraphs (d) and (e) of this section with respect to special details of public agency fire protection and law enforcement employees under section 7(p)(1) are exceptions to the usual rules on joint employment set forth in part 791 of this title.

(g) Where an employee is directed by the public agency to perform work for a second employer, section 7(p)(1) does not apply. Thus, assignments of police officers outside of their normal work hours to perform crowd control at a parade, where the assignments are not solely at the option of the officers, would not qualify as special details subject to this exception. This would be true even if the parade organizers reimburse the public agency for providing such services.

(h) Section 7(p)(1) does not prevent a public agency from prohibiting or restricting outside employment by its employees.

Overtime Compensation Rules

§ S553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k).

(a) For those employees engaged in fire protection activities who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 212 as the number of days in the work period bears to 28.

(b) For those employees engaged in law enforcement activities (including security personnel in correctional institutions) who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 171 as the number of days in the work period bears to 28.

(c) The ratio of 212 hours to 28 days for employees engaged in fire protection activities is 7.57 hours per day (rounded) and the ratio of 171 hours to 28 days for employees engaged in law enforcement activities is 6.11 hours per day (rounded). Accordingly, overtime compensation (in premium pay or compensatory time) is required for all hours worked in excess of the following maximum hours standards (rounded to the nearest whole hour):

Work period (days)	Maximum hours standards	
	Fire protection	Law enforcement
28	212	171
27	204	165
26	197	159
25	189	153
24	182	147
23	174	141
22	167	134
21	159	128
20	151	122
19	144	116
18	136	110
17	129	104
16	121	98
15	114	92
14	106	86
13	98	79
12	91	73
11	83	67
10	76	61
9	68	55
8	61	49
7	53	43

§ S553.231 Compensatory time off.

(a) Law enforcement and fire protection employees who are subject to the section 7(k) exemption may receive compensatory time off in lieu of overtime pay for hours worked in excess of the maximum for their work period as set forth in Sec. S553.230.

(b) Section 7(k) permits public agencies to balance the hours of work over an entire work period for law enforcement and fire protection employees. For example, if a firefighter's work period is 28 consecutive days, and he or she works 80 hours in each of the first two weeks, but only 52 hours in the third week, and does not work in the fourth week, no overtime compensation (in cash wages or compensatory time) would be required since the total hours worked do not exceed 212 for the work period. If the same firefighter had a work period of only 14 days, overtime compensation or compensatory time off would be due for 54 hours (160 minus 106 hours) in the first 14 day work period.

§ S553.232 Overtime pay requirements.

If a public agency pays employees subject to section 7(k) for overtime hours worked in cash wages rather than compensatory time off, such wages must be paid at one and one-half times the employees' regular rates of pay.

§ S553.233 'Regular rate' defined.

The statutory rules for computing an employee's 'regular rate', for purposes of the Act's overtime pay requirements are applicable to employees or whom the section 7(k) exemption is claimed when overtime compensation is provided in cash wages.

SUBPART D—COMPENSATORY TIME-OFF FOR OVERTIME EARNED BY EMPLOYEES WHOSE WORK SCHEDULE DIRECTLY DEPENDS UPON THE SCHEDULE OF THE SENATE

§ S553.301 Definition of "directly depends."

For the purposes of this Part, a covered employee's work schedule "directly depends" on the schedule of the Senate only if the eligible employee performs work that directly supports the conduct of legislative or other business in the chamber and works hours that regularly change in response to the schedule of the House and the Senate.

§ S553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the Senate.

No employing office shall be deemed to have violated section 203(a)(1) of the CAA, which applies the protections of section 7(a) of the Fair Labor Standards Act ("FLSA") to covered employees and employing office, by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under section 7(a) of the FLSA where the employee's work schedule directly depends on the schedule of the Senate within the meaning of § S553.301, and: (a) the employee is compensated at the rate of time-and-a-half in pay for all hours in excess of 40 and up to 60 hours in a workweek, and (b) the employee is compensated at the rate of time-and-a-half in either pay or in time off for all hours in excess of 60 hours in a workweek.

§ S553.303 Using compensatory time off.

An employee who has accrued compensatory time off under § S553.302, upon his or her request, shall be permitted by the employing office to use such time within a reasonable period after making the request, unless the employing office makes a bona fide determination that the needs of the operations of the office do not allow the taking of compensatory time off at the time of the request. An employee may renew the request at a subsequent time. An employing office may also, upon reasonable notice, require an employee to use accrued compensatory time-off.

§ S553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service.

An employee who has accrued compensatory time authorized by this regulation shall, upon termination of employment, be paid for the unused compensatory time at the rate earned by the employee at the time the employee receives such payment.

PART S570—CHILD LABOR REGULATIONS

Subpart A—General

Sec.

S570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S570.1 Definitions.
S570.2 Minimum age standards.

Subpart C—Employment of Minors Between 14 and 16 Years of Age (Child Labor Reg. 3)

S570.31 Determination.
S570.32 Effect of this subpart.
S570.33 Occupations.
S570.35 Periods and conditions of employment.

SUBPART A—GENERAL

§ S570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance Regulations under Section 202 of the CAA:

Secretary of Labor Regulations	OC Regulations
570.1 Definitions.	S570.1
570.2 Minimum age standards.	S570.2
570.31 Determinations.	S570.31
570.32 Effect of this subpart.	S570.32
570.33 Occupations.	S570.33
570.35 Periods and conditions of employment.	S570.35

§ S570.1 Definitions.

As used in this part:

(a) *Act* means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201–219).

(b) *Oppressive child labor* means employment of a minor in an occupation for which he does not meet the minimum age standards of the Act, as set forth in Sec. S570.2 of this subpart.

(c) *Oppressive child labor age* means an age below the minimum age established under the Act for the occupation in which a minor is employed or in which his employment is contemplated.

(d) [Reserved]

(e) [Reserved]

(f) *Secretary* or *Secretary of Labor* means the Secretary of Labor, United States Department of Labor, or his authorized representative.

(g) *Wage and Hour Division* means the Wage and Hour Division, Employment Standards Administration, United States Department of Labor.

(h) *Administrator* means the Administrator of the Wage and Hour Division or his authorized representative.

§ S570.2 Minimum age standards.

(a) All occupations except in agriculture. (1) The Act, in section 3(1), sets a general 16-year minimum age which applies to all employment subject to its child labor provisions in any occupation other than in agriculture, with the following exceptions:

(i) The Act authorizes the Secretary of Labor to provide by regulation or by order that the employment of employees between the ages of 14 and 16 years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor, if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being (see subpart C of this part); and

(ii) The Act sets an 18-year minimum age with respect to employment in any occupation found and declared by the Secretary of Labor to be particularly hazardous for the employment of minors of such age or detrimental to their health or well-being.

(2) The Act exempts from its minimum age requirements the employment by a parent of

his own child, or by a person standing in place of a parent of a child in his custody, except in occupations to which the 18-year age minimum applies and in manufacturing and mining occupations.

SUBPART B [RESERVED]

SUBPART C—EMPLOYMENT OF MINORS BETWEEN 14 AND 16 YEARS OF AGE (CHILD LABOR REG. 3)

§ S570.31 Determination.

The employment of minors between 14 and 16 years of age in the occupations, for the periods, and under the conditions hereafter specified does not interfere with their schooling or with their health and well-being and shall not be deemed to be oppressive child labor.

§ S570.32 Effect of this subpart.

In all occupations covered by this subpart the employment (including suffering or permitting to work) by an employer of minor employees between 14 and 16 years of age for the periods and under the conditions specified in § S570.35 shall not be deemed to be oppressive child labor within the meaning of the Fair Labor Standards Act of 1938.

§ S570.33 Occupations.

This subpart shall apply to all occupations other than the following:

(a) Manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed;

(b) Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines;

(c) The operation of motor vehicles or service as helpers on such vehicles;

(d) Public messenger service;

(e) Occupations which the Secretary of Labor may, pursuant to section 3(l) of the Fair Labor Standards Act and Reorganization Plan No. 2, issued pursuant to the Reorganization Act of 1945, find and declare to be hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being;

(f) Occupations in connection with:

(1) Transportation of persons or property by rail, highway, air, water, pipeline, or other means;

(2) Warehousing and storage;

(3) Communications and public utilities;

(4) Construction (including demolition and repair); except such office (including ticket office) work, or sales work, in connection with paragraphs (f)(1), (2), (3), and (4) of this section, as does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations.

§ S570.35 Periods and conditions of employment.

(a) Except as provided in paragraph (b) of this section, employment in any of the occupations to which this subpart is applicable shall be confined to the following periods:

(1) Outside school hours;

(2) Not more than 40 hours in any 1 week when school is not in session;

(3) Not more than 18 hours in any 1 week when school is in session;

(4) Not more than 8 hours in any 1 day when school is not in session;

(5) Not more than 3 hours in any 1 day when school is in session;

(6) Between 7 a.m. and 7 p.m. in any 1 day, except during the summer (June 1 through Labor Day) when the evening hour will be 9 p.m.

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

NOTICE OF ISSUANCE OF FINAL REGULATIONS

On January 22, 1996, the Board of Directors of the Office of Compliance adopted and submitted for publication in the Congressional Record final regulations implementing section 203 of the Congressional Accountability Act of 1995 (CAA), which apply certain rights and protections of the Fair Labor Standards Act of 1938. On April 15, 1996, pursuant to section 304(c) of the CAA, the House and the Senate agreed to resolutions approving the final regulations. Specifically, the Senate agreed to S. Res. 242, to provide for the approval of final regulations that are applicable to the Senate and the employees of the Senate; the House agreed to H. Res. 400, to provide for the approval of final regulations that are applicable to the House and the employees of the House; and the House and the Senate agreed to S. Con. Res. 51, to provide for approval of final regulations that are applicable to employing offices and employees other than those offices and employees of the House and the Senate. Accordingly, pursuant to section 304(d) of the CAA, the Board submits these regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for issuance by publication in the Congressional Record.

Pursuant to paragraph (3) of section 304(d) of the CAA, the Board finds good cause for the regulations to become effective on April 16, 1996, rather than 60 days after issuance. Were the regulations not effective immediately upon the expiration of the interim regulations on April 15, 1996, covered employees, employing offices and the Office of Compliance would be forced to operate under the same kind of regulatory uncertainty that the Board sought to avoid by adopting interim regulations effective as of January 23, 1996, which was the effective date of the relevant provisions of the CAA.

Signed at Washington, D.C. on this 19th day of April, 1996.

GLEN D. NAGER,
Chair of the Board,
Office of Compliance.

Accordingly, the Board of Directors of the Office of Compliance hereby issues the following final regulations:

[Final Regulations]

SUBTITLE C—REGULATIONS RELATING TO THE EMPLOYING OFFICES OTHER THAN THOSE OF THE SENATE AND THE HOUSE OF REPRESENTATIVES—C SERIES

CHAPTER III—REGULATIONS RELATING TO THE RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

PART C501—GENERAL PROVISIONS

Sec.
C501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C501.101 Purpose and scope.
C501.102 Definitions.
C501.103 Coverage.
C501.104 Administrative authority.
C501.105 Effect of Interpretations of the Labor Department.
C501.106 Application of the Portal-to-Portal Act of 1947.

§ C501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the parts of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding parts of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
Part 531—Wage payments under the Fair Labor Standards Act of 1938.	Part C531
Part 541—Defining and delimiting the terms "bona fide executive," "administrative," and "professional" employees.	Part C541
Part 547—Requirements of a "Bona fide thrift or savings plan".	Part C547
Part C553—Application of the FLSA to employees of public agencies.	Part C553
Part 570—Child labor	Part C570

SUBPART A—MATTERS OF GENERAL APPLICABILITY.

§ C501.101 Purpose and scope.

(a) Section 203 of the Congressional Accountability Act (CAA) provides that the rights and protections of subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (FLSA) (29 U.S.C. §§ 206(a)(1) & (d), 207, 212(c)) shall apply to covered employees of the legislative branch of the Federal government. Section 301 of the CAA creates the Office of Compliance as an independent office in the legislative branch for enforcing the rights and protections of the FLSA, as applied by the CAA.

(b) The FLSA as applied by the CAA provides for minimum standards for both wages and overtime entitlements, and delineates administrative procedures by which covered worktime must be compensated. Included also in the FLSA are provisions related to child labor, equal pay, and portal-to-portal activities. In addition, the FLSA exempts specified employees or groups of employees from the application of certain of its provisions.

(c) This chapter contains the substantive regulations with respect to the FLSA that the Board of Directors of the Office of Compliance has adopted pursuant to Sections 203(c) and 304 of the CAA, which requires that the Board promulgate regulations that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of § 203 of the CAA] except insofar as the Board may determine, for good cause shown * * * that a modification of such regulations would be more effective for the implementation of the rights and protections under this section."

(d) These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 203(c) and 304 of the CAA, which directs the Board to promulgate regulations implementing section 203 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection a [of section 203 of the CAA] except insofar as the Board may determine, for good cause shown * * * that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." The regulations issued by the Board herein are on all matters for which section 203 of the CAA requires a regulations to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of the promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 203 of the CAA]."

(e) In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§C501.102 Definitions.

For purposes of this chapter:

(a) *CAA* means the Congressional Accountability Act of 1995 (P.L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301-1438).

(b) *FLSA* or *Act* means the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §201 et seq.), as applied by section 203 of the CAA to covered employees and employing offices.

(c) *Covered employee* means any employee, including an applicant for employment and a former employee, of the (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment, but shall not include an intern.

(d)(1) *Employee of the Office of the Architect of the Capitol* includes any employee of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants;

(2) *Employee of the Capitol Police* includes any member or officer of the Capitol Police.

(e) *Employing office* and *employer* mean (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment.

(f) Board means the Board of Directors of the Office of Compliance.

(g) *Office* means the Office of Compliance.

(h) *Intern* is an individual who (a) is performing services in an employing office as part of a demonstrated educational plan, and (b) is appointed on a temporary basis for a period not to exceed 12 months; *provided* that if an intern is appointed for a period shorter than 12 months, the intern may be reappointed for additional periods as long as the total length of the internship does not exceed 12 months; *provided further* that the defintion of *intern* does not include volunteers, fellows or pages.

§C501.103 Coverage.

The coverage of Section 203 of the CAA extends to any covered employee of an employing office without regard to whether the covered employee is engaged in commerce or the production of goods for interstate commerce and without regard to size, number of employees, amount of business transacted, or other measure.

§C501.104 Administrative authority.

(a) The Office of Compliance is authorized to administer the provisions of Section 203 of the Act with respect to any covered employee or covered employer.

(b) The Board is authorized to promulgate substantive regulations in accordance with the provisions of Sections 203(c) and 304 of the CAA.

§C501.105 Effect of Interpretations of the Department of Labor.

(a) In administering the FLSA, the Wage and Hour Division of the Department of Labor has issued not only substantive regulations but also interpretative bulletins. Substantive regulations represent an exercise of statutorily-delegated lawmaking authority from the legislative branch to an administrative agency. Generally, they are proposed in accordance with the notice-and-comment procedures of the Administrative Procedure Act (APA), 5 U.S.C. §553. Once promulgated, such regulations are considered to have the force and effect of law, unless set aside upon judicial review as arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. See *Batterton* v. *Francis*, 432 U.S. 416, 425 n.9 (1977). See also 29 C.F.R. §790.17(b) (1994). Unlike substantive regulations, interpretative statements, including bulletins and other releases of the Wage and Hour Division, are not issued pursuant to the provisions of the APA and may not have the force and effect of law. Rather, they may only constitute official interpretations of the Department of Labor with respect to the meaning and application of the minimum wage, maximum hour, and overtime pay requirements of the FLSA. See 29 C.F.R. §790.17(c) (citing Final Report of the Attorney General's Committee on Administrative Procedure, Senate Document No.8, 77th Cong., 1st Sess., at p. 27 (1941)). The purpose of such statements is to make available in one place the interpretations of the FLSA which will guide the Secretary of Labor and the Wage and Hour Administrator in the performance of their duties unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon reexamination of an interpretation, that it is incorrect. The Supreme Court has observed: "[T]he rulings, interpretations and opinions of the Administrator under this Act, while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance. The weight of such a judgment in a particular case will depend upon the thoroughness evident in the consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control." *Skidmore* v. *Swift*, 323 U.S. 134, 140 (1944).

(b) Section 203(c) of the CAA provides that the substantive regulations implementing Section 203 of the CAA shall be "the same as substantive regulations promulgated by the Secretary of Labor" except where the Board finds, for good cause shown, that a modification would more effectively implement the rights and protections established by the FLSA. Thus, the CAA by its terms does not mandate that the Board adopt the interpretative statements of the Department of Labor or its Wage and Hour Division. The Board is thus not adopting such statements as part of its substantive regulations.

§C501.106 Application of the Portal-to-Portal Act of 1947.

(a) Consistent with Section 225 of the CAA, the Portal to Portal Act (PPA), 29 U.S.C. §§216 and 251 *et seq.*, is applicable in defining and delimiting the rights and protections of the FLSA that are prescribed by the CAA. Section 10 of the PPA, 29 U.S.C. §259, provides in pertinent part:

* * * [N]o employer shall be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, * * * if he pleads and proves that the act or omission complained of was in good faith in conformity with and reliance on any written administrative regulation, order, ruling, approval or interpretation of [the Administrator of the Wage and Hour Division of the Department of Labor] * * * or any administrative practice or enforcement policy of such agency with respect to the class of employers to which he belonged. Such a defense, if established shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect.

(b) In defending any action or proceeding based on any act or omission arising out of section 203 of the CAA, an employing office may satisfy the standards set forth in subsection (a) by pleading and proving good faith reliance upon any written administrative regulation, order, ruling, approval or interpretation, of the Administrator of the Wage and Hour Division of the Department of Labor: *Provided*, that such regulation, order, ruling approval or interpretation had not been superseded at the time of reliance by any regulation, order, decision, or ruling of the Board or the courts.

PART C531—WAGE PAYMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Subpart A—Preliminary Matters

Sec.

C531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C531.1 Definitions.
C531.2 Purpose and scope.

Subpart B—Determinations of "Reasonable Cost" and "Fair Value"; Effects of Collective Bargaining Agreements

C531.3 General determinations of 'reasonable cost'.
C531.6 Effects of collective bargaining agreements.

SUBPART A—PRELIMINARY MATTERS.

§C531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
531.1—Definitions.	C531.1
531.2—Purpose and scope.	C531.2
531.3—General determinations of "reasonable cost".	C531.3
531.6—Effects of collective bargaining agreements.	C531.6

§C531.1 Definitions.

(a) *Administrator* means the Administrator of the Wage and Hour Division or his authorized representative. The Secretary of Labor has delegated to the Administrator the functions vested in him under section 3(m) of the Act.

(b) *Act* means the Fair Labor Standards Act of 1938, as amended.

§C531.2 Purpose and scope.

(a) Section 3(m) of the Act defines the term 'wage' to include the 'reasonable cost', as determined by the Secretary of Labor, to an employer of furnishing any employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by the employer to his employees. In addition, section 3(m) gives the Secretary authority to determine the 'fair value.' of such facilities on the basis of average cost to the employer or to groups of employers similarly situated, on average value to groups of employees, or other appropriate measures of 'fair value.' Whenever so determined and when applicable and pertinent, the 'fair value' of the facilities involved shall be includable as part of 'wages' instead of the actual measure of the costs of those facilities. The section provides, however, that the cost of board, lodging, or other facilities shall not be included as part of 'wages' if excluded therefrom by a bona fide collective bargaining agreement. Section 3(m) also provides a method for determining the wage of a tipped employee.

(b) This part 531 contains any determinations made as to the 'reasonable cost' and 'fair value' of board, lodging, or other facilities having general application.

SUBPART B—DETERMINATIONS OF "REASONABLE COST" AND "FAIR VALUE"; EFFECTS OF COLLECTIVE BARGAINING AGREEMENTS

§ C531.3 General determinations of 'reasonable cost.'

(a) The term *reasonable cost* as used in section 3(m) of the Act is hereby determined to be not more than the actual cost to the employer of the board, lodging, or other facilities customarily furnished by him to his employees.

(b) Reasonable cost does not include a profit to the employer or to any affiliated person.

(c) The reasonable cost to the employer of furnishing the employee with board, lodging, or other facilities (including housing) is the cost of operation and maintenance including adequate depreciation plus a reasonable allowance (not more than 5 1/2 percent) for interest on the depreciated amount of capital invested by the employer: *Provided*, That if the total so computed is more than the fair rental value (or the fair price of the commodities or facilities offered for sale), the fair rental value (or the fair price of the commodities or facilities offered for sale) shall be the reasonable cost. The cost of operation and maintenance, the rate of depreciation, and the depreciated amount of capital invested by the employer shall be those arrived at under good accounting practices. As used in this paragraph, the term *good accounting practices* does not include accounting practices which have been rejected by the Internal Revenue Service for tax purposes, and the term *depreciation* includes obsolescence.

(d)(1) The cost of furnishing 'facilities' found by the Administrator to be primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not therefore be included in computing wages.

(2) The following is a list of facilities found by the Administrator to be primarily for the benefit of convenience of the employer. The list is intended to be illustrative rather than exclusive: (i) Tools of the trade and other materials and services incidental to carrying on the employer's business; (ii) the cost of any construction by and for the employer; (iii) the cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.

§ C531.6 Effects of collective bargaining agreements.

(a) The cost of board, lodging, or other facilities shall not be included as part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the particular employee.

(b) A collective bargaining agreement shall be deemed to be "bona fide" when pursuant to the provisions of section 7(b)(1) or 7(b)(2) of the FLSA it is made with the certified representative of the employees under the provisions of the CAA.

PART C541—DEFINING AND DELIMITING THE TERMS "BONA FIDE EXECUTIVE," "ADMINISTRATIVE," OR "PROFESSIONAL" CAPACITY (INCLUDING ANY EMPLOYEE EMPLOYED IN THE CAPACITY OF ACADEMIC ADMINISTRATIVE PERSONNEL OR TEACHER IN SECONDARY SCHOOL).

Subpart A—General Regulations.

Sec.
C541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C541.01 Application of the exemptions of section 13(a)(1) of the FLSA.
C541.1 Executive.
C541.2 Administrative.
C541.3 Professional.
C541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.
C541.5d Special provisions applicable to employees of public agencies.

SUBPART A—GENERAL REGULATIONS.

§ C541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
541.1—Executive	C541.1
541.2—Administrative.	C541.2
541.3—Professional.	C541.3
541.5b—Equal pay provisions of section 6(d) of the FLSA apply to executive, administrative, and professional employees..	C541.5b
541.5d—Special provisions applicable to employees of public agencies.	C541.5d

§ C541.01 Application of the exemptions of section 13 (a)(1) of the FLSA.

(a) Section 13(a)(1) of the FLSA, which provides certain exemptions for employees employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in a secondary school), applies to covered employees by virtue of Section 225(f)(1) of the CAA.

(b) The substantive regulations set forth in this part are promulgated under the authority of sections 203(c) and 304 of the CAA, which require that such regulations be the same as the substantive regulations promulgated by the Secretary of Labor except where the Board determines for good cause shown that modifications would be more effective for the implementation of the rights and protections under § 203.

§ C541.1 Executive.

The term *employee employed in a bona fide executive * * * capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the management of an employing office in which he is employed or of a customarily recognized department of subdivision thereof; and

(b) Who customarily and regularly directs the work of two or more other employees therein; and

(c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(d) Who customarily and regularly exercises discretionary powers; and

(e) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours of work in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (d) of this section: *Provided*, That this paragraph shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment; and

(f) Who is compensated for his services on a salary basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities: *Provided*, That an employee who is compensated on a salary basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the management of the employing office in which the employee is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of the work of two or more other employees therein, shall be deemed to meet all the requirements of this section

§ C541.2 Administrative.

The term *employee employed in a bona fide * * * administrative * * * capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of either:

(1) The performance of office or nonmanual work directly related to management policies or general operations of his employer or his employer's customers, or

(2) The performance of functions in the administration of a school system, or educational establishment or institution,or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein; and

(b) Who customarily and regularly exercises discretion and independent judgment; and

(c)(1) Who regularly and directly assists the head of an employing office, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined in the regulations of this subpart), or

(2) Who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge, or

(3) Who executes under only general supervision special assignments and tasks; and

(d) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours worked in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (c) of this section; and

(e)(1) Who is compensated for his services on a salary or fee basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities, or

(2) Who, in the case of academic administrative personnel, is compensated for services as required by paragraph (e)(1) of this section, or on a salary basis which is at least equal to the entrance salary for teachers of in the school system, educational establishment or institution by which employed: *Provided*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance of work described in paragraph (a) of this section, which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all the requirements of this section.

§ C541.3 Professional.

The term *employee employed in a bona fide * * * professional capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the performance of:

(1) Work requiring knowledge of an advance type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or

(2) Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee, or

(3) Teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in school system, educational establishment or institution by which employed, or

(4) Work that requires theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming, and software engineering, and who is employed and engaged in these activities as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer software field; and

(b) Whose work requires the consistent exercise of discretion and judgment in its performance; and

(c) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

(d) Who does not devote more than 20 percent of his hours worked in the workweek to activities which are not an essential part of and necessarily incident to the work described in paragraphs (a) through (c) of this section; and

(e) Who is compensated for services on a salary or fee basis at a rate of not less than $170 per week, exclusive of board, lodging or other facilities: *Provided*, That this paragraph shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof, nor in the case of an employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of medicine or any of its branches, nor in the case of an employee employed and engaged as a teacher as provided in paragraph (a)(3) of this section: *Provided further*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance either of work described in paragraph (a) (1), (3), or (4) of this section, which includes work requiring the consistent exercise of discretion and judgment, or of work requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section: *Provided further*, That the salary or fee requirements of this paragraph shall not apply to an employee engaged in computer-related work within the scope of paragraph (a)(4) of this section and who is compensated on an hourly basis at a rate in excess of 6½ times the minimum wage provided by section 6 of the FLSA as applied by the CAA.

§ C541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.

The FLSA, as amended and as applied by the CAA, includes within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools) under section 13(a)(1) of the FLSA. Thus, for example, where an exempt administrative employee and another employee of the employing office are performing substantially "equal work," the sex discrimination prohibitions of section 6(d) are applicable with respect to any wage differential between those two employees.

§ C541.5d Special provisions applicable to employees of public agencies.

(a) An employee of a public agency who otherwise meets the requirement of being paid on a salary basis shall not be disqualified from exemption under Sec. C541.1, C541.2, or C541.3 on the basis that such employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because—

(1) permission for its use has not been sought or has been sought and denied;

(2) accrued leave has been exhausted; or

(3) the employee chooses to use leave without pay.

(b) Deductions from the pay of an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid "on a salary basis" except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

PART C547—REQUIREMENTS OF A "BONA FIDE THRIFT OR SAVINGS PLAN."

Sec.

C547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

C547.0 Scope and effect of part.

C547.1 Essential requirements of qualifications.

C547.2 Disqualifying provisions.

§ C547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
547.0—Scope and effect of part.	C547.0
547.1—Essential requirements of qualifications.	C547.1
547.2—Disqualifying provisions.	C547.2

§ C547.0 Scope and effect of part.

(a) The regulations in this part set forth the requirements of a "bona fide thrift or savings plan" under section 7(e)(3)(b) of the Fair Labor Standards Act of 1938, as amended (FLSA), as applied by the CAA. In determining the total remuneration for employment which section 7(e) of the FLSA requires to be included in the regular rate at which an employee is employed, it is not necessary to include any sums paid to or on behalf of such employee, in recognition of services performed by him during a given period, which are paid pursuant to a bona fide thrift or savings plan meeting the requirements set forth herein. In the formulation of these regulations due regard has been given to the factors and standards set forth in section 7(e)(3)(b) of the Act.

(b) Where a thrift or savings plan is combined in a single program (whether in one or more documents) with a plan or trust for providing old age, retirement, life, accident or health insurance or similar benefits for employees, contributions made by the employer pursuant to such thrift or savings plan may be excluded from the regular rate if the plan meets the requirements of the regulation in this part and the contributions made for the other purposes may be excluded from the regular rate if they meet the tests set forth in regulations.

§ C547.1 Essential requirements for qualifications.

(a) A "bona fide thrift or savings plan" for the purpose of section 7(e)(3)(b) of the FLSA as applied by the CAA is required to meet all the standards set forth in paragraphs (b) through (f) of this section and must not contain the disqualifying provisions set forth in § 547.2.

(b) The thrift or savings plan constitutes a definite program or arrangement in writing, adopted by the employer or by contract as a result of collective bargaining and communicated or made available to the employees, which is established and maintained, in good faith, for the purpose of encouraging voluntary thrift or savings by employees by providing an incentive to employees to accumulate regularly and retain cash savings for a reasonable period of time or to save through the regular purchase of public or private securities.

(c) The plan specifically shall set forth the category or categories of employees participating and the basis of their eligibility. Eligibility may not be based on such factors as hours of work, production, or efficiency of the employees: *Provided, however*, That hours of work may be used to determine eligibility of part-time or casual employees.

(d) The amount any employee may save under the plan shall be specified in the plan or determined in accordance with a definite formula specified in the plan, which formula may be based on one or more factors such as the straight-time earnings or total earnings, base rate of pay, or length of service of the employee.

(e) The employer's total contribution in any year may not exceed 15 percent of the participating employees' total earnings during that year. In addition, the employer's total contribution in any year may not exceed the total amount saved or invested by the participating employees during that year.

(f) The employer's contributions shall be apportioned among the individual employees in accordance with a definite formula or method of calculation specified in the plan, which formula or method of calculation is based on the amount saved or the length of time the individual employee retains his savings or investment in the plan: *Provided*, That no employee's share determined in accordance with the plan may be diminished because of any other remuneration received by him.

§ C547.2 Disqualifying provisions.

(a) No employee's participation in the plan shall be on other than a voluntary basis.

(b) No employee's wages or salary shall be dependent upon or influenced by the existence of such thrift or savings plan or the employer's contributions thereto.

(c) The amounts any employee may save under the plan, or the amounts paid by the employer under the plan may not be based upon the employee's hours of work, production or efficiency.

PART C553—OVERTIME COMPENSATION: PARTIAL EXEMPTION FOR EMPLOYEES ENGAGED IN LAW ENFORCEMENT AND FIRE PROTECTION; OVERTIME AND COMPENSATORY TIME-OFF FOR EMPLOYEES WHOSE WORK SCHEDULE DIRECTLY DEPENDS UPON THE SCHEDULE OF THE HOUSE

Introduction

Sec.

C553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C553.1 Definitions.
C553.2 Purpose and scope.

Subpart C—Partial Exemption for Employees Engaged in Law Enforcement and Fire Protection

C553.201 Statutory provisions: section 7(k).
C553.202 Limitations.
C553.211 Law enforcement activities.
C553.212 Twenty percent limitation on nonexempt work.
C553.213 Public agency employees engaged in both fire protection and law enforcement activities
C553.214 Trainees.
C553.215 Ambulance and rescue service employees.
C553.216 Other exemptions.
C553.220 "Tour of duty" defined.
C553.221 Compensable hours of work.
C553.222 Sleep time.
C553.223 Meal time.
C553.224 "Work period" defined.
C553.225 Early relief.
C553.226 Training time.
C553.227 Outside employment.
C553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k)
C553.231 Compensatory time off.
C553.232 Overtime pay requirements.
C553.233 "Regular rate" defined.

Subpart D—Compensatory Time-off for Overtime Earned by Employees Whose Work Schedule Directly Depends upon the Schedule of the House and the Senate

C553.301 Definition of "directly depends."
C553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the House.
C553.303 Using compensatory time off.
C553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service.

Introduction

§ C553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
553.1 Definitions	C553.1
553.2 Purpose and scope	C553.2
553.201 Statutory provisions: section 7(k)	C553.201
553.202 Limitations.	C553.202
553.211 Law enforcement activities.	C553.211
553.212 Twenty percent limitation on nonexempt work.	C553.212
553.213 Public agency employees engaged in both fire protection and law enforcement activities.	C553.213
553.214 Trainees.	C553.214
553.215 Ambulance and rescue service employees.	C553.215
553.216 Other exemptions.	C553.216
553.220 "Tour of duty" defined.	C553.220
553.221 Compensable hours of work.	C553.221
553.222 Sleep time.	C553.222
553.223 Meal time.	C553.223
553.224 "Work period" defined.	C553.224
553.225 Early relief.	C553.225
553.226 Training time.	C553.226
553.227 Outside employment.	C553.227
553.230 Maximum hours standards for work periods of 7 to 28 days - section 7(k).	C553.230
553.231 Compensatory time off.	C553.231
553.232 Overtime pay requirements.	C553.232
553.233 "Regular rate" defined.	C553.233

Introduction

§ C553.1 Definitions

(a) Act or FLSA means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201-219), as applied by the CAA.

(b) 1985 Amendments means the Fair Labor Standards Amendments of 1985 (Pub. L. 99-150).

(c) Public agency means an employing office as the term is defined in §—501.102 of this chapter, including the Capitol Police.

(d) Section 7(k) means the provisions of §7(k) of the FLSA as applied to covered employees and employing offices by §203 of the CAA.

§ C553.2 Purpose and scope

The purpose of part C553 is to adopt with appropriate modifications the regulations of the Secretary of Labor to carry out those provisions of the FLSA relating to public agency employees as they are applied to covered employees and employing offices of the CAA. In particular, these regulations apply section 7(k) as it relates to fire protection and law enforcement employees of public agencies.

SUBPART C—PARTIAL EXEMPTION FOR EMPLOYEES ENGAGED IN LAW ENFORCEMENT AND FIRE PROTECTION

§ C553.201 Statutory provisions: section 7(k).

Section 7(k) of the Act provides a partial overtime pay exemption for fire protection and law enforcement personnel (including security personnel in correctional institutions) who are employed by public agencies on a work period basis. This section of the Act formerly permitted public agencies to pay overtime compensation to such employees in work periods of 28 consecutive days only after 216 hours of work. As further set forth in §C553.230 of this part, the 216-hour standard has been replaced pursuant to the study mandated by the statute, by 212 hours for fire protection employees and 171 hours for law enforcement employees. In the case of such employees who have a work period of at least 7 but less than 28 consecutive days, overtime compensation is required when the ratio of the number of hours worked to the number of days in the work period exceeds the ratio of 212 (or 171) hours to 28 days.

§ C553.202 Limitations.

The application of §7(k), by its terms, is limited to public agencies, and does not apply to any private organization engaged in furnishing fire protection or law enforcement services. This is so even if the services are provided under contract with a public agency.

Exemption Requirements

§ C553.211 Law enforcement activities.

(a) As used in §7(k) of the Act, the term "any employee . . . in law enforcement activities" refers to any employee (1) who is a uniformed or plainclothed member of a body of officers and subordinates who are empowered by law to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury, and to prevent and detect crimes, (2) who has the power to arrest, and (3) who is presently undergoing or has undergone or will undergo on-the-job training and/or a course of instruction and study which typically includes physical training, self-defense, firearm proficiency, criminal and civil law principles, investigative and law enforcement techniques, community relations, medical aid and ethics.

(b) Employees who meet these tests are considered to be engaged in law enforcement activities regardless of their rank, or of their status as "trainee," "probationary," or "permanent," and regardless of their assignment to duties incidental to the performance of their law enforcement activities such as equipment maintenance, and lecturing, or to support activities of the type described in paragraph (g) of this section, whether or not such assignment is for training or familiarization purposes, or for reasons of illness, injury or infirmity. The term would also include rescue and ambulance service personnel if such personnel form an integral part of the public agency's law enforcement activities. See Sec. C553.215.

(c) Typically, employees engaged in law enforcement activities include police who are regularly employed and paid as such. Other agency employees with duties not specifically mentioned may, depending upon the particular facts and pertinent statutory provisions in that jurisdiction, meet the three tests described above. If so, they will also qualify as law enforcement officers. Such employees might include, for example, any law enforcement employee within the legislative branch concerned with keeping public peace and order and protecting life and property.

(d) Employees who do not meet each of the three tests described above are not engaged in "law enforcement activities" as that term is used in sections 7(k). Employees who normally would not meet each of these tests include:

(1) Building inspectors (other than those defined in Sec. C553.213(a)),

(2) Health inspectors,

(3) Sanitarians,

(4) civilian traffic employees who direct vehicular and pedestrian traffic at specified intersections or other control points,

(5) Civilian parking checkers who patrol assigned areas for the purpose of discovering parking violations and issuing appropriate warnings or appearance notices,

(6) Wage and hour compliance officers,

(7) Equal employment opportunity compliance officers, and

(8) Building guards whose primary duty is to protect the lives and property of persons within the limited area of the building.

(e) The term "any employee in law enforcement activities" also includes, by express reference, "security personnel in correctional institutions". Typically, such facilities may include precinct house lockups. Employees of correctional institutions who qualify as security personnel for purposes of the section 7(k) exemption are those who have responsibility for controlling and maintaining custody of inmates and of safeguarding them from other inmates or for supervising such functions, regardless of whether their duties are performed inside the correctional institution or outside the institution. These employees are considered to be engaged in law enforcement activities regardless of their rank or of their status as "trainee," "probationary," or "permanent," and regardless of their assignment to duties incidental to the performance of their law enforcement activities, or to support activities of the type described in paragraph (f) of this section, whether or not such assignment is for training or familiarization purposes or for reasons of illness, injury or infirmity.

(f) Not included in the term "employee in law enforcement activities" are the so-called "civilian" employees of law enforcement agencies or correctional institutions who engage in such support activities as those performed by dispatcher, radio operators, apparatus and equipment maintenance and repair workers, janitors, clerks and stenographers. Nor does the term include employees in correctional institutions who engage in building repair and maintenance, culinary services, teaching, or in psychological, medical and paramedical services. This is so even though such employees may, when assigned to correctional institutions, come into regular contact with the inmates in the performance of their duties.

§ C553.212 Twenty percent limitation on nonexempt work.

(a) Employees engaged in fire protection or law enforcement activities as described in Sec. C553.210 and C553.211, may also engage in some nonexempt work which is not performed as an incident to or in conjunction with their fire protection or law enforcement activities. For example, firefighters who work for forest conservation agencies may, during slack times, plant trees and perform other conservation activities unrelated to their firefighting duties. The performance of such nonexempt work will not defeat the §7(k) exemption unless it exceeds 20 percent of the total hours worked by that employee during the workweek or applicable work period. A person who spends more than 20 percent of his/her working time in nonexempt activities is not considered to be an employee engaged in fire protection or law enforcement activities for purposes of this part.

(b) Public agency fire protection and law enforcement personnel may, at their own option, undertake employment for the same employer on an occasional or sporadic and part-time basis in a different capacity from their regular employment. The performance of such work does not affect the application of the §7(k) exemption with respect to the regular employment. In addition, the hours of work in the different capacity need not be counted as hours worked for overtime purposes on the regular job, nor are such hours counted in determining the 20 percent tolerance for nonexempt work discussed in paragraph (a) of this section.

§ C553.213 Public agency employees engaged in both fire protection and law enforcement activities.

(a) Some public agencies have employees (often called "public safety officers") who engage in both fire protection and law enforcement activities, depending on the agency needs at the time. This dual assignment would not defeat the section 7(k) exemption, provided that each of the activities performed meets the appropriate tests set forth in Sec. C553.210 and C553.211. This is so regardless of how the employee's time is divided between the two activities. However, all time spent in nonexempt activities by public safety officers within the work period, whether performed in connection with fire protection or law enforcement functions, or with neither, must be combined for purposes of the 20 percent limitation on nonexempt work discussed in Sec.C553.212.

(b) As specified in Sec.C553.230, the maximum hours standards under section 7(k) are different for employees engaged in fire protection and for employees engaged in law enforcement. For those employees who perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§ C553.214 Trainees.

The attendance at a bona fide fire or police academy or other training facility, when required by the employing agency, constitutes engagement in activities under section 7(k) only when the employee meets all the applicable tests described in Sec. C553.210 or Sec. C553.211 (except for the power of arrest for law enforcement personnel), as the case may be. If the applicable tests are met, then basic training or advanced training is considered incidental to, and part of, the employee's fire protection or law enforcement activities.

§ C553.215 Ambulance and rescue service employees.

Ambulance and rescue service employees of a public agency other than a fire protection or law enforcement agency may be treated as employees engaged in fire protection or law enforcement activities of the type contemplated by §7(k) if their services are substantially related to firefighting or law enforcement activities in that (1) the ambulance and rescue service employees have received training in the rescue of fire, crime, and accident victims or firefighters or law enforcement personnel injured in the performance of their respective duties, and (2) the ambulance and rescue service employees are regularly dispatched to fires, crime scenes, riots, natural disasters and accidents. As provided in Sec. C553.213(b), where employees perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§ C553.216 Other exemptions.

Although the 1974 Amendments to the FLSA as applied by the CAA provide special exemptions for employees of public agencies engaged in fire protection and law enforcement activities, such workers may also be subject to other exemptions in the Act, and public agencies may claim such other applicable exemptions in lieu of §7(k). For example, section 13(a)(1) as applied by the CAA provides a complete minimum wage and overtime pay exemption for any employee employed in a bona fide executive, administrative, or professional capacity, as those terms are defined and delimited in Part C541. The section 13(a)(1) exemption can be claimed for any fire protection or law enforcement employee who meets all of the tests specified in part C541 relating to duties, responsibilities, and salary. Thus, high ranking police officials who are engaged in law enforcement activities, may also, depending on the facts, qualify for the section 13(a)(1) exemption as "executive" employees. Similarly, certain criminal investigative agents may qualify as "administrative" employees under section 13(a)(1).

Tour of Duty and Compensable Hours of Work Rules

§ C553.220 "Tour of duty" defined.

(a) The term "tour of duty" is a unique concept applicable only to employees for whom the section 7(k) exemption is claimed. This term, as used in section 7(k), means the period of time during which an employee is considered to be on duty for purposes of determining compensable hours. It may be a scheduled or unscheduled period. Such periods include 'shifts' assigned to employees often days in advance of the performance of the work. Scheduled periods also include time spent in work outside the "shift" which the public agency employer assigns. For example, a police officer may be assigned to crowd control during a parade or other special event outside of his or her shift.

(b) Unscheduled periods include time spent in court by police officers, time spent handling emergency situations, and time spent working after a shift to complete an assignment. Such time must be included in the compensable tour of duty even though the specific work performed may not have been assigned in advance. (c) The tour of duty does not include time spent working for a separate and independent employer in certain types of special details as provided in Sec. C553.227.

§ C553.221 Compensable hours of work.

(a) The rules under the FLSA as applied by the CAA on compensable hours of work are applicable to employees for whom the section 7(k) exemption is claimed. Special rules for sleep time (Sec. C553.222) apply to both law enforcement and firefighting employees for whom the section 7(k) exemption is claimed. Also, special rules for meal time apply in the case of firefighters (Sec. C553.223).

(b) Compensable hours of work generally include all of the time during which an employee is on duty on the employer's premises or at a prescribed workplace, as well as all other time during which the employee is suffered or permitted to work for the employer. Such time includes all pre-shift and post-shift activities which are an integral part of the employee's principal activity or which are closely related to the performance of the principal activity, such as attending roll call, writing up and completing tickets or reports, and washing and re-racking fire hoses.

(c) Time spent away from the employer's premises under conditions that are so circumscribed that they restrict the employee from effectively using the time for personal pursuits also constitutes compensable hours of work. For example, where a police station must be evacuated because of an electrical failure and the employees are expected to remain in the vicinity and return to work after the emergency has passed, the entire time spent away from the premises is compensable. The employees in this example cannot use the time for their personal pursuits.

(d) An employee who is not required to remain on the employer's premises but is merely required to leave word at home or with company officials where he or she may be reached is not working while on call. Time spent at home on call may or may not be compensable depending on whether the restrictions placed on the employee preclude using the time for personal pursuits. Where, for example, a firefighter has returned home after the shift, with the understanding that he or she is expected to return to work in the event of an emergency in the night, such time spent at home is normally not compensable. On the other hand, where the conditions placed on the employee's activities are so restrictive that the employee cannot use the time effectively for personal pursuits, such time spent on call is compensable.

(e) Normal home to work travel is not compensable, even where the employee is expected to report to work at a location away from the location of the employer's premises.

(f) A police officer, who has completed his or her tour of duty and who is given a patrol car to drive home and use on personal business, is not working during the travel time even where the radio must be left on so that the officer can respond to emergency calls. Of course, the time spent in responding to such calls is compensable.

§ C553.222 Sleep time.

(a) Where a public agency elects to pay overtime compensation to firefighters and/or law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude sleep time from hours worked if all the conditions for the exclusion of such time are met.

(b) Where the employer has elected to use the section 7(k) exemption, sleep time cannot be excluded from the compensable hours of work where

(1) The employee is on a tour of duty of less than 24 hours, and

(2) Where the employee is on a tour of duty of exactly 24 hours.

(c) Sleep time can be excluded from compensable hours of work, however, in the case of police officers or firefighters who are on a tour of duty of more than 24 hours, but only if there is an expressed or implied agreement between the employer and the employees to exclude such time. In the absence of such an agreement, the sleep time is compensable. In no event shall the time excluded as sleep time exceed 8 hours in a 24-hour period. If the sleep time is interrupted by a call to duty, the interruption must be counted as hours worked. If the sleep period is interrupted to such an extent that the employee cannot get a reasonable night's sleep (which, for enforcement purposes means at least 5 hours), the entire time must be counted as hours of work.

§ C553.223 Meal time.

(a) If a public agency elects to pay overtime compensation to firefighters and law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude meal time from hours worked if all the statutory tests for the exclusion of such time are met.

(b) If a public agency elects to use the section 7(k) exemption, the public agency may, in the case of law enforcement personnel, exclude meal time from hours worked on tours of duty of 24 hours or less, provided that the employee is completely relieved from duty during the meal period, and all the other statutory tests for the exclusion of such time are met. On the other hand, where law enforcement personnel are required to remain on call in barracks or similar quarters, or are engaged in extended surveillance activities (e.g., stakeouts'), they are not considered to be completely relieved from duty, and any such meal periods would be compensable.

(c) With respect to firefighters employed under section 7(k), who are confined to a duty station, the legislative history of the Act indicates Congressional intent to mandate a departure from the usual FLSA 'hours of work' rules and adoption of an overtime standard keyed to the unique concept of 'tour of duty' under which firefighters are employed. Where the public agency elects to use the section 7(k) exemption for firefighters, meal time cannot be excluded from the compensable hours of work where (1) the firefighter is on a tour of duty of less than 24 hours, and (2) where the firefighter is on a tour of duty of exactly 24 hours.

(d) In the case of police officers or firefighters who are on a tour of duty of more than 24 hours, meal time may be excluded from compensable hours of work provided that the statutory tests for exclusion of such hours are met.

§ C553.224 "Work period" defined.

(a) As used in section 7(k), the term 'work period' refers to any established and regularly recurring period of work which, under the terms of the Act and legislative history, cannot be less than 7 consecutive days nor more than 28 consecutive days. Except for this limitation, the work period can be of any length, and it need not coincide with the duty cycle or pay period or with a particular day of the week or hour of the day. Once the beginning and ending time of an employee's work period is established, however, it remains fixed regardless of how many hours are worked within the period. The beginning and ending of the work period may be changed, provided that the change is intended to be permanent and is not designed to evade the overtime compensation requirements of the Act.

(b) An employer may have one work period applicable to all employees, or different work periods for different employees or groups of employees.

§ C553.225 Early relief.

It is a common practice among employees engaged in fire protection activities to relieve employees on the previous shift prior to the scheduled starting time. Such early relief time may occur pursuant to employee agreement, either expressed or implied. This practice will not have the effect of increasing the number of compensable hours of work for employees employed under section 7(k) where it is voluntary on the part of the employees and does not result, over a period of time, in their failure to receive proper compensation for all hours actually worked. On the other hand, if the practice is required by the employer, the time involved must be added to the employee's tour of duty and treated as compensable hours of work.

§ C553.226 Training time.

(a) The general rules for determining the compensability of training time under the FLSA apply to employees engaged in law enforcement or fire protection activities.

(b) While time spent in attending training required by an employer is normally considered compensable hours of work, following are situations where time spent by employees in required training is considered to be noncompensable:

(1) Attendance outside of regular working hours at specialized or follow-up training, which is required by law for certification of public and private sector employees within a particular governmental jurisdiction (e.g., certification of public and private emergency rescue workers), does not constitute compensable hours of work for public employees within that jurisdiction and subordinate jurisdictions.

(2) Attendance outside of regular working hours at specialized or follow-up training, which is required for certification of employees of a governmental jurisdiction by law of a higher level of government, does not constitute compensable hours of work.

(3) Time spent in the training described in paragraphs (b) (1) or (2) of this section is not compensable, even if all or part of the costs of the training is borne by the employer.

(c) Police officers or firefighters, who are in attendance at a police or fire academy or other training facility, are not considered to be on duty during those times when they are not in class or at a training session, if they are free to use such time for personal pursuits. Such free time is not compensable.

§ C553.227 Outside employment.

(a) Section 7(p)(1) makes special provision for fire protection and law enforcement employees of public agencies who, at their own option, perform special duty work in fire protection, law enforcement or related activities for a separate and independent employer (public or private) during their off-duty hours. The hours of work for the separate and independent employer are not combined with the hours worked for the primary public agency employer for purposes of overtime compensation.

(b) Section 7(p)(1) applies to such outside employment provided (1) the special detail work is performed solely at the employee's option, and (2) the two employers are in fact separate and independent.

(c) Whether two employers are, in fact, separate and independent can only be determined on a case-by-case basis.

(d) The primary employer may facilitate the employment or affect the conditions of employment of such employees. For example, a police department may maintain a roster of officers who wish to perform such work. The department may also select the officers for special details from a list of those wishing to participate, negotiate their pay, and retain a fee for administrative expenses. The department may require that the separate and independent employer pay the fee for such services directly to the department, and establish procedures for the officers to receive their pay for the special details through the agency's payroll system. Finally, the department may require that the officers observe their normal standards of conduct during such details and take disciplinary action against those who fail to do so.

(e) Section 7(p)(1) applies to special details even where a State law or local ordinance requires that such work be performed and that only law enforcement or fire protection employees of a public agency in the same jurisdiction perform the work. For example, a city ordinance may require the presence of city police officers at a convention center during concerts or sports events. If the officers perform such work at their own option, the hours of work need not be combined with the hours of work for their primary employer in computing overtime compensation.

(f) The principles in paragraphs (d) and (e) of this section with respect to special details of public agency fire protection and law enforcement employees under section 7(p)(1) are exceptions to the usual rules on joint employment set forth in part 791 of this title.

(g) Where an employee is directed by the public agency to perform work for a second employer, section 7(p)(1) does not apply. Thus, assignments of police officers outside of their normal work hours to perform crowd control at a parade, where the assignments are not solely at the option of the officers, would not qualify as special details subject to this exception. This would be true even if the parade organizers reimburse the public agency for providing such services.

(h) Section 7(p)(1) does not prevent a public agency from prohibiting or restricting outside employment by its employees.

Overtime Compensation Rules

§ C553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k).

(a) For those employees engaged in fire protection activities who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 212 as the number of days in the work period bears to 28.

(b) For those employees engaged in law enforcement activities (including security personnel in correctional institutions) who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 171 as the number of days in the work period bears to 28.

(c) The ratio of 212 hours to 28 days for employees engaged in fire protection activities is 7.57 hours per day (rounded) and the ratio of 171 hours to 28 days for employees engaged in law enforcement activities is 6.11 hours per day (rounded). Accordingly, overtime compensation (in premium pay or compensatory time) is required for all hours worked in excess of the following maximum hours standards (rounded to the nearest whole hour):

Maximum hours standards	Work period (days)	
	Fire protection	Law enforcement
28	212	171
27	204	165
26	197	159
25	189	153
24	182	147
23	174	141
22	167	134
21	159	128
20	151	122
19	144	116
18	136	110
17	129	104
16	121	98
15	114	92
14	106	86
13	98	79
12	91	73
11	83	67
10	76	61
9	68	55
8	61	49
7	53	43

§ C553.231 Compensatory time off.

(a) Law enforcement and fire protection employees who are subject to the section 7(k) exemption may receive compensatory time off in lieu of overtime pay for hours worked in excess of the maximum for their work period as set forth in Sec. C553.230.

(b) Section 7(k) permits public agencies to balance the hours of work over an entire work period for law enforcement and fire protection employees. For example, if a firefighter's work period is 28 consecutive days, and he or she works 80 hours in each of the first two weeks, but only 52 hours in the third week, and does not work in the fourth week, no overtime compensation (in cash wages or compensatory time) would be required since the total hours worked do not exceed 212 for the work period. If the same firefighter had a work period of only 14 days, overtime compensation or compensatory time off would be due for 54 hours (160 minus 106 hours) in the first 14 day work period.

§ C553.232 Overtime pay requirements.

If a public agency pays employees subject to section 7(k) for overtime hours worked in cash wages rather than compensatory time off, such wages must be paid at one and one-half times the employees' regular rate of pay.

§ C553.233 'Regular rate' defined.

The statutory rules for computing an employees' 'regular rate', for purposes of the Act's overtime pay requirements are applicable to employees or whom the section 7(k) exemption is claimed when overtime compensation is provided in cash wages.

SUBPART D—COMPENSATORY TIME-OFF FOR OVERTIME EARNED BY EMPLOYEES WHOSE WORK SCHEDULE DIRECTLY DEPENDS UPON THE SCHEDULE OF THE HOUSE AND THE SENATE

§ C553.301 Definition of "directly depends".

For the purposes of this Part, a covered employees' work schedule "directly depends" on the schedule of the House of Representatives and the Senate only if the eligible employee performs work that directly supports the conduct of legislative or other business in the chamber and works hours that regularly change in response to the schedule of the House and the Senate.

§ C553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the House and Senate.

No employing office shall be deemed to have violated section 203(a)(1) of the CAA, which applies the protections of section 7(a) of the Fair Labor Standards Act ("FLSA") to covered employees and employing office, by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under section 7(a) of the FLSA where the employees' work schedule directly depends on the schedule of the House of Representatives or the Senate within the meaning of § C553.301, and: (a) the employee is compensated at the rate of time-and-a-half in pay for all hours in excess of 40 and up to 60 hours in a workweek, and (b) the employee is compensated at the rate of time-and-a-half in either pay or in time off for all hours in excess of 60 hours in a workweek.

§ C553.303 Using compensatory time off.

An employee who has accrued compensatory time off under § C553.302 upon his or her request, shall be permitted by the employing office to use such time within a reasonable period after making the request, unless the employing office makes a bona fide determination that the needs of the operations of the office do not allow the taking of compensatory time off at the time of the request. An employee may renew the request at a subsequent time. An employing office may also, upon reasonable notice, require an employee to use accrued compensatory time-off.

§ C553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service.

An employee who has accrued compensatory time authorized by this regulation shall, upon termination of employment, be paid for the unused compensatory time at the rate earned by the employee at the time the employee receives such payment.

PART C570—CHILD LABOR REGULATIONS

Subpart A—General

Sec.
C570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C570.1 Definitions.
C570.2 Minimum age standards.

Subpart C—Employment of Minors Between 14 and 16 Years of Age (Child Labor Reg. 3)

C570.31 Determination.
C570.32 Effect of this subpart.
C570.33 Occupations.
C570.35 Periods and conditions of employment.

Subpart E—Occupations Particularly Hazardous for the Employment of Minors Between 16 and 18 Years of Age or Detrimental to Their Health or Well-Being

C570.50 General.
C570.51 Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components (Order 1).
C570.52 Occupations of motor-vehicle driver and outside helper (Order 2).
C570.55 Occupations involved in the operation of power-driven woodworking machines (Order 5).
C570.58 Occupations involved in the operation of power-driven hoisting apparatus (Order 7).
C570.59 Occupations involved in the operations of power-driven metal forming, punching, and shearing machines (Order 8).
C570.62 Occupations involved in the operation of bakery machines (Order 11).
C570.63 Occupations involved in the operation of paper-products machines (Order 12).
C570.65 Occupations involved in the operations of circular saws, band saws, and guillotine shears (Order 14).
C570.66 Occupations involved in wrecking and demolition operations (Order 15).
C570.67 Occupations in roofing operations (Order 16).
C570.68 Occupations in excavation operations (Order 17).

SUBPART A—GENERAL

§ C570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance Regulations under Section 202 of the CAA:

Secretary of Labor Regulations	OC Regulations
570.1—Definitions	C570.1
570.2—Minimum age standards	C570.2
570.31—Determinations	C570.31
570.32—Effect of this subpart	C570.32
570.33— Occupations	C570.33
570.35—Periods and conditions of employment	C570.35
570.50—General	C570.50
570.51—Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components (Order 1).	C570.51

Secretary of Labor Regulations	OC Regulations
570.52—Occupations of motor-vehicle driver and outside helper (Order 2).	C570.52
570.55—Occupations involved in the operation of power-driven woodworking machines (Order 5).	C570.55
570.58—Occupations involved in the operation of power-driven hoisting apparatus (Order 7).	C570.58
570.59—Occupations involved in the operations of power-driven metal forming, punching, and shearing machines (Order 8).	C570.59
570.62—Occupations involved in the operation of bakery machines (Order 11).	C570.62
570.63—Occupations involved in the operation of paper-products machines (Order 12).	C570.63
570.65—Occupations involved in the operations of circular saws, band saws, and guillotine shears (Order 14).	C570.65
570.66—Occupations involved in wrecking and demolition operations (Order 15).	C570.66
570.67—Occupations in roofing operations (Order 16)	C570.67
570.68—Occupations in excavation operations (Order 17)	C570.68

§C570.1 Definitions.

As used in this part:

(a) *Act* means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201–219).

(b) *Oppressive child labor* means employment of a minor in an occupation for which he does not meet the minimum age standards of the Act, as set forth in Sec. 570.2 of this subpart.

(c) *Oppressive child labor age* means an age below the minimum age established under the Act for the occupation in which a minor is employed or in which his employment is contemplated.

(d) [Reserved]

(e) [Reserved]

(f) *Secretary* or *Secretary of Labor* means the Secretary of Labor, United States Department of Labor, or his authorized representative.

(g) *Wage and Hour Division* means the Wage and Hour Division, Employment Standards Administration, United States Department of Labor.

(h) *Administrator* means the Administrator of the Wage and Hour Division or his authorized representative.

§C570.2 Minimum age standards.

(a) All occupations except in agriculture. (1) The Act, in section 3(l), sets a general 16-year minimum age which applies to all employment subject to its child labor provisions in any occupation other than in agriculture, with the following exceptions:

(i) The Act authorizes the Secretary of Labor to provide by regulation or by order that the employment of employees between the ages of 14 and 16 years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor, if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being (see subpart C of this part); and

(ii) The Act sets an 18-year minimum age with respect to employment in any occupation found and declared by the Secretary of Labor to be particularly hazardous for the employment of minors of such age or detrimental to their health or well-being.

(2) The Act exempts from its minimum age requirements the employment by a parent of his own child, or by a person standing in place of a parent of a child in his custody, except in occupations to which the 18-year age minimum applies and in manufacturing and mining occupations.

SUBPART B [RESERVED]

SUBPART C—EMPLOYMENT OF MINORS BETWEEN 14 AND 16 YEARS OF AGE (CHILD LABOR REG. 3)

§C570.31 Determination.

The employment of minors between 14 and 16 years of age in the occupations, for the periods, and under the conditions hereafter specified does not interfere with their schooling or with their health and well-being and shall not be deemed to be oppressive child labor.

§C570.32 Effect of this subpart.

In all occupations covered by this subpart the employment (including suffering or permitting to work) by an employer of minor employees between 14 and 16 years of age for the periods and under the conditions specified in § 570.35 shall not be deemed to be oppressive child labor within the meaning of the Fair Labor Standards Act of 1938.

§C570.33 Occupations.

This subpart shall apply to all occupations other than the following:

(a) Manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed;

(b) Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines;

(c) The operation of motor vehicles or service as helpers on such vehicles;

(d) Public messenger service;

(e) Occupations which the Secretary of Labor may, pursuant to section 3(l) of the Fair Labor Standards Act and Reorganization Plan No. 2, issued pursuant to the Reorganization Act of 1945, find and declare to be hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being;

(f) Occupations in connection with:

(1) Transportation of persons or property by rail, highway, air, water, pipeline, or other means;

(2) Warehousing and storage;

(3) Communications and public utilities;

(4) Construction (including demolition and repair); except such office (including ticket office) work, or sales work, in connection with paragraphs (f)(1), (2), (3), and (4) of this section, as does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations.

§C570.35 Periods and conditions of employment.

(a) Except as provided in paragraph (b) of this section, employment in any of the occupations to which this subpart is applicable shall be confined to the following periods:

(1) Outside school hours;

(2) Not more than 40 hours in any 1 week when school is not in session;

(3) Not more than 18 hours in any 1 week when school is in session;

(4) Not more than 8 hours in any 1 day when school is not in session;

(5) Not more than 3 hours in any 1 day when school is in session;

(6) Between 7 a.m. and 7 p.m. in any 1 day, except during the summer (June 1 through Labor Day) when the evening hour will be 9 p.m.

SUBPART D [RESERVED]

SUBPART E—OCCUPATIONS PARTICULARLY HAZARDOUS FOR THE EMPLOYMENT OF MINORS BETWEEN 16 AND 18 YEARS OF AGE OR DETRIMENTAL TO THEIR HEALTH OR WELL-BEING

§C570.50 General.

(a) Higher standards. Nothing in this subpart shall authorize non-compliance with any Federal law or regulation establishing a higher standard. If more than one standard within this subpart applies to a single activity the higher standard shall be applicable.

(b) Apprentices. Some sections in this subpart contain an exemption for the employment of apprentices. Such an exemption shall apply only when: (1) The apprentice is employed in a craft recognized as an apprenticeable trade; (2) the work of the apprentice in the occupations declared particularly hazardous is incidental to his training; (3) such work is intermittent and for short periods of time and is under the direct and close supervision of a journeyman as a necessary part of such apprentice training; and (4) the apprentice is registered by the Executive Director of the Office of Compliance as employed in accordance with the standards established by the Bureau of Apprenticeship and Training of the United States Department of Labor.

(c) Student-learners. Some sections in this subpart contain an exemption for the employment of student-learners. Such an exemption shall apply when:

(1) The student-learner is enrolled in a course of study and training in a cooperative vocational training program under a recognized State or local educational authority or in a course of study in a substantially similar program conducted by a private school and;

(2) Such student-learner is employed under a written agreement which provides:

(i) That the work of the student-learner in the occupations declared particularly hazardous shall be incidental to his training;

(ii) That such work shall be intermittent and for short periods of time, and under the direct and close supervision of a qualified and experienced person;

(iii) That safety instructions shall be given by the school and correlated by the employer with on-the-job training; and

(iv) That a schedule of organized and progressive work processes to be performed on the job shall have been prepared. Each such written agreement shall contain the name of student-learner, and shall be signed by the employer and the school coordinator or principal. Copies of each agreement shall be kept on file by both the school and the employer. This exemption for the employment of student-learners may be revoked in any individual situation where it is found that reasonable precautions have not been observed for the safety of minors employed thereunder. A high school graduate may be employed in an occupation in which he has completed training as provided in this paragraph as a student-learner, even though he is not yet 18 years of age.

§C570.51 Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components (Order 1).

(a) Finding and declaration of fact. The following occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components are particularly hazardous for minors between 16 and 18 years of age or detrimental to their health or well-being:

(1) All occupations in or about any plant or establishment (other than retail establishments or plants or establishments of the type described in paragraph (a)(2) of this section) manufacturing or storing explosives or articles containing explosive components except where the occupation is performed in a 'nonexplosives area' as defined in paragraph (b)(3) of this section.

(2) The following occupations in or about any plant or establishment manufacturing or storing small-arms ammunition not exceeding .60 caliber in size, shotgun shells, or blasting caps when manufactured or stored

in conjunction with the manufacture of small-arms ammunition:

(i) All occupations involved in the manufacturing, mixing, transporting, or handling of explosive compounds in the manufacture of small-arms ammunition and all other occupations requiring the performance of any duties in the explosives area in which explosive compounds are manufactured or mixed.

(ii) All occupations involved in the manufacturing, transporting, or handling of primers and all other occupations requiring the performance of any duties in the same building in which primers are manufactured.

(iii) All occupations involved in the priming of cartridges and all other occupations requiring the performance of any duties in the same workroom in which rim-fire cartridges are primed.

(iv) All occupations involved in the plate loading of cartridges and in the operation of automatic loading machines.

(v) All occupations involved in the loading, inspecting, packing, shipping and storage of blasting caps.

(b) Definitions. For the purpose of this section:

(1) The term *plant or establishment manufacturing or storing explosives or articles containing explosive component* means the land with all the buildings and other structures thereon used in connection with the manufacturing or processing or storing of explosives or articles containing explosive components.

(2) The terms *explosives* and *articles containing explosive components* mean and include ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder, and all goods classified and defined as explosives by the Interstate Commerce Commission in regulations for the transportation of explosives and other dangerous substances by common carriers (49 CFR parts 71 to 78) issued pursuant to the Act of June 25, 1948 (62 Stat. 739; 18 U.S.C. 835).

(3) An area meeting all of the criteria in paragraphs (b)(3) (i) through (iv) of this section shall be deemed a "nonexplosives area":

(i) None of the work performed in the area involves the handling or use of explosives;

(ii) The area is separated from the explosives area by a distance not less than that prescribed in the American Table of Distances for the protection of inhabited buildings;

(iii) The area is separated from the explosives area by a fence or is otherwise located so that it constitutes a definite designated area; and

(iv) Satisfactory controls have been established to prevent employees under 18 years of age within the area from entering any area in or about the plant which does not meet criteria of paragraphs (b)(3) (i) through (iii) of this section.

§C570.52 Occupations of motor-vehicle driver and outside helper (Order 2).

(a) Findings and declaration of fact. Except as provided in paragraph (b) of this section, the occupations of motor-vehicle driver and outside helper on any public road, highway, in or about any mine (including open pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation of the type identified in §C570.68(a) are particularly hazardous for the employment of minors between 16 and 18 years of age.

(b) Exemption—Incidental and occasional driving. The findings and declaration in paragraph (a) of this section shall not apply to the operation of automobiles or trucks not exceeding 6,000 pounds gross vehicle weight if such driving is restricted to daylight hours; *provided*, such operation is only occasional and incidental to the minor's employment; that the minor holds a State license valid for the type of driving involved in the job performed and has completed a State approved driver education course; and *provided further*, that the vehicle is equipped with a seat belt or similar restraining device for the driver and for each helper, and the employer has instructed each minor that such belts or other devices must be used. This paragraph shall not be applicable to any occupation of motor-vehicle driver which involves the towing of vehicles.

(c) Definitions. For the purpose of this section:

(1) The term *motor vehicle* shall mean any automobile, truck, truck-tractor, trailer, semitrailer, motorcycle, or similar vehicle propelled or drawn by mechanical power and designed for use as a means of transportation but shall not include any vehicle operated exclusively on rails.

(2) The term *driver* shall mean any individual who, in the course of employment, drives a motor vehicle at any time.

(3) The term *outside helper* shall mean any individual, other than a driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivering goods.

(4) The term *gross vehicle weight* includes the truck chassis with lubricants, water and a full tank or tanks of fuel, plus the weight of the cab or driver's compartment, body and special chassis and body equipment, and payload.

§C570.55 Occupations involved in the operation of power-driven woodworking machines (Order 5).

(a) Finding and declaration of fact. The following occupations involved in the operation of power-driven wood-working machines are particularly hazardous for minors between 16 and 18 years of age:

(1) The occupation of operating power-driven woodworking machines, including supervising or controlling the operation of such machines, feeding material into such machines, and helping the operator to feed material into such machines but not including the placing of material on a moving chain or in a hopper or slide for automatic feeding.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning power-driven woodworking machines.

(3) The occupations of off-bearing from circular saws and from guillotine-action veneer clippers.

(b) Definitions. As used in this section:

(1) The term *power-driven woodworking machines* shall mean all fixed or portable machines or tools driven by power and used or designed for cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening, or otherwise assembling, pressing, or printing wood or veneer.

(2) The term *off-bearing* shall mean the removal of material or refuse directly from a saw table or from the point of operation. Operations not considered as off-bearing within the intent of this section include: (i) The removal of material or refuse from a circular saw or guillotine-action veneer clipper where the material or refuse has been conveyed away from the saw table or point of operation by a gravity chute or by some mechanical means such as a moving belt or expulsion roller, and (ii) the following operations when they do not involve the removal of material or refuse directly from a saw table or from the point of operation: The carrying, moving, or transporting of materials from one machine to another or from one part of a plant to another; the piling, stacking, or arranging of materials for feeding into a machine by another person; and the sorting, tying, bundling, or loading of materials.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in Sec. 570.50 (b) and (c).

§C570.58 Occupations involved in the operation of power-driven hoisting apparatus (Order 7).

(a) Finding and declaration of fact. The following occupations involved in the operation of power-driven hoisting apparatus are particularly hazardous for minors between 16 and 18 years of age:

(1) Work of operating an elevator, crane, derrick, hoist, or high-lift truck, except operating an unattended automatic operation passenger elevator or an electric or air-operated hoist not exceeding one ton capacity.

(2) Work which involves riding on a manlift or on a freight elevator, except a freight elevator operated by an assigned operator.

(3) Work of assisting in the operation of a crane, derrick, or hoist performed by crane hookers, crane chasers, hookers-on, riggers, rigger helpers, and like occupations.

(b) Definitions. As used in this section:

(1) The term *elevator* shall mean any power-driven hoisting or lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. The term shall include both passenger and freight elevators (including portable elevators or tiering machines), but shall not include dumbwaiters.

(2) The term *crane* shall mean a power-driven machine for lifting and lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. The term shall include all types of cranes, such as cantilever gantry, crawler, gantry, hammerhead, ingot-pouring, jib, locomotive, motor-truck, overhead traveling, pillar jib, pintle, portal, semi-gantry, semi-portal, storage bridge, tower, walking jib, and wall cranes.

(3) The term *derrick* shall mean a power-driven apparatus consisting of a mast or equivalent members held at the top by guys or braces, with or without a boom, for use with an hoisting mechanism or operating ropes. The term shall include all types of derricks, such as A-frame, breast, Chicago boom, gin-pole, guy and stiff-leg derrick.

(4) The term *hoist* shall mean a power-driven apparatus for raising or lowering a load by the application of a pulling force that does not include a car or platform running in guides. The term shall include all types of hoists, such as base mounted electric, clevis suspension, hook suspension, monorail, overhead electric, simple drum and trolley suspension hoists.

(5) The term *high-lift* truck shall mean a power-driven industrial type of truck used for lateral transportation that is equipped with a power-operated lifting device usually in the form of a fork or platform capable of tiering loaded pallets or skids one above the other. Instead of a fork or platform, the lifting device may consist of a ram, scoop, shovel, crane, revolving fork, or other attachments for handling specific loads. The term shall mean and include highlift trucks known under such names as fork lifts, fork trucks, fork-lift trucks, tiering trucks, or stacking trucks, but shall not mean low-lift trucks or low-lift platform trucks that are designed for the transportation of but not the tiering of material.

(6) The term *manlift* shall mean a device intended for the conveyance of persons which

consists of platforms or brackets mounted on, or attached to, an endless belt, cable, chain or similar method of suspension; such belt, cable or chain operating in a substantially vertical direction and being supported by and driven through pulleys, sheaves or sprockets at the top and bottom.

(c) Exception. (1) This section shall not prohibit the operation of an automatic elevator and an automatic signal operation elevator provided that the exposed portion of the car interior (exclusive of vents and other necessary small openings), the car door, and the hoistway doors are constructed of solid surfaces without any opening through which a part of the body may extend; all hoistway openings at floor level have doors which are interlocked with the car door so as to prevent the car from starting until all such doors are closed and locked; the elevator (other than hydraulic elevators) is equipped with a device which will stop and hold the car in case of overspeed or if the cable slackens or breaks; and the elevator is equipped with upper and lower travel limit devices which will normally bring the car to rest at either terminal and a final limit switch which will prevent the movement in either direction and will open in case of excessive over travel by the car.

(2) For the purpose of this exception the term *automatic elevator* shall mean a passenger elevator, a freight elevator, or a combination passenger-freight elevator, the operation of which is controlled by pushbuttons in such a manner that the starting, going to the landing selected, leveling and holding, and the opening and closing of the car and hoistway doors are entirely automatic.

(3) For the purpose of this exception, the term *automatic signal operation elevator* shall mean an elevator which is started in response to the operation of a switch (such as a lever or pushbutton) in the car which when operated by the operator actuates a starting device that automatically closes the car and hoistway doors—from this point on, the movement of the car to the landing selected, leveling and holding when it gets there, and the opening of the car and hoistway doors are entirely automatic.

§ C570.59 Occupations involved in the operations of power-driven metal forming, punching, and shearing machines (Order 8).

(a) Finding and declaration of fact. The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operator of or helper on the following power-driven metal forming, punching, and shearing machines:

(i) All rolling machines, such as beading, straightening, corrugating, flanging, or bending rolls; and hot or cold rolling mills.

(ii) All pressing or punching machines, such as punch presses except those provided with full automatic feed and ejection and with a fixed barrier guard to prevent the hands or fingers of the operator from entering the area between the dies; power presses; and plate punches.

(iii) All bending machines, such as apron brakes and press brakes.

(iv) All hammering machines, such as drop hammers and power hammers.

(v) All shearing machines, such as guillotine or squaring shears; alligator shears; and rotary shears.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning these machines including those with automatic feed and ejection.

(b) Definitions. (1) The term *operator* shall mean a person who operates a machine covered by this section by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.

(2) The term *helper* shall mean a person who assists in the operation of a machine covered by this section by helping place materials into or remove them from the machine.

(3) The term *forming, punching, and shearing machines* shall mean power-driven metal-working machines, other than machine tools, which change the shape of or cut metal by means of tools, such as dies, rolls, or knives which are mounted on rams, plungers, or other moving parts. Types of forming, punching, and shearing machines enumerated in this section are the machines to which the designation is by custom applied.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in Sec. 570.50 (b) and (c).

§ C570.62 Occupations involved in the operation of bakery machines (Order 11).

(a) Finding and declaration of fact. The following occupations involved in the operation of power-driven bakery machines are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operating, assisting to operate, or setting up, adjusting, repairing, oiling, or cleaning any horizontal or vertical dough mixer; batter mixer; bread dividing, rounding, or molding machine; dough brake; dough sheeter; combination bread slicing and wrapping machine; or cake cutting band saw.

(2) The occupation of setting up or adjusting a cooky or cracker machine.

§ C570.63 Occupations involved in the operation of paper-products machines (Order 12).

(a) Findings and declaration of fact. The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operation or assisting to operate any of the following power-driven paper products machines:

(i) Arm-type wire stitcher or stapler, circular or band saw, corner cutter or mitering machine, corrugating and single-or-double-facing machine, envelope die-cutting press, guillotine paper cutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, scrap-paper baler, or vertical slotter.

(ii) Platen die-cutting press, platen printing press, or punch press which involves hand feeding of the machine.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning these machines including those which do not involve hand feeding.

(b) Definitions. (1) The term *operating or assisting to operate* shall mean all work which involves starting or stopping a machine covered by this section, placing or removing materials into or from the machine, or any other work directly involved in operating the machine. The term does not include the stacking of materials by an employee in an area nearby or adjacent to the machine where such employee does not place the materials into the machine.

(2) The term *paper products* machine shall mean all power-driven machines used in:

(i) The remanufacture or conversion of paper or pulp into a finished product, including the preparation of such materials for recycling; or

(ii) The preparation of such materials for disposal. The term applies to such machines whether they are used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or nonmanufacturing establishment.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in § 570.50 (b) and (c).

§ C570.65 Occupations involved in the operations of circular saws, band saws, and guillotine shears (Order 14).

(a) Findings and declaration of fact. The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operator of or helper on the following power-driven fixed or portable machines except machines equipped with full automatic feed and ejection:

(i) Circular saws.

(ii) Band saws.

(iii) Guillotine shears.

(2) The occupations of setting-up, adjusting, repairing, oiling, or cleaning circular saws, band saws, and guillotine shears.

(b) Definitions. (1) The term *operator* shall mean a person who operates a machine covered by this section by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.

(2) The term *helper* shall mean a person who assists in the operation of a machine covered by this section by helping place materials into or remove them from the machine.

(3) The term *machines equipped with full automatic feed and ejection* shall mean machines covered by this Order which are equipped with devices for full automatic feeding and ejection and with a fixed barrier guard to prevent completely the operator or helper from placing any part of his body in the point-of-operation area.

(4) The term *circular saw* shall mean a machine equipped with a thin steel disc having a continuous series of notches or teeth on the periphery, mounted on shafting, and used for sawing materials.

(5) The term *band saw* shall mean a machine equipped with an endless steel band having a continuous series of notches or teeth, running over wheels or pulleys, and used for sawing materials.

(6) The term *guillotine shear* shall mean a machine equipped with a movable blade operated vertically and used to shear materials. The term shall not include other types of shearing machines, using a different form of shearing action, such as alligator shears or circular shears.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in § 570.50 (b) and (c).

§ C570.66 Occupations involved in wrecking and demolition operations (Order 15).

(a) Finding and declaration of fact. All occupations in wrecking and demolition operations are particularly hazardous for the employment of minors between 16 and 18 years of age and detrimental to their health and well-being.

(b) Definition. The term *wrecking and demolition operations* shall mean all work, including clean-up and salvage work, performed at the site of the total or partial razing, demolishing, or dismantling of a building, bridge, steeple, tower, chimney, or other structure.

§C570.67 Occupations in roofing operations (Order 16).

(a) Finding and declaration of fact. All occupations in roofing operations are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health.

(b) Definition of roofing operations. The term *roofing operations* shall mean all work performed in connection with the application of weatherproofing materials and substances (such as tar or pitch, asphalt prepared paper, tile, slate, metal, translucent materials, and shingles of asbestos, asphalt or wood) to roofs of buildings or other structures. The term shall also include all work performed in connection with: (1) The installation of roofs, including related metal work such as flashing and (2) alterations, additions, maintenance, and repair, including painting and coating, of existing roofs. The term shall not include gutter and downspout work; the construction of the sheathing or base of roofs; or the installation of television antennas, air conditioners, exhaust and ventilating equipment, or similar appliances attached to roofs.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in § 570.50 (b) and (c).

§C570.68 Occupations in excavation operations (Order 17).

(a) Finding and declaration of fact. The following occupations in excavation operations are particularly hazardous for the employment of persons between 16 and 18 years of age: (1) Excavating, working in, or backfilling (refilling) trenches, except (i) manually excavating or manually backfilling trenches that do not exceed four feet in depth at any point, or (ii) working in trenches that do not exceed four feet in depth at any point.

(2) Excavating for buildings or other structures or working in such excavations, except: (i) Manually excavating to a depth not exceeding four feet below any ground surface adjoining the excavation, or (ii) working in an excavation not exceeding such depth, or (iii) working in an excavation where the side walls are shored or sloped to the angle of repose.

(3) Working within tunnels prior to the completion of all driving and shoring operations.

(4) Working within shafts prior to the completion of all sinking and shoring operations.

(b) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in Sec.C570.50 (b) and (c).

OFFICE OF COMPLIANCE—The Congressional Accountability Act of 1995: Extension of Rights and Protections Under the Worker Adjustment and Retraining Notification Act of 1988

NOTICE OF ISSUANCE OF FINAL REGULATIONS

On January 22, 1996, the Board of Directors of the Office of Compliance adopted and submitted for publication in the Congressional Record final regulations implementing section 205 of the Congressional Accountability Act of 1995 ("CAA"), relating to the Worker Adjustment and Retraining Act. On April 15, 1996, pursuant to section 304(c) of the CAA, the House and the Senate agreed to resolutions approving the final regulations. Specifically, the Senate agreed to S. Res. 242, to provide for the approval of final regulations that are applicable to the Senate and the employees of the Senate; the House agreed to H. Res. 400, to provide for the approval of final regulations that are applicable to the House and the employees of the House; and the House and the Senate agreed to S. Con. Res. 51, to provide for approval of final regulations that are applicable to employing offices and employees other than those offices and employees of the House and the Senate. Accordingly, pursuant section 304(d) of the CAA, the Board submits these regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for issuance by publication in the Congressional Record.

Pursuant to paragraph (3) of section 304(d) of the CAA, the Board finds good cause for the regulations of become effective on April 16, 1996, rather than 60 days after issuance. Were the regulations not effective immediately upon the expiration of the interim regulations on April 15, 1996, covered employees, employing offices and the Office of Compliance would be forced to operate under the same kind of regulatory uncertainty that the Board sought to avoid by adopting interim regulations effective as of the January 23, 1996, which was the effective date of the relevant provisions of the CAA.

Signed at Washington, D.C. on this 19th day of April, 1996.

GLEN D. NAGER,
Chair of the Board, Office of Compliance.

Accordingly, the Board of Directors of the Office of Compliance hereby issues on an the following final regulations:

Accordingly, the Board of Directors of the Office of Compliance hereby issues following final regulations:

[Final Regulations]

APPLICATION OF RIGHTS AND PROTECTIONS OF THE WORKER ADJUSTMENT RETRAINING AND NOTIFICATION ACT OF 1988 (IMPLEMENTING SECTION 204 OF THE CAA)

Section
639.1 Purpose and scope.
639.2 What does WARN require?
639.3 Definitions.
639.4 Who must give notice?
639.5 When must notice be given?
639.6 Who must receive notice?
639.7 What must the notice contain?
639.8 How is the notice served?
639.9 When may notice be given less than 60 days in advance?
639.10 When may notice be extended?

§639.1 Purpose and scope.

(a) *Purpose of WARN as applied by the CAA.* Section 205 of the Congressional Accountability Act, P.L. 104-1 ("CAA"), provides protection to covered employees and their families by requiring employing offices to provide notification 60 calendar days in advance of office closings and mass layoffs within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act of 1988, 29 U.S.C. §2102. Advance notice provides workers and their families some transition time to adjust to the prospective loss of employment, to seek and obtain alternative jobs and, if necessary, to enter skill training or retraining that will allow these workers to successfully compete in the job market. As used in these regulations, WARN shall refer to the provisions of WARN applied to covered employing offices by section 205 of the CAA.

(b) *Scope of these regulations.* These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 205(c) and 304 of the CAA, which directs the Board to promulgate regulations implementing section 205 that are the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 205 of the CAA] except insofar as the Board may determine, for good cause shown. . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section. The regulations issued by the Board herein are on all matters for which section 205 of the CAA requires a regulation to be issued. Specifically, it is the Board s considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 205 of the CAA]."

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these sections and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

These regulations establish basic definitions and rules for giving notice, implementing the provisions of WARN. The objective of these regulations is to establish clear principles and broad guidelines which can be applied in specific circumstances. However, it is recognized that rulemaking cannot address the multitude of employing office-specific situations in which advance notice will be given.

(c) *Notice in ambiguous situations.* It is civically desirable and it would appear to be good business practice for an employing office to provide advance notice, where reasonably possible, to its workers or unions when terminating a significant number of employees. The Office encourages employing offices to give notice in such circumstances.

(d) *WARN not to supersede other laws and contracts.* The provisions of WARN do not supersede any otherwise applicable laws or collective bargaining agreements that provide for additional notice or additional rights and remedies. If such law or agreement provides for a longer notice period, WARN notice shall run concurrently with that additional notice period. Collective bargaining agreements may be used to clarify or amplify the terms and conditions of WARN, but may not reduce WARN rights.

§639.2 What does WARN require?

WARN requires employing offices that are planning an office closing or a mass layoff to give affected employees at least 60 days' notice of such an employment action. While the 60-day period is the minimum for advance notice, this provision is not intended to discourage employing offices from voluntarily providing longer periods of advance notice. Not all office closings and layoffs are subject to WARN, and certain employment thresholds must be reached before WARN applies. WARN sets out specific exemptions, and provides for a reduction in the notification period in particular circumstances. Remedies authorized under section 205 of the CAA may be assessed against employing offices that violate WARN requirements.

§639.3 Definitions.

(a) *Employing office.* (1) The term "employing office" means any of the entities listed in section 101(9) of the CAA, 2 U.S.C. §1301(9) that employs—

(i) 100 or more employees, excluding part-time employees; or

(ii) employs 100 or more employees, including part-time employees, who in the aggregate work at least 4,000 hours per week, exclusive of overtime. Workers on temporary layoff or on leave who have a reasonable expectation of recall are counted as employees. An employee has a "reasonable expectation of recall" when he/she understands, through notification or through common practice, that his/her employment with the employing office has been temporarily interrupted and that he/she will be recalled to the same or to a similar job.

(2) Workers, other than part-time workers, who are exempt from notice under section 4 of WARN, are nonetheless counted as employees for purposes of determining coverage as an employing office.

(3) An employing office may have one or more sites of employment under common control.

(b) *Office closing.* The term "office closing" means the permanent or temporary shutdown of a "single site of employment", or one or more "facilities or operating units" within a single site of employment, if the shutdown results in an "employment loss" during *any 30-day period* at the single site of employment for *50 or more* employees, excluding any part-time employees. An employment action that results in the effective cessation of the work performed by a unit, even if a few employees remain, is a shutdown. A "temporary shutdown" triggers the notice requirement only if there are a sufficient number of terminations, layoffs exceeding 6 months, or reductions in hours of work as specified under the definition of "employment loss."

(c) *Mass layoff.* (1) The term "mass layoff" means a reduction in force which first, is not the result of an office closing, and second, results in an employment loss at the single site of employment during *any 30-day period* for:

(i) *At least 33 percent* of the active employees, excluding part-time employees, and

(ii) *At least 50 employees*, excluding part-time employees.

Where 500 or more employees (excluding part-time employees) are affected, the 33% requirement does not apply, and notice is required if the other criteria are met. Office closings involve employment loss which results from the shutdown of one or more distinct units within a single site or the entire site. A mass layoff involves employment loss, regardless of whether one or more units are shut down at the site.

(2) Workers, other than part-time workers, who are exempt from notice under section 4 of WARN are nonetheless counted as employees for purposes of determining coverage as an office closing or mass layoff. For example, if an employing office closes a temporary project on which 10 permanent and 40 temporary workers are employed, a covered office closing has occurred although only 10 workers are entitled to notice.

(d) *Representative.* The term "representative" means an exclusive representative of employees within the meaning of 5 U.S.C. §§7101 *et seq.*, as applied to covered employees and employing offices by section 220 of the CAA, 2 U.S.C. §1351.

(e) *Affected employees.* The term "affected employees" means employees who may reasonably be expected to experience an employment loss as a consequence of a proposed office closing or mass layoff by their employing office. This includes individually identifiable employees who will likely lose their jobs because of bumping rights or other factors, to the extent that such individual workers reasonably can be identified at the time notice is required to be given. The term "affected employees" includes managerial and supervisory employees. Consultant or contract employees who have a separate employment relationship with another employing office or employer and are paid by that other employing office or employer, or who are self-employed, are not "affected employees" of the operations to which they are assigned. In addition, for purposes of determining whether coverage thresholds are met, either incumbent workers in jobs being eliminated or, if known 60 days in advance, the actual employees who suffer an employment loss may be counted.

(f) *Employment loss.* (1) The term "employment loss" means (i) an employment termination, other than a discharge for cause, voluntary departure, or retirement, (ii) a layoff exceeding 6 months, or (iii) a reduction in hours of work of individual employees of more than 50% during each month of any 6-month period.

(2) Where a termination or a layoff (see paragraphs (f)(1)(i) and (ii) of this section) is involved, an employment loss does not occur when an employee is reassigned or transferred to employing office-sponsored programs, such as retraining or job search activities, as long as the reassignment does not constitute a constructive discharge or other involuntary termination.

(3) An employee is not considered to have experienced an employment loss if the closing or layoff is the result of the relocation or consolidation of part or all of the employing office's operations and, prior to the closing or layoff—

(i) The employing office offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment, or

(ii) The employing office offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

(4) A "relocation or consolidation" of part or all of an employing office s operations, for purposes of paragraph §639.3(f)(3), means that some definable operations are transferred to a different site of employment and that transfer results in an office closing or mass layoff.

(g) *Part-time employee.* The term "part-time" employee means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required, including workers who work full-time. This term may include workers who would traditionally be understood as "seasonal" employees. The period to be used for calculating whether a worker has worked "an average of fewer than 20 hours per week" is the shorter of the actual time the worker has been employed or the most recent 90 days.

(h) *Single site of employment.* (1) A single site of employment can refer to either a single location or a group of contiguous locations. Separate facilities across the street from one another may be considered a single site of employment.

(2) There may be several single sites of employment within a single building, such as an office building, if separate employing offices conduct activities within such a building. For example, an office building housing 50 different employing offices will contain 50 single sites of employment. The offices of each employing office will be its single site of employment.

(3) Separate buildings or areas which are not directly connected or in immediate proximity may be considered a single site of employment if they are in reasonable geographic proximity, used for the same purpose, and share the same staff and equipment.

(4) Non-contiguous sites in the same geographic area which do not share the same staff or operational purpose should not be considered a single site.

(5) Contiguous buildings operated by the same employing office which have separate management and have separate workforces are considered separate single sites of employment.

(6) For workers whose primary duties require travel from point to point, who are outstationed, or whose primary duties involve work outside any of the employing office's regular employment sites (e.g., railroad workers, bus drivers, salespersons), the single site of employment to which they are assigned as their home base, from which their work is assigned, or to which they report will be the single site in which they are covered for WARN purposes.

(7) Foreign sites of employment are not covered under WARN. U.S. workers at such sites are counted to determine whether an employing office is covered as an employing office under §639.3(a).

(8) The term "single site of employment" may also apply to truly unusual organizational situations where the above criteria do not reasonably apply. The application of this definition with the intent to evade the purpose of WARN to provide notice is not acceptable.

(i) *Facility or operating unit.* The term "facility" refers to a building or buildings. The term "operating unit" refers to an organizationally or operationally distinct product, operation, or specific work function within or across facilities at the single site.

§639.4 Who must give notice?

Section 205(a)(1) of the CAA states that "[n]o employing office shall be closed or a mass layoff ordered within the meaning of section 3 of [WARN] until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff. . ." Therefore, an employing office that is anticipating carrying out an office closing or mass layoff is required to give notice to affected employees or their representative(s). (See definitions in §639.3 of this part.).

(a) It is the responsibility of the employing office to decide the most appropriate person within the employing office's organization to prepare and deliver the notice to affected employees or their representative(s). In most instances, this may be the local site office manager, the local personnel director or a labor relations officer.

(b) An employing office that has previously announced and carried out a short-term layoff (6 months or less) which is being extended beyond 6 months due to circumstances not reasonably foreseeable at the time of the initial layoff is required to give notice when it becomes reasonably foreseeable that the extension is required. A layoff extending beyond 6 months from the date the layoff commenced for any other reason shall be treated as an employment loss from the date of its commencement.

(c) In the case of the privatization or sale of part or all of an employing office's operations, the employing office is responsible for providing notice of any office closing or mass layoff which takes place up to and including the effective date (time) of the privatization or sale, and the contractor or buyer is responsible for providing any required notice of any office closing or mass layoff that takes place thereafter.

(1) If the employing office is made aware of any definite plans on the part of the buyer or contractor to carry out an office closing or mass layoff within 60 days of purchase, the employing office may give notice to affected employees as an agent of the buyer or contractor, if so empowered. If the employing office does not give notice, the buyer or contractor is, nevertheless, responsible to give notice. If the employing office gives notice as the agent of the buyer or contractor, the responsibility for notice still remains with the buyer or contractor.

(2) It may be prudent for the buyer or contractor and employing office to determine the impacts of the privatization or sale on workers, and to arrange between them for advance notice to be given to affected employees or their representative(s), if a mass layoff or office closing is planned.

§ 639.5 When must notice be given?

(a) *General rule.* (1) With certain exceptions discussed in paragraphs (b) and (c) of this section and in § 639.9 of this part, notice must be given at least 60 calendar days prior to any planned office closing or mass layoff, as defined in these regulations. When all employees are not terminated on the same date, the date of the first individual termination within the statutory 30- day or 90-day period triggers the 60-day notice requirement. A worker's last day of employment is considered the date of that worker's layoff. The first and each subsequent group of terminees are entitled to a full 60 days' notice. In order for an employing office to decide whether issuing notice is required, the employing office should—

(i) Look ahead 30 days and behind 30 days to determine whether employment actions both taken and planned will, in the aggregate for any 30-day period, reach the minimum numbers for an office closing or a mass layoff and thus trigger the notice requirement; and

(ii) Look ahead 90 days and behind 90 days to determine whether employment actions both taken and planned each of which separately is not of sufficient size to trigger WARN coverage will, in the aggregate for any 90-day period, reach the minimum numbers for an office closing or a mass layoff and thus trigger the notice requirement. An employing office is not, however, required under section 3(d) to give notice if the employing office demonstrates that the separate employment losses are the result of separate and distinct actions and causes, and are not an attempt to evade the requirements of WARN.

(2) The point in time at which the number of employees is to be measured for the purpose of determining coverage is the date the first notice is required to be given. If this "snapshot" of the number of employees employed on that date is clearly unrepresentative of the ordinary or average employment level, then a more representative number can be used to determine coverage. Examples of unrepresentative employment levels include cases when the level is near the peak or trough of an employment cycle or when large upward or downward shifts in the number of employees occur around the time notice is to be given. A more representative number may be an average number of employees over a recent period of time or the number of employees on an alternative date which is more representative of normal employment levels. Alternative methods cannot be used to evade the purpose of WARN, and should only be used in unusual circumstances.

(b) *Transfers.* (1) Notice is not required in certain cases involving transfers, as described under the definition of employment loss at § 639.3(f) of this part.

(2) An offer of reassignment to a different site of employment should not be deemed to be a "transfer" if the new job constitutes a constructive discharge.

(3) The meaning of the term "reasonable commuting distance" will vary with local conditions. In determining what is a "reasonable commuting distance," consideration should be given to the following factors: geographic accessibility of the place of work, the quality of the roads, customarily available transportation, and the usual travel time.

(4) In cases where the transfer is beyond reasonable commuting distance, the employing office may become liable for failure to give notice if an offer to transfer is not accepted within 30 days of the offer or of the closing or layoff (whichever is later). Depending upon when the offer of transfer was made by the employing office, the normal 60-day notice period may have expired and the office closing or mass layoff may have occurred. An employing office is, therefore, well advised to provide 60-day advance notice as part of the transfer offer.

(c) *Temporary employment.* (1) No notice is required if the closing is of a temporary facility, or if the closing or layoff is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking.

(2) Employees must clearly understand at the time of hire that their employment is temporary. When such understandings exist will be determined by reference to employment contracts, collective bargaining agreements, or employment practices of other employing offices or a locality, but the burden of proof will lie with the employing office to show that the temporary nature of the project or facility was clearly communicated should questions arise regarding the temporary employment understandings.

§ 639.6 Who must receive notice?

Section 3(a) of WARN provides for notice to each representative of the affected employees as of the time notice is required to be given or, if there is no such representative at that time, to each affected employee.

(a) *Representative(s) of affected employees.* Written notice is to be served upon the chief elected officer of the exclusive representative(s) or bargaining agent(s) of affected employees at the time of the notice. If this person is not the same as the officer of the local union(s) representing affected employees, it is recommended that a copy also be given to the local union official(s).

(b) *Affected employees.* Notice is required to be given to employees who may reasonably be expected to experience an employment loss. This includes employees who will likely lose their jobs because of bumping rights or other factors, to the extent that such workers can be identified at the time notice is required to be given. If, at the time notice is required to be given, the employing office cannot identify the employee who may reasonably be expected to experience an employment loss due to the elimination of a particular position, the employing office must provide notice to the incumbent in that position. While part-time employees are not counted in determining whether office closing or mass layoff thresholds are reached, such workers are due notice.

§ 639.7 What must the notice contain?

(a) *Notice must be specific.* (1) All notice must be specific.

(2) Where voluntary notice has been given more than 60 days in advance, but does not contain all of the required elements set out in this section, the employing office must ensure that all of the information required by this section is provided in writing to the parties listed in § 639.6 at least 60 days in advance of a covered employment action.

(3) Notice may be given conditional upon the occurrence or nonoccurrence of an event only when the event is definite and the consequences of its occurrence or nonoccurrence will necessarily, in the normal course of operations, lead to a covered office closing or mass layoff less than 60 days after the event. The notice must contain each of the elements set out in this section.

(4) The information provided in the notice shall be based on the best information available to the employing office at the time the notice is served. It is not the intent of the regulations that errors in the information provided in a notice that occur because events subsequently change or that are minor, inadvertent errors are to be the basis for finding a violation of WARN.

(b) As used in this section, the term "date" refers to a specific date or to a 14-day period during which a separation or separations are expected to occur. If separations are planned according to a schedule, the schedule should indicate the specific dates on which or the beginning date of each 14-day period during which any separations are expected to occur. Where a 14-day period is used, notice must be given at least 60 days in advance of the first day of the period.

(c) Notice to each representative of affected employees is to contain:

(1) The name and address of the employment site where the office closing or mass layoff will occur, and the name and telephone number of an employing office official to contact for further information;

(2) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire office is to be closed, a statement to that effect;

(3) The expected date of the first separation and the anticipated schedule for making separations;

(4) The job titles of positions to be affected and the names of the workers currently holding affected jobs.

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

(d) Notice to each affected employee who does not have a representative is to be written in language understandable to the employees and is to contain:

(1) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire office is to be closed, a statement to that effect;

(2) The expected date when the office closing or mass layoff will commence and the expected date when the individual employee will be separated;

(3) An indication whether or not bumping rights exist;

(4) The name and telephone number of an employing office official to contact for further information.

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

§639.8 How is the notice served?

Any reasonable method of delivery to the parties listed under §639.6 of this part which is designed to ensure receipt of notice of at least 60 days before separation is acceptable (e.g., first class mail, personal delivery with optional signed receipt). In the case of notification directly to affected employees, insertion of notice into pay envelopes is another viable option. A ticketed notice, i.e., preprinted notice regularly included in each employee's pay check or pay envelope, does not meet the requirements of WARN.

§639.9 When may notice be given less than 60 days in advance?

Section 3(b) of WARN, as applied by section 205 of the CAA, sets forth two conditions under which the notification period may be reduced to less than 60 days. The employing office bears the burden of proof that conditions for the exceptions have been met. If one of the exceptions is applicable, the employing office must give as much notice as is practicable to the union and non-represented employees and this may, in some circumstances, be notice after the fact. The employing office must, at the time notice actually is given, provide a brief statement of the reason for reducing the notice period, in addition to the other elements set out in §639.7.

(a) The "unforeseeable business circumstances" exception under section 3(b)(2)(A) of WARN, as applied under the CAA, applies to office closings and mass layoffs caused by circumstances that were not reasonably foreseeable at the time that 60-day notice would have been required.

(1) An important indicator of a circumstance that is not reasonably foreseeable is that the circumstance is caused by some sudden, dramatic, and unexpected action or condition outside the employing office's control.

(2) The test for determining when circumstances are not reasonably foreseeable focuses on an employing office's business judgment. The employing office must exercise such reasonable business judgment as would a similarly situated employing office in predicting the demands of its operations. The employing office is not required, however, to accurately predict general economic conditions that also may affect its operations.

(b) The "natural disaster" exception in section 3(b)(2)(B) of WARN applies to office closings and mass layoffs due to any form of a natural disaster.

(1) Floods, earthquakes, droughts, storms, tidal waves or tsunamis and similar effects of nature are natural disasters under this provision.

(2) To qualify for this exception, an employing office must be able to demonstrate that its office closing or mass layoff is a direct result of a natural disaster.

(3) While a disaster may preclude full or any advance notice, such notice as is practicable, containing as much of the information required in §639.7 as is available in the circumstances of the disaster still must be given, whether in advance or after the fact of an employment loss caused by a natural disaster.

(4) Where an office closing or mass layoff occurs as an indirect result of a natural disaster, the exception does not apply but the "unforeseeable business circumstance" exception described in paragraph (a) of this section may be applicable.

§639.10 When may notice be extended?

Additional notice is required when the date or schedule of dates of a planned office closing or mass layoff is extended beyond the date or the ending date of any 14-day period announced in the original notice as follows:

(a) If the postponement is for less than 60 days, the additional notice should be given as soon as possible to the parties identified in §639.6 and should include reference to the earlier notice, the date (or 14-day period) to which the planned action is postponed, and the reasons for the postponement. The notice should be given in a manner which will provide the information to all affected employees.

(b) If the postponement is for 60 days or more, the additional notice should be treated as new notice subject to the provisions of §§639.5, 639.6 and 639.7 of this part. Rolling notice, in the sense of routine periodic notice, given whether or not an office closing or mass layoff is impending, and with the intent to evade the purpose of the Act rather than give specific notice as required by WARN, is not acceptable.

REPORT RELATIVE TO NARCOTICS TRAFFICKERS—MESSAGE FROM THE PRESIDENT—PM 140

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

I hereby report to the Congress on the developments concerning the national emergency with respect to significant narcotics traffickers centered in Colombia that was declared in Executive Order No. 12978 of October 21, 1995. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c).

1. On October 21, 1995, I signed Executive Order No. 12978, "Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers" (the "Order") (60 *Fed. Reg.* 54579, October 24, 1995). The Order blocks all property subject to U.S. jurisdiction in which there is any interest of four significant foreign narcotics traffickers who are principals in the so-called Cali drug cartel centered in Colombia. They are listed in the annex to the Order. In addition, the Order blocks the property and interests in property of foreign persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, (a) to play a significant role in international narcotics trafficking centered in Colombia or (b) to materially assist in or provide financial or technological support for, or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to the Order. In addition the Order blocks all property and interests in property subject to U.S. jurisdiction of persons determined by the Secretary of the Treasury in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to the Order (collectively "Specially Designated Narcotics Traffickers" or "SDNTs").

The Order further prohibits any transaction or dealing by a United States person or within the United States in property or interests in property of SDNTs, and any transaction that evades or avoids, has the purpose of evading or avoiding, or attempts to violate, the prohibitions contained in the Order.

Designations of foreign persons blocked pursuant to the Order are effective upon the date of determination by the Director of the Department of the Treasury's Office of Foreign Assets Control (FAC) acting under authority delegated by the Secretary of the Treasury. Public notice of blocking is effective upon the date of filing with the *Federal Register*, or upon prior actual notice.

2. On October 24, 1995, the Department of the Treasury issued a notice containing 76 additional names of persons determined to meet the criteria set forth in Executive Order No. 12978 (60 *Fed. Reg.* 54582–84, October 24, 1995). A copy of the notice is attached to this report.

The Department of the Treasury issued another notice adding the names of one additional entity and three additional individuals, as well as expanded information regarding addresses and pseudonyms, to the List of SDNTs on November 29, 1995 (60 *Fed. Reg.* 61288–89). A copy of the notice is attached to this report.

3. On March 8, 1996, FAC published a notice in the *Federal Register* adding the names of 138 additional individuals and 60 entities designated pursuant to the Order, and revising information for 8 individuals on the list of blocked persons contained in the notices published on November 29, 1995, and October 24, 1995 (61 *Fed. Reg.* 9523–28). A copy of the notice is attached to this report. The FAC, in coordination with the Attorney General and the Secretary of State, is continuing to expand the list of Specially Designated Narcotics Traffickers, including both organizations and individuals, as additional information is developed.

4. On October 22, 1995, FAC disseminated details of this program to the financial, securities, and international trade communities by both electronic

and conventional media. This information was updated on November 29, 1995, and again on March 5, 1996. In addition to bulletins to banking institutions via the Federal Reserve System and the Clearing House Inter-bank Payments System (CHIPS), individual notices were provided to all State and Federal regulatory agencies, automated clearing houses, and State and independent banking associations across the country. The FAC contacted all major securities industry associations and regulators, posted electronic notices to 10 computer bulletin boards and 2 fax-on-demand services, and provided the same material to the U.S. Embassy in Bogota for distribution to U.S. companies operating in Colombia.

5. There were no funds specifically appropriated to implement this program. The expenses incurred by the Federal Government in the 6-month period from October 21, 1995, through April 20, 1996, that are directly attributable to the exercise of powers and authorities conferred by the declaration of the national emergency with respect to Significant Narcotics Traffickers are estimated at approximately $500,000 from previously appropriated funds. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Office of the General Counsel, and the U.S. Customs Service), the Department of Justice, and the Department of State.

6. Executive Order No. 12978 provides this Administration with a new tool for combating the actions of significant foreign narcotics traffickers centered in Colombia, and the unparalleled violence, corruption, and harm that they cause in the United States and abroad. The Order is designed to deny these traffickers the benefit of any assets subject to the jurisdiction of the United States and to prevent United States persons from engaging in any commercial dealings with them, their front companies, and their agents. Executive Order No. 12978 demonstrates the U.S. commitment to end the scourge that such traffickers have wrought upon society in the United States and beyond.

The magnitude and the dimension of the problem in Colombia—perhaps the most pivotal country of all in terms of the world's cocaine trade—is extremely grave. I shall continue to exercise the powers at my disposal to apply economic sanctions against significant foreign narcotics traffickers and their violent and corrupting activities as long as these measures are appropriate, and will continue to report periodically to the Congress on significant developments pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 23, 1996*.

MESSAGES FROM THE HOUSE

At 4:10 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker appoints Mr. STOKES, of Ohio, as a primary conferee to fill the vacancy occasioned by the resignation of Mr. HOYER, of Maryland, and reappoints Mr. HOYER of Maryland, as a conferee for consideration of section 101(c) of the House bill and section 101(d) of the Senate amendment and modifications committed to conference in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further appropriations for fiscal year 1996 to make a further a downpayment toward a balanced budget, and for other purposes.

At 5:58 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 166. Concurrent resolution authorizing the use of the Capitol Grounds for the Washington for Jesus 1996 prayer rally.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BREAUX:

S. 1693. A bill to require the Secretary of Labor to submit to Congress the report on method of allocating administrative funds among states required under section 304 of the Emergency Unemployment Compensation Act of 1991; to the Committee on Finance.

By Ms. SNOWE:

S. 1694. A bill to prohibit insurance providers from denying or canceling health insurance coverage, or varying the premiums, terms, or conditions for health insurance coverage on the basis of genetic information or a request for genetic services, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MCCAIN:

S. 1695. A bill to authorize the Secretary of the Interior to assess up to $2 per person visiting the Grand Canyon or other national park to secure bonds for capital improvements to the park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. THURMOND:

S. 1696. A bill to provide antitrust clarification, to reduce frivolous antitrust litigation, to promote equitable resolution of disputes over the location of professional sports franchises, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. JEFFORDS (for himself, Mrs. KASSEBAUM, Mr. SIMON, and Mr. FEINGOLD):

S. Con. Res. 53. A concurrent resolution congratulating the people of the Republic of Sierra Leone on the success of their recent democratic multiparty elections; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE:

S. 1694. A bill to prohibit insurance providers from denying or canceling health insurance coverage, or varying the premiums, terms, or conditions for health insurance coverage on the basis of genetic information or a request for genetic services, and for other purposes; to the Committee on Labor and Human Resources.

THE GENETIC INFORMATION NONDISCRIMINATION IN HEALTH INSURANCE ACT OF 1996

• Ms. SNOWE. Mr. President, I introduce the Genetic Information Nondiscrimination in Health Insurance Act of 1996. I join Representative LOUISE SLAUGHTER, who introduced this bill in the House, in calling for an end to discrimination on the basis of genetic information in health insurance.

Progress in the field of genetics is accelerating at a breathtaking pace. Who could have predicted 20 years ago that scientists today could accurately identify the genes associated with cystic fibrosis, cancer, Alzheimers' and Huntington's disease? Today, scientists can, and as a result doctors are increasingly able to identify predispositions to certain diseases based on the results of genetic testing, and to successfully treat and manage such diseases. These scientific advances hold tremendous promise for the approximately 15 million people affected by the over 4,000 currently known genetic disorders, and the millions more who are carriers of genetic diseases who may pass them on to their children.

But as our knowledge of genetic predisposition to disease has grown, so has the potential for discrimination in health insurance.

As a legislator who has worked for many years on the issue of breast cancer, and as a woman with a history of breast cancer in her family, I am delighted with the possibilities for further treatment advances based on the recent discoveries of two genes related to breast cancer—BRCA1 and BRCA2. Women who inherit mutated forms of either gene have an 85-percent risk of developing breast cancer in their lifetime. Although there is no known treatment to ensure that women who carry the mutated gene do not develop breast cancer, genetic testing makes it possible for carriers of these mutated genes to take extra precautions—such as mammograms and self-examinations—in order to detect cancer at its earliest stages. This discovery is truly a momentous breakthrough.

However, the tremendous promise of genetic testing is being significantly threatened by insurance companies that use the results of genetic testing to deny or limit coverage to consumers. Unfortunately, this practice is relatively common today. In fact, a recent survey of individuals with a known genetic condition in their family revealed that 22 percent had been denied health insurance coverage because of genetic information.

In addition to the potentially devastating consequences health insurance denials on the basis of genetic information can have on American families, the fear of discrimination has equally harmful consequences for consumers and for scientific research. For example, many women who might take extra precautions if they knew they had the breast cancer gene may not seek testing because they fear losing their health insurance. Patients may be unwilling to disclose information about their genetic status to their physicians out of fear, hindering treatment or preventive efforts. And people may be unwilling to participate in potentially ground-breaking research trials because they do not want to reveal information about their genetic status.

The bill I am introducing today addresses these serious concerns by prohibiting health insurance providers from denying or canceling health insurance coverage or varying the terms, premiums, or conditions for health insurance for individuals or their family members on the basis of genetic information. It also prohibits insurance companies from discriminating against individuals who have requested or received genetic services.

My bill also contains important confidentiality provisions which prohibit insurance companies from disclosing genetic information about an individual without that person's written consent. And it prohibits an insurance provider from requesting someone to undergo, and from disclosing, genetic information about that person.

Finally, the bill allows individuals to sue for monetary damages or injunctive relief if an insurance company violates, or threatens to violate, these nondiscrimination or disclosure provisions.

I urge my colleagues to end the unfair practice of denying health care coverage to individuals on the basis of genetic information by supporting the bill I am introducing today.•

By Mr. McCAIN:

S. 1695. A bill to authorize the Secretary of the Interior to assess up to $2 per person visiting the Grand Canyon or other national parks to secure bonds for capital improvements to the park, and for other purposes; to the Committee on Energy and Natural Resources.

THE NATIONAL PARKS CAPITAL IMPROVEMENTS ACT

• Mr. McCAIN. Mr. President, I introduce legislation to make desperately needed improvements within America's national parks.

The National Parks Capital Improvements Act would allow private fundraising organizations, under agreement with the Secretary of the Interior, to issue taxable capital development bonds to finance park improvement projects. The bonds would be secured by an entrance fee surcharge of up to $2 per visitor at participating parks.

Our National Park System has enormous capital needs—by last estimate over $3 billion of high priority projects such as improved transportation systems, trail repairs, visitor facilities, historic preservation, and the list goes on and on. The unfortunate reality is that even under the rosiest budget scenarios our growing park needs far outstrip the resources available.

A good example of this funding gap is at Grand Canyon National Park. The park's newly approved park management plan calls for over $300 million in capital improvements, including a desperately needed transportation system to reduce congestion. Compare that to the $12 million the Grand Canyon received last year for operating costs. The gap is as wide as the Grand Canyon itself. Clearly, we must find new means of financing park needs.

Revenue bonding is an integral part of the solution. Based on current visitation rates, a $2 surcharge at the Grand Canyon would enable us to raise $100 million dollars from a bond issue amortized over 20 years. That is significant amount of money with which we could accomplish a lot of critical work.

I want to point out that the Grand Canyon would not be the only park eligible for the program. Any park unit with capital needs in excess of $5 million is eligible to participate. Among eligible park the Secretary will determine which shall take part in the program.

I also want to stress that only projects approved as part of park's General Management Plan can be funded through bond revenue. This proviso eliminates any concern that the revenue could be used for projects of questionable value to the park.

Finally, the bill requires that all professional standards apply and that the issues are subject to the same laws, rules and regulatory enforcement procedures as any other bond issue.

In addition, only organizations under agreement with the Secretary will be authorized to administer the bonding, so the Secretary can establish any rules or policies he deems necessary and appropriate.

Under, no circumstances, however would investors be able to attach liens against Federal property in the very unlikely event of default. The bonds will be secured only by the surcharge revenues.

Will the bond markets support park improvement issues, guaranteed by an entrance surcharge? The answer is yes, emphatically. Americans are eager to invest in our Nation's natural heritage, and with park visitation growing stronger, the risks would appear minimal.

Are visitors willing to pay a little more at the entrance gate if the money is used for park improvement? Again, yes. Time and time again visitors have expressed their support provided the revenue is used where collected and not diverted for some other purpose devised by Congress.

Finally, I want to point out that the bill will not cost the Treasury any money? On the contrary it will result in a net increase in Federal revenue. First, the bonds will be fully taxable, and, second, making disparately needed improvements sooner rather than later will reduce project costs.

America has been blessed with a rich natural heritage. The National Park Organic Act enjoins us to protect our precious natural resources for future generations and to provide for their enjoyment by the American people. The National Parks Capital Improvements Act must pass if we are to successfully fulfill the enduring responsibilities of stewardship with which we have been vested.•

By Mr. THURMOND:

S. 1696. A bill to provide antitrust clarification, to reduce frivolous antitrust litigation, to promote equitable resolution of disputes over the location of professional sports franchises, and for other purposes; to the Committee on the Judiciary.

THE PROFESSIONAL SPORTS ANTITRUST CLARIFICATION ACT OF 1996

Mr. THURMOND. Mr. President, I rise today to introduce the Professional Sports Antitrust Clarification Act of 1996 to address underlying problems which have resulted in recent franchise instability and movement in professional sports, particularly the National Football League. My legislation clarifies that the antitrust laws do not apply to professional sports leagues and their member franchises when they establish rules and make decisions about whether a team may change its home territory. This antitrust protection is obtained, however, only if the sports league provides notice and a hearing and examines appropriate factors prior to its decision on relocation, and institutes revenue sharing of the public benefits received by its teams, in order to reduce the incentive for teams to move simply to reap large public subsides. I will clarify the importance of these points in a moment.

Let me initially explain why this issue deserves the attention of the Congress. First, larger and larger amounts of public funds seem to be spent subsidizing professional sports, by building new or improved stadiums, providing rent abatement and special tax treatment, and even making direct cash payments. Cities and States are being pitted against each other by the threat or promise that a team will relocate depending on the subsidy offered, which raises serious questions about the appropriate use of scarce public resources. Baltimore and Cleveland made headlines last winter by competing to be the hometown of the Browns football team, with hundreds of millions of public dollars at stake. The resolution, of course, was for both cities to pour hundreds of millions of dollars into new or improved stadiums so each could secure a football team. Even more remarkable, perhaps, is the report that Cincinnati has been handing over $3 million in cash to its football team in each of the last several years to stave off relocation.

Second, professional sports are an important part of American life, emotionally as well as financially, and relocation of a popular team can devastate its fans and shake the confidence of its hometown. The Browns' announcement that they intended to move to Baltimore upset the team's fans tremendously both in Cleveland and around the country. The current willingness of so many teams to consider moving frightens fans of all teams, regardless of whether their own team is openly threatening a move.

The current level of sports franchise instability is at its highest since the Congress focused its attention on these issues in the 1980's. In 1982 and 1985, I held several hearings as chairman of the Judiciary Committee on legislation dealing with sports franchise relocation. Since that time, the financial stakes for local and State governments have escalated. The public funds routinely expended to keep a team in place or entice a team to move seem to have risen from tens of millions to hundreds of millions of dollars. At a time when public resources at all levels of government are becoming ever tighter, this transfer of scarce public funds to rich owners and rich players is remarkable. Accordingly, it is time to address these issues.

Two hearings have been held in the Senate Judiciary Committee in recent months on these issues. As chairman of the Antitrust, Business Rights, and Corporation Subcommittee, I chaired a hearing on November 29, 1995, which analyzed sports franchise movement. Witnesses included a range of elected officials, sports league commissioners, and antitrust and economic experts. Senator HATCH chaired a second hearing of the full Judiciary Committee on January 23, 1996, in order to further examine these issues. This legislation is an outgrowth of those hearings.

Let me turn to the specifics of the legislation I am introducing today. My bill does not grant a special exemption from current antitrust law, but essentially codifies existing judicial interpretations which permit a sports league to determine where its member franchises may operate, provided certain requirements are met. My legislation clarifies and provides certainty in this complex area of the law, where costs of defending claims are always high, and any damages resulting from liability or an incorrect judicial decision are trebled and may amount to hundreds of millions of dollars or more. Antitrust certainty would restore integrity to the decision-making processes of professional sports leagues which have been chilled by the prospect of huge treble damage judgments.

A sports league cannot enjoy this antitrust certainty, however, unless it meets three requirements set forth in the legislation. First, the league must provide notice and a hearing to all interested parties concerning a team's proposed move. Second, the league must protect the public interest by considering specified factors in deciding whether to permit the move. Last, the league must promote comparable economic opportunities for its teams by sharing revenue derived from the public benefits and subsidies the teams receive.

This conditional antitrust protection will help resolve the problems of franchise instability caused by large public subsidies. The antitrust certainty provided by this bill will permit a sports league to take more decisive action to stop teams from moving when the league believes relocation will not serve the public interest. The requirements that the league analyze specific factors and provide notice and a hearing to interested parties before deciding whether a team can relocate will help ensure that proper decisions are made. The third requirement, instituting revenue sharing of public benefits, is crucial to address an underlying cause of sports franchise instability. Unlike the first two requirements, the effectiveness of revenue sharing does not depend on the opinion of the league about a particular move. Let me briefly explain the economic background of this revenue sharing requirement.

As revealed during my Antitrust Subcommittee hearing, the franchise instability we are now experiencing is largely the result of changing economics within major league sports. Now that players are free agents, competition among owners for the best talent has driven player salaries to amazing heights. This, in turn, has increased pressure on owners to increase their revenues, particularly relative to other owners, in order to compete for the best players. In this competition for talent, the total amount of an owner's revenue matters less than whether that owner has fallen behind the other owners.

Football, hockey, and basketball each share a significant portion of total revenues among the teams in the league. Because owners seek to better their positions compared to other owners, however, they naturally seek to raise revenue in areas where revenue is not shared. As a result, owners aggressively seek new public benefits and subsidies, often through new or improved stadiums with more luxury suites as we have seen in football, because they have not been required to share that revenue. In this effort, owners routinely use threats of relocation to another city as leverage.

Let me emphasize that my legislation would not in any way prohibit public funds from being used to attract or keep a team, if a city or State voluntarily decides to allocate its resources in that way. Instead, my legislation would require the league to promote comparable opportunities for all teams by equalizing the public benefits among them. This would level the playing field, so to speak, so that teams need not move or threaten to move in order to obtain more public funds to keep from falling behind others in the league. Let me illustrate how this is intended to work in practice.

Last Fall, Art Modell, owner of the Cleveland Browns, announced that he planned to move his team from Cleveland to Baltimore. His move reportedly was motivated by financial pressure on the franchise caused by rapidly increasing player salaries, plus promises of large public benefits from Baltimore. If my revenue-sharing provision had been in place, however, Mr. Modell would have faced different options. Under my legislation, the league would have instituted procedures to promote comparable economic opportunities to address disparities in team revenue due to public benefits and subsidies. So in our example, if Mr. Modell was obtaining fewer public benefits in Cleveland than average, he would receive transfers to bring his team up to the league average. On the other hand, if the annual public benefits received for moving to Baltimore pushed Mr. Modell above the average, he would have to share some of the value of the public benefits in order to keep his team at the league average. Faced with these choices and a hometown that loved his team, it is hard to imagine that Mr. Modell would have chosen to move—and endure tremendous criticism—if he would receive the league average either way. Even if Mr. Modell still wished to relocate, however, the league might well have blocked the move, based on the factors established and the antitrust certainty provided by this legislation.

Of course, it is sometimes appropriate and even desirable for a team to relocate, such as when the fans and local business community do not adequately appreciate and support their team. My revenue-sharing requirement would not stop such moves, but would encourage professional sports to look more to private funding than to public subsidies in such cases.

Nor does this revenue-sharing requirement stop a community from using public funds to construct or improve a stadium or arena if it wishes to do so. The provision would require the team using the facility to share revenue only if the team receives financial benefits as a result of the public expenditures, such as rent abatement or extra luxury suite income, which exceed the league average. In other words, if the city chose to build or renovate a stadium, and used any additional revenues to repay the public expenditures for the construction, those new revenues would not be included in any revenue-sharing arrangement.

As I indicated earlier, the recent problems with franchise instability have occurred largely in the National Football League. It may be no coincidence that since a $49 million antitrust judgment was levied against the NFL for trying to block the Raiders' move to Los Angeles in the 1980's, football has been more reluctant than basketball and hockey to risk antitrust litigation over the propriety of league actions. It should be noted that my legislation does not require any league to take any action, but simply provides antitrust certainty to those leagues which choose to comply with the bill's requirements. Some leagues may not choose to participate initially.

Certainly this legislation should not be taken as any indication that joint conduct by a league in addressing franchise movement or any other issue would be illegal under the current state of antitrust law. The conduct of a league may very well be found lawful under the antitrust laws when making and enforcing rules governing franchise relocation by its teams, without consideration of this legislation. My bill simply provides certainty to leagues that choose to comply with its terms.

Finally, this bill does not limit its antitrust clarification to the major sports, but defines professional sports league broadly. It should be noted, however, that major league baseball is excluded from the bill as long as baseball's judicially created antitrust exemption concerning franchise relocation remains in place. I would hasten to add that franchise relocation issues are expressly not affected by the separate baseball legislation, S. 627, that I introduced with Senator HATCH and others, to limit baseball's judicially created antitrust exemption. Let me repeat so there is no confusion: neither this legislation I am introducing today, nor our baseball legislation, S. 627, which has passed both the Antitrust Subcommittee and the full Judiciary Committee, would in any way impact baseball's current ability to control franchise movement. Indeed, this new legislation along with S. 627 would go a long way toward putting all professional sports on an even footing under our Nation's antitrust laws.

Mr. President, the instability of sports franchises caused by large public subsidies of professional sports raises important issues which have a direct and significant impact on the lives and finances of most Americans. The Professional Sports Antitrust Clarification Act will help to resolve these concerns.

I send the bill to the desk and ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1696

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Professional Sports Antitrust Clarification Act of 1996".

SEC. 2. ACTIONS AUTHORIZED.

(a) IN GENERAL.—Notwithstanding any provision of the antitrust laws, and subject to section 3 and subsection (b) of this section, a professional sports league or its member franchises may establish and enforce rules and procedures for the purpose of deciding whether a member franchise may change its home territory.

(b) CONSTRUCTION.—Nothing in this section shall be construed to exempt from the antitrust laws any conduct which would be unlawful under any antitrust law if engaged in by a single entity.

SEC. 3. REQUIREMENTS FOR ANTITRUST PROTECTION.

(a) IN GENERAL.—This Act applies to a professional sports league and its member franchises if such league—

(1) establishes applicable rules and procedures to govern whether a member franchise may change its home territory that are available upon request to any interested party;

(2) affords due process, including 180 days notice and an opportunity to be heard, to interested parties prior to deciding whether a member franchise may change its home territory; and

(3) promotes comparable economic opportunities by sharing revenue among member franchises to account for disparities in revenue received or costs saved due to direct or indirect public benefits and subsidies, including publicly financed facilities, rent abatement, special tax treatment, favorable arrangements for parking, concessions, and other amenities, and other public benefits not generally available to businesses as a whole within the jurisdiction.

(b) RULES AND PROCEDURES.—Rules and procedures established under subsection (a)(1) shall require consideration of various factors to protect the public interest, including—

(1) the extent to which fan support for a member franchise has been demonstrated through attendance, ticket sales, and television ratings, during the period in which the member franchise played in its home territory;

(2) the extent to which the member franchise has, directly or indirectly, received public financial support through publicly financed facilities, rent abatement, special tax treatment, favorable arrangements for parking, concessions, and other amenities, and any other public benefits not generally available to businesses as a whole within the jurisdiction, and the extent to which such support continues;

(3) the effect that relocation would have on contracts, agreements, and understandings between the member franchise and public and private parties;

(4) the extent of any net operating losses experienced by the member franchise in recent years and the extent to which the member franchise bears responsibility for such losses; and

(5) any bona fide offer to purchase the member franchise at fair market value, if such offer includes the continued location of such member franchise in its home territory.

SEC. 4. JUDICIAL REVIEW.

(a) STANDARD OF REVIEW.—The standard of judicial review shall be de novo in any action challenging the establishment and enforcement of rules and procedures for deciding whether a member franchise may change its home territory, except that the reviewing court shall give deference to actions of the professional sports league regarding compliance with paragraphs (1) and (3) of section 3(a).

(b) DECLARATORY ACTIONS.—A professional sports league or any interested party may seek a declaratory judgment with respect to whether paragraphs (1) and (3) of section 3(a) are adequately satisfied by the professional sports league for this Act to apply.

(c) LIMITATION ON MONETARY DAMAGES.—A judicial finding that a professional sports league did not comply with any provision of section 3 shall result only in further proceedings by the professional sports league and shall not result in liability under the antitrust laws or monetary damages, if—

(1) the professional sports league implemented a revenue sharing plan in a good faith attempt to comply with section 3(a)(3) prior to the specific dispute in issue; or

(2) a prior declaratory judgment held that the revenue sharing plan of the professional sports league complied with section 3(a)(3).

(d) VENUE.—In any action challenging the establishment and enforcement of rules and procedures to decide whether a member franchise may change its home territory, venue shall be proper only in the United States District Court for the District of Columbia, except that—

(1) venue shall be proper only in the United States District Court for the Southern District of New York if the existing or proposed home territory of a member franchise is located within 100 miles of the United States District Court for the District of Columbia; and

(2) venue shall be proper only in the United States District Court for the Northern District of Illinois if—

(A) the existing home territory of a member franchise is located within 100 miles of the United States District Court for the District of Columbia or the Southern District of New York; and

(B) the proposed home territory of the member franchise is located within 100 miles of the United States District Court for the District of Columbia or the Southern District of New York.

SEC. 5. DEFINITIONS.

For purposes of this Act—

(1) the term "antitrust laws"—

(A) has the same meaning as in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section relates to unfair methods of competition; and

(B) includes any State law comparable to the laws referred to in subparagraph (A);

(2) the terms "professional sports team", "team", "member franchise", and "franchise" mean any team of professional athletes that is a member of a professional sports league;

(3) the terms "professional sports league" and "league" mean—

(A) an association of 2 or more professional sports teams that governs the conduct of its members and regulates the contests and exhibitions in which such teams regularly engage;

(B) whose decisions relating to franchise relocation would otherwise be subject to the antitrust laws; and

(C) that has combined franchise revenues of more than $10,000,000 per year;

(4) the term "interested party" means the member franchise at issue, local and State government officials, owners and operators of playing facilities, concessionaires, and others whose business relations would be directly and significantly affected by the franchise relocation at issue, and representatives of organized civic and fan groups; and

(5) the term "playing facility" means the stadium, arena, or other venue in which professional sports teams regularly conduct their contests and exhibitions.

SEC. 6. EFFECTIVE DATE.

This Act applies to any action occurring on or after the date of enactment of this Act.

ADDITIONAL COSPONSORS

S. 334

At the request of Mr. McConnell, the name of the Senator from Colorado [Mr. Campbell] was added as a cosponsor of S. 334, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact a Law Enforcement Officers' Bill of Rights, to provide standards and protection for the conduct of internal police investigations, and for other purposes.

S. 673

At the request of Mrs. Kassebaum, the name of the Senator from Alaska [Mr. Murkowski] was added as a cosponsor of S. 673, a bill to establish a youth development grant program, and for other purposes.

S. 773

At the request of Mrs. Kassebaum, the name of the Senator from Minnesota [Mr. Grams] was added as a cosponsor of S. 773, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes.

S. 837

At the request of Mr. Warner, the name of the Senator from Oklahoma [Mr. Inhofe] was added as a cosponsor of S. 837, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of James Madison.

S. 1002

At the request of Mr. Chafee, the name of the Senator from Louisiana [Mr. Breaux] was added as a cosponsor of S. 1002, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 1493

At the request of Mr. Lautenberg, the names of the Senator from Hawaii [Mr. Akaka], the Senator from California [Mrs. Boxer], the Senator from Nevada [Mr. Reid], the Senator from Wisconsin [Mr. Feingold], the Senator from Wisconsin [Mr. Kohl], the Senator from Massachusetts [Mr. Kerry], the Senator from Illinois [Mr. Simon], the Senator from Maryland [Ms. Mikulski], and the Senator from New Jersey [Mr. Bradley] were added as cosponsors of S. 1493, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1524

At the request of Mr. Lautenberg, the name of the Senator from Washington [Mrs. Murray] was added as a cosponsor of S. 1524, a bill to amend title 49, United States Code, to prohibit smoking on any scheduled airline flight segment in intrastate, interstate, or foreign air transportation.

S. 1578

At the request of Mr. Frist, the names of the Senator from Massachusetts [Mr. Kennedy], the Senator from Idaho [Mr. Kempthorne], the Senator from New Mexico [Mr. Domenici], the Senator from Illinois [Mr. Simon], and the Senator from Rhode Island [Mr. Pell] were added as cosponsors of S. 1578, a bill to amend the Individuals with Disabilities Education Act to authorize appropriations for fiscal years 1997 through 2002, and for other purposes.

S. 1612

At the request of Mr. Helms, the name of the Senator from Alaska [Mr. Murkowski] was added as a cosponsor of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

S. 1628

At the request of Mr. Brown, the names of the Senator from Colorado [Mr. Campbell], and the Senator from Alaska [Mr. Murkowski] were added as cosponsors of S. 1628, a bill to amend title 17, United States Code, relating to the copyright interests of certain musical performances, and for other purposes.

S. 1660

At the request of Mr. Glenn, the names of the Senator from Ohio [Mr. DeWine] and the Senator from Illinois [Mr. Simon] were added as cosponsors of S. 1660, a bill to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes.

S. 1690

At the request of Mr. Conrad, the name of the Senator from Wisconsin [Mr. Kohl] was added as a cosponsor of S. 1690, a bill to provide a grace period for the prohibition on Consolidated Farm Service Agency lending to delinquent borrowers, and for other purposes.

SENATE JOINT RESOLUTION 21

At the request of Mr. Thurmond, his name was added as a cosponsor of Senate Joint Resolution 21, a joint resolution proposing a constitutional amendment to limit congressional terms.

At the request of Mr. Thompson, the name of the Senator from Minnesota [Mr. Grams] was added as a cosponsor of Senate Joint Resolution 21, supra.

SENATE JOINT RESOLUTION 51

At the request of Mr. Dole, the names of the Senator from Michigan [Mr. Levin] and the Senator from Colorado [Mr. Brown] were added as cosponsors of Senate Joint Resolution 51, a joint resolution saluting and congratulating Polish people around the world as, on May 3, 1996, they commemorate the 205th anniversary of the adoption of Poland's first constitution.

SENATE CONCURRENT RESOLUTION 42

At the request of Mrs. Kassebaum, the name of the Senator from Virginia [Mr. Robb] was added as a cosponsor of Senate Concurrent Resolution 42, a concurrent resolution concerning the emancipation of the Iranian Baha'i community.

SENATE RESOLUTION 226

At the request of Mr. Domenici, the name of the Senator from Kentucky [Mr. Ford] was added as a cosponsor of Senate Resolution 226, a resolution to proclaim the week of October 13 through October 19, 1996, as "National Character Counts Week."

SENATE RESOLUTION 248

At the request of Mr. Feingold, the name of the Senator from Connecticut [Mr. Dodd] was added as a cosponsor of Senate Resolution 248, a resolution relating to the violence in Liberia.

AMENDMENT NO. 3693

At the request of Mr. Thompson the name of the Senator from Michigan [Mr. Abraham] was added as a cosponsor of amendment No. 3693 proposed to Senate Joint Resolution 21, a joint resolution proposing a constitutional amendment to limit congressional terms.

AMENDMENT NO. 3695

At the request of Mr. Thompson the name of the Senator from Michigan [Mr. Abraham] was added as a cosponsor of amendment No. 3695 proposed to Senate Joint Resolution 21, a joint resolution proposing a constitutional amendment to limit congressional terms.

AMENDMENT NO. 3697

At the request of Mr. Thompson the name of the Senator from Michigan

[Mr. ABRAHAM] was added as a cosponsor of amendment No. 3697 proposed to Senate Joint Resolution 21, a joint resolution proposing a constitutional amendment to limit congressional terms.

AMENDMENT NO. 3699

At the request of Mr. THOMPSON the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of amendment No. 3699 proposed to Senate Joint Resolution 21, a joint resolution proposing a constitutional amendment to limit congressional terms.

SENATE CONCURRENT RESOLUTION 53 RELATIVE TO THE REPUBLIC OF SIERRA LEONE

Mr. JEFFORDS (for himself, Mrs. KASSEBAUM, Mr. SIMON, and Mr. FEINGOLD) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 53

Whereas since 1991 the people of the Republic of Sierra Leone have endured a horrific civil war that has killed thousands of individuals and displaced more than half the population of the country;

Whereas for the first time in almost 30 years, the Republic of Sierra Leone held its first truly democratic multiparty elections to elect a president and parliament and put an end to military rule;

Whereas the elections held on February 26, 1996, and the subsequent runoff election held on March 15, 1996, were deemed by international and domestic observers to be free and fair and legitimate expressions of the will of the people of the Republic of Sierra Leone;

Whereas success of the newly elected democratic government led by President Ahmad Tejan Kabbah could have a positive effect on the West African neighbors of the Republic of Sierra Leone; and

Whereas the historic event of democratic multiparty elections in the Republic of Sierra Leone should be honored: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) congratulates the people of the Republic of Sierra Leone for holding their first democratic multiparty presidential and parliamentary elections in nearly 30 years;

(2) encourages all people of the Republic of Sierra Leone to continue to negotiate an end to the civil war and work together after taking the critical first step of holding democratic elections in that country;

(3) reaffirms the commitment of the United States to help nations move toward freedom and democracy; and

(4) further reaffirms that the United States is committed to encouraging peace, democracy, and economic development on the African continent.

• Mr. JEFFORDS. Mr. President, I am submitting for myself and several of my colleagues a concurrent resolution recognizing the people of the Republic of Sierra Leone for their recent elections and democratic transition. The elections held this February and March were the first multiparty democratic elections in Sierra Leone in almost 30 years. They marked what could well be the key turning point in the civil war which has tormented Sierra Leone since 1991. In the face of ongoing civil war and violence, Sierra Leoneans—SEE-AIR-AH LEE-OH-NEE-UNS—turned out in impressive numbers to vote, literally putting their lives on the line for democracy. They clearly believed that the ballot is more powerful than the bullet, and voted to end military rule and the rule of the gun. Their courage and resolve remind us of the blessings of democracy and liberty which we so often take for granted in the United States. This example is particularly timely for us in this year of American elections.

As well as helping move Sierra Leone toward a peaceful resolution of its own civil conflict, this successful transition from military rule to democracy can serve as a positive example for the region. Sierra Leone's potential role in the region was underlined last week during the tragic events in Liberia. The new government of Sierra Leone allowed the United States to use the airport in Freetown as a transit point for the evacuation of Americans and third country nationals from Liberia. We are grateful for this assistance.

I also wish to take this opportunity to recognize the important contribution of the various Americans involved in Sierra Leone's transition, notably the United States Embassy in Freetown led by Ambassador John Hirsch, and the African-American Institute, which sent a nonpartisan election observation group to monitor the elections throughout Sierra Leone and train local monitors for this and future democratic elections there.

I have long believed that there are many positive developments in Africa, and that they often are overshadowed by the problems and crises. It is my pleasure today to be able to recognize one such positive development, and in that spirit, I hope that my colleagues in the Senate and in the House will join me and my colleagues to pass this resolution congratulating the Republic of Sierra Leone on its democratic transition.•

• Mrs. KASSEBAUM. Mr. President, I am pleased to join with Senator JEFFORDS, Senator FEINGOLD, and others in submitting this resolution commending the people of Sierra Leone on their successful transition to democracy.

At a time of much instability in west Africa—from Liberia, to the Gambia, to Nigeria—the changes in Sierra Leone represent a beacon of hope for the region.

Many people questioned the wisdom of proceeding with a multi-party election in the midst of a civil war, but the people of Sierra Leone would not be denied their opportunity to vote. They stood in line for many hours, desperate to cast their ballot. Their will was strong: the military simply had to go. Through their determination, the election succeeded, and on March 29, 1996, the military handed over power to a democratically elected head of state.

Mr. President, I am pleased to join with my distinguished colleagues in congratulating the new President, Ahmad Tejan Kabbah, on his election. He brings to the job a distinguished background in international affairs, and I believe is well prepared to lead Sierra Leone from its troubled past to a prosperous and peaceful future. It is my hope that the Senate Foreign Relations Committee will soon be able to welcome the new President to Washington.

The head of the Interim National Election Commission, Mr. James Jonah, also deserves special congratulations. Under extremely difficult circumstances—from financial to logistical to political—Mr. Jonah guided his country toward democracy and civilian rule. His steady hand contributed greatly to the success of the process.

I also want to pay special tribute to the United States Ambassador to Sierra Leone, John Hirsch. Despite limited resources, Ambassador Hirsch played a critically important role in pushing for democratic change. We often fail to recognize our skilled diplomats in small embassies like Freetown, but their dedicated efforts are extremely important and appreciated.

Finally, I want to commend the former military ruler of the country, Julius Amaada Bio, for respecting the results of the elections. Until the last moment, many questioned whether the military would actually hand over power. Of course, many military rulers—including some in west Africa—have ignored elections. But Brigadier Bio demonstrated statesmanlike leadership in guiding his country to democracy, and I believe history will look upon him kindly.

Mr. President, the path ahead for Sierra Leone will not be easy. While a tentative cease-fire holds, instability continues to plague the Sierra Leonian countryside. I hope the Revolutionary United Front [RUF] will negotiate in good faith with the new President of the country and that a lasting peace agreement can soon be reached. The time for fighting is over as Sierra Leone moves toward a new era.

At the same time, reform of the military must be a top priority. There is little doubt that the people of Sierra Leone lack confidence in the integrity and professionalism of their own protectors. That must change.

As the peace process moves forward, the South African mercenaries should also return to their homes. As I told Chairman Strasser, the former head of state, during his visit to Washington last October, the continued presence of mercenaries will only contribute to instability over the long-run.

While elections are important, Sierra Leone must get back on its feet economically for democracy to take root. The civil war and instability have devastated the formal economy. But Sierra Leone is gifted with many natural resources and great beauty. I urge the new government to work closely with the international financial institutions to move the economy forward, and I urge our Government to closely examine what contribution we can make to Sierra Leone's recovery.

Mr. President, as chair of the Africa subcommittee, many people ask whether I get frustrated watching events in Africa—and sometimes I do. But for every Rwanda or Liberia, there is a South Africa, a Mozambique, or even—as we recognize today—a Sierra Leone.

Again, I congratulate the people of Sierra Leone on their historic election and am pleased to join my colleagues in cosponsoring this important resolution.●

SENATE RESOLUTION 242—TO PROVIDE FOR THE APPROVAL OF FINAL REGULATIONS

Mr. WARNER submitted the following resolution; which was considered and agreed to on April 15, 1996:

S. RES. 242

Resolved, That the following regulations issued by the Office of Compliance on January 22, 1996 are hereby approved as follows:

PART 825—FAMILY AND MEDICAL LEAVE

825.1 Purpose and scope.
825.2 [Reserved].

SUBPART A—WHAT IS THE FAMILY AND MEDICAL LEAVE ACT, AND TO WHOM DOES IT APPLY UNDER THE CONGRESSIONAL ACCOUNTABILITY ACT?

825.100 What is the Family and Medical Leave Act?
825.101 What is the purpose of the FMLA?
825.102 When are the FMLA and the CAA effective for covered employees and employing offices?
825.103 How does the FMLA, as made applicable by the CAA, affect leave in progress on, or taken before, the effective date of the CAA?
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PART 825—FAMILY AND MEDICAL LEAVE

§825.1 Purpose and scope

(a) Section 202 of the Congressional Accountability Act (CAA) (2 U.S.C. 1312) applies the rights and protections of sections 101 through 105 of the Family and Medical Leave Act of 1993 (FMLA) (29 U.S.C. 2611-2615) to covered employees. (The term "covered employee" is defined in section 101(3) of the CAA (2 U.S.C. 1301(3)). See §825.800 of these regulations for that definition.) The purpose of this part is to set forth the regulations to carry out the provisions of section 202 of the CAA.

(b) These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 202(d) and 304 of the CAA, which direct the Board to promulgate regulations implementing section 202 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 202 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section". The regulations issued by the Board herein are on all matters for which section 202 of the CAA requires regulations to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of the promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 202 of the CAA]".

(c) In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§825.2 [Reserved]

SUBPART A—WHAT IS THE FAMILY AND MEDICAL LEAVE ACT, AND TO WHOM DOES IT APPLY UNDER THE CONGRESSIONAL ACCOUNTABILITY ACT?

§825.100 What is the Family and Medical Leave Act?

(a) The Family and Medical Leave Act of 1993 (FMLA), as made applicable by the Congressional Accountability Act (CAA), allows "eligible" employees of an employing office to take job-protected, unpaid leave, or to substitute appropriate paid leave if the employee has earned or accrued it, for up to a total of 12 workweeks in any 12 months because of the birth of a child and to care for the newborn child, because of the placement of a child with the employee for adoption or foster care, because the employee is needed to care for a family member (child, spouse, or parent) with a serious health condition, or because the employee's own serious health condition makes the employee unable to perform the functions of his or her job (see §825.306(b)(4)). In certain cases, this leave may be taken on an intermittent basis rather than all at once, or the employee may work a part-time schedule.

(b) An employee on FMLA leave is also entitled to have health benefits maintained while on leave as if the employee had continued to work instead of taking the leave. If an employee was paying all or part of the premium payments prior to leave, the employee would continue to pay his or her share during the leave period. The employing office or a disbursing or other financial office of the Senate may recover its share only if the employee does not return to work for a reason other than the serious health condition of the employee or the employee's immediate family member, or another reason beyond the employee's control.

(c) An employee generally has a right to return to the same position or an equivalent position with equivalent pay, benefits and working conditions at the conclusion of the leave. The taking of FMLA leave cannot result in the loss of any benefit that accrued prior to the start of the leave.

(d) The employing office has a right to 30 days advance notice from the employee where practicable. In addition, the employing office may require an employee to submit certification from a health care provider to substantiate that the leave is due to the serious health condition of the employee or the employee's immediate family member. Failure to comply with these requirements may result in a delay in the start of FMLA leave. Pursuant to a uniformly applied policy, the employing office may also require that an employee present a certification of fitness to return to work when the absence was caused by the employee's serious health condition (see §825.311(c)). The employing office may delay restoring the employee to employment without such certificate relating to the health condition which caused the employee's absence.

§825.101 What is the purpose of the FMLA?

(a) FMLA is intended to allow employees to balance their work and family life by taking reasonable unpaid leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition. The FMLA is intended to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity. It was intended that the FMLA accomplish these purposes in a manner that accommodates the legitimate interests of employers, and in a manner consistent with the Equal Protection Clause of the Fourteenth Amendment in minimizing the potential for employment discrimination on the basis of sex, while promoting equal employment opportunity for men and women.

(b) The enactment of FMLA was predicated on two fundamental concerns "the needs of the American workforce, and the development of high-performance organizations". Increasingly, America's children and elderly are dependent upon family members who must spend long hours at work. When a family emergency arises, requiring workers to attend to seriously-ill children or parents, or to newly-born or adopted infants, or even to their own serious illness, workers need reassurance that they will not be asked to choose between continuing their employment, and meeting their personal and family obligations or tending to vital needs at home.

(c) The FMLA is both intended and expected to benefit employers as well as their employees. A direct correlation exists between stability in the family and productivity in the workplace. FMLA will encourage the development of high-performance organizations. When workers can count on durable links to their workplace they are able to make their own full commitments to their jobs. The record of hearings on family and medical leave indicate the powerful productive advantages of stable workplace relationships, and the comparatively small costs of guaranteeing that those relationships will not be dissolved while workers attend to pressing family health obligations or their own serious illness.

§825.102 When are the FMLA and the CAA effective for covered employees and employing offices?

(a) The rights and protection of sections 101 through 105 of the FMLA have applied to certain Senate employees and certain employing offices of the Senate since August 5, 1993 (see section 501 of FMLA).

(b) The rights and protection of sections 101 through 105 of the FMLA have applied to any employee in an employment position and any employment authority of the House of Representatives since August 5, 1993 (see section 502 of FMLA).

(c) The rights and protections of sections 101 through 105 of the FMLA have applied to certain employing offices and covered employees other than those referred to in paragraphs (a) and (b) of this section for certain periods since August 5, 1993 (see, e.g., title V of the FMLA, sections 501 and 502).

(d) The provisions of section 202 of the CAA that apply rights and protections of the FMLA to covered employees are effective on January 23, 1996.

(e) The period prior to the effective date of the application of FMLA rights and protections under the CAA must be considered in determining employee eligibility.

§825.103 How does the FMLA, as made applicable by the CAA, affect leave in progress on, or taken before, the effective date of the CAA?

(a) An eligible employee's right to take FMLA leave began on the date that the rights and protections of the FMLA first went into effect for the employing office and employee (see §825.102(a)). Any leave taken prior to the date on which the rights and protections of the FMLA first became effective for the employing office from which the leave was taken may not be counted for purposes of the FMLA as made applicable by the

CAA. If leave qualifying as FMLA leave was underway prior to the effective date of the FMLA for the employing office from which the leave was taken and continued after the FMLA's effective date for that office, only that portion of leave taken on or after the FMLA's effective date may be counted against the employee's leave entitlement under the FMLA, as made applicable by the CAA.

(b) If an employing office-approved leave is underway when the application of the FMLA by the CAA takes effect, no further notice would be required of the employee unless the employee requests an extension of the leave. For leave which commenced on the effective date or shortly thereafter, such notice must have been given which was practicable, considering the foreseeability of the need for leave and the effective date.

(c) Starting on January 23, 1996, an employee is entitled to FMLA leave under these regulations if the reason for the leave is qualifying under the FMLA, as made applicable by the CAA, even if the event occasioning the need for leave (e.g., the birth of a child) occurred before such date (so long as any other requirements are satisfied).

§ 825.104 What employing offices are covered by the FMLA, as made applicable by the CAA?

(a) The FMLA, as made applicable by the CAA, covers all employing offices. As used in the CAA, the term "employing office" means—

(1) the personal office of a Member of the House of Representatives or of a Senator;

(2) a committee of the House of Representatives or the Senate or a joint committee;

(3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(4) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

(b) [Reserved]

(c) Separate entities will be deemed to be parts of a single employer for purposes of the FMLA, as made applicable by the CAA, if they meet the "integrated employer" test. A determination of whether or not separate entities are an integrated employer is not determined by the application of any single criterion, but rather the entire relationship is to be reviewed in its totality. Factors considered in determining whether two or more entities are an integrated employer include:

(i) Common management;

(ii) Interrelation between operations;

(iii) Centralized control of labor relations; and

(iv) Degree of common financial control.

§ 825.105 [Reserved]

§ 825.106 How is "joint employment" treated under the FMLA as made applicable by the CAA?

(a) Where two or more employing offices exercise some control over the work or working conditions of the employee, the employing offices may be joint employers under FMLA, as made applicable by the CAA. Where the employee performs work which simultaneously benefits two or more employing offices, or works for two or more employing offices at different times during the workweek, a joint employment relationship generally will be considered to exist in situations such as:

(1) Where there is an arrangement between employing offices to share an employee's services or to interchange employees;

(2) Where one employing office acts directly or indirectly in the interest of the other employing office in relation to the employee; or

(3) Where the employing offices are not completely disassociated with respect to the employee's employment and may be deemed to share control of the employee, directly or indirectly, because one employing office controls, is controlled by, or is under common control with the other employing office.

(b) A determination of whether or not a joint employment relationship exists is not determined by the application of any single criterion, but rather the entire relationship is to be viewed in its totality. For example, joint employment will ordinarily be found to exist when—

(1) an employee, who is employed by an employing office other than the personal office of a Member of the House of Representatives or of a Senator, is under the actual direction and control of the Member of the House of Representatives or Senator; or

(2) two or more employing offices employ an individual to work on common issues or other matters for both or all of them.

(c) When employing offices employ a covered employee jointly, they may designate one of themselves to be the primary employing office, and the other or others to be the secondary employing office(s). Such a designation shall be made by written notice to the covered employee.

(d) If an employing office is designated a primary employing office pursuant to paragraph (c) of this section, only that employing office is responsible for giving required notices to the covered employee, providing FMLA leave, and maintenance of health benefits. Job restoration is the primary responsibility of the primary employing office, and the secondary employing office(s) may, subject to the limitations in § 825.216, be responsible for accepting the employee returning from FMLA leave.

(e) If employing offices employ an employee jointly, but fail to designate a primary employing office pursuant to paragraph (c) of this section, then all of these employing offices shall be jointly and severally liable for giving required notices to the employee, for providing FMLA leave, for assuring that health benefits are maintained, and for job restoration. The employee may give notice of need for FMLA leave, as described in §§ 825.302 and 825.303, to whichever of these employing offices the employee chooses. If the employee makes a written request for restoration to one of these employing offices, that employing office shall be primarily responsible for job restoration, and the other employing office(s) may, subject to the limitations in § 825.216, be responsible for accepting the employee returning from FMLA leave.

§ 825.107 [Reserved]

§ 825.108 [Reserved]

§ 825.109 [Reserved]

§ 825.110 Which employees are "eligible" to take FMLA leave under these regulations?

(a) An "eligible employee" under these regulations means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

(b) The 12 months an employee must have been employed by any employing office need not be consecutive months. If an employee worked for two or more employing offices sequentially, the time worked will be aggregated to determine whether it equals 12 months. If an employee is maintained on the payroll for any part of a week, including any periods of paid or unpaid leave (sick, vacation) during which other benefits or compensation are provided by the employer (e.g., workers' compensation, group health plan benefits, etc.), the week counts as a week of employment. For purposes of determining whether intermittent/occasional/casual employment qualifies as "at least 12 months", 52 weeks is deemed to be equal to 12 months.

(c) If an employee was employed by two or more employing offices, either sequentially or concurrently, the hours of service will be aggregated to determine whether the minimum of 1,250 hours has been reached. Whether an employee has worked the minimum 1,250 hours of service is determined according to the principles established under the Fair Labor Standards Act (FLSA), as applied by section 203 of the CAA (2 U.S.C. 1313), for determining compensable hours of work. The determining factor is the number of hours an employee has worked for one or more employing offices. The determination is not limited by methods of record-keeping, or by compensation agreements that do not accurately reflect all of the hours an employee has worked for or been in service to the employing office. Any accurate accounting of actual hours worked may be used. For this purpose, full-time teachers (see § 825.800 for definition) of an elementary or secondary school system, or institution of higher education, or other educational establishment or institution are deemed to meet the 1,250 hour test. An employing office must be able to clearly demonstrate that such an employee did not work 1,250 hours during the previous 12 months in order to claim that the employee is not "eligible" for FMLA leave.

(d) The determinations of whether an employee has worked for any employing office for at least 1,250 hours in the previous 12 months and has been employed by any employing office for a total of at least 12 months must be made as of the date leave commences. The "previous 12 months" means the 12 months immediately preceding the commencement of the leave. If an employee notifies the employing office of need for FMLA leave before the employee meets these eligibility criteria, the employing office must either confirm the employee's eligibility based upon a projection that the employee will be eligible on the date leave would commence or must advise the employee when the eligibility requirement is met. If the employing office confirms eligibility at the time the notice for leave is received, the employing office may not subsequently challenge the employee's eligibility. In the latter case, if the employing office does not advise the employee whether the employee is eligible as soon as practicable (i.e., two business days absent extenuating circumstances) after the date employee eligibility is determined, the employee will have satisfied the notice requirements and the notice of leave is considered current and outstanding until the employing office does advise. If the employing office fails to advise the employee whether the employee is eligible prior to the date the requested leave is to commence, the employee will be deemed eligible. The employing office may not, then, deny the leave. Where the employee does not give notice of the need for leave more than two business days prior to commencing leave, the employee will be deemed to be eligible if the employing office fails to advise the employee that the employee is not eligible within two business days of receiving the employee's notice.

(e) The period prior to the effective date of the application of FMLA rights and protections under the CAA must be considered in determining employee's eligibility.

(f) [Reserved]

§825.111 [Reserved]

§825.112 Under what kinds of circumstances are employing offices required to grant family or medical leave?

(a) Employing offices are required to grant leave to eligible employees:

(1) For birth of a son or daughter, and to care for the newborn child;

(2) For placement with the employee of a son or daughter for adoption or foster care;

(3) To care for the employee's spouse, son, daughter, or parent with a serious health condition; and

(4) Because of a serious health condition that makes the employee unable to perform the functions of the employee's job.

(b) The right to take leave under FMLA as made applicable by the CAA applies equally to male and female employees. A father, as well as a mother, can take family leave for the birth, placement for adoption or foster care of a child.

(c) Circumstances may require that FMLA leave begin before the actual date of birth of a child. An expectant mother may take FMLA leave pursuant to paragraph (a)(4) of this section before the birth of the child for prenatal care or if her condition makes her unable to work.

(d) Employing offices are required to grant FMLA leave pursuant to paragraph (a)(2) of this section before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed. For example, the employee may be required to attend counseling sessions, appear in court, consult with his or her attorney or the doctor(s) representing the birth parent, or submit to a physical examination. The source of an adopted child (e.g., whether from a licensed placement agency or otherwise) is not a factor in determining eligibility for leave for this purpose.

(e) Foster care is 24-hour care for children in substitution for, and away from, their parents or guardian. Such placement is made by or with the agreement of the State as a result of a voluntary agreement between the parent or guardian that the child be removed from the home, or pursuant to a judicial determination of the necessity for foster care, and involves agreement between the State and foster family that the foster family will take care of the child. Although foster care may be with relatives of the child, State action is involved in the removal of the child from parental custody.

(f) In situations where the employer/employee relationship has been interrupted, such as an employee who has been on layoff, the employee must be recalled or otherwise be re-employed before being eligible for FMLA leave. Under such circumstances, an eligible employee is immediately entitled to further FMLA leave for a qualifying reason.

(g) FMLA leave is available for treatment for substance abuse provided the conditions of §825.114 are met. However, treatment for substance abuse does not prevent an employing office from taking employment action against an employee. The employing office may not take action against the employee because the employee has exercised his or her right to take FMLA leave for treatment. However, if the employing office has an established policy, applied in a non-discriminatory manner that has been communicated to all employees, that provides under certain circumstances an employee may be terminated for substance abuse, pursuant to that policy the employee may be terminated whether or not the employee is presently taking FMLA leave. An employee may also take FMLA leave to care for an immediate family member who is receiving treatment for substance abuse. The employing office may not take action against an employee who is providing care for an immediate family member receiving treatment for substance abuse.

§825.113 What do "spouse", "parent", and "son or daughter" mean for purposes of an employee qualifying to take FMLA leave?

(a) Spouse means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized.

(b) Parent means a biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a son or daughter as defined in (c) below. This term does not include parents "in law".

(c) Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability".

(1) "Incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in three or more of the "activities of daily living" (ADLs) or "instrumental activities of daily living" (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

(2) "Physical or mental disability" means a physical or mental impairment that substantially limits one or more of the major life activities of an individual. See the Americans with Disabilities Act (ADA), as made applicable by section 201(a)(3) of the CAA (2 U.S.C. 1311(a)(3)).

(3) Persons who are "in loco parentis" include those with day-to-day responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

(d) For purposes of confirmation of family relationship, the employing office may require the employee giving notice of the need for leave to provide reasonable documentation or statement of family relationship. This documentation may take the form of a simple statement from the employee, or a child's birth certificate, a court document, etc. The employing office is entitled to examine documentation such as a birth certificate, etc., but the employee is entitled to the return of the official document submitted for this purpose.

§825.114 What is a "serious health condition" entitling an employee to FMLA leave?

(a) For purposes of FMLA, "serious health condition" entitling an employee to FMLA leave means an illness, injury, impairment, or physical or mental condition that involves:

(1) Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom), or any subsequent treatment in connection with such inpatient care; or

(2) Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(i) A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(A) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or

(B) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(ii) Any period of incapacity due to pregnancy, or for prenatal care.

(iii) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(A) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(B) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(C) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

(iv) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(v) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

(b) Treatment for purposes of paragraph (a) of this section includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under paragraph (a)(2)(i)(B), a regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

(c) Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(d) Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.

(e) Absences attributable to incapacity under paragraphs (a)(2) (ii) or (iii) qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

§825.115 What does it mean that "the employee is unable to perform the functions of the position of the employee"?

An employee is "unable to perform the functions of the position" where the health care provider finds that the employee is unable to work at all or is unable to perform any one of the essential functions of the employee's position within the meaning of the Americans with Disabilities Act (ADA), as made applicable by section 201(a)(3) of the CAA (2 U.S.C. 1311(a)(3)). An employee who must be absent from work to receive medical treatment for a serious health condition is considered to be unable to perform the essential functions of the position during the absence for treatment. An employing office has the option, in requiring certification from a health care provider, to provide a statement of the essential functions of the employee's position for the health care provider to review. For purposes of FMLA, the essential functions of the employee's position are to be determined with reference to the position the employee held at the time notice is given or leave commenced, whichever is earlier.

§825.116 What does it mean that an employee is "needed to care for" a family member?

(a) The medical certification provision that an employee is "needed to care for" a family member encompasses both physical and psychological care. It includes situations where, for example, because of a serious health condition, the family member is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport himself or herself to the doctor, etc. The term also includes providing psychological comfort and reassurance which would be beneficial to a child, spouse or parent with a serious health condition who is receiving inpatient or home care.

(b) The term also includes situations where the employee may be needed to fill in for others who are caring for the family member, or to make arrangements for changes in care, such as transfer to a nursing home.

(c) An employee's intermittent leave or a reduced leave schedule necessary to care for a family member includes not only a situation where the family member's condition itself is intermittent, but also where the employee is only needed intermittently "such as where other care is normally available, or care responsibilities are shared with another member of the family or a third party."

§825.117 For an employee seeking intermittent FMLA leave or leave on a reduced leave schedule, what is meant by "the medical necessity for" such leave?

For intermittent leave or leave on a reduced leave schedule, there must be a medical need for leave (as distinguished from voluntary treatments and procedures) and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. The treatment regimen and other information described in the certification of a serious health condition (see §825.306) meets the requirement for certification of the medical necessity of intermittent leave or leave on a reduced leave schedule. Employees needing intermittent FMLA leave or leave on a reduced leave schedule must attempt to schedule their leave so as not to disrupt the employing office's operations. In addition, an employing office may assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced leave schedule.

§825.118 What is a "health care provider"?

(a)(1) The term "health care provider" means:

(i) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or

(ii) Any other person determined by the Office of Compliance to be capable of providing health care services.

(2) In making a determination referred to in subparagraph (1)(ii), and absent good cause shown to do otherwise, the Office of Compliance will follow any determination made by the Secretary of Labor (under section 101(6)(B) of the FMLA, 29 U.S.C. 2611(6)(B)) that a person is capable of providing health care services, provided the Secretary's determination was not made at the request of a person who was then a covered employee.

(b) Others "capable of providing health care services" include only:

(1) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law;

(2) Nurse practitioners, nurse-midwives and clinical social workers who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law;

(3) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts. Where an employee or family member is receiving treatment from a Christian Science practitioner, an employee may not object to any requirement from an employing office that the employee or family member submit to examination (though not treatment) to obtain a second or third certification from a health care provider other than a Christian Science practitioner except as otherwise provided under applicable State or local law or collective bargaining agreement.

(4) Any health care provider from whom an employing office or the employing office's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and

(5) A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law.

(c) The phrase "authorized to practice in the State" as used in this section means that the provider must be authorized to diagnose and treat physical or mental health conditions without supervision by a doctor or other health care provider.

SUBPART B—WHAT LEAVE IS AN EMPLOYEE ENTITLED TO TAKE UNDER THE FAMILY AND MEDICAL LEAVE ACT, AS MADE APPLICABLE BY THE CONGRESSIONAL ACCOUNTABILITY ACT?

§825.200 How much leave may an employee take?

(a) An eligible employee's FMLA leave entitlement is limited to a total of 12 workweeks of leave during any 12-month period for any one, or more, of the following reasons:

(1) The birth of the employee's son or daughter, and to care for the newborn child;

(2) The placement with the employee of a son or daughter for adoption or foster care, and to care for the newly placed child;

(3) To care for the employee's spouse, son, daughter, or parent with a serious health condition; and

(4) Because of a serious health condition that makes the employee unable to perform one or more of the essential functions of his or her job.

(b) An employing office is permitted to choose any one of the following methods for determining the "12-month period" in which the 12 weeks of leave entitlement occurs:

(1) The calendar year;

(2) Any fixed 12-month "leave year", such as a fiscal year or a year starting on an employee's "anniversary" date;

(3) The 12-month period measured forward from the date any employee's first FMLA leave begins; or

(4) A "rolling" 12-month period measured backward from the date an employee uses any FMLA leave (except that such measure may not extend back before the date on which the application of FMLA rights and protections first becomes effective for the employing office; see §825.102).

(c) Under methods in paragraphs (b)(1) and (b)(2) of this section an employee would be entitled to up to 12 weeks of FMLA leave at any time in the fixed 12-month period selected. An employee could, therefore, take 12 weeks of leave at the end of the year and 12 weeks at the beginning of the following year. Under the method in paragraph (b)(3) of this section, an employee would be entitled to 12 weeks of leave during the year beginning on the first date FMLA leave is taken; the next 12-month period would begin the first time FMLA leave is taken after completion of any previous 12-month period. Under the method in paragraph (b)(4) of this section, the "rolling" 12-month period, each time an employee takes FMLA leave the remaining leave entitlement would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months. For example, if an employee has taken eight weeks of leave during the past 12 months, an additional four weeks of leave could be taken. If an employee used four weeks beginning February 1, 1997, four weeks beginning June 1, 1997, and four weeks beginning December 1, 1997, the employee would not be entitled to any additional leave until February 1, 1998. However, beginning on February 1, 1998, the employee would be entitled to four weeks of leave, on June 1 the employee would be entitled to an additional four weeks, etc.

(d)(1) Employing offices will be allowed to choose any one of the alternatives in paragraph (b) of this section provided the alternative chosen is applied consistently and uniformly to all employees. An employing office wishing to change to another alternative is required to give at least 60 days notice to all employees, and the transition must take place in such a way that the employees retain the full benefit of 12 weeks of leave under whichever method affords the greatest benefit to the employee. Under no circumstances may a new method be implemented in order to avoid the CAA's FMLA leave requirements.

(2) [Reserved]

(e) If an employing office fails to select one of the options in paragraph (b) of this section for measuring the 12-month period, the option that provides the most beneficial outcome for the employee will be used. The employing office may subsequently select an option only by providing the 60-day notice to all employees of the option the employing office intends to implement. During the running of the 60-day period any other employee who needs FMLA leave may use the option providing the most beneficial outcome to that employee. At the conclusion of the 60-day period the employing office may implement the selected option.

(f) For purposes of determining the amount of leave used by an employee, the fact that a holiday may occur within the week taken as FMLA leave has no effect; the week is counted as a week of FMLA leave. However, if for some reason the employing office's activity has temporarily ceased and employees generally are not expected to report for work for one or more weeks (e.g., a school closing two weeks for the Christmas/New Year holiday or the summer vacation or an employing office closing the office for repairs), the days the employing office's activities have ceased do not count against the employee's FMLA leave entitlement. Methods for determining an employee's 12-week leave entitlement are also described in §825.205.

(g)(1) If employing offices jointly employ an employee, and if they designate a primary employer pursuant to §825.106(c), the primary employer may choose any one of the alternatives in paragraph (b) of this section for measuring the 12-month period, provided that the alternative chosen is applied consistently and uniformly to all employees of the primary employer including the jointly employed employee.

(2) If employing offices fail to designated a primary employer pursuant to §825.106(c), an employee jointly employed by the employing offices may, by so notifying one of the employing offices, select that employing office to be the primary employer of the employee for purposes of the application of paragraphs (d) and (e) of this section.

§825.201 If leave is taken for the birth of a child, or for placement of a child for adoption or foster care, when must the leave be concluded?

An employee's entitlement to leave for a birth or placement for adoption or foster care expires at the end of the 12-month period beginning on the date of the birth or placement, unless the employing office permits leave to be taken for a longer period. Any such FMLA leave must be concluded within this one-year period.

§825.202 How much leave may a husband and wife take if they are employed by the same employing office?

(a) A husband and wife who are eligible for FMLA leave and are employed by the same employing office may be limited to a combined total of 12 weeks of leave during any 12-month period if the leave is taken—

(1) for birth of the employee's son or daughter or to care for the child after birth;

(2) for placement of a son or daughter with the employee for adoption or foster care, or to care for the child after placement; or

(3) to care for the employee's parent with a serious health condition.

(b) This limitation on the total weeks of leave applies to leave taken for the reasons specified in paragraph (a) of this section as long as a husband and wife are employed by the "same employing office". It would apply, for example, even though the spouses are employed at two different work sites of an employing office. On the other hand, if one spouse is ineligible for FMLA leave, the other spouse would be entitled to a full 12 weeks of FMLA leave.

(c) Where the husband and wife both use a portion of the total 12-week FMLA leave entitlement for one of the purposes in paragraph (a) of this section, the husband and wife would each be entitled to the difference between the amount he or she has taken individually and 12 weeks for FMLA leave for a purpose other than those contained in paragraph (a) of this section. For example, if each spouse took 6 weeks of leave to care for a healthy, newborn child, each could use an additional 6 weeks due to his or her own serious health condition or to care for a child with a serious health condition.

§825.203 Does FMLA leave have to be taken all at once, or can it be taken in parts?

(a) FMLA leave may be taken "intermittently or on a reduced leave schedule" under certain circumstances. Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason. A reduced leave schedule is a leave schedule that reduces an employee's usual number of working hours per workweek, or hours per workday. A reduced leave schedule is a change in the employee's schedule for a period of time, normally from full-time to part-time.

(b) When leave is taken after the birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the employing office agrees. Such a schedule reduction might occur, for example, where an employee, with the employing office's agreement, works part-time after the birth of a child, or takes leave in several segments. The employing office's agreement is not required, however, for leave during which the mother has a serious health condition in connection with the birth of her child or if the newborn child has a serious health condition.

(c) Leave may be taken intermittently or on a reduced leave schedule when medically necessary for planned and/or unanticipated medical treatment of a related serious health condition by or under the supervision of a health care provider, or for recovery from treatment or recovery from a serious health condition. It may also be taken to provide care or psychological comfort to an immediate family member with a serious health condition.

(1) Intermittent leave may be taken for a serious health condition which requires treatment by a health care provider periodically, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy. A pregnant employee may take leave intermittently for prenatal examinations or for her own condition, such as for periods of severe morning sickness. An example of an employee taking leave on a reduced leave schedule is an employee who is recovering from a serious health condition and is not strong enough to work a full-time schedule.

(2) Intermittent or reduced schedule leave may be taken for absences where the employee or family member is incapacitated or unable to perform the essential functions of the position because of a chronic serious health condition even if he or she does not receive treatment by a health care provider.

(d) There is no limit on the size of an increment of leave when an employee takes intermittent leave or leave on a reduced leave schedule. However, an employing office may limit leave increments to the shortest period of time that the employing office's payroll system uses to account for absences or use of leave, provided it is one hour or less. For example, an employee might take two hours off for a medical appointment, or might work a reduced day of four hours over a period of several weeks while recuperating from an illness. An employee may not be required to take more FMLA leave than necessary to address the circumstance that precipitated the need for the leave, except as provided in §§825.601 and 825.602.

§825.204 May an employing office transfer an employee to an "alternative position" in order to accommodate intermittent leave or a reduced leave schedule?

(a) If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment for the employee or a family member, including during a period of recovery from a serious health condition, or if the employing office agrees to permit intermittent or reduced schedule leave for the birth of a child or for placement of a child for adoption or foster care, the employing office may require the employee to transfer temporarily, during the period the intermittent or reduced leave schedule is required, to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position. See §825.601 for special rules applicable to instructional employees of schools.

(b) Transfer to an alternative position may require compliance with any applicable collective bargaining agreement and any applicable law (such as the Americans with Disabilities Act, as made applicable by the

CAA). Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent or reduced leave.

(c) The alternative position must have equivalent pay and benefits. An alternative position for these purposes does not have to have equivalent duties. The employing office may increase the pay and benefits of an existing alternative position, so as to make them equivalent to the pay and benefits of the employee's regular job. The employing office may also transfer the employee to a part-time job with the same hourly rate of pay and benefits, provided the employee is not required to take more leave than is medically necessary. For example, an employee desiring to take leave in increments of four hours per day could be transferred to a half-time job, or could remain in the employee's same job on a part-time schedule, paying the same hourly rate as the employee's previous job and enjoying the same benefits. The employing office may not eliminate benefits which otherwise would not be provided to part-time employees; however, an employing office may proportionately reduce benefits such as vacation leave where an employing office's normal practice is to base such benefits on the number of hours worked.

(d) An employing office may not transfer the employee to an alternative position in order to discourage the employee from taking leave or otherwise work a hardship on the employee. For example, a white collar employee may not be assigned to perform laborer's work; an employee working the day shift may not be reassigned to the graveyard shift; an employee working in the headquarters facility may not be reassigned to a branch a significant distance away from the employee's normal job location. Any such attempt on the part of the employing office to make such a transfer will be held to be contrary to the prohibited-acts provisions of the FMLA, as made applicable by the CAA.

(e) When an employee who is taking leave intermittently or on a reduced leave schedule and has been transferred to an alternative position no longer needs to continue on leave and is able to return to full-time work, the employee must be placed in the same or equivalent job as the job he/she left when the leave commenced. An employee may not be required to take more leave than necessary to address the circumstance that precipitated the need for leave.

§825.205 How does one determine the amount of leave used where an employee takes leave intermittently or on a reduced leave schedule?

(a) If an employee takes leave on an intermittent or reduced leave schedule, only the amount of leave actually taken may be counted toward the 12 weeks of leave to which an employee is entitled. For example, if an employee who normally works five days a week takes off one day, the employee would use ⅕ of a week of FMLA leave. Similarly, if a full-time employee who normally works 8-hour days works 4-hour days under a reduced leave schedule, the employee would use ½ week of FMLA leave each week.

(b) Where an employee normally works a part-time schedule or variable hours, the amount of leave to which an employee is entitled is determined on a pro rata or proportional basis by comparing the new schedule with the employee's normal schedule. For example, if an employee who normally works 30 hours per week works only 20 hours a week under a reduced leave schedule, the employee's ten hours of leave would constitute one-third of a week of FMLA leave for each week the employee works the reduced leave schedule.

(c) If an employing office has made a permanent or long-term change in the employee's schedule (for reasons other than FMLA, and prior to the notice of need for FMLA leave), the hours worked under the new schedule are to be used for making this calculation.

(d) If an employee's schedule varies from week to week, a weekly average of the hours worked over the 12 weeks prior to the beginning of the leave period would be used for calculating the employee's normal workweek.

§825.206 May an employing office deduct hourly amounts from an employee's salary, when providing unpaid leave under FMLA, as made applicable by the CAA, without affecting the employee's qualification for exemption as an executive, administrative, or professional employee, or when utilizing the fluctuating workweek method for payment of overtime, under the Fair Labor Standards Act?

(a) Leave taken under FMLA, as made applicable by the CAA, may be unpaid. If an employee is otherwise exempt from minimum wage and overtime requirements of the Fair Labor Standards Act (FLSA), as made applicable by the CAA, as a salaried executive, administrative, or professional employee (under regulations issued by the Board, at part 541), providing unpaid FMLA-qualifying leave to such an employee will not cause the employee to lose the FLSA exemption. This means that under regulations currently in effect, where an employee meets the specified duties test, is paid on a salary basis, and is paid a salary of at least the amount specified in the regulations, the employing office may make deductions from the employee's salary for any hours taken as intermittent or reduced FMLA leave within a workweek, without affecting the exempt status of the employee. The fact that an employing office provides FMLA leave, whether paid or unpaid, or maintains any records regarding FMLA leave, will not be relevant to the determination whether an employee is exempt within the meaning of the Board's regulations at part 541.

(b) For an employee paid in accordance with a fluctuating workweek method of payment for overtime, where permitted by section 203 of the CAA (2 U.S.C. 1313), the employing office, during the period in which intermittent or reduced schedule FMLA leave is scheduled to be taken, may compensate an employee on an hourly basis and pay only for the hours the employee works, including time and one-half the employee's regular rate for overtime hours. The change to payment on an hourly basis would include the entire period during which the employee is taking intermittent leave, including weeks in which no leave is taken. The hourly rate shall be determined by dividing the employee's weekly salary by the employee's normal or average schedule of hours worked during weeks in which FMLA leave is not being taken. If an employing office chooses to follow this exception from the fluctuating workweek method of payment, the employing office must do so uniformly, with respect to all employees paid on a fluctuating workweek basis for whom FMLA leave is taken on an intermittent or reduced leave schedule basis. If an employing office does not elect to convert the employee's compensation to hourly pay, no deduction may be taken for FMLA leave absences. Once the need for intermittent or reduced scheduled leave is over, the employee may be restored to payment on a fluctuating workweek basis.

(c) This special exception to the "salary basis" requirements of the FLSA exemption or fluctuating workweek payment requirements applies only to employees of employing offices who are eligible for FMLA leave, and to leave which qualifies as (one of the four types of) FMLA leave. Hourly or other deductions which are not in accordance with the Board's regulations at part 541 or with a permissible fluctuating workweek method of payment for overtime may not be taken, for example, where the employee has not worked long enough to be eligible for FMLA leave without potentially affecting the employee's eligibility for exemption. Nor may deductions which are not permitted by the Board's regulations at part 541 or by a permissible fluctuating workweek method of payment for overtime be taken from such an employee's salary for any leave which does not qualify as FMLA leave, for example, deductions from an employee's pay for leave required under an employing office's policy or practice for a reason which does not qualify as FMLA leave, e.g., leave to care for a grandparent or for a medical condition which does not qualify as a serious health condition; or for leave which is more generous than provided by FMLA as made applicable by the CAA, such as leave in excess of 12 weeks in a year. The employing office may comply with the employing office's own policy/practice under these circumstances and maintain the employee's eligibility for exemption or for the fluctuating workweek method of pay by not taking hourly deductions from the employee's pay, in accordance with FLSA requirements, or may take such deductions, treating the employee as an "hourly" employee and pay overtime premium pay for hours worked over 40 in a workweek.

§825.207 Is FMLA leave paid or unpaid?

(a) Generally, FMLA leave is unpaid. However, under the circumstances described in this section, FMLA, as made applicable by the CAA, permits an eligible employee to choose to substitute paid leave for FMLA leave. If an employee does not choose to substitute accrued paid leave, the employing office may require the employee to substitute accrued paid leave for FMLA leave.

(b) Where an employee has earned or accrued paid vacation, personal or family leave, that paid leave may be substituted for all or part of any (otherwise) unpaid FMLA leave relating to birth, placement of a child for adoption or foster care, or care for a spouse, child or parent who has a serious health condition. The term "family leave" as used in FMLA refers to paid leave provided by the employing office covering the particular circumstances for which the employee seeks leave for either the birth of a child and to care for such child, placement of a child for adoption or foster care, or care for a spouse, child or parent with a serious health condition. For example, if the employing office's leave plan allows use of family leave to care for a child but not for a parent, the employing office is not required to allow accrued family leave to be substituted for FMLA leave used to care for a parent.

(c) Substitution of paid accrued vacation, personal, or medical/sick leave may be made for any (otherwise) unpaid FMLA leave needed to care for a family member or the employee's own serious health condition. Substitution of paid sick/medical leave may be elected to the extent the circumstances meet the employing office's usual requirements for the use of sick/medical leave. An employing office is not required to allow substitution of paid sick or medical leave for unpaid FMLA leave "in any situation" where the employing office's uniform policy would not normally allow such paid leave. An employee, therefore, has a right to substitute paid medical/sick leave to care for a seriously ill family member only if the employing office's leave plan allows paid leave to be used for that purpose. Similarly, an employee does not have a right to substitute paid medical/sick leave for a serious health condition which is not covered by the employing office's leave plan.

(d)(1) Disability leave for the birth of a child would be considered FMLA leave for a serious health condition and counted in the 12 weeks of leave permitted under FMLA as made applicable by the CAA. Because the leave pursuant to a temporary disability benefit plan is not unpaid, the provision for substitution of paid leave is inapplicable. However, the employing office may designate the leave as FMLA leave and count the leave as running concurrently for purposes of both the benefit plan and the FMLA leave entitlement. If the requirements to qualify for payments pursuant to the employing office's temporary disability plan are more stringent than those of FMLA as made applicable by the CAA, the employee must meet the more stringent requirements of the plan, or may choose not to meet the requirements of the plan and instead receive no payments from the plan and use unpaid FMLA leave or substitute available accrued paid leave.

(2) The FMLA as made applicable by the CAA provides that a serious health condition may result from injury to the employee "on or off" the job. If the employing office designates the leave as FMLA leave in accordance with §825.208, the employee's FMLA 12-week leave entitlement may run concurrently with a workers' compensation absence when the injury is one that meets the criteria for a serious health condition. As the workers' compensation absence is not unpaid leave, the provision for substitution of the employee's accrued paid leave is not applicable. However, if the health care provider treating the employee for the workers' compensation injury certifies the employee is able to return to a "light duty job" but is unable to return to the same or equivalent job, the employee may decline the employing office's offer of a "light duty job". As a result the employee may lose workers' compensation payments, but is entitled to remain on unpaid FMLA leave until the 12-week entitlement is exhausted. As of the date workers' compensation benefits cease, the substitution provision becomes applicable and either the employee may elect or the employing office may require the use of accrued paid leave. See also §§ 825.210(f), 825.216(d), 825.220(d), 825.307(a)(1) and 825.702(d) (1) and (2) regarding the relationship between workers' compensation absences and FMLA leave.

(e) Paid vacation or personal leave, including leave earned or accrued under plans allowing "paid time off", may be substituted, at either the employee's or the employing office's option, for any qualified FMLA leave. No limitations may be placed by the employing office on substitution of paid vacation or personal leave for these purposes.

(f) If neither the employee nor the employing office elects to substitute paid leave for unpaid FMLA leave under the above conditions and circumstances, the employee will remain entitled to all the paid leave which is earned or accrued under the terms of the employing office's plan.

(g) If an employee uses paid leave under circumstances which do not qualify as FMLA leave, the leave will not count against the 12 weeks of FMLA leave to which the employee is entitled. For example, paid sick leave used for a medical condition which is not a serious health condition does not count against the 12 weeks of FMLA leave entitlement.

(h) When an employee or employing office elects to substitute paid leave (of any type) for unpaid FMLA leave under circumstances permitted by these regulations, and the employing office's procedural requirements for taking that kind of leave are less stringent than the requirements of FMLA as made applicable by the CAA (e.g., notice or certification requirements), only the less stringent requirements may be imposed. An employee who complies with an employing office's less stringent leave plan requirements in such cases may not have leave for an FMLA purpose delayed or denied on the grounds that the employee has not complied with stricter requirements of FMLA as made applicable by the CAA. However, where accrued paid vacation or personal leave is substituted for unpaid FMLA leave for a serious health condition, an employee may be required to comply with any less stringent medical certification requirements of the employing office's sick leave program. See §§825.302(g), 825.305(e) and 825.306(c).

(i) Compensatory time off, if any is authorized under applicable law, is not a form of accrued paid leave that an employing office may require the employee to substitute for unpaid FMLA leave. The employee may request to use his/her balance of compensatory time for an FMLA reason. If the employing office permits the accrual of compensatory time to be used in compliance with applicable Board regulations, the absence which is paid from the employee's accrued compensatory time "account" may not be counted against the employee's FMLA leave entitlement.

§825.208 Under what circumstances may an employing office designate leave, paid or unpaid, as FMLA leave and, as a result, enable leave to be counted against the employee's total FMLA leave entitlement?

(a) In all circumstances, it is the employing office's responsibility to designate leave, paid or unpaid, as FMLA-qualifying, and to give notice of the designation to the employee as provided in this section. In the case of intermittent leave or leave on a reduced schedule, only one such notice is required unless the circumstances regarding the leave have changed. The employing office's designation decision must be based only on information received from the employee or the employee's spokesperson (e.g., if the employee is incapacitated, the employee's spouse, adult child, parent, doctor, etc., may provide notice to the employing office of the need to take FMLA leave). In any circumstance where the employing office does not have sufficient information about the reason for an employee's use of paid leave, the employing office should inquire further of the employee or the spokesperson to ascertain whether the paid leave is potentially FMLA-qualifying.

(1) An employee giving notice of the need for unpaid FMLA leave must explain the reasons for the needed leave so as to allow the employing office to determine that the leave qualifies under the FMLA, as made applicable by the CAA. If the employee fails to explain the reasons, leave may be denied. In many cases, in explaining the reasons for a request to use paid leave, especially when the need for the leave was unexpected or unforeseen, an employee will provide sufficient information for the employing office to designate the paid leave as FMLA leave. An employee using accrued paid leave, especially vacation or personal leave, may in some cases not spontaneously explain the reasons or their plans for using their accrued leave.

(2) As noted in §825.302(c), an employee giving notice of the need for unpaid FMLA leave does not need to expressly assert rights under the FMLA as made applicable by the CAA or even mention the FMLA to meet his or her obligation to provide notice, though the employee would need to state a qualifying reason for the needed leave. An employee requesting or notifying the employing office of an intent to use accrued paid leave, even if for a purpose covered by FMLA, would not need to assert such right either. However, if an employee requesting to use paid leave for an FMLA-qualifying purpose does not explain the reason for the leave—consistent with the employing office's established policy or practice—and the employing office denies the employee's request, the employee will need to provide sufficient information to establish an FMLA-qualifying reason for the needed leave so that the employing office is aware of the employee's entitlement (i.e., that the leave may not be denied) and, then, may designate that the paid leave be appropriately counted against (substituted for) the employee's 12-week entitlement. Similarly, an employee using accrued paid vacation leave who seeks an extension of unpaid leave for an FMLA-qualifying purpose will need to state the reason. If this is due to an event which occurred during the period of paid leave, the employing office may count the leave used after the FMLA-qualifying event against the employee's 12-week entitlement.

(b)(1) Once the employing office has acquired knowledge that the leave is being taken for an FMLA required reason, the employing office must promptly (within two business days absent extenuating circumstances) notify the employee that the paid leave is designated and will be counted as FMLA leave. If there is a dispute between an employing office and an employee as to whether paid leave qualifies as FMLA leave, it should be resolved through discussions between the employee and the employing office. Such discussions and the decision must be documented.

(2) The employing office's notice to the employee that the leave has been designated as FMLA leave may be orally or in writing. If the notice is oral, it shall be confirmed in writing, no later than the following payday (unless the payday is less than one week after the oral notice, in which case the notice must be no later than the subsequent payday). The written notice may be in any form, including a notation on the employee's pay stub.

(c) If the employing office requires paid leave to be substituted for unpaid leave, or that paid leave taken under an existing leave plan be counted as FMLA leave, this decision must be made by the employing office within two business days of the time the employee gives notice of the need for leave, or, where the employing office does not initially have sufficient information to make a determination, when the employing office determines that the leave qualifies as FMLA leave if this happens later. The employing office's designation must be made before the leave starts, unless the employing office does not have sufficient information as to the employee's reason for taking the leave until after the leave commenced. If the employing office has the requisite knowledge to make a determination that the paid leave is for an

FMLA reason at the time the employee either gives notice of the need for leave or commences leave and fails to designate the leave as FMLA leave (and so notify the employee in accordance with paragraph (b)), the employing office may not designate leave as FMLA leave retroactively, and may designate only prospectively as of the date of notification to the employee of the designation. In such circumstances, the employee is subject to the full protections of the FMLA, as made applicable by the CAA, but none of the absence preceding the notice to the employee of the designation may be counted against the employee's 12-week FMLA leave entitlement.

(d) If the employing office learns that leave is for an FMLA purpose after leave has begun, such as when an employee gives notice of the need for an extension of the paid leave with unpaid FMLA leave, the entire or some portion of the paid leave period may be retroactively counted as FMLA leave, to the extent that the leave period qualified as FMLA leave. For example, an employee is granted two weeks paid vacation leave for a skiing trip. In mid-week of the second week, the employee contacts the employing office for an extension of leave as unpaid leave and advises that at the beginning of the second week of paid vacation leave the employee suffered a severe accident requiring hospitalization. The employing office may notify the employee that both the extension and the second week of paid vacation leave (from the date of the injury) is designated as FMLA leave. On the other hand, when the employee takes sick leave that turns into a serious health condition (e.g., bronchitis that turns into bronchial pneumonia) and the employee gives notice of the need for an extension of leave, the entire period of the serious health condition may be counted as FMLA leave.

(e) Employing offices may not designate leave as FMLA leave after the employee has returned to work with two exceptions:

(1) If the employee was absent for an FMLA reason and the employing office did not learn the reason for the absence until the employee's return (e.g., where the employee was absent for only a brief period), the employing office may, upon the employee's return to work, promptly (within two business days of the employee's return to work) designate the leave retroactively with appropriate notice to the employee. If leave is taken for an FMLA reason but the employing office was not aware of the reason, and the employee desires that the leave be counted as FMLA leave, the employee must notify the employing office within two business days of returning to work of the reason for the leave. In the absence of such timely notification by the employee, the employee may not subsequently assert FMLA protections for the absence.

(2) If the employing office knows the reason for the leave but has not been able to confirm that the leave qualifies under FMLA, or where the employing office has requested medical certification which has not yet been received or the parties are in the process of obtaining a second or third medical opinion, the employing office should make a preliminary designation, and so notify the employee, at the time leave begins, or as soon as the reason for the leave becomes known. Upon receipt of the requisite information from the employee or of the medical certification which confirms the leave is for an FMLA reason, the preliminary designation becomes final. If the medical certifications fail to confirm that the reason for the absence was an FMLA reason, the employing office must withdraw the designation (with written notice to the employee).

(f) If, before beginning employment with an employing office, an employee had been employed by another employing office, the subsequent employing office may count against the employee's FMLA leave entitlement FMLA leave taken from the prior employing office, except that, if the FMLA leave began after the effective date of these regulations (or if the FMLA leave was subject to other applicable requirement under which the employing office was to have designated the leave as FMLA leave), the prior employing office must have properly designated the leave as FMLA under these regulations or other applicable requirement.

§825.209 Is an employee entitled to benefits while using FMLA leave?

(a) During any FMLA leave, the employing office must maintain the employee's coverage under the Federal Employees Health Benefits Program or any group health plan (as defined in the Internal Revenue Code of 1986 at 26 U.S.C. 5000(b)(1)) on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period. All employing offices are subject to the requirements of the FMLA, as made applicable by the CAA, to maintain health coverage. The definition of "group health plan" is set forth in §825.800. For purposes of FMLA, the term "group health plan" shall not include an insurance program providing health coverage under which employees purchase individual policies from insurers provided that—

(1) no contributions are made by the employing office;

(2) participation in the program is completely voluntary for employees;

(3) the sole functions of the employing office with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer;

(4) the employing office receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deduction; and

(5) the premium charged with respect to such coverage does not increase in the event the employment relationship terminates.

(b) The same group health plan benefits provided to an employee prior to taking FMLA leave must be maintained during the FMLA leave. For example, if family member coverage is provided to an employee, family member coverage must be maintained during the FMLA leave. Similarly, benefit coverage during FMLA leave for medical care, surgical care, hospital care, dental care, eye care, mental health counseling, substance abuse treatment, etc., must be maintained during leave if provided in an employing office's group health plan, including a supplement to a group health plan, whether or not provided through a flexible spending account or other component of a cafeteria plan.

(c) If an employing office provides a new health plan or benefits or changes health benefits or plans while an employee is on FMLA leave, the employee is entitled to the new or changed plan/benefits to the same extent as if the employee were not on leave. For example, if an employing office changes a group health plan so that dental care becomes covered under the plan, an employee on FMLA leave must be given the same opportunity as other employees to receive (or obtain) the dental care coverage. Any other plan changes (e.g., in coverage, premiums, deductibles, etc.) which apply to all employees of the workforce would also apply to an employee on FMLA leave.

(d) Notice of any opportunity to change plans or benefits must also be given to an employee on FMLA leave. If the group health plan permits an employee to change from single to family coverage upon the birth of a child or otherwise add new family members, such a change in benefits must be made available while an employee is on FMLA leave. If the employee requests the changed coverage it must be provided by the employing office.

(e) An employee may choose not to retain group health plan coverage during FMLA leave. However, when an employee returns from leave, the employee is entitled to be reinstated on the same terms as prior to taking the leave, including family or dependent coverages, without any qualifying period, physical examination, exclusion of pre-existing conditions, etc. See §825.212(c).

(f) Except as required by the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) or 5 U.S.C. 8905a, whichever is applicable, and for "key" employees (as discussed below), an employing office's obligation to maintain health benefits during leave (and to restore the employee to the same or equivalent employment) under FMLA ceases if and when the employment relationship would have terminated if the employee had not taken FMLA leave (e.g., if the employee's position is eliminated as part of a nondiscriminatory reduction in force and the employee would not have been transferred to another position); an employee informs the employing office of his or her intent not to return from leave (including before starting the leave if the employing office is so informed before the leave starts); or the employee fails to return from leave or continues on leave after exhausting his or her FMLA leave entitlement in the 12-month period.

(g) If a "key employee" (see §825.218) does not return from leave when notified by the employing office that substantial or grievous economic injury will result from his or her reinstatement, the employee's entitlement to group health plan benefits continues unless and until the employee advises the employing office that the employee does not desire restoration to employment at the end of the leave period, or FMLA leave entitlement is exhausted, or reinstatement is actually denied.

(h) An employee's entitlement to benefits other than group health benefits during a period of FMLA leave (e.g., holiday pay) is to be determined by the employing office's established policy for providing such benefits when the employee is on other forms of leave (paid or unpaid, as appropriate).

§825.210 How may employees on FMLA leave pay their share of group health benefit premiums?

(a) Group health plan benefits must be maintained on the same basis as coverage would have been provided if the employee had been continuously employed during the FMLA leave period. Therefore, any share of group health plan premiums which had been paid by the employee prior to FMLA leave must continue to be paid by the employee during the FMLA leave period. If premiums are raised or lowered, the employee would be required to pay the new premium rates. Maintenance of health insurance policies which are not a part of the employing office's group health plan, as described in

§825.209(a), are the sole responsibility of the employee. The employee and the insurer should make necessary arrangements for payment of premiums during periods of unpaid FMLA leave.

(b) If the FMLA leave is substituted paid leave, the employee's share of premiums must be paid by the method normally used during any paid leave, presumably as a payroll deduction.

(c) If FMLA leave is unpaid, the employing office has a number of options for obtaining payment from the employee. The employing office may require that payment be made to the employing office or to the insurance carrier, but no additional charge may be added to the employee's premium payment for administrative expenses. The employing office may require employees to pay their share of premium payments in any of the following ways:

(1) Payment would be due at the same time as it would be made if by payroll deduction;

(2) Payment would be due on the same schedule as payments are made under COBRA or 5 U.S.C. 8905a, whichever is applicable;

(3) Payment would be prepaid pursuant to a cafeteria plan at the employee's option;

(4) The employing office's existing rules for payment by employees on "leave without pay" would be followed, provided that such rules do not require prepayment (i.e., prior to the commencement of the leave) of the premiums that will become due during a period of unpaid FMLA leave or payment of higher premiums than if the employee had continued to work instead of taking leave; or

(5) Another system voluntarily agreed to between the employing office and the employee, which may include prepayment of premiums (e.g., through increased payroll deductions when the need for the FMLA leave is foreseeable).

(d) The employing office must provide the employee with advance written notice of the terms and conditions under which these payments must be made. (See §825.301.)

(e) An employing office may not require more of an employee using FMLA leave than the employing office requires of other employees on "leave without pay".

(f) An employee who is receiving payments as a result of a workers' compensation injury must make arrangements with the employing office for payment of group health plan benefits when simultaneously taking unpaid FMLA leave. See paragraph (c) of this section and §825.207(d)(2).

§825.211 What special health benefits maintenance rules apply to multi-employer health plans?

(a) A multi-employer health plan is a plan to which more than one employer is required to contribute, and which is maintained pursuant to one or more collective bargaining agreements between employee organization(s) and the employers.

(b) An employing office under a multi-employer plan must continue to make contributions on behalf of an employee using FMLA leave as though the employee had been continuously employed, unless the plan contains an explicit FMLA provision for maintaining coverage such as through pooled contributions by all employers party to the plan.

(c) During the duration of an employee's FMLA leave, coverage by the group health plan, and benefits provided pursuant to the plan, must be maintained at the level of coverage and benefits which were applicable to the employee at the time FMLA leave commenced.

(d) An employee using FMLA leave cannot be required to use "banked" hours or pay a greater premium than the employee would have been required to pay if the employee had been continuously employed.

(e) As provided in §825.209(f), group health plan coverage must be maintained for an employee on FMLA leave until:

(1) the employee's FMLA leave entitlement is exhausted;

(2) the employing office can show that the employee would have been laid off and the employment relationship terminated; or

(3) the employee provides unequivocal notice of intent not to return to work.

§825.212 What are the consequences of an employee's failure to make timely health plan premium payments?

(a)(1) In the absence of an established employing office policy providing a longer grace period, an employing office's obligations to maintain health insurance coverage cease under FMLA if an employee's premium payment is more than 30 days late. In order to drop the coverage for an employee whose premium payment is late, the employing office must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date. If the employing office has established policies regarding other forms of unpaid leave that provide for the employing office to cease coverage retroactively to the date the unpaid premium payment was due, the employing office may drop the employee from coverage retroactively in accordance with that policy, provided the 15-day notice was given. In the absence of such a policy, coverage for the employee may be terminated at the end of the 30-day grace period, where the required 15-day notice has been provided.

(2) An employing office has no obligation regarding the maintenance of a health insurance policy which is not a "group health plan". See §825.209(a).

(3) All other obligations of an employing office under FMLA would continue; for example, the employing office continues to have an obligation to reinstate an employee upon return from leave.

(b) The employing office may recover the employee's share of any premium payments missed by the employee for any FMLA leave period during which the employing office maintains health coverage by paying the employee's share after the premium payment is missed.

(c) If coverage lapses because an employee has not made required premium payments, upon the employee's return from FMLA leave the employing office must still restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not been taken and the premium payment(s) had not been missed, including family or dependent coverage. See §825.215(d)(1)–(5). In such case, an employee may not be required to meet any qualification requirements imposed by the plan, including any new preexisting condition waiting period, to wait for an open season, or to pass a medical examination to obtain reinstatement of coverage.

§825.213 May an employing office recover costs it incurred for maintaining "group health plan" or other non-health benefits coverage during FMLA leave?

(a) In addition to the circumstances discussed in §825.212(b), the share of health plan premiums paid by or on behalf of the employing office during a period of unpaid FMLA leave may be recovered from an employee if the employee fails to return to work after the employee's FMLA leave entitlement has been exhausted or expires, unless the reason the employee does not return is due to:

(1) The continuation, recurrence, or onset of a serious health condition of the employee or the employee's family member which would otherwise entitle the employee to leave under FMLA;

(2) Other circumstances beyond the employee's control. Examples of "other circumstances beyond the employee's control" are necessarily broad. They include such situations as where a parent chooses to stay home with a newborn child who has a serious health condition; an employee's spouse is unexpectedly transferred to a job location more than 75 miles from the employee's worksite; a relative or individual other than an immediate family member has a serious health condition and the employee is needed to provide care; the employee is laid off while on leave; or, the employee is a "key employee" who decides not to return to work upon being notified of the employing office's intention to deny restoration because of substantial and grievous economic injury to the employing office's operations and is not reinstated by the employing office. Other circumstances beyond the employee's control would not include a situation where an employee desires to remain with a parent in a distant city even though the parent no longer requires the employee's care, or a parent chooses not to return to work to stay home with a well, newborn child; or

(3) When an employee fails to return to work because of the continuation, recurrence, or onset of a serious health condition, thereby precluding the employing office from recovering its (share of) health benefit premium payments made on the employee's behalf during a period of unpaid FMLA leave, the employing office may require medical certification of the employee's or the family member's serious health condition. Such certification is not required unless requested by the employing office. The employee is required to provide medical certification in a timely manner which, for purposes of this section, is within 30 days from the date of the employing office's request. For purposes of medical certification, the employee may use the optional form developed for this purpose (see §825.306(a) and Appendix B of this part). If the employing office requests medical certification and the employee does not provide such certification in a timely manner (within 30 days), or the reason for not returning to work does not meet the test of other circumstances beyond the employee's control, the employing office may recover 100 percent of the health benefit premiums it paid during the period of unpaid FMLA leave.

(b) Under some circumstances an employing office may elect to maintain other benefits, e.g., life insurance, disability insurance, etc., by paying the employee's (share of) premiums during periods of unpaid FMLA leave. For example, to ensure the employing office can meet its responsibilities to provide equivalent benefits to the employee upon return from unpaid FMLA leave, it may be necessary that premiums be paid continuously to avoid a lapse of coverage. If the employing office elects to maintain such benefits during the leave, at the conclusion of leave, the employing office is entitled to recover only the costs incurred for paying the employee's share of any premiums whether or not the employee returns to work.

(c) An employee who returns to work for at least 30 calendar days is considered to have "returned" to work. An employee who transfers directly from taking FMLA leave to retirement, or who retires during the first 30 days after the employee returns to work, is deemed to have returned to work.

(d) When an employee elects or an employing office requires paid leave to be substituted for FMLA leave, the employing office may not recover its (share of) health insurance or other non-health benefit premiums for any period of FMLA leave covered by paid leave. Because paid leave provided under a plan covering temporary disabilities (including workers' compensation) is not unpaid, recovery of health insurance premiums does not apply to such paid leave.

(e) The amount that self-insured employing offices may recover is limited to only the employing office's share of allowable "premiums" as would be calculated under COBRA, excluding the 2 percent fee for administrative costs.

(f) When an employee fails to return to work, any health and non-health benefit premiums which this section of the regulations permits an employing office to recover are a debt owed by the non-returning employee to the employing office. The existence of this debt caused by the employee's failure to return to work does not alter the employing office's responsibilities for health benefit coverage and, under a self-insurance plan, payment of claims incurred during the period of FMLA leave. To the extent recovery is allowed, the employing office may recover the costs through deduction from any sums due to the employee (e.g., unpaid wages, vacation pay, etc.), provided such deductions do not otherwise violate applicable wage payment or other laws. Alternatively, the employing office may initiate legal action against the employee to recover such costs.

§825.214 What are an employee's rights on returning to work from FMLA leave?

(a) On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee has been replaced or his or her position has been restructured to accommodate the employee's absence. See also §825.106(e) for the obligations of employing offices that are joint employing offices.

(b) If the employee is unable to perform an essential function of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. However, the employing office's obligations may be governed by the Americans with Disabilities Act (ADA), as made applicable by the CAA. See §825.702.

§825.215 What is an equivalent position?

(a) An equivalent position is one that is virtually identical to the employee's former position in terms of pay, benefits and working conditions, including privileges, perquisites and status. It must involve the same or substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, responsibility, and authority.

(b) If an employee is no longer qualified for the position because of the employee's inability to attend a necessary course, renew a license, fly a minimum number of hours, etc., as a result of the leave, the employee shall be given a reasonable opportunity to fulfill those conditions upon return to work.

(c) Equivalent Pay:

(1) An employee is entitled to any unconditional pay increases which may have occurred during the FMLA leave period, such as cost of living increases. Pay increases conditioned upon seniority, length of service, or work performed would not have to be granted unless it is the employing office's policy or practice to do so with respect to other employees on "leave without pay". In such case, any pay increase would be granted based on the employee's seniority, length of service, work performed, etc., excluding the period of unpaid FMLA leave. An employee is entitled to be restored to a position with the same or equivalent pay premiums, such as a shift differential. If an employee departed from a position averaging ten hours of overtime (and corresponding overtime pay) each week, an employee is ordinarily entitled to such a position on return from FMLA leave.

(2) Many employing offices pay bonuses in different forms to employees for job-related performance such as for perfect attendance, safety (absence of injuries or accidents on the job) and exceeding production goals. Bonuses for perfect attendance and safety do not require performance by the employee but rather contemplate the absence of occurrences. To the extent an employee who takes FMLA leave had met all the requirements for either or both of these bonuses before FMLA leave began, the employee is entitled to continue this entitlement upon return from FMLA leave, that is, the employee may not be disqualified for the bonus(es) for the taking of FMLA leave. See §825.220 (b) and (c). A monthly production bonus, on the other hand, does require performance by the employee. If the employee is on FMLA leave during any part of the period for which the bonus is computed, the employee is entitled to the same consideration for the bonus as other employees on paid or unpaid leave (as appropriate). See paragraph (d)(2) of this section.

(d) Equivalent Benefits. "Benefits" include all benefits provided or made available to employees by an employing office, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employing office through an employee benefit plan.

(1) At the end of an employee's FMLA leave, benefits must be resumed in the same manner and at the same levels as provided when the leave began, and subject to any changes in benefit levels that may have taken place during the period of FMLA leave affecting the entire workforce, unless otherwise elected by the employee. Upon return from FMLA leave, an employee cannot be required to requalify for any benefits the employee enjoyed before FMLA leave began (including family or dependent coverages). For example, if an employee was covered by a life insurance policy before taking leave but is not covered or coverage lapses during the period of unpaid FMLA leave, the employee cannot be required to meet any qualifications, such as taking a physical examination, in order to requalify for life insurance upon return from leave. Accordingly, some employing offices may find it necessary to modify life insurance and other benefits programs in order to restore employees to equivalent benefits upon return from FMLA leave, make arrangements for continued payment of costs to maintain such benefits during unpaid FMLA leave, or pay these costs subject to recovery from the employee on return from leave. See §825.213(b).

(2) An employee may, but is not entitled to, accrue any additional benefits or seniority during unpaid FMLA leave. Benefits accrued at the time leave began, however, (e.g., paid vacation, sick or personal leave to the extent not substituted for FMLA leave) must be available to an employee upon return from leave.

(3) If, while on unpaid FMLA leave, an employee desires to continue life insurance, disability insurance, or other types of benefits for which he or she typically pays, the employing office is required to follow established policies or practices for continuing such benefits for other instances of leave without pay. If the employing office has no established policy, the employee and the employing office are encouraged to agree upon arrangements before FMLA leave begins.

(4) With respect to pension and other retirement plans, any period of unpaid FMLA leave shall not be treated as or counted toward a break in service for purposes of vesting and eligibility to participate. Also, if the plan requires an employee to be employed on a specific date in order to be credited with a year of service for vesting, contributions or participation purposes, an employee on unpaid FMLA leave on that date shall be deemed to have been employed on that date. However, unpaid FMLA leave periods need not be treated as credited service for purposes of benefit accrual, vesting and eligibility to participate.

(5) Employees on unpaid FMLA leave are to be treated as if they continued to work for purposes of changes to benefit plans. They are entitled to changes in benefits plans, except those which may be dependent upon seniority or accrual during the leave period, immediately upon return from leave or to the same extent they would have qualified if no leave had been taken. For example if the benefit plan is predicated on a pre-established number of hours worked each year and the employee does not have sufficient hours as a result of taking unpaid FMLA leave, the benefit is lost. (In this regard, §825.209 addresses health benefits.)

(e) Equivalent Terms and Conditions of Employment. An equivalent position must have substantially similar duties, conditions, responsibilities, privileges and status as the employee's original position.

(1) The employee must be reinstated to the same or a geographically proximate worksite (i.e., one that does not involve a significant increase in commuting time or distance) from where the employee had previously been employed. If the employee's original worksite has been closed, the employee is entitled to the same rights as if the employee had not been on leave when the worksite closed. For example, if an employing office transfers all employees from a closed worksite to a new worksite in a different city, the employee on leave is also entitled to transfer under the same conditions as if he or she had continued to be employed.

(2) The employee is ordinarily entitled to return to the same shift or the same or an equivalent work schedule.

(3) The employee must have the same or an equivalent opportunity for bonuses and other similar discretionary and non-discretionary payments.

(4) FMLA does not prohibit an employing office from accommodating an employee's request to be restored to a different shift, schedule, or position which better suits the employee's personal needs on return from

leave, or to offer a promotion to a better position. However, an employee cannot be induced by the employing office to accept a different position against the employee's wishes.

(f) The requirement that an employee be restored to the same or equivalent job with the same or equivalent pay, benefits, and terms and conditions of employment does not extend to de minimis or intangible, unmeasurable aspects of the job. However, restoration to a job slated for lay-off, when the employee's original position is not, would not meet the requirements of an equivalent position.

§825.216 Are there any limitations on an employing office's obligation to reinstate an employee?

(a) An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. An employing office must be able to show that an employee would not otherwise have been employed at the time reinstatement is requested in order to deny restoration to employment. For example:

(1) If an employee is laid off during the course of taking FMLA leave and employment is terminated, the employing office's responsibility to continue FMLA leave, maintain group health plan benefits and restore the employee ceases at the time the employee is laid off, provided the employing office has no continuing obligations under a collective bargaining agreement or otherwise. An employing office would have the burden of proving that an employee would have been laid off during the FMLA leave period and, therefore, would not be entitled to restoration.

(2) If a shift has been eliminated, or overtime has been decreased, an employee would not be entitled to return to work that shift or the original overtime hours upon restoration. However, if a position on, for example, a night shift has been filled by another employee, the employee is entitled to return to the same shift on which employed before taking FMLA leave.

(b) If an employee was hired for a specific term or only to perform work on a discrete project, the employing office has no obligation to restore the employee if the employment term or project is over and the employing office would not otherwise have continued to employ the employee.

(c) In addition to the circumstances explained above, an employing office may deny job restoration to salaried eligible employees ("key employees", as defined in paragraph (c) of §825.217) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the employing office; or may delay restoration to an employee who fails to provide a fitness for duty certificate to return to work under the conditions described in §825.310.

(d) If the employee has been on a workers' compensation absence during which FMLA leave has been taken concurrently, and after 12 weeks of FMLA leave the employee is unable to return to work, the employee no longer has the protections of FMLA and must look to the workers' compensation statute or ADA, as made applicable by the CAA, for any relief or protections.

§825.217 What is a "key employee"?

(a) A "key employee" is a salaried FMLA-eligible employee who is among the highest paid 10 percent of all the employees employed by the employing office within 75 miles of the employee's worksite.

(b) The term "salaried" means paid on a salary basis, within the meaning of the Board's regulations at part 541, implementing section 203 of the CAA (2 U.S.C. 1313) (regarding employees who may qualify as exempt from the minimum wage and overtime requirements of the FLSA, as made applicable by the CAA, as executive, administrative, and professional employees).

(c) A "key employee" must be "among the highest paid 10 percent" of all the employees "both salaried and non-salaried, eligible and ineligible "who are employed by the employing office within 75 miles of the worksite":

(1) In determining which employees are among the highest paid 10 percent, year-to-date earnings are divided by weeks worked by the employee (including weeks in which paid leave was taken). Earnings include wages, premium pay, incentive pay, and non-discretionary and discretionary bonuses. Earnings do not include incentives whose value is determined at some future date, e.g., benefits or perquisites.

(2) The determination of whether a salaried employee is among the highest paid 10 percent shall be made at the time the employee gives notice of the need for leave. No more than 10 percent of the employing office's employees within 75 miles of the worksite may be "key employees".

§825.218 What does "substantial and grievous economic injury" mean?

(a) In order to deny restoration to a key employee, an employing office must determine that the restoration of the employee to employment will cause "substantial and grievous economic injury" to the operations of the employing office, not whether the absence of the employee will cause such substantial and grievous injury.

(b) An employing office may take into account its ability to replace on a temporary basis (or temporarily do without) the employee on FMLA leave. If permanent replacement is unavoidable, the cost of then reinstating the employee can be considered in evaluating whether substantial and grievous economic injury will occur from restoration; in other words, the effect on the operations of the employing office of reinstating the employee in an equivalent position.

(c) A precise test cannot be set for the level of hardship or injury to the employing office which must be sustained. If the reinstatement of a "key employee" threatens the economic viability of the employing office, that would constitute "substantial and grievous economic injury". A lesser injury which causes substantial, long-term economic injury would also be sufficient. Minor inconveniences and costs that the employing office would experience in the normal course would certainly not constitute "substantial and grievous economic injury".

(d) FMLA's "substantial and grievous economic injury" standard is different from and more stringent than the "undue hardship" test under the ADA (see, also §825.702).

§825.219 What are the rights of a key employee?

(a) An employing office which believes that reinstatement may be denied to a key employee, must give written notice to the employee at the time the employee gives notice of the need for FMLA leave (or when FMLA leave commences, if earlier) that he or she qualifies as a key employee. At the same time, the employing office must also fully inform the employee of the potential consequences with respect to reinstatement and maintenance of health benefits if the employing office should determine that substantial and grievous economic injury to the employing office's operations will result if the employee is reinstated from FMLA leave. If such notice cannot be given immediately because of the need to determine whether the employee is a key employee, it shall be given as soon as practicable after being notified of a need for leave (or the commencement of leave, if earlier). It is expected that in most circumstances there will be no desire that an employee be denied restoration after FMLA leave and, therefore, there would be no need to provide such notice. However, an employing office who fails to provide such timely notice will lose its right to deny restoration even if substantial and grievous economic injury will result from reinstatement.

(b) As soon as an employing office makes a good faith determination, based on the facts available, that substantial and grievous economic injury to its operations will result if a key employee who has given notice of the need for FMLA leave or is using FMLA leave is reinstated, the employing office shall notify the employee in writing of its determination, that it cannot deny FMLA leave, and that it intends to deny restoration to employment on completion of the FMLA leave. It is anticipated that an employing office will ordinarily be able to give such notice prior to the employee starting leave. The employing office must serve this notice either in person or by certified mail. This notice must explain the basis for the employing office's finding that substantial and grievous economic injury will result, and, if leave has commenced, must provide the employee a reasonable time in which to return to work, taking into account the circumstances, such as the length of the leave and the urgency of the need for the employee to return.

(c) If an employee on leave does not return to work in response to the employing office's notification of intent to deny restoration, the employee continues to be entitled to maintenance of health benefits and the employing office may not recover its cost of health benefit premiums. A key employee's rights under FMLA continue unless and until either the employee gives notice that he or she no longer wishes to return to work, or the employing office actually denies reinstatement at the conclusion of the leave period.

(d) After notice to an employee has been given that substantial and grievous economic injury will result if the employee is reinstated to employment, an employee is still entitled to request reinstatement at the end of the leave period even if the employee did not return to work in response to the employing office's notice. The employing office must then again determine whether there will be substantial and grievous economic injury from reinstatement, based on the facts at that time. If it is determined that substantial and grievous economic injury will result, the employing office shall notify the employee in writing (in person or by certified mail) of the denial of restoration.

§825.220 How are employees protected who request leave or otherwise assert FMLA rights?

(a) The FMLA, as made applicable by the CAA, prohibits interference with an employee's rights under the law, and with legal proceedings or inquiries relating to an employee's rights. More specifically, the law contains the following employee protections:

(1) An employing office is prohibited from interfering with, restraining, or denying the exercise of (or attempts to exercise) any rights provided by the FMLA as made applicable by the CAA.

(2) An employing office is prohibited from discharging or in any other way discriminating against any covered employee (whether or not an eligible employee) for opposing or complaining about any unlawful practice under the FMLA as made applicable by the CAA.

(3) All employing offices are prohibited from discharging or in any other way discriminating against any covered employee (whether or not an eligible employee) because that covered employee has—

(i) Filed any charge, or has instituted (or caused to be instituted) any proceeding under or related to the FMLA, as made applicable by the CAA;

(ii) Given, or is about to give, any information in connection with an inquiry or proceeding relating to a right under the FMLA, as made applicable by the CAA;

(iii) Testified, or is about to testify, in any inquiry or proceeding relating to a right under the FMLA, as made applicable by the CAA.

(b) Any violations of the FMLA, as made applicable by the CAA, or of these regulations constitute interfering with, restraining, or denying the exercise of rights provided by the FMLA as made applicable by the CAA. "Interfering with" the exercise of an employee's rights would include, for example, not only refusing to authorize FMLA leave, but discouraging an employee from using such leave. It would also include manipulation by an employing office to avoid responsibilities under FMLA, for example—

(1) [Reserved];

(2) changing the essential functions of the job in order to preclude the taking of leave;

(3) reducing hours available to work in order to avoid employee eligibility.

(c) An employing office is prohibited from discriminating against employees or prospective employees who have used FMLA leave. For example, if an employee on leave without pay would otherwise be entitled to full benefits (other than health benefits), the same benefits would be required to be provided to an employee on unpaid FMLA leave. By the same token, employing offices cannot use the taking of FMLA leave as a negative factor in employment actions, such as hiring, promotions or disciplinary actions; nor can FMLA leave be counted under "no fault" attendance policies.

(d) Employees cannot waive, nor may employing offices induce employees to waive, their rights under FMLA. For example, employees (or their collective bargaining representatives) cannot "trade off" the right to take FMLA leave against some other benefit offered by the employing office. This does not prevent an employee's voluntary and uncoerced acceptance (not as a condition of employment) of a "light duty" assignment while recovering from a serious health condition (see §825.702(d)). In such a circumstance the employee's right to restoration to the same or an equivalent position is available until 12 weeks have passed within the 12-month period, including all FMLA leave taken and the period of "light duty".

(e) Covered employees, and not merely eligible employees, are protected from retaliation for opposing (e.g., file a complaint about) any practice which is unlawful under the FMLA, as made applicable by the CAA. They are similarly protected if they oppose any practice which they reasonably believe to be a violation of the FMLA, as made applicable by the CAA or regulations.

SUBPART C—HOW DO EMPLOYEES LEARN OF THEIR RIGHTS AND OBLIGATIONS UNDER THE FMLA, AS MADE APPLICABLE BY THE CAA, AND WHAT CAN AN EMPLOYING OFFICE REQUIRE OF AN EMPLOYEE?

§825.300 [Reserved]

§825.301 What notices to employees are required of employing offices under the FMLA as made applicable by the CAA?

(a)(1) If an employing office has any eligible employees and has any written guidance to employees concerning employee benefits or leave rights, such as in an employee handbook, information concerning both entitlements and employee obligations under the FMLA, as made applicable by the CAA, must be included in the handbook or other document. For example, if an employing office provides an employee handbook to all employees that describes the employing office's policies regarding leave, wages, attendance, and similar matters, the handbook must incorporate information on FMLA rights and responsibilities and the employing office's policies regarding the FMLA, as made applicable by the CAA. Informational publications describing the provisions of the FMLA as made applicable by the CAA are available from the Office of Compliance and may be incorporated in such employing office handbooks or written policies.

(2) If such an employing office does not have written policies, manuals, or handbooks describing employee benefits and leave provisions, the employing office shall provide written guidance to an employee concerning all the employee's rights and obligations under the FMLA as made applicable by the CAA. This notice shall be provided to employees each time notice is given pursuant to paragraph (b), and in accordance with the provisions of that paragraph. Employing offices may duplicate and provide the employee a copy of the FMLA Fact Sheet available from the Office of Compliance to provide such guidance.

(b)(1) The employing office shall also provide the employee with written notice detailing the specific expectations and obligations of the employee and explaining any consequences of a failure to meet these obligations. The written notice must be provided to the employee in a language in which the employee is literate. Such specific notice must include, as appropriate—

(i) that the leave will be counted against the employee's annual FMLA leave entitlement (see §825.208);

(ii) any requirements for the employee to furnish medical certification of a serious health condition and the consequences of failing to do so (see §825.305);

(iii) the employee's right to substitute paid leave and whether the employing office will require the substitution of paid leave, and the conditions related to any substitution;

(iv) any requirement for the employee to make any premium payments to maintain health benefits and the arrangements for making such payments (see §825.210), and the possible consequences of failure to make such payments on a timely basis (i.e., the circumstances under which coverage may lapse);

(v) any requirement for the employee to present a fitness-for-duty certificate to be restored to employment (see §825.310);

(vi) the employee's status as a "key employee" and the potential consequence that restoration may be denied following FMLA leave, explaining the conditions required for such denial (see §825.218);

(vii) the employee's right to restoration to the same or an equivalent job upon return from leave (see §§ 825.214 and 825.604); and

(viii) the employee's potential liability for payment of health insurance premiums paid by the employing office during the employee's unpaid FMLA leave if the employee fails to return to work after taking FMLA leave (see §825.213).

(2) The specific notice may include other information—e.g., whether the employing office will require periodic reports of the employee's status and intent to return to work, but is not required to do so. A prototype notice is contained in Appendix D of this part, or may be obtained from the Office of Compliance, which employing offices may adapt for their use to meet these specific notice requirements.

(c) Except as provided in this subparagraph, the written notice required by paragraph (b) (and by subparagraph (a)(2) where applicable) must be provided to the employee no less often than the first time in each six-month period that an employee gives notice of the need for FMLA leave (if FMLA leave is taken during the six-month period). The notice shall be given within a reasonable time after notice of the need for leave is given by the employee—within one or two business days if feasible. If leave has already begun, the notice should be mailed to the employee's address of record.

(1) If the specific information provided by the notice changes with respect to a subsequent period of FMLA leave during the six-month period, the employing office shall, within one or two business days of receipt of the employee's notice of need for leave, provide written notice referencing the prior notice and setting forth any of the information in subparagraph (b) which has changed. For example, if the initial leave period were paid leave and the subsequent leave period would be unpaid leave, the employing office may need to give notice of the arrangements for making premium payments.

(2)(i) Except as provided in subparagraph (ii), if the employing office is requiring medical certification or a "fitness-for-duty" report, written notice of the requirement shall be given with respect to each employee notice of a need for leave.

(ii) Subsequent written notification shall not be required if the initial notice in the six-month period and the employing office handbook or other written documents (if any) describing the employing office's leave policies, clearly provided that certification or a "fitness-for-duty" report would be required (e.g., by stating that certification would be required in all cases, by stating that certification would be required in all cases in which leave of more than a specified number of days is taken, or by stating that a "fitness-for-duty" report would be required in all cases for back injuries for employees in a certain occupation). Where subsequent written notice is not required, at least oral notice shall be provided. (See §825.305(a).)

(d) Employing offices are also expected to responsively answer questions from employees concerning their rights and responsibilities under the FMLA as made applicable under the CAA.

(e) Employing offices furnishing FMLA-required notices to sensory impaired individuals must also comply with all applicable requirements under law.

(f) If an employing office fails to provide notice in accordance with the provisions of this section, the employing office may not take action against an employee for failure to comply with any provision required to be set forth in the notice.

§ 825.302 What notice does an employee have to give an employing office when the need for FMLA leave is foreseeable?

(a) An employee must provide the employing office at least 30 days advance notice before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member. If 30 days notice is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. For example, an employee's health condition may require leave to commence earlier than anticipated before the birth of a child. Similarly, little opportunity for notice may be given before placement for adoption. Whether the leave is to be continuous or is to be taken intermittently or on a reduced schedule basis, notice need only be given one time, but the employee shall advise the employing office as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown.

(b) "As soon as practicable" means as soon as both possible and practical, taking into account all of the facts and circumstances in the individual case. For foreseeable leave where it is not possible to give as much as 30 days notice, "as soon as practicable" ordinarily would mean at least verbal notification to the employing office within one or two business days of when the need for leave becomes known to the employee.

(c) An employee shall provide at least verbal notice sufficient to make the employing office aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave. The employee need not expressly assert rights under the FMLA as made applicable by the CAA, or even mention the FMLA, but may only state that leave is needed for an expected birth or adoption, for example. The employing office should inquire further of the employee if it is necessary to have more information about whether FMLA leave is being sought by the employee, and obtain the necessary details of the leave to be taken. In the case of medical conditions, the employing office may find it necessary to inquire further to determine if the leave is because of a serious health condition and may request medical certification to support the need for such leave (see § 825.305).

(d) An employing office may also require an employee to comply with the employing office's usual and customary notice and procedural requirements for requesting leave. For example, an employing office may require that written notice set forth the reasons for the requested leave, the anticipated duration of the leave, and the anticipated start of the leave. However, failure to follow such internal employing office procedures will not permit an employing office to disallow or delay an employee's taking FMLA leave if the employee gives timely verbal or other notice.

(e) When planning medical treatment, the employee must consult with the employing office and make a reasonable effort to schedule the leave so as not to disrupt unduly the employing office's operations, subject to the approval of the health care provider. Employees are ordinarily expected to consult with their employing offices prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both the employing office and the employee. If an employee who provides notice of the need to take FMLA leave on an intermittent basis for planned medical treatment neglects to consult with the employing office to make a reasonable attempt to arrange the schedule of treatments so as not to unduly disrupt the employing office's operations, the employing office may initiate discussions with the employee and require the employee to attempt to make such arrangements, subject to the approval of the health care provider.

(f) In the case of intermittent leave or leave on a reduced leave schedule which is medically necessary, an employee shall advise the employing office, upon request, of the reasons why the intermittent/reduced leave schedule is necessary and of the schedule for treatment, if applicable. The employee and employing office shall attempt to work out a schedule which meets the employee's needs without unduly disrupting the employing office's operations, subject to the approval of the health care provider.

(g) An employing office may waive employees' FMLA notice requirements. In addition, an employing office may not require compliance with stricter FMLA notice requirements where the provisions of a collective bargaining agreement or applicable leave plan allow less advance notice to the employing office. For example, if an employee (or employing office) elects to substitute paid vacation leave for unpaid FMLA leave (see § 825.207), and the employing office's paid vacation leave plan imposes no prior notification requirements for taking such vacation leave, no advance notice may be required for the FMLA leave taken in these circumstances. On the other hand, FMLA notice requirements would apply to a period of unpaid FMLA leave, unless the employing office imposes lesser notice requirements on employees taking leave without pay.

§ 825.303 What are the requirements for an employee to furnish notice to an employing office where the need for FMLA leave is not foreseeable?

(a) When the approximate timing of the need for leave is not foreseeable, an employee should give notice to the employing office of the need for FMLA leave as soon as practicable under the facts and circumstances of the particular case. It is expected that an employee will give notice to the employing office within no more than one or two working days of learning of the need for leave, except in extraordinary circumstances where such notice is not feasible. In the case of a medical emergency requiring leave because of an employee's own serious health condition or to care for a family member with a serious health condition, written advance notice pursuant to an employing office's internal rules and procedures may not be required when FMLA leave is involved.

(b) The employee should provide notice to the employing office either in person or by telephone, telegraph, facsimile ("fax") machine or other electronic means. Notice may be given by the employee's spokesperson (e.g., spouse, adult family member or other responsible party) if the employee is unable to do so personally. The employee need not expressly assert rights under the FMLA, as made applicable by the CAA, or even mention the FMLA, but may only state that leave is needed. The employing office will be expected to obtain any additional required information through informal means. The employee or spokesperson will be expected to provide more information when it can readily be accomplished as a practical matter, taking into consideration the exigencies of the situation.

§ 825.304 What recourse do employing offices have if employees fail to provide the required notice?

(a) An employing office may waive employees' FMLA notice obligations or the employing office's own internal rules on leave notice requirements.

(b) If an employee fails to give 30 days notice for foreseeable leave with no reasonable excuse for the delay, the employing office may delay the taking of FMLA leave until at least 30 days after the date the employee provides notice to the employing office of the need for FMLA leave.

(c) In all cases, in order for the onset of an employee's FMLA leave to be delayed due to lack of required notice, it must be clear that the employee had actual notice of the FMLA notice requirements. This condition would be satisfied by the employing office's proper posting, at the worksite where the employee is employed, of the information regarding the FMLA provided (pursuant to section 301(h)(2) of the CAA, 2 U.S.C. 1381(h)(2)) by the Office of Compliance to the employing office in a manner suitable for posting. Furthermore, the need for leave and the approximate date leave would be taken must have been clearly foreseeable to the employee 30 days in advance of the leave. For example, knowledge that an employee would receive a telephone call about the availability of a child for adoption at some unknown point in the future would not be sufficient.

§ 825.305 When must an employee provide medical certification to support FMLA leave?

(a) An employing office may require that an employee's leave to care for the employee's seriously ill spouse, son, daughter, or parent, or due to the employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of the employee's position, be supported by a certification issued by the health care provider of the employee or the employee's ill family member. An employing office must give notice of a requirement for medical certification each time a certification is required; such notice must be written notice whenever required by § 825.301. An employing office's oral request to an employee to furnish any subsequent medical certification is sufficient.

(b) When the leave is foreseeable and at least 30 days notice has been provided, the employee should provide the medical certification before the leave begins. When this is not possible, the employee must provide the requested certification to the employing office within the time frame requested by the employing office (which must allow at least 15 calendar days after the employing office's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

(c) In most cases, the employing office should request that an employee furnish certification from a health care provider at the time the employee gives notice of the need for leave or within two business days thereafter, or, in the case of unforeseen leave, within two business days after the leave commences. The employing office may request certification at some later date if the employing office later has reason to question the appropriateness of the leave or its duration.

(d) At the time the employing office requests certification, the employing office must also advise an employee of the anticipated consequences of an employee's failure to provide adequate certification. The employing office shall advise an employee whenever the employing office finds a certification incomplete, and provide the employee a reasonable opportunity to cure any such deficiency.

(e) If the employing office's sick or medical leave plan imposes medical certification requirements that are less stringent than the certification requirements of these regulations, and the employee or employing office elects to substitute paid sick, vacation, personal or family leave for unpaid FMLA leave where authorized (see §825.207), only the employing office's less stringent sick leave certification requirements may be imposed.

§825.306 How much information may be required in medical certifications of a serious health condition?

(a) The Office of Compliance has made available an optional form ("Certification of Physician or Practitioner") for employees' (or their family members') use in obtaining medical certification, including second and third opinions, from health care providers that meets FMLA's certification requirements. (See Appendix B to these regulations.) This optional form reflects certification requirements so as to permit the health care provider to furnish appropriate medical information within his or her knowledge.

(b) The Certification of Physician or Practitioner form is modeled closely on Form WH-380, as revised, which was developed by the Department of Labor (see 29 C.F.R. Part 825, Appendix B). The employing office may use the Office of Compliance's form, or Form WH-380, as revised, or another form containing the same basic information; however, no additional information may be required. In all instances the information on the form must relate only to the serious health condition for which the current need for leave exists. The form identifies the health care provider and type of medical practice (including pertinent specialization, if any), makes maximum use of checklist entries for ease in completing the form, and contains required entries for:

(1) A certification as to which part of the definition of "serious health condition" (see §825.114), if any, applies to the patient's condition, and the medical facts which support the certification, including a brief statement as to how the medical facts meet the criteria of the definition.

(2)(i) The approximate date the serious health condition commenced, and its probable duration, including the probable duration of the patient's present incapacity (defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) if different.

(ii) Whether it will be necessary for the employee to take leave intermittently or to work on a reduced leave schedule basis (i.e., part-time) as a result of the serious health condition (see §825.117 and §825.203), and if so, the probable duration of such schedule.

(iii) If the condition is pregnancy or a chronic condition within the meaning of §825.114(a)(2)(iii), whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity.

(3)(i)(A) If additional treatments will be required for the condition, an estimate of the probable number of such treatments.

(B) If the patient's incapacity will be intermittent, or will require a reduced leave schedule, an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any.

(ii) If any of the treatments referred to in subparagraph (i) will be provided by another provider of health services (e.g., physical therapist), the nature of the treatments.

(iii) If a regimen of continuing treatment by the patient is required under the supervision of the health care provider, a general description of the regimen (see §825.114(b)).

(4) If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), whether the employee—

(i) is unable to perform work of any kind;

(ii) is unable to perform any one or more of the essential functions of the employee's position, including a statement of the essential functions the employee is unable to perform (see §825.115), based on either information provided on a statement from the employing office of the essential functions of the position or, if not provided, discussion with the employee about the employee's job functions; or

(iii) must be absent from work for treatment.

(5)(i) If leave is required to care for a family member of the employee with a serious health condition, whether the patient requires assistance for basic medical or personal needs or safety, or for transportation; or if not, whether the employee's presence to provide psychological comfort would be beneficial to the patient or assist in the patient's recovery. The employee is required to indicate on the form the care he or she will provide and an estimate of the time period.

(ii) If the employee's family member will need care only intermittently or on a reduced leave schedule basis (i.e., part-time), the probable duration of the need.

(c) If the employing office's sick or medical leave plan requires less information to be furnished in medical certifications than the certification requirements of these regulations, and the employee or employing office elects to substitute paid sick, vacation, personal or family leave for unpaid FMLA leave where authorized (see §825.207), only the employing office's lesser sick leave certification requirements may be imposed.

§825.307 What may an employing office do if it questions the adequacy of a medical certification?

(a) If an employee submits a complete certification signed by the health care provider, the employing office may not request additional information from the employee's health care provider. However, a health care provider representing the employing office may contact the employee's health care provider, with the employee's permission, for purposes of clarification and authenticity of the medical certification.

(1) If an employee is on FMLA leave running concurrently with a workers' compensation absence, and the provisions of the workers' compensation statute permit the employing office or the employing office's representative to have direct contact with the employee's workers' compensation health care provider, the employing office may follow the workers' compensation provisions.

(2) An employing office that has reason to doubt the validity of a medical certification may require the employee to obtain a second opinion at the employing office's expense. Pending receipt of the second (or third) medical opinion, the employee is provisionally entitled to the benefits of the FMLA as made applicable by the CAA, including maintenance of group health benefits. If the certifications do not ultimately establish the employee's entitlement to FMLA leave, the leave shall not be designated as FMLA leave and may be treated as paid or unpaid leave under the employing office's established leave policies. The employing office is permitted to designate the health care provider to furnish the second opinion, but the selected health care provider may not be employed on a regular basis by the employing office. See also paragraphs (e) and (f) of this section.

(b) The employing office may not regularly contract with or otherwise regularly utilize the services of the health care provider furnishing the second opinion unless the employing office is located in an area where access to health care is extremely limited (e.g., a rural area where no more than one or two doctors practice in the relevant specialty in the vicinity).

(c) If the opinions of the employee's and the employing office's designated health care providers differ, the employing office may require the employee to obtain certification from a third health care provider, again at the employing office's expense. This third opinion shall be final and binding. The third health care provider must be designated or approved jointly by the employing office and the employee. The employing office and the employee must each act in good faith to attempt to reach agreement on whom to select for the third opinion provider. If the employing office does not attempt in good faith to reach agreement, the employing office will be bound by the first certification. If the employee does not attempt in good faith to reach agreement, the employee will be bound by the second certification. For example, an employee who refuses to agree to see a doctor in the specialty in question may be failing to act in good faith. On the other hand, an employing office that refuses to agree to any doctor on a list of specialists in the appropriate field provided by the employee and whom the employee has not previously consulted may be failing to act in good faith.

(d) The employing office is required to provide the employee with a copy of the second and third medical opinions, where applicable, upon request by the employee. Requested copies are to be provided within two business days unless extenuating circumstances prevent such action.

(e) If the employing office requires the employee to obtain either a second or third opinion the employing office must reimburse an employee or family member for any reasonable "out of pocket" travel expenses incurred to obtain the second and third medical opinions. The employing office may not require the employee or family member to travel outside normal commuting distance for purposes of obtaining the second or third medical opinions except in very unusual circumstances.

(f) In circumstances when the employee or a family member is visiting in another country, or a family member resides in a another country, and a serious health condition develops, the employing office shall accept a medical certification as well as second and third opinions from a health care provider who practices in that country.

§825.308 Under what circumstances may an employing office request subsequent recertifications of medical conditions?

(a) For pregnancy, chronic, or permanent/long-term conditions under continuing supervision of a health care provider (as defined in §825.114(a)(2) (ii), (iii) or (iv)), an employing office may request recertification no more often than every 30 days and only in connection with an absence by the employee, unless:

(1) Circumstances described by the previous certification have changed significantly (e.g., the duration or frequency of absences, the severity of the condition, complications); or

(2) The employing office receives information that casts doubt upon the employee's stated reason for the absence.

(b)(1) If the minimum duration of the period of incapacity specified on a certification furnished by the health care provider is more than 30 days, the employing office may not request recertification until that minimum duration has passed unless one of the conditions set forth in paragraph (c) (1), (2) or (3) of this section is met.

(2) For FMLA leave taken intermittently or on a reduced leave schedule basis, the employing office may not request recertification in less than the minimum period specified on the certification as necessary for such leave (including treatment) unless one of the conditions set forth in paragraph (c) (1), (2) or (3) of this section is met.

(c) For circumstances not covered by paragraphs (a) or (b) of this section, an employing office may request recertification at any reasonable interval, but not more often than every 30 days, unless:

(1) The employee requests an extension of leave;

(2) Circumstances described by the previous certification have changed significantly (e.g., the duration of the illness, the nature of the illness, complications); or

(3) The employing office receives information that casts doubt upon the continuing validity of the certification.

(d) The employee must provide the requested recertification to the employing office within the time frame requested by the employing office (which must allow at least 15 calendar days after the employing office's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

(e) Any recertification requested by the employing office shall be at the employee's expense unless the employing office provides otherwise. No second or third opinion on recertification may be required.

§825.309 What notice may an employing office require regarding an employee's intent to return to work?

(a) An employing office may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work. The employing office's policy regarding such reports may not be discriminatory and must take into account all of the relevant facts and circumstances related to the individual employee's leave situation.

(b) If an employee gives unequivocal notice of intent not to return to work, the employing office's obligations under FMLA, as made applicable by the CAA, to maintain health benefits (subject to requirements of COBRA or 5 U.S.C. 8905a, whichever is applicable) and to restore the employee cease. However, these obligations continue if an employee indicates he or she may be unable to return to work but expresses a continuing desire to do so.

(c) It may be necessary for an employee to take more leave than originally anticipated. Conversely, an employee may discover after beginning leave that the circumstances have changed and the amount of leave originally anticipated is no longer necessary. An employee may not be required to take more FMLA leave than necessary to resolve the circumstance that precipitated the need for leave. In both of these situations, the employing office may require that the employee provide the employing office reasonable notice (i.e., within two business days) of the changed circumstances where foreseeable. The employing office may also obtain information on such changed circumstances through requested status reports.

§825.310 Under what circumstances may an employing office require that an employee submit a medical certification that the employee is able (or unable) to return to work (i.e., a "fitness-for-duty" report)?

(a) As a condition of restoring an employee whose FMLA leave was occasioned by the employee's own serious health condition that made the employee unable to perform the employee's job, an employing office may have a uniformly-applied policy or practice that requires all similarly-situated employees (i.e., same occupation, same serious health condition) who take leave for such conditions to obtain and present certification from the employee's health care provider that the employee is able to resume work.

(b) If the terms of a collective bargaining agreement govern an employee's return to work, those provisions shall be applied. Similarly, requirements under the Americans with Disabilities Act (ADA), as made applicable by the CAA, that any return-to-work physical be job-related and consistent with business necessity apply. For example, an attorney could not be required to submit to a medical examination or inquiry just because her leg had been amputated. The essential functions of an attorney's job do not require use of both legs; therefore such an inquiry would not be job related. An employing office may require a warehouse laborer, whose back impairment affects the ability to lift, to be examined by an orthopedist, but may not require this employee to submit to an HIV test where the test is not related to either the essential functions of his/her job or to his/her impairment.

(c) An employing office may seek fitness-for-duty certification only with regard to the particular health condition that caused the employee's need for FMLA leave. The certification itself need only be a simple statement of an employee's ability to return to work. A health care provider employed by the employing office may contact the employee's health care provider with the employee's permission, for purposes of clarification of the employee's fitness to return to work. No additional information may be acquired, and clarification may be requested only for the serious health condition for which FMLA leave was taken. The employing office may not delay the employee's return to work while contact with the health care provider is being made.

(d) The cost of the certification shall be borne by the employee and the employee is not entitled to be paid for the time or travel costs spent in acquiring the certification.

(e) The notice that employing offices are required to give to each employee giving notice of the need for FMLA leave regarding their FMLA rights and obligations as made applicable by the CAA (see §825.301) shall advise the employee if the employing office will require fitness-for-duty certification to return to work. If the employing office has a handbook explaining employment policies and benefits, the handbook should explain the employing office's general policy regarding any requirement for fitness-for-duty certification to return to work. Specific notice shall also be given to any employee from whom fitness-for-duty certification will be required either at the time notice of the need for leave is given or immediately after leave commences and the employing office is advised of the medical circumstances requiring the leave, unless the employee's condition changes from one that did not previously require certification pursuant to the employing office's practice or policy. No second or third fitness-for-duty certification may be required.

(f) An employing office may delay restoration to employment until an employee submits a required fitness-for-duty certification unless the employing office has failed to provide the notices required in paragraph (e) of this section.

(g) An employing office is not entitled to certification of fitness to return to duty when the employee takes intermittent leave as described in §825.203.

(h) When an employee is unable to return to work after FMLA leave because of the continuation, recurrence, or onset of the employee's or family member's serious health condition, thereby preventing the employing office from recovering its share of health benefit premium payments made on the employee's behalf during a period of unpaid FMLA leave, the employing office may require medical certification of the employee's or the family member's serious health condition. (See §825.213(a)(3).) The cost of the certification shall be borne by the employee and the employee is not entitled to be paid for the time or travel costs spent in acquiring the certification.

§825.311 What happens if an employee fails to satisfy the medical certification and/or recertification requirements?

(a) In the case of foreseeable leave, an employing office may delay the taking of FMLA leave to an employee who fails to provide timely certification after being requested by the employing office to furnish such certification (i.e., within 15 calendar days, if practicable), until the required certification is provided.

(b) When the need for leave is not foreseeable, or in the case of recertification, an employee must provide certification (or recertification) within the time frame requested by the employing office (which must allow at least 15 days after the employing office's request) or as soon as reasonably possible under the particular facts and circumstances. In the case of a medical emergency, it may not be practicable for an employee to provide the required certification within 15 calendar days. If an employee fails to provide a medical certification within a reasonable time under the pertinent circumstances, the employing office may delay the employee's continuation of FMLA leave. If the employee never produces the certification, the leave is not FMLA leave.

(c) When requested by the employing office pursuant to a uniformly applied policy for similarly-situated employees, the employee must provide medical certification at the time the employee seeks reinstatement at the end of FMLA leave taken for the employee's serious health condition, that the employee is fit for duty and able to return to work (see §825.310(a)) if the employing office has provided the required notice (see §825.301(c)); the employing office may delay restoration until the certification is provided. In this situation, unless the employee provides either a fitness-for-duty certification or a new medical certification for a serious health condition at the time FMLA leave is concluded, the employee may be terminated. See also §825.213(a)(3).

§825.312 Under what circumstances may an employing office refuse to provide FMLA leave or reinstatement to eligible employees?

(a) If an employee fails to give timely advance notice when the need for FMLA leave is foreseeable, the employing office may delay the taking of FMLA leave until 30 days after the date the employee provides notice to the employing office of the need for FMLA leave. (See §825.302.)

(b) If an employee fails to provide in a timely manner a requested medical certification to substantiate the need for FMLA leave due to a serious health condition, an employing office may delay continuation of FMLA leave until an employee submits the certificate. (See §§ 825.305 and 825.311.) If the employee never produces the certification, the leave is not FMLA leave.

(c) If an employee fails to provide a requested fitness-for-duty certification to return to work, an employing office may delay restoration until the employee submits the certificate. (See §§ 825.310 and 825.311.)

(d) An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. Thus, an employee's rights to continued leave, maintenance of health benefits, and restoration cease under FMLA, as made applicable by the CAA, if and when the employment relationship terminates (e.g., layoff), unless that relationship continues, for example, by the employee remaining on paid FMLA leave. If the employee is recalled or otherwise re-employed, an eligible employee is immediately entitled to further FMLA leave for an FMLA-qualifying reason. An employing office must be able to show, when an employee requests restoration, that the employee would not otherwise have been employed if leave had not been taken in order to deny restoration to employment. (See §825.216.)

(e) An employing office may require an employee on FMLA leave to report periodically on the employee's status and intention to return to work. (See §825.309.) If an employee unequivocally advises the employing office either before or during the taking of leave that the employee does not intend to return to work, and the employment relationship is terminated, the employee's entitlement to continued leave, maintenance of health benefits, and restoration ceases unless the employment relationship continues, for example, by the employee remaining on paid leave. An employee may not be required to take more leave than necessary to address the circumstances for which leave was taken. If the employee is able to return to work earlier than anticipated, the employee shall provide the employing office two business days notice where feasible; the employing office is required to restore the employee once such notice is given, or where such prior notice was not feasible.

(f) An employing office may deny restoration to employment, but not the taking of FMLA leave and the maintenance of health benefits, to an eligible employee only under the terms of the "key employee" exemption. Denial of reinstatement must be necessary to prevent "substantial and grievous economic injury" to the employing office's operations. The employing office must notify the employee of the employee's status as a "key employee" and of the employing office's intent to deny reinstatement on that basis when the employing office makes these determinations. If leave has started, the employee must be given a reasonable opportunity to return to work after being so notified. (See §825.219.)

(g) An employee who fraudulently obtains FMLA leave from an employing office is not protected by job restoration or maintenance of health benefits provisions of the FMLA as made applicable by the CAA.

(h) If the employing office has a uniformly-applied policy governing outside or supplemental employment, such a policy may continue to apply to an employee while on FMLA leave. An employing office which does not have such a policy may not deny benefits to which an employee is entitled under FMLA as made applicable by the CAA on this basis unless the FMLA leave was fraudulently obtained as in paragraph (g) of this section.

SUBPART D—WHAT ENFORCEMENT MECHANISMS DOES THE CAA PROVIDE?

§825.400 What can employees do who believe that their rights under the FMLA as made applicable by the CAA have been violated?

(a) To commence a proceeding, a covered employee alleging a violation of the rights and protections of the FMLA made applicable by the CAA must request counseling by the Office of Compliance not later than 180 days after the date of the alleged violation. If a covered employee misses this deadline, the covered employee will be unable to obtain a remedy under the CAA.

(b) The following procedures are available under title IV of the CAA for covered employees who believe that their rights under FMLA as made applicable by the CAA have been violated—

(1) counseling;

(2) mediation; and

(3) election of either—

(A) a formal complaint, filed with the Office of Compliance, and a hearing before a hearing officer, subject to review by the Board of Directors of the Office of Compliance, and judicial review in the United States Court of Appeals for the Federal Circuit; or

(B) a civil action in a district court of the United States.

(c) Regulations of the Office of Compliance describing and governing these procedures are found at [proposed rules can be found at 141 Cong. Rec. S17012 (November 14, 1995)].

§825.401 [Reserved]
§825.402 [Reserved]
§825.403 [Reserved]
§825.404 [Reserved]

SUBPART E—[RESERVED]

SUBPART F—WHAT SPECIAL RULES APPLY TO EMPLOYEES OF SCHOOLS?

§825.600 To whom do the special rules apply?

(a) Certain special rules apply to employees of "local educational agencies", including public school boards and elementary schools under their jurisdiction, and private elementary and secondary schools. The special rules do not apply to other kinds of educational institutions, such as colleges and universities, trade schools, and preschools.

(b) Educational institutions are covered by FMLA as made applicable by the CAA (and these special rules). The usual requirements for employees to be "eligible" apply.

(c) The special rules affect the taking of intermittent leave or leave on a reduced leave schedule, or leave near the end of an academic term (semester), by instructional employees. "Instructional employees" are those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. It does not include, and the special rules do not apply to, teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

(d) Special rules which apply to restoration to an equivalent position apply to all employees of local educational agencies.

§825.601 What limitations apply to the taking of intermittent leave or leave on a reduced leave schedule?

(a) Leave taken for a period that ends with the school year and begins the next semester is leave taken consecutively rather than intermittently. The period during the summer vacation when the employee would not have been required to report for duty is not counted against the employee's FMLA leave entitlement. An instructional employee who is on FMLA leave at the end of the school year must be provided with any benefits over the summer vacation that employees would normally receive if they had been working at the end of the school year.

(1) If an eligible instructional employee needs intermittent leave or leave on a reduced leave schedule to care for a family member, or for the employee's own serious health condition, which is foreseeable based on planned medical treatment, and the employee would be on leave for more than 20 percent of the total number of working days over the period the leave would extend, the employing office may require the employee to choose either to:

(i) Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or

(ii) Transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.

(2) These rules apply only to a leave involving more than 20 percent of the working days during the period over which the leave extends. For example, if an instructional employee who normally works five days each week needs to take two days of FMLA leave per week over a period of several weeks, the special rules would apply. Employees taking leave which constitutes 20 percent or less of the working days during the leave period would not be subject to transfer to an alternative position. "Periods of a particular duration" means a block, or blocks, of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed, and may include one uninterrupted period of leave.

(b) If an instructional employee does not give required notice of foreseeable FMLA leave (see §825.302) to be taken intermittently or on a reduced leave schedule, the employing office may require the employee to take leave of a particular duration, or to transfer temporarily to an alternative position. Alternatively, the employing office may require the employee to delay the taking of leave until the notice provision is met. See §825.207(h).

§ 825.602 What limitations apply to the taking of leave near the end of an academic term?

(a) There are also different rules for instructional employees who begin leave more than five weeks before the end of a term, less than five weeks before the end of a term, and less than three weeks before the end of a term. Regular rules apply except in circumstances when:

(1) An instructional employee begins leave more than five weeks before the end of a term. The employing office may require the employee to continue taking leave until the end of the term if—

(i) the leave will last at least three weeks, and

(ii) the employee would return to work during the three-week period before the end of the term.

(2) The employee begins leave for a purpose other than the employee's own serious health condition during the five-week period before the end of a term. The employing office may require the employee to continue taking leave until the end of the term if—

(i) the leave will last more than two weeks, and

(ii) the employee would return to work during the two-week period before the end of the term.

(3) The employee begins leave for a purpose other than the employee's own serious health condition during the three-week period before the end of a term, and the leave will last more than five working days. The employing office may require the employee to continue taking leave until the end of the term.

(b) For purposes of these provisions, "academic term" means the school semester, which typically ends near the end of the calendar year and the end of spring each school year. In no case may a school have more than two academic terms or semesters each year for purposes of FMLA as made applicable by the CAA. An example of leave falling within these provisions would be where an employee plans two weeks of leave to care for a family member which will begin three weeks before the end of the term. In that situation, the employing office could require the employee to stay out on leave until the end of the term.

§ 825.603 Is all leave taken during "periods of a particular duration" counted against the FMLA leave entitlement?

(a) If an employee chooses to take leave for "periods of a particular duration" in the case of intermittent or reduced schedule leave, the entire period of leave taken will count as FMLA leave.

(b) In the case of an employee who is required to take leave until the end of an academic term, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. The employing office has the option not to require the employee to stay on leave until the end of the school term. Therefore, any additional leave required by the employing office to the end of the school term is not counted as FMLA leave; however, the employing office shall be required to maintain the employee's group health insurance and restore the employee to the same or equivalent job including other benefits at the conclusion of the leave.

§ 825.604 What special rules apply to restoration to "an equivalent position"?

The determination of how an employee is to be restored to "an equivalent position" upon return from FMLA leave will be made on the basis of "established school board policies and practices, private school policies and practices, and collective bargaining agreements". The "established policies" and collective bargaining agreements used as a basis for restoration must be in writing, must be made known to the employee prior to the taking of FMLA leave, and must clearly explain the employee's restoration rights upon return from leave. Any established policy which is used as the basis for restoration of an employee to "an equivalent position" must provide substantially the same protections as provided in the FMLA, as made applicable by the CAA, for reinstated employees. See § 825.215. In other words, the policy or collective bargaining agreement must provide for restoration to an "equivalent position" with equivalent employment benefits, pay, and other terms and conditions of employment. For example, an employee may not be restored to a position requiring additional licensure or certification.

Subpart G—How Do Other Laws, Employing Office Practices, and Collective Bargaining Agreements Affect Employee Rights Under the FMLA as Made Applicable by the CAA?

§ 825.700 What if an employing office provides more generous benefits than required by FMLA as made applicable by the CAA?

(a) An employing office must observe any employment benefit program or plan that provides greater family or medical leave rights to employees than the rights established by the FMLA. Conversely, the rights established by the FMLA, as made applicable by the CAA, may not be diminished by any employment benefit program or plan. For example, a provision of a collective bargaining agreement (CBA) which provides for reinstatement to a position that is not equivalent because of seniority (e.g., provides lesser pay) is superseded by FMLA. If an employing office provides greater unpaid family leave rights than are afforded by FMLA, the employing office is not required to extend additional rights afforded by FMLA, such as maintenance of health benefits (other than through COBRA or 5 U.S.C. 8905a, whichever is applicable), to the additional leave period not covered by FMLA. If an employee takes paid or unpaid leave and the employing office does not designate the leave as FMLA leave, the leave taken does not count against an employee's FMLA entitlement.

(b) Nothing in the FMLA, as made applicable by the CAA, prevents an employing office from amending existing leave and employee benefit programs, provided they comply with FMLA as made applicable by the CAA. However, nothing in the FMLA, as made applicable by the CAA, is intended to discourage employing offices from adopting or retaining more generous leave policies.

(c) [Reserved]

§ 825.701 [Reserved]

§ 825.702 How does FMLA affect anti-discrimination laws as applied by section 201 of the CAA?

(a) Nothing in FMLA modifies or affects any applicable law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability (e.g., title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act), as made applicable by the CAA. FMLA's legislative history explains that FMLA is "not intended to modify or affect the Rehabilitation Act of 1973, as amended, the regulations concerning employment which have been promulgated pursuant to that statute, or the Americans with Disabilities Act of 1990, or the regulations issued under that Act. Thus, the leave provisions of the [FMLA] are wholly distinct from the reasonable accommodation obligations of employers covered under the [ADA] * * * or the Federal government itself. The purpose of the FMLA is to make leave available to eligible employees and employing offices within its coverage, and not to limit already existing rights and protection". S. Rep. No. 3, 103d Cong., 1st Sess. 38 (1993). An employing office must therefore provide leave under whichever statutory provision provides the greater rights to employees.

(b) If an employee is a qualified individual with a disability within the meaning of the Americans with Disabilities Act (ADA), the employing office must make reasonable accommodations, etc., barring undue hardship, in accordance with the ADA. At the same time, the employing office must afford an employee his or her FMLA rights. ADA's "disability" and FMLA's "serious health condition" are different concepts, and must be analyzed separately. FMLA entitles eligible employees to 12 weeks of leave in any 12-month period, whereas the ADA allows an indeterminate amount of leave, barring undue hardship, as a reasonable accommodation. FMLA requires employing offices to maintain employees' group health plan coverage during FMLA leave on the same conditions as coverage would have been provided if the employee had been continuously employed during the leave period, whereas ADA does not require maintenance of health insurance unless other employees receive health insurance during leave under the same circumstances.

(c)(1) A reasonable accommodation under the ADA might be accomplished by providing an individual with a disability with a part-time job with no health benefits, assuming the employing office did not ordinarily provide health insurance for part-time employees. However, FMLA would permit an employee to work a reduced leave schedule until the equivalent of 12 workweeks of leave were used, with group health benefits maintained during this period. FMLA permits an employing office to temporarily transfer an employee who is taking leave intermittently or on a reduced leave schedule to an alternative position, whereas the ADA allows an accommodation of reassignment to an equivalent, vacant position only if the employee cannot perform the essential functions of the employee's present position and an accommodation is not possible in the employee's present position, or an accommodation in the employee's present position would cause an undue hardship. The examples in the following paragraphs of this section demonstrate how the two laws would interact with respect to a qualified individual with a disability.

(2) A qualified individual with a disability who is also an "eligible employee" entitled to FMLA leave requests 10 weeks of medical leave as a reasonable accommodation, which the employing office grants because it is not an undue hardship. The employing office advises the employee that the 10 weeks of leave is also being designated as FMLA leave and will count towards the employee's FMLA leave entitlement. This designation does not prevent the parties from also treating the leave as a reasonable accommodation and reinstating the employee into the same job, as required by the ADA, rather than an equivalent position under FMLA, if that is the greater right available to the employee. At the same time, the employee would be entitled under FMLA to have the employing office maintain group health plan coverage

during the leave, as that requirement provides the greater right to the employee.

(3) If the same employee needed to work part-time (a reduced leave schedule) after returning to his or her same job, the employee would still be entitled under FMLA to have group health plan coverage maintained for the remainder of the two-week equivalent of FMLA leave entitlement, notwithstanding an employing office policy that part-time employees do not receive health insurance. This employee would be entitled under the ADA to reasonable accommodations to enable the employee to perform the essential functions of the part-time position. In addition, because the employee is working a part-time schedule as a reasonable accommodation, the employee would be shielded from FMLA's provision for temporary assignment to a different alternative position. Once the employee has exhausted his or her remaining FMLA leave entitlement while working the reduced (part-time) schedule, if the employee is a qualified individual with a disability, and if the employee is unable to return to the same full-time position at that time, the employee might continue to work part-time as a reasonable accommodation, barring undue hardship; the employee would then be entitled to only those employment benefits ordinarily provided by the employing office to part-time employees.

(4) At the end of the FMLA leave entitlement, an employing office is required under FMLA to reinstate the employee in the same or an equivalent position, with equivalent pay and benefits, to that which the employee held when leave commenced. The employing office's FMLA obligations would be satisfied if the employing office offered the employee an equivalent full-time position. If the employee were unable to perform the essential functions of that equivalent position even with reasonable accommodation, because of a disability, the ADA may require the employing office to make a reasonable accommodation at that time by allowing the employee to work part-time or by reassigning the employee to a vacant position, barring undue hardship.

(d)(1) If FMLA entitles an employee to leave, an employing office may not, in lieu of FMLA leave entitlement, require an employee to take a job with a reasonable accommodation. However, ADA may require that an employing office offer an employee the opportunity to take such a position. An employing office may not change the essential functions of the job in order to deny FMLA leave. See §825.220(b).

(2) An employee may be on a workers' compensation absence due to an on-the-job injury or illness which also qualifies as a serious health condition under FMLA. The workers' compensation absence and FMLA leave may run concurrently (subject to proper notice and designation by the employing office). At some point the health care provider providing medical care pursuant to the workers' compensation injury may certify the employee is able to return to work in a "light duty" position. If the employing office offers such a position, the employee is permitted but not required to accept the position (see §825.220(d)). As a result, the employee may no longer qualify for payments from the workers' compensation benefit plan, but the employee is entitled to continue on unpaid FMLA leave either until the employee is able to return to the same or equivalent job the employee left or until the 12-week FMLA leave entitlement is exhausted. See §825.207(d)(2). If the employee returning from the workers' compensation injury is a qualified individual with a disability, he or she will have rights under the ADA.

(e) If an employing office requires certifications of an employee's fitness for duty to return to work, as permitted by FMLA under a uniform policy, it must comply with the ADA requirement that a fitness for duty physical be job-related and consistent with business necessity.

(f) Under title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act, and as made applicable by the CAA, an employing office should provide the same benefits for women who are pregnant as the employing office provides to other employees with short-term disabilities. Because title VII does not require employees to be employed for a certain period of time to be protected, an employee employed for less than 12 months by any employing office (and, therefore, not an "eligible" employee under FMLA, as made applicable by the CAA) may not be denied maternity leave if the employing office normally provides short-term disability benefits to employees with the same tenure who are experiencing other short-term disabilities.

(g) For further information on Federal anti-discrimination laws applied by section 201 of the CAA (2 U.S.C. 1311), including title VII, the Rehabilitation Act, and the ADA, individuals are encouraged to contact the Office of Compliance.

SUBPART H—DEFINITIONS

§825.800 Definitions.

For purposes of this part:

ADA means the Americans With Disabilities Act (42 U.S.C. 12101 et seq.).

CAA means the Congressional Accountability Act of 1995 (Pub. Law 104-1, 109 Stat. 3, 2 U.S.C. 1301 et seq.).

COBRA means the continuation coverage requirements of title X of the Consolidated Omnibus Budget Reconciliation Act of 1986 (Pub. Law 99-272, title X, section 10002; 100 Stat. 227; as amended; 29 U.S.C. 1161-1168).

Continuing treatment means: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(1) A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(i) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or

(ii) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(2) Any period of incapacity due to pregnancy, or for prenatal care.

(3) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(i) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(ii) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(iii) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

(4) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(5) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

Covered employee—The term "covered employee", as defined in the CAA, means any employee of—(1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; (8) the Office of Compliance; or (9) the Office of Technology Assessment.

Eligible employee—The term "eligible employee", as defined in the CAA, means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

Employ means to suffer or permit to work.

Employee means an employee as defined in the CAA and includes an applicant for employment and a former employee.

Employee employed in an instructional capacity: See Teacher.

Employee of the Capitol Police—The term "employee of the Capitol Police" includes any member or officer of the Capitol Police.

Employee of the House of Representatives—The term "employee of the House of Representatives" includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (9) under "covered employee" above.

Employee of the Office of the Architect of the Capitol—The term "employee of the Office of the Architect of the Capitol" includes any employee of the Office of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants.

Employee of the Senate—The term "employee of the Senate" includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (9) under "covered employee" above.

Employing Office—The term "employing office", as defined in the CAA, means—

(1) the personal office of a Member of the House of Representatives or of a Senator;

(2) a committee of the House of Representatives or the Senate or a joint committee;

(3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or

privileges of the employment of an employee of the House of Representatives or the Senate; or

(4) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

Employment benefits means all benefits provided or made available to employees by an employing office, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employing office or through an employee benefit plan. The term does not include non-employment related obligations paid by employees through voluntary deductions such as supplemental insurance coverage. (See §825.209(a)).

FLSA means the Fair Labor Standards Act (29 U.S.C. 201 et seq.).

FMLA means the Family and Medical Leave Act of 1993, Public Law 103-3 (February 5, 1993), 107 Stat. 6 (29 U.S.C. 2601 et seq.).

Group health plan means the Federal Employees Health Benefits Program and any other plan of, or contributed to by, an employing office (including a self-insured plan) to provide health care (directly or otherwise) to the employing office's employees, former employees, or the families of such employees or former employees. For purposes of FMLA, as made applicable by the CAA, the term "group health plan" shall not include an insurance program providing health coverage under which employees purchase individual policies from insurers provided that—

(1) no contributions are made by the employing office;

(2) participation in the program is completely voluntary for employees;

(3) the sole functions of the employing office with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer;

(4) the employing office receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deduction; and

(5) the premium charged with respect to such coverage does not increase in the event the employment relationship terminates.

Health care provider means:

(1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; or

(2) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law; and

(3) Nurse practitioners, nurse-midwives and clinical social workers who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law; and

(4) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.

(5) Any health care provider from whom an employing office or a group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

(6) A health care provider as defined above who practices in a country other than the United States, who is licensed to practice in accordance with the laws and regulations of that country.

"Incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in several of the "activities of daily living" (ADLs) or "instrumental activities of daily living" (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

Instructional employee: See Teacher.

Intermittent leave means leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy.

Mental disability: See Physical or mental disability.

Office of Compliance means the independent office established in the legislative branch under section 301 of the CAA (2 U.S.C. 1381).

Parent means the biological parent of an employee or an individual who stands or stood in loco parentis to an employee when the employee was a child.

Physical or mental disability means a physical or mental impairment that substantially limits one or more of the major life activities of an individual. See the Americans with Disabilities Act (ADA), as made applicable by section 201(a)(3) of the CAA (2 U.S.C. 1311(a)(3)).

Reduced leave schedule means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

Secretary means the Secretary of Labor or authorized representative.

Serious health condition entitling an employee to FMLA leave means:

(1) An illness, injury, impairment, or physical or mental condition that involves:

(i) Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom), or any subsequent treatment in connection with such inpatient care; or

(ii) Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes:

(A) A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(1) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or

(2) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(B) Any period of incapacity due to pregnancy, or for prenatal care.

(C) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(1) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(3) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

(D) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(E) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

(2) Treatment for purposes of paragraph (1) of this definition includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under paragraph (1)(ii)(A)(2) of this definition, a regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bedrest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

(3) Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an

injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(4) Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.

(5) Absences attributable to incapacity under paragraphs (1)(ii) (B) or (C) of this definition qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability.

Spouse means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized.

State means any State of the United States or the District of Columbia or any Territory or possession of the United States.

Teacher (or employee employed in an instructional capacity, or instructional employee) means an employee employed principally in an instructional capacity by an educational agency or school whose principal function is to teach and instruct students in a class, a small group, or an individual setting, and includes athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. The term does not include teacher assistants or aides who do not have as their principal function actual teaching or instructing, nor auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers, or other primarily noninstructional employees.

APPENDIX A TO PART 825—[RESERVED]

APPENDIX B TO PART 825—CERTIFICATION OF PHYSICIAN OR PRACTITIONER

CERTIFICATION OF HEALTH CARE PROVIDER

(FAMILY AND MEDICAL LEAVE ACT OF 1993 AS MADE APPLICABLE BY THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995)

1. Employee's Name:

2. Patient's Name (if different from employee):

3. The attached sheet describes what is meant by a "serious health condition" under the Family and Medical Leave Act as made applicable by the Congressional Accountability Act. Does the patient's condition[1] qualify under any of the categories described? If so, please check the applicable category.

(1) ______
(2) ______
(3) ______
(4) ______
(5) ______
(6) ______, or
None of the above ______

4. Describe the medical facts which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:

5.a. State the approximate date the condition commenced, and the probable duration of the condition (and also the probable duration of the patient's present incapacity[2] if different):

b. Will it be necessary for the employee to take work only intermittently or to work on a less than full schedule as a result of the condition (including for treatment described in Item 6 below)? ______
If yes, give probable duration:

c. If the condition is a chronic condition (condition #4) or pregnancy, state whether the patient is presently incapacitated[2] and the likely duration and frequency of episodes of incapacity[2]:

6.a. If additional treatments will be required for the condition, provide an estimate of the probable number of such treatments:
If the patient will be absent from work or other daily activities because of treatment on an intermittent or part-time basis, also provide an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any:

b. If any of these treatments will be provided by another provider of health services (e.g., physical therapist), please state the nature of the treatments:

c. If a regimen of continuing treatment by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment):

7.a. If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), is the employee unable to perform work of any kind? ______

b. If able to perform some work, is the employee unable to perform any one or more of the essential functions of the employee's job (the employee or the employer should supply you with information about the essential job functions)? ______ If yes, please list the essential functions the employee is unable to perform: ______

c. If neither a. nor b. applies, is it necessary for the employee to be absent from work for treatment? ______

8.a. If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation? ______

b. If no, would the employee's presence to provide psychological comfort be beneficial to the patient or assist in the patient's recovery? ______

c. If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need:

(Signature of Health Care Provider)
(Type of Practice)
(Address)
(Telephone number)

To be completed by the employee needing family leave to care for a family member:
State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule:

(Employee signature)
(Date)

A "Serious Health Condition" means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. Hospital Care.—Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity[1] or subsequent treatment in connection with or consequent to such inpatient care.

2. Absence Plus Treatment.—A period of incapacity[2] of more than three consecutive calendar days (including any subsequent treatment or period of incapacity[2] relating to the same condition), that also involves:
(1) Treatment[3] two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or
(2) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment[4] under the supervision of the health care provider.

3. Pregnancy.—Any period of incapacity due to pregnancy, or for prenatal care.

4. Chronic Conditions Requiring Treatments.—A chronic condition which:
(1) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
(2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
(3) May cause episodic rather than a continuing period of incapacity[2] (e.g., asthma, diabetes, epilepsy, etc.).

5. Permanent/Long-term Conditions Requiring Supervision.—A period of incapacity[2] which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

6. Multiple Treatments (Non-Chronic Conditions).—Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity[2] of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

FOOTNOTES

[1] Here and elsewhere on this form, the information sought relates only to the condition for which the employee is taking FMLA leave.

[2] "Incapacity", for purposes of FMLA as made applicable by the CAA, is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery therefrom.

[3] Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

[4] A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

APPENDIX C TO PART 825—[RESERVED]

APPENDIX D TO PART 825—PROTOTYPE NOTICE: EMPLOYING OFFICE RESPONSE TO EMPLOYEE REQUEST FOR FAMILY AND MEDICAL LEAVE

EMPLOYING OFFICE RESPONSE TO EMPLOYEE REQUEST FOR FAMILY OR MEDICAL LEAVE

(OPTIONAL USE FORM—SEE §825.301(B)(1) OF THE REGULATIONS OF THE OFFICE OF COMPLIANCE)

(FAMILY AND MEDICAL LEAVE ACT OF 1993, AS MADE APPLICABLE BY THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995)

(Date)

To:______________

(Employee's name)

From:______________

(Name of appropriate employing office representative)

Subject: Request for Family/Medical Leave

On______, (date) you notified us of your need to take family/medical leave due to:

(Date)

The birth of your child, or the placement of a child with you for adoption or foster care; or

A serious health condition that makes you unable to perform the essential functions of your job; or

A serious health condition affecting your spouse, child, parent, for which you are needed to provide care.

You notified us that you need this leave beginning on ______(date) and that you expect leave to continue until on or about______ (date).

Except as explained below, you have a right under the FMLA, as made applicable by the CAA, for up to 12 weeks of unpaid leave in a 12-month period for the reasons listed above. Also, your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work, and you must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from leave. If you do not return to work following FMLA leave for a reason other than: (1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; or (2) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.

This is to inform you that: (check appropriate boxes; explain where indicated)

1. You are ☐ eligible ☐ not eligible for leave under the FMLA as made applicable by the CAA.

2. The requested leave ☐ will ☐ will not be counted against your annual FMLA leave entitlement.

3. You ☐ will ☐ will not be required to furnish medical certification of a serious health condition. If required, you must furnish certification by______ (insert date) (must be at least 15 days after you are notified of this requirement) or we may delay the commencement of your leave until the certification is submitted.

4. You may elect to substitute accrued paid leave for unpaid FMLA leave. We ☐ will ☐ will not require that you substitute accrued paid leave for unpaid FMLA leave. If paid leave will be used the following conditions will apply: (Explain)

5(a). If you normally pay a portion of the premiums for your health insurance, these payments will continue during the period of FMLA leave. Arrangements for payment have been discussed with you and it is agreed that you will make premium payments as follows: (Set forth dates, e.g., the 10th of each month, or pay periods, etc. that specifically cover the agreement with the employee.).

(b). You have a minimum 30-day (or, indicate longer period, if applicable) grace period in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled: *Provided*, That we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work. We ☐ will ☐ will not pay your share of health insurance premiums while you are on leave.

(c). We ☐ will ☐ will not do the same with other benefits (e.g., life insurance, disability insurance, etc.) while you are on FMLA leave. If we do pay your premiums for other benefits, when you return from leave you ☐ will ☐ will not be expected to reimburse us for the payments made on your behalf.

6. You ☐ will ☐ will not be required to present a fitness-for-duty certificate prior to being restored to employment. If such certification is required but not received, your return to work may be delayed until the certification is provided.

7(a). You ☐ are ☐ are not a "key employee" as described in §825.218 of the Office of Compliance's FMLA regulations. If you are a "key employee", restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us.

(b). We ☐ have ☐ have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us. (Explain (a) and/or (b) below. See §825.219 of the Office of Compliance's FMLA regulations.)

8. While on leave, you ☐ will ☐ will not be required to furnish us with periodic reports every ______ (indicate interval of periodic reports, as appropriate for the particular leave situation) of your status and intent to return to work (see §825.309 of the Office of Compliance's FMLA regulations). If the circumstances of your leave change and you are able to return to work earlier than the date indicated on the reverse side of this form, you ☐ will ☐ will not be required to notify us at least two work days prior to the date you intend to report for work.

9. You ☐ will ☐ will not be required to furnish recertification relating to a serious health condition. (Explain below, if necessary, including the interval between certifications as prescribed in §825.308 of the Office of Compliance's FMLA regulations.)

Subtitle A—Regulations Relating to the Senate and Its Employing Offices—S Series

CHAPTER III—REGULATIONS RELATING TO THE RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

PART S501—GENERAL PROVISIONS

Sec.

S501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S501.101 Purpose and scope.
S501.102 Definitions.
S501.103 Coverage.
S501.104 Administrative authority.
S501.105 Effect of Interpretations of the Labor Department.
S501.106 Application of the Portal-to-Portal Act of 1947.
S501.107 [Reserved]

§S501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the parts of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding parts of the Office of Compliance (OC) Regulations under section 203 of the CAA:

Secretary of Labor regulations	*OC regulations*
Part 531 Wage payments under the Fair Labor Standards Act of 1938	Part S531
Part 541 Defining and delimiting the terms "bona fide executive", "administrative", and "professional" employees	Part S541
Part 547 Requirements of a "Bona fide thrift or savings plan"	Part S547
Part 553 Application of the FLSA to employees of public agencies	Part S553
Part 570 Child labor	Part S570

SUBPART A—MATTERS OF GENERAL APPLICABILITY

§S501.101 Purpose and scope.

(a) Section 203 of the Congressional Accountability Act (CAA) provides that the rights and protections of subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (FLSA) (29 U.S.C. §§206 (a)(1) and (d), 207, 212(c)) shall apply to covered employees of the legislative branch of the Federal Government. Section 301 of the CAA creates the Office of Compliance as an independent office in the legislative branch for enforcing the rights and protections of the FLSA, as applied by the CAA.

(b) The FLSA as applied by the CAA provides for minimum standards for both wages and overtime entitlements, and delineates administrative procedures by which covered worktime must be compensated. Included also in the FLSA are provisions related to child labor, equal pay, and portal-to-portal activities. In addition, the FLSA exempts specified employees or groups of employees from the application of certain of its provisions.

(c) This chapter contains the substantive regulations with respect to the FLSA that the Board of Directors of the Office of Compliance has adopted pursuant to sections 203(c) and 304 of the CAA, which require that the Board promulgate regulations that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of §203 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section".

(d) These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 203(c) and 304 of the CAA, which directs the Board to promulgate regulations implementing section 203 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 203 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section". The regulations issued by the Board herein are on all matters for which section 203 of the CAA requires regulations to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of the promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 203 of the CAA]".

(e) In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

§S501.102 Definitions.

For purposes of this chapter:

(a) CAA means the Congressional Accountability Act of 1995 (P.L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301-1438).

(b) FLSA or Act means the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §201 et seq.), as applied by section 203 of the CAA to covered employees and employing offices.

(c) Covered employee means any employee of the Senate, including an applicant for employment and a former employee, but shall not include an intern.

(d) Employee of the Senate includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment.

(e) Employing office and employer mean (1) the personal office of a Senator; (2) a committee of the Senate or a joint committee; or (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the Senate.

(f) Board means the Board of Directors of the Office of Compliance.

(g) Office means the Office of Compliance.

(h) Intern is an individual who (a) is performing services in an employing office as part of a demonstrated educational plan, and (b) is appointed on a temporary basis for a period not to exceed 12 months: *Provided*, That if an intern is appointed for a period shorter than 12 months, the intern may be reappointed for additional periods as long as the total length of the internship does not exceed 12 months: *Provided further*, That an intern for purposes of section 203(a)(2) of the CAA also includes an individual who is a senior citizen appointed under S. Res. 219 (May 5, 1978, as amended by S. Res. 96, April 9, 1991), but does not include volunteers, fellows or pages.

§S501.103 Coverage.

The coverage of section 203 of the CAA extends to any covered employee of an employing office without regard to whether the covered employee is engaged in commerce or the production of goods for interstate commerce and without regard to size, number of employees, amount of business transacted, or other measure.

§S501.104 Administrative authority.

(a) The Office of Compliance is authorized to administer the provisions of section 203 of the Act with respect to any covered employee or covered employer.

(b) The Board is authorized to promulgate substantive regulations in accordance with the provisions of sections 203(c) and 304 of the CAA.

§S501.105 Effect of Interpretation of the Department of Labor.

(a) In administering the FLSA, the Wage and Hour Division of the Department of Labor has issued not only substantive regulations but also interpretative bulletins. Substantive regulations represent an exercise of statutory-delegated lawmaking authority from the legislative branch to an administrative agency. Generally, they are proposed in accordance with the notice-and-comment procedures of the Administrative Procedure Act (APA), 5 U.S.C. §553. Once promulgated, such regulations are considered to have the force and effect of law, unless set aside upon judicial review as arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. See Batterton v. Francis, 432 U.S. 416, 425 n.9 (1977). See also 29 CFR §790.17(b) (1994). Unlike substantive regulations, interpretative statements, including bulletins and other releases of the Wage and Hour Division, are not issued pursuant to the provisions of the APA and may not have the force and effect of law. Rather, they may only constitute official interpretations of the Department of Labor with respect to the meaning and application of the minimum wage, maximum hour, and overtime pay requirements of the FLSA. See 29 C.F.R. §790.17(c) (citing Final Report of the Attorney General's Committee on Administrative Procedure, Senate Document No. 8, 77th Cong., 1st Sess., at p. 27 (1941)). The purpose of such statements is to make available in one place the interpretations of the FLSA which will guide the Secretary of Labor and the Wage and Hour Administrator in the performance of their duties unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon reexamination of an interpretation, that it is incorrect. The Supreme Court has observed: "[T]he rulings, interpretations and opinions of the Administrator under this Act, while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance. The weight of such a judgment in a particular case will depend upon the thoroughness evident in the consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control", Skidmore v. Swift, 323 U.S. 134, 140 (1944).

(b) Section 203(c) of the CAA provides that the substantive regulations implementing section 203 of the CAA shall be "the same as substantive regulations promulgated by the Secretary of Labor" except where the Board finds, for good cause shown, that a modification would more effectively implement the rights and protections established by the FLSA. Thus, the CAA by its terms does not mandate that the Board adopt the interpretative statements of the Department of Labor or its Wage and Hour Division. The Board is thus not adopting such statements as part of its substantive regulations.

§S501.106 Application of the Portal-to-Portal Act of 1947.

(a) Consistent with section 225 of the CAA, the Portal-to-Portal Act (PPA), 29 U.S.C. §§216 and 251 et seq., is applicable in defining and delimiting the rights and protections of the FLSA that are prescribed by the CAA. Section 10 of the PPA, 29 U.S.C. §259, provides in pertinent part: "[N]o employer shall be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, . . . if he pleads and proves that the act of omission complained of was in good faith in conformity with and reliance on any written administrative regulation, order, ruling, approval or interpretation of [the Administrator of the Wage and Hour Division of the Department of Labor] . . . or any administrative practice or enforcement policy of such agency with respect to the class of employers to which he belonged. Such a defense, if established shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect".

(b) In defending any action or proceeding based on any act or omission arising out of section 203 of the CAA, an employing office may satisfy the standards set forth in subsection (a) by pleading and proving good faith reliance upon any written administrative regulation, order, ruling, approval or interpretation, of the Administrator of the Wage and Hour Division of the Department of Labor: *Provided*, That such regulation, order, ruling approval or interpretation had not been superseded at the time or reliance by any regulation, order, decision, or ruling of the Board or the courts.

§S501.107 [Reserved].

PART S531—WAGE PAYMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

SUBPART A—PRELIMINARY MATTERS

Sec.

S531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S531.1 Definitions.
S531.2 Purpose and scope.

SUBPART B—DETERMINATIONS OF "REASONABLE COSTS"; EFFECTS OF COLLECTIVE BARGAINING AGREEMENTS

S531.3 General determinations of "reasonable cost".

S531.6 Effects of collective bargaining agreements.

SUBPART A—PRELIMINARY MATTERS

§ S531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under section 203 of the CAA:

Secretary of Labor Regulations	*OC Regulations*
531.1 Defintions	S531.1
531.2 Purpose and scope	S531.2
531.3 General determinations of "reasonable cost"	S531.3
531.6 Effects of collective bargaining agreements	S531.6

§ S531.1 Definitions.

(a) Administrator means the Administrator of the Wage and Hour Division or his authorized representative. The Secretary of Labor has delegated to the Administrator the functions vested in him under section 3(m) of the Act.

(b) Act means the Fair Labor Standards Act of 1938, as amended.

§ S531.2 Purpose and scope.

(a) Section 3(m) of the Act defines the term "wage" to include the "reasonable cost", as determined by the Secretary of Labor, to an employer of furnishing any employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by the employer to his employees. In addition, section 3(m) gives the Secretary authority to determine the "fair value" of such facilities on the basis of average cost to the employer or to groups of employers similarly situated, on average value to groups of employees, or other appropriate measures of "fair value". Whenever so determined and when applicable and pertinent, the "fair value" of the facilities involved shall be includable as part of "wages" instead of the actual measure of the costs of those facilities. The section provides, however, the cost of board, lodging, or other facilities shall not be included as part of "wages" if excluded therefrom by a bona fide collective bargaining agreement. Section 3(m) also provides a method for determining the wage of a tipped employee.

(b) This part 531 contains any determinations made as to the "reasonable cost" and "fair value" of board, lodging, or other facilities have general application.

SUBPART B—DETERMINATIONS OF "REASONABLE COST" AND "FAIR VALUE"; EFFECTS OF COLLECTIVE BARGAINING AGREEMENTS

§ S531.3 General determinations of "reasonable cost".

(a) The term "reasonable cost" as used in section 3(m) of the Act is hereby determined to be not more than the actual cost to the employer of the board, lodging, or other facilities customarily furnished by him to his employees.

(b) Reasonable cost does not include a profit to the employer or to any affiliated person.

(c) The reasonable cost to the employer of furnishing the employee with board, lodging, or other facilities (including housing) is the cost of operation and maintenance including adequate depreciation plus a reasonable allowance (not more than 5½ percent) for interest on the depreciated amount of capital invested by the employer: *Provided*, That if the total so computed is more than the fair rental value (or the fair price of the commodities or facilities offered for sale), the fair rental value (or the fair price of the commodities or facilities offered for sale) shall be the reasonable cost. The cost of operation and maintenance, the rate of depreciation, and the depreciated amount of capital invested by the employer shall be those arrived at under good accounting practices. As used in this paragraph, the term good accounting practices does not include accounting practices which have been rejected by the Internal Revenue Service for tax purposes, and the term depreciation includes obsolescence.

(d)(1) The cost of furnishing "facilities" found by the Administrator to be primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not therefore be included in computing wages.

(2) The following is a list of facilities found by the Administrator to be primarily for the benefit of convenience of the employer. The list is intended to be illustrative rather than exclusive: (i) Tools of the trade and other materials and services incidental to carrying on the employer's business; (ii) the cost of any construction by and for the employer; (iii) the cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.

§ S531.6 Effects of collective bargaining agreements.

(a) The cost of board, lodging, or other facilities shall not be included as part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the particular employee.

(b) A collective bargaining agreement shall be deemed to be "bona fide" when pursuant to the provisions of section 7(b)(1) or 7(b)(2) of the FLSA it is made with the certified representative of the employees under the provisions of the CAA.

PART S541—DEFINING AND DELIMITING THE TERMS "BONA FIDE EXECUTIVE", "ADMINISTRATIVE", OR "PROFESSIONAL" CAPACITY (INCLUDING ANY EMPLOYEE EMPLOYED IN THE CAPACITY OF ACADEMIC ADMINISTRATIVE PERSONNEL OR TEACHER IN SECONDARY SCHOOL)

SUBPART A—GENERAL REGULATIONS

Sec.

S541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

S541.01 Application of the exemptions of section 13(a)(1) of the FLSA.

S541.1 Executive.

S541.2 Administrative.

S541.3 Professional.

S541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.

S541.5d Special provisions applicable to employees of public agencies.

§ S541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under section 203 of the CAA:

Secretary of Labor Regulations	*OC Regulations*
541.1 Executive	S541.1
541.2 Administrative	S541.2
541.3 Professional	S541.3
541.5b Equal pay provisions of section 6(d) of the FLSA apply to executive, administrative, and professional employees	S541.5b
541.5d Special provisions applicable to employees of public agencies	S541.5d

§ S541.01 Application of the exemptions of section 13(a)(1) of the FLSA

(a) Section 13(a)(1) of the FLSA, which provides certain exemptions for employees employed in a bona fide executive, administrative, or professional capacity (including any employee employed in a capacity of academic administrative personnel or teacher in a secondary school), applies to covered employees by virtue of section 225(f)(1) of the CAA.

(b) The substantive regulations set forth in this part are promulgated under the authority of sections 203(c) and 304 of the CAA, which require that such regulations be the same as the substantive regulations promulgated by the Secretary of Labor except where the Board determines for good cause shown that modifications would be more effective for the implementation of the rights and protections under § 203.

§ S541.1 Executive

The term employee employed in a bona fide executive * * * capacity in section 13(a)(1) of the FSLA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the management of an employing office in which he is employed or of a customarily recognized department or subdivision thereof; and

(b) Who customarily and regularly directs the work of two or more other employees therein; and

(c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(d) Who customarily and regularly exercises discretionary powers; and

(e) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours of work in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (d) of this section: *Provided*, That this paragraph shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment; and

(f) Who is compensated for his services on a salary basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities: *Provided*, That an employee who is compensated on a salary basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the management of the employing office in which the employee is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of work of two or more other employees therein, shall be deemed to meet all the requirements of this section

§ S541.2 Administrative

The term employee employed in a bona fide * * * administrative * * * capacity in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of either:

(1) The performance of office or nonmanual work directly related to management policies or general operations of his employer or his employer's customers, or

(2) The performance of functions in the administration of a school system, or educational establishment or institution, or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein; and

(b) Who customarily and regularly exercises discretion and independent judgment; and

(c)(1) Who regularly and directly assists the head of an employing office, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined in the regulations of this subpart), or

(2) Who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge, or

(3) Who executes under only general supervision special assignments and tasks; and

(d) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours worked in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (c) of this section; and

(e)(1) Who is compensated for his services on a salary or fee basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities, or

(2) Who, in the case of academic administrative personnel, is compensated for services as required by paragraph (e)(1) of this section, or on a salary basis which is at least equal to the entrance salary for teachers in the school system, educational establishment or institution by which employed: *Provided*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance of work described in paragraph (a) of this section, which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all the requirements of this section.

§ S541.3 Professional

The term employee employed in a bona fide * * * professional capacity in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the performance of:

(1) Work requiring knowledge of an advance type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or

(2) Work that is original and creative in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee, or

(3) Teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in the school system, educational establishment or institution by which employed, or

(4) Work that requires theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming, and software engineering, and who is employed and engaged in these activities as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer software field; and

(b) Whose work requires the consistent exercise of discretion and judgment in its performance; and

(c) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

(d) Who does not devote more than 20 percent of his hours worked in the workweek to activities which are not an essential part of and necessarily incident to the work described in paragraphs (a) through (c) of this section; and

(e) Who is compensated for services on a salary or fee basis at a rate of not less than $170 per week, exclusive of board, lodging or other facilities: *Provided*, That this paragraph shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof, nor in the case of an employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of medicine or any of its branches, nor in the case of an employee employed and engaged as a teacher as provided in paragraph (a)(3) of this section: *Provided further*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance either of work described in paragraph (a)(1), (3), or (4) of this section, which includes work requiring the consistent exercise of discretion and judgment, or of work requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section: *Provided further*, That the salary or fee requirements of this paragraph shall not apply to an employee engaged in computer-related work within the scope of paragraph (a)(4) of this section and who is compensated on an hourly basis at a rate in excess of 6½ times the minimum wage provided by section 6 of the FLSA as applied by the CAA.

§ S541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees

The FLSA, as amended and as applied by the CAA, includes within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools) under section 13(a)(1) of the FLSA. Thus, for example, where an exempt administrative employee and another employee of the employing office are performing substantially "equal work", the sex discrimination prohibitions of section 6(d) are applicable with respect to any wage differential between those two employees.

§ S541.5d Special provisions applicable to employees of public agencies

(a) An employee of a public agency who otherwise meets the requirement of being paid on a salary basis shall not be disqualified from exemption under section S541.1, S541.2, or S541.3 on the basis that such employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy for practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one workday when accrued leave is not used by an employee because—

(1) permission for its use has not been sought or has been sought and denied;

(2) accrued leave has been exhausted; or

(3) the employee chooses to use leave without pay.

(b) Deductions from the pay for an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid "on a salary basis" except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

PART S547—REQUIREMENTS OF A "BONA FIDE THRIFT OR SAVINGS PLAN"

Sec.

S547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S547.0 Scope and effect of part.
S547.1 Essential requirements of qualifications.
S547.2 Disqualifying provisions.

§ S547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under section 203 of the CAA:

Secretary of Labor Regulations	*OC Regulations*
547.0 Scope and effect of part	S547.0
547.1 Essential requirements of qualifications	S547.1
547.2 Disqualifying provisions	S547.2

§ S547.0 Scope and effect of part

(a) The regulations in this part set forth the requirements of a "bona fide thrift or savings plan" under section 7(3)(e)(b) of the Fair Labor Standards Act of 1938, as amended (FLSA), as applied by the CAA. In determining the total remuneration for employment which section 7(e) of the FLSA requires to be included in the regular rate at which an employee is employed, it is not necessary to include any sums paid to or on behalf of such employee, in recognition of services performed by him during a given period, which are paid pursuant to a bona fide thrift or savings plan meeting the requirements set forth herein. In the formulation of these regulations due regard has been given to the factors and standards set forth in section 7(e)(3)(b) of the Act.

(b) Where a thrift or savings plan is combined in a single program (whether in one or more documents) with a plan or trust for providing old age, retirement, life, accident or health insurance or similar benefits for employees, contributions made by the employer pursuant to such thrift or savings plan may be excluded from the regular rate if the plan meets the requirements of the regulation in this part and the contributions made for the other purposes may be excluded from the regular rate if they meet the tests set forth in regulations.

§ S547.1 Essential requirements for qualifications

(a) A "bona fide thrift or savings plan" for the purpose of section 7(e)(3)(b) of the FLSA as applied by the CAA is required to meet all the standards set forth in paragraphs (b) through (f) of this section and must not contain the disqualifying provisions set forth in § S547.2.

(b) The thrift or savings plan constitutes a definite program or arrangement in writing, adopted by the employer or by contract as a result of collective bargaining and communicated or made available to the employees, which is established and maintained, in good faith, for the purpose of encouraging voluntary thrift or savings by employees by providing an incentive to employees to accumulate regularly and retain cash savings for a reasonable period of time or to save through the regular purchase of public or private securities.

(c) The plan specifically shall set forth the category or categories of employees participating and the basis of their eligibility. Eligibility may not be based on such factors as hours of work, production, or efficiency of the employees: *Provided, however*, That hours of work may be used to determine eligibility of part-time or casual employees.

(d) The amount any employee may save under the plan shall be specified in the plan or determined in accordance with a definite formula specified in the plan, which formula may be based on one or more factors such as the straight-time earnings or total earnings, base rate of pay, or length of service of the employee.

(e) The employer's total contribution in any year may not exceed 15 percent of the participating employees' total earnings during that year. In addition, the employer's total contribution in any year may not exceed the total amount saved or invested by the participating employees during that year.

(f) The employer's contributions shall be apportioned among the individual employees in accordance with a definite formula or method of calculation specified in the plan, which formula or method of calculation is based on the amount saved or the length of time the individual employee retains his savings or investment in the plan: *Provided*, That no employee's share determined in accordance with the plan may be diminished because of any other remuneration received by him.

§ S547.2 Disqualifying provisions

(a) No employee's participation in the plan shall be on other than a voluntary basis.

(b) No employee's wages or salary shall be dependent upon or influenced by the existence of such thrift or savings plan or the employer's contributions thereto.

(c) The amounts any employee may save under the plan, or the amounts paid by the employer under the plan may not be based upon the employee's hours of work, production or efficiency.

PART S553—OVERTIME COMPENSATION: PARTIAL EXEMPTION FOR EMPLOYEES ENGAGED IN LAW ENFORCEMENT AND FIRE PROTECTION; OVERTIME AND COMPENSATORY TIME-OFF FOR EMPLOYEES WHOSE WORK SCHEDULE DIRECTLY DEPENDS UPON THE SCHEDULE OF THE HOUSE INTRODUCTION

Sec.
S553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S553.1 Definitions.
S553.2 Purpose and scope.

SUBPART C—PARTIAL EXEMPTION FOR EMPLOYEES ENGAGED IN LAW ENFORCEMENT AND FIRE PROTECTION

S553.201 Statutory provisions: section 7(k).
S553.202 Limitations.
S553.211 Law enforcement activities.
S553.212 Twenty percent limitation on nonexempt work.
S553.213 Public agency employees engaged in both fire protection and law enforcement activities.
S553.214 Trainees.
S553.215 Ambulance and rescue service employees.
S553.216 Other exemptions.
S553.220 "Tour of duty" defined.
S553.221 Compensable hours of work.
S553.222 Sleep time.
S553.223 Meal time.
S553.224 "Work period" defined.
S553.225 Early relief.
S553.226 Training time.
S553.227 Outside employment.
S553.230 Maximum hours standard for work periods of 7 to 28 days—section 7(k).
S553.231 Compensatory time off.
S553.232 Overtime pay requirements.
S553.233 "Regular rate" defined.

SUBPART D—COMPENSATORY TIME-OFF FOR OVERTIME EARNED BY EMPLOYEES WHOSE WORK SCHEDULE DIRECTLY DEPENDS UPON THE SCHEDULE OF THE HOUSE

S553.301 Definiton of "directly depends".
S553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the House.
S553.303 Using compensatory time off.
S553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service.

INTRODUCTION

§ S553.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under section 203 of the CAA:

Secretary of Labor Regulations	*OC Regulations*
553.1 Definitions	S553.1
553.2 Purpose and scope	S553.2
553.201 Statutory provisions: section 7(k)	S553.201
553.202 Limitations	S553.202
553.211 Law enforcement activities	S553.211
553.212 Twenty percent limitation on nonexempt work	S553.212
553.213 Public agency employees engaged in both fire protection and law enforcement activities	S553.213
553.214 Trainees	S553.214
553.215 Ambulance and rescue service employees	S553.215
553.216 Other exemptions	S553.216
553.220 "Tour of duty" defined	S553.220
553.221 Compensable hours of work	S553.221
553.222 Sleep time	S553.222
553.223 Meal time	S553.223
553.224 "Work period" defined	S553.224
553.225 Early relief	S553.225
553.226 Training time	S553.226
553.227 Outside employment	S553.227
553.230 Maximum hours standard for work periods of 7 to 28 days—section 7(k)	S553.230
553.231 Compensatory time off	S553.231
553.232 Overtime pay requirements	S553.232
553.233 "Regular rate" defined	S553.233

INTRODUCTION

§ S553.1 Definitions

(a) Act or FLSA means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201–219), as applied by the CAA.

(b) 1985 Amendments means the Fair Labor Standards Act Amendments of 1985 (Pub. L. 99–150).

(c) Public agency means an employing office as the term is defined in § 501.102 of this chapter, including the Capitol Police.

(d) Section 7(k) means the provisions of § 7(k) of the FLSA as applied to covered employees and employing offices by § 203 of the CAA.

§ S553.2 Purpose and scope

The purpose of part S553 is to adopt with appropriate modifications the regulations of the Secretary of Labor to carry out those provisions of the FLSA relating to public agency employees as they are applied to covered employees and employing offices of the CAA. In particular, these regulations apply section 7(k) as it relates to fire protection and law enforcement employees of public agencies.

SUBPART C—PARTIAL EXEMPTION FOR EMPLOYEES ENGAGED IN LAW ENFORCEMENT AND FIRE PROTECTION

§ S553.201 Statutory provisions: section 7(k)

Section 7(k) of the Act provides a partial overtime pay exemption for fire protection and law enforcement personnel (including security personnel in correctional institutions) who are employed by public agencies on a work period basis. This section of the Act formerly permitted public agencies to pay overtime compensation to such employees in work periods of 28 consecutive days only after 216 hours of work. As further set forth in § S553.230 of this part, the 216-hour standard has been replaced, pursuant to the study mandated by the statute, by 212 hours for fire protection employees and 171 hours for law enforcement employees. In the case of such employees who have a work period of at least 7 but less than 28 consecutive days, overtime compensation is required when the ratio of the number of hours worked to the number of days in the work period exceeds the ratio of 212 (or 171) hours to 28 days.

§ S553.202 Limitations

The application of § 7(k), by its terms, is limited to public agencies, and does not apply to any private organization engaged in furnishing fire protection or law enforcement services. This is so even if the services are provided under contract with a public agency.

EXEMPTION REQUIREMENTS

§ S553.211 Law enforcement activities

(a) As used in § 7(k) of the Act, the term "any employee . . . in law enforcement activities" refers to any employee (1) who is a uniformed or plainclothed member of a body of officers and subordinates who are empowered by law to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury, and to prevent and detect crimes, (2) who has the power to arrest, and (3) who is presently undergoing or has undergone or will undergo on-the-job training and/or a course of instruction and study which typically includes physical training, self-defense, firearm proficiency, criminal and civil law principles, investigative and law enforcement techniques, community relations, medical aid and ethics.

(b) Employees who meet these tests are considered to be engaged in law enforcement activities regardless of their rank, or of their status as "trainee", "probationary", or "permanent", and regardless of their assignment to duties incidental to the performance of their law enforcement activities such as equipment maintenance, and lecturing, or to support activities of the type described in paragraph (g) of this section, whether or not such assignment is for training or familiarization purposes, or for reasons of illness, injury or infirmity. The term would also include rescue and ambulance service personnel if such personnel form an integral part of the public agency's law enforcement activities. See section S553.215.

(c) Typically, employees engaged in law enforcement activities include police who are regularly employed and paid as such. Other agency employees with duties not specifically mentioned may, depending upon the particular facts and pertinent statutory provisions in that jurisdiction, meet the three tests described above. If so, they will also qualify as law enforcement officers. Such employees might include, for example, any law enforcement employee within the legislative branch concerned with keeping public peace and order and protecting life and property.

(d) Employees who do not meet each of the three tests described above are not engaged in "law enforcement activities" as that term is used in section 7(k). Employees who normally would not meet each of these tests include:

(1) Building inspectors (other than those defined in section S553.213(a)),

(2) Health inspectors,

(3) Sanitarians,

(4) Civilian traffic employees who direct vehicular and pedestrian traffic at specified intersections or other control points,

(5) Civilian parking checkers who patrol assigned areas for the purpose of discovering parking violations and issuing appropriate warnings or appearance notices,

(6) Wage and hour compliance officers,

(7) Equal employment opportunity compliance officers, and

(8) Building guards whose primary duty is to protect the lives and property of persons within the limited area of the building.

(e) The term "any employee in law enforcement activities" also includes, by express reference, "security personnel in correctional institutions". Typically, such facilities may include precinct house lockups. Employees of correctional institutions who qualify as security personnel for purposes of the section 7(k) exemption are those who have responsibility for controlling and maintaining custody of inmates and of safeguarding them from other inmates or for supervising such functions, regardless of whether their duties are performed inside the correctional institution or outside the institution. These employees are considered to be engaged in law enforcement activities regardless of their rank or of their status as "trainee", "probationary", or "permanent", and regardless of their assignment to duties incidental to the performance of their law enforcement activities, or to support activities of the type described in paragraph (f) of this section, whether or not such assignment is for training or familiarization purposes or for reasons of illness, injury or infirmity.

(f) Not included in the term "employee in law enforcement activities" are the so-called "civilian" employees of law enforcement agencies or correctional institutions who engage in such support activities as those performed by dispatcher, radio operators, apparatus and equipment maintenance and repair workers, janitors, clerks and stenographers. Nor does the term include employees in correctional institutions who engage in building repair and maintenance, culinary services, teaching, or in psychological, medical and paramedical services. This is so even though such employees may, when assigned to correctional institutions, come into regular contact with the inmates in the performance of their duties.

§ S553.212 Twenty percent limitation on nonexempt work

(a) Employees engaged in fire protection or law enforcement activities as described in sections S553.210 and S553.211, may also engage in some nonexempt work which is not performed as an incident to or in conjunction with their fire protection or law enforcement activities. For example, firefighters who work for forest conservation agencies may, during slack times, plant trees and perform other conservation activities unrelated to their firefighting duties. The performance of such nonexempt work will not defeat the § 7(k) exemption unless it exceeds 20 percent of the total hours worked by that employee during the workweek or applicable work period. A person who spends more than 20 percent of his/her working time in nonexempt activities is not considered to be an employee engaged in fire protection or law enforcement activities for purposes of this part.

(b) Public agency fire protection and law enforcement personnel may, at their own option, undertake employment for the same employer on an occasional or sporadic and part-time basis in a different capacity from their regular employment. The performance of such work does not affect the application of the § 7(k) exemption with respect to the regular employment. In addition, the hours of work in the different capacity need not be counted as hours worked for overtime purposes on the regular job, nor are such hours counted in determining the 20 percent tolerance for nonexempt work discussed in paragraph (a) of this section.

§ S553.213 Public agency employees engaged in both fire protection and law enforcement activities

(a) Some public agencies have employees (often called "public safety officers") who engage in both fire protection and law enforcement activities, depending on the agency needs at the time. This dual assignment would not defeat the section 7(k) exemption: *Provided*, That each of the activities performed meets the appropriate tests set forth in sections S553.210 and S553.211. This is so regardless of how the employee's time is divided between the two activities. However, all time spent in nonexempt activities by public safety officers within the work period, whether performed in connection with fire protection or law enforcement functions, or with neither, must be combined for purposes of the 20 percent limitation on nonexempt work discussed in section S553.212.

(b) As specified in section S553.230, the maximum hours standards under section 7(k) are different for employees engaged in fire protection and for employees engaged in law enforcement. For those employees who perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§ S553.214 Trainees

The attendance at a bona fide fire or police academy or other training facility, when required by the employing agency, constitutes engagement in activities under section 7(k) only when the employee meets all the applicable tests described in section S553.210 or section S553.211 (except for the power of arrest for law enforcement personnel), as the case may be. If the applicable tests are met, then basic training or advanced training is considered incidental to, and part of, the employee's fire protection or law enforcement activities.

§ S553.215 Ambulance and rescue service employees

Ambulance and rescue service employees of a public agency other than a fire protection or law enforcement agency may be treated as employees engaged in fire protection or law enforcement activities of the type contemplated by § 7(k) if their services are substantially related to firefighting or law enforcement activities in that (1) the ambulance and rescue service employees have received training in the rescue of fire, crime, and accident victims or firefighters or law enforcement personnel injured in the performance of their respective, duties, and (2) the ambulance and rescue service employees are regularly dispatched to fires, crime scenes, riots, natural disasters and accidents. As provided in section S553.213(b), where employees perform both fire protection and law enforcement activities, the applicable standard is the one which applies to the activity in which the employee spends the majority of work time during the work period.

§ S553.216 Other exemptions

Although the 1974 Amendments to the FLSA as applied by the CAA provide special exemptions for employees of public agencies engaged in fire protection and law enforcement activities, such workers may also be subject to other exemptions in the Act, and public agencies may claim such other applicable exemptions in lieu of §7(k). For example, section 13(a)(1) as applied by the CAA provides a complete minimum wage and overtime pay exemption for any employee employed in a bona fide executive, administrative, or professional capacity, as those terms are defined and delimited in Part S541. The section 13(a)(1) exemption can be claimed for any fire protection or law enforcement employee who meets all of the tests specified in Part S541 relating to duties, responsibilities, and salary. Thus, high ranking police officials who are engaged in law enforcement activities, may also, depending on the facts, qualify for the section 13(a)(1) exemption as "executive" employees. Similarly, certain criminal investigative agents may qualify as "administrative" employees under section 13(a)(1).

TOUR OF DUTY AND COMPENSABLE HOURS OF WORK RULES

§ S553.220 "Tour of duty" defined

(a) The term "tour of duty" is a unique concept applicable only to employees for whom the section 7(k) exemption is claimed. This term, as used in section 7(k), means the period of time during which an employee is considered to be on duty for purposes of determining compensable hours. It may be a scheduled or unscheduled period. Such periods include "shifts" assigned to employees often days in advance of the performance of the work. Scheduled periods also include time spent in work outside the "shift" which the public agency employer assigns. For example, a police officer may be assigned to crowd control during a parade or other special event outside of his or her shift.

(b) Unscheduled periods include time spent in court by police officers, time spent handling emergency situations, and time spent working after a shift to complete an assignment. Such time must be included in the compensable tour of duty even though the specific work performed may not have been assigned in advance.

(c) The tour of duty does not include time spent working for a separate and independent employer in certain types of special details as provided in section S553.227.

§ S553.221 Compensable hours of work

(a) The rules under the FLSA as applied by the CAA on compensable hours of work are applicable to employees for whom the section 7(k) exemption is claimed. Special rules for sleep time (section S553.222) apply to both law enforcement and firefighting employees for whom the section 7(k) exemption is claimed. Also, special rules for meal time apply in the case of firefighters (section S553.223).

(b) Compensable hours of work generally include all of the time during which an employee is on duty on the employer's premises or at a prescribed workplace, as well as all other time during which the employee is suffered or permitted to work for the employer. Such time includes all pre-shift and post-shift activities which are an integral part of the employee's principal activity or which are closely related to the performance of the principal activity, such as attending roll call, writing up and completing tickets or reports, and washing and re-racking fire hoses.

(c) Time spent away from the employer's premises under conditions that are so circumscribed that they restrict the employee from effectively using the time for personal pursuits also constitutes compensable hours of work. For example, where a police station must be evacuated because of an electrical failure and the employees are expected to remain in the vicinity and return to work after the emergency has passed, the entire time spent away from the premises is compensable. The employees in this example cannot use the time for their personal pursuits.

(d) An employee who is not required to remain on the employer's premises but is merely required to leave word at home or with company officials where he or she may be reached is not working while on call. Time spent at home on call may or may not be compensable depending on whether the restrictions placed on the employee preclude using the time for personal pursuits. Where, for example, a firefighter has returned home after the shift, with the understanding that he or she is expected to return to work in the event of an emergency in the night, such time spent at home is normally not compensable. On the other hand, where the conditions placed on the employee's activities are so restrictive that the employee cannot use the time effectively for personal pursuits, such time spent on call is compensable.

(e) Normal home to work travel is not compensable, even where the employee is expected to report to work at a location away from the location of the employer's premises.

(f) A police officer, who has completed his or her tour of duty and who is given a patrol car to drive home and use on personal business, is not working during the travel time even where the radio must be left on so that the officer can respond to emergency calls. Of course, the time spent in responding to such calls is compensable.

§ S553.222 Sleep time

(a) Where a public agency elects to pay overtime compensation to firefighters and/or law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude sleep time from hours worked if all the conditions for the exclusion of such time are met.

(b) Where the employer has elected to use the section 7(k) exemption, sleep time cannot be excluded from the compensable hours of work where—

(1) the employee is on a tour of duty of less than 24 hours, and

(2) the employee is on a tour of duty of exactly 24 hours.

(c) Sleep time can be excluded from compensable hours of work, however, in the case of police officers or firefighters who are on a tour of duty of more than 24 hours, but only if there is an expressed or implied agreement between the employer and the employees to exclude such time. In the absence of such an agreement, the sleep time is compensable. In no event shall the time excluded as sleep time exceed 8 hours in a 24-hour period. If the sleep time is interrupted by a call to duty, the interruption must be counted as hours worked. If the sleep period is interrupted to such an extent that the employee cannot get a reasonable night's sleep (which, for enforcement purposes means at least 5 hours), the entire time must be counted as hours of work.

§ S553.223 Meal time

(a) If a public agency elects to pay overtime compensation to firefighters and law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude meal time from hours worked if all the statutory tests for the exclusion of such time are met.

(b) If a public agency elects to use the section 7(k) exemption, the public agency may, in the case of law enforcement personnel, exclude meal time from hours worked on tours of duty of 24 hours or less: *Provided*, That the employee is completely relieved from duty during the meal period, and all the other statutory tests for the exclusion of such time are met. On the other hand, where law enforcement personnel are required to remain on call in barracks or similar quarters, or are engaged in extended surveillance activities (e.g., stakeouts), they are not considered to be completely relieved from duty, and any such meal periods would be compensable.

(c) With respect to firefighters employed under section 7(k), who are confined to a duty station, the legislative history of the Act indicates congressional intent to mandate a departure from the usual FLSA "hours of work" rules and adoption of an overtime standard keyed to the unique concept of "tour of duty" under which firefighters are employed. Where the public agency elects to use the section 7(k) exemption for firefighters, meal time cannot be excluded from the compensable hours of work where (1) the firefighter is on a tour of duty of less than 24 hours, and (2) where the firefighter is on a tour of duty of exactly 24 hours.

(d) In the case of police officers or firefighters who are on a tour of duty of more than 24 hours, meal time may be excluded from compensable hours of work provided that the statutory tests for exclusion of such hours are met.

§ S553.224 "Work period" defined

(a) As used in section 7(k), the term "work period" refers to any established and regularly recurring period of work which, under the terms of the Act and legislative history, cannot be less than 7 consecutive days nor more than 28 consecutive days. Except for this limitation, the work period can be of any length, and it need not coincide with the duty cycle or pay period or with a particular day of the week or hour of the day. Once the beginning and ending time of an employee's work period is established, however, it remains fixed regardless of how many hours are worked within the period. The beginning and ending of the work period may be changed: *Provided*, That the change is intended to be permanent and is not designed to evade the overtime compensation requirements of the Act.

(b) An employer may have one work period applicable to all employees, or different work periods for different employees or groups of employees.

§ S553.225 Early relief

It is a common practice among employees engaged in fire protection activities to relieve employees on the previous shift prior to the scheduled starting time. Such early relief time may occur pursuant to employee agreement, either expressed or implied. This practice will not have the effect of increasing the number of compensable hours of work for employees employed under section 7(k) where it is voluntary on the part of the employees and does not result, over a period of time, in their failure to receive proper compensation for all hours actually worked. On the other hand, if the practice is required by the employer, the time involved must be added to the employee's tour of duty and treated as compensable hours of work.

§ S553.226 Training time

(a) The general rules for determining the compensability of training time under the FLSA apply to employees engaged in law enforcement or fire protection activities.

(b) While time spent in attending training required by an employer is normally considered compensable hours of work, following are situations where time spent by employees in required training is considered to be noncompensable:

(1) Attendance outside of regular working hours at specialized or follow-up training, which is required by law for certification of public and private sector employees within a particular governmental jurisdiction (e.g., certification of public and private emergency rescue workers), does not constitute compensable hours of work for public employees within that jurisdiction and subordinate jurisdictions.

(2) Attendance outside of regular working hours at specialized or follow-up training, which is required for certification of employees of a governmental jurisdiction by law of a higher level of Government, does not constitute compensable hours of work.

(3) Time spent in the training described in paragraphs (b) (1) or (2) of this section is not compensable, even if all or part of the costs of the training is borne by the employer.

(c) Police officers or firefighters, who are in attendance at a police or fire academy or other training facility, are not considered to be on duty during those times when they are not in class or at a training session, if they are free to use such time for personal pursuits. Such free time is not compensable.

§ S553.227 Outside employment

(a) Section 7(p)(1) makes special provision for fire protection and law enforcement employees of public agencies who, at their own option, perform special duty work in fire protection, law enforcement or related activities for a separate and independent employer (public or private) during their off-duty hours. The hours of work for the separate and independent employer are not combined with the hours worked for the primary public agency employer for purposes of overtime compensation.

(b) Section 7(p)(1) applies to such outside employment provided (1) the special detail work is performed solely at the employee's option, and (2) the two employers are in fact separate and independent.

(c) Whether two employers are, in fact, separate and independent can only be determined on a case-by-case basis.

(d) The primary employer may facilitate the employment or affect the conditions of employment of such employees. For example, a police department may maintain a roster of officers who wish to perform such work. The department may also select the officers for special details from a list of those wishing to participate, negotiate their pay, and retain a fee for administrative expenses. The department may require that the separate and independent employer pay the fee for such services directly to the department, and establish procedures for the officers to receive their pay for the special details through the agency's payroll system. Finally, the department may require that the officers observe their normal standards of conduct during such details and take disciplinary action against those who fail to do so.

(e) Section 7(p)(1) applies to special details even where a State law or local ordinance requires that such work be performed and that only law enforcement or fire protection employees of a public agency in the same jurisdiction perform the work. For example, a city ordinance may require the presence of city police officers at a convention center during concerts or sports events. If the officers perform such work at their own option, the hours of work need not be combined with the hours of work for their primary employer in computing overtime compensation.

(f) The principles in paragraphs (d) and (e) of this section with respect to special details of public agency fire protection and law enforcement employees under section 7(p)(1) are exceptions to the usual rules on joint employment set forth in part 791 of this title.

(g) Where an employee is directed by the public agency to perform work for a second employer, section 7(p)(1) does not apply. Thus, assignments of police officers outside of their normal work hours to perform crowd control at a parade, where the assignments are not solely at the option of the officers, would not qualify as special details subject to this exception. This would be true even if the parade organizers reimburse the public agency for providing such services.

(h) Section 7(p)(1) does not prevent a public agency from prohibiting or restricting outside employment by its employees.

OVERTIME COMPENSATION RULES

§ S553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k)

(a) For those employees engaged in fire protection activities who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 212 as the number of days in the work period bears to 28.

(b) For those employees engaged in law enforcement activities (including security personnel in correctional institutions) who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k) until the number of hours worked exceeds the number of hours which bears the same relationship to 171 as the number of days in the work period bears to 28.

(c) The ratio of 212 hours to 28 days for employees engaged in fire protection activities is 7.57 hours per day (rounded) and the ratio of 171 hours to 28 days for employees engaged in law enforcement activities is 6.11 hours per day (rounded). Accordingly, overtime compensation (in premium pay or compensatory time) is required for all hours worked in excess of the following maximum hours standards (rounded to the nearest whole hour):

Work period (days)	Maximum hours standards	
	Fire protection	Law enforcement
28	212	171
27	204	165
26	197	159
25	189	153
24	182	147
23	174	141
22	167	134
21	159	128
20	151	122
19	144	116
18	136	110
17	129	104
16	121	98
15	114	92
14	106	86
13	98	79
12	91	73
11	83	67
10	76	61
9	68	55
8	61	49
7	53	43

§ S553.231 Compensatory time off

(a) Law enforcement and fire protection employees who are subject to the section 7(k) exemption may receive compensatory time off in lieu of overtime pay for hours worked in excess of the maximum for their work period as set forth in section S553.230.

(b) Section 7(k) permits public agencies to balance the hours of work over an entire work period for law enforcement and fire protection employees. For example, if a firefighter's work period is 28 consecutive days, and he or she works 80 hours in each of the first two weeks, but only 52 hours in the third week, and does not work in the fourth week, no overtime compensation (in cash wages or compensatory time) would be required since the total hours worked do not exceed 212 for the work period. If the same firefighter had a work period of only 14 days, overtime compensation or compensatory time off would be due for 54 hours (160 minus 106 hours) in the first 14 day work period.

§ S553.232 Overtime pay requirements

If a public agency pays employees subject to section 7(k) for overtime hours worked in cash wages rather than compensatory time off, such wages must be paid at one and one-half times the employees' regular rates of pay.

§ S553.233 "Regular rate" defined

The statutory rules for computing an employee's "regular rate", for purposes of the Act's overtime pay requirements are applicable to employees for whom the section 7(k) exemption is claimed when overtime compensation is provided in cash wages.

SUBPART D—COMPENSATORY TIME-OFF FOR OVERTIME EARNED BY EMPLOYEES WHOSE WORK SCHEDULE DIRECTLY DEPENDS UPON THE SCHEDULE OF THE SENATE

§ S553.301 Definition of "directly depends"

For the purposes of this Part, a covered employee's work schedule "directly depends" on the schedule of the Senate only if the eligible employee performs work that directly supports the conduct of legislative or other business in the chamber and works hours that regularly change in response to the schedule of the House and the Senate.

§ S553.302 Overtime compensation and compensatory time off for an employee whose work schedule directly depends upon the schedule of the Senate

No employing office shall be deemed to have violated section 203(a)(1) of the CAA, which applies the protections of section 7(a) of the Fair Labor Standards Act ("FLSA") to covered employees and employing office, by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under section 7(a) of the FLSA where the employee's work schedule directly depends on the schedule of the Senate within the meaning of § S553.301, and: (a) the employee is compensated at the rate of time-and-a-half in pay for all hours in excess of 40 and up to 60 hours in a workweek, and (b) the employee is compensated at the rate of time-and-a-half in either pay or in time off for all hours in excess of 60 hours in a workweek.

§ S553.303 Using compensatory time off

An employee who has accrued compensatory time off under § S553.302, upon his or her request, shall be permitted by the employing office to use such time within a reasonable period after making the request, unless the employing office makes a bona fide determination that the needs of the operations of the office do not allow the taking of compensatory time off at the time of the request. An employee may renew the request at a subsequent time. An employing office may also, upon reasonable notice, require an employee to use accrued compensatory time-off.

§ S553.304 Payment of overtime compensation for accrued compensatory time off as of termination of service

An employee who has accrued compensatory time authorized by this regulation shall, upon termination of employment, be paid for the unused compensatory time at the rate earned by the employee at the time the employee receives such payment.

PART S570—CHILD LABOR REGULATIONS

SUBPART A—GENERAL

Sec.
S570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S570.1 Definitions.
S570.2 Minimum age standards.

SUBPART C—EMPLOYMENT OF MINORS BETWEEN 14 AND 16 YEARS OF AGE (CHILD LABOR REG. 3)

S570.31 Determination.
S570.32 Effect of this subpart.
S570.33 Occupations.
S570.35 Periods and conditions of employment.

SUBPART A—GENERAL

§ S570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance Regulations under section 202 of the CAA:

Secretary of Labor Regulations	*OC Regulations*
570.1 Definitions	S570.1
570.2 Minimum age standards	S570.2
570.31 Determinations	S570.31
570.32 Effect of this subpart	S570.32
570.33 Occupations	S570.33
570.35 Periods and conditions of employment	S570.35

§ S570.1 Definitions

As used in this part:

(a) Act means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201–219).

(b) Oppressive child labor means employment of a minor in an occupation for which he does not meet the minimum age standards of the Act, as set forth in section S570.2 of this subpart.

(c) Oppressive child labor age means an age below the minimum age established under the Act for the occupation in which a minor is employed or in which his employment is contemplated.

(d) [Reserved]

(e) [Reserved]

(f) Secretary or Secretary of Labor means the Secretary of Labor, United States Department of Labor, or his authorized representative.

(g) Wage and Hour Division means the Wage and Hour Division, Employment Standards Administration, United States Department of Labor.

(h) Administrator means the Administrator of the Wage and Hour Division or his authorized representative.

§ S570.2 Minimum age standards

(a) All occupations except in agriculture. (1) The Act, in section 3(l), sets a general 16-year minimum age which applies to all employment subject to its child labor provisions in any occupation other than in agriculture, with the following exceptions:

(i) The Act authorizes the Secretary of Labor to provide by regulation or by order that the employment of employees between the ages of 14 and 16 years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor, if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being (see subpart C of this part); and

(ii) The Act sets an 18-year minimum age with respect to employment in any occupation found and declared by the Secretary of Labor to be particularly hazardous for the employment of minors of such age or detrimental to their health or well-being.

(2) The Act exempts from its minimum age requirements the employment by a parent of his own child, or by a person standing in place of a parent of a child in his custody, except in occupations to which the 18-year age minimum applies and in manufacturing and mining occupations.

SUBPART B—[RESERVED]

SUBPART C—EMPLOYMENT OF MINORS BETWEEN 14 AND 16 YEARS OF AGE (CHILD LABOR REG. 3)

§ S570.31 Determination

The employment of minors between 14 and 16 years of age in the occupations, for the periods, and under the conditions hereafter specified does not interfere with their schooling or with their health and well-being and shall not be deemed to be oppressive child labor.

§ S570.32 Effect of this subpart

In all occupations covered by this subpart the employment (including suffering or permitting to work) by an employer of minor employees between 14 and 16 years of age for the periods and under the conditions specified in § S570.35 shall not be deemed to be oppressive child labor within the meaning of the Fair Labor Standards Act of 1938.

§ S570.33 Occupations

This subpart shall apply to all occupations other than the following:

(a) Manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed;

(b) Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines;

(c) The operation of motor vehicles or service as helpers on such vehicles;

(d) Public messenger service;

(e) Occupations which the Secretary of Labor may, pursuant to section 3(l) of the Fair Labor Standards Act and Reorganization Plan No. 2, issued pursuant to the Reorganization Act of 1945, find and declare to be hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being;

(f) Occupations in connection with:

(1) Transportation of persons or property by rail, highway, air, water, pipeline, or other means;

(2) Warehousing and storage;

(3) Communications and public utilities;

(4) Construction (including demolition and repair); except such office (including ticket office) work, or sales work, in connection with paragraphs (f) (1), (2), (3), and (4) of this section, as does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations.

§ S570.35 Periods and conditions of employment

(a) Except as provided in paragraph (b) of this section, employment in any of the occupations to which this subpart is applicable shall be confined to the following periods:

(1) Outside school hours;

(2) Not more than 40 hours in any 1 week when school is not in session;

(3) Not more than 18 hours in any 1 week when school is in session;

(4) Not more than 8 hours in any 1 day when school is not in session;

(5) Not more than 3 hours in any 1 day when school is in session;

(6) Between 7 a.m. and 7 p.m. in any 1 day, except during the summer (June 1 through Labor Day) when the evening hour will be 9 p.m.

APPLICATION OF RIGHTS AND PROTECTIONS OF THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

SUBPART A—GENERAL

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1.20 Adverse employment action under on-going investigation exemption.
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SUBPART E—[RESERVED]

1.40 [Reserved]
Appendix A—Notice to Examinee
Authority: Pub. L. 104–1, 109 Stat. 3, 2 U.S.C. 1314(c)

SUBPART A—GENERAL

SEC. 1.1 PURPOSE AND SCOPE.

Enacted into law on January 23, 1995, the Congressional Accountability Act ("CAA") directly applies the rights and protections of eleven Federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 204(a) of the CAA, 2 U.S.C. § 1314(a) provides that no employing office may require any covered employee (including a covered employee who does not work in that employing office) to take a lie detector test where such test would be prohibited if required by an employer under paragraphs (1), (2) or (3) of section 3 of the Employee Polygraph Protection Act of 1988 (EPPA), 29 U.S.C. §2002 (1), (2) or (3). The purpose of this Part is to set forth the regulations to carry out the provisions of section 204 of the CAA.

Subpart A contains the provisions generally applicable to covered employers, including the requirements relating to the prohibitions on lie detector use. Subpart B sets forth rules regarding the statutory exemptions from application of section 204 of the CAA. Subpart C sets forth the restrictions on polygraph usage under such exemptions. Subpart D sets forth the rules on recordkeeping and the disclosure of polygraph test information.

SEC. 1.2 DEFINITIONS.

For purposes of this part:

(a) Act or CAA means the Congressional Accountability Act of 1995 (P.L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301-1438).

(b) EPPA means the Employee Polygraph Protection Act of 1988 (Pub. L. 100-347, 102 Stat. 646, 29 U.S.C. §§2001-2009) as applied to covered employees and employing offices by section 204 of the CAA.

(c) The term covered employee means any employee of (1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Congressional Budget Office; (5) the Office of the Architect of the Capitol; (6) the Office of the Attending Physician; (7) the Office of Compliance; or (8) the Office of Technology Assessment.

(d) The term employee includes an applicant for employment and a former employee.

(e) The term employee of the Office of the Architect of the Capitol includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.

(f) The term employee of the Capitol Police includes any member or officer of the Capitol Police.

(g) The term employee of the House of Representatives includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(h) The term employee of the Senate includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(i) The term employing office means (1) the personal office of a Member of the House of Representatives or of a Senator; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or (4) the Capitol Guide Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment. The term employing office includes any person acting directly or indirectly in the interest of an employing office in relation to an employee or prospective employee. A polygraph examiner either employed for or whose services are retained for the sole purpose of administering polygraph tests ordinarily would not be deemed an employing office with respect to the examinees. Any reference to "employer" in these regulations includes employing offices.

(j)(1) The term lie detector means a polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device (whether mechanical or electrical) that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual. Voice stress analyzers, or psychological stress evaluators, include any systems that utilize voice stress analysis, whether or not an opinion on honesty or dishonesty is specifically rendered.

(2) The term lie detector does not include medical tests used to determine the presence or absence of controlled substances or alcohol in bodily fluids. Also not included in the definition of lie detector are written or oral tests commonly referred to as "honesty" or "paper and pencil" tests, machine-scored or otherwise; and graphology tests commonly referred to as handwriting tests.

(k) The term polygraph means an instrument that—

(1) records continuously, visually, permanently, and simultaneously changes in cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards; and

(2) is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

(l) Board means the Board of Directors of the Office of Compliance.

(m) Office means the Office of Compliance.

SEC. 1.3 COVERAGE.

The coverage of section 204 of the Act extends to any "covered employee" or "covered employing office" without regard to the number of employees or the employing office's effect on interstate commerce.

SEC. 1.4 PROHIBITIONS ON LIE DETECTOR USE.

(a) Section 204 of the CAA provides that, subject to the exemptions of the EPPA incorporated into the CAA under section 225(f) of the CAA, as set forth in section 1.10 through 1.12 of this Part, employing offices are prohibited from:

(1) Requiring, requesting, suggesting or causing, directly or indirectly, any covered employee or prospective employee to take or submit to a lie detector test;

(2) Using, accepting, or inquiring about the results of a lie detector test of any covered employee or prospective employee; and

(3) Discharging, disciplining, discriminating against, denying employment or promotion, or threatening any covered employee or prospective employee to take such action for refusal or failure to take or submit to such test, or on the basis of the results of a test.

The above prohibitions apply irrespective of whether the covered employee referred to in paragraphs (1), (2) or (3), above, works in that employing office.

(b) An employing office that reports a theft or other incident involving economic loss to police or other law enforcement authorities is not engaged in conduct subject to the prohibitions under paragraph (a) of this section if, during the normal course of a subsequent investigation, such authorities deem it necessary to administer a polygraph test to a covered employee(s) suspected of involvement in the reported incident. Employing offices that cooperate with police authorities during the course of their investigations into criminal misconduct are likewise not deemed engaged in prohibitive conduct: *Provided*, That such cooperation is passive in nature. For example, it is not uncommon for police authorities to request employees suspected of theft or criminal activity to submit to a polygraph test during the employee's tour of duty since, as a general rule, suspect employees are often difficult to locate away from their place of employment. Allowing a test on the employing office's premises, releasing a covered employee during working hours to take a test at police headquarters, and other similar types of cooperation at the request of the police authorities would not be construed as "requiring, requesting, suggesting, or causing, directly or indirectly, any covered employee * * * to take or submit to a lie detector test". Cooperation of this type must be distinguished from actual participation in the testing of employees suspected of wrongdoing, either through the administration of a test by the employing office at the request or direction of police authorities, or through reimbursement by the employing office of tests administered by police authorities to employees. In some communities, it may be a practice of police authorities to request testing by employing offices of employees before a police investigation is initiated on a reported incident. In other communities, police examiners are available to covered employing offices, on a cost reimbursement basis, to conduct tests on employees suspected by an employing office of wrongdoing. All such conduct on the part of employing offices is deemed within the prohibitions of section 204 of the CAA.

(c) The receipt by an employing office of information from a polygraph test administered by police authorities pursuant to an investigation is prohibited by section 3(2) of the EPPA. (See paragraph (a)(2) of this section.)

(d) The simulated use of a polygraph instrument so as to lead an individual to believe that an actual test is being or may be performed (e.g., to elicit confessions or admissions of guilt) constitutes conduct prohibited by paragraph (a) of this section. Such use includes the connection of a covered employee or prospective employee to the instrument without any intention of a diagnostic purpose, the placement of the instrument in a room used for interrogation unconnected to the covered employee or prospective employee, or the mere suggestion that the instrument may be used during the course of the interview.

(e) The Capitol Police may not require a covered employee not employed by the Capitol Police to take a lie detector test (on its own initiative or at the request of another employing office) except where the Capitol Police administers such lie detector test as part of an "ongoing investigation" by the Capitol Police. For the purpose of this subsection, the definition of "ongoing investigation" contained in section 1.12(b) shall apply.

SEC. 1.5 EFFECT ON OTHER LAWS OR AGREEMENTS.

(a) Section 204 of the CAA does not preempt any otherwise applicable provision of Federal law or any rule or regulation of the House or Senate or any negotiated collective bargaining agreement that prohibits lie detector tests or is more restrictive with respect to the use of lie detector tests.

(b)(1) This provision applies to all aspects of the use of lie detector tests, including procedural safeguards, the use of test results, the rights and remedies provided examinees, and the rights, remedies, and responsibilities of examiners and employing offices.

(2) For example, a collective bargaining agreement that provides greater protection to an examinee would apply in addition to the protection provided in section 204 of the CAA.

SEC. 1.6 NOTICE OF PROTECTION.

Pursuant to section 301(h) of the CAA, the Office shall prepare, in a manner suitable for posting, a notice explaining the provisions of section 204 of the CAA. Copies of such notice may be obtained from the Office of Compliance.

SEC. 1.7 AUTHORITY OF THE BOARD.

Pursuant to sections 204 and 304 of the CAA, the Board is authorized to issue regulations to implement the rights and protections of the EPPA. Section 204(c) directs the Board to promulgate regulations implementing section 204 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) [of section 204 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section". The regulations issued by the Board herein are on all matters for which section 204 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) [of section 204 of the CAA]".

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Secretary from which they are derived. Moreover such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

SEC. 1.8 EMPLOYMENT RELATIONSHIP.

Subject to the exemptions incorporated into the CAA by section 225(f), section 204 applies the prohibitions on the use of lie detectors by employing offices with respect to covered employees irrespective of whether a covered employee works in that employing office. Sections 101 (3), (4) and 204 of the CAA also apply EPPA prohibitions against discrimination to applicants for employment and former employees of a covered employing office. For example, an employee may quit rather than take a lie detector test. The employing office cannot discriminate or threaten to discriminate in any manner against that person (such as by providing bad references in the future) because of that person's refusal to be tested. Similarly, an employing office cannot discriminate or threaten to discriminate in any manner against that person because that person files a complaint, institutes a proceeding, testifies in a proceeding, or exercises any right under section 204 of the CAA. (See section 207 of the CAA.)

SUBPART B—EXEMPTIONS

SEC. 1.10 EXCLUSION FOR EMPLOYEES OF THE CAPITOL POLICE [RESERVED].

SEC. 1.11 EXEMPTION FOR NATIONAL DEFENSE AND SECURITY.

(a) The exemptions allowing for the administration of lie detector tests in the following paragraphs (b) through (e) of this section apply only to the Federal Government; they do not allow covered employing offices to administer such tests. For the purposes of this section, the term "Federal Government" means any agency or entity within the Federal Government authorized to administer polygraph examinations which is otherwise exempt from coverage under section 7(a) of the EPPA, 29 U.S.C. §2006(a).

(b) Section 7(b)(1) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any counterintelligence function, to any expert, consultant or employee of any contractor under contract with the Department of Defense; or with the Department of Energy, in connection with the atomic energy defense activities of such Department.

(c) Section 7(b)(2)(A) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any intelligence or counterintelligence function of the National Security Agency, the Defense Intelligence Agency, or the Central Intelligence Agency, to any individual employed by, assigned to, or detailed to any such agency; or any expert or consultant under contract to any such agency; or any employee of a contractor to such agency; or any individual applying for a position in any such agency; or any individual assigned to a space where sensitive cryptologic information is produced, processed, or stored for any such agency.

(d) Section 7(b)(2)(B) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any intelligence or counterintelligence function, to any covered employee whose duties involve access to information that has been classified at the level of top secret or designated as being within a special access program under section 4.2 (a) of Executive Order 12356 (or a successor Executive order).

(c) Counterintelligence for purposes of the above paragraphs means information gathered and activities conducted to protect against espionage and other clandestine intelligence activities, sabotage, terrorist activities, or assassinations conducted for or on behalf of foreign governments, or foreign or domestic organizations or persons.

(d) Lie detector tests of persons described in the above paragraphs will be administered in accordance with applicable Department of Defense directives and regulations, or other regulations and directives governing the use of such tests by the United States Government, as applicable.

SEC. 1.12 EXEMPTION FOR EMPLOYING OFFICES CONDUCTING INVESTIGATIONS OF ECONOMIC LOSS OR INJURY.

(a) Section 7(d) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides a limited exemption from the general prohibition on lie detector use for employers conducting ongoing investigations of economic loss or injury to the employer's business. An employing office may request an employee, subject to the conditions set forth in sections 8 and 10 of the EPPA and sections 1.20, 1.22, 1.23, 1.24, 1.25, 1.26 and 1.35 of this part, to submit to a polygraph test, but no other type of lie detector test, only if—

(1) The test is administered in connection with an ongoing investigation involving economic loss or injury to the employing office's operations, such as theft, embezzlement, misappropriation or an act of unlawful industrial espionage or sabotage;

(2) The employee had access to the property that is the subject of the investigation;

(3) The employing office has a reasonable suspicion that the employee was involved in the incident or activity under investigation;

(4) The employing office provides the examinee with a statement, in a language understood by the examinee, prior to the test which fully explains with particularity the specific incident or activity being investigated and the basis for testing particular employees and which contains, at a minimum:

(i) An identification with particularity of the specific economic loss or injury to the operations of the employing office;

(ii) A description of the employee's access to the property that is the subject of the investigation;

(iii) A description in detail of the basis of the employing office's reasonable suspicion that the employee was involved in the incident or activity under investigation; and

(iv) Signature of a person (other than a polygraph examiner) authorized to legally bind the employing office; and

(5) The employing office retains a copy of the statement and proof of service described in paragraph (a)(4) of this section for at least 3 years.

(b) For the exemption to apply, the condition of an "ongoing investigation" must be met. As used in section 7(d) of the EPPA, the ongoing investigation must be of a specific incident or activity. Thus, for example, an employing office may not request that an employee or employees submit to a polygraph test in an effort to determine whether or not any thefts have occurred. Such random testing by an employing office is precluded by the EPPA. Further, because the exemption is limited to a specific incident or activity, an employing office is precluded from using the exemption in situations where the so-called "ongoing investigation" is continuous. For example, the fact that items are frequently missing would not be a sufficient basis, standing alone, for administering a polygraph test. Even if the employing office can establish that unusually high amounts of property are missing in a given month, this, in and of itself, would not be a sufficient basis to meet the specific incident requirement. On the other hand, polygraph testing in response to missing property would be permitted where additional evidence is obtained through subsequent investigation of specific items missing through intentional wrongdoing, and a reasonable suspicion that the employee to be polygraphed was involved in the incident under investigation. Administering a polygraph test in circumstances where the missing property is merely unspecified, statistical shortages, without identification of a specific incident or activity that produced the missing property and a "reasonable suspicion that the employee was involved", would amount to little more than a fishing expedition and is prohibited by the EPPA as applied to covered employees and employing offices by the CAA.

(c)(1)(i) The terms economic loss or injury to the employing office's operations include both direct and indirect economic loss or injury.

(ii) Direct loss or injury includes losses or injuries resulting from theft, embezzlement, misappropriation, espionage or sabotage. These examples, cited in the EPPA, are intended to be illustrative and not exhaustive. Another specific incident which would constitute direct economic loss or injury is the misappropriation of confidential or trade secret information.

(iii) Indirect loss or injury includes the use of an employing office's operations to commit a crime, such as check-kiting or money laundering. In such cases, the ongoing investigation must be limited to criminal activity that has already occurred, and to use of the employing office's operations (and not simply the use of the premises) for such activity. For example, the use of an employing office's vehicles, warehouses, computers or equipment to smuggle or facilitate the importing of illegal substances constitutes an indirect loss or injury to the employing office's business operations. Conversely, the mere fact that an illegal act occurs on the employing office's premises (such as a drug transaction that takes place in the employing office's parking lot or rest room) does not constitute an indirect economic loss or injury to the employing office.

(iv) Indirect loss or injury also includes theft or injury to property of another for which the employing office exercises fiduciary, managerial or security responsibility, or where the office has custody of the property (but not property of other offices to which the employees have access by virtue of the employment relationship). For example, if a maintenance employee of the manager of an apartment building steals jewelry from a tenant's apartment, the theft results in an indirect economic loss or injury to the employer because of the manager's management responsibility with respect to the tenant's apartment. A messenger on a delivery of confidential business reports for a client firm who steals the reports causes an indirect economic loss or injury to the messenger service because the messenger service is custodian of the client firm's reports, and therefore is responsible for their security. Similarly, the theft of property protected by a security service employer is considered an economic loss or injury to that employer.

(v) A theft or injury to a client firm does not constitute an indirect loss or injury to an employing office unless that employing office has custody of, or management, or security responsibility for, the property of the client that was lost or stolen or injured. For example, a cleaning contractor has no responsibility for the money at a client bank. If money is stolen from the bank by one of the cleaning contractor's employees, the cleaning contractor does not suffer an indirect loss or injury.

(vi) Indirect loss or injury does not include loss or injury which is merely threatened or potential, e.g., a threatened or potential loss of an advantageous business relationship.

(2) Economic losses or injuries which are the result of unintentional or lawful conduct would not serve as a basis for the administration of a polygraph test. Thus, apparently unintentional losses or injuries stemming from truck, car, workplace, or other similar type accidents or routine inventory or cash register shortages would not meet the economic loss or injury requirement. Any economic loss incident to lawful union or employee activity also would not satisfy this requirement.

(3) It is the operations of the employing office which must suffer the economic loss or injury. Thus, a theft committed by one employee against another employee of the same employing office would not satisfy the requirement.

(d) While nothing in the EPPA as applied by the CAA prohibits the use of medical tests to determine the presence of controlled substances or alcohol in bodily fluids, the section 7(d) exemption of the EPPA does not permit the use of a polygraph test to learn whether an employee has used drugs or alcohol, even where such possible use may have contributed to an economic loss to the employing office (e.g., an accident involving an employing office's vehicle).

(e) Section 7(d)(2) of the EPPA provides that, as a condition for the use of the exemption, the employee must have had access to the property that is the subject of the investigation.

(1) The word access, as used in section 7(d)(2), refers to the opportunity which an employee had to cause, or to aid or abet in causing, the specific economic loss or injury under investigation. The term "access", thus, includes more than direct or physical contact during the course of employment. For example, as a general matter, all employees working in or with authority to enter a property storage area have "access" to unsecured property in the area. All employees with the combination to a safe have "access" to the property in a locked safe. Employees also have "access" who have the ability to divert possession or otherwise affect the disposition of the property that is the subject of investigation. For example, a bookkeeper in a jewelry store with access to inventory records may aid or abet a clerk who steals an expensive watch by removing the watch from the employing office's inventory records. In such a situation, it is clear that the bookkeeper effectively has "access" to the property that is the subject of the investigation.

(2) As used in section 7(d)(2), property refers to specifically identifiable property, but also includes such things of value as security codes and computer data, and proprietary, financial or technical information, such as trade secrets, which by its availability to competitors or others would cause economic harm to the employing office.

(f)(1) As used in section 7(d)(3), the term reasonable suspicion refers to an observable, articulable basis in fact which indicates that a particular employee was involved in, or responsible for, an economic loss. Access in the sense of possible or potential opportunity, standing alone, does not constitute a basis for "reasonable suspicion". Information from a co-worker, or an employee's behavior, demeanor, or conduct may be factors in the basis for reasonable suspicion. Likewise, inconsistencies between facts, claims, or statements that surface during an investigation can serve as a sufficient basis for reasonable suspicion. While access or opportunity, standing alone, does not constitute a basis for reasonable suspicion, the totality of circumstances surrounding the access or opportunity (such as its unauthorized or unusual nature or the fact that access was limited to a single individual) may constitute a factor in determining whether there is a reasonable suspicion.

(2) For example, in an investigation of a theft of an expensive piece of jewelry, an employee authorized to open the establishment's safe no earlier than 9 a.m., in order to place the jewelry in a window display case, is observed opening the safe at 7:30 a.m. In such a situation, the opening of the safe by the employee one and one-half hours prior to the specified time may serve as the basis for reasonable suspicion. On the other hand, in the example given, if the employee is asked to bring the piece of jewelry to his or her office at 7:30 a.m., and the employee then opened the safe and reported the jewelry missing, such access, standing alone, would not constitute a basis for reasonable suspicion that the employee was involved in the incident unless access to the safe was limited solely to the employee. If no one other than the employee possessed the combination to the safe, and all other possible explanations for the loss are ruled out, such as a break-in, a basis for reasonable suspicion may be formulated based on sole access by one employee.

(3) The employing office has the burden of establishing that the specific individual or individuals to be tested are "reasonably suspected" of involvement in the specific economic loss or injury for the requirement in section 7(d)(3) of the EPPA to be met.

(g)(1) As discussed in paragraph (a)(4) of this section, section 7(d)(4) of the EPPA sets forth what information, at a minimum, must be provided to an employee if the employing office wishes to claim the exemption.

(2) The statement required under paragraph (a)(4) of this section must be received by the employee at least 48 hours, excluding weekend days and holidays, prior to the time of the examination. The statement must set forth the time and date of receipt by the employee and be verified by the employee's signature. This will provide the employee with adequate pre-test notice of the specific incident or activity being investigated and afford the employee sufficient time prior to the test to obtain and consult with legal counsel or an employee representative.

(3) The statement to be provided to the employee must set forth with particularity the specific incident or activity being investigated and the basis for testing particular employees. Section 7(d)(4)(A) of the EPPA requires specificity beyond the mere assertion of general statements regarding economic loss, employee access, and reasonable suspicion. For example, an employing office's assertion that an expensive watch was stolen, and that the employee had access to the watch and is therefore a suspect, would not meet the "with particularity" criterion. If the basis for an employing office's requesting an employee (or employees) to take a polygraph test is not articulated with particularity, and reduced to writing, then the standard is not met. The identity of a co-worker or other individual providing information used to establish reasonable suspicion need not be revealed in the statement.

(4) It is further required that the statement provided to the examinee be signed by the employing office, or an employee or other representative of the employing office with authority to legally bind the employing office. The person signing the statement must not be a polygraph examiner unless the examiner is acting solely in the capacity of an employing office with respect to his or her own employees and does not conduct the examination. The standard would not be met, and the exemption would not apply if the person signing the statement is not authorized to legally bind the employing office.

(h) Polygraph tests administered pursuant to this exemption are subject to the limitations set forth in sections 8 and 10 of the EPPA, as discussed in sections 1.20, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part. As provided in these sections, the exemption will apply only if certain requirements are met. Failure to satisfy any of the specified requirements nullifies the statutory authority for polygraph test administration and may subject the employing office to remedial actions, as provided for in section 6(c) of the EPPA.

SEC. 1.13 EXEMPTION OF EMPLOYING OFFICES AUTHORIZED TO MANUFACTURE, DISTRIBUTE, OR DISPENSE CONTROLLED SUBSTANCES.

(a) Section 7(f) of the EPPA, incorporated into the CAA by section 225(f) of the CAA, provides an exemption from the EPPA's general prohibition regarding the use of polygraph tests for employers authorized to manufacture, distribute, or dispense a controlled substance listed in schedule I, II, III, or IV of section 202 of the Controlled Substances Act (21 U.S.C. §812). This exemption permits the administration of polygraph tests, subject to the conditions set forth in sections 8 and 10 of the EPPA and sections 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part, to:

(1) A prospective employee who would have direct access to the manufacture, storage, distribution, or sale of any such controlled substance; or

(2) A current employee if the following conditions are met:

(i) The test is administered in connection with an ongoing investigation of criminal or other misconduct involving, or potentially involving, loss or injury to the manufacture, distribution, or dispensing of any such controlled substance by such employing office; and

(ii) The employee had access to the person or property that is the subject of the investigation.

(b)(1) The terms manufacture, distribute, distribution, dispense, storage, and sale, for the purposes of this exemption, are construed within the meaning of the Controlled Substances Act (21 U.S.C. §812 et seq.), as administered by the Drug Enforcement Administration (DEA), United States Department of Justice.

(2) The exemption in section 7(f) of the EPPA applies only to employing offices that are authorized by DEA to manufacture, distribute, or dispense a controlled substance. Section 202 of the Controlled Substances Act (21 U.S.C. §812) requires every person who manufactures, distributes, or dispenses any controlled substance to register with the Attorney General (i.e., with DEA). Common or contract carriers and warehouses whose possession of the controlled substance is in the usual course of their business or employment are not required to register. Truck drivers and warehouse employees of the persons or entities registered with DEA and authorized to manufacture, distribute, or dispense controlled substances, are within the scope of the exemption where they have direct access or access to the controlled substances, as discussed below.

(c) In order for a polygraph examination to be performed, section 7(f) of the Act requires that a prospective employee have "direct access" to the controlled substance(s) manufactured, dispensed, or distributed by the employing office. Where a current employee is to be tested as a part of an ongoing investigation, section 7(f) requires that the employee have "access" to the person or property that is the subject of the investigation.

(1) A prospective employee would have "direct access" if the position being applied for has responsibilities which include contact with or which affect the disposition of a controlled substance, including participation in the process of obtaining, dispensing, or otherwise distributing a controlled substance. This includes contact or direct involvement in the manufacture, storage, testing, distribution, sale or dispensing of a controlled substance and may include, for example, packaging, repackaging, ordering, licensing, shipping, receiving, taking inventory, providing security, prescribing, and handling of a controlled substance. A prospective employee would have "direct access" if the described job duties would give such person access to the products in question, whether such employee would be in physical proximity to controlled substances or engaged in activity which would permit the employee to divert such substances to his or her possession.

(2) A current employee would have "access" within the meaning of section 7(f) if the employee had access to the specific person or property which is the subject of the on-going investigation, as discussed in section 1.12(e) of this part. Thus, to test a current employee, the employee need not have had "direct" access to the controlled substance, but may have had only infrequent, random, or opportunistic access. Such access would be sufficient to test the employee if the employee could have caused, or could have aided or abetted in causing, the loss of the specific property which is the subject of the investigation. For example, a maintenance worker in a drug warehouse, whose job duties include the cleaning of areas where the controlled substances which are the subject of the investigation were present, but whose job duties do not include the handling of controlled substances, would be deemed to have "access", but normally not "direct access", to the controlled substances. On the other hand, a drug warehouse truck loader, whose job duties include the handling of outgoing shipment orders which contain controlled substances, would have "direct access" to such controlled substances. A pharmacy department in a supermarket is another common situation which is useful in illustrating the distinction between "direct access" and "access". Store personnel receiving pharmaceutical orders, i.e., the pharmacist, pharmacy intern, and other such employees working in the pharmacy department, would ordinarily have "direct access" to controlled substances. Other store personnel whose job duties and responsibilities do not include the handling of controlled substances but who had occasion to enter the pharmacy department where the controlled substances which are the subject of the investigation were stored, such as maintenance personnel or pharmacy cashiers, would have "access". Certain other store personnel whose job duties do not permit or require entrance into the pharmacy department for any reason, such as produce or meat clerks, checkout cashiers, or baggers, would not ordinarily have "access". However, any current employee, regardless of described job duties, may be polygraphed if the employing office's investigation of criminal or other misconduct discloses that such employee in fact took action to obtain "access" to the person or property that is the subject of the investigation—e.g., by actually entering the drug storage area in violation of company rules. In the case of "direct access", the prospective employee's access to controlled substances would be as a part of the manufacturing, dispensing or distribution process, while a current employee's "access" to the controlled substances which are the subject of the investigation need only be opportunistic.

(d) The term prospective employee, for the purposes of this section, includes a current employee who presently holds a position which does not entail direct access to controlled substances, and therefore is outside the scope of the exemption's provisions for preemployment polygraph testing, provided the employee has applied for and is being considered for transfer or promotion to another position which entails such direct access. For example, an office secretary may apply for promotion to a position in the vault or cage areas of a drug warehouse, where controlled substances are kept. In such a situation, the current employee would be deemed a "prospective employee" for the purposes of this exemption, and thus could be subject to preemployment polygraph screening, prior to such a change in position. However, any adverse action which is based in part on a polygraph test against a current employee who is considered a "prospective employee" for purposes of this section may be taken only with respect to the prospective position and may not affect the employee's employment in the current position.

(e) Section 7(f) of the EPPA, as applied by the CAA, makes no specific reference to a requirement that employing offices provide current employees with a written statement prior to polygraph testing. Thus, employing offices to whom this exemption is available are not required to furnish a written statement such as that specified in section 7(d) of the EPPA and section 1.12(a)(4) of this part.

(f) For the section 7(f) exemption to apply, the polygraph testing of current employees must be administered in connection with an ongoing investigation of criminal or other misconduct involving, or potentially involving, loss or injury to the manufacture, distribution, or dispensing of any such controlled substance by such employing office.

(1) Current employees may only be administered polygraph tests in connection with an ongoing investigation of criminal or other misconduct, relating to a specific incident or activity, or potential incident or activity. Thus, an employing office is precluded from using the exemption in connection with continuing investigations or on a random basis to determine if thefts are occurring. However, unlike the exemption in section 7(d) of the EPPA for employing offices conducting ongoing investigations of economic loss or injury, the section 7(f) exemption includes ongoing investigations of misconduct involving potential drug losses. Nor does the latter exemption include the requirement for "reasonable suspicion" contained in the section 7(d) exemption. Thus, a drug store operator is permitted to polygraph all current employees who have access to a controlled substance stolen from the inventory, or where there is evidence that such a theft is planned. Polygraph testing based on an inventory shortage of the drug during a particular accounting period would not be permitted unless there is extrinsic evidence of misconduct.

(2) In addition, the test must be administered in connection with loss or injury, or potential loss or injury, to the manufacture, distribution, or dispensing of a controlled substance.

(i) Retail drugstores and wholesale drug warehouses typically carry inventory of so-called health and beauty aids, cosmetics, over-the-counter drugs, and a variety of other similar products, in addition to their product lines of controlled drugs. The non-controlled products usually constitute the majority of such firms' sales volumes. An economic loss or injury related to such non-controlled substances would not constitute a basis of applicability of the section 7(f) exemption. For example, an investigation into the theft of a gross of cosmetic products could not be a basis for polygraph testing under section 7(f), but the theft of a container of valium could be.

(ii) Polygraph testing, with respect to an ongoing investigation concerning products other than controlled substances might be initiated under section 7(d) of the EPPA and section 1.12 of this part. However, the exemption in section 7(f) of the EPPA and this section is limited solely to losses or injury associated with controlled substances.

(g) Polygraph tests administered pursuant to this exemption are subject to the limitations set forth in sections 8 and 10 of the EPPA, as discussed in sections 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part. As provided in these sections, the exemption will apply only if certain requirements are met. Failure to satisfy any of the specified requirements nullifies the statutory authority for polygraph test administration and may subject the employing office to the remedies authorized in section 204 of the CAA. The administration of such tests is also subject to collective bargaining agreements, which may either prohibit lie detector tests, or contain more restrictive provisions with respect to polygraph testing.

SUBPART C—RESTRICTIONS ON POLYGRAPH USAGE UNDER EXEMPTIONS

SEC. 1.20 ADVERSE EMPLOYMENT ACTION UNDER ONGOING INVESTIGATION EXEMPTION.

(a) Section 8(a)(1) of the EPPA provides that the limited exemption in section 7(d) of the EPPA and section 1.12 of this part for ongoing investigations shall not apply if an employing office discharges, disciplines, denies employment or promotion or otherwise discriminates in any manner against a current employee based upon the analysis of a polygraph test chart or the refusal to take a polygraph test, without additional supporting evidence.

(b) "Additional supporting evidence", for purposes of section 8(a) of the EPPA, includes, but is not limited to, the following:

(1)(i) Evidence indicating that the employee had access to the missing or damaged property that is the subject of an ongoing investigation; and

(ii) Evidence leading to the employing office's reasonable suspicion that the employee was involved in the incident or activity under investigation; or

(2) Admissions or statements made by an employee before, during or following a polygraph examination.

(c) Analysis of a polygraph test chart or refusal to take a polygraph test may not serve as a basis for adverse employment action, even with additional supporting evidence, unless the employing office observes all the requirements of sections 7(d) and 8(b) of the EPPA, as applied by the CAA and described in sections 1.12, 1.22, 1.23, 1.24 and 1.25 of this part.

SEC. 1.21 ADVERSE EMPLOYMENT ACTION UNDER CONTROLLED SUBSTANCE EXEMPTION.

(a) Section 8(a)(2) of the EPPA provides that the controlled substance exemption in section 7(f) of the EPPA and section 1.13 of this part shall not apply if an employing office discharges, disciplines, denies employment or promotion, or otherwise discriminates in any manner against a current employee or prospective employee based solely on the analysis of a polygraph test chart or the refusal to take a polygraph test.

(b) Analysis of a polygraph test chart or refusal to take a polygraph test may serve as one basis for adverse employment actions of the type described in paragraph (a) of this section: *Provided*, That the adverse action was also based on another bona fide reason, with supporting evidence therefor. For example, traditional factors such as prior employment experience, education, job performance, etc. may be used as a basis for employment decisions. Employment decisions based on admissions or statements made by an employee or prospective employee before, during or following a polygraph examination may, likewise, serve as a basis for such decisions.

(c) Analysis of a polygraph test chart or the refusal to take a polygraph test may not serve as a basis for adverse employment action, even with another legitimate basis for such action, unless the employing office observes all the requirements of section 7(f) of the EPPA, as appropriate, and section 8(b) of the EPPA, as described in sections 1.13, 1.22, 1.23, 1.24 and 1.25 of this part.

SEC. 1.22 RIGHTS OF EXAMINEE—GENERAL.

(a) Pursuant to section 8(b) of the EPPA, the limited exemption in section 7(d) of the EPPA for ongoing investigations (described in sections 1.12 and 1.13 of this part) shall not apply unless all of the requirements set forth in this section and sections 1.23 through 1.25 of this part are met.

(b) During all phases of the polygraph testing the person being examined has the following rights:

(1) The examinee may terminate the test at any time.

(2) The examinee may not be asked any questions in a degrading or unnecessarily intrusive manner.

(3) The examinee may not be asked any questions dealing with:

(i) Religious beliefs or affiliations;

(ii) Beliefs or opinions regarding racial matters;

(iii) Political beliefs or affiliations;

(iv) Sexual preferences or behavior; or

(v) Beliefs, affiliations, opinions, or lawful activities concerning unions or labor organizations.

(4) The examinee may not be subjected to a test when there is sufficient written evidence by a physician that the examinee is suffering from any medical or psychological condition or undergoing any treatment that might cause abnormal responses during the actual testing phase. "Sufficient written evidence" shall constitute, at a minimum, a statement by a physician specifically describing the examinee's medical or psychological condition or treatment and the basis for the physician's opinion that the condition or treatment might result in such abnormal responses.

(5) An employee or prospective employee who exercises the right to terminate the test, or who for medical reasons with sufficient supporting evidence is not administered the test, shall be subject to adverse employment action only on the same basis as one who refuses to take a polygraph test, as described in sections 1.20 and 1.21 of this part.

(c) Any polygraph examination shall consist of one or more pretest phases, actual testing phases, and post-test phases, which must be conducted in accordance with the rights of examinees described in sections 1.23 through 1.25 of this part.

SEC. 1.23 RIGHTS OF EXAMINEE—PRETEST PHASE.

(a) The pretest phase consists of the questioning and other preparation of the prospective examinee before the actual use of the polygraph instrument. During the initial pretest phase, the examinee must be:

(1) Provided with written notice, in a language understood by the examinee, as to when and where the examination will take place and that the examinee has the right to consult with counsel or an employee representative before each phase of the test. Such notice shall be received by the examinee at least forty-eight hours, excluding weekend days and holidays, before the time of the examination, except that a prospective employee may, at the employee's option, give written consent to administration of a test anytime within 48 hours but no earlier than 24 hours after receipt of the written notice. The written notice or proof of service must set forth the time and date of receipt by the employee or prospective employee and be verified by his or her signature. The purpose of this requirement is to provide a sufficient opportunity prior to the examination for the examinee to consult with counsel or an employee representative. Provision shall also be made for a convenient place on the premises where the examination will take place at which the examinee may consult privately with an attorney or an employee representative before each phase of the test. The attorney or representative may be excluded from the room where the examination is administered during the actual testing phase.

(2) Informed orally and in writing of the nature and characteristics of the polygraph instrument and examination, including an explanation of the physical operation of the polygraph instrument and the procedure used during the examination.

(3) Provided with a written notice prior to the testing phase, in a language understood by the examinee, which shall be read to and signed by the examinee. Use of Appendix A to this part, if properly completed, will constitute compliance with the contents of the notice requirement of this paragraph. If a format other than in Appendix A is used, it must contain at least the following information:

(i) Whether or not the polygraph examination area contains a two-way mirror, a camera, or other device through which the examinee may be observed;

(ii) Whether or not any other device, such as those used in conversation or recording will be used during the examination;

(iii) That both the examinee and the employing office have the right, with the other's knowledge, to make a recording of the entire examination;

(iv) That the examinee has the right to terminate the test at any time;

(v) That the examinee has the right, and will be given the opportunity, to review all questions to be asked during the test;

(vi) That the examinee may not be asked questions in a manner which degrades, or needlessly intrudes;

(vii) That the examinee may not be asked any questions concerning religious beliefs or opinions; beliefs regarding racial matters; political beliefs or affiliations; matters relating to sexual behavior; beliefs, affiliations, opinions, or lawful activities regarding unions or labor organizations;

(viii) That the test may not be conducted if there is sufficient written evidence by a physician that the examinee is suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the examination;

(ix) That the test is not and cannot be required as a condition of employment;

(x) That the employing office may not discharge, dismiss, discipline, deny employment or promotion, or otherwise discriminate against the examinee based on the analysis of a polygraph test, or based on the examinee's refusal to take such a test, without additional evidence which would support such action;

(xi)(A) In connection with an ongoing investigation, that the additional evidence required for the employing office to take adverse action against the examinee, including termination, may be evidence that the examinee had access to the property that is the subject of the investigation, together with evidence supporting the employing office's reasonable suspicion that the examinee was involved in the incident or activity under investigation;

(B) That any statement made by the examinee before or during the test may serve as additional supporting evidence for an adverse employment action, as described in paragraph (a)(3)(x) of this section, and that any admission of criminal conduct by the examinee may be transmitted to an appropriate Government law enforcement agency;

(xii) That information acquired from a polygraph test may be disclosed by the examiner or by the employing office only:

(A) To the examinee or any other person specifically designated in writing by the examinee to receive such information;

(B) To the employing office that requested the test;

(C) To a court, governmental agency, arbitrator, or mediator pursuant to a court order;

(D) By the employing office, to an appropriate governmental agency without a court order where, and only insofar as, the information disclosed is an admission of criminal conduct;

(xiii) That if any of the examinee's rights or protections under the law are violated, the examinee has the right to take action against the employing office under sections 401–404 of the CAA. Employing offices that violate this law are liable to the affected examinee, who may recover such legal or equitable relief as may be appropriate, including, but not limited to, employment, reinstatement, and promotion, payment of lost wages and benefits, and reasonable costs, including attorney's fees;

(xiv) That the examinee has the right to obtain and consult with legal counsel or other representative before each phase of the test, although the legal counsel or representative may be excluded from the room where the test is administered during the actual testing phase.

(xv) That the employee's rights under the CAA may not be waived, either voluntarily or involuntarily, by contract or otherwise, except as part of a written settlement to a pending action or complaint under the CAA, agreed to and signed by the parties.

(b) During the initial or any subsequent pretest phases, the examinee must be given the opportunity, prior to the actual testing phase, to review all questions in writing that the examiner will ask during each testing phase. Such questions may be presented at any point in time prior to the testing phase.

SEC. 1.24 RIGHTS OF EXAMINEE—ACTUAL TESTING PHASE.

(a) The actual testing phase refers to that time during which the examiner administers the examination by using a polygraph instrument with respect to the examinee and then analyzes the charts derived from the test. Throughout the actual testing phase, the examiner shall not ask any question that was not presented in writing for review prior to the testing phase. An examiner may, however, recess the testing phase and return to the pre-test phase to review additional relevant questions with the examinee. In the case of an ongoing investigation, the examiner shall ensure that all relevant questions (as distinguished from technical baseline questions) pertain to the investigation.

(b) No testing period subject to the provisions of the Act shall be less than ninety minutes in length. Such "test period" begins at the time that the examiner begins informing the examinee of the nature and characteristics of the examination and the instruments involved, as prescribed in section 8(b)(2)(B) of the EPPA and section 1.23(a)(2) of this part, and ends when the examiner completes the review of the test results with the examinee as provided in section 1.25 of this part. The ninety-minute minimum duration shall not apply if the examinee voluntarily acts to terminate the test before the completion thereof, in which event the examiner may not render an opinion regarding the employee's truthfulness.

SEC. 1.25 RIGHTS OF EXAMINEE—POST-TEST PHASE.

(a) The post-test phase refers to any questioning or other communication with the examinee following the use of the polygraph instrument, including review of the results of the test with the examinee. Before any adverse employment action, the employing office must:

(1) Further interview the examinee on the basis of the test results; and

(2) Give to the examinee a written copy of any opinions or conclusions rendered in response to the test, as well as the questions asked during the test, with the corresponding charted responses. The term "corresponding charted responses" refers to copies of the entire examination charts recording the employee's physiological responses, and not just the examiner's written report which describes the examinee's responses to the questions as "charted" by the instrument.

SEC. 1.26 QUALIFICATIONS OF AND REQUIREMENTS FOR EXAMINERS.

(a) Section 8 (b) and (c) of the EPPA provides that the limited exemption in section 7(d) of the EPPA for ongoing investigations shall not apply unless the person conducting the polygraph examination meets specified qualifications and requirements.

(b) An examiner must meet the following qualifications:

(1) Have a valid current license, if required by the State in which the test is to be conducted; and

(2) Carry a minimum bond of $50,000 provided by a surety incorporated under the laws of the United States or of any State, which may under those laws guarantee the fidelity of persons holding positions of trust, or carry an equivalent amount of professional liability coverage.

(c) An examiner must also, with respect to examinees identified by the employing office pursuant to section 1.30(c) of this part:

(1) Observe all rights of examinees, as set out in sections 1.22, 1.23, 1.24, and 1.25 of this part;

(2) Administer no more than five polygraph examinations in any one calendar day on which a test or tests subject to the provisions of EPPA are administered, not counting those instances where an examinee voluntarily terminates an examination prior to the actual testing phase;

(3) Administer no polygraph examination subject to the provisions of the EPPA which is less than ninety minutes in duration, as described in section 1.24(b) of this part; and

(4) Render any opinion or conclusion regarding truthfulness or deception in writing. Such opinion or conclusion must be based solely on the polygraph test results. The written report shall not contain any information other than admissions, information, case facts, and interpretation of the charts relevant to the stated purpose of the polygraph test and shall not include any recommendation concerning the employment of the examinee.

(5) Maintain all opinions, reports, charts, written questions, lists, and other records relating to the test, including, statements signed by examinees advising them of rights under the CAA (as described in section 1.23(a)(3) of this part) and any electronic recordings of examinations, for at least three years from the date of the administration of the test. (See section 1.30 of this part for recordkeeping requirements.)

SUBPART D—RECORDKEEPING AND DISCLOSURE REQUIREMENTS

SEC. 1.30 RECORDS TO BE PRESERVED FOR 3 YEARS.

(a) The following records shall be kept for a minimum period of three years from the date the polygraph examination is conducted (or from the date the examination is requested if no examination is conducted):

(1) Each employing office that requests an employee to submit to a polygraph examination in connection with an ongoing investigation involving economic loss or injury shall retain a copy of the statement that sets forth the specific incident or activity under investigation and the basis for testing that particular covered employee, as required by section 7(d)(4) of the EPPA and described in 1.12(a)(4) of this part.

(2) Each examiner retained to administer examinations pursuant to any of the exemptions under section 7 (d), (e) or (f) of the EPPA (described in sections 1.12 and 1.13 of this part) shall maintain all opinions, reports, charts, written questions, lists, and other records relating to polygraph tests of such persons.

SEC. 1.35 DISCLOSURE OF TEST INFORMATION.

This section prohibits the unauthorized disclosure of any information obtained during a polygraph test by any person, other than the examinee, directly or indirectly, except as follows:

(a) A polygraph examiner or an employing office (other than an employing office exempt under section 7 (a) or (b) of the EPPA (described in sections 1.10 and 1.11 of this part)) may disclose information acquired from a polygraph test only to:

(1) The examinee or an individual specifically designated in writing by the examinee to receive such information;

(2) The employing office that requested the polygraph test pursuant to the provisions of the EPPA (including management personnel of the employing office where the disclosure is relevant to the carrying out of their job responsibilities);

(3) Any court, governmental agency, arbitrator, or mediator pursuant to an order from a court of competent jurisdiction requiring the production of such information;

(b) An employing office may disclose information from the polygraph test at any time to an appropriate governmental agency without the need of a court order where, and only insofar as, the information disclosed is an admission of criminal conduct.

(c) A polygraph examiner may disclose test charts, without identifying information (but not other examination materials and records), to another examiner(s) for examination and analysis, provided that such disclosure is for the sole purpose of consultation and review of the initial examiner's opinion concerning the indications of truthfulness or deception. Such action would not constitute disclosure under this part provided that the other examiner has no direct or indirect interest in the matter.

SUBPART E—[RESERVED]

SEC. 1.40 [RESERVED].

APPENDIX A TO PART 801—NOTICE TO EXAMINEE

Section 204 of the Congressional Accountability Act, which applies the rights and protections of section 8(b) of the Employee Polygraph Protection Act to covered employees and employing offices, and the regulations of the Board of Directors of the Office of Compliance (sections 1.22, 1.23, 1.24, and 1.25), require that you be given the following information before taking a polygraph examination:

1. (a) The polygraph examination area [does] [does not] contain a two-way mirror, a camera, or other device through which you may be observed.

(b) Another device, such as those used in conversation or recording [will] [will not] be used during the examination.

(c) Both you and the employing office have the right, with the other's knowledge, to record electronically the entire examination.

2. (a) You have the right to terminate the test at any time.

(b) You have the right, and will be given the opportunity, to review all questions to be asked during the test.

(c) You may not be asked questions in a manner which degrades, or needlessly intrudes.

(d) You may not be asked any questions concerning: Religious beliefs or opinions; beliefs regarding racial matters; political beliefs or affiliations; matters relating to sexual preference or behavior; beliefs, affiliations, opinions, or lawful activities regarding unions or labor organizations.

(e) The test may not be conducted if there is sufficient written evidence by a physician that you are suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the examination.

(f) You have the right to consult with legal counsel or other representative before each phase of the test, although the legal counsel or other representative may be excluded from the room where the test is administered during the actual testing phase.

3. (a) The test is not and cannot be required as a condition of employment.

(b) The employing office may not discharge, dismiss, discipline, deny employment or promotion, or otherwise discriminate against you based on the analysis of a polygraph test, or based on your refusal to take such a test without additional evidence which would support such action.

(c)(1) In connection with an ongoing investigation, the additional evidence required for an employing office to take adverse action against you, including termination, may be (A) evidence that you had access to the property that is the subject of the investigation, together with (B) the evidence supporting the employing office's reasonable suspicion that you were involved in the incident or activity under investigation.

(2) Any statement made by you before or during the test may serve as additional supporting evidence for an adverse employment action, as described in 3(b) above, and any admission of criminal conduct by you may be transmitted to an appropriate Government law enforcement agency.

4. (a) Information acquired from a polygraph test may be disclosed by the examiner or by the employing office only:

(1) To you or any other person specifically designated in writing by you to receive such information;

(2) To the employing office that requested the test;

(3) To a court, governmental agency, arbitrator, or mediator that obtains a court order.

(b) Information acquired from a polygraph test may be disclosed by the employing office to an appropriate governmental agency without a court order where, and only insofar as, the information disclosed is an admission of criminal conduct.

5. If any of your rights or protections under the law are violated, you have the right to take action against the employing office by filing a request for counseling with the Office of Compliance under section 402 of the Congressional Accountability Act. Employing offices that violate this law are liable to the affected examinee, who may recover such legal or equitable relief as may be appropriate, including, but not limited to, employment, reinstatement, and promotion, payment of lost wages and benefits, and reasonable costs, including attorney's fees.

6. Your rights under the CAA may not be waived, either voluntarily or involuntarily, by contract or otherwise, except as part of a written settlement to a pending action or complaint under the CAA, and agreed to and signed by the parties.

I acknowledge that I have received a copy of the above notice, and that it has been read to me.

____

(Date)

____

(Signature)

APPLICATION OF RIGHTS AND PROTECTIONS OF THE WORKER ADJUSTMENT RETRAINING AND NOTIFICATION ACT OF 1988 (IMPLEMENTING SECTION 204 OF THE CAA)

Sec.
639.1 Purpose and scope.
639.2 What does WARN require?
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639.4 Who must give notice?
639.5 When must notice be given?
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639.11 [Reserved].

§ 639.1 Purpose and scope

(a) PURPOSE OF WARN AS APPLIED BY THE CAA.—Section 205 of the Congressional Accountability Act, Public Law 104–1 ("CAA"), provides protection to covered employees and their families by requiring employing offices to provide notification 60 calendar days in advance of office closings and mass layoffs within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act of 1988, 29 U.S.C. § 2102. Advance notice provides workers and their families some transition time to adjust to the prospective loss of employment, to seek and obtain alternative jobs and, if necessary, to enter skill training or retraining that will allow these workers to successfully compete in the job market. As used in these regulations, WARN shall refer to the provisions of WARN applied to covered employing offices by section 205 of the CAA.

(b) SCOPE OF THESE REGULATIONS.—These regulations are issued by the Board of Directors, Office of Compliance, pursuant to sections 205(c) and 304 of the CAA, which directs the Board to promulgate regulations implementing section 205 that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 205 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section". The regulations issued by the Board herein are on all matters for which section 205 of the CAA requires a regulation to be issued. Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of regulations adopted and set forth herein, there are no other "substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 205 of the CAA]".

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Secretary. Such changes are intended to make the provisions adopted accord more naturally to situations in the legislative branch. However, by making these changes, the Board does not intend a substantive difference between these sections and those of the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulation or of the statutory provisions of the CAA upon which they are based.

These regulations establish basic definitions and rules for giving notice, implementing the provisions of WARN. The objective of these regulations is to establish clear principles and broad guidelines which can be applied in specific circumstances. However, it is recognized that rulemaking cannot address the multitude of employing office-specific situations in which advance notice will be given.

(c) NOTICE IN AMBIGUOUS SITUATIONS.—It is civically desirable and it would appear to be good business practice for an employing office to provide advance notice, where reasonably possible, to its workers or unions when terminating a significant number of employees. The Office encourages employing offices to give notice in such circumstances.

(d) WARN NOT TO SUPERSEDE OTHER LAWS AND CONTRACTS.—The provisions of WARN do not supersede any otherwise applicable laws or collective bargaining agreements that provide for additional notice or additional rights and remedies. If such law or agreement provides for a longer notice period, WARN notice shall run concurrently with that additional notice period. Collective bargaining agreements may be used to clarify or amplify the terms and conditions of WARN, but may not reduce WARN rights.

§ 639.2 What does WARN require?

WARN requires employing offices that are planning an office closing or a mass layoff to give affected employees at least 60 days' notice of such an employment action. While the 60-day period is the minimum for advance notice, this provision is not intended to discourage employing offices from voluntarily providing longer periods of advance notice. Not all office closings and layoffs are subject to WARN, and certain employment thresholds must be reached before WARN applies. WARN sets out specific exemptions, and provides for a reduction in the notification period in particular circumstances. Remedies authorized under section 205 of the CAA may be assessed against employing offices that violate WARN requirements.

§639.3 Definitions

(a) EMPLOYING OFFICE.—(1) The term "employing office" means any of the entities listed in section 101(9) of the CAA, 2 U.S.C. §1301(9) that employs—

(i) 100 or more employees, excluding part-time employees; or

(ii) employs 100 or more employees, including part-time employees, who in the aggregate work at least 4,000 hours per week, exclusive of overtime.

Workers on temporary layoff or on leave who have a reasonable expectation of recall are counted as employees. An employee has a "reasonable expectation of recall" when he/she understands, through notification or through common practice, that his/her employment with the employing office has been temporarily interrupted and that he/she will be recalled to the same or to a similar job.

(2) Workers, other than part-time workers, who are exempt from notice under section 4 of WARN, are nonetheless counted as employees for purposes of determining coverage as an employing office.

(3) An employing office may have one or more sites of employment under common control.

(b) OFFICE CLOSING.—The term "office closing" means the permanent or temporary shutdown of a "single site of employment", or one or more "facilities or operating units" within a single site of employment, if the shutdown results in an "employment loss" during any 30-day period at the single site of employment for 50 or more employees, excluding any part-time employees. An employment action that results in the effective cessation of the work performed by a unit, even if a few employees remain, is a shutdown. A "temporary shutdown" triggers the notice requirement only if there are a sufficient number of terminations, layoffs exceeding 6 months, or reductions in hours of work as specified under the definition of "employment loss".

(c) MASS LAYOFF.—(1) The term "mass layoff" means a reduction in force which first, is not the result of an office closing, and second, results in an employment loss at the single site of employment during any 30-day period for:

(i) At least 33 percent of the active employees, excluding part-time employees, and

(ii) At least 50 employees, excluding part-time employees.

Where 500 or more employees (excluding part-time employees) are affected, the 33 percent requirement does not apply, and notice is required if the other criteria are met. Office closings involve employment loss which results from the shutdown of one or more distinct units within a single site or the entire site. A mass layoff involves employment loss, regardless of whether one or more units are shut down at the site.

(2) Workers, other than part-time workers, who are exempt from notice under section 4 of WARN are nonetheless counted as employees for purposes of determining coverage as an office closing or mass layoff. For example, if an employing office closes a temporary project on which 10 permanent and 40 temporary workers are employed, a covered office closing has occurred although only 10 workers are entitled to notice.

(d) REPRESENTATIVE.—The term "representative" means an exclusive representative of employees within the meaning of 5 U.S.C. §§7101 et seq., as applied to covered employees and employing offices by section 220 of the CAA, 2 U.S.C. §1351.

(e) AFFECTED EMPLOYEES.—The term "affected employees" means employees who may reasonably be expected to experience an employment loss as a consequence of a proposed office closing or mass layoff by their employing office. This includes individually identifiable employees who will likely lose their jobs because of bumping rights or other factors, to the extent that such individual workers reasonably can be identified at the time notice is required to be given. The term affected employees includes managerial and supervisory employees. Consultant or contract employees who have a separate employment relationship with another employing office or employer and are paid by that other employing office or employer, or who are self-employed, are not "affected employees" of the operations to which they are assigned. In addition, for purposes of determining whether coverage thresholds are met, either incumbent workers in jobs being eliminated or, if known 60 days in advance, the actual employees who suffer an employment loss may be counted.

(f) EMPLOYMENT LOSS.—(1) The term employment loss means (i) an employment termination, other than a discharge for cause, voluntary departure, or retirement, (ii) a layoff exceeding 6 months, or (iii) a reduction in hours of work of individual employees of more than 50 percent during each month of any 6-month period.

(2) Where a termination or a layoff (see paragraphs (f)(1) (i) and (ii) of this section) is involved, an employment loss does not occur when an employee is reassigned or transferred to employing office-sponsored programs, such as retraining or job search activities, as long as the reassignment does not constitute a constructive discharge or other involuntary termination.

(3) An employee is not considered to have experienced an employment loss if the closing or layoff is the result of the relocation or consolidation of part or all of the employing office's operations and, prior to the closing or layoff—

(i) The employing office offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment, or

(ii) The employing office offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

(4) A "relocation or consolidation" of part or all of an employing office's operations, for purposes of paragraph §639.3(f)(3), means that some definable operations are transferred to a different site of employment and that transfer results in an office closing or mass layoff.

(g) PART-TIME EMPLOYEE.—The term "part-time" employee means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required, including workers who work full-time. This term may include workers who would traditionally be understood as "seasonal" employees. The period to be used for calculating whether a worker has worked "an average of fewer than 20 hours per week" is the shorter of the actual time the worker has been employed or the most recent 90 days.

(h) SINGLE SITE OF EMPLOYMENT.—(1) A single site of employment can refer to either a single location or a group of contiguous locations. Separate facilities across the street from one another may be considered a single site of employment.

(2) There may be several single sites of employment within a single building, such as an office building, if separate employing offices conduct activities within such a building. For example, an office building housing 50 different employing offices will contain 50 single sites of employment. The offices of each employing office will be its single site of employment.

(3) Separate buildings or areas which are not directly connected or in immediate proximity may be considered a single site of employment if they are in reasonable geographic proximity, used for the same purpose, and share the same staff and equipment.

(4) Non-contiguous sites in the same geographic area which do not share the same staff or operational purpose should not be considered a single site.

(5) Contiguous buildings operated by the same employing office which have separate management and have separate workforces are considered separate single sites of employment.

(6) For workers whose primary duties require travel from point to point, who are outstationed, or whose primary duties involve work outside any of the employing office's regular employment sites (e.g., railroad workers, bus drivers, salespersons), the single site of employment to which they are assigned as their home base, from which their work is assigned, or to which they report will be the single site in which they are covered for WARN purposes.

(7) Foreign sites of employment are not covered under WARN. United States workers at such sites are counted to determine whether an employing office is covered as an employing office under §639.3(a).

(8) The term "single site of employment" may also apply to truly unusual organizational situations where the above criteria do not reasonably apply. The application of this definition with the intent to evade the purpose of WARN to provide notice is not acceptable.

(i) FACILITY OR OPERATING UNIT.—The term "facility" refers to a building or buildings. The term "operating unit" refers to an organizationally or operationally distinct product, operation, or specific work function within or across facilities at the single site.

§639.4 Who must give notice?

Section 205(a)(1) of the CAA states that "[n]o employing office shall be closed or a mass layoff ordered within the meaning of section 3 of [WARN] until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff . . . ". Therefore, an employing office that is anticipating carrying out an office closing or mass layoff is required to give notice to affected employees or their representative(s). (See definitions in §639.3 of this part.)

(a) It is the responsibility of the employing office to decide the most appropriate person within the employing office's organization to prepare and deliver the notice to affected employees or their representative(s). In most instances, this may be the local site office manager, the local personnel director or a labor relations officer.

(b) An employing office that has previously announced and carried out a short-term layoff (6 months or less) which is being extended beyond 6 months due to circumstances not reasonably foreseeable at the time of the initial layoff is required to give notice when it becomes reasonably foreseeable that the extension is required. A layoff extending beyond 6 months from the date the layoff commenced for any other reason shall be treated as an employment loss from the date of its commencement.

(c) In the case of the privatization or sale of part or all of an employing office's operations, the employing office is responsible for providing notice of any office closing or mass layoff which takes place up to and including the effective date (time) of the privatization or sale, and the contractor or buyer is responsible for providing any required notice of any office closing or mass layoff that takes place thereafter.

(1) If the employing office is made aware of any definite plans on the part of the buyer or contractor to carry out an office closing or mass layoff within 60 days of purchase, the employing office may give notice to affected employees as an agent of the buyer or contractor, if so empowered. If the employing office does not give notice, the buyer or contractor is, nevertheless, responsible to give notice. If the employing office gives notice as the agent of the buyer or contractor, the responsibility for notice still remains with the buyer or contractor.

(2) It may be prudent for the buyer or contractor and employing office to determine the impacts of the privatization or sale on workers, and to arrange between them for advance notice to be given to affected employees or their representative(s), if a mass layoff or office closing is planned.

§639.5 When must notice be given?

(a) GENERAL RULE.—(1) With certain exceptions discussed in paragraphs (b) and (c) of this section and in §639.9 of this part, notice must be given at least 60 calendar days prior to any planned office closing or mass layoff, as defined in these regulations. When all employees are not terminated on the same date, the date of the first individual termination within the statutory 30-day or 90-day period triggers the 60-day notice requirement. A worker's last day of employment is considered the date of that worker's layoff. The first and each subsequent group of terminees are entitled to a full 60 days' notice. In order for an employing office to decide whether issuing notice is required, the employing office should—

(i) look ahead 30 days and behind 30 days to determine whether employment actions both taken and planned will, in the aggregate for any 30-day period, reach the minimum numbers for an office closing or a mass layoff and thus trigger the notice requirement; and

(ii) look ahead 90 days and behind 90 days to determine whether employment actions both taken and planned each of which separately is not of sufficient size to trigger WARN coverage will, in the aggregate for any 90-day period, reach the minimum numbers for an office closing or a mass layoff and thus trigger the notice requirement. An employing office is not, however, required under section 3(d) to give notice if the employing office demonstrates that the separate employment losses are the result of separate and distinct actions and causes, and are not an attempt to evade the requirements of WARN.

(2) The point in time at which the number of employees is to be measured for the purpose of determining coverage is the date the first notice is required to be given. If this "snapshot" of the number of employees employed on that date is clearly unrepresentative of the ordinary or average employment level, then a more representative number can be used to determine coverage. Examples of unrepresentative employment levels include cases when the level is near the peak or trough of an employment cycle or when large upward or downward shifts in the number of employees occur around the time notice is to be given. A more representative number may be an average number of employees over a recent period of time or the number of employees on an alternative date which is more representative of normal employment levels. Alternative methods cannot be used to evade the purpose of WARN, and should only be used in unusual circumstances.

(b) TRANSFERS.—(1) Notice is not required in certain cases involving transfers, as described under the definition of "employment loss" at §639.3(f) of this part.

(2) An offer of reassignment to a different site of employment should not be deemed to be a "transfer" if the new job constitutes a constructive discharge.

(3) The meaning of the term "reasonable commuting distance" will vary with local conditions. In determining what is a "reasonable commuting distance", consideration should be given to the following factors: geographic accessibility of the place of work, the quality of the roads, customarily available transportation, and the usual travel time.

(4) In cases where the transfer is beyond reasonable commuting distance, the employing office may become liable for failure to give notice if an offer to transfer is not accepted within 30 days of the offer or of the closing or layoff (whichever is later). Depending upon when the offer of transfer was made by the employing office, the normal 60-day notice period may have expired and the office closing or mass layoff may have occurred. An employing office is, therefore, well advised to provide 60-day advance notice as part of the transfer offer.

(c) TEMPORARY EMPLOYMENT.—(1) No notice is required if the closing is of a temporary facility, or if the closing or layoff is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking.

(2) Employees must clearly understand at the time of hire that their employment is temporary. When such understandings exist will be determined by reference to employment contracts, collective bargaining agreements, or employment practices of other employing offices or a locality, but the burden of proof will lie with the employing office to show that the temporary nature of the project or facility was clearly communicated should questions arise regarding the temporary employment understandings.

§639.6 Who must receive notice?

Section 3(a) of WARN provides for notice to each representative of the affected employees as of the time notice is required to be given or, if there is no such representative at that time, to each affected employee.

(a) REPRESENTATIVE(S) OF AFFECTED EMPLOYEES.—Written notice is to be served upon the chief elected officer of the exclusive representative(s) or bargaining agent(s) of affected employees at the time of the notice. If this person is not the same as the officer of the local union(s) representing affected employees, it is recommended that a copy also be given to the local union official(s).

(b) AFFECTED EMPLOYEES.—Notice is required to be given to employees who may reasonably be expected to experience an employment loss. This includes employees who will likely lose their jobs because of bumping rights or other factors, to the extent that such workers can be identified at the time notice is required to be given. If, at the time notice is required to be given, the employing office cannot identify the employee who may reasonably be expected to experience an employment loss due to the elimination of a particular position, the employing office must provide notice to the incumbent in that position. While part-time employees are not counted in determining whether office closing or mass layoff thresholds are reached, such workers are due notice.

§639.7 What must the notice contain?

(a) NOTICE MUST BE SPECIFIC.—(1) All notice must be specific.

(2) Where voluntary notice has been given more than 60 days in advance, but does not contain all of the required elements set out in this section, the employing office must ensure that all of the information required by this section is provided in writing to the parties listed in §639.6 at least 60 days in advance of a covered employment action.

(3) Notice may be given conditional upon the occurrence or nonoccurrence of an event only when the event is definite and the consequences of its occurrence or nonoccurrence will necessarily, in the normal course of operations, lead to a covered office closing or mass layoff less than 60 days after the event. The notice must contain each of the elements set out in this section.

(4) The information provided in the notice shall be based on the best information available to the employing office at the time the notice is served. It is not the intent of the regulations that errors in the information provided in a notice that occur because events subsequently change or that are minor, inadvertent errors are to be the basis for finding a violation of WARN.

(b) DEFINITION.—As used in this section, the term "date" refers to a specific date or to a 14-day period during which a separation or separations are expected to occur. If separations are planned according to a schedule, the schedule should indicate the specific dates on which or the beginning date of each 14-day period during which any separations are expected to occur. Where a 14-day period is used, notice must be given at least 60 days in advance of the first day of the period.

(c) NOTICE.—Notice to each representative of affected employees is to contain:

(1) The name and address of the employment site where the office closing or mass layoff will occur, and the name and telephone number of an employing office official to contact for further information;

(2) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire office is to be closed, a statement to that effect;

(3) The expected date of the first separation and the anticipated schedule for making separations;

(4) The job titles of positions to be affected and the names of the workers currently holding affected jobs.

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

(d) EMPLOYEES NOT REPRESENTED.—Notice to each affected employee who does not have a representative is to be written in language understandable to the employees and is to contain:

(1) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire office is to be closed, a statement to that effect;

(2) The expected date when the office closing or mass layoff will commence and the expected date when the individual employee will be separated;

(3) An indication whether or not bumping rights exist;

(4) The name and telephone number of an employing office official to contact for further information.

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

§ 639.8 How is the notice served?

Any reasonable method of delivery to the parties listed under § 639.6 of this part which is designed to ensure receipt of notice of at least 60 days before separation is acceptable (e.g., first class mail, personal delivery with optional signed receipt). In the case of notification directly to affected employees, insertion of notice into pay envelopes is another viable option. A ticketed notice, i.e., preprinted notice regularly included in each employee's pay check or pay envelope, does not meet the requirements of WARN.

§ 639.9 When may notice be given less than 60 days in advance?

Section 3(b) of WARN, as applied by section 205 of the CAA, sets forth two conditions under which the notification period may be reduced to less than 60 days. The employing office bears the burden of proof that conditions for the exceptions have been met. If one of the exceptions is applicable, the employing office must give as much notice as is practicable to the union and non-represented employees and this may, in some circumstances, be notice after the fact. The employing office must, at the time notice actually is given, provide a brief statement of the reason for reducing the notice period, in addition to the other elements set out in § 639.7.

(a) The "unforeseeable business circumstances" exception under section 3(b)(2)(A) of WARN, as applied under the CAA, applies to office closings and mass layoffs caused by circumstances that were not reasonably foreseeable at the time that 60-day notice would have been required.

(1) An important indicator of a circumstance that is not reasonably foreseeable is that the circumstance is caused by some sudden, dramatic, and unexpected action or condition outside the employing office's control.

(2) The test for determining when circumstances are not reasonably foreseeable focuses on an employing office's business judgment. The employing office must exercise such reasonable business judgment as would a similarly situated employing office in predicting the demands of its operations. The employing office is not required, however, to accurately predict general economic conditions that also may affect its operations.

(b) The "natural disaster" exception in section 3(b)(2)(B) of WARN applies to office closings and mass layoffs due to any form of a natural disaster.

(1) Floods, earthquakes, droughts, storms, tidal waves or tsunamis and similar effects of nature are natural disasters under this provision.

(2) To qualify for this exception, an employing office must be able to demonstrate that its office closing or mass layoff is a direct result of a natural disaster.

(3) While a disaster may preclude full or any advance notice, such notice as is practicable, containing as much of the information required in § 639.7 as is available in the circumstances of the disaster still must be given, whether in advance or after the fact of an employment loss caused by a natural disaster.

(4) Where an office closing or mass layoff occurs as an indirect result of a natural disaster, the exception does not apply but the "unforeseeable business circumstance" exception described in paragraph (a) of this section may be applicable.

§ 639.10 When may notice be extended?

Additional notice is required when the date or schedule of dates of a planned office closing or mass layoff is extended beyond the date or the ending date of any 14-day period announced in the original notice as follows:

(a) If the postponement is for less than 60 days, the additional notice should be given as soon as possible to the parties identified in § 639.6 and should include reference to the earlier notice, the date (or 14-day period) to which the planned action is postponed, and the reasons for the postponement. The notice should be given in a manner which will provide the information to all affected employees.

(b) If the postponement is for 60 days or more, the additional notice should be treated as new notice subject to the provisions of §§ 639.5, 639.6 and 639.7 of this part. Rolling notice, in the sense of routine periodic notice, given whether or not an office closing or mass layoff is impending, and with the intent to evade the purpose of the Act rather than give specific notice as required by WARN, is not acceptable.

§ 639.11 [Reserved]

AMENDMENTS SUBMITTED

CONGRESSIONAL TERMS LIMIT CONSTITUTIONAL AMENDMENT

LEAHY AMENDMENT NO. 3703

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to amendment No. 3692 proposed by Mr. ASHCROFT to the joint resolution (S.J. Res. 21) proposing a constitutional amendment to limit congressional terms; as follows:

In lieu of the matter proposed, insert the following: "(two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. No person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

"SECTION 3. A member of the Senate serving a term of office on the date of the ratification of this article, who upon completion of that term will have served two or more terms in the Senate, may complete that term. A member of the House of Representatives serving a term of office on the date of ratification of this article, who upon completion of that term will have served six or more terms in the House of Representatives, may complete that term.".

LEAHY AMENDMENT NO. 3704

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to amendment No. 3694 proposed by Mr. ASHCROFT to the joint resolution (S.J. Res. 21) supra; as follows:

In lieu of the matter proposed, insert the following: "of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. No person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the states by the Congress.

"SECTION 3. A member of the Senate serving a term of office on the date of the ratification of this article, who upon completion of that term will have served two or more terms in the Senate, may complete that term. A member of the House of Representatives serving a term of office on the date of ratification of this article, who upon completion of that term will have served six or more terms in the House of Representatives, may complete that term.".

LEAHY AMENDMENT NO. 3705

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to amendment No. 3696 proposed by Mr. THOMPSON to the joint resolution (S.J. Res. 21) supra; as follows:

In lieu of the matter proposed, insert the following: "of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. No person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

"SECTION 3. A member of the Senate serving a term of office on the date of the ratification of this article, who upon completion of that term will have served two or more terms in the Senate, may complete that term. A member of the House of representatives serving a term of office on the date of ratification of this article, who upon completion of that term will have served six or more terms in the House of Representatives, may complete that term.".

LEAHY AMENDMENT NO. 3706

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to amendment No. 3698 proposed by Mr. ASHCROFT to the joint resolution (S.J. Res. 21) supra; as follows:

Strike all after "SECTION 1." and insert the following: "No person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than thrice; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than twice.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

"SECTION 3. A member of the Senate serving a term of office on the date of the ratification of this article, who upon completion of that term will have served two or more terms in the Senate, may complete that term. A member of the House of Representatives serving a term of office on the date of ratification of this article, who upon completion of that term will have served six or more terms in the House of Representatives, may complete that term.".

THOMPSON AMENDMENTS NOS. 3707–3720

(Ordered to lie on the table.)

Mr. ASHCROFT (for Mr. THOMPSON) submitted 14 amendments intended to be proposed by Mr. THOMPSON to the joint resolution (S.J. Res. 21) supra; as follows:

AMENDMENT NO. 3707

In lieu of the matter proposed to be inserted, insert the following: "*two-thirds of each House concurring therein*), That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than six times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislature of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT NO. 3708

In lieu of the matter proposed to be inserted, insert the following: "*of each House concurring therein*), That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than six times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT NO. 3709

In lieu of the matter proposed to be inserted, insert the following: "*of each House concurring therein*), That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than six times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT NO. 3710

Strike all after the first word and insert the following: "instructions to report the resolution back to the Senate forthwith with an amendment as follows: *two-thirds of each House concurring therein*), That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than six times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT NO. 3711

In lieu of the matter proposed to be inserted, insert the following: *two-thirds of each House concurring therein*), That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than three times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT NO. 3712

In lieu of the matter proposed to be inserted, insert the following: "*of each House concurring therein*), That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than three times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT NO. 3713

In lieu of the matter proposed to be inserted, insert the following: "*of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than three times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT NO. 3714

Strike all after the first word and insert the following: "instructions to report the resolution back to the Senate forthwith with an amendment as follows: *two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than three times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT NO. 3715

In lieu of the matter proposed to be inserted, insert the following: "After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than six times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT NO. 3716

In lieu of the matter proposed to be inserted, insert the following "After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than six times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT NO. 3717

Strike all after the first word and insert the following: "instructions to report the resolution back to the Senate forthwith with an amendment as follows: *two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than six times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT NO. 3718

In lieu of the matter proposed to be inserted, insert the following: "After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than three times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT NO. 3719

In lieu of the matter proposed to be inserted, insert the following: "After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than three times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occurring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

AMENDMENT NO. 3720

Strike all after the first word and insert the following: "instructions to report the resolution back to the Senate forthwith with an amendment as follows: *two-thirds of each House concurring therein*, That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. After this article becomes operative, no person shall be elected to a full term as a Senator more than twice, or to a full term as a Representative more than three times; no person who has been a Senator for more than three years of a term to which some other person was elected shall subsequently be elected as a Senator more than once; and no person who has been a Representative for more than a year of a term to which some other person was elected shall subsequently be elected as a Representative more than five times.

"SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within eight years from the date of its submission to the States by the Congress.

"SECTION 3. No election or service occuring before ratification of this article shall be taken into account when determining eligibility for election under section 1.".

THE IMMIGRATION AND NATIONALITY ACT AMENDMENT ACT OF 1996

ABRAHAM (AND OTHERS) AMENDMENT NO. 3721

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. FEINGOLD, Mr. DEWINE, Mr. INHOFE, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by them to the bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes; as follows:

Strike sections 111-115.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, April 23, 1996, to conduct a hearing about the status of assets held in Swiss banks deposited by European Jews and others in the years preceding the Holocaust.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Tuesday, April 23, 1996 session of the Senate for the purpose of conducting a hearing on the reauthorization of the Consumer Product Safety Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Tuesday, April 23, at 9:30 a.m., Hearing Room (SD-406), on S. 1285, the Accelerated Cleanup and Environmental Recovery Act of 1996 ("Superfund"), as modified by an amendment in the nature of a substitute, Senate Amendment Number 3563, dated March 21, 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 23, 1996, at 11:00 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet to conduct a mark up during the session of the Senate on Tuesday, April 23, 1996 on the committee's letter to the Senate Committee on the Budget containing the committee's budget views and estimates on the President's budget request for fiscal year 1997 for Indian programs. The business meeting/mark up will be held at 9 p.m. in room 485 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, April 23, 1996, at 10 a.m. to hold a hearing on "Proposed Constitutional Amendment To Establish a Bill of Rights for Crime Victims".

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate at 9:30 a.m., Tuesday, April 23, 1996, for a hearing on organ tissue donation awareness.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for a hearing on Tuesday, April 23, 1996, at 10 a.m., in room 428A of the Russell Senate Office Building, to conduct a hearing entitled "Keeping Up With the Trend: Issues Affecting Home-Based Business Owners."

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Tuesday, April 23 at 10 a.m., to hold a hearing to discuss Alzheimer's disease.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

EARTH DAY

• Mr. BURNS. Mr. President, I rise today with my colleagues to recognize April 22, 1996, as Earth Day.

On their 1804 expedition through my present day State of Montana, Meriwether Lewis and William Clark wrote of the abundant game, vast horizons, shining mountains and crystal clear streams littered with rainbow and cutthroat trout.

Today the Treasure State remains largely unchanged. As stewards of the land, Montana's farmers realize the importance of sound conservation methods in cultivating the soil. Montana ranchers have employed grazing practices that renew healthy foragable grasslands.

In an effort to increase the sustainability of Montana's ranges, Montana stockgrowers with grazing lands around Fleecer Mountain just south of Butte and in the Wall Creek area near Ennis participate in a rotational grazing practice that utilizes and stimulates healthier forage on state lands.

This new grazing practice ensures that livestock and wildlife alike will have access to healthy forage without overgrazing lands managed by the Montana Fish, Wildlife, and Parks Department.

This effort of cooperation is just one example of what can be accomplished when local decisions are made in place of those coming out of Washington, DC. It is another piece of evidence that Montanans make sound environmental decisions compared to what has been mandated at a Federal level.

I believe we need to protect our environment. Generations of Montanans have made their living off the land and in return have learned to reap the benefits of preserving the land.

I greatly appreciate the environmental beauty of Big Sky Country, and I want my children and grandchildren to be able to appreciate it in the same way I have been able to.•

DOCTORS WILLING TO ACCEPT MEDICAID PATIENTS

• Mr. BAUCUS. Mr. President, I would like to call to your attention to the extraordinary generosity of a few outstanding citizens in my home State. Dr. James Elliot, Dr. Rae Johnston, and Dr. Van Kirke Nelson treated more Medicaid patients than any other doctors in Montana. These doctors are willing to accept Medicaid patients—and lots of them—even though they know that Medicaid will reimburse only a fraction of what a private insurance company would pay.

I want to publicly thank these doctors for their dedication to the medical profession and for helping people who depend on Medicaid. Dr. Elliot, Dr.

Johnston, and Dr. Nelson are willing to make sacrifices for the benefit of others. We can learn from their benevolence and their valuable community service.

On average, Medicaid pays only 70 percent of what a doctor charges. The doctor is forced to either swallow the cost, or choose not to see Medicaid patients. This is what makes physicians like Dr. Elliot, Dr. Johnston, and Dr. Nelson so special.

For example, Dr. Elliot averages a staggering caseload of 40 to 60 patients a day, not counting the trips he makes to the emergency room. In 1995, he treated more Medicaid patients than any other doctor in Montana. His Medicaid caseload was so high that the State audited him a few years ago. The State not only found no evidence of improprieties, they also found that Dr. Elliot charges less than average for most services.

And listen to Dr. Nelson, a personal friend of mine, describe his Medicaid patients to the Daily Inter Lake:

> These are real people who may be on tough luck—

He explains,—

> people struggling to make ends meet on low-paying jobs, and single mothers with little income. These are the sons and daughters of a lot of my friends.

So when the Senate debates legislation concerning Medicaid, I urge you to remember these outstanding citizens—these doctors who are willing to make sacrifices in order to assure that "people on tough luck" receive the health care they deserve. Dr. Elliot, who serves Medicaid recipients in the Havre area; Dr. Johnston, a Missoula area physician; and Dr. Nelson of Kalispell, whose daughter and daughter-in-law, both physicians, will probably continue the tradition of caring for underprivileged patients, deserve our admiration. The State of Montana is indebted to them, and to all the physicians in my State who serve Medicaid patients, regardless of their income or ability to pay. I am proud to commend them before the U.S. Senate today.•

WELCOME TO MICHIGAN CONSTITUENTS

• Mr. ABRAHAM. Mr. President, I rise today to welcome a large group of Michigan constituents who have come here to Washington, DC, to express their opinions on the recent violence in Lebanon. I was pleased to be able to welcome them to the Senate this morning and host them for morning coffee prior to their planned events for the day.

Mr. President, this group comes here today with very deep sentiments and emotions about this issue. In fact many of them have family or friends who have lost their loved ones in the tragic bombing of the U.N. shelter in Qana. I share their deep sentiments and support the overall message of the urgency of an immediate end to this bloodshed in the form of a cease-fire and the need to deliver humanitarian aid to the refugees in Lebanon.

As I have been reiterating the past 2 days on the floor of the Senate, I urge the administration to persist in trying to negotiate a cease-fire in this region and to bring an end to the hostility immediately. The resulting peace will benefit everyone, but especially those innocent civilians and refugees in Lebanon, who have been most affected by the violence.•

IN MEMORY OF JUDGE WILL

• Ms. MOSELEY-BRAUN. Mr. President, today, there is a memorial service for Judge Hugh Will, a distinguished Illinois jurist and active humanitarian, who died in December after a long and productive career. Unfortunately, my Senate duties prevent me from being in Illinois to share my memories of Judge Will with his family, friends, and colleagues, so I would like to take this opportunity to express my gratitude for his many contributions and my sense of loss at his passing.

Judge Will had a long history of public service. Upon graduation from University of Chicago Law School in 1937, Judge Will came to Washington, working at the Securities and Exchange Commission, and then the Department of Justice. When the United States entered World War II, he served as chief of the Office of Strategic Services counterespionage branch in Europe. His country awarded him a Bronze Star for his work in organizing counterintelligence groups, which handled captured German agents. In 1946, he returned to Chicago, first working at the firm of Pope & Ballard, and then becoming a partner at Nelson, Boodell & Will, where he worked until 1961, when President Kennedy appointed him to the Federal bench.

Thousands of cases came before Judge Will, all of which received the same high level of careful attention. His handling of complex, high profile cases was widely renowned, but he derived as much pleasure and satisfaction from smaller cases, where he provided solutions for the problems of ordinary people. He considered judging to be an art form, comparing the perfect trial to the perfect symphony. And what a conductor he was! No jurist, in any court, engendered the respect and admiration commanded by Hugh Will. He was at once a judges' judge and a "people person." His extraordinary intellect could at times be astonishing, but his overarching humanity was so much a part of his approach to the law that litigants were forewarned not to expect special interests ever to overcome the public good. He was a patriot, who retained an optimistic vision of America. That vision guided a consistent search for a living Constitution which kept faith with the highest ideals of our Nation. Had timing and opportunity been otherwise, Hugh Will would have distinguished himself and honored his country by serving on the Supreme Court of the United States.

Judge Will's contributions to the judiciary do not end with his case law. He pioneered the use of innovative administrative procedures, such as establishing a final pretrial order now used in courts nationwide. His guiding hand helped many budding jurists at the onset of their careers. He served as a mentor for many judges and participated in seminars for newly appointed jurists for over 20 years. Finally, he served as lead plaintiff in a class-action lawsuit, challenging the congressional withholding of cost-of-living adjustments due to judges under Federal law. In 1980, the Supreme Court decided Will versus U.S. in favor of the judges, protecting the Constitutional separation of powers our Founding Fathers intended.

Judge Will was also active in the community, serving on dozens of committees and boards of directors throughout his career, and receiving numerous honors and awards, including the Clarence Darrow Humanitarian Award in 1962. In 1991, he received one of the highest honors available to judges, the Edward J. Devitt Distinguished Service to Justice Award, bestowed by judges across the country to the Nation's outstanding jurists.

Judge Will also showed strength in times of personal adversity. When his beloved daughter died in 1982 at age 39, Judge Will founded the Wendy Will Case Cancer Fund. The fund has distributed over $1.5 million to cancer researchers, in the hope that they may someday put an end to the suffering experienced by cancer victims and their survivors.

Judge Will has served in many ways, he will be sorely missed by all. However, his legacy of service will live on, through his deeds, and most importantly through the people whose lives he has touched.

I will miss him. He reached out to me, when I was just starting a career in the law, and became a mentor to me. Upon my election to the Senate, he sought to help me get established in the best traditions of this body.•

RECOGNITION OF THE SUNNYSIDE SCHOOL DISTRICT VOLUNTEER PROGRAM

• Mr. GORTON. Mr. President, today I would like to recognize the Sunnyside School District's volunteer program for its dedication to the enrichment of the lives of children in Washington State.

I applaud the effort and enthusiasm of the many members of our community working to ensure a bright future for our children, and I believe the innovative and resourceful programs developed by educators and community members deserve more recognition. In January 1994, I began recognizing outstanding school programs through the U.S. Senate Award for Excellence in Education. The 300 volunteers who selflessly dedicate their time to the children of the Sunnyside School District deserve such recognition.

Whether working one-on-one with children in academic subjects, helping on the playground, or sharing their talents and hobbies, the volunteers for the Sunnyside School District can be found assisting in every aspect of school operations. During the 1994–95 school year, these volunteers gave 37,226 hours of service to the district. This kind of partnership between families, community members and schools has made Sunnyside School District a leader in promoting a health learning environment for its students.

I hope their vision of excellence in education serves as an example to others in Washington State and the rest of the country.•

ROBERT DONOVAN

• Mr. DODD. Mr. President, I wanted to take a few moments today to commemorate the life of Robert Donovan, President of ABB Incorporated, who so tragically perished with Commerce Secretary Ron Brown in Croatia.

Over the past few weeks, the Nation has come together in an outpouring of support and remembrance for the life of Commerce Secretary Ron Brown.

And deservedly so. Ron Brown was a great American who faithfully, and with quiet dignity, served his country and his party.

But, we must not forget those in our own community who were taken away from us on that wind-swept mountain in Croatia.

Robert Donovan, as well as all the others who were killed, deserve our special praise and commemoration because they died while on a humanitarian mission of mercy.

Robert Donovan didn't have to travel to the Balkans. He certainly could have stayed in Connecticut. But, Robert Donovan believed, as did everyone else on that plane, that in the global economy of the 21st century, Americans have a need and a responsibility to reach beyond their borders.

And, what's more, he believed the business community had a solemn obligation to do all it could to help those nations that are in the midst of the difficult process of rebuilding and reconciliation.

Some may cynically suggest that Robert Donovan and the other business leaders who traveled to Croatia were interested only in a financial bottom line. But one doesn't journey to Bosnia to make money.

Robert Donovan went to the Balkans because he believed that the dynamism of American business could help bring lasting peace to regions that for years knew only violence and hatred.

And he believed that his efforts could make a real difference in healing the lingering anguish of ethnic violence.

This spirit of altruism was evident in everything that Robert Donovan did.

At a time when pundits and politicians alike have made corporate CEO's Public Enemy No. 1, Robert Donovan proved the stereotype wrong. He was a man who remained strongly committed and loyal to his workers and his company.

He was as comfortable dealing with ABB employees, either in the workplace or running in the neighborhoods around this plant as he was dealing with international wheelers and dealers.

And his generosity spread beyond the workplace. He took an active, personal interest in helping out at the 1995 Special Olympics World Games in New Haven.

But, Robert Donovan was a man who didn't hesitate from taking on difficult tasks and that was never more obvious than on his last mission to the Balkans.

And, while I know this is a difficult time for Robert Donovan's friends, family and colleagues, it is important to remember that last mission and all the tireless work that he did on behalf of ABB, his family, and his country. It's that enduring legacy that we must all remember in this time of tragedy.

My thoughts and prayers remain with his wife Margaret, and his children Kevin and Kara.

CLAUDIO ELIA

Mr. President, I also wanted to take a few moments to remember another Connecticut resident who tragically perished with Commerce Secretary Brown in Croatia—Claudio Elia, of Greenwich, CT, who was chairman and CEO of Air & Water Technologies Corp.

Like Ron Brown and all the others who died in Croatia, Claudio Elia was on a solemn mission of mercy and he deserves particular recognition from this body.

Claudio Elia came to this country from Italy and took advantage of the vast economic opportunities available to all Americans. He started his business career in 1968 at the Boston Consulting Group and from there he quickly worked his way up the corporate ladder.

In fact, Elia's value at Air & Water Technologies was so significant that it took three top executives to replace him.

But, as Claudio Elia reveled in the economic opportunities that he received in his country, he traveled to Bosnia so that others would realize the same opportunities.

Claudio Elia didn't have to travel to the Balkans. There are excellent business opportunities elsewhere. But, Claudio Elia recognized that in the global economy of the 21st century, Americans must often look beyond its borders for new possibilities.

One of Claudio Elia's former classmates said at his funeral that: "His presence on that flight was vintage Claudio. He was constantly pushing the envelope, looking for new opportunities and business relationships."

And those words were most true on the final mission of his life to the former Yugoslavia. He believed that American businessmen have an obligation to play a role in helping nations that are on the difficult journey toward peace.

There are those who have cynically insinuated that Claudio Elia and the other business leaders who traveled to Croatia were interested more in their financial bottom line then the well-being of the Bosnian people. Well, as I said before, one doesn't journey to Bosnia to make money.

I believe that Claudio Elia and everyone else on that flight ventured to the Balkans because they shared the vision of Ron Brown.

They believed that through the machinations of the free market they could make a real difference in the lives of the Bosnian, Serb, and Croatian people. They understood that even though peace had been achieved, the chance for a real and lasting peace would depend on all peoples having the same opportunity for a brighter future.

Claudio Elia took with him to the Balkers who unquenchable spirit of American optimism and idealism that has infused our Nation for 220 years.

That spirit was as evident when he was in the boardroom or on an overseas mission, as it was when he was sailing his yacht in the Long Island Sound or dealing with his employees in the same manner he dealt with everyone else.

Claudio Elia was a man who didn't hesitate from taking on difficult tasks and that was never more obvious than on his last mission to the Balkans.

And, while I know this is a difficult time for Claudio Elia's friends, family and colleagues, it is important to remember that last mission and all the tireless work that he did on behalf of his family, and his country.

My thoughts and prayers remain with his wife Susan and his children Christine and Marc.•

CONGRATULATING THE NAACP ON THE OCCASION OF ITS 41ST ANNUAL FREEDOM FUND DINNER

• Mr. ABRAHAM. Mr. President, I rise today to congratulate and extend warm greetings to the Detroit chapter of the National Association for the Advancement of Colored People [NAACP] on the occasion of its 41st Annual Freedom Fund Dinner, to be held on April 28.

The struggles of the NAACP have had an immeasurable impact on local, national, and world events, advancing educational, housing and employment opportunities for America's voiceless. The Detroit chapter of this organization in particular has shown a commitment to both local and national action in the interests of its neighbors and community. The rewards of these efforts are shared by all throughout Michigan and our entire Nation.

Of course, Mr. President, we must continue to pursue every means by which to improve the quality of life for all Michigan residents. Ensuring that all of our citizens share in the resurgence of Michigan as a national and world leader is an important priority to me, as it is to the Detroit NAACP. My voice echoes with the many members and supporters of the Detroit NAACP in their calls for more jobs, better schools, and safer communities.

It is clear to me that the NAACP stands, as it always has stood, for self-determination, hard work, and leadership. I think Frederick Douglass best captured this philosophy when he said: "The whole history of the progress of human liberty shows that all concessions yet made to her August claims have been born of earnest struggle. . . If there is no struggle there is no progress."

I am sure that all concerned citizens who hope and pray for a unified America where we can celebrate opportunity and justice join me in extending our sincere best wishes to the Detroit chapter of the NAACP.•

ORDERS FOR WEDNESDAY, APRIL 24, 1996

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m., Wednesday, April 24; further, that immediately following the prayer, the Journal of the proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and there be a period for the transaction of morning business until the hour of 10 a.m., with Senators permitted to speak therein for 5 minutes each, with Senator HATCH to speak for up to 15 minutes; further, that the Senate then immediately resume consideration of S. 1664, the immigration bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, for the information of all Senators, the Senate will resume consideration of the immigration bill tomorrow at 10 a.m. Rollcall votes are expected in relation to the immigration bill during Wednesday's session. It is also expected that the House will complete action on a short-term continuing resolution tomorrow. Therefore, I would expect the Senate to consider that appropriations matter when it is received from the House. Additional rollcall votes can therefore be expected during Wednesday's session of the Senate. The Senate may also be asked to turn to any other legislative items that can be cleared for action.

I hope to complete action on the immigration bill this week. So we will see what we can accomplish tomorrow. Senator SIMPSON is prepared to proceed, and we will try to complete action sometime late on Thursday. But on Friday I think my colleagues on the other side of the aisle have a conference outside Washington. We are going to try to accommodate them.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DOLE. Mr. President, if there be no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:27 p.m., adjourned until Wednesday, April 24, 1996, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, April 23, 1996*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. FUNDERBURK].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 23, 1996.

I hereby designate the Honorable DAVID FUNDERBURK to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER] for 5 minutes.

EARTH DAY

Mr. MILLER of California. Mr. Speaker, today the Republican leadership of the House will bring forward several noncontroversial bills that are designed for one purpose only, to camouflage the Republican Party's dreadful and irresponsible record on the environment in the 104th Congress. We know that is the spin of the Republican leadership, thanks to a March 29 memo from Majority Leader ARMEY advising Republican Members how to drive our Republican themes home each week.

This week, following Earth Day, their theme is trying to make the Republican voter believe that antienvironment Republicans really care about protecting the environment and public health despite their horrible voting records. But these bills are not about making the environment green, they are about giving a faint green cover to the Republican Members who have voted time and again against clean water, against national parks, against endangered species, and against protecting Americans from pollution that threatens their health and safety. Four out of five Americans want the Environmental Protection Agency maintained or strengthened and they are shocked by the statements of Majority Whip TOM DELAY who declared the EPA the Gestapo of government. Eighty-five percent of Americans who say they are environmentalists are baffled when they hear Resources Chairman DON YOUNG denigrate them as a despicable group of individuals, a self-centered bunch of waffle-stomping, Harvard-graduating, intellectual bunch of idiots. They are outraged when they hear Congresswoman CHENOWETH say that environmentalism is repugnant to America's values.

The fact is that simply is not true, but the effort is underway to create some political coverage and as they bring these bills to the floor as a result of discussions, apparently within the environmental task force that the Speaker promoted to suggest that the Republicans care about the environment, we now see, we now see that the average voting record on environmental issues of that task force is only 18 percent and nearly half of the members of that task force have earned a zero on their record.

Later today as we watch a parade of Republicans come down here and tell us how they support the environment by supporting these noncontroversial bills, we will offer them a figleaf, a figleaf that shows that while the vote on the noncontroversial coastal zone management legislation to give them a better environmental record, what we really see is that they voted in the past of this session killing coastal zone nonpoint pollution control, the dirty water bill, more sewage in oceans, ocean dumping of sewage, keeping the antienvironmental riders on legislation to harm the ability of that agency to clean up the Superfund sites and our coastal zones and gutting the wetlands protection provisions of legislation, of which 70, 80, and 90 percent of the Republicans voted for that very harmful legislation. But today most of them will vote for this and try to tell the people back home that they are for the environment. This is a sham. It is a bluff. It is inconsistent with the record of the Republicans in this Congress to date because when they had the votes, when they had the momentum, when they had the initiative, what they chose to do was to do the work of those who have spent so long bashing the environmental laws of this country.

The fact is what they have now discovered is the clean environment, environmental protection is part of the ethic of the American value system. It is ingrained in us. It is ingrained in our children that we must preserve this environment. We must protect this environment to hand it on to future generations.

But unfortunately, the Republican leadership and a vast majority of their caucus has sought to do otherwise when they voted to gut the Clean Air Act, when they voted to gut the Clean Water Act, when they voted to hamper the Environmental Protection Agency from working, when they voted to repeal water reform in California, when they voted to clearcut the Tongass forests. These are provisions that are destroying and harming our environment for future generations. So the figleaf will provide a little cover but what it will not cover up is the massive antienvironmental voting record of the Republicans in this Congress.

HAITI

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. GOSS] is recognized during morning business for 5 minutes.

Mr. GOSS. Mr. Speaker, I am not going to address the subject of the environment today, but I happen to be a Republican. I believe that the environment knows no partisanship and it should know no extremism.

I think the environment is something we are all concerned about. I am proud as a Republican that under Republican leadership we have finally gotten some kind of relief for the Florida Everglades in my home State under Republican leadership, something we have been trying long to do. So there are indeed many sides of the story about who is doing what to help out the environment.

Mr. Speaker, I return to the floor to talk about Haiti today because I want to be certain that all of my colleagues are aware of the staff delegation report on Haiti that was issued last week. Although I hoped for good news for both the American taxpayers who footed the $2 billion plus bill for United States operations in Haiti and for the Haitian people, there doesn't seem to be much. In fact, more than anything, this report reinforces the idea that the White House has been glossing over the rough spots in Haiti—hailing it as a success—and hoping that no one would dig deep enough to know the difference. The staff delegation concluded that little

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

progress, if any, is being made on compliance with the Dole amendment regarding political murders in Haiti. In fact, they see little chance of those conditions being met in the foreseeable future. These investigations may in fact be irreparably tainted because the Haitian special investigative unit has been colonized by three American lawyers working for the Government of Haiti.

Whether or not these individuals will be more interested in protecting their meal ticket or in getting to the bottom of the killing remains open for question, but it is a question that should be asked.

Beyond these specific investigations, the report also notes that the United States embassy in Haiti continues to have a passive policy on human rights violations. One might ask why the White House does not seem to understand the actions they decried during the coup are no less unacceptable in post-Cedras Haiti.

The report also finds that there are probably more rough spots than smooth ones with regard to law and order. The Haitian National Police are not always readily accepted by the Haitian people, but nothing can excuse the heavyhanded responses we have seen from them in places like Cite Soleil.

In addition, the staff delegation reports that there are at least four other armed governmental security units with unclear chains of command, but about whom there are credible reports of serious human rights abuses.

On the economic front, the news is little better. More than 60 percent of the Haitian national budget is still sustained by foreign dollars and Haitians still rely heavily on food aid and remittances from abroad. The lack of tangible progress on privatization and other reforms, added to the pervasive breakdown in law and order, continues to act as a damper on investment. Ultimately, the staff delegation concluded that private investment in Haiti is unlikely to even reach the low baseline level of 1985 before this century ends.

In terms of United States development projects in Haiti, the delegation found that the majority of the projects they reviewed failed to meet the one test that matters: Sustainability. In other words, we are feeding Haitians fish today but we are not teaching them to catch their own for tomorrow.

There are many more issues raised in the report, but I want to draw attention to the section entitled "Clinton Administration Politicization of Haiti Policy." The Congress has long been frustrated by the lack of good information from the administration regarding United States operations in Haiti, but that is only half of the story.

The staff delegation found that the administration is going beyond mere stonewalling to scapegoating and what they called a sustained and coordinated interagency effort designed to blame the legislative branch for the shortcomings of its own policies in Haiti.

This finding is based on numerous instances when incomplete, inaccurate, and intentionally misleading information about the role that this Congress has played in Haiti was provided by the White House to staff, the AID mission, officials of the Government of Haiti, and to the Haitian business community.

This just adds to the evidence to suggest that of all of the items on the list of things the Clinton administration's policy in Haiti has lacked over the past 3 years, the most important item is candor. Whether we are fibbing to ourselves about what is happening in Haiti or to the Haitians about what is happening in Washington isn't the issue. Either way, the net effect has been to undercut genuine efforts to bring peace, prosperity, and democracy to that small Caribbean nation.

That, Mr. Speaker, is the real tragedy here and we should begin hearings based on the staff report.

REPUBLICANS AND EARTH DAY

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning business for 5 minutes.

Mr. PALLONE. Mr. Speaker, yesterday, April 22, was Earth Day, the 26th anniversary of Earth Day. Because we were not in session yesterday, we had an opportunity to be in our districts and in my case in New Jersey and to celebrate the day by participating in various events and talking about some of the environmental issues that are important to America these days.

It is very unfortunate though that last year, in 1995, when Speaker GINGRICH and the Republican majority and the Republican leadership first took office and it was the 25th anniversary of Earth Day, we saw a systematic effort on the part of the Republican majority, the Republican leadership, to try to tear down 25 years of environmental progress that had been made on a bipartisan basis in this Congress and with the cooperation of Presidents, again both Democrat and Republican.

Today, because of the fact that many in the Republican leadership—specifically the Speaker—saw that the efforts, those efforts to tear down environmental protection, to weaken environmental laws, to not provide funding for enforcement and for investigation against polluters, because that effort did not meet a favorable response with the American public and because the polling the Republican leadership did show very emphatically that the public did not like the antienvironmental tactics that the Republican majority here was taking, all of a sudden now we see Speaker GINGRICH and the Republican majority saying that, or trying to give the impression that, somehow they are pro-environment.

Today for the first time we have three or more environmentally friendly bills that are going to be brought to the floor of the House. It is no accident that it is the day after Earth Day. Just like planting trees and visiting zoos and other things that GINGRICH had suggested that Republican Members do, now he is proposing legislation on the day after Earth Day to try to basically give the impression that the GOP is environmental friendly. They are not. Like a wolf dressed in sheep's clothing, many of the Republicans in this body are trying to give off the false appearance of concern for the environment and the health and safety of the American people. But they have worked consistently in this Congress to gut successful environmental laws such as the Clean Water Act, the Clean Air Act, Superfund, and the Safe Drinking Water Act. They have voted to substantially reduce funding for key environmental agencies such as the EPA and the Interior Department. They have tied the hands of these agencies by attaching antienvironmental riders onto their appropriation bills.

These bills that we will be voting on today are nothing more than a figleaf being used to hide the shameful voting record of many Republican Members on the environment. Unfortunately, the leaf they have chosen just is not big enough.

I want to use this chart to talk about the battery recycling bill, which is going to come up today and is a very good bill; but many of the Republicans cannot hide, by voting for this bill today, their previous votes on issues that are related.

For example, most of them voted—if I could turn this over, Mr. Speaker—basically against protecting children from arsenic in their drinking water. They voted against adequate funding for our Nation's toxic waste cleanup programs. They voted to stop the EPA from protecting Americans from exposure to arsenic, dioxin, lead, and other cancer causing pollutants and to allow corporate polluters to dump up to 70,000 chemicals into our Nation's rivers, lakes and streams and, finally, to allow industry to pollute our drinking water.

I want to make certain that the American public knows what is going on here today on the floor of this House. I will be supporting these bills today, the Coastal Zone Management Act, the battery recycling bill, the national wildlife refuge bills, and I have supported pro-environment initiatives throughout this Congress. Unfortunately, many of my friends on the other side of the aisle cannot say the same.

For that, we are going to give them today the figleaf award. The figleaf award is given to those Republicans, the majority of them, who are essentially using Earth Day antics to try to cover up their environmental records.

Mr. Speaker, it is not fair. When I came to Congress in 1988, I came here because many of my constituents were concerned about the environment and hoped that by coming down here I could do something to turn around the dismal situation at the Jersey shore where we had medical waste and a lot of debris washing up on our beaches and our beaches were closed. I am very proud to say that Democratic Congresses, in cooperation with Republican and Democratic Presidents over the last 8 years, have done a lot to clean up our water. But this Congress has tried to turn back the clock.

The Republican majority and its leadership should not be allowed to hide what they are doing behind a figleaf.

Mr. VENTO. Mr. Speaker, if the gentleman will yield, the gentleman's figleaf, if they wore that figleaf in public they probably would be arrested for indecent exposure. The fact is, there is not any figleaf that is big enough to cover up the damage and the effort to undo environmental public policy that this Congress has done. In fact this Congress has not done the big things right. It is not doing the little things right.

Earth Day is not just the 26th day. Earth Day was not just yesterday. It is every day, not just 1 week but 52 weeks a year.

Mr. PALLONE. Mr. Speaker, I appreciate the comments of the gentleman from Minnesota.

GLOBAL ENVIRONMENTAL CLEANUP ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. MICA] is recognized during morning business for 5 minutes.

Mr. MICA. Mr. Speaker, today is the day after Earth Day, and I am one of those Members of Congress from the Republican side who feels that every day should be an Earth Day because really, if you stop and think about it, most of the rest of the world is destroying our planet.

We have taken some corrective actions in this Congress and through Republican efforts. The Environmental Protection Agency was first proposed by President Nixon in 1972. Republicans have a long history of supporting cleaning up the environment, not only in this country but also in the world. One reason I came to the floor today is to announce that I am reintroducing legislation that I introduced in my first term. I have only been here 38 months, but this was probably the first place of legislation I introduced as a new Member. It deals with cleaning up our global environment.

As a former businessman, I had a chance in the international trade field to travel the world and see the mass destruction of our planet by so many nations. What disturbed me in traveling around the world and looking at what is going on was that in fact the U.S. policy, the U.S. financial backing was supporting some of these efforts at destruction of our planet.

So one of the first bills I introduced was called the Global Environmental Cleanup Act. I introduced it; it never got a hearing with the old majority. Really never got a fair airing. I felt that it was important that the United States, through legislation and through a directive from Congress, state as a firm policy that countries who receive any type of financial assistance should in fact be obligated to clean up the environment.

That is exactly what this bill will do. And I invite my colleagues to join me in being cosponsors of the legislation this week when it is introduced. Basically what it says is if you receive U.S. financial assistance, financial aid, that a certain percent of that financial aid, and whether it is to build a dam or whether it is to create an industry or some activity in a foreign nation, that in fact that portion of those funds from the United States and the taxpayer goes to clean up the environment in these countries. It is a reasonable approach and a reasoned approach.

The other thing that I noticed is that because of the way other countries, third world countries and other competing countries compete with the United States in manufacturing and other activities, often using lower environmental standards. They bring products into the United States at a lower cost, with less environmental protection, less attention to environmental cleanup and protection and they compete with our businessmen and women on an unfair basis. So this is a little bit of an equalizer.

This bill is also interesting because it also impacts every agency of the United States that deals in financial support or assistance or backing. The United States actually supports the finances of almost all third world nations. If we pulled out our financial backing through the United Nations, through the World Bank, through the various development banks and regional banks, many of these countries could collapse.

What this bill says, in its second part, is in fact that cleaning up the environment and environmental policy will be part of our policy and our financial backing. We will direct our representatives to these organizations to express not only by their voice but also by their vote support for environmental cleanup so our taxpayer dollars will help clean up and establish a policy for cleaning up these third world nations that abuse the world environment.

Let me provide examples. In Egypt, the second largest recipient of United States foreign assistance and we see pollution that would startle any environmentalist, and certainly should be a concern to every American. If you look in the Western Hemisphere in Mexico, a major trade recipient, a recipient of the largess of the United States, environmental pollution is a disaster. This bill and my colleagues' action in cosponsoring will help clean up that mess.

VARIOUS REFUGE BILLS ON SUSPENSION

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. HINCHEY] is recognized during morning business for 4 minutes.

Mr. HINCHEY. Mr. Speaker, I am from the State of New York where we have a long history of protecting the environment on a bipartisan basis. As a matter of fact, New York was the State that gave to the Nation Theodore Roosevelt, who more than any other person was responsible for the establishment of our system of national parks. It is also the State where Nelson Rockefeller was the Governor, a great Republican Governor, one who led the fight in the early 1960's for environmental protection and particularly in cleaning up our waterways with the New York Clean Water Act.

Unfortunately in this Congress the sense of bipartisan responsibility and protection for the environment has just flown out the window. It is completely absent. However, later on this afternoon, we will see part of what can only be described as a great American confidence game, a con game.

In a con game what happens is this, the confidence man or person tries to gain your confidence so that he can put a fast one over on you. That is what is happening here this afternoon. The Republican majority of this Congress will try to gain the confidence of the American people with regard to the environment by passing some very simply, noncontroversial environmental bills, while all the time hiding the fact that over the course of the last year and a half throughout this Congress, they have systematically gone aggressively forward with attempts to destroy the environment. The figleaf of this confidence game that they will be promoting this afternoon, when that is taken away, shows clearly what the record is. There it is.

They voted earlier this year for including waivers of environmental laws to mandate salvage logging in the national forests. That will result in the cutting of old growth trees in national forests in the Northwest and all across the country. Fiscal year 1995 rescission bill, H.R. 1158, vote No. 204, on March 15, 1995, the Yates amendment to delete the salvage rider, the Republican vote was 208 to 17 in support of that kind of cutting, logging without laws, rollcall 204. They voted also for opening the Arctic National Wildlife Refuge for oil and gas development. That was the Budget Reconciliation Act, H.R. 2491, vote No. 812 on November 17 of last year. The Republicans voted 232 to 1 in favor of the budget bill with the ANWR Act in it, oil drilling in the wildlife refuge, opening up the wildlife refuge to rapacious oil drilling. At least twice they voted for an Interior appropriations bill which guts the Endangered Species Act, increasing logging in the Tongass National Forest, allowing pesticides to be used in national wildlife refuges and undermining the Mohave National Preserve. That was the fiscal year 1996 Interior appropriations bill, H.R. 1977, vote No. 853. It occurred on December 13 of last year. And on that vote the Yates motion to recommit to conference was opposed, and the Republicans voted 229 to 3 against recommiting that measure to conference.

Also the veto override, vote No. 5 on January 4, 1996, the Republican majority in this House voted 225 to 4 in favor of overriding the President's veto; 98 percent of them voted for that veto override, which gutted the Endangered Species Act. And also they voted for slashing the Land and Water Conservation Act programs which protect fish and wildlife habitat, fiscal year 1996 Interior Appropriations Act, H.R. 1977, vote No. 502, which occurred on June 12, 1995.

The gentleman from California, GEORGE MILLER, introduced an amendment to restore the administration's $235.1 million budget request for Land and Water Conservation Act land acquisition. The Republican majority voted 228 against that act. So they slashed the land and water conservation fund.

So let us not be conned. Let us not be conned by the figleaf of environmental protection when what has really been happening here on a systematic and aggressive basis is an attempt by this majority to undermine every significant environmental protection law that this country has.

MEDICARE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. MILLER] is recognized during morning business for 5 minutes.

Mr. MILLER of Florida. Mr. Speaker, I rise today to talk about Medicare, but my colleagues on the other side of the aisle keep bringing up the issue of the environment. I am glad the previous speaker talked about all the environmental Republicans from the fact that President Nixon was one that brought forth the Environmental Protection Agency. The real core difference we have, we are all for the environment. The difference is whether Washington has all the answers or we know better in Florida what to do with the Florida environment and New York knows better what to do with their environment. I do not believe that Washington is the expert on every single subject. We need to let the States have the power to make some of those decisions.

What I rise today to talk about is Medicare. There are two articles in today's papers about Medicare; one in the New York Times, the front page, and one in the Wall Street Journal.

The New York Times article talks about how Medicare is in a bigger financial problem than we realize. And the Wall Street Journal article talks about how the Democrats are making it a campaign issue, which is too bad because Medicare is far too important to play politics with and to scare seniors.

The New York Times article says that the Medicare Program is in worse than projected financial problems. They talk about the fact that last year, for example, in the Medicare Program, the part A Program, was projected to have a $4.7 billion surplus. Instead it ran a $35.7 million deficit. So we started the problem a year ago. In this current fiscal year, the first 6 months, during this whole year the projection has been that Medicare would have a $4.2 billion surplus. We are losing money already this year. We are projected to have a surplus of $45 million this year. Instead we are going to have a $4.2 billion deficit for the first 6 months alone. Medicare is going bankrupt faster than we ever thought it was.

We said it was going to go bankrupt in 7 years. It is probably going to go bankrupt now in another 5 years or so, and we are anxious to get the trustees' report to see how serious the problem really is.

The one thing good about the New York Times article is Chris Jennings, who is a special assistant to President Clinton, says, Republicans and Democrats should work together to address the problem. That is exactly what we need to do. This is a bipartisan problem. It is too important to demagog and scare seniors. I have an 87-year-old mother who is dependent on Medicare. In 11 years I will be on Medicare. We all have family and relatives and friends on Medicare. We cannot allow the program to go bankrupt and we are not going to. We are going to save the system. We all agree to save the system.

President Clinton, my friends on the other side of the aisle, everybody wants to keep the system alive, keep it going. We have to do that. It is too important. But we should not scare seniors. Being from Florida, we know what happens when you scare seniors, Gov. Lawton Chiles used that in his campaign back in 1994, and there were hearings in the State legislature how they had a mediscare campaign in Florida. That is wrong and we should stop doing it here.

It was brought out in the Wall Street Journal article today. Let me read a couple comments from that.

> Democrats and their allies are mounting an aggressive drive to paint Republicans as Medicare's undertakers, ignoring the Democrats own overhaul proposals and charging instead in a national advertising campaign that the GOP wants to savage the program.

Come on. Let us get serious about this. Medicare is too important. We agree; they agree. We have to save the program. Stop using rhetoric like that. These are ads run by, whether it is the Democratic Party or the AFL–CIO spending their $35 million to beat up on Medicare, they say it is wrong to start cutting Medicare.

Minority Leader GEPHARDT has a quote in here, the extremist Republican Medicare cuts would destroy and devastate the program.

Again, let us get serious. That is not right. That is scaring seniors. I have more seniors in my district than anyone else. We have to take care of Medicare and we will.

Robert Reischauer is quoted in here, former head of the Congressional Budget Office, appointed by Democrats, saying, if you keep it in proper perspective, we are within striking distance of each other. We are going to spend $1.6 trillion over the next 7 years on Medicare. The difference between the Republican proposal and the Democratic proposal is $44 billion. We are not talking about big differences.

We have learned a great deal over the past year about what is wrong with it. It is full of waste and fraud and abuse. If we cannot find $44 billion over 7 years, more waste, fraud, and abuse, then we are not doing a very good job.

That is what we have to focus on, the waste, fraud, and abuse. The Republicans are allowing Medicare to be the fastest growing part of our budget. If you look at it on a per person basis, we are going from $4,800 per person on Medicare to $7,100 per person on Medicare over the 7 years, more money every year to spend on Medicare. So we are going to take care of Medicare but we have to slow the rate of growth. To say we are destroying and devastating the program, that is wrong, and all you are doing is getting senior citizens scared. I have got too many senior citizens to have scared like that. I think it is wrong and we need to stand back and say this is a bipartisan issue. Let us work together to save the Medicare Program.

THE MINIMUM WAGE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from North

Carolina [Mrs. CLAYTON] is recognized during morning business for 4 minutes.

Mrs. CLAYTON. Mr. Speaker, every person who works desires to earn a livable wage. That is the reason for working.

That is not true today.

Some 12 million workers earn a mere minimum wage.

What is a minimum wage?

A minimum wage is the least, the lowest, the smallest wage possible—a minimal wage.

It is not a wage that reflects the cost of living.

It is a wage that the law allows an employer to pay, without regard to the cost of basics—food, clothing, and shelter.

A worker can work very hard and be productive—40 hours a week—and his boss is only required to pay the least, the lowest, the smallest possible wage—a minimal wage.

Mr. Speaker, is it fair to allow employers to pay a wage that is 50 cents less in value than it was when the wage was set 5 years ago? That is a 40-year low.

The price of living has steadily risen, while the pay for working has steadily fallen.

The proposal to increase wages to make them more livable is a constrained proposal.

The increase would be a barely significant 90-cents per hour—in two installments of 45 cents each, over 2 years—raising the minimum wage from $4.25 to $5.15.

Yet, while the 90-cent increase is barely significant when compared to wage and income increases among managers, politicians, and other professionals—it is an increase that could make life livable for millions of Americans.

A 90-cent raise in pay for minimum-wage workers would add $1,800 in additional income over a year.

That amount of money—$1,800—could buy 7 months' worth of groceries for the humble and unassuming family.

That amount of money—$1,800—for a single mother, with children—could cover 4 months of basic housing costs; 9 months of utility bills; more than a full year's tuition at a junior college; and 1 year of health care costs.

That amount of money could make a substantial difference in the quality of life for the working poor in America.

Who are the working poor in America, Mr. Speaker?

Most are adults—20 years old or older. In fact, more than 7 out of every 10 of the working poor are adults.

Also, most are women, and many are single, heads of households, with children. In fact, about 6 out of every 10 of the working poor are women.

Mr. Speaker, the least, the lowest, the smallest possible wage—the minimum wage—that the working poor can earn has increased just once in the past quarter of a century. That one increase in 25 years was by 90 cents in two installments as well.

Thoughtful economists and scholars throughout the United States have closely monitored and studied the impact of minimum wage increases on the economy.

An impressive list of those economists and scholars have concluded that increasing the minimum wage had no significant, long-term, adverse impact on employment.

Indeed, a higher minimum wage can make it easier to fill vacancies and can decrease employee turnover.

We will soon debate welfare reform proposals. How can we realistically expect cooperation from those on public assistance when, at current minimum wage levels, a person who leaves welfare and takes a job would simply move from one poverty status to another?

In 1955, more than four decades ago, the value of the minimum wage was a little less than $4. Today, the value of the minimum wage is a little more than $4. Surely, we should not expect a worker in 1996 to live on 1955 wages.

Historically, the issue of a fair minimum wage has enjoyed broad, bipartisan support. The issue deserves no less today.

I urge all my colleagues, Republicans and Democrats, to join in supporting a livable wage for all Americans.

I urge my colleagues to support H.R. 940, a bill with a modest increase in the minimum wage.

MORE ON THE MINIMUM WAGE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. RIGGS] is recognized during morning business for 5 minutes.

Mr. RIGGS. Mr. Speaker, I wanted to rise to address the minimum wage issue for just a moment as one of seven Republicans who a few weeks ago voted for a procedural motion on this floor that would have allowed the House to then consider actually a vote on increasing the minimum wage and as 1 of 20 Republicans who have now joined together to introduce our own version of legislation increasing the minimum wage. This is our competing version with the version that has been offered by our Democratic colleagues.

What I wanted to first point out before this minimum wage bandwagon gets too far along in the process is that some of our Democratic friends, especially those in the other body, are not leveling with the American people. They are not telling the American people, for example, that during the past 2 years, when they controlled both Houses of the Congress and of course the Presidency, they did not entertain legislation to increase the minimum wage. That sort of begs the question: Why, if you think it was such a high priority, if you think it is such a high priority now, why did you not address it when you had the chance, when you controlled both Houses of the Congress and the Presidency?

Second, Mr. Speaker, let me say that one reason, in fact the main reason that I supported increasing the minimum wage is because I believe we have to make work more attractive than welfare. I campaigned in 1994 on a promise of supporting an increase in the minimum wage provided it was coupled with meaningful welfare reform. I was concerned, first of all, that the minimum wage has lost a lot of its purchasing power to inflation and that we ought to increase the minimum wage to at least keep pace with inflation. Second, we ought to increase the minimum wage, as I said before, to make work more attractive than welfare.

Over the past 15 months, the new Republican majority in the Congress has been attempting to help President Clinton, who, as candidate Clinton back in 1992, campaigned on a promise of ending welfare as we know it, made good on the promise. We have been dealing with meaningful welfare reform. We want to end the Federal entitlement for welfare. We want to make block grant programs which the States would administer. We want to impose a time limit of 2 years or less at the discretion of the States on receiving welfare benefits and a 5-year lifetime limit on receiving welfare benefits.

Second and probably even more importantly, we want to require able-bodied welfare recipients to work at least part time or enter a job training program in exchange for their benefits. That is emphasizing work over welfare. We recognize because so many welfare recipients are single mothers and that they struggle against heroic odds that we have to increase funding for child care and transportation to help those welfare recipients make that difficult transition from welfare to work. But again part of making that transition from welfare to work, at least in my view, is to increase the minimum wage.

Mr. Speaker, that is why I am cosponsoring legislation which would increase the minimum wage, the Federal minimum wage to $5.25 per hour over the next year. If we are going to reform welfare by moving people from welfare to work, they need to be able to earn a more living wage. They ought to be in a position as a former welfare recipient to enter the work force in an entry level position, at least being able to meet their own needs, hopefully as well as the needs of dependents.

Mr. Speaker, one glaring problem, one major flaw with our current welfare system is that in many cases it pays more for some people to stay on welfare. That is to say, welfare benefits in the aggregate pay more than what a person can make in a minimum wage job. If we want to reform welfare as the Republican majority in the Congress has been attempting to do with no help or support or cooperation from our Democratic colleagues, we have got to make work pay more than welfare. We have got to reverse that perverse incentive where welfare is more attractive than work. So reverse the equation, if you will, and that is why I support raising the minimum wage.

It is a sad fact that a full-time minimum wage worker in America today would earn approximately $8,840 for a year's work, which is far less than many States pay in welfare cash benefits and well below the Nation's poverty level. We need to correct this inequity so that people who want to work are not forced to choose between work and welfare because welfare pays better.

Again, Mr. Speaker, the point I wanted to emphasize is that the minimum wage increase in my view should be coupled with meaningful welfare reform like the welfare reforms that President Clinton promised back in 1992 and like the welfare reform legislation that President Clinton has twice vetoed over the last 15 months.

THE MINIMUM WAGE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Massachusetts [Mr. OLVER] is recognized during morning business for 4 minutes.

Mr. OLVER. Mr. Speaker, last week 20 House Republicans introduced a bill to raise the minimum wage by $1.50 each over the next 2 years. They broke from their leadership and agreed with what we Democrats have been saying all along. People working 40 hours a week ought to earn a livable wage.

Now Speaker GINGRICH and Senator DOLE are joining the game, but it is certainly not a done deal. The Republican leadership still plans to weigh any bill down with union-bashing provisions and maybe different minimum wages for different people. They wanted to slow the bill down. Senate Republicans have been blocking a minimum wage vote for months now, and opposition to the minimum wage from Majority Leader ARMEY is well documented.

So the future of this minimum wage movement remains to be seen. But the movement must succeed. We must fight to bring the minimum wage back in line with what working people in America need to get by. These are the facts: 10 million American workers earn only the minimum wage. The minimum wage has not been raised in 6 years, but the buying power of $4.25 an hour is 50 cents less than it was in 1991. Two-thirds of minimum wage earners are adults, 40 percent of these adults are sole breadwinners; almost 60 percent of minimum wage workers are women.

Here are some more points to consider: 75 percent of Americans favor increasing the minimum wage. A reasonable minimum wage combined with the earned income tax credit rewards work and is the best way to keep families off welfare. But right now the minimum wage is so low that the earned income tax credit cannot fill the gap, just the 90-cent increase in the minimum wage combined with food stamps and the earned income tax credit would put a family of four that relies on a minimum wage earner back up to the poverty line.

The ripple effect of raising the minimum wage also helps another 2 million workers who now earn between $4.25 and $5.25 an hour. Yesterday's Washington Post stated what is clear to everyone except the Republican leadership: "There ought to be a clean vote in Congress on raising the minimum wage."

Speaker GINGRICH and Senator DOLE should stop fishing around for provisions they can add to the bill hoping to kill it. They should listen to the moderate wing of their own party. Raising the minimum wage lifts all boats. Keeping the minimum at the 1991 level keeps everyone's boat tied to the dock.

LAND AND WATER CONSERVATION FUND

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. FARR] is recognized during morning business for 4 minutes.

Mr. FARR of California. Mr. Speaker, I rise today on Earth Day to remind us that Mother Earth giveth, but the 104th Congress taketh away. Look at the battle of this year: Tried to take away Medicare benefits, affordability of Medicare, tried to take away the school lunch program. And now on Earth Day we see that they are trying to take away the Endangered Species Act, but that is not all.

Mr. Speaker, we have heard earlier today that the 104th Congress decided also to take away the public enjoyment of public lands and sell those to private interests. They want to sell the mountains to the ski resorts, the forests to the logging companies, the rivers to hydropower and to development. They want to sell wildlife refuges to oil and gas development and to hunters. They want to sell the minerals that belong to the people to the mining companies. Lastly, they want to take the Indian lands and sell those to the gambling interests.

In addition to these takeaways from the U.S. public, because the public owns these lands, and give these to private interests, they also want to take away the money that has been derived from the sale of all these resources because we receive value for when we sell the land and water of this country and the grazing lands and so on. What do they want to do with that money? It is our money, sitting in a trust account here in Washington called a lockbox, known as the land and water conservation fund. The lockbox now has our money, $12 billion in there that cannot be spent.

Should we tolerate this? I say no. Look what we can do. Look what happened with a little politics in this House last week, for a similar lockbox. In the transportation funds, the Highway Trust Fund, this House voted 284 to 143 to open that box and allow that money to be spent on the public interests.

In fact, the leader of that movement, the gentleman from Pennsylvania, Chairman SHUSTER, said, Congress imposes taxes on gasoline, on airline tickets and other transportation goods with the assurance that those funds would be spent on the infrastructure improvement, but the problem is that the accumulated surpluses of these dedicated user-generated trust funds are not being spend to build anything. They are just sitting in bank accounts. He went on to say, this is patently unfair to the American traveling public. Well, it is also unfair on Earth Day to the American public that enjoys the out-of-doors to lock up all of their moneys in a trust fund, $12 billion.

My colleagues, the 1995 Republican budget resolution called for a moratorium on the land and water conservation funds. The total balance in that fund is $12 billion, as I said. What is good for the goose is good for the gander. Good roads leading to bad environment sounds like the road to hell paved with good intentions.

RAISING THE MINIMUM WAGE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Puerto Rico [Mr. ROMERO-BARCELÓ] is recognized during morning business for 4 minutes.

Mr. ROMERO-BARCELÓ. Mr. Speaker, I rise in strong support of the Democratic efforts to raise the Federal minimum wage. I am proud to have joined in sponsoring legislation which was introduced in February of last year to raise the minimum wage by 90 cents. I am chagrined that over the last 14 months minimum wage opponents have prevented this legislation even getting a hearing.

When Henry Ford founded the Ford Motor Co., it was his philosophy to pay his workers well enough that they could afford to buy the products they were making. It made sense then and it continues to make sense now. An underpaid labor force cannot provide the consumer demand which is necessary to the long-term strength of our economy. Increased poverty ultimately brings harm to all sectors of our economy, not just the poor.

A 90-cent increase in the minimum wage will add $1,800 to the annual earnings of a minimum wage worker. To them and their families, $1,800 can and will make a significant difference in their ability to meaningfully participate in the American dream.

For an average family, $1,800 is enough to buy 1 year of health-care costs. We in Congress have struggled with the difficulties and expense of providing adequate health care to those who cannot afford their own. We know the tax cost to individuals and businesses when government must step in to provide healthcare benefits to the needy. The minimum wage is part of the solution.

For the average family, $1,800 is enough to buy 7 months of groceries. Businesses cannot prosper when their employees' productivity is impaired by malnutrition. Children will not learn in school if they are not receiving regular, healthy meals at home. The minimum wage is part of the solution.

For the average family, $1,800 is enough to pay basic housing costs for almost 4 months. Is there anything which is more important to a family's well-being and dignity, and a workers' productivity, than adequate housing? The minimum wage is part of the solution.

At a 2-year college, $1,800 is enough to pay for more than a full-year's tuition. The changes in the American economy over the last two decades have left no doubt that only through education and training can American workers hope to better the lot for themselves and their children. Only with a large pool of well-trained workers can American industry compete with foreign companies. The minimum wage is part of the solution.

Contrary to the disingenuous claims of minimum wage opponents, the typical minimum wage worker is not a teenager flipping burgers after school to earn a little extra money to spend at the mall. The typical minimum wage worker is an adult woman, working full-time, and supporting at least one child in her household. She is working increasing hours in her struggle to support her family and to avoid having to rely on the government for her child's next meal.

Recent studies suggest that 300,000 people would be lifted out of poverty if the minimum wage is raised to $5.15 per hour. This figure includes 100,000 children who are currently living in poverty.

We have allowed the minimum wage to drop to its lowest value in 40 years. In 1979, the minimum wage was the equivalent of about $6 per hour in 1996 dollars. It is now only $4.25. We have allowed this decline to happen, not during a time when our economy is suffering, but during a time when corporate profits, executive salaries, and the stock market are at record highs.

A 90-cent increase can make the difference between a family living in dignity and a family living in poverty. It can make the difference between a family being able to afford adequate health care and a family having to rely on woefully inadequate public health programs. It can make the difference between a family being able to improve its lot by participating in available educational opportunities and a family doomed to a downward economic spiral.

Henry Ford's philosophy of paying his workers enough to allow them to buy his products is still a good philosophy. America must pay its workers enough for them to be able to buy a dignified place in our economy.

I urge my colleagues to support raising the minimum wage to $5.15 an hour. Millions of hard working Americans who deserve a better life will appreciate our leadership.

ERMA BOMBECK

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 2½ minutes.

Mrs. SCHROEDER. Mr. Speaker, while I am all in favor of raising the minimum wage, I take the floor today to salute a wonderful woman whose loss I will certainly, certainly feel, and I think all American women will, whether they are getting the minimum wage or whether they are working at home with no wage. Erma Bombeck's loss will really go to the heart of all of us. The laughter that we will lose because of her death really seems very sad.

Mr. Speaker, Erma Bombeck made us laugh about all of the things that we live with every day: husbands' socks having so much fuzz on them you have to shave them, the green fuzz in the refrigerator that people kept asking about and then you were clearly trying to grow your own penicillin, all the problems you have with children who get dressed in the morning in some outfit that really looked more like a costume and you were afraid that somebody would think the child had been drinking before they even got to school.

The problems and the advice that she had for all of us that were so terribly important. She taught me one thing that was very critical; that was never loan a car to anyone you gave birth to. That was very good advice. And you should never have more children than you have car windows in an automobile. It prevents so many fights.

She also went on to tell us all the things about men and watching football. She really thought that there should be a law in this country that, if men watched more than 16 consecutive quarters of football, they should be declared legally dead. I think that there was some accuracy in that, too.

Yes, Erma Bombeck was a person who, even though she became very, very ill and her transplant finally got her and claimed her life, she never stopped laughing. She never stopped making us laugh. She saw the beautiful wit and wisdom in everyday life. So many of us sometimes try to escape everyday life, but she showed us the poetry in it, the philosophy in it and the fun we should all have with it every single day. So her incredible uncommon wit will be missed by every single one of us. How very much sadder the planet is going to be without her penning away about her life as a domestic goddess in Phoenix, AZ.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the House stands in recess until 2 p.m.

Accordingly (at 1 o'clock and 25 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. UPTON] at 2 p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

With praise and adoration, with thanksgiving and gratitude, we offer our prayers to You, O God, and place our petitions before You. We pray for our world and our Nation, for our communities and the people of every background and tradition, for family and friends and for ourselves. We place before You, gracious God, our needs that are both great and small, those supplications that we hold in the secret places of our own hearts, asking that You would forgive us where we are weak or selfish, and strengthen us to do those good works that do justice and mercy. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. TRAFICANT] come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

POSTPONING FURTHER CONSIDERATION OF VETO MESSAGE ON H.R. 1561, AMERICAN OVERSEAS INTERESTS ACT

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that notwithstanding the order of the House of Monday, April 15, 1996, further consideration of the veto message on H.R. 1561 be postponed until Tuesday, April 30, 1996.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

LET US WORK TOGETHER TO PROTECT OUR ENVIRONMENTAL RESOURCES

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUNDERBURK. Mr. Speaker, yesterday President Clinton drove a few miles from the White House and picked up a few logs for Earth Day to try to show his dedication to the environment. I have to ask, why is this President trying to make the environment one of his key campaign issues? He has no monopoly on concern for the environment, just exaggerated rhetoric.

It seems that ever since the Democrats became an endangered species here in Washington, they have turned up the heat on their big-lie campaign in an attempt to take back the majority in Congress. It just so happens that their shameful big-lie campaign is now politicizing the environment.

Mr. Speaker, I want a clean and healthy environment for my children and grandchildren. I support using modern technology and scientific evidence to make sure our environmental protection laws are effective. Mr. Speaker, let us work together to protect our environmental resources, not use them as pawns in cheap political games.

LET US NOT BE MEAN-SPIRITED

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, Members of the House, the radical Republican majority is still bent on cutting educational funds, especially title I funds. It is mean-spirited. Who does it impact on? Not the local school districts, but it impacts on children; children, preschool children in the first and second grade; children like the two that I visited with and many others in my district while I was out there. These young children, without these reading skills, will be destined to a future that they will not be able to participate in in this great society of ours because they will not be able to read.

The Republicans say that we do not need those funds for title I. I say we do. I say that the future of this country is bound by the education that our children receive, and it is necessary that they have the skills of reading and math, and that is what title I provides.

I say to the Republicans, let us not be mean-spirited.

DEMOCRATS SIT BACK AND DO NOTHING TO SAVE MEDICARE

(Ms. DUNN of Washington asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN of Washington. Mr. Speaker, this morning's New York Times carried a disturbing report that I believe deserves notice. The banner reads "New Medicare Trust Fund Data Show Unusually Large Shortfall."

Mr. Speaker, the article says the Medicare hospital insurance trust fund lost $4.2 billion in the first half of the current fiscal year, since the first of October, which suggests that the financial condition of this program is even worse than what was projected by the administration last year. During all of fiscal year 1995 the Medicare trust fund lost $35.7 million, when it should have been a surplus. But now, just in the first half of this year, Medicare has lost over $4 billion.

Last year Bill Clinton vetoed the Congress' Medicare Preservation Act, which would have reformed Medicare. The issue is clear, Mr. Speaker. Liberals would rather sit back and do nothing to save Medicare and then demonize conservatives for their good faith effort to deal with the problem. I think it is outrageous that the other party would risk our parents and grandparents to score political points.

MAYBE THE TYPES OF JOBS BEING CREATED ARE TO BLAME

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Medicare trust funds lost another $4 billion. Payroll contributions keep going down. Maybe it is the type of jobs that are being created.

Check this out: How about a handkerchief folder, a drawstring knotter, a hooker inspector, a pantyhose crotch closer machine operator supervisor, a muff winder, a fur blower, a wizzer operator, a brassiere cup molder fitter.

Evidently, Mr. Speaker, when American workers become muff winding brassieras fitters, and fur blowing wizzer operators, the Medicare trust fund will continue to lose money. Maybe we better take a look at the issue and also take a look at these jobs that do not pay a whole lot of money.

How about a dreawstring knotter? That is really a goal in life.

SHORTFALL GROWING IN MEDICARE HOSPITAL TRUST FUND

(Mr. CHABOT asked and was given permission to address the House for 1 minute).

Mr. CHABOT. Mr. Speaker, I would like to read from the front page of this morning's Cincinnati Enquirer in my district. It says, "Losses Hit Medicare Trust Fund. $4.2 Billion Shortfall Growing." The article quotes a special assistant to President Clinton, who says the new numbers indicate the need to move forward, balance the budget and enact some changes in Medicare that will strengthen the trust fund. Well, no kidding. This from the same administration that for the last year has been opposing every effort to do just that.

Now that President Clinton's own team that has belatedly figured out that the Medicare trust fund is going bankrupt, perhaps the President is ready to abandon his campaign rhetoric finally and join those of us in Congress who have been working to save Medicare for this generation and for future generations of American citizens. Maybe it will stop the shameless "medicare" campaign and we can work together to save Medicare.

LET US PASS AN INCREASE IN THE MINIMUM WAGE NOW

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, what issue is supported by 85 percent of the American people? What issue is supported by 61 percent of Republican voters? Increasing the minimum wage.

So why do we not do it cleanly, without amendments that will clutter the issue?

Mr. Speaker, the last vote to increase the minimum wage occurred in 1989, and due to inflation much of this increase has been eroded. Who does an increase in the minimum wage help? Twelve million Americans. Sixty percent of these are adults over 25 years old; mainly women.

Mr. Speaker, this is not a teenager-plus issue. It is an issue that affects all Americans.

Twelve million Americans would benefit from an increase to $5.15 an hour, including 100,000 New Mexico workers.

Raising the minimum wage is a critical step in moving people from welfare to work. Someone can make more on welfare than they can by working right now. Is $8,400 a year sufficient to help a family? The answer is "no," Mr. Speaker.

Let us end the politics, let us pass a minimum wage bill. Let us move on to health care. Let us leave a lot of these issues that need to be done uncluttered with many amendments. Let us pass an increase in the minimum wage now.

CRIME: A SERIOUS ISSUE IN OUR COUNTRY TODAY

(Mrs. CUBIN asked and was given permission to address the House for 1 minute).

Mrs. CUBIN. Mr. Speaker, I want to talk about a very serious issue in our country today—crime. With all of the freedoms we enjoy in our country today, if we as citizens do not have confidence in our judicial system to keep the criminals off the streets, we do not have total freedom, because we will always be looking over our shoulders or will be too scared to participate in social activities outside of our homes.

Many, many people feel this way today. And who can blame them—when they read stories about Clinton-appointed judges who side with the criminals and blame society. Like the Clinton judge who insisted that the killer had "socially redeeming values," even though he stabbed his victim repeatedly, shot him twice, and laughed at the victim while he pled for his life.

This is wrong. Our justice system should protect the rights of crime victims—not invent newer and more expansive rights for criminal defendants. Our justice system should distribute justice, not liberal social experiments that coddle criminals.

We need to appoint judges who represent and understand America's values.

STOP PLAYING POLITICAL GAMES WITH THE MINIMUM WAGE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. To quickly respond to my colleagues who spoke about Medicare, the congressional Republicans in this body do not want to fix Medicare. They, in fact, want to destroy Medicare. They proposed a $270 billion cut in Medicare to pay for a $245 billion tax break for the wealthiest Americans. Do not let us let them get away with it.

Mr. Speaker, on the front page of today's Washington Times, a Republican Senator says of congressional Republicans, "We have no agenda."

Mr. Speaker, in the spirit of bipartisanship, I want to offer some assistance to my Republican colleagues. For starters, the Republican leadership can schedule a vote on raising the minimum wage in this Nation. Most families are working harder in a mad scramble to pay their bills every single week. They need a raise, and we should raise the minimum wage.

Today the minimum wage is at a 40-year low. Democrats have proposed boosting it by a mere 90 cents, but the Republican leadership continues to block any effort to bring forward a vote on the minimum wage. Let us do it, let us give hard-working Americans the raise that they need to take care of their families.

THE TIME IS RIGHT TO DO RIGHT: RAISE THE MINIMUM WAGE

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, the time is always right to do right. And raising the minimum wage is the right thing to do.

This is not just an economic issue, Mr. Speaker, this is a moral issue. Hard working people deserve the right to earn a livable wage. The minimum wage is at a 40-year low. No one can live, much less support a family, on $8,400 a year.

Mr. Speaker, stop playing politics with people's lives. Bring a clean minimum wage bill to this floor. Do not load it up and bring it down with your pet programs.

The American people, hard-working people, are watching and waiting. Raise the minimum wage.

CAN THE AMERICAN PEOPLE AFFORD ANY MORE CLINTON-APPOINTED JUDGES?

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, one of the most important things that a President, any President, does during his tenure is to fill the vacant Federal judgeships in the Federal judiciary. The other body does have the responsibility to "advise and consent," but ultimately, the responsibility for who sits on the Federal bench is the President's.

President Clinton has a miserable track record for appointing judges. His picks are by and large doctrinaire liberals. Let's take the Judge Baer debacle.

Judge Baer, a Federal judge in New York, refused to admit into evidence 75 pounds of cocaine and 4 pounds of heroin even though the person caught with the drugs gave a full confession. His reasoning in the case was faulty at best, and implied that the New York City police were corrupt and wrong for investigating a clear case of probable cause involving a huge amount of drugs.

Mr. Speaker, Bill Clinton has already appointed 25 percent of all Federal judges. Can the American people afford any more?

□ 1415

COMMENDING PRESIDENT CLINTON'S CALL TO CURB OVERFLIGHT NOISE ABOVE NATIONAL PARK UNITS

(Mrs. MINK of Hawaii asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MINK of Hawaii. Mr. Speaker, yesterday President Clinton announced his commitment to our national parks by ordering that agencies protect them against noise intrusions from park overflights. I applaud this announcement as it joins a hard-fought battle I have waged for 6 years in the State of Hawaii on behalf of residents adjacent to parks, hikers and other park visitors, and precious indigenous species protected by our parks.

I urge the Federal Aviation Administration and National Park Service to act quickly to respond to the President's directive. For the parks in my State, the President has called for a notice of proposed rulemaking by the end of 1996.

My files are full of petitions and letters protesting noise disturbances caused by fixed-wing and helicopter flights over Haleakala National Park on the Island of Maui and Hawaii Volcanoes National Park on the big island. Some hikers report that they can enjoy no peace in pristine areas because air tour operators seek to impress passengers by flying as close as possible to certain park features. Some have sent me pictures of helicopter tours flying close to canopies of trees above their houses, reporting of noise being generated that rudely awakens their children, drops and shatters dishes from kitchen counters, and denies them peace of mind. Some have presented logs documenting an average of 10 flyovers each day.

The President yesterday provided similar rationale for increased regulation of these flights by saying,

> Aircraft flying at low altitudes over national parks can, if not properly managed, mar the natural beauty of the parks and create significant noise problems as well. The intrusion of such aircraft can interfere with wildlife (included endangered and threatened species), cultural resources and ceremonies, and visitors' enjoyment of parks, including the ability to experience natural sounds without interruption from mechanical noise.

I reintroduced legislation in this session of the Congress which aims to provide the relief the President has mandated in the State of Hawaii. H.R. 1369 would restrict flights over Hawaii's National Park System units and create flight-free corridors over certain areas. I urge my colleagues to support H.R. 1369, which would provide necessary relief for the people of Hawaii. And I once again commend the President for his statement that bolsters my efforts.

I welcome the efforts of the executive agencies, but in reality what is needed is legislative enactment of this protection for our national parks.

THE REPUBLICAN MAJORITY IS HOLDING UP THE BUDGET BY INSERTING ANTI-ENVIRONMENTAL RIDERS IN THE BILL

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, Democrats and Republicans have almost come together on a budget that would carry us through the rest of the year, but the one thing that is holding it up are the anti-environmental riders that the Republican leadership insists on putting in the bill.

Today they insist on environmental riders that would bar new listings under the Endangered Species Act, prevent the EPA from protecting wetlands, provide no drinking water standards to protect the public from radon, and also to limit and cap the number of hazardous waste cleanup sites around the country.

It is no surprise to me that today the only reason we are held up on this budget bill is because the Republican leadership continues to insist on putting these anti-environmental riders in the appropriations in the budget process. It is because fundamentally, from the very beginning of this Congress, they took an anti-environmental stance because they wanted to cater to the special interests, the corporate interests, that wanted to continue to pollute and tear down our environmental laws that we have worked so hard for since Earth Day 1970.

Mr. Speaker, I know we are going to hear all kinds of rhetoric today from the Republicans about how they are so pro-environmental, but the real test is if they would eliminate the environmental riders and not put them in the budget bill. All the rest is simply rhetoric for Earth Day.

LET US ADJUST THE MINIMUM WAGE TO $5.15 PER HOUR OVER 2 YEARS

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, one of the issues which Congress must periodically address is the adjusting of the level of minimum wage. I did not say raise the minimum wage, I said adjust the minimum wage. The last adjustment of the minimum wage dollars took place in 1991. At that time the minimum wage was adjusted from $3.80 to the current level of $4.25. Despite that adjustment of 45 cents, the actual buying power of basic hourly compensation is estimated to have fallen by 50 cents because of inflation. In fact, the minimum wage is now 29-percent lower than it was in 1979 and, left unchanged, its real value will be at a 40-year low by January. In the absence of any kind of automatic cost-of-living adjustment, let us take the necessary step to bring this basic entry-level wage up to where it needs to be today.

In the most simple way, we can positively affect the lives of millions of working Americans. Let us approve an adjustment in the minimum wage to $5.15 per hour over the next 2 years.

BILL CLINTON'S JUDICIAL APPOINTEES ARE SOFT ON CRIME

(Mr. COOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COOLEY. Mr. Speaker, Bill Clinton's judges are soft on crime.

All of our antidrug and anticrime legislation is useless if Clinton's judges refuse to enforce the law.

One of Clinton's nominees to the Federal bench—a Democrat fund-raiser from Miami—didn't even know about the Supreme Court's 1995 affirmative action decision.

Another Clinton judge dismissed a defendant's confession and 75 pounds of cocaine.

Why?

The judge ruled that police are corrupt, and that drug dealers should be allowed to run away.

Bill Clinton has already appointed 25 percent of all Federal judges.

If Clinton is elected again, he will have the chance to appoint up to 50 of all Federal judges, as well as one, two, or three Supreme Court judges.

Do the American people want President Clinton to appoint half the Federal judges?

I hope not.

I, for one, would rather see a Federal judiciary that cares about crime victims.

REDUCE DEPENDENCE ON GOVERNMENT BY INCREASING THE RESPONSIBILITY OF EMPLOYERS TO PAY A MINIMUM WAGE

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, we tried welfare reform without jobs. Do we want to put these same people to work without enough pay to live on? All the welfare reform in the world will not do what a raise in the minimum wage will do. One hundred thousand kids would come out of poverty the day we lift the minimum wage. No bureaucrats, no training, just a small hike in the minimum wage. Not 1 cent added to the deficit.

Why should we subsidize employers with food stamps and other benefits in order to allow them to pay less than a minimum wage? Reduce dependency on Government by increasing the responsibility of employers to pay a minimum wage.

CORRECTIONS CALENDAR

The SPEAKER pro tempore (Mr. UPTON). This is the day for the call of the Corrections Calendar.

The Clerk will call the first bill on the Corrections Calendar.

CONTINUITY OF BOARD OF TRUSTEES OF INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

The Clerk called the bill (H.R. 3049) to amend section 1505 of the Higher Education Act of 1965 to provide for the continuity of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development.

The Clerk read the bill, as follows:

H.R. 3049

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTINUITY BOARD.

Section 1505(i) of the Higher Education Amendments of 1968 (20 U.S.C. 4412(i)) is amended—

(1) in paragraph (1), by inserting before the period at the end of the first sentence the following: "or to recommend another individual if the member does not consent to be reappointed"; and

(2) by striking paragraph (2) and inserting the following:

"(2) If the President has not transmitted to the Senate a nomination to fill the position of a member covered by such a recommendation within 60 days from the date that the member's term expires—

"(A) if the member consents to reappointment, the member shall be deemed to have been reappointed for another full term to the Board, with all the appropriate rights and responsibilities; or

"(B) if the member does not consent to reappointment, an individual recommended by the Board under paragraph (1) shall be deemed to have been appointed for a full term to the Board with all the appropriate rights and responsibilities.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia [Mr. NORWOOD] and the gentleman from Michigan [Mr. KILDEE] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from Georgia [Mr. NORWOOD].

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering H.R. 3049, which simply corrects a board of trustees appointment problem for the Institute of American Indian Arts. This legislation was introduced in a bipartisan manner by our colleagues Mr. Goodling and Mr. Kildee at the request of the Institute. This simple fix will help maintain the continuity of the Institute's board of trustees, and will help the Institute to continue to fulfill its mission of educating those who wish to preserve our native American arts and culture.

The Institute of American Indian Arts is a federally created institution of higher education. Its primary purposes are to provide scholarly study of and instruction in Indian art and culture, and to establish programs which culminate in the awarding of degrees in the various fields of Indian art and culture. The Institute is authorized under title XV of the Higher Education Amendments of 1986, and policy for the Institute is set by a board of trustees which includes 13 voting members appointed by the President with the advice and consent of the Senate.

Unfortunately, the board appointment process has proven to be overly cumbersome and this has resulted in a number of board members serving additional terms, sometimes beyond the time they wished to serve, in order to insure that the board could maintain a quorum.

The legislation we are considering today would simply amend section 1505 of the Higher Education Amendments of 1986 to allow the board to recommend successors for the board members whose terms are expiring and who do not wish to serve additional terms. The President would have the prerogative to act on these recommendations, or to appoint another qualified individual of his choosing subject to confirmation by the other body.

However, should the President fail to act within 2 months of the expiration of the sitting member's term, and should that member not wish to serve an additional term, then the individual recommended for appointment by the Board would be automatically seated.

Mr. Speaker, this legislation is bipartisan and revenue neutral. It does not limit the options of the President in making appointments to the board, but merely streamlines the appointment process for this one institute. This is a small step in our efforts to make Government more responsive and less burdensome for those it is intended to serve. But it will make a real difference for those at the Institute, who are preparing the next generation and preserving an important part of our heritage.

This is commonsense legislation, and I urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to rise in support of this legislation that I cosponsored with my friend, Bill Goodling.

Ten years ago, I worked with Bill Goodling, and a number of other Members, to create the Institute of American Indian Arts. The Institute was to provide a place of study and instruction in the culture, history, and arts of the native American people. Mr. Speaker, the Institute has been very successful in accomplishing this mission, as the gentleman from Georgia has pointed out. Today, the Institute offers degree granting programs in a variety of fields, and has served a vital purpose in helping educate people on the native American culture. The policy of the Institute is set by a 13-member voting board, which is appointed by the President of the United States.

The problem that brings us here today, is the appointments to the Institute's board of trustees have not been made in a timely fashion. As a result, the board of trustees does not have the ability to function in the best interest of the Institute.

This legislation, very simply, will allow the board to appoint an individual to the board if the President does not act within 2 months of the expiration of a sitting member's term.

This legislation will allow the board to operate in a more effective and efficient manner, as the gentleman from Georgia has pointed out.

I believe this legislation makes good sense, and I urge my colleagues to support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. NORWOOD. Mr. Speaker, I yield 2 minutes to the gentlewoman from Nevada [Mrs. Vucanovich].

Mrs. VUCANOVICH. Mr. Speaker, I thank the gentleman from Georgia for yielding time to me.

Mr. Speaker, I am pleased to rise today in support of H.R. 3049 and H.R. 3055, the second and third bills brought to the floor this session under the corrections day process.

Since the commencement of corrections day, seven bills have been signed into law by the President, and six bills have passed the House and are waiting further action in the Senate. I believe we are compiling a record of success, and that the corrections calendar will continue to be relied upon by the House.

The American people are demanding a more responsive Government, and corrections day plays a key part in meeting their demands. I believe that the two bills we will consider today are superb examples of how corrections day is a process that works for the American people.

I would like to thank the members of the corrections day advisory group, especially Mr. Waxman, who through his and their efforts, make corrections day truly bipartisan in nature. I also want to thank Chairman Goodling, Mr. Norwood, Mr. Kildee, and the Opportunities Committee for their hard work in getting these bills to the floor. I am hopeful that the Senate will recognize the need for quick action and send these bills to the President without delay.

Mr. KILDEE. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. Richardson].

Mr. RICHARDSON. Mr. Speaker, I want to thank the chairman and ranking member of the committee, and the gentleman from Georgia [Mr. Norwood], in addition, for their attention to the Institute of American Indian Arts, which is located in my district in Santa Fe, NM. I especially want to commend the gentleman from Michigan [Mr. Kildee]. It is true he is one of, if not the, father of this institution, with some very valuable legislation that he offered over the years, along with the Committee on Education and Labor.

Let me say, Mr. Speaker, that I will at this time support the bill, but I do have some concerns about the precedent this bill sets in putting restrictions on Presidential appointments, so this is not a Democratic or Republican issue. I believe that in the future, before we consider legislation which in any way limits a President's duty to appoint boards, that we should really take a hard look at the precedent it sets.

□ 1430

Nonetheless, this bill addresses one of the biggest obstacles the Institute faces. The Institute has lost its Federal funding, half of it, last year, and has directions from this body to become totally privately funded in a matter of years.

In times like this, you need a strong board of directors that is going to raise money, that is going to find other sources of money, and which can provide strong leadership. This is very important at this time.

However, let me just state that besides that concern that I have of putting restrictions on board appointments, let me say that the board at the institute for American Indian Arts has not always been the most stable force there. They have a board now that I believe is offering leadership.

I see the gentleman from New Mexico [Mr. Skeen] here, my good friend who is responsible for keeping the Institute alive 1 more year, and hopefully, with the help of the gentleman from Ohio [Mr. Regula], for 3 more years in a transition to it becoming a private institution.

Again, I think this legislation is well meaning, but I think we have to be very careful about limiting Presidential appointments to boards. One of the problems has been the White House, regrettably, delayed naming many of these board members.

This is not a big fish, this issue. This fish happens to be in my congressional district, nonetheless, and it is an institute that is teaching young men and women, native American men and women, an ability to express themselves in art. Some outstanding art comes from here. The institute has gotten its act together. Let us not object to this bill.

I think as we move ahead in the other body, we should just be sure that we are not infringing on a Presidential priority, infringing on a Presidential prerogative. But I think this legislation is in response to a situation that needs to be corrected. For that reason, I will be supporting it. I hope in the days ahead we can deal with some of these concerns, but this is not the time to derail good legislation as it moves forward.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong support of H.R. 3049, a bill providing for the continuity of the Board of Trustees of the Institute for American Indian and Alaska Native Culture and Arts Development. Since 1988, I have been appointed by the Speaker's office to fulfill the Board of Trustee position for the two congressional seats of the U.S. House of Representatives and I thank the Speaker for this honor.

As you know, the Institute is a federally created institution for higher education, authorized under title 15 of the Higher Education Amendments of 1986. Its primary function is to provide instruction in Indian arts and culture and establish a program which completes with the award of degrees in the contemporary and traditional fields of Indian art and culture.

Unfortunately, the appointment/reappointment process of fulfilling the Board of Trustees vacancies has proven to be extremely cumbersome and the appointments of voting members to the board has not been made in a timely manner. H.R. 3049 would prevent the situation where board members have felt obligated to serve additional terms in order to maintain a quorum for the purpose of conducting business. I urge my colleagues to vote yes on this purely technical corrections bill and thank the Speaker for the opportunity to voice my concerns.

Mr. KILDEE. Mr. Speaker, I yield back the balance of my time.

Mr. NORWOOD. Mr. Speaker, my compliments to the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Michigan [Mr. KILDEE] for this excellent corrections day bill. Since I have no further requests for time, I will also yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). Pursuant to the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and (three-fifths having voted in favor thereof) the bill was passed.

The title of the bill was amended so as to read: "A bill to amend section 1505 of the Higher Education Amendments of 1986 to provide for the continuity of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development.".

A motion to reconsider was laid on the table.

CONTINUED GRANT PARTICIPATION BY HISTORICALLY BLACK GRADUATE PROFESSIONAL SCHOOLS

The Clerk called the bill (H.R. 3055) to amend section 326 of the Higher Education Act of 1965 to permit continued participation by Historically Black Graduate Professional Schools in the grant program authorized by that section.

The Clerk read the bill, as follows:

H.R. 3055

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds the following:

(1) The Historically Black Graduate Professional Schools identified under section 326 of the Higher Education Act may receive grant funds if the Secretary of Education determines that such institutions make a substantial contribution to the legal, medical, dental, veterinary, or other graduate opportunity for African Americans.

(2) The health professions schools which participate under section 326 train 50 percent of the Nation's African American physicians, 50 percent of the Nation's African American dentists, 50 percent of the Nation's African American pharmacists, and 75 percent of the Nation's African American veterinarians.

(3) A majority of the graduates of these schools practice in poor urban and rural areas of the country providing care to many disadvantaged Americans.

(4) The survival of these schools will contribute to the improved health status of disadvantaged persons, and of all Americans.

SEC. 2. ELIMINATION OF GRANT RENEWAL LIMITATION.

Section 326(b) of the Higher Education Act of 1965 (20 U.S.C. 1063b(b)) is amended by striking the second sentence.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia [Mr. NORWOOD] and the gentleman from Missouri [Mr. CLAY] each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Georgia [Mr. NORWOOD].

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank you for allowing me and my colleague from Missouri, Mr. CLAY, to bring to the floor a small yet important bill. H.R. 3055 corrects a situation going on here in Washington that has a big effect on five historically black colleges and universities, including two major Georgia colleges that supply health care professionals to nearly every county in my district.

Because of a technicality in the Higher Education Act of 1965, both Morehouse School of Medicine and Clark-Atlanta University could stand to lose their ability to compete for Federal education grants. Under that 1965 Act, grant eligibility is limited to two 5-year grants. These schools have received their two 5-year grants.

This was originally done to make sure a small number of schools didn't monopolize the few grants that were available, but over the years that situation has proven not to be an issue. At present, the other 11 schools covered by the Act have said that they have no objection to Morehouse and Clark, as well as the other three schools, continuing to compete, yet this unnecessary rule still is on the books, which means both colleges will be shut out of the process starting next year unless we act now.

H.R. 3055 will correct this situation. Here's why this is so important—the five schools who will lose grant eligibility under this rule provide more than half of the entire country's African-American physicians, pharmacists, and dentists, and three-quarters of all African-American veterinarians.

For the most part, these health-care professionals practice in poor urban and rural areas, where they serve a large number of poor Americans regardless of their race. It would be inexcusable to allow these colleges' ability to put qualified health-care providers in the field to be compromised because of a rule that should no longer apply.

Mr. Speaker, H.R. 3055 contains no new spending, and does not increase the Federal deficit. H.R. 3055 contains no new Federal mandates. But what H.R. 3055 does contain is a small measure of help for those who would provide medical help to many in rural and poor areas. I urge my colleagues to vote in favor of H.R. 3055.

Mr. Speaker, I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume. I rise in support of H.R. 3055 and commend my colleague, Mr. NORWOOD, for cosponsoring this legislation. I am proud to note that this bill was favorably reported by the Committee on Economic and Educational Opportunities with unanimous, bipartisan support.

Mr. Speaker, this bill corrects a problem with respect to section 326 of title III of the Higher Education Act. That section was added to the act in 1986 as a way to provide support for historically black graduate and professional institutions of higher education which perform vitally important services for our Nation.

As Mr. NORWOOD stated, the five schools initially included in section 326 educate more than half of all black doctors, dentists, and pharmacists, as well as 75 percent of all black veterinarians each year. That is a major return on the small investment provided by the Federal Government.

H.R. 3055 allows those five institutions to continue to do what they do so well. It will allow them to remain eligible to receive section 326 support at no additional cost to the Federal Government.

I urge my colleagues to support this bipartisan effort.

Mr. Speaker, I yield back the balance of my time.

Mr. NORWOOD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and (two-thirds having voted in favor thereof) the bill was passed.

A motion to reconsider was laid on the table.

RESIGNATION AS CONFEREE AND APPOINTMENT OF REPLACEMENT CONFEREE ON H.R. 3019, BALANCED BUDGET DOWN PAYMENT ACT, II

The SPEAKER pro tempore laid before the House the following resignation as a conferee:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 23, 1996.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I hereby resign as a conferee for the entire bill, H.R. 3019, the omnibus appropriations measure for Fiscal 1996. I intend to remain a conferee for the Labor, Health and Human Services, and Education portion of the bill.

Thanking you and with best regards, I am
Sincerely yours,
STENY H. HOYER.

The SPEAKER pro tempore. Without objection, the resignation of Mr. HOYER as a conferee on the primary panel of conferees is accepted, the gentleman from Ohio, Mr. STOKES is appointed to fill the resulting vacancy among the primary panel of conferees, and is reappointed as a conferee for consideration of section 101(c) of the House bill and section 101(d) of the Senate amendment and modifications committed to conference.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules but not before 5 p.m. today.

BATTERY RECYCLING AND OTHER ENVIRONMENTAL ISSUES

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER pro tempore. Without objection, the gentleman from New Mexico is recognized for 1 minute.

There was no objection.

Mr. RICHARDSON. Mr. Speaker, on the issue of the environment and Earth Day, we have to be very careful not to politicize these issues. We are about to take up a battery recycling bill, which is a good bill. By the way, it used to be my bill and FRANK PALLONE' bill, now is a Republican bill. We accept that. Things change.

But we should not, by passing this bill, say that we have ended our tasks in protecting the environment. Battery recycling is important, but it does not correct the environmental rollbacks that many in this Republican majority have pursued this year: Weakening the Clean Water Act, slashing funding for the EPA, weakening the Endangered Species Act, attempting to close down some of our national parks.

We want to take some positive steps on the environment. We also should pass a bipartisan Superfund bill that does not pass the cost of cleanups on to the taxpayer, a safe drinking water bill that keeps public health as a top priority, a park concessions bill that allows fair competition to concessionaires and keeps the cost of visiting our parks down to all Americans.

I do want to commend, I will be commending Chairman BLILEY, Chairman OXLEY, Chairman DINGELL, and ranking member PALLONE for their efforts to bring this battery recycling bill to the floor. Hopefully this will be a good precedent for the Republican majority to celebrate our environment, not just on Earth Day by going to a zoo and exhibiting concern for animals, but by passing concrete legislation.

Mr. Speaker, I think that this is starting to happen with our majority here that realizes that taking on the environment has not been a good issue, that going out and weakening our environmental laws has rebounded negatively with voters. This is a good bill, and our colleague, the gentleman from Wisconsin [Mr. KLUG], should be commended for it.

I especially want to commend the work of the gentleman from New Jersey [Mr. PALLONE], who has been a leader in the fight on mercury poisoning; that is, reducing it. He has been a leader in many issues relating to recycling.

Mr. Speaker, I yield to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman from New Mexico for those very kind remarks and, of course, say the same thing about him. I know this battery bill has been very important to him and the whole issue of battery recycling and concern for mercury in the atmosphere.

I agree with him completely when he says that as much as we believe that this bill is important today and we certainly do want it to pass, that that should not take away from what the Republican majority and the Republican leadership are doing about the environment in general, and how they are continuing to try to move legislation on the floor of this House that would tear down the environmental protections we have had in place for a number of years.

Particularly, today I found out in the Committee on Appropriations, although they are very close to agreement on a spending bill that would take us through the remainder of this year, that the disagreement once again is over environmental issues and over the fact that the Republican leadership insists on these environmental riders or antienvironmental riders that are placed in the appropriations bill that would, among other things, prohibit new Superfund sites from being designated, prohibit the EPA from designating standards for radon in drinking water, prohibit the EPA from being involved in wetlands protection, and the list goes on and on.

□ 1445

So they are continuing their assault on the environment; that is, the Republican majority, at the same time they are making an effort today, or at least to seem to try to show today, that they do bring some environmental legislation to the floor. We cannot mask the fact that some of these measures like the battery recycling bill, even though they are very important, are small measures compared to the damage the Republican majority is doing to the environment.

If I could just for a minute quote what I thought was a great editorial in yesterday's New York Times, just some of it, that is called "Defunding Mother Earth." It says:

> There are many destructive proposals on the Congressional agenda, including several bills that would transfer millions of acres of public land to state and commercial jurisdiction. But the most urgent example of bad legislation is an omnibus appropriations bill now under consideration in a House Senate conference. The bill sharply reduces appropriations for the Environmental Protection Agency and the Interior Department and contains a dozen or so crippling anti-environmental riders.

Today marks the 26th anniversary of Earth Day. In full knowledge of that, House Speaker Newt Gingrich recently formed a 77-member Republican environmental task force. Although 36 members of this task force earned "zero" ratings from the League of Conservation Voters for their routine support of anti-environmental legislation, many of them are likely to spend the week planting trees, visiting zoos and striking friendly poses next to recycling bins. But the best thing Mr. Gingrich could do for his country and his party would be to recognize that what counts here is content, not imagery—and remove those riders from the appropriations bill.

Once again, we need to keep pressing the point that you cannot talk about the environment in a favorable way, and move some bills, and at the same time continue the assault on the environment to tear down the last 25 years of environmental protection since Earth Day.

Mr. RICHARDSON. Mr. Speaker, reclaiming my time, I thank the gentleman from New Jersey. I hope our friends from the majority are on their way. Here is their opportunity to do a real environmental bill. I hope they are not hesitating. I am sure they are on their way. I thank the Chair for allowing this dialog.

This does not diminish the fact this is a good bill, this battery recycling bill. It is something I will say industry, some industry, has taken a very positive role in changing this, in being constructive about change. Hopefully, it will lead to other issues that involve protecting the environment. I think it is very important that we have a bipartisan bill on Superfund, a meaningful bipartisan bill, that does not pass the cost of cleanups on to the taxpayer.

Next, this is the very glorious Committee on Commerce, a safe drinking water bill that keeps public health as a top priority.

MERCURY-CONTAINING AND RECHARGEABLE BATTERY MANAGEMENT ACT

Mr. OXLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2024) to phase out the use of mercury in batteries and provide for the efficient and cost-effective collection and recycling or proper disposal of used nickel cadmium batteries, small sealed lead-acid batteries, and certain other batteries, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2024

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mercury-Containing and Rechargeable Battery Management Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) it is in the public interest to—

(A) phase out the use of mercury in batteries and provide for the efficient and cost-effective collection and recycling or proper disposal of used nickel cadmium batteries, small sealed lead-acid batteries, and other regulated batteries; and

(B) educate the public concerning the collection, recycling, and proper disposal of such batteries;

(2) uniform national labeling requirements for regulated batteries, rechargeable consumer products, and product packaging will significantly benefit programs for regulated battery collection and recycling or proper disposal; and

(3) it is in the public interest to encourage persons who use rechargeable batteries to participate in collection for recycling of used nickel-cadmium, small sealed lead-acid, and other regulated batteries.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) BUTTON CELL.—The term "button cell" means a button- or coin-shaped battery.

(3) EASILY REMOVABLE.—The term "easily removable", with respect to a battery, means detachable or removable at the end of the life of the battery—

(A) from a consumer product by a consumer with the use of common household tools; or

(B) by a retailer of replacements for a battery used as the principal electrical power source for a vehicle.

(4) MERCURIC-OXIDE BATTERY.—The term "mercuric-oxide battery" means a battery that uses a mercuric-oxide electrode.

(5) RECHARGEABLE BATTERY.—The term "rechargeable battery"—

(A) means 1 or more voltaic or galvanic cells, electrically connected to produce electric energy, that is designed to be recharged for repeated uses; and

(B) includes any type of enclosed device or sealed container consisting of 1 or more such cells, including what is commonly called a battery pack (and in the case of a battery pack, for the purposes of the requirements of easy removability and labeling under section 103, means the battery pack as a whole rather than each component individually); but

(C) does not include—

(i) a lead-acid battery used to start an internal combustion engine or as the principal electrical power source for a vehicle, such as an automobile, a truck, construction equipment, a motorcycle, a garden tractor, a golf cart, a wheelchair, or a boat;

(ii) a lead-acid battery used for load leveling or for storage of electricity generated by an alternative energy source, such as a solar cell or wind-driven generator;

(iii) a battery used as a backup power source for memory or program instruction storage, timekeeping, or any similar purpose that requires uninterrupted electrical power in order to function if the primary energy supply fails or fluctuates momentarily; or

(iv) a rechargeable alkaline battery.

(6) RECHARGEABLE CONSUMER PRODUCT.—The term "rechargeable consumer product"—

(A) means a product that, when sold at retail, includes a regulated battery as a primary energy supply, and that is primarily intended for personal or household use; but

(B) does not include a product that only uses a battery solely as a source of backup power for memory or program instruction storage, timekeeping, or any similar purpose that requires uninterrupted electrical power in order to function if the primary energy supply fails or fluctuates momentarily.

(7) REGULATED BATTERY.—The term "regulated battery" means a rechargeable battery that—

(A) contains a cadmium or a lead electrode or any combination of cadmium and lead electrodes; or

(B) contains other electrode chemistries and is the subject of a determination by the Administrator under section 103(d).

(8) REMANUFACTURED PRODUCT.—The term "remanufactured product" means a rechargeable consumer product that has been altered by the replacement of parts, repackaged, or repaired after initial sale by the original manufacturer.

SEC. 4. INFORMATION DISSEMINATION.

The Administrator shall, in consultation with representatives of rechargeable battery manufacturers, rechargeable consumer product manufacturers, and retailers, establish a program to provide information to the public concerning the proper handling and disposal of used regulated batteries and rechargeable consumer products with nonremovable batteries.

SEC. 5. ENFORCEMENT.

(a) CIVIL PENALTY.—When on the basis of any information the Administrator determines that a person has violated, or is in violation of, any requirement of this Act (except a requirement of section 104) the Administrator—

(1) in the case of any violation, may issue an order assessing a civil penalty of not more than $10,000 for each violation, or requiring compliance immediately or within a reasonable specified time period, or both; or

(2) in the case of any violation or failure to comply with an order issued under this section, may commence a civil action in the United States district court in the district in which the violation occurred or in the district in which the violator resides for appropriate relief, including a temporary or permanent injunction.

(b) CONTENTS OF ORDER.—An order under subsection (a)(1) shall state with reasonable specificity the nature of the violation.

(c) CONSIDERATIONS.—In assessing a civil penalty under subsection (a)(1), the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(d) FINALITY OF ORDER; REQUEST FOR HEARING.—An order under subsection (a)(1) shall become final unless, not later than 30 days after the order is served, a person named in the order requests a hearing on the record.

(e) HEARING.—On receiving a request under subsection (d), the Administrator shall promptly conduct a hearing on the record.

(f) SUBPOENA POWER.—In connection with any hearing on the record under this section, the Administrator may issue subpoenas for the attendance and testimony of witnesses and for the production of relevant papers, books, and documents.

(g) CONTINUED VIOLATION AFTER EXPIRATION OF PERIOD FOR COMPLIANCE.—If a violator fails to take corrective action within the time specified in an order under subsection (a)(1), the Administrator may assess a civil penalty of not more than $10,000 for the continued noncompliance with the order.

(h) SAVINGS PROVISION.—The Administrator may not take any enforcement action against a person for selling, offering for sale, or offering for promotional purposes to the ultimate consumer a battery or product covered by this Act that was—

(1) purchased ready for sale to the ultimate consumer; and

(2) sold, offered for sale, or offered for promotional purposes without modification.

The preceding sentence shall not apply to a person—

(A) who is the importer of a battery covered by this Act, and

(B) who has knowledge of the chemical contents of the battery

when such chemical contents make the sale, offering for sale, or offering for promotional purposes of such battery unlawful under title II of this Act.

SEC. 6. INFORMATION GATHERING AND ACCESS.

(a) Records and Reports.—A person who is required to carry out the objectives of this Act, including—

(1) a regulated battery manufacturer;

(2) a rechargeable consumer product manufacturer;

(3) a mercury-containing battery manufacturer; and

(4) an authorized agent of a person described in paragraph (1), (2), or (3),

shall establish and maintain such records and report such information as the Administrator may by regulation reasonably require to carry out the objectives of this Act.

(b) Access and Copying.—The Administrator or the Administrator's authorized representative, on presentation of credentials of the Administrator, may at reasonable times have access to and copy any records required to be maintained under subsection (a).

(c) Confidentiality.—The Administrator shall maintain the confidentiality of documents and records that contain proprietary information.

SEC. 7. STATE AUTHORITY.

Nothing in this Act shall be construed to prohibit a State from enacting and enforcing a standard or requirement that is identical to a standard or requirement established or promulgated under this Act. Except as provided in sections 103(e) and 104, nothing in this Act shall be construed to prohibit a State from enacting and enforcing a standard or requirement that is more stringent than a standard or requirement established or promulgated under this Act.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

TITLE I—RECHARGEABLE BATTERY RECYCLING ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "Rechargeable Battery Recycling Act".

SEC. 102. PURPOSE.

The purpose of this title is to facilitate the efficient recycling or proper disposal of used nickel-cadmium rechargeable batteries, used small sealed lead-acid rechargeable batteries, other regulated batteries, and such rechargeable batteries in used consumer products, by—

(1) providing for uniform labeling requirements and streamlined regulatory requirements for regulated battery collection programs; and

(2) encouraging voluntary industry programs by eliminating barriers to funding the collection and recycling or proper disposal of used rechargeable batteries.

SEC. 103. RECHARGEABLE CONSUMER PRODUCTS AND LABELING.

(a) Prohibition.—

(1) In general.—No person shall sell for use in the United States a regulated battery that is ready for retail sale or a rechargeable consumer product that is ready for retail sale, if such battery or product was manufactured on or after the date 12 months after the date of enactment of this Act, unless the labeling requirements of subsection (b) are met and, in the case of a regulated battery, the regulated battery—

(A) is easily removable from the rechargeable consumer product; or

(B) is sold separately.

(2) Application.—Paragraph (1) does not apply to any of the following:

(A) The sale of a remanufactured product unit unless paragraph (1) applied to the sale of the unit when originally manufactured.

(B) The sale of a product unit intended for export purposes only.

(b) Labeling.—Each regulated battery or rechargeable consumer product without an easily removable battery manufactured on or after the date that is 1 year after the date of enactment of this Act, whether produced domestically or imported shall bear the following labels:

(1) 3 chasing arrows or a comparable recycling symbol.

(2)(A) On each regulated battery which is a nickel-cadmium battery, the chemical name or the abbreviation "Ni-Cd" and the phrase "BATTERY MUST BE RECYCLED OR DISPOSED OF PROPERLY.".

(B) On each regulated battery which is a lead-acid battery, "Pb" or the words "LEAD", "RETURN", and "RECYCLE" and if the regulated battery is sealed, the phrase "BATTERY MUST BE RECYCLED.".

(3) On each rechargeable consumer product containing a regulated battery that is not easily removable, the phrase "CONTAINS NICKEL-CADMIUM BATTERY. BATTERY MUST BE RECYCLED OR DISPOSED OF PROPERLY." or "CONTAINS SEALED LEAD BATTERY. BATTERY MUST BE RECYCLED.", as applicable.

(4) On the packaging of each rechargeable consumer product, and the packaging of each regulated battery sold separately from such a product, unless the required label is clearly visible through the packaging, the phrase "CONTAINS NICKEL-CADMIUM BATTERY. BATTERY MUST BE RECYCLED OR DISPOSED OF PROPERLY." or "CONTAINS SEALED LEAD BATTERY. BATTERY MUST BE RECYCLED.", as applicable.

(c) Existing or Alternative Labeling.—

(1) Initial period.—For a period of 2 years after the date of enactment of this Act, regulated batteries, rechargeable consumer products containing regulated batteries, and rechargeable consumer product packages that are labeled in substantial compliance with subsection (b) shall be deemed to comply with the labeling requirements of subsection (b).

(2) Certification.—

(A) In general.—On application by persons subject to the labeling requirements of subsection (b) or the labeling requirements promulgated by the Administrator under subsection (d), the Administrator shall certify that a different label meets the requirements of subsection (b) or (d), respectively, if the different label—

(i) conveys the same information as the label required under subsection (b) or (d), respectively; or

(ii) conforms with a recognized international standard that is consistent with the overall purposes of this title.

(B) Constructive certification.—Failure of the Administrator to object to an application under subparagraph (A) on the ground that a different label does not meet either of the conditions described in subparagraph (A) (i) or (ii) within 120 days after the date on which the application is made shall constitute certification for the purposes of this Act.

(d) Rulemaking Authority of the Administrator.—

(1) In general.—If the Administrator determines that other rechargeable batteries having electrode chemistries different from regulated batteries are toxic and may cause substantial harm to human health and the environment if discarded into the solid waste stream for land disposal or incineration, the Administrator may, with the advice and counsel of State regulatory authorities and manufacturers of rechargeable batteries and rechargeable consumer products, and after public comment—

(A) promulgate labeling requirements for the batteries with different electrode chemistries, rechargeable consumer products containing such batteries that are not easily removable batteries, and packaging for the batteries and products; and

(B) promulgate requirements for easy removability of regulated batteries from rechargeable consumer products designed to contain such batteries.

(2) Substantial similarity.—The regulations promulgated under paragraph (1) shall be substantially similar to the requirements set forth in subsections (a) and (b).

(e) Uniformity.—After the effective dates of a requirement set forth in subsection (a), (b), or (c) or a regulation promulgated by the Administrator under subsection (d), no Federal agency, State, or political subdivision of a State may enforce any easy removability or environmental labeling requirement for a rechargeable battery or rechargeable consumer product that is not identical to the requirement or regulation.

(f) Exemptions.—

(1) In general.—With respect to any rechargeable consumer product, any person may submit an application to the Administrator for an exemption from the requirements of subsection (a) in accordance with the procedures under paragraph (2). The application shall include the following information:

(A) A statement of the specific basis for the request for the exemption.

(B) The name, business address, and telephone number of the applicant.

(2) Granting of exemption.—Not later than 60 days after receipt of an application under paragraph (1), the Administrator shall approve or deny the application. On approval of the application the Administrator shall grant an exemption to the applicant. The exemption shall be issued for a period of time that the Administrator determines to be appropriate, except that the period shall not exceed 2 years. The Administrator shall grant an exemption on the basis of evidence supplied to the Administrator that the manufacturer has been unable to commence manufacturing the rechargeable consumer product in compliance with the requirements of this section and with an equivalent level of product performance without the product—

(A) posing a threat to human health, safety, or the environment; or

(B) violating requirements for approvals from governmental agencies or widely recognized private standard-setting organizations (including Underwriters Laboratories).

(3) Renewal of exemption.—A person granted an exemption under paragraph (2) may apply for a renewal of the exemption in accordance with the requirements and procedures described in paragraphs (1) and (2). The Administrator may grant a renewal of such an exemption for a period of not more than 2 years after the date of the granting of the renewal.

SEC. 104. REQUIREMENTS.

(a) BATTERIES SUBJECT TO CERTAIN REGULATIONS.—The collection, storage, or transportation of used rechargeable batteries, batteries described in section 3(5)(C) or in title II, and used rechargeable consumer products containing rechargeable batteries that are not easily removable rechargeable batteries, shall, notwithstanding any law of a State or political subdivision thereof governing such collection, storage, or transportation, be regulated under applicable provisions of the regulations promulgated by the Environmental Protection Agency at 60 Fed. Reg. 25492 (May 11, 1995), as effective on May 11, 1995, except as provided in paragraph (2) of subsection (b) and except that—

(1) the requirements of 40 CFR 260.20, 260.40, and 260.41 and the equivalent requirements of an approved State program shall not apply, and

(2) this section shall not apply to any lead acid battery managed under 40 CFR 266 subpart G or the equivalent requirements of an approved State program.

(b) ENFORCEMENT UNDER SOLID WASTE DISPOSAL ACT.—(1) Any person who fails to comply with the requirements imposed by subsection (a) of this section may be subject to enforcement under applicable provisions of the Solid Waste Disposal Act.

(2) States may implement and enforce the requirements of subsection (a) if the Administrator finds that—

(A) the State has adopted requirements that are identical to those referred to in subsection (a) governing the collection, storage, or transportation of batteries referred to in subsection (a); and

(B) the State provides for enforcement of such requirements.

TITLE II—MERCURY-CONTAINING BATTERY MANAGEMENT ACT

SEC. 201. SHORT TITLE.

This title may be cited as the "Mercury-Containing Battery Management Act".

SEC. 202. PURPOSE.

The purpose of this title is to phase out the use of batteries containing mercury.

SEC. 203. LIMITATIONS ON THE SALE OF ALKALINE-MANGANESE BATTERIES CONTAINING MERCURY.

No person shall sell, offer for sale, or offer for promotional purposes any alkaline-manganese battery manufactured on or after the date of enactment of this Act, with a mercury content that was intentionally introduced (as distinguished from mercury that may be incidentally present in other materials), except that the limitation on mercury content in alkaline-manganese button cells shall be 25 milligrams of mercury per button cell.

SEC. 204. LIMITATIONS ON THE SALE OF ZINC-CARBON BATTERIES CONTAINING MERCURY.

No person shall sell, offer for sale, or offer for promotional purposes any zinc-carbon battery manufactured on or after the date of enactment of this Act, that contains mercury that was intentionally introduced as described in section 203.

SEC. 205. LIMITATIONS ON THE SALE OF BUTTON CELL MERCURIC-OXIDE BATTERIES.

No person shall sell, offer for sale, or offer for promotional purposes any button cell mercuric-oxide battery for use in the United States on or after the date of enactment of this Act.

SEC. 206. LIMITATIONS ON THE SALE OF OTHER MERCURIC-OXIDE BATTERIES.

(a) PROHIBITION.—On or after the date of enactment of this Act, no person shall sell, offer for sale, or offer for promotional purposes a mercuric-oxide battery for use in the United States unless the battery manufacturer, or the importer of such a battery—

(1) identifies a collection site in the United States that has all required Federal, State, and local government approvals, to which persons may send used mercuric-oxide batteries for recycling or proper disposal;

(2) informs each of its purchasers of mercuric-oxide batteries of the collection site identified under paragraph (1); and

(3) informs each of its purchasers of mercuric-oxide batteries of a telephone number that the purchaser may call to get information about sending mercuric-oxide batteries for recycling or proper disposal.

(b) APPLICATION OF SECTION.—This section does not apply to a sale or offer of a mercuric-oxide button cell battery.

SEC. 207. NEW PRODUCT OR USE.

On petition of a person that proposes a new use for a battery technology described in this title or the use of a battery described in this title in a new product, the Administrator may exempt from this title the new use of the technology or the use of such a battery in the new product on the condition, if appropriate, that there exist reasonable safeguards to ensure that the resulting battery or product without an easily removable battery will not be disposed of in an incinerator, composting facility, or landfill (other than a facility regulated under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.)).

The SPEAKER pro tempore. (Mr. UPTON). Pursuant to the rule, the gentleman from Ohio [Mr. OXLEY] and the gentleman from New Jersey [Mr. PALLONE] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud to be on the House floor today with broad bipartisan support for pro-environmental legislation that originated in the subcommittee I chair.

H.R. 2024, the Mercury-Containing and Rechargeable Battery Management Act, is the second bipartisan environmental bill we have brought to the floor from the Subcommittee on Commerce, Trade, and Hazardous Materials, the first being the Land Disposal Flexibility Act, which has been signed into law. Any discussion of this Congress' environmental record needs to acknowledge the good bipartisan work we are doing.

This battery bill proves an important point: we can improve the environment by reducing government regulations, and by reducing burdens on industry. This bill reduces regulations, and the result will be less cadmium in our ground water and our air.

Right now, cadmium is classified as a hazardous waste, so spent nickel-cadmium rechargeable batteries are hazardous wastes too. Hazardous wastes are subject to all sorts of disposal, handling, storage, and transportation regulations, like disposal in specially permitted subtitle C landfills, recordkeeping, reporting, manifesting and so on.

If your nickel-cadmium battery at home ran out of power, you could just throw it in the trash and not be subject to the hazardous waste regulations, because the law exempts household waste. But if you took the battery back to the store to recycle it, all of a sudden it would be subject to the hazardous waste regulations.

We want consumers to take rechargeable batteries back to the store and have them recycled. But retail stores don't want to touch used batteries under the current hazardous waste requirements, because it would cost them an arm and a leg, and subject them to fines and penalties if they don't comply.

This bill solves the problem by exempting rechargeable batteries from hazardous waste regulations so we can recycle. Retailers collecting these batteries for recycling will only need comply with the Universal Waste Rule, which does away with most of the onerous hazardous waste regulations. The reduced regulation doesn't pose an environmental threat. After all, the batteries are in the same condition when you throw them away as they are when you buy them. They don't become more hazardous in between.

This bill also requires battery labeling so consumers know the batteries can be recycled, and it bans mercury in several battery types, which will reduce mercury in our air and ground water.

We made two minor changes since this bill passed the Commerce Committee by voice vote. First, we changed the effective date of the mercury ban to the date of enactment. Second, we clarified the enforcement provision so importers who have knowledge of the contents of the batteries they import can be enforced against if the batteries violate the mercury ban.

I want to thank the bill's sponsor, Congressman KLUG, for his efforts, as well as the gentleman from New Jersey, Congressman PALLONE. I would also like to thank the chairman of the full committee for his leadership on this issue in bringing the bill to the floor in a timely fashion.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the legislation. This is a bipartisan bill that is supported by the Clinton administration and was reported out of the committee unanimously last week. I will include in the RECORD a letter from the Clinton administration in support of the legislation.

Mr. Speaker, I first became involved with this legislation because New Jersey has a very serious mercury problem. In February of 1994, the State released a study that showed some fish in over half of the State's lakes with elevated mercury levels. These fish reflected increased mercury levels in the atmosphere. In addition, the Asbury Park Press, a newspaper in my district, did an outstanding investigative report over a number of days on the dangers and sources of mercury.

Mercury enters the atmosphere and the food chain in a number of ways, but among the most significant sources are coal-fired utilities and solid waste incinerators. Many of the components of garbage burned by incinerators contain mercury, and incinerators then release the mercury into the atmosphere, which then reaches the ground through rain, snow, and other precipitation.

As its title implies, the bill deals with mercury in a comprehensive fashion, including a user fee on mercury air emissions, reduction of mercury in packaging, mandatory separation of mercury-containing items from the waste stream, and a requirement for an EIS in order to site an incinerator.

At one time, batteries may have accounted for as much as 60 percent of the mercury being released from municipal solid waste incinerators, but today batteries basically do not account for anywhere nearly as high a percentage of the mercury emitted into the atmosphere.

I think it is clearly important to recognize the battery industry for its accomplishments in this area. The industry has made tremendous strides in reducing the mercury content of batteries, and now we are considering legislation that is supported by the industry that bans virtually all mercury containing batteries. That is no small feat.

But non-mercury-containing batteries also contain other heavy metals and chemicals which can prove hazardous to human health and the environment if they are incinerated or landfilled. The bill before us that the gentleman from Wisconsin [Mr. KLUG], myself, and others have introduced, and I have to specifically mention the gentleman from New Mexico [Mr. RICHARDSON] who is the original sponsor of this bill in previous Congresses, but basically what this bill does for these other issues, such as nickel-cadmium and other hazardous items other than mercury, it provides a coherent national system of handling for batteries and products, it streamlines regulatory requirements for battery collection programs, and it encourages voluntary industry programs by eliminating barriers to funding the collection and recycling or proper disposal of used rechargeable batteries.

I just wanted to mention one more thing, Mr. Speaker. At the hearings our subcommittee held, the EPA raised some concerns about certain provisions in this bill. I criticized the agency for bringing its concerns to our attention many months after the bill passed the Senate and had been introduced.

Working together, the gentleman from Ohio [Mr. OXLEY] myself, the gentleman from Wisconsin [Mr. KLUG], the gentleman from Michigan [Mr. DINGELL] and others were able to address these concerns. Among other things, the amendments adopted by the committee close unintended loopholes in enforcement, allow States to implement and enforce the act, and make clear that the Administrator can invoke the Solid Waste Disposal Act against those who fail to comply with the provisions of the bill.

I also want to note one change that has been made to the bill since it left committee. This change as reported by the committee is a change to the bill as reported and clarifies that the Administrator of EPA may enforce title II against any retailer-importer who has knowledge of the general chemical content of the general chemical content of the imported battery. However, the change allows the defense where the retailer-importer lacks such information, because, for example, of the duplicity of the overseas manufacturer.

I do not want to get into more detail. It is a good bill. It has bipartisan support. I commend the chairman and the other members, the gentleman from New Mexico [Mr. RICHARDSON], the gentleman from Wisconsin [Mr. KLUG] for their involvement.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding me time and for his support and work on this legislation.

Let me just say, Mr. Speaker, that this legislation will not clean up. It may recycle batteries, but it will not clean up the record of the Republicans on the environment as this agenda is supposed to do.

I note the previous speaker, the chairman of the subcommittee, that just spoke, recently voted five times against protecting our environment, against protecting children from arsenic in their drinking water, against adequate funding for our Nation's toxic cleanup program, to stop EPA from protecting America's exposure to arsenic, dioxin, and other cancer causing pollutants, to allow corporate polluters to dump 70,000 chemicals into our Nation's rivers, lakes, and streams, and to allow industry to pollute our drinking water.

So while the gentleman and others who will speak on this bill from your side of the aisle can earn a figleaf, and we will be glad to give them a figleaf to cover themselves when they support this legislation, but, under that figleaf, what you will see is in fact their environmental record for the past 16 months, which has been against environmental protection and, in many instances, providing much more pollution than we will ever be able to prevent by passing this recycling bill. This is a good bill, but it does not erase that record.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I cannot resist responding to what I guess is a predictable response from the far left. Here we are, trying to craft a bipartisan environmental bill dealing with rechargeable batteries and recycling. It is unfortunate we have to already in the early part of the day resort to political palaver about the environmental issues. It is unfortunate, but I guess predictable.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. KLUG], the sponsor of the battery bill.

Mr. KLUG. Mr. Speaker, I would like to thank the gentleman from Ohio [Mr. OXLEY], the gentleman from Virginia [Mr. BLILEY], and the gentleman from New Jersey [Mr. PALLONE], for all of their help in this legislation and helping to move it forward.

Mr. Speaker, the American people are consumers of millions of rechargeable ni-cad batteries. I introduced this legislation because it offers a sound solution to a serious environmental problem. This legislation gives the battery industry the ability to implement a fully private, let me say that again, fully private, voluntary, national program to collect and recycle spent ni-cad batteries.

This recycling program is already running in several pilot programs in different areas of the country, but a multitude of different State labeling and collection regulations, as well as Federal waste regulations, have prevented the industry from fully implementing it on a national level.

Under H.R. 2024, regulations governing battery collection and recycling programs will be streamlined and a comprehensive, uniform system of battery labeling will now be established nationwide.

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In addition to establishing a nationwide recycling program for ni-cad batteries, H.R. 2024, importantly phases out the use of mercury in other batteries. Studies have shown mercury is a serious health threat to both human health and the environment. It can damage the brain, the kidneys, in addition, and also the developing fetus. It is time that Congress take the lead in removing this dangerous element from our waste stream.

H.R. 2024 is not controversial and enjoys wide bipartisan support. The other body passed similar legislation by unanimous consent last September. In addition, H.R. 2024 is supported by the National Retail Federation, the U.S. Conference of Mayors, the National Electrical Manufacturers Association, the Electronic Industries Association, the Central Virginia Waste Management Authority and, perhaps more importantly, my home Governor, Governor Thompson of Wisconsin.

Again, Mr. Speaker, this legislation has tremendous support across the board and across the aisle, and let me reiterate one more time my deep thanks to my colleague, the gentleman from New Jersey, Mr. PALLONE, for his great help in moving this legislation forward and to my friend and colleague from Ohio, Mr. OXLEY, for having the courtesy and good sense to move this legislation forward as well. Both regulator and the regulated community agree that the Government should take steps to reduce the presence of nickel cadmium and mercury from the solid waste stream.

I also believe we must do something about this problem and I am hopeful we can quickly implement this bipartisan legislation. Within a matter of days of signing this bill into law we can set forth a completely voluntary and industry financed recycling program that will provide enhanced environmental protection without burdening the States or without burdening the taxpayers.

I urge my colleagues to support H.R. 2024.

Mr. PALLONE. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Again to state, Mr. Speaker, that we will be delivering a fig leaf to the gentleman from Wisconsin's office so he can use it to try to hide his environmental record when earlier this year he voted to stop EPA from protecting against the dumping of 70,000 chemicals in our Nation's rivers and allowing industry to pollute our drinking water.

Voting to recycle batteries will not cover that up, and the fig leaf will be delivered to his office later today.

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I am sorry the gentleman from California [Mr. MILLER] has chosen to make a partisan political debate with fig leaves and gimmicks. This afternoon was structured to be productive and it was structured, in particular, in a bipartisan way.

We, for example, are going to consider a bill this afternoon known as the Coastal Zone Protection Act, which has 130 signatures, about half Republicans and half Democrats. We are going to have a number of bills, one sponsored by the gentlewoman from Hawaii [Mrs. MINK], a Democrat; another sponsored by the gentleman from New York [Mr. FORBES], a Republican; we will have another, the North Platte Refuge Act, by the gentleman from Nebraska [Mr. BARRETT]; another sponsored by the genteman from Louisiana [Mr. MCCRERY], a Republican. So we have gone out of our way, Mr. Speaker, to make this a bipartisan effort this afternoon to do some things that are good that we all agree on in the name of the environment.

I am sorry that the gentleman from California insists on performing the way he has with fig leaves and other gimmicks. I think it is not what the American people expect. My constituents expect me to come to Washington to pass legislation that does things they want done. I would think the gentleman's constituents would want the same.

Mr. PALLONE. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding me this time, and I appreciate the sensitivity of the gentleman because he too will earn a fig leaf since he voted wrong three out of five times.

The issue is not about these bills. The issue is about the continued record that has not been bipartisan, where Members have again chosen time and again to increase the ability of polluters to dump pollution, to dump toxics into the rivers, the lakes, and the waterways of this Nation. That is the gentleman's voting record.

The gentleman is not going to hide that voting record by voting on bills that have basically unanimous support and that are noncontroversial, and then suggest that represents his environmental voting record, at the same time that we see the Committee on Appropriations continuing the riders that have been so detrimental to the environment.

Those are the facts and I appreciate the gentleman's sensitivity.

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from Colorado [Mr. SCHAEFER], the chairman of the Subcommittee on Energy and Power.

Mr. SCHAEFER. Mr. Speaker, I rise today in strong support of this commonsense legislation. I commend industry, the Environmental Protection Agency [EPA], and the environmental community in their efforts to craft consensus proposal.

Currently, businesses, trying to do the right thing by implementing battery recycling programs are stymied by a patchwork of State laws. This legislation replaces the current random system with reasonable uniform national standards for the transporting, selling, recycling, and disposing of batteries.

With this bill, the battery industry will be able to launch a voluntary recycling campaign that will keep batteries out of local landfills and incinerators. Additionally, this measure will phase out mercury-based batteries that currently threaten our Nation's groundwater and air.

I am particularly pleased with the process that resulted in the development of this bill. The business community was able to come together with environmental regulators to produced a sensible piece of legislation with broad bipartisan backing.

It is my hope that we can continue this cooperative spirit as we move forward with consideration of additional environmental initiatives.

Mr. Speaker, I urge my colleagues to adopt this reasonable, consensus bill.

Mr. PALLONE. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Again, Mr. Speaker, I want to award a fig leaf to the gentleman from Colorado who has voted five out of five times against improving our environment and allowing arsenic to continue in the drinking water of children and against adequate funding for cleaning up the Nation's toxic waste program and to continue to allow corporate polluters to dump up to 70,000 chemicals in our Nation's rivers and lakes. The gentleman has a perfect score of five for five that he was on the wrong side of the environment, and he earned his fig leaf.

Mr. OXLEY. Mr. Speaker, it is always good to hear from the far left, even if it is just 30 seconds.

Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. BURR].

Mr. BURR. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I say to my good friend from California that I accept my fig lead before I speak, knowing that I am going to get one, and saying proudly that I am not accepting it to hide behind. I do not hide behind anything I have done while I have been here that I think is in fact right, and in fact I have done what I think voters sent me here to do. That is to try to strike the right balance.

But I rise today in support of H.R. 2024. This legislation, passed out of the Committee on Commerce on a bipartisan basis, will promote recycling of used batteries that currently end up in landfills and incinerators. Innocently, consumers like myself dispose of batteries that leak mercury and cadmium into the groundwater and cause toxic air emissions when incinerated. Today, batteries account for 68 percent of the cadmium in landfills and 85 percent of the mercury. This possible hazard is not acceptable, and I, for one, will appreciate the opportunity to dispose of my batteries in an environmentally sound manner.

With passage of H.R. 2024, consumers will be able to walk into any store that sells batteries and leave them for recycling. Consumers will be able to read right on the label, through uniformed labeling, that the battery they have purchased is recyclable. All retailers have to do is to set up battery recycling receptacles. Furthermore, H.R. 2024 allows the battery industry to launch a voluntary recycling program which will promote the shipments of used batteries to a central recycling center directly from the retailer.

This is perfect common-sense environmental legislation. H.R. 2024 does not create an expensive, out-of-control Government program. The shipments of batteries to the recycling center will be prepaid for by the Rechargeable Battery Recycling Corp., which is made up of nearly every one of the battery manufacturers and consumer industry interests.

I cannot imagine a more convenient process. This bill will accomplish removing batteries related mercury and cadmium from the waste stream, which means a healthier safer environment for all.

This is common sense, Mr. Speaker, commonsense legislation that we should enact today on a bipartisan basis.

Mr. PALLONE. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding me the time.

The previous speaker in the well quite properly predicted he too will earn a fig leaf. He quite properly stated he will not be able to hide behind it because right now we are sending all the heavy hitters against the environment to the well. He, too, had a perfect score of five for five against protecting children from arsenic in their drinking water, against adequate funding for our Nation's toxic waste cleanup programs to allow industry to pollute our drinking water and an effort to stop EPA from protecting Americans from exposure to arsenic, dioxin, lead and other cancer-causing pollutants. The gentleman has a perfect score; he earned his fig leaf.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it appears the other side does not have a whole lot of substantive arguments in favor of this legislation, which is unfortunate. Our good friend from New Mexico and good friend from New Jersey are carrying a lot of water for some other folks. It is nice they drafted somebody from the other committee to come in and be a designated hitter, and I do mean hitter.

Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL of Georgia. Mr. Speaker, I thank the gentleman for yielding me time.

I walked in and thought this was a debate about horticulture. I would suggest to the gentleman from California his analogy to the realm of the horticultural area would be more in the nature of sour grapes rather than fig leafs, however.

Let us talk about the issue here, however. The issue is one that is important to our Nation and my State. I recently had an opportunity to visit one of the manufacturing plants in my State that utilizes the batteries that will be used in this recycling process. I think that H.R. 2024, which is the Mercury Containing and Rechargeable Battery Management Act, is the kind of bill all of us certainly will support. It would maximize the environmental protection and resource recovery through a vigorous voluntary recycling program.

I think it is the kind of legislation that all of us should support in that it encourages people to do voluntarily both at the consumer level, at the retail level and at the manufacturer's level what all of us would like to do, and that is to reduce the toxins in our environment.

H.R. 2024, the Mercury Containing and Rechargeable Battery Management Act, is a bill which maximizes environmental protection and resource recovery through a vigorous, voluntary recycling program. H.R. 2024 will make it more efficient, and less costly to handle batteries in an environmentally sound manner. It will phase out the use of mercury in batteries nationally and is consistent with many State laws. Last, H.R. 2024 is an important step in reducing toxics in the waste stream without imposing expensive mandates on local governments. The bill has enjoyed bipartisan support in both the House and Senate and is supported by the Clinton administration.

I would like to make two additional comments in regard to this legislation that I hope the public will take note of. First, I would like to recognize and commend both the Republican and Democratic staff for their hard work in crafting a bill that all parties could agree on. While there may have been differences along the way, you established a common ground from which you could work together to develop a solution. It is unfortunate that bipartisan environmental efforts such as these are too often overlooked.

Second, let me emphasize that Republicans are respectful of American's desire to protect the environment. We embrace opportunities to work with our colleagues across the aisle in any effort to strengthen and improve our Nation's environmental laws.

H.R. 2024 is an important example of our commitment. It is my hope that the public will look beyond the political rhetoric and media bias that is typically associated with environmental legislation. The fact is that Republicans have the same environmental concerns as our constituents. H.R. 2024 is but one example of how we are addressing the issue of solid waste disposal. This is a bill that we can all be proud of. I believe that many more opportunities exist for me to return to this well and tell the public what Republicans are doing to protect the environment.

Mr. PALLONE. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, my only regret is that this legislation has taken so long to progress through the Congress. As I mentioned before, I introduced a similar bill in the 103d Congress. It is good that we are making this initiative now so that it becomes law.

Mr. Speaker, this legislation that we are considering today seeks to protect our environment by providing real relief from the toxic effects of mercury, lead and cadmium in landfills and incinerators. This bill, which I am a cosponsor of, and its counterpart in the other body shares the same goal of removing regulatory barriers to the implementation of an industry sponsored program to collect and recycle ni-cad rechargeable batteries.

Currently, 350 million nickel batteries are being sold in the country each year, and about 40 percent are sold to household consumers. Most of these batteries will therefore end up in solid waste landfills, since households have no alternative opportunity to recycle.

The legislation we are discussing today is going to inform consumers that these batteries can be recycled. In fact, consumers are conveniently going to be able to return used recharageable batteries to battery retailers who will have collection containers at their stores.

There is wide consensus and support of this issue. The bills have been endorsed by the Conference of Mayors, the National Conference of State Legislators, and industry has made a positive effort in moving this bill. I am pleased to join these groups in supporting legislation that does offer workable solutions.

Mr. Speaker, I understand that there are some concerns regarding this legislation. I hope we can work them out to resolve these concerns so that we can finally see this important issue become law.

Mr. Speaker, I think the point that needs to be made is, now that it appears that we are moving with some environmental initiatives in the Committee on Commerce, I would commend the gentleman from Ohio [Mr. OXLEY], the chairman, and urge him to move ahead on some other very important initiatives, a bipartisan bill that does not pass a cleanups on the taxpayer, a safe drinking water bill that keeps public health as a top priority.

I think for those of us that also serve on the Committee on Resources, let us move ahead with a sensible parks reform bill, not a bill that moves ahead to try to shut down some of our national parks. A fair concessions bill that does not make it easier for concessionaires and the big operators to have a sweetheart deal as they manage the national parks.

In addition to that, a bill that is fair on the grazing issue is coming up in the Committee on Resources very soon. Let us make these bipartisan. Chairman OXLEY is somebody who has crafted bipartisan bills. I urge him in the days ahead, besides this commendable effort, to move in that direction on some of the bills I mentioned.

Today, though, this battery recycling bill is a good bill. It should be approved. It is bipartisan. But we have to move beyond this small bill into the major issues affecting the environment in the days ahead.

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Mr. OXLEY. Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield such time as he may consume to the gentleman from California, [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I would just say that if the Yankees had such heavy hitters in their lineup as you have against the environment, they would win the World Series. The gentleman from Georgia, [Mr. DEAL], who just spoke earlier in the well in favor of this legislation, in fact has a perfect record of voting 5 for 5 against the environment, against protecting children from arsenic in their drinking water and against adequate funding for our Nation's toxic waste cleanup to allow corporate polluters to dump 70,000 chemicals in our Nation's rivers and to allow industry to pollute our drinking water and to stop the EPA from protecting America from arsenic, dioxin, lead and other cancer-causing pollutants. So, again, a perfect score for Mr. DEAL of Georgia against the environment. Once again, he has earned his fig leaf, but he will not be allowed to hide it when his real environmental record is exposed against the legislation today.

Mr. OXLEY. Mr. Speaker, if the gentleman from New Jersey will proceed, then I will be glad to close.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say, that I believe that this battery recycling bill is an important bill, as is the Coastal Zone Management Act which I believe we will be taking up next. They are important to my district, to the State of New Jersey. But I think that what we are hearing from our side of the aisle is a tremendous frustration over the fact that major pieces of legislation that relate to the environment, such as the Superfund, which is before the Committee on Commerce, such as safe drinking water, such as the Clean Water Act, which already passed this House, that consistently over the last year, since the beginning of 1995, the Republican leadership has made an effort to weaken major environmental laws and also has made a major effort to cut back on the amount of money that is available through appropriation bills, through the budget bill for environmental enforcement.

I was very saddened really to learn today that even though it is the day after Earth Day and even though the Republican leadership and my colleagues on the Committee on Commerce on the other side are bringing up these bills today that are important, that nonetheless, we continue to see an effort by Speaker GINGRICH and the leadership to press on through the appropriations process in providing less money for environmental enforcement and also in insisting on continuing with these antienvironmental riders in the appropriation bills.

We were out on the lawn in front of the Capitol just about an hour ago, Mr. MILLER and myself, and also the gentleman from Wisconsin [Mr. OBEY]. And we were told that the gentleman from Louisiana [Mr. LIVINGSTON] and the Republican leadership insist on antienvironmental riders that would eliminate the EPA's role in wetlands protection, eliminate the possibility of designating for Superfund sites, not allowing the EPA to proceed with standards for radon, even though in my home State of New Jersey that is a major issue because of the radon and radiation contamination that has been found in some of the drinking water in Ocean County.

So we are extremely upset over the fact that the Republican leadership continues this effort to turn back the clock on environmental protection. As much as we are supportive of the bills that are coming up today, we insist upon the fact that we will make a point over the next few weeks and certainly over the next few months until such time as we are successful in stopping this Republican raid on the environment.

Mr. Speaker, I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, we have been blessed by the chairman of the Committee on Resources who has been drawn to this debate.

Mr. Speaker, I yield 2 minutes to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I came to the floor because I have been listening to the tirade. Very frankly, I was questioning the validity of some of the arguments. We are talking about a very good bill here on this side of the aisle.

All I hear Members say on the other side is that for some reason Republicans are going to sell the national parks. That is an outright distortion. That is an outright distortion that is being said by Secretary Babbitt. In fact, it is being said by that side of the aisle.

I just wanted the people that might be watching this show to say, and show me anyplace, anytime anywhere we ever suggested such an action on this side. The bill, in fact, Mr. Babbitt says that we are trying to pass to sell the park was his bill. It was supported by the gentleman from Minnesota [Mr. VENTO]. It was voted on by Mr. MILLER. It was voted on that side of the aisle last session when they were in power.

Now all of a sudden we are the bad guys. Now, shame on you. I am going to suggest respectfully what is occurring here is a gamut for this television for people that watch it to tell some things that have been distorted completely out of context and where they do not take the responsibility. I have listened to the gentleman from New Jersey be on the floor one time. One time I was sitting in the chair. I had to listen to the nonsense that he spouts, and it is nonsense about how bad we are. And I challenged him, show us where. What have we done in our committee that has been bad? Nothing. We have done everything good, 13 bills have been signed out of the committee by this President. Some of those he did not vote for, but the President did sign them.

So I think it is time we bring a little light to this subject here, a little back to what we are talking about, this bill today, this small battery bill to try to dispose of something that could be damaging, a bill that came out of Mr. OXLEY's committee that is noncontroversial. To have this kind of rhetoric continued on and on is totally, I think, irresponsible.

Mr. PALLONE. Mr. Speaker, I ask unanimous consent to reclaim my time. My understanding, from the gentleman from Ohio [Mr. OXLEY], was that he was going to be the last speaker and that he would close. Now that the gentleman from Alaska [Mr. YOUNG] has spoken, I would ask to reclaim my time.

The SPEAKER pro tempore [Mr. UPTON]. Is there objection to the request of the gentleman from New Jersey?

Mr. YOUNG of Alaska. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume to close.

Mr. Speaker, it is unfortunate, given all of the work that was done on this battery bill, the fact that we heard testimony from the EPA. Much of the testimony at the time when it was taking place in our subject committee, was criticized by the gentleman from New Jersey as being unrealistic and rather nitpicking, I think was the term he used. But despite that, we worked very hard on a bipartisan basis to put together a good piece of legislation, a bill that passed unanimously in the Senate.

It had a great deal of momentum, that was supported by industry, as a matter of fact encouraged by industry, supported by virtually every environmental group. To bring it to the floor and end up with some kind of a dog and pony show orchestrated by the gentleman from New Jersey and his cohort from California is really, I think, unfortunate in this situation.

When we start dealing with bills like Superfund, I am assuming the gentleman from California and I know my friend from New Jersey are very supportive of getting a good Superfund reform bill out there. Everybody assumes, everybody knows that the existing Superfund law is badly flawed and needs fixing. That is what we have been working on. I would hate to think, Mr.

Speaker, that somehow if we brought a bipartisan Superfund bill to this floor, which is our goal, that we would have the kind of cheap shots that are taking place on the floor of this House on a very important issue.

So I am very disappointed today. If the gentleman wants to vote against the battery bill, then go ahead and yell "no" as loud as you want to. But I would suggest if you are serious about environmental protection, instead of making slogans and little cutouts for television, you would by very supportive of this strong bipartisan bill that will get a lot of mercury and cadmium out of the system and help clean up the environment.

You can have it one or two ways, but you cannot have it both ways.

Mr. GILLMOR. Mr. Speaker, I rise in strong support of H.R. 2024, the Mercury-Containing and Rechargeable Battery Management Act. I am an original cosponsor of this legislation and am glad that we are able to finally bring this bill to the floor.

Mercury and cadmium are elements that can cause significant environmental harm. The U.S. Public Health Service's Agency for Toxic Substances and Disease Registry report serious problems with mercury and cadmium containment in landfills. In fact, within New York alone, batteries account for 68 percent of the cadmium at landfills and 85 percent of the mercury. The legislation before us today would help to make our landfills safer and less toxic by providing a more environmentally friendly alternative to current practices for battery disposal.

Specifically, H.R. 2024 addresses three necessary areas that are essential to getting an effective, private sector-driven program established. First, it educates consumers on the need to recycle by setting up a uniform labeling system for nickel-cadmium and other rechargeable batteries. Second, it removes command-and-control regulatory hurdles that now prohibit a viable, voluntary recycling program from existing. Third and lastly, it bans the use of mercury in some batteries and limits its use in others. These reforms should provide us commonsense benefits that resonate on several levels.

Mr. Speaker, this bill has suffered deaths in two previous Congresses that should not have occurred. Today's consideration is proof of the worthiness of the ideas contained in this bill. I am pleased that, unlike so many other bills in this Congress, we were able to work in a bipartisan fashion to find common ground and pass this legislation. I commend Chairman BLILEY, the chairman of the subcommittee, Mr. OXLEY, Mr. PALLONE, and Mr. KLUG for their hard work on this bill.

Throughout this Congress, the House Commerce Committee and this House have spent time debating cleanup of hazardous waste sites, allocation of spectrum, reform of the telecommunications industry, and collection and management of waste streams. This bill has implications on all of them in that nickel-cadmium and related mercury containing batteries are used for cellular phones and laptop computers, whose widespread use will be escalating.

Yesterday, our country took time out during Earth Day activities to reflect on ways to make our environment better. Recycling has long been considered part of the environmental triumvirate of: reduce, reuse, and recycle. In fact, I believe this bill accomplishes all three of these tenets by limiting the use of mercury in batteries, moving these batteries out of the waste stream, and collecting the batteries for future purposes. I hope all my colleagues will see the wisdom of the efforts contained in herein and will overwhelmingly support this legislation.

Mr. STEARNS. Mr. Speaker, I rise today in support of this environmentally sound legislation. Through its comprehensive collection, education, and recycling programs, the Mercury-containing and Rechargeable Battery Management Act will effectively reduce the presence of mercury, cadmium, and other metals from batteries in the solid waste stream.

The use of as many as 2.5 billion dry cells every year has made significant contributions to the high levels of mercury and cadmium in the solid waste stream. As dry cell batteries break down, their toxic contents are released into groundwater resources. In incinerators, toxins are emitted through the combustion of these dry-cell batteries.

Through industry's collaboration with the EPA, State and local governments, retailers, and the recycling industry, a voluntary recycling program for nickel-cadmium batteries has been developed. The final step toward implementation of this program will be completed by passing this legislation today.

Two important provisions in this legislation establish uniform labeling procedures, and uniform collection, storage, and transportation requirements for these recyclable batteries. The labeling requirement will clearly inform those who buy the batteries that they are recyclable. The transportation requirements are streamlined, providing further encouragement for participation in this voluntary program.

The recycling program will promote the shipment of used batteries to a central recycling center, keeping them out of our local landfills and incinerators. The battery industry strongly supports this program, as well as the American people. At no cost to the Federal Government, we have the opportunity to efficiently and swiftly put these recycling programs into action.

Mr. Speaker, I am proud to support this legislation which takes a positive step in working for the common goal of preserving the environment.

Mrs. THURMAN. Mr. Speaker, I am delighted to express my strong support for H.R. 2024, the Mercury-containing and Rechargeable Battery Management Act. Today, we will take an important step toward making this earth a cleaner place. The battery bill will ensure that nickel-cadmium batteries get out of the waste stream and into the recycling stream.

In my district, energizer power systems employ 1,400 people. In fact, our Alachua plant is one of only two facilities in the United States that produces nickel-cadmium batteries.

We may be one of the only one's producing them, but you all use them. Nickel-cadmium batteries are used in power tools, appliances, cellular and cordless phones, and so many other every day products.

Recognizing the danger the disposal of these batteries posed, 13 States, including Florida, took the initiative to label and recycle the batteries. Industry has done a terrific job in promoting the labeling and recycling programs, particularly through the creation of the Rechargeable Battery Recycling Corporation [RBRC] Manufacturers fund the recycling programs and the RBRC is charged with collecting and recycling the used batteries. The Federal Government isn't spending tax dollars to set up a new bureaucracy, industry is financing and administering the program itself.

Actions like these are examples of the kind of good corporate citizenship we want to encourage. More than 100 companies helped to create the RBRC and, together, they work to ensure that their products do no harm to our environment.

The problem is that conflicting State regulations about labeling and collecting have hindered the RBRC's ability to fully achieve its goals. Today, we will enact uniform environmental labeling standards and allow for national collection of nickel-cadmium batteries by retail stores. These actions will help the energizer bunny keep going and going—then be recycled—so he can keep going and going again.

I am delighted that we have bipartisan support for this bill that not only addresses nickel-cadmium, but also phases out the use of mercury in batteries. I am pleased that the 1,400 hard-working energizer employees in my district have taken an active role in promoting this legislation.

I commend their efforts and urge the House to vote for the passage of H.R. 2024.

Mr. TORRES. Mr. Speaker, I am pleased to see the House addressing the issue of recycling. The bill under consideration today would encourage voluntary battery recycling, curtail the use of mercury-containing batteries and improve the procedures for recycling such batteries. The bill is a step in the right direction, but it's only a very small, half-step. We can and we should be doing much more to fix our country's critical solid waste disposal problems.

Common items such as lead acid batteries, newsprint, motor oil and tires continue to clog neighborhood landfills, incinerators and sewers. Communities all over America continue to grapple with the serious health and safety hazards that result. There is a way, however, to turn these items usually treated as trash into valuable resources. And there is a way to meet this environmental challenge, which does not rely on command and control regulation.

Mr. Speaker, 7 years ago, along with the late Senator John Heinz and former Senator Wirth, I introduced a innovative concept in environmental protection. The idea was simple—use market forces to achieve environmental protection. Very simply, our legislation offered a solution to the demand side of the supply-and-demand equation.

Recycling is not just the process of having a product collected, recycling means turning the old product into a new product and using it again. Garbage is still garbage unless it has value throughout its lifecycle. Unfortunately, because there is currently no stable market for recycled materials, our separated garbage too often ends up buried in the dump.

The legislation I have reintroduced this Congress would give companies an incentive to recycle the goods they produce, while giving them the freedom to determine the most efficient and least expensive way to do so. The bills employ a system of tradable credits. The credits serve as the medium of exchange in recycling markets. Manufacturers would be required to use an annually increasing percentage of recycled materials. If unable to meet the content standard for a given year, a manufacturer could achieve compliance by purchasing recycling credits from other manufacturers who exceed their targets.

The bills, H.R. 1522, H.R. 1523, H.R. 1524, and H.R. 1525, represent innovative proposals to foster the lead battery, oil, newsprint, and tire recycling industries. I encourage my colleagues to consider these incentive-based bills and join me in promoting a more comprehensive approach to addressing the serious solid waste challenges we face as a nation.

Mr. OXLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. OXLEY] that the House suspend the rules and pass the bill, H.R. 2024, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2024, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

EXTENDING TIME FOR DEBATE ON H.R. 1965, COASTAL ZONE PROTECTION ACT OF 1996

Mr. SAXTON. Mr. Speaker, I ask unanimous consent that during the consideration today of H.R. 1965 under suspension of the rules, debate be limited to 60 minutes, equally divided and controlled by the chairman and the ranking member of the Committee on Resources or their designees.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

COASTAL ZONE PROTECTION ACT OF 1996

Mr. SAXTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1965) to reauthorize the Coastal Zone Management Act of 1972, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coastal Zone Protection Act of 1996".

SEC. 2. FINANCIAL ASSISTANCE FOR DEVELOPMENT OF STATE COASTAL PROGRAMS.

(a) REAUTHORIZATION OF PROGRAM.—Section 305(a) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(a)) is amended—

(1) by striking "1991, 1992, and 1993" and inserting "1997, 1998, and 1999"; and

(2) by striking "two" and inserting "four".

(b) TERMINATION OF PROGRAM.—

(1) IN GENERAL.—Section 305 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454) is amended—

(A) by striking subsection (a);

(B) by striking "(b)"; and

(C) by amending the heading to read as follows:

"SUBMITTAL OF STATE PROGRAM FOR APPROVAL".

(2) CONFORMING AMENDMENTS.—Section 308(b)(2)(B) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1457(b)(2)(B)) is amended—

(A) in clause (iv) by adding "and" after the semicolon;

(B) by striking clause (v); and

(C) by redesignating clause (vi) as clause (v).

(3) EFFECTIVE DATE.—This subsection shall take effect on October 1, 1999.

SEC. 3. IMPLEMENTATION ASSISTANCE FOR COASTAL ZONE ENHANCEMENT.

Section 309(b) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456b(b)) is amended—

(1) by inserting "(1)" before "Subject to"; and

(2) by adding at the end the following new paragraph:

"(2)(A) In addition to any amounts provided under section 306, and subject to the availability of appropriations, the Secretary may make grants under this subsection to States for implementing program changes approved by the Secretary in accordance with section 306(e).

"(B) Grants under this paragraph to implement a program change may not be made in any fiscal year after the second fiscal year that begins after the approval of that change by the Secretary.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR GRANTS.

Section 318 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464) is amended—

(1) by striking "SEC. 318." and all that follows through subsection (a) and inserting the following:

"SEC. 318. (a) There are authorized to be appropriated to the Secretary, to remain available until expended—

"(1) for grants under sections 306, 306A, and 309—

"(A) $47,600,000 for fiscal year 1997;

"(B) $49,000,000 for fiscal year 1998; and

"(C) $50,500,000 for fiscal year 1999; and

"(2) for grants under section 315—

"(A) $4,400,000 for fiscal year 1997;

"(B) $4,500,000 for fiscal year 1998; and

"(C) $4,600,000 for fiscal year 1999.";

(2) by striking subsection (b); and

(3) by redesignating subsections (c) and (d) in order as subsections (b) and (c).

SEC. 5. COASTAL ZONE MANAGEMENT FUND.

(a) AUTHORIZATION FOR ADMINISTRATIVE EXPENSES.—Section 308(b)(2)(A) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(b)(2)(A)) is amended to read as follows:

"(A) Expenses incident to the administration of this title, in an amount not to exceed for each of fiscal years 1997, 1998, and 1999 the higher of—

"(i) $4,000,000; or

"(ii) 8 percent of the total amount appropriated under this title for the fiscal year.".

(b) AUTHORIZATION FOR PROGRAM DEVELOPMENT GRANTS.—Section 308(b)(2)(B)(v) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(b)(2)(B)(v)) is amended to read as follows:

"(v) program development grants as authorized by section 305, in an amount not to exceed $200,000 for each of fiscal years 1997, 1998, and 1999; and".

SEC. 6. MATCHING REQUIREMENT.

Section 315(e)(3) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461(e)(3)) is amended by adding at the end the following new subparagraph:

"(C) Notwithstanding subparagraphs (A) and (B), financial assistance under this subsection provided from amounts recovered as a result of damage to natural resources located in the coastal zone may be used to pay 100 percent of the costs of activities carried out with the assistance.".

SEC. 7. AQUACULTURE IN THE COASTAL ZONE.

The Coastal Zone Management Act of 1972 is amended—

(1) in section 306A(b) (16 U.S.C. 1455a(b)) by adding at the end of the following:

"(4) The development of a coordinated process among State agencies to regulate and issue permits for aquaculture facilities in the coastal zone."; and

(2) in section 309(a) (16 U.S.C. 1456b(a)) by adding at the end the following:

"(9) Adoption of procedures and policies to evaluate and facilitate the siting of public and private aquaculture facilities in the coastal zone, which will enable States to formulate, administer, and implement strategic plans for marine aquaculture.".

SEC. 8. APPEALS TO THE SECRETARY.

The Coastal Zone Management Act of 1972 is amended by adding at the end the following new section:

"APPEALS TO THE SECRETARY

"SEC. 319. (a) NOTICE.—The Secretary shall publish in the Federal Register a notice indicating when the decision record has been closed on any appeal to the Secretary taken from a consistency determination under section 307(c) or (d). No later than 90 days after the date of publication of this notice, the Secretary shall—

"(1) issue a final decision in the appeal; or

"(2) publish a notice in the Federal Register detailing why a decision cannot be issued within the 90-day period.

"(b) DEADLINE.—In the case where the Secretary publishes a notice under subsection (a)(2), the Secretary shall issue a decision in any appeal filed under section 307 no later than 45 days after the date of the publication of the notice.

"(c) APPLICATION.—This section applies to appeals initiated by the Secretary and appeals filed by an applicant.".

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from New Jersey [Mr. SAXTON] and the gentleman from California [Mr. MILLER] each will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

(Mr. SAXTON asked and was given permission to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, I am pleased that the House is considering H.R. 1965, the Coastal Zone Protection Act of 1996. It is certainly an appropriate way to show our commitment to the environment and to celebrate Earth Day.

I introduced H.R. 1965 10 months ago, and 129 of my colleagues are now cosponsors. Certainly this broad bipartisan support shows the popularity of the Coastal Zone Program and the need to act on this reauthorization.

In light of the enormous growth of coastal populations, Congress passed, and President Richard Nixon signed into law, the Coastal Zone Management Act—also known as CZMA—in 1972. That growth has not abated in the 24 years since the original Act was passed, and forecasts predict that significant growth will continue in coastal areas. The CZMA provides grants to States that develop federally approved coastal zone management—or CZM—plans. It also allows States with approved plans to review Federal actions for consistency with those plans.

Twenty-nine of the thirty-five eligible coastal States and territories have federally approved CZM plans, and five others are working to prepare acceptable plans. These twenty-nine approved plans include 95,000 miles of coastline, almost 95 percent of the national total.

For a relatively small expenditure of Federal dollars and without imposing any additional Federal regulatory burden, this program has been very successful in getting States to improve their coastal planning programs on a totally voluntary basis.

H.R. 1965 reauthorizes funding for grants to States to develop, implement, and update their coastal zone management programs for fiscal years 1997 through 1999; bases authorization levels for State grants and Federal administrative expenses on the amounts appropriated for these programs; provides the States with more discretion in the use of their grants; and sets a time limit for final decisions on consistency appeals.

This is an excellent bill. It continues the existing program with only minor modifications. However, those changes provide additional flexibility to the States, establish fiscally responsible authorization levels, and streamline the consistency review process. These are all positive accomplishments, and they deserve the enthusiastic support of this body.

I urge an "aye" vote on this most important environmental bill.

□ 1530

Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, I rise in support of this legislation, as I did with the previous legislation, and I want to commend the gentleman from New Jersey [Mr. SAXTON] for his work on getting this reauthorization of the coastal zone management legislation passed in our committee and to the floor.

This is a good bill. The substitute amendment that has been suggested has been agreed to on a bipartisan basis and has the support of the administration.

Let me say, Mr. Speaker, that this discussion today is not just abut coastal zone management or not just about battery recycling. What we went through with the presentation of the previous bill, and with this bill also, is that at a time when we were talking about recycling batteries and, therefore, removing toxics from the environment, what we saw is that most of the people who came and supported recycling batteries and removing toxins from the environment, in fact, had voted five out of five times against, in crucial bills, in the clean water bill and regulatory reform and amendments and motions to recommit, had voted against removing arsenic from drinking water, had voted against removing arsenic dioxin, lead and other cancer-causing pollutants, had voted to liberalize the rules on pollution.

So it was not about recycling batteries, and I daresay if the speakers on this legislation have the same voting record with respect to coastal zone management, then we, too, will award them fig leafs to show that they, in fact, cannot hide behind this good and noncontroversial bill when, in fact, they have voted previously in this session against coastal nonpoint pollution control to try to regulate many of the pollutions that flow into our coastal zones for dumping more sewage into our oceans.

At a time when we want to regulate the coastal zone of our States and improve them for our citizens, they voted to liberalize how much more sewage we can put into the ocean. They voted against the protection of the wetlands in many of these same areas, an amendment that was offered on a bipartisan basis.

They voted for gutting the Clean Water Act where, if we do not clean up our rivers and our streams and sewage and others, then it all flows into the coastal zone and we have an increased amount of pollution floating.

So what we are saying is we cannot have it both ways, we cannot engage in hyprocrisy, we cannot say well, we are for coastal zone management because the whole Congress is for it, apparently. It is a unanimously supported legislation. It is a bipartisan bill. It is supported by the administration. But on these key issues earlier in this session of Congress, in this session of Congress, our colleagues voted five for five against the environment, just as many of the speakers on the previous legislation sought to support battery recycling, which is good, but the hypocrisy of their position when they voted not to remove lead and arsenic and dioxin and other materials from our environment.

Those are the records. Those are the votes. those are the ones that are taken, and that is the record of their votes.

Mr. OXLEY. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Speaker, I thank the gentleman for yielding.

So let me understand that unless every Member votes the liberal line on every environmental issue, then he is not——

Mr. MILLER of California. Reclaiming my time, no; that is not the issue. the issue is whether my colleagues vote for or against the environment, whether they vote for or against the environment on a consistent basis.

There is nothing liberal or conservative about taking arsenic out of the drinking water of children. There is nothing liberal or conservative about taking dioxin, lead, and other cancer-causing agents out of the environment of the children. There is nothing liberal or conservative about keeping people from dumping pollution into our oceans, about dumping sewage into our oceans that comes back to haunt the people who want to use the beaches, the wetlands, and the recreational area.

This is not about liberal or conservatism. This is about people's voting records who, on the day after Earth Day, under the direction of the majority leader, want to present a theme to America that somehow the Republicans are back on the environment.

The fact is for 16 months our colleagues have led the most comprehensive assault on the basic environmental laws of this country, and we think there is a certain amount of hypocrisy in that, and we are seeking to point that out. And it has nothing to do with ideology. It has to do with the recorded votes taken by Members of this Congress in the previous four sessions on dealing with these issues of nonpoint pollution control, on ocean dumping of sewage, on protecting wetlands, on the Clean Water Act, on the question of removing arsenic from drinking water, votes that we all remember that we had on the floor of this Congress where the gentleman and others, myself and others, are all recorded on those measures.

Mr. Speaker, I reserve the balance of my time.

Mr. SAXTON. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I thank the gentleman for yielding this time to me, and I cannot resist responding to my friend from California because it is really how he defines these votes, that somehow, if we happen to vote against his particular position, that happens to be allegedly a vote against the environment or some of his left friends who define it that way.

The fact is that all of us share this same goal of environmental protection, but we find that there are different ways to get there, sometimes more effective ways, if we used the power of the market, for example, to do that.

We did that in the clean air bill. My friend from California will remember when we provided SO_2 emissions allowances that are now being traded by companies in Chicago. It is a very effective way to delay with air pollution. I think there is a different way to do it, and I think a better way and a more effective way and a more efficient way. We differ on that. We do not differ on our goals, and I think that is where the gentleman is in error.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman from California and point out how strongly I feel that what we are engaged in here today and what the Republican leadership is engaged in here today is essentially what I call a "green scam." They are putting up the Coastal Zone Management Act for reauthorization, which is certainly a good bill, but they are putting it up a day after Earth Day, an effort to try and give the impression that the Republican majority and that their leadership is in favor of protecting the ocean environment. And, in fact, nothing could be further from the truth.

The fact of the matter is, from the very beginning, this Republican leadership, from the very beginning of this Congress in 1995, brought up what I call the Dirty Water Act, an effort to essentially gut the Clean Water Act and many of the provisions of that bill which passed the House but, fortunately, has not passed the Senate, has been stopped in the Senate, would have turned back the clock on efforts over the last 25 or 26 years to protect the ocean investment.

The gentleman from New Jersey [Mr. SAXTON], my colleague, has been very effective in trying to get this CZMA Act out of committee and brought to the floor, and I want to congratulate him today for the accomplishment of bringing it here to the floor. But the fact of the matter is that many times the Republican leadership fought very hard to have this bill not brought out of committee and to prevent it from coming to the floor. And they also tried to take away all the funding from the CZMA.

At one time I remember specifically there was no funding for the bill, and if it was not for the fact that he and some of the other Republicans that do care about clean water were willing to take a stand, we would not be here today.

But that does not take away from the fact that the Republican majority and their leadership has been adamant in their effort to cut back on the Clean Water Act.

I just want to mention a few of those things today. I am going to give out two fig leaves to two individuals: The gentleman from Alaska [Mr. YOUNG] stated before, he talked about what he was trying to do to protect the environment. And, of course, now the gentleman from Ohio [Mr. OXLEY] was saying the same thing. But on five key votes, both gentlemen, the gentleman from Alaska and the gentleman from Ohio, joined with the Republican leadership five out of five times to vote against coastal nonpoint pollution control, for dumping more sewage in the ocean, something that I think is very important to me, that we not have ocean pollution in the dumping of sewage; against protecting wetlands; for gutting the Clean Water Act; and, finally, against allowing the EPA to enforce wetlands protection. This continues. They are joining with the Republican leadership on these points, and, therefore, I give both of them a fig leaf at this time.

Mr. SAXTON. Mr. Speaker, I yield 3 minutes to the gentleman from Fort Yukon, AK [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, we only get figleaves from fruit trees.

Now that we have got in this debate seriously, and I have listened to the people on the other side of the aisle talk about the environment, let us talk about Congressmen that want total central control. Let us talk about Congressmen that want power in mighty Washington's hands. Let us talk about Congressmen who vote for socialized Government. Let us talk about Congressmen that, in reality, do not believe that private property rights, owners have any rights at all. Let us talk about Congressmen that decide what is the environmental agenda as being touted by the 57 environmental organizations when they are rated 100 percent by the Sierra Club and Friends of the Earth, et cetera.

Let us talk about the Congressmen that do not care about jobs, about people that want to work. Let us talk about Congressmen that believe a kangaroo rat is more important than a man's livelihood or the homes that were burnt down because a person could not farm that land, and after they could not farm the land the rats left because there was nothing to eat.

Let us talk about a Government that does not listen to the people any more and the Congressmen that support that type of Government. Congressmen have believed, in reality, that there is no freedom of individuals that is good for the masses, control from Washington, DC.

And this is what this talk about the environment is all about.

On my side of the aisle, I have said the environment must include man. We cannot exclude man or eventually man will destroy the environment. But on that side of the aisle, we cannot touch anything or that person is against the environment. One cannot build a house, one cannot drill for oil, one cannot take and build a dam. One, in fact, cannot catch a fish, let alone do anything else, because they are destroying the environment. It is part of the zealism of that side of the aisle by certain leaders that believe that man is the enemy and he is not to be included. And that is what the two gentlemen from California and New Jersey are talking about, centralized government power over the individual person.

If I own a piece of property and it is mine, and I have an endangered species there and it is there because I have taken care of it, I can be punished because of these two gentlemen. I should be rewarded because I protect the species.

But under this administration and past administrations, the agencies themselves have come in and told me: "You are a sinner because you have the species on your property; thus, you no longer can do anything with your property. You, in fact, ought to be punished."

That is the philosophy of these two gentlemen.

Today the House is considering H.R. 1965, the Coastal Zone Protection Act of 1996. This bill was introduced by JIM SAXTON, and he deserves a great deal of credit for his efforts on behalf of this program.

Enacted in 1972, the CZMA encourages States to regulate land and water uses which affect their coastal zones. The program is voluntary, but States receive grant money to develop a plan which, when approved by the National Oceanic and Atmospheric Administration (NOAA], makes the States eligible for more Federal assistance to help manage their coastal program. In addition, States can review and, in some cases, veto certain Federal activities which affect their coastal zones and which are inconsistent with their approved programs. Twenty-nine States and territories have approved coastal zone programs.

In fact, to use my home State as an example, the Alaska Coastal Management Program coordinates the permitting process between Alaska's 33 coastal districts and local, State and Federal agencies. This coordination assures that localities have the opportunity to have their views on Federal activities fully considered, and reduces the time and cost of permit approvals. The coastal zone program has also funded development of comprehensive wetlands management plans in Juneau and Anchorage. These plans emphasize local decisionmaking and reduce the regulatory burden for low value wetlands.

The bill before us today re-auathorizes the Coastal Zone Management Act through fiscal year 1999. It provides the States with more flexibility in program management, and it sets fiscally responsible authorization levels. I urge you to support this bill.

Mr. MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I am so glad that the previous speaker, the chairman of the committee, brought up this job-versus-the-environment issue, because I think it is really crucial. The fact of the matter is that a good environment mean good jobs and better jobs and a better economy. No better illustration of that took place than in 1988 when I was first elected to Congress. We had medical waste, we had sewage sludge washing up on the Jersey shore. Our beaches were closed. Billions of dollars were lost to the New Jersey tourism industry because we had dirty water.

The Clean Water Act made it possible for us to clean up those beaches and provided the funding to do so by upgrading sewage treatment plants. Now that tourism is back, the people are back, the jobs are back. A good environment and a clean ocean means good jobs, and it means a bigger economy.

Do not let anybody from the other side or anybody try to kid and to say that there is an issue here of jobs versus the environment. The two go together, and a clean environment means more and better jobs.

Mr. SAXTON. Mr. Speaker, I yield 5 minutes to the gentleman from Utica, NY [Mr. BOEHLERT], my good friend.

Mr. BOEHLERT. Mr. Speaker, I rise this afternoon in strong support of H.R. 1965, the Coastal Zone Management Reauthorization Act of 1996.

As we celebrate Earth Day, it is important that we remember the many successes we have had in improving the quality of America's waters since the first Earth Day in 1970. The Coastal Zone Management Act of 1972 has been an important component of our Nation's efforts to improve coastal waters, and today's consideration of legislation to reauthorize this act is in keeping with the spirit and intent of Earth Day.

□ 1545

The Coastal Zone Management Act of 1972 was signed by President Nixon and was one of his many environmental initiatives, which included the creation of the Environmental Protection Agency, the enactment of the Clean Air Act, and the establishment of the Endangered Species Act. I am proud that a Republican Congress is forwarding legislation to reauthorize the Coastal Zone Management Act.

Before I go further, I would like to thank the leadership of the Committee on Resources, the gentleman from Alaska [Mr. YOUNG] and the gentleman from New Jersey [Mr. SAXTON]. This bill is an excellent example of a bipartisan commonsense approach to protecting the Nation's coastal resources.

The Coastal Zone Management Act of 1972 responds to this environmental need with a Federal-State partnership intended to encourage wise coastal resource management. The program consists of limited Federal funding, planning requirements, and tools for the States to ensure consistency and coordination in their management efforts. In general, it has worked well and has helped to supplement other important programs, such as the Clean Water Act.

Today the needs for a strong partnership for coastal perfection are greater than ever. For example, the Environmental Protection Agency has documented that 97 percent of the Great Lakes shoreline miles surveyed have water quality that is impaired. In addition, many estuaries are not meeting their designated uses due to excessive loadings of pollutants. This can be devastating to not only our environment but our economy as well.

For example, most of our Nation's fish and shellfish industry relies on bays and estuaries and their adjacent wetlands as a breeding ground for the species they harvest. The future of America's multibillion dollar recreational fishing industry also depends on clean, healthy coastal waters.

Because of this connection to water quality, the Clean Water Act, and coastal protection, the Committee on Transportation and Infrastructure has a significant interest in the Coastal Zone Management Act and H.R. 1965. This is particularly true for the Subcommittee on Water and Power Resources in the Committee on Resources.

At the outset of the 104th Congress, the Committee on Transportation and Infrastructure acquired jurisdiction over marine affairs, including coastal zone management, as they relate to oil and other pollution of the navigable waters. This is in addition to our existing jurisdiction over pollution in coastal waters. The Committee on Transportation and Infrastructure also has jurisdiction over natural resources damages programs under the Clean Water Act, the Oil Pollution Act, and Superfund.

Section 6 of H.R. 1965 has provisions relating to natural resource damages. It is our understanding, however, that nothing in the bill expands or affects authorities under those acts.

Mr. Speaker, I would like to engage the chairman of the subcommittee in a colloquy with the gentleman from Ohio [Mr. OXLEY].

Mr. Speaker, I would say to the gentleman from New Jersey, as he knows, the Comprehensive Environmental Response, Compensation and Liability Act, the Clean Water Act, the National Marine Sanctuaries Act, and the Oil Pollution Act authorize natural resource damages to be used only to restore, replace or acquire the equivalent of such damaged natural resources.

Is that correct?

Mr. SAXTON. Mr. Speaker, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Speaker, that is correct.

Mr. OXLEY. Mr. Speaker, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Speaker, it is our understanding that section 6 of this legislation does not in any way alter the determination and use of natural resource damages collected pursuant to the Clean Water Act, the Oil Pollution Act, the Natural Marine Sanctuaries Act, or the Comprehensive Environmental Response, Compensation and Liability Act, is that correct?

Mr. SAXTON. If the gentleman from New York will continue to yield, Mr. Speaker, that is also correct.

Mr. BOEHLERT. If we could follow up with a hypothetical, for example, natural resource damages might be paid to a Federal, State, or Indian tribal trustee for the restoration, replacement, or acquisition of equivalent resources in order to compensate for those resources that are damaged at a specific location or site. Is that correct?

Mr. SAXTON. Mr. Speaker, that too is correct.

Mr. OXLEY. Mr. Speaker, if the gentleman will continue to yield, some have raised the issue that section 6 could be used to facilitate the development and use of regional restoration plans. Is it your understanding that under this legislation, NOAA would have no authority to create regional restoration plans?

Mr. SAXTON. That is correct, under this legislation. However, I do want to point out that they could have such authority under some other existing law. This provision will not give them any such authority.

Mr. BOEHLERT. I want to thank the chairman of the committee and the gentleman from Ohio [Mr. OXLEY] for participating in this colloquy.

Mr. Speaker, in closing, let me say this: Pollution knows no political affiliation, it knows no artificial geographic boundary. There are those on the right and those on the left who are trying to get this into a heated battle on the floor of the House of Representatives to lead the American people to believe that one party or another has exclusive concern about the environment.

Let me tell the Members, Republicans care about the environment just as Democrats care about the environment. We are concerned for our families and we are concerned for future generations. I urge passage of this important bill, and I urge us to go forward in the spirit of bipartisanship to do what is good for America for generations to come.

Mr. MILLER of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, this week we celebrate the wonder and beauty of the Earth. As we celebrate, I feel especially grateful for the area I represent. I am privileged to represent Marin and Sonoma Counties in California, the two counties just north of San Francisco, across the Golden Gate Bridge. The diversity of nature is prominent in this area where the rolling hills, redwood forests, and rugged coastline meet.

I am privileged to represent 140 miles of the northern California coastline. Each year, numerous visitors come to Marin and Sonoma Counties to see one of our Nation's most picturesque scenes: Our coasts. It is hard for visitors to the area to even imagine that there are troubled waters off our beautiful coasts, but there are. Due to extensive recreational and commercial use, a serious toll has been taken on our coasts, a toll that threatens the health of our marine resources and of our coastal economies.

If California's coast is to be utilized by future generations, Mr. Speaker, as it is today, it must have strong protection now. Passing this legislation to reauthorize the Coastal Zone Management Act will help meet this need and the needs of all America's coasts. Coastal zone management programs offer tremendous opportunities for conserving and maintaining this country's most outstanding marine resources. Mr. Speaker, coastal programs are not only successful, they are also cost effective.

H.R. 1965 will assist in the effort to be good stewards of our coasts. Let us pass this bill and continue the vital work of the Coastal Zone Management Act. Let this not be a figleaf. Let this not be a Band-Aid, but let it be a precedent for future meaningful legislation to protect our fragile environment.

Mr. SAXTON. Mr. Speaker, I yield 30 seconds to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I want to bring forth to the body here that we want to protect the environment, and we also want to protect private property, the basis of our Constitution.

The gentleman from New Jersey [Mr. PALLONE] had a zero, a zero rating for private property. He does not believe in private property. The gentleman from California [Mr. MILLER] did a little better. He had 7 percent. He slipped up; I do not know what happened. I think the gentleman from Rhode Island [Mr. REED], he has not spoken as yet, he also got a zero.

What we are saying is private property and the environment, together we can prevail. We ignore private property, we destroy the Constitution.

Mr. MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Speaker, I rise in strong support of H.R. 1965, the Coastal Zone Management Reauthorization Act of 1995, and in particular, the manager's substitute, which has incorporated an important provision on aquaculture. Also I want to thank the chairman of the committee, the gentleman from Alaska [Mr. YOUNG], the gentleman from California [Mr. MILLER], and the gentleman from Massachusetts [Mr. STUDDS] for their support of this important provision.

This provision was originally part of H.R. 2046, a bill I introduced this year to authorize States to formulate, administer, and implement strategic plans for marine aquaculture. Indeed, H.R. 2046 was based on previous legislation sponsored in the last Congress by myself and the gentleman from Massachusetts [Mr. STUDDS].

This provision will foster economic growth and create jobs by encouraging aquaculture development in our lakes and coastal areas. Aquaculture represents a promising economic development opportunity for the State of Rhode Island. At the turn of the century, Rhode Island's shellfishermen harvested so much shellfish from Narragansett Bay that this harvest would be worth almost $1 billion in today's dollars.

This provision would enable States like Rhode Island that have no comprehensive plan for aquaculture development to get started in the process of creating jobs and economic development through aquaculture.

It is important to recognize that development of a marine aquaculture industry will not be easy. Difficult issues such as private use of public resources, conflicts with other coastal user groups, and the development of streamlined regulatory and permitting requirements will have to be addressed.

However, other nations around the world have already recognized the potential of aquaculture and the important role government can play in developing this industry. The Governments of Japan, Norway, and Chile are supporting aquaculture development programs and giving their citizens the opportunity to reap the accompanying economic rewards. In fact, these countries are exporting their aquaculture harvests of fish and shellfish to America.

Mr. Speaker, this provision will go a long way in helping States like Rhode Island become competitive in this growing global industry. Again, I thank the gentleman from Massachusetts [Mr. STUDDS] for his strong support of this provision, and I urge my colleagues to join with me in support of the passage of this bill.

Mr. SAXTON. Mr. Speaker, I yield 2 minutes to the gentleman from Sanibel, FL [Mr. GOSS], who, as Mayor of that community, helped to initiate and found Florida's coastal zone management program.

Mr. GOSS. Mr. Speaker, I am very pleased to rise in support of this bill because it is a solid, responsible piece of bipartisan environmental legislation, and by the by, a great bill for Florida.

I want to commend the tremendous work done by my good friend, the gentleman from New Jersey [Mr. SAXTON], who has put this thing together and moved it to the floor in a timely fashion. This should be held up as model environmental legislation. It is a rare example where we finally got the Federal Government doing a program that is both effective and voluntary. I think its success can well be measured by the fact that since its creation in 1972, 34 out of 35 of the eligible States in this Nation have become involved in the program. Twenty-nine have approved programs, and five more are working towards that goal.

The CZMA is a cooperative effort that recognizes States as full partners, sharing the costs and the responsibilities for setting standards geared towards protecting local coastal environments. The good thing about it is the flexibility. Michigan can do what is best for the Great Lakes, Florida can do what is right for the situation along the Gulf and the Atlantic coast in Florida.

Specifically I would like to single out two other aspects of the CZMA because of their importance to my State of Florida. One is the question of consistency, and the other is the question of the National Estuarine Reserve System. Consistency simply says that the Federal Government cannot come along and do something that the State of Florida does not think is good for the State of Florida.

We have seen this work and help us in our protection of our Outer Continental Shelf and in the oil and gas exploration issues we have faced in the State of Florida throughout the years. Without these consistency provisions, we would not have been able to succeed, and we are in fact relying on them today.

Mr. Speaker, it is important to us. Florida has lots of tourists, many visitors. Many in this body go there at this time of year and enjoy themselves. We want to keep it that way, at a place where you will continue to go back. This act will help us do that.

With regard to the reserve areas, the estuarine research reserve areas here are areas where we are protecting pristine estuaries, while at the same time we are opening up the area for public study and education. This has had an extraordinary residual benefit for the people of this country. This is a good bill, and it deserves Members' support.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the gentleman from Alaska [Mr. YOUNG] made the point that we are making. That is, there are those individuals who seek to come to the floor to support this legislation and try to hide an atrocious environmental record where they have voted 5 for 5, in some cases 15 for 10, against very important environmental protections: the removal of arsenic from drinking water; the removal of dioxin from our environment, from our drinking water; the removal of lead, to protect children; those kinds of measures. The gutting of the Clean Air Act, they supported it.

The gentleman from Alaska [Mr. YOUNG] has a perfect record on that. He needs a fig leaf, because he is trying to hide that record by supporting this legislation. The gentleman would say that the last three speakers in fact do not need a fig leaf, because their environmental records have been consistent. They have been consistent because of the tough environmental bills they have supported true environmental protection, and on this legislation they are supporting a good piece of legislation.

That is not what is going on here. That is because of the fact that under a directive from the caucus they are putting this measure forward. The gentleman from Alaska has always found some reason why he could not support environmental legislation. He does not like the Federal government. He does not think we should be able to have some kind of national standards for clean air or clean water.

But as I think one of the previous speakers said in support of this legislation, the environment knows no geographic boundaries. If you have dirty air, if you have dirty air in California, people in Nevada and Arizona end up breathing it.

□ 1600

If we put dirty water into the Mississippi River at the top, the people down in Louisiana and elsewhere end up having to contend with that dirty water. That is because we need those standards, and before we had those standards, that was a problem.

Coastal zone management: What moves up and down the coast between the Carolinas and Virginia and Florida has to be somehow managed in a fashion to protect all coastal communities. That is true on the West Coast and others.

That is what we are talking about, that there is some consistency between people's records. You cannot just trot out unanimous bills that there is complete agreement on and therefore say that somehow you have created the environmental record when for 16 months, when given the opportunity, people have voted and earned themselves a zero rating. That is the point being made.

Mr. GOSS. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Florida.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from California for yielding.

Mr. Speaker, I just simply want to say, we were talking about fig leaf awards as well. We were talking about seaweed awards. We had a number of gimmicks we were thinking about. I think it might be a question of approach.

Mr. MILLER of California. Seaweed?

Mr. GOSS. For the Coastal Zone Management Act, we thought seaweed might be appropriate. You can drape it around yourself in certain ways and get the same result as with a fig leaf. It is really heavy, though.

The reason we thought it was appropriate, I recall the gentleman actually caused us a great deal of problem with our Outer Continental Shelf protections back in 1992. The gentleman is well known as a champion of the environment. It is just we had a different agreement on how to protect our Outer Continental Shelf. I am glad we have done a better job of doing that, and I am glad to see the gentleman's support for this bill.

Mr. MILLER of California. And the point made by the gentleman is in fact historically we have worked on a bipartisan basis on most of these measures.

Mr. GOSS. We have.

Mr. MILLER of California. The Outer Continental Shelf was passed on a bipartisan basis, as was Clean Air, Clean Water, Endangered Species Act, all of the other great environmental laws.

Mr. GOSS. We have.

Mr. MILLER of California. What we have seen is unfortunately people like the gentleman from Alaska apparently prevail in the caucus, rather than the gentleman himself.

Mr. Speaker, I reserve the balance of my time.

Mr. SAXTON. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Speaker, the California coast is one of the world's natural treasures, and Californians know that they must preserve these wonderful shores so that not only will Californians enjoy them but people from all over the world will enjoy them.

The Coastal Zone Management Reauthorization Act of 1996 will help California meet this responsibility. The bill's annual grant program will ensure that the wisest protections and the best usage of the coastal areas are maintained.

California's coast belongs to the generations yet to come. This legislation ensures that this great treasure will remain for a very, very long time.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I am pleased that the previous speaker is supporting this bipartisan noncontroversial bill to reauthorize the Coastal Zone Management Act, but this is really again just a fig leaf to hide the fact that Republicans have consistently voted against protecting the environment and the health and safety of the American people.

On five key votes that I mentioned before, the gentleman from California who previously spoke four out of five times joined with the Republican leadership: first against coastal nonpoint pollution control; second, for dumping more sewage into the ocean; third, against protecting wetlands; and, finally, for gutting the Clean Water Cat, the dirty water bill that we mentioned before.

So for the gentleman from California [Mr. HORN], I give him his fig leaf.

Mr. SAXTON. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Speaker, I am bemused and amused by my colleague from New Jersey. The same reason that some have said these are not really environmental votes stands in that case. They were private property votes, most of them.

I believe that if you are going to save the environment, you have got to follow the fifth amendment to the Constitution of the United States, just as the Supreme Court said you have to follow it with reference to the California coast. You cannot take people's property and say, "Well, sorry, you lived there for five generations and you are going to give it up to the State at no cost." That is nonsense, and I will continue to vote for private property.

Mr. MILLER of California. Mr. Speaker, I yield 30 seconds to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I appreciate what the gentleman said, because I think it harks back to what the gentleman from Alaska said before when he talked about the ratings from this private property group and said that I had received a zero. He, on the other hand, the gentleman from Alaska, received a zero from the League of Conservation Voters for being anti-environment.

If we track the votes that the League of Conservation Voters used and the private property rights group used, they basically used the same votes. If you get a zero on private property, you get 100 percent from the league, and vice versa.

Mr. SAXTON. Mr. Speaker, I yield 1 minute to the gentleman from Vineland, NJ [Mr. LOBIONDO].

Mr. LOBIONDO. Mr. Speaker, I rise in support of the Coastal Zone Protection Act.

This legislation reauthorizes the Coastal Zone Management Act, established by Congress in 1972. Intense use of the coastal zone—defined as the coastal waters and adjacent shorelands—has significant impacts on water quality, the abundance of wildlife, coastal ecosystems, and shoreline erosion.

Over 60 percent of all Americans live within 50 miles of the Atlantic, Pacific and Great Lakes coasts, and this population is expected to grow by 15 percent in the next 20 years. As such, it is important to have protective measures in place for the fragile coastal ecosystem.

I support this bill and urge all Members to vote "aye."

Mr. MILLER of California. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, that is to say, those who want to not only have a fig leaf to hide behind, as the gentleman from California just earned by his voting record, but those who now want to suggest they were hiding behind property rights, I do not know what the property right is that allows you to take pollution from your land and dump it into the streams and the bays and the waterways of this Nation. I do not know what that property right is that allows you to take non-point pollution, pesticides and toxics, and dump them into the bays and the rivers and eventually end up in our coastal zone. There is no property right that gives you the right to pollute the public waterways and to diminish the resources available to other Americans.

I know the gentleman came on the floor a little late, and so maybe he got caught up in the rhetoric of the gentleman from Alaska [Mr. YOUNG] about private property. That had nothing to do with the voting records, on whether or not you voted to dump sewage into the oceans or control nonpoint pollution, or voted for the Clean Water Act or allow EPA to enforce wetlands protections.

Mr. Speaker, I reserve the balance of my time.

Mr. SAXTON. Mr. Speaker, I yield 3 minutes to the gentlewoman from Santa Barbara, CA [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Speaker, I rise in strong support of H.R. 1965 to reauthorize the Coastal Zone Management Act of 1972.

Coastal zone management has been a significant priority for my home State of California for over 30 years now. Since the establishment of our Federally Approved Program in 1976, we have attempted to take full advantage of assistance offered to States through the Coastal Zone Management Act. I feel that the accomplishments of the California coastal management program indicate how worthwhile, efficient and cost effective State management can be.

Now, in the absence of the Coastal Zone Management Act, our State participation would not be possible. Californians recognize that our robust economy and superior quality of life depend on a healthy and scenic cost, especially true on the central coast of California, Santa Barbara and San Luis Obispo County, and they strongly support sound management of the State's coastal zone.

Eighty percent of Californians live and work within 50 miles of our coast. Millions of other people from all over the United States and the world come to California for business and pleasure. Coastal and ocean dependent industries generate $17 billion for California's economy each year, and nearly $10 billion of that comes from recreation and tourism. It is clear that State coastal management programs advance the national interest in healthy coastal economies, necessary infrastructure and the protection of vital natural resources.

Since 1981, the California Coastal Zone Management Program has used $20 million to leverage another $100 million from both public and private sources. We have applied for these funds to over 60 coastal projects, such as establishing networks of coastal parks to improve public access to our coastlines, constructing docks and marine berths to assist the commercial fishing industry, and building public piers and fishing wharfs to restore our urban waterfronts.

Also under the direction of the Coastal Zone Management Program, the State of California and Vandenberg Air Force Base have become partners in water conservation planning, in the creation of miles of shoreline access trails, and in the protection for endangered and threatened species. Again, after thorough Federal consistency reviews by our State program, billions of dollars worth of Federal projects have been allowed to proceed, all while protecting the environment, enhancing communities, and increasing recreational access to coastal resources.

Clearly, the Coastal Zone Management Act deserves to be reauthorized. In California, and in coastal States across the Nation, coastal zone management programs have long demonstrated that the delicate balance between responsible coastal development and sound environmental policy can be achieved.

I applaud the gentleman from New Jersey [Mr. SAXTON] for his leadership on this, and I encourage an "aye" vote on this bipartisan bill.

Mr. MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, again, I am glad the previous speaker, the gentlewoman from California, is supporting this reauthorization of this CZMA.

Again, she has earned her fig leaf and she cannot hide behind it, because she consistently voted against protecting the environment and the health and safety of the American people on five key votes. The gentlewoman joined with the Republican leadership five out of five times to vote against coastal nonpoint pollution control, for dumping more sewage into the ocean, against protecting wetlands, for cutting the Clean Water Act, and against allowing the EPA to enforce wetlands protection, and she earned a zero voting record from the League of Conservation Voters. So I present her with this fig leaf.

Mr. SAXTON. Mr. Speaker, I yield 30 seconds to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Speaker, I thank my colleague on the other side of the aisle for yielding the time. I would just say I am one of those freshmen that came here to Washington, DC, to take care of the bureaucrats here in this city and to make sure that the people on the central coast of California got what they wanted for their tax dollar: cleaner water, cleaner air, and to make it a better place.

They realize that the bureaucrats here can usurp a lot of those tax dollars and not accomplish what we truly want on the central coast of California. They want to do away with the regulations, the duplicity of laws, and they want to get on with it.

So I would just say that I am proud of my voting record that I have had here and I will continue to do so.

Mr. SAXTON. Mr. Speaker, I yield 2 minutes to the gentleman from Eastern Long Island, NY [Mr. FORBES].

Mr. FORBES. Mr. Speaker, I rise in support of the Coastal Zone Management Act.

This is an important tool for America. It is important to my own State of New York, in which we have some of the most pristine beaches in the world and some of the most beautiful coastline, obviously, in the world. A good, healthy environment obviously is a good economic environment.

On Long Island, where tourism is a key industry, we believe the Coastal Zone Management Act has been a wonderful, wonderful tool. I am pleased to have played a role last year in the funding of the Coastal Zone Management Act, in making sure that that very important law was fully funded.

My own State of New York benefits to the tune of $2 million to have adequate planning, to provide for the future safety of our estuaries, our bays, our creeks. In Nassau and Suffolk County, the Coastal Zone Management Act is an incredibly important device. One million dollars goes to the good planning efforts. I rise in support of this very important measure.

Mr. SAXTON. Mr. Speaker, may I ask the time remaining on each side?

The SPEAKER pro tempore (Mr. UPTON). The gentleman from New Jersey has 8 minutes remaining and the gentleman from California has 12 minutes remaining.

Mr. SAXTON. Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. We have no further speakers, but I reserve the balance of my time, given what happened on the last bill.

Mr. SAXTON. Does the gentleman intend to yield back the balance of his time?

Mr. MILLER of California. Mr. Speaker, it depends on how many speakers the gentleman from New Jersey has. If I can say to the gentleman, at the moment, I would not yield back my time. Does the gentleman have additional speakers?

Mr. SAXTON. Mr. Speaker, we have three additional speakers, I would prefer at this point that the gentleman alternate on time as we go along.

Mr. MILLER of California. Mr. Speaker, I have pending no further requests for time, and I reserve the balance of my time.

The gentleman wants to close, I assume. I will yield back the balance of my time to allow the gentleman to close.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume to speak for a moment with the gentleman from California [Mr. MILLER].

☐ 1615

Mr. Speaker, the problem is that much of the debate on the gentleman's side has been about matters other than the bill, and I suspect that one of the strategies that you could have would be to save your 12 minutes to continue the same kind of rhetoric which I do not think is helpful to the debate. That is why I am reluctant at this time to yield time.

I would further point out that the gentleman has missed a couple of turns here, and I think it would be prudent for the gentleman to use whatever time is available at this time.

Mr. MILLER of California. Mr. Speaker, if I might inquire of the Chair, am I correct in my understanding that the gentleman has the right to close and I have the right to reserve my time? I have no pending requests at this moment. He has additional speakers. I obviously at some point will yield back my time, when the gentleman is ready to close.

The SPEAKER pro tempore (Mr. UPTON). The gentleman from California is correct. The gentleman from California [Mr. MILLER] has 12 minutes remaining, and the gentleman from New Jersey [Mr. SAXTON] has 8 minutes remaining.

Mr. SAXTON. Mr. Speaker, I yield 1 minute to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I rise in strong support of H.R. 1965, a bill to reauthorize the Coastal Zone Management Act.

Mr. Speaker, summer is rapidly approaching, marking the start of a time when an estimated 94 million people a year enjoy boating and fishing along the coast.

Soon much of the Washington, DC, population as well many other people across the country and throughout my State will head to southern Delaware to enjoy our many beaches and beautiful coastline.

I think the Delaware beaches truly are one of this region's most treasured assets, as many people enjoy fishing in Lewes, surf boarding at Indian River Inlet, swimming in Dewey Beach, and walking on the boardwalk in Rehoboth.

The Coast Zone Management Act is one of the reasons why Delaware's inland bays, wetlands, estuaries and dunes have been protected throughout the years, thereby helping our environmental areas as well as providing a tremendous boost to tourism in the Delmarva region.

This bill, which reauthorizes the Coastal Zone Management Act, assists Delaware and 28 other coastal States in developing management programs to preserve our beaches and natural areas.

This bill is voluntary for States, and provides grants to those coastal States which develop programs protecting natural areas, under several Federal parameters. I am pleased that most of our coastal States participate in this program.

This bill is a good example of how Federal State and local governments and communities can work together to protect the environment and ensure an environmental legacy for our future generations.

This bill will help preserve the dunes, keep the water clean, safe and pollution-free, and protect coastal wildlife—all of which will make our beaches and natural areas more enjoyable for many Americans.

I am proud to cosponsor this important environmental initiative, and I am pleased to see a bipartisan commitment to reauthorize and fund this important program.

Mr. SAXTON. Mr. Speaker, I yield 1 minute to the gentleman from West Palm Beach, FL [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, representing 42 miles of ocean coastline, I strongly support H.R. 1965.

Many States such as Florida depend on a healthy coastline for commerce, transportation, fishing, and recreation. In fact, over half of our Nation's population live in coastal areas and this population is expected to grow by 15 percent in the next 20 years.

Under this voluntary program, States receive Federal matching grants to implement a plan to protect coasts and prevent ocean pollution.

This program also extends to our Nation's estuaries. In my community, the St. Lucie River Initiative, a group of concerned citizens, businesses and local community leaders, have worked together to protect the St. Lucie Estuary, the largest tributary to the Indian River Lagoon. This once vibrant body of water and habitat for plant and wildlife species is in serious decline today due to federally built canals that have disrupted the natural flow of water into the river.

Today, we have an opportunity to continue the Federal-State partnership in protecting our Nation's estuaries and coastlines.

I urge my colleagues to support the passage of H.R. 1965.

Mr. MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, again I am pleased that the previous speaker, who said that he represents part of the ocean coastline in the great State of Florida, which practically the whole State is along the coast, is supporting this Coastal Zone Management Act reauthorization. But he deserves a fig leaf. He earned a fig leaf and he cannot hide behind it. He cannot hide the fact that Republicans and he have consistently voted against protecting the environment and the health and safety of the American people.

On five key votes, the gentleman from Florida has joined with the Republican leadership four out of five times to vote for dumping more sewage into the ocean, against protecting wetlands, for gutting the Clean Water Act, and against allowing the EPA to enforce wetlands protection. So I give him his fig leaf that is duly earned.

Mr. FOLEY. I thank the gentleman from New Jersey [Mr. PALLONE]. I appreciate it. It is a great honor.

Mr. SAXTON. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, I rise in strong support of H.R. 1965, the Coastal Zone Protection Act of 1996, and I look forward to its passage today.

The Coastal Zone Management Act [CZMA] is a voluntary, incentive-based program which protects coastal States, such as Massachusetts by giving States the authority over Federal activities that affect the State's coastal resources. The Federal CZMA has a strong track record of successes and bipartisan support because it is voluntary. CZMA enables States to protect their rights while protecting and promoting important coastal dependent industries such as shipping, fisheries, tourism, and recreation. CZMA continues to play an important role in Massachusetts promoting environmentally sustainable economic development.

In 1978, the Massachusetts Coastal Zone Management Program [MCZM] became the first on the east coast to receive Federal approval. Since that time the Massachusetts program has played an integral role serving as liaison among local, State, and Federal agencies providing technical review and assistance in marine policy, law, and the sciences.

Today, it works to reduce water pollution from point and non-point sources thereby enabling hundreds of acres of commercially important shellfish beds to be reopened. Last year, over 400 acres were reopened and predictions are 1,000 acres will be reopened in the next year.

Currently, Massachusetts Coastal Zone Management is assisting important ports and harbors throughout Massachusetts to assess their dredging needs and develop cost effective and environmentally safe disposal solutions. At the request of Governor Weld, Massachusetts is leading the development of a State strategy for aquaculture. These initiatives are expected to assist in the economic revitalization of Massachusetts ports hard hit by the New England fisheries collapse.

Mr. Speaker, I strongly urge an "aye" vote on H.R. 1965.

Mr. SAXTON. Mr. Speaker, I have no further requests for time on my side.

Mr. MILLER of California. Mr. Speaker, I yield back the balance of my time.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume. I thank the gentleman for yielding back the balance of his time.

Mr. Speaker, let me just make a couple of points. First, Mr. Speaker, I believe that inasmuch as this bill has made it to the level that it has in this debate, and inasmuch as I think Members on both sides of the aisle understand how important it is to protect the environmental ecosystems in all coastal areas around our state, that the bill certainly deserves the full support of all Members of the House. I hope it will pass unopposed.

I would point out, Mr. Speaker, that in states like New Jersey, where the gentleman from New Jersey, [Mr. PALLONE] and I come from, this bill take on enormous importance, because in highly populated areas like our State, east of the Garden State Parkway and to the Atlantic ocean, the people who reside in those areas and the wildlife that reside there and the wildlife that reside in the ocean, for that matter, participate in a unabashed way in being able to use those ecosystems which are protected through this act.

I must also say, Mr. Speaker, I was somewhat disappointed by the tenor of this debate, because we have tried to approach this matter from the beginning, in the subcommittee and thereafter, as a bipartisan issue. As a matter of fact, I think many members of the subcommittee on both sides are proud to have participated in the various debates that have led us to today.

So, Mr. Speaker, without further ado, I ask that the vote be considered at this point, and again I ask for the affirmative support by Members on both sides of the aisle.

Mr. FARR of California. Mr. Speaker, I rise today in strong support of H.R. 1675 because it will reauthorize the 1972 Coastal Zone Management Act. There are many reasons to champion the CZMA. But one reason stands above all others: This law saved our coasts. Back in the late sixties and early seventies we all saw runaway urban sprawl eating up some of our most precious coastlines at breakneck speed.

And my own home State of California led the race. At the development rates of the time, we thought that the entire California coast would be an unbroken chain of housing tracts, hotels, and condos by the turn of the century. The entire burden of planning and coping with this coastal development was left to local counties—which didn't have the resources or expertise to deal with the problem. They also only focused on their stretch of coast and could not see the forest through the trees.

Then came the CZMA. It said to the States "If you come up with a plan to manage your State's coastal resources, then the Federal Government will provide funding to help you implement the plan." California and 28 other States took up the offer and designed and implemented coastal plans.

In California, voters passed the Coastal Act which created the California Coastal Commission and the California Coastal Conservancy. These twin State agencies have worked over the past 20 years to manage growth along California's coast and to preserve the coast's most unique and valuable resources.

These State agencies have used the CZMA to help stem the runaway sprawl along the California coast and we are the only statewide land use planning body in California.

And that kind of planning has helped protect California's economy. My friend Doug Wheeler, California's Secretary of Resources, recently released a report on the role of California's coastal resources in its future. The report found that coastal dependent industries contributed over $17 billion a year to California's economy and supported over 370,000 jobs. Coastal tourism alone contributes $10 billion a year to the State's economy.

In closing I want to thank JIM SAXTON, chairman of the Oceans and Fisheries Subcommittee, for his leadership and hard work in getting this bill passed. It has been a hard up-hill fight for him. Although reauthorization of the CZMA now seems noncontroversial, the chairman had to fight against his own party's leadership which held up this legislation for over 1 year.

In fact, one of the assumptions of the failed 1995 budget resolution was the termination of the entire Coastal Zone Management Program. So I think that any credit claimed by the Republican leadership for the passage of this bill belongs solely to JIM SAXTON.

H.R. 1965 is crucial to the environment and economies of all 35 coastal States. I urge its passage.

Mr. SAXTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. SAXTON] that the House suspend the rules and pass the bill, H.R. 1965, as amended.

The question was taken.

Mr. SAXTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

COOPERATIVE FISHERIES MANAGEMENT ACT OF 1996

Mr. TORKILDSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2160) to authorize appropriations to carry out the Interjurisdictional Fisheries Act of 1986 and the Anadromous Fish Conservation Act, as amended.

The Clerk read as follows:

H.R. 2160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cooperative Fisheries Management Act of 1996".

SEC. 2. REAUTHORIZATION OF INTERJURISDICTIONAL FISHERIES ACT OF 1986.

Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) by amending subsection (a) to read as follows:

"(a) GENERAL APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this title—

"(1) $3,400,000 for fiscal year 1996;

"(2) $3,900,000 for fiscal year 1997; and

"(3) $4,400,000 for fiscal year 1998.";

(2) in subsection (c) by striking "$350,000 for each of the fiscal years 1989, 1990 1991, 1992, and 1993, and $600,000 for each of the fiscal years 1994 and 1995," and inserting "$650,000 for fiscal year 1996, $700,000 for fiscal year 1997, an $750,000 for fiscal year 1998,"; and

(3) in subsection (d)—

(A) in the heading by striking "GRANTS" and inserting "ASSISTANCE";

((B) in paragraph (1) by striking "award grants to person engaged in commercial fisheries, for uninsured losses determined by the Secretary to have been suffered" and inserting "help persons engaged in commercial fisheries, either by providing assistance directly to those persons or by providing assistance indirectly through State and local government agencies and nonprofit organizations, for projects or other measures to alleviate harm determined by the Secretary to have been incurred";

(C) in paragraph (3), by striking "a grant" and inserting "direct assistance to a person";

(D) in paragraph (3) by striking "gross revenues annually," and inserting "net revenues annually from commercial fishing,";

(E) by striking paragraph (4) and inserting the following:

"(4)(A) Assistance may not be provided under this subsection as part of a fishing capacity reduction program in a fishery unless the Secretary determines that adequate conservation and management measures are in place to rebuild the fishery over a reasonable time period.

"(B) As a condition of awarding assistance with respect to a vessel under a fishing capacity reduction program, the Secretary shall—

"(i) prohibit the vessel from being used for fishing; and

"(ii) require that the vessel be—

"(I) scrapped or otherwise disposed of in a manner approved by the Secretary; or

"(II) donated to a nonprofit organization and thereafter used only for purposes of research, education, or training.

"(C) A vessel that is prohibited from fishing under subparagraph (B) shall not be eligible for a fishery endorsement under section 12108(a) of title 46, United States Code, and any such endorsement for the vessel shall not be effective."; and

(F) in paragraph (5) by striking "for awarding grants" and all that follows through the end of the paragraph and inserting "for receiving assistance under this subsection.".

SEC. 3. REAUTHORIZATION OF THE ANADROMOUS FISH CONSERVATION ACT.

Section 4 of the Anadromous Fish Conservation Act (16 U.S.C. 757d) is amended to read as follows:

"Sec. 4. (a)(1) There are authorized to be appropriated to carry out the purposes of this Act not to exceed the following sums:

"(A) $4,000,000 for each of fiscal years 1996 and 1997.

"(B) $4,250,000 for fiscal year 1998.

"(2) Sums appropriated under this subsection are authorized to remain available until expended.

"(b) Not more than $625,000 of the funds appropriated under this section in any one fiscal year shall be obligated in any one State.".

SEC. 4. AMENDMENT TO THE FISHERIES ACT OF 1995.

Section 309(b) of the Fisheries Act of 1995 (Public Law 104-43) is amended by striking "July 1, 1996" and inserting "July 1,1997".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. TORKILDSEN] and the gentleman from Massachusetts [Mr. STUDDS] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2160, the Cooperative Fisheries Management Act of 1995 reauthorizes two important fisheries laws: the Interjurisdictional Fisheries Act of 1986 and the Anadromous Fish Conservation Act.

Both these laws help coordinate the management of species that migrate between Federal and State waters, as well as those species migrating between neighboring States' waters. With the reauthorization of these two laws, we will provide much needed resources to States to coordinate the management of these migrating species of fish.

In addition, this legislation allows the National Oceanic and Atmospheric Administration to release disaster assistance funds in New England, the Northwest, and the Gulf of Mexico. It is important to note that these disaster assistance funds have already been appropriated and this bill only makes legislative changes to allow the money to be used in the regional assistance programs.

For example, NOAA is conducting a vessel buy-out program in the Northeast to reduce fishing capacity. Currently, NOAA is limited to purchasing vessels valued under $100,000. This does not allow NOAA to buy-out the larger vessels, which tend to catch more fish, and are often valued at well over $100,000. During the pilot vessel buy-out program, over 95 percent of the 114 voluntary bids received were over $100,000. This legislation lifts this cap to allowing NOAA to include the vast majority of fishing vessels in this buy-out program.

Additionally, this bill changes the term "gross revenues" to "net revenues from commercial fishing." This change will allow the New England buy-out program to target high-liners and large vessels which might not be eligible because the vessel owner earned too much money either from fishing or from other related ventures. This type of large, successful vessel may be the very type of vessel we need to remove from the fishery. This change will allow NOAA the flexibility to target those vessels which have had the most impact on groundfish stocks, buy them out, and remove them from the fishery.

H.R. 2160, assures that vessels bought under this program will be removed from fishing in any fishery, including State waters, by invalidating the commercial fishing endorsement on the Coast Guard documentation for any vessel participating in the buy-out program. Vessels purchased through this buy-out program must either be scrapped, disposed of in a manner approved by the Secretary, or donated to a nonprofit for the purposes of education, training or research.

As I previously stated this bill also makes legislative changes allowing NOAA to expend the much needed disaster assistance funding in the Northwest and the Gulf of Mexico.

Mr. Speaker, fishing families in my district, and throughout the country, are struggling to adjust to new Federal restrictions on groundfishing. And while some new regulations are necessary, we in Congress have an obligation to assist fishing families survive the difficult transition period ahead.

This bill takes several steps to provide relief to fishing families who have never asked for anything more than the chance to make an honest living.

Mr. Speaker, I urge the passage of this important legislation, and I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill which reauthorizes appropriations for two small, but important Federal grants programs, the Interjurisdictional Fisheries Act and the Anadromous Fish Conservation Act.

These two acts authorize grants to States to encourage them to develop cooperative agreements, research, and management plans to conserve and protect anadromous and other coastal fishery resources. These are not new programs. Both have been successfully implemented for many years, and both share broad support among State and Federal fisheries management agencies and the three interstate fisheries management commissions.

In addition, the bill authorizes the Secretary of Commerce to implement a vessel buyout program to reduce overcapacity in the decimated New England groundfish fishery. This buyout will be an integral part of the effort to rebuild the stocks in New England, but it will not do the entire job. For that reason, the bill also requires that a rebuilding plan, recently developed by the New England Fishery Management Council, must be approved by the Secretary before the buyout may proceed.

This is a noncontroversial bill that extends two programs which have enjoyed years of success and ensures that taxpayer dollars spent on a buyout in New England will achieve the desired results. I ask Members to support it passage.

Mr. Speaker, to the best of my knowledge, there are no further figleaves at the moment on this side, although I must say to the gentleman I find it difficult to picture either Venus or Neptune so attired. Maybe we are immune here.

Mr. Speaker, I reserve the balance of my time.

Mr. TORKILDSEN. Mr. Speaker, in the spirit of a fig leaf-free Congress, I yield such time as he may consume to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I thank the gentleman for being here today to manage this bill and for the very important role that he played in supporting this bill to get it here.

I would also like to say to the gentleman from Massachusetts [Mr. STUDDS], I thank him for his very fine cooperation on this and many other bills we have worked on together during his tenure here.

Mr. Speaker, I rise in strong support of H.R. 2160, the Cooperative Fisheries Management Act. This legislation will reauthorize two important fishery Acts: the Inter-jurisdictional Fisheries Act and the Anadromous Fish Conservation Act.

These two acts have done an exceptional job of getting the States, the Federal Government, non-Federal interests and, in some cases, foreign nations to cooperate in the management of transboundary fishery resources.

Both of these acts use grant money to fund research done by the States, interstate commissions, or other interested parties. This allows us to gain a greater understanding of the resource and improve our management techniques.

By reauthorizing these acts, we are demonstrating our commitment to the survival and longevity of these unique fishery resources. Without cooperative management, these resources will likely become depleted, and some species could become extinct. I think it is important to note that we have reduced authorization levels for both of these programs by almost 50 percent.

Mr. Speaker, this is an important piece of legislation and I urge my colleagues to vote "aye" on H.R. 2160.

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Mr. TORKILDSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Maine [Mr. LONGLEY].

Mr. LONGLEY. Mr. Speaker, I want to speak on behalf of the act. I think the bill authorizes two important fisheries management laws, the Interjurisdictional Fisheries Act of 1986 and the Anadromous Fish Conservation Act. These laws promote, through grant programs, coordination between State and Federal agencies in the management of migrating species of fish.

H.R. 2160, in addition, will allow for the expenditure of already appropriated disaster relief money in the Northwest, the Gulf of Mexico, and for a vessel buyout program in New England.

Mr. Speaker, I end my remarks by urging Members to support this bill, but with a particular reference to the very difficult time that many of the fishermen from Maine are having dealing with the depletion of the species and the need to restore our stocks. There is a limited amount that the Federal Government can do, but we are trying to do what we can to provide some relief to the fishermen that are under such distress.

So, again, I compliment my colleagues from Massachusetts on both sides of the aisle for their efforts in support of this legislation.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume to say that I have no further requests for time, and I note the return of a bipartisan comity down here, and I am tempted to call up a number of other bills but I will resist.

Mr. Speaker, I yield back the balance of my time.

Mr. TORKILDSEN. Mr. Speaker, I yield myself such time as I may consume to say, in closing, I would like to applaud my colleague from Massachusetts as ranking member of the subcommittee, also in his previous role as chairman of the Committee on Merchant Marine and Fisheries, a very, very strong advocate of this program and many other programs, both to protect the environment and to assist fishing families. We certainly appreciate the spirit in which he has offered many pro-environmental and pro-fishing pieces of legislation, and we will certainly miss that contribution to the House Chamber when he retires at the end of this year.

Mr. Speaker, I also want to applaud the effort of our colleague from New Jersey, the chairman of the subcommittee, for the leadership he has shown in bringing this important legislation to the floor. Again, on behalf of the environment, on behalf of States managing coastal areas, I urge all Members to vote for this legislation.

Ms. FURSE. Mr. Speaker, I rise today in strong support of H.R. 2160, the Cooperative Fisheries Management Act. Oregon's fishermen and women who have been devastated by plummeting salmon populations will benefit greatly from this bill.

The bill accomplishes three important goals. First, the bill will allow emergency Federal assistance for fishery disasters to be provided directly to the fishers affected. Second, the measure eliminates the current cap which limits the amount of disaster assistance a fisher may receive. And finally, the bill will eliminate the $100,000 limit on assistance to any individual.

While not a cure for the complex problem of restoring the world-class salmon runs of the Pacific Northwest, this bill will help alleviate some of the hardships felt by displaced fishers. In short, H.R. 2160 helps cut out the road blocks and redtape in the fishing disaster relief program.

In August 1995, we were fortunate enough to receive a multimillion dollar assistance package for Northwest salmon fishers who had been hard-hit by the collapse of fishery resources from the effects of El Nino and drought. Passage of this legislation will ensure that we can distribute these funds in a more efficient manner and gain the most relief per dollar for struggling Northwest fishing communities.

I greatly appreciate the leadership of Chairman YOUNG and Representative STUDDS on this legislation and their willingness to honor the requests of Pacific Northwest legislators like myself to move this bill quickly so that fishers in our districts can benefit immediately from its provisions.

Mr. TORKILDSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from Massachusetts [Mr. TORKILDSEN] that the House suspend the rules and pass the bill, H.R. 2160, as amended.

The question was taken.

Mr. TORKILDSEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

WAIHEE MARSH INCLUSION IN OAHU NATIONAL WILDLIFE REFUGE COMPLEX

Mr. SAXTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1772) to authorize the Secretary of the Interior to acquire certain interests in the Waihee Marsh for inclusion in the Oahu National Wildlife Refuge Complex, as amended.

The Clerk read as follows:

H.R. 1772

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO ACQUIRE INTERESTS FOR INCLUSION IN THE OAHU NATIONAL WILDLIFE REFUGE COMPLEX.

(a) AUTHORITY TO ACQUIRE.—The Secretary of the Interior may acquire, for inclusion in the Oahu National Wildlife Refuge Complex, the area known as the Waihee Marsh, located on the northeast coast of the Island of Oahu, Hawaii, consisting of approximately 36 acres (as determined by the Secretary) along both sides of Kamehameha Highway.

(b) MANAGMENT OF ACQUIRED INTERESTS.—Lands and interests acquired by the United States under this section shall be managed by the Secretary of the Interior as part of the Oahu National Wildlife Refuge Complex.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. SAXTON] and the gentleman from Massachusetts [Mr. STUDDS] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, thank you for the opportunity to speak about H.R. 1772, the Oahu National Wildlife Refuge Complex Act, introduced by Congresswoman PATSY MINK. H.R. 1772 would facilitate an agreement to allow the Secretary of the Interior to add 36 acres of wetlands to the Oahu National Wildlife Refuge Complex.

These wetlands are home to several threatened and endangered species including the Hawaiian stilt, Hawaiian coot, and Hawaiian duck. The wetlands also capture and retain stormwater runoff.

This bill provides protection for the fragile Hawaiian ecosystem and I urge all Members to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

This bill, as the gentleman said, is both without controversy and with merit, which is something we should see around here more often.

Mr. Speaker, I am delighted to yield such time as she may consume to its author, the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Speaker, I thank the gentleman for recognizing my presence here today and acknowledging my great State of Hawaii. I want to thank both gentlemen from Massachusetts for according me the opportunity to speak today in support of a very important bill.

It is connected with the whole concept of preserving our environment, and particularly our coastal areas. This bill is a very important component in Hawaii's battle against the endangered species crisis, and I think most people in the House recognize that Hawaii represents the State with the most endangered and threatened species. So it is not simply a matter of pleasure in having this one bill reported today, but the recognition of the total devastation of our unique species that really is in the forefront today through the passage of this bill.

The decline in the critical habitat in my State has escalated over the last 100 years, during massive development and other kinds of activity. So currently we have 222 endangered and threatened species, birds, mammals, plants, and so forth, which represent 23.2 percent of the total national list of all endangered species. So I think that gives Members an idea that this small place on this Earth has suffered this tragedy of the loss of so many unique species.

Today, through the passage of this bill, we hope that one small acreage of only 36 acres in an important area of the Island of Oahu can be preserved and set aside as a wetland for a number of important reasons.

The status of our wetland ecosystems in Hawaii has also degraded to a point where it has declined by 30 percent in the last 100 years or so, leaving only 15,000 acres of wetland. So the Fish and Wildlife Service has become very concerned about this loss, and although 36 acres is not very much, when we realize that the Fish and Wildlife has only 2,000 acres under its management, we understand how the addition of 36 acres is very important.

The Waihee Marsh wetlands is split already by a major highway that cuts both the ocean fronting portion together with the lands that are inland, and this of course makes it very difficult for preservation. Urban development around the area also has threatened to dispose of this very important wetlands. So this intervention of this bill today and allowing the Secretary of the Interior to establish this unit of 36 acres, together with the existing Oahu National Wildlife Refuge System, is a very important step and we hope that the Secretary of Interior will see fit to do so.

The Fish and Wildlife has long recommended this acquisition. The lands under question are now owned by a private individual, a Florida developer, who has indicated his willingness to sell the property if it is possible for him to obtain like properties in the same vicinity. He alleges that he has intended to be a good neighbor and to be in agriculture.

So the Trust for Public Land that has been an important entity in the State in helping the Federal, State, and local governments to acquire important properties has written a letter, which, Mr. Speaker, I will insert at the end of my statement.

The Trust for Public Land has indicated that they are interested in acquiring the parcel expeditiously and perhaps after doing so to make a contribution of the parcels to the Federal Government. That is to be worked out later. But the interest of the public trust is very important and with their rapid all cash acquisition of the properties promised, we feel that this valuable asset is ready for inclusion into the wildlife system.

So I am very much encouraged by this bill coming to the floor today and, with the support of the Members of this body, we hope that this acquisition will be made possible. It is an important wetland not only for the purposes of the endangered species, but it is in fact the drainage system for the whole area and, through the wetlands, is sort of a sponge for the sediments and other kinds of floodwaters going through this particular valley. It happens to preserve the quality of Kane'ohe Bay, which is adjoining and a very important asset for all of us.

So with the enactment of this bill, Mr. Speaker, the conservation of this marsh will be applauded by all segments of my community and all government agencies and all political and social, environmental interests. So I commend the committee for giving this House the opportunity to pass this bill and hope that the Members will give it a unanimous accord.

I would like to thank Chairman DON YOUNG and Ranking Member GEORGE MILLER of the Resources Committee, as well as Chair JIM SAXTON and Ranking Member GERRY STUDDS of the Subcommittee on Fisheries Wildlife and Oceans for moving forward my bill H.R. 1772 which is before us today.

My bill, H.R. 1772, represents an important component in Hawaii's battle against its current endangered species crisis. H.R. 1772 aims to preserve the 36-acre Waihee Marsh wetland in Kahaluu, on the Island of Oahu, which the Department of Interior has testified provides habitat to endangered and threatened species including the Hawaiian Stilt, Hawaiian coot, Hawaiian duck, and several migratory birds.

A decline in critical habitat in the State of Hawaii due to escalated development and agricultural activity has led to the listing of 222 endangered and threatened bird, mammal, plant and snail species, 23.2 percent of the national total of 956 listed species. This is despite the fact that Hawaii represents a mere 0.2 percent of the United States in land area. The biggest tragedy is that many species native to the Hawaiian Islands are unique in the world and can never be found anywhere else once populations in Hawaii become extinct.

The last hundred years of human activity in Hawaii has resulted in deterioration of all major ecosystems, according to the Hawaii Heritage Program. Land development and the introduction or the intrusion of non-native vegetation has forced most native ecosystems up into the mountain ranges away from the coastal areas—also from the Waihee Marsh on the northeastern windward coast.

The status of Hawaii's wetland ecosystems in particular is grim, as my State's coastal wetland habitat declined 31 percent between 1880 and 1980, leaving only 15,474 acres of wetland, according to the U.S. Fish & Wildlife Service [FWS] in 1990; the wetlands loss in the areas surrounding Waihee Marsh was between 80 and 90 percent. Only 2,000 of the remaining 15,474 areas are currently managed by FWS.

The Waihee Marsh wetland to be protected by H.R. 1772 was split apart by a major highway. The wetland was further threatened in previous years as the subject of several urban development proposals successfully blocked by the Kahaluu Neighborhood Board No. 29, which strongly supports retention of the area's rural character and Federal acquisition.

The U.S. Fish & Wildlife Service identified Waihee Marsh in its 1993 revised Hawaiian Waterbirds Recovery Plan as essential habitat for the recovery of endangered waterbirds. FWS in 1990 identified Waihee Marsh as a priority wetland acquisition site in its Regional Wetlands Concept Plan: Emergency Wetlands Resource Act. FWS reiterated the wetland's significance in its December 15, 1994 Report on the Potential Rehabilitation and Management of the Waihee Wetland.

On July 13, 1994, the Honolulu City Council unanimously passed a resolution requesting action by Hawaii's Congressional Delegation to provide for the acquisition of the Waihee Marsh.

On November 18, 1994, a major parcel of Waihee Marsh was sold to a Florida developer who sought to divide the wetland once again by building an access road directly through the middle of the wetland; however, efforts by State and county government convinced the landowner to build the road at the parcel's border.

Approached by the Trust for Public Land [TPL] in August, 1995, the landowner expressed interest in selling the parcel, should another parcel of comparable value be made available. TPL this month wrote to the landowner to express willingness to work toward a rapid, all-cash acquisition of the property to preserve the land's valuable natural resources.

Clearly, the range of efforts to conserve Waihee Marsh are wide in scope.

My bill seeks to allow the Secretary of the Interior to acquire and add the Waihee Marsh to the existing Oahu Natural Wildlife Refuge Complex managed out of Haleiwa on Oahu. Establishment of a new on-site management office would not be necessary because Haleiwa staff would visit the wetland on a rotating basis, along with the Pearl Harbor and James Campbell National Wildlife Refuges on Oahu and the Kakahaia National Wildlife Refugee on the Island of Molokai.

This palustrine wetland contains bird habitat mainly in its interior, which is subject to prolonged ponding during rainy seasons and overgrown at the edges with introduced vegetation that serves as a buffer for the inner wetlands. Waihee Marsh is also framed by embankments to protect the wetland from surrounding man-made developments.

In addition to having conservation value, the wetland provides flood control for nearby areas of Waihee and Kaalaea. It also captures and retains stormwater runoff to preserve coral ecosystems and water quality of the adjacent Kaneohe Bay.

Passage of my bill will allow FWS to fulfill several management priorities it has recognized, which would restore and maintain Waihee Marsh as a healthy, naturally-functioning wetland: First, dredging of sediments to improve water quality and recreate suitable waterbird habitat, second, predator control to humanely trap cats, mongooses and rats; prevent entry of dogs by fences, and prevent predator access to nesting sites, third, removal of introduced plant species which have overgrown parts of the wetland, and fourth, general habitat improvement to create and maintain a mosaic of waterbird habitats such as shallow mudflats, deeper open water areas, dense vegetative areas and other natural wetland features.

FWS has also found possibilities of educational benefits through establishment of outlooks along the adjacent Kamehameha Highway and student field-trips. Because Waihee Marsh was once farmed by Native Hawaiians, the analysis of archaeological and cultural sites would contribute to the study of Hawaii's indigenous people.

I strongly urge the enactment of H.R. 1772. Conservation of Waihee Marsh has unanimous support from the community, Federal, State, and local government, and environmental interests, and would play an important role in Hawaii's efforts to combat its endangered species crisis.

THE TRUST FOR PUBLIC LAND,
San Francisco, CA, April 22, 1996.

Hon. PATSY MINK,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSWOMAN MINK: I am writing to commend you on your efforts through H.R. 1772 to secure the protection of the important wetland habitat of Waihee Marsh on Oahu.

As you know well, the 36-acre Waihee Marsh area contains some of the last remaining unprotected habitat for the federally listed Hawaiian moorhen and provides critical feeding grounds and nesting cover for a wide diversity of other migratory and residential species. Additionally, the marsh, which is subject to periodic flooding, also provides essential filtration of waters flowing to the coral reefs and estuarine areas of nearby Kane'ohe Bay. Public management of this property therefore would not only preserve and enhance the resources of the marsh itself, but will also contribute substantially to the restoration of this larger ecosystem, a major environmental goal towards which your recent work with us (and the federal/state/local investment of over $6 million) to protect the 2.5 miles of Kane'ohe Bay shoreline of the Marks Estate also plays a major role. With the progress to date in this effort, and the current threat of incompatible activity and development at Waihee Marsh, the time is right for consideration of H.R. 1772.

As you also know, the Trust for Public Land is prepared to take an active role, to the extent we can, in assisting in the acquisition of these private lands if such assistance is necessary. In any event, we appreciate the commitment and leadership you have shown in this effort, and look forward to the ultimate preservation of this vital wetland area.

Sincerely,

ALAN FRONT,
Vice President.

Mr. STUDDS. Mr. Speaker, I second the remarks of the gentlewoman from Hawaii, all of Hawaii except for Honolulu.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAXTON. Mr. Speaker, I want to congratulate the gentlewoman on the fine job she has done in putting this bill together and in helping us to bring it to the floor.

Mr. ABERCROMBIE. Mr. Speaker, I rise today to voice my strong support for H.R. 1772, to authorize the Secretary of the Interior to acquire certain interests in the Waihe'e Marsh for inclusion in the Oahu National Wildlife Refuge, introduced by my colleague from Hawaii, Representative PATSY MINK.

The Waihe'e Marsh, also called the Kahalu'u wetland, is located on the windward side of Oahu. Acquisition of Waihe'e Marsh is vital to the integrity of the Oahu National Wildlife Refuge [Refuge]. The purpose of the refuge is to protect and manage a network of wetlands throughout Oahu for the recovery of endangered waterbirds, migratory birds, and other values of natural wetlands. Specifically, Waihe'e Marsh is identified as a priority wetland site in the U.S. Fish and Wildlife Service's regional wetlands concept plan: Emergency Wetlands Resource Act [USFWS 1990]. Throughout Hawaii there has been a substantial cumulative loss of wetlands.

I would like to point out to my colleagues in the House that the natural environment of Hawaii is one of our planet's most significant treasures. The islands are home to more unique species than any place of similar size on the Earth. Yet, Hawaii has the most alarming concentration of species teetering on the brink of extinction. While Hawaii makes up only 0.2 percent of the land area we account for nearly 75 percent of the Nation's historically documented plant and bird extinctions of the United States. Currently, more than one-fourth of the 959 animals and plants on the U.S. endangered and threatened species list come from Hawaii.

Under H.R. 1772 Waihe'e Marsh would be rehabilitated and managed for the recovery and support of endangered Hawaiian waterbirds, such as the endangered Hawaiian Stilt, Hawaiian coot, Hawaiian moorhen and Hawaiian duck, which are all protected under the Endangered Species Act. Also, wetlands in Hawaii provide habitat for several species of migratory shorebirds and waterfowl which are protected under the Migratory Bird Treaty Act.

I want to mention to my colleagues that the importance of Waihe'e Marsh is not limited to plants and animals. This has been an issue that has been worked from the grassroots. I commend all the hard work put in by the local communities. The Waihe'e Marsh is important for the surrounding communities because it naturally serves as a flood control holding area and the vegetation contributes to the control of shoreline erosion for nearby residential areas. Also, the marsh serves as a filter to protect water quality and coral reef communities in Kaneohe Bay.

Mr. Speaker, this is a worthwhile piece of legislation that deserves the full support of all my colleagues.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of H.R. 1772, introduced by our colleague from Hawaii, PATSY MINK, to add some 36 acres of wetlands to the Oahu National Wildlife Refuge complex.

It is my understanding that these wetlands are essential habitat for a number of native Hawaiian birds and migratory waterfowl.

While the U.S. Fish and Wildlife Service has apparently been interested in acquiring the entire Waihe'e Marsh wetlands for a number of years, the purchase costs have been prohibitive.

This bill will simply tell the Secretary of the Interior that he may obtain these lands for inclusion in the refuge without providing any money to buy them.

While I intend to support H.R. 1772, I do so with the stipulation that if these wetlands are purchased by the Federal Government, all private property owners must be willing sellers and they must be fully compensated for their land interests.

I urge an "aye" vote on H.R. 1772.

Mr. SAXTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. SAXTON] that the House suspend the rules and pass the bill, H.R. 1772, as amended.

The question was taken.

Mr. SAXTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

AMAGANSETT NATIONAL WILDLIFE REFUGE

Mr. LONGLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1836) to authorize the Secretary of the Interior to acquire property in the town of East Hampton, Suffolk County, NY, for inclusion in the Amagansett National Wildlife Refuge.

The Clerk read as follows:

H.R. 1836

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO ACQUIRE PROPERTY FOR INCLUSION IN THE AMAGANSETT NATIONAL WILDLIFE REFUGE.

(a) AUTHORITY TO ACQUIRE PROPERTY.—The Secretary of the Interior may acquire, for inclusion in the Amagansett National Wildlife

Refuge, the area known as the Shadmoor Parcel, consisting of approximately 98 acres (as determined by the Secretary) located along the Atlantic Ocean adjacent to municipal park land in the town of East Hampton, Suffolk County, New York.

(b) MANAGEMENT OF ACQUIRED INTERESTS.—Lands and interests acquired by the United States under this section shall be managed by the Secretary of the Interior as part of the Amagansett National Wildlife Refuge.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maine [Mr. LONGLEY] and the gentleman from Massachusetts [Mr. STUDDS] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Maine [Mr. LONGLEY].

Mr. LONGLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering H.R. 1836, a bill to authorize the Secretary of the Interior to acquire property in the town of East Hampton, NY, for inclusion in the Amagansett National Wildlife Refuge. This legislation was introduced by Congressman MICHAEL FORBES on June 14, 1995. An identical bill was proposed by New York Senators PATRICK MOYNIHAN and AL D'AMATO on November 17, 1995.

These measures would allow the Secretary of the Interior to acquire a 98-acre ocean-front parcel of land in Montauk, East Hampton Town, NY, known as Shadmoor. The land would be added to the Amagansett National Wildlife Refuge, which is part of the Long Island Refuge complex located 10 miles to the west. The town of East Hampton owns a 20-acre parcel of land adjacent to the eastern boundary of the Shadmoor property.

Currently, title to the Shadmoor property is held by private individuals who are interested in developing a housing project on this site. In fact, the owners are proposing to build 14 homes and have a development permit pending before the town of East Hampton.

The Shadmoor parcel does contain one of the largest populations of New York State's most endangered plant, a flowering plant that lives in only 12 places in the world; 4 of these locations are on Long Island. In addition, this property contains six other rare plants and historic World War II coastal defenses. The Shadmoor property consists of maritime shrub land, freshwater wetlands, and maritime grasslands.

The U.S. Fish and Wildlife Service has been interested in this property for a number of years. In fact, the Shadmoor parcel was targeted for acquisition in the Service's 1991 Northeast Coastal Areas study. To date, they have lacked the financial resources to buy this 98-acre parcel of land. On November 3, 1995, the East Hampton Town Board approved a resolution expressing their commitment to share the acquisition cost of the Shadmoor property with the Fish and Wildlife Service. The Service hopes to pursue acquisition in partnership with the town and private land protection groups.

The National Wildlife Refuge System is comprised of Federal lands that have been acquired for the conservation and enhancement of fish and wildlife. Totaling about 91.7 million acres, the System provides habitat for hundreds of fish and wildlife species, including more than 165 species listed as threatened or endangered under the Endangered Species Act. The first wildlife refuge was established by President Theodore Roosevelt at Pelican Island, FL, in 1903 to protect egrets, herons, and other birds that were being killed to provide feathers for the fashion industry.

The Shadmoor property will provide a useful addition to the System, and I urge an "aye" vote on this bill.

□ 1645

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, the gentleman is absolutely correct. As a matter of fact, there is probably not much left to be said, which has probably been noticed by the gentleman from New York.

Mr. Speaker, I reserve the balance of my time.

Mr. LONGLEY. Mr. Speaker, I yield 10 minutes to the gentleman from New York [Mr. FORBES].

Mr. FORBES. Mr. Speaker, I thank my colleague from Maine and my colleague from Massachusetts.

Mr. Speaker, H.R. 1836 has been described quite adequately, and I take the well today to urge the adoption of H.R. 1836, legislation to authorize the Secretary of the Interior to move forward in the purchase of Shadmoor and make it a part of the Amagansett National Wildlife Refuge.

Mr. Speaker, this is a very important activity, one that I think is of eminent importance, given the fact that the Town of East Hampton has before it an application to develop this esthetic, historical and ecologically delicate property, something I think that we do not want to see certainly in my part of the world. The Shadmoor property, which has been described as a 98-acre dramatic ocean front property, is critical to the area of Montauk that this parcel rests on.

It is fitting, I think, also to recognize that Theodore Roosevelt, who began the national refuge system, spent some time on this parcel. In fact in 1898, when the 10th Black Cavalry returned from Cuba with the Rough Riders, they deployed from this site. So there is some ironic association between this parcel and of course the individual who started the whole national refuge system.

The Amagansett Wildlife Refuge would be well served to have this important parcel included. Not only is this parcel the siting of some habitat of plant species that are rather rare, and my colleague has already alluded to the fact that the sandplain gerardia, one of New York State's rarest plants, there are only five places left on Long Island where this rare species of plant is located. Of course Shadmoor is one of those critically located sites.

Shadmoor also is home to six State rare species, including the grasslead ladies tresses orchid and the New England blazing star. Shadmoor, as I said, was the site of the deployment of the 10th Black Cavalry as well as the site during World War II where bunkers were built that can still be seen today.

This legislation is critically important. I think, before we go too further, I would like to recognize first of all some individuals who have been laboring long and hard to try to preserve Shadmoor in perpetuity. Certainly I think the Nature Conservancy, Sara Davidson and Stuart Lowry from the Nature Conservancy on Long Island. Also Carol Morrison and Rau Fridel of the Concerned Citizens of Montauk. And of course the Town Board and Town of East Hampton have all championed the preservation of Shadmoor.

It is critical that this legislation receive approval not just by the House of Representatives and the U.S. Senate but that it be signed into law. I believe that, thanks to the support of director Mollie Beatty of the U.S. Fish and Wildlife Service, that we have moved forward and that it is highly likely that we can get this included in the Amagansett Wildlife Refuge.

This important parcel obviously needs to be preserved. Long Island and New York State have received almost no Federal dollars over the last 20 years for the acquisition of lands to protect endangered species. Nationally few dollars have been used to protect the habitat of critically imperiled plant species. Preserving 98 acres of dramatic ocean front at Montauk, Long Island will be an important addition to this whole national refuge system.

I thank both the gentleman from Alaska [Mr. YOUNG] and the gentleman from New Jersey [Mr. SAXTON] my good friend, for moving this legislation forward and for making it possible for the House to take into consideration this legislation today.

I urge its adoption.

Mr. STUDDS. Mr. Speaker, I was wrong. There was more to be said. I agree with this gentleman, too.

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to present to the House H.R. 1836, introduced by our colleague from New York, MIKE FORBES, to add a 98-acre ocean-front parcel of land in Montauk, NY, to the Long Island National Wildlife Refuge.

During our committee's deliberations on this bill, a local supervisor and a group of concerned citizens testified in strong support of protecting this property called Shadmoor, which is essential habitat for several highly endangered plants.

While it is unclear how much it will cost the Federal Government to purchase this tract of land, I am encouraged by the fact that the local community in the Town of East Hampton, NY, has voted to share in the acquisition costs. This is a positive step in the right direction.

I am prepared to support H.R. 1836 based on this innovative cost-sharing commitment and the stipulation that those private citizens who now own Shadmoor are fully compensated for their property prior to its inclusion in the Long Island National Wildlife Refuge complex.

I urge an "aye" vote on H.R. 1836 and I compliment Congressman MIKE FORBES for his outstanding leadership in this matter.

Mr. SAXTON. Mr. Speaker, I am pleased that the House is considering H.R. 1836, the Amagansett National Wildlife Refuge Act, which was introduced by Representative MICHAEL FORBES.

H.R. 1836 would allow the Secretary of the Interior to acquire a 98-acre ocean-front parcel of land in Montauk, East Hampton Town, NY, known as Shadmoor.

This parcel contains one of the largest populations of New York State's most endangered plant, the sandplain gerardia.

The Shadmoor property represents valuable habitat for this endangered plant. I urge all Members to support the legislation.

Mr. STUDDS. I yield back the balance of my time.

Mr. LONGLEY. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from Maine [Mr. LONGLEY] that the House suspend the rules and pass the bill. H.R. 1836.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LONGLEY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on H.R. 1836, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maine?

There was no objection.

TENSAS RIVER NATIONAL WILDLIFE REFUGE AUTHORIZATION INCREASE

Mr. JONES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2660) to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge, as amended.

The Clerk read as follows:

H.R. 2660

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN AMOUNT AUTHORIZED TO BE APPROPRIATED TO THE DEPARTMENT OF THE INTERIOR FOR THE TENSAS RIVER NATIONAL WILDLIFE REFUGE.

Section 5(1) of the Act entitled "An Act to establish the Tensas River National Wildlife Refuge", approved June 28, 1980 (Public Law 96-285, 94 Stat. 597), as amended by section 2 of Public Law 99-191 (99 Stat. 1327), is amended to read as follows:

"(1) beginning October 1, 1995, not to exceed $20,000,000 to the Department of the Interior; and".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina [Mr. JONES] and the gentleman from Massachusetts [Mr. STUDDS] each will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering H.R. 2660, a bill to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge. This bill was introduced by Congressman JIM MCCRERY on November 17, 1995. It will increase the amount that is authorized to be appropriated, for the acquisition of land, in the Tensas River National Wildlife Refuge in Talulah, LA.

The Tensas River National Wildlife Refuge was established on June 28, 1980, by Public Law 96-285 to preserve the largest remaining privately owned bottom land and hardwood tract in the Lower Mississippi River Delta. The act has authorized $20 million for land acquisition, through the Department of the Interior's Land and Water Conservation Fund.

The diverse habitat at the Tensas River Refugee supports a tremendous variety of wildlife, including the largest white-tailed deer herd in Louisiana, bald eagles, numerous species of small mammals and birds, and the Louisiana black bear. The Tensas River population is one of only two known populations of this subspecies in existence.

The wetlands, lakes, and bayous in the refuge provide habitat for an equally diverse variety of aquatic life including fish, reptiles, amphibians, crustaceans, and the American alligator. This aquatic habitat is particularly important because the Tensas River is the only major waterway in the Louisiana delta that has not been extensively altered by channelization.

To date, Congress has appropriated $20 million for land acquisition at the refuge, but additional funds may be necessary to complete the acquisition process. H.R. 2660 authorizes an additional $20 million for land acquisition, subject of course to appropriations. The bill will allow the Fish and Wildlife Service to acquire the remaining critical lands necessary to complete the Tensas River National Wildlife Refuge.

At present,the National Wildlife Refuge System is comprised of 508 refuges, which are located in all 50 States and 5 U.S. territories. These units range in size from a single acre refuge in Minnesota, to the 19.3 million-acre Arctic National Wildlife Refuge in Alaska. In the last decade, 81 refugees and approximately 3.6 million acres have been added to the System.

The Tensas River Refuge is an important component in this nationwide system, and I urge an "aye" vote on this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, this is a good bill and, I hesitate to add, costs a little bit more than the Boston Harbor Island so I can assume we are going to get enormous support when the time comes. It is an excellent bill, and I urge Members to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. JONES. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana [Mr. MCCRERY].

Mr. MCCRERY. Mr. Speaker, I thank the gentleman from North Carolina [Mr. JONES] for yielding me this time. I do not intend to use all of it. Mr. JONES eloquently stated the reasons for introduction of the bill and reasons for Members to vote for it today.

Mr. Speaker, I want to thank Chairman SAXTON and the ranking member, Mr. STUDDS, from the Subcommittee on Fisheries, Wildlife and Oceans for their willingness to support this bill and for their work in bringing it to the floor today.

The Tensas River National Wildlife Refuge is a case study in responsible environmental policy. Created in 1980, the refuge now includes some 64,000 acres in Madison and Tensas parishes in northeastern Louisiana and represents a commitment to preserving the largest single tract of bottomland hardwoods remaining in the Mississippi River Delta. Widely supported in the community, the refuge has been constituted entirely from land acquired through donations or by purchases from willing sellers.

The bottomland forests in the refuge provide habitat for a diverse array of greenery. In addition, over 400 animal species make their home in the Tensas Refuge. Among endangered species, the bald eagle and the peregrine falcon make occasional appearances. Of particular note, the Tensas Refuge is the home of the largest remaining population of the Louisiana Black Bear.

H.R. 2660 would increase the authorization for the Tensas Refuge from $10 million to $20 million. These additional funds are needed to purchase inholdings and corridor easements. Again, all this will be accomplished with the full cooperation and support of the surrounding community. My constituents who live and work near the refuge fully understand the need to maintain this haven of natural beauty.

Completion of land purchase for the Tensas River National Wildlife Refuge will preserve a unique slice of southern habitat for enjoyment by countless future generations. Once again, I thank the members of the Resources Committee for their swift action in bringing this bill before the full House and strongly urge all Members to support its passage.

Mr. STUDDS. Mr. Speaker, to my utter astonishment, I have a request for time.

Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, I am pleased to be here with the majority today in support of this legislation. It is a noncontroversial bill. It does the right thing in extending this area. But as we are handing out fig leaves today, this is clearly a case where fig leaves are deserved to both previous speakers on the other side.

On the key votes before the Congress and particularly for the one that authorized this particular program, rollcall 502, both individuals voted against the general proposition. It is as if to say today that if Jesse James had in one instance deposited funds in a bank, it would absolve him of being referred to as a bank robber.

We have had a year and a half of a general assault on the environment, that the basic legislation that establishes these programs was resisted and opposed, that if you went down each one of these bills, on the Republican side, 99 percent voted to open the Arctic National Wildlife Refuge to oil drilling; 99 percent voted to keep destructive riders in the fiscal year 1996 Interior appropriations bill; 86 percent of the Republicans voted against an amendment to the fiscal year 1996 Interior appropriations act which would restore land and water conservation funds vitally important to the refuge system; 82 percent voted to keep the salvage rider in the rescission bills.

It seems to me that while this is a good thing we are doing here today, we welcome the last two speakers on the other side, that they do deserve the fig leaf here because you cannot just come to the floor when it is one instance in your district or in your party and claim that you are taking some kind of environmental action. The assault on the environment over the last year and a half has been so extreme, it has frightened people that are not simply environmental activists but average citizens who have some concern about the state of this country and the state of our natural resources.

□ 1700

Mr. Speaker, again I would commend the gentleman for what they do today, but I would hope that we would not see them in every instance oppose the major pieces of legislation. Give this opportunity to the entire country and not just to one place and one district.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAXTON. Mr. Speaker, I rise in strong support of H.R. 2660, the Tensas River National Wildlife Refuge Act, introduced by Representative JIM MCCRERY.

H.R. 2660 would increase the authorization level for the Tensas River National Wildlife Refuge from $10 million to $20 million, and would make those funds available as of October 1 last year. This increase is necessary to cover the costs of buying critical habitat for the threatened Louisiana black bear. It is imperative that this legislation move forward, so the management plan for the threatened black bear can continue to be implemented.

We in Congress have been discussing prevention in the context of the Endangered Species Act. Here is a case where public input has resulted in the prevention of endangerment. This legislation deserves all our support.

Mr. YOUNG of Alaska. Mr. Speaker, H.R. 2660 has been introduced by our distinguished colleague from Louisiana, JIM MCCRERY. This is a noncontroversial bill that simply increases the amount of the authorization level for the Tensas River National Wildlife Refuge.

It is my understanding that there is interest in expanding the boundaries of this refuge, but these efforts are constrained by the provisions of Public Law 96-285 that legislatively created the refuge.

H.R. 2660 will increase from $10 million to $20 million the amount of funds that may be appropriated to the Department of the Interior, and it makes those funds available as of October 1 last year. These modifications are necessary because the cost of acquiring certain lands for inclusion in the Refuge were more expensive than anticipated.

Finally, the Tensas River National Wildlife Refuge had been deemed critical habitat for the threatened Louisiana black bear and the river is the only major waterway in the Louisiana delta that has not been extensively altered by channelization.

Congressman JIM MCCRERY has made a persuasive case, and I compliment him for his outstanding leadership on this legislation. I urge an "aye" vote on H.R. 2660.

Mr. JONES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 2660, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2660, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

NORTH PLATTE NATIONAL WILDLIFE REFUGE BOUNDARY REVISION

Mr. METCALF. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2679) to revise the boundary of the North Platte National Wildlife Refuge.

The Clerk read as follows:

H.R. 2679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVISION OF BOUNDARY OF NORTH PLATTE NATIONAL WILDLIFE REFUGE.

(a) TERMINATION OF JURISDICTION.—The secondary jurisdiction of the United States Fish and Wildlife Service over approximately 2,470 acres of land at the North Platte National Wildlife Refuge in the State of Nebraska, as depicted upon a map entitled "Relinquishment of North Platte National Wildlife Refuge Secondary Jurisdiction", dated August 1995, and available for inspection at appropriate offices of the United States Fish and Wildlife Service, is hereby terminated.

(b) REVOCATION OF EXECUTIVE ORDER.—Executive Order Number 2446, dated August 21, 1916, is hereby revoked with respect to the lands referred to in section 1.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington [Mr. METCALF] and the gentleman from Massachusetts [Mr. STUDDS] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. METCALF].

Mr. METCALF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2679, introduced by the gentleman from Nebraska [Mr. BARRETT] will remove about 2,470 acres of land from the North Platte National Wildlife Refuge.

This legislation is a direct result of a report issued by the U.S. Fish and Wildlife Service that recommended that these lands be divested from the refuge because they provide nothing significant toward the refuge or the national refuge systems' purposes and goals.

While these lands may have limited value within the refuge unit, they offer recreational opportunities to thousands of citizens who enjoy boating, fishing, sightseeing and swimming in Nebraska. Under the terms of this legislation, which is strongly supported by the Department of the Interior, these lands would be removed from the refuge, and they will be managed by the Nebraska Game and Parks Commission through a lease from the Bureau of Reclamation.

While title to these lands would remain with the Federal Government, this measure is beneficial to the refuge system and the thousands of Americans who will enjoy utilizing Lake Minatare in the future.

I urge an "aye" vote on H.R. 2679, and I compliment the gentleman from Nebraska [Mr. BARRETT] for his leadership in behalf of his constituents and this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this has been an exhilarating half hour, and we are for this one, too.

Mr. Speaker, I reserve the balance of my time.

Mr. METCALF. Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska [Mr. BARRETT], the sponsor of the bill.

Mr. BARRETT of Nebraska. Mr. Speaker, I thank the gentleman for yielding this time to me. Mr. Speaker, I rise today in support of H.R. 2679, and I would like to thank the subcommittee chairman, the gentleman from New Jersey [Mr. SAXTON], and the ranking member of the subcommittee, the gentleman from Massachusetts [Mr. STUDDS], and the chairman of the full committee, the gentleman from Alaska [Mr. YOUNG], for their support and for their work on this particular measure.

The House is debating this week several pieces of legislation relating to the environment and divestiture of 2,470 acres of land from the North Platte National Wildlife Refuge, which is just outside of Scottsbluff, NE, which would enhance the effectiveness of the national wildlife refuge system.

H.R. 2679 was developed with the support of the community local leaders and the U.S. Fish and Wildlife Service, and it is a very good example, Mr. Speaker, of cooperation between Federal, State, and local individuals.

The Lake Minatare refuge was established in the early part of the century as a preserve and breeding ground for water fowl which were native to that particular area. The refuge is also a part of a Bureau of Reclamation irrigation project. The Fish and Wildlife Service managed the wildlife aspect of the project, while the bureau managed the other aspects of the land, like recreation and cabins and so forth. And following a 1990 directive that the Fish and Wildlife Service bring all of the areas under its jurisdiction into compliance local, residents realized that this would essentially prohibit recreational and residential use of Lake Minatare, and this was absolutely and totally unacceptable.

The testimony before the fisheries subcommittee fully illustrated, I think, that Lake Minatare is an essential part of this Scottsbluff area community, and because of the significant local interest and the complex management nature of the refuge, the Fish and Wildlife Service did an environmental assessment. It determined that the best course of action would be to terminate the service's authority over certain portions of the land, as some areas were no longer effective as a wildlife refuge.

I am pleased to report, Mr. Speaker, to the House the broad support of the Fish and Wildlife Service.

My Scottsbluff district office, incidentally, reported we have over 5,000 different letters in support of this particular transfer.

The local citizens, the Fish and Wildlife Service, and I have had a great amount of success in working together on this project. It is a unique win-win situation, and it sets an example for Congress as we strive to effectively manage our Nation's natural resources.

I urge my colleagues to support H.R. 2679.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not know where the gentleman from Alaska is, but we could use a little color here. But I do not see him. I have nothing further to say. One would never know the government is coming to an end tomorrow, but apparently it is, and we are having a wonderful afternoon.

We are very strongly for this bill; and I have no requests for time.

Mr. Speaker, I yield back the balance of my time.

Mr. METCALF. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I thank the gentleman from Washington for yielding this time to me. I certainly will not use anywhere near 5 minutes.

Mr. Speaker, I would just like to say to the gentleman from Nebraska [Mr. BARRETT], that this is obviously the result of a good deal of consideration by a lot of people, and I am pleased that the gentleman has brought this bill to us, which has obviously moved through the committee and is now here for a vote on the floor.

The Fish and Wildlife Service has found nothing significant, that the North Platte wildlife refuge adds nothing, in their words, significant toward the refuge or the National Refuge System purposes and goals. And it is the position of the Department of the Interior to support the bill as well.

So I congratulate the gentleman on the fine job that he has done in ushering this to the House floor, and I am sure it will pass. Congratulations.

Mr. Speaker, I rise in strong support of H.R. 2679, the North Platte National Wildlife Refuge Act, which was introduced by Representative BILL BARRETT.

H.R. 2679 would remove about 2,470 acres of land from the North Platte National Wildlife Refuge, which the Fish and Wildlife Service has found to provide "nothing significant towards the Refuge or the National Refuge System purposes and goals."

The title to these lands would remain with the Federal Government, and they would be managed by the Nebraska Game and Parks Commission through a lease with the Bureau of Reclamation.

I think it is important that when the Fish and Wildlife Service recognizes that a refuge is no longer serving the function for which it was founded, it takes steps to remove the land from the Refuge System. This bill is strongly supported by the Department of the Interior, and I urge all Members to support it.

Mr. DON YOUNG of Alaska. Mr. Speaker, H.R. 2679, introduced by our colleague from Nebraska, BILL BARRETT, will remove about 2,470 acres of land from the North Platte National Wildlife Refuge.

This legislation is a direct result of a report issued by the U.S. Fish and Wildlife Service that recommended that these lands be divested from the refuge because they provide "nothing significant toward the refuge or the National Refuge System purposes and goals."

While these lands may have limited value within the refuge unit, they offer recreational opportunities to thousands of our citizens who enjoy boating, fishing, sightseeing, and swimming in Nebraska.

Under the terms of this legislation, which is strongly supported by the Department of the Interior, these lands would be removed from the refuge and they will be managed by the Nebraska Game and Parks Commission through a lease from the Bureau of Reclamation.

While title to these lands would remain with the Federal Government, this measure is beneficial to the Refuge System and the thousands of Americans who will enjoy utilizing Lake Minatare in the future.

I urge an "aye" vote on H.R. 2679 and I compliment BILL BARRETT for his outstanding leadership on behalf of his constituents and this legislation.

Mr. METCALF. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington [Mr. METCALF] that the House suspend the rules and pass the bill, H.R. 2679.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. METCALF. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and to include extraneous material on H.R. 2679, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORIZING USE OF CAPITOL GROUNDS FOR WASHINGTON FOR JESUS 1996 PRAYER RALLY

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 166) authorizing the use of the Capitol Grounds for Washington for Jesus 1996 prayer rally.

The Clerk read as follows:

H. CON. RES. 166

Whereas One Nation Under God, Inc. has sponsored two previous prayer rallies entitled Washington for Jesus in the city of Washington and plans a third such event over a two-day period on April 29 and 30, 1996;

Whereas public assembly for giving thanks and praying for the United States is a tradition in this Nation dating from before the Nation's founding and commemorated each year by a national Thanksgiving holiday; and

Whereas the Washington for Jesus prayer rally provides for the peaceable assembly and public expression of peoples of all faiths to pray and give thanks for the United States: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring),

SECTION. 1. USE OF CAPITOL GROUNDS FOR WASHINGTON FOR JESUS 1996 PRAYER RALLY.

(a) IN GENERAL.—One Nation Under God, Inc. (in this resolution referred to as the "sponsor") shall be permitted to sponsor a public event (in this resolution referred to as the "event") over a two-day period on April 29 and 30, 1996 (plus one day before and one day after the event to fully accommodate for setup, takedown, and cleanup).

(b) TERMS AND CONDITIONS.—The event shall be free of any admission charge to the public and arranged so as not to interfere with the needs of Congress, subject to conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board. The sponsor shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

(c) STRUCTURES AND EQUIPMENT.—For the purposes of this resolution, the sponsor is authorized to erect upon the Capitol Grounds such stage, sound amplification devices, and related structures and equipment as may be required to conduct the event, subject to approval of the Architect of the Capitol.

(d) ADDITIONAL ARRANGEMENTS.—The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements as may be necessary to carry out the event consistent with good order, public health, safety, and protection of the Capitol and the Capitol Grounds.

SEC. 2. SPONSORSHIP OR ENDORSEMENT.

Nothing contained in this resolution shall be construed as an endorsement of the sponsor or the event (or any related activities or expressions, religious or otherwise). The sponsor shall not represent either directly or indirectly that this resolution or any activity carried out under this resolution in any way constitutes approval or endorsement by the United States Government, or any of its agencies, of any activity or expression, religious or otherwise, of the sponsor or the event.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Minnesota [Mr. OBERSTAR] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 166; a resolution to authorize the use of the Capitol Grounds for the 1996 prayer rally.

The first rally took place in 1980 and drew approximately 750,000 people. The second one in 1988 was somewhat smaller at approximately 500,000 people.

Both of these rallies took place on the Mall and were conducted under permits issued by the National Park Service.

The Capitol Police Board has notified the organization that because of the extent of the event, Congressional authorization this time is necessary.

On April 18, 1996, Congressman STOCKMAN introduced House Concurrent Resolution 166 which would authorize the use of Capitol Grounds for the 1996 prayer rally. Pursuant to the resolution the sponsor, would be authorized to sponsor an event on the Capitol Grounds on April 29, and April 30. This would include 1 day before and 1 day after the event for set up, take down, and clean up.

The event would be conducted without any admission charge to the public and would be arranged so as not to interfere with congressional activities. It would be subject to the conditions prescribed by the Architect of the Capitol and the Capitol Police Board.

The resolution would require the sponsor to assume full responsibility for the expenses and liabilities associated with the event. The resolution would also authorize the sponsor to erect stage, and sound amplification devices, and related structures and equipment required to conduct the rally, subject to the approval of the Architect of the Capitol.

The Architect of the Capitol and the Capitol Police Board would be authorized to make any additional arrangements necessary to carry out the event in order to protect order, public health, safety, and property.

Finally, the resolution states that the resolution does not either directly or indirectly, endorse the sponsor or any related activities or expressions, religious or otherwise. Further, the sponsor may not represent that the resolution or any activity carried out under it constitutes endorsement by the U.S. Government or any of its agencies.

Mr. Speaker, I urge adoption of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the concept underlying this resolution, the principle that any group, including religious organizations, should have the same rights to use the Capitol grounds to express their views as other organizations.

I do not have a problem with the basic purpose of the resolution under consideration. But I do have very serious concerns about process, about lack of process, and that is the reason that I objected, or said I would object, to the proposal to bring up this resolution under unanimous consent procedures.

We are facing today what we faced when the proposal was made for unanimous consent procedure as another example of the leadership in this body steamrolling hastily drafted legislation through the House without an opportunity for the legislation to be reviewed either by the committee of jurisdiction or by the House itself. This has been the rule, not the exception. I went back and checked. Of the 16 bills considered under rules this year, 11, or 72 percent, have been brought to the floor without any committee reporting them; 72 percent of bills brought under a rule were brought to the floor without a committee having considered them, and that includes the crime bill, two continuing resolutions, and the constitutional amendment on taxation.

Mr. Speaker, the same pattern of bypassing the normal legislative process is evident in unanimous consent requests. According to the House Information Resources, which I asked to review this matter, of the 25 measures brought to the House under unanimous consent during this Congress, 21, 84 percent, were not reported by the committee of jurisdiction. In fact, 16 of the 21 had no committee action at all.

Now, this is not, and I am not talking about a matter of committee jurisdiction, I am not talking about a matter of turf. I am talking about a matter that goes to the very essence of a deliberative body. There ought to be free, fair, and open discussion of the matters that come before the House. The committee is the filtering process, the filtering organization where issues of state are aired and discussed and given opportunity for people to ask questions, to find out who is behind the legislation, what its purpose is, who are its sponsors.

We had no advance notice in this committee, the Committee on Transportation and Infrastructure, which has jurisdiction over this matter, about this issue. None of the sponsors of the organization came before our committee, nor to me individually, nor do I know whether they came, nor does it matter whether they came, to see the leadership on the committee. The point is we have had before our committee matters in which other organizations have wanted to use the Capitol grounds for their purposes, had the

Soap Box Derby, we had the Olympic Torch organization.

□ 1715

Mr. Speaker, we have had the stock car people that wanted to have a display on the Capitol grounds. Those were all aired, they were discussed, they were reviewed. We had questions, we raised those questions. Members' concerns were satisfied. That is the way the committee process should work, an opportunity for all of us; not just us but through us, the public, who will be affected by the legislation, to understand what this legislation is, who is behind it and what is behind it.

When we do not have that process, all of us suffer as a result. I have been very much a stickler for process, as members of the Committee on Transportation and Infrastructure know, for 20 years. This is not something new. However, this example of bypassing the committee process is unwarranted, unreasonable, and it is unnecessary. Frankly, I think it is an abuse visited upon the chairman of the subcommittee, a very fair, decent, scholarly, and thoughtful person. He did not have an opportunity to discuss this matter in committee, to exercise his jurisdiction.

Now we find out, Mr. Speaker, just in the last couple of days, that it was known way back in February that this prayer rally would need a resolution of Congress to waive limitations imposed by Capitol Police regulations on use of the Capitol grounds. Why was the resolution not introduced at that time? I am not asking the gentleman, I am just raising the question. Why was the resolution not introduced then? If it had been, the leadership knew this was a problem. We could have followed the proper process of review, consideration, discussion, air the matter.

Mr. Speaker, who is behind this? Who are the groups? Who are the religious organizations? Who are they that want to use these grounds, and for what purpose? We should have been informed right from the beginning, when there would have been time to ask questions and inform our Members, inform the public. Instead, nothing was done until a week before the event, and then late last week, a proposal to bring this resolution up by unanimous consent, and we had no knowledge of who is behind it and what it is all about.

Mr. Speaker, I respect every person's right to pray in the way that they wish to pray, and I respect wanting to use a public event for that purpose. It is not my way, it is some other people's way, but that is fine, and I respect it.

However, Mr. Speaker, I want to ask the chairman of the subcommittee: Will the rally be allowed to construct different structures than are permitted by the regulations?

Mr. GILCHREST. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Maryland.

Mr. GILCHREST. Mr. Speaker, I respect the concerns of the gentleman from Minnesota [Mr. OBERSTAR] about the process, and I will try to address some of those concerns. To specifically answer his question, the rally will not be able to construct any structure that is not permitted under the regulations.

Mr. OBERSTAR. Mr. Speaker, I would ask the gentleman: Will the rally or its members or its participants be permitted to sell goods on the Capitol grounds?

Mr. GILCHREST. Mr. Speaker, I would say to the gentleman, no goods will be able to be sold whatsoever on the Capitol grounds.

Mr. OBERSTAR. Will fundraising for the organizations involved be permitted?

Mr. GILCHREST. There will be no fundraising activities involved under this permit.

Mr. OBERSTAR. I thank the gentleman, Mr. Speaker.

Will the rally be permitted to claim that in any way Congress endorses the sponsoring organization or endorses the rally or its purposes?

Mr. GILCREST. No. Mr. Speaker, as I said in my opening remarks, the rally will not be able to claim endorsement by the Congress for any of their activities.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for his responses. Those are reassuring and very helpful.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. TRAFICANT], the ranking member of the Subcommittee on Public Buildings and Economic Development of the Committee on Transportation and Infrastructure.

Mr. TRAFICANT. Mr. Speaker, I have many of the same concerns that I guess have been voiced by the gentleman from Minnesota [Mr. OBERSTAR]. I have complete confidence in the gentleman from Maryland [Mr. GILCHREST]. I am sure many of these issues he has made decisions that are appropriate.

Mr. Speaker, the only thing I would like to say is that, even though it is not a major event, there is a process that is involved. Once we start to deviate from that process, there could be things that could develop that may at some point come back to maybe embarrass the Congress. So I am not going to stand in apposition, and I have complete confidence that the gentleman from Maryland has probably reviewed this well, and I can at this particular point accept this.

In the future, however, Mr. Speaker, I think the words of caution from the gentleman from Minnesota should be well taken, not just on this committee but on every committee. Once we start, no matter how we look at any particular issue, some certainly much more serious in nature and presenting more of a problem to the Congress than others, nevertheless, there sometimes could be things developed that set a precedent, and then people begin to talk about being treated differently.

I am from the old school, and I think all people should be treated alike. That is one of the reasons why Vince Lombardi was loved so much. He treated everybody alike. Willie Davis said, "He treated us all alike; like dogs, but all alike." I think the Congress must do that and ensure that we do that. We have a process. I think we should adhere to that process.

Mr. Speaker, I have no opposition, I would say to the chairman of the subcommittee. I would like to echo, though, and associate myself with the remarks of the gentleman from Minnesota. I think it was wise counsel. I hope in the future we could adhere to that counsel. I think it makes a lot of sense.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to address the issue that the gentleman from Ohio [Mr. TRAFICANT] and the gentleman from Minnesota [Mr. OBERSTAR] raised. I would like to extend my concurrence with the gentleman's sense of concern about the process not being followed.

I would also like to extend an invitation to work with both of the gentlemen, starting right now, that the process for these kinds of resolutions not be superseded, so that we get the information in a timely fashion and the committee process can fully review some of these reservations and some of these activities.

Mr. Speaker, this particular activity was brought to our attention very recently. This particular activity, this prayer rally, is going to happen, I believe, next Monday. So as a result of that, we have been asked to expedite this process. When we were asked to do that, we looked into a number of other activities that were very similar to this activity over the years.

There have been numerous prayer rallies on the Capitol Grounds very similar to this particular activity that is occurring next Monday. The only difference is that this activity will go beyond 24 hours. As a result of that extension of time, it is necessary for the permit to go through the Congress, as opposed to the permit just going through the Capitol Police.

In the future, however, Mr. Speaker, whenever an extension of time like this is necssary, I would like to work with the gentlemen, the gentleman from Ohio [Mr. TRAFICANT] and the gentleman from Minnesota [Mr. OBERSTAR], to make sure the process is not superseded, that we go through the committee process, and all of the concerns the Members have raised here today would be fully aired in this process.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. STOCKMAN].

Mr. STOCKMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I just want to point out to the gentleman that from what I understand, the Capitol Police knew about the rally for 2 years, and the organizers were not notified until February. They got ahold of us soon thereafter. We were working on the legislation, so we expedited it as quickly as we were notified by the Capitol Police. But from our understanding, the Capitol Police knew about it for 2 years and they did not tell them they had this requirement until February.

I agree with what some of what the Members said, in that we would try to obey the process. We will ask also, too, for the record, that the Capitol Police set out policies in advance that are known to the organizers.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hope the rally is conducted in a way that will make all of us proud.

Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the remarks of the gentleman from Texas [Mr. STOCKMAN]. I would simply observe that if it was known in February, in our committee we work on a very bipartisan, cooperative basis. Had our side known about this, and had the gentleman from Maryland [Mr. GILCHREST] been fully informed about it at the time, we could have long ago resolved this matter in an appropriate, proper fashion.

I say this out of deep respect for the gentleman from Maryland, who is scholarly and thoughtful, professorial, deliberative in all his works, and for our full committee chair, the gentleman from Pennsylvania [Mr. SHUSTER] who has endeavored mightily to be open and fair and inclusive in the spirit of our committee over all of its years. It is painful to see something like this happen, in derogation of the committee process.

Again, to repeat, committees are supposed to be the filtering mechanism in this body, to provide information through us to the public, so people know and openly have an understanding of what we are about to do and what legislation we are about to enact, what access we are about to provide for this very precious Capitol Grounds.

I am glad that we have had this discussion. It would have been better to have had it in committee. We could have brought the bill to the floor, I think, knowing what we know now, under that unanimous consent procedure that was proposed, but I appreciate the gentleman from Maryland's willingness to make the effort in the future. I think the leadership of the House needs to operate in the same way.

In closing, I wish the sponsors of the rally a prayerful success.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 166.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 166, the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceeding were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 1965, de novo; H.R. 2160, de novo; and H.R. 1772, de novo.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

COASTAL ZONE PROTECTION ACT OF 1996

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1965, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore.. The question is on the motion offered by the gentleman from New Jersey [Mr. SAXTON] that the House suspend the rules and pass the bill, H.R. 1965, as amended.

The question was taken.

Mr. LONGLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the additional motions to suspend the rules on which the Chair had postponed further proceedings.

The vote was taken by electronic device, and there were—yeas 407, nays 0, not voting 25, as follows:

[Roll No. 127]

YEAS—407

Abercrombie
Ackerman
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley

Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Metcalf
Meyers
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—25

Allard
Barr
Bryant (TX)
Collins (IL)
Coyne
de la Garza
Doyle
English
Fattah
Flake
Foglietta
Ford
Goodling
Greenwood
Hastings (WA)
Hutchinson
Inglis
Jefferson
McDade
Menendez
Rush
Shuster
Thompson
Torricelli
Wilson

□ 1744

Mr. PACKARD and Mr. SMITH of Texas changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I was unavoidably delayed from voting on two bills under suspension on Tuesday, April 23, since the Pennsylvania primary election required my voting in the 21st district of Pennsylvania that same morning. Had I been present, I would have voted "yes" on H.R. 2024, and "yes" on H.R. 1965.

COOPERATIVE FISHERIES MANAGEMENT ACT OF 1996

The SPEAKER pro tempore (Mr. UPTON). The pending business is the question of suspending the rules and passing the bill, H.R. 2160, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. TORKILDSEN] that the House suspend the rules and pass the bill, H.R. 2160, as amended.

The question was taken.

RECORDED VOTE

Mr. LONGLEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which this vote will be taken.

The vote was taken by electronic device, and there were—ayes 406, noes 0, not voting 26, as follows:

[Roll No. 128]

AYES—406

Abercrombie
Ackerman
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flanagan
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Metcalf
Meyers
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—26

Allard
Bryant (TX)
Buyer
Collins (IL)
Coyne
de la Garza
Doyle
Fattah
Flake
Foglietta
Foley
Ford
Goodling
Greenwood
Hutchinson
Inglis
Jefferson
McDade
Menendez
Rush
Shuster
Smith (MI)
Smith (WA)
Thompson
Torricelli
Wilson

□ 1754

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SMITH of Michigan. Mr. Speaker, on rollcall No. 128, I was outside the Chamber. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mrs. SMITH of Washington. Mr. Speaker, I was unavoidably detained and was not able to cast a vote on H.R. 2160. If I would have been present, I would have voted "yes."

This bill contains provisions that make changes to existing law and allows disaster assistance to be continued to be made available in the Pacific Northwest for salmon fishermen. As we know, the salmon industry has been devastated in the Northwest because of a variety of factors. In Pacific and Grays Harbor Counties, this once thriving industry has almost disappeared, causing severe economic dislocation. This disaster assistance made available in this bill will help mitigate the impact of the decline in the salmon industry in Washington State.

Again, I would like to advocate my strong support for the Cooperative Fisheries Management Act. I appreciate the fine work of Chairman SAXTON in bringing this important legislation to the floor.

PERSONAL EXPLANATION

Mr. HUTCHINSON. Mr. Speaker, this past weekend a destructive tornado hit northwest Arkansas. As a result of the devastation which was wrought by this natural disaster, I assisted my constituents in the district and consequently missed two rollcall votes.

I would like the record to show that had I been present I would have voted "yea" on rollcall No. 127 and "yea" on rollcall No. 128.

WAIHEE MARSH INCLUSION IN OAHU NATIONAL WILDLIFE REFUGE COMPLEX

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1772, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. SAXTON] that the House suspend the rules and pass the bill, H.R. 1772, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2715, PAPERWORK ELIMINATION ACT OF 1996

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–532) on the resolution (H.R. 409) providing for consideration of the bill (H.R. 2715) to amend chapter 35 of title 44, United States Code, popularly known as the Paperwork Reduction Act, to minimize the burden of Federal paperwork demands upon small business, educational and nonprofit institutions, Federal contractors, State and local governments, and other persons through the sponsorship and use of alternative information technologies, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1675, NATIONAL WILDLIFE REFUGE IMPROVEMENT ACT OF 1995

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–533) on the resolution (H. Res. 410) providing for the consideration of the bill (H.R. 1675) to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

□ 1800

GENERAL LEAVE

Mr. DICKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on all legislation passed today.

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Is there objection to the request of the gentleman from Arkansas?

There was no objection.

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO NARCOTICS TRAFFICKERS CENTERED IN COLOMBIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–200)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed.

To the Congress of the United States:

I hereby report to the Congress on the developments concerning the national emergency with respect to significant narcotics traffickers centered in Colombia that was declared in Executive Order No. 12978 of October 21, 1995. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c).

1. On October 21, 1995, I signed Executive Order No. 12978, "Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers" (the "Order") (60 Fed. Reg. 54579, October 24, 1995). The Order blocks all property subject to U.S. jurisdiction in which there is any interest of four significant foreign narcotics traffickers who are principals in the so-called Cali drug cartel centered in Colombia. They are listed in the annex to the Order. In addition, the Order blocks the property and interests in property of foreign persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, (a) to play a significant role in international narcotics trafficking centered in Colombia or (b) to materially assist in or provide financial or technological support for, or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to the Order. In addition the Order blocks all property and interests in property subject to U.S. jurisdiction of persons determined by the Secretary of the Treasury in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to the Order (collectively "Specially Designated Narcotics Traffickers" or "SDNTs").

The Order further prohibits any transaction or dealing by a United States person or within the United States in property or interests in property of SDNTs, and any transaction that evades or avoids, has the purpose of evading or avoiding, or attempts to violate, the prohibitions contained in the Order.

Designations of foreign persons blocked pursuant to the Order are effective upon the date of determination by the Director of the Department of the Treasury's Office of Foreign Assets Control (FAC) acting under authority delegated by the Secretary of the Treasury. Public notice of blocking is effective upon the date of filing with the Federal Register, or upon prior actual notice.

2. On October 24, 1995, the Department of the Treasury issued a notice containing 76 additional names of persons determined to meet the criteria set forth in Executive Order No. 12978 (60 Fed. Reg. 54582–84, October 24, 1995). A copy of the notice is attached to this report.

The Department of the Treasury issued another notice adding the names of one additional entity and three additional individuals, as well as expanded information regarding addresses and pseudonyms, to the List of SDNTs on November 29, 1995 (60 Fed. Reg. 61288–89). A copy of this notice is attached to this report.

3. On March 8, 1996, FAC published a notice in the Federal Register adding the names of 138 additional individuals and 60 entities designated pursuant to the Order, and revising information for 8 individuals on the list of blocked persons contained in the notices published on November 29, 1995, and October 24, 1995 (61 Fed. Reg. 9523–28). A copy of the notice is attached to this report. The FAC, in coordination with the Attorney General and the Secretary of State, is continuing to expand the list of Specially Designated Narcotics Traffickers, including both organizations and individuals, as additional information is developed.

4. On October 22, 1995, FAC disseminated details of this program to the financial, securities, and international trade communities by both electronic and conventional media. This information was updated on November 29, 1995, and again on March 5, 1996. In addition to bulletins to banking institutions via the Federal Reserve System and the Clearing House Inter-bank Payments System (CHIPS), individual notices were provided to all State and Federal regulatory agencies, automated clearing houses, and State and independent banking associations across the country. The FAC contacted all major securities industry associations and regulators, posted electronic notices to 10 computer bulletin boards and 2 fax-on-demand services, and provided the same material to the U.S. Embassy in Bogota for distribution to U.S. companies operating in Colombia.

5. There were no funds specifically appropriated to implement this program. The expenses incurred by the Federal Government in the 6-month period from October 21, 1995, through April 20, 1996, that are directly attributable to the exercise of powers and authorities conferred by the declaration of the national emergency with respect to Significant Narcotics Traffickers are estimated at approximately $500,000 from previously appropriated funds. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Office of the General Counsel, and the U.S. Customs Service), the Department of Justice, and the Department of State.

6. Executive Order No. 12978 provides this Administration with a new tool for combating the actions of significant foreign narcotics traffickers centered in Colombia, and the unparalleled violence, corruption, and harm that they cause in the United States and abroad. The Order is designed to deny these traffickers the benefit of any assets subject to the jurisdiction of the United States and to prevent United States persons from engaging in any commercial dealings with them, their front companies, and their agents. Executive Order No. 12978 demonstrates the U.S. commitment to end the scourge that such traffickers have wrought upon society in the United States and beyond.

The magnitude and the dimension of the problem in Colombia—perhaps the most pivotal country of all in terms of the world's cocaine trade—is extremely grave. I shall continue to exercise the powers at my disposal to apply economic sanctions against significant foreign narcotics traffickers and their violent and corrupting activities as long as these measures are appropriate, and will continue to report periodically to the Congress on significant developments pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 23, 1996*.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CLOSING A PROFITABLE PLANT MAY LEAD TO A CHANGE IN THE RULES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, this is a speech I was hoping I would not have to give. It is a speech I may have to repeat at greater length, and I hope I will not have to do that.

In the City of New Bedford, which I represent, there is a plant, the J.C. Rhodes Co., which has been for a very long time a successful manufacturing plant, manufacturing metal fasteners, manufacturing some basic devices, and they have been profitable. We have heard a lot about American industry not being able to compete. Well, we have a plant here with an excellent dedicated work force. This plant has been around 100 years, and it is successful and profitable.

Recently the plant was bought, not by another primary metal producer, but by a financial organization. This financial organization then decided that it would shut down this profitable plant because they could make more money by shutting the plant down and consolidating the production at a plant in a different part of the country. They did not argue that it was a problem of lack of profitability. They did not argue there was no way they could make a go of it in Massachusetts. They did not argue it was because our costs were too high.

Mr. Speaker, it was simply that because of the financial manipulations involved they now found it more profitable to shut down the plant. No one is asking them to lose money.

I have not gotten into detail about the names of individuals; I hope there will not be a need to do that, because I do not want to interfere with negotiations going on now. But it would be a failure on my part not to make clear to all concerned what the stakes are.

The stakes are these. We have a profitable plant in a part of the country where industry has, for a variety of reasons, been diminishing. Heavy industry. This plant is still profitable. It was bought. We have responsible, successful business people, themselves in the manufacturing business, working with the city government and the city of New Bedford, working with the union, the United Electrical Union, working with others, and they are ready to buy the plant at a reasonable price and keep it going. We are being told that we cannot have that, by some, not because this plant is not profitable but because, to be honest, some extremely wealthy people can add incrementally to their great wealth by throwing these people out of work.

That is why this is so important. The question that America has to confront right now is, are we at a point in our economic system, with the rules that have been set forth legally and in every other way, in which the jobs of the 100 people and of families dependent on them count for zero; in which the fact these people have been working very hard for many years profitably for their employer counts for zero; in which the great costs that would be imposed on the city of New Bedford and the surrounding area, the city of Fall River and surrounding areas where these people work, does that count for zero solely so that some people who are already quite wealthy can become a little bit wealthier?

They can increase wealth that will make no difference in their lives except when they chortle over the balance sheets.

I am not asking anyone to take a loss or to keep open a building or a plant that cannot make it. I am saying that, if we are going to be told that the rules are such that this financial conglomerate can come in and simply buy up a plant and shut it down and throw these people out of work and have no concern for the disastrous financial consequences, no concern for the tax losses, no concern for the unemployment compensation that will be paid out, for the mortgage loans that will be defaulted, the student loans that will not be paid back; if the system allows a small number of people to get a little wealthier by causing this degree of financial havoc when the plant can make it on their own and people are willing to buy it and keep it running at a price that would be a reasonable price, then the rules have to be changed.

Mr. Speaker, I have met with the owners of the plant, along with business people from my district, along with the union and people from the mayor's office working with our Senators, Senators KENNEDY and KERRY. We are trying to persuade the owners to be reasonable, not to take a loss, not to subsidize anybody, but to tell us that the lives of these working people do not count for zero, that a marginal increment in their great wealth is not going to be the only factor. If in the end their answer is that nothing else counts in the balance, that nothing but their ability to maximize their already high profits will count, that all of the serious real economic costs that will be imposed on working people and on the city and on the State of Massachusetts, that those will count for nothing, then they are helping to convince me we have to change the rules.

□ 1815

I want the free market system to work. I do not want to interfere with it. But I cannot as a Representative sit idly by and allow the system to go forward if the consequence is that extraordinarily decent hard-working people are penalized and victimized solely for the financial gain of a small number of people with no real economic improvement for society. I hope I will not have to again be at this microphone on this subject.

EDUCATION

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, I come to the floor this evening to address my colleagues in the House on the subject of education. Everywhere you turn, in fact I just read this recent article in U.S. News and World Report, there is criticism about United States education. This U.S. News and World Report article and cover story is entitled Dumb and Dumber. It talks about the failure of the United States education.

Part of the debate here before Congress has been the question of how much money we throw at different programs. One of the questions I have always raised is, are we paying more and getting less?

One of the criticisms of the new Republican majority is that they were cutting "education." In fact, that really is not the case. If you just took a few minutes, Mr. Speaker, to look at the initial budget that we proposed for the House of Representatives and spending for education over the next 7 years, you will find that we proposed an increase over those 7 years of $24 billion in additional education spending.

The question, Mr. Speaker, is not just how much money that we throw at these problems, because we have increased the expenditures in almost every educational field over the past decade by tremendous sums of money. Then we get these headlines on our magazines, Dumb and Dumber. We find the results, the SAT scores have dropped, total average of, from 1972, a score of 937 to 902 in 1994. We find our 17-year-olds scored 17 points worse in science than in 1970. We find reading also at proficient levels, the scores have fallen since 1992. In math, U.S. students scored worse in math than all other large countries except for Spain. Thirty percent of college freshmen must take remedial education courses. This is nationwide. And my community college, the president of our local community college said it is up to 70 percent of his entering freshmen need remedial education. So we must look at how we are spending these tremendous sums of dollars and the amounts.

That is part of what this debate is about here, whether it is education or whether it is environment.

Let me give you two more examples. Here is an article, I brought this to the House before but it is absolutely astounding. It talks about job training programs and education programs, job education programs in the state of Florida.

This is just out in the last month, a State study. Florida, in Florida, State, local and Federal expenditures for these training programs were $1 billion. Listen to this: Most students who entered the program never graduated. In all, 37 percent of 347 training and vocational programs performed poorly according to this report and only 20 percent of those enrolled in high school vocational programs completed that. The report found, and listen to this, of that figure only 19 percent found a full-time job after graduating and then were employed in just above a minimum wage, at a minimum wage level and out of that position in less than six months.

The examples go on and on. Here is another story that was in the Washington Post. Department of Labor spent about $305,000 for each participant in a job program in Puerto Rico. The problem is, we are paying more and we are getting less. Part of it deals with the Department of Education, which now has 4,786 employees, of which 3,322 are in Washington, D.C., just a few blocks from here.

So part of this argument is paying more, getting less. Part of it is command and control in Washington. Part of it is giving these 3,322 bureaucrats down the street in the Federal Department of Education something to do. They do that. It is time that we brought that to a halt.

TRIBUTE IN HONOR OF VICTIMS RIGHTS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this evening to pay a special tribute and certainly with a great deal of remorse to the victims of crime throughout America. We honor this week Victims Rights Week, and we pay tribute to all of the men and women and children in this country whose lives have been cut short by hideous acts of violence.

In particular, I must cite several heinous crimes in my community: the vicious murders of Jennifer Ertman, Elizabeth Pena and Monique Miller of Houston, TX. Jennifer Ertman, 14, and Elizabeth Pena, 16, left a party and were taking a shortcut home near a park on June 24, 1993, when they crossed paths with 6 youths engaged in a drunken gang initiation rite. The two girls were repeatedly raped before being strangled and stomped to death by a mob.

Monique Miller was murdered and sexually abused by a repeat offender.

These teenagers and this very young child will never live out their dreams and live up to the great potential that each of them possessed. Their families will never see them achieve all that they should have. They will never attend a school dance again, go to college, get married or have their own families. Their dreams and the dreams that their parents had for them have been destroyed by senseless violence.

There is growing recognition in this country that most sex offense victims are children and that reporting of these offenses is still low. The FBI law enforcement bulletin reported that only 1 to 10 percent of child molestation cases are ever reported to police, and a National Victim Center survey estimated that 61 percent of rape victims are less than 18 years of age; 29 percent are less than 11 years of age.

A recent United States Department of Justice study of 11 jurisdictions and the District of Columbia reported that 10,000 women under the age of 18 were raped in 1992 in these jurisdictions. At least 3,800 were children under the age of 12.

According to the Bureau of Justice Statistics and the FBI, children under the age of 18 accounted for 11 percent of all murder victims in the United States in 1994. Between 1976 and 1994, an estimated 37,000 children were murdered. And half of all murders in 1994 were committed with a handgun; about 7 in 10 victims age 15 to 17 were killed with a handgun.

Clearly, we must do more to protect our children from violence. This requires more than jailing sex offenders and violent criminals after they commit crimes, although swift and effective punishment is important. This requires strong prevention and education which will keep our children from becoming victims of violent crime.

Tomorrow the House Committee on the Judiciary, of which I am a member, will mark up H.R. 2137, also known as Megan's Law, in honor of 7-year old Megan Kanka who was raped, strangled and murdered by a twice-convicted pedophile who lived across the street from her. I will be a cosponor of this legislation.

This bill would amend the 1994 crime bill to require States to release relevant information regarding persons convicted of molesting or kidnapping children and certain other sex crimes, when it is necessary to protect the public. This bill would guarantee the appropriate dissemination of information so that parents, school officials and community groups can responsibly use the information in order to protect their children.

Today I pay tribute to these teenagers, Jennifer and Elizabeth and children like Monique and Megan, and I ask during Victims Rights Week we take time to recognize the victims of violent crime and work together to prevent senseless violence in our communities. Let us stand up against the repeal of the assault weapons ban. Let us recognize that the Brady bill must be reinforced to prevent reckless utilization of handguns. Let us understand that we must stop the siege of our children by pedophiles who recklessly go from State to State and perpetrate their violent acts on our innocent children.

Let us bring back innocence to America again so that men and women and children can be safe in their homes. Let us stand up for the victims of America.

We owe it to Jennifer, Elizabeth, Monique and Megan and all of the others whose lives have been snuffed out as a result of violent crimes. We owe it to the victims of Oklahoma City, and we owe it to ourselves. We owe it to America. Let us stand up against crime and let us stand for victims.

THE MINIMUM WAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. COX] is recognized for 5 minutes.

Mr. COX of California. Mr. Speaker, I would like to share with my colleagues some words that come from a 67-year-old woman who works at the minimum wage in Santa Ana, CA:

> Dear Congressman—she wrote me recently—I strongly advise you not to raise the minimum wage. In my working career, I have had a lot of under, slightly over and straight minimum wage jobs. As a single parent, I managed to raise my son without any handout from the government. Although raising the minimum wage may should like a great humanitarian idea, it really isn't.
>
> In the past every time minimum wages were raised, the entire national work force, plus welfare recipients, also demanded and received raises. The cost of goods and services rose to meet the higher cost of labor, and you forced me to work a lot of overtime to maintain the same buying power I had before my "generous" raise.
>
> I am now 67 years old and consider myself extremely lucky to have an employer willing to hire elderly people like myself. My employer is a small businessman. Recently because of the economy he was forced to raise his prices and cut his overhead just to stay in business. I took a Small Business Administration class in college, and I know that he has to match my Social Security payments, pay higher State disability and workers compensation. He and others like him will have no alternative but to close their doors and I will be unemployed.
>
> When I lose my job, because my employer can no longer afford to stay in business, what is the government going to do about me, someone who is willing to work? How is the government going to help support me? Who is going to pay for this?
>
> Very truly yours, Joanna B. Menser, Santa Ana, CA.

That is a personal story, but how about the big picture? How about macroeconomics, and how about the views of such institutional stalwarts of the liberal point of view as the New York Times? Some time ago the New York Times ran an editorial on the minimum wage. The headline was, the right minimum wage, zero. By that the New York Times did not mean that people should actually work for nothing. Rather, what they meant is that wages, the cost and the price of labor should be determined in a free market and in fact no one should be held to a so-called minimum wage but, rather, everyone should have the opportunity to make an increasing wage in return for higher skills and higher productivity.

□ 1830

Let me read from that editorial in the New York Times which was titled, "The Right Minimum Wage: $0.00."

"Anyone working in America," the New York Times says, "surely deserves a better living standard than can be managed on the minimum wage."

I think we can all agree with that.

But there is a virtual consensus among economists that the minimum wage is an idea whose time has passed. Raising the minimum wage by a substantial amount would price poor working people out of the job market, people like Joanna Menser, whose remarks we just heard.

"An increase in the minimum wage," the New York Times wrote in their editorial, "would increase unemployment."

Let me repeat this line from the New York times editorial: "An increase in the minimum wage would increase unemployment, raise the legal minimum price of labor above the productivity of the least skilled worker, and fewer will be hired."

"If a higher minimum wage means fewer jobs, why does it remain on the agenda of some liberals," the New York Times asked.

"Those at greatest risk from a higher minimum wage would be young poor workers who already face formidable barriers to getting and keeping jobs."

They conclude their editorial in the New York Times as follows:

"The idea of using a minimum wage to overcome poverty is old, honorable, and fundamentally flawed."

This is the New York Times now. This is not Congressman CHRIS COX from California.

"The idea of using a minimum wage to overcome poverty is old, honorable, and fundamentally flawed. It's time to put this hoary debate behind us and find a better way to improve the lives of people who work very hard for very little."

Finally, the New York Times of Friday, April 19, just last Friday, is worth noticing here on the floor in this debate among our colleagues. Three factoids from the New York Times, Friday April 19, 1996, I commend to all of my colleagues:

Number of times in 1993 and 1994, when Democrats controlled Congress, that President Clinton mentioned in public his advocacy of a minimum wage increase: zero. Number of times he has done so in 1995 and 1996, when Republicans have controlled Congress, 47. Number of congressional hearings Democrats held on the minimum wage in 1993 and 1994: zero.

NOBEL PRIZE WINNERS AND OTHER ECONOMISTS SUPPORT INCREASE IN MINIMUM WAGE

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, I am pleased that 20 of our Republican colleagues in the House now support an increase in the minimum wage.

They join 3 recipients of the Nobel Prize in Economics, 7 past presidents of the American Economics Association and more than 100 distinguished economists nationwide who have signed a "Statement of Support for a Minimum Wage Increase."

Clearly, Mr. Speaker, the issue is compelling.

Those economists recognize that profits are soaring, wages for workers are declining, and consumer demand is stagnant.

That is a prescription for economic trouble.

Middle and moderate-income Americans now feel the squeeze between profits and wages as much as the low income and the unemployed.

Almost half of the money in America is in the hands of just 20 percent of the people.

That top 20 percent is made up of families with the highest incomes. The bottom 20 percent has less than 5 percent of the money in their hands.

A modest increase in the minimum wage could help the bottom 20 percent, and, it will not hurt the top 20 percent.

The President has proposed such a modest increase in the minimum wage—an increase of 90 cents, over 2 years.

Such an increase would mean an additional $1,800 a year for the working poor.

That amount of money makes a big difference in the ability of families to buy food and shelter, to pay for energy to heat their homes, and to be able to clothe, care for and educate their children.

That amount of money makes the difference between families with abundance and families in poverty.

An increase in the minimum wage won't provide abundance, but it can raise working families out of poverty.

As indicated, while the cost of bread, milk, eggs, a place to sleep, heat, clothing to wear, a bus ride and a visit to the doctor has been going up, the income of low, moderate and middle-income people has been going down.

Between 1980 and 1992, income for the top 20 percent increased by 16 percent. During that same period, income for the bottom 20 percent declined by 7 percent.

For the first 10 of those 12 years, between 1980 and 1990, there were no votes to increase the minimum wage.

Without an increase in the minimum wage, those with little money end up with less money. That is because the cost of living continues to rise.

By 1993, families in the top 20 percent had an average income of $104,616.

In contrast, families in the bottom 20 percent in America had an average income of just $12,964.

That is an astounding gap of more than $90,000!

The bottom 20 percent of our citizens can have a full-time employee in the family, working at least 40 hours a week, and still not able to make ends meet.

In fact, the earnings of that family could place them below the poverty line.

Recent studies indicate that job growth in America is lowest where the income gap is widest.

Closing the gap helps create jobs rather than reduce jobs.

Those who argue that an increase in the minimum wage will cause job losses, fail to look at all the facts.

Othe recent studies have shown that an increase in the minimum wage tends to cause an increase in jobs, rather than a loss of jobs. What are we waiting for, Mr. Speaker:

The Statement of the Nobel Prize winners, the past presidents of the American Economics Association and the more than 100 economic scholars across America makes the following point: "After adjusting for inflation, the value of the minimum wage is at its second lowest annual level since 1955."

Let us bring minimum wages into the modern age. Let us support H.R. 940, a bill that will help create a livable wage for millions of workers by permitting a modest increase in the minimum wage.

REVISED ALLOCATIONS AND AGGREGATES TO H. CON. RES. 67, CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1996

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. KASICH] is recognized for 5 minutes.

Mr. KASICH. Mr. Speaker, pursuant to Public Law 104–121, the Contract With America Advancement Act of 1996, I hereby submit for printing in the CONGRESSIONAL RECORD revised allocations and aggregates to House Concurrent Resolution 67, the Concurrent Resolution on the budget for fiscal year 1996. Section 103(e)(1) of Public Law 104–121 requires that upon enactment "the Chairmen of the Committees on the Budget of the Senate and House of Representatives shall make adjustments * * * (to the Appropriations Committee 602(a) allocations) * * * to reflect $15,000,000 in additional new budget authority and $60,000,000 in additional outlays for continuing disability reviews * * *"

The required adjustments are as follows:

COMMITTEE ON APPROPRIATIONS

[Dollar in millions]

	Current allocation		Change		Revised allocation	
	BA	O	BA	O	BA	O
General purpose discretionary	$485,074	$531,768	+$15	+$60	$485,089	$531,828
Violent crime reduction trust fund	4,087	2,227			$4,087	2,227
Total	489,161	533,995	+15	+60	489,176	534,055

AGGREGATE LEVELS

[Dollar in millions]

	Budget resolution (H. Con. Res. 67)	Change	Revised level
Budget authority	$1,285,500	+$15	$1,285,515
Outlays	1,288,100	+60	1,288,160

REPUBLICANS' SAFE DRINKING WATER ACT MEANS DIRTIER TAP WATER IN GEORGIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Georgia [Ms. MCKINNEY] is recognized for 5 minutes.

Ms. MCKINNEY. Mr. Speaker, we are also told that some of the slaves actually asked for and fought for a continuation of slavery. That did not make slavery right. America needs a raise.

Now, I came down here to talk about the Republican agenda with respect to the environment. I am not surprised that for his Earth Day stunt Speaker GINGRICH took young children to the zoo. If Speaker GINGRICH has his way on the Endangered Species Act, about the only place we will be able to find endangered species, or even nonendangered species, will be in the zoo.

Mr. Speaker, constituents have a particular problem, my constituents have a particular problem, with the health effects from chronic exposure to arsenic. In fact, I have constituents who now suffer from arsenical keratosis because of their exposure to arsenic. Yet, if the Republicans have their way, not only the communities of Hyde Park and Virginia subdivisions will be reeling from the effects of chronic exposure to arsenic, we all may be, because their version of the Safe Drinking Water Act means dirtier tap water in Georgia. They voted against an amendment that would have prohibited the introduction of arsenic into the water supply. It is almost unbelievable, but it is true.

With respect to the Safe Drinking Water Act, that would result in dirtier tap water from my State of Georgia. The Republicans' draft legislation of the Safe Drinking Water Act would weaken the laws' basic health standard, delay health standards for highly hazardous contaminants, and reduce the public's right to know about health threats from contaminated drinking water.

In 1993 and 1994, over 150,000 Georgians drank tap water that failed to meet the EPA's basic health standards for bacterial toxic chemicals, fecal matter and other dangerous microbes. The House of Representatives would have cut $15 million to help cities and towns upgrade drinking water plants.

With respect to the Clean Water Act, lakes, rivers and beaches in Georgia would have been fouled. If the Clean Water Act became law, it would have allowed untreated sewage to be discharged into coastal waters. It would have made the cleanup of toxic chemicals in the Great Lakes voluntary, it would have redefined most of the Nation's wetlands out of existence, and, of course, it would have gutted the EPA's efforts to control farm runoff, the single largest source of unregulated water pollution today.

In 1993 and 1994, over 140,000 Georgians drank tap water that was contaminated by fecal matter or other bacteria, in part because of sewage discharges into rivers and lakes at 31 locations throughout the State.

In terms of wetlands, the Clean Water Act creates a new definition of wetlands protection for 73 million acres of wetlands, or 71 percent of the remaining wetlands in 48 States. This would leave these lands to be developed with no Federal oversight or restrictions whatsoever. Of the 5.3 million acres of wetlands in Georgia, an estimated 4.7 million acres, 90 percent of the total wetlands remaining in the State, would no longer be considered wetlands under the proposed bill.

With respect to Superfund, the Republicans have introduced legislation that would bail out polluters and severely slow down cleanup of toxic dumps.

The most recent draft of the bill released by House Republicans would abolish all liability for polluters who generated and transported waste prior to 1987. Even giant corporations would get off the hook for all toxic waste they sent off site prior to 1987.

With respect to the toxics released inventory, their proposal would curtail reporting requirements for up to 90 percent of toxic chemical emissions that factories must report to the EPA.

Mr. Speaker, I would just conclude by saying that Kevin Phillips said that this may be the worst Congress in 50 years. The Republicans are well on their way to proving that.

□ 1845

WE MUST BALANCE THE BUDGET IN THE FAIREST POSSIBLE WAY FOR EVERY FAMILY IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. MARKEY] is recognized for 5 minutes.

Mr. MARKEY. Mr. Speaker, we have reached the critical juncture in this Congress, debating whether or not in fact we will deal with the critical issues that face our country, the issues that the families of this country want to see addressed, and whether we will do so in a reasonable and responsible fashion.

The Republican Party has argued that we should balance the Federal budget by the year 2002. The Democratic Party has responded that they, as well, want to balance the Federal budget by the year 2002. We will agree upon that. We are going to do that as a Congress and as a nation. The issue becomes how do we do it, how can it be done in the fairest possible fashion to every family in our country. How can the sacrifice be distributed that ensures that every family is treated fairly? That is the great debate going on in this Congress.

The Republican Party says that as part of balancing the budget, they must fulfill their commitment to ensure that their crown jewel in the Contract With America is given over to the wealthy, those who are in the upper-income brackets. They must receive huge tax breaks.

Ordinary families say, well, that does not sound too fair. If you look back over the last 20 years, we have not had any increase in the wages, those of us in the bottom 60 percentile or 70 percentile of wages in this country, people making $20,000 and $30,000 and $40,000 a year.

So if there are going to be tax breaks given out, the tax breaks should not be given out to the wealthy. We should get the tax breaks, so we can educate our children in high school and grammar school and in college. That is where the tax breaks should go, not to the wealthy.

And if you are going to cut programs, you cannot cut Medicare part B and make Grandma pay an extra $400 a year when she only makes $13,000 a year on average; all of the elderly, senior, retired women, when at the same time you are not going to touch the timber subsidies and the mining subsidies and the grazing subsidies, et cetera, et cetera, that the big business interests get. It has got to be fair.

Grandma or Grandpa, they do not mind sacrificing. God knows, they do not mind sacrificing. They took us through the Depression, they took us through World War II, and they built us into the greatest country in the world in the 1950's and the 1960's, so they do not mind sacrificing. They have sacrificed their whole lives. What they want is fairness. The tax breaks cannot go to the wealthy. The tax breaks have to go to people who can educate their kids. The programs that get cut cannot be for the elderly: Medicare, Medicaid. The programs have to be grazing subsidies and timber subsidies and Star Wars and all the rest of these crazy programs that should not be given Federal subsidies anymore. That is the only fair way of doing it.

The Republicans say, do not worry about it, because if you balance the budget by the year 2000, interest rates are going down 2 points and the oil, the water of prosperity, will flow evenly across all of those in this great country, and we will not have to do anything else for ordinary working people. The reality is that it has not flowed that way for the last 15 years, since Reaganomics began.

We have seen this distortion in terms of who are the beneficiaries of the wealth in our country. The rich are getting richer and the rest are just paying taxes. That is how this system has wound up in this country. Ordinary people are the ones who are afraid that their jobs are not going to produce the income they need for their families.

The fallacy in the Republican argument that interest rates are automatically going down two points—and by the way, the Democrats would wish that that would be the case, too, because we support a balanced budget, just as much as the Republicans do now—is that there is a doctrine. It is called NAIRU. It is called the non-accelerating inflationary rate of unemployment, the non-accelerating inflationary rate of unemployment. That means that the rate of unemployment, once it goes below a certain point, and, for these purposes below about 5.5 percent, about 6 to 8 million Americans unemployed.

Mr. Speaker, I will return at a later date to continue my discourse on this subject.

IN HONOR OF MARY BETH BLEGEN, TEACHER OF THE YEAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. MINGE] is recognized for 5 minutes.

Mr. MINGE. Mr. Speaker, I rise today to pay tribute to a resident of my district, Mary Beth Blegen. She was honored by President Clinton with the National Teacher of the Year Award. This type of recognition is not new to Mary Beth. She has been honored before by the accolades of her community and the success of her students.

Mary Beth lives and teaches in my hometown of Worthington, MN, where she has also written an occasional column for the local paper. On several of these occasions, others in my district have sent me copies of these columns for my benefit and instruction.

I remember one in particular that provided good hometown advice from the local coffee shop on how to balance the budget and dispense with the politics that so often contaminate the process. The restaurant, after all, is a repository of much wisdom in our society, and Worthington is typical of small communities with such restaurants in rural America. Unfortunately, we did not take all of the advice from the restaurant, and our balanced budget has not yet been accomplished.

Mary Beth graciously accepted the Teacher of the Year Award this afternoon in a typical fashion, downplaying her achievement by recognizing the dedication and skill of teachers throughout America. She states that she accepted the award for all of her fellow teachers who are committed to their profession and their students.

Mr. Speaker, I urge that you and other Members of this body join me in congratulating Mary Beth Belgen of Worthington, MN, as National Teacher of the Year. Also join me in congratulating the teachers from the other States throughout the country that were named teachers of the year in their respective areas, and finally, let all of us join in acknowledging that there are thousands, tens of thousands of teachers throughout this Nation who are not being recognized today except by the students whose lives they enrich and whose lives are so important, and education is so important to the future of our Nation.

A DIALOG ON INCREASING THE MINIMUM WAGE

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 60 minutes as the designee of the minority leader.

Ms. DELAURO. Mr. Speaker, what I want to do is to engage in this effort tonight to have a dialog, if you will, and discussion with several of my colleagues to talk about the minimum wage. I will yield to my colleague, the gentleman from Texas [Mr. GENE GREEN], and thank him for participating with us tonight. I would ask him to just kick off this effort tonight for us.

Mr. GENE GREEN of Texas. Mr. Speaker, I would like to thank my colleague, the gentlewoman from Connecticut [Mr. DELAURO], for organizing this very special order on the minimum wage.

Mr. Speaker, I join a number of our colleagues tonight in support of an increase in the minimum wage. Since the President proposed increasing the minimum wage to 5.15 over 2 years, a river of ink has flowed on both sides for this issue. According to the latest national poll, 87 percent of Americans favor an increase in the minimum wage. Howver, some of my colleague in the Republican Party continue to oppose a minimum wage increase, and they even oppose the minimum wage.

In fact, I may have taken the gentlewoman's poster, because this is such a great quote: "Emotional appeals about working families trying to get by on $4.25 an hour are hard to resist. Fortunately, such families don't really exist." That is why my colleague and a good friend of mine, the gentleman from Texas [Mr. TOM DELAY], I want him to know that I have these families in my district that are trying to get by on $4.25 an hour tonight, Maybe that is our problem. Maybe they have lost touch with what is actually happening out in America, with families trying to get by on $4.25 an hour. There ar families that are trying to do that, and it is a shame that maybe some of our colleagues in Washington do not understand that.

Mr. Speaker, Republicans continue to argue that an increase may lead to higher unemployment and increase the number of welfare recipients. Mr. Speaker, the logic of this just does not match. Ask anybody on the street if increasing the minimum wage will increase welfare recipients. Mr. Speaker, the best welfare reform we can pass is a job that pays a decent wage to get people off welfare.

Additionally, some of these same critics claim that the minimum wage is paid mainly to teenagers, and that an increase would cause layoffs of these teenagers. Americans know that the real value of the minimum wage has steadily declined for the past 15 years, and that minimum wage earners have not seen an increase since April 1, 1991. Fifty-seven years ago Congress passed its first minimum wage of 25 cents an hour, and 57 years later, Americans are working to find that the real value of the minimum wage has steadily declined during these past 15 years. Minimum wage increases have been passed bipartisanly. In fact, our current Senate majority leader and our current Speaker voted to increase the minimum wage in the late 1980's.

Minimum wage earners today have seen a fall of 45 cents in real value since the 1991 increase. The idea that an increase in the minimum wage could lead to an increased number of welfare recipients is simply not correct. In fact, the opposite is true. Again, the best welfare reform is a job that pays a livable wage. What critics fail to recognize is that the current minimum wage does not even provide a livable wage. Using today's minimum wage, workers putting in their 40 hours a week for 52 weeks a year will earn just over $8,800.

In my district, the current poverty line for a family of three is $12,000. You can work full-time, one wage-earner in your family, minimum wage, and still be eligible for food stamps, so this quote by my colleague, and again, a good friend, I would say to the gentleman from Texas, I have families in my district who are trying to struggle on the minimum wage at $4.25 an hour.

This working family is supported by a minimum wage earner well below the national poverty rate and is eligible in collecting food stamps. However, this same family, if we had an increase to $5.15 an hour, figuring in the maximum earned income tax credit, would be $1,500 above the poverty level if we increase the minimum wage. This increase would give my constituents and other working Americans the ability to work their way off of the welfare rolls.

It is argued that the minimum wage is a wage for teenagers, and therefore only at entry level. While this may have been true in the past, in fact, I remember working for minimum wage at $1.25 an hour, and I was glad when Congress increased that minimum wage, but the Bureau of Labor Statistics shows that the average minimum wage earner today is over 20, 20 or over, and more likely to be female and working full-time. The minimum wage is demonstratively no longer just for teenagers.

If Congress does not increase the minimum wage our welfare rolls will grow, quite to the contrary of what may be said on the other side of the aisle. But with a minimum wage increase, these families will have the opportunity to be more self-sufficient. We should have a clear vote on a minimum wage increase, without cluttering up or including tax cut issues or other issues the Republican majority may want.

One of the complaints I hear so often, and my colleague, the gentlewoman from Houston, TX [Ms. JACKSON-LEE], knows this, people ask us all the time, they say, "Why can you not just vote on a bill on its issue, instead of putting in everything but the kitchen sink?" That is what I am worried we are going to see. We are going to see extraneous issues thrown in the minimum wage. If 87 percent of the American people want a minimum wage increase, they deserve a vote straight up and down on a minimum wage increase.

House Republicans are talking a lot about working families, but they continue to show that they may be out of touch with where reality is at. American families are working harder than ever, and it is tougher to get ahead when working full time does not even put enough money in your pocket to put food on the table without food stamps.

Republicans have a golden opportunity to give the American families what they really need, a decent wage for a decent day's work. If Congress is serious about getting people off of the welfare rolls, Congress should allow Americans to work their way off of it by increasing the minimum wage.

I would like to thank the gentlewoman from Connecticut for this opportunity tonight to talk about that, and also for swiping your poster for a few minutes.

Ms. DELAURO. Mr. Speaker, I want to thank my colleague for his comments, which are just incredibly accurate about what we want to try to do in getting people off of welfare, to work. With regard to the comments by your colleague and my colleague, the gentleman from Texas [TOM DELAY] I might add, he is the third ranking member of the Republican hierarchy in the House of Representatives, and his commentary is "Emotional appeals about working families trying to get by on $4.25 an hour and hard to resist. Fortunately, such families don't really exist."

□ 1900

This is the same gentleman. Let me tell the Members about his comments earlier this year during the Government shutdown. He said, and I quote:

> I am not a Federal employee. I am a constitutional officer. My job is in the Constitution of the United States. I am not a government employee. I am in the Constitution.

These were his comments, which is why he would not support suspending congressional paychecks during the Federal Government shutdown in December of 1995. One of the architects of this shutdown says that he is not a government employee, he should not give back his paycheck during the Government shutdown, someone who makes over $130,000 a year.

Now he has the nerve just today to say that families who are struggling on $4.25 an hour, roughly about $8,500 a year, do not exist. This will give us a little bit of a taste of what we are dealing with in this body, and how out of touch some of our colleagues are with the people that they purport to represent in this body.

Mr. Speaker, I would like to yield now to my colleague from Texas [Ms. JACKSON-LEE] and thank her for joining us this evening.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman from Connecticut, and I thank her very much for giving us an opportunity to visit this question, as we have been visiting it now for a year.

We, as Democrats, have said that the increase in a minimum wage has been long overdue. Let me say to the Members that I remained open on the question as relates to listening to all those who would counter with a rebuttal of that concept. Why not open the door and hear what the discussion is all about?

I listened to someone more clearly, however, and that was the Honorable Barbara Jordan, who held this particular seat in the 18th Congressional District prior to certainly her demise this year, but certainly held this seat as it was first originated in 1972.

She came to this Congress offering to propose an increase in the minimum wage on the basis of social justice, and her comment was that she came here to remedy the social inequity and the economic inequity of her constituents in the 18th Congressional District in the State of Texas. She realized that if there was high unemployment there in communities where people were seeking to work, the point was that we needed to create jobs and we needed to create a decent wage.

So I come today to be able to say to all of those naysayers that in fact increasing the minimum wage will not decrease jobs. For example, the jobs are created mostly—and I have great respect for my constituents and others in the small business community, I know that we have done many things to try to lift their load—but the major jobs are created by major corporations in this country, and we realize that those major corporations are now benefiting by enormous profits. We can look at corporate CEO salaries and see the enormous increase that has come about. We are just asking for the plain working citizen to have this opportunity.

In 1979, if we looked at the minimum wage at that time, it was equal to today's $6.25. We are not even looking to increase it to that amount; 90 or 95 percent, to lift it to something like $5.25, a bare increase for our working families who have opted to work instead of get on welfare.

In fact, those families that have been mentioned that do not exist, they exist in my community and many communities out through America. In fact, they are not teenagers, they are heads of households who are trying to maintain a family unit. In fact, our increase will give a mere $1,800 increase per year that will allow those families to do something like pay their utility bills, their water bill, their rent, to provide the necessities for their children that go to school, because we have people making $4.25 an hour who have a family of four.

I am aghast at the interpretation and, as well, the definitions that have been attributed to middle class and lower middle class and upper middle class. I am just maybe trying to find the dictionary that these definitions are coming from.

I have a colleague here in the House, a Republican who has indicated, "When I see someone who is making anywhere from $300,000 to $750,000 a year, that is middle class. When I see anyone above that, that is upper middle class." This is a statement by the Republicans, and they have here listing $100,000 to $200,000, that is lower middle class; $300,000 to $750,000, that is middle class. I guess $750,000 and above is upper middle class.

We are talking about the basic infrastructure of this country, the kind of people who day to day get up and drive that 1979 car or that 1982 car, that get on our public transportation, that work every day, grown-ups, not teenagers, who need this kind of increase to make them whole. This is certainly evidence that we are not connecting on the other side of the aisle, that they are not listening to the American people, the 87 percent.

My colleagues from Texas and of course from Connecticut are so right that we have got to speak for those individuals who are simply asking for a better day to see the end of the tunnel. Let me just say as I bring my comments to a close, thanking the gentlewoman so very much for giving us this very vital opportunity, when we begin to talk about welfare reform, it really pains me that we are not talking realistically.

We are not talking realistically because we are suggesting that an individual should rid themselves of a safety net, not because they want to be a hold or a deadbeat, if you will, a hold on this Nation, or to draw on taxpayers' dollars or working Americans' dollars, but because they simply have to survive, and because of whatever reasons, viable reasons, their children have to survive.

When we reach the point where these individuals have made commitments to work, and everyone I speak to that is on welfare wants to work, then we must be able to provide the opportunity for them to support themselves and their children. That requires child care sometimes. It requires health care, of course, with that, and it requires making ends meet by paying for your food and your housing.

How can they do that on $4.25, when a grown man will come to me and say, "I don't know, I'm prepared to give up, and maybe welfare is the best alternative because I'm working but I can't make ends meet on $4.25. I want to stay in the work force. I want to work."

Those companies who have people employed, it is well known that the increase of minimum wage will not in any way generate a major loss of jobs or a loss of profits. It may even increase productivity. We must begin to work together on this issue, small businesses, large businesses, Republicans, Democrats, working America to make America better.

I will simply say let us get rid of the politics, just like we wanted to pass a clean continuing resolution to keep the Government open. Let us pass a clean minimum wage bill, and anyone who wants to come and debate us on the loss of jobs, I am prepared to debate them, to show the numbers, that there is no documentation in fact that will show that there will be a demise of productivity.

My last point is that we have had over 100 economists tell us that an increase in the minimum wage will not cause a demise of this country. We should listen and move forward to make Americans whole.

Mr. Speaker, I thank the gentlewoman from Connecticut for this time to discuss this very important issue.

Ms. DELAURO. Mr. Speaker, I thank the gentlewoman from Texas for her remarks and for participating this evening. When the gentlewoman holds up a chart that has someone in this body who truly believes that middle class America's salary range is somewhere between $300,000 and $750,000 a year, and literally believes that, and then we have someone who says that such families do not really exist, families that make $4.25 an hour, roughly about $8,500 a year, once again it emphasizes how truly out of touch that some Members and Members in the majority are in this body with the people that we represent.

We took this special order tonight really to urge our colleagues on the other side of the aisle, Speaker GINGRICH, the Republican leadership, really to stop their cynical effort to stiff working Americans. Bring to this floor legislation to raise the minimum wage. Do not do what the public believes we do all of the time, and that is to cloud the issue of minimum wage with a variety of other pieces that will kill a 90-cent increase in the minimum wage.

My colleagues and I know that hard-working American families are scrambling just to make ends meet. They scramble to put together the money that they need to pay their bills every week. These families have done the responsible thing to raise their families. They work hard every day. They try to feed their kids. They try to pay their bills. They work and they struggle. They pay taxes that seem always to be going up but their salaries do not go up.

These are good citizens who want to know that they are going to be rewarded for a lifetime of work, and that is that they have taken the personal responsibility in their lives to do the right thing, and that that needs to get recognized by those of us who serve in this body.

Plainly, working Americans need a break. They are working harder and they are working longer hours and they are working for less and less. The rewards of all of this hard work just do not meet the needs of today's families.

All the while, our country has forgotten workers struggle and they scramble, and countless working Americans find themselves the victims of downsizing. The stock market booms to record the highs and the corporate executives line their pockets with outrageous compensation.

Since 1990, the salaries of corporate CEO's have surged by 9 percent a year, yet the minimum wage is at its lowest level in purchasing power since Dwight Eisenhower occupied the Oval Office. In fact, last year, the median income of corporate executives in this country was $2 million—$2 million. That is over 200 times the annual salary of a minimum wage worker.

The Nation's minimum wage today is a paltry $4.25 an hour, and I am really proud to join my Democratic colleagues and President Clinton to sponsor legislation to boost this wage to $5.15. That is 90 cents. A mere 90 cents, while we have individuals in this country who are making on average $2 million a year and some much more than that, sometimes $40 and $50 million a year, which does not include their stock options.

We have people who serve in this body who make a very good salary, over $130,000 a year, the people who have gotten up and who have said that families that make $4.25 do not exist and that middle class Americans are making $300,000 to $700,000 a year.

What are we going to do? Again, another quote from the majority leader, the majority leader of the House of Representatives, let me tell the Members what his quote is. His quote is: "The minimum wage is a very destructive thing. I will resist a minimum wage increase with every fiber in my being." This from the House majority leader.

It is truly unconscionable and disingenuous for people to stand here and say these kinds of things and purport to represent working men and women in this country.

Mr. Speaker, I see my colleague on his feet here, the gentleman from New York [Mr. OWENS]. Please go ahead and join the debate.

Mr. OWENS. Mr. Speaker, I want to thank my colleague for taking this special order on the minimum wage.

The kind of quote that the gentlewoman just read, that "the minimum wage is a very destructive thing. I will resist a minimum wage increase with every fiber in my being," that is House Majority Leader DICK ARMEY, who is at least honest enough to say what he believes.

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The danger now is that we have entered a new period where there are people now who recognize that the common sense of the American people, as expressed through opinion polls, and I am sure people are on the phone calling their Members of Congress, common sense says that people deserve an increase.

We are talking about pennies here, a 90 cent increase over a two year period. But that adds up over a whole year, and there are people that say, "That would put some more food on my table and make it easier for me to pay my bills, so I want the 90 cents."

Having recognized that there is a rising tide out there among the voters for a minimum wage increase, we have now some Members of the Republican majority who want to pretend they are concerned about an increase. They want to pretend, and then come with obfuscating, devious moves, to bog down the debate.

I sent out a special alert today to all my Democratic colleagues. I serve as the ranking Democrat on the subcommittee on Workplace, Protections, which is responsible for the minimum wage as an issue, and I thought that I should alert them right away as to what is coming.

I got a letter from the Republican side that showed that we are not going to see any rapidly escalating recognition of the will of the people resulting in a passage of the minimum wage. We are going to see a new kind of diversionary tactic.

So I sent out this item which I called "Special alert. Republican wage ambush is coming. The diversionary quagmire."

> DEAR COLLEAGUE: Pretending to be suddenly concerned about livable wages for workers the Republican majority is preparing a legislative obstacle course to forestall the passage of meaningful legislation. We must avoid this quagmire of quicksand.
>
> A simple Straightforward Increase Is Best for America. Our current position must be reaffirmed and kept focused: we demand an immediate increase in the minimum wage. Step by step let us go rapidly all the way to $6.25 per hour which would bring the lowest paid person even with inflation. Step one requires passage of a 90 cents increase to $5.15 per hour.

No bureaucracy, government intrusion, and no cannibalizing of EITC should be allowed to take place behind the banner of raising the minimum wage. Hearings may be scheduled very soon to promote a Byzantine proposal that makes a mockery of livable wage legislation. It proposes more corporate welfare through wage subsidies for employers, it imposes government intrusions on a scale greater than the present socialism of the farm subsidy programs, and, finally, the Republicans propose to raid the EITC program and siphon funds away from low income workers into a tax cut.

Emergency action is needed. I am calling on all the Members of my party, Democrats, to sign up to cosponsor the true minimum wage increase bill, the Gephardt-Clay bill, H.R. 940.

Now, what am I talking about? What did I receive from the Republicans? What did I have sent to me by somebody? It is a letter which is sent by my chairman of the Subcommittee on Workplace Protection, the gentleman from North Carolina [Mr. BALLENGER], and another member of the committee, the gentleman from Arkansas [Mr. HUTCHINSON]. I am going to read portions from their letter to give them equal time. I am quoting from the letter sent out by Mr. BALLENGER and Mr. HUTCHINSON. It reads as follows:

> We will be introducing legislation which would accomplish the goal of helping America's working families, while avoiding the economic pitfalls associated with a minimum wage increase. "The Minimum Wage for Families Act" would fundamentally redesign the Earn Income Tax Credit (EITC) by: converting the large annual lump sum EITC payments into monthly payments so as to more practically supplement family income; by denying credit to undocumented workers; by eliminating credit for childless adults; by increasing the support credit for parents; by renaming the EITC the Working Families Support Credit.
>
> If you believe that those people who are in need of wage assistance are America's working families, as opposed to teenagers employed during their summer vacation, please join us in support of this proposal.

This is a proposal coming from the Republican side. This is the ambush that is waiting for us before we get to that goal of a minimum wage increase.

They propose a three-tiered minimum wage. They want individuals to be employed at $4.25 an hour, and families with one child would get $7 an hour, and families with two or more children would get $8 an hour.

How does it work? Employers would be able to hire as many job applicants as possible at the current starting wage of $4.25. The Federal Government would provide families with children a monthly cash payment to bring these families up to the $7 or $8 level as outlined above. The payments would be administered through the Internal Revenue Service.

You talk about the intrusion of government into lives of Americans? You talk about corporate welfare? Here are two blatant examples of it. They are going to subsidize the salaries so the corporations can hire people at $4.25 an hour. Then they are going to have the government get involved in determining who should make $7, who should make $8, and the Internal Revenue is going to be the administrator of all this.

The proposal is expected to be scored by the Joint Tax Committee they say, and it is going to save, according to the Republicans at least $15 billion over six years.

Now, this is really a quagmire we are headed into. I am reminded of the story of the young sophomore who came home from college, and he sat down at the table with his father, who was a factory worker, and the rest of the family, and they had a big chicken on the table they were about to eat. The young sophomore had just taken a course in philosophy. So he told his father, dad, there are really two chickens on this table. I can show you starting with the right a priori assumptions and using ontological progression and based on epistemological reasoning, I can show you where there are two chickens on this table.

His father looked at him for a while and listened, and suddenly reached over and grabbed the chicken, pulled it to him, and started carving the chicken and said, "Look, son, if there are two chickens on this table, I am going to carve this one, and we are going to eat this one, and you can have the other one all by itself."

This is what we have here. The Republicans are giving us a chicken in a pot, a dodo in a pot, to confuse the issue, and we are going to have long-winded sermons about how EITC is the answer to the minimum wage problem.

Never before have I seen a proposal which so much ran against the grain of the Republican ideology. They are going to put government in the business of subsidizing wages and have government administering the difference between the $4.25, determining who should get the $7 and who should get the $8.

So I think we have a long way to go. I was getting very optimistic myself about the rising tide of public opinion and how everybody suddenly is responding. There are 20 Republicans proposing a bill to increase the minimum wage by $1, not 90 cents, and I was getting euphoric about the democratic process.

But now I see we are going to get bogged down, and only the image of being concerned is what they are after. They want to appear to be concerned about working Americans and play with the lives of working Americans, and play with it with all of these highfalutin proposals to have government put people through some kind of obstacle course or maze and finally come out with an EITC that is going to be robbed in order to create some more money for a tax cut.

So I agree very much with the gentlewoman, that we must keep our eyes on the price, and focus, because the kind of straightforward statement that Mr. ARMEY has made, we should be grateful for that. We are going to have something far worse to deal with in the days ahead, the ambush that is being prepared for the minimum wage.

Ms. DELAURO. I want to thank my colleague from New York. You are absolutely right. This is a move, it is called rehabilitation here, to talk about how we are going to try to help working families. These are from the same crowd that just not too long ago wanted to cut $23.2 million from the EITC, take 14 million families in this country and say, and these are people working, remember, this is Earned Income Tax Credit, not someone on welfare, Earned Income Tax Credit. They were willing to set adrift 14 million families, not too many months ago, by cutting that Earned Income Tax Credit.

Now, so that they can delay and they can stall and they can stonewall on the opportunity to vote on a minimum wage and to raise that minimum wage a mere $.90, they are going to come up with all kinds of bells and whistles and tricky programs here. We must recognize it for what it is, a stalling tactic and an unwillingness to bring before this body the opportunity to vote on the minimum wage yes or no, with no fancy language, just a plain and simple vote. That is what the American public wants to hear. I thank my colleague for joining this conversation.

Let me recognize the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I thank the gentlewoman for yielding to me. I just want to say I want to thank Ms. DELAURO, the gentlewoman, for raising the issue of the minimum wage. I believe we will eventually have a vote on the minimum wage. It is primarily, I believe, because of your efforts to force the Republicans to give us a vote. They do not want to do it.

As you have mentioned, they are stalling, they will continue to stall, they are going to find every way around it. But already I notice that because of your activities and because you have raised the issue so often on the House floor, we have gotten to a position now where Speaker GINGRICH and some of the others have said that they may have to or be forced to bring up a vote on the minimum wage. I think a lot of that has to do with your efforts.

To me this is a very important issue. My own State of New Jersey actually has a much higher minimum wage, and it has worked very well. As you mentioned, with a minimum wage right now at $4.25 an hour, that adds up to $8,800 a year. To me it is an absolute disgrace that someone in America can work a 40-hour week for 52 weeks a year and only earn $8,800. Basically I guess what they have to do is go out and get a second job. When you are working 40 hours a week, what are you going to do, work another job for the same amount of time, and then make only twice that amount?

My understanding is that a minimum wage worker right now is below the poverty level. It is just as easy to go on welfare rather than work for the minimum wage. Here we have a Republican majority constantly bringing up the fact, suggesting in some way part of their reasoning is they want to get more people off the welfare roles. This belies that. If they want to do that, they should raise the minimum wage. Otherwise we are basically saying that a person might as well go on the dole or get welfare from the Government.

The other thing I was going to say is that I really do not see any one legitimately coming on the floor of this House and saying that the minimum wage should not be raised. I think that is why you get some of the Republican leadership like the gentleman from Texas [Mr. DELAY], the majority whip, making the statement that you showed before, where he says that fortunately such families do not really exist.

The only way out of this is to basically say there is no such person, because if you say no such person, then you eliminate the need to raise the minimum wage. But of course there are people, there are a lot of people out there, who are just making minimum wage. There are a lot in my district and they have come up to me. They are young people, they are senior citizens, they are people from every walk of life.

Let me just make a few points, if I could. I know we do not have a lot of time. I just think one of the most important aspects is how this is a good thing for the economy. An increase in wages will increase purchasing power and improve the quality of life for millions of hard working Americans, not only the wage earners, but the local economy. Greater purchasing power will bring more money to our local economies and in the long run provide more stability and jobs for many small businesses. The purchasing power of our minimum wage earners is the lowest it has been since the early 1950's. I know you pointed that out over and over again.

One of the things that really gets me mad is when I hear Republicans talk about how an increase in the minimum wage will cause an increase in inflation. You have to be kidding me. You have the nerve to tell people who work for $4.25 an hour that they cannot have a modest 90-cent increase in their wages because you are worried about how it will affect inflation. I think there are a lot of things we can do in our economy to keep inflation at reasonable levels. But to tell hard working Americans that their below poverty levels will have that effect on our economy and inflation is ludicrous.

Let me talk briefly about our home State of New Jersey and our experience if I could. We have already seen the wisdom of raising our minimum. It is now $5.05 an hour. This increase has been a complete success. We have increased the purchasing power of our minimum wage workers and they have used that increase to purchase more goods from our local grocery stores and department stores.

This is not pie in the sky. There are studies that clearly show this on a bipartisan basis that the leaders in our State legislature and our Governor have pointed this out. It actually helped to keep our unemployment rate from growing too high, even with the downsizing and corporate restructuring that is so heavily affecting the State of New Jersey. It also provided for long-term growth. We have seen in New Jersey more jobs have been created and our economy has benefited from the higher wages.

Let me say what I see in my own State, this is the right thing to do. I just want to join my Democratic colleagues, and a few Republicans, I think Ms. DELAURO has pointed out there are some Republicans that have joined us who are going to help us in our efforts to get this passed. This is ultimately going to benefit all Americans. I just want to thank the gentlewoman from Connecticut again for her work on this, because I know you do not like to take credit, but I think you have single-handedly done the most in this House to bring this issue to the floor.

Ms. DELAURO. Thank you very much. Before I recognize the gentleman from California, let me just say there are going to be other people out here tonight trying to talk about statistics and the fact that this increase in the minimum wage is going to lose jobs.

□ 1930

I will set the record straight. One hundred and one economists, Nobel prize laureates in economics, public statement they signed. "We believe that the Federal minimum wage can be increased by a moderate amount without significantly jeopardizing employment opportunities."

Mr. DELAY will say that if you are on a minimum wage, you receive the earned income tax credit in food stamps. Reminder: They wanted to cut the earned income tax credit by $23.2 million. They will shred the Food Stamp Program. Also the crowd that brought you a $245 billion tax break for the wealthiest Americans at the expense of those who are today on Medicare.

So just to set the record straight a little bit, and, also, final point. Who are the minimum wage workers? Who are these $4.25 an hour folks who do exist in every single Member's district? And if you close your eyes to them, you do it at your peril in this body. Two-thirds of minimum wage workers are adults, 60 percent are women, 40 percent are the sole bread winners in their family.

So that what you have here is the opportunity to lift these households up so that they can raise their families. We could lift up 300,000 families out of poverty in this country, 100,000 children who are currently living in poverty. Again, just to set this record straight.

I want to recognize the gentleman from California, Mr. MILLER, and thank him for all of his efforts in this area.

Mr. MILLER of California. I thank the gentlewoman for taking this time, and this very opportune time. Not only are we struggling to get a clean vote on increasing the minimum wage for those millions of American workers who need it to support themselves and their family, but now we start to see the limits to which the Republicans will go to keep us from having a clean vote.

They talk about attaching all kinds of anti-labor riders or attaching a lot of legislation that they think will be unacceptable to us and to the President so that he would have to veto the bill. Majority Leader ARMEY has said he will resist the minimum wage increase with every fiber in his being. Apparently, that is what is going on here.

But what they have done in the last couple of hours by suggesting this proposal to take the earned income tax credit away from poor single workers to provide for people with families with children is incredible, because what the Republicans are saying is they are now going to tax the poorest of workers in this country. They are going to raise their taxes because those people will have less income after this action than before and they are going to give it to other poor people to increase their income.

But why are they doing it? Because they have decided they would rather have the taxpayers in this country subsidize low-income jobs than have the marketplace provide a livable wage.

Now, it is ludicrous on its face. As was pointed out by the gentleman from New York, they are talking about one tax rate for workers without children, workers with one child, with two children. We just passed the farm bill, where we provided hundreds of millions of dollars in subsidies to farm families. We did not distinguish between farm families with children, farm families with one child, farm families with two children, farm families where only one person is working with farm without children. We based it upon their outcome and output of that farm.

Why do we not tax rich people? Rich people with a lot of children would be at one tax rate and single rich people would be at another tax rate and we could give that to poor people.

What do we say about work in this country? Equal work for equal pay. But now what the Republicans have decided is in fact it is going to be some other classification to determine whether or not Americans will get paid. It does not say the employer cannot provide an increase in the minimum wage. Under this the incentive is for the employer not to provide any increase. The Government will pick up the tab. The Government will go into the marketplace and subsidize his employment. In fact, we essentially have an incentive not to pay an increase in the minimum wage, not to increase your wages. Why? Because the Government will pick it up.

We could understand this on its face if we did not know the history of this party, the Republicans on the other side, because not only are they against the minimum wage, but they also have been slashing all of the supports to those people who are working at the minimum wage and cannot sustain a livable wage for their family even though they go to work every day.

So what we see is there are only two places people can go. They can either go to the Government or they can go to the marketplace. But what the Republicans are saying is the market has no obligation to provide you a livable wage, a wage that will support you or your family. So what we will do is we will just have the Government subsidize those employers who simply choose not to pay the minimum wage. This is ludicrous. It is absolutely ludicrous.

If that is a conscious decision, and they will be back here cutting the EITC, as they did the beginning of this year when there was no intent that they were going to pass it on, they were simply going to use it to balance the budget or pay for their tax cuts. We simply cannot allow that to happen.

I think there is a fundamental decision. If you choose, if you chose and you admit that the American economy cannot provide livable wages, then you may be dissident. But I do not think that is what this is. This is an effort to derail a clean vote on the minimum wage. This is an effort to try to put something up here so people can look, sort of like we saw today, where they put some bills so they could look like they were friends of the environment but their voting record was completely to the contrary. That is what this is.

It is an outrageous proposal to tell two people who work hard side-by-side that somehow that the employer has no obligation to them to provide an increase in their wage, if in fact they have a child or they have more than one child, even though they are doing the same job, they are working the same hours and working the same schedule.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I will in a moment. It is actually the gentlewoman's time.

Mr. DREIER. The gentleman referred to me.

Mr. MILLER of California. I did not refer to you.

Mr. DREIER. Well, you pointed to me. I considered that a reference.

Mr. MILLER of California. Well.

The point is this, that what this country deserves and what its low income wage earners deserve is they deserve a raise, they deserve the dignity of having the ability to stay even with the increasing costs in our economy; to be able to provide for their family; hopefully maybe even to reach out and provide health care, which is unreachable to most of these individuals.

But what happens? The employers in this country simply choose not to pay that wage. Quite legitimately, there are some owners that may not be able to, but there is no distinction in this provision. You simply choose not to pay it and the Government comes in and picks up your costs. There is a lot of people in the same business side-by-side in the same towns, we know them all, people pay more than the minimum wage and other people choose not to. People offer health care in the same business, the other person chooses not to.

Do not offer health care, the Government will pick up the cost. Do not offer a pension, the Government will pick up the cost. Now do not offer a minimum wage, the Government will pick up the cost. This is starting to sound like corporate welfare. This is starting to sound like people who decide they are simply not going to meet their obligations to their fellow human beings in terms of their work, their labor, and their efforts on their behalf.

This is the suggestion that the corporate body, the working party, is only because of the owner of that capital, or somehow that they are the only people that contributed as opposed to the employees who work every day for these individuals.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. What we need is we need an up or down vote on the minimum wage. We now have a majority in this House asking for that up or down vote. We have a majority in the Senate asking for that up or down vote, and what they ought to stop doing is throwing all of these things to try to throw people off the track and suggest that somehow they are there for low income working people in this country, because the fact of the matter is they are not there for low income working people in this country.

These people are going to work every day, and when they get done at the end of the year after working every day, they end up poor and they cannot provide for themselves or for others, and that simply is unacceptable in this country. The country recognizes it is unacceptable. Apparently only the leadership in the House of Representatives and the Republican Party fails to recognize the need to do this and the need to do it now and to do it in a clean fashion.

Mr. DREIER. Will the gentleman yield?

Mr. MILLER of California. It is the time of the gentlewoman from Connecticut. I want to thank the gentlewoman for raising this issue and taking this time so that we could discuss this issue.

Mr. DREIER. Will the gentlewoman yield?

Ms. DELAURO. I want to thank the gentleman from California for his eloquent remarks, and for pointing out that in fact what this is about is a basic and fundamental—these words are accurate. These words are accurate. There are those in this body who feel the same way about resisting a minimum wage increase with every fiber in their beings, which is what this is about in terms of bringing up a program that will try to borrow from an earned income tax credit, set some folks adrift.

One of the most interesting commentaries we have heard in the last few weeks on this issue is that the Republican Presidential nominee said recently he wanted to use the issue of the minimum wage increase to pass some things, quote, that the Democrats might not be so crazy about. Those kinds of threats represent political posturing that in fact sells the American people short, as you were pointing out.

Instead of trying to stick it to Democrats, what the Gingrich-Dole Congress should be doing is to do something for working Americans, not just talking about it when it becomes a political albatross.

Mr. DREIER. Would the gentlewoman yield?

Ms. DELAURO. I am sorry, you will have your own time in a few minutes.

Mr. DREIER. I do not have any time at all. My friend from California indicated that he was going to yield.

Mr. MILLER of California. Mr. Speaker, could we have regular order here?

Ms. DELAURO. If I can continue. Rather than trying to lend a hand——

Mr. DREIER. Mr. Speaker, may I ask, is the gentlewoman not going to yield; so should I sit down?

Mr. MILLER of California. The gentlewoman is not going to yield.

The SPEAKER pro tempore (Mr. COLLINS of Georgia). The gentlewoman from Connecticut controls the time.

Mr. DREIER. OK. Thank you.

Ms. DELAURO. The Republican leadership continues to try to score points with these political ploys.

Mr. DELAY. Would the gentlewoman yield? She used my name. Would she yield?

Mr. MILLER of California. If the gentlewoman would yield to me.

Ms. DELAURO. Be happy to yield.

Mr. MILLER of California. What we have seen is time and again, time and again, that as this issue has been discussed, they have tried to avoid it. Now, because a few Republicans have broken ranks, a few Republicans have even suggested they would be prepared to sign a discharge petition, as necessary, because apparently what we will not get is we will not get a clean vote on this matter. They will try to trick up the bill in the Committee on Economic and Educational Opportunities or trick it up with an amendment on the floor or in the Committee on Rules.

We have watched this process now time and again for the last 16 months in the House of Representatives. What the committees do does not matter, so, then, they go to Rules and they trick it up there.

The fact of the matter is this, what a majority of this House of Representatives has now asked for is a vote on the minimum wage, to raise it either 90 cents or to raise it a dollar. And what we now are starting to see are a whole series of proposals suggesting what they could do to load down that legislation so that either people who would support the minimum wage will not be able to get a vote.

One of the things that angers the public the most is the notion of riders, is the notion of taking subject matter A and attaching subject matter B to it. When President Reagan stood here and said never again would he sign a continuing resolution with all of these riders on it, he was cheered across the Nation. So what do we see now? We see the same old parliamentary tricks that are going to be used to try to keep this House away from a direct up or down vote on raising the minimum wage.

Raising the minimum wage, I think the gentlewoman said, I do not know, that it is the lowest now that it has been in?

Ms. DELAURO. In 40 years.

Mr. MILLER of California. In 40 years. To restore the purchasing power to where people who have——

Mr. DREIER. Would the gentleman yield on that point?

Mr. MILLER of California. I will not yield. We have our time. We are here to make a point.

Mr. DREIER. But I think the debate is something that is very important here.

Ms. DELAURO. Regular order, Mr. Speaker.

Mr. DREIER. I just think it is a very important matter.

Ms. DELAURO. Regular order, Mr. Speaker.

Mr. MILLER of California. Mr. Speaker, may we have regular order?

The SPEAKER pro tempore. The gentlewoman from Connecticut controls the time.

Mr. DELAY. Well, then, would the gentlewoman yield to me, because she used my name on the floor?

Ms. DELAURO. The gentleman has his own time, which is coming up, so the answer to that question is no.

Mr. MILLER of California. The point is that what we are talking about is taking people who have continued to lose purchasing power, who have continued to lose their ability to support their families, to purchase the very basics, the very basics of the American economy, health care, put away money for a pension, put away money in savings, to be able to have decent housing for themselves and their children.

Those basics are now not afforded to people who go to work and work 8 hours a day, work 52 weeks a year, in many instances find that they have to try to work overtime, all of those things simply to try to reach the poverty line. That is what we are here for and that is what the gentlewoman has talked about restoring. That is what the President of the United States has talked about restoring, and it is absolutely fundamental and important that it be done.

Ms. DELAURO. I would just make the point that the Members of this Congress made more money when they shut down the Government during the Christmas holidays than a minimum wage worker makes in a full year. I think that that speaks volumes as to where some of the folks in this body are.

One of the other comments that has been made in the last few days is that what we need to do is to have hearings, again one more way in which to delay the process of this.

□ 1945

The revolutionary Republican leaders last week wanted to rewrite the Constitution of the United States without a single hearing. We have called for $270 billion that they have called for in cuts in Medicare where they have had one hearing, $168 billion in cuts in Medicaid and no hearings. We do not need any hearings. What we need to do, this is a no-brainer. Bring up the minimum wage as this body wants, 84 percent of the American public wants to see an increase in the minimum wage. That is what we need to be doing, bring it up for a clean vote, a vote that says that we recognize what hard-working Americans are doing every single day in this country and that we need to recognize what they do instead of just talking about it, when we are sent here by them and that card that they give us, which allows us to vote here, which is what we are supposed to do, is vote on the minimum wage, when there is clamoring in this country to do that and when we have one party that will just hold it up except for a few who split off, and I welcome their participation, I am not sure that they are welcome in their own ranks. But we welcome them because what we need to do here is in fact what the public has asked us to do, is to represent their interests.

I will tell you what some of my constituents say to me these days, why are you arguing back and forth. I will tell you that I think there is a fundamental difference in people who stand in this well, those people who believe we ought to have an increase in that minimum wage to reward hard-working Americans and those who truly do not believe that they should. There is some fear in that belief and the debate and the issue is worth fighting about. That is what this Nation stands for, what its values and what its priorities are. And its values have to do with working middle-class family values of work and personal responsibility and rewarding people to do that and not fighting it with every fiber of their beings and not saying that these families do not exist in this nation.

Mr. MILLER of California. Mr. Speaker, if the gentlewoman will continue to yield, when we see all of this concern all of a sudden about whether or not an increase in the minimum wage is going to contribute to inflation, when in fact at best what we would be doing is allowing people to partially catch up for purchasing power that they have lost, but I do not see that echoed when we see all of these other indices that are raising way ahead of inflation, CEO salaries, increased values in stock, stock options provided to people, apparently none of that contributes to inflation. The fact that people, that people have increased their earning power thousands of times.

Ms. DELAURO. Repealing the alternate minimum tax, which is something that they would like to do.

Mr. MILLER of California. So these people can escape taxation; they can have all of their deductions. But what we said was at the end of the day, you pay something for the privileges of living in America. They have tried to repeal that. So even the wealthiest of people and corporations do not have to pay. But all of a sudden we are worried about whether somebody making $4.25, $4.30, $5 an hour, whether these people are going to be those who spark inflation. I think there is something wrong with the priorities of the people who suggest that, that somehow the culprits in this fight, these low income people who are doing in many instances some of the most difficult jobs in our society, in some cases some of the dirtiest jobs, some of those thankless jobs, some of the most tiring jobs, and we have all been in business institutions where we have looked at people who are much older than we are, who are still out there pounding, trying to stay equal in our society, working at the minimum wage, working there, trying to support their own children, trying to support themselves, and very often I am sure we have said, boy, I am a lot more fortunate than they are. But now all of sudden they are the bad people. They are the bad people in the war against inflation, somebody who is trying to catch up because they have lost their purchasing power, that that is going to ignite it.

I think the gentlewoman is right. It is fundamentally a different set of values about human beings, about the values of their work, about the value of their families, about the needs that these people have and the dignity that they are entitled to when they work as hard as they do and yet they still end up poor at the end of the year. We owe them better than that. I thank the gentlewoman for taking this time.

Ms. DELAURO. Mr. Speaker, I thank the gentleman from California. I would like to really close with what a great American President Theodore Roosevelt, a Republican President of the United States said. I quote, "No man can be a good citizen unless he has a wage more than sufficient to cover, to bear cost of living so that after his day's work is done, he will have time and energy to bear his share in the management of the community to help in carrying the general load."

Theodore Roosevelt, a great American President, said this. He was not a revolutionary but he did, in fact, understand progress and what it means.

I just finish by saying that it is time to assist working men and women in this country. Bring the minimum wage vote to this floor. Make it a clean vote and let people do what they sincerely believe ought to be done as to whether or not we ought to raise or not raise the minimum wage in this country.

In my view, it needs to be raised.

Mr. FRAZER. Mr. Speaker, I want to thank the Congresswoman from Connecticut for holding this very important special order on the minimum wage.

Today, I want to join my colleagues in urging the Speaker to bring the minimum wage increase legislation to the floor for a vote.

Approximately 30 percent of the Virgin Island work force is employed in the service industry. A majority of these workers are adults who support families. It is very difficult to support a family on $4.25 an hour. The Virgin Islands is considered the American paradise, yet 36 percent of the population live below poverty.

Mr. Speaker we need a commonsense approach to solving our economic problems. If we can give small businesses 100 percent deductibility for health care, then we can raise the minimum wage by 90 cents.

I urge my colleagues to support raising the minimum wage, its good for small business, its good for workers and its good for the Nation.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 175, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1996

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–534) on the resolution (H. Res. 411) providing for consideration of the joint resolution (H.J. Res. 175) making further continuing appropriations for the fiscal year 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

MORE ON THE MINIMUM WAGE

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Under the Speaker's announced policy of May 12, 1995, the gentleman from Texas [Mr. DELAY] is recognized for 60 minutes as the designee of the majority leader.

Mr. DELAY. Mr. Speaker, I take this special order to point out to the American people what we are going through, you just witnessed, here in the House. The liberal Democrats do not want to debate. They would not yield time even when they used a colleague's name and pulled out quotes of what a colleague has used on the floor. They did not even have the courtesy to debate that colleague because they know that they have taken the words of their colleagues and taken them out of context and twisted them.

They are not the points that the colleagues were trying to make. They know it. That is why they will not yield to us. That is why they will not debate us. All they are doing is calling for a vote on minimum wage, and they really do not care about entry level workers or the poor in this country because, if they did, they would really want to debate this issue. But they do not want to debate. They want to get up and talk and talk and talk and talk, misrepresenting everything that these Members are doing down here, and trying to allow the American family to take home more pay by getting big government and Washington Government out of their pocket.

Mr. Speaker, that is the way to help the American family in America, not some arbitrary Government-set wage and price controls that disrupts the market and actually puts people out of work and lowers the ability of people to create jobs, to put people to work.

I yield to the gentleman from California [Mr. DREIER]. I am very happy to yield to the gentleman from California. Unfortunately, the liberal Democrats do not want to debate the gentleman from California.

Mr. DREIER. Mr. Speaker, let me say to my very dear friend that this is a historic moment for me. I wondered if at any point in my life anyone from the well would in fact yield time to me. So we have gotten to that point, and I would like to express my gratitude and say that I plan to use it briefly but, I hope, very wisely. It is unfortunate, as my friend said, that on the other side of the aisle that our colleagues refuse to engage in any kind of discussion on this issue. They want to simply embark on a monolog.

Mr. Speaker, if I could just take a couple of moments to respond to some of the preposterous claims that were made on the other side of the aisle. First let me offer a disclaimer and say that I concur with my friend who has worked long and hard on this issue that having a federally mandated minimum wage is in fact not a benefit to working Americans. In fact it is something that will jeopardize job creation and economic growth, something which we seek very sincerely.

During this special order I did not hear this but it was just written down by one of our crack staff members on the floor. Our colleague from Connecticut reportedly said their taxes keep going up but their wages do not go up.

The fact of the matter is we on this side of the aisle tried to help President Clinton comply with one of his campaign promises back in 1992 by giving him an opportunity to reduce the tax burden on working Americans. We all know what happened with that opportunity that he had. He chose to veto that legislation and prevent those working Americans who, and the gentlewoman from Connecticut is absolutely right, saw their taxes keep going up, prevent them from having the chance, the chance to have a reduction.

Mr. DELAY. Not only did the President veto tax cuts for the American family, the people that have been calling the loudest for a minimum wage voted against tax cuts for the American family.

Mr. DREIER. That is absolutely right. Those people who argue that their taxes keep going up are the ones who keep increasing their taxes as opposed to those of us who want to reduce that burden.

The other thing that I found to be preposterous is that my friend from California proceeded to say that we now see the minimum wage at the lowest level in 40 years. Assuming that you are a strong supporter of increasing the minimum wage, the last time the minimum wage was increased was in 1989, and it was increased to $4.25 an hour.

Mr. Speaker, now we know that the Democrats controlled this institution and the other body during the entire first 2 years of the Clinton administration. They had the opportunity, if they believed in increasing the minimum wage, to bring it up and it would sail right through this institution. But why did they not do it? They did not do it for several important reasons.

Top advisors within that administration have made it very clear that they oppose increasing the minimum wage. Mr. Stiglitz, this was written up in the Wall Street Journal and has been said on several occasions, the chairman of the President's Council of Economic Advisors said a higher minimum wage does not seem to be a particularly useful way to help the poor. That is President Clinton's chairman of the Council of Economic Advisors.

The President, who is one of the founders of the Democratic Leadership Council, regularly associates himself with them when he is trying to be on the sort of moderate to conservative side. They said increasing the minimum wage is the wrong strategy to promote the goals of helping people work their way out of poverty and raising living standards and in reducing inequality. So the fact of the matter is, while they say that we are responsible for not bringing this up and doing it in the way that they want, when they had the opportunity to deal with what they said has been the lowest wage in four decades, they clearly had that chance in the 103d Congress, they ignored it. And only a few months before this election, when they think that it is politically appealing, do they choose to come forward and say that this is a critical item when we know it is going to cost jobs.

Mr. Speaker, I want to congratulate the majority whip for his fine efforts in trying to address this issue responsibly and soberly so that we can look at it and debate it, unlike our colleagues on the other side of the aisle.

Mr. DELAY. The gentleman from California is so right in what he says. This is the kind of thing that we have been going through for months now, if not for a solid year, of statements, commercials, moneys, millions and millions of dollars, talking about things like cutting Medicare when actually we are increasing the Medicare benefits to senior citizens, cutting school lunches.

It was just said on the floor, just a minute ago, that we wanted to cut school lunches when in fact we were increasing the spending on school lunches and they just keep talking about it this way. They used a quote of mine, and I need to answer that. It is a true quote taken out of context. The quote was, as put up by their chart, but they refused to answer or refused to yield to me so that we could debate the issue, emotional appeals about working families trying to get by on $4.25 an hour are hard to resist.

Mr. Speaker, let me put it in context of exactly what I wrote and sent to my colleagues in a dear colleague. What I wrote was, and I will read it so that people can understand it and there will not be any misrepresentation about what my position is. "Supporters of raising the minimum wage argue that no one can afford to raise a family on $4.25 an hour. That may be true. However, their argument conveniently ignores the fact that no one actually has to."

As the table below shows, and I hold the table up that is in the piece, any parent who is earning the minimum wage is eligible for food stamps and earned income tax credit. They may also be eligible for other government programs such as Medicaid. Once these two benefits are added to the minimum wage, a single parent with one child has a total income of $5.76 an hour while a married couple with two children has a total income of $7.47 an hour. These amounts could be even higher depending on child care and housing expenses. As the chart shows, a married couple with one child on minimum wage makes $8,840 a year.

□ 2000

With EITC, the earned income tax credit, benefits, they pick up another $2,152. That is a direct tax credit that is refundable to them by the Federal Government. On food stamps they would pick up $2,142, for a total income of $13,134 amounting to $6.31 an hour. So when they trot out here and talk about $4.25 and American families trying to live on $4.25, they are misrepresenting the truth.

The other part of this that they keep trotting out here is that, and I have heard it, different numbers used, is that in some cases they said that 65 percent of those on minimum wage are families and so forth. I would be willing to submit to this House a study done by the Employment Policies Institute that uses 1992 and 1994 census data that shows that 90 percent of the people on minimum wage are single, living with parents or, living with a relative, and what I cannot understand is where do they get these figures? Most people know that people living on minimum wage are people that are on the entry level, just coming into the job market, are usually single and usually living at home, and usually living at home, in many cases, living at home with parents that are doing quite well.

This is not a debate. This is a dialog back and forth. You see where the liberal Democrats do not want to debate. What they want is to present a picture that is not exactly true. But we want the debate. We want to lay it out for the American people so that the American people know exactly what is going on with this political agenda of the liberal Democrats.

As the gentleman from California has already pointed out, the Democrats have had control of the House and the Senate and the White House for 2 years, in 1993 and 1994, and they chose not to bring the minimum wage to the floor. But because they think this puts the Republicans in a politically vulnerable position, they are throwing up their hands and wailing and gnashing their teeth by calling for increasing the minimum wage. The minority party has made the minimum wage their cause celebre. They are fixated on a government mandate that most experts agree will kill jobs and kill opportunities for people who just want a chance to achieve the American dream.

Proponents of increasing the minimum wage argue that work must pay, that the minimum wage is not a living ago. They argue that simply adjusting the minimum wage upward will help poor people out of poverty. They say that a family of four cannot afford to live on a wage that pays $4.25 an hour. Of course, they forget to tell you that a single parent with two children actually gets close to $7 an hour once you figure in EITC and food stamps, and that is only part of the intellectual dishonesty that surrounds this debate.

The proposition to raise the minimum wage is fools' gold. It appeals to the naked eye, but upon closer inspection it is fraud, pure and simple.

I am not an economist, so I will not give the economists' view of the mandated minimum wage, but I am a former small business owner, and I do understand the impact that this will have on entry level jobs. Raising the minimum wage will kill entry level jobs. Without entry level jobs, low-skilled and young workers cannot gain valuable work skills that will lead to later higher-wage positions.

The liberal Democrats make the point as if people lived the rest of their lives making minimum wage. What usually happens is that it is the first job that you get, either as a teenager or right out of high school, and it is your first job right off of welfare, and that is your entry level job, and you gain skills by working on the job and then move on to higher pay. In life you have to learn, you must learn to crawl before you can walk, and you must walk before you can run. Similarly, you must gain experience doing the tough work before you can move on to better paying, more complex positions.

Raising the minimum wage takes away that opportunity to realize the American dream for too many citizens. As a former small business owner, I know that raising the minimum wage will kill jobs. But do not just take my word for it. Bruce Johnston of the Chamber of Commerce said this:

Raising the minimum wage is a recipe for more unemployment where America needs it the least, in inner-city neighborhoods and among the rural poor.

In Europe, where they have huge and high minimum wages, they have locked in unemployment at 11 percent, at 15 percent, and, in Spain, about 20 percent. They have locked it in because they have set such a high wage that the people will not, and raised the labor costs so high that they will not create jobs to bring on people in the entry-level positions.

Joseph Stiglitz, who the gentleman from California has just quoted, the chairman, the chairman of President Clinton's Council on Economic Advisers, said this: "A minimum wage does not seem to be a particularly useful way to help the poor."

The Democrat Leadership Council, a group often used by President Clinton to promote his themes, said in a statement, "Increasing the minimum wage is the wrong strategy to promote the goals of helping people work their way out of poverty in raising living standards and in reducing inequality." And President Clinton, the President himself, has said raising the minimum wage is the wrong way to raise incomes of low-wage workers.

Why is this the case? Why all of a sudden is the President interested in raising the minimum wage when he had the House and the Senate for 2 whole years? All of a sudden in an election year, just 6 months before the November election, they have seen the light.

Why is this the case? Why does not the minimum wage really work in helping low-wage workers? Here are some reasons:

According to the Democrat Leadership Council, the President's own favorite think tank, the vast majority of minimum-wage workers are in families that do not need public wage supports because their incomes are well above the poverty level. Seventy percent of minimum-wage workers are families well above the poverty level, and nearly 40 percent are in families with incomes of the top half, the top half of the Nation's income distribution.

More than 75 percent of all poor Americans are ineligible for the minimum wage and would not benefit from an increase. These are people who do not get the minimum wage, for a variety of reasons, including they do not work, they already earn more than the minimum wage, but only work part of the year, or they may be self-employed, or they work in jobs not covered by minimum-wage law.

The costs of an increase in the minimum wage would hit the poor the hardest.

Now, this is coming from the Democrat Leadership Council, the President's think tank. The cost of an increase in the minimum wage would hit the poor the hardest. The vast majority of the poor and the poor families would have to pay higher prices brought on by an increase in the minimum wage. Increasing the minimum wage would produce a regressive transfer, making poor people a little worse off in order to improve the lives of people who are not poor.

And I submit to my colleagues standing here on the floor of the House that one of the reasons that we are hearing all of this call for the minimum wage is because the Washington union bosses know that their contracts are coming up and most of their contracts are tied to the minimum wage. Therefore, if they can get the government to raise the minimum wage, they will be able to easily raise the wage to union workers.

According to the Employment Policies Institute Foundation, if the Federal minimum wage were to increase to $5.15, America would lose 625,600 jobs. Now, my friends, that means that there will be 625,000 fewer opportunities for Americans to get a start on seizing the American dream.

Some say that any negative impact on hiring is a small price to pay for higher wages. These are the people that claim that they work and protect the poor. They say that while we may hurt a few people, we will help many, many more. Well, unfortunately, the facts suggest otherwise. Even workers who keep their jobs after an increase in the minimum wage will be worse off.

Workers are not paid solely in terms of cash wages. Even minimum-wage workers receive fringe benefits such as on-the-job training, flexible work schedules, commissions, bonuses, and employee discounts. When employers are forced to pay higher wages, they will have to reduce the value of these nonwage benefits in order to remain competitive.

Students show that for every 10-percent increase in the minimum wage, workers are made 2 percent worse off. That means that the proposed 90 cent increase in the minimum wage would reduce the other fringe benefits by $1.08. The affected workers would be 18 cents per hour in the hole after the Democrats get through with them. With friends like that, who needs enemies?

But the worst part of this unfunded mandate is the impact on the underclass, the underprivileged, of this country. Raising the minimum wage expands the number of people in the underclass while killing opportunities for people to escape it.

These are the people, the liberal Democrats, who voted and tried to kill welfare reform and said many, many times in the well of this House that our welfare reform that eliminates entitlements, saves money to taxpayers but, more importantly, forces welfare recipients to go to work cannot happen because there are no jobs out there. Yet, now get the irony of this, they are against welfare and asking able-bodied welfare recipients to stay on welfare because you cannot get off of welfare and go to work because there are no jobs out there, and then on the other hand they want to raise the minimum wage so that there are no jobs out there. And what happens, and what I know as a former business owner, I understand how businesses think.

This is not helping. Raising the minimum wage is not opposed by small businesses because it helps small businesses keep wages low. The victims are the underprivileged. The victims are the people on welfare. They are the true victims because when the cost of labor goes up, which will happen when the minimum wage is increased, the small business owner will look for alternatives to remain competitive. Instead of hiring a person to wish dishes at a minimum wage, the small business could very well go buy a dishwasher if the price of that real person gets too high. That is how the market works.

Now, if you want to, and I am trying to remember the quote: not to everyone according to their wants, but to everyone according to their needs, as the gentleman from California [Mr. MILLER] suggests, is that the Government, or the market, should give different wages for different people. If he has three cooks working at the same restaurant, and one cook is single and one cook has a family with two children and one cook has a family with 11 children, yet they all three do the same job, they ought to be paid differently because they need more money. Then what would that do to our economy? What would that do to the opportunity of having more jobs for everyone out there to compete for? And what would that real person do?

Well, if too many of these entry-level jobs are eliminated, that poor person might very well go on welfare, and instead of getting people off of welfare and working in entry-level jobs, gaining the experience and the knowhow necessary to make it to higher-paying jobs, we will have people enter the underclass unable to participate fully in our economy, and obviously the liberal Democrats want to keep them there. They want to keep them there.

□ 2015

In fact, according to a study of the Employment Policies Institute, based upon the Census, mothers on welfare in States that raised their minimum wage stayed on public assistance an average of 44 percent longer than welfare mothers living in States that did not raise their minimum wage.

The gentleman from New Jersey was very eloquently talking about New Jersey has a real high minimum wage. They also have a huge welfare roll, because these jobs for entry level people, jobs that would be available for people who want to get off of welfare, are not there because labor costs are too high and artificially kept high because New Jersey's government decides that they will set the wages just by arbitrary means.

If it makes sense to have a $6 minimum wage, why not have a $20 minimum wage, and just raise it and let us all decide that we are all going to make the same thing. We are being accused, as Congressmen, for making too much money; that we are making $133,000 a year and we are against the minimum wage, how terrible that is. Well, we are in Congress. We work at a different job. What we want and what we feel strongly about are those that are in poverty, on welfare, and hopefully getting them to understand the dignity and the self-esteem that is gained by holding a job. It is no small irony that the party that vetoed welfare reform now proposes to expand the welfare state by increasing the minimum wage.

Mr. Speaker, I just urge the American people to take notice; liberal Democrats favor efforts that will expand the underclass while vetoing efforts to end it. I do not believe that the Federal Government should be actively limiting the opportunities of the American people.

Of course, we should not be surprised by this newest policy initiative of the House Democrat Caucus. They make the Luddites look progressive in their economic theory. But the American people are tired of fighting over a shrinking pie. They want policies that will lead to a growing economy, better job opportunities, a greater chance to capture the American dream.

It is not surprising that liberal Democrats are fighting for an increase in the minimum wage, just as they fight against comprehensive welfare reform; that they battle to preserve the welfare handouts while fighting against an economic growth agenda is part and parcel of their efforts to bring greater economic equality to the American society. This is no theory, this has been going on for years. Just look at history.

But is equality of misery really better than the equality of opportunity? I do not think so. Fighting for greater opportunity means giving the private sector the tools to create jobs. It means lowering the costs of job creation, and it means encouraging small business expansion. Increasing the minimum wage has exactly the opposite effect. It takes away the important tools that create jobs. It increases the cost of job creation. It encourages small business retrenchment. It is simply the wrong answer.

But the question remains, how do we increase opportunities for lower-wage workers? Let me just sketch out briefly several ideas that would lead to a boom in economic growth and opportunity and more jobs available to those trying to come into the job market.

Number one, enact commonsense regulatory reform. Reducing the costs of labor and capital will give companies more opportunities to pay the government less and their employees more. It will also lead to the creation of more small businesses and more jobs. Yet, that side of the aisle opposed us every step of the way on commonsense regulatory reform.

Enact commonsense welfare reform. Welfare is now more profitable than work in most States across this country. In Hawaii, for example, the average welfare recipient receives the equivalent of $17.50 an hour. In my own State of Texas, that number is more than $7 an hour. But welfare is a dead-end road that leads not to the American dream, but to a nightmare of dependency and despair. Rewarding work, rather than welfare, is a necessary component to economic growth.

Get rid of the Internal Revenue Service. There is no bigger job killer than the IRS. We need a simpler tax system that does not drain the critical resources away from businesses that can create jobs.

Target relief for families. Give parents with children relief, to help them achieve certain acceptable standards, while maintaining job opportunities for those who simply want a chance at the American dream. By targeting subsidies to families who are supported by entry-level jobs, we would not put an unfunded government mandate on small businesses, but, rather, give a refund to parents who work hard to provide for their children. In fact, Republican proposals to enact the targeted relief will yield far greater benefits to working Americans than a simple mandate to raise the minimum wage; relief that goes on for years and years and years.

Mr. Speaker, I just urge my colleagues who support the expansion of the Federal minimum wage for entry-level workers to rethink their position. Will an increase in the minimum wage help lower-wage workers? The answer is no. Will it improve American competitiveness across the world? The answer is no. Will it lead to greater economic growth? The answer is no. Will it increase opportunities for the poor? The answer is no. Will it help small businesses grow? The answer, once again, is no.

Should we blindly increase the minimum wage to help Washington labor union bosses achieve their anti-growth goals? The answer is no. That leads me to the real reason why the Democrats are pushing for an increase in the minimum wage. The reason is pure partisan politics. Let there be no mistake about it; if big labor did not want a mandated minimum wage increase, we would not be discussing this issue today. Indeed, when Democrats ran the Congress and the White House a year and a half ago, they did not do anything to raise the minimum wage. Back then, they knew this would hurt job creation. Back then, they knew this would slow economic growth. Back then, they knew this was a misguided policy.

But now, in this political year, with big labor giving them big money to buy big ads, we have this sudden push for an increase in the minimum wage. Mr. Speaker, a political payoff is a lousy reason to limit opportunities for entry-level workers, for poor workers. We must say no to the minimum wage increase. This is not the time for the United States to take away the American dream from so many people who just want a chance to achieve it.

A TRIBUTE TO THE U.S. ARMY RESERVES

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Under the Speaker's announced policy of May 12, 1995, the remainder of the majority leader's hour is designated to the gentleman from Kentucky [Mr. LEWIS].

The gentleman from Kentucky is recognized for 25 minutes.

Mr. LEWIS of Kentucky. Mr. Speaker, I rise tonight to pay tribute to the men and women who serve in our U.S. Army Reserves. Today, April 23, is the 88th birthday of the U.S. Army Reserves. I hope the American people pause for a moment to reflect on the contributions of the more than 600,000 soldiers in our Selected and Ready Reserve Forces.

For less than 6 percent of the total Army budget, reservists help fellow Americans with floods, hurricane, and other emergency relief; support peace operations in Bosnia, Somalia, southwest Asia, and Haiti. More than 3,000 Army reservists are in Bosnia. They help with counternarcotic operations in South America and elsewhere. They do a tremendous job for this country.

From the early stages of our Nation, Americans have served as citizen soldiers. Indeed, it was ordinary men who left their jobs and fired the first shots of the Revolutionary War. We had no standing Army then. Eventually this citizen militia gave way to trained reservists who have served proudly in wartime and peacetime for more than 200 years.

Today's Army reservists are a highly trained, highly motivated group. Many of them hold down full-time jobs with families, and then offer their services one weekend every month and an additional 2 weeks each year. Even then, they never know when they will be called upon for greater sacrifice. This is nothing to take lightly in the post-cold-war era, not when we have reservists in Bosnia and a number of other dangerous places.

Mr. Speaker, let us also pay tribute to the employers of today's reservists and National Guardsmen. I am sure some of them are occasionally inconvenienced when a valuable employee changes uniform for a weekend or 2 weeks or longer. The men and women who employ our reservists and guardsmen also play a part in their valuable mission, and we should thank them for their heroic and patriotic contribution.

Mr. Speaker, let me close by recognizing the contributions of a valuable Reserve unit in Kentucky's Second Congressional District, the 100th Army Division. Though its name, mission, and even headquarters has changed over the years, these soldiers have served proudly for 78 years. They just missed action in World War I, but were critical components to our armed services in the Battle of Europe during World War II. They helped capture many towns, took nearly 6,000 prisoners, and three "Century Division" soldiers were awarded the Medal of Honor.

In January 1991, more than 1,100 soldiers again went to war in Operation Desert Shield and Desert Storm. The 100th Division truly represents the finest tradition of volunteerism in our country. These men and women have all the responsibilities and challenges most of us face every day, but for 30 days and often more each year they shed their business suits for cammies and fatigues. I am proud to pay tribute to our Army reservists and National Guardsmen on their 88th anniversary, and to their families and their employers.

Mr. Speaker, I yield to my good friend, the gentleman from Indiana [Mr. HOSTETTLER].

Mr. HOSTETTLER. Mr. Speaker, I thank my friend, the gentleman from Kentucky, for this opportunity to celebrate the citizen soldier; the citizen soldier that goes to the very heart of America. The heart of the Reserves is the heart of true Americans, and I congratulate the Army Reserves on its formal 88th birthday.

However, I think it is appropriate to note that the spirit which drives what we now call the Army Reserves is the spirit upon which America was founded over 200 years ago. When the British garrison at Boston marched against the Massachusetts provincial military stores at Concord on April 18, 1775, the citizen soldiers at the Massachusetts militia gathered together to drive them back into the city. These patriotic Americans realized that if they did not take it upon themselves, their values, faith, and livelihood were in jeopardy.

Fortunately, since the time of the War of Independence, America has always had citizen soldiers ready to protect the liberty we value in America. The Reserves and National Guard are special. I do not want to detract from our professional active services. They are certainly needed, and we could not maintain our defenses without them.

But I must confess that there is something special about America's Reserves and the Guard. There is something special about taking the butcher, the mechanic, the engineer, the pilot, men and women who would, in other times, be at home with their children, mowing the lawn and washing the car, and suddenly whisking them into action as needed by their country.

There is something special about men and women who do not feel led to pursue the military as a career, but feel strongly enough about their country to be there when needed; people who agree, for modest benefit, to train on a regular basis and develop the necessary skills to operate today's modern war fighting machines. The Reserves and Guard are critical to America. The Reserves and the Guard are absolutely necessary if America is to maintain the level of security that we have been accustomed to.

□ 2030

We simply cannot financially maintain our force structure without them. However, even if we could afford to maintain our defenses only with active forces, I am not so sure that this would be the best idea. We must allow Americans the opportunity to be able to stand up and be counted. We must allow them to say, "I will be there if you need me." And frankly, under today's force structure we need them more than ever, which is perhaps our country's highest possible compliment to the Guard and Reserves. Thank God there are Americans who continue to volunteer.

Tonight, I salute the Guard and Reserves. I also salute those employers who work so hard to enable their employees to serve. America would not be the same without them.

I thank the gentleman again, RON LEWIS, for this opportunity to speak.

Mr. LEWIS of Kentucky. Mr. Speaker, later this week I will be introducing a resolution to honor the men and women in all our Reserve forces, and it will call upon the American people to honor the families of employers and all those who assist reservists in their valuable mission. I encourage all Members of this body to honor our reservists.

I now yield time to the gentleman from Indiana [Mr. BUYER], who is a major in the Reserves, and we certainly appreciate him coming tonight.

Mr. BUYER. I thank the gentleman from Kentucky very much for yielding me time. Also let me compliment both of the gentlemen, who are valued members of the Committee on National Security. The support by the gentlemen of the total force concept in this Nation is to be congratulated, and I appreciate your service.

Actually, gentlemen, kind of what was going through my mind as I listened to both your comments is that while time marches on, there are certain values and principles which most of us hold dear, which are ageless, and that is duty, honor, and country. They are ageless.

When I think of the citizen soldier, the citizen soldier was a concept that was brought about by General George Washington who presented it, the idea, before a congressional committee created by Alexander Hamilton in 1783. So it has been a concept and principle that has been with us for a very long time.

The other thought that was going through my mind as I listened to both of the gentlemen is that there are many things and there are many places which define our national character, our struggles and our triumphs, from the revolution that the gentleman from Indiana [Mr. HOSTETTLER] mentioned, where enraged revolutionaries first ran at Lexington Green.

We do not like to talk about that, though, do we? It is interesting, we forget about that part. But they first ran at Lexington Green to the Old North Bridge in Concord, Massachusetts. It marks the spot where merchants and farmers actually grabbed the muskets and took a stand. That is why the Old North Bridge now is so famous, is because that is where the first stand was taken. They challenged the British army on April 19, 1775.

So from the Civil War to the Spanish-American War, World War I, World War II, Korea, Vietnam, the Gulf War, a lot of these peace operations that are about, whether it is Somalia or Haiti or in fact in Bosnia, that the gentleman from Kentucky [Mr. LEWIS] in fact mentioned, the Reserves have been there. They are citizen soldiers who have answered the call to duty.

But when I said nothing defines our national character more, it is the individual who steps forward to answer the call to duty. The easiest thing when an individual is called is to say, "I am too busy," or "I have got other things to do. I have other commitments. I have my family to take care of. I have my business to take care of. Oh, the Nation, you do not need me."

We, as a nation, struggled through that during the Vietnam era, where there were many that disagreed with the war and chose their personal values over that of the country or the national interest at the time. But when I said nothing defines our character more, I think it has to do with through the emotions of war, because why is it that the soldier serves?

The soldier serves for the protection of the liberties, the freedoms, the economic opportunities, the sense of equality, justice, and equity from a free society. These are men and women that said, "Yes, we will protect the motherland of America, but we will also protect the vital national security interests of the United States," which goes far beyond the continental borders of the United States.

War has been with us through the ages of time, and from those of whom have participated and others of whom have witnessed, stories have been told and have been written, each capturing some form of glory about war, but war may not be glorious in verse or prose. In reality, it is the soldier, it is the airman, it is the marine, sailor, whether they are on active, whether they are a guardsman, whether they are a reservist.

They are the individuals who answered the call to duty, a sense of honor and commitment to country, and they have felt the cold stings of battle. They have witnessed new levels of fear and new levels of courage that mankind would never witness had it not been for the theater of war. They see the long dark shadow afore, and they have challenged and spat into the face of death.

War is not glorious. But what the writers seem to try to capture is that citizen soldier who answers the call to duty, left their family, and felt new levels of fear and courage that could only be felt as exhibited from the American character.

That is what is exciting. That is why my two colleagues have come here today to say happy birthday. What they are saying, really, happy birthday because they are paying tribute to many men and women who have answered the call to duty who are a cut above, because the easiest thing is not to participate. The easiest thing is to sit at home and to reap the reward and benefit of a free society without the responsibility.

It is common, everyday people called upon to perform uncommon acts of valor, and we witness that in a theater of war, but it does not necessarily take a war to define it. We also see it as individuals in our society respond to natural disasters. We have that, we have seen that.

But we are here talking about the Army Reserves, and I congratulate the gentlemen for coming to the floor to discuss that.

Mr. LEWIS of Kentucky. Mr. Speaker, will the gentleman yield?

Mr. BUYER. Mr. Speaker, I yield to the gentleman.

Mr. LEWIS of Kentucky. Mr. Speaker, I think as the gentleman mentioned, we see these men and women not just willing to sacrifice themselves to go to war, but they are usually the very people that are willing to help out in any area, in their church, in their community. They may be volunteer firemen, and they may be whatever they need, they are usually there willing to help, help their community. They are there to look out for the best interest of what is good in our society.

Mr. BUYER. Mr. Speaker, if I can reclaim my time.

Mr. LEWIS of Kentucky. Yes.

Mr. BUYER. I think the challenge of those responsibilities that we face on the Committee on National Security is that in this new modern era, I guess that post-cold-war era, we have such greater reliance now as the force has been downsized. Our belief in the total force concept places great stress on the Reserve system and that of the National Guard.

We have to be forever mindful and thoughtful with our hearts with regard to the stressors that we are placing upon the employers that both of the gentlemen mentioned, upon the families. Take the Air force Reserve, for example. It is not like advertisements where they say well, it is 1 weekend a month and 2 weeks in the summer or some plan. They are spending so much time now with that Reserve commitment that employers are being stressed and it is a great stress on the family, and we have to be forever mindful with regard to how we take care of the Reserves so we can keep quality men and women in the reserves.

Mr. HOSTETTLER. If the gentleman will yield, as we have discussed and debated the issue of the force structure drawdown for the active duty forces, one thing that I have notices is absent from all of this, and that is the fact that there are no complaints from the Reserve components of our national security system, no complaints about having to be more active, having to be more accessible, more available for our national security needs. I think that goes to the heart of the points the gentlemen have made, especially earlier in their comments, is that they do have this sense of duty to country, and even at a time when we are using them at the most elevated levels probably in their history, except for the Revolutionary War, there are no complaints. It is strictly, "I will be there when I am called."

Mr. BUYER. Makes you feel good, does it not?

Mr. HOSTETTLER. Sure does.

Mr. BUYER. I think America right now can be very proud of the Reserves and the Guard as they stand side-by-side, toe-to-toe with the active forces. We have a total force concept today that works. Sure, there are areas for which we can try to work out those differences, but I stand here in the well of the U.S. Congress giving assurance to the American people that they have a quality force.

We can discuss whether or not it is of the correct size, whether it is prepared and the readiness, and those are debates that we have with the administration, but there are individuals who came before us who laid the groundwork which we are very proud of. There is an individual, he is going to be leaving us soon, but we are ever mindful reverent and respectful for the gentleman from Mississippi who has laid a lot of groundwork with regard to making sure that the total force concept and the volunteer force works.

I yield back my time to the gentleman from Kentucky.

Mr. LEWIS of Kentucky. I would like to yield now to the gentleman that Mr. BUYER was just mentioning, a great American, a gentleman that has given his heart in service to this country and to the great group of men and women that make up the National Guard. I would like to yield now to our friend, the gentleman from Mississippi, SONNY MONTGOMERY.

Mr. MONTGOMERY. Well, I thank the gentleman for giving me this time. I was watching the three gentlemen and I was very, very impressed, the gentlemen from Kentucky, from Indiana and Indiana, by what they said tonight. It is close to my heart. I have been a citizen soldier all of my life and very, very proud of it most of my life.

I have worked with the three gentlemen on the Armed Services Committee for a number of years, and it has been a real privilege to be a part of the citizen soldier and the National Guard and Reserve. Finally, thanks to the gentlemen and others, we do have the total force that is now working.

Like some of the Members, I just returned from Bosnia and Germany, and without the guardsmen and reservists they could not make it over there now. Today we are talking, and the other gentleman from Indiana, we are talking about military construction, about the problems of funding for the National Guard and Reserve.

It was pointed out in this construction bill for next year recommended by the Defense Department, 3 percent of those funds will go to the National Guard and Reserve for construction. That is not enough. If we are going to keep a strong defense and citizen soldiers, they are going to have to get more funding on military construction and also on equipment.

But that was pointed out today. It is distressing. They are going to have to, the Defense Department is going to have to share and these assets. The Guard and Reserve have between 35 and 40 percent of all the missions of our Defense Department, so they do deserve fair treatment.

Thank you very much for doing this. This is a wonderful idea to let Members, our colleagues, know how important the citizen soldier is. I thank the gentleman very much for yielding me this time.

□ 2045

Mr. BUYER. If the gentleman will yield, let me just say, SONNY, when I look back, I am going to look back with warm memories of having served in this Congress with you. You are really one of the true statesmen that serve in this body. I want to recognize you for that.

Also I want to share with you, I read a passage not long ago, you are one of the American heroes. You landed there at D-Day and you marched across Europe, and I read a passage, a story about the policing of the battlefield. As a battlefield in Europe was policed of the dead, they came upon a body where there was no one around to listen to a soldier's last words. He pulled out a pad and wrote his last words down on a piece of paper and it was found. And it said, "When you go home, tell them that I gave this day for their tomorrow."

It is very powerful. There are many people, unfortunately, that take our freedoms and liberty and economic opportunities for granted. That is unfortunate. But hopefully people will begin to recognize that there are men and women who serve in the Army Reserve, in the National Guard, who are committed to duty, honor, and country, and recognize that upon their first breath was free air, because of the sacrifices given by a lot of people who came before them.

General Patton went and paid homage at a cemetery there in Europe, and he said "I didn't come here to pay homage that they died; I came here to pay homage that they lived." And that is what is exciting. That is the rejoicing part, that we have men and women in the Army Reserve and the National Guard, that we stand here tonight to celebrate their service to country, out of their value and commitment to freedom and liberty and preservation for future generations.

SONNY, you are one of my heroes. Thank you.

Mr. LEWIS of Kentucky. I just wanted to say in closing tonight that I agree with you, SONNY, 100 percent, that if these men and women are going to be willing, and they are always willing, to serve their country, we need to be willing to meet their needs, to make sure that they are provided for, to make sure that we are able to recruit and to keep fine men and women in our reserves and National Guard and in our active military.

FEDERAL TAX DOLLARS AT WORK

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the Chair recognizes the gentleman from Illinois [Mr. POSHARD] for 60 minutes, as the designee of the minority leader.

Mr. POSHARD. Mr. Speaker, in a few weeks back in Illinois we will get a property tax bill from the county assessor, and it will tell each of us who owns property in Williamson County, where I live, or in any other county in Illinois, and I suspect this is true across most parts of this country where property taxes are assessed and paid, it will tell us to the penny precisely what our property taxes get for us. It may very well tell us that out of the, let us say, $2,000 of property taxes that person might pay, that about $1,500 of that is going to our local schools. Maybe $50 of it is going to country law enforcement. Maybe $15 is going to the local airport authority for our airport. But it will be detailed so that we know precisely to the penny what every penny of our property taxes is getting for us as a taxpayer in that county.

Thinking about that I thought, well, why do we not attempt to give the folks in this country some idea about what their particular Federal taxes are buying for them by their Federal Government.

We do not get a printout like that to tell us that so much of the taxes that you pay into the Federal Government are going to pay for the defense of this Nation or for the health care of our elderly. We do not get any kind of tax bill to tell us that so much of your tax dollar is going to educate our children or to build our roads, or anything else. Agriculture research, science, space and technology, protecting the environment, we do not know as a people just exactly what percentage of our Federal taxes go to support any function of government.

But we hear all kinds of things. In fact, there was a survey done just recently that was printed in newspapers all over this country, and they asked a number of American citizens what percentage of the Federal budget do you believe is spent on foreign aid? and the most common answer given was 30 percent.

Can you imagine that, that American citizens think the Federal Government is spending 30 cents of every tax dollar that they send to Washington, sending it abroad to foreign countries? That is what they thought. And there is probably a good deal of people in this country that feel that way.

Well, we got to thinking about this, my staff and I, and we said, "Why don't we do in the best fashion we can what the county does for us back home with our property taxes? Why don't we try to give the American people some idea of what their Federal taxes are buying for them?"

So, we began working with the Congressional Budget Office, with the Congressional Research Service, with the Library of Congress, and the Budget Division and so on, and we have come up with a procedure that we think is pretty accurate to help the American people understand just as well as we can what their tax dollars are buying for them that they send to Washington.

I just want to discuss that with the American people tonight. I am not here to try to debate with anyone about whether they feel this is the best way to expend our Federal dollars. I am just here to try to provide some information on a factual basis, rather than a mythical basis, what the Federal tax dollar buys for our people.

We have had a lot of folks in the last week or so come down here into the well of the House and say to the American people, "Well, this year you are working until May 7 to send your money to Washington to pay taxes for the Government," as though you are working until May 7 and not getting anything out of the tax dollars that you send to Washington. It is as if you send them here and they go into some black hole and they disappear forever, and they do not help anybody with anything.

Well, that is not a fair way to present it to the American people. If we want to be honest with the American people, we ought to tell the other half of the story. We ought to say, here is what your tax dollar buys for you. Now, you may disagree with us, you may disagree with the percentage of your tax dollars that go to certain services that are provided for the American people with it. But you must know that there are many services that are provided for the American people with your tax dollar. You have a right to know what those services are and the proportion of your tax dollar that goes to pay for them.

That is what I want to discuss with you tonight. Now, over here to my right I have several charts. I need to back this up so I can see it a little bit, and I am hopeful that the cameras can pretty much stay on these charts as I begin to explain this to the American people.

The first thing I want to talk to you about are the revenues that come into the Federal Government. In the last year that we have calculated these things, which is fiscal year 1995, how many revenues come in, and where do they come from.

Well, as you can see, the greatest percentage of Federal revenues come from the individual income taxes, which totaled about $590 billion, or 43.6 percent of the Federal revenue.

The next largest proportion that came in came from social insurance taxes and contributions, about $484 billion, or 35.7 percent of the total revenues to the Federal Government.

Now, social insurance taxes include Social Security, Social Security disability, Medicare, railroad retirement, unemployment compensation insurance, and Federal employees retirement contributions. Those together constitute about 35.7 percent of the revenues that come to the Federal Government, or about $484 billion.

The next highest class of revenues are corporate income taxes, about $157 billion, or about 11.6 percent of the revenues to the Federal Government.

Excise taxes, which include things such as gasoline tax, jet fuel tax, alcohol tax, cigarette tax and so on, brought in about $57,484 million, or about 4.2 percent of the Federal revenues.

All other forms of Federal revenues, be it rents, royalties, interest or whatever, are about 4.9 percent of the total taxes or revenues that came to the Federal Government.

This totals for fiscal year 1995 about $1,355,213,000.

Now, during fiscal year 1995, we took in $1,355,213,000 and we spent $1,519,133,000, or we deficit spent about $163.9 billion. That is, we borrowed that much money to make up the difference for what we spent over what we took in.

Now, that is a lot of borrowing, it is true. But just 3 years ago we were deficit spending $302 billion a year. We have cut the deficit nearly 50 percent in that period of time. And while we should not make any excuses for the deficit spending, we want a balanced budget, we need a balanced budget, we want to get this down to the point in 7 years hopefully where we spend no more than we take in. We have made great progress on this account in the last 3 years, cutting it by nearly 50 percent in terms of the Federal Government deficit spending.

So the revenues come from individual income taxes, corporate income taxes, social insurance taxes and contributions, excise taxes, and others.

Next chart, please.

Now, what we have done, with the help of the Congressional Budget Office, is we have taken each of the five different divisions of family income in this country, in other words, those families in the lowest 20 percent of family income, in the second lowest 20 percent of family income, in the third lowest 20 percent of family income, in the fourth highest, and the highest 20 percent of family income, and we have calculated the average family income in each of these quintiles.

You can see that among those families who are in the lowest 20 percent of family income in America, the average family income is $8,500 a year. In those families that are in the second lowest 20 percent of family income, their average family income is $20,500 a year. In the third quintile, it is $33,500 a year, which is the average family income nationwide in America. The average family income and those people in the fourth highest 20 percent is $49,000 a year. And in the highest 20 percent of family incomes in the country, the average family income is $111,500 a year.

We went back and we calculated the total of all forms of Federal taxes in terms of its percentage for each of these levels of family income averages, and you can see that the average tax rate here includes Federal individual income tax, Medicare tax, Social Security tax, corporate income tax, estate and gift taxes, and all forms of excise taxes, such as Federal airlines, gasoline taxes, cigarette taxes, alcohol, and so on.

□ 2100

Mow, in 1981, you can see for the average family income of $8,500 a year, that family paid a total of 8.3 percent of its average family income in all of these taxes combined. As you go on up to 1990, that rose to 8.9 percent; in 1994 it fell to 5.1 percent, which it remains at today.

So for all four of these quintiles of family income, $8,500 a year average, $20,500 a year average, $33,500 a year average and $49,000, the income tax rate, which includes all of these together, these Federal taxes, has fallen from, for the lowest quintile, 8.3 percent to 5.1 percent in 1995; the second quintile from 15.3 percent to 14.9 percent in 1995; the third quintile from 20 percent to 19.4 percent in 1995; the fourth quintile, from 23.4 percent to 22.2 percent in 1995; and the highest quintile has risen slightly from 27.4 percent to 27.7 percent between 1981 and 1995.

So with respect to all of the four lower categories of family income, total Federal taxes has gone down; for the highest it has gone up slightly, so that if you are a family in 1995 making an average of $33,500 a year, you will pay for all of these Federal taxes combined, an average over $6,499. If you are a family making $49,000 a year in 1995, all forms of Federal taxes will cost you $10,878. If you are a family making $111,500 a year in 1995, all forms of Federal taxes will cost you $30,885.

Now, what we have done, and we only have delineated here the three family incomes of $33,500, $49,000 and $111,500, the top three quintiles, what we have done, then, is go to the Federal budget and we have applied all of those incomes to each of the broad general functions of the Federal Government. That is the services that the Federal Government provides to each of its citizens, and we have calculated these family incomes to include what percentage of the tax actually goes to each of these functions as well as that percentage in actual tax dollars.

So you can see that the function of Government which takes the highest percentage of our Federal taxes combined is Social Security, to which Americans paid $335,846,000,000 in fiscal year 1995, which was 22 cents of each tax dollar sent to Washington. And for a family making $33,500 a year, the average family income in this country, that would have meant a tax bill of $1,436.50 for Social Security. For a family making $49,000 a year it would have meant as a portion of their total tax bill of $10,844, $2,404 going to Social Security. For a family making $111,000 a year, $6,825 of their $30,000 tax bill goes to Social Security.

So in order of most to least with respect to the amount of your tax moneys that go to different functions of Government, this is the order in which you pay your Federal taxes for, going from highest to lowest. Social Security takes 22.1 of your tax dollar. So slightly in excess of 22 cents of each of your total Federal tax dollars go to Social Security.

National defense is the second highest expenditure at $272 billion. It takes 17.9 or right at 18 cents of each tax dollar that you send to Washington. The net interest on the debt, which today stands at $4.9 trillion, the net interest on that debt takes 15¼ cents of each tax dollar that the American family sends to Washington, DC.

Income security is the fourth highest expenditure of the Federal Government. That includes general retirement and disability, unemployment compensation, Federal employee retirement, disability, housing, food and nutrition assistance and other forms of welfare. All of those things all together take 14½ cents of each Federal tax dollar. Medicare is the next highest expenditure, the fifth highest expenditure. It takes 10½ cents of each Federal tax dollar. Health is the next highest expenditure. It takes right at 7½ cents of each Federal tax dollar that you send to Washington, DC.

Now, let me point out something here. These top six items, Social Security, national defense, interest on the debt, income security, to include all those things I just mentioned, retirement, disability, unemployment compensation, and Federal employee retirement, housing, food, et cetera, Medicare and health, those top six functions of the Federal Government, take 88 cents of every tax dollar that you send to Washington—88 cents of all Federal tax dollars combined that are sent to Washington are consumed by those top six expenditures.

If you go on down the line, education, training, employment and social services take 3½ cents of your tax dollar; or for the average American family, $229 of your tax bill. Transportation takes 2½ cents, or $162 of your tax bill. Veterans benefits and services take 2½ cents, or $161 of your overall tax bill, if you are a family making $33,500 a year.

Natural resources and the environment take nearly 1½ cents or $92 of your tax bill. General science and space technology takes a little over 1 cent on each tax dollar you send out here. Foreign affairs takes a little over 1 cent of your tax dollar that you send to Washington. Administration of justice takes a little over 1 cent of your tax dollar that you send to Washington.

General government, which includes the executive and the legislative branches and other areas that support those, other agencies, takes a little less than 1 cent of your tax dollar, about 91 hundredths of one cent. Community and regional development take about three-quarters of one cent of your tax dollar. Agriculture takes about two-thirds of one cent of your tax dollars. Energy takes about one-third of one cent of your tax dollar. And then you get back about 3.8 or nearly 4 cents in offsets to that through various credits and offsetting receipts to the Federal Government.

That constitutes 100 percent of your tax bill. And all of these things together, education, training, employment, social services, transportation, veterans benefits and services, natural resources and environment, general science, space and technology, foreign affairs, international affairs. administration of justice, general government, community and regional development, agriculture, and energy, all of those together take 12 cents of your tax dollar. Social Security, national defense, interest on the debt, income security, Medicare and health take 88 cents of your tax dollar.

Now what we want to do is break down each of these general functions of government in a more specific way to show you with some definitive nature here exactly what percentage of your tax dollar goes to each of these functions in a more specific way.

Social Security, which is the No. 1 item of Federal spending, which takes 22.1 cent of each tax dollar, just goes to what it says, Social Security. It is the money that you pay in over a lifetime, along with your employer, to support a person who has reached Social Security retirement age, as well as other disabled people in our country who may qualify for Social Security. For a family earning $33,500 a year, that amounts to about $1,436; for a family earning $490,000 it is about $2,404; and for a family earning $111,000 it is about $6,825.

The second highest expenditure of the National Government, which takes 17.9 or right at 18 cents of each tax dollar you send here, is national defense. How is that broken down? Military personnel take about 4⅔ cents of your tax dollar for their salaries, for their living and so on. Operation and maintenance of our military systems, about 6 cents of each tax dollar. Procurement of all of the things which it takes to run our military on, about 3.6 cents of each tax dollar. Research, development, testing and evaluation of all of our systems and so on, about 2¼ cents of your tax dollar. Military construction, about ½ cent of each tax dollar goes toward military construction. Family housing takes a little less than ¼ of 1 cent for the housing for our military families.

We have some offsets where the military performs certain functions and makes back about $2 billion a year in terms of sales of equipment and so on. That is an offset a little bit to your tax bill.

The atomic energy defense takes a little over ¾ of one cent and other defense related activities about 5/100 of 1 cent, for a total of 17.9 or about 18 cents of each tax dollar for all of these functions of our national defense spending.

For a family, again, earning $33,500 a year, that is about $1,161; for a family earning $49,000, that is about $1,944 in taxes; and if you are earning $111,500, it is about $5,519 in your taxes.

The third highest expenditure which your Federal tax dollars pay for is the interest on the national debt. As you can see, the interest on the public debt this year is about $332 billion, or about 21.88 percent of each tax dollar sent here, and that is offset by some of the on-budget trust funds that we have, which include the transportation trust fund, our black lung trust fund, the Superfund trust funds and so on, which goes specifically to be sent on those items I just mentioned. That is an offset of nearly 4 cents on the dollar. And our off-budget trust funds, which include Social Security, is an offset of a little over 2 cents on the dollar.

So our total net interest paid by your Federal taxes is about a little over 15 cents of each tax dollar, or about $993 for a family earning $33,500, $1,663 for a family earning $49,000, and $4,722 for a family earning $111,500 a year.

Our next highest expenditure is what we call income security spending, and this includes general retirement and disability insurance. This entire category takes up 14.5 cents of each tax dollar which you send to Washington. A little less than ⅓ of one cent goes to the general retirement and disability insurance, that excludes Social Security; about 4⅓ cents goes to pay Federal employees retirement and disability; 1½ cents goes to pay unemployment compensation;about 1.8 cents of your tax dollar goes for housing assistance, run through HUD; about 2½ cents goes for food and nutrition assistance, including food stamps, the Women, Infant and Children Program and so on; and about 4 cents of each tax dollar goes for all other forms of welfare programs.

□ 2115

So about 14½ cents of each tax dollar you send here goes for income security spending, which amounts to, for a family earning $33,500 a year, about $941; $49,000 family income, about $1,575; and for a family earning $111,000 a year, about $4,472.

Next chart, please.

The next highest expenditure of your Federal tax dollar is Medicare. Medicare is the Government-run health care system, as you know, for our elderly. It takes 10½ cents of each tax dollar which you send here to Washington, or, for a family earning $33,500, about $683 of your tax total; for a family earning $49,000, about $1,144; and for a family earning $111,000, about $3,249 of your total tax bill will support Medicare spending in this country.

Next chart, please.

The next highest level of Federal spending is health spending, which includes health care services, including Medicaid. This entire category takes up about 7½ cents of each tax dollar you send here. Medicaid gets about 6.7 cents of that.

Health research and training, about three quarters of 1 cent to keep us in the forefront of the best health care provisions in the world.

Consumer and occupational health and safety including the functions of OSHA, get a very small amount, about 12/100ths of 1 cent of each tax dollar.

Total combined for Medicaid, health research and training, for consumer and occupational health and safety, about 7½ cents of each tax dollar that you send here. For a family making $33,500 a year, that is $492; for a family earning $49,000, that is $824; for a family making $111,500, it is $2,341 that go to these functions.

Next chart, please.

Let me remind you of one thing. Those six categories of Federal spending that we just talked about from Social Security, national defense, interest on the debt, Medicare, income security and health spending, consume 88 cents of each tax dollar that you send to Washington, DC.

Now we get into the last 12 cents of each tax dollar that you send here.

Education, training, employment and social services spending consume 3½ cents of each tax dollar that you send to Washington. About 1 cent of that goes to elementary, secondary, and vocational education; mainly to vocational education because we at the Federal level assume a major responsibility for helping to finance vocational education in our high schools, our communities colleges and so on.

The higher education gets a little less than one cent of each tax dollar you send here, and most of that goes to student grant and loan programs and work-study programs to try to help our students get through college. That amounts to about $14 billion a year.

Research and general education aids get about 13 hundredths of 1 cent of each tax dollar. Training and employment, which is very important for our country because we have a turnover of people in our jobs and employment throughout this country, people get laid off, they lose their jobs, they need to be retrained, re-employed at another job. We spend about $7 billion, or about a half of 1 cent of each tax dollar that you send to Washington, on that function.

Other labor services, including the NLRB and those agencies and so on, about a 6/100ths of 1 cent, and the social services that we provide, including mental health and other kinds of things at the Federal level, less than one cent of each tax dollar that you send here.

So for all of these things: elementary, secondary and vocational education, higher education, research and general education aids, training and employment, other labor services and social services, we spend 3½ cents of each tax dollar that you send to Washington. For an American family making $33,500 a year, that is about $229 of your tax bill; for a family making $49,000 a year, that is about $384 of your tax bill, and for a family making $111,000 a year, that is about $1,090 of your tax bill on education training employment and social services.

Next chart, please.

The next expenditure is 2½ cents of each tax dollar you send here goes to support the transportation system in this country. I think this is personally one of the biggest bargains the American people can possibly get. This comes in to the Federal Government in the form of excise taxes on gasolines and other types of energy consumption. We spend 1.6 cents of each tax dollar you send to Washington for ground transportation, maintaining the largest network of interstates in any country in the world, maintaining State roads with part of the Federal funding that we send through the States, and we do that for 1.6 cents of each tax dollar that you send to Washington. We spend two-thirds of 1 cent on air transportation, maintaining the greatest network of airports, of airport safety, of air transportation in any country in the world, two-thirds of 1 cent of each tax dollar. We spend about 1 quarter of 1 cent for water transportation, maintaining locks and dams and the things that move our commercial commerce goods and services up and down the rivers of this Nation, one-quarter of 1 cent. And other forms of transportation, less than 1 one-hundredth of 1 cent.

A total of 2½ cents of every tax dollar you send to Washington maintains ground, air, water and other forms of transportation. If you are a family making $33,500 a year, that is a $162 a year; a family making $49,000, that is $271 a year; a family making $111,000, that is $772 a year from your tax bill.

Next chart, please.

The next highest expenditure is for veterans benefits and services. We spend 2½ cents of your tax dollar to support our veterans. How do we do that? One-and-a-quarter cents goes for income security for veterans, retirements, pensions and so on. Seven one-hundredths of 1 cent goes to veterans' education, training, and rehabilitation. A little over 1 cent goes to veterans' hospital and medical care. A very small portion goes to veterans' housing, and other benefits and services take an equally small portion; 2½ cents of your tax dollar goes to support veterans benefits. For a family making $33,500, that is $161 a year; for a family making $49,000, that is $269 a year; for a family making $111,500, it is $765 a year.

Next chart, please.

Our next highest expenditure, taking up about 1½ cents of each tax dollar that you send to Washington, is our natural resources and environment spending. To protect the environment, to conserve our natural resources, we spend about 1½ cents of each tax dollar that you send to Washington, and how is that spent? One-third of 1 cent goes to protect our water resources. One-third of 1 cent goes to conservation and land management. Through our Federal Bureau of Land Management, managing all the Federal lands that we own throughout this country, our recreational resources take up 18/100ths of 1 cent.

Now, you can take your family to the Grand Teton National Forest today, you can take them to Yellowstone National Forest, you can bring them here to Washington, DC, and spend 3 weeks. It will cost you $5 a carload to go through those great national forests which our tax dollars manage for recreational purposes for our people. It costs you nothing to go through the museums here in Washington, DC, and the Smithsonian, which we manage. All of those recreational things combined, including our lakes, et cetera, cost a family making $33,000 a year $11.70 a year in their Federal taxes. If you are making $49,000, it costs you about $19.58.

So, for all of these things, including pollution control and abatement, which we spend about a half of 1 cent of your tax dollars on, for all of these things combined, water resources, conservation and land management, recreational resources, pollution control and abatement, and protecting our other natural resources, we spend 1½ cents of every tax dollar you send to Washington. I think that is a tremendous bargain for the American people.

Next chart, please.

The next highest expenditure is a little over 1 cent of your tax dollar; 1.10 hundredths of a percent goes to general science and space spending. We spend one-quarter of 1 cent on science and basic research, maintaining government laboratories, maintaining grant researches in our major land grant universities and private universities across this country, which has kept this country on the cutting edge of technologies from aviation technology to computer technology, areas in which we lead the world, contribute to our commerce, to jobs for our people. We spend, for the family making $33,000 a year, $17 of your tax bill goes to support science and basic research. NASA gets a little over three-quarters of 1 cent, space flight research and other supporting activities of NASA.

There are thousands of products that have spun off of the research that NASA has performed over the years in our general space exploratory activities in this country that have accrued to the benefit of private industry in this country and to every public citizen, and for a family making $33,000 a year, that is about $53 of your Federal tax bill.

So for general science and space spending we spend a little over 1 cent of your tax dollar for all of that combined.

Next chart please.

International affairs spending. To support our efforts in the international community, which includes international development and humanitarian assistance, international security assistance, conduct of foreign affairs, foreign information and exchange activities, and our participation in international financial programs, we spend a little over 1 cent of each tax dollar.

□ 2130

What is this? Half of 1 cent, or nearly half of that money, goes to international development and humanitarian assistance. When the deserts are consuming Africa and rolling over the only arable land we have to feed people there, and famine is across the land, and disease, and hunger we send food. We send medicine.

When the Ebola virus is threatening to kill people in other parts of the world, we send medical technicians who shut it off, who try to trace down its origins. When AIDS and other things threaten to ravage countries, we help. That is part of who we are as a country. We spend one-half of 1 cent of each tax dollar for that kind of international humanitarian assistance as the greatest economic, military, and democratic power in the world.

International security assistance. This includes peacekeeping operations, nuclear disarmament approaches, military loans, et cetera. One-third of 1 cent of your tax dollar goes to support international security assistance.

Conduct of foreign affairs, the State Department, a quarter of 1 cent of your tax dollar goes to our State Department to carry on its functions.

Foreign information and exchange, about nine one-hundredths of a cent, and our participation in our international financial programs returns about $2 billion a year in forms of interest to us. So for a little over 1 cent on the dollar, we engage in these activities as a leading international power in the world. Most Americans think we spend 30 cents of every tax dollar on this alone.

In the next chart, the next expenditure is the administration of justice. The Justice Department and its various activities takes a little over 1 cent of each tax dollar that you send here. Federal law enforcement activities, a little less than half of 1 cent. Federal litigative and judicial activities, including our U.S. attorney's offices, the people who speak for us in the government in prosecutorial areas, a little less than a half of 1 cent.

Federal corrections activities, including our Federal corrections systems and our criminal justice assistance, including legal services and so on, a little over 1 cent of each tax dollar goes to support our justice spending in this country.

In the next chart, general government spending is the next category of Federal spending. It takes up less than 1 cent of each dollar that you send here. The legislative functions of the Congress take up three one-hundredths of 1 cent. The executive branch, one one-hundredths of 1 cent. The central fiscal operations, the Treasury Department, a half of 1 cent; the general property and records management, or General Services Administration, six one-hundredths of 1 cent; the central personnel management, or Office of Personnel Management, does not even register, hardly. Our general purpose fiscal activities, other general government, and so on, the running our Federal Government and the functions of it in terms of general government spending, a little less than 1 cent of each tax dollar goes to that.

Community and regional development spending, which is a major activity back in our home districts, to help our local community regional economic development associations and so on go out and entice businesses to locate in our communities by showing them what infrastructure we have in place, what our labor force is like, et cetera, the aid and assistance we give them takes less than three-fourths of 1 cent of each tax dollar that you send here, and that includes about a quarter of 1 cent to FEMA and our disaster relief and emergency agencies that serve our communities when they have floods and other forms of natural disasters to face.

For a family making $33,000 a year, that is about $44 a year. For a family making $49,000 it is about $7 a year. For a family making $111, it is about $213 a year.

In the next chart, agriculture spending. I never have a town meeting without folks standing up saying, "Stop giving those subsidies to all those farmers. Those farmers are the fat cats. They are taking up half of the Federal budget."

We spend exactly two-thirds of 1 cent of each tax dollar on our agriculture community. About half of 1 cent goes to farm income stabilization programs, which we are cutting now, incrementally over the next 7 years, and eliminating totally.

The remainder of that goes into agriculture research and services so about two-thirds of 1 cent goes to support agriculture spending by the Federal Government, which helps supply our agriculture community: the largest supply of food in the world, the safest supply of food in the world, and the cheapest supply of food in the world for the American citizen. The subsidies that people complain about to our farmers really accrue to the benefits of our consumers, but even those we are cutting out now.

In the next chart, our next category is energy spending. We spend one-third of 1 cent on maintaining our energy supplies, our energy conservation, our emergency energy preparedness, such as our strategic petroleum reserves and others, in case we get into a war or supplies are cut off from other parts of the world, and our energy information policy; less than three one-hundredths of a cent.

So for the average American family making $33,000 a year, they are spending $20 a year in the form of Federal taxes to support an energy supply, which, again, is the cheapest energy in the world. Today, a gallon of gasoline in America averages $1.26 cents a gallon. In Canada, it is well over $3. In Europe, it is over $4.

There are the offset which accrue of about 4 cents on the dollar to the American taxpayers. The Federal Government gets a mortgage credit of about $1 billion back; in the Postal Service, about $1 billion 800 million in FDIC deposit insurance, about $17 billion. It costs us a little over $6 billion for the Commerce Department to advertise and try to advance our commerce around the world.

The employer share of employee retirement is about $34 billion. The rents and royalties on the Outer Continental Shelf for drilling and exploring and so on, about $2.4 billion. Other offsetting receipts, about $7 billion. So we get back, for the taxpayer, nearly 4 cents on the tax dollar in terms of these offsetting receipts and credits.

I want to go back to this one chart again, because this capsulizes everything. Again, by function of government, what is it the tax dollar buys, from top to bottom? Twenty-two cents of each dollar buys Social Security for our people; 17.9 cents, or 18 cents, buys national defense; 15 cents, a little more, is interest on the debt; 14½ cents is income security for all those things we talked about previously; 10½ cents goes to Medicare. Nearly 8 cents goes to health; education, training, employment, and social services, 3½ cents of the dollar; transportation, 2½ cent; veterans' benefits, 2½ cents; natural resources and environment, 1½ cents; general science, space and technology, a little over 1 cent; international affairs, 1 cent; administration of justice, 1 cent; general government, 1 cent; community and regional development, three-quarters of 1 cent; agriculture, two-thirds of 1 cent; energy, one-third of 1 cent; and about 4 cents of the dollar in offsets and credits. That is what the Federal tax dollar buys for the American public.

For a family making $33,500 a year, that is $6,478 in all forms of Federal taxes. For a family making $49,000 a year, that is $10,800, in all forms of Federal taxes. For a family making $111,500, that is $30,786, in all forms of Federal taxes.

The point is, Mr. Speaker, we can do better. We can do better in some of these categories. There are debates raging out here right now about what we do to stabilize the Social Security fund before it goes broke in the year 2030. How do we continue to provide for my generation, which is in its fifties, and for my son's generation, in their twenties, to have Social Security that they have paid in all their life, as the present generation has provided? Maybe there are things we can do to invest more wisely, or allow people to invest more wisely to stabilize that fund.

We have cut national defense considerably over the past several years. We are downsizing that area of the Federal Government, but we cannot downsize it much more.

Our net interest is the area we have to work on, because we need a balanced budget. We need to balance this budget. We need to reduce interest as a portion of our Federal debt. We are making headway on that deficit, but we have to go all the way to zero deficit spending.

That is why the debate is raging out here about how we get there, and the two great political parties are sharing their philosophical notions about how we get there. It is my hope and prayer we will get there, for the benefit of our children.

Medicare and part of the income security and health dealing with Medicaid and other health care services, we are right now debating here ways to lower the cost of the government with respect to those health care programs which are the fastest rising parts of the Federal budget. We are going more toward managed care. Other types of things we are doing to try to lower the cost in these major areas. This is the discretionary area of the budget. These things are the entitlement areas of the budget. Everything has to be on the table.

But let me say this, Mr. Speaker. For those people who come down here and say, "Well, we have worked until May 7 this year for the Federal Government," please tell the rest of the story. Please say that for those 4 months, we provided Social Security for our elderly and defense for our Nation, and we took care of health care problems and Medicare and health research and education and training for our unemployed; that we provided the best transportation system in the world; we helped our veterans; we took care of our environment and preserved our natural resources; we engaged in general science and space exploration; we conducted our international affairs as the leading power in the world; we had a justice system in which we maintained the FBI, the CIA, the BATF, the Federal prison system.

Please say that we spent only 1 cent on the dollar to operate this Congress and the executive department and the various agencies that serve this Congress and the executive department, and the General Services Administration and the Department of the Treasury, the Office of Personnel Management, and all these things; less than a cent on the tax dollar.

We have to tell the rest of the story, that we have engaged in community and regional development to the benefit of our communities in providing for sewer systems, water systems, other infrastructure developments that we have helped with, which greatly promote the economy and the commerce of this Nation, on very little as a percentage of our tax dollar; that we have supported the income security of our farm community, which has provided the cheapest, most plentiful, safest food supply in the history of any country in the world, and we have fed most of the world for many, many years. Say that.

The only thing I want to say is this: that the whole story is that it may be true that we worked until May 7 to pay our taxes to the Federal Government, but the rest of the story is that we get a lot of very good benefits. We can do better. We can save more, we can spend less, and we shall. But the American people ought to know, too, that we are struggling to give them what I think is the best we can do for the tax dollars that they send. It is not just coming here and going into a black hole. It is not just coming here and being wasted away.

Is there fraud and abuse? Yes. Should we get it out? Yes. It is incumbent upon every agency of the Federal Government and the oversight function of this Congress to give assurance to the American people that we are tightening restrictions, we are doing everything possible to make sure that we are spending this money in the most cost-effective, efficient way possible on behalf of the American people.

□ 2145

We are trying to do that.

My only purpose here tonight was to try to give the American people some sense of what their tax dollar is being spent for. That is all. I hope that we can agree that it is being spent not in some of the ways that the Americans people are thinking, like 30 percent of it going to foreign aid, but that we are trying to do our best to serve our people with the income that they do send us.

COMPETING PHILOSOPHIES FUEL DEBATE OVER ROLE OF GOVERNMENT

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Under the Speaker's announced policy of May 12, 1995, the gentleman from Arizona [Mr. HAYWORTH] is recognized for 60 minutes.

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Illinois who preceded me here in the well. Indeed amidst all the talk of a lack of civility, amidst all the talk of hostility in this Chamber, Mr. Speaker, I can personally say without equivocation that one of the honors of serving in this House in addition to being here representing the people of the Sixth District of Arizona is to serve alongside my good friend from Illinois. Because without venom or vitriol, he states a case, and he makes mention of the fact that, yes, there are two predominant philosophies at work in the Congress of the United States, by and large two philosophies represented within the two-party system, and I applaud him for his efforts to go beyond mere accountancy and figures to try and explain what many of us have come into contact with with various road projects, both at the Federal and State level, where we have all seen the sign that says, Your Tax Dollars At Work.

Mr. Speaker, I appreciate the efforts of my good friend from Illinois. But, as he says, there are basically two philosophies, and, indeed, Mr. Speaker, it is not my intent to put words in the mouth of the gentleman who preceded me here in the well but simply to challenge his fundamental thesis, the underlying argument, Mr. Speaker, that he presents tonight to the American people.

My friend seems to say that American citizens laboring from January through May to account for the huge Federal tax bite, well, that is money well spent, so my friend says. And, yes, there are problems, but incremental reform and fine-tuning and some adjustment can give us the necessary change to confront the next century.

Again I applaud my friend's effort and it is not a spirit of one-upmanship that brings me to the well of this House tonight, Mr. Speaker. But again I feel compelled to challenge the assertion nor the assumption of my dear friend from Illinois. For, you see, Mr. Speaker, I believe true reform and true effective use of tax dollars stems first and foremost from this document, the Constitution of the United States. And while I appreciate my friend's effort to account for your tax dollars at work, I do not believe that any of us can improve on the assertions of our Founders who in a beautiful and indeed inspiring Preamble to the Constitution offered, Mr. Speaker, I suppose in the buzz phrase of the mid-1990's, their vision statement, if you will, for this constitutional republic, and I quote:

> We the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

And indeed, although I am joined on the floor by a dear friend who is a practicing physician, most of what transpires in this Chamber and upon this hill does not equate with brain surgery nor complex accounting. Instead, its most fundamental premise is founded upon the notions set forth in this document, what one historian, I believe, rightly called the Miracle at Philadelphia. This document, timeless, timeless in its ability if not to predict the future but to provide us with a framework for a free people to determine what should transpire within this free society. And I cannot help but note the irony of those who purport to represent the party of Jefferson who all too often forget his words, and this is something that becomes misunderstanding given the theatrics and the rhetorical excesses bound to occur in an election year, but it is worth noting again the Jeffersonian ideal. It was not for elimination of government but, as Mr. Jefferson pointed out, the ideal of a limited and effective government with the proper role for the Federal Government and a far more active role for State governments, for counties and for urban jurisdictions.

And so that frames the debate as we approach the next century.

Are we to assume that history occurs in a vacuum? Are we to assume that because at previous junctures in our Nation's history we should only subscribe to a philosophy that would dictate that power should reside primarily here in Washington, D.C.? And, further, that that power be exercised not by those elected but by those appointed or those who have sought career service within a vast bureaucracy?

That is the crux of the debate. Let me pause here, lest someone misunderstand.

Mr. Speaker, this is not a diatribe directed toward those who find themselves in the employ of the Federal Government. Indeed, I would be the first to say, Mr. Speaker, that there are many hardworking, dedicated people employed in the service of the Federal Government. But, Mr. Speaker, it is to say this: At this juncture in our history, is it preferable for power to be concentrated here on the banks of the Potomac in the hands of unelected officials accountable really only to themselves? And is it proper to issue the assertion that, Mr. and Mrs. America, if you work from January until May to satisfy your Federal level of taxation, well, well and good, because you are receiving incredible benefits? Is that really the course we should follow? Or is instead it more proper to understand that the average family in 1948, the average family of 4, surrendered 3 percent of its income in taxes to the Federal Government as opposed to the average family of 4 one year ago which surrendered almost one-quarter of its income to the Federal Government? And, mindful of that, is it a good and fair deal that the families of this Nation now spend more, Mr. Speaker, on taxes than on food, clothing and shelter combined?

For, you see, Mr. Speaker, this argument is made not out of avarice or greed or selfishness or any of those labels so many in this election year are willing to bandy about akin to playground taunts. No, the question is asked legitimately because it helps define what type of future we should have. And indeed as I look beyond the Preamble to this Constitution, I cannot help but note the first clause in article I, section 1, which reads as follows, Mr. Speaker:

"All legislative powers herein granted shall be vested in a Congress of the United States."

All legislative powers, Mr. Speaker, vested in this institution and the other body across this magnificent structure, the Congress of the United States.

Yet what has transpired in this century? Often for the most noble of motives, this Congress has established agencies within the executive branch and those agencies in turn issue regulations.

Let me again pause at this juncture to make sure I am not misunderstood, Mr. Speaker. I am not saying that regulation in and of itself is a bad thing. No, quite the contrary. Certainly, Mr. Speaker, in my profession as a broadcaster, I know firsthand that a modicum of regulation was necessary to create order out of chaos on the airwaves, first at the behest of a Secretary of Commerce by the name of Herbert Hoover, then through a Federal Radio Commission established in the late 1920's, and ultimately within a Federal Communications Commission, and I think we can all agree with the developments in technology, with the changes we have seen throughout this Nation with the wonderful expansion of the economy and opportunity, some modicum of regulation must continue. But what I am saying and indeed what I propose in H.R. 2727, the Congressional Responsibility Act, is to indeed make sure that the first section of Article I of the Constitution is followed, that all legislative powers be vested here. Accordingly, H.R. 2727 would provide that every proposed regulation return here to the Congress of the United States for an up-or-down vote before it is printed in the Federal Register.

Mr. KINGSTON. Mr. Speaker, will the gentleman yield?

Mr. HAYWORTH. I yield to the gentleman from Georgia who joins my good friend the physician from Florida.

Mr. KINGSTON. I do not want to jump in front of the gentleman from Florida [Mr. WELDON] but on the point of regulation one of the bills that we have pending now is reauthorization of the Safe Drinking Water Act. One of the current regulations that water systems have to operate under requires small systems that use ground water to test for contaminants that are only found in surface water systems.

☐ 2200

So here we have EPA, taxpayer funded, requiring groundwater systems to do the same tests as surface water systems. Absolutely absurd.

The same act also requires that EPA post new regulations for 25 contaminants each 3 years, whether the regulations are needed or not. It is just absurd. It goes under what you are saying, we do need regulation, but we do need common sense in the regulatory authority.

Mr. HAYWORTH. Even in addition to common sense, which I laud the gentleman for mentioning, and which many observers would say time and again seems to be absent not only from this Chamber at times, but also through the vast bureaucracy, we need a proper reassertion of constitutional authority. That is why every proposed regulation should not be enacted by bureaucratic fiat, for as my two colleagues know, Mr. Speaker, what oft times happens is you have a shift in the power. Instead of the power being conferred by the people on their duly elected representatives to make laws, the power is bequeathed or ceded to the regulators who can come up with regulatory expansion, as my friend from Georgia mentions, that exceeds what the average person would deem to be reasonable. In doing so, it subverts the whole notion of laws and by the expansion of what I choose to call the tyranny of the bureaucracy and the power being conferred on government bureaucrats, what we have done is allowed those bureaucrats in essence through the issuance of regulation to make laws, because as my two colleagues know, certainly my physician friend from Florida understands, those folks with the sanctions of imprisonment or fine are basically enacting laws.

Of course I yield to my good friend from Florida.

Mr. WELDON of Florida. I appreciate the gentleman yielding. I very much applaud you in your efforts to reassert the authority of the Constitution of the United States, because I feel very strongly that not just for years, but for decades, the language of our Constitution has been either subverted or totally ignored. There is probably no better example than the rampant, wanton, overwhelming number of regulations that have come from Federal bureaucrats that have tremendous impact on the day-to-day lives of American families who are very, very often just struggling to make ends meet.

You were talking about tax policy before. What is so amazing to me is that the callous, casual attitude that many politicians have about raising taxes, when many families, they are on such a tight margin that those slight increases in taxes mean a cutback in their ability to plan for a vacation, to plan for higher education for their children, to plan for an expansion on their home.

But getting back to the subject you were talking about, regulations, the other body, their Governmental Affairs Committee recently reported out that Federal regulations cost the average American household $6,000 annually in higher prices, diminished wages, and increased taxes or reduced services.

Furthermore, under the Clinton Administration, there has been a record increase in the number of Federal regulations. They have increased at 4.6 percent per year during the Clinton administration. This is a record, it stands at an all time record of now 67,518 pages of regulations, 18 percent higher than what they were in 1992.

Some people think this is just an abstract concept. But when you talk to a small businessman who is trying to start a new business and discovers that he has to fill out form after form after form of regulations dealing with multiple different layers of bureaucracy, and that inability to get himself started in his business frequently results in lost income for his family, and sometimes in bankruptcy, businesses not even being started, jobs not created because of the burden of Federal regulations, this indeed I think is one of the silent crimes of our government against our people, the fact that there has just been this endless amount of regulation issuing forth from Washington, DC.

Mr. HAYWORTH. Mr. Speaker, reclaiming my time, I think my friend from Florida, indeed on the front lines of not only health care as a physician, but also on the front lines here representing very capably the people of this district, again points out something which we should note with more than curiosity, indeed with widespread concern, for taking the model offered by our dear friend from Illinois, who preceded us here in the well, who said well, let us set up the construct, if you are paying from January to May for the tax bill, it is money well spent, there is in fact a hidden tax, and this is what the gentleman from Florida refers to, a hidden tax of overregulation that by many estimates means that the average American is really in essence working for governmental entities far beyond May, indeed past the day upon which we celebrate our independence, and that the true Independcence Day for the American citizen in terms of taxes and fees levied by excessive regulation, either through higher costs or other things, does not come until really mid-July.

So there you have it, more than six months, in reality, six and a half or almost seven months, where the hard working people of the United States work and labor essentially to propagate a system of excessive regulation and a system of centralized control.

What we offer in the new majority is very simple, and this is something that we need to articulate here once again, free from the diatribes and the playground taunts and the interesting interpretations that some of our friends in the media would offer. What we are simply saying is this: Mr. Speaker, the citizens of the United States of America work hard for the money they earn. They ought to hand onto more of that money and send less of it to Washington, and they should have not only the money in their pockets, but they should ultimately decide what is best for their families and their futures, instead of ceding that power and that revenue to a centralized governmental authority.

Let me yield to my friend from Georgia.

Mr. KINGSTON. A story of one of your freshmen colleagues really fits in there, and that is that of SONNY BONO, one of your better known freshmen.

He tells the story of leaving Hollywood and going to Palm Springs to start a restaurant. He needed to make some changes in the building that he bought and so forth. So he went down to the city hall to get building permits, thinking that he was going to be creating jobs and additional tax revenues and all kinds of positive things for the area that they would say "Mr. BONO, we are so happy to have you in here, we need entrepreneurs, employers. This is a great boost for our economy." Instead, he was given the runaround. "Why do you need these permits? How have you chosen the contractor who is going to do the work?"

They started nickeling and diming him and micromanaging the project. He thought it was going to take 15 minutes. Six months later he still had not gotten his permits for his building, the renovation and building permits, from the city there.

Mr. BONO. tells a great story of walking in one day and saying "I have got my permit problem solved." The bureaucrat behind the desk said, "No you don't." SONNY BONO said "Yes, I do". The bureaucrat said "No, you don't, Mr. BONO. Nobody solves permit problems without me. I am the one who decides. I represent the government. You can't do anything on your own without me."

SONNY BONO looked at him and said, "Oh, yes, I can. I have solved my permit problem. I am going to run for mayor, and I am going to fire you."

That in essence is a true story of how SONNY BONO got into politics. He did run for mayor, he was successful. He points out, he is not inhumane. He did fire the guy, but turned around and let him be his gardener, so all was not lost.

But the point of the story is you have in the U.S. Congress now people who have experience with real world bureaucratic red tape. They have not been raised in the political ranks, where they have chief of staffs and administrative assistants and directors who protect them from the dirty world of red tape which the real world has to contend with.

So as your 73 freshmen Members came to the House floor, you have fought for less regulation and more individual responsibility and more indivdual freedom. I think you have made it. You have got a securities reform litigation signed by the President, the Paperwork Reduction Act signed by the President. We have stopped the practice of passing local laws and making local county commissions pay for it after we decide how to run every county in Arizona and Florida and Georgia. We are trying to back off that.

So the impact of the 73 freshmen has been tremendous, and yet it is just a start as to what we need to do to truly get government off the back and out of the pocketbooks of small businesses all over the country.

Mr. HAYWORTH. Reclaiming my time, my friend from Georgia makes an excellent point, and indeed relating once again to us the real life experience of our colleague from California and what prompted his entry into pursuit of elective office I think is especially appropriate.

But there is something that undergirds it entirely, Mr. Speaker, and that is the notion of those who put together this document, the notion of our Founders, which was unique in human history. For in contrast to our English forbearers, or our British cousins, as some of us affectionately refer to our friends across the Atlantic, in this new Nation, in this constitutional republic, we did not choose to recognize one person or one family as sovereign or as sovereigns.

Instead, in this Nation we operate from the assumption that, first, power is conferred upon us by a creator, and that in this Nation, the people are sovereign and they in turn confer their power, or political power, if you will, on governmental institutions. Yet, as our friend from Georgia relates the story, what all too often happens is that notion is twisted or turned to where American citizens are suddenly accountable to unelected career Washington bureaucrats, instead, Mr. Speaker, of what was intended, and that is for government to be accountable to the people.

So, indeed, this so-called revolution, which, by the way, can only be defined as extreme in terms of the context of making extremely good sense, what is in fact a resolution not born of something radical but something entirely reasonable, simply says that the power, indeed, Mr. Speaker, it is reminiscent of a popular slogan in the 1960's, that power belongs to the people, and that power goes to the people.

Let me yield to my friend from Florida.

Mr. WELDON of Florida. I appreciate the gentleman yielding. I just want to add to your comments about the so-called revolution. In my opinion, the revolution that people talk about here in Washington is nothing more than a dose of common sense coming from the people that you talk about, which is where the power truly lies with, a dose of common sense coming to the people of this city.

This city is insulated from the people that put them here. This so-called revolution is nothing more in my opinion than the people that work in Washington at the bidding of the governed who elect them and put them here, finally having to start acting on some of these things that people have been crying out for for years and years and years and years, like reforming the Congress itself, making the Congress live under the laws that they have been passing on to the people.

Madison, in Federalist Paper Number 37, which I am sure as a student of history as you are, J.D., you would know that he said in that federalist paper that the Congress should not be allowed to pass any law that does not have its full operation on themselves or on their friends. In reality, as we know from the past 25 or 30 years, they have repeatedly passed major pieces of legislation, including the Civil Rights Act, the Americans with Disabilities Act, the Family Leave Act, even the labor laws themselves and OSHA regulations they exempted themselves from.

And OSHA regulations, they have exempted themselves from it. As I understand it, the people from OSHA right now are beginning to do their audits on all these buildings here on Capitol Hill, and that some of them have some very, very serious problems. And those problems would have never been recognized if it had not been for the fact that this so-called revolution, which I think is nothing more than common sense reform coming to this body and coming to this city, and it is something that the American people have been asking for for years and years.

□ 2215

Mr. HAYWORTH. I thank my friend from Florida and I would be happy to yield to my good friend from Georgia after I offer this parenthetical note to quantify what the gentleman from Florida just said.

Indeed, if we were to define this, Mr. Speaker, despite the sensationalistic notion of revolution, what in essence we have here is rather than revolution, a reclamation, a reclaiming of this government for its rightful role in society, and that is what is at stake here and a reevaluation of the role of government.

I thank our good friend from Florida for joining us, making those points, and once again I am happy to yield to my friend from Georgia.

Mr. KINGSTON. The gentleman from Florida had mentioned OSHA, the Occupational Safety and Health Administration, and for years this has been the group that was kind of the government watchdog on health and safety in the workplace. Certainly it came into being under the Nixon administration. It was a pro-worker law, but it was not an anti-business law either. It just had some common sense.

And yet we are now in a situation where over 60 percent of the OSHA fines are for paperwork violations. You have to list such hazardous substances as that of the ink that you use in a Xerox machine. If you store that, you have to have a material safety and data sheet. And if you do not fill that out properly, you are fined. There have been cases of OSHA coming in and laying a heavy hand on small businesses and putting them in some cases almost out of business because of the financial crunch, litigation, and so forth. Yet in the agriculture side of our economy, there is the Soil Conservation Service which gives farmers technical assistance to prevent erosion, which is a pro-environment type agency, but giving technical assistance to farmers, which they need, a very good working relationship between soil conservation and farmers.

And here you have the same type relationship between OSHA and businesses, only it is an antagonistic one. What we would like to do is have OSHA be more like Soil Conservation is to the farmer, helping the businesses make their worker environment safer, because one of the things I learned when I sold workers compensation insurance is that the price of the accident, a hundred dollars for stitching up somebody's thumb, is four times when you consider the time lost and the problems with worker morale and so forth. Businesses have every motivation in the world besides government to take care of their employees; if nothing else, just from the production standpoint.

Mr. HAYWORTH. Mr. Speaker, reclaiming the time, I thank my friend from Georgia for making this fundamental point, for as certain as the sun rises in the morning, there are those who will willfully distort or mischaracterize what we are saying here tonight.

And the gentleman is quite right, Mr. Speaker, for he talks of regulation that is there to establish order and also there to offer a helping hand, not in terms of money or tax dollars allocated to business, that is not what we are talking about, but to work in a cooperative fashion with business and industry as opposed to an adversarial relationship, or a game that is ofttimes played in the Nation's press, in the common vernacular it is called a game of "gotcha". So that we pass so many regulations, so cumbersome, so out of touch with what is reality or in any way, shape or form reasonable so that those responsible for enforcement can come in and say, "Ah, 'gotcha'." Part B of subparagraph 1 of section 325 states this. You made an effort but you did not quite reach what I believe, as the regulator, as the arbiter of this, to be the right decision.

It comes back not only to this document, our Constitution, but also to the simple notion I mentioned earlier, Mr. Speaker. And it is this question. What is reasonable? What would a reasonable person do?

As my friend from Georgia mentioned a second ago, even if we accept the notions that some in our society seem to adopt, that business, by its very existence is greedy or motivated out of avarice; even if we were to accept that notion wholeheartedly, we would have to understand that it is in the best interest of business to make sure that employees are productive. And to be productive they need to work in a safe environment.

So even if we were to proffer the notion, as some in this Chamber do from time to time, that the profit motive is inherently evil or selfish or somehow misguided, even if we were to accept that notion, there would be the corollary offered by my friend from Georgia, which is this: Those folks owning the business would like to keep it productive, and to do so there has to be a modicum of worker safety.

I want to yield to my friend from Georgia.

Mr. KINGSTON. The other thing is that if we want to help workers, we do want to have a safe work environment. Everybody, an employer, government employees, everybody will agree on that. But if we want to help the workers across America, the key thing we have to do is honor why they are working, and that is to make money and make a better society.

Now, if we want to help those workers, let us let them keep more of their own paycheck. And the President has vetoed a $500 per child tax credit. He has vetoed an earned income tax credit that would have helped America's working poor. He has vetoed a balanced budget amendment which would have brought down interest rates so that they could borrow money less expensively for their cars, for their homes and so forth. But I think one of the things that really adds insult to the American workers is his veto of a bipartisan welfare reform bill, a welfare reform bill which would have only required people to work 20 hours a week.

Now, I ask the gentleman from Arizona, is there anybody in Arizona who can provide for their families working 20 hours a week?

Mr. HAYWORTH. Mr. Speaker, reclaiming my time, I know of no one who works from dawn to dusk to provide for their families who could do that for 20 hours a week.

Mr. KINGSTON. I want to make sure the American people know this, because here we are talking about workers' safety and we are talking about the quality of the job done, allowing workers to keep more of their paycheck, and the President of the United States says it is not good enough to require able-bodied people on welfare to work 20 hours a week.

The working men and women in Georgia and Arizona are working 40, 50, 60 hours a week. They are in debt. They are barely getting by, and the President says I am not going to make people work 20 hours a week for their welfare benefit.

Now, for crying out loud, here it is an election year and he is saying 20 hours a week is too much? I think that is absurd, and I think the people of Arizona are probably just as outraged as the people in Georgia are about it.

Mr. HAYWORTH. Reclaiming my time, and again I thank the gentleman from Georgia for bringing forth this very cogent observation. And again, Mr. Speaker, we should note this is not said with venom nor vitriol, not in the form of a playground taunt, but, really, Mr. Speaker, just to examine the record of the gentleman who resides at the big White House at the other end of Pennsylvania Avenue, for if words are to mean something, actions should correspond to the words.

And, indeed, as my friend from Georgia points out, we have a President who campaigned in 1992 on balancing the Federal budget in 5 years. Yet when confronted with a realistic plan that actually gave him a 2-year grace period, if you will, a balanced budget plan which was introduced by the new majority, back I believe last October, the President chose to veto that; instead putting in its place a document of suspicious foundation from this standpoint, Mr. Speaker.

It would be akin, and I will use a personal example, I am fighting the battle of the bulge around my waistline, it would be akin to saying to someone we are going to give you a year to lose 50 pounds. We ask you to lose two pounds in the first 50 weeks of the year, and in the final 2 weeks of the year we ask you to lose the remaining 48 pounds. On paper the mathematical operation can work, in real life that would be very difficult.

That is what we are dealing with. And as my friend knows full well, we have, at the other end of Pennsylvania Avenue, a President elected by saying that middle class taxes were too high and that people should hang on to more of the money they earned, yet adopting the philosophy upon his inauguration of those proponents of big government who said, oh, no, no, no, more of your money should come here to Washington. Thus, the largest tax increase in American history.

But especially galling, as my friend from Georgia points out, and this is something that happened on my watch, if you will, after I was elected to the Congress of the United States to represent the good people of the 6th District of Arizona, we provided this President, Mr. Speaker, with a welfare reform plan, taking him at his word when he said we should end welfare as we know it, and as my friend pointed out, with a modest work requirement.

Mr. KINGSTON. If the gentleman would yield.

Mr. HAYWORTH. He chose to veto it not once but twice. And I yield to my friend from Georgia.

Mr. KINGSTON. If the gentleman would yield. What is interesting is, last September, I think it was September 15, 1995, it was on Larry King Live, the President said about the Republican welfare bill, I like it, it would end welfare as we know it.

And that welfare bill passed the U.S. Senate, which certainly is not an activist conservative body. It passed the U.S. Senate by a vote of 87 to 12. We had all the liberals voting for this one, and the President indicated he was going to sign it and he vetoed it. Vetoed that tough requirement for 20 hours a week work. Vetoed that tough requirement saying illegal aliens could not get taxpayer dollars. And vetoed that tough requirement saying that teenagers need to identify the dads so that they could participate in the uprearing of that baby financially, if nothing else.

But you know what? I think it is probably our fault, and I will tell you why, Mr. HAYWORTH. When the President said I am going to end welfare as we know it, we were not listening. He said I am going to extend welfare as we know it. We missed the E-X-T. I think what he really meant was not end welfare but extend welfare. Because in the 3 years that his watch has taken place on Pennsylvania Avenue, all that we have seen is an extension of welfare, more folks who are able-bodied staying home than ever before.

The poverty rate is up 2 percent higher than when Ronald Reagan was President, and we have now spent $5 trillion on welfare since 1965 and we are not bringing down the poverty rate.

Mr. HAYWORTH. Reclaiming my time, little wonder, then, that the so-called credibility gap of the 1960s, Mr. Speaker, has expanded to this credibility canyon involving the President of the United States who says one thing and then has actions totally, totally in opposition to his rhetoric.

And, Mr. Speaker, again this is not said to score partisan points. Indeed, the irony of what has transpired in the last year and a half is that this new majority has moved to enact many of the programs that our current President championed on the hustings only to abandon once he moved in to 1600 Pennsylvania Avenue.

But it is especially galling to have this situation. And now, in addition to the credibility canyon, now in addition to the reality of this President extending welfare as we know it rather than ending it, you have the whole new wrinkle known as the Clinton crunch. For, yes, Mr. Speaker, there will be a day of reckoning.

☐ 2230

When this President has the audacity to come back to this Chamber, after standing here at this podium a few short months ago telling us the era of big government is over, and insist that this government, already in arrears to the tune of $5 trillion with the national debt, should expend yet $8 billion more of those dollars which we do not have, it is an incredible assertion, not something to be championed or applauded, but something to be questioned for its very absurdity.

It is indeed frustrating to find those who would give lip service to reform and think not of the next generation but instead of the next election. That is something that my friend from Georgia and I are not here to do, for we are not career politicians.

Let me yield to my friend from Georgia.

Mr. KINGSTON. As the gentleman pointed out, with the veto of the balanced budget and not offering an alternative, what you have done is you said no to lower interest rates because a balanced budget would have lowered interest rates 2 percent. Businesses would have been able to expand. Jobs would have been created. Therefore, you are saying no to lower interest rates, no to new jobs. And also, you are saying no to the $500 per child tax credit, the much-needed tax relief to the middle class in America. That is what we need so desperately.

Mr. HAYWORTH. Reclaiming my time, when you talk about that $500 per child tax credit, I cannot help but think of the people of the Sixth District of Arizona who send me here to represent them. I cannot help but think of a single mother who may have three children, whose spouse may have deserted her, who is working hard, playing by the rules, trying to provide for her family and yes, seeking outside educational skills to heighten her earning potential, despite the trauma that has most assuredly occurred in her personal life.

By denying the $500 per child tax credit, the champions of big government, the champions of expansive and excessive bureaucracy are saying to that single mother, "No, indeed, ma'am. You do not need that $1,500 to spend or save for your family as you see fit. That money instead should be taken from you and given to the bureaucracy in Washington, D.C."

How fundamentally cynical, how philosophically bankrupt, how essentially immoral that notion is. For what we do here is to establish the primacy of the State, the primacy of the bureaucracy instead of the power of the people. In a free society, that young lady struggling to provide for those three children should have that money to spend on those children as she sees fit.

Let me yield to my friend from Georgia.

Mr. KINGSTON. If the gentleman would yield, as things go, had our bill passed into law instead of been vetoed by the President, your constituent would have in her pocket today $1,500 extra which she could use for clothes, for textbooks, for college education accounts and so forth. Instead, that $1,500 did not go to deficit reduction, it went to welfare expansion, other programs such as the AmeriCorps program which pays "volunteers" $26,000 a year, and most of them who end up going through the program end up working for the government, and just countless other bureaucratic, Washington-based command and control programs. You know, I have a lot of faith in the people of Arizona. I have never lived there. I have not visited your fine State as much as I want to.

Mr. HAYWORTH. Reclaiming my time, we absolutely invite you to the great State of Arizona, Mr. KINGSTON. I hope you will visit often.

Mr. KINGSTON. I would like to do that.

Mr. HAYWORTH. You will be back.

Mr. KINGSTON. But I have just as much faith in your folks as I do in mine, and my people would do fine without Washington command and control bureaucrats telling them how they need to run education, telling them how to run the environment, telling them how to run health care, telling them how to run welfare. We have ideas of our own in the First District of Georgia, and we can do fine without Washington bureaucrats.

Just think about what we are doing. We send our money to bureaucrats and then they tell us how to spend it. They get their cut and they send part of it back to us to run programs, and we know these people better than they do. We can do a better job on poverty, right down the street, than people in Washington can.

I often think about that story, and you have heard it, "The Star Tosser." I do not remember the author, do not even remember the name, but the guy walks up and down the beach picking up starfish and he throws them in the water. Every morning he does that after high tide. He throws these starfish back in the water.

Somebody came up to him one day and said, "What are you doing? You cannot save all these washed ashore starfish. There are thousands of them. On a good day, you maybe get 150 of them back in the ocean. What difference could you possibly make?"

The man picked up a starfish and said, "I do not know what difference I make, but I am going to make a heck of a difference to this one right here," and he threw it in the ocean.

Now, the point is, I cannot clear up poverty in Arizona or in California or all over the country. I might not even be able to do it in my own hometown, but I know this: I am going to have a heck of a lot better shot at taking care of poverty in my hometown than I will in your hometown.

Mr. BILBRAY. Will the gentleman yield?

Mr. KINGSTON. What the bureaucrats in Washington are telling us is they are so smart, they can do it in all of our hometowns.

Mr. HAYWORTH. Reclaiming my time, I will be happy to yield to my friend from California.

Mr. BILBRAY. The gentleman from Georgia was just pointing out that the people in the community know how to serve their poor the best and that Washington does not know best.

Let me tell you, as somebody who was a county supervisor in a county of 2.5 million plus people, that we operated a welfare system larger than 32 States. When we ran into welfare fraud, we actually ran into a situation where we realized we did not have pictures on the identification cards that welfare recipients use.

Maybe being a little naive, I, as an administrator of a large welfare system, decided that it was time that we brought the system into the 20th century and put pictures on welfare cards. That is all we were saying, the ability to try to reduce fraud. Washington, D.C. said, "We are not so sure we can allow you to do that because it might violate the privacy of the welfare recipients."

Now I want you to remember that every time you look at your driver's license, and think about the fact that do you honestly think your government is violating your privacy by having you take a photo? I think that common sense approach that we fought so hard for in San Diego, in trying to get the Federal Government off our back and allow us to administer these programs in a reasonable, logical way, just really has to ring true here of saying guys, it has gotten out of control.

Washington is not the only well of wisdom and compassion, and we have got to allow people to address the problems they see in their community and in the programs. As a past administrator, I sure hope this city learns to finally understand to trust the people with freedom and trust them to do the right thing. The American people are good people, and if Washington would just give them enough latitude to do the right thing, American people will do the right thing.

I appreciate the time. I would just like to point out and to say to the gentleman from Georgia, I would like to offer him happy birthday tomorrow. I hear it is the gentleman's 41st birthday.

Mr. HAYWORTH. Would the gentleman yield?

Mr. BILBRAY. Go ahead.

Mr. HAYWORTH. Forty-one for the youthful visage of the gentleman from Georgia, it is truly amazing.

Mr. KINGSTON. Yes, but I still like rock and roll and do so any chance I get. I just do not want my 13-year-old daughter to know about it.

Mr. BILBRAY. Well, I would just like to say congratulations, and I would like to say it must be the fact they do not get as much sun in the West, so they are better preserved for a while, right?

Mr. HAYWORTH. It could be that, reclaiming my time, or the fact that our dear friend, as my friend from California knows, is just the perfection of physical fitness, as you are, spending time as I know that you do, surfing. I also know that my colleague from California and my friend from Georgia——

Mr. KINGSTON. I hear people laughing through the camera at this point, but I just want to say one think you two could do is eat a little more Vidalia onions.

Mr. HAYWORTH. We would be happy to. I thank my friend for the offer and I am expecting those Vidalia onions, providing they do not violate the gift ban any day now.

Mr. BILBRAY. We will make that ambition our goal.

Mr. HAYWORTH. Let me say, Mr. Speaker, to my friend from California and also my friend from Georgia, as we talked about what in essence has become the act of extending welfare as we know it, and my friend from California especially knows this, we are not only extending welfare benefits to American citizens. No, indeed. We have extended those benefits to folks who are not United States citizens, to those who commonly cross our borders in illegal fashion. I know that is a problem within the State of Arizona and also within the area my friend from California represents.

Mr. BILBRAY. Would the gentleman yield?

Mr. HAYWORTH. I gladly yield to my friend.

Mr. BILBRAY. As somebody who grew up on the border, the absurdity of the way local governments are required to handle these situations, to give you an example, you have the mother of a person born here in the United States, but she is an illegal alien. She will get the check for that child. But the law says that while she is here in the United States, she cannot work and she cannot spend one cent of that money on herself.

Then we wonder why the studies in Los Angeles show that over 70 percent of the recipients that are receiving welfare checks that are illegal aliens are committing welfare fraud. It is because the law is absurd, and I want to point this out.

I think the one thing we do is, we focus on the illegal alien issue or the immigrant issue. It is the absurdity of the rules we make in Washington and that they do not apply in the real world. This is a situation where we may be called mean-spirited, but the fact in Washington is stupid and it is irresponsible. We need to change these things and do something that is maybe a little radical to somebody, and that is do the reasonable thing in Washington, so those of us in California and Arizona and Georgia and across this country can do the reasonable thing.

Mr. HAYWORTH. Reclaiming my time, what is radical within this beltway is reasonable to the people of the United States. I thank my good friend from California for mentioning that fact, and I thank my friend from Georgia for offering real-life experiences of his constituents and the challenges they face.

Indeed, Mr. Speaker, that brings me back to H.R. 2727, the Congressional Responsibility Act, which I sponsor, which simply again redesignates and reemphasizes what Article 1, Section 1 of our Constitution says: All legislative powers herein granted shall be vested in a Congress of the United States.

Mr. Speaker, H.R. 272 does not outlaw executive agencies enacted by this very Congress which now exist within the executive branch. All it does is say that all of those proposed regulations, before they become in essence law published in the Federal Register, should come here to the Congress of the United States in expedited fashion for an up or down vote.

Now, the government experts say, "My goodness, that would require too much time on the part of the Congress of the United States." But, Mr. Speaker and my colleagues, as has been my honor on several occasions of preside as Speaker Pro Tem of this house, I have presided on at least two occasions where this body was engaged in largely ceremonial debate for a ceremonial vote to name Federal installations after noteworthy Americans. Now, I do not criticize that process, but instead I ask this simple question, Mr. Speaker: If this Congress, in the wake of over the last year having cast more votes than any other Congress before it, still can find the time to expend hours of its energy on largely ceremonial votes, cannot this same Congress take the time to fulfill its constitutional obligation as stated in Article 1, Section 1 of the sacred document we call the Constitution of the United States?

Mr. Speaker, it is about this: Reclaiming this government for the American people. As my friend from California pointed out earlier, it is nothing radical; instead, it is reasonable. Indeed, the only way it can be called extreme is in the fashion of making extremely good sense.

Let me yield to my friend from Georgia.

Mr. KINGSTON. I wanted to get back to the gentleman's statement and also Mr. BILBRAY's. He said the Washington bureaucracy is stupid and irresponsible. I do not think anybody paying taxes back home would disagree with that. It is also inefficient.

What really happens, though, I know there are a lot of good people involved in government, elected and unelected. A lot of good folks are called bureaucrats. But you know what I think of having been around a lot of teenagers? I know a lot of teenagers who individually are fine folks, but when you get a pack of them in your living room or a pack of them in your kitchen, strange things happen and all those individual good people turn out to do some pretty stupid things as a pack.

□ 2245

That is what happens in Washington. These folks need to go back home so they can continue to be good folks, because when they get together the association causes some real inefficient and irresponsible results.

Mr. HAYWORTH. Reclaiming my time, Mr. Speaker, I thank the gentleman, who fast approaches his 45th birthday tomorrow, and again provides the wisdom of his age in the interaction of the teenagers in his household.

Mr. Speaker, I simply thank my good friend, the gentleman from California [Mr. BILBRAY] and my good friend, the gentleman from Georgia [Mr. KINGSTON], who joined us during our special hour.

Mr. Speaker, it is all about this document, the Constitution of the United States, and people being free to decide what is best for themselves and their families, instead of relinquishing that power to a centralized authority in Washington, DC.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. UNDERWOOD (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of official business.

Mrs. COLLINS of Illinois (at the request of Mr. GEPHARDT), for today, on account of personal reasons.

Mr. FIELDS of Texas (at the request of Mr. ARMEY), for April 17, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DOGGETT) to revise and extend their remarks and include extraneous material:)

Ms. MCKINNEY, for 5 minutes, today.

Mr. FRANK of Massachusetts, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. MINGE, for 5 minutes, today.

(The following Members (at the request of Mr. DICKEY) to revise and extend their remarks and include extraneous material:)

Mr. BILIRAKIS, for 5 minutes, on April 24.

Mr. MICA, for 5 minutes each day, on today and April 24.

Mr. RADANOVICH, for 5 minutes, on April 24.

Mr. COX of California, for 5 minutes, today.

Mr. HUNTER, for 5 minutes, today.

Mr. KASICH, for 5 minutes, today.

Mr. RIGGS, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. MARKEY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following members (at the request of Mr. DOGGETT) and to include extraneous matter:)

Mr. MANTON.
Mr. UNDERWOOD.
Mr. FAZIO of California.
Mr. HAMILTON.
Mr. MILLER of California.
Mrs. KENNELLY.
Mr. LANTOS in two instances.
Ms. MCCARTHY.
Mr. KENNEDY of Massachusetts.
Mr. LIPINSKI in three instances.
Mrs. THURMAN.
Mr. DELLUMS in two instances.
Mr. TORRES.
Mr. STARK.
Mr. SCHUMER.
Mr. HOYER in two instances.
Mr. BONIOR

(The following Members (at the request of Mr. DICKEY) and to include extraneous matter:)

Mr. CRANE.
Mr. BACHUS.
Mr. WICKER.
Mr. ZIMMER.
Mr. BURTON of Indiana.
Mr. GILMAN.
Mr. BEREUTER.
Mr. DAVIS.
Mr. NETHERCUTT.
Mr. WOLF.
Mr. BAKER of California.
Mr. PORTER.
Ms. ROS-LEHTINEN.
Mr. TAYLOR of North Carolina.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. COOLEY of Oregon.
Mr. FRAZER.
Mr. ROMERO-BARCELÓ.
Mr. GILCHREST.
Mr. GILLMOR.
Mr. PALLONE.
Mr. TEJEDA.
Mr. STUMP.
Mr. KENNEDY of Rhode Island.
Mr. STOKES in two instances.

ADJOURNMENT

Mr. KINGSTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 45 minutes p.m.), the House adjourned until tomorrow, Wednesday, April 24, 1996, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2435. A letter from the Chief of Legislative Affairs, Department of the Navy, transmitting notification that the Department of the Navy intends to offer transfers by grant of two vessels to the Government of Greece, pursuant to 10 U.S.C. 7307(b)(2); to the Committee on National Security.

2436. A letter from the Chief of Legislative Affairs, Department of the Navy, transmitting notification that the Department of the Navy intends to offer transfer by grant of one vessel to the Government of Portugal, pursuant to 10 U.S.C. 7307(b)(2); to the Committee on National Security.

2437. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation entitled the "Maritime Administration Authorization Act for Fiscal Year 1997," pursuant to 31 U.S.C. 1110; to the Committee on National Security.

2438. A letter from the Comptroller of the Currency, transmitting the Department's final rule—Uniform Rules of Practice and Procedure (RIN: 1557–AB43), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

2439. A letter from the Secretary of Education, transmitting notice of final schedule of arbitration fees and expenses—Vending Facility Program for the Blind on Federal and Other Property, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Economic and Educational Opportunities.

2440. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Title I, Part C—Education of Migratory Children (RIN: 1830–ZA03), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Economic and Educational Opportunities.

2441. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's report on the notice of selection criteria, selection procedures, and application procedures for challenge grants for technology in education, pursuant to 5 U.S.C. 801(a)(1)(B); to the Committee on Economic and Educational Opportunities.

2442. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's report on the notice of final funding priorities for Jacob K. Javits Gifted and Talented Students Education Program, pursuant to 5 U.S.C. 801(a)(1)(B); to the Committee on Economic and Educational Opportunities.

2443. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's report on the notice of final funding priorities for Fund for the Improvement of Education Program, pursuant to 5 U.S.C. 801(a)(1)(B); to the Committee on Economic and Educational Opportunities.

2444. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

2445. A letter from the Comptroller General of the United States, transmitting the list of all reports issued or released in March 1996, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

2446. A letter from the Executive Director, Advisory Council on Historic Preservation, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2447. A letter from the Chairman, National Capital Planning Commission, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2448. A letter from the Chairman, National Capital Planning Commission, transmitting the 1995 annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to Public Law 100–504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

2449. A letter from the Executive Director, Neighborhood Reinvestment Corporation, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1995, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2450. A letter from the President and CEO, U.S. Enrichment Corporation, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2451. A letter from the Clerk, U.S. House of Representatives, transmitting list of reports pursuant to clause 2, rule III of the Rules of the House of Representatives, pursuant to Rule III, clause 2, of the Rules of the House (H. Doc. No. 104–199); to the Committee on House Oversight and ordered to be printed.

2452. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Electronic Filing of International Air Passenger Service Rules (RIN: 2105–AC23), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2453. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Medals of Honor (RIN: 2105–AC41), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2454. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—National Security Information (RIN: 2105–AC40), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2455. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Use of the Official Seal (RIN: 2105–AC39), pursuant to 5

U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2456. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Staff Assignments and Review of Actions Under Assignments (RIN: 2105–AC38), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2457. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Release of Internal Staff Memoranda Relating to Public Meetings of the Civil Aeronautics Board (RIN: 2105–AC42), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2458. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Aviation Economic Rules: Correcting Obsolete References (RIN: 2105–AC46), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2459. A letter from the Chief, Regulations Unit, Department of the Treasury, transmitting the Department's final rule—Revenue Procedure 96–30, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2460. A letter from the Secretary of Labor, transmitting the Department's report to Congress on the number of training waivers issued under section 231(c)(1) of the Trade Act of 1974 to workers determined eligible for trade readjustment allowances [TRA], pursuant to section 231(c)(3) of the Trade Act of 1974, as amended; to the Committee on Ways and Means.

2461. A letter from the Chairman, Defense Nuclear Facilities Safety Board, transmitting the Board's sixth annual report to Congress on health and safety activities; jointly, to the Committees on National Security and Commerce.

2462. A letter from the Acting Director, Office of Thrift Supervision, transmitting the Office's 1995 annual consumer report to Congress, pursuant to public Law 101–73, Section 301, (103 Stat. 279); jointly, to the Committees on Banking and Financial Services and Commerce.

2463. A letter from the Physician Payment Review Commission, transmitting the Commission's 1996 annual report, pursuant to 42 U.S.C. 1395w–1(c)(1)(D); jointly, to the Committees on Ways and Means and Commerce.

2464. A letter from the Assistant Secretary of the Army, transmitting a draft of proposed legislation entitled the "Water Resources Development Act of 1996"; jointly, to the Committees on Transportation and Infrastructure, Resources, Commerce, and Banking and Financial Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLILEY: Committee on Commerce. H.R. 2024. A bill to phase out the use of mercury in batteries and provide for the efficient and cost-effective collection and recycling or proper disposal of used nickel cadmium batteries, small sealed lead-acid batteries, and certain other batteries, and for other purposes; with an amendment (Rept. 104–530). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1823. A bill to amend the Central Utah Project Completion Act to direct the Secretary of the Interior to allow for prepayment of repayment contracts between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and November 26, 1985, and for other purposes; with an amendment (Rept. 104–531). Referred to the Committee of the Whole House on the State of the Union.

Mr. LINDER: Committee on Rules. House Resolution 409. Resolution providing for consideration of the bill (H.R. 2715) to amend chapter 35 of title 44, United States Code, popularly known as the Paperwork Reduction Act, to minimize the burden of Federal paperwork demands upon small businesses, educational and nonprofit institutions, Federal contractors, State and local governments, and other persons through the sponsorship and use of alternative information technologies (Rept. 104–532). Referred to the House Calendar.

Mr. GOSS: Committee on Rules. House Resolution 410. Resolution providing for consideration of the bill (H.R. 1675) to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes (Rept. 104–533). Referred to the House Calendar.

Mr. DREIER: Committee on Rules. House Resolution 411. Resolution providing for consideration of the joint resolution (H.J. Res. 175) making further continuing appropriations for the fiscal year 1996, and for other purposes (Rept. 104–534). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MONTGOMERY:

H.R. 3285. A bill to amend title 38, United States Code, to restore the authority of the Secretary of Veterans Affairs to establish research corporations at medical centers in the Veterans Health Administration; to the Committee on Veterans' Affairs.

By Ms. MOLINARI (for herself, Mr. ARCHER, Mr. BUNNING of Kentucky, Ms. PRYCE, Mr. SOLOMON, Mr. TIAHRT, and Mr. SHAW):

H.R. 3286. A bill to help families defray adoption costs, and to promote the adoption of minority children; to the Committee on Ways and Means for a period ending not later than May 3, 1996, and in addition to the Committees on Resources and Economic and Educational Opportunities for a period ending not later than April 30, 1996, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARRETT of Nebraska:

H.R. 3287. A bill to direct the Secretary of the Interior to convey the Crawford National Fish Hatchery to the city of Crawford, NE; to the Committee on Resources.

By Mr. BROWDER:

H.R. 3288. A bill to direct that funds appropriated to the Department of Defense for fiscal year 1996 for certain medical research relating to illnesses suffered by veterans who served in the Persian Gulf war shall be obligated in accordance with peer review procedures of the Food and Drug Administration; to the Committee on National Security.

H.R. 3289. A bill to grant jurisdiction to the States over new gambling activities conducted on Indian lands; to the Committee on Resources.

By Mr. COOLEY (for himself, Mr. YOUNG of Alaska, Mr. HANSEN, and Mr. REGULA):

H.R. 3290. A bill to authorize appropriations for the Bureau of Land Management for each of the fiscal years 1997 through 2002; to the Committee on Resources.

By Ms. DUNN of Washington:

H.R. 3291. A bill to require the President to submit a separately identified appropriation request to provide priority funding for the national parks of the United States, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. HINCHEY (for himself, Mr. FILNER, Mr. DEFAZIO, and Mr. DELLUMS):

H.R. 3292. A bill to amend title XVIII of the Social Security Act to provide for coverage of qualified acupuncturist services under part B of the Medicare Program, and to amend title 5, United States Code, to provide for coverage of such services under the Federal Employees Health Benefits Program; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LOWEY:

H.R. 3293. A bill to amend title XIV of the Public Health Service Act (commonly known as the Safe Drinking Water Act) to establish a screening program for estrogenic substances; to the Committee on Commerce.

By Mr. MORAN (for himself, Mr. KENNEDY of Massachusetts, Mr. FRAZER, Mr. GREEN of Texas, Ms. NORTON, Mr. STUPAK, Mr. BRYANT of Texas, Mr. WILSON, Mr. LIPINSKI, Mr. RANGEL, Ms. KAPTUR, Mr. SANDERS, and Ms. MCKINNEY):

H.R. 3294. A bill to amend the Foreign Assistance Act of 1961 to withhold U.S. assistance from countries determined to be violating the human rights of working children, and for other purposes; to the Committee on International Relations.

By Mrs. MORELLA:

H.R. 3295. A bill to amend title 5, United States Code, to extend the treatment currently afforded to Federal judges under the Federal Employees Group Life Insurance Program to certain other judicial officials, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NETHERCUTT (for himself, Mr. CALVERT, Ms. LOFGREN, Mr. WELLER, Ms. DUNN of Washington, Mr. BEREUTER, and Mr. SKEEN):

H.R. 3296. A bill to amend the Family and Medical Leave Act of 1993 to apply the same employer requirements to all persons; to the Committee on Economic and Educational Opportunities, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OBERSTAR:

H.R. 3297. A bill to provide for improved access to and use of the Boundary Waters Canoe Area Wilderness, and for other purposes; to the Committee on Resources.

H.R. 3298. A bill to provide for the establishment of the Voyageurs National Park Intergovernmental Council, and for other purposes; to the Committee on Resources.

By Mr. ROMERO-BARCELO (for himself and Mr. Underwood):

H.R. 3299. A bill to amend the Federal Water Pollution Control Act to allow certain States, including the territories of the United States, to apply for waivers from secondary treatment requirements for certain ocean discharges, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. SMITH of New Jersey (for himself, Mr. Bartlett of Maryland, and Mr. Dornan):

H.R. 3300. A bill to amend title 10, United States Code, to prohibit the Department of Defense from selling, renting, or otherwise providing sexually explicit material to any individual; to the Committee on National Security.

By Ms. WATERS:

H.R. 3301. A bill to amend the Community Reinvestment Act of 1977 to require consideration of a depository institution's record with regard to the number and amount of fees imposed by the institution on consumer accounts and consumer transactions, and for other purposes; to the Committee on Banking and Financial Services.

H.R. 3302. A bill to amend the Federal Deposit Insurance Act to provide additional deposit insurance coverage for accounts at depository institutions which reduce net fee income in any year by 50 percent or more, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. WELDON of Pennsylvania (for himself and Mr. Kennedy of Rhode Island):

H.R. 3303. A bill to establish a national oceanographic partnership program to promote the national goals of assuring national security, advancing economic development, protecting quality of life, and strengthening science education through oceanographic research and development; to the Committee on Resources, and in addition to the Committees on National Security, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELDON of Florida:

H.R. 3304. A bill to amend the Water Resources Development Act of 1986 and the Internal Revenue Code of 1986 to authorize expenditures from the harbor maintenance trust fund for certain beach erosion projects; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LIVINGSTON:

H.J. Res. 175. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes; to the Committee on Appropriations, and in addition to the Committees on Banking and Financial Services, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 72: Mr. Gibbons.

H.R. 206: Mr. Farr.

H.R. 448: Mr. English of Pennsylvania.

H.R. 449: Mr. English of Pennsylvania.

H.R. 940: Mr. Hall of Ohio.

H.R. 973: Mr. Hayes.

H.R. 1202: Mr. Dornan.

H.R. 1210: Mr. DeFazio and Mr. Mascara.

H.R. 1500: Mr. Fawell.

H.R. 1627: Mr. Campbell.

H.R. 1692: Mr. Fox.

H.R. 1693: Mr. Fox.

H.R. 1694: Mr. Fox.

H.R. 1695: Mr. Fox.

H.R. 1713: Mr. Ney.

H.R. 1776: Mr. Foglietta, Mr. Condit, Ms. DeLauro, Mr. Torricelli, Mr. McCrery, and Mr. Ehrlich.

H.R. 1889: Mr. Campbell, Ms. Woolsey, and Mrs. Lowey.

H.R. 1893: Mr. Engligh of Pennsylvania.

H.R. 2011: Mr. Ramstad and Mr. Jackson.

H.R. 2024: Mr. Weller.

H.R. 2026: Mr. Cardin, Mr. Manton, Mr. Brewster, Mrs. Lowey, Mr. Oberstar, Ms. Furse, Mr. Ballenger, Mr. Herger, Mr. Gibbons, and Mr. Moakley.

H.R. 2128: Mr. Sam Johnson and Mr. Bliley.

H.R. 2193: Mr. Coleman, Mr. McKeon, Mr. Dellums, Mr. Ortiz, and Mr. Combest.

H.R. 2270: Mr. Calvert.

H.R. 2342: Mr. Rohrabacher.

H.R. 2548: Mr. Montgomery, Mr. Orton, Mr. Manzullo, and Mr. Frelinghuysen.

H.R. 2651: Ms. Waters, Mr. Ensign, and Mr. Jackson.

H.R. 2724: Mr. Oberstar, Mr. Holden, Mr. Yates, Mr. Markey, and Mr. Brown of Ohio.

H.R. 2725: Mr. Oberstar, Mr. Holden, Mr. Yates, Mr. Markey, and Mr. Brown of Ohio.

H.R. 2795: Mr. English of Pennsylvania.

H.R. 2796: Mr. Green of Texas and Mr. Gordon.

H.R. 2803: Mr. Hamilton.

H.R. 2807: Mr. Manton, Mr. Frazer, and Mr. Gilman.

H.R. 2820: Mrs. Fowler and Mr. English of Pennsylvania.

H.R. 2910: Mr. Lipinski and Ms. Norton.

H.R. 2933: Mr. Johnson of South Dakota.

H.R. 2968: Mr. Baker of Louisiana.

H.R. 2978: Mr. Fazio of California.

H.R. 3059: Mr. Borski and Mr. Engel.

H.R. 3067: Mr. Brown of California, Mr. Deutsch, and Mr. Bereuter.

H.R. 3119: Mr. Ney

H.R. 3142: Mr. Thornberry, Mr. Collins of Georgia, Mr. Young of Alaska, Mr. Gilman, Mr. Herger, Mr. Everett, and Mr. Pastor.

H.R. 3149: Mr. Camp.

H.R. 3195: Mr. Inglis of South Carolina, Mr. Calvert, Mr. Clyburn, and Mr. Spratt.

H.R. 3226: Mrs. Morella.

H.R. 3246: Ms. DeLauro.

H.R. 3261: Ms. Furse and Mr. Orton.

H.R. 3267: Mrs. Kelly, Mr. Traficant, Mr. Nadler, Mr. Boehlert, and Mr. Coble.

H.J. Res. 127: Mr. Allard.

H. Con. Res. 10: Mr. Johnson of South Dakota.

H. Con. Res. 47: Mr. Obey, Mr. Johnson of South Dakota, Mr. Bryant of Texas, and Ms. DeLauro.

H. Con. Res. 50: Mr. Emerson.

H. Con. Res. 154: Mr. Lazio of New York, Mr. Kennedy of Rhode Island, Mr. Gonzalez, Mr. Lewis of California, Mr. Jackson, Mr. Ballenger, Mr. Tate, Mrs. Fowler, Mr. Kildee, Mr. Stupak, Mr. Bilirakis, Mr. Andrews, Mr. Zeliff, Mr. Lewis of Georgia, Mr. Blute, Mr. Barton of Texas, Mr. Taylor of North Carolina, Mr. Moran, Mrs. Myrick, Mr. Orton, Ms. Kaptur, Mr. Hastings of Florida, Mr. Hyde, Mr. Kennedy of Massachusetts, Mr. Dellums, Mr. Payne of New Jersey, Ms. Woolsey, Mr. DeFazio, Mr. Franks of New Jersey, and Ms. DeLauro.

H. Res. 49: Mr. Waxman and Mr. Bereuter.

AMENDMENTS

Under clause 6 of the rule XXIII, proposed amendments were submitted as follows:

H.R. 1675

Offered By: Mr. Nadler

(Page and line number references are to Amendment No. 1)

Amendment No. 3: Strike section 10 (page 23, lines 3 through 10).

H.J. Res. 175

Offered By: Mr. Gekas

Amendment No. 1: At the appropriate place, insert the following new section:

SEC. . AUTOMATIC CONTINUING RESOLUTION.

(a) In General.—Chapter 13 of title 31, United States Code, is amended by inserting after section 1310 the following new section:

"§ 1311. Continuing appropriations

"(a)(1) If any regular appropriation bill for a fiscal year does not become law prior to the beginning of such fiscal year or a joint resolution making continuing appropriations is not in effect, there is appropriated, out of any moneys in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, such sums as may be necessary to continue any project or activity for which funds were provided in the preceding fiscal year—

"(A) in the corresponding regular appropriation Act for such preceding fiscal year; or

"(B) if the corresponding regular appropriation bill for such preceding fiscal year did not become law, then in a joint resolution making continuing appropriations for such preceding fiscal year.

"(2) Appropriations and funds made available, and authority granted, for a project or activity for any fiscal year pursuant to this section shall be at a rate of operations not in excess of the lower of—

"(A) the rate of operations provided for in the regular appropriation Act providing for such project or activity for the preceding fiscal year.

"(B) in the absence of such an Act, the rate of operations provided for such project or activity pursuant to a joint resolution making continuing appropriations for such preceding fiscal year,

"(C) the rate of operations provided for in the House or Senate passed appropriation bill for the fiscal year in question, except that the lower of these two versions shall be ignored for any project or activity for which there is a budget request if no funding is provided for that project or activity in neither version,

"(D) the rate provided in the budget submission of the President under section 1105(a) of title 31, United States Code, for the fiscal year in question, or

"(E) the annualized rate of operations provided for in the most recently enacted joint resolution making continuing appropriations for part of that fiscal year.

"(3) Appropriations and funds made available, and authority granted, for any fiscal year pursuant to this section for a project or activity shall be available for the period beginning with the first day of a lapse in appropriations and ending with the earlier of—

"(A) the date on which the applicable regular appropriation bill for such fiscal year becomes law (whether or not such law provides for such project or activity) or a continuing resolution making appropriations becomes law, as the case may be, or

"(B) the last day of such fiscal year.

"(b) An appropriation or funds made available, or authority granted, for a project or activity for any fiscal year pursuant to this section shall be subject to the terms and conditions imposed with respect to the appropriation made or funds made available for the preceding fiscal year, or authority granted for such project or activity under current law.

"(c) Appropriations and funds made available, and authority granted, for any project or activity for any fiscal year pursuant to this section shall cover all obligations or expenditures incurred for such project or activity during the portion of such fiscal year for which this section applies to such project or activity.

"(d) Expenditures made for a project or activity for any fiscal ear pursuant to this section shall be charged to the applicable appropriation, fund, or authorization whenever a regular appropriation bill or a joint resolution making continuing appropriations until the end of a fiscal year providing for such project or activity for such period becomes law.

"(e) No appropriation is made by this section for a fiscal year for any project or activity for which there is no authorization of appropriations for such fiscal year.

"(f) This section shall not apply to a project or activity during a fiscal year if any other provision of law (other than an authorization of appropriations)—

"(1) makes an appropriation, makes funds available, or grants authority for such project or activity to continue for such period, or

"(2) specifically provides that no appropriation shall be made, no funds shall be made available, or no authority shall be granted for such project or activity to continue for such period.

"(g) For purposes of this section, the term 'regular appropriation bill' means any annual appropriation bill making appropriations, otherwise making funds available, or granting authority, for any of the following categories of projects and activities:

"(1) Agriculture, rural development, and related agencies programs.

"(2) The Departments of Commerce, Justice, and State, the judiciary, and related agencies.

"(3) The Department of Defense.

"(4) The government of the District of Columbia and other activities chargeable in whole or in part against the revenues of the District.

"(5) The Departments of Labor, Health and Human Services, and Education, and related agencies.

"(6) The Department of Housing and Urban Development, and sundry independent agencies, boards, commissions, corporations, and offices.

"(7) Energy and water development.

"(8) Foreign assistance and related programs.

"(9) The Department of the Interior and related agencies.

"(10) Military construction.

"(11) The Department of Transportation and related agencies.

"(12) The Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies.

"(13) The legislative branch.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 13 of title 31, United States Code, is amended by inserting after the item relating to section 1310 the following new item:

"1311. Continuing appropriations.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fiscal years beginning after September 30, 1995.

EXTENSIONS OF REMARKS

TRIBUTE TO STEPHEN FLATOW

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. ZIMMER. Mr. Speaker, I rise today to honor Mr. Stephen Flatow, who will be the grand marshall of the Israel Independence Day Parade in Flemington, NJ, on Wednesday, April 24, 1996.

Stephen has suffered a tragic loss—his 20-year-old daughter was killed in a bus bombing in the Gaza Strip last year. Alisa Flatow has gone to Israel to continue the religious studies that were so important to her and her Jewish faith when a suicide bomber drove his car into the bus carrying Alisa and other students to a vacation spot near the Red Sea.

Although his loss was devastating and irreplaceable, Stephen Flatow has been able to help other families by giving speeches and attending events to talk about the tragic bombings that occur in Israel all too frequently and to raise money for the Alisa Flatow Memorial Fund to help send young Jews to Israel to continue their religious studies.

Stephen will be the grand marshal at this parade to celebrate Israel's 48th birthday, to express Jewish solidarity with Israel, and to show support for the more than 1,000 people who have been injured or killed in terrorist attacks in Israel.

I would like to take this opportunity to join the Jewish community, the parade participants and the members of the Flemington Jewish Center in honoring Stephen Flatow. His faith and courage have helped him through this tragedy and allowed him to educate and help others. He is well deserving of the honor to serve as grand marshall of the Salute to Israel Parade this week.

TRIBUTE TO THE MEMBERS OF THE GIRL SCOUTS OF OUR LADY OF CHARITY AND LINCOLN SCHOOLS

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to a group of outstanding young women from my district who are a credit to the Girl Scouts and their community.

Ten members of the troop based at Our Lady of Charity and Lincoln Schools in Cicero, IL were recently recognized for their good works with two different religious awards.

Chantel Bruno, Nicole Grimes, and Lindsay Pisarczyk were honored with the Marion Award during a ceremony at Holy Name Cathedral in Chicago. Christine Braun, Trisha Esparza, Emilia Huerta, Dalese White, Laura Vietmeyer, and Rose Villareal received the "I Live My Faith" award at a ceremony in our Lady of Charity Church in Cicero.

Among the girls' activities was a Christmas party they organized at a local nursing home, including preparing treats to meet the special dietary needs of residents.

Mr. Speaker, I commend these outstanding Girl Scouts on these honors, and extend to them my best wishes for the future.

NATIONAL CRIME VICTIMS WEEK

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. GILMAN. Mr. Speaker, April 21 through April 27 has been designated as National Crime Victims Week. I was pleased to participate in the commemoration of this important observance yesterday by attending a tree planting and memorial ceremony in our Orange County Park in Montgomery, NY.

Too often, victims are forgotten or overlooked by society in its efforts to combat violent crime. The search for justice and the punishment of criminals frequently takes precedence over compassion and support for the victims they violated. Justice, however, includes the assistance of victims as well as the punishment of criminals. Promotion of victim awareness and the provision of necessary services to those caught in crime's way are vital components of our outlook toward crime.

I thank Dimitrios Lambros and Patty Bodnar of MADD, as well as the Orange County Probation Department, for sponsoring yesterday's ceremonies. I also commend the Rape Crisis Services, Survivors of Homicide Victims, Orange County Safe Homes, Stop DWI, and all the other victims' groups who were in attendance. Each of these volunteer organizations perform a valuable service by highlighting the plight of all those victimized by crime, be it violent or otherwise. Through compassionate counseling and sensitive assistance, these nonprofit groups help people overcome the trauma and human suffering which often result from violent crime.

This week I salute victims' groups everywhere in their noble efforts to provide support and assistance to all victims of crime.

IN OBSERVANCE OF EARTH DAY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. STOKES. Mr. Speaker, it was just 1 year ago when this nation celebrated the 25th anniversary of the original Earth Day. In the time since last year's observance, our Nation has engaged in one of the most spirited debates ever about the environment. What this debate highlights is that there is a delicate balance between our Nation's overall well-being and the ecosystem in which we live. There can be no doubt that protecting the environment is important—the health and economic future of this country and its well being are dependent upon this essential investment.

In my own city of Cleveland, we have much to be proud about when we consider the enormous gains the city has made with regards to our natural resources. Cleveland now enjoys a river and lake free from many pollutants and hazards. In addition, the region was recently advised by EPA that it now meets Federal health-based ozone standards. For many years it had not.

Unfortunately, despite the progress that we have made to improve the environment across the Nation, under the new leadership in Congress, environmental progress and programs are now in question. In fact, I worry that in their efforts to enact the "Contract With America", our Republican colleagues seek to turn back the clock on environmental achievements by squandering this country's precious natural resources. A prime example of how low a priority the environment is on their agenda, the GOP Contract With America did not even contain the word environment. We know, however, of the contract's proposal for sweeping language calling for so-called "Regulatory Reform" that in fact would eliminate and cut back proven and essential regulations designed to protect the public health and environment.

Further, Mr. Speaker, as we celebrate Earth Day, the Congress has yet to resolve the fiscal year 1996 appropriations bill for the Environmental Protection Agency. The proposed reductions to critical EPA programs were among the key reasons that the President vetoed the bill when it was first passed by the Congress—not to mention the fact that this piece of legislation would roll back decades of progress in environmental protection. I commend the President for vetoing this bill.

However, even after all that the Democrats in Congress and the administration have done to safeguard the environment, the assault against the environment is not over. While it appears that additional funds may be provided for the fiscal year 1996 EPA appropriations, harmful language is still included. Furthermore, our Republican colleagues are still pushing legislation that ultimately may reverse many environmental regulations.

Mr. Speaker, Americans from all walks of life have let us know loud and clear that reversing this nation's progress toward clean streams and lakes, clean air, safe drinking water, food safety and other national environmental goals is not acceptable. Let us heed their call and enact genuine environmentally-safe legislation this Congress.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

IN COMMEMORATION OF EARTH DAY 1996

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. LANTOS. Mr. Speaker, I rise today to celebrate Earth Day 1996 with citizens from around the world. The first Earth Day in 1970 rallied over 20 million Americans from around the country to learn about our environment. Conceived by Senator Gaylord Nelson and organized by Dennis Hayes, Earth Day events have featured some of the largest grassroots mobilizations in U.S. history. These early events helped create the modern environmental movement and led directly to the first environmental legislation—the Clean Air and Clean Water Acts.

In the late 1980's, Dennis Hayes decided it was time to expand Earth Day internationally and to renew environmental concern in the United States. Earth Day is now a highly anticipated annual event held in April that draws upon the resources, concern, and energy of countless individuals throughout our planet for the critical purpose of preserving it.

Earth Day is a gentle reminder to all of us that the environment is everyone's issue. Earth Day observance rekindles public commitment, broadens the base of support for environmental programs, and encourages participation from every group, including the business community. Earth Day is a successful catalyst for ongoing environmental education, action and change. Earth Day activities offer important points of entry to address worldwide environmental concerns as well as opportunities for individuals and communities to focus on their local environmental problems.

Residents of my congressional district are planning a variety of events under the direction of the Bay Area Action group. Some community gardens will host volunteer work parties on Earth Day weekend while some restaurants will offer "Earth Day Meals." These events and efforts characterize a national will to improve and protect our environment for ourselves, our children, and our grandchildren.

There is clearly a hunger in our Nation today, not only for more security or for more economic opportunity, but also for something which we can all be involved in that is larger than ourselves and that will have a lasting and positive impact. Reclaiming our rivers, our forests, improving the quality of our air, and limiting the volume of waste we generate, are the causes of a committed generation of human beings doing their part for the betterment of our planet as a whole.

We are fighting a serious uphill battle, however. The new majority in Congress, this past year, has turned its back repeatedly on our environment. There is no question that this has been the most antienvironmental Congress in recent history and the blame, undoubtedly, falls squarely upon the shoulders of the majority of this House. Let us not belittle the meaning of Earth Day with phony rhetoric; let us match the commitment from our citizens with actions that safeguard our future.

Three decades ago, President Kennedy said, "It is our task and our time in our generation to hand down, undiminished to those who come after us, as was handed down to us by those who came before, the natural wealth and beauty which is ours." It is time to recommit ourselves to these same values that originally made America unique.

The preservation of our environment is not synonymous with erosion of the economy. It does mean, however, that Congress has tough choices to make. We cannot deny the fact that Government has an important role in helping to preserve the natural beauty of our rivers, our forests, our mountains, our beaches, and our parks.

Earth Day reminds us that we share the air, the water, the planet and our destiny with all the people of the world. Our efforts must extend beyond our borders to help people in poorer countries understand the effects of their actions. Every country is interconnected; a potential environmental catastrophe can affect us all. That certainly is the message as we come upon the 10th anniversary of the Chernobyl disaster in Russia, at the same time that we mark Earth Day. The United States should lead the world by being a shining example.

Mr. Speaker, that is why I stand here today, requesting the support of my colleagues. We must never turn our back on our Nation's environment. I hope that the antienvironment trend of this Congress can be overcome with tangible legislation that recommits our Government to protecting our environment.

Mr. Speaker, we can all learn from the millions of individuals who will participate in Earth Day this year and years to follow. Ultimately, it is through them that we must come to understand that part of our common responsibility to the future is preserving our environment today. Let us not acquiesce to the defilement of our environment; we must not let our inaction serve as a precedent for emerging nations throughout the world to ignore their role in preserving it. There can be no greater legacy that we leave behind for our children and grandchildren than a world secure in its commitment to a healthy and environmentally sound future.

TRIBUTE TO WILLIAM C. CASSELL ON THE OCCASION OF HIS RETIREMENT FROM HEIDELBERG COLLEGE

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. GILLMOR. Mr. Speaker, it gives me great pleasure to rise today to pay tribute to an outstanding citizen from Tiffin, OH. Dr. William C. Cassell, president of Heidelberg College has announced he will retire at the end of this school year.

Dr. Cassell's retirement marks the end of a 16 year era in Heidelberg's development. In 1980, William Cassell became the 11th President of Heidelberg College, one of Ohio's oldest colleges. Under his leadership, the college has made a significant turnaround, enjoying a large increase in enrollment, the elimination of huge deficits, and widespread recognition as a leaders in innovation liberal arts and international education.

Heidelberg College is a selective, independent, liberal arts college situated atop College Hill in Tiffin, OH. For 8 consecutive years, it has been ranked as "One of America's Best Colleges" by U.S. News and World Report.

There is a saying about education that brings President Cassell to mind. "When you teach the people, you reap hundred harvests." William Cassell, after a career of distinguished service, should feel the deep satisfaction that comes from creating the harvests of our future. He has been a creative, innovative, and reliable education leader. Over the years, he has worked tirelessly to make the best possible use of Heidelberg's resources for the sake of the education of each student. In the process, he has led a staff and an education community that has mirrored his special sense of dedication and service.

William Cassell's commitment to education has stretched far beyond Heidelberg's campus. He was chosen by the former President of the United States as one of 10 appointees to the Advisory Council on the White House Conference on Library and Information Services. In 1988, the former Governor of Ohio appointed Cassell as one of nine members of the Ohio Higher Education Facilities Commission. Internationally, Cassell is the Honorary Royal Cousul General of Nepal. He was a member of missions for American Management Techniques to Indonesia and Jamaica, and chief of a mission to Thailand. He is on the executive committee of the International Education of the American Council of Education. Along the way, he has always earned the respect and admiration of his peers in the field.

I ask my colleagues to join me today in recognizing Dr. William Cassell on the occasion of his retirement, and wish him, his wife Jeanne, and their three children, Paul, Susan, and David, all the best in the years ahead.

EARTH DAY 1996

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. MANTON. Mr. Speaker, I rise today in recognition of Earth Day 1996. During this Congress it is especially crucial to emphasize the significance and purpose of this nationally recognized day. Since 1970, this country has set aside 1 day a year to highlight the importance of environmental conservation and preservation. But protecting the environment and our national resources is not a once a year project, it is about the way we choose to live our lives.

Mr. Speaker, the nationwide recognition of this day illustrates the overwhelming public concern over how the natural and man-made world should interact. While I support efforts to relieve businesses of undue redtape, I believe it is possible to do so without also reducing protection of our air, water and other natural resources. Although striking a balance is often difficult, it is necessary for the long-term health of both the environment and the economy.

As a Member of this esteemed body, I am pleased with the role Congress has played over the past 26 years. Passage of legislation such as the Clean Water Act, Clean Air Act, the Endangered Species Act, among others, has been instrumental in cleaning our environment and protecting our valuable natural resources. It is our responsibility as legislators to continue to respond to the public and its priorities through enactment and renewal of these most important environmental laws.

Mr. Speaker, I am hopeful that this day will be a reminder to Congress that the management of our resources is of vital importance. The decisions we make today will impact not only our future, but all future generations.

TRIBUTE TO OUR LADY OF THE RIDGE'S FIFTH GRADE GIRLS' BASKETBALL TEAM

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to an outstanding group of young ladies from my district, the fifth grade girls' basketball team of Our Lady of the Ridge School in Chicago Ridge.

This squad of eight determined players won the South Suburban Catholic Basketball League title this season, the school's first ever championship. The girls combined strong rebounding, spirited defense, and relentless hustle into a 14 win season.

Mr. Speaker, I congratulate coaches Brad Grove and Mike Liston, as well as their players: Katie Pratl, Kellie Pratl, Jackie Grove, Colleen Madej, Kelly Liston, Megan Liston, Laura Dirschl, Katie Roe, and the ever so accurate score keeper, Ron Pratl. I wish them continued success on and off the court for a job well done.

HONORING THE BEST OF RESTON AWARD WINNERS FOR 1996

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. DAVIS. Mr. Speaker, it gives me great pleasure to rise today to pay tribute to the individuals and businesses who are this years winners of the Best of Reston Awards. The Best of Reston Community Service Award was created to recognize companies, organizations and individuals who have made outstanding contributions to community service, and/or who have improved the lives of people in need in Reston, VA.

Tom Bartelt for his 25 years of service to the Greater Reston community through his role as the television eyes and ears of the community. As community program manager for Warner Cable, Tom Bartelt was there at the beginning, first as a volunteer, and then as staff, covering events big and small. He also helps local charities, giving selflessly of his time and talents to encourage young people in the broadcasting field and keeping community television alive and directed in the right spirit.

James Cleveland for his unique and direct impact on the quality of life in Reston and for serving as a role model for others in his approach to community service. As a driving force behind Mobile Land, Jim Cleveland has created the atmosphere for corporate pride and participation in support of civic causes as demonstrated in Reston's status as an internationally recognized example of excellence in community planning. He has also demonstrated a true sense of community and civic affairs, including Greater Reston Arts Center, YMCA of Metropolitan Washington, Washington Airports Task Force, Northern Virginia Transportation Alliance and the Greater Reston Chamber of Commerce. By both his positioning of Reston Land as a good corporate citizen and through his own leadership role in the community, Jim Cleveland has served the social, artistic, and business fabric of the Reston community.

Judy Duncan for her selfless dedication and willingness to go above and beyond to serve the needs for those in crisis through her Duncan Answering Service and the Herndon-Reston F.I.S.H. (Friendly, Instant, Sympathetic Help). Judy Duncan has been a key part of F.I.S.H. for many years and has touched and assisted hundreds of people during those years. From her initial role as one needing help during a medical crisis to being a volunteer to becoming the person who initiated a way for others to receive help through an answering service, Judy Duncan is one of the quiet people who make things happen. When a void developed, Judy created the Duncan Answering Service to field the many calls F.I.S.H. receives from those in need. On average, 75 to 100 calls are received daily and are referred to appropriate agencies or individuals to assist. For her role in volunteering and creating this selfless service, we honor Judy Duncan.

Lee A. Rau for years of consistent volunteer and community involvement. Motivated by a strong desire to give back, Lee has made a lifetime commitment to making Reston a better place. He is a longtime supporter of Reston Interfaith and the Greater Reston Arts Center and has served as President of the Board of both organizations. He supported early efforts to establish both Laurel Learning Center and the Embry Rucker Community Shelter. Early on, Lee recognized a need for more affordable housing and he has worked tirelessly for over 20 years to see that it would be built. Currently and concurrently, he is taking a lead to develop a permanent home for GRACE. Lee Rau is a dedicated member of the community and is honored for his work in many areas.

Patriot National Bank is honored for its role as a good corporate citizen and for going beyond the purpose of a business to help, care and contribute to the quality of life of all citizens of the community, not just its customers. Patriot National Bank has demonstrated its commitment through many avenues: number one provider of SBA loans in Reston area; providing funding for the Market in the Woods; providing below market funding for homeowner's associations and South Lakes High School student bank; and encouraging service on community boards and committees by its officers and employees. The activities and outreach of Patriot National Bank, a "homegrown bank," have made Reston a better place to live and work.

Reston Hospital Center for its role as a corporate leader in community service and for its commitment to improve the health of our entire community by an extensive outreach program of health and wellness. Since its inception, Reston Hospital Center has demonstrated its concern for the welfare of others in the community through active participation in the United Way Campaign, American Heart Association, area religious organizations, Greater Reston Chamber of Commerce, Reston Interfaith, Meals on Wheels, Reston Triatholon, Red Cross blood drives. In 1995, Reston Hospital Center provided millions of dollars in taxes, charity and uncompensated care to the community. The hospital employs more than 800 area residents, have over 200 weekly volunteers and has a dedicated staff which contributes to local high school health care scholarship programs. More than 5,000 people benefited from screening and health programs sponsored by the hospital in 1995. As an integral part of the community, Reston Hospital Center provides unsurpassed care and reaches out to all citizens as an exemplary health care resource.

Reston Town Center Associates for further developing Reston's sense of community by providing a vibrant place for people to come together and for their support of worthy causes. Reston Town Center Associates have always been willing to offer a gathering place and to support many groups who do volunteer and non-profit work. They have improved the quality of life of all members of the community, especially the elderly and children through free events such as Take-a-Break Concerts, the Holiday Parade, Meet Me at the Movies, and Mother's and Father's Day events. They have supported many worthy causes such as GRACE, Cystic Fibrosis, American Diabetes, Reston Interfaith, Children's Hospital and the Multiple Sclerosis Society. More than $309,385 has been raised for non-profit groups. In addition, another $17,900 has been donated to local non-profit groups by the Mobil Foundation and the Mercury Foundation. In 1995 more than 5 million people visited Reston Town Center.

Mr. Speaker, I know my colleagues join me in honoring the "Best of Reston" Award winners for all of their hard work in making their community a better place to live.

HAIL TO THE "CHIEF"

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. DELLUMS. Mr. Speaker, it brings me sadness and honor to pay final tribute to Charles Alfred "Chief" Anderson, the "father of black aviation." He died on Saturday, April 12, 1996, at his home in Tuskegee, AL, at the age of 89. A premier aviator, the apex of his career came in 1941 when Mrs. Eleanor Roosevelt, the wife of President Franklin D. Roosevelt, asked him to take her for a flight over Tuskegee Institute, Alabama, against the tremendous opposition of her entourage. Mrs.

Roosevelt risked her life with a Negro aviator because she saw no reason why Negro men could not fly. Shortly thereafter, Tuskegee was selected to participate in a program with the U.S. Army Air Corps to find out if Negro men could measure up as military pilots. Their records speak for themselves.

Anderson's love for flying began at an early age when he lived in Virginia. When he heard there was an airplane in the vicinity, he would run to see it. People said about him, "That boy's crazy. He'd have to be crazy to be thinking about flying." To that, Chief replied: "I thought they were the crazy ones."

For Anderson, getting a pilot's license was not easy. Anderson continuously ran into clouds of racial prejudice. He was denied entry to Drexel Institute Aviation School in 1920 because of his race. He was also told "no" by the Army which did not allow black pilots before World War II. He finally found a friend in Mr. Ernest Buehl, a German World War I pilot, known as the Flying Dutchman, who started an airport in Philadelphia, PA. Under Buehl's guidance and instruction, Anderson finally received a transport license in 1932, thus becoming the first black pilot to hold an air transport license.

Chief's constant companion was his dog, Yo Yo, a mongrel who shared his love for flying. Before his dog died, Anderson said, "He's smart. He can tell if a student is not flying right. If a student is doing all right, YoYo lies down. If the student makes a bad landing, Yo Yo won't fly with him again."

Chief Anderson was held in the highest regard by his peers. Two of Anderson's most famous students are Lt. Gen. Benjamin O. Davis, Jr., who became commander of the 99th Pursuit Squadron and later the first black Air Force general, and General Daniel "Chappie" James, the first black four-star general. During World War II, the 332nd Fighter Group, comprised of our all black squadrons, and under Colonel Davis' command flew more than 1,500 missions and destroyed 409 enemy aircraft. In more recent times, Air Force Colonel Guion L. Bluford led black aviators into space. Dr. Ronald McNair, a black American, died in flight aboard the orbiter Challenger. Today, there are countless thousands of military, commercial, and civilian black pilots—all of whom owe their presence in the cockpit and other aviation-related jobs to the undauntable character and perseverance of C. Alfred "Chief" Anderson.

Mr. Anderson's wife of 62 years, Gertrude, died just over a year ago. I invite my colleagues to join me as I offer condolences to his loving family, including his sons, Charles A. Anderson, Jr. of Chicago, and Alfred of Seattle; three grandchildren, and one great-granddaughter. He will be greatly missed, however his legacy will live on as a source of inspiration for generations to come. I wish Charles Alfred "Chief" Anderson "high flight."

TRIBUTE TO THE KNIGHTS OF COLUMBUS, COUNCIL 155, WATERTOWN, MA

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 23, 1996

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today to pay tribute to the Knights of Columbus, Council 155, of Watertown, MA, who celebrate their centennial this year. I would like to recognize the Watertown Knights for their invaluable service to their community.

The chapter was first granted its charter by the Supreme Council on February 29, 1896. They met at various locations until 1923 when the council purchased the George H. Beynon Estate in Watertown. After 38 years on this site, in 1961, they replaced the building with their current structure which could easily accommodate the membership of 700 at the time.

There has been a local square dedicated to the proud members of the Knights of Columbus, many of whom served our country during World War I, and World War II as well as the Korean and Vietnam conflicts.

The council has been instrumental in encouraging community involvement, including youth activities such as baseball and a basketball tournament. They have also worked with the handicapped, sponsoring Special Olympics and their annual Tootsie Roll Drive for handicapped Children. The council also proudly sponsors many other charities too numerous to list, including Project Literacy and the Walk for Hunger.

Mr. Speaker, this is truly a great organization of service, dedication, and honor and so I ask my colleagues to join me in extending best wishes to the Knights of Columbus, Council 155, in Watertown, MA on this momentous centennial celebration.

IN SUPPORT OF DECENT WAGES FOR WORKING AMERICANS

HON. LOUIS STOKES

OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 23, 1996

Mr. STOKES. Mr. Speaker, America needs to live up to its pledge of being one nation that will provide every American an opportunity to earn a decent living. In today's society there can be no advancement without a decent job and a decent wage. Under the leadership of the current Republican majority, the Congress has veered away from this pledge to working Americans who are most in need of fair pay for a job well done.

For months, Democrats have been pushing for a modest 90-cent increase in the minimum wage. When House Democrats called for a vote on a reasonable increase in the minimum wage on March 28, Republicans abused House procedures to stop a Democratic effort to increase the minimum wage.

For working Clevelanders, the proposed Democratic minimum wage increase could provide families as much as 7 months of groceries, a year of health care costs, 9 months of utility bills or 4 months of housing. Despite the fact that Republicans have pledged to fight an increase in the minimum wage I will continue to fight for the raise in pay Clevelanders deserve.

Mr. Speaker, in closing, we all should be aware of the fact that it's been 5 years since America's minimum wage workers got a raise. The minimum wage provides reasonable living for some of America's most productive citizens. The time has come for Members of Congress to take this one small step toward economic justice—raising the minimum wage.

THE CONGREGATION OF CHRIST CHURCH, LUTHERAN OF SAN FRANCISCO IS CELEBRATING THE 25TH ANNIVERSARY OF THE INSTALLATION OF PASTOR DAVID ROHRER

HON. TOM LANTOS

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 23, 1996

Mr. LANTOS. Mr. Speaker, I rise today, on the 25th anniversary of the installation of Pastor David Rohrer, to pay his tribute on his impressive and extremely productive tenure as pastor for Christ Church, Lutheran in my congressional district in San Francisco and to recognize his outstanding service to our community.

Pastor Rohrer was born January 10, 1937, in Richmond, CA. His commitment to the Christian ministry has been nearly lifelong. He was ordained into the Lutheran Church ministry in June, 1961, and since that time has dedicated himself fully to his profession. Before his installation as senior pastor at Christ Church, Lutheran in San Francisco in 1970, he served as assistant pastor at Our Saviors Lutheran Church in Sparks, NV.

Pastor Rohrer's commitment to his congregation and church bound him to the outside community. His religious leadership outside of Christ Church includes membership on the board of directors of the Sunny View Lutheran Home in Cupertino, CA, Pacific Lutheran Seminary in Berkeley, CA, and the Lutheran Lesbian and Gay Ministries. He has served several terms as president of Sunny View Lutheran Home and is currently treasurer of the Lutheran Lesbian and Gay Ministries. He was elected and served as dean of the San Francisco Conference, Evangelical Lutheran Church in America for 1993–94.

Pastor Rohrer has not shied away from tackling the most controversial of issues throughout his illustrious career. His leadership in creating equal standing for gay and lesbian clergy has earned him nationwide recognition. The opposition from his parent church and hostility from his own congregation could not dissuade or intimidate Pastor Rohrer from his efforts.

The most telling mark of Pastor Rohrer's leadership and Christian compassion can be found in the individual relationships he has made with his congregation throughout the years. He has been a pastor to over 600 people, has baptized 172, and performed countless marriages. Pastor Rohrer has served his community for the greater part of his life and that is why it is especially befitting that on this day the community has come together to honor him as leader, a friend, and a fellow human committed to the betterment of society as a whole.

Mr. Speaker, on this day, when we celebrate the 25 years of a remarkable career, I ask my colleagues to join me in paying tribute to Pastor David Rohrer for his admirable acccomplishment and outstanding determination.

IN CELEBRATION OF EARTH DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. GILMAN. Mr. Speaker, Monday marked the 26th anniversary of Earth Day. As a member of the party of Teddy Roosevelt, the great Republican who enlarged our national parks and established our national wildlife refuges, I am pleased to recall the great environmental gains our country has made in cleaning up our rivers, streams, and lakes.

Our waterways are one of our Nation's most important resources. They are an important part of the surrounding ecosystem, providing an important source of income to surrounding communities and businesses, as well as providing potable drinking water for families and communities. Acknowledging this, I voted against the so-called Clean Water Act Amendments due to its lack of Federal protection of important water resources, and its rolling back of nearly a decade of invaluable water protection resources.

I know no better way of providing jobs in our Hudson Valley, New York region than by approving a responsible Clean Water Act that provides strong environmental protection and the restoration of our natural water resources. Relaxed water quality standards will jeopardize many of our Nation's largest industries, including the $400 billion a year travel and tourism industry and the $55 billion a year fishing industry.

Similarly, we must not forget the air we breathe, our most precious resource. No matter what our party affiliation we are not immune from having to breathe clean air to survive. Air pollution has been linked to cancer, birth defects, brain and nerve damage, and long-term injury to our lungs and breathing passages. Moreover, air pollution damages our environmental surroundings. Tree, lakes, and animals have been harmed by air pollution. Accordingly, Congress passed the Clean Air Act Amendments of 1990 to improve our air quality standards. I was pleased to be an original cosponsor of that landmark legislation.

Today, we are rethinking our approach to environmental policy. As has been reported by my colleague, Representative SHERWOOD BOEHLERT, "the first fruits of that re-evaluation can be seen in the landmark conservation section of the farm bill Congress passed last month."

The farm bill has set aside billions of dollars for conservation programs to assist farmers in preserving wetlands and reducing agricultural runoff. I would argue that this bill is one of the most important environmental pieces of legislation to come out of Congress since the Clean Air Act Amendments of 1990.

We in the Congress must never forget the need for clean air and water, as well as the need to preserve our important natural resources. More importantly, we should never forget the great environmental gains we have made during the past decade.

In recognition of Earth Day, let us all commit ourselves in our own communities to do our part. Together we can ensure that our environment will be a clean, safe, and beautiful place for generations to come.

THE CALIFORNIA PACIFIC MEDICAL CENTER

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. DELLUMS. Mr. Speaker, I rise to express the profound appreciation felt by many of my constituents for the transplant physician team at the California Pacific Medical Center [CPMC] in San Francisco.

The patients, their families, and their loved ones through their organization, the CPMC heart transplant support group, are gathering today for their 11th Annual Heart to Heart Gala. The gala celebrates their appreciation, and their gratitude, for the work, the extraordinary skill, and the love given by the CPMC heart transplant team. They celebrate as a way to acknowledge the gift of life and the gift in the improved quality of life received as a result of heart transplant surgery, a truly lifesaving procedure for many in the bay area. This form of extension of life is so awesome that there are few words that can adequately express their feelings of respect and gratitude for the exceptional CPMC physicians and support staff who have dedicated themselves to this cause.

The first heart transplant at CPMC was performed in January 1984. Since that time, 20 to 25 transplants have been performed each year at CPMC, totaling over 250. The majority of candidates who receive a transplant have advanced disabling heart disease remediable by no other known therapy. The CPMC transplant physician staff, consisting of J. Donald Hill, M.D., chairman of the department of cardiac surgery; G. James Avery, M.D., transplant surgeon; Ernest Haensslein, M.D., medical director, heart transplant service, and James Hershon, M.D., director of the medical surgical intensive care unit, are to be commended for the exceptional skills, knowledge, compassion, and tireless efforts they routinely demonstrate while treating and caring for their patients.

Although we are awed by the art of the transplant process and recognize the transplant team's exceptional knowledge and technical abilities, it is apparent that the high esteem in which the patients and their families hold this surgical team is due to the very special attentiveness and the love that they give throughout the arduous preoperation, operation and postoperation period. Such a combination of attributes is indeed rare and must be recognized.

It is therefore a privilege for me to join with my constituents, and I invite you to join us, in recognizing, saluting, and honoring this exceptional group of professionals today.

TRIBUTE TO ROSE AND CHARLES MATT ON THEIR 61ST ANNIVERSARY AND 85TH BIRTHDAYS

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to two people in my district who made, and have kept, a lifetime commitment to one another, Rose and Charles Matt of Riverside, IL.

The Matts recently celebrated their 61st wedding anniversary and their 85th birthdays with family and friends at a local restaurant. They were married June 16, 1934, at Mary Queen of Heaven Church in Cicero, IL. Over the years, the Matts have been active in the local business community and involved in civic affairs.

The Matts opened a successful appliance store and two bowling alleys in Cicero. In addition, Mr. Matt served as a member of Morton High School District Board and is a past president of the Cicero Rotary Club. Mrs. Matt is a past president of her church's Alter and Rosary Society.

Mr. Speaker, I congratulate the Matts on 61 years of commitment to each other and their community, and wish them many more years of wedded bliss.

EARTH DAY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. GILLMOR. Mr. Speaker, as the House was not in formal session on April 22, Earth Day, I wanted to take the floor and talk about the importance of protecting the environment. While I recognize this day was used by many to feign interest in appearing "Green," not to mention fund raise, I think it is time to cast aside the "sound-bites" and have an honest and open discussion about the best way to improve our environment.

While some people planted trees, posed for pictures with fuzzy birds, or made fiery speeches set against a scenic backdrop, it takes more than symbolism and scorecard votes to make our environment safe. Even though Russell Peterson of the National Audubon Society coined the phrase "Think Globally, Act Locally," our national environmental policy has been void of local control, flexibility, or involvement. We need the efforts and input of every thoughtful and concerned person to move environmental protection from the sloganeering stage to a daily reality.

Several times during this Congress, we have been presented with legislation in which it has been suggested that passing these bills would improve the environment. Now, without commenting on the merits of these bills, I want to suggest that many of them were dismissed out of hand because they did not follow a "traditional" protocol for environmental protection, greater regulation and/or use of expensive technology. This development troubles me in that collegiality of thought is continuing to be sacrificed on this issue.

Many here in Congress, on both sides of the aisle, as well as those in the media, propose and advance the notion that the only way to enhance environmental protection is to use the most expensive technology available or institute more restrictive regulations. I reject that notion. While new technology or tough restrictions are not in themselves evil, it shows lack of foresight and depth of understanding that other means can accomplish the same end. The bottom line is that tighter regulations and "Cadillac" technologies cost money. And, regardless of what people may think, we only have a limited amount of resources, private and public, that we can commit to environmental protection. We should be placing our resources toward the most pressing environmental concerns of our day, and getting them remediated, not chasing allegations of hearsay or negligible, scientifically defensive problems.

Let me propose one of my favorite examples of what I mean to illustrate this point. Federal regulations currently require cities to keep atrazine levels in drinking water below three parts per billion—which on the surface sounds reasonable, nobody wants to be serving up a glass of weed killer to their friends or family. However, under these levels, a human would have to drink 3,000 gallons of water, or 38 bathtubs, per day with three parts per billion atrazine to equal the dose found to be cancerous in rates. Of note, the U.S. Environmental Protection Agency issued a "Health Advisory" for atrazine, which states that a child can drink water containing 100 parts per billion for 10 days or 50 parts per billion for 7 years without adverse health effects—this "Health Advisory" is much lower than the EPA guideline. Yet, the city of Columbus, OH found that compliance with this regulation could require a new $80 million water purification plant. For the same amount of money, the city could hire an extra 2,300 teachers at the average State teacher's salary. We must remember that protecting our environment has real costs and that we cannot squander those resources on minimal threat, extreme cost environmental boondoggles.

Another thing that we, as Americans, cannot tolerate in our environmental trek, is a cumbersome bureaucracy that makes environmental protection difficult to attain. The Endangered Species Act first passed with strong bipartisan support, all of us can agree that we should not be willfully trying to eradicate the creatures important to our ecosystem. However, the two pronged efforts of the act, protection and recovery, have become stymied in bureaucracy and court cases so that many species have become protected, but very few species have been recovered at all. This undermines the real intention of the law.

But as bad as the bureaucracy has been with the Endangered Species Act, the Superfund Program has been worse. This program, which was put into law 16 years ago to clean our Nation's worst toxic dumps, has been a miserable failure; it is the archetypical government program. Everyone believes this program needs to be reformed. We have spent billions of dollars on this program only to see hazardous waste sites sit uncleaned, with lawyers and bureaucrats drawing ever-increasing paychecks. The American people deserve a much better return on their investment. I have successfully offered an amendment to congressional efforts to reform Superfund that would force greater amounts of the Superfund's cleanup budget—the money that should be going to "dirt moving" activity, not bureaucrats, desks, and reams of studies—to go to site remediation. The private sector generally spends over 200 percent less on administrative costs in cleanup projects than the Government. The money we save here could be used for tangible environmental improvements and I am hopeful that this important provision can be enacted into public law.

Our country has made significant strides over the last 30 years to make our environment safer, cleaner, and healthier. We should not abdicate the responsibility to protect our air, land, and water that has been establish and been successful. However, we should not forget to reform or improve those laws that have actually perpetuated the problems. More of a bad thing does not make it a good thing, it only becomes a bigger bad thing—and delay is worse. This should be our credo in finding environmental problems, as well as in proposing their solutions. Trying something new, or looking at the problem in another way, does not immediately constitute an infringement on environmental protection, we all want a clean environment.

Mr. Speaker, much of the public debate on the environment has been cast in purely partisan tones, yet, I am here to set the record straight that making our natural inheritance better for present and future generations should not be confined to party identification. If we were to keep score from that perspective, as most people do in this town, I would like to remind people that the Republicans were the first ones to embrace the cause of conservation. Teddy Roosevelt, the first real standard bearer for the National Park System, was a Republican. And, the Environmental Protection Agency was established by Richard Nixon and would have been elevated to Cabinet-level status under President Bush had certain political considerations not come to the fore.

Our environment is too important to become a political football, filled with hot air every election cycle. Emotional pleas and incendiary direct mail pieces only clutter the burgeoning waste stream of environmental perspectives. We need a science-based policy which gives us solid, substantiated information; governing by fearmongering is no way to responsibly lead. Using informed, expert opinion and legitimate data, we can make our natural inheritance better for present and future generations.

I am hopeful that this Earth Day will be an opportunity for us all to consider the environment and how we can make it better. Billions of tax dollars are spent to ensure our public health and safety, they should not fund unreasonable regulations or stifling bureaucracies. We should take a prudent, realistic course, that realizes we are currently able to accomplish a finite set of objectives, as our resources allow. And, we should see that local involvement in priority setting, on top of proven and substantiated research, lead us to environmental quality in which we can all take pride.

THE 26TH ANNUAL CELEBRATION OF EARTH DAY

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Ms. MCCARTHY. Mr. Speaker, yesterday marked the 26th Annual celebration of Earth Day. In the time since the first Earth Day, much has been accomplished in to the way of environmental protection. Landmark legislation such as the Clean Water Act, the Clean Air Act, the Endangered Species, Act, and the establishment of the Environmental Protection Agency have resulted from a commitment to protection of our natural resources that is exemplified by Earth Day.

There is no question that today our water is more clean and our air is more breathable than it was 25 years ago. Species that were threatened or endangered 25 years ago, such as the American Bald Eagle, are now thriving. Wetlands are better protected, toxic dump sites are more quickly identified and treated, environmentally sensitive sources of energy are being developed and put into use, and our public lands are more sensitively preserved and maintained.

The job is certainly not complete. Much can be done to strengthen the laws on the books, but much can de done to make compliance with those laws more achievable. Long-term environmental protection can only be accomplished through a partnership between the environmental and business communities. In seeking to expand and improve environmental protection, we must also consider the legitimate concerns raised by those who live with the regulations.

Despite all the positive and popular steps that have been taken to protect the environment in the past quarter century, and the additional work that needs to be done, the leadership of the 104th Congress has attempted to halt, roll back, and eliminate many of the protections for the environment we hold sacred. Legislation has passed the House during this Congress to dramatically reduce one of the most successful laws on our books, the Clean Water Act. While not perfect, the Clean Water Act has gone a long way towards cleaning up our Nation's rivers, lakes, and streams; but the bill that passed the House rejects those successes and represents a major step backward in cleanup of polluted waterways.

Another target of this Congress has been the Environmental Protection Agency. In pursuit of a worthy cause—streamlining and making more efficient the environmental regulatory process—legislation has passed the House to establish stringent new requirements for risk assessment and cost benefit analysis of major federal regulations affecting health, safety, or the environment. Should this bill become law, it would hamstring EPA's ability to promulgate and enforce regulations designed to protect the environment.

In addition, funding for EPA has been slashed by more than 25 percent. The House Leadership's commitment to reducing environmental protection funding has resulted in fewer hazardous waste cleanups, a reduction in enforcement, and a decrease in needed water infrastructure and treatment programs.

Today, as we celebrate the 26th anniversary of Earth Day, it is important to reflect on the successes that have been achieved in environmental protection over the years, and the work that must continue to be done to ensure our natural resources will be preserved for generations to come. Instead of misguided attempts to roll back protection, we need to develop ways to preserve our environment that are cost-effective, efficient, and responsible.

I participated in the first Earth Day celebration in 1970 by walking to my teaching job rather than driving, and discussing with my students the responsibility each individual has to the environment. I have marked the anniversary of Earth Day each year since, and this year I helped to create a community garden with Americorps volunteers in my district.

All of my life I have worked for sound environment, and I practice conservation and recycling at home and in my offices. As a member of the Transportation Committee's Subcommittee on Water Resources and Environment, and the Science Committee's Subcommittee on Energy and Environment, I work as an advocate for substantive changes in law and policy that will ensure a quality environment.

Concern about our environment must be reflected in each of our lives daily. From recycling our newspapers, to planting trees, to using public transportation whenever possible, together we can make our environment cleaner and safer. Let us each pledge to make every day, Earth Day.

COMMEMORATION OF THE OKLAHOMA CITY BOMBING

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. FAZIO of California. Mr. Speaker, I rise today to commemorate the Oklahoma City bombing and to pay tribute to those who lost their lives or loved ones as a result of the bombing of the Federal building at Oklahoma City.

On such a solemn occasion it is difficult to find the words which accurately express my sorrow and my outrage. My heart goes out in full to the innocent men, women, and children who were robbed of their lives or permanently wounded in this savage attack just 1 year ago. I also extend my deepest sympathies to the victims families and loved one's, who have suffered such loss.

On this day, I must restate my commitment to preventing such acts of terror from ever happening again. By learning from this tragedy, we ensure that those who died did not do so in vain. The time has come to adopt a new vigilance. While nothing will bring back the lost lives, justice must be upheld. We will do everything possible to ensure that the perpetrators of this act do not escape punishment.

A year has gone by and still the memory of this horrific day is embedded in our minds as if it occurred yesterday.

While I am pleased to see the people of Oklahoma City rebuilding both their city and their lives, I realize that their wounds still run very deep. I urge them to continue pushing forward. Their strength and unity throughout this crisis serves as an example for us all.

INTRODUCTION OF LEGISLATION TO AUTHORIZE THE BUREAU OF LAND MANAGEMENT

HON. WES COOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. COOLEY of Oregon. Mr. Speaker, today I am introducing a bill to provide for a 6-year "clean authorization" for the Bureau of Land Management [BLM]. The Bureau of Land Management is the only agency in the Department of Interior that is not permanently authorized. Since 1982, the BLM has been operating without an authorization forcing the Appropriations Committee to do the work of the authorizing committee.

Chairman DON YOUNG of the Resources Committee, Chairman HANSEN of the authorizing subcommittee, Chairman RALPH REGULA of the Interior Appropriations Subcommittee, and I are introducing this bill that will authorize the BLM. The Federal Land Policy and Management Act of 1976 [FLPMA] requires the reauthorization of the BLM, but due to political wrangling, the BLM is without an authorization.

Last Congress, under the leadership of Congressman BRUCE VENTO, a bipartisan effort passed a 2-year clean authorization that made it through the House. This bill is adding onto that effort and will go one step farther and provide the BLM with a clean 6-year authorization.

This clean authorization will provide the agency with the ability to conduct long-term planning and make the management decisions necessary to properly care for more than 270 million acres under BLM control.

I would urge my colleagues to support this clean authorization.

CONGRATULATIONS TO THE STUDENTS AT AMADOR VALLEY HIGH SCHOOL

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. STARK. Mr. Speaker, I rise today to recognize the students in Mr. Skip Mohatt's civics class at Amador Valley High School in Pleasanton, CA. These students recently placed first in Sacramento, CA, to win the statewide "We the People" civics class competition.

Amador Valley High School and Mr. Mohatt have had a long history of success in this competition. This is the third year in a row that Amador Valley High Students have come in first and the fourth time in 5 years that they have won the State title. Last year, Amador Valley High School was the national champion. I want to commend Mr. Mohatt and his students for this extraordinary achievement and to wish the class luck. They are here to defend their national championship title in 2 weeks.

I would like to take this opportunity to mention the students by name, In alphabetical order, the 1996 California State champions are: Evan Anderson, Jamie Bartlett, Matthew Brehm, Jarold Bunas, MacKenzie Bundgard, Erin Callahan, Michael Campbell, Ryan Darst, Leah Dellanini, Chad Duffy, Heather Erskine, Jared Fixmer, Michelle Gilbert, Kristin Johnson, Erin Kettwig, Beatrice Korbel, Jason Lew, David Loughnot, Abimbola Majekodunmi, Christina Nystrom, Tina O'Keefe, Angie Picco, Bill Reaugh, Joseph Sabbagh, Olivia San wong, Christine Splitt, Paula Tee, Randall Wat, Eric Willett, and Katrine Wilson.

Mr. Speaker, I hope that you and my colleagues will join me in congratulating these students on their recent first place finish and to wish them luck in the upcoming competition.

COMMEMORATION OF RADIO VISION AND ITS 15TH ANNUAL VOLUNTEER RECOGNITION DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. GILMAN. Mr. Speaker, on May 4, 1996, Radio Vision, a service organization in my 20th Congressional District of New York which is staffed entirely by volunteers will celebrate its 15th annual "Volunteer Recognition Day."

Radio Vision provides day-to-day information and local news to those who are most in need of it. A visually handicapped person's access to the media is limited to radio and TV broadcasts which primarily focus on national and world news stories. For someone that has difficulty holding or reading a newspaper, local news and information—such as stories which are having sales, new facilities opening in the vicinity and the accomplishments of our neighbors—are difficult to obtain.

Radio Vision is a closed-circuit radio broadcasting service that provides news and information free of charge to blind and sight-impaired individuals throughout four counties in the Hudson Valley region of New York. Its volunteers read local news, topical literature, shopping hints, and other vital information to the more than 400 blind, sight-impaired or otherwise disabled Hudson Valley residents who subscribe to the Radio Vision service.

One hundred and five volunteers contributed their time and talents this past year to make Radio Vision a success. These volunteers are highly deserving of our gratitude and special recognition. Without their efforts, sight-impaired people would have no access to the day-to-day information, especially regarding local events, that the rest of us all take for granted. The visually handicapped have come to count on Radio Vision as a reliable source for information about their communities.

For the past 15 years, Daniel Hulse has done superlative work as program director. In addition, Carol Cleveland and many others have done a tremendous job, working tirelessly to coordinate the volunteers who find time to aid disadvantaged members of their community. All of these volunteers deserve our recognition and appreciation.

We are all indebted to these selfless volunteers whose hard work has enriched the lives of so many of my constituents, and I am proud to honor them today by calling to the attention of my colleagues their outstanding services.

TRIBUTE TO THE LATE RAYMOND T. CHMELA, HAWTHORNE PARK DISTRICT BOARD PRESIDENT

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to the memory of an outstanding public servant in my community, Mr. Raymond Chmela, president of the Hawthorne Park District Board, who passed away March 31, 1996.

Mr. Chmela also served as a building inspector for the town of Cicero and coordinated the town's July 4 festival. A Korean war Army veteran, Mr. Chmela was active in many youth organizations in Cicero, including serving as past president of the South Cicero Baseball Association. He served on the Park District Board for 9 years.

Mr. Speaker, I extend my condolences to the family of this fine public servant, including his wife Roberta.

TRIBUTE TO REV. DONALD W. MORGAN

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mrs. KENNELLY. Mr. Speaker, I rise today to honor an outstanding individual, Rev. Donald Walker Morgan of Wethersfield, CT; who is retiring as the senior minister of the First Church of Christ in Wethersfield, CT. During his 18-year tenure as the spiritual leader of the historic Wethersfield Church which dates back to 1635. Reverend Morgan has significantly contributed to the growth of the church membership bringing it to over 2,800 members—the largest, fastest growing congregational-UCC Church in New England.

Born in Lexington, MA, Donald Morgan served in World War II as a member of a B–17 Flying Fortress bomber crew. For over 2 years, he was part of the 8th Air Force Division in Great Britain, and flew numerous missions over Germany. He then matriculated at Tufts University in Boston where he received a bachelor of science degree in clinical psychology. Reverend Morgan earned a master of divinity degree from the Union Theological Seminary in New York, and was ordained to the Christian ministry in 1953.

Since 1953, Reverend Morgan has served in churches in Northfield, VT; Litchfield, CT; Rutland, VT; and Lakewood, OH. In June 1978, Reverend Morgan accepted the senior minister position at First Church in Wethersfield, CT. Reverend Morgan brought new vitality and a dynamic vision reaching well beyond the confines of the historic colonial community. He expanded the services of the church by providing new ministries in a myriad of social and religious areas and hired professional staff to handle the administrative affairs of the church.

The Reverend Donald W. Morgan is currently chairman of Churches Uniting in Global Mission, a national movement of pastors and churches and is frequently a featured speaker at the Robert Schuller Institute for Successful Church Leadership. He is the author of "How To Get It Together When Your World Is Coming Apart," published in 1988, and "Sermons In American History," an acclaimed volume which addresses selected issues in the American pulpit from 1630 to the present. Reverend Morgan's ministry and church have been cited in two recent publications "How To Reach Secular People" by George Hunter, and "Good News From Growing Churches" by Robert Burt.

He is married to the former Alice Grace Gingles of Bowling Green, KY, a graduate of Wellesley College and Union Theological Seminary who had served until recently as the director of Caring Ministries at the First Church in Wethersfield, CT. They have 6 children and 13 grandchildren.

Reverend Donald Morgan is a nationally respected spiritual leader who with dedicated fortitude and vision transformed a colonial era church into one of the most dynamic, energetic religious institutions in New England. Having participated in a service or two at First Church, I can attest to the great works of Reverend Morgan and the impact he has had on the lives of those in his congregation and community. His calling to First Church was fortunate for the church community, the town of Wethersfield, the greater Hartford region and the State of Connecticut.

We recognize his achievements. We have learned from his example. He has touched the lives of many in so many ways. We sincerely extend our wishes of gratitude and wish him the best upon his retirement.

TRIBUTE TO DR. NEAL R. BERTE

HON. SPENCER BACHUS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. BACHUS. Mr. Speaker, Birmingham-Southern College in Birmingham, AL, one of the Nation's top liberal arts colleges, is observing the twentieth anniversary of Dr. Neal R. Berte as its President. Dr. Berte came to Birmingham-Southern on February 1, 1976 from the University of Alabama, where he was the Vice President for Educational Development and the Dean of the New College. Under Dr. Berte's two decades of leadership, Birmingham-Southern College has seen its enrollment more than double, its students' test scores rise to among the highest in the Southeast, its faculty size which includes some of the finest scholars in the country, increase more than 60 percent, its endowment grow from fourteen million dollars to more than eighty-two million dollars, the construction of seven new buildings with more planned, and its graduates accepted to the nation's top medical and law schools at rates far exceeding the national average. These achievements have not gone unnoticed. Respected publications such as U.S. News and World Report, Money, and The Princeton Review consistently name Birmingham-Southern College as one of the country's outstanding liberal arts colleges. Dr. Berte's untiring dedication to education has been recognized by many organizations, including the American Council on Education, which named him one of America's Leaders in Higher Education, and the Council For Advancement and Support of Education, which selected him as one of the 100 Most Effective College Presidents. Dr. Berte is also a respected civic leader in Birmingham who is dedicated to improving the quality of life for his city and state. He is chairman of Leadership Birmingham and the Birmingham Business Leadership Group, which is made up of the chief executive officers of 45 of Birmingham's largest businesses. Dr. Berte has served as chairman of the Birmingham Area Chamber of Commerce, and campaign chairman and president of the United Way of Central Alabama. For his civic and community leadership, he has received many honors, including being named Birmingham's citizen of the year and being inducted into the city's Distinguished Gallery of Honor. Working with Dr. Berte during his 20 years at Birmingham-Southern College is his wife, the First Lady of Birmingham-Southern, Anne Berte, a tireless civic and community leader in her own right. I want to congratulate Neal and Anne Berte on the outstanding job they have done at Birmingham-Southern College during the past 20 years, and I wish them continued happiness and success in the years to come.

TRIBUTE TO CHARLES-RUSSELL'S 25TH ANNIVERSARY

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. TORRES. Mr. Speaker, on April 28, 1996, Charles-Russell International will gather its 150 employees, well wishers and followers to celebrate 25 years of creative hairstyling and entrepreneurship. The vision toward new trends in hair styling and hair care can be credited to a man arriving on the American scene some three decades ago.

Born in Leicester, England in May 1938, Edward Joseph Russell Breakwell earned his stylist stripes in the hairdressing industry as an apprentice to Steiner's of Mayfair, in London. At 21 years of age he owned his first salon and traveled as a guest lecturer to the United States. Impressed by the country, he moved to the Washington, D.C. area and worked for the Vincent and Vincent chain of salon, eventually acquiring one of them. Later, he entered into a joint venture with another businessman, Charles Morra, and together they established the first Charles-Russell salon on Quaker Lane in Alexandria, VA.

Today, the Charles-Russell enterprise consists of 12 salons throughout the Washington, D.C. metropolitan area. The joint venture between Charles and Russell has contributed greatly to the economic development of the community, including restaurant ownership and a major construction company, C-R Properties.

There is much discussion nowadays about immigrants coming to the United States and the myth that they take from our society and our social safety net. to the contrary, the hard work and contributions of Charles-Russell, has added to the wealth of this country and has translated into careers and the well-being of many families. Russell Breakwell epitomizes this vision and contribution to our society.

Russell Breakwell today, is an American citizen who participates not only in the business arena, but in the civic affairs of his community in Lake Bancroft, VA. He is married to the former Laurie Jones, who along with their 5-year-old child, Charles, reside in Lake Barcroft and the Florida Keys. A source of much pride and father-son kinship 22-year old Alexander Breakwell is following in this father's footsteps as a hairdresser at Charles-Russell.

Mr. Speaker, I ask that my colleagues here assembled join me in saluting Charles-Russell International for its spirit and vitality as a progressive employer. It is fitting that on its 25 anniverary Charles-Russell plans to announce an innovative salary and employee health benefit plan. The company is to be praised for rewarding and motivating hard work and loyalty among its many employees.

DON'T REWRITE HISTORY!

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. BURTON of Indiana. Mr. Speaker, much has been said in the U.S. Congress regarding events in the eastern part of the Ottoman Empire toward the end of World War I. Yet I urge my colleagues to consider all sides and not rush to judgment.

Many of my colleagues condemn Turkey and its predecessor, the Ottoman Empire, for perpetrating genocide against its Christian Armenian population 80 years ago. Genocide is the most heinous of crimes, and before we make such charges, we should be absolutely certain of the facts.

Many of our Nation's renowned historians and academics specializing in Ottoman history tell us that the events in question require more scholarly study. Historical evidence does not justify the genocide charge. While it is not disputed that Armenians died in eastern Anatolia during the period from 1915–1922, over 2 million Turks and other non-Christians also died. Although many died as a result of intercommunal fighting, many more died because of starvation and epidemic disease.

No reasonable person can dispute the unfortunate events in eastern Anatolia some 80 years ago. But do we dare ignore the deaths of 2 million non-Christian people, many at the hands of Armenian revolutionary groups who had allied themselves with Russian forces which were invading Ottoman land for territorial gains?

Ottoman responsibility lies in the Empire's inability to protect its civilian population, Christian and Moslem alike, from threats of wide-scale fighting, famine, and disaster.

There is little to be gained from inflaming past animosities, which are invariably grounded in the complex political and military dynamics of the time. It is far more productive for all parties to look toward the future. Armenia and Turkey would only benefit from improved relations. Turkey was among the first countries to recognize Armenia upon its secession from the Soviet Union. Just after taking office, Turkish Prime Minister Mesut Yilmaz emphasized Turkey's readiness to develop close relations and cooperation with Armenia in every field once the Nagorno-Karbagh conflict is resolved. He also expressed his government's determination and willingness to open the border posts with Armenia once the declaration of principles is reached between Armenia and Azerbaijan regarding the settlement of the conflict. Armenian President Ter Petrosian, while addressing the Association of Armenian Manufacturers and Businessmen last March noted Turkey's importance as an economic partner for his country, referring to Turkey as Armenia's shortest path to the outside world. The U.S. Congress should encourage progress in Turkish-Armenian relations. Any efforts which would hinder these developments inevitably threaten Armenia's economic viability.

Western interests are served through the stabilization of the Caucasus. The Caspian Sea region contains oil and gas reserves second only to the Middle East. A pipeline passing from Azerbaijan through Armenia and Turkey to markets in the West would not only create an important alternative energy source for the West, but also would create necessary conditions for economic growth and development for the region. Commercial cooperation would lead to enhanced relations. By providing economic strength, this pipeline would also ensure the independence of new states, and would help bolster democracy and democratic institutions.

Mr. Speaker, now is the time for all states in the Caucasus, Muslim and Christian, to put their differences behind them and work together for a prosperous future. I urge my colleagues interested in stability in the Caucasus to oppose any efforts to undermine regional cooperation.

TRIBUTE TO RAY LUJAN

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. UNDERWOOD. Mr. Speaker, on Friday, March 22, 1996, a happy outing at the beach ended in tragedy and grief for a father and his two young sons. The father, a surfing enthusiast, brought along his sons, aged 3 and 5, to Talofofo Bay, one of the most popular surfing spots in my home district, Guam. Since the water was rough that day, many surfers were drawn to the bay. The two boys played at the water's edge while the father challenged the waves on his surfboard.

Sometime after lunch, several people noticed that the two boys were gone. Their father was still surfing, but the boys were nowhere in sight. Word soon spread along the beach that two small boys were missing, and a search began. Police and Fire Rescue were called, and the search widened. At approximately 2 p.m. the 3-year-old was found floating face down in the water. He was unresponsive, but was later revived and transported to the hospital. The search for his older brother continued until nightfall and was resumed at daybreak the next day. The body of the 5-year-old was recovered just before 9 a.m.

As islanders, the people of Guam are particularly sensitive to water-related tragedies such as this, especially when they involve children and youngsters. This incident received considerable media attention from the initial call for help to the discovery of the second little boy's body the next day. News accounts credited an unidentified surfer with the rescue of the first little boy.

I wish to share that surfer's name because he truly is a lifesaver and merits this recognition. Mr. Speaker, Mr. Ray Lujan is well-known within Guam's surfing community, but he is not one to seek publicity for himself or sing his own praises. He much prefers the sun on his back and a good wave under his surfboard. During the many years that he has spent pursuing the waves, Mr. Lujan has witnessed many water-related tragedies. To his credit, many of the near tragedies are just that, because Mr. Lujan got involved. He has rescued swimmers who were swept over the reef. He has pulled drowning swimmers and surfers out of the water and brought them safely back to shore.

In this incident, Mr. Lujan not only discovered the 3-year-old. In a desperate bid to keep death from claiming a victim, he also performed mouth-to-mouth resuscitation on the little boy, even though he has had no prior training. Today, that little boy is alive and well on his way to a full recovery. The Guam Fire Department has since nominated Mr. Lujan for an award recognizing his admirable and selfless contribution to the rescue of this young boy.

Mr. Speaker, I take great pride and pleasure in praising Mr. Ray Lujan and in commending him for being a valuable member of the Guam community. I am confident that Mr. Lujan's humanitarianism will remain forever as deep as his enthusiasm for surfing.

TRIBUTE TO THE WINNERS OF THE STICKNEY POST, AMERICAN LEGION ORATORICAL CONTEST

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. LIPINSKI. Mr. Speaker, I would like to pay tribute to two outstanding young women from Edison School in Stickney, IL, who were the winners in the American Legion, Stickney Post's Sixth Annual Oratorical Contest for eighth grade students.

Sarah Ellen Jones received a medal and a check for $50 for her oration on the duties and obligations of a citizen under the U.S. Constitution and Bill of Rights, Sara Chapin, the runner-up, received $25. Other participants in the contest were Allen Aguilar and Gregory Biziarek of Home School in Stickney and Julie LaPointe and Jacqueline Galvan of St. Pius X School in Stickney.

Mr. Speaker, I congratulate these fine young people for participating in this important exercise in civics and wish them continued success as they develop into the leaders of the future.

A TRIBUTE TO CAROL BERGER, A QUEENS ACTIVIST AND CIVIC LEADER

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. SCHUMER. Mr. Speaker, I rise today to honor and pay tribute to Carol Berger for her leadership in spearheading community activism and civic volunteerism throughout Kew Gardens, NY. Carol has worked tirelessly to improve the quality of life in numerous neighborhoods, often doing more than what was needed to successfully serve her community. I have always admired the civic-minded spirit that has thrived in Queens and feel especially proud of Carol for energizing community participation that has established Kew Gardens as one of the most desirable areas in New York.

The parents, students, teachers and principals that live in and around Kew Gardens are particularly familiar with Carol's volunteer work in strengthening neighborhood schools like P.S. 99, J.H.S. 190, and the Hillcrest High School. Carol has also held several leadership positions in local school boards, such as the Queens Confederation of High School Parents Associations where she served as president and the Citywide Confederation of High School Parents Associations as Chair. She also served as Chair of the Forest Hills Adult Education Systems Advisory Council and Secretary of the Citywide Adult Education Association.

Her commitment and remarkable understanding of the parent/teacher partnership has done much to establish Queens schools as first-rate. However, even after a long period of serving community schools, Carol continued her local activism through the Kew Gardens Civic Association. She is well-known almost everywhere in Queens for inspiring a sense of honor and duty in every neighborhood. Our city owes enormous gratitude to Carol's fearless leadership and indomitable will to make Queens a better place to live. On behalf of the people of Kew Gardens, I congratulate her for her outstanding community work.

THE FAMILY AND MEDICAL LEAVE ACT

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. NETHERCUTT. Mr. Speaker, today I am introducing a bill to correct a provision in the Family and Medical Leave Act that imposes an inequity on married couples working for the same employer.

I first learned about the need to change section 102(f) of the Family and Medical Leave Act from a constituent who directs human services for a small business in the fifth district of Washington. My constituent was approached by two couples, one married and the other unmarried, who worked at her firm. Both couples were expecting a child and wanted to know how much family leave they were entitled to under the Family and Medical Leave Act.

The answer? Because of section 102(f), the unmarried couple was entitled to twice as much family and medical leave—24 weeks—as the married couple, which was limited to a total of 12 weeks to care for their newborn child. The only reason for this difference was that the Family and Medical Leave Act limits benefits for spouses—and only spouses—working for the same employer.

This section was included in the bill so that the Family and Medical Leave Act does not create a double burden on businesses that hire married couples or have employees who marry. However, the law does not similarly limit the leave entitlement of siblings or unmarried couples working for the same employer even though they may also require simultaneous leave periods. This discrepancy creates an inadvertent "marriage penalty" in the Family and Medical Leave Act.

When the Department of Labor asked for comments on this provision, several respondents reacted unfavorably. According to the introduction to the final family and medical leave regulations,

> Several commenters took issue with the reasoning for limiting leave entitlements for spouses employed by the same employer. Two individuals opposed the limitations as being *discriminatory against spouses* . . . [T]he regulations provide no guidance in connection with siblings employed by the same employer. *The Society for Human Resource Management noted that two employees living together but not legally married can each take 12 weeks for the birth or placement of a child, and recommended revising the regulations to provide that the 12-week-total limitation would also apply where both parents of a child work for the same employer*. (emphasis added).

The legislation I have introduced addresses the concerns of my constituent and the experts who reviewed the regulations issued by the Department of Labor. My bill corrects this marriage penalty by applying the same 12-week limitation to siblings and to both married and unmarried parents. As in the current law, this limitation applies when leave is available for the birth or adoption of a child or to care for a parent. This legislation is a positive step toward improving our Federal workplace laws and I urge my colleagues to support it.

IN MEMORY OF HAROLD F. OGDEN

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. WOLF. Mr. Speaker, I have the sad duty to report the passing last month of a remarkable American patriot, Harold F. Ogden, of Fairfax, VA, who died on March 14 at the age of 98.

Harold Ogden, a retired colonel in the Army reserve, was a native of Melrose, MA and had lived in the Washington, DC., area since 1946. He began his military career with the 1st Calvary of the Massachusetts Volunteer Militia in 1916. The following year, he took part in the punitive expedition against Pancho Villa in Mexico. He was called to active Army duty for World War I service in Europe as a motorcycle courier, then served in the army of occupation in Germany.

He retired from the Army as a captain in 1926 and worked as a construction engineer in Melrose before being recalled to active duty as a major near the outbreak of World War II. During the war, he served in the United States, Europe and the Middle East before retiring in 1946. He retired from the reserves in 1955.

I will always remember Colonel Ogden for his devoted service to the American Legion, which he served for 74 years, and the opportunities I had to participate with him in wreath laying ceremonies in the 10th District of Virginia to honor our Nation's veterans on Veterans Day. He never aspired to high office in the American Legion, but he served when called and was a past commander and chaplain emeritus of Unknown Soldier Post 44 in Arlington, VA; chaplain emeritus of the Virginia Department of American Legion's 17th District. He also held and committee posts for the department of Virginia including serving on the finance committee and chairing a Legion beautification project in Arlington.

He was a member of the La Societe of the Forty & Eight and served Voiture Locale 934 offices up to and including Chef de Gare, and was chaplain emeritus of both Voiture 934 and the Grande du Virginia.

In 1991, Colonel Ogden was among the World War I veterans that took part in special memorial services in France in rememberance of the American Expeditionary Force. He had been decorated with the Silver Star during the War and received the French Croix de Guerre at the memorial service.

Mr. Speaker, we honor the memory of Harold Ogden and the devoted service he gave to this Nation and send our sympathies to his wife Ruth Ogden of Fairfax, his children and grandchildren.

EARTH DAY TRIBUTE TO CHESAPEAKE BAY ALLIANCE

HON. WAYNE T. GILCHREST

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. GILCHREST. Mr. Speaker, in recognition of the nationwide celebration of Earth

Day, I would like to pay special tribute to the Chesapeake Bay Alliance, a group of dedicated men and women who for 25 years have sought to leave this planet just a little bit better than the way we found it.

The Alliance has proven that when Americans feel strongly about something—in this case the health of the Chesapeake Bay—all they need to do is work together for the common good.

It brings together businesses, citizen groups, industries, farmers, environmentalists, scientists, government leaders, and others, to achieve the mission of restoring and preserving the Chesapeake Bay.

Whether it's through their public policy program, which encourages public participation in restoration strategies, their information services program, which helps educate all of us about the Bay, or the watershed restoration program, involving hundreds of volunteers who take a hands-on approach to restoring this unique ecosystem.

For 25 years, the Chesapeake Bay Alliance has served as a model of how citizens can work together and make a difference. I hope we can look forward to many more years of their dedicated service.

MITSUBISHI MOTORS STILL DOESN'T GET IT—PROTESTING THE EEOC SUIT DOES NOT DEAL WITH SEXUAL HARASSMENT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. LANTOS. Mr. Speaker, like many of my colleagues I was both amused and appalled by the actions yesterday of the Mitsubishi Motor Manufacturing of America. In response to a suit filed by the U.S. Equal Opportunity Commission [EEOC] alleging sexual harassment of female workers at its Normal, IL, manufacturing plant, Mitsubishi chartered 59 buses to carry employees of the company plant in Normal to Chicago, where they held a protest rally outside the EEOC office there. Mitsubishi not only paid for the buses, they also closed the assembly line for two full shifts, they paid regular salaries to those workers who made the trip to Chicago, and they provided lunch for the protesters.

Mr. Speaker, this is not the way we in the United States settle discrimination suits. Under the rule of law, these issues are decided upon in a court of law based upon their merits. The EEOC is a Federal agency entrusted with enforcing our country's laws against discrimination based on race, sex, religion, age, etc. That agency takes seriously those responsibilities, and it does not file frivolous lawsuits. A protest outside the EEOC's office in Chicago indicates to me that Mitsubishi's legal case must be particularly weak. In addition, a rowdy protest does not strike me as doing anything to resolve the serious legal issues involved here. It may, however, be beneficial to the careers of the American managers of the Normal plant.

Second, Mr. Speaker, this protest strikes me as a tactic to pressure the workers at the Mitsubishi plant to oppose the EEOC suit. Those who went to Chicago to protest against the sexual harassment suit publicly signed a list to indicate their intention to go to Chicago. Those employees who chose not to go were forced to appear at the factory in order to be paid. Clearly the way in which that protest was organized put intolerable pressure on Mitsubishi employees. Such pressure tactics against its employees should be firmly condemned.

Third, Mr. Speaker, based on some of my own activities here in the Congress, there is sound basis for concern about the real possibility of sexual harassment in this case. For 6 years during the 100th through the 102d Congresses, I had the privilege of serving as Chairman of the Subcommittee on Employment and Housing of the Government Operations Committee. During that period of time I held a series of hearings on "Employment Discrimination by Japanese Firms in the United States" (July 23, August 8, September 24, 1991, and February 26 and June 18, 1992). We found a pervasive pattern of lack of sensitivity to issues of discrimination by a number of Japanese firms. Among our very serious concerns was strong evidence of sexual discrimination.

What our hearings found was a surprising and very disturbing insensitivity on the part of Japanese management to American laws and American practices against sexual harassment and against sexual discrimination. Mr. Speaker, these practices by Japanese management were exposed and in some cases changes were made by the firms involved, but I would be surprised indeed to find that these problems have been eliminated completely. Clearly if the EEOC charges are true, it reflects a serious lack of sensitivity on the part of Mitsubishi management, and that management has the responsibility to see that sexual harassment does not take place at its plant.

Mr. Speaker, I commend the EEOC for its vigilance in dealing with these serious charges, and I urge the Commission to move forward. These charges should be completely aired and resolved through our legal system. I also urge the management of Mitsubishi to put aside its tawdry and counterproductive public relations tactics and respect the rights of its own workers.

JEWISH WAR VETERANS, NEW JERSEY DEPARTMENT CELEBRATES CENTENNIAL ANNIVERSARY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. PALLONE. Mr. Speaker, this year, 1996, the Jewish War Veterans of the United States of America is celebrating its 100th anniversary. As part of these nationwide commemorations, the Jewish War Veterans Department of New Jersey is having a military ball at the Officers Club, Gibbs Hall, Fort Monmouth, on Thursday, April 25.

The Centennial Journal being issued by the New Jersey Department in conjunction with this important anniversary is dedicated to the memory of Stanley J. Wides, past department commander and executive director. Thursday's event is also an opportunity to honor past national commanders.

Mr. Speaker, it is always a pleasure for me to pay tribute to the New Jersey Jewish War Veterans. The Jewish War Veterans is the oldest active veterans organization in the country, and it is an honor to work on behalf of their agenda and on behalf of those men and women who sacrificed so much to safeguard our freedoms here at home and to make the world safe and free for future generations. I wish them great success on tomorrow evening's ball at Fort Monmouth, and I look forward to continued partnership with this great organization with its long, distinguished and proud history.

TRIBUTE TO ALOIS VANA, RETIRED EXECUTIVE DIRECTOR OF THE BERWYN PARK DISTRICT

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. LIPINSKI. Mr. Speaker, today I pay tribute to an outstanding gentlemen from my district who has devoted himself to his community, Mr. Alois Vana, the retired executive director of the Berwyn, IL, Park District, who will receive the All Berwyn Committee's 1996 Merit Award April 26.

Mr. Vana, a Berwyn native who grew up across the street from one of the parks he would eventually oversee, joined the district as superintendent in 1958, and he served his community for 37 years before retiring December 31, 1995.

Mr. Vana, an Army veteran, also served as president of the Berwyn Kiwanis Club and United Way, and has contributed to many other charitable and civic organizations, including the West Suburban Council of the Boy Scouts of America and the Berwyn Tree Board.

Mr. Speaker, I congratulate Mr. Vana on receiving this honor from the All Berwyn Committee and wish him many more years of service to his community.

COMMENDING THE NEW YORK TIMES ON ITS EARTH DAY EDITORIAL

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. MILLER of California. Mr. Speaker, I would like to bring the attention of my colleagues to the following Earth Day editorial which appeared in the April 22, 1996, New York Times.

This editorial correctly points out that the American public will not be fooled by the hollow illustrations of environmentalism displayed today in the districts of many congressional Republicans—the same Members of Congress who, over the past year, have consistently voted for legislation to repeal decades of environmental protection for our air, our water, and our public lands. Planting a tree, collecting litter or visiting a zoo today will do little to mask the year-long environmental assault orchestrated by the Republican Congress.

As noted in the editorial, the persistent Republican efforts to include antienvironmental riders on the appropriations bills for the Environmental Protection Agency and the Department of the Interior are most egregious. Although both of these bills have been vetoed by President Clinton, Republicans still insist on including many of the most offensive provisions in an omnibus budget bill to fund the agencies through the end of the fiscal year. Even Speaker GINGRICH has acknowledged that including objectional policy riders in appropriations bills greatly reduces their chances of eluding another Presidential veto. Today's Washington Post quotes the Speaker as estimating that the chances of passing a funding bill for the remaining agencies is "probably about 50-50" but that the odds improve if the contentious policy riders were removed and debated separately.

I commend the New York Times for its continually excellent editorials and note that the 1996 Pulitzer Prize awarded to Robert B. Stemple, Jr., for his editorials on environmental issues is richly deserved.

DEFUNDING MOTHER NATURE

The television networks and cable channels are falling over each other to satisfy a growing public appetite for nature programming. An article in The Times last week noted that wildlife programs, once the preserve of the Public Broadcasting Service, have spread like mangroves to NBC, Turner Broadcasting, the Discovery Channel and Disney, among others. This is welcome news. Quite apart from the fact that such programming is of a higher order than most television fare, its popularity is further evidence of what the polls have already told us. Americans care about what is left of their natural resources and the threatened creatures who inhabit them.

Viewers would be equally well served, however, if television stole just a few minutes from the air time now devoted to wolves, wildflowers, sharks and salmon and trained its cameras on the denizens of the United States Congress, where a less inspiring show is taking place. Undaunted by a string of Presidential vetoes, heedless of public opinion and deaf to the pleas of their moderate colleagues, conservative Republicans and a few stray Democrats are pressing forward with their efforts to undermine the country's basic environmental laws.

There are many destructive proposals on the Congressional agenda, including several bills that would transfer millions of acres of public land to state and commercial jurisdiction. But the most urgent example of bad legislation is an omnibus appropriations bill now under consideration in a House-Senate conference. The bill sharply reduces appropriations for the Environmental Protection Agency and the Interior Department and contains a dozen or so crippling anti-environmental riders. The worst of these riders would authorize increased logging in old-growth forests, reduce protection for the Mojave National Preserve, strip the Environmental Protection Agency of its power to protect wetlands and extend an earlier moratorium on any new listings of endangered plants and animals under the Endangered Species Act.

The listings rider should be of special interest to the viewers of those nature programs. Under law, the Interior Department cannot act to preserve the habitat of an endangered species unless it is listed as such. Among the 250 species that scientists think are dangerously close to extinction, but cannot now be listed by the department's Fish and Wildlife Service, are three that occasionally pop up on TV—the Florida black bear, the Atlantic salmon and the Mexican jaguar. Unless Congress comes to its senses, these and other creatures may survive only on celluloid.

Today marks the 26th anniversary of Earth Day. In full knowledge of that, House Speaker Newt Gingrich recently formed a 77-member Republican environmental task force. Although 36 members of this task force earned "zero" ratings from the League of Conservation Voters for their routine support of anti-environmental legislation, many of them are likely to spend the week planting trees, visiting zoos and striking friendly poses next to recycling bins. But the best thing Mr. Gingrich could do for his country and his party would be to recognize that what counts here is content, not imagery—and remove those riders from the appropriations bill.

TRIBUTE TO JACK ELLIS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. BONIOR. Mr. Speaker, I proudly rise to pay tribute to a distinguished educator and a good friend, Mr. Jack Ellis. Jack is the music director at Lakeview High School in St. Clair Shores and was recently named as the Michigan Band/Orchestra Director of the Year.

I have known Jack for many years and he richly deserves the honor bestowed upon him. As in the hit film, Mr. Holland's *Opus*, Jack has been inspiring aspiring musicians and sharing his love of music for years. As one of his many talented students says, "[Jack] knows his music, but he teaches it in a down-to-earth way * * * He's humorous and he puts things at a level where we can understand it have fun."

It is obvious that his students "understand" because Lakeview's band and orchestra have received numerous awards and honors under Jack's tutelage. The band was Michigan's representative at the re-lighting of the Statue of Liberty and they have received many division one ratings at district festivals.

"Mister E," as Jack is fondly known by his students, makes sure to give all his students the individual attention they need. One thing I know he is proud of is the fact that he has never turned a student away. As Jack says. "Not everyone has the gift of music. But if they've had a desire to be a part of this program, then we've found them a place."

While Jack also teaches honors European history and world studies, his passion is music. He says that the lessons learned in music cannot be gotten anywhere else. The discipline and cooperation required to create music brings diverse students together in a setting seldom found in any other subject or extracurricular activity. It is obvious that the harmonies created in Jack Ellis' class go far beyond what is merely heard by the ear.

Jack's wife Joellyn is also an award-winning teacher. She was honored as Lakeview Public School's Elementary Teacher of the Year. The students at Ardmore Elementary and Lakeview High School are lucky to have such gifted teachers and I am pleased to recognize their contributions. I commend both of them for their educational and civic contributions.

I congratulate Jack Ellis for the recognition he received from the State of Michigan and I urge my colleagues to join with me in thanking him for his work. He is proud to be a music teacher and he richly deserves being named Director of the Year.

IN TRIBUTE—NATIONAL CRIME VICTIMS' RIGHTS WEEK

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to join with countless Americans who are staunch supporters of the rights of victims of crime. This is National Crime Victims' Rights Week. Almost any daily newspaper you read will have front page headlines that scream out accounts of violent acts perpetrated against a host of victims. Readers are bombarded by statistics on murders, armed robberies, rapes, gang violence, domestic violence, drugs and much, much more. Where are the stories about the victims of those crimes? When is the last time that you read an account of the impact of a victim's statement on the outcome of a legal proceeding? All too often, victims are the last thought of while the criminal is protected by a long list of rights.

Those who work on behalf of victims of crime rarely receive the recognition that they deserve. Advocates come from all walks of life. Some are professionals, people who try to make a difference. Most, however, are volunteers who give selflessly of their time, energy and talents.

They are tireless; they are insistent; they are creative.

Along with my husband, Dexter Lehtinen, I worked on placing the protection of victims' rights in Florida's Constitution and then pressured the agencies to implement the provisions.

National Crime Victims' Rights Week is a time of reflection and a call to action. As an example of what a concerned community can achieve, I would like to share with you just a few of the accomplishments of victims' rights advocates from the Miami area. In selecting just a few examples, I salute the work of these individuals. But more importantly, by extension, I would like to pay tribute to all to have taken up this cause.

Victims themselves are often the best advocates. They have turned their misfortune, their grieving toward some wonderfully positive activities. John Walsh, father of six-year-old Adam, was instrumental in the founding of the National Center for Missing and Exploited Children. He will never have Adam back, but Adam's spirit is alive through the Center.

Mr. and Mrs. Donald Ryce, grieving over the loss of their son, Jimmy, have stepped forward to share their message with anyone who will listen. They are working to establish a special training center at the National Center for Missing and Exploited Children which will be dedicated to educating law enforcement officers in how to investigate these sensitive cases, as well as bettering coordination among all our law enforcement agencies.

Mr. and Mrs. Luis Melendi lost their daughter, Shannon, over 2 years ago. Shannon disappeared from a softball field near the campus of Emory University in Atlanta, GA, and has not been heard from since. The Melendi's have taken their case to the public, pushing for stronger measures to prevent known criminals from victimizing others.

Potential victims can help themselves before they become victims. Taking a proactive approach, the Miami Junior League, in conjunction with AT&T, is collecting used cellular telephones in order to give them to women at risk of domestic violence. The phones will be preprogrammed with access to 911, so that help can be summoned immediately in case of attack.

These examples highlight just a few of the many, diverse ways in which victims can assert their rights. I would especially like to highlight the work of Howard Greenstein, the Director of the Dade County Department of Justice System Support, who has been a staunch defender of victims' rights for years. May these individuals and their organizations have great success; may their creativity be encouraged and supported. May we remember the victims.

SIKH INDEPENDENCE DAY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. CRANE. Mr. Speaker, I rise today to congratulate the Sikh nation on the 297th anniversary of its founding, Vaisakhi Day, which occurred this past April 13. We join in celebrating the heritage of these courageous people.

On this Vaisakhi Day, the Sikh nation struggles to secure the blessings of liberty which we in America and most the Western World enjoy. Sikhs have long supported the idea of freedom for all people. As a free nation, it is our duty to help them live in freedom in their own country.

The Sikh nation's heritage of freedom most recently manifested itself on October 7, 1987, when the Sikh nation declared the independence of the Sikh homeland, Khalistan. Sikhs had previously ruled themselves from 1710 through 1716 and again between the years of 1765 and 1849. When Britain left the subcontinent in 1947, the Sikh nation was one of only three nations granted power. The Hindu leaders of India assured the Sikhs that they would enjoy the glow of freedom and that no law affecting their rights would pass without the consent of the Sikh nation, and on that basis the Sikh leadership joined with india. But as soon as India achieved its independence, its repression of the Sikhs began.

I am proud to have been among the members of this House who have helped to publicize these cases, such as the September 6 kidnapping of Jaswant Singh Khalra. Concerned Members of this House have helped bring to light reports by Amnesty International, Human Rights Watch/Asia, and other human rights groups which provide a mountain of evidence of India's genocide and tyranny against the Sikhs and others. We will continue to raise our voices for the freedom of the Sikhs, the Kasmiris, the Nagas, the Assamese, the Manipuris, the Dalits, and others. Freedom is the universal birthright of all mankind. On Vaisakhi Day, let us join the Sikh nation in recommitting to the cause of freedom.

I believe the Sikhs should have the right to and opportunity for self-determination, and they should be allowed to decide the question of independence in a free and fair vote. To help accomplish this goal, I hope my colleagues will cosponsor H.R. 1425, which will halt all United States developmental aid to India until the President certifies that India is respecting human rights. To further explain this need, I am inserting for the record a letter from Dr. Gurmit Singh Aulakh, president of the Council of Khalistan. In celebration of Vaisakhi Day, I hope my colleagues will read his letter and will consponsor H.R. 1425.

VAISAKHI DAY MESSAGE TO THE SIKH NATION ON THE BIRTHDAY OF THE SIKH NATION, RECOMMIT TO A FREE KHALISTAN

Dear Khalsa Ji: It is Vaisakhi Day again, the 297th anniversary of the Sikh nation. We celebrate our Sikh identify and the courage of the Sikh nation. On this occasion, we must remember our heritage: Khalsa Bagi Yan Badshah: Either the Khalsa is in rebellion or it is a ruler. We have been enslaved by the brutal genocide of the Indian tyrants for too long. It is time to renew our commitment to free the Sikh nation by starting a shantmai morcha to liberate Khalistan. Only a free Khalistan will insure that the Sikh nation can live in freedom, security, peace, and dignity.

Elections are scheduled to be held on April 27th. Simranjit Singh Mann has filed to challenge S.S. Barnala in Sangrur. We are to feel deeply betrayed by the Akalis shameful eagerness to fight elections under a government that has made every effort to destroy us as a nation. The Akalis have been fighting elections since 1950. What have they achieved? Are we any closer to freedom because of their desire to cow-tow to the Indian regime? It is clear that a nation-wide shantmai morcha is the only way to liberate Khalistan. The sooner we as a nation realize this, the sooner we will enjoy the fruits of freedom so long denied us. I ask the Khalsa Panth to remember that the Sikh nation won the Jaito morcha by peaceful means. We also liberated the Gurdwaras in the 1920s by peaceful means. Likewise, it is through peaceful means and the grassroots involvement of the Sikh nation that we will achieve freedom for Khalistan. The time is now to start a shantmai morcha. We must boycott the Indian government. Protest by the hundreds of thousands. Court arrest. Fill the jails. We cannot allow the Indian regime to deny us our sovereignty. Free Khalistan today?

India's tyranny continues to be exposed, hastening the inevitable breakup of India's bloody empire. The new video documentary "Disappearances in Punjab" shows a Punjab policewoman speaking about the brutality of the Indian regime. She says, "I joined out of patriotic sentiments, but what I saw, atrocities—including those against women—that I cannot bear. Women suffer much. Male officers torture them. They also rape detainees. Some who had been picked up were in the interrogation center. Then I read that they had been killed in an encounter. But I had seen them in detention." Here is a member of the Punjab police admitting that rape and torture is common? She also reveals that victims' legs were broken as part of the Indian regime's campaign of terror against the Sikh nation. According to the documentary, the Chief Medical Officer at Patti Hospiatl in Punjab, Khalistan admits that he provided quick, fraudulent postmortum reports to police so that the authorities could cremate the bodies of their victims, destroying any evidence of state-sponsored murder. "My example set the precedent in Punjab," the Chief Medical Officer says in the video. "Five minutes a postmortem, five minutes a postmortem." The modus operandi of the India police is exposed? This video, produced by a Hindu human rights activist, has blown the cover off India's genocide against the Sikh nation.

India has also been hit in print. On November 4, The Pioneer ran an article by Iqbal Masud called "The Bogus Peace of Beant and Gill." Masud reports that "the Beant-Gill duo committed mass incarceration and called it 'normalcy.'" He also writes about the case of Sarabjit Singh, who was brought in for an autopsy but found to be alive. The regime then killed him and brought his body back to the same hospital. "When I read that," writes Masud, "I said, Welcome to Super Nazi State."

The U.S. Congress continues to speak out for freedom for the Sikh nation. Recently, seven more statements were inserted into the Congressional Record. Members of Congress were vocal in their support for the liberation of Khalistan and exposed India brutal history of human rights abuses against the Sikhs. Members of Congress also strongly supported two bills, H. Con. Res. 32 and H.R. 1425 which would respectively recognize the Sikhs nation's right of self-determination and cut off U.S. development aid to India until human rights are observed. These Congressional statements are covered in the April 5 issues of India Abroad, News-India Times and Navjyoti, a Hindi language Indian newspaper.

Within Khalistan, human rights activist continue to raise their voice about Indian repression. A group of human rights activists have written to Indian President Sharma "to point out that the rule of law is yet to be restored to Punjab. Examples like the disappearance of human rights activist S. Jaswant Singh Khalra are continuing. There is an urgent need to carry out a census under the supervision of UNO, on illegal killings and disappearance as these may be over a hundred thousand," these activists wrote. Amnesty International has also issued two recent reports on Indian repression. Amnesty points out that it is routine for people to be arrested for their political views, that preventive detention is widespread, torture "remains endemic," and "disappearances" are rampant. These are just a few examples that show that awareness of India's repression of the Sikh nation is rising.

I urge all Sikhs to renew their commitment to the liberation of Khalistan. A shantmai morcha is the only means by which we can reclaim our sovereignty. Indian's state terrorism will not deny the Sikh nation the freedom to which we are entitled. If

India could not suppress our struggle for freedom by killing over 150,000 Sikhs, kidnapping and murdering more than 25,000 young Sikh men, and holding over 70,000 Sikhs in detention under the expired TADA law, then how does it think that more repression will end our movement? Let us liberate Khalistan the way that India got its own freedom. Peaceful resistance is the only way to liberate Khalistan, and an independent Khalistan is the only way that the Sikh nation can live in freedom, security, and dignity.

On this Vaisakhi Day, the dawn of freedom in Khalistan is closer than ever. We look forward to celebrating Vaisakhi Day 1999, the 300th birthday of the Sikh nation, in an independent Khalistan where the glow of freedom shines brightly, bringing peace and prosperity to the Sikh nation and the South Asian subcontinent. On this Vaisakhi Day, let us recommit ourselves to this goal. Khalistan Zindabad.

Panth Da Sewadar,
DR. GURMIT SINGH AULAKH,
President, Council of Khalistan.

HONORING JAMES J. SWEENY

HON. BILL BAKER
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 23, 1996

Mr. BAKER of California. Mr. Speaker, Moraga, CA, is a lovely city in the heart of my congressional district. It is a great place to live, work, raise a family, and develop a true sense of community with one's friends and neighbors. Moraga is the kind of place many Americans idealize as representative of the best small town virtues—except that in Moraga, these ideals are realities.

This year's Moraga Citizen of the Year is Jim Sweeny. The list of Jim's contributions to the Moraga community is remarkable. His two-term tenure as the town's mayor, his work with the Moraga Fire Protection District Board of Commissioners, his service with the Moraga Chamber of Commerce and the Hearst Art Gallery, and his involvement with a host of other organizations is the stuff of local legend. His faithful service is a tribute to his dedication to making Moraga the wonderful place it is.

Too often we fail to honor the people who care enough to make a decisive difference in our local communities. Jim Sweeny is such a person, and is richly deserving of recognition as Moraga's Citizen of the Year. After all, citizenship is about loyalty to the people and institutions that comprise a good and decent society. In so many ways, Jim Sweeny defines what true citizenship is all about. I am very pleased to recognize this outstanding American in the CONGRESSIONAL RECORD.

INTRODUCTION OF DEEP WATER OUTFALL TREATMENT SYSTEMS ACT

HON. CARLOS A. ROMERO-BARCELÓ
OF PUERTO RICO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 23, 1996

Mr. ROMERO-BARCELÓ. Mr. Speaker, today I am introducing the Deep Water Outfall Treatment Systems Act. The purpose of this legislation is to amend section 301(h) of the Federal Water Pollution Control Act. This bill would allow public agencies in Hawaii and the insular areas of the United States to apply, within a limited time period, for permits to construct new deep ocean outfalls for their wastewater treatment plants.

Under existing law territories and other insular areas of the United States are prohibited from constructing deep oceans outfalls for their wastewater treatment plants [WWTP's] that would: Protect the ocean environment, operate efficiently and save significant sums of money. The Environmental Protection Agency [EPA] is not allowed to accept new applications for waivers from secondary treatment requirements.

This bill intends to amend section 301(h) of the Clean Water Act would allow such applications, and authorize EPA to review new deep ocean outfall proposals pursuant to the current, stringent Clean Water Act standards for such outfalls. This bill does not alter the rigorous criteria for issuing a waiver nor does it override the judgement of EPA. The bill reflects the goal of both Congress and the administration to find innovative, alternative and less-costly ways to apply existing statutes without compromising the environmental objectives underlying existing law.

Many scientists and experts agree that plans to construct deep ocean outfalls at locations in certain States, including the territories of the United States, can provide the best environmental and economic alternative for wastewater treatment. The plans would not only preserve but would even improve the coastal environments where these discharges occur.

Under the 1977 Clean Water Act, coastal communities—mainland and island—were permitted a time-limited opportunity to apply for exemptions from secondary treatment requirements, if they met very stringent environmental standards for ocean discharges. Overall EPA has granted 39 waivers. All applications were required to be submitted to EPA by December 29, 1982.

Puerto Rico has proposed construction of a deep water outfall situated more than 300 feet deep and several miles from shore as an alternative to secondary treatment at the Mayaguez POTW. This would save the Government about $65 million. Substantial scientific data gathered from similarly situated POWT's with deep ocean outfalls indicates that such methods can achieve the equivalent of secondary treatment standards or even better.

The evidence was so compelling in the instance of San Diego, CA, that Congress last year enacted and the President signed into law, legislation permitting EPA to consider a section 301(h) waiver application proposing a similar alternative to secondary treatment—notwithstanding that such waiver otherwise would be time-barred under the Clean Water Act. I believe we deserve the same opportunity to implement cost-effective alternatives and seek a section 301(h) waiver.

There are numerous precedents of such limited exceptions to the requirements of section 301. The municipal Wastewater Construction Grant Amendments of 1981 included a provision that extended the date under which section 301(h) waivers could be requested and specifically permitted the city of Avalon, CA, to receive such waiver. The Water Quality Act of 1987 included a specific exception for the Irvine Ranch Water District that permitted it also to file for a waiver after the deadline.

I especially urge my colleagues on the Committee on Resources and on the Transportation and Infrastructure Committee to consider this bill and its commonsense approach to the regulatory burden.

The proposed bill allows EPA to avoid the risk of requiring treatment for treatment's sake and from demanding expenditure of funds which could be better used to achieve additional water standards benefits elsewhere. It permits EPA to review new applications and proceed with the flexibility and latitude intended under the act. It would not require EPA to issue any waivers or modify the standards under which EPA considers such waivers. It allows certain States and the territories to apply to EPA under existing section 301(h) standards for modifications that best serve the marine environment and will at the same time, permit the implementation of wastewater treatment plans based upon sound science and technology that meet existing Clean Water Act standards.

This bill is limited and targeted, provides for an efficient process, does not modify existing standards and would be implemented by EPA only if environmental and economic objectives are accomplished. I am hopeful that it will receive favorable congressional action at an early date.

TRIBUTE TO THE MORTON HIGH SCHOOL GIRLS BASKETBALL TEAM

HON. WILLIAM O. LIPINSKI
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 23, 1996

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to the girls' basketball team of Morton High School in my district.

The squad recently won its first ever regional title in the Illinois State basketball tournament. In fact, this was the Morton team—boys or girls—to advance past the regional round of the playoffs since 1972.

Unfortunately, Morton's dream season ended with a defeat to perennial power Mother McCauley in the sectional semifinals last week.

Nonetheless, I congratulate the team and its first year coach John Molitor, for bringing home the regional championship and basketball pride to Morton High School.

IRANIAN BAHAIS FACE EXECUTION

HON. JOHN EDWARD PORTER
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 23, 1996

Mr. PORTER. Mr. Speaker, we just received the distressing news that the Supreme Court of Iran confirmed on February 18, 1996, the death sentences of Mr. Kayvan Khalajabadi and Mr. Bihnam Mithaqi. These two Bahais had been arrested without charge in April 1989 and sentenced to death on November 23, 1993, by the Islamic Revolutionary Court of Karaj for their religious activities. The verdict had been appealed to the Supreme Court. If these men are executed, they will be the first Bahais executed since 1992.

Mr. Speaker, just last month on March 27 I stood here calling for the passage of House Concurrent Resolution 102, a resolution concerning the emancipation of the Iranian Bahai community. In calling for its passage, I said that there are disturbing signals that the repression of Bahais has increased during this past year. Unfortunately, I could have not been more right.

Mr. Speaker, since the fundamentalist Islamic regime took power in Iran in 1979, hundreds of Bahais, the largest religious minority in Iran, have been executed, and thousands have been imprisoned solely because of their religion. Because the regime does not recognize the Bahai faith, calling it a conspiracy and a heresy, tens of thousands of Bahais are today deprived of jobs, housing, schools, and other social services. Furthermore, it is common practice for Bahais to be denied pensions and food ration cards purely because of their religious affiliation. And what, you ask, could the Bahais possibly do that could justify this atrocious, asinine treatment? They simply ask to be able to peacefully practice their faith.

Intolerance, Mr. Speaker, is the trail of the backward, the ignorant, and the insecure. In Iran, intolerance of Bahais, people who threaten no one and who accede to legitimate, civil authority wherever they reside, defines not the Bahais, but the Iranian fundamentalists.

Mr. Speaker, Iran must continue to be ostracized from the community of nations until its conduct can begin to approach a respect for the basic rights of each human being to live, worship, and speak according to the dictates of his or her own conscience. We must continue to stand up and denounce each barbarous and inhumane action the Iranian regime takes. We must let Mr. Khalajabadi and Mr. Mithaqi know that the world cares about them and will not stand idly by in their time of need.

A TRIBUTE TO AMY COURNOYER

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today with the proud honor of announcing that Amy Cournoyer of the First District in Rhode Island is our State's winner for the Voice of Democracy broadcast scriptwriting contest. This past year, more than 116,000 secondary school students participated in the contest competing for 54 national scholarships.

The contest theme this year was "Answering America's Call". In Amy's script she discusses that the time has come for a new generation of leadership to cope with new problems and new opportunities. She explains how the elders are called on to pass on the wisdom that they have gained through experience to youth so that they will attain greater knowledge. This sharing of ideas between adults and adolescents brings about the virtue of understanding. In sum, if we want to truly answer America's call and create a better country, we must better ourselves.

Mr. Speaker, I extend to Ms. Cournoyer my heartfelt congratulations and ask that Ms. Cournoyer's winning script be inserted into the CONGRESSIONAL RECORD. Finally, I also want to thank Amy for helping us to recognize today's youth and all that they have to offer to our country and its future.

"ANSWERING AMERICA'S CALL"

1995–96 VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM, RHODE ISLAND WINNER: AMY COURNOYER, POST 2274, ASHTON, RHODE ISLAND

America is not simply "calling" each one of us. It is yearning, urging, and persistently imploring. Its concerns echo in the halls of schools across the country. After all, youth is the essence of this country, for it is the collaboration of new ideas that have maintained America's longevity. If I may borrow a quote from John F. Kennedy, "It is time for a new generation of leadership, to scope with new problems and new opportunities. For there is a new world to be won."

Retracting America's history, it is evident that the very passion and integrity of youth and rebirth of ideas have had a positive impact on society. After all, the very foundation of our country is the Constitution which was created by people with this undying thirst for reform. Events such as the Boston Tea Party, the Civil Rights Movement, Space Exploration, and other advances in technology were all made possible thanks to youthful minds.

So, as a contemporary society we must have the wisdom to heed that very call. The call for youth of all ages to express themselves. The elders are called to pass on the wisdom that they have gained through experience to the youth so that they will attain greater knowledge. Moreover, this sharing of ideas between adults and adolescents brings about the third and most important virtue, understanding. For it is through understanding one another that things can be accomplished.

America is a tune. It must be sung together. Arguing with or belittling others are only obstructions in our quest for knowledge, wisdom, and understanding. America is calling each person, young and old, black and white, Catholic or Jewish, to break away from their old, cemented ways, and return to the simple, innocent, and unbigoted ways of youth. I am not advocating a break in tradition, nor am I depicting a society of fools. I am simply suggesting that if we sing our tune in harmony, combining our individual talents to create a beautiful melody, then we are truly answering each others' call, which is indeed America's call—a microcosm of the macrocosm. We all contribute to the future of the world. Understanding is a building block for nonviolence. Martin Luther King professed that "Nonviolence is the answer to the crucial political and moral questions of our time, the need for man to overcome oppression and violence without resorting to oppression and violence."

Man must evolve for all human conflict a method which rejects aggression and retaliation. The foundation of such a method is love.

"So do not ask for whom the bell tolls; it tolls for thee." Everyone talks about a better world, a better place. But, actions speak much louder than words. In order to truly answer America's call we must begin with ourselves. Then we will radiate like sunbeams on the community. Adults, listen to the call of the youth, they have a lot to give. And youth, listen to your elders, they have much wisdom to offer also.

In conclusion, I am yearning, urging, and persistently imploring that we heed each other's call. Whether it be doing volunteer work, becoming a politician and working for the betterment of our democratic system, becoming a research scientist and working for a cure for such deadly diseases as cancer and AIDS, or simply giving a friendly smile and treating each other with dignity and respect. Everything is a microcosm of the macrocosm. So if we want to truly answer America's call and create a better country, we must better ourselves. Then, and only then, are we truly answering America's call.

A TRIBUTE TO THE FIREFIGHTER CONGRESSMAN

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. HOYER. Mr. Speaker, on April 30, 1996, the Congressional Fire Services Caucus will pay tribute to the champions of public safety at the Eighth Annual National Fire and Emergency Services Dinner. Over 3 million citizens throughout our great Nation dedicate their lives to preserving our communities against the threat of fire and other types of disasters. They include firefighters, EMS providers, search and rescue teams, arson investigators, and instructors. The list goes on for somewhere, in each of our communities, we can name an acquaintance of ours who is prepared to respond when the alarm sounds.

Our understanding in Congress of the many challenges facing first responders has been enhanced throughout the years primarily because of one individual. CURT WELDON, our firefighting Congressman, is unique to Washington politics. Very few individuals who have served in this institution have been able to unite members from both sides of the aisle behind one cause.

Today, the Congressional Fire Services Caucus is the largest caucus in Congress. With an equal number of Republicans and Democrats, the Fire Caucus is a tribute to the relentless efforts of CURT WELDON to achieve greater recognition for first responders on Capitol Hill. Throughout the 8-year history of the Caucus, our dear colleague has traveled to the scenes of our country's worst disasters in recent memory. He was in New York City to witness the horrible aftermath of the World Trade Center bombing, in Dade County, FL, following Hurricane Andrew, and southern California after the Northridge earthquake. And each time he would return from these incidents, CURT would share his findings with fellow members to help us better understand the significance of these events and what Congress can learn from them.

On issues of great significance to the fire service and EMS, my colleagues and I often defer judgment so that we can follow Congressman WELDON's lead. When casting his vote on fire service issues, CURT is guided by his years of experience as a firefighter, where he rose through the ranks to become chief of the Marcus Hook Fire Department in Marcus Hook, PA. Each of the seven major fire service organizations, despite their differences on issues, can all come to an agreement when the issue is the benefits they have derived from one man's belief in their respective missions. That man being CURT WELDON.

When my fellow Fire Caucus cochairmen and I join the 2,000 national fire service leaders at the forthcoming dinner, we do so in thanks and appreciation to our dear friend, CURT WELDON. This past year, he has endured some setbacks, most recently the passing of his mother, Catherine Weldon. A volunteer for charitable causes throughout her lifetime, Mrs. Weldon leaves behind a legacy supporting the fire service, American Red Cross, and other local causes. Her attributes touched many, most importantly her nine children.

What amazes me most about CURT is despite these setbacks, he continues to perform as if he were still a fire chief for Marcus Hook. Whenever the alarm sounds on Capitol Hill, CURT takes expedient action, always working in cooperation with his colleagues, to resolve whatever the emergency might be.

A friend first, and colleague second CURT WELDON represents the best in public service.

UNICEF HELPING CHINESE ORPHANS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. BEREUTER. Mr. Speaker, this Member commends to his colleagues the following exchange of letters concerning the efforts of the United Nations Children's Fund (UNICEF) to improve the plight of orphans in the People's Republic of China. The exchange of letters was precipitated by a well-documented investigation by Human Rights Watch—Asia, published in January 1996 under the title, "Death by Default."

Earlier this year, this Member wrote to Carol Bellamy, Executive Director of UNICEF, urging that agency to expand its programs in China and to work with the United Nations Committee on the Rights of the Child to examine China's performance in implementing its responsibilities under the UN Convention. In Ms. Bellamy's response, she describes UNICEF's program in China and provides some useful information on steps the Chinese Government is taking to improve conditions in the orphanages.

CONGRESS OF THE UNITED STATES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, February 2, 1996.
Ms. CAROL BELLAMY,
Executive Director, United Nations Children's Fund, New York, NY.

DEAR MS. BELLAMY: I am writing to you regarding the tragic reports on the mistreatment of orphans in the People's Republic of China. As you know, these reports are based on a well-documented investigation by Human Rights Watch—Asia, published in January 1996 under the title, "Death by Default."

I was pleased to see the January 22, 1996, UNICEF announcement of an agreement with China to start a program to improve the care of orphans and disabled children in that country. The two training projects involved, while rather limited, represent a solid basis for increased cooperation between China and UNICEF in this crucial area. I urge you to continue to try to deepen UNICEF's involvement by expanding into all areas of the country and working with as wide a range of Chinese orphanages as possible.

There is another area where I believe UNICEF and the international community can contribute to improving conditions in China's orphanages. As a signatory to the United Nations Convention on the Rights of the Child, the People's Republic of China has certain responsibilities regarding the care of children in state-run institutions. It is apparent from the Human Rights Watch report that China has failed to live up to those responsibilities in fundamental ways.

I urge appropriate agencies of the United Nations, including UNICEF and WHO, to work closely with the UN Committee on the Rights of the Child in Geneva to examine China's performance in implementing its responsibilities under the UN Convention.

Thank you for your efforts in this area. Please keep me informed of any developments.

Best wishes,

DOUG BEREUTER,
Vice Chairman.

UNICEF HOUSE,
New York, NY, March 11, 1996.
Hon. DOUG BEREUTER,
Vice Chairman, Committee on International Relations, House of Representatives, Washington, DC.

DEAR MR. BEREUTER: Many thanks for your letter of February 2 regarding the situation of children in the Child Welfare Institutes (CWIs) in the Peoples Republic of China. My apologies for the delay in responding, but I have been out of the country for much of the time since we met on February 9.

Over these past five or six weeks, our UNICEF country office in Beijing has continued its dialogue with the Government of China regarding the CWIs and I believe that they are producing some progress for the children who are living in them. As you may recall from our discussion, an understanding had already been developed with the Government in January regarding two specific adjuncts to our ongoing work in the country. The first, which implies a Needs Assessment of all institutes in the country, will identify the most "at risk" institutes throughout the 30 provinces and autonomous regions in need of a capacity building strategy which will train their staff, improve the standard of rehabilitation services, and establish improved management procedures. One Institute in each province will be upgraded to serve as a model and resource center for training and improvement of rehabilitation skills. The second focuses on in-service training of staff and trainers on child care, rehabilitation and management through National Training and Rehabilitation Centers under the Ministry of Civil Affairs.

However, in addition to the addition to these specific program activities, we have learned in the last two weeks of some importance policy changes that are underway as a result of UNICEF's cooperation with the Ministry of Civil Affairs on the situation of China's orphans. First, our China office has been advised that the Government will increase action at all administrative levels to heighten advocacy and mobilization to reduce abandonment of children. Following ratification of the Convention, the Government of China enacted the Law on the protection of Minors which considers abandonment of children a criminal activity. Second, the Ministry of Health will now provide all children found abandoned and to be admitted to any of the Institutes a complete health evaluation at a nearly hospital. Very sick children will not be forwarded to the Institutes, which do not have up-to-date medical equipment, until they have been treated. This was not done previously and will reduce the risk to seriously ill children. Third, the Government has decided to amend its present policy that the living standards of the children in the CWIs be the same as in the surrounding community. This policy has caused some disparities in the CWIs. The new policy will require a living standard that is somewhat higher than that of families living in the surrounding communities. Fourth, the Government has decided to increase the budgetary investment in the CWIs to renovate and improve their physical infrastructure.

Of course, as you have noted, the Convention on the Rights of the Child is a powerful tool with which to promote the minimum standards for the survival, development and protection of children that are now a part of international law. The Government of China has ratified the Convention and we look forward to our continuing cooperation with the Government to ensure that these standards become a reality for all of China's children.

Many thanks for your support.

Sincerely,

CAROL BELLAMY,
Executive Director.

ARIZONA'S VOICE OF DEMOCRACY SCHOLARSHIP RECIPIENT

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. STUMP. Mr. Speaker, it gives me great pleasure to announce that Matthew P. Reece, who resides in the Third Congressional District of Arizona, is the Arizona State winner of the Veterans of Foreign Wars Voice of Democracy Scholarship. Matt, a senior at Bradshaw Mountain High School, was named a national winner in the 1996 Voice of Democracy Program and the recipient of the $1,000 Department of Wyoming and its Ladies Auxiliary Scholarship Award. VFW Post 10227 in Prescott Valley, AZ sponsored him. I am pleased that Matt was among the 54 national scholarship recipients who received more than $118,000. I commend to the attention of my colleagues Matt's award winning essay on "Answering America's Call."

ANSWERING AMERICA'S CALL

(By Matthew P. Reece)

Answering America's call is taking the time to pick up the phone and just listen. America is calling but if we fail to answer the call, America's voice will soon die away. So come on, pick up the phone.

Ring . . . Ring . . . Ri . . .

Hello.

Yes, this is America calling for the leaders of the 21st century.

Is this a crank call or what?

No. I'm surveying young people of America. I want to know your definition of democracy and if you think democracy will survive in the next century.

I don't know about definitions. I guess democracy is a government of, by, and for the people. Democracy is about freedom for the people. It's difficult to put in words. Some have tried. H.L. Mencken called democracy, "The art of running a circus from the monkey cage." George Bernard Shaw sneered, "It substitutes selection by the incompetent many for the appointment by the corrupt few." Educator Alexander Meiklejohn panned it as, "A government where you can say what you think, even if you don't think." Finally, Winston Churchill said, "Democracy is the worst system devised by the wit of man, except for all others. Obviously the intellectuals can't define democracy. Democracy defies definition. I, however, know that democracy is about people and their yearning for freedom, assuming responsibility for that freedom, and grabbing the golden ring of opportunity for life and the pursuit of happiness.

Young person . . . In speaking with others like you, democracy appears in disrepair: Voter turnout is at an all-time low, political campaigns are financed by the wealthy, special interest groups; the media has frozen our common sense and critical thinking. Our people are intensely concerned about drugs, crime, the crazies on the right and left; children having children, teens killing teens, sex and violence, soleless materialism and a gridlocked government that can't curb a national debt headed for the moon.

I've also heard that the "Political Vehicle" built by the founding fathers has degenerated into a "Runaway Antique at the risk of losing its wheels." I don't agree with the perception. I see democracy on a roll with new regeneration for the 21st century.

You see, Government is not democracy. Democracy includes; Sam Adams staging the Boston Tea Party, Martin Luther King leading a march on Washington, Rosa Parks refusing to give up her seat. Democracy is what happens when free men and women get together and make something for the good of all.

We have the freedom; we can assume the responsibility; we have the faith for opportunity. We can change a community, create a business, or even become president. We always have the choice.

In exercising that choice we have to recognize the freedoms given to us; such as the bill of Rights, where mankind is given; the right to free speech, the right to a trial by jury, the right to petition and protest against people or events that are unpopular.

In turn we must assume the responsibility for our freedom. We need to vote for what we believe in and continue what past generations have started; such as peaceful relations with other nations.

Finally, we must keep the faith that freedom of choice will exist in the 21st century. That faith can be bolstered by: participation in the community, information gathering that is fair and accurate and balancing our endeavors. We need to sacrifice our personal wants and needs for the common good.

America, I need to go—I have another call, but don't worry, I'm not hanging up on you. I'm putting you on hold or on an answering service. You can call me collect anytime. I owe America and I guarantee I'll repay my debt in the 21st century.

I'll take charge of a local reforestation project and participate in discussions affecting my local area or even the nation. I'll make sure and stay informed and help others to do the same. Freedom is a part of the human spirit and helping others is what freedom is all about.

Thank you, young person for taking the time to listen to my call for action. If I have gotten through to you then there is hope for all of us.

Always remember what President Truman said at his inaugural address: "Only by helping the least fortunate of its members can the human family achieve the decent, satisfying life that is the right of all people."

TRIBUTE TO THOMAS E. MOSELEY

HON. FRANK TEJEDA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. TEJEDA. Mr. Speaker, I rise to pay tribute to a veteran of education, Mr. Thomas E. Moseley. Mr. Moseley has touched the lives of students for 41 years, expanding minds and intellects as a teacher, a coach, a principal, and as superintendent. Mr. Moseley will retire at the end of this school year, and I could not let this event pass without commenting on his many achievements.

Mr. Moseley has served on every level of education. He began as a biology teacher and golf coach, first at Hondo High School and later at Robert E. Lee High School in San Antonio. After serving as a teacher and a State champion golf coach at Lee High School for 4 years, he moved up as the assistant principal of the school. Five years later, Mr. Moseley achieved the rank of principal of Nimitz Middle School. He held this title for 3 years and then moved over to Roosevelt High School to serve as principal. In 1980, Mr. Moseley became the superintendent of the Fort Sam Houston school district, where he has served for the past 16 years. Through these work experiences, Mr. Moseley developed a philosophy which took schools to higher educational levels.

As superintendent of Fort Sam Houston ISD, Mr. Moseley achieved numerous personal and educational honors. Both of the Fort Sam Houston schools have been named blue ribbon schools by the U.S. Department of Education through their excellence as impact aid schools. The Texas School of Business named Mr. Moseley the "March Educator of the Month" in 1990. In 1986, Mr. Moseley was named as "Superintendent of the Year" by region 20, an honor which speaks for itself. The University of North Texas named the educator "Outstanding Alumni of the Year" in 1992. In addition to his many honors, he currently serves on the University of North Texas Alumni Board, the USO Board, the Texas Academic Decathlon Board, as well as the Greater San Antonio Chamber of Commerce.

However, if Mr. Moseley were standing with me here today, he would not allow me to brag about his achievements. He is most honored by his students, his teachers, his friends—the people who benefited from his leadership and personal philosophy. Mr. Moseley's style of leadership is best described by his quote, "much can be accomplished if you don't mind who gets credit." This justly sums up Mr. Moseley's method of leadership. This educator believed in the education business. He saw teaching as a service to the classroom and the students. His decisions on administration duties, teaching priorities, even coaching, were always based on what was best for the kids. Through the actions of Mr. Moseley, others benefited.

Mr. Thomas E. Moseley will close the book this year on one of the most successful educational campaigns—his own. As the educational career of this 41-year veteran comes to a conclusion, I stand here to applaud him for a job well done. Mr. Moseley, thank you for instilling the value of education in the numerous lives that you have touched. Thank you for your dedication to impact aid schools and the schools of San Antonio. I trust that in your retirement you will touch just as many lives as you have in your educational career.

IN SUPPORT OF H.R. 3249, THE MARINE MINERAL RESOURCES INSTITUTE ACT

HON. ROGER F. WICKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 1996

Mr. WICKER. Mr. Speaker, today I am pleased to join my colleague from Hawaii, Mr. ABERCROMBIE, in support of H.R. 3249, legislation to continue a valuable marine minerals resource program. Since its inception in 1988, this program has had as its primary goal the environmentally responsible exploration and development of mineral resources found within our Nation's Exclusive Economic Zone [EEZ]. This region covers more area than the United States proper and contains a resource base estimated in the trillions of dollars. By successfully merging the skills of academia and the talents of industry, this program is working to place the United States well above its international competitors in underwater technology development. At the same time, this program invests in the future by providing graduate students with first-hand training in marine mineral development.

At present, the United States is in danger of being surpassed by other nations that are aggressively pursuing the development of environmentally friendly ocean mining technology. Japan, the United Kingdom, France, and China, in particular, have devoted considerable time and money toward developing such technologies and promoting industry support. This program directs successful applied research efforts with numerous concrete accomplishments. To meet future challenges, researchers are working to develop surveying and sampling systems for use in locating important mineral deposits. The systems can be used for locating sand resources for coastline stabilization and beach replenishment. In addition, they are essential in assessing and monitoring pollutants in river and oceanic sediments. Researchers are also working to develop an acoustical filter system to control dredging turbidity and to process industrial waste.

For a relatively small input of Federal money, a strong relationship has been forged between Federal, academic, and industry teams to address problems in marine resources and the environment. I ask my colleagues to join us in supporting this exceptional program.

SENATE—*Wednesday, April 24, 1996*

The Senate met at 9:30 a.m., and was called to order by the President pro tempore (Mr. THURMOND).

The PRESIDENT pro tempore. Today's prayer will be offered by the guest Chaplain, Maj. Tom Sillanpa of the Salvation Army.

We are pleased to have you with us.

PRAYER

The guest Chaplain, Maj. Tom Sillanpa, Salvation Army, Westfield, IN, offered the following prayer:

O righteous Father and merciful God of hope, we would pause and ponder Thy Word from the psalmist: "Mercy and truth are met together; righteousness and peace have kissed each other."—Psalm 85:10. O Lord, Your covenant love and justice, our faithfulness and heart's repose, happily bless and unite Your people. It is the answer of hope, a message of peace and salvation, certain when God and men meet upon this terrestrial plain. We see an upright beam upholding Thy law. Ah! yet another, a horizontal beam picturing Thy loving-kindness—outstretched arms of mercy which would embrace the whole world. O Father, grant Thy well-being to our dear Senators serving Thee in righteousness. It exalts our Nation and brings glory to Thy name. Continue to mold a godly character in us all as we face the future unafraid and show unexpected strength and vision. For evil shall perish and righteousness shall reign in God's own good time as surely as the morning cometh. We pray in Jesus' holy name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Good morning, Mr. President. Thank you very much.

SCHEDULE

Mr. LOTT. Mr. President, today there will be a period for morning business until the hour of 10 a.m. with Senators permitted to speak for up to 5 minutes each with Senator HATCH permitted to speak for up to 15 minutes.

At 10 a.m. the Senate will resume consideration of Calendar No. 361, which is S. 1664, the immigration bill. Amendments are pending now to the immigration bill. Therefore, rollcall votes can be anticipated on that measure during today's session.

We may receive a short-term continuing resolution also from the House today. It is expected that the Senate would consider that appropriations matter when it is received.

The Senate may also consider any other legislation that can be cleared for action.

Mr. President, I yield the floor.

Mr. ROTH addressed the Chair.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. INHOFE). Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m. with Senators permitted to speak for up to 5 minutes each.

The Senator from Delaware is recognized.

RUSSIAN AGRICULTURAL IMPORT QUOTAS

Mr. ROTH. Mr. President, there are few things more disappointing and disturbing than broken promises. Despite repeated assurances from Russian officials that they sincerely desire to fully abide by the principals of free and fair trade, they are once again considering barriers against the import of agricultural products.

I have to add that there are few things more worrisome than to have our President visit Russia and tell us everything is OK when it is not. And this appears to be the case when it comes to United States-Russian trade relations.

Yesterday, Russian Deputy Prime Minister Alexander Zaveryukha announced his Government's plans to introduce food import quotas that will focus primarily on poultry purchases, the vast majority of which come from the United States. The Deputy Prime Minister himself even emphasized that it is American poultry products against which these import quotas are directed.

This is particularly outrageous in light of Russian Prime Minister's Chernomyrdin's assurances to Vice President GORE that Moscow was going to back away from unfair trade practices that the Prime Minister announced last February against agricultural imports into Russia.

Russia's new effort to restrict the import of American poultry products should not surprise us. For the last 6 months Moscow has persistently been trying to ban the import of American poultry products. First, they tried to impose a bogus health ban. When it became clear that could not fly, they have been trying to increase tariffs against our poultry products. Now, they are talking about import quotas.

A decision by Moscow to impose import quotas, higher tariffs, or any other sanctions against American agricultural products would be most unfortunate. This is particularly true in the case of poultry. The amazing growth of in our chicken sales in Russia over the past 5 years demonstrates that Russian consumers recognize the quality and reasonable price of United States poultry. Needless to say, import quotas will only end up hurting United States poultry producers, Russian consumers, and the United States-Russian trade relationship.

I want to emphasize that this issue has repercussions that go well beyond poultry. Indeed, agricultural import quotas are very much part of a broad turn toward protectionism in Russian economy policy.

This trend toward protectionism is particularly disturbing when seen in the light of overall United States-Russian Trade and United States foreign assistance programs to Russia. Today, the United States is running a trade deficit with Russia that amounts to over $2 billion annually. Import quotas against poultry and other agricultural imports will only further restrict access to the Russian market by our most competitive exports and will further widen our trade deficit with Russia.

This is particularly outrageous when one considers that since 1992 the United States has provided some $2.44 billion in foreign assistance to Russia. Much of this assistance is designed to help Russia develop a fully functioning free market economy. The American people would be well justified in questioning such assistance to countries that close their markets to U.S. exports.

Should Russia actually decide to impose trade quotas against American exports, it is essential that United States Government respond with forceful and immediate measures.

How we respond to protectionist policies by Moscow will be closely watched by other beneficiaries of American foreign assistance, particularly those among the former Republics of the Soviet Union. Thus, Russia's increasing protectionism and our response to it must be viewed through the lens not only of trade, but also the broader dimensions of United States relations with Russia, Central and Eastern Europe, and the world.

Mr. President, I am convinced that we must send a strong message to Russia that we will not tolerate such blatant protectionism. Any less of a response will only send the wrong signal

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

to Moscow and other nations that protectionism is a legitimate policy tool that they can use with impunity.

The Russian Government must understand that free trade is a two-way street. If they want to benefit from our foreign assistance, sell their products and services to us, expand their economy, and become a full participant in the global market place, then they are going to have to let us sell our products and services to them. If they insist on erecting protectionist trade barriers, such as the import quotas, then they must fully understand that there will be a heavy price to pay.

Mr. President, I yield the floor.

I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be permitted to speak for up to 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. I thank the Chair.

(The remarks of Mr. BINGAMAN pertaining to the introduction of S. 1697 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

COMMEMORATING THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. KENNEDY. Mr. President, today marks the 81st anniversary of the Armenian genocide. Between 1915 and 1923, the Ottoman Empire in Turkey subjected the Armenian people to a brutal campaign of genocide that resulted in the deaths of 1½ million people. Those who were not immediately killed died during the forced deportation of the Armenian population. One-third of the Armenian people died during these 8 tragic years.

The crimes committed against the Armenians are among the worst atrocities in human history. Tragically, this cruel and massive slaughter was only the first of a succession of state-sponsored genocides carried out in this century. The recent mass graves uncovered in Bosnia remind us that the world has still not learned the lessons of the history of the Armenian, Jewish, and Cambodian people.

I commend the Armenian Assembly of America and the Armenian National Committee of America for their impressive continuing efforts to educate Americans about Armenian history and culture. The tireless work of these two effective organizations gives renewed hope and assurance that the extraordinary sacrifices of the Armenian people will never be forgotten, and that the remarkable continuing contributions of Armenians to this country and many other lands will always be remembered and honored.

HEALTH INSURANCE REFORM ACT

Mr. HATCH. Mr. President, yesterday the Senate reported by a unanimous vote of 100 yeas to 0 the Health Insurance Reform Act, S. 1028.

This legislation is designed to help millions of Americans gain access to health insurance coverage as well as keep their coverage when changing or losing their jobs.

Over the past several days, I have received numerous telephone calls and inquiries from across the country regarding the antifraud and abuse provisions which were added to the bill last week. I understand that many of my colleagues in the Senate and House have received similar phone calls. These individuals have expressed concern over the bill's implications for alternative medicine as well as for services provided by nonmedical health care providers.

As my colleagues know, the Senate approved on Thursday, April 18, 1996, an amendment by Senators DOLE and ROTH that contained a substantive new health care antifraud and abuse program. These provisions, now contained under title V of S. 1028, were essentially developed by my colleague, the distinguished Senator from Maine, Senator COHEN.

The antifraud and abuse provisions are designed to provide for a more coordinated Federal and State approach in addressing health care fraud and abuse, which is currently costing the Federal Government and private payers billions of dollars a year.

This is an issue which has been the subject of numerous congressional hearings in both the Senate Judiciary Committee and in the Special Committee on Aging over the past several years.

It is evident there is a need for a more enhanced program to appropriately address the growing and deliberate menace by perpetrators who deliberately scheme to defraud public and private payers of scarce health care dollars.

The health care antifraud and abuse provisions are not new to the Senate or the House. In large part, they were formulated from the legislation developed by Senator COHEN, S. 1088, and were, in fact, similar to the provisions included in the Balanced Budget Act as passed by the Congress late last year.

Mr. President, I am concerned, however, that the antifraud provisions could have unintended consequences and adversely impact the care provided by health care professionals who utilize alternative therapies, such as herbal treatments, or other nonmedical health care providers.

It is certainly not my desire, and based on my discussions, nor the intent of my colleague Senator COHEN who drafted the original antifraud language, that these provisions in any way impede consumers from access to alternative or nonmedical treatment therapies.

And, I would add that Senator COHEN and I specifically addressed these concerns in our colloquy on the floor of the Senate last Thursday, April 18, 1996, although I know that many people still have concerns.

I want to assure my colleagues in both the Senate and House—and especially those individuals in the alternative and nonmedicine community—that I will continue my efforts to clarify, where necessary, and fine-tune the language as the bill moves to the conference committee.

FOREIGN OIL CONSUMED BY THE UNITED STATES. HERE'S THE WEEKLY BOX SCORE

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending April 19, the United States imported 7,300,000 barrels of oil each day—712,000 barrels fewer than the 8,012,000 barrels imported during the same period a year ago.

This is one of those rare weeks when less oil was imported in 1996 than in 1995. Nevertheless, as the box scores I regularly insert into the RECORD indicate, the trend is steadily upward.

Americans now rely on foreign oil for more than 50 percent of their needs, and there is no sign that this upward trend will abate. Before the Persian Gulf war, the United States obtained 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians had better ponder the calamity that will result if and when foreign producers shut off our supply, or double the already enormous cost of imported oil flowing into the United States.

THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. LIEBERMAN. Mr. President, today we commemorate the 81st anniversary of the Armenian genocide, a horrendous crime against humanity which cannot be denied.

Beginning on April 24, 1915—81 years ago today—the declining Ottoman Empire undertook a systematic effort to kill or drive out the Armenian people.

By 1923, more than 1 million Armenians perished as a result of execution, starvation, disease, the harsh environment, and physical abuse. Others were driven from their homeland.

The terrible tragedy that befell the Armenian people was the first systematic genocide in this century. Unfortunately, it was not the last. The Nazi Holocaust, Stalin's purges, and the killings of Cambodians by the Khmer Rouge are all further examples of brutality and death carried out in the name of the state. In Bosnia, American leadership and united international diplomacy and intervention has finally brought an end to the genocidal ethnic cleansing, though ethnic divisions there will be long in healing.

We mark this date in history because it is so important that we remember. We must remember the Armenian genocide and other abuses of state authority against ethnic minorities. We must remember all of the victims of crimes against humanity. Our memory, our vigilance, is essential to ensuring that these acts do not happen again, to Armenians or any other group.

The Armenian people and their culture have survived. The Armenian-American community is thriving in a land where cultural and ethnic diversity are increasingly valued. And the collapse of the Soviet Union gave rise to an independent, democratic Armenian state.

So let us remember the Armenian genocide, let us be vigilant to prevent such crimes in the future, and let us celebrate the Armenian people, who have overcome this tragedy to thrive in independent Armenia and in America.

GOLDEN GAVEL AWARD RECIPIENTS

Mr. DOLE. Mr. President, I am pleased today to announce the Senate's Golden Gavel Awards for the 104th Congress.

Each Congress, one important tradition we have is to honor colleagues who preside over the Senate for more than 100 hours. As all Senators know, presiding is frequently a difficult, thankless, and tiring task.

I would like to take this opportunity to thank all of the Golden Gavel recipients today for their tireless efforts. I know that all Senators join me in congratulating our colleagues.

The recipients are as follows: Senator MIKE DEWINE, Senator ROD GRAMS, Senator BILL FRIST, Senator JOHN ASHCROFT, Senator RICK SANTORUM, Senator FRED THOMPSON, Senator SPENCE ABRAHAM, Senator CRAIG THOMAS, Senator JON KYL, and Senator JIM INHOFE.

CHILD LABOR—NOT WITH THE RUGMARK LABEL

Mr. KENNEDY. Mr. President, a year ago this month, a young child labor activist, Iqbal Masih, was killed in his village in Pakistan. In 1994, when Iqbal traveled to the United States to receive the Reebok Human Rights Award, he also met with the students at Broad Meadows Middle School in Quincy, MA. After Iqbal's death, the students at Broad Meadows decided to honor his memory by building a school in Iqbal's village.

Earlier this month, the students announced that they have raised $100,000 for a school which will be built by Sudhaar, a nongovernmental organization in Pakistan. Their dedication and commitment to Iqbal's dream assure that he will live on in the hearts and minds of all those who will have a better chance in life because of the school they are building. Armed with the advantages of education, these children in Pakistan will be able to improve their own lives and the lives of their families, their communities, their country, and even our common planet.

Last November, one of the recipients of the Robert F. Kennedy Human Rights Award was Kailash Satyarthi, head of the South Asian Coalition on Child Servitude, an independent nongovernmental organization dedicated to the eradication of child labor and bonded labor in the carpet industry.

Mr. Satyarthi and his colleagues have established what is known as the Rugmark label, to identify carpets which have not been made with child labor. They are urging consumers to purchase only carpets which carry the label.

Mr. President, on the anniversary of Iqbal's death, Albert Shanker, president of the American Federation of Teachers, has urged all Americans to honor the Rugmark label. I ask unanimous consent that Mr. Shanker's appeal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 14, 1996]

KNOTTED RUGS

(By Alert Shanker)

The murder of Iqbal Masih, a year ago this week, forced many Americans to look at a problem they would have preferred to avoid: child labor in developing countries. Iqbal was a world-famous human rights activist. He was also a young Pakistani boy whose mother had sold him to a rug maker when he was four. Iqbal eventually freed himself, and by the time he was murdered, at the age of twelve, he had helped free 3,000 other bonded child laborers. That is probably why he was murdered. But many millions of children in Pakistan, India, and other developing nations continue to work as gem stone polishers, glass blowers, and makers of matches, fireworks, clothing and hand-knotted rugs, often conditions that are unspeakable.

Children who knot rugs are crowded into filthy, poorly lit shops that have minimal ventilation for as many as 16 hours a day, 7 days a week. They are often chained to their looms, and they risk being beaten or even killed if they try to escape. Many die anyway because of horrible conditions under which they work. Manufacturers consider young children to be desirable "employees" because they work hard and put up with pay and conditions that adults would not tolerate. The children receive no more than a couple of cents a day for their work; many get nothing.

A number of developing nations—India and Nepal, for example—have laws on the books banning child labor. Nevertheless, you hear some people using hard-nosed economic arguments to justify exploitation of children. They say that if child labor is what it takes to bolster the economy in a developing country, that's the price the country has to pay. And it's really nobody else's business anyway. But many of these countries also have very high unemployment among adults. Why shouldn't companies hire adults so that parents can support their children instead of having to sell them into bondage?

However, we don't have to wait for the companies making hand-knotted rugs to get religion (or for countries that are dragging their feet to start enforcing their child labor laws). These rugs are an important export item, and people who buy them can have a big say about the conditions under which they are made. The traditional weapon used by people who want to protest economic injustice is the boycott: Don't buy the product. But a boycott only punishes, and it often punishes those who act responsibly as well as those who don't.

An Indian child advocate named Kailash Satvarthi had a better idea. He established a nonprofit foundation that allows consumers to identify and buy hand-knotted rugs that are not made with child labor. Rugmark, as the foundation is called, inspects companies that apply for certification and vouches for the fact that they are not using child labor to make their hand-knotted rugs. Inspectors also pay surprise visits to Rugmark-certified companies to make sure they continue to abide by their commitment to use adult labor only. Consumers can recognize Rugmark rugs by a label that only they will carry.

Rugmark, which is now two years old, has signed up and certified 15 percent of the companies producing hand-knotted rugs in India. A number of others are moving toward certification, but the process is complicated and many carpet makers are understandably hostile to the idea of losing a cheap, excellent, and plentiful supply of labor. So far, the total production of Rugmark rugs has gone to Germany, where the country's largest mail order firm and several large department stores have agreed to carry them. But Rugmark has recently opened up shop in Nepal, with the support of 70 percent of the carpet manufacturers there. These rugs will soon be available for import to the U.S. It's up to American consumers to start talking to stores and catalog companies that carry hand-knotted rugs. They should let the businesses know that they do not want rugs made by children, and they should urge them to put pressure on the importers they deal with.

This coming week, the first Rugmark-certified rugs imported to the U.S. will be auctioned off at a ceremony commemorating the anniversary of Iqbal Masih's death last year. If American consumers do their part, these rugs should be the first of many.

CONFERENCE REPORT TO ACCOMPANY S. 735

Mr. BYRD. Mr. President, 1 year ago last week the American people were forced to experience the unimaginable when terrorists placed a bomb in a Federal building in Oklahoma City, killing 168 innocent citizens, some of them children. In response to that grisly deed, as well as the earlier bombing of the World Trade Center in New York City, and the downing of Pan American flight 103 over Scotland, the United States Senate passed S. 735, the "Comprehensive Terrorism Prevention Act," on June 7, 1995. The measure, I think it is important to note, was supported by 91 Senators, myself included.

I supported that bill because I believed it was a good piece of legislation that went a long way toward helping law enforcement agencies combat the rising scourge of domestic terrorism. It was an effective measure with many important provisions—important crime-fighting tools—specifically designed to thwart this growing menace. Our goal, or so I thought, had been to stop domestic terrorism before it could happen; to let terrorists know that they were going to be put down before they could carry out their cowardly acts.

When S. 735 left the Senate last June, there were provisions in the bill that would have permitted Federal law enforcement agencies to pursue known or suspected terrorist groups with the same means that those agencies now employ when pursuing organized crime, or murderers, or bank swindlers. And, as I said, those provisions were endorsed by 91 Senators.

Unfortunately, though, what started out last June as a very worthwhile effort, has this past week been reported back by the conference committee disemboweled. In fact, this measure has been so thoroughly gutted that I do not see how anyone can honestly call it a terrorism "prevention" bill. Almost every provision designed to enhance the effectiveness of law enforcement officials, almost every provision designed to make it more difficult for the terrorist to operate, and almost every provision that was fashioned to put a stop to this type of activity, was simply sacrificed in conference.

Mr. President, consider this: The original Dole-Hatch bill, and the version that passed the Senate, contained language that would have added certain terrorist offenses to the current long list of crimes for which Federal law enforcement authorities can seek a wiretap. Using weapons of mass destruction, providing material support to terrorists, or engaging in violence at international airports—all of these were activities for which a wiretap could have been sought. But the language that would have added those crimes to the wiretap list was dropped by the conference committee. Consequently, what that means is that, right now, the FBI can institute a wiretap on someone suspected of bribing a bank officer, but not on someone who may be about to attack the New York City subway system with poisonous gas.

That is ludicrous. It simply boggles the mind. If this is supposed to be a bill to "prevent" terrorism, then how can we tie the hands of law enforcement authorities like that? What kind of message does that send to some deranged individual who may be plotting a terrorist activity? What does that say to those organizations that practice international terrorism and may be planning to target the United States? Chasing terrorists with fewer tools than we would use to apprehend someone suspected of bribing a bank official is not, in my opinion, the way to "prevent" terrorism.

When the Senate considered S. 735 last year, it added, by a vote of 77 to 19, a provision that would have allowed law enforcement authorities to obtain what are called multipoint wiretaps. In effect, these special wiretaps allow officials to target an individual suspect rather than an individual telephone. Given the rapid development of communications technology, it is nearly impossible for Federal officials to conduct meaningful investigations of suspected terrorists when all that person has to do is change telephones. Right now, a terrorist can move from his home phone to a car phone to a cellular phone and law enforcement officials—unless they can prove such movement is intentionally meant to thwart the surveillance—will be left in the dust. But the provision to allow multipoint wiretaps was dropped in conference.

Again, such action defies logic. How can we say that we are seriously working to prevent terrorism when we will not even allow officials to keep pace with the terrorists. What message are we sending when we say that the only terrorists worthy of stopping before they act are those stupid enough to use a single telephone? This is not, I am sorry to say, prevention.

Mr. President, last June the Senate also adopted an amendment to S. 735 that would have allowed the Attorney General to request the technical and logistical assistance of the U.S. military in emergency situations involving biological and chemical weapons of mass destruction. Such authority already exists in the case of nuclear weapons. The amendment the Senate adopted merely extended that authority to include biological and chemical weapons.

I believe this was an important amendment because the Armed Forces of this Nation have special capabilities in this area, with individuals who possess the training to counter biological or chemical weapons. The police departments of our country and the fire departments of our country are not equipped to deal with these emergencies. They simply do not have the expertise to handle a biological or chemical weapons attack. So the Senate adopted the provision, by unanimous consent I would note, that allows for the technical expertise of the military to be used should a terrorist attack occur in which biological or chemical weapons are used.

But that provision, too, was dropped by the conference committee. Consequently, we have a bill that purports to prevent terrorism, but hamstrings Federal, State, and local authorities in any case involving biological or chemical weapons.

The citizens of New York City, or of Los Angeles, or of any city in this Nation should not be forced to suffer a nuclear attack from a terrorist organization before they can expect help from the Federal Government. The American people should not be told, as this bill implicitly tells them, that an imminent attack with chemical weapons is not serious enough to warrant the use of the military. The American people should not have to experience, as did the citizens of Tokyo in March 1995, a gas attack in a subway system before their Congress is willing to act.

Last, when S. 735 was passed by the Senate last year, it contained a provision that would have made it a Federal crime for any person to distribute material that teaches someone how to make a bomb if that person intends or knows that the bomb will be used to commit a crime. That provision, offered by Senator FEINSTEIN, was included in the Senate bill by unanimous consent. Not one of our colleagues stood up and objected to it. But, like many of these preventive tools, the Feinstein amendment was dropped by the conference committee.

It is simply absurd to expect this bill to negatively impact terrorists if the Congress is not even willing to prevent the distribution of what amounts to terrorist training manuals. How can anyone say that this legislation—absent the Feinstein amendment—is a serious effort aimed at prevention? How do we intend to stop a future terrorist from blowing up a Federal building if we will not even take away his instruction manual?

Mr. President, the provisions that I have highlighted here are just some of the provisions that I believe made S. 735, the Comprehensive Terrorism Prevention Act, a good, tough, worthwhile bill. But as I have noted, each of those was dropped from the final product. As such, we have been left with a measure that, in many ways, is simply untrue to its title. No longer, in my opinion, is this bill comprehensive, or directed at prevention. Accordingly, I was compelled to vote against the conference report.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, we are in morning business?

The PRESIDING OFFICER. The Chair advises the Senator from Iowa we are in morning business with Senators allowed to speak up to 5 minutes each.

THE VOID IN MORAL LEADERSHIP—PART SIX

Mr. GRASSLEY. Mr. President, yesterday I continued my series of talks on this floor on the failure of moral leadership in the White House. I understand that sometime after I spoke—and I am sorry I was not here on the floor to politely listen to what he had to say—my friend from Arkansas, Senator PRYOR, addressed my comments. So I would like to respond to his comments.

First, I want to echo what he said about our long friendship and relationship working together, particularly to protect the taxpayers' interests. And that cooperation includes not just saving billions in defense cost overruns and defective weapons, as he mentioned yesterday, it also included the work that he and I did in passing the taxpayers' bill of rights. That was a bill to protect our taxpayers and to give them more protections against the abusive practices of the IRS.

I have not known a Senator in this body who has been more dedicated to good Government than Senator PRYOR has been. When he retires after this Congress, we will lose not just a respected colleague and friend, but an effective consensus builder. I will miss his leadership and I know my colleagues will as well.

Yesterday my friend from Arkansas defended the President's record on the environment in the wake of criticism that I had raised. What Senator PRYOR said is fair enough. I do not have any problems with that, because the Senator has a right to protect his friend, the former Governor of his home State, when his record has been critiqued, as I have been doing in several speeches on the floor of the Senate.

Apparently my friend from Arkansas misunderstood my comments regarding Earth Day. I did not mean to take exception to the President celebrating Earth Day at our national parks. Earth Day should be celebrated. Environmental protection is and should be a very high priority, and the President should continue to show his commitments to this issue.

But put yourself in my position, or the position of a constituent from my State. I was referring yesterday to the director of the Iowa Department of Natural Resources, who wrote a letter that I placed in the RECORD yesterday.

You can all read it. The director of the Iowa Department of Natural Resources is charged with protecting the environment in my State of Iowa. Yet, as he watched the President tout his environmental record on Earth Day, he is faced with the fact that the President's budget will result in the termination of many important environmental programs. So, for the director of the Iowa Department of Natural Resources, he clearly sees President Clinton's actions falling far short of the rhetoric of the President of the United States.

However, I do find it interesting, Mr. President, that the Senator from Arkansas yesterday, in response to me, failed to address the main points of my remarks. You see, my point was not to critique the President's record on the environment. Rather, it was a troubling pattern that this President has in saying one thing and doing another. My point was also to explain why a pattern like that can be so damaging, because it does two things—first, it continues to nourish the climate of cynicism that has swept the country, and, second, it fails to set a good record for the country, especially for the young people. A country without leaders is a country without direction.

There is no more important attribute for a President, any President, than moral leadership. That is according to a former great President, FDR, former member of the same party as my good friend from Arkansas. I know Senator PRYOR has regard for the judgment and wisdom of Franklin Delano Roosevelt. What did FDR mean when he said moral leadership is the most important attribute of any President? He meant simply it is important for a President to set a good example, the kind of example that we would like to see set for our children by our teachers, by our community leaders, by our little league coaches, and, yes, even our parents.

I have laid out specifically in seven previous speeches where I thought our President has failed to set a proper example. The practice cuts across all issues, not just on the environment. It has happened on the budget, happened on Travelgate, happened on Whitewater, on AmeriCorps, and on combating drugs.

Simply put, the programs do not do what the lofty rhetoric says they do. There is tremendous damage done with this false advertising. It erodes the ability of our Nation's leaders to lead and undercuts their moral authority to lead. That is when cynicism grows.

Mr. President, could I have 3 more minutes, please?

Mr. KENNEDY. Reserving the right to object; I do not intend to object. There was an agreement to lay down the immigration bill at 10 a.m. So, if we can get an agreement to extend the morning hour, if the Senator would ask to extend the morning hour.

Mr. GRASSLEY. By 3 minutes? Five minutes? Ten minutes?

Mr. KENNEDY. Ten minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRASSLEY. I thought my friend from Arkansas, Senator PRYOR, would have taken issue with my observations that the President has not set a good example for the country and for the young people. I thought he would take issue with some of the people I quoted who made other observations, and I would like to give some examples.

The observation that James Stewart made in his book "Blood Sport." He said the story of Whitewater is about the arrogance of power, about "what people think they can get away with as an elected official, and then how candid and honest they are when questioned about it."

Charles Krauthammer, a syndicated columnist, observed why the White House was covering up Travelgate and Whitewater even though there were not any crimes. In January, he noted that "the vanity of the Clintons is . . . that they are morally superior." He said, "The offense is hypocrisy of a high order. Having posed as moral betters, they had to cover up. At stake is their image."

The observation of Rouvain Benison, a Democrat, who was quoted in the Washington Post on March 24. He said, "Whitewater is a symptom, the lack of moral leadership, of moral integrity, strength, courage—all the good things in a person's character."

The observation of Eric Pooley of Time magazine. He wrote recently that, with this White House, "speeches are as important as substance and rhetoric becomes its own reality." He then quotes a senior White House adviser as saying, "Words are actions." In other words, it is not important what the President does; just listen to what he says.

These are all examples that I have given over the past months in speeches on the floor. I am merely compiling the observations of others, of respected, credible individuals. This is what I thought my friend from Arkansas would have responded to, because the important issue is moral leadership, leading by example, and the many instances—across the board—in which this President has failed to show such leadership.

My friend from Arkansas knows, Mr. President, that I take seriously and sincerely what Teddy Roosevelt said. I have quoted Teddy Roosevelt a few times on this floor. To paraphrase, he said Americans have a responsibility to critique the President more than any other person in America. To not do so is both base and servile.

My friend also knows that I have spoken out about the leadership of Presidents of my own party. President Reagan busted the budget with his defense spending. I questioned his wisdom and leadership in cracking down on welfare queens while letting welfare queens in the defense industry squeeze through the cracks. I questioned President Bush when he proposed raising taxes in 1990. He promised he would not, but he did; and I criticized him.

Now I am criticizing this President, President Clinton, for failing to set a good example across the board. It is a pattern. It is pervasive. It encourages more cynicism by our people.

If we want to set a good example for the young people of this country and for the next generation, if we want to stop the growing cynicism in this country toward our elected leaders and our institutions, then we must begin by setting higher standards of conduct for ourselves. We must set a good example for our country.

When we do not, Mr. President, when we do not do that, it is precisely because of a failure of moral leadership. I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. As I understand it, we are in morning business and entitled to address the Senate for 5 minutes.

The PRESIDING OFFICER. The Senator is correct.

THE MINIMUM WAGE

Mr. KENNEDY. I thank the Chair. Mr. President, in just a few moments we are going to return to the immigration bill. We have orders for votes on various amendments. Then, hopefully, we will have the legislation that will be open for amendment. I intend at the earliest possible time to offer an amendment on increasing the minimum wage. I would be more than glad to enter into a time limitation so that our side would have 30 minutes and the other side would have 30 minutes. It seems to me that the 13 million families that will be affected by the minimum wage are entitled to have at least 30 minutes of the U.S. Senate's time in order to make their case before the U.S. Senate, and it seems to me that they are entitled to a decision by the U.S. Senate as to whether we are going to provide some economic justice and decency for those Americans who have been left out and left behind on the lower rung of the economic ladder—who are working hard, trying to provide for their families, and still existing in poverty.

Mr. President, I think the urgency for offering that amendment is just emphasized once again by what the leader in the House of Representatives talked about just yesterday, that he, Mr. ARMEY, as the House majority leader, has indicated his continued opposition to the increase in the minimum wage. What he is basically talking about is a brand new entitlement program, the elimination of the earned income tax credit, which is a lifeline to working families, particularly working families with children. All of us understand that the earned income tax credit, which Ronald Reagan himself said was the best poverty program, provides help and assistance for working families with children. The minimum wage makes a difference for those families. For the individual or couple who does not have children, the increase in the minimum wage makes the greatest difference to them.

But what Mr. ARMEY is talking about is the elimination of the earned income tax credit. He says we will develop a program. Who will run it? The IRS, the Internal Revenue Service. They are going to be the ones who run a new entitlement program.

Now, Mr. President, he says this will save $15 billion. You know where that $15 billion is going to come from? It will come from those who benefit from the earned income tax credit, who are the neediest working families in this country.

The increase in the minimum wage will provide $3.7 billion a year to these families. So, in effect, what he is saying is we will take the earned income tax credit away from those families, we will put in the Internal Revenue Code a subsidy program, and the subsidy program, which will be paid for by Federal taxpayers, generally will be contributed to by other workers.

Mr. President, it is about time we had a clear vote and a clean vote on the increase in the minimum wage. We have a bipartisan group here in the U.S. Senate, Republicans and Democrats alike, who have supported the increase in the minimum wage. We are going to take the first opportunity that presents itself, after the disposition of these votes, to offer that with a time limit so the American people will be able to find out who is on their side.

I would hope that we would be able to work that out as a matter of comity, but we are going to continue to press that issue as we move through with this legislation and other legislation until we have an opportunity to speak for those 13 million families that are, today, being left out and left behind.

There is no excuse for the majority leader not to schedule this program. We would not need to offer this amendment if we were given a reasonable time to debate this on a clean bill and do it at any time of the day or evening that the majority leader wants to do it.

Let us have at least an opportunity to speak to this issue. Mr. Majority Leader, do not deny us economic justice for working families.

Mr. LOTT. Noticing that the manager of the bill is not on the floor yet, I ask unanimous consent that the time for morning business be extended for 10 minutes so I may address some comments to the ones just made and speak briefly about this bill.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Massachusetts.

Mr. KENNEDY. Reserving the right to object, I will not object as long as my friend and colleague will somehow be recognized during consideration of morning business.

Mr. DORGAN. Parliamentary inquiry. My understanding was that morning business was already extended 10 minutes by the unanimous consent, agreed to by the Senator from Iowa, Senator GRASSLEY. If that is the case, the Senator from Mississippi is asking the 10 minutes be added to that time?

Mr. HATCH. Will the Senator yield?

Mr. LOTT. I am happy to yield to the Senator. First, Mr. President, is that correct, it had already been extended?

The PRESIDING OFFICER. Morning business closes at 10:10.

Mr. HATCH. Mr. President, I was supposed to be accorded 15 minutes for my remarks. I have to make these remarks this morning. I appreciate if it could be extended. I was on the list. Could I follow the distinguished Senator from Mississippi?

Mr. LOTT. Mr. President, if I could inquire of the Chair, does the distinguished Senator from North Dakota desire time also?

Mr. DORGAN. Yes.

Mr. LOTT. How much time is he interested in?

Mr. DORGAN. Eight minutes.

Mr. LOTT. Mr. President, I ask unanimous consent that the time for morning business be extended until 10:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Could it be in this order: the distinguished Senator from Mississippi, then the Senator from Utah, then the Senator from North Dakota?

Mr. LOTT. I modify the unanimous consent to that effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Thank you, Mr. President. I thank my colleagues for working with us as we get that worked out.

IMMIGRATION

Mr. LOTT. Mr. President, we are here today going to take up legislation that I hope will pass before the end of this legislative week. It is very important legislation. It is major immigration reform.

We have a problem in America with illegal immigration. We are not controlling our borders. We have illegal immigrants in this country that are taking advantage of the taxpayers of this country. There needs to be some changes. There needs to be some relief in the way we handle immigration in America, particularly as it applies to illegal immigrants.

This legislation has already been delayed a week now while we argue over whether or not to allow extraneous matters, amendments that are not relevant to this legislation. Whether or not they will be added, it is a distraction. We can work out these matters. They can be offered on other occasions, on other bills. I plead with my colleagues for us to keep our focus on the bill before us—illegal immigration reform. If you want this problem to be dealt with, you have to give us the time to deal with the amendments that are relevant, those that are pending. Others, I am sure, will be welcomed.

We can work on this legislation today and hopefully finish it tomorrow. If we get sidetracked with issues that are not relevant, have not been considered by the committee that is bringing this bill up, it will delay it, maybe even cause it to be withdrawn or maybe not be completed. The American people want this action. We need to face up to doing the right thing.

The Senator makes the point about the minimum wage. I know there are discussions going on now in a bipartisan way, and among the leadership on all sides of the Capitol, both sides of the Capitol, to come up with a way to consider how we address the problems of job security in America.

I am worried about job security. I am worried about people that will lose their jobs and small businesses that could lose jobs in their business or have to pay the costs of what the Senator from Massachusetts is proposing. We need to think about how we proceed on this. I think we can come up with a degree to proceed.

In the meantime, we need to address this problem: How we can help State and local officials in dealing with illegal immigrants. The bill reported from the Committee on the Judiciary focuses on the problem of illegal immigration, entry into the territory without official approval as an immigrant, refugee, or alien. That illegal entry is a crime. We need to start with that. It is a crime. "Illegal" means you are doing something that is wrong and is a crime.

It may have extenuating circumstances. It may make sense for those who undertake it to come into this country. Obviously, they are attracted to the free enterprise system in America. They have economic and social concerns for their families. It is a crime and strikes at the heart of one of the conditions of nationhood: the ability to control the borders of our own country. That is what this bill is about and what our debate this week should be about.

I hope we will not be treated to accusations of xenophobia and racism from those who oppose a legitimate crackdown on illegal immigration. You talk about job loss; there are problems where jobs are being improperly taken by these illegal immigrants. What we are trying to do with this legislation is reestablish order and control over the process of entering the United States. Orderly immigration has always been a net good for our country. If we tried to catalog the major contributions—scientific, economic, cultural, patriotic—of immigrants in the last few decades, it would take more time than we could spare here. Just as industrial America grew strong from the human capital of Ellis Island, so is our country's future being created anew by our new citizens that come in from every corner of the world. That is fine.

The Republican platform in 1992, the one some of the news media denounce as antiimmigrant, put it this way:

> Our Nation of immigrants continues to welcome those seeking a better life. This reflects our past, when some newcomers fled intolerance; some sought prosperity, some came as slaves. All suffered and sacrificed but hoped their children would have a better life. All searched for a shared vision—and found one in America. Today we are stronger for their diversity.

Uncontrolled immigration, however, is a different matter. We simply cannot allow our borders to be overrun, our laws flouted, and our national generosity abused. Every year, over one million persons are turned back while attempting illegal entry into this country. But many more are not apprehended and get into the country. There are probably more than 4 million illegal aliens now in this country. Their numbers are growing at about 300,000 to 400,000 people each year. That is unacceptable. The American people are paying a tremendous price because of it.

It was not so long ago that Congress legislated amnesty for persons then illegally in the United States. Hundreds of thousands illegal aliens and undocumented aliens, they were preferred to be called, took the opportunity to regularize their presence here. Many of them have now become citizens. More power to them. But to balance that unprecedented amnesty—and to make sure it need never be repeated—we need to pass this legislation.

I urge my colleagues to keep their focus on this important legislation. We should get it done. It is overdue.

JUDGES AND CRIME

Mr. HATCH. Mr. President, I wish to respond to some of the extraordinary remarks President Clinton made during the recent congressional recess on crime and judicial appointments. Let me note, again, that there is simply no substitute, as a practical matter, for the sound exercise of Presidential judgment in nominating persons to lifetime Federal judgeships.

I find President Clinton's remarks on April 2—which have been echoed by Vice President GORE and by White House aides—concerning the administration's record on judges to be a remarkable effort to dodge the consequences of his own judicial selections and to deflect the attention of the American people from these selections. I welcome the opportunity to set the record straight and to dispel the administration's myths they are attempting to weave to protect their judges and themselves.

MYTH NO. 1

The President said, regarding criticism of his judicial selections, that this side is "sort of embarrassed" by our crime record. Vice President GORE repeated this assertion before a group of newspaper editors, and Jack Quinn, the White House counsel, echoed it in yesterday's USA Today. This simply is not true, no matter how many times the President repeats himself. And this from a President AWOL—absent without leadership—in the war on drugs. He mentioned the Brady bill, the so-called assault weapon ban pertaining to 19 firearms, the 100,000 police he keeps talking about, and the 1994 crime bill. I will examine each in turn.

It is the swift apprehension, trial, and certain punishment of criminals that is our best crime prevention mechanism, not the gun control measures the President mentions. Hardnosed judges, tough prosecution policies, and adequate prison space will do more to control crime than these measures. I might add that it is particularly ironic to hear the President's comment this month. This side of the aisle has just sent the President the product of over a decade of Republican efforts to curb endless, frivolous death row appeals. The bill also places prohibitions on terrorist fundraising; contains provisions on terrorist and criminal alien removal and exclusion; strengthens the laws pertaining to nuclear, biological, and chemical weapons; authorizes $1 billion over 4 years for the FBI, the Drug Enforcement Agency, the INS, U.S. attorneys, the Customs Service, and other law enforcement agencies; and a number of other tough provisions.

Although I expect the President to sign the antiterrorism bill today, he worked against its key restrictions on the abuse of the writ of habeas corpus. He even sent his former White House Counsel, Abner Mikva, to lobby on the Hill to dilute these provisions, which will provide for the swifter execution of death row murderers.

Meanwhile, his Solicitor General, Drew Days, has failed to appeal decisions, such as the case of United States versus Cheely, that may hamper efforts to impose the death penalty on terrorists such as the unabomber in California. During a November hearing chaired by myself and my good friend Senator THOMPSON, the Judiciary Committee learned that the Clinton administration's Solicitor General generally has ceased the efforts of the Reagan and Bush administration to vigorously defend the death penalty and tough criminal laws.

Instead, the Clinton administration's Solicitor General has refused to appeal soft-on-crime decisions to the Supreme Court, and he even has argued before the Court to narrow Federal child pornography laws.

The President talks about 100,000 new police officers. His plan will not add 100,000 police officers to the rolls of our law enforcement agencies.

The 1994 crime bill? When it left the Senate, it was a reasonably tough bill, not perfect, but a solid contribution to the swift apprehension of criminals and tough, certain punishment. By the time the other body and the Clinton administration got through with it, it was softened and loaded with billions and billions of dollars of wasteful pork—old-fashioned Great Society social spending boondoggles. This is why some of us opposed the bill.

Meanwhile, the President abandoned the bully pulpit in the fight against drugs. In 1993, he slashed the drug czar's office. He proposed significant drug enforcement personnel cuts to the Drug Enforcement Agency, the FBI, the INS, the Customs Service, and the Coast Guard. President Clinton has cut America's ability to interdict drug shipments in the transit zone. Through the 1980's and early 1990's, the United States experienced dramatic and unprecedented reductions in casual drug use. But since 1992 drug use among young people has shot back up.

MYTH NO. 2

According to the Clinton administration, there are decisions by Reagan and Bush judges that favor criminals. That is no doubt the case. I do not agree with every decision made by a Republican-appointed judge, nor do I disagree with every decision made by a Democratic-appointed judge. But, on the whole, Republican-appointed judges are going to be tougher on crime. And the American people will never see a Republican President appoint a Rosemary Barkett or a Lee Sarokin or a Martha Daughtrey to the Federal appellate bench.

Presidents Reagan and Bush appointed 573 judges to the Federal courts, and some of them have served for more than a decade. They have thousands of decisions they have written, and some of these no doubt will find in favor of a criminal defendant, and sometimes, of course, it is the case that the police or prosecutors have stepped over the line.

President Clinton has appointed 185 judges so far to the Federal bench, and many of them have served for only 2 years. Furthermore, several of these judges consistently have issued decisions that are soft on crime—not just because of their result, but because of their reasoning. That is why I take such care to describe the facts and reasoning of these decisions, because once the American people learn what these activist judges have written, it is clear that they display a tolerant attitude toward crime and drugs.

MYTH NO. 3

The Clinton administration alleges that I and other Republicans have focused on only the same dozen criminal cases. They find references to these cases meaningless, because they do not accurately represent the large number of cases decided correctly.

This answer is a red herring at best. It ignores the obvious fact that some decisions by some courts are more important than others. Decisions by the Supreme Court are far more important than hundreds of decisions by district court judges, because it is the decision of the High Court that binds all others.

Perhaps the most important judges are those who sit upon the 13 Federal courts of appeals, because these courts effectively exercise the final say on most of the cases brought in the Federal courts. President Clinton has appointed 30 judges of the 175 judges who sit on the appellate courts. Most of these judges have been on the bench 2 years of less. But in those 2 years, more than half of those Clinton judges—at least 17 of the 30—have issued or joined activist opinions that have been sympathetic to criminal defendants at the expense of legitimate law enforcement interests, or that have sought to substitute their policy preferences for those of the people as expressed in written law. Judges Sarokin, Baird, and Daughtrey are only the most egregious examples, because their crystal clear track records reflected their activist bent.

But take, for example, Judges Judith Rogers and David Tatel, who have voted with the liberal wing of the D.C. Circuit—probably the second most powerful court in the land—in every important en banc case. In particular, both judges dissented in *Action for Children's Television* v. *F.C.C.* [58 F.3d 654 (CADC 1995) (en banc)], in which the majority—all Reagan and Bush appointees—held that the Government could restrict indecent broadcasts on television during certain hours. Judges Rogers and Tatel joined two Carter judges in arguing that the Government was somehow violating the first amendment. This is activism of the worst sort, and, as the distinguished majority leader pointed out yesterday, at odds with the President's posturing on the V-chip legislation.

Or take, for example, the performance of Judge Martha Daughtrey of the sixth circuit. As I recall it, Vice President GORE was a strong supporter of then Tennessee State Supreme Court Justice Martha Daughtrey when she was nominated to the Court of Appeals for the Sixth Circuit. We had a rollcall vote in the Judiciary Committee on Judge Daughtrey, where I voted against her. I believed she was insufficiently tough on crime. Among the concerns I expressed, when she was a member of an intermediate State court, "she voted frequently, often in dissent, to reduce prison sentences for convicted criminals or to eliminate them entirely in favor of mere probation."

My concerns about Judge Daughtrey have been realized in certain respects. In *United States* v. *Garnier* [28 F.3d 1214 (CA6 1994)], police in Johnson City, TN, stopped a car for making a left turn without signaling and for erratic driving. The police believed that the driver might have been under the influence. The traffic infractions alone provided grounds to stop the car.

A field sobriety test of the driver was negative. But, during the stop, police noticed that a passenger reached several times into a bag on the floorboard of the car. Reasonably concerned for their safety, police asked the passenger to exit the vehicle and asked to look in the bag. Passenger Rudolph Garnier consented, but nothing was found.

When police frisked Garnier for weapons, they found a cellular phone, a pocket beeper, and two rolls of cash totaling about $2,100. Police then asked if they could search the trunk. Both the driver and Garnier consented. The police found a shopping bag belonging to Garnier that contained a baggie with a large amount of crack cocaine.

Here, we had erratic driving early in the morning, motions toward a bag, large amounts of cash, a cellular phone, and beeper. Law enforcement officers well know that drug dealers often carry large amounts of cash and use cellular phones and beepers to set up sales. I think most people would find the search reasonable, especially since it came after the voluntary consent of the driver and passenger.

Judge James Ryan of the sixth circuit, appointed by President Reagan, would also agree. When this case came up for appeal, he voted to uphold the legality of the police search. He wrote,

> These items provided the officer with sufficient articulable suspicion to extend the purpose and scope of the stop. No competent police officer in America, in 1993, would fail to suspect, reasonably, that these items suggested that narcotics might well be present somewhere in the vehicle.

Unfortunately for law abiding citizens, Judge Ryan's opinion was a dissent. The majority opinion, written by Judge Daughtrey, and joined by Judge Damon Keith, a Carter appointee, threw the evidence out of the case. They held that unless police had found a weapon on Garnier, police had no right to ask to search the trunk.

Frankly, Judge Daughtrey created this rule out of thin air. The fourth amendment, which Judge Daughtrey did not even quote in her opinion, prohibits only "unreasonable searches and seizures." There is no per se rule that a weapon must be found before an officer can even ask to search further. He only asked for permission to search, it was not a coercive search. And, in fact, the defendant gave permission.

Think about it. In Judge Daughtrey's world, police are not even allowed to ask for permission to search a vehicle unless certain predicates are found to have occurred. Unfortunately, the citizens of Michigan, Ohio, Tennessee, and Kentucky are going to have to live with Judge Daughtrey long after President Clinton has left office.

I will mention one more case involving Judge Daughtrey. In United States versus Long, customs inspectors discovered child pornography videos mailed from overseas to defendant's address. Police obtained a warrant to search the defendant's residence and found 19 magazines, books, and drugs. Judge Milburn, a Reagan appointee, and senior Judge Weis, a Nixon appointee, upheld the search. Judge Daughtrey dissented on the ground that there was no probable cause to search for additional pornographic material at the defendant's home. She flatly ignored a law enforcement officer's unrebutted affidavit, who said that based on his experience and from experts in the field that it was likely that more examples of child pornography would be found.

These judges are typical of more than half of the Clinton appellate judges. These judges sit on high above the district court judges who make the hundreds and thousands of usually uncontroversial, run-of-the-mill rulings that come up in a trial. These appellate judges make rulings on issues of law that will extend from the case before them to bind the other judges in that circuit on every similar case. The White House has cited decisions by Reagan-Bush judges as being soft on crime, but these decisions are almost exclusively at the trial level and seem to be an aberration for the particular judge. By contrast, I have focused attention previously on the important appellate decisions, and I have focused on particular judges rather than particular aberrational cases. It is clear that President Clinton has put on the bench particular individual judges who are continually activist.

To be sure, there are 13 Clinton appellate judges who have yet to issue activist decisions. But many of them have been on the bench for only a few months, and have yet to issue any significant opinions. And, quite honestly, I have not yet researched all of the decisions of all of these judges. who knows what I will find when I have more time to read these other decisions.

MYTH NO. 4

The Clinton administration maintains that it has appointed only moderate, highly qualified judges because its nominees have received better ratings from the American Bar Association than those received by judges appointed by Republican Presidents. This is truly unconvincing, because the ABA itself is no longer just an impartial trade association; over time it has been transformed into an ideological advocacy group.

The ABA has taken positions on some of the most divisive issues of our day, such as abortion, and it has vigorously lobbied on Capitol Hill against many of the sensible legislation and reforms that we, in the 104th Congress, have pursued. It has lobbied against the flag desecration amendment, against mandatory minimum sentences, against changes in the exclusionary rule, and against habeas corpus reform. It has lobbied for proracial preference and quota legislation and against the 104th Congress' efforts to end them. I question whether an ideological organization such as the ABA can be trusted to play an impartial role in any governmental process, such as judicial selection. It is my hope that the ABA can play an impartial role. Only the future and the ABA's willingness to depoliticize itself, will tell.

MYTH NO. 5

The Clinton administration believes that it is hypocritical for Republicans in the Senate to criticize the Clinton judiciary, because we only voted against confirming a handful of the nominees. To be sure, sometimes we cannot predict how a nominee will act. In those cases where we can, in good faith, predict how a nominee will act, we have opposed the nomination, as in the cases of Judges Barkett, Sarokin, and Daughtrey.

But my main response is to remind the President of first constitutional principles. The Senate's job is only to advise and consent to those individuals nominated by the President. When Presidents Reagan and Bush lived with a Democratic Senate, we, Republicans, argued that the Senate owed some discretion to the President.

We have remained consistent in that position even under a Democratic President. As Alexander Hamilton explained in the Federalist No. 66:

> It will be the office of the president to nominate, and with the advice and consent of the senate to appoint. There will of course be no exertion of choice on the part of the senate. They may defeat one choice of the executive, and oblige him to make another; but they cannot themselves choose—they can only ratify or reject the choice of the president.

The words of our Founding Fathers clearly explain why this election is so important. As a practical and as a constitutional matter, the Senate gives every President some deference in confirming judicial candidates nominated by the President. It is the President's power to choose Federal judges, and his alone. A Republican President would not nominate the same judges that a Democrat would, and vice versa. Thus, the American people should keep in mind that when they elect a President, they elect his judges too—and not just for 4 years, but for life. There simply is no substitute for the power to nominate Federal judges.

Finally, I would like to say this: We are not going to treat the Clinton judges the way our judges were treated in the Reagan and Bush administrations. We have treated them fairly. Yes, I would not have appointed very many of those judges. Neither would any other Republican. Neither will Senator DOLE when he becomes President. But the fact of the matter is President Clinton was elected, He is our President. He has a right to choose these judges, and we have an obligation to support those judges unless we can show some very valid constitutional reason or other reason why we should not.

As a general rule, we follow that rule and we do it even though we may not agree with these particular selections. But that does not negate the fact that in retrospect as you look over the record these judges are more liberal. They are deciding cases in a more liberal fashion. They are deciding cases in an activist fashion. They are deciding cases that are soft on crime. And I have to say this is one of the big issues of our time. Are we going to continue to put up with this? Are we going to start realizing that these are important issues? And that is not to say that there are not Republican judges who make mistakes too. But these are more mistakes. These involve philosophy of judging that literally should not be a philosophy of judging. Judges are not elected to these positions. Judges are appointed for life and confirmed for life. They should be interpreting the laws made by those elected to make them, and they should not be making laws as legislators from the bench. Unfortunately, that is what we are getting today.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from North Dakota is recognized for 8 minutes.

ILLEGAL IMMIGRATION

Mr. DORGAN. Mr. President, I hope the Senator from Wyoming, if he has a moment, would have an opportunity to hear what I have to say. The business of the Senate as I understand from the majority leader's announcement is to come back to the bill on illegal immigration which is to be managed by the Senator from Wyoming, Senator SIMPSON.

Let me just in a couple of minutes of morning business say that I will likely vote for the illegal immigration bill. There are a couple of issues in it that I think will be the subject of some controversy. But I think the piece of legislation that has been constructed is worthy, and it is a reasonably good piece of legislation. It addresses a subject that needs addressing, and that should be addressed. I have no problem with this bill at all.

I believe we find ourselves in the following circumstances. Consent was given when the piece of legislation was introduced. Following the introduction of the Dorgan amendment, consent was given to the Simpson amendments. I think they were offered, and those amendments are pending. There is an underlying amendment that I offered that has been second-degreed by Senator KEMPTHORNE from Idaho. That is apparently where we find ourselves.

I wanted to explain again briefly what compelled me to offer an amendment on this piece of legislation. And, if we can reach an understanding with the majority leader, I have no intention to keep the amendment on this legislation. But here are the circumstances.

The majority leader has the right to bring a reconsideration vote on the constitutional amendment to balance the budget at any time without debate and without amendment. He understands that. We understand that. He has indicated to me now that he does not intend to do that in the coming days. It will probably be in a couple of weeks. But he had previously announced that he would, at some point in April, perhaps mid-April, the end of April, force a reconsideration vote on the constitutional amendment to balance the budget.

The result was because we were going to have no opportunity to debate or to offer an amendment, and because some of us feel very strongly we will vote for a constitutional amendment provided it takes the Social Security trust funds and sets them outside of the other Government revenues and protects those trust funds. If it does that, we would vote for an amendment. We had done that before. There are a number of us on this side who have done that before. We offered it as an amendment. We voted for it. But we will have no opportunity to do a similar thing at this time, and my point was we would like the Senate to express itself on that issue.

The only way I could conceive of doing that was to offer a sense-of-the-Senate resolution. The sense-of-the-Senate resolution was to say that when a constitutional amendment to balance the budget is brought back to the floor of the Senate, it ought to include a provision that removes the Social Security trust funds from the other operating revenues of the Federal Government. We, incidentally, did that previously in an amendment that I believe got 40 votes. If it does, I would vote for it and I think there are probably a half dozen or dozen other Members who would similarly vote for it and we would have 70 or 75 votes for a constitutional amendment to balance the budget.

Because of circumstances and because of the parliamentary situation, I offered that as a sense-of-the-Senate resolution. It was then second-degreed. The Senator from Wyoming became fairly upset about that, and I understand why. He is managing a bill dealing with immigration. He said, "What does this have to do with immigration?"

Plenty of people have offered amendments that are not germane in the Senate. We do not have a germaneness rule. They have offered them because they felt the circumstances required them to offer them.

The Senator from Massachusetts indicated that he intends to offer an amendment on the minimum wage, increasing the minimum wage on this piece of legislation. My expectation would be, if there were an agreement reached by which the Senate would be able to agree to a vote on the minimum wage at some point, that amendment would go away as well. I do not intend to press my amendment if I can reach an agreement with the majority leader to give us an opportunity to offer, either a constitutional amendment to balance the budget that protects the Social Security trust funds, or some other device that allows us to register on that issue before we are forced to vote on reconsideration.

I want to make just another point on the Social Security issue because I think it is so important. We are not talking about just politics, as some would suggest. Some say there is no money in the Social Security trust fund. That is going to be a big surprise to some kid who tries to ask his father what he has in his savings account, and his father says you have Government savings bonds, but there is really no money there. That is what is in the Social Security trust fund, savings bonds, Government securities. Of course there is money there.

The problem is continuing to do as we have done for recent years, and that is, instead of save the surplus that we every year now accumulate in the Social Security system, $71 billion this year, if we instead use it as an offset against other Government revenues we guarantee there will be no money available in the Social Security trust funds when the baby boomers retire. It is about a $700 billion issue in 10 years, and we ought to address it. It is not unimportant. It is not politics. It might be a nuisance for some for us to require that it be addressed at some point or another, but those of us who want it addressed are not going to go away.

I guess I would say at this point that the two issues that have been raised—the one I have raised by the sense-of-the-Senate resolution I think can be resolved if the majority leader, who was, from our last conversation yesterday, going to be visiting with the Parliamentarian to see if we could find a way to provide a method for a vote on the approach I have suggested and we have previously offered on the constitutional amendment to balance the budget. If that happens, I do not intend to be continuing to press the sense-of-the-Senate resolution that I had previously offered.

I wanted to speak in morning business only to describe what the circumstances are on this piece of legislation. I am not here to make life more difficult for the Senator from Wyoming. I have great respect for him. I think the legislation he has brought to the floor has a great deal to commend it.

Even if we do not resolve this issue on the Social Security trust funds, I would not intend to ask for more than 10, 15, 20 minutes debate. I am not interested in holding up the bill. Under any conditions, I am not interested in holding up this bill.

I would agree to the shortest possible debate time, if we are not able to resolve the issue in another way. But my hope would be in the next hour or so we might be able to resolve that issue in another way. We would still, then, be asking, it seems to me, based on the discussions of Senator KENNEDY, for some kind of commitment to allow the Senate to proceed to deal with the issue of the minimum wage.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1664, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dorgan amendment No. 3667, to express the sense of the Senate that a balanced budget constitutional amendment should protect the Social Security system by excluding the receipts and outlays of the Social Security trust funds from the budget.

Simpson amendment No. 3669, to prohibit foreign students on F-1 visas from obtaining free public elementary or secondary education.

Simpson amendment No. 3670, to establish a pilot program to collect information relating to nonimmigrant foreign students.

Simpson amendment No. 3671, to create new ground of exclusion and of deportation for falsely claiming U.S. citizenship.

Simpson amendment No. 3672 (to amendment No. 3667), in the nature of a substitute.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, just a prefatory remark, with regard to my friend from North Dakota.

I enjoy working with the Senator from North Dakota. We are near neighbors in that part of the world. I can understand the depth of his very honest conviction about Social Security and the balanced budget. It is not an opinion I share, because I feel that the Social Security System is going to go broke, whether you have it on budget, off budget, hanging from space or coming out of the Earth. It is going to go broke in the year 2029. It is going to start its huge swan song in 2012, and the reason we know that is because the trustees of the system are telling us that. So I understand completely.

He is sincere in what he is doing. He is a believer in that cause and he is persistent, dogged, and I know that very well. So, in that situation we will just see how it all plays out.

AMENDMENT NO. 3669

Mr. SIMPSON. So the status of the floor is that the bill is now reported.

I, therefore, ask that the Chair lay before the Senate amendment No. 3669.

The PRESIDING OFFICER. The amendment is now before the Senate.

(The text of amendment No. 3669 was printed in the Record of April 15, 1996.)

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 3722 TO AMENDMENT NO. 3669

Mr. SIMPSON. I send a second-degree amendment to the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. Simpson] proposes an amendment numbered 3722 to amendment No. 3669.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert:

214. USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

"(a) Persons Eligible for Student Visas.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

"(1) in clause (i) by striking 'academic high school, elementary school, or other academic institution or in a language training program' and inserting in lieu thereof' public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program'; and

"(2) by inserting before the semicolon at the end of clause (ii) the following: ':*Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.';

"(b) Exclusion of Student Visa Abusers.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) Student visa abusers.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is excludable.'; and

"(c) Deportation of Student Visa Abusers.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) Student visa abusers.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable.'.".

This section shall become effective 1 day after the date of enactment.

AMENDMENT NO. 3670

Mr. SIMPSON. Mr. President, I now ask the Chair lay before the Senate amendment No. 3670.

The PRESIDING OFFICER. The amendment is now before the Senate.

(The text of amendment No. 3670 was printed in the Record of April 15, 1996.)

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 3723 TO AMENDMENT NO. 3670

Mr. SIMPSON. I send a second-degree amendment to the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. Simpson] proposes an amendment numbered 3723 to amendment No. 3670.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert:

PILOT PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS.

(a) In General.—(1) The Attorney General and the Secretary of State shall jointly develop and conduct a pilot program to collect electronically from approved colleges and universities in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under section 101(a)(15) (F), (J), or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F), (J), or (M)); and

(B) are nationals of the countries designated under subsection (b).

(2) The pilot program shall commence not later than January 1, 1998.

(b) Covered Countries.—The Attorney General and the Secretary of State shall jointly designate countries for purposes of subsection (a)(1)(B). The Attorney General and the Secretary shall initially designate not less than five countries and may designate additional countries at any time while the pilot program is being conducted.

(c) Information To Be collected.—

(1) In general.—The information for collection under subsection (a) consists of—

(A) the identity and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General; and

(C) the academic standing of the alien, including any disciplinary action taken by the college or university against the alien as a result of the alien's being convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) shall not apply to aliens described in subsection (a) to the extent that the Attorney general and the Secretary of State determine necessary to carry out the pilot program.

(d) Participation by Colleges and Universities.—(1) The information specified in subsection (c) shall be provided by approved colleges and universities as a condition of—

(A) the continued approval of the colleges and universities under section 101(a)(15) (F) or (M) of the Immigration and Nationality Act, or

(B) the issuance of visas to aliens for purposes of studying, or otherwise participating, at such colleges and universities in a program under section 101(a)(15)(J) of such Act.

(2) If an approved college or university fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) Funding.—(1) The Attorney General and the Secretary shall use funds collected under section 281(b) of the Immigration and Nationality Act, as added by this subsection, to pay for the costs of carrying out this section.

(2) Section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) is amended—

(A) by inserting "(a)" after "SEC. 281."; and

(B) by adding at the end the following:

"(b)(1) In addition to fees that are prescribed under subsection (a), the Secretary of State shall impose and collect a fee on all visas issued under the provisions of section 101(a)(15) (F), (J), or (M) of the Immigration and Nationality Act. With respect to visas issued under the provisions of section 101(a)(15)(J), this subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(2) The Attorney General shall impose and collect a fee on all changes of nonimmigrant status under section 248 to such classifications. This subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(3) Except as provided in section 205(g)(2) of the Immigration Reform Act of 1996, the amount of the fees imposed and collected under paragraphs (1) and (2) shall be the amount which the Attorney General and the Secretary jointly determine is necessary to recover the costs of conducting the information-collection program described in subsection (a), but may not exceed $100.

"(4) Funds collected under paragraph (1) shall be available to the Attorney General and the Secretary, without regard to appropriation Acts and without fiscal year limitation, to supplement funds otherwise available to the Department of Justice and the Department of State, respectively."

(3) The amendments made by paragraphs (1) and (2) shall become effective April 1, 1997.

(f) JOINT REPORT.—Not later than five years after the commencement of the pilot program established under subsection (a), the Attorney General and the Secretary of State jointly submit to the Committees on the Judiciary of the United States Senate and House of Representatives on the operations of the pilot program and the feasibility of expanding the program to cover the nationals of all countries.

(g) WORLDWIDE APPLICABILITY OF THE PROGRAM.—(1)(A) Not later than six months after the submission of the report required by subsection (f), the Secretary of State and the Attorney General shall jointly commence expansion of the pilot program to cover the nationals of all countries.

(B) Such expansion shall be completed not later than one year after the date of the submission of the report referred to in subsection (f).

(2) After the program has been expended, as provided in paragraph (1), the Attorney General and the Secretary of State may, on a periodic basis, jointly revise the amount of the fee imposed and collected under section 281(b) of the Immigration and Nationality Act in order to take into account changes in the cost of carrying out the program.

(h) DEFINITION.—As used in this section, the phrase "approved colleges and universities" means colleges and universities approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

This section shall become effective 1 day after the date of enactment.

AMENDMENT NO. 3671

Mr. SIMPSON. I ask the Chair lay before the Senate amendment No. 3671.

The PRESIDING OFFICER. The amendment is now before the Senate.

(The text of amendment No. 3671 was printed in the RECORD of April 15, 1996.)

Mr. KENNEDY. Mr. President, I send a second-degree amendment on the minimum wage.

Mr. SIMPSON. Mr. President, I do have the floor.

AMENDMENT NO. 3724 TO AMENDMENT NO. 3671

Mr. SIMPSON. I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 3724 to amendment No. 3671.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert:

115A. FALSE CLAIMS OF U.S. CITIZENSHIP.

"(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended by adding at the end the following new subparagraph:

'(D) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is excludable.'; and

"(b) DEPORTATION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is deportable.'.".

This section shall become effective 1 day after the date of enactment.

MOTION TO RECOMMIT

Mr. SIMPSON. Mr. President, I move to recommit S. 1664 to the Judiciary Committee with instructions to report back forthwith. I send a motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] moves to recommit S. 1664 to the Committee on the Judiciary.

Mr. SIMPSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. SIMPSON. Mr. President, I now send an amendment to the desk to the motion.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. KENNEDY. Mr. President, a point of order, there was not a sufficient second.

The PRESIDING OFFICER. There was not a sufficient second.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

Mr. SIMPSON. Mr. President, I ask for the yeas and nays. There is a sufficient second on the floor.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I shall renew the request, Mr. President, and ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3725 TO INSTRUCTIONS OF MOTION TO RECOMMIT

Mr. SIMPSON. Mr. President, I now send to the desk an amendment to the motion.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes amendment numbered 3725 to instructions of motion to recommit S. 1664.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the end of the instructions the following: "that the following amendment be reported back forthwith.

After sec. 213 of the bill, add the following new section:

"SEC. 214. USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

"(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

"(1) in clause (i) by striking 'academic high school, elementary school, or other academic institution or in a language training program' and inserting in lieu thereof 'public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program'; and

"(2) by inserting before the semicolon at the end of clause (ii) the following: ': *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.';

"(b) EXCLUSION OF STUDENT VISA ABUSERS.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if(I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is excludable.'; and

"(c) Deportation of Student Visa Abusers.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) Student visa abusers.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if(I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable.'.".

Mr. SIMPSON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3726 TO AMENDMENT NO. 3725

Mr. SIMPSON. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. Simpson] proposes amendment numbered 3726 to amendment No. 3725.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment to the instructions to the motion to recommit, insert the following new section:

SEC. . PILOT PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS.

(a) In General.—(1) The Attorney General and the Secretary of State shall jointly develop and conduct a pilot program to collect electronically from approved colleges and universities in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under section 101(a)(15) (F), (J), or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F), (J), or (M)); and

(B) are nationals of the countries designated under subsection (b).

(2) The pilot program shall commence not later than January 1, 1998.

(b) Covered Countries.—The Attorney General and the Secretary of State shall jointly designate countries for purposes of subsection (a)(1)(B). The Attorney General and the Secretary shall initially designate not less than five countries and may designate additional countries at any time while the pilot program is being conducted.

(c) Information To Be Collected.—

(1) In general.—The information for collection under subsection (a) consists of—

(A) the identify and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General; and

(C) the academic standing of the alien, including any disciplinary action taken by the college or university against the alien as a result of the alien's being convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) shall not apply to aliens described in subsection (a) to the extent that the Attorney General and the Secretary of State determine necessary to carry out the pilot program.

(d) Participation by Colleges and Universities.—(1) The information specified in subsection (c) shall be provided by approved colleges and universities as a condition of—

(A) the continued approval of the colleges and universities under section 101(a)(15) (F) or (M) of the Immigration and Nationality Act, or

(B) the issuance of visas to aliens for purposes of studying, or otherwise participating, at such colleges and universities in a program under section 101(a)(15)(J) of such Act.

(2) If an approved college or university fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) Funding.—(1) The Attorney General and the Secretary shall use funds collected under section 281(b) of the Immigration and Nationality Act, as added by this subsection, to pay for the costs of carrying out this section.

(2) Section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) is amended—

(A) by inserting "(a)" after "SEC. 281."; and

(B) by adding at the end the following:

"(b)(1) In addition to fees that are prescribed under subsection (a), the Secretary of State shall impose and collect a fee on all visas issued under the provisions of section 101(a)(15) (F), (J), or (M) of the Immigration and Nationality Act. With respect to visas issued under the provisions of section 101(a)(15)(J), this subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(2) The Attorney General shall impose and collect a fee on all changes of nonimmigrant status under section 248 to such classifications. This subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(3) Except as provided in section 205(g)(2) of the Immigration Reform Act of 1996, the amount of the fees imposed and collected under paragraphs (1) and (2) shall be the amount which the Attorney General and the Secretary jointly determine is necessary to recover the costs of conducting the information-collection program described in subsection (a), but may not exceed $100.

"(4) Funds collected under paragraph (1) shall be available to the Attorney General and the Secretary, without regard to appropriation Acts and without fiscal year limitation, to supplement funds otherwise available to the Department of Justice and the Department of State, respectively."

(3) The amendments made by paragraphs (1) and (2) shall become effective April 1, 1997.

(f) Joint Report.—Not later than five years after the commencement of the pilot program established under subsection (a), the Attorney General and the Secretary of State shall jointly submit to the Committees on the Judiciary of the United States Senate and House of Representatives on the operations of the pilot program and the feasibility of expanding the program to cover the nationals of all countries.

(g) Worldwide Applicability of the Program.—(1)(A) Not later than six months after the submission of the report required by subsection (f), the Secretary of State and the Attorney General shall jointly commence expansion of the pilot program to cover the nationals of all countries.

(B) Such expansion shall be completed not later than one year after the date of the submission of the report referred to in subsection (f).

(2) After the program has been expanded, as provided in paragraph (1), the Attorney General and the Secretary of State may, on a periodic basis, jointly revise the amount of the fee imposed and collected under section 281(b) of the Immigration and Nationality Act in order to take into account changes in the cost of carrying out the program.

(h) Definition.—As used in this section, the phrase "approved colleges and universities" means colleges and universities approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

Mr. SIMPSON. Mr. President, I appreciate the good will of my friend from Massachusetts. I think after an explanation of what the procedure was, even though I know that that is a difficult one, that nevertheless, it is appropriate under the rules. I had expressed to the Senator from Massachusetts and to the Senator from North Dakota that it would be my intent to proceed and move forward with regard to this issue. These other issues, I hope, can be addressed at some other forum.

The pending business of the U.S. Senate for the last week has been the illegal immigration bill, not the balanced budget amendment, not Social Security, not the minimum wage, not anything. It has been set aside, and we have handled some very significant legislation in the interim.

I want to commend Senator Kennedy and Senator Kassebaum for the work that they did, which was quite evident, the worth of it and the success of it, by a vote of 100 to 0, on an issue that has been creating tremendous difficulty with all of us. We have started down the road of reform with regard to health care, incremental as it is, but certainly something that the Senator from Massachusetts has been involved in in his entire career in the U.S. Senate.

Sometimes he is a vexing adversary, sometimes he is a warm and helpful ally; but there is one thing the Senator from Massachusetts is, he is a master legislator. We do not have to agree, but if there is anyone who knows more about legislating in this place, I mean day-to-day legislating, the rules, the procedures of legislating, not simply procedure—that helps—then it certainly is the Senator from Massachusetts who is one of the most able in this arena. With that—and I do not want to get too heavy; that would be totally uncharacteristic and unnecessary, Mr. President—I am pleased that we are once again considering the very important issue of immigration reform. This is about immigration reform.

As the majority leader mentioned last week, wherever one visits in this country, the issue is: When is Congress going to do something about immigration? That always comes up. The people of this country want reform. They want those who are not supposed to be in this country to be removed from this country. They do not want those who are subject to deportation to be allowed to roam the United States at will while awaiting their removal, also, working and taking away the jobs of American citizens. They want a reduction in overall immigration numbers. That is what they tell us on a consistent basis.

We now have an opportunity to accomplish all of that. We have a very good bill before us, and we have many amendments proposed, some of which will improve the legislation. There will be amendments. Those have been submitted. Those should be known to Members and staff by this time. We will proceed with those. I trust my colleagues will bring these amendments to the floor so we may conclude this contentious but important and consistent and ever-present debate and pass comprehensive immigration reform during this week.

The Barbara Jordan Commission left a statement which I think is worthy of all of us to be reminded of on this date. It was to this effect: The credibility of immigration policy can be measured by a simple yardstick. These are the words of Barbara Jordan, former Congresswoman, remarkable, remarkable American, a woman I greatly admired and respected and was honored to participate at the memorial service on her behalf at the Kennedy Center. That was a very, very emotional and touching thing for me. She said the simple yardstick is this: People who should get in, do get in; people who should not get in are kept out; and people who are judged deportable are required to leave. You cannot state it any more clearly than that.

The pending business is a Simpson second-degree amendment on a motion to recommit. This is the Simpson amendment No. 2, the pilot program. I believe that is now the pending business. I believe the debate on that amendment has been had. It was at the desk. Let me just refresh your memory on that. That was the amendment to provide a pilot student-tracking program. The aim was to enable the INS to keep track of foreign students studying in this country. The amendment would provide a source of funding to the INS to establish a very basic, computer-based system for keeping track of foreign students. It is a measure supported by the FBI Director, who expressed deep concerns about our ability to track such students in a 1994 memo regarding possible entry venues for tourists.

This is not an intrusive provision. Colleges and universities already are required to provide this sort of information to the INS. The problem in the past has been that the INS has not devoted sufficient resources to this activity to create a body of reliable information. So the amendment's aim is to provide funding so the INS can implement a system to keep track of foreign students studying here. It seems reasonable that such funding should come from the students themselves and not from the taxpayer. A student who is willing to pay $10,000 or $20,000 in this country or $80,000 to $100,000 over the course of study, is unlikely to be greatly concerned at being asked to pay an additional fee of $50 or $100 for the issuance of a student visa.

That is the substance of the amendment. I inquire if there is further debate on the amendment, or move the question on the amendment.

Mr. KENNEDY. Mr. President, effectively, in terms of the substance of the legislation that we have before the Senate, I support these three amendments, for the reasons we outlined the other evening when we commenced the debate on these items. One allows us to be able to track foreign students to find out what happens to those students. We are unable to do so now. There is a serious question about whether the foreign student visas are being used for real education or as another way to circumvent the laws. That is reasonable.

The second amendment deals with the situation where a young person gets a students visa to be able to come in and attend a private university and is able to demonstrate he or she has the resources to be able to do it and then makes a decision, after he or she is here, to go to a public university. It is a drain on the taxpayer funds. We want to address that situation. It is not unimportant. We are supportive of that particular legislation.

A final amendment deals with an individual who, either for employment or to get some kind of support funding, makes a false claim that they are a citizen when they are not. The amendment makes them subject to deportation. I think that makes a good deal of sense. If an individual is trying to either displace an American in a job and misrepresents his or her status by lying to the employer and stating that he or she is a citizen, or stating to other local or State or Federal officials that he or she is a citizen, when they are not, in order to benefit from some other kind of emergency services, that individual, I believe, ought to be subject to deportation.

On the substance of these amendments, I support all of them. The second-degree amendments are only a means for effectively denying the opportunity to amend the underlying amendments. As I understand, the substance of those is to change the date of enactment of those particular provisions by a day, meeting the requirements of the Senate rules in not changing the substance of it.

Finally, Mr. President, I understand that because of the changes in the parliamentary situation, now we will address those three at whatever time it is fine to move ahead on those amendments as far as this Senator is concerned. There may be other considerations which would dictate a time designated by the majority-minority leaders for the consideration of those measures.

Instead, moving back, then, to what would have been the Dorgan amendment and have that the pending business through the changes in the parliamentary situation which were just agreed to. The Dorgan amendment, for all intents and purposes, would not be the pending business. There would be then an opportunity after these amendments are addressed to amend the underlying legislation at that time. The pending business would no longer be the Dorgan amendment.

For those who are interested, both Senator DORGAN and myself will, at least hopefully, have some opportunity to address for a brief time, but hopefully within an agreement of a short timeframe, either the minimum wage or Senator DORGAN's amendment.

I was glad to try to place the minimum wage as a second degree to underlying amendments previously. We did not have the opportunity to do so. Perhaps there will be an effort to completely foreclose the opportunity to address it, but it is certainly my intention not to delay this legislation but for a short timeframe to address the minimum wage. This legislation will be before the Senate for a time, and we will try to at least see if there is some opportunity to do so. I know that is not the desire of the floor manager to move ahead. In any event, that would be my intention.

I yield to the majority leader without losing the right of recognition after he has concluded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTING THE ENROLLMENT OF S. 735

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 54 and Senate Concurrent Resolution 55, submitted earlier by Senator Hatch. I further ask unanimous consent that these resolutions be agreed to, en bloc, the motions to reconsider be laid upon the table, en bloc, and that any statements relating to either of these resolutions appear at the appropriate place in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolutions (S. Con. Res. 54 and S. Con. Res. 55) were agreed to, en bloc, as follows:

S. Con. Res. 54

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 735) shall make the following corrections:

In the table of contents of the bill, strike the item relating to section 431 and redesignate the items relating to sections 432 through 444 as relating to section 431 through 443 respectively.

In section 620G(a), proposed to be inserted after section 620F of the Foreign Assistance Act of 1961, by section 325 of the bill, strike "may" and insert "shall".

In section 620H(a), proposed to be inserted after section 620G of the Foreign Assistance Act of 1961, by section 325 of the bill—

(1) strike "may" and insert "shall";

(2) strike "shall be provided"; and

(3) insert "section" before "6(j)".

In section 219, proposed to be inserted in title II of the Immigration and Nationality Act, by section 302 of the bill—

(1) in subsection (a)(1), insert "foreign" before "terrorist organization";

(2) in subsection (a)(2)(A)(i), strike "an" before "organization under " and insert "a foreign";

(3) in subsection (a)(2)(C), insert "foreign" before "organization"; and

(4) in subsection (a)(4)(B), insert "foreign" before "terrorist organization".

In section 2339B(g), proposed to be added at the end of chapter 113B of title 18, United States Code, by section 303 of the bill, strike paragraph (5) and redesignate paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

In section 2332d(a), proposed to be added to chapter 113B of title 18, United States Code, by section 321(a) of the bill—

(1) strike "by the Secretary of State" and insert "by the Secretary of the Treasury";

(2) strike "with the Secretary of the Treasury" and insert "with the Secretary of state"; and

(3) add the words "the government of" after "engages in a financial transaction with";

At the end of section 321 of the bill, add the following:

"(c) Effective Date.—The amendments made by this section shall become effective 120 days after the date of enactment of this Act.".

In section 414(b) and 422(c) of the bill, strike "90" and insert "180".

In section 40A(b), proposed to be added to chapter 3 of the Arms Expert Control Act, by section 330 of the bill strike "essential" and insert "important".

In section 40A(b), proposed to be added to chapter 3 of the Arms Expert Control Act, by section 330 of the bill, strike "security".

Strike section 431 of the bill and redesignate sections 432 and 444 as section 431 through 443, respectively.

In section 511(c) of the bill, strike "amended—" and all that follows through "(2)" and insert "amended".

In section 801 of the bill, strike "subject to the concurrence of" and insert "in consultation with".

In section 443, by striking subsection (d) in its entity and inserting:

(d) Effective Date.—the amendments made by this section shall become effective no later than 60 days after the publication by the Attorney General of implementing regulation that shall be published on or before January 1, 1997.

S. Con. Res. 55

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 735) shall make the following corrections:

In the table of contents of the bill, strike the item relating to section 431 and redesignate the items relating to sections 432 through 444 as relating to sections 431 through 443, respectively.

Strike section 1605(g) of title 28, United States Code, proposed to be added by section 221 of the bill, and insert the following:

"(g) Limitation on Discovery.—

"(1) In general.—(A) Subject to paragraph (2), if an action is filed that would otherwise be barred by section 1604, but for subsection (a)(7), the court, upon request of the Attorney General, shall stay any request, demand, or order for discovery on the United States that the Attorney General certifies would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action, until such time as the Attorney General advises the court that such request, demand, or order will no longer so interfere.

"(B) A stay under this paragraph shall be in effect during the 12-month period beginning on the date on which the court issues the order to stay discovery. The court shall renew the order to stay discovery for additional 12-month periods upon motion by the United States if the Attorney General certifies that discovery would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action.

"(2) Sunset.—(A) Subject to subparagraph (B), no stay shall be granted or continued in effect under paragraph (1) after the date that is 10 years after the date on which the incident that gave rise to the cause of action occurred.

"(B) After the period referred to in subparagraph (A), the court, upon request of the Attorney General, may stay any request, demand, or order for discovery on the United States that the court finds a substantial likelihood would—

"(i) create a serious threat of death or serious bodily injury to any person;

"(ii) adversely affect the ability of the United States to work in cooperation with foreign and international law enforcement agencies in investigating violations of United States law; or

"(iii) obstruct the criminal case related to the incident that gave rise to the cause of action or undermine the potential for a conviction in such case.

"(3) Evaluation of evidence.—The court's evaluation of any request for a stay under this subsection filed by the Attorney General shall be conducted ex parte and in camera.

"(4) Bar on motions to dismiss.—A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

"(5) Construction.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States.".

In section 620G(a), proposed to be inserted after section 620F of the Foreign Assistance Act of 1961, by section 325 of the bill, strike "may" and insert "shall".

In section 620H(a), proposed to be inserted after section 629G of the Foreign Assistance Act of 1961, by section 326 of the bill—

(1) strike "may" and insert "shall";

(2) strike "shall be provided"; and

(3) insert "section" before "6(j)".

In section 219, proposed to be inserted in title II of the Immigration and Nationality Act, by section 302 of the bill—

(1) in subsection (a)(1), insert "foreign" before "terrorist organization";

(2) in subsection (a)(2)(A)(i), strike "an" before "organization under" and insert "a foreign";

(3) in subsection (a)(2)(C), insert "foreign" before "organization"; and

(4) in subsection (a)(4)(B), insert "foreign" before "terrorist organization".

In section 2339B(g), proposed to be added at the end of chapter 113B of title 18, United States Code, by section 303 of the bill, strike paragraph (5) and redesignate paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

In section 2332d(a), proposed to be added to chapter 113B of title 18, United States Code, by section 321(a) of the bill—

(1) strike "by the Secretary of State" and insert "by the Secretary of the Treasury";

(2) strike "with the Secretary of the Treasury" and insert "with the Secretary of State";

(3) add the words "the government of" after "engages in a financial transaction with";

At the end of section 321 of the bill, add the following:

"(c) Effective Date.—The amendments made by this section shall become effective 120 days after the date of enactment of this Act.".

In section 414(b) and 422(c) of the bill, strike "90" and insert "180".

In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill strike "essential" and insert "important".

In section 40A(b), proposed to be added to chapter 3 of the Arms Expert Control Act, by section 330 of the bill, strike "security".

Strike section 431 of the bill and redesignate sections 432 through 444 as sections 431 through 443, respectively.

In section 511(c) of the bill, strike "amended—" and all that follows through "(2)" and insert "amended".

In section 801 of the bill, strike "subject to the concurrence of" and insert "in consultation with".

In section 443, by striking subsection (d) in its entirety and inserting: (d) Effective Date.—The amendments made by this section shall become effective no later than 60 days after the publication by the Attorney General of implementing regulations that shall be published on or before January 1, 1997.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3726

Mr. KENNEDY. Mr. President, we will have a brief quorum call to discuss with the floor manager whether or not they want to have a series of rollcalls. I hope we will dispose of the amendments in a timely way. If we can move ahead with voice votes on all of those—well, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. We will proceed now, but I would make a remark because I certainly can understand the position of Senator KENNEDY and the issue that is driving him in this debate, but not necessarily on this bill, and also Senator DORGAN. As I heard Senator KENNEDY describing what is out there, eventually, it reminded me of Edgar Allan Poe in "The Pit and the Pendulum," as the arc of the blade swung closer and closer to the object. I just wanted to state that. It was a great iteration that came over me—the blade swinging back and forth, and eventually it will hit, and we will have to do what we always do here, which is sometimes difficult. It is called vote. And that is a time to come.

So with that, I urge the adoption of amendment No. 3726.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. KENNEDY. Mr. President, we were just trying to follow the numbers. We had a series of amendments. Could the Senator just restate that amendment number.

Mr. SIMPSON. That is the pilot program, originally Simpson No. 2.

Mr. KENNEDY. I appreciate that.

I urge support of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3726) was agreed to.

AMENDMENT NO. 3727 TO AMENDMENT NO. 3725

Mr. SIMPSON. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 3727 to amendment No. 3725.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the last word in the pending amendment and insert: "act (8 U.S.C. 110(a)(15)

"SEC. . FALSE CLAIMS OF U.S. CITIZENSHIP.

"(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended by adding at the end the following new subparagraph:

'(D) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is excludable.'; and

"(b) DEPORTATION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is deportable.'.".

Mr. SIMPSON. Mr. President, this amendment, which was the original Simpson amendment No. 3, creates a new ground of exclusion and of deportation for falsely claiming U.S. citizenship.

Mr. President, this amendment would add a new section to the bill. This is repetitive of remarks when we began the legislation, but this section would create a new ground of exclusion and of deportation for falsely representing oneself as a U.S. citizen.

This amendment is a complement to another one I am proposing. The other amendment would modify the bill section providing for pilot projects on systems to verify work authorization and eligibility to apply for public assistance.

One of the requirements of that other amendment is that the Attorney General conduct certain specific pilot projects including one in which employers would be required to verify the immigration status of aliens but not persons claiming to be citizens. Such persons would be required only to attest to being citizens. That came up in debate in the markup in the Judiciary Committee, that Americans, U.S. citizens, should not have to do some of the things that we require of others, and so there would be an attest provision.

Obviously, the major weakness in any such system as that is the potential for false claims of citizenship. That is why I am offering the present amendment, which would create a major new disincentive for falsely claiming U.S. citizenship. Lawful, permanent resident aliens who falsely claim citizenship risk deportation and being permanently barred from entering the United States of America. Since they are authorized to work, they would have little reason to make a false claim of citizenship.

Illegal aliens, on the other hand, would know that they could not be verified if they admitted to being aliens and the verification process was conducted; yet they would also know that if they falsely claimed to be citizens and were caught, they could be deported and permanently barred. Thus, the risk involved in making false claims would be high for them, too, under such a pilot project if the present amendment were enacted into law.

Therefore, if this amendment were enacted, and the pilot project involving citizenship attestation were conducted, a significant number even of illegal aliens might well be deterred from seeking jobs in the United States.

That is the purpose of the amendment.

Mr. KENNEDY. Mr. President, the Senator has made a very clear statement on the substance of the legislation. It is, I think, an important addition to the effort that we are undertaking to try and control illegal immigration, and I think it is very worthwhile. I hope the Senate will support it.

The PRESIDING OFFICER. Is there further debate on the amendment No. 3727?

Mr. SIMPSON. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3727) was agreed to.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3728 TO AMENDMENT NO. 3725

(Purpose: To criminalize voting by aliens for candidates for a Federal office, and to make unlawful voting a ground for exclusion and deportation)

Mr. SIMPSON. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk report the amendment.

The assistant legislative clerk read as follows.

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 3728 to amendment No. 3725.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the last word in the amendment and insert: "deportable.

"SEC. . VOTING BY ALIENS.

"(a) CRIMINAL PENALTY FOR VOTING BY ALIENS IN FEDERAL ELECTION.—Title 18, United States Code, is amended by adding the following new section:

'§611. Voting by aliens

'(a) It shall be unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, unless—

'(1) the election is held partly for some other purpose;

'(2) aliens are authorized to vote for such other purpose under a State constitution or statute or a local ordinance; and

'(3) voting for such other purpose is conducted independently of voting for a candidate for such Federal offices, in such a manner that an alien has the opportunity to vote for such other purpose, but not an opportunity to vote for a candidate for any one or more of such Federal offices.

'(b) Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than one year or both.';

"(b) EXCLUSION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is excludable.'; and

"(c) DEPORTATION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is deportable.'.".

Mr. SIMPSON. Mr. President, this is the amendment to criminalize voting by aliens in Federal elections and make unlawful voting a ground for exclusion and deportation. That is what this amendment is. This is the original Simpson No. 4.

This amendment has three parts. It has been changed from the discussion that we had in the markup of this particular amendment. First, the amendment would create a criminal penalty for voting by aliens in any Federal election.

Please note that this new criminal offense would cover only Federal elections, unlike the provision that was in the original version of the bill and that was deleted at the committee markup, because you will recall there was debate and discussion as to what that would do in a school board election or county commissioner election, and certainly those States should have the options to control that. That is the substance of this amendment.

This new offense would be a misdemeanor. It is not a felony. It would be a misdemeanor.

An alien who voted in any election, who voted solely or in part electing a candidate for President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia or resident commissioner, would be punishable by up to 6 months in prison and a $1,000 fine—not a felony.

The second part of the amendment would create a ground of exclusion for aliens who have unlawfully voted in any election, Federal, State, or local, in violation of a Federal, State or local constitutional provision, statute, ordinance, or regulation.

And, third, the amendment would create a ground of deportation for such unlawful voting by an alien.

This amendment would help to guarantee that a majority of citizens of the United States, those who owe their full political allegiance to this country, retain political control of every political unit and every political issue.

If aliens are allowed to vote, it becomes quite possible that a relatively small group of citizens in a particular jurisdiction could outvote a citizen majority, if the group had enough noncitizen allies. I do not feel that that is acceptable. That is not consistent with the form of government that the Founding Fathers believed to be a fundamental right of the American people.

I have not covered State or local elections in the criminal offense provision, in the provision I just described, because of the objections of some Members who believe, and sincerely believe—as I believe my friend from Illinois indeed believes—that a temporary majority of citizens in a local jurisdiction or a State should be able to authorize voting by aliens. They believe this, despite the fact that if aliens are once given the right to vote in a jurisdiction, it might be difficult or nigh impossible for a majority of citizens in that jurisdiction to reverse the decision later.

However, my amendment also creates new grounds of exclusion and deportation for voting, if it is unlawful. It applies to any election. Therefore, there would be an additional disincentive for aliens to vote if there is a law prohibiting them from doing so.

During the markup and subsequently, some have raised the issue of constitutionality of this prohibition. At this time, just may I say a few words about that issue of constitutionality. A doubt has been expressed about whether Congress has the authority to prohibit voting by aliens. I believe that view is unfounded. There are several constitutional grounds for this authority, including the plenary power of Congress over immigration matters, which has been referred to so many times over the years by the U.S. Supreme Court and also the clause that guarantees what is called a republican form of government. That standard to be applied is a "rational relationship to a legitimate Federal Government purpose."

So, obviously, enforcing the immigration laws of the United States and, in particular, the naturalization laws—the requirements and procedures an alien must follow to become a naturalized U.S. citizen is a legitimate Federal Government purpose. Indeed, immigration and naturalization is, along with national defense, the most fundamental of the Federal Government's responsibilities. That is undoubtedly why the Supreme Court has made such extraordinary statements over the years, about just how plenary—"plenary" meaning complete and absolutely—how plenary that power is.

Just one example, quote from the case of Oceanic Steam Navigation Co. versus Stranahan, and then quoted later with approval in Fiallo versus Bell and Kleindienst versus Mandel:

> Over no conceivable subject is the legislative power of Congress more complete than it is over the admission of aliens.

The encouragement of naturalization has been explicitly recognized by the Supreme Court as a legitimate purpose of Federal actions favoring citizens. That was the case of Hampton versus Mow Sun Wong.

So the prohibition of voting by aliens in Federal elections only would clearly be rationally related to a purpose encouraging naturalization, which is, as I say, one of the premium subjects in the legislative power of Congress. So that is the extent of the amendment and my explanation of the amendment.

Further debate?

The PRESIDING OFFICER (Mr. FRIST). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we support this legislation. I want to make sure this does not displace what we have already agreed to in the motor-voter legislation, which also deals with fraudulent elections, and where the penalty is somewhat larger. As I understand, this would apply in the Federal, as compared to the participation in local or State, elections. At least I am informed by the Justice Department that they, too, would feel illegal voting in a Federal election could be prosecuted under the Federal law. I am glad to accept this measure, or urge the measure be accepted. We can work this thing through to clarify it, perhaps, on our way to the conference.

We want to do what the Senator has rightfully pointed out is necessary to be done, in ways that are not going to minimize other provisions which might deal with this, also in a substantive way, that may be even more effective. I will be glad to recommend we accept this now. We can work through this and get a clearer definition as to how this interacts with motor voter. I completely agree with the Senator in terms of the objectives.

I just inquire of the Senator what his feeling would be on this.

Mr. SIMPSON. Mr. President, the concern my friend from Massachusetts expresses, and what he has pointed out as something disturbing to him, certainly is not the intent of this author, especially with regard to motor voter. There may be some things that would have to be done here, because I believe in motor voter we had a criminal penalty when we passed that legislation. So I will just leave it in good faith, as we have done for 17 years, with the Senator from Massachusetts to work that out.

Mr. KENNEDY. That is fine.

Mr. SIMPSON. And be certain the things that cause him concern are not anything that I am intending to do in this amendment. We can work that out.

Mr. KENNEDY. Yes, Mr. President, I think we might as well move ahead. I think we are absolutely—and the Senate would be—in accord with the description by the Senator. I urge we accept it. We will review those measures together to make sure we are consistent with what both the Senator wants to do and any other potential inconsistencies in current law.

Mr. SIMPSON. Mr. President, I appreciate that. My amendment is not intended to supersede the present prohibition on unlawful voting. I make that assurance once again. I therefore urge the adoption of the amendment under those conditions.

The PRESIDING OFFICER. If there is no further debate, the question is agreeing to amendment numbered 3728.

The amendment (No. 3728) was agreed to.

AMENDMENT NO. 3729 TO AMENDMENT NO. 3725

Mr. SIMPSON. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes amendment numbered 3729 to amendment No. 3725.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the last word and insert the following: "deportable

"SEC. . USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

"(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

"(1) in clause (i) by striking 'academic high school, elementary school, or other academic institution or in a language training program' and inserting in lieu thereof 'public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program'; and

"(2) by inserting before the semicolon at the end of clause (ii) the following: ': *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.';

"(b) EXCLUSION OF STUDENT VISA ABUSERS.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is excludable.'; and

"(c) DEPORTATION OF STUDENT VISA ABUSERS.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable.'.".

This section shall become effective 1 day after the date of enactment.

Mr. SIMPSON. Mr. President, this is in essence Simpson No. 1 which we discussed the other day when we began our debate on this issue. There is a minor change, of course, to accomplish one thing so that we can address it here since it is the original underlying anchor on the procedural aspects of where we are at this moment.

So the purpose of the amendment—again, it is a bit repetitive from our discussion when we proceeded with this legislation originally—this is an issue brought to us by Senator FEINSTEIN. I want to say at this moment that I have received a tremendous amount of support and assistance from Senator FEINSTEIN. She, of course, represents a State that is most powerfully affected by everything that is happening today and everything that is happening tomorrow with regard to illegal immigration and legal immigration. So I say that I am deeply appreciative of her and her staff who have worked with my staff on many issues.

These children who are involved here are described as parachute kids. And that is a concern. This amendment is intended to prevent foreign students coming to the United States to obtain a free taxpayer-financed education at a public elementary, secondary school. This is a growing problem of children who come to the United States, stay with friends or relatives, or even strangers, to whom they pay a fee, and attending public schools then as residents of the school district.

This amendment prohibits consular officers from issuing visas for attendance at such public schools or the INS from approving such cases unless the foreign student can demonstrate that he or she would reimburse the public elementary or secondary school for the full unsubsidized per capita cost of providing such education or unless the school waives reimbursement.

The amendment also provides for the exclusion and deportation of students who are admitted to attend private elementary or secondary schools but who do not remain enrolled then at the private school for the duration of their elementary or secondary study in the United States. The purpose here is designed to prevent students from obtaining admission to a private school, which they often do, and then switching to a taxpayer-funded public school soon after arrival in the United States.

The amendment would not prevent these children who are validly in the United States as dependents of persons lawfully residing here from applying for admission to public schools nor would it prevent public schools hosting foreign exchange students. We do not want to intrude on that wonderful program, those who would continue to be admitted as exchange visitors on J visas.

The amendment is, however, designed to deal specifically with the problem of the parachute kids which has received some attention and certainly in California and in other locations, those who come here to receive a U.S. education at taxpayer expense.

That is the conclusion of my remarks with regard to the amendment. I look forward to further debate.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this has been a phenomenon that has developed in very recent years. It is now becoming more frequently utilized to the disadvantage of taxpayers in these local communities. The Senator has made an excellent presentation. It is increasingly a problem. We ought to address it. This particular proposal does address it. I hope, for the reasons that have been outlined earlier, that the amendment will be accepted.

Mr. SIMPSON. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3729 to amendment No. 3725.

The amendment (No. 3729) was agreed to.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3730 TO AMENDMENT NO. 3725

(Purpose: To repeal the ban on the search of open-fields by employees of the INS when they have probable cause to believe an illegal act has occurred)

Mr. SIMPSON. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes amendment numbered 3730 to amendment No. 3725.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the last word in the amendment and insert: "enactment

"SEC. . OPEN-FIELD SEARCHES.

"(a) REPEAL.—Section 116 of Public Law 99-603 and section 287(e) of the Immigration and Nationality Act (8 U.S.C. 1357(e)) are repealed.

"(b) REDESIGNATION OF PROVISION.—Subsection (f) of section 287 of that Act is redesignated as subsection (e) of that section."

Mr. SIMPSON. Mr. President, this is not one that will pass by voice vote. We will require a rollcall vote on this issue. It is and always has been contentious. This is the original Simpson amendment No. 8 which is to repeal the current ban on open field searches. Therefore, any staff watching these proceedings at this moment will have immediately pressed a button, and the ejection device will propel their principal here to the floor to proceed with vigorous, vigorous debate on this issue. But this one, like all, up or down, and then move on.

But here is where we are, ladies and gentlemen. Do not miss the impact of this. This happened back in the days of putting together the original legislation and what you want to recall is that no other U.S. law enforcement agency—none—except the Immigration and Naturalization Service requires a warrant, a search warrant, to enter and/or search open agricultural farmland. No other agency of enforcement in the United States is required to do that. That requirement that the INS agents obtain a warrant for such a search was placed in the law in 1986 by what I refer to as an unholy alliance between the agricultural growers and the ACLU. You really will not find the ACLU and the agricultural growers in the same sack very often.

All other law enforcement agents—that is a DEA agent, a local police officer, even a local sheriff—can, without a warrant, and if they have probable cause, search an open field for drugs or for a dead body. INS officers alone are prohibited by law from entering a field to enforce immigration laws. Of course, the effect of this requirement is to make it extremely difficult to enforce our laws against the employment of illegal agricultural workers. There are tremendous abuses in that field.

A further effect is to make it safer—that is the word—for employers to use illegal workers, at a time when the experts tell us that there are more than 1 million American agricultural workers that could perform that work. The present ban on open field searches, in other words, then protects those who hire illegal workers. That helps to deny those jobs to American workers. As a result, up to 40 percent of the agricultural workers on the west coast are illegal aliens.

One of our Nation's most noted immigration experts, Prof. Barry Fuchs of Brandeis University, and the executive director, Rev. Ted Hesburgh, Select Committee on Immigration Policy and a member of the current Commission on Immigration Reform, has specifically recommended to us that a high priority be placed on repealing the ban on open field searches. Professor Fuchs has noted that the ban has taken away an "important enforcement tool of the INS."

I hope we might listen to the words of our friend, Larry Fuchs. He is our friend. Senator KENNEDY has known him longer than I. Larry Fuchs is a remarkable resource for this country on legal and illegal immigration reform.

As I have indicated in the past, Senator KENNEDY and I were both original Members of the U.S. Senate on the Select Commission on Immigration Refugee Policy, chaired so ably by Father Ted Hesburgh, who was an inspiration to us and who is, to this day, one of the most remarkable people in this land and a loving friend.

We should heed the words of Professor Fuchs. Proponents of the requirement—and you will hear that argument coming forth momentarily—proponents of the requirement for warrants argue that it prevents INS officers from entering an open field simply because those who are working there "look Hispanic." That argument ignores the fact that seeing workers who look Hispanic is not probable cause. That is not probable cause for a search. You cannot use that argument in that sense in any way. Entering a field for that purpose, that particular purpose, would be illegal, even if search warrants were not required. I think that is a very important distinction. I hope we will hold closely as we debate this issue.

The American public wants us to enforce our laws against illegal immigration. The case is even stronger when, by doing so, we would be making jobs available to hundreds of thousands of U.S. agricultural workers, and there are hundreds of thousands of U.S. agricultural workers.

Even though this is not quite ancillary to the debate, I was fascinated in my work in this field many years ago to find out what happens when they go to the open field. Some agriculture employers back then—not now, I do not know what the situation may be now—but they were often putting some expendable people next to the highway with el émigrés and the green truck came by so that there would be someone to pick up, and then when all of that took place there was another rank in the foothills who would come down and be ready to go right back to work again.

Further, way up in the foothills where we were told there were never children, never spouses, personal investigation of the select committee found obvious, obvious hovels of people who were just simply slave labor for some agricultural pursuits—pampers, diapers, cans of milk all there in the foothills.

That was, as I say, not truly on target with this, but let me tell you there is no reason in the world why the INS should be the only Agency of the Federal Government that cannot do a search with a search warrant in an open field. And to say, then, the target would simply be to target people who "look Hispanic" so you can add a racist touch to the argument, it will not sell, because if that was the only reason you would not get the search warrant. That is not probable cause.

With that initial volley on this contentious issue, I look forward to the debate.

Mr. KENNEDY. Mr. President, I intend to speak on this issue. I saw my friend and colleague from California, Senator BOXER, who had wanted to address the underlying issue briefly, has been waiting here for some period of time. If she can be recognized, I will come back to address this amendment before the Senate.

The PRESIDING OFFICER (Mr. GREGG). The Senator from California.

Mrs. BOXER. Thank you, I say to both my friends who are managing this bill, Senator SIMPSON and Senator KENNEDY, who have been so helpful to me as I work on a couple of amendments that I hope will be accepted, which I will talk about briefly.

Mr. President, I am pleased to be here today to speak about an issue that profoundly impacts my State of California. That issue is illegal immigration. I know that there has been a big debate in the Senate committee of jurisdiction over whether we should blend in the issues of legal and illegal immigration.

I want to restate and reaffirm my position that I hope they will be handled separately. I know that Chairman SIMPSON, who has worked so hard, would prefer to combine these two issues. The reason I believe it is important to have a separate debate is that one group of people, illegal immigrants, choose to break our laws, and legal immigrants choose to follow our laws. Those are two distinct and important differences.

Mr. President, no State in the entire country receives more illegal immigrants than the State of California. Out of the approximately 300,000 illegal immigrants that come to the United States and stay each and every year, about 35 percent to 40 percent of them live in California.

Why do most illegal immigrants come to America? Clearly, it is to find work. They are hired because we are not fully enforcing the laws we have on the books, which make it unlawful to hire illegal immigrants. That is clear. It is against the law.

Now, it seems to me we have to do more to enforce those laws.

I have always said that in order to control the problem of illegal immigration, we need to do it at the border and at the workplace. To intercede elsewhere, in my opinion, is not particularly effective. Clearly, if you enforce the immigration laws at the border, you stop the problem immediately. If you miss that opportunity, the workplace is the next best place to go.

The bill before us that deals with the issue of illegal immigration has many provisions I very strongly support. I strongly support the provisions in title I of the bill, which strengthens law enforcement's ability to stop illegal immigration. For instance, the bill will increase the number of Border Patrol agents by 4,000 for the next 4 fiscal years—a 90-percent increase over current levels, and it is needed.

I also strongly support the bill's provisions to add up to 900 new INS investigators over the next 3 fiscal years to enforce the laws against alien smuggling and the unlawful employment of illegal immigrants. This increase of 900 new INS investigators is a 100-percent increase over current law. So, clearly, this bill is moving us in the right direction in regard to stopping illegal immigration at the border and the workplace.

I want to take an opportunity to thank and compliment the Clinton administration for getting serious about enforcement at the Southwest border. It is long overdue. We have had protestations from detractors of this administration that they do not do enough. The fact is that this is the first administration to do anything about illegal immigration.

Let me repeat that. The Clinton administration is the first administration to do anything about illegal immigration. Whether it is to begin to reimburse the States for the costs they have to bear, which are outrageous—costs for emergency medical care, costs for putting those criminal aliens into prison—we are finally beginning to see some reimbursement here. However, it is not enough, and we need to do more.

I compliment the leaders of this bill because there is an authorization in there for full reimbursement for the costs of providing emergency medical assistance to illegal immigrants.

We have also seen an increase in the National Guard at the border. Their presence relieves Border Patrol agents from desk jobs, and their work on such things as building fences and roads and repairing sensors and night scopes is very important.

At the time that I recommended bringing more National Guard to the border, the National Guard at that time was about 145 in San Diego. Now they number up to 400. So we see that there has been an increase in National Guard at the border, doing such things as relieving the Border Patrol of desk jobs and these other engineering jobs that I have outlined for you.

When I first injected more National Guard presence, people thought I was going to send them down to the border in uniform with weaponry. That was never the point. We said it is a resource that ought to be used, and I think we ought to use them more.

In 1994, the Immigration and Naturalization Service kicked off Operation Gatekeeper, its initiative along California's border with Mexico. In the last 2 fiscal years, we have seen an increase of 500 Border Patrol agents in San Diego.

So we see that this administration is moving forward. But this bill is very necessary and gives us more resources at the border than we have had up until now, and, I might add, more technology and equipment that we need at the border—equipment such as infrared scopes, sensors, automated fingerprint ID systems. INS will be installing a new radio network in San Diego to handle encrypted voice communication, and that is very important.

As I said before, we have to stop illegal immigration at the border, and if we fail there, at the workplace. I think we have to remember that that is why illegal immigrants come here—for work.

Now, how badly are our wage and hour laws being violated? We only have to look at the case of the sweatshop uncovered in El Monte, CA, to get an idea. In El Monte, alien smugglers brought in 72 foreign workers from Thailand, where they were subsequently forced into involuntary servitude at a garment sweatshop. We thought we saw the end of that in the pre-Depression era. The El Monte case is an extreme example, but it is not an isolated incident.

Mr. President, most employers in our country abide by our immigration and our labor laws, but, unfortunately, some choose not to, and they are undermining our laws and the wages of our workers as well. They are guilty of the lowest form of greed—human exploitation—and it must be stopped.

It is well known that employers engaging in wage and hour law violations are often the same ones who hire illegal workers. I am very pleased that the bill before us provides for 350 new wage and hour investigators at the Department of Labor over the next 2 fiscal years to enforce the existing employer sanctions we already have on the books. The bill also contains enhanced civil penalties for repeated or willful violations of our Federal labor laws, which I strongly support.

I am disappointed that the committee voted to delete provisions to increase the sanctions on employers who violate immigration laws. I am disappointed about that. But I am glad that there are enhanced penalties for those who violate Federal labor laws.

Now, I think it is important that we give employers a better tool so they can identify who is legal and who is not. The bill before us moves us forward toward worker verification. I have always opposed a national ID card because I think if someone is walking in the street, they should never be stopped and asked to show an ID card. But when they go for a job, right now it is virtually impossible for employers to verify whether they are legal or not. I think the approach taken in this bill is a good one, and I hope it will be part of the bill when it leaves this Chamber.

I also think it is important that the bill authorizes an increase of 300 new investigators at INS to go after the visa overstayers, because so many of our illegal immigrants are those who overstay their visa. So that is excellent.

I have long supported cracking down on those who manufacture and use fraudulent documents. The last time I had a chance, on the crime bill, I offered an amendment that increased the penalties on those who manufacture forged documents. But I think we need to do more, and this bill does go further to increase civil and criminal penalties for crimes involving document fraud.

I want to take just a moment to talk about a problem we are seeing in California now more and more, where smugglers are driving vehicles crashed through a checkpoint and lead local law enforcement on high-speed chases. We all know what happened nationally when we saw one case where there was apparent overreaction from the police and use of excessive force—that is what it appears to be.

But the fact of the matter is, we have to stop that kind of recklessness, driving on a 60-, 70-mile chase where you endanger the lives of the police following you and you endanger the lives of those people you are smuggling. Following that case when force was used, we had seven illegal immigrants killed, who fell over a cliff when the smuggling attempt led to disaster.

So, I was very surprised to see that there are no Federal penalties for such reckless behavior. What I am offering, and what Senator SIMPSON and Senator KENNEDY are working with me on, is a Federal penalty for those who crash through a Federal checkpoint and, in fact, do not stop.

We want to make sure there is a Federal penalty of 5 years in prison for those who do that, and perhaps—we are working with Senator SIMPSON on this—an even tougher penalty where those people could be deported. Because anyone who would lead law enforcement on a high-speed chase not only endangering the police officers themselves but also the cargo they are carrying—by that I mean human cargo—and all the drivers on the road, they deserve to be thrown in jail or deported.

I also want to briefly touch on an amendment that I am cosponsoring with Senator FEINSTEIN which deals with the triple fence authorized in the bill. I will not go into all of the details in the interest of time. But we feel that the Border Patrol could do better if we did not dictate exactly that a $12 million fence should be built, or inhibit their ability to design fencing in the way they want and to use some of the money for other needed infrastructure improvements. Moreover, we certainly do not want to force law enforcement to build a triple fence if they feel it would endanger their lives. And that is what they have told us.

Mr. President, I am pleased to be here today to speak about an issue that profoundly impacts the State of California. That issue is illegal immigration.

And before I go any further, I want to reaffirm my position that legal and illegal immigration must be treated separately. I know that Chairman SIMPSON, who has worked very hard on the issue of immigration, would prefer to link these two issues together.

However, I believe having a separate debate on the two issues will better ensure that Congress recognizes the critical difference between those illegal immigrants who choose to break our laws, and those legal immigrants who choose to follow them.

Mr. President, no State in the entire country receives more illegal immigrants than California. Out of the approximately 300,000 illegal immigrants that come to the United States and stay every year, about 35 to 40 percent of them live in California.

Why do they come here? Most of them come to find work. And they are hired because we are not enforcing the laws we have on the books which make it unlawful to hire illegal immigrants. That must change.

I have always said that in order to control the problem of illegal immigration, we need to do it at the border and the workplace. To intercede elsewhere, in my opinion, is not effective.

The bill before us today is S. 1664, the Immigration Control and Financial Responsibility Act of 1996. The bill contains many provisions which are praiseworthy. I strongly support the provisions in title I of the bill which strengthen law enforcement's abilities to stop illegal immigration. For instance, the bill would increase the number of Border Patrol agents by 4,000 for the next 4 fiscal years—a 90-percent increase over current levels.

I also strongly support the bill's provisions to add up to 900 new INS investigators to enforce the laws against alien smuggling and the unlawful employment of illegal immigrants. This is an increase of about 100 percent over current law.

I want to take this opportunity to compliment the Clinton administration for getting serious about enforcement at the Southwest border. It is about time and long overdue, for despite protestations from detractors of this administration in California—this is the first administration to do anything about illegal immigration.

And we have seen an increase in the National Guard at the border. Their presence relieves Border Patrol agents from desk jobs, and their work on such things as building fences and roads, and repairing sensors and night scopes. At the time I recommended bringing more National Guard at the border, they numbered 145 at the San Diego border. Now they number as high as 400.

In 1994, the Immigration and Naturalization Service [INS] kicked off Operation Gatekeeper—its initiative along California's border with Mexico. In the last 2 fiscal years, we have seen an increase of 1,150 border patrol agents nationally—more than 500 of whom have been deployed in San Diego.

Counting the 800 new Border Patrol agents for this fiscal year, the Border Patrol force will have been increased by 40 percent since the Clinton administration took over. California now has over 1,500 Border Patrol agents patrolling our border and enforcing our immigration laws.

But as we all know, Mr. President, any smart strategy to regain control of our borders will take heightened technology which is being used in Operation Gatekeeper. Infrared scopes, low-light-level television systems, and ground sensors are all being used to enhance our effectiveness at the border. San Diego has been the recipient of new infrared scopes, sensors, and a new automated fingerprint identification system. INS will be installing a new radio network in San Diego to handle encrypted voice communication.

And we cannot forget why most illegal immigrants come here in the first place: work. How badly are our wage and hour laws being violated? We only have to look at the case of the sweatshop uncovered in El Monte, CA, to get an idea. In El Monte, alien smugglers brought in 72 foreign workers from Thailand where they were subsequently forced into involuntary servitude at a garment sweatshop. The El Monte case is an extreme example. But it is not an isolated incident.

Mr. President, most employers in our country abide by our immigration and labor laws. However, those who choose not to, not only undermine our laws, but the wages of American workers as well. They are guilty of the lowest form of greed—human exploitation. It must be stopped.

It is well-known that employers engaging in wage and hour law violations are often the same ones who hire illegal workers. I am pleased that the bill before us provides for 350 new wage and hour investigators at the Department of Labor over the next 2 fiscal years to enforce the existing employer sanctions we already have on the books.

Furthermore, the bill contains enhanced civil penalties for repeated or willful violations of our Federal labor laws, which I strongly support. However, I am deeply disappointed that the committee voted to delete provisions to increase the sanctions on employers who violate immigration laws.

Of course it is imperative for employers to better ascertain who is authorized to work, and who is not. The bill before us moves us toward improved verification for work and public benefits through the creation of several regional or local demonstration projects.

After the pilots have been tested, the administration will be required to return to Congress to make a recommendation on a permanent system. Implementation of a recommended system will require congressional action. The approach contained in the bill will allow Congress to review which methods of verification are the most effective before enacting a larger scale system.

I support the privacy protections contained in the bill to provide balance as we move toward a national verification system. I am further pleased that the bill explicitly prohibits a national ID card which I oppose.

It is important to have a foolproof method to ensure a potential employee is legal—I believe it would be dangerous to put in place a system where someone walking down the street could be stopped and asked for their papers. That situation would infringe on our lives.

A key fact of illegal immigration which often is overlooked is that approximately half of the illegal aliens currently in our country entered legally and overstayed their visas. This bill authorizes an increase of 300 new investigators at INS to go after these visa overstayers. I support this.

Mr. President, I strongly support the provisions in the bill to increase penalties on alien smugglers and those committing document fraud. I have long supported cracking down on those who manufacture and use fraudulent documents. When I toured the California-Mexico border with Attorney General Reno and Senator FEINSTEIN, we met with INS agents who told us it was key to beef up penalties for document forgery. Thousands of illegal immigrants each year use these documents to enter the United States illegally or continue to stay and work here illegally.

In the 1994 crime bill, I proposed an amendment to double the criminal penalties for forgers and distributors of fraudulent documents. These heightened penalties passed and are now law.

The provisions contained in S. 1664 go even further to increase criminal and civil penalties for crimes involving document fraud. We must send a message to these wrongdoers that we will not tolerate those who flout our immigration and criminal laws. These tougher penalties should serve as an effective deterrent to such actions.

For instance, for fraudulent use of government-issued documents, the bill increases the maximum fine from $250,000 to $500,000, and the maximum criminal sentence from 5 years to 15 years.

I would like to take a minute to specifically discuss alien smuggling. Recent incidents involving alien smugglers have received considerable press attention. The beating of two illegal immigrants after a 80-mile chase ending in El Monte put a face on the human cargo being brought into our country by alien smugglers.

Recently in California, 7 people were killed and 19 injured when a pickup carrying immigrants being smuggled into the country skidded, flipped over, and plunged off a rural road west of Temecula while being followed by Border Patrol agents. We must stop such occurrences.

S. 1664 stiffens criminal penalties for alien smuggling. The bill also contains provisions to expand the Federal Government's ability to pursue alien smugglers through expansion of the RICO [Racketeer Influenced and Corrupt Organizations] statute and wiretap authority.

I plan to offer an amendment to provide a new, tough Federal penalty on those who flee border checkpoints, creating dangerous high-speed chases. My amendment would provide a Federal penalty of imprisonment of up to 5 years. I am working with Senator SIMPSON and Senator KENNEDY and hope this amendment will be accepted.

Alien smugglers do deserve to be punished. They take advantage of people in desperate situations—often threatening their safety and potentially those of hundreds who could be exposed to them. We must make every effort to ensure that such tragedies do not continue to occur.

One concern I have with the bill relates to the authorization of a 14-mile triple fence for the 14 miles eastward of the Pacific Ocean in San Diego. Let me be clear about one thing: I support fencing and reinforcement of physical barriers along the border. But when the Border Patrol itself says these provisions would endanger the physical safety of their personnel, I think we should defer to their expertise.

Along with the INS, the Border Patrol points to the tactical and logistical problems of a contiguous triple fence. They also raise concerns about alien smugglers taking advantage of the triple fence configuration to ambush Border Patrol agents.

That is why I am cosponsoring an amendment with Senator FEINSTEIN to put the $12 million authorized for the triple fence toward needed border infrastructure improvements—including construction of all-weather roads, low-light television systems, lighting, sensors, and multiple fencing where it makes sense to do so.

Title II of the bill addresses immigrant—legal and illegal—use of public benefits. Illegal immigrants are largely ineligible for public welfare benefits. Where they are eligible, I support full Federal reimbursement for any resulting costs to States and localities.

The bill sets out the general prohibition barring illegal immigrants from receiving public benefits but exempts a limited number of services. In fiscal year 1994, the General Accounting Office estimated that the cost of providing elementary and secondary education, emergency Medicaid, and incarceration of alien felons was $2.35 billion for my State of California.

Immigration is a Federal responsibility. However, until this administration, California had not received any reimbursement for its costs resulting from illegal immigration. Today, California is receiving reimbursement for its costs of incarcerating criminal aliens under the State Criminal Alien Assistance Program. And while the crime bill authorized $1.7 billion to reimburse these costs, California has yet to receive full repayment.

I want to commend the chairman for including an authorization to fully reimburse States and localities for emergency medical services provided to illegal immigrants. Right now, the Federal Government pays half of this cost and the remainder is borne by the State. In California, this amounted to a cost for California of $395 million in fiscal year 1994. I strongly support reimbursement for these costs.

With respect to benefits for legal immigrants, I support strengthening the responsibility of sponsors. That is why I agree we must make affidavits of support signed by sponsors legally enforceable. Individuals who want to sponsor a family member must not shirk their responsibilities to the immigrant once they arrive.

By making the affidavits legally enforceable, the agency providing assistance to a needy legal immigrant has the ability to be repaid for their costs. This approach makes sense.

As a final note, Mr. President, I want to briefly discuss the importance of naturalization. Naturalization—the process by which a legal immigrant is granted the full rights and responsibilities of citizenship—represents the final step in a journey toward the American dream, a journey played by the rules.

The latest surge in naturalization applications submitted is nowhere more evident than in California. In fiscal year 1995, over 380,000 eligible legal immigrants applied to naturalize in California. This is a 500 percent increase over the totals for fiscal year 1991.

I am pleased that we now have a leader at INS who is doing something about it. Under Commissioner Doris Meissner, INS has been actively attempting to meet the latest surge in naturalization through its initiative, Citizenship USA. I commend Commissioner Meissner for the agency's efforts to put the "N" back in INS.

However, an immigrant who has already waited for at least 5 years to become eligible to naturalize can wait for an additional 12 to 16 months in cities like San Francisco and San Jose, CA, for their application to be processed because of enormous increases in demand.

We owe it to those who patiently follow the rules to do better.

Mr. President, I plan to offer an amendment to create demonstration projects around the country that set up citizen swearing-in ceremonies around July 4. The amendment which passed the House, authored by Congressman SAM FARR, would authorize INS to use the fees it already collects to fund the minimal additional costs of holding these symbolic ceremonies for 500 people.

Under the amendment, 10 demonstration projects would be authorized each year for 5 years. The demonstration projects would enable INS to reach out to local communities to encourage their involvement in the celebration of citizenship. The swearing-in ceremonies would be a communitywide celebration reminding citizens why we are proud to be Americans.

Mr. President, I am committed to those who want to follow the rules and become full participants in American society. Earlier this month, I introduced S. 1677, the Citizenship Promotion Act.

My bill would establish a Citizenship Promotion Agency [CPA] within INS to assist eligible immigrants with naturalization. The CPA would be able to work with government agencies as well as nonprofit organizations to assist in its naturalization outreach obligations.

My bill would also create a nine-member National Advisory Board on Citizenship to advise on naturalization objectives. And finally, my legislation would establish a naturalization examinations fee account within the U.S. Treasury to ensure that naturalization fees are spent on naturalization—not redirected elsewhere. Such naturalization activities could include English language instruction for immigrants trying to become citizens.

In closing, I would like to reiterate my support for many of the provisions in the illegal immigration bill. I look forward to working with both Chairman SIMPSON and Senator KENNEDY in making further improvements to this legislation. Thank you.

I will close by saying this. I said at the outset that there is a real difference between illegal immigration and legal immigration. My own mother became a naturalized citizen in 1937. When she died in 1991, she left me a very special little pouch that had two things in it: Her wedding band and her certificate of naturalization. I think Americans understand how much naturalized citizens cherish this homeland.

Therefore, I am working with Senator SIMPSON and Senator KENNEDY to get an amendment adopted which would recognize the beauty of those naturalization ceremonies. And I pick up on an amendment that passed overwhelmingly in the House that would give some modest sums of money to conduct those naturalization ceremonies. We want to put the "N" back into the INS—"naturalization." It is a beautiful ceremony, and those are some of our finest citizens.

I could give you the list of some of those naturalized citizens. But I think you all know how many of our wonderful leaders in this country in entertainment, in politics, and in all fields are naturalized citizens.

So I want to thank the Senator from Massachusetts for yielding me so generously of his time. I feel this is such an important issue to my State. I wanted to have this opportunity to compliment my friends who have led on this bill, for what they have done, and I hope to be able to support it.

Again, I thank you very much, Mr. President.

I yield the floor.

Mr. KENNEDY. Mr. President, I see a number of our colleagues who have been very interested in this issue that would like to speak to it. I will respond at an appropriate time after they speak to the current amendment—to the Simpson amendment.

But I want to just point out to the Members about where we are. The parliamentary situation effectively excludes the opportunity for recognition of the minority, the Democratic manager of this legislation. Under the right of recognition it always goes to the majority as the time-honored tradition, and we understand that and respect that. But given the parliamentary situation we are effectively denied on our side any Member offering an amendment. I mean, with respect to the processing of amendments, we are at the point now where we are processing nongermane amendments because eventually at some time we will move toward cloture. By beginning to understand what the situation is we will dispose of various amendments that apparently are agreeable to the floor managers prior to the time that a cloture petition is put down which will exclude any chance of other Members to come back in here and offer any amendments. That is an extraordinary process and procedure.

We have to ask ourselves about how long we really want to put up with that. I have been trying as a matter of comity in working with the Senator from Wyoming to move through this in a way which permits us to try to deal with some of the basic substantive issues. But we, as the time moves on, are caught in this particular situation. We are effectively dealing, and only dealing, with the amendments represented by the majority, and we are precluded under this whole process of offering any amendments.

This is not a personal comment on my good friend, the Senator from Wyoming, because he is responding to the wishes of the majority leader in this case. And the matters that he is raising here are matters that have been raised in the Judiciary Committee, matters which he had indicated to us that during the course of the debate he was going to raise, and matters which are of very fundamental importance in terms of the substance of the issue.

But we are still in a situation where we are being told we can only—the Senate of the United States on an important piece of legislation like this can only—deal with those amendments that are put forward by the manager of the bill because under the right of recognition he gets it. If there are other Members that want to have amendments considered they would go to him. If he thinks that he may support them, I imagine he will put them forward. And, if he does not, he will not.

So we are in a situation where we have effectively a very small gate. My good friend and colleague—again I say with deference to him—because he has always, as I have stated on every occasion, been entirely up front and entirely fair in dealing with all the members of the committee, Republicans and Democrats alike. But he is caught in this position was well.

So it does seem to me that our colleagues ought to understand that effectively we have a clearance system here that unless an amendment is cleared through the acting majority leader we are being closed out. And I think the American people and our Senators ought to know that this is not a free-wheeling debate where we are going to have the opportunity for the Members who want to represent their States and their interests to be able to get recognized to be able to pursue that.

This is an extremely important amendment, and I hope we can deal with this amendment in a timely way. But at some time we are going to have to ask ourselves whether we are going to just go ahead and consider all of the nongermane amendments that come through our colleague over here and none of the nongermane amendments to be considered by other Members. Then we get into cloture, and they have taken care of those nongermane amendments. We will be just back on the germane amendments. It is a rather unusual way to proceed.

I just raise that now because there are those, myself included, who want to try to get at least some opportunity for recognition so that we would have a chance to offer at least a minimum wage amendment on this with a very short time agreement. We are effectively being closed out from that possibility. We understand that. But the other Members of the Senate ought to understand that as well. Hopefully the majority and minority leaders can bring their good common sense and judgment to help us find a way through this particular dilemma.

I will yield the floor because others want to speak. I will come back and speak to the substance of this measure. I want to again point out that the substance of this issue is enormously important. It is absolutely relevant. We ought to address it. It is extremely significant. But some time in the not-too-distant future I think we ought to have some kind of a decision about how we want to proceed.

This issue of illegal immigration is extremely important. We have supported the expansion of the border guards. We have supported the measures that Senator SIMPSON and I cosponsored—measures to try to create a more effective process for being able to identify the legitimate Americans versus illegals in the job market, which is extraordinarily important. There are other provisions as well in the illegal immigration bill which are very, very important and some which there is some difference on.

But we are in an unusual situation, and it is something that I know Members have to be concerned with as well.

Mr. SIMPSON. Mr. President, I can understand the frustration of the Senator from Massachusetts. He expressed that frustration in a very clear way. Let us then review the bidding so that we do all hear what we are doing.

We are dealing with illegal immigration. That has been the pending business before this body for over a week. The pending business of the Senate is the measure with regard to illegal immigration, which when we finish the amending process will probably pass by a rather significant vote. So if we are talking about important legislation, then surely we should be talking about this.

So what occurred here today is nothing mysterious, nothing sinister, nothing harsh. It is called legislating, and it is called using the rules of procedure, and it is done beautifully by the Democrats when they are in the majority and by the Republicans when they are in the majority.

So if we are talking about what is germane, what could be more nongermane than Social Security and an attempt to say that Social Security somehow is not to be dealt with when we do a balanced budget, when Social Security is $360 billion of the national budget.

That is what we are talking about, nothing mysterious, nothing sinister. What are we talking about that is germane about minimum wage? But there might be something very interesting and germane with minimum wage because the same people who are seeking an increase in the minimum wage are at the same time restricting efforts—some—restricting efforts to reduce the number of low-skilled immigrants who are entering under the family preference system.

I hope that we are able to divine that extraordinary difference. It is these low-skilled newcomers who flood the labor market which results then in stagnant wages. That is what happens. So this is one of the most curious parts of the entire debate to me.

I am not attributing that to Senator KENNEDY. I am attributing it to some who continue to resist the fact that we are trying to say that low-skilled persons are no longer required to come here under our immigration laws. We need people with skills. We need people with ability. We need people who are here to pull their share. We need people to come here whose sponsors say, "When you come here, I will assure that you do not become a public charge." That is what we are up to here. No mystery, nothing sinister.

You asked how we could be precluded from dealing with things that are very important to Senator KENNEDY or to Senator DORGAN. The same would be my argument. I am being precluded from dealing with illegal immigration reform. And I think that we want to keep all those interesting balances before the body. That is a very important thing.

I wish to insert in the RECORD a very interesting column that was in the Washington Post in the Outlook section last Sunday about this extraordinary argument about the minimum wage and the extraordinary, remarkable flight from common sense of those who will not allow us to reduce the number of those people presently entering under the preference system.

We have a situation now with regard to naturalization, with regard to a movement toward naturalization created by the legalization of the 1986 bill, created by people who are stunned and alarmed by proposition 187 and think, boy, if they are going to treat people who are permanent resident aliens like that, I want to get naturalized. There is another movement toward that, and so you are going to have more numbers coming to the United States than you ever did before, even if we did the minimum under the "legal immigration bill."

And remember, there is a legal immigration bill at the desk which passed the committee by a vote of 13 to 4. That is legal immigration. There is also the illegal immigration bill, which passed the committee by a vote of 13 to 4, and that is what we are considering at the present time.

Let me assure you that if you are talking about germane and nongermane, there should be not much question, at least in the eyes of the general American public, of a certain thing which is total reality, which is sometimes difficult to attain here, that the reason we talk about them together—whether you split them or puree them is not the issue—split, whole or pureed, you do not escape the fact that over one half of the people who come here legally become the illegal aliens which are the subject of this bill.

Please hear that, I hope, and know that we are talking about people who come here, half of them who come here legally become illegal. They then go out of status with a tourist visa. They go out of status with a student visa. They then become part of the illegal community.

So those are some things, and we are not here to disrupt things but we are here to deal with the bill as we do health care, we do line-item veto, we do this and we do that, and try and proceed. If the entire exercise should end in an hour, I can assure you that it will come back at some future time, but I thank my colleagues on both sides of the aisle for at least processing four or five amendments. That is what we should be doing. There are two choices here: Be about our business on an illegal immigration bill or the leader will be required to pull up something else and the issue will simply never go away, either of the issues or all of the issues.

So I just wanted to express that with I hope some clarity, that we are moving on an illegal immigration bill with a significant amendment here at the present time.

Mr. FORD. Mr. President, will the distinguished Senator from Wyoming allow me to ask him a question?

Mr. SIMPSON. Indeed, I say to my friend from Kentucky, Mr. President.

Mr. FORD. The Senator from Wyoming understands better than most why the minimum wage amendment is being placed here. That is about the only place we can get a chance to do it. He understands that well. And also the sense of the Senate on the balanced budget amendment, not using Social Security. He understands that question well. Could it not be worked out and taken off the bill? If a time agreement to vote on this bill—on those two questions be agreed to in 30 seconds, they would both be off the bill, would they not?

Mr. SIMPSON. Mr. President, it will be up to our leader to determine the course of business. The Senator from Kentucky and I both filled the role as assistant leader of our parties, and I think we both realize that we were somewhat muted on final decisions.

Mr. FORD. I understand that. But we do know that if the leaders would make a decision and give us the time for a stand-alone vote on it, these two items would not be on the immigration bill. And as we have seen both sides do in the past, you take an opportunity when it is presented to you. All I wish to know is if the Senator would agree that if the leaders would give us an opportunity to vote on minimum wage and the opportunity to vote on a sense of the Senate as it relates to the balanced budget, not using Social Security, that they would not be on this bill.

Mr. SIMPSON. Mr. President, I think that all of us know when we reach these sticking points in this body—and that is often—people then huddle and decide what to do. The leaders trust and admire each other and they will work together and move the legislation of the Senate. And that is the way it will always work.

On the other issue of minimum wage, I understand there are serious discussions going on about minimum wage, training wage, and getting the minimum wage to the people who do require it most and not to someone from a fine family that decided to go work in McDonald's for the summer and pretend that that is the issue of minimum wage when someone is a privileged young person who is simply in the work force.

There are real things here. For every horror story on one side, we have the horror story on the other side. That is the only way I have been able to exist in this body for 18 years.

So, for every one that is presented to us, then there is something on the other side about people who lose their jobs, employers who are on the edge and say, "Minimum wage? I cannot do it."

You can make fun of those people and say they should, I guess, be subsidized by the Government or something to pay the minimum wage. But the issue is, they say "I will go broke. So, therefore, I will not do that. Or, if that is the law, I cannot do it and I'm out." That is an argument just as valid as the one about children and spouses and the working man, and all of those things are what the American people know and see that is what we do. And that is what we do.

So, I am going to leave the issue for resolvement to that. And know that, at this point, this procedure of filling the tree and moving forward is not a patented process by the Republican majority; it is a patented process by the Democratic majority when they are in power. It is a tool to move legislation.

We have two choices here. Pull up something else or move forward. How can anyone argue—regardless of the passion of what you want to present to the body—how can you argue about not moving forward with a very important bill, and that is what we are attempting to do. It really is not as strange as it would appear.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I agree that the points the Senator from Wyoming made are valid points which ought to be part of a debate on the minimum wage. But effectively we are being precluded from the opportunity for action and for resolution. That is all we are asking for, whether 13 million families are entitled to 30 minutes of the Senate's time so we can make a decision on the issue of the minimum wage and also the proposal of Senator DORGAN. That is really what we are asking. It is not a great deal, but in order to preclude the Senate from taking that action we are finding out that we are using the unusual—and it is unusual—process by which the only amendments we are going to debate are going to be the amendments of the Senator from Wyoming or amendments that come through the process of the Senator from Wyoming.

So this is not progress in the sense it is giving Members of the Senate an opportunity to be able to raise issues that are important. They are effectively precluded from that because they are denied the right of recognition.

So we have to press, again, and indicate at the first opportunity we are going to offer it. Eventually the opportunity is going to come, because eventually—and people ought to understand it—when the time comes, and the final amendment is either agreed to or rejected, that prior to the time there is going to be disposition or a vote on this, it is going to be open, and others will be able to offer their amendments. So it might take a little while to be able to do that. We understand that. But that will eventually be the reality on that.

Mr. SIMPSON. Mr. President, if I might.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I enjoy, obviously, the Senator from Massachusetts because he does his work with a—down there, always—a crinkle in his eye and a twinkle. I know that one. I have seen it many times. This is, really—this is theater. It is Shakespeare—minor, minor, I can assure you. It is street Shakespeare. I do it, too. I will be Lear, raging into the wind, and Senator KENNEDY will be Puck.

Let me tell you, the minimum wage, when the Democrats had the control of this body and the House of Representatives and the Presidency, never appeared in this Chamber under any scenario from the wings—not once. Not once did President Clinton ever suggest we deal with the minimum wage. And since it became something that appeared in the focus groups, or the Knight tracking polls, it has been mentioned 47 times by the President.

So it is theater. But, really, if you stay in this game long enough—and I have been legislating for 30 years and obviously love it, but I am ready to do something else—if you play with the wheel with the fanny kicker on it, it will come around and get you. Hear this from my friend, Senator Ted KENNEDY, as we dealt with the health care reform bill. The CONGRESSIONAL RECORD, April 18, 1996, page S3513, quote of my friend, Senator KENNEDY:

> Members of the Senate who are serious about insurance reform should vote against all controversial amendments—including medical savings accounts. Senator KASSEBAUM and I have agreed that we will vigorously oppose all such amendments—even those that we might support under other circumstances.

Now, with the approval of the body, I ask unanimous consent that we insert the phrase "illegal immigration reform" and then just adopt that, because that is exactly what I am saying.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, Senator SIMPSON may say that this is theater, but it has dramatic results, by our action or inaction, for the 13 million families that would be affected about whether we are going to address the increase in the minimum wage, No. 1.

No. 2, the Senator, by mentioning the health care debate, understands—or should understand or may understand after this—that the increase in the minimum wage was deferred at that time because the impact and the effect on the hourly worker was considered to be a 40-cent to 50-cent increase as a result of a health care system. Those of us who had responsibility in that asked the workers do they want us to fight for an increase in the minimum wage, or do they want us to try and fight for health care, and overwhelmingly they said health care. We know it is 40 to 50 cents an hour. That was the battle. That was the battle then.

So the idea that we did not bring it up then—we did not bring it up then because we were fighting for the expansion of health care for the protection of workers, and we were denied that opportunity to have it because of Republican opposition.

I keep reading about who is responsible and who is not responsible about it. It was basically a Republican decision not to permit a vote on the U.S. Senate floor on health care, in order to show that we could not deal with that issue, and the Congress was ineffective in dealing with it. We understand that. We are not trying to rewrite history at this particular time, and we should not attempt to do it here today. That was the bottom line.

The value of health care, if we had gotten it, would have been that 40 to 50 cents an hour. So, once the Republicans effectively defeated it we moved on in, in terms of the introduction of the minimum wage as one of the first orders of business, if you look on our side. It was one of the first six pieces of legislation, and we have been asking for a vote on it for over 1 year and still are denied it, even though the Republicans support it and even though Republican Presidents Eisenhower, Nixon, and Bush actually voted in support of that measure.

So, I welcome the opportunity to have a substantive judgment and decision on that matter, which, eventually, when we go through these various amendments, we will have the chance to do, because we are not going to be closed out. We can go on and use these Senate rules in a way to put our good friend and colleague as the gatekeeper for the amendments, and he can use the rules in that particular way. But you are not going to get away from acting on the minimum wage at some particular time.

Finally, I do not think I really have to justify the decision that was made with regard to health care. That was a judgment that was made by Senator KASSEBAUM as well as myself.

So, if the Senator wants to have that kind of dispute as a way of getting legislation effectively through, it is a procedure which is used at other times, generally when the floor manager and the minority agree. We differed on this legislation, for some very important substantive reasons.

So, I think the circumstances are very much different. All we are looking for is 30 minutes on the minimum wage. Then we can get about concluding this very important legislation and be able to vote on it. We had, as the Senator from Wyoming knows, excellent markups with overwhelming participation, Republicans and Democrats, in the Judiciary Committee.

It was a great tribute to the Senator from Wyoming, for the involvement of the Members and the expression of differing views, that this legislation was reported out of committee. I am sure the Senate is going to make a judgment on this measure as well. But the idea that taking 30 minutes or an hour out of this kind of debate while we are processing amendments is unreasonable is incorrect—I would be glad to cut back our time.

I do not think I have used very much time in agreeing with the amendments of the Senator from Wyoming on these measures. Surely, we can cut out 1 hour of this day or tomorrow or whenever to debate the minimum wage when we have had important Republican support. The issue will not go away. I appreciate and understand the Senator's position on it.

Mr. SIMON. Will my colleague yield for a question?

Mr. KENNEDY. I will be glad to.

Mr. SIMON. When Senator SIMPSON mentions the health care bill and your statement and Senator KASSEBAUM's statement that they would resist any amendments, is it not true that any Member could offer an amendment, and, in fact, Senator DOMENICI offered an amendment with Senator KERRY here in this body? Any single Member could have offered a minimum wage amendment at that point. The procedure we are following here is dramatically different. Is that not correct?

Mr. KENNEDY. The Senator is entirely correct. We did not attempt to gag the membership, which effectively this process does. The only way you get consideration is to have the Senator from Wyoming, with the position of the majority leader, recognized. That has been a time-honored tradition which I respect and support. If not, then it goes to the minority leader. Under the Senate rules, Senator DASCHLE could come out here and offer that amendment. Then Senator DOLE would have to come out here and proceed in order to block that amendment.

We could go through that kind of a routine and put the Senate in stalemate. I mean, we are all dealing with this and understand the nature of these rules. I suppose sometime that will come to pass. But what we are trying to do is get an orderly procedure to be able to go forward.

Just finally, I say to my friend and colleague, maybe these discussions about how we could try to find common ground in the minimum wage are going on, but I do not know where they are going on. I do not think those of us who have been most involved—myself, Senator KERRY, Senator WELLSTONE, other Members, and, to the best of my knowledge, Senator DASCHLE—are aware of these negotiations.

What we are aware of is the preposterous position that the majority leader of the House of Representatives put forward yesterday as a position of the Republicans in the House, which effectively would say we are going to repeal the EITC, and therefore save $15 billion. That would be funds that would go to the people who are working on the lowest rung of the ladder, the economic ladder, and then we will set up an entirely new entitlement with the Internal Revenue Code to subsidize these workers who are working in restaurants and as teachers aides and as other health aides, working in Head Start programs, cleaning out buildings, that they would still get the $4.25 but get another subsidy from the Federal Government—a new entitlement.

Of course, that subsidy will be paid for by taxes that are coming from other workers. That is a new entitlement, a new bureaucracy, a new subsidy for companies. If that is the proposal, why do we not just get about the business of debating it and disposing of it. Maybe there are those who want to do it. But as the Senator from Illinois points out, let us at least permit a vote on this measure. Let us at least permit the Senate to speak. Let us get a short time period and have a debate on it.

That is what we are prepared to do. We are not trying to say, well, we are not prepared to go through, even though we are being denied an opportunity to vote on the minimum wage, which has received Republican and Democratic support. We are not at this point saying, well, we are not going to play ball with you on immigration. We could certainly have done that. We believe that is an important measure. But up to this time that has not been done. Eventually we will, under the Senate rules, have an opportunity to have these offerings of amendments on the minimum wage on other measures.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I think we could go on—and we may—but I think, as we get back to the substance of minimum wage—and apparently the Senator does that—and I think I misspoke earlier about Shakespeare. I think Senator KENNEDY is King Lear and I am puck, because certainly he launched one end of the tempest there, and here I am. But we will resolve this.

We will move forward perhaps, or we will not. If suddenly the procedure fails at this time, we will come back to it tomorrow or the next day, whatever it may be. But since we want to talk about the substance of minimum wage, I think it is important then just quickly, if I may, to talk about it in connection with immigration, because the other day in debate the Senator from Massachusetts talked about janitors.

Do you know what happened to janitors in the last 15 years? Janitors in Los Angeles in public buildings were making $12 an hour or $14. You know what they make now? $6. You know why? Because we in this body have allowed a glut of immigration to come to the United States and especially to that city, and the union janitors no longer are in a job at $12. The nonunion foreign immigrants came and knocked off the union wage.

Now we have the situation—if we are wanting to talk about the plight of janitors—there is a study by the General Accounting Office noting that janitors in downtown Los Angeles office buildings had won excellent wages and working conditions through their unions since World War II. By 1983, the prevailing wage reached $12 an hour—this is a GAO report. The ability to deliver credible threats to strike if wage increases were not forthcoming played a very important role in that success.

I know where Senator KENNEDY is on that one. But Congress, those of us in Congress, overriding the recommendations of a Federal commission on which Senator KENNEDY and I served, continued a legal immigration program that poured hundreds of thousands of foreign workers into the country annually during the 1980's—hundreds of thousands. Thus, Washington, thus us, inadvertently provided the opportunity for aggressive, nonunion businesses to take the jobs or deflate the wages of union workers, union workers in the Los Angeles area, taking over the office building contracts. Most of the native born workers were then driven from their jobs. Real wages for the foreign born and remaining native born have fallen further toward and even down to the minimum wage. There is a tie here somewhere, and we will get to it. We will discuss it. Now I have opened Pandora's box once again, but realizing the hazard of that. But there is where we are. We go ping pong all day long. It is theater, any way you cut it.

Mr. KENNEDY addressed the Chair.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. The Senator from Florida has been very accommodative. I will just take one moment.

The Senator's comments are old news, old news to certainly this Senator and, I think, to most Senators. That is why in the legal immigration we have effectively cut out the unskilled workers. That was initially either a proposal of mine or Senator SIMPSON on which we both had agreement. So that particular feature is excluded.

The reason we are continuing to see the depression in terms of those wages is because of illegal, not the legal, because we have effectively terminated that.

I will welcome the opportunity for debate about how this legislation and the legal immigration is going to protect American workers. I say in fairness that the Senator from Wyoming had included in initial proposals some additional provisions for the protections of American workers which I supported. I think we could have expanded on it.

Now, with regard to the legislation actually reported out of the committee, we have moved back from those kinds of protections. I think it is enormously important that we have those kind of protections. We will have a chance to talk about that as well.

Mr. GRAHAM. Mr. President, the issue of illegal immigration is an extremely serious one for America. Few places are as affected by that issue as my State of Florida. My State represents approximately 6 percent of the population in the United States. It is estimated that 10 percent to 15 percent of the illegal aliens who are in the United States are in the State of Florida. Within the last 4 years there were periods in which over 4,000 persons from Haiti alone entered into small boats in order to get to the United States, primarily through Florida, and would have added further to that population of illegal aliens.

Mr. President, my concern, therefore, is not that this Congress should deal with this subject. It is important, critical that we do. Rather, I believe there are at least two areas of this bill through which a serious fault line runs. This is not Shakespearian theater. This is structural engineering. The first of those fault lines, and the two are related, is that while this bill has as its label, illegal immigration, S. 1664 says in its heading, in its title, "To Amend the Immigration and Nationality Act to Increase Control Over Immigration to the United States by Increasing Border Patrol," et cetera. The focus of this bill is illegal immigration.

The first fault line, however, is that within this bill on illegal immigration there are major provisions which affect legal aliens, either totally affect legal aliens or substantially affect legal aliens. To pick one specific example which I hope will be dealt with before we complete action on this legislation, this bill that purports to deal with illegal immigration would change the conditions under which persons who are in this country with a legal status are allowed to adjust that legal status.

Since the early 1980's, the United States has recognized the special circumstances of Cubans coming to the United States and have had special provisions in which persons who were here legally of Cuban nationality can adjust their status. This bill, which purports to deal with illegal aliens would substantially restrict that right. This is only available to persons who are here legally. I cite that as just one example.

Other examples of the mixture of illegal and legal go to the fact that by changing the eligibility standards for legal aliens, substantial additional costs are going to be imposed upon the communities and States in which these aliens live. So the second faultline in this legislation are significant unfunded mandates which are being imposed upon States and local communities.

It is ironic, Mr. President, that the very first bill introduced in this Congress, S. 1, was a bill which had as its title the Unfunded Mandates Reform Act of 1995. Let me read from the statement of the purpose of the Unfunded Mandates Reform Act of 1995. The purpose of this act, which is now Public Law 104-4, the fourth bill that became law as a result of actions of the 104th Congress, the purposes of the act are:

> To strengthen the partnership between the Federal Government and State, local, and tribal governments; 2, to end the imposition in the absence of full consideration by Congress of Federal mandates on State, local, and tribal governments without adequate Federal funding in a manner that may displace other essential State, local, and tribal governmental priorities . . . 6, to establish a point of order vote on the consideration in the Senate and the House of Representatives of legislation containing significant Federal intergovernmental mandates without providing adequate funding to comply with such mandates.

Those were some of the purposes that led this Congress to adopt as its fourth legislative action of the 104th Congress the Unfunded Mandates Reform Act of 1995.

When the Senate was debating this proposal, Mr. President, the majority leader, Senator DOLE, stated,

> Mr. President, the time has come for a little legislative truth in advertising. Before Members of Congress vote for a piece of legislation, they need to know how it would impact the States and localities they represent. If Members of Congress want to pass a new law, they should be willing to make the tough choices needed to pay for it.

That statement by our majority leader was an important part of this Senate's determination to pass the Unfunded Mandates Reform Act of 1995.

So what are we about today, Mr. President? We are about legislation which would impose massive unfunded mandates on States and local communities in America. The Congressional Budget Office has, in a very limited time, reviewed this legislation's very broad sweeping impact on State and local governments. They have determined that this bill does, in fact, meet the $50 million threshold for unfunded mandates procedures due to the bill's requirements governing just two items: Birth certificates and drivers' licenses. Thus, although the bill would impact literally hundreds of programs run by State and local governments, just these two relatively minor programs reach the threshold of $50 million, which under the legislation constitutes unfunded mandates.

With respect to the all-encompassing deeming requirements imposed on hundreds of Federal, State, and local programs in this legislation, the Congressional Budget Office says,

> Given the scope and complexity of the affected programs, however, the Congressional Budget Office has not been able to estimate either the likelihood or magnitude of such cost at this time. These costs could be significant, depending on how strictly the deeming requirements are enforced by the Federal Government.

On another issue, the Congressional Budget Office has stated under the terms of means tested State and local tested programs,

> It is likely that some aliens displaced from Federal assistance programs would turn to assistance programs funded by State and local governments, thereby increasing the cost of these programs. While several provisions of the bill could mitigate these costs, CBO states that such tools would be used only in limited circumstances in the near future. At some point, State, and particularly local governments, become the providers of last resort, and as such we anticipate that they would face added financial pressure on their financial assistance programs.

Mr. President, this bill fails to meet the majority leader's truth-in-advertising test. It is not strictly an illegal immigration bill, and it does have serious financial implications for States and local communities. We are preparing to vote on a bill that we truly have not the foggiest idea what the impact will be on our constituents. They certainly are extremely concerned and strongly supportive of resolving this issue of unfunded mandates.

I have a letter dated April 16 from the National Conference of State Legislatures. This letter is also joined by the National Association of Counties and the National League of Cities. This letter urges all Senators to support a point of order against S. 1664, the illegal immigration bill, based on the violation of the unfunded mandates bill. This so states—the President of the National Conference of State Legislatures, the President of the National Association of Counties, and the President of the National League of Cities—"This constitutes a critical test of your commitment to preventing cost shifts to an unfunded administrative burden on State and local governments." This is what the leaders of State and local governments have described as the seriousness of the issue of unfunded mandates raised by this bill.

During the Judiciary Committee markup of this bill, Gov. Tommy Thompson of Wisconsin and Gov. Bob Miller of Nevada wrote in a letter, dated March 6, on behalf of the National Governors' Association, expressing concern about "administrative provisions contained in the bill," which, if enacted, "could result in an unfunded mandate being passed on to State and local governments."

This concern of Governors Thompson and Miller has, of course, now been confirmed by the Congressional Budget Office. Moreover, the National Association of Public Hospitals wrote to all Senators on April 12, noting, "This bill will lead to an increase in the number of uninsured patients and exacerbate an already tremendous burden of uncompensated care on public hospitals."

This gets to another point that I offered in the unfunded mandates bill, which seemingly has gone unnoticed by the Congressional Budget Office, despite a vote of 93 to 6. That was a provision, which is now part of the Public Law 104-4, which states that any Federal reductions in "reimbursements to State, local, and tribal governments for the costs associated with illegal, deportable, and excludable aliens, including court-mandated expenses related to emergency health care, education, or criminal justice," constitute part of the potential new obligations imposed upon States and are subject to the point of order as unfunded mandates.

In numerous ways, S. 1664 does exactly that. It eliminates Federal reimbursement to the States, according to the Congressional Budget Office, by about $7 billion. I repeat, it eliminates Federal reimbursement to the States by about $7 billion over the period 1996 to 2002, a substantial portion of which is in health care costs associated with immigrants.

In short, this bill, once again, creates an enormous unfunded mandate on State and local governments. Once again, I repeat the quote from the Congressional Budget Office: "Given the scope and complexity of the affected programs, however, CBO has not been able to estimate either the likelihood or magnitude of such costs at this time. These costs could be significant, depending on how strictly the deeming provisions are enforced by the Federal Government."

Mr. President, while the CBO has been unable to do a comprehensive report, the National Conference of State Legislatures has undertaken that task. Our colleagues in the State capitals across the Nation, legislators, as are we, who administer these programs we are talking about today, have assessed what the impact will be on States. Although they were, like the Congressional Budget Office, limited in the time available to complete this analysis, the National Conference of State Legislatures developed a very conservative cost estimate for just 10 of the affected programs.

This study did not include Medicaid and 40 other Federal means-tested programs. What did the National Conference of State Legislatures find?

First, after contacting more than 10 States, States of varying size, they concluded that "regardless of the size of the immigrant population, all States and localities will have to implement these unfunded mandates."

In other words, the bill impacts a city in Iowa or Delaware just as it might in Los Angeles, CA, or Miami, FL. The bill requires all Federal, State, and local means-tested programs to have a new citizenship verification bureaucracy imposed upon them.

All programs, regardless of whether the new bureaucracy costs exceed benefits, regardless of whether it imposes a very large unfunded mandate on State and local programs, all programs are impacted by this bill. What are the estimated costs, even for just the 10 programs which have been studied? According to the NCSL study, "The cost of these new requirements for 10 selected programs would result in a $744 million unfunded mandate." Repeating, "The cost of new requirements for 10 selected programs would result in a $744 million unfunded mandate."

The National Conference of State Legislatures adds, "Of course, if the 40 other programs, including Medicaid, adoption assistance, and the WIC programs, are included, the unfunded administrative burdens on States and localities would substantially increase."

Mr. President, the NCSL study indicates that unfunded mandates for just 10 programs will be $744 million. Once the other multitude of programs are analyzed, the costs imposed on State and local government could far exceed a billion dollars. It could very well amount to several billion dollars.

However, Mr. President, there are no provisions in the pending legislation to reimburse State and local governments for the administrative costs and the cost shifts which will be imposed upon them by this bill.

As the majority leader said on January 4, 1995, when we were passing the unfunded mandates bill:

> We do not have all the answers in Washington, DC. Why should we tell Idaho, or the State of Kansas, or the State of South Dakota, or any other State, that we are going to pass this Federal law and we are going to require that you do certain things, but we are not going to send you any money? So you raise taxes in the local communities or in your State. You tax the people, and when they complain about it, say, "Well, we cannot help it because the Federal Government passed this mandate." So we are going to continue our drive to return power to our States and our people through the 104th Congress.

Those were the words of Senator DOLE on January 4, 1995. Mr. President, we have now come to a point of decision as to our credibility. When we passed this legislation, as the fourth bill of the 104th Congress, one of the items in the Contract With America, one of the items upon which State and local governments are now making important decisions, which they have believed the legitimacy of our representations that we are no longer going to be casually and in an unstudied way, imposing major costs upon them. Are we now going to be prepared to meet the test?

We have a bill which says that it only relates to illegal aliens; yet, an analysis indicates that it clearly has major impacts on legal aliens.

Second, we find that a significant part of that impact on legal aliens is to impose significant new unfunded mandates—financial responsibilities—on States and local communities. I do not think that is what we want to do. We have a choice. Clearly, a point of order is now available against this bill. We could end further discussion. I am reticent to raise that point of order because I believe it is important that we pass an illegal immigration bill that will in fact strengthen our ability to protect the borders of America and to assure that our lawful means by which persons can come to the United States are available and are not dismissed, as they have been so frequently in the recent past, by persons who come here illegally.

I also am reluctant to raise this point of order at this time because we still have an opportunity to correct this legislation and to remove those provisions which are imposing these mammoth unfunded mandates on States and local communities.

We are in a strange parliamentary process, but I hope that even through this byzantine process we will be able to consider those amendments that will be faithful to our commitments not to impose new unfunded mandates in the manner in which we are doing in this legislation upon our citizens at the State and local level.

So, Mr. President, my purpose in these remarks is to raise these two important structural defects in the bill—a mixture of impacts on legal aliens, and a bill that is labeled "illegal immigration" and the imposition of major unfunded mandates on States and local communities.

It is my hope that by raising these issues, it will contribute to reforming this bill in a way that brings a good engineer into the foundation of this legislation, pour some concrete, and strengthen the integrity of this legislation. If that is done, then the unfunded mandate point of order would no longer be available.

If that is not done, I want to assure my colleagues that the point of order will be raised because I am committed that we not only strengthen our resolve against illegal immigration but that we also demonstrate our credibility to not impose mammoth unfunded mandates on our State and local governments.

I ask unanimous consent that the letter and other material from the National Conference of State Legislatures be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL CONFERENCE OF STATE LEGISLATURES, NATIONAL ASSOCIATION OF COUNTIES, NATIONAL LEAGUE OF CITIES,

April 16, 1996.

DEAR SENATOR: On behalf of the National Conference of State Legislatures (NCSL), the National Association of Counties (NACo) and the National League of Cities (NLC), we are writing to alert you that according to both the Congressional Budget Office (CBO) and our own analysis S. 1664, The Immigration and Financial Responsibility Act of 1996, is in violation of P.L. 104-4, The Unfunded Mandates Reform Act.

Certain portions of S. 1664 would place unfunded federal mandates on states and localities through new national requirements for driver's licenses and birth certificates and by extending legal immigrant benefit restrictions to all federal means-tested programs. CBO estimates that the driver's license and the birth certificate mandates alone could cost states and localities in excess of $200 million. This clearly exceeds the $50 million threshold needed for a point of order against S. 1664 in accordance with P.L. 104-4.

In addition, a study by the National Conference of State Legislatures has found that the deeming requirements of S. 1664 would impose even greater unfunded federal costs on state and local governments. (CBO was unable to conduct an analysis of the deeming requirements, but stated that "it is possible that the administrative costs associated with applying deeming requirements to some federal means-tested entitlement programs would be considered mandate costs as defined in P.L. 104-4.") The NCSL study of just ten affected programs, not including Medicaid and 40 other programs, reveals that the costs to state and local government of these new requirements is $744 million.

As you know, "deeming" is attributing a sponsor's income to the immigrant when determining program eligibility. S. 1664 would extend deeming from three programs (AFDC, SSI and Food Stamps) to 50 federal means-tested programs including foster care, adoption assistance, school lunch and WIC. Regardless of the size of the immigrant population, all states and localities will have to implement these unfunded mandates. By mandating that state and local governments deem for all these programs, the legislation requires states and localities to extend a complicated administrative procedure to more than 50 federal programs. These mandates will require states to verify citizenship status, immigration status, sponsorship status, and length of time in the U.S. in each eligibility determination for the deemed federal programs. They will also require state and local governments to implement and maintain costly data information systems.

Therefore, we urge you to support a point of order against S. 1664 based on the violation of P.L. 104-4. This is a critical test of your commitment to preventing cost-shifts to and unfunded administrative burdens on state and local government.

NCSL, NACo and NLC will support subsequent amendments to reduce the scope of the deeming provisions and the onerous administrative requirements. We oppose the provision to extend the deeming requirements to all non-cash, federal means-tested programs. These mandates also garner almost no federal savings and should be eliminated as part of the Congressional commitment to eliminating cost shifts to state and local budgets and taxpayers. We urge you to support amendments to limit deeming to the federal programs that deliver income support and food assistance and to ensure that states and localities will not have to implement deeming for any program where administrative costs would exceed any estimated net savings or benefit expenditures.

Without this amendment, states and localities will have to deem applicants for everything funded by federal means-tested programs from foster care to children's soccer leagues to mobile meals to after-school tutoring programs. The administrative burden would severely restrict the number of services that could be provided and be a bureaucratic nightmare, especially for states and localities with fewer immigrants.

We also strongly support amendments to exempt vulnerable populations such as legal immigrants who become disabled after arrival, children under 18, pre-natal and post-partum women, and veterans and their families from the deeming restrictions. These groups are among the most vulnerable members of our communities. NCSL, NACo and NLC are also concerned about immigrants who enter the U.S. legally and comply with U.S. immigration laws in good faith. Legal immigrants who play by the rules should not be barred from the SSI program if they become disabled after arrival. No one can predict when they might suffer a disability; these immigrants must be included in the SSI program.

We are especially concerned about the impact of extending the deeming requirements to the Medicaid program. Without this program eligibility, many legal immigrants will not have access to health care. Legal immigrants will be forced to turn to state indigent health care programs, public hospitals, and emergency rooms for assistance or avoid treatment altogether. This will in turn endanger the public health and increase the cost of providing health care to everyone. Furthermore, without Medicaid reimbursement, public hospitals and clinics and states and localities would incur increased unreimbursed costs for treating legal immigrants. Exempting emergency Medicaid services from sponsor deeming is especially justified because emergency medical care must be provided by all hospitals with emergency rooms without regard to the patient's ability to pay or immigration status.

Finally, we are also concerned about the provisions mandating national standards for state and local documents such as birth certificates and driver's licenses. We support maintaining state and local choice in the design of these documents. These are very sensitive public policy issues. S. 1664 would preempt a number of state laws including those that specifically prevent using social security numbers as identification on driver's licenses and other identification cards. These mandates may violate the Supreme Court decision in New York v. United States that prohibits making states the administrative arm of the federal government. Furthermore, these provisions also place costly unfunded mandates on state and local governments that prevent such use of social security numbers or do not use tamper-proof paper for birth certificates.

We appreciate your consideration of our concerns and urge you to support these amendments to minimize the cost shift and unfunded mandates to states and localities.

Sincerely,

JAMES J. LACK,
New York Senate, President, NCSL.
DOUGLAS R. BOVIN,
Commissioner, Delta County, MI, President, NACo.
GREGORY S. LASHUTKA,
Mayor, Columbus, Ohio, President, NLC.

MEMORANDUM

To: Interested Parties.
From: Sheri Steisel, National Conference of State Legislatures. Jon Dunlap, National Conference of State Legislatures. Marilina Sanz, National Association of Counties.
Date: April 15, 1996.
Re: Unfunded Mandate Violations of More Than $900 Million In S.1664/S.269.

As you may be aware, on Friday (4/12/96) the Congressional Budget Office released its score of S.269 (now S.1664), the Immigration Control and Financial Responsibility Act of 1996. In this score, CBO states that a number of provisions in S.1664 would place unfunded federal mandates on states and localities. CBO estimates that the driver's license and birth certificate provisions alone could cost states and localities in excess of $200 million. This alone is a violation of the provisions of S.1, the Unfunded Mandates Act of 1995 and is certainly more than the $50 million threshold needed for a point of order against S.1664 on the Senate floor.

As for S.1664's new deeming requirements for all federal means-tested programs, CBO states that given the scope and complexity of the affected programs, they were unable to estimate these costs at this time. CBO found that "it is possible that the administrative costs associated with applying deeming requirements to some federal means-tested entitlement programs would be considered mandate costs as defined in Public Law 104-4." As you know, S.1664 would extend deeming from the 3 current programs (AFDC, SSI, and Food Stamps) to more than 50 federal means-tested programs, most of which provide social services at the local level.

The National Conference of State Legislatures (NCSL) has developed cost estimates for 10 affected programs (not including one of the largest, Medicaid, and 40 other federal means-tested programs). We have consulted with more than 10 states of varying size. However, regardless of the size of the immigrant population, all states and localities will have to implement these unfunded mandates. The NCSL study found that the cost of these new requirements for 10 selected programs would result in a $744 million unfunded mandate. Of course, if the 40 other programs, including Medicaid, Adoption Assistance, and WIC, are included the unfunded administrative burden on states and localities would substantially increase.

In the Senate debate, NCSL and NACo will strongly support a point of order against S.1664 and subsequent amendments to reduce the scope of the deeming requirements and the administrative burden the requirements place on states and localities.

NATIONAL CONFERENCE OF STATE LEGISLATURES

UNFUNDED MANDATES IN IMMIGRATION BILL: COST ESTIMATE OF S.269/S.1664 DEEMING MANDATE

Enclosed are the following: (1) the list of programs that we believe meet the unfunded mandate criteria contained in S.1 Unfunded Mandates Act and CBO's interpretation of the law; (2) an estimate of the infrastructure, training and implementation costs that states and localities would incur in order to implement deeming for these 10 programs; and (3) the list of over 40 additional federal means-tested programs that do not meet the criteria in S.1 but the states and localities would also have to implement deeming for. We estimate that the total cost of the deeming unfunded mandate in S. 1664 for the 10 programs that meet S.1 criteria is $743.66 million. These costs rise substantially when all other federal means-tested programs, such as Medicaid, Adoption Assistance, WIC, and others, are included (see attachment part III).

Assumptions about deeming

In order to comply with the deeming mandates in S.269 ("to implement deeming for all federal means-tested programs") we believe that states and localities will have to adhere to a process similar to the following.

A citizenship verification must be made for all applicants of all federal means-tested programs. This means that each applicant must have an interview with a caseworker who will verify citizenship status and check valid documentation (e.g., birth certificate, passport, etc.). We do not believe that a written attestation of citizenship will be sufficient because any applicant for assistance could claim citizenship status, even illegal immigrants. Federal means-tested programs that do not have an intake process and an eligibility determination system in place will have to create them to provide a credible verification of citizenship status. We believe that creating these systems and hiring staff to administer them will be very costly (see #1 below).

After establishing who the noncitizens are, the caseworker must use the System of Alien Verification of Eligibility (SAVE) secondary verification process to determine which noncitizens have sponsors. As with the citizenship verification, we believe that requiring a written attestation of sponsorship status is not credible because of the enormous loophole in creates. At this time the SAVE secondary verification process is the only credible way to verify sponsorship status. With extensive training, caseworkers may be able to identify as many as ⅓ of all noncitizen applicants who would not have sponsors without accessing SAVE through secondary verification. Therefore, we estimate that ⅔ of all noncitizen applicants will need to be checked for sponsorship through the SAVE secondary verification process.

States and localities report that it currently takes INS an average of 3.5 weeks to respond through secondary verification on sponsorship requests for the three programs that deem. We would expect this time lag to increase as more programs deem (whether it be the 10 that meet S.1 criteria or the 50-odd possible means-tested programs) and SAVE's secondary verification process is overwhelmed. This may conflict with federal application processing requirements leading to difficulties with audits and quality control sanctions, especially in programs like AFDC, Medicaid, Foster Care and IV-D Child Support.

After INS informs the caseworkers about sponsorship, caseworkers must calculate deemed income. State and local administrative staff will have to be trained to verify citizenship, identify immigration documents, use the SAVE secondary verification process, calculate deemed income and understand deeming exceptions to make this process workable and credible. In addition to infrastructure and training costs, states and localities will also experience on-going implementation costs associated with the staff time needed to access SAVE and make the complicated deeming calculation.

For more information please contact Jon Dunlap, or Sheri Steisel, in NCSL's Washington, DC office.

I. SELECTED FEDERAL MEANS-TESTED PROGRAMS AFFECTED BY DEEMING UNFUNDED MANDATE IN S. 269:

No Intake Process and No Current Deeming Requirement: School Lunch, School Breakfast, Child and Adult Care Food Program, Vocational Rehabilitation, Title XX Social Services Block Grant.

No Current Deeming Requirement: Foster Care, IV-A Child Care, IV-D Child Support, Medicare—QMB.

Deeming: Food Stamps, AFDC.

II. COST ESTIMATE

We have separated the costs into three parts: (1) capital/infrastructure; (2) staff training; and (3) on-going/implementation.

1. Capital and Infrastructure Costs: A citizenship verification must be made for all applicants of all federal means-tested programs. This means that each applicant must have an interview with a caseworker who will verify citizenship status and check valid documentation (e.g., birth certificate, passport, etc.). Federal means-tested programs that do not have an intake process and an eligibility determination system in place will have to create them to provide a credible verification of citizenship status.

A. What federal means-tested programs do not have an intake process?

1. Examples: School Lunch/Breakfast, Child and Adult Care Food, Title XX, Voc. Rehab.

B. What is the cost for creating an intake process?

1. Number of programs needing intake process = 4.

2. Number of new staff/program needed to admin. new intake processes:

a. School Lunch-Breakfast = 1 staff/school district 14,881 school districts = 14,881 staff (American School Food Service Association).

b. Adult and Child Care Food = 1 staff/county x 3,042 counties = 3,042 staff.

c. Title XX SSBG = 1 staff/county 3,042 counties = 3,042 staff.

d. Vocational Rehabilitation = 1 staff/county 3,042 counties = 3,042 staff.

3. Total number of new staff to create new intake processes = 24,007 staff.

4. Average annual salary of new staff = $30,000/staff/year (National Eligibility Workers Association and National Association of Social Workers).

5. Total cost of new staff = 24,007 new staff $30,000 avg. staff salary = $720.21 million.

6. Creating or updating eligibility manual (including pictures of acceptable documentation) and reprogramming computers = $2 million (this could be higher, we are checking with state welfare agencies)

Subtotals: New Staff = $720.21 million, Other Costs = $2.0 million, Federal Administration Contribution = $0 (None of these programs would be federal admin. funds).

Total: $722.21 − $0 (Fed Share) = $722.21 million.

2. Staff Training for Immigration Verification, SAVE and Deeming Administration: After establishing who the noncitizens are, the caseworker must use the System of Alien Verification of Eligibility (SAVE) secondary verification process to determine which noncitizens have sponsors. With extensive training, caseworkers may be able to identify as many as ⅓ of all noncitizen applicants who would not have sponsors without accessing SAVE through secondary verification. Therefore, we estimate that ⅔ of all noncitizen applicants must be checked for sponsorship through the SAVE secondary verification process. When INS informs the caseworkers about sponsorship, caseworkers must calculate deemed income. State and local administrative staff will have to be trained to verify citizenship, identify immigration documents, use the SAVE secondary verification process, calculate deemed income and understand deeming exceptions.

A. Staff time costs: 1 day training at $15.00/hour8 hours=$120.00/day/person.

B. Trainer's costs: $1200/training session (Center for the Development of Human Services—NY).

C. Number of people needing training:

1. school lunch-breakfast=14,881 staff.

2. child and adult care food=3,042 staff.

3. Title XX=3,042 staff.

4. Vocational Rehabilitation=3,042 staff.

5. IV-E Foster Care=3,042 staff.

6. Medicare QMB=3,042 staff.

7. IV-A Child Care=3,042 staff.

8. IV-D Child Support=3,042 staff.

Total=36,175 staff.

D. Number of people trained per session=35 (Ctr. for Dev. of Human Services—NY).

F. Total number of training sessions: 36,175 staff/35=1,033 sessions.

G. Total cost/session=$1,200 trainer+($120/person35 attendees=$4,200 staff time/session)=$5,400.

Subtotal: Total cost of start-up training=$5,400 (cost/session)1033 (number of sessions)=$5.58 million Total Federal Administration Contribution=$1.8 million (30% Federal reimbursement after accounting for average of 50% federal administrative reimbursement for most programs but no federal assistance for the large nutrition programs such as school lunch/breakfast and child and adult care food admin. cost).

Total: $5.58 million − $1.8 million (Fed Share)=$3.78 million.

3. On-Going Implementation Costs: After consulting with a range of state and local officials, including LA County, Colorado, New York, Rhode Island, Iowa, West Virginia, Virginia, Minnesota, and Texas, we believe that the on-going implementation of deeming will be cost prohibitive. According to the 1994 Census, 15 million noncitizens reside in the U.S. After consulting with the INS and the urban Institute, we estimate the approximately 10%, or 1.5 million, will apply for a federal means-tested program each year. This percentage would be even higher if we used research from George Borjas, a well-known immigration demographer, who estimates immigrant public assistance use at closer to 20%. Many noncitizens will apply for multiple programs or apply for a single program multiple times. We are unsure about how to account for the number of noncitizens who might file multiple applications. Because no comprehensive information system exists to record and unify data on all federal means-tested programs, each application will require a separate verification and inquiry of the SAVE secondary verification system. After consulting with Los Angeles County, we multiply the number of applicants by a factor of 1.5 to account for additional procedures resulting from multiple applications. After consulting with the INS, we estimate that if caseworkers receive extensive training in reading immigration documents, they will be able to vet up to ⅓ of all noncitizen applications. The remaining applications will have to be referred to the SAVE secondary verification process. We estimate that 50% of all secondary SAVE inquiries will require a deeming procedure (Congressional Research Service). We divide the total number of SAVE inquiries in half to bet the total number of deeming procedures per year.

A. Total number of noncitizens applying for selected federal means-tested programs per year = # SAVE 2nd verifications inquiries to be scored by CBO: 15 million non-citizens in U.S. (census 1994)—10% (1.5 million) apply for one of the selected federal means-tested programs—we use a 1.5 multiplier for selected federal means-tested programs (1.5 million 1.5 multiplier = 2.25 million applications)—One-third of applications can be vetted through immigration document checking (2.25 mil - 742,500 = 1.49 million) = 1.49 million SAVE inquiries per year for the selected federal means-tested programs.

B. Total number of deeming procedures/year = 1.49 million 2nd SAVE inquiries .5 for noncitizens without sponsors = 742,500 deeming procedures/year for selected programs.

C. Average cost per inquiry of SAVE 2nd verification (staff time, costs for accessing save):

1. 30 min. of staff time per 2nd verification inquiry at $15.00/hour = $7.50/inquiry of staff time (HHS Office of Inspector General).

2. Other costs for accessing SAVE might include phone, copying, mailing, etc. = $1 million.

D. Average additional cost of administering deeming procedures (reinterview, calculation, exemptions).

1. 1.5 hours staff time/deeming procedure at $15.00/hour = $22.50/deeming procedure (National Eligibility Workers Association survey).

E. On-going training costs:

1. Avg. annual turnover of caseworker staff = 10% (National Association of Social Workers).

2. Number of new staff/year = 36,175 staff 10% turnover = 3,617 new staff/year.

3. Number of new training sessions/year = 3,617 new staff/35 per session = 103 sessions/year.

4. Total cost of on-gong training/year = 103 sessions $4,500/session = 556,200/year.

Subtotals: SAVE inquiry costs = $7.50/per inquiry 1.49 inquiries = $11.18 million. Other ongoing admin. costs = $1.0 million. Deeming staff costs = $22.50/per deeming procedure 742,500 procedures = $16.71 million. On-going training cost = $556,200.

Federal Administrative contribution: $8.84 million (30% Federal reimbursement after accounting for average of 50% federal administrative reimbursement for most programs but no federal assistance for the large nutrition programs such as school lunch/breakfast and child and adult care food admin. costs).

Net Total: $29.45 million (On-going cost) - $8.84 million (Fed Share) = $17.67 million.

Estimated total net Capital/Infrastructure cost: $722.21 million.

Estimated total net training cost: $3.78 million.

Estimated total net on-going implementation cost: $17.67 million.

Estimated total net cost: $722.21 million + $3.78 million + $17.67 million = $743.66 million.

IV. OTHER FEDERAL MEANS-TESTED PROGRAMS

Medical Benefits: Medicaid, Maternal and Child Health Services Block Grant, Migrant Health Centers, Community Health Services, Title XX Family Planning Services.

Cash Benefits: SSI-Supplement, Adoption Assistance, Emergency Assistance to Needy Families with Children. Child Care Development Block Grant.

Food Benefits: WIC, Summer Food Service Program for Children, Commodity Supplemental Food Program, Special Milk.

Housing Benefits: Section 8 Housing Assistance, Public Housing, Rural Housing Loans, HOME, Rural Rental Housing Loans, Section 236 Interest Reduction, Farm Labor Housing Loans and Grants, Section 101 Rent Supplements.

Education Benefits: Title I Grants for Educationally Deprived Children, Pell Grants, Head Start, Stafford Loans, Even Start, College Work Study, Supplement Education OPP. Grants, Perkins Loans, State Student Incentive Grants.

Services: Community Service Block Grant, IV–B Child Welfare, Emergency Food and Shelter Program.

Jobs and Training: Adult Training Program, Summer Youth Employment, Youth Training Program, Foster Grandparents, Senior Companions, Senior Community Service Empl.

Energy Assistance: LIHEAP, Weatherization Assistance.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Ohio.

Mr. DEWINE. Mr. President, let me first compliment my colleague and friend from Florida for his very fine statement, particularly in regard to his recitation of the unfunded mandates that are in this bill. I have several of the same concerns that he does.

We have an employer verification system here that is going to cost money. It is going to cost money for employers. It is going to cost money for States and local communities.

I have other serious concerns about this employer verification system as well.

My colleague from Michigan, Senator ABRAHAM, will be offering later in this debate an amendment dealing with that employer verification problem that is in the bill. My friend from Florida has also pointed out another, I think, very important problem, a huge unfunded mandate; that is, the birth certificate changes that are required in this bill.

I think it is going to come as a shock, when we get into this debate, to my colleagues and to the American people to find that under the terms of this bill the birth certificates that every American has are still going to be valid after the bill passes. They just will not be able to use them much for anything. You are going to have to go back to the place where the birth took place and get a new birth certificate if you want to get a passport or if you want to use it for other official business. It is just going to be absolutely a total nightmare.

Now is not the time to get into this in detail, but I will be offering an amendment at the appropriate time to strike that provision because it would be very, very ironic that a U.S. Congress that has put itself on the block and said finally we are going to heed what local elected officials are telling us, finally we are going to listen, finally we passed this unfunded mandate bill saying we are not going to do this anymore, or at least, if we do, we are going to recognize that we are doing it and admit that we are doing it—it would be the height of irony if this Congress which said that would pass such a huge unfunded mandate that my colleague from Florida has pointed out is absolutely huge.

Imagine telling everybody in this country that your birth certificate is still valid technically but you just cannot use it for much of anything. Imagine the cost to the counties, or whatever local jurisdiction you have in your home State that issues birth certificates, when people start flocking back and going home to get these new birth certificates issued to qualify. The only way they qualify is if some Federal bureaucrat in Washington, DC, says, "Well, yes, that is OK. That type of format is OK. The paper is OK. The format is OK. The information is OK. Yes, you can use that type of birth certificate." A huge unfunded mandate that is absolutely crazy.

I think when my colleagues look at this issue and we get into the debate about the cost of this, people are going to really be shocked.

Let me turn, if I could, Mr. President, to what I understand is the pending business; that is, the Simpson amendment that deals with open field searches.

Let me just bring my colleagues up to date, or kind of capsulize exactly where we are on this issue. This issue was looked at by the Judiciary Committee. In fact, by a vote of 12 to 5, Senator SIMPSON's position was rejected. The position that he has taken and the position that this amendment would take would be to reverse—let me say that again—reverse a very delicate compromise that was reached in 1986 in the Simpson-Mazzoli bill in regard to open field searches.

Let me go back and review very quickly some of the history behind this. In 1984, the U.S. Supreme Court said that a search warrant was not required for open field searches but in its opinion invited Congress to look at the issue and to take action in this regard.

In 1986, some 2 years later, when we looked at this whole issue of illegal immigration, Congress did speak, and it was an integral part of that compromise. A very delicate compromise was worked out when I was in the House of Representatives. Senator SIMPSON was the leader here in the Senate. That compromise provided that, for an open field search, a search warrant would, in fact, be required. So, if we accept the Simpson amendment, it really is a rejection of a compromise that was made in 1986.

The bill, Mr. President, as it currently stands on the Senate floor with the vote by the Judiciary Committee—a 12 to 5 vote to reject the Simpson position on open field searches—the current bill is the status quo. The current bill is where the law is today. I want to emphasize that.

Let me talk a little bit about the merits of this issue. The current law is that the INS has to get permission to conduct a search in an open field involving agricultural workers. That is the same situation that exists today if the INS wants to go into a restaurant or wants to go into some other building and conduct a search. If they want to conduct a search, under current law, they can get permission, which oftentimes is granted; but if they cannot get permission, then current law treats all employers and all employees equally in this regard. The INS has to go in and get a search warrant, if they do not get permission. That is true whether they are dealing with a building or whether they are dealing with work that is taking place on a farm or a ranch.

To change this, as the Simpson amendment would do—first of all, there is no compelling reason to do it. In fact, there is no reason to do it at all.

In fact, there is no reason to do it at all, if you ask the INS. They are the ones enforcing it. They are the ones who have the duty imposed by Congress to get the search warrant.

What the INS says is we do not need to change the law. They are not here asking for the change. We do not need the change in the law is what the INS says. They are the ones who in a sense we have been restricting.

Second, a change in the law, which adoption of the Simpson amendment would be, puts a burden on farmers, and, yes, on ranchers. I do not have to remind anyone in this body who has a farmer or a rancher in their State—and that includes every State I guess—how time sensitive the harvest of any crop is.

I experienced this in my home county. My family ran a seed business for many years. And when it came time to harvest the wheat, they harvested the wheat. You had a fine window in there to get it done. If you did not do it at the time to do it, you might lose the crop. It might rain; you might have problems. The same is true for any perishable crop—tremendous disruption of going in and conducting these searches without a search warrant. That is one of the compelling reasons that this was such an important part of the compromise that was reached in 1986 in the Simpson-Mazzoli bill.

In addition to the burden that this amendment would place on employers, equally important, and maybe even more important, is the burden it is going to place on employees.

Open fields. Let us think of the real world. Let us think of the real world. INS would drive by and look at this open field. Where are they going to go? It is not unreasonable to think that there is certainly a distinct possibility, however well intentioned people who work at INS are, that they are going to go where they see people look a little different than the vast majority of Americans, or at least the vast majority of people in most parts of the country, that they are going to go where maybe someone's skin is a little browner. They are going to go where they have some suspicions.

I think that is wrong. I think they should be held to the same standard they have been held to for the last decade under the Simpson-Mazzoli compromise, and that is they have to get a search warrant. It is not too burdensome.

Again, I think it is important that all employers be treated equally and all employees be treated equally. The situation has to be dealt with in the same sense, and that is true of the status quo, and that will be changed if the Simpson amendment today is adopted.

What was the background of this? What led to people looking at this and saying, "Hey, there is a problem." It is my understanding that before the 1986 act was passed, 15 percent of the illegal immigration problem in the work force was in agriculture and yet 75 percent of all searches, all the raids occurred in agriculture. That is no coincidence. They went where it was easier. They went where they could see into the open fields. I would submit they sometimes may have gone where somebody's skin was brown or somebody looked a little different, looking at that as a good prospect. I think it is wrong to change that law.

We are going to hear the argument in the Chamber that the only law enforcement agency that is required to have a search warrant in an open field situation is the INS. Yes, that is technically true. To state that is to state the obvious, but it is also looking at it from a very simplistic point of view. Those of us who have been involved in law enforcement know that searches by law enforcement agencies that are looking at what we consider to be crimes historically—rape, murder, theft—they are not just going and looking at fields and walking into those fields because they see who is working there. That just is not the way it works. There is a normal progression of the research that has to be done, the evidence that has to be presented, even if the plain view doctrine to go onto a field does in fact apply, which I think it does. That is frankly the argument that proponents might make, comparing apples and oranges—just a totally different situation.

Senator HATCH received a letter on March 13, and this letter is signed by a number of groups in this country that oppose the Simpson position. Let me read the names of these groups and then let me take a brief excerpt from the letter itself.

Groups that oppose this amendment include the American Farm Bureau Federation, Agricultural Affiliates, American Association of Nurserymen, American Sheep Industry Association, California Farm Bureau Federation, Florida Strawberry Growers Association, Florida Fruit and Vegetable Association, Illinois Specialty Growers Association, Michigan Farm Bureau, National Cattlemen's Beef Association, National Council of Farmer Cooperatives, Northern Christmas Trees and Nursery, Northwest Horticultural Council, Society of American Florists, Sun-Maid Growers of California, Texas Produce Association, United Fresh Fruit and Vegetable Association, Ventura County Agricultural Association, Virginia State Horticultural Society, Wasco County Fruit Produce League, Washington Growers Clearinghouse, Western Growers Association, Wisconsin Christmas Tree Producers' Association, and Wisconsin Nursery Association.

Let me point out that this letter, dated March 13, obviously did not have to do with this specific amendment. What it did have to do with is the same identical subject. Let me quote from this letter. This letter was signed by the groups that I just read. This is paragraph 2.

> S. 269 also proposes to repeal the open agricultural field search warrant requirement enacted as part of the Immigration Reform and Control Act of 1986. This provision requires Immigration and Naturalization Service to obtain the permission of the property owner prior to entering the property searching for illegal aliens, or to obtain a search warrant. This is the same procedure required of INS searching for illegal aliens in any other workplace, such as factories, restaurants, and retail establishments enclosed by buildings or other structures. This provision of current law affords growers the same protections from warrantless searches and unreasonable disruption of business activity enjoyed by any other businesses with walls and doors.

The fourth paragraph reads in part as follows, again the same letter signed by the same groups:

> Prior to enactment of the open agricultural field search warrant requirement, INS was accused in several instances of unlawful detention of America's citizens and legal permanent resident aliens, damage to crops and property, violations of property rights, and injuries to agricultural workers fleeing INS searches. We believe the requirement that INS obtain either property owner permission or a search warrant prior to conducting a search for illegal aliens has fostered cooperation between INS and growers, and has reduced property damage, crop losses and farmworker injuries.

Again I would point out in light of this statement that I just read, that is INS' position in the sense that they are not asking for a change in the law.

Let me also cite, if I could, Mr. President, a letter from the American Farm Bureau Federation—actually not a letter but a statement that was put out. I have no date on this but it was within the last month. Let me just read a portion of this:

> Farm Bureau has been very active in lobbying Capitol Hill to seek retention of the open-field search warrant provision enacted as part of the 1986 Immigration Reform bill. The provision of S. 269 repealing the open-field search warrant requirement has received no examination in public hearings, despite the fact that it reverses policy adopted by clear majorities of both Houses of Congress during the 1986 reform debate.

Continuing the quote now:

> Congress enacted the so-called open-field search warrant requirement as a part of the 1986 immigration reform bill in response to concerns among the agriculture community that farmers were treated differently by Immigration and Naturalization Service as a result of the nature of their business; that it is conducted outdoors rather than indoors and it thus had been more vulnerable to abusive searches.

That is a partial quote from the letter.

Let me also point out what the INS can do today, again under the current status of the law, again under the 1986 compromise, the Simpson-Mazzoli compromise.

They can go in property in hot pursuit. They can do that today. We do not need to change the law today to do that. They can do that hot pursuit. Further, they do not need a search warrant if the land is located within 25 miles of the border. So, again, two of the problems, or what you might think would be serious problems, have been dealt with and were dealt with in 1986.

Finally, of course, to again restate the obvious, if permission is granted, consent is given, they can go on right now.

So let me state I think this is an important issue. The Simpson amendment changes the status quo. I see my friend is on the floor and may at this point or later want to respond. But I think the status quo is correct. The Judiciary Committee voted by a 12-to-5 vote to keep the status quo. The INS does not see a reason to change the law, and therefore I ask my colleagues to vote against the Simpson amendment.

The PRESIDING OFFICER. The Senator from Wisconsin [Mr. FEINGOLD], is recognized.

Mr. FEINGOLD. Mr. President, I rise today in opposition to the legislation before us. Before I do, let me just say a word or two about the comments about the minimum wage. I am pleased that that issue is being discussed at this time. I am pleased to see the reemergence of some bipartisan support for an increase in the minimum wage. I think the time is now. Whether it be on this piece of legislation with a limited time agreement or some other piece of legislation in the near future, I think it is something we ought to take up now rather than wait until later. It is at least of as great importance as the matter before us today.

But I do rise in opposition to this bill. I fear this legislation not only embraces the wrong approach to curbing illegal immigration, but I think it contradicts past efforts to reform the Federal regulatory framework and to prevent the Congress from passing unfunded Federal mandates that will needlessly burden employers and local governments alike.

In 1994, we witnessed a very emotional and pointed debate in California over a ballot issue that we have all come to know and describe as proposition 187. That debate, which evolved into a rhetorical backlash against both legal and illegal immigrants, clearly demonstrated that the issue of immigration has the very strong potential to further divide and alienate those in our communities who are now faced, even more than at any time in the past, with the daily anxieties of economic insecurity and social instability.

During the extensive consideration of this legislation in the Senate Judiciary Committee, I did oppose certain efforts to curtail legal immigration, whether it was an effort to prevent families from reuniting with loved ones or an effort to place additional hurdles before persons who are fleeing persecution in their home countries and have a legitimate right to ask for asylum. As I indicated then, my strong support for preserving ample levels of legal immigration does not compromise in any way my feeling, and the feeling I think of every Member of this body, that we do need to take bold and aggressive steps to curtail illegal immigration.

I do believe there are reforms that are responsible and reasonable, and that we should make every effort to pursue on this bill. For example, the bill authorizes the hiring of over 4,500 new Border Patrol agents over the course of the next 5 years. This massive increase in personnel will nearly double the existing number of Border Patrol agents under the jurisdiction of the INS.

I was also, therefore, pleased that an amendment I offered in committee was adopted by the committee, which provides that these many new personnel will be hired and adequately trained, pursuant to appropriate standards of law enforcement.

I am also strongly supportive of provisions in S. 269, offered by Senator KENNEDY, to enhance the penalties for virtually all forms of alien smuggling and document fraud, as well as related offenses.

Additionally, these provisions provide stiff penalties for those individuals who operate sweatshops which force people, many in this country illegally, to work in often inhumane conditions for minimal compensation. Like these new enforcement personnel and alien smuggling penalties, it is critical that any measure we consider to curtail illegal immigration be targeted against those who are actually breaking our laws.

Nothing stands in more stark contrast to this sort of targeted approach than what I believe to be the single most troubling component of this legislation and that is the creation of a new, costly and massive worker verification demonstration project which is intended by the proponents, I believe, to lead to a nationwide verification system within a few years.

The worker verification proposal contained in this legislation, and the worker verification concept itself, is not a targeted approach to confronting the problem of illegal immigration. Instead, it is an approach which seeks to deputize thousands of business owners and farmers and other entrepreneurs, and virtually turn our Nation's workplaces into some kind of internal border patrol, mini-INS's, if you will. These employers are then charged with the responsibility of navigating a complex new electronic verification system in an effort to root illegal immigrants out from a massive American work force.

I find it shortsighted and untenable to suggest that we cannot combat illegal immigration without requiring every person in America to have his or her identity checked by a Federal data base each time each person in this country applies for a job or for Government assistance. Despite good-faith efforts by the proponents of this provision to try to build in adequate privacy protections, the fact remains that every time an American applies for a job he or she will be stepping into a civil liberties minefield, if this system develops as I am concerned the authors intend.

Who in our society will be required to have their identities verified? Potentially everyone. It could be the 40-year-old father of four, applying for an executive position with a Fortune 500 company. It could be a 20-year-old college student applying for student aid. If I am reading this bill correctly, even a 12-year-old paper boy could have to have his identity verified by a Washington official before he could be hired to deliver newspapers. That, I am afraid, is the practical effect of a national worker verification system. It is light-years away from a targeted approach. And it is based on the proposition that it is perfectly appropriate to have ID checks potentially required from 98 percent of our population, that which consists of U.S. citizens and legal immigrants, in order to root out the 2 percent of our population that is here illegally.

During judiciary hearing consideration of this bill, the junior Senator from Michigan and I offered a bipartisan amendment to strike the worker verification concept from this legislation and replace it with stronger enforcement and penalties for those who break the law by overstaying their legal visas. Although the committee accepted these new provisions relating to visa overstayers, our amendment to strike worker verification proposals lost on a tie 9 to 9 vote.

The original nationwide system was later replaced by the so-called demonstration projects. But make no mistake, Mr. President, the fundamental flaws contained in the original proposal remain. Only now we will go through a somewhat longer process before it is actually imposed nationwide on all Americans.

Senator ABRAHAM and I will offer an amendment later on during this debate to strike those demonstration projects and programs and will speak more on this at another time. But it is strangely ironic, Mr. President, that some of the same Senators who stood here on the Senate floor a year ago and cried out for meaningful regulatory reform legislation now are some of the strongest advocates for a massive national worker verification system and that somehow that is an appropriate solution for our illegal immigration problems.

Another provision of this legislation that is troubling to me relates to birth certificates and driver's licenses. The bill currently requires all Government agencies to begin issuing uniform Federal birth certificates based on standards developed here in Washington, DC. Moreover, no Government agency may accept for official purposes a birth certificate or driver's license that does not meet the Federal guidelines established in this and presumably future legislation.

Originally, this provision required agencies to collect fingerprints or other biometric data. The Department of Justice referred to these fingerprinted birth certificates as "de facto national identification documents."

Thankfully, we were able to delete the fingerprinting requirement in the Judiciary Committee, but I think it demonstrates the steps that some are willing to take in this area. I do not believe for 1 minute that we have seen the last of this fingerprinting idea. Even without the fingerprints, I think this provision is still distressing. For example, the bill language requires every State department of motor vehicles to begin issuing driver's licenses with safety features as prescribed by a Federal regulatory agency. This language also states that anyone applying for a driver's license must present certain information as designated by the National Department of Transportation to establish their identity.

So, if the Department of Transportation elects to promulgate a regulation next year requiring every State department of motor vehicles to begin collecting fingerprints, it would be legal under this legislation. So we see the fingerprints very easily coming back in, despite our efforts in the committee, through another route. Moreover, this section seems to ignore one of the 104th Congress' few bipartisan successes so far, the enactment of legislation to stop the Federal Government from passing unfunded mandates on to local and State government agencies.

I think the Chair and I both know that one of the most consistent themes you hear in our home States is that they did not want new unfunded mandates.

I recently received a letter from the Wisconsin Department of Transportation outlining their very justifiable concerns with these birth certificate and driver's license provisions. They are concerned, of course, with the cost that they will incur as a result of this new Federal mandate. The Wisconsin Department of Transportation has estimated these provisions could cost my State alone up to $3 million to comply with requirements relating to a specific Federal format for these documents and antifraud security features, not to mention Federal verification of all birth certificates and driver's licenses.

This letter states that the Wisconsin Department of Transportation "views this bill as yet another unfunded Federal mandate. The costs associated with it are substantial."

The letter also points out that this State agency has had its operating budget reduced by 6 percent by the Wisconsin State legislature and Governor and would have no means, Mr. President, no way by which to pick up these additional costs that this new Federal mandate would impose.

Mr. President, that is why I and the Senator from Ohio, Senator DEWINE, and others view this provision as completely contrary to the letter and the spirit of the unfunded mandates legislation passed by this body just over a year ago and signed into law by President Clinton.

There is not a word in this bill, Mr. President, about how the local and State agencies are to pay for this costly new procedure of issuing uniform Federal birth certificates and driver's licenses, even though it is plainly obvious that such a process is going to be an enormous financial burden on such entities.

Mr. President, let me also take this opportunity to express my concerns about provisions in the legal immigration bill that are likely to surface in the near future. Although the Judiciary Committee, on a strong vote, split the two bills, split the legal and illegal immigration bills, there may well be another attempt to put these provisions back in this bill. I hope not, because these are very different issues.

In committee, Mr. President, I was a cosponsor of the Kennedy-Abraham amendment to restore adequate levels of family immigration because I consider it to be essential to allow U.S. citizens to reunite with their children, their parents, and other loved ones who may be residing in other countries.

There may be some abuse of our current family immigration system, but that does not mean we should completely prohibit a U.S. citizen from reuniting with their 22-year-old daughter, their 66-year-old parent, or their 15-year-old brother. Those were in fact the so-called reforms that were included in the original Simpson legislation and later expunged from the bill during committee markup.

Considering the House voted decisively to remove all cutbacks of legal immigration from their bill, it is my hope that we have seen the last of efforts to further restrict family immigration.

Mr. President, I also have serious concerns with the provisions in the legal immigration bill relating to persons seeking asylum in this country.

Originally the bill required anyone seeking asylum to do so within 30 days of entering the United States or their claims would be invalid. I joined the junior Senator from Ohio and others in fighting this 30-day time limit because it was harsh, it was arbitrary, and would have likely had disastrous consequences for thousands of persons who have, in most cases, fled their homelands to escape persecution, torture or worse for expressing thoughts and opinions counter to those held by those governments in other lands.

We have had, no doubt, serious problems and abuses with our past asylum process. Previously, a large number of nonmeritorious claims were filed in an effort to obtain certain benefits that asylum claimants are entitled to, such as automatic work authorization. This practice did result in a mammoth backlog of pending applications that have prevented or delayed some very legitimate claims from being processed in a timely fashion.

Unfortunately, though, Mr. President, lost in all the hyperbole about this problem is the fact that the Clinton administration has made tremendous progress in clamping down on asylum fraud and abuse. As a result of these new administration reforms, in the past year alone, new asylum claims have been cut in half, and INS has more than doubled their productivity in terms of processing pending claims.

Mr. President, these promising reforms by the Clinton administration are in their infancy, and we should not mandate such a harsh and arbitrary deadline that is likely to not only be disastrous for legitimate asylum seekers, but also completely unnecessary. During committee markup, an amendment was adopted that extended the 30-day deadline to 1 year and also provided an exception to this time limit if the applicant had good cause to wait for more than 1 year. I found this acceptable because it provided legitimate asylum seekers a waiver if they had justifiable reasons for waiting beyond the 1-year period.

Unfortunately, the committee report language is more restrictive with respect to this waiver process than I had anticipated and hoped.

Mr. President, America has a proud history of representing a safe haven for those who believe in democracy and who have been tormented for embracing particular political and religious viewpoints. We should continue to do so. I intend to work with the Senator from Ohio, Senator DEWINE, and others in restoring and guaranteeing a fair and suitable waiver process.

Mr. President, as we debate this issue over the next few days, we must be mindful of the inherent dangers that this immigration issue encompasses. We find ourselves today in the heart of an election year. History has shown that it is not uncommon for politicians, not only here, but in many countries, to use the issue of immigration to further divide people, in this country to divide Americans along racial, ethnic, and cultural lines.

Playing to the fears of the American people on this issue may only provide further ammunition to those who seek to exploit those fears and coax the American people into believing that immigrants come to the United States only to commit crimes, to collect welfare benefits, and to steal jobs away from working Americans. That is an injustice, not only to the immigrants who currently reside in the United States, but an injustice as well to the historical legacy of immigrants who came here with purpose and promise and, as we must acknowledge, built this great Nation.

Let me say this at this point. I do not doubt for a minute the intentions of the Senator from Wyoming in this regard. In many ways he has been a very important source of not only expertise but moderation and thoughtfulness on this issue. I believe he has made a good-faith effort to reform a system that is clearly in need of some repair. I do regret that I have some fundamental disagreements with respect to how we should address those flaws in the current immigration system.

I look forward to working with other Senators in attempts to improve this legislation and passing reforms that truly differentiate between those who play by the rules and those who choose to break them.

Mr. SIMON. Mr. President, I want to join, first of all, in the comments that Senator FEINGOLD made about Senator SIMPSON.

Our title here is "United States," not Senator from Wyoming, Senator from Colorado, Senator from Illinois, Senator from California or Wisconsin. ALAN SIMPSON has served the people of Wyoming well. But he has also been a U.S. Senator who has looked at the broad scope of things and has been a real legislator and has contributed immensely.

I will differ with him on this particular amendment. Let me add, I will differ with my friend from Wisconsin, Senator FEINGOLD, with whom I rarely differ, on this matter of pilot verification that he was just talking about.

Senator SIMPSON has reminded us over and over again on the floor that we have to stop the magnet that is the economic pull to people to come into this country illegally. So we passed, a few years ago, employer sanctions. It was a matter of controversy. I ended up being a minority on this side, joining the Senator from Wyoming and voting for that.

Employer sanctions have not worked as well as we had hoped. I think the key is verification. Unless we are willing to try a pilot verification program, and here is where I differ with my friend from Wisconsin, I do not think you will have any meaningful way of stopping a steady flow of people who come up here for economic reasons. To say we are going to just have a slight tap on the wrist to employers and tell people who are desperate, "We are going to be tougher on you if you come up here and try to work," they will still come up here and try to work.

I point out one other reason on the verification, and that is the GAO report that says there is discrimination. If you appear to be Hispanic or Polish or Asian, and particularly if you speak with a bit of an accent, it is inevitable, unless we have some system of verification, that there is going to be discrimination. I think it is important, and I think we will have a close vote on this, but I think it is important that we have a pilot verification program.

The question on this immediate amendment is, is it worthwhile to give up some basic liberties in order to have this amendment, and are we going to accomplish that much? I think we will not accomplish very, very much at all in terms of discouraging the employment of illegal workers here. I think it is one more step in taking away basic civil liberties.

The reason this passed originally, we had a lot of problems with people who would be driving down the highway, and all of a sudden they look at a field and it looks like there are a bunch of "foreign-looking workers there." They stop, go out, and make a raid.

We have a tradition in our country with the fourth amendment you have to go into court in order to have a search. We ought to abide by that. Now, the argument is made, well, you can have that search. You can go into court. How many farmers are going to go into court? It just is not going to happen. It makes it very costly.

Second, whenever you give people in any field arbitrary power, whether it is law enforcement or anything else, there is an invitation to corruption. I think we have to recognize that. This can be a shakedown kind of thing.

My staff has given me two examples of the kind of abuses that take place when you do not go in to court. As far as I know, and the Senator from Wyoming can correct me, as far as I know, there have been no denials for any Immigration Service requests to have a search of the field by the courts. Maybe they have existed—I do not know. In Pasco, WA, INS agents entered a field for 29 straight days searching for undocumented workers. On some occasions the agents drove their trucks across the bean fields, causing substantial damage to the bean crop. The latter part of that is not that significant, but if you want to go 29 straight days to search somebody's field, you ought to go into court 29 straight days to get a court OK for doing that.

In Othello, WA, INS agents entered a farm four times in 1 month looking for undocumented workers. Their last three trips were without a warrant, and they found no undocumented workers. They arrested two workers who were Japanese, but it turned out they were exchange students who had a lawful right to be in this country.

Finally, Mr. President, I have been here, now, 22 years in the House and the Senate. We always find some excuse for giving up basic civil liberties. I think we ought to be very, very careful on this. If there is an overwhelming reason to have an infringement on the fourth amendment that is kind of gray, maybe we should consider it. It ought to be an overwhelming reason. This is not an overwhelming reason to violate that basic constitutional protection.

My hope is the amendment will be defeated. My vote, with all due respect to my friend from Wyoming, will be in opposition to his amendment.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Chair. Mr. President, I join with those in thanking the distinguished chairman of the Immigration Subcommittee of the Judiciary Committee, the Senator from Wyoming, for what is extraordinarily thankless on a subject that perhaps has more controversy than almost any other I have seen since I have been in the U.S. Senate.

I will give my views on the bill that is now before us, the Immigration and Nationality Act of 1996. I come, obviously, along with my colleague, Senator BOXER, from the State most heavily impacted by illegal immigration in the Nation. The presentation of the Immigration and Naturalization Service to the Judiciary Committee showed that California is on a tier all by itself. The estimates on numbers vary, but they go anywhere from 1.6 million to 2 million, 3 million, and even 4 million people in our State illegally, depending upon whom one chooses to believe. Most authorities agree that the right number is in the vicinity of 2 million people in California illegally right now.

One concern is overriding—that illegal immigration is a serious problem. Additionally, it is the responsibility of the Federal Government, not the States, to prevent it. Californians went to the ballot and overwhelmingly approved the most stringent of propositions, proposition 187.

One part of proposition 187 provided that if a youngster is in this country illegally, he or she could not go to a public school. A teacher would have to act as an INS agent and ferret out that youngster and remove him or her from school. Even more strongly, the people said that if the parents are here illegally, that youngster would still be denied the right to a basic elementary school education.

The people of California overwhelmingly approved it. I believe one of the reasons they did was out of frustration, because the Federal Government has not responded to what is an increasing and growing problem.

The bill before us today tackles illegal immigration at the border, mainly by adding strength to our Border Patrol and border facilities. In the past 3 years, the administration and the Congress, both Houses and both parties, have come together, recognizing the need and beginning to improve border infrastructure, such as lights and infrared-seeing devices, and manpower. And the Border Patrol has, for 3 years in a row, had additions of about 700 agents a year.

This legislation would add an additional 700 Border Patrol agents in the current fiscal year, and 1,000 more for the next 4 years, bringing the total number of agents to 4,700 by the year 1999. That is more than double the entire force that was in place when I came to the U.S. Senate 3 years ago. It would establish a 2-year pilot program for interior repatriation. The reason for that is, people come across, they are picked up, they are held for an hour, they are sent back right across the border to Tijuana. Three hours later, they try again, the same thing happens, and they try again and again. The pilot project would try to determine whether people who are repatriated into the interior of the country are less inclined or less able to cross that border again illegally than those not repatriated to the interior of the country.

The bill would add 300 full-time INS investigators for the next 3 fiscal years to enforce laws against alien smuggling, something that, today in America, is a $3 billion industry.

As a matter of fact, last week, the Justice Department made 23 arrests in California, which showed that organized gangs from New York to California were all participating in the alien smuggling of illegals from China to the United States in boats, transferring them to fishing boats, landing them, providing drop houses, and moving them back to New York.

The bill would add alien smuggling and document fraud offenses to the list of predicate acts under our Nation's racketeering laws, something many Federal prosecutors have told me is extremely important.

The bill would increase the maximum penalty for involuntary servitude to discourage cases like the one we saw recently, where scores of illegal workers from Thailand were smuggled into our country, then put in an apartment building with a fence around it and forced to work in subhuman conditions against their will in southern California.

This bill would strengthen staffing and infrastructure at the border, and it would provide for facilities for incarcerating illegal aliens. It would require all land border crossings to be fully staffed to facilitate legal crossing.

I can tell you that in San Diego, CA, at the border crossing gates, there are hours of waiting. There are 24 crossing gates at this one station. Only one-half of them are manned. Consequently, people engaged in legal, normal commerce sit at that gate and wait, sometimes for many hours, backed up in traffic.

This bill would increase space at Federal detention facilities to at least 9,000 beds. That is a 66-percent increase in detention capacity for the incarceration of criminal aliens. I can tell you, Mr. President, out of 120,000 inmates in the California Department of Corrections, between 15,000 and 20,000 of them are illegal immigrants, serving felony time in California. The cost to the State is literally hundreds of millions of dollars a year.

The bill would create a demonstration project in Anaheim, CA, to use INS personnel to identify illegal immigrants in prison, so that they can be more rapidly deported.

Historically, the way Congress has handled illegal immigration is through what are called employer sanctions. I think the intent—although I was not here, and the Senator from Wyoming knows far better than I—was that the reason most illegals—and I say "most"—come here illegally is because of the lure of jobs. That is the magnet. Therefore, if you remove this magnet and prevent people from working illegally, you will deter illegal immigration.

In order to work, though, employer sanctions need an accurate method of verifying whether an applicant for a job is legally entitled to work. Up to this point, relying primarily on employer sanctions, the basis on which all illegal immigration is handled in the United States, has been a colossal failure. The reason for the failure is that employers have no reliable way to determine if a prospective employee is legally entitled to work.

Let me explain why. Presently, if an employer is interviewing someone for a job, he or she might say, "Can you show me that you are legally entitled to work?" They can present to the employer 29 different documents, under present law. Under present law, no prospective employer can say, "May I see your green card?" That is a violation of law. So they must take one, two, three or four of the 29 different methods of identification offered.

If somebody came in to me and I said, "Do you have an identification to show that you are a resident of California?" They would say, "Oh, yes," and hold up this card. I would see that it is a California identification card, and its address is Interlock, CA, and it has a State seal on it. It is encased in plastic, and it looks very legal to me. Wrong. This very card is a forgery. Or they might hand me a Social Security card, and I would look at it and see all the traditional signs. The paper looks right, the color looks right. There is a number on it and a signature, just like on my own Social Security card. Could I trust it? No. This is a forgery.

The fact of the matter is that on the streets of Los Angeles, CA, you can buy both of these cards for under $50, and you can get them in 20 minutes, and they can have your photograph printed on them. You can purchase documents there anywhere from——

Mr. SIMPSON. Mr. President, I object to this procedure. This is totally out of order.

The PRESIDING OFFICER (Mr. COVERDELL). The Senator has a right to——

Mr. SIMPSON. It is a crude exercise, a truly crude exercise.

CLOTURE MOTION

The PRESIDING OFFICER. The clerk will report.

Mr. SIMPSON. What is the status of the present situation?

The PRESIDING OFFICER. A cloture motion has been sent to the desk.

The clerk will report.

Mr. SIMPSON. What is the correct procedure? Is that motion appropriate in the midst of a singular address, at the time of an opening statement with regard to a piece of legislation?

The PRESIDING OFFICER. Allow the Chair to consult with the Parliamentarian.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator does not have the floor.

The clerk will report.

Mrs. FEINSTEIN. I believe I had the floor, Mr. President.

Mr. SIMPSON. Mr. President, the Senator from California has the floor.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Dorgan amendment No. 3667 regarding Social Security:

Byron L. Dorgan, Max Baucus, Daniel P. Moynihan, Barbara A. Mikulski, Tom Daschle, J.J. Exon, Joe Biden, Paul Simon, Joe Lieberman, John F. Kerry, Paul Sarbanes, Fritz Hollings, D.K. Inouye, Wendell Ford, Claiborne Pell, John Glenn, Russell D. Feingold.

The PRESIDING OFFICER. The Senator from California has the floor.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, before I was interrupted, the point I was trying to make is that no matter how well intended an employer is, it is extraordinarily difficult to tell the difference between real documents and counterfeit documents, and that is what enables illegal immigrants to obtain welfare. They are ineligible for cash welfare programs under Federal law now. However, if they have false documents, they can obtain the very things that they are prohibited from obtaining—whether it is Social Security, whether it is SSI, or whether it is AFDC.

An entire industry of counterfeit documents has grown up in California. The most frequently counterfeited document is a birth certificate. You can pay anything from $25 for a Social Security card to $1,000 or more for a passport, as well as personal identification documents.

These documents are so authentic-looking that employers cannot tell the difference. In fact, it is estimated that tens of thousands of illegal immigrants today receive welfare benefits in California by using counterfeit documents. This bill makes a major effort to reduce this problem. It reduces the number of acceptable employment verification documents from the current 29 to 6 so that employers are better able to determine which documents are valid. Employers will only have to review 6, not 29.

Also, the bill doubles the maximum penalties against employers who knowingly hire illegal aliens, increasing them from $2,000 to $4,000 for a first offense with graduated penalties for subsequent offenses. Therefore, the bill adds substantial teeth to the employer-sanction laws. It establishes a pilot program to test the verification system under so that employers can readily and accurately determine an applicant's eligibility to work.

The system could also be used to determine an applicant's eligibility for public benefits, therefore, avoiding welfare fraud. It also attacks the serious problem of document fraud by setting Federal standards for making key identification documents, birth certificates, and drivers' licenses tamperproof and counterfeit resistant. The result is that the most counterfeited document, a birth certificate, would be counterfeitproof, as would drivers' licenses.

The bill before us would increase the criminal penalties for document fraud, including raising the maximum fine for fraudulent use of the Government's seal to $500,000, and increasing the fine for lying on immigration documents to $250,000 and 5 years in prison. The bill also denies the earned-income tax credit to persons here illegally.

You might say, is this a strong, tough bill? I would have to say, yes. It is a strong, tough bill. Former Congresswoman Barbara Jordan and the immigration commission which she chaired said this eloquently. "We are a Nation of laws." We are also a Nation that has the most liberal immigration quotas in the world today. No country absorbs more foreign-born people than does the United States of America in the course of a year.

So there is more opportunity for an individual to come to the United States than virtually any other place on Earth. Therefore, because we are a Nation of laws and because we have a liberal immigration system, it is not unjust, unfair, or unwise to require that we follow our laws and make sure that we enforce the prohibition against illegal entry into our country.

The largest source of illegal immigration, next to visa overstays, comes from people who slip across our borders. That is what this bill addresses. The bill also addresses visa overstays. As many as 700,000 people a year overstay their visas. This bill would require that immigrants who overstay their visas either be deported or be denied future visas. So there is some visa enforcement in this legislation.

The need for the legislation has been and will be explained at length over the course of this debate. From the point of view of my State, the problem of illegal immigration is severe. Forty-five percent of the Nation's illegal immigrants now reside in California. That is between 1.6 million and 2.3 million, as I mentioned earlier. Fifteen percent of illegal aliens are in our State prisons. Forty-five percent, or 150,000, of all pending asylum applications come from people in California, and 35 percent, or 40,000, of the 113,000 refugees entering the U.S. claimed residency in California in 1993.

Our county governments are being forced to absorb more and more of the costs of medical care, social services, and incarceration for illegal immigrants, and those costs are going up—not down. In the 1996–1997 fiscal year, California will spend $454 million in incarceration costs for criminal aliens.

So it is fair to say that the State most affected by this bill is the State of California. This U.S. Senator strongly supports this legislation. The need is very clear.

Mr. President, at a later time, I would like to complete this statement, and also at the appropriate time to present a series of amendments that deal with certain unresolved issues.

I have some major concerns about the triple fence in the bill, about the fact that cases brought under the bill be tried in Federal court rather than in State court, and that the deportation documents be written in Spanish as well as in English. I hope I can offer these amendments at a later time.

I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank my colleagues for their patience in the procedure intervening there. Without question, I see why you are all gathered at the desk for some reason. Yes. Is there something sinister going on?

Nevertheless, we have a cloture petition which was quite surreptitiously slid to the desk, which was remarkable to watch. I have never seen that in 18 years of my presence here. I have found in my time here that those who remain obsessed about certain aspects of legislation almost always find that that obsessive behavior is often visited subsequently on the perpetrator.

That is not my idea. That is just the way that works. It is always a more genial approach. I visited with Senator DORGAN this morning, told him exactly what the lay of the land was and why. I did not receive that same courtesy.

Enough of that. We can debate that at any time in the future. It seems to me the present status of the issue is with regard to this amendment on the current ban on open-field searches. That is the amendment at hand. I would just add one dimension to that, and then I think we are ready to go to a rollcall vote on that, unless there is further debate. I ask any of those who wish to further debate this issue to present themselves.

Senator SIMON asked a valid question, and I cannot tell you how much I have enjoyed working with that gentleman through the years. We met when we were State legislators in 1971. We kept close ties and worked together here in a very steady, bipartisan fashion.

He asked a question. He wondered if there were denials when INS agents sought warrants to search open fields and inquired if I knew of any.

I do not know of any denials either, but I do know this, that the requiring of agents to prepare an affidavit, find a judge, and get a search warrant has resulted in a great reduction in immigration enforcement in agriculture. That I do know. In fact, it has practically eliminated employer sanctions enforcement in agriculture. Of course, that was the purpose of it. As I say, it was a rather unholy alliance at the time, still perhaps defined as that, when you have the ACLU joining with the agricultural growers, who I found to be absolutely insatitable with regard to everything I ever proposed. It is estimated now that 40 percent or more of the field workers in west coast agriculture are illegal.

Some of my colleagues in the debate have pointed out that although probable cause requires more than mere appearance, immigration officers will search on that basis anyway. I would say, in response to that argument, if immigration officers would be willing to ignore the legal requirements for warrantless searches, why do my colleagues believe that these officers follow the current requirements for a warrant? I believe that we should assume that immigration officers, like other law enforcement officers, generally follow the law. Of course, there are exceptions. We should try to minimize the number of such exceptions by vigorous oversight of INS and disciplinary action against the INS officers who do violate the law.

Mr. President, I remind my colleagues the reason the present ban was added to the law in 1986 was that there was no constitutional right at all of the type that my friend from Illinois, Senator SIMON, had described. That is why only—only—INS officers are required to have a warrant to enter and to search open agricultural fields even when they have probable cause to believe that unlawful activity is taking place, which is the present constitutional standard and the one applied to law enforcement officials in every other Federal or State agency.

Why—and this is the purpose of my amendment—should only the INS officers need a warrant? Of all Federal law enforcement personnel, why should the INS alone and their officers need a warrant even when they have probable cause, and only for agricultural fields? It makes no sense.

That is a phrase that has been used in the debate from time to time, that something may make no sense, and in this event I think this is a classic case of that. Why should every single other law enforcement agency of the Federal Government have this power to do warrantless searches except the INS? The reason: to take care of growers who use blatantly so many illegal agricultural workers and say they are dependent upon them, and if they did not have them, they would go broke.

I have heard that argument now for 17 years. In the course of responding to some of the arguments in the opening statements or comments, let me assure my colleagues that all of this effort here is not the creation of Senator ALAN SIMPSON of Wyoming. Every single thing that has been presented to the body has not been possibly more considered, more debated, more crafted—I do not know what it could be—than this issue because we have had it through the years with the Select Commission on Immigration Refugee Policy.

That is where the ideas came from. That was the Commission in 1980. Some say, where do these things come from? Where does this evil spirit come from?

There is no evil spirit. Everything I have been trying to do with regard to legal immigration is a direct result of the work of the Barbara Jordan Commission. I hope that that will be heard. I notice that sometimes detractors of the legislation will say, "How could it possibly be that we are turning our back?"

"How can it possibly be that we are so treating these people who play by the rules?"

"How can it possibly be that we could turn our back on the Statue of Liberty?"

Ladies and gentlemen, we are not doing that. Does anyone here believe that former Congresswoman Barbara Jordan would be involved in such an effort? That is absurd and bizarre.

When someone says, "Well, do you realize this is going to apply to everyone?" the answer is, yes, it will apply to everyone. When we do this final procedure, whether it is this year or in 6 years or in 10 years, and when we have a more secure and verifiable document and when we have a more secure system, whether it is the call system or whether it is documentation or whatever it may be, of course, it will apply to everyone. If it did not, then it would be truly discriminatory.

If it is some document, are we going to ask it only of people who look foreign? Of course not. It is for people who look foreign and bald Anglo-Saxons like me, too. That is how it works. It happens only twice in a lifetime. You use it when you are seeking funds from a State or Federal Government on welfare or public assistance; you present or go through this verification procedure. That is one. The other one is simply at the time of seeking employment. That is two. That is it. There is no third strike and you are out. That is it.

We hear of the great burden placed on American citizens. Ladies and gentlemen, why do you think proposition 187 came about? It came about because of the great burden on the people of California who are tired of that burden. The greatest burden on the people of the United States is people who are gimmicking and using our systems. That is a lot greater gimmick, a lot greater burden than somebody asking when they go to work—and remember you already do that when you go to work. There is a form called the I–9. It is one page. I hear the argument, what will employers think when they have to go through this exercise? I tell you what they will probably think: "Thank Heaven somebody came to change the law so we wouldn't have to go through 29 documents. Thank Heaven somebody changed the law so that if I ask a person for a different or additional document, I am not charged with discrimination. Thank Heaven they are going to start working out something where I do not need the I–9." That is in this bill. That is what we have. All of these so-called reforms that are sometimes rather negatively portrayed, all came from either the Select Commission on Immigration and Refugee Policy, chaired by Ted Hesburgh, or the Commission on Immigration Reform chaired by former Congresswoman Barbara Jordan. They were not ripped from the air to vex American employers, nor were they ripped from the air to turn our back on our heritage of legal immigration. That is not where they came from. They have a fine-founded, deep-rooted source in the realistic work of two very splendid commissions. I hope that will be recalled in the course of the activities.

I call the question on the amendment with regard to open field searches.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this issue, although a fresh one for Congress, is an issue that has been out there and around for a number of years. It was debated on the floor of the U.S. Senate in 1983 and 1986. I will make some brief comments. I know there have been some excellent comments made by Senator SIMON, Senator DEWINE, and others, but I will just very briefly mention my concerns about what this proposal would do and what it would not do.

It is important to point out exactly what the statutory prohibition against open field searches is about. It does not prevent law enforcement authorities from engaging in searches if they observe criminal conduct such as drug activity taking place. So, if they observe criminal conduct, they can move towards the presence in the field in pursuit of the illegal activity which has been observed.

All this does is it simply prevents INS officials from walking onto a field without a warrant and demanding that workers produce immigration documents. If the INS conducts a search, for example, in the front office, they need a warrant. If they conduct a search in the barn, they need a search warrant. In 1986, provisions simply stated if they do it in the fields, they have to get a warrant as well.

The prohibition against warrantless open-field searches ensures that foreign-looking agricultural workers are not subjected to harassment or unfair treatment simply because of the color of their skin. We know now, by and large, those who are working out in the fields are American citizens, ever since we freed ourselves from the bracero program. There are a number of illegals out there as well. It is difficult to estimate the percentage, to be sure. But, by most observations, the great majority of the individuals who are working out in those fields are American citizens. So we are talking about protecting American citizens.

If, as we said, the search is going to be in the front office or out in the barn, there has to be a warrant. Why? Because we are concerned about the rights and liberties of American citizens. The American citizens working out in the field, if there are observations about activities, there is every legitimate reason and authority to pursue those. But, nonetheless, what we have to do is look at what the conditions were prior to 1986. We see the abuses that were rampant in many parts of the country by the INS, just for the very reasons we are outlining our opposition to the amendment which has been identified today.

This is not just an issue of protection for the individuals. It is also an issue of safety. I will not take the time to read into the RECORD about what has happened when there is a sudden INS raid in some of these agricultural areas in the fields, about trucks moving across the open fields, sometimes in the evening time, and the great distress and the panic that anyone would feel when they are confronted with significant numbers of police authority chasing them through the fields in search of various identity cards.

That happened. That was more the case than not during that period of time. Then, in 1986, we insisted on getting a warrant in order to try to address that issue. I find there has been very little, other than general observations, that would justify going back to the law prior to 1986.

The prohibition against the warrantless open-field searches ensures that foreign-looking agricultural workers are not subjected to harassment or unfair treatment simply because of the color of their skin. Those who support the repeal of the statutory ban contend that the fourth amendment provides sufficient protection against the unreasonable searches of agricultural workers. This is simply not the case. Nor is the fact that INS officers, without this provision, would be able to enter open fields with impunity and be able to ask anyone for identification. The fourth amendment was around prior to 1986, and this is when all these abuses occurred.

The reason for this warrant has been well documented in the abuses that took place prior to 1986. If anyone goes back and reads the record during that period, there is page after page about what was happening out in the fields and the real issues of safety for many American citizens who were working in the fields at that time as a result of these kinds of raids.

Since then, we have had the warrant. I do not believe the case has really been made in the course of the hearings that that has really impeded the effectiveness in trying to deal with the fundamental issues of jobs in the workplace. We are working on that issue. We have provided very important, I think, additional steps, both in trying to reach documents in terms of the antifraud provisions that have been built into this legislation, including the pilot programs that will be initiated to find out what is effective, and in protecting American workers from displacement or as a result of foreign workers. The prohibition against the warrantless open-field searches is working well. It is a necessary safeguard against the abuses of individual rights. We should retain it.

I have a more extensive comment upon that measure, which I will perhaps get into later on, or include it as part of the RECORD.

Mr. President, it is now 2:30, 20 minutes of 3. We have been on this legislation since 10:30 this morning. We have taken a number of the amendments, half a dozen amendments that might have been found to be not germane if we moved toward cloture. I know there are others as well, and those are important, extremely important, measures. I think the Senate should address them at some time on the basis of their merits. But we are in the situation now where we have a cloture motion that has been entered on the Dorgan amendment that will ripen, based upon the Senate schedule, probably an hour after we go into business on Friday or at a time when the majority leader effectively chooses, based upon his ability to move toward this measure.

We are faced, again, with the situation that if we move toward a cloture motion—for example, say, we were able to move it on the underlying amendment—that would have to be done prior to a cloture motion on the bill. Because if we put a cloture motion on the bill, all that we have done today would effectively be discarded. So we would need to have a cloture motion on the underlying amendments in order to have them acceptable, so that we would have them irrelevant. Then you would need a cloture motion, and if that was not taken, or if we did get it, there would still be 30 hours on that proposal and then you would get a cloture motion on the underlying legislation on which there would be some 30 hours.

So we have ourselves now wrapped into a situation in which, I must say, in terms of the overall progress on this legislation, even though we have spent the full day on it, is difficult really to perceive what is being accomplished. Even if we continue to go on to additional amendments that would be offered, we would, by necessity, have to address the Dorgan amendment first. Or there is the possibility of possible disposition of the Dorgan amendment prior to the time that we would move toward other action.

That is really a question and issue up to the majority leader. But I am reminded now as we come to a quarter of 3 in the afternoon, that we are going to be voting cloture on the Dorgan amendment. Even if they get cloture, we would still have some period of time before we would be able to move to these other issues. If we get cloture on the underlying amendment, which has been amended today, there still would be a period of time for Senators to comment on that before we ever got a cloture motion on the bill itself, and all because we have not had the ability to get a limited period of time to vote on the minimum wage, effectively, and Senator DORGAN's as well. We will have spent all of this time, whichever amount of time that we have that is now going to be required for Senate action—and I am prepared on these matters to vote. I would like to speak and address the Senate briefly. But I think, as we see during the course of the day, we have not trespassed on the Senate's time.

Basically, on the earlier amendments, we were making brief comments in support of them. These are measures which we have debated and discussed during the course of our own deliberations. As a matter of fact, this amendment, I think, was rejected in the Judiciary Committee when it was addressed by the members of the committee. So these are not really new issues for many of us on the Judiciary Committee, very important measures for all of the members. But many of us have—all of us, I think, on the committee have—taken positions on it.

So, we are quite prepared to justify those positions, raise some of our concerns, and move forward. But because we are denying at least a 1-hour consideration—we could cut that even further on this legislation—or giving us a time definite on a clear bill on the minimum wage with time allocated, we have effectively spun the wheels of the Senate during the course of the day. We will be coming back to revisit these measures, as well as the underlying measure, as well as the Dorgan amendment because of the cloture motion, in the next several days.

So it gets back to the question whether we are going to do this nicely or not do it nicely. We are quite ready to try to work out a time definite for a vote on the minimum wage and to do it with a short timeframe. I know the Senator from North Dakota is prepared to do that, to move ahead in terms of all the different amendments on this legislation and consider those. I certainly would support that way of proceeding.

But, effectively, all of our interests and all of our rights are being shaved because of the unwillingness of the majority leader, in this case, to give us a chance to vote on this measure. Here we are at a quarter of 3, having thought we were really making progress, and finding ourselves tied up on an issue which is of enormous importance and in which the Senator from Wyoming and the Senator from California and other Members have spent a long time and understand how important it is as an issue for this country.

So we are caught in this particular dilemma. We are caught in the dilemma where we want to see action or resolution on the illegal immigration, but we also feel that we ought to be able to have a short time period set aside to speak to the issues which are of fundamental economic importance to 13 million American families. We think their interests are important, too. We think their interests should at least demand a half hour or an hour of the Senate's time this afternoon. We think their interests should be addressed in a reasonable way or an agreement made that, if not upon this bill, that we will be at least afforded an opportunity to do it as a clean bill so as not to interfere with the ordinary deliberations of the Senate.

We have had brief discussions and comments earlier today about why we did not bring this up before. We have explained about those major issues that we were addressing in the last Congress, the comprehensive health program that would have made about a 40- or 50-cents-an-hour additional benefit to workers. The workers themselves and working families have said they would prefer that measure to just the increase in the minimum wage. After we had disposed of that, unfortunately, the workers themselves were left further behind, and now it gives an additional sense of urgency for the increase in the minimum wage.

A number of us over a year ago began the process of raising this issue in sense-of-the-Senate resolutions, as amendments, or wherever we possibly could. Each and every time, even though a large number of the Members of the Senate supported the Senate addressing this issue—and on the last vote that we had, we had Republican and Democrat Senators alike; a majority, including unanimity among the Democrats and a very strong group of Republicans who indicated that they supported it. Raising the minimum wage is the majority will of the Senate.

We are just asking for the Senate to be able to make a statement, make a judgment. We may be successful; we may not be. But I do believe that we are entitled to a determination of what the will of the Senate is on that particular issue. So, we are caught in this situation where we effectively are being denied that. But we are still asked to go ahead and consider some of the measures on the immigration bill.

On the one hand, they are saying, look, why are we not just going ahead on the immigration bill and trying to move ahead? And on the other hand, we are asking, at least—we are quite prepared to move ahead on immigration, but at some time, somewhere, somehow, we ought to be permitted to get a time where we can address this question of the minimum wage.

None of us were denied the opportunity to make some progress this morning on some of these measures. But at some time we have to ask ourselves, when and who is going to speak for those Americans and American families that are on the bottom rung of the economic ladder and speak for them to make sure that their economic interests are attended to? We continue every single day—every single day—to read more about corporate profits and corporate salaries. We read about the increasing accumulation of wealth in the top 1 percent, 5 percent. We have come to understand the continued loss of those working families that are on the bottom rung of these matters.

We have seen in the last 20 years a 25-percent increase in productivity and about a 25-percent reduction in terms of purchasing power for workers earning the minimum wage, which is completely incongruous.

What is most troublesome of all, Mr. President, is when we have had this issue that has been before us and where we have had statements, "Well, we're trying to work out a process to be able to address it," we have the majority leader in the House of Representatives coming up today—and it is printed in newspapers all over this country—who says, "Well, we've got a new way of addressing the economic problems of the needy in our society. What we are going to do is abolish the earned-income tax credit," which President Reagan had indicated was the best program to address the problems of poverty in this country—strong support by a Republican President.

We have the statements that were made by Mr. Armey that we are going to phase that down and collect $15 billion in the next 5 years, 5 to 7 years—$15 billion. We know where that is going to be collected from with the elimination of the earned-income tax credit. That is going to come from these same working families that are eligible for the increase in the minimum wage. Then what we will do is we will still keep the minimum wage where it is, but we will develop a massive new subsidy entitlement program that will be run by the Internal Revenue Service that will provide the difference between the $4.25 and the $7 or $8 an hour depending upon how many children the particular worker had, which would be basically a subsidy to these industries—a taxpayer subsidy to the industries. It would cost the taxpayers a great deal more because they would have to provide for the funding and the resources to be able to pay that subsidy, and at the same time instead of letting these families rise out of poverty, which effectively would reduce their ability to draw upon the various safety net programs, because their incomes would move up to be too high. If we raise the minimum wage, on the other hand, they would go out of those safety net programs and thereby be less of a drag on the American taxpayers because they would then no longer be eligible for these programs. So we would save tax revenues there.

That is an important part of this whole proposal. By providing the increase in the minimum wage, we would be cutting some in those safety net programs by moving people above the eligibility thresholds. They would be making more than they had been, so they would not be eligible for support systems. That saves funds and resources that would have to be paid in by American taxpayers.

But, no, our Republican friends say, no, we will leave it at $4.25. We will draw down some $15 billion from these same families. We will put in place a new entitlement program run by the Internal Revenue Service. When I heard that I was so surprised that the leaders of the Republican House who have been spending all of their time castigating the IRS, now believe they can run a complicated program that will pay so much an hour to someone that has one child, so much an hour to someone that has two children, if they are married, so much, so much if they are separated, and follow this monthly, evidently, across the landscape wherever these needy people are going to be—imagine the bureaucracy that will be needed, imagine what the costs will be for that bureaucracy, and what it would mean for these people.

Mr. President, this is a wonderful, wonderful program because as Mr. ARMEY pointed out, they would save $15 billion out of the earned-income tax credit. The value of the increase in the minimum wage is $3.7 billion in one year. For those people that say that this is an inflationary kind of impact, $3.7 billion in 1 year when the total GDP is about $7 trillion, and our budget, $1.65 or $1.7 trillion we are talking about—of course it is not inflationary. We are talking about $3.7 billion that will be added to the value of good work, for working families in this country.

There is another reason that I believe it was urgent to bring this measure up on the floor today. We do not see, really, any interest by the leadership, the opposition leadership, in trying to work out, at least, some important and responsible alternative.

I am basically opposed to trying to compromise this measure any longer, because quite frankly, when my initial proposal was advanced, it was for three 50-cent increases with an inflator to correspond to the increased cost of living.

What did we do in terms of compromising that effort to try and bring people together on it? We said, "All right, we will drop the third year even though by that time it will be justified merely to maintain the cost of living. We will put that aside, and beyond that we will put aside the cost of living inflator as well. We will put those two aside." Mr. President, that was a painful decision in terms of trying to protect the purchasing power of working families.

Now we are being asked to say, "All right. Just wait around a little while. Sometime when we get ready to do it, we are going to do something. You will get a vote on something that will deal with wages, something that will deal with some other matters that you might not like." That is generally the way it is put. "You might not like the combination of things we put together but you will get your vote."

We reject that out of hand. Working families ought to reject it because that is failing to provide the kind of respect for those families that they deserve. You are toying with the lives of those families that are at such high risk today. So many of those, Mr. President, are women that are out there, working, and working hard, and the impact of the increase in the minimum wage is very, very important in terms of their children.

This is basically a women's issue and basically a children's issue. There will be 7 million females that will be affected; 5 million of those are adult women. Four million of those women are 25 years of age or older. Of the 12 to 13 million that will be affected, 4 million will be women 25 years of age or older. We find when we study this measure, when we look at those that are heads of households and those that are being affected or impacted by this, we find that, once again, it is the great majority of women that are the ones that are affected.

Mr. President, 60 percent of all the women who are working to earn the minimum wage are married and 23 percent are single heads of household. That represents 2 million women who are the heads of household with children. It is almost unbelievable that any person in this country who is a head of a household, single, woman, dependent on the minimum wage at $4.25 an hour is going to be able to make it for herself and for her children. And this is at a time when we have seen our own earnings here in the Senate increase three times since the last increase in the minimum wage. We see where corporate income has gone up 23 percent in this last year alone.

Mr. President, in all of the reports that we have seen, even as of this morning from the Council of Economic Advisers, all of them describe how well this economy is basically doing, how sound it is today. We did not have nearly the strength in the American economy in 1989 that we have at the present time. At that time we had President Bush supporting this measure and a majority of the Republicans, including Senator DOLE, Congressman GINGRICH, supporting the increase of the minimum wage. What has changed? We have the real purchasing power now for those workers being as low as it was in 1989, when the economy was not as strong and when we still took action on the minimum wage. Why not now?

One of the arguments, of course, is that we will lose jobs. This is very interesting, Mr. President, because sometime in the future we will talk about the various studies, 12 in all, that show just the opposite. I will not take the time this afternoon to get into them, but if you look at the various studies that have been done with regard to the minimum wage, you cannot make that case about losing the jobs. You can take a more important relevant factor, and that is what is happening in the States recently.

My State of Massachusetts, over the objection and over the veto of our Republican Governor, increased the minimum wage by 50 cents. What has happened since the increase took effect in January of this year? What has happened is unemployment has gone down in Massachusetts, and unemployment in our neighboring State of New Hampshire, which did not raise it, has gone up.

I hope we will have a chance to debate those issues about loss of jobs. It is always interesting to hear those who are opposed to an increase in the minimum wage saying, "I am concerned about those young minorities and all those Americans that are needy. We want to protect them." All you have to do is look at the studies that are out there, about what they want—94 percent of them want an increase. They are prepared to see an increase in the minimum wage because they do not believe, as I do not believe, that it will threaten their job.

Imagine you had over 120 million Americans working.

If you took 100 people that were making the minimum wage today and said it will be a 1-percent loss of jobs, but you can have a 25-percent increase in your pay, what do you think their reaction is going to be? "We want to get that increase, and we will take our chances." We believe that job loss is a myth, as has been demonstrated in study after study. Job growth is happening in my own State of Massachusetts, and in other States, and nationally we will be able to see an expansion of the job market, which has been true in many cases.

So, Mr. President, we find that the case is compelling. We have the various studies about the minimum wage, about what has happened historically on this minimum wage, going back to the year 1949, on the issues of job growth or job loss. We went, in 1949, from 40 cents to 75 cents. The national economy improved from 5.9 unemployment to 5.3 percent. In 1955, it went from 75 cents to $1. In 1961, from $1 to $1.15. Unemployment decreased from 6.7 to 5.5 percent. It went from $1.25 to $1.40 in 1967. In 1974, it went from $1.60 to $2. Despite a recession, retail employment increased from 1978 to 1981. Employment increased by 8.3 million jobs and 1.4 million retail jobs. From 1990 to 1991, a recession that was underway quickly leveled off.

Mr. President, I do not believe that those statements and studies that proclaim the dangers of job loss can really be justified. They certainly cannot in terms of the history of the increase in the minimum wage. Mr. President, all you have to do is look at this chart here, which demonstrates the increase in the total number of jobs, up to about 118 million jobs from 108 million in 1991.

Since we had the increase in 1991, we have seen the steady increase in the total employment numbers. And look at what has happened in the most recent times, in my own State of Massachusetts, and look at what happened the last time we increased the minimum wage.

Mr. President, this chart is another indication about what has been happening. This is from 1979 to 1993. "Growing apart. Real family income." This is what happened in terms of America's working families. From 1959 to 1970, each of these groups, the bottom 20, second 20, and mid 20, all across the top all moved up together. From 1980 to 1993, we have seen a growing apart in America. Those on the bottom rungs have been falling further and further behind.

Mr. President, you can see on this chart here about what has been happening to the purchasing power of the minimum wage. In constant dollars, you go as high as $6.45 in 1966, and $5.95 in 1976. It went up a small amount in 1990–91 as the increase in the minimum wage took effect—some 90 cents, and since that time, it has been dropping. It would, today, be right down there at the lowest level in 40 years. That is measuring the real purchasing power.

At the same time, Mr. President, here we have the difference between what has been happening to the Dow Jones Industrial Average, somewhat below 2,000 here, and up over above 5,000 now. This is between 1979 and 1995. This is good. This is an indication of economic strength and growth. We are glad these are the circumstances. But, on the other hand, look at what has been happening, in purchasing power, to the minimum wage. As the Dow Jones has been going up in that very steep rise, we see the real minimum wage going lower and lower.

Mr. President, this chart here shows what is happening to the real pay of workers, and in terms of the CEOs' pay. "Green Tree is a Money Tree." "$65.6 Million Package Angers Compensation Critics." These are newspaper articles. We find these extraordinary increases.

Mr. President, compare CEO pay with what happens in a minimum wage family. Three weeks of earnings. This chart indicates the $510 a minimum wage family would have earned compared with the tens of thousands of dollars a CEO of a major company would have earned and the dramatic disparity that has taken place.

Here are the final two charts, Mr. President. Wage earners from $4.25 to $5.14. Who are these individuals? What you see here is 31 percent are 16 to 19 years old. Over 20 years of age, almost 70 percent.

Mr. President, if you take the total value of earnings of the 90-cent increase in the minimum wage, 76 percent of that money will go to a family that is below the average income for the Nation. That is, 76 percent will accrue to families in the lower half of incomes.

That is an important figure. I do not believe it is as dramatic as the 2 million American women that are single heads of households with children, trying to make a go of it, but it is dramatic.

This chart shows 60 percent are women and for men, some 40 percent. Again, it is an issue for women, an issue for children, and it is an issue of fundamental economic justice. This Senate is familiar with this issue. It is uncomplicated. We have debated it and discussed it. It is time that the majority leader gives us a time to vote on a clean bill with time limits.

Mr. SIMPSON. Mr. President, I will inquire of my friend from Massachusetts, Senator KERRY. How much time do you require?

Mr. KERRY. I ask my friend for maybe 10 minutes. I do not think I will use it all.

Mr. SIMPSON. I am trying to get a unanimous-consent request to a time certain for the vote on this amendment. So if I might get Senator KENNEDY's attention. I am trying to obtain a unanimous-consent agreement that a vote occur on or in relation to the pending amendment at the hour of 3:40, or at a time when the group returns from the White House with regard to the activities in the signing of the antiterrorist bill. Would that be appropriate at 3:40 so our Members might be apprised of this?

Mr. KENNEDY. Well, Mr. President, I will consult with the leadership to find out what the disposition is. At that time, I will report immediately to the Senator. They will not be returning until 3:30 or 3:45, Republicans and Democrats alike. So we are in a situation where we are not in a position to make the judgment at this time. As soon as the leaders return, we will consult with them to find out what their disposition would be in terms of this issue.

Mr. SIMPSON. The pending business is the amendment. Let me respond briefly to the remarks of Senator KENNEDY. I am fully aware—I think all of us are aware—of what this is. It is, again, an attempt to drive the issue of minimum wage into the work of the U.S. Senate. There is nothing else to this. I referred to it earlier in the day as somewhat like theater, with myself in the role of Puck and Senator KENNEDY in the role of King Lear. It is about class warfare.

It is about the rich versus the poor. It is about poor women and poor children. Ladies and gentleman, if we cannot grasp the issue of what we are talking about—we are talking about an issue which on one side the economists tell us that, if it passes, employers will quit hiring anybody.

I love the debate about human rights. It is a touching thing. But the best human right is a job. You do not get a job if the employer is not hiring people.

It is always stunning to me that some—I do not attribute to a person in any sense—but some who have this strange feeling that they love employees and hate employers. Employers employ employees.

I heard one part of the debate several days ago that the taxpayers are not going to pay this—that the employers are going to pay it. Well, who are employers? Employers are taxpayers.

It is the most remarkable flight of phantasmagoria, whether it is spun—whatever way you spin it—or whether we do it nicely, or whether we have to do it harshly, or whether we just watch a continual obsessive activity with two amendments that everybody knows are good stuff. It is pretty molten right now—dealing, mix them while they are hot. And they are molten, and everybody is watching. But that is really not the way it is.

What we ought to do is just get right with it because if we do not America will stop, and we will be dealing with illegal immigration in a separate matter.

I am not obsessed with illegal immigration. Let me say that. If you want to bury the dead right now on that, that is fine with me. I do not think the issue will go away. But I want the RECORD to be very clear where the sponsor of the legislation is. And the sponsor of this legislation is saying you can do anything you want with this. I have plenty of work to do. I am missing a hearing today on veterans that I was to chair as chairman of that committee.

I am stunned at the essence of the debate and the class warfare aspects about it.

So I just want to throw into the mix so we all chomp around on it. It is like bear meat. The more you chew it, the bigger it gets.

I know this is shocking. We should not really ever do this. But the Congressional Budget Office reports. Guess who pays the taxes in America? Who pays the most taxes? The rich. I know that is a shocking thing. I wish I had not said it.

So let us just put it in. The top 1 percent of all tax, the top 1 percent of the people in America, pay 15.8 percent of all taxes. The top 5 percent of all the rich in America pay 31 percent of all taxes. The top 10 percent of all the ugly rich in America pay 42.7 percent of the taxes. And the top 20 percent pay 59.2 percent of the taxes that fuel the Government of the United States. And most of them are called "employers." I guess the rest of them are called "rich."

But I have always had a philosophy that we should not talk about the rich versus the poor. We should not talk about hitting them a little more. What we should do is confiscate every cent of those on the Forbe's list and the Fortune 500—take it all, every stock certificate, every Treasury bill, every yacht, every ranch—and guess what? It would be about $349 billion, and would run the country for 83 days.

It is absolutely bizarre to hear exercises of that nature with regard to the rich versus the poor while the real issue is how do you get a job and how do you keep a job? If we are talking about the women, the children, and all the rest of it in theater, then let us let the American people know. No wonder they look at both sides and all of us in these types of debates and say, "I mean, I cannot believe it."

Does anybody here think that those—some of us—over here care less about children, or less about women, or less about men, or the poor? Bizarre, absurd, and offensive, best described as absolutely offensive that somehow those of us on the other side of an issue are simply uncaring, and do not have any compassion. That is balderdash of the first order.

And I guess, as someone said, "minimum wages" mean minimum jobs. As one person said, they say there are 8 million new jobs. I know. I have three of them.

So that is where we are. But where we really are is dealing with illegal immigration and that is going to be difficult enough.

I just have been advised of a remarkable thing which I will put in the RECORD—a news release that the INS has given us phony figures on legal immigration. Instead of 800,000, it would be closer to 1 million, and here they were—their minions were giving us a press conference the day we are debating this bill on March 28 so that everybody could read up and see how we are diddling America. We do not need to do anything up here because the report released that day said "widely circulated." Oh, indeed it was. They said, "Well, we reported what it was. We just did not spin the future."

So they have left us now with a situation under any scenario where legal immigration is going to go up a million a year, and that they have lied to us and given us phony figures that there are at least 100,000 to 150,000 persons a year off.

So now we are going to have that debate. Somewhere along the line we are going to have an honest debate about honest numbers. I think the people of America will demand that. I would like to know how anyone is going to get around addressing that issue with this kind of Jim Crackry, and it is extraordinary. It is hard to imagine.

I cannot imagine my friend, Doris Meissner, being part of that. I am sure she will have an opportunity to explain her position because there will certainly be hearings that will be joined in a bipartisan way on that particular bizarre and false information which was to prevent us from doing anything in the law to lower legal immigration because they, bless them, were doing it themselves, and they lied. That is another one in this line of work that goes with our particular conduct.

So now I ask unanimous consent that the vote occur on or in relation to the pending amendment 3730 at the hour of 3:30, and, further, that time be divided as follows: Senator KERRY, 10 minutes; and Senator DEWINE, 5 minutes.

Mr. CRAIG. Mr. President, reserving the right to object.

Mr. KERRY. Reserving the right to object, those times go beyond 3:30. It is contradictory. If you have 5 minutes and 10 minutes, it goes beyond 3:30. Therefore, if the order is set for 3:30, to fill the time we do not vote at 3:30. The unanimous consent request asked for a total of 15 minutes and it is now almost 20 after. I am trying to reconcile.

Mr. SIMPSON. I amend my request to the time of 3:40.

Mr. KERRY. Thank you.

Mr. CRAIG. Reserving the right to object, Mr. President, I must tell the chairman that I am opposed to this amendment. I need the time to express that opposition, and I would ask for 5 minutes to do so.

Mr. SIMPSON. Mr. President, that is perfectly appropriate. We have been holding the amendment open and asking for those who wished to debate it, and Senator DEWINE has been good and vigorous in that. I appreciate having the participation.

I would expand the unanimous-consent request to 3:45 for an extra 5 minutes for the Senator from Idaho.

Mr. CRAIG. Mr. President, I appreciate the chairman for accommodating me. I have been chairing the Veterans' Committee in his behalf. I thank him very much.

Mr. SIMPSON. Now wait. That deserves a little added comment, Mr. President. He indeed can have any time he wants.

Mr. CRAIG. I thank the manager.

Mr. SIMPSON. I was required to chair a hearing and could not do that, and my friend from Idaho graciously agreed to do that with the Secretary of Veterans Affairs. I deeply appreciate that. Here I am urging him to come forth and he was doing my work. My abject apologies. I appreciate what he did do for me today in every respect.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Wyoming? The Chair hears none, and it is so ordered.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for up to 10 minutes.

Mr. KERRY. I thank the Chair, and I thank the Senator from Wyoming.

Mr. President, let me respond, if I may, to a couple of comments made by the Senator from Wyoming. I am pleased to support the efforts of my senior colleague from Massachusetts, Senator KENNEDY, and I thank him for his persistent efforts to try to push this on the agenda. I regret that the reaction of my colleague from Wyoming is to suggest that raising the minimum wage is somehow not an appropriate effort in the Senate; that it is intruding on business of the Senate.

Raising the minimum wage is the business of the Senate. It is the business of the Senate particularly when you consider the fact that all four of the amendments approved for debate are amendments of the Republican Party. In effect, what is happening here is that the legitimate process of the Senate under the rules by which amendments are permitted, are part of the business of the Senate, the minimum wage is being closed out by parliamentary tactics of the Republican Party that does not want a vote on it.

I would suggest respectfully to my friend that this is not an issue of class warfare. There are countless rich people in America who support raising the minimum wage. There are countless people at the middle, at the upper, and at the very top level of our economy, all of whom believe that it is fair to raise the minimum wage.

I ask unanimous consent that an article which appeared in the Wall Street Journal, which one might have thought would not have articulated such an opinion, on April 19, last week, be printed in the RECORD. It is an article which says, "Minimal Impact From Minimum Wage. Increase Won't Have Much Effect on Economy."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 19, 1996]

MINIMAL IMPACT FROM MINIMUM WAGE

INCREASE WON'T HAVE MUCH EFFECT ON ECONOMY

(By Jackie Calmes)

WASHINGTON.—Here's an economic prediction should Congress, as suddenly seems likely, raise the minimum wage: The costs will be smaller than opponents suggest, just as the benefits will fall short of supporters' claims.

While nearly all economists agree a minimum-wage increase can theoretically cost jobs and spike inflation if some employers cut payrolls or raise prices in response, they add hastily that actual effects depend on the specific proposal at hand. And President Clinton's relatively modest call for a 90-cent increase over two years, to $5.15 an hour, would have little negative impact, most agree. The same would be true if a liberal Republican proposal for a $1 increase became law.

But even if such increases wouldn't hurt the economy, they likewise would do little to help average workers even though Democrats have made the issue a fundamental part of their response to the problem of continued wage stagnation. Labor economist Gary Burtless of the Brookings Institution, a proponent of the minimum-wage increase, says flatly, "It's not going to help the middle-class worker."

Whenever an increase is the issue, some conservative economists and lawmakers always are tempted to refight the original Depression-era battle over whether there should be such a law in the first place. "I find it hard to support an increase in the minimum wage at all," says economist Marvin Kosters at the American Enterprise Institute.

But on the narrower question of the increase now proposed, a broad range of economists generally come together. That is illustrated by the endorsement from 101 of them, including several Nobel laureates, of the president's initiative. They concluded the overall impact on workers and the economy would be positive.

Likewise, Chairman Joseph Stiglitz of Mr. Clinton's Council of Economic Advisers cites the modest level of the proposed increase and the declining value of the current $4.25-an-hour rate, now at a 40-year low in buying power. He says this explains why his current support for an increase doesn't contradict the negative things that, as a university professor, he once wrote about the minimum wage in an economics textbook.

Yesterday, at a meeting with House Democrats, Treasury Secretary Robert Rubin said a moderate increase would have "no statistical effect on the economy." He called the proposal "without question . . . the right thing to do four our economy."

Still, there are costs; the question is how much.

Lawrence Lindsey, a governor at the Federal Reserve Board, says internal staff studies suggest a 90-cent increase would reduce employment by about 400,000 jobs over the long term. And that could have implications for inflation, he said. Assuming roughly half of those who lose jobs join the ranks of the structurally unemployed, the "natural rate" of unemployment—that is, the rate below which inflation begins to accelerate—would rise somewhat. And Fed Chairman Alan Greenspan recently told a House subcommittee, "I think the evidence is persuasive" that a boost in the wage floor increases unemployment.

John Taylor, an economics professor at Stanford University who was a member of President George Bush's Council of Economic Advisers, says of a minimum-wage increase, "I'm pretty much of the view, having looked at it and written about it, that it costs jobs of low-skilled and minority workers." Of the specific proposals on the table, he says, "This is not as bad as raising it to $6, but it's still going to cost jobs."

And just last month, House Majority Leader Dick Armey of Texas dismissed the idea that Congress would vote to increase the minimum wage, snapping, "I'm not interested in increasing the number of nonworking poor."

But Mr. Burtless argues, "When the minimum wage is as low in relationship to average wages as $4.25 is now to average wages in the United States, then even a rise of $1 an hour is not going to dis-employ that many people." Moreover, he says the effect on inflation would be small because, he has calculated, the pay of minimum-wage employees equals less than 1% of all compensation paid to U.S. workers.

At Harvard University, economics professor Lawrence Katz says "there are no ways of improving the conditions of poor or low-wage working people that don't have some costs or some distortions." But he says the current low minimum wage argues for "a modest increase," adding that "the evidence suggests that the gains to low-income working people outweigh the employment costs."

Meanwhile, the current debate has heightened attention to a recent study of Princeton professors Alan Krueger and David Card, who found no drop in employment among New Jersey's fast-food restaurants after the state raised its minimum wage in 1992 by 80 cents, to $5.05 an hour. (New Jersey is one of 10 states that have set minimum-wage levels above the federal standard.) Critics have challenged their methodology but, Mr. Krueger says, "most academic studies find very little or no job loss. Indeed, about two dozen impartial academic studies have found insignificant evidence of job loss."

So who benefits? Last year just over 5% of workers were paid the minimum wage. Economists generally agree those making just above the minimum wage, up to $6 an hour, could see a bump in pay as an indirect consequence of a minimum-wage increase. The liberal Economic Policy Institute estimates that 11.7% of the work force, of about 12.2 million people, make between $4.25 and $5.15.

* * * * *

Mr. KERRY. In fact, 101 economists have all signed a letter, three of them Nobel laureates, suggesting this would have absolutely minimal impact just as it has since 1938.

It is not as if we are suddenly coming to the floor and debating some new concept in America. This was passed in 1938, and it has been passed again and again and again, that we have increased the minimum wage. On some occasions we have increased the minimum wage when it has been worth more than it is today. It is now worth 27 percent of what it was in 1979. If we let it go to the end of this year, it will be at a record 40-year low.

Leaving aside rhetoric about rich and poor, let us consider the rhetoric of work, the rhetoric of getting off welfare, the rhetoric of the values of our society. If you are going to value work, you have to pay people a fair wage for the day's work. What we are effectively saying, if we are going to ask people to vote below the level of poverty, is that we do not believe that a day's work in the United States is what it has been worth since 1938 or at those periods where we have raised the minimum wage to reflect what we thought it ought to be with respect to that day's work.

Someone in my office was walking down to Union Station for lunch today and on the way back bumped into a panhandler and had a conversation with the panhandler, and asked him, "How much do you manage to collect out here during lunch hour?" He said, "I usually make about six bucks out here during lunch hour."

So what the Republican Party is suggesting is that people ought to go to work for a wage that is worth less than a panhandler can make in 1 hour during lunch hour near the Nation's Capitol.

Is that a value of work? It seems to me, Mr. President, that if we are going to tell people you ought to get off of welfare and you ought to go to work, we ought to reflect the reality of who is working for what in this country. The fact is that, of those people on the minimum wage, 62 percent of the people on the minimum wage now live in a household in which someone else is also working. The vast majority, 46 percent, of those people in the work force in America are women; 60-plus percent of those working for the minimum wage are women. They are not teenagers; they are people out there struggling to try to work to break out of poverty.

The fact is that you can work at the minimum wage in the United States today for the full 40-hour week without health care, without a pension benefit, without any of the kinds of benefits that most workers get, and you are working at three-quarters the rate of poverty. The maximum salary you take home is $8,500 a year. Our Republican friends seem to suggest it is OK for people to work for $8,500 a year and it is OK for them simultaneously to suggest taking away $32 billion of the earned-income tax credit over a 7-year period.

So they want to have it both ways. They want to suggest that they can give a $245 billion tax break, most of which—these are not our words; this is the result of their construction—most of which goes to people who already have money. It is just a fact. If you are earning $300,000 a year, in the Republican tax break, you get about $12,000 a year. But if you are working at $30,000 a year or less and you are getting the earned-income tax credit, your taxes go up.

That is not class warfare. That is just a fundamental question of fairness. Is it fair to give somebody who earns $300,000 a year $12,000 more and take away money from somebody earning $30,000 a year? The theory of that is that if you do make a lot of money and you work harder, you ought to make a lot more, but if you do not make a lot of money and you work harder, you ought to earn less. It is the most incredible equation I have ever heard of in my life.

We are going to raise the minimum wage sometime around here. We are going to do it. We are going to do it because this issue is not going away. It is just like in the past. In 1989, we finally raised the minimum wage. Eighty-six Senators joined together to raise the minimum wage. All we are trying to do is get it back to that level when 86 of us were able to agree that it was the right thing to do. We will raise the minimum wage, but it will be after an extraordinary amount of expended political capital and energy and, frankly, wasted time. Ultimately, we are going to come to some kind of agreement around here because that is ultimately what I think most people will agree is fair.

The last time we raised the minimum wage—it is very interesting—Senator DOLE, the majority leader, said and I quote:

> This is not an issue where we ought to be standing and holding up anybody's getting 30 to 40 cents an hour pay increase at the same time that we are talking about capital gains.
>
> I never thought the Republican Party should stand for squeezing every last nickel from the minimum wage.

But here we are in 1996; it is worth less, and yet we are not just squeezing every nickel from it; we are squeezing every penny out of it at the very same time Republicans are talking about a tax break for a whole lot of people who make a lot more money than people on the minimum wage.

Mr. President, I do not think we ought to be talking about rich versus poor. We ought to be talking about basic economics and what is good for the Nation. Every decade we have debated this you hear the same arguments. People come back and say: "Oh, you can't do this because we are going to lose jobs." But in fact we do not lose jobs. America keeps growing. America gets stronger. America is creating more jobs.

The fact is that studies have shown, for instance, in New Jersey, when New Jersey raised the minimum wage, measured against Pennsylvania, the argument was, "Oh, don't do this because Pennsylvania will have an unfair advantage, and all the jobs are going to go across the border to Pennsylvania."

Well, lo and behold, Messrs. Card and Krueger did a study, Princeton University did a study, Rutgers University did a study, and it showed that jobs increased. We have had testimony from chief executive officers of businesses who not only pay the minimum wage but they also give full health care to their workers, and they find that their business grows, they prosper, and they are able to actually hold on to people because they treat them decently.

So I think this is an issue, the time of which has come, because the minimum wage is simply worth less than it was worth a few years ago. If we do not raise the minimum wage, we will have reached the unconscionable fact in this country that it is at the lowest it has been in 40 years at the very time that people are making the most political hay out of the rhetoric of going to work, getting off welfare, and living out American values. American values also require fairness. I hope we are going to have that fairness in this debate somewhere in the next days.

The PRESIDING OFFICER. The Senator from Idaho is recognized for up to 5 minutes.

Mr. CRAIG. Mr. President, I come to the floor in opposition to the amendment that we will soon be voting on, that the chairman of the committee has brought to the floor. I say that because I believe that America, out of fairness and justness, wants to stay with current law. Current law, now known as the McClure amendment, treats agricultural growers the same as all other businesses and business owners. I think it is important that we maintain the balance of fair play and property rights as recognized by current law.

The Simpson amendment in effect says if a farmer could put walls around or a roof over his or her fields, then the INS could not conduct an open-field warrantless search. But since this farmer cannot do that in a 10-acre, 50-acre, 100-acre, 500-acre field, since he cannot build a roof over his or her field, that workplace does not enjoy the same private property rights as all other workplaces. The McClure amendment, now current law, is applying the same INS search warrant procedures to all employers.

In this instance, I would argue the Senate ought to maintain the kind of fairness of the current law. If you want to search for illegal aliens, then you get the employer's permission, or if you have probable cause, then you get a search warrant. That is called fairness and equity in this society. I think that is what we have to strive for.

The McClure amendment applies only to unjustified searches and only to the Immigration and Naturalization Service. It does not apply to any other law enforcement agency such as DEA or State or local law enforcement officers. I think that is important to specify. INS agents in hot pursuit of illegal aliens or others who are violating the law could still enter the field. In other words, we have not created a wall here; we have created a protection of property rights.

The McClure amendment was originally passed because of evidence that the INS was abusing open-field searches. In my State of Idaho, prior to this law being in place, we had numerous occasions when, without notification, INS agents, with drawn guns, were running through orchards in the State of Idaho. That, to me, is a formula for disaster. Innocent people could accidentally become hurt as a result of this. And it did nothing, absolutely nothing, to enforce the laws as they currently were at that time.

The McClure amendment was originally passed for a lot of these reasons. The unlawful detaining of American citizens I have already mentioned. If current law protects property rights, then apparently there was a violation of property rights. I believe the Simpson amendment—not intending to do so—could see us fall backwards into that circumstance that I think would be very dangerous to do. It could result in the injuring of agricultural workers, causing damage to crops and property that is already well documented, that has occurred in the past.

Here is what is interesting. The Judiciary Committee voted 12 to 5 to reject a similar Simpson amendment and retain basically current law. They were right to do so. I cannot understand for the life of me, if that was the vote of the committee, that we are back here on the floor with this amendment.

I ask unanimous consent a letter from the National Council of Agricultural Employers and also a letter from Dean R. Kleckner, president of the American Farm Bureau Federation, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL COUNCIL OF AGRICULTURAL EMPLOYERS,
Washington, DC, April 16, 1996.

DEAR SENATOR: The Senate will begin voting on amendments to the Simpson Immigration Reform bills tomorrow. Two of those amendments are detrimental to agricultural employers:

1. Simpson Amendment to repeal the agricultural search warrant provisions of the Immigration Reform and Control Act of 1986.
2. Kennedy Amendment to strike the intent standard for document abuse discrimination.

The search warrant provision under current law requires the Immigration and Naturalization Service (INS) to obtain permission from the property owner prior to entering the property to search for illegal aliens, or to obtain a search warrant. This provision affords growers the same protection from warrantless searches and unreasonable disruption of business activity enjoyed by any other business. By a vote of 12 to 5 in the Judiciary Committee mark-up, Senator DeWine successfully struck from the immigration reform bill earlier language to repeal the search warrant provision. Please uphold this decision and vote against Senator Simpson's amendment.

Also during Judiciary Committee mark-up, an intent standard for document abuse discrimination was added to the legislation. Under current law, employers are held strictly liable for document abuse discrimination if they ask a job applicant to provide a specific employment authorization document or request more documents than are required under the law. Even though applicants are not denied a job and alternative documents are accepted by the employer, the Office of Special Counsel at the Department of Justice has taken the position that the mere requesting (as opposed to requiring) of particular documents is an automatic violation of the law. This position is held regardless of the employer's intent and whether or not anyone was denied employment. Senator Kennedy's amendment would delete the intent standard from the reform legislation and replace it with language that essentially restates current law. Please vote against the Kennedy amendment.

Thank you for your consideration on these issues.

Sincerely,

SHARON M. HUGHES,
Executive Vice President.

A FARM BUREAU SPEEDLINE,
Washington, DC, April 16, 1996.

DEAR SENATOR: The American Farm Bureau has two concerns with regard to the illegal immigration reform bill under consideration by the Senate today. First, Sen. Alan Simpson (R-WY) will offer an amendment to his illegal immigration reform bill, S. 1664, to repeal the current-law requirement that INS agents obtain either a property owner's permission or a search warrant prior to entering agricultural fields in search of illegal aliens.

This requirement was enacted as part of the Immigration Reform and Control Act of 1986. The amendment to accomplish this, offered by then-Sen. James McClure (R-ID), attracted bi-partisan support. An amendment to strike a similar proposal originally included in the predecessor bill to S. 1664 was stricken by the Senate Judiciary Committee on a bipartisan 12-5 vote, approving a motion offered by Sen. Mike DeWine (R-OH).

The Administration has indicated neutrality on this issue, and has further indicated that the Department of Justice will not change its enforcement practices even if the open-field search warrant requirement is repealed.

Second, Sen. Edward Kennedy (D-MA) will offer an amendment to strike the intent standard provision of S. 1664. This provision of S. 1664 would create a new intent standard for discrimination allegations based on employer requests for more or different employment eligibility documents to prove work authorization. Farm Bureau supports this provision, and we oppose Sen. Kennedy's amendment to strike it.

The American Farm Bureau Federation urges you to oppose the Simpson and Kennedy amendments.

DEAN R. KLECKNER,
President.

Mr. CRAIG. Mr. President, I urge my colleagues, when this vote occurs in a few moments, to abide by current law and private property rights and the protection of the security of individuals. Consider the risks that could result as a result of us voting for the Simpson amendment and returning to law what this Congress rejected by substantial margin several years ago and has retained as the right position to hold when it comes to open-field searches and agriculture employers.

I yield the remainder of any time that I have.

The PRESIDING OFFICER. The Senator from Ohio is recognized for up to 5 minutes.

Mr. DEWINE. Mr. President, I want to speak again in opposition to the Simpson amendment. I commend my colleague from Idaho for his very eloquent statement.

I urge my colleagues to retain current law, to retain the compromise that was made in 1986, and to vote the same way as the Judiciary Committee did, by an overwhelming vote of 12 to 5.

This bill does represent, as it is written today, the status quo. I think it would be a mistake to change that. It is interesting to note that the INS says there is no reason to change current law.

What is the history of this? Go back to 1984. You had a Supreme Court decision that said, in fact, you did not need a search warrant to go into an open field. But the court, in essence, invited Congress to speak on the issue.

Two years later, with the Simpson-Mazzoli bill, Congress did speak on the issue and said that an open field, when used for agriculture employment, should have the same basic protection, that the employees and employers should have the same basic protection that they had if that business had been conducted within a building, if we had been in a restaurant or another form of business. So, what the status quo does is keep a level playing field and keep both types of businesses being dealt with by the INS the same way.

We look at this many times from the point of view of the employer and say it would be unfair to ranchers, unfair to farmers, because of the time-sensitive nature of agriculture, to allow these searches without a search warrant. That is true. I think we also have to look at it from the point of view of the employee, because the reality is that before the law was passed, even though agriculture represented only 15 percent of the problem of illegal workers in the work force, 75 percent of the raids occurred in agriculture. I do not think you have to stretch your imagination too far to understand one reason why. It is easier. It is easier.

The other reason is, however good, however well intentioned the employees of the INS are and the agents are, when they look into a field and see brown faces, they think that may be a place we need to go. That is a problem. It is a problem that we do not need to return to.

My friend has just pointed out we need to talk about what the current status of the law is and what it is not. It says you have to have a search warrant. But many cases are resolved, obviously, by consent. If you have consent, the INS can go onto the property. Current law also provides that if INS is in hot pursuit, they can go onto the open field. Finally, current law also says if you are within 25 miles of the border, this provision does not apply; INS can go onto the property.

So I urge my colleagues—we are just a few minutes away from the scheduled vote—I urge them to support the position of the Judiciary Committee, a 12 to 5 vote. Support current law. Support the employees and employers. Keep in mind the position of the INS who sees no reason for any change in law.

I would also ask my colleagues to keep in mind the position of the American Farm Bureau. I also talked about this issue. I already read the names on the other letter that I talked about, a letter dated March 13, 1996, to all the members of the Judiciary Committee—American Farm Bureau, Agricultural Affiliates, American Association of Nurserymen. It goes on and on and on with basically a page of names. Their position is to keep the current State of the law and to oppose the Simpson amendment. I thank the Chair.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, it has been a good debate. I think I know where it is going with the vote, that all the votes are not there for my particular activity. But let us be very clear. I say to Senator DEWINE and Senator CRAIG—let me tell you, the law before 1986 was that the INS could go do a warrantless search, ladies and gentlemen. Before we changed the law, with this linkage of the ACLU and the agricultural workers and the growers, the law of the United States was just like this for everybody else.

The FBI could go into a field in plain view for a body or drugs, and with a warrantless search go forward. The INS could do that, the FBI could do that, the DEA. In 1986 we changed it. So the requirement that we have now is the special law. That is what is fascinating in this debate, I must say. I just think I have been here too long. This was on the books.

There is not a single other law enforcement agency in the United States, when they come upon an open field and in plain view see something that gives them probable cause to believe there is a violation of the law—they go and do it. The only agency of the Federal Government that cannot is the INS. That is where we are. At least let us be realistic about what we have done. We retain it. That is the way it is. Move on to the next item of business.

But let us be totally candid. And let us not have anybody with their own opinion; let us all have our own facts. That was the law before 1986.

But I just want to add—since we were talking, I think, about the minimum wage for a moment—here is the one you want to keep in mind with the minimum wage and all you have heard all day long. This is from the New York Times of April 19, 1996. It is called "Minimum Wage: A Portrait." Here is the portrait as compiled by the New York Times. There are three little items of interest.

Number of times in 1993 and 1994, when Democrats controlled Congress, that President Clinton mentioned in public his advocacy of a minimum wage increase: 0.

Next little item:

Number of times the President has done so in 1995 and 1996—through March 11—when Republicans have controlled Congress: 47.

Since March 11 there have probably been 47 more. Then finally:

Number of Congressional hearings Democrats held on the minimum wage in 1993 and 1994: 0.

Pure theater.

Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 3730 offered by the Senator from Wyoming. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] is necessarily absent.

The PRESIDING OFFICER (Mr. THOMPSON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 20, nays 79, as follows:

[Rollcall Vote No. 80 Leg.]

YEAS—20

Bryan
Byrd
Chafee
Glenn
Grassley
Gregg
Hollings
Johnston
Lautenberg
Levin
Lieberman
Murkowski
Nunn
Reid
Rockefeller
Simpson
Stevens
Thomas
Thompson
Thurmond

NAYS—79

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bumpers
Burns
Campbell
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Harkin
Hatch
Hatfield
Helms
Hutchison
Inhofe
Inouye
Jeffords
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Leahy
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murray
Nickles
Pell
Pressler
Pryor
Robb
Roth
Santorum
Sarbanes
Shelby
Simon
Smith
Snowe
Specter
Warner
Wellstone
Wyden

NOT VOTING—1

Heflin

The amendment (No. 3730) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FURTHER CONTINUING APPROPRIATIONS FOR 1996

Mr. SIMPSON. Mr. President, this has been cleared with the Democratic leader. I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 175 regarding a 1-day extension of the continuing resolution.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A joint resolution (H.J. Res. 175) making further continuing appropriations for the fiscal year 1996 and for other purposes.

The Senate proceeded to consider the joint resolution.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the measure be considered read the third time and passed, the motion to reconsider be laid upon the table, that any statements relating to the measure be included in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 175) was read the third time and passed.

Mr. SIMPSON. Mr. President, I ask unanimous consent that Senator GRAHAM now be recognized for up to 15 minutes for debate on the continuing resolution.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I wish to be recorded as voting no on the continuing resolution.

Mr. President, nearly 1 month ago, after passing the 12th continuing resolution, we are now enacting the 13th continuing resolution. At the time we passed the 12th extension of the budget for fiscal year 1995, I said it was the last one that I would support.

Mr. President, I am here to keep my word. Frankly, the lack of leadership by this Congress is a national embarrassment. It is nearly 7 months into the fiscal year 1996, and we still do not have five budgets for five of the most important agencies of the Federal Government. This is no way for the world's largest economic entity to manage its resources.

It is almost as if the Congress has become addicted to this form of Band-Aid budgeting. When you think about it, there is a correlation between a drug addict's action and those of this Congress. We began this process on September 30, 1995, when we passed the first continuing resolution.

I analogize that action on September 30, 1995, as a casual, occasional user of marijuana. As we have proceeded over the days, weeks, and months since then, we have continued to become more and more addicted to this approach, to this avoidance of difficult decisions, to the willingness to say we failed to do it today so we will put it off until tomorrow.

Today, Mr. President, we are mainline injecting heroin as we sell ourselves: "Oh, we only need one more day and we will be able to resolve this impasse." We have heard that "one more day" so many times. I remember distinctly when we voted on the 12th continuing resolution that the leadership of the appropriations process in the House of Representatives said they were so close to reaching a final resolution that would have carried us through the balance of the fiscal year and avoided the necessity of the 12th continuing resolution, and that failing that small increment to close on a final agreement, now we were going to have to use the period made available by the Easter-Passover recess. That certainly would be a period of time in which we could come to closure on this matter.

We failed again. Now, again, we are taking the heroin of a temporary extension of a budget that is more than a year old as a means of avoiding difficult decisions. We are acting, also, Mr. President, like the drug addict who is in a state of denial. We are denying that our failure to reach decisions was having serious effects on Americans. I believe that clearly our actions are having serious effects. They are not just the serious effects on the faceless bureaucrats under which we often wish to assign our failures to act.

The fact is that the Band-Aid approach to budgeting has broad ramifications. Just last month when we voted on the 12th continuing resolution, I used examples that have been brought to my attention from my State of Florida. As an example, the Salvation Army in Fort Myers, FL, when I last discussed this case a month ago, I explained that the Salvation Army used funds which were provided by the Federal Emergency Management Agency to promote food and housing to the homeless.

In February 1996, the Salvation Army received its first installment for the fiscal year. In a normal year, that first installment would have been made available in October 1995. This is anything but a normal year. The Salvation Army was expecting they would receive their final allotment of Federal funds in early March. True to form, these funds have not yet been provided. There is only one thing consistent about this year, and that is total inconsistency.

On April 10, I visited the Florida State Legislature in its session. The question that many members of the legislature asked me is: When are you going to make up your mind? The less charitable members of the legislature asked the question: Have you lost your mind? Here is our State legislature, trying to prepare a budget for the fourth largest State in the Nation, with many of their important decisions based on a partnership with the Federal Government in health, education, job training, and many other areas. Yet, they do not know what their Federal partner's policy, what the Federal partner's commitment will be to that program halfway through the fiscal year.

Mr. President, we have had almost a month to work out this appropriations bill. When I was speaking to the legislature, I apologized for the fact we were so negligent in performing our work. I gave them hopeful assurances that we would soon end this too long impasse. Again, today, for the 13th time we are passing a continuing resolution putting off the decisions, putting off the commitment to shape up and get sober, put it off until another day, until we need another injection.

Mr. President, this continuing resolution is passed by a voice vote. This Congress has reasserted its addiction and that it cannot be expected to go cold turkey. The 13th continuing resolution will pass with one less vote than the 12th, and I hope if we have a 14th, I hope it will pass with substantially fewer votes than the 13th, and finally we will end this process of procrastination, delay, indecision, and pass the consequences on to the American people.

We cannot deny that this Congress is addicted to Band-Aid budgeting and that there are not serious ramifications to these actions. We must stop this cycle of dependency and face up to the difficult decisions which are ours.

Thank you, Mr. President.

I ask unanimous consent to be recorded as voting "no" on the continuing resolution.

The PRESIDING OFFICER. Without objection, it is so ordered. The RECORD will so indicate.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABRAHAM). Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I further ask unanimous consent that I may proceed for up to 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGING OF THE PALESTINIAN CHARTER

Mr. SPECTER. Mr. President, the action by the PLO today changing its charter and eliminating the provision calling for the destruction of Israel should put all Palestinian terrorists on notice that terrorism and the destruction of Israel is no longer the order of the day as far as the PLO is concerned.

This was a vote of 10 to 1; some 500 voted in favor of changing the PLO charter, some 54 voted against, a vote of 10 to 1 by the Palestinian national authority saying that the charter ought to be changed. No longer is it the PLO position that Israel ought to be destroyed. That ought to have a significant effect on changing the attitude of the terrorists who are trying to destroy Israel and trying to destroy the peace process, because now technically it is the Palestinian Parliament in exile which has called for the dropping of that language. It is the Palestinian National Council which voted 504 in favor of amending the 32-year-old charter, 54 against, and 4 abstaining saying that no longer is it the PLO policy to seek to destroy Israel.

You have at the present time Hezbollah, Hamas, and other terrorist organizations carrying on a reign of terror, of bloodshed, killing, an effort to destroy Israel and an effort to defeat the peace process. But with this action today by the PLO officially formally changing the charter, eliminating the call for the destruction of Israel, it is now evident that terrorism is out of step with the dominant Palestinian view. That ought to be followed, and every Palestinian who seeks to destroy Israel, every terrorist who seeks to destroy Israel, knows now that it is the official position, led by Chairman Yasser Arafat, that that idea has changed, that idea is passe, that idea is gone, and that the emphasis by responsible Palestinian leaders is to promote the peace process and to end terrorism.

With action by the U.S. Congress in 1994 in adopting the amendment put forward by Senator SHELBY and myself, which conditions U.S. aid on the change in the charter and more active action on the part of the PLO in combating terrorism, at least the first part has now been fulfilled.

The issue of the Mideast peace process has been tortuous. There have been so many developments since Israel emerged as a state in 1949. The enmity which has existed for thousands of years has meant senseless killing, terrorism against women and children as well as men in Israel, Hezbollah firing rockets into northern Israel, prompting the justified retaliation by Israel as a matter of national self-defense.

That killing and those terrorist activities ought now to stop in view of this official declaration by the Palestinian leaders that no longer does the charter of the PLO call for the destruction of Israel.

Mr. President, I am hopeful that the activities by Secretary of State Christopher will reach fruition. It is not an easy matter. The press is full of reports about how President Assad of Syria is keeping Secretary Christopher cooling his heels while President Assad talks to others or President Assad is otherwise busy. It is not an easy matter to negotiate in the Mideast. I compliment Secretary of State Christopher, and I compliment the President on the accomplishments which have been made.

The Mideast has been a particular point of interest to me. I made my first trip to Israel back in 1964. I traveled there again as a private citizen in 1969, again in 1978, again in 1980, and after being elected to the Senate traveled there considerably. I have had the opportunity to visit Damascus on many occasions. I made my first trip there in 1984.

As long as the Secretary of State has cooled his heels, this Senator cooled his heels a lot longer. I returned there in 1988 after the Soviets had advised the Syrians they were no longer going to finance Syrian military operations, and in 1988 President Assad was prepared to see ARLEN SPECTER; I had a meeting of 4 hours and 35 minutes, and I have made many trips back and have had an opportunity to gain some understanding as to the negotiating process in the Mideast.

I suggest that the attitude of the Syrians has changed considerably in the 12 years which have intervened since my first trip to Damascus in 1984 and today, 1996. When I first had an opportunity to talk to President Assad, the idea of negotiations with Israel was totally out of the question. We have seen problems that the United States has had in Lebanon with the killing of so many of our marines, and we have seen grave difficulties in Lebanon in 1982 with Israeli action there. I believe that a cease-fire can be attained there, and I believe the peace process can be promoted.

We had the historic activity of President Sadat of Egypt in the first breakthrough back in 1978 and 1979. We have since seen the peace process with an Israeli-Jordanian peace agreement. We have seen an event at the White House lawn back on September 13, 1993, that I never thought would have been possible with Chairman Arafat honored there. But when then Prime Minister Rabin shook the hand of Chairman Arafat and then Foreign Minister Peres shook the hand of Chairman Arafat, the U.S. policy was to support the peace process. If Israel, which had been the principal object of PLO terrorism, was prepared to deal with Chairman Arafat, then so was the United States.

I have had an opportunity to meet with Chairman Arafat on three occasions since that historic event at the White House on September 13, 1993. I have gone there in a visit with Senator BROWN in August of last year, carrying with us a list of specific terrorists where we thought the Palestinian authority had not turned them over to Israeli officials in accordance with the agreements which had been made, presented them one by one, and, candidly, heard many excuses offered by Chairman Arafat.

Senator SHELBY and I had an opportunity to visit again with Chairman Arafat this past January 2 and again talked about the language of the PLO charter and pushed to have it revised. At that time, Chairman Arafat said he would do his utmost. The elections were coming up with the Palestinians on January 20. Those elections were held, and now we have had this historic event with the Palestinian Parliament in exile dropping the language by a vote of 504 in favor of eliminating the language calling for the destruction of Israel, 54 against, and 14 abstaining. That language had been in the charter for some 32 years.

So, you have a vote of 10 to 1, a very, very sizable majority, which ought to put all of the Palestinian terrorists on notice that it is no longer acceptable, even from the Palestinian point of view, to call for the destruction of Israel and to carry out acts of terrorism.

So it is my hope that this historic vote, when it is communicated to the Palestinians in that region, when it is communicated to the Palestinians around the world, may have the effect of letting the Palestinian terrorists know—Hezbollah, Hamas, and the other terrorist organizations—that it is no longer appropriate, it is no longer proper, it is condemned by the Palestinian authority itself, that terrorist acts against Israel ought not to be carried forward. If we can stop Hezbollah, if we can stop Hamas and the other terrorist organizations, then I think we can move forward with the peace process.

I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3672

Mr. SIMPSON. Mr. President, I now submit a request. It has been cleared through the leadership on both sides of the aisle, as I have been advised.

I ask unanimous consent that the Senate now resume consideration of amendment No. 3672, the Simpson-Kempthorne amendment, as modified, and that there be 30 minutes for debate, 20 minutes under the control of Senator DORGAN, 10 minutes under the control of Senator DOMENICI; to be followed by a vote on or in relation to the amendment without further action or debate. And immediately following that vote, regardless of the outcome, the Senate proceed to vote on or in relation to the Dorgan amendment, No. 3667.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3672, AS MODIFIED

Mr. SIMPSON. Mr. President, I send the modification of the amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

Amendment No. 3672, as modified, is as follows:

At the end of the amendment add the following:

(1) social security is supported by taxes deducted from workers' earnings and matching deductions from their employers that are deposited into independent trust funds;

(2) over 42,000,000 Americans, including over 3,000,000 children and 5,000,000 disabled workers and their families, receive social security benefits;

(3) social security is the only pension program for 60 percent of older Americans;

(4) almost 60 percent of older beneficiaries depend on social security for at least half of their income and 25 percent depend on social security for at least 90 percent of their income;

(5) 138,000,000 American workers pay taxes into the social security system;

(6) social security is currently a self-financed program that is not contributing to the Federal budget deficit; in fact, the social security trust funds now have over $400,000,000,000 in reserves and that surplus will increase during fiscal year 1995 alone by an additional $70,000,000,000;

(7) these current reserves will be necessary to pay monthly benefits for current and future beneficiaries when the annual surpluses turn to deficits after 2018;

(8) recognizing that social security is currently a self-financed program, Congress in 1990 established a "firewall" to prevent a raid on the social security trust funds;

(9) raiding the social security trust funds would further undermine confidence in the system among younger workers;

(10) the American people overwhelmingly reject arbitrary cuts in social security benefits; and

(11) social security beneficiaries throughout the nation deserve to be reassured that their benefits will not be subject to cuts and their social security payroll taxes will not be increased as a result of legislation to implement a balanced budget amendment to the United States Constitution.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any legislation required to implement a balanced budget amendment to the United States Constitution shall specifically prevent social security benefits from being reduced or social security taxes from being increased to meet the balanced budget requirement.

Mr. SIMPSON. Mr. President, I yield the floor to Senator DORGAN.

The PRESIDING OFFICER. Who yields time? The Senator from North Dakota.

Mr. DORGAN. Mr. President, I yield myself such time as I may consume. A couple of colleagues wish to come to speak on this amendment as well.

First of all, the circumstances are we will vote on a Kempthorne amendment. I have no objection to that amendment. I intend to vote for it.

It contains conclusions that I support, talks about the desire to balance the budget, to do so without Social Security benefits being reduced or Social Security taxes being increased. I have no objection to that. I intend to vote for it.

But that is not the issue. The issue is the second vote on the amendment that I offered, a sense-of-the-Senate resolution. That amendment is very simple. It is an amendment that says that when a constitutional amendment to balance the budget is brought to the floor of the Senate it ought to include a firewall between the Social Security trust funds and the other revenues of the Federal Government.

The reason I feel that way is because we are now accumulating a yearly surplus in the Social Security trust funds. It is not an accident. It is a deliberate part of public policy to create a surplus in the Social Security trust funds now in order to save for the future.

The reason I know that is the case is because in 1983 I helped write the Social Security reform bill. I was a member of the House Ways and Means Committee at the time. We decided in the Social Security reform bill to create savings each year. This year $71 billion more is coming into the Federal Government in receipts from Social Security taxes over what we will spend this year—a $71 billion surplus this year alone, not accidental but a surplus designed to be saved for the future.

It is not saved for the future if it is used as an offset against other revenue of the Federal Government. If it is simply becoming part of the revenue stream that is used to balance the budget and the operating budget deficit, it means this $71 billion will not be there when it is needed.

I have heard all of the debate about, well, this is just an effort by some of those who would not vote for the other constitutional amendment to balance the budget, just an effort to justify their vote. No. There were two constitutional amendments to balance the budget offered in the U.S. Senate last year. One of them balanced the budget and did so by the year 2002, using the Social Security trust funds as part of the operating revenue in the Federal Government. I do not happen to think that is the way we ought to do it.

The Senator from Illinois, Senator SIMON, is on the floor. He has been one of the authors of that particular amendment. I happen to know that he changed his mind on this issue. He originally felt we should not include the Social Security trust fund money as part of the operating revenue of the Federal budget.

I still believe fervently we should not do that. One of the sober, sane things that was done in the 1980's in public policy was to create a surplus each year in the Social Security accounts to save for the future when it is needed, when the baby boomers retire. To simply decide to throw that all in as operating revenues and provide for it in a constitutional amendment to the Constitution, and use it to help balance the operating budget of the Federal Government, is in my judgment not honest budgeting.

We are either going to save this or not. If we are not going to save it we ought not collect it from the workers. If the workers have it taken from their paychecks and are told, "This money coming from your paycheck goes into a Social Security trust fund," and if it goes into the Social Security trust fund and then is used as other revenue to balance the Federal operating budget, it is not going to be there when the baby boomers retire.

That is the import of this amendment. If those who propose a constitutional amendment to balance the budget would bring to the floor a constitutional amendment with section 7 changed as we proposed it previously and voted on it that says it is identical in every respect to the constitutional amendment offered by Senator SIMON, Senator DOLE, and others with the exemption that the Social Security trust funds shall not be used as operating revenue in the Federal budget to balance the budget, they would get 70 or 80 votes, 75 votes perhaps for a constitutional amendment to balance the budget.

Because they did not do that, they fell one vote short. They intend to bring a constitutional amendment to balance the budget to the floor of the Senate again, and have announced they intend to do it under a reconsideration vote. They have a right to do that. We simply want an opportunity to provide a sense-of-the-Senate resolution to say to all of those in the Senate, when you bring this, do it the right way this time. If you do it the right way you will, in my judgment, pass a constitutional amendment to balance the budget out of this Senate and send it to the States for ratification.

That is what this sense-of-the-Senate vote is about. It is not about protecting anybody. It is not about setting up a scarecrow. It is about very serious, important public policy issues. Anyone who says this is not an important or serious issue apparently misunderstands what the policy issues are here. I did not vote to reform the Social Security system—I did not vote to increase payroll taxes in the 1980's, as did most Members of Congress, in order to have that money go into the operating budget of the United States and not be saved for the future in the Social Security trust funds as we promised the American people it would be.

Last year the Budget Committee brought to the floor of the U.S. Senate a budget. They said, "Here is our balanced budget." And on page 3 it says, "Deficits—" in 2002, $108 billion. How can that be the case? Because technically they say, "We haven't yet balanced the budget, technically in law, but what we have done is promised we will use this money to show a zero balance because these Social Security trust funds, to the tune of $108 billion, will be used to balance the Federal budget."

It is not an honest way to do business. It ought not be done. We can, in my judgment, remedy this problem very quickly. Voting for my sense-of-the-Senate resolution, and including in the constitutional amendment to balance the budget that is brought to the floor of the Senate, the provision I have described, which is fair to the American workers, keeps our promise with the American workers, is fair to senior citizens in this country, and does what we said in 1983 we were going to do for the future of the Social Security system.

I am a little weary of hearing people stand on the floor of the Senate saying the Social Security system is going broke. The system has been around 60 years. In the year 2029, which is 30-some years from now, we have financing problems with it, yes, but we are going to respond to those long before 2029. For someone to say a system that has been around here for some 60 years is going to go broke because in the year 2029—33 years from now—we have financing trouble is, in my judgment, unfathomable.

This is a wonderful contribution to this country of ours, the Social Security system. We can and have made it work, and will make it work in the future. But I will guarantee you that it will not work in the future the way we expect it to, to help the people who are going to retire in the future in this country, the baby boomers especially, if we do not take steps to protect the Social Security trust funds and use them for the purpose that they were intended back in the 1983 Social Security Reform Act.

Mr. President, I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The time is under the control of Senator DOMENICI and Senator DORGAN. Senator DORGAN has approximately 12 minutes left of his time. Senator DOMENICI, who I do not see at this point, has 10 minutes under his time.

Mr. SIMON. Mr. President, since I have not spoken to Senator DOMENICI, I ask unanimous consent that I be permitted to speak for 3 minutes and not have it charged to either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SIMON. Mr. President, I agree with 90 percent of what my friend from North Dakota has to say. Where I do differ is—and let me add in the Budget Committee I supported Senator FRITZ HOLLINGS in saying that we should exclude Social Security as we balance the budget. I cosponsored that legislation. What is true, however, is that the balanced budget amendment that we proposed, as it was, protects Social Security more than the present law does. Bob Myers, chief actuary for Social Security for 21 years, strongly supported the balanced budget amendment saying it was essential to the protection of Social Security.

I recognize that we are close to getting something worked out. I hope we can. I do think it is unrealistic, the amendment offered by my friend from North Dakota, that by the year 2002, we can do this, excluding Social Security. I think if we go on a glidepath for a few years later, that can be worked out.

To those who question that, that provides a great deal more protection than you have in the present law. The present law gives theoretical protection, but it is not there. The Constitution gives muscle to that.

Now, I add that I want to make sure that, in the years we have deficits, we fill those deficits, that we do not exclude both the receipts and the deficits, because the time will come—I may not be around to need it but the Senator from North Dakota will—when we need to protect those deficits and make clear that is a liability of the Federal Government.

I am hopeful something can get worked out yet. There are various versions floating around right now. It would be a great day for the American public if we could get it worked out.

Mr. DOMENICI. Mr. President, parliamentary inquiry. How much time do the Democrats have and how much time do I have?

The PRESIDING OFFICER. There is remaining 12 minutes 15 seconds under the control of Senator DORGAN and 9 minutes 50 seconds under the control of the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am not sure I need all my time. Let me yield myself 5 minutes at this point.

Mr. President, I guess I start this by paraphrasing Ronald Reagan: Here we go again. Every time we get into a balanced budget debate, someone tries to claim that Congress is raiding the Social Security trust fund. Every single time it happens, somebody gets up and claims we are not doing it right.

I simply want to note that there is a bit of irony in this debate in the Dorgan amendment. In 1995, we saw a plethora of budget proposals from both sides of the aisle. We saw a number from that side of the aisle. Indeed, at last count, the President himself has proposed 10 different budgets since January 1995. Each and every one of those budgets, including the President's 1997 budget, includes Social Security in the deficit calculations.

I am not suggesting that is in any way violating the law, because it is not. It is not violating the law to produce a balanced budget and call it a balanced budget under the unified concept which has been used since Lyndon Johnson's time, when at the direction of Arthur Burns, one of the best economists we have ever had serve us, the United States decided to put everything on budget, because everything on that budget had an impact on the economy of the United States. So does the trust fund have an impact on the economy. The unified budget was a concept of putting everything on there that has any economic impact on the people of the United States and the American economy.

Somehow, it seems to me, we have some kind of a gap here. Unless I am reading wrong, Senator DASCHLE, Senator DORGAN, two of the sponsors of this so-called Social Security amendment, promoted a balanced budget here in the U.S. Congress. If I am wrong, the Senator can tell me I am wrong. Somehow, it seems to me that something must have escaped, escaped the mind, because that plan could only claim to reach balance in 2002 including the Social Security trust fund.

As a matter of fact, I have not seen any budget produced that has been offered as an instrument upon which we would vote here in the Senate that produces the kind of balanced budget that is now being encouraged by this sense-of-the-Senate resolution. The Republican budget, the first one that balanced the budget, the first one to pass Congress to balance the budget in two generations, also included the Social Security trust funds in this deficit calculation.

That does not mean that in doing that you are detracting from the solvency of the Social Security fund. As a matter of fact, in each and every one of the budgets I have been discussing, to my recollection, the nine the President has offered, two of which have been balanced, the others that I have referred to in a very, very formidable way, those budgets do not touch Social Security. They do not touch the benefits. They do not touch the taxes that are attributable to Social Security. You get a balanced budget without in any way doing harm to the Social Security trust fund and the taxes that are imposed on the American people in order to get that done.

Frankly, it seems to me, for those who would like to make sure we get a balanced budget and not use the Social Security trust fund in the calculations, I wonder how they get to balance. I have not seen any proposals that have accomplished that. From this Senator's standpoint, if we are going to get there by 2002, which I think is everybody's agenda, I believe it is inconceivable that you can get there and in the final calculations—that is why I am saying in the calculations—you do not use the unified budget concept, which for more than 20 years has been used in almost every examination of the impact of the Federal budget on the people of this country.

Maybe I am missing something. Maybe somebody knows another way to do it by 2002 and reduce the expenditures of our Government by another $190 to $200 billion. I do not believe, in my efforts, which I think have been at least, if not successful, at least we have shown various ways—and it has been a rather formidable exercise—I do not think we have ever come up with anything that could do that.

While I understand the debate is a useful debate, we ought to be very concerned about it. I think it is truly, "Here we go again," and I hope the U.S. Senate decides we ought to get on with the subject, get a balanced budget, and get a constitutional amendment and not do the sense of the Senate at this point.

Mr. DORGAN. I yield 7 minutes to the Senator from South Carolina, Senator HOLLINGS.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator from North Dakota.

Obviously, I do not take any pleasure in correcting the record made by my distinguished chairman of the Budget Committee. I served as chairman of the Budget Committee and had the best of cooperation from the distinguished Senator from New Mexico. I hope we can cooperate again in getting a balanced budget amendment to the Constitution that protects Social Security.

Last year on March 1, 1995, five Senators signed a letter to the majority leader stating that we were ready, willing and able to vote "aye" on a balanced budget amendment to the Constitution so long as we did not repeal the statutory law of the United States that prohibits the use of Social Security trust funds in computing either deficits or surpluses of the Federal Government.

Now my distinguished friend from New Mexico says that both sides use it, and he starts, of course, with President Lyndon Johnson.

Mr. President, I ask unanimous consent to have printed in the RECORD a budget table of the deficits and surpluses for the past 40 years.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

President and year	U.S. budget (outlays in billions)	Trust funds	Real deficit	Gross Federal debt (billions)	Gross interest
Truman:					
1945	92.7	5.4		260.1	(1)
1946	55.2	3.9	−10.9	271.0	(1)
1947	34.5	3.4	+13.9	257.1	(1)
1948	29.8	3.0	+5.1	252.0	(1)
1949	38.8	2.4	−0.6	252.6	(1)
1950	42.6	−0.1	−4.3	256.9	(1)
1951	45.5	3.7	+1.6	255.3	(1)
1952	67.7	3.5	−3.8	259.1	(1)
1953	76.1	3.4	−6.9	266.0	(1)
Eisenhower:					
1954	70.9	2.0	−4.8	270.8	(1)
1955	68.4	1.2	−3.6	274.4	(1)
1956	70.6	2.6	+1.7	272.7	(1)
1957	76.6	1.8	+0.4	272.3	(1)
1958	82.4	0.2	−7.4	279.7	(1)
1959	92.1	−1.6	−7.8	287.5	(1)
1960	92.2	−0.5	−3.0	290.5	(1)
1961	97.7	0.9	−2.1	292.6	(1)
Kennedy:					
1962	106.8	−0.3	−10.3	302.9	9.1
1963	111.3	1.9	−7.4	310.3	9.9
Johnson:					
1964	118.5	2.7	−5.8	316.1	10.7
1965	118.2	2.5	−6.2	322.3	11.3
1966	134.5	1.5	−6.2	328.5	12.0
1967	157.5	7.1	−11.9	340.4	13.4
1968	178.1	3.1	−28.3	368.7	14.6
1969	183.6	−0.3	+2.9	365.8	16.6
Nixon:					
1970	195.6	12.3	−15.1	380.9	19.3
1971	210.2	4.3	−27.3	408.2	21.0
1972	230.7	4.3	−27.7	435.9	21.8
1973	245.7	15.5	−30.4	466.3	24.2
1974	269.4	11.5	−17.6	483.9	29.3
Ford:					
1975	332.3	4.8	−58.0	541.9	32.7
1976	371.8	13.4	−87.1	629.0	37.1
Carter:					
1977	409.2	23.7	−77.4	706.4	41.9
1978	458.7	11.0	−70.2	776.6	48.7
1979	503.5	12.2	−52.9	829.5	59.9
1980	590.9	5.8	−79.6	909.1	74.8
Reagan:					
1981	678.2	6.7	−85.7	994.8	95.5
1982	745.8	14.5	−142.5	1,137.3	117.2
1983	808.4	26.6	−234.4	1,371.7	128.7
1984	851.8	7.6	−193.0	1,564.7	153.9
1985	946.4	40.6	−252.9	1,817.6	178.9
1986	990.3	81.8	−303.0	2,120.6	190.3
1987	1,003.9	75.7	−225.5	2,346.1	195.3
1988	1,064.1	100.0	−255.2	2,601.3	214.1
Bush:					
1989	1,143.2	114.2	−266.7	2,868.0	240.9
1990	1,252.7	117.2	−338.6	3,206.6	264.7
1991	1,323.8	122.7	−391.9	3,598.5	285.5
1992	1,380.9	113.2	−403.6	4,002.1	292.3
Clinton:					
1993	1,408.2	94.2	−349.3	4,351.4	292.5
1994	1,460.6	89.1	−292.3	4,643.7	296.3
1995	1,514.4	113.4	−277.3	4,921.0	332.4
1996	1,572.0	126.0	−270.0	5,191.0	344.0
Est. 1997	1,651.0	127.0	−292.0	5,483.0	353.0

[1] Budget realities: Senator Hollings, April 17, 1996.

Note: Historical Tables, Budget of the U.S. Government FY 1996; Beginning in 1962 CBO's 1995 Economic and Budget Outlook.

Mr. HOLLINGS. If you look at this table, you can refer to 1969 when we had the last budget balanced. I happened to have been here and to have voted for it. That is a unique experience.

If you look down to the 1997 budget that we will be working on, you can see the intent to use $127 billion—$127 billion in trust funds. Up, up and away.

I hold in my hand this light blue book entitled "Budget Process Law Annotated." You will not find the word "unified" in it. You, will, however, find section 13301 of the statutory laws of the United States.

I ask unanimous consent to have that section printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUBTITLE C—SOCIAL SECURITY

SEC. 13301. OFF-BUDGET STATUS OF OASDI TRUST FUNDS.

(a) EXCLUSION OF SOCIAL SECURITY FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes—

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.".

Mr. HOLLINGS. Mr. President, section 13301 says you cannot use Social Security. In our failure to follow that law, we should not wonder why the people do not have any faith or trust in their Government.

Let us go back to Social Security. In 1983, we increased the Social Security payroll taxes in order to save the program. We said these moneys would be used only for Social Security. We were going to balance the budget for general government and build up Social Security surpluses to ensure that money would be there when they baby boomers retire. However, working in the Budget Committee with the distinguished Senator from New Mexico, you could see what was happening. Budget deficits went up, up and away. We had less than a trillion-dollar debt when Reagan came to town. It is now $5 trillion. So in the Budget Committee, on July 10, 1990, I offered an amendment to protect the surpluses in the Social Security trust fund. It was my amendment that passed the committed by a vote of 20–1.

I ask unanimous consent to have the vote printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOLLINGS MOTION TO REPORT THE SOCIAL SECURITY PRESERVATION ACT

The Committee agreed to the Hollings motion to report the Social Security Preservation Act by a vote of 20 yeas to 1 nay:

Yeas: Mr. Sasser, Mr. Hollings, Mr. Johnston, Mr. Riegle, Mr. Exon, Mr. Lautenberg, Mr. Simon, Mr. Sanford, Mr. Wirth, Mr. Fowler, Mr. Conrad, Mr. Dodd, Mr. Robb, Mr. Domenici, Mr. Boschwitz, Mr. Symms, Mr. Grassley, Mr. Kasten, Mr. Nickles, Mr. Bond.

Nays: Mr. Gramm.

Mr. HOLLINGS. Mr. President, after our success in the Budget Committee, I worked with Senator Heinz to offer the same amendment on the Senate floor on October 18, 1990. The vote was 98–2, and the distinguished Senator from New Mexico voted both in July, and in October to not use Social Security trust funds.

I ask unanimous consent that that vote be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Hollings-Heinz, et al., amendment which excludes the Social Security Trust Funds from the budget deficit calculation, beginning in FY 1991.

YEAS (98)

Democrats (55 or 100%)—Adams, Akaka, Baucus, Bentsen, Biden, Bingaman, Boren, Bradley, Breaux, Bryan, Bumpers, Burdick, Byrd, Conrad, Cranston, Daschle, DeConcini, Dixon, Dodd, Exon, Ford, Fowler, Glenn, Gore, Graham, Harkin, Helfin, Hollings, Inouye, Johnston, Kennedy, Kerrey, Kerry, Kohl, Lautenberg, Leahy, Levin, Lieberman, Metzenbaum, Mikulski, Mitchell, Moynihan, Nunn, Pell, Pryor, Reid, Riegle, Robb, Rockefeller, Sanford, Sarbanes, Sasser, Shelby, Simon, Wirth.

Republicans (43 or 96%)—Bond, Boschwitz, Burns, Chafee, Coats, Cochran, Cohen, D'Amato, Danforth, Dole, Domenici, Durenberger, Garn, Gorton, Gramm, Grassley, Hatch, Hatfield, Heinz, Helms, Humphrey, Jeffords, Kassebaum, Kasten, Lott, Lugar, Mack, McCain, McClure, McConnell, Murkowski, Nickles, Packwood, Pressler, Roth, Rudman, Simpson, Specter, Stevens, Symms, Thurmond, Warner, Wilson.

NAYS (2)

Republicans (2 or 4 %)—Armstrong, Wallop.

Mr. HOLLINGS. Mr. President, when the both sides continued to use the surpluses—I teamed up with Senator MOYNIHAN. I said, "Look, you are using these moneys for defense, education, housing, foreign aid, for everything but Social Security. Let us just stop the increase in taxes on Social Security."

So exactly 5 years ago, on April 24, 1991, the distinguished Senator from New Mexico moved to table the Moynihan-Kasten-Hollings amendment that would have reduced Social Security revenues in the budget resolution by about $190 billion.

I ask unanimous consent that that vote be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Domenici motion to table the Moynihan-Kasten-Hollings amendment which reduces Social Security revenues in the budget resolution by $24.6 billion in FY 1992, $27.6 billion in 1993, $38.2 billion in 1994, $44.0 billion in 1995, and $61.7 billion in 1996; and returns Social Security to pay-as-you-go financing.

YEAS (60)

Democrats (26 or 47%)—Baucus, Bentsen, Bingaman, Bradley, Breaux, Bumpers, Burdick, Byrd, Conrad, Daschle, DeConcini, Dixon, Ford, Glenn, Graham, Heflin, Johnston, Kohl, Lautenberg, Levin, Mikulski, Robb, Rockefeller, Sasser, Shelby, Simon.

Republicans (34 or 79%)—Bond, Brown, Burns, Chafee, Coats, Cochran, Cohen, D'Amato, Danforth, Dole, Domenici, Durenberger, Garn, Gorton, Gramm, Grassley, Hatfield, Jeffords, Kassebaum, Lott, Lugar, McCain, McConnell, Murkowski, Packwood, Pressler, Roth, Rudman, Simpson, Smith, Specter, Stevens, Thurmond, Warner.

NAYS (38)

Democrats (29 or 53%)—Adams, Akaka, Biden, Boren, Bryan, Cranston, Dodd, Exon, Fowler, Gore, Harkin, Hollings, Inouye, Kennedy, Kerrey, Kerry, Leahy, Lieberman, Metzenbaum, Mitchell, Moynihan, Nunn, Pell, Reid, Riegle, Sanford, Sarbanes, Wellstone, Wirth.

Republicans (9 or 21%)—Craig, Hatch, Helms, Kasten, Mack, Nickles, Seymour, Symms, Wallop.

NOT VOTING (1)

Democrats (1)—Pryor.

Mr. HOLLINGS. Mr. President, on November 13, 1995, the Senator from New Mexico again joined with us on a vote of 97-0 not to use Social Security trust funds. But in March of last year they were trying to get a balanced budget amendment to the Constitution that used an additional $636 billion in Social Security trust funds.

Under that approach, we would come around to the year 2002 and say, "Whoopee, we have finally done our duty under the Constitution and we have balanced the budget." But we would have at the same time caused at least a trillion-dollar deficit in Social Security. Who is going to vote to increase Social Security taxes, or any other tax, to bring in a trillion dollars?

That is our point here. That is why we have offered this sense of the Senate. What happens is the media goes right along. I want to quote from an April 15 article in Time magazine which talks about the surpluses in the highway trust fund:

> Supporters argue, rightly, that the money would go where it was intended—building roads and operating airports. But the supposedly untapped funds are actually an accounting figment.

That is what we will have to say about Social Security in 2002 because the money will not be there. Let us cut out this charade, stop the fraud, and be honest with each other. Let us get truth in budgeting.

I reserve the remainder of our time.

Mr. DORGAN. Mr. President, I yield 2 minutes to Senator FORD.

Mr. FORD. Mr. President, I thank my friend from North Dakota. I think everyone should have listened to my friend from South Carolina. He has been there from year one. He knows the history of it. He understands it, and he says it straight.

I listened to my good friend from New Mexico, chairman of the Budget Committee, one of the smartest financial wizards in the Senate. I believe, honestly and sincerely, that he knows how to operate to be sure that Social Security funds are not used. He says he only wants to use them for calculation. He does not touch the fund, the taxes; he does not touch anything. If you do not touch them, why use them? If you do not touch them, why use them?

We have a contract with the people of this country. Social Security is doing better. There are 8.4 million new jobs, all of them paying into Social Security. Things are beginning to look a little better. But if we take Social Security funds to balance the budget, then we are deceiving the American public.

I voted for a balanced budget every time except the last time because, before that, it excluded Social Security funds. This last time, it included Social Security funds. You had at least seven more votes—we would be in the seventies on the balanced budget amendment had you said we exclude Social Security moneys.

So when you say you are not using them, you will not spend them, you are not going to touch taxes, there ought to be a way, and there should be a way, that we can pass a balanced budget here without using those funds.

I hope my colleagues will listen to Senator DORGAN and Senator HOLLINGS and that we approve this sense-of-the-Senate resolution.

I suspect my time has expired. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI. How much time does the Senator from New Mexico have?

The PRESIDING OFFICER. The Senator has 4 minutes.

Mr. DOMENICI. Mr. President, I told Senator DORGAN I would use our time up and he could close. Senator SIMPSON has arrived. He is never without something to say on this subject. I yield half of my remaining time to the Senator from Wyoming.

Mr. SIMPSON. I thank the Senator. It will not take 2 minutes. It does not take too many minutes to explain that there is no Social Security trust fund. To come to this floor time after time and listen to the stories about the Social Security trust fund is phantasmorgia and alchemy. There is no Social Security trust fund. The trustees know it, we know it, everyone in this Chamber knows it.

What you have is a law that says if there are any reserves in the Social Security system, they will be invested in securities of the United States, based on the full faith and credit of the United States. Therefore, they are. They consist of the bills, savings bonds, and they are issued all over the United States. Some here own them, and banks own them. The interest on those is paid from the General Treasury, not some great kitty or some Social Security piggy bank. This is the greatest deception of all time.

The sooner we wake up and realize that the trustees of the Social Security system, consisting of three Members of the President's Cabinet, consisting of Dona Shalala, Robert Rubin, and Robert Reisch, Commissioner Shirley Chater, one Republican and one Democrat, are telling us this system will be broke in the year 2029 and will begin to go broke in the year 2012—there is no way to avoid it unless you cut the benefit or raise the payroll tax. Guess which one we will do at the urging of the senior citizens? We will raise the payroll tax one more time.

Mr. DOMENICI. Mr. President, we have a letter dated January 19 signed by Senator EXON, Senator DASCHLE, and Senator DORGAN with reference to a proposed balanced budget that they wanted the Republicans to join them in with some common ground.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, DC, January 19, 1996.

Hon. ROBERT DOLE,
U.S. Senate,
Washington, DC.

DEAR MR. LEADER: We are disturbed by several remarks you made yesterday at your news conference on the status of budget negotiations. It is unclear to us why your public comments concerning the budget continue to grow more pessimistic even as the gap between our two plans continues to narrow.

We believe a workable solution to balancing the budget is indeed at hand. Since our House counterparts appear less willing, or less able, to discuss alternatives, we ask that you take the initiative and join us to build support for a "common ground" balance budget. This budget would be based on the $711 billion in reductions to which all parties in the budget negotiations have already agreed. (Please see the attached chart outlining those areas of agreement.)

Democrats and Republicans have made a great deal of progress over the past few weeks in narrowing the gap between our two plans. The biggest remaining gap, of course, it the difference between our two tax cut proposals. The current Republican plan calls for $115 billion more in tax cuts than does the plan offered by the President and Congressional Democrats. Your plan pays for these additional tax breaks by cutting $132 billion—above and beyond what Democrats have agreed to—from programs that are essential to working families.

Spefically, your plan cuts Medicare by $44 billion more than the Democratic plan. It cuts Medicaid by $26 billion more. It cuts domestic investments in areas such as education and the environment by $52 billion more. And it raises taxes on working families by $10 billion.

The Democratic plan, by contrast, allows us to balance the budget in seven years using CBO numbers, provide a reasonable tax cut of $130 billion for working families, and still protect Medicare, Medicaid, education and the environment.

We should act decisively to balance the budget immediately. If balancing the budget is the goal, we can reach it now by banking the "common ground" savings on which we all agree.

We ask you to return with us to the White House to resume budget negotiations with the Administration before the current continuing resolution expires next Friday, January 26. If you will agree to return to the table, reduce your tax cut, and adopt the "common ground" reductions to which we have all agreed, we can reach an agreement immediately. We can balance the budget in seven years—and provide America's families with tax relief—without eviscerating the programs on which their economic security depends.

Sincerely,
J. JAMES EXON,
TOM DASCHLE,
BYRON L. DORGAN.

Mr. DOMENICI. Mr. President, I note that the proposed balanced budget is in the unified budget manner using the Social Security trust funds in calculating the balance.

I just want to close by saying that we can go on with these arguments as long as we want. The truth of the matter is seniors should know that, if you can get a unified balanced budget by the year 2002 which helps the American economy grow, prosper, and which brings interest rates down, it is the best thing you can do for the Social Security trust fund. That is exactly what it needs.

There is no chance of success unless the American economy is growing and prospering. For that to happen you have to balance the unified budget. If you want to say 4 years after that you will balance without the use of the funds, fine. You put that on a line and show it.

I say to my friend, Senator HOLLINGS, that we are engaged now in trying to write some language for a balanced budget constitutionally which would put it in balance in the unified way by a certain time, and under the ideas that the Senator from South Carolina has, by 4 years later to try to put that in the constitutional amendment. We are working with the Senator and others. We hope to have it done very soon, at which point when it clears with the Senator from South Carolina and others, we will be glad to give it to the leadership to see what they want to do with it.

I thank the Senator for his comments. Even though they were not all directed to agreeing with me, we are working on the same wavelength.

I yield the floor and yield any time which I may have.

Mr. DORGAN. Mr. President, how much time remains?

The PRESIDING OFFICER. Three minutes twenty-one seconds.

Mr. DORGAN. Mr. President, let me use the remaining time.

I guess now we have heard the three stages of denial. Let me rephrase the three stages of denial.

One, there are no Social Security trust funds;

Two, if there are Social Security trust funds, we are not using them to balance the budget;

Or, three, if there are Social Security trust funds and we are using them to balance the budget, we will stop by the year 2006.

All three positions have been given us in response to our position on this floor—the three stages of denial.

I watched the debate on the floor of the House of Representatives the other night. A fellow had a chart, and he talked about the income tax burden by various groups of taxpayers. He said, you look at the folks at the bottom level here. They are not paying higher income taxes. We have not increased their income tax burden. He strutted around and talked about how wonderful that was. He did not say with his chart what had happened to those folks in the last decade with respect to payroll taxes. No, their income tax has not increased. Their payroll tax skyrocketed because this Congress increased the payroll tax, determined to want to save the payroll taxes in the trust fund and build that trust fund for the future.

That is why people are paying higher payroll taxes. In fact, this year, $71 billion more is collected in receipts in the Social Security system than will be paid out. The question is, What is that for? If there is no trust fund, what is that for? Did the Congress increase payroll taxes so they could take the most regressive form of taxation and say to people, By the way, we will use that to finance the Government? Is that what they did? That would not have gotten one vote in the House nor the Senate, even by accident.

You all know it is wrong. There is not one person in here in a silent moment who would not admit that it is wrong to increase these payroll taxes and promise workers that you are going to take their money, put it in a trust fund and save it and say, "By the way. It is either not here, or it is here and we are misusing it, or, by the way, if we are misusing it, we will stop in 2006." What on Earth kind of debate is that?

Let us decide what is wrong, and when we see what is wrong, let us fix it.

This sense-of-the-Senate resolution says there is a very serious problem. This problem is not a nickel and dime problem. It might be an inconvenience to some. But this problem is $600 billion to $700 billion in the next 7 years. This is big money. This has to do with the future of Social Security. This has to do with very important financial considerations in this Government.

My point is, let us balance the Federal budget. Yes; let us even put a requirement to do so in the Constitution. But let us not enshrine in the Constitution a provision that we ought to take money from workers in this country, promise them we will save it in a trust fund, and then misuse it by saying it becomes part of the operating revenue of this country.

I have heard all of the debate about what is wrong with what Senator HOLLINGS, I, Senator FORD, and others have said. I have not heard one piece of persuasive evidence that the payroll taxes are not being systematically misused when we promised that it would be saved in trust, and in fact they are used as an offset to other operating revenues to try to show a lower budget balance.

That is why I say to those who say that they produce a balanced budget, show us a document that shows even when they say it is in balance. It is $108 billion in deficit. But they say we will fix that because we will take the $108 billion out of Social Security and pledge to you it is in balance.

Mr. FEINGOLD. Mr. President, I am pleased to cosponsor the amendment of the Senator from North Dakota.

The failure to formally segregate the Social Security trust funds is not the only reason I oppose the balanced budget amendment to the Constitution, but it is certainly one of the reasons.

Even if there were no other reasons, the assault on Social Security is reason enough to oppose the proposed constitutional amendment.

And make no mistake, Mr. President. The unwillingness to formally exempt it from the proposed constitutional language is nothing less than an assault on Social Security.

The opponents of this exemption want those funds, pure and simple.

Mr. President, it is unlikely that we will hear a plain statement to that effect here on the floor.

Other reasons will be provided.

But the bottom line is that the opponents of exempting Social Security in a constitutional amendment want to be able to tap into Social Security revenues for the rest of Government.

To a certain extent, we already have that.

The so-called unified budget includes the Social Security surpluses with the on-budget deficit to reduce our apparent budget deficit.

I do not single out one party; both Democrats and Republicans have used that technique.

To date, it has been a bookkeeping maneuver.

But in a few years, when the Social Security Program begins to draw on the surpluses that have built up over the past several years, the free ride will stop, and many of the favorite spending programs of the advocates of the constitutional amendment will be at risk.

Programs which have been so successful in escaping the budget scalpel, including our bloated defense budget and the billions in wasteful spending done through the Tax Code, may finally be asked to justify themselves a little more carefully.

Mr. President, it is precisely that moment that those who oppose excluding Social Security from the constitutional amendment are anticipating.

I fear that many would prefer to put Social Security on the block rather than ask these other areas to bear their fair share of reducing the deficit.

Mr. President, some may argue that current law provides adequate protection for Social Security, or that if the balanced budget amendment is ratified, Social Security can be protected as part of implementing legislation.

We should recall, though, that many of those who make that argument also maintain that mere statutory mandates are insufficient to move Congress to do what it needs to do.

They argue that only constitutional authority is sufficient to engender the will necessary to reduce the deficit.

Using the reasoning of the supporters of the balanced budget amendment, the willpower needed to resist the temptation to raid the Social Security cookie jar can only come from a constitutional mandate.

Those who oppose giving this extra, constitutional protection for Social Security often suggest that there is no practical need for the protection because Social Security will compete very well with other programs.

Let me respond to that argument with two comments.

First, Social Security should not have to compete with anything.

As many have noted, it is a separate program with a dedicated funding source, intended to be self-funding.

Second, any assessment of the political potency of any particular program must be reappraised when we enter the brave new world of the balanced budget amendment.

One prominent Governor was reported as suggesting that areas many claim are untouchable should be subject to cuts.

Specifically including Social Security in that list, this Governor worried that

> Otherwise, the states are going to bear a disproportionate share. We're the ones who are going to have to raise taxes.

And in a moment of revealing honesty, another Governor argued that Social Security must be asked to shoulder the burden of reducing the deficit.

Reports quote him as saying that to take Social Security off the table, and then impose a burden on other spending systems is not going to be acceptable.

There can be no more revealing statement of intent by many of those who oppose constitutionally separating Social Security than this statement.

Given the growing support of State-based approaches to problems—a development I applaud—as well as the resurgent influence of States on Federal policy, how can anyone confidently predict that Social Security will remain untouched while we cut programs in which States have a significant interest.

Mr. President, Social Security is fiscally and politically a special program.

Apart from the fiscal problems of not excluding Social Security, the special political nature of the program makes it worthy of protection.

Social Security is singular as a public contract between the people of the United States and their elected government.

The elected government promised that if workers and their employers paid into the Social Security fund, they would be able to draw upon that fund when they retired.

But the singular nature of Social Security, and the special regard in which it is held by the public, does not flow from some transitory nostalgia.

Social Security has provided real help for millions of seniors.

According to the Kerrey-Danforth Bipartisan Entitlement Commission, the poverty rate for senior households is about 13 percent, but without Social Security, it could increase to as much as 50 percent.

For almost half of the senior households below the poverty line, Social Security provides at least 90 percent of total income.

For those seniors, and for millions of others, the Social Security contract is very real and vitally necessary.

Anything other than partitioning Social Security off from the rest of the budget risks a breach of that public contract.

Mr. President, some may try to characterize the proposed exemption for Social Security in a possible balanced budget amendment to the Constitution as pandering to senior citizens.

With that assertion is the implication that somehow there is something wrong with older Americans who want their Social Security benefits.

But, Mr. President, I do agree with those proponents of the balanced budget amendment who argue that no one will touch the benefits of today's retirees.

Today's retirees are not at risk if the balanced budget amendment passes without exempting Social Security.

However, there are three generations that are very much at risk.

The first is my own generation—the baby boomers.

If Congress has the ability to monkey around with Social Security benefits, under cover of a constitutional mandate, I can guarantee you there will not be anything left when the baby boomer generation reaches retirement age.

There are a lot of Americans in that generation, and they also have a right to the benefits that they paid for and were told they were going to get by participating in this system.

Mr. President, a second generation is very concerned about the future of Social Security.

They are young adults in their late twenties and early thirties—the so-called Generation X.

They are skeptical of there being any Social Security system on which to rely when they retire.

They see today's retirees, and the huge group of baby boomers ahead of them, and they are concerned that the system into which they are now paying will not be around when they need it.

Mr. President, there is a third generation—the generation of my children.

They do not understand all of this debate.

But some are aware of the big Federal deficit we have.

And some are coming to realize that as they graduate from high school and go into the work force, they will be the ultimate victims of our fiscal irresponsibility if we do not protect Social Security.

For those three generations, the future health of the Social Security system is a real concern.

One of the most important results of the Kerrey-Danforth Entitlement Commission was to highlight this issue, and as I have mentioned on other occasions, I for one am willing to consider some of the proposals put forward by that commission to help ensure the long-term health of Social Security.

Mr. President, if we are ever to address the long-term solvency of Social Security in an honest way, especially in the context of a constitutional balanced budget requirement, keeping Social Security separate is vital.

Just as a Social Security system that is enmeshed in the rest of the Federal budget poses a temptation when the system is in surplus, so too will it become an enormous drain on resources if it starts to compete for general revenue.

Providing a constitutional partition will serve both to protect Social Security, and to highlight the need for long-term reform.

Mr. President, those who advocate a balanced budget amendment to our Constitution frequently argue that it is needed if we are to protect our children and grandchildren.

How ironic if in the name of helping those children and grandchildren we deny them the protection of Social Security.

We risk taking away the same rights and protections that so many of us hope to enjoy.

Mr. DORGAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to amendment No. 3672, as modified.

Mr. SIMPSON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment of the Senator from Wyoming, as modified. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from New Hampshire [Mr. SMITH] is necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire [Mr. SMITH] would vote "yea."

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] is necessarily absent.

The result was announced—yeas 92, nays 6, as follows:

[Rollcall Vote No. 81 Leg.]

YEAS—92

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Pressler
Pryor
Reid
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Snowe
Specter
Stevens
Thomas
Thurmond
Warner
Wellstone
Wyden

NAYS—6

Bradley
Hatfield
Nunn
Pell
Robb
Thompson

NOT VOTING—2

Heflin
Smith

So, the amendment (No. 3672), as modified, was agreed to.

Mr. DOLE. I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3667, AS MODIFIED

The PRESIDING OFFICER. The business is now amendment No. 3667.

Mr. DORGAN. Mr. President, I ask for the yeas and nays.

Mr. DOLE. Mr. President, I make a motion to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the Dorgan amendment No. 3667, as modified. The yeas and nays have been ordered. The clerk will call the roll.

Mr. LOTT. I announce that the Senator from New Hampshire [Mr. SMITH] is necessarily absent.

The PRESIDING OFFICER (Mr. BROWN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 82 Leg.]

YEAS—57

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kohl
Kyl
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Murkowski
Nickles
Pressler
Robb
Rockefeller
Roth
Santorum
Shelby
Simon
Simpson
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—42

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Sarbanes
Wellstone
Wyden

NOT VOTING—1

Smith

The motion to lay on the table the amendment (No. 3667), as modified, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. SIMPSON. Mr. President, I have a unanimous-consent request, Mr. President.

I have 10 unanimous-consent requests for committees to meet during today's session of the Senate. They all have the approval of the Democratic leader. I ask that these requests be agreed to, en bloc, and that each request be printed in the RECORD.

Mr. KENNEDY. Reserving the right to object, Mr. President. We have done this a number of times now. This changes the process and procedure where we had the opportunity, if consent was going to be asked for, to object to when the Senate was going to be considering business. Now we are in the situation where at the end of the day, we ask unanimous consent that they would have sat during the course of the day.

I understand now that this was in order for earlier today. But I want to make it very clear that I raised this at an earlier time. If the Senate does not get the clearance, the chairmen pay the bills. That is a good order for why we require this to be done beforehand, whether it is our side or their side. I just want to make sure. We are dealing with a lot of very important legislation as we are going on. I have not objected to committee meetings. But I want to make it very clear that we are going to preserve that institutional right where overriding other ones that will be addressed as well. But we are not going to get into a situation where we are clearing at the end of the day, whether it is on our side or theirs.

I will not object at this time. I want to make it very clear that the next time it comes across, I reserve that right to object.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3734 TO AMENDMENT NO. 3725

(Purpose: To provide for an increase in the minimum wage rate)

Mr. KENNEDY. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 3734.

At the appropriate place add the following:

SEC. . INCREASE IN THE MINIMUM WAGE RATE.

Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $4.25 an hour during the period ending July 4, 1996, not less than $4.70 an hour during the year beginning July 5, 1996, and not less than $5.15 an hour after July 4, 1997;".

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order and that I be able to withdraw my amendment.

The PRESIDING OFFICER. The Senator has that right.

Mr. KENNEDY. Mr. President, there had been an understanding which I had not been aware of by the two leaders on the particular matters which they had intended to address. To comply with their agreement, I withdraw that amendment at this time. But we want to indicate to all of the Members that if there is not an opening that presents itself, this Senator intends to press forward with that measure. Obviously, I will comply with any of the agreements that are made by our leaders.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The distinguished Democratic leader.

Mr. DASCHLE. Mr. President, let me reiterate the desire addressed just now by the senior Senator from Massachusetts. I had indicated to the majority leader that it was not our desire tonight to bring up minimum wage in an effort to expedite some of these other immigration-related amendments. We have that understanding.

It may be that we do not have a colleague here tonight to offer the amendments that I anticipated at least on our side. But that was my intention.

I want to emphasize, as well, what the Senator from Massachusetts has said so ably. It is our desire to continue to press for a minimum wage amendment and a vote. We will not do it tonight—not under these circumstances. But it is our desire to continue to find a way with which to get an up-or-down vote. We want it sooner rather than later. Let us hope we can do it sometime very soon. But with the understanding that I had with the majority leader, tonight we certainly want to accommodate our colleagues providing an opportunity to offer other amendments. We are prepared to do that tonight.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I appreciate those remarks by the distinguished Democratic leader. I did understand that agreement had been reached with the leader. I appreciate the minority leader coming back out and clarifying the situation—that we would go forward with some amendments tonight related to the immigration bill which is pending. I think we have at least one Senator who is ready to offer an amendment, and maybe others that relate to the immigration bill. So we are prepared to go forward.

Mr. KYL addressed the Chair.

Mr. SIMPSON. Mr. President, let me assure colleagues, too, as Senator KENNEDY has assured, that there will be no amendment with regard to minimum wage, there will be no amendment tonight of mine with regard to the issue of numbers and legal immigration as expressed by the majority commission. The issue will come up tomorrow. But if we can take amendments tonight while there are still some of us here, we are prepared to do that. I know the Senator from Massachusetts has another obligation. But perhaps Senator Kyl could deal with his amendment, I believe on immunization.

Is this correct?

Mr. KYL. Yes.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 3735 TO AMENDMENT NO. 3725

Mr. KYL. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 3735 to amendment numbered 3725.

Mr. KYL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following: Notwithstanding any other provision in this act, section 154 shall read as follows:

SEC. 154. PHYSICAL AND MENTAL EXAMINATIONS.

Section 234 (8 U.S.C. 1224) is amended to read as follows;

"PHYSICAL AND MENTAL EXAMINATIONS

"SEC. 34. (a) ALIENS COVERED.—Each alien within any of the following classes of aliens who is seeking entry into the United States shall undergo a physical and mental examination in accordance with this section:

"(1) Aliens applying for visas for admission to the United States for permanent residence.

"(2) Aliens seeking admission to the United States for permanent residence for whom examinations were not made under paragraph (1).

"(3) Aliens within the United States seeking adjustment of status under section 245 to that of aliens lawfully admitted to the United States for permanent residence.

"(4) Alien crewmen entering or in transit across the United States.

"(b) DESCRIPTION OF EXAMINATION.—(1) Each examination required by subsection (a) shall include—

"(A) an examination of the alien for any physical or mental defect or disease and a certification of medical findings made in accordance with subsection (d); and

"(B) an assessment of the vaccination record of the alien in accordance with subsection (e).

"(2) The Secretary of Health and Human Services shall prescribe such regulations as may be necessary to carry out the medical examinations required by subsection (a).

"(c) MEDICAL EXAMINERS.—

"(1) MEDICAL OFFICERS.—(A) Except as provided in paragraphs (2) and (3), examinations under this section shall be conducted by medical officers of the United States Public Health Services.

"(B) Medical officers of the United States Public Health Service who have had specialized training in the diagnosis of insanity and mental defects shall be detailed for duty or employed at such ports of entry as the Secretary may designate, in consultation with the Attorney General.

"(2) CIVIL SURGEONS.—(A) Whenever medical officers of the United States Public Health Service are not available to perform examinations under this section, the Attorney General, in consultation with the Secretary, shall designate civil surgeons to perform the examinations.

"(B) Each civil surgeon designated under subparagraph (A) shall—

"(i) have at least 4 years of professional experience unless the Secretary determines that special or extenuating circumstances justify the designation of an individual having a lesser amount of professional experience; and "(ii) satisfy such other eligibility requirements as the Secretary may prescribe.

"(3) PANEL PHYSICIANS.—In the case of examinations under this section abroad, the medical examiner shall be a panel physician designated by the Secretary of State, in consultation with the Secretary.

"(d) CERTIFICATION OF MEDICAL FINDINGS.—The medical examiners shall certify for the information of immigration officers and special inquiry officers, or consular officers, as the case may be, any physical or mental defect or disease observed by such examiners in any such alien.

"(e) VACCINATION ASSESSMENT.—(1) The assessment referred to in subsection (b)(1)(B) is an assessment of the alien's record of required vaccines for preventable diseases, including mumps, measles, rubella, polio, tetanus, diphtheria toxoids, pertussis, hemophilus-influenza type B, hepatitis type B, as well as any other diseases specified as vaccine-preventable by the Advisory Committee on Immunization Practices.

"(2) Medical examiners shall educate aliens on the importance of immunizations and shall create an immunization record for the alien at the time of examination.

"(3)(A) Each alien who has not been vaccinated against measles, and each alien under the age of 5 years who has not been vaccinated against polio, must receive such vaccination, unless waived by the Secretary, and must receive any other vaccination determined necessary by the Secretary prior to arrival in the United States.

"(B) Aliens who have not received the entire series of vaccinations prescribed in paragraph (1) (other than measles) shall return to a designated civil surgeon within 30 days of arrival in the United States, or within 30 days of adjustment of status, for the remainder of the vaccinations.

"(f) APPEAL OF MEDICAL EXAMINATION FINDINGS.—Any alien determined to have a health-related grounds of exclusion under paragraph (1) of section 212(a) may appeal that determination to a board of medical officers of the Public Health Service, which shall be convened by the Secretary. The alien may introduce at least one expert medical witness before the board at his or her own cost and expense.

"(g) FUNDING.—(1)(A) The Attorney General shall impose a fee upon any person applying for adjustment of status to that of an alien lawfully admitted to permanent residence under section 209, 210, 245, or 245A, and the Secretary of State shall impose a fee upon any person applying for a visa at a United States consulate abroad who is required to have a medical examination in accordance with subsection(a).

"(B) The amounts of the fees required by subparagraph (A) shall be established by the Secretary, in consultation with the Attorney General and the Secretary of State, as the case may be, and shall be set at such amounts as may be necessary to recover the full costs of establishing and administering the civil surgeon and panel physician programs, including the costs to the Service, the Department of State, and the Department of Health and Human Services for any additional expenditures associated with the administration of the fees collected.

"(2)(A) The fees imposed under paragraph (1) may be collected as separate fees or as surcharges to any other fees that may be collected in connection with an application for adjustment of status under section 209, 210, 245, or 245A, for a visa, or for a waiver of excludability under paragraph (1) or (2) of section 212(g), as the case may be.

"(B) The provisions of the Act of August 18, 1856 (Revised Statutes 1726-28, 22 U.S.C. 4212-14), concerning accounting for consular fees, shall not apply to fees collected by the Secretary of State under this section.

"(3)(A) There is established on the books of the Treasury of the United States a separate account which shall be known as the 'Medical Examinations Fee Account'.

"(B) There shall be deposited as offsetting receipts into the Medical Examinations Fee Account all fees collected under paragraph (1), to remain available until expended.

"(C) Amounts in the Medical Examinations Fee Account shall be available only to reimburse any appropriation currently available for the programs established by this section.

"(h) DEFINITIONS.—As used in this section—

"(1) the term 'medical examiner' refers to a medical officer, civil surgeon, or panel physician, as described in subsection (c); and

"(2) the term 'Secretary' means the Secretary of Health and Human Services.".

Mr. KYL. Mr. President, this is an amendment which we offered in the subcommittee which Senator KENNEDY and I worked on, and I believe that we have reached an agreement on this matter of immunization.

I note that I have two other amendments. But I think Senator KENNEDY would have an interest in both of them. So if he is going to have to leave, I will defer offering those amendments until he has an opportunity to be here.

Might I inquire of Senator KENNEDY? After we do the immunization amendment, it is my intention to offer two other amendments. But I believe the Senator from Massachusetts would have an interest in both of them. Would he prefer that we offer those tomorrow?

Mr. KENNEDY. The Senator is very kind. I was going to be absent for a short while. Senator SIMON is coming, and then I was coming back at 8:30 so we can continue through it. I think we have worked this out.

I appreciate the cooperative efforts of the Senator from Arizona. These are issues involving immunization, legitimacy of immunization, and public health matters related thereto. We have worked out those measures.

I think really the problem was because of lack of proper immunization, and we wanted to address that particular question. We have worked out an accommodation on that program. We are hopeful that we would get acceptance of this amendment, but if the Senator wanted to proceed, I believe, on the others, if I could just go over them, review them quickly, I will be in touch.

Mr. KYL. I will be very brief in describing this amendment, and we can lay it aside.

The next one that I would propose to offer relates to public housing and the qualification for being able to receive public housing. That one there may be some difference of opinion on because the Department of Housing and Urban Development agrees with all of the amendment except they would prefer a 6-month rather than 3-month qualification period. My amendment tracks the House of Representatives, specifically the amendment which was adopted there as part of the managers' amendment and provided for a 3-month qualification period.

Perhaps, as I am describing in more detail the immunization amendment, the Senator or his staff would determine how they want to proceed.

Very briefly, this immunization amendment, which was tentatively approved in the Immigration Subcommittee, simply requires that an individual applying for permanent residency status must be immunized for vaccine-preventable diseases.

To give you an idea of what it would require, before a visa is approved, an individual applying for permanent residency status must receive a vaccination assessment or be vaccinated against measles and polio for those under 5 years of age and any other vaccination determined necessary by Health and Human Services before they arrive in the United States.

Aliens who have not received the entire series of vaccinations as recommended by the Advisory Committee on Immunization Practices—and this includes a list of about 10 different particular diseases—would be required to return within 30 days of entry to the United States to a civil surgeon to receive these vaccinations. Mumps is actually required before entry into the United States.

To recover costs of establishing and administering the civil surgeon and panel physician programs, the Attorney General would be required to impose a fee on aliens applying for permanent resident status.

Currently, when any of the approximately 800,000 legal immigrants arrive annually in the United States, they are not required to be immunized against vaccine-preventable diseases. This amendment will help ensure that immigrants receive the recommended immunizations.

It should not present a financial difficulty for the immigrant. The estimated cost for all childhood vaccines is estimated to be $248.

The Department of Health and Human Services has made immunization of the U.S. population a top priority and by the year 2000 hopes to eradicate or reduce infinitely vaccine-preventable diseases.

So, Mr. President, this amendment is needed to prevent the spread of these diseases. I believe it has the support of everyone.

Unless there is further discussion on this, I would inquire of the Senator from Wyoming what procedure he would like to follow with respect to moving on to additional amendments and call for votes since I doubt that this would need a vote.

Mr. SIMPSON. Mr. President, it would be a wonderful opportunity to do something, but I will not. Senator KENNEDY is absent from the Chamber.

I understand that Senator SIMON will be here to deal with the issues that might arise if we can do some further business. But I believe, if I heard what transpired, we might adopt the amendment, and we will then have a quorum call until a Member of the Democratic Party is here.

Mr. KYL. I thank the Senator.

Mr. President I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. KYL. I will not call for the yeas and nays.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3735) was agreed to.

Mr. SIMPSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent to speak as in morning business for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Kansas is recognized.

THE APPROPRIATIONS PROCESS WORKS

Mr. DOLE. Mr. President, late this afternoon the conference committee on the five major appropriations bills had a breakthrough and reached an agreement. I want to reinforce what has been said by other Members of leadership and by Chairman HATFIELD, Chairman LIVINGSTON on the House side, and their Democratic counterparts.

In my view, after a long, long difficult process, I believe we have a package that can be supported by hopefully nearly everybody on both sides of the aisle. Some will complain the cuts are not deep enough. Others are going to complain the cuts go too far. But I believe that in the final analysis we will save about $23 billion over the last fiscal year through the appropriations process. That is very significant. That is a lot of money.

That is an indication that the appropriations process has worked and we can make reductions, the Government can continue even though we make reductions. Many of us hoped we could do better.

There are also a number of environmental issues that were resolved to the satisfaction, I believe, of most everyone in the conference. Some will be raised again on subsequent appropriations bills. But I wanted to take a moment to thank all those who were involved in the negotiations and all those who were willing to give and take so that this matter could be resolved and get it behind us.

It is time to move on to 1997 appropriations. We look forward to that. We hope we can pass all the appropriations bills by August 1 of this year. So keep in mind, we will take this up tomorrow. The House will act first. We hope to dispose of it before we go out tomorrow evening. We need to dispose of it before we go out tomorrow evening. But the bottom line is, according to those who have been keeping track of the numbers, we will save $23 billion this fiscal year because of the appropriators and the appropriations process and their good work.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with consideration of the bill.

AMENDMENT NO. 3737 TO AMENDMENT NO. 3725

(Purpose: To establish grounds for deportation for offenses of domestic violence, stalking, crimes against children, and crimes of sexual violence without regard to the length of sentence imposed)

Mr. COVERDELL. Mr. President, I send a second-degree amendment to the pending amendment to the desk on behalf of the majority leader and myself.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. COVERDELL], Mr. DOLE, for himself and Mr. COVERDELL, proposes an amendment numbered 3737 to amendment 3725.

Mr. COVERDELL. Mr. President, I ask unanimous-consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, insert the following:

SEC. . EXCLUSION GROUNDS FOR OFFENSES OF DOMESTIC VIOLENCE, STALKING, CRIMES AGAINST CHILDREN, AND CRIMES OF SEXUAL VIOLENCE.

(a) IN GENERAL.—Section 241(a)(2) (8 U.S.C. 1251(a)(2)) is amended by adding at the end the following:

"(E) DOMESTIC VIOLENCE, VIOLATION OF PROTECTION ORDER, CRIMES AGAINST CHILDREN AND STALKING.—(i) Any alien who at any time after entry is convicted of a crime of domestic violence is deportable.

"(ii) Any alien who at any time after entry engages in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is deportable.

"(iii) Any alien who at any time after entry is convicted of a crime of stalking is deportable.

"(iv) Any alien who at any time after entry is convicted of a crime of child abuse, child sexual abuse, child neglect, or child abandonment is deportable.

"(F) CRIMES OF SEXUAL VIOLENCE.—Any alien who at any time after entry is convicted of a crime of rape, aggravated sodomy, aggravated sexual abuse, sexual abuse, abusive sexual contact, or other crime of sexual violence is deportable.".

(b) DEFINITIONS.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraphs:

"(47) The term 'crime of domestic' means any felony or misdemeanor crime of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local government.

"(48) The term 'protection order' means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.".

(c) This section will become effective one day after the date of enactment of the Act.

Mr. COVERDELL. Mr. President, aliens are deportable for criminal offenses under section 241(a)(2) under four broad headings: General crime, controlled substances, certain firearm offenses, and miscellaneous crimes. This proposed amendment to S. 1664 creates two new headings: Domestic violence, violation of a protection order, crimes against children, and stalking. The other heading, crimes of sexual violence.

We are adding as offenses for grounds for deportation, the following offenses: Conviction of a crime of domestic violence; violation of a judicial protection order in a domestic violence context; conviction for stalking; conviction for child abuse, child sexual abuse, child negligence, or child abandonment; conviction of rape, aggravated sodomy, aggravated sexual abuse, sexual abuse, abusive sexual contact, or other crimes of sexual violence.

Mr. President, while some of these offenses may be deportable under existing headings of crimes of moral turpitude or aggravated felony, they are not necessarily covered. Uniformity is also a problem. Whether a crime is one of moral turpitude is a question of State law and thus varies from State to State. An offense may be deportable in one State and not deportable in another. Misdemeanor offenses would not be covered under existing law.

Mr. President, under our amendment, stalkers would be deportable on their first offense. The second offense may be too late for their victims, who could well be injured or dead as a result.

Mr. President, it is estimated that over 200,000 women are stalked each year in the United States. Approximately 5 percent of all women will be stalked at some time in their lives. Investigations by State child protective service agencies in 48 States determined that 1.12 million children were victims of child abuse and negligence in 1994. This represents a 27 percent increase since 1990 when approximately 800,000 children were found to be victims of maltreatment.

Among the children, Mr. President, for whom maltreatment was substantiated or indicated in 1994, 53 percent suffered negligence, 26 percent physical abuse, 14 percent sexual abuse, 5 percent emotional abuse, and 3 percent medical negligence.

Mr. President, this is a good amendment. Mr. President, this will protect women and children in our society. As I said, it will have a very positive affect on the ability to deport an alien involved with these offenses that we are adding through these two new headings.

I yield the floor.

Mr. DOLE. Mr. President, under Title 8 of the U.S. Code, a number of criminal offenses are deemed deportable offenses. However, although aliens are deportable for criminal offenses, there are a number of crimes that should be grounds for deportation that are left unaddressed; and the wording of the statute itself uses vague language like crimes of moral turpitude that lack the certainty we should desire.

The amendment offered by Senator COVERDELL and myself seeks to remedy this problem by making clear that our society will not tolerate crimes against women and children. The criminal law should be a reflection of the best of our values, and it is important that we not only send a message that we will protect our citizens against these assaults, but that we back it up as well.

Under our amendment, certain criminal offenses would be grounds for deportation. These offenses include: conviction of a crime of domestic violence; violation of a judicial protection order in a domestic violence context; conviction for stalking; conviction for child abuse, child sexual abuse, child neglect, or child abandonment, and conviction of rape, aggravated sodomy, aggravated sexual abuse, sexual abuse, abusive sexual contact, or other crimes of sexual violence.

CRIMES OF DOMESTIC VIOLENCE

Adding these additional and specified categories of offenses closes the existing loopholes. Many crimes, ranging from simple assault to murder can be committed in a domestic violence context. Simple assault or assault and battery are not necessarily going to be interpreted as crimes of moral turpitude. Yet, because they may not otherwise fall within the other definitions—such as an aggravated felony—of deportable offenses, an alien convicted of such a crime might not be deported.

Our amendment would cover all convictions for domestic violence offenses, including those for which a sentence of less than 1 year is available.

VIOLATION OF A PROTECTIVE ORDER

In many States, protective orders in domestic violence situations have been ineffective due to problems with enforceability and insufficient penalties for violations. This is undoubtedly one reason all 50 States have passed anti-stalking legislation.

Greater attention to the problem has influenced a number of States to make violation of a protective order a separate criminal offense. However, making violation of a protective order a grounds for deportation will put more teeth into such an order.

The amendment does not require a conviction of violating protection order and thus would cover violations even in States where violating an order is not a separate criminal offense. This is an important loophole that must be closed.

STALKING

It is long past time to stop the vicious act of stalking in our country. We cannot prevent in every case the often justified fear that too often haunts our citizens. But we can make sure that any alien that commits such an act we no longer remain within our borders.

It is estimated that over 200,000 women are stalked each year in the United States. Approximately 5 percent of all women will be stalked at some point in their lives. Stalking behavior often leads to violence which may result in the serious injury or death of stalking victims.

Stalkers often repeat their stalking behavior and escalate to violence. Of all the women killed in the United States by husbands or boyfriends, 90 percent were stalked before being murdered.

But since stalking laws are fairly new, they may not be defined as crimes of moral turpitude in many States—they thus may not be covered by existing law. Similarly, in many States, the maximum penalty for stalking is less than 1 year—which strikes me as far too little—and therefore an alien may be convicted of a stalking offense and yet not be deported.

We can't wait for stalkers to strike a second time. Let's deport them the first time.

Mr. President, we face the same kinds of problems with existing law when we confront other crimes against women and children. While some of these offenses may be deportable under the existing headings of crimes of moral turpitude or aggravated felony, they are not necessarily and always covered. They should be.

Uniformity is also a problem. Whether a crime is one of moral turpitude is a question of State law and thus varies from State to State. An offense may be deportable in one State and not deportable in another.

Mr. President, America already bears a horrendous burden when it comes to the level of violence among our citizens. It is not asking too much that we insist that we treat crimes against women and children as seriously as we do other offenses. Nor should we have to wait for that last violent act. When someone is an alien and has already shown a predisposition toward violence against women and children, we should get rid of them the first time. We owe that much to our citizens.

Mr. SIMON. Mr. President, I was just shown this amendment a few minutes ago by Senator COVERDELL and Senator DOLE. I have every reason to believe that we can work out, if not this specific language, some modification to do this. I commend my colleague from Georgia for the amendment.

I ask, and we have an understanding on this, I ask unanimous consent that it be set aside until tomorrow.

Mr. COVERDELL. Mr. President, I also acknowledge that the Senator from Illinois has only had a brief moment to scan the outline of the amendment. We understand that and have agreed to set it aside so there is a more appropriate period of time for his side to view the contents of the amendment.

The PRESIDING OFFICER. The amendment is laid aside.

MORNING BUSINESS

Mr. SIMPSON. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

YANKEE FOUNDATION

Mr. PRESSLER. Mr. President, on April 10, 1996, the New York Yankees baseball organization held its annual homecoming dinner. This year's dinner raised money for the Yankee Foundation, and paid special tribute to one of the Yankees' and indeed one of pro baseball's great players, the late Mickey Mantle. Former and current Yankees along with their friends and family will be on hand.

The Yankee Foundation raises money for youth programs and youth organizations throughout the Greater New York City area. The Yankees' principal owner George Steinbrenner presented the traditional "Pride of the Yankees" award to Mr. James M. Benson, president and chief operating officer of the Equitable Life Insurance Society. Mr. Benson received this honor for his tireless work on behalf of the numerous philanthropic causes the Yankees are involved in.

Mr. William Denis Fugazy of Fugazy International also deserves mention. I know Bill Fugazy. He has been the general chairman of this dinner since its inception. Through Bill Fugazy's leadership, many young people have been given a chance to participate in some of the youth programs supported by the Yankees. The opportunity to participate in these programs helps young people develop skills which they can carry with them always. It is good to see sports franchises like the New York Yankees offer their communities more than just baseball games, and associate themselves with quality people like Bill Fugazy.

This year's dinner also honored the late great Mickey Mantle. All of us know of his well chronicled, storied career. Many of us followed his achievements on the field when we were kids. From his exciting rookie year through his triple crown, and MVP years, all of the World Series in which he participated, to his election to the Baseball Hall of Fame, Mantle provided many exciting memories for young and old fans alike. Few would disagree that he will remain the Pride of the Yankees, and all of baseball.

THE ARMENIAN GENOCIDE

Mr. BIDEN. Mr. President, I rise to pay tribute to the victims of the Armenian genocide, the first such crime against a people in the 20th century.

On April 24, 1915, 81 years ago today, the Ottoman Turkish Empire began the systematic rounding up and slaughter of Armenian intellectuals, clergy, businessmen, and other leaders of the community. Ultimately the horror claimed 1½ million lives and resulted in the exile of Armenians from much of their historic homeland in Asia Minor.

I like to think that some good can come from even the most horrifying evil. In this case a large segment of the Armenian diaspora, banished from its ancestral home, reached these shores. They and their descendents have immeasurably enriched the United States of America. In remembering the martyrdom of their fellow Armenians eight decades ago, we are also paying tribute to Armenian-Americans—to their patriotism, and to their many contributions to this land of freedom.

Mr. President, unfortunately there are some who would trivialize the Armenian genocide or even attempt to deny that it ever took place, just as there remain a twisted few who continue to deny the Holocaust that claimed 6 million Jews.

But, Mr. President, there is no denying the undeniable. The Armenians in the Ottoman Empire were not murdered because they were talented businessmen. They were not butchered because their community produced outstanding intellectuals. They were not slaughtered for any socioeconomic reason, however perverted. No, the Armenians were murdered because they were Armenians. This Mr. President, was genocide.

Unfortunately, genocide is a recurring fact of the 20th century. Fifteen years after the Armenian genocide occurred, Stalin began his insane collectivization that decimated the Ukrainian people.

I have already mentioned the Nazis' extermination of 6 million Jews in the Holocaust.

The 1970's witnessed Cambodia's killing fields where a significant proportion of the Khmer people perished.

The 1990's have seen the mass murder of Tutsis in Rwanda and the unspeakable horrors perpetrated upon Bosnian Muslims, cynically given the euphemism, ethnic cleansing.

Mr. President, we must endeavor to ensure that these vile deeds are never repeated yet another time. The first step in that process is to ensure that the memory of genocide is kept alive so that the truth will prevail over the purveyors of historical lies. The Holocaust memorial Museum here in Washington is serving a vital function in that regard.

Similarly, the proposed Armenian Genocide Memorial Museum of America promises to be an important vehicle for preserving and disseminating the truth.

On this solemn day of remembrance, I join millions of other Americans in commemorating the martyrdom of the Armenians and praying that their eternal sacrifice shall not have been in vain.

"LEGISLATING THE REVOLUTION"—HISTORY OF THE 104TH CONGRESS' FIRST 100 DAYS

Mr. PRESSLER. Mr. President, having written two books myself, I appreciate the great time and energy involved in preparing, researching, and writing a book, especially one recounting a complex series of historical events. As an enthusiast and lifelong student of history, I am pleased to bring to my colleagues' attention "Legislating the Revolution," by James G. Gimpel. Jim is a native of western South Dakota. His thorough recounting of the Contract With America during the first 100 days of this Congress so impressed me that I hope my colleagues will take the opportunity to read it.

The book is fair, factual, and comprehensive. Appealing to a spectrum of readers ranging from the social scientist to the concerned citizen, Jim's book already is being used in college classrooms across the country as a resource and reference book. After countless interviews with Members of Congress, congressional staff, interest group representatives, pollsters and party leadership, the product is a detailed, thoughtful chronological record of the events which shaped the so-called Contract With America. The book examines the many individuals who, behind the scenes, created the Contract itself and the campaign that played such a significant part in the Republican takeover of Congress in November 1994. The first 100 days of the 104th Congress may have been history in the making, but the period prior to the Contract With America was a new and equally historic era. Republicans had not controlled both Houses of Congress simultaneously for more than 40 years. The late House Speaker Tip O'Neil coined the famous phrase, "All politics is local." The Contract With America challenged that notion by nationalizing the congressional elections and unifying the Republican Party around common goals.

Jim Gimpel's examination of Republican and Democratic National Committee fundraising and campaigning, party and committee leadership, Southern Democratic influence and the mass electoral revolution, presents readers with a cornucopia of information and an understanding of the historic scope of the 1994 Congressional Revolution. He offers an overview of the efforts to pass the Contract in Congress, examining voting records and providing political analysis. The detailed accounts of the voting and the behind-the-scenes efforts made on both sides of the aisle paint a dramatic picture of the grueling give-and-take that produced unprecedented legislation. Through a series of theory testing, graphical representation, voting distributions, and the Perot factor, Gimpel thoroughly explains the background and the planks of the Contract With America, and forecasts the implications of these efforts on future elections and legislation.

Although Jim Gimpel covers each plank in the Contract with America, I would like to highlight several areas of personal interest, first, the Fiscal Responsibility Act and second, the Personal Responsibility Act. Jim's analysis of the balanced budget amendment and term limits—the Fiscal Responsibility Act—was outstanding. Jim offers a truly compelling and easy to grasp explanation of the importance of a balanced budget for the United States. As more and more Americans are beginning to realize, if the Federal

Government continues to spend beyond our means, more and more of our taxes must finance debt repayment, instead of important programs such as agriculture, education, Social Security, and veterans programs. Jim brings this vital point home clearly and effectively.

He is equally clear and effective in his coverage of the welfare reform debate. As we all know, the original intent of the welfare system was to provide a simple safety net for the needy. The reality is the opposite: The current system acts as a harness holding down the recipients from taking personal responsibility for their own lives. Jim's tracking of the history, legislation, debates, and votes that produced the House welfare reform bill—Personal Responsibility Act—is precise and accurate. I know my constituents would find this chapter of particular interest, if not shocking. South Dakotans work hard every day to provide for their families without Government assistance. They pride themselves on hard work, but as the book points out, the failed welfare system promotes costly dependency. Jim offers more than just a legislative history of this sensitive issue. He demonstrates the basic social need that requires Congress to act on this problem.

The importance of history cannot adequately be underscored. History—the understanding of history—is our map of not only our past, but also our future. "Legislating the Revolution" is a compelling map of an exciting past and an extraordinary future for policymakers and voters. It is a must read for every American.

ARMENIAN GENOCIDE

Mr. PRESSLER. Mr. President, today, I join with many of our colleagues in commemorating the 81st anniversary of the Armenian genocide. Today marks the exact day when 200 of the Armenia's academic, political, and religious leaders were taken from the city of Istanbul in 1915. The ability of Armenians to free themselves from the Ottoman Empire rested heavily on the plans and ideas of those who vanished. It was an ominous beginning to one of this century's darkest tragedies. This Senate should recognize and all Americans should remember, what occurred over there 81 years ago. That is why I stand here with my colleagues to urge an accurate remembrance of the past, of those who were slain by the Ottoman Turks, and plead that such hateful crimes against humanity never happen again. We stand in honor of those who were unable to take a stand 81 years ago today. We must try to heal the wounds of the past by remembering and recording the historical truths.

The Ottoman Empire's actions—deliberate, planned, and deceitful actions—against the Armenian people should be remembered for what it actually was—genocide. The Armenian genocide was a hateful act whose objective was focused on the systematic annihilation of a people, their heritage, their culture, their identity, and their future. It is unfortunate that in recent years historians and politicians alike have tried to soften the terms used to describe this heinous crime against humanity. What occurred involves deportation, slavery, the loss of basic human rights, and wholesale murder—all targeted deliberately and methodically against one ethnic group. The record is clear. Genocide is genocide. To shy away from recognizing the Armenian genocide is to ignore and deny the historic truth, and that would put at risk the harsh lessons that must be learned if we are to avoid repeating that tragic history. The Armenians remember, but all must recognize and embrace the past, painful as it may be. It is said that the bitter pills of the past are the better tonics of a brighter future.

About 600,000 Americans who consider themselves to be Armenians live in the United States. Many are survivors of the genocide, or are the children of survivors. About 1.5 million Armenians were killed or died during the mass deportation which began in 1915 and continued for many years. Two-thirds of all Armenians in Turkey were killed. In the region of Anatolia and western Armenia, the entire community of Armenians was extinguished or deported.

It has been 81 years since that awful tragedy. Turkey has not apologized to the Armenians. That is unfortunate.

Armenians are a strong, resilient people, struggling to heal the wounds of the past. But the wounds cannot be sealed until the story is complete. Until the Armenian genocide is officially acknowledged, the wounds will remain unhealed and the lessons will not be firmly learned. We do not deny the brutal nature of the Holocaust to the Jewish-American community. We are coming to grips with the severe violence against the people of Bosnia. We should not deny the Armenian people a similar place in history. To do so would dishonor ourselves, and spoil accurate understanding of the past. It is in the best interest of the American people and the entire global community to remember the past accurately. That is why we commemorate and honor those who were affected by the Armenian genocide.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, April 23, 1996, the Federal debt stood at $5,106,372,425,943.99.

On a per capita basis, every man, woman, and child in America owes $19,291.37 as his or her share of that debt.

81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. DOLE. Mr. President, today marks the 81st anniversary of the Armenian Genocide. As Armenians gather worldwide today to commemorate the anniversary, I rise to pay tribute to the victims of this tragedy. Although some still refuse to recognize historical fact, there should be no doubt that the Armenian people suffered the first genocide of the modern age.

As many of my colleagues know, between the years 1915–23, 1.5 million Armenians were subjected to systematic extermination through a policy of deportation, torture, starvation, and massacre. At the time, the world recognized that the Ottoman Empire had committed a crime against humanity, though the term "genocide" would not be coined until years later. The United States condemned the brutal treatment of the Armenians. The United States rendered humanitarian assistance to many of the survivors in the largest relief effort every organized by this country. Yet even with all the facts that we have before us, most of which have been compiled by U.S. sources, some still refuse to acknowledge that there was a genocide.

Most of us are willing to look history in the eye and see the danger of closing our eyes and hearts to the truth of the tragedy which took place. We will not cease in our efforts to remember what happened. This year, along with 25 of my colleagues, I signed a bipartisan letter urging the President to use the word "genocide" in his statement commemorating the anniversary. Mr. President, while nearly every other nation recognizes the Genocide, one nation still insists that the Genocide never happened—the Government of Turkey. As I have stated in the past, no responsibility for the history of the Genocide rests with either the Turkish people or their modern-day government. The Ottoman Empire, which committed the Genocide against the Armenians, has not existed since October 19, 1923. As Operation Desert Storm again demonstrated, Turkey is an important friend and partner to the United States, and we highly value our friendship with the Turkish Government and people. That friendship would not suffer from, and in fact, would be strengthened, by recognizing the fact of the Armenian Genocide.

At a time when the world is beset by problems, including acts of genocide, the United States cannot fail to send a unified message. Only by issuing a clear statement on genocide can the United States convey to the world our Nation's resolve and determination to prevent such crimes from recurring. We cannot allow history to dictate the future, but neither can we forget history nor turn our backs on the truth. On this 81st anniversary of the Armenian Genocide, let all of us as Americans, even as we remember the tragic events of the past, rededicate ourselves to making sure it never happens again. Finally, I would add that President Clinton has just issued his statement commemorating the anniversary of the Genocide. It is unfortunate that unlike his statement in 1992, this year's statement does not use the historically correct word of "genocide" to describe what happened to the Armenian people from 1915 to 1923.

Mr. President, I ask unanimous consent that our letter to the President be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, April 23, 1996.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: This year marks the 81st anniversary of the Armenian Genocide. Armenian-Americans throughout the United States and the world will be commemorating this event on April 24th.

As you know, the Armenian people of the Ottoman Empire were subjected to a ruthless, systematic and well-organized policy of deportation, confiscation of property, slave labor, denial of basic rights and, ultimately, murder. It is estimated that a million and a half Armenians eventually perished. The world recognized at the time that a crime against humanity had been committed. The United States condemned the brutal treatment of the Armenians and rendered humanitarian assistance to many of the survivors in the largest relief effort ever organized by this country.

This year, in a bi-partisan initiative, members of Congress will again call on you to reaffirm the Armenian Genocide as a crime against humanity. We believe there is a difference between using the word "massacres", rather than the word "genocide", to describe the systematic annihilation of 1.5 million Armenians. This is a distinction between a random series of atrocities and a methodical, ethnically-based policy of extermination. The historical record—much of it compiled from American sources—clearly indicates that the latter description reflects the truth.

Mr. President, the survivors and their descendants, who now number one million Americans, have not forgotten the Armenian Genocide. We again ask you to issue a clear and unambiguous statement reaffirming the Armenian Genocide as a crime against humanity.

At a time when the world is beset by problems, including acts of genocide, the United States cannot fail to send a unified message that can prevent future acts of inhumanity. Only by issuing such a statement can the United States convey to the world our nation's resolve and determination to prevent such crimes from recurring.

Sincerely,

Bob Dole, Olympia Snowe, Nancy Landon Kassebaum, Larry Pressler, Chuck Robb, Mike DeWine, Jesse Helms, Alfonse D'Amato, John Ashcroft, Frank R. Lautenberg, Joe Lieberman, Ted Kennedy, Daniel Patrick Moynihan, Barbara Boxer, John F. Kerry, Claiborne Pell, Carl Levin, ——— ———, Mark O. Hatfield, Bill Bradley, Spencer Abraham, Herbert Kohl, Dianne Feinstein, Paul Sarbanes, Carol Moseley-Braun, John Glenn.

MESSAGES FROM THE HOUSE

At 12:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1772. An act to authorize the Secretary of the Interior to acquire certain interests in the Waihee Marsh for inclusion in the Oahu National Wildlife Refuge Complex.

H.R. 1836. An act to authorize the Secretary of the Interior to acquire property in the town of East Hampton, Suffolk County, New York, for inclusion in the Amagansett National Wildlife Refuge.

H.R. 1965. An act to reauthorize the Coastal Zone Management Act of 1972, and for other purposes.

H.R. 2024. An act to phase out the use of mercury in batteries and provide for the efficient and cost-effective collection and recycling or proper disposal of used nickel cadmium batteries, small sealed lead-acid batteries, and certain other batteries, and for other purpose.

H.R. 2160. An act to authorize appropriations to carry out the Interjurisdictional Fisheries Act of 1986 and the Anadromous Fish Conservation Act.

H.R. 2660. An act to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge.

H.R. 2679. An act to revise the boundary of the North Platte National Wildlife Refuge.

H.R. 3049. An act to amend section 1505 of the Higher Education Amendment of 1986 to provide for the continuity of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development.

H.R. 3055. An act to amend section 326 of the Higher Education Act of 1965 to permit continued participation by Historically Black Graduate Professional Schools in the grant program authorized by that section.

ENROLLED BILL SIGNED

The following enrolled bill was signed by the President pro tempore [Mr. THURMOND].

S. 735. An act to deter terrorism, provide justice for victims, provide for an effective death penalty, and for other purposes.

At 12:36 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate.

H.J. Res. 175. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 55. Concurrent resolution to correct the enrollment of the bill S. 735, to prevent and punish acts of terrorism, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

At 6 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 175. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

The enrolled joint resolution was signed subsequently by the President pro tempore [Mr. THURMOND].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 1772. An act to authorize the Secretary of the Interior to acquire certain interests in the Waihee Marsh for inclusion in the Oahu National Wildlife Refuge Complex; to the Committee on Environment and Public Works.

H.R. 1965. An act to reauthorize the Coastal Zone Management Act of 1972, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2660. An act to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge; to the Committee on Environment and Public Works.

H.R. 2679. An act to revise the boundary of the North Platte National Wildlife Refuge; to the Committee on Environment and Public Works.

H.R. 3049. An act to amend section 1505 of the Higher Education Act of 1965 to provide for the continuity of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development; to the Committee on Labor and Human Resources.

MEASURE PLACED ON THE CALENDAR

The following measure was read the first and second times by unanimous consent and placed on the calendar:

H.R. 1836. An act to authorize the Secretary of the Interior to acquire property in the town of East Hampton, Suffolk County, New York, for inclusion in the Amagansett National Wildlife Refuge.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 2937. An act for the reimbursement of attorney fees and costs incurred by former employees of the White House Travel Office with respect to the termination of their employment in that Office on May 19, 1993.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on April 24, 1996, he had presented to the President of the United States, the following enrolled bill.

S. 735. An act to deter terrorism, provide justice for victims, provide for an effective death penalty, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2295. A communication from the District of Columbia Auditor, transmitting, pursuant to law, the report entitled "Review of the Financial and Administrative Activities of the Boxing and Wrestling Commission for Fiscal Year 1995"; to the Committee on Governmental Affairs.

EC–2296. A communication from the Executive Director of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, the report entitled "Final Allocations of the District of Columbia's Fiscal Year 1996 Budget"; to the Committee on Governmental Affairs.

EC–2297. A communication from the Board Members of the Railroad Retirement Board, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

EC–2298. A communication from the Director of the Office of Government Ethics, transmitting, pursuant to law, the annual report for calendar years 1994 and 1995; to the Committee on Governmental Affairs.

EC–2299. A communication from the Director of the Executive Office of the President, Office of Management and Budget, transmitting, a draft of proposed legislation entitled "The Statistical Confidentiality Act"; to the Committee on Governmental Affairs.

EC–2300. A communication from the Director of the Executive Office of the President, Office of Management and Budget, transmitting, pursuant to law, the report under the Computer Matching and Privacy Protection Act for calendar years 1992 and 1993; to the Committee on Governmental Affairs.

EC–2301. A communication from the Chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, the annual report for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2302. A communication from the Chairman of the Pennsylvania Avenue Development Corporation, transmitting, pursuant to law, the report under the Chief Financial Officers Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2303. A communication from the U.S. Commissioner of the Delaware River Basin Commission, transmitting, pursuant to law, the report under the Inspector General Act; to the Committee on Governmental Affairs.

EC–2304. A communication from the U.S. Commissioner of the Susquehanna River Basin Commission, transmitting, pursuant to law, the report under the Inspector General Act; to the Committee on Governmental Affairs.

EC–2305. A communication from the Executive Director of the Japan-U.S. Friendship Commission, transmitting, pursuant to law, the report under the Inspector General Act; to the Committee on Governmental Affairs.

EC–2306. A communication from the Executive Director of the Neighborhood Reinvestment Corporation, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

EC–2307. A communication from the Chair of the Foreign Claims Settlement Commission, Department of Justice, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

EC–2308. A communication from the Employee Benefits Manager of the AgFirst Farm Credit Bank, transmitting, pursuant to law, the annual reports of federal pension plans for calendar year 1995; to the Committee on Governmental Affairs.

EC–2309. A communication from the President and Chief Executive Officer of the Overseas Private Investment Corporation, transmitting, pursuant to law, the report under the Chief Financial Officers Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2310. A communication from the Office of Special Counsel, transmitting, pursuant to law, the annual report for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2311. A communication from the Director of the Institute of Museum Services, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2312. A communication from the Executive Director of the Interstate Commission on the Potomac River Basin, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2313. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of General Accounting Office reports and testimony for February 1996; to the Committee on Governmental Affairs.

EC–2314. A communication from the Secretary of Veterans' Affairs, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2315. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report of proposed regulations; to the Committee on Rules and Administration.

EC–2316. A communication from the Director of Audit Oversight and Liaison, General Accounting Office, transmitting, pursuant to law, the report of the audit of the U.S. Government Printing Office's financial statements for fiscal year 1995; to the Committee on Rules and Administration.

EC–2317. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on direct spending or receipts legislation within five days of enactment; referred jointly, pursuant to the order of August 4, 1977, to the Committee on the Budget, and to the Committee on Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself, Mr. DASCHLE, and Mr. DORGAN):

S. 1697. A bill to amend the independent counsel statute to require that an individual appointed to be an independent counsel must agree to suspend any outside legal work or affiliation with a law firm until the individual's service as independent counsel is complete; to the Committee on Governmental Affairs.

By Mr. DASCHLE:

S. 1698. A bill entitled the "Health Insurance Reform Act of 1996"; read the first time.

By Mr. BINGAMAN:

S. 1699. A bill to establish the National Cave and Karst Research Institute in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. KERRY, Mr. HARKIN, Mr. REID, and Mr. D'AMATO):

S. 1700. A bill to reduce interstate street gang and organized crime activity, and for other purposes; to the Committee on the Judiciary.

By Mr. PELL:

S. 1701. A bill to end the use of steel jaw leghold traps on animals in the United States, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWN (for himself, Mr. FAIRCLOTH, Ms. MOSELEY-BRAUN, and Mr. SHELBY):

S. Res. 250. A resolution expressing the sense of the Senate regarding tactile currency for the blind and visually impaired; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATCH:

S. Con. Res. 54. A concurrent resolution to correct the enrollment of the bill S. 735, to prevent and punish acts of terrorism, and for other purposes; considered and agreed to.

S. Con. Res. 55. A concurrent resolution to correct the enrollment of the bill S. 735, to prevent and punish acts of terrorism, and for other purposes; considered and agreed to.

By Mr. LAUTENBERG (for himself, Mr. DOLE, Mr. HELMS, Mr. PELL, and Mr. LEVIN):

S. Con. Res. 56. A concurrent resolution recognizing the tenth anniversary of the Chernobyl nuclear disaster, and supporting the closing of the Chernobyl nuclear power plant; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. DASCHLE and Mr. DORGAN):

S. 1697. A bill to amend the independent counsel statute to require that an individual appointed to be an independent counsel must agree to suspend any outside legal work or affiliation with a law firm until the individual's service as independent counsel is complete; to the Committee on Governmental Affairs.

THE INDEPENDENT COUNSEL AMENDMENT ACT OF 1996

Mr. BINGAMAN. Mr. President, I rise to introduce legislation on behalf of the distinguished Minority leader and myself that amends the independent counsel statute.

In my opinion recent events have made clear that Congress should review the statute providing for the appointment of an independent counsel. The specific problem that concerns me, and which my bill will address, is the perception that an independent counsel who continues to practice law and represent clients while serving as independent counsel opens himself or herself to charges of conflict of interest resulting from continued representation of private clients.

The bill I am introducing today amends the independent counsel statute to eliminate the possibility that such a conflict of interest will arise by requiring that, upon assuming the duties of independent counsel, an attorney refrain from representing clients until her duties as independent counsel have been completed. Additionally, my bill requires that the independent counsel not receive any compensation for affiliating with or being employed by an entity that provides professional legal services during the time of their service as independent counsel.

This bill would not apply to the current independent counsel investigating the Whitewater matter. It would only apply to independent counsels appointed after the effective date of this legislation.

Mr. President, as my friend and colleague from Arkansas, Senator PRYOR pointed out yesterday, the Washington Post reported that the current independent counsel, Mr. Starr, has retained the services of Sam Dash, former chief counsel to the Senate Watergate Committee and a noted scholar on issues relating to legal ethics to advise Mr. Starr on matters stemming from his continued affiliation with his law firm and continued representation of clients.

Setting aside for a moment the fact that Mr. Starr has seen fit to retain Mr. Dash on a part-time basis at a cost to the taxpayers of over $166,000, it strikes many as a little odd, Mr. President, that an independent counsel has for the first time hired someone to advise him on what is ethical and what is not. It is my understanding from published reports in the Washington Post, the New Yorker, and other sources, that the primary "ethical" concern that Mr. Dash is advising the Whitewater independent counsel on, is related to issues that have arisen as a result of Mr. Starr's continued private practice of law and his continued representation of clients who, at the very least, have agendas that are diametrically opposed to one of the primary targets of the Whitewater investigation—the Clinton administration. Commenting on the issues that have been raised by Mr. Starr's involvement with the Bradley Foundation, a conservative foundation that gives money to many virulent critics of the Clinton administration, Ellen Miller, executive director of the Center for Responsive Politics said, "But you don't have to scratch far beneath the surface to find not just one but many, many, many conflicts of interest."

Mr. President, I am not here to judge the numerous allegations of conflicts of interests that have been brought against the current Whitewater independent counsel. Those issues need to be addressed by the special panel of judges from the U.S. Court of Appeals for the District of Columbia which appointed Mr. Starr. However, I do think that the Congress has an opportunity and indeed the obligation to ensure that the current troubles plaguing Mr. Starr do not plague future independent counsels.

Mr. President, I think that too often we search for complicated solutions to simple problems. We devise complex mechanisms to deal with rather straightforward issues. I believe that we can and should avoid doing that in this case. My legislation addresses a serious concern with a simple and straightforward response. Potential conflicts of interest resulting from continued, outside employment by a law firm and from representation of outside clients can be avoided by simply requiring that the independent counsel devote her fulltime attention to the duties of the independent counsel's office.

No one will argue, Mr. President, that the office of independent counsel has not served an important function since the days of Watergate. The integrity and impartiality of the office is far too important to its proper functioning to risk under circumstances like those swirling around the current Whitewater independent counsel. That is why I offer this legislation. I am trying by this pro-active legislation to eliminate the need for other independent counsel to hire Mr. Dash or anyone else to advise them on potential conflicts of interest they might have.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1697

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STANDARDS OF CONDUCT FOR INDEPENDENT COUNSELS.

Paragraph (1) of section 594(j) of title 28, United States Code, is amended to read as follows:

"(1) RESTRICTIONS ON EMPLOYMENT WHILE INDEPENDENT COUNSEL AND APPOINTEES ARE SERVING.—(A) During the period in which an independent counsel is serving under this chapter, the independent counsel shall not—

"(i) engage in any legal work other than as required for service under this chapter; or

"(ii) receive any compensation for affiliating with or being employed by an entity that provides professional legal services.

"(B) During the period in which an independent counsel is serving under this chapter, any person associated with a firm with which such independent counsel is associated, may not represent in any matter any person involved in any investigation or prosecution under this chapter. During the period in which any person appointed by an independent counsel under subsection (c) is serving in the office of independent counsel, such person may not represent in any matter any person involved in any investigation or prosecution under this chapter.".

By Mr. BINGAMAN:

S. 1699. A bill to establish the National Cave and Karst Research Institute in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

THE NATIONAL CAVE AND KARST RESEARCH INSTITUTE ACT OF 1996

Mr. BINGAMAN. Mr. President, in December 1994, Congress received the National Cave and Karst Research Institute Study from the National Park Service. The report studied the feasibility of creating a National Cave and Karst Research Institute in the vicinity of Carlsbad Caverns National Park, NM, as directed by Public Law 101-578. Today, I am here to introduce a bill which follows the guidelines of that report and which will establish the National Cave and Karst Research Institute in Carlsbad, NM.

While other nations have recognized the importance of cave resource management information and have sponsored cave and karst research, the United States has failed, until recently, to appreciate or work to understand cave and karst systems and their importance. As we approach the 21st century, the protection and management of our water resources has been identified as one of the major issues facing the world. In America, the majority of the Nation's freshwater is ground water—of which 25 percent is located in cave and karst regions.

Recent studies have also indicated that caves contain valuable information related to global climate change, waste disposal, ground water supply and contamination, petroleum recovery, and biomedical investigations. Caves provide a unique understanding of the historic events of humankind. Further they are considered sacred and have religious significance for American Indians and other native Americans.

According to the Federal Cave Resources Protection Act, karst is defined as a landform characterized by sinkholes, caves, dry valleys, fluted rocks, enclosed depressions, underground streamways and spring resurgences. As a whole, 20 percent of the United States is karst. In fact, east of central Oklahoma, 40 percent of the country is karst. Our National Park System manages 58 units with caves and karst features, yet academic programs on these systems are virtually nonexistent. Most research is conducted with little or no funding and the resulting data is scattered and often hard to locate. The few cave and karst organizations and programs which do exist, have substantially different missions, locations, and funding sources and there is no centralized program to analyze data or determine future research needs.

In 1988, Congress directed the Secretaries of the Interior and Agriculture to provide an inventory of caves on Federal lands and to provide for the management and dissemination of information about the caves. That directive has served only to make Federal land management agencies more aware of the need for a cave research program and a repository for cave and karst resources. In 1990, Congress further directed the Secretary of the Interior, through the Director of the National Park Service, to establish and administer a cave research program and prepare a proposal for Congress on the feasibility of a centralized National Cave and Karst Research Institute.

The National Cave and Karst Research Institute study report to Congress was released in December 1994 and not only supports establishing the institute, but lists several serious threats to continued uninformed management practices. Threats such as: alterations in the surface waterflow patterns in karst regions, alterations in or pollution of water infiltration routes, inappropriately placed toxic waste repositories, and poorly managed or designed sewage systems and landfills. The findings of the report conclude that it is only through a better understanding of cave resources that we can prevent detrimental impacts to America's natural resources and cave ecosystems.

The goals of the National Cave and Karst Research Institute, as outlined in the report, would be to further the science of speleology, to centralize speleological information, to further interdisciplinary cooperation in cave and karst research programs, and to promote environmentally sound, sustainable resource management practices. These goals would work hand in hand with the proposed objectives of the institute to establish a comprehensive cave and karst library and information data base, to sponsor national and international cave and karst symposiums, to develop longterm research studies, to produce cave-related educational publications and to develop cooperative agreements with all Federal agencies having cave management responsibilities.

The vicinity of Carlsbad Caverns National Park is ideal due to the community support which already exists for the establishment of the institute and the diverse cave and karst resources which are found throughout the region.

Carlsbad, NM has grown from a small railroad stop on what is now the Santa Fe Railroad to a growing city with a population of over 170,000 in the tricounty area. It continues to attract new businesses, small manufacturers, retirees, and research facilities, including the U.S. Department of Energy's Carlsbad area office. In addition, Carlsbad Caverns National Park attracts over 700,000 visitors per year.

The National Cave and Karst Research Institute would be jointly administered by the National Park Service and another public or private agency, organization or institution as determined by the Secretary. The Carlsbad Department of Development [CDOD], after reviewing the National Cave and Karst Research Institute study report, has developed proposals to obtain financial support from available and supportive organizational resources—including personnel, facilities, equipment, and volunteers. They further believe that they can obtain serious financial support from the private sector and would seek a matching grant from the State of New Mexico equal to the available Federal funds.

Carlsbad already has in place many of the needed cooperative institutions, facilities, and volunteers that will work toward the success of the National Cave and Karst Institute. I strongly urge my colleagues to support this legislation to increase our understanding of cave and karst systems.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1699

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Cave and Karst Research Institute Act of 1996".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to further the science of speleology;

(2) to centralize and standardize speleological information;

(3) to foster interdisciplinary cooperation in cave and karst research programs;

(4) to promote public education;

(5) to promote national and international cooperation in protecting the environment for the benefit of cave and karst landforms; and

(6) to promote and develop environmentally sound and sustainable resource management practices.

SEC. 3. ESTABLISHMENT OF THE INSTITUTE.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this Act as the "Secretary"), acting through the Director of the National Park Service, shall establish the National Cave and Karst Research Institute (referred to in this Act as the "Institute").

(b) PURPOSES.—The Institute shall, to the extent practicable, further the purposes of this Act.

(c) LOCATION.—The Institute shall be located in the vicinity of Carlsbad Caverns National Park, in the State of New Mexico. The Institute shall not be located inside the boundaries of Carlsbad Caverns National Park.

SEC. 4. ADMINISTRATION OF THE INSTITUTE.

(a) MANAGEMENT.—The Institute shall be jointly administered by the National Park Service and a public or private agency, organization, or institution, as determined by the Secretary.

(b) GUIDELINES.—The Institute shall be operated and managed in accordance with the study prepared by the National Park Service pursuant to section 203 of the Act entitled "An Act to conduct certain studies in the State of New Mexico", approved November 15, 1990 (Public Law 101-578; 16 U.S.C. 4310 note).

(c) CONTRACTS AND COOPERATIVE AGREEMENTS.—The Secretary may enter into a contract or cooperative agreement with a public or private agency, organization, or institution to carry out this Act.

(d) FACILITY.—

(1) LEASING OR ACQUIRING A FACILITY.—The Secretary may lease or acquire a facility for the Institute.

(2) CONSTRUCTION OF A FACILITY.—If the Secretary determines that a suitable facility is not available for a lease or acquisition under paragraph (1), the Secretary may construct a facility for the Institute.

(e) ACCEPTANCE OF GRANTS AND TRANSFERS.—To carry out this Act, the Secretary may accept—

(1) a grant or donation from a private person;

(2) a transfer of funds from another Federal agency.

SEC. 5. FUNDING.

(a) MATCHING FUNDS.—The Secretary may spend only such amount of Federal funds to carry out this Act as is matched by an equal amount of funds from non-Federal sources.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. KERRY, Mr. HARKIN, Mr. REID, and Mr. D'AMATO):

S. 1700. A bill to reduce interstate street gang and organized crime activity, and for other purposes; to the Committee on the Judiciary.

THE FEDERAL GANG VIOLENCE ACT OF 1996

Mr. HATCH. Mr. President, I rise today to introduce the Federal Gang Violence Act. I am pleased to be joined in this important effort by Senator FEINSTEIN, as well as by Senators KERRY, HARKIN, REID, and D'AMATO.

Gang violence in many of our communities is reaching frightening levels. Recently, Asipeli Mohi, a 17-year-old Utahn, was tried and convicted of the gang-related beating and shooting death of another teenager, Aaron Chapman. Why was Aaron Chapman murdered? He was wearing red, apparently the color of a rival gang. Ironically, Mr. Chapman was on his way home from attending an antigang benefit concert when he was killed. Before committing this murder, the killer had racked up a record of 5 felonies and 15 misdemeanors in juvenile court. Sadly, this example of senseless gang violence is not an isolated incident in my State or elsewhere. It is a scene replayed daily with disturbing frequency.

Gang violence is now common even in places where this would have been unthinkable several years ago. Indeed, many people find it hard to believe that Salt Lake City or Ogden could have such a problem—gangs, they think, are a problem in cities like New York, Chicago, and Los Angeles, but not in our smaller cities.

However, reality is much grimmer. Since 1992, gang activity in Salt Lake City has increased tremendously. For instance, the number of identified gangs has increased 55 percent, from 185 to 288, and the number of gang members has increased 115 percent, from 1,438 to 3,104.

The number of gang-related crimes has increased a staggering 388 percent, from 1,741 in 1992 to 8,496 in 1995. In 1995, 174 of these involved drive-by shootings, and in the first quarter of 1996 alone, there were 64 gang-related drive-by shootings.

Our problem is severe. Moreover, there is a significant role the Federal Government can play in fighting this battle. I am not one to advocate the unbridled extension of Federal jurisdiction. Indeed, I often think that we have federalized too many crimes. However, in the case of criminal street gangs, which increasingly are moving interstate to commit crimes, there is a very proper role for the Federal Government to play.

This bill will strengthen the coordinated, cooperative response of Federal, State, and local law enforcement to criminal street gangs by providing more flexibility to the Federal partners in this effort. Among the important provisions of this bill:

This legislation increases the ability of the Federal Government to prosecute criminal street gangs that operate interstate or commit Federal or State gang related crimes, by updating the criminal gang and Travel Act provisions of the Federal criminal code. Under our bill, these laws will cover criminal activities typically engaged in by gangs.

Our bill adds a 1- to 10-year sentence for the recruitment of persons into a gang. Importantly, there are even tougher penalties for recruiting a minor into a gang, including a 4-year mandatory minimum sentence.

The bill adds the use of a minor in a crime to the list of offenses for which a person can be prosecuted under the Federal racketeering laws, known as RICO.

It enhances the penalties for transferring a handgun to a minor, knowing that it will be used in a crime of violence; and adds a new Federal penalty for the use of body armor in the commission of a Federal crime.

Finally, the legislation we introduce today adds serious juvenile drug offenses to the list of predicates under the Federal Armed Career Criminal Act, and authorizes $20 million over 5 years to hire Federal prosecutors to crack down on criminal gangs.

Mr. President, this legislation is not a panacea for our youth violence crisis. But it is a large and critical step in addressing this issue. I look forward to working with my colleagues on this bill, and urge their support.

Mr. President, I ask unanimous consent that the bill and a section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1700

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Gang Violence Act".

SEC. 2. INCREASE IN OFFENSE LEVEL FOR PARTICIPATION IN CRIME AS GANG MEMBER.

(a) AMENDMENT OF SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend chapter 3 of the Federal Sentencing Guidelines so that, except with respect to trafficking in cocaine base, if a defendant was a member of a criminal street gang at the time of the offense, the offense level is increased by 6 levels.

(2) CONSTRUCTION WITH OTHER GUIDELINES.—The amendment made pursuant to paragraph (1) shall provide that the increase in the offense level shall be in addition to any other adjustment under chapter 3 of the Federal Sentencing Guidelines.

(3) DEFINITION.—For purposes of this section, the term "criminal street gang" has the meaning given that term in section 521(a) of title 18, United States Code, as amended by section 3 of this Act.

SEC. 3. AMENDMENT OF TITLE 18 WITH RESPECT TO CRIMINAL STREET GANGS.

Section 521 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "(a) DEFINITIONS.—" and inserting "(a) DEFINITIONS.—For purposes of this section the following definitions shall apply:";

(B) by striking "'conviction'" and inserting the following:

"(1) CONVICTION.—The term 'conviction'";

(C) in paragraph (1), as so designated, by striking "violent or controlled substances felony" and inserting "predicate gang crime"; and

(D) by striking "'criminal street gang'" and all that follows through the end of the subsection and inserting the following:

"(2) CRIMINAL STREET GANG.—The term 'criminal street gang' means an ongoing group, club, organization, or association of 3 or more persons, whether formal or informal—

"(A) a primary activity of which is the commission of 1 or more predicate gang crimes;

"(B) the members of which engage, or have engaged during the 5-year period preceding the date in question, in a pattern of criminal activity involving 1 or more predicate gang crimes; and

"(C) the activities of which affect interstate or foreign commerce.

"(3) PATTERN OF CRIMINAL ACTIVITY.—The term 'pattern of criminal activity' means the commission of 2 or more predicate gang crimes—

"(A) at least 1 of which was committed after the date of enactment of the Federal Gang Violence Act;

"(B) the last of which was committed not later than 3 years after the commission of another predicate gang crime; and

"(C) which were committed on separate occasions.

"(4) PREDICATE GANG CRIME.—The term 'predicate gang crime' means—

"(A) an offense described in subsection (c);

"(B) a State offense—

"(i) involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the maximum penalty is imprisonment for not less than 5 years; or

"(ii) that is a felony crime of violence that has as an element the use or attempted use of physical force against the person of another;

"(C) any Federal or State felony offense that by its nature involves a substantial risk that physical force against the person of another may be used in the course of committing the offense, including—

"(i) assault with a deadly weapon;

"(ii) homicide or manslaughter;

"(iii) shooting at an occupied dwelling or motor vehicle;

"(iv) kidnaping;

"(v) carjacking;

"(vi) robbery;

"(vii) drive-by-shooting;

"(viii) tampering with or retaliating against a witness, victim, informant, or juror;

"(ix) rape;

"(x) mayhem;

"(xi) torture; and

"(xii) arson;

"(D) any Federal or State offense that is—

"(i) grand theft;

"(ii) burglary;

"(iii) looting;

"(iv) felony extortion;

"(v) possessing a concealed weapon;

"(vi) grand theft auto;

"(vii) money laundering;

"(viii) felony vandalism;

"(ix) unlawful sale of a firearm; or

"(x) obstruction of justice; and

"(E) a conspiracy, attempt, or solicitation to commit any offense described in subparagraphs (A) through (D)."; and

(2) in subsection (d)—

(A) in paragraph (1), by striking "continuing series of offenses described in subsection (c)" and inserting "pattern of criminal activity; and

(B) in paragraph (3), by striking "years for—" and all that follows through the end of the paragraph and inserting "years for a predicate gang crime.".

SEC. 4. INTERSTATE AND FOREIGN TRAVEL OR TRANSPORTATION IN AID OF CRIMINAL STREET GANGS.

(a) TRAVEL ACT AMENDMENTS.—

(1) PROHIBITED CONDUCT AND PENALTIES.—Section 1952(a) of title 18, United States Code, is amended to read as follows:

"(a) Whoever travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to—

"(1) distribute the proceeds of any unlawful activity;

"(2) commit any crime of violence to further any unlawful activity; or

"(3) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity,

and thereafter performs, attempts to perform, or conspires to perform—

"(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 10 years, or both; or

"(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be sentenced to death or be imprisoned for any term of years or for life.".

(2) UNLAWFUL ACTIVITIES.—Section 1952(b) of title 18, United States Code, is amended to read as follows:

"(b) As used in this section—

"(1) the term 'unlawful activity' means—

"(A) activity of a criminal street gang as defined in section 521 of this title;

"(B) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances (as defined in section

102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), or prostitution offenses in violation of the laws of the State in which the offense is committed or of the United States;

"(C) extortion; bribery; arson; robbery; burglary; assault with a deadly weapon; retaliation against or intimidation of witnesses, victims, jurors, or informants; assault resulting in bodily injury; possession or trafficking of stolen property; trafficking in firearms; kidnapping; alien smuggling; shooting at an occupied dwelling or motor vehicle; or insurance fraud; in violation of the laws of the State in which the offense is committed or of the United States; or

"(D) any act that is indictable under subchapter II of chapter 53 of title 31, United States Code, or under section 1956 or 1957 of this title; and

"(2) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(b) SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend chapter 2 of the Federal Sentencing Guidelines so that—

(1) the base offense level for traveling in interstate or foreign commerce in aid of a street gang or other racketeering enterprise is increased to 12; and

(2) the base offense level for the commission of a violent crime in aid of a street gang or other racketeering enterprise is increased to 24.

SEC. 5. SOLICITATION OR RECRUITMENT OF PERSONS IN CRIMINAL GANG ACTIVITY.

(a) PROHIBITED ACTS.—Chapter 26 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 522. Recruitment of persons to participate in criminal gang activity

"(a) PROHIBITED ACT.—It shall be unlawful for any person to—

"(1) use any facility of, or travel in, interstate or foreign commerce, or cause another to do so, to solicit, request, induce, counsel, command, cause or facilitate the participation of, a person to participate in a criminal street gang, or otherwise cause another to do so, or conspire to do so; or

"(2) solicit, request, induce, counsel, command, cause, or facilitate the participation of a person to engage in crime for which such person may be prosecuted in a court of the United States, or otherwise cause another to do so, or conspire to do so.

"(b) PENALTIES.—A person who violates subsection (a) shall—

"(1)(A) if the person is a minor, be imprisoned for not less than 4 years and not more than 10 years, fined not more than $250,000, or both; or

"(B) if the person is not a minor, be imprisoned for not less than 1 year and not more than 10 years, fined not more than $250,000, or both; and

"(2) be liable for any cost incurred by the Federal Government or by any State or local government for housing, maintaining, and treating the minor until the minor reaches the age of 18.

"(c) DEFINITIONS.—For purposes of this section—

"(1) the term 'criminal street gang' has the same meaning given such term in section 521; and

"(2) the term 'minor' means a person who is younger than 18 years of age.".

(b) SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend chapter 2 of the Federal Sentencing Guidelines so that the base offense level for recruitment of a minor to participate in a gang activity is 12.

(c) TECHNICAL AMENDMENT.—The analysis for chapter 26 of title 18, United States Code, is amended by adding at the end the following new item:

"522. Recruitment of persons to participate in criminal gang activity.".

SEC. 6. CRIMES INVOLVING THE USE OF MINORS AS RICO PREDICATES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "or" before "(E)"; and

(2) by inserting before the semicolon at the end of the paragraph the following: ", or (F) any offense against the United States that is punishable by imprisonment for more than 1 year and that involved the use of a person under the age of 18 years in the commission of the offense".

SEC. 7. TRANSFER OF FIREARMS TO MINORS FOR USE IN CRIME.

Section 924(h) of title 18, United States Code, is amended by striking "10 years, fined in accordance with this title, or both" and inserting "10 years, and if the transferee is a person who is under 18 years of age, not less than 3 years; fined under this title; or both".

SEC. 8. PENALTIES.

Section 924(a) of title 18, United States Code, is amended—

(1) by redesignating paragraph (5), as added by section 110201(b)(2) of the Violent Crime Control and Law Enforcement Act of 1994, as paragraph (6); and

(2) in paragraph (6), as so redesignated—

(A) by striking subparagraph (A);

(B) in subparagraph (B)—

(i) by striking "(B) A person other than a juvenile who knowingly" and inserting "(A) A person who knowingly";

(ii) in clause (i), by striking "1 year" and inserting "not less than 1 year and not more than 5 years"; and

(iii) in clause (ii), by inserting "not less than 1 year and" after "imprisoned"; and

(C) by adding at the end of the following new subparagraph:

"(B) Notwithstanding subparagraph (A), no mandatory minimum sentence shall apply to a juvenile who is less than 13 years of age.".

SEC. 9. THE JAMES GUELFF BODY ARMOR ACT.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 931. Use of body armor in Federal offenses

"(a) PROHIBITED ACTIVITY.—It shall be unlawful to use body armor in the commission of a Federal crime.

"(b) APPLICABILITY.—This section shall not apply if the Federal crime in which the body armor is used constitutes a violation of the civil rights of a person by a law enforcement officer acting under color of the authority of such law enforcement officer.

"(c) DEFINITIONS.—For purposes of this section—

"(1) the term 'body armor' means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment; and

"(2) the term 'law enforcement officer' means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

"(d) PENALTIES.—

"(1) IMPRISONMENT.—Whoever knowingly violates this section shall be imprisoned for a term of 2 years.

"(2) CONSTRUCTION.—A sentence under this paragraph shall be consecutive to any sentence imposed for the Federal crime in which the body armor was used.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 44 of title 18, United States Code, is amended by adding at the end the following new item:

"931. Use of body armor in Federal offenses.".

SEC. 10. SERIOUS JUVENILE DRUG OFFENSES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking "or" at the end of clause (i);

(2) by adding "or" at the end of clause (ii); and

(3) by adding at the end the following new clause:

"(iii) any act of juvenile delinquency that if committed by an adult would be an offense described in clause (i) or (ii);".

SEC. 11. INCREASE IN TIME LIMITS FOR JUVENILE PROCEEDINGS.

Section 5036 of title 18, United States Code, is amended by striking "thirty" and inserting "70".

SEC. 12. APPLYING RACKETEERING OFFENSES TO ALIEN SMUGGLING AND FIREARMS OFFENSES.

Section 1961(1) of title 18, United States Code, as amended by section 6 of this Act, is amended by inserting before the semicolon at the end the following: ", (G) any act, or conspiracy to commit any act, in violation of section 274(a)(1)(A), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A), 1327, or 1328), or (H) any act or conspiracy to commit any act in violation of chapter 44 of this title (relating to firearms)".

SEC. 13. USE OF LINGUISTS.

(a) IN GENERAL.—The Secretary of State shall identify qualified translators who the Secretary shall identify qualified translators who the Secretary shall make available to assist Federal law enforcement agencies in criminal investigations by monitoring legal wiretaps and translating recorded conversations.

(b) EMPHASIS.—In carrying out subsection (a), the Secretary of State shall place special emphasis on translators in States in which most criminal street gangs and organized crime syndicates operate.

SEC. 14. ADDITIONAL PROSECUTORS.

There are authorized to be appropriated $20,000,000 for each of fiscal years 1997, 1998, 1999, 2000, and 2001 for the hiring of additional Assistant United States Attorneys to prosecute violent youth gangs.

SUMMARY OF THE FEDERAL GANG VIOLENCE ACT

(Senators Orrin Hatch, Dianne Feinstein, John Kerry, Tom Harkin, Harry Reid, and Alfonse D'Amato, April 24, 1996)

Section 1. Short title

This section identifies the Act as the "Federal Gang Violence Act."

Section 2. Increase in offense level for participation of crime as gang member

This legislation doubles the penalty for any member of an organized criminal street gang who commits a federal crime.

Current federal law increases the penalties for organizers, leaders, managers and supervisors of criminal activity—including gang leaders—who commit a federal crime. However, members of known criminal street gangs currently are not subjected to higher penalties when a federal crime is committed. Many prosecutors and law enforcement leaders indicate that gang members—in addition to the leaders and supervisors of gangs—should see their penalties increased to provide a stronger deterrent for children to stay away from gangs.

This legislation amends the Sentencing Guidelines so that individual gang members convicted of felonies would have their sentencing level approximately doubled, by adding six levels to the base offense level for the crime they committed. Gang leaders and organizers would also have their sentences increased by six sentencing levels.

There are some examples of the effect of this increase for gang members, assuming they have no other aggravating or mitigating factors:

Crime	First-time offender		Second-time offender	
	Current	Proposed	Current	Proposed
Drive-by shooting related to 20 grams of cocaine	1¼ to 1¾	2¾ to 3½	1¾ to 2¼	3½ to 4¾
Burglary	2 to 2½	4 to 4¾	2½ to 3	4¾ to 6
Extortion	2¾ to 3½	5¼ to 6½	3½ to 4¼	6¾ to 8
Witness intimidation	2¾ to 3½	5¼ to 6½	3½ to 4¼	6½ to 8
Gun trafficking	4¾ to 6	9 to 11¼	6 to 7¼	11¼ to 14
Robbery with a handgun	5¼ to 6½	10 to 12½	6½ to 8	12½ to 15¾

Section 3. Amendment to title 18 with respect to criminal street gangs

This legislation expends the definition of criminal street gangs to better reflect modern day gang activity.

Current federal law bases the definition and penalties for criminal street gangs upon the commission of a *federal crime of violence or a federal crime involving a controlled substance*. Under existing federal law, a person eligible for prosecution as a criminal street gang member must have been convicted within the previous 5 years of a federal or state drug crime or crime of violence, as well as having participated in, or furthered the activities of, a gang. This legislation broadens the definition of criminal street gang activity to include many types of state crimes, such as drive-by shootings, rape, torture, carjacking, kidnaping, and assault with a deadly weapon.

By expanding the definition of gang membership, more gang members—who commit state crimes—will be subjected to the higher penalties if they subsequently commit a federal crime.

Current federal law also requires that there must be five members to meet the requirements of being a gang. Prosecutors and law enforcement officials indicate this number is arbitrary and that some dangerous street gangs consist of fewer members. For that reason, this legislation also lowers the number of participants—from five members to three members—required to meet the definition of a gang.

Section 4. Interstate and foreign travel of transportation in aid of criminal street gangs

Doubles penalties for inter-state, gang-related crimes. Also expands Travel Act, passed in 1961 with Mafia-related criminal activity in mind, to respond more effectively to the growing problem of highly sophisticated, mobile and organized street gangs.

The Travel Act now makes it a federal crime to travel in interstate commerce, or use the mail or other facilities of interstate commerce, to commit or help establish, promote, manage, or carry out extortion, bribery, arson, or any business enterprise involving narcotics, controlled substances, prostitution, gambling, or liquor on which the excise taxes were not paid.

While the Travel Act allows prosecutors to target some gang activities—such as drug trafficking—the list is not complete. Law enforcement leaders and prosecutors have indicated that the Act needs to be "modernized" to better reflect current crimes by gang members.

Under this legislation, the list of unlawful activities in the Travel Act will be expanded to include crimes that are most committed by gang members. The expanded list will include: drive-by shooting, robbery, burglary, assault with a deadly weapon, intimidation of witnesses, victims, jurors or informants, assault resulting in bodily injury, possession and/or trafficking in stolen property, alien smuggling, firearms trafficking, kidnaping, and insurance fraud.

In addition, under this legislation, the maximum penalties are doubled from 5 to 10 years for those who violate these provisions without intending to commit violent crimes themselves.

A conspiracy provision is also added to this statute to make it easier to prosecute all the gang members who help to commit these crimes.

This Act also doubles the base offense levels for:

Traveling in interstate or foreign commerce in aid of a street gang, from 6 to 12, which increases the base sentencing rage from a low of zero to six months and a high of twelve to eighteen months, to a new low of ten to sixteen months and a new high of thirty to thirty-seven months; and

Committing violent crimes in aid of street gang or racketeering activity from 12 to 24, which increases the base sentencing range from a low of ten to sixteen months and a high of thirty to thirty-seven months, to a new low of 51–63 months and a new high of 100–125 months.

Section 5. Solicitation or recruitment of persons in gang activity

Current federal law contains no penalty for recruiting minors to participate in gang activity. Law enforcement officials indicate that sophisticated crime syndicates will recruit minors to do the "dirty work" so that the organizers of the criminal activity cannot be convicted of a crime.

This legislation makes the recruitment or solicitation of persons to participate in gang activity subject to a one-year minimum and 10-year maximum penalty, or a fine of up to $250,000. If a minor is recruited or solicited, the minimum penalty is increased to four years. In addition, the person convicted of this crime would have to pay the costs of housing, maintaining and treating the juvenile until the juvenile reaches the age of 18 years.

Section 6. Crimes involving the use of minors as RICO predicates

To identify a racketeering influenced corrupt organization (RICO), the organization must have engaged in at least two of the more than 25 criminal activities listed under the RICO statute.

This bill makes the use of a minor in the commission of a federal crime a RICO predicate.

Section 7. Transfer of firearms to minors for use in crime

It is now a crime under federal law to knowingly transfer a firearm to be used to commit a violent crime or a drug trafficking crime.

This legislation adds a mandatory minimum penalty of three years imprisonment if the gun to be used in crime is transferred to a minor.

Section 8. Penalties

Increases penalties for transferring handguns to minors.

The Youth Handgun Safety Act, passed by Congress as part of the 1994 Crime Bill, does not contain sufficient penalties. In fact, one provision of the current Youth Handgun Safety Act requires mandatory probation for a first-time juvenile offender who possesses a handgun. Such a weak penalty meant few prosecutors would utilize the Youth Handgun Safety Act to target gang members. In addition, current law sets different penalties for juveniles and adults who transfer a weapon to a minor.

The Federal Gang Violence Act toughens the penalties against juveniles and adult who transfer a handgun to a minor—and subjects juveniles and adults to the same penalties for violating this law.

This legislation changes the Youth Handgun Safety Act by:

(A) Setting a one-year minimum sentence for anyone—adult or juvenile—who provides a minor with a handgun.

(B) Holding juveniles accountable when they unlawfully give another minor a handgun by applying the same five-year maximum sentence now given to adults.

(C) Setting a one-year minimum sentence and applying the same 10-year maximum sentence to adults and juveniles who give a handgun to a minor and should have known the gun would be used in a crime of violence. Currently, the 10-year maximum sentence only applies to adults.

Section 9. The James Guelff Body Armor Act

Many police officers around the country are confronting heavily-armed gang members who are wearing bullet-proof vests. This legislation creates a two-year mandatory, consecutive sentence for anyone who wears body armor in the commission of a federal offense.

Section 10. Serious juvenile drug offense as Armed Career Criminal Act predicates

The Armed Career Criminal Act provides that if a person has three or more prior convictions of certain crimes (is a career criminal), and he possess, ships, transports or receives a gun or ammunition (is armed), he will be subject to a mandatory minimum 15 year penalty and fine of up to $25,000. Serious drug offenses are already in the list of crimes which count toward the three-conviction minimum; this bill would allow juvenile convictions for serious drug offenses to also count toward that three-conviction minimum.

Section 11. Increase in time limits for juvenile proceedings

Expands the time limit for bringing juvenile proceedings to trial.

Presently, a 30-day time limit exists. With crimes being committed by juveniles becoming increasingly violent and complex, prosecutors need additional time to adequately develop cases. This legislation increases the time limit to 70 days.

Section 12. Applying racketeering offenses to firearms offenses

Adds firearms violations, such as trafficking, to the list of crimes that can be attacked by prosecutors under RICO.

Currently, firearms violations are not RICO predicate acts. Prosecutors and law enforcement officials indicate an increasing use of firearms by criminal street gangs to commit home robberies, business invasions, and attacks on rival gangs. Since most of the firearms have moved in interstate commerce—and because firearms are such an integral part of the gang's activity—law enforcement officials have suggested that firearms violations become predicate acts under RICO. Since two criminal activities must be proven before RICO organizations can be identified, firearms violations alone would not lead a group to be pursued under the RICO laws.

This legislation would amend the list of RICO predicate acts to include firearms violations.

Identifying an organization dedicated to criminal activity in accordance with the RICO statute results in asset forfeiture and a maximum of 20 years in prison. In addition, the RICO Statute allows federal prosecutors to charge such an organization with state crimes they may have committed as well as federal crimes.

Section 13. Use of linguists

Promotes the use of State Department linguists to assist in translating and monitoring wiretaps in gang investigations. Federal law enforcement and courts are experiencing difficulty and high costs in locating and employing certified translators for southeastern Asian languages and Chinese dialects used by some gangs.

Section 14. Additional prosecutors

The Federal Gang Violence Act authorize appropriations of $100 million over the next five years for hiring additional federal prosecutors to prosecute violent youth gangs.

Mrs. FEINSTEIN. Mr. President, I rise today, along with Senators, HATCH, KERRY, HARKIN, REID, and D'AMATO to introduce the Federal Gang Violence Act of 1996—legislation that makes the Federal Government a more active partner in the war against violent and deadly organized gangs.

Mr. President, today's gangs are not the bands of loosely organized street kids glamorized in West Side Story. Today's gangs are very different. Consider this:

Just last week, the U.S. attorney's office in San Francisco made arrests in a major alien smuggling operation run by organized gangs based in New York and San Francisco. Operation Sea Dragon netted 23 people in connection with a large-scale plan to smuggle two boatloads of more than 270 aliens from China into the United States in 1993.

According to the U.S. attorney's office, a number of powerful New York-based gangs, including the White Tigers, Fuk Ching, and the Broom Street Boys joined forces with two bay area gangs to off load the smuggled aliens. A San Francisco-based Vietnamese gang was responsible for furnishing the fishing boats to ferry the smuggled aliens ashore, where a Chinese gang out of Oakland had provided land transportation and drop houses to facilitate the aliens travel to New York. Presumably, once in New York, these illegal aliens were to live in indentured servitude while they paid off the up to $30,000 in crossing debts that the gangs typically charge each passenger.

Alien smuggling is a very lucrative international business—law enforcement estimates it brings in $3 billion a year for smugglers.

But alien smuggling is just one example of the kinds of dangerous criminal activities modern gangs are engaged in. Today's gangs are organized and sophisticated traveling crime syndicates—much like the Mafia—that regularly cross State lines to recruit new members, traffick in drugs, weapons, and illegal aliens, and steal and murder.

In just one city, Los Angeles, nearly 7,300 of its citizens were murdered in the last 16 years from gang warfare. This is more people than have been killed in all the terrorist fighting in northern Ireland.

Gangs were responsible for: 43 percent of all homicides in Los Angeles in 1994; 41 percent of homicides in Omaha, Nebraska in 1995; and more than half of all violent crimes in Buffalo, NY, in 1994.

In Phoenix, AZ, gang-related homicides jumped 800 percent between 1990 and 1994; and

In Wichita, KS, drive-by shootings jumped from 8 in 1991 to 267 in 1993—a 3000-percent increase in just 2 years. This in a small city of 300,000.

These are just a few examples of the alarming rise in gang violence gripping our streets. We are becoming numb to the violence.

In Los Angeles in February, City Councilwoman Laura Chick, chair of the LA Public Safety Committee, received a faxed report that six people had been murdered over the weekend in LA—and it was not even reported in the press.

Criminal gangs are now engaged in million dollar heists, home and business invasions, major narcotics and weapons trafficking, and yes, illegal alien smuggling.

And they are crossing State lines to establish criminal operations in other States looking for untapped markets.

Sgt. Jerry Flowers with the gang crime unit in Oklahoma City captured the migration instinct of these gangs when he said: "the gang leaders realized that the same ounce of crack cocaine they sold for $300 in Los Angeles was worth nearly $2,000 in Oklahoma City."

BLOODS AND CRIPS

The Bloods and the Crips, gangs that originated in Los Angeles in the late 1960's, are the Nation's two largest street gangs. And they are expanding.

Local police and the FBI have traced factions of these gangs to more than 119 cities in the West and Midwest with more than 60,000 members. According to the FBI, narcotics trafficking is their principle source of income.

GANGSTER DISCIPLES

The Gangster Disciples, according to local authorities, is a Chicago-based 30,000 member multimillion dollar gang operation spanning 35 States.

They traffic in narcotics and weapons, and are said to operate much like a "Fortune 500 Company" with two boards of directors—one in prison and one outside—a layer of Governors and regents, a tax collector and some 6,000 salespersons. Their income is estimated at $300,000 daily.

RUSSIAN CRIME GANGS

Russian organized crime activity in the United States has been expanding for the past 20 years, but its most significant growth has occurred during the past 5 years. Twenty-nine States now report activities by Russian crime groups.

FBI Director Louis Freeh stated that more than 200 of Russia's 6,000 crime gangs operate with American counterparts in the United States.

Russian gangs tend to be more loosely organized than other gangs, but they have formed networks that operate and shift alliances to meet particular needs.

The California Attorney General indicates that the most common criminal activities by Russian organized crime gangs are fraud schemes involving fuel tax, insurance, and credit card fraud. But they also engage in more common organized crime activities-extortion, loan sharking, drug trafficking, auto theft, and prostitution.

ASIAN GANGS

The Department of Justice indicates that, among ethnic gangs, Jamaican and Asian gangs are considered by many law enforcement officials to pose the largest threat. Asian gangs have been identified as major threats in more than 17 cities.

In Los Angeles alone there are more than 100 Asian gangs with 10,000 members.

Illegal activities include: alien smuggling, murder, kidnapping, extortion, home invasion robberies, high-technology heists, and firearms trafficking.

Vietnamese gangs, in particular, have become a serious threat in many cities. They tend to be very violent, are more sophisticated organizationally, and have specialized in stealing multimillion dollar quantities of computer chips.

At least 400 Silicon Valley businesses that deal in computer chips have been hit in the last year and a half, losing tens of millions of dollars. Computer firms lose as much as $1 million a week in thefts.

CURRENT LAWS NOT ENOUGH

Mr. President, Federal laws now on the books were designed to fight one type of organized crime—the Mafia. And I believe today's laws just are not enough to take on these modern gangs.

For the past 7 months, my staff has met with prosecutors, law enforcement officers, and community leaders to search for solutions to the problem of gang violence. The legislation I am introducing today, The Federal Gang Violence Act of 1996, is the result of our work.

This legislation strengthens Federal law by attacking gang violence on three fronts:

It doubles the sentence for any member of an organized criminal gang who commits a Federal crime;

Expands the scope of gang-related criminal acts to include such activities as carjacking and drive-by shootings, and significantly increases penalties for those crimes; and

Checks the growth of gangs by making the recruitment of minors into criminal gangs a Federal offense with stiff penalties.

Specifically, this legislation:

First, doubles the actual sentence for any member of an organized criminal street gang who commits a Federal crime.

Current Federal law increases the penalties for organizers, leaders, managers, and supervisors of criminal activity—including gang leaders—who commit a federal crime. However, members of known criminal street gangs currently are not subjected to higher penalties when a Federal crime is committed.

Many prosecutors and law enforcement leaders indicate that gang members—in addition to the leaders and supervisors of gangs—should see their penalties increased to provide a stronger deterrent for children to stay away from gangs.

This legislation amends the sentencing guidelines so that individual gang members convicted of felonies would have their sentencing level approximately doubled. For example: Now if a first-time offender who is a member of a gang is convicted of gun trafficking, he would get a minimum of 4¾–6 years in jail. Under this legislation, the sentence would be increased to 9–11¼ years.

Second, expands the definition of criminal street gangs in Federal law to better reflect modern-day gang activity.

The bill broadens the definition of criminal street gang activity in title 18 of the Criminal Code to include many types of State crimes, such as drive-by shootings, rape, torture, carjacking, kidnaping, and assault with a deadly weapon.

This legislation also lowers the number of participants—from five members to three members—required to meet the definition of a gang.

Third, doubles penalties for interstate, gang-related crimes and expands the Travel Act to respond more effectively to the growing problem of highly sophisticated, mobile, and organized street gangs.

The Travel Act was originally written in 1961 with Mafia-style activity in mind. While the Travel Act as it is now written allows prosecutors to target some gang activities—such as drug trafficking—the list is not complete. Law enforcement leaders and prosecutors have indicated that the act needs to be modernized to better reflect current crimes by gang members.

Under this legislation, the list of unlawful activities in the Travel Act will be expanded to include the following crimes: Drive-by shooting; robbery; burglary; assault with a deadly weapon; intimidation of witnesses, victims, jurors, or informants; assault resulting in bodily injury; possession and/or trafficking of stolen property; alien smuggling; firearms trafficking; kidnaping; and insurance fraud.

In addition, under this legislation, the maximum penalties are doubled from 5 to 10 years for those who violate these provisions without intending to commit violent crimes themselves.

A conspiracy provision is also added to this statute to make it easier to prosecute all the gang members who help to commit these crimes.

This act also doubles the base offense levels under the sentencing guidelines for: Traveling in interstate or foreign commerce in aid of a street gang, from 6 to 12, which increases the base sentencing range from a low of zero to 6 months and a high of 12 to 18 months, to a new low of 10 to 16 months and a new high of 30 to 37 months; and committing violent crimes in aid of street gang or racketeering activity from 12 to 24, which increases the base sentencing range from a low of 10 to 16 months and a high of 30 to 37 months, to a new low of 51 to 63 months and a new high of 100 to 125 months.

Fourth, solicitation or recruitment of persons into gang activity: Current Federal law contains no penalty for recruiting minors to participate in gang activity. Law enforcement officials indicate that sophisticated organized crime syndicates will recruit minors to do the dirty work so that the organizers of the criminal activity cannot be convicted of a crime.

This legislation makes the recruitment or solicitation of persons to participate in gang activity subject to a 1-year minimum and 10-year maximum penalty, or a fine of up to $250,000. If a minor is recruited or solicited, the minimum penalty is increased to 4 years. In addition, the person convicted of this crime would have to pay the costs of housing, maintaining and treating the juvenile until the juvenile reaches the age of 18 years.

Fifth, this bill makes the use of a minor in the commission of a Federal crime a RICO predicate.

Identifying an organization dedicated to criminal activity in accordance with the RICO Statute results in asset forfeiture and a maximum of 20 years in prison.

Sixth, transfer of firearms to minors for use in crime.

It is now a crime under Federal law to knowingly transfer a firearm to be used to commit a violent crime or a drug trafficking crime.

This legislation adds a mandatory minimum penalty of 3 years imprisonment if the gun to be used in crime is transferred to a minor.

Seventh, this legislation increases penalties for transferring handguns to minors.

The Youth Handgun Safety Act, passed by Congress as part of the 1994 crime bill, does not contain sufficient penalties against juveniles who possess handguns.

In fact, one provision of the current Youth Handgun Safety Act requires only mandatory probation for a first-time juvenile offender who possesses a handgun. Such a weak penalty has meant few prosecutors would utilize the Youth Handgun Safety Act to target gang members. In addition, current law sets different penalties for juveniles and adults who transfer a weapon to a minor.

The Federal Gang Violence Act toughens the penalties against juveniles and adults who transfer a firearm to a minor—and subjects juveniles and adults to the same penalties for violating this law.

This legislation changes the Youth Handgun Safety Act by:

Setting a 1-year minimum sentence for anyone—adult or juvenile—who provides a minor with a handgun.

Holding juveniles accountable when they unlawfully give another minor a firearm by applying the same 5-year maximum sentence now given to adults.

Setting a 1-year minimum sentence and applying the same 10-year maximum sentence to adults and juveniles who give a firearm to a minor and should have known the gun would be used in a crime of violence. Currently, the 10-year maximum sentence only applies to adults.

Juveniles under 13 years old, however, would not be subject to these mandatory minimum sentences.

Eighth, the James Guelff Body Armor Act: Many police officers around the country are confronting heavily armed gang members who are wearing bullet-proof vests. This legislation makes it a separate crime to wear body armor in the commission of a Federal offense, which would be punished by automatically adding 2 years to the sentence for the original crime.

Ninth, serious juvenile drug offenses as Armed Career Criminal Act predicates:

The Armed Career Criminal Act provides that if a person has three or more prior convictions for certain crimes—is a career criminal—and he possesses, ships, transports, or receives a gun or ammunition, is armed, he will be subject to a mandatory minimum 15-year penalty and fine of up to $25,000.

Serious drug offenses are already in the list of crimes which count toward the three-conviction minimum; this bill would allow juvenile convictions for serious drug offenses to also count toward · that three-conviction minimum. This would not apply to nickel-and-dime possession offenses, but to drug dealing which is punishable by ten or more years in prison.

Tenth, expands the time limit for bringing juvenile proceedings to trial.

Presently, a 30-day time limit exists. With crimes being committed by juveniles becoming increasingly violent and complex, prosecutors need additional time to adequately develop cases. This legislation increases the time limit to 70 days.

Eleventh, adds firearms violations, such as trafficking, to the list of crimes that can be attacked by prosecutors under RICO.

Currently, firearms violations are not RICO predicate acts. Prosecutors and law enforcement officials indicate an increasing use of firearms by criminal street gangs to commit home robberies, business invasions, and attacks on rival gangs.

Since most of the firearms have moved in interstate commerce—and because firearms are such an integral part of the gang's activity—law enforcement officials have suggested that firearms violations become predicate acts under RICO.

Twelfth, this legislation promotes the use of State Department linguists to assist in translating and monitoring wiretaps in gang investigations. Federal law enforcement and courts report that they are experiencing difficulty and high costs in locating and employing certified translators for Southeastern Asian languages and Chinese dialects used by some gangs.

Thirteenth, this legislation provides $100 million over the next 5 years for hiring additional Federal prosecutors to prosecute violent youth gangs.

Mr. President, the legislation I have laid out for you today is a starting point, and I think it is long overdue. I know there is no silver bullet to cure our Nation of the ills wrought by street gangs. But this legislation takes an important step forward by adding the Federal Government's weight to what has thus far been largely State and local war on gangs by significantly strengthening the Federal laws that deal with gang crime.

It is my belief that the only real long-term solution lies in combining forces at the Federal, State, and local level.

And I am pleased to say that thus far, this legislation has received nearly 80 endorsements from local California law enforcement, including Los Angeles County District Attorney Gil Garcetti, Los Angeles County Sheriff Sherman Block, and Police Chiefs in Fresno, Oakland, and Sacramento.

I urge my colleagues to support this legislation, and I welcome their input as this bill moves forward.

Mr. KERRY. Mr. President, today I rise to support the Federal Gang Violence Act which we are introducing to combat the growing problem of gang violence. According to the FBI, juvenile gang killings rose by 371 percent from 1980 to 1992, the fastest growing of all the homicide categories. But, Mr. President, this problem is not just a series of statistics.

Less than a year ago in Massachusetts, a young prosecutor, Assistant Attorney General Paul McLaughlin, was gunned down by a hooded youth in a display of gang violence and brutality unprecedented in my State. It was a brutal assassination of a public servant doing his job—the kind of violence we see in other nations, but thankfully, only rarely in America.

Earlier this year, I met with law enforcement officials, local elected officials, and Justice Department officials in western Massachusetts where gang activity has grown dramatically. The officials told me that in the Route 91 corridor, gangs operate from Connecticut through Massachusetts and up into Vermont. In fact, last year a major incident involving gangs from western Massachusetts occurred in Rutland, VT.

Because of this and similar meetings with law enforcement officials across Massachusetts, I went to Senators FEINSTEIN and HATCH to offer my assistance in developing this antigang legislation. Although officials in western Massachusetts told me that the area is already benefiting from the COPS Program, we must do more. I am proud of the role I played in getting the COPS Program expanded in the crime bill, so that we will put 100,000 police officers on the beat to fight crime. The COPS Program is beneficial but not a sufficient Federal response to youth gangs.

Nationally, juvenile arrests for violent crime increased by 75 percent during the past decade. According to a Department of Justice survey of law enforcement officials in 35 cities with organized antigang programs, there are almost 1,500 gangs and over 120,000 gang members across the country.

The legislation we are introducing today would crack down on violent gangs by toughening Federal penalties against criminal street gangs and organized crime syndicates. Gang members who commit Federal crimes or recruit other youths—and especially gangs who cross State lines to commit crimes—would receive stricter penalties.

Of course, the overwhelming majority of America's 27 million youths between the ages of 10 and 17 never commit violent crimes or enter the juvenile or criminal justice systems. Overall, children remain far more likely to be the victims of violent crime than offenders. According to the most recent data from the Department of Justice, one in nine children ages 12 to 19 was a victim of violent crime in 1993, while fewer than one in 200 youths was arrested for a violent offense.

But ultimately, Mr. President, the solution to youth violence must address the fact that too many young people live in poverty, which puts children at particular risk for violent behavior by reducing the quality of their community supports such as housing and schools, limiting their opportunities for education and employment, and dimming their sense of hope about the future. We can pass tougher and tougher laws but without at least an ounce of prevention we will not solve the problem.

We also must deal with the fact that handguns are too accessible. Handguns pose an ever-increasing danger to the safety and welfare of the American public. Nearly one-third of children ages 10 to 17 surveyed in 1993 said they knew how to get a gun. The source is often their own home. School security and law enforcement officials estimate that 80 percent of the firearms that students bring to school come from home. And according to the most recent figures, over 25 Americans are killed each day by handguns. If it's true that "people kill people," it's also true that they most frequently do so with handguns.

But we must also learn more about gang violence. Despite continuing research on the nature and extent of gang problems, data on youth gangs remain spotty. The Department of Justice's Office of Juvenile Justice and Delinquency Prevention [OJJDP] recently reported that "because research has been limited and because researchers have no real consensus on the definition of a gang or gang incident, the scope and seriousness of the youth gang problem are not reliably known." Better information is clearly needed.

I look forward to working with Senators FEINSTEIN and HATCH to making further refinements to the bill to ensure the delicate balance between bringing criminals to justice and protecting civil liberties. In particular, I'm interested in examining the provision which requires serious drug offenses committed as a juvenile to count toward the provision which imposes a mandatory minimum 15 year sentence for juveniles or adults who have a record of three serious drug offense convictions and commit a gun offense. We must be careful not to eliminate the juvenile justice system as the "second chance" it is intended to provide.

Finally, I want to recognize the leadership of Senator FEINSTEIN and Senator HATCH for their efforts to combat gang violence through this legislation. I also want to express my admiration for the Senator from California for her leadership on the assault weapons ban, both in her courageous efforts to pass it through Congress and her tenacity in stopping efforts to repeal it.

Too many children in the United States go to sleep to the sounds of gunfire and accept as normal the violent deaths of siblings, friends, and schoolmates. Working together, we can combat gang violence, poverty, and handguns to ensure we no longer have to live under the constant threat of violence.

Mr. D'AMATO. Mr. President, I am pleased to join my colleagues in introducing the Federal Gang Violence Act. The provisions of this bill are greatly needed in order to reduce the growing threat of gang violence.

The Department of Justice released a report last month stating that 79 of our largest cities have over 3,800 youth gangs, with a total of 200,000 gang members. The gangs are taking over our cities and towns. With an increase in the presence of gangs comes an increase in their criminal activities.

The Justice Department reports that while gang presence seems to be increasing, these gangs are also establishing an organizational sophistication that they did not possess before. With an expected surge in juvenile violent crimes, loopholes in the law must be corrected. And now.

Let me clarify one thing first. Gangs are not an urban problem; gangs are located in every geographical location—cities, suburbs, and rural areas. There is not one common gang activity; each gang performs different illegal activities. Gang activities are not restricted to certain areas of cities; the gangs' reach extends to our schools. It is clear that the response must be as varied as the problem. This bill takes the diversity into account and responds to those different activities by taking the most effective action—increasing the sentences. The penalty is doubled for any interstate gang-related crimes. Doubles the penalty for gang members that extort, bribe, deal in drugs, intimidate a witness or participate in a drive-by shooting. Any violent crime committed as part of gang activity gets an increased sentencing offense level.

Stiffer punishment is essential if we are to combat gang violence. A Department of Justice report states that 68 percent of male inmates in juvenile correctional facilities admit that their gang had regularly bought and sold guns and over 60 percent described driving around shooting at people regularly.

Because recruitment is so important to perpetuate the criminal gang activities, whether the person recruited is a minor or an adult, a new offense must be created. And this bill will do just that. It is imperative to stop the recruitment. Gangs can only continue to wreak havoc if they have the members to carry out their misdeeds.

A provision of the Federal Gang Violence Act treats alien smuggling as a predicate act under the RICO—racketeering. It will also make alien smuggling a money laundering crime. This is especially timely after the indictment last February of 64 violent organized crime gang members of the Flying Dragons in Chinatown. These smugglers brought in hundreds of illegal Chinese immigrants and then proceeded to kidnap, torture, and extort money. These provisions could only add to their sentences if convicted. These people should be in prison for decades for the acts alleged.

These provisions are a commonsense approach. For instance, any criminal who wears body armor during the commission of a felony certainly deserves to get an additional 2 years mandatory minimum. The intent is clear; the gang member committing a felony wearing body armor knows the dangers involved.

The potential gang members have much to fear themselves. A special report completed by the National Gang Crime Research Center found that two-thirds of gang members have had friends or family members killed because of the gang violence. These victims may never have chosen the route of gang violence but were swept in by the activities of the gang members.

The violence committed by gangs affects our entire country. The wreak havoc on business owners, individuals, family members, and themselves. It is time to do something about it. I thank my colleagues for working to enhance the penalties of the crimes committed by gang members and am pleased to be an original cosponsor of this legislation. I urge my colleagues to cosponsor this bill.

By Mr. PELL:

S. 1701. A bill to end the use of steel jaw leghold traps on animals and for other purposes; to the Committee on Environment and Public Works.

STEEL JAW TRAP LEGISLATION

Mr. PELL. Mr. President, I rise today to introduce legislation to prohibit the use of steel jaw leghold traps in the United States.

While this bill does not prohibit trapping, it does outlaw a particularly savage method of trapping. Anything—wild animals, family pets, children—that comes in contact with a leghold trap is subjected to its bone-crushing force. Other, more discriminating trapping methods exist and should be used.

I think it is also instructive to note that well over 60 nations around the globe including all the nations of the European Community have already outlawed the use of this device and have also prohibited the sale of fur caught by leghold traps.

I should make it clear to my colleagues that I oppose the cruel treatment of any animal and support efforts to curb the unnecessary use of animals for purposes such as medical testing, especially when alternative testing procedures are available or when the tests are conducted for nonvital reasons and result in inhumane animal treatment. I do, however, support the humane use of animals which may provide crucial information for life-saving technologies when no other alternative testing mechanism exists.

ADDITIONAL COSPONSORS

S. 301

At the request of Mr. KYL, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 301, a bill to provide for the negotiation of bilateral prisoner transfer treaties with foreign countries and to provide for the training in the United States of border patrol and customs service personnel from foreign countries.

S. 358

At the request of Mr. WYDEN, his name was added as a cosponsor of S. 358, a bill to amend the Internal Revenue Code of 1986 to provide for an excise tax exemption for certain emergency medical transportation by air ambulance.

S. 553

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 553, a bill to amend the Age Discrimination in Employment Act of 1967 to reinstate an exemption for certain bona fide hiring and retirement plans applicable to State and local firefighters and law enforcement officers, and for other purposes.

S. 1183

At the request of Mr. HATFIELD, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1183, a bill to amend the act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standards for coverage under the act, and for other purposes.

S. 1483

At the request of Mr. KYL, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1483, a bill to control crime, and for other purposes.

S. 1512

At the request of Mr. LUGAR, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S.

1512, a bill to amend title 23, United States Code, to improve safety at public railway-highway crossings, and for other purposes.

S. 1521

At the request of Mr. DOLE, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 1521, a bill to establish the Nicodemus National Historic Site in Kansas, and for other purposes.

S. 1578

At the request of Mr. FRIST, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1578, a bill to amend the Individuals with Disabilities Education Act to authorize appropriations for fiscal years 1997 through 2002, and for other purposes.

S. 1610

At the request of Mr. BOND, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1623

At the request of Mr. WARNER, the names of the Senator from Wyoming [Mr. SIMPSON] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 1623, a bill to establish a National Tourism Board and a National Tourism Organization, and for other purposes.

S. 1669

At the request of Mr. LOTT, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1669, a bill to name the Department of Veterans Affairs medical center in Jackson, MS, as the "G.V. (Sonny) Montgomery Department of Veterans Affairs Medical Center".

S. 1675

At the request of Mr. GRAMM, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Colorado [Mr. CAMPBELL], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 1675, a bill to provide for the nationwide tracking of convicted sexual predators, and for other purposes.

S. 1690

At the request of Mr. CONRAD, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 1690, a bill to provide a grace period for the prohibition on Consolidated Farm Service Agency lending to delinquent borrowers, and for other purposes.

SENATE JOINT RESOLUTION 51

At the request of Mr. DOLE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Joint Resolution 51, a joint resolution saluting and congratulating Polish people around the world as, on May 3, 1996, they commemorate the 205th anniversary of the adoption of Poland's first constitution.

SENATE CONCURRENT RESOLUTION 41

At the request of Mr. INOUYE, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Concurrent Resolution 41, a concurrent resolution expressing the sense of the Congress that the George Washington University is important to the Nation and urging that the importance of the university be recognized and celebrated through regular ceremonies.

SENATE RESOLUTION 85

At the request of Mr. WYDEN, his name was added as a cosponsor of Senate Resolution 85, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

SENATE RESOLUTION 243

At the request of Mr. ROBB, the names of the Senator from Nevada [Mr. BRYAN], the Senator from North Dakota [Mr. CONRAD], the Senator from New York [Mr. D'AMATO], the Senator from New Mexico [Mr. DOMENICI], the Senator from Alabama [Mr. HEFLIN], the Senator from North Carolina [Mr. HELMS], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Resolution 243, a resolution to designate the week of May 5, 1996, as "National Correctional Officers and Employees Week."

AMENDMENT NO. 3667

At the request of Mr. DORGAN, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Amendment No. 3667 proposed to S. 1664, an original bill to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes.

SENATE CONCURRENT RESOLUTION 54—TO CORRECT THE ENROLLMENT OF THE BILL S. 735

Mr. HATCH submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 54

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 735) shall make the following corrections:

In the table of contents of the bill, strike the item relating to section 431 and redesignate the items relating to sections 432 through 444 as relating to sections 431 through 443, respectively.

In section 620G(a), proposed to be inserted after section 620F of the Foreign Assistance Act of 1961, by section 325 of the bill, strike "may" and insert "shall".

In section 620H(a), proposed to be inserted after section 620G of the Foreign Assistance Act of 1961, by section 326 of the bill—

(1) strike "may" and insert "shall";

(2) strike "shall be provided"; and

(3) insert "section" before "6(j)".

In section 219, proposed to be inserted in title II of the Immigration and Nationality Act, by section 302 of the bill—

(1) in subsection (a)(1), insert "foreign" before "terrorist organization";

(2) in subsection (a)(2)(A)(i), strike "an" before "organization under" and insert "a foreign";

(3) in subsection (a)(2)(C), insert "foreign" before "organization"; and

(4) in subsection (a)(4)(B), insert "foreign" before "terrorist organization".

In section 2339B(g), proposed to be added at the end of chapter 113B of title 18, United States Code, by section 303 of the bill, strike paragraph (5) and redesignate paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

In section 2332d(a), proposed to be added to chapter 113B of title 18, United States Code, by section 321(a) of the bill—

(1) strike "by the Secretary of State" and insert "by the Secretary of the Treasury";

(2) strike "with the Secretary of the Treasury" and insert "with the Secretary of State"; and

(3) add the words "the government of" after "engaged in a financial transaction with";

At the end of section 321 of the bill, add the following:

"(c) EFFECTIVE DATE.—The amendments made by this section shall become effective 120 days after the date of enactment of this Act.".

In section 414(b) and 422(c) of the bill, strike "90" and insert "180".

In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill strike "essential" and insert "important".

In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill, strike "security".

Strike section 431 of the bill and redesignate sections 432 through 444 as sections 431 through 443, respectively.

In section 511(c) of the bill, strike "amended—" and all that follows through "(2)" and insert "amended".

In section 801 of the bill, strike "subject to the concurrence of" and insert "in consultation with".

In section 443, by striking subsection (d) in its entirety and inserting:

"(d) EFFECTIVE DATE.—The amendments made by this section shall become effective no later than 60 days after the publication by the Attorney General of implementing regulation that shall be published on or before January 1, 1997."

SENATE CONCURRENT RESOLUTION 55—TO CORRECT THE ENROLLMENT OF THE BILL S. 735

Mr. HATCH submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 55

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 735) shall make the following corrections.

In the table of contents of the bill, strike the item relating to section 431 and redesignate the items relating to sections 432 through 444 as relating to sections 431 through 443, respectively.

Strike section 1605(g) of title 28, United States Code, proposed to be added by section 221 of the bill, and insert the following:

“(g) LIMITATION ON DISCOVERY.—

“(1) IN GENERAL.—(A) Subject to paragraph (2), if an action is filed that would otherwise be barred by section 1604, but for subsection (a)(7), the court upon request of the Attorney General, shall stay any request, demand, or order for discovery on the United States that the Attorney General certifies would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action, until such time as the Attorney General advises the court that such request, demand, or order will no longer so interfere.

“(B) A stay under this paragraph shall be in effect during the 12-month period beginning on the date on which the court issues the order to stay discovery. The court shall renew the order to stay discovery for additional 12-month periods upon motion by the United States if the Attorney General certifies that discovery would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action.

“(2) SUNSET.—(A) Subject to subparagraph (B), no stay shall be granted or continued in effect under paragraph (1) after the date that is 10 years after the date on which the incident that gave rise to the cause of action occurred.

“(B) After the period referred to in subparagraph (A), the court, upon request of the Attorney General, may stay any request, demand, or order for discovery on the United States that the court finds a substantial likelihood would—

“(i) create a serious threat of death or serious bodily injury to any person;

“(ii) adversely affect the ability of the United States to work in cooperation with foreign and international law enforcement agencies in investigating violations of United States law; or

“(iii) obstruct the criminal case related to the incident that gave rise to the cause of action or undermine the potential for a conviction in such case.

“(3) EVALUATION OF EVIDENCE.—The court's evaluation of any request for a stay under this subsection filed by the Attorney General shall be conducted ex parte and in camera.

“(4) BAR ON MOTIONS TO DISMISS.—A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) of 56 of the Federal Rules of Civil Procedure.

“(5) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States.”.

In section 620G(a), proposed to be inserted after section 620F of the Foreign Assistance Act of 1961, by section 325 of the bill, strike “may” and insert “shall”.

In section 620H(a), proposed to be inserted after section 620G of the Foreign Assistance Act of 1961, by section 326 of the bill—

(1) strike “may” and insert “shall”;

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(3) in subsection (a)(2)(C), insert “foreign” before “organization”; and

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In section 2332d(a), proposed to be added to chapter 113B of title 18, United States Code, by section 321(a) of the bill—

(1) strike “by the Secretary of State” and insert “by the Secretary of the Treasury”;

(2) strike “with the Secretary of the Treasury” and insert “with the Secretary of State”;

(3) add the words “the government of” after “engages in a financial transaction with”.

At the end of section 321 of the bill, add the following:

“(c) EFFECTIVE DATE.—The amendments made by this section shall become effective 120 days after the date of enactment of this Act.”.

In section 414(b) and 422(c) of the bill, strike “90” and insert “180”.

In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill strike “essential” and insert “important”.

In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill, strike “security”.

Strike section 431 of the bill and redesignate sections 432 through 444 as sections 431 through 443, respectively.

In section 511(c) of the bill, strike “amended—” and all that follows through “(2)” and insert “amended”.

In section 801 of the bill, strike “subject to the concurrence of” and insert “in consultation with”.

In section 443, by striking subsection (d) in its entirety and inserting:

“(d) EFFECTIVE DATE.—The amendments made by this section shall become effective no later than 60 days after the publication by the Attorney General of implementing regulations that shall be published on or before January 1, 1997.”

SENATE CONCURRENT RESOLUTION 56—RECOGNIZING THE 10TH ANNIVERSARY OF THE CHORNOBYL NUCLEAR DISASTER

Mr. LAUTENBERG (for himself, Mr. DOLE, Mr. HELMS, Mr. PELL, and Mr. LEVIN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 56

Whereas April 26, 1996, marks the tenth anniversary of the Chornobyl nuclear disaster;

Whereas United Nations General Assembly resolution 50/134 declares April 26, 1996, as the International Day Commemorating the Tenth Anniversary of the Chornobyl Nuclear Power Plant Accident and encourages member states to commemorate this tragic event;

Whereas serious radiological, health, and socioeconomic consequences for the populations of Ukraine, Belarus, and Russia, as well as for the populations of other affected areas, have been identified since the disaster;

Whereas over 3,500,000 inhabitants of the affected areas, including over 1,000,000 children, were exposed to dangerously high levels of radiation;

Whereas the populations of the affected areas, especially children, have experienced significant increases in thyroid cancer, immune deficiency diseases, birth defects, and other conditions, and these trends have accelerated over the 10 years since the disaster;

Whereas the lives and health of people in the affected areas continue to be heavily burdened by the ongoing effects of the Chornobyl accident;

Whereas numerous charitable, humanitarian, and environmental organizations from the United States and the international community have committed to overcome the extensive consequences of the Chornobyl disaster;

Whereas the United States has sought to help the people of Ukraine through various forms of assistance;

Whereas humanitarian assistance and public health research into Chornobyl's consequences will be needed in the coming decades when the greatest number of latent health effects is expected to emerge;

Whereas on December 20, 1995, the Ukrainian Government, the governments of the G–7 countries, and the Commission of the European Communities signed a memorandum of understanding to support the decision of Ukraine to close the Chornobyl nuclear power plant by the year 2000 with adequate support from the G–7 countries and international financial institutions;

Whereas the United States strongly supports the closing of the Chornobyl nuclear power plant and improving nuclear safety in Ukraine; and

Whereas representatives of Ukraine, the G–7 countries, and international financial institutions will meet at least annually to monitor implementation of the program to close Chornobyl: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) recognizes April 26, 1996, as the tenth anniversary of the Chornobyl nuclear power plant disaster;

(2) urges the Government of Ukraine to continue its negotiations with the G–7 countries to implement the December 20, 1995, memorandum of understanding which calls for all nuclear reactors at Chornobyl to be shut down in a safe and expeditious manner; and

(3) calls upon the President—

(A) to support continued and enhanced United States assistance to provide medical relief, humanitarian assistance, social impact planning, and hospital development for Ukraine, Belarus, Russia, and other nations most heavily afflicted by Chornobyl aftermath;

(B) to encourage national and international health organizations to expand the scope of research into the public health consequences of Chornobyl, so that the global community can benefit from the findings of such research;

(C) to support the process of closing the Chornobyl nuclear power plant in an expeditious manner as envisioned by the December 20, 1995, memorandum of understanding; and

(D) to support the broadening of Ukraine's regional energy sources which will reduce its dependence on any individual country.

Mr. LAUTENBERG. Mr. President, I rise to submit a resolution to commemorate the 10th anniversary of one of the most tragic, devastating events in the history of nuclear power—the Chernobyl nuclear disaster. The resolution also expresses Congress' unequivocal support for the closing of the Chernobyl nuclear power plant. I am pleased that Senators DOLE, HELMS, PELL, and LEVIN are joining me in submitting this resolution.

Friday, April 26, 1996, marks the 10th anniversary of the world's worst nuclear accident. Ten years ago, nuclear reactor No. 4 at Ukraine's Chernobyl nuclear power plant malfunctioned. The ensuing explosion and fire spewed a cloud of radiation across Europe, releasing 200 times more radioactivity than the atomic bombings of Hiroshima and Nagasaki combined.

The results were devastating. Millions of people were exposed to dangerously high levels of radiation.

Chernobyl's legacy is much more than the worst technological disaster in the history of nuclear power. It is a continuing humanitarian tragedy that will always be remembered the world over. The inhabitants of Ukraine, Belarus, and Russia continue to be heavily burdened by the social, economic, and health effects of the accident, and the entire international community continues to be threatened by the specter of another Chernobyl.

Ten years ago, millions of Ukrainians, Belarussians, and Russians, including over one million children and thousands of people who cleaned up after the explosion, were exposed to dangerously high levels of radiation. A 30-kilometer radius around Chernobyl was rendered uninhabitable. Families were forced from their homes. Most have never returned.

The tragic effects of this disaster have devastated millions. A 200-fold increase in thyroid cancer among children has ensued. Immune deficiency disorders, respiratory problems, and birth defects have increased at alarming rates since the disaster. The region's soil and water supplies have remained contaminated. Ukraine's economy has been overwhelmed by the costs of rebuilding.

Mr. President, the people of Chernobyl and Ukraine have not been alone in their efforts to overcome the tremendous loss. Numerous charitable and humanitarian organizations have assiduously worked to ameliorate the consequences of the Chernobyl disaster. Americans for Human Rights in Ukraine and the Children of Chernobyl Relief Fund, from my State of New Jersey, have lent considerable support to that effort along with many others in the Ukrainian-American community. These and millions of other Americans in New Jersey and elsewhere continue to provide valuable assistance to the victims of the Chernobyl disaster. All private organizations who have been at the forefront to help Ukraine deserve commendation for their tireless efforts to assist Cherbobyl's victims.

Unfortunately, more work needs to be done. Cherbobyl's two working reactors continue to churn out electricity. The protective concrete covering over the obliterated reactor No. 4, the sarcophagus, has developed cracks which dangerously weaken its structure. Corrosion of this structure threatens to release even more radioactivity into the region. Experts warn that another accident is imminent.

Just yesterday, a fire started within 10 kilometers of Cherbobyl. While initial assessments by specialists conclude that the abundant smoke produced by the fire may not pose further contamination dangers, all bets are off in the future. The region's inhabitants cannot be assured that radioactive particles which settled in the areas surrounding Cherbobyl after the accident will not be carried into their villages or water supplies. They cannot be assured that future fires or even floods will not release dangerous levels of contamination.

This event underscores the ongoing threat Cherbobyl poses to safety and the urgent need to close Cherbobyl forever.

On December 20, 1995, the Ukrainian Government, the governments of the G–7 countries, and the Commission of the European Communities signed a memorandum of understanding supporting Ukraine's decision to close Cherbobyl by the year 2000 and the international community has pledged financial support to facilitate the closure. Last week, President Clinton met in Moscow with Ukrainian President Leonid Kuchma and leaders of other G–7 nations, and Ukraine reaffirmed its commitment to close Cherbobyl.

Support from the international community is vital to help Ukraine move forward and close Cherbobyl. Ukraine is working hard to implement open economic and social reforms, and its economy is strapped. At this very delicate time in Ukraine's history, the United States should support Ukraine's efforts to rebuild its infrastructure and to secure the alternative energy sources it needs to close Cherbobyl in a safe and expeditious manner.

Mr. President, the devastating health effects, social distress, and economic hardship remains in the hearts and minds of the people of Ukraine who lived through the Cherbobyl explosion. They cannot forget the radioactive blanket of despair that covered their homes and forced them from their villages. They cannot forget that their livelihoods have been destroyed. For their sake and for the sake of future generations, we should commemorate this event on April 26, 1996, and redouble our efforts to ensure that the devastation of 10 years ago will not be repeated.

I urge my colleagues to support this resolution.

SENATE RESOLUTION 250—EXPRESSING THE SENSE OF THE SENATE REGARDING TACTILE CURRENCY FOR THE BLIND AND VISUALLY IMPAIRED PERSONS

Mr. BROWN (for himself, Mr. FAIRCLOTH, Ms. MOSELEY-BRAUN, and Mr. SHELBY) submitted the following resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. RES. 250

Whereas currency is used by virtually everyone in everyday life, including blind and visually impaired person;

Whereas the Federal reserve notes of the United States are inaccessible to individuals with visual disabilities;

Whereas the Americans with Disabilities Act enhances the economic independence and equal opportunity for full participation in society for individuals with disabilities;

Whereas most blind and visually impaired persons are therefore required to rely upon others to determine denominations of such currency;

Whereas this constitutes a serious impediment to independence in everyday living;

Whereas electronic means of bill identification will always be more fallible than purely tactile means;

Whereas tactile currency already exists in 23 countries world wide; and

Whereas the currency of the United States is presently undergoing significant changes for security purposes: Now, therefore, be it

Resolved, that the Senate—

(1) endorse the efforts recently begun by the Bureau of Engraving and Printing to upgrade the currency for security reasons; and

(2) strongly encourages the Secretary of the Treasury and the Bureau of Engraving and Printing to incorporate cost-effective, tactile features into the design changes, thereby including the blind and visually impaired community in independent currency usage.

AMENDMENTS SUBMITTED

THE IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

SIMPSON AMENDMENT NO. 3722

Mr. SIMPSON proposed an amendment to amendment No. 3669 proposed by him to the bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes; as follows:

Strike all after the first word and insert:

214. USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

"(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

"(1) in clause (i) by striking 'academic high school, elementary school, or other academic institution or in a language training program' and inserting in lieu thereof 'public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program'; and

"(2) by inserting before the semicolon at the end of clause (ii) the following:': *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.';

"(b) Exclusion of Student Visa Abusers.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) Student visa abusers.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is excludable.', and

"(c) Deportation of Student Visa Abusers.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) Student visa abusers.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable.'.".

This section shall become effective 1 day after the date of enactment.

SIMPSON AMENDMENT NO. 3723

Mr. SIMPSON proposed an amendment to amendment No. 3670 proposed by him to the bill S. 1664, supra; as follows:

Strike all after the first word and insert:

PILOT PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS.

(a) In General.—(1) The Attorney General and the Secretary of State shall jointly develop and conduct a pilot program to collect electronically from approved colleges and universities in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under section 101(a)(15)(F), (J), or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (J), or (M)); and

(B) are nationals of the countries designated under subsection (b).

(2) The pilot program shall commence not later than January 1, 1998.

(b) Covered Countries.TThe Attorney General and the Secretary of State shall jointly designate countries for purposes of subsection (a)(1)(B). The Attorney General and the Secretary shall initially designate not less than five countries and may designate additional countries at any time while the pilot program is being conducted.

(c) Information To Be Collected.—

(1) In general.—The information for collection under subsection (a) consists of—

(A) the identity and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General; and

(C) the academic standing of the alien, including any disciplinary action taken by the college or university against the alien as a result of the alien's being convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) shall not apply to aliens described in subsection (a) to the extent that the Attorney General and the Secretary of State determine necessary to carry out the pilot program.

(d) Participation by Colleges and Universities.—(1) The information specified in subsection (c) shall be provided by approved colleges and universities as a condition of—

(A) the continued approval of the colleges and universities under section 101(a)(15)(F) or (M) of the Immigration and Nationality Act, or

(B) the issuance of visas to aliens for purposes of studying, or otherwise participating, at such colleges and universities in a program under section 101(a)(15)(J) of such Act.

(2) If an approved college or university fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) Funding.—(1) The Attorney General and the Secretary shall use funds collected under section 281(b) of the Immigration and Nationality Act, as added by this subsection, to pay for the costs of carrying out this section.

(2) Section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) is amended—

(A) by inserting "(a)" after "SEC. 281."; and

(B) by adding at the end the following:

"(b)(1) In addition to fees that are prescribed under subsection (a), the Secretary of State shall impose and collect a fee on all visas issued under the provisions of section 101(a)(15)(F), (J), or (M) of the Immigration and Nationality Act. With respect to visas issued under the provisions of section 101(a)(15)(J), this subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States Government."

"(2) The Attorney General shall impose and collect a fee on all changes of nonimmigrant status under section 248 to such classifications. This subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States Government."

"(3) Except as provided in section 205(g)(2) of the Immigration Reform Act of 1996, the amount of the fees imposed and collected under paragraphs (1) and (2) shall be the amount which the Attorney General and the Secretary jointly determine is necessary to recover the costs of conducting the information-collection program described in subsection (a), but may not exceed $100.

"(4) Funds collected under paragraph (1) shall be available to the Attorney General and the Secretary, without regard to appropriation Acts and without fiscal year limitation, to supplement funds otherwise available to the Department of Justice and the Department of State, respectively."

(3) The amendments made by paragraphs (1) and (2) shall become effective April 1, 1997.

(f) Joint Report.—Not later than five years after the commencement of the pilot program established under subsection (a), the Attorney General and the Secretary of State shall jointly submit to the Committees on the Judiciary of the United States Senate and House of Representatives on the operations of the pilot program and the feasibility of expanding the program to cover the nationals of all countries.

(g) Worldwide Applicability of the Program.—(1)(A) Not later than six months after the submission of the report required by subsection (f), the Secretary of State and the Attorney General shall jointly commence expansion of the pilot program to cover the nationals of all countries.

(B) Such expansion shall be completed not later than one year after the date of the submission of the report referred to in subsection (f).

(2) After the program has been expanded, as provided in paragraph (1), the Attorney General and the Secretary of State may, on a periodic basis, jointly revise the amount of the fee imposed and collected under section 281(b) of the Immigration and Nationality Act in order to take into account changes in the cost of carrying out the program.

(h) Definition.—As used in this section, the phrase "approved colleges and universities" means colleges and universities approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 110(a)(15)).

This section shall become effective 1 day after the date of enactment.

SIMPSON AMENDMENT NO. 3724

Mr. SIMPSON proposed an amendment to amendment No. 3671 proposed by him to the bill S. 1664, supra; as follows:

Strike all after the first word and insert:

115A. FALSE CLAIMS OF U.S. CITIZENSHIP.

"(a) Exclusion of Aliens Who Have Falsely Claimed U.S. Citizenship.—Section 212(a)(9)(8 U.S.C. 1182(a)(9)) is amended by adding at the end the following new subparagraph:

'(D) Falsely claiming citizenship.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is excludable.'; and

"(b) Deportation of Aliens Who Have Falsely Claimed U.S. Citizenship.—Section 241(a)(8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) Falsely claiming citizenship.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is deportable.'.".

This section shall become effective 1 day after the date of enactment.

SIMPSON AMENDMENT NO. 3725

Mr. SIMPSON proposed an amendment to the motion to recommit proposed by him to the bill S. 1664, supra; as follows:

Add at the end of the instructions the following: "that the following amendment be reported back forthwith.

(1) After sec. 213 of the bill, add the following new section:

"SEC. 214. USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

"(a) Persons Eligible for Student Visas.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

"(1) in clause (i) by striking 'academic high school, elementary school, or other academic institution or in a language training program' and inserting in lieu thereof 'public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program'; and

"(2) by inserting before the semicolon at the end of clause (ii) the following: ': *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.';

"(b) Exclusion of Student Visa Abusers.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) Student visa abusers.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if(I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is excludable.'; and

"(c) Deportation of Student Visa Abusers.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) Student visa abusers.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if(I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable.'.".

SIMPSON AMENDMENT NO. 3726

Mr. SIMPSON proposed an amendment to amendment No. 3725 proposed by him to the bill S. 1664, supra; as follows:

At the end of the amendment to this instructions to the motion to recommit, insert the following new section:

SEC. PILOT PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS.

(a) In General.—(1) The Attorney General and the Secretary of State shall jointly develop and conduct a pilot program to collect electronically from approved colleges and universities in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under section 101(a)(15(F), (J), or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (J), or (M)); and

(B) are nationals of the countries designated under subsection (b).

(2) The pilot program shall commence not later than January 1, 1998.

(b) Covered Countries.—The Attorney General and the Secretary of State shall jointly designate countries for purposes of subsection (a)(1)(B). the Attorney General and the Secretary shall initially designate not less than five countries and may designate additional countries at any time while the pilot program is being conducted.

(c) Information To Be Collected.—

(1) In general.—The information for collection under subsection (a) consists of—

(A) the identity and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General; and

(C) the academic standing of the alien, including any disciplinary action taken by the college or university against the alien as a result of the alien's being convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) shall not apply to aliens described in subsection (a) to the extent that the Attorney general and the Secretary of State determine necessary to carry out the pilot program.

(d) Particiaption by Colleges and Universities.—(1) The information specified in subsection (c) shall be provided by approved colleges and universities as a condition of—

(A) the continued approval of the colleges and universities under section 101(a)(15)(F) or (M) of the Immigration and Nationality Act, or

(B) the issuance of visas to aliens for purposes of studying, or otherwise participating, at such colleges and universities in a program under section 101(a)(15)(J) of such Act.

(2) If an approved college or university fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) Funding.—(1) The Attorney General and the Secretary shall use funds collected under section 281(b) of the Immigration and Nationality Act, as added by this subsection, to pay for the costs of carrying out this section.

(2) Section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) is amended—

(A) by inserting "(a)" after "SEC. 281."; and

(B) by adding at the end the following:

"(b)(1) In addition to fees that are prescribed under subsection (a), the Secretary of State shall impose and collect a fee on all visas issued under the provisions of section 101(a)(15)(F), (J), or (M) of the Immigration and Nationality Act. With respect to visas issued under the provisions of section 101(a)(15)(J), this subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(2) The Attorney General shall impose and collect a fee on all changes of nonimmigrant status under section 248 to such classifications. This subsection shall not apply to those"J" visa holders whose presence in the United States is sponsored by the United States government."

"(3) Except as provided in section 205(g)(2) of the Immigration Reform Act of 1996, the amount of the fees imposed and collected under paragraphs (1) and (2) shall be the amount which the Attorney General and the Secretary jointly determine is necessary to recover the costs of conducting the information-collection program described in subsection (a), but may not exceed $100.

"(4) Funds collected under paragraph (1) shall be available to the Attorney General and the Secretary, without regard to appropriation Acts and without fiscal year limitation, to supplement funds otherwise available to the Department of Justice and the department of State, respectively."

(3) The amendments made by paragraphs (1) and (2) shall become effective April 1, 1997.

(f) Joint Report.—Not later than five years after the commencement of the pilot program established under subsection (a), the Attorney General and the Secretary of State shall jointly submit to the Committees on the Judiciary of the United States Senate and House of Representatives on the operations of the pilot program and the feasibility of expanding the program to cover the nationals of all countries.

(g) Worldwide Applicability of the Program.—(1)(A) Not later than six months after the submission of the report required by subsection (f), the Secretary of State and the Attorney General shall jointly commence expansion of the pilot program to cover the nationals of all countries.

(B) Such expansion shall be completed not later than one year after the date of the submission of the report referred to in subsection (f).

(2) After the program has been expanded, as provided in paragraph (1), the Attorney General and the Secretary of State may, on a periodic basis, jointly revise the amount of the fee imposed and collected under section 281(b) of the Immigration and Nationality Act in order to take into account changes in the cost of carrying out the program.

(h) Definition.—As used in this section, the phrase "approved colleges and universities" means colleges and universities approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

SIMPSON AMENDMENT NO. 3727

Mr. SIMPSON proposed an amendment to amendment No. 3725 proposed by him to the bill S. 1664, supra; as follows:

Strike the last word in the pending amendment and insert: "Act (8 U.S.C. 110(a)(15)).

"SEC. . FALSE CLAIMS OF U.S. CITIZENSHIP.

"(a) Exclusion of Aliens Who Have Falsely Claimed U.S. Citizenship.—Section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended by adding at the end the following new subparagraph:

'(D) Falsely claiming citizenship.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is excludable.'; and

"(b) Deportation of Aliens Who Have Falsely Claimed U.S. Citizenship.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) Falsely claiming citizenship.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is deportable.'.".

SIMPSON AMENDMENT NO. 3728

Mr. SIMPSON proposed an amendment to amendment No. 3725 proposed by him to the bill S. 1664, supra; as follows:

Strike all after the last word in the amendment and insert: "deportable.

"SEC. . VOTING BY ALIENS.

"(a) Criminal Penalty for Voting by Aliens in Federal Election.—Title 18. United States Code, is amended by adding the following new section:

'§ 611. Voting by aliens

'(a) It shall be unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, unless—

'(1) the election is held partly for some other purpose;

'(2) aliens are authorized to vote for such other purpose under a State constitution or statute or a local ordinance; and

'(3) voting for such other purpose is conducted independently of voting for a candidate for such Federal offices, in such a manner that an alien has the opportunity to vote for such other purpose, but not an opportunity to vote for a candidate for any one or more of such Federal offices.'

'(b) Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than one year or both.';

"(b) Exclusion of Aliens Who Have Unlawfully Voted.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) Unlawful voters.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is excludable.'; and

"(c) Deportation of Aliens Who Have Unlawfully Voted.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) Unlawful voters.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is deportable.'.".

SIMPSON AMENDMENT NO. 3729

Mr. SIMPSON proposed an amendment to amendment No. 3725 proposed by him to the bill S. 1664, supra; as follows:

Strike all after the last word and insert the following "deportable.

"USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

"(a) Persons Eligible for Student Visas.—Section 101(a)(15)(F)(8 U.S.C. 1101(a)(15)(F)) is amended—

"(1) in clause (i) by striking 'academic high school, elementary school, or other academic institution or in a language training program' and inserting in lieu thereof 'public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program'; and

"(2) by inserting before the semicolon at the end of clause (ii) the following: ': *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.';

"(b) Exclusion of Student Visa Abusers.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) Student visa abusers.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is excludable.', and

"(c) Deporttion of Student Visa Abusers.—Section 241(a)(8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) Student visa abusers.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable.'.".

This section shall become effective 1 day after the date of enactment.

SIMPSON AMENDMENT NO. 3730

Mr. SIMPSON proposed an amendment to amendment No. 3725 proposed by him to the bill S. 1664, supra; as follows:

Strike all after the last word in the amendment and insert: "enactment.

"SEC. . OPEN-FIELD SEARCHES.

(a) Repeal.—Section 116 of Public Law 99-603 and section 287(e) of the Immigration and Nationality Act (8 U.S.C. 1357(e)) are repealed.

"(b) Redesignation of Provision.—Subsection (f) of section 287 of that Act is redesignated as subsection (e) of that section."

ROBB (AND WARNER) AMENDMENT NO. 3731

(Ordered to lie on the table.)

Mr. ROBB (for himself and Mr. Warner) submitted an amendment intended to be proposed by them to the bill S. 1664, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . CHANGES IN SPECIAL IMMIGRANT STATUS.

(a) Repeal of Certain Obsolete Provisions.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by striking subparagraphs (B), (E), (F), (G), and (H).

(b) Special Immigrant Status for Certain NATO Civilian Employees.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is further amended—

(1) by striking "or" at the end of subparagraph (J),

(2) by striking the period at the end of subparagraph (K) and inserting "; or", and

(3) by adding at the end the following subparagraph:

"(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause—

"(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference at the North Atlantic Treaty Organization (NATO);

"(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO-6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the 'Protocol on the Status of International Military Headquarters' set up pursuant to the North Atlantic Treaty or as a dependent); and

"(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the Immigration in the National Interest Act of 1995.".

(c) Conforming Nonimmigrant Status for Certain Parents or Special Immigrant Children.—Section 101(a)(15)(N) (8 U.S.C. 1101(a)(15)(N)) is amended—

(1) by inserting "(or under analogous authority under paragraph (27)(L))" after "(27)(I)(i)", and

(2) by inserting "(or under analogous authority under paragraph (27)(L))" and "(27)(I)".

(d) Extension of Sunset for Religious Workers.—Section 101(a)(27)(C)(ii) (8 U.S.C. 1101(a)(27)(C)(ii)) is amended by striking "1997" and inserting "2005" each place it appears.

(e) Additional Conforming Amendments.—

(1) Section 201(b)(1)(A) (8 U.S.C. 1151(b)(1)(A)) is amended by striking "or (B)".

(2) Section 203(b)(4) (8 U.S.C. 1153(b)(4)) is amended by striking "or (B)".

(3) Section 214(k)(3) (8 U.S.C. 1184(l)(3)), (3)(A), is amended by striking ", who has not otherwise been accorded status under section 101(a)(27)(H),".

(4) Section 245(c)(2) (8 U.S.C. 1255(c)(2)) is amended by striking "101(a)(27) (H), (I)," and inserting "101(a)(27)(I),".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this section, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) TRANSITION.—The amendments made by subsection (a) shall not apply to any alien with respect to whom an application for special immigrant status under a subparagraph repealed by such amendments has been filed by not later than September 30, 1996.

SHELBY (AND OTHERS) AMENDMENT NO. 3732

(Ordered to lie on the table.)

Mr. SHELBY (for himself, Mr. COCHRAN, Mr. COVERDELL, Mr. FAIRCLOTH, Mr. HELMS, Mr. INHOFE, Mr. THOMAS, Mr. BYRD, Mr. COATS, Mr. GRAMS, Mr. LOTT, Mr. THURMOND, Mr. WARNER, and Mr. PRESSLER) submitted an amendment intended to be proposed by them to the bill S. 1664, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . LANGUAGE OF GOVERNMENT ACT OF 1996.

(a) SHORT TITLE.—This section may be cited as the "Language of Government Act of 1996".

(b) FINDINGS AND CONSTRUCTION.—

(1) FINDINGS.—The Congress finds and declares that—

(A) the United States is comprised of individuals and groups from diverse ethnic, cultural, and linguistic backgrounds;

(B) the United States has benefited and continues to benefit from this rich diversity;

(C) throughout the history of the Nation, the common thread binding those of differing backgrounds has been a common language;

(D) in order to preserve unity in diversity, and to prevent division along linguistic lines, the United States should maintain a language common to all people;

(E) English has historically been the common language and the language of opportunity in the United States;

(F) Native American languages have a unique status because they exist nowhere else in the world, and in creating a language policy for the United States Government, due consideration must be given to Native American languages and the policies and laws assisting their survival, revitalization, study, and use;

(G) a purpose of this Act is to help immigrants better assimilate and take full advantage of economic and occupational opportunities in the United States;

(H) by learning the English language, immigrants will be empowered with the language skills and literacy necessary to become responsible citizens and productive workers in the United States;

(I) the use of a single common language in the conduct of the Federal Government's official business will promote efficiency and fairness to all people;

(J) English should be recognized in law as the language of official business of the Federal Government; and

(K) any monetary savings derived by the Federal Government from the enactment of this Act should be used for the teaching of non-English speaking immigrants the English language.

(2) CONSTRUCTION.—The amendments made by subsection (c)—

(A) are not intended in any way to discriminate against or restrict the rights of any individual in the United States;

(B) are not intended to discourage or prevent the use of languages other than English in any nonofficial capacity; and

(C) except where an existing law of the United States directly contravenes the amendments made by subsection (c) (such as by requiring the use of a language other than English for official business of the Government of the United States), are not intended to repeal existing laws of the United States.

(c) ENGLISH AS THE OFFICIAL LANGUAGE OF GOVERNMENT.—

(1) IN GENERAL.—Title 4, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 6—LANGUAGE OF THE GOVERNMENT

"Sec.
"161. Declaration of official language of Government.e of Government.
"162. Preserving and enhancing the role of the offici42"163. Official Government activities in English.
"164. Standing.
"165. Definitions.

"§ 161. Declaration of official language of Government

"The official language of the Government of the United States is English.

"§ 162. Preserving and enhancing the role of the official language

"The Government shall have an affirmative obligation to preserve and enhance the role of English as the official language of the United States Government. Such obligation shall include encouraging greater opportunities for individuals to learn the English language.

"§ 163. Official Government activities in English

"(a) CONDUCT OF BUSINESS.—The Government shall conduct its official business in English.

"(b) DENIAL OF SERVICES.—No person shall be denied services, assistance, or facilities, directly or indirectly provided by the Government solely because the person communicates in English.

"(c) ENTITLEMENT.—Every person in the United States is entitled to—

"(1) communicate with the Government in English;

"(2) receive information from or contribute information to the Government in English; and

"(3) be informed of or be subject to official orders in English.

"§ 164. Standing

"Any person alleging injury arising from a violation of this chapter shall have standing to sue in the courts of the United States under sections 2201 and 2202 of title 28, United States Code, and for such other relief as may be considered appropriate by the courts.

"§ 165. Definitions

"For purposes of this chapter:

"(1) GOVERNMENT.—The term 'Government' means all branches of the Government of the United States and all employees and officials of the Government of the United States while performing official businesses.

"(2) OFFICIAL BUSINESS.—the term 'official business' means those governmental actions, documents, or policies which are enforceable with the full weight and authority of the Government, but does not include—

"(A) use of indigenous languages or Native American languages, or the teaching of foreign languages in educational settings;

"(B) actions, documents, or policies that are not enforceable in the United States;

"(C) actions, documents, or policies necessary for international relations, trade, or commerce;

"(D) actions or documents that protect the public health or the environment;

"(E) actions that protect the rights of victims of crimes or criminal defendants;

"(F) documents that utilize terms of art or phrases from languages other than English;

"(G) bilingual education, bilingual ballots, or activities pursuant to the Native American Languages Act (25 U.S.C. 2901 *et seq.*); and

"(H) elected officials, who possess a proficiency in a language other than English, using that language to provide information orally to their constituents.".

(2) CONFORMING AMENDMENT.—The table of chapters for title 4, United States Code, is amended by adding at the end the following new item:

"6. Language of the Government .... 161".

(d) PREEMPTION.—This section (and the amendments made by this section) shall not preempt any law of any State.

(e) EFFECTIVE DATE.—The amendments made by subsection (c) shall take effect upon the date of enactment of this Act, except that no suit may be commenced to enforce or determine rights under the amendments until January 1, 1997.

FAIRCLOTH AMENDMENT NO. 3733

(Ordered to lie on the table.)

Mr. FAIRCLOTH submitted an amendment intended to be proposed by him to the bill S. 1664, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . REVIEW OF CONTRACTS WITH ENGLISH AND CIVICS TEST ENTITIES.

(a) IN GENERAL.—The Attorney General of the United States shall investigate and submit a report to the Congress regarding the practices of test entities authorized to administer the English and civics tests pursuant to section 312.3(a) of title 8, Code of Federal Regulations. The report shall include any findings of fraudulent practices by the testing entities.

(b) PRELIMINARY AND FINAL REPORTS.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a preliminary report of the findings of the investigation conducted pursuant to subsection (a) and shall submit to the Congress a final report within 275 days after the submission of the preliminary report.

KENNEDY AMENDMENT NO. 3734

Mr. KENNEDY proposed an amendment to amendment No. 3725 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

At the appropriate place add the following:

SEC. INCREASE IN THE MINIMUM WAGE RATE.

Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $4.25 an hour during the period ending July 4, 1996, not less than $4.70 an hour during the year beginning July 5, 1996, and not less than $5.15 an hour after July 4, 1997;".

KYL AMENDMENT NO. 3735

Mr. KYL proposed an amendment to amendment No. 3725 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

At the end of the amendment add the following: Notwithstanding any other provision in this Act, section 154 shall read as follows:

SEC. 154. PHYSICAL AND MENTAL EXAMINATIONS.

Section 234 (8 U.S.C. 1224) is amended to read as follows:

"PHYSICAL AND MENTAL EXAMINATIONS

"SEC. 234. (a) ALIENS COVERED.—Each alien within any of the following classes of aliens who is seeking entry into the United States shall undergo a physical and mental examination in accordance with this section:

"(1) Aliens applying for visas for admission to the United States for permanent residence.

"(2) Aliens seeking admission to the United States for permanent residence for whom examinations were not made under paragraph (1).

"(3) Aliens within the United States seeking adjustment of status under section 245 to that of aliens lawfully admitted to the United States for permanent residence.

"(4) Alien crewmen entering or in transit across the United States.

"(b) DESCRIPTION OF EXAMINATION.—(1) Each examination required by subsection (a) shall include—

"(A) an examination of the alien for any physical or mental defect or disease and a certification of medical findings made in accordance with subsection (d); and

"(B) an assessment of the vaccination record of the alien in accordance with subsection (e).

"(2) The Secretary of Health and Human Services shall prescribe such regulations as may be necessary to carry out the medical examinations required by subsection (a).

"(c) MEDICAL EXAMINERS.—

"(1) MEDICAL OFFICERS.—(A) Except as provided in paragraphs (2) and (3), examinations under this section shall be conducted by medical officers of the United States Public Health Services.

"(B) Medical officers of the United States Public Health Service who have had specialized training in the diagnosis of insanity and mental defects shall be detailed for duty or employed at such ports of entry as the Secretary may designate, in consultation with the Attorney General.

"(2) CIVIL SURGEONS.—(A) Whenever medical officers of the United States Public Health Service are not available to perform examinations under this section, the Attorney General, in consultation with the Secretary, shall designate civil surgeons to perform the examinations.

"(B) Each civil surgeon designated under subparagraph (A) shall—

"(i) have at least 4 years of professional experience unless the Secretary determines that special or extenuating circumstances justify the designation of an individual having a lesser amount of professional experience; and

"(ii) satisfy such other eligibility requirements as the Secretary may prescribe.

"(3) PANEL PHYSICIANS.—In the case of examinations under this section abroad, the medical examiner shall be a panel physician designated by the Secretary of State, in consultation with the Secretary.

"(d) CERTIFICATION OF MEDICAL FINDINGS.—The medical examiners shall certify for the information of immigration officers and special inquiry officers, or consular officers, as the case may be, any physical or mental defect or disease observed by such examiners in any such alien.

"(e) VACCINATION ASSESSMENT.—(1) The assessment referred to in subsection (b)(1)(B) is an assessment of the alien's record of required vaccines for preventable diseases, including mumps, measles, rubella, polio, tetanus, diphtheria toxoids, pertussis, hemophilus-influenza type B, hepatitis type B, as well as any other diseases specified as vaccine-preventable by the Advisory Committee on Immunization Practices.

"(2) Medical examiners shall educate aliens on the importance of immunizations and shall create an immunization record for the alien at the time of examination.

"(3)(A) Each alien who has not been vaccinated against measles, and each alien under the age of 5 years who has not been vaccinated against polio, must receive such vaccination, unless waived by the Secretary, and must receive any other vaccination determined necessary by the Secretary prior to arrival in the United States.

"(B) Aliens who have not received the entire series of vaccinations prescribed in paragraph (1) (other than measles) shall return to a designated civil surgeon within 30 days of arrival in the United States, or within 30 days of adjustment of status, for the remainder of the vaccinations.

"(f) APPEAL OF MEDICAL EXAMINATION FINDINGS.—Any alien determined to have a health-related grounds of exclusion under paragraph (1) of section 212(a) may appeal that determination to a board of medical officers of the Public Health Service, which shall be convened by the Secretary. The alien may introduce at least one expert medical witness before the board at his or her own cost and expense.

"(g) FUNDING.—(1)(A) The Attorney General shall impose a fee upon any person applying for adjustment of status to that of an alien lawfully admitted to permanent residence under section 209, 210, 245,or 245A, and the Secretary of State shall impose a fee upon any person applying for a visa at a United States consulate abroad who is required to have a medical examination in accordance with subsection (a).

"(B) The amounts of the fees required by subparagraph (A) shall be established by the Secretary, in consultation with the Attorney General and the Secretary of State, as the case may be, and shall be set at such amounts as may be necessary to recover the full costs of establishing and administering the civil surgeon and panel physician programs, including the costs to the Service, the Department of State, and the Department of Health and Human Services for any additional expenditures associated with the administration of the fees collected.

"(2)(A) The fees imposed under paragraph (1) may be collected as separate fees or as surcharges to any other fees that may be collected in connection with an application for adjustment of status under section 209, 210, 245, or 245A, for a visa, or for a waiver of excludability under paragraph (1) or (2) of section 212(g), as the case may be.

"(B) The provisions of the Act of August 18, 1856 (Revised Statutes 1726-28, 22 U.S.C. 4212-14), concerning accounting for consular fees, shall not apply to fees collected by the Secretary of State under this section.

"(3)(A) There is established on the books of the Treasury of the United States a separate account which shall be known as the 'Medical Examinations Fee Account'.

"(B) There shall be deposited as offsetting receipts into the Medical Examinations Fee Account all fees collected under paragraph (1), to remain available until expended.

"(C) Amounts in the Medical Examinations Fee Account shall be available only to reimburse any appropriation currently available for the programs established by this section.

"(h) DEFINITIONS.—As used in this section—

"(1) the term 'medical examiner' refers to a medical officer, civil surgeon, or panel physician, as described in subsection (c); and

"(2) the term 'Secretary' means the Secretary of Health and Human Services.".

BROWN AMENDMENT NO. 3736

(Ordered to lie on the table.)

Mr. BROWN submitted an amendment intended to proposed by him to the bill S. 1664, supra; as follows:

At the appropriate place in title II of the bill, insert the following new section:

SEC. . PILOT PROGRAMS TO PERMIT BONDING.

(a) IN GENERAL.—The Attorney General of the United States shall establish a pilot program in 5 States (at least 2 of which are in States selected for a demonstration project under section 112 of this Act) to permit aliens to post a bond in lieu of the affidavit requirements in section 203 of the Immigration Control and Financial Responsibility Act of 1996 and the deeming requirements in section 204 of such Act. Any pilot program established pursuant to this subsection shall require an alien to post a bond in an amount sufficient to cover the cost of benefits for the alien and the alien's family under the programs described in section 241(a)(5)(D) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(5(D)) and shall remain in effect until the alien and all members of the alien's family permanently depart from the United States, are naturalized, or die.

(b) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations for establishing the pilot programs, including

(1) criteria and procedures for—

(A) certifying bonding companies for participation in the program, and

(B) debarment of any such company that fails to pay a bond, and

(2) criteria for setting the amount of the bond to assure that the bond is in an amount that is not less than the cost of providing benefits under the programs described in section 241(a)(5)(D) for the alien and the alien's family for 6 months.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

DOLE (AND COVERDELL) AMENDMENT NO. 3737

Mr. COVERDELL (for Mr. DOLE, for himself and Mr. COVERDELL) proposed an amendment to amendment No. 3725 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

At the end of the amendment, insert the following:

SEC. . EXCLUSION GROUNDS FOR OFFENSES OF DOMESTIC VIOLENCE, STALKING, CRIMES AGAINST CHILDREN, AND CRIMES OF SEXUAL VIOLENCE.

(a) IN GENERAL.—Section 241(a)(2) (8 U.S.C. 1251(a)(2)) is amended by adding at the end the following:

"(E) DOMESTIC VIOLENCE, VIOLATION OF PROTECTION ORDER, CRIMES AGAINST CHILDREN AND STALKING.—(i) Any alien who at any time after entry is convicted of a crime of domestic violence is deportable.

"(ii) Any alien who at any time after entry engages in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is deportable.

"(iii) Any alien who at any time after entry is convicted of a crime of stalking is deportable.

"(iv) Any alien who at any time after entry is convicted of a crime of child abuse, child sexual abuse, child neglect, or child abandonment is deportable.

"(F) CRIMES OF SEXUAL VIOLENCE.—Any alien who at any time after entry is convicted of a crime of rape, aggravated sodomy, aggravated sexual abuse, sexual abuse, abusive sexual contact, or other crime of sexual violence is deportable.".

(b) DEFINITIONS—Section 101(a) (8) U.S.C. 1101(a)) is amended by adding at the end the following new paragraphs:

"(47) The term 'crime of domestic violence' means any felony or misdemeanor crime of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local government.

"(48) The term 'protection order' means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.".

(c) This section will become effective one day after the date of enactment of the Act

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NOTICES OF HEARINGS

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT AND THE DISTRICT OF COLUMBIA

Mr. COHEN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management and the District of Columbia, Committee on Governmental Affairs, will hold a hearing on Tuesday, April 30, 1996, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building, on Aviation Safety: Are FAA Inspectors Adequately Trained, Targeted, and Supervised?

COMMITTEE ON ENERGY AND NATURAL RESOURCES SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, May 2, 1996, at 2:00 p.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to review S. 742, a bill to amend the Wild and Scenic Rivers Act to limit acquisition of land on the 39-mile segment of the Missouri River, Nebraska and South Dakota, designated as a recreational river, to acquisition from willing sellers; S. 879, a bill to amend the Wild and Scenic Rivers Act to limit acquisition of land on the 39-mile headquarters segment of the Missouri River, Nebraska and South Dakota, designated as a recreational river, to acquisition from willing sellers; S. 1167, a bill to amend the Wild and Scenic Rivers Act to exclude the South Dakota segment from the segment of the Missouri River designated as a recreational river; S. 1168, a bill to amend the Wild and Scenic Rivers Act to exclude any private lands from the segment of the Missouri River designated as a recreational river; S. 1174, a bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Lamprey River in New Hampshire as components of the National Wild and Scenic Rivers System; and S. 1374, a bill to require adoption of a management plan for the Hells Canyon National Recreation Area that allows appropriate use of motorized and nonmotorized river craft in the recreation area.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation, and Recreation, Committee on Energy and Natural Resources, U.S. Senate, 364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224-5161.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Wednesday, April 24, 1996, session of the Senate for the purpose of conducting a hearing on S. 1278 and Distance Learning.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, April 24, 1996, for purposes of conducting a full committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this meeting is to consider pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Wednesday, April 24, at 9:30 a.m., hearing room SD-406, on S. 1285, the Accelerated Cleanup and Environmental Recovery Act of 1996 ("Superfund"), as modified by an amendment in the nature of a substitute, Senate Amendment No. 3563, dated March 21, 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 24, 1996, at 2:00 p.m., to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Wednesday, April 24, 1996, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. SIMPSON. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on the President's fiscal year 1997 budget proposals for veterans' programs. The hearing will be held on April 24, 1996, at 2:00 p.m., in room 418 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, April 24, 1996, at 9:00 a.m. to hold an open hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the

Senate on Wednesday, April 24, 1996, at 3:00 p.m. to hold a closed mark-up.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER DEVELOPMENT AND RELATED MATTERS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Special Committee to Investigate Whitewater Development and Related Matters be authorized to meet during the session of the Senate on Wednesday, April 24, and Thursday, April 25, 1996, to conduct hearings pursuant to Senate Resolution 120.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Subcommittee on Administrative Oversight and the Courts of the Senate Committee on the Judiciary, be authorized to meet during a session of the Senate on Wednesday, April 24, 1996, at 2:00 p.m., in Senate Dirksen room 226, on "The need for additional bankruptcy judgeships and the role of the U.S. trustee system".

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

IN SOLIDARITY WITH ISRAEL TO FIGHT TERRORISM

• Mr. MACK. Mr. President, I submit for the RECORD the following American-Jewish Committee message of solidarity with Israel against terrorism. The message appeared as a full-page advertisement in the New York Times on March 17, 1996.

The message follows:

We stand with Israel—in grief, in solidarity, in our resolve to fight terrorism.

Again and again, terrorists intent on destroying Israel and halting the Arab-Israeli peace process have taken their deadly toll of innocent lives. In the latest horrific attacks, scores have been killed: Israelis young and old; Jews and non-Jews; citizens and visitors, including two young Americans.

We stand as one in our condemnation of those who commit and assist such heinous acts. The murderers and their supporters serve no agenda other than blind, fanatical hatred. Israelis, Palestinians, the international community must act to stop these killers now. Through every practical means, the promoters of terror must be defeated, their pipelines of financial and logistical support choked off.

We stand as one with the people of Israel and Jews the world over in mourning the victims of terrorist murder—as we have stood with Israel in other times of peril, and in times of accomplishment and hope. We stand with Israel in its age-old quest for peace and security.

This is a time of sorrow and reflection for the people of Israel, and for all who seek peace. It is a time of challenge for a country that has maintained its commitment to peace and freedom under relentless attack. We stand with Israel—in grief, in solidarity, and in our resolve to fight terrorists committed to the death of innocents and the death of hope.

Rep. Neil Abercrombie, Hawaii.

Sen. Spencer Abraham, Michigan.

Rep. Gary L. Ackerman, New York.

Gov. George Allen, Virginia.

Rep. Robert E. Andrews, New Jersey.

Mayor Dennis W. Archer, Detroit.

Dr. Don Argue, President, National Association of Evangelicals.

Rep. Bob Barr, Georgia.

Rep. Thomas M. Barrett, Wisconsin.

Mayor Marion Barry, Washington, DC.

Rep. Herbert H. Bateman, Virginia.

Rep. Howard L. Berman, California.

Joseph Cardinal Bernardin, Archbishop of Chicago.

Sen. Joseph R. Biden, Jr., Delaware.

Prof. Thomas E. Bird, Queens College.

David Blewett, Executive Director, National Christian Leadership Conference for Israel.

Rep. Thomas J. Bliley, Jr., Virginia.

Rep. Robert A. Borski, Pennsylvania.

Prof. David M. Bossman, Seton Hall University.

Sen. Barbara Boxer, California.

Sen. Bill Bradley, New Jersey.

Rep. Sherrod Brown, Ohio.

Mayor Willie L. Brown, Jr., San Francisco.

Rep. Sam Brownback, Kansas.

Rep. John Bryant, Texas.

Rev. Alfred S. Burnham, Ecumenical and Interreligious Director, Archdiocese of Los Angeles.

Right Rev. John Burt, President, National Christian Leadership Conference for Israel.

Rep. Dave Camp, Michigan.

Sen. Ben Nighthorse Campbell, Colorado.

Mayor Bill Campbell, Atlanta.

Del. Eric Cantor, Virginia.

Rep. Benjamin L. Cardin, Maryland.

Gov. Mel Carnahan, Missouri.

David Chen, Executive Director, Chinese American Planning Council.

Mayor Emanuel Cleaver II, Kansas City.

Sen. William S. Cohen, Maine.

Robert E. Cooley, President, Gordon-Conwell Theological Seminary.

Dr. James H. Costen, President, Inter-Denominational Theological Center.

Rep. William J. Coyne, Pennsylvania.

Rep. Randy Cunningham, California.

Sen. Alfonse M. D'Amato, New York.

Rep. Pat Danner, Missouri.

Sen. Thomas A. Daschle, South Dakota, Senate Minority Leader.

Rep. Thomas M. Davis III, Virginia.

Rep. Rosa L. DeLauro, Connecticut.

Rep. Peter Deutsch, Florida.

Guarione M. Diaz, President, Cuban American National Council.

Rep. Julian C. Dixon, California.

Sen. Christopher J. Dodd, Connecticut.

Sr. Audrey Doetzel, N.D.S., Sisters of Our Lady of Zion.

Rep. Lloyd Doggett, Texas.

Sen. Robert Dole, Kansas, Senate Majority Leader.

Most Rev. John F. Donoghue, Archbishop of Atlanta.

Rep. Michael F. Doyle, Pennsylvania.

Rev. Robert F. Drinan, S.J., Professor, Georgetown University Law Center.

Rev. James M. Dunn, Executive Director, Baptist Joint Committee on Public Affairs.

Rev. Nicholas B. van Dyck, President, Religion in American Life.

Clint Eastwood Actor/Director, Los Angeles.

Gov. Jim Edgar, Illinois.

Rep. Eliot L. Engel, New York.

Gov. John Engler, Michigan.

Dr. Paul Eppinger, Executive Director, Arizona Ecumenical Council.

Rep. Anna Eshoo, California.

Rev. Dr. Robert A. Everett, Pastor, Emanuel United Church of Christ, Irvington, New Jersey.

Sen. Dianne Feinstein, California.

Juan A. Figueroa, President and General Counsel, Puerto Rican Legal Defense and Education Fund.

Rep. Thomas M. Foglietta, Pennsylvania.

Rep. Mark Foley, Florida.

Dr. James Forbes, Jr., Senior Minister, Riverside Church of New York.

Rep. Michael P. Forbes, New York.

Ken Foster, Chair, Palm Beach County Commission.

Rep. Jon D. Fox, Pennsylvania.

Rep. Barney Frank, Massachusetts.

Rep. Gary A. Franks, Connecticut.

Rep. Rodney P. Frelinghuysen, New Jersey.

Rep. Dan Frisa, New York.

Henry Louis Gates, Jr., Chairman, Department of African American Studies, Harvard University.

David Geffen, DreamWorks SKG, Los Angeles.

Rep. Sam Gejdenson, Connecticut.

Rep. Richard A. Gephardt, Missouri, House Minority Leader.

Rep. Benjamin A. Gilman, New York.

Rep. Newt Gingrich, Georgia, Speaker of the House.

Mayor Rudolph Giuliani, New York.

Gov. Parris N. Glendening, Maryland.

Rep. William F. Goodling, Pennsylvania.

Rep. Bart Gordon, Tennessee.

Joseph E. Gore, President and Executive Director, The Kosciuszko Foundation.

Sen. Slade Gorton, Washington.

Dr. Alfred Gottschalk, Chancellor, Hebrew Union College.

Sen. Bob Graham, Florida.

Mayor Nancy Graham, West Palm Beach.

Sen. Phil Gramm, Texas.

Gov. Bill Graves, Kansas.

E. Brandt Gustavson, President, National Religious Broadcasters.

Right Rev. Ronald H. Haines, Episcopal Bishop of Washington, DC.

Rep. Tony P. Hall, Ohio.

Rep. Lee H. Hamilton, Indiana.

Mayor Susan Hammer, San Jose.

Rep. James V. Hansen, Utah.

Rep. Jane Harman, California.

Mayor Elihu Harris, Oakland.

Rev. Linda B. Harter, Minister of Pastoral Care, Presbyterian Church of Falling Spring, Chambersburg, Pennsylvania.

Rev. Dr. William H. Harter, Pastor, Presbyterian Church of Falling Spring, Chambersburg, Pennsylvania.

Rep. Alcee L. Hastings, Florida.

Sen. Orrin G. Hatch, Utah.

Dr. John W. Healey, S.T.D., Director, Archbishop Hughes Institute, Fordham University.

Sen. Howell Heflin, Alabama.

Sen. Ernest F. Hollings, South Carolina.

Rep. Stephen Horn, California.

Dean Joseph C. Hough, Jr., Vanderbilt Divinity School.

Rep. Steny H. Hoyer, Maryland.

Most Rev. Howard J. Hubbard, Bishop of Albany.

Rep. Tim Hutchinson, Arkansas.

Archbishop Iakovos, Greek Orthodox Archdiocese of North and South America.

Sen. Daniel K. Inouye, Hawaii.

Rep. Tim Johnson, South Dakota.

Rep. Harry Johnston, Florida.

Elaine R. Jones, Director-Counsel, NAACP Legal Defense and Education Fund.

Sen. Nancy Landon Kassebaum, Kansas.

Jeffrey Katzenberg, DreamWorks SKG, Los Angeles.

Sr. Dorothy Ann Kelly, O.S.U., President, College of New Rochelle.

Rep. Sue W. Kelly, New York.

Hon. Jack Kemp, Washington, DC.

Sen. Edward M. Kennedy, Massachusetts.

Rep. Barbara B. Kennelly, Connecticut.

Sen. John F. Kerry, Massachusetts.

Rev. Diane C. Kessler, Executive Director, Massachusetts Council of Churches.

Rep. Peter T. King, New York.

Rep. Gerald D. Kleczka, Wisconsin.

Rev. Kenneth Kliever, Region Minister, American Baptist Churches of the Pacific Southwest.

Rep. Scott L. Klug, Wisconsin.

Rep. Joseph Knollenberg, Michigan.

Sen. Herbert H. Kohl, Wisconsin.

Dr. Norman Lamm, President, Yeshiva University.

Rev. Richard Land, President, Christian Life Commission of the Southern Baptist Convention.

Rep. Tom Lantos, California.

Rep. Tom Latham, Iowa.

Rep. Greg Laughlin, Texas.

Sen. Frank R. Lautenberg, New Jersey.

Rep. Rick Lazio, New York.

Rev. Christopher M. Leighton, Executive Director, Institute for Christian and Jewish Studies.

Most Rev. William J. Levada, Archbishop of San Francisco.

Sen. Carl Levin, Michigan.

Rep. John Lewis, Georgia.

Dr. David A. Lewis, President, Christians United for Israel.

Sen. Joseph I. Lieberman, Connecticut.

Brother James A. Liguori, C.F.C., President, Iona College.

Archbishop Oscar H. Lipscomb, Archdiocese of Mobile.

Rep. Nita M. Lowey, New York.

Gov. Michael Lowry, Washington.

Sen. Connie Mack, Florida.

Dean W. Eugene March, Louisville Presbyterian Theological Seminary.

Bernard Marcus, President and CEO, The Home Depot, Atlanta.

Rep. Frank R. Mascara, Pennsylvania.

Dr. Prema Mathai-Davis, National Executive Director, YWCA of the U.S.A.

Rep. Robert T. Matsui, California.

H. Carl McCall, Comptroller of New York.

Most Rev. Theodore E. McCarrick, Archbishop of Newark.

Rep. Karen McCarthy, Missouri.

Rep. Bill McCollum, Florida.

Rep. Paul McHale, Pennsylvania.

Rep. Cynthia McKinney, Georgia.

Msgr. John R. McMahon, St. Joan of Arc Roman Catholic Church, Boca Raton.

Rep. Marty Meehan, Massachusetts.

Rep. Carrie P. Meek, Florida.

Hon. Thomas Patrick Melady, Former Ambassador to the Vatican, President Emeritus, Sacred Heart University.

Rep. Jack Metcalf, Washington.

Rep. Jan Meyers, Kansas.

Hon. Kweisi Mfume, President and CEO, NAACP.

Sen. Barbara A. Mikulski, Maryland.

Rep. Dan Miller, Florida.

Gov. Zell Miller, Georgia.

Luis A. Miranda, President, Hispanic Federation of New York City.

Rep. James P. Moran, Virginia.

Rep. Constance A. Morella, Maryland.

Dr. Milton D. Morris, Vice President of Research, Joint Center for Political and Economic Studies.

Sen. Carol Moseley-Braun, Illinois.

Edward J. Moskal, President, Polish American Congress.

Sen. Daniel Patrick Moynihan, New York.

Sen. Patty Murray, Washington.

Rep. Jerrold Nadler, New York.

Rep. George R. Nethercutt, Jr., Washington.

Rev. Richard John Neuhaus, Editor in Chief, First Things.

Most Rev. John J. Nevins, Bishop of the Diocese of Venice, Florida.

Rep. David R. Obey, Wisconsin.

Most Rev. Thomas J. O'Brien, Bishop of Phoenix.

Rep. John W. Olver, Massachusetts.

Andrew P. O'Rourke, County Executive, Westchester County.

Rep. Frank Pallone, Jr., New Jersey.

Mario J. Paredes, Executive Director, Northeast Hispanic Catholic Center.

Rep. Ed Pastor, Arizona.

Gov. George E. Pataki, New York.

Rev. John T. Pawlikowski, O.S.M., Professor of Social Ethics, Catholic Theological Union.

Sen. Claiborne Pell, Rhode Island.

Rev. Kate Penfield, President, American Baptist Churches, U.S.A.

Most Rev. Daniel Pilarczyk, Archbishop of Cincinnati.

Jeanine Pirro, District Attorney, Westchester County.

Dr. Alvin F. Poussaint, Director, Judge Baker Children's Center, Boston.

Hugh B. Price, President and CEO, National Urban League.

Mayor Roxanne Qualls, Cincinnati.

Rep. Jim Ramstad, Minnesota.

Rep. Charles B. Rangel, New York.

Rep. Jack Reed, Rhode Island.

Dr. Ralph Reed, Executive Director, Christian Coalition.

Mayor Norman B. Rice, Seattle.

Mayor Edward G. Rendell, Philadelphia.

Gov. Tom Ridge, Pennsylvania.

Mayor Richard J. Riordan, Los Angeles.

Rep. Pat Roberts, Kansas.

Rep. Tim J. Roemer, Indiana.

Gov. Roy Romer, Colorado.

Rep. Ileana Ros-Lehtinen, Florida.

Bishop Catherine S. Roskam, Bishop Suffragan of New York.

Sen. William V. Roth, Jr., Delaware.

Fred Rotondaro, Executive Director, National Italian American Foundation.

Rep. Matt Salmon, Arizona.

Sen. Rick Santorum, Pennsylvania.

Rep. Thomas C. Sawyer, Ohio.

Rep. Jim Saxton, New Jersey.

Rep. Steven Schiff, New Mexico.

Rev. Theodore F. Schneider, Bishop, Metropolitan Washington, DC, Synod, ELCA.

Dr. Ismar Schorsch, Chancellor, Jewish Theological Seminary of America.

Rep. Patricia Schroeder, Colorado.

Mayor S.J. Schulman, White Plains.

Rep. Charles E. Schumer, New York.

Rep. E. Clay Shaw, Jr., Florida.

Dr. Franklin Sherman, Director, Institute for Jewish-Christian Understanding, Muhlenberg College.

Dr. James M. Shuart, President, Hofstra University.

Sen. Paul Simon, Illinois.

Rep. David E. Skaggs, Colorado.

Rep. Ike Skelton, Missouri.

Rev. Gary F. Skinner, Synod Executive, Synod of the Southwest Presbyterian Church (U.S.A.).

Rep. Louise McIntosh Slaughter, New York.

Rep. Linda Smith, Washington.

Sen. Olympia J. Snowe, Maine.

Sen. Arlen Specter, Pennsylvania.

Ann Stallard, National President, YWCA of the U.S.A.

David Steinberg, President, Long Island University.

Rep. Louis Stokes, Ohio.

Rep. Gerry E. Studds, Massachusetts.

Rep. Bart Stupak, Michigan.

Bishop Joseph M. Sullivan, Auxiliary Bishop, Diocese of Brooklyn.

Rt. Rev. William E. Swing, Episcopal Bishop of California.

Rep. Charles H. Taylor, North Carolina.

Rep. Frank Tejeda, Texas.

Dr. David A. Teutsch, President, Reconstructionist Rabbinical College.

Sr. Rose Thering, O.P., Executive Director, Emerita National Christian Leadership Conference for Israel.

Bishop Herbert Thompson, Jr., Bishop of the Episcopal Diocese of Southern Ohio.

Rep. Todd Tiahrt, Kansas.

Rep. Peter G. Torkildsen, Massachusetts.

Rep. Esteban E. Torres, California.

Rep. Robert G. Torricelli, New Jersey.

Rep. Edolphus Towns, New York.

Dr. Stephen Joel Trachtenberg, President, George Washington University.

Prof. Albert Truesdale, Nazarene Theological Seminary.

Rep. Nydia M. Velázquez, New York.

Dr. James L. Waits, Executive Director, Association of Theological Schools in the United States and Canada.

Dennis M. Walcott, President and CEO, New York Urban League.

Rep. James T. Walsh, New York.

Rep. Zach Wamp, Tennessee.

Rep. Mike Ward, Kentucky.

Rep. J.C. Watts, Jr., Oklahoma.

Rep. Henry A. Waxman, California.

Mayor Wellington E. Webb, Denver.

George Weigel, President, Ethics and Public Policy Center.

Gov. William F. Weld, Massachusetts.

Rep. Curt Weldon, Pennsylvania.

Sen. Paul Wellstone, Minnesota.

State Sen. Robert Wexler, Florida.

Prof. Roger Wilkins, George Mason University.

Gov. Pete Wilson, California.

Rep. Robert E. Wise, Jr., West Virginia.

Rev. R. Stewart Wood, Bishop of the Episcopal Diocese of Michigan.

Rep. Albert Wynn, Maryland.

Rep. Sidney R. Yates, Illinois.

Amb. Andrew Young, Atlanta.

Rep. C.W. Bill Young, Florida.

Raul Yzaguirre, President and CEO, National Council of La Raza.

Rep. Richard A. Zimmer, New Jersey.•

A FAIR FLAT TAX TO RALLY BEHIND

• Mr. SIMON. Mr. President, there is a great deal of talk about what we will do long term to protect Social Security.

One relatively simple method of buttressing that fund and also putting the Federal Government in better financial shape is to follow the advice of former Massachusetts Gov. Michael Dukakis.

He had an op-ed piece recently in the Los Angeles Times that really makes sense, which I ask to be printed in the RECORD after my remarks.

The difficulty rests with our system of campaign financing. Those who benefit by the present system of not taxing incomes above $62,700 are the big contributors to our campaigns. Even if you do not buy the idea of lowering the Social Security tax, revising the exemption certainly makes our tax system a much more just system.

Mike Dukakis is right.

The article follows:

[From the Los Angeles Times, Mar. 15, 1996]

A FAIR FLAT TAX TO RALLY BEHIND

(By Michael Dukakis)

Steve Forbes hoped to ride into the White House on a flat income tax with a low-earner exemption. He apparently had a lot of company, at least on the Republican side of the street.

Of course, when you look at it closely, the flat tax is nothing more than another attempt to give a huge tax break to wealthy taxpayers like Forbes. But it sounded good at least when he first proposed it, and it transformed him, at lest temporarily, into a serious challenger for the Republican nomination.

Suppose, however, that a candidate for the presidency ran on a plan for a flat tax with a high-earner exemption. We'd think he was out of his mind.

Yet that's exactly how the Social Security tax works. We pay a flat tax of 6.2% on every dollar we make, up to $62,700. All wages above that are tax exempt.

The high-earner exemption is as regressive as it sounds. And it's taking a huge chunk out of the wages of average working Americans. A worker making $60,000 a year pays eight times the rate paid by someone pulling in a half-million a year and 80 times the rate paid by someone making 5 million a year. To put it another way: A $60,000 earner pays 6.2% on all her earnings; a $500,000 earner pays the 6.2% on the first $62,700, which is 0.78% of all his earnings, and the earner of $5 million pays the same, which is 0.078% of his earnings.

It's bad enough that working middle class Americans are feeling less and less secure. For those lucky enough to still have a job in these days of massive corporate downsizing, the Social Security tax is the unkindest cut of all.

In fact, more than half the people in this country pay more in Social Security taxes than they do in income taxes. And you can bet they aren't among the wealthiest 20% to whom virtually all income growth has gone since 1980.

What can we do about it? It's a simple as it is common sense. Get rid of the high-earner exemption, cut the Social Security tax rate and apply it to all earned income—just what the flat-taxers say they want to do to the income tax.

If we made this one move, the Social Security flat tax rate would decrease by 12%. Everyone earnings less than $82,000—that's more than 97% of American workers—would get a tax break. It wouldn't increase the federal deficit one dime. But it would eliminate the necessity for the kind of tax cut that budget negotiators are wrestling with, which would add billions to the deficit.

Lower taxes for the overwhelming majority of working Americans. Heightened fairness. A fiscally responsible tax cut for the middle class. These are the goals that all fair-minded Republicans and Democrats should be able to support.

Of course, people like Steve Forbes would have to pay the same rate as the rest of us. But wasn't that the principle behind the flat tax in the first place?•

TERM LIMITS

• Mr. MURKOWSKI. Mr. President, yesterday the Senate failed to invoke cloture on the resolution that would have allowed the States to decide whether the Constitution should be amended to impose term limits on Congress. I supported invoking cloture and I want to express my disappointment that we were not able to limit debate on this important issue.

Mr. President, in 1994, 63 percent of Alaskans who voted cast their ballot in favor of congressional term limits. I want to explain why I support the resolution and also cite some reservations I have concerning this idea.

As a majority of Alaskan voters believe, term limits may indeed provide for the infusion of fresh ideas and new perspectives through the Halls of Congress. Term limits may also make Congress more responsive to its constituents; decrease the possibility of corruption that some see as stemming from longevity in office; and enhance the role of merit, rather than seniority, in the distribution of power.

However, term limits unquestionably restrict the ability of voters to vote for whom they wish, thereby indiscriminately terminating the public service work of both good legislators and bad legislators, alike.

Term limits would remove many of the most competent and experienced Members from office prematurely, thereby destroying the so-called institutional memory. The only individuals who would retain an institutional memory would be professional staff. Term limits may very well enhance their ability to shape legislation and become entrenched as the permanent bureaucracy of Capitol Hill.

Similarly, the professional lobbyists in Washington may also find their influence with Members of Congress improved, as they are far more familiar with the details of issues affecting their industries than new Members of Congress.

Finally, I would note that term limits could well diminish the influence of Senators and Congressmen from States with small populations, such as Alaska. I am especially concerned that term limits in the House will increase the power of States like California, Texas, and New York, which have delegations as large as 52 Members as opposed to States such as Alaska and Wyoming, each of which only has one Representative.

Despite my reservations, Mr. President, the people of Alaska have clearly indicated their preference for term limits and I abide by that decision. I would support the constitutional term limit amendment because it would establish a uniform term-limit rule which would apply to all 50 States.

Uniformity among States is imperative not only because the Supreme Court has ruled that individual States cannot constitutionally limit mandated uniformity, but also because States with term limits would be placed at a serious disadvantage in the Congress with States that do not limit Members' terms.

A uniform term-limit amendment would place all 50 States on equal footing in representing constituents in Congress and that is why I support such an amendment. I will therefore vote in favor of the constitutional amendment approach to term limits to ensure that Alaskans are guaranteed equal representation in the Congress.

I hope the majority leader will be able to bring this measure back before the Senate this year so that we can bring this issue to a final vote.•

TRIBUTE TO RON VAN DE HEY

• Mr. KOHL. Mr. President, today I would like to honor Ronald Van De Hey for his outstanding service to Outagamie County and the entire Fox Valley area as he resigns from his position as county executive. Ron started his career in public service as a school board member in 1972. In 1982 he was elected mayor of Kaukauna, where he served for 9 years. His experience as mayor made him an excellent choice for the position of Outagamie County executive, where he has served with distinction since 1991.

Ronald Van De Hey has always had a strong commitment to the people of his community. He was active not only in his elected positions but as a member of charitable and professional organizations as well. Foremost in Ron's mind was always the desire to improve the lives of his fellow citizens.

His colleagues will remember his diplomatic manner. His ability to work with people on all sides of an issue and achieve a compromise everyone can feel good about will be sorely missed. While Ron was flexible, he also knew when to stick to his guns and rely on the strength of his convictions. In the role of the executive he was willing to make the tough decisions, even when it was not the popular thing to do.

Ronald Van De Hey is an excellent illustration of the quality people who serve in local government. He has set an example of public service, not only for other county officials, but for everyone who holds elected office at the local, State or Federal level.

I wish him all the best in his future endeavors. I am sure he will continue to be a valuable asset to the Fox Valley area.•

WOUND, OSTOMY AND CONTINENCE NURSES SOCIETY

• Mr. GORTON. Mr. President, I am pleased to welcome the Wound, Ostomy and Continence Nurses Society [WOCN] to Seattle, WA, June 15–19, for their 28th annual conference. The theme of the conference, "The Future Is Ours To Create," will focus on future opportunities and challenges relating to the changing and expanding role of enterostomal therapist [ET] nurses and other nurses specializing in wound, ostomy, and continence care.

Founded in 1968, the WOCN is the only national organization for nurses who specialize in the prevention of pressure ulcers and the management and rehabilitation of persons with ostomies, wounds, and incontinence. WOCN, an association of ET nurses, is a professional nursing society which supports its members by promoting educational, clinical, and research opportunities, to advance the practice and guide the delivery of expert health care to individuals with wounds, ostomies, and incontinence.

In this age of changing health care services and skyrocketing costs, the WOCN nurse plays an integral role in providing cost-effective care for their patients. This year's Seattle conference will provide a unique opportunity for WOCN participants to learn about the most current issues and trends related to their practice. I am honored that WOCN has chosen Seattle to host its conference and wish them every success.•

SEA-LAND CELEBRATES 30 YEARS OF SERVICE IN CHARLESTON

• Mr. HOLLINGS. Mr. President, I would like to pay tribute to the contribution of Sea-Land Services to the city of Charleston over the past 30 years. Not only my hometown, but the entire State of South Carolina has benefited from the services of this company.

Sea Land's founder, Malcolm McLean, is the father of modern containerization. It was his idea to use standardized boxes for shipping goods internationally by sea. By limiting the handling of a container's contents, this technique afforded rapid, safe, and inexpensive transportation of goods all over the world, thus having a profound impact on world trade and economic development. It is a simple concept, containerization of goods to be handled only at their origin and their destination, but it is one of the more important innovations in recent history.

Since its arrival in 1966, Sea-Land has enjoyed a prosperous relationship with the city of Charleston. It has expanded to meet the growing trade needs of South Carolinians, and now moves cargo to and from more than 35 countries. In 1966, Sea-Land's containership, *Gateway City*, first sailed into Charleston harbor; 30 years later, Charleston's container cargo has grown from 80,000 tons to over 8.2 million tons, with the value growing from $512 million to more than $20 billion.

Charleston's efficient inland links and close access to the open sea led other steamship companies to follow Sea-Land's lead and make the city their south Atlantic base of operations. The trading potential offered by these ocean carriers has opened markets around the world for U.S. products. Cargo ships provide many opportunities for economic development in the regions they serve.

Due to the relatively transparent movement of goods these days, few people realize that 95 percent of our international trade moves by ship. This is a tribute to the success of containerization and the transportation industry. The effects of Sea-Land's contribution to the shipping industry go beyond Charleston to the entire State and the Southeast. Manufacturers in 26 States use the extensive shipping services in Charleston. The trade relationships that Sea-Land makes possible bring countries together across the world.

The State of South Carolina has enjoyed tremendous economic growth recently, attracting interest and investments from all over the globe. Without the capital commitments of our ports and ocean carriers like Sea-Land, this would not be possible. We appreciate the continued commitment Sea-Land has made to our area and look forward to another 30 prosperous years.•

CONGRATULATIONS TO DR. MAHMOUD FAHMY

• Mr. ABRAHAM. Mr. President, I rise today to offer my warm congratulations to Dr. Mahmoud H. Fahmy of Dallas, PA who will be honored by his colleagues, friends, and family at a testimonial dinner this evening. Dr. Fahmy has recently retired from Wilkes University in Wilkes-Barre, PA where he spent 30 years of his professional life. Although formally retired from Wilkes University, Dr. Fahmy is currently the President of his own business, serves as chairman of the Luzerne County Community College Board of Trustees, and is a member of countless community service organizations.

I have had the pleasure of personally knowing Dr. Fahmy and appreciating his dedication, not only to domestic educational endeavors, but to international projects as well. Dr. Fahmy's exemplary duty and service to the community at large has earned him the great respect of his colleagues, friends, and family. I would like to join them in commending him for his dedication to his community and to his profession. Dedicating one's career to education is something very special and should be recognized by all of us who enjoy the fruits of this great country.

The State of Pennsylvania is very lucky to have Dr. Fahmy amongst its citizens, and should be very proud of his accomplishments. I would like to conclude by extending to him my best wishes for a happy retirement and much success in his future endeavors.•

COMMEMORATION OF THE ARMENIAN VICTIMS

• Mr. FEINGOLD. Mr. President, I join my colleagues again this year in remembering today the 1.5 million Armenians who died in 1915 in the hands of the Ottoman Empire. These Armenians were victims of a policy explicitly intended to isolate, exile, and even extinguish the Armenian population. As we look at world events today—in Bosnia, Rwanda, and elsewhere—we must remember the events of 1915, with the hope that with history as a guide, humanity will not engage in such brutality again.

We will also learn from history that America served as a haven for those Armenians fleeing persecution. At the time of the atrocities, America spoke out in defense of a defenseless people, and provided massive amounts of humanitarian assistance to the Armenian people. Today, America still leads the world in championing human rights, and our shores offer refuge to those fleeing persecution throughout the world. On days like today, we must remember what we stand for, and ensure that the U.S. continues to be a beacon of strength and hope for the heroes that stand up and survive such atrocities.

I compliment President Clinton on his commitment to the Armenian cause, and I am proud to join him and my colleagues today in commemorating this important occasion.•

TEACHER OF THE YEAR

• Mr. BIDEN. Mr. President, the city of Washington, DC, is blessed this week with the presence of some of the most dedicated people in America—its teachers. Each state's Teacher of the Year is visiting Washington to be honored for their top notch work in educating our children.

As a husband of a teacher, I know how some people view the teaching profession. I have heard all of the jokes. And, I have read the articles—including some recent ones—deriding the Nation's teaching force and claiming that teachers are the root of our educational problems.

Well, Mr. President, the Teachers of the Year that are here this week should dispel those myths. These teachers are simply among the best and the brightest our Nation has to offer.

For most of us, there was at least one teacher along the way who touched us, who motivated us, who inspired us. A teacher who was more than just a body at the blackboard. For students in the Indian River School District in my State of Delaware, one of those teachers is Darryl Hudson. He is Delaware's Teacher of the Year, and I want to congratulate him and take just few minutes to honor him.

Mr. Hudson—named the top teacher among over 6,000 public school teachers in Delaware—teaches seventh grade science at Sussex Central Middle

School in Millsboro, DE. And, although I have never experienced his teaching first hand, I think the biggest testament about what he does in the classroom comes from what his fellow teachers say about him. They talk admiringly of the energy he brings to school each day, of his dedication to educating all children, and of the uplifting inspiration he provides to staff, parents, and most importantly, the students.

But, as is the case with many teachers, Mr. Hudson's involvement in and dedication to education go beyond the classroom. He is a cooperative teacher for Salisbury State University students, a member of the New Directions Educator Corps, and a Mentor for a Wilmington College student.

I should also note that we in Delaware are proud that Mr. Hudson is a product of our own higher education system. In fact, he and I are both Fightin' Blue Hens. For my colleagues who do not know, that means we are both graduates of the University of Delaware. He received his masters degree from Wilmington College. And, at the same time he is teaching seventh graders—a daunting task in and of itself, in my view—he continues to pursue his own education at Salisbury State University just across the Delaware border in Maryland.

Mr. President, a moment ago, I mentioned the way in which a teacher has inspired almost every one of us. And, to give you a perfect illustration of the power of a teacher to mold a mind and build a citizen, Mr. Hudson—a teacher—was himself inspired by a teacher. He says that his sixth grade teacher had more influence on him than anyone else outside his immediate family. And, now, he is having that same influence on countless others.

Again, I want to congratulate Darryl Hudson on his selection as Delaware Teacher of the Year.•

PREPARING STUDENTS FOR THE COMING CENTURY

• Mr. SIMON. Mr. President, every study that is made suggests that the United States has to do a better job in the field of education.

No one disputes it.

And yet at the congressional level and candidly also at the State level we are going along blissfully ignoring this reality, mouthing pious statements about education, but not really doing much.

One of many economists who has been telling us that we have to do better in the field of education is Lester Thurow of the Massachusetts Institute of Technology and probably the most widely read economist in the country.

He is also one of the most thoughtful.

Recently in the Washington Post he had an article titled "Preparing Students for the Coming Century," which I ask to be printed in the RECORD after my remarks.

I am sure some of my colleagues read it, but since it was in the Education Section of the Sunday edition of the Washington Post, some of you may not have read it.

It is worth reading for Senators, for House Members, for staffers, and for anyone who may pick up a CONGRESSIONAL RECORD and go through it. The article follows:

[From the Washington Post, Apr. 7, 1996]

PREPARING STUDENTS FOR THE COMING CENTURY

(By Lester C. Thurow)

Consider an alphabetical list of the 12 largest companies in America at the turn of the 20th century: the American Cotton Oil Company, American Steel, American Sugar Refining Company, Continental Tobacco, Federal Steel, General Electric, National Lead, Pacific Mail, People's Gas, Tennessee Coal and Iron, U.S. Leather and U.S. Rubber. Ten of the 12 were natural resource companies. The economy then was a natural resource economy, and wherever the most highly needed resources were to be found, employment opportunities would follow.

In contrast consider the list made 90 years later by the Japanese Ministry of International Trade and Industry, enumerating what it projected to be the most rapidly growing industries of the 1990s: microelectronics, biotech, the new material-science industries, telecommunications, civilian aircraft manufacturing, machine tools and robots, and computers (hardware and software). All are brainpower industries that could be located anywhere on the face of the earth. Where they will take root and flourish depends upon who organizes the brainpower to capture them. And who organizes the power most efficiently will depend on who educates toward that objective best.

But back to the industries for the moment: Think of the video camera and recorder (invented by Americans), the fax (invented by Americans), and the CD player (invented by the Dutch). When it comes to sales, employment and profits, all have become Japanese products despite the fact that the Japanese did not invent any of them. Product invention, if one is also not the world's low-cost producer, gives a country very little economic advantage. Being the low-cost producer is partly a matter of wages, but to a much greater extent it is a matter of having the skills necessary to put new things together.

Wages don't depend on an individual's skill and productivity alone. To a great extent they reflect team skills and team productivities. The value of any single person's knowledge depends upon the smartness with which that knowledge is used in the overall economic system—the abilities of buyers and suppliers to absorb that individual's skills.

In an era of brainpower industries, however, the picture is even more complicated: The economy is a dynamic economy always in transition—the companies that do best are those able to move from product to product within technological families so quickly that they can always keep one generation ahead. Keeping one jump ahead in software, for instance, Bill Gates's Microsoft had a net income running at 24 percent of sales in 1995.

If a country wants to stay at the leading edge of technology and continue to generate high wages and profits, it must be a participant in the evolutionary progress of brainpower industries so that it is in a position to take advantage of the technical and economic revolutions that occasionally arise. Knowledge has become the only source of long-run sustainable competitive advantage. Recent studies show that rates of return for industries that invest in knowledge and skill are more than twice those of industries that concentrate on plant and equipment. In the past, First World citizens with Third World skills could earn premium wages simply because they lived in the First World. They had more equipment, better technology and more skilled co-workers than those who lived in the Third World. But that premium is gone. Today's transportation and communications technologies have become so sophisticated that high-wage skilled workers in the First World can work together effectively with low-wage unskilled workers in the Third World. America's unskilled now get paid based on their own abilities and not on those of their better-trained co-workers.

Industrial components that require highly skilled manufacturers can be made in the First World and then shipped to the Third World to be assembled with "low skill" components. Research and design skills can be electronically brought in from the First World. Sales results can be quickly communicated to the Third World factory, and retailers know that the speed of delivery won't be significantly affected by where production occurs. Instant communications and rapid transportation allow markets to be served effectively from production points on the other side of the globe.

Multinational companies are central in this process: Where they develop and keep technological leadership will determine where most of the high-level jobs will be located. If these firms decide to locate their top-wage leadership skills in the United States, it will not be because they happen to be American firms but because America offers them the lowest cost of developing these skills. The decisions will be purely economic. If America is not competitive in this regard, the market will move on. The countries that offer companies the lowest costs of developing technological leadership will be the countries that invest the most in research and development, education and infrastructure (telecommunications systems, etc.).

If the person on a loading dock runs a computerized inventory-control system in which he logs delivered materials right into his hand-held computer and the computer instantly prints out a check that is given to the truck driver to be taken back to his firm (eliminating the need for large white-collar accounting offices that process purchases), the person on the loading dock ceases to be someone who just moves boxes. He or she has to have a very different skill set.

Factory operatives and laborers used to be high school graduates or even high school dropouts. Today 16 percent of them have some college education and 5 percent have graduated from college. Among precision production and craft workers, 32 percent have been to or graduated from college. Among new hires those percentages are much higher. In the last two decades, the linkage between math abilities and wages has tripled for men and doubled for women.

The skill sets required in the economy of the future will be radically different from those required in the past. And the people who acquire those skill sets may not be the unskilled workers who currently live in the first world. With the ability to make anything anywhere in the world and sell it anywhere else in the world, business firms can "cherry pick" the skilled or those easy (i.e., cheap) to teach wherever they live. American firms don't have to hire an American high school graduate if that graduate is not world-class. His or her educational defects are not their problem. Investing to give the necessary market skills to a well-educated Chinese high school graduate may well end up being a much more attractive (i.e., less costly) investment than having to retrain an American high school dropout or a poorly trained high school graduate.

Take Korea for example. In a global economy, what economists know as "the theory of factor price equalization" holds that an American worker will have to work for wages commensurate with a Korean's wages unless he works with more natural resources than a Korean (and no American can, since there is now a world market for raw material to which everyone has equal access); unless he has access to more capital than a Korean (and no American can since there is a global capital market where everyone borrows in New York, London and Tokyo); unless he has more skilled co-workers than a Korean (and no American can claim to since multi-national companies can send needed knowledge and skills anywhere in the world); and unless he has access to better technology than a Korean (and few Americans have, since reverse engineering—tearing a product apart to learn how it is made—has become an international art form, highly refined in Korea). Adjusted for skills, Korean wages will rise and American wages will fall until they equal each other. At that point, factor price equalization will have occurred.

The implications for the future are simple. If America wants to generate a high standard of living for all of its citizens, skill and knowledge development are central. New brainpower industries have to be invented and captured. Organizing brainpower means not just building a research and development system that will put us on the leading edge of technology, but organizing a top-to-bottom work force that has the brainpower necessary to make us masters of the new production and distribution technologies that will allow us to be the world's low-cost producers.

To do this will require a very different American educational system. And building such a system is the new American challenge.

Progress has to start by ratcheting up the intensity of the American high school. The performance of the average American high school graduate simply lags far behind that found in the rest of the industrial world. Those Americans who complete a college course of study end up catching up (the rest of the industrial world doesn't work very hard in the first couple of years of university education), but three quarters of the American work force doesn't ever catch up.

The skill gap doesn't end there. Non-college-bound high school graduates elsewhere in the industrial world go on to some form of post-graduate skill training. Germany has its famous apprenticeship system; in France every business firm by law has to spend one percent of its sales revenue on training its work force; and with lifetime employment as a fact of life, Japanese companies invest heavily in the work force's skills since they know that it is impossible to hire skilled workers from the outside. In America, government-funded programs are very limited in nature, and, with high labor-force turnover rates, American companies quite rationally don't want to make skill investments in people who will leave and take their skills elsewhere. The net result is a compounded skill gap for those Americans who do not graduate from college. Closing this gap and giving the country a competitive edge should be America's number one educational priority.•

ARMENIAN GENOCIDE

• Mrs. BOXER. Mr. President, I rise today to commemorate the anniversary of a most tragic chapter in history—the genocide of the Armenian people. Eighty-one years ago today, the Ottoman Empire began the systematic elimination of the people of Armenia. It is of paramount importance that we recall this horrible time so that it will never be repeated.

On April 24, 1915, the Ottoman Empire began arresting hundreds of political, religious, and intellectual leaders throughout Anatolia. In the following 2 years, the Ottoman regime carried out a systematic, premeditated, centrally planned genocide, taking the lives of approximately 1.5 million people.

The Armenian genocide remains one of the most horrifying events in human history. Armenians perished from execution, starvation, disease, physical abuse, and exposure to a harsh environment. More than 500,000 people were forced from their homes, and within a few years, the entire Armenian population had been either killed or exiled.

On May 28, 1918, the Armenians were able to defeat a Turkish attack, with the help of volunteers from abroad. They gained freedom for a brief period, but in 1920 the Soviet Union joined the Ottoman Empire and subjugated the Armenians once again. It was not until 1991, after the breakup of the Soviet Union, that independence was restored and the Republic of Armenia was born.

I salute the Armenian people for their strength and courage. Yet even though they have gained independence, their struggle still continues. To this day, many people continue to refute the facts of the Armenian Genocide. We cannot let the suffering inflicted upon the armenian people be forgotten or denied. Only through remembrance can we prevent ourselves from repeating the horrors of the past.

The Armenian tragedy is the world's tragedy, and we must work together to discourage prejudice, to end discrimination, and to prevent genocide at all costs. In a country where we so often take our liberty for granted, we must renew our commitment to preserving the freedom of others.•

CARLSBAD CAVERNS NATIONAL PARK

• Mr. BINGAMAN. Mr. President, in December 1994, Congress received the National Cave and Karst Research Institute study from the National Park Service. The report studied the feasibility of creating a National Cave and Karst Research Institute in the vicinity of Carlsbad Caverns National Park, NM, as directed by Public Law 101-578. Today, I am here to introduce a bill which follows the guidelines of that report and which will establish the National Cave and Karst Research Institute in Carlsbad, NM.

While other Nations have recognized the importance of cave resource management information and have sponsored cave and karst research, the United States has failed, until recently, to appreciate or work to understand cave and karst systems and their importance. As we approach the 21st century, the protection and management of our water resources has been identified as one of the major issues facing the world. In America, the majority of the Nation's fresh water is ground water—of which 25 percent is located in cave and karst regions.

Recent studies have also indicated that caves contain valuable information related to global climate change, waste disposal, ground water supply and contamination, petroleum recovery, and biomedical investigations. Caves provide a unique understanding of the historic events of humankind. Further they are considered sacred and have religious significance for American Indians and other Native Americans.

According to the Federal Cave Resources Protection Act, karst is defined as a landform characterized by sinkholes, caves, dry valleys, fluted rocks, enclosed depressions, underground streamways and spring resurgences. As a whole, 20 percent of the United States is karst. In fact, east of central Oklahoma, 40 percent of the country is karst. Our National Park System manages 58 units with caves and karst features, yet academic programs on these systems are virtually nonexistent. Most research is conducted with little or no funding and the resulting data is scattered and often hard to locate. The few cave and karst organizations and programs which do exist, have substantially different missions, locations and funding sources and there is no centralized program to analyze data or determine future research needs.

In 1988 Congress directed the Secretaries of the Interior and Agriculture to provide an inventory of caves on Federal lands and to provide for the management and dissemination of information about the caves. That directive has served only to make Federal land management agencies more aware of the need for a cave research program and a repository for cave and karst resources. In 1990, Congress further directed the Secretary of the Interior, through the Director of the National Park Service, to establish and administer a Cave Research Program and prepare a proposal for Congress on the feasibility of a centralized National Cave and Karst Research Institute.

The National Cave and Karst Research Institute Study Report to Congress was released in December 1994 and not only supports establishing the Institute, but lists several serious threats to continued uninformed management practices.

Threats such as: alterations in the surface water flow patterns in karst regions, alterations in or pollution of water infiltration routes, inappropriately placed toxic waste repositories and poorly managed or designed sewage systems and landfiles. The findings of the report conclude that it is only through a better understanding of cave resources that we can prevent detrimental impacts to America's natural resources and cave ecosystems.

The goals of the National Cave and Karst Research Institute, as outlined in the report, would be to further the science of speleology, to centralize speleological information, to further interdisciplinary cooperation in cave and karst research programs, and to promote environmentally sound, sustainable resource management practices. These goals would work hand in hand with the proposed objectives of the Institute to establish a comprehensive cave and karst library and information data base, to sponsor national and international cave and karst symposiums, to develop long term research studies, to produce cave-related educational publications and to develop cooperative agreements with all Federal agencies having cave management responsibilities.

The vicinity of Carlsbad Caverns National Park is ideal due to the community support which already exists for the establishment of the institute and the diverse cave and karst resources which are found throughout the region.

Carlsbad, NM, has grown from a small railroad stop on what is now the Santa Fe Railroad to a growing city with a population of over 170,000 in the tri-county area. It continues to attract new businesses, small manufacturers, retirees and research facilities, including the U.S. Department of Energy's Carlsbad area office. In addition, Carlsbad Caverns National Park attracts over 700,000 visitors per year.

The National Cave and Karst Research Institute would be jointly administered by the National Park Service and another public or private agency, organization, or institution as determined by the Secretary. The Carlsbad Department of Development [CDOD], after reviewing the National Cave and Karst Research Institute study report, has developed proposals to obtain financial support from available and supportive organizational resources, including personnel, facilities, equipment and volunteers. They further believe that they can obtain serious financial support from the private sector and would seek a matching grant from the State of New Mexico equal to the available Federal funds.

Carlsbad already has in place many of the needed cooperative institutions, facilities and volunteers that will work toward the success of the National Cave and Karst Institute. I strongly urge my colleagues to support this legislation to increase our understanding of cave and karst systems.•

ANNIVERSARY OF THE ARMENIAN GENOCIDE

• Mr. D'AMATO. Mr. President, I rise to call my colleagues' attention to the solemn anniversary of the Armenian genocide. In 1915, the Ottoman Turkish Government launched an extermination campaign against all Armenians on its territory. The result of that gruesome policy was the death of about 1.5 million people, the destruction of a once flourishing community, and the scattering of the survivors around the globe.

Many Armenians came to America, where they have rebuilt their communities, prospered and become a vital part of the American body politic. They have nurtured our democracy, while maintaining their traditions and always remembering the circumstances that forced them from their homeland. Meanwhile, their brothers and sisters in Armenia endured communism and Joseph Stalin, but despite the different fates of these two communities, they remained stubbornly and proudly Armenian, even when contact between them was difficult.

In 1991, Armenia became an independent country and has worked hard to consolidate its independence since then. Today Armenia is a respected member of the international community, its progress toward democratization and economic well-being promoted by the worldwide Armenian Diaspora and by supportive governments, especially the United States.

Independence confers freedom, but not necessarily freedom from hardship. Apart from the devastating December 1988 earthquake, Armenia has also endured the consequences of the Nagorno-Karabakh conflict and the adversities caused by blockades imposed by neighboring Azerbaijan and Turkey. Happily, the Nagorno-Karabakh cease-fire has held since May 1994, offering grounds to hope that the conflict will be peacefully resolved in the foreseeable future. All the parties to this dispute must pursue its peaceful resolution through the OSCE process, and with active American involvement, bring about a lasting, stable peace.

In the spirit of reconciliation and looking ahead to Armenia's future, President Ter-Petrossyan said in Washington last year that "Armenia has no enemies." All of us who are friends of Armenia are working for precisely that future, for an Armenia without enemies, while remembering the victims of the Armenian Genocide.

Mr. President, in light of the fact that, for the first time since World War II, there are international tribunals investigating two current genocides, one in Bosnia and one in Rwanda, it is very important that all of us remember the first genocide of the 20th century, and dedicate ourselves to the proposition that there will be no new genocides in the future.•

THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

• Ms. MIKULSKI. Mr President, 81 years ago today one of the most horrific events of our century began. On this day in 1915, hundreds of Armenian political and religious leaders were arrested, taken to the Turkish interior, and executed. This began a terrible chapter of history—the Armenian genocide.

In the 8 years that followed, over a million Armenians were killed at the hands of the Ottoman authorities. Men, women, and children were brutally taken from their homes to be abused and killed in mass slayings. Others were rounded-up and marched for weeks through the Syrian desert where many more perished. Symbols of culture—churches, libraries, and towns—were razed.

On this, the 81st anniversary of the Armenian genocide, we must remember and we must speak out.

Many call this tragedy "the forgotten genocide". In our world of terror and continued upheaval it is essential that we never forget. We must remember our history and the lesson of the Armenian genocide. As Americans blessed with security and freedom, we must never let oppression and persecution pass without loud condemnation. By remembering the Armenian genocide, we renew our ongoing commitment to fight for human dignity and freedom throughout the world.

We must also honor the Armenians throughout the world who left their homes in tragedy. They have maintained their proud culture and traditions throughout the world. Their strength and perseverance is a triumph of the human spirit. We should specifically recognize those Armenians who fled from their homes and into our communities. Today we thank them for their invaluable contributions to our society.

Even today, the Armenian people are living under a unfair and unjust blockade preventing needed humanitarian aid. Last year, the Congress enacted the Humanitarian Aid Corridor Act that would prohibit U.S. aid to countries that prevent our humanitarian aid from reaching places in need. I was proud to support this act and see it signed into law.

Despite a long history of pain, persecution, and tragedy, the Armenian people have shown remarkable strength, pride, and resilience. We as Americans are proud of their contributions to our society. We will always remember their tragedy and we salute their achievements.•

HONORING THE VOLUNTEERS OF HOSPICE CARE, INC.

• Mr. LIEBERMAN. Mr. President, today I would like to recognize the volunteers of Hospice Care, Inc. in southwestern Fairfield County, CT. For 15 years Hospice Care has provided care and comfort to people with terminal illnesses. But beyond providing palliative care, Hospice is a program for individuals who are dealing with the emotional and spiritual changes that follow the diagnosis of a life-ending illness.

Hospice could not offer its many meaningful services without its volunteers; they are an integral part of Hospice. Together with professional staff, volunteers work to relieve the physical, emotional and spiritual pain experienced by the patient and family. Volunteers provide direct patient and family services, including companionship and support, transportation, assistance with chores and errands, and pastoral and bereavement care. Volunteers visit patients and families in their homes and hospitals, nursing homes, homeless shelters, and residences for people with AIDS. These volunteers offer a listening ear and a shoulder to lean on during a family's most challenging times.

Other volunteers work behind the scenes, serving on the Board of Directors, assisting in fundraising and public education efforts, and with administrative tasks. In 1994, 100 active volunteers donated more than 12,000 hours of public service, valued at over $250,000. But one cannot put a price tag on this dedicated service—these efforts are priceless, and Hospice could not operate as successfully as it does without its volunteers.

It is with great pride and pleasure that I commend the volunteers of Hospice Care for their many hours of difficult and dedicated service.•

ARMENIAN GENOCIDE

• Mr. SARBANES. Mr. President, I rise to join my colleagues in commemorating the 81 years since the tragedy of the Armenian genocide unfolded. Today we pause to remember the victims of this great tragedy and to pay our respects to the survivors.

Indeed it is important that we take this occasion to educate ourselves about the events that constituted the Armenian genocide, and to resolve never to remain indifferent in the face of such assaults on humanity. Respect for the memories of the Armenians who were martyred in this great tragedy demands that humanity never forget this day. It also represents an opportunity for people of goodwill to honestly confront the past and move to genuine reconciliation.

We are also pleased that after centuries of oppression, the Armenian people are again now free and independent. The Republic of Armenia is proof that the Armenian spirit is alive and vibrant and, despite enormous outside pressures, is making progress and flourishing. As Armenia struggles to reenter the society of nations, it is instructive for us to recognize the sacrifices of the victims of the genocide.

The anniversary of this tragedy holds special meaning to Armenians everywhere and, in spite of a history of many hardships, difficulties and adversity faced by the Armenian people, the community has strengthened its resolve to survive and prosper. Armenian-Americans are one of the best examples of an indomitable human spirit. The contribution of the Armenian community to the cultural, social, economic, and political landscape of America is a source of great strength and vitality in our Nation. Americans of Armenian origin have kept alive, and not let tragedy shatter, the rich faith and traditions of Armenian civilization.

As we recall the Armenian genocide, it is important to recognize that it was the culmination of an abhorrent pattern of persecution against the Armenian community living in the Ottoman Empire. During the period 1894–1896, and again in 1909, tens of thousands of Armenians lost their lives. On April 24, 1915, 300 Armenian intellectuals, religious and political leaders, and professionals were rounded up by Ottoman authorities and taken to remote parts of Anatolia from where they never returned. At least 250,000 Armenians who loyally served in the Ottoman army were expelled and forced into labor battalions where executions and starvation were common. Men, women, and children were deported from their villages and obliged to march for weeks in the Syrian desert where a majority of them lost their lives.

The unfortunate campaign against this community earlier in this century resulted in widespread deportations and death. More than 1.5 million innocent men, women, and children, out of a total of 2.5 million Armenians living within the Ottoman Empire, lost their lives. Entire families were destroyed, and thousands of survivors were scattered around the world. In fact, contemporaneous newspaper accounts in the United States describing these atrocities inspired Americans to contribute $113 million in humanitarian assistance from 1915 to 1930 to help the survivors. Americans eventually adopted 132,000 Armenian orphans into this country.

One of the most prominent and reliable accounts of the Armenian genocide is provided by the distinguished United States ambassador to the Ottoman Empire at the time, Henry Morgenthau. In an article published in the Red Cross magazine in 1918, Morgenthau described the wide-scale and systematic attempts by the Ottomans to crush the Armenian community as, "the Greatest Horror in History." Abram Elkus, Morgenthau's successor, also cabled the State Department that the Young Turks policy against the Armenians was an "unchecked policy of extermination through starvation, exhaustion, and brutality of treatment hardly surpassed even in Turkish history."

Both the German and Austrian ambassadors, apprehensive about the attacks against the Armenians, conveyed their concerns directly to the Ottoman leadership. In July of 1915, Hans Von Wangenheim, the German Ambassador to the Ottomans, advised his own government to distance itself from the Ottoman leadership for what he viewed as a campaign to rid "the Armenian race in the Turkish empire."

Extensive evidence, documentation, and first hand accounts have been collected over the years regarding this dark period, much of which is held in our own National Archives. In 1987, it was fitting that the Holocaust Council expressed its support for making the Armenian genocide part of the permanent exhibits at the United States Holocaust Memorial Museum. In its statement, the council declared that "the fate of the Armenians should be included in any discussion of genocide in the twentieth century."

Several years ago, Elie Wiesel spoke at a Holocaust memorial service here in the Congress and expressed the importance of recognizing the Armenian genocide. He stated, "Before the planning of the final solution, Hitler asked, 'Who remembers the Armenians?' He was right. No one remembered them, as no one remembered the Jews. Rejected by everyone, they felt expelled from history."

Mr. President, we must never forget the moral lesson of the Armenian genocide and honor it by renewing our commitment to human rights and democratic principles.•

COMMEMORATING THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

• Mr. PELL. Mr. President, each year on this day, we solemnly join Armenians worldwide in observing the anniversary of the genocide perpetrated against the Armenian people between 1915 and 1923.

Eighty-one years ago today, Ottoman leaders launched a systematic campaign to eradicate the Armenian people from Ottoman Empire territory. In that year, hundreds of Armenian religious, political, and intellectual leaders were rounded up and exiled, or murdered. During the next 8 years, an estimated 1.5 million Armenians were executed. Many were raped, tortured, or enslaved. In addition to those killed, an estimated 500,000 Armenians were exiled from the Ottoman Empire. Many of those exiles found their way to freedom in the United States where they and their descendants have made—and are continuing to make—a significant contribution to the cultural, political, and commercial life of this country.

Despite the many challenges they have faced over the years, the Armenian people have demonstrated a high degree of independence, resilience, and national pride. I believe the anniversary of the genocide offers an opportunity to reflect upon the challenges Armenia is facing today. In particular, Armenia continues to struggle under blockades by its neighbors, and as a result, it continues to depend heavily on humanitarian assistance. I would note that the United States has responded to Armenia's plight. Armenia receives more assistance per capita than any other Newly Independent State. I know we all look forward to the day when Armenia—a country of great human resources—will be a donor, rather than a recipient of assistance.

In fact, despite the blockades, Armenia has made significant economic progress during the past year. Its currency has stabilized, inflation has decreased, and the economy showed a positive growth rate. Armenia is also working hard to enact the necessary legal and regulatory framework for true reform to take root.

Regrettably, a lasting diplomatic settlement to the Nagorno-Karabagh crisis also remains elusive. I hope that the memory of the Armenian genocide, as well as the continuing of the suffering of the Armenian and Azeri peoples, will spur a peaceful resolution to the dispute.

There are, in fact, some hopeful signs. For the past 2-years, a cease-fire has held in Nagorno-Karabagh. Over the weekend, President Ter Petrosian of Armenia and President Aliyev of Azerbaijan issued a joint communique agreeing that direct dialog between the parties must be intensified to facilitate an end to the conflict.

Armenia is continuing to talk with its neighbors not only about how to resolve the Nagorno-Karabagh conflict, but about the importance of economic development of the region. In fact, just this week in Luxembourg, the leaders of Armenia, Azerbaijan, and Georgia each signed bilateral cooperation agreements with the European Union.

I would note that Armenia is also engaging in a dialog with Turkey about a range of bilateral and regional issues. This is a courageous, and very practical, decision. Both countries acknowledge that it is in their interest to talk, and I believe that we should do what we can to encourage such discussions between Yerevan and Ankara.

Sadly, the legacy of the Armenian genocide has not succeeded in deterring subsequent acts of genocide in other parts of the world nor did it represent an end to the suffering of the Armenian people. However, it is only by continuing to remember and discuss the horrors which befell the Armenian and other peoples that we can hope to achieve a world where genocide is finally relegated to the realm of history books, rather the newspaper headlines.

I hope my colleagues and leaders throughout the world will join me in commemorating the anniversary today, and thus ensure that the tragedy of the Armenian genocide will not be forgotten.•

THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

• Mrs. FEINSTEIN. Mr. President, today, April 24, marks the 81st anniversary of the beginning of the Armenian genocide. I rise today to acknowledge and commemorate this terrible chapter in our history, to help ensure that it will never be forgotten.

Eighty-one years ago today, one of the darkest chapters in human history began. On that day, Ottoman authorities began arresting Armenian political and religious leaders throughout Anatolia. Over the ensuing months and years, some 1.5 million Armenians were killed at the hands of the Ottoman authorities, and hundreds of thousands more were exiled from their homes.

On this 81st anniversary of the Armenian genocide, let us renew our commitment never to forget the horror and barbarism of this event. We must remember, we must speak out, and we must teach the next generation about the systematic persecution and murder of millions of Armenians by the Ottoman Government. I know that I am joined by every one of my colleagues, by the Armenian American community, and by people across the United States in commemorating the genocide and paying tribute to the victims of this crime against humanity.

As Americans, we are blessed with freedom and security, but that blessing brings with it an important responsibility. We must never allow oppression and persecution to pass without condemnation. By commemorating the Armenian genocide, we renew our commitment always to fight for human dignity and freedom, and we send out a message that the world can never allow genocide to be perpetrated again.

Even as we remember the tragedy and honor the dead, we also honor the living. Out of the ashes of their history, Armenians all across the world have clung to their identity and have prospered in new communities. My State of California is fortunate to be home to a community of Armenian-Americans a half a million strong. They are a strong and vibrant community whose members participate in every aspect of civic life, and California is the richer for their presence.

The strength and perseverance of the Armenian people is a triumph of the human spirit, which refuses to cede victory to evil. The best retort to the perpetrators of oppression and destruction is rebirth, renewal, and rebuilding. Armenians throughout the world have done just that, and today they do it in their homeland as well. A free and independent Armenia stands today as a living monument to the resilience of a people. I am proud that the United States, through our friendship and assistance, is contributing to the rebuilding and renewal of Armenia.

Let us never forget the victims of the Armenian genocide; let their deaths not be in vain. We must remember their tragedy to ensure that such crimes can never be repeated. And as we remember Armenia's dark past, we can take some consolation in the knowledge that its future is bright with possibility.•

GENOCIDE REMEMBERED

• Mr. MOYNIHAN. Mr. President, I rise today to mark the 81st anniversary of the Armenian genocide that took place during the final years of the Ottoman Empire. From 1915 to 1923, some 1,500,000 persons of Armenian ancestry are reported to have died at the hands of their Ottoman rulers, through a deliberate policy of deportation, confiscation of property, slave labor, and murder.

Although we now recognize this policy as genocide, no such word existed at the time of its commission. The American Ambassador to the Sublime Porte, New Yorker Henry Morgenthau, described the Ottoman atrocities as a "campaign of race extermination." A chilling prologue, if you will, to the twentieth century.

The word "genocide" comes from the Greek genos (clan or breed) and the Latin caedere (to kill). It was coined in 1944 by Raphael Lemkin, a Polish Jew who emigrated to the United States in 1941.

In the early 1930's, after studying the slaughter of the Armenians, Lemkin began a campaign to outlaw the crime now known as genocide. He took his case before the Legal Council of the League of Nations in 1933 but the learned jurists would not heed him. Finally—after the Nazi Holocaust shook the conscience of the world—the United Nations adopted the Convention on the Prevention and Punishment of the Crime of Genocide on December 9, 1948. The first human rights treaty of the new world body was finally ratified by the United States in 1988. Raphael Lemkin's legacy.

During the Days of Remembrance Commemoration in 1981, Elie Wiesel stated:

> Before the planning of the Final Solution, Hitler asked, "Who remembers the Armenians?" He was right. No one remembered them, as no one remembered the Jews. Rejected by everyone, they felt expelled from history.

Mr. President, today the United States Senate pauses to remember the Armenian victims of genocide. But remembrance alone is not enough. Remembrance must be the first step toward justice and, ultimately, toward prevention of future atrocities.

On December 13, 1995, the Senate adopted Senate Joint Resolution 44, concerning the deployment of United States Armed Forces in Bosnia and Herzegovina. The resolution affirmed that the population of Bosnia and Herzegovina had "suffered egregious violations of the international law of war including * * * the Convention on the Prevention and Punishment of the Crime of Genocide." To redress and punish these crimes, the United Nations established the International Criminal Tribunal for the Former Yugoslavia. The United States must continue to support the work of the Tribunal and insist on cooperation with the Tribunal as mandated by the Dayton Accords.

The horrors of this century—beginning with the Armenian genocide—gave birth to a new vocabulary of inhumanity. As this genocidal century draws to a close, let us remember these events, mourn the victims, and strengthen our resolve that such outrages never again be perpetrated against the human race.

I thank the Chair and I ask that the text of Ambassador Henry Morgenthau's telegram of July 16, 1915, and the 'genocide' entry in the Fontana Dictionary of Modern Thought be printed in the RECORD.

The text follows:

[Telegram received from Constantinople, July 16, 1915]

Secretary of State,
Washington.

Deportation of and excesses against peaceful Armenians is increasing and from harrowing reports of eye witnesses it appears that a campaign of race extermination is in progress under a pretext of reprisal against rebellion.

Protests as well as threats are unavailing and probably incite the Ottoman government to more drastic measures as they are determined to disclaim responsibility for their absolute disregard of capitulations and I believe nothing short of actual force which obviously United States are not in a position to exert would adequately meet the situation. Suggest you inform belligerent nations and mission boards of this.

American Ambassador, Constantinople.

THE FONTANA DICTIONARY OF MODERN THOUGHT

[Edited by Alan Bullock and Oliver Stallybrass]

[New and revised edition by Alan Bullock and Stephen Trombley assisted by Bruce Eadie]

GENOCIDE.

Term coined by American jurist Raphael Lemkin in 1944 to denote the physical destruction of a national, racial or ethnic population. The term was included in the indictment at Nuremberg of German war criminals accused of involvement in Nazi attempts to exterminate the Jewish population of Europe. It acquired still wider currency in a United Nations Resolution of 11 December 1946 and UN Convention of 9 December 1948 which sought to make genocide a crime under international law. Details of the UN definition of the term are contested, for example by radical critics of colonialism who view as genocide the destruction of the social fabric of a colonized people, but it remains the most widely accepted definition.

Bibl: L. Kuper, Genocide (Harmondsworth and New York, 1981).●

UNITED STATES MUST SUPPORT A SOVEREIGN LEBANON

● Mr. ABRAHAM. Mr. President, I rise today to express my strong support for the sovereignty, independence, and territorial integrity of the country of Lebanon. As you know, Mr. President, Lebanon has again been the most recent victim of the fighting in the Middle East. The hostilities of last week which continue today have caused a great loss of Lebanese lives.

The United States has always supported the independence and territorial integrity of Lebanon. However, in the most recent negotiations to end the fighting in the region, the U.S. administration has been focusing its efforts on Syria and Israel.

I believe that the State Department is sincere in upholding it support for the sovereignty of Lebanon. But I am afraid that the United States views a resolution to the Israel-Syria conflict as the only priority—and the consequence is the plight of the civilian population in Lebanon is ignored. It is Lebanon that is suffering the most in this conflict, and it is with that country which the United States should focus its immediate attention.

The influence and support of the United States is critical to giving Lebanon the help it needs to move forward and rebuild after two decades of civil war.

As its stands, the presence of all foreign forces in Lebanon irritates the situation, making it difficult for the Lebanese to find a peaceful solution to their quest for independence and sovereignty. Only until there is the withdrawal of all foreign forces from Lebanon, combined with a diplomatic solution, will peace in the Middle East be achievable.

I believe that Lebanon will than be on its way to returning to the independent, sovereign and unoccupied land that it once was—free of all non-Lebanese forces. Not only will this advance the case of Middle East peace in the region, but it will also be in America's best interest to have its friend, Lebanon, stable once more.

Today, President Clinton is meeting with President Elias Hrawi of Lebanon. It is my hope that the territorial integrity, sovereignty and independence of Lebanon is the subject of much discussion. President Clinton will also be announcing a humanitarian aid package for Lebanon, and I was pleased to lead the efforts in the Senate to insist upon this assistance for the innocent civilians of Lebanon.

But the humanitarian assistance is only one part of the equation. I, once again, urge the administration to persist in trying to negotiate a cease fire in this region and to bring an end to the hostility immediately.●

THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

● Mr. GLENN. Mr. President, once again I rise to join my colleagues, and Armenian Americans in Ohio and across the Nation, to remember the Armenian genocide of 1915–1923. Over this period the Armenian population of the Ottoman Empire was systematically destroyed. Some were killed, others left to die of deprivation, still others uprooted and expelled from their homeland. In the end, some 1.5 million Armenians perished and another 0.5 million were displaced.

Evidence of the Armenian genocide is available from a number of sources, among the most compelling is the reporting of our own United States Ambassador to the Ottoman Empire, Henry Morgenthau. In a cable to the Secretary of State, Ambassador Morgenthau wrote: "Deportation of and excesses against peaceful Armenians is increasing and from harrowing reports of eye witnesses it appears that a campaign of race extermination is in process under a pretext of reprisal against rebellion."

Some may ask why it is important to take time each year to commemorate an event which occurred over half a century ago. In reply I would recall the reported observation of Adolph Hitler as he contemplated the "final solution"—"Who remembers the Armenians?"

Today we remember the 1½-million victims of the Armenian genocide. Undeniably it is not comfortable to repeatedly revisit this tragedy, or to visit the Holocaust Memorial Museum, or to have contemporary atrocities played out nightly on our television screens, as in Bosnia or Rwanda. But we remember today, we did last year and the year before, so that we will not become complacent about or indifferent to any example of man's inhumanity to man, wherever and whenever it may occur. For in the words of Edmund

Burke, "the only thing necessary for the triumph of evil is for good men to do nothing."•

DAVID L. FORD

• Mr. LEVIN. Mr. President, I rise today to honor one of the remarkable individuals we lost on April 3, 1996, in the plane crash in Croatia which took the life of Commerce Secretary Ron Brown and many other fine Americans. David L. Ford, CEO of InterGuard Corp., a subsidiary of Guardian Industries, headquartered in Auburn Hills, MI, was on that flight to donate 23 metric tons of flat glass to Sarajevo, enough to produce 8,000 windows for the reconstruction of a hospital that was damaged in the war.

When David was first given the opportunity to travel to Bosnia, he thought of how he could best help the city of Sarajevo. He decided that he would help the city recover from the constant shelling of the past 3 years. David was very excited about being able to help the people of Sarajevo. Though he was unable to see his plan fulfilled, his wish was honored when the glass was later delivered by the U.S. Embassy. A plaque commemorating the efforts of David Ford to rebuild Bosnia will be displayed in front of the hospital in Sarajevo.

David worked for Guardian for over 25 years. He was the driving force in opening the European market for the company, which now operates four plants across Europe. He was a diligent and dedicated worker. He was also a deep thinker who was a student of foreign cultures. He traveled extensively in European countries and studied their cultures.

David was a dedicated family man. His wife, Debra Ann Ford, and their children, Kathryn and Douglas, will remember him as a person who brought much happiness into their lives. He was an involved parent who would often accompany his children to school. He recently took a class on a trip to Israel, imparting his knowledge of the world to the children.

David was a man who was very committed to his faith. David was a born-again Christian and a member of Christian Community Church. He was very involved in his community and was the leader of the youth group Teen Section. David has said that, "to be born again means a new beginning, it means change—a new direction." David had this faith in a new direction for Bosnia and the world.

David's own words best show how he viewed his life. "Yes, I had to change. That meant I had to sacrifice some things—the changes are not a list of things to do or not to do. The changes are in your heart. We cannot make these changes alone, by ourselves. God sends us a helper to be with us." The people of Sarajevo were indeed sent such a helper in David Ford.

I know that my Senate colleagues join me in honoring the life of David L. Ford.•

THE 205TH ANNIVERSARY OF POLAND'S CONSTITUTION

• Mr. D'AMATO. Mr. President. I rise today in support of Senate Joint Resolution 51, a resolution to commemorate the 205th anniversary of Poland's constitution. This resolution was introduced by my good friend, the distinguished Republican leader and senior Senator from Kansas, BOB DOLE. The purpose of the resolution is to salute and congratulate Polish people around the world, including Americans of Polish descent, as on May 3, 1996 they commemorate the 205th anniversary of the first Polish constitution, to recognize the rebirth of Poland as a free and independent nation in the spirt of the 1791 constitution, and to urge the people and state and local governments of the United States to observe this anniversary with appropriate ceremonies and activities.

The Polish constitution of 1791 is closely related to our own constitution, because it was heavily influenced by a Polish hero of the American Revolution, General Thaddeus Kosciuszko, who returned to his native land after the war, carrying with him the concepts we fought to establish and preserve in the revolution. While Poland enjoyed this new constitution for less than 2 years, it established principles and ideals that still live in modern Poland.

Polish people have made major contributions to the United States in all fields of endeavor. The first manufacturing facility in America was established by a Pole in Jamestown, VA. The first institution of higher learning in New Amsterdam was established by Dr. Alexander Kurcyusz. In addition to General Kosciuszko, another famous Pole, Count Casimir Pulaski, aided our fight for independence from Great Britain. He is known as the "Father of the American Cavalry" because General Washington put him in charge of developing and leading that arm in the war. He had a brilliant career in the Continental Army. Unfortunately, he was mortally wounded in the siege of Savannah and later buried at sea.

More modern Polish-Americans who made notable contributions range from Arthur Rubenstein to Stan Musial and Leon Jawarski. In every field, Polish-Americans worked hard to make America what it is today.

New York is home to a great many Americans of Polish descent. Almost 1.2 million New Yorkers claim a Polish heritage. According to the Census Bureau, about 17 percent of all U.S. residents who speak Polish at home live in New York.

I am confident that our adoption of this resolution will be met with appreciation and that May 3 will be a date that will be met with appropriate celebration in the Polish-American community. I again express my strong support for this resolution and I urge my colleagues to vote for it.•

THE 81ST ANNIVERSARY OF ARMENIAN GENOCIDE

• Mr. LEVIN. Mr. President, George Santayana wrote that "those who cannot remember the past are condemned to repeat it." We have an obligation, just as our forebears had, to teach following generations what occurred in the world before they were born. It is this passing of information from generation to generation that weaves the fabric of our collective history and serves as a guide for the future. We can never change the facts of history, but we can work to make sure that injustices are not repeated out of ignorance of those facts. It is only through the constant and vigilant education of our children and each other that we can hope to end man's inhumanity to man.

When Adolf Hitler was planning the Jewish Holocaust he said, "Who today remembers the extermination of the Armenians?" I am here today to bear witness to the fact that we do remember the Armenians who fell prey to genocide and we will continue to work to spread that knowledge so that similar events never again occur.

Today, April 24, 1996, we commemorate the 81st anniversary of the 1915–1923 genocide of the Armenian people. In a world that sometimes seems to have gone mad with random violent acts, we must remember the victims of a government organized terror, the genocide perpetrated by the Turkish Ottoman Empire against the Armenian people.

Eighty-one years ago this week, the 8-year-long savagery against the Armenian people began. Each year we remember and honor the victims and pay respect to the survivors we still are blessed to have in our midst. We vow to remember, to always remember, the attempt to eliminate the Armenian people from the face of the Earth, not for what they had done as individuals, but because of who they were.

For the most part, nations did not learn from history—the world looked away during the Armenian genocide and those horrors later revisited the planet. As Elie Wiesel said, the Armenians "felt expelled from history." So the genocide we remember each April, the century's first genocide—is the genocide the world forgot, to its shame, and for which it paid dearly.

Each year we vow that the incalculable horrors suffered by the Armenian people will not be in vain. We make this solemn vow because we believe that it is within our power to confront evil in the world, and to prevent genocidal attacks on people because of who they are. That is surely the highest tribute we can pay to the Armenian victims and how the horror and brutality of their deaths can be given redeeming meaning.•

HONORING THE WALTMANS ON THEIR 50TH WEDDING ANNIVERSARY

• Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data is undeniable: individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "til death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Lelslie and Isabella Waltman of West Plains, MO, who on March 28, will celebrate their 50th wedding anniversary. They understand the meaning of the word "covenant." My wife, Janet, and I look forward to the day we can celebrate a similar milestone. The Waltmans' commitment to the principles and values of their marriage deserves to be saluted and recognized. I wish them and their family all the best as they celebrate this substantial marker on their journey together.•

MEASURE READ THE FIRST TIME—H.R. 2937

Mr. SIMPSON. Mr. President, I inquire of the Chair if H.R. 2937 has arrived from the House of Representatives.

The PRESIDING OFFICER. The bill has arrived, and it is at the desk.

Mr. SIMPSON. Therefore, I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 2937) for the reimbursement of attorneys' fees and costs incurred by former employees of the White House travel office with respect to the termination of their employment in that office on May 19, 1993.

Mr. SIMPSON. I now ask for its second reading.

Mr. SIMON. I object.

The PRESIDING OFFICER. Objection is heard.

MEASURE READ THE FIRST TIME—S. 1698

Mr. SIMPSON. Mr. President, I inquire of the Chair if S. 1698 is at the desk.

The PRESIDING OFFICER. S. 1698 is at the desk.

Mr. SIMPSON. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

A bill (S. 1698) entitled the Health Insurance Reform Act of 1996.

Mr. SIMPSON. Mr. President, I ask for the second reading and object on behalf of the Republican leader.

The PRESIDING OFFICER. Objection is heard.

Mr. SIMON. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

AMENDING THE HIGHER EDUCATION ACT OF 1965

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3055 just received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3055) to amend section 326 of the Higher Education Act of 1965 to permit continued participation by Historically Black Graduate Professional Schools in the grant program authorized by that section.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the bill be deemed read the third time, passed, and the motion to reconsider be laid on the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3055) was deemed read the third time, and passed.

MEASURE INDEFINITELY POSTPONED—S. 1298

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of S. 1298, a bill to authorize documentation of the vessel, Shooter, and that the measure then be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, APRIL 25, 1996

Mr. SIMPSON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 8:30 a.m. on Thursday, April 25; further, that immediately following the prayer, the Journal of the proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, and the morning hour be deemed to have expired, and that there then be a period for morning business until the hour of 10 a.m., with Senators to speak therein for up to 5 minutes each, except for the following: Senators CHAFEE or BREAUX for up to 60 minutes total; Senator DODD for up to 15 minutes; Senator MURKOWSKI for up to 5 minutes; Senator STEVENS for up to 5 minutes; Senator BRYAN for up to 10 minutes.

I further ask that at the hour of 10 a.m. the Senate resume consideration of S. 1664, the immigration bill, and at that time Senator SIMPSON be recognized to offer the next two amendments to the immigration bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SIMPSON. For the information of all Senators, Mr. President, the Senate will resume the immigration bill and the pending amendments tomorrow morning. Senators can expect rollcall votes throughout the day on the immigration bill. We hope to complete action on that measure on Thursday.

It is also anticipated that the omnibus appropriations conference report will be available for consideration during tomorrow's session. Therefore, action on that legislation is also expected.

The Senate may also be asked to turn to any other legislative items that can be cleared for action.

Mr. President, let me thank my colleague from Illinois for his cooperation and willingness to come to the floor this evening and interrupt his evening to see if we can proceed with other business. I am most appreciative. We will try to complete our work tomorrow. I hope we can do that—certainly Friday morning. Hopefully, we can avoid that.

But I want to thank the staff, the people that make it possible for us to function in this remarkable arena on both sides of the aisle—here at the desks on the both sides of the aisle. These people I have come to know so well we cannot function without. This has been a remarkable day, and the Parliamentarian must be dealing with some kind of a gumball by now. It has more cords and knots in it than we could ever untangle. So we will just keep it there, if we can.

But I want to thank the Senator from Illinois, and thank these remarkable people who patiently watch us grapple with the issues of the day.

ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

Mr. SIMPSON. Mr. President, if there is no further business—unless my colleague from Illinois would care to make remarks—to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:05 p.m. adjourned until tomorrow, Thursday, April 25, 1996, at 8:30 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, April 24, 1996*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. RADANOVICH].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 24, 1996.

I hereby designate the Honorable GEORGE P. RADANOVICH to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Help us to acknowledge, O gracious God, that Your creation extends from the east to the west, that there is no boundary to Your goodness and Your grace. Forgive us when we seek to make our action the center of all action and our concerns the focus of all humanity. Remind us that we ought not remake Your graces to look only like our face or make our concerns to be the center of Your entire creation. As You are the God of all so let us focus on Your blessings and Your will in every place and for every person so that justice will flow down as waters and righteousness like an everflowing stream. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Illinois [Mr. FLANAGAN] come forward and lead the House in the Pledge of Allegiance.

Mr. FLANAGAN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed bills of the following titles in which the concurrence of the House is requested:

S. Con. Res. 54. Concurrent resolution to correct the enrollment of the bill S. 735, to prevent and punish acts of terrorism, and for other purposes; and

S. Con. Res. 55. Concurrent resolution to correct the enrollment of the bill S. 735, to prevent and punish acts of terrorism, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain fifteen 1-minute presentations from each side of the aisle.

MEDICARE

(Ms. DUNN of Washington asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN of Washington. Mr. Speaker, I want to talk about Medicare. Yesterday the Treasury Department reported a new and totally unexpected $4.2 billion shortfall in the Medicare trust fund during the first half of the current fiscal year. Just a year ago, this very same fund had projected a surplus of $45 million for fiscal year 1996.

My parents, the Blackburns in Bellevue, WA, probably did not read that news story, but it is critically important to them because they, like millions of others, count on the Medicare system being solvent. More than a year ago President Clinton's Medicare trustees, including three members of his own Cabinet, warned that Medicare would be bankrupt by 2002 if no changes were made. Yet the President did nothing to change it. He offered no long-term solutions and he offered no leadership. In fact, all he offered was election year scare tactics designed to frighten senior citizens.

Mr. Speaker, enough is enough. Congressional Republicans in response to people like my parents have offered leadership. We want to save benefits for our seniors and save the Medicare trust fund, and we want to do it now while it is still possible.

RAISING THE MINIMUM WAGE

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute.)

Mrs. CLAYTON. Mr. Speaker, there are 117,000 minimum wage workers in North Carolina. Those workers are not just numbers, they are people with families and children. They are day care providers, farmers and food service workers, mechanics and machine operators. They are in construction work and sales, health and cleaning services, and a range of other occupations.

Their families helped build America, and they can help rebuild it. They do not need charity, they need a check—a check that includes a reasonable increase in the minimum wage, as proposed by the President.

Work should be a benefit, it should not be a burden. Work is a burden when, despite an individual's best efforts, living is a daily struggle. Work is a benefit when enough is earned to pay for what we need.

Reward work, and pass the minimum wage increase.

THE 10TH ANNIVERSARY OF VIETNAM WAR MUSEUM IN CHICAGO

(Mr. FLANAGAN asked and was given permission to address the House fore 1 minute and to revise and extend his remarks.)

Mr. FLANAGAN. Mr. Speaker, I rise today to recognize the Vietnam Memorial Museum, in the heart of the Vietnamese community in Chicago, for its commitment to uniting both American and Vietnamese veterans on issues relating to Vietnam and veterans' affairs.

The museum was founded 10 years ago with the intent of honoring those who participated and served in the Vietnam war and educating future generations about personal experiences of those who performed such service. It contains a fascinating exhibit of various memorabilia, artifacts, photographs, artwork, and period publications, reminding us all of the sacrifices made by our veterans during the Vietnam war.

The Vietnam Memorial Museum of Chicago is not a war museum. It is a memorial, a place where those who survived the hardships of the Vietnam war can meet, reflect on their personal experiences and share memories and emotions.

The museum also serves the community by housing a drop-off center where American and Vietnamese veterans channel valuable goods to needy Vietnamese refugees living in the Chicago area. This museum is truly a community based and community oriented operation.

The Vietnam War Museum is a tribute to Vietnam veterans and their families and all veterans. It is a valuable resource to the Chicagoland community that honors all, veterans and civilians alike, who served our country during the Vietnam era on behalf of the cause of freedom.

THE MINIMUM WAGE

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute.)

Mrs. KENNELLY. Mr. Speaker, I rise today to talk about increasing the minimum wage. I would like to focus on one particular type of low-wage worker—women. Almost 60 percent of those making minimum wage are female. Many times, these are women with children to support—women whose alternative would be to go on welfare. As one who has participated in the debate on welfare reform for many years, I can tell you this: The single best way to keep people off welfare is to make work pay.

Raising the minimum wage will make an enormous difference for many of these families. For them, it would mean an extra $1,800 a year to put in the family bank account. This one increase equates to an average spent for 7 months of groceries, or 4 months of housing, or 9 months of utility bills. This is no time for political games—raising the minimum wage is long overdue. The wage earners struggling to support their families know it. The President has said and I agree: if you work full-time, year-round, you shouldn't be poor. Raising the minimum wage takes us toward that goal. I believe we should raise it now.

IMPROVING THE NATION

(Mr. FRANKS of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANKS of Connecticut. Mr. Speaker, like a chain, in order to improve our Nation we must strengthen even the weakest links in our society. By doing so it would make it more likely that under known or unknown pressures, we would be able to pull together rather than fall apart as a nation.

Hope and opportunity are key elements. They go hand in hand with success. It is hard to have one without the other. However, for many in our inner cities, opportunities seem limited. Thus hopelessness often creeps into their lives, and the prospect of success becomes nothing more than a pipe dream. We as leaders owe our society much more, but, unlike the beliefs of many, we do not have to throw taxpayers' dollars at the problem. There are other solutions.

Mr. Speaker, I will soon be offering initiatives that in a meaningful way will attempt to address these grave concerns.

SOMETHING IS WRONG

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Rodney Hamrick, who is in prison for threatening the life of Ronald Reagan, threatened to blow up a Federal courthouse, a judge, the NAACP headquarters, and an airplane. Then he went beyond and he sent a bomb in the mail, that did not explode, to the U.S. attorney that had convicted him. He was naturally convicted.

But a three-judge panel at the Fourth Circuit Court overturned the decision by saying, since the bomb did not detonate, it was not deadly. Beam me up, Mr. Speaker. I believe that these three judges must have received a defective mail-order law degree from Sears Roebuck. Something is wrong when Gorbachev gets slapped in the face in Russia while campaigning and they call it an assassination. In America, a prisoner sends a mail bomb and it is treated like a misdemeanor. If that does not explain it all, I do not know what does.

MORE MEDICARE

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I come to the well once again heartened by the remarks of my colleague from the great State of Ohio. I just wish we could get past some of the name calling and some of the, to be frank, disinformation that has infested itself here on the banks of the Potomac; to wit, fact, yesterday the Treasury Department reports that Medicare is losing money, $4.2 billion in the first 6 months of this year.

Yet what does the minority leader say on television? Last summer, when queried about allowing Medicare to grow at a rate less than 10 percent a year, he says, and I am quoting him, the reforms the majority tried to make amounted to this, "This is a hoax."

Mr. Speaker, it is no hoax. The hoax comes when those on the left would deliberately employ medi-scare tactics to try and get through the next election rather than to save and transform Medicare for the next generation. We are all to be held accountable. Let us deal with the truth.

ALCOHOL AND CHILDREN

(Mr. KENNEDY of Massachusetts asked and was given permission to address the House for 1 minute.)

Mr. KENNEDY of Massachusetts. Mr. Speaker, we in this country, every one of us understands what this sign says. It is three frogs saying Budweiser. The trouble is that if you ask the average fourth and fifth graders in this country, they also know what it says. They know what it says more than they know what Tony the Tiger says. They know more about Budweiser than they know about Smokey Bear or the Mighty Morphin Power Rangers.

People that do not think there is a problem with young people drinking alcohol in this country do not understand the facts. Alcohol abuse kills more young people in America than all other drugs combined. Junior high school and high school students drink 1.1 billion cans of beer each year, and Anheuser Busch's market share of this number is 70 million 6-packs of Budweiser, equaling $200 million of sales to children.

Let us put an end to trying to market to children a drug that unnecessarily kills far too many of our Nation's most vital natural resources.

APPRECIATING BALANCE

(Mr. TAUZIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, every spring I plant natural resource trees, over the past 2 months, nearly 600: crab apples, redbuds, oaks, cherries, dogwoods, cypress, and cedar, just to name a few. I also cut down trees, mostly stunted or overgrown pine, to make room for others to grow. I was raised to appreciate that kind of balance.

This spring I will join other volunteers in Habitat for Humanity, hammering and sawing lumber to build suitable housing for poor families in Louisiana. I was raised to understand that kind of balance, too.

Unfortunately, many of our bureaucrats do not. Every week nearly 1 square mile of Louisiana washes away in coastal marsh and barrier island erosion. Private landowners are prepared to spend their own money to save those marshes and wetlands, but our wetlands permit system says no. Hundreds of such applications have been abandoned.

The Corps of Engineers in Louisiana still refuses as yet to authorize a private mitigation bank. So 30 to 50 square miles in my State washes away while bureaucrats squabble over so-called wetlands that no self-respecting duck would land on.

We need to spend less money on lawyers and bureaucrats and more money really saving wetlands in America.

SUPPORT H.R. 3244

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, the Capital of the United States is in serious disrepair, and I mean a lot more than potholes. It is trying to recover by downsizing a loan as no insolvent city has ever done. There is Federal responsibility here, including the unfunded pension liability that is taking 10 percent of our budget, and that is entirely my colleagues' responsibility.

The time has come to act now. We are a hemorrhaging population. We want to revive the District the old-fashioned way, by keeping and attracting middle-income residents here. Please support my Federal tax cut bill for the District of Columbia; support H.R. 3244. My colleagues should assume their share of the responsibility for the Capital of the United States.

TRAVEL AND TOURISM SHRINKS TRADE IMBALANCE

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, did my colleagues see yesterday where the trade deficit is down by over 18 percent? Now that is something to cheer about.

But do my colleagues know why the trade deficit is down? According to the Commerce Department, it is because the travel and tourist industry reported a temporary surge in foreign visitors to the United States. Unfortunately, this trend cannot continue unless we in Congress work right now to continue the trend by passing the Travel and Tourism Partnership Act.

Now we have 226 cosponsors. That is terrific. I want everyone to cosponsor this bill. We want to do even more, because terrific is not good enough when it comes to travel and tourism.

Travel and tourism is the largest industry in America. Travel and tourism employs one out of every nine working Americans, and it is time that we in Congress, and we are, awaken to the tremendous potential in this industry, and I ask everyone to help me.

Let us cosponsor this bill, and let us pass it so we can get our trade deficit down even further.

GIVE OUR STUDENTS AN OPPORTUNITY TO WORK THEIR WAY THROUGH SCHOOL

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, one of the great arguments that I have heard in this debate about the minimum wage has been that there are many students who receive minimum wage. I stand here this morning as a product of the family of 13 children, parents who could not afford to send me to college, and the only way I could get through was to work.

I do not see anything wrong with trying to provide a wage that allows a student to be able to work their way through school particularly when we are cutting back in so many areas that affect and impact the lives of students who have been able to get scholarships, be able to get grants and loans. It seems to me that if we are going to be fair, we have to be fair to every American citizen, even those who are students who have a desire, a will, to work.

Mr. Speaker, my mother taught me how to cook, wash, iron, and sew. That is how I got through college. There are many other young people who could do the same thing if we were fair enough to them to give them that opportunity, give them the best wages. I have waited tables, I have bussed tables, I have shined shoes, I have done everything, and we ought to let them do it. Pay them a good enough salary so that we can indeed come to that point where maybe if we reduce the scholarships, they will know they can work their way through.

Mr. Speaker, I think it is a good thing. I am a product and a witness of it.

INTRODUCTION OF THE PARENTAL FREEDOM OF INFORMATION ACT

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, today I am introducing the Parental Freedom of Information Act to provide parents in America with the information they need to guide the education of their children. Teachers have told me that involved parents are the most important thing the public schools need to help students learn. Involved parents must be informed parents.

The Parental Freedom of Information Act will guarantee that parents have access to their child's curriculum, the contents and result of standardized tests and medical records, including psychiatric and/or counseling records.

Recently, parents have been denied access to instructional materials used in classes which they might find objectionable. They have been denied achievement tests that have been administered and then withheld from parental inspection, and treatments by unqualified school counselors have been administered to children contrary to the expressed objections of parents, and the records of this treatment were denied to the parents. Parents have been forced into the courtroom to find out what is going on in the classroom.

This act in no way seeks to influence curriculum or standardized tests. It simply provides the basic information which involved parents need to guide the education of their children.

RAISE THE MINIMUM WAGE

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Mr. Speaker, good morning. The battle about the minimum wage rages on. Some people would have our colleagues believe that the minimum wage only affects kids, so we should not worry about it. Not true—10 million Americans are affected by the minimum wage. Some 75 percent of them are adults and 58 percent of them are women.

We need to increase the minimum wage. The minimum wage has not been increased in 5 years. The purchasing power of people who earn the minimum wage has decreased by 15 percent. We are talking about people who make about $8,400 a year operating under the current minimum wage.

I am pleased to say today, Mr. Speaker, that there is some bipartisan support for increasing the minimum wage. I am distressed, however, that there are still some Republicans who believe that we should not increase the minimum wage and want to fight it.

We do not need any convoluted bureaucratic plans to pay employers. What we need is a very simple solution: Raise the minimum wage.

Mr. Speaker, if we raise the minimum wage, we will bring 300,000 families out of poverty, we will bring 100,000 children out of poverty.

Raise the minimum wage.

MINIMUM WAGE: MINIMUM OPPORTUNITIES

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, I really wonder if the President and the Democrats are truly interested in raising the minimum wage or is it just that they want to score some political points? When they controlled Congress back in 1992 and 1993 with President Clinton in the White House, why was not an increase in the minimum wage on the agenda? Maybe they were too busy raising taxes on gas, on Social Security, on small businesses.

Mr. Speaker, I have to look at this comment that the President made in 1993. President Clinton said, "The minimum wage," and I am quoting, "The minimum wage is the wrong way to raise incomes of low-wage earners." But then again, I guess we really cannot believe what the President says from day to day or time to time.

By the way, if my colleagues think 90 cents an hour is going to save working families, I say my colleagues' priorities are in the wrong place. We need to provide tax relief to our families, not 90 cents an hour. Lowering taxes will raise incomes.

FAMILIES NEED TO EARN A LIVABLE WAGE

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, we are hearing a lot of excuses from the majority these days about why we do not need to increase the minimum wage. Mr. Speaker, I know firsthand why families need to earn a livable wage.

Over 28 years ago I was a single working mother with three small children, receiving no child support. Even though I was working, I was earning so little that I had to go on welfare to take care of my children. I tell my colleagues this, Mr. Speaker, because too many families today face the same situation.

In spite of what the majority whip has said about minimum wage and about earning $4.25 an hour, almost 5 million Americans work for at or below minimum wage, and I am not talking about teenagers looking for extra cash. Rather, the average minimum wage earner looks a lot like I did 28 years ago, an adult woman supporting her family by herself. Today that mother is worse off because the purchasing power of the minimum wage has plummeted to a 40-year low.

Clearly, it is time to make work pay by increasing the minimum wage now.

TRIBUTE TO THE LATE GILBERT MURRAY

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, I rise to honor Gilbert Murray, former President of the California Forestry Association. Today marks the 1-year anniversary of Gil's tragic death at the hands of the Unabomber.

Today, I will not dwell on the tragedy of Gil's death, but rather on the greatness of his life. Gil was a respected professional leader. He advocated good stewardship of our forests to keep them beautiful and productive for our children and grandchildren.

More importantly, Gil was a leader in his home. Despite his professional commitments, he always made his family his priority. He was never too busy for his wife and two sons.

In every way Gilbert Murray was an exemplary man. I speak for many in northern California in saying that we remember him fondly and miss him greatly.

THE AMERICAN PEOPLE HAVE SPOKEN: RAISE THE MINIMUM WAGE

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. VELÁZQUEZ. Mr. Speaker, the American people have spoken. The latest polls show that 85 percent of Americans are in favor of raising the minimum wage.

I will say to my Republican colleagues, they have lost the battle in the court of public opinion.

So what does the Republican leadership now plan to do? Instead of following the will of the American people, they are following the will of corporate America and the fat cats who have funded their campaigns. That is immoral.

The latest Republican shell game will eliminate the earned income tax credit and then exclude workers without children from getting a raise. The rationale is to save $15 billion and give more breaks to big, big business. This ridiculous proposal takes working families one step forward and knocks them two steps back.

My colleagues, if we want to help working families, we must insist on a clean minimum wage bill with no strings attached, and vote to raise the minimum wage without delay.

RENEWABLE ENERGY EXPO 1996

(Mr. SCHAEFER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHAEFER. Mr. Speaker, I would like to urge Members to visit the Renewable Energy Expo 1996, taking place today from noon to 3 p.m. in the Cannon Caucus Room.

This exhibit, being sponsored by three dozen trade associations, industry groups, and businesses, offers you the opportunity to inspect the latest American renewable energy and energy-efficient technologies. You can ask the groups' representatives questions about their projects throughout the country, including some which may be operating in your own district.

The renewable energy expo is being put on in cooperation with the House Renewable Energy Caucus, a bipartisan group I founded in February along with six other Members. This caucus has grown 10 times in size—to 70 members—in less than 3 months, demonstrating the broad support renewables enjoy in Congress and throughout the country, renewables for our children and their grandchildren.

I hope you can stop by the Cannon Caucus Room today to see vivid demonstrations of our country's energy future.

REPUBLICAN LEADERSHIP DENIES MINIMUM-WAGE WORKERS EVEN EXIST

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, my Republican colleagues are reaching new heights of desperation as they scurry to dodge a vote on raising the minimum wage, even though the minimum wage is at a 40-year low, even though a 90-cent increase would help over 10 million workers in this country, and even though the average minimum-wage worker brings home more than half of his or her family's income.

It might be interesting to note that Members of this Congress earned more during the shutdown of this Government during the Christmas holidays than a full-time minimum-wage worker makes in an entire year. But despite all that, the Republican leadership will go to any length to kill an increase in the minimum wage. They are not even afraid of resorting to fantasy.

Yesterday the House majority whip said, "Emotional appeals about working families trying to get by on $4.25 an hour are hard to resist. Fortunately, such families don't really exist."

They do not believe that people do exist on the $8,500 a year or are trying to exist on that amount of money. Tell it to the 300,000 families in this country who are minimum-wage workers. Let us go to a clean, straight vote on raising the minimum wage.

LIBERALS REACHING NEW HEIGHTS IN DEMAGOGUERY

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, the liberals in Congress have reached new heights in demagoguery in the last few months, and with the help of the liberal media and the big special interests, AFL–CIO, they have been able to label anything that Republicans attempt to do as extreme or radical.

Mr. Speaker, truth always has a way of rearing its ugly head, and while the liberal Democrats were misleading Americans about the environment and while they were out demagoging about the balanced budget, the Medicare Program has incurred the largest losses in its history.

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In the first half of this fiscal year Medicare has lost $4.2 billion, and I would just say it has got to be true because I am holding the Santa Barbara News-Press, owned by the New York Times, and here is the front page article from the April 22 issue: "Medicare Trust Fund Loses $4 Billion. Clinton Administration Downplays Apparent

Miscalculations." So as I said, even the liberal press is exposing that, and I would just say the President vetoed it and now we see his party's inaction on solving and preserving Medicare.

REPUBLICANS FIX MEDICARE BY CUTTING BENEFITS

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, here they go again. My colleagues on the other side, the Republicans, are now talking about how they want to fix Medicare essentially by cutting Medicare and using the money to pay for tax breaks for the wealthy. We had this all through 1995. Now they are trying to distort the information that came out in the New York Times about the Medicare trust fund, to go ahead with their radical plan to cut Medicare in order to pay for these tax breaks for wealthy Americans.

Well, let me tell the Members that this trust fund is not broke. We know now that it has $126.1 billion in surplus. This small deficit that was incurred in the first 6 months of this year does not justify going ahead with this radical plan to cut Medicare and give back these tax breaks to wealthy Americans.

The Republican leadership has refused to sit down with President Clinton and try to work on a bipartisan basis to come up with an answer for Medicare to make sure it is solvent. We are not talking about today. We are not even talking about the next few years. This insolvency, if it occurs, is I think 2001 or 2002. Do not let it be an excuse on the part of the Republicans to give these tax breaks to wealthy Americans.

INTRODUCING THE REGULATORY FAIR WARNING ACT

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, too often we hear stories about the small businessman who hires and employs three or four people, and then gets slapped with a legal action by a Federal agency on a matter on which the small businessman knows very little about its background or its effect. So what does a small businessman have as an option? One, he can hire a lawyer to try to defend against a wrong about which he did not know; or, in the second place, just pay the fine or other sanction that the agency requires because that is the easiest way to go.

I am today introducing the Regulatory Fair Warning Act, which would require the agencies to provide reasonable notice ahead of time of the change of a regulation or how it is to be enforced so that the small businessman, the employer, can try to comply with that without having been hit with a legal action, not knowing what he was supposed to do. This is a fair warning whose time has come.

REPUBLICAN MEDICARE CURE IS WORSE THAN THE AILMENT

(Mr. LEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, my Republican colleagues who come here to sound an alarm on Medicare, even though this alleged shortfall has already been known by CBO and they have taken it into account, although almost every year we have been responding within Ways and Means to make sure the Medicare fund stays solvent.

The trouble with the Republican approach is that their cure has been far worse than the ailment, a heavy hit on seniors and providers to fund a tax cut for a very wealthy few. Their proposal gambles with the health of older Americans by excessive expenditure cuts and risky proposals.

In contrast, the President has proposed a plan that would extend the solvency of the part A hospital insurance trust fund through the next decade without hurting seniors.

What the Republicans are doing, sounding an alarm to put out a fire, they want to tear down the Medicare house The public rejected it last year. They will reject it again this year.

THE PRESIDENT'S SOFT AND LIBERAL JUDICIAL APPOINTMENTS

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUNDERBURK. Mr. Speaker, what the President does and what he says about judicial appointments are the mental equivalent of the great Joe Montana's play action, fake to the right and run to the left—and in this case, it is talking tough and acting soft. The President constantly talks about putting 100,000 cops on the beat but his judicial appointments are releasing felons back on the streets where they can again prey on the unsuspecting American public. We need more than just laws against felons if the soft and liberal judges appointed by the President simply ignore the law and free them. What we really need are judges that will adhere to the spirit and letter of the law and punish violent criminals to the full extent of the law. We must not punish the American public again by allowing this disgraceful revolving door of justice.

If we want judges who are as concerned about the rights of law-abiding citizens and victims as they are about those of violent criminals, then we need a new President in the White House.

SUPPORT A CLEAN MINIMUM WAGE INCREASE

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCKINNEY. Mr. Speaker, yesterday I sent this letter to my colleague from Georgia, Speaker GINGRICH, urging him to hold a vote on a clean minimum wage increase before the Memorial Day district work period.

And today, Mr. Speaker, I would like to reiterate on the floor of the House what I stated to Speaker GINGRICH in this letter.

In the letter I said:

> The false link you are creating between a minimum wage increase and a reduction in worker protections, is little more than a cynical ploy to convince people earning $8,400 a year that less safe working conditions are the price they must pay for a living wage. This Machiavellian approach is insensitive to the needs of thousands of working Georgians who struggle just to put food on the table. As of 1994, 11.9% of Georgia's workforce was earning between $4.25 and $5.14 an hour. A 90-cent increase would help these nearly 362,000 people make ends meet.

Once again, Mr. Speaker, I urge my colleague from the Sixth District of Georgia to permit a vote on a clean minimum wage increase.

CAMPAIGN REFORM

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, during the 104th Congress, we have made some very positive changes in how we do business around here. We have legislated more stringent lobbyist registration requirements, disclosure requirements of their activities. We have passed a new House rule that prohibits Members and staffs from accepting any gifts, including meals or event tickets, from lobbyists or any other individuals other than family and close friends.

This is a good start, but it has not changed the persistent perception across our country that special interest groups have an edge over individual contributors when it comes to election time.

Our next step is to change how we run our campaigns. I have introduced H.R. 3274 to do just that. My bill does limit PAC contributions, and it requires that contributions come from within the candidate's State and that 50 percent of contributions come from within the candidate's district. If we are here to represent the people from our district, then they are the ones that should help us get here. They are the Americans we work for and are accountable to.

It is time for meaningful campaign reform. We can pass some. We should do it. It makes sense.

AMERICA'S WORKING FAMILIES NEED AN INCREASED WORKING WAGE

(Mr. FAZIO of California asked and was given permission to address the House for 1 minute.)

Mr. FAZIO of California. Mr. Speaker, when Franklin D. Roosevelt first proposed a national minimum wage, he described it as a "fair day's pay for a fair day's work." Now, 50 years later, the minimum wage has plummeted to its lowest value ever and its purchasing power has fallen to a 40-year low. On an annual income of $8,400 a year, paying the bills and keeping food on the table is a daily challenge for minimum wage workers.

The 90-cent increase proposed by the President and Democrats in Congress would make the minimum wage a living wage. An extra 90 cents an hour would pay for 7 months of groceries, a year of health care costs, 9 months of utility bills, or 4 months of housing.

Contrary to Republican rhetoric, the average minimum wage worker is not a teenager looking for a little extra cash. She is a working mother, often the only wage earner in her family.

Let us not load up a minimum wage increase with all sorts of special breaks and goodies that would cause the President to veto the bill.

America's working families need an increased working wage, protections for their pensions, an effective education for their children, and affordable health care. Is that too much to ask?

Let us start by raising the minimum wage.

WAKEUP CALL

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, politicians excoriate liberal judges for releasing dangerous criminals and the Clinton appointees are among the worst. But defense and plaintiff attorneys have found an even greater ally, the bleeding-heart juries.

Half of the jury in the first case hung up the jury saying the Menendez brothers who murdered their parents for insurance money were afraid of their parents and should be released. It reminds me of the case in Richmond, CA, where the burglar fell through the roof and sued the property owner for having a faulty roof and won. Yesterday's decision that Bernhard Goetz who defended himself from subway muggers should pay $43 million because he injured one of the muggers was among the worst cases.

The real problem is not just liberal judges or bleeding-heart juries but a lack of absolute values. Our Nation's switch to situational ethics does not allow us to hold people responsible for their own misdeeds.

Should people who murder their parents prosper? Should burglars sue innocent property owners? Should thugs and muggers enrich themselves through court action when their victims rise up and defend themselves.

Wake up, America, before your ability to move safely in urban areas joins the 40 percent of your income taken by a loving and caring government.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. GOSS. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole under the 5-minute rule:

Committee on Agriculture; Committee on Banking and Financial Services; Committee on Commerce; Committee on Economic and Educational Opportunities; Committee on Government Reform and Oversight; Committee on International Relations; Committee on the Judiciary; committee on National Security; Committee on Resources; Committee on Science; Committee on Transportation and Infrastructure; and Committee on Veterans' Affairs.

Mr. Speaker, it is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. RADANOVICH). Is there objection to the request of the gentleman from Florida?

There was no objection.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 175, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 411 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 411

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 175) making further continuing appropriations for the fiscal year 1996, and for other purposes, modified by striking title II of the joint resolution. The joint resolution as modified shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The previous question shall be considered as ordered on the joint resolution as modified to final passage without intervening motion except one motion to recommit. The motion to recommit may include instructions only if offered by the minority leader or his designee.

The SPEAKER pro tempore. The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from South Boston, MA [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. DREIER asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. DREIER. Mr. Speaker, this rule provides for the consideration in the House of House Joint Resolution 175, making further continuing appropriations for fiscal year 1996. It provides for 1 hour of debate equally divided between the chairman and ranking minority member of the Appropriations Committee.

It orders the previous question to final passage without intervening motion except one motion to recommit which, if containing instructions, may only be offered by the minority leader or his designee.

Mr. Speaker, the rule also modifies House Joint Resolution 175 by striking out title II, which contained language to recapitalize the Savings Association insurance fund, better known as SAIF, and avoid another taxpayer bailout of yet another deposit insurance fund. Let me underscore that again. The plan was designed to avoid a taxpayer bailout and look for a private sector solution. This is an unfortunate but necessary step that was taken by the Rules Committee because passage of this 1-day continuing resolution is needed to forestall a disruption in Government services while congressional leaders and the administration work out the details of a permanent continuing resolution. As my colleagues know, the funding authority that much of the Government is currently now operating under expires in about 12 hours and 16 minutes.

Mr. Speaker, I want to take a moment to explain why I believe that the SAIF recapitalization legislation is needed, and why I hope that the majority and minority leadership in both the House and the Senate will work with the administration to bring this legislation before the House just as expeditiously as possible.

Mr. Speaker, because the bank insurance fund became fully capitalized last year, deposit insurance premiums to that fund fell from 23 cents per $100 to 4 cents. Consequently, there is a premium disparity that exists now between the bank insurance fund and the Savings Association insurance fund.

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That creates a situation that could undermine the competitive balance between the two industries.

To address this disparity, language was added to House Joint Resolution 175, but stricken by this rule, to require thrifts to pay a one-time assessment of $5.5 billion to recapitalize the Savings Association Insurance Fund. The Bank Insurance Fund would assume 75 percent of the responsibility for annual payments on the financing corporation bonds used to pay for the 1987 thrift industry rescue plan.

In return, Mr. Speaker, banks would receive a rebate of up to $500 million for excessive premiums paid to the Federal Deposit Insurance Corporation, and the two FDIC funds would be merged in 2 years.

The reason the legislation is needed to be enacted sooner rather than later is that, to avoid the premium disparity, many thrifts will seek to transfer their deposits to BIF-insured institutions. If this happens, there will not be enough premiums in the safe to cover the $600 million a year in FICA bond obligations. That could happen by the end of this year, forcing a Government default and sometime thereafter another potential Federal bailout of the S&L insurance fund.

Every banking regulator agrees that the system needs to be fixed today, including the FDIC, the Treasury Department, the Federal Reserve Board Chairman Alan Greenspan. In fact, as Chairman Greenspan pointed out in a March 4 letter he sent to my California colleague, Mr. ROYCE, he said,

> Even if there were no evolving problem with two different insurance premiums, the existing deposit insurance system, with its reliance on two funds, is inherently unstable.

Mr. Speaker, the safe recapitalization legislation is the first step toward merging the funds and the industries. Today there is little of a material nature that distinguishes a bank charter from a thrift charter. The consequences of having two funds is that one industry can have a competitive advantage, even though the funds are both operated by the Federal Deposit Insurance Corporation. This is not a logical deposit insurance system.

Many of my friends in the banking industry argue that they should not have to help pay for the thrift bailout because banks did not cause the problem. Mr. Speaker, neither did the well-run, healthy thrifts cause the problem that exists today.

Since the only other option, which is another taxpayer bailout of a deposit insurance fund, is not a realistic option from my perspective, the only solution is a shared private sector solution. The result will be to enhance the safety and soundness of the banking system, benefiting consumers of financial products and services and strengthening the competitiveness and long-term health and profitability of the industry.

Mr. Speaker, Congress' failure to deal with a looming threat to the deposit insurance system 10 years ago led to the biggest financial calamity since the Great Depression. Let us not make that same mistake twice. There will be no better opportunity than now to deal with this problem, and I look forward to working with the leadership, the gentleman from Iowa, Chairman LEACH, and the administration, to get this matter once and for all resolved.

In the meantime, we must address the need to keep the Government operating. So I urge adoption of this rule and adoption of the one-day continuing resolution.

Mr. Speaker, I include for the RECORD the following material:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of April 23, 1996]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	62	59
Modified Closed[3]	49	47	26	25
Closed[4]	9	9	17	16
Total	104	100	105	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of April 23, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of April 23, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	A: voice vote (11/14/95).
H. Res. 261 (11/9/95)	C	H.J. Res. 115	Cont. Resolution	A: 223–182 (11/10/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	O	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 229–176 (11/15/95).
H. Res. 273 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	A: 239–181 (11/17/95).
H. Res. 284 (11/29/95)	O	H.R. 1788	Amtrak Reform	A: voice vote (11/30/95).
H. Res. 287 (11/30/95)	O	H.R. 1350	Maritime Security Act	A: voice vote (12/6/95).
H. Res. 293 (12/7/95)	C	H.R. 2621	Protect Federal Trust Funds	PQ: 223–183 A: 228–184 (12/14/95).
H. Res. 303 (12/13/95)	O	H.R. 1745	Utah Public Lands.	
H. Res. 309 (12/18/95)	C	H.Con. Res. 122	Budget Res. W/President	PQ: 230–188 A: 229–189 (12/19/95).
H. Res. 313 (12/19/95)	O	H.R. 558	Texas Low-Level Radioactive	A: voice vote (12/20/95).
H. Res. 323 (12/21/95)	C	H.R. 2677	Natl. Parks & Wildlife Refuge	Tabled (2/28/96).
H. Res. 366 (2/27/96)	MC	H.R. 2854	Farm Bill	PQ: 228–182 A: 244–168 (2/28/96).
H. Res. 368 (2/28/96)	O	H.R. 994	Small Business Growth	
H. Res. 371 (3/6/96)	C	H.R. 3021	Debt Limit Increase	A: voice vote (3/7/96).
H. Res. 372 (3/6/96)	MC	H.R. 3019	Cont. Approps. FY 1996	PQ: voice vote A: 235–175 (3/7/96).
H. Res. 380 (3/12/96)	MC	H.R. 2703	Effective Death Penalty	A: 251–157 (3/13/96).
H. Res. 384 (3/14/96)	MC	H.R. 2202	Immigration	PQ: 233–152 A: voice vote (3/21/96).
H. Res. 386 (3/20/96)	C	H.J. Res. 165	Further Cont. Approps	PQ: 234–187 A: 237–183 (3/21/96).
H. Res. 388 (3/20/96)	C	H.R. 125	Gun Crime Enforcement	A: 244–166 (3/22/96).
H. Res. 391 (3/27/96)	C	H.R. 3136	Contract w/America Advancement	PQ: 232–180 A: 232–177, (3/28/96).
H. Res. 392 (3/27/96)	MC	H.R. 3103	Health Coverage Affordability	PQ: 229–186 A: Voice Vote (3/29/96).
H. Res. 395 (3/29/96)	MC	H.J. Res. 159	Tax Limitation Const. Amdmt.	PQ: 232–168 A: 234–162 (4/15/96).
H. Res. 396 (3/29/96)	O	H.R. 842	Truth in Budgeting Act	A: voice vote (4/17/96).
H. Res. 409 (4/23/96)	O	H.R. 2715	Paperwork Elimination Act	
H. Res. 410 (4/23/96)	O	H.R. 1675	Natl. Wildlife Refuge	
H. Res. 411 (4/23/96)	O	H.J. Res. 175	Further Cont. Approps. FY 1996	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House is considering a noncontroversial 1-day temporary spending bill. Although today's continuing resolution is the 13th since last October, we finally can see the light at the end of the tunnel of continuing resolutions.

As I understand it, Mr. Speaker, my Republican colleagues are just about to complete the long-term continuing resolution which will provide funding until the beginning of the next fiscal year. For that reason, we must pass this 1-day continuing resolution to ensure that the Government continues to function while my Republican colleagues complete their work.

I hope they will be able to do so today so that the 14th continuing resolution is the last one that we will pass this year. The House needs to put the 1996 appropriations bills behind us and get started on the 1997 appropriation bills. So I urge my Republican colleagues to get our Government back on its feet and start running this place the way it should be.

Mr. Speaker, at the beginning of this Congress, the Republican majority claimed that this House was going to consider bills under an open process. It was going to be much more open than the Congress before it. I would like to point out at this time, Mr. Speaker, that 92 percent of the legislation this session has been considered under a restricted process. Not only are the Republicans restricting the process on the floor, they are also restricting Members' input during the committee process.

I find it unfortunate that 72 percent of the legislation considered this session has not been reported from committee. In fact, 13 out of 18 measures brought up this session have been unreported.

Mr. Speaker, I include the following material for the RECORD.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes; PQ	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 101	To transfer a parcel of land to the Taos Pueblo Indians of New Mexico.	H. Res. 51	Open	N/A.
H.R. 400	To provide for the exchange of lands within Gates of the Arctic National Park Preserve.	H. Res. 52	Open	N/A.
H.R. 440	To provide for the conveyance of lands to certain individuals in Butte County, California.	H. Res. 53	Open	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference; PQ2	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision; PQ.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered; PQ.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language; PQ.	3D; 1R.
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins; PQ.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget; PQ.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments; PQ.	5R; 4D; 2 Bipartisan.
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ); PQ.	N/A.
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr; PQ.	N/A.
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment; PQ.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min. each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments; PQ.	N/A.
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority; PQ.	N/A.
H.R. 1977	Interior Appropriations	H. Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority; PQ.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority; PQ.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments pre-printed before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority; PQ.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 Of rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority; PQ. ***RULE AMENDED***.	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; Makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title..	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min.); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	ID.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliely amendment (30 min.) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bipartisan.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; Provides that the first order of business will be the managers amendments (10 min.), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title; PQ.	N/A.
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate. makes in order the committee substitute as original text	N/A.
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional record.	N/A.
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A.
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A.
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A.
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. '2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min.) If adopted, it is considered as base text; Pre-printing gets priority; PQ.	N/A.
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D
H.R. 743	The Teamwork for Employees and managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A.
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A.
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A.
H.J. Res. 108	Making Continuing Appropriations for FY 1996	H. Res. 230	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A.
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a senate hook-up after adoption.	1D
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes); PQ.	1D
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A.
H.R. 2491 H. Con. Res. 109	7 Year Balanced Budget Reconciliation Social Security Earnings Test Reform.	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pints of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes); PQ.	1D
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A.
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min.); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min.); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 257	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	N/A

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 2586	Temporary Increase in the Statutory Debt Limit	H. Res. 258	Restrictive; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee; self-executes 4 amendments in the rule; Solomon, Medicare Coverage of Certain Anti-Cancer Drug Treatments, Habeas Corpus Reform, Chrysler (MI); makes in order the Walker amend (40 min.) on regulatory reform.	5R
H.R. 2539	ICC Termination	H. Res. 259	Open; waives section 302(f) and section 308(a)	
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 261	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H.R. 2586	Temporary Increase in the Statutory Limit on the Public Debt	H. Res. 262	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H. Res. 250	House Gift Rule Reform	H. Res. 268	Closed; provides for consideration of the bill in the House; 30 min. of debate; makes in order the Burton amendment and the Gingrich en bloc amendment (30 min. each); waives all points of order against the amendments; Gingrich is only in order if Burton fails or is not offered.	2R
H.R. 2564	Lobbying Disclosure Act of 1995	H. Res. 269	Open; waives cl. 2(l)(6) of rule XI against the bill's consideration; waives all points of order against the Istook and McIntosh amendments.	N/A.
H.R. 2606	Prohibition on Funds for Bosnia Deployment	H. Res. 273	Restrictive; waives all points of order against the bill's consideration; provides one motion to amend if offered by the Minority Leader or designee (1 hr non-amendable); motion to recommit which may have instructions only if offered by Minority Leader or his designee; if Minority Leader motion is not offered debate time will be extended by 1 hr.	N/A.
H.R. 1788	Amtrak Reform and Privatization Act of 1995	H. Res. 289	Open; waives all points of order against the bill's consideration; makes in order the Transportation substitute modified by the amend in the report; Bill read by title; waives all points of order against the substitute; makes in order a managers amend as the first order of business, if adopted it is considered base text (10 min.); waives all points of order against the amendment; Pre-printing gets priority.	N/A.
H.R. 1350	Maritime Security Act of 1995	H. Res. 287	Open; makes in order the committee substitute as original text; makes in order a managers amendment which if adopted is considered as original text (20 min.) unamendable; pre-printing gets priority.	N/A.
H.R. 2621	To Protect Federal Trust Funds	H. Res. 293	Closed; provides for the adoption of the Ways & Means amendment printed in the report. 1 hr. of general debate; PQ.	N/A.
H.R. 1745	Utah Public Lands Management Act of 1995	H. Res. 303	Open; waives cl 2(l)(6) of rule XI and sections 302(f) and 311(a) of the Budget Act against the bill's consideration. Makes in order the Resources substitute as base text and waives cl 7 of rule XVI and sections 302(f) and 308(a) of the Budget Act; makes in order a managers' amend as the first order of business, if adopted it is considered base text (10 min)..	N/A.
H. Res. 304	Providing for Debate and Consideration of Three Measures Relating to U.S. Troop Deployments in Bosnia.	N/A	Closed; makes in order three resolutions; H.R. 2770 (Dorman), H. Res. 302 (Buyer), and H. Res. 306 (Gephardt); 1 hour of debate on each..	1D; 2R
H. Res. 309	Revised Budget Resolution	H. Res. 309	Closed; provides 2 hours of general debate in the House; PQ	N/A.
H.R. 558	Texas Low-Level Radioactive Waste Disposal Compact Consent Act	H. Res. 313	Open; pre-printing gets priority	N/A.
H.R. 2677	The National Parks and National Wildlife Refuge Systems Freedom Act of 1995.	H. Res. 323	Closed; consideration in the House; self-executes Young amendment	N/A.
PROCEDURE IN THE 104TH CONGRESS 2D SESSION				
H.R. 1643	To authorize the extension of nondiscriminatory treatment (MFN) to the products of Bulgaria.	H. Res. 334	Closed; provides to take the bill from the Speaker's table with the Senate amendment, and consider in the House the motion printed in the Rules Committee report; 1 hr. of general debate; previous question is considered as ordered. ** NR; PQ.	N/A.
H.J. Res. 134 H. Con. Res. 131	Making continuing appropriations/establishing procedures making the transmission of the continuing resolution H.J. Res. 134.	H. Res. 336	Closed; provides to take from the Speaker's table H.J. Res. 134 with the Senate amendment and concur with the Senate amendment with an amendment (H. Con. Res. 131) which is self-executed in the rule. The rule provides further that the bill shall not be sent back to the Senate until the Senate agrees to the provisions of H. Con. Res. 131. ** NR; PQ.	N/A.
H.R. 1358	Conveyance of National Marine Fisheries Service Laboratory at Gloucester, Massachusetts.	H. Res. 338	Closed; provides to take the bill from the Speakers table with the Senate amendment, and consider in the house the motion printed in the Rules Committee report; 1 hr. of general debate; previous quesetion is considered as ordered. ** NR; PQ.	N/A.
H.R. 2924	Social Security Guarantee Act	H. Res. 355	Closed; ** NR; PQ	N/A.
H.R. 2854	The Agricultural Market Transition Program	H. Res. 366	Restrictive; waives all points of order against the bill; 2 hrs of general debate; makes in order a committee substitute as original text and waives all points of order against the substitute; makes in order only the 16 amends printed in the report and waives all points of order against the amendments; circumvents unfunded mandates law; Chairman has en bloc authority for amends in report (20 min.) on each en bloc; PQ.	5D; 9R; 2 Bipartisan.
H.R. 994	Regulatory Sunset & Review Act of 1995	H. Res. 368	Open rule; makes in order the Hyde substitute printed in the Record as original text; waives cl 7 of rule XVI against the substitute; Pre-printing gets priority; vacates the House action on S. 219 and provides to take the bill from the Speakers table and consider the Senate bill; allows Chrmn. Clinger a motion to strike all after the enacting clause of the Senate bill and insert the text of H.R. 994 as passed by the House (1 hr) debate; waives germaneness against the motion; provides if the motion is adopted that it is in order for the House to insist on its amendments and request a conference.	N/A.
H.R. 3021	To Guarantee the Continuing Full Investment of Social security and Other Federal Funds in Obligations of the United States.	H. Res. 371	Closed rule; gives one motion to recommit, which if it contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	N/A.
H.R. 3019	A Further Downpayment Toward a Balanced Budget	H. Res. 372	Restrictive; self-executes CBO language regarding contingency funds in section 2 of the rule; makes in order only the amendments printed in the report; Lowey (20 min), Istook (20 min), Crapo (20 min), Obey (1 hr); waives all points of order against the amendments; give one motion to recommit, which if contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	2D/2R.
H.R. 2703	The Effective Death Penalty and Public Safety Act of 1996	H. Res. 380	Restrictive; makes in order only the amendments printed in the report; waives all points of orer against the amendments; gives Judiciary Chairman en bloc authority (20 min.) on enblocs; provides a Senate hook-up with S. 735. ** NR.	6D; 7R; 4 Bipartisan.
H.R. 2202	The Immigration and National Interest Act of 1995	H. Res. 384	Restrictive; waives all points of order against the bill and amendments in the report except for those arising under sec. 425(a) of the Budget Act (unfunded mandates); 2 hrs. of general debate on the bill; makes in order the committee substitute as base text; makes in order only the amends in the report; gives the Judiciary Chairman en bloc authority (20 min.) of debate on the en blocs; self-executes the Smith (TX) amendment re: employee verification program; PQ.	12D; 19R; 1 Bipartisan.
H.J. Res. 165	Making further continuing appropriations for FY 1996	H. Res. 386	Closed; provides for the consideration of the CR in the House and gives one motion to recommit which may contain instructions only if offered by the Minority Leader; the rule also waives cl 4(b) of rule XI against the following: an omnibus appropriations bill, another CR, a bill extending the debt limit. ** NR.	N/A.
H.R. 125	The Gun Crime Enforcement and Second Amendment Restoration Act of 1996.	H. Res. 388	Closed; self-executes an amendment; provides one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee. ** NR.	N/A
H.R. 3136	The Contract With America Advancement Act of 1996	H. Res. 391	Closed; provides for the consideration of the bill in the House; self-executes an amendment in the Rules report; waives all points of order, except sec. 425(a)(unfunded mandates) of the CBA, against the bill's consideration; orders the PQ except 1 hr. of general debate between the Chairman and Ranking Member of Ways and Means; one Archer amendment (10 min.); one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee; Provides a Senate hookup if the Senate passes S. 4 by March 30, 1996. **NR.	N/A
H.R. 3103	The Health Coverage Availability and Affordability Act of 1996	H. Res. 392	Restrictive: 2 hrs. of general debate (45 min. split by Ways and Means) (45 split by Commerce) (30 split by Economic and Educational Opportunities); self-executes H.R. 3160 as modified by the amendment in the Rules report as original text; waives all points of order, except sec. 425(a) (unfunded mandates) of the CBA; makes in order a Democratic substitute (1 hr.) waives all points of order, except sec. 425(a) (unfunded mandates) of the CBA, against the amendment; one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee; waives cl 5(c) of Rule XXI (requiring 3/5 vote on any tax increase) on votes on the bill, amendments or conference reports.	N/A
H.J. Res. 159	Tax Limitation Constitutional Amendment	H. Res. 395	Restrictive; provides for consideration of the bill in the House; 3 hrs of general debate; Makes in order H.J. Res. 169 as original text; allows for an amendment to be offered by the Minority Leader or his designee (1 hr) ** NR.	ID

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 842	Truth in Budgeting Act	H. Res. 396	Open; 2 hrs. of general debate; Pre-printing gets priority	N/A
H.R. 2715	Paperwork Elimination Act of 1996	H. Res. 409	Open; Preprinting get priority	N/A
H.R. 1675	National Wildlife Refuge Improvement Act of 1995	H. Res. 410	Open; Makes the Young amendment printed in the 4/16/96 Record in order as original text; waives cl 7 of rule XVI against the amendment; Preprinting gets priority; **NR.	N/A
H.J. Res. 175	Further Continuing Appropriations for FY 1996	H. Res. 411	Closed; provides for consideration of the bill in the House; one motion to recommit which, if containing instructions, may be offered by the Minority Leader or his designee. **NR.	N/A

*Contract Bills, 67% restrictive; 33% open. **All legislation 1st Session, 53% restrictive; 47% open. ***All legislation 2d Session, 92% restrictive; 8% open. ****All legislation 104th Congress, 63% restrictive; 37% open. *****NR indicates that the legislation being considered by the House for amendment has circumvented standard procedure and was never reported from any House committee. ******PQ Indicates that previous question was ordered on the resolution. *******Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103d Congress. N/A means not available.

LEGISLATION IN THE 104TH CONGRESS, 2D SESSION

To date 13 out of 18, or 72 percent, of the bills considered under rules in the 2nd session of the 104th Congress have been considered under an irregular procedure which circumvents the standard committee procedure. They have been brought to the floor without any committee reporting them. They are as follows:

H.R. 1643—To Authorize the extension of nondiscriminatory treatment (MFN) to the products of Bulgaria.

H.J. Res. 134—Making Continuing Appropriations for FY 1996.

H.R. 1358—Conveyance of National Marine Fisheries Service Laboratory at Gloucester, Massachusetts.

H.R. 2924—The Social Security Guarantee Act.

H.R. 3021—To Guarantee the Continuing Full Investment of Social Security and Other Federal Funds in Obligations of the United States.

H.R. 3019—A Further Downpayment Toward a Balanced Budget.

H.R. 2703—The Effective Death Penalty and Public Safety Act of 1996.

H.J. Res. 165—Making Further Continuing Appropriations for FY 1996.

H.R. 125—The Crime Enforcement and Second Amendment Restoration Act of 1996.

H.R. 3136—The Contract With America Advancement Act of 1996.

H.J. Res. 159—Tax Limitation Constitutional Amendment.

H.R. 1675—National Wildlife Refuge Improvement Act of 1995.

H.J. Res. 175—Making Further Continuing Appropriations for FY 1996.

Mr. MOAKLEY. Mr. Speaker, I have no additional requests for time, but I reserve the balance of my time, pending my very dear friend's action on the other side of the aisle.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume to say I have no further requests for time and I urge support of this rule. Let us move ahead. We are now down to 12 hours and 10 minutes until the Government is scheduled to shut down. We have moved ahead with this rule rapidly. Let us move ahead just as quickly with the continuing resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, with that, I urge strong support of this rule and of the resolution.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CORRECTING TECHNICAL ERRORS IN THE ENROLLMENT OF S. 735, ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996

Mr. LUCAS of Oklahoma. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 55) to correct the enrollment of the bill S. 735, to prevent and punish acts of terrorism, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore (Mr. RADANOVICH). Is there is objection to the request of the gentleman from Oklahoma?

Mr. MOAKLEY. Mr. Speaker, reserving the right to object, although we do not object to the substance of this concurrrent resolution, the gentleman from Michigan [Mr. CONYERS], the ranking member of the Committee on the Judiciary, who could not be here because of a Committee on the Judiciary markup, would like to note the deficiencies in the process leading up to this unanimous-consent request. The ranking member of the Committee on the Judiciary was not informed of the problems in this bill, nor was he included in the discussions as to how to fix this bill.

The support of the gentleman from Michigan [Mr. CONYERS] was enlisted only after the text of the resolution was agreed to. So, in the future, if the majority seeks a unanimous-consent request, we expect the Democrats to be consulted at the beginning of the process, and not at the end.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is their objection to the request of the gentleman from Oklahoma?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 55

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 735) shall make the following corrections:

(a) In the table of contents of the bill, strike the item relating to section 431 and redesignate the items relating to sections 432 through 444 as relating to sections 431 through 443 respectively.

(b) Strike section 1605(g) of title 28, United States Code, proposed to be added by section 221 of the bill, and insert the following:

"(g) LIMITATION ON DISCOVERY.—

"(1) IN GENERAL.—(A) Subject to paragraph (2), if an action is filed that would otherwise be barred by section 1604, but for subsection (a)(7), the court, upon request of the Attorney General, shall stay any request, demand, or order for discovery on the United States that the Attorney General certifies would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action, until such time as the Attorney General advises the court that such request, demand, or order will no longer so interfere.

"(B) A stay under this paragraph shall be in effect during the 12-month period beginning on the date on which the court issues the order to stay discovery. The court shall renew the order to stay discovery for additional 12-month periods upon motion by the United States if the Attorney General certifies that discovery would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action.

"(2) SUNSET.—(A) Subject to subparagraph (B), no stay shall be granted or continued in effect under paragraph (1) after the date that is 10 years after the date on which the incident that gave rise to the cause of action occurred.

"(B) After the period referred to in subparagraph (A), the court, upon request of the Attorney General, may stay any request, demand, or order for discovery on the United States that the court finds a substantial likelihood would—

"(i) create a serious threat of death or serious bodily injury to any person;

"(ii) adversely affect the ability of the United States to work in cooperation with foreign and international law enforcement agencies in investigating violations of United States law; or

"(iii) obstruct the criminal case related to the incident that gave rise to the cause of action or undermine the potential for a conviction in such case.

"(3) EVALUATION OF EVIDENCE.—The court's evaluation of any requst for a stay under this subsection filed by the Attorney General shall be conducted ex parte and in camera.

"(4) BAR ON MOTIONS TO DISMISS.—A Stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

"(5) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States.".

(c) In section 620G(a), proposed to be inserted after section 620F of the foreign Assistance Act of 1961, by section 325 of the bill, strike "may" and insert "shall".

(d) In section 620H(a), proposed to be inserted after section 620G of the Foreign Assistance Act of 1961, by section 326 of the bill—

(1) strike "may" and insert "shall";

(2) strike "shall be provided"; and

(3) insert "section" before "6(j)".

(e) In section 219, proposed to be inserted in title II of the Immigration and Nationality Act, by section 302 of the bill—

(1) in subsection (a)(1), insert "foreign" before "terrorist organization";

(2) in subsection (a)(2)(A)(i), strike "an" before "organization under" and insert "a foreign";

(3) in subsection (a)(2)(C), insert "foreign" before "organization"; and

(4) in subsection (a)(4)(B), insert "foreign" before "terrorist organization".

(f) In section 2339B(g), proposed to be added at the end of chapter 113B of tile 18, United States Code, by section 303 of the bill, strike paragraph (5) and redesignate paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(g) In section 2332d(a), proposed to be added to chapter 113B of title 18, United States Code, by section 321(a) of the bill—

(1) strike "by the Secretary of State" and insert "by the Secretary of the Treasury";

(2) strike "with the Secretary of the Treasury" and insert "with the Secretary of State"; and

(3) add the words "the government of" after "engaged in a financial transaction with".

(h) At the end of section 321 of the bill, add the following:

"(c) EFFECTIVE DATE.—The amendments made by this section shall become effective 120 days after the date of enactment of this Act.".

(i) In sections 414(b) and 422(c) of the bill, strike "90" and insert "180".

(j) In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill strike "essential" and insert "important".

(k) In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill, strike "security".

(l) Strike section 431 of the bill and redesignate sections 432 through 444 as sections 431 through 443, respectively.

(m) In section 511(c) of the bill, strike "amended—" and all that follows through "(2)" and insert "amended".

(n) In section 801 of the bill, strike "subject to the concurrence of" and insert "in consultation with".

(o) In section 443, by striking subsection (d) in its entirety and inserting:

"(d) EFFECTIVE DATE.—The amendments made by this section shall become effective no later than 60 days after the publication by the Attorney General of implementing regulations that shall be published on or before January 1, 1997.".

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. LIVINGSTON. Mr. Speaker, pursuant to House Resolution 411, I call up the joint resolution (H.J. Res. 175) making further continuing appropriations for the fiscal year 1996, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Pursuant to House Resolution 411, House Joint Resolution 175 is modified by striking title II.

The text of the joint resolution, as modified, is as follows:

H.J. RES. 175

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—CONTINUING APPROPRIATIONS

SEC. 101. Public Law 104-99 is further amended by striking out "April 24, 1996" in sections 106(c), 112, 126(c), 202(c), and 214 and inserting in lieu thereof "April 25, 1996"; and that Public Law 104-92 is further amended by striking out "April 24, 1996" in section 106(c) and inserting in lieu thereof "April 25, 1996".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [MR. OBEY] will each control 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Joint Resolution 175, and that I may be permitted to include extraneous and tabular material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hope that it will not be necessary to use anywhere near the time allotted for this measure. This is a 24-hour continuing resolution intended primarily to allow the negotiators in the conference between the House and Senate Republicans and Democrats to finalize the negotiations with the White House and Mr. Panetta, the Chief of Staff, on the omnibus wrap-up appropriations bill for fiscal year 1996.

This wrap-up bill would conclude all of the remaining as yet unsigned into law subcommittee bills, namely Commerce-Justice-State, Interior, VA-HUD, Labor-Health, and the District of Columbia. The intent would be that, because I think that we have narrowed the issues now, within the next few hours hopefully we can finalize the deliberations on all of the remaining outstanding issues of difference between the White House and both houses of Congress, and that we will indeed have a bill ready to bring to the House of Representatives tomorrow morning after going to the Committee on Rules.

That is my expectation at this point. There are still some real and meaningful differences, between all the parties, between the Houses, and between the Congress and the White House, but my expectation is those differences will be resolved in a matter of hours and that we will have a final agreement to bring here to the floor. If that is not to be, then we will have other statements to make later on, but that is our plan at this point. I would hope that, frankly, everything I have said will come to pass.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, this is, what, the 13th continuing resolution? Let me simply say that if this continuing resolution were for longer than 1 day, I would not support it, because it would be yet another confession of futility on the part of the Congress. But the gentleman from Louisiana [Mr. LIVINGSTON], the distinguished chairman of the committee, is correct. We are that close to having agreement on the omnibus continuing resolution, which would finally, finally, put to bed all of the appropriation issues for the fiscal year into which we are now halfway.

Let me just say that I think Members have had a right to be concerned, because school districts are being squeezed. You still have the problem of some 40,000 title I teachers who are about to be pink-slipped if there is not a resolution of the problem.

The conferees have met ad nauseam the last 3 days, actually since Friday, and I think at this point virtually every issue seems to be resolved except the issues surrounding the environmental riders and two other issues, which I expect can be resolved.

So it is my hope that when we reconvene meetings with Mr. Panetta at 2 or 2:30 today, that we will have agreement. To do so, the White House has made clear the remaining environmental riders, which are simply causing problems, will need to be dropped, or at least reshaped in a way that allows the President to protect the public interest as he sees it.

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And if that is accomplished, then we can bring that bill to the floor and finally finish this and move on to next year's appropriation matters.

It is my deep hope that that will, in fact, occur, but I thought it was going to happen yesterday but at 9 o'clock last night we were further apart than we were at 5 o'clock in the afternoon which I find interesting and incredible and frustrating but I guess it sometimes happens in legislative bodies.

So I simply hope that cooler heads will prevail and we will wind up with those riders being dropped so that we can bring legislation to the floor which solves the problem.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Speaker, let me thank my colleague for yielding time to me. When the rule was before the body to bring up this continuing resolution, the gentleman from California [Mr. DREIER] was very lengthy and eloquent in his support of a provision that was in the resolution but was struck by adoption of the rule. That provision had to deal with the resolve for a problem we are facing with the savings and loan insurance fund, which is the SAIF fund.

It was kind of surprising to me that the gentleman from California spoke in strong support of it even though the Committee on Rules that he served on did pull it out of the product that we are ready to vote on the floor.

I would like the chairman of the committee, Mr. LIVINGSTON, to possibly yield for a question, because I am aware that he also supported this provision. Is it possible that the long-term continuing resolution that we should be seeing hopefully tomorrow would contain a fix for that very knotty problem?

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. KLECZKA. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I would say to the gentleman it is not my intention to put that on the bill tomorrow. We have a very tough situation on a bill that has been pounded out over months and months, and, frankly, I do not think it can bear any more weight. So I would, frankly, be not inclined to put it on.

Mr. KLECZKA. Well, Mr. Speaker, it seems surprising to me that the gentleman from California, who serves on the Committee on Rules, was supporting a provision although he supported pulling it out of this resolution. If I had known that was the opinion of the chair of the committee, I surely would have tried to object to adoption of the rule, which we have just adopted in the House, and called for a roll call to see if we could not retain that in this short-term CR.

It seems it is an important issue, which I think we have to address before the end of the session, because it will just keep floating around out there. And, naturally, it is looking for a vehicle to be attached to because as a stand-alone, chances are it will not come before us.

So I am very disappointed to hear it will not be a part of the product that we will be addressing probably tomorrow. I thank the gentleman for yielding.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute to say that I hope that by this afternoon we will have a resolution of this long-term problem. It would be a shame if the continued existence of these legislative provisions on environmental issues would prevent us from reaching agreement on the budget, and I hope that they are dropped so that we can proceed to give the country what it needed 6 months ago, which is completion of congressional action on all of these appropriation bills.

Mr. Speaker, I yield back the balance of my time.

Mr. LIVINGSTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RADANOVICH). Pursuant to House Resolution 411, the previous question is ordered on the joint resolution, as modified.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 400, nays 14, not voting 18, as follows:

[Roll No. 129]

YEAS—400

Abercrombie
Ackerman
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Beilenson
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDermott
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Metcalf
Meyers
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Packard
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Tiahrt
Torkildsen
Torres
Torricelli
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—14

Barton
Becerra
Clyburn
Coble
Gibbons
Hastings (FL)
Hyde
McHale
Owens
Scarborough
Stearns
Thurman
Velazquez
Williams

NOT VOTING—18

Allard
Berman
Bryant (TX)
Coyne
Fazio
Foglietta

Johnston
Laughlin
McDade
Menendez
Oxley
Parker
Riggs
Schaefer
Schroeder
Towns
Vento
Wilson

□ 1222

Mr. STEARNS changed his vote from "yea" to "nay."

Mr. DORNAN changed his vote from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. RIGGS. Mr. Speaker, on rollcall No. 129, I was unavoidably detained on other congressional business and could not be present to vote. Had I been present, I would have voted "yea."

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE JOINT RESOLUTION 175, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. PACKARD. Mr. Speaker, I ask unanimous consent that the Clerk be directed to make the following technical change in the engrossment of House Joint Resolution 175:

Strike the matter designating title I and section 101 and insert in lieu thereof "That".

This is a technical change. It corrects the section numbering. It has been cleared by the minority.

The SPEAKER pro tempore (Mr. RADANOVICH). Is there objection to the request of the gentleman from California?

There was no objection.

PAPERWORK ELIMINATION ACT OF 1996

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 409 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 409

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2715) to amend chapter 35 of title 44, United States Code, popularly known as the Paperwork Reduction Act, to minimize the burden of Federal paperwork demands upon small businesses, educational and nonprofit institutions, Federal contractors, State and local governments, and other persons through the sponsorship and use of alternative information technologies. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Small Business. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Small Business now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1230

The SPEAKER pro tempore (Mr. BURTON of Indiana). The gentleman from Georgia [Mr. LINDER] is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. HALL], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. LINDER asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. LINDER. Mr. Speaker, House Resolution 409 is an open rule providing for the consideration of H.R. 2715, the Paperwork Elimination Act of 1996. This rule provides 1 hour of general debate divided equally between the chairman and ranking minority member of the Committee on Small Business.

House Resolution 409 makes in order as an original bill for the purpose of amendment under the 5-minute rule the amendment in the nature of a substitute recommended by the Committee on Small Business now printed in the bill. Any Member will have the opportunity to offer an amendment to the bill under the 5-minute rule. Finally, the rule provides for one motion to recommit with or without instructions as is the right of the minority. Under this rule, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has had that amendment preprinted in the CONGRESSIONAL RECORD.

I am pleased this bill will be considered under an open rule, which was unanimously approved by the Rules Committee yesterday. While the chairman of the Small Business Committee testified to the Rules Committee that she did not expect many amendments, this rule will provide the entire House with sufficient time to offer amendments and express any persisting apprehension about the bill.

Mr. Speaker, the American people have endured a brutal winter and welcome the arrival of spring. Unfortunately, our citizens still must deal with a blizzard of Federal paperwork requirements. As we approach the 21st century, the Paperwork Elimination Act recognizes the coming of non-paper-dependent information technologies, and will help reduce the avalanche of paper that has covered American taxpayers and small businesses.

I strongly supported the Paperwork Reduction Act that this Congress passed during the consideration of the Contract With America. That bill reduced the information collection burdens on the public and assured a more efficient and productive administration of information resources. Today's legislation builds upon the progress in paperwork reduction brought about by the enactment of that reform legislation.

The legislation before us today will further reduce the burden of Federal paperwork on small businesses and individuals by providing for the optional use of electronic technologies to meet the demands of Federal paperwork regulations. The American people spend billions of hours every year filling out Federal forms and submitting records to the Government, and it makes sense to allow those who have the capacity to comply with regulations by computer to take advantage of the information superhighway.

The Rules Committee heard testimony that the amount of time and effort spent by our citizens in complying with Federal regulatory paperwork represents a dollar value equal to 9 percent of the gross domestic product. The time and effort filling out paperwork would be better spent on the creation of new jobs.

I have always believed that those nations that have achieved the most impressive growth in the past have not been those with rigid Government controls, and we all know that Federal regulations and paperwork requirements are strangling job creation and productivity. Excessive Government regulatory mandates are not beneficial to economic development, and this bill enables small businesses and all taxpayers to save valuable time and money.

The Paperwork Elimination Act of 1996 has received considerable support, and I want to recognize Chairman JAN MEYERS and Representative PETER TORKILDSEN, chairman of the Small Business Committee's Government

Programs Subcommittee. Their bill effectively reduces the paperwork burden, and also benefits the environment by reducing both the need for and the disposal of paper products. They have crafted sound legislation which I believe will receive overwhelming bipartisan support.

Mr. Speaker, H.R. 2715 was favorably reported out of the Committee on Small Business by voice vote, and this rule received the unanimous support of the Rules Committee. I urge my colleagues to support this rule, and I look forward to a thoughtful debate on the Paperwork Elimination Act of 1996.

Mr. Speaker, I submit the following extraneous material for inclusion in the CONGRESSIONAL RECORD:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of April 23, 1996]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	62	59
Modified Closed [3]	49	47	26	25
Closed [4]	9	9	17	16
Total	104	100	105	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of April 23, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of April 23, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	A: voice vote (11/14/95).
H. Res. 261 (11/9/95)	C	H.J. Res. 115	Cont. Resolution	A: 223–182 (11/10/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	O	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 229–176 (11/15/95).
H. Res. 273 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	A: 239–181 (11/17/95).
H. Res. 284 (11/29/95)	O	H.R. 1788	Amtrak Reform	A: voice vote (11/30/95).
H. Res. 287 (11/30/95)	O	H.R. 1350	Maritime Security Act	A: voice vote (12/6/95).
H. Res. 293 (12/7/95)	C	H.R. 2621	Protect Federal Trust Funds	PQ: 223–183 A: 228–184 (12/14/95).
H. Res. 303 (12/13/95)	O	H.R. 1745	Utah Public Lands.	
H. Res. 309 (12/18/95)	C	H.Con. Res. 122	Budget Res. W/President	PQ: 230–188 A: 229–189 (12/19/95).
H. Res. 313 (12/19/95)	O	H.R. 558	Texas Low-Level Radioactive	A: voice vote (12/20/95).
H. Res. 323 (12/21/95)	C	H.R. 2677	Natl. Parks & Wildlife Refuge	Tabled (2/28/96).
H. Res. 366 (2/27/96)	MC	H.R. 2854	Farm Bill	PQ: 228–182 A: 244–168 (2/28/96).
H. Res. 368 (2/28/96)	O	H.R. 994	Small Business Growth	
H. Res. 371 (3/6/96)	C	H.R. 3021	Debt Limit Increase	A: voice vote (3/7/96).
H. Res. 372 (3/6/96)	MC	H.R. 3019	Cont. Approps. FY 1996	PQ: voice vote A: 235–175 (3/7/96).
H. Res. 380 (3/12/96)	MC	H.R. 2703	Effective Death Penalty	A: 251–157 (3/13/96).
H. Res. 384 (3/14/96)	MC	H.R. 2202	Immigration	PQ: 233–152 A: voice vote (3/21/96).
H. Res. 386 (3/20/96)	C	H.J. Res. 165	Further Cont. Approps	PQ: 234–187 A: 237–183 (3/21/96).
H. Res. 388 (3/20/96)	C	H.R. 125	Gun Crime Enforcement	A: 244–166 (3/22/96).
H. Res. 391 (3/27/96)	C	H.R. 3136	Contract w/America Advancement	PQ: 232–180 A: 232–177, (3/28/96).
H. Res. 392 (3/27/96)	MC	H.R. 3103	Health Coverage Affordability	PQ: 229–186 A: Voice Vote (3/29/96).
H. Res. 395 (3/29/96)	MC	H.J. Res. 159	Tax Limitation Const. Amdmt.	PQ: 232–168 A: 234–162 (4/15/96).
H. Res. 396 (3/29/96)	O	H.R. 842	Truth in Budgeting Act	A: voice vote (4/17/96).
H. Res. 409 (4/23/96)	O	H.R. 2715	Paperwork Elimination Act	
H. Res. 410 (4/23/96)	O	H.R. 1675	Natl. Wildlife Refuge	
H. Res. 411 (4/23/96)	O	H.J. Res. 175	Further Cont. Approps. FY 1996	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 409 is an open rule which will allow full and fair debate on H.R. 2715, a bill to reduce the burden of Federal paperwork requirements for small businessmen and individuals.

The bill, the Paperwork Elimination Act, follows last year's enactment of the Paperwork Reduction Act. It is a continuation of Congress' efforts to reduce the demands made on our citizens as a result of Federal regulation.

As my colleague from Georgia has described, this rule provides 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Small Business.

Under this rule, amendments will be allowed under the 5-minute rule, the normal amending process in the House. All Members, on both sides of the aisle, will have the opportunity to offer amendments.

This rule is an easy one for me to support. The normal committee process was followed before the bill was presented to the Rules Committee. The Small Business Committee held a public hearing to consider the bill's provisions. Then the committee held a markup, amended the bill, and reported it by voice vote.

Mr. Speaker, this is an example of the kind of rule the Rules Committee should be reporting. This is the kind of process the House should be following.

I urge the adoption of the rule.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. REGULA). Pursuant to House Resolution 409 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2715.

The Chair designates the gentleman from North Carolina [Mr. TAYLOR] Chairman of the Committee of the Whole, and requests the gentleman from Indiana [Mr. BURTON] to assume the chair temporarily.

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IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2715) to amend chapter 35 of title 44, United States Code, popularly known as the Paperwork Reduction Act, to minimize the burden of Federal paperwork demands upon small businesses, educational and nonprofit institutions, Federal contractors, State and local governments, and other persons through the sponsorship and use of alternative information technologies, with Mr. BURTON of Indiana, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentlewoman from Kansas [Mrs. MEYERS] and the gentleman from New York [Mr. LAFALCE] each will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to cosponsor and support the Paperwork Elimination Act of 1996, legislation which is sponsored by Congressman TORKILDSEN.

This legislation is a winner. Potentially, it will contribute to billions of dollars of savings in reduced regulatory compliance costs that small business and the public must pay in order to meet the Federal Governments paperwork demands. It is not only user friendly, it is also environmentally and public friendly.

I urge my colleagues vote for this bill.

Congressman TORKILDSEN is the chairman of the Subcommittee on Government Programs of the Small Business Committee. As a result of his work, the full committee voted unanimously on March 29 to report the bill favorably. This bill enjoys bipartisan support. The administration testified, welcomed the congressional support and attention the bill represents, and suggested an amendment which was adopted. The Chief Counsel for Advocacy of the Small Business Administration joined in the support. So did the small business witnesses.

We on the Small Business Committee have heard testimony that the dollar cost of Federal paperwork demands approximates $510 billion annually. In 1992 that dollar amount estimate of the time and effort the American public spends to meet regulatory paperwork requirements equalled 9 percent of the gross domestic product. I believe that percentage would be about the same today.

Small business pays a disproportionate share of that burden. That huge figure gives you a picture of the cumulative costs. Too frequently, these costs are barriers to job creation, job preservation, and economic productivity. They are the costs of Government which are hidden taxes because the money must be paid, and it is not paid by Government spending or collected by the Internal Revenue Service.

Given the significant role small business and small business entrepreneurs play in our economy, it makes common sense to do what is possible to eliminate and reduce these costs. The Paperwork Elimination Act emphasizes the opportunity provided to reduce costs by electronic compliance with the information demands of regulatory compliance.

This bill builds on the Paperwork Reduction Act of 1995. We passed that legislation as part of the Contract With America last session. Every Democrat and Republican voted for that measure and the President enthusiastically singed it last May. It went into effect his past October.

The Congress established burden reduction goals for the executive branch in that act. We in the House were particularly enthusiastic that the goals be established and that we try to meet them. For the next 2 years, the goals is to reduce the overall burden of Federal paperwork requirements by 10 percent. For the following 4 years the goal becomes 5 percent each year.

There were and continue to be serious skeptics as to whether these goals can be reached. We all agree that the Federal Government should aspire and do what it can to reach them. After all, 10 percent of $510 billion would be a hidden tax reduction of $51 billion.

For many of us, and I think we should thank Mr. TORKILDSEN for continuing to work on this, what makes those goals reasonable is the promise of the information age we live in. New information technologies, such as the growing use of computers and modems, which even the children are learning to use, holds out the promise that the paperwork costs can be reduced. If the Government gets smarter in leading the way for the public's use of new technology, those reduction goals can be reached.

The Paperwork Elimination Act is intended to help.

It requires Federal agencies to think strategically and consider how to provide electronic options to regulatory compliance each and every time an agency comes up with a new proposal for reporting, recordkeeping, or disclosure of information.

It requires that the electronic option be considered when agencies review their continuing information demands every 3 years. And it requires the Director of OMB, through the Office of Information and Regulatory Affairs [OIRA], to oversee and implement the Governmentwide adoption of the electronic option.

Lastly, it adds to the existing reporting requirement to Congress that instances of successes and failures be brought to the Congress' attention. That will enhance our oversight function and give us feedback on whether the reduction goals are being met.

Mr. Chairman, I believe this bill strikes a blow for a commonsense approach to regulatory and paperwork relief that all of us should support.

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I want to thank the gentleman from Pennsylvania [Mr. CLINGER], chairman of the Committee on Government Reform and Oversight. We share jurisdiction with that committee, and Chairman CLINGER reviewed the work that we had done on it and waived his jurisdiction.

Mr. Chairman, I reserve the balance of my time.

Mr. LAFALCE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of my chairman.

H.R. 2715, the Paperwork Elimination Act of 1996, was originally referred to both the Committee on Government Reform and Oversight and to the Small Business Committee; however, after reviewing the legislation as reported from the Small Business Committee, the Government Reform Committee waived jurisdiction to formally consider the bill.

I believe that this legislation should be considered and passed without any delay. It is good for the Government and is good for those who are required to provide information to the Government. Moreover, it does not cost money.

Mr. Chairman, this bill simply provides that the Government should take steps to allow, and even encourage, the use of electronic information technology in order to reduce the burden on individuals and businesses that disclose information to the Government. It does not require these information providers to use electronic means to supply the data; it merely permits them to do so if they have the capacity, and many do.

Enactment of this bill will simply recognize that paper copies are not the only way to provide data to the Government. It may well be easier for citizens to transmit data electronically and it is certainly easier for the Government to receive it this way. Thus, I view this bill as a winner for all concerned.

I know of no opposition to the bill, and I urge all Members to support it.

Mr. Chairman, I reserve the balance of my time.

Mrs. MEYERS of Kansas. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Chairman, I thank the gentlewoman for yielding me the time, and I want to applaud the gentlewoman's leadership in moving this bill through the full committee and to the House floor.

Mr. Chairman, the legislation before us, the Paperwork Elimination Act of 1996, will require the Federal Government to get smart about the information age we live in. It requires the executive branch to become computer user friendly and allow small business and individuals the option to file all information required by the Federal Government electronically. It also requires Federal agency to make documents and publications available electronically as well.

Small business bears the disproportionate share of these reporting costs. The legislation today focuses on how the use of electronic submission, maintenance and disclosure of information demanded by the Federal Government can reduce the cost on small business. But State and local governments, government contractors, educational and nonprofit institutions, and the public at large will also benefit by the improvements in this bill.

This legislation potentially eliminates billions of dollars of cost that small business and others face in meeting Federal information demands.

I would also like to thank the bill's cosponsors for their support of this effort, as well, and also the bipartisan comments of support from the other side of the aisle. This really has been a bill that we have worked together with support from both sides of the aisle, from both the White House as well as the legislative branch, and that is why the bill is moving as quickly as it is.

Mr. Chairman, where I come from in New England, small business represents 53 percent of the private work force. Viewing our economy, small business plays an increasing role in creating new jobs as well as sustaining existing jobs. In 1993, industries dominated by small firms, from banking to tourism and everything in between, posted a net gain of over 1 million jobs, as opposed to industries dominated by large firms which lost 200,000 jobs. So clearly small business has been the engine for job growth in New England and other areas.

On the national level, the role that small business plays in the health of our economy is compelling. Small business accounts for more than three-quarters of all businesses that export. Small business contributed roughly 40 percent of the Nation's new high technology jobs during the last decade.

The health of small business is vital to our economy. The focus of the Paperwork Reduction Act is to find ways to reduce the costs of complying with government mandates by using electronic means to meet regulatory paperwork requirements. This will promote the advantages of the information age we live in, and explore the use of new information technologies and eliminate barriers to job creation caused by wasteful paperwork requirements.

Mr. Chairman, the information needs of the Federal regulatory system touch everything. Paperwork demands range from tax returns, health care reimbursement forms, and contract bids, to OSHA material data work sheets and EPA chemical reporting forms. Over and over again, there is a need, and sometimes it is very legitimate, a need for information for the Federal Government to fulfill its functions. This legislation says the Government must provide an electronic option for these demands.

The bill builds upon and complements the Paperwork Reduction Act of last year, legislation which this Congress passed unanimously. It amends that Act by specifying that small business and people with access to computers and modems should be able to use them when dealing with the Federal Government.

Again, let me emphasize this is an option for small business and individuals. It is not a requirement that they go out and computerize, although most small businesses do have at least one computer now. This is an option for them to report electronically.

I want to stress that that option is key to the bill's success. We would not be here if it were another mandate on small business. Indeed, this is an option, but one that will save small business extensive money in meeting their reporting requirements.

Also importantly, though, this bill will save money for the Federal Government, as well. Once an agency is online to receive computer-generated information, it will reduce its own cost of manually inputting information for paper reports.

Federal paperwork requirements are nothing more than hidden taxes of Government programs. The Committee on Small Business has heard testimony that these costs easily run into the hundreds of billions of dollars, and they are costs that have to be paid. They are not paid in cash to the Federal Government, but they are paid nonetheless. It is important that we reduce some of those costs through this bill.

Mr. Chairman, this legislation importantly is also environmentally friendly, as it substitutes paper with an electronic option. You do not need the paperwork. You do not need the actual forms to file with the Federal Government. Therefore, you do not have to produce the paper. Therefore, you do not have to cut down the number of trees you would need for those reams and reams of paper.

Let me give just a little example. For example, if you are a physician, you have to file this form, this one-page form, with HCFA on average about 8,000 times per physician. Now, 8,000 times is represented by the reams of paper right here. In 1 year, one physician just filing this one form, not counting the other forms they have to file with HCFA and other agencies, would have to use this much paper just for this one form.

Instead of producing all these forms that have to be filed, for every physician to file with HCFA, that information could be filed electronically. It could be stored on something as small as this disk.

So you are saving space. You are helping the environment by not needing to produce as much paper. You are saving costs to the Federal Government as well, because they will not have to convert these handwritten forms into computer information, which is what their normal practice is. Most Federal agencies, when they receive these forms, do have someone convert them back from paper technology into computer technology. By taking out this paper mid-step, we will be able to save a great deal of cost, both for the private sector as well as for the taxpayers who have to pay the costs of that Federal agency.

Again, that is just one example out of thousands of reports that are required each and every year. In addition, there is a cost savings associated with this as well.

Filing the old-fashioned way on paper, one may find out in 6 or 8 weeks that there was a mistake. Maybe the person filling out the form left one space blank. Maybe they had the wrong serial number, some minor error. It will take 6 to 8 weeks just to receive notice that an error was made. The form has to be resubmitted.

In the meantime, your business, your operation is not receiving reimbursement for the service provided, or perhaps you are not in technical compliance with the reporting requirement, if it is a different type of form. By filing electronically, errors will be able to be spotted and corrected much more quickly, again saving time and money both for the private sector as well as for the Federal agency involved.

I think it is important to note that this is a step that will make the Federal Government friendly to the computer age; that we are saying that the Federal Government should be doing everything it can to make use of the great advances in technology that have happened, that have been developed mostly here in America, to see that anyone trying to create jobs will not have to pay any more than is necessary to meet these requirements.

This bill, the Paperwork Elimination Act, does not replace the Paperwork Reduction Act. At the same time we want to make sure that people can file any information electronically, we still want to keep an eye on reducing the actual cost of putting that information together and make sure that no information is being requested unless it is absolutely necessary for the public good and for the Federal Government to meet its legally obligated mission.

But this bill, this legislation, will go a long way in saying the Federal Government is willing to take the steps necessary to see that a small business, whether 1 or 5 or 50 employees, to see that small business has no more cost required on it than is absolutely necessary. That savings is good for that small business, it is good for job creation, it is good for the economy in general, and it is also good for the taxpayers.

I again applaud the gentlewoman from Kansas [Mrs. MEYERS], the Chair of the committee, for the great leadership she has shown on this bill and all issues dealing with small business. I again urge all my colleagues to vote for this legislation.

Mr. LAFALCE. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Mr. Chairman, I rise today in support of H.R. 2715, the Paperwork Elimination Act of 1996, and to commend Chairwoman MYERS for her work on this issue.

In this age of growing technology, we should encourage and offer even more opportunities for small businesses to improve productivity through technology. H.R. 2715 will make it easier for many small businesses to provide information electronically to the Government, resulting in a reduced paperwork burden.

I would caution though, this legislation is not the answer to all small business problems. As the use of information technology flourishes, a gap is growing larger between the technology haves and the have-nots.

It is true that a great many Americans send and receive electronic mail with their personal computers. Many conduct bank transactions online, from home. The Internal Revenue Service reported that at least 11 million Americans filed their Federal income taxes electronically.

But the whole truth is, the technology users I just described do not live in the lower-income communities, like mine. Most of my constituents do not have access to technology. This means many of the small businesses in my community are quickly falling into the widening technology gap.

These businesses cannot afford to hire experts to develop software applications. They will not be taking advantage of the electronic option provided by this bill—let alone afford the expensive initial investment in computer equipment.

Although I encourage my colleagues to support this legislation—keep in mind that we need to take this bill a step further. We must continue to look for ways that will help small, disadvantaged businesses again access to information technology. If we fail to do so, we may very well lose one of the most vibrant sectors of our economy.

Mrs. MEYERS of Kansas. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. LOBIONDO].

Mr. LOBIONDO. Mr. Chairman, I come to the floor today as a proud cosponsor of the Paperwork Elimination Act. I commend the gentleman from Massachusetts [Mr. TORKILDSEN] for introducing this legislation and the gentlewoman from Kansas [Mrs. MEYERS], chairwoman, for her role in bringing this to the floor.

Last year we passed the Paperwork Reduction Act. Now we are going to pass the Paperwork Elimination Act to further improve agency efficiency and responsiveness to the public. This bill recommends that our country's small businesses and Federal agencies move into the electronic information age. Some small businesses are required to file forms with up to 50 different Federal, State and local agencies.

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This is absolutely incredible when you think about it. I believe that more of their time should be spent concentrating on providing quality goods and services to their customers. I believe this is an important piece of legislation for small businesses in my own district in southern New Jersey, as well as for small businesses around the country.

It provides small business owners with a more efficient and effective means to quickly complete agency requirements, thereby allowing them to get on with growing and improving their small businesses.

Mr. Chairman, before serving in Congress, I spent my time in a small business, in a small family business in southern New Jersey. Along with my father and my brother and some other family members, we struggled with some of the very problems that we are attempting to address today. I witnessed year after year where the requirements just seemed to grow more and more on what we were expected to provide back in the form of paperwork.

Now, as it was stated before, this will not be an answer to the entire problem, but it is certainly a step in the right direction, because for the district that I represent in southern New Jersey that has so many small businesses that are trying to make ends meet, that are trying to do the right thing to provide jobs, this will give them an opportunity to see a small glimmer of hope.

I try, as I am sure my colleagues do, to attend as many business and Chamber meetings as I can when home on district work periods. This is something that I hear over and over again: Will you please put a human face on what you are doing in Washington and understand the implications of the decisions you make on those of us who live in the real world?

Mr. Chairman, in that real world, the paperwork requirements are a tremendous problem. It is one we are beginning to recognize today, and I am very proud that we will have the opportunity to move this forward.

So again, I am asking all my colleagues to yet again demonstrate our commitment, the commitment of this Congress, to easing the regulatory burden on American small businesses by supporting this Paperwork Elimination Act.

Mr. LAFALCE. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. LUTHER].

Mr. LUTHER. Mr. Chairman, I rise in strong support of the Paperwork Elimination Act. This legislation builds on the Paperwork Reduction Act passed by the House last year, which was one of the top recommendations of the White House Conference on Small Business held last year.

I think Members of both parties can agree that the Federal paperwork demands on small businesses and individuals have become too time-consuming, expensive, and burdensome. It is estimated that business owners and ordinary citizens spend as much as 6 billion hours per year responding to Federal reporting requirements, ranging from employment forms from the Bureau of Labor Statistics to Internal Revenue Service returns, 6 billion hours of time that could be spent generating increased economic growth or helping kids with a school project.

H.R. 2715 provides the option of electronically submitting information needed to comply with Federal regulations. Small businesses and individuals can now send and receive mail, complete financial transactions, and read magazines and newspapers from their personal computer. There is no reason why they should not have the option of completing Federal Government forms by computer. Where possible, we need to simplify and streamline Government so that interaction with Government becomes more of a positive experience rather than a chore.

As a Member of the Committee on Small Business, I urge support for this legislation in order to better enable small businesses to compete and individuals to be productive in today's world.

Mr. Chairman, I thank the author, the ranking member, and the chairman.

Mrs. MEYERS of Kansas. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Washington [Ms. DUNN].

Ms. DUNN of Washington. Mr. Chairman, I rise in support of H.R. 2715 and would like to thank the gentlewoman from Kansas, Chairman MEYERS, and the gentleman from Massachusetts, Chairman TORKILDSEN, for their steadfast work on this legislation. The Paperwork Elimination Act is excellent legislation, and the efforts of the committee are to be commended.

This bill is a streamlining government bill, and my original intent was to offer a pro-small business friendly amendment to this legislation. After being informed, however, that the amendment would be opposed by the minority on technical grounds, I have decided to withdraw the amendment, with the intent of proposing it as part of some future legislation. I do, however, want to explain the rationale for the amendment.

Quite simply, the language I intended to offer requires that in-House agency printing of Government information be limited to certain levels so as to allow for agency convenience. Meanwhile, however, it ensures that larger nonclassified jobs are outsourced to the private sector for maximum savings to the taxpayer.

Under my proposal, in-House convenience would be a limit of 1,000 units, or sheets of paper, or for a multipage document up to 5,000 sheets of paper. The current regulatory limit is 5,000 and 25,000, but clearly this limit is much too high. There is no question, for example, that a job requiring 50 reams of paper is a job a local printer can do for less than the Government Printing Office.

Mr. Chairman, so you can see that my amendment was intended to act in unison and as a complement toward the goal of H.R. 2715, which is streamlining Government.

My amendment is pro-small business. Most private printers are the mom and pop types of shops that all of us have in our own districts. If we insist that the Federal Government send its work out for a competitive bid, all of those small businesses will have an opportunity to bid on this work and drive down the cost to the taxpayer in the process.

The beauty of it is it is the small business community who would have benefited most, small businesses and the American taxpayer. Of course, with more work going to the private sector, small businesses may have the need to step up their work force to meet the increased demand, thereby making this a worker-friendly amendment as well.

My amendment is highly taxpayer friendly. The Government Printing Office has an outstanding procurement office with a proven record of purchasing printing more cheaply from the private sector than can be done by the Federal Government. The agencies are not fully availing themselves of this service, and that is the heart of this issue.

My amendment would save the taxpayers precious resources at a time when every dollar counts. This amendment is efficiency in Government. The amendment makes Government smaller by streamlining printing operations.

How many print shops do we need in the Federal Government, Mr. Chairman? Certainly not one in every Federal agency. In the President's own words from a statement dated July 22, 1994, he says "Reform legislation can improve the efficiency and cost effectiveness of Government printing by maximizing the use of the private sector printing capability through open competitive procedures and by limiting Government-owned printing resources to those necessary to maintain a minimum core capacity."

In explanation of the amendment, Mr. Chairman, we visited this issue before, and I would add under Democratic leadership. Section 207 of the Legislative Branch Appropriations Act of 1995 reaffirms congressional intent that the GPO, and the GPO only, is the sole source of procurement of printing, including duplicating, for the entire Federal Government.

Mr. Chairman, as we look for ways to decrease the paperwork burden generated by the Federal Government, we must look at both the unnecessary paperwork it demands, as well as the unnecessary paperwork it does. As you might say, there are two sides to the paper, especially when the paper generated within the Federal Government is costing taxpayers millions more than they should be paying.

A preliminary CBO score of this provision which I have revised from legislation that I introduced earlier in this Congress indicates a savings to the taxpayer of around $150 million per year. I would have hoped my colleagues might have supported my amendment on this basis, and because it is pro-small business, protaxpayer, prostreamlining Government.

Mr. Chairman, I look forward to the adoption of my amendment in some future legislation, and I urge the support of the Paperwork Elimination Act.

Mrs. MEYERS of Kansas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in closing, I would like to comment that there are more than 21 million small businesses in this country, according to current estimates. In recent years, these small enterprises have employed 54 percent of the private work force, contributed 52 percent of all sales in the United States, generated 50 percent of the private gross domestic product, and in 1994, they were responsible for an estimated 62 percent of the new jobs created. Thus, the term small is rather misleading when it comes to the real impact on our economy of small business.

I think it is important that we let them do what they do best, and that is generate innovative ideas, create jobs, and stimulate the economy. That is why this bill is so important, that we release them as much as possible from the burdens of paperwork.

These paperwork demands range from tax forms, loan applications, contract bids, EPA's chemical reporting for manufacturers to OSHA's material data sheets; all of these are informational requirements. We all know what we are talking about when we are talking about paperwork reduction and elimination.

Mr. Chairman, the bill is important, and I urge the support of my colleagues.

Mr. Chairman, I reserve the balance of my time.

Mr. HORN. Mr. Chairman, as America rushes forward into the information age, the Federal Government is not keeping up. Instead of using new technology to streamline the application and reporting processes that individuals, State and local governments, businesses and nonprofits must provide—the paper pile continues to grow ever higher. For those at the grassroots, time, money, and jobs are lost in the process.

The Paperwork Elimination Act serves to cut through the reams of documents—particularly those which affect small businesses, and educational, and nonprofit institutions. It will minimize their burden through the use of computer technology. As a former University president, I know how effective this act will be.

I urge a "yes" vote on the Paperwork Elimination Act. In a few days, I will introduce a measure authorizing and encouraging electronic reporting. But today's vote is a beginning in reducing and eliminating unnecessary steps in the governmental processes.

Mrs. CLAYTON. Mr. Chairman, I rise today in support of H.R. 2715, the Paperwork Elimination Act.

At the end of March, Mr. Chairman, this legislation was reported out of the Small Business Committee by a voice vote.

Mr. Chairman, this is a non-controversial bill. It would accomplish several much needed reforms. First, Mr. Speaker, this bill would minimize the burden of Federal paperwork demands on small businesses through the use of alternative electronic information technologies. Second, this bill would direct the Office of Management and Budget to act as the administrative body responsible for directing the Federal Government's efforts to promote and monitor the use of this new technology. Although, this would increase the administrative costs to OMB, it would not significantly impact the budget. Nor, Mr. Speaker, would it create new mandates for Federal agencies because it does not require agencies to acquire and implement these new technologies. The authority to do this already exists.

Mr. Chairman, small businesses are the engine that drive our economy. They employ a large percentage of our work force and indeed, job growth in small firms is far outstripping that in large companies, which are laying off whole sections of the work force.

Mr. Chairman, this legislation will go a long way in removing the onerous paperwork burdens of small businesses, freeing them to concentrate their energies and creativity to producing higher quality products and expanding the economy.

Mr. Chairman, I commend Chairwoman MEYERS for her diligent efforts in bringing this worthwhile legislation to the House floor and I encourage my colleagues to support H.R. 2715.

Mr. LAFALCE. Mr. Chairman, I yield back the balance of my time.

Mrs. MEYERS of Kansas. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

The committee amendment in the nature of a substitute printed in the bill shall be considered by sections as an original bill for the purpose of amendment. Pursuant to the rule, each section is considered as having been read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member offering an amendment that has been printed in the designated place in the RECORD. Those amendments will be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Paperwork Elimination Act of 1996".

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. PURPOSES.

The purpose of this Act is to—

(1) minimize the burden of Federal paperwork demands upon small businesses, educational and non-profit institutions, Federal contractors, State and local governments, and other persons through the sponsorship and use of alternative information technologies, including the use of electronic maintenance, submission, or disclosure of information to substitute for paper; and

(2) more effectively enable Federal agencies to achieve the purposes of chapter 35 of title 44, United States Code, popularly known as the "Paperwork Reduction Act."

The CHAIRMAN. Are there any amendments to section 2?

If not, the Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. AUTHORITY AND FUNTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

(a) DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.—Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies, such as the use of electronic submission, maintenance, or disclosure of information to substitute for paper.".

(b) PROMOTION OF USE OF ELECTRONIC INFORMATION TECHNOLOGY.—Section 3504(h) of title 44, United States Code, is amended by striking "and" after the semicolon at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting "; and", and by adding at the end the following:

"(6) specifically promote the optional use of electronic maintenance, submission, or disclosure of information where appropriate, as an alternative information technology to substitute for paper.".

The CHAIRMAN. Are there any amendments to section 3?

If not, the Clerk will designate section 4.

The text of section 4 is as follows:

SEC. 4. ASSIGNMENT OF TASKS AND DEADLINES.

Section 3505(a)(3) of title 44, United States Code, is amended by striking "and" after the semicolon at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting "; and", and by adding at the end the following:

"(D) a description of progress in providing for the use of electronic submission, maintenance, or disclosure of information to substitute for paper, including the extent to which such progress accomplishes reduction of burden on small businesses or other persons.".

The CHAIRMAN. Are there any amendments to section 4?

If not, the Clerk will designate section 5.

The text of section 5 is as follows:

SEC. 5. FEDERAL AGENCY RESPONSIBILITIES.

(a) PROVIDING FOR USE OF ELECTRONIC INFORMATION MANAGEMENT.—Section 3506(c)(1)(B) of title 44, United States Code, is amended by striking "and" after the semicolon at the end of clause (ii) and by adding at the end the following:

"(iv) provides for the optional use, where appropriate, of electronic maintenance, submission, or disclosure of information; and".

(b) PROMOTION OF ELECTRONIC INFORMATION MANAGEMENT.—Section 3506(c)(3)(C) of title 44, United States Code, is amended by striking "or" after the semicolon at the end of clause (ii), by adding "or" after the semicolon at the end of clause (iii), and by adding at the end the following:

"(iv) the promotion and optional use, where appropriate, of electronic maintenance, submission, or disclosure of information.".

(c) USE OF ALTERNATIVE INFORMATION TECHNOLOGIES.—Section 3506(c)(3)(J) of title 44, United States Code, is amended to read as follows:

"(J) to the maximum extent practicable, uses alternative information technologies, including the use of electronic maintenance, submission, or disclosure of information, to reduce burden and improve data quality, agency efficiency and responsiveness to the public.".

The CHAIRMAN. Are there any amendments to section 5?

If not, the Clerk will designate section 6.

The text of section 6 is as follows:

SEC. 6. PUBLIC INFORMATION COLLECTION ACTIVITIES; SUBMISSION TO DIRECTOR; APPROVAL AND DELEGATION.

Section 3507(a)(1)(D)(ii) of title 44, United States Code, is amended by striking "and" after the semicolon at the end of subclause (V), by adding "and" after the semicolon at the end of subclause (VI), and by adding at the end the following:

"(VII) a description of how respondents may, if apprppriate, electronically maintain, submit, or disclose information under the collection of information.".

The CHAIRMAN. Are there any amendments to section 6?

If not, the Clerk will designate section 7.

The text of section 7 is as follows:

SEC. 7. RESPONSIVENESS TO CONGRESS.

Section 3514(a)(2) of title 44, United States Code, is amended by striking "and" after the semicolon at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting "; and", and by adding at the end the following:

"(E) reduced the collection of information burden on small businesses and other persons through the use of electronic maintenance, submission, or disclosure of information to substitute for paper maintenance, submission, or disclosure of information, including—

"(i) a description of instances where such substitution has added to burden; and

"(ii) specific identification of such instances relating to the Internal Revenue Service.".

The CHAIRMAN. Are there any amendments to section 7?

If not, the Clerk will designate section 8.

The text of section 8 is as follows:

SEC. 8. EFFECTIVE DATE.

This Act shall take effect October 1, 1997.

The CHAIRMAN. Are there any amendments to section 8?

If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BURTON of Indiana) having assumed the chair, Mr. TAYLOR of North Carolina, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2715) to amend chapter 35 of title 44, United States Code, popularly known as the Paperwork Reduction Act, to minimize the burden of Federal paperwork demands upon small businesses, educational and nonprofit institutions, Federal contractors, State and local governments, and other persons through the sponsorship and use of alternative information technologies, pursuant to House Resolution 409, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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The SPEAKER pro tempore (Mr. BURTON of Indiana). Under the rule, the previous question is ordered.

The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. TORKILDSEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 418, nays 0, not voting 14, as follows:

[Roll No 130]

YEAS—418

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock

Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Metcalf
Meyers
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—14

Dicks
Fields (TX)
Foglietta
Hastings (FL)
Houghton
Kasich
Laughlin
Livingston
McDade
Menendez
Parker
Schroeder
Whitfield
Wilson

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Mr. OWENS changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. MEYERS of Kansas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H.R. 2715, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Kansas.

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 1675, NATIONAL WILDLIFE REFUGE IMPROVEMENT ACT OF 1995

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 410 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 410

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1675) to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendment recommended by the Committee on Resources now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute printed in the Congressional Record on April 16, 1996 and numbered 1 pursuant to clause 6 of rule XXIII. Each section of that amendment in the nature of a substitute shall be considered as read. Points of order against that amendment in the nature of a substitute for failure to comply with clause 7 of rule XVI are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. BURTON of Indiana). The gentleman from Florida [Mr. GOSS] is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the distinguished gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the Committee on Rules has reported an open rule for the consideration of H.R. 1675, the National Wildlife Refuge Improvement Act. This is a very straightforward rule, allowing any and all germane amendments to the bill—and providing priority in recognition to those Members who have caused their amendments to be printed in the CONGRESSIONAL RECORD. Finally, the rule makes in order a substitute amendment that was filed and printed in the RECORD on April 16 by Chairman YOUNG. The Rules Committee sent out a notice last week explaining that amendments to the bill should be drafted to this substitute.

Mr. Speaker, I have a great interest in this legislation—after all, Florida is the home of the first National Wildlife Refuge, created by President Theodore Roosevelt in 1903 and located on Pelican Island. The 14th Congressional District boasts four refuges, including the J.N. "Ding" Darling Refuge on Sanibel Island, which enjoys an international reputation for its abundant population of waterfowl and other wildlife. The legacy of "Ding" Darling—the nationally syndicated editorial cartoonist and avid sportsman—provides a good starting point for one of the debates that will take place with regard to H.R. 1675—specifically over the role of hunting, fishing, and wildlife observation in the refuge system. As a lifelong hunter and fisherman, "Ding" Darling argued for setting aside areas to protect and nurture wildlife species—such as the ducks he loved to hunt. The primary mission of these areas is to promote conservation, but he recognized that the goals of sportsmen and environmentalists were intertwined—and that indeed conservation and these sporting activities could peacefully coexist.

Some have criticized this bill for going too far in establishing hunting, fishing, and wildlife observation as purposes of the refuge system—later on today my colleague Mr. BOEHLERT and I hope to offer an amendment to clarify that this bill isn't expanding hunting on wildlife refuges—but simply recognizing that when compatible with the overall mission of conservation, hunting, fishing, and observation can and should continue to take place.

Mr. Speaker, as the chairman of the Resources Committee said in his testimony yesterday—right now there are no stated purposes for the National Wildlife Refuge System. It's a complex system to manage, and I believe that this bill is a legitimate effort to address this problem. I would urge my colleagues to support the rule and stay tuned to the debate.

Mr. Speaker, I include for the RECORD the following information:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of April 24, 1996]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	62	59
Modified Closed [3]	49	47	26	25
Closed [4]	9	9	17	16
Total	104	100	105	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of April 24, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of April 24, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	A: voice vote (11/14/95).
H. Res. 261 (11/9/95)	C	H.J. Res. 115	Cont. Resolution	A: 223–182 (11/10/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	O	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 229–176 (11/15/95).
H. Res. 273 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	A: 239–181 (11/17/95).
H. Res. 284 (11/29/95)	O	H.R. 1788	Amtrak Reform	A: voice vote (11/30/95).
H. Res. 287 (11/30/95)	O	H.R. 1350	Maritime Security Act	A: voice vote (12/6/95).
H. Res. 293 (12/7/95)	C	H.R. 2621	Protect Federal Trust Funds	PQ: 223–183 A: 228–184 (12/14/95).
H. Res. 303 (12/13/95)	O	H.R. 1745	Utah Public Lands.	
H. Res. 309 (12/18/95)	C	H.Con. Res. 122	Budget Res. W/President	PQ: 230–188 A: 229–189 (12/19/95).
H. Res. 313 (12/19/95)	O	H.R. 558	Texas Low-Level Radioactive	A: voice vote (12/20/95).
H. Res. 323 (12/21/95)	C	H.R. 2677	Natl. Parks & Wildlife Refuge	Tabled (2/28/96).
H. Res. 366 (2/27/96)	MC	H.R. 2854	Farm Bill	PQ: 228–182 A: 244–168 (2/28/96).
H. Res. 368 (2/28/96)	O	H.R. 994	Small Business Growth	
H. Res. 371 (3/6/96)	C	H.R. 3021	Debt Limit Increase	A: voice vote (3/7/96).
H. Res. 372 (3/6/96)	MC	H.R. 3019	Cont. Approps. FY 1996	PQ: voice vote A: 235–175 (3/7/96).
H. Res. 380 (3/12/96)	MC	H.R. 2703	Effective Death Penalty	A: 251–157 (3/13/96).
H. Res. 384 (3/14/96)	MC	H.R. 2202	Immigration	PQ: 233–152 A: voice vote (3/21/96).
H. Res. 386 (3/20/96)	C	H.J. Res. 165	Further Cont. Approps	PQ: 234–187 A: 237–183 (3/21/96).
H. Res. 388 (3/20/96)	C	H.R. 125	Gun Crime Enforcement	A: 244–166 (3/22/96).
H. Res. 391 (3/27/96)	C	H.R. 3136	Contract w/America Advancement	PQ: 232–180 A: 232–177, (3/28/96).
H. Res. 392 (3/27/96)	MC	H.R. 3103	Health Coverage Affordability	PQ: 229–186 A: Voice Vote (3/29/96).
H. Res. 395 (3/29/96)	MC	H.J. Res. 159	Tax Limitation Const. Amdmt.	PQ: 232–168 A: 234–162 (4/15/96).
H. Res. 396 (3/29/96)	O	H.R. 842	Truth in Budgeting Act	A: voice vote (4/17/96).
H. Res. 409 (4/23/96)	O	H.R. 2715	Paperwork Elimination Act	A: voice vote (4/24/96).
H. Res. 410 (4/23/96)	O	H.R. 1675	Natl. Wildlife Refuge	
H. Res. 411 (4/23/96)	O	H.J. Res. 175	Further Cont. Approps. FY 1996	A: voice vote (4/24/96).

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. GOSS. Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume. I thank the distinguished gentleman from Florida [Mr. GOSS] for yielding me the customary half hour of debate time.

Mr. Speaker, we support this rule. It is an open rule, so Members may offer any amendments that are in order under the standing House rules. Under the rule, priority in recognition for the offering of those amendments may be accorded to Members who have printed their amendments in the CONGRESSIONAL RECORD.

Although we have no objections to the rule itself, many of us believe that the legislation that it makes in order, H.R. 1675, would cause serious harm to our Nation's wildlife refuges, which provide vital habitat for hundreds of species of birds and mammals.

Since the first national wildlife refuge was established at Pelican Island, FL, in 1903, the fundamental purpose of the refuge system has been the conservation of wildlife and natural habitat. This legislation would change that by making hunting, fishing, and other recreational uses a primary purpose of the system as well.

Thus, this bill would, for the first time, direct the U.S. Fish and Wildlife Service to place as much importance on providing recreational opportunities in these refuges as on conserving the resources that make these opportunities possible. The Service, whose budget is already inadequate for its currently mandated responsibilities, would be required to divert its scarce funds away from protecting wildlife, to managing people and their recreational activities. That change would clearly undermine the protection of these valuable reserves.

Recreational activities, including hunting and fishing, are permitted under existing law where such activities are appropriate. Currently, more than half of all of our refuges are open to some form of hunting; in those areas, the Fish and Wildlife Service has determined that animal populations are abundant, and hunting is compatible with wildlife protection. But hunting is not appropriate in all refuges, and therefore should not be presumed to be compatible with the purpose of the refuges, as it would be under this bill.

☐ 1345

Mr. Speaker, furthermore, the bill would alter the way national wildlife refuges are established by requiring Congress to specifically authorize any refuges established using the land and water conservation fund. Only 16 of our more than 500 refuges have been specifically established by legislation, and this new requirement could delay and complicate the process of protecting imperiled wildlife. Fortunately, the House will have the opportunity to change this provision by adopting the amendment that will be offered by the gentleman from New York [Mr. NADLER].

Another drawback of the bill is that it would allow up to 15 years to elapse between reviews of the compatibility of fish-dependent and wildlife-dependent recreational uses, whereas other uses would be required to be reviewed at least every 4 years. The long interval for reviewing hunting and fishing could result in the continuation of activities for many years that are detrimental to the conservation of wildlife.

Finally, the bill would authorize expanded military activities and other potentially damaging Federal activities on wildlife refuges, allowing them to be exempted from the protective standards of the National Wildlife Refuge Administration Act.

For all of these reasons, all the major U.S. environmental protection organizations oppose this legislation. They believe that there should be one clear overriding purpose for our wildlife refuges, and that is the conservation of wildlife and natural habitat.

Mr. Speaker, to repeat: We support this rule, which is an open rule. But we urge Members to oppose the legislation itself.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just simply say in response to my esteemed colleague and friend, the gentleman from California [Mr. BEILENSON], that many of the concerns he has raised on the subject, in fact, will be dealt with in the amendment process, and I, too, am hopeful that we can make some further improvements in this bill through the amendment process and am prepared to do that.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no speakers, and I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I, too, yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the able.

RECESS

The SPEAKER pro tempore (Mr. BURTON of Indiana). Pursuant to clause 12 of rule I, the House stands in recess until 2:30 p.m.

Accordingly (at 1 o'clock and 47 minutes p.m.), the House stood in recess until 2:30 p.m.

□ 1430

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. MCCRERY) at 2 o'clock and 30 minutes p.m.

NATIONAL WILDLIFE REFUGE IMPROVEMENT ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 410 and rule XXIII, the Chair Declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1675.

□ 1431

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1675) to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes, with Mr. GILLMOR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Alaska [Mr. YOUNG] and the gentleman from California [Mr. MILLER] each will control 30 minutes.

The Chair recognizes the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as the author of H.R. 1675, I am pleased that the House is considering this important legislation, which would be the first comprehensive reform of our refuge law since the enactment of the National Wildlife Refuge System Administration Act of 1966.

I am also grateful that the author of that historic law, Congressman JOHN DINGELL, and a number of other distinguished Members including the cochairman of the House Sportsmen's Caucus, PETE GEREN, and the chairman of the Subcommittee on Fisheries, Wildlife and Oceans, JIM SAXTON, have joined with me in this bipartisan effort. Their contributions and input into this legislation have been invaluable.

Our Nation's Wildlife Refuge System, which was created by President Theodore Roosevelt more than 90 years ago, provides both essential habitat for hundreds of species and recreational opportunities for millions of Americans. At present, the system is comprised of 508 refuges, which are located in all 50 States and the 5 U.S. Territories. These units, which cover some 91 million acres of Federal lands, range in size from the smallest of less than 1 acre to the largest, the 19.3-million-acre Arctic National Wildlife Refuge.

Regrettably, in recent years the public's confidence in our refuge system has been shaken by arbitrary decisions made by refuge managers; the diversion of funds to other higher profile issues; the elimination of all existing uses on newly acquired lands; lawsuits designed to prohibit certain secondary uses on a refuge; and the lack of either a vision or a comprehensive plan on how our refuge system will be managed in the future.

H.R. 1675 is the product of several years of hard work, countless meetings with various interest groups, and extended negotiations with the Departments of Interior and Defense. The bill was the subject of an extensive public hearing and was favorably reported by voice vote by both the subcommittee and the full Resources Committee, with only 5 Members filing dissenting views.

This legislation is a modest, proactive conservation measure that has been carefully refined to address most of the concerns raised by the Clinton administration.

While I will later discuss the substitute proposal in detail, it is time we had a statutory list of purposes; a definition of what is a compatible use; allow existing wildlife-dependent recreational uses to continue on new refuge lands unless they are found to be incompatible; a conservation plan for each refuge; and clarification that fishing and hunting should be permitted unless a finding is made that these activities are inconsistent with sound fish and wildlife management, the purpose of the refuge, or public safety.

Furthermore, it will strengthen the management of the refuge system and it implements a better, more uniform system-wide planning and compatibility review process. This had been a goal of the environmental community for some time.

While H.R. 1675 does not attempt to solve all of the problems facing our refuges, it will ensure that the system is effectively managed, that essential habitats are protected, and that the American people have an opportunity to fully utilize those Federal lands that are paid for with their tax dollars, their entrance fees, and from purchases of duck stamps.

This is a sound piece of legislation. It is supported by many groups, including the American Sportfishing Association, the California Waterfowl Association, the Congressional Sportsmen's Caucus, the International Association of Fish and Wildlife Agencies, the New Jersey Federation of Sportsmen, the National Rifle Association, and the Wildlife Legislative Fund of America. This bill will ensure that our refuge system has the support of the American people into the 21st century.

Finally, a word of caution. I know there are Members who would like to see H.R. 1675 become a vehicle to solve a whole range of problems in individual units, including mosquito abatement, public health, and additions or deletions of land from existing refuges. While these changes may have merit, I would hope they would not be offered to this measure but instead the sponsors would allow the Resources Committee to fully review them.

Mr. Chairman, at the appropriate time I intend to engage in a colloquy with the co-author of this bill, JOHN DINGELL, on the issues of open until closed refuge lands and water rights. I am confident that this clarification and the substitute will remove most, if not all, of the confusion about the scope of this measure.

It will also restore the fundamental goals of H.R. 1675, which are to conserve, manage, and recover wildlife and to ensure that Americans have an opportunity to participate in compatible wildlife-dependent recreation.

I urge the adoption of H.R. 1675.

Mr. Chairman, I reserve the balance of my time.

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would certainly support improvement of the National Wildlife Refuge System if it really needed it, but it does not.

Much of the momentum behind this bill has been generated by sporting groups that seek to elevate the role of hunting and fishing off our National Wildlife Refuges. Now, the plain truth is that hunting and fishing are already allowed on more than half of the 508 wildlife refuges and on more than 94 percent of the 92 million acres of the System. I respectfully submit that is a lot of hunting and fishing.

Moreover, President Clinton, far from closing refuges to hunting and fishing, on March 25 issued an Executive order reaffirming the administration's commitment to a diversity of recreation of refuge lands so long as it is compatible with the longstanding primary purpose of the Refuge System—fish and wildlife conservation.

Some were fearful that the administration's settlement of a lawsuit regarding the compatibility of secondary uses of the refuges would result in restrictions on sporting activities. After reviewing more than 1,000 activities throughout the System, not one wildlife refuge was closed to hunting.

In fact, the Clinton administration has opened more refuges to hunting and fishing in its first 2 years than did the Bush administration during its last 2 years.

So, this legislation attempts to fix a problem that does not exist. And along the way, it actually undermines the ability of the wildlife management professionals of the Fish and Wildlife Service, with whom the job is properly left, to manage the many competing public uses of the National Wildlife Refuge System. This bill is not an improvement. It is bad for the wildlife, and that is ultimately bad for the sportsmen and sportswomen whose activities depend on abundant wildlife populations.

In addition, the bill contains provisions which will create overly broad exemptions for military activities on wildlife refuges, and strip refuges of reserved water rights.

The substitute before the House fortunately drops a provision included by the Resources Committee to allow harmful pesticides to be used on refuges lands leased by farmers. That is a positive step, although the same provisions were contained in the long-term CR recently passed by the House and Senate. There were some other changes made that were mostly cosmetic and do not address the fundamental problems with the bill.

I am also aware that the gentleman from New York [Mr. BOEHLERT] will offer en block amendments to the bill. While I applaud the gentleman's efforts to improve the bill, these amendments do not do the trick either.

No, the problems with this bill are much more fundamental. As Secretary of the Interior Bruce Babbitt said to Chairman YOUNG in an April 23 letter concerning this bill: "This bill is not the right way to celebrate Earth Week or the environment."

The President has addressed the legitimate concerns about hunting and fishing in our refuges. There is an appropriate balance between wildlife conservation and public recreation. That balance already exists in our National Wildlife Refuge System. This bill will upset that delicate balance. I urge my colleagues to oppose H.R. 1675.

Mr. Chairman, I include for the RECORD the statement of administration policy on H.R. 1675.

STAEMENT OF ADMINISTRATION POLICY

(This statement has been coordinated by OMB with the concerned agencies.)

H.R. 1675—NATIONAL WILDLIFE REFUGE IMPROVEMENT ACT (REP. YOUNG (R) AK AND 27 COSPONSORS)

If H.R. 1675, as reported by the Rules Committee (the Young substitute amendment), is presented to the President in its current form, the Secretary of the Interior will recommend that he veto the bill.

H.R. 1675, as reported by Rules Committee (the Young substitute amendment), would greatly weaken the U.S. Fish and Wildlife Service's ability to protect the National Wildlife Refuge System from harmful activities. The Young substitute amendment does not address many of the bill's fundamental problem and creates significant new problems by:

Eliminating consideration of the "public interest" in opening wildlife refuges to recreational interests.

Establishing an unneeded exemption process to facilitate expanded military use of refuge lands, despite no showing that military needs are not currently being accommodated.

Calling into question the validity of existing reserved water rights of individual refuges and thus undermining the ability of the Service to provide suitable habitat for the species on such refuges.

Allowing some present and future refuges to be transferred to the States as "coordination areas" to be managed free from the provisions of refuge law.

Restricting the needed expansion of the System by imposing new limits on the use of the Land and Water Conservation Fund monies for refuge acquisition.

Elevating certain public uses of refuges, including hunting and trapping, into purposes of the System.

Compromising the process for determining whether certain recreational uses are compatible with refuge purposes and should be allowed at any given refuge.

Waiving refuge law to allow the dumping of chemicals into aquatic habitats on refuges in order to kill certain nuisance species.

□ 1445

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, some opponents of this bill would like everyone to believe that its only purpose is to permit fishing and hunting in our National Wildlife Refuge System. This is simply not true. This is a comprehensive bill that will improve and enhance wildlife management of the national wildlife refuges throughout our entire country.

This bill addresses a broad range of concerns expressed in a variety of Government reports going back 25 years about the need for better, more uniform system-wide management of refuges. For the first time, this bill establishes a system-wide mission statement. Those purposes include not only compatible fish and wildlife oriented recreation, including fishing and hunting, it also includes wildlife observation and environmental education and also conservation management, restoration of fish and wildlife, the preservation of endangered species and the implementation of the international treaty obligations regarding fish and wildlife.

Those are a broad-ranging set of objectives that this reform bill has inherent within it. The bill also gives the Secretary of the Interior comprehensive direction on the administration of the system and establishes a management planning process that will be uniform throughout the system, something that has been sorely needed in my opinion for many years.

It assures public involvement in the planning process and requires that those plans be reviewed at least every 15 years. One aspect of the bill that I believe is critically important is the requirement that refuges remain open until closed. Let me explain why I believe this section of the law is critically important.

Under the system which currently exists, as refuges expand or as new refuges are created, the minute the Fish and Wildlife Service or the Federal Government takes title to land, it is closed to all wildlife-related public uses. I do not believe that it is anyone's intent that that happen.

We changed the provisions so that, when the Fish and Wildlife Service assumes title and assumes, therefore, the management of new lands, that these historic wildlife-related uses continue to occur until a management plan is adopted. This is a very important change because in some areas of the country, the refuge system, which at one time enjoyed almost unanimous public support, today the system does not enjoy and the plans do not enjoy unanimous public support because the minute someone, the minute the refuge system acquires additional land, it is closed to hunting and fishing and bird watching and any other use that is related to wildlife pursuits. So this bill, I believe, is important for that reason and it should be considered, I think, one of the very important provisions.

This bill also codifies the existing regulatory definition of "compatible use" that the Fish and Wildlife Service has obviously used for many years. The committee expects that there will be some wildlife refuges, particularly in urban areas, that will not be appropriate settings for all forms of wildlife-dependent recreation. Therefore, there is no reason to believe that this measure will greatly change the current management system.

Finally, this bill establishes a broad goal of wildlife protection for our refuge system, establishes purposes that reflect the current goals of the system, institutes a long overdue systemwide comprehensive planning process, and assures that taxpayers who purchase the refuge lands can utilize them in many legitimate ways.

This bill merits your support, and I obviously think that everyone should vote for it. I would just conclude, Mr. Chairman, by mentioning that there are a broad, a large number, a broad array of organizations that support this bill. For example, let me just read some of them, the American Sportfishing Association, the California Waterfowl Association, Congressional Sportsmen's Foundation, Foundation for North American Wild Sheep, the International Association of Fish and Wildlife Agencies, the Mzuri Wildlife Foundation, the National Wild Turkey Federation, the New Jersey Federation of Sportsmen, the North American Waterfowl Federation, Quail Unlimited, the Ruffed Grouse Society, Safari Club International, Wildlife Forever, and the Wildlife Legislative Fund of America.

Mr. Chairman, I think that these organizations know that this is a good bill. I believe it is a good bill. I incidentally think it will even be enhanced by the Boehlert amendment when it is offered. I urge everyone to support the bill.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

The gentleman from California mentioned the fact that there was a statement from the administration opposing my bill. I am amazed. I cannot believe that, because four of the things that they are opposing my bill on, two of them were their language.

One was on establishing an unneeded exemption process to facilitate expanded military use of refuge lands, despite no showing that military needs are not currently being accommodated. That is their language.

The other one is calling into question the validity of existing reserved water rights. We did not even talk about water rights. Then we have two of them that they are objecting to the gentleman from New York [Mr. BOEHLERT] is going to solve in his amendment, and we agreed to accept that amendment. Of course, the one thing that bothers me the most is that they are opposed to hunting. They are also opposed to fishing. By Executive order the President says, no, I am all for this, but it is by Executive order. What we are trying to do is revive and establish what refuges were set up for and by whom and who supports them.

All the refuges that I have served under in 24 years were created with the full support of the fishermen and the hunters and the recreation users. Now we are having managers say, no, you cannot fish in Arkansas, because we believe that the way you fish is wrong so fishing is closed. This is by a manager. I talked to Mollie Beattie. She says I cannot override the manager's position.

Then we have a case in Oklahoma where a manager, this refuge was created for migratory waterfowl and they managed it for migratory waterfowl by planting crops that would be something for the geese and the ducks as they flew down the byway to eat. The manager said, no, this is not natural. We will not plant this food so they can eat. And around the refuge the farmers were still farming so all the ducks and geese went to the farms outside the refuge so there is no longer any birds in the refuge. This is all documented.

But now the same manager says, oh, by the way, fishing is prohibited on this refuge because it might interfere with the waterfowl. Wait a minute. Where are the waterfowl? Off the refuge because they stopped growing feed. So the fishermen are terribly upset. The hunters are upset. The birds are upset. And the refuge has no support. And when the people stop supporting refuges, there will be no more refuges, nor the existence will not be funded.

I am asking for passage of this legislation so that the sportsmen of America, the little child that has a cane pole, the person in the wheelchair that goes out on the dock and tries to catch a fish has an opportunity to do so and not letting one person arbitrarily say, no, you cannot do it because I do not think it is compatible.

All this bill does is set a criteria and allows uses, as long as they are compatible, to take place. And it takes away the discretion of a manager to arbitrarily impose his philosophy upon a refuge that was created for other reasons.

If he decides to try to do that, he has to justify and prove that it is not compatible. If it endangers the public, yes; if it endangers a species, yes; if it in fact does some harm, he has that latitude. But if there is not a reason, then he cannot disallow it.

So this is what this bill is all about. It is unfortunate that this administration for some reason is against the American sportsmen. They do not support the American sportsmen and do not let anyone say they do just because the President goes on to an area to shoot 1 duck, and by the way he missed 42. He might be called a conservationist. Do not let the American sportsmen be fooled by this position.

What they want is to eliminate what the original refuges were set up for, the purposes of them. And in fact, they do not recognize the danger of not having the support by those people.

Mr. Chairman, I reserve the balance of my time.

Mr. MILLER of California. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Arkansas [Mrs. LINCOLN].

Mrs. LINCOLN. Mr. Chairman, I rise in strong support of H.R. 1675. I want to congratulate Chairman YOUNG and Mr. DINGELL for putting together a bipartisan piece of legislation. Additionally, I am encouraged that this is a clean bill and one that recognizes all the traditional recreational uses of our refuges as purposes.

The original principal behind the establishment of our wildlife refuges was to ensure the viability and health of wildlife populations. H.R. 1675 recognizes this principal by adopting five purposes: First, conserve and manage fish, wildlife, plants and their habitats; second, preserve, restore and recover endangered or threatened species; third, fulfill international treaty obligations; fourth, conserve and manage migratory birds, anadromous fish, and mammals; and fifth, provide opportunities for compatible wildlife-dependent recreation, including hunting, fishing, wildlife observation, and environmental education. Each refuge may adopt all the stated purposes or select just a few, depending on the compatibility of the purpose to the refuge. Under the bill, each purpose must be compatible with the underlying principal of protecting the health of wildlife populations in order to be a purpose at a specific refuge. Under this legislation, the underlying principal will not be compromised.

Some of my colleagues may have concerns because hunting is listed as a purpose of wildlife refuges. First of all, hunting is recognized by the general wildlife science community as a valid wildlife management tool if done in a proper manner. Second, if the refuge manager or the Secretary finds that hunting is not compatible with a certain refuge, hunting will not be allowed. The reason we have put this language into this bill is to avoid the situation we were faced with a few years ago where hunters were put on notice that they may lose their hunting rights on lands they have always hunted on. Hunters are avid users of refuges—billions of their dollars have gone to wildlife and habitat conservation through excise taxes, licenses, and stamps. It has been estimated that over three-fourths of the lands acquired for the refuge system were purchased through migratory bird conservation dollars through the sale of duck stamps.

As an example, in the 1st District of Arkansas, land was acquired to enlarge the Cache River Refuge. These lands were used for hunting for decades before they were added to the refuge system. It is the ultimate slap in the face to these hunters that they may lose the opportunity to hunt on land they have hunted on for generations and that the land was purchased with their dollars.

Many changes have been made to this bill to address the administration's concerns and I believe that the final bill is a good product. I urge my colleagues to support H.R. 1675.

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Mr. YOUNG of Alaska. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I rise in strong support, as the gentlewoman from Arkansas [Mrs. LINCOLN], and I know the gentlewoman is set with twins and that she would be participating in the Sportsmen Caucus, Republican versus Democrat, shootoff on May 6, but I do not think her doctor would let her do that.

Mrs. LINCOLN. That is right; the gentleman is lucky I am not.

Mr. CUNNINGHAM. But she would be there, I understand, and I speak as one of the new cochairmen for the Sportsmen Caucus along with the gentleman from Tennessee [Mr. TANNER], and the Sportsmen Caucus is founded to support the rights of fishermen and families that are interested not only in conservation, in the environment as far as fishing and hunting and a national treasure that we have enjoyed over a lifetime.

This is a pro-environment bill, although there will be some that say it is not, and I think what we need in this body is more of a middle-of-the road kind of direction instead of those that want to pave over the world, like those groups like Earth First, Earth Island, in which the Unabomber's manifesto was drafted and the extremist groups and special-interest groups on both sides, and I think that this bill tries to come somewhat in the middle.

Mr. Chairman, I would say to my colleagues that there is a very good Jewish proverb that was born out of the movie called "Jazz Singer," and I am old enough, like the gentleman from Alaska [Mr. YOUNG], the chairman, to remember a guy named Al Jolson, and later Neil Diamond played in a movie, and it is about a father who has lost his son, not to a death but because of an argument, and the Jewish proverb goes like this:

The father says, "Son come home. We have argued too long."

And the son replies, "Father, I cannot. There has been too much between us."

And the father's reply to his son is, "Son, come as far as you can, and I will come the rest of the way."

I think this bill comes the rest of the way and meets somewhere in the middle, and we would ask our colleagues from both sides of the aisle to make that distance in between because that is the intent.

We are trying to protect a long history of the ability of people to use recreational areas, to hunt to fish, to look at birds, to preserve the environment and conserve. And if you take a look at those groups like Sportsmen Caucus, those are the groups that have provided, for example, the duck and the wetlands up in Canada. The species would be almost totally eliminated if they had not purchased the land that will allow the nesting of our migratory birds. And all of those efforts have come about from the Sportsmen Caucus-type groups and have actually enhanced our environment.

The environmental groups opposing this will claim that unlimited hunting and fishing will occur on all refuges. This is not true. This is not the case. The bill provides the U.S. Fish and Wildlife Service with the option to disallow hunting on refuges if it is decided that these activities pose a treat to public safety or conservation purposes of the refuge.

What it does do: It eliminates an individual with a certain agenda at the head of each of these refuges from making an arbitrary decision to just cut off recreational use, and we think that this is wrong. I believe that that is median policy and, I think, can be supported, and I think will be supported, just like the gentlewoman from Arkansas and my friend, the gentleman from Tennessee [Mr. TANNER]. It establishes conservation plans for each of the 504 refuges within 15 years.

Mr. Chairman, the bill is the first significant refuge reform bill considered by Congress since 1966. I would ask my colleagues to support it.

I look back when I grew up. I lost my dad about a year and a half ago, but I can still remember as a youngster going to Swan Lake in Missouri and hunting with my dad and fishing. I can remember just recently going over with my dad to the Imperial Valley at Wooster and doing the same thing, and I got some duck mud between the toes of both of my daughters, and I would like to be able to continue that because I think that communication between father and son and father and daughter and grandfather, which also takes some hunting, is very important to the tradition of this country.

I thank the chairman for sponsoring the bill and supporting it, and I ask an "aye" vote on it.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. HAYES].

Mr. HAYES. Mr. Chairman, I came down mostly because I wanted to be able to say for the only time in the 9 years I have been in Congress that I think that the gentleman from Alaska [Mr. YOUNG] and the gentleman from Michigan [Mr. DINGELL] are right in their joint effort in legislation, and I intend to support them. I will probably never have an opportunity to utter that sentence again, the reason being the context here and one that has been overlooked in the course of the previous discussion, which has been more of a discussion than a debate because of the wide range of support behind this legislation.

But the fact that since 1966 we have had no review of the means by which we make conservation and comprehensive planning is in and of itself somewhat disgraceful.

Imagine if our foreign policy were conducted by diplomats who were basing their 1996 on their 1966 views. Imagine if we had economists who were sitting there projecting the manner in which they have projected 30 years ago. The answer is through everything from propagation programs that have been able to save some endangered species. In my own State of Louisiana, believe me, what was the endangered alligator species is now a fulfillment of what was a common expression that "you are up to your you know what in alligators." That is now both literally and figuratively true because of efforts made in wildlife refuges and accomplished in Cameron and Vermilion Parish.

The second thing is, as my colleagues know, nature does not adhere to legislation even, regulations. That would probably astonish some bureaucrats to believe there is a force higher than they are, but nature itself sometimes does things like hurricanes, reroutes canals, uproots trees, moves levees. If we do not have comprehensive planning that also is revisited and adjusted, then we are going to do great untold harm to neighboring communities, to fish, to wildlife, and all the public.

So for that reason I think you see such a wide array of those of us who serve in the House and who may disagree on how to get to some end results supporting the same vehicle here today, and it is truly unfortunate that the Secretary of the Interior does not reflect that same wide range and broad-based support.

I would hope that he would read the bill. I would hope that he would indeed urge the President to sign the bill rather than urge him to veto it. For that reason he would do untold good to not only those who are here today voting but to the future generations of all Americans.

Mr. MILLER of California. Mr. Chairman, I yield 7 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I thank my good friend the gentleman from California [Mr. MILLER] for his kindness in yielding me this time.

Mr. Chairman, I thank my good friend the gentleman from California [Mr. MILLER] for his kindness in granting me this time.

I want to pay tribute to the gentleman from Alaska [Mr. YOUNG], my good friend, the chairman of the committee, with whom I have worked very hard on this legislation.

I would like the House to know that this is good legislation, and I would like to tell them a little bit as to why.

In my young days between about 1966 and about 1974, I was chairman of a little subcommittee called the subcommittee on fisheries and wildlife conservation. It was one of the components of the Committee on Merchant Marine and Fisheries. It had jurisdiction overall of the national refuge system. And during that time we wrote the National Wildlife Refuge System Act of 1966.

Since that time I have also served for 26 years as a Democratic Representative of the House to the Migratory Bird Conservation Commission, which is in charge of buying land for the migratory bird refuge system, and in that time the Nation has acquired over 600,000 acres of habitat for the protection of migratory birds and other wildlife. This is a great treasure and one of my principal purposes has been to protect it to assure that it would not be destroyed or dissipated. Indeed one of the early things which we confronted was an attempt by the then-Secretary of the Interior McKay to dissipate the entirety of the refuge system. That was brought to a halt, and, as a result of that, the Refuge Administration Act was put together. This legislation has been called the best piece of public land management legislation ever.

Some 30 years now after that was done, I am proud to see the accomplishments which have taken place as a result of that bill. The system is now providing well-managed habitat for the protection of resident and migratory species. It is also helping to recover threatened and endangered species. It is contributing to the diversity of refuge areas, and it is serving for all of the people much more traditional and wildlife-related purposes, such as hunting, fishing, and wildlife observation.

It is a system which, I would remind my colleagues, is funded in the largest part by the contributions of the hunters of this Nation who, by their purchase of duck stamps, make it possible for this Nation to acquire the lands which are set aside forever as a part of the refuge system. It is important to recognize then the inequal part that our Nation's hunters and fishermen pay—play in providing constant support for the expansion and the maintenance of our refuge system.

America's sportsmen and sports women provide this help not only with their votes but also through the purchase of duck stamps, a substantial portion of the public dollars then which are expended in support of the refuge system.

A few weeks ago the President expressed his support of the sportsmen community by issue of executive order. It recognizes supporting uses as a priority use of the system, and this is one of the reasons that we are able to sustain that system and to encourage patriotic sportsmen, hunters, outdoors men and women for contributing to the system.

Now, I have hunted with the President, and I know of his strong interest in our refuge systems, and I am pleased that he took the initiative with this executive order. It is my hope that he will see the merits of the legislation here which codifies much of that order.

H.R. 1675 is the result of some long-sought legislative improvements in the refuge system. For many years, environmentalists and sportsmen and women have called for an organic act which lays out clear purposes of the system and requires the completion of the conservation management plans for each refuge. A number of studies by the General Accounting Office and the Fish and Wildlife Service have found many problems in our refuges. These problems range from overuse to toxic contamination to a lack of proper funding and proper management. H.R. 1675 is the result of thorough examination of these problems and an attempt to make improvements of the management of the system which will require better planning, compatible uses, and a clear identification of the purposes of the system.

Chairman YOUNG last year talked to me about cosponsoring this legislation. I agreed to do so so that this body could give the Fish and Wildlife Service the tools that it needs to do the job.

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In fact, I decided to cosponsor this bill only after consulting with the Fish and Wildlife Service and being convinced that the bill is in the best interest of the National Wildlife Refuge System and the wildlife that it protects.

I want to commend again the distinguished gentleman from Alaska for his leadership in this. This is a good bill. It is one which will make progress in terms of protecting the refuge system and one which will make real progress in terms of protecting the wildlife that are dependent upon it, and in assuring that we can continue the public support which has made possible the success of one of the greatest systems of public lands and the greatest systems of public land management for an important national purpose, and that is the protection of wildlife.

There is no doubt that this bill has, I would observe, some reservations. I have worked for several months with the Fish and Wildlife Service, the Interior Department, the Council on Environmental Quality, and other organizations to address problems that they have brought to my attention. I would observe that in each instance my good friend from Alaska has been most helpful in addressing those concerns.

Now, one major source of concern is the question of hunting and wildlife-dependent recreation on the system. Well, first of all, under this legislation no hunting and no refuge use can take place which is inconsistent with the purposes for which this system is set up.

Remember, this system is set up and paid for in good part by the hunters of America who contribute to this. I would observe that the critics of this bill have probably in toto contributed nothing to the purchase of refuge system lands over the years. I think that tells us a great deal, that people who love it enough to put their money where their mouth is are the hunters and the sportsmen. They will use this, and they will use it in a fashion which is consistent with the purpose of the refuge and in a fashion which is consistent with the best interests of not only the habitat but also the wildlife.

I would urge my colleagues to support this legislation, to understand that basic good sense and basic hunting, not only as a purpose of the refuge but also as a device for the management of the wildlife there, makes the best of good sense. This is a good piece of legislation. I urge my colleagues to support it. I tell the Members, both as a hunter and a conservationist and as one who has authored much of the legislation that relates not only to the refuge system but protection of the environment, that this is good legislation. I urge my colleagues strongly to support it. It is in the public interest, it is in the interest of the refuge system, it is in the interest of the wildlife, and future generations will thank us for passing this legislation.

Mr. YOUNG of Alaska. Mr. Chairman, how much time is remaining?

The CHAIRMAN. The gentleman from Alaska [Mr. YOUNG] has 9 minutes, and the gentleman from California [Mr. MILLER] has 15 minutes.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. I thank the gentleman for yielding me the time.

Mr. Chairman, I think that whenever the U.S. Congress passes legislation, they should keep several important things in mind which I am going to describe. I think those things that enhance legislation in this House, which enhance laws, are present in this legislation.

First of all, I think with the amendments by the gentleman from New York [Mr. BOEHLERT], this legislation will improve existing law.

No. 2, this legislation provides a structure which will enhance local managers' ability to work much more closely with the State government, with the local government, with private landowners, with environmental groups, with anybody that has any kind of an interest in America's wildlife refuges.

No. 3, this particular legislation continues to give local managers the flexibility they need to provide what they feel is necessary to manage wildlife in any way that they think is conducive for their conservation.

I want to make a comment to an earlier statement by the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM described the story where a father and son had a falling out, and the father called the son and said, "Let's get together." The son said, "I can't, there is too much between us". Then Mr. CUNNINGHAM said the father told the son, "Just come as far as you can go, and I will go the rest of the way".

If we want to legislate good laws for this country, then this particular piece of legislation, I might add to the gentleman from Alaska [Mr. YOUNG], this particular piece of legislation brings opposing forces together. Each side has come just as far as they can go and there has been a compromise.

If we are going to be successful in managing the Nation's resources, then this type of discussion, this type of debate, this type of legislation is the kind of example that we need to show to our constituents and we need to show to our Nation. So I would urge the Members that this is a good bill. We should vote for this bill.

I want to compliment the chairman of the Committee on Resources for his work.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. BREWSTER].

Mr. BREWSTER. Mr. Chairman, I rise today in support of H.R. 1675, the National Wildlife Refuge Improvement Act. This bill clarifies the original intent of the National Wildlife Refuge System Administration Act of 1966.

That intention being: wildlife based recreation, including hunting and fishing, being a primary purpose of the system.

As many of you know I am an avid and responsible sportsman. This legislation erases 30 years of over zealous regulation by the Fish and Wildlife Service. It is high time we give back the refuge system to the people—not to the Government.

It is becoming harder and harder for individuals to enjoy the sports of hunting and fishing. Most people don't have the ability to own private land for these activities.

H.R. 1675 brings wildlife-dependent recreation back as one of the primary goals of the refuge system.

Our refuge system is in dire need of reform, and this is the vehicle in which it can be accomplished.

H.R. 1675 has bipartisan support including wildlife conservation groups, and State fish and wildlife agencies.

I urge my colleagues to vote "yes" on H.R. 1675.

PARLIAMENTARY INQUIRY

Mr. MILLER of California. Mr. Chairman, I have a parliamentary inquiry. Just for the sake of a clarification so I know whether I can yield back or not, can the Chair advise me with respect to the Nadler amendment? Must that be offered prior to?

The CHAIRMAN. the Nadler amendment was printed in the RECORD. Prior to what?

Mr. MILLER of California. The question is, is that impacted by the Boehlert amendment? I do not know if the gentleman from New York [Mr. BOEHLERT] is going to offer his amendment now.

Mr. YOUNG of Alaska. Mr. Chairman, the gentleman from New York [Mr. BOEHLERT] will be offering his amendment.

The CHAIRMAN. Under the rule, the amendment of the gentleman from New York [Mr. BOEHLERT] was not printed in the RECORD. The amendment of the gentleman from New York, Mr. NADLER, was printed in the RECORD, and under the rule, Mr. NADLER could have priority of recognition.

Mr. MILLER of California. Mr. Chairman, can the gentleman from Alaska sing for 5 minutes? We are looking for the gentleman from New York [Mr. NADLER]. I think I need to protect his rights to offer his amendment. Maybe the gentlewoman from Arkansas can offer her amendment.

Mr. YOUNG of Alaska. If the gentleman from California will yield back the balance of his time.

Mr. MILLER of California. That is what I am trying to determine.

Mr. YOUNG of Alaska. I yield back the balance of my time. I will have the gentlewoman's amendment made in order right off the bat.

Mr. MILLER of California. Then we will do the Nadler amendment and the Boehlert amendment.

Mr. YOUNG of Alaska. Whatever is right. I will do hers.

Mr. MILLER of California. I thank the Chair for indulging our concerns. The gentleman from New York [Mr. NADLER] is here.

Mr. ACKERMAN. Mr. Chairman, I rise this evening to stand together with my colleagues in commemoration of the Armenian genocide of 1915–23. Eighty-one years ago, while Europe was embroiled in war and the Ottoman Empire was crumbling, a concerted campaign to eradicate the Armenian people began. In the course of 8 brutal years, at least 1.5 million Armenian men, women, and children were massacred.

What was the reason behind this deliberate and calculated effort to destroy any Armenian presence in Turkey? We will probably never know. The official Turkish Government position is that, during World War I, a series of internal conflicts contributed to the unfortunate deaths of many Armenians. In my opinion, that symbolizes a categorical denial of what really happened. It is the denial of an event that has been documented by scholars the world over. That denial is disrespectful to the memories of those that perished, those that survived, and to the civilized world. Quite simply, it is reprehensible. As a Jewish Member of Congress, and a human being, I cannot stand idly by while this denial continues to be perpetrated.

It has been said that when Adolf Hitler was planning the Final Solution to the Jewish problem, he recalled the international reaction to the Armenian genocide: "Who remembers the Armenians?" he offered. In the same vein, who then would stand up for the Jews and remember them? Well, we do remember that Holocaust, as well as the innocent victims of the Armenian genocide, and we will continue doing so, that it may never happen again.

The Armenian genocide was the first of the 20th century, but because the world did not learn its lesson, we were forced to endure the horrors of the Jewish Holocaust. Therefore, we have pledged, and stand together, as Jews, as Armenians, as people, that we will never allow this kind of tragedy to befall us again.

I thank my colleagues, Congressmen JOHN PORTER and FRANK PALLONE, for leading this effort in the House of Representatives, and am proud to be a member of the Armenian Issues Caucus in order to work on this issue of concern to all human beings.

Mr. MATSUI. Mr. Chairman, I rise to express my support for the amendment offered by my colleague from New York, Mr. NADLER. I strongly agree that we must eliminate the provisions of this legislation that would require specific congressional authorization for the creation of new national wildlife refuges.

It is clearly the case that Congress ought to be involved in decisions about the creation of wildlife refuges. In fact, we are already intimately involved in this process. Federal purchase of lands for any wildlife refuge—whether the refuge is new or already in existence—cannot occur unless the Interior appropriations bill specifically allocates funding from the Land and Water Conservation Fund for this purpose.

However, this bill goes too far in requiring that authorizing legislation be approved before a wildlife refuge can be created. Such a requirement would sharply limit the creation of wildlife refuges—taking away from the Federal Government a key tool in protecting critically important lands and wildlife in a manner that imposes very limited regulatory burdens.

If this bill had been in effect in 1992, it could potentially have prevented the creation of the Stone Lakes National Wildlife Refuge in southern Sacramento County. Stone Lakes is a fine example of the opportunities that the National Wildlife Refuge System presents for cooperative, voluntary environmental protection. Since the creation of the refuge, the Fish and Wildlife Service has acquired approximately 800 acres from willing sellers and is in the process of arranging the donation of an additional 1,400 acres for the refuge. The agency is also working to develop cooperative land management agreements with other governmental bodies that own some 5,500 acres within the refuge boundaries.

Through these arrangements, the Federal Government is maximizing environmental benefits while minimizing its costs as well as impacts on private property owners. The benefits are tremendous. The site is a key link for the migratory birds that inhabit California's Central Valley. In addition, Stone Lakes is already a part of nonregulatory solutions to the challenge of species and resource protection—serving as a mitigation site for wetlands and endangered species preservation. Finally, the proximity of this rich resource to the urbanized Sacramento area provides an invaluable opportunity for area residents to enjoy the refuge's benefits.

Stone Lakes exemplifies the possibilities of the National Refuge System. This bill makes a grave mistake in creating major obstacles for the creation of similar sites elsewhere in the country. I strongly oppose these provisions and urge their removal from the bill.

Mrs. COLLINS of Illinois. Mr. Chairman, H.R. 1675, a bill to amend the National Wildlife Refuge System should be called the Republican Bill To Kill the National Wildlife Refuge System. Throughout my 20-plus years in Congress, I have actively supported legislation which would provide increased protection for

America's dwindling natural resources and endangered wildlife, thus ensuring their preservation for the benefit of future generations. I have been mindful of the concerns about the continuing reports of neglect and mistreatment on National Wildlife Refuge lands. However, the bill before us today, instead of helping a delicate system, it would hurt the National Wildlife Refuge System.

This bill to amend the National Wildlife Refuge Act, would in fact significantly alter the management of national wildlife refuges in this country. This bill would weaken the ability of the Fish and Wildlife Service to manage competing public uses of the system; dilute consideration of the public interest from refuge management decisions; open refuges to new or expanded "recreational' activities, including commercial trapping; severely limit the use of the Land and Water Conservation Fund to create new refuges; would create an unneeded exemption process to facilitate military use of refuge lands; and, would strip refuges of reserved water rights. There are currently existing protections and innovative supports for the valuable and precious refuge system. President Clinton's Executive order of March 15, 1996 assures that hunting and fishing will continue to be priority uses of the refuge system. This bill, H.R. 1675 is unnecessary to advance the interests of hunting and fishing and would do serious environmental damage to an "unrenewable" system of lands this nation relies on for conservation of precious fish and wildlife, which we must protect and preserve for our children and grandchildren.

There are good laws currently on the books that need to be funded and supported. Providing recreational activities compatible with wildlife conservation is already an extremely high priority for the National Wildlife Refuge System. As of fiscal year 1995, over 95 percent of the 92 million acres in the Refuge System were open to hunting. Most recently, President Clinton further amplified this emphasis by last month issuing Executive Order 12996 which directs the Secretary of the Interior to "provide expanded opportunities" for priority public uses including hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

Major environmental protection groups oppose this bill. The Washington Post this morning said in an editorial that the wildlife refuge system should be left alone. There is a report that the President would veto this bill as currently written. Again, the Gingrich Republicans in the Congress have exercised the option of wasting time to forward their conservative agenda in a meaningless exercise instead of negotiating and compromising for responsible governing.

I intend to continue to work to ensure that America's beautiful public lands and wildlife are enjoyed and treasured for years to come. For these reasons, I urge my colleagues to vote against H.R. 1675.

Ms. ESHOO. Mr. Chairman, earlier this month, I held eight townhall meetings throughout my district to celebrate Earth Day and listen to what people think about how this Congress is handling the environment.

Time and time again, I heard people say that they strongly favor measures to preserve our natural heritage and oppose efforts by Republican leaders to gut important conservation laws, like the National Wildlife Refuge Act that we're now considering.

This bill will open up national wilderness areas to hunting and fishing, as well as make it more difficult to establish new refuges.

This underscores why other environmental legislation we passed earlier this week was a mere figleaf to hide what the majority in the House do not want the American people to see—its unrelenting assault on our clean air, clean water, clean drinking water, and wilderness areas.

No wonder Bob Herbert wrote in last Friday's New York Times that when you free associate about Republican leaders on the environment, "life-affirming" is the last term that comes to mind.

Mr. Speaker, this week, while people in my district and throughout the Nation are stressing the importance of protecting the environment, Republican leaders are once again rejecting the American value of conservation. I urge my colleagues to vote no on the National Wildlife Refugee Act.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

The amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD on April 16, 1996, and numbered 1 shall be considered by sections as an original bill for the purpose of amendment. Pursuant to the rule, each section is considered read.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member offering an amendment that has been printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will designate section 1.

The text of section 1 is as follows:

SECTION 1. SHORT TITLE; REFERENCES

(a) SHORT TITLE.—This Act may be cited as the "National Wildlife Refuge Improvement Act of 1996".

(b) REFERENCES.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or provision of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. FINDINGS.

(a) FINDINGS.—The Congress finds the following:

(1) The National Wildlife Refuge System is comprised of over 91,000,000 acres of Federal lands that have been incorporated within 508 individual units located in all 50 States and our territories.

(2) The System was created to conserve fish, wildlife, and other habitats and this conservation mission has been facilitated by providing Americans opportunities to participate in wildlife-dependent recreation, including fishing and hunting, on System lands and to better appreciate the value of and need for fish and wildlife conservation.

(3) The System is comprised of lands purchased not only through the use of tax dollars but also through the sale of Duck Stamps and refuge entrance fees. it is a System paid for by those utilizing it.

(4) On March 25, 1996, the President issued Executive Order 12996 which recognized "wildlife-dependent recreational activities involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation as priority general public uses of the Refuge System".

(5) Executive Order 12996 is a positive step in the right direction and will serve as the foundation for the permanent statutory changes made by this Act.

The CHAIRMAN. Are there any amendments to section 2?

If not, the clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—Section 5 (16 U.S.C. 668ee)—

(1) is redesignated as section 4; and

(2) as so redesignated is amended to read as follows:

The CHAIRMAN. Are there any amendments to section 3?

Mr. YOUNG of Alaska. Mr. Chairman, instead of going through all the sections, I ask unanimous consent that the remainder of the amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

There was no objection.

The text of the remainder of the amendment in the nature of a substitute is as follows:

"SEC. 4. DEFINITIONS.

"For purposes of this Act:

"(1) The term 'compatible use' means a use that will not materially interfere with or detract from the fulfillment of the purposes of a refuge or the purposes of the System specified in section 4(a)(3), as determined by sound resource management, and based on reliable scientific information.

"(2) The terms 'conserving', 'conservation', 'manage', 'managing', and 'management', when used with respect to fish and wildlife, mean to use, in accordance with applicable Federal and State laws, methods and procedures associated with modern scientific resource programs including protection, research, census, law enforcement, habitat management, propagation, live trapping and transplantation, and regulated taking.

"(3) The term 'Coordination Area' means a wildlife management area that is acquired by the Federal Government and subsequently made available to a State—

"(A) by cooperative agreement between the United States Fish and Wildlife Service and the State fish and game agency pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. 661-666c); or

"(B) by long-term leases or agreements pursuant to the Bankhead-Jones Farm Tenant Act (50 Stat. 525; 7 U.S.C. 1010 et seq.).

"(4) The term 'Director' means the Director of the United States Fish and Wildlife Service.

"(5) The terms 'fish', 'wildlife', and 'fish and wildlife' mean any wild member of the animal kingdom whether alive or dead, and regardless of whether the member was bred, hatched, or born in captivity, including a part, product, egg, or offspring of the member.

"(6) The term 'hunt' and 'hunting' do not include any taking of the American alligator (Alligator mississippiensis) or its eggs.

"(7) The term 'person' means any individual, partnership, corporation or association.

"(8) The term 'plant' means any member of the plant kingdom in a wild, unconfined state, including any plant community, seed, root, or other part of a plant.

"(9) The terms 'purposes of the refuge' and 'purposes of each refuge' mean the purposes specified in or derived from the law, proclamation, executive order, agreement, public land order, donation document, or administrative memorandum establishing, authorizing, or expanding a refuge, refuge unit, or refuge subunit.

"(10) The term 'refuge' means a designated area of land, water, or an interest in land or water within the System, but does not include navigational servitudes, or Coordination Areas.

"(11) The term 'Secretary' means the Secretary of the Interior.

"(12) The terms 'State' and 'United States' mean the several States of the United States, Puerto Rico, American Samoa, the Virgin Islands, Guam, and the insular possessions of the United States.

"(13) The term 'System' means the National Wildlife Refuge System designated under section 4(a)(1).

"(14) The terms 'take', 'taking', or 'taken' mean to pursue, hunt, shoot, capture, collect, or kill, or to attempt to pursue, hunt, shoot, capture, collect, or kill.".

(b) CONFORMING AMENDMENT.—Section 4 (16 U.S.C. 668dd) is amended by striking "Secretary of the Interior" each place it appears and inserting "Secretary".

SEC. 4. MISSION AND PURPOSES OF THE SYSTEM.

Section 4(a) (16 U.S.C. 668dd(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively;

(2) in clause (i) of paragraph (6) (as so redesignated), by striking "paragraph (2)" and inserting "paragraph (5)"; and

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) The overall mission of the System is to conserve and manage fish, wildlife, and plants and their habitats within the System for the benefit of present and future generations of the people of the United States.

"(3) The purposes of the System are—

"(A) to provide a national network of lands and waters designed to conserve and manage fish, wildlife, and plants and their habitats;

"(B) to conserve, manage, and where appropriate restore fish and wildlife populations, plant communities, and refuge habitats within the System;

"(C) to conserve and manage migratory birds, anadromous or interjurisdictional fish species, and marine mammals within the System;

"(D) to provide opportunities for compatible uses of refuges consisting of fish- and wildlife-dependent recreation, including fishing and hunting, wildlife observation, and environmental education;

"(E) to preserve, restore, and recover fish, wildlife, and plants within the System that are listed or are candidates for threatened species or endangered species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) and the habitats on which these species depend; and

"(F) to fulfill as appropriate international treaty obligations of the United States with respect to fish, wildlife, and plants, and their habitats.".

SEC. 5. ADMINISTRATION OF THE SYSTEM.

(a) ADMINISTRATION, GENERALLY.—Section 4(a) (16 U.S.C. 668dd(a)) (as amended by section 3 of this Act) is further amended by inserting after new paragraph (3) the following new paragraph:

"(4) In administering the System, the Secretary shall—

"(A) ensure that the mission and purposes of the System described in paragraphs (2) and (3), respectively, and the purposes of each refuge are carried out, except that if a conflict exists between the purposes of a refuge and any purpose of the System, the conflict shall be resolved in a manner that first protects the purposes of the refuge, and, to the extent practicable, that also achieves the purposes of the System;

"(B) provide for conservation of fish and wildlife and their habitats within the System;

"(C) ensure effective coordination, interaction, and cooperation with owners of land adjoining refuges and the fish and wildlife agency of the States in which the units of the System are located;

"(D) assist in the maintenance of adequate water quantity and water quality to fulfill the purposes of the System and the purposes of each refuge;

"(E) acquire under State law through purchase, exchange, or donation water rights that are needed for refuge purposes;

"(F) plan, propose, and direct appropriate expansion of the System in the manner that is best designed to accomplish the purposes of the System and the purposes of each refuge and to complement efforts of States and other Federal agencies to conserve fish and wildlife and their habitats;

"(G) recognize compatible uses of refuges consisting of wildlife-dependent recreational activities involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation as priority general public uses of the System through which the American public can develop an appreciation for fish and wildlife;

"(H) provide expanded opportunities for these priority public uses within the System when they are compatible and consistent with sound principles of fish and wildlife management;

"(I) ensure that such priority public uses receive enhanced attention in planning and management within the System;

"(J) provide increased opportunities for families to experience wildlife-dependent recreation, particularly opportunities for parents and their children to safely engage in traditional outdoor activities, such as fishing and hunting;

"(K) ensure that the biological integrity and environmental health of the System is maintained for the benefit of present and future generations of Americans;

"(L) continue, consistent with existing laws and interagency agreements, authorized or permitted uses of units of the System by other Federal agencies, including those necessary to facilitate military preparedness;

"(M) plan and direct the continued growth of the System in a manner that is best designed to accomplish the mission of the System, to contribute to the conservation of the ecosystems of the United States, and to increase support for the System and participation from conservation partners and the public;

"(N) ensure timely and effective cooperation and collaboration with Federal agencies and State fish and wildlife agencies during the course of acquiring and managing refuges;

"(O) ensure appropriate public involvement opportunities will be provided in conjunction with refuge planning and management activities; and

"(P) identify, prior to acquisition, existing wildlife-dependent compatible uses of new refuge lands that shall be permitted to continue on an interim basis pending completion of comprehensive planning.".

(b) POWERS.—Section 4(b) (16 U.S.C. 668dd(b)) is amended—

(1) in the matter preceding paragraph (1) by striking "authorized—" and inserting "authorized to take the following actions:";

(2) in paragraph (1) by striking "to enter" and inserting "Enter";

(3) in paragraph (2)—

(A) by striking "to accept" and inserting "Accept"; and

(B) by striking ", and" and inserting a period;

(4) in paragraph (3) by striking "to acquire" and inserting "Acquire"; and

(5) by adding at the end the following new paragraph:

"(4) Subject to standards established by and the overall management oversight of the Director, and consistent with standards established by this Act, enter into cooperative agreements with State fish and wildlife agencies and other entities for the management of programs on, or parts of, a refuge.".

SEC. 6. COMPATIBILITY STANDARDS AND PROCEDURES.

Section 4(d) (16 U.S.C. 668dd(d)) is amended by adding at the end the following new paragraph:

"(3)(A)(i) Except as provided in clause (ii), on and after the date that is 3 years after the date of the enactment of the National Wildlife Refuge Preservation Act of 1996, the Secretary shall not initiate or permit a new use of a refuge or expand, renew, or extend an existing use of a refuge, unless the Secretary has determined that the use is a compatible use.

"(ii) On lands added to the System after the date of the enactment of the National Wildlife Refuge Preservation Act of 1996, any existing fish or wildlife-dependent use of a refuge, including fishing, hunting, wildlife observation, and environmental education, shall be permitted to continue on an interim basis unless the Secretary determines that the use is not a compatible use.

"(iii) The Secretary shall permit fishing and hunting on a refuge if the Secretary determines that the activities are consistent with the principles of sound fish and wildlife management, are compatible uses, and are consistent with public safety. No other determinations or findings, except the determination of consistency with State laws and regulations provided for in subsection (m), are required to be made for fishing and hunting to occur. The Secretary may make the determination referred to in this paragraph for a refuge concurrently with the development of a conservation plan for the refuge under subsection (e).

"(B) Not later than 24 months after the date of the enactment of the National Wildlife Refuge Preservation Act of 1996, the Secretary shall issue final regulations establishing the process for determining under subparagraph (A) whether a use is a compatible use, that—

"(i) designate the refuge officer responsible for making initial compatibility determinations;

"(ii) require an estimate of the timeframe, location, manner, and purpose of each use;

"(iii) identify the effects of each use on refuge resources and purposes of each refuge;

"(iv) require that compatibility determinations be made in writing and consider the best professional judgment of the refuge officer designated under clause (i);

"(v) provide for the expedited consideration of uses that will likely have no detrimental effect on the fulfillment of the purposes of a refuge or the purposes of the System specified in subsection (a)(3);

"(vi) provide for the elimination or modification of any use as expeditiously as practicable after a determination is made that the use is not a compatible use;

"(vii) require, after an opportunity for public comment, reevaluation of each existing use, other than those uses specified in clause (viii), when conditions under which the use is permitted change significantly or when there is significant new information regarding the effects of the use, but not less frequently than once every 10 years, to ensure that the use remains a compatible use;

"(viii) require after an opportunity for public comment reevaluation of each fish and wildlife-dependent recreational use when conditions under which the use is permitted change significantly or when there is significant new information regarding the effects of the use, but not less frequently than in conjunction with each preparation or revision of a conservation plan under subsection (e) or at least every 15 years;

"(ix) provide an opportunity for public review and comment on each evaluation of a use, unless an opportunity for public review and comment on the evaluation of the use has already been provided during the development or revision of a conservation plan for the refuge under subsection (e) or has otherwise been provided during routine, periodic determinations of compatibility for fish- and wildlife-dependent recreational uses; and

"(x) provide that when managed in accordance with principles of sound fish and wildlife management, fishing, hunting, wildlife observation, and environmental education in a refuge are generally compatible uses.

"(4) The provisions of this Act relating to determinations of the compatibility of a use shall not apply to—

"(A) overflights above a refuge; and

"(B) activities authorized, funded, or conducted by a Federal agency (other than the United States Fish and Wildlife Service) which has primary jurisdiction over the refuge or a portion of the refuge, if the management of those activities is in accordance with a memorandum of understanding between the Secretary or the Director and the head of the Federal agency with primary jurisdiction over the refuge governing the use of the refuge.

"(5) Overflights above a refuge may be governed by any memorandum of understanding entered into by the Secretary that applies to the refuge.".

SEC. 7. REFUGE CONSERVATION PLANNING PROGRAM.

(a) IN GENERAL.—Section 4 (16 U.S.C. 668dd) is amended—

(1) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1)(A) Except with respect to refuge lands in Alaska (which shall be governed by the refuge planning provisions of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.)), the Secretary shall—

"(i) propose a comprehensive conservation plan for each refuge or related complex of refuges (referred to in this subsection as a 'planning unit') in the System;

"(ii) publish a notice of opportunity for public comment in the Federal Register on each proposed conservation plan;

"(iii) issue a final conservation plan for each planning unit consistent with the provisions of this Act and, to the extent practicable, consistent with fish and wildlife conservation plans of the State in which the refuge is located; and

"(iv) not less frequently than 15 years after the date of issuance of a conservation plan under clause (iii) and every 15 years thereafter, revise the conservation plan as may be necessary.

"(B) The Secretary shall prepare a comprehensive conservation plan under this subsection for each refuge within 15 years after the date of enactment of the National Wildlife Refuge Preservation Act of 1996.

"(C) The Secretary shall manage each refuge or planning unit under plans in effect on the date of enactment of the National Wildlife Refuge Preservation Act of 1996, to the extent such plans are consistent with this Act, until such plans are revised or superseded by new comprehensive conservation plans issued under this subsection.

"(D) Uses or activities consistent with this Act may occur on any refuge or planning unit before existing plans are revised or new comprehensive conservation plans are issued under this subsection.

"(E) Upon completion of a comprehensive conservation plan under this subsection for a refuge or planning unit, the Secretary shall manage the refuge or planning unit in a manner consistent with the plan and shall revise the plan at any time if the Secretary determines that conditions that affect the refuge or planning unit have changed significantly.

"(2) In developing each comprehensive conservation plan under this subsection for a planning unit, the Secretary, acting through the Director, shall identify and describe—

"(A) the purposes of each refuge comprising the planning unit and the purposes of the System applicable to those refuges;

"(B) the distribution, migration patterns, and abundance of fish, wildlife, and plant populations and related habitats within the planning unit;

"(C) the archaeological and cultural values of the planning unit;

"(D) such areas within the planning unit that are suitable for use as administrative sites or visitor facilities;

"(E) significant problems that may adversely affect the populations and habitats of fish, wildlife, and plants within the planning unit and the actions necessary to correct or mitigate such problems; and

"(F) the opportunities for fish- and wildlife-dependent recreation, including fishing and hunting, wildlife observation, environmental education, interpretation of the resources and values of the planning unit, and other uses that may contribute to refuge management.

"(3) In preparing each comprehensive conservation plan under this subsection, and any revision to such a plan, the Secretary, acting through the Director, shall, to the maximum extent practicable and consistent with this Act—

"(A) consult with adjoining Federal, State, local, and private landowners and affected State conservation agencies; and

"(B) coordinate the development of the conservation plan or revision of the plan with relevant State conservation plans for fish and wildlife and their habitats.

"(4)(A) In accordance with subparagraph (B), the Secretary shall develop and implement a process to ensure an opportunity for active public involvement in the preparation and revision of comprehensive conservation plans under this subsection. At a minimum, the Secretary shall require that publication of any final plan shall include a summary of the comments made by States, adjacent or potentially affected landowners, local governments, and any other affected parties, together with a statement of the disposition of concerns expressed in those comments.

"(B) Prior to the adoption of each comprehensive conservation plan under this subsection, the Secretary shall issue public notice of the draft proposed plan, make copies of the plan available at the affected field and regional offices of the United States Fish and Wildlife Service, and provide opportunity for public comment.".

SEC. 8. EMERGENCY POWER; PRESIDENTIAL EXEMPTION; STATE AUTHORITY; WATER RIGHTS; COORDINATION.

(a) IN GENERAL.—Section 4 (16 U.S.C. 668dd) is further amended by adding at the end the following new subsections:

"(k) Notwithstanding any other provision of this Act the Secretary may temporarily suspend, allow, or initiate any activity in a refuge in the System in the event of any emergency that constitutes an imminent danger to the health and safety of the public or any fish or wildlife population, including any activity to control or eradicate sea lampreys, zebra mussels, or any other aquatic nuisance species (as that term is defined in section 1003 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4702)).

"(l)(1) The President may exempt from any provision of this Act any activity conducted by the Department of Defense on a refuge within the System if the President finds that—

"(A) the activity is in the paramount interest of the United States for reasons of national security; and

"(B) there is no feasible and prudent alternative location on public lands for the activity.

"(2) After the President authorizes an exemption under paragraph (1), the Secretary of Defense shall undertake, with the concurrence of the Secretary of the Interior, appropriate steps to mitigate the effect of the exempted activity on the refuge.

"(m) Nothing in this Act shall be construed to authorize the Secretary to control or regulate hunting or fishing of fish and resident wildlife on lands or waters not within the System.

"(n) Nothing in this Act shall be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate fish and resident wildlife under State law or regulations in any area within the System. Regulations permitting hunting or fishing of fish and resident wildlife within the System shall be, to the extent practicable, consistent with State fish and wildlife laws, regulations, or management plans.

"(o)(1) Nothing in this Act shall—

"(A) create a reserved water right, express or implied, in the United States for any purpose;

"(B) affect any water right in existence on the date of enactment of the National Wildlife Refuge Preservation Act of 1996; or

"(C) affect any Federal or State law in existence on the date of the enactment of the National Wildlife Refuge Preservation Act of 1996 regarding water quality or water quantity.

"(2) Nothing in this Act shall diminish or affect the ability to join the United States in the adjudication of rights to the use of water pursuant to the McCarran Act (43 U.S.C. 666).

"(p) Coordination with State fish and wildlife agency personnel or with personnel of other affected State agencies pursuant to this Act shall not be subject to the Federal Advisory Committee Act.".

(b) CONFORMING AMENDMENT.—Section 4(c) (16 U.S.C. 668dd(c)) is amended by striking the last sentence.

SEC. 9. STATUTORY CONSTRUCTION.

Nothing in this Act is intended to affect—

(1) the provisions for subsistence uses in Alaska set forth in the Alaska National Interest Lands Conservation Act (Public Law 96-487), including those in titles III and VIII of that Act;

(2) the provisions of section 102 of the Alaska National Interest Lands Conservation Act, the jurisdiction over subsistence uses in Alaska, or any assertion of subsistence uses in the Federal courts; and

(3) the manner in which section 810 of the Alaska National Interest Lands Conservation Act is implemented in refuges in Alaska, and the determination of compatible use as it relates to subsistence uses in these refuges.

SEC. 10. NEW REFUGES.

Notwithstanding any other provision of law, no funds may be expended from the Land and Water Conservation Fund established by Public Law 88-578, for the creation of a new refuge within the National Wildlife Refuge System without specific authorization from Congress pursuant to recommendation from the United States Fish and Wildlife Service, to create that new refuge.

SEC. 11. REORGANIZATIONAL TECHNICAL AMENDMENTS.

(a) REORGANIZATIONAL AMENDMENTS.—The Act of October 15, 1966 (16 U.S.C. 668dd et seq.) is amended—

(1) by adding before section 4 the following new section:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'National Wildlife Refuge System Administration Act of 1966'.";

(2) by striking sections 6, 7, 8, 9, and 10; and

(3) in section 4 (16 U.S.C. 668dd), as in effect immediately before the enactment of this Act—

(A) by redesignating that section as section 2;

(B) by striking "SEC. 4."; and

(C) by inserting before and immediately above the text of the section the following new heading:

"SEC. 4. NATIONAL WILDLIFE REFUGE SYSTEM.".

(b) CONFORMING AMENDMENT.—Section 12(f) of the Act of December 5, 1969 (83 Stat. 283) is repealed.

(c) REFERENCES.—Any reference in any law, regulation, or other document of the United States to section 4 of the National Wildlife Refuge System Administration Act of 1966 is deemed to refer to section 2 of that Act, as redesignated by subsection (a)(4) of this section.

AMENDMENT OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. NADLER: Strike section 10 (page 23, lines 3 through 10).

Mr. NADLER. Mr. Chairman, I rise today to offer an amendment to protect both the environment and property owners from further government micromanagement.

My amendment seeks to strike from the bill section 10, the provision calling for specific congressional authorization for the purchase of every single new wildlife refuge that uses money from the land and water conservation fund. The current system, which my amendment would retain, allows the use of funds from the land and water conservation fund to establish a wildlife refuge either by a specific act of Congress or by administrative act of the U.S. Fish and Wildlife Service.

Historically, when a refuge is being sought through the administration process, the Fish and Wildlife Service submits a list of proposed purchases to the Congress for our approval through the Interior appropriations bill. Whether a refuge is being purchased due to a specific legislation initiative or administratively, land is purchased at fair market value as determined by approved appraisal procedures according to Federal law.

The land is purchased, Mr. Chairman, only from willing sellers. While the Fish and Wildlife Service does have condemnation authority, it has not acquired land from condemnation for many years and does not have any plans to do so in the future. In fact, the Fish and Wildlife Service states:

> Condemnation has been used sparingly throughout the service's land acquisition history. The service recognizes the possible social and economic impacts of acquiring private property by exercising the right of eminent domain and does its utmost to avoid using this approach.

Mr. Chairman, the era of big government is supposed to be behind us. Creating the need for Congress to authorize no specific legislation every single refuge is unnecessary and burdensome. The current process of using land and water conservation funds is working for landowners and for the environment. The landowners, who again are willing sellers, receive fair compensation quickly. In turn, the habitats and animals that are in need of protection receive it in a timely manner.

□ 1530

Adding another layer of bureaucracy, the entire congressional authorization process, to this process, will do nothing but create a backlog of pending purchases of land for refuges. Then while Congress muddles through authorizing each single potential purchase, landowners, willing sellers, would be left waiting for Congress to act to collect the funds to which they are entitled.

While the debate rates on about how to best protect property owners and the environment at the same time, we have in this amendment an opportunity to protect both property owners and the environment by providing a way for the landowner to be fairly compensated and the environment to be protected. I urge my colleagues to protect the property owners who want to sell the land and environment, which needs the land at the same time.

Mr. BOEHLERT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, purchases made with money from the land and water conservation fund operate differently from virtually every other type of Federal land acquisition. Now, there is a legitimate reason for that. The land and water conservation fund needs to be available for emergencies. I will offer a substitute amendment to address any conceivable emergency situation.

The Nadler amendment goes a step further to extract the Congress from legitimate policy making. I think that goes too far.

The section the gentleman from New York [Mr. NADLER] is amending is already very narrow. The bill would not change the procedures for expanding any existing refuge and, with my amendment, it would not change the procedures for any emergency acquisitions of new refuges. So we are talking about very few cases where the new restriction in section 10 would apply. In those cases, it is perfectly legitimate to exercise congressional oversight. That is what the people send us here for.

I would also add that this discussion is quite hypothetical. Given the budget crunch, the Interior Department is not going to be able to manage much new land in the near future. The administration has projected in its budget that no new refuge land will be acquired in fiscal year 1997.

In short, my amendment takes care of the problem with section 10 of the original bill. Therefore, Mr. Chairman, I urge defeat of the Nadler amendment.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding. When the gentleman talked about "your" language, he is talking about his language in the en bloc amendments that he is going to offer, is that correct?

Mr. BOEHLERT. Mr. Chairman, reclaiming my time, it is essentially the same language, the 500.

Mr. MILLER of California. What I do not understand, I am looking at two different languages. One deals with the issue of expansion.

Mr. BOEHLERT. The staff will bring that over.

Mr. MILLER of California. The language originally, correct me if I am wrong, it was my understanding that the language in the en bloc amendment that the gentleman was going to offer went with the creation of the refuge in excess of 500 acres. This language that the gentleman is now discussing goes both to the creation and to the expansion.

Mr. BOEHLERT. That is the same language as in my en bloc amendment.

Mr. MILLER of California. The same language in the original. So is the gentleman going to offer his en bloc language to Nadler?

Mr. BOEHLERT. Because of the way this is flowing, the gentleman from New York [Mr. NADLER] is first up, his amendment was printed in the RECORD, so it is timely for me to address his specific amendment.

Mr. MILLER of California. The gentleman would in that event require the Congress' specific authorization for the expansion of an existing refuge?

Mr. BOEHLERT. No, for new refuges in excess of 500 acres, and the expansion of any of those refuges.

Mr. MILLER of California. If one looks at the second to the last line, it says "create or expand that new refuge."

Mr. BOEHLERT. That is correct. We are just talking about new refuges over 500 and if you expand those.

Mr. MILLER of California. You are grandfathering all of the existing refuges in?

Mr. BOEHLERT. That is right.

Mr. MILLER of California. They can be expanded without direct authorization. The new refuge, from today forward, if you expand that new refuge, would you require specific authorization?

Mr. BOEHLERT. That is correct.

Mr. MILLER of California. So if there was an inholding of 501 acres, we would have to get a direct authorization from Congress?

Mr. BOEHLERT. That is correct, to expand it.

Mr. MILLER of California. OK. If there is an inholding of 501 acres in an existing refuge, they can do that under the Secretary's discretion in the land and water conservation?

Half the heads are going up and down and half sideways.

Mr. BOEHLERT. None of this applies to existing refuges. What I am suggesting is as we go forward and we develop new refuges, we should have the authority to go and acquire refuges of less than 500 acres just like that, because they are time sensitive. We all know the reasons why. If we go into a massive refuge, in excess of 500 acres, I think then the Congress should have authorizing responsibility and fulfill that responsibility.

The gentleman and I, as so often on these issues, are on the same wavelength.

Mr. MILLER of California. If the new refuge needed to be expanded, it would take a direct authorization?

Mr. BOEHLERT. That is correct.

Mr. MILLER of California. If an existing refuge in existence today needs to be expanded beyond 500 acres, that would not take a direct authorization?

Mr. BOEHLERT. That is correct.

AMENDMENT OFFERED BY MR. BOEHLERT AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. NADLER

Mr. BOEHLERT. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. BOEHLERT as a substitute for the amendment offered by Mr. NADLER: Strike the text of the amendment and insert instead:

"Strike section 10 and insert instead:

'Notwithstanding any other provision of law, no funds may be expended from the Land and Water Conservation Fund established by Public Law 88-578, for the creation of a new refuge having a total area greater than 500 acres or the expansion of a new refuge of any acreage within the National Wildlife Refuge System without specific authorization of Congress pursuant to a recommendation of the United States Fish and Wildlife Service, to create or expand that new refuge. For purposes of this section, a new refuge is a refuge created after the date of enactment of the National Wildlife Refuge Improvement Act.' ".

Mr. BOEHLERT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BOEHLERT. I will not take up more time, because we have already had the argument for the rationale for the amendment in my exchange with the gentleman from California [Mr. MILLER].

The CHAIRMAN. The gentleman will suspend.

The amendment offered by the gentleman from New York is not in order. The gentleman from New York [Mr. NADLER] has a motion to strike. The gentleman from New York may have a substitute.

Mr. BOEHLERT. That is what I asked for. I said I had a substitute amendment.

The CHAIRMAN. The gentleman cannot have a substitute to the Nadler amendment. What the gentleman could do is have a substitute to section 10, and what Mr. NADLER's motion is is an amendment to strike section 10.

PERFECTING AMENDMENT OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

Perfecting amendment offered by Mr. BOEHLERT: "Strike section 10 (page 23, lines 3 through 10) and insert instead:

'Notwithstanding any other provision of law, no funds may be expended from the Land and Water Conservation Fund established by Public Law 88-578, for the creation of a new refuge having a total area greater than 500 acres or the expansion of a new refuge of any acreage within the National Wildlife Refuge System without specific authorization of Congress pursuant to a recommendation of the United States Fish and Wildlife Service, to create or expand that new refuge. For purposes of this section, a new refuge is a refuge created after the date of enactment of the National Wildlife Refuge Improvement Act.' ".

Mr. BOEHLERT (during the reading). Mr. Chairman, I ask unanimous consent that the perfecting amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was not objection.

Mr. BOEHLERT. Mr. Chairman, once again, the same holds true. I think we have had the discussion, the colloquy I had with the gentleman from California [Mr. MILLER], and I have made the case for the perfecting amendment. I ask that it be considered.

Mr. NADLER. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I would ask the gentleman from New York [Mr. BOEHLERT], and correct me if I am wrong, please, but as I read his whatever kind of amendment it is, if I read the perfecting amendment correctly, if I read the language, it says "The creation of a new refuge having a total area greater than 500 acres of the expansion of a new refuge of an acreage needs specific Congressional authorization," and then it says "for the purpose of this section, new refuges are refuges created after the date of enactment."

Mr. BOEHLERT. Mr. Chairman, reclaiming my time, let me stress, the new refuge in excess of 500 acres, that is what I want Congress to have a say on. I want emergency situations taken care of, obviously, with the authority to proceed with 20, 30, 50, 100, 200 acres. Very often they are very time-sensitive. You need to grab the deal when you can get it. We are talking about a sizeable number of acres, 500 or more, where I think the elected body of the people's House should have its say.

Mr. NADLER. Mr. Chairman, if the gentleman will yield further, that may be his intent, but as I read the amendment, I think what it says, and the gentleman may not intend for it to say that, is if next year, without congressional authorization, the Fish and Wildlife Service were to establish a 200-acre refuge, which the gentleman thinks should not need congressional authorization, and 3 years later they decide they want another 20 acres, that is an expansion of a new refuge and they would need authority.

Mr. BOEHLERT. Mr. Chairman, reclaiming my time, I think the gentleman is performing a very valuable public service by this colloquy, because we are enlightening future generations with this exchange.

My clear intent is to deal with new refuges of more than 500 acres, and then if you expand them. But the illustration the gentleman just gave us, 200 acres, which they have the authority to acquire immediately right now, if next year in their wisdom they decide to acquire 20 more acres, no problem, you do not have to come up to the people's House to ask our permission to do so. We do not have to have any hearings. We just proceed.

Mr. NADLER. Mr. Chairman, if the gentleman will yield further, I appreciate his explanation, and this is legislative history. But I think Mr. Scalia and the Supreme Court and several others have scant regard for legislative history. I would submit that the plain language of the amendment says very clearly that a new refuge is a refuge created after a given date, and the expansion of a new refuge of any acreage needs congressional authorization. So "new refuge" is one of any acreage, 200 acres. If you want to expand it later by 20 more, you need congressional authorization.

That may not have been the gentleman's intent, but that is what it says. This colloquy, as enlightening a it is, I do not think will be regarded by the courts.

I would urge the gentleman, I do not agree with the amendment in any event, but I would urge him, sir, even to effectuate what he wants to do, that he ought to change the wording of the perfecting amendment.

Mr. BOEHLERT. Mr. Chairman, reclaiming my time, I think we have had a good, healthy exchange. Everyone has had the opportunity to listen to our respective points of view.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of the Boehlert amendment and compliment the gentleman in his effort.

Mr. Chairman, I object to the amendment of the gentleman from New York [Mr. NADLER] for two basic reasons. You talk about a willing seller-willing buyer. A willing buyer, yes, but not always the seller. There have been cases where Fish and Wildlife has gone into an area and drawn a refuge around different landholders in long, spidery ways, surrounding them, and then declaring the area around these private landholders as a refuge, and they are inside the refuge, being then an inholder.

Then what happens, the land value decreases dramatically from anybody else, because they are under certain restrictions because it is called a buffer zone. So what would occur under the gentleman's thoughts here would be in reality an agency willing to go in and get 499 acres around an area, and the willing seller would only have one buyer. Any time you have one buyer, and that buyer being the U.S. Government, and one owner being put in that kind of spot, it has a devastating effect on that one owner. We have seen that occur not just with this administration, but other administrations also. So this is not partisan.

We are trying to avoid that. We are allowing them to get a certain amount of acreage in an emergency case. But every other time they have got to come back to this Congress to authorize, for us to say it is the right thing to do, and not be put into the position of making the landowners subvergent to the Federal Government.

Mr. PETRI. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Chairman, I just want to underline the importance of the gentleman's remarks and agree with them fully, and tell the body that in my own case in the 6th District of Wisconsin years ago, Fish and Wildlife Service was acquiring land without Congressional authorization, and sending letters to landowners, farmers principally, which they thought meant they were subject to eminent domain and were being forced to sell. There were outrages and protests. Finally we heard they did not have any legal authority for doing what they did and managed to get it stopped.

I would not let this completely out of the box. I would keep some type of opportunity to review and make them justify to neutral, informed observers what they are actually doing, so we do not see Government get a little too heavyhanded.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, I am suggesting with the Boehlert amendment we have solved the problems of the emergency. But we have also put a cap on the administration or the agency itself of misusing its power as it has done in the past.

The gentleman from New York may not be aware of this, but this has occurred. All we are saying is we have a responsibility as Congressmen, and the Member of that district has the responsibility if a refuge is in fact proposed that is beyond 500 acres, then in reality they ought to come back here and talk to the chairman of the subcommittee and the Members, and especially the Member of that district. So I support the Boehlert amendment, and I definitely oppose the Nadler amendment.

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Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I thank the gentleman for his valuable support. This is a significant improvement to the bill because it allows emergency purchases of environmentally sensitive lands and that is exactly what we want to do. Keep in mind the overwhelming majority of refuges around the country are less than 500 acres.

Mr. NADLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first of all, I am told that the statement that was made a moment ago is not correct—408 of the 503 refuges in the country are over 500 acres. That is the first point.

The second point is that I understand the remarks of the gentleman from Alaska, but the normal procedure admittedly not followed this past year because Congress did not pass any appropriations bills, or the relevant appropriations bills, but the normal procedure is when a refuge is sought, the Fish and Wildlife Service submits a list of proposed purchases to the Congress and the Congress approves it through the committee report on the Subcommittee on the Interior appropriations bill. And that that has been invariably followed, that the report language of the Subcommittee on the Interior of the Committee on Appropriations lists which refuges should be bought with the LWCF appropriation and that the committee is only appropriated enough money to cover the cost of purchasing the refuges that it lists.

Now, it is true this is not binding, but all parties have abided by this list except this past year when there was no appropriations bill and, therefore, no appropriations language.

Mr. Chairman, I would submit that rather than requiring authorizing legislation, which we know can take a long time and add whole layers of proceedings before we get a refuge, that the process we have now, where essentially Congress signs off on it through the report of the Subcommittee on the Interior, is a better way to go. And, therefore, I would oppose the gentleman's perfecting amendment.

I think that as long as we have that control through the Subcommittee on the Interior language, and maybe we ought to codify that, but the fact is that is the way we have been doing it, Congress has the control.

The second point I would make is simply again, with all due deference, the fact is the language of the perfecting amendment says very clearly that you need congressional authorizing legislation for the creation of a new refuge having a total greater than 500 acres or the expansion of a new refuge of any acreage, period; a new refuge being defined as anything created after this date.

So what that clearly means, whatever the intent of the author of the amendment and what the courts will clearly read into it, it is not interpretation, just read the clear language, it says that if a new refuge is created of less than 500 acres you do not need congressional approval for that, but for the expansion of such a new refuge a year or two later, also less than 500 acres, totaling less than 500 acres, you would need congressional authorizing approval for that.

It is clearly not what the gentleman intends but it is what the language suggests. So even if you agree with the gentleman, it should be changed before we vote on it.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding, and I want to say that I think that he is correct and that I concur on the plain reading of the amendment and I have some concerns with it. And that is that when we originally discussed this, I believe the original Pombo amendment was to go to the creation of a new refuge, that Congress ought to be involved in that decision and that ought to take a direct authorization.

I think there was sort of general agreement about that, but what we have here is not only the creation but the expansion of that new refuge. And I think what the gentleman from New York [Mr. NADLER] is reading is in fact correct on its face; and that is that any expansion, be it 20 acres or 200 acres, would require a direct authorization. I think that would be even true in the case where you have a willing seller and a willing buyer. So you would have to come back to Congress and wait around for that.

There has been the discussion of an emergency situation, but there is no reference or I do not understand the reference to an emergency situation of 20 or 30 acres, because it says quite specifically, pursuant to recommendations of the Fish and Wildlife Service to create or expand a new refuge, that it cannot be done without specific authorization of Congress. And that goes to the expansion, and there is no acreage limitation on the issue of expansion.

Very often we have willing sellers and willing buyers, either that are inholdings or on the boundary, that seek to have the purchase of their lands made. And I think in that particular case we ought not to require that to come to Congress.

So, Mr. Chairman, I would hope prior to either the acceptance of this amendment, or if it would be voted on or what have you, I do not know if it would be prevailed on or not; but I think that language should be corrected because I think it is going to be an obstacle. And if we are concerned, and I think in our committee we had some legitimate concerns raised——

The CHAIRMAN. The time of the gentleman from New York [Mr. NADLER] has expired.

(On request of Mr. MILLER of California, and by unanimous consent, Mr. NADLER was allowed to proceed for 2 additional minutes.)

Mr. NADLER. I continue to yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, where we had the notion of creating a new refuge, and some of that may or may not have been speculative in nature, and landholders did not know what was going to happen or not happen, and that the authorization was a way to tell people what their situation was with respect to the creation of that. It is not a speculation that could go on year after year after year after year and inhibit people's ability to possibly use or sell their land.

But I think this amendment goes way beyond that. I think this amendment does not do what the author wants it to do and it ought to be reconfigured certainly with respect to the problems regarding expansion.

I thank the gentleman for yielding.

Mr. NADLER. Mr. Chairman, reclaiming my time, I would point out simply that the language of this amendment says the expansion of a new refuge of any acreage. That clearly means a new refuge that is less than 500 acres. If we want to expand it by 32 acres or 60 acres, it requires the authorization of Congress. And if the gentleman did not intend that, I would hope the gentleman would change by unanimous consent his own amendment to make clear what he does intend because the language is very clear.

Mr. POMBO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as the gentleman from California [Mr. MILLER] knows, when this bill originally came up before the committee and my amendment was offered to restrict the creation of a new wildlife refuge without the direct authorization of Congress, it met very little resistance in the committee and, in fact, passed on a voice vote in the committee; because it only made common sense that if we are obligating funds, taxpayer money, if we are obligating Federal funds from a Federal account, that Congress and the authorizing committee, of which the gentleman from California [Mr. MILLER] is the ranking member, and the gentleman from Alaska [Mr. YOUNG] is the chairman, ought to have the ability to ask questions about what the priorities are.

There are limited amounts of money that can be expended every year. So it is extremely important that we prioritize where those dollars are going to be spent, what scientific basis there is for creating that refuge, where they want to create it, and that Congress does take that authorization stance.

Now, the gentleman from New York [Mr. NADLER] brought up that Congress does appropriate the money and it does come through the Subcommittee on Interior appropriations, which is correct. That does happen. But the reason that it happens that way is because Fish and Wildlife goes out, creates a new refuge somewhere, with no congressional oversight whatsoever, obligates the U.S. taxpayer to millions of dollars to purchase that refuge, plus additional operating expenses to continue to maintain that refuge on an annual basis, and our property owners come to us and say, look, we have just been put in the middle of a wildlife refuge. I am now a willing seller because I cannot use my property anymore; or I live under restrictions of the Fish and Wildlife Service now and the only person that will purchase my property now is the Federal Government because they have just designated me a wildlife refuge. So we have to go to the Committee on Appropriations and say, please buy these people's land that we have already taken.

There is absolutely nothing wrong with congressional oversight. There is nothing wrong with the U.S. Congress doing the job that they are supposed to be doing, and that is watching over the people's money.

I do not understand, Mr. Chairman, how anybody could come down here and seriously say that we should create wildlife refuges, for example, according to Fish and Wildlife Service they purchased a little over 1,200 acres in California last year for a wildlife refuge at the cost of $10.5 million. Now, that is a lot of money. They did that without any congressional oversight whatsoever, without us determining whether or not this was a priority site. And it may have been a priority site, but Congress ought to take an affirmative step, step in and say whether or not it is a priority, whether or not the science backs it up or whether or not there may be someplace else that is a higher priority.

To have someone seriously say that Congress should not, and should abdicate its responsibilities and let the unelected bureaucrats, the unelected faceless, nameless bureaucracy take control of money that should be under the direct control of Congress, I do not understand. This is a very important issue. This is not just something that someone came up with at night.

Now, Mr. Chairman, the gentleman from New York [Mr. BOEHLERT] and I have disagreed on a lot of things. He came in with concerns about this and we sat down and we worked out an agreement, and we said anything over 500 acres, or if they want to expand that new refuge so that in 1 year they do not come in and say we are going to buy 490 acres and the next year we are going to expand it with 10,000 acres. We felt this was a reasonable compromise. We felt it was something everyone should support and it should be totally noncontroversial.

Mr. Chairman, when the gentleman from New York [Mr. BOEHLERT] and I are on the same side of something, it should be noncontroversial. It is a good amendment that should pass, and I believe that Congress should not abdicate its responsibilities and we should have full oversight authority over these refuges.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. POMBO. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I want to point out that this is consistent with the existing policy that the Secretary of the Interior is already familiar with as it pertains to national parks. If there is going to be an addition to the national parks, the Secretary of the Interior is used to coming to Capitol Hill to get the authorization.

Mr. POMBO. Mr. Chairman, reclaiming my time, that is absolutely correct. If we want to add to a national park, which may be very important and it may be a priority, Congress must approve that in order to do it. If we want to add to the Forest Service lands, they have to come to Congress to do it. But in this one instance we do not have to do that, and we are trying to correct an oversight.

The CHAIRMAN. The time of the gentleman from California [Mr. POMBO] has expired.

(By unanimous consent, Mr. POMBO was allowed to proceed for 1 additional minute.)

Mr. POMBO. Mr. Chairman, I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I thank the gentleman for yielding to me.

I want to know if the gentleman from California [Mr. POMBO] and the gentleman from New York [Mr. BOEHLERT], regardless of the merits of the entire question, would at least agree to a unanimous-consent request to amend Mr. BOEHLERT's amendment to make it do what he says it would do; so to say it would then read, withstanding any other provision of law, no funds would be expended, et cetera, et cetera, for the creation of a new refuge for a total area greater than 500, or the expansions of any refuge of any acreage that would result in the new refuge than being 500 or more acres.

If the gentleman put in that language, it would at least make clear it would do what the gentleman from New York [Mr. BOEHLERT] says he intends to do and do what the gentleman from California [Mr. POMBO] seem to want to do.

Mr. YOUNG of Alaska, Mr. Chairman, will the gentleman yield?

Mr. POMBO. Mr. Chairman, reclaiming my time, I yield to the chairman, the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, my problem is the gentleman from New York spoke so fast and said et cetera, et cetera, et cetera. When I see a few et ceteras, I get a little concerned.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words and I yield to the gentleman from New York [Mr. NADLER].

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Mr. NADLER. Mr. Chairman, what I am proposing is that the gentleman would amend the amendment to read as follows: Notwithstanding any other provision of law, no funds may be expended from the land and water conservation fund established by Public Law 88-578 for the creation of a new refuge having a total area greater than 500 acres or the expansion of a new refuge of any acreage that would result in the new refuge having a total land area greater than 500 acres within the national wildlife refuge system, and so forth.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I will accept that. In the spirit of comity, two New Yorkers working something out, that is very positive and very constructive.

The CHAIRMAN. The Chair would point out that if there is to be a modification by unanimous consent, the gentleman from New York [Mr. BOEHLERT] may request unanimous consent to modify his amendment. That amendment modification must be submitted in writing.

MODIFICATION OF PERFECTING AMENDMENT OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I ask unanimous consent that the perfecting amendment be modified as proposed by the gentleman from New York [Mr. NADLER] and that the modification be adopted.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification of perfecting amendment offered by Mr. BOEHLERT:

In lieu of the matter proposed insert "Strike section 10 and insert instead:

"Notwithstanding any other provision of law, no funds may be expended from the Land and Water Conservation Fund established by Public Law 88-578, for the creation of a new refuge having a total area greater than 500 acres or the expansion of a new refuge of any acreage that would result in the new refuge have an acreage of more than 500 acres within the National Wildlife Refuge System without specific authorization of Congress pursuant to a recommendation of the United States Fish and Wildlife Service, to create or expand that new refuge. For purposes of this section, a new refuge is a refuge created after the date of enactment of this act.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The perfecting amendment is modified.

The question is on the perfecting amendment offered by the gentleman from New York [Mr. BOEHLERT], as modified.

The perfecting, as modified, was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOEHLERT:

COORDINATION AREAS

In section 6, in the matter proposed as section 4(d)(3)(A) of the National Wildlife Refuge System Administration Act of 1966, add at the end the following new clause:

"(iv) A new use of a Coordination Area first made available to a State after the date of enactment of the National Wildlife Refuge Improvement Act of 1996 may not be initiated or permitted unless the Secretary determines that the use is a compatible use.

In section 6, in the matter proposed as section 4(d)(3)(B) of the National Wildlife Refuge System Administration Act of 1966, after "a use" the first place it appears insert "of a refuge".

COMPATIBILITY OF FISHING AND HUNTING

In section 3(a)(2), in the matter amended to read as section 4(1) of the National Wildlife Refuge System Administration Act of 1966, strike "the purposes of the System specified in section 4(a)(3)" and insert "the overall mission and purposes of the System specified in sections 4(a)(2) and (3), respectively,".

In section 6, in the matter proposed as section 4(d)(3)(A)(iii) of the National Wildlife Refuge System Administration Act of 1966, after "uses" insert "(consistent with the purposes of the System under subsection (a)(3))".

In section 8(a), strike the close quotation marks and the second period at the end, and add the following new subsection:

"(q) Nothing in this Act shall be construed as requiring or prohibiting fishing or hunting on any particular refuge except pursuant to a determination by the Secretary in accordance with this Act.".

Mr. BOEHLERT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BOEHLERT. Mr. Chairman, the purpose of this amendment is to eliminate some legitimate concerns that have been raised about this bill. We want to ensure that this bill strengthens the refuge system and it is built to carry out its vital conservation mission. I think this package of amendments will accomplish that objective.

The amendment addresses three problems with the bill as reported out of the Committee on Rules. That bill, by the way, was a significant improvement over the version that was reported out of the Committee on Resources originally.

The first problem concerns coordination areas. These are Federal lands that are managed by the States. Now, neither we nor anyone else I know of has any problem with the concept of cooperative management. But we want to ensure that no one can ever use coordination areas as a back door way to allow damaging activities on refuges. The refuge system is Federal, and Federal standards are essential.

The first amendment in this package makes it clear that coordination areas have to be managed using the same standards as refuges. As a practical matter, what that means is that if some use, say jogging, was not permitted in a refuge because it would damage the wildlife and a piece of that refuge became a coordination area, jogging would still be forbidden.

I should add that this applies only to coordination areas created by the transfer of land after the bill is signed into law. We are not interfering with any existing agreements between the Federal Government and any State.

The second problem addressed by this package is the key issue of when wildlife dependent recreation, hunting, fishing, wildlife observation, and so forth, when that recreation is permitted at the refuge. Over the years the Fish and Wildlife Service has struck a delicate balance between protection of species and human enjoyment of the refuge. By and large, no one I have spoken to has a problem with that balance, not sportsmen, not environmentalists. Everyone wants to protect the balance. But the language in this bill could be interpreted as throwing aside that balance and replacing it with a new one that could be damaging to wildlife protection.

That would be intolerable. My amendment is designed to ensure that no one will ever interpret the bill in that matter. The amendments, there are three of them, make clear that recreational activities can be permitted only when the secretary determines that they would not detract form the overall mission of the refuge system. That is conservation.

The amendment makes clear that we are still requiring a balancing act here, that recreational activities can occur only when they would cause no harm. Let me repeat that: Recreational activities can occur only when they would cause no harm.

I would like to engage the gentleman from Alaska [Mr. YOUNG] in a colloquy on this essential point.

I appreciate the willingness of the Committee on Resources to work with us on this amendment, but I would like to clarify some issues. As I understand it, this bill is not intended to require that wildlife dependent recreation be allowed on every refuge; is that correct?

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, the gentleman is correct. The bill is intended to make it clear that wildlife dependent recreation must be allowed when it would not detract from the other purposes of the refuge system. It does not require that recreational activities always be allowed.

Mr. BOEHLERT. Mr. Chairman, I thank the gentleman.

What we all are looking for is a balancing act here between protecting species and allowing the public to enjoy the species that have been protected. Just to reemphasize that point, I would ask the chairman this question: Does the elevation of compatible wildlife dependent recreation to a purpose mean that hunting and fishing and wildlife observation and other recreational activities must always be permitted in the refuge?

Mr. YOUNG of Alaska. Mr. Chairman, if the gentleman will continue to yield, once again, it does not.

Mr. BOEHLERT. I thank my distinguished chairman.

Mr. Chairman, I thank my colleagues for their indulgence. I also would like to thank the gentleman from Florida [Mr. GOSS], the cosponsor of this amendment, who is much more intimately familiar with the details of some of these issues than I am. He has lived with this for a long time. Mr. GOSS and his staff have provided invaluable guidance on this issue.

Mr. Chairman, let me give particular credit to my own staff. This may be viewed as a self-serving declaration, but I happen to think I have got one of the best staffs anyplace on Capitol Hill. Two of those valued members, three of them are sitting right here with me: David Goldston, my legislative director; Jeff More, who is my professional staff member on the Committee on Transportation and Infrastructure Subcommittee on Water Resources and Environment; and Dr. Natalie D'Nicola, who is a science fellow. We have science-based decisionmaking in our office.

The CHAIRMAN. The time of the gentleman from New York [Mr. BOEHLERT] has expired.

(By unanimous consent, Mr. BOEHLERT was allowed to proceed for 30 additional seconds.)

Mr. BOEHLERT. Mr. Chairman, this is a difficult issue in which the future survival of species and the availability of open land for the American people are at stake. This amendment, I believe, restores a sense of balance that was lacking in the original bill. I urge my colleagues to support the amendment and the bill as amended.

The CHAIRMAN. The Chair will clarify for the record, the adoption of the previous Boehlert amendment had the effect of causing the Nadler amendment, which was an amendment to strike, to fall and, therefore, that amendment would not be voted on because of the passage of the first Boehlert amendment, and the question is now on the pending Boehlert amendment.

PARLIAMENTARY INQUIRY

Mr. NADLER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. NADLER. Mr. Chairman, would the Chair restate that? I could not follow what the Chair was saying.

The CHAIRMAN. As stated on page 233 of the House Rules and Manual, when a motion to strike out a section is pending and the section is perfected by an amendment striking and inserting to rewrite the entire section, the pending motion to strike out must fall, since it would not be in order to strike out exactly what had been inserted. Therefore, by adoption of the Boehlert amendment as modified, the Nadler amendment fell and, therefore, the Committee did not vote on the Nadler amendment to strike.

Mr. NADLER. Mr. Chairman, bottom line, the language that we all agreed to is now in the bill?

The CHAIRMAN. The gentleman is correct.

Mr. NADLER. I thank the Chair.

Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take 5 minutes. I simply have an inquiry of the gentleman from New York. I assume that the language in the gentleman's en bloc amendment that dealt with the same subject that we dealt with a moment ago is no longer in your amendment?

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, that is correct.

Mr. NADLER. I thank the gentleman.

Mr. GOSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in an effort to finetune the bill before us, we are offering our amendment to address three specific concerns raised about H.R. 1675. Frankly, these are concerns raised by some who may oppose the bill altogether. However, it has been our approach to sit down with the interested parties, roll up our sleeves and attempt to solve the problems with the legislation in a reasonable and workable manner. Many Members and their staff have spent hours working out the details of this amendment, and we are grateful for the cooperation shown by Chairman YOUNG and SAXTON in getting to this point.

Mr. Chairman, the heart of our amendment addresses three issues:

First, what is the role of the hunting, fishing, and wildlife observation in the refuge system?

Second, how much freedom should the Fish and Wildlife Service have in establishing—and expanding—refuges without congressional approval?

And third, what safeguards exist to ensure that the management standards of existing refuges are maintained if the management authority is put in the hands of an individual State?

In my remarks during the rule, I mentioned the legacy of J.N. "Ding" Darling—a hunter who was a steadfast conservationist. He understood that given the proper balance, hunting and conservation were compatible. The clarifications in the Boehlert-Goss amendment aim to achieve that balance, and indeed, clarify that hunting, fishing, and wildlife observation are legitimate options in some of our refuges, as long as they are compatible with the overall higher mission of conservation and preservation of wildlife.

The second issue involves the authority of the Fish and Wildlife Service to use the land and water conservation fund to establish new refuges. It is the case that unlike all other uses of the LWCF, Fish and Wildlife is not required to seek any specific authorization to establish a new refuge. I agree that Congress has the responsibility to exercise better oversight over these funds, but the broad nature of the bill language in this area has caused some concern. Our amendment would still give Fish and Wildlife the flexibility to purchase areas of 500 acres or less, while ensuring that major expenditures of taxpayer dollars are subjected to the normal, established budget process.

Finally, the last concern takes care of a consistency issue, and would ensure that land set aside for wildlife purposes today—under the wildlife refuge system—continues to be managed in a responsible manner should authority for that refuge be given to a State agency.

Again, these are not dramatic changes, but they are significant clarifications—and I would hope that my colleagues would support them.

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Mr. Chairman, I would like to say that the cooperation on this bill I think proves once again that the environment does not know partisanship and the environment should not know extremism. There are sensible, well-balanced answers to these matters, and we are offering them in this amendment.

I thank the gentleman who have taken the opportunity to get us this far. I admire them for their persistence and patience.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I rise in support of the substitute under consideration, as modified by the Boehlert amendment, because I think the Boehlert amendment and the substitute improve existing law. I am going to support the bill, as amended.

The bill represents a significant effort to factor environmental interests into the balance, and I compliment the gentleman from Alaska [Mr. YOUNG], and the gentleman from New York [Mr. BOEHLERT], for their effort.

First, the problematic section of the State management of coordination areas is resolved by the amendment requiring that management of those areas meet the compatibility standard. We just went through an interesting debate about whether or not 500 acres should come before this House to be authorized, and I think that was clarified and that was debated and more clearly understood.

Finally, my greatest concern is that we remember the reason we have refuges in the first place. First and foremost is for conservation of wildlife and plants. Whether the purpose for that conservation is to provide hunting and fishing opportunities, to preserve endangered species or to save wild spaces so our children in this world can know that there is something more than cars, pavements and sidewalks, this bill, the mission of this bill, is for conservation. The Boehlert amendment insures that compatibility means compatibility with the conservation mission.

Mr. Chairman, the last two Congresses have seen a stalemate on environmental issues which has benefited neither landowners, nor industry, nor environment, nor conservation. We have seen both sides occasionally trip over their hyperbole, and the mistrust that has grown has made consensus impossible.

This admittedly imperfect bill at least contains a tremendous attempt at consensus, and for that reason I believe it deserves our support.

It should come as no surprise that generally, I believe, good science is critical for environmental legislation. I also recognize that good environmental legislation has always been developed by consensus.

The bill before us will do no practical harm to the refuge system, and if it can become the first step toward building a consensus on conservation issues, then it does a tremendous amount of good, and I urge support for the amendment and I urge support for the adoption of the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. BOEHLERT].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MRS. LINCOLN

Mrs. LINCOLN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. LINCOLN: At the end of the bill add the following new section:

SEC. —. AUTHORITY OF SECRETARY OF THE INTERIOR TO ACCEPT STATE DONATIONS OF STATE EMPLOYEE SERVICES DURING GOVERNMENT BUDGETARY SHUTDOWN.

After section 2 of the Act, as redesignated by section 11(a)(3) of this Act add the following new section:

"SEC. 3. AUTHORITY OF SECRETARY OF THE INTERIOR TO ACCEPT STATE DONATIONS OF STATE EMPLOYEE SERVICES DURING GOVERNMENT BUDGETARY SHUTDOWN.

"(a) IN GENERAL.—The Secretary shall accept from any qualified State donations of services of State employees to perform in a refuge, in a period of Government budgetary shutdown, fish- and wildlife-dependent recreation management functions otherwise authorized to be performed by Department of Interior personnel.

"(b) LIMITATIONS.—An employee of a State may perform functions under this section only—

"(1) within areas of a refuge that are located in the State; and

"(2) in accordance with an agreement entered into by the Secretary and the Governor of the State under subsection (c).

"(c) AGREEMENTS.—

"(1) IN GENERAL.—For purposes of this section, the Secretary may enter into an agreement in accordance with this subsection with the Governor of any State in which is located any part of a refuge.

"(2) TERMS CONDITIONS.—An agreement under this subsection shall—

"(A) contain provisions to ensure resource and visitor protection acceptable under the standards of the United States Fish and Wildlife Service;

"(B) require that each individual performing functions under the agreement shall have—

"(i) adequate safety training;

"(ii) knowledge of the terrain in which the individual will perform those functions; and

"(iii) knowledge of and adherence to Federal regulations relating to those functions; and

"(C) specify other terms and conditions under which a State employee may perform such functions.

"(d) EXCLUSION FROM TREATMENT AS FEDERAL EMPLOYEES.—A State employee who performs functions under this section shall not be treated as a Federal employee for purposes of any Federal law relating to pay or benefits for Federal employees.

"(e) ANTI-DEFICIENCY ACT NOT APPLICABLE.—Section 1341(a) of title 31, United States Code, shall not apply with respect to the acceptance of services of, and the performance of functions by, State employees under this section.

"(f) DEFINITIONS.—In this section—

"(1) the term 'Government budgetary shutdown' means a period during which there are no amounts available for the operation of the System, because of-

"(A) a failure to enact an annual appropriations bill for the period for the Department of the Interior; and

"(B) a failure to enact a bill (or joint resolution) continuing the availability of appropriations for the Department of the Interior for a temporary period pending the enactment of such an annual appropriations bill; and

"(2) the term 'qualified State' means a State that has entered into an agreement with the Secretary in accordance with subsection (c)."

Mrs. LINCOLN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Arkansas?

There was no objection.

Mrs. LINCOLN. Mr. Chairman, my amendment to H.R. 1675 would alleviate the burdens faced by our constituents during Federal governmental shutdowns.

This Congress has seen two shutdowns that have adversely affected individuals wishing to use our wildlife refuges. In Arkansas, the first shutdown occurred during a 4-day deer hunt and the second occurred right in the middle of duck hunting season. Hunters had scheduled family vacations and purchased hunting permits, only to be turned away from the gates.

This did not need to happen. Officials at the Arkansas Game and Fish Commission volunteered their services when a shutdown was imminent, and had actually signed an agreement with the Fish and Wildlife Service in Atlanta. However, right before the shutdown, Interior Department attorneys determined that this agreement was not allowed under current law.

My amendment fixes this problem. If this language is adopted, States will be able to step in for the Federal Government for all fish- and wildlife-dependent recreational management activities only during governmental shutdowns if they have a prior agreement with the Department of the Interior. This amendment would not allow the States to conduct commercial management functions such as timbering, haying, or grazing. Such agreement would ensure both the protection of the land and the people using the refuge by demanding proper safety training, knowledge of the local terrain and knowledge of the Federal regulations by State employees before they take over Fish and Wildlife Service's duties.

This amendment has the support of the Congressional Sportsmen's Caucus, the Congressional Sportsmen's Foundation, B.A.S.S., Ducks Unlimited, and the International Association of Fish and Wildlife Agencies.

We should never encourage the closure of our Federal Government. However, these shutdowns periodically arise and there should be a plan in place to address such occurrences.

Additionally, because the Federal budget and appropriations process concludes at the end of September, if the Government closes, it oftentimes occur during the time where the demand for access to these lands for hunting and other recreational activities is quite high. I know that the constituents in the First District of Arkansas look forward to using the refuges during the fall and early winter and many have planned family vacations around the hunting seasons.

Lack of funding for the refuges and reduced access due to Government closures may also jeopardize public support for the Refuge System. Hunters who have invested a lot of money in the purchase and management of these refuges may look elsewhere for their needs if their access to the lands is diminished or becomes unpredictable.

As my friend, the gentleman from Michigan [Mr. DINGELL], stated, I am a strong conservationist and a hunter, and I certainly urge my colleagues to support this simple, commonsense amendment.

Mr. MILLER of California. Mr. Chairman, I rise in support of the amendment and to say that we have looked at this amendment and we do not object to the acceptance of this amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to congratulate the gentlewoman from Arkansas [Mrs. LINCOLN] on this amendment. It is long overdue. The administration supports this amendment. It is something we should have in the tools to make sure that what happened last October, November, December should not occur again because the agency said it could not be done legally. This amendment takes care of that problem.

I strongly support the amendment.

Mr. Chairman, I have carefully reviewed the amendment offered by our distinguished colleague from Arkansas [BLANCHE LAMBERT LINCOLN].

I intend to support this amendment and I compliment our colleague for the many months of hard work she has spent perfecting this language.

Under the terms of this amendment, a State would be able to enter into an agreement with the Secretary of the Interior for the purpose of allowing State employees to operate units of our Federal Wildlife Refuge System should, in the unlikely event, a Government budgetary shutdown occur in the future.

These employees will have to receive adequate safety training, be knowledgeable about the terrain of the particular refuge unit, and adhere to all appropriate Federal regulations.

While it is unclear whether these agreements will ever be necessary, it is an innovative approach and it provides the kind of legislative fail-safe that the Secretary should have administratively used last winter to save our States thousands of dollars of lost hunting revenues.

Finally, I am pleased that this language has been expanded to include not only hunting but also fishing, wildlife observation, and environmental education. There are millions of Americans who regularly enjoy these forms of wildlife-dependent recreation, and this amendment will help to ensure that our Nation's refuge doors remain open in the years ahead.

It is my understanding that the administration has no objection to this System-wide solution and I urge an "aye" vote on the Lincoln amendment.

Mr. HAYES. Mr. Chairman, last year, I stood in this well on several occasions regarding dubious actions taken by the Department of the Interior.

On the first occasion, I was addressing a comment made by Secretary Babbitt in which he mistakenly referred to my party affiliation. While the Secretary was wrong when he made his statement, as we will know, his prophecy has come to pass.

The second instance during the debate on H.R. 450, the Regulatory Transition Act, dealt with threats by the United States Fish and Wildlife Service [USFWS] to potentially delay the opening of migratory bird hunting seasons. During the Government shutdowns this winter, the Department of the Interior was at it again—holding hunters and fishermen hostage during the Government shutdown even though many States, like my home State of Louisiana, agreed to keep the Federal wildlife refuges open.

In fact, a satellite office of the USFWS solicited Louisiana Department of Wildlife and Fisheries assistance in maintaining smooth operation of Federal refuges in preparation for the first Government shutdown. But, Department of the Interior lawyers in Washington told the State they could not proceed. Clearly, the best interests of the wildlife and recreation on the refuges were being seriously overlooked.

The USFWS also specifically requested that these same State officials promulgate special regulations to extend deer season 2 additional days over the weekend of January 6 and 7 due to the first shutdown. After the State did so at its own expense, those additional days and the importance of hunting to Louisiana's economy were again threatened during the second shutdown by the same Department of Interior lawyers.

This amendment today would clarify the States' authority to rectify the underlying problem leading to these situations.

The Lincoln amendment would require the Secretary of the Interior to accept voluntary services of state employees in the operations of National Wildlife Refuge units during any period of Federal budgetary shutdown for the management of hunting, fishing, and other recreational activities authorized on each refuge. States and the Department of the Interior would have to have an agreement in place prior to any shutdown.

The 17 Federal refuges in Louisiana are an integral part of the over $630 million in annual direct and indirect revenue that hunting brings into our State's economy. In fact, as much as one-third of the economies of several of the coastal parishes I represent are dependent on tourism related to hunting activities. Without the continued management of these refuges, the very lives and livelihoods of the people in these Parishes are at risk. While I do not advocate the general principle of shutting down the Federal Government, I refuse to allow Secretary Babbitt to jeopardize my constituents and their interests.

I urge my colleagues to adopt the Lincoln amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Arkansas [Mrs. LINCOLN].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

Mr. DINGELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise for purposes of engaging in a colloquy with my dear friend, the gentleman from Alaska.

Mr. Chairman, I would like to ask my good friend from Alaska to engage in a colloquy with me with regard to the existing reserve water rights on the national refuge system under H.R. 1675.

Mr. Chairman, I am concerned that a statement of the committee report on H.R. 1675 would be interpreted by some to mean that this bill eliminates, waives, or concedes existing Federal water rights which currently attach to lands which were previously withdrawn from the public domain from old military bases or from other lands owned by the Federal Government for use as refuges.

The statement I am referring to is on page 11 of the committee report and defines the term refuge under section 3(a) of H.R. 1675.

In particular, this section of the Report states that "* * * Federal reserved water rights do not constitute 'interests' within the meaning of the term 'refuge'." This statement appears to be contrary to the language in Section 7(a) of H.R. 1675 which addresses the status of various water rights under the original 1966 Refuge Administration Act and H.R. 1675. I would like to ask the gentleman from Alaska a series of questions to clarify the intent of the Committee with regard to these matters.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I would be pleased to answer the question and provide clarification of this issue to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, section 8(a) of H.R. 1675 would establish a new subsection 4(n)(1) in the Refuge System Administration Act to address the general question of water rights within the refuge system. This subsection appears to contain two important statements affecting reserved water rights in particular.

First, the subsection contains a disclaimer stating that nothing in H.R. 1675 should be interpreted as creating any new reserved water rights within the refuge system.

Is that an accurate interpretation of the legislation before us?

Mr. YOUNG of Alaska. Yes, this provision of the bill you are referring to is intended to clarify that no new reserved water rights are created for wildlife refuges as a result of the passage of this bill.

Mr. DINGELL. Second, this subsection contains another disclaimer stating that nothing in the bill should be interpreted as affecting any refuge water right in existence on the date of enactment of H.R. 1675. I interpret this provision to mean that nothing in H.R. 1675, including the definition of "refuge" in section 3(a), is intended to override, cede, or extinguish any refuge reserved water right which may have been previously created by a past land withdrawal for wildlife refuge purposes.

Is that the gentleman's intent and interpretation of this provision as well?

Mr. YOUNG of Alaska. Yes, the gentleman from Michigan is correct. This provision is intended to maintain the status quo with regard to existing reserved water rights in the system, and to clarify that reserved water rights previously created at the time of withdrawal of these lands for refuge purposes will not be expanded nor restricted, diminished, or eliminated due to the passage of H.R. 1675. As a result, refuge reserved water rights will remain exactly in the same position as they are today if H.R. 1675 becomes law.

Mr. DINGELL. I want to thank my good friend, and I have further questions: Therefore, it was the intention of my good friend that the exclusion of reserved water rights in the definition of the word "refuge" in section 3(a) of the substitute bill was designed to limit the geographic boundaries of a given refuge rather than to cede or extinguish any reserved water rights which might otherwise be asserted within the system?

Mr. YOUNG of Alaska. Again, the gentleman from Michigan is absolutely correct. The exclusion of reserved water rights in the definition section of H.R. 1675 is intended to impose a limitation on the geographic boundaries of individual refuges and is not intended to override the disclaimer protecting existing water rights in section 8(a) of this bill.

Mr. DINGELL. Finally, I am concerned that section 5 could be interpreted in a way which may limit or prohibit future Federal action to protect the system by its call for acquisitions under State law. Could the gentleman inform me how this provision would affect the current balance of Federal and State interests in the refuge system?

Mr. YOUNG of Alaska. This provision in section 5, like the rest of H.R. 1675, is intended to recognize long-established Federal-State relationships. States have traditional primacy regarding the allocation of water resources, and this merely directs the Secretary to use appropriate State forums in those cases where water is to be acquired for refuge units. This section should not be construed to otherwise alter or diminish the interests of the Federal Government as it pertains to ownership of or management authority for the National Wildlife Refuge System.

Mr. DINGELL. I want to thank the gentleman from Alaska [Mr. YOUNG], my dear friend.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 5 additional minutes.)

Mr. DINGELL. Mr. Chairman, I have some further questions of the gentleman from Alaska, and they relate to the question of open until closed.

Mr. Chairman, since the Resources Committee finished consideration of the legislation before us, considerable confusion has arisen over section 6 of the substitute. Specifically, I am referring to paragraph (3)(a)(2), which specifies that existing and compatible wildlife-dependent uses of a refuge are allowed to continue, on an interim basis, on lands added to the System once the legislation before us is enacted into law.

Would the gentleman please explain to us the intention of this paragraph in section 6?

□ 1630

Mr. YOUNG of Alaska. Mr. Chairman, if the gentleman will yield further, this provision is intended to address a longstanding concern about a policy of the Fish and Wildlife Service where new refuge lands are "closed until opened." Accordingly, all preexisting uses are terminated when land is acquired by the Fish and Wildlife Service. This has created conflict at many refuges where sportsmen accustomed to using these lands suddenly find them closed for an unpredictable amount of time.

The purpose of this paragraph, which inserts new language in section 4(d)(3)(b)(x) of the National Wildlife Refuge System Administration Act, is to create the presumption that when the Fish and Wildlife Service brings new lands into the System, compatible wildlife recreation activities ought to be allowed to continue unless the Secretary makes a determination before the acquisition that such activities are not compatible with the purposes of the System.

Mr. DINGELL. There has been much discussion from interested parties about the fact that any recreational use would be allowed to continue on new refuge lands. Is this a correct reading of the bill?

Mr. YOUNG of Alaska. No, it is not. This provision applies only to wildlife-dependent use of a refuge. This includes fishing, hunting, wildlife observation and environmental education.

Mr. DINGELL. In that case, other activities such as the use of all-terrain vehicles, jet skis, and other uses are not covered under this provision?

Mr. YOUNG of Alaska. The gentleman is correct.

Mr. DINGELL. Is it correct to read this "open-until-closed" provision as applying only to lands brought into the National Wildlife Refuge System after this legislation is enacted?

Mr. YOUNG of Alaska. Yes, the bill states very clearly that only wildlife-dependent uses are permitted to continue only on lands added after the date of enactment of this bill. Wildlife-dependent recreation is expected to occur on existing refuge lands if the Secretary determines that the activities meet three requirements: first, they are consistent with the principles of sound fish and wildlife management; second, they are compatible with the purposes of the System; and third, they are consistent with public safety.

Mr. DINGELL. I am concerned and I want this clear on the Record. It is correct that the Secretary will retain significant discretion regarding the authorization of such activities on existing refuge lands?

Mr. YOUNG of Alaska. Once again, the gentleman is correct. Refuge lands may be closed for any one of three reasons specified in the bill thereby providing the Secretary with appreciable discretion. In essence, we are creating a rebuttable presumption that wildlife-dependent recreation is compatible unless it is contrary to one of these principles. This approach is conceptually the same as articulated by Secretary Babbitt to the Congressional Sportsman's Caucus in September 1994.

Mr. DINGELL. I would like to direct the gentleman's attention to the term compatible use. Under section 3 of the bill, concerns have been raised that the definition of "compatible use" will alter the intent and administration of the Refuge Recreation Act of 1962. Will the gentleman please enlighten the House as to his intent with regard to the definition of "compatible use?"

Mr. YOUNG of Alaska. First, I want to make clear that no provision of H.R. 1675 should be read or interpreted as altering in any way the purposes or administration of the Refuge Recreation Act of 1962. Second, the term "compatible use" is defined in a way that codifies an existing definition used by the Fish and Wildlife Service for many years, using reliable scientific information for reaching compatibility decisions.

Mr. DINGELL. Mr. Chairman, I thank the gentleman from Alaska who has helped me greatly with the concerns that I have had on this bill.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just in closing would like to thank the gentleman from Michigan. He was the father of the Refuge Act as far as this Congress goes and what occurred in the past. He has been very supportive. His staff has been extremely supportive.

But more than that, JOHN DINGELL has been a true sportsman all through the career I have known him. He has gone to Alaska. He has participated in Alaska sporting activities. He has seen what can be done and what should be done, and it is truly a conservation award that he should be receiving with this legislation.

What we have done here today is trying to improve the Act to make sure that we gain that support for a bill that has worked very well in the past, a position that can be worked well in the future. This working together can work for the conservation and for the sportsmen of America.

Mr. Chairman, today we are considering a substitute for H.R. 1675, the National Wildlife Refuge Improvement Act of 1996. This substitute is the result of many months of hard work and negotiations with the Department of Defense and Interior, interested Members, and many outside groups, and it goes a long way towards resolving concerns the administration had about earlier versions of the bill.

The National Wildlife Refuge System contains 508 wildlife refuges located throughout the United States, and comprises 91.7 million acres of Federal lands. These refuges are multiuse lands that offer recreational opportunities to millions of Americans each year. In fact, fishing and hunting occurs on over half of the refuges, more than 90 percent of the acreage in the System. Nearly 30 million people visit refuges each year to observe wildlife and over 50,000 students enjoy environmental education activities.

Over the last 30 years since the last major refuge reform legislation was enacted, a series of government reports and congressional hearings have found that the System needs a more standardized, centralized management regime. This bill addresses these findings. Under current law—the Refuge Recreation Act of 1962 and the National Wildlife Refuge Administration Act of 1966: there is no statutory list of purposes for the National Wildlife Refuge System; there is no statutory definition of what constitutes a "compatible use" of a refuge. As a result, individual refuge managers have broad discretion to prevent certain recreational activities and they are subject to tremendous pressure from various interest groups; refuges are not managed as a national system because of the lack of centralized guidelines from the Fish and Wildlife Service; secondary uses, such as fishing and hunting, are prohibited on new refuge lands until boundary studies, environmental assessments, and management plans are completed. This can take years; when a compatibility determination is made by a refuge manager, the public is denied any opportunity to comment on proposed changes or restrictions; and there is no requirement to complete comprehensive conservation plans for any of the 508 refuges. In fact, the Fish and Wildlife Service admits that it has completed such plans for only a fraction of all refuges.

The Young-Dingell substitute solves these problems. It establishes a nationwide set of purposes for the refuge system. These purposes are: (1) to provide a network of lands and waters to conserve fish, wildlife, and plants and their habitats; (2) to conserve, manage, and restore fish and wildlife populations, plant communities, and refuge habitats; (3) to conserve and manage migratory birds, interjurisdictional fish species, and marine mammals; (4) to provide opportunities for compatible fish- and wildlife-dependent recreational uses of refuges, including fishing and hunting, wildlife observation, and environmental education; (5) to preserve, restore, and recover threatened or endangered species; and (6) to fulfill international treaty obligations with respect to fish, wildlife, and plants.

The substitute statutorily defines "compatible use" by using the exact language the U.S. Fish and Wildlife Service has used for many years and is currently found in their operating regulations. While a refuge manager will retain the power to determine what is a "compatible use", this definition should provide the guidance needed to make the proper decision.

The bill allows traditional wildlife-dependent recreation—that is, hunting, fishing, wildlife observation, and environmental education—to continue during the interim period after the acquisition but before the implementation of a management plan.

The author of this "open until closed" provision is the gentleman from New Jersey, JIM SAXTON. It is an essential change because there are a growing number of Americans who are angry and frustrated over the Service's land acquisition process. These Americans have worked hard to protect certain lands, they have contributed millions of dollars to the purchase of refuge lands, and they have found, much to their dismay, that for no rational reason their favorite fishing spot is now off limits during an open-ended period of governmental studies.

This is a wrong-headed policy and I compliment JIM SAXTON for his contribution to restoring confidence to the System.

This bill requires conservation plans for each refuge within 15 years of enactment. It is important that we know what kind of archaeological, natural, or wildlife resources exist on these refuges. This inventory has been a goal of the environmental community for many years.

This substitute bill incorporates the President's March 25, 1996 Wildlife Refuge Executive Order, and his "Directives to the Secretary" are codified in section 5, the Administration of the System.

The substitute stipulates that no funds may be spent from the Land and Water Conservation Fund for the creation of a new wildlife refuge without a specific congressional authorization.

In the past, more than $1 billion in taxpayer money has been appropriated from this fund to acquire refuge lands. This money has been spent with little oversight from congressional authorizing committees and without the checks and balances of the Migratory Bird Commission. Congress must have a role in this process, and we should authorize new wildlife refuge units just as we authorize new parks, flood control projects, and weapons systems. In this way, private property owners and their tax dollars are well protected.

Finally, this substitute contains a number of other provisions negotiated with the Clinton administration. These include: overflights above a refuge, the eradication of aquatic nuisance species, and language allowing the President to exempt certain activities on military refuge lands because of national security reasons.

Much of the rhetoric surrounding this bill has been at best misleading. So I also want to make clear what this substitute does not do. It does not: permit or require hunting and fishing to occur on every wildlife refuge. These activities must be found "compatible" and must meet the three part of being based on sound fish and wildlife management practices, being fully consistent with the fundamental reasons the refuge was created, and not endangering public safety; affect Federal, State, or local water rights. This bill does not limit the ability of the Federal Government to secure water for a refuge; facilitate nonwildlife-dependent uses such as grazing, farming, mining, oil and gas development, jet skiing, et cetera. As under current law, nonwildlife-dependent uses may continue to occur when compatible, and when the Fish and Wildlife Service lacks legal authority or sufficient ownership interest in the property to prevent them. But this bill does not mandate, enhance, or protect such uses; increase or decrease the size of any of the 508 refuge units; permit the pesticides not approved by the Fish and Wildlife Service to be used by row farmers or anyone else in the Refuge System; permit the commercialization of our Refuge System. To repeat, it is limited to wildlife-dependent uses. They are clearly defined as fishing, hunting, wildlife observation, and environmental education; and limit the Fish and Wildlife Service's ability to acquire lands at existing refuges. In fiscal year 1997, the Service proposes to spend $19.2 million to acquire new acreage for our Refuge System. This provision will not delay, stop, or otherwise affect those acquisitions.

This legislation is the product of many months of hearings, discussions, and revisions. This measure was reported by voice vote by both the subcommittee and the full committee.

This legislation is supported by the American Archery Council, the American Sportfishing Association, B.A.S.S., Inc., the California Waterfowl Association, Congressional Sportsmen's Foundation, Foundation for North American Wild Sheep, International Association of Fish and Wildlife Agencies, International Bowhunters Organization, Masters of Foxhounds Association of America, Mzuri Wildlife Foundation, National Rifle Association, National Wild Turkey Federation, New Jersey Federation of Sportsmen, North American Waterfowl Federation, Quail Unlimited, Ruffed Grouse Society, Safari Club International, Wildlife Forever, and the Wildlife Legislative Fund of America. It has also been endorsed by the Congressional Sportsmen's Caucus, which has a membership of 204 Members of this body.

Mr. Chairman, H.R. 1675 is a sound piece of conservation legislation that reaffirms the legacy of President Theodore Roosevelt and the vision of the National Wildlife Refuge System Administration Act of 1966.

Finally, I want to express my sincere appreciation to the highly distinguished gentleman from Michigan, JOHN DINGELL. Without his dedication, tireless commitment, and leadership, this effort would not have been achievable.

I urge an "Aye" vote on H.R. 1675.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PETRI) having assumed the chair, Mr. GILLMOR, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 1675) to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes, pursuant to House Resolution 410, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. YOUNG of Alaska. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 287, nays 138, not voting 7, as follows:

[Roll No. 131]

YEAS—287

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brown (FL)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flake
Flanagan
Foley
Fowler
Fox
Franks (CT)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manton
Manzullo
Martinez
Mascara
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
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Poshard
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Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
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Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
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Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
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Stenholm
Stockman
Stump
Stupak
Talent
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Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Traficant
Upton
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Williams
Wise
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—138

Abercrombie
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bonior
Borski
Brown (CA)
Brown (OH)
Bryant (TX)
Campbell
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Davis
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Forbes
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gibbons
Gilman
Gonzalez
Gutierrez
Hall (OH)
Hastings (FL)
Hinchey
Jackson (IL)
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee

LaFalce
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Maloney
Markey
Martini
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Millender-McDonald
Miller (CA)
Mink
Moakley
Moran
Morella
Nadler
Neal
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Smith (NJ)
Stark
Stokes
Studds
Thompson
Torkildsen
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
White
Woolsey
Wynn
Yates
Zimmer

NOT VOTING—7

Ackerman
Foglietta
Hansen
McDade
Parker
Schroeder
Wilson

□ 1656

The Clerk announced the following pair:

On this vote:

Mr. McDade for, with Mr. Ackerman against.

Messrs. FRELINGHUYSEN, DAVIS, CLAY, THOMPSON, MOAKLEY, and LAZIO of New York, Mrs. JOHNSON of Connecticut, and Mrs. MEYERS of Kansas changed their vote from "yea" to nay"

Mr. KLINK and Mrs. CUBIN changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. ROUKEMA. Mr. Speaker, on rollcall vote 131, House passage of the National Wildlife Refuge Improvement Act, H.R. 1675, I inadvertently voted "yea." I had intended to cast a "nay" vote on the legislation.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1675, the bill just passed.

The SPEAKER pro tempore (Mr. PETRI). Is there objection to the request of the gentleman from Alaska?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1675, NATIONAL WILDLIFE REFUGE IMPROVEMENT ACT OF 1995

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 1675, the Clerk be authorized to make technical and conforming changes as are necessary to reflect the actions of the House on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 4 OF RULE XI WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. McINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–535) on the resolution (H. Res. 412) waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

□ 1700

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1202

Mr. COBLE. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1202.

The SPEAKER pro tempore (Mr. PETRI). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4, rule I, the Speaker signed the following enrolled bill earlier today: Senate 735, to deter terrorism, provide justice for victims, provide for an effective death penalty, and for other purposes.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundergan, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 175. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. PETRI). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

STATEMENT ON ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, today, April 24, marks the 81st anniversary of the unleasing of the Armenian genocide, one of the most horrible events of the 20th century and probably in all of human history.

Mr. Speaker, each year Members of Congress from both the House and Senate take time to honor the memory of the 1.5 million Armenian men, women, and children who were slaughtered during the final years of the Ottoman Turkish Empire. I am proud to continue this congressional tradition today. I am joining with the gentleman from Illinois [Mr. PORTER] and other Members from both sides in these 5-minute special orders.

Mr. Speaker, between the years 1915 and 1923 in the Ottoman Turkish Empire, there were 1.5 million Armenians slaughtered and another 500,000 forced to leave from their homelands. What happened was not a series of random atrocities but a systematic policy of deportation, separation of family members, slave labor, torture, and murder. Although the killings finally ended in 1923, efforts to erase all traces of the Armenian presence in what is now eastern Turkey continued, such as the changing of geographical names and the destruction of Armenian religious and cultural monuments. This was the first genocide of the 20th century, a precursor to the Nazi Holocaust and the other cases of ethnic cleansing and mass extermination of peoples in our own time. We must call it by its correct name: genocide.

Yet to this day, the Government of Turkey maintains its disgraceful policy of denying that the genocide ever took place. The facts contradict those denials. The historical record, including documented accounts from American eyewitnesses, proves that the rulers of the Ottoman Empire, conceived in the name of Turkish national ideology, planned and carried out a program to eliminate ethnic minorities, especially the Armenians. The record includes the eyewitness accounts of journalists and diplomats on the scene and the eloquent and horrifying testimony of the survivors. The historic record is clear. At that time the word genocide had not yet been coined, but genocide is what it was. Yet there were no Nuremberg trials. There has been no official atonement by the Turkish nation. In fact, statements by me and other Members of Congress about the Armenian genocide are routinely dismissed by Turkey's Ambassador to the United States.

We must continue to persuade Turkey, the recipient of hundreds of millions of dollars each year in United

States aid, to officially acknowledge the truth, and in our own time we must insist that Turkey lift its illegal blockades of Armenia and accept the Armenian government's offer to normalize relations without preconditions.

Just a few weeks ago, Mr. Speaker, the Turkish President came to Washington on a state visit. For anyone who has held out the hope that the President would offer an olive branch of reconciliation to the Armenian people, the visit was a major disappointment, though not a major surprise. The Government of Turkey refused to lift the blockade of Armenia and accept the offer of the Government of Armenia to normalize relations without preconditions.

Sadly, Mr. Speaker, United States administrations have also avoided using the term genocide in describing what happened 80 years ago, no doubt under heavy pressure from the Government of Turkey. While President Clinton and his predecessors have acknowledged the Armenian people were the victims of tragic massacres, these Presidential statements have never sufficiently conveyed the full extent of the evil that occurred. Clearly this entire shameful and appalling period of history meets every definition of the term genocide.

Earlier this month, the gentleman from Illinois [Mr. PORTER] and I, as cochairmen of the Caucus on Armenian Issues, asked our colleagues to join us in urging the President to make a much stronger statement acknowledging the genocide. Fifty-nine Members of Congress signed on. Last year many of us signed a similar letter. Sadly, although President Clinton last year issued a powerful statement, he carefully avoided the word genocide. I want you to know that I support President Clinton on many issues and he has shown strong support for many pro-Armenian initiatives. He has appointed a special United States negotiator for the Nagorno-Karabagh situation, and the United States Agency for International Development has devoted great resources to Armenia, but I have no problem putting the President on the spot on the question of calling the genocide by its proper name. It is very important and a clear-cut case of doing the right thing.

Mr. Speaker, I want to say that while the purpose of our ceremony today is a solemn remembrance of a tragedy that affected an entire people, I would like to say a few words about the present and the future. The survivors of the genocide, their sons and daughters and grandchildren, have refused to accept the effort by the Ottoman Turks to destroy the Armenian people. In fact, in the decades since, the Armenian people have flourished.

One of the most inspiring events of recent years has been the emergence of the Republic of Armenia, and we as Americans must support the Republic of Armenia. It has, through great difficulty, registered positive growth in its gross domestic product. It has moved forward with the process of democratization. It has been having elections.

But the people of Armenia still need our help. They need American help now. Last year, in the Subcommittee on Foreign Operations, Export Financing and Related Programs of the Committee on Appropriations, again primarily through Congressman PORTER's help, $85 million in United States humanitarian aid was provided to Armenia, plus an additional $30 million for development assistance. Last year's foreign operations bill also included the Humanitarian Aid Corridor Act, which bars aid to Turkey for as long as Turkey blocks the delivery of United States aid to Armenia.

There are a number of things our caucus has been doing, and I am sure other Members tonight will also talk about more of them. But the main thing, Mr. Speaker, is we must continue our support for the Republic of Armenia, improving relations between the two countries, because that is one way that we can make it clear why this genocide, when it took place 80 years ago, was so wrong and what the accomplishments of the Armenian people have been since that time.

Mr. Speaker, today, April 24, 1996, marks the 81st anniversary of the unleashing of the Armenian genocide, one of the most horrible events of the 20th century, and in all of human history.

Each year Members of Congress from both the House and the Senate take time to honor the memory of the 1.5 million Armenian men, women, and children who were slaughtered during the final years of the Ottoman Turkish Empire. I am proud to continue this proud congressional tradition today.

I am joining with the gentleman from Illinois [Mr. PORTER] and other members from both sides in the aisle in a series of 5-minute special orders to commemorate this tragic anniversary. Other Members are submitting statements in writing testifying to their deep concern about this issue.

Mr. Speaker, between the years 1915 and 1923, in the Ottoman Turkish Empire, 1.5 million Armenians were slaughtered and another 500,000 were forced to leave from their homelands. What happened was not a series of random atrocities, but a systematic policy of deportations, separation of family members, slave labor, torture, and murder. Although the killings finally ended in 1923 efforts to erase all traces of the Armenian presence in what is now eastern Turkey continued, such as the changing of geographical names and the destruction of Armenian religious and cultural monuments. This was the first genocide of the 20th century, a precursor to the Nazi Holocaust and the other case of ethnic cleaning and mass extermination of peoples in our own time. We must call it by its correct name: genocide.

Yet, to this day, the Government of Turkey maintains its disgraceful policy of denying that the genocide ever took place. But the facts contradict these denials: The historical record, including documented accounts from American eyewitnesses, proves that the rules of the Ottoman Empire conceived, in the name of Turkish nationalist ideology, planned and carried out a program to eliminate ethnic minorities, especially the Armenians. The record includes the eyewitness accounts of journalists and diplomats on the scene, and the eloquent and horrifying testimony of the survivors. The historic record is clear. At that time, the word genocide had not yet been coined, but genocide is what it was. Yet there were no Nuremberg trials. These has been no official atonement by the Turkish nation. In fact, statements by me and other Members of Congress about the Armenian genocide are routinely dismissed by Turkey's Ambassador to the United States.

We must continue to persuade Turkey, the recipient of hundreds of millions of dollars each year in United States aid, to officially acknowledge the truth. And in our own time, we must insist that Turkey lift its illegal blockade of Armenia and accept the Armenian government's offer to normalize relations without preconditions.

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Sadly, United States administrations have also avoided using the term "genocide" in describing what happened 80 years ago—no doubt under heavy pressure from the Government of Turkey. While President Clinton and his predecessors have acknowledged that the Armenian people were the victims of tragic massacres, these Presidential statements have never sufficiently conveyed the full extent of the evil that occurred. Clearly, this entire shameful and appalling period of history meets every definition of the term "genocide."

Earlier this month, Congressman PORTER and I, as cochairmen of the Caucus on Armenian Issues, asked our colleagues to join us in urging the President to make a much stronger statement acknowledging the genocide. Fifty-nine Members of Congress signed on. Last year, many of us signed a similar letter to the President. Sadly, although President Clinton last year issued a powerful statement, he carefully avoided the word "genocide." I support President Clinton on many issues, and he has shown strong support for many pro-Armenian initiatives. He has appointed a special U.S. negotiator for the Nagorno-Karabakh situation, and the U.S. Agency for International Development [AID] has devoted great resources to Armenia. But I have no problem putting the President on the spot on the question of calling the genocide by its proper name. It is so very important, and such a clear-cut case of doing the right thing.

While the purpose of today's ceremony is a solemn remembrance of a tragedy that affected an entire people, I would like to say a few words about the present and the future.

The survivors of the genocide, their sons and daughters and their grandchildren, have refused to accept the effort by the Ottoman Turks to destroy the Armenian people. In fact, in the decades since, the Armenian people have flourished. The Armenians who came to the United States and their descendants have made tremendous contributions to our business, professional, and cultural life. Armenians have made new lives and significant contributions in many other countries.

One of the most inspiring events of recent years has been the emergence of the Republic of Armenia. Rising out of the ashes of the former Soviet Union, the Republic of Armenia has shown a remarkable resilience, a commitment to democracy and a market economy. And it has not been easy: Armenia has been squeezed by cruel and illegal blockades imposed by modern Armenia's two neighbors, Turkey and Azerbaijan. Some of the noises coming out of Moscow, about a reunited Soviet Union, are most troubling. In spite of these difficulties, Armenia has been the only former Soviet Republic to register positive growth in its gross domestic product. The Republic of Armenia also moves forward with the process of democratization, having held Parliamentary elections last year and planning for Presidential elections this year.

But the people of Armenia need our help—American help—now. We must do everything possible to make sure that they get that assistance, and many of my colleagues are working equally hard.

The foreign operations appropriations for fiscal year 1996 provided $85 million in U.S. humanitarian aid, plus an additional $30 million for development assistance. Last year's foreign operations bill also included the Humanitarian Aid Corridor Act, which bars aid to Turkey for as long as Turkey blocks the delivery of United States aid to Armenia. We are working to have this provision reenacted, and to make sure that the administration strictly enforces this law. In addition, last year's foreign aid bill had a cut in aid to Turkey, as a direct statement of disapproval for Turkey's actions with regards to the Armenian blockade, as well as the mistreatment of the Kurdish people, its occupation of Cyprus and its generally bad human rights record. I find it incredible that a country that gets $600 million in U.S. taxpayers' funds can get away with blocking the delivery of American humanitarian assistance to its small, struggling neighbor.

Another way we can help Armenia is by ending the illegal blockade imposed by Armenia's neighbor to the east, Azerbaijan. Current U.S. law blocks the provision of American assistance to Azerbaijan until the Azeris lift their blockade. Unfortunately, last year, legislation to waive this law was included in the foreign operations bill. This year, we will try to be more vigilant to make sure that Azerbaijan is not rewarded for failure to comply with the conditions of United States under the Freedom Support Act.

Last year, Congressman PORTER and I founded the Congressional Caucus on Armenian Issues, to be a voice for a stronger United States-Armenia partnership and to better represent the interests of the Armenian-American community. We now have 49 Members, from both parties and all regions of the country. There is a lot of sympathy and moral support for Armenia in the Congress, in the administration, among state legislators around the country, and among the American people in general. But we should not kid ourselves: we are up against very strong forces, in the State Department and the Pentagon who believe we must continue to appease Turkey, and among United States and international business interests whose concerns with profits and sources of raw materials outweigh their concerns for the people of Armenia.

In closing, let me pay particular tribute to the survivors of the genocide. The horrors you have witnessed and experienced are unspeakable. Yet we must never forget what happened to you, your brothers and sisters, mothers and fathers, friends, and neighbors. I will do all that I can to keep alive the memory of what happened to the Armenian people in the past—and to play a role in working for a brighter future for the Armenian people.

Mr. THOMAS. Mr. Speaker, today, I join in commemoration of the 81st anniversary of the Armenian genocide. On April 24, 1915, under the direction of the Turkish Ottoman Empire, a campaign of Armenian extermination began. Armenian religious, political, and intellectual leaders from Istanbul were arrested and exiled—silencing the leading representatives of the Armenian community in the Ottoman Empire. Over the next 8 years, 1.5 million Armenians were murdered, with another 500,000 forced into Russian exile. Today we recognize the struggle of the Armenian people to live peacefully in their historic homeland.

Armenians in the United States and elsewhere should know that their history of suffering has not and will not be ignored. Like the Jewish and Cambodian holocausts, the Armenian genocide stands out as one of the world's most morally reprehensible acts. We need to address and trace the causal factors leading to the rise of totalitarian governments, and ensure that the seeds of fascism are never again planted.

On this day, we should remember those Armenians who died 81 years ago. I have cosponsored House Concurrent Resolution 47, which would put the House on record honoring the memory of the 1.5 million genocide victims. The House should pass this resolution and send a message to the world that we will never forget what happened during that terrible period in history and that we reaffirm our resolve to ensure that no nation will ever again have the opportunity to participate in mass genocide.

Mr. SCHUMER. Mr. Speaker, I rise today to join with my colleagues in remembering and paying tribute to the victims of the Armenian genocide. The tragedy of these murders cannot be overestimated—millions lost, a generation of mothers and fathers, children and grandchildren killed. I rise in solidarity with the people of the Armenian-American community, as well as with the people of Armenia, because I feel a connection through tragedy with them. I share that disabling sense of loss that many in the Armenian community feel because I lost members of my family in another Holocaust at the hands of the Nazis. I believe it is vitally important to talk about these heartbreaking events, to keep the spirit of those who died alive for the benefit of the world. And we must continue to call attention to the horror and the inhumanity of genocide whenever it takes place.

The Armenians who perished at the hands of the young Turk Committee between the years of 1915 and 1923 were people like you and me—they had raised families, worked hard, enjoyed holidays together, had petty arguments, shared joys and sorrows. These people, just like you and me, were killed because of who they were, and even today, 81 years later, this chills us to the bone.

The atrocities began on April 24, 1915, when 200 Armenian religious, political, and intellectual leaders from Istanbul were arrested and exiled from their community in the Ottoman capital. Over the next 8 years, more than 1 million men, women, and children experienced deportation, forced labor, and in some cases, torture and extermination. This tragedy set the tone for an entire century in which crimes against humanity plague our history books and continue to cover the front page of newspapers.

I am convinced of one thing—the Armenian genocide existed. We know it did. The National Archives holds the most comprehensive documentation in the world on this historic tragedy, over 30,000 pages. More importantly, I have talked with those who survived it. Armenians suffered then, and continue to do so, whenever the atrocity is denied.

I think the most important thing we can do as a nation is acknowledge this tragedy and continue to pay tribute to those Armenians who perished under such terrible circumstances. it is my hope that by preserving these victims and their terrible experiences in our communal memory, we not only honor them, but may even prevent similar situations in the future from occurring.

Mrs. KENNELLY. Mr. Speaker, today, on the 81st anniversary of the Armenian genocide, I rise to commemorate the lives of the 1.5 million Armenians who were enslaved, tortured and exterminated from 1915 to 1923 by the Ottoman Empire.

On this day in 1915, Armenian intellectuals, clergy and leaders were rounded up and taken to their deaths. What was to follow was the ethnic cleansing of the native homeland of the Armenian people. Over a period of 8 years, 1.5 million Armenians were murdered and another 500,000 were deported. Before World War I, over 2 million Armenians lived in the Ottoman Empire. By 1923, the entire population of Anatolia and Western Armenia had been killed or deported.

This was the first genocide of the 20th century, and, tragically, it was not the last. Prior to the invasion of Poland, Adolf Hitler asked, "Who today remembers the extermination of the Armenians?" In a climate where no one remembered, the death camps became a reality.

Today, as the slaughter continues in Bosnia and Rwanda, it is more important than ever to remember—and to stand up to oppose genocide, systematic extermination, or ethnic cleansing. I have cosponsored H. Con Res. 47, a resolution commemorating the Armenian genocide, because of my belief that we must never forget the victims of this terrible act, and that we must always be prepared to prevent further crimes against humanity.

Mr. KENNEDY of Rhode Island. Mr. Speaker, one of the most profound calls to action ever written emerged from the Holocaust. Martin Niemuller expressed so well the guilty anguish of silence:

> First they came for the Socialists, and I did not speak out because I was not a socialist.
> Then they came for the trade unionists, and I did not speak out because I was not a trade unionist.
> Then they came for the Jews, and I did not speak because I was not a Jew.
> Then they came for me and there was no one left to speak for me.

This quote is telling because it can be said as much for the Armenian genocide as the Jewish Holocaust.

In fact, it has not been lost on historians of this century that the failure to recognize the Armenian genocide for what it was made it easier, not harder, for evil men like Hitler to believe they could do the same.

Today we in Congress are solemnly observing the tragedy of the Armenian genocide.

By observing this event we honor the bravery and courage of those who survived and we honor the memory of those who perished.

By observing this event we take a small step toward ensuring that such horrors will never occur again.

I am honored today to rise on behalf of Rhode Island's Armenian community—a vital and dynamic group that has made an incalculable contribution to the life of my State.

During my years in the Rhode Island General Assembly I joined my colleagues in consistently passing resolutions commemorating the Armenian genocide.

Additionally, we passed a resolution that condemned the removal of a photograph from the Ellis Island Museum which depicted horrors visited upon Armenians. Rhode Island was the first State in the Nation to issue such a resolution.

We can not erase the past by hiding it. We can not make today better by ignoring yesterday. While history may not be pleasant, it is grossly irresponsible to refuse to face the past and all the truths it contains. This photo was restored and visitors were allowed to see the past and learn from history.

As has often been remarked, those who forget the past are condemned to repeat it. Because of that ever-present risk we must all work to always remember and never forget the genocide, to cherish and preserve the Armenian culture, and to continue to fight for human rights and peace in this region.

Not until all Armenians are safe and secure, protected from harm and threat, will our work be done. Not until that day will our cause be won.

Not until that day can we rest.

Mr. VISCLOSKY. Mr. Speaker, I rise today to commemorate the 81st anniversary of the Armenian genocide. Each year, I join my House colleagues from both sides of the aisle in remembering the terrible atrocities that have been committed by Turkey against the Armenian people.

Members of Congress rise in this chamber every spring to publicly remember the genocide, but far too often these words and speeches are quickly forgotten. Far too often, people want nothing more than to forget that mankind can be so cruel. Far too often, people whisper quietly in the dark among themselves about how such a terrible thing as the Armenian genocide could never happen again.

Mr. Speaker, those people who whisper such words are wrong, terribly wrong. First, I would like to talk about how the Armenian genocide began. It began on April 24, 1915, when over 400 religious, political, and intellectual leaders of the Armenian community in Constantinople were executed by the Turkish Government. Thus began a war of ethnic genocide by the Ottoman Empire against Armenians that finally ended in 1923, when over half of the world's Armenian population—an estimated 1.5 million men, women, and children—had been killed. By the end of 1923, virtually the entire Armenian population of Anatolia and western Armenia was dead.

While it is important to remember this horrible fact of history in order to help comfort the survivors, we must also remain eternally vigilant in order to protect Armenia from new and more hostile aggressors. Even now, as we rise to commemorate the accomplishments of the Armenian people and mourn the tragedies they have suffered, Turkey and other countries are attempting to break Armenia down by maintaining a crushing and total blockade against this free nation.

For five consecutive years, Turkey and the former Soviet Republic of Azerbaijan have maintained a blockade of Armenia and Nagorno-Karabagh. The blockade has cut off the transport of food, fuel, medicine, and all other commodities. The blockade has driven over 90 percent of Armenia's population below a poverty level of $1.00 a day. As many as one-fifth of Armenia's 3.6 million people have fled the country. Because of the ongoing blockade and long winters without heat, thousands of Armenians have died from the harsh cold. These deaths are on Turkish hands, just as the deaths of 1.5 million Armenians earlier this century are on Turkish hands.

Last year, I led the fight in the House of Representatives to protect Armenia from this vicious blockade by Turkey and Azerbaijan by stripping out a provision in the fiscal year 1996 Foreign Operations appropriations bill that would have allowed the United Stated Government to provide direct cash payments to the Government of Azerbaijan before Azerbaijan had lifted its blockade of Armenia.

My amendment was approved by a voice vote, demonstrating widespread bipartisan support among House members for maintaining the strict sanctions against the Azerbaijani Government. There were over 2 hours of debate on the amendment, during which both Republicans and Democrats spoke strongly in favor of keeping prior U.S. law in place.

Although it has suffered greatly, Armenia is once again a sovereign, independent country. Its people are strong and determined to succeed. I am proud to support Armenia and the many noble ideals it represents. It is my sincere hope that the United States continues to strengthen its relationship with the nation and the people of Armenia.

Towards that end, I am extremely pleased that a strong and vibrant Armenian-American community is flourishing in northwest Indiana. In fact, my predecessor in the House of Representatives, the late Adam Benjamin, was of Armenian heritage. There are still strong ties to the Armenian homeland among Armenian-Americans. During the devastating Armenian winter of 1992–1993, Mrs. Vicki Hovanessian and her husband, Dr. Raffy Hovanessian, residents of Indiana's First Congressional district, helped to raise over $750,000 for purchases of winter rescue supplies of heating fuel and foodstuffs. In the last 12 months, alone, the Hovanessians have raised over $1,000,000 for charitable and educational purposes in Armenia and the United States. Two other Armenian families in my congressional district, Heratch and Sonya Doumanian and Ara and Rosy Yeretsian, have also contributed countless hours and resources toward charitable works in the United States and Armenia. One of the notable causes for which they have worked is the Saint Nersses Seminary in New York, which sponsors an exchange program between the United States and Armenia for new seminarians. I commend these generous families for their hard work and dedication to charitable giving.

In closing, I would like to commend my colleagues, Representatives PORTER and PALLONE, for organizing this special order to commemorate the 81st anniversary of the Armenian genocide. This remembrance will not only console the survivors and their families, but it may also serve to avert future atrocities.

Mr. FARR of California. Mr. Speaker, this is a solemn day in the history of the modern world. Eighty-one years ago today began a period of systematic persecution of the Armenian people—what would become one of the more terrible cases of state-sponsored terrorism against an ethnic group.

Beginning with the execution of some 200 leaders from the Armenian community on April 24, 1915, Armenians in Turkey were subjected to cruel and brutal treatment. Those of Armenian descent serving in the Ottoman army were subjected to forced labor and later executed. Women were raped or forced into prostitution. Thousands of men, women, and children were forced to leave their villages and either killed outright or sent on death marches through the desert, where they suffered horribly from disease and starvation.

When it was all over, nearly 10 years later, 1½ million Armenians were dead—victims of torture, executions, and forced labor—and hundreds of thousands of others were refugees. The terrible results of this systematic persecution can still be seen today: where once over 2 million Armenians lived in Ottoman Turkey, less than 80,000 live in the region today.

Many years have passed since the Armenian genocide, but we must never forget what happened to the Armenians of Ottoman Turkey solely because of their ethnicity. We must make sure that our children, and their children, learn about the genocide and understand the circumstances which led to such a horrific event in history.

In remembering the millions who died so tragically and unnecessarily, we would be well to remind ourselves of what the terrible effects of racism and bigotry can be. When a nation sees political gain in supporting ethnic persecution, as Ottoman Turkey did in persecuting the Armenian people, the result can only be disaster and tragedy.

We must also remember that individual cases of persecution are often followed by more extreme measures. The Armenian genocide of 1915–1923 had followed decades of anti-Armenian persecution in Ottoman Turkey.

For these reasons, we must never, never tolerate discrimination or bigotry in any form, whether it comes from a single individual or a whole government. We must work together to ensure that such a horrible tragedy as befell the Armenian people never happens again.

Mrs. KELLY. Mr. Speaker, I am pleased to stand and join with my colleagues in commemorating the 81st anniversary of the Armenian genocide. I would like to thank the other members of the Congressional Caucus on Armenian Issues, and particularly the cochairmen, Mr. PORTER and Mr. PALLONE, for their tireless efforts in organizing this fitting tribute.

On April 24, 1915, 81 years ago today, the nightmare in Armenia began. Hundreds of Armenian religious, political, and educational leaders were arrested, exiled, and murdered. These events marked the beginning of the systematic execution of the Armenian people by the Ottoman Empire, and also launched the first genocide of the 20th century. Over the next 8 years, 1.5 million Armenians were put to their deaths and more than 500,000 more were exiled from their homes. The details of these atrocities are among the most cruel and inhumane acts that have ever been recorded.

As we reflect today on the horrors that were initiated 81 years ago, I cannot help but be disturbed by the forces who wish to discredit or deny that these deeds occurred. Despite the overwhelming evidence to the contrary—eyewitness accounts, official archives, photographic evidence, diplomatic reports, and testimony of survivors—they reject the claim that genocide, or any other crime for that matter, was perpetrated against Armenians. Well, History tells a different story.

Let me read a quote from Henry Morgenthau, Sr., United States Ambassador to the Ottoman Empire at the time, which helps to set the record straight. He said, "When the Turkish authorities gave the orders for these deportations, they were merely giving the death warrant to a whole race; they understood this well, and, in their conversations with me, they made no particular attempt to conceal the fact * * *."

The world knows the truth about this sad episode of human affairs. We will not allow those who wish to rewrite history to absolve themselves from responsibility for their actions. This evening's event here in the House of Representatives is testament to that fact. I would like to once again thank the organizers of this event and I would like to once again reaffirm my sincere thanks for being given the opportunity to participate in this solemn remembrance.

Mr. ZIMMER. Mr. Speaker, it is a privilege to join my colleagues today in remembering and honoring the 1½ million Armenians who were victims of a brutal campaign of genocide between 1915 and 1923 by the Ottoman Empire and its successor state.

This systematic campaign of murder and forced exile is one of the darkest events in this century, and as we recognize it we should also vow to do whatever we can to help prevent such atrocities again.

Today, we honor those who fell in the Armenian genocide. But we also honor the spirit of perseverance and courage that has enabled Armenians to transcend such horrible destruction by surviving not only as individuals but also as a vital people.

Eighty years after the onset of the genocide, Armenia is an independent, democratic state. It was the first among the former Soviet republics to privatize agricultural land and livestock production, and it is working hard to build a strong economy despite tremendous obstacles, both natural and manmade. The 1988 earthquake continues to leave deep scars, and the blockade of Armenia's rail lines and roads has severely limited international trade. Turkey's refusal to allow humanitarian relief to pass through its territory to Armenia also has taken a tragic human toll.

Armenians time and again have displayed enormous courage in the face of adversity, and it is that quality that we commemorate the most here today, even as we honor those Armenians who suffered the evil of the genocide eight decades ago.

Ms. ROUKEMA. Mr. Speaker, today we mourn the 1.5 million victims of an unspeakable 8-year genocide carried out 81 years ago.

From 1915 to 1923, over 1.5 million Armenians living in Turkey were systemically murdered by the Ottoman Empire. And, throughout history, the world has experienced other horrible acts of cruelty such as the killing of 12 million in the Holocaust, ethnic cleansing/tribal warfare in Bosnia and Rwanda and, most recently, the bombing in Oklahoma City. That is why it is so important for us to remember this senseless tragedy every year—so that we remain vigilant in our efforts to promote peace and democracy throughout the world in order to help prevent such atrocious crimes from repeating themselves. Only by remembering such heinous acts can we move forward as a nation.

As we pay tribute to those Armenians who lost their lives, we must also continue to denounce racism, sexism, anti-semitism, bigotry, religious persecution, and ethnic violence both in the United States and throughout the world. And, taking the necessary steps to eradicate these prejudices will allow us to celebrate the many contributions that all groups of people have made to our country.

As the world took steps to end the tremendous suffering endured over 80 years ago, thousands of Armenians came to the United States in search of better lives. Today, they, their children, and their children's children represent what is best in America. Having one of this Nation's largest Armenian community's in my district, I am proud to say that their strong sense of work ethic and family values, among other things, is a model for other families to follow.

But, despite everything that has been achieved over the past 81 years, we cannot forget the plight that Armenia continues to face. In the middle of the Nagorno-Karabagh conflict, Armenia finds itself in a struggle for survival. Not only must the international community continue to increase its efforts to bring about democracy and stability in the TransCaucuses, but the United States must also must continue its resolve to restore security in the region and cleanse it of ethnic hatred.

All of us will forever remember this horrible tragedy. But, by working together with other countries to resolve present international conflicts, we will hopefully never have to speak about a similar tragedy in the future.

Mr. DOOLEY of California. Mr. Speaker, I rise today to join my colleagues once again in remembrance of the Armenian genocide.

In commemorating this terrible human tragedy, it is important for us to remember other such tragedies that have occurred throughout history. In recent years, the horrifying reports of systematic ethnic cleansing and other atrocities in the war-ravaged former Yugoslavia have demanded the attention and response of the Western world. The Balkan conflict has proven to be a very powerful and chilling reminder that if such aggression is ignored, an event much like the Jewish Holocaust can all to easily occur again.

The events of the Balkan conflict have brought the Jewish Holocaust back to the center of human consciousness regarding the history of human tragedies and genocide. While it is important to remember that tragedy, we must not forget that Adolf Hitler's plan for the final solution was rooted in the Armenian genocide. Today, we must remember the Armenian genocide and reflect upon the suffering endured by Armenia and her people.

One and one-half million Armenian people were massacred by the Ottoman Turkish Empire between 1915 and 1923. More than 500,000 Armenians were exiled from a homeland that their ancestors had occupied for more than 3,000 years. A race of people was nearly eliminated.

However great the loss of human life and homeland that occurred during the genocide, a greater tragedy would be to forget that the Armenian genocide ever happened. Adolf Hitler, predicted that no one would remember the atrocities and human suffering endured by the Armenians, years prior to unleashing his plans for the Jewish Holocaust. After all, he claimed, "Who remembers the Armenians?" Our statements today are intended to preserve the memory of the Armenian loss, and to remind the world that the Turkish Government—to this day—refuses to acknowledge the Armenian genocide.

The 81st anniversary also brings to my mind the current plight of the Armenian people, who are still immersed in tragedy and violence. The unrest between Armenian and Azerbaijan continues in the enclave of Nagorno-Karabagh. Thousands of innocent people have already perished in this dispute, and still many more have been displaced and are homeless. In fact, families from my own district in central California have become tragically involved in this conflict.

In the face of this difficult situation comes an opportunity for reconciliation. Now is the time for Armenia and its neighbors, including Turkey, to come together, to work toward a sustaining peace and to rebuild relationships between countries. The first step, must be to recognize the facts of history, however painful or awkward that may be.

Meanwhile, in America, the Armenian-American community continues to thrive and to provide assistance and solidarity to its countrymen and women abroad. Now numbering nearly one million, the Armenian-American community is bound together by strong generational and family ties, an enduring work ethic and a proud tradition of ethnic heritage. Today we recall the tragedy of their past, not to place blame, but to answer a fundamental question, "Who remembers the Armenians?"

Today our commemoration of the Armenian genocide speaks directly to that end, and I answer—We do.

Mr. DURBIN. Mr. Speaker, I rise to honor the memory of the victims of the Armenian genocide.

Today is the 81st anniversary of the beginning of the genocide that ultimately took the lives of one-and-a-half million Armenian men, women and children. On April 24, 1915, 200 Armenian religious, intellectual and political leaders in Constantinople were arrested by the Government of the Ottoman Empire and murdered. It was the beginning of the first genocide of the 20th century, and it continued until 1923. It was a vicious, organized crime against humanity that included murder, deportation, torture and slave labor.

The permanent exhibition of the United States Holocaust Memorial Museum, just a few blocks from here, contains an excerpt from a speech by Adolf Hitler which says: "Who after all, speaks today of the annihilation of the Armenians?" Mr. Speaker, that is why we must speak today about the Armenian genocide of 1915–23. So that no individual or government can ever think that such a crime against humanity will be forgotten. By commemorating the 81st anniversary of the Armenian genocide we bring attention to an atrocity that most of the world knows very little about. It is a part of history that must not be forgotten.

The Armenian genocide was followed by a concerted effort to destroy any record of the Armenians in Asia Minor, including the destruction of religious and cultural monuments, and the changing of place names. I am saddened that there are those who would prefer to forget the Armenian genocide. To ignore it is to desecrate the memory of those who lost their lives. And such denial sends the message that genocide will be tolerated by the world.

To deny the genocide of the Armenians, or any atrocity of this scale, is to forsake the value we place on human life and the principles of liberty upon which this country is based. Those who turn a deaf ear to the Armenian genocide, knowingly or unknowingly, abet the future of genocide by failing to raise public consciousness about this tragic reality.

As we remember those whose lives were brutally taken during the Armenian genocide, we also pay tribute to the survivors—the living testimony of this historic crime—and to their families, many of whom are now Armenian-Americans. We must assure them that we, as the leaders of the democratic world, will not forget this tragedy, but rather gain the wisdom and knowledge necessary to ensure that we can prevent its repetition.

The surest way to honor the memory of the victims of the Armenian genocide and all crimes against humanity is to recognize their suffering and ensure that these acts are never repeated. As we pause to reflect upon this grievous example of man's inhumanity to man, let us strengthen our conviction that such atrocities never be allowed to happen again.

Mr. MARKEY. Mr. Speaker, on this solemn day of remembrance I join Armenians throughout the United States and around the world in commemorating the genocide of innocent Armenian men, women, and children slaughtered with ruthless precision during the closing days of the Ottoman Empire. It is crucial that we recall the chilling events of this dark chapter in world history, face the historical facts directly and without hesitation, and dedicate ourselves to preventing such atrocities in the future.

The historical record shows that in 1915, a systematic massacre of Armenian religious, political, and intellectual leaders began. Continuing until 1923, the cruelty and ruthlessness which marked this campaign of terror still shock the conscience more than 80 years later. Between 1915 and 1923, 1.5 million Armenians lost their lives, and more than 500 thousand were expelled from their homes. Innocent Armenians were rounded up and sent away to unknown destinations to be murdered. Uncovered by a researcher only a few years ago, a report from a United States consul stationed in eastern Turkey from 1914 to 1917 provides disturbing details of this coordinated effort to commit genocide against the Armenian people. This record of cold-blooded murder is harrowing.

Despite the calculated attempt to purge the Armenian people from their land and erase Armenian culture and traditions, today the Republic of Armenia is working to establish a vital and progressive nation built upon democratic institutions. The Armenian Government has drafted a constitution, launched a program of industrial reform, privatized agricultural land, and made substantial progress in small-enterprise privatization. Armenia also has taken steps toward resolving the Karabakh conflict and moved to stabilize its economy based upon free-market principles.

I am pleased that our Government has recognized the importance of Armenia and has been working closely with international lending institutions to help ease Armenia's transition to a market economy. Through a comprehensive assistance program, USAID has funded numerous initiatives in Armenia, including one aimed at improving the distribution of much-needed commodities such as kerosene. Armenia has cooperated with the World Bank and the International Monetary Fund, made the difficult fiscal decisions necessary to construct a market-based economy, and steadily progressed towards a free and open democratic system.

As we mark the anniversary of the Armenian genocide, we join with our Armenian friends in remembering those who lost their lives in the early years of this century. While we reflect upon the past and dedicate ourselves to preserving the history of this humanitarian disaster, we also look forward. We look forward to a future in which Armenia will, we hope, grow prosperous, achieve economic strength, and, above all else, enjoy peace.

Mr. BERMAN. Mr. Speaker, I rise today in commemoration of the Armenian genocide.

The genocide committed against the Armenian people in the late 19th century and the early years of our own ranks among the worst such occurrences in human history. That it took place during the supposedly civilized "modern" era makes the crime all the more abysmal—and the need to commemorate it that much more important. The essential features of the story can be summarized briefly. As the 19th century drew to a close, authorities in the crumbling Ottoman Empire decided to crack down against a growing movement for Armenian autonomy. After enduring brutal persecution, the Armenians refused to pay the taxes levied by their oppressors. As a result, thousands of innocent civilians lost their lives and thousands more witnessed the destruction of their homes—all because the Ottoman Government wanted to teach them a lesson.

When the Armenians sought to publicize their plight by seizing a government building in Constantinople, government forces instigated a vicious pogrom during which over 50,000 perished. Several years later during the First World War, Armenian service in the Allied cause prompted the Turkish authorities to order the deportation of almost the entire Armenian population from their homeland to two distant provinces of the Turkish Empire, Syria and Palestine. Well over 1 million died during this long forced march, many thousands at the hands of government soldiers and many more from disease and malnutrition.

Sadly, we have not managed to escape the consequences of these atrocities. The legacy of bitterness is readily observable in central Asia, where memories of past injustice have complicated the search for peace and stability in Nagorno-Karabakh. The Humanitarian Corridor Act is another echo of the tragedy that occurred so many years ago. We would have had less reason to prepare such legislation if we did not also have to deal with ethnic conflict in the Caucasus.

One bright element did emerge from what befell the Armenians. As the horror continued, thousands of Armenians came to this country; many of their heirs now live in my own State of California, where they have established an enviable record of prosperity and service to the United States and to the broader world community. To them, we all owe a considerable debt of gratitude.

The achievements of Armenian-Americans demonstrate once more that it is possible to pay homage to one's ancestors while rising above the traumas of the past and embracing the opportunities of the here and now. This spirit is one element—no doubt, an essential one—of the American genius. Let us pray that it begins to animate all the people of the Caucasus region. Without a willingness among all parties to put aside ancient feuds while working jointly to resolve the problems of the present day, it will be impossible for the region to achieve even half of what Armenian-Americans have managed to do in less than a century.

Mr. Speaker, please permit me to close by altering slightly what I said at the outset. Even though this is indeed a day of commemoration for the thousands who perished in the Armenian genocide, we must not forget the great duty of those now living to prepare a better world for generations to come.

Mr. DELLUMS. Mr. Speaker, I rise today to discuss genocide. According to the Genocide Convention, genocide constitutes killings and other acts done "with intent to destroy, in whole or in part, a national, ethnical, racial or religious group." Genocide has occurred throughout history. Genocide is a crime that has been committed far too many times than we want to acknowledge. It has been committed by many peoples against those perceived as ethnically or religiously different. Many of its perpetrators have gone unpunished; many of its victims have gone unrecognized.

We are immediately reminded of the genocide committed by the Nazi Germans against the European Jews during World War II. Mournful remembrance of its 6 million victims was commemorated by this body this past week. Less known is the genocide committed by the Nazi Germans against the Slavic peoples during World War II. More recently, we are reminded of the genocide committed by the Hutus against the Tutsis in Rwanda beginning April 6, 1994. One million were estimated killed; 2 million were forced to flee to neighboring countries. Neither can we forget the genocide committed during the past 5 years by the Orthodox Christian Serbs against the Muslim Slavs in the former Yugoslavia. The total number dead and homeless have yet to be determined. In addition to these, we need to be reminded of another—the genocide of Armenians by the Ottoman Turks, which occurred between 1915 and 1923. Although this persecution claimed the lives of 1.5 million people and resulted in the forced deportation of 500,000 people, too few of us are even aware of its occurrence.

The Genocide Convention entered into force January 12, 1951. It was ratified by the United States on February 23, 1989. It confirms that "genocide, whether committed in time of peace or in time of war, is a crime under international law." The convention recognizes that every nation in the world has an obligation "to prevent and punish" genocide. As a world power, the United States must do whatever it can to ensure that perpetrators of genocide are brought to justice and to ensure that genocide never happens again. As representatives of the American people, we must speak out and condemn genocide wherever it has occurred. Each of us, individually and collectively, has a moral obligation to acknowledge the wrongs of the past and to ensure that they are never again allowed to occur.

Mr. HOYER. Mr. Speaker, April 24 marks the commemoration of the massacre of Armenians in Turkey during and after the First World War. In what historians refer to as the first of this century's state-ordered genocides against a minority group, more than 1.5 million people were murdered. We mourn the dead and express our condolences to the descendants of those who perished. We must also reflect upon the meaning and lessons of their suffering and sacrifice.

As many have observed, the massacres and deportations inflicted upon the Armenian community during that period were to mark this century of horrors. Civilian populations, defined by ethnic, racial, or religious distinctiveness, have become the objects of persecution and genocide simply because of who they are—Armenian Christians, European Jews, Bosnian Muslims. The range of victims—geographical, ethnic, religious, and political—testifies to the universality of human cruelty and fanaticism. The response of the survivors, however, testifies to the indestructibility and the resilence of the human spirit, even in the face of the most virulent evil.

Like the phoenix of mythology, the Armenian people survived its bleakest days and arose with renewed vigor. Armenians' sense of national identity has been strengthened and the Armenian language is flourishing. Most important, independent Armenian statehood has been restored to guarantee the security and future of the nation. However, independent Armenia, the realized promise and the living memorial to the victims of 1915 and later years, has endured a difficult rebirth. The Nagorno-Karabakh conflict has cost thousands of lives, created hundreds of thousands of refugees, and kept the entire region from enjoying the blessings of independence. Blockaded by its neighbors, Armenia's people have suffered through cold, hunger and deprivation. But their spirit remains sturdy, and their sacrifices link them in an unbreakable bond with past generations of Armenians.

It is our fervent hope, Mr. Speaker, that future generations will not have to sacrifice as their ancestors have. It is also our hope that all parties to the conflict in Nagorno-Karabakh will build on the now 2-year-old cease-fire and renew their efforts through the OSCE process to reach a negotiated settlement. Nothing could honor the memory of the victims of 1915 more than a free, prosperous Armenia living in peace with all its neighbors, and moving and impressing the world with both the spiritual and material products of the unbreakable Armenian spirit.

Mr. WAXMAN. Mr. Speaker, I want to express my appreciation to Mr. PALLONE and Mr. PORTER for holding this special order today to commemorate the Armenian genocide.

Approximately 6 million people of Armenian descent live in the United States. The elderly among them still have memories of the systematic persecution of Armenians during the years of the Ottoman Empire, and the accounts of this terrible crime against humanity have been passed down through the generations.

It is impossible to comprehend all of the genocidal horrors that were perpetrated against the Armenians during this dark time. In a few short years, approximately 1½ million ethnic Armenians were killed. Another one-half million were driven from their homes, robbed of their property, and saw every sign and symbol of their religion and culture obliterated and replaced with Turkish nationalist symbols.

Journalist Marjorie Hagopian reported that when the Nazis contemplated the destruction of the Jewish people, one of the leaders asked whether or not there would be world repercussions for the planned atrocities. Hitler is said to have responded, "Who cared about the Armenians?"

Would that the moral outrage of past atrocities against Armenians, Jews, Romany—gypsies, gays, labor leaders, intellectuals, and clergy prevent any such occurrence again. Sadly, even today we see in the former Yugoslavia gross violations of human rights, "ethnic cleansing," massive forced relocation of populations, and other horrors for which the Armenian genocide was a horrible precedent.

April 24 has been set aside to remind us of George Santayana's prophetic warning that those who forget history are doomed to repeat it. Today we honor the memory of the victims of the Armenian genocide and reaffirm our unwavering commitment to fight all crimes against humanity.

Mr. MANTON. Mr. Speaker, I rise today to join my colleagues in commemorating the 81st anniversary of the Armenian genocide of 1915 to 1923 and pay tribute to the more than 1.5 million Armenians killed by the Turkish Ottoman Empire. I commend my colleagues, Congressman PORTER and Congressman PALLONE, for arranging this special order to observe this horrific event in world history.

On April 24, 81 years ago, the Ottoman Turkish Government launched their systematic and deliberate campaign of genocide against the Armenian people. This violent campaign resulted in the deaths of over one-third of the Armenian population living in the Ottoman Empire and the exile of approximately 500,000 Armenians from their homeland.

Unfortunately, the persecution of the Armenians did not end in 1923, but continues today. Since 1988, the Nagorno-Karabakh conflict involving Armenia and Azerbaijan, has left more than 1,500 Armenians dead and hundreds of thousands of refugees in the three territories. A withering blockade of economic disruption has made everyday life a struggle for Armenians. Acquiring necessities for survival has become a great obstacle.

As a member of the congressional Armenian caucus, I have been working with my colleagues on the caucus on issues which effect the Armenian community. Recently, I joined my colleagues in sending the President a letter asking him to join the congressional Armenian caucus to issue a strong statement of commemoration and to honor the memory of the survivors of the Armenian genocide. In addition, I urge my colleagues to join me in cosponsoring House Concurrent Resolution 47, honoring the memory of the victims of the Armenian genocide. It calls for the United States to encourage the Republic of Turkey to acknowledge and commemorate the atrocity committed against the Armenian population of the Ottoman Empire from 1915 to 1923.

New York State is one of the few States which has offered a human rights/genocide curricula for teachers to use at their discretion, which includes the story of the Armenian genocide. Educational programs such as this will allow our children to learn about the tragic past in Armenian history, ensuring a peaceful existence for future generations.

It is my hope that next year when we remember the 82d anniversary of Armenian Martyrs Day we will be able to celebrate a restored peace to the Armenian people and confidently proclaim that "never again" will the world allow such a senseless tragedy to occur.

Mr. DREIER. Mr. Speaker, there is a well-worn saying that "Time heals all wounds." As we reflected this past weekend on the one-year anniversary of the tragedy in Oklahoma City, we drew some solace from it. Mercifully, the immediate pain and sadness of that most horrendous American terrorist act in history have passed. However, while we draw comfort from the passing of time, it does not mean that we are expected or should forget.

This is an especially poignant time to recall another horrible act of hate and evil, the genocide committed against the Armenian people in Turkey 81 years ago. Just as we will never forget the terrorism committed in Oklahoma, it is important that we not forget the 1.5 million Armenian men and women and children who were brutally murdered in the inaugural genocide of the 20th century.

Each year, Americans, and not just Armenian-Americans, come together on this occasion. We do so to do more than simply remember that the Armenians were the first victims of what sadly has become man's bloodiest century. Rather, we each hope that raising the consciousness of past atrocities helps prevent similar tragedies in the future.

With tragedy so near and so fresh in our minds, we are easily reminded that hate and evil are unfortunate aspects of the human condition. However, it is our responsibility as Americans to remain vigilant against hate, violence, and intolerance, whenever and wherever it rears its ugly head.

Mr. Speaker, I yield back the balance of my time.

Mr. BLUTE. Mr. Speaker, I am pleased to join my colleagues for this commemoration, and I thank Mr. PORTER and Mr. PALLONE for arranging it.

Recent history has seen the Armenian people subjected to a number of very difficult, troubling and tragic circumstances. From being forced to live under the Soviet communist regime, to the terrible 1988 earthquake—much worse than any this Nation has ever seen, to the present blockade and violence imposed by the Azeris.

The Armenian people have long suffered.

But nothing is more tragic than the genocide which took place from 1915 to 1923. One and one-half million died, countless more lost mothers and fathers, sons and daughters, uncles and aunts, comrades and friends.

We stand here, more than half a century later, to ensure that others will not forget.

Not forget the massacres. Not forget the persecution. Not forget the death marches. Not forget the bloodshed. And not forget that all citizens in the world deserve to live in freedom without the threat of destruction by people that hate.

That is why it is important we commemorate this 81st anniversary of the Armenian genocide. We can not afford to let the people of this world forget that genocide can, and does happen. Already, this decade has been marred by events in Rwanda and the former Yugoslavia.

In light of the sorry events in those countries we must do everything in our power to make sure the people of the world remember the genocide in Armenia 81 years ago. For, if we forget the past we will be condemned to repeat it.

As part of this effort the distinguished minority whip, Congressman BONIOR and I introduced House Concurrent Resolution 47. This resolution would put the House on record honoring the memory of the 1.5 million genocide victims. The House must pass this resolution and send a message to the world that we can never forget.

Furthermore, we are hosting a congressional reception next week and encourage all Members to take a moment out of their schedules to honor the survivors and the memories of the victims of this dark event in world history.

Mr. GILMAN. Mr. Speaker, I am pleased to be able to join today in the special order organized by my colleagues, Congressman JOHN PORTER and Congressman FRANK PALLONE, to honor the 81st anniversary of the Armenian genocide. It has in fact been my privilege to participate in such observances throughout the time that I have served in the U.S. Congress.

Eighty-one years is certainly a long time, but the memory of the atrocities committed by the former Ottoman Empire at that time against those of Armenian descent still burns in the consciousness of Armenian-Americans. This is indeed an important occasion, not just for Armenian-Americans, but for all those concerned by human rights abuses and by campaigns of genocide.

Our observance of this anniversary can serve as a reminder that such atrocities will not be forgotten. That, in itself, is very important. It is also equally important, however, to take this opportunity to think of those innocent men, women, and children who fell victim to this genocidal campaign in 1915 and the years immediately following. Their lives were abruptly ended—in a brutal and revolting manner—but they can come to life in our memories each year at this time. Those of their descendants who migrated to the United States after this terrible event still carry the memory of these unfortunate victims on this day and every day, and I believe that their ancestors would be proud to know how those who lived through this terrible event worked hard to make a new, prosperous life as citizens of their adopted land, the United States of America—and how they worked hard to keep their memory alive.

Mr. Speaker, once again, I thank my colleagues for arranging this special order on this important anniversary.

Mr. MARTINEZ. Mr. Speaker, I join my colleagues tonight in commemorating the 81st anniversary of the Armenian genocide. It is a testament to the Members of the Chamber that year after year we stand in the well of the House and pay tribute to the memory of the 1.5 million Armenian who were systematically slaughtered by the Ottoman Turks from 1915 to 1923.

Mr. Speaker, April 24, 1915, represents a tragic day in the history of the Armenian people. It is a day that has left an indelible mark on the consciousness of mankind. Eighty-one years ago, the Ottoman Turks unleashed the forces of hatred upon Armenian men, women, and children in a deliberate policy of extermination. On this fateful night, the Ottoman turks ruthlessly rounded up and targeted for elimination Armenian religious, political, and intellectual leaders.

For 8 bloody years a reign of terror-ruled the daily lives of Armenians in the Ottoman empire. For 8, long, horrific years, Armenians were consumed by the fires of racial and religious intolerance. Tragically, by the end of 1923, the entire Armenian population of Anatolia and western Armenian had been either killed or deported.

On the eve of launching the jewish Holocaust, Adolph Hitler commented to his generals, "Who, after all, speaks of the annihilation of the Armenians?" Mr. Speaker, the Members of the U.S. Congress speak of the annihilation of the Armenians. We speak out tonight so that future generations of Americans will know the facts surrounding the first genocide of the 20th century. We observe this solemn anniversary, along with the Armenian-American community and the people of Armenia, so that no one will be able to deny the undeniable.

Many of the survivors of the Armenian genocide established new lives in America, contributing their considerable talents and energy to the economic prosperity and cultural diversity of our great Nation. Therefore, Mr. Speaker, it is with a sense of gratitude toward Americans of Armenian descent and a deep sense of moral obligation that I join my colleagues in honoring the memory of these fallen victims of genocide. They are not forgotten.

Mr. SMITH of New Jersey. Mr. Speaker, I rise to commemorate the Armenian genocide, as we do every year on April 24. This is a time of solemn remembrance, as Armenians everywhere set apart this day to mark the genocide perpetrated against them by the Ottoman empire in 1915 and afterwards. For friends of Armenians, this is an occasion to express condolences and to show solidarity with the worldwide Armenian community.

We not only mourn with them the loss of some 1.5 million Armenians but we voice our determination to prevent any such horrors from recurring. Unfortunately, the Armenian genocide was only the first in this bloody century of horrors. Since then, powerful states have singled out and massacred other ethnic, racial or religious minorities, and to judge by the atrocities committed in this decade in Yugoslavia, human cruelty knows no bounds of geography, race or religion.

Nevertheless, Armenians—the first victims of genocide this century—have served as models of strength, steadfastness and resistance. The most important target of resistance is amnesia. Armenians have taught us the lesson that some events are too important not to recall—no matter how painful—for the particular nation in question, and for all of us, but equally important is the lesson that a nation's hopes do not flicker out with the loss of so many of its children. Instead of being defeated, the wound can steel the soul and fertilize dreams of freedom and security.

Today, an independent Armenian state guarantees the security and future of the nation. Despite all the difficulties and travails of the last few years, Armenia has defended its people and will continue to do so. For our part, we today signal our commitment to foster all efforts to resolve the causes of tension between Armenia and its neighbors. The road to peace and normal relations among the states of Transcaucasia is arduous, but it must be pursued by all the peoples of the region with the decisiveness and strength that Armenians have demonstrated in keeping alive their traditions and striving for freedom.

Mrs. MORELLA. Mr. Speaker, it brings me no pleasure to stand before you in rememberance of the tragedy that mars this day in history. But the silent denial of wrongdoing that continues to accompany this date 81 years after the fact underscores the importance of this special order. April 24 stands as a black mark on the historical calendar; for the victims of the Armenian genocide perpetrated by an unapologetic government, I must call attention to these horrible deeds.

It was on April 24, 1915, that the Ottoman empire commenced a genocidal cleansing unlike any that had come before. In seizing 200 Armenian religious, political, and intellectual leaders on this date, the Ottomans announced that Armenians would no longer be considered worthy of the basic human rights which must be afforded to all humanity. For the next 8 years they would brutally demonstrate the extant of these beliefs as they slaughtered 1.5 million Armenian men, women, and children, and forced another half million from their homes.

On this solemn day, we must pay homage to the uncompensated families for whom this day brings nothing but sorrow. The genocide of the Armenian people has never been recognized by the Turkish Government; no apology or reparations have been made. Instead, 81 years later, the wholesale slaughter of human beings goes unrecognized and unpunished. This day stands in infamy as a precursor to the atrocities of Hitler, the unspeakable acts in Rwanda, and the recent attempts acts of ethnic cleansing in Bosnia-Herzebovina. In allowing these deeds to go unpunished we have said to the world that these heinous crimes are acceptable, that the rights of mankind are not universal. But human rights are not malleable ideas, subject to the whims of a nation and the inhumanity of its leaders, and the bonds which one person imposes on another can not be tolerated by a nation based on the concept of liberty and the rule of law. It is for these reasons that we must continue to honor this date, and in honoring it remember the evil of which we are capable.

In honor of the 1.5 million Armenians who lost their lives for no reason other than their heritage, we must ensure that the rights of humanity are protected regardless of the false boundaries of nationalism. We are all children of the same Creator; if we are not our brother's keeper, there will be no brother left in our hour of need. As we have said of the Holocaust, we say of this too, never again.

Mr. MOORHEAD. Mr. Speaker, first of all, let me thank the gentleman from New Jersey [Mr. PALLONE] for arranging this special order today. His support of the Armenian community has been, and continues to be tremendous.

Today we mark the 81st anniversary of the beginning of the Armenian genocide. On this date in 1915 hundreds of Armenian political and intellectual leaders were rounded up, exiled, and eventually murdered in remote places. In the ensuing 8 years, over 1.5 million men, women, and children were slaughtered in an attempted genocide of the Armenian people by the Government of the Ottoman Empire. This was a crime not just against the Armenian people. It was a crime against humanity. We must never forget this tragedy of unimaginable proportions.

I have friends who were present during that time. One friend of mine was turned over to a Turkish family by his own mother and father. He then had to endure watching the systematic murder of every single member of his family as well as the killing of many from his community. These kinds of unspeakable atrocities were commonplace in Armenia between 1915 and 1923.

A strong, resilient people, the Armenians survived these cruelties as they have survived persecution for centuries. Their descendants now include over 1 million Americans for whom marking this day is not only a way to remember those who perished, but a way to remind mankind that we must all come together in pursuit of a common goal: to see to it that slaughter of this size and scope has no chance of ever happening again.

Unfortunately, brutality against Armenians continues to this day. The current conflict with Azerbaijan in the Nagorno-Karabagh region has once again brought suffering to the Armenian people. It is my sincere hope that the U.S. Government will do whatever it can to aid in the reaching of peace. Karabagh Armenians currently under the rule of the Azerbaijiani Government must have their rights protected.

Today in America, Armenians flourish in the United States as prominent citizens and community leaders despite the pain they and their ancestors have endured. Many survivors of the genocide now live in my district. In fact, in my district, I have the greatest concentration of Armenians outside of Armenia. Armenians serve proudly and with great distinction as mayors, and members of local councils and school boards.

It is with great pride that I have had the chance to serve the Armenian citizenry of my district. On this, my last opportunity as a Member of Congress to observe this day, I wish to thank the Armenian community for its support.

Mr. LAFALCE. Mr. Speaker, today is the day we have set aside to commemorate a painful time in world history—the 81st anniversary of the deaths of more than 1½ million Armenians. While the magnitude of the loss and the depth of the sorrow do not dim with time for the descendants of those who died, I join my colleagues in this observance today in the hope that a day of remembrance can bring a measure of healing.

This is what good and caring people do the world over when a tragedy occurs—grieve, console, reminisce. The first anniversary of the Oklahoma City bombing was recently the occasion of such a day of thought and remembrance. The shocking jolt that the bombing last year wreaked on the security that Americans have long enjoyed in this country will never be forgotten and will join the all-too-long list of events that, through their sheer awfulness, forever alter a country or a people. Indeed, we are even now watching with empathy the victims of the war in Bosnia, who, even as they struggle to get their footing as they emerge from their national nightmare, learn of atrocities such as mass graves and, as incredible as it may be that this could be happening again, watch as individuals—so-called leaders—are being turned over to the appropriate authorities for serious war crimes.

As much as this day of remembrance brings home the moral frailty and potential for cruelty, however, it is, more important, also proof that the majority of us firmly denounce the hateful actions of a few. For us, there is no political jargon, ancestral enmity, or religious fervor that could ever justify the deeds perpetrated in Armenia that we commemorate today, the slaughter that we revisited last week in Oklahoma, or any similar actions anyplace, anytime.

As a member of the Congressional Caucus on Armenian Issues, I affirm my strong support for a strong and vibrant relationship between Armenia and the United States. I will work to do my part to ensure that the legacy of future generations of Armenians is not marked by persecution, but rather by personal and national security, democracy, freedom, and prosperity.

Mr. LIPINSKI. Mr. Speaker, I rise today on behalf of the Armenian community in my district to mark the 81st anniversary of an unspeakable tragedy. I am referring to the genocide of 1.5 million of their people by the Ottoman Empire.

On April 24, 1915, 200 Armenian religious, political, and intellectual leaders from Istanbul, taken to the interior of Turkey and summarily murdered. Thus began an 8-year campaign to eradicate or deport all Armenian citizens from Anatolia and western Armenia.

Yet, today, many people are unaware of this vicious crime against humanity. There is little mention of it in our history books. It is not taught to our children in school. And now, the Turkish Government is funding Chairs of Turkish history at prestigious American universities in order to cleanse its image and deny its past. For example, the Republic of Turkey endowed Princeton University with $1.5 million for its Ataturk Chair of Turkish Studies. The professor who holds this chair is the former executive director of a Turkish institute that works to discredit scholarship which mentions the Armenian genocide.

However, my colleagues and I are here today to let the Armenian people know that we will not forget. We will not forget the aggression of the Ottoman Empire against innocent lives, particularly those of women and children. We will not forget that when the genocide ended, half of the world's Armenian population had been decimated. We will not forget that by 1923, the Turks had successfully erased nearly all remnants of the Armenian culture which had existed in their homeland for 3,000 years.

I stand here today to say that the genocide did happen. Nobody can erase the painful memories of the Armenian community. Nobody can deny the photos and historical references. Nobody can deny that few Armenians live where millions lived over 80 years ago. It is our responsibility and our duty to keep the memories of this tragedy alive. A world that forgets these tragedies is a world that will see them repeated again and again.

We cannot right the terrible injustice inflicted upon the Armenian community and we can never heal the wounds. But by properly commemorating this tragedy, Armenians will be least know the world has not forgotten the misery of those years. Only then will Armenians begin to receive the justice they deserve.

Mr. HAMILTON. Mr. Speaker, I want to join my colleagues today in remembering the tragedy endured by the Armenian people in the years 1915–23.

Extensive massacres of Armenians took place during that period in eastern Anatolian plains in an atmosphere akin to a horrible civil war. Those events have indelibly and permanently marked the consciousness of many Americans, including Americans of Armenian descent, who are commemorating April 24, 1996, as a national day of remembrance of man's inhumanity to man and a special day of remembrance for the Armenian victims of strife in the early years of this century.

April 24 marks the 81st anniversary of the calamity. It is appropriate on this occasion to direct our attention and prayers to the memory of the vast number of victims who died in these tragic events.

It is in the interest of all of us and in the interest of mankind that this type of tragedy not occur again. The leading organizations of the Armenian-American community have been seeking to work within our political system for a statement concerning these critical events in their heritage.

This year in the House of Representatives that vehicle is House Concurrent Resolution 47, honoring the memory of the victims of the massacres of Armenians, of which I am proud to be a cosponsor. No one can deny these events and the centrality of these events in modern Armenian history. I am proud to be associated today with my colleagues on this important day of remembrance.

I would also like to salute the Republic of Armenia, which continues to move forward in its democratic and economic reforms. This country of 3.3 million people is already developing important ties with the United States. Americans have an interest in the economic development of Armenia, its progress toward a free market economy, and its development of democratic institutions. We want to work with Armenia and its neighbors to insure peace, stability, and progress in their search for greater freedom and security. There is no better way to honor the misdeeds of the past than rededicating ourselves to a better future.

Today in Europe, we have a chance to advance the cause of peace and stability more vigorously and on a wider scale than ever before. I salute all governments, private organizations, and individuals, including the Armenians, who are working toward this end. I hope that their efforts will make the world a safer place, where innocent people no longer suffer the unspeakable crimes of war and terror.

Mr. FRANKS of Connecticut. Mr. Speaker, I rise today to remember the Armenian victims of the genocide brought upon them by the Ottoman Turks and to commend my colleagues, the gentleman from Illinois, Congressman JOHN EDWARD PORTER and the gentleman from New Jersey, Congressman FRANK PALLONE, for organizing special orders today so that Members of the House may take the time to remember the one-and-a-half million Armenians who were brutally slaughtered by the Ottoman Empire.

Eighty-one years ago on April 24, 1915, the Ottoman Empire's horrible operation against the Armenian community was inaugurated. During the eight grisly years that followed that infamous date, the Armenian people would be subjected to a sick, ghastly campaign of systematic genocide and deportation. During the years of 1915 to 1923, over 1.5 million Armenians were murdered by the genocidal Ottoman Turks while another 500,000 were subjected to forced exile from their homeland.

Mr. Speaker, the eight years of the Armenian genocide will always be considered one of the grimmest in the history of mankind. So that we never forget this travesty to the concept of human rights, we must always observe the date of April 24. To not do so would be equivalent to neglecting the remembrance of those Armenians who had perished, who were harmed or who were uprooted during the tyranny of the Ottoman Turks. Mr. Speaker, we must not and can not let that happen.

Therefore, Mr. Speaker, in honor of the Armenian people whose human rights were trodden upon, I encourage all of my colleagues to take the time and remember the plight and situation of the Armenian people and remember that we must always fight hatred and bigotry wherever it can be found.

THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. PORTER] is recognized for 5 minutes.

Mr. PORTER. Mr. Speaker, we mark the 81st anniversary of the Armenian genocide, which did not occur in 1 year, 1915, but lasted over an 8-year period from 1915 to 1923, during which time the Turks of the Ottoman Empire carried out a systematic policy of eliminating its Christian Armenian minority. This was the first example of genocide in the 20th century, a precursor to the Nazi Holocaust and other cases of ethnic cleansing and mass extermination in our own time; and we must never forget it, for forgetting history not only dishonors the victims and survivors, it encourages other tyrants to believe that they can kill with impunity.

Mr. Speaker, today's occasion is, of course, a time for solemn reflection, but it is also an occasion that affords us the opportunity to celebrate the human capacity of resilience, the ability even of people faced with the most horrendous disasters and challenges to rebuild their shattered lives. We can see this determination to overcome such an atrocious past in those of Armenian descent.

On a national level, the struggle for survival and the sense of a hope for a better future can be seen by the very existence of the young, independent, democratic Republic of Armenia.

Despite the preponderance of evidence about the historic fact of the genocide against the Armenian people, which is strong and undeniable, modern Turkey continues to deny that the Armenian genocide took place. While various Turkish sources expressed the view that certain unfortunate incidents took place, it denies there was ever any systematic ethnically based policy targeted against the Armenian people. There are those who say we should not offend our Turkish allies by using the word genocide, but let us call it what it was. It was genocide, a most horrible genocide where over 1.5 million people, including women and children, lost their lives and over 500,000 Armenians were killed, eradicating the Armenian historic homeland from Turkey.

Let us remind ourselves that our country and the rest of the world at that time turned away and did nothing to prevent these horrible human rights violations against innocent men, women, and children.

□ 1715

The problems we face from Turkey historically with Armenia have not gone away, and they are continuing now in a different form against another minority people. Let us remind ourselves as well that today in Turkey another genocide is occurring by the Turkish Government against yet another Turkish minority, the Kurdish people.

Today, thousands of Turkish troops have not only driven through the southeastern portion of Turkey, executing those in the Kurdish minority who oppose them burning and tearing down Kurdish towns, but also crossed into the border in Iraq to attack Kurdish people in their refugee camps. And let us remind ourselves, Mr. Speaker, that our Government has not acted to prevent this additional genocide, but has actually supported this action against an innocent people.

We remind ourselves today of our responsibilities to other human beings, and in commemorating the 81st anniversary of the Armenian genocide, each one of us should say to ourselves we are our brother's keeper, and that we do have a responsibility to others to stand up and tell the world that a genocide occurred in 1915 to 1923, and that another is occurring today.

This past year in hammering out the fiscal 1996 foreign funding bill, the Foreign Operations Subcommittee sent a strong message to Turkey that we will not sit idly by as they commit egregious human rights violations not only against their own but also against their smaller struggling neighbors, including Armenia. We cut their economic assistance in the last year, Mr. Speaker.

We passed the Humanitarian Aid Corridor Act, which ensures that any country that henceforth prevents transit of U.S. humanitarian aid intended for other people will forfeit all U.S. economic military and military assistance, and we provided to the Armenian people support of $85 million of aid for food, fuel and medical supplies and an additional $30 million for economic and technical assistance.

We have made great progress in the last years in helping to establish a new Armenia, an Armenia that is free and democratic and forging ahead to provide through economic freedom a greater economic life to its people and a greater stability for its future.

Mr. Speaker, we have made that commitment previously. We have to renew it this year. Even in tough budgetary times, we ought to realize that, if we can prevent the kind of foreign assistance, provide the kind of foreign assistance to Armenia, a struggling young country that does reflect the values that this country stands for and believes in, we will do a great deal to extend those values across the world.

GENERAL LEAVE

Mr. PORTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order.

The SPEAKER pro tempore (Mr. MILLER of Florida). Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. DINGELL] is recognized for 5 minutes.

[Mr. DINGELL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 5 minutes.

Mr. BILIRAKIS. Mr. Speaker, I rise today to join my colleagues in marking one of the most appalling violations of human rights in all of human history—as today marks the 81st anniversary of the Armenian genocide.

I want to commend my colleagues JOHN PORTER of Illinois and FRANK PALLONE of New Jersey, the cochairs of the Congressional Caucus on Armenian Issues, for sponsoring this special order.

The great Armenian massacre which took place between 1915 to 1916, shocked public opinion in the United States and Western Europe. As Henry Morgenthau, Sr., the former U.S. Ambassador to the Ottoman Empire, stated:

> I am confident that the whole history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915.

Mr. Speaker, in reality, this atrocity lasted over an 8-year period from 1915 to 1923. During this time, the Ottoman Empire carried out a systematic policy of eliminating its Christian Armenian population.

As a Greek-American, I have always felt a special kinship for the Armenian people. My Greek ancestors like those of Armenian descent, have also suffered at the hands of the Ottoman Empire, and as my colleagues may know, I hold a special order every year to celebrate Greek independence from over 400 years of Turkish oppression.

Mr. Speaker, I am proud to have cosponsored House Concurrent Resolution 47, which honors the memory of the victims of the Armenian genocide.

I have also joined my colleagues in sending a letter to President Clinton expressing disappointment in the fact that he used the word "massacres" rather than the word "genocide" to describe this systematic annihilation of 1.5 million Armenians. In my opinion this distinction is more than a matter of semantics; it is rather the difference between a random series of atrocities and a systematic, ethnically based policy of extermination.

In closing, Mr. Speaker, I would like to ask that we take a moment to reflect upon the hardships endured by the Armenians. In the face of adversity the Armenian people have persevered. The survivors of the genocide and their descendants have made great contributions to every country in which they have settled—including the United States, where Armenians have made their mark in business, the professions, and our cultural life. Commemorate seems the wrong word to use, Mr. Speaker, but it is fitting and right that we mark this dark event today. For it is only through focusing on it that we hold out hope for the future that no such event will occur again.

COMMEMORATING THE EIGHTY-FIRST ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 5 minutes.

Mr. BONIOR. Mr. Speaker, I also would like to commend my colleagues, the gentleman from New Jersey, FRANK PALLONE, and the gentleman from Illinois, JOHN PORTER, for taking out this commemorative of the 81st anniversary of the Armenian genocide.

Mr. Speaker, beginning on the night of April 24 in 1915, the religious and intellectual leaders of the Armenian community of Constantinople were taken from their beds, imprisoned, tortured, and killed.

In the days that followed, the remaining males over 15 years of age were gathered in cities, towns, and villages throughout Ottoman Turkey, roped together, marched to nearby uninhabited areas, and killed.

Innocent women and children were forced to march through barren wastelands—urged on by whips and clubs—denied food and water.

And when they dared to step out of line, they were repeatedly attacked, robbed, raped, and ultimately killed.

When all was said and done, 1½ million Armenians lay dead, and a homeland which had stood for 3,000 years was nearly completely depopulated.

Mr. Speaker, we come to the floor this evening to remember the victims—and the survivors—of the Armenian genocide.

As we come to this floor, we do so with the knowledge that all of us have a responsibility to remember the victims, to speak out and to make sure that tragedies like this are never allowed to happen again.

That's one of the reasons why some of us have introduced a resolution, House Concurrent Resolution 47, sponsored by over 150 of our colleagues to remember the victims of the Armenian genocide.

Now more than ever, those of us who embrace democracy have a responsibility to speak out for all those who live under tyranny.

Because sadly, the world does not seem to have learned the lessons of the past.

We have seen bloodshed this decade in places like Bosnia and Nagorno Karabakh.

American leadership has helped to bring about a chance for peace in Bosnia.

Now we must do the same in Nagorno Karabakh.

For most Americans, Nagorno Karabakh is not a place that registers on the radar screen, for it is not a CNN war.

But it is a place where 100,000 people have been killed or wounded over the past 7 years, and 1 million others have been left homeless.

Mr. Speaker, we're all hopeful that this terrible tragedy ends soon. We're all hopeful that the case-fire in place for 2 years continues to hold while work continues to bring about a lasting peace.

People are slowly starting to return to their homes.

In recent months, our administration, the Russian government, the OSCE Minsk Group, Turkey, Azerbaijan, and Armenia have all begun efforts to resolve the conflict.

But our efforts must be intensified, and the integrity and security of the Armenians in Nagorno Karabakh must be guaranteed as we move forward.

We must also continue to speak out against the refusal of Turkey to allow humanitarian aid to flow into Armenia.

Mr. Speaker, we now have a provision in law, section 562, that cuts off aid to any country, that restricts the transport or delivery of U.S. humanitarian assistance.

It is utterly unconscionable to me that a country who is an ally of ours, who is a member of NATO, and who accepts U.S. aid, would think it has the right to block U.S. humanitarian assistance.

The third largest recipient of U.S. assistance must know that section 562 will be enforced and the aid will stop unless it ends its blockade of Armenia.

Mr. Speaker, we must pause today and say "Never again."

We can forget that in 1939, another leader used the Armenian genocide as justification for his own genocide.

This leader said, and I quote:

> I have given orders to my death units to exterminate without mercy or pity, men, women, and children belonging to the Polish-speaking race. After all,

Adolf Hitler asked,

> who today remembers the extermination of the Armenians?

Mr. Speaker, it is up to all of us to remember.

For centuries, the Armenian people have shown great courage and great strength.

The least we can do is match their courage with our commitment.

Because in the end, we are their voices and we must do all we can to remember.

Because if we don't, nobody else will.

ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. RADANOVICH] is recognized for 5 minutes.

Mr. RADANOVICH. Mr. Speaker, between 1915 and 1923 the Ottoman Turkish Empire committed a terrible genocide against Armenians. In a systematic and deliberate campaign to eliminate the Armenian people and erase their culture and history of 3,000 years the Turks committed this atrocity. As a result, over one-half million Armenians were massacred. The Armenian genocide is a historical fact, and has been recognized by academics and historians all over the world. The documentary evidence is irrefutable and beyond question. Unfortunately, the Turkish Government is still persisting in their denial that the genocide took place.

Many survivors of the genocide have made the United States their new home. On April 24, 1996, Armenians all over the world will commemorate the 81st anniversary of the Armenian genocide. Commemoration activities will occur in Washington, DC, Los Angeles, and in my district in Fresno, CA. I have the honor of representing thousands of Armenians in California's Nineteenth Congressional District, and I send my sincerest condolences on this solemn occasion to all members of the Armenian community. As a member of the Congressional Caucus on Armenian Issues, I intend to join my colleagues, Representatives PORTER and FRANK PALLONE, in a special order on April 24, 1996 on the floor of the House of Representatives to commemorate the genocide victims.

I am an original cosponsor of House Concurrent Resolution 47 which calls on Congress to officially recognize the Armenian genocide and encourages the Republic of Turkey to do the same. This legislation would call on the Government of Turkey to turn away from its denials of the Armenian genocide, and instead, to openly acknowledge this tragic chapter in its history. By doing so, the Turkish Government can help to raise the level of trust in a strategic, yet highly unstable, region of the world and facilitate the normalization of relations between Turkey and Armenia. I encourage my colleagues to vote for the passage of House Concurrent Resolution 47.

Remembering this genocide against the Armenians will help ensure that this type of tragedy is never allowed to occur again.

□ 1730

BRAD PELZER BONE MARROW DONOR DRIVE

The SPEAKER pro tempore (Mr. MILLER of Florida). Under a previous order of the House, the gentleman from Pennsylvania [Mr. MASCARA] is recognized for 5 minutes.

Mr. MASCARA. Mr. Speaker, I rise tonight to plead the case of 11-year-old Brad Pelzer from my district who needs a bone marrow transplant. Brad is suffering from CML, an adult form of leukemia.

Until early this year, Brad Pelzer was a typical 5th grader at Charleroi Elementary Center, located in my hometown of Charleroi, PA. Brad, an honor student, enjoys playing soccer, deck hockey, and using his family's computer.

But in February Brad became ill and by the end of the month he was diagnosed with leukemia. Now Brad and his parents, Joe and Josie Pelzer, are engaged in a desperate search for someone whose bone marrow will match Brad's.

Brad's doctors say a transplant from such a donor will offer him his best hope for beating this very serious illness.

Like hundreds of other parents faced with a similar situation, Joe and Josie are mustering every ounce of courage and hope they can. After discovering no family members were a match for Brad, they sought the help of local blood bank officials. They have organized three donor drives over the next several weeks to seek a potential donor from the local community.

As the chart reflects, the first will be held tomorrow, April 25, from 11 a.m. to 4 p.m. at California University in California, PA. Donors should go to the performance center located in the student union.

The second will be held Saturday, April 27, from 8 a.m. to 2 p.m. in the north Charleroi fire hall. The third will be held Monday, May 6, from 9 a.m. to 1:45 p.m. in the first floor conference room of the Washington County Courthouse in Washington, PA.

Anyone who is 18 to 60 years old is invited to come and give blood and be tested. The reward would be so great—giving life to Brad.

It is very ironic to me that Brad's situation came to my attention at this time when the Nation is observing National Organ and Tissue Donor Awareness Week.

His family are long-time friends of mine, his grandparents, Leroy and Susan Rotolo and Rita Pelzer, are my neighbors. They are very lovely people. Good, solid citizens. And now they must rely upon the goodness of the rest of us to help them through this very trying and difficult ordeal.

Situations like this make you reflect on the blessings that have been bestowed upon us and how important it is to reach out and be kind and helpful to our neighbors and friends.

Having children and grandchildren of my own, I know exactly how Joe and Josie feel. They are looking for an answer and the miracle might be a person who is viewing these special orders tonight. You could be the one to reach out to Brad Pelzer and help save his life.

According to material marking National Donor Awareness Week, provided by Congressman MOAKLEY, a transplant recipient himself, at any given time 43,000 Americans are awaiting a transplant. They are rich and poor. They are old and young. And they all need our help.

The amazing thing is even if you live nowhere near Charleroi, PA, you can still help Brad Pelzer, and the thousands of other youngsters in need of a bone marrow transplant. The American Red Cross has set up a 1–800 number you can call to locate the nearest blood bank where you can be tested and added to the national bone marrow transplant registry.

Since the bone marrow transplant registry was established in the mid-1980's, over 1.6 million people have been added to the registry. Because the base of donors is growing each year, I am told that 60 percent of patients find a matched donor on their first search.

The bottom line is please attend one of the drives in my district, or call 1–800–MARROW–2, and help improve the chances for Brad.

His mom and dad, his brother, Brent, and his grandparents, are all praying that you will answer the call. Please help. Hang in there Brad—we'll find a match.

LYON COUNTY WANTS EPA TO HALT SUPERFUND CLEANUP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, I come before the House this evening to talk about the environment. Last evening, I spoke to my colleagues about education, and this has been Earth Day this week, and Earth Week. People talk about saving the environment. And last night I talked about paying more for education and getting less. Tonight I wanted to address the House and my colleagues about paying more for preserving and protecting the environment and getting less.

Just a few hours ago the House passed, I believe, the 13th or 14th continuing resolution, and that is a temporary resolution to fund the Government for one more day, and you know we have had a tremendous amount of difficulty in trying to nail down the budget and nail down the expenditures for this year that we are in, 6 months into.

What we have not been able to do on our side of the aisle is really tell the American people or convince a majority of our colleagues here that we, in fact, are paying more in education. Tonight I use as an example the environment and getting less for cleanup. And part of the contest that the Congress is engaged in is not just a question of how much more money you spend on these programs, but how you spend it: Are we protecting the environment?

One of the things that I have learned as chairman of the House Civil Service Committee is where the bodies are buried or where the public servants are working in the large bureaucracy we have, with so many people employed by the Federal Government. Particularly, my concern is Washington, DC, and then some of the regional offices, if you just take a minute and look at what part of this debate is about with EPA.

The total number of EPA employees has grown to almost 18,000 EPA employees. There are 6,000 EPA employees in Washington, DC. Now, that 6,000 is equal to about the total number of employees in EPA about a little over a decade ago. If this were the only figure, this 17,000, it would be huge by any measure. But, in fact, you find thousands and thousands of contract employees. If you wonder where the rest of these employees are, there are 6,000 in Washington, there is another approximately 1,200, a 1,000 to 1,300 in 10 regional offices across the country.

When I get down to my State of Florida, we had a total, I believe, of 65 EPA employees in this particular fiscal year.

So people who think that EPA is out there in the States protecting the environment, it is not so. They are in Washington, and they are passing countless rules and regulations. A tremendous amount is spent on administration.

And then some of the programs we have heard talked about like Superfund. Superfund, I have explained to the House, over 80 percent of the funds on Superfund have been spent on attorney fees and studies.

I had a gentleman visit me in my office yesterday, and he said a Superfund site in Florida was identified in 1984. He said it went through a half a dozen project administrators and they still have not done anything to resolve the problems of the Superfund site. That is in Florida.

Here is a site in Nevada. Lyon County commissioners, and this is part of a release from them, asked the U.S. Environmental Protection Agency to halt mercury cleanup program of the Carson River. The mercury that they were going to clean up is left over from mining operations of the Comstock Lode in the 1800's.

Then we have another example, of Vermont here, Burlington, Vermont. Twelve years ago, after a site was picked there to clean up some hazardous waste left over from a coal gasification plant, nothing was done. They spent millions of dollars. Very little was done in the way of environmental cleanup.

So we are paying more, we are getting less, and the more I talk about this, the more examples that are brought for me from across the country, and that is part of the debate. Republicans favor protecting the environment, preserving the environment. Republicans favor clean water, clean air, clean land. But when you spend money like this, when the money goes for a bureaucracy like this, and it does not go for a cleanup, then we have a real problem.

I want to quote as I get towards the end here a comment from Carol Browner, EPA administrator, who said in the New York Times in 1993, in November: "When I worked at the state level, I was constantly faced with rigid rules that made doing something 110 times more difficult and expensive than it needed to be. It makes no sense to have a program that raises costs while doing nothing to reduce environmental threats."

Now, that is Carol Browner, former Florida EPA administrator, commenting on her experience in dealing with the Federal Government.

So, Mr. Speaker, I call on Carol Browner, I call on this administration, I call on my colleagues, to stop paying more and getting less. We can do a better job if we concentrate and effectively utilize our limited taxpayer dollars.

A SPECIAL DAY, A SPECIAL EVENT, AND VERY SPECIAL STUDENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DE LA GARZA] is recognized for 5 minutes.

Mr. DE LA GARZA. Mr. Speaker, this past weekend I participated in an Earth Day celebration back home in my district. The event was a Hometown Trees celebration and took place at the Kika de la Garza Elementary school whose principal is Mr. Jose Louis Trigo.

We planted a live oak tree in remembrance of the children of the Oklahoma bombing tragedy. This was donated by first grader Amy Sojak and her classmates. Amy and her classmates are students of Miss Veronica Galvan. Fourth grade student Joel Espinoza was the master of ceremonies. And awards were presented to the following students for their essays which emphasized the special and unique benefits provided by trees: Victor Villarreal, Brandi Martinez, Andres Aguilar, Juan Carlos Lopez, and Denise Sepulveda.

What was particularly exciting about the occasion is that 10 year old Victor Villarreal was recognized as the Hometown Trees National Essay Contest Winner for the Southwest region. He is the son of Guadalupe and Francisca Villarreal.

Over the past 5 years, Hometown Trees, sponsored by IGA supermarkets, Louisiana-Pacific and Coca-Cola, has teamed up with thousands of local volunteers in communities nationwide to ensure that the future generations will enjoy the ecological and aesthetic benefits of trees. This year, as part of the Hometown Trees initiative, IGA sponsored a nationwide environmental essay contest for children age 12 and under.

Young Victor won the contest—quite an accomplishment and one of which he can be very proud. His essay was chosen for its uniqueness and creativity. It vividly captures the importance of trees from a child's perspective.

It reads: "Trees are important in my hometown because at La Joya, 'The Jewel of the Valley,' we treasure trees—our jewels. They add that special spark that only nature can provide. Anything that mother nature creates, is a true treasure that no other power can originate. Treasure your jewels!"

To specifically honor Victor's accomplishment a tree donated by IGA and Carl's Grocery was planted. It will forever be a living monument to him. These trees will be enjoyed by all the community.

What made this occasion particularly unique for me is that I feel the sentiments expressed by Victory are shared by his fellow students. What I saw in the faces of the youngsters was an eagerness not just to participate in an event for the one day we officially recognize as Earth Day, but rather a desire to make every day Earth Day.

This tells me that as we celebrate this 26th Anniversary we have passed on to our children and grandchildren how important it is to look after our environment in the way we live our lives every day. That is quite an accomplishment—and Victor, and all of his fellow students, are quite an outstanding group of youngsters.

THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. DINGELL] is recognized for 5 minutes.

Mr. DINGELL. Mr. Speaker, I join all of my colleagues today in commemoration of April 24, 1996, the 81st anniversary of the Armenian genocide which occurred under such tragic circumstances 81 years ago, and it is my purpose to join with my colleagues to insist that such inhumanity never be repeated again.

Mr. Speaker, today we are recalling the loss of 1½ million Armenians who were killed and a half million more who were driven from Turkey. No person of any decency can do other than oppose this sort of inhumanity, and all join in a statement of hope for a world free of genocide and ethnic conflict.

I have the great privilege to represent a large and active Armenian population, many of whom have parents and grandparents who were amongst the persecuted religious, political, and intellectual leaders in the turn of the century Armenia.

Today's Michigan community of Armenians follow the great tradition of doing much to further the commercial, political, and intellectual growth of Michigan and of the country. It is my hope that today's effort to honor the victims and the survivors of this genocide will educate all of us, will educate our neighbors country men and all of the world's people so that peace remains a priority of this Nation.

Mr. Speaker, this is the 81st anniversary of the Armenian genocide. We look back to honor those who have died, but we also look forward and say, "Never again."

□ 1745

BUDGET SHORTFALL FOR NATIONAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, a couple of days ago I announced, along with the chairman of the Committee on National Security, that we were going to address a shortfall in funding under the Clinton administration budget that seriously impeded the capability of our pilots to operate their aircraft effectively and safely. That was done on the heels of the hearing in which we talked about the three, now four, F–14 crashes since the first of January and the three AV–8B Harrier Marine Corps jet aircraft crashes since the first of January.

We talked about the fact that the Clinton administration is not going to spend the money to make the safety upgrades to 24 of the Marine aircraft that are going to be piloted by young Americans. The chairman of the full committee, my friend FLOYD SPENCE and I made the decision that we would commit to spend the money that was necessary to upgrade those aircraft so that they are 50 percent safer than they would otherwise be, and we also made the commitment to make the $83 million in safety upgrades to the F–14 aircraft.

It was an indication to me, Mr. Speaker, that the Clinton administration's defense budget, which has been slashed in excess of $150 billion below the budget put together by Dick Cheney and Chairman of the Joint Chiefs Colin Powell, it was another indication to me that this budget is coming apart at the seams.

Today I have the duty of reporting to my colleagues and to the American people that there is another indicator that the Clinton defense budget is coming apart at the seams. That indicator is that we now have examined the ammunition supplies that the U.S. Marine Corps will depend on in the two major regional conflict scenarios. That means if they should get involved in a conflict in the Middle East and at the same time be involved in a conflict on the Korean peninsula, would they have the ammunition to carry out both of those operations, which is a requirement that the President of the United States has told the American people the Marines will be able to meet.

The answer, Mr. Speaker, unfortunately is no. The Marines do not have the basic ammunition load necessary to carry out two major regional contingencies. Their ammo pouches in those contingencies will at some point be empty, and they will be empty because the Clinton administration is not willing to spend the money to put that ammo in their ammo pouches.

I have received now from the Marines a list of ammo that they need to be able to fight those contingencies for the American people, and that ammo list comes to $369 million. I have talked this over with the chairman of the full committee, the gentleman from South Carolina, FLOYD SPENCE, and we have agreed that we are going to commit today to fund that full ammunition load for the U.S. Marine Corps.

It makes no sense, and it certainly is greatly lacking in compassion and consideration for our military people to suit them up and move them around the world to project American power and protect American interests and freedom, and not give them the doggone ammunition that they need to get the job done.

So once again the Clinton defense budget has come up this time $369 million short in the area of ammunition. We were first apprised of this when we saw the GAO report, the initial informal report that said that the Marines did not have the ammo to fight two wars. We examined it. We talked to people. We finally got the list of exactly what they need to have full ammunition pouches.

So the Republicans are riding to the rescue of America's fighting people. We are going to see to it that they have the right equipment and the right ammunition to get the job done, and we are committing today to spend the money that is necessary to do that.

THE 81ST ANNIVERSARY OF ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 5 minutes.

Mrs. LOWEY. Mr. Speaker, this year marks the 81st anniversary of the Armenian genocide, an act of mass murder that took 1.5 million Armenian lives and led to the exile of the Armenian nation from its historic homeland.

It is of vital importance that we never forget what happened to the Armenian people. Indeed the only thing we can do for the victims is to remember, and we forget at our own peril.

The Armenian genocide, which began 15 years after the start of the 20th century, was the first act of genocide of this century, but it was far from the last. The Armenian genocide was followed by the Holocaust, Stalin's purges, and other acts of mass murder around the world.

Adolf Hitler himself said that the world's indifference to the slaughter in Armenia indicated that there would be no global outcry if he undertook the mass murder of Jews and others he considered less than human. And he was right. It was only after the holocaust that the cry "never again" arose throughout the world. But it was too late for millions of victims. Too late for the 6 million Jews. Too late for the 1.5 million Armenians.

Today we recall the Armenian genocide and we mourn its victims. We also pledge that we shall do everything we can to protect the Armenian nation against further aggression; in the Republic of Armenia, in Nagorno-Karabagh, or anywhere else.

Unfortunately, there are some who still think it is acceptable to block the delivery of U.S. humanitarian assistance around the world. Despite our success last year in including the Humanitarian Aid Corridor Act in the Foreign Operations Appropriations bill signed by the President, Azerbaijan has continued its blockade of United States humanitarian assistance to Armenia.

It is tragic that Azerbaijan's tactics have denied food and medicine to innocent men, women, and children in Armenia, and created thousands of refugees. The United States must stand firm against any dealings with Azerbaijan until it ends this immoral blockade. We must make clear that warfare and blockades aimed at civilians are unaccept5able as means for resolving disputes.

Mr. Speaker, after the genocide, the Armenian people wiped away their tears and cried out, "Let us never forget. Let us always remember the atrocities that have taken the lives of our parents and our children and our neighbors." I rise today to remember those cries and to make sure that they were not uttered in vain. The Armenian nation lives. We must do everything we can to ensure that it is never imperiled again.

REMEMBER THE MARTYRS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. TORKILDSEN] is recognized for 5 minutes.

Mr. TORKILDSEN. Mr. Speaker, I rise with my colleagues, the gentleman from New Jersey [Mr. PALLONE], the gentleman from Illinois [Mr. PORTER], and many others to remember the Armenian genocide.

Last week Members of Congress, the Nation and the world observed Yom HaShoah to honor and remember the millions of Jews who perished in the Holocaust. Sadly, one tragic truth about the Holocaust is that it occurred 20 years after the Armenian genocide, which took the lives of over 1½ million Armenians. In fact, it was Hitler who uttered the infamous statement, "Who remembers the Armenians?"

Today we stand here in this Chamber and in places around our Nation to do just that, to remember the Armenians, remember the martyrs, to say we will always remember them and we will never let the world forget the Armenian genocide that occurred at the hands of the Ottoman Turks.

It was just over 81 years ago that 1.5 million Armenians were systematically murdered and another 500,000 were driven from their homeland during the 8-year genocide. Revisionist historians have sadly doubted the historical reality of the genocide. The Armenians were not killed indiscriminately or at random. The Armenians murdered between 1915 and 1923 were the victims of a calculated extermination through starvation, torture and deportation, a genocide in every cruel meaning of the word and nothing less.

Earlier today back in my district, Mayor Peter Torigian of Peabody, MA held a remembrance and flag-raising ceremony that included 8 survivors of the genocide. These people are living proof that the genocide occurred. Their words bear witness to the reality of what happened 81 years ago.

Mayor Torigian often tells a terrifying but very sobering story of his mother, who survived the genocide. Any time someone tries to deny the historical reality of the genocide, he reminds them that his mother, who was quite ill and confined to a nursing home, often repeats an Armenian phrase which when translated means: "The soldiers are coming, the soldiers are coming." These are the words of a then terrified 14-year-old girl who was able to survive the atrocities inflicted upon her people many years ago.

I join with my colleagues in calling on President Clinton to use the word "genocide" as the only accurate description of the terror inflicted on the Armenian people. For the dead and the living, we must bear witness so that this horror will never happen again.

COMMEMORATING THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. TORRES] is recognized for 5 minutes.

Mr. TORRES. Mr. Speaker, I wish to thank my colleagues, Mr. PALLONE and Mr. PORTER, for once again organizing this special congressional opportunity for Congress to pause to honor the memory of the 1½ million Armenians who were killed between 1915 and 1923 by agents of the Turkish Ottoman Empire in what is known in infamy as the Armenian Genocide.

While we cautiously welcome the important gestures recently made by Turkey, in recognizing the independence of Armenia and the opening of an air corridor to Armenia, the history of the relationships between these two countries must be kept in perspective.

Some would claim that our remembrance today fans the flames of atavistic hatred and that the issue of the Ottoman government's efforts to destroy the Armenian people is a matter best left to scholars and historians. I do not agree. For whatever ambiguities may be invoked in the historic record of these events, one fact remains undeniable: the death and suffering of Armenians on a massive scale happened, and is deserving of recognition and remembrance.

This solemn occasion permits us to join in remembrance with the many Americans of Armenian ancestry, to remind this country of the tragic price paid by the Armenian community for its long pursuit of life, liberty and freedom.

Today, I rise, with my Colleagues, to recall and remember one of the most tragic events in history and through this act of remembrance, to make public and vivid the memory of the ultimate price paid by the Armenian community by this blot against human civility.

We come together each year with this act of commemoration, this year being the 81st anniversary of this genocide, to tell the stories of this atrocity so that we will not sink into ignorance of our capacity to taint human progress with acts of mass murder.

The Armenian genocide was a deliberate act to kill, or deport, all Armenians from Asia Minor, and takes its place in history with other acts of genocide such as Stalin's destruction of the Kulaks, Hitler's calculated wrath on the Jews, Poles, and Romany Gypsy community in Central Europe, and Pol Pot's attempt to purge incorrect political thought from Cambodia by killing all of his people over the age of fifteen, and more recently, the ethnic cleansing atrocities in Bosnia.

We do not have the ability to go back and correct acts of a previous time, or to right the wrongs of the past. If we had this capacity, perhaps we could have prevented the murders of millions of men, women and children.

We can, however, do everything in our power to prevent such atrocities from occurring again. To do this, we must educate people about these horrible incidents, comfort the survivors and keep alive the memories of those who died.

I encourage everyone to use this moment to think about the tragedy which was the Armenian Genocide, to contemplate the massive loss of lives, and to ponder the loss of the human contributions which might have been.

Although, the massacre we depict and describe started 81 years ago, the Armenian people continue to fight for their freedom and independence today, in the Nagorno Karabagh.

Again, this year, I would like to close my remarks with an urgent plea that we use this moment as an occasion to recommit ourselves to the spirit of human understanding, compassion, patience, and love.

For these alone are the tools for overcoming our tragic, and uniquely human proclivity for resolving differences and conflicts by acts of violence.

This century has been characterized as one of the bloodiest in our archives of human history. Certainly, the genocide perpetuated against the Armenian peoples has been a factor in this dismal record.

The dawning of a new century offers our human race two paths. One continues along a road of destruction, distrust, and despair. Those who travel this path have lost their connection to the primal directives, which permit us as a society to maintain balance, continuity, and harmony.

I would ask my colleagues, on this 81th anniversary of one of history's bloodiest massacres of human beings—and during a time in history when violent solutions to problems between peoples continue to hold sway—to contemplate the second path. The map to this path exists within the guiding teachings of all major world religions and are encapsulated in what Christians refer to as the 10 Commandments. I would ask my colleagues, no matter their religious or political persuasions and beliefs, to revisit these core teachings which form a common bond between all peoples. To use these common beliefs as the basis for action and understanding in these trying times. The surface differences between peoples, offer only an exciting diversity in form. At the core all peoples are united by common dreams, aspirations, and beliefs in a desire for harmony, decency, and peace with justice.

Let these testimonies of the atrocities perpetuated against the Armenian people serve as a reminder that as a human race we can, and must, do better. It takes strength and wisdom to understand that the sword of compassion is indeed mightier than the sword of steel.

Certainly, as we reflect over the conflicts of this century, we can only come to the conclusion that violence begets violence, hatred begets hatred and that only understanding patience, compassion, and love can open the door to the realization of the dreams which we all hold for our children and for their children.

Let our statements today, remembering and openly condemning the atrocity committed against the Armenians, help renew a commitment of the American people to oppose any and all instances of genocide.

□ 1800

ECONOMIC REPERCUSSIONS OF INCREASING MINIMUM WAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, I would like to make some comments on how we should increase wages of workers in this country and how we should not increase those wages.

The debate over the minimum wage is a debate really about the fundamental principles of government and how our society is to be organized. Unfortunately, the debate has been framed in terms of politics rather than policy. In light of this, I would like to make three points:

First, historically it has been well noted by many economists, Frederich Bastiat pointed out in 1853 that a just government would not interfere in a person's right to contract with someone else for his or her labor services.

Now, what this minimum wage legislation will do is tell, for example, a senior that wants to work part-time at maybe a day-care center, and 48.5 percent of those receiving minimum wages are voluntary part-time workers, that she or he cannot work if the day-care center cannot afford to pay $5.15 per hour.

It says to the black teenager that he cannot try to get a first job and learn a skill if that employer cannot pay $5.15 per hour, and if his services are not worth that at the beginning of his employment, prior to training, then he will not have that opportunity.

Those who would support the minimum wage must hold the position that government can tell you at what rate you can sell your labor. So here is a Federal law saying you cannot work, you cannot sell your labor, for less than what the Federal Government mandates is a fair wage.

This is not consistent with a just society or the freedom of individuals.

Second, an increase in the minimum wage is really going to harm the poor. Increasing the minimum wage must result in some workers being laid off. So the question is, are we going to pass a law that helps some, because some will benefit from an increase in minimum wage, while at the same time telling a few of those who are no longer going to be employed that they cannot be employed because the employer will not pay them the higher minimum wage that is contemplated to be established?

It is just a matter of how many jobs will be lost. Assuming no job losses is equivalent to assuming a perfectly inelastic demand for unskilled labor, which clearly is not the case.

This is just a quick effort to represent the supply and demand for the market for unskilled, entry level jobs. If you have the demand curve going down; in other words, the higher the wages, the less number are going to be employed, and so as the demand curves down to a lower wage and a greater number being employed, and likewise the supply is going to increase so the higher the wages the more people that are going to be looking for those jobs, you end up at the intersection with what is the equilibrium wage. If we raise the minimum wage higher, that means this change will represent that number of people that are going to no longer be employed.

It just makes sense that there are some people in our society at the beginning that will no longer be able to be employed if we raise the minimum wage up to $5.15 an hour. But increasing the minimum wage will not make any dent in the poverty rate. Of the 23.5 million adults in poverty, just over 2 percent are working for the minimum wage. Increasing the minimum wage will cost the unskilled their job opportunities.

Professors Neumark and Wascher, in their paper in Industrial and Labor Relations Review, estimate a 90-cent increase in the minimum wage will destroy more than one-half million unskilled jobs.

Now, an increase in the minimum wage of 90 cents will raise prices by an estimated 2.2 billion, and those price increases will mostly affect poor people. This price rise will come about because some small businesses in competitive industries will go out of business or produce less. This decrease in supply will show up in the form of higher prices for the goods and services produced in low wage industries, and who buys their goods in stores are certainly the poor people. The wealthy are not going to lose their jobs or their businesses.

The way to increase wages is to cut the payroll taxes, cut the capital gains tax, balance the budget, make sure we do not have an increase in inflation, increase the skills of the future work force and current work force, and enact significant regulatory reform.

The debate over minimum wage is a debate about the fundamental principles of government and how our society is to be organized. Unfortunately, the debate has been framed in terms of politics rather than policy. In light of this, I'd like to make three points.

First, as Frederich Bastiat pointed out in 1853, a just government would not interfere in a person's right to contract with someone else for his or her labor services. What this minimum wage legislation will do is to tell the senior that wants to work part-time at the day care center, and 48.5 percent of minimum wage workers are voluntary part-time workers, that she cannot work if the day care center cannot afford to pay her $5.15 an hour. It says to the black teenager that he cannot try to get a first job, and the training that will go along with it, unless he can produce $5.15 per hour worth of services. Those who would support the minimum wage must hold the position that the government can tell you at what rate you can sell your labor services. This is not consistent with a just society of free individuals.

Second, an increase in the minimum wage will harm the poor. Increasing the minimum wage must result in workers being laid off and fewer job opportunities. It is just a matter of how many jobs will be lost. Assuming no job losses is equivalent to assuming a perfectly inelastic demand for unskilled labor, which clearly is not the case. Those that wish to increase the minimum wage assume that a majority of the Congress with the approval of the President may decide that those who lose their jobs, or are denied their first job, must suffer this in order to make others better off. But increasing the minimum wage will not make any dent in the poverty rate. Of the 23.5 million adults in poverty, just over 2 percent are working at minimum wage. And increasing the minimum wage will cost the unskilled their job opportunities. Professors Neumark and Wascher, in their paper in Industrial and Labor Relations Review, estimate a 90-cent increase in the minimum wage will destroy more than one-half million unskilled jobs. The unemployment rate among black teenage males is currently greater than 38 percent, while the national rate for adult males is 5 percent. Who is likely to suffer from the loss of low-skilled jobs?

An increase in the minimum wage of 90 cents will raise prices by $2.2 billion. This price rise will come about because some small businesses in competitive industries will go out of business or produce less. This decrease in supply will show up in the form of higher prices for the goods and services produced in low-wage industries. And who buys their goods at stores staffed by people making minimum wage? Who buys food at restaurants that hire first-time workers? The wealthy are not going to suffer from the higher prices. The wealthy are not going to lose their jobs or their business because of an increase in the minimum wage. But the poor, unskilled, job-seeker, and the small business owner on the edge of making it will suffer. How can we as a Congress claim that we can make the decision that these people must suffer in order for some other people to gain? It is time to admit that this increase in the minimum wage is an unjust interference of the Government in the lives of the working poor which will cause more harm than good.

COMMEMORATION OF THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. MEEHAN] is recognized for 5 minutes.

Mr. MEEHAN. Mr. Speaker, I rise today to commemorate the 81st anniversary of the Armenian genocide. Once again, I join my colleagues and Armenians around the world to honor over 1.5 million Armenians who were killed in this tragic event.

Like every human tragedy, we must retell this terrible story to our children to teach a lesson: Hatred and bigotry must not be tolerated. Instead, as our world grows smaller every day, we must learn to live together in a global village. We must discover and treasure the differences among peoples around the world. We must promote tolerance and understanding. Only then will we have peace. When we remember the Armenian genocide we send a strong message to our global community that violence born of hatred and fear is unacceptable.

While reflecting on the tragedy that began in 1915, our thoughts inevitably turn to a present day tragedy: Bosnia. The world is just beginning to comprehend the atrocities that took place there. The international community is working tirelessly to piece this war torn country back together. However, like those lost in the Armenian genocide, no one can bring back the many precious lives that were lost for no valid reason in the Bosnian War.

I represent a large and active Armenian community in my district. They are hard working and proud of their heritage. As Representatives to the United States Congress, it is our duty to commemorate the Armenian genocide in the hope that future generations will never allow such a callous disregard for human rights to occur again.

RECOGNIZING THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. LEVIN] is recognized for 5 minutes.

Mr. LEVIN. Mr. Speaker, April 24, 1996 marks the 81st anniversary of one of the world's most tragic events—the genocide of the Armenian people by the Young Turk government of the Ottoman Empire. The genocidal process which began in the 1890's, came to a peak in 1915 when the Turkish government began a systematic and willful attempt to wipe out the Armenian population of Anatolia, their historic homeland.

The process continued in 1918 and 1920 when Turkish armies invaded the Armenian Republic in the Caucasus in a heartless attempt to eradicate the remnant of the Armenian people who had taken refuge in a newly freed homeland. The final act of genocide was committed in Smyrna in 1922 when the Turkish Nationalist armies burnt the beautiful coastal city on the Mediterranean and drove its Armenian and Greek population into the sea in full sight of American and other European warships.

In all, over 1.5 million Armenians perished and over 500,000 more were left homeless and driven into exile.

While the Sultan's government, that of Damat Ferit Pasha, directly after World War I held war crime trials and condemned to death the chief perpetrators of that heinous crime against humanity, the vast majority of the culpable were set free. From that day to the present, successive Turk governments have denied the Armenian Genocide and have attempted to spread doubt in the world community.

However, at the time, the United States had consular and embassy officials stationed in strategic locations in the Ottoman Empire and all these officials, including our Ambassador, Henry Morgenthau, reported the intent, the technique, and the results of Ottoman Turkey policy in detail to our own State Department. The records of these officials, demonstrate what the official records of all the European Powers revealed—including Turkey's allies Germany and Austria—that the genocide was a deliberate act on the part of the government to destroy a native ethnic and religious minority whose only crime was to be different.

All victims of man's inhumanity to man have the right to have their fate known and recorded. The survivors have the right to mourn the victims. And the world has the responsibility to see that the crime of genocide does not go unpunished, at the very least to the extent that the perpetrators are held up to universal opprobrium.

Genocide cannot be allowed to be a policy of state. A crime unpunished and unrepented is a crime which can and will be repeated. Even today, as I speak, the present Turkish Government is enforcing a blockade of Armenia blocking American humanitarian assistance from reaching that country. This aid, supported by this Congress, is prevented by the present government of Turkey from being transported to Armenia by land. Such a violation of fundamental principles of humane conduct cannot be allowed to continue.

This issue is not just an abstraction. Every year a substantial number of my constituents who I have known personally for many years, feel deep pain when April 24 comes about. A pain made worse by the fact that it is ignored by most media and the educated public. This is something that we must not let continue.

Take, for example, the Yessaian family, whose story is recorded in the book, "Out of Turkey," which is distributed by Wayne State University Press. Only six members out of a family of 37 survived the Genocide, and of the six, four had left Turkey prior to the onslaught. One of these survivors is alive today and can recall the heart wrenching experience of seeing his mother and his relatives perish before his very eyes. He still experiences nightmares to this very day.

Suren Aprahamian, also a survivor, has written his memoirs "From Van to Detroit: Surviving the Armenian Genocide," which were published in Ann Arbor, MI. He was among the few survivors of an extended family of over 40 and was forced to watch as old men, women, and other children died one by one due to hunger, thirst, slaughter, and exposure.

Hundreds of other tragic stories of survivors have been preserved on oral history tapes which are on file at the Armenian Research Center of the University of Michigan-Dearborn, directed by another of my constituents, Dr. Dennis R. Papazian. These hundreds of stories, recited by innocent victims, provide a human dimension to the chilling horror of this cataclysm.

Finally, Mr. Speaker, there are still many living survivors in my district. The memory of their tragedy still haunts them. They participate each year in commemoration ceremonies fighting against hope that the world will not forget their anguish. Fighting against hope that the present-day Turkish Government will show signs of remorse for a crime committed by their ancestors. Fighting against hope that the United States Government will again show signs of sympathy as it did in 1915–1920.

To me, Mr. Speaker, the Armenian Genocide is not just a footnote in history. It is something that many of my constituents feel very deeply about. It is an issue above politics and partisanship. It is a question of morality.

I am painfully aware of other recent and current acts of genocidal activities being carried on around the world. What began as an exception in the Armenian case, and which then shocked the civilized world, seems to be becoming almost commonplace. It is my belief that when governments are allowed to deny genocide with impunity, and its perpetrators escape punishment, it only encourages this dreadful virus to spread further in the international body politic.

Our Nation's strong support for human rights for all people is more important than ever as we witness the systematic extermination of innocent people caught up in ethnic and religious conflict.

We cannot let the Armenian Genocide be forgotten. To do so would be to doom future generations to the same curse. Only through remembering the past, and condemning genocide, can we stop such acts of hatred, cruelty and violence from happening again, again, and again.

□ 1815

SIEGE ON AFFIRMATIVE ACTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to speak out against the current siege on affirmative action. In my home State of Texas, the Fifth Circuit Court of Appeals recently struck down affirmative action in admissions at the University of Texas Law School in Hopwood versus State of Texas. Then just this week, a Federal judge in Houston temporarily barred the Houston Metropolitan Transit Authority from considering race or sex as factors in awarding contracts. I am very concerned about this case, and I have just asked that the Department of Transportation investigate this decision and the impact it will have on funding for the Houston Metro.

Wy are we so quick to eradicate these programs, when it took so many years of struggle to even begin these programs? We should not act impulsively to abandon affirmative action. As long as there is discrimination based on race and gender, we must fashion remedies that take race and gender into account. Race- and gender-conscious remedies have proved essential and remain essential. All Americans want a color- or gender-blind society. That is our goal. But serious discrimination persists and we cannot ignore it.

In the Hopwood versus State of Texas case, the opinion suggested that affirmative action conflicts with merit-based admissions because of small differences in index ratings among nonminority and minority applicants. This is an incorrect definition of merit.

The president of Harvard University, Neil Rudenstine, has said: "Standardized tests do not assess qualities such as competitiveness, decisiveness, creativity, or imagination." Standardized test scores should not be the sole criteria for admissions. The definition of merit should include an assessment of what each student would bring to the learning experience of classmates.

Having a racially and ethnically diverse student body produces benefits for the students, for educational institutions, and for society as a whole. The chancellor of the University of California at Berkeley, one of the most highly regarded schools in the California system said "Excellence and diversity are woven from the same cloth—they are inextricably linked."

The former president of the University of Pennsylvania has said: "The most compelling institutional interest in achieving diversity is the educational necessity of preparing students to live in an increasingly diverse society." Indeed, many students have benefited from affirmative action in education.

It is no accident that as recently as 1974 racial and ethnic minority groups constituted only 1 percent of the University of Texas Law School's student body, while the same groups constituted 30 percent of the State's population. Only a policy of ethnic and race-consciousness led to the 1995–96 presence at the law school of a 17-percent-minority population in a student body that is still 58 percent male and 75 percent white, despite the fact that the State's minority population now stands at 40 percent. Clearly, the school's policy of attempting to insure some degree of diversity, from which everyone benefits, in the student body has not denied, or even appreciably affected the basically white, mostly male character of the school.

The present law of the land for affirmative action in education is the Supreme Court's 1978 decision in Bakke versus Regents of the University of California. This decision established that a university, if it so chose, could employ race as one of the criteria to recruit and bring students of diverse backgrounds into its student population. This is a good rule which should not be rolled back.

I rise today to urge that we do not rush to tear down the affirmative action programs that have been essential in combating the pervasive discrimination that still exists in society today. Let us not roll back affirmative action just when we are beginning to see the benefits to society and business. A commitment to diversity in the work force is simply good business. Opening opportunities helps business compete in a global market and in a multicultural and multiethnic country such as ours.

We should not rush to scapegoat affirmative action as the cause of our economic problems. It is painfully ironic that affirmative action, which was put in place to correct the problems of discrimination, is now seen as a source of injustice. The appropriation of the language of the civil rights movement to now eliminate affirmative action is a perversion of the struggle for equality and justice that so many have fought so hard to begin. If we lose sight of the history of discrimination and injustice, we are doomed to repeat it.

THE ARMENIAN GENOCIDE

The SPEAKER PRO TEMPORE. Under a previous order of the House, the gentlewoman from New York [Mrs. MALONEY] is recognized for 5 minutes.

Mrs. MALONEY. Mr. Speaker, as a proud member of the Congressional Caucus on Armenian Issues and the representative of a large and vibrant community of Armenian-Americans, I rise to remember, to commemorate the Armenian genocide.

First, I would like to commend the gentleman from New Jersey [Mr. PALLONE] and the gentleman from Illinois [Mr. PORTER], cochairs of the caucus, for all their hard work on this issue and other issues of human rights and international decency.

April 24, 1996, marks the 81st anniversary of the beginning of the Armenian genocide. It was on that day in 1915 that over 200 Armenian religious, political, and intellectual leaders were arrested and subsequently murdered in central Turkey.

This date marks the beginning of an organized campaign by the "Young Turk" government to eliminate the Armenians from the Ottoman Empire. Over the next 8 years, 1.5 million Armenians died at the hands of the Turks, and a half million more were deported.

This tragedy is the first genocide of the 20th century and is well documented. The New York Times alone ran over 194 articles during the Turkish atrocities.

As the United States Ambassador to the Ottoman Empire, Henry Morgenthau, Sr., has written: "When the Turkish authorities gave the orders for these deportations, they were merely giving the death warrant to a whole race. They understood this well and made no particular attempt to conceal the fact."

Mr. Speaker, the time has come for Congress to put our government unequivocally on the side of the truth in this tragedy. I commend our colleagues, the gentleman from Michigan, DAVID BONIOR, and the gentleman from Massachusetts, PETER BLUTE, for introducing House Resolution 47, which I have cosponsored. This resolution not only represents official United States recognition of the memory of those who died, but will also put pressure on the Turkish government to do what it has so far callously refused to do: acknowledge and commemorate the atrocities committed over 81 years ago.

We must not condone Turkey's attempts at historical revisionism and denial of the Armenian genocide's occurrence.

Another issue of great importance to Armenia and Armenian-Americans is the Humanitarian Aid Corridor Act. Mr. Speaker, I was in Greece several years ago and saw, firsthand, warehouses full of United States humanitarian aid destined Armenia which could not be sent because Turkey was refusing to allow its transport.

While the situation has improved, this hateful practice must not be permitted by this Congress. We have addressed the issue on a temporary basis in the 1996 foreign aid appropriations bill, which included a temporary Humanitarian Aid Corridor Act. We need to make this permanent.

Nothing we can do or say will bring those who perished back to life, but we can imbue their memories with everlasting meaning by teaching the lessons of the Armenian genocide to future generations.

Adolf Hitler, in 1939, cruelly justified the Holocaust with the haunting and hateful words, "Who, after all, speaks today of the annihilation of the Armenians?"

My fellow Members, tonight we remember the Armenians. We speak for the Armenians, and by doing so we salute their indomitable spirit. By remembering the past, by honoring the

Armenians' marthyrdom and sacrifice, we will hopefully prevent similar atrocities in the future.

COMMEMORATING THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. ESHOO] is recognized for 5 minutes.

Ms. ESHOO. Mr. Speaker, I'd like to thank Representative PALLONE, Representative PORTER, and all my colleagues participating in raising awareness on this, the 81st anniversary of the Armenian genocide and the 1.5 million Armenians who were systematically exterminated by Ottoman troops.

The slaughter began on April 24, 1915, when hundreds of Armenian leaders were arrested and executed in Istanbul and other areas.

By the time they were finished, Ottoman troops had executed 1.5 million Armenians including innocent women and children.

Tragically, the voices of these innocent victims fell upon deaf ears because the international community refused to confront the perpetrators of these atrocities.

As the only Member of Congress of Armenian descent, I know full well how the Ottoman Empire decimated a people—my people—and wrote one of the darkest chapters in human history. I'm committed to ensure that the suffering is not diminished, and not be denied by the perpetrators of this disgraceful policy.

By recalling the atrocities of the Armenian Genocide we remind the world that a great tragedy was inflicted upon the Armenian people, that the murder of Armenians was a catastrophe for the entire family of nations, and that unchecked aggression leads to atrocity.

By mourning the losses of our past, we renew our determination to forge a future in which the Armenian people can live in peace, prosperity, and freedom.

Despite the history of suffering at the hands of others, Armenians have remained a strong people, committed to family and united by an enduring faith.

The Armenian people have risen from the ashes of the Armenian Genocide to form a new country from the remains of the Soviet Union * * * a new country which flourishes in the face of severe winters, ongoing military conflict in Nagorno-Karabagh, and the absence of strong international assistance.

Today's Armenia is a living tribute to the indelible courage and perseverance of the Armenian people and the assurance that what took place 81 years ago will not be repeated.

As we remember the tragic history of the Armenian people, it's essential also for us to discuss the future of Armenia and the role which the United States can play in establishing peace in the Caucuses.

In my view, true peace in the Caucuses will only be achieved when the political and economic isolation of Armenia ceases and regional leaders recognize the inherent rights of Armenia—including its land and its history. Congress can continue to play an important part in this process.

The Humanitarian Aid Corridor Act, which became law for fiscal year 1996 as part of the Foreign Operations Appropriations Bill, is essential because it exerts the appropriate pressure on countries which block U.S. foreign assistance to the region. This measure must be made permanent law as soon as possible, and I look forward to working with my colleagues to do so.

In my view, it's not enough for third party nations to allow commercial flights into aid-recipient countries—land convoys must be allowed through in order to move necessary amounts of American food, medicine, and clothing.

In addition, we must maintain the Freedom of Support Act of 1992. We should reinstate Section 907, which would prevent United States foreign assistance going to Azerbaijan until they lift their blockade of Nagorno—Karabagh. The Freedom of Support Act must be upheld until the isolation of Armenia ends and its territorial rights are adhered to.

Mr. Speaker, if the tragedy of the Armenian genocide has taught us anything, it is sitting back is tantamount to helping Armenia's oppressors.

As Members of Congress, we have the responsibility of ensuring that an enhanced U.S. role in the affairs of the Caucuses follows a course sensitive to the region's history and culture. This includes a heightened sensitivity to Armenia, who's history and culture are often denied or misunderstood.

We must do all we can to prevent this tragic history from repeating itself and help advance a proactive foreign policy to bring lasting peace to the region.

I thank my colleagues who have joined us here today to commemorate the Armenian Genocide.

Mr. Speaker, I would like to conclude by saying my remarks also are in memory of someone that was a great leader in the Armenian community, a relative of mine, Aram Bayramian, who was, I think, the essence of what his forefathers were and continue to be, a great American, a great patriot, a man of great faith in family, someone that served this Nation and was devoted not only to the Armenian community but the entire community.

COMMEMORATION OF THE 81ST ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. WOOLSEY] is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, today is the sad and solemn day when annually we remember one of the great tragedies of humankind. Today marks the 81st anniversary of the Armenian genocide, the first genocide of the 20th century.

I have come to the floor of the House today to acknowledge the atrocities suffered by the Armenian people at the hands of the Ottoman Turks. On April 23, 1915, over 200 Armenian religious, political and intellectual leaders were massacred in Turkey. Little did anyone know that April 23, 1915, would signify the beginning of a Turkish campaign to remove the Armenian people from the face of the earth.

Over the following 8 years, 1.5 million Armenians perished, and more than 500,000 were exiled from their homes. Armenian civilization, one of the oldest civilizations, virtually ceased to exist, which, of course, was the Turkish plan.

But despite the brutality, Armenian civilization lives on today. It lives on in the new independent republic of Armenia, and it lives on in communities throughout America, particularly in my home State of California.

Today we honor the innocent Armenians who barely got a chance to see the 20th century. Today we acknowledge that the Ottoman Turks committed genocide against the Armenian people and we demand that his undeniable fact be acknowledged by the current leaders in Istanbul.

I look forward to the day when the world says in one united voice, "We remember the Armenian genocide." Until that date comes, Mr. Speaker, I will continue to stand up with my colleagues to remind the House of Representatives of our responsibility to remember and of our responsibility to speak out against any genocide, past or present.

COMMEMORATING THE 81ST ANNIVERSARY OF THE ARMENIAN HOLOCAUST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island [Mr. REED] is recognized for 5 minutes.

Mr. REED. Mr. Speaker, I rise to commemorate the 81st anniversary of the Armenian Holocaust. On this date in 1915, the Ottoman Empire and the successor Turkish nationalist regime began a brutal policy of deportation and slaughter. Over the next 8 years, 1.5 million Armenians would be ruthlessly massacred at the hands of the Turks, and another 500,000 would have their property confiscated and be driver from their homeland. Engrossed in its own problems at the time, the world did little as a population was devastated.

As these memories stay eternally fresh in their minds and hearts, the people of the Armenian Republic continue to suffer. In recent years, attempting to establish their independence from the former Soviet Union, Armenia has suffered a series of setbacks, including an earthquake in 1988 and a Turkish-led economic blockade that has prevented humanitarian aid from entering the country.

Despite these tragic circumstances, the Armenian people continue to be an inspiration to people around the world. Indeed, last July's democratic elections and new Constitution are evidence of the Armenian devotion to democracy. At the same time, the Armenian community in the United States and in my home state of Rhode Island continues to enrich our society and culture. They have brought with them their unconquerable spirit, patriotism, and valor. Furthermore, they remind us that we must never forget those who perished 81 years ago. Along with the lives that were lost, the Armenian genocide resulted in the destruction of a society and a culture.

It is the memory of those whose perished that we remember today, but it is also those who have carried on, that we must honor. We know too well that history can repeat itself, and that the problems of far-off nations are often overlooked in the face of larger global issues. While nothing can undo the crime of the Armenian genocide, we can do our best to establish a new future.

I urge my colleagues to join me in this commemoration to remember the victims of this holocaust, pray for those who continue to suffer, and honor the truly inspirational spirit of the Armenian people. We must continue to stand side by side with the Republic of Armenia in her quest for democracy while ensuring that tragedies like the genocide never happen again.

□ 1830

ON THE MINIMUM WAGE

The SPEAKER pro tempore. (Mr. MILLER of Florida). Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, I also want to join briefly, although I will talk about another subject, want to join my colleagues in respect for the human dignity of the Armenian people and hopefully that the tragedy and the history of that event will teach us as public policymakers that we should make sure that that does not happen again.

Mr. Speaker, over the past several days, the public has been privileged to hear the views of Members—from both sides of the aisle—on the issue of raising the minimum wage.

This is a good and healthy exercise.

Some of what the public has heard has been fact. However, some has been fiction.

This evening, I would like to address some of the major arguments that have been made and repeated during this debate and attempt to separate the fact from the fiction.

Some have suggested that most minimum wage workers are teenagers, working part-time. That is fiction. Most minimum wage workers are adults—7 out of 10 of them—and most are women—6 out of 10 of them. That is fact. But even if most minimum wage workers are teenagers, should they not be paid a fair day's wage for a fair day's work?

Many maintain that jobs will be lost and prices will rise with an increase in the minimum wage. That is fiction. But many more, including prominent economists, throughout the United States, have effectively disputed the job loss argument.

None on the other side have successfully challenged the three economics Nobel Prize recipients and the more than 100 economic scholars from every corner of America—all who maintain the job loss argument is without foundation.

And, on the issue of rising prices—first, prices have already risen, many times over the past 25 years, while the minimum wage has increased but once.

To the minimum wage worker, price increases combined with no increase in wages has meant more obligations, less money and more misery.

But, second, the claim that an increase in the minimum wage will mean higher prices for goods fails when examined against the experience in New Jersey.

New Jersey, like eight other States, now has a minimum wage higher than the Federal minimum wage.

It has been documented by empirical study, however, that when New Jersey raised its minimum wage, prices were not affected in any measurable way.

Price increase claims are fiction.

A few have stated that raising the minimum wage is a liberal Democrat idea—fortunately, that is fiction.

Both Speaker Gingrich and Majority Leader Dole voted for the only minimum wage increase in this quarter of a century in 1989—that is fact.

Moreover, twenty thoughtful Republicans in the House have joined the 113 Democrats in the call for a minimum wage increase—that too is fact.

Mr. Speaker, when the fact is weighed against the fiction, that fact rises and the fiction falls.

An increase in the minimum wage is not a gift—it is not charity. It is just and due compensation for work performed.

How is the value of work measured? That is a difficult question. I can, however, tell you what makes work seem valueless.

Work seems without value when, after doing a job, promptly and thoroughly, an employee earns less than what is required for basic needs—something to eat, something to wear, a place to stay.

If we are serious about moving citizens from welfare to work, we must make work pay. The public debate over the minimum wage has caused some to rethink their opposition to this vital matter. That is good.

This debate will go on—it will not go away.

Those who continue to watch as corporate profits soar, as the salaries of business managers spiral and as working America suffers, are missing an important moment in history—they are lost in fiction.

An increase in the minimum wage is justified, it is necessitated by conditions and it is the right thing to do—that is fact.

REPUBLICAN PLAN FOR RAISING THE MINIMUM WAGE

The SPEAKER pro tempore (Mr. LUCAS of Oklahoma). Under a previous order of the House, the gentleman from California [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of California. Mr. Speaker, today we have learned that not only are the Republicans opposed to the minimum wage, but their leadership in a joint statement issued today said that they will simply not allow the minimum wage to come to the floor of the House. Instead they will have a substitute package that prevents, prevents millions of Americans from ever getting an increase in the minimum wage.

Mr. Speaker, if you are a student who is working while you are going to college to help pay for your college education, under their plan you will never get an increase in the minimum wage. If you are a single person who is working at the minimum wage, today you are working 8 hours a day, you are working 40 hours a week, and you are still ending up poor under their plan, you will never get an increase in the minimum wage.

If you are a working person with a child or working person with two children, you will get an increase but you will not get it from the people you are working for. You will get it from the taxpayers, because the Republicans have decided, rather than ask the employers of this country to pay a livable wage, to pay an increase in the minimum wage, what they are going to do is ask the taxpayers to subsidize those jobs for those individuals who are working.

Mind you, today for an individual working at the minimum wage, a single parent with one child, the taxpayers are already paying $175 a month in AFDC payments, $28 a month in food stamps, $179 in EITC, and they are losing $56 on Social Security. We are already subsidizing low wage jobs in

America. Rather than have the marketplace, which so often we hear people pledge their allegiance to, rather than have the marketplace provide livable wages, rather than have McDonald's or Burger King increase the minimum wage, what they have decided is they are going to provide a government subsidy to those employers.

What that means is never again will McDonald's hire other people other than a single worker because those workers will never be entitled to an increase in the minimum wage. If they hire somebody that happens to have a child, they will know that whatever increases in living standards those people acquire, it will be acquired from the taxpayers, not from their hard work, not from the sweat of their brow and not certainly from their employers.

This is a complete capitulation to the special interests, the restaurant association, the fast food industries, and so many others opposed to an increase in the minimum wage. But now we find out that the Republican leadership in the joint statement of the Speaker and the House majority leader who said they will not bring the minimum wage to the floor of the House of Representatives. They have said that they are also going to go on the attack against the 8-hour day, the 40-hour work week, the Fair Labor Standards Act that protects people that, if you work more than 8 hours a day, if you work more than 40 hours a week, you are entitled to overtime compensation for that work.

What they are going to do is get rid of that standard. They have already done it in the Committee on Economic and Educational Opportunities where they have voted out legislation to deny people the guarantees of the 8-hour day, the 40-hour work week, and people ought to understand this.

Mr. Speaker, they have also decided that they say they are going to try and protect individuals' pensions. This comes from the same people who just a few months ago allowed people to raid the pension funds of employees. How are they going to provide this increase in the living standards of people who work at the minimum wage? They are going to increase the taxes on low income single working people, on low income students who happen to be single. They are going to tax those individuals, take away their earned income tax credit and give it to poor working people, poor working people who happen to have children.

So we are going to tax the poorest people in the country who are working every day. We are going to tax them and give that to other working poor people who happen to have children. We are going to do that under the Republican plan rather than ask the employers to provide an increase of 90 cents in the minimum wage over 2 years or $1, as some of our Republican colleagues have suggested, over 2 years.

This is a massive subsidy to employers who choose not to pay the minimum wage. The employer need not show that he cannot pay the minimum wage, that he cannot afford to pay the minimum wage, that their business would go on the rocks. There is no showing at all. You simply do not pay the minimum wage, and the taxpayers come in and subsidize your place of employment. You simply choose not to provide a livable wage to a single person, and that person has no right to any further remuneration because of their work or because of a loss of purchasing power that we have seen people who are currently at the minimum wage.

So what we have is we had a promise by Majority Leader ARMEY that he would fight the minimum wage with every fiber of his being. And now that we see he is carrying out that promise and that promise is in his joint statement that the minimum wage will not come to the floor of the House, they will not allow us to vote on it.

Mr. speaker, we are entitled to that vote. We should have a clean vote up or down on the minimum wage and give the American hard-working people the minimum wage that they need. They need a raise.

GREGORY PECK, FILM LEGEND, SAYS IT ALL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, I would title my short remarks today, "Gregory Peck, Film Legend, Says It All." Here is a small article from a paper last week that film legend Gregory Peck says there is no place for him in Hollywood any longer because today's movies are too full of sex and violence.

The 80-year-old star, looking 10 years younger if not more, still elegant, whose last movie was "Cape Fear," says he is finished. Peck blasted new films for containing gratuitous violence, overt sex, and the massacre of the English language. Even though I know it is all fake, I still do not like to see a bullet going through someone's eyeball, generally in slow motion. He said today's movie heroes are sleazebags. They are motivated by hatred, greed, violence. They are all rude, vulgar, ill-educated, and incapable of making an effort because they are totally selfish and devoid of moral values.

□ 1845

He had especially harsh words for Joe Pesci, the star of "Good Fellows" and "Casino." "He is so far on the antihero side that he is almost not human. I myself have played gunslingers, sailors, intellectuals, peasants, and adventurers. I have played Abraham Lincoln and the terrible Dr. Mengele of Auschwitz, as well as a few drunks and bad boys, but generally, like James Stewart and Gary Cooper, my characters were dignified and brave men who did their duty."

Peck said there is only one decent hero in recent movies: Babe the Pig. In every sense, I thought Babe was a beautiful young lady pig. He said he is in every sense an old-fashioned hero.

Well, I would recommend to Mr. Peck that he see "Braveheart," the film which won Best Director for Mel Gibson and Best Movie of the Year. There, too, was a film where the hero was truly a hero who died with a beautiful word on his lips: freedom.

Mr. Speaker, how much time do I have left? 2½ minutes?

Mr. Speaker, I want to make brief note of something tragic that happened today in the legislative process. Bill Clinton, who successfully avoided serving his country three times, and the last time shamefully, had suppressed and politically destroyed his induction date to the U.S. Army. The exact date is July 28, 1969. He had it politically obliterated by a Senator, a Governor, and by compromising politically the draft board and by completely raping the truth to Col. Eugene Holmes, the head of the ROTC in Arkansas, the University of Arkansas.

So it is particularly offensive to this Air Force officer that my leadership caves to a threat of Bill Clinton back on February 10 when he signed the Defense authorization bill and stripped out three of the best provisions to defend this country in that bill, taking out ballistic missile defense to defend America, our homeland, stripping out the language that no U.S. service men and women would serve under foreign commanders without benefit of treaties, Senate approval or training together like NATO, and that he took out the congressional privileges of this House to decide when men go to fight in World War I or World War II or Somalia or Haiti or Bosnia or Desert Storm or Tibet tomorrow, if that is his whim, to sent the 82d Airborne or the 101st Air Mobile Division.

He said on February 10, after stripping those out, that there was one thing in the bill he was going to encourage disobedience toward, encourage people in the military to sue, and said Janet Reno, his Attorney General, would not enforce the law, and that was BOB DORNAN's language, to mercifully, with medical benefits and an honorable discharge, give about 1,000 people who played Russian roulette with drugs or unsanitary sex, most of it heterosexual, in Navy ports of call with prostitutes around this now very unsanitary world. He said, "That I will undo."

And because of weak Republican leadership and with my own, some of my leaders, telling me, "But it was authorization on an appropriation conference bill"; no, it was not. It was law. It was a few lame-duck Republicans in the other Chamber and Democrats who are catering to the homosexual lobby not realizing that most of these people are heterosexual victims of HIV that will eventually die of AIDS. They undid law. That is authorizing on an appropriation bill.

So of course I will have to vote against the bill tomorrow. But here is the irony. I am a chairman of military personnel. Tomorrow is my markup. It goes right back in, and here is what I put you on notice, Mr. Speaker. Homosexuals in the military goes in my markup tomorrow. I will win in subcommittee and committee. We are going back to the pre-July 19, 1993, policy, the Reagan-Bush, 50-year policy that this triple draft-dodger tried to undo.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LUCAS). The Speaker would like to remind Members that they should avoid personally offensive references to the President.

A MISSED OPPORTUNITY TO RAISE THE MINIMUM WAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, I want to vote on the minimum wage. In this place, the Congress sometimes never fails to amaze me. Just when I think I am getting the hang of how things operate, it always pops up and does just the reverse. I thought that because of statements made by Senator DOLE and Speaker GINGRICH in previous remarks, I thought that there would be a vote in this House on this House floor for raising minimum wage, a minimum wage that has not been raised since 1989 and is at its lowest point in buying power in 40 years. I thought there might be an opportunity, and that is what I said today in a news statement.

I thought there would be a opportunity for the 110,000 folks in West Virginia that would see an increase if this minimum wage increase went through, 17 percent of all jobs on the payroll. I thought there would be a chance for them to have a little more takehome pay.

But what I learned today is, in this joint statement of the Speaker and the Republican majority leader, that is not to be. There is not to be a vote on the minimum wage, they say; instead there is to be a reform package.

I want to go through just what this reform package has in it.

The minimum wage increase was real simple: $4.25 an hour today, which is what it has been since 1989, to be raised over 2 years to $5.15. That is all: Flat, simple, fini.

But instead there is not to be a vote on that, says the Republican leadership. Instead there will be a reform package that includes significant family tax relief, including a $500-per-child tax credit.

Incidentally, what they are not telling you is that one-third of low-income children will never see any benefit from that and that in order to raise the money for it they are going to increase taxes on low-income working people who presently get a tax cut in the earned income credit.

The second part of the reform, so-called reform, package, is quote, "reforming the Earned Income Tax Credit." Well, what that means is that in order to give a little more to some, they are going to take from others in the same status. And, incidentally, that earned income tax credit applies to persons earning somewhere in the neighborhood of less than $26,000.

They say that they are going to enact reforms to protect employer pensions. Let me tell you about the last reform that they enacted in the reconciliation bill. That was: Did they reform the pension? What they did was make it easier for corporations to go in and raid the pension for certain types of purposes. And so what kind of reform is this if you make it easier to take the pension?

Third: Another one is improvements, that is what this package says, in the labor laws to allow workers to choose flextime. You're darn right you can choose flextime. The last reform that got in the Committee on Economic and Educational Opportunities is to do away with overtime for over 8 hours' work or over 40 hours in a week. What kind of reform is that? You get to continue earning the old minimum wage and be denied overtime at the same time.

The list goes on.

Mr. Speaker, what the American people want, the overwhelming majority have said clearly: We want a vote on the increase in the minimum wage. Do not load it up. Do not try to clog it up. Do not love it to death by making it a Christmas tree. Do not add a bunch of riders. Vote on raising it from $4.25 to $5.15 over a 2-year period.

I know that some say, well, this just goes to students. Well, actually it does not. About half the people are under the age of 25 that would receive a benefit of this, and two-thirds are under the age of 30, and 58 percent are single women, women who are single heads of household.

But as someone who, along with millions of others in this country, worked his way through college at the minimum wage, I can tell you that students need that increase as much as anyone else. Whether it is carrying bedpans, as I did for 3 years in a hospital, or carrying a tray up two flights of stairs in a restaurant, students are trying to work their way through, young people are trying to get ahead, and the minimum wage is their only way.

I learned a long time ago that as a student and as a young person, as someone working for minimum wage, there was only one collective bargaining agent for me. There were not any labor unions; nobody else was speaking for me. The only way I would ever see an increase was when Congress raised it.

And for those who are afraid that business is going to dry up and go away, the studies indicate that is not so.

But there has not been a minimum wage increase since 1989. Has anyone noticed the Big Mac price going down? How about that pizza that you order from the fast-food catering firm or when you go into any restaurant? You notice those prices going down? Of course you have not.

The fact of the matter is that the minimum wage being raised by this relatively low amount does not influence prices to that degree. And so the fact is, the point is, are we going to give people a working wage? For the 112,000 in West Virginia, 17 percent of our work force who are trying to make it the way the systems tells them to do, working at the minimum wage, they demand, and a lot of other citizens demand, a vote on the minimum wage increase.

THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise today to join my colleagues in commemorating the 80th anniversary of the Armenian genocide. As you know, 1.5 million Armenians were massacred by the Turkish Ottoman Empire between 1915 and 1923.

The Armenian community in the United States is mostly descended from survivors of this genocide who were forcibly exiled from their homeland. These citizens, many of whom reside in Pennsylvania's 13th Congressional District, have made tremendous contributions to American life while honoring their own rich traditions.

On the evening of April 24, 1915, the political, religious, and intellectual leaders of the Armenian community in Constantinople, now Instanbul, were arrested, exiled from the capital city, and murdered. After the "Young turk" government silenced the voices of the Armenian community in this horrific way, they began a systematic deportation and extermination of all Armenians.

Mr. Speaker, it is our duty to ensure that these reprehensible crimes against humanity are not forgotten. I am deeply concerned that the Turkish Government refuses to acknowledge this genocide, even today. We know all to well the consequences of forgetfulness. As Elie Wiesel reports, "Before planning the final solution, Hitler asked, 'Who remembers the Armenians?'"

Mr. Speaker, I would like to thank Mr. PALLONE and Mr. PORTER for their leadership in sponsoring this special order.

Finally, Mr. Speaker, I would like to salute the Pennypack Watershed Association in my district, through its director Tish Ryan, who has done such a great job of bringing people together in environmental education programs, environmental management programs, and especially bringing students together in the 13th District. She has done an outstanding job and should be saluted for her environmental trail blazing.

REMEMBERING THE GENOCIDE OF THE ARMENIANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. KENNEDY] is recognized for 5 minutes.

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise this evening to speak on a matter that is very close to my heart, to stand with my Armenian friends and brothers and sisters across this country and around the world that today remember their parents and grandparents that were killed in a genocide that existed on April 24, 1915, and for several years following that date. That is a period of time that means so much to the Armenian people throughout the world, and it is a period of time that unquestionably was a genocide against a people simply because of their race, of their religion, and of their heritage, their ethnic heritage, which means so much to that people throughout the world today.

Mr. Speaker, it is interesting that on the floor of this House that we a few years ago, when I first was elected to the Congress of the United States, refused to acknowledge the word genocide despite the fact that the origin of the actually word genocide came as a result of the witnesses that bore truth to the facts that took place on April 24, 1915.

The truth of the matter is that this has become a highly political debate, a debate that is fueled by modern-day politics that somehow feel the squeeze of the invisible hand of the ancient Ottoman empire that continues to have its hidden hand in the policies that take place on the floor of this House and throughout the world today, and I call upon this administration, the Clinton administration, to acknowledge the fact that a genocide did, in fact, take place on April 24, 1915, and to recognize the tremendous contributions that the Armenian people continue to make to this country today. We see an unprecedented success story of ethnic heritage and of a completion of a complete taking part in American life by the Armenian people.

□ 1900

A tremendous success story in terms of economic development, a success story that also remembers the roots of the American people. When you look at the kinds of schools, the kinds of language, the newspapers, the fact that in my district today there will be children walking down the streets of Watertown, MA, remembering that their parents and grandparents and great grandparents were killed simply because of who they were, it is important that we today in this House acknowledge the fact that a genocide took place and acknowledge the fact that still today prejudice takes place throughout the world against the Armenian people.

That is why I called upon and saw passed in this House the act which we refer to as the Humanitarian Aid Corridor Act, that calls upon the Turks to finally open up the borders between Armenia and Turkey, to open up trade between Armenia and Turkey, that talks about the fact that we need to break down the barriers that exist between Azerbaijan and Armenia and the Assyrians, to finally stop the fighting and to finally open up trade so that we can create peace in that region. We need to continue to work through IDA and through the World Bank to make certain that we are providing the necessary humanitarian aid.

Mr. Speaker, I visited Armenia just 2 or 3 years ago in the dead of winter and saw little babies freezing in their own urine inside hospitals where the temperature was 10 or 15 degrees because of the fact that that country has been so cut off from the rest of the world. This is a land that has had the greatest success story of the former Soviet states, and yet today still suffers not because of the drive and determination of the Armenian people, but because we allow and the world allows the prejudice to continue to take place against Armenia by both Turkey as well as Azerbaijan.

So on this date of April 24, let me call upon the people of the United States to remember the tremendous contributions that the Armenian people continue to make to the United States, and let us call upon our own sense of history and heritage to ask that the Russians, to ask that the Turks, to ask that the Assyrians finally come to grips with the true meaning of humanitarianism and provide decent, honorable and open trade with the Armenian people, with the country of Armenia, to bring about a continuation of democracy, a continuation of economic prosperity, and to recognize the tremendous contributions that the Armenians continue to make throughout the world and most particularly in the United States of America.

COMMEMORATING THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. PELOSI] is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, I rise today to join my colleagues in observing the anniversary of the Armenian genocide. I commend my colleagues, Mr. PALLONE and Mr. PORTER, who are leaders in this Congress on Armenian issues and thank them for organizing this special order to draw attention to the tragic slaughter of the Armenian people.

On April 24, 1915, the Armenian people were subjected to a ruthless policy of deportation, property confiscation, slavery, and murder by the Ottoman Empire. This barbaric policy was unquestionably genocide. Over the 8 years between 1915 and 1923, 1.5 million Armenian men, women, and children were killed and more than 500,000 more had been forcibly removed from the country. The Ottoman Empire and subsequent Turkish regime engaged in a systematic campaign to destroy cultural and religious monuments, change the names of locations and places, and deny the very existence of the Armenian people in this region.

At the time, the world recognized this crime against humanity and organized a worldwide humanitarian relief effort under the leadership of the United States. It is time for us again to call attention to this genocide.

I have recently joined my colleagues, Mr. PALLONE and Mr. PORTER, in sending a letter to President Clinton urging him to reaffirm the Armenian genocide as a crime against humanity. In addition, I was pleased to work with a number of my colleagues in including the provisions of the Humanitarian Aid Corridor Act in the 1996 foreign operations appropriations bill which has been signed into law.

The Humanitarian Aid Corridor Act restricts United States aid to Turkey until the Turkish Government ceases its obstruction of United States humanitarian aid deliveries to Armenia. The foreign operations appropriations bill also provides funds to continue the United States program of humanitarian assistance to the Armenian people.

The Armenian-American descendants of the Armenian exiles make a vibrant contribution to the life and energy of the San Francisco bay area. I join with them today in observing this anniversary of the Armenian genocide and in honoring the memory of their ancestors.

I might add, Mr. Speaker, that as we remember these tragic events both of the Armenian genocide and of the Holocaust, we must remember that there are crimes against humanity that are being perpetrated today. The appropriate tribute to those who have given their lives in the past to these crimes against humanity is to make sure that these acts do not continue and that we must be ever vigilant and speak up against them.

In the remainder of my time, Mr. Speaker, I would like to take a few moments to talk about the minimum wage. Mr. Speaker, I am sure that all of us in this Chamber or all of us who serve in this Chamber would agree that the actions that we take here should serve to build family, to reward work, and to value the American worker.

That is why it is so hard to understand why the Republican leadership in the House is hesitating, indeed has said they probably will not bring up legislation to increase the minimum wage. To remind our colleagues, a person who works full-time at the minimum wage makes $8,840 a year. In a two-earner household where both parents work, they bring home a rip-roaring $17,000 a year. For a family of four, this is below the poverty line and indeed below the line of dignity that we owe the American worker.

I am disappointed that the Republican majority will not bring up an increase in the minimum wage, but I am further mystified by the Republican attempt to avoid raising the minimum wage by proposing something which they claim is an increase in the minimum wage combined with an expansion of the earned income tax credit. It is neither. It is simply an attempt to distract attention from the Republican failure to raise the wages of low-income families.

The Republican proposal would cut the earned income tax credit. That means it would increase the tax, if there were a tax, which there is not, so it would serve to put fewer dollars in the pockets of the lowest income people in our country. It would create a three-tiered Federal payment for low-income workers.

This is not only an insult to the American worker, but it is an insult to American business. We are saying to American businesses: We think you do not value the work that your workers do, so we are going to subsidize that work by having a government program to give you money to pay your workers, because obviously you do not value the contribution they make to your business.

What is happening here? How could it be that the Republicans, who talk about reducing the size of government and to promote the free enterprise system, are talking about subsidizing the wages officially that are paid to workers?

In conclusion, Mr. Speaker, I want to once again call to our attention, and I am going to have this blown up for future presentation, how long does it take to make $8,840. The full-time minimum wage earner, 1 year. What a full-time minimum wage earner makes in 1 year, the average CEO of a large U.S. corporation makes in one half a day. How could this be fair? How could this be just? We salute their entrepreneurial spirit and their success, but we reject the injustice of it all.

CONGRESS SHOULD LINK WELFARE REFORM TO MINIMUM WAGE INCREASE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. RIGGS] is recognized for 60 minutes as the designee of the majority leader.

Mr. RIGGS. Mr. Speaker, I appreciate you recognizing me, and I appreciate this opportunity to address what is now a pretty empty and still Chamber, but hopefully some of my colleagues are still following our discussion on the floor this evening.

I intend to talk about a number of very timely issues and concerns, but I want to begin my special order by addressing my colleagues who this evening, most recently just a couple of moments ago the gentlewoman from California, who brought up the minimum wage issue, but prior to her the gentleman from West Virginia [Mr. WISE] and the gentleman from California [Mr. MILLER] who brought up the minimum wage issue.

I want to also preface my remarks by inviting any of my colleagues who want to discuss any of the issues that I raise tonight to join in this special order. I will be happy to yield time, both to my Republican colleagues on the majority side of the aisle as well as my Democratic colleagues on the minority side of the aisle.

First of all, let me say with respect to the minimum wage issue, I am a little unclear why this has suddenly become—except for the possibility that it is being used now as a political football by the National Democratic Party—why this has become such a pressing issue here in Washington.

Now, do not get me wrong. Back in 1994, while campaigning for Congress, I committed to voting for a modest increase in the minimum wage. It was my feeling back then and it is my feeling today that the minimum wage needs to be increased to keep pace with inflation, and that without an increase in the minimum wage, we will be witnessing a further erosion of the purchasing power of the minimum wage, which is going to put very low-income workers further and further behind the economic curve and exacerbate this growing income gap and I guess you could say this potential economic chasm that is dividing American society.

Just a few weeks ago I was one of seven Republicans who on this floor voted for a procedural motion that would have allowed the House to, at that time and in a timely fashion, consider legislation increasing the minimum wage roughly $1 over the course of the next year. I am one of 20 or 21 Republicans who supported, who are cosponsoring our own separate free-standing bill, a competing measure to the Democratic bill that would actually raise the minimum wage slightly higher than the legislation proposed by the President and congressional Democrats.

But here is the part about the minimum wage debate I do not get. If this is such an enormous issue and pressing concern to the National Democratic Party, why did they not raise the minimum wage when they had the chance? That is to say, why did they not raise the minimum wage during the last 2 years or prior to last January, when they controlled both houses of the Congress and of course the White House? That is the part I do not get. There is a certain disconnect there because they did not act on legislation raising the minimum wage when they controlled both the legislative and executive branches of government.

Second, I have been maintaining all along and I have attempted to make this case to our leadership, the Republican leadership of the House of Representatives, that a modest increase in the minimum wage needs to be linked to real reform of the welfare system.

It seems to me that we have many perverse incentives in American life today that are the result of misguided Federal policy. For example, we have an economic policy or a tax policy, tax code, that seems to encourage consumption and spending over savings and investment, and that in turn has put a tremendous strain on the so-called old-age retirement programs, social security and Medicare.

But we also have in our welfare system today, especially in my home State of California, which has a fairly lucrative welfare benefit structure, a perverse incentive in that welfare in the aggregate oftentimes pays someone more than what they can make in a minimum wage job. It seems to me to be rather basic, that if we want to reform welfare by moving people from welfare to work, helping them make what is a very difficult transition, especially for single mothers who many times struggle against heroic odds, that we have to raise the minimum wage so that at least the minimum wage pays more than welfare benefits.

The gentlewoman from California was absolutely right in the statistics that she quoted. Unfortunately, she walked off the floor because I do not think she wants to engage in a debate about this issue. She is right, though, when she says that a full-time minimum-wage worker today would earn only $8,840 a year, which is far less than many States pay in welfare cash benefits and well below the Nation's poverty level.

It is my belief that we need to correct this inequity, an inequity that the Democrat majority in the last Congress was unwilling to address, so that people who want to work are not forced to choose between work and welfare because welfare actually pays better than work. So again, it seems to me we have to reverse that equation, address this perverse incentive, which is one of many that riddle American life today.

The other point I wanted to make on the minimum wage issue, watching, I believe it was, a CNN program over the weekend, their Inside Edition on late Sunday afternoon, early Sunday evening, they were profiling the Republican revolution after 15, 16 months of this Congress and sort of begging the question, is that revolution alive or dead?

□ 1915

They focused specifically on the subject of welfare reform, and they actually interviewed several current welfare recipients who, looking right into the camera, said "I don't feel that I can support myself, much less my family"; that is, meet the needs of my dependents and loved ones in an entry level minimum wage job; that is to say, a job probably in the service sector of the economy, the kind of job that they would be most likely to find if they were to move from the welfare rolls to work now.

So there you have it. You have living, firsthand testimony, from several people right on that show Sunday evening, basically saying what I think many of us believe, and that is that we have to again address this perverse incentive, and we have, if we want to reform welfare by moving people from welfare to work, make a minimum wage job pay more than welfare benefits in the aggregate.

But that is the other party with a little bit of the grandstanding going on on the other side of the aisle with this particular issue. Again, I am trying to make a linkage to real reform of the welfare system. That is my rationale or justification for supporting an increase in the minimum wage, yet I think anyone who has followed the debate in this Chamber and the developments in this Congress, the 104th session of Congress in our Nation's history over the last 16 months, knows that while we promised in our Contract With America to reform the welfare system, to emphasize work, families and personal responsibility, we have gotten virtually no assistance from our Democratic colleagues in that effort in either the House or the Senate. In fact, we have already in these past 16 months, this session of Congress, sent the President two welfare reform bills which he has vetoed.

So here you have a certain irony in a Republican majority in this Congress trying to help this Democratic President, who back in 1992 as Candidate Clinton promised to end welfare as we know it, make good on that campaign promise. Yet he has refused to consider welfare reform legislation. I believe personally the President would have a political problem with the far left wing of his party, and this political constituency of dependency that we have built up in America over the last several decades, if he were to entertain signing welfare reform legislation, again, despite the promise he made back in the 1992 campaign for President, which was just one of several major promises that he has broken to date in his last 3-plus years as President of these United States.

We all remember, of course, back in the 1992 campaign when he promised to submit to the Congress a budget that balances in 5 years. Many of us recall he made a middle class tax cut the centerpiece of his economic plan, which he called putting people first. Of course, as I said a couple of months ago, he also campaigned on a promise of ending welfare as we know it, which made him look the centrist, new Democrat that he wanted to be during the 1992 election. But, of course, as the record now shows, he has tended to govern more as a traditional left wing, big government, tax and spend President.

So I find some of the rhetoric coming from my Democratic colleagues just a little disingenuous on this issue, because again I do not see how you divorce or separate an increase in the minimum wage from real reform of the welfare system, particularly if it is a bipartisan goal of both the Congress and the Presidency to try and help people make that transition from welfare to work.

We know that those experiments in workfare are succeeding around the country. Many States, including Virginia, just across the Potomac River, where I reside part-time while serving back here in Washington representing the 1st Congressional District of California, Virginia has launched a workfare program, welfare reform, over the last year or so, which to date has been a tremendous success. In fact, there was just a story in today's newspapers back here documenting again the success stories of those people who with the proper assistance from the Government in the form of education, skills training or job training, adequate child care and transportation, are making that transition from welfare to work. But, again, I submit to you that if we wanted to have large scale welfare reform, if we really do want to pursue this dream or this vision of ending welfare as we know it, we certainly have to make an entry level minimum wage job pay more than welfare benefits in the aggregate.

So again, I find just a little tad of hypocrisy in what some of my Democratic colleagues have had to say on the floor this evening, and on certainly prior occasions, with respect to the minimum wage issue, and I look forward to the coming debate on the minimum wage issue, so that we can hopefully constructively discuss the minimum wage, how we can move that legislation through the House. Again, I would like to see it move in the context of welfare reform.

There is one other thing I want to mention about welfare reform, and that is earlier this year, I think it was back in January or February of this year, we saw in this town a truly remarkable event. Now, I know that people tend to get, particularly the longer they stay back here in Washington, they tend to succumb to sort of the beltway culture. They become just a tad cynical, maybe just a little jaded. But we saw something earlier this year that even the most jaded Washingtonian, even the most skeptical pundit, I think would have to admit was truly a remarkable development, and that is when the Nation's Governors, meeting back herein Washington at their semiannual meeting, unanimously agreed on welfare reform proposals.

Unanimously. I did not say this was a consensus agreement, where a majority prevailed obviously over a minority in supporting and advancing welfare reform proposals. No, this was a unanimous agreement. We had 43 of the Nation's Governors, big State, little State, Democrat and Republican, meeting back here, all endorsing the welfare reform proposals.

Since that time, the other seven Governors have also endorsed those proposals, so we have the remarkable, the absolutely remarkable development of unanimity in the ranks of the Nation's Governors, all 50, again, big State, little State, Republican and Democrat, supporting welfare reform proposals.

I wonder just for a moment, in a perfect world, what would happen if we were to attach the minimum wage increase that, again, 20 or 21 of us Republicans and a solid majority of the Democrats in the House, to those unanimous welfare reform proposals of the Nation's Governors? Would that not give us the opportunity to do something on a truly bipartisan basis that we could be really genuinely proud of and which might stand as one of the shining accomplishments of this congress, the 104th in our Nation's history?

TRIBUTE TO GILBERT MURRAY

Mr. Speaker, I want to change subjects for just a moment and explain why I am wearing this green ribbon on my lapel, which is a question I have been asked many times today by many of my colleagues. I also want to acknowledge that hearing the comments of my colleagues earlier this evening, both sides of the aisle, talking about the reflecting upon the genocide in Eastern Europe that dates back a considerable amount of time, that on these kind of occasions, when Members stand in tribute, I think the Chamber takes on really its most formal and solemn atmosphere.

I want to follow that by mentioning that this green ribbon on my lapel is in memory of a man by the name of Gilbert Murray, Gil Murray, who 1 year ago today, on April 24, 1995, was killed in his office of the California Forestry Association in Sacramento, CA, by a seemingly innocuous mail package. We now know 1 year later that Gil was tragically the last victim of the so-called Unabomber.

I did not know him well, but as I knew him, he was a fine man, a family man, a dedicated professional, someone who was advancing the principles of responsible and sustainable forestry on both our public and private forest lands. I can tell you that Gil, 1 year later, is very much missed by his friends and his family certainly, and those of us who had the privilege of knowing him.

Now, I suspect that his death is something his family can never truly recover from, but I hope and I pray that they continue to heal from this tragic event, and that we all remember April 24, 1995, as a day that will forever change the way each of us look at our own lives and the world in which we live.

We can, of course, now today, April 24, 1996, take some solace knowing that with the apprehension of an individual who is strongly suspected of being the infamous Unabomber, no other families will suffer the tragedy of losing a friend and loved one like the way we lost Gil.

One year after his tragic death, the memory of Gil still touches those of us who work on forestry and resource issues on a daily basis. His death touches us deeply, and our love and affection go out again to his family, his friends, his extended family, if you will, which would certainly include the other fine folks at the California Forestry Association.

I hope we never forget his tragic death, because it was a senseless and evil act. Again, I personally asked a number of my colleagues today to show their solidarity and their respect for Gil by wearing a green ribbon on their lapel, such as I am doing now, and I am very pleased that so many of my colleagues would join me in this effort. Really, in their own way, or by extension, they honor all the victims of the Unabomber and their survivors.

I want to do one other thing that is related to Gil Murray's passing, and that is I want to address some of this, because I think Gil would approve of this, I want to address some of this environmental fear mongering and hysteria that we have been hearing in the halls of Congress in recent days and weeks. It sort of came to a head I guess on Monday of this week, Monday, April 22, the so-called National Earth Day, when we heard all kind of exaggerated and wild-eyed claims being made down here on this floor that, again, I think can only be described as environmental fear mongering or hysteria.

I think most of us, particularly those of us who live in the western United States and who represent resource-dependent congressional districts, that is to say, represent communities where the economy is based on resource use and development, most of us know that you have to find a balance between the need to protect the environment on the one hand, and the need to protect jobs on the other. We strive to find that balance in our congressional districts and certainly here on the floor of Congress when we, in our everyday professional lives, as we make policy decisions.

So I tend I guess over time to just sort of tune out this environmental fear mongering and hysteria. But when I hear Members, especially from the other side of the aisle, coming down to the floor, and let us be honest about it, most of them, and I am not going to name names, particularly since they do not have the opportunity to be here and debate the issues, but most of them come from metropolitan areas, they represent urban congressional districts where the thinking on environmental issues is about 180 degrees different than the more rural areas of America, like the district that I represent.

But I heard several of these Members come to the floor the other day and refer to our timber salvage legislation, the legislation authorizing the Forest Service to sell more of the dead, dying, and diseased trees on Federal forest lands, and referring to that legislation as so-called logging without laws.

Now, I want to be very clear about one thing. We are talking about logging, selective harvesting, of dead, dying, and diseased trees on Federal forest lands. Not in our national parks, not in our wilderness areas, not in an area that has a wild and scenic designation, but in our Federal forest lands, these vast forest preserves that were set aside in the 1940's in part to provide a growing Nation with a very valuable commodity and a steady supply of timber.

It just seemed prudent to those of us in the Committee on Appropriations who wrote this legislation that we ought to allow greater harvesting of the dead, dying, and diseased trees, if for no other reason than to deal with the tremendous fuel load, the buildup of combustible materials, the underbrush and downed trees, on Federal forest lands, particularly when just a couple of summers ago we saw wild fires raging out of control in our drought-stricken forests of the western United States, wild fires that I might add cost the taxpayer $1.1 billion and took the lives of 33 U.S. firefighters attempting to extinguish those fires.

☐ 1930

So, Mr. Speaker, we thought we had a good bill, yet it has been called logging without laws, and we saw Members stand here on the floor and the other side of the aisle demagoging this issue, handing out fig leaves and saying, and this is an actual quote, "Let's not be conned", yet today a three-judge court of appeals upheld the timber salvage law. They said it was perfectly legal. It is not logging without laws. And at least one of the three judges is an appointee of President Clinton.

They specifically upheld the so-called 318 green sales provisions of this particular bill. This is the section of the timber salvage legislation that directed the Forest Service or the Federal Government to honor contractual sales commitments that had been made to private parties who had successfully bid for the rights to harvest trees on Federal forestlands in the Pacific Northwest, in Oregon and Washington. And the three-judge court of appeals today simply said that the Federal Government, in fact, will honor its longstanding legal obligations and proceed with those sales.

So there is no logging without laws. We know that, sadly, that right now, today, April 24, we are operating a portion of the Federal Government on a 24-hour so-called continuing resolution. This is a short-term funding measure for 5 of the 13 annual spending bills, which we call appropriations, that have not yet been enacted into law. And we are down to resolving, those of us who have been a party to these negotiations, as I have, as an individual member of the House Committee on Appropriations, we are down to just a few issues really now dividing us in this House, Republican Majority, Democrat Minority, and between the Congress and the White House. But those few issues have to do with the so-called environmental riders to the Interior appropriations bill, which is one of the five bills, again, not yet enacted into law.

And these were provisions that, again, Members were talking about here on this floor just a couple of days ago, on Earth Day, Monday. What are they? They are the idea of allowing expanded oil drilling in the Arctic National Wildlife Refuge and expanded timber harvesting in the Tongass National Forest of Florida.

We have Members running down here constantly claiming that by expanding oil drilling in the Arctic National Wildlife Refuge, and bear in mind this is a very small portion of the Arctic National Wildlife Refuge, it is presently set aside for oil leasing and drilling, all the remainder staying as wilderness, and by expanding harvesting in the Tongass Forest, which is again surrounded by vast tracts, huge amounts of land, I mean hundreds of thousands of acres of wilderness, and by the way these are areas that maybe a handful of Members of Congress have ever visited; I must confess I have never visited them. But we want slightly increased resource use in Alaska, for one reason and one reason only, and that is the duly elected representatives of the State of Alaska, Congressman DON YOUNG, Congressman for all of Alaska, and the two United States Senators representing Alaska are strongly supporting these provisions. And one would presume since they have been duly elected by the people of Alaska that they have a support of the majority of Alaskans; yet by trying to pursue these provisions, we are then accused by the other side of attempting to gut environmental regulations.

Then they mention the Endangered Species Act. And, yes, it is true in the annual appropriations bill, one of the appropriation bills last year, we imposed a moratorium on the listing of any new endangered or threatened species under the Endangered Species Act. Now why would we do that? We have been accused of being radical by doing that. But what the other side never points out is that the Endangered Species Act is no longer authorized. The congressional authorization of the Endangered Species Act expired over 2 years ago. Rather than this law simply sunsetting, going off the books, it has remained in effect only because the Congress, the House specifically, would appropriate money on an annual basis to the Federal agencies which enforce that law; again, even though the original law itself, the statute, is no longer authorized. The authorization expired, again, over 2 years ago.

That sort of begs the question: Why didn't the last Congress, which was controlled by the Democratic Party, bring a reauthorization bill of the Endangered Species Act to this floor? And the answer is simple. Had they done it, there would be a bipartisan majority of Members, Republicans and Democrats, who would have wanted to amend the Endangered Species Act to include greater protection for jobs and greater consideration of the economic consequences of listing decisions. Again, trying to find that elusive balance between the need to protect species on the one hand and the need to consider and, hopefully, mitigate economic consequences and potential job losses on the other hand.

I do not think that is so radical. So, again, we have demagogueing going on in this House without the American people really being told both sides of the issue, not getting the full picture.

Lastly, one of the things that I wanted to mention on the environment is that earlier in this session of Congress, in fact during the first 100 days in this session of Congress, we passed by an overwhelming bipartisan majority in this House one of the provisions of the Contract With America that was signed into law by the President. We have this impression a lot of our Democratic colleagues would like to leave with the American people that the Contract With America is very radical. The reality is that 9 out of 10 provisions passed this House, 9 out of 10 provisions in the Contract With America passed this House and they passed this House, in many, many instances, with very strong support from the Democratic Members of the House. And one of those provisions, the Unfunded Mandates Reform Act, became law with the President's signature.

How could that be? That is one provision in the Contract With America, passed the House, passed the Senate, and was signed into law by the President. And that is radical?

That Unfunded Mandates Reform Act created a new commission, actually there was an existing commission within the Federal Government, but it gave them a new charge and that was to examine existing Federal laws to determine whether those existing laws constitute an unfunded, or perhaps a better word would be underfunded mandate, imposed on States and local communities by the Federal Government. In my view, it is sort of a heavy-handed, top-down, one-size-fits-all fashion, and of course we continue to write laws back here with the arrogance that, you know, the law is going to work as good in Portland, OR, as it does in Portland, ME. And sometimes I think we are sadly mistaken in that belief.

But we passed this Unfunded Mandates Reform Act. It became law. And the Unfunded Mandates Commission then began looking at existing Federal laws. And do you know what they found? They found that Federal environmental regulations, and they were very specific, they named the Endangered Species Act, they named the Clean Water Act, they named the Clean Air Act, they named the Superfund law and several others, that those existing Federal environmental regulations constitute, surprise, an unfunded mandate imposed on State and local communities by the Federal Government.

Furthermore, the unfunded mandates panel called on the Congress to rewrite these laws, to give greater consideration to the concerns of and the impacts upon States and local communities and to give States and local communities more of a say in the writing of these laws and in the administration of these laws. Since, again, we pass that responsibility for administering these laws on down to the States and to local communities.

And that is the flexibility that the State and local communities have been screaming for for years. That is why we passed the Clean Water Act Amendments in this House. And so many of our Democratic colleagues would have the American people believe that we passed the Clean Water Act Amendments because we are beholding to big business and corporate special interest. Well, to the contrary. The real impetus for amending the Clean Water Act came from the National League of Cities and the U.S. Conference of Mayors, both bipartisan organizations representing locally elected officials.

So I get a little tired when I hear this environmental fearmongering, this hysteria. I recognize it for what it is. It is a good political issue in a Presidential election year, but I think we are, by giving this hysteria any credence, we are really deceiving, misserving, or doing a disservice to the American people.

I want to read you very quickly a letter that appeared in a publication called Green Speak, that is put out by the National Hardwood Lumber Association. It is a letter from a mutual friend of mine and Gil Murray, again, the last victim of the Unabomber, for whom I wear a green lapel ribbon this evening. A mutual friend of ours by the name of Nadine Bailey, who was very involved just a couple of years ago, she lives just outside my congressional district, actually in Congressman HERGER'S congressional district in northeast California, in a little mill town called Hayfork, and her letter is dated March 11, 1996 and it is an open letter to the President.

It says, "Dear President Clinton, you made a promise to my daughter on a national television program."

This actually was the televised proceedings of the so-called forestry conference or timber summit held out in Portland, OR. I guess this would have been early 1993, soon after the President was elected, and both the President and the Vice President attended that particular timber summit or forestry conference, and Nadine starts her letter by making reference to it.

She then goes on to say "When Elizabeth", her daughter, "showed you her class yearbook, with the names of the children whose parents would lose their jobs because of the spotted owl", and of course those of us who hail from northwest California and the Pacific Northwest, we know very well about the spotted owl because it is listed as an endangered species and has had a tremendous impact on the economic well-being of our communities in northwest California, the Pacific Northwest.

"You made a promise to her and to all the children who live in timber-dependent communities. Do you remember what you said? Your promise was that you would solve the problems in the northwest and California, that you would bring everyone together and come up with a solution that would allow logging and protect the spotted owl. Do you remember? Do you care where Elizabeth is today? Do you care where her father is? Do you know how hard her family worked to bring about solutions that would save the community and ensure the health of the forest?

"I hope this brief summary of the last 3 years," the first 3 years of the Clinton administration, "will make you understand and regret your broken promise."

So this would be a broken promise that follows on the heel of the broken promise to balance the Federal budget, to end welfare as we know it, and to give the middle class a tax cut.

"1993. After the summit, I worked with the environmental community to develop a plan that would add jobs while protecting habitat and wildlife. I received a call from Vice President GORE asking for my support for the Option 9 forest plan.

"1993 to 1994." Two-year period. "The Option 9 plan is approved and the region gets an adaptive management area. These areas were specifically designated to have adaptive management techniques used to produce products that would enable local communities to survive the transition brought about by changes in forest management. Hopes are high in the region that some relief from the timber supply crisis will be felt.

"Spring 1994. Jobs become hard to find. Grants from Option 9 do not make their way to unemployed loggers. In fact, in public forums," your forestry policy adviser, "Tom Tuchman admits much of the money will go to infrastructure. In other words, the people most affected by the change in national forest policy will be the least likely to receive help. We no longer have our business. Years of work to build a business are gone, and my husband, Walley, works for five different employers, some as far away as 8 hours. Families are starting to leave the Trinity area. Some Trinity County School districts now have 96 percent of their children on free and reduced lunches, which means they now live below the poverty level.

"Fall 1994. The last large logger in Hayfork prepares to move operation because of lack of work." What she really meant to say was the lack of harvestable trees, or timber. The adaptive management area fails to produce any more timber than other areas under Option 9. In fact, there seems to be more study in the adaptive management area than other areas affected by the Option 9 plan.

"Spring 1995. We move our family from our home in Hayfork to Redding. At this point I contacted the many agencies that have been given money to help displaced workers for help with the move. We were told that we that we didn't qualify because my husband already has found work. We are forced to borrow money from a family member to move. We had been homeowners, now we are faced with renting and finding $2,000 needed for deposits. We cannot sell our home, partly because of the market and partly because the house was built by my mother and father and I cannot face losing my home."

□ 1945

Wally, my husband, becomes even more bitter about being betrayed by your administration. Despite my job at the California Forestry Association, we fall deeper in debt. My kids are not happy. City life in Sacramento or in Redding is much different. To leave a high school with 125 kids and start again in a high school with 1,000 is almost too much for country kids. I am very concerned about Elizabeth. She misses her friends so much. Wally finds work 6 hours from home. He moves out to live on the job site and I become a single mother again.

April 24, 1995, the date that I observe this evening, a bomb goes off at my office, killing my boss and friend, Gil Murray. I seem to have lost the heart to fight for our community. Nothing I have done in these last 4 years seems to have made a difference. My trust in Government and society as a whole is weakened. You use the Oklahoma bombings to attack right wing political groups. You never mentioned the Unabomber. Vice President GORE doesn't call this time.

Let me just parenthetically ask if anyone sees anything wrong with the fact that of course the President and some of his political allies have no hesitation or reservations about insinuating that somehow, some way the National Rifle Association and Rush Limbaugh might have been responsible for the very tragic, horrific Oklahoma City bombing, but yet they see no possible connection between the rantings of the Unabomber and the environmental hysteria that goes on in this Chamber with regularity or for that matter no connection between some of the things that Vice President GORE has written and some of the writings of the Unabomber himself.

Summer 1995, where did I go wrong? Was it in believing in your promises? Could I have done more? Everything is beginning to unravel. With the exception of some local groups that came together to seek solutions through consensus, like the Quincy Library Group in Quincy, California, everyone seems to be going back to war.

By that she means the timber wars which have polarized our communities and divided the environmental camp from folks who make their living in the forest products industry, either directly or indirectly:

I wonder if you realize what an opportunity you had to heal old wounds. Instead all hope is fading for the future of towns like Hayfork. I still get calls late at night from people not knowing how they will make it through the winter, wanting to know if they should stick it out, if there is any hope that things will change. For the first time in my life, I have no hope.

That is what Nadine, she goes on and wrote a few other personal comments about her family. She actually ended up moving to Wisconsin where she now works at the timber producers office of Wisconsin.

But it is a very, very sad commentary about our inability to find that balance, the balance really that was promised, I believe, by the President and Vice President when they convened this timber summit in Portland, the balance that was promised to communities like Hayfork and to families like Nadine Bailey's.

I wonder where all this is going to lead, because in today's paper, in the San Francisco Chronicle, on page 1 is a headline that says, Victory for Sierra Club Dissidents. I think most people know that the Sierra Club, with roughly 600,000 members, is probably the largest environmental organization in the country. It has become a major environmental organization, no question about it. They have a full-time professional lobby here in Washington and in State capitals around the country. And they have an energetic grass-roots membership.

The point I am getting at is that they also enjoy this image of being moderates on the environment, reasonable people, people that you can sit down and talk with and maybe hopefully reason with as we grapple with these very, very complex and difficult and seemingly intractable issues. But the headline says, Victory for Sierra Club Dissidents and then it goes on, the subhead is, Vote to ban logging in national forests, Vote to ban logging in national forests.

Now, I know some of my constituents do not like it when I say this, but I ask repeatedly, as someone who is very proud of my role in helping to make the timber salvage legislation law, what is more extreme? Harvesting dead, dying and diseased trees in our national forests, which the foresters, like the late Gil Murray tell us is good for forest health and for fire suppression purposes and, I might add, it makes, to me, certain economic sense to use those dead, dying and diseased trees to produce a much-needed resource, while those dead, dying and diseased trees still have some economic and monetary value. I have yet to encounter too many Americans who do not live in wood framed structures. And I would also point out that if we followed the lead of the Sierra Club, this moderate, reasonable, middle-of-the-road environmental organization and we banned all logging in national forests, not national parks, not wilderness areas, national forests, that that will only increase the pressure to harvest trees on privately owned lands and that we need to find that equilibrium, that balance between a sustainable timber harvest on public lands and a sustainable timber harvest on private lands.

If we follow their lead and we ban all logging on our national forests, in essence turning our Federal forest into additional national parks, then we will, in my view, not only increase the pressure to harvest on private land but we will be creating a tremendous fire hazard in those Federal forest lands, particularly in our drought-stricken areas of the western United States.

So what is more extreme? Harvesting dead, dying and diseased trees to produce a resource, or those who are so opposed to timber harvesting that they do not want to harvest even a dead tree? I wonder. Because leading the pack in this whole debate back here, of course, is the Vice President, AL GORE and the Secretary of the Interior, Secretary Babbitt.

So I believe it is a very, very alarming and sad day, and I wonder about the terrible irony of the Sierra Club taking this particular position on the same day that we commemorate the tragic death of Gil Murray.

In fact, I should mention, the article goes on to say, Members of the Sierra Club have handed a dissident faction, it is no longer a dissident faction because they prevailed, they are now the majority within the club, handed a dissident faction an important victory by voting that the club for the first time in its 104 year history will support an end to commercial logging in national forests. The club's membership approved the measure 2 to 1, the San Francisco based conservation organization announced yesterday. Although the club has fought vigorously against logging in many situations, it has never formally opposed an outright ban on the common practice of commercial logging in national forests.

So the Sierra Club is now coming out and taking a position that we will not even thin these forests to selectively harvest the dead, dying and diseased trees. We will have no timber harvest in our Federal forest lands at all, even though that was largely the reason that those Federal forest lands were created to begin with.

So I mentioned the Vice President because I think a lot of this is, particularly the current impasse over the budget, the so-called omnibus appropriations bill, the conference report which we would like to bring to this floor tomorrow, a lot of this impasse right now is again over environmental issues.

I think my colleague, Mrs. SEASTRAND, would admit that. I will yield to her in just a moment. But to me it continues a very disturbing pattern back here in Washington of demagoging on issues. I take very strong exception to the demagoging that I see going on. I know it is a sad fact of political life. I know that we are going to see more, not less, as we approach the November election. But there are some issues that in my view are too important for this sort of common, everyday petty politics and this demagoging back and forth.

Let me give you one other example. That is Medicare, because a lot of the demagoging that we hear coming from the other side of the aisle in the Congress and from the Clinton administration has to do with the environment, Medicare, education. I think those are the three big ones that they like to hit all the time. So I want to mention Medicare.

I want to first of all just point out for my colleagues just how out of hand this demagoging is. This is an April 19, so this is a Congress Daily from last week, that reports on a press conference over on the other side of the Capitol outside the Senate Chamber where the Vice President was quoted as blasting Senator DOLE and Senate Republicans for attempting to push on, this is a quote, Push on the U.S. Senate a provision that would have led to serious and grave damage to the Medicare system.

There were just two problems: One, the amendment that the Vice President was referring to, having to do with medical savings accounts, had nothing to do with Medicare; it was in the context of health insurance reform. No. 2, Senator DOLE himself was standing behind the Vice President when the Vice President made these particular remarks. It is almost as if, again, certain figures in the administration cannot wait to demagogue an issue. And it is sort of the old mindset that my mind is made up, do not confuse me with the facts.

It had nothing to do with Medicare. It had to do with the health insurance reform legislation that we would like to move through Congress on a bipartisan basis and get to the President so he can sign.

But here, Mr. Vice President and other concerned colleagues, here is the real issue pertaining to Medicare, and that is the very stark headlines just out of yesterday's newspaper. I do not understand why, if we are going to have these Chicken Little folks running all over the Capitol saying the sky is falling, the sky is falling let us shift our focus from the environment and start talking about something that is really of crucial concern to this Nation and future generations; that is, Medicare.

It is going broke. It is going broke faster than expected. And we need to do something in this session of Congress about the problem. We have already sent the President a plan that would increase Medicare spending per recipient from $4,800 today to $7,300 per Medicare recipient in 7 years, increase spending, increase choices, and save the program from bankruptcy. But President Clinton vetoed that legislation, as we all know now.

But here is what is so alarming, because the facts and figures indicate the truth and we can see a trend developing. Back on February 5 of this year, February 5, 1996, the New York Times reported on page A1 with a Washington dateline, Washington, New government data shows Medicare's hospital insurance trust fund lost money last year for the first time since 1972, suggesting that the financial condition of the Medicare Program was worse than assumed by either Congress or the Clinton administration.

Then, as I mentioned, again, the New York Times yesterday, April 23, 1996, again on page A1, the New York Times is not exactly a conservative publication.

Mrs. SEASTRAND. Mr. Speaker, will the gentleman yield?

Mr. RIGGS. I yield to the gentlewoman from California.

Mrs. SEASTRAND. It was most interesting to see that New York Times article appears in the Santa Barbara News Press. The Santa Barbara News Press is owned by the New York Times, and to see the headline stating that Medicare is going broke faster than we here in the Congress think that it will go broke, $4.2 billion, it was interesting because the subheadline on the front page of that newspaper said that the Clinton administration was very much trying to cover up the calculations.

Mr. Speaker, I think the gentleman from northern California would agree with me that through all of this discussion, on trying to save Medicare for our moms and dads and for future generations, we have taken quite a bit of heat, not from necessarily the folks in the district but from those outside forces that come from Washington, DC. I know the gentleman is, like I am, one who has been besieged by television, radio ads, coming from Washington, DC, and trying to tell constituents in our district that the gentleman from California [Mr. RIGGS] and the gentlewoman from California [Mrs. SEASTRAND] were trying to cut and destroy Medicare, and so it is a little sad to see those headlines.

Mr. Speaker, when you take the stand, you argue your positions and you do battle. It is sad to, while I enjoy seeing the headline saying, yes, I was right, Mr. RIGGS of California was right, we support our bill to save Medicare. But when you do realize how much the people, our senior citizens presently, our children and our grandchildren are going to suffer just because of the fact that politics is played, demagoguery was taking place, and we did not get about to saving Medicare as of yet.

So, I agree with the gentleman from California [Mr. RIGGS]. It is a pretty sad day, but it is interesting to see that it has to be true. I mean that headline appeared in all of our newspapers across this land. I just say, if it is in the New York Times, I just guess it has to be true.

I think Mr. RIGGS would agree with me that we are being besieged. The gentleman was talking earlier about fear mongering, and it is interesting because the same ads have appeared in my district that have appeared in the gentleman's district, with the same 800 number. Whether it was some of the more extreme groups trying to scare our constituents that we are trying to poison the water, we have lead in the water and arsenic in the water, and we are going to pollute our oceans, I would just stand here, saying as a mom and one who hopes one day very soon to be a grandmother, I am definitely concerned about our environment and where we are going as we turn into the 21st century.

Mr. Speaker, so it is a bit bizarre. But to see the fear mongering not only from different organizations but amazingly the AFL–CIO, I think they played the same ad that we re definitely cutting into Medicare, destroying Medicare, cutting education.

□ 2000

They were destroying the environment, and we voted for a bad budget, and it is just interesting to note that again this fear is coming from the heart of this city, Washington, DC.

We know, it is those big labor bosses that are very, very disturbed that they lost power, and they do not seem to wield it here in this capital city as much as they used to for 40 years.

But, you know, when you were talking about not having the opportunity to do some timber salvaging in our national forest, I was thinking about how many working families, by that position that the Sierra Club took, how many working families it is going to affect in your district, and I often think, too, about the AFL–CIO, how many people because of their positions where I am trying to fight for a balanced budget to help my children and grandchildren and yours and taking the position of tax relief, of $500 tax credit for children, seeing that we cut through capital gains so we could help those small businesses in the northern end of California and on my central coast; all these things that are so important for our working families throughout our two districts, and because of the rhetoric, the yelling of radical extremists, how many, because of that, how is it going to affect our district and affect those very working families that belong to the very so-called AFL–CIO union.

And when you think just recently they had an annual convention here in Washington, DC, and they raised the dues of those working families in my district, in your district, and they are going to have to pay for those dues to fund a continuation of the fearmongering advertising that is taking place in our districts.

I have a quote here. At the convention, we had vice president Linda Chavez Thompson say, "We stopped the Contract with America dead in its tracks. Now we have to spend 7 times as much to bury it 6 feet under."

I tried to talk to my working families in my district and say the Contract with America; what is that? That is balancing the beget so that we can lower those interest rates so you can buy that home that you want to buy or buy that truck that you need, or to send your children to college so maybe they are going to be the first to graduate out of your family. Or it means tax relief, that $500 tax credit, or a tax credit for adoption of our children. Or it might mean welfare reform or saving, just cutting away at the big bureaucracy here in Washington, and I think the gentleman would agree with me that we are trying our very best to bring some sanity, and yet the rhetoric is very strong, especially on two freshmen.

And I just might say in this week we are commemorating Earth Day and talking about the environment. I will just say to the gentleman from northern California, you have been recycled as a Member of this Congress, and very gladly, because you served in this Congress for 2 years, and you were out for 2 years, and now you are back, and I am just glad to recognize you as one of the members of the freshman class.

But what we have been trying to do in this 104th Congress to make this place accountable to those working families that are way back on the West Coast of California and make some sense to the men and women, the moms and dads, that are trying to make it in this very hard economy.

So I just thank the gentleman for bringing up all the issues that you previously did, and I would just say that I guess we are going to have to tighten our seat belt because we are going to continue to see radical groups, big labor, especially the ones based here in Washington, such as the AFL–CIO, continuing to launch an assault on our efforts to bring about meaningful change in a way the Federal Government operates and undermine our efforts to secure a brighter future for the folks in California.

I think it is very obvious that at AFL–CIO they are not looking out for their union members and their families in our two districts. No; those Washington bosses, as far as I am concerned, are using those membership forced dues to fight against that balanced budget that would give them and the families such benefits as more take-home pay, and lower interest rates and the ability to decide how they are going to spend their dollars, and not a bureaucrat here in Washington, DC.

You know, I believe that the union members and the families in my district and yours, Mr. RIGGS, if they were given a choice, it is likely they would prefer their balanced budget bonus to a deceptive, dishonest, propaganda campaign against our voting record. And you know it is just amazing to see it transpire, and I would just say I guess we were going to see this until November.

Mr. RIGGS. I think so, and I thank the gentlewoman for her comments.

Again, she is so right. She is basically describing the so-called mediscare campaign that has been launched by big labor, the major Washington-based labor unions back here which have become the core constituency of the national Democratic Party, yet they are ignoring all the warning signs that we are heading towards bankruptcy, for one reason and one reason only: They want to use this as the political issue to regain control of the Congress.

Independent analysis indicates that you know Medicare is going broke. The gentlewoman from California [Mrs. SEASTRAND] mentioned that we both been targeted by radio and television ads in our congressional districts, giving us an F for our votes on preserving Medicare from bankruptcy. That is actually out of the union press release. Yet if you look at the independent analysis that has been done of some of these advertisements by Brooks Jackson of CNN, he talks about the ads being a big hoax on the American people, grossly misleading.

One of the ads running now says the Democrats want to protect Medicare the Republicans want to gut it. But then Jackson goes on to admit Republicans currently propose to cut the growth of Medicare by $168 billion over 7 years. President Clinton's budget calls for $124 billion in cuts, which he calls savings.

He also analyzes another allegation in these ads. Republicans cut school lunches, cut Head Start, cut health care. Then Jackson, Brooks Jackson of CNN, calls this Democrat National Committee ad false advertising.

Mr. Speaker, the Republican Congress appropriated more money for school lunches this year, just what President Clinton asked, in fact, and the Agriculture Department says it has increased the number of children served. Money from the Head Start preschool program has been cut 4 percent this year temporarily, but Republicans have agreed to a 1 percent increase once a permanent appropriations bill is passed. Meanwhile not a single child has been affected. In fact, Head Start enrollment is up this year.

On child health care, Republicans did pass a $164 billion cut in Medicaid growth, which Clinton vetoed. Now differences have narrowed. Republicans last proposed to cut only $85 billion over 7 years, again to save that program, which has been growing in an unsustainable rate, and President Clinton's own budget proposal cuts of $59 billion.

As we saw in this ad, the Democrats' strategy is to, exact quote, Brooks Jackson on CNN, "not let the facts get in the way of a pro-Clinton political spin."

So again I thank the speaker for the time this evening. I will have more to say about these ads in the future. I would simply try to admonish her to advise the American people, you know, do not believe the lies and the scare tactics. Research the issues for yourself. Be informed, and I think you will see that we are trying to do the right thing, the responsible thing here in Congress, and we are trying to remember the old admonition of Mark Twain, which is, always do right, you will make some people happy and astonish the rest.

POSITIVE ECONOMIC AMERICANISM

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Illinois [Mr. LIPINSKI] is recognized for 60 minutes as the designee of the minority leader.

Mr. LIPINSKI. Mr. Speaker, for too many Americans, the great American dream has been replaced by sleepless nights of worry. Worries about how to care for elderly parents, how to pay for a home, how to pay for a car, and how to pay for the children's college tuition, in a world where real wages have become stagnant, taxes are being raised, benefits are under assault, and jobs are being lost.

Second jobs often become the only job, because the main jobs have been lost to downsizing, or have been transferred elsewhere. That's what people are dreaming about. Their anxiety is real, not imagined.

American workers used to be in control of their own financial destinies. Hard work, loyalty, and ingenuity were rewarded and appreciated by American businesses. The result? Americans realized and lived the American dream, as generation after generation witnessed an increased standard of living. But younger generations do not believe they will have it better than their parents. For these days, hard work and loyalty are being rewarded with pink slips and unemployment checks.

Before Pat Buchanan enlightened America to the plight of the American worker, the issue of jobs and the state of the American economy was not a part of the political discussion. In the worlds of Democratic leader, RICHARD GEPHARDT, Pat "has, at the very least, recognized the crisis of falling wages and incomes. He has acknowledged what hard-working families go through to raise their children and put food on the table." And the New York Times stated that "until Patrick J. Buchanan made the issue part of the Presidential campaign, it seldom surfaced in political debate."

Pat pointed out the falling wages of the American worker. According to the Bureau of Labor Statistics, average hourly pay has fallen 11 percent since 1979. Why? Because of greedy corporations and the failed trade policy of the United States.

First, let me talk about the trade imbalance in America. For years I have been fighting to balance the playing field by introducing legislation to impose restrictions on imported steel and automobile. Not because foreign steel and cars are better than their American counterparts, but because foreign countries are restricting imports of American steel and cars. It is not fair to the American worker to allow foreign products to generously flow into this country without opening foreign markets to the same American products. And now the North American Free Trade Agreement [NAFTA], and the General Agreement on Tariffs and Trade [GATT], two deals I vociferously opposed, are only making things worse for Americans.

By Trade Representative Mickey Kantor's own figures, each $1 billion in exports equals 20,000 jobs.

In 1995 the U.S. merchandise trade deficit was over $175 billion. That means 3.5 million jobs were lost to foreign countries. And what is contributing to this deficit? NAFTA. In 2 years, we've gone from a trade surplus with Mexico of $1.35 billion to a trade deficit of $15.39 billion last year. In addition, in 1995 the United States trade deficit with Canada was also over $15 billion. That is 600,000 jobs lost because of NAFTA.

Many of our own companies have in effect thrown up their hands in surrender to low-wage countries and decided to ship their operations abroad to take advantage of minuscule labor costs. In Indiana, the Whirlpool Corp. has announced it is moving 265 positions to a plant in Monterey, Mexico in order to strengthen the plant and improve job security. Aided by NAFTA, Whirlpool has improved job security to such a degree that over 5,000 jobs have been lost at its plant in Indiana in the course of the last 10 years.

But this is not a unique case. In my own district, General Motors has slowly but steadily been decommissioning its Electro-Motive plant for the last 10 to 15 years and sending the same work down to a subsidiary in Mexico.

But Mexican and Canadian workers aren't any better off than American workers, and neither is our environment. Because of NAFTA, American roads may soon open to Mexican trucks—trucks that often weigh more than double the 80,000 pound United States limit. These trucks are lax in safety standards, and with only 1 in 700 trucks being inspected at the border, American roads will be filled with mammoth, unsafe trucks carrying materials to points throughout the United States.

And not only is the American worker paying for these bad trade agreements in lost jobs and extra peril to the environment, but a trade deficit also represents a liability on our national balance sheet—a loan that must be financed. If the trade deficit remains constant, by 2010 the United States will be paying the equivalent of 2.5 percent of our GDP in interest payments and capital outflows to foreign countries.

I agree with Pat Buchanan that global free trade should be judged by three simple rules: First, they maintain U.S. sovereignty; second, they protect vital American economic interests, and third, they ensure a rising standard of living for all American workers. It is clear that trade agreements like NAFTA and GATT are not following these rules and looking out for the welfare of working Americans, but are looking out for the interests of large multinational corporations whose sole loyalty is to the bottom line.

For too long, we have engaged in trade deals and foreign policy that serve foreign countries. The $50 billion loan bailout to Mexico, which I opposed, only proves that NAFTA is a failure. And GATT, which often places the settlements of trade disputes in the hands of the World Trade Organization and representatives of small, Third World countries, compromises our sovereignty. Moreover, we rebuilt Europe and Japan after the Second World War—we still provide for their security—but it's time to use our powerful resources to rebuild the American dream and rebuild security for American families. Not just through Government programs—but through a partnership where Government can set fair and compassionate rules. Where Government can be an impartial referee, and where Government helps provide the tools.

That leads me to the plight of the American worker. In the 1980's, mostly young, male, blue-collar workers dominated layoffs. Wages of the principal breadwinner were declining and families were making up for that by sending more family members into the workplace, and they worked longer hours. By the end of the decade, families were running out of hours, with both parents working at several different jobs.

In 1988, I joined other colleagues in passing legislation that would prevent employers from blindsiding blue collar workers with sudden layoffs. This legislation, the Worker Adjustment and Retraining Notification Act, requires the employers to notify three bodies—workers, State dislocated worker units and local governments—of impending major mass layoffs, plant closings, or plant relocations. Unfortunately, while this legislation prepares American workers and communities for what lies ahead, it does not stop employers from firing workers en masse and causing sleepless nights of worry.

But now, white collar people with college degrees, a large number of women included, are also being laid off, or downsized, as corporations like to call it. Large corporations account for many of the layoffs, and a large percentage of the jobs are lost to outsourcing—contracting out work to another company. While these outsourcing jobs contribute to the 8 million jobs that President Clinton claims have been added to the work force since 1992, these jobs are often with small companies that offer little benefits and low pay, and many are part-time positions with no benefits at all. Often, the laid off only get temporary work, tackling the tasks once performed by full timers. Even though I am happy that jobs have been created, the statistics don't show that these are part-time jobs that do not pay living wages. In fact, the country's largest employer is Manpower Inc., a temporary-help agency that rents out 767,000 workers a year.

A person who is dependent all of his life on low wages is a slave. This economic stagnation and loss of opportunity is sapping America of its boundless confidence and freedom. Clearly, the dignity of labor has been replaced by the slavery of insecurity. You can't do that to American workers and expect America to stay strong.

Often, in order to allay this insecurity, these low-paid or temporary workers try to join a union in hopes of raising pay or improving benefits. At a recent congressional hearing, a $5.50 per hour employee of a small business with annual sales of over $150 million testified that management told the employees that they would put a padlock on the door and move the business to another town if the employees formed a union. This is not an isolated case, for throughout the landscape of the American office, warehouse, and factory there are widespread fears of joining a union and expressing one's views.

The fear of job loss and anxiety about the future coupled with falling wages of Americans does not equate with America's economic figures. Profits of corporations are 50 percent higher than a decade ago, the gross domestic product is growing, and unemployment is lower. Then where is the money going? To fat cat corporations. The growing divide between Wall Street and mainstreet is causing a widening rift between the rich and the poor.

In 1974, U.S. CEO's were paid an average of 35 times the average worker. Today, that ratio has ballooned to 187 to 1. Comparably, in Germany that ratio is 21 to 1. In Japan the ratio is 16 to 1. There are great effects that result from the greed of these corporate CEO's. In 1979, the top 1 percent of earners in America held 22 percent of the wealth, Today, the top 1 percent hold 42 percent of the wealth. We even surpass Britain, long seen as the snooty example of a class structured society, in income disparity.

It is clear that multimillionaire CEO's are keeping more of the money for themselves. Workers once received compensation increases equal to 80 percent of productivity gains. Since 1979, workers have only received a 25-percent increase in compensation compared to their productivity gains. This is not fair, nor is it right. Workers who produce more and better products are being forced to labor longer for less compensation.

Furthermore, it is not secret that when a company announces a layoff that its stock soars. On the day of the announcement that 40,000 jobs would be cut, AT&T's stock when up 4 percent and Bob Allen, the CEO of AT&T, saw his stock increase by $1.6 million, in that 1 day alone. The day Sears announced that 50,000 jobs would be downsized, its stock climbed 4 percent. When Xerox said it would trim 10,000 jobs, it stock surged 7 percent. The list goes on and on.

Fortunately, not all corporations view their employees in simple terms of stock market statistics. Anheuser-Busch, Malden Mills, Inland Copper, and United Technologies have all respected their workers and treated them like assets. For, instance, United Technologies reeducates its workers and gives stock incentives to employees who go back to school, no matter if the studies are related to United Technologies or not. This is the kind of social contract that is needed in America between corporations and its workers. Even financial forecasters have foreseen that companies which invest in their employees are better investments in the long term than companies that recklessly fire workers for the benefit of the quick buck.

But currently, Wall Street is not reacting well to the news of employment gains. When on March 8, the Labor Department announced that 705,000 workers had been added to payrolls, the Dow Jones industrial average fell 171 points. The next day's headline in the Washington Post screamed, "Job Gains Send Markets Plunging." There is no doubt that the shortsighted interests of Wall Street investors conflict with the long-term interests of working Americans. Less jobs, more profits, that is what Wall Street wants. As White House Press Secretary Mike McCurry said about the markets' response to job gains, "Sometimes there's a disconnect between Wall Street and Main Street." No, Mr. McCurry, not sometimes. It happens more often than we care to admit.

Sure, change and some turnover was inevitable as the American economy evolved past the industrial age. Technological innovations now allow a corporation to do more work with less manpower. But as of late, the economy has been driven by a policy that transformed labor markets. Incentives increased on Wall Street to break the social contracts between corporations and workers. Capitalism and greed ran rampant without regulations, injuring the working man and woman and losing sight of a vision for America's economic future. Yes, I do believe in capitalism, but I hold democracy and the welfare of the working men and women of this country in higher regard. While I respect the right of the individual, this society cannot be one that lives by the rule of survival of the fittest.

There are solutions to the plight of the American worker. We must change trade policies, modify corporate behavior, strengthen workers' rights, and provide for a more effective social safety net for the unemployed.

I also believe in free trade, because America has the most productive work force and best minds in the world. But most often, the countries that we trade with, do not have open markets and are not playing by the same rules that we hold to ourselves. They do not believe in free trade and therefore take advantage of America's willingness to play at a disadvantage. The time has come for a comprehensive U.S. trade policy that emphasizes reciprocity and stems America's hemorrhage of jobs and incomes. Future trade deals should not be made with foreign countries until they open their closed markets. Current trade agreements, such as NAFTA, should be amended or repealed unless certain conditions are met.

To this end, I am a member of a bipartisan coalition of Members in the House and Senate that have introduced the NAFTA Accountability Act. This act would incorporate a comprehensive set of benchmarks against which to measure NAFTA's promises in regard to trade balances, net job growth, democracy, reduction of illicit drug activity, crime, and increased public health standards. If any of the benchmarks of a prudent trade policy are not met, Congress would instruct the President to withdraw from NAFTA. The American people themselves are clamoring for legislation of this kind, as recent polls indicate that 52 percent of the public in March 1994 believed that NAFTA would help the job situation here. By November 1995, only 36 percent of the public still held that belief, while 55 percent of the people believed that NAFTA is causing jobs to go to foreign countries.

Changing bad trade deals goes hand in hand with changing corporate behavior, since these corporations are taking advantage of agreements by using cheap foreign labor while CEOs reap the profits. Moreover, multinational corporations often escape from paying U.S. income taxes while retaining the rights of citizenship. These tax loopholes must be closed, and corporations that receive tax breaks only to subsequently downsize should have their tax breaks eliminated.

But eliminating corporate tax loopholes will not solve the whole problem. I propose going one step further and creating tax rates that reward those corporations which create higher quality and better paying jobs in America. A new social contract should be adopted between the Government, the business community, and the working people of America. Tax rates would be reduced for corporations if they pay living wages for their workers, maintain or add jobs, give good benefits, and train or upgrade skills.

Corporate America is constantly clamoring for tax breaks, as the Republican Contract With America proposed to do. But tax breaks have been given in the past to these corporations only to see jobs go to foreign nations, the American work force downsized, CEO's reap huge profits, and the budget deficit balloon out of control. So let's give corporate America what they want: A tax break. But let's hold them accountable for the welfare of the American worker.

Corporate America is not the only entity that can help the middle class. Unions, as the vanguard of the workers, also have a role to play. They ensure a stable economy. To quote from Ray Abernathy of the AFL-CIO, "When organized labor and minimum wage laws were passed during the Depression, it wasn't only to prevent the exploitation of workers, it was also because big business understood the need to ensure the buying power of its customers."

That statement makes sense, because in modern economies, wealth is created when labor, capital, skills, and natural resources are continuously recycled as profits, wages, operating costs, taxes, or social welfare payments within the society that produced them. Unions, in effect, promote a healthy society by making sure that a fair percentage of the wealth is recycled in the form of wages. But distributing to much wealth as welfare undermines the work ethic, and distributing to much as profits to a relatively few top executives, as has been happening in America in the last two decades, concentrates wealth in the hands of a few.

Therefore, this has undermined support for the community and has led to a weakened public school system, unsafe streets, a declining morale, and an anxiety about the future across America.

At the very least, Government can ease the pain of down sized workers by passing health insurance reforms currently before Congress that allows those who lose their jobs to keep their health insurance. It is not fair, nor is it right, to have health and other social benefits for the very poor while Americans who have worked all their lives and contributed to the U.S. economy cannot have the same peace of mind. Mechanisms such as health insurance portability need to be instituted so that working Americans will not have to spend all of their savings on health care bills and subsequently fall to a level of poverty where the only means of living is provided for by the Government. But this is just a minimal step. Much more can and should be done to ease the real anxiety and worries that Americans are now feeling.

We must all work together to not only reinforce America's place in the global economy, but to return the American worker and the American family to a prosperous place in society. Then we can progress on our course at the greatest industrial democracy in the world.

Mr. Speaker, tonight I have presented the problem and a few potential solutions to the economic quandary America faces. But I would like everyone within the sound of my voice to send me their solutions. And in a few weeks I will present those solutions and give a vision of what America can be.

☐ 2030

A VICTORY FOR THE AMERICAN PEOPLE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Ohio [Mr. KASICH] is recognized for 60 minutes as the designee of the majority leader.

Mr. KASICH. Mr. Speaker, I wanted to come to the floor tonight to essentially say that in my judgment, the American people have won a victory in the negotiations between the Republican House and Senate and the President of the United States. In fact, I want to just take a moment to congratulate the Republican Members of this Congress who decided early on that we wanted to have a comprehensive program to balance the budget and give Americans some of their hard-earned money back, reversing the tax increase that the President imposed in 1993.

As you know, Mr. Speaker, there have been intense negotiations going on in the area of discretionary spending. Discretionary spending is the kind of spending we must approve on a year-to-year basis, the only spending that the Congress actually must vote on.

As we are all aware in this body, there has been a debate going on in terms of the level of discretionary spending, or the spending we approve each and every year. That is separate from the spending known as entitlements, where if Congress did not even show up, spending would go up automatically.

When the President vetoed our balanced budget bill, he killed all efforts to reform and return the entitlement programs back to the communities and towns all across this country, where Americans could begin to design local solutions to local problems and save money, so that we can save the next generation and end the problem of stagnant wages and begin to solve the problems of job insecurity.

The entitlement side of this is something that we have not yet been able to lasso in, because the President is opposed to returning these entitlement programs to the American people, so that we can design them using local solutions to local problems at lesser costs.

But the one area where the President was forced to sit down and negotiate with us in order to keep the Government of the United States on its day-to-day efforts at being run, was the appropriations process, that spending we must approve each and every year.

In the announcement that is currently being made, it is very, very clear that the Republicans had won a tremendous victory from the standpoint, that we will have the most dramatic change in that discretionary or year-to-year spending that we must approve since World War II. The people of this country should know that the Republican budget set spending limits, and we said that we wanted to reduce Washington spending.

As everybody knows, this has been an ongoing debate between us and the administration, and I am here tonight to make the case, the clear case, that saving $23 billion in spending in the fiscal year 1996 appropriation bill is historic; that in fact our children will look back upon the passage of this bill as a significant step forward towards balancing the Federal budget and bringing real change to this city. In a nutshell, Mr. Speaker, the $23 billion is, frankly, again, the most significant change that we have seen in this city since World War II.

In fact, many people said, "What have the Republicans gotten from their revolution? Have the Republicans really been able to achieve anything?"

I would argue that after only 17 months of holding office, we have been able to deliver and will deliver here tomorrow, a bill that will allow us to go forward, save $23 billion, and make that giant first payment, that giant first down payment on guaranteeing that we will get to a balanced budget, that we will empower Americans, that we will give them some of their own tax dollars back so they can spend money on their children.

Now, we went through a whole variety of programs that are actually eliminated. Mr. Speaker, tonight I can show you at least four pages of programs that have been excised, eliminated, cut, and we hope ultimately to take some of the dollars we saved in these programs and give these dollars back to the American people in some tax relief, after all, it is their money, and/or apply some of this money to saving the next generation or some of this money to balancing the budget so we can bring about lower interest rates.

Now, could we have done better? We sure could have. There are a number of programs here that the Congress of the United States will continue to fund, and programs that the Congress of the United States does not want to fund. Let me talk about one of them, the Goals 2000 program. That is a program that is being run in this city to try to tell our mothers and fathers across this country how our children are doing at learning.

Frankly, I do not think that the mothers and fathers that I know who have children in school across this country need to call the Department of Education to ask a bureaucrat, who does not even know what time zone they live in, whether their children are learning or not. But yet the Goals 2000 program that keeps power in this city, in the hands of bureaucrats, and denies the full determination of whether children are learning, denies mothers and fathers the opportunity to solely decide whether their children are learning, has been denied to them.

I will tell you that the chairman of the Committee on Appropriations, whenever he has somebody that wants to be part of this revolution to downsize government, will put mothers and fathers back in charge of evaluating how their children are doing in school. But we have a President, an administration, that has fought day after day after day for higher Washington spending and more control by Federal bureaucrats.

But we do not just want to focus on what we did not accomplish, because, frankly, what we have accomplished will be that one underlying sentence in modern history that will say that the Republican Congress was able to stand tall and was able to put the children of this country and the mothers and fathers who are worried about their economic future today first.

This bill that we will bring up tomorrow will represent the most significant change in the day-to-day spending habits of the Government of the United States since World War II.

I now would like to yield to the chairman of the Committee on Appropriations, the gentleman from Louisiana [Mr. LIVINGSTON], who has done an outstanding job on this bill. It has been a pleasure for me to be able to work with him as the chairman of the Committee on the Budget. We have had a great and growing friendship and great and growing respect for the job each of us is trying to do. I would like him to talk about how proud he is of the kind of change that this Republican Congress in just a short 17 months has been able to deliver. I will suggest that you ain't seen nothing yet.

Mr. LIVINGSTON. I thank my friend, the distinguished chairman of the Committee on the Budget, for yielding to me. I want to compliment him on articulating the agenda of this Republican Congress, the 104th Congress, which in fact is keeping its promise that it made to the American people when we ran.

□ 2045

We told them, Mr. Speaker, we wanted to reduce the cost of Government. We wanted to get our hands out of the pockets of the taxpayers so that the American family would have more money to spend on the welfare of their own children, on the education of their children, and that we would reduce the role of Government in the way of cutting back on the numbers of programs, on agencies and on departments. And we have done just that.

The distinguished chairman of the Committee on the Budget has provided a road map for all of Congress to follow, along with the chairman of the Senate Committee on the Budget, Senator DOMENICI. The two of them have worked hand in glove together to put this country on a firm and financially sound footing.

And from our standpoint in the Committee on Appropriations, we have tried to accept their guidelines gladly and comply with their guidelines so that we have, indeed, been able to reap great savings to the American taxpayer.

Frankly, that is where we are, Mr. Speaker. Through this great effort, we can now say with great pride that 6 months ago the political and economic gurus were predicting that in fiscal year 1996 we would be faced with a $200 billion deficit for this year. And what do we hear now? It is now $144 billion for fiscal year 1996, the same fiscal year. In other words, we are coming in at $54 billion lower than we were expected to come in only 6 months ago.

I think that is largely due to the great work of the Committee on the Budget, working in tandem with all of the other committees in Congress to comply with their guidelines, as well as our own accomplishments.

On the Committee on Appropriations, we only have jurisdiction over one-third of the Federal spending in a single year, but in fiscal year 1995, since we took office, we were able to reap $20 billion of savings under what would have been otherwise spent; and this year, with the completed package that is now being finalized back in the back rooms of Congress and will be voted on tomorrow by, hopefully, a majority of the Members of the House and a majority of the Members of the Senate, so we can hopefully send the bill over to the President for his signature, we find that we are going to reap another "another" $23 billion in savings over and above the $20 billion in savings that we got in fiscal year 1995, for a net total of savings in the discretionary budget of some $43 billion under what would have been spent had the Republicans not taken control of Congress on January 1, 1995.

So I think when the dust is settled, and as the gentleman has pointed out, this is the greatest amount of savings since World War II, and when the dust is settled, when our children and our grandchildren sit there and thumb through the history books and say what was accomplished in that 104th Congress, they will totally disregard or totally not understand that some people had quarrels with the spending on one program, other people had quarrels with spending on another program, but what they will see are those bottom line figures.

For the first time in modern contemporary history, instead of spending more on discretionary spending, instead of finding new programs, instead of finding new agencies, instead of finding new departments and spending what we spent last year plus an inflation kicker on all of them, for the first time we have cut the number of programs, well over 200 programs in fiscal year 1996. We have eliminated agencies, we have cut down on the duplication and waste, and since January 1, 1995, we have saved the American taxpayer $43 billion.

That is not chicken feed. That is real savings to the taxpayer, and it shows the conclusion that the average vote had come to over the last 10 years, that there was no hope for turning back the ever-increasing cost and growth of Government, is false. It is simply not true. We are scaling back the cost of Government.

And if the President would start complying with his promises to reform welfare as we know it, to fix the Medicare system, as his own commissioners say must be done, to acknowledge the fact that many of our States today are in trouble on Medicaid, as we speak, and to know that with respect to Social Security, if you ask a large group of people under the age of 35, a majority of them think they are more likely to see a UFO, an unidentified flying object, than they are to collect on Social Security program, and you add that together, if we get the President to face up to those very real problems, we can do exactly what the chairman of the Committee on the Budget has accomplished in pushing through the House of Representatives along with his counterpart in the Senate, we can balance this budget by the year 2002.

We can do it. We all know that we can do it because we have got a floor plan that has been promoted and proposed and drawn up by the distinguished chairman and it can be done. All we need is the political will in the White House to do it.

Mr. KASICH. Let me just ask the chairman, if he would, let us just put this in terms that Americans can understand, so when they are going to work tomorrow they can turn to the person next to them and say, you know, we thought the Republicans were not getting anywhere, but did you hear that they were able to cut the Washington spending and the waste and the abuse, and they were actually able to save us $23 billion this year.

Is that right, I ask the chairman of the committee? Is there anything more complicated than that?

Mr. LIVINGSTON. No more complicated, and just a little bit better when one considers that 200 programs, each with its own good intent, but each with its overlapping and duplicative bureaucracy, ceases to exist with the signature of the President on this bill.

So 200 programs are no longer in existence, $23 billion is saved for the American taxpayer, and the cost of Government is no longer rising, it is falling.

Mr. KASICH. And what was the greatest obstacle, Mr. Chairman, that you faced in being able to accomplish this job of saving us this money?

Mr. LIVINGSTON. Well, quite frankly, the obstacles did not arise in the House or in the Senate, the obstacles arose and emanated there from 1600 Pennsylvania Avenue. Because if we had had the cooperation of those good folks, it would not have taken us a year and a quarter to complete this process.

Mr. KASICH. So, in other words, even though the President talks about his wanting to, well, he declares the era of big Government being over, he fought for virtually every dime of Washington spending that ends up in the hands of the Federal bureaucrats. He fought for this, and you fought against him, and this House and Senate stood tall and we actually were able to save the most significant amount of money for our children that we have since World War II; is that correct?

Mr. LIVINGSTON. That is correct. And in fairness to the negotiators who participated on behalf of the White House, the fact is that they did negotiate, we have a package, and I do hope that the President will sign that package. I have every reason to believe that he will. Had they been more obstinate, I suppose it might have been impossible to reach an agreement. But I am delighted an agreement has been reached.

And one thing I will say, from the very beginning, we never deviated from the ground rules. The Committee on the Budget gave us our instructions: Stay within your budget allocations, make sure that you save the American people that $23 billion. If you have to raise money for the President on some programs, take it out of that discretionary pot and make sure that you cut other programs. And that is what we did. We took the chairman's admonition to stay within our budget caps. We stayed within them, and the American people are $23 billion richer in that they have not spent another $23 billion that they would have spent had we not done what we set out to do.

Mr. KASICH. Of course, again, what the people need to understand is this is really the only spending that the Congress of the United States was forced to approve in cooperation with the President. Is that correct? This is the only spending where, if we didn't come to work, Government would shut down; is that correct?

Mr. LIVINGSTON. That is correct. And as we all remember, when this House passed an Interior bill, a Commerce, State, Justice bill, and one other appropriations bill before Christmas, the President vetoed all three of those bills and, in fact, the government did shut down.

Likewise, when the Senate did not pass the Labor, Health and Human Services bill, frankly, that was in jeopardy of closing the government.

But we tried that. That was done on all sides, and, frankly, nobody felt they came out the better for it. We had to go back to the table. But we couldn't override the President's vetoes and we were left with no choice. So the idea was to negotiate with the President and still reach those budget caps. We did that and we have those savings.

Mr. KASICH. But we had to drag them kicking and screaming all the way to the water bucket and force them to drink, did we not?

Mr. LIVINGSTON. The President wanted much more spending.

Mr. KASICH. Let me just say, though, and I do not want to give just a civic lesson this morning, but for our colleagues who are watching this special order, our own colleagues, the discretionary spending, this year-to year spending that we must approve in order to keep government working, is only one-third of the budget. The other two-thirds of the budget is interest on the national debt and the entitlement programs.

Now, if BOB LIVINGSTON and JOHN KASICH and CHRISTOPHER SHAYS and PETER TORKILDSEN would not even come to Washington, along with the rest of the Congress, that spending goes up automatically; is that correct?

Mr. LIVINGSTON. Automatically.

Mr. KASICH. Two-thirds of the budget is on automatic pilot going through the roof, threatening the future of our children, threatening economic security for every American today, and denying the American people a right to run their own programs with their own money, using their own judgments in their own communities.

We cannot force the President to sign a bill to give us those reforms, can we?

Mr. LIVINGSTON. Absolutely not. And I would point out to the gentleman, as he well knows, that the formula around here in Congress in the old days was very simple: We spent that much on that many programs. We need more programs, we will create several new programs, and we will throw in an inflation kicker, and for good will we will throw in a few more dollars on top of that.

So we were always spending more and more and more and more money. And then, all of a sudden, something funny happened on the way to the polls, Republicans took control of the House and the Senate and we have reversed that trend. We are now spending less and less. $20 billion of savings in fiscal year 1995 and $23 billion in 1996.

Mr. KASICH. It is just a shame that we cannot get or enter into with him the process that forces us to reform those entitlements, is it not?

Mr. LIVINGSTON. Well, if the President had signed the bill that you, Mr. Chairman, pushed through this Congress, frankly, we would be well on our way to a balanced budget by the year 2002. The fact he vetoes it makes me very, very frightened when I look at that chart that I have been showing around recently that shows that big red portion representing interest on the debt, which is so large that within a year or so it is going to exceed what we spend on the defense of this Nation.

We will spend more money just paying off the interest on our borrowings of past years than we will spend on the defense of this Nation. That is a frightening thought. And if that trend continues, our children will either have to pay extraordinary taxes to have the benefits at all and still will probably have to pay high taxes.

Mr. KASICH. But I would say to the gentleman, that staying within the blueprint that the Republicans laid out, you have achieved a major piece of that. If we were to achieve the other pieces of that blueprint, we would not only be able to balance the budget in the conventional terms in which we define it, we would also return an awful lot of power and money and influence to the American people and all the cities and towns across this country. We would guarantee a bright light at the end of this tunnel for our children so that they will have a beautiful American legacy, we would be able to give tax relief.

And, you know, in 1993 we raised taxes. The President says he raised them too much. What we are trying to do is cancel out those tax increases, frankly. And if we could just get the rest of this job done the right way, we would make for a better America, wouldn't we?

Mr. LIVINGSTON. So much so that we would also get the government out of competition for American dollars. We would cease to borrow money. And if we could cease to borrow money, that means interest rates would come down, and by Alan Greenspan's estimates, the chairman of the Federal Reserve, come down as much as two full percentage points, which means two points off the cost of your mortgage on your house; two points off the loan you use to send your kids to college; and two points off the loan you used to buy your car.

□ 2100

Significant savings to the American people, if only the Government would stop borrowing in order to conduct its business year after year.

Mr. KASICH. Mr. Speaker, I would ask the gentleman if he would stay for just a few more minutes. I would like to yield to the gentleman from Connecticut [Mr. SHAYS], a member of the Committee on the Budget who has felt passionately about the need to attack these problems.

Mr. SHAYS. Mr. Speaker, as I was hearing both of the gentlemen, both chairmen of this new Republican majority, I just kind of stood in awe thinking of the fact that the gentleman from Louisiana [Mr. LIVINGSTON] was the fifth ranking Member of the Committee on Appropriations. This new Republican majority said that we wanted the best and the brightest to take these positions. They were given that assignment. I was thinking what a thankless task it has been for them.

There is not a Member that has not been disappointed with certain parts of the hard decisions that they have had to make. I just wanted to come personally and thank my colleague for the extraordinary job he has done as the chairman of the Committee on Appropriations, the chairman who has actually had to make cuts in budgets.

We slowed the growth of Medicare and Medicaid but we still allow them to grow significantly. But you actually said, we are going to spend less dollars next year than the year we are in. And you are doing exactly what we intended to do. We wanted to get our financial house in order and balance our Federal budget. We want to save our trust funds for future generations. And most importantly, we want to transform this social and corporate welfare state, this caretaking society into a caring opportunity society. And I just wanted to thank you for the work you are doing and to celebrate the fact that it has been a long and arduous journey, but you have done it.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for his comments. I just know that he is one of the foremost among us in this House and empathizes with the hardship that the American family faces every day. Whether it is a two-parent family or a one-parent family who is struggling to raise his or her or their children, in this environment they have got to work maybe more than one job a day and they are struggling.

When the Government takes, continues to take that bite out of their pocketbooks and send the money to Washington because they say that Washington can spend their money better, those folks intuitively know that that is not true. They know that they have to balance their books, and they know that, if their expenses exceed their income, that they are going to run into financial trouble and possibly even legal trouble. Those people that run small businesses and large businesses as well know that at the end of the year they have got to balance their books or at the end of the month they have got to balance their books. Their income has to match their outflow.

Mr. Speaker, they just cannot understand that since World War II, the American people, the U.S. Congress has only balanced its books, I think, three times, three times. Otherwise we have been spending more than we receive, and we borrow the difference and just say, well, let our children pay the bill.

Mr. KASICH. Mr. Speaker, let me just say that it is in my judgment even more than about just adding up this column with this column. Frankly, Americans for a significant period of time now believe that their hard-earned tax dollars are going to programs that do not make sense, programs in this city, run by people addicted to Washington spending, who do not do it with a sign above their desk that says, this is not your money.

In other words, the American people believe the people in this city are not good stewards of their hard-earned pay. They are sick and tired of sending money, power and influence to this city, a city that has been proceeding on a course that is bankrupting this country and at the same time not solving the problems that we have.

Do my colleagues know what I think Americans are saying? Let me do it. Let me keep my money in my community. Let me have my influence back. Let me have control of my neighborhood.

Mr. Bureaucrat in Washington, I do not really need you in my neighborhood. Frankly, I wish you would just stay in Washington and let me run my own neighborhood.

What you have delivered to us, Mr. Chairman, is a new process. You have given us a new paradigm. That new paradigm is that this city counts less and people out across this countryside count more. This is a response to what the American people have wanted in this country.

Mr. Speaker, I will suggest that, if we had not stood on principle, if we had not made the fight that we have made, we would have lost this. It would have been business as usual. Did we get everything we wanted? Of course not, because we have a crowd downtown that does not want to put people back in charge of their neighborhoods. But we are going to fight for it. We are going to fight for it on this. We are going to fight for it on welfare. We are going to fight for it to give our senior citizens choice on Medicare. We are going to give people their tax dollars back. And we are going to save not only the future for our children, but we are going to guarantee economic security today for the American family. You cannot have it with runaway Washington spending and debt and bureaucracy and standing in line.

This does not get it all done, but that sure delivers a very strong message and accomplishes a great deal. And you, sir, should be very proud of what you and your committee were able to achieve.

Mr. LIVINGSTON. Mr. Speaker, we could not have done it without the cooperation of both the gentlemen who have addressed me.

I just want to say that the appropriations process for the 104th Congress is a three-act play. Fiscal year 1995 was act one. We saved $20 billion. Fiscal year 1996 is, and we are drawing to a closure, is almost to an end, and we are saving $23 billion. And we go next week to fiscal year 1997. With the help of the chairman of the Committee on the Budget and the gentleman from Connecticut and all of our other colleagues, I think we are going to have as much to crow about at the end of fiscal year 1997 or more than we do today.

ON THE BUDGET

The SPEAKER pro tempore (Mr. LUCAS of Oklahoma). Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, I am sorry that the gentlemen of the Budget and the Appropriations Committees ended so abruptly. I was about to ask a few questions and have them address those questions. They are still in the Chamber so I will go ahead and ask the questions. Maybe they will give me the answers later.

In the process of revamping the budget, do they realize that—they realize above all that money comes into Washington and then flows out. Why does Louisiana, why does Louisiana get so much more money from the Federal Government than it pays into the Federal Government? The gentleman who heads the Committee on Appropriations is from the State of Louisiana, and Louisiana gets $6.4 billion more from the Federal Government than it pays into the Federal Government.

You can downgrade Washington and talk about Washington spending money, but Washington does not spend money in Washington. The Federal Government is merely a transit, an exchange. They pull in the money and they appropriate it out as it is needed for various functions, and it flows into the States across the union. There have been studies done that I have quoted here on this floor on several occasions about how much each State pays into the Federal Government and how much each State gets back.

Among the high roller States, the States that get more back from the Federal Government than they pay into the Federal Government, is Louisiana. Louisiana gets $6.4 billion more from the Federal Government. These are the 1994 figures, the only year the complete figures are available for. And these figures come from a study done by the Kennedy School of Government, a very thorough study which looks at all of the Federal expenditures for military installations, the salaries of servicemen, the various military related functions that are carried out by the States, as well as programs like food stamps and Medicaid. It is all totaled up.

Louisana is a big gainer. After this great revamping of the budget and revamping of the appropriations process, where they have saved so much money, will Louisiana be paying more of its fair share. Will Louisiana shoulder its own burden? New York, on the other hand, my State, pays $18.9 billion more into the Federal Government than it gets back from the Government. New York, New York.

I heard Mr. KASICH, the head of the Committee on the Budget, say that we do not need Government telling us what to do. Our neighborhoods should decide; our neighborhoods should be left alone. The neighborhoods of New York would like to have that $18.9 billion back and we could divide it up and take care of our own problems, but we are paying it into the Federal Government and not getting back an equal value.

In fact, we are the State of the Union at the very top of the list of the States that pay more than they get back. California is the largest State in the union. But whereas New York, in 1994, paid $18.9 billion into the Federal Government more than it got back, California only paid $2 billion more to the Federal Government than it got back.

California has had earthquakes and mud slides and large amounts of Federal money have gone to California in order to relieve those problems, but over the past 4 or 5 years, California has steadily paid less into the Federal Government than New York, although California is the largest State.

Mr. KASICH comes from Ohio, and Mr. SHAYS, who joined them at the last minute, he is from Connecticut. Ohio and Connecticut, like New York, are donor States. We pay more into the Federal Government than we get back from the Federal Government.

My great question is, after all of these changes are made, after they have cut the school lunch programs, after they have downsized and cut the housing programs, after they have gone after the Medicaid program, the Aid to Families with Dependent Children program, after food stamps have been cut, after they have made all these cuts of relatively small programs, they have not cut defense very much. In fact, these same gentlemen who stood here before us and talked abut a revolution in the budget and appropriations making process did not cut defense. They increased defense by $6 billion. At a time when the Soviet Union no longer exists and the threat to America is less than ever before, we have an increase of $6 billion.

The President did not want 46 billion more for defense. The President did not want a B-2 bomber. The President did not want extra money for certain kinds of programs that were beneficial to members of the Committee on Appropriations and members of the Committee on the Budget for their States.

We have a lot of waste in the defense budget, and these gentleman did not attack that at all. So I think it is very important to what I have to say today to recognize the fact that there is an America, this is a particular era in America where we have 2 basic approaches being taken, maybe 2 mentalities being shown. One is a big shot mentality which says that the rich and powerful can do no wrong, the rich and powerful should be allowed to waste money on a wholesale basis, because when you increase the defense budget by $6 billion, it is already above $200 billion, what are you doing? You are increasing the amount of money available to go into the payment for manufactured weapons and for supplies and for various items that are bought from huge corporations. And the corporations are owned by people who have stock on Wall Street. So you are feeding the richest people in America. They have their hooks into the defense, the military industrial complex.

So every dollar that goes for defense is a dollar you know is going to help rich people get richer, to help powerful people get more powerful, because there is a relationship between dollars and power. Those programs are not being cut, only the cuts for the people at the very bottom.

There was a hearing today in the Committee on Economic and Educational Opportunities, a markup at the subcommittee level dealing with a program for people with disabilities, the IDEA, Individuals with Disabilities Education Act. This is providing education for children in America who have probably the greatest needs. Extra money has to be spent to educate these children because of the fact that they have great needs. They have problems, learning disabilities, physical disabilities. And the amount of money that the Federal Government contributes to this program is very small. It is 7 percent of the total. States and local governments contribute more, most of the money.

Nevertheless, the committee is chipping away at the small amount of money being spend on children with disabilities all across America. They are chipping away at the programs. A great deal of time and energy has gone into nitpicking about this costs too much for attorney's fees, it costs too much to run a parents program where the parents have an opportunity to get educated about what the program is all about and they can, they are empowered to work with the schools in order to get a better education for their children, all these things suddenly cost too much.

These are programs for little people. These are programs for ordinary Americans, we the people. We the people do not seem to count very much. We the people are always the object of intense scrutiny. The microscope of the Committee on Appropriations, the microscope of the Committee on the Budget is focused on these little programs that have very small amounts of money, and they are trimming away at these little programs in order to save America from going bankrupt.

□ 2115

It is rank hypocrisy, rank hypocrisy. These same committees, the great Committee on Appropriations, the great Committee on the Budget, are not concerned at all about facts that are introduced by other entities. You know we do not find out here in Congress; other people have to tell us.

The General Accounting Office tells us the CIA has $2 billion, at least, in money that it did not spend over the years and it had lying around in the petty cash fund. The CIA has that kind of money lying around.

An audit revealed that they had $2 billion, $2 billion that the director of the CIA did not know about, $2 billion that the President did not know about.

Two billion dollars is a lot of money; ask these gentleman here. You know, $2 billion, we can stop the cuts in the school lunch programs with $2 billion for more than a year. Two billion dollars would mean that we could fund the title I programs for schools, provide money, the only money we provide, to elementary secondary education school, education. I mean most of the money comes out of the title I program. A $7 billion program, and they were proposing earlier in the year to cut it by $1.1 billion.

But $2 billion for the CIA could have ended that cut for 2 years. They were going to cut it by $1.1 billion per year. So that meant that in 2 years it would have been $2.2 billion. Take the money that the CIA has laying around, waste it, and you could end the cut, most of the cut, on title I.

The Federal Reserve Board, another big-shot agency, an agency where big shots, the rich and the powerful, run the agency. The rich and the powerful have money lying around to the tune of $3.7 billion. The General Accounting Office found that the Federal Reserve has $3.7 billion lying around that it has not used. They call it their Rainy Day Fund.

In 79 years, in the last 79 years, the Federal Reserve has never needed to use that Rainy Day Fund. They have never had any losses, never had any crisis or problems in 79 years. So why do they need to have $3.7 billion lying around? How much interests would you get on $3.7 billion to offset the payments on the deficit? If that $3.7 billion had been given to the Treasury, where it belongs, we would not have a situation where you pay interest on $3.7 billion worth of debt. You would have that much less to pay.

Combine the $3.7 billion in the Federal Reserve slush fund with the $2 billion in the CIA slush fund, and they have large amounts of money that could be appropriated for education.

Gentleman stood there and they talked about how proud they were that they made cuts in the education program. They were not just talking about cuts. But one of them said we, we, want the parents of America to know that we have stopped the Federal Government from telling them what to do by cutting out the Goals 2000 program.

Well, there are several things wrong with that statement. The gentleman is assuming that the Committee on Appropriations and the Committee on the Budget have all knowledge. The Committee on Economic and Educational Opportunities, of course, authorized the legislation which contains Goals 2000. The Committee on Economic and Educational Opportunities authorized the legislation which contains Opportunity To Learn standards.

I serve on the Education Committee. I know the process. We debated for 6 months the Opportunity To Learn standards. We debated for 3 months the Goals 2000 general program. We debated for another 2 months with the Senate. And the back and forth in the Senate conference and the House conference went on for 2 months on the Opportunity To Learn standards alone.

With all this deliberation and all of this marshaling of facts, hearing testimony that the authorizing committees went through in the Senate and the House, along come the lords of the appropriation committee, and they are in the appropriation process going to tell us it is no good. They have all the knowledge, they have all the wisdom, it is no good. The implication is that we should just abolish all of the other committees of Congress. You know, we do not need a Committee on Economic and Educational Opportunities. We do not need that. We do not need other committees if the Committee on Appropriations, after its large-scale deliberation on numerous topics and numerous programs, is going to come to the conclusion that they can wipe out a program in the appropriations process.

We all know that that is against the rules. We all know that the Committee on Appropriations has no authority to wipe out a program like Goals 2000, like Opportunity To Learn standards, and yet we have seen again and again on the floor of the House when we challenge the Appropriations Committee, we say you have violated the rules. They said, yes, we violated the rules; you do not like it, appeal to the Chair. And, of course, they have the numbers to vote down every appeal of the ruling of the Chair.

You know, every attempt to get the Chair to enforce the rules is frustrated by the fact that they have the numbers and they use those numbers. You know if we were in another arena, it would be illegal to use the numbers to do illegal things. Of course, the House rules are the House rules. You violate the House rules, and there is no punishment. We cannot put a committee in the little jail cells we have down in the Capitol. In this Capitol we still have from the old days, had some jail cells that they used to keep to put rowdy staff members and Congressmen. We do not use that any more. So when the Committee on Appropriations violates the rules, there is no enforcement mechanism, and the majority vote can always back up the Committee on Appropriations.

So what we are talking about tonight is America, does America exist for the rich and the powerful only, is there an America where we the people are still in charge, is there an America where we the people matter?

We the people have a little program helping children with disabilities. You know, does it cost $2 billion? No, it does not even cost $200 million. Tiny program, helping children with disabilities, a program that was supposed to deal with rural communities where children with disabilities were totally out of touch with the program, urban communities where poor people were out of touch and they were not being served, they were not participating. That tiny program was singled out today in the process of the markup of the subcommittee and wiped out, does not exist any more if that markup goes through.

They also cut other provisions.

They also implied that the commitment of the Federal Government for children with disabilities is too great. You know, in this great, rich country where we can afford to have a Federal Reserve keep a slush fund of $3.7 billion an the CIA have $2 billion lying around, we cannot afford to take care of the needs of children with serious disabilities.

Is America for the rich and powerful only? Are we a Nation of big shots versus ordinary, everyday people where the big shots walk away with everything, nothing is too good for them, anything is too much for ordinary people?

That is the way the Republican majority in this Congress has proceeded. The omnibus bill that they are bragging about and crowing about is a bill which has gone after little people, a bill that is focused on the small programs.

They also implied the big shots can never waste too much, big shots should never be chastised. They do not make speeches about the Federal Reserve Board having $3.67 billion lying around. They do not make speeches about the CIA having $2 billion lying around.

It is worse than that, of course. There is a much worse problem that we have to deal with.

A friend of mine, my colleague from New York State, CAROLYN MALONEY, has done a study of all the debt that is owed to various Federal agencies, debt that is owed that is uncollected.

Now, here we are cutting school lunch programs, here we are going after the Medicaid Program, a program for health care for poor children, a program that takes care of nursing home people, poor and cannot afford to pay for nursing homes. Here we are going after programs that are vitally needed by people who are in great, and we are not paying attention to the fact that $55 billion, according to the study done by my colleague, CAROLYN MALONEY, Congresswoman MALONEY, on the Government Oversight Committee has done, a study which is fantastic, and she really should be commended for the great work she has done in this area. She has pinpointed, and she has documented, and I have the charts here. She goes agency by agency and shows, according to the last data that was available, and things might have gotten worse since then, the last data that is available, what is owed in the Farmers' Home Loan Mortgage and other programs in the Department of Agriculture, one of the major offenders. Large amounts of money are owed in the farm programs. The Farmers' Home Loan Mortgage Program is the worst offender. Large amounts of money, debts have been forgiven, forgiven in the Farmers' Home Loan Mortgage Program.

I cannot find out yet what is the criteria for forgiving someone who owes a debt to the Federal Government. Who makes those decisions? From my poor constituents in Brownsville, and East New York, Crown Heights, back in Brooklyn, I am sure they would like to know who is the person you see that forgives debts when they are owed to the Federal Government.

There are people out there who owe a few thousand dollars to the IRS, and they are being continually pursued. There some people, a head of small programs, programs that have funds, and they did not quite know how to handle the bookkeeping. So they were in a situation where the grant funding came late from the State, and they needed supplies, and they needed various things, and they spent the money that they should have been each quarter sending to the IRS. IRS now wants its money. So it is some of the programs have gone out of business, so they are going after the homes of the members of the board of directors, these little people who came out to help make these programs work. They did not get paid; they were just members on the board. They must now have their homes jeopardized because the IRS wants to let unpaid taxes from that agency.

And yet talking about a few thousand dollars here. You know, you are not talking $1 million, not talking about a $100,000. Talking about a few thousand dollars that they are being pursued for. But in the Farmers' Home Loan Mortgage forgave over a 5-year period $11 billion, $11 billion they forgave.

How does that happen? I have asked questions for the last 2 years and tried to get answers as how do you go about forgiving that kind of debt? But in the Department of Agriculture somebody has the power to forgive.

On occasion we had the Department of Agriculture representatives before us in the Committee on Government Oversight, and we asked basic questions like how does it happen that people get so delinquent in the payment of there mortgage loans? You know. My mortgate is not paid in 1 month, you know I get a big penalty, and I get a notice second month that they are ready to start foreclosing procedures. How do millions of dollars accumulate for farmers home loan mortgage situation?

I was told by the man standing there who was a high ranking official that, you know, sometimes the addresses change, people move, and you just cannot find them when their addresses change. Now I do not know how anybody with a mortgage on a piece of property can have his address change so radically that you cannot find him. The property is still there, they still own it. How can you sit before a committee of Congress and give an answer like that, that we have a hard time finding people because their addresses change?

But it was done, you know, and I am not one of these guys who bashes the Federal Government and the bureaucracy, but that was a low point in the Federal bureaucracy when they give that kind of answer. Of course State bureaucracies, city bureaucracies, are just as bad. We heard all the discussion here about how terrible it is that money flows into Washington and it is not spend properly. Washington, you know is not alone. Probably Washington does a better job. Its bureaus and bureaucracy does a better job than most State governments and most municipal governments.

The spotlight of course is on Washington. One of the greatest things about the Federal Government is that it is always a gold fish bowl because there is the national media, and there are all kinds of people who are watching critically, but at the State and city level there are terrible things that happen in silence. Nobody says anything. A lot of terrible things happen, and it is not hidden, but everybody seems to be paralyzed.

In New York City, the mayor of New York City who prides himself on reestablishing efficient government, who has a deputy mayor who comes out of business, and he is always pounding away at expenditures by little people and little agencies driving the welfare rolls down by making a long application and requiring people who are hungry to wait 2 or 3 months before they can ever be interviewed.

□ 2130

There are all kinds of ways they use to oppress the little people at the bottom. On the other hand, they let out a contract to an agency for $43 million. The City of New York, the Giuliani administration, they put out a contract for $43 million to an agency and the board of directors of the agency never saw the contract. The chairman of the board said he never saw the contract. A staff member of the agency negotiated the contract and signed the contract.

Of course it was later discovered that people in the agency that let the contract, negotiated the contract at the city level, they had some of them go and get jobs. They got jobs at the agency with which they had negotiated, so it is obvious that something more than mismanagement was going on here. We had mismanagement and corruption.

We have not heard of a single person being arrested as a result of this $43 million contract. Oh, yes, they took back the contract, they canceled the contract, closed down the agency, a lot of furor about "This cannot be," but no real answer as to why or how does an agency have a staff member negotiate a contract for $43 million.

I do not think you would have that happen in the Federal Government. Whatever things that you might find wrong, you will not have that kind of blatant violation of ordinary sophomoric rules of contracting, but it happens often at the level of municipal government. It happens often at the level of State government.

In our State, we have a governor who openly is saying he is going to move the functions of government around the State and place those agencies that employ large numbers of people in the areas where he got the most votes. It is no secret. It is all out there. How can a State allow the functions of government or the agencies of government, the resources of government, to be used for partisan purposes? But big shots seem to be able to do this.

In America now where the big shots can walk away, do anything they want, they owe the Federal Government millions of dollars. When the Farmers Home Loan Mortgage story was first broken, the Washington Post had a front page story and they talked about 5 millionaires who were perpetrators, who were guilty, 5 millionaires. One of them was sitting on a board appointed by President Reagan that made decisions about who got to keep and who got additional loans.

Five millionaires. I do not know of a single millionaire that was arrested, has been tried or convicted of anything, among those millionaires who were cited. They were named. The Washington Post named them. Four or five. At least four, who were named. Yet the rich and powerful were not worthy of a hearing. I do not know of any hearings that were held to deal with that story.

The chairman of the committee, one of the members of the committee I saw shortly after the story, the Committee on Agriculture here in Congress, I saw him shortly after the story broke. I asked him what he was going to do about it. He said, "You better believe we're going to hold some hearings and get to the bottom of this." I do not see any record of any hearings being held which got to the bottom of it.

Even now when I call and have my staff try to get information about where we are now with the Farmers Home Loan Administration program, you get vague answers. The figures are right now that at least $10 billion is outstanding, delinquent, at this point right now, $10 billion. How much of that will they forgive? They still will not tell us the rules of forgiveness. They still will not tell us how you get that.

We can go after children with disabilities, we can try to wipe those programs out because America cannot afford them. We imply that children with disabilities would bankrupt America. There is a smear campaign going now on all the special education programs.

There is a lot of furor being generated about children with disabilities not being held to the same standard as other children in the school. Yes, they are protected by law. You cannot suspend them or expel them in the same way you do children who do not have disabilities, so they have used that as pretext to smear the programs.

There is a great problem, they say. What if the kid brings a gun to school, a child with a disability brings a gun to school? That is a major problem, it has been played up now. We have got to get rid of guns in the hands of children with disabilities. Ask the question, the simple question, how big is the problem? How many instances of children with disabilities having guns do we have?

The answer is that we do not have any studies, nobody has collected any information. We just have one or two incidents that they can cite. You can cite one or two incidents to show or prove anything. You can cite some incidents but the problem when you probe a little further, the problem is minuscule. There is no great problem of children with disabilities bringing guns and weapons to school.

But a crisis has been manufactured because this is one more way to smear the programs of children with disabilities. It is one more way to play into a situation where local superintendents and administrators are upset because they have to spend more on the education of children with disabilities than they spend on other children. So they would like to be able to get their hands on that money, and they would do anything to discredit the program for children with disabilities.

I am not saying that the program for children with disabilities does not have some problems. I have been a major critic of certain kinds of excesses. The way they are administered, the way they are handled in New York City has resulted in large numbers of children with a delinquency problem, a discipline problem. They should not be in the program for children with disabilities.

It is a dumping ground for teachers who want to get rid of children who are a problem, but they are discipline problems. There ought to be some way to deal with it. We ought to provide them with some way to better deal with discipline problems, but there are not problems with disabilities. That has been an ongoing criticism that I have of the program. It is a valid criticism that most of them cannot answer.

So we need to deal with that. We need to deal with each problem as it arises. But to smear all of the programs for children with disabilities, and to set the children who do not have disabilities and their education against the smaller percentage of children who do have disabilities, and to try to take the money away from the disability programs in order to solve budget problems in the larger school budget, is unworthy of Americans.

Really we have a problem with funding for schools. These gentlemen here who pride themselves on having cut the budget have cut education funding. Oh, yes, they are gong to put back the $1.1 billion they cut for Title I. I applaud that. I congratulate them. They will put back the $1.1 billion. But they have cut training programs, teacher education programs, a number of programs that still will not get the money back, and we should have been increasing the amount of money available for education. We should have been increasing it.

We should not be standing here proud of the fact that we made dramatic cuts in education. Instead of the citizens out there, teachers and children and administrators, all uniting to demand of their governments at every level, whether it is the city governments or the State governments or the Federal Government, instead of demanding at every level that they fund education programs consistent with 20th century demands before we go off into the 21st century, they fund money to bring the school buildings up to date so they can be wired properly and have high-tech equipment like computers and science equipment that is needed. Instead of making the demand on the government, instead of waging the war on the people who make decisions in our government, too many of them are willing to engage in cannibalism. Too many are willing to try to eat what exists. They are going to eat up, devour the special education programs in order to satisfy the needs of the rest of the budget.

I think that is a harsh way to put it, but I can think of no other way except to say that that is happening. Right now the programs for children with disabilities are in great trouble because that is being used as an excuse by certain decisionmakers here in Congress for chipping away at these tiny programs that are already too small, that serve children with disabilities.

Big shots, nobody wants to talk about that. We have not had a single hearing on the Federal Reserve slush fund. If the CIA oversight committee has had a hearing, then I have not heard about it. The Intelligence Committee probably is dealing with that but they do not tell us, so I cannot say a hearing did not take place.

Some people, however, have challenged me. Some people who have heard me talk about this before have called and said, "You know, you make these charges against the CIA. How do you know? On what basis do you make these charges?"

I want you to know that I am not a member of the Intelligence Committee, so I have no oversight responsibilities there. I do not get a chance to see the actual figures, and I am like any other American, I read the New York Times and I read the Washington Post, and I read other newspapers who have their sources.

On several occasions, in several of these papers, I have read that at least $2 billion was found in an audit of the CIA, and going beyond just stating that $2 billion was found in an audit, there was an article which appeared in the New York Times on Tuesday, February 27, 1996 which talked in great detail about actions taken to remedy the situation: "Spy Satellite Agency Heads Are Ousted For Lost Money." That is the headline for this article.

"The top two managers of the National Reconnaissance Office, the secret agency that builds spy satellites, were dismissed today after losing track of more than $2 billion in classified money." That is the first paragraph of this article by Tim Weiner. It does not say it is alleged. It does not say "sources say." It states it as a fact.

"The Director of Central Intelligence, John Deutsch, and Defense Secretary William Perry announced"—oh, there was an announcement—"that they had asked the director of the Reconnaissance Office, Jeffrey K. Harris, and the Deputy Director, Jimmie D. Hall, to step down." Then it goes on and explains how $2 billion got lost and the President did not know about it and the director of the agency did not know about it.

Mr. Speaker, I include this article that appeared on February 27 in the New York Times in its entirety in the RECORD because I do not want people to continue to question my accuracy. Here is an article which I think names names, talks about announcements, and it clearly establishes that $2 billion was lost.

[The New York Times National, Tuesday, Feb. 27, 1996]

SPY SATELLITE AGENCY HEADS ARE OUSTED FOR LOST MONEY

(By Tim Weiner)

WASHINGTON, Feb. 26—The top two managers of the National Reconnaissance Office, the secret agency that builds spy satellites, were dismissed today after losing track of more than $2 billion in classified money.

The Director of Central Intelligence, John Deutch, and Defense Secretary William J. Perry announced that they had asked the director of the reconnaissance office, Jeffrey K. Harris, and the deputy director, Jimmie D. Hall, to step down.

"This action is dictated by our belief that N.R.O.'s management practices must be improved and the credibility of this excellent organization must be restored," Mr. Deutch and Mr. Perry wrote in a statement. A Government official close to Mr. Deutch said the intelligence chief had lost confidence in the officials' ability to manage the reconnaissance office's secret funds.

Keith Hall, a senior intelligence official who has managed satellite programs for the Pentagon, was named today as deputy director and acting director of the reconnaissance office.

The reconnaissance office is a secret Government contracting agency that spends $5 billion to $6 billion a year—the exact budget is a secret—running the nation's spy satellite program. The satellites take highly detailed pictures from deep space and eavesdrop on telecommunications; everything about them including their cost, is classified. The secret agency is hidden within the Air Force and is overseen jointly by Mr. Deutch and Mr. Perry.

But overseeing intelligence agencies, especially an agency as secretive as the reconnaissance office, whose very existence was an official secret until 1992, is no easy matter. Well-run intelligence services deceive outsiders; poorly run ones fool themselves. This apparently was the case with the reconnaissance office.

Its managers lost track of more than $2 billion that had accrued in several separate classified accounts over the past few years, according to the Senate Select Committee on Intelligence. The committee had thought the sum was a mere $1.2 billion until auditors called in by Mr. Deutch found at least

> $800 million more in the reconnaissance office's secret books this winter.
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> The auditors told Mr. Deutch that the way the reconnaissance office handled its accounts was so arcane, so obscured by secrecy and complexity and so poorly managed that a $2 billion bulge in its ledgers had gone unreported.
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> "Deutch did not know, Perry did not know and Congress did not know" about the surplus, an intelligence official said. "There was a lack of clarity as to how much money was there and how much was needed." The audit is continuing and is expected to be completed by April.
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> The reconnaissance office also spent more than $300 million on a new headquarters outside Washington in the early 1990's. The Senate intelligence committee, which appropriates classified money for intelligence agencies, said it was unaware of the cost. In the only public hearing ever held on the subject of the National Reconnaissance Office, Mr. Hill testified in 1994 that the construction of the building was a covert operation and the money for it had been broken into separate classified accounts to conceal its existence.
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> The reconnaissance office is one of 13 intelligence agencies under Mr. Deutch. All will be covered in a report to be issued on Friday by a Presidential commission on the future of intelligence. The report will address the question of whether government spending for intelligence—an estimated $26 billion to $28 billion a year—should continue to be officially secret.

Of course the Federal Reserve Board has not denied the fact that $3.7 billion or more, it may be close to $4 billion that the Federal Reserve Board had on hand, unused, as part of its rainy day fund. That has not been denied. I will not quote articles. There are plenty of documents around which validate that.

Why do I go on like this? What does it have to do with the 11th Congressional District in Brooklyn? The 11th Congressional District in Brooklyn is made up of people, a large percentage of which are poor. We are 1 of the 25 poorest congressional districts in the country.

It varies, of course. There are some areas where we have middle class homes and people who have a little more substance, but in a community like Brownsville, for instance, or in a community like East Flatbush, for instance, there are large numbers of poor people. Then there are also middle-class people who have enough money to try to buy a co-op in a large building.

There is a building that I was in last Saturday which has more than 100 units. We have some pretty big buildings in my district. In fact, I have the smallest congressional district in the country. My congressional district covers only 10 square miles, 581,000 people in 10 square miles, so you can imagine how many tall buildings I must have in my district.

Here is a building that I went into at the request of lieutenants where, of the 100 units, a process was begun several years ago to co-op the building, so the owner of the building started selling co-ops. Twenty people paid down their down payments and they got their loans and they owned their apartments.

Along comes the savings and loan debacle. Remember that one? That, I have talked about so often, is this big shots again. I have talked about the savings and loan swindle, the biggest swindle in the history of mankind, where the total might become as high as a half a trillion dollars, $500 billion, before it is all over.

Savings and loans will be in front of us again soon. I understand we have to vote on a thrift fund package. The thrift fund package is a package established to help bail out savings and loan units. They sold bonds, and now the bonds will come due and there is no money to pay. It is very complicated.

I talk about it because I am not concerned with high finances and I am not concerned with trying to do the job of the Banking Committee. I am only concerned about the little people in my district in this building who are the victims of the ultimate slime, the ultimate feces that goes down as a result of failure of big banks that were loosely regulated, badly regulated, and they were allowed to give these loans without proper collateral. They were allowed to let landlords and owners do very tricky financing, so that in addition to a mortgage being on each apartment in this building that was sold, the landlord had a wraparound mortgage for the whole building.

☐ 2145

When the collapse came as a result of there not being the kind of value there that he had been allowed to assert was there, it was a savings and loan institution that had to suffer the collapse. It was a large organization like Freddie Mac here in Washington that ended up buying the building, and Freddie Mac is now the owner of the building. The 20 people who had equity, money invested, have lost all of their money, because through the complicated maneuverings of the high finance and the real estate financing, which I do not pretend to understand, the building reverted back to a rental building totally. So it is a rental building now, and the people who thought they owned their apartments who owe $90,000, $60,000 to $90,000 on their apartments, now own nothing, unless something drastic is done.

In addition to that, Freddie Mac, and Freddie Mac is a Washington-based institution, a national institution, and I am citing Freddie Mac because Freddie Mac, I intend to come after you. I want you to help resolve this problem. The little people in my district, little people, in this case who are working people, who have enough assets to be able to have started the process of trying to own their own apartment, they are out there in the cold. And Freddie Mac and its cohorts have hired rental agents and managing companies and they are trying to get their money by neglecting the building. The plumbing in the building is outrageous.

I was carried on a tour through the building, and I saw the building which is 10 stories high, it means the plumbing is bad, it is bad all the way down that line. And the people on the bottom, I guess they get the worst of it. And one lady talked about having to use boots in her apartment for a long period of time before they did some repairs. But the repairs have by no means been completed. The ceilings are open, the drips are still there.

What does this have to do with savings and loans swindles, what does it have to do with the failure of the Congress to properly regulate savings and loans? What does it have to do with the fact that most savings and loan crooks got off without going to prison, paying the money back? What does it have to do with the fact that we cannot get a decent clear report as to the status of the savings and loan bailout now? What does it have to do with the fact we are going to be voting very soon again on another appropriation for the savings and loan bailout, while we are cutting programs for children with disabilities, cutting programs for opportunities to learn education? How does it all tie together? How does it all tie together with my assertion that the rich and famous and powerful seem to get away with everything, while we scrutinize and oppress the people at the very bottom?

The people who are the tenants in this building, the people who thought they were owners of those co-ops, they are the people at the very bottom. They are in my district. I will not waste my time here on these high financial matters trying to reform government or expose the fact that there is no reform, that big government is as big as it ever was when it comes to the rich and powerful, and nobody is seeking to really bring the rich and powerful to heel. Nobody is dealing with the uncollected debts that amount to $55 billion. Nobody is dealing with the savings and loan scandal that keeps going, quietly. We are taking care of that. But every time the savings and loan debacle says to Congress we need more money, we appropriate more money. We get a message, it has to happen. The financial markets are going to collapse if we do not appropriate more money.

A very interesting matter arose in Japan. Here I am going across the water. You think I am rambling? No. In Japan they have a savings and loan scandal. They have a banking scandal similar to the American savings and loan scandal, a huge situation where large numbers of banks are collapsing, real estate markets are collapsing. The government is called upon to bail out the situation.

I thought it was very interesting the reaction of some Japanese legislators. You know, we sweethearted the process here in America. Both parties, together, became mum and they never had hearings to expose the criminality of the savings and loan banks and the other banks that were also more regular banks collapsed. Savings and loan, we called it the savings and loan debacle because they started it. There were other banks, larger amounts of money, and they were also regular banks under the jurisdiction of the FDIC and Federal Reserve Board. We had all these controls and regulations, and still there was so much collusion from one level to another, the decision makers in bed with the regulators, and the regulators in bed with the banks.

It was a once-in-the-history-of-mankind situation. No swindle has ever been pulled off as great as that, and no swindle has ever taken place where so many people got away with it.

So much crime that did pay. It paid billions of dollars. But in Japan, you have a very unusual thing that happened. The story in the New York Times says that one Japanese party staged a sit-in in the legislature. They blocked the chambers where the debate was taking place on the bailout for the banks. Very interesting. If you want to know what the possibilities are, what more we could have done, then I will quote this article a little bit and you will see what the Japanese did, faced with the same situation.

The savings and loans collapsed, real estate market collapsed, it resulted in little people at the very bottom suffering greatly, like the people in my district who were suffering in this one building. All their money gone down the drain, now they have to fight a landlord and a management company that will not even repair the pipes. A group of tenants were taken to court on Monday, and I went down to the court. They postponed the case. Those people had all taken off from work to go. Now the case is postponed and they have to come back. The little people are harassed even by the court system.

How does it all relate back to Japan and the politicians in Japan becoming so militant and so angry that they staged a sit-in? Some of Japan's leading politicians are spending their time in a sit-in. This was reported in the New York Times on March 16, 1996.

"It is a battleground, said Kojimoro Moto," quoting from the article:

> a member of the House of Representatives who is also an organizer of the sit-in which at the time of this report was in its second week. When they said it is a battleground, that is a bit of an exaggeration perhaps, but there is no mistaking the seriousness of the conflict. Those protesting are the main opposition group, the New Frontier Party, and they have succeeded in paralyzing the Japanese budget process. The New Frontier Party's aim is to block the passage of the budget bill for next year. The party objects to an unpopular provision in the bill to use about $6.8 billion in taxpayer money to absorb losses in the liquidation of seven of the nation's bankrupt mortgage lenders.

Let me just repeat that:

> The New Frontier Party was sitting in in the legislature of Japan blocking the budget process from going forward, and their aim is to block the passage of the budget bill for next year.
>
> The party objects to an unpopular provision to use about $6.8 billion in taxpayer money to absorb losses in the liquidation of seven of the nation's bankrupt mortgage lenders.

This is a bailout for the banks similar to the savings & loan bailout in this country.

Now, I was in Congress when the bailout began here for the savings & loans in this country. We never had a figure as low as $6.8 billion. I think the first bailout money was $7 billion, and it got higher. It got to $50 billion, $75 billion, and we kept being told "it is off budget, so don't worry about it."

Off budget does not mean the taxpayers do not still pay. That means in the calculations for the budget that year, you do not have to figure it. It becomes part of the deficit.

We appropriated never as little as $6.8 billion. But the Japanese members of the legislature, the equivalent of Congresspersons, were sitting in to block that from going forward.

We are going to have on this floor within a few days a bill to continue the bailout of the savings & loans called the Thrift Fund. While we are cutting programs for children, programs for the elderly, while we are going after Medicaid, Medicaid is on the agenda, Medicaid will be cut, the bargaining process that goes on between the white House and the Republican majority here is such that the Republican majority always wins something, and every step of the way they have won some cuts, so we can expect Medicaid will be cut. That is the least that we can expect.

The most that we can expect is that Medicaid will be given to the States. All the Governors, both Democrat and Republican, have decided, voted, they wanted Medicaid to be made a block grant. Take away the entitlement and give it to the States.

So those cuts are going to go forward at the same time we have voted for a $6 billion increase in defense, and we are now going to be voting to bail out more of the banks. It is going to be billions of dollars. They will not come with a few hundred million, I assure you.

Let me go back to the Japanese. To quote from the article about the Japanese sit-in,

> "Critics of the bill say that $6.8 billion is just the beginning of the bailout, for the banks are saddled with at least $400 billion in bad debt. The provision has prompted a public outcry against bankers and bureaucrats, who many believe are responsible not only for the nation's bad debt, but also for the stagnant economy.

I will not read any more at this time. I just want to draw the parallel. Nobody on this floor has ever mentioned the fact that the Japanese have a swindle, a scandal, of the same dimensions, did you hear what I just said, the $6.8 billion is just the beginning. They think they have a problem of at least $400 billion.

In this country, we never got a figure, but it always kept growing. Stanford University at one point, who had more of the figures that anybody else, estimated that the savings & loan bailout in America, the greatest swindle in the history of mankind, would cost the American taxpayers $500 billion, half a trillion dollars, before it was over.

We cannot yet clear reports. We do not know how close we are to the $500 billion yet. But it is affecting everybody at the lower levels in this country, the ordinary Americans. You are being made to suffer for what the rich and powerful have walked off with.

Even the $5.15 per hour minimum wage now is being seen as a threat. We are told that the American economy will suffer. Industry is trembling because we have a proposal to raise the minimum wage by 45 cents per hour per year, 45 cents per hour in one year and 45 cents an hour in another year, which means after 2 years the minimum wage increases would go from $4.25 to $5.15 per hour. $5.15 per hour is called a threat to the American economy.

The little guys on the bottom, everything is too much for them. The guys on the top can get away with billion dollar slush funds, they can wreck the banking economy and the taxpayers are forced to bail them out through the Federal Deposit Insurance Corporation. But the little guys on the bottom asking for $5.15 per hours for their labor, it does not even come out of the Treasury. The American Government does not have to pay the $5.15 per hour. The Government does not subsidize wages paid by industry. It does not come out of the taxpayers' money. It comes out of the industries that hire the people.

But there are some here in the leadership of the recommend and majority who have indicated that they will not have any hearings or discussions on a minimum wage. They indicated that earlier in the year. And that if we pass the minimum wage increase this year, it will be "over their dead body." That strong statement was made by a leader of the Republican majority.

Fortunately, public opinion in America is galloping forward. Fortunately, public opinion understands that this is ridiculous. Public opinion is comparing the prosperity on Wall Street and the large amounts of money being paid to stockholders and the large amounts of money being paid to corporate executives, my colleague here before from Chicago was talking about the gap between the corporate pay of executives and the amount of money people are earning at the very bottom, and Americans are not dumb. Fortunately, public opinion, by more that 76 percent, says that we ought to have an increase in the minimum wage in America.

□ 2200

Fortunately, the hearts of the American people are still not so hard and so corrupted that they cannot understand the arithmetic of $5.15 per hour, which comes out to a little more than $9,000 per year. Right now people are making about $8,000 a year on minimum wage. They would be making about $9,000.

Another thousand dollars would make a big difference in the lives of people in terms of groceries on the table, shoes for the kids, the payment of a light bill, the phone bill. It is not a small amount for poor people, for those at the very bottom, and most people cannot sympathize here in this Congress. We can forgive billions of dollars in loans for farmers' home loan mortgages, but we cannot see the need to give $5.15 as a wage, hourly wage, for people who are working.

We have had many attacks on welfare mothers, which is a misnomer, because the Federal Government does not pay money to mothers. The mothers of children who are considered dependent children receive the checks on behalf of the children. Aid to Families with Dependent Children has been under one steady stream of attack. It is all over just about now. They are going to take away the entitlement. They have made the cuts. But it is a small program. It is a tiny program compared to the farm subsidy program, for example.

The farm subsidy program, which allows Louisiana, part of the reason Louisiana gets so much money, and I am going to tie this together now, part of the reason Louisiana gets so much money from the Federal Government is because not only does it have military installations there, but it also has farm subsidies it gets from Washington.

The State that gets the highest amount of money from the Federal Government per capita is New Mexico. In terms of what it pays in, New Mexico gets back more per person than any other State. Why? Because New Mexico has the largest, a large number of farm subsidies, programs that receive subsidies from the Federal Government. New Mexico is at the top per capita, $3,255 more per person they get from the Federal Government than they pay into the Federal Government.

What did the gentleman who was speaking here before from the Committee on the Budget and the Committee on Appropriations, what do they do about the fact that New Mexico is at the top of the list? Farm subsidies for the rich and the powerful, because farmers do not have to prove they are poor in order the get subsidies. Farmers do not have to prove anything except that they are farmers and they have land. They get paid for not plowing the land or not planting grain and nobody asks them how poor are you or how many in your family. Farmers just get it. They are rich and they are powerful or they are hooked into organizations that are powerful. So in America the rich and the powerful are definitely not subjected to the kinds of budget cuts and the scrutiny that the children in the lunchroom are.

We are going to force teachers to walk around the lunchroom and pick out immigrant children and make sure no immigrant child gets a free lunch paid for partially by the Federal Government.

I want to make a correction here on my statement on minimum wage. The Republican majority said they would not have any hearings, no discussion on minimum wage at the beginning of this Congress. But because the pressure has been applied steadily by the American people, because common sense has said you ought to discuss it and you ought to pass and increase the minimum wage, we now have a situation where the Republicans are willing to discuss minimum wage and a proposal is being made.

Some Republicans, I think about 20, have introduced a bill which says they want to raise the minimum wage by not 90 cents over 2 years but a dollar over 2 years. That is a small group of the Republican majority, about 20 people. The leadership of the Republican majority has introduced a proposal. They do not want to increase the minimum wage. You will do that over their dead bodies, they say. But they have a proposal called the Minimum Wage for Families Act. I have a copy of the outline in my hand. And this proposal, which is going to sidestep making industry pay more than $4.25 per hour, will have the Federal Government step in to subsidize the wages.

Let the industries keep hiring people at $4.25 an hour, the Federal Government will then step in and give people additional money who are working. You talk about a farm subsidy; now we are going to have a subsidy for industry, corporations and businesses. You will get a subsidy, and every person who has one child will not get $4.25 hour, the Federal Government will give them an additional $3.75, so that they will get $7 an hour. And if they have two or more children, the Federal Government will give them enough money to make their pay come out to $8 an hour.

Now, can you see millions of workers across America having the Federal Government involved in their pay? This is an intrusion by Government that we have never had before. It will be on a scale greater than telling the farmers what to plant and telling the farmers how to grow their crops because they are getting money from the Government. We are going to have millions of workers involved in a program where the Government is going to help industry bring people's wages up.

How is it going to do this? The Government is going to take the money from the earned income tax credit. They want to raid the earned income tax credit and use it for working people in these industries and have the Internal Revenue Service, on a regular basis, every 2 weeks, the Internal Revenue Service will now have the job of paying the difference between the $4.25 per hour and the amount due to each person in accordance with what has been decided by the Government.

Can you imagine what kind of bureaucracy we are talking about there, in a Congress that prides itself on downsizing the Federal Government? The Federal Government will be intruding like it never has before in the lives of working people. Why do not we just give the $4.25 to each worker out there who is working? Why do not we just give it to the little people? Why are we going to put the people on the bottom? Because if you are making $4.25 an hour, economically you are on the very bottom. Why are we going to put them through that when we do not put farmers who receive subsidies?

In Kansas they say the subsidy averages about $40,000 a year per family. That is the average. Many get much more than that. Forty thousand dollars a year per family. They do not get through a process of scrutiny by the Federal Government to determine whether you have one child or two children or whatever.

Let me summarize. What I am saying is that we have allowed a situation to arise, generated by the majority in this Congress, where there are two sets of Americans, the 80 percent who are ordinary people struggling to make a living, the 80 percent are a part of what my colleague, Mr. LIPINSKI, was talking about, from Chicago, he was talking before I got here, 80 percent who are struggling to make ends meet are being given a hard time in every way by their government.

I think this 80 percent constitutes a caring majority and all together they have enough common sense to see what is happening. I think the caring majority all together will rise to take matters into their own hands at the polling places. I think the caring majority have had enough. I think the people with disabilities are not beggars. They are not people that we have to treat with charity. They have votes.

There are almost 40 million people in this country with disabilities, so when we treat them in a cavalier way in legislation, we are going to reap what we sow. I am confident that the average American on the bottom out there, we the people, will rise and at the ballot box demonstrate that this is a country still for the people and not for the rich and powerful. We are going to have justice and those who ignore this will have to suffer the consequences.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MENENDEZ (at the request of Mr. GEPHARDT), for April 23rd and 24th, on account of official travel.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.
Mr. DINGELL, for 5 minutes, today.
Mr. BONIOR, for 5 minutes, today.
Mr. REED, for 5 minutes, today.
Mr. KENNEDY of Massachusetts for 5 minutes today.
Mr. MASCARA, for 5 minutes, today.
Mrs. LOWEY, for 5 minutes, today.
Mr. DURBIN, for 5 minutes, today.
Mr. MANTON, for 5 minutes, today.
Mr. KENNEDY of Rhode Island for 5 minutes today.
Mr. TORRES, for 5 minutes, today.
Mr. MEEHAN, for 5 minutes, today.
Mr. LEVIN, for 5 minutes, today.
Ms. JACKSON-LEE of Texas for 5 minutes today.
Ms. FURSE, for 5 minutes, today.
Mr. ENGEL, for 5 minutes, today.
Ms. MCKINNEY, for 5 minutes, today.
Mrs. MALONEY, for 5 minutes, today.
Mr. TORRICELLI, for 5 minutes, today.
Ms. ESHOO, for 5 minutes, today.

(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)

Mr. FRANKS of Connecticut, for 5 minutes, today.
Mr. HUNTER, for 5 minutes, today.
Mr. MCINTOSH, for 5 minutes, today.
Mr. TORKILDSEN, for 5 minutes, today.
Mr. GOSS, for 5 minutes, today.
Mr. SOUDER, for 5 minutes, today.
Mr. SHADEGG, for 5 minutes, today.
Mr. SMITH of New Jersey, for 5 minutes, today.
Mr. HOKE, for 5 minutes, today.
Mr. HANSEN, for 5 minutes, today.
Mr. FOX of Pennsylvania, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DORNAN, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. WISE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. ROTH.
Mr. CRAPO.
Mr. BOEHNER.
Mr. CALLAHAN.
Mr. DUNCAN.
Mr. GEKAS.
Mr. SMITH of Michigan.
Mr. NETHERCUTT.
Mr. DREIER.
Mr. EMERSON.

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mr. BONIOR.
Ms. JACKSON LEE of Texas.
Mr. KANJORSKI.
Mr. KILDEE.
Mr. STARK.
Mr. GORDON in 10 instances.
Mr. MARKEY.
Mr. BARRETT of Wisconsin.
Mr. CARDIN.
Mr. GEJDENSON.
Mr. WILLIAMS.
Mr. KLECZKA.
Mr. SERRANO in two instances.
Mr. FILNER in two instances.
Mr. LANTOS.
Mr. BORSKI.
Mr. WAXMAN.
Mr. JACOBS.

The following Members (at the request of Mr. OWENS) and to include extraneous material:

Mr. WHITFIELD.
Mr. PACKARD in two instances.
Mr. YOUNG of Alaska.
Mr. SAWYER.
Mr. COSTELLO.
Mr. RICHARDSON in two instances.
Mr. COX of California.
Mr. MARTINI in two instances.
Mr. CLEMENT.
Mr. VENTO.
Mr. KENNEDY of Massachusetts.
Mr. RADANOVICH in two instances.
Mr. SMITH of New Jersey.
Mr. HUTCHINSON.

ENROLLED JOINT RESOLUTION SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 175. Joint resolution making further continuing appropriations for the fiscal year 1966, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 735. An act to deter terrorism, provide justice for victims, provide for an effective death penalty, and for other purposes.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 9 minutes p.m.), the House adjourned until tomorrow, Thursday, April 25, 1996, at 10 a.m.

EXECUTIVE COMMUNICATIONS ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2465. A letter from the Acting Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Grading and Inspection, General Specification for Approved Plants and Standards for Grades of Dairy Products; United States Standards for Nonfat Dry Milk (DA–93–03 FR), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2466. A letter from the Acting Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Olives Grown in California and Imported Olives; Establishment of Limited Use Olive Grade and Size Requirements During the 1995–96 Crop Year (FV–95–932–1), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2467. A letter from the Acting Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Hazelnuts Grown in Oregon and Washington; Order Further Amending Marketing Order (FV–94–982–1 FR), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2468. A letter from the Acting Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Milk in the Central Arizona Marketing Area; Suspension (DA–96–03 FR), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2469. A letter from the Acting Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Limes and Avocados Grown in Florida; Suspension of Certain Volume Regulations and Reporting Requirements (FV–95–911–2 IFR), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2470. A letter from the Acting Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Winter Pears Grown in Oregon, Washington, and California Order Amending the Order (FV–92–065), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2471. A letter from the Acting Under Secretary for Food Safety, Food Safety and Inspection Service, transmitting the Service's final rule—Use of Sodium Citrate Buffered with Citric Acid in Certain Cured and Uncured Processed Meat and Poultry Products (RIN: 0583–AB97), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2472. A letter from the Administrator, Grain Inspection, Packers and Stockyards Administration, transmitting the Administration's final rule—U.S. Standards for Barley (RIN: 0580–AA14), pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Agriculture.

2473. A letter from the Comptroller General of the United States, transmitting his review of the President's second, third, and fourth special impoundment message for fiscal year 1996, pursuant to 2 U.S.C. 685 (H. Doc. No. 104-205); to the Committee on Appropriations and ordered to be printed.

2474. A letter from the Director, Administration and Management, Department of Defense, transmitting a letter relative to a cost comprison study of cleaning services performed at the Pentagon; to the Committee on National Security.

2475. A letter from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Administrator of National Banks, transmitting the Department's final rule—International Banking Activities (RIN: 1557-AB26), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

2476. A letter from the Assistant Chief Counsel, Office of Thrift Supervision, transmitting the Office's final rule—Uniform Rules of Practice and Procedure (RIN: 1550-AA79), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

2477. A letter from the Acting Director, Office of Thrift Supervision, transmitting the Office's 1996 compensation plan, pursuant to Public Law 101-73, section 1206 (103 Stat. 523); to the Committee on Banking and Financial Services.

2478. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the cooperative program for extended air defense (Transmittal No. 08-96), pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

2479. A letter from the Senior Deputy Assistant Administrator, Agency for International Development, transmitting the Agency's report entitled "Report on Economic Conditions in Egypt 1994-95," pursuant to 22 U.S.C. 2346 note; to the Committee on International Relations.

2480. A letter from the Acting Administrator, Agency for International Development, transmitting a quarterly update report on development assistance program allocations as of April 19, 1996, pursuant to 22 U.S.C. 2413(a); to the Committee on International Relations.

2481. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-248, "Judgement Lien on Property Amendment Act of 1996," pursuant to D.C. Code, Section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2482. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-249, "Closing of a Public Alley in Square 484, S.O. 90-272, Covenant Filing Extension Temporary Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and oversight.

2483. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-253, "Washington Metropolitan Area Transit Regulation Compact Amendment Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2484. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-255, "Closing of a Portion of T Street, S.W., S.O., 92-56, Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2485. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-256, "Closing of a Public Alley in Square 672, S.O., 89-105, Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2486. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final comprehensive management plan, environmental impact statement and record of decision for the City of Rocks National Reserve, pursuant to Public Law 100-696, section 202(b) (102 Stat. 4574); to the Committee on Resources.

2487. A letter from the Chief Justice, the Supreme Court of the United States, transmitting amendments to the Federal Rules of Civil Procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2072 (H. Doc. No. 104-201); to the Committee on the Judiciary and ordered to be printed.

2488. A letter from the Chief Justice, the Supreme Court of the United States, transmitting amendments to the Federal Rules of Criminal Procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2072 (H. Doc. No. 104-202); to the Committee on the Judiciary and ordered to be printed.

2489. A letter from the Chief Justice, the Supreme Court of the United States, transmitting amendments to the Federal Rules of Appellate Procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2072 (H. Doc. No. 104-203); to the Committee on the Judiciary and ordered to be printed.

2490. A letter from the Chief Justice, the Supreme Court of the United States, transmitting amendments to the Federal Rules of Bankruptcy Procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2075 (H. Doc. No. 104-204); to the Committee on the Judiciary and ordered to be printed.

2491. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zones: Elizabeth River and York River, VA (RIN: 2115-AA97), pursuant to 5 U.S.C. 801(a) (1) (A); to the Committee on Transportation and Infrastructure.

2492. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulation; Little Potato Slough (RIN: 2115-AE47), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2493. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; San Leondro Bay, CA (RIN: 2115-AE47), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2494. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Vessel Rebuilt Determinations (RIN: 2115-AE85), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2495. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations: City of Lake Worth, FL (RIN: 2115-AE46), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2496. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations; River Race Augusta, GA (RIN: 2115-AE46), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2497. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F25 Mark 0100 Series Airplanes (RIN: 2120-AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2498. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F27 Mark 050 and Model F28 Mark 0100 Series Airplanes (RIN: 2120-AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2499. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Constructiones Aeronauticas, S.A. (CASA), Model C-212-CB, -CC, -CD, -CE, and -CF Series Airplanes (RIN: 2120-AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2500. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Hamilton Standard Model 14RF-9 Propellers (RIN: 2120-AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2501. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC-9 Series Airplanes (RIN: 2120-AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2502. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McCauley Accessory Division, The Cessna Aircraft Co. Model C35, C72, C75, C80, C86, C87, C92, and C93 Series Propellers (RIN: 2120-AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2503. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Jetstream Model 4101 Airplanes (RIN: 2120-AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2504. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A320-111 Series Airplanes (RIN: 2120-AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2505. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC-9, DC-9-8, and MD-90-30 Series Airplanes, Model MD-88 Airplanes, and C-9 (Military) Series Airplanes (RIN: 2120-AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2506. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Flight Trails Helicopters, Inc., Hardpoint Assemblies Installed on McDonnell Douglas Helicopter Systems Model 369D, 369E, 369F, 369FF, and 500N Helicopters (RIN: 2120-AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2507. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron, Inc., Model 214ST Helicopters (RIN: 2120–AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2508. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747–100, 747–200, and 747–300 Series Airplanes (RIN: 2120–AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2509. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (RIN: 2120–AA65), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2510. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Model 328–100 Series Airplanes (RIN: 2120–AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2511. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter Deutschland Gmbh (ECD) Model BO–105, BO–105A, BO–105C, BO–105S, and BO–105LS A–1 Helicopters (RIN: 2120–AA64) pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2512. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Equal Employment Opportunity on Federal and Federal-Aid Construction Contracts (Including Supportive Services); Report Requirements (RIN: 2125–AB15), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2513. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (RIN: 2120–AA65), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2514. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes (RIN: 2120–AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2515. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747–400, 757, and 767 Series Airplanes (RIN: 2120–AA64), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2516. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—General Material Requirements; Warranty Clauses (RIN: 2125–AD61), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2517. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Design Standards for Highways; Geometric Design of Highways and Streets (RIN: 2125–AD38), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2518. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (RIN: 2120–AS65), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2519. A letter from the Secretary of Health and Human Services, transmitting the Department's report on Federal agency drug-free workplace plans, pursuant to Public Law 100–71, section 503 (a)(1)(A) (101 Stat. 468); jointly, to the Committees on Government Reform and Oversight and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. McINNIS: Committee on Rules. House Resolution 412. Resolution waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 104–535). Referred to the House Calendar.

Mr. BLILEY: Committee on Commerce. H.R. 2967. A bill to extend the authorization of the Uranium Mill Tailings Radiation Control Act of 1978, and for other purposes; with an amendment (Rept. 104–536). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HEFLEY:

H.R. 3305. A bill to recognize the heritage of certain areas of the United States, and for other purposes; to the Committee on Resources.

By Mr. GEKAS:

H.R. 3306. A bill to amend the Internal Revenue Code of 1986 to provide that the compensation of certain election officials and election workers which is exempt from Social Security taxes shall also be exempt from income taxes, and for other purposes; to the Committee on Ways and Means.

By Mr. GEKAS (for himself, Mr. MOORHEAD, Mr. SENSENBRENNER, Mr. COBLE, Mr. SMITH of Texas, Mr. INGLIS of South Carolina, Mr. HOKE, Mr. BONO, Mr. BRYANT of Tennessee, Mr. BARR, Mr. TALENT, Mr. TAUZIN, and Mr. ZELIFF):

H.R. 3307. A bill to amend title 5, United States Code, to provide for a limitation on sanctions imposed by agencies and for other purposes; to the Committee on the Judiciary.

By Mr. LONGLEY (for himself, Mr. ARMEY, Mr. DELAY, Mr. COX, Mr. SPENCE, Mr. GILMAN, Mr. BUYER, Mr. CHAMBLISS, Mr. CUNNINGHAM, Mr. DORNAN, Mr. EVERETT, Mr. HANSEN, Mr. HEFLEY, Mr. HERGER, Mr. HILLEARY, Mr. HOKE, Mr. HOSTETTLER, Mr. HUNTER, Mr. JONES, Mr. KIM, Mr. MCKEON, Mr. METCALF, Mr. RADANOVICH, Mr. SAXTON, Mr. TALENT, Mr. THORNBERRY, Mr. TIAHRT, Mr. TORKILDSEN, Mr. WATTS of Oklahoma, and Mr. WELDON of Pennsylvania):

H.R. 3308. A bill to amend title 10, United States Code, to limit the placement of U.S. forces under U.N. operational or tactical control, and for other purposes; to the Committee on National Security, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BATEMAN:

H.R. 3309. A bill to authorize the establishment of a pilot program to provide environmental assistance to non-Federal interests in the Chesapeake Bay watershed, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. DICKEY:

H.R. 3310. A bill to amend title 5, United States Code, to deny Federal retirement annuities to Members of Congress convicted of any felony, and for other purposes; to the Committee on House Oversight.

By Mr. EVANS:

H.R. 3311. A bill to amend title 5, United States Code, to provide that civilian employees of the National Guard may not be required to wear military uniforms while performing civilian service; to the Committee on Government Reform and Oversight, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HARMAN:

H.R. 3312. A bill to expand the authority of the Department of Defense to donate unusable food; to the Committee on National Security.

By Mr. MORAN (for himself, Mr. PAYNE of Virginia, Mr. SCOTT, Mr. BOUCHER, Mr. PICKETT, Mr. WILLIAMS, Mr. MARTINEZ, Ms. PELOSI, Mr. BROWDER, Ms. WOOLSEY, and Mr. MILLER of California):

H.R. 3313. A bill to amend the Goals 2000: Educate America Act to allow local educational agencies to participate in certain programs if the State in which the agency is located does not participate; to the Committee on Economic and Educational Opportunities.

By Mr. REGULA:

H.R. 3314. A bill to assess the impact of the NAFTA, to require further negotiation of certain provisions of the NAFTA, to establish a commission to review the dispute settlement reports of the World Trade Organization, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THORNBERRY:

H.R. 3315. A bill to amend the Internal Revenue Code of 1986 to provide that the rate of tax on liquefied natural gas shall be equivalent to the rate of tax on compressed natural gas; to the Committee on Ways and Means.

By Mr. VENTO:

H.R. 3316. A bill to amend the Internal Revenue Code of 1986 to revise the treatment of deferred compensation plans of State and local governments, and for other purposes; to the Committee on Ways and Means.

By Mr. WILLIAMS:

H.R. 3317. A bill to establish the Yellowstone River Valley Heritage Area in the States of Montana, North Dakota, and Wyoming; to the Committee on Resources.

H.R. 3318. A bill to establish the Southwest Montana Heritage and Recreation Area in the State of Montana; to the Committee on Resources.

By Mr. ZIMMER:

H.R. 3319. A bill to require that the United States promptly sue for recovery of costs and damages for the cleanup of the Stepan Property Superfund Site in Bergen County, NJ; to the Committee on the Judiciary.

By Mr. SAM JOHNSON (for himself, Mr. Hastert, Mr. Fields of Texas, Mr. Tauzin, Mr. Chrysler, Ms. Dunn of Washington, Mr. Crane, Mr. Christensen, Mr. Hancock, Mr. Cunningham, Mr. Bunning of Kentucky, Mr. Bartlett of Maryland, Mr. Skeen, Mr. Hansen, Mrs. Chenoweth, Mr. Laughlin, Mr. Rohrabacher, Mr. Hayworth, Mr. Hunter, Mr. Young of Alaska, Mrs. Seastrand, Mr. Ensign, Mr. Frisa, Mr. Bonilla, Mr. Stockman, Mr. Graham, Mr. Burr, Mr. Goss, Mr. Traficant, Mr. Collins of Georgia, Mr. Thomas, Mr. Largent, Mr. Dornan, Mr. Bono, Mr. Dreier, Mrs. Cubin, Mr. Hall of Texas, Mr. Dickey, Mr. Doolittle, Mr. Knollenberg, Mr. Hostettler, and Mr. Norwood):

H.J. Res. 176. Joint resolution proposing an amendment to the Constitution of the United States to abolish the Federal income tax; to the Committee on the Judiciary.

By Mr. SMITH of New Jersey (for himself, Mr. Gilman, Mr. Wolf, Mr. Cardin, Mr. Markey, Mr. Salmon, Mr. Torricelli, Mr. Levin, Mr. Bonior, Mr. Durbin, and Mr. Gutierrez):

H. Con. Res. 167. Concurrent resolution recognizing the 10th anniversary of the Chornobyl nuclear disaster, and supporting the closing of the Chornobyl nuclear power plant; to the Committee on International Relations.

By Mr. SMITH of Michigan (for himself, Mr. Hall of Ohio, Mr. Emerson, Mr. Hamilton, Mr. Hyde, and Mr. Moakley):

H. Res. 413. Resolution recognizing the importance of a nationally designated "Character Counts Week" and of the character development of young people to the present and future of the United States, and encouraging community, school, and youth organizations to integrate the "six core elements of character" articulated in the Aspen Declaration into programs for students and children; to the Committee on Economic and Educational Opportunities.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 240: Mr. LoBiondo.

H.R. 791: Mr. Salmon.

H.R. 878: Mr. Lipinski, Mr. Foglietta, Mrs. Roukema, Mr. Hall of Ohio, and Mr. Torkildsen.

H.R. 940: Ms. Slaughter.

H.R. 1023: Mr. Durbin.

H.R. 1202: Mrs. Roukema.

H.R. 1210: Mr. Lipinski.

H.R. 1279: Mr. Graham and Ms. Greene of Utah.

H.R. 1386: Mr. Deutsch.

H.R. 1846: Mr. Brown of California.

H.R. 1998: Mr. Roth and Mr. Kingston.

H.R. 2009: Mr. Neal of Massachusetts.

H.R. 2019: Mr. Jackson.

H.R. 2092: Mr. Gallegly.

H.R. 2137: Ms. Jackson-Lee.

H.R. 2508: Mr. Abercrombie.

H.R. 2688: Mr. Fazio of California, Mr. Manton, and Mr. Evans.

H.R. 2697: Mr. Kleczka and Mr. Evans.

H.R. 2715: Mr. Weller.

H.R. 2764: Ms. Rivers and Mr. Thornberry.

H.R. 2827: Mr. Campbell.

H.R. 2925: Mr. Heineman, Mr. English of Pennsylvania, Mr. Gilman, Mr. Jones, and Mr. Burr.

H.R. 2939: Mr. Evans, Mr. Jacobs, Mr. Leach, Mr. Ward, Mr. Thompson, Mr. Petri, and Mr. Ehlers.

H.R. 2951: Ms. Eshoo, Mr. Dellums, Mr. Brown of California, Mr. Luther, and Mr. DeFazio.

H.R. 2976: Ms. DeLauro, Mr. Dingell, Mr. Evans, Mrs. Kelly, and Mr. Yates.

H.R. 3004: Mr. Durbin and Mr. Pallone.

H.R. 3052: Mrs. Clayton, Mr. Owens, Mr. Becerra, Ms. Brown of Florida, Ms. Eddie Bernice Johnson of Texas, Mr. Yates, Mr. Lewis of Georiga, Ms. Danner, Mrs. Thurman, Mr. Lipinski, and Mr. Fields of Louisiana.

H.R. 3114: Ms. Lofgren, Mr. Ganske, Mr. Gunderson, Mr. Zimmer, Mr. Moakley, and Mr. Norwood.

H.R. 3142: Mr. Weldon of Florida, Mr. Lucas, Mr. Taylor of Mississippi, Mr. Ramstad, and Mr. Lewis of Kentucky.

H.R. 3161: Mr. Moran.

H.R. 3173: Mr. Vento and Mr. Fox.

H.R. 3234: Mr. Bunning of Kentucky, Mr. Ewing, Mr. Gutknecht, Mr. Baker of California, Mr. Istook, Mr. Barr, Mr. Hancock, Mr. Boehner, Mr. Mica, Mr. Bass, Mr. Jones, Mr. Scarborough, Mr. LaHood, and Ms. Dunn of Washington.

H.R. 3246: Mr. Gejdenson.

H.R. 3257: Mr. Franks of New Jersey.

H.R. 3260: Mr. Brewster, Mr. Cramer, Mr. Livingston, Mr. Baker of Louisiana, and Mr. Lucas.

H.R. 3265: Mr. Green of Texas and Mr. Bachus.

H.R. 3303: Mr. Gilchrest, Mr. Farr, Mr. Abercrombie, Mr. Gejdenson, Mr. Ortiz, Mr. Meehan, Mr. McHugh, and Mr. Weldon of Florida.

H.J. Res. 16: Ms. Greene of Utah.

H. Con. Res. 51: Mr. Moorhead.

H. Con. Res. 105: Mr. Luther.

H. Con. Res. 120: Ms. DeLauro.

H. Con. Res. 152: Mr. Tejeda.

H. Res. 346: Mr. Livingston.

H. Res. 385: Mr. Murtha, Mrs. Meyers of Kansas, Ms. Brown of Florida, Ms. Norton, and Mr. Visclosky.

H. Res. 399: Mr. Houghton, Mr. Dellums, Mr. Fattah, Mr. Jackson, Ms. Waters, Mr. Yates, Mr. Porter, Ms. Lofgren, and Ms. Slaughter.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1202: Mr. Coble.

EXTENSIONS OF REMARKS

COOPERATIVE TEAMS IN THE AMERICAN WORKPLACE

HON. THOMAS C. SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. SAWYER. Mr. Speaker, I rise today to insert in the RECORD the text of an address recently given by National Labor Relations Board Chairman William B. Gould on the subject of cooperative teams in the American workplace. I believe it is a significant contribution to the ongoing congressional debate on the legality of employee involvement structures.

Currently, the National Labor Relations Act prohibits employer-dominated teams if they discuss wages, hours or other conditions of employment. That policy was enacted over 60 years ago to prevent employers from setting up company unions as a means to block employee efforts to obtain truly independent representation for the purpose of collective bargaining.

Last year, Congressman STEVE GUNDERSON introduced H.R. 743, the Team Act, which was intended to make all workplace teams legal, regardless of the content of their discussions. When the House considered H.R. 743, I offered a substitute amendment that was intended to protect legitimate employee involvement structures, without allowing employer-dominated sham unions.

My substitute would have clarified that teams established to discuss productivity, efficiency or other competitiveness issues are currently legal under the National Labor Relations Act. More importantly, it would also have preserved one of the fundamental tenets of the NLRA—that employees must be able to choose effective independent representation for discussions of terms and conditions of employment, such as hours, wages, and other matters typically discussed in collective-bargaining negotiations.

However, my substitute also recognized that such issues are sometimes inextricably linked with competitiveness. It would have protected legitimate workplace teams, even if their discussions occasionally touched on directly related conditions of work.

In his speech, chairman Gould expresses support for this type of approach and issues a broad call for allowing the NLRB to conduct its statutory responsibility to apply the basic principles of the NLRA to specific cases. He specifically voices opposition to the Team Act, and makes the case that recent Board decisions have begun to address the concerns of Team Act supporters. He also reviews his successful efforts since becoming chairman 2 years ago to streamline and improve the Board's decision-making process.

Mr. Speaker, the Senate has begun to consider the legality of workplace teams, so these issues may be before the House again soon. In preparation for this, I commend chairman Gould's speech to my colleagues.

NATIONAL LABOR RELATIONS BOARD LUNCHEON ADDRESS

(By William B. Gould IV, Chairman)

I am honored to address this Seventeenth Annual Labor-Management Relations Seminar, which has a long history of constructive contributions to labor-management relations in the United States. It is a pleasure to be here to discuss with you some of the recent developments and issues of current concern involving the National Labor Relations Board.

Not only is this a chance to access the direction of the Board on the eve of the second anniversary of my confirmation as Chairman by the Senate—but also on a more personal note on that same day, March 2, I will be in Los Angeles to attend the wedding of my second oldest son, Timothy Samuel Gould, the first of the three Gould boys to exchange marital vows. Thus, both professionally and personally, it is a time for celebration as well as reflection about the past and contemplation on the years to come.

The two years have passed quickly and have been a real learning experience, not so much in labor law—though I am continuously dazzled by new doctrines and precedents which somehow escaped my scrutiny in a quarter of a century of teaching and writing and 6 years of practice—but in the ways and politics of Washington. This was not new to me in an intellectual sense, but to live it has been a unique experience.

As you know, the TEAM Act was passed by the House of Representatives in September 1995, and is now pending before the Senate.

That bill would make inoperative Section 8(a)(2)'s strictures against employer dominated or assisted labor organizations to most situations where a "sham" union necessitates the intervention of law. My sense is that the TEAM Act is an inappropriate response to whatever problems exist under Section 8(a)(2) and that they would promote the rise of sham or dependent labor organizations, a result most undesirable under a statutory policy which promotes autonomy and self-determination. And, most important, the Board since last summer, has attempted to affirmatively promote legitimate employee cooperation programs under the statute as written.

As you know, there are two parts of the legal problem under the NLRA. In order for a company union problem to arise under Section 8(a)(2) an employee organization must be found to be a "labor organization" within the meaning of the Act. In this regard, the Supreme Court in NLRB v. Cabot Carbon Co. established an extremely broad definition for labor organization almost 40 years ago—it covers far more entities than unions which we typically think of as labor organizations—and, thus, has made many such employee mechanisms fit the statutory definition.

This is an important part of the problem because an organization can be only "unlawfully" assisted or dominated under Section 8(a)(2) if it meets the labor organization test. Last summer I addressed both issues in my separate concurring opinion in Keeler Brass Co. Though I found that the Grievance Committee in that case was a labor organization within the meaning of the Act, I explicitly stated that I would not find other employee groups to fall within the definition. I stated that I agreed with the Board decisions of the 1970s which had held employee participation groups not to be labor organizations. In those cases the Board held that employee groups which rendered final decisions and did not interact with management performed "purely adjudicatory functions" which had been delegated to it by employers and thus did not "deal with" the employer within the meaning of Section 2(5) of the Act which defines a labor organization. I stated that I fully agreed with the Board's decision and rationale in those cases and that they are '. . . consistent with the movement toward cooperation and democracy in the workplace which I have long supported," I further stated:

"This movement is a major advance in labor relations because, in its best form, it attempts nothing less than to transform the relationship between employer and employees from one of the adversaries locked in unalterable opposition to one of partners with different but mutual interests who can cooperate with one another. Such a transformation is necessary for the achievement of true democracy in the workplace. However, it does pose a potential conflict with the National Labor Relations Act, enacted in 1935 at at time when the adversarial struggle between management and labor was at its height."

In Keeler Brass I concluded that the Committee, since it did not have the authority to adjudicate, was not covered by the precedent which I embraced in that opinion. Since it made recommendations about grievances and employment conditions—recommendations about which the Committee was not the final arbiter—it was a labor organization within the meaning of the Act. Accordingly, I then considered the question of whether the employer had unlawfully dominated or interfered with the labor organization in question.

In considering this issue I stated my approval of the Court of Appeals for the Seventh Circuit's approach to this issue in the landmark Chicago Rawhide decision. The court established in that case, as I noted in my concurring opinion, a demarcation line between support and cooperation. As I said:

"The court defined support as the presence of 'at least some degree of control or influence,' no matter how innocent. Cooperation, on the other hand, was defined as assisting the employees or their bargaining representatives in carrying out their 'independent intentions. The court went on to find that assistance or cooperation may be a means of domination, but that the Board must prove that the assistance actually produces employer control over the organization before a violation of Section 8(a)(2) can be established. Mere potential for control is not sufficient; there must be actual control or domination. The court set forth the following test: 'The test of whether an employee

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

organization is employer controlled is not an objective one but rather subjective from the standpoint of the employees.' "

I said in Keeler Brass—and say here again today—that I approve of the Seventh Circuit's statement holding promoting good and cooperative relationships. I also agree that the subjective views of the employees must be taken into account as the Seventh Circuit said in both Chicago Rawhide and Electromation—but that to rely completely upon employee satisfaction would undermine extant Supreme Court precedent.

Although the employee cooperative program in Chicago Rawhide originated with the employees, I said in Keeler Brass that an employee group does not have to originate with employees but can be promoted or suggested by the employer and not run afoul of the prohibitions against assistance and domination. As I said:

"I do not think these efforts are unlawful simply because the employer initiated them. The focus should, instead, be on whether the organization allows for independent employee action and choice. If, for example, the employer did nothing more than tell employees that it wanted their participation in decisions concerning working conditions and suggested that they set up a committee for such participation, I would find no domination provided employees controlled the structure and function of the committee and their participation was voluntary."

Thus, I noted in *Keeler Brass* that the factors in favor of dismissal were that the employer did not create the committee in response to a union organizational campaign, that the committee was voluntary and employees were the voting members of the committee and all of them were elected by employees. Accordingly, I was of the view that there was some measure of free choice and "scope for independence." On the other hand, the fact that the employer set time limits for terms for membership, established eligibility rules and election procedures and conducted the election, announced the results of the election, dictated the number of employees who could serve on the committee, established meeting days and allowed special meetings to be held only with management approval argued in favor of unlawful domination. As I said:

"These elements of control indicates that the committee is not capable of action independent of the employer. Perhaps the most telling aspect of dependency is that the committee cannot even make a decision about when it will meet without prior approval from the employer."

I am of the view that the Board in these past two years moved closer to the support for employee cooperative programs which I expressed last summer in a series of decisions issued on December 18, 1995. For instance, in *Stoody Company* a unanimous Board said: "We support an interpretation of the Act which would not discourage such [employee participation] programs." In this case the employer created a committee, the Handbook Committee, to gather information about sections in the handbook which were inconsistent with the current practice, that were obsolete or that were misunderstood by employees. The committee was not established to discuss wages, benefits or working conditions. But during the only meeting of the committee, which lasted one hour, employees raised questions concerning vacation time and the employer's representative participated in these discussions. Subsequently, the company stated again that the committee was not designed to discuss such subjects.

The Board in *Stoody Company* rejected the view that the employee group in question was a labor organization within the meaning of the Act. Thus, the prohibitions regarding unlawful assistance and domination were inapplicable. In an important passage which ought to get the attention of the Senate when it considers the TEAM Act in the coming months, the Board said the following:

"Drawing the line between a lawful employee participation program and a statutory labor organization may not be a simple matter because it may be difficult to separate such issues as operations and efficiency from those concerning the subjects listed in the statutory definition of labor organization. If parties are burdened with the prospect that any deviation, however temporary, isolated, or unintended, from the discussion of a certain subject, will change a lawful employee participation committee into an unlawfully dominated labor organization, they may reasonably be reluctant to engage in employee participation programs."

The Board then noted that employees had initiated the discussion of working conditions which would have argued for a labor organization finding and said the following:

"What happened here appears to us to be the kind of situation that is likely to occur when an employer is attempting something new and its supervisors have little or no experience with participation efforts. Absent evidence of a pattern or practice, or of a design to interfere with the organizing efforts of an independent labor organization, we do not think such conduct violates the Act."

The labor organization aspect of this issue was also presented in *Webcor Packaging, Inc.* where a plant council was designed to offer recommendations to management about proposed changes in working conditions, such as wages, and management would consider whether to accept or reject these recommendations. The Board found that the council existed to deal with variety of grievances involving employment conditions including issuing employee vacation paychecks, payment for safety shoes. Unlike the cases which the Board had decided in the '70s in which I found to be appropriate decisions in *Keeler Brass*, the council had no authority to make decisions on its own. All that was involved was an obligation on the part of management to take the matter under advisement and consider the employee proposal very seriously. Said the Board:

"We accordingly conclude that the record evidence establishes that the Plant Council existed for the purpose, at least in part, of following a pattern or practice of making proposals to management which would be considered and accepted or rejected, and that such a pattern in fact occurred."

"Accordingly, the Board found that the council was a labor organization which was "dealing with" management. Since the record established that the council was a creation of management and that its structure and function were essentially determined by it, unlawful domination under Section 8(a)(2) was found to exist."

In another decision, Vons Grocery Co., the question was whether an employee participation group interfered with the union's role as exclusive bargaining representative. In this case, the employer created an entity known as the Quality Circle Group (QCG). The group dealt with dress code matters and an accident point system for truck drivers, reaching agreement on the former matter. We concluded that there was no pattern of practice of making proposals to management and that the proposals on a dress code and accident point policy were ". . . an isolated incident in the long life of the QCG." And we noted that even in that situation, the union was informed of proposals and brought into consultation before any decision was made. When the union complained about the role of QCG representatives, the employer immediately changed the format so as to include a union steward at each meeting. The Board concluded, in a vein similar to Stoody, that one incident did not make a pattern of practice of dealing with the employer within the meaning of Section 2(5). We thus dealt with this matter in a manner similar to our conclusion in Stoody. We said:

"In sum, we do not believe that this one incident [the dress code and accident policy] should transform a lawful employee participation group into a statutory labor organization. We do not believe that what happened here poses the dangers of employer domination of labor organizations that Section 8(a)(2) was designed to prevent."

These four December 18 decisions are all compatible with the strong support for employee cooperation that I articulated in my July 14, 1995 concurring opinion in Keller Brass. Acceptance of this approach makes it clear that the TEAM Act, as presently drafted, is unnecessary.

Nonetheless, as I wrote 3 years ago in Agenda for Reform, a revision of Section 8(a)(2) is desirable. The difficulties involved in determining what constitutes a labor organization, under the Act as written, subjects employees to unnecessary and wasteful litigation and mandates lay people to employ counsel, when they are only attempting to promote dialogue and enhance participation and cooperation.

The law's insistence upon a demarcation line—a line admittedly made less rigid by the common sense approach that we undertook in both Stoody and Vons Grocery—between management concerns like efficiency on the one hand, and employment conditions on the other, simply does not make sense. The line is synthetic and inconsistent with contemporary realities of the workplace where it is impossible to distinguish between the pace of the work or production standards and quality considerations for which all employees can and should have responsibility.

Accordingly, Congress and the President should amend Section 8(a)(2) so as to allow all employee committees and councils and quality work circles to function, addressing any and all subjects outside any cloud of illegality—and to allow employers to devise proposals and assist such mechanisms free from liability so long as employee automony is protected and respected. In connection with such employee groups, the Act's prohibition against assistance should be eliminated altogether. In this way, employee participation and involvement would be promoted, sham unions discouraged, and wasteful, sometimes acrimonious litigation about what constitutes a labor organization eliminated. But this is hardly the answer to what ails Section 8(a)(2) set forth in the TEAM Act.

This was the objective of Congressman Thomas Sawyer's bill which he proposed last fall as a substitute for the TEAM Act. It was designed to encourage productivity and quality teams without opening the door to sham unions—which I believe is a constructive approach.

We must move beyond the "them and us" mentality of an adversarial model which exclude cooperation between employees and management. Employees should be able to collaborate with management in establishing such teams, setting the agenda for meetings, determining voting procedures for election of representatives and on debated issues.

Only a month ago, in his State of the Union message, President Bill Clinton said:

> When companies and workers work as a team, they do better. And so does America.

The President's road is the road of dialogue, cooperation and settlement processes rather than litigation. That is the road taken by our small and independent administrative Agency through our new ALJ rules, my concurring opinion in Keeler Brass and our December 18 rulings.

HONORING THE TAYLORS CROSSROADS VOLUNTEER FIRE DEPARTMENT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GORDON. Mr. Speaker, I am taking this opportunity to applaud the invaluable services provided by the Taylors Crossroads Volunteer Fire Department. These brave, civic minded people give freely of their time so that we may all feel safer at night.

Few realize the depth of training and hard work that goes into being a volunteer firefighter. To quote one of my local volunteers, "These fireman must have an overwhelming desire to do for others while expecting nothing in return."

Preparation includes twice-monthly training programs in which they have live drills, study the latest videos featuring the latest in firefighting tactics, as well as attend seminars where they can obtain the knowledge they need to save lives. Within a year of becoming a volunteer firefighter, most attend the Tennessee Fire Training School in Murfreesboro where they undergo further, intensified training.

When the residents of my district go to bed at night, they know that should disaster strike and their home catch fire, well-trained and qualified volunteer fire departments are ready and willing to give so graciously and generously of themselves. This peace of mind should not be taken for granted.

By selflessly giving of themselves, they ensure a safer future for us all. We owe these volunteer fire departments a debt of gratitude for their service and sacrifice.

CHERNOBYL NUCLEAR DISASTER RESOLUTION

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to introduce a resolution which recognizes the 10th anniversary of the Chernobyl nuclear disaster, the worst in recorded history, and supports the closing of the Chernobyl nuclear powerplant. Yesterday, I chaired a Helsinki commission hearing that examined the devastating consequences of the Chernobyl disaster. That hearing, Mr. Speaker, featured the ambassadors of Ukraine and Belarus, the two countries most gravely affected by the disaster. Professor Murray Feshback of Georgetown University and Alexander Kuzma of the Children of Chernobyl Relief Fund also provided sound scientific and medical details about the public health crisis that exists.

A decade ago, in the early morning hours of April 26, 1986, reactor No. 4 at the Chernobyl nuclear powerplant exploded, releasing into the atmosphere massive quantities of radioactive substances. The highest amount of radioactive fallout was registered in the vicinity immediately surrounding Chernobyl, some 60 miles north of Ukraine's capital, Kiev. At that time, the prevailing winds were directed north to northwest, so that Belarus received some 70 percent of the total radioactive fallout. Subsequent shifts of the wind, and rainfall, affected northern Ukraine, southwest Russia and beyond, with excessive levels of radiation recorded in northern Scandinavia, various parts of continental Europe, and even as far away as coastal Alaska. Estimated total radioactivity from the blast was 200 times more radioactivity than was released from the atomic bombs dropped at Hiroshima and Nagasaki combined.

Ten years ago, Mr. Speaker, Chernobyl left its indelible mark on the world's consciousness. Given the monumental consequences of Chernobyl and its devastating toll on the environment and on the health of the surrounding population, this disaster must neither be forgotten nor repeated. Indeed, Chernobyl can never be forgotten by those most directly affected. The tragedy is ongoing. And with each passing anniversary, we uncover more and more about its devastating impact and serious radiological, health and socioeconomic consequences, especially on the populations of Ukraine, Belarus, and western Russia.

Millions of people—including about 1 million children—in Ukraine, Belarus and western Russian were exposed to dangerously high levels of radiation. Millions continue to live in areas contaminated to one degree or another. Children, in particular, have experienced alarming increases in thyroid cancer and other conditions. These trends have accelerated since the disaster and are expected to increase well into the future. In Belarus Gomel region, for instance, which was one of the hardest hit areas, thyroid cancer among children is at least 200 times that of preaccident. Scientists differ over the extent of Chernobyl-related diseases, but few deny that children have been hardest hit by the radiological aftermath. Given the devastating humanitarian, ecological and economic consequences, the resolution calls upon the President to support continued and enhanced U.S. assistance to provide medical relief, humanitarian assistance, social impact planning, and hospital development for Ukraine, Belarus, Russia and other nations most heavily afflicted.

Because this disaster is the only one of its magnitude, there is much about its long-term health consequences we do not yet know. Among the most affected were the so-called "liquidators", the hundreds of thousands of people who worked to clean up after the accident. Many received substantial doses of radiation. Estimates vary on how many of them have died or become seriously ill. However, we must learn more about the health of those most affected by the disaster, especially the children who were exposed to substantial doses of radiation. The resolution encourages national and international health organizations to expand the scope of research of the public health consequences of Chernobyl. Such research could help not only those directly affected, but can also ensure that the entire world can benefit from the findings.

By supporting assistance and research efforts, we will be doing our part to help overcome the devastating legacy of Chernobyl. Unfortunately, there are still 15 RBMK, Chernobyl-type reactors still being utilized in the former Soviet Union, most of them in Russia. The international community can help Ukraine and Russia improve the safety of their nuclear reactors, especially since Ukraine relies substantially on nuclear power for its energy needs.

Mr. Speaker, one very important component of this resolution is that it urges Ukraine to continue its negotiations with the G–7 to implement the December 20, 1995 memorandum of understanding which calls for all nuclear reactors at Chernobyl to be shut down in a safe and expeditious manner by the year 2000. The resolution calls upon the President to support the process of closing Chernobyl as envisioned by the MOU.

The signatories to the MOU recognize the tremendous costs involved in closing down Chernobyl and its impact on a country undergoing the unbelievably difficult transition from communism to a market-oriented democracy. Ukraine devotes more of its resources to dealing with the Chernobyl aftermath than for its military. According to testimony from the Belarusian Ambassador, Belarus is compelled to spend year in and year out up to 25 percent of its budget to try to cope with the aftermath of Chernobyl. In response, the G–7 has thus far committed some $3 billion in loans and grants to assist with the closure of Chernobyl. Recognizing the country's dire energy situation, equally important is the G–7's broader cooperation with Ukraine to impose market discipline on its inefficient energy sector and make it more rational. Moreover, the MOU recognizes the implications—for the thousands of workers and their families—of closing the Chernobyl plant.

The Chernobyl nuclear disaster marks a tragic milestone in the history of Ukraine, Belarus, and the world. This week we commemorate the 10th anniversary of this nuclear explosion, one of the most bitter legacies of Soviet communism. The legacy has had tremendous and mounting human costs. Its environmental, medical, social, political and economic consequences continue to have a profound impact on countries in the region, especially on Ukraine and Belarus and western Russia, which bore the brunt of Chernobyl's radioactive fallout.

Mr. Speaker, this resolution which is also being introduced in the Senate is important and timely. I am joined by my colleagues Rep. BEN GILMAN, Rep. FRANK WOLF, Rep. BEN CARDIN, Rep. ED MARKEY, Rep. MATT SALMON, Rep. BOB TORRICELLI, Rep. SANDER LEVIN, Rep. DAVID BONIOR, Rep. RICHARD DURBIN, and Rep. LUIS GUTTIEREZ in introducing this resolution and I urge our colleagues to support the measure.

ELISEO VASQUEZ MEDINA: AN ORGANIZER'S ORGANIZER

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. FILNER. Mr. Speaker, I rise today to recognize Eliseo Medina, executive director of Local 2028 of the Service Employees International Union and the newly-elected executive vice president of the Service employees International Union, who will be honored with a Leadership Award by the San Diego-Imperial Counties Labor Council on April 27, 1996.

Eliseo Vasquez Medina entered the labor movement through the table grape vineyards of Delano, in California's San Joaquin Valley, where he joined the grape strike led by Cesar Chavez and the United Farm Workers, AFL–CIO in 1965. Quickly recognized as a natural leader and organizer, he was sent by Cesar Chavez to Chicago with a phone number and a bag of buttons to head up what became a successful boycott organization in the Midwest. From there he was sent wherever the need existed for his energy, intelligence, and organizational skills.

Within a few years, Eliseo Medina was elected to the executive board of the United Farm Workers, where he became second vice-president to Cesar Chavez. When the agricultural Labor Relations Act was passed in California, he returned to lead numerous successful election drives and negotiate numerous historic contracts.

Beginning in 1978, Eliseo Medina began the second part of his career as an organizer in diverse industries. He was tapped by the American Federation of State, County, and Municipal Employees [AFSCME] to organize employees of the University of California. Thereafter, he moved on to organize the Teas State Employees Union.

Five years later, the Service Employees International Union brought him to San Diego, where he has led and honed its Local 2028, increasing its membership threefold and providing service and leadership to thousands of my constituents in the 50th District of California.

Just this week, Eliseo Medina returned to Chicago, where the Service Employees International Union elected him to one of its highest levels of leadership, executive vice-president.

Mr. Speaker, I join labor leaders in San Diego and across the country in congratulating Eliseo Medina for receiving the San Diego-Imperial Counties Labor Council's Leadership Award. I know he will always be striving to improve the quality of life for the working people of San Diego.

TRIBUTE TO THE CONCERNED CITIZENS OF BELLEVILLE

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. MARTINI. Mr. Speaker, I rise today to pay tribute to a very special group of Americans from the Eighth Congressional District of New Jersey. Sally Hood, Lyda Panko, John Piecuch, Carol Smith, Angelo Veneziano, and Louise Cordasco, all founding trustees of the Concerned Citizens of Belleville, have embodied the definition of public service.

The individuals who make up the Concerned Citizens of Belleville have maintained a successful civic organization truly dedicated to the service and the betterment of the greater Belleville community. And, as they celebrate their 10th anniversary, I am proud and honored to offer my heartfelt congratulations and best wishes.

These citizens have given generously of their time, energy, and resources in order to foster goodwill and benevolence throughout their community. The Concerned Citizens of Belleville reminds all of us that a community is most profoundly changed not by huge, impersonal institutions, but by people determined to make a positive difference.

The Concerned Citizens of Belleville's 10 years of enduring dedication to their neighbors and friends has brought a sense of great pride and accomplishment to the community. Congratulations for a job well done.

HONORING THE TROUSDALE VOLUNTEER FIRE DEPARTMENT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GORDON. Mr. Speaker, I am taking this opportunity to applaud the invaluable services provided by the Trousdale County Volunteer Fire Department. These brave, civic minded people give freely of their time so that we may all feel safer at night.

Few realize the depth of training and hard work that goes into being a volunteer firefighter. To quote one of my local volunteers, "These firemen must have an overwhelming desire to do for others while expecting nothing in return."

Preparation includes twice-monthly training programs in which they have live drills, study the latest videos featuring the latest in firefighting tactics, as well as attend seminars where they can obtain the knowledge they need to save lives. Within a year of becoming a volunteer firefighter, most attend the Tennessee Fire Training School in Murfreesboro where they undergo further, intensified training.

When the residents of my district go to bed at night, they know that should disaster strike and their home catch fire, well-trained and qualified volunteer fire departments are ready and willing to give so graciously and generously of themselves. This peace of mind should not be taken for granted.

By selflessly giving of themselves, they ensure a safer future for us all. We owe these volunteer fire departments a debt of gratitude for their service and sacrifice.

DEFICIT REDUCTION

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. PACKARD. Mr. Speaker, as a member of the Appropriations Committee, I would like to take a moment to commend my Republican colleagues and Chairman LIVINGSTON for the tremendous progress made in returning fiscal responsibility to Washington.

The Congressional Budget Office recently projected the 1996 budget deficit will fall to $144 billion. This is due to the commitment of the Republican led Congress to rein in unwieldy Federal spending. We have cut spending to its lowest level in 14 years. This means a $23 billion savings for American taxpayers over last year. In fact, my colleagues and I have saved taxpayers $43 billion since gaining control of the Congress in 1995.

We have had to stand tough against the old, big spending culture of Washington. A great deal of credit must go to Chairman LIVINGSTON who has refused to raise spending caps or take spending off-budget. He insisted on finding offsets to pay for $1.3 billion in disaster aid, rather than adding to the deficit. In addition, my colleagues and I have reduced the Federal bureaucracy and eliminated wasteful programs.

The Republican led Congress has continued to fulfill its promise to the American people. We put the brakes on out of control spending and produced the largest down turn in Federal spending in history. We will continue to make tough decisions and keep on our glidepath to a balanced budget.

CLINTON'S BLIND EYE TOWARD IRAN

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. SMITH of New Jersey. Mr. Speaker, yesterday the House Committee on International Relations held a timely hearing on U.S. policy toward Bosnia which delved into charges that the Clinton administration tacitly allowed Iran to ship arms to Bosnia via Croatia. Unfortunately, there were more serious questions raised during the course of that hearing than were answered by administration representatives.

As the House sponsor of a bipartisan effort to lift the arms embargo against Bosnia, I am extremely concerned about the implications and consequences of such a policy should these allegations indeed be substantiated. It is ironic that President Clinton apparently was willing to turn a blind eye toward Iran while blocking a majority in the Congress—a bipartisan majority—that called for the United

States—not Iran—to take the lead in upholding Bosnia's legitimate and fundamental right to defend itself.

Should the Bosnians have been given the means to defend themselves in the face of aggression and genocide? Absolutely. Should those arms have come from Iran? Absolutely not.

In the past few years, Members from both sides of the aisle put aside their differences to respond to the senseless slaughter of innocent civilians by well-armed Serb militants in Bosnia-Herzegovina. Repeatedly we raised our voices calling upon the President to display determined U.S. leadership in the face of aggression and genocide. These calls were repeatedly rebuffed. When we voted in overwhelming support to lift the arms embargo, we were told by the White House that such an action was not in the interest of the United States as it would lead to an "Americanization" of the conflict, result in the deployment of thousands of U.S. troops, and undermine the U.S. Security Council.

Mr. Speaker, when all is said and done, the fundamental issue at stake here—as in so many other instances—is one of leadership.

For nearly 3 years the Clinton administration, like the one before it, largely passed the buck on Bosnia. The Europeans, for their part, raised the specter of Islamic fundamentalism as an excuse for inaction. Mr. Speaker, it is inexplicable how turning a blind eye toward Iran—a terrorist state—was in the interest of the United States.

Regrettably, the international community and the United States refused to undertake meaningful action themselves to end the genocide or to provide the Bosnians with the means to defend themselves. By default at best, and with U.S. acquiescence at worst, Teheran was allowed to fill in the gap resulting from the failure of the Clinton administration to act and to lead. By turning a blind eye in this instance, President Clinton has unwittingly strengthened a small nationalist minority in Bosnia at the expense of those truly committed to the preservation of a multiethnic state; damaged our position in the United Nations; and potentially expose the 20,000 American troops he ordered to Bosnia to even greater danger.

Mr. Speaker, I commend the House leadership for pursuing this matter given its implications for U.S. interests in the Balkans and beyond.

TRIBUTE TO THE VETERANS OF FOREIGN WARS, ALLWOOD MEMORIAL POST 6487

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. MARTINI. Mr. Speaker, I rise today to pay tribute to a very special group of Americans from the Eighth Congressional District of New Jersey.

The Veterans of Foreign Wars, Allwood Memorial Post 6487 has for a half century offered a steadfast portrait of loyalty, sacrifice, and self-resolve.

Our loyalties mark the kinds of persons we have chosen to become. Real loyalty endures inconvenience, withstands hardship, and does not flinch under assault. The individuals who make up the Allwood Memorial Post consistently allow this genuine loyalty to pervade the whole of their lives.

The members of VFW, Post 6487 remind us that the loyal, patriotic citizen expects no great reward for coming to his country's aid. On the contrary, a devoted patriot seeks only that his country flourishes.

When it comes to honoring their country, their faith, and their comrades, the veterans of Post 6487 have demonstrated both the wisdom to know the right thing to do, and the will to do it. Certainly, they have lived up to the obligations of loyalty, patriotism, and service.

To be a loyal citizen means to achieve a high standard of caring seriously about the well-being of one's nation. I am proud to honor and praise Memorial Post 6487 for exceeding this standard. Congratulations for your 50 year history of American pride and patriotism.

HONORING THE SUMNER COUNTY VOLUNTEER FIRE DEPARTMENT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GORDON. Mr. Speaker, I am taking this opportunity to applaud the invaluable services provided by the Sumner County Volunteer Fire Department. These brave, civic minded people give freely of their time so that we may all feel safer at night.

Few realize the depth of training and hard work that goes into being a volunteer firefighter. To quote one of my local volunteers, "These firemen must have an overwhelming desire to do for others while expecting nothing in return."

Preparation includes twice-monthly training programs in which they have live drills, study the latest videos featuring the latest in firefighting tactics, as well as attend seminars where they can obtain the knowledge they need to save lives. Within a year of becoming a volunteer firefighter, most attend the Tennessee Fire Training School in Murfreesboro where they undergo further, intensified training.

When the residents of my district go to bed at night, they know that should disaster strike and their home catch fire, well-trained and qualified volunteer fire departments are ready and willing to give so graciously and generously of themselves. This peace of mind should not be taken for granted.

By selflessly giving of themselves, they ensure a safer future for us all. We owe these volunteer fire departments a debt of gratitude for their service and sacrifice.

TRIBUTE TO MEREDITH TAYLOR

HON. MICHAEL D. CRAPO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. CRAPO. Mr. Speaker, I would like to submit the following essay by 16-year-old Meredith Taylor, one of my constituents. Meredith's essay won the Veterans of Foreign Wars Voice of Democracy Broadcast Scriptwriting Contest.

ANSWERING AMERICA'S CALL

(By Meredith Taylor)

A needy America called—a compassionate America answered. Listen:

"Give me liberty or give me death!" "Let the open arms of your Statue of Liberty shelter me from me land's potato famine!" "Just one more breath, please. The polio . . . it hurts . . . my iron lung . . . will it last?" "Don't whip me, master. Let me be free from slavery!" "We have a voice, let us women speak out and vote!" "Reporting NASA, this is one small step for man, one giant leap for mankind!" "Don't ask what your country can do for you, ask what you can do for your country!"

Patrick Henry called for the separation from England, and the colonists rallied for freedom. Oppression, tyranny and famine led helpless Irish and other immigrants to our encompassing harbors. America fed and clothed them. Agonizing pleas for life screamed to America's medical researchers to discover a cure for Polio. Dr. Jonas Salk answered with a vaccine. The Civil War split not only the North from the South, but families and friends because of the call to end slavery. President Lincoln died and so did slavery. Following the end of slavery the suffragette demanded the right to vote in America's future and the 19th Amendment to the U.S. Constitution was passed. Neil Armstrong walked on the silverdusted moon to answer the call of curiosity, "to know the unknown." President Kennedy called out to the citizens of America to step up and participate in a positive way in the reformation of each citizen's relationship to the United States. The response was civil rights legislation and Medicare for the elderly.

These were the inflammatory, pleading, demanding, awe-inspiring calls to America in the past, and each time America answered with justice, equality, research and compassion. Now Americans call out with greater intensity and passion.

"I never thought it could happen to me. I mean, I'm only fifteen and I have AIDs. And the baby . . . this means she could have it too." "One more man. Please just give me one more hit!" "i'm outta here. I quit school." "Don't hit me, momma, not again . . . please . . .!" "What's a divorce, daddy? Why does mommy have to leave?"

These are the present day calls—the opportunities for us, you—me, to give something back to our nation and those who helped make such a strong foundation. How many AIDS-caused deaths and teenage pregnancies must occur before sex education is engraved into the minds of the ignorant? Not just sex education, but comprehensive education will assist in the rebirth of an "A" rather than an "X" generation—a generation free of substance abuse, hatred and discrimination. In the past the patriots, libertarians, adventurers and risk-takers strived to overcome political barriers, hatred, disease and economic hardships. It is incumbent upon all of us to unveil our loyalty and hope and to act with determination, desire and commitment. We must buttress the efforts of our civic organizations, city councils and religious groups. Each call can be answered if we listen.

As long as there are Americans, there will be the calls for clean air and water, conservation of resources and an effective educational system. But answering these calls with laws and money will fail unless we exhibit respect for people and property, love of God and country and compassion for the sick and poor. Then and only then can we answer the most important call—the right to be called an American.

TRIBUTE TO SISTER JOANNE M. CHIAVERINI AND FATHER PHILIP A. SCHMITTER

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. KILDEE. Mr. Speaker, it gives me great pleasure to share with my colleagues in the U.S. House of Representatives the contributions to our community by two committed spiritual leaders. Sister Joanne M. Chiaverini, of the Sisters Servants of the Immaculate Heart of Mary, and Father Philip A. Schmitter are the two codirectors of the St. Francis Prayer Center. Sister Joanne and Father Phil have ministered to the spiritual, economic, and health needs of the people of northern Flint for many years.

Sister Joanne Chiaverini, a sister for 39 years, founded the St. Francis Prayer Center in July 1974 to be a spiritual oasis for persons of all denominational, economic, and ethnic backgrounds. She insisted the center be located where "the poor could walk" and has fostered a place that has provided programs, retreats, and classes for nurturing a healthy self image. She has lead the center to be a spiritual organization that ministers with and to the poor in roles of referral, initiation, and advocacy.

Father Philip Schmitter's commitment to the poor led him to move into HUD's River Park Apartments—a public housing complex—in 1978. He also became a full-time codirector of the St. Francis Prayer Center in 1978.

Sister Joanne, Father Phil, and the St. Francis Prayer Center have worked with neighborhood residents, civil rights groups, and environmentalists to raise awareness of the need for environmental equity. They have challenged the Federal Environmental Protection Agency and Michigan's Department of Natural Resources to do more to defend environmental quality in predominantly minority neighborhoods.

As a result of their hard work, the EPA has selected Flint as one of nine sites across the country where violations of environmental equity are being investigated. Flint was selected as the first site of the nine due to the well organized grass roots appeal initiated by Father Phil and Sister Joanne.

Mr. Speaker, the city of Flint is a better place to live in because of the good work of Sister Joanne, Father Phil and the St. Francis Prayer Center. They continue to stand as a symbol to all of the spirituality of St. Francis who saw all of us as part of the good gift of God's creation, to be kept clean, unpolluted, and preserved from exploitation.

CONGRATULATIONS WINNERS OF 1996 SPOKANE SCHOLARS FOUNDATION

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. NETHERCUTT. Mr. Speaker, I rise to congratulate the winners of the 1996 Spokane Scholars Foundation Awards. This award is solely based on the exceptional performance that these students have demonstrated in their course work and test scores in a specific academic subject. These students truly represent the finest young men and women in our community.

I am proud to announce this year's winners are: Mr. David Gosse from Cheney High School for his outstanding achievements in the area of science; Miss Sarah M. Westergren from Mead Senior High School for her outstanding achievements in the area of English; Mr. Robert M. Dirks from Lewis and Clark High School for his outstanding achievements in the area of mathematics; Miss Joy K. Crosby from North Central High School for her outstanding achievements in the area of foreign languages; Mr. Nicholas A. McCarthy from St. George's School for his outstanding achievements in the area of social sciences; and Miss Shayna Silverstein from Lewis and Clark High School for her outstanding achievements in the area of fine arts.

I congratulate all of these extraordinary students for their hard work in achieving this exceptional recognition and wish them the very best in all of their future endeavors.

HONORING THE WILLIAMSON COUNTY VOLUNTEER FIRE DEPARTMENT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GORDON. Mr. Speaker, I am taking this opportunity to applaud the invaluable services provided by the Williamson County Volunteer Fire Department. These brave, civic-minded people give freely of their time so that we may all feel safer at night.

Few realize the depth of training and hard work that goes into being a volunteer firefighter. To quote one of my local volunteers, "These firemen must have an overwhelming desire to do for others while expecting nothing in return."

Preparation includes twice-monthly training programs in which they have live drills, study the latest videos featuring the latest in firefighting tactics, as well as attend seminars where they can obtain the knowledge they need to save lives. Within a year of becoming a volunteer firefighter, most attend the Tennessee Fire Training School in Murfreesboro where they undergo further, intensified training.

When the residents of my district go to bed at night, they know that should disaster strike and their home catch fire, well-trained and qualified volunteer fire departments are ready and willing to give so graciously and generously of themselves. This peace of mind should not be taken for granted.

By selflessly giving of themselves, they ensure a safer future for us all. We owe these volunteer fire departments a debt of gratitude for their service and sacrifice.

NATIONAL PUERTO RICAN AFFIRMATION DAY

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. SERRANO. Mr. Speaker, National Puerto Rican Affirmation Day was held on March 29, 1996, and I would like to share with my colleagues the remarks I made as the host of a public policy forum on health issues affecting the Puerto Rican community.

Welcome to this public policy forum. Today we are going to discuss the health issues that are affecting the Puerto Rican community. We will try to find solutions to the problems and to develop public policy guidelines that would help improve the health and access to medical services for our community.

Participants in this forum are: Dr. Nilsa Gutierrez, former director of the AIDS Institute of the New York Department of Health; Dr. Eric Munoz, medical director at the University Hospital in New Jersey; Mr. Aldoph Falcon, vice president for policy and research of the National Coalition of Hispanic Health and Human Services Organizations; Ms. Suleika Cabrera-Drianane, founder and executive director of the Institute for Puerto Rican and Hispanic Elderly; Mr. Enrique Baquero, president of Cyber Tech and a member of the board of directors of the Puerto Rico Hospital Association; and Ms. Miguelina Maldonado, director of Government relations and policy at the National Minority AIDS Council in Washington, DC.

After we finish the presentations on the various health issues we will open the debate to answer questions from the audience.

Puerto Ricans in the United States and those living on the island often suffer from diseases which are related to their environmental and socioeconomic conditions. Puerto Ricans have a high incidence of chronic illnesses, infant mortality, alcohol and drug abuse, and more recently, HIV/AIDS infection.

Poor living conditions, hazardous working environments, lack of access to medical services, and the rising costs of health care are some of the health challenges that the Puerto Rican community faces.

Many in our community work in industries which have a high number of uninsured employees. A large portion of the population resides in inner-city areas which lack adequate medical services for our community. In addition, low median family income, the lowest of any other group in the nation, and a high cost of living in inner-city areas have prevented Puerto Ricans from purchasing private health insurance. In 1992, 50 percent of the population had no private health insurance and 21 percent had no health coverage whatever. These are alarming rates for any community.

Puerto Ricans are growing every day more dependent on Government programs for health care insurance. In 1992, 32.2 percent of the Puerto Rican population received Medicaid benefits, a higher percentage than that of African-Americans, and five times higher than that of non-Hispanic Whites. In addition, 60 percent of the population in Puerto Rico depend on Government health care programs.

The proposed cuts in funding for Medicaid and Medicare therefore pose a disproportionate threat to the health of the Puerto Rican population. Although President Clinton, in budget negotiations, has forced them to moderate their demands, the Republican leadership in Congress still proposes to slash the funding for Medicaid by $132 billion and Medicare by $270 billion. These cuts will force the elimination of health care services, such as dental care, physical therapy, and nursing facilities for children.

In addition, because Puerto Rico is a commonwealth of the United States, it does not receive funding at full parity in Government programs. Funding for Medicaid is at one-tenth the amount that Puerto Rico would receive if it was treated equally. This is not a statement in opposition to the commonwealth status, nor an expression in support of statehood or the independence of Puerto Rico. But it is a fact of disparity. Although Puerto Ricans are U.S. citizens, they receive a much lower share of Federal funding for Government programs than that which is allocated to programs for U.S. citizens who live in the United States. Reductions in funding would further jeopardize access to health care for Puerto Ricans.

The high incidence of HIV/AIDS infection among heterosexual drug users is a growing epidemic that requires special assistance in our community. In addition to the growing need to increase the access to medical services is the urgent need to provide culturally sensitive services to our community. Many providers do not have bilingual personnel or programs that identify with the culture of our community.

In short, low utilization rates of medical services, lack of prenatal and post partum care, low birth weights for infants, high infant mortality, and inadequate child immunization, are all indicators of a community that it is highly underserved.

We need to pursue a pro-active health care agenda which would provide coverage for the vulnerable population, the elderly, the poor, pregnant women, children, the medically disabled, and the working uninsured. We also need more effective outreach efforts to inform our community of the availability of health care services.

Community-based organizations which already provide culturally sensitive medical services could be one of the catalysts for increasing the access to adequate health care in our community. In addition, we need to increase the participation of the Puerto Rican community in the medical field by providing Federal scholarships and other programs that would enable our students to pursue careers in health professions. We should also provide incentives to educational institutions to develop scholarships for our medical students.

Slashing the funding for Government programs that are often the only source of health coverage for the poor will pose higher health risks to a population, such as ours, which is already disproportionally lacking access to medical services.

I would like now to ask the members of the panel to talk more in detail about the health issues which are afflicting our community.

TRIBUTE TO THEODORE ZUBAR

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. BORSKI. Mr. Speaker, I rise today in recognition of the outstanding contributions of Theodore Zubar to the Boy Scouts Organization and his community during his 60 years of service.

As a strong advocate for the Boy Scouts and the Philadelphia community, Theodore Zubar has greatly influenced the lives of many people who have been fortunate enough to know and work with him during his remarkable career.

In 1929, at the young age of 12, Ted began his long and prosperous career with the Boy Scouts. Six years later, Ted became the assistant Scoutmaster and by the time he was 24 years old he was appointed Scoutmaster. With his hard work and loyalty, Ted continued to move up the ladder with the Boy Scouts. In 1947, he was elected Neighborhood Commissioner and held that position for 12 years.

By 1955, Ted organized the Troop Committee which operated various committees in North Central and Woodland Districts of Pennsylvania. As the Boy Scouts continued to strengthen and grow, Ted became the assistant district commissioner of the Scout Roundtable until 1963 and then presided over the Troop Committee for the next 20 years. Continuing his commitment to the Boys Scouts Organization, Ted took on the responsibility of Scouting Coordinator until becoming a member of the Frontier District Advancement Committee and the Frontier District Dean of Merit Badges where he still is a member today.

Ted's work for the Boy Scouts not only extends here in the United States but throughout various parts of the world as well. He has spent much of his life as an ambassador of Scouting for the Boy Scouts and has visited Scout organizations in Zimbabwe, Australia, and Europe. For over 60 years this man has epitomized the Scouting spirit in Philadelphia and throughout the world.

Although Ted's vision and loyalty with the Boy Scout Organization summarizes his excellent accomplishments, he also extended a helping hand to those unfortunate children in the Philadelphia community as well. Being active in his community for over 50 years, Ted became a Lu Lu Temple Shriner and a member of the Quaker City Shrine Club—Hospital Committee for the Crippled Children in 1977. As a member of the Greater Philadelphia Stamp Club, he distributed stamps to the Benjamin Franklin Stamp clubs in Philadelphia's Public Schools. These are only a few examples where Ted has brought joy to hundreds of unfortunate children and people within his Philadelphia community.

For these accomplishments, and most importantly, for the positive effects that these accomplishments have had on the people associated with the Boy Scout Organization and his community, I would like to recognize and thank Theodore Zubar.

CORA SWEATT, 1996 TENNESSEE MOTHER OF THE YEAR

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. DUNCAN. Mr. Speaker, I would like to congratulate Mrs. Cora Sweatt for being named as the 1996 Tennessee Mother of the Year. This indeed is a great honor and one which Mrs. Sweatt should be very proud to receive.

I believe that if we are going to remain a strong country in years to come, we must strengthen the American family.

Mothers are special individuals who sacrifice a great deal for their families and especially their children, and often times they are not recognized for their hard work and devotion. I am proud to see that my home State of Tennessee has taken the time to honor a woman like Mrs. Sweatt. She has had great success at balancing many critical responsibilities for the family and even has taken time from a very busy schedule to serve the community as well.

I believe that true success is achieved by those who strive for excellency. I want to extend my congratulations to Cora Sweatt for receiving this honor.

I request that a copy of the article that appeared in the Daily Post-Athenian on Friday, March 22, 1996 honoring Mrs. Sweatt as 1996 Tennessee Mother of the Year be placed in the RECORD at this point so that I can call it to the attention of my colleagues and other readers of the RECORD.

CORA SWEATT NAMED TENNESSEE MOTHER OF THE YEAR

(By Anissa Hicks)

A local woman has achieved one of the highest honors in Tennessee.

Cora Beasley Sweatt of Athens has been named the Tennessee Mother of the Year by the Tennessee Mothers Association of American Mothers, Inc.

The selection was made from portfolios received by the Tennessee Mothers Association from organizations, churches and civic groups across the state in response to a statewide appeal for groups to nominate worthy mothers.

Sweatt was named Athens' Mother of the Year during a Chamber of Commerce Banquet in January. The award was sponsored by the Athens Area Chamber of Commerce and the chamber sent information they compiled on Sweatt to the state.

The people nominated for state Mother of the Year had to exemplify the qualities of the ideal mother, based on activities, character, and achievements and success in rearing her children, as evidence of a happy home with a loving husband by her side, reaffirming the importance of spirituality as a key to strengthening family life.

From these portfolios of the life of the mother, a jury composed of leaders in religion, education, business, government and child rearing select the 1995 Tennessee Mother of the Year, who then represents Tennessee in Nebraska at the American Mothers Annual Conference in April.

"It's hard to believe I was chosen for this," Sweatt said. "To say the least, I'm deeply honored and very happy.

"I'll do my best to represent the state of Tennessee as Mother of the Year," she said. "I hope and pray I'll represent the state in a positive manner and carry out the purpose of American Mothers, Inc."

Sweatt said she's looking forward to going to Nebraska at the end of April for the national conference.

At the conference, the American Mother of the Year will be announced from all the portfolios of the mothers representing each state and from the appearance and personality of each mother there.

Sweatt is the sixth Mother of the Year who has come from the Athens area. The only city in the state that has more is Memphis, said Peggy Arterburn, president and CEO of the Athens Area Chamber of Commerce. Athens and Knoxville now are tied at the same number.

"We are fortunate to have Mrs. Sweatt selected to join with five former Athens honorees, Mary Anne Long, Dixie Liner, Mary Jane Hewgley, Grace Webb and Jean Edgar," Arterburn said.

A Tennessee Mothers Honor Luncheon will be held April 18 in Athens, hosted by the Athens Area Chamber of Commerce and First Baptist Church, honoring the new 1995 Mother of the Year and Merit Mothers also selected.

The state chairman for the mother of the year committee will be at the luncheon, as well as Merit Mothers (runners-up), past mothers of the year, the state's Young Mother of the Year, and special friends of Sweatt's.

The city, the state legislature and the governor's office will be presenting Sweatt with proclamations.

"This is a real honor for her and we want to make this special for her," Arterburn said. "This is certainly an honor for the Athens Area Chamber of Commerce and also our community."

Arterburn said each mother of the year is special and deserves recognition.

"We are very honored that we're always able to submit these great portfolios of local mothers," Arterburn said. "There are very competitive nominations from other parts of the state and it is a great honor for us to say the state mother of the year is also the Athens mother of the year."

It takes a lot of work on behalf of the Mother of the Year Committee, she said. There is also a lot of written materials the recipient has to get together for her portfolio that has to be submitted.

"There is a lot of work for a lot of people in order for this to happen," Arterburn said. "But we're always willing to do the work when we have the positive results we've had."

Sweatt expressed her appreciation to the Chamber of Commerce for its support.

"I'm so grateful we have an ever wonderful Chamber of Commerce," Sweatt said. "They do so much hard work to provide us with the services they provide.

"I just want to thank all the people who've written letters of recommendation," she said, "and I have to thank my friends and family for their support. I am indeed grateful to them."

HONORING THE GASSAWAY VOLUNTEER FIRE DEPARTMENT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GORDON. Mr. Speaker, I am taking this opportunity to applaud the invaluable services provided by the Gassaway Volunteer Fire Department. These brave, civic minded people give freely of their time so that we may all feel safer at night.

Few realize the depth of training and hard work that goes into being a volunteer firefighter. To quote one of my local volunteers, "These firemen must have an overwhelming desire to do for others while expecting nothing in return."

Preparation includes twice-monthly training programs in which they have live drills, study the latest videos featuring the latest in firefighting tactics, as well as attend seminars where they can obtain the knowledge they need to save lives. Within a year of becoming a volunteer firefighter, most attend the Tennessee Fire Training School in Murfreesboro where they undergo further, intensified training.

When the residents of my district go to bed at night, they know that should disaster strike and their home catch fire, well-trained and qualified volunteer fire departments are ready and willing to give so graciously and generously of themselves. This peace of mind should not be taken for granted.

By selflessly giving of themselves, they ensure a safer future for us all. We owe these volunteer fire departments a debt of gratitude for their service and sacrifice.

EXPOSING THE HARMFUL EFFECTS OF ALCOHOL ADVERTISING ON CHILDREN

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. KENNEDY of Massachusetts. Mr. Speaker, ask a child what these frogs say. Most of the fifth graders who were recently surveyed answered, "Bud-Weis-Er."

The California-based Center on Alcohol Advertising is releasing a study today that exposes the harmful effects of alcohol advertising on children. In this study, 221 fourth and fifth grade students were shown still, color images of characters from TV, including a picture of the frogs from a Budweiser television commercial. The students were asked to recall the slogan that they associated with each pictured character.

The results of the survey are astounding. The children demonstrated better recall of the Budweiser frogs' slogan, with 73 percent responding, "Bud-Weis-Er," than of the slogans associated with other characters, including Tony the Tiger, Smokey Bear, and Mighty Morphin Power Rangers. Only Bugs Bunny elicited more accurate responses, with 80 percent saying, "Eh, what's up Doc?"

What's more, 81 percent of the children identified beer as the product promoted by the frogs. Why is this dangerous, you ask? If you think children don't drink beer, listen up: The inspector general estimates that junior high and high school students consume 1.1 billion cans of beer each year. Based on Anheuser-Busch's market share, these students purchase more than 70 million six-packs of Budweiser and other Anheuser-Busch products, producing revenues of more than $200 million. Without question, these commercials influence our childrens' choices.

A 1991 alcohol-industry-funded poll found that 73 percent of the population believe that alcohol advertising is a major contributor to underage drinking, and a majority believe that the alcohol industry is on the wrong track in part because its advertisements target the young.

I will soon be introducing legislation that deals with a variety of alcohol abuse prevention issues, including the problem of alcohol advertising that appeals to children. I hope my colleagues will consider joining me in this effort.

Today is the annual Anheuser-Busch shareholders meeting. A group of shareholders for advertising reform have introduced a proposal requiring the company to produce a beer marketing report that analyzes the effects of their company's commercials on children. I certainly hope that the shareholders do the responsible thing today and vote to accept this proposal.

NATIONAL PUERTO RICAN AFFIRMATION DAY

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. SERRANO. Mr. Speaker, National Puerto Rican Affirmation Day was held on March 29, 1996, and I would like to share with my colleagues the remarks I made at the Vietnam Veterans Memorial.

Ladies and gentlemen. We are here today in front of one of the most emotional tributes that Americans have erected to our soldiers. It is the Vietnam Veterans Memorial in honor of the thousands of men and women who served and lost their lives in the service of this nation.

On a day just like today, thousands of Puerto Ricans and Hispanics were called to serve in the Vietnam war and to fight as part of the American forces. When they were called to duty, Puerto Ricans were ready to serve valiantly.

What many people do not know and many history books do not tell us is that Puerto Ricans have fought in all foreign wars that this country has been involved in, from the War of Independence and World War I and II, to most recently, the Persian Gulf War, and the current peace keeping effort in Bosnia.

Puerto Ricans fought alongside a military force of Cuban, Mexican Indian, mulatto and

Mestizo soldiers in what is now Louisiana during the War of Independence. In the Korean War, the 65th Infantry Regiment of Puerto Rico fought bravely, and to honor them, a highway in Puerto Rico was named after the regiment. Today, I have cosponsored two pieces of legislation introduced by Congresswoman NYDIA VELÁZQUEZ, which would commemorate the heroic efforts of the 65th Infantry Regiment of Puerto Rico. One of the bills would authorize the minting of a coin and the second one would recognize the regiment with a plaque to be placed at the Korean War Veterans Memorial.

During the Persian Gulf War, as in many other wars, Puerto Ricans were among the first to be sent to fight and among the last to leave. Former Bronx residents Capt. Manuel Rivera and Marine Cpl. Ismael Cotto were both killed in action in the Persian Gulf. Like many other Puerto Ricans who continue to join the service, both had entered military life with the hope of advancing themselves and improving the quality of life for their families. How very sad that they found death where they had once hoped to improve their lives.

If you glance at the Vietnam Veterans Memorial you will be surprised to see many last names and first names in Spanish that are carved on the wall. You will find Diaz, Rodriguez, Gonzalez, Cruz and many other names. These are the Hispanic soldiers, thousands of them Puerto Ricans, that gave their lives without hesitation in defense of what this Nation stands for.

No one asked if these Puerto Rican soldiers who were drafted had a proficient knowledge of English. They were sent to South Vietnam along with other Americans to fight.

Among the many who fought in Vietnam we know the story of U.S. Army Capt. Euripides Rubio. He was born in Ponce, PR and entered service at Fort Buchanan. While in Vietnam, Capt. Rubio left a safe position to aid the wounded during a massive attack. He had been wounded several times when he noticed a grenade which had fallen dangerously close. As he ran to throw the grenade back to the enemy he was killed.

Another Puerto Rican hero, Hector Santiago-Colon entered service in New York as a specialist fourth class in the U.S. Army. While serving in Vietnam, Santiago alerted his comrades to an approaching attack by the enemy. Suddenly fire broke out and his comrades tried to defend their position. An enemy soldier crawled close to Santiago's foxhole and dropped a grenade. Knowing that there was no time to throw the grenade, Santiago tucked it in close to his stomach and took the full impact of the blast.

These courageous Puerto Rican men fought at the risk of their own lives above and beyond the call of duty in defense of this Nation.

More than 200,000 Puerto Ricans have served in U.S. foreign wars and thousands have died fighting. Many made it back home but have lived their lives scarred from wounds and from the brutal images that are intrinsic to any military aggression.

We gather here today in front of this memorial to honor the men and women who at a given moment in the history of this Nation have worn the uniform of military service, whether in peace time or during war. On a peace keeping mission, or in wars, or in so-called police actions they served with courage, honor, and distinction.

The emotional stress of the military has affected all of our soldiers, and more intensely Puerto Rican soldiers from rural areas. Puerto Rican soldiers had to cope with military training, discrimination in the military, often not understanding the English language, being away from the familiar, and lastly the brutal experience of the battlefield.

In addition, a disproportionate number of Puerto Rican soldiers were exposed to the violence of war and still suffer from post-traumatic stress disorder. This long-term mental illness has prevented them from being able to hold jobs, acquire housing, and live normal lives.

Puerto Rican veterans have been advocating their needs in the public arena for more than 20 years, but not much has been accomplished. They need the help of Congress and the White House to improve their lives. On this National Puerto Rican Affirmation Day, they will make their voices heard and we will try to find solutions to their health and socio-economic problems.

Despite the existence of current veteran programs, many of them have failed to provide adequate health services and employment opportunities. In addition, lack of information, often unavailable in Spanish, has prevented Puerto Rican veterans from participating in these programs.

Puerto Rican veterans need access to a health care system that is culturally sensitive and appropriate to their needs. They also need job training programs that would successfully prepare them to hold a job in the workplace and to develop their careers.

Many Puerto Rican veterans have expressed their desire to buy homes and to own businesses. We need to expand the availability of low interest loans for small businesses and home ownership to minority veterans. We also need to develop programs that would effectively incorporate health, housing, and employment services to assist homeless veterans.

Puerto Rican veterans are eager to enjoy healthy and productive lives with their loved ones. We owe our veterans the opportunity to participate fully in society and to successfully reestablish their lives. United we can bring about positive change through social and economic justice.

We live in a society that has always honored those who have served this country. It is for that reason that today we will recognize the contributions of Puerto Rican men and women who have served in our Armed Forces. In whatever capacity they served, let us today reaffirm our desire never to forget their contributions to this country's military agenda and the missions that were assigned to them.

Puerto Ricans have contributed to the fabric of this Nation in all areas, from science and the military, to the arts and public policy. I would like to ask you to join me in thanking in particular the veterans that have come from all parts of the country and from Puerto Rico to be here with us, reaffirm our rights as Puerto Ricans and to show their support to this National Puerto Rican Reaffirmation Day.

PROFESSOR DONALD E. PIENKOS 1996 POLISH HERITAGE AWARD RECIPIENT

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. KLECZKA. Mr. Speaker, I rise today to congratulate my friend Prof. Donald Pienkos on receiving the Pulaski Council of Milwaukee's 1996 Polish Heritage Award.

I can think of few people who have dedicated so much of their time, talents, and energy to the study and promotion of our Polish-American heritage. Professor Pienkos, through his outstanding work as a scholar, educator, author, and activist has done much to ensure that the life-long efforts of those members of our Polish-American community who have gone before us will be long remembered.

Professor Pienkos is the author of several books including "PNA: Centennial History of the Polish National Alliance," "One Hundred Years Young: A History of the Polish Falcons of America," and "For Your Efforts on Poland's Behalf." These outstanding works provide us with a detailed and lasting account of the Polish-American peoples' ongoing efforts to improve the quality of life for Poles in the United States and in Poland.

As a professor of political science at the University of Wisconsin-Milwaukee, Donald Pienkos has dedicated his professional career to the study and teaching of Eastern European politics and government. Throughout the whirlwind of change which has taken place in Eastern Europe during recent years, Professor Pienkos has served as an invaluable source of information and insight not only to the students of UWM, but to our entire community.

Donald Pienkos also plays an active and leading role in a number of Polish-American organizations and has helped to shape the course and direction which these organizations have taken. Don has served as a national director of the Polish National Alliance and is also past president of the Wisconsin State Division of the Polish American Congress. Through his involvement in organizations such as these, Professor Pienkos has worked hard to ensure that our Nation's rich Polish-American heritage will remain alive and vibrant for years to come.

Mr. Speaker, I commend Don Pienkos on his worthwhile and outstanding work and congratulate him on receiving the 1996 Polish Heritage Award. I wish him continued success for years to come. Sto Lat!

HONORING THE EAST SIDE VOLUNTEER FIRE DEPARTMENT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GORDON. Mr. Speaker, I am taking this opportunity to applaud the invaluable services provided by the East Side Volunteer Fire Department. These brave, civic-minded people give freely of their time so that we may all feel safer at night.

Few realize the depth of training and hard work that goes into being a volunteer firefighter. To quote one of my local volunteers, "These firemen must have an overwhelming desire to do for others while expecting nothing in return."

Preparation includes twice-monthly training programs in which they have live drills, study the latest videos featuring the latest in firefighting tactics, as well as attend seminars where they can obtain the knowledge they need to save lives. Within a year of becoming a volunteer firefighter, most attend the Tennessee Fire Training School in Murfreesboro where they undergo further, intensified training.

When the residents of my district go to bed at night, they know that should disaster strike and their home catch fire, well-trained and qualified volunteer fire departments are ready and willing to give so graciously and generously of themselves. This peace of mind should not be taken for granted.

By selflessly giving of themselves, they ensure a safer future for us all. We owe these volunteer fire departments a debt of gratitude for their service and sacrifice.

TRIBUTE TO LINDA MARIE JONES

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. JACOBS. Mr. Speaker, this is the Indianapolis Star obituary of Linda Marie Jones who left this world on the 13th day of April last—at least for her. The world should know why she lead the effort for racial integration of a swimming club in Indianapolis.

Linda Jones was Africa-American. Her son and his friends were thoroughly racially integrated.

Years ago her son's friend who was of European descent took her son as a guest to the swimming club. Her son was refused admittance because he was an American of African descent. So the boys went to the nearby river to swim and her son drowned. "All these things she kept within her heart." And on that thirteenth day of April 1996, in the words of my wife, "Linda Marie Jones died of and with a broken heart." She was our loving neighbor. Our hearts go out to her husband, Don, one of the most remarkably successful businessmen of our era. May God have mercy on those who perpetrated this egregious and un-American wrong.

[The Star, Apr. 16, 1996]

LINDA MARIE JONES HELPED INTEGRATE RIVIERA CLUB, BOOSTED CHESS TEAM

Services for Linda Marie Young Jones, 56, Indianapolis, event coordinator for the Indiana Regional Minority Supplier Developmental Council [IRMSDC], will be at noon April 17 in Witherspoon Presbyterian Church, of which she was a member, with calling there from 10 a.m.

She died April 13.

Most recently, Mrs. Jones worked with her husband, Donald E. Jones, who survives, as event coordinator for IRMSDC. Previously, she founded and co-owned Systems Consultants, and worked for M. W. Jones and Sons Realty Co.

She headed a successful effort to integrate the Riviera Club in 1980 and was instrumental in organizing a rally on Monument Circle in celebration of apartheid opponent Nelson Mandela's release from a South African prison in 1990.

In 1984, Mrs. Jones received recognition from then-Mayor William H. Hudnut III for her leadership in securing sponsorship for the Masters of Disaster grade school chess team.

Memorial contributions may be made to the Dwight Jones Memorial Fund in care of Tabernacle Presbyterian Church, Tabernacle Recreation Fund.

She was a 1983 graduate of Butler University.

Other survivors: grandmother Marie Suggs. Stuart Mortuary is handling arrangements.

YELLOWSTONE RIVER VALLEY AND SOUTHWEST MONTANA HERITAGE AND RECREATION AREA

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. WILLIAMS. Mr. Speaker, today I am introducing two legislative initiatives to designate locations in Montana as National Heritage areas under the National Heritage Area Partnership Program.

The first bill proposes to establish the Yellowstone River Valley National Heritage Area which will encompass the Yellowstone region from the headwaters of the Yellowstone River in Yellowstone National Park to the confluence of the Yellowstone and Missouri River in North Dakota. As the last major free-flowing river in the United States, the Yellowstone River Valley is a region steeped in history, rich in cultural diversity and patterned with a western landscape of fertile valleys, high plains and the Rocky Mountains.

The Yellowstone River Valley includes Yellowstone National Park,—a United Nations Education and Scientific Organization World Heritage site due to its importance as a resource with global significance—Fort Union Trading Post, Pompeys Pillar the Lewis and Clark Expedition Trail, the Battle of the Little Big Horn, Northern Pacific Railway Company Line, the Lower Yellowstone Irrigation Project, the Huntley Irrigation Project Chief Joseph Trail, the Crow and Northern Cheyenne Reservations and finally the Yellowtail Dam.

The National Heritage Partnership Program will provide a framework which will enable local communities to capitalize on their heritage and expand their economic base. Through collaboration with interpretation, preservation and marketing, communities in the Yellowstone Valley they will have opportunities to form alliances and partnerships among local, State, Federal and private entities. By sharing resources, transcending political boundaries and establishing creative initiatives, citizens in the Yellowstone Valley will have the ability to develop positive social and economic benefits of cultural and recreational tourism.

The second bill proposes to establish the Southwest Montana Heritage and Recreation Area which encompasses the area located along the Continental divide in Southwest Montana and is traversed by Interstates 90 and 15, one of Montana's most important tourism routes. in 1993 this constituted some 3 million vacationers indicating the potential economic impact of tourism of the region. The region is further characterized by a variety of tourism based activities including museums, historic sites, resorts and four season recreation opportunities. Small communities and towns under 5,000 predominantly serve both residents and visitors to this region. The city of Butte is the largest city—35,000—in the corridor.

The concept for the Southwest Montana Heritage and Recreation Area anticipates capital improvements of approximately $40 million to $60 million in interpretive and recreation infrastructure and $20 million to $30 million in tour routes, byways and trailways. At maturity in 10 to 15 years, the Southwest Montana Heritage and Recreation Area could be generating approximately $8 to $13 million in direct program maintenance and operating expenditures annually.

The Southwest Montana Heritage and Recreation Area creates a tourism infrastructure that will foster increased visitation while addressing the objectives, needs and concerns of local communities. Area businesses and residents would be encouraged to provide attractions and services to visitors through technical assistance and incentive programs.

The economic impact on the region could be substantial. When the Southwest Montana Heritage and Recreation Area reaches maturity in 15 years, an estimated 2.7 million additional travelers will be visiting sites, recreating and using services. Based on visitor expenditure estimates it can be estimated that direct annual visitor expenditure's could total an additional $170 million at project maturity. Combined with indirect expenditures a total economic impact of $260 million annually.

INTRODUCTION OF THE PUBLIC EMPLOYEE RETIREMENT SECURITY ACT OF 1996

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. VENTO. Mr. Speaker, workers in all sectors of the economy are feeling the pressure of economic changes and the concerns associated with planning for retirement. I am introducing legislation, The Public Employee Retirement Security Act of 1996, to update the retirement plans for public sector workers, giving them improved options and more security for their pensions.

Private sector 401(k) plans have benefited from improvements and updates over the years. The equivalent public sector plans, called 457 plans, have not kept pace with the necessary changes to such retirement-savings vehicles. My bill improves the public-sector plans and the rules that govern them.

Currently these 457 plans cap annual employee contributions to a set maximum limit of $7,500. My legislation would index this limit to inflation, as it is for 401(k) plans, increasing the ability of these workers to meet their retirement needs.

The bill also increases the flexibility of these governmental plans by allowing accounts that are inactive for at least 2 years and contain less than $3,500 to be cashed-out by the employee. Such a distribution would allow the employee with a changed life situation to access the funds, subject to normal taxation, and reduce the employer's costs of maintaining these dormant accounts. An employee could also alter the time when retirement benefits should begin. This provision recognizes that some public-sector employees, like firefighters and police officers, may retire early and move on to different careers. Altering the date when benefit distributions must occur gives these workers flexibility in their retirement.

The safety of governmental plans is also strengthened by this legislation. Currently employee accounts under 457 plans are the property of the employer and therefore subject to claims by creditors. The financial crisis in Orange County, CA highlighted this risk to governmental pensions. My bill would rectify this situation by placing 457 accounts into trusts, like 401(k) plans, maintaining them for the benefit of the employees. The accounts would be shielded from claims by an employer's creditors and others.

The bill improves the operation of government plans by enhancing their ability to maintain tax-exempt status. The rules governing pension plans limit the amounts paid out to prevent taxpayer subsidy of overly generous benefits. While geared toward benefits paid to top corporate executives, these limitations are also applied to governmental plans. Unfortunately, these limitations do not take into account the design and operation differences between public and private pensions. Some governmental pensions are designed to offer higher compensation to long-tenured, but low paid workers, or include special accounting of disability and survivor benefits, leading to violation of the pension limitations and endangering the plan's tax-exempt status. If this status is revoked, the benefits paid by such plans would be much smaller than otherwise. To prevent this, my bill lifts such restrictions on governmental pensions, allowing continuation of the special nature of these pensions without threatening their tax status.

This measure is key for public sector employees. Like those in the private sector, they need a reliable, safe retirement system and the flexibility to plan for retirement. My legislation provides the necessary changes to provide this security and flexibility. I urge my colleagues to join me by cosponsoring this legislation.

TRIBUTE TO TUFTS UNIVERSITY TUFTONIA'S DAY 1996

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. MARKEY. Mr. Speaker, I rise today to recognize Tufts University in Medford, MA and to honor its 88,000 plus alumni on the occasion of the 12th annual celebration of Tuftonia's Day.

On April 21, Tufts students, alumni, professors, administrators, and parents gathered on its campuses in Medford, Boston, and Grafton, MA and around the country and world to observe Tuftonia's Day, a holiday that is dedicated to celebrating the achievements of the Tufts community. This day derives its name from the title of the revered Tufts football fight song written by E.W. Hayes, class of 1916. Tufts University is a world class institution of higher education that was founded in 1852 by Charles Tufts. From the undergraduate through the professional degree level Tufts University instills in its students the importance of volunteerism and the need to give something back to one's local community.

The theme of this year's Tuftonia's Day was TuftServe, which focused on volunteer alumni involvement in community service. Last year, Tufts University alumni recorded more than 19,000 volunteer hours of community service. This is an outstanding record that should serve as an inspiration to us all. I congratulate the alumni of Tufts University for their hard work, their dedication and their loyalty.

HONORING THE GASSAWAY VOLUNTEER FIRE DEPARTMENT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GORDON. Mr. Speaker, I am taking this opportunity to applaud the invaluable services provided by the Gassaway Volunteer Fire Department. These brave, civic minded people give freely of their time so that we may all feel safer at night.

Few realize the depth of training and hard work that goes into being a volunteer firefighter. To quote one of my local volunteers, "These firemen must have an overwhelming desire to do for others while expecting nothing in return."

Preparation includes twice-monthly training programs in which they have live drills, study the latest videos featuring the latest in firefighting tactics, as well as attend seminars where they can obtain the knowledge they need to save lives. Within a year of becoming a volunteer firefighter, most attend the Tennessee Fire Training School in Murfreesboro where they undergo further, intensified training.

When the residents of my district go to bed at night, they know that should disaster strike and their home catch fire, well-trained and qualified volunteer fire departments are ready and willing to give so graciously and generously of themselves. This peace of mind should not be taken for granted.

By selflessly giving of themselves, they ensure a safer future for us all. We owe these volunteer fire departments a debt of gratitude for their service and sacrifice.

THE IMPORTANCE OF MUSIC EDUCATION IN CHILDHOOD DEVELOPMENT

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. CLEMENT. Mr. Speaker, I rise today to talk about the important link between music and the brain—more specifically, how music makes us smarter. This is a timely subject as States and localities throughout the country are evaluating and reforming their education systems, and as we, at the Federal level, are determining funding priorities for education programs. In each case, the goal will be to ensure the highest academic achievement. Music is essential for making that goal a reality.

My hometown of Nashville, TN, is known as Music City, USA. Nashvillians are exposed to all types of music every day, and consequently, we have an inherent sense of the beneficial and profound impact that music has on our lives. But the impact extends far beyond making us feel good. We now have scientific evidence that instructing children in music leads to dramatically improved math and complex reasoning skills, in addition to the discipline and sense of self worth that we all know music provides. This research is described in the February 19, 1996, issue of Newsweek magazine. I recommend the article to parents, educators, Members of Congress, and anyone else who cares about the education and development of our children.

TRAVEL AND TOURISM PARTNERSHIP ACT

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. ROTH. Mr. Speaker, I am very pleased to report that today H.R. 2579, the Travel and Tourism Partnership Act, has 226 cosponsors—a majority of the House of Representatives.

Two hundred twenty-six Members of the House understand that travel and tourism means economic prosperity for millions of Americans.

Two hundred twenty-six Members understand that the travel and tourism industry is the first, second, or third largest employer in every congressional district in America.

Natiowide, the industry employs over 13 million people. That translates to one out of every nine Americans.

Mr. Speaker, last week you and I and millions of other Americans wrote out a check to the government and paid our taxes.

Thanks to the travel and tourism industry—the second largest industry in the Nation—you and I and every household in the United States paid $652 less on their tax bill.

That's because the travel and tourism industry puts $54 billion into the U.S. Treasury in the way of tax revenue.

Ironically, last week, on April 15, the U.S. Travel and Tourism Administration was forced to close its doors forever.

Closing USTTA means U.S. tourism promotion efforts drop to zero.

That's why H.R. 2579 is so important. The Travel and Tourism Partnership Act will make sure that in this $3.4-trillion industry, the United States claims its fair share of the pie.

According to futurist John Naisbitt, three industries will drive the global economy of the 21st century: telecommunications, information technology, and travel and tourism.

With the Travel and Tourism Partnership Act, we now have the chance to reshape our approach and our economic future with this monumental industry.

You've all heard the statistics before:

First, tourism employs 204 million people worldwide: almost as many people as we have living in the U.S., minus California. That equals 10 percent of the global workforce. And in the United States alone, travel and tourism accounts for one out of every nine employees.

Second, tourism produces $655 billion dollars in Federal, State, and local tax revenue.

Third, more than 10 percent of all capital investment worldwide goes into travel and tourism. Maybe that's why travel and tourism is growing 23 percent faster than the world economy.

However, in this vastly growing market, 2 million fewer visitors came to the United States last year. That's a 19 percent decrease.

H.R. 2579 addresses this critical problem of declining U.S. market share.

In a $300 billion international travel market, the United States of America should not be getting the short end of the stick.

Why is the U.S. losing ground?

The major reason for this slippage is that we are being out-classed and out-hustled by other nations' tourism promotion campaigns.

And, as I said before, when USTTA closed its doors on April 15, U.S. tourism promotion efforts plummeted to zero.

It's time to turn this situation around.

We're losing jobs.

We lost 177,000 jobs in the past 3 years to countries who are willing to promote tourism.

H.R. 2579 is the blueprint we need to increase our market share and save those jobs.

This 226 Member bipartisan bill will establish a ground-breaking cooperative effort between the tourism industry and the U.S. Government to promote of international travel to the United States.

This plan allows the United States to compete globally for tourism dollars against countries like Canada, Germany, Spain, and Australia.

Even small countries like Malaysia and Tunisia have been spending more than the United States year after year.

In the next 5 years, there will be an increase of some 50 million travelers worldwide.

This could mean tens of thousands of new jobs for American workers. But not if we in Congress don't have the foresight to take advantage of this remarkable opportunity.

That is precisely why, as chairman of the 304-member Travel and Tourism Caucus—the largest caucus in Congress, I introduced the Travel and Tourism Partnership Act.

It's time to take a bold new approach to our economic future.

Rather than creating another government-run program, this bill designs a partnership between the tourism industry and the public sector to devise and carry out a more effective marketing plan.

H.R. 2579 is vital to the United States.

This is a job-creating bill.

All over the world, and particularly in the United States, travel and tourism is the predominant industry for the jobs our people need.

With all this potential, the United States is losing its market share of travel and tourism in a growing market.

With one out of every nine American workers employed by travel and tourism, we can't afford not to take action.

I urge you to join the 226 Members who have already co-sponsored the Travel and Tourism Partnership Act.

Join us and get involved in the blockbuster industry of the 1990's and the 21st Century.

THE TRAVEL AND TOURISM PARTNERSHIP ACT OF 1995

(By Congressman Toby Roth)

FACTSHEET

Implements a central recommendation of the White House Conference on Travel and Tourism.

Forms a "public-private partnership" between the travel/tourism industry and the federal government to strengthen the promotion of international travel to the U.S.

Establishes a 36-member National Tourism Board (75% private sector)—to advise the President and Congress on policies to improve the competitiveness of the U.S. travel and tourism industry in global markets; appointed by the President with the advice of the travel and tourism industry

Establishes a National Tourism Organization as a not-for-profit corporation under federal charter—to implement the tourism promotion strategy developed by the national Tourism Board; to develop and operate a marketing plan in partnership with U.S. travel and tourism firms to increase the U.S. market share of the world travel market; governed by a 45-member board of directors, reflecting the breadth of the travel and tourism industry; board of directors develops a plan for a long-term financing; interim funding from industry; data and staff resources provided by federal government.

Requires federal agencies and U.S.C. overseas missions to cooperate in implementing promotion strategy developed by National Tourism Board.

THE RETIREMENT OF DEXTER MAYOR WILLIS CONNER

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. EMERSON. Mr. Speaker, I rise today to bring to this country's attention the retirement of a civic servant in my southeast Missouri congressional district. The Honorable Mayor Willis Conner of Dexter, MO, will be turning over his gavel on May 6, 1996.

A reason I feel compelled to mention Mayor Conner's retirement is that his life embodies the very meaning of community service. When he does step down, he will have served the city of Dexter as its chief elected officer for 30 straight years. All told, he has served our southeast Missouri region for nearly half this century—48 years to be exact including Democrat committeeman, Liberty Township collector, Stoddard County public administrator, and city of Dexter Ward I alderman. In fact, Mayor Conner was recently named this year's recipient of the Missouri Municipal League's [MML] highest honor. It named him the State's current or former municipal official who has made outstanding contributions and leadership to the MML.

In a position that isn't supposed to be a full-time job, Mayor Conner has always faithfully and diligently served his community while also delicately balancing his needs at home and at his paid occupation in real estate and insurance.

As the Eighth District's Congressman, I have had the personal privilege and high honor of working with Mayor Conner on a number of initiatives over the years. One of the most notable is the four-laning of Highway 60 which provides an East-West link through the southern part of the State. Mayor Conner joined me as a visionary who could see the direct benefits of improving our region's transportation infrastructure. He well understood that once we improved our roads and bridges more folks, more businesses, and more industries would be attracted to our region. Mayor Conner is one of those civic leaders who steadfastly supported important efforts such as the Highway 60 project to directly link Dexter, Stoddard County, and southeast Missouri to other reaches in the United States and the globe. From day one, Mayor Conner has helped to improve the quality of life for folks today and in generations to come.

As I close, I again want to bring to the rest of America's attention how impressive and remarkable Mayor Conner is as a person and as a pillar of is community. Thirty years in any job, elected or unelected, is a Herculean undertaking, let alone nearly a half-century of public service. The city of Dexter, Stoddard County, and the State of Missouri will certainly miss his leadership as Mayor; however, I truly believe, even in his so-called retirement, Mayor Conner will still be active and provide guidance, strength, and energy to overcome future hurdles. I am proud and honored to say thank you to Mayor Conner on behalf of his constituents, all Missourians, and our great country in general.

ALLIANCE FOR THE CHESAPEAKE BAY

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. CARDIN. Mr. Speaker, I rise today to pay special tribute to the Alliance for the Chesapeake Bay, an environmental organization concerned with cleaning up and preserving Maryland's greatest environmental treasure, the Chesapeake Bay.

It was most appropriate that on Monday, Earth Day, we turned our attention to the fine job done by the Alliance for the Chesapeake Bay. The Bay is a national resource that has a profound effect on much of the east coast.

Its 64,000-square mile drainage basin—from the Finger Lakes in New York to the Ports of Baltimore and Hampton Roads—provides millions of us with food, energy, recreation, and water.

Since its inception in 1971, the alliance has been dedicated to creating a healthier, cleaner Bay. It has proven equal to the task. The alliance's nonadversarial approach has enabled it to work with a wide range of people for a better Bay. Over the years, the alliance has successfully rallied support from the business community, citizens groups, environmentalists, industry, scientists, farmers, sports enthusiasts, and others to preserve and restore the Chesapeake Bay.

The alliance has accomplished its mission by establishing several important programs. The Alliance's Public Policy Program builds consensus on issues that directly affect the Bay. The Information Services Program provides unbiased information about issues. The Watershed Restoration Program gets people involved in hands-on habitat restoration work.

I urge my colleagues to acknowledge the fine work of the Alliance for the Chesapeake Bay and to commit themselves to preserving the important programs that are so vital to the health of the Chesapeake Bay.

HONORING THE MIDWAY VOLUNTEER FIRE DEPARTMENT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GORDON. Mr. Speaker, I am taking this opportunity to applaud the invaluable services provided by the Midway Volunteer Fire Department. These brave, civic minded people give freely of their time so that we may all feel safer at night.

Few realize the depth of training and hard work that goes into being a volunteer firefighter. To quote one of my local volunteers, "These fireman must have an overwhelming desire to do for others while expecting nothing in return."

Preparation includes twice-monthly training programs in which they have live drills, study the latest videos featuring the latest in firefighting tactics, as well as attend seminars where they can obtain the knowledge they need to save lives. Within a year of becoming a volunteer firefighter, most attend the Tennessee Fire Training School in Murfreesboro where they undergo further, intensified training.

When the residents of my district go to bed at night, they know that should disaster strike and their home catch fire, well-trained and qualified volunteer fire departments are ready and willing to give so graciously and generously of themselves. This peace of mind should not be taken for granted.

By selflessly giving of themselves, they ensure a safer future for us all. We owe these volunteer fire departments a debt of gratitude for their service and sacrifice.

IN HONOR OF G. NELSON PERRY OF SCOTLAND, CT

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GEJDENSON. Mr. Speaker, I rise today to honor a public servant of exemplary note and a man whom I am genuinely proud to represent, today and every day, Mr. G. Nelson Perry, former first selectman of Scotland, CT.

In November 1995, G. Nelson Perry completed his 32d consecutive year as the first selectman of the town of Scotland. Nelson is to be honored for his 50 years of distinguished and selfless service to his town, his State, and his country.

Nelson was born in Scotland, CT, in 1916 where as a child he attended elementary school in a two-room schoolhouse and later graduated from Windham High School. Immediately upon graduation, at the tender age of 19, he went to work in Hartford, CT, in the payroll department of Hartford Electric Light Co. where he worked diligently for more than 6 years.

Then came World War II, and like so many men of his generation, Nelson enlisted in the Army to serve his country. He fought and served with distinction in the 3d Army in Europe commanded by General Patton. He fought to liberate Europe from the shores of Normandy all the way to Czechoslovakia.

At home on leave from the Army toward the end of his enlistment, Nelson married Eileen Vennard of Manchester, CT, to whom he has remained married during the 52 years since. As the war ended, he returned to Scotland to farm and began to raise a family with his new bride. And Nelson and Eileen have raised a fine family of four sons and two daughters, all brought up in Scotland and instilled with the values taught by their parents and community. Their 6 children have given Nelson and Eileen the blessing of 17 grandchildren who live in Scotland close to their loving grandparents.

Nelson later moved from agriculture and farming to work as a cost accountant with the Amstar Corp. in Sprauge, CT. He remained with Amstar in that capacity for 17 years.

It was during this period of professional transition that Nelson began to feel an obligation and yearning to give something back to the local community which had been so good to him. And so, in 1951, he was elected to the Scotland Board of Education. And Nelson's constituents were inspired by his service to reelect him to six more 2-year terms, where he served as the board's secretary. In 1955, the Scotland electors elected him a State representative to the Connecticut General Assembly. And in 1963 we urged him to run for first selectman, a position where Nelson has served with distinction ever since.

The hallmarks of Nelson's career in public service have been his defense of the local taxpayer, his sense of bipartisanship, and his desire to remain completely accessible to his constituents.

In the words of one of his friends, Nelson "spends Scotland's money like it was his own." In the process of exercising careful fiscal management of Scotland's finances, Nelson has presided over the building and later expansion of a local elementary school, the fire department has been improved, bridges have been repaired and rebuilt, and Nelson established Scotland's annual Memorial Day celebration which continues today. Nelson has faithfully executed his duties of preparing Scotland's annual budget, issuing permits, producing annual town reports, and many other responsibilities.

G. Nelson Perry has had a remarkable career in public service and is a remarkable citizen of the town of Scotland. It is my honor and pleasure, Mr. Speaker, to share with you and the Members of this House Nelson Perry's achievements, and commend him for a lifetime of personal sacrifice and public service.

VOLUNTEER SPIRIT IS ALIVE AND WELL IN THE CITY OF HOUSTON

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Ms. JACKSON-LEE of Texas. Mr. Speaker, fellow Members of the House I rise today to thank and commend the volunteer work of Madgelean Bush, a friend and constituent of mine from Houston, Texas.

On April 19th, Madgelean Bush was named the recipient of the Joint Action in Community Service National Volunteer of the Year Award for 1996.

The Joint Action in Community Service better known as JACS is a national, nonprofit organization of thousands of volunteers, dedicated to assisting at-risk youths to enter the mainstream of American society. Committed to the key principles of volunteerism and collaboration, JACS has worked for over thirty years with government, business, labor, religious and private organizations to open doors of opportunity for generations of the most disadvantaged young men and women in America.

Nominated for the award by Southwest Regional Director Deloris Kenerson, Ms. Bush was described as "a dedicated, humble, yet dynamic advocate for the Job corps program." Madgelean and her staff have offered assistance to over 2,400 former Job Corps students in their transition from Job Corps training to community readjustment and the world of work."

Ms. Bush also offers the Job Corps students she is assigned the opportunity to take advantage of the benefits and services of the Martin Luther King, Jr. Community Center's half-way house, where she serves as its Executive Director. With management skills to rival any corporate manager, she supervises a staff of 45 and directs a $2.5 million in city, country, State, and Federal funds.

When not helping Job Corps youth, she is busy volunteering for a host of other worthy causes. She is affiliated with numerous civic organizations and has served on a variety of boards with concerns ranging from hunger to health, and from youth issues to those of the aged and disabled. She has contributed over two decades of service to the Houston Inter Faith Hunger Coalition, the Riverside Health

Clinic Advisory Board, Twilight Chapter #393 Order of the Eastern Star Prince Hall Masons, and the Dobson Elementary Advisory Group. She serves as a Precinct Judge, member of the Texas Democratic Executive Committee Precinct #247, and is a member of the United Methodist Church Conference of Church and Society, as well as the Texas Conference of Churches.

Madgelean Bush is the mother of a grown son and daughter.

I would like to thank you Madgelean for making a life long commitment to volunteerism that is a lesson for us all. You have taught me along with many Houstonians that the individual in this diverse and complex society can make a difference.

LOAN GUARANTEES FOR ISRAEL—A GREAT SUCCESS FOR ISRAEL AND U.S. ASSISTANCE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. LANTOS. Mr. Speaker, in this era when trashing government programs seems to be more politically correct than praising government success, it is a pleasure indeed to call attention to a program that has achieved remarkable success. This is the loan guarantee program that was instituted in 1992, under terms of which the United States Government guaranteed loans to the Government of Israel totally $2 billion per year for 5 years.

The funds were provided to assist the Government of Israel deal with the massive influx of 700,000 immigrants from the former Soviet Union and other areas. The United States did not loan the money; it had no other obligation than to co-sign the note and act as an insurer of the loans. There is no risk to the United States, unless Israel defaults on the loans—something Israel has never done on any previous United States loan. The Israelis receive loans at a substantially lower rate of interest, the United States is able to help our only democratic ally in the Middle East, and the United States receives from Israel a $90 million fee each year as a form of insurance against default.

Mr. Speaker, the great success of the loan guarantees is detailed in an excellent article by Douglas M. Bloomfield, which appeared in the April 11 issue of the Washington Jewish Week. Mr. Bloomfield is a former Congressional staffer and a distinguished journalist who has written extensively on Israel and the Middle East. Mr. Speaker, I ask that his analysis of the loan guarantees be placed in the Record, and I urge my colleagues to give thoughtful consideration to this fine report.

[From the Washington Jewish Week, Apr. 11, 1996]

Loan Guarantees an Israeli Success Story

(By Douglas M. Bloomfield)

At a time when it is in vogue to trash government in general and foreign aid in particular, there is a dramatic success story about a program that did everything it was supposed to and then some. The recipient country reaped enormous benefit, and American taxpayers may wind up making a $450 million profit on the deal.

The program is the once-controversial $10 billion loan guarantees for Israel that played such an important role in U.S. and Israeli elections four years ago.

That was when President Bush withheld approval of the guarantees as leverage to pressure Prime Minister Yitzhak Shamir to alter Israeli settlement policies. In the ensuing confrontation between two leaders who didn't like each other very much, bilateral relations plunged.

Shamir turned unsuccessfully to American Jewish activists to get Congress to force Bush to give in. The president denounced the citizen lobbyists and questioned their loyalty as Americans.

Bush won his battle with Shamir over the loan guarantee and, to his satisfaction, Shamir lost the spring, 1992 Israeli elections. Then, to the satisfaction of the overwhelming majority of American Jewish voters, Bush lost the November, 1992 election.

Shamir's losing and bruising public campaign for the guarantees did cost him economically and politically at home. It was considered a major contributor to his own defeat.

Bush's use of the guarantees as a political weapon sent negative signals to the international money markets, said an Israeli economist. "It was tantamount to a no-confidence vote politically and economically," he said, making borrowing more difficult and more costly for Israel.

In a last attempt to salvage some Jewish support for his own reelection effort, and under pressure from the Congress, Bush invited newly-elected Israeli Prime Minister Yitzhak Rabin to Kennebunkport and bestowed upon him the gift of the loan guarantees. It was too late to help Bush, but it did a lot for Israel.

Here's how the guarantees work: The U.S. Government does not actually loan, much less give, any money to Israel; it co-signs or guarantees repayment of a specified amount of Israel borrowing. In this case, the amount was $10 billion in five equal, annual installments. The American guarantees assure lower borrowing rates from international banks for Israel.

Under the deal worked out with the Congress, Israel agreed to pay $90 million a year 4.5 percent of each $2 billion installment; the Bush administration had asked for a prohibitive 13.5 percent fee) to the U.S. Treasury as a form of insurance against default. Only if Israel defaulted—something it has never done on any previous U.S. loan—would American taxpayers ever have to pay anything.

The purpose of the guarantees is to help Israel borrow money at the best possible rate to finance economic expansion associated with the influx of nearly 700,000 new immigrants over the past seven years and the opportunities presented by the peace process. The money raised could only be used for investment and infrastructure, not the general government budget.

Although often misrepresented as housing guarantees for new immigrants, there never was any intention to use the money for the government to build houses or directly the newcomers. There is a separate $80 million annual U.S. refugee aid program for that.

Now in its fourth year, the program is widely considered a major success. American taxpayers are getting their $90 million annual "insurance premiums," trade between the two countries has increased more than 40 percent, and the program is doing just what it was intended to do. A Washington rarity.

The humanitarian objective of immigrant absorption is being achieved, and it is being done through the private sector, not by government-created jobs and housing projects, as in the past. In addition, the government is fulfilling its 1992 commitment to the U.S. government to accelerate deregulation, privatization of government-owned corporations and economic reforms began in the 1980s with prodding and assistance from the Reagan administration.

The guaranteed loans supply Israel with affordable foreign currency. An expanding economy that is absorbing new immigrants has to increase imports faster than exports, and it needs dollars to pay for that because the shekel is not a convertible currency. With the guarantees the Bank of Israel can borrow enough dollars to exchange for shekels from Israeli businesses making those foreign purchases.

The resultant strength of the economy can be seen in a few statistics:

Unemployment is down from 11 percent four years ago to six percent, the lowest level in more than a decade. For new immigrants, it dropped from about 25 percent to six percent.

Gross Domestic Product grew seven percent last year in real terms, up more than 40 percent since 1990.

Private sector growth is up eight percent for each of the past two years in real terms and 50 percent since 1990.

Inflation has dropped from 18 percent in 1991 to eight percent today.

90 percent of the jobs created in the last several years have been in the private sector.

The loan guarantees gave the Israeli economy an intended boost, and achieved the goals U.S. and Israeli policy makers sought. But will the economy cool off and go into a slump after the five-year program expires in 1997?

Not likely, says Ohad Marani, the minister for financial affairs in the Israeli embassy in Washington. About four months ago the Israeli treasury decided to test the waters by floating a bond issue on Wall Street in dollars without any American government guarantees or involvement.

The $250-million issue, known as Yankee bonds, was oversubscribed and Israel got a very favorable interest rate, demonstrating the government can raise money without American guarantees, he said. Marani attributed the success to Israel's strong economy, a favorable standing with Standard & Poors and other rating services and increased regional stability as a result of the peace process. A similar bond sale is planned in Europe next month.

"The guarantees gave Israel the confidence it had enough currency to absorb the new immigrants," said Dan Halperin, the Israeli Treasury's top official in Washington in the 1980's "and the Yankee bonds prove that today Israel can slowly begin raising money on its own credit."

CATHOLICS SUPPORT FOREIGN AID BILL

HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. CALLAHAN. Mr. Speaker, I rise to discuss the reasons Catholic Americans should support the Republican approach to foreign assistance funding.

The most obvious Catholic concern on foreign policy relates to U.S. taxpayer funding of abortion overseas. Our foreign operations appropriations bill last year was held up for nearly 6 months because of disagreements on funding for abortion. The Smith-Callahan amendment sought to approach reinstatement of the Mexico City policy that provided not taxpayer dollars would go to any organization that used any funding source to perform abortions.

Our bill also tried to strengthen restrictions against the U.N. Fund for Population Activities [UNFPA]. Specifically, we would prohibit the use of any American tax dollars provided to this organization that would support population programs in China. There is virtually no argument that Chinese policy promotes abortion and even coerced abortion and coerced sterilization as birth control measures. Under Republican foreign policy, this will not be tolerated.

The foreign operations appropriations bill also established child survival as a separate priority and provided $484 million for child survival and disease programs. Our intent is to protect the most vulnerable in the world society through a variety of programs and to make sure these funds could not be rechanneled to less critical programs. We will continue this initiative in the fiscal year 1997 bill.

Finally, our bill provided funding for the Fund for Ireland to help the peace process succeed through economic development. American Catholics have a special interest in the situation in Northern Ireland and support United States efforts to make the peace process succeed. We were successful in appropriating $19.5 million for the International Fund for Ireland.

As the national debt makes cuts in foreign aid inevitable, we must strive to ensure that limited dollars are spent wisely. Foremost, we must protect U.S. national security. In addition, we must be humanitanan, we must protect the unborn and the innocent, and we must seek to resolve conflict where possible. I think we did a good job last year on these priorities and I am confident we will continue these efforts.

HONORING THE SHORT MOUNTAIN VOLUNTEER DEPARTMENT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GORDON. Mr. Speaker, I am taking this opportunity to applaud the invaluable services provided by the Short Mountain Volunteer Fire Department. These brave, civic minded people give freely of their time so that we may all feel safer at night.

Few realize the depth of training and hard work that goes into being a volunteer firefighter. To quote one of my local volunteers, "These fireman must have an overwhelming desire to do for others while expecting nothing in return."

Preparation includes twice-monthly training programs in which they have live drills, study the latest videos featuring the latest in firefighting tactics, as well as attend seminars where they can obtain the knowledge they need to save lives. Within a year of becoming a volunteer firefighter, most attend the Tennessee Fire Training School in Murfreesboro where they undergo further, intensified training.

When the residents of my district go to bed at night, they know that should disaster strike and their home catch fire, well-trained and qualified volunteer fire departments are ready and willing to give so graciously and generously of themselves. This peace of mind should not be taken for granted.

By selflessly giving of themselves, they ensure a safer future for us all. We owe these volunteer fire departments a debt of gratitude for their service and sacrifice.

DR. FAHMY HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to Dr. Mahmoud H. Fahmy, a distinguished educator and community leader in my Congressional District. Tonight, Dr. Fahmy will be honored for his achievements at a testimonial banquet, and I am pleased to have been asked to participate in this event.

Mahmoud Fahmy was born in Alexandria, Egypt and earned a bachelors degree with honors from Alexandria University. He came to United States to complete his graduate work, earning a masters degree at Columbia University and a doctorate from Syracuse University.

Devoting his life to education, Dr. Fahmy instructed and administered programs in various colleges and universities nationwide, including the New School of Social Research of New York City, Syracuse University, Bucknell University, Bloomsburg University and the University of Pittsburgh. He also served as president of the Pennsylvania Association of Graduate Schools. Dr. Fahmy served as Special Assistant to the President for External Affairs at Wilkes University and held the academic rank of full Professor of Education as well as Dean of Graduate Affairs and Continuing Education. He currently serves as President of the Education and Training Center of Northeastern Pennsylvania.

In addition to his role as an educator, Dr. Fahmy has been a leader and an innovator in other areas of the community. He is currently a member of the advisory board of the Luzerne/Wyoming Counties Mental Health/Mental Retardation Association and chairs its legislative task force and public awareness committee. Dr. Fahmy is also a member of the Ethics Institute of Northeastern Pennsylvania and heads its education subcommittee. In addition, he is a member of the Board of the Economic Development Council of Northeastern Pennsylvania, and is in charge of its International Trade Development Council. Dr. Fahmy helped to establish the Luzerne County Youth and Violence Committee. Recently, Dr. Fahmy was selected by the County Commissioners to serve on the Board of Trustees of Luzerne County Community College where he was later elected chairman.

Internationally, Dr. Fahmy has directed several international educational projects for the U.S. Department of Education and other professional organizations. He is an international education consultant who has performed in various capacities in several foreign countries. He was selected as Citizen Ambassador for the "People to People" program, and served as a delegate to Russia and Czechoslovakia in the area of education organization and teacher education. Recently, he headed a Delegation from Northeastern Pennsylvania to Brazil.

Mr. Speaker, I feel very fortunate to have worked with Dr. Mahmoud Fahmy many times during my tenure in Congress and over the years we have become friends. I am extremely proud to join with his colleagues, family and friends in commending Dr. Fahmy on a lifetime of commitment to his profession and to the betterment of his community.

DOMINIC FRINZI RECIPIENT OF TED MAZZA COMMUNITY SERVICE AWARD, 1996

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. BARRETT of Wisconsin. Mr. Speaker, this Saturday evening, April 27, 1996, the Italian Community Center of Milwaukee will honor Attorney Dominic Frinzi with the Ted Mazza Community Service Award. I join the Italian Community Center in congratulating Mr. Frinzi on this well-deserved recognition.

Milwaukeeans will always remember Dominic Frinzi's quick action to defend the honor of Wisconsin baseball fans. In 1965, when the Milwaukee Braves decided to move to Atlanta, the team wanted to change its name to the Atlanta Braves during its last season in Milwaukee. There was just one problem, there was already a corporation named the Atlanta Braves registered in Wisconsin—courtesy of a certain quick-thinking Milwaukee attorney. Dominic Frinzi prevented the Braves' owners from adding insult to Wisconsin's injury, and earned the recognition of legendary New York Times sportswriter and Wisconsin native, Red Smith.

Wisconsinites are also well acquainted with the slogan "Go with Frinzi—he gets things done!," heard throughout our State during Dominic Frinzi's two bids for Wisconsin Governor. Candidate Frinzi was known for his straightforward answers, colorful quotes, and innovative policy ideas. Though he never found his way to the Governor's mansion, Dominic Frinzi's engaging style and his open relationship with the press drew many independent voters into the electoral process.

Born the son of an Italian immigrant in 1921, Dominic Frinzi was given the middle name Henry in honor of the renowned opera tenor, Enrico Caruso. He has lived up to that name, compiling a world-class collection of opera recordings, teaching the Italian Community Center's opera series and coordinating the Golden Age of Opera exhibit at Milwaukee's Festa Italiana. He also served as national president of UNICO, a nationwide Italian

American civic service organization, and earned its highest honor, the Dr. Anthony P. Vastola Gold Medal Award. Dominic Frinzi is an original member of the Italian Community Center of Milwaukee and serves on its board of directors.

Dominic Frinzi also served as a Milwaukee County Court Commissioner for 40 years and practiced law for 44. His work in the criminal and civil arenas has earned him the respect of the Wisconsin legal community.

Dominic Frinzi's long and distinguished career of public service, his work to expand our community's cultural horizons and his devotion to the Italian-American community exemplify the spirit of the Ted Mazza Community Service Award. I commend the Italian Community Center on an excellent selection, and I congratulate Dominic Frinzi on this well-deserved honor.

IN MEMORY OF GILBERT MURRAY

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. RADANOVICH. Mr. Speaker, today marks the first anniversary of the death of Gilbert Murray, the former president of the California Forestry Association.

Gil was known by all as someone who cared deeply about the outdoors. More specifically, he committed his personal and private life to maintaining the proper balance between protecting nature and developing the natural resources that are necessary to our civilization. He loved the outdoors and passed his appreciation of nature onto his friends and family.

Tragically, 1 year ago an environmental extremist took the life of Gilbert Murray, depriving his family of a loving husband and father. His death was senseless. While claiming to promote the environment, someone took the life of Gilbert Murray, a person who dedicated his career and life to promoting the sensible use of California's forest. As we continue to debate environmental issues in this country, let us remain wary of the arguments of those who are unwilling to accept a reasonable balance between the needs of nature and humans.

Mr. Speaker, I hope that all of my colleagues will join with me today in honoring Gilbert Murray by learning and promoting the ideals that Gil held so close to his heart.

THE LEGACY OF CHERNOBYL

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. BONIOR. Mr. Speaker, it was a silent killer, and people will continue to feel its direct effects well into the next millennium. Millions of lives have been unalterably changed by it. Sickness, death and dispossession arrived, stayed, and have yet to leave.

On April 26, 1986, reactor No. 4 at the Chernobyl Atomic Energy Station ignited, causing an explosion, fire, and partial meltdown of the reactor core. Ten years have now passed since that terrible day. Today, the ghosts of history's worst nuclear disaster can't be avoided in the pines and the farmland, now overgrown, that surround Chernobyl. The city of Pripyat, once housing 40,000, sits empty. Dozens of villages have been abandoned.

The 134,000 people who were evacuated from the area won't be returning to their homes. An area the size of Rhode Island is now a dead zone. The health effects are equally astonishing. Sadly, cancer among children has tripled. Ukraine now has the highest rate of infertility in the world. Birth defects have nearly doubled.

Mr. Speaker, our Government, many charitable organizations, and individuals have contributed to efforts to recover from the disaster. We must continue those efforts, and we must enhance them for the people of Ukraine. Ukraine faces many challenges, not the least of which are the human and economic costs of coping with the effects of Chernobyl.

Today we must pause to remember those who lost their lives and those whose lives were changed forever. We learned many lessons from that tragedy 10 years ago, and now we must move forward and help our friends in Ukraine prepare for the future.

REGULATORY FAIR WARNING ACT

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GEKAS. Mr. Speaker, today I am introducing the Regulatory Fair Warning Act along with 12 cosponsors. This legislation codifies the principles of due process, fair warning and common sense that were always intended to be required by the Administrative Procedure Act [APA]. The bill requires that an agency give the regulated community adequate notice of its interpretation of a rule. Agencies will be deterred from pursuing penalties based on rules or policies which were either unclear or unavailable to the regulated community.

Specifically, the Regulatory Fair Warning Act would prohibit a civil or criminal sanction from being imposed by an agency or court if the agency or court finds that the rule or related policies published in the Federal Register failed to give the defendant fair warning of the required conduct; or the agency or court finds that the defendant, prior to the alleged violation, reasonably and in good faith determined, based upon information publish in the Federal Register or written statements made by an appropriate agency official, that the defendant was in compliance.

In reaching its conclusion regarding this matter, a court could not give deference to an agency's interpretation of a rule which was not timely published in the Federal Register, or otherwise made available to the defendant.

I am pleased to introduce this simple yet necessary measure. Without this fundamental protection, businesses must often operate in an atmosphere of uncertainty as to whether they are in compliance with an agency's most recent interpretation or reinterpretation of its regulations. If and when the day arrives when an agency chooses to enforce its latest interpretation against a regulated business, the business owner has two alternatives: First, roll the dice and hire a Washington lawyer to fight an unknown wrong; or Second, pay the penalty, regardless of culpability.

Adoption of this legislation will encourage agencies to keep the regulated public aware of what their regulations require of them. Before pursuing an enforcement action, an agency will need to consider whether the defendant has acted in good faith and whether the agency is acting within the confines of due process established by the APA. Nothing in this measure is intended to weaken the enforcement powers of the executive branch. This is a moderate measure, meant to provide a minimum of security and predictability to the regulated community and to improve the relationship between agencies and private citizens.

MEDICAL SAVINGS ACCOUNTS: WHY THEY ARE TAX BREAKS FOR THE UPPER INCOME AND BAD NEWS FOR WORKING AMERICANS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. STARK. Mr. Speaker, medical savings accounts are bad health policy. They are bad tax policy.

The following analysis from the Center on Budget and Policy Studies explains why:

WHO WILL USE MEDICAL SAVINGS ACCOUNTS AND WHY WILL THEY USE THEM?

(By Iris J. Lav)

Prior analysis of Medical Savings Account proposals has shown that MSAs would primarily benefit those at high income levels because MSAs create opportunities to accumulate tax-sheltered funs for purposes other than medical costs. Higher-income taxpayers would be most likely to take advantage of these tax shelter opportunities because the tax benefits are worth more to taxpayers in higher tax brackets and because such taxpayers can afford to pay substantial out-of-pocket medical costs if they choose to leave the tax-advantaged funds on deposit in the MSAs or if funds accumulated in the MSAs are insufficient to cover their medical bills.

Recently, the Joint Committee on Taxation has released data estimating what proportion of people in each income class would make use of Medical Savings Accounts, finding that a large portion of the participants would be middle class. These data have been used to bolster claims that MSAs would benefit middle class taxpayers as well as the wealthy. But the Joint Tax data are not incompatible with the conclusion that higher-income taxpayers would be the primary beneficiaries of MSAs.

As the text of the Joint Tax analysis makes clear, participation in an MSA may not be voluntary. Taxpayers who participate in MSAs because their employers offer no other option for health care coverage may not benefit from their participation and may become worse off as a result of their employers' switch from offering a conventional insurance policy or a managed care plan to a plan that offers only a high-deductible insurance plan with an MSA.

JOINT TAX HIGHLIGHTS BENEFITS TO COMPANIES, NOT EMPLOYEES

The Joint Committee notes that its estimate is based "on the assumption that a large proportion of small- and medium-sized companies might potentially benefits from the MSA proposal and offer such plans to their employees." To assume that a company would benefit generally means that the company would pay less for its employees' insurance coverage. This suggests two further assumptions that likely underlie the Joint Tax analysis.

Small- and medium-sized companies that do not now offer any health insurance would not begin to offer high-deductible coverage with MSAs as a result of this legislation. Such an assumption would result in increased rather than decreased costs for the companies and thus would be incompatible with the statement that the companies would benefit. The analysis must instead assume that employers currently offering conventional coverage or managed care plans would begin to offer high-deductible insurance with MSAs.

Furthermore, companies would receive a cost-saving benefit from such a switch only if the total cost of the high-deductible insurance including the MSAs would be less than the cost of the insurance the company currently offers. Thus the small- and medium-sized companies that switch to high-deductible insurance with MSAs likely would not put the entire difference between the conventional insurance premium and the high-deductible insurance premium into their employees' MSAs. Companies would realize cost savings from the switch only if they choose to keep, as a profit-enhancing savings, at least a portion of the difference in premiums between the two types of plans.

LOW- AND MODERATE INCOME TAXPAYERS MAY PARTICIPATE IN MSAS INVOLUNTARILY

The Joint Committee on Taxation analysis goes on to say that "Employee wages for small- and medium-sized are weighted toward the lower- and middle-income classes. As a result, the revenue estimate assumes that taxpayers in the lower- and middle-income classes are more likely to be offered a high deductible plan coupled with an MSA as their primary health plan." (Emphasis added.) Although the Committee's use of the term "primary" is ambiguous, it suggests some further issues.

Low- and middle-income employees may be reluctant voluntarily to accept high-deductible insurance with MSAs, because they usually do not have the resources to pay large out-of-pocket health care costs. An assumption that substantial numbers of such employees would participate suggests that their employers might offer only high-deductible insurance with MSAs and would no longer offer either a conventional fee-for-service policy or a managed care plan. For low- and moderate-income employees who consume significant amounts of preventive care for their young families through a health maintenance organization, for example, or have chronic health problems that require continuing care, the restriction of choice to a high-deductible plan could substantially degrade their ability to afford necessary health care services.

INADEQUATE MSA DEPOSITS TRANSFER LARGE COSTS TO MODERATE-INCOME EMPLOYEES

Low- and middle-income employees are likely to face high out-of-pocket costs under the high-deductible insurance plans with MSAs because the MSA contributions made by their employers are likely to fall short of the annual deductible amounts under those insurance plans. In fact, employers are unlikely to be able to afford to deposit the full deductible amount. Consider the following. A company may currently offer its employees family coverage under a conventional insurance policy and pay an annual premium of $5,200 for that coverage. If the company switches to offering a high-deductible plan with an MSA, the annual premium for the high-deductible insurance policy would be approximately $3,900. These costs assume the insurance plans are comparable except that the conventional coverage includes a $200 deductible while the high-deductible plan has a $3,000 deductible. Because the company's annual premiums savings from switching to the high-deductible insurance plan is only $1,300 per family ($5,200 minus $3,900), the company is highly unlikely to be willing to deposit $3,000—the full amount of the deductible—into the employee's MSA. In addition, employers are likely to keep some of the difference as a cost-saving benefit to the company. Thus low- and middle-income employees likely would have significantly less than half of their annual deductible amount—and most likely no more than one-third of the deductible—deposited into MSAs by their employers and thereby available to meet ongoing health care costs.

Moreover, nothing in this bill requires employers to make any deposits to MSAs as a condition of offering high-deductible insurance. Once small- and medium-sized employers shift to offering only high-deductible insurance and no longer offer conventional insurance or managed care plans, they would be free to reduce or eliminate contributions to the MSAs at any time. If that occurred, the low- and moderate-income employees of those companies would be left to finance the entire deductible amounts out of their own pockets. Although the low- and moderate-income employees could make deposits on their own to an MSA, they would receive little or no tax advantage from using MSAs—because they either do not pay income taxes or pay taxes at much lower rates than the higher-income taxpayers who would be the primarily beneficiaries of this MSA legislation.

In short, if low- and moderate-income taxpayers use MSAs in substantial proportions, it will likely be because they have little alternative. And the use of the MSAs with high-deductible health insurance plans is likely both to increase their risk of incurring unaffordable health care costs and reduce their ability to afford adequate levels of health care services for themselves and their families.

ANSWERING AMERICA'S CALL

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. WHITFIELD. Mr. Speaker, I take this opportunity to bring to your attention a special constituent of mine, Kurt Martin, of Bardwell, KY. Kurt is a senior at Carlisle County High School and has been named a national winner in the 1996 Voice of Democracy Program. Kurt is the son of Mr. and Mrs. Rodney Martin of Bardwell.

The Voice of Democracy Program is an annual broadcast script writing scholarship contest. Kurt's winning script entitled "Answering America's Call" is an inspiration for all Americans. I would ask that Kurt's entire remarks be printed in the RECORD at this point.

ANSWERING AMERICA'S CALL

(By Kurt Martin)

I raced down the stairs trying to find my shoes as Dad impatiently honked the horn of the van outside. As I tied my shoes at record speed, the phone rang. Out of breath, I answered the phone soon realizing I was in a conversation with a military recruiter for the Marines. Great! I'm late for church, I don't have any idea what songs I'm going to play for the song service, and now I have to stand and make small talk with a military recruiter.

"So, what do you plan to do after high school? he asked rather abruptly.

"Well, I'm planning to go to college," I answered as politely as I could, trying to end the conversation quickly.

"Have you ever thought about going to the Marines to gain money for college?" he asked.

"To tell the truth, I have considered serving in the military, but I hurt my knee. I'm going to have to have surgery in a few weeks."

"Well, that pretty much counts you out of any military action. I'm sorry about your injury, and I hope your knee gets better. Best of luck to you in the future."

During church, my mind wandered to the conversation I just had with the Marine recruiter. I has always known that the military was strict about health regulations; but since my knee injury, the subject of serving in the military had never come up. I somehow couldn't come to grips with the idea of not being able to serve my country because of a basketball injury. How can anyone, especially a man, answer America's call when he can't serve in the military? I had read about my kind in history books. If there is another war, the "real men" will go risk their lives for our country, while I sit at home selling war bonds.

After pondering the subject for a few minutes, I began to realize exactly what "America's Call" is. Even though I may not be able to serve in the military because of my injury, my dedication to my country should not end there. Franklin Roosevelt didn't let a physical handicap keep him from helping his country recover from a major depression.

The confidence of the American people in his leadership ability during World War II got him reelected three times, even though he was confined to a wheelchair.

As a student, I can answer America's call each and every day by preparing myself for the future as I apply myself to my studies. I don't know yet what type of career I will be training for, but whatever it may be, hard work will enable me to make a difference in my profession, my country, and my world. The work ethic that enabled Abraham Lincoln to rise out of poverty to become President will allow our generation to preserve the reputation America has maintained for so long.

Another way to answer America's call is by upholding Christian morals and ethics. When I abstain from premarital sex, drugs, and alcohol I not only take a stand against those vices, but I also become a positive influence on my peers. Whey I fight against violence and corruption, I stand alongside the founding fathers of our country by trying to make America a better place to live.

America may call me to become involved in activities that benefit my neighbors, community, or country. If I volunteer to work at the local nursing home or roadblock for a telethon supporting disabled children, I answer America's call by showing that I care about those who are in need. When I vote for local, state, and national candidates I show that I am concerned about the future leaders of our country.

I can also heed America's call by supporting those who serve or have served in the military. Those men and women deserve all of my support, honor, respect, and appreciation. They need to know that all Americans are striving to keep the freedom that they risked their lives for. This goal will be achieved if we resolve to do as John F. Kennedy advised in his inaugural address, "Ask not what your country can do for you, ask what you can do for your country." Only then can we truly "Answer America's Call."

HONORING THE WEST SIDE VOLUNTEER FIRE DEPARTMENT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GORDON. Mr. Speaker, I am taking this opportunity to applaud the invaluable services provided by the West Side Volunteer Fire Department. These brave, civic-minded people give freely of their time so that we may all feel safer at night.

Few realize the depth of training and hard work that goes into being a volunteer firefighter. To quote one of my local volunteers, "These firemen must have an overwhelming desire to do for others while expecting nothing in return."

Preparation includes twice-monthly training programs in which they have live drills, study the latest videos featuring the latest in firefighting tactics, as well as attend seminars where they can obtain the knowledge they need to save lives. Within a year of becoming a volunteer firefighter, most attend the Tennessee Fire Training School in Murfreesboro where they undergo further, intensified training.

When the residents of my district go to bed at night, they know that should disaster strike and their home catch fire, well trained and qualified volunteer fire departments are ready and willing to give so graciously and generously of themselves. This peace of mind should not be taken for granted.

By selflessly giving of themselves, they ensure a safer future for us all. We owe these volunteer fire departments a debt of gratitude for their service and sacrifice.

GRANTING MOST-FAVORED-NATION TRADE STATUS TO ROMANIA

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. RICHARDSON. Mr. Speaker, I rise to urge my colleagues to give their wholehearted supported to the legislation offered by the gentleman from Illinois [Mr. CRANE] which would grant permanent most-favored-nation [MFN] trade status to Romania. As I am sure you are aware, Romania has been granted MFN for the past 3 years, but it is subject to periodic renewal. It is now time to bring an end to this renewal process and make Romania's MFN status permanent.

Romania meets all the criteria for permanent MFN: unhindered emigration; a free market economic system; a multiparty democratic political system with free and fair elections, and respect for basic human rights and freedoms. As a nation still in transition after the 1989 revolution, Romania is still working to institutionalize these changes. But I have no doubt about the commitment of the Government and people of Romania to staying on the course of full integration into the Western community of nations. Romania is a founding member of the World Trade Organization, and has strongly expressed its desire for membership in such Western institutions as the EU and NATO. The granting of permanent MFN is regarded by foreign governments as a manifestation of U.S. support. It represents our acknowledgment that a nation has expressed strong commitment to the values that we hold dear. In a case such as Romania, it also signals our encouragement and support for the reforms that are still being made and the progress yet to come.

Mr. Speaker, I am sure that my colleagues will agree that Romania is deserving of this support and acknowledgment. Since granting permanent MFN to Romania will not affect the United States budget, this legislation is literally a cost-free way for us to express to the people and Government of Romania our admiration for what they have accomplished in 6 short years, our encouragement for their efforts to continue on the path they have chosen, and our hope for a better future for their children.

TRIBUTE TO STANLEY AND GWEN McCRACKEN

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. KILDEE. Mr. Speaker, it is with great pride that I rise before you today to pay tribute to two great Americans, Stanley and Gwen McCracken. In recognition of their exemplary service as the DAV and DAV Auxiliary State commanders of the great State of Michigan, their many friends and colleagues will join in honoring them during a Joint Testimonial Dinner to be held at DAV Chapter 129 Memorial Home, located in Utica, MI on Friday, April 26, 1996.

Commander McCracken is a veteran of both the U.S. Army and the U.S. Air Force, serving both services with honor and distinction. He enlisted in the Army in 1958, serving as an infantryman. In 1963, Stanley decided to reenlist in the Air Force. He was assigned to the Strategic Air Command, Ramey Air Force Base, Puerto Rico. His tour of duty included and encompassed many responsibilities, including being attached to the 42nd Bomber Wing, Combat Support Group. While at Ramey, he was assigned to a Recovery Team, as well as being an integral member of a ground crew, and finally assuming the duties of crew chief aboard a B–52 bomber.

Stanley McCracken earned the stripes of staff sergeant along with numerous decorations and awards for his outstanding military service before he was honorably discharged from the Air Force in 1967.

Commander McCracken has been elected to, and successfully held every chapter level office, including chapter commander for two terms. He has also been an active member of the St. Clair County, MI, Allied Veterans Council for several years, in addition to being a member of DAV Chapter 51. Mr. McCracken accumulated extensive experience before assuming the State commander's job. He was an elected member of the State Administrative Board for 4 years before he was picked by the membership as a department line officer. He ultimately progressed his way through the various chairs, of the department, and was elected as State commander of the DAV in June 1995.

Equal in service to the DAV, Mrs. Gwen McCracken was elected to serve as commander of the Disabled Americans Auxiliary, Department of Michigan, in June 1995. Gwen McCracken has a long, outstanding record of service to her community. She has been a driving force in a number of organizations that are committed to improving the quality of life for those who are less fortunate. Mrs. McCracken was instrumental in helping to found Volunteers Assisting the Disabled, an organization that provides summer camp opportunities to adult MDA patients, who would otherwise, simply because of their age, be exempted from participating in camp.

Gwen McCracken is a life member of the Corporal Ian M. Gray Unit 51. She has been an extremely active member of the DAVA, eagerly accepting the duties and responsibilities of the many positions and offices of the organization that she has held including; state chaplain, senior page, first vice commander, and senior vice commander.

The McCrackens, through their collective energy, enthusiasm, and zeal, have stood like sentinels on behalf of not only disabled veterans, but on behalf of all veterans and their families. Their many years of combined service have helped to preserve and protect the promise that was made to care for those who have borne the battle, their widows, and their children.

Mr. Speaker, it is with great pride that I stand before you today asking that you and my fellow Members of the 104th Congress join me in honoring Stanley and Gwen McCracken. They have spent their lives in dedicated service to their country and community. I am pleased to have this opportunity to join with their family, friends, and colleagues to extend my deepest thanks for their tireless efforts on behalf of Michigan veterans.

TRIBUTE TO REV. CHARLES L. MOORE

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. BOEHNER. Mr. Speaker, the Reverend Charles L. Moore, at the age of 86, is the oldest active priest in the 19 county greater Cincinnati archdiocese. During his religious career, he has served as a parish priest, high school teacher, jail chaplain, mission administrator, church pastor, district moderator of the National Catholic Community Services, archdiocesan director of the Catholic Information Services, and military service counselor in World War II in Florida.

Father Moore has spent the last 16 years serving the parishioners at the Holy Family Parish in Middletown, OH, the students at Fenwick High School, and John XXIII Elementary School.

June 6, 1996 will be the 60th anniversary of Father Moore's ordination into the priesthood. I want to congratulate Father Moore on his years of service and dedication to helping the people of Southwestern Ohio.

A LEGACY OF LENIENCY

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. PACKARD. Mr. Speaker, President Clinton loves to talk up his record on crime, but the facts are the facts. The best antidrug legislation and the best law enforcement are useless if judges are not willing to uphold the law. When judges such as the ones the President has appointed show more sympathy for the people they prosecute, than for victims, the heroic efforts of the police and the law are muted.

The American people deserve the best qualified judges that reflect their priorities and values. It does not serve America well when a judicial nominee to one of the highest courts in the land does not possess even rudimentary knowledge of constitutional law—even if he is a golfing buddy of the President. If the President and Washington special interests get their way, we will get a judge trainee. This venerable position requires experience and extensive knowledge of the law. The nominee, Charles Stark posses neither. He even testified before Congress that he could make up for his ignorance of landmark court decisions and constitutional law by taking some courses or asking other judges for help.

Mr. Speaker, this is no way to run a railroad. Most Americans will agree that we do not need a judge who needs on-the-job training. We need judges who will protect the rights of crime victims, not invent new, more expansive rights for criminals. We need judges who will follow through with the tough-on-crime measures my Republican colleagues and I have passed. But, perhaps more importantly, we need a President who will nominate such individuals.

JOSEPH S. FRANCIS: FOUR DECADES OF SERVICE TO SAN DIEGO

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. FILNER. Mr. Speaker, I rise today to recognize Joseph S. Francis, executive secretary-treasurer of the San Diego-Imperial Counties Labor Council, who will be honored with a Distinguished Service Award by the San Diego-Imperial Counties Labor Council on April 27, 1996.

After four terms and 16 years of exemplary service, Joe Francis is stepping down from his leadership position with the San Diego-Imperial Counties Labor Council, whose affiliates number 103 local unions representing approximately 108,000 members. His strong leadership, vast experience, and organizing skills have contributed much to the San Diego labor movement.

Raised in New Bedford, MA, Joe Francis moved to San Diego in 1953. Working first at Convair, he took a volunteer position as shop steward. Six years later, he joined the San Diego Fire Department, where he became involved in the local Firefighters Union. He was elected as director of the Union Board in 1965 and later served as secretary and then president of Local 145.

In 1980, after 21 years in the fire department, he was elected to the office of executive-treasurer of the San Diego-Imperial Counties Labor Council with two-thirds of the vote.

Noted for his calm but direct demeanor, Joe Francis reached out to the labor community during his term and brought attention to a broad list of concerns. The Labor Council made great strides under his leadership.

It is no wonder that the San Diego Business Journal called Joe Francis "San Diego's Top Labor Leader."

His involvement in countless community organizations is a testament to his dedication. He currently serves on the boards of United Way, the San Diego County Board of Economic Advisors, and the San Diego Technology Council. He previously served on the boards of the Salvation Army and the Regional Employment Training Consortium, among others, and was president of the San Diego Convention Center Corporation.

As he relinquishes his current post with the Labor Council, Joe Francis will retain his position as executive director of San Diego Labor's Community Service Agency.

Mr. Speaker, I join labor leaders in San Diego and across the country in congratulating Joe Francis for receiving the San Diego-Imperial Counties Labor Council's Distinguished Service Award, and I wish him well in all future endeavors.

EIGHTY-FIRST ANNIVERSARY OF THE ARMENIAN GENOCIDE

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. COSTELLO. Mr. Speaker, I rise to join my colleagues today to commemorate the 81st anniversary of the Armenian genocide. In 1915, Armenian religious, political, and intellectual leaders were arrested and executed. The campaign of genocide began with this act and resulted in the deaths of over 1.5 million Armenians by 1923.

April 24 is the symbolic day of remembrance for the Armenian community to join together and remember the horrible events of their ancestors. Residents of Armenian heritage in my congressional district believe remembering the past will prevent the world from forgetting.

In addition, because some try to argue the Armenian genocide never occurred, calling attention to the tragedy is particularly worthwhile. Denial of genocide harms the victims and their survivors. That is one reason why I have joined a number of my colleagues in Congress in cosponsoring House Concurrent Resolution 47 to honor the memory of the victims of the Armenian genocide.

I ask my colleagues to join me in remembering the tragedy of the Armenian genocide and in renewing our commitment to human rights. The Congress must stand firm in its resolve to oppose violence and repression against humanity.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, April 25, 1996, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 26

10:00 a.m.

Commission on Security and Cooperation in Europe

To hold a briefing on the ethnic Turkish minority of Greece.

2200 Rayburn Building

APRIL 29

3:00 p.m.
Armed Services
Personnel Subcommittee
Closed business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of a proposed National Defense Authorization Act for fiscal year 1997.
SR-222

APRIL 30

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Federal Emergency Management Agency.
SD-192

Commerce, Science, and Transportation
To hold hearings on the proposed nomination of Michael Kantor, of California, to be Secretary of Commerce.
SR-253

Governmental Affairs
Oversight of Government Management and the District of Columbia Subcommittee
To hold hearings to examine aviation safety, focusing on the training and supervision of Federal Aviation Administration inspectors.
SD-342

10:00 a.m.
Armed Services
Readiness Subcommittee
Business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of a proposed National Defense Authorization Act for fiscal year 1997.
SR-232A

Foreign Relations
To hold hearings on the nominations of Wendy Jean Chamberlin, of Virginia, to be Ambassador to the Lao People's Democratic Republic, Thomas C. Hubbard, of Tennessee, to be Ambassdor to the Republic of the Philippines and to serve concurrently and without additional compensation as Ambassador to the Republic of Palau, and Glen Robert Rase, of Florida, to be Ambassador to Brunel Darussalam.
SD-419

Judiciary
To hold hearings to examine affirmative action in Calfifornia.
SD-226

11:00 a.m.
Armed Services
Acquisition and Technology Subcommittee
Closed business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of a proposed National Defense Authorization Act for fiscal year 1997.
SR-222

2:30 p.m.
Armed Services
Airland Forces Subcommittee
Closed business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of a proposed National Defense Authorization Act for fiscal year 1997.
SR-222

Commerce, Science, and Transportation
Oceans and Fisheries Subcommittee
To hold hearings On S. 1420, to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean.
SR-253

4:30 p.m.
Armed Services
SeaPower Subcommittee
Closed business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of a proposed National Defense Authorization Act for fiscal year 1997.
SR-232A

6:00 p.m.
Armed Services
Strategic Forces Subcommittee
Closed business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of a proposed National Defense Authorization Act for fiscal year 1997.
SR-222

MAY 1

9:00 a.m.
Armed Services
Closed business meeting, to mark up a proposed National Defense Authorization Act for fiscal year 1997, and to receive a report from the Senate Select Committee on Intelligence on the Intelligence Authorization Act for Fiscal Year 1997.
SR-222

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Reserve and National Guard programs.
SD-192

Rules and Administration
To resume hearings on issues with regard to the Government Printing Office.
SR-301

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for foreign assistance programs, focusing on the New Independent States.
SD-138

2:30 p.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings to examine airport revenue diversion.
SR-253

MAY 2

9:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for energy conservation programs.
SD-116

Armed Services
Closed business meeting, to continue to mark up a proposed National Defense Authorization Act for fiscal year 1997.
SR-222

9:30 a.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on S. 1401, to amend the Surface Mining Control and Reclamation Act of 1977 to minimize duplication in regulatory programs and to give States exclusive responsibility under approved States program for permitting and enforcement of the provisions of that Act with respect to surface coal mining and reclamation operations, and S. 1194, to amend the Mining and Mineral Policy Act of 1970 to promote the research, identification, assessment, and exploration of marine mineral resources.
SD-366

10:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for fossil energy, clean coal energy, the Strategic Petroleum Reserve, and the Naval Petroleum Reserve.
SD-116

MAY 3

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Veterans Affairs.
SD-192

MAY 7

10:00 a.m.
Judiciary
To resume hearings on S. 1284, to amend title 17 to adapt the copyright law to the digital, networked environment of the National Information Infrastructure.
SD-106

Joint Library
Business meeting, to consider a report of the General Accounting Office on the Library of Congress.
SR-301

MAY 8

10:00 a.m.
Veterans' Affairs
To hold hearings to examine the reform of health care priorities.
SR-418

2:00 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Housing and Urban Development.
SD-192

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Internal Revenue Service, Department of the Treasury.
SD-138

MAY 9

9:30 a.m.
Indian Affairs
To hold oversight hearings on the impact of the U.S. Supreme Court's recent decision in Seminole Tribe v. Florida on the Indian Gaming Regulatory Act of 1988.
SD-G50

MAY 15

2:00 p.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the National Aeronautics and Space Administration.

SD–192

MAY 17

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Corporation for National and Community Service.

SD–192

MAY 24

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Environmental Protection Agency.

SD–192

SEPTEMBER 17

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Legion.

334 Cannon Building

CANCELLATIONS

APRIL 25

10:00 a.m.

Appropriations

Commerce, Justice, State, and the Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of State.

S–146, Capitol

POSTPONEMENTS

APRIL 25

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on proposed legislation authorizing funds for the Federal Trade Commission.

SR–253